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PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Monday, December 17, 1979*

The House met at 12 o'clock noon.

Rev. Edward G. Latch, D.D., former Chaplain of the House of Representatives, offered the following prayer:

Glory to God in the highest, and on Earth, peace among men of good will.—Luke 2: 14.

O God, our Father, who has come into this world of darkness to bring light and into this world of fear to bring faith, may Thy spirit come anew into our hearts this Advent season. Lead us as we seek to become worthy followers of Thy wonderful spirit leading us to walk in Thy wholesome ways for the good of all.

As we journey along the road to Bethlehem we are mindful of those who are in captivity in other lands. Give wisdom and strength to them, to us, and to our President to lead us all in sound ways to liberty and justice for all.

O God, keep us free and help us to keep freedom alive on our planet for the glory of Thy holy name and the good of all people. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 887. An act for the relief of Elizabeth Berwick and Alexander Berwick, her husband;

H.R. 2477. An act for the relief of Jesus Reveles y Rivera; and

H.R. 2531. An act for the relief of Russell W. Allen.

The message also announced that the Senate receded from its amendment to a bill of the House of the following title:

H.R. 4943. An act granting the consent of Congress to the compact between the States of New York and New Jersey providing for the coordination, facilitation, promotion, preservation, and protection of trade and commerce in and through the Port of New York District through the financing and effectuation of industrial development projects.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5079) entitled "An act to provide for participation of the United States in the International Energy Exposition to be held in Knoxville, Tennessee, in 1982, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Church, Mr. Pell, Mr. Javits, and Mr. Baker to be the conferees on the part of the Senate.

The message also announced that the Senate agreed to the House amendment with an amendment insists upon its amendment to the House amendment to the bill (S. 2985) entitled "An act to amend the Consolidated Farm and Rural Development Act," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Talmadge, Mr. McGovern, Mr. Huddleston, Mr. Zorinsky, Mr. Helms, Mr. Hayakawa, and Mr. Jepsen to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 883. An act for the relief of Ezekiel Trail Clemons; and

S. 1874. An act to amend the act incorporating the American Legion so as to redefine eligibility for membership therein.

CONSENT CALENDAR

The SPEAKER. This is Consent Calendar Day. The Clerk will call the first bill on the Consent Calendar.

AMENDING SECTION 209 OF TITLE 18, UNITED STATES CODE

The Clerk called the bill (H.R. 5174) to amend section 209 of title 18, United States Code.

There being no objection, the Clerk read the bill, as follows:

H.R. 5174

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 209 of title 18, United States Code, is amended by inserting the following new subsection (e):

"(e) This section does not prohibit the payment of actual relocation expenses incident to participation, or the acceptance of same by a participant in an executive exchange or fellowship program in an executive agency: *Provided,* That such program has been established by statute or Executive order of the President, offers appointments not to exceed three hundred and sixty-five days, and permits no extensions in excess of ninety additional days.".

Mr. DANIELSON. Mr. Speaker, the bill, H.R. 5174, would add a new subsection (e) to section 209 of title 18 of the United States Code, providing that the section will not bar the payment of actual relocation expenses incident to participation in an executive exchange or fellowship program in an executive agency nor would it prohibit the acceptance of same by a participant in such a program. The exchange program would have to be one established by statute or Executive order of the President which offers appointments not to exceed 365 days, and which permits no extensions in excess of 90 additional days.

H.R. 5174, was introduced in the form recommended in an executive communication from the President's Commission on Executive Exchange. The proposal has the concurrence of the Department of Justice and the Chairman of the President's Commission on White House Fellows, also indicated his support for the bill in a letter to the Speaker.

The new subsection added by the bill to section 209 of title 18, United States Code, would permit private employers to pay the relocation expenses of their employees who take unsalaried leave of absence to participate in the President's executive exchange program and White House fellows program.

The White House fellows program began in 1965, and the executive exchange program in 1970. From the beginning of both programs, corporations sponsoring participants have reimbursed their employees for the cost of relocating to Washington for the program year. In 1968, 1969, and 1976, the Department of Justice issued opinions concluding that such payments were not in violation of section 209 of title 18. Section 209 is the section of title 18 which prohibits supplementation of the salary of Federal employees. In November 1978, the Department of Justice changed its position. After reconsideration of the legal issues,

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☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

that Department concluded that the private payment of such expenses would not be permitted under that section.

The executive communication pointed out that while the November 1978 opinion of the Department of Justice had general application to persons entering the service of the Government, the White House fellows and President's executive exchange programs were especially affected because, as a practical matter, their ability to attract business executives to participate in the programs depends to a significant degree upon the willingness of private employers to pay the cost of relocating to Washington for a year of Federal service. In the case of the President's Commission on Executive Exchange, the committee has been advised that the effect is devastating. More than half the corporations which sponsored executives in recent years have declined to do so this year, because they feel they cannot ask an employee to pay his or her own relocation costs, which can run to several thousand dollars.

The staff of the President's executive exchange program forecasts that about 20 persons from private industry will participate in 1979–80, as compared with 39 last year, and an average of 40 over the past 5 years.

Persons entering the Government under both the White House fellows program and the President's executive exchange program receive schedule A appointments for 365 days. White House fellows may not extend. Presidential exchange executives may extend only for unusual circumstances approved by the Executive Director of the program. Extensions beyond 30 days must be approved by vote of the Commission. Each participant of both programs must strictly adhere to requirements of the conflict of interest statutes and regulations. It should be noted that the bill permits no extensions in excess of 90 days.

As I have stated, the bill would permit a participant in a fellowship or exchange program to receive payment of moving expenses, transportation of the participant and his family to Washington and back to the place of private employment at the end of the program year, and real estate commissions and other costs of purchasing and selling a house incident to a move to and from Washington. The bill would not permit payments which would supplement an exchange program participant's Federal salary. Accordingly, it would not permit the participant's private employer to pay the participant's personal living expenses, such as food, laundry, or transportation, or the payment of the cost of periodic trips from Washington to the participant's former home during the program year.

I urge that section 209 of title 18, United States Code, be amended by the addition of a new subsection (e) as recommended in the executive communication from the President's Commission on Executive Exchange. As I have stated, the amendment provided for in this bill also has the support of the President's Commission on White House Fellowships and the Department of Justice. It is recommended that the bill be considered favorably.

● **Mr. MOORHEAD** of California. Mr. Speaker, this legislation is aimed at facilitating a problem that currently interferes with the operation of the President's executive exchange program and the White House fellows program. The White House fellows program began in 1965 and the executive exchange program was initiated in 1970. Both programs allow individuals employed in the private sector to spend time in Washington and obtain Government work experience at a policymaking level. In November 1978, the Department of Justice issued a legal opinion stating that corporations sponsoring participants in these programs were prohibited from making any payments to defray their relocation costs. In essence, the Justice Department determined that the payment of such relocation expenses were a supplement to Federal salaries, prohibited under 18 U.S.C. 209. The practical effect of this Justice Department opinion has been to discourage corporate personnel from participating in either the executive exchange program or the White House fellows program.

The legislation we consider today (H.R. 5174) would permit private sector employers to defray certain relocation expenses incurred by their employees in connection with participation in the executive exchange program or the White House fellows program. The bill would amend title 18 of the United States Code which currently prohibits the supplementation of Federal employees' salaries from outside sources. This measure would permit a participant in a fellowship or exchange program to receive payment of such items as moving expenses, transportation of the participant and his family to Washington and back to the place of private employment at the end of the program year, and real estate commissions and other costs of purchasing and selling a house incident to a move to and from Washington. The bill would also allow a private employer to pay the expense of renting a house or apartment for the participant in lieu of paying for the cost of purchasing and selling homes, as this may in many cases be more economical for the company. It would not, however, permit the participant's private employer to pay the participant's personal living expenses, such as food, laundry, or transportation, or the payment of the cost of periodic trips from Washington to the participant's former home during the program year. The Department of Justice concurs in this approach to the problem.

This legislation has support on both sides of the aisle. It was unanimously approved by the Judiciary Committee on November 29, 1979. I strongly urge its passage.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMENDING THE ACT INCORPORATING THE AMERICAN LEGION SO AS TO REDEFINE ELIGIBILITY FOR MEMBERSHIP THEREIN

The Clerk called the bill (H.R. 5583) to amend the act incorporating the American Legion so as to redefine eligibility for membership therein.

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that an identical Senate bill (S. 1874) to amend the act incorporating the American Legion so as to redefine eligibility for membership therein, be substituted for the bill, H.R. 5583.

The Clerk read the title of the Senate bill.

The **SPEAKER.** Is there objection to the request of the gentleman from California?

There being no objection, the Clerk read the Senate bill, as follows:

S. 1874

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Act entitled "An Act to incorporate the American Legion", approved September 16, 1919 (41 Stat. 285; 36 U.S.C. 45), is hereby amended to read as follows:

"Sec. 5. No person shall be a member of this corporation unless he has served in the naval or military services of the United States at some time during any of the following periods: April 6, 1917, to November 11, 1918; December 7, 1941, to December 31, 1946; June 25, 1950, to January 31, 1955; December 22, 1961, to May 7, 1975; all dates inclusive, or who, being a citizen of the United States at the time of entry therein, served in the military or naval service of any of the governments associated with the United States during said wars or hostilities: *Provided, however,* That such person shall have an honorable discharge or separation from such service or continues to serve honorably after any of the aforesaid terminal dates.".

Mr. DANIELSON. Mr. Speaker, the bill, S. 1874, would amend the charter of the American Legion so that the eligibility requirements of that organization for the persons that served in the Vietnam era would include those who served in the Armed Forces in the period from December 22, 1961 to May 7, 1975.

The American Legion in its annual convention in August 1979 adopted a resolution which supported the change in eligibility for membership provided for in this bill. S. 1874 implements that resolution in that it amends the organization's membership criteria by adjusting the dates of military service an individual must have performed to be eligible for membership. In order to effect this change, it is necessary that the Congress enact legislation amending the statute incorporating the organization by changing the recognized onset of the Vietnam era in section 5 of the charter from August 5, 1964, to December 22, 1961.

As provided in its charter, the American Legion has extended membership to all those who served on active duty during periods of declared war or armed conflict. However, the Vietnam era was not a clearly definable period of hostilities and the American Legion's review of the circumstances involved in the conflict in Vietnam prompted the organization to request this change.

The American Legion pointed out that in 1962 the Military Advisory Command Vietnam was established with 4,000 troops stationed there and by the end of that year the number had increased to 10,000. The organization's decision took into account that many servicemen under that command and also prior to its establishment were assigned precarious duties as advisers to Vietnamese combat units with the first U.S. combat-related death occurring on December 22, 1961.

I recommend that the bill be considered favorably.

● Mr. MOORHEAD of California. Mr. Speaker, this is indeed noncontroversial legislation. H.R. 5583 would amend the existing Federal charter of the American Legion so as to adjust the dates defining the period of military service for the Vietnam war era. Currently, eligibility dates based upon Vietnam service for membership in the American Legion run from August 5, 1964, to May 7, 1975. This measure would extend this eligibility period back to December 22, 1961, through to May 7, 1975, inclusive.

At its 61st annual convention in August 1979, the American Legion adopted a resolution asking that Congress amend the organization's charter concerning the Vietnam period. It was emphasized that the Vietnam era was not a "clearly defined period of hostilities" and it was further pointed out that the first combat-related death of an U.S. serviceman in Vietnam occurred on December 22, 1961. At the request of the American Legion, Chairman RODINO introduced H.R. 5583 on October 12, 1979.

The Subcommittee on Administrative Law and Governmental Relations favorably reported this legislation on a unanimous voice vote on October 25, 1979. The full Judiciary Committee on a unanimous voice vote ordered the bill reported on November 29, 1979.

I strongly urge the support of the Members of the House for this bill.●

The Senate bill was ordered to be read a third time, was read a third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 5583) was laid on the table.

GENERAL LEAVE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks with respect to the two bills just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDING THE ACT OF NOVEMBER 8, 1978 (92 STAT. 3095) TO DESIGNATE CERTAIN CIBOLA NATIONAL FOREST LANDS AS ADDITIONS TO THE SANDIA MOUNTAIN WILDERNESS, N. MEX.

The Clerk called the bill (H.R. 3928) to amend the act of November 8, 1978 (92 Stat. 3095) to designate certain Cibola National Forest lands as additions to the Sandia Mountain Wilderness, N. Mex.

There being no objection, the Clerk read the bill, as follows:

H.R. 3928

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Act of November 8, 1978 (92 Stat. 3096) is amended by adding the following new subsection at the end thereof:

"(c) In furtherance of the purposes of the Wilderness Act of 1964 (78 Stat. 890) and section 2(g) of the Endangered American Wilderness Act of 1978 (92 Stat. 42), the western exterior boundary of the Sandia Mountain Wilderness is extended to a line beginning at the closing corner between sections 35 and 36 of township 11 north, range 4 east, on the south boundary of the Elena Gallegos Grant and extending north 2,700 feet; thence east 1,515 feet; thence north 1,260 feet; thence east 3,160 feet; thence north 4,125 feet; thence north 42 degrees east, 4,480 feet; thence north 1,710 feet; thence west 3,235 feet; thence north 19 degrees west, 2,350 feet; thence west 1,400 feet; thence north 3,820 feet to a point on the north boundary of such grant; thence south 81 degrees 30 minutes east, 150 feet along the boundary of such grant to the 7½-mile corner. Such boundary will enclose approximately 6,423 acres of the lands in the grant as it is described in section 1 of this Act. Such lands, upon acquisition by the United States, will be administered as a part of the Sandia Mountain Wilderness.

With the following committee amendment:

Committee amendment: Page 2, line 21, after the period insert the following:

Subject to valid existing rights, all lands within the Sandia Mountain Wilderness, including those lands added to such wilderness by operation of this Act, and all other lands in the grant described in section 1 of this Act which have been or may hereafter be acquired by the United States, are hereby withdrawn from all forms of entry or appropriation under the mining laws and from the operation of the mineral leasing laws of the United States.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the Consent Calendar.

STATEMENT BY NATIONAL ORGANIZATION FOR WOMEN UNJUST

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. GLICKMAN. Mr. Speaker, Jimmy Carter needs to apologize to nobody for his support of women's issues generally and the equal rights amendment specifically. No other President has done as much to secure positions in Government at all levels for women, and no other President has demonstrated in such dramatic action his commitment to women's equality.

And yet, the National Organization for Women, in a seemingly suicidal statement has indicated that they will support anybody but Carter because the equal rights amendment has not passed since he has been President. Not only is this statement unfair in its extremism, it also serves as no help in passing the equal rights amendment.

We Americans need to work together to pass the equal rights amendment. Statements like those issued by the National Organization for Women can only pull us further apart in achieving that goal.

INDIANA UNIVERSITY'S DIRE DISASTER

(Mr. CARTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CARTER. Mr. Speaker, for years it has been an honor and a pleasure to serve with the distinguished gentleman from Indiana, Mr. JOHN MYERS. I trust today that we will share the heavy burden he bears after Indiana University's dire distaster.

I would say to my friend, JOHN, "be still sad heart and cease repining, behind the clouds is the sun still shining. Your fate is but the common fate of all, into each life some rain must fall, some days must be dark and dreary."

Like the blue wave that moves nighty over deep Galilee, the blue wave of Kentucky rolled over Indiana University.

From the fruits of that victory, I am sure at Christmas time Katie will find that well-earned bourbon. She will fill a tall glass with cracked ice and let it remain until a rime of frost forms. Then she will pour a goodly portion of that incomparable bourbon of all bourbons, Markers Mark, into the glass and swish a sprig of mint through it. If I am asleep, she will wake me; and if I am awake, no matter what I do or say, Katie will make me take it.

INDIANA UNIVERSITY NOT TOUGH ENOUGH

(Mr. MYERS of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. MYERS of Indiana. Mr. Speaker, it is with the deepest felt sorrow that I take this well this date to compliment my colleague from Kentucky (Mr. CARTER) on his graciousness on accepting the wager that we annually have on the basketball game between the University of Kentucky and Indiana University.

Unfortunately, the last 2 years it has not quite ended like I have always expected it to; but taking nothing away from Kentucky, they were tough, and Indiana was not last Saturday night. The Kentucky team hit on everything they shot, but unfortunately for me that "Makers Mock."

We do have that wager. I am sure that no one is going to have to hold the gentleman from Kentucky's nose while he accepts the gift I must present him, nor while he accepts and partakes of the gift that I give him.

Over the years we have had wagers, several times I have had to give him this annual gift. Never once has he offered to share it with me. I do not suppose he will this time even though it is Christmas time.

My good friend from Kentucky quoted some verses.

Let me close with this. After listening to Bobby Knight, the coach of the Indiana team, I would remind the gentleman the Bible does say:

The last shall be first and sometimes the first shall be last.

NATIONAL DAY OF PRAYER SHOULD BE DECLARED FOR HOSTAGES

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. REGULA. Mr. Speaker, today marks the 43d day that 50 of our fellow Americans have been held as hostages. As we approach the Christmas season we all look forward to being with our families. We all hope and pray that the hostages will have the same joy.

For this reason, I am introducing today a concurrent resolution expressing the sense of the Congress that the people of the United States should observe December 23, 1979, as a National Day of Prayer and Meditation for the hostages in Iran.

I would hope that the President of the United States will issue a proclamation calling on our fellow Americans to observe a day of this type for the hostages and their families need our prayers and our thoughts as we share the blessings of the Christmas season.

SOCIAL SECURITY BENEFITS SHOULD REMAIN TAX EXEMPT

(Mr. FISH asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FISH. Mr. Speaker, last Wednesday I sponsored, along with my colleagues, Mr. OTTINGER and Mr. PEYSER, House Concurrent Resolution 225 expressing the sense of the Congress that social security benefits are and should remain tax exempt.

The original intent of the Congress at the time the social security program was conceived was to exclude benefits from taxation because they were considered to be payments made in aid of the general welfare. Despite the Advisory Council's recommendation to the contrary, I firmly believe that we cannot impose an additional tax burden on elderly Americans, much less one which would essentially reflect a double taxation.

The overall goal of the Congress is to provide our elderly citizens the necessary financial support with which to maintain an independent and productive livelihood. Social security has been our vehicle for achieving this end. With rampant inflation, and ever-increasing cost of food, fuel, and housing, to name only a few, the imposition of a 50-percent tax on social security benefits would be an extreme and unnecessary hardship. People have already paid taxes on cumulative earnings received during their working lifetimes. Requiring an additional tax on benefits received during their retirement years would be a breach of trust with American workers who have supported the social security program in good faith. At the very least, such a plan would be irresponsible; at most, it would be grossly unjust.

☐ 1210

TRIBUTE TO ROGER STAUBACH, TOM LANDRY, AND THE DALLAS COWBOYS

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, one of the finest traditions in America is competitive sports. Yesterday we had a football game between the Washington Redskins and the Dallas Cowboys. I hope everyone had a chance to see it. The score was 35 to 34, and it must be one of the greatest games of all time.

The Washington Redskins have a great team in every way you measure it. But I want to pay a special tribute to Coach Landry and to Quarterback Roger Staubach. Coach Landry, under any circumstances, is always, always cool. He knows where the Cowboys are going.

Roger Staubach, when victory seemed like it would never be possible, came back in the last 4 minutes with the Cowboys two touchdowns behind. When he went to the Naval Academy they taught Staubach to be cool under fire and never in history have we had a better man showing how cool he can be under fire than the Naval Academy's greatest quarterback, Roger Staubach.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to the authority granted the Speaker on Friday, December 14, he did on that day sign the following enrolled bill:

H.R. 5359. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote for the yeas and nays are ordered, or on which the vote is objected to under clause 4 or rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by nonrecord votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

Such rollcall votes, if postponed, will be taken on Tuesday, December 18.

TAX TREATMENT OF CERTAIN INDIVIDUALS LIVING ABROAD AND CERTAIN PENSION PLAN DISTRIBUTIONS

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5973) to amend the Internal Revenue Code of 1954 to waive in certain cases the residency requirements for deductions or exclusions of individuals living abroad, to allow the tax-free rollover of certain distributions from money purchase pension plans, and for other purposes.

The Clerk read as follows:

H.R. 5973

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RESIDENCY REQUIREMENTS FOR DEDUCTIONS OR EXCLUSIONS OF INDIVIDUALS LIVING ABROAD

(a) GENERAL RULE.—Subsection (j) of section 913 of the Internal Revenue Code of 1954 (relating to deduction for certain expenses of living abroad) is amended by adding at the end thereof the following new paragraph:

"(4) WAIVER OF PERIOD OF STAY IN FOREIGN COUNTRY.—For purposes of paragraphs (1) and (2) of subsection (a), an individual who—

"(A) for any period is a bona fide resident of or is present in a foreign country,

"(B) leaves such foreign country after August 31, 1978—

"(i) during any period during which the Secretary determines, after consultation with the Secretary of State or his delegate, that individuals were required to leave such foreign country because of war, civil unrest, or similar adverse conditions in such foreign country which precluded the normal conduct of business by such individuals, and

"(ii) before meeting the requirements of such paragraphs (1) and (2), and

"(C) establishes to the satisfaction of the Secretary that he could reasonably have been expected to have met such requirements but for the conditions referred to in clause (i) of subparagraph (B),

shall be treated as having met such requirements with respect to the period described in subparagraph (A) during which he was a bona fide resident or was present in the foreign country."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1977.

(2) APPLICATION FOR PURPOSES OF SECTION 911.—In the case of an individual who leaves the foreign country after August 31, 1978, rules similar to the rules of section 913(j)(4) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall apply for purposes of applying section 911 of such Code for taxable years beginning in 1977 or 1978.

SEC. 2. ROLLOVER TREATMENT FOR CERTAIN DISTRIBUTIONS FROM MONEY PURCHASE PENSION PLANS.

(a) GENERAL RULE.—Paragraph (6) of section 402(a) of the Internal Revenue Code of 1954 (relating to special rollover rules) is amended by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULE WHERE EMPLOYER MAINTAINS MONEY PURCHASE PENSION PLAN AND OTHER PENSION PLAN.—

"(i) IN GENERAL.—In the case of any distribution from a money purchase pension plan which is maintained by an employer, for purposes of paragraph (5)(D)(i)(II), subsection (e)(4)(C) shall be applied by not taking into account any pension plan maintained by such employer which is not a money purchase pension plan. The preceding sentence shall not apply to any distribution which is a qualifying rollover distribution without regard to this subparagraph.

"(ii) TREATMENT OF SUBSEQUENT DISTRIBUTIONS.—If—

"(I) any distribution of the balance to the credit of an employee from a money purchase pension plan maintained by an employer is treated as a qualifying rollover distribution by reason of clause (i), and

"(II) any portion of such distribution is transferred in a transfer to which paragraph (5)(A) applies,

then paragraph (2) of subsection (a), and paragraphs (1) and (3) of subsection (e), shall not apply to any distribution (after the taxable year in which the distribution described in subparagraph (A) of paragraph (5) is made) of the balance to the credit of such employee from any other pension plan maintained by such employer."

(b) Effective Dates.—

(1) In general.—The amendment made by subsection (a) shall apply to payments made in taxable years beginning after December 31, 1978.

(2) Transitional rule.—In the case of any payment made before January 1, 1981, in a taxable year beginning after December 31, 1978, which is treated as a qualifying rollover distribution (as defined in section 402(a)(5)(D)(i) of the Internal Revenue Code of 1954) by reason of the amendment made by subsection (a), the applicable period specified in section 402(a)(5)(C) of such Code shall not expire before the close of December 31, 1980.

Sec. 3. Application of Targeted Jobs Credit to Certain Youths.

(a) General Rule.—Clause (i) of section 51(d)(8)(A) of the Internal Revenue Code of 1954 (defining youth participating in a qualified cooperative education program) is amended by striking out "19" and inserting in lieu thereof "20".

(b) Effective Date.—The amendment made by subsection (a) shall apply to wages paid on or after November 27, 1979, in taxable years ending on or after such date.

Sec. 4. Treatment of Certain Indebtedness Incurred Before 1965 for Purposes of Section 514.

(a) General Rule.—For purposes of applying section 514 of the Internal Revenue Code of 1954 with respect to any sale of real property during 1976, indebtedness incurred before January 1, 1965, by an organization to finance the construction of a building on such property shall not be treated as acquisition indebtedness if the parcel of real property on which such building was constructed—

(1) was acquired by such organization before January 1, 1952, and

(2) is contiguous to another parcel of real property which—

(A) was acquired by such organization before January 1, 1952, and

(B) was used by such organization, on January 1, 1952, and at all times thereafter before the date of the enactment of this Act, in a manner which meets the requirements of section 514(b)(1)(A) of such Code (relating to property used in carrying out exempt purpose).

(b) Effective Date.—The provisions of subsection (a) shall apply to sales during calendar year 1976.

The **SPEAKER**. Pursuant to the rule, a second is not required on this motion.

The gentleman from Illinois (Mr. Rostenkowski) will be recognized for 20 minutes, and the gentleman from Tennessee (Mr. Duncan) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. Rostenkowski).

GENERAL LEAVE

Mr. **ROSTENKOWSKI**. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The **SPEAKER**. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. **ROSTENKOWSKI**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill currently before the House, H.R. 5973, makes four miscellaneous changes in the Federal tax laws. H.R. 5973 was introduced to combine four separate bills approved by the Subcommittee on Select Revenue Measures on November 27, 1979. It was approved by the full Committee on Ways and Means on December 4, 1979. The four sections of the bill can be summarized briefly as follows:

WAIVER OF TIME LIMITS IN FOREIGN RESIDENCE OR PRESENCE REQUIREMENT FOR AMERICANS WORKING ABROAD

Section 1 would permit the waiver of the minimum time limits in the foreign residence or presence eligibility requirements for Americans working abroad to obtain the benefits of the deduction for excess foreign living costs or the exclusion for foreign earned income. The waiver generally would be available to Americans working abroad who could reasonably have been expected to meet those eligibility requirements, but who left the foreign country under conditions of war, civil unrest, or similar conditions which precluded the normal conduct of business. This rule would apply in cases where Americans working in private industry overseas are forced to flee due to internal unrest such as the current turmoil in Iran.

SPECIAL RULE FOR CERTAIN DISTRIBUTIONS FROM MONEY PURCHASE PENSION PLAN

Under present law, if an employer maintains a tax-qualified defined benefit pension plan and a tax-qualified money purchase pension plan and if an employee is covered by both plans, a total distribution of the balance of the employee's interest in the money purchase plan is not eligible to be rolled over tax free to an individual retirement account or to another qualified plan unless a total distribution also is made from the defined benefit plan in the same taxable year. Section 2 would allow an employee to make a tax-free rollover of a total distribution from a qualified money purchase plan where the employee also is covered by a qualified defined benefit plan maintained by the same employer even though a total distribution is not made from the defined benefit plan in the same taxable year.

DEFINITION OF YOUTH PARTICIPATING IN A QUALIFIED COOPERATIVE EDUCATION PROGRAM FOR PURPOSES OF THE TARGETED JOBS CREDIT

Under present law, the targeted jobs credit may be claimed for the hiring of youths who actively participate in qualified cooperative education programs, who have attained the age of 16 but who have not attained the age of 19, and who have not graduated from high school or vocational school. Section 3 would extend the availability of the targeted jobs credit to wages paid on or after November 27, 1979, to such youths who have not attained the age of 20.

SPECIAL RULE RELATING TO DEBT-FINANCED INCOME OF EXEMPT ORGANIZATIONS

Generally, under present law, passive investment income and gains from the sale of investments realized by an exempt organization are not subject to tax as unrelated business income. However, income and gains realized by an exempt organization from "debt-financed property" not used for its exempt function are subject to tax in the proportion in which the property is financed by acquisition indebtedness. This provision was added to the tax code in 1969 to prevent abuses which had developed with respect to the purchasing of businesses by exempt organizations, coupled with the leasing back of the assets to the former owners.

Section 4 would provide a limited exception to the debt-financed income rules. This exception would allow certain sales of real property in 1976 to be made free of the unrelated business income tax if the property had been acquired prior to 1952 and the indebtedness was incurred before 1965. The cost of this provision is approximately $32,000, and the intended beneficiary of the provision is the Tillamook County YMCA of Tillamook, Oreg.

Mr. Speaker, H.R. 5973 is the third in a series of omnibus minor tax bills reported from the Committee on Ways and Means during the 96th Congress. As has been our precedent with other such bills during this Congress, hearings have been held on all matters and every effort has been made to remove points of controversy from the individual items contained in this bill.

Finally, it is estimated that the provisions contained in H.R. 5973 will reduce budget receipts by $3 million for fiscal year 1980, by $6 million annually for fiscal years 1981 and 1982, and by $3 million annually thereafter.

I urge the adoption of this legislation and reserve the balance of my time.

☐ 1220

Mr. **DUNCAN** of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5973 which makes several technical changes to the Internal Revenue Code of 1954.

Under the code, U.S. citizens employed abroad are allowed a deduction for excess foreign living costs or in some cases a $20,000 salary exemption, if certain requirements are met. One of these requirements is a foreign residency requirement under which the U.S. citizen must be present overseas for at least 510 days out of an 18-month period or be a bona fide resident of a foreign country or countries for at least a full year.

Because of the situation in Iran, U.S. citizens have been forced to leave the country and cannot satisfy either of the previously described foreign residency tests. This means that they are not eligible for the excess foreign living costs deduction or the $20,000 exemption.

H.R. 5973 would correct this result by providing that if specific conditions are met the foreign residency tests can be deemed satisfied.

The bill also makes a limited modification to the tax-free rollover provisions which allows an employee, who receives a distribution from a money purchase pension plan, to roll the distribution over tax free into another qualified plan or individual retirement account even though he still participates in a pension plan.

Currently, the participation in a pension plan would prevent the tax-free rollover treatment.

H.R. 5973 also extends the targeted jobs credit to 19-year-olds and slightly liberalizes the rules concerning debt financed acquisitions by tax-exempt organizations.

I urge the bill's immediate adoption.

● Mr. DICKS. Mr. Speaker, I would like to speak in favor of H.R. 5973, especially the provision allowing the Secretary to waive the residency requirement for the foreign earned income tax credit in special situations.

Mr. Speaker, on April 10 of this year, I introduced this provision as a separate bill, H.R. 3561. It had come to my attention that many taxpaying Americans had been living and working in Iran in good faith, but were suddenly forced to evacuate a country that had been called "the rock of stability." An estimated 40,000 to 50,000 of these Americans were unable to fulfill the residency requirement necessary to receive the foreign earned income tax credit, a tax credit passed by Congress last year to offset the higher cost of living overseas. When these people returned home, they discovered the IRS on their doorstep, asking for a considerable sum in back taxes totaling $10 million nationwide, a sum most of these people had not counted on.

I did not think it fair or right for the U.S. Government to first grant the tax credit, then deny it. The Government should not be the recipient of this windfall profit at the expense of innocent people. Therefore, I introduced the bill that corrects a technical oversight and allows the Secretary of the Treasury to waive the residency requirement in a situation such as the Iranian revolution.

The Department of Treasury is in support of this bill, as are my colleagues on the Ways and Means Committee, and the 20 Representatives that cosponsored my bill.

The timing of this bill, of course, could not have been foreseen. But with the current Iranian crisis, it will help to ease the burden of those Americans who were financially hurt by the Iranian revolution through no fault of their own other than being in the wrong place at the wrong time. Let us do something positive for them during this time and pass the bill promptly.●

● Mr. ARCHER. Mr. Speaker, I appreciate this opportunity to call to my colleagues' attention a provision in H.R. 5973 which will provide needed tax relief for those forced to flee from Iran in recent months. I strongly urge all Members of the House to give this bill their support.

Before the passage of the Foreign Earned Income Act of 1978, an American who was a bona fide resident of a foreign country for an entire taxable year—or for at least 17 months out of an 18-month period—was entitled to a flat $20,000 income exclusion for tax purposes. Last year's act replaced the $20,000 exclusion with a system of deductions correlated to the excess living expenses in a particular country. However, the act retained the same residency requirement for enabling a person to claim the new excess living expense deductions.

At the time of the Iranian revolution last spring, many Americans were forced to leave the country when conditions made living there unsafe. The country was then in great turmoil imperiling the lives of Americans there. Many of those who were forced to flee the country had not yet met the residency eligibility requirement for the excess living expense deduction under the Foreign Earned Income Act of 1978. Clearly, however, those people did not leave by their own choice—or that of their employers.

If H.R. 5973 is not engaged, those people—and others in similar situations forced to flee from other countries—will be forced to pay full U.S. income taxes without any offset for the higher expenses they incurred while living in the host country.

Such failure to act would add insult and economic injury to those who undoubtedly will suffer financial loss as a result of having to leave the country on short notice to save their lives.

Americans working in foreign countries are furthering our national interest by fostering wider markets for our exports and assuring adequate imports of resources we need. They are also rank-and-file emissaries helping to build up goodwill and understanding around the world. They deserve our support when conditions totally outside their control force them to leave a foreign country before their residency requirement is met.

H.R. 5973 would permit the Treasury Department to waive the normal eligibility requirements of the Foreign Earned Income Act when unrest or warlike conditions prevent a person from remaining in a foreign country as he intended.

The bill gives the Treasury Department the necessary flexibility to make commonsense adjustments in the Foreign Earned Income Act when emergencies arise. It also contains safeguards against any abuse of our intent to provide this relief only for those who fall into that category described earlier of people forced against their will to flee from a foreign country. The bill is fair, sound—and badly needed by those who find themselves in such potentially tragic circumstances. I urge its passage.●

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER. The question is on the motion offered by the gentleman from Illinois (Mr. Rostenkowski) that the House suspend the rules and pass the bill, H.R. 5973.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

INTERNATIONAL CONFERENCE ON CAMBODIA

Mr. SOLARZ. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 219) calling for an international conference on Cambodia.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 219

Whereas a protracted conflict in Cambodia presents a serious threat to the peace and stability of Southeast Asia; and

Whereas the American people are deeply concerned about the survival of the Khmer people, now threatened by war, disease, and hunger; and

Whereas it is in the interest of all governments to support a peaceful resolution of the Cambodian conflict; and

Whereas the Cambodian people endured four years of terror and deprivation during which untold numbers of Cambodians lost their lives due to the brutality of one of the world's worst violators of human rights; and

Whereas the continued conflict in Cambodia has hampered the international relief effort to prevent the destruction of the Cambodian people; and

Whereas the recent vote in the United Nations General Assembly indicated widespread support for an international conference on Cambodia: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress calls upon the President to work with the Secretary General of the United Nations and the concerned nations of the world to convene, as soon as possible, an international conference on Cambodia which would bring together all those claiming to represent the people of Cambodia, as well as those nations which have a special interest in the Cambodian situation, and which would have as its purposes—

(1) to consider all elements essential to ending the conflict in Southeast Asia;

(2) to work for a political situation that would ensure the survival of the Khmer race and the Khmer nation;

(3) to strive to bring about an end to the fighting in Cambodia and the withdrawal of all foreign troops from that nation;

(4) to work for internationally supervised elections that would allow the Khmer people to choose freely their leadership;

(5) to promote the establishment of a neutral, nonalined Cambodia that would present no threat to any other nation; and

(6) to devise means of meeting the urgent needs of the Khmer people for humanitarian relief and reconstruction.

The SPEAKER. Under the rule, a second is not required.

The gentleman from New York (Mr. Solarz) will be recognized for 20 minutes, and the gentleman from Michigan (Mr. Broomfield) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. Solarz).

Mr. SOLARZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, everyone in the Congress is fully aware of the tragedy which has engulfed the people of Cambodia over the course of the last several years. During that period of time, upward of 2 million Cambodians have lost their lives due to the brutal and genocidal activities of the infamous Pol Pot regime; and following the imperialist invasion of Cambodia by Vietnam last December tens of thousands of Cambodians have lost their lives as well.

As a tactic of war, both sides destroyed food supplies and dislocated the population. Only 10 percent of the arable land in Cambodia has been put under cultivation for the December harvest, which means that upward of 2 million Cambodians now face the prospect of imminent starvation. As a consequence of the war and the years of terror and depravation, Cambodia today faces both a short-term humanitarian crisis of starving sick people, as well as a long-term political crisis of whether a Cambodia nation will continue to exist or disappear into an "expanded" Vietnam.

But the immediate crisis, of which the world is now aware, is that unless adequate relief supplies can be brought into Cambodia and then distributed throughout the country, we may witness over the course of the next several weeks one of the worst manmade catastrophes in the history of the human race.

But, in a significant sense our ability to resolve the humanitarian challenge that confronts Cambodia and the entire international community depends on our ability to resolve the political problem which confronts Cambodia as well. Our ability to facilitate the distribution of emergency food and medical supplies throughout Cambodia to all those in need, clearly depends on an end to the current conflict in that country.

Tragically, unfortunately, and unbelievably, the authorities in Phnom Penh and their masters in Hanoi are refusing to permit the distribution of emergency relief supplies to the Cambodians in parts of the country which have not yet been brought under their control. In the absence of a cease-fire and an end to the conflict between Pol Pot, Heng Samrin and the Khmer Serci, in Cambodia, the chances are that hundreds of thousands, and maybe millions, of Cambodians will not be able to receive the food and medical supplies the rest of the world is now sending into that country. So, the resolution of the life-threatening famine will require a political solution that will allow the relief effort to go forward.

House Concurrent Resolution 219 which we have before us today expresses the urgent sense of the Congress that the President of the United States, working together with the Secretary General of the United Nations, should attempt to convene, as soon as possible, an International Conference on Cambodia to which all interested parties and concerned countries would be invited, in the hope that by bringing all of them together a political solution to the crisis in Cambodia might be found. The purposes of the Conference would be, first of all, to facilitate an end to the fighting in Cambodia and the withdrawal of all foreign troops from that country. Second, it would provide for a political solution that would enable the people of Cambodia, hopefully through internationally supervised elections, to freely determine their own future. Finally, the Conference would hopefully facilitate the establishment of a neutral and nonalined Cambodia which would not constitute a threat or challenge to any other country in the region.

I am not overly optimistic that such a Conference will be called, or if it is convened, that it will result in an agreement between all of the concerned countries and interested parties to the Conference. But I can think of no other way in which there is even a remote possibility of bringing the fighting in Cambodia to an end, permitting the people of Cambodia to freely determine their own future but, perhaps most importantly of preventing the deaths of hundreds of thousands of other Cambodians.

□ 1230

Some of my colleagues have expressed reservations over the provision in the resolution calling for the establishment of a neutral and nonalined Cambodia. May I say that under ideal circumstances it might perhaps be best if Cambodia were alined with the West, but I think we have to be realistic.

The only way in which Vietnam will ever be persuaded to withdraw its forces from Cambodia, and the only way in which the People's Republic of China will ever be persuaded to cease support, which it is providing to the remnants of the Pol Pot regime, is if both countries can have some meaningful assurances that in the context of a Vietnamese withdrawal on the one hand and the cessation of Chinese support to Pol Pot on the other, whatever government emerges in Cambodia will be neutral and not constitute a threat to either China or Vietnam.

So I think that the only way we can possibly hope to succeed in bringing the fighting to an end and securing the withdrawal of all foreign forces from Cambodia is, in fact, in the context of an International Conference on Cambodia, which will provide for the ultimate establishing of a neutral and nonalined government in that country which would not constitute a threat to any other nation in the region.

Mr. Speaker, we stand on the threshold today of witnessing what is one of the worst catastrophes in the history of the human race. This administration and the U.S. Congress has responded generously and in a forthcoming fashion to this crisis by authorizing and appropriating upward of $69 million in emergency relief supplies to the people of Cambodia, but unless we can also lay the basis for a political solution to the conflict, our efforts to provide humanitarian relief to Cambodia will come to nothing.

A resolution similar to the one we have before us today, was adopted overwhelmingly by the General Assembly of the United Nations, in a 93-to-21 vote on November 13. It has been approved in essence by the countries that belong to the Asean bloc as well. I think the adoption of this resolution today will lend significant political support and momentum to an urgent consensus building within the international community that the immediate order of the day in Cambodia is the need for an international conference which will facilitate an end to the fighting and bring the needless suffering of the people of Cambodia to an end.

Mr. Speaker, at this point I would like to yield such time as he may consume to the very distinguished and enormously able chairman of the Committee on Foreign Affairs, my very good friend, the gentleman from Wisconsin (Mr. ZABLOCKI) who has some words to say about the resolution.

Mr. ZABLOCKI. I thank the gentleman for yielding and for his very kind expression and commendation. Whatever my success has been, it is only because of the cooperation and assistance of the members of the committee such as the gentleman from New York (Mr. SOLARZ) and the ranking minority member.

Mr. Speaker, I rise in support of House Concurrent Resolution 219, calling for an international conference on Cambodia. The resolution was considered by the Committee on Foreign Affairs on December 11, and adopted unanimously.

The passage of this resolution would express congressional sentiment and concurrence with a United Nations-adopted resolution which also urged that an international conference on Cambodia be convened. This issue is a matter of interest and concern to all nations. Many thousands of Cambodians have died already—the remaining have withstood hunger, disease, and the ravages of war. House Concurrent Resolution 219 urges the President to work with the U.N. Secretary General in pursuit of an international conference, and a political solution to the Cambodian problem.

Specifically, the conference would focus on the following points:

First. Consider all factors important to terminating the Cambodian conflict.

Second. Strive for a political milieu which would insure survival of the Cambodian people.

Third. Aim toward ending the fighting and for the withdrawal of all foreign troops.

Fourth. Pave the way for free, internationally supervised elections.

Fifth. Encourage the establishment of a neutral Cambodia; and

Sixth. Determine a means of alleviating the critical humanitarian and reconstruction needs of the Cambodians.

Mr. Speaker, I urge the adoption of House Concurrent Resolution 219, in the interest of addressing the humanitarian concerns of the Cambodian people and the political stability of Southeast Asia. As stated in yesterday's Washington Post editorial on the international conference on Cambodia—"it is not a very good idea—only the best around."

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just merely want to rise in support of House Concurrent Resolution 219 and endorse what the chairman of our subcommittee, the gentleman from New York (Mr. SOLARZ) as well as the chairman of the full committee, the gentleman from Wisconsin (Mr. ZABLOCKI) have said about this legislation.

Mr. Speaker, I urge the House to support this resolution.

The gentle land of Cambodia is today the scene of political and human horror. It is hard to imagine a people who have been so ill served by their would be saviors—first Pol Pot and now a Vietnamese-supported puppet regime.

I am not sure that a conference as proposed by this resolution will succeed in resolving the political conflicts that have created the holocaust in Cambodia. But I do know that we should try all avenues. In a real sense the problem of Indochina may be focused in Cambodia. And if we can find a resolution there, we may find the solution to some other problems, ranging from the question of American POW/MIA's in Vietnam to the issue of peace in Southeast Asia.

Mr. Speaker, the United Nations General Assembly has already voted for a similar approach to this problem. I do not believe we can do less than to press to convene a meeting as proposed by this resolution.

There is one observation I should make in closing. Just as the refugee problem was viewed at Geneva as an international responsibility, so too the accommodations and support necessary for the establishment of peace in Cambodia must be borne by many nations. Whatever international effort is required to create a peaceful, stable, neutral, and viable Cambodian state, the United States should carry only its share, and no more.

Mr. Speaker, Cambodia is a political and human tragedy with potential for even greater military conflict in Southeast Asia and beyond. We must continue to press for peace there in every way possible. For that reason I urge my colleagues to support this resolution.

Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I also want to support this resolution. But I think it is well for historic purposes to sometimes recall precisely what produces events of this nature. Very few people have failed to realize that ranking along with the holocaust caused by Nazi Germany, the systematic extermination by starvation and other means of the people in Cambodia will rank in history as one of the worst and most inhuman acts of all mankind, if, indeed, those to whom it can be ascribed have any concern for humankind in their souls.

But it is worth remembering that the same leftwing elements in this country who repeatedly told us that the United States was the destroyer of Asia, who repeatedly called upon us to withdraw so that the millenium would be reached in Vietnam and Indochina, so that there would be peace and harmony, so that the new Government of Hanoi controlling all of Vietnam would bring peace and stability and a wonderful life to the people of that area—they are in large part the perpetrators of what is happening there.

The liberal news journals and media who found so much offensive in American policy in Vietnam, however misguided it may have been tactically—they are the ones who now close their eyes to the true cause of what is happening in Cambodia even as they lament the current events. It is a Communist government, I remind you, that is allowing its own citizens to starve, and it is a Communist government in Vietnam that is contributing to the problem, backed by the Soviet Union. Those in Moscow who talk in such sweet terms about the need for a Strategic Arms Limitation Treaty allow their client state in Vietnam to go its brutal way.

I sometimes wonder whether or not those who have rewritten the history of the last 30 years internationally remember precisely what really communism means. If we want an example, we can look to Cambodia.

I applaud the call for an international conference. I hope something good comes out of it before hundreds of thousands more have died. But I suspect at such an international conference there will not be anyone raising the issue of why this was caused and who is causing it and what international ideology is to blame. It is not the United States of America; it is world communism and those in this country who have given it aid and comfort who have created the present Cambodian horror.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, I want to associate myself with the remarks of the gentleman from New York (Mr. SOLARZ) and the gentleman from Maryland (Mr. BAUMAN). I think this is a superb idea, and it is something that should be done immediately.

I think it is important to note that Vietnam is a client state of the Soviet Union, and we can talk about putting pressure on Vietnam, but the Soviet Union, it seems to me, is the most influential force in the world insofar as the Vietnamese Government is concerned, and we ought to be using whatever influence we have on the Soviets to humanize that government down there and perhaps just defer if not deter their policy of having people being expendable if it serves their political ends.

Communism views people as mere units of production and consumption, and the more production and the less consumption, the better. This should not come as a startling insight to any one who has studied the history of the Communist movement throughout the world. To those persons who felt that it was obscene that this country was over there resisting Communist aggression, I say that I hope they will take to heart the words of Michael Novak, who was one of those who resisted our involvement over there, our unsuccessful effort to prevent night from falling in Southeast Asia, when he said, "Our fingerprints are on every one of these refugees."

We are late, but, thank goodness, we are here trying to see that the starvation and the misery and the inhumanity might end. But let us learn a lesson that lack of concern for suffering humanity is part and parcel of the Communist philosophy.

Mr. BROOMFIELD. Mr. Speaker, I yield back the remainder of my time.

Mr. SOLARZ. Mr. Speaker, if the gentleman from Maryland (Mr. BAUMAN) and the gentleman from New York, who agree on very little, can agree on this resolution, I do not think it is beyond the realm of possibility that China and Vietnam might agree ultimately to cease their insidious involvement in Cambodia as well.

Mr. Speaker, I urge the adoption of this resolution as a strong indication of the concern of the Congress and the American people for a concerted effort to end the enormous suffering of the Cambodian people.

Mr. Speaker, I have no further requests for time, and I yield back the remainder of my time.

☐ 1240

The SPEAKER. The question is on the motion offered by the gentleman from New York (Mr. SOLARZ) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 219).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SOLARZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on House Concurrent Resolution 219.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

INSURING APPROPRIATE FINANCIAL RECOGNITION FOR HOSTAGES IN TEHRAN

Mr. BINGHAM. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 221) to insure appropriate financial recognition for the hostages in Tehran.

The Clerk read as follows:

H. Con. Res. 221

Whereas more than sixty official American personnel assigned to the United States diplomatic mission in Tehran have been seized and held hostage, and, in most cases, imprisoned for more than a month in violation of the most fundamental principles of international law and practice; and

Whereas this attack subjects the hostages and their families to suffering and anxiety which is beyond compensation, but should be accounted for; and

Whereas the ordeal of the hostages and their families has been unique and unparalled even for the members of the Foreign Service who regularly accent risk as a part of their profession and have seen forty-six of their colleagues killed in the performance of duty since 1965: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) declares its deep concern for the welfare of the hostages and expresses to the hostages and their families profund sympathy for the suffering to which, through no fault of their own, they have been subjected;

(2) is determined that no effort should be spared to maintain the honor of the United States and achieve the release and safe return of the hostages;

(3) believes that after the immediate crisis is resolved consideration should be given to appropriate compensation of the

hostages for the hardship, deprivation, and danger they have endured during their imprisonment; and

(4) intends that all possible steps be taken to insure that the hostages' future career prospects not be impaired by the physical and psychological mistreatment they have suffered.

The SPEAKER. Pursuant to the rule, a second is not required on this motion.

The gentleman from New York (Mr. BINGHAM) will be recognized for 20 minutes, and the gentleman from Michigan (Mr. BROOMFIELD) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Speaker, the action paragraphs of this resolution has the Congress declare the deep concern of the Congress for the welfare of the hostages and express to the hostages and their families profound sympathy for the suffering to which, through no fault of their own, they have been subjected; declare the determination of the Congress that no effort should be spared to maintain the honor of the United States, and achieve the release and safe return of the hostages; declare the belief of the Congress that after the immediate crisis is resolved, consideration should be given to appropriate compensation of the hostages for the hardship, deprivation, and danger they have endured during their imprisonment, and finally, declare the intention of the Congress that all possible steps be taken to insure that the career prospects in the future of the hostages not be impaired by the physical and psychological mistreatment they have suffered.

Mr. Speaker, the adoption of this resolution would be a signal that the Congress is not only determined that the hostages should be unconditionally released, but is concerned about their future welfare. Adoption of this resolution would be of some comfort to the families of the hostages, and conceivably word of it could be conveyed to the hostages themselves, thus helping to sustain their morale.

This resolution affirms that the entire Nation owes the hostages an immeasurable obligation and that that obligation should be honored in a very substantial fashion as soon as they are safely released and returned home.

The resolution is aimed at preventing an unfortunate repetition of the Vietnam experience when American prisoners, military and civilian alike, received only $5 a day extra for time spent in captivity. Were the hostages to be released today, the 44th day of their ordeal, they would on the basis of that precedent be entitled to awards of $220.

Given the totally unprecedented and unparalleled nature of the Tehran situation, I think that such a paltry sum would be an insult to the hostages and a mark of shameful dishonor on the rest of us.

Mr. Speaker, this resolution should give to the administration an unequivocal signal that the Congress considers the honor of the United States to require nothing less than very substantial financial awards to the hostages once they are safely returned home.

It is unclear whether present legal authorities can be stretched to properly cover the present situation, but it is clear that we have to devise an appropriate new response in law or regulation to adequately discharge America's obligation of honor to the hostages and their families. If new authority is required, the administration should ask for it in the sure knowledge that the Congress will respond promptly and generously. Whether or not new authorities are required, the Congress is indicating that it would look with disfavor on mere token awards.

Mr. Speaker, in the same light, this resolution makes it clear that the Congress considers the prolonged and expensive treatment the hostages may require to repair the physical and psychological damage they have suffered to be a profound national obligation. The ravages the hostages will have suffered should not be allowed to interfere with their future careers.

Yesterday's Washington Post contained an article which illustrates in a very vivid way the profound damage that can be suffered in such cases. The text of the articles follows:

THE HOSTAGES' HIDDEN HURTS

(By Thomas O'Toole)

A few years back, a career foreign service officer was kept hostage for four months by South American terrorists and then released unharmed. At least, he came out of captivity physically unharmed and returned to the United States for a few months of well-earned leave.

His friends quickly noticed he wasn't the same. He was angry much of the time, irritable when he wasn't angry and tense and anxious when he wasn't irritable. He told his friends he was suffering irregular heartbeats and that he thought he might be getting his first ulcer.

He said he couldn't sleep and was undergoing bouts of melancholy he found harder and harder to overcome. He fell into a depression he couldn't shake. He said he was depressed because he felt his four month in captivity had ruined his career at the State Department. He told his friends he thought they were shunning him, as if by having been a hostage he had picked up an insidious disease.

Oddly enough, he wasn't imagining things. He was right. His friends were shunning him, the way friends sometime shun a victim of rape.

"It's like where friends and family don't want to associate with him because if they stay with the hostage they'll become a hostage," says Dr. Steven Pieczenik, a psychiatrist formerly at the State Department and an authority on hostage psychology. "It's magical thinking but it happens. Nobody wants to go in his car pool. It's like if lightning strikes once it will strike again."

The story is told to make a point: When the American hostages come back from Tehran, whenever and however that might be, their ordeal may not be over. It's possible that being kept hostage for as long as they already have may leave such deep scars that their lives will undergo long-time change, triggered by what they've gone through and even by what others perceive they've gone through.

It's also possible that few or even none of the 50 hostages in Iran will suffer post-captivity trauma. After all, hostages differ, their captors differ and hostage situations differ. But enough is already known about the rigors of their captivity to suggest that the Americans being kept hostage in Iran will not have an easy time when it is over.

There's a wrinkle in the Iranian incident that could make things worse for the hostages. A popular image of the incident is that it was spontaneous, ignited by unruly Iranian students whose demands for vengeance against the shah got out of hand. Not true, says psychiatrists who've studied the hostage business. They believe the taking of the hostages was an act long in the planning. They believe the treatment the hostages are getting is part of a plan to "depersonalize" them so they can be used for Iranian political aims.

"None of this is accidental. It's much too deliberate," says Harvard University's Dr. John Clark, who has studied cult, hostage and prisoner-of-war psychology and who believes they're remarkably similar. "It looks to me as if the hostages are being pressured into a fixed state of mind to suit the purposes of their captors."

State Department psychiatrists who've debriefed the black and women hostages Iran released two weeks ago paint this picture of how the hostages are being treated:

They're kept apart on separate floors and in separate rooms, all of them seated in armchairs. At least one was in solitary confinement for 10 days; others lived for days at a time in tiny cubicles.

They must ask to use the bathrooms and their only conversation is with their Iranian captors, who often wear masks to conceal their identities and facial expressions. They're kept in the dark a lot. Their sleep is controlled and kept short. Their hands are tied, except when they're given a break to smoke. They're even forced to sleep with their hands tied.

"They're being badly mistreated," says one State Department psychiatrist. "It's not torture, but it's kind of hard to sleep with your hands tied."

Harvard's Dr. Clark points out that by isolating the hostages, by keeping them in the dark and making their sleep uncomfortable, the Iranians are following a practice perfected on prisoners of war by North Vietnam. Clark says isolation and sleep control are so effective as manipulative tools that cults use the technique on their novice members to bring them quickly into line.

"We know now that these processes don't lead to the kind of overwhelming terror that might protect the mind," Dr. Clark said. "They lead to a narrowing of attention that leads to a trance state, where everything seems ambiguous. Ambiguity is at the bottom of all this. It becomes impossible for the central nervous system to handle it."

Psychiatrists say the Iranians have already manipulated some hostages, who have been quoted publicly as saying their treatment is good and that the shah should face trial in Iran. These statements suggest to psychiatrists a form of brainwashing that might mean the hostages have already suffered some psychological harm.

Phychiatrists say there are three phases to most situations where people are kept captive or hostage. The Americans held in Iran have already passed through the first phase, which is such a strong disbelief in what is happening to them that they're struck with an overwhelming anxiety accompanied by fear of death.

"This fear of death doesn't come as the grim reaper. In fact, it often takes a very bizarre aspect," Dr. Pieczenik points out. "It comes with little obsessional thoughts like, 'Oh, my God, I forgot to turn off the stove.' It's a way of dispatching our anxieties but it's also telling us: 'Hey, we're in trouble.' "

Phase Two is a regression that can take anywhere from minutes to hours to days and is a fancy way of saying that the hostage quickly reverts to the position of a child, suddenly realizing that he's totally dependent on his captors for food, support, exercise, recreation, light, noise and even camaraderie. What this does is set up an unusual alliance between captive and captor.

The captive ends up losing his own personality and identifying with his captor, seeing in him parent, brother and even lover. This act of reidentification is called the Stockholm Syndrome, taking its name from an incident where a woman held hostage in a Stockholm bank vault had sex with her captor and eventually married him.

The Stockholm Syndrome may account for the statements of some of the hostages. They've said things aren't all that bad inside the embassy, that their captors are in fact pretty nice people and that things could have been much worse.

In previous incidents said one State Department psychiatrist who asked not to be identified, "We've had hostages who've been beaten up and tortured, and they've come out and shaken hands with their captors. It's very puzzling."

By placing masks over their faces, the captors depersonalize their captives. The Iranians have also rotated the hostages' guards, heightening the depersonalizing process. Isolating the hostages from each other increases the fear, the tension and the sense of abandonment felt by the hostages, making them more and more dependent on their captors at the same time they're losing pieces of their own personality.

Keeping the hostages in the dark deepens their anxiety. The screaming crowds outside the embassy, who shout in unison and on cue, serve the same purpose. Psychiatrists say that the hostages in Iran can expect to suffer visual and auditory hallucinations as a result of all this. When they do, they've entered Phase Three of the hostage process.

The third phase is the worst, since after hallucination comes psychosomatic pain and illness. Psychiatrists say that even after two weeks of being held hostage people begin to suffer frequent headaches. Ulcers flare up, nausea and vomiting come on, blood pressure rises and the heart begins to palpitate. Prisoners of war have been known to drop dead during this phase in their captivity.

What concerns psychiatrists most is what might happen to the hostages in the weeks ahead and the weeks, months and even years after their release. Hostages before these have survived months of captivity by toughening themselves mentally through their ordeal. Some have read poetry to themselves, others play word games with themselves or write long letters in their heads. It all depends on the hostage.

Yale's Dr. Robert J. Lifton thinks there's no way any of the hostages can come out of this unscathed. Lifton believes they will suffer pain over what they've gone through and guilt over what they could have done differently.

"They will be survivors of an ordeal," Dr. Lifton said, "and survivors have conflicts and suffer the psychological effects of what it was they survived. They will have indelible images of what they've been through."

Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Foreign Affairs, the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of House Concurrent Resolution 221, to insure appropriate financial recognition for the hostages in Tehran. The resolution was ordered favorably reported by the Committee on Foreign Affairs on December 11, 1979. At this time I wish to commend our colleague the Honorable JONATHAN B. BINGHAM for his efforts in initiating this measure.

House Concurrent Resolution 221 is offered to insure that the career opportunities of the American hostages in Iran will not suffer as a consequence of physical ailments or psychological sequences which might arise as a result of their incarceration.

It is also offered to express to the hostages the deep concern of the Congress over the continued welfare of the captives, not only now, but when they are returned to this country—and I pray that they are soon and safely returned.

The stress of protracted captivity cannot help but take some physiological and emotional toll on its victims. I genuinely hope the long term effects are minimal. It may, however, take some time to overcome the anxiety endured by the hostages through such a harrowing ordeal. The resolution is proffered in hopes of at least financially alleviating the trauma to which they have been subjected, and in anticipation of their potential plight.

Mr. Speaker, I strongly urge not only the adoption of House Concurrent Resolution 219, but the continued prayers for the hostages and their families as well.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this legislation through which Congress acknowledges its debt of gratitude to the American hostages in Iran.

We are stating that the patriotic American officials held in Tehran should receive more than a medal or a welcome home celebration. We should help to facilitate the reintegration of our compatriots into their families, jobs, and society with the minimum possible dislocation. This resolution is thus designed to send a message of reassurance and support to the families of the hostages who now experience great anguish while awaiting the release of their loved ones.

I would also like to draw to the attention of my colleagues the resolution's call for all possible steps to insure that the hostages' career prospects not be impaired by the physical and psychological mistreatment to which they have been subjected. We should make every effort to preserve their future opportunities to continue to serve our country.

In the midst of our holiday celebration, we all pray for the safe and speedy return of our fellow Americans held hostage in Tehran. But I confess that in this season of love and rejoicing, it is impossible for me to subdue my feelings of anger toward the terrorists and their lawless leaders who unjustly hold our Americans hostage. I strongly urge the President to do everything that is necessary to obtain the freedom of the Americans in Tehran in keeping with American dignity and resources. And I call upon all Americans and all law-abiding nations who respect God and the human life He created to cooperate with the President in those efforts.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Speaker, we all join in the spirit of this resolution on the hostages in Iran.

Three of the elements of this resolution are excellent and I want to join in commending those three.

The first expresses sympathy, the second speaks of the honor of the United States, and the fourth speaks of the future career prospects of the hostages.

However, Mr. Speaker, on this No. 3, Congress is establishing a precedent that will affect the future of the United States.

To think that this Congress would suggest putting a price on patriotism is beyond my heart and soul. How we could ever do this to Americans who take pride in their patriotism.

We say here we believe, after the immediate crisis in Iran is resolved, consideration should be given to appropriate compensation.

Mr. Speaker, there is no way that patriotism in the United States can ever have a price. It is unfortunate, that we have seen two of the groups over there who have been insulted, who have been treated as second-class citizens. I refer to the blacks. I refer to the women. Iran said they were not full-line Foreign Service and were considered second class. There is no second-class citizen in America. Every American is class 1 with self-respect.

Those hostages that are still over there—I thought, as I reviewed this bill about memories of 35 Christmases ago when I was over in Europe in a battle called the Bulge and I remember how proud I was of the 101st Airborne that held their ground all the way.

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I remember how thrilled I was when the 3d Army tanks came in and relieved them. I heard of the bravery of the submarines spread all over the Pacific and how everyone admired the courage of the 1st and 4th Divisions of Infantry, as well as the Rangers and troopers who took Omaha Beach. Through all history Americans have been proud to serve their country with honor.

Any way you measure it, I know how those marines feel over there, because the marines have a great tradition of honor. There is no price you can put on marine patriotism. From the halls of Montezuma to the shores of Tripoli, America can count on brave marines.

People who serve in the Foreign Service are proud to use the word "service." Three U.S. Ambassadors in Sudan, Cyprus, and Afghanistan gave their lives serving America. We are talking here about service to God and service to country. What they are doing is expected of them. We expect them to stand with honor. We want to pay them all the respect in the world; but when they come home I hope we never mention section 3 and strike this bill.

Unfortunately, today we cannot amend this Iran hostage resolution. Congress should never talk about heroism with a price for heroism. Every American when he has his chance will and should stand up for his country. We are proud of our heroes in Iran.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, the gentleman from Texas has raised a question that crossed my mind when I read this resolution as well. I think that we certainly owe a great deal to the people in our Embassy who are suffering there, some of them not even members of the Foreign Service, as I understand it; but historically, I am not exactly aware of a precedent in which a government has been subjected to this kind of pressure and then has perhaps used its own funds to compensate the victims, their own citizens in this case.

I wonder if the gentleman from New York intends that this compensation come from the U.S. Treasury or has the gentleman perhaps considered the possibility of some retribution that might be taken against the Government of Iran to be paid from the assets that have been frozen? This was the case in the Boxer Rebellion when the nations whose nationals suffered imposed a fine of several hundred millions on the Chinese radical elements that caused imprisonment in that case.

Mr. BINGHAM. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding.

Yes, indeed, we have given consideration to that. It may very well be that Iranian assets should be seized and taken for this purpose. It may well be that there should be retribution of the kind that the gentleman refers to for which the Boxer Rebellion was a precedent, but it was for our feeling that the hostages should not have to wait upon that kind of a determination which might take a long time for some form of compensation.

While I have the floor, if the gentleman would permit, I would like to say that I fully agree with the gentleman from Texas, that we cannot put a price on patriotism. It will be difficult to fairly assess the damages that the hostages may have sustained or the suffering they have endured. It would, in my view, be impossible for us to fully compensate them on either score in any case. The hostages did not seek a U.S. Government commitment to compensate them for catastrophes like this when they accepted the assignment. But on the other hand, these were entirely unprecedented events that could not have been anticipated by the hostages when they went willingly to serve in Iran.

The purpose of this resolution is to express our consciousness now of their suffering and to register our appreciation as a nation for all that they have endured.

The SPEAKER pro tempore (Mr BENNETT). The time of the gentleman from Maryland (Mr. BAUMAN) has expired.

Mr. BROOMFIELD. Mr. Speaker, I yield an additional minute to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I yield to the gentleman from New York.

Mr. BINGHAM. In our determination that the U.S. Government should take appropriate action, we do not say what that action should be, but we say appropriate action.

It is our feeling, and again I refer to the precedent of the Vietnam war where it seems to me that awarding $5 a day was worse than nothing; so that recognizing the imponderables here, recognizing the fact that we cannot in many cases put a financial measure on these things, it seems it would be of some comfort to the families of the hostages and hopefully to the hostages themselves to realize that our country owes a debt to these people and that at some point that debt should be paid and that they should not have to wait on the settlement of legal questions for that compensation.

Mr. BAUMAN. Mr. Speaker, I would say to the gentleman, the gentleman's response does give me some comfort. I have had legislation before the Foreign Affairs Committee now for about a week that would allow the President to place a fine on the Iranian Government or any government engaged in such activities.

The SPEAKER pro tempore. The time of the gentleman from Maryland has again expired.

Mr. BROOMFIELD. Mr. Speaker, I yield the gentleman 1 additional minute.

Mr. BAUMAN. I have introduced legislation which would permit the President in his discretion to place a fine of up to $10 million a day on any government that permits the kind of acts that are being permitted in Iran. That would be paid out of the assets frozen of any nation that caused this kind of thing to happen.

It would seem to me that would be the appropriate way to compensate the victims. From what the gentleman says any sort of compensation will require further action by Congress, even if it is proposed to be paid by our Government.

I would hope that we would consider that alternative. I think that is where the blame lies and that is where the source of the funding should come from.

Mr. BINGHAM. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. Yes, I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Speaker, I could not agree more that that is where the blame lies. A number of bills have been filed suggesting a variety of different actions that might be taken with regard to the Iranian assets and claims. It was the feeling of our subcommittee, and I think I speak for the full committee, in saying that we felt these bills could not be intelligently dealt with at the present time, that it would be best to defer consideration of those bills until the crisis is over and at that time I assure the gentleman they will be considered.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman.

Mr. BINGHAM. Mr. Speaker, I have no further requests for time.

Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BINGHAM) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 221).

The question was taken.

Mr. COLLINS of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution (H. Con. Res. 221), just considered.

Also, I ask unanimous consent that the article I referred to from yesterday's Washington Post be included at the termination of my remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York (Mr. BINGHAM)?

There was no objection.

PUBLISHING MINUTES OF FEDERAL OPEN MARKET COMMITTEE MEETINGS

Mr. ST GERMAIN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 508) to amend the Federal Reserve Act to require that detailed minutes of Federal Open Market Committtee meetings shall be published on a deferred basis.

The Clerk read as follows:

H. RES. 508

Resolved, That upon the adoption of this resolution the bill (H.R. 4998) to amend the Federal Reserve Act to require that detailed minutes of Federal Open Market Committee meetings shall be published on a deferred basis, with the Senate amendments thereto, is taken from the Speaker's table to the end (1) that the House concur, and it does hereby, in the Senate amendment to the title with an amendment as follows: in lieu of the matter proposed by the Senate insert the following: "A bill to authorize automatic transfer accounts at commercial banks, remote service units at Federal savings and loan associations, and share draft accounts at Federal credit unions during the period beginning on December 31, 1979, and ending on April 1, 1980"; and (2) that the House concur, and it does hereby, in the Senate amendment to the text with an amendment as follows: in lieu of the matter proposed by the Senate the following:

That section 19(i) of the Federal Reserve Act (12 U.S.C. 371a) is amended—

(1) by striking out "(1)" after "shall not apply" and inserting in lieu thereof "(A)";

(2) by striking out "(2)" after "mutual savings bank, or" and inserting in lieu thereof "(B)";

(3) by inserting "(1)" after "(i)"; and

(4) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding the provisions of paragraph (1) or any other provision of law, a member bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to a written authorization from the depositor to make such payments or transfers in connection with checks or drafts drawn upon the bank. Such withdrawals shall be made under such terms and conditions as the Board shall prescribe for such accounts.".

SEC. 2. Section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended by inserting "(1)" after "(g)" and by adding at the end thereof the following new paragraph:

"(2) Notwithstanding the provisions of paragraph (1) or any other provision of law, an insured bank, including an insured mutual savings bank and an insured savings bank, may permit withdrawals to be made automatically from a savings deposit that consists only of funds deposited to the credit of and in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or transfer of credit to a demand or other deposit account of the same depositor pursuant to a written authorization from the depositor authorizing such payments or transfers in connection with checks or drafts drawn by the depositor upon the bank. Such withdrawals shall be made pursuant to terms and conditions prescribed by the Board of Directors.".

Sec. 3. Section 5(b)(1) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)(1)) is amended by adding at the end thereof the following: "Nothing contained in this section or in any other provision of law shall prohibit the establishment of remote service units by associations for the purpose of crediting existing savings accounts, debiting such accounts, crediting payments on loans, and offering related financial transactions as provided in regulations prescribed by the Board.

Sec. 4. Section 107(6) of the Federal Credit Union Act (12 U.S.C. 1757(6)) is amended by inserting after "prescribed by the Board" the following: ", and to permit negotiable or nonnegotiable drafts to be utilized to withdraw shares from a share draft account subject to such terms, rates, and conditions as may be prescribed by the Board".

Sec. 5. The amendments made by this Act shall be effective only during the period beginning on December 31, 1979, and ending on April 1, 1980.

Mr. ST GERMAIN (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

The SPEAKER pro tempore. Is a second demanded?

Mr. WYLIE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Rhode Island (Mr. St Germain) will be recognized for 20 minutes and the gentleman from Ohio (Mr. Wylie) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Rhode Island (Mr. St Germain).

Mr. ST GERMAIN. Mr. Speaker, I yield myself such time as I may consume, and I yield to the gentleman from New York (Mr. Bingham).

Pending that, Mr. Speaker, I ask unanimous consent that at the conclusion of my remarks I may include in the Record a copy of a court decision on each of the regulations affected by that decision and a section-by-section analysis of the House amendments to H.R. 4998, that court decision being the one that I shall refer to of April 20 from the Court of Appeals of the District of Columbia.

The SPEAKER pro tempore (Mr. Bennett). Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

Mr. ST GERMAIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, last April 20, the Court of Appeals for the District of Columbia ruled, in a unanimous decision, that regulations of the Federal Reserve Board, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration authorizing institutions within their jurisdiction to offer various types of transaction accounts exceeded their statutory authority.

Specifically, the regulations allowed commercial banks to permit customers to link savings and demand accounts automatically and to transfer funds from the savings account to the demand account; allowed Federal savings and loans to establish remote service units which permit customers to credit and debit accounts, make third party transfers, and credit loan payments; and Federal credit unions to offer share draft accounts which permit interest payments on deposits and third party payments. The court declared that each of these services ran counter to express statutory language prohibiting commercial banks from paying interest on checking accounts and prohibiting savings and loans and credit unions from offering third party payment accounts to their customers.

Recognizing that millions of consumers were already utilizing interest-bearing accounts and that financial institutions had invested substantial sums in establishing the accounts, the court stayed the effective date of the order until January 1, 1980. This delay, the court suggested, would give the Congress a chance to review the issues and to specifically authorize or reject the right of consumers to have ready access to their funds and to draw interest on these accounts.

On May 15, the Financial Institutions Subcommittee of the Banking, Finance and Urban Affairs Committee launched hearings on share drafts, NOW accounts and similar interest-bearing checking devices. On July 26, our subcommittee reported the bill and on September 6, the full committee, on a 35 to 4 vote, reported the bill to the full House. On September 11, the House adopted H.R. 4986 on an overwhelming 367-to-39 vote and sent it to the Senate.

From the time of the court decision last April 20, we on the Banking Committee have felt it was essential to move as expenditiously as possible to assure consumers throughout this Nation that these accounts could continue and that they could, in a time of inflation, have the right to earn interest on their accounts. We felt very strongly that the Congress should clear away the uncertainties and give the financial institutions—credit unions, savings and loans, mutual savings banks and commercial banks—permanent authority to establish and maintain these accounts. For that reason, we resisted the repeated efforts to tack on other issues, to turn an emergency situation into a Christmas tree of unrelated financial measures.

The Senate, however, decided to combine the House-passed bill with a wide-ranging set of issues involving everything from bank holding company issues, to truth in lending to foreign banking. Many of these issues had not been considered by our committee in any form and this created a potential problem with the January 1 deadline on the court case. Despite our reluctance to bring back to the House issues which had not been properly considered by this body, we did sit down in conference with the Senate on December 4 in a sincere effort to gain a compromise which would allow share drafts and other interest-bearing accounts to continue past January 1.

Our conferees went to the Senate in a good faith effort to negotiate this legislation. The House will recall that both in committee and on this floor, I and other Members of this committee assured the House that in no way would the NOW account share draft legislation be held hostage to a Christmas tree situation.

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The Senate turned a deaf ear toward our action and toward what we had said. We were faced with a situation in conference where we were told that unless we accepted legislation which would have meant providing for a regulation Q phaseout, they did not even want to talk about a compromise. In the compromise we offered to the Senate we were willing to accept many items which were philosophically inimical to myself as well as to other members of the conference committee and Members of this House. But we felt that the overriding issue was to give to the consumers of this Nation an opportunity to be able to say to themselves, "Yes, we have share draft accounts, we have NOW accounts, we have transaction accounts, and we don't have to worry about a 3-month deadline. We don't have to worry about a 3-month deadline and another 3-month deadline."

The Senate, in addition to its regulation Q phaseout, which in my opinion has a phony title, offered the Small Saver Equity Act, and the reason I say that is that nothing would happen under their legislation, for a period of 2 years. That is 2 years, mind you, before the consumer would see any change under the Senate bill.

As the action of the Inter-Agency Coordinating Committee proved last Friday, the power already exists to change the interest rates and other terms of savings instruments. The Senate bill does not add to that power.

Let us look at what happened last Friday. The coordinating committee created another small savers certificate of deposit with a 2½-year maturity and no minimum denomination. It also raised the interest rate by one-quarter of a percent on savings instruments of 90 days to 1 year.

The coordinating committee, in effect, accomplished under existing law what the Senate says it is doing in its bill—the bill the Senate says is so important that the share drafts and NOW accounts must be held hostage.

I think that is unfair to the consumers of this Nation to delay on share deposits and NOW accounts. Everyone knows we intend to hold hearings on regulation Q immediately upon our return to the Congress in the next session. So, there is no reason to hold up share drafts and NOW accounts.

Unfortunately, because of their intransigence we are here before the Members this afternoon, and all we can offer to the untold millions of holders of share draft accounts and transaction accounts of this Nation, is that we are going to let them sit on the edge of their seats for another 90 days rather than give them permanent authority.

I think it is a crying shame that this Congress cannot react more readily and address a problem that confronts us with a January 1 deadline. However, we do not have any control over the situation. We are boxed in, and for that reason I have to ask my colleagues to support this resolution before us that would in essence extend for 90 days the authority of financial institutions now offering RSU's, transaction accounts, and share draft accounts, so that we can hopefully resolve this problem within that 90-day period.

Mr. Speaker, I would call upon the Members of this House to speak to the Senators, as I have called upon the millions of credit unions and share draft account holders around the Nation to speak to their Senators, and say that the House is willing to be reasonable, and that we are willing to accept a lot of things that do not relate to regulation Q or that are not tied to regulation Q in this bill.

Why not give the consumers of this Nation a Christmas gift? Lord knows this Congress has given them very little to date to look forward to as a Christmas gift. Let us give a Christmas gift to our constituents.

Why not resolve this problem before we leave here? We could resolve this NOW account and share draft account situation. We could do it. We have the time. We could sit down in conference in 15 minutes and resolve this issue on a permanent basis.

Mr. Speaker, I am really, as I say, apologetic that I must come before the House with so little to offer, but this is the best we can get to date from the Senate. For that reason, I urge adoption of the resolution.

I include at this point in the RECORD a copy of the court decision and each of the regulations affected by that decision and a section-by-section analysis of the House amendment to H.R. 4998.

U.S. Court of Appeals, for the District of Columbia Circuit, September term, 1978

No. 78–1337: AMERICAN BANKERS ASSOCIATION AND TIOGA STATE BANK, APPELLANTS V. LAWRENCE B. CONNELL, JR., ADMINISTRATOR OF THE NATIONAL CREDIT UNION ADMINISTRATION, ET AL.; CIVIL ACTION No. 77–2102

No. 78–1849: INDEPENDENT BANKERS ASSOCIATION OF AMERICA, A CORPORATION. APPELLANT, V. FEDERAL HOME LOAN BANK BOARD, ET AL.; CIVIL ACTION No. 76–0105

No. 78–2206: UNITED STATES LEAGUE OF SAVINGS, AN ILLINOIS NOT-FOR-PROFIT CORPORATION, APPELLANT V. BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, AN AGENCY OF UNITED STATES, ET AL.; CIVIL ACTION No. 78–0878

U.S. Court of Appeals for the District of Columbia Circuit, filed April 20, 1979, George A. Fisher, Clerk.

Appeals from the United States District Court for the District of Columbia

Before: McGowan, Tamm and Wilkey, Circuit Judges.

JUDGMENT

These causes came on to be heard on their records on appeal from the United States District Court for the District of Columbia, and they were argued by counsel before this panel.

Bills of costs must be filed within 14 days after entry of judgment. The Court looks with disfavor upon motions to file bills of costs out of time.

It appears to the court that the development of fund transfers as now utilized by each type of financial institution involved herein, commercial banks with "Automatic Fund Transfers," savings and loan associations with "Remote Service Units," and federal credit unions with "Share Drafts," in each instance represents the use of a device or technique which was not and is not authorized by the relevant statutes, although permitted by regulations of the respective institutions' regulatory agencies. Specifically, the transfer from an interest-bearing time deposit (savings) account to a noninterest-bearing demand (checking) account by the Automatic Fund Transfer system, authorized by the Board of Governors of the Federal Reserve System in 43 Fed. Reg. 20,001 (1978) (to be codified in 12 C.F.R. § 217.5(c) (2) and (3)), is that "indirect [ ] . . . device" prohibited by 12 U.S.C. § 371a (1976); [1] the Remote Service Units utilized by many savings and loan associations, pursuant to Federal Home Loan Bank Board regulations (12 C.F.R. § 545.4–2 (1978)) which permit the withdrawal of funds from an interest-bearing time deposit account by a device functionally equivalent to a check, are in violation of the prohibition against checking accounts contained in Section 5(b) (1) of the Home Owners' Loan Act of 1933 (12 U.S.C. § 1464(b)(1) (1976)); and the Share Drafts utilized by some federal credit unions, pursuant to National Credit Union Administration regulation (12 C.F.R. § 701.34 (1978), are the practical equivalent of checks drawn on these interest-bearing time deposits in violation of the provisions of the Federal Credit Union Act, 12 U.S.C. §§ 1751–90 (1976).[2]

The history of the development of these modern transfer techniques reveals each type of financial institution securing the permission of its appropriate regulatory agency to install these devices in order to gain a competitive advantage, or at least competitive equality, with financial institutions of a different type in its services offered the public. The net result has been that three separate and distinct types of financial institutions created by Congressional enactment to serve different public needs have now become, or are rapidly becoming, three separate but homogenous types of financial institutions offering virtually identical services to the public, all without the benefit of Congressional consideration and statutory enactment.

This court is convinced that the methods of transfer authorized by the agency regulations have outpaced the methods and technology of fund transfer authorized by the existing statutes. We are neither empowered to rewrite the language of statutes which may be antiquated in dealing with the most recent technological advances, nor are we empowered to make a policy judgment as to whether the utilization of these new methods of fund transfer is in the overall public interest. Therefore, we have no option but to set aside the regulations authorizing such fund transfers as being in violation of statute. We do so with the firm expectation that the Congress will speedily review the overall situation and make such policy judgment as in its wisdom it deems necessary by authorizing in whole or in part the methods of fund transfer involved in this case or any other methods it sees fit to legitimize, or conversely, by declining to alter the language of existing statutes, thus sustaining the meaning and policy expressed in those statutes as now construed by this court.

We recognize that enormous investments have been made by various financial institutions in the installation of new technology, that methods of financial operation in the nation have rapidly grown to rely on much of this, and that a disruption of the offered services would necessarily have a deleterious impact on the financial community as a whole, in the absence of the certainty that new procedures are authorized for the foreseeable future, which certainly only a Congressional enactment can give.

We recognize that there are arguments that Congress has, at some times and in some measure, tacitly approved part of these regulatory authorizations, but by no means directly, explicitly, or in the whole. We further recognize that the wisdom of the transfer procedures permitted by the regulations of the several agencies is a matter of high public financial policy, involving the financial interests not only of the parties before this court in these proceedings, but also of other large groups in the nation. It is the responsibility of the Congress and not the courts to determine such policy.

On consideration of the foregoing, it is ORDERED AND ADJUDGED by this court that the judgments of the district courts under review herein are reversed and the cases are remanded to the respective district courts with instructions to vacate and set aside the applicable portions of the following regulations:

(1) 43 Fed. Reg. 20,001 (1978) (to be codified in 12 C.F.R. § 217.5(c)(2) and (3)) of the Board of Governors of the Federal Reserve System;

(2) Fed. Reg. 20,222 (1978) (to be codified in 12 C.F.R. § 329.5(c)(2)) of the Board of Directors of the Federal Deposit Insurance Corporation;

(3) 12 C.F.R. § 545.4–2 (1978) of the Federal Home Loan Bank Board; and

(4) 12 C.F.R. § 701.34 (1978) of the National Credit Union Administration; and it is

Further Ordered, by the Court, that the effectiveness of this Judgment, insofar as it directs that the subject regulations be vacated and set aside, is stayed until 1 January 1980 in the expectation that the Congress will declare its will upon these matters; and it is

Further Ordered, by the Court, that the Clerk is directed to enter copies of this Judgment in each of the captioned cases.

Per Curiam.

For the Court:

GEORGE A. FISHER,
Clerk.

FOOTNOTES

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[1] Similarly, the Automatic Fund Transfer system authorized by the Federal Deposit Insurance Corporation in 43 Fed. Reg. 20,222 (1978) (to be codified in 12 C.F.R. § 329.5(c) (2)) is in violation of 12 U.S.C. § 1828(g) (1976), which directs the Board of Directors of the FDIC to prohibit the payment of interest on demand deposits. The court is of the view that the Automatic Fund Transfer system allows, in effect, for interest to be paid on demand deposits.

The Automatic Fund Transfer system also, in its effect, violates 12 U.S.C. § 1832(a) (as amended by Pub. L. No. 95–630, § 1301, 92 Stat. 3712, 10 Nov. 1978), which provides that, except in seven New England states. withdrawals from savings accounts may not be made by negotiable or transferable instruments for the purpose of making transfers to third parties.

[2] The Act does not contain an express grant of power to offer share drafts, nor can that power be implied in view of the legislative history of laws regulating financial institutions (see Brief for Appellant in No. 78-1337, at 9-26), which demonstrates an intent on the part of Congress not to authorize federal credit union share draft programs.

[6210-01]

TITLE 12—BANKS AND BANKING

CHAPTER II— FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Q: Docket No. R-0027]

PART 217—INTERST ON DEPOSITS

Withdrawals from savings deposits

Agency: Board of Governors of the Federal Reserve System.

Action: Final rule.

Summary: On February 2, 1978, the Board of Governors of the Federal Reserve System invited public comment on a revised proposed amendment to Regulation Q (Interest on Deposits) that would permit banks that are members of the Federal Reserve System to arrange with their depositors for the automatic transfer of funds from depositors' savings accounts to demand deposit (checking) and other accounts to cover checks drawn by depositors or to replenish or maintain a minimum balance in such accounts (48 FR 5003). The period for receipt of public comment on the proposed amendment expired on March 10, 1978. After consideration of the comments submitted and the views expressed therein, the Board has determined to adopt the proposed amendment with modifications, effective November 1, 1978. The amendment adopted differs slightly from the proposal in that it does not require the composition of an interest forfeiture. However, the Board encourages member banks to develop charges for automatic transfers to reflect the costs of providing the service to depositors. The Board will monitor the development of this new service, including its competitive effects among various types of banks and nonbank depositors, institutions, and will review the appropriateness of making any modifications on or before the first anniversary of the effective date of this amendment.

As adopted, the transfer service is entirely voluntary, and automatic transfers may not be made unless previously authorized in writing by the depositor. In addition, the automatic transfer service will be available only to individuals and not to business and other organizations or governmental units. For purposes of this provision, a partnership is considered to be a business or other organization. The automatic transfer service will provide depositors with an alternative to existing arrangements, such as automatic overdraft loans, when there are insufficient funds in depositors' checkup accounts. The service should also increase the efficiency of the Federal Reserve's check clearing operations by reducing the number of return itsms processed by the System.

Effective date: November 1, 1978.

For further information contact:

Allen L. Raiken, Associate General, 202-452-3625 or Gilbert T. Schwartz, Senior Attorney, 202-452-3623 Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

Supplementary information: In response to notice published in the Federal Register (43 FR 5008), the Board has received and carefully reviewed almost 1,400 comments on the proposed amendment. A majority of those responding (52.2 percent) favored adoption of the proposal. Of the 382 commercial banks commenting, 254 (66.5 percent) favored adoption of the proposed amendment; 517 individuals responded, with 424 (82 percent in favor of adoption; 370 savings and loan associations (100 per cent of those responding) opposed adoption of the proposal. Those responding in favor generally commented that the proposal represents a convenience and benefit to consumers and that it would save overdraft charges that would be assessed if the service were not available. Those opposed to the proposal principally commented that the proposal would authorize the payment of interest on demand deposits in violation of law (12 U.S.C. 371a) and that it would preempt Congressional action by creating nationwide negotiable order of withdrawal (NOW) accounts. Others commented that the proposal would give commercial banks an unfair competitive advantage over savings and loan associations and other thrifts institutions. (A detailed summary of comments received is available upon request from the Board's Office of Public Affairs, telephone 202-452-3204; 3215.

After consideration of the issues presented, the Board finds that this amendment would provide significant benefits to the public in the form of an additional convenient savings deposit withdrawal service. The amendment should also increase the efficiency of the Federal Reserve's check clearing operations by reducing the number of return items processed by the System. Consequently, the Board has determined to adopt the proposal, effective November 1, 1978.

The Board believes that the automatic transfer service does not violate the prohibition against the payment of interest on demand deposits. Section 19(a) of the Federal Reserve Act (12 U.S.C. 461) authorizes the Board to define the terms "savings deposit" and "demand deposit." Pursuant to section 19, the distinction drawn in the Board's regulations between savings and demand deposits is that a bank must reserve the right to require at least 30 days notice prior to withdrawal from a savings deposit, while demand deposits are available on demand. The amendment does not alter this basic distinction, and member banks will continue to be required to reserve the right to impose at least a 30-day notice period on intended withdrawals of savings deposits as presently required in section 217.1(e) of Regulation Q (12 CFR Part 217).

Further, it is the Board's view that the amendment does not authorize member banks to establish NOW accounts, which involve the use of negotiable orders of withdrawal to effect transfers of funds directly from savings accounts for payments to third parties. Section 1832(a) of Title 12 of the United States Code prohibits the drawing of negotiable or transferable instruments for the purpose of making transfers to third parties against a deposit or account on which interest or dividends are paid except in the six New England States. The Board's amendment does not authorize member banks to permit depositors to draw negotiable or transferable instruments against interest bearing savings accounts for the purpose of making transfers to third parties and does not affect the restriction that, outside of New England, member banks may permit depositors to draw negotiable instruments only against noninterest bearing demand deposit accounts. The amendment only permits member banks to arrange in advance with depositors to withdraw funds automatically from a depositor's savings account to be transferred to a noninterest bearing demand deposit account against which checks may be drawn or other accounts. The effect of the amendment, therefore, is to provide depositors with a withdrawal service that is identical in its essential elements to withdrawal services that banks already are authorized to offer to depositors such as withdrawals in person or via telephone.

In adopting this amendment, the Board has given careful consideration to its potential effect on the competitive balance among financial institutions, and has determined that adoption of the service will not seriously affect the flow of funds to thrift institutions under the existing ceiling rate structure. The amendment only enables member banks to offer an additional deposit withdrawal and transfer service similar to the preauthorized bill payment and telephone withdrawal services that both banks and savings and loan associations are presently permitted to offer. Thus, this additional service is likely to affect mainly the composition of commercial bank deposit liabilities, as depositors use the added convenience to hold somewhat less funds in demand deposit accounts that bear no interest and somewhat more in savings accounts.

The amendment, as adopted, is in essentially the form proposed, but with one modification. As proposed, the amendment would have required a forfeiture of interest in an amount no less than the amount of interest actually earned during the previous 30 days on the funds transferred from savings to checking accounts. As adopted, the amendment does not require the imposition of an interest forfeiture. This modification was adopted after consideration of comments received that indicated that the proposed required forfeiture of interest would necessitate substantial and costly operational changes by banks offering the automatic transfer service and would significantly lessen the benefits to consumers of the automatic transfer service. In order to maximize benefits to consumers, the Board has determined to adopt the amendment without a required interest forfeiture. However, during the first year after the effective date, the Board will monitor the effects of the automatic transfer service, including its effect on the competitive structure among banks and thrift institutions. The Board intends to work with the Federal Home Loan Bank Board and the Federal Deposit Insurance Corporation to gather information concerning the effects of the proposal on banks, savings and loan associations and other thrift institutions. Not later than one year after the effective date, the Board will review available data and will report its findings to the public.

Although the amendment does not require the imposition of an interest forfeiture, on the basis of comments received, the Board expects that banks will impose service charges that reflect, among other factors, the costs of providing the service to depositors. The Board believes that such charges imposed by member banks are appropriate. Accordingly, the Board encourages all member banks to evaluate their costs for providing the automatic transfer service and, in light of competitive circumstances, to develop charges for the service. Member banks are urged to impose such charges in the form of an interest forfeiture to afford depositors the opportunity to report such amounts as interest forfeited for income tax purposes to the extent permissible under Federal and State law.

The amendment does not impose a minimum denomination requirement on the amount of savings funds that may be transfered automatically. However, member banks may, if so desired, impose such a minimum denomination requirement.

Member banks will continue to be required to reserve the right to impose at least a 30-day notice period on intended automatic withdrawals of savings deposits as presently required in § 217.1(e) of Regulation Q (12

CFR Part 217). It is required that such reservation specifically be called to the depositor's attention and be stated prominently in written arrangements authorizing the transfer service entered into by banks and their depositors. In addition, as in all advertisements, announcements, and solicitations, member banks are expected to describe accurately the terms and conditions under which savings deposits may be automatically withdrawn and transferred pursuant to this rule.

The amendment will not affect arrangements whereby a thrift institution has agreed with its customer to transfer funds automatically or otherwise to the customer's demand deposit account at a member bank in accordance with a preauthorized agreement. Similarly, the amendment does not affect the ability of a member bank to use a depositor's savings deposit in satisfaction of a debt where the bank is authorized to do so under local law.

Under the terms of the proposal announced by the Board on February 2, member banks would be required to maintain data on funds transfers via the automatic transfer service in a manner that would facilitate data collection by the Board. In this connection, the Board has determined that member banks should maintain the following data on a monthly basis with regard to the automatic transfer service: the total amount of savings deposits subject to automatic transfer, the total amount of savings funds actually transferred, the number of such automatic transfers during the month, and the interest forfeiture or other charges imposed by the bank.

In view of the comments received which indicated that a delayed effective date of 60 days, as proposed by the Board in its February 2 release, was not sufficient, the Board has determined that the amendment will become effective on November 1, 1978. The Board believes that delaying the effective date of the amendment for approximately six months will provide sufficient time for member banks to effect the operational and marketing changes necessary to introduce the automatic transfer service in an orderly and beneficial fashion.

Pursuant to its authority under section 19 of the Federal Reserve Act (12 U.S.C. 461, 371b), effective November 1, 1978, the Board of Governors amends § 217.5(c) (2) and (3) of Regulation Q (12 CFR 217.5(c) (2) and (3)) to read as follows:

§ 217.5 Withdrawal of savings deposits.

* * * * *

(c) Manner of payment of savings deposits. * * *

(2) notwithstanding the provisions of subparagraph (1) of this paragraph, withdrawals may be permitted by a member bank to be made automatically or as a normal practice from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to a written authorization from the depositor to make such payments or transfers in order to cover checks or drafts drawn upon the bank or to maintain a specified balance in or to make periodic transfers to such accounts. In accordance with § 217.1(e)(2), a member bank must reserve the right to require the depositor to give notice in writing of an intended withdrawal not less than 30 days before such withdrawal is made. Such notice shall be prominently disclosed and specifically brought to the depositor's attention at the time the automatic transfer service is authorized. A member bank may not require a depositor to authorize such automatic transfers to be made from savings deposits.

(3) A member bank may permit depositors to maintain deposits subject to negotiable orders of withdrawal where authorized by Federal law.

* * * * *

By order of the Board of Governors, May 1, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-12699 Filed 5-9-78; 8:45 am]

[6714-01]

TITLE 12—BANKS AND BANKING

Chapter III—FEDERAL DEPOSIT INSURANCE CORPORATION

SUBCHAPTER B—REGULATIONS AND STATEMENTS OF GENERAL POLICY

PART 329—INTEREST ON DEPOSITS

Automatic Transfers of Funds From Savings Accounts

Agency: Federal Deposit Insurance Corporation.

Action: Final rule.

Summary: This rule will permit insured nonmember banks to make automatic transfers of funds from savings accounts to other accounts of the same individual depositor where he or she has authorized such transfers. Among other things, this will allow depositors to authorize periodic transfers of funds from their savings accounts to cover checks drawn on their demand accounts, thus avoiding the need to return overdraft items. Until now, such automatic transfers have been expressly prohibited by FDIC regulations. However, the FDIC has concluded that allowing them will promote good banking relationships and benefit both the industry and consumers by reducing the number of overdraft return items handled by banks and thus reduce the inconvenience and processing costs associated with such items.

Effective date: This final rule will be effective on November 1, 1978.

For further information contact:

F. Douglas Birdzell, Senior Attorney, Legal Division, Bank Regulation Section, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429, 202-389-4324.

Supplementary information: In March 1976, FDIC solicited comments on a proposed amendment to part 329 of its regulations governing the payment of interest on deposits. The 1976 proposal would have permitted insured nonmember banks to make automatic transfers of funds from savings deposits to a depositor's demand or other account, among other things, for the purpose of covering overdraft items. (The 1976 proposal appeared at 41 FR 11563). The Board of Governors of the Federal Reserve System proposed a similar amendment for member banks. No action was taken by either the FDIC or the Federal Reserve on the 1976 proposals.

In February of 1978, the Federal Reserve published a new automatic transfer proposal which modified its 1976 proposal (43 FR 5008). The 1978 Federal Reserve proposal limits the automatic transfers to individual accounts, thus excluding business and public unit accounts. Both the FDIC and Federal Reserve 1976 proposals would have required the forfeiture of 30 days' interest on funds transferred from a savings account. The 1978 Federal Reserve proposal required only forfeiture of the interest actually earned (up to 30 days) during the period prior to transfer. Both 1976 proposals required that transfers be made in $100 increments. The 1978 Federal Reserve proposal eliminated this requirement.

After publication of the 1978 Federal Reserve proposal, FDIC, rather than publish a detailed proposal of its own, solicited comments on the Federal Reserve proposal as well as on certain issues which were not specifically addressed in it (43 FR 7705) These were directed to:

(1) Whether the proposal was legal. The principal question here was whether the proposal would permit the illegal payment of interest on demand deposits. In this regard, FDIC requested comment on the effect, if any, of (1) the requirement that the bank retain the option to require 30 days' notice prior to withdrawal (transfer) from any savings account and (2) and transfer penalty. FDIC also requested comment on whether the effect of the Federal Reserve proposal would be to authorize illegal NOW accounts.

(2) The interest forfeiture provisions. Here FDIC sought comment on three alternatives to the forfeiture of interest. They were:

(A) A lower interest rate on savings accounts subject to automatic transfer than on regular savings accounts.

(B) A fixed fee on each transfer (geared to the bank's cost of making the transfer).

(C) No transfer fee as long as the funds are transferred to a checking account (and thus cease to earn interest) at the time an overdraft item is paid by the bank, subject to the optional 30 days' notice provision in FDIC's present regulations.

Finally, FDIC requested comment on whether mutual savings banks having checking account or similar powers should be allowed to pay interest on their savings accounts as to which a transfer order is in effect at rates above those afforded commercial banks.

As of March 29, 1978, FDIC had received a total of 436 responses to its request for comments on the Federal Reserve proposal. Three hundred and thirty-eight comments were received from banks; five from bank holding companies; two from Congressmen; seventy from individuals; thirteen from trade associations; four from savings and loan associations; and two from miscellaneous sources.

A general analysis of the comments received show that 263 favor automatic transfers and 169 are opposed to them.

By category of response: Of the 338 bank responses received, 189 generally favored the proposal; 146 opposed it; and 3 stated no opinion. Commercial banks supervised by FDIC opposed the proposal by a slight margin (130-100). Federal Reserve State member banks were opposed 4 to 3.[1] Mutual savings banks supervised by FDIC were opposed by a 4 to 2 margin. National banks were heavily in favor of the proposal by 84 to 8.[1]

Bank holding companies favored the proposal by a margin of 3 to 2. Both congressional responses were opposed. The sole Federal Government agency (the Department of Health, Education, and Welfare) response was favorable. Individual responses were heavily favorable (63 for, 6 against, 1 no opinion).

Of the four savings and loan associations responding, all were opposed. Trade associations were opposed (8 to 5). Of three miscellaneous responses, one favored the proposal, one opposed it, and one registered no opinion.

Of those opposing the automatic transfer proposal, the dominant negative comment was in the area of legality. Forty-two commentators said that the proposal was illegal. Forty-seven stated that it would preempt congressional action on NOW accounts and would authorize nationwide NOW accounts despite existing restrictions in Federal law. Seventy-two stated that it violated the statutory prohibition against the payment of interest on demand deposits.

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[1] This includes only those State member and national banks which submitted comments to FDIC.

The majority of insured State nonmember banks opposed the proposal. Of 230 nonmember banks commenting, 130 opposed the proposal and 100 favored it. Of the 130 opposed, 41 called the proposal illegal. By contrast, only 1 national bank questioned the proposal's legality. None of the Federal Reserve State member banks commenting raised the issue of legality.

In addition to questions of legality, smaller banks also questioned the proposal for economic and administrative reasons. For example, 38 banks stated that the proposal would be too costly. Thirty-two stated that it would create bank operation problems.

Thrift institution groups (savings and loan associations, mutual savings banks, and their respective trade associations) were, with the exception of two mutual savings banks, unanimously opposed to the proposal. The crux of their opposition was in the area of legality (the proposal would constitute the illegal payment of interest on demand deposits, preempt congressional action on NOW accounts or both) and competition (the proposal would cause deposit outflows from thrift institutions which would be harmful to thrifts and the housing industry).

As far as the other major issues are concerned, a clear majority of those commenting opposed any interest forfeiture or penalty. The trend of the comments was in opposition to a flat fee transfer charge. Seventy-seven comments favored the same interest rate ceilings for commercial banks as for thrift institutions. The majority of comments on effective date favored a long-deferred date, mainly for administrative reasons.

After analyzing the comments, FDIC's Board of Directors has decided to issue a regulation which will permit automatic transfers. No interest forfeiture or transfer fee will be required and there will be no minimum transfer amount requirement. However, banks may impose a transfer fee or minimum amount at their option. The current requirement that banks retain the option to require 30 days' notice of withdrawal from a savings deposit will be retained. The regulation will allow a depositor to authorize the bank to make transfers at any time and under any circumstances agreed upon between them. While overdraft protection is a major reason for the new rule, it is not the sole reason. Hence, transfers from a savings to a demand deposit may be authorized without regard to actual overdrafts. Also, automatic transfers will be permitted from savings deposits to other accounts as, for example, from one savings account to another, or from a savings account to a time deposit open account.

On the question of legality, FDIC's board has determined that this regulation does not authorize the payment of interest on demand deposits. This is so because two separate accounts are involved, and because transferred funds cease to earn interest once the transfer has taken place. No question of illegal NOW accounts is involved because no check or other negotiaable instrument is drawn on the savings account from which the transfer is made. It is drawn on the non-interest-bearing account to which funds have been transferred. The preauthorized transfer service is simply a logical extension of the present telephone transfer service where banks are allowed to make transfers from savings to checking accounts if authorized to do so by a telephone call from the account holder.

Under the authority contained in Sections 9 and 18 of the Federal Deposit Insurance Act (12 U.S.C. §§ 1819 and 1828), and after consultation with the Board of Governors of the Federal Reserve System and the Federal Home Loan Bank Board, Section 329.5(c)(2) of FDIC's rules and regulations is amended by deleting subparagraph 2 and substituting the following subparagraph 2:

§ 329.5 Withdrawal of saving deposits.

* * * * *

(c) *Manner of payment of savings deposits.*

(1) * * *

(2) An insured nonmember bank may permit withdrawals to be made automatically from a savings deposit that consists of funds deposited to the credit of, and in which the entire beneficial interest is held by one or more individuals, through transfer of credit to a demand or other deposit account of the same depositor pursuant to a written agreement between the bank and the depositor authorizing such payments or transfers in connection with checks or drafts drawn by the depositor upon the bank, or for any other purpose not prohibited by law or regulation. Interest earned on a savings deposit may be transferred pursuant to the provisions of this subparagraph whether or not the depositor is an individual. In accordance with Section 329.1(e)(1)(iii) of this Part 329, the bank must reserve the right to require the depositor to give notice in writing of an intended withdrawal (transfer) less than 30 days before such withdrawal (transfer) is made. This reservation shall be expressly set forth in the written agreement authorizing transfers pursuant to this subparagraph. The bank may not require the depositor to enter into an agreement providing for the automatic transfer of savings deposits as a condition to maintaining a savings or other deposit account.

* * * * *

By order of the Board of Directors, May 5, 1978.

Federal Deposit Insurance Corporation,
Alan R. Miller,
Executive Secretary.

[FR Doc. 78–12791 Filed 5–10–78; 8:45 am]

Federal Home Loan Bank Board—12 C.F.R. 545.4–2

¶ 801b
§ 545.4–2

Remote Service Units (RSUs).

(a) *Definitions.* As used in this section—

(1) "Activator" means a machine-readable instrument used to activate an RSU; a passbook may not be so used.

(2) "Generic data" means statistical information which does not identify any individual accountholder.

(3) "Personal security identifier" (PSI) means any word, number, or other security identifier essential for user access of an account through an RSU.

(4) "Remote service unit" (RSU) means an information processing device, including associated equipment, structures, and systems, by which information relating to financial services rendered to the public is stored and transmitted, instantaneously or otherwise, to a financial institution. Any such device not on the premises of any facility of a Federal association which, for activation and account access, requires use of an activator and PSI in the possession and control of the user, is an RSU.

The term includes, without limitation, both "on-line" computer terminals and "off-line" cash dispensing machines. It excludes automated teller machines on the premises of a Federal association, unless shared with other financial institutions. An RSU is not a branch, satellite, or other type of office, facility, or agency of a Federal association under §§ 545.14, 545.14–1, 545.14–2, 545–3, 545.14–4, 545.14–5 or 545.15.

(5) "RSU account" means a savings account (including a savings deposit) or loan account which may be accessed through an RSU.

(6) "User" means an RSU accountholder of a Federal association authorized to access an RSU.

(b) *General.* A Federal association may establish or use RSUs in the State of its home office or in the primary service area, as determined by the Board, of any of its out-of-State branches, and may participate in RSU operations with other financial institutions as the Board may approve.

(c) *RSU financial services.* A Federal association's board of directors may, by resolution, authorize it to offer any of these financial services to the public through RSUs:

(1) crediting existing savings accounts;

(2) debiting such accounts up to the available balance therein, provided that no negotiable or transferable order or authorization is used unless permitted by Federal law;

(3) crediting payments on loans in which the association has an investment or which it is servicing; and

(4) related financial services as the Board may approve upon application.

(d) *RSU activator.* Each RSU activator shall bear the words "Not Transferable" or their equivalent.

(e) *RSU access techniques.* A Federal association shall provide a PSI to each user and require its use when accessing an RSU; it may not employ RSU access techniques which require the user to disclose a PSI to another person.

(f) *Account agreements.* A Federal association shall clearly disclose in writing to each user before an RSU account is opened, all terms and conditions of the RSU agreement, including rights and obligations in case of loss, theft, or error and the privacy of account information. The association shall also inform each user that:

(1) loss or theft of the activator should be promptly reported to a person or phone number specified by the association; and

(2) the PSI is for security purposes and should not be disclosed to third parties.

(g) *Service charges.* A Federal association may impose charges for RSU financial services.

(1) *New accounts.* A schedule of charges shall be disclosed in writing to a prospective user before an RSU account is opened.

(2) *Existing accounts.* Users shall be notified in writing 30 days before service charges are initiated or increased by the association.

(h) *Error resolution.* A Federal association shall establish error resolution procedures for RSU accounts, and inform users that:

(1) written notification of error should be made within 60 days of receipt of the statement;

(2) resolution of alleged error by correction or written confirmation of the transaction (including copies of any documents relied on by the association) shall be made by the association within 10 business days after receiving such notification.

(i) *Liability for loss.* A Federal association shall be liable to a user for RSU account losses resulting from the association's:

(1) failure to carry out the user's transaction order correctly including such failure resulting from prior uncorrected error of the association;

(2) failure to correct an account error within 10 business days after receiving written notification from the user; or

(3) processing a transaction order from an unauthorized person, unless the association proves that such action resulted from the user's negligence.

(j) *Account statements.* A Federal association shall issue each user a statement of RSU account transaction monthly if the account has been used in that time, quarterly if not; such statement shall include at least the date, type, amount, and location of each RSU transaction;

(k) *RSU receipts.* Each RSU must provide to users at the time of an RSU transaction a receipt containing at least the following: date, type, amount, and location of transaction, and information sufficient to identify the user. A receipt which is manually written must be signed by the user and the RSU operator.

(l) *Privacy of account data.* A Federal association shall allow users to obtain any information concerning their RSU accounts. Except for generic data or data necessary to indentify a transaction, no Federal association may disclose account data to third parties, other than the Board or its representatives, unless express written consent of the user is given, or applicable law requires. Information disclosed to the Bank Board will be kept in a manner to ensure compliance with the Privacy Act, 5 U.S.C. § 552 (a). A Federal association may operate an RSU according to an agreement with a third party or share computer systems, communications facilities, or services of another financial institution only if such third party or institution agrees to abide by this section as to information concerning RSU accounts in the Federal association.

(m) *Bonding.* A Federal association shall take all steps necessary to protect its interest in financial services processed at each RSU, including obtaining available fidelity, forgery, and other appropriate insurance.

(n) *Security.* A Federal association shall protect electronic data against fraudulent alterations or disclosure. All RSUs shall meet the minimum security devices requirements of Part 563a of the Insurance Regulations as though such units were offices, as defined in § 563a.1 of said Part, except to the extent that an applicant satisfies the Board that those requirements are inappropriate. Alternate measures satisfactory to the Board must be taken for installation, maintenance, and operation of security devices and procedures, reasonable in cost, to discourage robberies, burglaries, larcenies, and computer theft and to assist in identification and apprehension of persons who commit such acts.

(o) *Competitive implications.* The Board will consider competitive implications of applications made under this section and may, in an appropriate case, (1) request the views of the Antitrust Division of the Department of Justice, (2) request an applicant to obtain a business review letter from such Division under 28 CFR § 50.6, and/or (3) require a Federal association to share RSU activities with another financial institution under reasonable terms and conditions. A Federal association may not enter into any agreement for exclusive right to engage in RSU activities at any location(s). A Federal association may not require any person to become an RSU user as a condition of obtaining a loan or any other service offered by the association.

(p) *Applications.* (1) *General.* A Federal association shall obtain the Board's written approval before entering into any RSU activity or materially altering a previously approved one. Before applying for such approval, a Federal association shall obtain from the Supervisory Agent written advice that there is no present supervisory objection to such application.

(2) *Start-up date.* A Federal association shall have its approved RSU activity operational no later than 12 months after Board approval, unless the Board grants an extension.

(3) *Filing.* Two copies of any RSU activity application shall be filed with the Supervisory Agent. The original and two copies shall be sent to the Director, Office of Industry Development, Federal Home Loan Bank Board, Washington, D.C. 20552. Additional material may be requested by the Director or the Supervisory Agent. Applicants may file information to supplement or amend applications.

(4) *Procedures.* Processing of an application for a remote service unit involving the offering of deposit services shall follow the procedures set forth in §§ 543.2(c) and (d) and 545.14(d)(2) of this Subchapter and, in the case of communications pertaining to Part 563e of this Chapter, § 543.2(e) and (f) of this Subchapter.

(q) *Board supervision.* Each Federal association which engages in any RSU activity shall be subject to rules and regulations which the Board may hereafter prescribe or any resolution which the Board may adopt, including requirements to terminate or modify such activity, whether engaged in separately or with others. A Federal association may share an RSU controlled by an institution not subject to examination by a Federal regulatory agency only if such institution has agreed in writing that the RSU is subject to such examination by the Board as it deems necessary.

(r) *Reporting.* A Federal association which engages in RSU activities shall submit to the Board, at the association's expense, such reports as the Board may require regarding such activities.

(s) *Exception for previously approved RSU projects.* Subsections (d) through (l) and (q) of this section shall apply beginning January 1, 1979 to Federal associations engaging in RSU activities approved prior to July 1, 1978.

[Added 1–9–74; revised 7–29–74; 7–31–75; 5–28–76; 7–31–76; 12–31–77; 3–31–78; 7–1–78; 11–6–78]

[7535–01]

TITLE 12—BANKS AND BANKING

CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

Final Rule—Share Draft Programs

Agency: National Credit Union Administration.

Action: Final Rule.

Summary: This regulation prescribes the requirements for the establishment and implementation of permanent share draft programs by Federal credit unions. A share draft program allows Federal credit union members to write drafts on their share accounts to obtain cash or to pay for goods or services. It eliminates the delay and inconvenience in making withdrawals by mail or in person.

Effective date: February 6, 1978.

Address: National Credit Union Administration, 2025 M Street NW., Washington, D.C. 20456.

For further information contact:

J. Leonard Skiles, Deputy General Counsel, at the above address, telephone 202–632–4870.

Supplementary information: On February 28, 1977, this Administration published a proposed rule (42 FR 11247) which prescribed the requirements for the establishment and implementation of share draft programs for Fedral credit unions. Public comment was invited to be received on or before May 2, 1977. A total of 47 comments was received.

On March 22, 1977, the public was notified that an Administrative Hearing would be convened on April 19, 1977, to receive testimony on the proposed rule (42 FR 15427). Over a two day period, 18 witnesses offered testimony.

On June 30, 1977, this Administration announced that the period for comments on the proposed rule would be extended until August 1, 1977. Consequently, two additional comments were received.

Upon review of the comments received and after a thorough reconsideration of the proposed rule, various changes, as set forth below, have been made. Additionally, many questions were raised that did not necessarily require an amendment to the proposed rule but did necessitate interpretative rulings. To the extent possible, this Administration has attempted to address those issues.

Report on Share Draft Programs

The following chart reflects statistics on share draft programs for the third quarter of 1977, as compared to statistics for the second quarter of 1977 and for the previous year's third quarter. The information is based upon data furnished by Federal credit unions (FCU's) operating share draft programs.

	Sept. 30, 1976	June 30, 1977	Sept. 30, 1977
1. Number of FCU's approved for share draft programs	391	582	582
2. Number of FCU's with programs in operation	[1] 231	[2] 484	514
3. Number of share draft accounts	90, 181	241, 140	323, 207
4. Aggregate amount of share draft accounts	$88, 557, 178	$244, 527, 045	$316, 409, 127
5. Number of share drafts paid during the quarter	2, 384, 049	7, 296, 839	9, 792, 824
6. Amount of share drafts paid during the quarter	$141, 076, 997	$455, 115, 594	$608, 479, 706
7. Number of overdrafts paid during the quarter (from other share account or loan plan)	15, 729	41, 663	64, 985
8. Amount of overdrafts paid during the quarter	$2, 187, 583	$5, 371, 797	$7, 976, 304
9. Number of stop payments	1, 375	4, 722	5, 912
10. Number of drafts dishonored during the quarter	16, 086	44, 954	73, 083
11. Amount of drafts dishonored	$931, 874	$3, 142, 237	$4, 866, 829
12. Estimated cost to process each draft	$. 156	$. 179	$. 199
13. Average number of drafts paid per account each month	8. 87	10. 09	10. 09
14. Average amount of drafts paid	$59. 17	$62. 37	$62. 13
15. Average amount paid out of each share account per month	$521. 45	$629. 11	$627. 54
16. Average share balance per account	$997. 72	$1, 014. 05	$978. 96

[1] 7 FCU's included in this total did not report statistical information.

[2] 17 FCU's included in this total did not report statistical information.

Of the Federal credit unions which commenced operation of a share draft program, only 1 terminated its program, based on cost considerations.

Analysis of Comments

1. LEGALITY OF SHARE DRAFTS

The public was advised that the major issue involved in the promulgation of the proposed share draft regulation was whether Federal credit unions can legally permit their members to make withdrawals of funds from a share account by means of a negotiable or nonnegotiable draft (42 FR 11248 and 33341).

Certain commenters contended that legal impediments exist to the promulgation of the proposed rule. They vigorously argued that the Federal Credit Union Act contains no grant of power to Federal credit unions, expressly or by implication, to engage in the type of business envisioned by the proposed rule; that the share draft concept violates the purposes for which Federal credit unions are chartered, i.e., to promote thrift and create a source of credit; that, since there is no statutorily expressed power to authorize share drafts or a similar type third party payment concept, the incidental powers clause is inapplicable, i.e., share drafts are not "necessary or requisite" to enable Federal credit unions to carry out effectively the business for which they are incorporated; that to promulgate the proposed rule would (i) ignore the clear and expressed intent of Congress as set forth in the legislative history surrounding the enactment of the Federal Credit Union Act and the amendments thereto, and (ii) ignore other legislative endeavors and pronouncements by Congressional and credit union leaders concerning third party payment accounts; that the National Credit Union Administration cannot by means of a regulation create a power not heretofore granted by Congress; and that the National Credit Union Administration failed to comply with the Administrative Procedures Act when authorizing experimental share draft programs.

In making the above arguments, the commenters cited excerpts from the legislative history of the Federal Credit Union Act, examined and distinguished judicial precedents concerning third party payments, reviewed the express and incidental powers of Federal credit unions and compared them to similar powers of other financial institutions, and discussed in great detail Congressional mandates concerning third party payment powers. In all respects, the comments represent a thorough evaluation of the legal issues that had to be resolved before this Administration could proceed with the promulgation of the proposed rule.

At the time the proposed rule was published, this Administration had made the determination that share drafts were legal for Federal credit unions. Based on the comments received, however, that position was exhaustively reviewed. While many of the propositions espoused warrant careful deliberation, this Administration has determined that they are not persuasive. Accordingly the following legal determinations have been made:

(1) The use of share drafts is not inconsistent with the purposes of Federal credit unions, including the express statutory purposes of promoting thrift and creating a source of credit;

(2) In the absence of an express prohibition, the common law authorizes any member of a credit union to draw a draft on his share account with the credit union;

(3) Neither the Federal Credit Union Act, the legislative history of the Federal Credit Union Act, nor the legislative history of Federal statutes governing other financial institutions demonstrate any intention on the part of Congress to prohibit the use by Federal credit unions of either share drafts or similar methods of withdrawal;

(4) The use of share drafts, as a method of withdrawal, is impliedly authorized under the Federal Credit Union Act as an exercise of the express powers to receive withdrawable shares and make contracts;

(5) The operation of a share draft program is a proper exercise of incidental powers under the Federal Credit Union Act;

(6) Balancing the relevant policy considerations and considering the Congressional mandate that the National Credit Union Administration be responsive to the needs of Federal credit unions, ambiguities, if any, must be resolved in favor of upholding a share draft program; and

(7) The National Credit-Union Administration has complied with the requirements of the Administrative Procedures Act.

Providing impetus to the consideration of a withdrawal mechanism for credit unions was the advent of the Federal Government's direct deposit of recurring payments program. In 1972, Congress enacted Pub. L. 92-366 to permit the directing of Federal recurring payments to financial institutions, including credit unions, designated by individual payment recipients for credit to the individual's personal account. Upon enactment, the Department of the Treasury and the Social Security Administration commenced implementation of the direct deposit program. The purpose of the program is to improve service and provide greater security and convenience to government beneficiaries.

It was soon recognized that there was an inherent weakness in the credit union system: The lack of a convenient and practical mechanism for withdrawal of funds. In order to participate in the direct deposit program, i.e., to be designated by a payment beneficiary/credit union member, credit unions had to provide a method whereby the recipient could effectively, conveniently, and practically make use of the funds deposited. Withdrawal by means of personal appearance, telephone or mail would not meet the needs of a credit union member.

In addition to its responsibilities to credit unions and credit union members, the National Credit Union Administration, as a Federal agency, has a responsibility to assist in the implementation of a program which benefits not only the public, but also the efficacy of Government operations. Authorization of share draft programs is consistent with the responsibilities of this Administration and, as we have determined, consistent with the powers contained in the Federal Credit Union Act and available under common law.

In fulfilling its statutory role of regulating and supervising Federal credit unions, this Administration must recognize its duties and responsibilities to the Congress. Although certain commenters did submit discussions of Congressional intent based upon the legislative history of the Federal Credit Union Act, and amendments thereto, to show that share drafts were not envisioned by the legislators, we find the opinions expressed to be, at best, inconclusive. In fact, recent Congressional consideration of amendments to the Federal Credit Union Act and amendments which would affect other financial institutions, manifest an implicit recognition of share draft authority. Consumer Financial Services Act of 1977. S. Rep. No. 95-407, 95th Cong., 1st Sess. 18 (1977). Nowhere do we find persuasive legislative history arguments supportive of the position that the Administration exceeded its authority in permitting share draft programs. On the contrary, we find the intention of Congress, when creating this Administration, to clearly reflect recognition of the necessity for responsive regulation to meet the needs of credit union members in an evolving socio/economic environment. This Administration finds no indication of Congressional intent to restrict the ability of credit union members to manage and utilize their funds either through withdrawal or payment mechanisms.

The Federal Credit Union Act defines a Federal credit union as "a cooperative association organized * * * for the purpose of promoting thrift among its members and creating a source of credit for provident and productive purposes." 12 U.S.C. 1752(1). While the definition accurately sets forth the primary purpose of Federal credit unions, to view the purpose based solely on this definition is to oversimplify the rationale expressed by the Congress and to ignore the remaining provisions of the Federal Credit Union Act which established the overall plan under which Federal credit unions operate.

The legislative history of the original Federal Credit Union Act indicates that Congress was concerned with the ability of individuals to manage their own financial resources. It is not denied that Federal credit unions were intended to provide a system for accumulating savings and meeting credit needs, but their operation extends to the opportunity for people to self-manage their savings. This Administration does not find the use of share drafts to be inconsistent with that concept.

Share draft programs can be viewed as promoting thrift and creating a source of credit in at least four ways. First, it encourages members to maintain a minimum balance in order to earn dividends, or conversely it discourages spending. Second, by increasing the earnings of a Federal credit union, which can result in an increase in dividend rates or reduction in loan interest rates, it encourages increases in savings thereby providing more funds for provident loans. As an example, the general manager of a Federal credit union operating a share draft program testified that the program generated sufficient earnings to enable a loan interest refund of 26 percent in 1976. Third, as an additional service, it encourages more people to join and place funds in a Federal credit union again providing additional sources of credit. Fourth, it allows the truly poor, with little or no access to third party payment accounts, to save the cost of money orders.

Not all Federal credit unions will have the same experiences with a share draft program meets their immediate needs. Individual members of a Federal credit union will ultimately determine whether the program meets their immediate needs. However, whether or not members will avail themselves of an offered service is no indication that a particular program is or is not consistent with the overall purposes of Federal credit unions. The effect of a particular program on a given Federal credit union cannot be used as a basis for denying the power to operate such a program to all other Federal credit unions.

This Administration has also determined that the use of share drafts is consistent with common law. Share drafts are in the same form as drafts which have been used by both businesses and individuals for centuries. Drafts were in use before banks, as that term is generally understood today, came into existence. Based upon custom, usage and common law, anyone can draw a draft on anyone else and this would include a member drawing a draft on his or her Federal credit union. Due to the historical practice concerning the use of drafts, a specific prohibition would be necessary to preclude a member from drawing a draft on a Federal credit union. The Federal Credit Union Act contains no prohibition against the use of drafts for withdrawal purposes. Thus it is presumed Congress has not taken away that right.

An examination of the legislative history of the Federal Credit Union Act, including that cited by opponents of share drafts, fails to disclose an intent on the part of Congress to prohibit the use of share drafts. Viewed in terms most favorable to opponents, it is this Administration's view that the legislative history is, at best, ambiguous and inconclusive. With such an interpretation, and with the historical support of the common law, the National Credit Union Administration is constrained to determine the issue in favor of Federal credit unions.

In addition to this Administration's determination that share drafts are not inconsistent with the purposes of Federal credit unions, that their use is consistent with common law, and that legislative history does not indicate an intention on the part of Congress to prohibit their use, it has been determined that share drafts are impliedly authorized under the Federal Credit Union Act. The implied authority for the operation of share draft programs is essentially founded upon the express powers to contract (12 U.S.C. 1757(1)) and to receive payments on shares (12 U.S.C. 1757(6)).

The Federal Credit Union Act does not expressly define the breadth of the power to contract. However, the conclusion that share drafts are within the contractual powers of Federal credit unions is supported by judicial and administrative precedent. *"Iowa Credit Union League v. Iowa Department of Banking,"* No. CE6-3152 (May 24, 1977); "Oklahoma State Credit Union League," Conclusions of Law 10 (Order, Credit Union Board of the State of Oklahoma, May 17, 1977). The Iowa court concluded that Iowa credit unions have the power to enter into share draft agreements with their members and that the relationship between a credit union and its members with respect to share and deposit accounts is contractual. Although the Iowa decision interprets a state law, it is a judicial interpretation of a similar statute governing institutions similar to Federal credit unions. While the National Credit Union Administration does not find itself bound by state judicial or administrative rulings, it does recognize such rulings merit due consideration.

In considering decisions relating to the power of banks to contract, the power is viewed in terms of the scope of the institution's activities and whether it involves the reasonable furtherance of the operations of the institution's business. A contractual arrangement whereby Federal credit union members gain access to their funds does involve the reasonable furtherance of the operations of a Federal credit union's business and is within the scope of a Federal credit union's activities.

As to the power to receive payments on shares, there appears to be no disagreement that the statutory power implies the ability to pay withdrawals. However, it is the extent and scope of the withdrawal power which is in dispute. Based on common law, any member may draw a draft on his or her Federal credit union. As previously stated, a specific prohibition would be necessary in order to preclude a member from taking such action. Likewise, a positive prohibition would be necessary to prevent a Federal credit union from honoring the draft if it wishes to pay it.

Aside from implied authority, the operation of a share draft program is a legitimate exercise of a Federal credit union's incidental powers. Although the standard to be applied to the incidental powers clause of the Federal Credit Union Act (12 U.S.C. 1757(15)) has not been the subject of judicial scrutiny, identical or similar powers governing state chartered credit unions have been tested. In "Oklahoma Bankers Association," supra, the Oklahoma State Credit Union Board cited the incidental powers clause as authority for the proposition that credit unions could adopt "modern methods of operation and technological progress such as data processing and electronic funds transfer" systems. Id. at 9. Support can also be found in the "Iowa" case. The court there concluded that share drafts are incidental to and promote the statutory functions of credit unions in addition to being a lawful exercise of express and implied powers. "Share drafts are necessary and requisite in order for credit unions to effectively continue to carry on their business." "Iowa Credit Union League," supra, 17. A comparison of the incidental powers clauses of the Oklahoma and Iowa state credit union acts (Okla. Stat. Ann. title 6 § 2006(15), (West Supp., 1977); Iowa Code Ann. § 533.4(11), (West 1970)) to that contained in the Federal Credit Union Act reveals that the clauses are identical in all respects, insofar as the standard by which such powers are to be judged. The Iowa court also felt it was necessary "for credit unions to develop more innovative services in the area of funds withdrawal and third party payments if they are to remain competitively viable and continue to perform their statutory functions." Id. at 13.

The exercise of incidental powers is not unique to credit unions but is shared by all institutions in the financial community. It has been recognized that financial institutions may exercise their incidental powers when necessary to preserve their existence in order to continue to perform their statutory functions. See for example, "McCoy v. Adams," 29 F. Supp. 815 (E.D. Pa. 1939). The analysis of the incidental powers of financial institutions is contained in far more than one or two cases, many of which have been cited by opponents of the share draft program. This Administration does not intend to discuss herein either the cases cited by opponents or those which support a decision in favor of share drafts. It is sufficient for the purposes of this preamble to acknowledge the existence of such cases. The Administration is of the opinion that although the opponents' authorities are deserving of considerable attention, they have not been found to be of sufficient weight to warrant a finding which would have an adverse impact on credit unions.

In evaluating the operational aspects of share draft programs through the experimental stage and proceeding through the rulemaking process culminated by the publication of this final rule, the Administration has not been unmindful of the impact such programs may have on other financial institutions. Certainly, this issue has been emphasized through both written comments and oral testimony in addition to court action. It is recognized that Federal credit unions compete with other financial institutions to the extent that their members can also utilize the services of those other financial institutions. The existence of Federal laws governing the establishment and regulation of financial institutions with similar powers indicates Congressional approval of competition. Although services offered may differ, all depository institutions compete in attracting savings and such competition goes beyond the financial community; it extends to competition with, among others, insurance companies and investment companies. The offering of differing and various services and meeting the needs of individual consumers is the method by which institutions attract savings. To the extent that such methods violate law or involve deceptive practices the resulting competition may be found to be unfair and unlawful. However, when an institution utilizes means available under statutory and common law and which provide for a public benefit by offering consumer opportunities and fostering the development of innovative and healthy competition, such practices cannot be viewed in the same negative vein. This Administration finds share drafts to be within the latter category. While share drafts may have an adverse impact on certain individual financial institutions—it cannot be said that share drafts will jeopardize the existence of a whole segment of the financial community—that potential cannot support the denial of authority for the credit union industry to exercise a legitimate power.

As the Department of Justice noted in its comments on the proposed regulation, changes in the economy have brought about high money market rates and consumer awareness. This has forced new competition and the need for innovative developments and technological advances which will ultimately provide important consumer benefits. The Department also noted that, due to the nature of share drafts, such programs may well stimulate competition between credit unions and commercial banks and will allow the continuation of important competitive initiatives. (The Department of Justice did not address the question of the legality of share draft programs: The comments related solely to share drafts and EFT system and competitive consequence.)

Through the promulgation of the share draft regulation, the Administration does not intend that all Federal credit union members close out their checking accounts with commercial banks or NOW accounts with other thrift institutions. The intent is, however, to provide credit union members with an alternative for the effective management of their funds consistent with the purposes of the Federal Credit Union Act and as recognized by common law; an alternative which provides the member, as a consumer, with an additional consumer benefit. The option will be that of the individual in light of his or her specific needs.

2. SEPARATE ACCOUNTS

The proposed rule would require that a member desiring to use share drafts must first establish a separate share draft account. At the time the proposed rule was published, it was considered essential that share draft accounts be entertained separately in order to ensure accurate recordkeeping, to facilitate the maintenance of a liquidity reserve, and to permit evaluation by this Administration. As a matter of policy this requirement is modified.

Many commenters pointed out that there are advantages to both the credit union and the member if combining the share draft account with the regular share account were permitted. The commenters argued that eliminating separate share accounts reduces costs for the credit union: That, in turn, benefits the members.

There are, however, significant operational advantages in maintaining separate share draft accounts. Initially, it minimizes any interference with other accounts and reduces confusion during the developmental stage for the Federal credit union. A separate share draft account would also, for many Federal credit unions, facilitate the calculation of reserves and the collection of any data this Administration should determine is necessary to continue to monitor the share draft program. Additionally, the maintenance of a separate share draft account may avoid some of the difficulties inherent in maintaining a single share account. This is especially true where a member maintains one account and has pledged a portion of the shares in that account as security. These difficulties are, however, relatively minor and can be solved. Finally, it appears that many members desire a separate account for personal convenience and recordkeeping purposes.

It is the Administration's opinion that the prevailing argument in support of the legality of the share draft program is that share drafts are merely a method of remote access to a member's account. This method of access by draft has always been available at common law, but simply not implemented until recently. Arguably, absent a specific regulation concerning the method of share withdrawals, a member of a Federal credit union would have the power to withdraw money from his share account by drawing a draft on the Federal credit union and the Federal credit union would have the power to honor the draft. However, the unrestricted exercise of this power is neither economically nor operationally feasible for all Federal Credit unions. Hence, there are sufficient justifications for regulating the use of share drafts.

It should be noted that Federal credit union members have always been able to establish more than one share account, and at the time of withdrawal, whether in person, by mail or by phone, determine which account would be drawn upon. Therefore, a member may wish to designate one regular share account as the account upon which share drafts are to be drawn without affecting the chances in any other regular share accounts maintained by that individual. Whether such an option is to be made available to a member is a matter properly within the discretionary powers of the board and is a matter of agreement between a member and his credit union.

Accordingly, "share draft account" will be redefined to mean "any regular share account from which the Federal credit union has agreed that shares may be withdrawn by means of a share draft or other order."

3. PAYABLE THROUGH BANK

The definition of payable through bank raised four major issues. First, should the definition be revised to follow more closely section 3-120 of the Uniform Commercial Code? Second, should the definition be revised to provide greater flexibility? Third, should this Administration require that the payable through bank be located in the same state as the drawee Federal credit union? Fourth, should credit union members be allowed to make deposits at the payable through bank?

As to the first issue, one commenter proposed a slight refinement in the definition to reflect the present language of section 3-120 of the Uniform Commercial Code, which reads: "An instrument which states that it is 'payable through' a bank or the like designates that bank as a collecting bank to make presentment but does not of itself authorize the bank to pay the instrument." It was, therefore, suggested that the definition of payable through bank be redefined to mean "the bank that has been designated to make presentment of a share draft to the Federal credit union for payment."

The difference is slight; however, a modification as suggested would be of some benefit in that case law interpreting the respective liabilities of the Federal credit union and the payable through bank would be more on point and less likely to be distinguished because of a slight variation in the way "payable through bank" is defined.

Several commenters suggested that the definition be more inclusive than payable through bank. One commenter suggested the phrase "payable through financial institution" would provide greater flexibility and better meet the requirements of Federal credit unions.

This Administration concurs that there does exist the need to follow the more exacting language in the Uniform Commercial Code, but does not agree that the definition be made more inclusive. At the present time, only banks are in a position to act as payable through institutions. Therefore, expanding the term to include other types of financial institutions would serve no useful purpose. Should the Federal Reserve regulations be modified to authorize other financial institutions to act as a "payable through institution," an amendment to this section will be considered.

As to the third issue, this Administration has no valid reason for requiring the payable through bank to be located in the same state as the drawee Federal credit union. It should be noted, however, that if the payable through bank is other than a National Bank and requires the Federal credit union to maintain a deposit, then section 107(8) of the Federal Credit Union act is applicable. In that case, the payable through bank must operate in accordance with the laws of the state in which the Federal credit union does business.

Finally, the question was raised whether a Federal credit union and a payable through bank may establish a correspondent relationship whereby its members could make deposits at the payable through bank and have them credited to their regular share accounts at the Federal credit union. This Administration has recently addressed this issue and delineated certain requirements that must be met to implement such a program. On this matter, Federal credit unions should contact the appropriate Regional Director for guidance.

In consideration of the above, paragraphs (a) (1) and (2) have been amended to read:

(1) "Share draft" means a negotiable or nonnegotiable draft used to withdraw shares from a share draft account.

(2) "Payable through bank" means a bank that has been designated to make presentment of a share draft to the Federal credit union for payment.

4. CHARGE FOR USE OF SHARE DRAFTS

Commenters raised several issues with respect to the charges authorized under § 701.34(c) (6) (xiii) of the proposed regulation. There were several requests for authorization to charge activity fees or alternatively to require a minimum balance. The argument most frequently made in favor of activity fees/minimum balances was that of economic viability based on particular credit union circumstances. While the evidence on this matter is not conclusive, it has been determined that the charging of activity fees, since they would be assessed against members utilizing the program, would be permissible. However, activity fees charged cannot be in excess of the direct and indirect costs attributable to the processing of share drafts. In terms of a minimum balance for regular share accounts, however, a Federal credit union must comply with Article III of its Bylaws.

Several commenters expressed concern that the proposed regulation would prohibit them from passing on the costs of printing and delivering the share drafts to the members who ordered them. Section (b) of the proposed regulation distinguished between providing share drafts to the members and charges on the subsequent use of the share drafts. It is within the board of director's discretion to decide if drafts are to be paid for by the member or if the Federal credit union will absorb that cost.

Three other questions arose that this Administration did not specifically address in either the preamble to the proposed regulation or the proposed regulation itself: First, in the event separate accounts are used, whether the board of directors may impose a fee for transfers between separate accounts? Second, whether a fee can be required for guaranteeing a draft in accordance with § 701.34(g) of the proposed rule? Third, whether a fee may be imposed for interim statements requested by a member? It is believed that the charging of such fees is properly within the discretion of the board of directors and should not be prohibited. Accordingly, paragraph (b) and paragraph (c) (6) (xiii) of the proposed regulation have been revised to incorporate these changes, as well as to reflect that the charging of a fee is a policy decision properly left to the board of directors. The fees charged, however, cannot exceed the direct and indirect costs of providing that service to the member.

Paragraph (b) of the proposed rule is amended to read:

(b) A Federal credit union may provide its members with share drafts. The board of directors shall determine, prior to requesting approval to implement the share draft program, that the members' use of share drafts is economically and operationally feasible for the Federal credit union.

Paragraph (c) (6) (xiii) of the proposed rule (redesignated (c) (5) (xiii) in the final rule) is amended to read:

(xiii) the fees, if any, to be charged: *Provided,* Such fees shall not exceed the direct and indirect costs of providing the service.

5. REQUEST TO OPERATE A SHARE DRAFT PROGRAM

There were several general comments made with respect to the application procedure. Several commenters objected to the procedure whereby the Federal credit union must furnish all background documentation which supports the board of directors' decision that the members' use of share drafts is economically and operationally feasible for the Federal credit union. It was argued that in its present form the "provision might be construed as requiring each credit union to undertake a detailed feasibility study, which would be unduly burdensome for smaller credit unions."

This Administration views the implementation of a share draft program as a major management decision for each Federal credit union concerned. The considerations are substantial and will vary as to each Federal credit union. Under these circumstances it is essential that adequate documentation be furnished by a Federal credit union desiring to implement a share draft program in order that its economic and operational feasibility be determined. Such an approach will best protect the members and allow objective evaluation of the credit union and the qualifications of the management so that the risks of operating a share draft program are minimized. Accordingly, no modifications have been made to paragraph (c) (2).

One commenter requested that league counsel be permitted to give the statement that the forms and procedures to be used by all the Federal credit unions using a particular program conform to the requirements of this regulation and applicable laws governing contract rights. *Provided,* The forms and procedures used by each Federal credit union represented by the league counsel or any other legal counsel are identical, such a procedure is acceptable.

One commenter suggested that the Administration require those Federal credit unions that were approved to operate a share draft program under the experimental program be required to submit a new application. Some review is necessarily consistent with the changeover from an experimental to a permanent program. For example, the method of paying dividends or the procedures for establishing liquidity reserving requirements must be reviewed and approved. However, it has been determined that a new application is not necessary. Instead, all Federal credit unions previously approved must, to the extent their previously approved applications are inconsistent with or do not provide the information required by this regulation, submit written notification to the Administration (Regional Director) which identifies the modifications made to assure compliance with this regulation. Questionable practices should not be implemented, or should be discontinued until reviewed by the Regional Director. Those Federal credit unions that have submitted and have pending applications that do not meet the requirements of this Regulation must submit a new application or modify their applications as appropriate.

6. METHOD FOR MEMBERS TO MAINTAIN A RECORD OF SHARE DRAFTS DRAWN

Several commenters expressed the concern that the proposed regulation could be interpreted to mean that this Administration intends to prohibit credit union members from using draft registers or stubs as a method of maintaining records of their share draft transactions. The proposed regulation at paragraph (c) (6) (vii) simply required that the method for member verification must be stated. Apparently, confusion arose as a result of the language in the preamble to the proposed rule which referred only to "carbonless duplicates." This form of member recordkeeping, as previously indicated is not required to the exclusion of all others. Its use, however, is recommended.

7. MODIFICATIONS

The proposed rule at subsection (e) required that any modification to an approved share draft program be approved in writing by the Regional Director. The standard objection raised by several commenters was that a literal reading of the proposed rule would require advance approval of even the slightest change to an operating share draft program. Potentially, such a requirement is burdensome for Federal credit unions requesting slight adjustments to operational programs.

The Administration is not concerned with minor modifications, such as, a change from a quarterly to monthly statement of account or a change in dividend rate being paid, but it is concerned with substantive or substantial procedural changes in the operation of the program. Accordingly, for clarification purposes those modifications requiring advance notification and approval are set forth in a revised subsection (e). Additionally, subsection (e) will clarify that any material modification not delineated in subsection (e) falls within the notification requirement and must be reviewed and approved by the Administration.

It is recognized that there will be questions as to what is meant by a "material modification." Federal credit unions, therefore, are cautioned to review the intended modification with the Regional Director whenever there exists some question as to its import and potential impact on the share draft program.

One additional amendment to subsection (e) was made to clarify the requirement that requests for modifications must be made in writing.

Section (e) is amended to read:

(e)(1) The Federal credit union shall notify the Administration in writing, at least 60 days in advance of its proposed implementation date of any modification relating to:

(i) The payable through bank;

(ii) Truncation procedures;

(iii) The share draft agreement;

(iv) Procedures for establishing and maintaining a liquidity reserve; and

(v) Any material modification not previously reviewed and approved by the Administration.

(2) Implementation of the modification is contingent upon written approval of the Administration.

(3) The Federal credit union shall immediately notify the Administration as to any matter affecting the information provided pursuant to paragraphs (c)(1) through (c)(4).

8. DIVIDENDS

In the preamble to the proposed rule, a brief discussion was included to clarify that share draft accounts are share accounts; consequently, they are eligible to earn dividends. As in the case of all share accounts, however, dividends are not paid on those funds which are withdrawn during a dividend period.

The method and frequency of dividend payments raised considerable comment. Several commenters requested that Federal credit unions be permitted to pay dividends on share draft accounts at a rate and frequency which may differ from the treatment of regular share accounts. The arguments made in favor of these proposals were twofold. First, it was necessary to pay a dividend at a different rate or frequency in order to spread the costs of operating a share draft program among the members, some of whom will not have a share draft account. Second, several commenters implied that the use of different rates and frequencies would make the program economically feasible for a greater number of credit unions.

To be considered, however, are the statements of several commenters who testified that share drafts are self-supporting and are a source of income. They pointed out that share drafts benefit not just those who utilize the service, but the entire membership. One commenter attributed to a large degree an across-the-board interest refund to all members because the share draft program generated funds substantially in excess of all determinable costs. It should also be noted a few Federal credit unions have had difficulty justifying, on a cost basis, a share draft program. One Federal credit union terminated its program for that reason. Those Federal credit unions experiencing difficulty, however, are in a distinct minority.

Share drafts are a method of accessing a regular share account, and nothing more. Available data simply does not support separate treatment. The comments on Separate Accounts are also relevant to this issue. Accordingly, a "share draft account" means a regular share account established for a credit union member that may be accessed by share drafts. A share draft account, therefore, will earn the same dividend rate, which will be computed and paid in the same manner, as regular share accounts. The term "regular share account" is defined in § 701.35(a)(1)(i) of the rules and regulations (12 CFR 701.35(a)(1)(i)).

In the proposed rule, at subsection (c)(5), a limitation was placed on the frequency of dividend periods. As a share draft account must receive the same treatment accorded a regular share account, this restriction cannot be required. To continue a limitation on the frequency of payment would ignore the basic theory that regular share accounts and share draft accounts are identical excepting the method of access. This approach is also consistent with the conclusion that maintenance of separate share draft accounts will no longer be required. Consequently, as indicated above, if a Federal credit union pays daily dividends on its regular share accounts, it must also pay daily dividends on the share draft accounts. The same is true for any other period established for payment of dividends. Consistent with the above, the proposed subsection (c)(5) is deleted and the remaining subsections redesignated accordingly.

9. RESERVES

Comments on the proposed definition of "liquidity reserve" and the "liquidity reserve requirement" fell into three categories: (1) Those questioning the need for a liquidity reserve; (2) those addressing the basis for computing the liquidity reserve; and (3) those addressing the necessary components of a liquidity reserve.

As concerns the first issue, the major point made by the commenters was that a liquidity reserve has never been necessary for regular share accounts, which are, arguably, more susceptible to major withdrawals than are share draft accounts. The data developed during the experimental period, however, demonstrates a significant increase in withdrawals in those accounts subject to access by share drafts. The volume of the increased activity can be, in most instances, accurately projected; however, that does not eliminate the need to provide for a liquidity reserve to meet current operating as well as sudden and unexpected share withdrawals and to preserve member confidence. This Administration is, therefore, satisfied that maintaining a liquidity reserve is an essential element to a successful share draft program.

As to the second issue, one commenter suggested that the formula for computing the liquidity reserve be revised to equal "110 percent of the aggregate amount paid on share drafts during the preceding month divided by the number of days on which share drafts were paid during that month." It was contended that the suggested formula yielded a result, in terms of the total dollar amount required to be reserved, comparable to the amount required by section (c)(6)(xiv) of the proposed rule, i.e., 7 percent of the average daily balances for the preceding month. While the data developed during the experimental period does not support such a conclusion, this Administration views the suggested formula as a better method to compute liquidity reserves for share draft accounts for several reasons; first, for those credit unions that do not establish separate share draft accounts, it will facilitate the calculation of the amount that must be reserved; second, it does not include in the liquidity reserve formula shares which normally are not subject to withdrawal; third, it prevents a circumvention of the reserving requirement if procedures are developed to maintain disproportionately low balances in share draft accounts; and fourth, the suggested formula would require a liquidity reserve based on the actual amounts paid. Such an approach is equitable and more accurately reflects share draft activity and the Federal credit union's liquidity requirements.

In consideration of the above, the suggested formula is more in accord with the operations of Federal credit unions; however, the liquidity reserve such a formula would produce is inadequate. Accordingly, the percentage has been increased from 110 percent to 125 percent. It is recognized that the method of computation set forth in this regulation still does not compare in terms of the total amount which must be reserved, to the 7 percent requirement in the proposed rule. This Administration is satisfied, however, that based on the data developed during the experimental period, a liquidity reserve computed on the basis of 125 percent of the aggregate amount of share drafts paid, divided by the number of days on which share drafts were paid, would be sufficient to meet normal as well as unexpected withdrawals.

Finally, in response to the third issue, the definition of "liquidity reserve" was modified. The major change to the definition is that any investments included as a portion of the liquidity reserve must be redeemable within 60 days and not have a maturity in excess of 90 days. This definition would permit the purchase of certificates of deposit that have, for example, maturities in excess of 90 days, but would limit investments, as authorized by Section 107 of the Federal Credit Union Act, by imposing the above requirements.

Since share draft accounts are not demand accounts and are subject to the right to impose a 60-day notice period, this Administration does not consider it necessary or appropriate to require sterile reserves. It is also noted that a grace period is provided during the first month of operation.

10. GUARANTEE

Subsection (g) of the proposed rule permitted Federal credit unions to guarantee share drafts on a very limited basis. This position is incorporated in the final regulation.

The commenters were virtually unanimous in requesting some type of blanket guarantee program. Several commenters contended that a less restrictive guarantee program is necessary to the continued viability of the share draft program. Notwithstanding the obvious advantages, i.e., marketability, and increased third party acceptance of a "guaranteed draft," it is this Administration's opinion that a guarantee beyond that set forth in the proposed rule would change the nature of the share draft account. That is, a blanket guarantee necessarily waives the right to require notice, an important distinction between the share draft account concept and a demand deposit account.

Accordingly, a Federal credit union may guarantee the payment of a share draft in a given instance only after the available balance of the share draft account has been verified and a proper notation is made on the account to prevent the withdrawal of funds necessary to pay the guaranteed share draft. Federal credit unions are not authorized to guarantee payment of all share drafts or to waive, in whole or in part, the right to require notice of intent to withdraw as set forth in the Federal credit union's bylaws.

Subsection (g) has been modified to clarify this point.

11. IMPLEMENTATION OF A LIMITED SHARE DRAFT PROGRAM

Although the ultimate success of a share draft program is based on its acceptance, a limited initial participation may be authorized to allow credit union personnel to familiarize themselves with the system, and perfect an operationally efficient program. Several commenters who managed Federal credit unions that have operational share draft programs felt compelled to limit initial participation for the above reasons. Such a limited participation period should not extend beyond one year.

It is also reasonable to assume that some Federal credit unions should not, even though they may be desirous of doing so, implement a share draft program except on a limited basis. Certainly it can be expected that situations will arise, for example, where it is difficult to determine the board of director's ability to manage a share draft program from the available data. Should that occur, it might prove more appropriate to approve the share draft request on a limited basis. Accordingly, subsections (d) and (f) have been amended to reflect the above.

Subsection (d) is amended, in part, to read:

(d) A Federal credit union may not commence operating a share draft program until it has received written approval from the Administration, which may limit member participation for a period not to exceed one year.

Subsection (f) is amended to read

(f) If a share draft program or a request for modication is not approved, or the share draft program is approved for limited member participation, the Administration will provide the requester a written notice setting forth the basis for such action.

12. CORPORATE SHARE DRAFT ACCOUNTS

During the experimental period, participation was limited to natural persons. Several commenters suggested that this exclusionary approach be modified to allow corporate central Federal credit unions to serve their members. (Corporate Central Federal credit union members are, for the most part, other Federal credit unions.) It is believed that a distinction between corporate and natural members is inconsistent with the position that members of a Federal credit union have the power to withdraw shares from their accounts by drafts and discriminates against corporate members. If a commercial entity is a member of a Federal credit union consistent with the common bond requirements delineated in section 109 of the Federal Credit Union Act (12 U.S.C. 1759), then there exists no legal basis for denying its right to access its account by means of a draft. It should be noted that this Administration has no intention of interpreting the common bond in such a manner that would allow commercial entities, except under very limited policy presently in effect, to qualify for membership in Federal credit unions.

The proposed rule did not make the corporate/natural distinction; consequently, no amendments to clarify this position are necessary.

13. INSURABILITY

One commenter questioned the insurability of share draft accounts both as a matter of policy and on legal grounds. The commenter relied in part on "the changing insurance risks which accompany demand deposit accounts" and on the provision in section 201(c)(3) of the Federal Credit Union Act (12 U.S.C. 1781(c)(3)), prior to amendment by Pub. L. 95–22, which expressly prohibited the Administration from insuring demand deposit accounts in state chartered credit unions. It should be emphasized that this Administration's position has not been that state chartered credit unions' share draft accounts were uninsurable because of section 201(c)(3). State share draft accounts were considered to be member accounts, if they so qualified pursuant to state law, and if the accounts were subject to the notice provisions applicable to share withdrawals. Hence they were and are insurable, as are the share draft accounts in Federal credit unions. In fact, this Administration was careful about maintaining this distinction and has, on at least one occasion, required a state chartered credit union to modify its third party payment account program in order for it to be insured. Of course, this action preceded the amendment to the Act which now authorizes this Administration to insure demand deposit accounts in state chartered credit unions if they qualify under state law as member accounts. Any such account, however, must be adequately reserved.

To again clarify this question, share draft accounts, if maintained separately, are insured by the National Credit Union Share Insurance Fund up to $40,000 in accordance with Part 745 of the rules and regulations (12 CFR Part 745). The amount of insurance coverage in a given instance will depend upon the number of accounts maintained by a member and the legal relationship of the member with respect to those accounts.

14. ADVERTISING

In the preamble to the proposed rule, comments were requested on advertising guidelines and requirements. Since the proposed rule did not contain a specific section on advertising, inclusion in the final rule of any specific requirements would require additional notice and the opportunity for the public to comment. Therefore, advertising guidelines have not been included in this regulation. Based on evaluation of industry activity in this area, however, this Administration may propose additional guidelines in addition to those contained in Part 740 (12 CFR Part 740) of the rules and regulations.

It is not the intent to so encumber Federal credit unions with requirements that it will reduce the marketability of the share draft program. Credit unions must, however, define and disclose, fairly and objectively, the purpose of share drafts and preserve the distinction between share draft accounts and demand accounts. Because share drafts are used for withdrawals from share accounts, they are subject to the same limitations and notice requirements as are withdrawals from share accounts by any other means.

A problem that surfaced consistently during the review was that advertising material rarely explained how dividends on share draft accounts are computed. One commenter indicated that the membership understood the basis for dividend calculation. A Federal credit union must, however, disclose the basis upon which dividends are calculated, as required by § 7701.35(j)(1)(iii) (12 CFR 701.35(j)(iii)).

Some advertisements reviewed misstated the insurance of share draft accounts. For example, "[a]ll share draft accounts are insured up to $40,000 by the National Credit Union Administration" is not an accurate statement. Reference is made to the section in this preamble which discusses insurance of share draft accounts.

Finally, an issue arose concerning what share drafts should be called. For example, could they be referenced as "share checks," or "Share Cheques" or "CHEK (name of Credit Union)," etc. Although several credit union managers commented that each Federal credit union should be able to market share drafts under their own trade names, it is this Administration's view that the use of the word "check" or a similar sounding word or phrase creates an inaccurate connotation. Share drafts should be marketed under the name of "share drafts." At a very minimum, the term "share drafts" should appear in the advertising.

15. RECORDKEEPING

With the exception of § 701.34(c)(6)(iv), the proposed share draft regulation does not address recordkeeping. However, in the preamble it was indicated that this Administration would consider comments on recordkeeping during the course of the rulemaking process.

The comments received concerning paragraph (c)(6)(iv) all raised the same issue—that the word "inadvertent" should be deleted. The proposed regulation required that the operational specifications provide for "recording of inadvertent share overdrafts and giving member notification of such overdrafts should they occur." However, as the comments emphasized, the credit union cannot ascertain whether the overdraft is inadvertent or not. An overdraft might be drawn inadvertently even by someone who has a line of credit agreement with the credit union. Accordingly, the word "inadvertent" is deleted in the final regulation and "(c)(6)(iv)" is redesignated "(c)(5)(iv)," due to the previously mentioned deletion of the proposed (c)(5) which limited the frequency of dividend periods. A Federal credit union must now record and notify members of all overdrafts.

16. CASHING SHARE DRAFTS

Several questions were raised with respect to cashing share drafts. Commenters inquired whether the drawer of a share draft would be able to cash it at the drawee Federal credit union. Reference is made to the preamble to the proposed rule wherein it was explained in the section How Is A Share Draft Paid that "a share draft may be presented directly to the Federal credit union by a member to withdraw cash from the member's share draft account."

A second question raised by a few commenters was whether members could make withdrawals from share draft accounts without using share drafts. The implication in the preamble to the proposed rule is that share draft accounts can only be accessed by share drafts. This is not correct. Other methods of withdrawal may be utilized if the procedures developed are consistent with the Federal Credit Union Act and its implementing regulations.

A third question was raised concerning a nonmember joint owner of a share draft account withdrawing shares by means of a draft. Section 109 of the Federal Credit Union Act (12 U.S.C. 1759) permits members of a Federal credit union to establish accounts in joint tenancy with right of survivorship with any person. Since a nonmember joint owner is entitled to the same withdrawal rights as the member joint owner, there is no legal justification for prohibiting such activity. A more difficult question arises, however, when the nonmember joint owner overdraws the share draft account. Can a nonmember overdraft be paid by the Federal credit union and can a nonmember overdraft activate an available line of credit to the member joint owner? It is this Administration's present view that in both instances Federal credit unions must not honor overdrafts drawn by a nonmember joint owner. This position may create some operational problems. Those problems have been considered, however, and satisfactory obtainable alternatives do exist.

A final question was raised concerning the consequences of overdrawing a share draft account if the drawer member has no other accounts in the Federal credit union. That is, must membership be terminated when the account balance reaches zero. This situation should be treated no differently than the situation where a member walks into the Federal credit union and reduces his account balance to zero. In the latter instance, membership is terminated. This problem may be solved by contract or other arrangements with the member.

17. TRUNCATION

Only one issue was raised concerning truncation. Several commenters suggested that Federal credit unions should have the option of truncating or of returning the paid share drafts to their members. The rationale advanced for returning drafts was that: It would aid member detection of unauthorized or forged drafts; it would aid members in keeping a record of the drafts drawn, as many members will not properly maintain share draft registers and the carrying of blank share drafts by members to cover unanticipated purchases can be expected; it would aid members preparing their income tax returns; it would simplify problems for a member who needs to have a copy of his draft promptly, for example, when a computer billing error occurs; and it was alleged that most members will want to get their drafts back.

Other commenters, however, favored procedures which would require truncation. The argument advanced was that truncation reduces multiple handling of paper drafts and significantly reduces transaction costs.

This Administration views truncation procedures as a significant development and a major factor contributing to the reduction in the overall costs required to process share drafts. To permit an optional approach would undermine the progress made during the experimental period in educating the members that the advantages of truncated procedures are far superior to the traditional philosophy that cancelled drafts must be returned to the drawer. Additionally, acceptance of truncated procedures by Federal credit union members will assist in the development of the Electronic Fund Transfer Systems. In view of the above, Federal credit unions must develop some type of procedure whereby share drafts are truncated.

18. MISCELLANEOUS AMENDMENTS

Subsections (c), (d), (e) and (f) have also been amended by replacing the term "Regional Director" with "Administration." This change is technical only and has no substantive effect on the regulation. Where it is required that Federal credit unions submit documentation, such as applications, modifications, or notification, submissions are still to be made to the appropriate Regional Director.

19. DELAYED EFFECTIVE DATE

On June 9, 1977, the American Bankers Association and Tioga State Bank filed a petition to delay the effective date of the share draft regulation pending judicial review. It was alleged that irreparable harm to the petitioner state bank and other commercial banks represented by the petitioner Association would result if additional Federal credit unions were approved to operate a share draft program. Conversely, it was alleged no harm would result to Federal credit unions by virtue of a delayed effective date.

This Administration recognizes that a delay of 60 days is appropriate. A 60 day delayed effective date will allow petitioners a reasonable amount of time to seek judicial review. Also, it will permit those Federal credit unions that have operational share draft programs to implement the changes required by this regulation. The experimental share draft program is, therefore, extended until the effective date of this regulation notwithstanding any previously set termination date with respect to individual programs.

Accordingly, 12 CFR Part 701 is amended by adding a new section as set forth below.

LAWRENCE CONNELL, JR.,
Administrator.

NOVEMBER 30, 1977.

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and sec. 209, 84 Stat. 1104 (12 U.S.C. 1789).)

§ 701.34 Share drafts.

(a) For purposes of this section:

(1) "Share draft" means a negotiable or nonnegotiable draft used to withdraw shares from a share draft account.

(2) "Payable through bank" means a bank that has been designated to make presentment of a share draft to the Federal credit union for payment.

(3) "Truncation" means the original share draft is not returned to the member.

(4) "Share draft account" means any regular share account from which the Federal credit union has agreed that shares may be withdrawn by means of a share draft or other order.

(5) "Liquidity reserve" means an allocation of current assets recorded on the credit union's records as cash or deposits and investments as authorized by Section 107 of the Federal Credit Union Act: *Provided*, That, any investments included as a portion of this reserve shall be redeemable within 60 days and have a maturity not in excess of 90 days.

(b) A Federal credit union may provide its members with share drafts. The board of directors shall determine, prior to requesting approval to implement the share draft program, that the members' use of share drafts is economically and operationally feasible for the Federal credit union.

(c) A Federal credit union must submit a written request to operate a share draft program to the Administration at least 60 days prior to the proposed date of implementation. The request shall include:

(1) An official copy of the minutes of the board of directors authorizing a request for approval to implement the share draft program.

(2) All background documentation which supports the board of directors' decision that the members' use of share drafts is economically feasible for the Federal credit union.

(3) A statement that the forms and procedures to be used have been reviewed by legal counsel.

(4) A statement that the board of directors has determined appropriate surety bond coverage is in force.

(5) A statement of operational specifications which expressly provide for:

(i) Identification of the payable through bank;

(ii) Truncation;

(iii) Establishing a share draft account agreement with each member which outlines the credit union's and member's responsibilities;

(iv) Recording of share overdrafts and giving members notification of such overdrafts should they occur;

(v) Encoding each share draft with the routing and transit number of the payable through bank, the share draft account number, and the serial number of the share draft in accordance with standards required for use in a clearing system utilizing Magnetic Ink Character Recognition devices;

(vi) Preprinting the name of the payable through bank and the name of the credit union on the share draft;

(vii) A method for each member using share drafts to maintain a record of share drafts drawn;

(viii) Submission of a periodic statement of account, no less frequently than quarterly, to each member who has a share draft account which shall include for each share draft processed the serial number, date of payment and the amount of payment;

(ix) Establishing responsibility for detection of unauthorized or forged drafts;

(x) Procedures for processing stop payment orders;

(xi) Procedures for providing members with copies of paid drafts should copies be requested;

(xii) Procedures for retaining paid drafts or copies of paid drafts on file for a period of five years or as required by state law, whichever is greater;

(xiii) The fees, if any, to be charged, providing such fees shall not exceed the direct and indirect costs of providing the service; and

(xiv) Procedures for establishing and maintaining an average daily liquidity reserve equal to 125 percent of the aggregate amounts paid on share drafts during the preceding month divided by the number of days on which share drafts were paid during that month.

(d) A Federal credit union may not commence operating a share draft program until it has received written approval from the Administration, which may limit member participation for a period not to exceed one year. Approval will not be given if:

(1) The requirements of paragraph (c) of this section have not been met;

(2) The supervisory committee has not fulfilled its statutory requirements as specified in the Federal Credit Union Act; or

(3) The management of the credit union has demonstrated through prior performance its inability to handle the additional activity the share draft program will generate.

(e)(1) The Federal credit union shall notify the Administration in writing, at least 60 days in advance of its proposed implementation date, of any modification relating to:

(i) The payable through bank;

(ii) Truncation procedures;

(iii) The share draft agreement;

(iv) Procedures for establishing and maintaining a liquidity reserve; and

(v) Any material modification not previously reviewed and approved by the Administration.

(2) Implementation of a modification is contingent upon written approval of the Administration.

(3) The Federal credit union shall immediately notify the Administration as to any matter affecting the information provided pursuant to paragraphs (c)(1) through (c)(4) of this section.

(f) If a share draft program or a retest for modification is not approved, or the share draft program is approved for limited member participation, the Administration will provide to the requester a written notice setting forth the basis for such action.

(g) A Federal credit union shall not waive the right to require notice as set forth in the bylaws, but may guarantee payment of a share draft provided that:

(1) A specific guarantee authorization is obtained for the share draft from the Federal credit union; and

(2) The guarantee authorization is immediately noted on the share draft account to prevent the withdrawal of shares needed to pay the guaranteed share draft.

[FR Doc.77-34957 Filed 12-7-77;8:45 am]

HOUSE AMENDMENT TO SENATE AMENDMENT TO H.R. 4998—SECTION-BY-SECTION ANALYSIS

Section 1. Amends section 19(i) of the Federal Reserve Act to authorize member banks to permit automatic transfers from savings accounts to checking accounts provided that the funds are held by individuals and that the transfers are made pursuant to a written agreement between the customer and the bank.

Section 2. Amends section 18(g) of the Federal Deposit Insurance Act to authorize insured banks, including mutual savings banks and savings banks, to permit automatic transfers from savings accounts to checking accounts provided that the funds are held by individuals and that the transfers are made pursuant to a written agreement between the customer and the bank.

Section 3. Amends section 5(b)(1) of the Home Owners' Loan Act to permit Federal savings and loan associations to utilize remote serve units for the purpose of crediting and debiting accounts, making payments on loans, and other purposes authorized by the FHLBB.

Section 4. Amends section 107(6) of the Federal Credit Union Act to permit Federally-chartered credit unions to offer share draft accounts (accounts which receive interest on the deposits and which may be used for third party payments) subject to rules and regulations of NCUA.

Section 5. Provides that the amendments made by this Act shall be effective from December 31, 1979 until April 1, 1980. This provision assures that the services declared illegal by the Court of Appeals for the District of Columbia Circuit on April 20, 1979 do not have to end on January 1, 1980 as provided in the decision.

Mr. WYLIE. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of the position taken by my able colleague, the gentleman from Rhode Island (Mr. St Germain).

As the gentleman said, the Court of Appeals for the Federal District of the District of Columbia, on April 20, 1979, held automatic transfer service accounts for banks, for loan service markets, and for thrift institutions, and share draft accounts for credit unions unlawful because Congress had not specifically authorized them. But in a very unusual decision the Court of Appeals gave the Congress of the United States until December 31 of this year to make them legal, and the Supreme Court of the United States later refused certiorari.

So if Congress does not act today or does not act this week, then credit unions and 22 million share draft holders, banks, and millions of automatic transfer users, as well as millions of remote service users, will be more than inconvenienced. They will have to abandon a preferred way of doing business, at great expense to financial institutions and to their customers.

The gentleman from Rhode Island (Mr. St Germain) mentioned that the House of Representatives has attempted to resolve this problem. On September 11 we brought to this House floor H.R. 4986, which was passed by a vote of 367 to 39.

We also, I might say, included in that bill nationwide NOW accounts, which I favor. I think the only negative feelings expressed on H.R. 4986 were with reference to nationwide NOW accounts. But H.R. 4986 is tied up in conference with the other body, with no hope of resolving the differences before the December 31 deadline as pronounced by the court.

During the course of the extensive hearings last year I became convinced that in this time of double-digit inflation customers of depository institutions need to have this convenient access to their accounts and should be able to earn as high an interest rate as the institutions are willing to pay.

I would prefer to pass a bill today to solve the problem permanently and I would include nationwide NOW accounts. That is not the bill which the gentleman from Rhode Island (Mr. St Germain) has indicated we have before us today. But truly the bill before us today is the best we can do today.

This is all we can do right now, but do this we must, Mr. Speaker, for our financial institutions, their customers, and for our constituents.

Mr. ST GERMAIN. Mr. Speaker, I yield such time as he may require to the distinguished chairman of the full committee, the gentleman from Wisconsin (Mr. Reuss), who has been of utmost assistance to all of us in this matter.

Mr. REUSS. Mr. Speaker, I support the motion to suspend the rules which would insert the text of H.R. 6100 in place of the Senate amendment to H.R. 4998.

H.R. 6100 would permit financial institutions to continue to offer certain financial services declared illegal by the U.S. Court of Appeals. The Court of Appeals gave Congress until January 1, 1980 to authorize regulations which permit banks to offer automatic transfer from savings to checking accounts, federally chartered credit unions to accept share draft deposits, and federally chartered savings and loan associations to establish remote service units. This legislation would extend this authority through March 31, 1980. It does nothing more than that.

H.R. 4998, as amended by the Senate, would, like H.R. 6100, extend the services affected by the court decision, but would also override various State usury ceilings.

I believe it is appropriate at this time simply to ask the House to extend the popular and important services affected by the court decision for a brief period so that we can carefully weigh the matters raised by the Senate amendments to H.R. 4986 and H.R. 4998.

I congratulate the distinguished subcommittee chairman, the gentleman from Rhode Island (Mr. St Germain), the ranking minority member, the gentleman from Ohio (Mr. Stanton), and the gentleman from Ohio (Mr. Wylie) for bringing this timely emergency legislation before us today.

I will remind the Members of a colloquy that occurred on the floor of the House last November 7. At that time, along with the ranking minority member of the Committee on Banking, Finance and Urban Affairs, the gentleman from Ohio (Mr. Stanton), we sought to go to conference with the Senate on a wide series of vital financial measures, including, among other things, the important anti-inflationary question of reserve requirements of the Federal Reserve Board and including on the Senate side a new look at regulation Q, as well as many other things. Unanimous consent was required for us to go to conference.

The gentleman from California (Mr. Rousselot), a former member of the Banking Committee, rose and asked for assurance from the gentleman from Ohio (Mr. Stanton) and from myself that should the ensuing conference on the broad-ranging field of issues with the Senate prove fruitless by the end of this year, we would then take separate steps to correct the action of the Court of Appeals which would disallow automatic transfers by banks, share drafts by credit unions, and remote service units by savings and loan associations and which would cause those to expire as of January 1, 1980.

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Both the gentleman from Ohio (Mr. Stanton) and I assured the gentleman from California (Mr. Rousselot) that such narrow, ad hoc, single-purpose legislation would be forthcoming, and it is precisely in order to honor that commitment that the legislation that we are now considering under suspension is here today.

Mr. Speaker, I want to assure the Members of the House that the broad range of issues involved in the Senate conference is going to be the subject of very early attention next year. The Members have heard the gentleman from Rhode Island (Mr. St Germain) say that he intends immediately when we reconvene here January 22 to institute hearings in depth on the thorny regulation Q problem. I have what I think is a similar assurance from the Senate that they will take a searching look at the question of Federal Reserve requirements. That done, there is no reason why we cannot bring before this body very early next year a comprehensive conference report which could be the most wide-ranging piece of financial legislation to be enacted in recent years. Meanwhile, however, we are confronted with the stubborn fact that on January 1, 1980, the Court of Appeals decision attaches and, thus, I hope that the House will enact this resolution and that the Senate will agree, so that it can be signed into law.

Mr. ST GERMAIN. Mr. Speaker, I yield myself 1 minute, and I want to take this opportunity to commend and thank the ranking minority member of the subcommittee for his assistance throughout on this matter, and also the conferees on both sides who have worked very assiduously in an attempt to resolve this without the necessity of this type of resolution.

I want to say to the Members of the House that indeed we gave our word of commitment on the floor that we would not have regulation Q attached to the NOW account, share draft account legislation, and we are keeping our word to our colleagues here in the House.

Mr. Speaker, I have no further requests for time.

Mr. WYLIE. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi (Mr. Hinson).

Mr. HINSON. I thank the gentleman from Ohio for yielding.

Mr. Speaker, I rise in support of H.R. 4998, and I would express the hope that the House will be able to act very quickly and without further delay in order that we might meet the December 31 deadline set by the court.

As we all are aware, the distinguished

chairman of the subcommittee, the gentleman from Rhode Island (Mr. St Germain), and the chairman of the full committee, the gentleman from Wisconsin (Mr. Reuss), have worked very diligently in getting this legislation both through the committee and to the House floor. The matter has been bouncing around between the Senate committee, the conference and the House committee for some time, and I think it is overdue. I hope we will be able to act swiftly to get the legislation passed.

As the members of the committee are aware, I have expressed some interest in the problem of State usury ceilings.

Many of our States, approximately 20, are now experiencing problems by hitting the bottom of their statutory usury ceilings. We recently passed legislation to allow the State of Arkansas some relief, which had a constitutional ceiling. The problem is growing more serious. Many of our State-chartered banks are having trouble with agricultural and mortgage loans, and I would sincerely hope that we will soon be able to act, as well, to resolve that problem here in the House so that our State-chartered banks can continue to give loans for mortgages and agricultural purposes.

I can appreciate the need to pass this bill today without delay and I fully support its passage. The temporary override of State usury statutes, subject of course to action by the States themselves, is still very much with us, however, and it is a problem we are going to have to deal with very soon.

Mr. WYLIE. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I have some sympathy, I might say, with the position that the gentleman from Mississippi (Mr. Hinson) has just enunciated, and I understand some of the pressures that have been brought to bear on him to try to resolve it through the mechanism of this bill here today. So I want to say that I want to commend him for his willingness to forego any further debate or discussion on that separate issue which is very volatile, I might say, and is a part of the conference committee considerations. It is one of the many titles before the conference which should not be part of this bill today.

● Mr. ANNUNZIO. Mr. Speaker, I welcome the opportunity to support this bill; namely, because it is identical to the one I introduced in June, H.R. 4305, except that my bill would have been a permanent solution. Last April, when the U.S. Court of Appeals held that banking agencies had overstepped their bounds by permitting automatic transfer systems for banks, share draft account for credit unions, and EFT terminals for savings and loans, I was not surprised. What the court did was force the Congress to act on issues that it has steadfastly sought to avoid. Congress was given until December 31, 1979, to authorize these services which have now been in place for over a year. We are 14 days ahead of schedule.

My legislation was drafted to address this court case only. Its purpose was to legalize what Congress, and not Federal agencies, should have addressed in the first place. Had we followed my legislative proposal last spring, we would not be tying up our time with this issue now. But the House did not choose to act on my bill. Rather, we passed H.R. 4986 which provided permanent authorization for the services held illegal by the court decision, but also added nationwide authorization for NOW accounts (negotiable orders of withdrawal). Then the Senate took over. The Senate believed it necessary to add a provision for the phasing out of regulation Q, interest rate ceilings on savings accounts. We then had the Christmas tree that I had predicted we would have. And where are we now? Right where I said we would be last spring, at a stalemate.

Currently, the holding of hostages has saturated the news, and the Senate has its own hostage in the Senate Office Building. It is H.R. 4986 and everything that has been tacked on to that legislation in behalf of financial institutions.

By passing the bill before us today, we address the immediate problem, but only temporarily. We will allow share drafts for credit unions, automatic transfer systems, and remote service units for savings and loans through March 31, 1980. But take heart, for this is not the end.

I predict that I will see you here again around the middle of March when we once again provide for a temporary extension of these services, or meet to give our blessings to one of the most gilded legislative Christmas trees in the history of Congress.

So with a big "I told you so," and Merry Christmas, I will vote in favor of this legislation.●

● Mr. MINISH. Mr. Speaker, I rise in support of H.R. 4998, as amended by H.R. 6100. This legislation provides for a 3-month extension to March 31, 1980, of three vital financial institutions' services.

As many Members are aware, on April 20, 1979 the U.S. Court of Appeals for the District of Columbia ruled that share draft accounts offered by credit unions, automatic transfer accounts offered by commercial banks, and remote service units offered by savings and loan associations would be considered illegal as of December 31, 1979, unless Congress made specific authorization for them. These accounts currently are authorized by Federal regulation but not by Federal statute. Thus, under the court ruling, unless Congress acts, the accounts will no longer be available as of December 31, 1979.

The House, on September 11, passed legislation dealing with the services in question and providing for nationwide NOW accounts. However, the Senate passed a much more extensive bill on November 1 and the two measures still are in conference. Hopefully, the pending bill will afford the conferees enough time to resolve their differences and recommend a permanent extension of these vital measures to the House.●

Mr. WYLIE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ST GERMAIN. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Rhode Island (Mr. St Germain) that the House suspend the rules and agree to the resolution, House Resolution 508.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

INCREASING GOVERNMENT CONTRIBUTIONS TO HEALTH INSURANCE COVERAGE OF CERTAIN RETIRED EMPLOYEES

Mrs. SPELLMAN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 716) to amend the Retired Federal Employees Health Benefits Act, as amended, with respect to the Government contribution toward subscription charge.

The Clerk read as follows:

S. 716

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 4 of the Retired Federal Employee Health Benefits Act (Public Law 86–724; 74 Stat. 850), as amended, is amended to read as follows:

"Sec. 4. If a retired employee enrolls for self-only in the health benefits plan provided for by section 3 of this Act, the Government shall contribute each month toward his subscription charge an amount equal to the current monthly premium of an individual for such month under section 1839(c)(3) of the Social Security Act. The Government contribution for a retired employee enrolled for self and family shall be twice the contribution for one enrolled for self-only. A retired employee may not receive a Government contribution for more than one plan, nor may a retired employee receive a Government contribution if he is covered under the enrollment of another employee or retired employee who is receiving a Government contribution toward his enrollment. The immediately preceding sentence shall not apply with respect to the plan for supplementary medical insurance provided by part B of title XVIII of the Social Security Act.".

(b) Subsection (a) of section 6 of such Act is amended—

(1) by striking out "appropriate Government contribution established by the Commission pursuant to section 4(a) of the Act" and inserting "Government contribution under section 4 of this Act"; and

(2) by adding at the end thereof the following new sentence: "The immediately preceding sentence shall not apply with respect to the plan for supplementary medical insurance provided by part B of title XVIII of the Social Security Act.".

(c) The amendments made by this Act shall apply to contributions made by the Government on or after the later of—

(1) the first day of the first month be-

ginning after the date of the enactment of this Act, or

(2) October 1, 1979.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentlewoman from Maryland (Mrs. SPELLMAN) will be recognized for 20 minutes, and the gentleman from Iowa (Mr. LEACH) will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Maryland (Mrs. SPELLMAN).

Mrs. SPELLMAN. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, I know all my colleagues are well aware of the rising cost of health care and its impact, in particular, on the elderly. I would hope, therefore, we can all join together in supporting S. 716, which will provide some much needed relief from high health insurance costs for a small but deserving group of retired Federal employees.

An administration bill that passed the Senate May 22, S. 716 would benefit approximately 130,000 people enrolled in the retired Federal employees health benefits program. Through no fault of their own, these retirees, most of whom are 70 years of age or older, are being forced to bear an inordinate share of their health premiums costs. To explain how this unfortunate situation has developed we must look briefly at the history of group health insurance in the Federal Government.

The retired Federal employee health benefits program is one of two Government-sponsored health insurance plans enacted for civilian employees, retirees and their dependents. It was established in 1961, a year after the primary Federal employee health plan was set up and was designed specifically to cover those employees who had already retired and therefore were not eligible for coverage under the primary plan, the Federal employee health benefits program.

Unlike FEHB, for which the Government pays approximately 60 percent of the premium, Government contributions under RFEHB are limited by law to $4 per month for individual enrollments and $8 per month for family enrollments.

These rates, established at the plan's inception almost two decades ago, were designed to build up a reserve to offset future costs. Unfortunately costs have outstripped the reserves, boosting premium rates considerably.

For example, in order to provide sufficient funds for the program's uniform plan to operate on a self-sustaining basis, total premium rates were increased in January 1979 from $4 to $12 per month for individual enrollments and from $8 to $24 per month for family enrollments. and we now have received notice from Aetna that it will be necessary to raise the total premium rates again next month, to $18 per month for individual enrollments and $36 per month for family enrollments.

With the Government contributions limited by law to $4 and $8, the total impact of these increases fall on the retirees themselves. This amounts to a real financial sacrifice for these people, many of whom receive less than $200 per month in Federal retirement benefits.

S. 716 would provide relief for these individuals by allowing the Government to share a greater percentage of the cost of premiums under RFEHB. Specifically, the Government contribution would be equivalent to the contribution to part B of medicare, with a built-in escalator to allow for subsequent increases in the cost of health care.

It is important to note, Mr. Speaker, that this change would not result in the Government's absorbing all the impact of the 1979 and 1980 premium increases. On the contrary, the individual enrollees would continue to pay a sizable portion of their premium cost. Under S. 716, the Government contribution initially will be $8.70 per month for individual enrollments and $17 per month for family enrollments. That will still be well under 50 percent of the total premium cost as of January 1, 1980.

Mr. Speaker, it is an unfortunate fact of life today that the elderly have an extremely difficult financial burden to bear. Inflation and soaring health care costs have made retirement a difficult time for many Americans.

We have with this bill a chance to ease the financial burden on one particularly worthy group of elderly Americans—Federal employees, who retired before July 1, 1960. Passage of S. 716 will be by no means solve all their financial problems But it will bring their monthly insurance payments more in line with those paid by other Federal retirees. The opportunity to aid these individuals is one we should not pass up. For that reason I urge all my colleagues to support S. 716.

□ 1320

Mr. LEACH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 716 is an important bill to approximately 130,000 Federal employees who retired prior to 1960.

Specifically, S. 716 will increase modestly the Government contribution toward health benefits for this particular group of Federal retirees to make it equivalent to part B of medicare.

Mr. Speaker, health care expenditures for all Americans have increased dramatically in the past decade. Unfortunately, the retired Federal employees affected by this bill have seen increases in their health insurance premiums but because of existing law, the Government contribution is frozen at an unrealistically low level.

This bill changes the current Government policy, and will help those elderly Federal employees, 79 percent of whom are 70 or over, to better afford health care.

Mr. Speaker, the Budget Committee has no objection to consideration under suspension. I urge adoption of S. 716. I have no further requests for time and yield back the balance of my time.

● Mr. DERWINSKI. Mr. Speaker, I support S. 716, which increases the Government's contribution toward the cost of health insurance coverage under the Retired Federal Employees Health Benefits Act. This is justified legislation.

It affects approximately 130,000 Federal employees who retired before 1960 and who have an average annuity of $250. This group of employees, 79 percent of which are 70 or over, has seen its monthly health insurance premium rates increased in 1979 from $0.50 cents to $8 (self only) and from $1 to $16 (family). Further, another boost in premium rates is expected in January 1980 which would increase self only enrollment to $18 and family enrollment to $36. However, since the Government's share of premium costs is set by law—$4 self only and $8 for family—far below the Government's share for other employees and annuitants—these people have had to virtually shoulder these premium increases alone. This level of contribution has not changed since 1961.

S. 716 corrects this situation. The Government's share will be increased to the equivalent of the current monthly premium for part B of medicare ($8.70) self only and $17.40 for family enrollment. Also, the Government's contribution will be adjusted periodically to correspond with increases in the monthly premium for part B of medicare.

Mr. Speaker, recent and proposed health insurance premium increases have hurt the people who are most in need of medical care, but who are least able to afford it. Therefore, I wholeheartedly endorse this bill.●

Mrs. SPELLMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Maryland (Mrs. SPELLMAN) that the House suspend the rules and pass the Senate bill, S. 716.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. SPELLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the Senate bill, S. 716, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

TO ESTABLISH AND IMPROVE PROGRAMS FOR EXTRA-LONG STAPLE COTTON

Mr. BOWEN. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 5523, to establish an improved program for extra long staple cotton, as amended.

The Clerk read as follows:

H.R. 5523

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, effective with respect to the 1980 and subsequent crops of extra long staple cotton, section 101 (f) of the Agricultural Act of 1949, as amended, is amended by—

(1) striking out "1968" and inserting in lieu thereof "1980";

(2) striking out "50" and inserting in lieu thereof "85";

(3) striking out "100" and inserting in lieu thereof "135"; and

(4) striking out "65" and inserting in lieu thereof "55".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Mississippi (Mr. BOWEN) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. FINDLEY) will be recognized for 20 minutes.

Mr. BOWEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill should be warmly received by all who favor a reduction in Government spending. It affords us a unique opportunity, not only to please growers of a particular farm commodity, but at the same time the American taxpayer a very substantial amount of money.

I want to commend our Nation's producers of extra long staple cotton for initiating this legislation which, according to USDA projections, should actually reduce Federal Treasury expenditures over the next 4 crop years by more than $34 million. Indeed, the CBO estimate puts the overall savings figure even higher—at close to $65 million over the next 5 fiscal years.

American Pima, the kind of extra long staple cotton now grown on a very limited basis in only four States, is a specialty crop. It is a direct descendant of the earliest U.S. cotton grown in places like Sea Island, Ga., during colonial days.

There are currently about 2,000 farms in the United States, representing approximately 93,000 acres of land, devoted to American pima cotton. Most of this acreage—that is, about 43,000 acres—is found in Arizona. An estimated 34,000 acres is also grown in west Texas; 16,000 acres in New Mexico; and some 100 acres in southern California.

H.R. 5523 is strongly endorsed by the administration and the Department of Agriculture. The need for this bill has to do with a restrictive formula contained in ELS cotton legislation passed in 1968. That was the year when Congress updated the first piece of legislation addressed to extra long staple cotton, which had been approved in 1952.

The current law provides for a loan and payment program with a minimum support level of 65 percent of the ELS parity price and a maximum support level of 90 percent of the ELS parity price. It also gives the Secretary discretionary authority to set the ELS loan rate anywhere between 150 and 200 percent of the upland cotton loan level. Payments, in the amount of the difference, become necessary if the ELS loan level does not reach the minimum total support level.

Although no payments have been required over the past 3 years, that situation will soon change dramatically unless we enact H.R. 5523. This likelihood of substantial payments, beginning next year, is the result of an anticipated lower upland cotton loan rate and a sharp rise in the ELS parity price. H.R. 5523 obviates the need for such payments, by giving the Secretary sufficent flexibility to set the ELS support level at or below the ELS loan rate. It would simply adjust the range of allowable loan levels upward by 35 percent while decreasing the minimum total support level from 65 to 55 percent of parity.

The Department has indicated that it will not utilize this new authority in a way that might jeopardize the competitiveness of our ELS cotton on the world market. We presently grow in this country about 100,000 bales of ELS cotton—as opposed to more than 14 million bales of upland cotton, the predominant variety. Of that 100,000 bales of ELS cotton grown, we will export 35,000 bales in 1979, or roughly one-third.

The U.S. share of the world export market for ELS cotton has increased tremendously in recent years. This particular export crop now earns us about $16 million a year in foreign exchange, and we sell domestically about $31 million worth. If there were no ELS industry in the United States, we would have to import all of our ELS cotton used for sewing thread and other speciality purposes from Egypt and other countries. The consequences would be a loss of about $47 million in foreign exchange.

Very clearly, I think it is in our best interest to see that ELS cotton continues to be grown and that this legislation requested by the growers themselves be passed so that Government payments can be avoided in years to come.

Mr. COELHO. Mr. Speaker, will the gentleman yield?

Mr. BOWEN. I yield to the gentleman from California.

Mr. COELHO. Mr. Speaker, I want to take this opportunity to express my personal appreciation for the work my colleague DAVID BOWEN has put in as chairman of the Subcommittee on Cotton. I have a substantial interest in cotton, one of the major agricultural commodities of my district, where the chief industry is agriculture. As a member of the Cotton Subcommittee, I find Chairman BOWEN both responsive and progressive in pursuing cotton issues.

The extra long staple (ELS) cotton bill, H.R. 5523 which is before the full House today, is a unique piece of legislation. This bill will trim Government spending. It is not often that we find citizens who do not want Government payments, but this is the case for the ELS growers. We should applaud them. The program has been above reproach and has been so successful that the ELS cotton growers no longer need the Federal Government's financial umbrella to resolve their problems.

H.R. 5523 is designed to reduce overall Federal price support costs. This would be accomplished by adjusting the range of allowable loan levels upward by 35 percentage points and decreasing the minimum total support level from 65 percent of parity to 55 percent of parity. This legislation would save the taxpayers more than $30 million over the next 4 crop years. I do not need to emphasize the need to cut back on Government spending.

ELS-cotton is a specialty crop which is produced in certain areas in the States of Arizona, New Mexico, Texas, and a small portion of California. Although, Mr. Speaker, none of this cotton is grown in my district, I remain a strong supporter of the program and a cosponsor of this legislation. ELS cotton has within recent years captured a significant share of the world's export market. As one who is a firm believer in the pressing need to balance the budget within a reasonable period of time, it has been due to the world's demand for U.S. agricultural products that our balance-of-payments deficit has approached being in the "black." This year ELS cotton will bring in about $16 million in foreign exchanges and generate about $31 million domestically.

I urge my colleagues to vote for H.R. 5523, the extra long staple cotton bill.

☐ 1330

Mr. BOWEN. I would like to thank the gentleman from California for his support for this legislation. A very small amount of ELS cotton is grown in his State. As I said, the bulk of such cotton is found in Arizona, Texas, and New Mexico.

Mr. FINDLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, to the best of my knowledge, this bill, as reported by the committee, is not objected to by any Member of the minority side. In fact, it is supported by each member of the committee and enthusiastically supported by those Members who have cotton in their district. So it is fully supported.

The Committee on Agriculture improved the bill by striking out a provision which would have introduced what I think would have been an unfortunate precedent. That provision would have permitted the transfer and sale of cotton allotments across State lines for the first time.

I think the committee acted wisely in striking that provision. But in the course of the hearings of the committee, they learned that the problem sought to be met by that exceptional provision could as well be met, in fact better met, by an increase in the cotton allotment for the entire Nation. So that problem, I think, was very neatly resolved.

I am also grateful that the chairman of the Cotton Subcommittee has agreed to the scheduling of hearings on research and promotion activities of cotton, hearings which, as I understand, will be held late in February. If I could have the attention of my friend, Mr. BOWEN, it would be helpful to have his understanding and assurance that ample time will be provided for the questioning of some of the key witnesses. As the gentleman knows, Dukes Wooters has been much in controversy. There will be several members of the committee who will want to direct questions to him. Also Don Anderson, the chairman of the Cotton Board, has had some controversy surrounding his administration. It may well be that the examination of Mr. Anderson will take some time. Also Mr. L. C. Unfred, who now is acting chairman of Cotton Inc.'s board should be questioned. The Inspector General of USDA issued a rather lengthy report on the research and promotion program for cotton, and that gentleman should have ample time to respond to questions.

Then Assistant Secretary Bobby Smith, because of his responsibilities, will, I am sure, be a witness. When one reviews the list of witnesses I think it is obvious that 1 day cannot possibly suffice, and I wonder if the gentleman could give us some indication of whether 2 or 3 days will be scheduled to meet this problem.

Mr. BOWEN. Mr. Speaker, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Mississippi.

Mr. BOWEN. Mr. Speaker, I would like to thank the gentleman from Illinois for his interest in this matter. We will certainly endeavor to insure that ample time is available to attend to the business that is before the subcommittee in that hearing.

We are now making an effort to ascertain whether we have the committee room space available which could be scheduled for this purpose. It may be necessary to change the specific date that has previously been announced for the hearing, but certainly I would want to give all members of the subcommittee, as well as other interested Members, such as the gentleman from Illinois, who are not on the subcommittee as such, an opportunity to ask those questions they feel should be asked and to receive appropriate answers to them.

Mr. FINDLEY. I appreciate that. That suffices for my purposes and I am sure the gentleman from Mississippi recognizes this upcoming hearing will be an excellent opportunity to clear the air and set the research and promotion activities of cotton as well as perhaps other commodities on a course that will have better, broader public understanding and support and, therefore, a greater effect in advancing the interests of that particular commodity.

Mr. BOWEN. If the gentleman will yield further, I would simply like to say I have always taken the view, indeed have specifically expressed it on a number of occasions since the Inspector General's report was released by USDA on June 30 of this year, that a hearing would be appropriate. But I have also stated that it would be far more appropriate to schedule such a hearing at a time when the concerned agencies such as USDA, the Cotton Board, and Cotton Inc., have first had an opportunity to comply with the recommendations stated in that OIG report.

I think by early next year, in fact, by February, adequate time will have been provided for those concerned to effect the changes, to make the adjustments that are called for in that report. Therefore, I am very pleased to announce these hearings and will look forward, as the gentleman from Illinois will, to participating in them.

Mr. FINDLEY. Mr. Speaker, I have no further requests for time.

● **Mr. FOLEY.** Mr. Speaker, I rise in support of the bill, H.R. 5523, a bill to establish an improved program for extra long staple cotton.

The bill has as its purpose the reduction of overall Federal price support costs for extra long staple cotton.

Rarely do I have an opportunity to appear before this body advocating the adoption of legislation which will reduce the outlay of Government funds while simultaneously providing an adequate level of support for producers and insuring the consumers a fair market, both domestically and abroad. H.R. 5523 does precisely this.

Under the present program, substantial payments to producers are estimated to be made over the next several crop years. Government payments are made when the loan level is less than the total support level, currently set at 65 percent of the extra long staple cotton parity price. The amount of payments is the difference between the total support level and the loan level. The loan level must be set between 150 to 200 percent of the upland cotton loan level. Under current legislation, significant payments are expected due to a decreasing upland loan level and an increase in the parity price for ELS cotton. These economic movements will increase the margin bewteen the loan level and the total support level, and according to the Department's calculations, result in payments of 11 to 12 cents a pound for the 1980 crop year.

H.R. 5523 shifts the range of allowable loan levels upward by 35 percentage points to between 185 and 235 percent of the upland cotton loan level.

During committee hearings some concern was expressed that the shift in the allowable loan level could result in a higher price for the commodity impairing its presently competitive position in foreign markets. Since 1976, ELS cotton exports have increased sevenfold. Producers expressed confidence in the Department's ability to set the loan rate at a level within the statutory limits of H.R. 5523, which would meet the goal of minimizing payments while maintaining the commodity's foreign market which they worked so diligently to develop.

The bill also reduces the minimum support level from 65 percent to 55 percent of ELS parity. These modifications will enable the Secretary to establish a loan level which provides minimal support to prices while reducing the minimum total support level so as to approximate the loan level, greatly decreasing the occurrence of payments.

According to the Congressional Budget Office, adoption of H.R. 5523 will result over the next 5 years in $61 million of savings to the Treasury under the payment program, plus an additional savings of about $2 million under the loan program.

The production of extra long staple cotton is controlled by an allotment program. During the discussion on this legislation a great deal of time was spent on the problem of unused allotments existing in an area while another area desires an increase in their allotment. This problem occurs because current law allows a producer to maintain his allotment despite the fact that he does not plant it. If the ELS cotton program is to move toward a more market-oriented program, there is a need for the unused allotments to be eliminated, and for the producer desiring to expand his production to be able to do so.

The committee recognizes that existing law frustrates this end, but the lack of consensus and time restraints would not allow the committee to reach a satisfactory conclusion.

Therefore, the committee hopes that the Department will reassess its regulations of the ELS cotton program with the intent of broadening the allotment base for those areas that have the economic ability to expand production and to restrict to the extent possible, the holding of unutilized allotments.●

Mr. BOWEN. Mr. Speaker, I have no further requests for time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. BOWEN) that the House suspend the rules and pass the bill, H.R. 5523, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BOWEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

THE PASSING OF GEORGE "MUGS" HALAS

(Mr. ROSTENKOWSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter).

Mr. ROSTENKOWSKI. Mr. Speaker, in spite of a school crisis, a walkout by the city's busdrivers, and a threatened firefighter strike, there is some good news in Chicago this morning. The Chicago Bears, by defeating the St. Louis Cardinals 42 to 6, will go to the NFC playoffs.

But there is also very sad news this morning, especially for people who care about football—for people who care about winners. The team's president, its driving force, its greatest champion, passed away on the same day the Bears won their brilliant victory. George Halas, Jr.—"Mugs" to everyone who knew him—died early Sunday morning. The Bear's win was, therefore, an inspirational victory.

Mugsy Halas was one of those unique individuals who earned both the respect and affection of those who knew him. There simply could not be anything phony or pretentious about someone who belonged to one of the most famous families in football, yet like being hailed as "Mugsy." He was a kind man, a self-effacing man, a very private and quiet person most of the time. But try to cross the people he cared for—and they were many—or gainsay the team he lived for—there was only one—and he became a veritable tiger.

If football officials decided against the Bears, Mugsy did not like it, and the level of his displeasure could be measured in decibels. He did not overwhelm you with his emotion and commitment to life; he charmed you. He did not badger you with his loyalty to the team; he just won you over.

Although Mugsy cared deeply about anything to do with the Bears and football, he insisted that the spotlight not fall on him. He was the famous son of a famous father, but he lived by his own quiet lights of gentleness and kindness. Bill Gleason of the Chicago Sun-Times put it well:

> He was willing to walk in the shadow of his beloved father, but he was not eclipsed by that shadow.

Mugsy was a leading voice in the National Football League and earned the respect and confidence of fellow owners because of his many valuable contributions.

George was not an old man when he died, but those of us who knew him learned a great deal from him during the relatively short time he was in our lives. We learned that you do not have to be a public person to be loved by the public; you do not have to have top billing to be considered a star. Mugsy was, indeed, quite an inspiration—the kind that makes us realize that if faith and belief are strong enough, you can beat down every resistance and clear the toughest obstacles. Because of the way he lived his life, the values that George "Mugsy" Halas believed in will live long after his death.

ITALIAN RESPONSE TO IRANIAN SEIZURE OF AMERICAN HOSTAGES

(Mr. MINISH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINISH. Mr. Speaker, remarks were made on the floor of the House Friday by the gentleman from New Jersey (Mr. COURTER), which called into question the support offered our Government by the Republic of Italy regarding the Embassy takeover in Iran. I have been closely monitoring the international response to this situation and I can assure my colleagues that the Italian Government offered swift and complete cooperation at the earliest point in the crisis.

I know that all of us are angry—as we should be—at the kidnaping and holding of American personnel by the Iranian students. But let us direct our ire at the Iranians, who not only have flaunted the most basic human rights of our citizens, but also have disregarded the prinicple of diplomatic immunity that is so basic to international peace and cooperation.

The Italian record, both bilaterally and collectively with other member nations of the European Common Market, has been an exemplary one. Beginning on November 10—immediately after the Embassy takeover in Tehran—the Italian Ambassador to Iran protested this unprecedented violation of diplomatic immunity and requested the immediate, unconditional release of the hostages. This action was followed by similar approaches on November 12 and 28 and also on December 3.

On November 26, Italian President Sandro Pertini, on his own initiative, sent a personal message to the Ayatollah Khomeini urging that the hostages be freed on humanitarian grounds.

The following is an informal translation of Italian President Pertini's telegram to the Ayatollah Khomeini on about November 26, 1979:

> I protested officially against the Shah when he was oppressing human rights in Iran. I received and helped Iranian students who having taken refuge at that time here in Rome, feared extradition. I prevented their extradition, which would have meant their death. All of this I did in the name of the human rights for which I have fought all my life. Today, in the name of those same rights, I turn to you for your intervention on behalf of the American hostages. You cannot allow the Iranian people to stain themselves with the same crimes committed by the Shah. Please listen to me. Faithfully, I send to you my best wishes.
>
> SANDRO PERTINI.

This emphasizes that the Italian position on this matter was both consistent and in accordance with basic principles of international law.

Other statements in support of our position have been made by the Italian Cabinet, the Liberal and Republican Parties in Italy, and the Christian Democratic Youth Movement, as well as the Socialist Party Youth Organization.

President Carter and Secretary Vance are aware of the Italian Government's position on this matter and both have contacted representatives of that country to express the American people's gratitude. I have obtained a copy of a statement by Secretary Vance to the Italian press in Rome last week. In part, the Secretary said:

> I would like to express the appreciation of President Carter, myself and the American government and people to the President of the Italian Republic and to Italy for the support they gave us during the crisis we have been going through . . .
>
> In particular, I would like to thank President Pertini for his courageous message to the Ayatollah Khomeini about the seizure and detention of our personnel in Tehran . . . Moreover I would like to express my gratitude . . . for the support they gave us within the United Nations, where we tried peacefully to obtain the immediate release of the hostages.

Mr. Speaker, even to mention Italy in a statement questioning our allies—as happened last Friday—is an injustice to a great country that should not be allowed to stand uncontested. For that reason, I ask all of my colleagues to be aware of the total support of Italy for the American effort to free the hostages.

A PROGRAM OF MANDATORY NATIONAL SERVICES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. TRIBLE) is recognized for 30 minutes.

Mr. TRIBLE. Mr. Speaker, I include the following article from the December 7, Richmond, Va., News Leader:

A PROGRAM OF MANDATORY NATIONAL SERVICE

Recents events in Iran, Cuba, and throughout the world have focused attention on the decline of American power and presence. The deteriorating world situation has prompted a vigorous national debate over the proper role of the United States and the adequacy of our national defense.

Six years after the termination of the draft, serious questions are being raised in Congress—and throughout the country—about the adequacy of the all-volunteer force (AVF). Today 55 cents of every defense dollar goes to manpower, and yet we have experienced a sharp decline in the quality of our forces; our military services lack an adequate number of people to get the job done.

The quality of our forces is all important. Modern warfare requires advanced technology, and we need highly skilled people to operate our sophisticated new weapons systems. Regrettably this requirement is not being met.

Instead, our personnel fall increasingly into the lower mental categories. All military services have expanded their programs in remedial education and many training manuals have been rewritten in comic book form. Discipline and attrition problems plague the AVF. About 40 percent of all new personnel fail to complete their first term of service.

All branches of the armed services have experienced difficulty in meeting their authorized force levels (even though force levels have been lowered in recent years). Despite spending $100 million per year on advertising, all four services fell short of their recruiting goals in 1979. As of October 1, the total strength of all services was significantly below authorized strength, with the Army falling 16,000 personnel short of its recruiting goal.

RECRUITING PROBLEMS

Today's recruiting problems will be more serious in the future because of a declining manpower pool. During the next decade, the number of 18-year-old males will decrease by over half-a-million. Consequently, by 1990 the military will be required to attract one out of every two available males. That seems to be an impossible task given the present track record of the AVF.

Even more alarming, however, is the current status of reserve forces, which are crucial to the success of the all-volunteer force. Military planners place a heavy reliance on reserve forces to back up the active duty military. The smaller active duty forces can be maintained only if a large combat-ready reserve is immediately available in time of war or national emergency. The Army's reserves are at least 500,000 short of the number current war plans establish as the bare minimum. More than 270,000 of the vacancies occur in combat specialties. It is predicted that 90 days into a major conflict the United States could have a shortfall of 1 million military personnel. We would also possess no more than 30 percent of the trained manpower needed in critical areas, such as medicine. Moreover, with the Selective Service now in "deep standby," new soldiers could not be delivered in time to make a difference.

VIETNAM-ERA DRAFT

The all volunteer force has also failed to resolve the questions of fairness raised by the Vietnam-era draft. The poor and blacks still bear a disproportionate responsibility for the defense of our nation. In 1978, for example, 34 per cent of persons entering the military for the first time and 29 per cent of the enlisted force in the Army were black. Four out of every 10 people now entering the Army are from minority groups. The defense of our nation is a responsibility to be shared by all Americans.

In short, it's clear the AVF is failing to attract and retain a number of quality people sufficient to meet our national defense requirements. What, then, do we do?

In the days ahead, there will be increasing discussion and debate about a proper course of action. We will hear talk about mandatory national registration and a return to the draft. Allow me to suggest a program of mandatory national service for every young American.

As Americans, we have been blessed with freedom and prosperity. It's our responsibility as individual citizens to help preserve our heritage and to leave this land somewhat better than we found it.

I don't believe it's too much to ask that every young American—black and white, rich and poor, male and female—dedicate two years of his or her life to this country. Each person would have the choice of serving in a military or non-military program.

A program of national service could provide adequate manpower for our national defense. According to a recent Gallup poll, 43 per cent of the men age 18 to 24 said that if they were to engage in national service, they would choose military over non-military service.

National service could also provide the manpower to rebuild our cities, revitalize our parks and woodlands, and help meet our other unmet domestic needs.

CIVILIAN SERVICE

Participants who opted for civilian service could fill the more than 3 million positions identified by the Department of Labor as currently unfilled in fields ranging from teacher aides to prison workers (all at subsistence wage).

How would such a program work? In broad terms, I propose that there be a national registration of all persons on their 17th birthday. Subsequently, before each individual reached the age of 18, that person would indicate a preference for military or non-military.

Two years of mandatory service could take place at any time between the ages of 17 and 24. To encourage military service, those individuals who volunteered would receive additional educational and vocational benefits. Proposals for civilian service projects would be submitted by federal, state, and local agencies, and by private non-profit agencies. Everyone would be paid at a subsistence level whether performing military or civilian service.

How might such a system be administered? A national service program involving up to 4 million individuals a year (3 million by 1990) would be difficult to administer. Clearly, some central administrative agency would be necessary. However, the responsibility for administering such a program should be kept at the local level, and the participation of volunteer agencies would make another huge federal bureaucracy unnecessary.

VAST NUMBERS

Moreover, vast numbers of persons already are processed through government programs today. In 1975, more than 3.3 million persons participated in federal employment and training programs. National service would utilize the many volunteer agencies already in existence to place national service workers. The Red Cross, VISTA, and the Peace Corps are only a few of the agencies that have extensive volunteer programs in existence. The vocational testing necessary to place workers as a part of a national service program could be performed by the Defense Department, which now administers vocational/aptitude tests to approximately 1.5 million students each year.

What would such a program cost? The Congressional Budget Office has estimated a program designed for 3.5 million participants at a wage of $2.65 an hour would cost approximately $23.5 billion to implement.

SUBSTANTIAL SAVINGS

In evaluating the cost of such a program, we must recognize that there would be substantial offsetting savings. National service could, for example, be expected to reduce the huge costs now associated with our welfare and social service programs—including food stamps, unemployment benefits, and job training. Also, a national service program would reduce the need for recruiting to near-draft-era levels and would save the Department of Defense hundreds of millions of dollars each year.

Certainly, national service is not a cost-effective way to provide military manpower alone. However, it could be justified when one considers that it could help provide for a strong national defense and meet so many unmet national requirements.

In the early days of our republic, George Washington stated, "It may be laid down as a primary position, and the basis of our system, that every citizen who enjoys the protection of a free government, owes not only a proportion of his property, but even of his personal services to the defense of it." The affirmation of this principle through a system of national service could help us provide for our national defense and other domestic requirements. National service could also help rekindle the sense of citizen responsibility and national purpose so vitally needed in America today.

☐ 1340

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. TRIBLE. I am happy to yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I just want to compliment the gentleman from Virginia not only for the fine job he has done as chairman of the Republican Task Force on National Defense, on which I happen to serve, but also for much of the information he has given us today and called to the attention of the people of this country. I think he is to be commended. It was startling information, and we certainly appreciate his taking this special order.

Mr. TRIBLE. I thank the gentleman from New York for his kind words.

AGRICULTURAL DUST REMOVED AS CLEAN AIR STANDARD IN IOWA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. GRASSLEY) is recognized for 15 minutes.

Mr. GRASSLEY. Mr. Speaker, as you know, for nearly 6 months now I have been probably the most vocal critic of the EPA's policy of counting windblown dust from farm fields as a pollutant. This dust is, of course, everywhere in my State of Iowa and most Midwestern and Southwestern States. It has been there for years. Well, when it is counted as a pollutant, many urban areas of my State are over the national air standards designed to protect "public welfare." They are still lower than the national standards designed to protect "public health," but over this welfare standard, which I understand mainly protects visibility. The EPA has had an internal policy which, in effect, said that if an urban area is over this so-called welfare standard, then major new industry cannot build in that area unless they get "offsets"—that is, unless they clean up the air so that they do not make it any worse than when they came in. Now that is not so bad if you are in Pittsburgh or Gary or someplace like that, but in Iowa, which is relatively lightly industrialized, there is little left to clean up except farm and farm-to-market road dust. Iowa has already committed itself to cut public dust sources—dust from streets, parking lots, and so on—down by 50 percent.

Well, it seemed pretty obvious to me from the start that asking potential new businesses thinking about moving to Iowa to reduce farm and rural road dust in order to move into our State was not a very practical thing to do. First of all, this dust blows from places so far away that it is doubtful this could be done even if we wanted. Second, it does not take too many brains to figure out that this is not a very persuasive way to sell people on coming to our State—to first of all ask them to carry this burden. Third, I do not think—in fact I know—that our farmers would not think very highly of the EPA's telling them to plant or plow or cultivate their crops in a certain way, which is what such a program would entail. Fourth, businesses already in our State or considering coming here would not relish the notion of adding a future assembly line at some other location, rather than where their current lives were, just because they were in a State with this windblown farm dust. Fifth, we were not talking about not protecting anybody's health—we were talking about a vague EPA concept of "public welfare," which did not take a lot of things—like jobs, tax base, and so on—into account. Sixth, we were talking about doing all this to protect a "public welfare" standard which I understand is in the process of being revised to make it less strict. In fact it may be dropped completely as unnecessary. Well, it just did not add up. It did not add up simply because no one at EPA had gotten around to thinking about how this kind of thing would work in a Midwestern farm State like Iowa or in a Southwestern State.

Just as importantly, it did not seem right, from a legal standpoint, that the EPA could try to enforce this policy based on just an internal policy document, rather than going through the normal procedure of proposing a regulation, having a comment period, holding hearings, and so on. We have had more hearings on the issue in Iowa than the Federal Government had. In addition, we could not find where the Clean Air Act required offsets for violations of the public welfare standards anyway. In short, the policy did not have a sound legal grounding.

Finally, in an election year, the EPA policy could not stand up politically. I know enough about politics to know that in an election year no politician from the White House on down could stand up and defend this policy—for the reasons I have already outlined. It did not add up as a policy and it would not hold up legally. So I went to bat to get it changed.

I first contacted the EPA in, I believe it was July of this year. Then on August 2 I wrote Mr. Costle, the EPA administrator, complaining about it. On August 31 I met with EPA's region VII officials—I let them know then that I was in this one to stay and that we expected a policy change. I also discussed the problem with my congressional colleagues from Iowa and elsewhere. As you know, I raised this issue right here on the House floor on six or eight different occasions. At the same time State, county, and city officials in Iowa were also expressing their concern, as were a variety of business and working people from my State.

Mr. Speaker, I am pleased to report today that our efforts have been successful. The EPA has now modified its policy concerning windblown farm dust. From now on in parts of the country dominated by agricultural and related fugitive dust sources—such as farm and rural road dust—no offsets will be required in areas which are over the public welfare standard but not over the health standard, as long as reasonably available control measures are used and so long as the State continues certain air quality monitoring and studies.

In addition, the EPA has assured us that no actions will be required by that agency which would call for major changes in agricultural practices, such as removing farmlands from production, requiring changed tillage practices, paving or treating farm-to-market roads and so on. I want to publicly commend the EPA officials for their good judgment in making this important change.

When the EPA planners developed the original policy in this area it was violations of the primary, or health-related standard in our largest cities which was on their minds. This is clearly a legitimate concern. Once the Agency had the time and incentive—we provided a little of the latter, I think—they were able to genuinely understand that their original policy was not workable for smaller, Midwestern and Southern cities. So they modified it. As I say, I commend them for the change.

As is common, shortly after a policy change like this has occurred, there are still some lose ends to be tied up—a few remaining questions to be answered. We need to find out whether the EPA intends to write up and implement a new, internal fugitive dust policy which it plans to implement in the various States. If so, I for one want to see a copy of it. If it is not going to be implemented through the normal procedure of adopting a proposed regulation, holding hearings, receiving comments and so on, I believe we ought to determine why not. This is too significant an area to be handled by internal policy statements, rather than the regular regulatory procedures called for by law.

We also need to know more about the EPA's timetable and plans for revising the national standards for particulates—the technical term for this dust we are talking about.

Finally, we will need to carefully monitor the implementation of the new EPA policy, to insure that it is consistent with our understanding.

I would like to urge my colleagues from other Midwestern States and from our Southwestern States to take note of this important EPA policy change. I believe they may want to take special steps to bring it to the attention of their State officials or others who could be affected by the new policy.

Mr. Speaker, I am pleased to say that on this issue, the system worked. With some hard work, good facts, and a little good old American ingenuity we got the EPA's attention. They recognized that a change was needed and, to their credit, they responded positively. I might just add that I have noticed over the years that the system usually does work—but it works best when an election is coming on.

☐ 1350

COMMUNICATION FROM THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER pro tempore laid before the House the following communication from the Committee on Public Works and Transportation, which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations:

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, D.C., December 13, 1979.

Hon. THOMAS P. O'NEILL,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the provisions of the Public Buildings Act of 1959, as amended, the House Committee on Public Works and Transportation approved the following projects on November 27, 1979:

Alteration: Gary, Indiana, U.S. Postal Service Building.

11(B) Resolution: Albany, Georgia.

The original and one copy of the authorizing resolutions are enclosed.

Sincerely,
HAROLD T. (BIZZ) JOHNSON,
Chairman.

COMMUNICATION FROM THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER pro tempore laid before the House the following communication from the Committee on Public Works and Transportation, which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations:

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, D.C., December 13, 1979.

Hon. THOMAS P. O'NEILL,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the provisions of the Public Buildings Act of 1959, as amended, the House Committee on Public Works and Transportation approved the following projects of December 10, 1979:

Alterations: New Orleans, Louisiana, Hale Boggs Federal Building and Courthouse.

Phoenix, Arizona, Federal Building-Courthouse.

Lafayette, Indiana, U.S. Post Office and Courthouse.

Baton Rouge, Louisiana, Federal Building-Courthouse.

Leases:

Washington, D.C., 1020 Eleventh Street, N.W.

Washington, D.C., 1825 Connecticut Avenue, N.W.

Rockville, Maryland, Washington Science Center Buildings No. 1, 2 and 5.

11(B) Resolution: Traverse City and Mount Pleasant, Michigan.

The original and one copy of the authorizing resolutions are enclosed.

Sincerely,
HAROLD T. (BIZZ) JOHNSON,
Chairman.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SOLOMON) to revise and extend their remarks and include extraneous material:)

Mr. GRASSLEY, for 15 minutes, today.

Mr. TRIBLE, for 30 minutes, today.

(The following Members (at the request of Mr. COELHO) to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. WEISS, for 60 minutes, on December 18.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BINGHAM to include article from yesterday's Washington Post at termination of his remarks.

(The following Members (at the request of Mr. SOLOMON) and to include extraneous matter:)

Mr. COLLINS of Texas in two instances.

Mr. ARCHER.

Mr. KEMP in two instances.

Mr. SYMMS in two instances.

Mr. CONABLE.

Mr. JEFFRIES.

Mr. DERWINSKI.

Mr. EDWARDS of Oklahoma.

(The following Members (at the request of Mr. COELHO), and to include extraneous matter:)

Mr. ANDERSON of California in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Ms. HOLTZMAN in 10 instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in five instances.

Mr. HUBBARD.

Mr. ROBERTS.

Mr. SIMON.

Mr. EDWARDS of California.

Mr. LAFALCE.

Mr. SKELTON.

Mr. BENNETT in two instances.

SENATE BILLS REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 883. An act for the relief of Ezekiel Trail Clemons; to the Committee on the Judiciary.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 241. An act to restructure the Federal Law Enforcement Assistance Administration, to assist State and local governments in improving the quality of their justice systems, and for other purposes.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had December 14, 1979, examined and found truly enrolled bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 5359. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes.

ADJOURNMENT

Mr. COELHO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 53 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, December 18, 1979, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3036. A letter from the Acting General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to permit the Army and the Air Force to appoint physicians with at least 4 years of service credit to the Medical Corps Reserve in the initial pay grade of O–3; to the Committee on Armed Services.

3037. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on Foreign Affairs.

3038. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment to Japan (Transmittal No. 80–18), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

3039. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment to Japan (Transmittal No. 80–19), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

3040. A letter from the Assistant Secretary of Commerce for Administration, transmitting notice of a proposed new records system and of amendments to an existing system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3041. A letter from the Executive Secretary, Defense Privacy Board, transmitting notice of various proposed new records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3042. A letter from the Administrator of General Services, transmitting an amendment to a previously-submitted prospectus proposing the acquisition of space by lease in a building to be constructed in Milwaukee, Wis., to the Committee on Public Works and Transportation.

3043. A letter from the Comptroller General of the United States, transmitting a report assessing the Department of Defense's ability to resolve the problems associated with computer support of military command and control functions (LCD–80–22, December 14, 1979); jointy, to the Committees on Government Operations, and Armed Services.

3044. A letter from the Secretary of Housing and Urban Development, transmitting a report on the study of residential energy efficiency standards, pursuant to section 253 of Public Law 95–619; jointly, to the Committees on Interstate and Foreign Commerce, and Banking, Finance and Urban Affairs.

3045. A letter from the Secretary of the Interior, transmitting a draft of proposed legislation to provide for the conservation and enhancement of the salmon and steelhead resources of Washington State, assistance to the Treaty and non-Treaty harvesters of those resources, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries, and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HANLEY: Committee on Post Office and Civil Service. Report pursuant to section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 96–708). Referred to the Committee of the Whole House on the State of the Union.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 4113. A bill to amend the Federal Water Pollution Control Act to provide an additional allotment of funds to certain States, and for other purposes; with amendments (Rept. No. 96–709). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. CARNEY:

H.R. 6157. A bill to modify the navigation project for Moriches and Shinnecock Inlets, N.Y.; to the Committee on Public Works and Transportation.

By Mr. HOLLENBECK:

H.R. 6158. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income $1,000 of interest on savings in the case of an individual taxpayer; to the Committee on Ways and Means.

Mr. SYMMS:

H.J. Res. 466. Resolution to authorize and request the President to designate the week beginning June 15, 1980, as "National Oldtime Fiddlers Week"; to the Committee on Post Office and Civil Service.

By Mr. REGULA:

H. Con. Res. 229. Resolution expressing the sense of the Congress that the people of the United States should observe December 23, 1979, as a national day of prayer and meditation for the hostages in Iran; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. CORRADA:

H.R. 6159. A bill for the relief of Chi Chuen Lee, his wife, Maria A. Brito, and their son, Sanny Lee-Brito; to the Committee on the Judiciary.

By Mr. DAVIS of South Carolina:

H.R. 6160. A bill for the relief of Lieutenant General Devol Brett; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2414: Mr. Corman.

H.R. 2647: Mr. Beard of Rhode Island.

H.R. 2648: Mr. Mattox and Mr. Beard of Rhode Island.

H.R. 4659: Mr. Bedell, Mr. Mitchell of New York, Mr. Fary, Mr. Coleman, Mr. Seiberling, Mr. Evans of Georgia, Mr. Davis of Michigan, Mr. Kildee, Mr. de la Garza, Mr. Devine, Mr. Boland, Mrs. Spellman, and Mr. Addabbo.

H.R. 5090: Mr. Dornan, Mr. Whitehurst, and Mr. Gingrich.

H.R. 5594: Mr. Nowak, Mr. Cleveland, Mr. Murphy of New York, Mr. Addabbo, Mr. Wolff, Mr. Jones of North Carolina, Mr. Kemp, Mr. Bingham, Mr. Downey, Mr. LaFalce, Mr. Garcia, Mr. Lent, Mr. Green, Mr. Carney, and Mr. McHugh.

H.R. 5694: Mr. Cavanaugh.

H.R. 5776: Mr. Roe, Mr. Dixon, Mr. Gray, and Mr. Nolan.

H.R. 5989: Mr. Rousselot, Mr. Collins of Texas, Mr. Burgener, and Mr. Mottl.

H.R. 6008: Mr. Downey and Mr. Bedell.

H.J. Res. 426: Mr. Murphy of New York and Mr. Florio.

PETITIONS, ETC.

Under clause 1 of rule XXII,

254. The SPEAKER presented a petition of the annual meeting of the Kentucky Baptist Convention, Middletown, Ky., relative to hunger in Indochina; to the Committee on Foreign Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2585

By Mr. LEVITAS:

—Page 3, after line 21, add the following new title:

TITLE III—CONGRESSIONAL VETO OF RULES

PROCEDURE FOR CONGRESSIONAL VETO

Sec. 301. (a) The Secretary of Transportation shall transmit to the Secretary of the Senate and the Clerk of the House of Representatives a copy of any rule promulgated with funds appropriated under this Act or relating to the use of funds appropriated under this Act. Such rule shall be referred to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Interstate and Foreign Commerce of the House, respectively.

(b) Any rule specified in subsection (a) shall not take effect, if—

(1) within the 90 calendar days of continuous session of the Congress which occur after the date of the promulgation of such rule, both Houses of the Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows (with the blank spaces appropriately filled): "That the Congress disapproves the rule promulgated by the Secretary of Transportation with respect to   , such rule having been transmitted to the Congress on   ."; or

(2) within the 60 calendar days of continuous session of the Congress which occur after the date of the promulgation of such rule, one House of the Congress adopts such concurrent resolution and transmits such resolution to the other House and such resolution is not disapproved by such other House within the 30 calendar days of con-

tinuous session of the Congress which occur after the date of such transmittal.

(c)(1)(A) In the case of any rule referred to the Committee on Interstate and Foreign Commerce of the House under subsection (a), not later than the 5th day of session following the day on which such rule is submitted, a concurrent resolution shall be introduced (by request) in the House by the chairman of such committee or by a member or members designated by such chairman.

(B) A concurrent resolution with respect to a rule shall be referred to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Interstate and Foreign Commerce of the House, respectively, and all concurrent resolutions with respect to the same rule shall be referred to such committees, by the President of the Senate or the Speaker of the House of Representatives, as the case may be. In the case of a concurrent resolution referred to the Committee on Interstate and Foreign Commerce of the House under this subparagraph, such committee shall make its recommendations to the House of Representatives before the end of the period of 45 calendar days of continuous session of the Congress following the date upon which such concurrent resolution is introduced.

(2) If the Committee on Interstate and Foreign Commerce has not reported a concurrent resolution introduced under paragraph (1)(A) (or, in the absence of such a concurrent resolution, the first concurrent resolution with respect to the same rule) at the end of the period of 45 calendar days of continuous session of the Congress after submission of the rule involved by the Secretary, such commitee shall be deemed to be discharged from further consideration of such concurrent resolution and such concurrent resolution shall be placed on the appropriate calendar of the House.

(3)(A) When the Committee on Interstate and Foreign Commerce has reported, or has been deemed to be discharged (under paragraph (2)) from further consideration of, a concurrent resolution with respect to a rule, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any member of the House to move to proceed to the consideration of the concurrent resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the concurrent resolution is agreed to, the concurrent resolution shall remain the unfinished business of the House until disposed of.

(B) Debate on the concurrent resolution, and on all debatable motions and appeals in connection with such concurrent resolution, shall be limited to not more than 2 hours, which shall be divided equally between individuals favoring and individuals opposing the concurrent resolution. A motion to further limit debate is in order and is not debatable. An amendment to, or a motion to postpone, a motion to proceed to the consideration of other business, or a motion to recommit the concurrent resolution is agreed to or disagreed to shall not be in order.

(C) Immediately following the conclusion of the debate on the concurrent resolution, and a single quorum call at the conclusion of the debate if requested in accordance with rules of the House, the vote on final approval of the concurrent resolution shall occur.

(D) If, before passage by the House of a concurrent resolution of the House, the House receives a concurrent resolution with respect to the same rule from the Senate, then the procedure in the House shall be the same as if no such concurrent resolution has been received from the Senate, but the vote on final passage shall be on the concurrent resolution of the Senate.

(d) If, within the 60 calendar days of continuous session of the Congress after the date of the promulgation of such rule, no committee of either House of the Congress has reported, or has been discharged from further consideration of, a concurrent resolution disapproving the rule involved, and neither House has adopted such resolution, the rule may take effect immediately. If, within such 60 calendar days, a committee has reported, or has been discharged from further consideration of, such resolution, or either House has adopted such resolution, the rule may not take effect before the end of the period of 90 calendar days of continuous session of the Congress after the date of the promulgation of such rule, unless such rule is disapproved under subsection (a).

(e) For purposes of this section—

(1) continuity of session is broken only by an adjournment of the Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the periods of continuous session of the Congress specified in subsection (b) and subsection (c).

(f) Congressional inaction on, or rejection of, a resolution of disapproval pursuant to this section shall not be deemed an expression of approval.

REPEALER

SEC. 302. The foregoing provisions of this title are repealed, effective at the end of fiscal year 1981

—Page 3, after line 21, add the following new title:

TITLE III—CONGRESSIONAL VETO OF RULES

PROCEDURE FOR CONGRESSIONAL VETO

SEC. 301. (a) The Secretary of Transportation shall transmit to the Secretary of the Senate and the Clerk of the House of Representatives a copy of any rule promulgated with funds appropriated under this Act or relating to the use of funds appropriated under this Act.

(b) Any rule specified in subsection (a) shall not take effect, if—

(1) within the 90 calendar days of continuous session of the Congress which occur after the date of the promulgation of such rule, both Houses of the Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows (with the blank spaces appropriately filled): "That the Congress disapproves the rule promulgated by the Secretary of Transportation with respect to   , such rule having been transmitted to the Congress on   ."; or

(2) within the 60 calendar days of continuous session of the Congress which occur after the date of the promulgation of such rule, one House of the Congress adopts such concurrent resolution and transmits such resolution to the other House and such resolution is not disapproved by such other House within the 30 calendar days of continuous session of the Congress which occur after the date of such transmittal.

(c) If, within the 60 calendar days of continuous session of the Congress after the date of the promulgation of such rule, no committee of either House of the Congress has reported, or has been discharged from further consideration of, a concurrent resolution disapproving the rule involved, and neither House has adopted such resolution, the rule may take effect immediately. If, within such 60 calendar days, a committee has reported, or has been discharged from further consideration of, such resolution, or either House has adopted such resolution, the rule may not take effect before the end of the period of 90 calendar days of continuous session of the Congress after the date of the promulgation of such rule, unless such rule is disapproved under subsection (a).

(d) For purposes of this section—

(1) continuity of session is broken only by an adjournment of the Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the periods of continuous session of the Congress specified in subsection (b) and subsection (c).

(e) Congressional inaction on, or rejection of, a resolution of disapproval pursuant to this section shall not be deemed an expression of approval.

REPEALER

SEC. 302. The foregoing provisions of this title are repealed, effective at the end of fiscal year 1981.

H.R. 5860

By Mr. EDWARDS of Oklahoma:

(Amendment to the amendment in the nature of a substitute offered by Mr. MOORHEAD of Pennsylvania.)

—At the end of Section 4 of the matter proposed to be inserted add the following new subsection:

(g) During the period in which the loan guarantees issued under this Act are outstanding, every employee of the Corporation making a salary of $40,000 or more as of August 31st, 1979, shall receive a salary no greater than 80 per centum of the salary that employee was making as of August 31, 1979, provided that in no case shall any employee of the Corporation earn a salary of no more than $50,112.50 or more than an additional $4,479.42 in nonsalaried compensation.

Nor shall any such employee receive any increase in salary or nonsalaried compensation beyond that which was being paid to that person as of August 31, 1979, if that person was an employee of the Corporation at that time.

Nor shall the Corporation pay any compensation to any person as a consultant on any other basis other than as an employee if that person was an employee of the Corporation as of August 31, 1979.

By Mr. FISHER:

(An amendment to the Moorhead substitute to H.R. 5860.)

—Page 11, line 21, strike out "and".

Page 12, line 2, strike out the period and insert in lieu thereof"; and".

Page 12, after line 2 insert the following new paragraph:

"(9) the Board has received a certification from the Corporation and the labor organization that they are in compliance and will remain in compliance with the wage and price guidelines already issued or which may be issued, by the Council on Wage and Price Stability and; to the extent that the Corporation or the labor organization fails to comply with such standards, the Board, in consultation with the Council on Wage and Price Stability, is authorized to require concessions from the Corporation or the labor organization to assure compliance with the guidelines."

(An amendment to add a new section immediately after section 12 of the substitute to H.R. 5860.)

SEC.   . The Secretary of the Treasury shall, after consultation with the Council of Economic Advisers, the Joint Economic Committee, the Secretary of Commerce and the Secretary of Labor, prepare and submit to the Congress a study within 18 months of the enactment of this Act, which shall analyze the results of the assistance to the Corporation to date and other assistance which the Federal government has rendered in the past or might render in the future to public or private corporations or other business entities as the basis for formulating recommendations on a comprehensive policy for dealing with requests by other public or private corporations or other business entities. Such study shall make recommendations as to whether such assistance is appropriate in the future, and if so, under what guidelines it should be considered. The study shall consider for inclusion in such guidelines the following factors:

(1) the prospective economic environment at the time the assistance would have its intended effect, and the impact that either the granting or denial of assistance will have on that environment,

(2) the importance, in terms of size and in terms of goods and services rendered, of the corporation or business entity to the national economy,

(3) the appropriateness of aggregate limits for such Federal assistance per fiscal year,

(4) the order of preference for specific types of assistance, and

(5) the degree to which assisted corporations or business entities should be required to adhere to other governmental policies as a condition for the assistance.

By Mr. QUAYLE:

(Amendment to the amendment in the nature of a substitute offered by Mr. MOORHEAD of Pennsylvania.)

—Beginning on page 14, strike out line 10 and all that follows through page 32 and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Chrysler Corporation Loan Guarantee Act of 1979".

DEFINITIONS

SEC. 2. For purposes of this Act—

(1) the term "Board" means the Chrysler Corporation Loan Guarantee Board established by section 3;

(2) the term "borrower" means the Chrysler Corporation, any of its subsidiaries or affiliates, or any other entity the Board may designate from time to time which borrows funds for the benefit or use of the Corporation;

(3) the term "Corporation" means the Chrysler Corporation and its subsidiaries and affiliates;

(4) the term "financing plan" means a plan designed to meet the financing needs of the Corporation as reflected in the operating plan and indicating in accordance with the requirements of section 8 the amounts to be provided at dates specified (for each year of the plan) from internally generated sources (including earnings and cost reduction measures), from loans guaranteed under this Act, and from nonfederally guaranteed assistance as required pursuant to section 4(a)(3);

(5) the term "fiscal year" means the fiscal year of the Corporation;

(6) the term "going concern" means a corporation the net earnings of which, as projected in the plan required under section 4(a)(2), are determined to be sufficient to maintain long-term profitability after taking into account probable fluctuations in the automobile market, and which meets such other tests of viability as the Board shall prescribe;

(7) the term "labor organization" has the same meaning as in section 2 of the Labor-Management Relations Act, 1947;

(8) the term "operating plan" means a document detailing production, distribution, and sales plans of the Corporation, together with the expenditures needed to carry out those plans (including budget and cash flow projections), on an annual basis, and an energy efficiency plan setting forth steps to be taken by the Corporation to reduce United States dependence on petroleum, in accordance with section 4(a)(2);

(9) the term "persons with an existing economic stake in the health of the Corporation" means banks, financial institutions, and other creditors, suppliers, dealers, stockholders, labor unions, employees, management, State, local, and other governments, and others directly deriving benefit from the production, distribution, and sale of products of the Corporation; and

(10) the term "wages and benefits" means any direct or indirect compensation paid by the Corporation to employees of the Corporation and shall include, but is not limited to, amounts paid in accordance with wage scales, straight time hourly wage rates, base wage rates, base salary rates, salary scales, and periodic salary grades, overtime premiums, night shift premiums, vacation payments, holiday payments, relocation allowance, call-in pay, bonuses, bereavement pay, jury duty pay, paid absence allowances, short-term miliary duty pay, paid leaves of absence, holiday pay including personal holidays, and medical, health, accident, sickness, disability, hospitalization, insurance, pension, educational, and supplemental unemployment benefits.

CHRYSLER CORPORATION LOAN GUARANTEE BOARD

SEC. 3. There is established a Chrysler Corporation Loan Guarantee Board which shall consist of the Secretary of the Treasury who shall be the Chairperson of the Board, the Chairman of the Board of Governors of the Federal Reserve System and the Comptroller General of the United States.

AUTHORITY FOR COMMITMENTS FOR LOAN GUARANTEES

SEC. 4. (a) Subject to the provisions of this Act, the Board, on such terms and conditions as it deems appropriate, may make commitments to guarantee the payment of principal and interest on loans to a borrower only if at the time the commitment is issued, the Board determines that—

(1) the commitment is needed to enable the Corporation to continue to furnish goods or services, and failure to meet such need would adversely and seriously affect the economy of, or employment in, the United States or any region thereof;

(2)(A) the Corporation has submitted to the Board a satisfactory operating plan (including budget and cash flow projections) for the 1980 fiscal year and the next succeeding five fiscal years demonstrating the ability of the Corporation to continue operations as a going concern in the automobile business, and after December 31, 1983, to continue such operations as a going concern without additional guarantees or other Federal financing; and

(B) the Board has received such assurances as it shall require that the operating plan is realistic and feasible;

(3) the Corporation has submitted to the Board a satisfactory financing plan which meets the financing needs of the Corporation as reflected in the operating plan for the period covered by such plan, and which includes an aggregate amount of nonfederally guaranteed assistance of at least $1,430,000,000 as determined under subsection (b)—

(A) from financial commitments or concessions from persons with an existing economic stake in the health of the Corporation in excess of commitments or concessions outstanding as of October 17, 1979, or from other persons;

(B) from capital to be obtained through merger, sale of securities or otherwise after October 17, 1979; and

(C) from cash to be obtained from the disposition of assets of the Corporation after October 17, 1979;

(4) the Corporation has commitments for all financing contemplated by the financing plan and that such financing is adequate (taking into account the amount of guarantees to be made available and the amount of wages and benefits not to be paid as a result of section 6) to meet all the Corporation's projected financing needs during the period covered by the financing plan; and

(5) the Corporation's existing creditors have certified to the Board that they will waive their rights to recover under any prior credit commitment which may be in default unless the Board determines that the exercise of those rights would not adversely affect the operating plan submitted under paragraph (2) or the financing plan submitted under paragraph (3).

(b)(1) For the purpose of computing the aggregate amount of at least $1,430,000,000 in nonfederally guaranteed assistance required to be provided under subsection (a)(3)—

(A) the term "financial commitment" means a legally binding commitment to provide additional nonfederally guaranteed assistance to meet the financing needs of the Corporation in excess of any such commitments outstanding as of October 17, 1979;

(B) the term "concession" means a legally binding commitment (or in the case of a concession from a State, local, or other government, a concession for which the Board has received adequate assurances) which will result in a reduction in the financing needs of the Corporation by an amount which is more than the amount of any reduction accomplished by any concessions outstanding as of October 17, 1979, and, except for a loan or other credit, shall be nonrecoupable;

(C) the term "capital" means sales of equity securities, any other transactions involving non-interest-bearing investments in the Corporation, or subordinated loans on which payment of principal and interest is deferred until after all guaranteed loans are repaid; and

(D) the amount of "cash to be obtained from the disposition of assets of the Corporation" shall be determined by the Board based on a conservative estimate of the minimum value realizable in a sale, with a reference to the potential circumstances surrounding such a sale.

(2) In computing the aggregate amount of at least $1,430,000,000 in nonfederally guaranteed assistance required to be provided under subsection (a)(3), there shall be excluded—

(A) the extent of any contribution, concession, or other element that does not actually and substantively contribute to meeting the Corporation's financing needs as defined in the financing plan required by this section; and

(B) deferral of any dividends on common or preferred stock outstanding as of October 17, 1979.

(c) The aggregate amount of nonfederally guaranteed assistance of at least $1,439,000,000 required to be provided under subsection (a) shall include—

(1) at least $500,000,000 from United States banks, financial institutions, and other creditors, of which—

(A) at least $400,000,000 shall be new loans or credits, in addition to the extension of the full principal amount of any loans committed to be made but not outstanding as of October 17, 1979; and

(B) at least $100,000,000 shall be concessions with respect to outstanding debt of the Corporation;

(2) at least $150,000,000 shall be from foreign banks, financial institutions, and other creditors in the form of new loans or credits, in addition to the extension of the full principal amount of any loans committed to be made but not outstanding as of October 17, 1979;

(3) at least $300,000,000 shall be from the disposition of assets of the Corporation;

(4) at least $250,000,000 shall be from State and local governments;

(5) at least $180,000,000 shall be from suppliers and dealers, of which at least $100,000,000 shall be in the form of capital as defined in subsection (b); and

(6) at least $50,000,000 shall be from the sale of additional equity securities.

The Board may, as necessary, modify the amounts of assistance required to be provided by any of the categories referred to in this subsection, so long as the aggregate amount of at least $1,430,000,000 in nonfederally guaranteed assistance is provided under subsection (a) (3).

REQUIREMENTS FOR LOAN GUARANTEES

SEC. 5. (a) A loan guarantee may be issued under this Act only pursuant to a commitment issued under section 4. The terms of any such commitment shall provide that a loan guarantee may be issued under this Act only if at the time the loan guarantee is issued, the Board determines that—

(1) credit is not otherwise available to the Corporation under reasonable terms or conditions sufficient to meet its financing needs as reflected in the financing plan;

(2) the prospective earning power of the Corporation, together with the character and value of the security pledged, furnish reasonable assurance of repayment of the loan to be guaranteed in accordance with its terms;

(3) the loan to be guaranteed bears interest at a rate determined by the Board to be reasonable which shall not be more than the current average yield on outstanding obligations guaranteed by the United States with remaining periods to maturity comparable to the average maturity of such loan;

(4) the operating plan and financing plan of the Corporation continue to meet the requirements of section 4 and appropriate revisions to such plans (including extensions of such plans to cover the then current six-year period) have been submitted to the Board to meet such requirements;

(5) the Corporation is in compliance with such plans;

(6) the Board has received such assurances as it may require that such plans are realistic and feasible;

(7) the Corporation has agreed for as long guarantees issued under this Act are outstanding—

(A) to have prepared and submitted on or before the thirtieth day preceding each fiscal year beginning after December 31, 1980, a revised operating plan and financial plan which cover the six-year period commencing with such fiscal year and which meet the requirements of section 4; and

(B) to prepare and deliver to the Board within one hundred and twenty days following the close of each fiscal year, an analysis reconciling the Corporation's actual performance for such fiscal year with the operating plan and the financial plan in effect at the start of such fiscal year; and

(8) the borrower is in compliance with the terms and conditions of the commitment to issue the guarantees required by the Board pursuant to section 9(b), except to the extent that such terms and conditions are modified, amended, or waived by the Board.

(b) Any determination by the Board that the conditions established by this Act have been met shall be conclusive, and such determination shall be evidenced by the issuance of the guarantee or commitment for which such determination is required. The Board shall transmit to the appropriate committees of the Congress a written report setting forth each such determination under this Act and the reasons therefor not less than fifteen days prior to the issuance of any guarantee. The validity of any guarantee when made by the Board under this Act shall be incontestable in the hands of a holder, except for fraud or material misrepresentation on the part of such holder. The Board is authorized to determine the form in which any guarantee made under this Act shall be issued.

(c) The Board shall prescribe and collect no less frequently than annually a guarantee fee in connection with each guarantee made under this Act. Such fee shall be sufficient to compensate the Government for all of the Government's administrative expense related to the guarantee, but in no case may such fee be less than 1 per centum per annum of the outstanding principal amount of loans guaranteed under this Act computed daily.

(d) To the maximum extent feasible, the Board shall ensure that the Government is compensated for the risk assumed in making guarantees under this Act, and for such purpose the Board is authorized to—

(1) prescribe and collect a guarantee fee in addition to the fee required by subsection (c);

(2) enter into contracts under which the Government, contingent upon the financial success of the Corporation, would participate in gains of the Corporation or its security holders; or

(3) use other instruments deemed appropriate by the Board.

(e) All amounts collected by the Board pursuant to subsections (c) and (d) shall be deposited in the Treasury as miscellaneous receipts.

REQUIREMENTS APPLICABLE TO EMPLOYEES

SEC. 6. (a) (1) No loan guarantee may be issued under this Act if, at the time of issuance or the proposed issuance, the Board determines that collective bargaining agreements entered into by the Corporation after September 14, 1979, with labor organizations representing employees of the Corporation which govern the payment of wages and benefits to such employees from September 14, 1979, to September 14, 1982, have not been modified so that the cost to the Corporation of such wages and benefits, as determined by the Board, shall be reduced by a total amount of at least $900 million for the 3-year period ending on September 14, 1982, below the cost of such wages and benefits which the Corporation would otherwise have been obligated to incur during such period, except that such dollar amount shall include $203,000,000 in wages and benefits to be forgone pursuant to the master collective bargaining agreement entered into on October 25, 1979 between the Corporation and the International Union United Automobile Aerospace and Agricultural Implement Workers of America.

(2) To meet the requirements of this subsection, tne Corporation shall not enter into a collective bargaining agreement with a labor organization which—

(A) reduces the amounts and levels of wages and benefits provided by such a collective bargaining agreement beyond the labor organization's proportionate share, as determined by the Board; or

(B) reduces wages and benefits below the levels and amounts provided on September 13, 1979.

(3) For purposes of this subsection, the proportionate share of a labor organization shall be determined by multiplying the total reduction required by paragraph (1) by the quotient obtained by dividing the total number of the Corporation's employees represented by that labor organization whose proportionate share is to be determined by the total number of the Corporation's employees represented by labor organizations.

(4) The cost reduction realized by the Corporation under the terms of this subsection shall not be recoupable.

(b) No loan guarantee may be issued under this Act if at the time of issuance or proposed issuance the Board determines that for any fiscal year beginning before December 31, 1982, the total annual cost of wages and benefits for employees not represented by a labor organization exceeds the total annual cost of such wages and benefits for such employees for the fiscal year ending December 31, 1979, unless the excess results from increases in the Corporation's production level, as determined by the Board.

(c) No guarantee or commitment to guarantee a loan under this Act may be made unless labor organizations representing employees of the Corporation have made nonguaranteed loans to the Corporation aggregating not less than $100,000,000 on terms and conditions substantially similar to loans under section 4(c).

(d) For the purpose of subsections (a) and (b)—

(1) the limitations set forth therein shall not apply to any increase in wages or benefits required by law; and

(2) any increase in the wages and benefits of a person employed by the Corporation resulting from reclassification or reevaluation of a job or a promotion effected in order to evade the provisions of this section shall be considered an indirect form of compensation.

SALE OF STOCK

SEC. 7. No guarantee may be issued after the expiration of one year after the date of enactment of this Act unless, prior to such issuance, the Corporation has sold to the public common stock for which the Corporation has received not less than $60,000,000. The stock sold pursuant to this section shall be in addition to the amounts referred to in sections 4(c) (7) and 8.

EMPLOYEE STOCK OWNERSHIP

SEC. 8. (a) No guarantee or commitment to guarantee any loan may be made under this Act until the Corporation, in a written agreement with the Board which is satisfactory to the Board, agrees—

(1) to establish a trust which forms part of an employee stock ownership plan meeting the requirements of subsection (c) .

(1) to establish a trust which forms part of an employee stock ownership plan meeting the requirements of subsection (c);

(2) to make employer contributions to such trust in accordance with such plan; and

(3) to issue the additional shares of qualified common stock at such times as such shares are required to be contributed to such trust.

(b) No guarantee or commitment to guarantee any loan may be made under this Act after the close of the one hundred and eighty-day period beginning on the date of the enactment of this Act unless the Corporation has establised a trust which forms part of an employee stock ownership plan meeting the requirements of subsection (c).

(c) An employee stock ownership plan meets the requirements of this subsection only if—

(1) such plan is maintained by the Chrysler Corporation;

(2) such plan satisfies the requirements of section 4975(e) (7) of the Internal Revenue Code of 1954 (determined without regard to subparagraph (A) of section 410(b) (2) of such Code); and

(3) such plan provides that—

(A) employer contributions to the trust may be made only in accordance with requirements of subsection (d),

(B) each participant in the plan has a nonforfeitable right to the participant's accrued benefit under the plan,

(C) each employer contribution to the trust shall be allocated in equal amounts to the accounts of all participants in the plan, and

(D) distributions from the trsut under the plan will be made in accordance with the requirements of section 401(k) (2) (B) of the Internal Revenue Code of 1954.

(d) (1) Employer contributions meet the requirements of this subsection only if such contributions—

(A) will total not less than $250,000,000 before the close of the four-year period begininng not later than the one hundred and eightieth day after the date of the enactment of this Act,

(B) are made in such amounts and at such times that at no time during such four-year period will the amount of employer contributions to the trust be less than the amount such contributions would have been if made in installments of $62,500,000 made at the end of each year in such period, and

(C) are made in the additional qualified common stock which the Corporation issues by reason of subsection (a)(3).

(2)(A) In the case of a qualified loan to the trust for the purchase of qualified common stock—

(i) the amount of such stock purchased with the proceeds of such loan shall be treated for purposes of paragraph (1) as an employer contribution to the trust, and

(ii) subparagraph (C) of paragraph (1) shall not apply.

(B) For purposes of subparagraph (A), the term "qualified loan" means any loan—

(i) which may be repaid only in substantially equal installments,

(ii) which has a term of not more than ten years, and

(iii) the proceeds of which are used only to purchase an amount of the additional qualified common stock which the Chrysler Corporation issues by reason of subsection (a)(3).

(e) For purposes of this section, the term "qualified common stock" means stock of the class of common stock of the Corporation which is outstanding on October 17, 1979, and which is readily tradeable on an established securities market.

(f) An amount equal to $250,000,000 of the additional qualified common stock issued by the Corporation by reason of subsection (a)(3) shall not be treated for purposes of this Act as assistance received by the Corporation from other than the Federal Government pursuant to section 4(c).

LIMITATIONS ON GUARANTEE AUTHORITY

SEC. 9. (a) The authority of the Board to extend guarantees under this Act shall not at any time exceed $1,250,000,000 in the aggregate principal amount outstanding, which amount shall be reduced by the amount of any repayments, other than any repayment of a loan which is repaid within one year of the date on which the loan is made.

(c) Waivers may only be issued with respect to any State or local government and with respect to a supplier of the Corporation except that no supplier of the Corporation may receive waivers under subparagraph (B) with respect to claims of such supplier in an amount of more than $100,000.

TERMS AND CONDITIONS OF LOAN GUARANTEES

SEC. 10 (a) The aggregate principal amount of the loan guarantee under this Act outstanding at any time shall not exceed the lesser of $1.25 billion or 87 percent of the amount of non-Federal guaranteed assistance made available to the Corporation and taken into account for the purpose of section 4(a)(3)(A).

INSPECTION OF DOCUMENTS; AUDIT BY THE GENERAL ACCOUNTING OFFICE

SEC. 11. (a) At any time a request for a loan guarantee under this Act is pending or a loan guaranteed under this Act is outstanding, the Board is authorized to inspect and copy all accounts, books, records, memoranda, correspondence, and other documents and transactions of the Corporation and any other borrower requesting a guarantee under this Act.

(b) The General Accounting Office may make such audits as may be deemed appropriate by the Comptroller General of the United States of all accounts, books, records, memoranda, correspondence, and other documents and transactions of the Corporation and any other borrower. No guarantee may be made under this Act unless and until the Corporation and any other borrower agree, in writing, to allow the General Accounting Office to make such audits. The General Accounting Office shall report the results of all such audits to the Congress.

PROTECTION OF GOVERNMENT'S INTEREST

SEC. 12. (a) The Board shall take such action as may be appropriate to enforce any right accruing to the United States or any officer or agency thereof as a result of the commitment or issuance of guarantees under this Act.

(b) If the Corporation undertakes a sale of any asset having a value in excess of $5,000,000, and if the Board determines such sale is likely to impair the ability and capacity of the Corporation to repay the guaranteed loans as scheduled, or to impair the ability of the Corporation to continue as a going concern or to meet such other tests of viability as the Board shall prescribe, the Board shall not issue any further guarantees for loans under this Act, and all guaranteed loans made prior to such determination shall be due and payable in full.

(c) If the Corporation enters into any contract, including but not limited to future wage and benefit settlements, having an aggregate value of $10,000,000 or more, the Board shall determine and certify that the performance of the obligations of the Corporation pursuant to such contract will not reduce the ability of the Corporation to repay the guaranteed loans as scheduled, will not conflict with the Corporation's operating plan or financing plan as required under this Act, and will not impair the ability of the Corporation to continue as a going concern or to meet such other tests of viability as the Board shall prescribe. If in any case such determination and certification cannot be made, the Board shall not issue any further guarantees for loans under this Act until such certification can be made, and all loans guaranteed under this Act shall be due and payable in full.

(d) The Board shall be entitled to recover from the borrower, or from any other person liable therefor, the amount of all payments made pursuant to any guarantee entered into under this Act, and upon making any such payment, the Board shall be subrogated to all the rights of the recipient thereof.

(e) The remedies provided in this Act shall be cumulative and not in limitation of or substitution for any other remedy available to the Board or the United States.

(f) The Board may bring action in any United States district court or any other appropriate court to enforce compliance with the provisions of the Act or any agreement related thereto and such court shall have jurisdiction to enforce such compliance and enter such orders as may be appropriate.

(g) A loan shall not be guaranteed under this Act if the income from such loan is excluded from gross income for purposes of chapter 1 of the Internal Revenue Code of 1954 or if the guarantee provides significant collateral or security to other obligations, the income from which is so excluded.

(h) If any provision of this Act is held to be invalid or the application of such provision to any person or circumstance is held to be invalid by a court of competent jurisdiction, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

LONG-TERM PLANNING STUDY

SEC. 13. (a) The Secretary of Transportation, after consultation with the Secretary of Energy, shall submit to the Board and to the Congress as soon as practicable, but not later than six months after the date of enactment of this Act, an assessment of the long-term viability of the Corporation's involvement in the automobile industry. The study shall assess the impact of likely energy trends and events on the automobile industry, including long-term capital requirements, rate of technological change, shifting market characteristics, the capability of the industry as a whole to respond to the requirements of the 1980's, and shall evaluate the adequacy of the industry's existing structure to make necessary technological and corporate adjustments.

(b) The Secretary of Transportation shall prepare and transmit to the Congress annual comprehensive assessments of the state of the automobile industry and its interaction in an integrated economy. Each annual assessment shall include, but not be limited to, issues pertaining to personnel mobility, capital and material requirements and availability, national and regional employment, trade and the balance of payments, the industry's competitive structure, and the effects of utilization of other modes of transportation.

(c) The Board shall take the results of the study and each annual assessment into account when examining and evaluating the Corporation's financing plan and operating plan.

FEDERAL RESERVE BANKS AS FISCAL AGENTS

SEC. 14. Any Federal Reserve bank which is requested to do so shall act as fiscal agent for the Board, Each such fiscal agent shall be reimbursed by the Board for all expenses and losses incurred by it in acting as agent on behalf of the Board.

REPORTS TO CONGRESS

SEC. 15. The Board shall submit to the Congress semi-annually a full report of its activities under this Act during fiscal years 1980 and 1981, and annually thereafter so long as any guaranteed loans are outstanding.

FEDERAL FINANCING BANK

SEC. 16. The Federal Financing Bank shall not acquire any obligation the payment of interest on or principal of which has at any time been guaranteed in whole or in part under this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 17. (a) There are authorized to be appropriated beginning October 1, 1979, and to remain available without Federal fiscal year limitation, such sums as may be necessary to carry out the provisions of this Act.

(b) Notwithstanding any other provisions of this Act, commitments to guarantee loans under this Act shall not exceed such limitations on such commitments as are provided in general provisions of appropriation Acts.

TERMINATION

SEC. 18. The authority of the Board to make commitments to guarantee or to issue guarantees under this Act expires on December 31, 1983.

By Mr. STARK:

—Page 24, after line 3, insert the following new subsection:

(f) During the period in which any loan guarantee is outstanding under this Act, no expenditures may be made to finance the modernization or renovation of any Corporation plant at which a labor contract is in dispute.

—Page 24, after line 3, insert the following new subsection:

(e) During the period in which any loan guarantee is outstanding under this Act, the Corporation may not purchase, directly or indirectly, any equipment which is not made in the United States.

—Page 24, after line 3, insert the following new subsection:

(g) During the period in which any loan guarantee is outstanding under this Act, the Corporation may not purchase any nonunion equipment or parts.

—Page 24, after line 3, insert the following new subsection:

(h) During the period in which any loan guarantee is outstanding under this Act, all automobiles produced by the Corporation during such period shall comply with all Federal environmental regulations. Such compliance shall begin on the date on which such regulations take effect.

—Page 24, after line 3, insert the following new subsection:

(i) During the period in which any loan guarantee is outstanding under this Act, not less than 10 percent of the contracts given by the Corporation shall be set aside for small businesses.

—Page 24, after line 3, insert the following new subsection:

(j) During the period in which any loan guarantee is outstanding under this Act, not less than 10 percent of the contracts given by the Corporation shall be set aside for minority-owned businesses.

—Page 24, after line 3, insert the following new subsection:

(k) During the period in which any loan guarantee is outstanding under this Act, not less than 50 percent of all newly hired Corporation employees shall be women.

—Page 24, after line 3, insert the following new subsection:

(l) During the period in which any loan guarantee is outstanding under this Act, the Corporation shall not pay any dividends to its stockholders.

—page 24, after line 3, insert the following new subsection:

(m) During the period in which any loan guarantee is outstanding under this Act, the Corporation shall increase its share of the automobile market by 1 percent each year.

—Page 24, after line 3, insert the following new subsection:

(n) During the period in which any loan guarantee is outstanding under this Act, the Corporation shall remanufacture its product line so that all Corporation automobiles will achieve at least the corporate average fuel economy prescribed by EPLA for its model year.

—Page 24, after line 3, insert the following new subsection:

(o) During the period in which any loan guaranteee is outstanding under this Act, the Corporation shall not spend any funds to purchase manufacturing facilities which are not located in the United States.

—Page 24, after line 3, insert the following new subsection:

(p) During the period in which any loan guarantee is outstanding under this Act, the Corporation shall not offer prospective customers cash payments for test driving new automobiles produced by the Corporation nor shall the Corporation pay any rebate to any purchaser of an automobile produced by the Corporation.

—Page 24, after line 3, insert the following new subsection:

(q) During the period in which any loan guarantee is outstanding under this Act, the Corporation shall reorient its productive capacity to those areas where the economy and society have the greatest need, including the production of buses, self-propelled railroad cars, subway equipment, and other mass transportation equipment.

—Page 24, after line 3, insert the following new subsection:

(r) During the period in which any loan guarantee is outstanding under this Act, no money shall be spent by the Corporation in any area where the unemployment rate is less than the national average.

—Page 24, after line 3, insert the following new subsection:

(s) During the period in which any loan guarantee is outstanding under this Act, no money shall be spent by the Corporation for the maintenance and operation of airplanes of the Corporation.

—Page 24, after line 3, insert the following new subsection:

(t) During the period in which any loan guarantee is outstanding under this Act, only women and minorities shall be hired as nonunion management of the Corporation until the Secretary of Labor determines that such management positions reflect the Nation's population.

—Page 24, after line 3, insert the following new subsection:

(u) During the period in which any loan guarantee is outstanding under this Act, all tax credits received by the Corporation shall be applied toward the payment of loans guaranteed under this Act.

—Page 24, after line 3, insert the following new subsection:

(v) During the period in which any loan guarantee is outstanding under this Act, no employee of the Corporation shall receive a per diem of more than $50 or, in his capacity as an employee of the Corporation, shall expend more than the lowest common carrier air fare for any air travel.

(Amendment in the nature of a substitute offered by Mr. MOORHEAD of Pennsylvania).

—At the end of section 4 of the matter proposed to be inserted, insert the following new subsection:

(i) During the period in which any loan guarantee is outstanding under this Act, not less than 12 percent of the contracts given by the Corporation shall be set aside for small businesses.

—At the end of section 4 of the matter proposed to be inserted, insert the following new subsection:

(h) During the period in which any loan guarantee is outstanding under this Act, all automobiles produced by the Corporation during such period shall comply with all Federal environmental regulations. Such compliance shall begin on the date on which such regulations take effect.

—At the end of section 4 of the matter proposed to be inserted, insert the following new subsection:

(j) During the period in which any loan guarantee is outstanding under this Act, not less than 10 percent of the contracts given by the Corporation shall be set aside for minority-owned businesses.

—At the end of section 4 of the matter proposed to be inserted, insert the following new subsection:

(k) During the period in which any loan guarantee is outstanding under this Act, not less than 50 percent of all newly hired Corporation employees shall be women.

—At the end of section 4 of the matter proposed to be inserted, insert the following new subsection:

(l) During the period in which any loan guarantee is outstanding under this Act, the Corporation shall not pay any dividends to its stockholders.

—At the end of section 4 of the matter proposed to be inserted, insert the following new subsection:

(n) During the period in which any loan guarantee is outstanding under this Act, the Corporation shall structure its product line so that every automobile manufactured by the Corporation will achieve at least the corporate average fuel economy standard prescribed by EPLA for the current model year.

—At the end of section 4 of the matter proposed to be inserted, insert the following new subsection:

(o) During the period in which any loan guarantee is outstanding under this Act, the Corporation shall not spend any funds to purchase or expand manufacturing facilities which are not located in the United States.

—At the end of section 4 of the matter proposed to be inserted, insert the following new subsection:

(p) During the period in which any loan guarantee is outstanding under this Act, the Corporation shall not offer prospective customers cash payments for test driving new automobiles produced by the Corporation nor shall the Corporation pay any rebate to any purchaser of an automobile produced by the Corporation.

—At the end of section 4 of the matter proposed to be inserted, insert the following new subsection:

(s) During the period in which any loan guarantee is outstanding under this Act, no money shall be spent by the Corporation for the maintenance and operation of airplanes of the Corporation.

—At the end of section 4 of the matter proposed to be inserted, insert the following new subsection:

(t) During the period in which any loan guarantee is outstanding under this Act, only women and minorities shall be hired as nonunion management of the Corporation until the Secretary of Labor determines that such management positions reflect the Nation's population.

—At the end of section 4 of the matter proposed to be inserted, insert the following new subsection:

(u) During the period in which any loan guarantee is outstanding under this Act, all tax credits received by the Corporation shall be applied toward the payment of loans guaranteed under this Act.

—At the end of section 4 of the matter proposed to be inserted, insert the following new subsection:

(v) During the period in which any loan guarantee is outstanding under this Act, no employee of the Corporation shall receive a per diem of more than $50 or, in his capacity as an employee of the Corporation, shall expend more than the lowest common carrier air fare for any air travel.

—At the end of section 4 of the matter proposed to be inserted, insert the following new subsection:

(w) During the period in which any loan guarantee is outstanding under this Act, the Corporation may not purchase, directly or indirectly, any equipment which is not made in the United States.

—At the end of section 4 of the matter proposed to be inserted, insert the following new subsection:

(x) During the period in which any loan guarantee is outstanding under this Act, no expenditure may be made to finance the modernization or renovation of any Corporation plant at which a labor contract is in dispute.

By Mr. WEAVER:

—At page 20, line 13; insert a new pararaph (D), to read:

(D) the Corporation has agreed for as long as guarantees issued under this act are outstanding: that the Corporation will neither pay, nor commit to pay, to any of its management-level employees, any combination of salary, bonuses, and emoluments, the value of which, computed on an annual basis, would exceed the combined value of the salary, bonuses, and emoluments paid by the government of the United States to a U.S. Civil Service employee of grade GS-18, as prescribed by law for the concurrent year.

By Mr. WYLIE:

(Amendment in the nature of a substitute to H.R. 5860.)

—On page 1, line 10, immediately following the word "its", insert the word "domestic".

On page 1, line 11, immediately following the word "other", insert the word "domestic".

—On page 11, line 9, immediately following the semicolon, insert the following new subsection, and renumber the succeeding subsections accordingly:

"(5) there is no substantial likelihood that Chrysler Corporation will be absorbed by or merged with any foreign entity;"

SENATE—*Monday, December 17, 1979*

(Legislative day of Saturday, December 15, 1979)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. BILL BRADLEY, a Senator from the State of New Jersey.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal God, who has spoken at creation and from Mount Sinai, in the psalms of David and in the light of Bethlehem speak to us Thy living truth for our age. Show us that the profoundest insights come in simple ways—a solitary mountain, a babbling brook, singing skies, a star over a stable, lowing cattle, stable straw and the whimper of a baby. Amid the tense and crowded hours of these crucial days help us to make room for Him who was denied an entrance to the Inn. As Thou didst come right into the midst of home and work so enter our homes, our legislative chambers and our common life that the time of worship and the time of work become indistinguishable. And may the peace of Christmas descend upon this world and dwell in every heart.

We pray in the Redeemer's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, D.C., December 17, 1979.*
>
> *To the Senate:*
>
> Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BILL BRADLEY, a Senator from the State of New Jersey, to perform the duties of the Chair.
>
> WARREN G. MAGNUSON,
> *President pro tempore.*

Mr. BRADLEY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE PROGRAM

Mr. ROBERT C. BYRD. Mr. President, this morning I had a very cordial and friendly meeting with the distinguished Senator from Connecticut (Mr. WEICKER) in his office. We think we have agreed upon an approach that will be better for all concerned, which is to allow Senators opposed to the Chrysler legislation ample time to debate the matter, which would allow also for other matters to be taken up without objection, if there were no objection, and perhaps allow the Senate to consider a lot of little items which would otherwise not be disposed of before the weekend.

I am very satisfied with the arrangement that has been worked out. It was Mr. WEICKER's suggestion, and I thought it was a good one. I was never treated more warmly in any office than in that of the distinguished Senator from Connecticut and his staff.

I said:

> I would like to get the Chrysler measure up and disposed of without too much delay; what do you suggest?

The able Senator from Connecticut suggested that upon the disposition of the pending excess profit tax bill, the Senate proceed to take up the Chrysler legislation without any delay on the motion to take up the bill, with the understanding that the cloture motion on the bill itself would not be offered until Wednesday, and in the meantime Senators could debate the Chrysler legislation or, if there was no inclination to debate that, from time to time other matters could be brought up and disposed of; and then on Wednesday the cloture motion would be offered on the bill itself.

This would mean that cloture on the bill would be voted by Friday. I think that is a very good arrangement. It allows the Senate to have at least Tuesday, Wednesday, Thursday, and Friday to debate the Chrysler legislation before the vote on the Chrysler cloture motion should occur. In the meantime, according to that arrangement, other lesser measures could be disposed of with short time agreements and with unanimous consent. I think this is a very amicable way and a reasonable way to work out this problem.

I personally and now publicly want to thank the distinguished Senator from Connecticut for the reasonableness which he has displayed in arriving at this proposal.

Mr. WEICKER. Mr. President, I would like, first of all, to confirm all that the distinguished majority leader has said on the details of what we discussed. Second, I would like to thank him for the courtesy and the honor of paying me a visit and discussing these matters this morning. There is no question in my mind that, regardless of what side of the issue we are on, we want to see this matter fairly approached. It may be that cloture will not be invoked. It may be we will have to go on with the debate. It may be the matter will not pass at all. But I think we are both convinced that it is going to get a fair hearing.

I, at least, am convinced that the facts and logic of my position will prevail, but I do not want to win on procedure, I want to win on substance; and I think that is possible under the arrangement we have arrived at. I believe that is the position of the distinguished majority leader also. Again I thank him for the courtesies which he has extended to me, and I repeat, it was a very fine, decent thing for him to do to pay me the visit this morning.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. I do not want to be in between my two friends, but I do have a task, which we each have, of presenting the views of all those on our respective sides.

It would be my hope that before any agreement is entered, we will have a live quorum and I can get everyone in here who is concerned about this, so that they may be heard concerning the agreement.

I say that because I know several Members who have indicated they want to vote on this issue, and yet they are leaving and cannot leave any time after the 20th. They have told me that the latest time they can get west is the 20th, and they do want to be present to vote. So it is going to be something that I think their views should be heard on as we consider this matter. There may be a way to accommodate that, too; I do not know.

Mr. ROBERT C. BYRD. There may be. But I would say this: As the distinguished acting Republican leader knows, if one Senator feels in his conscience that the matter should be debated that long, there is no way—if that Senator has any help at all, if there is another Senator, one, two, or three can force a delay to where it would take longer than by the approach which has been worked out.

Mr. STEVENS. I understand that, but——

Mr. ROBERT C. BYRD. I am not quarreling with the distinguished Senator; I am simply saying he is correct; he is right in saying that there are other Senators who would want to vote on this matter by the 20th. But I must say that I hope they will take into consideration

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

the fact that if there is determination on the part of a couple of Senators to filibuster the motion to take up, it would be Wednesday at the earliest before we could vote on that cloture motion.

And if cloture were invoked, Senators would have up to 100 hours simply to debate the motion to proceed. I doubt that Senators would debate that motion 100 hours. But if there were enough of them, they could carry that vote over to Thursday and it would be only on Thursday that a cloture motion could be entered on the motion with respect to the bill itself. That would put us into Saturday.

If we are forced to go the hard way, those Senators then could carry this over well until after the Christmas holiday.

Mr. STEVENS. Mr. President, let me assure my friend that I do not think that is their intent. And I think that, perhaps, the Senator from Connecticut having achieved his point of view and his time frame for debate, there might be some way to accommodate these people who must leave on Thursday. I have not discussed it with them. But, perhaps, if the cloture motion is put down on Wednesday, maybe we could have an agreement that the cloture vote would take place on Thursday if they make that request.

But I think they have got to make their request to the Senator from Connecticut and the majority leader. And I hope that all concerned will be given an opportunity to be heard as far as the timing is concerned. It is a very difficult and complex situation.

I commend and I am grateful to the majority leader for his approach to the issues raised by the Senator from Connecticut (Mr. WEICKER), and I think the Senator from Connecticut is a fine and generous person, and when he sees that people will be inconvenienced by this, perhaps we could find some way out of this. I hope the Senator does not state a categorical position right now before they get an opportunity to be heard.

Mr. ROBERT C. BYRD. Mr. President, in any event, the agreement that the distinguished Senator from Connecticut (Mr. WEICKER) and I worked out will be kept. I will take up the measure. I will move to take it up upon the disposition of the pending bill, and no cloture motion will be offered on that Chrysler measure until Wednesday.

If the distinguished Senator from Connecticut and others feel that they will not require as long as Friday to state their case, that is up to them. And the distinguished acting minority leader, the distinguished Senator from Connecticut, and others may discuss that. I will be glad to participate in that.

But the arrangement the Senator from Connecticut and I have carries through Wednesday. And that will be the way I will personally go.

Mr. STEVENS. I understand that.

Mr. WEICKER. I thank the Senator.

Mr. ROBERT C. BYRD. I thank all Senators.

The ACTING PRESIDENT pro tempore. Under the previous order, the acting minority leader is recognized.

Mr. STEVENS. Mr. President, the Senator from Texas sought some time.

May I inquire from the Senator from Texas if he wanted time from the leadership time?

Mr. BENTSEN. Mr. President, I would request 5 minutes of time, if I might.

Mr. ROBERT C. BYRD. On another matter?

Mr. BENTSEN. Yes.

Mr. STEVENS. Mr. President, we have no request for time on this side. I am happy to yield to the Senator from Texas our leadership time.

THE EVOLVING NATURE OF UNITED STATES-MEXICAN "FRIENDSHIP"

Mr. BENTSEN. Mr. President, despite the obvious human suffering and degradation involved, the ongoing crisis in Iran has served as an opportunity as well as an affront to the American people and their elected leadership.

The Iranian crisis has forged a new sense of unity and common purpose that has been lacking for far too long in America. It has forced us to take a hard look at where we stand in the world and to chart, with new determination, our course for the future. It has highlighted the leadership potential of our President and awakened a sense of patriotism, a willingness to sacrifice, on the part of the American people. The crisis in Iran has also given this Nation—which has offered friendship and support so generously to so many for so long—an opportunity to determine who our real friends are when we need them most.

In many respects, this has been an enlightening experience. We have been heartened by the support of our NATO allies, friends of long-standing who have rallied to our cause.

We were less impressed, but hardly surprised, when we saw Japan attempt to exploit this crisis to its unilateral advantage with total disregard for American interests.

Mr. President, when one is truly in need of friendship and support, there is a tendency to look to neighbors, to those with whom we share a common destiny and a broad community of interests.

This country has only two neighbors. From all I have heard, there is general agreement that no nation in the world has been more supportive of the United States in these difficult days than Canada, our neighbor to the north.

It is a well known fact that the United States and Canada do not agree on every issue; there is no shortage of irritants to our bilateral relations. But in the hour of need these differences were set aside, in the true spirit of friendship, and we learned to our satisfaction that we could count on Canada. That sort of attitude, Mr. President, is not lost on the American people. It bodes well for the future of United States-Canadian relations. I hope our friends in Canada will know that their support is greatly appreciated.

The contrast, Mr. President, between the good will so evident from the north and the attitude of the Mexican Government could not be more stark or disturbing. All rhetoric about friendship not withstanding, it has become apparent that self-interest, narrowly defined, is the driving force in Mexican attitudes toward the Iranian crisis. At a time we most needed some help, our neighbors to the south have turned their backs on the United States and resorted to political sniping.

The Mexican authorities, of course, had every right to change their minds about the return of the Shah to Cuernavaca. However, it is also important to understand that we had prior assurances from Mexico—from a friend and neighbor—that the Shah would be permitted to return after his treatment in this country was completed. Mexico, in fact, went to great lengths to emphasize its immunity from international pressure on this question and even withdrew its diplomatic representation in Tehran to eliminate the possibility of reprisal.

Yet, when the Shah's scheduled departure from this country became imminent, Mexico changed its mind, reneged on its commitment, and created a new element of crisis in an already difficult situation.

I do not quarrel, Mr. President, with Mexico's sovereign right to take this action, but I believe it does raise important questions about the element of trust in our relationship. It demonstrates the extent to which Mexico, a nation prone to demand concessions from this country as a matter of right, is prepared to accept the responsibilities as well as the advantages of friendship.

If Mexican helpfulness in the Iranian crisis were limited to a last-minute change of signals on the return of the Shah, we might be able to shrug that off as an aberration.

But unfortunately that is only the beginning of the story. In recent days the President of Mexico seems to have made a concerted effort to undermine the American position in respect to Iran.

Perhaps the single most effective action we have taken to counter the brutal behavior of the Iranian authorities was to freeze Iranian assets in this country. It gave us some leverage where none had previously existed. It was clearly an exceptional response to an unprecedented provocation.

Yet the President of Mexico publicly described the freezing of Iranian assets as "aggressive" and "precipitous" and suggested it may harm the International Monetary System—a system that exists because the United States of America for decades has accepted the burden of making it work.

The dollar, President Portillo also suggested, was a "precarious monetary symbol * * * that not only devalues but can be frozen." These are strange comments coming from the president of a presumably friendly Nation with a rate of inflation far higher than the United States, one of the highest unemployment rates in the world, and a recent history of dramatic devaluation.

In suggesting that the dispute between the United States and Iran is "an alien process," "a conflict which is not ours," the Mexican President is, of course, entitled to his opinion. I would like to think that the seizure of a diplomatic mission, with the official support of the host government, and the holding of hostages for

6 weeks with no end in sight would be seen as an affront to all nations with a sense of decency, and particularly to those states enjoying a special relationship to the aggrieved party.

President Lopez Portillo's statements that a weakened dollar is responsible for OPEC price increases and his proposal to use a different world currency for international payments—coming at the height of our crisis with Iran—were also greatly unappreciated and obviously unhelpful. I have been privileged to meet with President Lopez Portillo on several occasions and have heard the President remark, in preparing for discussions, "never mind the platitudes. How about the actions?" Well, we have seen the actions of Mexico in respect to Iran, and we are not impressed.

And let me add that I fail to understand why an international conference on the independence of Puerto Rico—a conference attended mainly by delegates from Communist nations and engineered to generate anti-U.S. propaganda—was held in Mexico from November 30 to December 2. On December 3 two Americans were murdered by Puerto Rican terrorists. I can assure my colleagues, and my Mexican friends, that the impact of this conference was duly noted at the highest levels of the American Government.

Mr. President, I want to emphasize that as a long-standing friend of Mexico, I make these comments with a profound sense of disappointment. I represent a State that shares a long common border and a common cultural heritage with the people of Mexico. There are few Members of this body who have been more active than the Senator from Texas in espousing and working for the cause of Mexican-American friendship.

I recognize that United States-Mexican relations provide a textbook example of the promise and pitfalls of interdependence. With a population of 67 million that could double by the end of the century, Mexico is the world's 19th largest economy and our fifth largest trading partner. The United States has an obvious and compelling interest in a prosperous, stable, democratic Mexico well disposed toward this country.

The United States is frequently charged with neglecting Mexico, of not paying sufficient attention to our important neighbor. As one long active in United States-Mexican relations and sympathetic to Mexican concerns, I disagree with that notion. Over the years we have devoted more effort and attention to Mexico than to any nation in this hemisphere. Our largest diplomatic mission in the world is in Mexico.

Recognizing the special nature of this relationship, Mexico and the United States have woven a fabric of agreements and understanding that encompasses a wide range of issues of mutual concern: Fishing, drug control, commerce, the control of agricultural pests, tourism, water rights, nuclear matters, prisoner exchange, border procedures, pollution; the list goes on and on.

This nation has long understood that Mexico is a nation of supreme importance to the United States for reasons entirely unrelated to energy.

In the spirit of friendship and conciliation we have moved to eliminate longstanding irritants to our relationship, problems such as the chamizal. In response to Mexican concerns, and without any clear-cut legal liability to do so, we have spent hundreds of millions of dollars cleaning up the Colorado River and reducing salinity. We did this basically because we wanted to be a good neighbor.

Under the aegis of the quadripartite commission, in which Senator JAVITS has taken such an active role, the Mexican and American private and public sectors are cooperating to expand investment and employment opportunities in Mexico. Over 100,000 Mexicans are employed in border assembly plants—a development that is not exactly endorsed by the American labor movement.

Members of this body, myself included, are attempting to respond to situations such as limitations on foreign conventions and duty on Mexican freight cars that stand as irritants to our friendship.

For decades this Nation has tacitly accepted millions of Mexican workers who cross our borders illegally in search of employment and opportunity not readily available in Mexico. Mexico's already high unemployment rate would reach unbearable levels if they were not able to export a substantial amount of their unemployment to the United States. No other nation in the world would tolerate millions of uninvited illegal aliens competing with its own citizens for jobs.

Consider, Mr. President, the impact of the Mexican economy if we were to institute and enforce penalties on employers who hire illegal aliens.

President Lopez Portillo was the first head of state invited to visit President Carter in Washington—an indication of the importance this administration attaches to United States-Mexican relations. I accompanied President Carter on his return visit to Mexico in February of this year. I had an opportunity to hear President Lopez Portillo's toast and its inference of deceit on the part of the United States. And then the next day I heard President Carter address the Mexican Congress in Spanish. Anyone who has read that address would be hard pressed to miss its forthcoming, conciliatory tone, its emphasis on mutual respect.

Despite the universally recognized importance of our bilateral relationship and the demonstrable progress of recent years, it is discouraging to observe that an incident such as the Mexican oil spill can inflame tensions between nations that should be friends and that the Government of Mexico should so abruptly deny any liability.

I cannot help but wonder, Mr. President, what the reaction in Mexico would be if oil from one of our offshore wells was washing up on the resort beaches of Cancun or Cozumel. Somehow, if the shoe were on the other foot, I think the Mexicans might have the question of liability in a different light.

When it comes to the question of United States-Mexican relations, I do not pretend that all righteousness and justice emanates from our side of the border. It is not difficult, for instance, to find fault with our handling of the natural gas negotiations with Mexico. We have made mistakes in the past and shall make mistakes in the future; the nature of the relationship makes this virtually inevitable.

I would, however, submit that the trend and the obvious intent of our approach to Mexico over the past decade has been to extend the hand of friendship and attempt to solve problems before they become crises; to eradicate the bitterness of the past and establish the basis for real friendship in the future.

As we examine Mexican attitudes toward the crisis in Iran, it becomes apparent that our neighbors to the South must determine in their own minds whether they are prepared to work with us in the quest for friendship and understanding or whether they would prefer instead to cling to outdated historical stereotypes and curse the colossus of the North at every opportunity. The Mexicans really cannot have it both ways. They cannot count on our future cooperation in vital areas such as trade while courting our enmity on an issue as sensitive and compelling for America as the crisis in Iran.

The people of this country are ready, they are anxious for a new era of friendship and mutual respect with Mexico. We are willing to do our part, to go more than half way. But we are not prepared to be patsies for Mexican political leaders who like to court public opinion by tweaking the nose of Uncle Sam.

Friendship between Mexico and the United States must be a two-way street; it involves obligations as well as privileges. The benefits should flow in both directions. With the recent development of Mexican energy resources there is a new symmetry in our relationship. Our Mexican friends should understand that we do not covet their energy; we welcome their good fortune. We expect to pay the full market price for any oil and gas Mexico determines it is in her best interest to sell. We have already paid a price for Mexican natural gas that is substantially higher than we pay Canada.

We also recognize that Mexican access to American markets will be a key element in the success of Mexico's future development efforts, and here too we have been forthcoming and will continue to be responsive to Mexican concerns so long as we feel they are equally responsive.

In their haste to criticize "protectionism" in this country, Mexican leaders tend to overlook the fact that we have the most open and accessible markets in the world while Mexico has written the book on protectionism.

Mexico is gradually shifting from impenetrable licensing requirements on imports to tariffs—a move we welcome—but those tariffs, Mr. President, remain among the highest in the world.

During the past decade the value of Mexican goods entering the United States duty-free increased from $272 million to over $1.5 billion; the total value of Mexican exports to this country increased from $600 million to $6 billion, with 47 percent of the value in manufactured goods; average U.S. tariffs on Mexican products have fallen from 12 to 6 percent and further reductions are in store. Last year alone $450 million in goods from Mexico entered the United States under the provisions of GSP which were specifically designed to enable nations like Mexico to penetrate the U.S. market.

Even with all the controversy surrounding the recent antidumping case on Mexican tomatoes, it is important to understand that we currently have no quantitative limitations and only modest tariff barriers to the import of winter fruits and vegetables, which is one reason why Mexico was able to sell us $300 million in such produce last year and the raising of tomatoes has virtually ceased in some areas of our country, including south Texas.

We are at this very moment engaged in an effort to negotiate a bilateral trade agreement with Mexico that would increase Mexican access to our markets and, yes, American access to the highly protected Mexican consumer who is forced to pay artificially high prices for products.

Two years ago, almost to the day, we signed a precedent-setting tropical products agreement which benefited Mexico on the order of two to one—an agreement that has never been ratified by Mexico, presumably because it is not liberal enough.

The point I am making, Mr. President, is really very simple. For better or for worse, the United States and Mexico are destined to share a common destiny on this continent. All too often, however, it would appear that our relationship is cursed by some sort of reverse alchemy that turns a potentially golden friendship into the base metal of acrimony and petty bickering.

If Mexico and the United States cannot stand together on an issue as clear-cut and significant as the crisis in Iran, it is difficult to envision how in the future we will be able to resolve the far-ranging and complex problems that plague our friendship. We must recognize that there will always be problems between Mexico and the United States: Vast, human problems like immigration; issues of enormous significance like trade; and the inevitable, day-to-day problems of neighbors.

The true test of our relationship is not the existence of problems but whether we can work as neighbors to establish an environment of good will and mutual respect in which problems can be resolved.

Despite my disappointment over Mexican attitudes and actions during the Iranian crisis, I am hopeful that Mexico and the United States can build on recent progress and overcome the legacy of distrust that marks our borders more distinctly than any fence.

I know President Carter is committed to this process, I know it is endorsed by the American people, and I sincerely hope that our neighbors to the south will join with this country in building a brighter and more productive future for all peoples of this hemisphere.

Mr. LONG. Mr. President, the Senator from Texas is to be commended for what he had to say regarding the Mexican Government. It is not the people of Mexico with whom we take issue at this point. It is the present President and those in his administration whose point of view is failing to measure up to the responsibility that we have a right to expect from those who hold positions of high responsibility or great responsibility in their government. I am dismayed, as is the Senator.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business not to extend beyond 15 minutes and that Senators may speak therein up to 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COST OF TRANSPORTING COAL

Mr. LONG. Mr. President, I want to address myself to an issue of vital concern to the implementation of the national energy plan, which calls for a two-thirds increase in annual coal production by 1985.

Coal is today in large measure a regional fuel, both produced and consumed principally within the same areas. Between now and 1985, if the goals of the national energy plan are to be realized, it must become truly a national fuel.

In fulfilling its role during this transition, as well as thereafter, the Nation's transportation system will be called upon to move not only greatly increased quantities of coal, but also to move coal over greater distances and between mines and powerplants or industrial sites which may not currently be receiving coal shipments.

Currently, about one-half the coal is moved to consumers by railroad, about one-quarter is moved by water, and a little over 10 percent by truck, with the remainder by conveyor, private railroads, and pipeline. Whether or not there is legislation allowing for additional coal slurry pipelines, the railroads ability to handle increased coal production and traffic will be crucial to meeting the national energy plan's 1985 production goals.

Large investments will be needed both to add to our existing transport capacity and to replace and maintain the very large complex system already in place. The capability of both the public and private sectors to finance the needed investments in infrastructure and equipment will be sharply challenged.

There is no doubt that coal will properly be called on to provide a healthy share of the revenues which are needed to accomplish these goals. The question is whether that share should be virtually without limit. The question is whether the rails should be permitted to ignore the highly inflationary impact which disproportionately high transportation charges on coal will have on hundreds of public utilities and rural electric co-operatives, on thousands of industrial consumers, and on virtually every consumer of electricity in the country. My position is that the de facto railroad monopoly on coal transportation must not be allowed to weight the balance disproportionately in favor of exhorbitant charges on this one vital commodity.

The railroads have in fact made it abundantly clear that coal, particularly powerplant fuel, is the main commodity on which they intend to charge "what the traffic bear."

Delivered cost of coal is at the heart of this issue. In States such as Louisiana that have relied historically on oil and gas for the generation of electrical energy, the transition to coal—encouraged, as you know, by such acts as the Powerplant and Industrial Fuel Act of 1978—has a tremendous impact.

What we are seeing is a highly inflationary contest between the coal producing States in the northern Great Plains (Montana, in particular, with a 30-percent severance tax) and the railroads (through skyrocketing transportation charges) to see who will capture the differential between lower cost domestic coal and the BTU equivalent price of OPEC oil. If one tries to speculate as to where the contest will end under the present rules, he need only look at where the price of OPEC oil will be 2 or 5, or 10 years from now.

I am pleased to note, Mr. President, that at least one Federal agency is expressing grave concern over the high costs of transportation of coal. The Justice Department wisely asked the Federal courts to overturn a recent coal-hauling rate decision of the Interstate Commerce Commission. That controversial ICC decision, and the apparent policy of permitting virtually whatever charges the traffic will bear, has the Justice Department concerned over what it views as the failure of the ICC to demonstrate legally adequate justification for the 7-percent price differentiation in 1978 to Burlington Northern Railroad.

This allegation by the Justice Department, Antitrust Division raises doubts regarding other rate increases granted by the ICC. Under existing law, the ICC must require each railroad petition for a rate increase to show specific financial justification. If the ICC failed to meet this obligation in the Burlington Northern-San Antonio dispute, they may well have failed to meet their obligation in other similar rate disputes. At stake are millions of dollars in additional transportation costs to utility companies who will in turn pass these costs to each and every consumer.

While the Justice Department tries to insure that the ICC and other Federal agencies keep an adequate regulatory lid on costs of transporting coal, I am going to do my part legislatively to keep the matter from getting completely out of hand.

My goal is to find relief for beleaguered consumers in Louisiana and across the Nation who are continuing a costly transition from oil and gas to coal. Such a forced transition from one energy source to another means that American consumers must pay for the new investment in coal-fired generating units; for the coal, including severance taxes and transportation charges; and, at the same time, are being asked to absorb the cost of premature retirement of oil- and gas-fueled electric generating capacity. At a time when inflation is eating the consumer alive, there must be a way to insure that the transportation factor in our switch to coal is not allowed to gouge the public and constitute a gigantic "windfall" for the railroads.

Now, Mr. President, it is not only Louisiana utilities which have suffered as captive customers to the railroad monopoly. Although America has the richest known coal fields in the world, utilities in several parts of the country are finding it cheaper to buy coal abroad. For instance, I am told that Central Power and Light in Corpus Christi, Tex., apparently believes it can get coal cheaper all the way from South Africa. It has been reported that Florida's Tampa Electric Company is already buying 25 percent of its coal from Poland—at a savings of $6 a ton compared with coal from Tennessee and Kentucky, mainly because of transportation charges in this country.

In Louisiana, Gulf States Utilities Co., anticipating that rail transportation will amount to 68 percent of its coal cost at its new Lake Charles facility, is actively looking at foreign coal. South African coal could be as much as 115 cents per million BTU's less than rail delivered coal from Wyoming. Australian coal figures to be delivered on the gulf coast for about the same as Wyoming coal. Coal from Colombia is expected to be less costly than any because of the shorter water haul required.

Here, Mr. President, is the breakdown of delivered cost for coal anticipated by Louisiana's rural electric cooperatives.

Mr. President, I ask that a table showing the increase in rate because of transportation costs appear in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Example: Cajun co-op anticipated delivery costs of coal from Wyoming

Coal per ton (Approximate)	$8.25
Various State & Federal Taxes	2.23
Total	10.48
Rail Freight to St. Louis	12.45
Purchase & Maintenance of Rail Cars	1.50
Barge & Other Freight Costs	6.23
Total	30.66
Delivery Expenses, Use Taxes, Rail & Barge Demurrage	1.51
Total	32.17

Mr. LONG. You will note that the cost of transportation is at least twice the cost of coal itself. Data supplied to me by Louisiana's investor owned utilities indicate the same ratio of transportation to coal cost. And the ratio is going up to a factor of 3 to 1 if we do not put a stop to it. An equivalent outrage would be for natural gas pipelines to charge $4 in transportation charges for natural gas whose wellhead price is $2.

Among other things, Mr. President, the Nation is trying to accomplish three very important goals at the present time: First, we are trying to reduce our overdependence on foreign oil; second, we are trying to reduce our very large trade deficit and, third, we are trying to keep the rate of inflation down. At just such a time it appears incongruous that the Interstate Commerce Commission, which is responsible for regulating maximum rail transportation rates, would allow rates to go so high as to discourage the expanded use of coal, and so high as to add appreciably to the rate of inflation for those who do use coal.

Notwithstanding the rail industry's requirements for the additional revenue it will need to handle increased coal traffic, I do not believe we can make an orderly transition to coal by allowing the railroads to go absolutely hog wild in the rates they charge on this particular captive commodity. A balance must be struck to insure that coal traffic pays its fair share and thus contributes to the financial good health of the railroads—but not so high a share as to be ruinous to the users of coal. The rates on coal should not cause windfall subsidies to the shippers of other commodities; nor should they subsidize the continuation of antiquated and inefficient railroad practices.

Mr. President, when S. 1946 is called up for consideration, I will offer the following amendment which will address this unresolved problem of excessive coal rates:

> Section 104(5)(A) Within one year, the Commission shall establish standards and determine on the record after a hearing a ratio of revenue-to-variable cost (expressed as a percentage which, for the purpose of this subsection and other rate increases which exceed those authorized under paragraph (1) of this subsection, or new rates which exceed the adjusted base rates authorized under section 10701(f), shall constitute a point at which the burden of proof with regard to reasonableness shall be upon the proponent carrier, notwithstanding the provisions of section 10707(c)(1) and (2) and section 11701. Within 120 days following completion of the rulemaking proceeding mandated under this subsection, the Congress shall hold hearings to determine whether the standards recommended by the Commission shall be adopted. In the event no action is taken by Congress during that period, the recommended standards shall become effective.
>
> (B) In establishing standards in accordance with subparagraph (A) of this subsection, the Commission shall consider all relevant factors, including, but not limited to, the following:
>
> (1) average ratios developed pursuant to the provisions of section 102 and the demonstration of an appropriate differential between that ratio and the ratio developed under this subparagraph in order to realize the goals of 49 U.S.C. 10704;
>
> (2) amount of traffic which is transported at revenues below variable costs and efforts which might be made to minimize such traffic;
>
> (3) amount of traffic which contributes only marginally to fixed costs and the extent to which, if any, rates on such traffic can be changed to maximize the revenues from such traffic, giving due consideration to the right of individual carriers to exercise pricing flexibility to the end of achieving such revenue maximization.
>
> (4) mix of rail traffic on an individual carrier basis as well as industry basis; and
>
> (5) inflationary impact of various levels of revenue-to-variable costs, particularly as such impact relates to National energy goals, taking into account the railroads' role as a primary source of energy transportation and the need for a sound rail transportation system.

The effect of this amendment will be to have the ICC, with final congressional review, establish standards for determining a revenue to variable cost ratio that would be a presumptive cap of maximum rate reasonableness. At this level of rate reasonableness the burden would shift to the railroads to prove in a proceeding at the ICC their need for further rate increases. If this burden of proof is met, the ICC could grant the increase. The entire process would continue to be subject to judicial review.

This proposal would have the effect of fixing the captive coal shippers' contribution to the subsidization of less profitable commodities and routes where there is no captive market. It is not my intention to delay or kill this legislation. I would hope the railroad industry after examining this proposal will have no objection to its inclusion into the bill.

Nevertheless, I believe that, without an amendment, captive rail movement of coal under the provisions of S. 1946 would be detrimental to the interests of American customers who have already borne the burden of loss of low cost gas and conversion to high price oil.

I repeat, Mr. President, the issue is not whether coal transportation should be profitable. The issue is not whether coal should subsidize the transportation of other commodities. The issue is whether this profit and subsidy should be completely without limits and at the sole discretion of the railroads.

Mr. President, in closing, I would encourage all my colleagues who share my concern for electric consumers to join me in developing and sponsoring this amendment.

VISIT OF PRIME MINISTER MARGARET THATCHER, OF GREAT BRITAIN

Mr. ROBERT C. BYRD. Mr. President, this afternoon there will be a distinguished visitor in the Capitol, Prime Minister Margaret Thatcher of Great Britain. Mrs. Thatcher is paying her first visit to Washington since becoming Prime Minister in May of this year. Any British Prime Minister is welcome as the representative of one of this Nation's closest friends and allies in the international community. Prime Minister Thatcher is particularly welcome since her first several months in office have confirmed her as a reliable friend of the United States.

Mrs. Thatcher is the leader of a Conservative Party government. She has the support of a diverse, experienced, and talented cabinet. Like all major industrial nations, Great Britain faces a wide range of social and economic problems. Many—such as inflation and economic recession—are problems similar to those we face in America. Others—such as the continuing turmoil in Northern Ireland—are unique to Great Britain. Prime Minister Thatcher has brought both imagination and courage to bear on these difficult questions.

It is in the field of foreign affairs that

American and British policies interact most intensely. Prime Minister Thatcher's government has continued the tradition of friendship and cooperation in foreign affairs between our two nations. There was evidence of this cooperation in the recent NATO decision on theater nuclear force modernization. And the British Government has indicated its support for ratification of the SALT II treaty.

British support for our attempts to win the freedom of American hostages in Iran is particularly appreciated in this country. The British Government supported the United Nations Security Council vote that calls for the release of the hostages. And when a mob attacked our Embassy in Islamabad, Pakistan, a few weeks ago, many of our personnel were given refuge in the British Embassy.

Prime Minister Thatcher deserves high praise for her government's attempts to negotiate an end to the fighting in Zimbabwe-Rhodesia. With patience and flexibility, Foreign Minister Lord Carrington has helped to put together a plan that would lead to a peaceful transition to a sovereign, representative state. In the interest of peace in southern Africa, we all hope that these efforts succeed.

Many of us will be meeting Prime Minister Thatcher for the first time. But, she will be welcomed as an established friend and ally.

PRIME MINISTER MARGARET THATCHER

Mr. STEVENS. Mr. President, today marks the first official state visit to the United States of Great Britain's Prime Minister, Margaret Thatcher.

Mrs. Thatcher arrives in Washington today for meetings with President Carter, Pentagon officials, and Members of Congress. It is expected that Mrs. Thatcher and the President will discuss his recent decision to lift economic sanctions against Rhodesia. Later today, Mrs. Thatcher will leave for New York where she is scheduled to make a major foreign policy speech and meet with various New York business leaders.

The British Prime Minister has, by almost all standards, succeeded in garnering public support for her major policy programs and continues to make significant foreign policy decisions. Her list of accomplishments to date is pretty impressive. She has cut government spending, eased Britain's stiff income tax rates, and has abolished government wage guidelines, all in keeping with her campaign pledges. In addition she has appeared to have negotiated a hard-fought peace settlement in Rhodesia. It is still too early for most to give her unqualified endorsement of her handling of the British economic situation, but in my opinion she is doing quite a job considering the severe rate of inflation.

As Republicans, we are very much interested in the conservative approach she has taken in governing her country. The policies she has endorsed, particularly those with respect to the economy, are ones which we have been pursuing here in the United States. On behalf of all the members on my side of the aisle, I welcome Mrs. Thatcher to our country and wish her continued success in the pursuit of her goals in leading England back to a position of strength and power.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the unfinished business, H.R. 3919, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 3919) to impose a windfall profit tax on domestic crude oil.

The Senate resumed consideration of the bill.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Idaho (Mr. McClure) is recognized to call up an amendment.

Mr. McCLURE. Mr. President, I think the Senator from Washington has a unanimous-consent request that he would like to propound. I yield to him for that purpose.

UNANIMOUS-CONSENT AGREEMENT

Mr. JACKSON. Mr. President, without the Senator from Idaho losing his right to the floor, I ask unanimous consent to have an unprinted amendment in the first degree, which is at the desk, be called up, and I ask for its immediate consideration.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, and I have no intention of doing so, the manager of the bill is not here.

Mr. McCLURE. Mr. President, reserving the right to object, it is my understanding that the Senator from Washington wants to lay down his amendment and immediately lay it aside so we can return to my amendment.

Mr. JACKSON. Then we will set it aside.

Mr. ROBERT C. BYRD. I have no objection.

Mr. McCLURE. The unanimous-consent agreement will include the fact that he will lay it down and it will be immediately laid aside temporarily so that the Senator from Idaho may proceed with his amendment.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. PERCY. Reserving the right to object, Mr. President, I should like to ask the leadership about amendment 694. I have been promised this amendment will receive an opportunity to be brought up. It is the amendment involving the turnback of funds out of windfall profits tax to the States for their conservation efforts.

Mr. JACKSON. I say to the Senator, on my amendment, I am not going to take more than, I would say, 20 minutes—on my particular amendment. I agreed previously that I would yield to Senator Melcher and Senator Hart before the Senator from Illinois had spoken to me. I do not know how long they are going to take.

Mr. MELCHER. Mine will be quite short and Senator Hart's is, too.

Mr. PERCY. It appears, then, that the amendment of the Senator from Illinois can come up before the cloture vote?

Mr. JACKSON. I think it should be able to because, depending on who else comes in, there is no time limit, as the Senator knows. I can dispose of mine in 20 minutes from my standpoint.

Mr. President, I am glad to yield on that basis.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 884

(Purpose: Plowback amendment to impose an additional tax on categories of production subject to the minimum tax, subject to complete plowback)

The ACTING PRESIDENT pro tempore. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Washington (Mr. Jackson), for himself, Mr. Bumpers, Mr. Hollings, Mr. Durkin, and Mr. Javits proposes an amendment numbered 884.

Mr. JACKSON. I ask unanimous consent that reading be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 79, between lines 14 and 15 and following new Sec. 4993A, insert the following:

"Sec. 4993B. Additional Tax Subject To Plowback.

"(a) Tax Imposed.—An additional excise tax is hereby imposed on the remaining windfall profit from crude oil described in paragraphs (1) through (3) of section 4988 (a) removed from the premises during each taxable period.

"(b) Tax Paid by Producer.—The tax imposed by this section shall be paid by the producer of the crude oil.

"(c) Amount of Tax.—The amount of the tax imposed by subsection (a) with respect to any barrel of crude oil shall be in addition to the tax imposed by section 4993A and shall be 75 percent of the remaining windfall profit.

"(d) Rules for Computation of Tax.—

"(1) Application of provisions.—Except as otherwise provided in this section, the provisions of this chapter shall be applied with respect to the windfall profit on crude oil taxable under subsection (a) as if any reference to 'taxable crude oil' elsewhere in this chapter referred to oil taxable under subsection (a).

"(2) Base price determinations.—The base price for oil subject to this section shall be the same as the base price provided in section 4993A.

"(e) Plowback Credit Against Additonal Tax.—

"In general.—There is allowed as a credit against the tax imposed by subsection (a) an amount equal to the qualified energy investment of the taxpayer for the taxable period.

"(2) Definitions.—For purposes of this section—

"(A) Remaining windfall profit.—For purposes of subsection (a), the term 'remaining windfall profit' means the excess of the removal price of the barrel of crude oil over the sum of—

"(i) the adjusted base price of such barrel, and

"(ii) the amount of the severance tax adjustment with respect to such barrel provided by section 4992(d), and

"(iii) the amount of the minimum tax paid, if any, with respect to such barrel provided by section 4993A.

"(B) QUALIFIED ENERGY INVESTMENT.—For purposes of subsection (a), the term 'qualified energy investment' for any taxable period means the amount paid or incurred by the taxpayer during such taxable period (with respect to areas within the United States or a possession of the United States) for—

"(i) crude oil described in paragraphs (1) through (3) of section 4988 (a) for—

"(I) intangible drilling and development costs to which section 263(c) applies,

"(ii) ascertaining the existence, location, extent, or quality of any deposit of crude oil or natural gas, other than expenditures described in section 263(c),

"(iii) the construction, reconstruction, erection, or acquisition of the following items but only if the original use of such items begins with the taxpayer:

"(i) assets of a character subject to depreciation used for—

"(aa) the exploration for or the development or production of oil or gas, including secondary or tertiary recovery of oil or gas; or

"(bb) refining oil or gas (but not beyond the primary product stage);

"(2) pipelines for gathering or transmitting oil or gas, and facilities (such as pumping stations) directly related to the use of such pipelines, or

"(IV) the acquisition of oil and gas leases, but the aggregate amount which may be taken into account by the taxpayer under subclauses (I), (II), and (III) for such period, or "(ii) developing geothermal, solar, hydroelectric (including tidal), or other nonnuclear nonconventional sources of power determined by the Secretary to have substantial potential for contributing to a decreased dependence on nondomestic petroleum,

"(iii) the production of synthetic fuel by a facility in the United States.

"(B) SYNTHETIC FUEL.—The term 'synthetic fuel' means any liquid, gaseous, or solid hydrocarbon (including mixtures of coal and petroleum) which can be used as a substitute for supplies of petroleum, natural gas, or derivatives thereof.

"(3) CARRYBACK AND CARRYOVER OF EXCESS CREDIT.—If the amount of the credit allowed by paragraph (1) for any taxable period exceeds the taxpayer's liability for tax under this section for that taxable period (hereinafter in this paragraph referred to as the 'unused credit period'), such excess shall be a production credit carryback to each of the 12 taxable periods preceding the unused credit period and a production credit carryover to each of the 12 taxable periods following the unused credit period. and shall be added to the amount allowed as a credit by paragraph (1) for the taxable period to which such excess is carried. The entire amount of the unused credit for an unused credit period shall be carried to the earliest of the 24 taxable periods to which such credit may be carried and then to each of the other 23 taxable periods to the extent such unused credit may not be taken into account for a prior taxable period to which the unused credit may be carried.

Mr. JACKSON. I ask for the yeas and nays on the amendment.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UP AMENDMENT NO. 885

(Purpose: Amendment in the nature of a substitute. To impose a 75% tax upon those categories of oil subject to the minimum tax; to provide for a plowback credit for specified investments; and to adjust the tax rates if prices exceed projections)

Mr. JACKSON. Mr. President, I send a substitute amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will state it.

The legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON), for himself, Mr. BUMPERS, Mr. DURKIN, Mr. HOLLINGS, and Mr. JAVITS, proposes a substitute to unprinted amendment No. 884 numbered UP 885.

Mr. JACKSON. I ask unanimous consent that further reading be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted by unprinted amendment numbered 884 by Mr. JACKSON, insert the following:

"SEC. 4993B. MINIMUM TAX SUBJECT TO PLOWBACK.

"(a) CHANGE IN TAX RATE.—Notwithstanding the tax rate provided in section 4993A(b), a minimum tax of 75 percent shall be imposed on taxable crude oil, as defined in section 4993A(b).

"(b) TAX PAID BY PRODUCER.—The tax imposed by this section shall be paid by the producer of the crude oil, unless such producer qualifies for a reduction in the tax rate provided by subsection (c).

"(c) REDUCTION IN TAX RATE.—A producer may qualify for a reduction in the tax rate provided in subsection (a) by making a qualified energy investment, as provided in subsection (e).

"(d) OPERATION OF REDUCTION.—The reduction in tax rate shall enable the producer to qualify for a plowback credit; such credit shall be limited to 55 percent of the minimum tax imposed on taxable crude oil, as defined in section 4993A(b).

"(e) PLOWBACK CREDIT DEFINED.—For purposes of this section, there is allowed as a credit against the tax imposed by subsection (a) a plowback credit equal to the qualified energy investment of the taxpayer for the taxable period.

"(f) QUALIFIED ENERGY INVESTMENT DEFINED.—For purposes of this section, the term 'qualified energy investment' for any taxable period means the amount paid or incurred by the taxpayer during such taxable period (with respect to areas within the United States or a possession of the United States) for—

"(1) crude oil described in subsection (a) of section 4993A for—

"(A) intangible drilling and development costs to which section 263(c) applies,

"(B) ascertaining the existence, location, extent, or quality of any deposit of crude oil or natural gas, other than expenditures described in section 263(c),

"(C) the construction, reconstruction, erection, or acquisition of the following items but only if the original use of such items begins with the taxpayer:

"(i) assets of a character subject to depreciation used for—

"(I) the exploration for or the development or production of oil or gas, including secondary or tertiary recovery of oil or gas; or

"(II) refining oil or gas (but not beyond the primary product stage)

"(ii) pipelines for gathering or transmitting oil or gas, and facilities (such as pumping stations) directly related to the use of such pipelines, or

"(D) the acquisition of oil and gas leases, but the aggregate amount may be taken into account by the taxpayer under clauses (A), (B), and (C) for such period, or

"(2) developing geothermal, solar, hydroelectric (including tidal), or other nonnuclear, nonconventional sources of power determined by the Secretary to have substantial potential for contributing to a decreased dependence on nondomestic petroleum.

"(3) the production of synthetic fuel by a facility in the United States.

"(g) SYNTHETIC FUEL.—For purposes of this section, the term 'synthetic fuel' means any liquid, gaseous, or solid hydrocarbon (including mixtures of coal and petroleum) which can be used as a substitute for supplies of petroleum, natural gas, or derivatives thereof.

"(h) CARRYBACK AND CARRYOVER OF EXCESS CREDIT.—If the amount of the plowback credit allowed by subsection (e) for any taxable period exceeds the taxpayer's liability for tax under this section for that taxable period (hereinafter in this paragraph referred to as the 'unused credit period'), such excess shall be a production credit carryback to each of the 12 taxable periods preceding the unused credit period and a production credit carryover to each of the 12 taxable periods following the unused credit period, and shall be added to the amount allowed as a credit by subsection (e) for the taxable period to which such excess is carried. The entire amount of the unused credit for an unused credit period shall be carried to the earliest of the 24 taxable periods to which such credit may be carried and then to each of the other 23 taxable periods to the extent such unused credit may not be taken into account for a prior taxable period to which the unused credit may be carried.

"SEC. 4993C. ADJUSTMENT TO TAX RATES IF OIL PRICES EXCEED PROJECTIONS.

"(a) IN GENERAL.—If the removal price (as defined in section 4989(c)) of a barrel of crude oil exceeds $30, adjusted for real growth under subsection (b), then the amount of the tax imposed by this chapter with respect to such barrel shall be increased by an amount determined by the Secretary under regulations to be necessary to maintain the same difference (in constant dollars) between the removal price and the tax imposed by this chapter as there would be if the removal price were not in excess of $30.

"(b) ADJUSTMENT FOR REAL GROWTH.—For purposes of this section, the '$30' amount in subsection (a) shall be adjusted for inflation in the manner provided under subsections (a) and (b) of section 4990 applied by substituting for the implicit price deflator referred to in section 4990(b)(1)(A) an amount equal to such deflator multiplied by 1.005 to the nth power where 'n' equals the number of calendar quarters beginning after September 1979 and before the calendar quarter in which the oil is removed (or deemed removed) from the premises.

ORDER OF PROCEDURE

Mr. JACKSON. Mr. President, as agreed, I yield back now to the Senator from Idaho.

Mr. McCLURE. Mr. President, I understand that the amendment of the Senator from Washington was made the pending business, a substitute was sent to the desk, and that has now been temporarily laid aside. Is that correct?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. JACKSON. It will come immediately after the disposition of the amendment of the Senator from Idaho.

Mr. STEVENS. Will the Senator from Idaho yield?

Mr. McCLURE. I yield without losing my right to the floor.

Mr. STEVENS. Will the Senator be willing to yield to me for purposes of consideration of amendment No. 592 for a period of 20 minutes?

Mr. McCLURE. I am happy to yield for that purpose, upon the understanding that my amendment will then be the pending business upon the completion of that period of time.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. MELCHER. Reserving the right to object, I wonder if we can get agreement that whatever votes we have here are going to be taken after the cloture. We are going to be taking up our time just voting.

Mr. STEVENS. I am happy to make such an agreement if my amendment can come after cloture. I am sure the leadership would welcome such a move.

Mr. LONG. Mr. President, I do not want to agree to that at this point. Let us just see how it goes. I object.

Mr. STEVENS. I ask unanimous consent that the amendment of the Senator from Idaho be set aside for a period of 20 minutes to consider my amendment No. 592.

Mr. HART. Reserving the right to object, some of us are trying to plan our day here. The Senator from Colorado would appreciate knowing if those who are standing in line are going to yield to others so others can offer amendments that we are not aware of.

Mr. LONG. Mr. President, the Senator from Alaska has been trying to offer his amendment out here for the last week. His amendment is one that should be voted on before cloture. That being the case, we would like to accommodate him if we can.

Mr. MELCHER. Mr. President, I wonder if we can get a series of agreements here.

Mr. LONG. Mr. President, we cannot get any series of agreements. We wasted the whole afternoon Saturday on that, trying to get a whole series. If we just agree that a certain amendment will come next, then we can go ahead and dispose of it.

The Senator from Illinois has an amendment that he has been trying to get a vote on for the last week. If we cannot agree on that, we cannot agree on anything.

Mr. HART. Mr. President, I do not object to anything. All I want to know is whose amendment is coming next.

Mr. LONG. That was the request.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. McCLURE. Mr. President, I think I have the floor. I am happy to yield to the Senator from Washington for a parliamentary inquiry.

Mr. JACKSON. I thank the Senator.

Mr. President, is it not correct that, immediately upon the disposition of the McClure amendment, the Senator from Washington will be recognized next for disposition of his amendment?

The ACTING PRESIDENT pro tempore. His amendment will occur. There is no agreement on recognition.

Mr. JACKSON. I ask unanimous consent that I be recognized as it was previously agreed upon.

Mr. McCLURE. Mr. President, I assume if his amendment is up, he will be recognized to debate it.

Mr. ROBERT C. BYRD. Not necessarily, but that is what he is asking.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. PERCY. Reserving the right to object, Mr. President, would it be possible, as long as we have made an agreement now for an informal sequence——

Mr. JACKSON. I was coming to that.

Mr. President, after the disposition of my amendment, and there are no amendments permitted in the second degree—I have offered that already—I ask unanimous consent that the Senator from Montana (Mr. MELCHER) be recognized to offer his amendment, then the Senator from Colorado, and then the Senator from Illinois, and that there not be any amendments in the second degree to those amendments.

Mr. McCLURE. Did I understand the Senator from Washington to say after the disposition of the Jackson amendment?

Mr. JACKSON. That is right.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I think the Senator from Alaska had a unanimous-consent request to temporarily lay my amendment aside and that he be permitted, in that 20-minute period, to offer his amendment.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. STEVENS. Has that request been granted?

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 592

(Purpose: Relating to the involuntary liquidation of the LIFO inventories)

Mr. STEVENS. Mr. President, I call up my amendment 592.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

AMENDMENT NO. 592 (AS MODIFIED)

(Purpose: Relating to the involuntary liquidation of LIFO inventories)

Mr. STEVENS. Mr. President, there is a modification at the desk and I modify my amendment accordingly.

The ACTING PRESIDENT pro tempore. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) for himself, Mr. BOREN and Mr. JOHNSTON proposes an amendment numbered 592, as modified.

Mr. STEVENS. I ask unanimous consent that further reading be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment, as modified, is as follows:

At the appropriate place, insert the following new section:

SEC. . INVOLUNTARY LIQUIDATION OF LIFO INVENTORIES.

(a) TREATMENT OF INVOLUNTARY LIQUIDATION.—Subpart D of part II of subchapter E of chapter 1 (relating to inventories) is amended by adding at the end thereof the following new section:

"SEC. 473. INVOLUNTARY LIQUIDATION OF LIFO INVENTORIES.

"(a) GENERAL RULE.—If, for any taxable year ending after October 31, 1979—

"(1) the closing inventory of any taxpayer inventorying goods under the method provided in section 472 reflects a decrease from the opening inventory of such goods for such taxable year, and

"(2) the taxpayer establishes to the satisfaction of the Secretary that such decrease is attributable to the involuntary liquidation of such inventory,

then, if the taxpayer elects to have the provisions of this section apply, the taxable income of the taxpayer for such taxable year (hereinafter referred to as the 'liquidation year') shall be adjusted as provided in subsection (b).

"(b) ADJUSTMENT FOR REPLACEMENTS.—

"(1) TAXABLE INCOME OF LIQUIDATION YEAR.—If a replacement, in whole or in part, of the goods liquidated is reflected in the closing inventory of any of the three taxable years following the liquidation year or of any taxable year ending within such earlier period as the Secretary may prescribe (hereinafter referred to as a 'replacement year'), then the taxable income for the liquidation year (determined without regard to this section) shall be—

"(A) decreased by an amount equal to the excess of—

"(i) the aggregate replacement cost of the liquidated goods, over

"(ii) the aggregate cost of such goods reflected in the opening inventory of the liquidation year, or

"(E) increased by an amount equal to the excess of—

"(i) such aggregate cost reflected in such opening inventory, over

"(ii) such aggregate replacement cost.

"(2) TAX LIABILITY.—

"(A) IN GENERAL.—If an adjustment is made under paragraph (1) for any liquidation year, the tax imposed by this chapter for the liquidation year and any other taxable year shall be redetermined to take into account such adjustment.

"(B) DEFICIENCIES AND OVERPAYMENTS.—In the case of any redetermination under subparagraph (A) for any taxable year—

"(i) any increase in the amount of such tax shall be assessed and collected as a deficiency without interest, and

"(ii) any overpayment of such tax shall be credited or refunded to the taxpayer without interest.

"(c) DEFINITION AND SPECIAL RULES.—For purposes of this section—

"(1) DEFINITION OF INVOLUNTARY LIQUIDATION.—The term 'involuntary liquidation' means the voluntary or involuntary sale or other disposition of goods inventoried under the method described in section 472, coupled with a failure on the part of the taxpayer to purchase, manufacture, or otherwise produce and have on hand at the close of the taxable year in which such sale or other disposition occurred such goods as would, if on hand at the close of such taxable year, be subject to the application of the provisions of section 472, if such failure on the part of the taxpayer is due, directly and exclusively, to—

"(A) any Department of Energy regulation or request with respect to energy supplies, or

"(B) foreign trade interruption, but only if the Secretary, after consultation with the appropriate Federal officer, publishes a notice in the Federal Register that this section shall apply in the case of such regulation, request, or interruption.

"(2) Replacements.—If, in the case of any taxpayer subject to the provisions of this section, the closing inventory of the taxpayer for any replacement year prior to the complete replacement of the goods so liquidated, reflects an increase over the opening inventory of such goods for such replacement year, the goods reflecting such increase shall be considered, in the order of their acquisition, as having been acquired in replacement of the goods most recently liquidated (whether or not in a year of involuntary liquidation) and not previously replaced, and if the liquidation was an involuntary liquidation shall be taken into purchases and included in the closing inventory of the taxpayer for the replacement year at the inventory cost basis of the goods replaced.

"(3) Election.—

"(A) In general.—An election to have the provisions of this section apply shall be made in such manner and form, and at such time, as the Secretary may prescribe by regulation.

"(B) Irrevocable election.—An election under this section shall be irrevocable and shall be binding for the liquidation year and for all determinations for prior and subsequent taxable years insofar as such taxable years are related to the liquidation year or the taxable year of replacement.

"(d) Special Rules for Application of Adjustments.—

"(1) Period of limitations.—

"(A) Extension of period for adjustments.—If—

"(i) an adjustment is required under subsection (b)(2) for any taxable year (hereinafter referred to as the 'adjustment year') by reason of the replacement of liquidated goods during any replacement year, and

"(ii) the assessment of a deficiency, or the allowance of a credit or refund of an overpayment of tax, attributable to such adjustment is otherwise prevented by the operation of any law or rule of law other than section 7122, relating to compromises,

then such deficiency may be assessed, or credit or overpayment allowed, within the period prescribed for assessing a deficiency or allowing a credit or overpayment for the replacement year if a notice for deficiency is mailed, or claim for refund is filed, within such period.

"(B) Limitation on amount.—In any case described in subparagraph (A), the deficiency assessed or credit or refund allowed shall not exceed the increase or decrease in tax for the adjustment year (determined without regard to this section) solely attributable to the adjustment under subsection (b)(2).

"(2) Amount of deficiency or overpayment.—

"(A) In general.—In the case of any adjustment under subsection (b)(2), the amount of the deficiency assessed and collected and the amount of any overpayment credited or refunded shall not be reduced by any credit or setoff attributable to any item, inclusion, deduction, credit, exemption, gain, or loss not attributable to an adjustment under subsection (b)(2).

"(B) Recovery of deficiency collected.—No deficiency collected for an adjustment year shall be recovered by a claim or suit for refund (or erroneous refund) based on any item, conclusion, deduction, credit, exemption, gain, or loss not attributable to an adjustment under subsection (b)(2).".

(b) Recognition of Gain on Certain Dispositions of LIFO Inventories.—

(1) Distributions.—Section 336 (relating to liquidations) is amended by inserting "section 311(b) (relating to certain dispositions of LIFO inventories) or" immediately before "section 453(d)".

(2) Sales and exchanges.—Section 337 (relating to gain or loss on sales or exchanges in connection with certain liquidations) is amended by adding at the end thereof the following new subsection:

"(f) Special Rule for LIFO Inventories.—This section shall not apply to the extent gain is recognized under section 311(b).".

(3) Conforming changes.—Section 311(b) (relating to LIFO inventory) is amended—

(A) by inserting ", or, in a disposition to which section 337 applies, sells or exchanges," immediately before "inventory assets", in paragraph (1),

(B) by striking out "paragraph (1)" and inserting in lieu thereof "this subsection" in paragraph (2), and

(C) by adding at the end thereof the following new paragraph:

"(4) This subsection shall apply to any distribution of inventory assets in a partial or complete liquidation, unless section 332 applies to the liquidation and the basis of the inventory assets in the hands of the distributee is determined under section 334(b)(1).".

(c) Conforming Amendment.—The table of sections for such subpart D is amended by adding at the end thereof the following new item:

"Sec. 473. Involuntary liquidation of LIFO inventories.'.

(d) Effective Date.—The amendments made by subsection (b) shall take effect with respect to plans of liquidation adopted after the date of the enactment of this Act.

Mr. STEVENS. Mr. President, I am going to take a very short time on this and it is something that I hope managers on both sides of the aisle will accept. I have discussed this with almost everyone who has raised a question about it.

The amendment I am proposing on behalf of myself and Senator Boren is a modified version of my printed amendment No. 592 and it is designed to provide relief to those taxpayers experiencing inflated tax liabilities due to involuntary liquidations of LIFO inventories.

LIFO refers to an accounting method, "last-in, first-out", which assumes that the last times acquired are the first to be sold. The inventory pool on hand at the end of the accounting period, therefore, is assumed to consist of those items first acquired. Generally, in inflationary periods, those items which were "last-in" were acquired at costs higher than those in the original inventory pool. LIFO, therefore, by matching higher current costs with current selling prices, has the effect of reducing taxable profits. Congress authorized this procedure, at least in part, to eliminate the effects of price inflation on taxable income and to cope with the erosive effects of inflation on capital. Any significant decrease or liquidation of inventories in a period of rising prices will ordinarily result in the realization of substantial inventory profits. The consequential tax liability could severely deplete available cash for the replacement of inventories and, therefore, companies will likely choose to replace their inventories prior to the close of the tax year.

Mr. President, an understanding of the LIFO inventory method is relevant to our discussion of a windfall tax on oil.

The current international situation heightens the potential for a very serious problem with regard to the liquidation of petroleum and petroleum related inventories due to circumstances beyond the control of the taxpayer. Overall shortages of crude oil, DOE allocations of available supplies, and political pressures to not make spot market purchases of foreign crude oil all tend to result in inventory liquidations for petroleum based companies, the majority of which utilize the LIFO method of accounting.

The current situation in Iran and President Carter's decision to cease importation of Iranian oil, threatens to exacerbate an impending problem. Efforts to replenish depleted inventories before the end of the tax year could lead to steep jumps in the price of oil as purchases on the spot market increase. This increased demand, coupled with limited supplies, could be devastating to the American consumer.

While it is difficult to determine the total impact on oil prices of companies' attempts to restore LIFO bases, it is reasonable to assume that the market impact will be substantial even if only a few companies attempt to restore base inventories.

The crude oil price hikes will not only be directly transferable to increases in gasoline at the pumps, but the shocks will be felt throughout all petroleum based industries—heating oil, jet fuel, pharmaceuticals, plastics, rubber, and clothing. It must also be understood that, as crude oil prices increase, the price of alternative energy sources will increase as consumers switch to natural gas, coal, propane, hydro, and geothermal.

In addition, crude shortages will impact on refineries, local distributors, oil brokers, and transporters, all of which could experience LIFO liquidations and excessive inventory profits due to circumstances beyond their control.

An example of this can be seen in New England when, last summer, the President asked that companies stockpile their supplies of home heating oil in preparation for winter. This, in turn, strained the supplies of local distributors who usually use the summer months to build up their inventories. As a result of the President's directive, therefore, these companies may experience involuntary liquidations and increased taxable incomes.

A more obvious example can be seen in the Iranian crisis and the anticipated reductions in imports due to the administration's decision to cease importation of Iran's oil. This is a restriction in trade, beyond the control of the companies involved, and potentially detrimental not only to the petroleum and related industries, but also to the consumer. I understand that one of the options being considered by the President's contingency planning task force, in response to the Iranian crisis, is to require oil companies to draw down on their stocks to alleviate any shortages.

I do not believe that taxpayers should be penalized with higher taxes that result from cooperating with the Government's response to this crisis.

Both the Treasury and Energy Departments have been investigating the implications of LIFO inventory liquidations and are concerned with the price increases that could arise from spot market purchases. The amendment I am proposing will discourage spot market purchases for the purpose of replenishing inventories liquidated for reasons beyond the control of the taxpayer as well as insure that these same taxpayers are not faced with excessive tax liabilities. On two prior occasions, Congress has recognized the need to legislate a solution to the problems arising from involuntary liquidations of LIFO inventories. During both World War II and the Korean war, the IRS Code was amended to reduce the increase in taxable income resulting from liquidations due to war conditions. Liquidations were deemed involuntary if due to Government regulations, limited foreign supplies, and other prevailing war conditions beyond the control of the taxpayer. My amendment is similar in that it applies to any failure on the part of the taxpayer to replace inventories which is due directly, as determined by the Treasury Secretary, to one or more events. These events include a DOE regulation (such as an allocation system) or request, or any foreign trade interruption (such as an embargo or international boycott).

It is important to note that under my amendment, no relief is provided until a restoration of inventories is made within 3 years following the liquidation year or any shorter period that the Secretary may prescribe. Where a restoration is made within the prescribed period, the taxpayer will be refunded the additional taxes he previously paid as a result of the involuntary liquidation. This refund would be without interest. Thus, the only benefit the taxpayer receives under my amendment is to place him in the same position that he would have been in had he not been required to make the involuntary liquidation.

The Joint Committee on Taxation has estimated that any revenue effect from this amendment would not occur until fiscal year 1982. Although the amendment could be effective as early as calendar year 1980, the tax is paid in the year of liquidation and not refunded until the year of replacement. The Treasury refund would not be issued, therefore, until the end of the 1981 tax year, which is in fiscal year 1982. The estimated revenue loss at that time would be $85 million. I would like to point out that this $85 million would be drawn from general revenues, not those gained from the windfall profit tax.

At this period of time, the Government is requesting those who have inventories, particularly inventories of oil, not to go into the spot market to replace their stocks or to find supplies for current year use. What happens to those people on the LIFO is that they are then forced to dip into their existing inventories which have a lower cost basis than the spot market prices would bring.

The result is that in the current year, as a company uses its low-cost inventories, its current year taxes will be higher.

This amendment will give those companies that abide by a Department of Energy regulation, or are affected by foreign trade interruptions, as determined by the Secretary, a period of 3 years to replace those inventories. If they do, they will secure a refund of the taxes they paid based upon the difference between their low-cost inventories and the actual cost of replacement.

In consulting with Treasury, they asked me to also consider another problem related to corporate liquidation of LIFO inventories.

At Treasury, a gentleman raised a question with me, as to those companies which sell their assets in accordance with a plan for liquidation. Under current procedures, the corporate taxpayer does not recognize any gain attributable to the sale of its inventories. If the inventory is accounted for on a LIFO basis, the gain attributable to the appreciated inventory profit is permanently eliminated.

Under my amendment, it is estimated that Treasury will lose $85 million a year for a 3-year period. But if the provisions of my amendment are not followed, the consumer will pay $600 million a year, because those who would deplete their inventories in compliance with a request of the Government, would be forced, in exercising good business judgment, to go to the spot market, and replace their inventory at a very high cost. Those high costs, of course, would be passed on to the consumer.

So the trade-off, in terms of my amendment, is whether Treasury should suggest a potential $85 million loss or whether the consumers, as a whole, should pay $600 million a year more for the product.

This matter was raised with me by a young accountant in my State upon whom I have relied greatly. After talking it over with Treasury, I decided it was a problem that should be addressed, and, consequently, I introduced the amendment.

As modified, it now contains the language that Treasury requested. I hope the managers and others will see fit to have it passed by the Senate.

Mr. LONG. Mr. President, first let me state that Treasury favors this amendment.

It does not involve any revenue impact for fiscal year 1980. Over the 10-year period it would involve about $250 million of revenue.

This is not an amendment to title I, Mr. President. So this does not involve the gentlemen's agreement we had with regard to amendments that raised or lowered revenue on the windfall profit tax part of the bill. That is title I. This has to do with the inventory method that companies use.

As I say, Mr. President, I think it is meritorious, which is the reason why the Treasury does favor the amendment.

I would personally expect to vote for it and urge the Senate to agree to it.

Mr. MUSKIE. Will the Senator yield?

Mr. LONG. Yes.

Mr. MUSKIE. Mr. President, first let me say that I doubt very much I understand the complexities of the amendment in the way my good friends do.

I simply want to make the point that, first, it is not a title I matter, as Senator Long has correctly pointed out.

Second, I understand Treasury does not oppose this, and, apparently, Senator Long is under the impression Treasury supports it.

Third, and this is what troubles me, it does represent a cost to the Treasury offset by a gain to consumers, as Senator Stevens pointed out, costing the Treasury $250 million over the 3-year life of the amendment.

Mr. LONG. Will the Senator yield at that point?

Mr. MUSKIE. Yes.

Mr. LONG. Since the proposal was originally raised, the Treasury suggested some reforms they thought appropriate. With the Treasury reforms that are included in the amendment, I am advised by our staff, and I suppose Treasury is likely to agree, that with the reforms included in it, it is difficult to tell whether it raises or lowers revenue; it would appear to be revenue neutral.

In other words, it gains in some respects and it loses in others.

Mr. MUSKIE. That is my understanding.

Let me just state my problem simply so Members of the Senate will not accuse me later of perhaps being discriminatory.

I have here a list of amendments that will cost the Treasury in lost revenues of one kind or another, including tax credits, the total sum of $34 billion—$34 billion—and this was one of those included.

But I see a distinction on the basis of the description the floor manager of the bill has given us of this amendment, that there is a distinction between that and these other revenue losers.

For that reason, it being a change in the accounting method to reflect current circumstances in the national oil market, and I gather that is what it is, I put it in a different category and I see no point in raising an issue about it at this point.

I may have different thoughts about it as I reflect on it more. Perhaps my present conclusion is based on an inadequate understanding of the change in accounting methods.

But on that basis, I consider this amendment different from the others as to which I will raise a budgetary question.

Mr. STEVENS. Mr. President, I am grateful to the Senator.

As I mentioned, the amendment was substantially changed by the Treasury Department.

I do hope that, as a result, it is viewed as an amendment necessary to protect the consumers from a situation where Government regulation would force the involuntary liquidation of LIFO inventories, and hence the purchase of substantial amounts of high cost oil on the spot market. There is no question but those costs would go on to the consumers at a very high rate under the current international situation.

Mr. President, I thank the Senator from Louisiana.

I move the adoption of my amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment (No. 592) of the Senator from Alaska.

The amendment (No. 592), as modified, was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I thank the Senator from Idaho for his courtesy, and the Senator from Louisiana, again.

AMENDMENT NO. 865, AS MODIFIED

Mr. McCLURE. Mr. President, I am not going to take long to debate my amendment this morning because it was debated for some time last week. The entire matter of the production of alcohol and its potential as a substitute fuel or blending with petroleum as an extender of the petroleum supplies has been debated on the floor of the Senate for a number of years. That is one of the problems.

The ACTING PRESIDENT pro tempore. Will the Senator send his amendment to the desk?

Mr. McCLURE. The amendment is at the desk. It was reported last week, and it was modified last week, and it was pending last week.

The ACTING PRESIDENT pro tempore. Will the Senator state the number?

Mr. McCLURE. No. 865, as modified.

Mr. STEVENS. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. McCLURE. I yield.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Chair instruct the Sergeant at Arms of pages to make 30 copies of the Jackson substitute, so that it may be available to those of us who are concerned with it.

Mr. ROBERT C. BYRD. Mr. President, I do not believe that is the responsibility of the Sergeant at Arms. Let us just do it.

Mr. STEVENS. Will the Chair instruct the Senate staff to do it?

The ACTING PRESIDENT pro tempore. The instruction is so noted.

The amendment, as modified, will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McClure) proposes an amendment numbered 865, as modified.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

At the appropriate place, insert the following new section:

Sec. . Business Alcohol Fuels Credit.

(A) In General.—Clause (v) of section 46 (a) (2) (relating to energy percentage), as amended by section 231(a), is amended by striking "and (iv)" and inserting ", (iv), and (vi)".

(b) Conforming Amendment.—Subparagraph (A) of section 48(1) (15) (relating to biomass property), as amended by section 232(a) (7), is amended—

(1) by striking out "or" at the end of clause (iv),

(2) by striking out "or gaseous fuel," in clause (v) and inserting "(other than alcohol fuel) or gaseous fuel, or", and

(3) by adding at the end thereof the following:

"(vi) is equipment for converting biomass into an alcohol fuel.

(c) Effective Date.—The amendment made by this section shall take effect October 1, 1980 and shall expire on September 30, 1984.

Mr. McCLURE. Mr. President, as I was saying, the problem in the field of alcohol as a fuel has been that we have talked a great deal about it; we have adopted a number of half measures; we are halfway adopting other measures. We have adopted a few measures that deal with it directly; yet not much has happened. That is why I am back here today, asking for a 10-percent increase in the investment tax credit for production facilities for a period ending at the end of 1984.

The synfuels bill we have passed, which is now in conference, has loan guarantees, price guarantees, purchase guarantees, and a mandate for Federal use of gasohol fuels, but none of that is law.

I do not think anyone here knows what is going to come out of the conference; if so, when; and what will become law, nor how fast that will become effective. So we cannot count on those measures that are now somewhere in the legislative process as having any impact upon the use of alcohol, although we may devoutly hope that those particular measures pass.

Heretofore, we have legislated to provide for the waiver of the 4 cents a gallon fuel tax levied on motor vehicle fuels for use on the public highways. In this bill, that will become either a 40-cent tax credit or the 4 cents a gallon waiver of tax, depending upon the choice of the individual who can make an election between those two forms.

In the basic law is a 10-percent investment tax credit, applicable to all businesses, which, under the schedule established in the law, will decline to 7 percent in 1981. In the basic law is a 10-percent energy tax credit; but if we look at what that 10-percent tax credit for energy has accomplished, the budgetary impact is estimated to be zero, and that means nothing has happened. Nothing is happening, and it is going to take a little more of a nudge in order to get it to happen.

The investment tax credit under the energy tax credit bill simply has not been effective to move it yet. I think that indicates that it is going to take something more than we have done up to now in order to move it.

I had suggested first that this be made permanent through 1990, as the bill proposes to do for biomass conversion to solid fuels; but in view of the budgetary impact possibility and the objections of the Senatator from Maine and many others, I shortened the time frame so that it would be effective only through 1984 and would give us a chance to look at the progress, the success of the program, and the budgetary impact of such a program.

Three years ago, I suggested that farmland that was diverted from production should at least be able to produce crops that might go into alcohol production, and I was able to get that through the Senate and a modified version of that amendment through the House of Representatives. It never has been implemented.

The Department of Agriculture takes about 3 months to answer a letter, let alone to do anything about it. There is a congressional initiative trying to move us toward alcohol, but it has been frustrated in the administration or lack of administration of that provision. Nothing is happening.

All I am trying to do in this amendment is to measure the response we have had so far, and I find the response to be wanting, since the response has not been adequate as yet to add just a little more to the incentives to produce alcohol and actually to get into production.

All kinds of estimates have been made about what could be done in the term of diversion of supply away from the OPEC countries and in favor of domestic production. I am equally concerned about providing a market for the excess productive capacity of the Nation's farmers.

We should be looking at renewable resources instead of consuming the nonrenewable resources. That makes eminent good sense fiscally. It makes good sense from the standpoint of international trade and the balance of payments, in which we suffer now. As a matter of fact, if it were not for the export of farm commodities, we would be in much more serious trouble than we are. But we should be looking at the way we can substitute farm commodities, renewable resources, for nonrenewable resources, particularly where those nonrenewable resources are being imported.

Mr. President, I do not want to go back through all the debate we have undergone before about marginal supply of world oil being the thing that gives OPEC the tremendous clout they have. Everybody is aware that the OPEC ministers are meeting today. Everybody is aware that they are talking about raising the price to $30. Everybody is aware of the massive impact that will have. Yet, we stand around here and worry about the budgetary impact, as though we have the luxury of saying that we cannot afford to produce. Mr. President, we do not have the luxury of turning down an energy option that might produce more energy in this country.

I am very serious about trying, in a measured way, to take the next step to stimulate the production of alcohol, so that we can get on with the business of reducing our dependence on OPEC.

Mr. PACKWOOD. Mr. President, will the Senator yield?

Mr. McCLURE. I yield without losing my right to the floor.

Mr. PACKWOOD. Last July, during the recess, several constituents in Oregon wanted to demonstrate to me the validity of both gasohol and pure alcohol cars. As we all know, during those recesses, we attend different parades; and during the week, they provided transportation for me at all the parades.

Of course, the gasohol car is nothing but a 10 percent–90 percent or 85 percent–15 percent mix, and any car can run on it. But I was intrigued with the pure methanol car which had been converted by a mechanic. It cost him about

$150. He had to change some of the tubes leading to the carburetor because they were plastic.

He is now converting cars for his customers for $250 and is selling methanol, which he buys from Georgia-Pacific at about 55 cents a gallon. They make it in a plant in Washington. He sells it to his customers, and he has discovered that it is about two-thirds the price of gasoline, or what gasoline was then. Who knows what it is going to be after today, when OPEC finishes its meeting. It got about two-thirds the mileage. At that price, it was about a tradeoff. At today's price, it is more of a tradeoff.

His one problem was that Georgia-Pacific cannot guarantee him a permanent supply of methanol, because they were making it for a different purpose—for mixtures in glue, selling it to their wood products customers. He was more or less on a standby basis.

However, he said that if the methanol were available, he had an almost unlimited supply of customers who wanted to convert to methanol. He said he had to advise them, unfortunately, to be prepared only on a short range basis; because unless they could buy it elsewhere, they could drive their cars only around their neighborhood.

I am delighted to see that several other service stations scattered around Oregon are starting to use methanol. There is no reason why, for a relatively inexpensive conversion, most cars could not be converted to it.

The Senator has seen the statement of Brazil. They are going to convert all their cars by 1985 to run on alcohol produced from sugar cane grown in Brazil.

The Senator also commented about agricultural exports, and I agree with him and say thank God for the farmers. Last year we had a deficit in manufactured goods for the first time in terms of export-import. It was only agriculture that kept our head above water, if we wish to call the $30 billion trade deficit having our head above water.

Mr. McCLURE. But it would have been $55 billion without the farmers.

Mr. PACKWOOD. That is correct, without the farmers.

And I do not want to use exactly a metaphor, but we have not scratched the surface yet in this country as to what we could grow if we wanted to grow it.

I do not blame the farmers being a bit skittish when told to plant fence-to-fence and then we slam an embargo on them all of a sudden when they have the wheat, corn, and feed grains planted. If we would say to them, "We want you to go in alcohol and guarantee you for the next 5 to 10 years this Government policy and unlimited production of alcohol," our farmers would meet that challenge with an abundance.

There is no question that they can produce grains of all kind to make into alcohol. There is no question if we would say to Georgia-Pacific and Weyerhaeuser and other timber companies, "We want as much methanol as you can produce out of wood," they could increase their use of wood refuse to make alcohol.

I think the Senator's amendment is right on point. The sooner we get started at this the sooner we are going to finish. To put it the other way around, each month we delay it is a month longer. On the other hand, we can only go so fast. We can only work 24 hours a day 7 days a week and we can only digest so much capital. It is going to take us a generation at the most, maybe a decade, before we make this turn.

Unfortunately, America has a penchant for calendar year deadlines. We are not going to make it December 31, 1979, or 1980.

But just to give an idea of how fast our previous assumptions change, while we were working on the windfall profit tax, when the bill passed the Ways and Means Committee they presumed in 1980 oil prices would be $22 a barrel and it would increase 1 percent above the rate of inflation, but as it passed the Finance Committee we were presuming 1980 and we presumed $30 a barrel and an increase of 2 percent above the rate of inflation. I am afraid that those are conservative projections.

Mr. McCLURE. May I say to my friend that those projections will prove to be very conservative unless we do more to get our domestic energy house in order. The only way we can keep the price from escalating more is to do more in conservation and in energy production within this country. If we fail that, those projections will sadly prove to be far too low.

Mr. PACKWOOD. I could not agree with the Senator more. Most of the oil producers in this world who are still allied with us indeed want us to help ourselves. I think the Saudis would be happy to lower their production. I think many other countries would like to lower and stretch it out if they could.

Mr. McCLURE. The Saudis have told us repeatedly they want us to conserve. They want us to produce more. They want us to consume less of their oil.

Mr. PACKWOOD. It makes good sense from their standpoint.

Mr. McCLURE. Absolutely.

Mr. PACKWOOD. When that day comes we will not have to wait 10 years before they stop the oil price increase. When the day comes that we have an energy program in place that to the world community appears to be workable, realizing it will still take a decade, when they start to see us insulating our houses and start to see us putting in thermopane windows all over this country, putting in solar hot water heaters, and converting to alcohol and telling our farmers to grow all the grain they can, that is the day they will say: "The United States is on the road. We want to help. We realize it is going to take some time. We may have to keep our production up a year or two as they are starting their conversion."

But that is the day when they can breathe a sigh of relief that we are starting to take care of our own problems.

Mr. McCLURE. And until we reach that point they will not believe it.

Mr. PACKWOOD. Does the Senator blame them?

Mr. McCLURE. We have to demonstrate to them that we have the determination to do what we know how to do and that we recognize the difficulty, and so far we have not given the world that signal.

Mr. PACKWOOD. There is the irony to realize what we have to do. We are the absolute cornucopia of energy in this world. We are the Saudi Arabia of coal. We are blessed with natural resources that it is almost an embarrassment of riches. If one wants to cry for a country, take Japan. Japan does not have any oil and Japan does not have coal. They have a limited amount of nuclear power. They import, as I recall, 90 percent of all their energy and run $20 billion and $30 billion trade surpluses.

Here we sit collectively probably with more total energy potential than any other country on Earth and we are crying poor mouth because we have not taken advantage of our own resources.

Mr. McCLURE. I thank the Senator from Oregon for his remarks, and I agree with him totally, of course.

My concern is that, while we are kind of easing into a number of these areas, going by half steps and faint measures, and when we have as we have in the field of alcohol already in the past taken a number of tentative short steps and those steps have proven to be inadequate to get the job done, then it seems to me to be absolutely justified and imperative that we increase the measured approach to increasing the production of alcohol. That is all my amendment does.

It is very limited and relatively short-term, additional assistance in the investment tax credit area, and it has, as I said last week, the additional focus of helping a number of small producers. The 40 cents a gallon or the 4-cent waiver of the fuel tax may have a major impact upon the large producers or those who are going to produce and sell it in commercial quantities on the market. It has almost no effect upon the fellow who is going to raise the crops, make the alcohol, and consume it himself.

What he really needs is something that will reduce the cost of his capital investment at the outset, and that is where the investment tax credit comes in as a powerful means of getting a lot of small producers in the business, and I believe they will provide perhaps as much over the next 10 years as the large producers will.

Obviously, what we put up so far, the 10 percent energy tax credit, has not been enough to impel them to move, to step over the line into actual investment rather than just talking about it. Therefore, my amendment will increase that incentive hopefully, and then they will get actually involved in production.

Mr. PACKWOOD. The Senator's argument about the small producers is absolutely right.

Look at the wood products industry. Weyerhaeuser, the alleged giant of the industry, unless the facts change this year, has about 8 percent of the market. That is the biggest. We have all over this country the potential in wood alone to produce alcohol on 30 acres, 50 acres, and 70 acres. There are people who do not even think of themselves as timber owners let alone to possess any capacity to help the country overcome its energy crisis.

I talked about coal. We have an unlimited wood resource in this country, properly managed, properly reforested, and properly utilized. It is not the Weyerhauesers and the Georgia-Pacific that can do it. It is the hundreds of thousands of owners all over this country.

Mr. McCLURE. I say to the Senator from Oregon that that is obviously correct.

It has been a crying shame, only not enough people were aware of the shame and not enough were crying, the waste of the resource that we have that is going underutilized and wasted today. This is one of the means by which we can begin to move toward the utilization of those resources.

As the Senator knows, the wood cellulose and other cellulose products besides wood when used in the conventional fermentation process produce methanol rather than ethanol. Methanol is not quite as good a fuel as ethanol. It has about 10 or 12 percent less energy per unit of volume. It also has more tendency to separate from gasoline, particularly in cold weather conditions and is, therefore, not quite as good as ethanol.

But there is almost an unlimited panorama of crops that might be planted to produce ethanol. I suspect that we will see entirely new crops planted that are not now ordinarily planted. The Jerusalem antichoke is a very starchy plant and is excellent from the standpoint of alcohol production but is produced by no one in this country today because there is no market and no reason to produce it.

Mr. PACKWOOD. Another example is sugar cane. Although we have a perpetual debate in this body about sugar prices and the protection of sugar, we have a great portion of this country that has the kind of climate that could grow an unlimited quantity of sugar cane as Brazil is going to do to produce alcohol, which we do not do today.

Mr. McCLURE. Mr. President, it is just another way of saying this is not the total answer. Alcohol is not the total answer, but this measure is part of the answer for alcohol which in turn is a part of the answer to meeting our energy needs.

Mr. PACKWOOD. I might say further the Senator touched earlier on conservation. This country is not to be unduly criticized because we wasted energy in the past. Up until 1970 energy was cheaper than labor and cheaper than capital. We had an absolute abundance of energy. We thought we had table suppliers in the Middle East that would sell us oil at $2 a barrel.

Under those circumstances, it is understandable why this country was not too careful with energy. Ironically, that has given us a great opportunity because we were the greatest wastrels of energy, and it gives us the biggest margin for conservation. Other countries that were far tighter, who became that way earlier, other building smaller cars earlier, other countries putting factories into the central part of town where people could use mass transit and bicycles to go to work, cannot save as much as we can because of the kind of economy we premised on cheap energy.

Mr. McCLURE. The Senator is correct.

Mr. President, I want to reemphasize the priorities that are confronting this body today. I know my friend, the Senator from Maine, is going to discuss the budgetary impact of this amendment and other amendments. But I want to reemphasize that for every $10 increase in the price of oil, the American consumer pays $135 billion a year.

What is happening today in OPEC? What is going to happen to the American consumer as a result of that meeting? That impact upon the American consumer, the dollar-plus a gallon we are paying today, the $1.15 a gallon we will be paying less than a year from now, those are the result of our failure to take actions we ought to take in conservation and in production of domestic sources of energy.

So we can look at, and I think properly so, and we should consider, the budgetary impact in future years, but when we are doing that let us not ignore, as CBO ignored, the impact upon the American consumer and upon the American economy if this constant hemorrhage of dollars of outflow from the U.S. economy into the coffers of foreign procedures continues, because we will not do what we need to do in this country.

This has a minimal effect. The estimated effect, if there is a massive response with respect to the amendment, if there is a massive increase in alcohol, the estimated effect of my amendment would be $112 million over the period ending in 1984.

But I say to my friend if, as a matter of fact, that succeeds in holding the price of oil, the world oil prices, down by $10 a barrel over that period of time the American consumers will have saved over $100 billion for the investment of $100 million.

Mr. PACKWOOD. I wonder if I might say something to my chairman of the Budget Committee. I have only gone on the Budget Committee this year, and the Senator from Maine has made the Budget Committee, in my opinion, the toughest job in the Senate, and I say that as a compliment because when it was set up there was no idea exactly in which direction it would go, and under weak leadership, under leadership that refused to fight for reconciliation, under leadership that had been willing to cave in and go along, the Budget Committee today would be a pro forma committee that no one wanted to serve on.

Instead it has gone in the opposite direction, and ED MUSKIE is the reason why it has gone in the opposite direction.

It has today become not only the most important committee or certainly one of the most important committees in the Senate, but because of the direction he has started it on there is no question in my mind it is going to become the single most important committee in this Senate because the bottom line of everything we must consider is how much income will it raise, how much money will it cost.

Nothing is more important in terms of committee direction than what happens when it is formed. Had it gone in the wrong direction, it would have taken a decade or longer to bring it back. Having started it in the right direction it is going to be easier in the future to reach the balanced budgets and to achieve the other goals that Senator MUSKIE has set for the committee, for this Senate, and for this Congress.

But I do agree with the Senator from Idaho when it says there are things other and in addition to, besides the budget figures starkly to consider. There is no question in my mind that the Finance Committee presumption of $30 a barrel for oil in 1980 is going to be wrong. I will be very surprised if by the summer of 1980 there is any country left selling oil for less than $30. and those will be the ones that are restraining themselves, and those that have no care for restraint—I am not talking about the spot market, I am talking about what the everyday posted price is going to be—are going to be selling oil some place between $32 and $35 or more.

As the Senator said, every dollar that that price goes up hurts our balance of payments, hurst the inflation, hurts the budgetary planning of this country.

So I totally support the amendment of the Senator from Idaho and would hope, despite, I know, the feelings of the Senator from Maine, he will treat this amendment with kindness and gentleness.

Mr. MUSKIE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Maine.

Mr. MUSKIE. Having listened to my good friends from Oregon and Idaho, I ought to make a few observations before I get to the disagreeable part of my responsibility this morning.

First they both know I have the highest respect for each of them in terms of intelligence and their commitment to the public interest and their understanding of this issue, and it is with regret that I find myself in a position that I am in with respect to this and other amendments, I might say.

Second, I want to make it clear to all Members of the Senate that these amendments we are talking about do not impact on the current budget resolution. So I have no authority to apply any formal kinds of discipline to these amendments. If they were written in such a way as to impact on the current fiscal year, then they would be subject to the discipline of the current budget resolution.

But the congressional budget is an annual one, and all that I can do about future years is to simply point out the trends we may be caught up in if current policies and current programs continue through the next decade.

What I have to say is not binding upon any other Senator, and other Senators may make different assumptions about what is likely to happen in this debate, and I would assume they would do so in terms of their own convictions as to how they see the future. That is every Senator's prerogative.

Any chart of this kind needs to be viewed and understood in terms of the assumptions upon which it is based, and those assumptions can change with the realities as they develop.

So let me repeat what this chart reflects. First of all, it makes rather conservative assumptions about the condition of the economy through a 10-year period, and I do not know that it would be fair to make anything but conservative assumptions when one talks about a 10-year period into the future.

It is based upon, for instance, an average of 3 percent real growth through that period. Now, whether or not we get 3 percent real growth is anybody's guess. The 3 percent would be a pretty good performance as a 10-year average, taking into account what has been happening in the last year or two. Nevertheless, we make that assumption, and if Senators disagree with that assumption, they believe it is either too conservative or too optimistic, then they would make adjustments in the other conclusions reflected in the budget.

Second, this congressional budget, which makes projections only for 3 years, the current year, 1981, and 1982, supposes a surplus in 1981 and 1982 that could be very much jeopardized by current economic trends, as the Senator from Oregon and the Senator from Idaho know.

We are in a very uncertain position at the present time and if we have a shallow recession next year, we have a deep recession next year, and if they have the latter, this surplus would be wiped out. I do not think there is any question about that. We lose revenues, and the costs associated with unemployment and welfare would rise, and that projected surplus which I have projected as making possible a tax cut in fiscal 1982 would be wiped out. So that is the only budget commitment that the Congress has made.

Now, what are the rest of these lines? This solid black line under the solid red represents spending projections if the budget keeps up with inflation. That means that it includes discretionary inflation allowances as well as mandatory inflation allowances, which we think is a realistic conclusion, a realistic assumption, because Congress is disposed to protect programs with discretionary inflation allowances as well as mandatory, although this current year we did manage to cut out the discretionary allowance to hold down real program growth. But that is not a typical congressional reaction.

Now, what this line represents is the growth of the budget during the 1970's, notwithstanding the extension of the budget process. In other words, we have gone beyond inflation allowances and created, actually, new programs. Energy, of course, is preeminent among those, but there have been others.

So if one assumes that in any decade Congress is going to approve some new programs in addition to merely keeping up with inflation, that is one measure of what the result is likely to be. But if we do that, of course, we are going to be in a deficit through the next decade under present projections. Even if we can manage to apply this much discipline, we will still be in the red.

Let me say this, in addition, about the assumptions here: First, they include commitments to real growth in defense through 1982. You remember the 3–5–5 formula. Beyond that, we drop a bit to 3 percent for defense for the rest of the decade. Well, the President's defense numbers, as I understand them—and I have not analyzed them totally—are higher numbers for the decade, I think. If so, then the assumptions for defense spending are probably too conservative.

In addition, this chart assumes all energy legislation that we have enacted up to now. It also includes the House-passed welfare reform bill, on the assumption that some form of welfare reform will be approved, and that is relatively conservative. It also assumes catastrophic health insurance, which is now being considered in the Finance Committee, and that is a relatively conservative approach to national health insurance.

Now, what about the revenue side? We have assumed here the revenues that were in the Finance Committee's bill as it came to the floor; and in addition to that, we assumed a tax cut of $55 billion in 1982. It is in the budget.

In addition, we assumed continuous tax cuts that would be made possible if the Nunn-Chiles-Bellmon amendment to the 1978 Revenue Act is implemented. So much for the revenue side.

Now, what have we done with respect to the revenue side and the agreement that has been reached on revenue? The formal agreement has not changed this policy very much. We increased revenues in fiscal year 1980 by $1.35 billion, and that appears in the projected budget resolution, leaving about $50 million to play with under the budget resolution. In fiscal year 1981, which is the first year of the McClure amendment, we added $1.4 billion—these are rough-cut figures by JCT, but they give us an order of magnitude. We have increased revenues for 1984 by $1.4 billion, but the projected deficit is $19 billion. So we have reduced the deficit by only $1.4 billion in revenues for that year.

In 1982 the projected deficit is $18 billion, and we have reduced that by $1.4 billion additional revenues in this bill. In fiscal year 1983, we added to revenues by $2.1 billion as against a deficit of $27 billion, and in 1984 we have increased revenues by $2.6 billion as against a projected deficit of $18 billion.

I remind you that those deficits in 1981, 1982, 1983, and 1984 are on the basis of commitments that have not yet been written into law, including tax cuts that have not yet been written into law. So those deficits are avoidable if we are willing to forgo the tax cuts, if we are willing to reduce the energy legislation already approved, if we reject welfare reform, and if we reject catastrophic health insurance.

In other words, this is not frozen in concrete yet, and so you have to make your own assumptions as to whether or not we are really going to eliminate those projected expenditures, or whether we are going to make commitments to them; and there is a possibility that we may make even greater commitments, especially for defense and national health insurance.

That is what the chart is. If Congress changes any of these things, the chart will change. If the economy improves and the 3-percent real growth is improved, the chart will change.

Now, for all these things, this is the best picture we could take of the commitments that have been made and the revenue picture as of this date.

Mr. McCLURE. Mr. President, will the Senator yield for a brief comment?

Mr. MUSKIE. Yes.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, let me point out that this is not the time for major debate over the budget, and I do not think it should be.

Mr. MUSKIE. Yes.

Mr. McCLURE. But I think we should point out that a lot of the assumptions in that chart and others we have been using are built on econometric models that are demand side oriented. There is a great effort in the economic community today to change those figures to indicate the supply side changes when we have incentives for work, investment, and production. If, as a matter of fact, we are successful in making those projections up on a different basis, that entire chart changes, depending upon the mix of policies that we apply.

My purpose in making the point today is not to debate the issue extensively, but to point out that there are different theories about what the economic responses are to a different set of circumstances or stimuli, and this is based upon one set of assumptions. There are others who make the very strong argument that the old assumptions no longer are true.

Mr. MUSKIE. I am familiar with that, and, of course, that fundamental change could occur. We have a Presidential election next year, as well as congressional elections; and those elections, reflecting, presumably, the mood of the country, may well change the underlying economic philosophy which drives Government policy.

Mr. McCLURE. Yes.

Mr. MUSKIE. I understand that. So I hasten to add again, this is a picture that could be changed. It could be changed not only by controlling spending and revenues, but by changing underlying economic policy and hopefully creating a healthier economy. I understand all that.

But the value, I think, of looking at a 10-year picture of this kind is to indicate the need for change. We may disagree as to what kind of change ought to take place.

Mr. McCLURE. I cannot argue that.

Mr. MUSKIE. So, as Budget Committee chairman, having seen these trends, I am not quite as optimistic as I once was that that kind of fundamental change is taking place; and what concerns me now is that congressional habit tends to perpetuate this kind of picture, and Members of the Congress ought to understand that.

Now, when I ask for rollcall votes on such amendments such as the amendment of the Senator from Idaho (Mr. McClure), I will not make tabling motions. I think you are entitled to have up or down votes. Indeed, that is the purpose of the exercise: that Senators look at this picture and then decide, having heard the merits—and there is a lot of merit to the Senator's proposal—consider the merits as against this and make their own choices.

They also ought to understand that if this picture persists, fundamental changes do not change it, that all of us are going to have to say no on some occasions. You cannot always say yes. It is not necessarily true that this particular one is one to which a no should be uttered, or any of the others.

And I also said to the Senator from Idaho (Mr. McClure) that I have not picked his amendment out as the guinea pig or the scapegoat. His amendment just happened to come up first in line.

I think there are about a dozen others that I am going to have to bring to the attention of the Senate in the same way. But all I am doing at the beginning is to simply put this chart up here so, as Senators come in to vote, they can take a look at it and they might ask: "What is that thing?" I would say to them that is red ink.

Mr. McCLURE. Will the Senator yield for just a comment?

Mr. MUSKIE. Of course, I will yield.

Mr. McCLURE. Mr. President, I appreciate the fact that the Senator says—and I know it is true—that he has not picked on me or picked on my amendments. But I would say, if it were not for the honor of the occasion, I would just assume he had not.

Mr. MUSKIE. Mr. President, I understand what the Senator is saying. The first one, of course, was the Percy amendment.

Mr. PACKWOOD. Mr. President, will the Senator yield further?

Mr. MUSKIE. Yes.

Mr. PACKWOOD. Having sat with the Senator on the Budget Committee has been very instructive to me. Being on the Finance Committee under Senator Long is a very instructive experience.

I am curious as to how we face this situation. One of the amendments I had in the Finance Committee had to do with cogeneration. There is an incredible amount of energy to be saved by cogeneration.

I had some amendments on it. I kept them back to tailor it as it came out of the Finance Committee with the amount of money we were going to raise.

And there is no question, in terms of cost-benefit ratio, that it is cheaper energy than oil, at the prices we were assuming, let alone the prices we will be paying.

And yet there is no question but what it loses money and most of them were tax credits. There was not much disagreement.

How do we factor that, realizing it is going to lose money, into this chart? Or do we not do it? Do we simply say we cannot afford to lose the money, we cannot afford to widen the deficit or lower the surplus, as the case may be, so we will forgo this opportunity to save energy, even though we know it would work.

Mr. MUSKIE. Well, first of all, I think one needs to consider what resources we have to work with.

Now, I heard the argument, largely on your side of the aisle—and I say that without any criticism at all—that this bill ought not to be made a revenue bill.

Well, for good or for bad, it is a revenue bill, because it is a tax bill, although its principal objective, of course, is to deal with an energy problem.

Second, there is a question of having agreed on what the size of the revenues could fairly be. I guess the Senate has made a judgment which may be changed at the conference. But, nevertheless, then for what purpose should that revenue be used? Primarily, of course, for enery purposes.

And the tax credit device has been used by the Finance Committee to do that.

Now, with respect to tax credits—these may not be strictly accurate—but they start at an annual cost of about $1.5 billion in 1980 and they go up to an annual cost in 1990 of $5.1 billion.

Now, that is one way of setting the outer parameters of what you could afford to invest in these things at any given time. I do not know whether tax credits on a benefit-cost basis would be the most useful way to use these resources. But that is certainly a judgment to be made.

We have to do it on the spending side of the budget, as Senators know. We have to make choices. And we are not always able to invest as much as we would like in particular things.

I like the cogeneration approach myself. Whether or not I would have voted for that as against some other tax credits in the bill, I do not know.

Mr. PACKWOOD. One of the difficulties we have when we were looking at the tax credits is trying to guess in 1987 how many people will put in solar hot water heaters for the 50-percent residential credit. And we could be off by a factor of 500 percent, one way or the other. Obviously, the more people that do it, the more tax loss. On the other hand, the more that do it, the better the energy saving. All we could do is take the best estimates we have.

And, of course, it is the same thing we do in the Budget Committee in trying to estimate revenues. And we are sometimes off $5 billion, $10 billion, $15 billion. It could be.

And you try to weigh one credit versus another credit and you try to weigh cogeneration versus residential solar, and you try to figure out a cost per barrel. And that figure fluctuates between when oil is $22 or $40 a barrel. At some point, I suppose oil will be sufficiently expensive and other energy sufficiently expensive that you would not need any credit.

At the moment, when you are talking about solar energy for hot water—and any one of us who has been to Israel has seen it, and any of us in most of the United States could use it, including my State and your State—but it costs easily two to 2½ times as much for a solar hot water heater as it does for the most advanced gas hot water heater.

For the average Joe or Jane whose hot water heater goes out and they are going to invest in a new one, a gas one costs them $1,200 and the solar one costs $3,000—they do not have the $3,000 and they do not have the $1,200—the natural inclination is to buy the gas one. That is why we put in these 50-percent credits, in the hope that they would induce this. The well-paid corporate lawyer wants solar energy to talk about at the cocktail parties. If all of them put it in, it is not going to be enough. We have to have the $15,000 and $20,000 income people put them in their homes, and that will do it.

But whether the cost is right or the energy savings is right is purely speculative.

Mr. MUSKIE. Well, the two choices are either to raise the revenues to be generated by the pending bill, which makes more resources available, or to choose different tax credits. And both of those are difficult ones, because if we raise the revenues, conceivably, and this is the argument of those who wanted to keep the revenue bill down, it might affect the incentives for developing one or another new source of energy.

Well, that was one of the arguments that was raised and one of the tradeoffs we had to make when we were talking about 60 versus 75 percent on tier 2, new oil, and stripper oil, and a 1,000-barrel-a-day exemption. If you did not do it, how much more oil would you produce?

And I must say that I voted against the oil interests on almost all of those exemptions, with one or two exceptions, because I looked upon this bill as an energy bill, not an oil bill. And if, indeed, by raising the tier 2 from 60 to 75 percent you could produce x billion dollars, even though it resulted in a 200,000- to 300,000-barrel-a-day drop in production by 1990, if that money could be used for tax credits to increase savings in conservation or increase solar by 500,000 to 600,000 barrels a day, it was a worthwhile tradeoff.

Mr. PACKWOOD. We got into it between oil States and nonoil States. We all have constituents, and I can understand if you come from an oil State, where it is your principal business, you only look at the oil production side. If you come from a State that has no oil, you do not look at that side.

When the oil interests come to me and say, "Look, why can't we do both? Why do we not have the tax and we will produce another 200,000 barrels and give the credit and we will say 500,000 to 600,000 barrels and produce it with solar energy?" And you say to them, "Because it costs us $10 billion, $15 billion, $20 billion, which we had planned to use the revenues from this bill for." The question is, "Why don't you use some other revenues?" Well, the answer is, one, because we are working on this bill and, two, the likelihood of increase in taxes from some other source by $15 billion or $20 billion to pay for these credits is nil. This is the bill, this is the time, this is the balance.

Mr. MUSKIE. Incidentally, there is a third source, as I remember when I first went to the legislature back in, I guess it was, the last century some time. But we had a very small Democratic minority in the House. I think we had 24 out of 151. And the previous session here had been 14 Democrats out of 151. So they were so small they thought their policy input was nil. And the majority made sure that the policy was nil by leaving us off committees.

But, in any case, that year I was the floor leader with very few troops. And we decided we had to put a program in. So we did.

We caucused and we decided maybe we ought to figure out a way to pay for it. And one of the oldtimers who had been around a long time said, "Well, now, Mr. MUSKIE, I understand we have a deficit. Why don't we spend that?"

Well, that is the third source of funding. We can increase revenues, reduce other spending, or spend deficits. All of these are projections.

I want to emphasize again that what is shown here is not the budget through 1990. These are simply trends based on current activity. I hope we can make enough investment in all of these energy alternatives which the Finance Committee considered and which all Senators have considered so that we can tap the most productive ones and ease this problem as well as the energy problem as a whole.

Mr. PACKWOOD. As the Senator said of himself, I was also in the State legislature, although it was more evenly split out there. But the best thing that budget committee did in my estimation, had nothing to do with the legislature but had to do with the surpluses, if we had them. The argument was used, "Well, let us use it to raise basic school support from $50 to $100, if we have the surplus, and no projection beyond the biennium as to what the program is going to cost."

I think we will have the surplus here. As I look upon what ought to come in from the windfall profit tax based upon where oil ought to be, we will have the surplus. I am delighted that the one thing the Senator will not let us do is say, "Well, we have $50 billion, and we can pay for the program that will cost $50 billion and not worry beyond that."

That is the most constructive thing this committee has done.

Mr. MUSKIE. I thank the Senator. I appreciate the opportunity to discuss this chart and put it into its proper perspective. This is not a club, but it is an analysis, helpful or not to other Senators. I am not going to spend a lot of time on each of these amendments. I am simply going to ask the Senate to make the judgment. I know with articulate spokesmen like the Senator from Oregon and the Senator from Idaho that part of the case will be made.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

Mr. BENTSEN. Will the Senator withhold?

Mr. PACKWOOD. I will.

Mr. BENTSEN. Mr. President, we considered this amendment in the Finance Committee. It was part of the package, as I recall, that the Senator from Oregon originally presented. There is a lot of merit to what has been stated by the Senator from Idaho and the Senator from Oregon. But at some point we have to stop. We are talking about a 20-percent tax credit which is available for this equipment and one which is available on a great many other industry equipment orders that will generate energy other than oil and gas. To bring it to 30 percent means we ought to take into consideration the vast number of others where we have limited it to 20 percent.

As has been stated before, we are giving a production credit, in effect, of about $17 a barrel because for sometime now we have excluded from the tax on gasohol the 4-cents a gallon if it has as much as 10 percent in alcohol in its content. Obviously, you get a multiplier effect of that 10 times, and you get up to 40 cents a gallon. That means you get $17 a barrel if you have 42 gallons in a barrel. At some point you have to stop the economic incentives to get the increased production.

Mr. McCLURE. Will the Senate yield?

Mr. BENTSEN. In just a moment.

They are asking for an extension in the period of time until 1984. I think this is something that ought to be considered by the committee. It has been considered in the past, of course, and we may change it for a number of these items. But I think we ought to be going back to committee action at a future date. We have 1053, and a number of us, including the Senator from Oregon, are cosponsors. I believe we will make some headway on something like that.

Obviously, if you had a 5-year depreciation, amortization, or a schedule of 5 years on equipment, and you loaded that front end with a 30-percent investment tax credit, you would get into a situation where everybody would be trying to buy this kind of equipment, I suppose, not for economic reasons but just for some kind of a tax gain.

So these are the kinds of conflicting problems that develop if we take another step in raising this up to 30 percent. Therefore, I must reluctantly oppose it.

Mr. McCLURE. Will the Senator yield?

Mr. BENTSEN. I am delighted to yield.

Mr. McCLURE. Mr. President, as I said earlier, I think before the Senator was in the Chamber, these incentives that we have for alcohol in gasohol, 40 percent for gasohol and the waiver of the motor vehicle fuel tax, for which it is a substitute or an alternative, have already been in effect. The regular business 10-percent investment tax credit has been in effect for some time. The energy 10-percent investment tax credit has been in effect for over a year, and it is not happening.

The bill recognized the need for a longer period of time and stretched it out through 1990 in order to give people more certainty. That is a step in the right direction. At the same time, the Finance Committee bill includes a 20-percent investment tax credit for two classes of biomass: one which is the direct conversion of biomass as a fuel, and the other is the conversion of biomass into a solid fuel. Those are for 20 percent tax credit for a period ending in 1990 under the committee bill. But we did not do the same thing for alcohol for gasohol, for the production facilities.

While the 4 cents a gallon or 40 cents a barrel is an incentive to the consumer, it is not an incentive to the producer unless it reflects itself in increased consumption. What we are trying to do by this investment is to make an additional incentive to the person who will make the investment in production facilities. Obviously, if what we have now is not getting the job done, and I want the job to get done, then maybe we need to go just a short measured step further.

While I originally suggested that we match the tax credit that was given for the two classes of biomass which the committee has already agreed to, to extend that to alcohol treatment, I compromised on that by saying we will end it in 1984. We will take another look and see whether or not the additional incentive is getting the job done, whether it is a failure, whether it is doing too much, whether the response has been too great. We can chop it off.

I think we need to do something rather than continue to penalize the American economy by the hemorrhage of money that is flowing out to the OPEC countries.

Mr. BENTSEN. I agree with the Senator on that.

Mr. McCLURE. I just wanted to repeat what I said earlier, that for every $10 increase in the price of OPEC oil, the American consumer pays $35 billion a year in additional fuel cost. It seems to me that where we are working on margins, on marginal production, surplus, or deficiency, we better be keeping our eye on the most important goal, and that is breaking the grip of the OPEC cartel which can dictate those kinds of prices to us.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 1042, AS MODIFIED

(Purpose: To provide for an annual review of energy research and development programs within the Department of Energy)

Mr. GLENN. Mr. President, I ask unanimous consent that amendment No. 1042, which is at the desk, be called up for immediate consideration. I have agreed to a 2-minute time limit on this amendment.

Mr. BENTSEN. Reserving the right to object, it is my understanding that if it cannot be finished in 2 minutes, the Senator will withdraw it.

Mr. GLENN. That is correct. This has been cleared on both sides of the aisle with all interested Senators.

The PRESIDING OFFICER. Is there objection?

Mr. HART. Mr. President, reserving the right to object, I point out that the Senator from Washington, earlier today, had a unanimous-consent agreement that set up the order for amendments.

Mr. BENTSEN. The Senator is absolutely correct. The Senator from Ohio is asking unanimous consent and he has checked with appropriate Members.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes an unprinted amendment numbered 1042, as modified.

Mr. GLENN. I ask unanimous consent that further reading be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 152, insert the following between lines 11 and 12:

PART 5—NATIONAL ENERGY RESEARCH AND DEVELOPMENT

SEC. 272. NATIONAL ACADEMY OF SCIENCES REPORT

(a) IN GENERAL.—The Secretary of Energy shall undertake on behalf of the Department of Energy to enter into an arrangement with the National Academy of Sciences for an annual review of the energy research and development programs of the Department beginning with the fiscal year 1980 and ending with the fiscal year 1989. The annual review to be undertaken by the Academy shall focus on an assessment of the current status of selected areas of science and technology. Areas shall be selected for relevance to alternative energy systems and the implications and potential impacts of implementation and to the identification and description of research and development opportunities under programs of the Department of Energy. The selection of areas shall be planned so as to provide a comprehensive assessment after the initial three annual reviews. The review by the Academy shall give special emphasis to the development of research initiatives in nonnuclear energy areas and to those research and development areas that may lead to the identification and development of new energy sources or methods of energy production that offer prospects for alleviating environmental, health and safety hazards or for significantly increasing the efficiency of energy utilization and specific recommendations may be made for additional funding in such areas beyond that of current Department of Energy programs. The Secretary of Energy shall make available to the Academy such information in the Secretary's possession as is needed for the purpose of the study provided for in this section, the Secretary shall enter into the arrangement with the National Academy of Sciences within thirty days of the date of the enactment of this Act.

(b) REPORT DATE.—The first annual National Academy of Sciences report described in subsection (a) shall be completed not later than the end of the fiscal year 1980. Subsequent reports shall be issued annually thereafter. Such reports shall be submitted to the President, the Secretary of Energy, and to the appropriate committees of the Congress.

(c) BUDGET RECOMMENDATIONS.—The President shall address the recommendations of the Academy of Sciences in his budget submission. The Secretary of Energy shall provide for such funds as required by the National Academy of Sciences for the preparation of the interim and annual reports specified in this section.

Mr. GLENN. Mr. President, this sets up a mechanism for an annual review of energy research and development programs within the Energy Department.

The windfall profit tax bill, H.R. 3919, has been discussed on the Senate floor for nearly 2 weeks now and it will be before us for another week before we are done with it. In all of this time, we have heard a great deal about energy supplies, energy demand, energy conservation, synthetic fuels, enhanced recovery of oil and gas, and so on. It is natural and appropriate that attention be paid to measures which are going to have some effect during the period in which the windfall tax money is being deposited in the Treasury. I, myself, in support of an amendment by the distinguished senior Senator from New York, discussed at length the national security problem that the United States presently faces and will continue to face over the next 10–15 years, and my belief that we must diversify our sources of oil supply, engage in a vigorous conservation program, and take other measures that can reduce our vulnerability to an oil embargo.

But I think it is important that we remind ourselves that it is not only the near term to which attention must be paid in improving the position of the United States with respect to energy supply. The long term is equally important. Indeed, if we do not take appropriate measures to deal with that problem we will leave a legacy of bitterness for future generations brought on by their realization that we did not provide for them in our planning and in our policies.

Mr. President, our imported oil costs next year may reach $88 billion according to the Congressional Budget Office. Do you know what our projected expenditure for nonnuclear research and development in energy will be next year? $1.9 billion.

Mr. President, I cannot say at this time whether there is a reasonable match between R. & D. program goals and dollar amount, whether $1.9 billion is the right figure and the wrong program or whether we have the right program and the wrong figure.

There appear to be some energy researchers who feel that significant meritorious ideas in energy research and development are either not being pursued or are not being developed at an optimum pace. If that is true, we may find ourselves 25 or 30 years from now in a position similar or worse than that in which we find ourselves today—high inflation and a declining level of productivity. I think it is fair to point out that there is a strong connection between productivity and investment in R. & D.

It is interesting to note that during our productivity slide from the mid-sixties on, U.S. R. & D. expenditures declined as a proportion of GNP from 2.9 percent to about 2.25 percent. The proportion rose, however, in a number of advanced industrial nations over these same years, particularly in West Germany, Japan, and the U.S.S.R That may explain in part the decline in American patents since the mid-sixties. It may explain in part why the proportion of major technological innovations contributed by the United States dropped from about 80 percent in the mid-fifties to less than 60 percent in the early 1970's. Over the same period the proportion of total U.S. major innovations judged by the National Science Board to be "radical breakthroughs" as opposed to "major technological advances" or "improvements of existing technology" declined from 35 percent to 18 percent. But it is not my purpose at this time to discuss the general R. & D. investment picture in the United States.

My purpose is to focus on one aspect of that picture—energy R. & D. Admittedly we have had a sharp rise in expenditures in that area in response to the rise in oil prices that began in 1973. The question is whether we are doing enough. "Doing enough" does not necessarily mean R. & D. on technologies that will produce or save energy within the next two decades. Some important technologies will require at least 20 years of research and development to be ready for large-scale deployment.

Also, energy research need not be confined to the development of hardware. R. & D. can also mean the finding of ways to remove institutional obstacles to the use of certain techniques of energy conservation or the use of certain types of energy-producing technologies.

It is particularly apt to point out, as has Dr. John Gibbons, the Director of OTA, that despite the recent high rate of growth, research in energy productivity is still not significant compared with commitments to energy supply.

For example, the fiscal year 1979 Department of Energy budget for conservation amounts to about 8 percent of its total budget. Compare this with DOE's budget commitment to expand energy supplies, which amounted in fiscal 1979 to 27 percent.

That is not to say the DOE should decrease its spending on energy R. & D. directed toward the supply side—quite the contrary. But it is apparent that there is a considerable amount of additional research that could be supported in the area of conservation. Dr. Gibbons, in a paper entitled, "Long-term Research Opportunities in Conservation" that appeared in a book entitled, "Energy Conservation and Public Policy," edited by the Deputy Secretary of Energy, Dr. John Sawhill, gave a series of examples of long-term conservation R. & D. opportunities. Because they are instructive as to what can be accomplished, I would like to list those examples of Dr. Gibbons just as they appear in his paper:

1. Substitute information technology for energy consumption. The rapidly evolving technology of miniaturization of information processing and storage has numerous potential applications for decreasing energy demand for a given amenity. Examples include space conditioning, and combustion and process control.

2. Partially replace travel with communications. More and more of the work world, as well as leisure (e.g., television), is dominated by information transfer. If we could learn—in a sense both of technology and behavior—to substitute a significant portion of travel with electronic communication, the resulting direct impact on energy demand would be

> very great. The present rate of advancement of electronics and data communications is so great that it is difficult to say much more at this time because feats in this area that seem incredible today could well be commonplace within a decade.
>
> 3. Improve performance for ground and air transport. Long-term R&D should enable to 50 to 100 percent improvement in jet and automobile engine performance over those that are used today. Major gains should also be possible as a result of development of stronger but lighter weight materials.
>
> 4. Plausible advance in powder metallurgy could greatly reduce energy required for production of forged metal products—and, in addition, considerably reduce metal losses during processing.
>
> 5. Substitution of electric induction heating for direct fuel heating in certain industrial processes could cut energy losses since the heat can be applied where most desired, can lead to efficient variable load processing, and can result (e.g., in glassmaking) in reduced pollution emissions as well as improved by-product recovery.
>
> 6. It should not only be possible but also cost-effective to construct buildings that are attractive and functional but require no more than one-fourth as much energy for heating, cooling, and lighting as is used today. These gains should be possible by a combination of energy conscious design; careful construction; advanced technology in heating, cooling, and ventilation, including interseasonal thermal storage; and sophisticated controls; and compromises in standards of performance and reliability.
>
> 7. While naturally focusing on developing new options, conservation research should also identify the long-run importance of existing options that, if ignored, might be abandoned prematurely; for example, existing rights-of-way that could be utilized for ground transport and district heating; or land parcels that could be dedicated to colocated power plants and industrial parks.
>
> 8. There are many long-term research opportunities associated with the electricity sector, especially in the areas of power plant conversion efficiency, cogeneration, and demand management at the load point.

Besides conservation, there is much basic and applied research that is needed with respect to major categories of solar energy technology. In a recent Ford Foundation study entitled, "Energy: The Next Twenty Years," some examples of research are given in the solar energy area that would lead to major advances in the use of solar energy. These include:

First. Short- and long-term storage of various forms of energy whether or not derived from solar radiation.

Second. Conversion of biomass to chemical fuels.

Third. Photochemistry and photogalvanic processes.

Fourth. Concepts for low-cost transmission and distribution of heat.

Fifth. Basic new approaches to converting solar radiation to electricity.

Sixth. Methods for the efficient long distance transport of electricity.

Seventh. Low temperature and low velocity heat transfer and fluid dynamics, related to low temperature solar-thermal and to wind energy conversion systems.

Eighth. Basic concepts for collecting and storing solar heat for use in passive solar heating systems for buildings.

Mr. President, I could go on ad infinitum listing areas of promising research opportunities. It is not that we need to find great new discoveries in each area. In some cases on breakthrough would lead to a significant turn-around in the use of energy supplies in the United States. For example, if we were to find a way to efficiently store electrical energy, the number of new powerplants that would have to be built to increase baseload capacity would be drastically reduced for many years to come. Yet the total budget for research on not only electrical energy storage, but on all forms of energy storage, consisted of approximately $47 million last year.

Mr. President, if the concept of trust funds had been retained in H.R. 3919, I would have introduced an amendment that would have created an energy R. & D. trust fund with an amount of money contained within it from the windfall profit tax that would have considerably exceeded the current rate of spending by the Department of Energy in the area of research and development.

Since the Senate has decided not to bypass the traditional authorization and appropriations process, I would like to suggest that, at the very least, Congress, the President, and the Secretary of Energy think about using a relatively small percentage of the windfall profit tax proceeds in an expanded and invigorated energy research and development program over at least the next 10 years. In designing such a program, I believe that the considerable resources of the Department of Energy and its advisory groups can be usefully augmented by having a respected outside organization like the National Academy of Sciences provide recommendations as to where additional funding for research and development could most usefully be applied.

Accordingly, the amendment I am introducing today provides for the Department of Energy to enter into arrangements with the National Academy of Sciences for an annual review of Department of Energy research and development programs with a view toward producing an annual set of recommendations for consideration by the President and the Congress, as well as DOE. The Secretary of Energy would not be obligated to follow the recommendations of the National Academy of Sciences but he would have to address them, and they would also be before the authorizing and appropriating committees of the Congress.

Mr. President, I am not suggesting that an expanded energy R. & D. program is necessarily going to solve every aspect of the U.S. energy problems. But we would not be the greatest industrial power the world has ever known had we not invested significant resources in building our technological capabilities. It has become fashionable in recent years to downgrade the contribution that science and technology can make in dealing with major problems in our economy and in our society generally. I tend to be a bit old-fashioned in that respect. I still believe that science and technology can make a great contribution to the welfare of the United States. More specifically, I believe that if we provide our scientists with the resources and the mandate, we will significantly alleviate our energy problems in the long run and the legacy we will leave future generations will be one of prosperity and hope.

Mr. President, this has been cleared on both sides of the aisle with all interested parties. I move the adoption of amendment No. 1042.

Mr. BENTSEN. Mr. President, I have discussed this with appropriate Members here and I find no objection.

Mr. DOLE. If the Senator would yield, this has been discussed with Senator Packwood and the Senator from Kansas. I might add that the Senator from New Mexico (Mr. Schmitt) is a cosponsor, or would like to be a cosponsor. We have no objection.

Mr. SCHMITT. Mr. President, I ask unanimous consent that I be added as a cosponsor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, I am happy to cosponsor the amendment No. 1042 by the Senator from Ohio, Mr. Glenn, which would require an annual review of the Department of Energy research programs by the National Academy of Sciences.

The Department has been unable to develop in internally consistent energy research program that would meet the short, intermediate, and long-term energy technology needs of the country. Conflicting and confusing actions by the administration and the Congress are largely to blame. This review process will help focus attention on real needs, rather than politics.

It is particularly important that the reviews emphasize the area of efficient energy conversion technologies, as well as basic research on new technologies. This neglected area can make major contributions to energy self-sufficiency in a relatively short period of time.

Mr. GLENN. Mr. President, I ask unanimous consent that the amendment remain at the desk for 2 hours for people who want to add their cosponsorship.

Mr. ROBERT C. BYRD. Mr. President, what is the request?

The ACTING PRESIDENT pro tempore. The request is that cosponsors be allowed to join in the next 2 hours.

Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, the Senator from Texas would like to be listed as a cosponsor

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The cosponsors of Mr. Glenn's amendment No. 1042 are: Mr. Bentsen, Mr. Schmitt, and Mr. Dole.

The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 865

Mr. PACKWOOD. Mr. President, what is the pending business? Are we back on the McClure amendment?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. PACKWOOD. Mr. President, I listened to the Senator from Texas talk about how we have to pare this bill back, and I was one of the cosponsors of some of the tax credits that eventually totaled $100 billion. They were not all mine, but in fairness, the credits I initially introduced would have cost around $60 billion.

Mr. MUSKIE. Will the Senator yield for a request for the yeas and nays while we have Senators present?

Mr. PACKWOOD. Yes, I yield.

Mr. MUSKIE. I ask for the yeas and nays, Mr. President.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PACKWOOD. The reason that the bill initially appeared to the news media to be so outlandish is that we were allegedly working on the House bill which would raise—if the Senator from Texas will refresh my memory—as I recall the projections, they were then about——

Mr. BENTSEN. About $142 billion.

Mr. PACKWOOD. About $142 billion, and we were accused of being irresponsible to have all of these credits deducted from the $142 billion. Bear in mind, we started on the credits first. We started on those before we started on the tax. We had not gotten to the tax part yet.

By the time we got to the tax part, a number of things had happened. One was the different projections of the House bill. By the time we had gotten to the floor on this bill, we were talking about a $276 billion House bill just as it was passed in the House when it was estimated to be about $140 billion, just by changing the estimates.

I do not quarrel with that. I guess they are valid changes on the estimates. Some argue that the House would not have levied taxes as high as they levied had they known what the projections were going to be. I am not going to quarrel with that.

What the problem is now, and the amendment of the Senator from Ohio is one, is to reconsider some of these credits that we dropped off in the Finance Committee because we did not have the revenue projections of the quantity, the size, that we now have. The Senate has pretty much worked its will, I think, on pretty much what the projections are going to be. There will be some disagreement with the House. If I were guessing, I would guess we shall come in with around $195 to $200 billion. That is a lot more than we started out within the Senate Finance bill, even under our projections of $30 a barrel and 2-percent increase. That is a lot more money than we expected to take in.

Some of those tax credits that we dropped, I think, now can validly be reconsidered without its being said that we are fiscally irresponsible. That is one of the reasons that I support the Senator from Idaho in his amendment.

Second, and I say it again, there comes a time when a country is faced with absolutely emergency situations—war, of course, being the most obvious one. President Carter has called the energy situation the moral equivalent of war. With that, I agree. That calls for emergency and extraordinary stringent measures. Even if there were some adverse fiscal impact—which I do not concede because of the tremendous increase in the projections in revenues. But even if there were, I think the time comes when you say, are we going to continue to be dependent in 1985, 1990, and 1995 on the whims of countries, many of which used to be our friends, many of which are not now our friends, and who knows, in 1985, what is going to be the situation in Venezuela or in 1990 in Saudi Arabia? Are those countries going to be governed by people who have any desire to be friendly to the United States, to sell us oil?

I say, Mr. President, that is not a risk that this country can run. For that reason, I strongly support the amendment of the Senator from Idaho.

Mr. DOLE. Mr. President, I strongly support Senator McClure's amendment to extend a 20-percent energy investment tax credit to investments in alcohol fuel production facilities. This amendment is similar to provisions of S. 906 that the Senator from Kansas introduced earlier this year.

Last Saturday, the Senate approved an amendment (unprinted amendment 879) offered by the Senator from Kansas that extended the Federal excise tax exemption for gasohol and established a blender and user tax level credit for certain alcohol fuel uses. This amendment was aimed primarily at stimulating consumer demand for gasohol, although it is also hoped that by increasing the market for alcohol fuels, domestic alcohol production will be greatly increased.

The amendment proposed today by the Senator from Idaho, Mr. McClure, should directly encourage the expansion of alcohol fuel production facilities. By extending a 20-percent energy investment tax credit to alcohol fuel production equipment, this category of energy property is given tax parity with solar and wind equipment, ocean thermal equipment, geothermal equipment, and equipment to burn nonwood biomass and to process nonwood biomass into a solid fuel.

A project just announced in the State of Kansas illustrates well the importance of the investment tax credit in inducing the building of new alcohol fuel distillation facilities. The Highway Oil Co. and the Hudson Ranch intend to spend $6 to $8 million building a major alcohol production facility adjacent to a large cattle feedlot near Paxico, Kans. This facility will have the capacity of manufacturing 5 million gallons of fuel grade alcohol per year. Methane produced from animal wastes will provide 75 percent of the power needed to run the distillation boilers. Also, the high-protein distillers soluble left over after the alcohol is produced will be used as livestock feed at the feedlot. Thus, this facility is a unique and environmentally sound approach to fuel production. The company initiating this project pointed to the investment tax credit as the most important incentive to the construction of new alcohol fuels facilities. After reviewing pending legislation to increase the investment tax credit, Mr. Ray Gaffney, chairman of the board of Highway Oil observed:

> These tax credits are much more important to getting these plants on stream than financing by the government. There is plenty of private capital available to build many, many alcohol plants, but it takes a tax concession in order to make them feasible.

I am hopeful that the McClure amendment will be adopted and that America dramatically expands its alcohol fuel production potential.

Mr. McCLURE. Mr. President, I should like to conclude the discussion—it has already taken more time than I expected—by saying that the National Gasohol Commission, of which the distinguished Senator from Indiana (Mr. Bayh) is chairman, has endorsed this approach to the problem and the National Alcohol Fuels Commission has also endorsed this approach to the production of alcohol. I think these organizations, as well as what we have done in the Energy Committee and the Finance Committee, indicate that this is a prudent use of the Nation's resources in addressing a very serious problem that confronts all of the country. I hope the amendment will be agreed to.

Mr. BENTSEN. Mr. President, the acting manager of the bill is prepared to vote. We are ready to vote.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment as modified by the Senator from Idaho. The yeas and nays have been ordered. The clerk will call the roll. The second assistant legislative clerk called the role.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Delaware (Mr. Biden), the Senator from North Dakota (Mr. Burdick), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Kentucky (Mr. Huddleston), the Senator from Hawaii (Mr. Inouye), the Senator from Massachusetts (Mr. Kennedy), the Senator from Hawaii (Mr. Matsunaga), and the Senator from Illinois (Mr. Stevenson) are necessarily absent.

I further announce that, if present and voting, the Senator from North Dakota (Mr. Burdick) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker) is necessarily absent.

The PRESIDING OFFICER. Are there other Senators in the Chamber desiring to vote who have not done so?

The result was announced—yeas 74, nays 16 as follows:

[Rollcall Vote No. 489 Leg.]

YEAS—74

Armstrong
Baucus
Boren
Boschwitz
Bradley
Bumpers
Cannon
Chiles
Church
Cochran
Cohen
Cranston
Culver
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Humphrey
Jackson
Javits
Jepsen
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
Mathias
McClure
McGovern
Melcher
Morgan
Nelson
Nunn
Packwood
Pell

Percy
Pressler
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stewart
Stone
Talmadge
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Tower
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Warner
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Bellmon
Bentsen
Byrd, Robert C.
Chafee
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Glenn
Johnston
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Metzenbaum
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Bayh
Biden
Burdick
Byrd, Harry F., Jr.
Huddleston
Inouye
Kennedy
Matsunaga
Stevenson

So Mr. McCLURE's amendment (No. 865), as modified, was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 885

The ACTING PRESIDENT pro tempore. The question now recurs on the amendment of the Senator from Washington.

Mr. PERCY. Mr. President, will the Senator yield for a question of the floor manager?

Mr. JACKSON. For what purpose?

Mr. PERCY. To ask the floor manager of the bill a question.

Mr. JACKSON. All right, for that purpose only, not to exceed 1 minute.

Mr. PERCY. Mr. President, while the majority leader is in the Chamber—as the floor manager and the majority leader know, this Senator from Illinois has been promised for a week that his payback to the States for amendment for conservation would have an opportunity for a vote. It is perfectly obvious that we are not going to have that opportunity, because my amendment stands in the unanimous-consent agreement behind that of the Senator from Colorado and that of Senator MELCHER.

Is it possible to honor now what I thought was an understanding—that there would be an opportunity to vote on my amendment? For 1 week, I have offered a time limitation on my amendment of a half hour. That would be adequate. Every single Senator understands this amendment. It will benefit every single State. It goes to the heart of what we are trying to do.

Will the floor manager advise the Senator from Illinois what protection he will now have as we approach the hour of 1 o'clock?

Mr. LONG. Mr. President, there may be an agreement on the other side of the aisle, but I am not aware of any agreement on this side of the aisle to vote on that amendment.

It seems to me the Senator should have to take his chances along with all the other amendments of the same category.

It is my impression that, if cloture is voted, the amendment would not be germane. There are a number of significant amendments, many of which have merit, that would not be germane and simply could not be voted on.

There is no way I can give consent to that amendment without giving consent to a lot of other amendments that are not germane either.

I will be glad to check the record, but I honestly do not believe that this Senator made a commitment that we were going to have a vote on that amendment.

It is all right with me for the Senator to bring his amendment up, but we have other Senators who have amendments they wish to have considered. All I can tell the Senator is he will have to take his chances. It is all right with me to vote on the amendment provided that it is up before we vote cloture. If cloture is voted, I am afraid he will have to take his chances along with all the remainder of them.

Mr. PERCY. Mr. President, this is the amendment approved by the Senate a year ago overwhelmingly.

Mr. JACKSON. I do not yield further to the Senator and I wish to proceed.

Mr. PERCY. If it could be at least pending at the time of cloture it could be voted on after cloture as I understand it.

Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Washington has the floor.

Mr. LONG. Mr. President, after cloture is voted the amendment is not germane unless the cloture motion is applied to the amendment itself.

If we are offering cloture on the committee amendment, as I understand is the case, and an amendment is before the Senate that is not germane to the committee amendment, then if cloture is applied to the committee amendment the pending amendment that is not germane to the cloture amendment would not be in order even though it had been offered before cloture was voted on the committee amendment. Is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. LONG. So as far as I am concerned, the Senator will have to take his chances. If he can get it called up, it is all right with me. If the Senator can get it up here and vote on it before cloture is voted, I am glad to have his and the Senator have his and others have theirs. I cannot assure the Senator a vote will occur before cloture.

Mr. PERCY. Mr. President, I do not want to invade any more of the time of the Senator from Washington. It is obvious we will not get it up.

I simply ask for unanimous consent after cloture has been invoked, and it will be my hope that we will be looking at the 1 week of solid assurances the Senator has had that he would have a chance for a vote on this amendment. I hope that there will be no more objection to it.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will yield, I know of no week of solid assurances, I say with all great respect to the distinguished Senator.

I urged him to vote for cloture. We would have then been able to vote on his amendment. The Senator had two amendments, and we did get one of his amendments up.

There has been no week of solid assurances, as far as I know, that the Senator would be allowed to call another nongermane amendment up.

Mr. PERCY. The Senator then extracts from the record all the assurances he felt he had for over a period of a week.

I thank the distinguished colleague from Washington for yielding.

Mr. LONG. Well, Mr. President, if the Senator can find something in the record indicating that the Senator from Louisiana made assurances that the amendment would be voted on, this Senator would like to see it.

Mr. ROBERT C. BYRD. Mr. President, if the Senator can find it in the record with respect to this Senator, I will join with the Senator.

Mr. JACKSON. Mr. President, I ask unanimous consent that the vote on the pending amendment occur prior to the vote on cloture.

Mr. DOLE. I object.

Mr. STEVENS. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. JACKSON. Mr. President, my amendment addresses two problems which have not been addressed in the Finance Committee bill or by amendments offered so far.

The Crude Oil Windfall Profit Tax Act exempts three types of oil from the burden of heavy taxation—newly discovered oil, incremental tertiary oil, and heavy oil—by imposing a low rate so-called minimum tax. But it does nothing to insure that the oil companies will invest the moneys they reap from this exemption on additional development of those types of oil or even on other energy development.

My amendment would require the oil companies to reinvest the revenues attributable to those types of production in furtherance of additional production from those categories. The least we can do is to insure that the extra revenues from these categories go back into energy investments. In other words, if a producer is paid $30, $40, or $50 for production falling into one of the three exempt types of production, he must reinvest or plow back that much into those same types of production. An investment in oil and gas substitutes will also qualify for the plowback credit. Otherwise, the producer will be subject to a 75-percent tax on that production.

Producers will be required to plow back the amount they are paid for each barrel of oil which is exempt from the full rate of tax in order to keep the exemption. There is, of course, an allowance for a reasonable return on the capital reinvested. I call it a "put your money where your exemption is" amendment.

That is the first half of my amendment.

The second half addresses the issue of price increases. It is the "OPEC price increase" part of my amendment.

According to the Senate Finance Committee report on the bill (p. 9). "These revenue estimates assume that the price of uncontrolled oil equals $30 per barrel in the fourth quarter of 1979 and grows at the rate of inflation plus 2 percent per year."

My question is, What if that assumption is wrong? What if OPEC raises its prices maybe today or tomorrow or later this month, or sometime next year so that the price of uncontrolled oil grows at a rate faster than the rate of inflation plus 2 percent per year? If that happens, who gets the money—the oil companies, or the consumers?

My amendment provides for an adjustment in the tax formula if our price projections are wrong. The formula will be adjusted according to the real dollar price increase above our price projections.

Let us take an example. Tier 1 oil is taxed at 75 percent. The 75 percent tax would be applied to the difference between the selling price, and the base price, which is $5.91.

The tier 1 tax would be $18.07 per barrel if the oil were sold this month for $30, leaving the producer $11.93. If the price projections are correct and the oil sells for a price comparable to the rate of inflation plus 2 percent, the oil will sell for $33.60 next December. If inflation is 10 percent the tax per barrel would be $20.33 next December. The producer would net $13.27 per barrel for tier 1 production next December. His net would increase $1.34 on the same barrel of oil in 1 year, even with the tax.

But what if the price projections are wrong? What if OPEC raises its prices even faster than the projections and the price is $40 per barrel next December? In that case, the tax per barrel would be $25.13. The producer would net $14.87 per barrel for tier 1 production next December, instead of $13.27. With a $40 OPEC price, his net would increase $2.94, instead of $1.34.

Unless we address this problem, the producers will reap even greater rewards with very high OPEC price increases. There is no incentive for them to convince OPEC to keep prices down. In fact, the incentive works just the opposite.

The basic question addressed by this part of my amendment is, who benefits from OPEC price increases? Do we want to allow oil companies to make even more money if OPEC raises its prices, or do we want to build an incentive in this tax bill to make the oil companies put pressure on OPEC to limit price increases?

Unless this amendment is adopted, we will be sending exactly the wrong signal to OPEC. We will be saying, "We don't care about price increases. In fact, if you increase your prices we'll increase ours, too." Not only that, but we will be inviting the oil companies to encourage OPEC price increases.

The difference in the tax applicable to tier 1 with or without the amendment would only be $1.60 per barrel per day next December. Tier one oil comprised roughly one-third of our production in May, or 2.68 million barrels per day. The $1.60 difference would translate into $4,288,000 a day next year. That difference is roughly $1.5 billion, which is not particularly large in the context of this legislation. But it is an important difference if we pay attention to the types of incentives we are building into this legislation.

Let me recap my amendment.

First, it requires producers to plow back revenues equal to the price they are paid for oil produced from categories of production which are now subject to the minimum tax and exempt from the full rate of tax. If they do plow back sufficient revenues, they would be subject to the full tax. If they do plow back, they would still be exempt from all but the minimum tax.

Second, it provides for an adjustment to the tax rates applicable to tier 1, 2, and 3 oil if the price per barrel of crude oil exceeds $30, plus inflation, plus 2 percent.

The amendment would have no revenue impact if the companies do what they say they would—plow back exempt revenues. It does not affect any of the revenue projections used thus far in the debate if the price projections are correct. If the price projections are wrong, we will be protecting ourselves.

Let me stress that my amendment does not affect the independent producer exemption in any way. Though I voted against that exemption, the Senate has worked its will on the issue and I do not propose to change that decision.

My amendment does not affect the minimum tax, either. The Senate has worked its will on the minimum tax issue, too, and I do not propose to change that decision.

We have heard time and time again that the industry needs additional revenues to invest in oil and gas. The Senate has seen fit to exempt several categories of production from the full rate of tax to give them those additional revenues. The Senate is entitled to have the assurance the oil companies will use those revenues to develop new sources of fuel. Implicit in the exemption is the assurance the revenues will go to new production and enhanced recovery of old fields. The amendment makes that assurance explicit. The amendment does nothing to threaten those exempt revenues; it simply requires them to be invested in development of exempt categories of production, or in oil and gas substitutes.

I urge adoption of the amendment.

Mr. DOLE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Kansas.

Mr. DOLE. Mr. President, it is rather hard to assess the amendment. It has changed so much in the last few days, and I understand that copies were made available this morning of the final draft.

I know the Senator from Washington says it has no revenue impact. But it seems to this Senator we have gone up and down this Hill about 50 times in the Senate. We spent hours and hours in private sessions trying to reach some agreement, and that agreement was finally reached and followed through on the Senate floor by those who had made the agreement.

There are a number of us who have been hoping we might have a real plowback amendment for the past several weeks. In fact, we are disappointed that the industry sort of turned its back on the plowback concept, because 2 years ago they favored it, but this year they indicated they do not want the plowback, that it was too complicated.

I think this is one last effort to sort of wreck the industry. This is a final parting shot from the Senator from Washington who has a different view on how we work our way out of the energy crisis than many in this Chamber.

As I read the amendment—and I must suggest that I have not had much opportunity to do that—it appears we are allowing the Secretary to increase the rate of taxes, which is unprecedented. There is an indication, as the Senator from Kansas reads the amendment, on page 3, that:

> The amount of the tax imposed by this chapter with respect to such barrel shall be increased by an amount determined by the Secretary under regulations to be necessary to maintain the same difference (in constant dollars).

There may be some precedent for that, for allowing someone other than Congress to impose tax increases, but I think before we even seriously address this amendment, we ought to make some fundamental judgments about it; and I think first of all we ought to know, from the Joint Tax Committee, whether or not there is any revenue impact. We ought to know from someone just what the amendment does. How does the adjustment in the tax rate referred to in subsection (c) work? That would be one question the Senator from Kansas would like to ascertain.

Does this give a competitive advantage to large oil companies? Is there any precedent for giving the executive, through the Secretary of the Treasury, the authority to set tax rates? I am not aware of any such precedent.

Mr. JACKSON. Mr. President, will the Senator yield for a point of clarification?

Mr. DOLE. Yes.

Mr. JACKSON. The Senate has already voted to exempt the independents up to a thousand barrels a day. The amendment does not touch that. That is point No. 1.

With reference to the revenues, let me say that I must point out that if my amendment raises revenues, then all of our price projections in the entire bill are all wrong. I think the price projections in this bill are wrong. It presupposes that the price of oil, the average price, is going to run $30 a barrel. The truth is, Mr. President, that before the first quarter of next year is over, all the projections here in this bill, the projections of the revenues, are going to be determined to be wrong in the light of what OPEC is in the process of doing. The price is going to be over $30 a barrel; that is the area I have been addressing.

Mr. DOLE. Of course, as the Senator knows—he has been here much longer than this Senator—Congress will meet next year, and we are all going to be here, or most of us will be; and if the companies are making too much money, that is a problem we can address, and I assume we will be able to have the Finance Committee look at it.

I have said on this floor a dozen times since this started that if in fact we make a mistake in judgment on this bill, if in fact there are exorbitant profits made by the independents or anyone else who may be exempt, then we ought to take another look at it, and those who stood here defending lower taxes ought to join those advocating higher taxes.

I am not sure what is going to happen this week, next week, or next month; but I do believe we will have the capacity to deal with the problem next year, and if in fact prices go up and profits go up, whether in fact the profits are not being put back into more production.

But it would seem to me this is not a plowback amendment, it is a plowunder amendment. It is the last effort to plow under the oil industry in this country. They are easy targets, and I know the best way to get attention in this city is to tax the oil companies.

Maybe that is the way to go. Maybe prices will be way out of bounds. But it seems to me we have a very delicate problem here. We have to find that balance between the right tax and leaving enough for the incentive to produce and explore for more oil and other energy sources.

I think the way this amendment is drafted, by providing a credit for energy diversification, probably gives a competitive advantage to the large oil companies, the very ones I do not think the Senator from Washington would want to help.

Before I yield to the distinguished Senator from Louisiana, I want to put in the RECORD a story I noted with interest in yesterday's New York Times, which indicates that the oil companies put domestic need ahead of any deals where they could make a big profit. Because we hear so much so constantly, so often, about how greedy these oil companies are, I think this story, which indicates that the larger companies, for the most part, were most concerned about the domestic needs of this country, might be something worth reading as we look back over this debate. So I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OIL COMPANIES PUT DOMESTIC NEED AHEAD OF DEALS, U.S. OFFICIALS SAY

(By Richard D. Lyons)

WASHINGTON, December 15.—A secret Federal review of international petroleum traffic has concluded that major American oil corporations have acted responsibly in meeting national energy needs, but not necessarily in the total interest of either smaller companies or domestic consumers.

The conclusion has been reached by Department of Energy officials who analyzed data from a new reporting system on oil transfers. A departmental group was ordered this spring to find out if American companies had been truthful about their international dealings. Details of the new reporting system were made available to The New York Times on the condition that the confidentiality guaranteed by the department to the companies involved was not violated.

According to Federal officials who have monitored the data supplied by the companies, the major American oil companies have met their domestic refining needs before selling relatively cheap contractual crude for much higher prices overseas, although the opportunity to do so was constantly present. Oil bought under contracts of six months or more is significantly cheaper than oil bought on the spot market, where the oil available is sold to the highest bidder.

"We have found some examples in which American companies have been involved in selling foreign crude in back-to-back transactions on the same day and thus made handsome profits, but such cases have been few," said an Energy Department official who has had access to the data.

There have been allegations in recent years that the major oil companies have been buying Arab oil at relatively cheap prices, then selling it on the European and Japanese markets at huge markups rather than bringing it into the United States. Of the Energy Department officials interviewed, the one who set up the reporting operation and the one who was the most willing to discuss its details both said that, with a few rare exceptions, these allegations have not proved to be the case.

"More to the point," the official added, "we have found virtually no examples of this having been done by the American members of the 'Seven Sisters,'" a reference to the seven major multinational oil companies. The American members are the Exxon Corporation, the Mobil Corporation, Texaco Inc., the Gulf Oil Corporation and the Standard Oil Company of California.

The official continued, "This is not to say that such companies have not acted in their own self-interest," adding that once domestic refinery demands were met, some of the surplus oil was then transferred to foreign markets, primarily in Western Europe, and sold at substantially higher prices.

TWO EFFECTS ON U.S. MARKET

After noting that there was nothing illegal about an American company's diverting crude stocks to other countries, the energy official noted that this produced two effects in the United States.

First, it reduced the amount of relatively cheap oil available to medium-size and small American companies such as Ashland Oil Inc., the Sun Company, the Union Oil Company of California and the Cities Service Company. Second, these companies were forced to bid for higher-priced foreign crude on the spot market, driving up the price and making their products more expensive than those of major multinationals.

"On April 1 we created a totally new and quiet system requiring each company to report once a week the loadings of all cargoes of oil in an effort to gain an advance look at what is coming into the United States," an official explained. The reports include such specific information as the buyer, the seller, the amount and type of crude, the country of origin, the landing site and the prices paid.

Once the system was in place, the official said, it had the side benefit "of putting to rest the rather cynical notion that the American multinationals were acting in their self-interest and only in their self-interest."

"There is no doubt that they have acted in the best interests of their shareholders, but they have also displayed a sense of responsibility for national interests as well," he added.

Recent criticisms by Saudi officials of the business practices of the Aramco partners is spurious, the official went on, because the Saudis own 60 percent of the company "and nothing about it happens without their knowledge and, indeed, full approval."

The reference was to reports from Saudi Arabia that Government officials there had expressed anger that Exxon, Mobil, Texaco and Standard Oil of California, the four American companies that are partners with the Saudis in Aramco, had bought oil in Saudi Arabia at $18 a barrel and sold it at almost double that in Western Europe.

"The share of Saudi oil that the Aramco partners have been selling in Western Europe has remained the same for the last three or four years until the last quarter of this year, when it rose," the Energy Department official said.

SAUDI INCREASE WENT ELSEWHERE

This came about, he went on, because the Saudis increased exports from 8.5 million barrels a day to 9.5 million barrels a day on July 4 as part of the so-called Independence Day gift from King Khalid to President Carter. The increased output came after the gas lines of late spring, when there was great uncertainty over oil supplies.

"But the extra oil didn't come here," the official insisted. "It went to markets elsewhere to help stabilize both supply and price."

In general, the major multinational oil companies with access to contractual crude have brought it into the United States at its relatively low prices, rather than either selling it on the spot market or diverting unusually large amounts to foreign refining operations.

"Yet the Federal allocation system may break down when the multinationals decide not to sell all their foreign crude to their smaller competitors in the United States," he added.

In recent months, several lawsuits have been filed by medium-sized American companies against larger companies with better access to moderately priced oil. Some of the suits have been spurred by overt cutoffs of contractual supplies, such as those from Iran, or by partial reductions of supplies, such as those from the United Arab Emirates.

"Selling crude in West Germany at a high price may not be good for the smaller American company, which would pay lower prices but it is certainly good for the stockholders of the major companies," the official added.

A Department of Energy official offered another reason, one other than patriotism, that inhibited the biggest companies from selling oil overseas at "opportunistic prices."

"If this were a regular pattern," he said, "and it were discovered, it would only lead to the companies' being nationalized, so it is in their interest to see that the national interest is taken care of."

Mr. DOLE. I am happy to yield to the Senator from Louisiana.

Mr. LONG. Is it the Senator's understanding of the amendment—and I must join the Senator in having some doubts about what it does and does not do at this late date—but is it his understanding that this amendment would undertake to impose a 100-percent tax—a 100-percent tax—on anything that a large company receives over and above what it would have received if the price of oil were $30?

Mr. DOLE. That is the way I understand it. I mean it is a step beyond anything we have even talked about in the committee or debated on the Senate floor.

Mr. JACKSON. Mr. President, will the Senator yield right there at that point, just for a point of clarification?

Mr. DOLE. Yes.

Mr. JACKSON. Does anyone in the

body believe for one moment that oil is not going above $30 a barrel?

Mr. DOLE. Well, does anyone in this body believe we are not going to meet next year?

Mr. JACKSON. Well, let us deal with the problem that exists right now. All the projections are that the average price in the first quarter of next year will be above $30 a barrel.

That is all I wanted to say.

Mr. DOLE. Yes.

Mr. LONG. Let us just assume that the oil companies, in doing their research, achieve something like Exxon has. Exxon, in its development program, came up with a new electric engine which they tell us will save more energy on an annual basis than we can haul through that Alaskan pipeline. If they are able to actually do what they think they can, save us money on the effective use of the energy than the entire State of Alaska can produce, can the Senator explain why they ought to be subjected to a 100-percent tax because they do that?

Mr. DOLE. No, I cannot explain why they should be subjected to such a tax. It looks to me like anything over $30 we are, in effect, nationalizing the industry. We are saying, "The Government will determine your profits; the Secretary will set the rates as he wishes over 30 bucks." That is a magic figure, for some reason. There is nothing to indicate, so far as I know, that $30 a barrel is going to be the magic figure forever for the oil business.

Mr. JACKSON. Mr. President, will the Senator yield for a point of clarification? The amendment does not levy a 100-percent tax; it is a 75-percent tax. The Senate has already put a 75-percent tax on, and all we are saying is that we are dealing in a world of fiction when we say the price of oil is not going over $30 a barrel, and that oil that is priced over $30 a barrel should be subject to the same rate of tax. That is all we are saying.

Mr. DOLE. The Senator from Kansas does not read section 4993(c) that way. It says:

> Then the amount of the tax imposed by this chapter with respect to such barrel shall be increased by an amount determined by the Secretary—

Not by Congress, but by the Secretary—

> under regulations to be necessary to maintain the same difference (in constant dollars) between the removal price and the tax imposed by this chapter as there would be if the removal price were not in excess of $30.

It is difficult to understand what that means. But what it means to this Senator is that we are giving someone other than the Congress the authority to set tax rates.

And I think it was the late President Kennedy—the Senator from Kansas was then in the House—who sought some authority somewhat similar to that, and that was, as I remember, rejected across the board.

But it just seems to me that, at the last minute, to come up with an amendment—and certainly the Senator has that right and I know it has been pending for some time—and I do not say our agreement precluded offering amendments, but, based on an understanding, it would seem to me that this is not the appropriate time for such an amendment.

If it is not the appropriate amendment and if that were the case, at least we ought to understand what it does. And I would hope that we could have enough time to look at it and assess it. It might have some merit. But I have not noted it yet.

Mr. LONG. Will the Senator yield for a question?

Mr. DOLE. I am happy to yield.

Mr. LONG. May I suggest to the Senator that this proposal reminds me of a measure that we had before the Senate Finance Committee in some year, with a suggested reform to the way that we would tax companies doing business overseas. The thing was so complicated by the time the various compromises were made, that one of the great accounting firms said, with confidence, that they were positive that there were no two accountants nor no two tax lawyers anywhere on Earth who could read the language independently and arrive at the same tax liability as applied to company books. Because there was so much complexity to it that nobody could possibly tell you how much the man owed or did not owe.

There are things like that in the code today, I regret to say, where you just take a complicated set of books and no two accountants and no two lawyers, working independently, could arrive at the same figure as to liability.

It is my understanding that the Senator from Washington has told us that his tax would not take it all, as we have been told it would. My note indicates that, under the proposed amendment, if the price of oil goes above $30, plus inflation, plus 2 percent, then the amendment would cause the Government to take it all. That may not be correct, but I would like to know whether it is correct. The staff of the Finance Committee informs me that that is what the amendment would do if the price of oil goes above the $30, plus inflation, plus 2 percent, a factor that the companies do not really have any control over.

The OPEC cartel that would make that decision—a cartel of foreign nations, not a cartel of oil producers or a cartel of oil-producing companies. It is a cartel of foreign nations, like Saudi Arabia, Iran, Iraq, Venezuela, and so forth.

Mr. DOLE. As I understand it, if you take it all, that ought to be 100 percent; or if you take 100 percent, that ought to be all. You can work it either way.

Mr. LONG. That is my understanding.

Mr. DOLE. Plus the income tax they have to pay. In addition to taking 100 percent here, I submit it would still be subject to income tax.

Mr. LONG. I hope that if the savings clause is necessary, that if the sponsors are willing to agree to a saving clause, that under no set of circumstances would the companies have to pay more than 100 percent. Because when you take into account the 75-percent tax and then you take into account the State taxes and the Federal income taxes, the severance taxes, when you take all these various things into account, it is very easy to go over 100 percent, especially if one levied a tax which does not take into account the foreign tax credit.

I certainly hope that the Senator is not proposing to tax companies over 100 percent, merely because they are in the business of trying to produce more energy.

Thinking in terms of equity and justice, can the Senator tell me, based on the advice he is able to acquire at this moment, whether the companies would be subjected to this 100-percent tax, or a near 100-percent tax, in the event they use the money to modernize their refineries so they would use a great deal less energy and, therefore, save all that energy in the processing of the product?

Mr. DOLE. The Senator would hope not, but there is certainly no way of knowing. I think what we may have here is an amendment that might inhibit production. It is sort of a plowunder amendment, and that may be a sort of understatement, because we really do not know what an adverse impact this would have on energy production in this country.

Mr. PERCY. Will the distinguished Senator yield for a question?

Mr. DOLE. I am happy to yield to the Senator from Illinois.

Mr. PERCY. When we restrict and limit oil companies, for instance, from doing anything in any way to develop further sources of energy, I think we discourage capital going in, and we put limitations on the companies which we do not put on others.

Certainly, it is the essence of our free enterprise system that we should have the ability to move from one field of enterprise to another, as we find one field becoming less productive. As the Director of the CIA has said, and as others have said, we are depleting and running out of oil. Shiek Yamani of Saudi Arabia said just a month ago that in 31 years we will have exhausted our oil. We will not have any more reserves left.

To prevent oil companies from going into the direct ownership of coal, for example, may be to force those companies to an early closing. We have, 31—let's double it—60 years of oil left. That is a short period of time for a corporation that has an infinite life. They would have to move.

Would oil companies be restricted by this amendment from moving into the direct development of coal? As I read it, they would be.

They can go into other things, such as solar, which is fine. I would like to see them move into solar. I would like to see them move into geothermal, biomass, and so forth. But I would also think, as one who comes from a State with tremendous coal resources, that we would like to have them directly invest their know-how, their experience, their capital, their technology and experience in coal development.

My question is this: As the amendment now stands, would oil companies be prevented from allowing their stockholders—and they have hundreds of thousands of stockholders—to profit directly from the development of coal, which is certainly one of our highest orders of energy priority?

Mr. DOLE. I would say, in response to that, that I think it is not clear, as the Senator from Kansas reads it. They talk about geothermal, solar, hydroelectric, including other nonnuclear or other nonconventional sources of power. There is no mention of coal in that section.

Under the synthetic fuels section, coal is specifically mentioned. But, again, it is hard to tell just what the amendment does do. The sponsors might be in a better position to respond to that question.

We are getting near the magic hour and I think the majority leader wants something to happen.

TAX INCENTIVES FOR FUEL EFFICIENT AUTOMOBILES

● **Mr. BRADLEY.** Mr. President, today I am sponsoring an amendment to provide for a tax credit to domestic automobile manufacturers for the manufacture of automobiles which exceed the average fuel economy standards required under the Energy Policy and Conservation Act (EPCA) of 1975.

The goal of this amendment is to achieve both short- and long-term reductions in energy use and dependence on imported oil by decreasing demand for petroleum for the largest consumer of petroleum in the United States, that is, the automobile. This will make a significant step toward solving the energy problem brought on by increased energy prices and supply shortages.

Clearly transportation by private automobile is a pattern in contemporary American culture which does not appear to be dying out. The National Transportation Policy Study Commission (NTPSC) established by the 94th Congress under Public Law 94-80 to study the transportation "needs, resources, requirements, and policies of the United States through the year 2000, noted in its final report of June 1979 that private automobiles account for more than one third of total American petroleum consumption with over 114 million automobiles registered totaling approximately 1 car for every 2 persons or 1.8 vehicles per U.S. household.

As a part of the strategy to avert our energy crisis, national energy policy for petroleum conservation must encourage development and use of energy saving technologies. My amendment would provide incentives to automobile manufacturers for production of more fuel efficient cars.

We have begun to reduce automobile gasoline consumption with the average fuel economy standards mandated by the Energy Policy and Conservation Act. It is estimated that these standards will reduce gasoline consumption by a million barrels per day by 1990 compared to 1977 fuel economy levels. The amendment I am offering provides an incentive for car manufacturers which exceed those minimum standards.

A tax incentive for more fuel efficient automobiles will save millions of barrels of gasoline per day. In addition, increasing the availability of American made fuel efficient cars will provide Americans an alternative to imported autos which now comprises 25 percent of the car sales in this country.

The tax credit I am proposing will help to provide necessary capital to enable our car manufacturers to make the transition from the gas guzzler to the more fuel efficient car. This is important because the present dip in auto sales constricts profit margins necessary for American car manufacturers to improve fuel efficiency in cars beyond the present minimal standards. If there is another oil embargo the dip will deepen and capital for transition will be nonexistent. If we are to make any significant breakthroughs in automobile fuel efficiency—an essential ingredient in any conservation program—Government action will be necessary. My amendment will also enable American car manufacturers to better compete with foreign cars for the rising demand for smaller, more efficient cars.

The Federal Government can and must influence the course of events by accelerating the automotive industry's transition to more efficient automobiles, thus preventing a major takeover of the market by foreign car manufacturers and most important—decreasing petroleum consumption and U.S. dependence on foreign oil.●

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. The 1 hour for debate under the agreement having expired, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

> We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the reported amendment in the nature of a substitute to H.R. 3919, an Act to impose a windfall profit tax on domestic crude oil.
>
> Robert C. Byrd, Claiborne Pell, Bill Bradley, Spark Matsunaga, Walter D. Huddleston, Dale Bumpers, Gaylord Nelson, Richard Stone, Max Baucus, Donald Stewart, Lawton Chiles, Daniel Patrick Moynihan, Patrick J. Leahy, Abraham Ribicoff, Edmund S. Muskie, Howard M. Metzenbaum, Jennings Randolph, and Carl Levin.

CALL OF THE ROLL

The ACTING PRESIDENT pro tempore. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The assistant legislative clerk called the roll, and the following Senators answered to their names:

[Quorum No. 19 Leg.]

Armstrong
Boschwitz
Bradley
Byrd, Robert C.
Cannon
Chafee
Dole
Garn
Hart
Helms
Jackson
Levin
Long
Mathias
Melcher
Muskie
Nunn
Percy
Ribicoff
Roth
Stafford
Tower
Warner
Weicker
Young

The PRESIDING OFFICER (Mr. LEVIN). A quorum is not present. The clerk will call the names of absent Senators.

The assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. CULVER), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Hawaii (Mr. MATSUNAGA) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

The PRESIDING OFFICER. Is there any other Senator wishing to vote?

The result was announced—yeas 93, nays 2 as follows:

[Rollcall Vote No. 490 Leg.]

YEAS—93

Armstrong
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Williams
Young
Zorinsky

NAYS—2

Goldwater
Weicker

NOT VOTING—5

Baker
Culver
Huddleston
Kennedy
Matsunaga

So the motion was agreed to.

The PRESIDING OFFICER (Mr. LEVIN). With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate be brought to a close? The yeas and nays are automatic under the rule and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

The PRESIDING OFFICER. Is there any other Senator in the Chamber who wishes to vote?

The result was announced—yeas 84, nays 14, as follows:

[Rollcall Vote No. 491 Leg.]

YEAS—84

Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Hollings
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schweiker
Stafford
Stennis
Stevens
Stewart
Stone
Talmadge
Tsongas
Weicker
Williams
Young
Zorinsky

NAYS—14

Armstrong
Cochran
Goldwater
Gravel
Helms
McClure
Percy
Schmitt
Simpson
Stevenson
Thurmond
Tower
Wallop
Warner

NOT VOTING—2

Baker
Huddleston

The PRESIDING OFFICER. On this vote the yeas are 84, the nays are 14. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

UP AMENDMENT NO. 885

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. What is the parliamentary situation?

The PRESIDING OFFICER. The amendment of the Senator from Washington (Mr. Jackson).

Mr. HART. The amendment which was being debated before the Senate voted cloture is now the pending business?

The PRESIDING OFFICER. That is correct.

Mr. HART. Mr. President, I ask unanimous consent that upon the disposition of the amendment by the Senator from Washington, it be in order for the Senator from Montana (Mr. Melcher) to be recognized and following the disposition of his amendment, the Senator from Colorado be recognized to bring up an amendment and following the disposition of the amendment of the Senator from Colorado, the Senator from Illinois (Mr. Percy) be recognized.

Mr. WALLOP. Mr. President, reserving the right to object, I apologize to the Senator from Colorado. I simply could not hear the request.

Mr. HART. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order so we can hear the unanimous-consent request of the Senator from Colorado.

Mr. HART. Mr. President, I will repeat the request and let me explain to Senators why it is being made. Starting this morning with the Senate's business, after some parliamentary reorganizing, the Senator from Idaho (Mr. McClure) was recognized to pursue his amendment. That took somewhat longer time than any of us had anticipated. Three of us had been waiting most of Saturday and all this morning to bring up our amendments before cloture.

What I am trying to do is get an order that will recognize Senators who have been waiting to bring up amendments in the order they have been waiting.

The PRESIDING OFFICER. The Chair should have informed the Senator previously that there is already in existence a unanimous-consent order in which that order is followed. In addition to the three amendments which were mentioned, the amendment of the Senator from Kansas (Mr. Dole) is also on that unanimous-consent order.

Mr. HART. Will the Chair repeat the order?

The PRESIDING OFFICER. The Chair will repeat the order. An order to call up the amendments of Mr. Melcher, Mr. Hart, Mr. Percy, and Mr. Dole in that order has already been agreed to.

Mr. HART. I thank the Chair.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. Do I understand the Chair to have indicated in response to the inquiry that the unanimous-consent agreement heretofore entered into that set the order for amendments in effect waives the germaneness provision of rule XXII?

Mr. DOLE. No.

The PRESIDING OFFICER. It does not.

Mr. McCLURE. It does not.

Mr. President, with regard to the pending amendment of the Senator from Washington, is it necessary that a point of order be made against that amendment now or it be waived?

The PRESIDING OFFICER. The germaneness requirement is not self-enforcing.

Mr. McCLURE. But, Mr. President——

The PRESIDING OFFICER. A point of order would have to be made.

Mr. McCLURE. If a point of order is not made now would the point of order be waived?

The PRESIDING OFFICER. The point of order will lie any time after the amendment is proposed and before it is acted upon:

Mr. McCLURE. I thank the Chair.

Mr. BUMPERS. Mr. President, will the Presiding Officer restate what he just said?

The PRESIDING OFFICER. A point of order will lie any time it is made while the amendment is pending

Mr. DOLE. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. There are two amendments pending, the Jackson second degree amendment being one, and I make a point of order against that amendment as not being germane.

The PRESIDING OFFICER. The amendment contains new subject matter which is not in the committee substitute or the bill and is, therefore, not germane.

Mr. DOLE. Mr. President, I make the same point of order with respect to the first degree amendment as not being germane.

The PRESIDING OFFICER. The Chair rules the same way on the first degree amendment.

Mr. BUMPERS. Mr. President, is that the Jackson amendment?

Mr. DOLE. Right, an amendment in the second degree.

Mr. BUMPERS. Is the Chair ruling the Jackson amendment is not germane?

The PRESIDING OFFICER. It is not germane.

Mr. BUMPERS. Mr. President, I ask unanimous consent that I may be allowed to speak for 60 seconds on the amendment.

The PRESIDING OFFICER. The point of order has already been ruled on.

Mr. BUMPERS. I ask unanimous consent that I be permitted to speak for 60 seconds on the amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BUMPERS. I am not going to delay the Senate nor is Senator Jackson going to delay the Senate, and no appeal is going to be made from the ruling of the Chair.

The Jackson amendment does precisely what I have understood all those people who have fought against efforts to stiffen the windfall profit tax wanted. It is a simple provision which states that if you reinvest your money and explore, as the oil companies have said they wanted to do, then the minimum tax would be a tax of 20 percent, and if you do not, then you will pay a much more severe tax.

It has been my understanding that those are precisely the arguments we have been hearing in the Senate the past 4 weeks. The Jackson amendment only conforms with what the oil companies have said they wanted, and the people who have fought consistently against a strong windfall profit tax want. It is incomprehensible to me why those same people, would resist holding the oil companies in line now that we have cloture on what I consider a weak windfall profit tax bill.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. BUMPERS. I yield.

Mr. JACKSON. Mr. President, I just want to reiterate what the Senator from Arkansas has said as a cosponsor of the amendment.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. JACKSON. I ask unanimous consent to be permitted to speak for 1 minute.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. JACKSON. Mr. President, I can only observe that this bill, on the day that OPEC is meeting in Caracas, Venezuela, to jack the price of oil up, once again does not address the ongoing increases beyond $30 a barrel.

I can say in all candor that we face the possibility before next year is over that we could have $50-a-barrel oil. This legislation, proposed legislation, is predicated on a fiction that oil will average $30 a barrel, and yet on this very day, this very week, when legislation is going to be passed giving the impression that we are doing something about windfall profits, we are ignoring the fact that we are, in this legislation, establishing one of the bigger loopholes of all time, because as oil goes over $30 a barrel, which it will this week, it is not covered by this legislation.

WELCOMING THE THIEVES

Mr. President, two apparently unrelated events coincide today which merit our special attention.

First, the Senate is attempting to conclude its consideration of the pending windfall profit tax legislation. As several of my colleagues have pointed out, the bill before us is the largest tax bill in history. Consideration of the legislation is a direct result of the President's decision to decontrol all domestic crude oil prices.

Second, the ministers of the Organization of Petroleum Exporting Countries are meeting in Caracas, Venezuela. They are considering yet another OPEC oil price increase. The OPEC export price ranged from $13.69 to $14.84 in January of this year. Today's headlines scream projections of $30, even $40 for the "official" OPEC export price. And that price could well be a floor price with individual countries allowed to charge a surcharge on top of the posted price.

What do these two events have to do with one another? The answer is simple and chilling.

Once the windfall profit tax legislation is enacted, the Congress will have acquiesced in President Carter's decision to allow OPEC to set our energy prices, as well as the member nations' energy prices.

My colleagues will recall a speech I made on the subject on November 28. A portion of that speech merits repeating:

> The legislation before us today is simply a fancy package designed to mask the fact that the United States is hostage to OPEC. We have allowed the oil producing nations to set the price paid for every Btu of energy consumed by Americans. The United States no longer sets its own energy prices.
>
> The President has given in to OPEC. He has adopted a complicated series of formulas which will guarantee that OPEC price increases will increase domestic oil prices, too. Next month when the OPEC Ministers meet they will be setting their prices and our prices, too.
>
> OPEC prices are political prices. They have nothing to do with the resource value of oil produced and sold. Nor do they take into account the cost of exploration, development, or production in the United States. They are based upon the revenue needs of the OPEC countries and pay no attention to the impact those prices will have on other countries.

What does the pending legislation do to protect this Nation from OPEC? Nothing. Absolutely nothing. In fact, it invites each oil producer in this country to encourage OPEC price increases. The higher the OPEC price goes, the higher our oil prices will go, too. The higher the OPEC price goes, the sooner this windfall profit tax will phase out. The higher the OPEC price goes, the higher the producers' profits will go, too.

We are leaving ourselves bare to these price thieves. Make no mistake about it.

Earlier today I offered an amendment that would have afforded us at least a modicum of protection in the face of OPEC price increases. It would have required the tax rates in the windfall profit tax bill to be adjusted if OPEC prices increase faster than $30 per barrel, plus inflation, plus 2 percent. The Senate refused to do so. As the bill stands, producers will benefit from OPEC price increases and consumers will suffer even more.

As long as we had domestic oil price controls, every $6 increase in the price of a barrel of foreign oil increased the price of a gallon of gasoline or home heating oil by about 8 cents. That same $6 increase in the price of a barrel of foreign oil caused the Consumer Price Index to jump two-thirds of 1 percent and the gross national product to decline by two-thirds of 1 percent.

Once we allow our domestic oil prices to increase along with foreign oil prices, the repercussions of price increases will be twice as bad. Every $6 increase in the price of a barrel of oil will now mean a 16-cent increase in the price of gasoline or home heating oil. The same increase will mean a 1.25-percent increase in the Consumer Price Index and a 1.25-percent decline in the gross national product.

The repercussions on gasoline and heating oil prices are the direct effects. The indirect effects will be felt everywhere. The food we eat for breakfast will cost more, because fertilizer to grow wheat and corn will cost more. It will cost more to get farm products to market, and then to our homes. The clothes we wear will cost more, too. Those made from synthetic fibers will bear a direct price increase due to the increase in the price of the petroleum feedstock which is the base of synthetic fibers. Clothes made from natural fibers will bear the same effect due to the same factors that will cause an increase in the price of food. It will cost more to build our homes, as well as to heat them.

The effect of oil price increases ripples through virtually everything we do each day of our lives.

I take little comfort from the fact that I have warned in advance about the inflationary effects of oil price increases. I take little comfort about the fact that in January I predicted $1 a gallon gasoline by summer while all of the experts were downplaying price projections. I take little comfort about my predictions on the increase in the prime rate, especially since I do not see interest rates subsiding in the short term.

Finally, I take even less comfort in the picture I see before us today. I believe that Congress will be faced with yet another oil tax bill sometime next year.

Today's legislation will allow increases in oil prices. It does nothing to decrease oil profits. The fourth quarter 1979 oil company profits will make headlines again in January. Unfortunately, I must remind you that the most significant parts of the price decontrol scheme have not yet begun. Decontrol of oil prices begin in earnest the first of next month. The third quarter 1979 profits will be pale by comparison to the 1980 profits with decontrol.

I am sorry I have to make this speech. But I feel I have to go on record about what the Senate is really doing today.

We are told that in the early days, the person who brought bad news suffered an unfortunate fate. He was killed on the spot. I am pleased that practice has changed; otherwise I might suffer an unfortunate fate for bearing the bad news of the day.

Mr. DOLE. Mr. President, may the Senator from Kansas have 2 minutes by unanimous consent?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I appreciate the comments of the distinguished Senator from Arkansas (Mr. BUMPERS) and my colleague from Washington, Senator JACKSON.

I do not question their motives. I just question whether or not this amendment accomplished anything except a last-ditch effort to wreck the industry and impose a 100-percent tax on industry profits, and give that authority to the Secretary of the Treasury. It just seems to this Senator that that would be unprecedented.

It came to us at the very last moment. There were a number of questions that should have been answered. There are a lot of us who would be glad to work out a plowback amendment even at this late date, if we could work it out so it does not punish the industry. But the Congress will meet next year, and if, in fact, the profits are too high I am certain we can muster the votes in the Senate and in the House to increase the tax rates on any windfall profit.

Mr. JACKSON. Mr. President, will the Senator yield right at that point?

Mr. DOLE. I yield.

Mr. JACKSON. I am sure the Senator from Kansas is aware that for this year the profits are estimated to be $35 billion for the oil companies. Only $15 billion is being reinvested; $20 billion is going to go for probably acquisition and for plowbacks in dividends that cannot be justified when we are asking the American people to make untold sacrifices, and I believe we are going to see a real reaction in this country.

I want to see a fair profit, I want to see a decent return. But, Mr. President, I do not believe there should be an unjust enrichment.

Mr. DOLE. Let me say in my final 10 seconds that this bill we are speaking about is a tax on domestic profits, domestic profits, and that is, I think, the fallacy in the argument by the distinguished Senator from Washington.

But the Senator from Kansas has said many times if the profits are exorbitant, those of us who defended the higher profits ought to be willing to understand that, and this Senator will not run from it.

I appreciate the Senator's views.

Mr. BUMPERS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. HEFLIN). The Senator will state it.

Mr. BUMPERS. Would the Chair state whether or not any amendment, the substance of which was to provide for a plowback of these revenues, would be in order?

The PRESIDING OFFICER. The Chair will respond.

Mr. BUMPERS. I think there are a number of plowback amendments at the desk, and my question is would those amendments be germane?

The PRESIDING OFFICER. Since that subject was not dealt with in the committee substitute or in the House bill then that subject would not be germane.

Mr. BUMPERS. Would it not be very difficult to work out an acceptable plowback amendment with the Senator from Kansas?

Mr. DOLE. We could do it by unanimous consent.

Mr. BUMPERS. Would the Senator render a unanimous-consent request?

Mr. DOLE. If I could get the other 99.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Montana (Mr. MELCHER) was to be called upon to call up an amendment.

AMENDMENT NO. 583

(Purpose: Repeal the deferral of United States tax on the income of foreign subsidiaries of United States companies (as permitted under present law), and tax profits of foreign subsidiaries currently to their United States parents in the same manner as profits of domestic companies. The foreign tax credit would be allowed for the repatriated earnings)

Mr. MELCHER. Mr. President, I call up amendment No. 583.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an amendment numbered 583.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert where appropriate:

SEC. . TAXATION OF EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS.

(a) GENERAL.—Part III of subchapter N of chapter 1 (relating to income from sources without the United States) is amended by inserting after subpart II thereof the following:

"Subpart I—Controlled Foreign Corporations

"Sec. 983. Amounts included in gross income of United States shareholders.
"Sec. 984. Definitions.
"Sec. 985. Rules for determining stock ownership.
"Sec. 986. Exclusion from gross income of previously taxed earnings and profits.
"Sec. 987. Adjustments to basis of stock in controlled foreign corporations and of other property.
"Sec. 988. Records and accounts of United States shareholders.
"Sec. 989. Election by individuals to be subject to tax at corporate rates.
"Sec. 990. Records and accounts of United States shareholders.
"Sec. 990A. Transition rules for period before subpart I is completely phased in.

"SEC. 983. AMOUNTS INCLUDED IN GROSS INCOME OF UNITED STATES SHAREHOLDERS.

"(a) AMOUNT INCLUDED.—

"(1) IN GENERAL.—If a foreign corporation is a controlled foreign corporation for an uninterrupted period of 30 days or more during any taxable year, every United States shareholder of such corporation which owns (within the meaning of section 985(a)) stock in such corporation on the last day in such year on which such corporation is a controlled foreign corporation shall include in its gross income, for its taxable year in which or with which such taxable year of the corporation ends, its pro rata share of the corporation's earnings and profits for such year.

"(2) PRO RATA SHARE OF EARNINGS AND PROFITS.—A United States shareholder's pro rata share referred to in paragraph (1) is the amount—

"(A) which would have been distributed with respect to the stock which such shareholder owns (within the meaning of section 985(a)) in such corporation if on the last day, in its taxable year, on which the corporation is a controlled foreign corporation it had distributed pro rata to its shareholders an amount (i) which bears the same ratio to the earnings and profits for the taxable year, as (ii) the part of such year during which the corporation is a controlled foreign corporation bears to the entire year, reduced by

"(B) an amount (i) which bears the same ratio to the earnings and profits of such corporation for the taxable year, as (ii) the part of such year described in subparagraph (A)(ii) during which such shareholder did not own (within the meaning of section 985 (a)) such stock bears to the entire year.

"(b) EARNINGS AND PROFITS.—For purposes of this subpart, under regulations prescribed by the Secretary, the earnings and profits of any foreign corporation, and the deficit in earnings and profits of any foreign corporation, for any taxable year—

"(1) except as provided in section 312(m) (3), shall be determined according to rules appropriate to carry out the rules of this subpart.

"(2) shall be reduced (or in the case of a deficit, shall be increased) by the amount, if any, by which the sum of the deficits in earnings and profits of such corporation for any prior taxable years beginning after December 31, 1979, exceed the sum of the earnings and profits of such corporation of such prior taxable years.

"(3) shall not include any item of income which is effectively connected with the conduct by such corporation of a trade or business within the United States unless such item is exempt from taxation (or is subject to a reduced rate of tax) pursuant to a treaty obligation of the United States, and

"(4) shall not include any amount of earnings and profits which could not have been distributed by such corporation because of currency or other restrictions or limitations imposed under the laws of any foreign country but any such amounts shall be included in earnings and profits for the first taxable year in which such restrictions or limitations are terminated or modified to permit distribution of such amounts.

"(c) COORDINATION WITH ELECTION OF A FOREIGN INVESTMENT COMPANY TO DISTRIBUTE INCOME.—A United States shareholder who, for his taxable year, is a qualified shareholder (within the meaning of section 1247 (c) of a foreign investment company with respect to which an election under section 1247 is in effect shall not be required to include in gross income, for such taxable year, any amount under subsection (a) with respect to such company.

"(d) COORDINATION WITH FOREIGN PERSONAL HOLDING COMPANY PROVISIONS.—In the case of a United States shareholder who, for his taxable year, is subject to tax under section 551(d) (relating to foreign personal holding company income included in gross income of United States shareholders) on income of a controlled foreign corporation, the amount required to be included in gross income by such shareholder under subsection (a) with respect to such company shall be reduced by the amount included in gross income by such shareholder under section 551(b).

"(e) CONSOLIDATION OF EARNINGS AND PROFITS FROM MULTIPLE FOREIGN CORPORATIONS.—(1) Subsection (a) shall be applied to a United States shareholder who owns stock in more than one controlled foreign corporation, or who owns stock in other foreign corporations (whether controlled foreign corporations or not) through stock owned by a controlled foreign corporation, by taking into account the aggregate earnings and profits of all such foreign corporations.

"(2) The Secretary shall prescribe regulations to carry out the purposes of subparagraph (1).

"SEC. 984. DEFINITIONS.

"(a) UNITED STATES SHAREHOLDER DEFINED.—For purposes of this subpart, the term 'United States shareholder' means, with respect to any foreign corporation, a United States person (as defined in section 957(d)) who owns (within the meaning of section 985(a)), or is considered as owning by applying the rules of ownership of section 985(b), 1 percent or more of the total combined voting power of all classes of stock entitled to vote of such foreign corporation.

"(b) CONTROLLED FOREIGN CORPORATION DEFINED.—For purposes of this subpart, the term 'controlled foreign corporation' means any foreign corporation—

"(1) of which more than 50 percent of the total combined voting power of all classes of stock entitled to vote is owned (within the meaning of section 985(a)), or is considered as owned by applying the rules of ownership of section 985(b), by United States shareholders on any day during the taxable year of such foreign corporation, or

"(2) over which United States shareholders exercise actual control, as determined by the Secretary, from all facts and circumstances in the case.

"(c) LIMITATION ON ACTUAL CONTROL DETERMINATION.—In the case of a foreign corporation of which not more than 20 percent of the total combined voting power of all classes of stock entitled to vote is owned (within the meaning of section 985(a)), or is considered as owned by applying the rules of ownership of section 985(b), by one or more United States shareholders on any day during the taxable year of such foreign corporation, the burden of proof in respect of the issue, for purposes of subsection (b)(2), as to whether such United States shareholders exercise actual control shall be upon the Secretary.

"SEC. 985. RULES FOR DETERMINING STOCK OWNERSHIP.

"(a) DIRECT AND INDIRECT OWNERSHIP.—

"(1) GENERAL RULE.—For purposes of this subpart, stock owned means—

"(A) stock owned directly, and

"(B) stock owned with the application of paragraph (2).

"(2) STOCK OWNERSHIP THROUGH FOREIGN ENTITIES.—For purposes of subparagraph (B) of paragraph (1), stock owned, directly or indirectly, by or for a foreign corporation of foreign estate (within the meaning of section 7701(a)(3) or by or for a partnership or trust shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(b) CONSTRUCTIVE OWNERSHIP.—For purposes of section 984, section 318(a) (relating to constructive ownership of stock) shall apply to the extent that the effect is to treat any domestic corporation as a United States shareholder within the meaning of section 984(a), or to treat a foreign corporation as a controlled foreign corporation under section 984(b), except that—

"(1) In applying subparagraphs (A), (B), and (C) of section 318(a)(2), if a partnership, estate, trust, or corporation owns, directly or indirectly, more than 50 percent of the total combined voting power of all classes of stock entitled to vote of a corporation, it shall be considered as owning all of the stock entitled to vote.

'(2) In applying subparagraph (C) of section 318(a)(2), the phrase '10 percent' shall be substituted for the phrase '50 percent' used in subparagraph (C).

"SEC. 986. EXCLUSION FROM GROSS INCOME OF PREVIOUSLY TAXED EARNINGS AND PROFITS

"(a) EXCLUSION FROM GROSS INCOME.—For purposes of this chapter, the earnings and profits for a taxable year of a foreign corporation attributable to amounts which are, or have been, included in the gross income of a United States shareholder under section 983(a) shall not, when such amounts are distributed directly, or indirectly through a chain of ownership described under section 985(a), to—

"(1) such shareholder (or any person which acquires from any other person any portion of the interest of such United States shareholder in such foreign corporation, but only to the extent of such portion, and subject to such proof of the identity of such interest as the Secretary may by regulations prescribe), or

"(2) a trust (other than a foreign trust) of which such shareholder is a beneficiary, be again included in the gross income of such United States shareholder (or of such domestic corporation or of such trust).

"(b) EXCLUSION FROM EARNINGS AND PROFITS OF CERTAIN FOREIGN SUBSIDIARIES.—For purposes of section 983(a), the earnings and profits for a taxable year of a controlled foreign corporation attributable to amounts which are, or have been, included in the gross income of a United States shareholder under section 983(a), shall not, when distributed through a chain of ownership described under section 985(a), be also included in the earnings and profits of another controlled foreign corporation in such chain for purpose of the application of section 983(a) to such other controlled foreign corporation with respect to such United States shareholder (or to any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder in the controlled foreign corporation, but only to the extent of such portion, and subject to such proof of identity of such interest as the Secretary may prescribe by regulations).

"(c) ALLOCATION OF DISTRIBUTIONS.—For purposes of subsections (a) and (b), section 316(a) shall be applied by applying paragraph (2) thereof, and then paragraph (1) thereof—

"(1) first, to earnings and profits attributable to amounts included in gross income under secion 983(a), and

"(2) then to other earnings and profits.

"(d) DISTRIBUTIONS EXCLUDED FROM GROSS INCOME NOT TO BE TREATED AS DIVIDENDS.—Any distribution excluded from gross income under subsection (a) shall be treated, for purposes of this chapter, as a distribution which is not a dividend.

"SEC. 987. ADJUSTMENTS TO BASIS OF STOCK IN CONTROLLED FOREIGN CORPORATIONS AND OF OTHER PROPERTY.

"(a) INCREASE IN BASIS.—Under regulations prescribed by the Secretary, the basis of a United States shareholder's stock in a controlled foreign corporation, and the basis of property of a United States shareholder by reason of which it is considered under section 985(a)(2) as owning stock of a controlled foreign corporation, shall be increased by the amount required to be included in its gross income under section 983(a) with respect to such stock or with respect to such property, as the case may be, but only to the extent to which such amount was included in the gross income of such United States shareholder.

"(b) REDUCTION IN BASIS.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, the adjusted basis of stock or other property with respect to which a United States shareholder or a United States person receives an amount which is excluded from gross income under section 986(a) shall be reduced by the amount so excluded.

"(2) AMOUNT IN EXCESS OF BASIS.—To the extent that an amount excluded from gross income under section 986(a) exceeds the adjusted basis of the stock or other property with respect to which it is received, the amount shall be treated as gain from the sale or exchange of property.

"SEC. 988. SPECIAL RULES FOR FOREIGN TAX CREDIT.

"(a) TAXES PAID BY FOREIGN CORPORATION.—

"(1) FIRST TIER FOREIGN SUBSIDIARY.—For purposes of subpart A of this part, if there is included, under section 983(a), in the gross income of a domestic corporation any amount attributable to earnings and profits of a foreign corporation at least 1 percent of the voting stock of which is owned by such domestic corporation then, under regulations prescribed by the Secretary, such domestic corporation shall be deemed to have paid the same proportion of the total income, war profits, and excess profits taxes paid (or deemed paid) by such foreign corporation to a foreign country or possession of the United States for the taxable year on or with respect to the earnings and profits of such foreign corporation which the amount of earnings and profits of such foreign corporation so included in the gross income of the domestic corporation bears to the entire amount of the earnings and profits of such foreign corporation for such taxable year.

"(2) SECOND TIER FOREIGN SUBSIDIARY.—If the foreign corporation described in paragraph (1) (hereinafter in this subsection referred to as the 'first foreign corporation') in the gross income of which there would be included (under section 983(a) applied as if the first foreign corporation were a domestic corporation) any amount attributable to the earnings and profits of a second foreign corporation in which it owns 10 percent or more of the voting stock the first foreign corporation shall be deemed to have paid the same proportion of any income, war profits, or excess profits taxes paid or deemed to be paid by the second foreign corporation to any foreign country or to any possession of the United States for the taxable year on or with respect to the earnings and profits of the second foreign corporation as the amount of earnings and profits of the second foreign corporation included (under rules similar to the rules prescribed under paragraph (1)) in the gross income of the first foreign corporation bears to the entire amount of the earnings and profits of the second foreign corporation for such taxable year.

"(3) THIRD TIER FOREIGN SUBSIDIARY.—If the first foreign corporation owns 10 percent or more of the voting stock of a second foreign corporation in the gross income of which there would be included (under section 983(a) applied as if the second foreign corporation were a domestic corporation) any amount attributable to the earnings and profits of a third foreign corporation in which it owns 10 percent or more of the voting stock, the second foreign corporation shall be deemed to have paid the same proportion of any income, war profits, or excess profits taxes paid by such third foreign corporation to any foreign country or to any possession of the United States for the taxable year on or with respect to the earnings and profits of the third foreign corporation as the amount of earnings and profits of the third foreign corporation included (under rules similar to the rules prescribed under paragraph (2)) in the gross income of the second foreign corporation bears to the entire amount of the earnings and profits of the third foreign corporation for the taxable year.

"(b) TAXES DEEMED PAID.—

"(1) TAXES PREVIOUSLY DEEMED PAID BY DOMESTIC CORPORATION.—If a domestic corporation receives a distribution from a foreign corporation, any portion of which is excluded from gross income under section 986, the income, war profits, and excess profits taxes paid or deemed paid by such foreign corporation to any foreign country or to any possession of the United States in connection with the earnings and profits of such foreign corporation from which such a distribution is made shall not be taken into account for purposes of section 902, to the extent such taxes were deemed paid by a domestic corporation under subsection (a) for any prior taxable year.

"(2) TAXES PAID BY FOREIGN CORPORATION AND NOT PREVIOUSLY DEEMED PAID BY DOMESTIC CORPORATION.—Any portion of a distribution from a foreign corporation received by a domestic corporation which is excluded from gross income under section 986(a) shall be treated by the domestic corporation as a dividend solely for the purposes of taking into account under section 902 any income, war profits, or excess profits taxes paid to any foreign country or to any possession of the United States, on or with respect to the accumulated profits of such foreign corporation from which such distribution is made, which were not deemed paid by the domestic corporation under subsection (a) for any prior taxable year.

"(c) SPECIAL RULES FOR FOREIGN TAX CREDIT IN YEAR OF RECEIPT OF PREVIOUSLY TAXED EARNINGS AND PROFITS.—

"(1) INCREASE IN SECTION 904 LIMITATION.—In the case of any taxpayer who—

"(A) either (i) chose to have the benefits of subpart A of this part for a taxable year in which he was required under section 983(a) to include in his gross income an amount in respect of a controlled foreign corporation, or (ii) did not pay or accrue for such taxable year any income, war profits, or excess profits to any foreign country or to any possession of the United States, and

"(B) chooses to have the benefits of subpart A of this part for the taxable year in which he receives a distribution or amount which is excluded from gross income under section 986(a) and which is attributable to earnings and profits of the controlled foreign corporation which was included in his gross income for the taxable year referred to in subparagraph (A), and

"(C) for the taxable year in which such distribution or amount is received, pays, or is deemed to have paid, or accrues income, war profits, or excess profits taxes to a foreign country or to any possession of the United States with respect to such distribution or amount, the applicable limitation under section 904 for the taxable year in which such distribution or amount is received shall be increased as provided in paragraph (2), but such increase shall not exceed the amount of such taxes paid, or deemed paid, or accrued with respect to such distribution or amount.

"(2) AMOUNT OF INCREASE.—The amount of increase of the applicable limitation under 904(a) for the taxable year in which the distribution or amount referred to in paragraph (1)(B) is received shall be an amount equal to—

"(A) the amount by which the applicable limitation under section 904(a) for the taxable year referred to in paragraph (1)(A) was increased by reason of the inclusion in gross income section 983(a) of the amount in respect of the controlled foreign corporation, reduced by

"(B) the amount of income, war profits and excess profits taxes paid or deemed paid, or accrued to any foreign country or possession of the United States which were allowable as a credit under section 901 for the taxable year referred to in paragraph (1)(A) and which would not have been allowable but for the inclusion in gross income of the amount described in subparagraph (A).

"(3) CASES OF WHICH TAXES NOT TO BE ALLOWED AS DEDUCTION.—In that case of any taxpayer who—

"(A) chose to have the benefits of subpart A of this part for a taxable year in which he was required under section 983(a) to include in his gross income an amount in respect of a controlled foreign corporation, and

"(B) does not choose to have the benefits of subpart A of this part for the taxable year in which he receives a distribution or amount which is excluded from gross income under section 986(a) and which is attributable to earnings and profits of the controlled foreign corporation which was included in his gross income for the taxable year referred to in subparagraph (A),

no deduction shall be allowed under section 164 for the taxable year in which such distribution or amount is received for any income, war profits, or excess profits taxes paid or accrued to any foreign country or to any possession of the United States on or with respect to such distribution or amount.

"(4) INSUFFICIENT TAXABLE INCOME.—If an increase in the limitation under this subsection exceeds the tax imposed by this chapter for such year, the amount of such excess shall be deemed an overpayment of tax for such year.

"SEC. 899. ELECTION BY INDIVIDUALS TO BE SUBJECT TO TAX AT CORPORATE RATE.

"(a) GENERAL RULE.—Under regulations prescribed by the Secretary or his delegate in the case of a United States shareholder who is an individual and who elects to have the provisions of this section apply for the taxable year—

"(1) the tax imposed under this chapter on amounts which are included in the gross income under section 983(a) shall (in lieu of the tax determined under section 1) be an amount equal to the tax which would be imposed under section 11 if such amounts were received by a domestic corporation, and

"(2) for purposes of applying the provisions of section 988 (relating to foreign tax credit) such amounts shall be treated as if they were received by a domestic corporation.

"(b) ELECTION.—An election to have the provisions of this section apply for any taxable year shall be made by a United States shareholder at such time and in such manner as the Secretary or his delegate shall prescribe by regulations. An election made for any taxable year may not be revoked except with the consent of the Secretary or his delegate.

"(c) SURTAX EXEMPTION.—For purposes of applying subsection (a)(1), the surtax exemption provided by section 11(c) shall not exceed, in the case of any United States shareholder, an amount which bears the same ratio to the surtax exemption as the amounts included in his gross income under section 983(a) for the taxable year bears to his pro rata share of the earnings and profits for the taxable year of all controlled foreign corporations with respect to which such United States shareholder includes any amount in gross income under section 983(a).

"(d) SPECIAL RULE FOR ACTUAL DISTRIBUTIONS.—The earnings and profits of a foreign corporation attributable to amounts which were included in the gross income of a United States shareholder under section 983(a) and with respect to which an election under this section applied shall, when such earnings and profits are distributed, notwithstanding the provisions of section 986(a)(1), be included in gross income to the extent that such earnings and profits so distributed exceed the amount of tax paid under this chapter on the amounts to which such election applied.

"SEC. 990. RECORDS AND ACCOUNTS OF UNITED STATES SHAREHOLDERS.

"(a) RECORDS AND ACCOUNTS TO BE MAINTAINED.—The Secretary may by regulations require each person who is, or has been, a United States shareholder of a controlled foreign corporation to maintain such records and accounts as may be prescribed by such regulations as necessary to carry out the provisions of this subpart.

"(b) TWO OR MORE PERSONS REQUIRED TO MAINTAIN OR FURNISH THE SAME RECORDS AND ACCOUNTS WITH RESPECT TO THE SAME FOREIGN CORPORATION.—Where, but for this subsection, two or more persons would be required to maintain or furnish the same records and accounts as may by regulations be required under subsection (a) with respect to the same controlled foreign corporation for the same period, the Secretary may by regulations provide that the maintenance or furnishing of such records and accounts by only one person shall satisfy the requirements of subsection (a) for such other persons.

"(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 864(c)(4)(D) is amended to read as follows:

"(D) No income from sources without the United States shall be treated as effectively connected with the conduct of a trade or business within the United States if it consists of dividends, interest, or royalties paid by a foreign corporation in which the taxpayer owns (within the meaning of section 958(a)), or is considered as owning (by applying the ownership rules of section 958(b)), more than 50 percent of the total combined voting power of all classes of stock entitled to vote.".

(2) Section 951 is amended by adding at the end thereof the following:

"(c) TAXABLE YEARS BEGINNING ON ENACTMENT OF THIS ACT.—No amount shall be required to be included in the gross income of a United States shareholder under subsection (a) (other than paragraph (1) of such subsection) with respect to a taxable year of a controlled foreign corporation beginning after December 31, 1979, to the extent that such amount is required to be included in the gross income of a United States shareholder under section 983(a).".

(3) Section 1016(a)(19) is amended by striking out "section 961" and inserting in lieu thereof "sections 961 and 987".

(4) Section 1246(a)(2)(B) is amended by inserting "or 983" after "section 951" and by inserting "or 986" after "section 959".

(5) Section 1248 is amended by amending subsection (d)(1) to read as follows:

"(1) AMOUNTS INCLUDED IN GROSS INCOME UNDER SECTION 951 OR 953.—Earnings and profits of the foreign corporation attributable to any amount previously included in the gross income of such person under section 951 or 983, with respect to the stock sold or exchanged, but only to the extent the inclusion of such amount did not result in an exclusion of an amount from gross income under section 959 or 986.".

(6) Section 78 (relating to dividends received from certain foreign corporations by domestic corporations choosing foreign tax credit) is amended by striking out "or under section 960(a)(1) (relating to taxes paid by foreign corporation)" and inserting in lieu thereof the following: ", under section 960(a)(1) (relating to taxes paid by foreign corporation), or under section 988(b) (relating to taxes deemed paid by corporations)".

(c) EFFECTIVE DATE.—The amendmends made by this section shall apply with respect to taxable years of foreign corporations beginning after December 31, 1979, and to taxable years of United States shareholders which end within or with such taxable years of such foreign corporations.

Mr. MELCHER. Now, Mr. President, I will yield very briefly to the Senator from Illinois.

Mr. PERCY. Mr. President, parliamentary inquiry. Could the Chair explain the status of the unanimous-consent request from the Senator from Colorado, which included his amendment as well as that of the Senator from Illinois?

The PRESIDING OFFICER. The request having already been agreed to, it will be carried out.

Mr. PERCY. It will be carried out.

I thank my distinguished colleague.

I ask unanimous consent to incorporate in the RECORD various representations that have been made to the Senator from Illinois with respect to his ability to bring up the amendment on State turnback for conservation.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

[December 11, 1979]

● Mr. PERCY. Mr. President, the Senator from Illinois supports a strong windfall profits tax. Ordinarily I would vote for cloture. But I am now in a position where I will have to vote against cloture, simply because several so-called nongermane amendments in my judgment are very pertinent to this bill.

I cannot conceive of any amendment more important and more germane to this bill than the amendment the distinguished Senator from West Virginia, Mr. RANDOLPH, put in o[illegible]y behalf this morning. That amendment calls for an extra 10-percent tax credit for any industry boilers converting to coal. We know the credits under the present law are not working. We have to expedite conversions, and we know this would do exactly that.

This is a windfall profit tax bill. We are dealing with how much money we are going to receive and how we are going to spend this money. This amendment, which I know the Senator from Ohio would be most interested in—and which Senator HUDDLESTON, Senator HEINZ, and Senator RANDOLPH are cosponsoring—is backed by the members of the President's Coal Commission, and would dramatically move us toward more coal use. More quickly, in fact than anything else I know.

Is that not a matter that should be dealt with in this bill?

Mr. ROBERT C. BYRD. Mr. President, let me answer that question. The Senator has directed the question to me. I am very much in support of the Senator's amendment, but that is not a matter that should be dealt with on this bill.

I stand with the chairman in opposing nongermane amendments to this bill. I said that last week; I say it again. We have spent all too many hours and too many days in dealing with nongermane amendments. Yesterday we had last week revisited because we defeated a nongermane amendment last week and it came back yesterday in slightly different form still nongermane, and we had to go up the Hill again and delay the Senate. I had to count votes here and I had to hold off the votes until I felt I had the votes because there was a nongermane amendment hanging around here.

So I am not making the plea now for nongermane amendments. All I am saying is that the manager has a point. He has justification. At the same time the distinguished Senator in reading the colloquy of last night has good reason to feel that he should be able to bring his amendment up because it was an understanding that hopefully this amendment could be set aside today and we could get on with other amendments.

Mr. PERCY. Mr. President, I have to say to the majority leader that what we had a vote on yesterday seems to have had no relationship to this.

On the amendment we are talking about—my coal conversion tax credit amendment—I am willing to enter into a 30-minute time agreement and bring it up immediately. It is so simple to understand that 15 minutes is all that it would take to finish it. We should have a similar time agreement on the amendment of the distinguished Senator from Ohio.

The Senator from Illinois has now another amendment that we are all familiar with in principle. We passed it a year ago. It would merely set aside money for States which might otherwise be lost through declines in highway revenues resulting from conservation. There is presently a disincentive for the Governors of our States to save energy. It costs them 8 cents a gallon every time they do, and their costs are going up. We have to give them an incentive for conservation.

This amendment, too, goes absolutely to the heart of what this bill is all about. We cannot get an appropriation for it, but we can get a diversion of the windfall profit tax revenues. This is the best possible place from which to take that kind of money.

We have two simple, vitally important coal amendments, one highway amendment, and we could finish them all in less than 1 hour. But, instead, we are going to just waste that time this afternoon.

I think in strict interpretation of what germane is, these probably would be ruled nongermane. But they are pertinent, very pertinent. They go to the heart of the bill. They say what we should do with the money that we are raising, and that has been the whole argument all along.●

● Mr. LONG. Mr. President, I do not believe we can vote on this amendment in 15 minutes because there will be at least 60 Senators who will wish to make a speech so they can tell their constituents that their speech was the one that persuaded the Senate to vote for the amendment. But this amendment, when it is before the Senate may very well lead to a lot of other amendments, and for all we know this could lead to a great deal of debate. It took a lot of time to persuade the Senate not to get us off into this area until we could hold a hearing and let the committee pass judgment on it and see what we thought about it. So here it is.

Mr. PERCY. Mr. President, the Senator from Illinois came to the floor at 1 o'clock this afternoon to offer a couple of amendments. I was willing to enter into a time limitation. I checked with the floor manager of the bill (Mr. LONG) at that time, and I was told to return at 3:30.

I did. I have been here 45 minutes now.

I base my ability to offer these amendments on the following legislative history, in connection with the unanimous-consent request yesterday:

Mr. STEVENS. Mr. President, reserving the right to object, and I shall not object, I thank the majority leader. I hope that this would give us an opportunity for the managers of the bill to set this amendment aside temporarily during the day tomorrow, if possible, and take up other amendments that might be disposed of prior to the time of the cloture petition.

Mr. ROBERT C. BYRD. Mr. President, I join in that hope.

There were the majority leader and the acting minority leader giving assurances to Senators that the pending amendment would be set aside for the purpose of doing business today—or so I thought.

We are not talking about amendments that have nothing to do with this bill. We are not talking now about the kind of amendments we are all so enthusiastic about—carryover and investors' incentives. We are talking about amendments that go to the heart of this bill.

What do we do with all this money? The Senator from Illinois supports a strong windfall profits tax, because it is in the national interest to have available money for conservation, coal conversion, solar—for everything that we need—new oil exploration incentives, tertiary recovery, et cetera. If we cannot offer amendments to do this—if we are spinning our wheels, doing absolutely nothing right now—the majority and minority leaders really misled the Senate. Not intentionally of course, but they did mislead the other Senators. I certainly would have objected to the unanimous-consent request yesterday if it had been felt that we were foreclosed from bringing forward pertinent amendments to this bill, amendments we have discussed with the manager of the bill since it first came on the floor.

Mr. LONG. Well, Mr. President, regretfully I say that as much as I sympathize with the distinguished and able Senator from Illinois, who fights diligently and with all the intelligence and vigor that any Senator could muster to look after the needs of his people and others in similar situations, the amendment sponsored by Mr. METZENBAUM and others is far afield from the bill before us. The Senator from Illinois (Mr. PERCY) has some proposals—I am not familiar with all of them, but I know that some of them are relevant to the purposes of the bill. The Senator well knows how tight the germaneness rule is. There are all kinds of amendments you can offer that are relevant to what we are trying to do here, but under the germaneness rule and the Senate precedents they would not be ruled germane to the bill, and that is what the Senator is talking about.

There are a lot of amendments of that sort, that I did hope to bring in here. But anytime you have something that requires unanimous consent, any Senator has a right to object—every Senator here—and I can understand and fully appreciate and do not quarrel at all with the strong feeling of the Senator from Ohio that, in view of the fact that the same concern was not given to bringing up his amendment, he objects to other people's amendments being brought up.

And I just have to live with that. There is not much I can do about it.

It is all right with me to consider some amendments, but not those that would be so far afield from what we are talking about here that it just turns the bill into a Christmas tree; just a complete Christmas tree.

I will be glad to take a look at the amendments. They are not printed, but they have been typed. I will be glad to look at the amendments and see to what extent I would be disposed to consent.

May I say to the Senator from Illinois that when Senator STEVENS spoke yesterday, I know the particular amendment he had in mind. And, as far I am concerned, it is just something we can legislate on. But someone else may object.

Any time you are in a situation where it requires unanimous consent, as the Senator well knows, 100 Senators can object and they can object for a variety of reasons.

Mr. PERCY. Well, Mr. President, I just served notice that I would ask for such unanimous consent. I want to give adequate notice to anyone who may want to object and would want to protect their rights. But the rights of this Senator were not protected yesterday, because he went on the representations that were made by the acting minority leader and the majority leader that we would spend our time today bringing up amendments that could be voted on.

Mr. LONG. Mr. President, that would depend on whether unanimous consent can be obtained. I do not think anybody suggested that we were going to give unanimous consent to bring up everything that somebody wanted to bring in here.

I can understand how a Senator feels when he finds an objection is made to considering a matter that he had in mind. I cannot quarrel with that. I just say it is a fact.●

[December 12, 1979]

● Mr. PERCY. Mr. President, reserving the right to object, I should like to put a question to the majority leader and floor manager of the bill. Would it be in order to bring up any amendment during this half-hour period? As the Senators know, I have been trying since early yesterday to bring up two amendments.

Mr. LONG. Mr. President, from my side I only have 15 minutes. If the Senator brings them up, he will have to use the other side's time, and I would think those who are on the other side will want to use those 15 minutes.

Depending upon how things go, if cloture is voted they will have to be germane; if cloture is not voted, of course, it is in order. Of course, a motion to table would require consent, but the answer is if they are germane at some point the Senator will be able to bring them up. If they are not germane and cloture is invoked he cannot.

Mr. PERCY. In other words, all of those who feel they have amendments crucial to the purpose and objective of the windfall profit tax, like myself, had best vote against cloture now, even though in principle we would like to bring debate to a close at an appropriate time. We will be foreclosed from offering our amendments involving coal conversion, turn-backs to States, and conservation if cloture is invoked.

Mr. LONG. The Senator can wait and offer them on some other bill, and hope some other bill might reach the President.

Mr. PERCY. It is a high hope.

The Senator states that the Senator from Illinois has made a determination to vote for a minimum tax. That is not true. I voted against the motion to lay the minimum tax amendment on the table, but I have not made up my mind; I have not determined what I ought to do on an up or down vote on the measure.

I think we need a debate on it, a thorough debate. I intend to study the minimum tax thoroughly, and I hope we will debate it now.

I would like, since the majority leader is on the floor, to ask this question: We left up in the air yesterday the meaning of the unanimous-consent agreement that was entered into the night before last. In the colloquy, the acting minority leader (Mr. STEVENS) is recorded as having said:

I hope that this would give us an opportunity for the managers of the bill to set this amendment aside temporarily during the day tomorrow, if possible, and take up other amendments that might be disposed of prior to the time of the cloture petition.

The majority leader followed by saying:

> I join in that hope.

Now, as the majority leader knows, there has been almost no opportunity for us to vote on other amendments. Yesterday, in a colloquy on the floor, Senator Long said that he knew some of the amendments I intend to offer were very relevant to the purpose of the bill; and he said:

> It is all right with me to consider some amendments, but not those that would be so far afield from what we are talking about here that it just turns the bill into a Christmas tree; just a complete Christmas tree.

We are now on the minimum tax; it seems to me we ought to dispose of that matter one way or the other, up or down. When it is disposed of, we are still—cloture not having been invoked—under the unanimous-consent agreement, which, again, I would have objected to if I had known the terms under which it was being put forward. We are still under the provision blocking so-called nongermane amendments, even those they pertain directly to the purpose of the bill.

What do we do with the windfall profits? Coal conversion is one of our highest priority items, and I have an amendment that deals with it. There is another comparable amendment that the Senator from West Virginia (Mr. Randolph) is offering.

Then there is an amendment I would like to bring up that would turn back money to the States to compensate them for losing tax revenues because of vigorous conservation measures.

My question is simply this: at what point—and I am willing to stay here right straight through the weekend if necessary—at what point will it be possible to present these amendments that are pertinent to the purpose of the bill?

The Senator from Illinois is willing to enter into a time agreement at any time on the two amendments that I will be offering.

Mr. President, I would like to ask the majority leader for his consideration of this, so we can get off the dime and forge ahead.

I would ask unanimous consent that following disposition—when, if, and ever—of the minimum tax and the Danforth amendments, 1 or 2, that the next pending business be amendment 682, which is the State turnback of funds amendment. Following disposition of that, I would like to ask that the Senate consider either 797 or 798, two different versions of my coal conversion amendment.

I would like to see if we cannot get unanimous consent on those to at least plan to bring them up whenever we dispose of the other two amendments.

Mr. Robert C. Byrd. Mr. President, I want to accommodate the Senator in every way I can. But I do not think we ought to start at this point lining up any sequence of amendments to be taken up after the disposition of the minimum tax amendment and the disposition of the Danforth amendments, because I think those are the two primary amendments that are going to have to be disposed of.

Maybe later in the day we can do that. But, at this point, I do not think we can enter into any agreement with respect to the sequence in which other amendments are going to be called up and disposed of. So if the Senator from Illinois (Mr. Percy) would forbear, and if I might have his indulgence, I would say that I do not think that this is the moment to attempt to get any agreement on other amendments.

I am sure that we will have some meetings today. I am going to be talking with the distinguished acting Republican leader, with the distinguished Senator from Kansas (Mr. Dole), the distinguished manager of the bill, and others, in an attempt to see if we can work our way through an agreement that would dispose of the major amendments at this point.

But if we start getting agreements on other amendments, we are going to go on ad infinitum, and I would not like to do that at this point.

Mr. Percy. The Senator from Illinois was just trying to differentiate between amendments that are totally unrelated to the purpose of this bill and amendments that are pertinent to the bill.

Can the Senator from Illinois be given any assurance that at some time during the proceedings we will really seriously consider these and not just continue to object to them?

Mr. Robert C. Byrd. At some point, I do not think there is any doubt.●

[December 13, 1979]

● Mr. Percy. Mr. President, in order then to followthrough so that we do use our time—and I have been very appreciative of the sympathy from the majority leader and the floor managers—the Senator from Illinois would like to proceed, if possible. Mr. President, I ask unanimous consent that we proceed immediately to the consideration of amendment No. 682 under a time limitation of 1 hour, equally divided, and interrupted at 2:15 p.m. by the DOD conference report. Immediately upon disposition of that, I ask unanimous consent that we complete action on amendment No. 682. Following its disposition, I ask that I be allowed to call up my amendment on coal conversion, with a time limitation of 1 hour equally divided. I make that request.

Mr. Long. Mr. President, reserving the right to object—and I reluctantly will have to object—it is my hope that I will have the opportunity to meet with some of those on the contending sides to try to work out an agreement that will resolve the impasse which confronts us at the moment.

I cannot be at such a place and be managing the bill in opposition to the Senator's amendment at the same time, I feel I will be compelled to oppose the amendment, and I think it will simply have to wait and take its turn. As I say, for those reasons, I object.●

[December 14, 1979]

● Mr. Robert C. Byrd. I would like to yield first to the Senator from Illinois and then the manager of the bill on the minority side.

Mr. Percy. My question of the majority leader goes back to a colloquy we had on December 13 when the Senator from Illinois asked if two amendments, one dealing with a turnback to States of funds lost through conservation, and the other involving incentives to industries for coal conversion, could be brought up.

The distinguished majority leader said, "I have already indicated it is agreeable to me if a time agreement is put thereon."

There are no constitutional problems of any any kind that have been raised with his amendments. They do go to the heart and purpose of this bill.

If we are just going to be spinning our wheels—if we are going to get cloture on Monday anyway—would it not be much better to spend the time today with time limits on two amendments of great interest to every State and industry? Could we see if we could have a vote on those?

If we are ever to get the Chrysler matter on the floor, we have to start today and Saturday, to really go to work on this bill.

I would ask once again for unanimous consent that the two amendments that I have referred to before, Nos. 798 and 682, be in order to be brought up for discussion with a time limitation of 1 hour on each amendment.

Mr. Robert C. Byrd. Mr. President, reserving the right to object, and I will have to object, may I say once again to the distinguished Senator from Illinois, I see the utility of his amendments. I have thoroughly studied them. They are not germane to this bill.

If we invoke cloture, they cannot come in in any event. But if we can show we will invoke cloture, we might be able to get an agreement and that agreement might entail what the Senator wants. But the Senator continues to vote against cloture. If we never get cloture, I do not think he will get his amendment up. If we do get cloture he will not get his amendments up because they are not germane. I would hope he would come with us on cloture so we can get this agreement and avoid cloture. Even if we get cloture, it is not unthinkable that after we get cloture we can still get a unanimous-consent agreement that will invalidate cloture. I have seen us get unanimous-consent agreements, once the cloture motion is entered and before the cloture vote occurs, that avoid the cloture vote. We can even vitiate the cloture vote on Monday, if we get an agreement.

I would hope the Senator would help us to get cloture and be assured of cloture on Monday. I would rather have 63 votes than to have 62 or 61 or even 60. I hope the Senator will help us. This is the only chance he has—the only chance he has—of getting his amendment up.

I love him, I like his amendments, but they are not germane. If we get cloture without his help, he will not ever get his amendments up to this bill. But if we get cloture with his help there might be a little mercy that seasons justice over here. So I urge the distinguished Senator to rethink his position. With that I yield to the distinguished Senator from Kansas.

Mr. Percy. Will the majority leader let me read what Senator Long said on December 11?

"It is all right with me to consider some amendments but not those which would be so far afield from what we are talking about here that it just turns the bill into a Christmas tree."

Everyone will agree, including Senator Long, that the amendments of the Senator from Illinois pertain right to the bill. The Senator from Illinois had the assurance from the majority leader and from the bill manager that we would act on these amendments and yet here we go day after day with no opportunity to work on them. I know I will be foreclosed with cloture.

Mr. Robert C. Byrd. I have heard the Senator from Illinois plead his case with the utmost persuasion but right now I suggest we get on with something else. His request is constantly under development. I hope in the long run something can be done.

Mr. Stevens. Will the Senator allow me one comment?

Mr. Robert C. Byrd. Yes.

Mr. Stevens. I want to be sure that I have on the record what I informed the majority leader previously, that if cloture is voted I have been instructed in my capacity as the acting minority leader to object to any unanimous-consent agreement during the whole process. So the Senator from Illinois will not be taken by surprise, or anyone else, I have a duty to be carried out from the Members on my side, and that is to object to any unanimous-consent request once we have cloture.

Mr. Robert C. Byrd. I thank the Senator. I yield to the distinguished Senator from Kansas.

Mr. Dole. I will say to the distinguished Senator from Illinois that we also have his welfare at heart. He is voting the right way. Just hang in there. It looks good on you. [Laughter.]

We may be able to work out an agreement that will take care of the distinguished Senator from Illinois. In the meantime, we are going to go back to the drawing boards.

Mr. President, I think the distinguished Senator from Wyoming (Mr. Wallop) has three technical amendments which I understand are not controversial and will not either increase nor decrease the revenue figure. If that is a fact, I understand we can do that without any votes and tomorrow morning maybe we can bring up the amendment of the Senator from Illinois.

Mr. Percy. Mr. President, I wonder if it would be possible to get a unanimous-consent agreement, with whatever time limitations the manager of the bill would like, on both of my amendments.

I ask unanimous consent, Mr. President, that with a time limitation of 1 hour equally divided on both sides we discuss the first amendment, payback to States for their conservation efforts. Following that, could we consider the second amendment we have discussed, on coal conversion?

Mr. Robert C. Byrd. I am happy to see all this progress. But it can be too fast. Why do we not get a list of the amendments tonight that are serious amendments and in the morning see if we can work out time agreements so that all parties are here and we all know what we are agreeing to?

Mr. Dole. I think we can assure the Senator from Illinois we will take up his amendment tomorrow.

Mr. Robert C. Byrd. That is fine.

Mr. Percy. I thank my distinguished colleague. That is perfectly all right.●

[December 15, 1979]

● Mr. Percy. Mr. President, reserving the right to object, and I shall not object, I wonder if it is possible to get in line behind the distinguished Senator for two amendments I have been trying to offer for 5 days.

Mr. Jackson. I will yield to the Senator next with the same stipulation.

Mr. Percy. Then I ask the Chair that, with the same stipulation reserved by the Senator from Washington, amendments 798 and 694 be the two amendments to follow, without the Senator from Washington losing his right to the floor.

Mr. Metzenbaum. I object.

Reserving the right to object, and I do not say that I will object, I want to be certain that the Senator's amendments, when called up, will not be subject to amendment.

Mr. Jackson. I did that. That applies to both the amendment to be offered by the Senator from Arkansas and the amendment to be offered by the Senator from Illinois.

Mr. Percy. I would like to amend my own amendment so that it can conform with the budget. It is a technical amendment.

Mr. Metzenbaum. Is the Senator from Ohio correct in the understanding that the amendment of the Senator from Illinois has to do with tax credits for coal-burning equipment?

Mr. Percy. The second amendment, 798, is a coal-conversion amendment, with incentives for industry coal conversion. The first amendment, 694, for which I shall offer a technical amendment, is a turnback to States. It provides incentives for the Governors of the 50 States to continue conservation efforts.

Mr. Metzenbaum. I shall have objection to the latter amendment. I do not have objection to the first amendment.

My objection is based on the fact that we would only be paying back to the States money for a job that they are already doing. If the amendment of the Senator from Illinois were to provide that the States had to reach certain objectives as far as conforming with the 55 mile per hour speed limit, the Senator from Ohio would have no objection. As I understand the amendment of the Senator from Illinois at the present time, it is merely a question of allocating some of these funds back to the States for a job which, in reality, they are not doing very well. So I will object to the Senator's second amendment having to do with the payback to the States. I shall not object to the amendment having to do with the coal conversion tax-credit.

Mr. Percy. The Senator from Illinois would like to point out that, as the distinguished Senator from Ohio well knows, the Senator from Illinois has been in the forefront on conservation. We cannot have any disincentive for the Governors to enforce the 55 mile per hour limit, to reduce the size of their own cars, to do everything possible to conserve energy. Presently, a disincentive exists—States are losing billions of dollars.

My amendment would provide a $70.3 million payback over a period of 5 years to the State of Ohio. This would partially—not fully—repay the State for the taxation that it has lost on gasoline. Of course, Senator, your revenue is diminishing, but your asphalt costs and operating costs are going sky high.

Both of my amendments are earmarked only for measures that will help further conserve energy. The Senate 2 years ago passed overwhelmingly an amendment identical to 694, but without earmarking the funds for conservation. Now there are earmarked funds.

So far as the Senator from Illinois knows, not a single Governor in the 50 States opposes the amendment. The National Governors' Association's transportation committee does so, and the State highway officials do as well.

I urge my colleague to reconsider his objection to this amendment. It goes, really, to the heart of this whole bill, and everything that the two of us have been working on for years.

Mr. Metzenbaum. If the Senator from Ohio thought this would actually help mandatory conservation and get the States to do the job they should be doing, I would be in the forefront trying to help with the amendment. The fact is that the amendment does not do that.

I point out that there is legislation pending in Congress—I had hoped I would have the help of the Senator from Illinois on it—requiring the States, saying they have to do something about getting the 55-mile-per-hour speed limit enforced. The law that we presently have says that you do not lose any interstate highway funds unless more than 70 percent of the people on the highway are violating the law. That is so absurd that it cannot possibly happen. I do not mean the Senator's amendment is absurd.

Mr. Percy. The Senator from Illionis will support every reasonable "mandatory" amendment. This Senator had an earlier bill with a mandatory 55-mile-an-hour prerequisite and a penalty for States that failed to enforce it. But the Senate simply would not accept that.

The Senator from Illinois supports mandatory building standards, mandatory coal conversion for all utility boilers. The Senator from Illinois is thoroughly conversant with and sympathetic to the need to move in that direction. I hope that consideration will be given to this amendment.

Is it true that the one amendment on coal conversion, 798, will be the next pending business, and that there has been objection to amendment 694?

Mr. Metzenbaum. As far as this Senator is concerned.●

Mr. PERCY. I thank my distinguished colleague.

Mr. MELCHER. Mr. President, this is an amendment that would seek to equalize taxes somewhat. If we look at H.R. 3919, then look at what is at the desk, it is about twice as thick as it was when it started here, when it was introduced or presented to the Senate, by one of the amendments that has been attached.

But nowwhere in the bill, so far, is there any effort to correct some of the inequities in our taxes that we allow for foreign profits as compared to domestic profits. As a matter of fact, the third quarter oil profits were principally increased as much as they were because the major oil companies doing business abroad made a great deal more in profits abroad than they had heretofore. In fact, foreign profits for the third quarter of 1979 were up over the same period last year by 145 percent in the case of Exxon, 230 percent in the case of Texaco, and 286 percent in the case of Mobil, just to give some examples.

The amendment that I am offering, Mr. President, would give an incentive for domestic investment rather than foreign investment.

The question of how much money is made abroad by the major oil companies on foreign oil traded is dealt with in a White House draft dated November 7 of this year, a memorandum for Alfred E. Kahn from Terence L. O'Rourke. I am going to quote two paragraphs out of that memorandum:

> The bulk of foreign oil traded in international markets and imported into the United States is controlled by a handful of major international companies. Other companies buy all or most of their foreign oil from them. In recent months, as the world oil supplies became tight, these major companies reduced their third-party sales to other companies in order to meet their own needs and/or divert supplies to take advantage of high spot market prices.
>
> At the same time, they greatly expanded their mark-ups on remaining third-party sales. Their customers who were cut back were driven into very thin spot markets for oil where they bid up prices to extraordinary levels. They imported this oil at vastly inflated prices into the United States where it has had the double impact of driving up prices for both domestic crude oil and refined products.
>
> In past months, those few major companies who control the bulk of foreign oil moving in world commerce were able to reap immense profits, because: (1) they were assured of adequate supplies, as a result of the control they exercise; (2) they purchased their crude oil supplies at the lowest prices and often resold a portion of it at vastly inflated mark-ups in the limbo of international markets; and (3) they sold their refined products at market prices which reflected the costs of refiners who were buying crude oil at the highest prices.

That is the end of the quotation from this draft by Mr. O'Rourke to Mr. Kahn.

I want to say that my amendment deals with a portion of the problem that has been outlined in what I have quoted from that draft.

This amendment would end the deferral of U.S. taxation of foreign profits. This is something extra allowed on foreign profits that is not allowed for domestic profits. A growing body of experts is raising questions about the deferral in the light of our economic conditions today. Robert H. Frank and Robert T. Freeman, in their 1978 work entitled "Distributional Consequences of Direct Foreign Investment" conclude:

> The current policy of deferring taxation of multinationals' subsidiary earnings provides

> an incentive beyond that which the market itself provides for U.S. firms to increase their capital stocks abroad . . . tax policies of this sort are difficult to defend in cases where capital outflows impose significant costs on certain sectors of the domestic economy.

The first chapter of the 1979 Joint Economic Committee study entitled "The U.S. Role in a Changing World Political Economy: Major issues for the 96th Congress," notes:

> There is considerable reason to continue to adhere to the traditional argument for free international flow of capital. . . . There is no reason, however, to encourage U.S. investment in industrial countries at the expense of domestic investment. With this in mind, a new look might be taken at the deferral of U.S. taxes on American corporations operating abroad.

The 1978 Congressional Research Service study entitled "Deferral and Disc: Two Targets of Tax Reform," states in part:

> The repeal of deferral . . . would reduce the tax induced distortions affecting international investment decisions . . . and thereby increase the overall economic efficiency of investment allocation resulting in somewhat higher levels of economic growth, real income and productivity.

Mr. President, my amendment (No. 583) ends the deferral of U.S. taxes on income of foreign subsidiaries of U.S. companies, as permitted under present law, and taxes the profits of foreign subsidiaries currently to their U.S. parents in the same manner as profits of domestic companies. The foreign tax credit allowed for the repatriated earnings.

According to estimates by the Joint Committee on Taxation, my amendment will raise $500 million in 1980 and approximately $5 billion during the life of the crude oil tax bill, using static estimates.

But more important than this, my amendment will remove a tax incentive from our present law that makes it more attractive for American companies and investors to invest abroad rather than at home—a tax incentive that is not in our national interest today if it ever has been.

A simple hypothetical example can show the tax advantages of deferral. Let us assume there are two corporations, A and B. Let us say that corporation A is located in Billings, Mont., and that corporation B is a subsidiary of a U.S. company located in a foreign country that has offered it a "tax holiday" for a period of 9 years. Let us follow these two corporations through 9 years of operation to see what effect U.S. tax deferral has on their reinvested profits.

In the first year, corporation A, the Billings corporation, earns $1 in profits. Because it is located in the United States, it must pay corporate income taxes at the rate of 46 percent on that dollar. This leaves 54 cents for reinvestment. Let us say the corporation reinvests the entire 54 cents for an additional 8 years and can earn a 15 percent annual rate of return on its investment, and will pay a 46 percent tax on each year's profits. After 9 years, corporation A's investment will be worth $1.04. The profit on this investment is $.50. The net results of these transactions is a total net profit after taxes of $1.04 for corporation A.

Now, let us look at corporation B undergoing similar transactions, but operating abroad under a tax holiday. Corporation B also earns $1 of profits in the first year. But, because corporation B owes no income taxes on that income, it is able to reinvest the entire amount. In effect, the U.S. Government is making an interest-free loan to corporation B for the duration of its investment. Of course, it is really the American taxpayers who foot the bill for this generosity.

After 8 years at a 15 percent rate of return, corporation B's investment will be worth $3.06. If corporation B now decides to return these profits to the United States, it will finally be subject to U.S. corporate income taxes. Of course corporation B can reinvest this profit also and delay the tax still further if it wishes. But, assuming it brings the profits back home, the U.S. corporate income tax due will be $1.40. This leaves corporation B with a net profit after taxes of $1.66.

Mr. President, this is 59 percent higher than the profits corporation A—the one operating in my home State—was able to earn on a similar investment. And the only reason for this difference is that corporation B could defer its U.S. tax liability.

Some will argue that this example is unrealistic because corporation B pays no foreign income tax on its profits. Mr. President, there are many schemes and devices by which our corporations operating abroad can escape all or substantially all foreign taxes on their incomes. Many foreign nations offer special tax inducements to corporations to entice them to locate in their countries. But, even in countries that collect taxes from subsidiaries of the U.S. multinationals, there are substantial advantages. Of the 63 major countries where U.S. multinationals have investments, 9 have a realized corporate tax rate of 10 percent or less. In these countries our hypothetical reinvestment would provide a return at least 39 percent greater than in the United States. There are 11 countries that have a realized corporate rate of between 10 and 20 percent. Here our investment would bring a return of at least 22 percent greater than in the United States. There are 11 countries with a realized corporate tax rate of 20 to 30 percent. In these countries our investment would still bring a return at least 17 percent greater than in the United States.

Only in eight countries with less than 9 percent of foreign investment—and that is U.S. foreign investments—in 1979 would the rate of return not be larger than a similar investment in the United States.

In an effort to be as accurate as possible, I have included a table showing what the different returns would be for varying foreign tax rates.

Mr. President, I ask unanimous consent that the tables showing the tax rates in various countries be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Comparative returns on investment

[Assuming annual earnings of 15 percent]

	After tax profits
U.S. foreign subsidiary (zero foreign tax)	$1.66
U.S. foreign subsidiary (10 percent foreign tax and using available foreign tax credits)	1.45
U.S. foreign subsidiary (20 percent foreign tax and using available foreign tax credits)	1.27
U.S. foreign subsidiary (30 percent foreign tax and using available foreign tax credits)	1.22
U.S. domestic company	1.04

Realized corporate income tax rates, 1974

Country:	*Realized corporate tax rate*
Canada	41.1
Austria	33.4
Belgium	37.5
Denmark	32.5
France	48.0
Germany	43.0
Greece	11.9
Ireland	12.7
Italy	41.9
Luxembourg	17.1
Netherlands	36.0
Norway	40.5
Spain	30.3
Sweden	43.1
Switzerland	27.1
United Kingdom	44.6
Australia	42.9
New Zealand	51.7
Mexico	42.2
Argentina	28.2
Brazil	30.3
Chile	39.4
Colombia	47.3
Ecuador	18.7
Peru	47.7
Uruguay	25.2
Venezuela	30.0
Costa Rica	33.7
El Salvador	7.6
Guatemala	21.0
Honduras	25.2
Nicaragua	1.8
Panama	15.4
Algeria	0.0
Morocco	54.5
Liberia	5.7
Ethiopia	38.6
Kenya	19.0
Nigeria	4.7
Rhodesia	30.9
South Africa	41.9
Zambia	28.0
Iran	10.5
Israel	44.7
Lebanon	15.1
Sri Lanka	21.2
India	57.0
Malaysia	27.9
Pakistan	52.6
Philippines	29.6
Singapore	26.9
Taiwan	6.0
Thailand	14.9
Hong Kong	15.5
Japan	47.4
Indonesia	36.4
Bahamas	5.1
Bermuda	0.3
Netherlands Antilles	4.5
Dominican Republic	21.7
Jamaica	22.6
Puerto Rico	12.2
Trinidad and Tobago	36.7

(Mr. PRYOR assumed the chair.)

Mr. MELCHER. Over the last two decades foreign investment by U.S. companies has grown much more rapidly than domestic investment. In 1957, U.S.

companies spent only 9 cents for overseas plant and equipment for every $1 they spent here at home; by 1969 they were spending 15 cents abroad for every dollar here at home; and in 1976 they spent 21 cents abroad for every dollar in the United States. While domestic spending for new plant and equipment rose 167 percent between 1969 and 1976, spending on new plant and equipment overseas rose 270 percent.

And this spending has not slowed down in recent years. The latest issue of the United Auto Workers' "Worldwide Labor Newsletter" reports that an annual McGraw-Hill survey finds that American firms will increase the dollar value of their overseas investments by 23 percent in 1980, up sharply from the 11 percent increase planned in 1979.

They also report that the John Deere Co. will spend $350 million over a 5-year period—double the amount it spent during the last 5 years—to increase the tractor capacity at Manheim, Germany, and Getafe, Spain, and Engine production in Saran, France. The company is also building parts depots in Bruchsal, Germany; Ormes, France; Milan, Italy, and in Mexico.

Even Chrysler is getting into the act. We are going to be considering the Chrysler aid bill very shortly here. The newsletter says that Chrysler plans to build a $110 million plant in Mexico to supply about 200,000 four-cylinder engines annually for its small cars. This, at a time when Chrysler is in Washington, D.C., asking the U.S. taxpayer to loan them a couple of billion dollars to help save the jobs of American automobile workers. How many American workers will the new Mexican plant employ, I wonder.

I could go on with this list, but I think I have made my point.

I would like to quote from a letter from the International Union of Automobile, Aerospace, & Agricultural Implement Workers of America, the UAW.

Referring to the amendments I propose, they state:

> Those amendments will go a long way toward correcting present weaknesses in taxation of foreign income. The deferral of taxes on foreign income has worked against U.S. economic interests by creating the disincentive for the repatriation of those dollars. Your amendment to end deferral would give American workers an equal standing with foreign workers as multinational corporations make new investment decisions.

Mr. President, a long time ago J. P. Morgan stated that tax avoidance was not only right, but, in effect, was the duty of every taxpayer in the United States. What J. P. Morgan considered a duty, modern U.S. multinational companies have developed into a science.

The authors of the book "Global Reach" conclude:

> Research and development in tax avoidance, as conducted in programs of international business at institutions of higher learning, such as New York University and Columbia University, is at least 5 years ahead of Government research on loophole closing. Some multinationals have developed this science to the point where they can give their stockholders one view of the company's operation and the Internal Revenue Service another view, a different view.

As my good friend CHARLIE VANIK in the House of Representatives once put it: "For the stockholders, they wear wedding clothes; for the tax man, they wear rags."

This flow of U.S. dollars abroad has had a negative impact on our economy. One of the most significant effects has been a distinct decline in the real growth rate of our national productivity in recent years. The real gross national product grew by almost 4 percent a year, on average, between 1948 and 1966, but then decelerated to a 3 percent annual rate of increase for 1966–77. In 1950 it took seven Japanese workers to equal the productivity of one American. Now it takes two. Where it once took three West Germans to do the work of one American, it now takes only 1.3.

According to the Bureau of Labor Statistics of the Department of Labor, the U.S. manufacturing productivity increased only 2.4 percent in 1978 over 1977. This compares with 8.3 percent in Japan, 4.9 percent in France, 4.2 percent in Canada, 3.7 percent in West Germany, 2.9 percent in Italy, and 1.8 percent in the United Kingdom. Among the seven industrialized nations, only the United Kingdom showed a lower rate of increase than the United States. For the 10 years through 1977, the U.S. manufacturing productivity increased 26.1 percent compared with 99.2 percent in Japan, 71.7 percent in France, 69 percent in West Germany, 67.8 percent in Italy, 46.1 percent in Canada, and 26.5 percent in the United Kingdom. In 1979, productivity in the private business sector declined in both the first and second quarters, with the 3.8 percent drop in the second quarter being the largest since the first quarter in 1974.

Some have tried to lay this decline in productivity at the door of the American workers. But recent studies like the one compiled by Prof. John W. Kendrick of George Washington University, who is also the former Chief Economist for the U.S. Department of Commerce, show that the lion's share of the decline in productivity has resulted from insufficient investment and technological development. These findings are backed up by statistics on domestic capital investment.

During the decade 1966 to 1976 our domestic capital investment was 13.5 percent of GNP, while it was 26.4 percent in Japan, 17.4 percent in West Germany, 17.2 percent in Canada, 16.6 percent in France, and 14 percent in Great Britain. The latest figures available show that while domestic investment in the United States was 16.5 percent of GNP for 1978, it was 30.5 percent of GNP in Japan for the same period.

It is not hard to find concrete examples of what these figures mean. In 1952, when the allied occupation ended in Japan, the Japanese had almost recovered to prewar levels of production, but their gross national product was little more than one-third that of France or the United Kingdom.

By the late 1970's the Japanese GNP was as large as the United Kingdom's and France's combined and more than half the size of America's. The Japanese were producing approximately as much steel as the United States, but in more modern and efficient plants. In 1978, of the world's 22 largest modern blast furnaces, none were in the United States and 14 were in Japan. With more modern plants and higher productivity, it is little wonder Japanese steel is out competing American steel in America as well as foreign markets.

The lack of domestic investment has also hurt in areas like oil development. In 1955, 15,000 exploratory oil wells were drilled in the United States. In 1977, only about 10,000 were drilled. The Department of Energy has recently announced that the number of exploratory wells drilled in the United States was down again last year. If we had continued to explore at the rate we were in 1955, we could have drilled more than 100,000 more exploratory oil wells than we have. How much greater might our known reserves and production be today under those circumstances.

Mr. President, the bill we are working on, with all of its amendments, simply is not getting to this point. With the amendment I have offered we start in a modest way to bring some of the attention back here to the United States and encourage investment here rather than abroad. It is time we do that.

Instead the drilling has gone on abroad during the last 2 decades or more I have described, with the result that our oil imports have increased from 285 million barrels in 1955 to an estimated 2.4 billion barrels in 1979 and now make up more than 43 percent of our total consumption. The cost of these imports has gone up from less than $1 billion in 1955 to an estimated $58 billion or more this year. They constitute the single largest drain on the U.S. economy and are the greatest cause of inflation.

There is nothing in this bill, nothing at all, that is going to affect foreign profits made abroad. There is nothing in this bill that says since that is where our problem has really centered, on the profits which are made abroad, that we are going to start making some corrections. It is a grievous fault of the bill. It is a very distinct weakness in our approach.

Mr. President, what I am suggesting in my amendment is a moderate step to remove some—just some—of the tax incentive for investing abroad with all its detrimental impact on our economy. The bottom line on the effect of ending tax deferral on foreign income was summarized in a 1978 Congressional Research Service's study entitled "Deferral and DISC: Two Targets of Tax Reform." The study states:

> The repeal of deferral . . . would reduce the tax induced distortions affecting international investment decisions . . . and thereby increase the overall economic efficiency of investment allocation, resulting in somewhat higher levels of economic growth, real income and productivity.

Eliminating deferral of U.S. taxes on foreign profits will not stop foreign investment, and it is not intended to. It is intended to eliminate the artificial tax incentive to invest overseas that comes from deferral, and to permit natural economic forces to determine allocations of American capital. This will provide a stimulus to total U.S. investment and employment. For some companies, production in the United States is a direct and viable alternative to producing abroad. Even when domestic investment is not a direct substitute for foreign investment, domestic production can still benefit indirectly from the repeal of deferral. The capital that would have been used to finance a tax-induced foreign investment can be retained in the United States and used to finance an unrelated, but job-producing, domestic investment. The gains will be substantial in specific industries where foreign tax practices have hastened the export of jobs and capital.

It will be argued that the proposal I am making has been debated before, in one form or another, and defeated by Congress. That argument is specious. Circumstances today are unique. We have a 15.5 percent prime interest rate, a stagnant domestic economy, soaring energy costs, an increasing balance-of-payments deficit, and are facing increasing unemployment. The American people want and deserve action to halt this disturbing trend and I believe this is the kind of action they want.

Mr. President, I have some examples that are samples of tax havens. I will submit them and ask that they be printed at this point in the RECORD.

They deal with just three foreign countries—Greece, Ireland, and Israel. They show the type of incentive that are allowed by those countries to provide tax havens for foreign investment coming from the United States.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SAMPLE TAX HAVENS

GREECE

The main priveleges are granted under Laws 89/1967, 3/1968, which permit foreign companies which are engaged exclusively in commercial, industrial and shipping activities outside Greece to secure an operating base in Greece from which they may manage their interests abroad without incurring liability to tax, duty, charges or any such levies in respect of the Greek Government or any of its agencies. Companies so established enjoy exemption from income tax or any other tax on income from foreign activities, exemption from customs duties, import taxes, stamp duties, turnover tax, etc., an any imported article necessary to their Greek operations. Since 1968, more than 1,000 foreign companies have established in Greece to avail themselves of these privileges in return for these concessions.

IRELAND

Tax treatment of companies and trading operations who choose Ireland as a manufacturing base is extremely generous. The key feature is the tax "holiday" in respect of export profits: this was introduced in the Finance Act of 1969, which provided that bodies corporate engaged in manufacture (i.e. not merely marketing) for export would be granted 100 percent income tax exemption for 15 years and between 80 percent and 50 percent exemption for the subsequent five years up to April 1990. Thus companies commencing an export trade now would enjoy full exemption up to 1990. It should be stressed that the body corporate does not have to be incorporated in the Republic; indeed, it does not even have to be resident there. Moreover, there is no requirement that it be in part Irish-owned. What is mandatory is that the goods be manufactured in Ireland and exported from Ireland.

ISRAEL

As far as companies are concerned, the Law for the Encouragement of Capital Investments 1959 was amended ten years later to encourage corporations to headquarter in Israel: international trading companies, defined as companies "registered in Israel as foreign companies, all the business of which is in international trade", may be exempted (subject to Board of the Investment Contre recommendation and Minister of Finance approval) from income tax and tax on the sale of their capital assets abroad. This exemption runs for 10 years, whereas a concommitant exemption on dividends paid to non-residents out of the exempt income runs for 20 years.

Mr. MELCHER. Mr. President, we are doing this to ourselves, I would remind Members. I earlier talked about J. P. Morgan's quote, that it is not only the right but almost the duty of every individual American citizen to avoid paying taxes. When we set the stage which encourages the investment and operations abroad by our tax code, we are certainly leaving ourselves vulnerable for the draining of investment from this country by that, I think, very silly and very damaging type of operation where it is better to invest abroad and defer taxes on the income that is made abroad, and take advantage of the tax code.

I would hope that we would address this problem and take some action now and start to end what has become a very serious problem for the United States, the foreign draining of U.S. investment dollars.

Mr. President, I might add that this amendment is supported by the AFL-CIO and the United Steel Workers.

Mr. President, I reserve the remainder of my time.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, this amendment is misguided. It would place American-based firms at a serious competitive disadvantage. There is not a single country in the world that I am aware of that taxes income until it is repatriated. Many countries do not even tax the earnings of foreign subsidiaries at all.

Mr. President, it has been a well settled principal and American tax law that a domestic company should not have to pay taxes on their profits earned by foreign subsidiaries until those profits are received as a dividend. The unrepatriated income which is subjected to tax by the foreign governments is needed for the expansion of the business abroad. It is not good policy to subject those earnings to U.S. tax when they are not brought back to this country.

Mr. President, the Senate has discussed this issue before. Last year, during the consideration of the Revenue Act of 1978, an amendment introduced by Senators CHURCH and KENNEDY was resoundly defeated. More recently, this amendment was defeated as part of the second concurrent budget resolution.

Over the past years, Congress has addressed deferral on many occasions. I am satisfied that actions taken in recent years have eliminated some of the potential abuses in deferral. For example, in the 1976 Tax Revenue Act, Congress tightened the law. Foreign personal holding companies, foreign base companies, and other foreign operations are strictly regulated. The current law and regulations are very detailed and specific and leave little room, if any, for tax avoidance.

Last year, released to the President was a Treasury recommendation that deferral not be eliminated. The Treasury Department indicated that the elimination of deferral, which in the longrun results in a loss of revenue to the Government since it will encourage foreign countries to impose higher taxes on income withdrawn from their countries than they would if deferral were retained.

The memorandum also supported my argument that to deny tax deferral means that income from U.S. investments abroad would be discriminated against other investments in the same foreign country.

Mr. President, the Senator from Kansas makes a point of order against the amendment that it is not germane.

First, I would say that I believe the Senator from Montana has certainly done his homework and provided all of us with some good material. I assume this is a matter that is going to be discussed if not next year, then whenever we get into general tax matters in the committee. There is not a single country in the world that I am aware of that taxes income until it is repatriated. Many countries do not even tax the earnings of foreign subsidiaries at all.

In any event, the Senator from Oregon (Mr. PACKWOOD) has studied this subject matter. He is now tied up in a conference on another bill. He may want to speak on the matter later. For the time being, the Senator from Kansas makes the point of order that the amendment is not germane.

The PRESIDING OFFICER. Has the Senator from Kansas raised the point of order against the amendment by the Senator from Montana?

Mr. DOLE. Yes, as not being germane.

The PRESIDING OFFICER. Because the amendment offered by the Senator from Montana does contain subject matter not contained in either the committee substitute or the House bill, the amendment is not germane and the point of order is sustained.

Mr. DOLE. Mr. President, I say to those on our side who might be listening in their offices, I hope that on the nongermane amendments—this is a very important amendment. I think it did deserve considerable discussion. Maybe on those that are remaining, unless they are of wide import, we might move along quickly on the so-called nongermane amendments so that we can, possibly, finish this bill early this evening.

I think everybody has been on the floor now for a month and most of us have had enough of it. At least, we think we have covered it pretty well.

Mr. LONG. Mr. President, I second the suggestion made by the Senator from

Kansas, the ranking minority member of the Committee on Finance, that, in view of the fact that we feel that we should not make exception with regard to nongermane amendments it would be best, if the amendment is going to have to be ruled out of order, simply to let us make the motion in the beginning, rather than leave someone in doubt about the matter. The Senate wants to act, I think that, by voting cloture, it indicated it wanted to act.

I think everybody can understand that we shall object to all nongermane amendments. If we start making exceptions, anyone who has a nongermane amendment might feel he is being discriminated against or we do not like him; I think it would be better if we simply object to all nongermane amendments. I intend to object on this side and I think the Senator from Kansas intends to object on that side.

I urge all Senators to take note of that. If they want to discuss them, we shall be glad to discuss it with them. But offhand, I do not see why we should try to agree to some Senators' amendments that are not germane and not make exceptions for others.

Mr. STEVENS. Will the Senator from Kansas yield to me briefly?

Mr. DOLE. First, I want to say one other thing.

Mr. President, I certainly agree with the comment of the Senator from Louisiana. I stress again, even more, that Senators may want to call up their amendments, but if, in fact, it is not germane and clearly not germane, we should not spend 30, 40, 50 minutes or an hour discussing the amendment. It will look just as good in the RECORD with a brief statement as it will with a long statement.

I yield the floor.

Mr. STEVENS. Mr. President, I recall all the amendments I have pending at the desk.

The PRESIDING OFFICER. The Senator has that right.

Is there objection?

Mr. BENTSEN. Mr. President, I have no objection, with pleasure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, a point of order: I do not believe it takes unanimous consent, does it?

The PRESIDING OFFICER. The Parliamentarian advises the Chair that it does take unanimous consent.

AMENDMENT NO. 1589

(Purpose: To adjust the $23.50 phaseout factor by the implicit GNP deflator for nonresidential investment in structures and to use the average refiner acquisition cost of all, rather than just imported, crude oil as the reference price, and to permit expanded use of the existing energy investment credit with respect to investment in certain pioneering synthetic fuel production facilities)

Mr. HART. Mr. President, I have at the desk amendment No. 1589. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. HART) proposed an unprinted amendment numbered 1589.

Mr. HART. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following new section:

SEC. . SHALE OIL AND SYNTHETIC FUEL INCENTIVES.

(a) CHANGE IN ADJUSTMENT FACTOR AND REFERENCE PRICE UNDER SECTION 44D.—Paragraph (2) of section 44D(e) (relating to computation of inflation adjustment factor and reference price), as added by section 251 of this Act, is amended by striking out subparagraphs (B) and (C) and inserting in lieu thereof the following:

"(B) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GNP implicit price deflator for nonresidential investment in structures for the calendar year and the denominator of which is the GNP implicit price deflator for nonresidential investment in structures for calendar year 1979. The term 'GNP implicit price deflator' means the first revision thereof as computed and published by the Department of Commerce.

"(C) REFERENCE PRICE.—For purposes of this paragraph, the term 'reference price' means with respect to a calendar year, the average refiner acquisition cost of a barrel of crude oil during the calendar year, as determined by the Secretary, after consultation with the Secretary of Energy.".

(b) SHALE OIL PROPERTY ELIGIBLE FOR ENERGY PERCENTAGE.—

(1) Clause (v) of section 48(l)(2)(A) (relating to definition of energy property) is amended by striking out "equipment" and inserting in lieu thereof "property".

(2) Paragraph (7) of secton 48(l) (relating to shale oil equipment) is amended to read as follows:

"(7) SHALE OIL PROPERTY.—The term 'shale oil property' means all property used as an integral part in a project to produce or extract oil from the oil bearing shale rock, including property used in hydrogenation or similar upgrading process subsequent to retorting, but not including refining.".

(c) PIONEERING SYNTHETIC FUEL PROPERTY TO BE ELIGIBLE FOR CREDIT.—

(1) Subparagraph (A) of section 48(l)(2) (relating to definition of energy property), as amended by section 232 of this Act, is amended—

(A) by striking out "or" at the end of clause (viii),

(B) by inserting "or" at the end of clause (ix), and

(C) by adding at the end thereof the following new clause:

"(x) pioneering synthetic fuel property,".

(2) Subsection (l) of section 48 (relating to energy property), as amended by section 232 of this Act, is amended by adding at the end thereof the following new paragraph:

"(16) PIONEERING SYNTHETIC FUEL PROPERTY.—The term 'pioneering synthetic fuel property' means property described in section 48(l)(2)(A)(v) or (3)(A)(iii) which is certified by the Secretary of Energy as using a recovery technology not having been (or under construction to be) commercially demonstrated, or operated on a commercial basis, and which involves substantial technological risk.".

(d) ENERGY PERCENTAGE WITH RESPECT TO SUCH PROPERTY.—Subparagraph (C) of section 46(a)(2) (relating to energy percentage), as amended by this Act, is amended by redesignating clause (vi) as (vii) and by inserting after clause (v) the following new clause:

"(vi) SHALE OIL PROPERTY AND PIONEERING SYNTHETIC FUEL PROPERTY.—The energy percentage shall be 10 percent for the period beginning January 1, 1983, and ending December 31, 1989, with respect to that portion of the qualified investment (as determined under subsections (c) and (d)) in property described in section 48(l)(2)(A)(x) (relating to pioneering synthetic fuel property) placed in service after December 31, 1982, and before January 1, 1990, as bears the same proportion to the total qualified investment (as so determined) in such property as 50,000 barrels per day production bears to the total barrels per day production of the property (but such portion shall not exceed 100 percent of such qualified investment).".

(e) QUALIFIED INVESTMENT IN SUCH PROPERTY TO BE 100 PERCENT.—Subsection (c) of section 46 (relating to qualified investment) is amended by adding at the end thereof the following new paragraph:

"(7) APPLICABLE PERCENTAGE IN THE CASE OF ENERGY PROPERTY.—Notwithstanding paragraph (2), the applicable percentage in the case of energy property shall be 100 percent for purposes of paragraph (1).".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after September 30, 1980, and shall not be taken into account for estimated tax purposes before January 1, 1981.

Mr. ROBERT C. BYRD. Will the Senator yield so I may make an inquiry?

Mr. HART. Yes.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished acting Republican leader join me in asking that our cloakrooms inquire of the Senators as to which have germane amendments to be called up? Then we might list those.

Mr. STEVENS. We are happy to join in that request and we shall start immediately.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. HART. Mr. President, I shall be as brief as possible, with the indulgence of the manager of the bill.

I ask unanimous consent that the chairman of the Environment and Public Works Committee, the Senator from West Virginia (Mr. RANDOLPH) be added as a principal cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. This amendment, as printed, has four principal provisions contained in three subsections of the amendment and relate to two principal provisions in the bill. One is the $3 per barrel production tax credit for synthetic fuels—principally, in the case of the Senator from Colorado, oil shale; in the case of the Senator from West Virginia and others, coal synthetic fuel.

The other two provisions, contained in the second and third subsections of the amendment, relate to the energy-related investment tax credit in the law and seeks to redefine the conditions under which that investment tax credit would operate for synthetic fuels operations.

Briefly, Mr. President, the first provision of this amendment relating to the $3 per barrel production tax credit would change the standard by which the phaseout provision in the bill is determined, the rate of inflation factor. The bill contains a provision that the $3 per barrel credit will phase out between the $23 per barrel price and $29.50 per barrel price indexed for inflation.

Mr. President, the first provision of the amendment would change the standard for indexation of the rate of inflation from the general rate, which is usually defined as the implicit GNP deflator, to a rate that is more specific for nonresidential investment in structures as the inflation index. That is a separate index kept by the Department of Commerce that most closely describes the types of investments companies will be making in synthetic fuel.

It is the feeling of the sponsors of this amendment that that is a more satisfactory standard for determining what rate of inflation should be used in the index, since, of course, all of the facilities in a synthetic fuels industry will be along the nature of nonresidential structures.

Having discussed this with the managers of the bill and the committee chairman, it is my understanding that the committee is disposed to accept this addition to the committee bill.

Mr. BENTSEN. That is my understanding, Mr. President, from discussing it with the managers of the bill, that this particular amendment, which includes several factors, is not germane, although I am sympathetic, frankly, with much of what the Senator from Colorado is trying to do. I particularly like the idea of the extension of the 10 percent investment credit to some of the processes to which he refers. But we shall have to object on the point of germaneness, to follow the agreement that has been made here. I shall withhold that.

Mr. HART. If the Senator will withhold it, it is the intention of the sponsor of this amendment to discuss the provisions, because other Senators from States affected feel very strongly about this. In fact, they have urged that the entire amendment be put forward for decision of the Senate.

If the manager of the bill is disposed to raise the point of order, it is the intention of the sponsor, the Senator from Colorado, to move to delete those sections of the bill which are determined by the Parliamentarian to be nongermane. It is my understanding that certain portions of the amendment are germane, others are not.

I should like to briefly describe the amendment, then determine if the manager of the bill is disposed to raise the point of order, then determine what part might be deleted.

Mr. BENTSEN. The manager of the bill, for the moment, withholds his objection.

Mr. HART. I thank the Senator.

Second, Mr. President, the second feature of this amendment has to do with the question of the phaseout rate of the tax credit, the $3 per barrel production tax credit, and the reference price that would be used to determine when the $29.50 final phaseout figure was arrived at. As the bill is drafted, Mr. President, it uses the cost of imported oil as the standard for determining when the phaseout price will occur. That, of course, is a much higher price than the average price of oil, including domestically purchased oil.

The second factor in this amendment, contained in the first subsection (a), would use as a reference price the average cost of crude oil rather than simply imported oil.

The net effect of this amendment will be to extend, to a certain degree, the rate at which the $3 a barrel production tax credit would be phased out in the early 1980's.

If, in fact, the world price of oil is going to be going up as substantially as I think we believe it is, then probably any of these standards will become less material.

Certainly, with the President's decontrol plan, which is now in effect, and would be complete at the end of 1981, it is reasonable to asume that during that period, the early 1980's, even the average price of oil, including the averaging in of the domestic price of oil as it is decontrolled, will not have that great an effect on the phaseout provision, and certainly not that great an effect on the budget.

But it is believed that the expansion of the price to an average price, rather than just the other price, will have the effect of making this production credit incentive more effective in terms of addressing capital to the expansion or development of the synthetic fuels industry.

Finally, Mr. President, the two provisions, briefly, that relate to the investment tax credit are contained in the second and third subsections of this amendment.

The first would extend the 10-percent credit for energy investment, which is in the law, to additional facilities needed in the oil shale industry to upgrade the raw shale oil product prior to refining.

Mr. President, the product that is produced by a shale industry is not refinable in the State in which it is reported. It is a very heavy, tarry substance containing impurities and is unsuitable in almost all cases for directly putting into a refinery.

Our raw shale oil needs to be treated in a prerefinery process. This is another large plant, in addition to the retort, which can cost $200 million, for a typical project.

In this, hydrogen atoms are added to the molecules to make it more suitable for refining in more conventional ways. This is risky as an investment. Large upgraded facilities have never been constructed and they are a necessary part of most projects, and, therefore, should be included under the definition of a shale oil project for the purpose of an energy investment tax credit of 10 percent.

This amendment would simply include this in the costs which are allowable for the business energy investment tax credit, under current law, and in the Finance Committee bill, as contained with some modification.

Finally, Mr. President, the other investment tax credit provision would extend the Finance Committee's provisions for an investment tax credit from 1982 to 1990.

The reason is that there are some pioneering synthetic fuel developments. The reason is that it is believed that new technology developments in shale, perhaps even coal, will not be able to take place until the mid-1980's, after the cutoff date.

Understanding that the intent of the manager of the bill is to raise a point of order, I will not go into great detail here. But I think the study done by the committee, which I chaired, which looked into the evolution of the synthetic fuel industry in the 1980's, also proposed to the Senate, argued very strongly to the Senate, that we maximize any technique and technology which would argue strongly for this.

Since we are under cloture, and I understand the committee is disposed to object to all nongermane amendments, it would be the intent of the sponsor of this amendment to delete that portion of the amendment which, to his understanding, may be nongermane.

Mr. BENTSEN. Mr. President, I say to my distinguished friend from Colorado that I do not know any Member of the U.S. Senate who has greater knowledge of shale and the problems and prospects and objectives of it, on converting it to synthetic fuels.

I am very supportive of much which he has proposed, but under the rules we are operating under, and by previous agreement, I must raise the point of order on the question of germaneness.

Mr. HART. If the Senator will withhold that, the sponsor would move to amend his own amendment by deleting subsection (c) in the amendment, that is everything——

Mr. BENTSEN. I withhold that.

Mr. HART. That is everything beginning on line 5 of page 3, continuing through page 4, and up to and including line 11 on page 5, that is subsection (c), (d), and (e).

Mr. BENTSEN. It is my understanding we still have a problem with germaneness on (b) and (c)—beginning on page 2, line 16, that those, too, would have to be eliminated or germaneness would apply.

Mr. HART. The Senator is unclear on (b). There seems to be some question on that issue.

Mr. BENTSEN. Then I raise the point and will let the Chair rule.

The Senator from Texas does raise a point of order.

The PRESIDING OFFICER. The point of order having been raised against the entire amendment, and since sections (b) and (c) both inject new material, the point of order raised by the Senator from Texas is sustained.

Mr. HART. Mr. President, I think the RECORD ought to be clear here. I do not believe the Senator from Texas raised the point of order against the whole amendment. He withheld the point of order. The Senator from Colorado sought to delete——

The PRESIDING OFFICER. The Chair is advised by the Parliamentarian that a point of order may not be raised against a section of the amendment, but——

Mr. HART. The Senator from Colorado understands, but wants to determine how much is not germane so he may withdraw that, if the Chair would advise him.

Mr. BENTSEN. The Senator from Colorado wants to bring up that part of his amendment that is germane, to accommodate him.

The PRESIDING OFFICER. The Chair thinks that the only part of the amendment that is germane is subsection (a).

Mr. BENTSEN. That is the way the Senator from Texas has been advised.

Mr. HART. Then, Mr. President, I move to amend my amendment by deleting all of subsections (b), (c), (d), and (e), starting with line 16 on page 2, down through and including line 10 on page 5.

The PRESIDING OFFICER. The Chair has just been advised that section (f) would also be germane.

Mr. HART addressed the Chair.

The PRESIDING OFFICER. Is there objection to the Senator so modifying his amendment?

Mr. BENTSEN. I have no objection.

The PRESIDING OFFICER. If there is no objection, the amendment is so modified

Mr. HART. Mr. President, it is the understanding of the Senator from Colorado that he did not need unanimous consent to modify his amendment.

The PRESIDING OFFICER. The Senator from Colorado did need unanimous consent to so modify.

Mr. DOLE. Mr. President, as I understand it, the amendment has been modified, and the Senator from Kansas has no objection. I join in the comments of the Senator from Texas.

I say to the Senator from Colorado that this certainly does not foreclose consideration of what I consider to be, on the face of it, worthwhile efforts early next year. So I think the amendment in no way indicates opposition. It is just that we have established a rule in order to move on with the legislation. I support the modification.

Mr. BENTSEN. I say on behalf of the Democratic side, and as manager of the bill, that I see no objection to it. The chairman of the committee is glad to accept it.

Mr. HART. I thank the managers of the bill on both sides.

I yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I appreciate, as do many other Members of the Senate—including the Senator from Kansas, who is intensely interested in this subject—the action that is being taken. It is suggested that we do something in the future, when we return, possibly even in the 96th Congress.

The reason I take 60 seconds is not for a pleasantry, but to commend the Senator from Colorado (Mr. HART) for addressing a subject which lends itself to the production of energy from oil shale in the near future, in connection with the continuing energy crisis in this country.

It was in Colorado, in the 1940's—notably at Rifle—that the work was begun to further what was not only the feasibility but also the practicality of using oil shale in this country for the purpose of energy. Even then, America was threatened with a lack of independence; and the intent was to supply this country with the necessary energy for its development and growth in time of peace or its added needs in time of war, particularly World War II.

So I commend the Senator. I hope that with this opening of the door by the amendment that is to be accepted, there will be further opportunity for this type of development, with the aid of reasoned legislation, to give the Senator from Colorado and others the opportunity to foster legislation and to give America further assurance that we are alert to the needs for alternatives to petroleum now coming from overseas.

Mr. HART. Mr. President, I thank the distinguished Senator from West Virginia for his support.

I should mention the leadership of the Senator from Georgia (Mr. TALMADGE), who, 2 years ago, first introduced the concept of a $3 barrel tax credit on synthetic fuels, particularly on shale. He is, of course, a longtime Member of the Senate, and as a member of the Finance Committee, he has exercised leadership in an area which does not directly relate to his State. I want to acknowledge the position he has taken in this matter over the years and the interest he has shown in developing this industry.

Mr. President, I ask unanimous consent that the name of the Senator from Georgia (Mr. TALMADGE) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. HART. I yield the floor.

Mr. RANDOLPH. The Senator has mentioned Senator TALMADGE, the chairman of the Committee on Agriculture, Nutrition, and Forestry. Back in the days I mentioned, the beginnings at Rifle, we were thinking not only in terms of oil shale, which is a big answer—I feel that strongly—but also, we were thinking, even in those days, of agriculture and forestry products, the fact that they could be used as part of a synthetic liquid fuels program.

I am grateful to the Senator from Georgia for his leadership.

Mr. HART. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment, as modified, was agreed to.

Mr. HART. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

Under the previous order, the Senator from Illinois (Mr. PERCY) is recognized.

AMENDMENT NO. 694 (AS MODIFIED)

(Purpose: Payments to States for certain transportation purposes)

Mr. PERCY. Mr. President, I call up my amendment No. 694.

The PRESIDING OFFICER. The amendment will be stated.

Mr. PERCY. Mr. President, I send to the desk a modification of the amendment.

The PRESIDING OFFICER. It will require unanimous consent to modify the Senator's amendment.

Mr. PERCY. Mr. President, I ask unanimous consent that the amendment be modified to change the effective date from 1980 to 1981, and to move the last date to 1985 from 1984. This way, it will not infringe upon the budget resolution.

Mr. STEVENS. Mr. President, reserving the right to object, I am only doing so in my capacity as the acting minority leader, in the absence of our floor manager. He asked me to protect the point of order against the amendment of the Senator from Illinois. Will this protect the point of order against the amendment of the Senator from Illinois?

Mr. BENTSEN. This would not affect the germaneness point of order, as I understand it.

Mr. STEVENS. I have not seen the amendment. That is why I am inquiring.

Mr. PERCY. No, it has no effect upon that.

Mr. STEVENS. With the understanding that it will not affect the point of order against the germaneness question, I have no objection.

The PRESIDING OFFICER. It would not affect the point of order.

Mr. BENTSEN. Under the previous agreement, the point of order on germanenes will be raised at an appropriate time.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an amendment numbered 694, as modified.

Mr. PERCY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 97, insert the following between lines 9 and 10:

SEC. 105. PAYMENTS TO STATES FOR ENERGY-CONSERVING TRANSPORTATION PROJECTS:

(a) FINDINGS.—The Congress finds that—

(1) transportation is a major consumer of petroleum-based energy, and energy-conserving transportation projects to improve the efficiency of the transportation system can greatly contribute to the national objective of reducing petroleum energy consumption;

(2) transportation energy conservation efforts have severely decreased the growth of motor fuel tax revenues in fiscal years 1974 through 1979 resulting in a loss of billions of dollars in State revenues and in a projection of additional losses of billions of dollars in fiscal years 1981 through 1985;

(3) increases in costs for highway construction have far outstripped the growth of motor fuel tax revenues and are expected to continue to do so as a result of increased prices for petroleum products; and

(4) limited State motor fuel tax revenues are preventing States from adequately maintaining and preserving the existing transportation network in an energy-efficient condition and from making transportation improvements which would contribute to energy conservation.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated

$500,000,000 for fiscal year 1981, $500,000,000 for fiscal year 1982, $400,000,000 for fiscal year 1983, $300,000,000 for fiscal year 1984, and $200,000,000 for fiscal year 1985 from the receipts of the tax imposed by section 4986 of the Internal Revenue Code of 1954 for the purposes of this section.

(c) Payments.—

(1) In general.—The Secretary of Transportation shall make quarterly payments from the amounts appropriated during each of the fiscal years 1981, 1982, 1983, 1984, and 1985 to each State in an amount equal to one-fourth of the amount which is apportioned to that State for that fiscal year under paragraph (2).

(2) Apportionment.—The Secretary of Transportation shall apportion to each State for each fiscal year an amount which bears the same ratio to the total funds made available under this section for that fiscal year as the amount apportioned to that State during that fiscal year under section 144(e) and paragraphs (1), (2), and (6) of section 104(b) of title 23, United States Code, bears to the amount apportioned to all States under such sections during that fiscal year.

(d) Use of Payments.—A State shall use any amount received under this section only for energy-conserving transportation projects, including projects for channelization of traffic, improved traffic control signalization, preferential treatment for mass transit and other high occupancy vehicles, passenger loading areas and facilities, fringe and corridor parking facilities, and encouragement of the use of car pools and van pools; projects for resurfacing, restoring, and rehabilitating Federal-aid highways; projects for coal-impacted roads and all rail highway crossings; and projects eligible under sections 3, 18, and 21 of the Urban Mass Transportation Act of 1964. For each project receiving funds under this section, the State shall certify to the Secretary of Transportation that the project is an energy-conserving project. The Secretary of Transportation shall not approve any project under this section for which the State has failed to make such certification.

Mr. PERCY. Mr. President, the Senator from Illinois will ask the floor manager of the bill to take into account the legislative history of this amendment over a period of 1 week. During this week, many representations were made by the majority leader, by the acting minority leader and, by inference, the floor manager, that the Senator from Illinois would be permitted at some point to bring up his amendment and have it voted upon. I will withhold the reading of that colloquy until such time as Senator Long returns to the floor, and I have so advised him. I do not expect the Senator from Texas to take the colloquy into account on behalf of Senator Long in his absence.

I will proceed to discuss the amendment, and when I have finished that discussion, I will suggest the absence of a quorum so that we can find Senator Long.

Mr. BENTSEN. Mr. President, will the Senator yield, without losing his right to the floor?

Mr. PERCY. I yield.

Mr. BENTSEN. The chairman of the committee and the ranking minority member stated, early in the discussion after cloture, that they would raise the point of order of germaneness to all nongermane amendments. They felt that if they gave an exception for one, they did not know where it would stop. The Senator from Texas is repeating that agreement.

Mr. PERCY. I thank my distinguished colleague.

Mr. President, I propose today, on behalf of myself and Senator McGovern, Senator Durkin, and Senator Huddleston, an amendment to H.R. 3919 that would use a portion of the windfall profit tax revenue to fund a declining, 5-year program of block grant apportioned to States to help offset State transportation revenue losses resulting from the decontrol of oil prices and other Federal energy conservation measures.

An objective of our national energy policy is the conservation of oil. The decontrol of domestic crude oil prices will permit prices to rise to world (OPEC) levels and will result in reduced consumption. To the extent that this policy is successful, there will be relatively less gasoline consumed by automobiles.

This will have a serious, negative impact on State transportation finances, however, since gasoline taxes are a major source of State revenue, particularly for highway programs. This growth of State fuel tax revenue has already greatly declined as a result of Federal conservation efforts, such as auto fuel economy standards and 55 mph speed limits. In addition, the cost of highway projects has risen dramatically, especially the cost of road repair and maintenance work, which uses petroleum-based materials such as asphalt.

An efficient, properly maintained transportation system is essential to maximizing transportation energy conservation. Yet, States are no longer able to maintain their systems in such condition, much less to make transportation improvements which could further facilitate fuel conservation. Losses in anticipated State fuel tax revenues, if unchecked, could lead to serious disruptions in State highway programs. These disruptions would have a negative effect on construction employment at a time when private construction work is declining, as a result of the slowdown in the economy and high interest rates.

To mitigate the severe consequences to State highway financing of decontrolling domestic oil prices and other Federal conservation efforts, I propose an amendment to H.R. 3919 to use a portion of the windfall profits tax revenue for a declining, 5-year program of block grants to the States to help offset the lost of fuel tax revenue. This would give the States time to adjust their revenue structures to accommodate their transportation funding needs. This program would not require additional revenue increases; it would be financed entirely from the windfall profits tax under consideration today. The authorizations would be $500 million the first year, $500 million the second year, $400 million the third year, $300 million the fourth year, and $200 million the fifth year. The funds would be distributed to the States based on an average of major non-interstate-highway apportionment factors (the primary, secondary, urban, and bridge programs). The resultant factors are shown in a table I will include in the Record. The strength of this formula is that it is based on existing and accepted distribution criteria.

This proposal is similar to a provision I proposed in 1977 which was adopted by the Senate during consideration of earlier energy legislation. Under that provision, the States would have been apportioned $400 million per year for 4 years. However, unlike the earlier Senate provision, this new proposal would require that funds be used for energy conserving projects and projects would be so certified to the Secretary of Transportation.

Mr. President, overall this is a program of short duration, requiring no additional funding increases, limited to energy-conserving projects, and easing for States the financial disruption caused by the decontrol of oil prices and other Federal energy measures. I urge my colleagues to support it.

Mr. President, I ask unanimous consent that the distinguished Senator from West Virginia (Mr. Randolph) be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, one of the cosponsors of this amendment, the senior Senator from Kentucky, Senator Huddleston, is necessarily absent today. However, because I know of his longtime interest in a particular section of the amendment, I wish to have the statement he had prepared regarding that matter printed in the Record.

Mr. President, I ask unanimous consent that the remarks of Senator Huddleston, a cosponsor of this amendment regarding energy transportation projects, be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement of Senator Huddleston

I am pleased to join with my distinguished colleague from Illinois, Senator Percy, in sponsoring this amendment reserving at least a portion of the revenues to be derived from the windfall profits tax for energy related transportation projects.

I am particularly pleased to do so because of my long time involvement in attempting to secure federal assistance for the repair and restoration of our nation's vital energy transportation system, specifically our energy impacted highways. To date these efforts have not, for reasons which confound me, all met with great success. However, I believe this amendment can again bring into focus a most serious problem—the inadequacy of those portions of the country's transportation system which must carry domestic energy supplies from point of production to point of use.

Everyone seems to agree that there is a significant problem and cause for legitimate concern. The Department of Transportation, in a report brought about because of my amendment to the 1976 highway bill, identified a backlog of at least $4.1 billion in energy related highway needs and concluded that in the long term a source of financing distinct from regular Federal-aid highway funds would be necessary. The National Transportation Policy Study Commission, in its final report, points to a projected sixfold increase in use of energy impacted roads.

This amendment by no means will solve all of these problems. However, I do believe that it will, at the very least, give direction to the authorizing committees having jurisdiction in this area as they prepare comprehensive programs addressing this critical need. I am planning to submit legislation of this nature shortly after the beginning of the next session of Congress. In the meantime, it is my understanding that the Department of Energy and the Department of Transportation are meeting with the nation's governors very soon to update the study of the needs in this area and perhaps put forth their recommendations on exactly how to handle the situation at hand. I certainly look forward to viewing the results of that meeting.

As I have indicated, I have long had an interest in assuring that bottlenecks in our transportation system do not hinder the movement of domestic energy supplies. Representing the Commonwealth of Kentucky, the nation's leading coal producing state, the reason for this interest should be obvious.

Kentucky finds itself in the precarious position of being potentially unable to continue to effectively supply its share of the country's energy needs due to the rapidly deteriorating coal transportation system. In Kentucky, as in Appalachia generally, this means the highway network which is and increasingly will be subjected to heavy coal hauling.

While numbers can sometimes be misleading, the numbers which paint the picture is unequivocally bleak. Kentucky presently has almost 7,400 miles of its highway system being used to haul coal. The preponderance of this mileage is in the eastern portion of the state. Many of these roads are quite old, and when constructed were not designed to support the weight of today's heavy coal trucks. As a result of the original design of many of these roads, and more importantly, the weight and number of coal trucks using them, these highways are crumbling before our very eyes.

The Kentucky Department of Transportation has recently completed a study of the estimated cost through 1985 to repair and reconstruct Kentucky's coal road system to the point where it can generally support the desperately needed movement of coal and can be adequately maintained in the future. The cost is staggering—over $4.2 billion in Kentucky alone. I am hopeful that the updated version of the nationwide needs survey mentioned earlier will more accurately reflect this picture.

To be very honest with you, Kentucky simply does not have the financial capability to meet those costs. The Commonwealth has and will continue to do all it can to maintain a viable coal road system. In fact, in the last 4 years there have been three bond issues by the state, the money to be used solely for the construction and reconstruction of coal roads. The bonds for this Resource Recovery Road Program have been for $212 million, $250 million, and $148.5 million, and will, by law, be paid off by state coal severance tax revenues. By 1985, Kentucky will spend approximately $800 million in state funds attempting to save its coal road system—and that won't be enough.

While Kentucky is striving to solve its coal road problem, the general status of the state road fund is desperate. For instance, over the next two fiscal years, Kentucky will have a $59 million shortfall, in terms of state money needed to match avialable Federal funds. Between now and 1986, the Commonwealth will lack over $4 billion in revenues required to meet its identified highway needs. That deficit is over and above the funds which the state will collect and spend on highways during this period—and I should point out that Kentucky has a 9 cents per gallon gasoline tax which is one of the higher gas tax rates in the country.

Very simply, while Kentucky is doing all it can, it doesn't have the financial means to insure that Kentucky coal can adequately be delivered to consumers throughout the country. A Federal/State Energy Impacted Roads Assistance Program is essential and I believe the pending amendment moves us closer to that goal. Thus, I urge my colleagues to support this most worthwhile attempt at making the kind of investment that is necessary if we are to reduce our reliance on foreign sources of energy.

Mr. PERCY. Mr. President, there appears to be no one further who wishes to speak for or against this amendment. The Senator from Illinois will next require the presence of the distinguished chairman of the Finance Committee, Senator LONG, as well as Senator DOLE, in order to discuss with them the special status of this amendment. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BOREN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, Senator LONG is in the Chamber now. The point the Senator from Illinois wishes to try to establish, recognizing that there will be a nongermaneness point of order brought against it and most other amendments, is this: In fairness, there is, undesirably, a distinction between the amendment of the Senator from Illinois and any other amendment, because of what has occurred over the last week.

I wish to just read from the RECORD a few quotations of my colleagues, including the majority leader and the minority leader, over the extent to which the Senator from Illinois and his cosponsors had reason to believe that this amendment—because this was not a Christmas tree item—would be voted on. It goes right to the heart of the bill, of what we are trying to accomplish.

On December 11, the Senator from Illinois stated this:

> Just for a question. Mr. President, the Senator from Illinois came to the floor at 1 o'clock this afternoon to offer a couple of amendments. I was willing to enter into a time limitation. I checked with the floor manager of the bill (Mr. LONG) at that time, and I was told to return at 3:30.
>
> I did, I have been here 45 minutes now.
>
> I base my ability to offer these amendments on the following legislative history, in connection with the unanimous-consent request yesterday:

Mr. STEVENS at that time said:

> Mr. President, reserving the right to object, and I shall not object, I thank the majority leader. I hope that this would give us an opportunity for the managers of the bill to set this amendment aside temporarily during the day tomorrow, if possible, and take up other amendments that might be disposed of prior to the time of the cloture petition.
>
> Mr. ROBERT C. BYRD. Mr. President, I join in that hope.

Then Senator LONG on December 11 stated:

> Well, Mr. President, regretfully I say that as much as I sympathize with the distinguished and able Senator from Illinois, who fights diligently and with all the intelligence and vigor that any Senator could muster to look after the needs of his people and others in similar situations, the amendment sponsored by Mr. METZENBAUM and others is far afield from the bill before us. The Senator from Illinois (Mr. PERCY) has some proposals—I am not familiar with all of them, but I know that some of them are relevant to the purposes of the bill. The Senator well knows how tight the germaneness rule is. There are all kinds of amendments you can offer that are relevant to what we are trying to do here, but under the germaneness rule and the Senate precedents they would not be ruled germane to the bill, and that is what the Senator is talking about.
>
> There are a lot of amendments of that sort, that I did hope to bring in here. But any time you have something that requires unanimous consent, any Senator has a right to object—every Senator here—and I can understand and fully appreciate and do not quarrel at all with the strong feeling of the Senator from Ohio that, in view of the fact that the same concern was not given to bringing up his amendment, he objects to other people's amendments being brought up.
>
> And I just have to live with that. There is not much I can do about it.
>
> It is all right with me to consider some amendments, but not those that would be so far afield from what we are talking about here that it just turns the bill into a Christmas tree; just a complete Christmas tree.

That is very, very clear, and the Senator from Illinois accepted that as at least a sympathetic recognition that this amendment was not a Christmas tree amendment; it was not unrelated to the purpose of the bill.

It did have difficulty meeting a strict germaneness ruling, but it seemed to the Senator from Illinois then, and now, that there was a sympathetic attitude expressed by both the majority leader and the minority leader for this amendment.

The floor manager of the bill rightfully wanted to avoid amendments that did not really pertain to the issue at hand, but an amendment like this, I believed he was more sympathetic to.

This occurred, of course, day after day after day. We tried in every way to find a time when this amendment could be brought up. The Senator from Illinois was grateful for the opportunity to bring up the coal conversion amendment, which was one of the two amendments he had been trying since the 11th of December to bring up.

And there is more pertinent material that will help. Senator DOLE, the ranking minority member, said on December 14:

> I think we can assure the Senator from Illinois we will take up his amendment tomorrow.
>
> Mr. ROBERT C. BYRD. That is fine.
>
> Mr. PERCY. I thank my distinguished colleague. That is perfectly all right.

This Senator feels that probably no other amendment actually has this kind of a legislative history.

This amendment is backed by the National Governors' Association's Transportation Committee, American highway commissioners and officials; it has strong backing and support of those familiar with it. It just is not a matter of fairness to say to our Governors that, with these windfall profits running on the order of $170 billion, we will not take $0.5 billion of that in the year 1981, for road improvement. We have to realize that, as long as they are really rigidly enforcing the 55 miles per hour limit, as long as they are using all the power of their office, as long as they are asked time after time by the President of the United States, and by the Congress to use their sovereign leadership to conserve oil, they have to be helped a little bit by Washington. Now, they have a disincentive to conserve—every time they do it, they cut their own throats.

Their budgets are tight. Every time on an average they save a gallon of gasoline they cut their State revenue by an average of 8 cents.

As petroleum prices go up, our asphalt prices go up. Our roads are getting in terrible condition. In the State of West Virginia for example—I have talked to the Governor and talked to my distinguished colleague, Senator JENNINGS RANDOLPH, who has done more for highway construction than possibly any Senator—there is a terrible difficulty now in investing money, adequate money, in our highways.

The only difference between this amendment and the amendment passed overwhelmingly by the Senate a year ago is that now, instead of a total block grant going to the State, it is reserved only for those items which are related to conservation. Only those expenditures that will directly benefit conservation are items the Governors and the States are permitted to spend the funds on.

But it is a payment to States as a gesture of a faith and an incentive to them to continue to do what they have been asked to do in the national interest.

It just stands to reason that they will do a better job, with a more enthusiastic attitude, if they do not cut their own sources of revenue every time they try to conserve.

I would be happy to yield to my distinguished colleague from Louisiana for any comments he would like to make. I think, however, that most Senators feel—and we have put them all on notice that this amendment is pending—the facts are there to support my case. This is a different kind of situation from any other amendment the Senator from Illinois knows about.

Mr. LONG. Mr. President, the distinguished Senator from Illinois has worked diligently for his proposal, and I regret that I cannot agree to vote on it after cloture has been voted.

I did indicate for the record it was all right with me to vote on the amendment prior to the time cloture was voted. May I say to the distinguished Senator that we were also talking at that time about an amendment that the Senator from Alaska (Mr. STEVENS) wanted to offer which, of course, is not at all relevant to what the Senator has in mind to do here, but dealt with how one handles inventory. The Stevens amendment would probably not have been germane, and the Senator was in the same situation in some respect as the sponsor, Mr. JACKSON, of the Jackson amendment or Mr. MELCHER, the sponsor of the amendment on the taxation of foreign income. Those amendments were amendments which had considerable support, I am sure. But under the strict cloture rule, they were not germane.

It just seems to me, Mr. President, if we do not make the point of order on all amendments that are not germane we are going to have trouble because people will feel they are discriminated against or that they have not been treated fairly.

I think no one can take issue with the managers of the bill for playing no favorites whatever. When you went into cloture, gentlemen, that is what you voted for. You voted to cut off nongermane amendments, and that is the principal advantage the Senate obtained by voting cloture. So, the Senate will proceed to the passage of this bill.

So, Mr. President, I am sorry the Senator was not able to get his amendment to a vote before cloture because although I could not have supported it for a number of reasons, including the fact that the administration opposes the amendment, I had no desire to deny the Senator an opportunity to vote on it. But when cloture is voted, I am compelled to object on the question of germaneness. I cannot make any exceptions because to do so would raise all kinds of questions, personal matters, the question of whether it is because you like one Senator better than you like another or whether you do or do not like the amendment, and so forth. It seems to me, we would be better off just to insist on the cloture rule which we just voted.

Mr. DURKIN. Mr. President, I am pleased to cosponsor and support the amendment proposed by my colleague from Illinois. This amendment would reserve revenue from the windfall profit tax for bridge and highway maintenance funds as part of State transportation energy conservation programs. It is both timely and essential. The States are finding themselves in a distressing position as they struggle to protect their long term investment in highways. Over the past year drivers have substantially cut back in their gasoline consumption because of the high cost of fuel. As a result State revenues from gasoline taxes have drastically decreased and State highway maintenance costs have not been met. Without this amendment States will not have enough funds to maintain our highway system. Additionally this situation has hampered the ability of State highway and transportation agencies to conduct safety and energy conservation programs.

New Hampshire currently faces a $7 million shortfall in highway revenues. Gas tax collections this autumn are 8 percent below that of the preceding year. If present trends continue, the shortfall will deepen to $9 to $10 million by next year. Many States, New Hampshire included, are in no position to correct this problem in the near future without this amendment and the funds it would provide.

This amendment would help cushion the shock of America's reduced gas tax revenues and help to offset the otherwise inevitable decline in funds available to maintain our highways and bridges.

The amendment sets aside a declining amount of the windfall profit tax revenues for the express purpose of permitting States to undertake highway and bridge maintenance and other transportation energy conservation programs. Obviously, the money is desperately needed. States are unlikely and unable to undertake bold energy conservation initiatives during times of financial distress, even though the need is great. Transportation as a whole accounts for 50 percent of our Nation's petroleum consumption. The automobile alone is responsible for half our imported oil requirements. This cost-saving amendment would spur greater energy efficiency on our highways. It would benefit State transportation authorities as well as our country's car owners. Furthermore, it would help our construction industry. And it would save money and energy.

Mr. President, New Hampshire and many other States would welcome the opportunity provided by this amendment to simultaneously protect the States' highway investment and seek new ways to promote energy conservation. I urge my colleagues to support this critical amendment.

Mr. LONG. Mr. President, is the Percy amendment pending at this point?

The PRESIDING OFFICER. It is the pending amendment.

Mr. PERCY. Mr. President, could the Senator from Illinois respond? I did mention that, unlike my amendment that was agreed to last year, this amendment is pinpointed directly to expenditures for energy-conserving transportation projects. These include projects for channelization of traffic, improved traffic control signalization, preferential treatment for mass transit and other high-occupancy vehicles, passenger-loading areas and facilities, fringe and corridor parking facilities, encouragement of the use of carpools and vanpools, projects for resurfacing, restoring, and rehabilitating Federal-aid highways, and projects for coal-impacted roads and rail highway crossings.

The Senator from Illinois does not feel that Senator from Alaska will want to object to this amendment, even though he has an amendment that he wants to offer. He is well aware of the problems that exist in Alaska with road repair. If Alaska did not have huge oil revenues—which the Senator from Illinois does not look upon as unreasonable—the State would be in terrible straits.

But Alaska, over the 5-year program, would get $47.5 million. Illinois would get $100 million over the next 5 years of desperately needed money for these projects. Louisiana, $49.4 million; the State of Texas, $102.6 million; the State of Washington—and here again, I do not think the Senator from Washington (Mr. JACKSON) will want to object—would benefit by $36 million over a 5-year period; West Virginia, $19 million.

Again, I urge my colleagues to take into account. I do not know if other Senators will object. We could put out a notice on the phones and ask them if they would object. Any one Senator has the right to object. But when every Senator would benefit by the amendment, when conservation has been looked upon as the cornerstone of the energy policy of the administration and of Congress, when we know the return on investment is fastest with conservation, and when the Federal system is based upon what the 50 States do and do not do, there is no justice in not giving this amendment a hearing.

The Senate has passed this amendment before, but on a block grant basis. Now we have a chance to promote equality. Is there any other amendment pending that not only has the representations of the leadership of the Senate, but also benefits equally, on a per capita basis, an area basis, and a highway basis, every single State in the Union? If there is any other amendment that even comes close, I will acknowledge it. I am sure this is a unique case.

You cannot brand this amendment with the same purpose that you brand an amendment that is totally unrelated to the purpose of this bill.

I hope the floor manager of the bill will use discretion, with absolute notice to every Senator to come and object if they want to. But I hope in this case the floor manager of the bill will not see fit to raise the point of order.

Mr. LONG. Mr. President, the Senator from Illinois is extremely eloquent, as he very often is, and he is very persuasive. But I have taken a position that I expect to stay with. The only thing I know that would change it would be if, in the spirit of Christmas, the Deity should touch me and move me. I simply do not feel that; and therefore, Mr. President, I make the point of order that the amendment is not germane.

The PRESIDING OFFICER. The point of order having been made, the Chair does sustain the point of order, on the basis that the amendment does include new material.

Mr. PERCY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. Under the previous order, the Senator from Kansas is recognized to call up an amendment.

Mr. DOLE. Mr. President, I recall or withdraw, whatever is appropriate, the amendment.

The PRESIDING OFFICER. The Senator has the right to withdraw his amendment, and it is withdrawn.

The question now recurs on agreeing to the amendment of the Senator from West Virginia to the amendment of the Senator from New Jersey to the bill.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. Is this on the bill now?

The PRESIDING OFFICER. The pending question is on agreeing to the amendment to the amendment to the bill offered by the Senator from West Virginia.

Mr. LONG. Mr. President, I really do not think that the Senator from West Virginia wishes the Senate to vote on that particular amendment, and I believe he would have no objection to withdrawing the amendment; but in order to find out, I ask unanimous consent that that amendment be temporarily set aside, that the Senate go on with other amendments.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 832

Mr. BRADLEY. Mr. President, I ask unanimous consent to call up amendment No. 832 for immediate consideration.

The PRESIDING OFFICER. The Senator does not require unanimous consent. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. Bradley), proposes an amendment numbered 832:

On page 114, following line 19—

Mr. BRADLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 114, following line 19, as amended, add the following:

Provided however, That for the purposes of this paragraph, a boiler or burner which uses oil as a fuel shall not be considered to use such fuel in significant quantities if, as a result of the equipment installed, there is a net savings in the use of such fuel of at least 30 percent and the facility qualifies as a major fuel burning installation as defined in section 103(a) (10) (A) of Public Law 95–620. The provisions of the preceding sentence may not be taken into account for the purposes of estimated tax payments or any other purpose under the Internal Revenue Code of 1954 prior to October 1, 1980.

Mr. BRADLEY. Mr. President, this amendment basically confirms an action taken in the Finance Committee concerning cogeneration. In the Finance Committee, the tax credit for cogeneration was extended through 1982. There was a limitation, however, that excluded cogeneration that employed oil as the primary fuel.

That limitation has subsequently been modified by Senator Packwood to permit cogeneration where only 25 percent of the fuel was oil, and the amendment I now offer would permit oil cogeneration if two things were present: First, a 30-percent savings in energy, and second, that the facility qualifies under section 103 of the act as a major fuel-burning installation. The effect would be to qualify only residual fuel oil for cogeneration.

Mr. President, since this is an important conservation measure in the trial sector and the cost is somewhat minimal, it is really a technical correction—and I have talked it over with both the minority and the majority managers of the bill—I would move the adoption of this amendment.

Mr. BENTSEN. Mr. President, we have looked at the amendment and we think it is a productive amendment. We have no objection to it.

Mr. DOLE. Mr. President, I understand the revenue cost is about $64 million for the 2-year period, which is slightly more than a technical amendment. I guess in this bill it would not amount to much. I have no objection to the amendment. I have discussed it with the Senator from New Jersey (Mr. Bradley). We believe it is an appropriate extension of the existing amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey (Mr. Bradley).

The amendment was agreed to.

Mr. BRADLEY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 791

(Purpose: To exempt a portion of interest income from taxation)

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Byrd-Bradley amendment be set aside and that the Senate proceed to the immediate consideration of printed amendment No. 791.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. Bentsen) on behalf of the Committee on Finance (for himself, Mr. Percy, Mr. Talmadge, Mr. Dole, Mr. Gravel, Mr. Danforth, Mr. Moynihan, Mr. Chafee, Mr. Matsunaga, Mr. Durenberger, Mr. Baucus, Mr. Wallop, Mr. Boren, Mr. Packwood, Mr. Church, Mr. Roth, Mr. Pryor, Mr. Heinz, Mr. DeConcini, Mr. Tower, Mr. Morgan, Mr. Cochran, Mr. Domenici, Mr. Humphrey, Mr. Stafford, Mr. Ford, Mr. Weicker, Mr. Johnston, Mr. Baker, Mr. Stone, Mr. McClure, Mr. Hollings, Mr. Cohen, Mr. Stewart, Mr. Hayakawa, Mr. Durkin, Mr. Thurmond, Mr. Huddleston, Mr. Pressler, Mr. Cranston, Mr. Helms, Mr. Leahy, Mr. Lugar, Mr. Riegle, Mr. Javits, Mr. Simpson, Mr. Biden, Mr. Schweiker, Mr. Stevens, Mr. Laxalt, Mr. Hatfield, Mr. McGovern, Mr. Warner, Mrs. Kassebaum, Mr. Nunn, Mr. Armstrong, Mr. Jepsen, Mr. Goldwater, Mr. Inouye, Mr. Hart, Mr. Heflin, Mr. Glenn, Mr. Mathias, Mr. Hatch, Mr. Garn, Mr. Schmitt, Mr. Boschwitz, Mr. Bellmon, Mr. Young, Mr. Zorinsky, Mr. Cannon, Mr. Exon, Mr. Melcher, and Mr. Sasser) proposes an amendment numbered 791.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1444

(Purpose: To exempt a portion of interest income from taxation)

Mr. BENTSEN. Mr. President, I move the substitute of printed amendment No. 1444 for the amendment that is being considered.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. Bentsen) proposes an amendment numbered 1444.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following:

Sec. . Exemption of Certain Interest Income From Tax.

(a) In General.—Section 116 (relating to partial exclusion of dividends received by individuals) is amended to read as follows:

"Sec. 116. Partial Exclusion of Dividends and Interest Received by Individuals.

"(a) Exclusion From Gross Income.—Gross income does not include the sum of the amounts received during the taxable year by an individual as—

"(1) dividends from domestic corporations, and

"(2) interest.

"(b) Limitations.—

"(1) Maximum dollar amount.—The aggregate amount excluded under subsection (a) for any taxable year shall not exceed $201 ($400 in the case of a joint return under section 6013).

"(2) Certain dividends excluded.—Subsection (a)(1) shall not apply to any dividend from a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations).

"(c) Definitions; Special Rules.—For purposes of this section—

"(1) Definition of interest.—The term 'interest' means—

"(A) interest on deposits with a bank (as defined in section 581),

"(B) amounts (whether or not designated as interest) paid by a mutual savings bank, cooperative bank, domestic building and loan association, industrial loan association or bank, credit union, or other savings or thrift institution chartered and supervised under Federal or State law, in respect of deposits, investment certificates, or withdrawable or repurchaseable shares, the deposits or accounts of which are insured under Federal or State law or protected and guaranteed under State law,

"(C) interest on evidence of indebtedness (including bonds, debentures, notes, and certificates) issued by a domestic corporation in registered form, and, to the extent provided in regulations prescribed by the Secretary, interest on other evidences of indebtedness issued by a domestic corporation of a type offered by corporations to the public, and

"(D) interest on obligations of the United States, a State, or a political subdivision of a State not excluded from gross income under any other provision of law, and interest attributable to participation shares in a trust established and maintained by a corporation established pursuant to Federal law.

"(2) Distributions from regulated investment companies and real estate investment trusts.—Subsection (a) shall apply with respect to distributions by—

"(A) regulated investment companies to the extent provided in section 854, and

"(B) real estate investment trusts to the extent provided in section 857(c).

"(3) Distributions by a trust.—For purposes of subsection (a), the amount of dividends and interest properly allocable to a beneficiary under section 652 or 662 shall be deemed to have been received by the beneficiary ratably on the same date that the dividends and interest were received by the estate or trust.

"(4) Certain nonresident aliens ineligible for exclusion.—In the case of a nonresident alien individual, subsection (a) shall apply only—

"(A) in determining the tax imposed for the taxable year pursuant to section 871(b)(1) and only in respect of dividends which are effectively connected with the conduct of a trade or business within the United States, or

"(B) in determining the tax imposed for the taxable year pursuant to section 877(b).".

(b) Clerical and Conforming Amendments.—

(1) The table of sections for part III of subchapter B of chapter 1 is amended by inserting "and interest" after "dividends" in the item relating to section 116.

(2) The first sentence of paragraph (2) of section 265 (relating to interest) is amended by inserting after "subtitle" the following: ", or to purchase or carry obligations or shares, or to make deposits, the interest on which is described in section 116(c) to the extent such interest is excludible from gross income under section 116".

(3) Paragraph (2) of section 584(c) (relating to income of participants in fund) is amended by inserting "or interest" after "dividends" each place it appears in the caption and text thereof.

(4) Paragraph (7) of section 643(a) (relating to definition of distributable net income) is amended by inserting "or interest" after "dividends" each place it appears in the caption or text thereof.

(5) Paragraph (5) of section 702(a) (relating to income and credits of partners) is amended by inserting "or interest" after "dividends".

(6) Section 854 (relating to limitations applicable to dividends received from regulated investment company) is amended—

(A) by inserting "AND TAXABLE INTEREST" in the caption after "DIVIDENDS", and

(B) by adding at the end thereof the following new subsection:

"(c) Taxable Interest.—

"(1) In general.—In the case of a dividend received from a regulated investment company (other than a dividend described in subsection (a) or (b))—

"(A) if the regulated investment company meets the requirements of section 852(a) for the taxable year during which it paid the dividend, and

"(B) the aggregate interest income received or accrued by the regulated investment company for the taxable year is less than 75 percent of its gross income,

then, in computing the exclusion under section 116(a)(2), only that portion of the dividend which bears the same ratio to the amount of such dividend as the aggregate interest received or accrued by the regulated investment company for the taxable year bears to its gross income for the taxable year shall be taken into account.

"(2) Excludible portion.—The amount of the exclusion under section 116(a)(2) (before the application of section 116(b)(1)) shall not exceed an amount which bears the same ratio to the portion of the dividend taken into account by reason of paragraph (1) as the aggregate interest income which may be taken into account under paragraph (1) for the taxable year bears to the total interest income for the taxable year.

"(3) Certain interest not taken into account.—For purposes of paragraph (1), interest other than—

"(A) interest described in section 116(c)(1), and

"(B) distributions by a regulated investment company which meets the requirements of section 852(a), or a real estate investment trust which meets the requirements of part II of this subchapter, which represent interest described in section 116(c)(1),

shall not be taken into account.".

(7) The table of sections for part I of subchapter M of chapter 1 is amended by inserting "and taxable interest" after "dividends" in the item relating to section 854.

(8) Subsection (c) of section 857 (relating to restrictions applicable to dividends received from real estate investment trusts) is amended to read as follows:

"(c) Limitations Applicable to Dividends Received From Real Estate Investment Trusts.—For purposes of section 116 (relating to exclusion for dividends and interest received by individuals) and section 243 (relating to deductions for dividends received by corporations)—

"(1) Capital gain dividend.—A capital gain dividend (as defined in subsection (b)(3)(C)) received from a real estate investment trust shall not be considered a dividend.

"(2) Other dividends for section 243 purposes.—A dividend received from a real estate investment trust which meets the requirements of this part shall not be considered as a dividend for purposes of section 243.

"(3) Other dividends for section 116 purposes.—In the case of a dividend received from a real estate investment trust (other than a capital gain dividend as defined in subsection (b)(3)(C))—

"(A) if the real estate investment trust meets the requirements of this part for the taxable year during which it paid the dividend, and

"(B) the aggregate interest income received or accrued by the real estate investment trust for the taxable year is less than 75 percent of its gross income,

then, in computing the exclusion under section 116(a)(2), only that portion of the dividend which bears the same ratio to the amount of such dividend as the aggregate interest income received or accrued by the real estate investment trust for the taxable year bears to its gross income for the taxable year shall be taken into account.

"(4) Excludible portion.—The amount of the exclusion under section 116(a)(2) (before the application of section 116(b)(1)) shall not exceed an amount which bears the same ratio to the portion of the dividend taken into account by reason of paragraph (3) as the aggregate interest income which may be taken into account under paragraph (3) for the taxable year bears to the total interest income for the taxable year.

"(5) Certain interest not taken into account.—For purposes of paragraph (3), interest other than—

"(A) interest described in section 116(c)(1), and

"(B) distributions by a regulated investment company which meets the requirements of section 852(a), or a real estate investment trust which meets the requirements of this part, which represent interest described in section 116(c)(1),

shall not be taken into account. For purposes of paragraph (3), interest income received or accrued by a real estate investment trust and subject to tax under paragraph (4) of subsection (b) shall not be taken into account.

"(6) Notice to shareholders.—The amount of any distribution by a real estate investment trust which may be taken into account as a dividend for purposes of the exclusion under section 116 shall not exceed the amount so designated by the trust in a written notice to its shareholders mailed not later than 45 days after the close of its taxable year.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1980.

Mr. BENTSEN. Mr. President, every once in a while the Senate is seized with an idea that is so logical and so compelling that it attracts overwhelming bipartisan support.

The original amendment sponsored by the Senator from Texas and by 78 cosponsors is one that provides incentives for savings and investment in the American economy.

The amendment before the Senate was approved 15 to 2 in the Finance Committee. It combines the most effective elements of various savings and investment incentive proposals. It is easy to administer and it holds revenue losses to a minimum.

Mr. President, this proposal provides a $200 tax exemption. The substitution provides a $201 tax exemption, $400 in the case of couples filing jointly, and that is for income from interest and dividends.

I would like to state that the distinguished Senator from Kansas (Mr. Dole), the distinguished Senator from Illinois (Mr. Percy), the distinguished Senator from Georgia (Mr. Talmadge), and the distinguished Senator from New York (Mr. Javits) have all been of great help in shaping this legislation. They have long been interested in the incentives for savings and investment in this country.

The merits of this proposal were spelled out clearly in the initial stages of our debate on the windfall profit tax. We have seen that the United States has become especially vulnerable to higher international energy prices because of some fundamental weaknesses in our domestic economy. We have the lowest rate of savings, the lowest rate for productivity increase, of any industrialized democracy. We have real problems with capital formation.

Savings in this country in the first quarter of this year were 4.1 percent. In Japan, the average rate was 22 percent; in Germany, the average rate was approximately 13 percent. Many of our competitors in the interest market face a more serious problem in their balance of trade with the importation of oil as a percentage of the amount of energy they use. But many of them have been able to hold down inflation to a somewhat acceptable level, a far lower level of inflation than ours, because they have been able to increase productivity much faster than we have.

And one of the reasons they have been able to increase productivity is because they have had the savings, and they have had the investments, equity investments, that has allowed that capital formation to modernize the productive capacities of their country.

We have seen that any comprehensive and realistic approach to the energy crisis must involve basic, fundamental steps to set our economic house in order. To the extent that the American economy is strong, stable, and enjoying real growth, we shall be better able to absorb the inevitable higher energy costs of the future.

One of the most effective ways to combat inflation in our America, rejuvenate productivity, increase capital available for investment, and stimulate the supply side of our economy is to eliminate the bias against savings and investment and equity capital. To do the thing that needs to turn around the economic situation in our country, and to get our country moving again, this amendment will replace the stick of double taxation with the carrot of incentive for savings and investments.

We are seeing a disintermediation of funds taking place right now in the mutual savings banks, particularly in the Northeast. It will encourage millions of small savers to invest in the future of America. It will permit millions of senior citizens, who are living on fixed incomes, to cope more effectively in an era of double digit inflation. We had senior citizens groups testifying before our subcommittee, on the Finance Committee, and acknowledging their strong support for this kind of legislation.

Mr. President, I commend my colleagues for their efforts in making this amendment possible. I urge its adoption by the Senate.

Mr. MUSKIE. Mr. President, I heard the distinguished Senator from Texas announce that he had 78 cosponsors for his amendment, so I gather there is not much point, in terms of prevailing, for my saying anything.

Mr. BENTSEN. Except for the eloquence of my distinguished friend from Maine.

Mr. MUSKIE. Mr. President, with respect to the pending amendment, it is obvious, I am sure, to my good friend from Texas, as well as other Senators, that I rise to speak because of its budgetary impact, but I am also going to address the merits of the legislation.

It is clear that the amendment comes highly recommended. Some 78 of our colleagues are cosponsors. Along with the distinguished chairman of the Joint Economic Committee and my good friend from Kansas, they offer an appealing argument.

We are told that the Bentsen-Dole amendment will stimulate economic recovery by creating new incentives for saving and investment.

We are urged to avoid penalizing hard working Americans as they strive to build modest savings accounts.

We are asked to approve a measured revenue loss in the name of economic revival, investment stimulation, tax relief, and much else which is good and holy.

It is an appealing argument and for those who may have overlooked the point, a vote for this amendment would qualify at least for a mention or two on the campaign trail this fall.

Mr. President, there is something here for everyone. And I confess that I can raise just four objections. It will not work. It is not fair. It is not necessary. And as we labor over the next 10 years to balance the budget, provide for the Nation's needs, and plan for substantial general tax cuts, it will leave us $27 billion less to work with.

Apart from those problems, no one could object. And it appears that very few will. But if only for the record, let me elaborate.

This amendment will produce a revenue loss of substantial proportions.

In fiscal year 1981, it would reduce revenues by $314 million. In fiscal 1982, $2.3 billion would be lost. And the total impact from fiscal 1981 through fiscal 1990 is estimated at $27 billion.

To put that in perspective, we will spend more than $2½ billion on agriculture programs during this fiscal year—just a little more than the revenues to be lost in 1982 alone.

Mr. President, as I have insisted time and time again in recent months, a tax cut which undermines our efforts to control inflation cannot be defended in the absence of countervailing benefits which justify it.

Before we have balanced the budget—before we have prevailed in the battle against inflation—we will do the taxpayer an ultimate disservice with tax cuts which are premature in a workable fiscal strategy.

Although a much bigger tax cut than this one is part of our short-range plan, now is not the time.

Let me hasten to add that incentives for saving and investment have a centrally important role in a comprehensive strategy. But the amendment before us now is not a prudent one.

Problem No. 1—it will not work.

To be effective, this amendment would have to promote new investment and savings on a very large scale. But more than half of the taxpayers already earn more than $200 per year in interest and dividends—or $400 for a joint return.

The amendment is billed as a saving incentive. But it begins by cutting 51 percent of the taxpayers completely off the top. For them there is no incentive—only a tax cut.

Of course, some 27 percent of those who file with the IRS are too poor (or too rich) to have any income tax liability at all. For them there is no incentive. For them there is not even a tax cut.

Needless to say, the 9 percent of American families who fall below the poverty line do not have much experience at all with savings banks and brokers.

Mr. President, this amendment will do essentially nothing to promote new saving and investment on the part of those who could really make a major collective difference.

A full 74.6 percent of the revenues lost under this amendment would have zero impact on saving and investment incentives. The rest could have no more than a modest effect.

And that suggests problem No. 2—it is not fair.

As if the law of nature were not enough, this amendment will make it a little easier for the rich to get richer. It will do very little to enrich the modest saver.

The level of benefit derived from the new incentive will increase proportionately with the saver's tax bracket.

Those in the lowest bracket who manage to collect $100 in interest and $100 in dividends will be rewarded each year with the princely tax savings of $14.

But for individuals whose income is taxed at 50 percent, that same $200 of income will bring a return of $50—three and a half times as much. That would just about cover the cost of a subscription to the Wall Street Journal. But somehow I cannot see the market exploding.

And if that individual received the $200 of income in interest alone, his tax break would amount to a $100 return.

Mr. President, this is petty gilt polishing masquerading as populism. Those in the 50-percent bracket need no $100 incentive to invest their resources. Those in the lowest tax bracket need a good deal more than $14.

Problem three—it is not necessary.

The Senate has only recently passed legislation to effect significant changes in the regulation of financial institutions. The House has passed a similar measure, and eventual enactment seems assured.

Very simply, that legislation will accomplish the same ends which this amendment addresses—and with none of the unfortunate implications.

It would permit the establishment of "NOW" accounts nationwide. It would allow for automatic transfers between checking and savings accounts. It would encourage the financial regulatory authorities to raise the ceiling on interest rates as economic conditions permit.

In short, it would help small savers to realize higher returns on savings—effectively accomplishing the very objectives which the Bentsen-Dole amendment entails. It would do so without the loss of a single tax dollar—and without the unfairly favorable treatment of the well to do which is inherent in the pending amendment.

Mr. President, if I may be permitted to quote back the gospel of some of those who support the amendment, the free operation of credit markets is far preferable in this instance to the use of the tax code as a legislative tool.

In closing, let me underscore another important aspect of the issue now before us. The Congress has adopted a budget plan which calls for revenue gains and for a balanced budget in 1981. It is a plan which also calls for a $55 billion Tax Code as a legislative tool.

Adoption of the Bentsen-Dole amendment will undercut that plan and ignore that comprehensive commitment. In the business of economic forecasting, no one can be sure of what the future holds. But we can be sure that this amendment would cut into the amount which will be available in 1982 for that general tax reduction. We can be sure that it would constrain the Finance Committee's ability to weigh the merits of existing tax incentives in the face of demands for new ones.

There is an old combat story about the soldier who bragged of cutting off an enemy's arm.

"Why didn't you cut off his head" someone asked.

"Because someone had already done that."

Mr. President, we have to cut off the head of inflation before we go home to boast about appendages.

This amendment will no doubt be welcome news to many. Few of us would turn down a few extra dollars. But we would be happier by far with a little less inflation.

Mr. BENTSEN. Mr. President, I ask unanimous consent that Senator BUMPERS be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I yield myself 3 minutes.

Mr. President, I have heard with interest, and always with respect, the argument of the Senator from Maine.

Mr. President, the Chinese have an expression, every journey starts with the first step. That is what we are taking here.

Mr. President, it is absolutely essential, because the fall in productivity growth of the U.S. industrial machine and the dearth of investment capital, especially for small business, is so severe, and our rate of savings is so far behind that of other major industrial countries—it is about one-third of what it is, for example, in Japan—that we have to find a means to encourage this activity.

Mr. President, we on this side have every right to have great pride in this amendment because it was first raised by the 41 Republican Senators and incorporated in the Senate Republican economic policy statement, promulgated on July 26, 1979. I quote from page 5 of that declaration, recommendation No. 2 under the heading of Capital Formation and Productivity:

> 2. As an incentive for greater savings and investment, a savings interest exclusion should be provided and the present dividend exclusion from federal personal income taxes should be expanded.

The Republican policy statement was developed by a task force of Senators, which I had the honor to chair. Immediately operative on this particular recommendation was that part of the task force called the Group on Capital Formation and Productivity, of which Senator PERCY and Senator DANFORTH were the spokesmen, with Senator PERCY now one of the principal authors of this amendment.

I want to emphasize for my colleagues on both sides of the aisle what I said repeatedly as chairman of the task force: Our declaration on economic policy was, and is, no partisan rhetoric, and what the Senate is doing today confirms that statement.

I am deeply obliged to Senator BENTSEN, who took up the cudgel for this amendment, both on the floor, and in the committee—in the commitee himself, and on the floor with Senator PERCY—for taking it up and making it bipartisan. I am delighted to see our agreement on it.

This savings exclusion is not the end; among other things, we Republicans have called for accelerated depreciation as a major tax incentive for capital investment to modernize U.S. industrial plants, and for tax credits to encourage greater research and development. As we chart a course through what will be extremely perilous times ahead, Senate Republicans will continue, individually and collectively, to put forward the same kind of imaginative ideas that must be considered if our country is to survive and prosper in the decade ahead.

Now to the reasons for this particular interest/dividend income exclusion.

First, providing this exclusion of $200 individual/$400 joint is necessary on the ground of equity. Persistent, endemic inflation, in the double-digit range this year, is literally wiping out the benefits of savings for millions of Americans. The mathematics of 5½ percent interest when prices are rising by over 10 percent per year, mean that interest is erased, and even some principal is eroded. Moreover, and this is of major importance, we then tax the illusionary "earnings."

Consequently, a taxpayer in the 20-percent bracket, who has $3,000 in a savings account earning 5½ percent per year or $165, in effect sees all of the purchasing power of his interest, and a comparable amount of his principal, wiped out by 11-percent inflation. But beyond even that, his interest of $165 must be reported, and is taxed at the applicable rate.

If our recommendation, as it is now incorporated in the pending bill, becomes law, however, our hypothetical taxpayer's $165 would be excluded from taxation.

So, Mr. President, a compelling case in favor of the amendment can be made on the ground of equity; of fairplay for the millions of small savers who are the backbone of investment support for our U.S. productive machine, and who are urgently deserving this relief.

Mr. President, equity for the poor is also at issue here. The essence of this capitalistic society will be its success. The fact is that if we are successful, we shall most help the poor. The poor will not be helped by an unprosperous, chronically depressed United States, constantly suffering from lack of investment capital and lack of increase in productivity, for increased productivity is the only thing which improves the standard of living on an absolute basis. The fact is, Mr. President, that while we were substantially increasing our productivity until we ran into the serious recession of 1973–74, we had cut down the number of poor in this country from something in the area between 15 and 18 percent to 11 percent, which is what it is today. Capital formation is the way, Mr. President, to make the most permanent progress in this kind of society.

Mr. President, I understand that some have said that we need not do it this way; that we could accomplish the same objective by removing the present antiquated regulation Q limitations on interest payments. But that is not happening: we have passed such a bill in the Senate, of course, but the House has put our conferees on notice that the Senate bill is broader in scope than they may be prepared to accept. So we may not see regulation Q ceilings eliminated any time soon.

As I have said on the fuel assistance

appropriation, we must act while we have the chance because, if we do not, the savings deficiency will proliferate and no relief will be forthcoming.

Another compelling argument for our position in this matter is that the present U.S. tax system imparts a heavy bias in favor of consumption and against saving. During these extraordinary times, we need to redress that imbalance, which is leading to heavy consumption spending and inadequate savings to meet the long-range capital needs of our country in the decade immediately ahead.

According to Business Conditions Digest, the monthly publication of the U.S. Department of Commerce, the personal savings rate for the third quarter of 1979 was down to 4.1 percent. The trend seems to be inevitably downward, and may very well be exacerbated by continued inflation. Meanwhile, the Japanese and the Germans save 25 and 13 percent of their incomes, respectively.

If we are going to generate the capital we will need in the next decade to stimulate productivity; to modernize and expand our present productive capacity; to get inflation under control; and to expand real wages and profits, we really must act to encourage greater savings and less personal consumption.

Now I am cognizant of the arguments that have been made by some of my colleagues that there is not much incentive in a $200 exclusion and that we will be providing a windfall for those who have been earning that much interest anyway. That is a very static analysis, however, because it does not take account of the response of those who may be encouraged to save more or draw out less of their savings because of the existence of the tax saving.

Furthermore, I believe the incentive effect and the equity aspect go hand in hand—why else would the savings rate presently be so abysmally low? Once we remove the inequity associated with taxing illusory savings account interest income, we will, I suspect, have eliminated a significant existing disincentive to save, and the result can be increased personal savings.

Mr. President, by way of summary I wish to say that I believe our people deserve and need this tax relief, they need it urgently as a matter of fairness, and it can help to balance the spending-saving equation by providing an important new motive for personal saving. In addition, Mr. President, it is the same proposition the Republican side adopted as its own in July of this year, and I hope the Senate will adopt the amendment and fight for it in the conference on this bill.

Mr. PERCY. Mr. President, I appreciate the comments of my colleague. When I first introduced the Small Savers Incentive Act with the cosponsorship of Senator DANFORTH, we presented it to a Republican policy committee luncheon. It received enthusiastic support. Subsequently, a bill was drafted which all 41 Republican Senators supported and the Small Savers Incentive Act was title I of the overall package.

It appeared during the course of the long colloquies we had on this on the floor of the Senate, in an attempt to bring up this legislation, that the Committee on Finance would really have to take this back in order to get it cleared. There was no ability to get legislation approved for a vote on the floor of the Senate unless the Committee on Finance took a look at it.

Senator LONG then agreed to call a meeting of the Finance Committee and, together with Senator DOLE, the idea was thoroughly discussed. The Senator from Texas took the initiative there to reduce the amount to $200 ($400 on a joint return), to move it back from 1980 to 1981 so there would not be a point of order from the Budget Committee. But, unlike the original amendment which the Senator from Illinois sponsored with the distinguished Senator from Texas, it only applied to savings account interest. This particular bill now includes both dividends and savings.

I extend deep appreciation to my colleague from Texas for taking into account the necessity of creating equity markets and, therefore, encouraging investment in equities by giving exclusion to dividends as well as to savings.

I do, also, express my appreciation to my distinguished colleague, the ranking minority member of the Senate Finance Committee (Mr. DOLE) for working closely with Senator BENTSEN and Senator LONG on this.

I am pleased, therefore, to join Senator BENTSEN in offering this amendment to encourage personal savings and investment.

This proposal is the result of the Senate Finance Committee's consideration on November 29 of 11 savings and investment incentive proposals, including an amendment which Senator BENTSEN and I introduced, on November 16, to the windfall profits tax bill and one introduced by Senator DOLE, which I also supported.

At the suggestion of Senator LONG, both of these amendments were withdrawn so that the Finance Committee could study them and other proposals pending before the Senate to encourage savings and investment. By a vote of 15 to 2 the Finance Committee reported a compromise proposal.

This compromise, which has 78 cosponsors, 37 Democrats and all 41 Republicans, will exempt from Federal income tax $200 per year ($400 on a joint return) in combined interest and dividend income starting in calendar year 1981.

For some time, I have been concerned about the low rate of savings in this country. On July 19 of this year, I introduced the Small Savers Incentive Act, S. 1542. My bill provides a $500 exclusion for both interest and dividends if $400 is reinvested. The $100 exclusion for interest income, like the existing exclusion for dividends, would be allowed regardless of reinvestment.

I am aware that some believe this compromise proposal will not encourage savings and investment, but will simply provide a "windfall" to taxpayers who already save and invest. There are others who believe this proposal does not go far enough, that we should exclude higher levels of interest and dividend income.

To both of these groups, I say my original proposal addresses these criticisms with a larger exclusion for both interest and dividends and the requirement that they be reinvested.

The pending proposal, however, is a compromise. It is an important first step in reducing the penalty our tax system inflicts on savings and investment.

Mr. President, the savings rate in the United States is the lowest of the major industrialized nations. Because personal savings and investment are major sources of business investment capital, this low rate of savings is a crucial economic problem.

Eminent economists have testified that this amendment will work. According to Michael J. Boskin, professor of economics at Stanford University—

> It is a sensible first step on the road to gradual reform of the tax disincentives to saving in our current tax system.

Another noted economist, Michael K. Evans of Evans Economics, Inc. of Washington, D.C., believes this amendment will increase personal savings in this country by billions of dollars. Says Mr. Evans:

> Estimates of the elasticity (of savings) vary widely, but a reasonable figure would be 0.2. In other words, a rise in the rate of return from 3½ to 5 percent, or a 43-percent increase, would raise savings by approximately 8.6 percent.

That comes to about $2.4 billion.

Mr. President, I believe it is imperative that the Senate act now by approving this limited exclusion for both dividends and interest income. This action by the Senate will pave the way for consideration of other measures which are vital to a sound economic program for the future.

This amendment is a cornerstone of such a program and for that reason, it deserves the support of every Senator in this Chamber.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. BAUCUS). The Senator from New York.

Mr. MOYNIHAN. I thank the Chair.

Mr. President, I rise to congratulate the Senator from Texas for his leadership in this matter and to address two points in the briefest outline, if only to record an aspect of the action we are about to take, which I think has not been fully addressed. That is the impact which this measure will have on thrift institutions.

Now, if there is a classic institution of the American economy and of American democracy, it was the early development of savings banks, followed later on by savings and loan institutions, in which wage earners could deposit savings and acquire property and capital in that way.

Subsequently, through savings and loan associations, it became the means by which wage earners then acquired homes of their own and ceased to be renters and tenants, and so on.

This had a profound effect upon the democratic nature of the American economy, such that in Europe there were great efforts to reproduce it by postal savings banks and government institutions that never quite worked.

It happens, however, that under the impact of world inflation, thrift institutions have been having greater difficulty attracting savings.

As a matter of fact, owing to usury laws, and things like that, we found ourselves in a situation where working persons with small surpluses that they would wish to put into savings were forced to do so at negative rates of interest, a bizarre and clearly an unjust situation.

This amendment, the Bentsen amendment, will reverse that. It will restore an inequity. It will reverse an inequity to small savers. It will significantly strengthen the now threatened and weakened condition of thrift institutions, absent which the strong support of the American people for a free enterprise system might never have persisted.

We might have found ourselves in the condition in which other industrial democracies quickly drifted into with the huge disparities of capital as between individuals and institutions and corporations.

This has something to do with how the country will remain.

I would like to note that just next year, as a second point, the Finance Committee is going to take up the whole question of investment, and investment rates. I hope we will not be simplistic about this. In particular, I hope we will not assume that, clearly, we can increase the rate of capital formation simply by devices that direct capital to activities in which it does not produce, in fact, a very large return.

It is possible that a great deal of the absence, the slow formation of capital in the last quarter century in this country, could reflect a cycle.

There are people who argue it does.

The working out of investment in particular technologies now about exhausted in their innovative capacity and, indeed, to some degree, the utility steel, for example, the failure of any new important technologies to come into the market, seems to have been the case in this economy for the last 15 years.

There is more to capital formation than interest rates. That should be obvious enough.

But I would like to record that when the Finance Committee gets into this question, we will hope to do so at levels of complexity in our analysis that will produce results more than just the automatic assumption that investment institutions can, as such, raise the return to capital, results of productivity and technology.

That is where our problem seems to lie. But that is only an aside.

I rise to congratulate my friend from Texas and to say that the day this bill goes into effect, the savings banks and the savings and loan institutions and security markets and bond markets in this country will, once again, open to small savers an aspect of our economy which has been unique and which, curiously enough, was eroding under the impact of inflation.

This is a great piece of legislation, in the best traditions of American populism.

I do not know that the Senator from Texas wishes to be thought a populist. But on this day, he is, and I congratulate him.

Several Senators addressed the Chair.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BENTSEN. I thank the distinguished Senator and, at times, I am delighted to be thought a populist.

Mr. DOLE. Mr. President, I am pleased to speak in support of the amendment agreed to by the Finance Committee on November 29, which provides a tax exclusion for dividends and interest on savings. The proposal recommended by the committee represents a compromise drawing on several pending bills, and was sponsored by Senator BENTSEN, Senator TALMADGE, and the Senator from Kansas.

We recommend an exclusion from income for interest and dividends of $200 per taxpayer ($400 per joint return). All dividends and all forms of interest on savings would be eligible for the exclusion. This means that interest on conventional savings accounts is covered in order to help the small saver. Interest on other types of savings—certificates of deposit, commercial paper, bonds—are also covered.

Mr. President, I am particularly gratified that the Finance Committee proposal covers dividends received by individuals from domestic corporations. This was a feature of the Dole-Baker-Danforth-Javits-Roth amendment that was suggested as an alternative to the Bentsen amendment to the windfall profit tax. The dividends exclusion is important because it gives us a two-pronged attack on our capital formation problem—through individual savings and through investments in stocks.

It is important to understand why this matter has been raised now, on the floor of the Senate, and why the distinguished chairman of the Finance Committee agreed to expedite consideration of this issue in connection with the Senate's consideration of the windfall profit tax. There are two basic reasons, but both of them relate to our No. 1 problem—inflation.

Inflation eats away at the value of savings, destroying the real purchasing power of money that people have carefully set aside for retirement or other purposes. Interest on savings does not match the inflation rate, and then the interest is taxed, to boot. The other problem is that, when inflation destroys people's incentives to save, not enough money is available for capital formation. As a result, healthy business expansion and upgrading of equipment, including technological advances, are hindered. Productivity also suffers. The statistics, as we all know, bear this out, and they tell a sad story. Among major industrial nations, we are lagging far behind in the rate of savings, in productivity, in capital formation, and in capital investment.

That is why tax incentives for savings and investment are receiving so much attention right now. If properly designed, a savings tax incentive can make a double-barreled assault on the twin problems of small savers and businesses in need of capital. For some savers, alternative savings devices, such as savings certificates offered at near-market rates, are beginning to provide assistance. In the long run, they may contribute greatly to solving the problem, although as of now they are still out of reach for many small savers. The capital formation problem is more complex—it requires a general encouragement for shifting from spending to savings and investment. The problem is becoming ever more apparent, as rising mortgage interest rates threaten a slump in the housing industry.

Tax incentives for savings and investment would have another welcome, and extremely important, effect. They could help break the psychology of inflation by diverting people from a "buy-now" attitude. We know that the Government can do the most to restrain inflation by exercising fiscal and monetary restraint. We have done poorly in that area, and without such restraint we cannot hope to control inflation. But encouraging savings and investment will help the process along in a significant way by restoring the balance between spending for present needs and preparing for the future.

It is time to realize that our tax laws, over the past decade and more, have helped swing the balance away from savings and toward consumption. The balance must be restored, so that we can end the inflationary bias that reduces real growth. Virtually every other industrialized country gives a tax break to the small saver, so we can understand why our own savings rate suffers by comparison. To really meet our needs, any tax incentive should apply both to savings interest and dividends. That way we can meet our economic problems head on, and that is what the Finance Committee proposes. We will aid the small saver, we will aid financial institutions, and we will aid businesses and corporations in need of capital for productive growth. We need to do all those things, and we need to do them now. We can do them by enacting a tax incentive for both savings and investment, which is what we offer, and what I urge my colleagues to vote for.

Mr. President, I ask unanimous consent to have a summary of the testimony of Richard S. Lawton, on behalf of the National Savings & Loan League, printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE TESTIMONY OF MR. RICHARD S. LAWTON ON BEHALF OF THE NATIONAL SAVINGS AND LOAN LEAGUE

1. The rate of personal savings in the United States has fallen to 4.1%—the lowest since 1951.

2. Savings rates are more than double the U.S. rate in industrialized nations which have adopted the tax incentive.

3. Our current tax laws have a consumption bias especially in periods of high inflation.

4. In the 1980s we will see housing demand for 2.2 million–2.3 million new homes per year. Increased savings is essential if there is to be sufficient mortgage credit to meet this demand.

5. A tax incentive for savings will lead to greater savings—thus more capital pro-

motion—greater productivity—real GNP growth—all of which helps to reverse the spiral of inflation.

Mr. DOLE. Mr. President, I know other Senators want to be heard on this matter.

I appreciate the comments of the distinguished chairman of the Budget Committee because I think, as has been customary in the past, he is trying to tell us, very properly, that we may face some pitfalls down the road.

Mr. MUSKIE. Will the Senator yield?

Mr. DOLE. I am happy to.

Mr. MUSKIE. For most of my Senate career, I have marveled at the ability of Senators to rationalize the popular course they have determined to take.

I no longer marvel at it. I accept it as a matter of course.

Mr. DOLE. I say to the Senator, when I first arrived here, I marveled at a lot of things, but I have come to accept many things.

But this is sort of a meeting of the minds among different Senators, I think.

The Senator from Texas (Mr. BENTSEN) had a proposal which dealt with interest only. Some of us had one that dealt with interest and dividend income. We now have a combination. I think that has been clearly set forth in the statements.

Mr. President, I know there are many amendments pending. I think the Senator from New Mexico (Mr. SCHMITT) wants to address the procedural way we arrived at this point and disagree with that.

But I only say to the Senator from New Mexico, and others who had amendments, we took this back to the Senate Finance Committee because it became highly controversial on the floor.

How far did we go? Was it interest only? Was it dividend income only? How much was the cost? How much could the budget tolerate?

The product now before us is the effort of a number of Senators, including, I think, the Senator from New Mexico, and others, because they have the same concept.

I am not certain how we addressed the procedure, but I would hope the Senator from New Mexico would not try to undo what we thought we did properly in the Finance Committee. The vote was 15 to 2, I am advised.

But, in any event, this is an amendment that I think has broad bipartisan support. It is totally nonpartisan. It is a start. It does not go as far as the Senator from New Mexico, including the Senator from Kansas, would have gone.

Some of the provisions are somewhat different than others suggested.

Perhaps in the next few years we can see how this operates, how it works, and make modifications.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I strongly support this amendment.

At long last, it brings an equity to small taxpayers with slender resources. It will help the productivity of our Nation, help the housing of our Nation. I strongly urge that it be supported.

Mr. SCHMITT. I yield myself 5 minutes.

Mr. President, I am a cosponsor of the original Bentsen amendment. I also am the author of an amendment intended to be offered in the second degree that would take the distinguished Senator's proposal as a base in fiscal year 1981 and raise that base in three additional increments to $500 and $1,000 exemption by fiscal 1984 for individual and joint returns, respectively.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SCHMITT. What is the present degree of the amendment by the Senator from Texas?

The PRESIDING OFFICER. The Senator from Texas has a second-degree amendment pending to the amendment in the first degree.

Mr. SCHMITT. Mr. President, a further parliamentary inquiry: What is the essential difference between the pending amendment and the amendment that would amend?

The PRESIDING OFFICER. The second-degree amendment provides for a figure of $201, and the first-degree amendment provides for a figure of $200.

Mr. SCHMITT. Mr. President, by the statement of the Chair as to the essential difference between the two amendments, I think it is clear that the second-degree amendment in the form of a substitute was offered in order to preclude the Senate from having an opportunity to vote on amendment 1437, which I had intended to offer. I think this is an extremely unfortunate precedent to establish, whatever the Finance Committee may have done.

It seems to this Senator that there was some support in the Senate for the gradual increase in the exemption of interest and dividends up to the numbers that have been suggested by the Senator from New Mexico along with many other Senators on this side of the aisle and elsewhere.

As I have said, I think it is unfortunate that we have been precluded from offering that amendment and Members of the Senate have been precluded from voting on such an amendment. To have a second-degree amendment come in with no essential difference except the value of $1 makes me wonder where we have come in this cloture procedure.

All Senators in the Chamber and those who are listening to this debate elsewhere should realize that this kind of procedure means that almost any second-degree amendment can be precluded during cloture or any other time, but particularly during cloture.

Mr. President, I do not think that is the way we should do business. There is a great deal of support for ratcheting up the exemption values over a period of time. That support has been expressed by many of the same people who have been quoted in support of the original Bentsen provision.

It does not seem to this Senator that we should preclude the statement by the Senate in favor or not in favor of such a ratcheting by an amendment in the nature of a substitute, such as now offered by the Senator from Texas.

I have been an active supporter of this concept of exemption of interest and dividends from taxation. I ask unanimous consent that the name of of the Senator from South Carolina (Mr. THURMOND) be added as a cosponsor of amendment 1437.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT. There are many others who join the Senator from New Mexico in cosponsoring his original amendment, and I think they will be very disappointed at this procedural charade that has been played on the Senate.

I would like to see us have the opportunity to vote on a ratcheting of the interest exemption and the dividend exemption.

I ask the Senator from Texas if he is willing to respond as to why he feels that the Senate should not have this opportunity. I think it is important that we tell the American people that not only are we interested in this concept, but also, we are interested in making it a realistic concept that truly benefits a large proportion of the small savers of the country.

I address such a question to the Senator from Texas, and I yield for that purpose.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BENTSEN. I am sorry.

Mr. SCHMITT. I ask the distinguished Senator from Texas why he feels that the Senate should be precluded from voting on the amendment in the second degree. 1437, which was to be offered by the Senate from New Mexico, of which I am sure the Senator from Texas was aware.

The PRESIDING OFFICER. Does the Senator from New Mexico wish to yield himself more time?

Mr. SCHMITT. I yield myself an additional 5 minutes.

Mr. BENTSEN. I will be happy to respond on my own time.

Mr. President, I understand the interest of the Senator from New Mexico in encouraging savings and investment in our economy. He has long shown his interest in that and has been very forceful in that presentation.

However, we have had weeks for him to make his proposal—weeks—and for any others who wanted to do so, with respect to whatever idea they had to increase savings or encourage capital formation. Time after time, we have asked people to come over and present their amendments, and we found ourselves having quorum calls and delaying the Senate from acting because those amendments were not presented. It could have been done, and it should have been done. I do not think they have to piggyback on this amendment. Obviously, they did not have to.

We are now in the closing hours, after this amendment was proposed early on and has been considered at length by the Finance Committee, where we looked at all the alternative proposals we could find, and we decided that this is the one that would most effectively do the job within the present constraints of what we are trying to do.

The Senator from Maine makes some good points. He is one of the disciplines of the Senate, and I appreciate his role and his responsibility. But we did look at the Budget Committee, and this comes within their projections of what they are talking about in the way of tax cuts. On page 37 of the Budget Committee's report, it says:

> The Second Budget Resolution maintains the assumption in the First Budget Resolution of a $55 billion general tax reduction in fiscal year 1982, $75 billion in 1983, $100 billion in 1984.

The amendment I have proposed has a revenue loss of only some $2 billion to $3 billion annually and falls well within the guidelines the Budget Committee has projected.

Insofar as the effectiveness of the amendment is concerned, the United States League of Savings Associations estimates that it will increase savings in this country by some $4 billion annually. Prof. Michael Boskin of Stanford advocated this approach in his presentation to the Senate Finance Committee.

Frankly, I think it is a very major step forward, not as much as the Senator from New Mexico would like, nor as much as the Senator from Texas would like. But I think this is within the realm of responsible legislation to achieve the kind of effect we are trying to create.

Mr. SCHMITT. Mr. President, I suppose the answer is that, in the judgment of the Finance Committee, no other amendments, no other consideration of higher rates of interest and dividend exemption, should be considered.

I also am sympathetic, in part, with the Senator from Maine in his attempts to hold down the budget. But in this case and in other cases he has argued on the floor, the Budget Committee still seems to be unable to distinguish between the static cost of a particular proposal and the net cost or net revenue return of that proposal over a period of time.

I think the Senator from Texas would probably agree that under his amendment or under the amendment that I hope to offer the net revenue return to the Treasury would be far in excess of the estimated static cost.

For example, the National League of Savings Associations has estimated that under the Schmitt amendment, 1437, the total personal savings would increase by $10 billion and that there would be an additional over 23,000 new housing starts.

Those kinds of numbers mean that there is going to be a major increase in revenue to the Treasury as a result of that kind of activity.

So, Mr. President, I hope that at the appropriate time when I propose a unanimous-consent request to be allowed to call up my amendment in the second degree as an amendment to the second-degree amendment by the Senator from Texas no one will object to that.

Mr. EXON. I object.

Mr. SCHMITT. I have not made that request.

Mr. EXON. I just wanted to advise the Senator from New Mexico I will object. That might change his approach somewhere along the line.

Mr. SCHMITT. The Senator from New Mexico may well allow the good Senator to object at the appropriate time. I think it would be useful for the public record if he were on record as having objected to this increase in personal exemptions for savings and dividends.

Mr. President, I speak in favor of the Schmitt amendment on my time at this point, even though it may not be possible to offer it.

This amendment is an extension of the amendment under consideration that would expand the $200 exemption for individuals—I should say the $201 exemption for individuals—and the $400 exemption for couples, $500 for individuals and $1,000 for couples in even stages over a period of 3 years.

An individual exemption for fiscal year 1981 would be $200: fiscal year 1982 would be $300; fiscal year 1984 would be $400; and fiscal year 1985 would be $500. A joint exemption would be in the same years $400, $600, $800, and $1,000.

The United States has the lowest rate of saving in the Western world, resulting in the lowest rate of productivity growth, investment, and real wage increases among the major industrialized nations. Personal saving is falling because high inflation and high tax rates reduce the real rate of return on savings. As people are pushed into higher tax brackets, they get to keep less of each additional dollar of savings income. Since income from savings is added to earned income, the highest tax rate each taxpayer pays is imposed on his or her savings income. The higher the tax rate individuals face on the additional income from savings, the less likely they are to save. Thus, the present high tax rates discourage new savings, encourage consumption, and force savings away from nationally productive investments and into tax-exempt bonds and tax shelters.

Many of our competitors in the world economy have recognized the need to stimulate savings through exempting interest on time and saving deposits or interest from State savings institutions. Among these 39 countries are our leading competitors Japan, Great Britain, and France and several others. Nearly every major industrialized nation offers greater incentives to savings and investment than does the United States.

The total amount of saving in the United States—personal savings, retained earnings, and depreciation setasides—has already fallen so low that we are barely providing enough investment to keep pace with replacing worn out machinery and equipping a growing labor force. The taxes we raise in the windfall profit bill will wipe out our margin of growth several times over. Investment in excess of depreciation and equipping new entrants in the labor force came within $4 billion of total saving in 1978. Only $4 billion was available for productivity growth and modernization of a $1.8 trillion current stock of plant and equipment. I repeat, $4 billion related to $1.8 trillion of current stock and plant equipment. There really is no room for a $12–$16 billion a year windfall tax on retained earnings; however, if we take steps to encourage total savings we can reduce its adverse impact.

A study prepared by the Department of the Treasury indicates that total U.S. fixed investment as a share of national output between 1960 through 1973 was 17.5 percent. The U.S. figure ranks last among a group of major industrial nations. Our investment rate was 7.2 percentage points below the average commitment of the entire group. Even below that of Great Britain, often cited as a country that had a great deal of difficulty maintaining its growth rate. Greater savings and investment must be made to help boost productivity and reduce inflation. I think all of our colleagues will agree to that.

These figures are a direct result of the numerous discentives which discouraged Americans from saving and investment. Government regulation, for example, has frozen interest rates on savings accounts at 5¼ percent while inflation has surged to an annual rate near 14 percent. Under these conditions the effective return on savings is a negative 9.75 percent, and this is before interest income has been taxed. After Federal income taxes, the rate of return is obviously significantly worse.

It simply does not make economic sense to place money in a savings account in this environment. Instead, Americans increasingly choose to spend now and pay later, knowing that prices will only be higher in the future. This tends to be a self-fulfilling prophecy as high demand bids up the price of goods and businesses run short of investment capital, because of lack of savings and investment, leading to higher production costs from outmoded technology.

According to estimates made by the Joint Committee on Taxation and the Department of Treasury, Federal revenues will increase by at least $1.5 trillion over the next 10 years as a result of upcoming social security, decontrol, windfall profits and inflation induced tax increases. Other estimates exceed $2 trillion for these same increases. These are over and above what our people and our economy is currently having to bear in the form of taxation. These will be the greatest tax increases in American history and their impact clearly will be as great as the uncertainty that impact is today. Those who contend that the economy can absorb these increases without creating dislocations are advocating a very dangerous course if only in the face of the knowledge that Government will surely expand in its influence and power and size to spend these vast new tax increases. It is a course that may lead the United States down the road of slow growth—or no growth—in the decade ahead.

For this reason we must give greater incentive to the American public to retain their earnings, to retain their ability to spend in competition with their Government. In particular, we must create greater incentives for the American public to save and invest so that our business and industrial capacity can have the resources of capital necessary to expand and modernize.

The amendment that I hoped to offer would improve the real rate of return received on savings accounts and would reduce to some extent the negative effect of the double taxation of dividends far more than the basic amendment offered by the Senator from Texas. The result will be more fair tax treatment of the American public and a greater inflow of savings and investment into the economy which will bring faster growth and increased prosperity for all Americans.

Mr. President, I would mention to my colleagues at this point that the National Association of Homebuilders has calculated that a $500 exemption on interest income such as that proposed or which would be proposed in amendment 1437 could produce as much as $5 billion in increased savings that would be available to the mortgage market during the first year such an exemption was in effect. This would finance about 100,000 new housing units. This, in turn, would provide about 200,000 man-years of employment.

Mr. President, these are extraordinarily important figures to consider as we continue in this debate. The exemption would mean increased pools of mortgage money which would help moderate, shorten cyclical fluctuations in housing construction that have so much to do with the overall health of our economy.

Typically as interest rates rise thrift institutions suffer disintermediation. As the availability of mortgage funds decreases there is a sharp reduction in housing construction. The tax exemption would make investment in savings accounts more competitive compared with other investments, thus reducing the pressure and providing a more suitable source of mortgage money.

Since the tax exemption proposed this year does not take effect until 1981, it would not have any effect on the housing downturn anticipated for 1980. We must remember that, even those who are cosponsors of the present amendment. What it will do is to help housing recover during 1981 and in future years and moderate future cycles in housing construction.

A final benefit of the larger tax exemption is that it would moderate inflationary pressure within the economy by encouraging people to save more and spend less. This would reduce the demand for consumer goods and should reduce the upward pressure on prices.

Mr. President, also, as I indicated earlier, the U.S. League of Savings Associations estimates that the amendment that I have proposed to offer, 1437, will increase total personal savings by $10 billion, $6.8 billion for savings and loan institutions, and result in an additional mortgage lending of $3.1 billion, and 23,270 new housing starts, obviously an estimate.

The increase in gross national product from the construction of 23,000 homes is something like $2.75 billion, while the sale of 39,740 existing homes creates an additional GNP increase of $2.92 billion. Thus, the increase in savings made possible through a $500 interest and dividend exclusion would generate a $5.8 billion increase in GNP, according to the estimate of the U.S. League of Savings Associations.

Mr. President, I ask unanimous consent that there be inserted in the RECORD at this point a memorandum provided by that association that indicates in more quantitative detail the steps they would expect to be followed as a consequence of the acceptance of this $500 and $1,000 interest-dividend exclusion.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM

Re evaluation of the Schmitt amendment to the savings incentive bill.

What follows is an evaluation of the potential increase in savings, in mortgage lending and housing expenditures, and in the overall increase in GNP that may be expected to result from the Schmitt amendment.

In summary, the $500/$1,000 interest-dividend exclusion could result in an increase of up to: $10 billion in total personal savings; $6.8 billion in savings channeled through depository institutions; $3.1 billion in mortgage lending; 23,270 new housing starts; $5.8 billion total in GNP.

It is clear that the economic benefits provided by the size of the exclusion proposed in the Schmitt amendment represent a substantial improvement over the benefits of the original Bentsen bill. The economic impact of the Schmitt amendment was estimated in the following manner:

Step 1: We anticipate that the $500/$1,000 exclusion of interest and dividend income could generate an additional $10 billion investment in the credit and equity instruments and savings accounts at depository institutions. We have estimated that about two-thirds of the household investment affected by this amendment will be savings accounts at depository institutions, that is $6,772 million. Evans Economics, Inc. and Professor M. Boskin have produced a range of savings estimates of from $1 to $3 billion additional savings generated by a $100/$200 interest income exclusion. We assume these estimates can be increased proportionately to cover a $500/$1,000 interest-dividend income exclusion.

Step 2: We estimate the increased savings flows would result in a $3,060 million increase in mortgage lending, two-thirds of which would come from savings and loan associations. The remainder of the savings would be primarily directed toward the expansion of business and consumer credit. The following analysis provides no estimates of the economic impact of the increased credit flows to these areas. As such, the calculation of tax revenues emanating from increased housing activity represent a minimum estimate.

Step 3: The increase in mortgage lending will generate both new home construction and additional existing home sales. We calculate that 40 percent of the supply of mortgage funds will go toward purchases of new homes. Considering the average mortgage in new homes to be $52,600, it is estimated that the construction of 23,270 new homes will be provided for. Funds allocated to existing home sales will enable 39,740 purchases to be made.

Step 4: The economic impact of this increased housing activity is measured in Step 4. The importance of new home construction must be emphasized. The construction of an average-priced new home of $72,000 directly necessitates additional economic production worth another $46,000. The GNP equivalent value of the construction of 23,270 homes will be $2,757.6 million.

Our measurement of the economic value of existing home sales only includes an estimate of the sales and closing costs associated with the transfer. This is probably an underestimate. There are undoubtedly related retail sales associated with the transfer for which we have no estimate. Of course, housing-related expenditures of $2,921.5 million will provide income which we estimate will create an additional $2,921.5 million of expenditure in 1980. This is the well-known multiplier effect.

Thus, the additional savings made possible through the interest income exclusion will provide for a $5,843.0 million increase in GNP.

ESTIMATION OF THE IMPACT ON SAVINGS, HOUSING AND GNP OF AN INTEREST-DIVIDEND INCOME EXCLUSION OF $500 PER SINGLE RETURN/$1,000 PER JOINT RETURN

Step 1: Personal savings generated by this tax expenditure (billion), $10,000.

Savings channeled through depository institution (67.7 percent) $6,772.

Step 2: Increase in mortgage lending (million), $3,060.

Institution	Distribution of $2 billion savings (millions)	Savings allocated to mortgages (percent)	Increased mortgage lending (millions)
Savings and loan associations	$2,485	32.9	$2,055
Mutual savings banks	826	43.4	[illegible]
Commercial banks	3,156	18.4	581
Credit unions	305	5.3	16
Total	6,772	100.0	3,060

Source: FHLBB, Federal Reserve, U.S. League of Savings Associations.

Step 3: Increase in new home construction and existing home sales:

A. Total mortgage lending for new homes: 40 percent[1] × $3,060 million = Number of new homes constructed: $1,224 million.

Total mortgage lending for new homes: average mortgage on new home, $1,224 million ÷ $52,600[2] = 23,270 new homes.

B. Total mortgage lending for existing homes: 60 percent[1] × $3,060 million = $1,836 million.

Number of existing home sales:

Total mortgage lending for existing homes ÷ average mortgage on existing home = $1,836 million ÷ $46,200[2] = 39,740 existing homes.

Step 4: GNP equivalent value of new home construction: Existing home sales and multiplier effect.

A. New home construction:[3]

Direct and indirect expenditures related to home construction	Cost per house	Cost for 23,270 houses (millions)
Direct construction expenditure	$72,200	$1,680.0
Site preparation and utilities	10,200	237.4
Related construction	15,700	365.4
Sales and closing costs	4,700	109.4
Related retail sales	15,700	365.4
Total GNP equivalent value of new home construction	118,500	2,757.6

B. Existing home sales:[4]

	Cost per house	Cost for 39,740 houses (millions)
Total GNP equivalent value of existing home sales	$4,121	$163.9
Total GNP equivalent value of new home construction and existing home sales		2,921.5

C. Multiplier effect:[5] $2,912.5 million.

Total GNP equivalent (A+B+C) = $5,843 million.

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[1] Distribution of mortgage lending between new and existing homes is based on savings and loan data, U.S. League of Savings Associations.

[2] Mortgage amount of new and existing homes based on FHLBB statistics for 1st quarter of 1979.

[3] Computation of GNP equivalent in new home construction based on M. L. Coleen and R. J. Saulnier, "Economic Impact of the Construction of 100,000 Homes," U.S. League of Savings Associations. The cost estimates have been updated to 1979 with "Price of New One-Family Homes." U.S. Department of Commerce.

[4] GNP equivalent of existing home sales is assumed to simply be represented by sales and closing costs assumed to be 6.5 percent of average sales price of existing homes in 1979 of $63,400.

[5] Multiplier of 2 is assumed.

The PRESIDING OFFICER. Does the Senator from New Mexico yield the floor?

Mr. SCHMITT. Mr. President, I believe the Senator from New Mexico has the floor.

Mr. BENTSEN. I am sorry, I thought the Chair had said the Senator had yielded.

Mr. SCHMITT. Mr. President, in addition to that information, the Joint Committee on Taxation has prepared an analysis in the form of a table of the revenue effect of the proposal that I had hoped to offer as an amendment to the amendment of the Senator from Texas.

It would increase the exclusion, as I said, up to $500 and $1,000 for individual and joint returns, respectively.

I ask unanimous consent at this point that that revenue impact statement be included in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

SENATOR HARRISON "JACK" SCHMITT'S INTEREST AND DIVIDEND EXCLUSION [1]

	Amount (millions)
1981:	
Calendar year	$2,091
Fiscal year	314
1982:	
Calendar year	3,170
Fiscal year	2,490
1983:	
Calendar year	4,246
Fiscal year	3,731
1984:	
Calendar year	5,354
Fiscal year	4,980
1985:	
Calendar year	5,702
Fiscal year	5,484
1986:	
Calendar year	6,072
Fiscal year	5,832
1987:	
Calendar year	6,467
Fiscal year	6,220
1988:	
Calendar year	6,887
Fiscal year	6,625
1989:	
Calendar year	7,335
Fiscal year	7,055
1990:	
Calendar year	7,812
Fiscal year	7,514
Total, 1981–90:	
Calendar year	55,136
Fiscal year	50,245
Total (billions)	55
Bentsen	27
Cost above Bentsen	28

[1] Effective date is Jan. 1, 1981.

Source: Joint Committee on Taxation, Dec. 7, 1979.

Mr. SCHMITT. Mr. President, I would augment the inclusion of those figures with again the statement that when we talk about revenue impact in this body we almost invariably base our judgment on just the static costs of a particular proposal. We are never willing or not willing yet to include the net effect on the total economy over a period of years of a particular proposal that increases savings and investment.

So long as we refuse to do that, we are going to be in very, very serious trouble in doing anything that will stimulate the growth of this economy, the creation of jobs, and a real fight against inflation.

Mr. President, there was to be another amendment offered by the Senator from New Mexico, 1438, again precluded by this unfortunate procedural maneuver on the part of the Finance Committee—I presume on the part of the Finance Committee—but introduced by the Senator from Texas.

This second amendment is designed to do what neither the Senator from Texas' amendment, nor the proposal that the Senator from New Mexico would have done, and that is to actually encourage a higher rate of savings.

The exclusion of small amounts of interest and dividend income from taxation is important. It is important particularly for the low-income individuals who are saving or who are living off savings for various reasons. But the real change will only come if we exclude a significant amount of interest and dividends for that larger, much larger, proportion of the population in terms of their total income, at least, who must provide most of the savings and the investment needed by the American economy.

Amendment 1438 would be designed, was designed, to encourage a higher rate of savings by reducing the tax rates which apply to interest and dividend income. The primary beneficiaries will be the retirees dependent on interest and dividend income, those of working years with a will to save and invest to modernize our great country.

The amendment would add a 25-percent exclusion from tax of all interest and dividends earned above the levels covered by the amendment under discussion here, that is, the simple savings and investment exclusion amendment.

There would be the Bentsen amendment exclusion, the augmentation of that if the Senator from New Mexico could prevail, and on top of that a 25-percent exclusion for all additional interest and dividends.

The total amount of U.S. savings, as we have said before, has already fallen so low that we are barely providing enough investment to keep pace with replacing the worn-out machinery and equipping the growing labor force. In order to encourage new savings and investment to reverse these trends the tax rates which apply to interest and dividends clearly must be reduced, and reduced far more than even the Bentsen amendment or the proposal that the Senator from New Mexico would provide for.

A limited amendment reduction would not increase savings, although it is an important step in the right direction. It will primarily reward existing savings, which should be done.

On equity grounds, an interest exemption is advisable for senior citizens and low- and moderate-income taxpayers. But in order to encourage additional real savings nationwide the tax rates at which additional savings income is taxed must be reduced. The 25-percent exclusion of additional interest and dividends has the effect of reducing the tax rates on additional savings income by one-quarter. For example an individual in the 28-percent tax bracket would see the effective marginal tax rate on savings income fall to 21 percent. The 40-percent bracket would effectively fall to 30 percent, and the 70-percent bracket to 53 percent.

This would result, Mr. President, in substantial increase in savings, a switch out of tax shelters, reduced interest rates, and less pressure on the Federal Reserve to create money in order to finance Federal deficits. It is a pro-growth anti-inflationary step that would be of very great effectiveness if we are just willing to reach out and grasp it and not get hung on the petard of static revenue cost estimates.

The amendment would leave the taxpayer with between $5 billion to $7 billion annually when fully operable, that is leave the taxpayer with that kind of resource to use in his own way rather than having the Government use it for him.

This would be phased in at 5 percent a year for 5 years under the amendment 1438, starting in January so as not to recover all of these taxes the first year.

The cost would be about $1 billion in that first fiscal year.

Mr. President, on this floor, Prof. Michael J. Boskin, of Stanford University, is often cited as an authority on these, and has been cited as an authority in support of the Bentsen amendment by the Senator from Illinois, if I recall correctly.

I would like to read a letter he sent, dated December 7, 1979, relative to this proposal for a 25-percent interest and dividend income exclusion:

> Your proposal to exempt 25 percent of interest and dividend income from taxation in all brackets would have a significant impact on personal saving. The additional saving is badly needed to provide for the modernization and expansion of the stock of plant and equipment in the U.S. Without this expansion, we face many years of inadequate productivity growth, downward pressure on real wages, and increasing difficulty for the social security and private pension programs.
>
> Especially as the automatic tax increase due to inflation and the "windfall profits" tax will substantially retard national saving, I believe that targeting tax reductions at additional saving and investment is crucial to the performance of our economy over the next decade.

Mr. President, those are two paragraphs from a letter sent to me by Prof. Michael J. Boskin.

Mr. President, there is a great deal of discussion whether any kind of exemption will work to increase savings. The unfortunate thing is that the limited exemption proposed by the Senator from Texas will probably not have any broad national effect, although its populist effect is extremely important, and I am glad to be associated with that.

It is an obvious rule of economics that to change behavior one must change the reward to that behavior. Saving will be encouraged only if the tax rate on added interest earned by the added saving is reduced. New saving will not be stimulated by an exemption for interest already being earned. Thus, an exemption of $100 of interest will give a windfall, but no incentive, to anyone earning more than $100 in interest. Once the $100 exemption is used up, any added interest is taxed at the same tax rate as before.

My remarks at this point make reference to a table based on the IRS Statistics of Income 1977, Personal Income Tax Returns, which I ask unanimous consent to have printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. SCHMITT. The point of this table, based on IRS statistics from 1977 personal income tax returns, that exemptions of small amounts of interest and dividends from tax can do little to stimulate saving. Even in the lowest tax brackets, those returns which have some interest and dividend income average $600 per return. These are largely earned by retirees living off their savings. Only an exemption in excess of this amount would lower the tax rate on added interest that might be earned by someone filing such a return. Thus, only a large exemption would stimulate savings.

If the exemption method is followed, it would need to be at least $1,500 to cover the returns of the bottom half of the income distribution—up to a bit over $10,000 in adjusted gross income, or about $13,500 gross income for a family of four in 1977. Unfortunately, people filing these returns earned less than 20 percent of income—adjusted gross income less losses—and did far less than 20 percent of the Nation's savings, probably 10 percent or less. In fact, many in these brackets are retirees who are living off their savings, drawing them down, not building them up. Thus, even a $1,000 interest/dividend exemption would leave middle and upper bracket taxpayers, those still earning income and doing 90 percent of the Nation's savings with no incentive to do added saving for added interest or dividend income; 1978 and 1979 data, after inflation, will make these points even stronger.

There are only three ways around this problem:

First. Exempt all interest and dividends from tax. Then the tax rate on all added earnings from savings would be zero.

Second. Exempt some percent, say 50 percent, of every taxpayer's interest and dividends. Then the tax rates on all added earnings from savings would be cut in half in each bracket.

Third. Reduce the marginal tax rates in each bracket, or move interest and dividend income into a taxpayer's lower brackets (perhaps by starting to tax income from savings separately in the 14 percent tax bracket, up to the 50 percent bracket, just like earned income, instead of adding them together for tax purposes).

This last approach is the cheapest effective approach to encouraging saving. It does not lower any tax rates all the way to zero, but it is powerful enough to raise the rate of return substantially. It would even raise money in the upper brackets by discouraging the use of tax shelters.

Mr. President, I do not think Congress or the Finance Committee is the least bit ready to look at separating interest and dividend income from the rest of earned income, although I would commend that to their attention in the hearings promised by the junior Senator from New York.

But one thing we can all understand, and that is reducing the effective tax rate on interest by exempting the first 25 percent of such income, as the Senator from New Mexico has proposed.

EXHIBIT 1

Size of adjusted gross income	Interest and dividends per return averaged over— All returns	Interest and dividends per return averaged over— Returns with some interest and dividends [1]	Percent of total national adjusted gross income less deficit earned at the top of each income class or below [3]
All returns, total	$960	$1,888	100.0
Under $2,000	150	605	.9
$2,000 to $4,000	257	782	3.2
$4,000 to $6,000	508	1,335	6.9
$6,000 to $8,000	583	1,480	11.8
$8,000 to $10,000	637	1,427	17.2
$10,000 to $12,000	695	1,458	22.9
$12,000 to $14,000	698	1,338	29.3
$14,000 to $16,000	797	1,404	[3] 32.4
$16,000 to $18,000	749	1,206	([4])
$18,000 to $20,000	815	,1255	49.4
$20,000 to $25,000	954	1,315	64.3
$25,000 to $30,000	1,382	1,725	74.5
$30,000 to $50,000	2,613	2,974	89.4
$50,000 to $100,000	8,623	9,075	95.8
$100,000 to $200,000	23,354	24,183	98.3
$200,000 to $500,000	72,113	74,049	99.4
$500,000 to $1,000,000	225,843	231,478	99.7
$1,000,000 or more	742,022	754,743	100.0

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[1] There are many more returns showing interest income than dividend income. It is plausible to assume that returns with dividend income probably have interest income as well. Thus, it is assumed that returns with interest income also include returns with dividend income. Adding together interest and dividend income in each adjusted gross income category, and dividing by the number of returns in that category with interest income, gives the average interest and dividends per return for returns that have interest and dividends.

[2] E.g., returns with between $1 and $10,000 in adjusted gross income contained 17.2 percent of all adjusted gross income.

[3] Given for $15,000 by IRS.

[4] Not listed by IRS.

Needed: Chart that includes total amounts of investment made at each level of income (and percentage of total investment).

Mr. McCLURE. Mr. President, will the Senator from New Mexico yield to me for a comment, on my own time?

Mr. SCHMITT. I am happy to yield under those conditions, asking unanimous consent not to lose my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I commend the Senator for the statement he is making, and I think he is making an absolutely essential point, that the interest deduction from taxes for earned interest has two effects: One is to reward those who save, and the other is to stimulate further savings. The pending measure will reward those who save with almost no stimulus to additional savings. I would mention, however, that there is another approach which might be followed, which I would commend to those interested in the question.

That approach is embodied in S. 18, which I introduced earlier this year with five cosponsors. It is known as the Savings Act of 1979. What it does is try to affect the decisions on additional savings by making an assumption that people save based upon their income, and providing the tax incentive only on additional savings above that assumed rate of savings.

Obviously, it makes the assumption that people save a portion of their incomes. Those in the lower tax brackets are presumed to save less; those in the upper tax brackets are presumed to save more. But it would affect only incremental savings, not the first dollars of savings, and I believe it shows a promise of affecting people's behavior by inducing them to save more, and that the dollar loss to the Treasury is offset, to a large degree, by stimulating savings that would not otherwise occur.

I hope when the Senate and the Finance Committee look at the various alternatives available to them—obviously it will not be on this bill today—they will look at such approaches as the incremental savings that can be stimulated by that kind of approach, rather than simply rewarding upon the basis of the first dollar saved, which has almost no effect upon total dollars saved, but a tremendous effect upon revenue to the Government.

Again I commend the Senator from New Mexico for the statement he is making. I concur in almost everything he has said. I hope we will get to the point where we will look at these other approaches, where we will begin to see what we can do to reward the decisions people make regarding savings, rather than rewarding them after they have made the decision.

I thank the Senator from New Mexico for yielding.

Mr. SCHMITT. The Senator from New Mexico is happy to have yielded. I would just ask the Senator from Idaho, is he aware of the parliamentary situation that we have been put into?

Mr. McCLURE. I am indeed.

Mr. SCHMITT. And that you, sir, and other Senators would have had the opportunity to vote on both proposals of the Senator from New Mexico, which are merely slight modifications of proposals the entire Republican side of the aisle has supported in one way or the other; you would have had that opportunity to vote, had not this procedural charade been undertaken.

I guess it is obvious that the Senator from New Mexico is a little bit upset at what has happened. He would have liked to have been informed that this was going to happen, so that he might have notified others that the opportunity was foreclosed, but clearly that was not in the plans of the Senator from Texas, if he is indeed the one responsible.

Under the same conditions of not losing my right to the floor, I am happy to yield to the Senator from Oklahoma for his statement.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I thank my friend from New Mexico.

Mr. President, I support the committee amendment sponsored by Senators BENTSEN and DOLE to increase the exclusion for dividend and interest income. This amendment provides that taxpayers may exclude up to $200 of either dividend or interest income from their taxable income base. Broadening this exclusion to include interest income enables persons who receive only interest income to enjoy the same tax preference as those with dividend income. This is a change in the tax code that I fully support and which I included in a bill, S. 1565, that I introduced last summer.

However, I believe the Bentsen-Dole amendment is only the beginning of the debate on tax incentives to encourage savings which undoubtedly will intensify next year. In the context of that debate, I hope that the Finance Committee and the Senate will also consider the need to eliminate the substantial underreporting of interest and dividend income that reduces Federal revenues by as much as $5 billion each year.

An Internal Revenue Service study of unreported income on individual tax returns published last summer estimated that $75 to $100 billion of income from legal sources was not reported to the Treasury in 1976. Of this amount, $7 to $14 billion was due to the nonreporting of interest and dividend income. This is more than 18 percent of the total of interest and dividend income that was reported to the Treasury in 1976. Because of the rise in interest rates and interest income, the present amount of underreporting is undoubtedly near the high end of this range.

Mr. President, if we are going to provide additional tax relief for savers, I think that, as a simple matter of equity, we must attempt to curtail this substantial evasion of taxes on interest and dividend income. In the present environment of budget restraint, in which the Congress must measure the need for investment oriented tax incentives against the compelling need for budget balance, every dollar of revenue lost through noncompliance costs the honest taxpayer a dollar of tax relief.

The solution I propose to this problem of underreporting is to institute a system of Federal withholding on interest and dividend income. The IRS study on unreported income I cited previously endorses withholding as the most efficient and most effective approach for eliminating the underreporting problem. I quote from page 6 of the report, "Reporting of income is seen to be strongly influenced by whether or not the specific type of income is first subject to withholding and second, subject to information reporting." This study clearly indicates that withholding would be more effective than the present information reporting system for assuring full compliance.

This withholding proposal is estimated to increase revenues by $5 to $7 billion in the first year of implementation depending on whether one assumes full or only partial compliance with $3 to $4 billion a year thereafter. I emphasize that with the exception of the first year revenue gain which is affected by the acceleration of tax payments, the revenue gain from this proposal is due entirely to the collection of previously unreported income.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a table which shows the revenue gained from withholding of interest and dividends.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

REVENUE GAIN DUE TO WITHHOLDING ON INTEREST AND DIVIDEND INCOME

	Fiscal year—			
	1981	1982	1983	1984
With full compliance	7.1	4.0	4.4	5.0
With partial compliance[1]	3.4	4.6	3.8	4.3

[1] Partial compliance assumes that only the portion of the tax withheld is collected as revenue.

Sources: Congressional Budget Office and Joint Committee on Taxation.

Mr. BELLMON. These estimates are adjusted for the interest and dividend exclusion provided by the Bentsen amendment. I wish also to point out that these revenue estimates are higher than those I cited last summer because the publication of the IRS study indicated the amount of unreported interest and dividend income was higher than previously thought.

Clearly, the adoption of withholding would not only fully offset the projected revenue loss due to the Bentsen amendment, but would provide sufficient revenue for more generous saving incentives without disturbing our budget balance. I ask unanimous consent to have printed in the RECORD at this point a table which shows the net revenue gain to the Treasury if the Bentsen amendment were combined with withholding.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

REVENUE IMPACT OF BENTSEN AMENDMENT WITH WITHHOLDING

	Fiscal year—			
	1981	1982	1983	1984
Revenue loss due to Bentsen	−3.1	−2.3	−2.4	−2.6
Revenue gain due to withholding with partial compliance	+3.4	+4.6	+3.8	+4.3
Net revenue impact of Bentsen amendment with withholding	+.3	+2.3	+1.4	+1.7

Source: Joint Committee on Taxation.

Mr. BELLMON. I realize that withholding is a controversial issue and that many fear that the burden of withholding would rest disproportionately on the poor, the elderly and the institutions that would have to administer the system. However, I do not think that these are insurmountable objections and I have provided exemption and fee provisions in my bill which would eliminate these concerns.

Because of my firm belief that additional savings incentives such as the Bentsen-Dole amendment should not be considered without also addressing the problem of underreporting of interest and dividend income.

It was my intention to offer amendment No. 693 to deal with this problem, but because of the way the situation developed, I will not be able to do that.

Mr. President, I see the distinguished Senator from Virginia (Mr. BYRD) is in the Chamber. He serves as chairman of the Subcommittee on Taxation and Debt Management.

I am curious if he shares my concern about the underreporting of the interest and dividend income which IRS feels is occurring.

Mr. HARRY F. BYRD, JR. Yes, I do.

Mr. BELLMON. I wonder, Mr. President, if the chairman of the Subcommittee on Taxation and Debt Management might agree to hold hearings on a proposal of this kind to see if there is any way to justify withholding of taxes on interest and dividends?

Mr. HARRY F. BYRD, JR. Yes, I would be glad to hold such hearings.

Mr. BELLMON. Mr. President, I hope that we could get to that fairly soon next year. I realize there is a heavy load on the Finance Committee. But I wonder if the Senator sees any difficulty in getting to these hearings, in line with the other work that must be ahead for his subcommittee.

Mr. SCHMITT. Mr. President, I am happy to yield, under the existing conditions, to the Senator from Virginia for an answer to that question.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. STEVENS. Mr. President, will the Senator yield to me for just one moment?

Mr. HARRY F. BYRD, JR. Yes.

Mr. STEVENS. Mr. President, under the rule, it is possible for Senators to yield to the majority leader and minority leader. I would ask to yield to the Senator from Connecticut so he might yield me a portion or all of his time.

Mr. WEICKER. Mr. President, I yield all of my time under the bill to the distinguished Senator from Alaska.

Mr. STEVENS. I thank the Senator.

Mr. HARRY F. BYRD, JR. Mr. President, I see no problem, I say to the Senator from Oklahoma. I am not in a position today to set a precise date. But, if it is agreeable to the Senator from Oklahoma, I think that somewhere in February or March we could have such a hearing.

Mr. BELLMON. Mr. President, it is very reassuring to hear the Senator from Virginia make that statement. To me, it is entirely appropriate to do what the Bentsen amendment does. But, at the same time, I feel most Members of the Senate would agree that our tax laws need to be carefully enforced so that we do not allow large underreporting or nonreporting of income so that taxes that are due are not paid. I hope we can get this. I look forward to working with the Senator from Virginia.

Mr. HARRY F. BYRD, JR. I agree with the Senator that taxes which are due should, in fact, be paid and I will be happy to hold hearings on the Senator's proposal.

Mr. SCHMITT addressed the Chair.

Mr. McCLURE. Will the President from New Mexico——

Mr. SCHMITT. The "President from New Mexico" would be happy to yield, under the preexisting conditions.

Mr. McCLURE. And on my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE Mr. President, I am delighted to have been able to so easily and summarily elevate the Senator from New Mexico. Maybe that is just a glimpse of the future.

Mr. President, during consideration of H.R. 3919, the windfall profit tax bill, Senators BENTSEN and PERCY have indicated they will offer an amendment to give individuals a tax exemption for the first $100 of interest earned from a savings account. I have asked to be included as a cosponsor of their amendment. I agree fully that our extremely low rate of saving, investment, and the closely related problem of lagging productivity is as serious a threat as any facing the economic well-being of our Nation. It is clear our tax laws have seriously penalized savings and investment, and I applaud this attempt to provide some relief for a very serious situation. But I also want to make clear I would prefer a far more comprehensive approach.

In January, I introduced S. 18, the Savings Act of 1979. A companion bill was offered in the House of Representatives by my very good friend Congressman CLARENCE BROWN of Ohio. I might just note ours were the first bills designed to address this problem introduced in the 96th Congress. Since then, many proposals have been offered to encourage saving in one way or another; and while I am very gratified that there is so much interest in the subject, I regret that their number may have contributed to the Finance Committee's failure to report any of them so far this year. As it seems so often to occur with an idea whose time has come, every member feels compelled to come up with something to put his own name on rather than agreeing on a vehicle from which to work out a consensus on a particular concept. That has certainly been the case, for example, on the question of a balanced budget amendment. Everybody has a proposal, but the American people still have no amendment. That is not to say members of Congress should not be innovative and active, but I do believe a great deal of the American people's disrespect for Congress as an institution able to cope with and address problems of national concern could be corrected if members were as interested in results as in headlines back home.

Mr. President, as you are well aware, each dollar saved by Americans now shrinks over time. In these inflationary times, saving has become a losing proposition. As you also know, the savings rate in the United States is now the lowest in the industrialized world and this has chilling implications for the U.S. economic growth, standard of living and job opportunities.

Our goal, then, must be to provide a tax break for small savers that will allow Americans to set aside savings for future needs and at the same time increase the U.S. savings rate to provide additional investment funds for capital formation.

While I am supporting the amendment to be offered by Senators BENTSEN and PERCY, I still believe that the best way to meet these twin goals is enactment of the Savings Act of 1979. The bill provides a 50-percent tax credit for additions to all types of bank and savings accounts, stock and taxable bond holdings, insurance and assets of small businesses. Only savings over a threshold amount—the average saving rate by income bracket—is eligible for the credit, ensuring that only additional savings is rewarded.

This approach differs significantly from the more commonly mentioned proposals which normally provide a tax deduction or exemption for interest earned up to a certain dollar limit—say, $100. Most tax returns, even in low-income brackets, show that much interest income. That means a windfall for the taxpayer without any incentive to do additional saving.

By rewarding only saving done over a threshold amount, the Savings Act of 1979 avoids rewarding saving that is being done anyway, without the credit or exemption. For example, if people earning $20,000 a year normally save 4 percent of their income, they would only get the credit on saving in excess of $800.

Of course, some people save more than the average rates now, so some credit would be given out before behavior changed. But the thresholds have been set high enough that about 80 percent of current saving is not eligible. So the initial revenue loss would be held to the $5 to $10 billion range. This is a substantial amount, and there has been a good deal of concern about it. But while this would increase the deficit, it would not be inflationary.

Here's why: Prof. Michael Boskin of Stanford estimates that savings increases 3 to 4 percent for every 10-percent increase in the rate of return on savings. Since the Savings Act of 1979 would double the rate of return on savings (a 100-percent rise), we can expect saving to increase 30 to 40 percent. Current personal saving is nearly $100 billion per year, so there would be $30 to $40 billion in additional saving.

The revenue loss to the Government from the tax credit therefore would be half of that (it is a 50-percent tax credit) plus the initial revenue loss of $5 to $10 billion. Since the total is less than the amount of additional saving, any resulting deficit would be self-financing and not inflationary. The deficit would be funded by private saving, not by money creation. And there would be additional saving left over to finance private investment, leading to economic growth, more jobs, and additional Government revenue.

Another big advantage of the approach taken by the Savings Act of 1979 is that it provides more help for low-income families than the bills giving a tax deduction for interest earned. A $100 deduction is worth just $15 for the family in the 15-percent bracket.

A 50-percent tax credit, on the other hand, is worth the same 50 cents for every dollar saved over the threshold amount for both low- and high-income taxpayers. As a percent of income, the incentive is actually higher for low-income families. And the threshold amount is low for low-income families; it is zero for those under $10,000. Such a family gets 50 cents off its tax bill for every dollar saved.

We all recognize the difficulty lower income taxpayers have in saving. This bill recognizes that by providing a progressive tax credit rather than an exemption or deduction. Lower income taxpayers would receive a credit on all eligible savings. While middle and upper bracket taxpayers, who have historically saved higher percentages of their incomes, would receive a credit only on eligible savings done in excess of the normal percent of income saved by people in their income bracket. By establishing this credit on the marginal savings, we sharply reduce the cost of the bill, while encouraging additional savings.

The savings credit will result in a shifting of saving from the current ineffective but tax-sheltered projects to a straightforward saving in basic U.S. industry, small business, and home building. A 50-percent credit restores the attractiveness of straightforward saving by doubling the reward to such taxable investment and saving for any given interest rate or dividend. Thus, this credit will produce a reallocation of saving into projects of the greatest value in terms of economic growth and modernization of American plant and equipment.

Finally, interest deduction bills limit their impact to saving in banks, savings and loans, and credit unions. The Savings Act of 1979, because it provides a credit for actual saving, not a deduction for interest earned, also applies to saving in stock and taxable bond holdings, insurance and assets of small businesses. By treating all forms of saving equally, the Savings Act of 1979 will not favor one type of saving at the expense of the others.

An increase in saving is essential to capital formation and would achieve the orderly and sustained growth of the economy we all seek. Removing tax disincentives to employment and investment is an essential precondition for meeting the Nation's social and environmental goals. My savings proposal will spur the Congress to get right to the heart of our economic problems. It will provide the key to full employment, rising living standards, and produce a substantial increase in the growth rate for years to come. In short, the Savings Act of 1979 offers more than a small tax break to people with small savings accounts. It provides a powerful incentive for additional saving and investment in all sectors of the American economy, as well as the opportunity for all Americans to receive a significant reward for saving and investing their money wisely.

Mr. President, I would like to call my colleagues' attention to an article on the subject of productivity in America written by Dr. Charles McQuillen, dean of the College of Business and Economics at the University of Idaho. Before taking that post Dr. McQuillen was assistant minority staff director of the Senate Budget Committee, and before that worked as my staff assistant on that committee. Needless to say, I have worked very closely with him and have great respect and confidence in his opinions. This excellent article has bearing on the subject at hand and I commend it to my colleagues. I ask unanimous consent that it be printed in the RECORD at this point in my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PRODUCTIVITY IN AMERICA

(By Dr. Charles D. McQuillen)

INTRODUCTION

In January of this year the Joint Economic Committee of the Congress underwent a fundamental change in leadership, philosophy, and orientation. The economics of intervention are largely gone, and with them the "politics of joy." Recent Committee reports have startled both professional economists and the political coalitions that formerly looked to the J.E.C. for theoretical justification of the economic management and planning strategies to which these groups were historically committed.

Just this past month the "new" J.E.C. published a report projecting two economic scenarios which could come to pass during the 1980's. The first held out the specter of an inflation rate of 140 percent over the decade; unemployment rates averaging 7 percent and real annual GNP growth of less than 2.5 percent. The second performance path included an inflation rate for the decade of 74 percent overall but falling to an annual rate of 5 percent by the end of the ten year period. Full employment and real GNP growth rates of 3 to 3.5 percent complete the more optimistic scenario.

The independent variable in each projection was the assumed rate of productivity gain. Until the publication of the report, the only thing I had ever shared with the J.E.C. was the same building. I now share the J.E.C.'s concern for the course of productivity in America—I also endorse their view of the seriousness of the problem. It may well be that the social fabric would not stand the internal strains associated with the high inflation, low growth, and massive unemployment path. Unfortunately the J.E.C.'s diagnosis of the causes of our economic malaise and their prescription for recovery are seriously flawed. Given the potentially terminal nature of the disease, a second opinion is in order.

In the long sad litany which describes the present malaise, few issues are as often mentioned or as poorly understood as those relating to productivity. At the outset of any discussion of productivity trends it should be acknowledged that problems of measurement abound. Periods of expansion and contraction are not wholly comparable. In addition, basic data sources are inadequate with respect to scope and accuracy. In some instances what we fail to measure, environmental improvement for example, may be as important as what we actually do compute. This is especially true with respect to our inability to capture, statistically, the changing social view of work, and the evolving tradeoffs among work, leisure, and self fulfillment that are occurring because of it.

FACTORS BEHIND THE PROBLEM

Despite the difficulties which exist in productivity measurement, virtually all professional observers share the opinion that, as a nation, we are becoming increasingly less efficient. The extent of the problem is illustrated in Table I, which tracks productivity, and in Table II, which displays the upward trend in unit labor costs.

TABLE I: *Long-term growth—U.S. productivity*

	Percent
1948–55	3.4
1955–65	3.1
1965–73	2.3
1973–77	1.0
1977–78	.4
1968	3.3
1969	.2
1970	.7
1971	3.4
1972	3.4
1973	1.9
1974	3.0
1975	2.1
1976	3.5
1977	1.6
1978	.3
1979	4.6

TABLE II: *Change in unit labor costs*

	Percent
1968	4.1
1969	6.6
1970	6.4
1971	3.3
1972	2.8
1973	6.2
1974	12.5
1975	7.7
1976	5.0
1977	6.4
1978	8.9
1979	16.4

The failure of productivity to keep pace with the levels established during the period 1948–1965 has contributed, in no small way, to our current economic problem. Lagging productivity reduces economic growth, exacerbates inflation, inhibits our competitiveness abroad, and erodes the value of the dollar. The productivity problems is serious. It must be and can be solved.

A PERSPECTIVE ON THE PROBLEM

Any national policy aimed at increasing productivity should recognize that certain basic and, in the short run, unalterable social and demographic shifts have occurred or are underway. These fundamental changes are creating the new social environment in which responsible and effective policy must ultimately be formulated and executed. Among these fundamental alterations I would include the following:

The movement of resources from marginal agriculture to more productive manufacturing is virtually complete. This transition accelerated productivity gains prior to 1950, but has had little positive impact since that date.

The continuing evolution of the service economy has drawn resources from the highly productive manufacturing sector into the service sector. The pace of technological change in the service-oriented industries is less than half that in the manufacturing area.

The composition of the labor force is rapidly changing as a result of demographic influences and the emergence of other social forces. It consequently includes more women and young people whose skill levels are lower than those that characterized the traditional labor force.

Regulatory costs have mushroomed as demands have been made and met in the areas of industrial safety, fair employment practices, and consumer and environmental protection. The expanding burden of regulation has reduced investment in productive plant and equipment and, in a gross sense, has acted as a drag on productivity. By some estimates such regulations have reduced productivity growth by .3% annually.

Savings rates in the United States have declined and are now among the lowest in the industrialized world. This phenomenon, in combination with an expanding labor force, has lowered the level of capital investment associated with each newly created job. Consequently each new employee comes to the work place with a reduced level of capital committed for his use.

Energy costs have escalated dramatically since 1973 and have rendered some 5% of our industrial equipment obsolete at current price levels.

Finally, changing attitudes and costs relating to the tradeoffs between work and leisure may have also taken their toll on productivity. This issue is virtually impossible to quantify. However, I can recall overhearing a small business executive lamenting the decline of the work ethic. He said, "Show me someone who firmly believes in hard work and the American dream, and I'll show you a Mexican who is being sent home!" How close that thesis comes to reality I would not pretend to know. However, it is an economic fact that the cost of leisure has declined and the less expensive a day off, the more likely one is to take it.

A RESPONSE TO THE PROBLEM

The preceding list could obviously be extended to the point where both the writer and the reader are exhausted and despondent. Its purpose, however, is simply to describe the problem and to provide the basis for a suggested solution.

Many policies of the federal government have served to create an environment which is not conducive to increasing productivity in America. The recent recognition at the Federal level of the dynamic role which declining productivity has played in the exacerbation of other national problems is heartening since there is a great contribution which responsive and enlightened public policy can make.

A national commitment to accelerate the rate of growth in productivity is clearly called for. The policies which can have the largest and most timely impact on the problem of productivity are associated with changes in the tax code. Consequently the policy described below involves a combination of tax reductions and credits designed to increase the incentive to invest, and also reduce the propensity to consume.

POLICIES TO BOLSTER PRODUCTIVITY

The corporate marginal tax rate was recently reduced from forty-eight to forty-six percent. It should be lowered further to the forty percent level. Such a change would be simple, politically feasible, and would provide internal funds for reinvestment. In addition, the revised level of dividends associated with increased profitability should stimulate savings and the investment in equities. The net revenue loss to the Treasury would be slim and would quickly be offset by a higher rate of economic growth.

The current system of double taxation of corporate dividends should be eliminated. Current practices result in the taxation of corporate profits prior to dividend distribution and the subsequent taxation of those dividends when received by shareholders as individuals. This system reduces the potential net returns on equity and increases the level of debt financing in corporate capital structures. One of the chief consequences of this phenomenon is to increase the inherent instability in corporate earnings and to raise the likelihood of bankruptcies during a recession. The elimination of the double taxation of dividends would stimulate equity investment and correct, to some extent, the financial imbalances which characterize many corporate financial statements. Those who oppose such a modification of the tax code argue that since 47 percent of all dividends are received by 1 percent of U.S. families, it is tax relief for the rich and is based upon a "trickle down" theory of stimulating economic growth. They may have a point, but until an effective "trickle up" theory of investment is brought forth, I suggest that this change in the Code would prove beneficial.

The investment tax credit should be revised and extended. The investment tax credit, when highly targeted, is an effective fiscal tool and is capable of stimulating the type of investment which creates jobs and contributes to efficiency. Unlike a general tax reduction which increases consumption directly and investment only indirectly, the investment tax credit is specific. In addition, the credit reduces federal revenues only when investment takes place and substantial reflows arising from the investment are likely. Thus federal revenues are immediately reduced but ultimately are increased as economic growth, employment, and corporate profits rise. An effective first step toward achieving these benefits would be to move the rate of the I.T.C. to a level of 20 percent.

The concept of the investment tax credit should also be extended to individuals by permitting an annual tax credit of 25 percent on savings deposits up to a level of $2,000. This inducement to save is critical to the creation of a larger pool of investment funds at rates of interest which maximize rather than preclude high levels of investment. Savings rates in this country are low by historical levels and are much lower than in other industrialized countries. Factors which have increased the propensity to consume are legion. However, the fact that the real rate of return to savers is negative strikes me as the dominant influence. Increasing that rate of return is a clear prerequisite to reestablishing the historic relationship between savings and consumption. Other industrialized nations have already taken steps to extend tax credits to savers. In Japan and Europe interest on savings is wholly or partially exempted from taxation. For example in Japan interest earned on savings deposits of $65,000 or less is tax exempt. In West Germany $1,000 of savings invested in a six year account receives interest at the rate of 4.5 percent plus a 14 percent bonus payment from the Federal Republic. Neither the interest nor the bonus is taxable. In this country, however, interest is taxed at normal rates and when it is ruled to be "unearned income" even higher tax rates apply.

Finally, the concept of the I.T.C. should be extended to include research and development salaries and materials. R & D spending as a percentage of GNP has declined by one-third since 1964. A reversal of this trend is in order, and an extension of the I.T.C. in this area should produce salutary results.

The capital gains tax recently cut from 49 percent to 28 percent should be further reduced to 25 percent. As shown in Table III, the rates at which capital gains are taxed vary widely from country to country. Until recent changes took effect, the United States clearly exacted the highest rate.

TABLE III: *Comparative Capital Gains Tax Rates (1977) (percent)*

Japan	0
Germany	0
Italy	0
Netherlands	0
Belgium	0
Australia	0
Canada	22
Sweden	23
Britain	30
U.S.A.	49 (now 28)

In a universal sense, the level of the tax rate in combination with an inability to "roll over" capital gains provides clear penalties for investment and reduces the mobility and flexibility of capital resources. A general rollover provision which would permit the reinvestment of realized capital gains with deferred tax liability would be yet another useful policy change.

CONCLUSION

The relationship between productivity and capital formation is well documented. Likewise, tagging productivity and inflation are closely related phenomena both historically and currently. The negative trend in productivity gains in the U.S. can be explained by a number of factors such as changes in the labor force, higher levels of government regulation, and misguided federal tax policy. In the area of tax policy, significant alterations can be made and implemented quickly. Consequently this article has focused on a few such policy initiatives which have promise in both the long and short term.

In all likelihood the Congress will consider tax reductions of between $20 and $30 billion in 1980. The political temptation to dissipate these dollars primarily in the area of individual income tax relief will be strong in an election year. Such a course of action, however, would produce little or no new capital investment, but would instead compound an already high rate of inflation. A tax policy targeted at creating investment and reflecting some of the proposals described above appears to be more appropriate and timely.

Truly massive amounts of capital will be required if this country is to respond effectively to the challenges posed in the areas of price stability, energy production, and foreign trade. An effective tax policy which places a premium on capital formation will provide a most effective basis from which to meet such challenges.

Mr. McCLURE. Mr. President, I urge my colleagues to support the amendment to be offered by the Senators from Texas and Illinois; it is certainly a step in the right direction. But I also urge that the Senate, and particularly the members of the Senate Finance Committee take a closer look at the concepts and proposals embodied in the Savings Act of 1979. I intend to continue to push for its enactment.

Mr. President, I want to make reference to a part of my statement that deals with the question of revenue loss to the Government and what fact that has upon inflation. Because I think there are a number of people who believe that the revenue loss having taken place would be inflationary and yet, if it is additional savings that occasions the revenue loss, it does not have that effect.

The revenue loss under the bill which I had proposed from the tax credit would be half, since it would be a 50-percent tax credit of the rate of increased earnings on increased savings, plus the initial revenue loss of $5 to $10 billion. But since the total is less than the amount of additional savings, any resulting deficit would be self-financing and not inflationary. The deficit would be funded by private savings, not by money creation. There would be additional saving left over to finance private investment, leading to economic gross, more jobs, and additional Government revenue.

Mr. President, I think the balance of the statement speaks as eloquently as I know how to on the necessity for having additional savings and to stimulate additional saving. That was the reason I was glad to join in the cosponsorship of the amendment which Senators BENTSEN and PERCY indicated they would offer to give individuals a tax exemption for the first $100 of interest earnings from a savings account.

But I think, again, that it makes the point the Senator from New Mexico (Mr. SCHMITT) has been trying to make, that it is marginal savings we are trying to effect and it is not simply rewarding the savings that have already taken place. Because the deficit occurring as a result of a tax reduction because of rewarding present savings has the effect of increasing the deficit without any offsetting increase in savings and, therefore, does have an effect upon inflationary pressures and capital availability.

But the incremental savings which would occur if we can induce additional savings does not have that effect, because it is self-financing.

I thank the Senator from New Mexico for yielding.

Mr. SCHMITT. Mr. President, I yield to the Senator from Oklahoma one more time, again without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BELLMON. Mr. President, under the rule, I yield a half an hour of my time to the distinguished acting minority leader.

Mr. STEVENS. I thank the Senator.

Mr. BELLMON. I thank my friend from New Mexico for yielding.

Mr. SCHMITT. Mr. President, at this point, I request unanimous consent that the pending amendment in the second degree, amendment No. 1444, be set aside so that the Senator from New Mexico can call up amendment No. 1437, also in the second degree, to amendment No. 791, originally offered by the Senator from Texas (Mr. BENTSEN).

Mr. BENTSEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SCHMITT. Mr. President, with that objection, and because of the unfortunate procedural implications and precedents which are set by the action of amending by $1 an amendment in an amendment previously offered in the first degree in order to foreclose other second-degree amendments, I will at the appropriate time move to table amendment No. 1444.

Mr. EXON. Mr. President, I support the amendment offered by the Senator from Texas. I am one of the 78 cosponsors of that amendment.

I will be as brief as I can, yielding myself 5 minutes. I believe that will cover the statements that I have to make.

I have been listening to be statements that have been made here. I am disappointed that I did not have the opportunity to object, as I indicated I would earlier, when my friend from New Mexico (Mr. Schmitt) offered a unanimous-consent request for his substitute amendment.

I have joined as a cosponsor of a measure introduced by the Senator from Texas (Mr. Bentsen) and others, and I was interested in listening to the Senator from Illinois saying, I believe, that this was bipartisan support, because there were 41 Republicans and 37 Democrats on this bill.

I believe that with the budget situation which faces us, this is as far as I could go, basically, with the amendment and with the amendment which has been offered in the second degree by the Senator from Texas.

I would point out that while the Senator from New Mexico has made some interesting statements, and while I am sure that he is very sincere in his position, I just do not believe that those of us in the Senate who are sincerely interested in balancing the budget in 1981, and hopefully have some kind of a tax cut then, and provide, as the Budget Committee has recommended to the Senate, that we have a surplus, hopefully, of about $55 billion for a tax cut in fiscal 1982, should do very much tampering with that as we go on down the road.

Earlier the Senator from New Mexico said that he might indeed offer the amendment and would give me a chance to object. I believe the words he used were that he might be glad to put me on record in objecting to that.

I have been put on record for the short time that I have been in this body on many, many occasions, and I suspect that many of the times that I am called upon in this Senate to get up and vote I was put on record because there may be some political benefit in some of the hundreds of votes that we have to take in this body, which I suggest are not a legitimate part of the discussions in this Senate or a legitimate part of the committee processes.

I am glad to be on record in opposition to spending any more than the $27 billion estimated in 10 years to fund the measure that was offered by the Senator from Texas.

I have been advised that had we accepted the amendment attempted to be offered by the Senator from New Mexico, and had it been voted upon favorably by the Senate, this would have risen to about $55 billion.

I would hasten to add, and I would agree with him, and I believe also the other Senators who have spoken would agree, that when we talk about $27 billion for 10 years, which will be reduced receipts in the Treasury by the amendment offered by the Senator from Texas, and the $55 billion or roughly double that which the Senator from New Mexico wished to offer, we have not turned the backflow into our very complicated economy.

However, a rule of thumb might be, I would suggest, that whatever the cost would be, whether $27 billion under the amendment offered by the Senator from Texas or $55 billion by the Senator from New Mexico, probably the net cost to the Treasury on a basic rule of thumb would be something like half of that amount.

I really do not believe we should cave in to the pump-priming efforts that I feel the Senator from New Mexico is really suggesting if he goes that far. Yes, we may be pump priming some with the amendment offered by the Senator from Texas. However, I think that when we make our decisions here on the floor of the Senate, we must always try to be reasonable, we must try to recognize that whenever we make a move like this we are placing in jeopardy the chance of balancing the budget. I think most of us recognize and realize that we are never going to have any real chance of fighting inflation or cutting it down until we can balance the Federal budget.

I do not buy the Laffer curve concept, although I know there are many on the other side of the aisle that do. I do not think any less of them for offering it. I just do not agree with them. I am an old-fashioned businessman and I know the only way you balance the budget is to bâlance income with outgo.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. EXON. I yield myself such additional time as I may need, Mr. President.

Therefore, I hope that we will vote through the amendment sponsored by 41 Republicans and 27 Democrats, a true bipartisan support. Then we will take another look next year. It might well be that the Senator from New Mexico has a very worthy plan. I just want to raise a voice of caution on this floor once again that while we are going through these taxing policies, let us try and live within the recommendations of the Budget Committee. I suggest that under the able leadership of the Senator from Maine and the Senator from Oklahoma, unless we can follow the guidelines set down by the Budget Committee we are not going to balance this Federal budget.

Therefore, Mr. President, I hope that we can vote down any attempts to further cut the budget beyond what has been generally agreed to in the amendment offered by the Senator from Texas.

Mr. SCHMITT. Will the Senator yield for a response to his remarks?

Mr. EXON. As soon as I finish one more statement I will be happy to yield.

I just want to say that the conscience of the Senate in budget matters rests once again, as it has for a long time, with the distinguished chairman of the Budget Committee, the Senator from Maine. This is December 17, 1979, and when the Record comes out tomorrow I will clip and save the statement he made here about an hour and a half ago. He went right down the line on the key point we have to remember, Mr. President. That is simply that we cannot afford tax cuts and we cannot afford to pump money that reduces the revenue until, if, and when we balance the Federal budget.

Therefore, I suggest that tampering—tampering, I say—with the income of the Federal Government at this time is going to delay the prospects of balancing the Federal budget in 1981, which has been the goal of the Budget Committee. That will be placed in great jeopardy, indeed. With those remarks, Mr. President, I yield.

TAX BREAK FOR SAVERS

● Mr. HEFLIN. Mr. President, I am pleased to rise in support of the savings exclusion amendment offered by the Senator from Texas (Mr. Bentsen) for himself, Senators Percy, Talmadge, and Dole.

I commend these Senators for their leadership in developing and proposing this much-needed amendment.

Unquestionably, this is a proposal whose time has come. Therefore, Mr. President, I wish to state my strongest support for the amendment which would give a tax break to most Americans.

I realize, of course, that many excellent statements have already been made by my colleagues advocating acceptance of the amendment. I do not know that I can add any new, compelling arguments in support of the Bentsen amendment. I would simply restate what I believe to be some of the most convincing reasons why this amendment should be approved.

Our tax laws have penalized those who saved and invested and this has contributed to our sagging productivity and high rates of inflation. In comparison, other industrialized nations provide substantial savings incentives. Thus, it is no surprise that the United States has a very poor record of savings compared to other industrialized nations. The U.S. rate of savings has a percentage of disposable national income in 1976 of only 4.8 percent compared to a rate of 6.6 percent in the United Kingdom, 13.1 percent in France, 13.2 percent in Germany, 17.2 percent in Switzerland, and 25.3 percent in Japan.

These figures tell the story. They clearly reflect a problem which has resulted, in large part, from the withdrawal of savings by U.S. citizens. Today there is a shortage of housing funds and all available data indicate housing starts are headed downhill.

Forecasters at the National Association of Home Builders' semiannual housing forecast conference generally agreed that housing starts would be in a range of 1.2 to 1.4 million units in 1980. This would be a decline of about 27 percent from the 1.7 million units expected to be started in 1979.

Most of the forecasters at the conference, which was held at the National Housing Center in Washington on November 27, predicted a slow recovery from the downturn. They were nearly unanimous in their belief that housing activity would remain sluggish throughout 1980 and most of 1981.

Mr. Michael Sumichrast, vice president and chief economist for the National Association of Home Builders recently stated:

> To replenish the mortgage market we need not only a decline in short term interest rates but a considerable improvement in savings as well. The thrift industry has been unable to get savings—the funds that are

> crucial for financing homes. Some institutions, frightened by the current situation, have simply closed their lending windows. Many are making it much more difficult for borrowers to qualify.
>
> . . . any squeeze in the thrift industry always results in lower earnings, a decline in liquidity, and tightening of lending standards. With an outflow of funds, the marginal potential borrower is dropped and the terms of lending stiffen to a point that bars a large segment of the population from the mortgage market.

Young people are finding it extremely difficult—if not impossible—to purchase a new home. Interest rates on home mortgages have escalated to a point that monthly payments are virtually out of reach.

Mr. President, it is a well established fact that when people stop saving, mortgage money becomes harder and more expensive to obtain, and that in turn drives prices up again. This amendment can serve as a first step in attracting and maintaining savings in thrift institutions. Since thrift institutions serve as the major supplier of mortgage funds, this would have a favorable effect on the millions of Americans who will be purchasing homes during the next decade.

Today people have a negative return on savings. It is no wonder that an increasing number of our citizens are taking their funds out of savings institutions. These citizens find they cannot make it on the kind of return they are getting on their hard-earned savings and then have to pay a tax on top of that.

The Bentsen amendment is designed to address some of these problems. It would encourage thrift in this country, savings for the future, and aid citizens who are trying to put a little something away to help meet their retirement needs.

The compromise amendment we are considering today provides an income tax exclusion for the first $200 of combined interest and dividends received during the year—$400 for a couple filing a joint return. It is supported by a broad range of groups and individuals.

As previously stated by the Senator from Texas, this is a very simple and easily understandable amendment. It would apply to the following types of interest and dividends: Dividends from domestic sources, including certain dividends from a regulated investment company and real estate investment trust; interest from a savings account at banking and thrift institutions; interest on corporate obligations; and interest on governmental obligations which is otherwise taxable.

The amendment avoids complicated reinvestment requirements and other restrictions which would cause endless confusion for millions of taxpayers.

I sincerely believe this savings incentive amendment is a necessary element in fighting inflation and restoring strength and stability to the American economy.

Mr. President, I strongly urge adoption of the amendment.●

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SCHMITT. Mr. President, I ask for the yeas and nays on a motion to table, which I will offer at an appropriate time.

The PRESIDING OFFICER (Mr. STEWART). It takes unanimous consent.

Mr. SCHMITT. I ask unanimous consent, Mr. President.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Will the Senator yield for a moment?

Mr. SCHMITT. I will be happy to.

Mr. STEVENS. Will the Senator agree not to make a motion to table while the Prime Minister of Great Britain is addressing our colleagues in room 207?

Mr. SCHMITT. The Senator will not make that motion until after that time.

Mr. STEVENS. I ask unanimous consent that he be allowed to get the yeas and nays now on a motion to lay on the table to be made at the appropriate time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SCHMITT. Mr. President, I will make it clear again that the motion to table will be on amendment 1444, not on the basic Bentsen amendment, of which I am a cosponsor. I am not sure anybody is a cosponsor of the second substitute. I will not make that motion to table the second degree substitute until everyone has had a chance to make such comments as they saw fit.

Mr. President, as I say, I am a cosponsor of the basic Bentsen amendment. I am only saying that it did not go far enough. I think it very unfortunate that we are not going to have the opportunity to express our voices of caution, as the distinguished Senator from Nebraska has said, by voting rather than by this procedural charade that has been conducted.

The thing that concerns me, Mr. President, is that it is going to be far too easy to balance the budget over the next 10 years merely by raising taxes. As the distinguished occupant of the Chair realizes, and I think all Members of this body realize, without doing anything over the next 10 or 11 years, with the passage of the production tax, called a windfall tax, with social security tax increases, with inflation generated tax increases, and with other taxes on top of what the population is presently paying, over and above that, we are going to raise $1.5 trillion and probably as much as $2 trillion.

This business of balancing budgets by taxation is not what a former small businessman or any American should want to have happen.

We should be raising money by, one, reducing the rate of growth of Federal spending and, two, by giving money back to the people so they can generate more income by using that money through savings, investment, and so forth. What the Senator from New Mexico had hoped to do was give this body an opportunity to make that judgment, to make an honest judgment that it is savings and investment that makes it possible for the gross national product of this country to expand at a rate which keeps the people of this country employed and also keeps their well-being in mind.

This is not a pump-priming amendment. It would not be in the old sense of pump priming. This is merely leaving money with the people of the United States so that they can use it to generate more productivity, more capital, and more income, not only for themselves but for the Federal Government simultaneously.

Mr. President, again I think you would find all the small business people of this country would line up, or at least a large majority of them would line up behind the proposal of the Senator from New Mexico, which is, I think, concurred in by all my colleagues on this side of the aisle.

We have discussed this on many different occasions. There has been a bill introduced by the Senator from Missouri (Mr. DANFORTH) which includes this kind of provision in about this kind of rate. I hope that when the time comes, at least my colleagues on this side of the aisle will support a motion to table so that I and others, including the Senator from Oklahoma, will have a chance to offer amendments in the second degree to this basically good idea by the Senator from Texas (Mr. BENTSEN) which has been made, unfortunately, into a bad idea by the amendment in the second degree.

Mr. DOLE. Mr. President, I was hoping we could go ahead and get on with the bill. There has been some hint that maybe the Senator from Kansas participated in this procedural charade. That is not a fact. It is not an accurate insinuation. The Senator from Kansas had no part of that.

I suggest this: A number of us have an interest in this legislation. There are a number of us who would like to get on with this bill. We are talking about a windfall profit tax on oil and we have spent the last 2 hours on an amendment that we should have voted on an hour and a half ago.

It seems to this Senator that none of us is totally satisfied. The original amendment by the Senator from Texas talked about interest exclusion only. The Senator from Kansas wanted to include dividend income. We finally worked that out in the Senate Finance Committee. It was not a Finance Committee effort on the floor today, as indicated by the Senator from New Mexico, somehow to knock everybody else out of consideration. That is a rule we are going to have to address, because that could be an abuse of the rules, but it was not participated in by this Senator, and I resent anybody suggesting that that is what happened.

Mr. SCHMITT. If the Senator will yield, I should respond to that. It was not the intent of the Senator from New Mexico to suggest that any individual did, but it was the remark of the Senator from Texas that indicated that somehow the Finance Committee was involved in this effort to preclude amendment 1437.

Mr. BENTSEN. Mr. President, if the Senator will yield, there was no way I said that. What I did say to the Senator from New Mexico was that he had had weeks to present his amendment, that we have seen time and time again when we have had little to do here, when we have had quorum calls, when we have urged the various Senators to be offering their amendments and he could have done so during all of that period of time.

Mr. SCHMITT. Mr. President, I shall yield to the Senator from Idaho in a moment, but I just say that it is normal, logical procedure to amend in the second degree an amendment on the same subject. The Senator from New Mexico was merely, in his naivete, assuming that that opportunity would be presented to him as it is usually presented to all Senators in this body, provided they do not get faced with some kind of procedural operation such as I have been exposed to and others have been today.

The PRESIDING OFFICER. Let us have order in the Senate.

Mr. SCHMITT. Mr. President, I yield to the Senator from Idaho.

Mr. McCLURE. Mr. President, I take this time not to prolong the debate, but just to respond on a couple of points.

The Senator from Nebraska mentioned the Laffer curve, which he does not agree with, but at the same time, in his remarks, he was talking about what I, at least, understand what a small businessman does who has to get his income and outgo in balance. A lot of small businessmen, when their margins begin to shrink, raise the price of the product they are selling and they raise the price of that product they are selling until the price begins to cut their market. When the price begins to cut their market, then they begin to lose money, even at the higher prices. That is a well-known business principle and I assume that most people are familiar with it and accept it.

The question is whether or not that applies also to government. Dr. Art Laffer, at the University of Southern California, has hypothesized that it does, indeed, apply to government.

The well-known Bell curve that all economists apply to business principles applies to government: When you raise the price of the product too high, the business begins to fail. In government, when you raise the taxes too high, the government begins to fail. That is the whole argument.

I think that there is validity to the theories of Dr. Art Laffer. I agree with the Laffer curve theory. I believe we must learn that it does apply to government and that government cannot continue to squeeze the goose that lays the golden egg to the point that the goose is dead. That is the point of the Laffer curve.

That is the reason I support tax cuts that will be stimulative, not just tax cuts that, somehow, reduce the tax burden on someone, but begin to turn the system around.

When we start talking about pump priming, we are talking about stimulus to demand. That is what we have been doing for 45 or 50 years in this country, where we are trying to stimulate the demand side of the economic formula as though, somehow, that trickle-down theory—that if you get enough people to spend enough money, they will buy enough things to stimulate production—that is the way to produce an economic upsurge in this country that will provide jobs and provide taxes to government.

A basic argument is going on in this country today that, as a matter of fact, that does not work. It is time for us to look at how we can stimulate the supply side: What do we do to enhance production? How do we enhance the desire of people to work and to produce and thereby create a larger and more vital and growing economy?

That is the debate that we are involved in here today. We are kind of nipping at the edges of that discussion rather than getting into it centrally, and perhaps today is not the time to get into that debate on the entire economic theory that governs the country today.

I think it is important for us to remember, as we talk about what makes the economy grow, what hurts, and what helps, that we must begin to question whether or not the economic theories upon which we have been managing the economy for years have failed and if it is not time for us to look at the emergence of a new bipartisan effort—a new bipartisan effort, I say—to get some stimulus on the production side of that policy rather than on just the demand side of that policy.

That is one of the reasons I strongly support a tax measure that will increase savings, because that is one of the ways that you stimulate the supply side, to concentrate on rewarding saving, not just rewarding consumption.

The Senator from Texas is correct in focusing on this. That is one of the reasons I am a cosponsor of the amendment, as I was a cosponsor of the original bill. But I think that if we could draft the legislation in such a way that it rewarded additional savings, we would then get a greater, positive effect for every dollar of loss of revenue to government much more effectively, much more directly, much more positively than the measure that is pending before us now.

Mr. President, I will support the amendment of the Senator from Texas because I think it is a step in the right direction. I suspect, too, we will not go farther than that on the floor on this bill. But I hope we will get a chance before the next year is out to look at the really positive things we might do to begin to reverse the impact of the tax structure in such a way that those who invest and produce and work are rewarded rather than just assuming that reward to consumption is enough.

Mr. SCHMITT addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico has the floor.

Mr. SCHMITT. Mr. President, I appreciate the remarks of the Senator from Idaho.

I would add only to them that even though the basic theory of the Laffer curve is probably correct, some of us, and our colleagues, have run into the problem of ignoring that for certain kinds of tax cuts, particularly those direct tax cuts in personal income that result in a direct loss of revenue without a corresponding increase in feedback, in the short term, can have some inflationary effect.

But that is why these kinds of amendments, savings, investments, and dividend amendments, are so important, because they do not result in immediate loss of revenue, but they result in an immediate incentive to save.

Accelerated appreciation is another type of tax relief measure that is clearly of the kind this Congress should consider.

Mr. President, again, I want to make clear that I am a cosponsor of the original Bentsen amendment. I will vote for that amendment. My remarks today have been, essentially, in support of that philosophy, although it does not go far enough.

At the appropriate time, I am moving to table the amendment in the second degree, which merely changes the $200 exemption to $201. I think that is a very unfortunate procedure for this body to utilize in order to stop second-degree amendments, whatever their merits may be.

This body ought to have a chance to express its voice of caution, whichever way they choose to interpret that voice, by voting, not by a procedural charade of the nature we are exposed to today.

● Mr. ROTH. Mr. President, I support the Bentsen amendment to exclude up to $400 of interest and dividend income from taxation. I consider this amendment to be an important first step—but only a first step—toward more rational treatment of savings income.

There are two reasons for supporting a change in the tax treatment of savings income—first, to promote equity for those whose saving is under attack by inflation, and second, to encourage more saving to provide funds for the faster economic growth we so badly need.

On equity grounds, savers should be given tax relief to counter the effects of inflation. People who saved their money and bought bonds at 5, 6, or 7 percent a few years ago to provide income for their retirement are now being cruelly cheated by inflation. With prices rising at double-digit rates, these retirees are not earning enough even to protect their principal, let alone to have a real return to live on. Yet many of them must pay tax on these negative real earnings. I hope this amendment is only the first step toward removing such income from taxation.

As for stimulating additional saving today, the need is obvious. The personal savings rate in the United States is the lowest in the Western World. It has given us the lowest rate of total saving, total investment, and growth of wages and incomes among the leading nations. It has contributed to the obsolescence of our factories, and the loss of jobs to foreign competition. Unfortunately, this amendment is of the wrong form to deal with this problem. It will do little to stimulate new saving.

It is an obvious rule of economics that to change behavior one must change the reward to that behavior. Saving will be encouraged only if the tax rate on added interest earned by the added saving is reduced.

Savings will not be substantially increased by an exemption for interest already earned. For example, a $100 interest exemption will give no incentive to anyone earning more than $100 in interest. Once the $100 exemption is used up, any additional interest is taxed at the same tax rate as before.

I am attaching a table and the point of the table—based on the IRS statistics of income 1977, personal income tax returns—is that exemptions of small amounts of interest and dividends from tax can do little to stimulate savings. Even in the lowest tax brackets, those returns which have some interest and dividend income average $600 per return. Only an exemption in excess of this amount would lower the tax rate on added interest that might be earned by someone filing such a return. Thus, only a large exemption would stimulate savings. This is very expensive.

If the exemption method is followed, it would need to be at least $1,500 to cover the returns of even the bottom half of the income distribution—up to a bit over $10,000 in adjusted gross income, or about $13,500 gross income for a family of four in 1977.

Unfortunately, people filing these returns earned less than 20 percent of income—adjusted gross income less losses—and did far less than 20 percent of the Nation's savings, probably 10 percent or less. In fact, many in these brackets are retirees who are living on their savings, drawing them down, not building them up. Thus, even a $1,000 interest/dividend exemption would leave middle- and upper-bracket taxpayers, those still earning income and doing 90 percent of the Nation's savings, with a lot of windfall, but no incentive to do added saving for added interest or dividend income—1978 and 1979 data, after inflation, will make these points even stronger.

To stimulate new saving, we must bring the marginal tax rates down. In committee, I proposed one method of doing so. I proposed that savings income be split from earned income for tax computation, so that each type of income would start out in the 14-percent tax bracket. At present, savings income is stacked on top of earned income, and is taxed starting in the taxpayer's higher brackets. Another approach would be to add a 25-percent exclusion of all additional interest and dividends above the amounts in this amendment. That would reduce the tax rate on new savings income by one-quarter. The 60-percent bracket could effectively become 45 percent. The 40-percent bracket would effectively fall to 30 percent. The 28-percent bracket would become 21 percent. Under either approach, the after-tax reward to new saving would be sharply increased.

It is my hope and expectation that the Finance Committee will hold hearings on this very serious and urgent problem of inadequate saving, and devise an effective solution early next year.

The table follows:

Size of adjusted gross income	Interest and dividends per return averaged over—, All returns	Interest and dividends per return averaged over—, Returns with some interest and dividends[1]	Percent of total national adjusted gross income less deficit earned at the top of each income class or below[2]
All returns, total	$960	$1,888	100.0
Under $2,000	150	605	.9
$2,000 to $4,000	257	782	3.2
$4,000 to $6,000	508	1,335	6.9
$6,000 to $8,000	583	1,480	11.8
$8,000 to $10,000	637	1,427	17.2
$10,000 to $12,000	695	1,458	22.9
$12,000 to $14,000	698	1,338	29.3
$14,000 to $16,000	797	1,404	[3] 32.4
$16,000 to $18,000	749	1,206	([4])
$18,000 to $20,000	815	1,255	49.4
$20,000 to $25,000	954	1,315	64.3
$25,000 to $30,000	1,382	1,725	74.5
$30,000 to $50,000	2,613	2,974	89.4
$50,000 to $100,000	8,623	9,075	95.8
$100,000 to $200,000	23,354	24,183	98.3
$200,000 to $500,000	72,113	74,049	99.4
$500,000 to $1,000,000	225,843	231,478	99.7
$1,000,000 or more	742,022	754,743	100.0

[1] There are many more returns showing interest income than dividend income. It is plausible to assume that returns with dividend income probably have interest income as well. Thus, it is assumed that returns with interest income also include returns with dividend income. Adding together interest and dividend income in each adjusted gross income category, and dividing by the number of returns in that category with interest income, gives the average interest and dividends per return for returns that have interest and dividends.

[2] E.g., returns with between $1 and $10,000 in adjusted gross income contained 17.2 percent of all adjusted gross income.

[3] Given for $15,000 by IRS.

[4] Not listed by IRS. ●

● Mr. EAGLETON. Mr. President, I had intended to call up my amendment number 737 to Senator BENTSEN's amendment 735 to H.R. 3919, the crude oil windfall profit tax bill. Briefly, this amendment would have excluded up to $500 in interest income earned by individuals on demand and time deposits in banks, credit unions, mutual savings banks, and savings and loan associations. The exclusion would be $1,000 for married couples. However, to qualify for this exclusion, total reportable interest and dividend income could not exceed $500 for individuals and $1,000 for married couples.

As many of my colleagues may know, I am sympathetic with the goal of Senators BENTSEN, PERCY, DOLE, and others to increase the savings rate in this country. I commend my colleagues for their initiative in this area.

However, I have one fundamental problem with the Bentsen amendment: This amendment does not at all address itself to the plight of the small saver who finds himself limited to earning 5–6 percent interest on savings while inflation soars on at 13 percent. These people must stand by and watch their their lifesavings literally being eaten away. As we all know, the rapid escalation of interest rates in recent months has caused this situation to worsen; large savers have turned to market alternatives to invest their money while small savers have had no possibility to do so. Mr. President, can we stand by as this happens before our eyes and do nothing?

My difficulty with the Bentsen amendment is that it does not zero in specifically and singularly on the plight of the small saver. The Bentsen amendment would allow large and small savers alike to benefit. As Senator NELSON has aptly stated on previous occasions, it rewards individuals for doing what they are already doing. But, Mr. President, large savers are already able to protect themselves against inflation by investing in high yielding money market certificates and the like, while the small saver must suffer the consequences of high inflation rates. My amendment was designed to redress this inequity. As calculated by the Joint Committee on Taxation, my amendment would have resulted in revenue losses of about $15 billion over a 10-year period; the Bentsen amendment will cost approximately $27 billion over the same period.

As my colleagues can determine for themselves, because my amendment was so explicitly targeted, it was far less costly.

Mr. President, I am a realist. The Bentsen amendment has 78 cosponsors and undoubtedly will prevail. I regretfully cannot support it, however, because the $27 billion revenue loss I consider to be excessive. ●

● Mr. WEICKER. Mr. President, I am pleased today to join with Senators BENTSEN, PERCY, and others in offering a compromise amendment to H.R. 3919, the crude oil windfall profit tax bill, which would provide individuals with an income tax exclusion for interest and dividends from gross income. I give my full support for this important amendment that will encourage people to save and invest their money, and thereby reduce inflation and consumption and increase productivity.

Specifically, this compromise amendment would provide to all savers and investors an exclusion from taxable income of the first $200 or $400 in the case of a joint return, derived from either combined interest received from domestic sources or dividends received from domestic corporations. Interest from a domestic source would include:

First, interest or dividends received from a deposit at a commercial bank or thrift institution that is insured and supervised or regulated under Federal or State law;

Second, interest received from financial institutions and financial intermediaries, including regulated investment companies;

Third, interest received on obligations of a trade or business, and

Fourth, interest received from a governmental unit or agency.

Included in this proposed tax exclusion is interest from interest-bearing bank deposits, certificates or notes of deposit, commercial paper, bills, notes and bonds. It would also include certificates of investments issued under regulations of State securities law.

This amendment would significantly change the tax structure as it pertains to savers and investors in this country today. Under present law, any interest derived from passbook savings accounts is taxed, and only the first $100 of dividends—$200 on a joint return—is excluded. Therefore, Americans currently are victims of high interest rates on loans, chronic high inflation, low interest rates on savings, and a tax system that encourages consumption. Savers utilizing a passbook account can earn only 5.5 percent at savings and loan associations and 5.25 percent of commercial banks.

The administration has estimated that a person in a 30-percent marginal Federal income tax bracket would receive an after-tax yield of about 3⅔ percent, but when this is adjusted for the 1978 inflation figure of over 9 percent, the return is a negative 5½ percent. A negative rate of return on interest obviously discourages savings. And, just as important, the small investors are hit hard by the present inflationary state of the economy because they do not have the necessary amount of money to make the large, more profitable investments in certificates of deposits, money market certificates, and other higher yielding instruments.

In a recent Washington Post article, (Saturday, December 8, 1979), Kenneth R. Harney, executive editor of the Housing and Development Reporter, stated:

> Savers continue to pull their money completely out of thrift institutions—for reinvestment in short-term Treasury bills or money market mutual funds—or shift their dollars to S & L certificates of deposit bearing high rates. Bank Board statistics indicate that nearly one-third of all S & L deposits are now in the form of "money market certificates" or jumbo certificates of deposit, up from only a tiny fraction 15 months ago.
>
> The jumjo certificates have no interest rate restrictions whatsoever—some have yielded well over 14 percent in recent weeks—but require $100,000 minimum deposits. The more popular, six-month money market certificates carry $10,000 minimums and yielding 11 to 11½ percent, but were yielding more than 12 percent within the past two weeks.
>
> Nationally, passbook deposits in S & L's paying 5½ to 6 percent have registered a $15.3 billion decline this year, and deposits in traditional, lower yielding S & L certificates of one to four years (primarily paying 7 to 8 percent) have plummeted by $33.3 billion. These outflows have been countered by an $81.6 billion gain in mortgage market certificates and jumbo certificates, but the resultant increase in the average cost of funds is building a very high minimum below which mortgage rates cannot drop.
>
> S & L's and banks need to be able to tack on a 2 or 3 percent "spread" in order to lend borrowed money profitably; adding 2 percent to the double-digit costs of their current funds virtually ensures rates of 11¾ percent or more through the mid-1980's.

Therefore, instead of rewarding consumption, we must encourage people to save and invest their money. With an incentive to save, we can help stimulate the housing industry by creating more available funds in our banks and thrift institutions and be relieving the pressure of high interest rates which prevent young couples from purchasing their first home.

With more investments and adequate savings at their disposal, commercial banks, savings and loan associations, credit unions, and domestic companies, especially small businesses which are having difficulty in obtaining necessary capital to expand and improve their facilities, could finance the construction of new plants and purchases of new equipment.

As ranking minority member of the Select Committee on Small Business, I am well aware of the capital formation problems confronting this Nation's small companies in particular. Although I am fully cognizant that this amendment is not the panacea of all the ills which presently afflict our economy, an important consequence of this measure would be to help create new jobs, control inflation, and increase productivity.

Mr. President, in 1975, I offered an amendment to the Tax Reduction Act which would have guaranteed tax "relief" for all savers, including small savers. Again, on August 3, of this year, I introduced S. 1697, legislation based on that 1975 amendment, which offered a $1,000 exclusion, with the option of a $250 tax credit, from interest earned from savings accounts. In the case of joint returns, both the credit and the exclusion would be offered as options. A taxpayer with more modest savings would take advantage of the alternative tax credit. In this way, all savers would have the choice of taking that option which would yield the greatest tax dollar savings.

When I first proposed this legislation, I stated that savers were seeking higher yields in the open market to prevent inflation from eroding earnings. With inflation hovering around 13 percent savers today are being lured further away from saving—Americans have become insatiable consumers, gorging their salaries and increasing their debt at a frightening pace. Furthermore, the current investment options favor the large investor because of the exemption from ceilings on certificates of $100,000 or more. Money market certificates also provide high interest rates for depositors with at least a $10,000 investment.

With this in mind, on November 19, I became a cosponsor of the Bentsen-Percy "small savers" amendment to H.R. 3919, the windfall profit tax bill. That amendment offered individuals a tax exemption in 1981 for the first $100 of interest—$200 for a husband and wife who file a joint return—earned from a savings account at a bank, savings and loan association or a credit union. The exclusion would increase annually by $100 until calendar 1985 when an exemption for $500 of interest—$1,000 for a married couple—earned on a savings account would be permitted. Other similar amendments were also offered to H.R. 3919.

As we all know, all the tax savings amendments were withdrawn, at the suggestion of Chairman LONG, pending immediate consideration by the Senate Finance Committee. On Thursday, November 29, the Finance Committee by a vote of 15 to 2 reported a compromise proposal which is now pending as an amendment to the windfall profit tax bill. Again, the compromising proposal before the Senate would offer individuals an exclusion of $200, $400 on a joint return, from gross income from dividends received from domestic corporations and interest received from domestic sources. The committee estimates this tax relief measure will cost the Federal Treasury in revenue loss over $2 billion in calendar year 1981, the first year taxpayers can take advantage of this exclusion. By 1990, the total revenue loss would be roughly $27 billion. Mr. President, the benefits to be derived from this amendment are immense in comparison to the estimated revenue loss.

Mr. President, I cannot overstate my concern about the declining rate of savings and productivity in this country, the depressed housing industry, and most importantly, the inequities suffered by the people of this country who try to save their hard-earned income for retirement, education, housing, and other necessities of life, only to see those savings eaten away by inflation and taxation.

We must get back to the priorities of the people. We must provide incentives for people to save and invest, so that we can help stimulate the housing industry, provide new jobs and capital investment, reduce inflation and consumption and increase productivity. And in turn, the savers of this country can then truly reap the benefits of their thrift.

Finally, Mr. President, I commend Senators LONG, DOLE, BENTSEN, and the other members of the Senate Finance Committee for their expeditious action on this compromise amendment. Their deliberate speed in reporting this proposal to the Senate is very appreciated by us and all the savers and investors in this country. I, therefore, strongly urge my colleagues to accept this amendment as reported by the Finance Committee.

Mr. President, I submit Mr. Harney's article, which appeared in the Washington Post, on December 8, 1979, entitled "Mortgage Money Prospects Austere," for the RECORD.

The article follows:

MORTGAGE MONEY PROSPECTS AUSTERE

(By Kenneth R. Harney)

Mortgage rates around the country have begun to inch downward from their historic highs of November, but Washington area buyers and sellers shouldn't expect major improvements in credit availability until well into 1980, at best.

The outlook for next year, private and government mortgage market analysts agree, is austere: Savings and loan associations and mortgage bankers will have expensive money to loan, rates should average 11½ to 12 percent or higher, and down payment requirements generally will be greater than in periods when lenders are flush with cash.

Analysts also agree that 1980 will see a continuation of current trends toward alternative or "creative" home finance techniques, further growth of secondary mortgage market transactions, the scrapping of more state usury ceilings for home loan rates, and possibly new federal moves to bolster the housing market in a political year.

Distilled from discussions with S&L executives and mortgage brokers and the projections of key economists in the field, here is an overview of the principal financial forces that will be at work in the coming six to nine months.

The dip in interest rates registered nationwide within the past 10 days "could be a sign that we are past the peak," says Jay Janis, chairman of the Federal Home Loan Bank Board, regulatory agency for the thrift institutions. Prevailing rates in the Washington area stabilized two weeks ago—at 13½ to 14 percent—and have since dropped by ¼ to ½ percent.

But there is little hope here or nationally for any precipitous rate declines because S&Ls and other mortgage sources are paying such high prices to attract money in the first place.

Savers continue to pull their money completely out of thrift institutions—for reinvestment in short-term Treasury bills or money market mutual funds—or shift their dollars to S&L certificates of deposit bearing high interest rates. Bank Board statistics indicate thta nearly one-third of all S&L deposits are now in the form of "money market certificates" or jumbo certificates of deposit, up from only a tiny fraction 15 months ago.

The jumbo certificates have no interest rate restrictions whatsoever—some have yielded well over 14 percent in recent weeks—but require $100,000 minimum deposits. The more popular, six-month money market certificates carry $10,000 minimums and currently yield 11 to 11½ percent, but were yielding more than 12 percent within the past two weeks.

Nationally, passbook deposits in S&Ls paying 5½ to 6 percent have registered a $15.3 billion decline this year, and deposits in traditional, lower yielding S&L certificates of one to four years (primarily paying 7 to 8 percent) have plummeted by $33.3 billion. These outflows have been countered by an $81.6 billion gain in mortgage market certificates and jumbo certificates, but the resultant increase in the average cost of funds is building a very high minimum below which mortgage rates cannot drop.

S&Ls and banks need to be able to tack on a 2 or 3 percent "spread" in order to lend borrowed money profitably; adding 2 percent to the double-digit costs of their current funds virtually ensures rates of 11¾ percent or more through mid-1980, local S&L executives say.

In fact, some local lenders foresee relatively little mortgage activity in 1980 as the result of fresh deposits. They are looking increasingly to the secondary mortgage market, where they resell their home loan commitments to huge investors such as the Federal Home Loan Mortgage Corp. ("Freddy Mac"), the Federal National Mortgage Association ("Fannie Mae"), and insurance companies.

Orlando Darden, president of the Community Federal Savings and Loan Association, said that at present, his institution is out of the market for new loans. But when the S&L returns to the market it will almost exclusively be "packaging loans for resale to the secondary market." Other S&Ls here have been selling a high proportion of their new loans to secondary investors for much of 1979 because deposits have been so weak.

When a lending institution sells loans to investors such as Fannie Mae or Freddy Mac, it normally retains the responsibility for "servicing" them—collecting the monthly payments on the loans and making certain the borrowers do not default. For this, the lender receives fees based on a percentage of the principal amount of the loan involved.

In short, the dollars that an S&L commits to loan to you, ostensibly from its own deposit resources, may really be coming from an outside investor. That investor raises loan dollars by selling notes, stock or bonds in the capital markets, or by selling shares in pools of some of its existing inventories of mortgages.

About one out of five home mortgages nationwide is now financed with secondary market funds, according to John Horseman, senior vice president of Verex Assurance Inc. of Madison, Wis., a major secondary market intermediary. However, one out of every two new mortgages will be financed this way "before the end of the decade" of the 1980s, Horseman predicted.

Some of the secondary market funds already are being raised from Eurodollar accounts held in continental banks; some are also being pulled in from OPEC petrodollar reserves. Both of these sources could be important in sustaining mortgage volume and homebuilding in the early 1980s—and both are vulnerable to international political and monetary swings.

For the short term—the first six months of 1980—home buyers and sellers here will have to make do in a tight market. That means shopping vigorously among S&Ls, mortgage bankers, credit unions and commercial banks to find the lowest rates and best combinations of terms.

Buyers should be aware that fund availability at mortgage sources—especially mortgage bankers—can change radically overnight. One day a mortgage banker may be quoting 14 percent; the next day, thanks to negotiations with a pension fund or insurance company, the firm suddenly has a lot of money at bargain rates.

A prime example of this right now is Guardian Mortgage and Investment Corp. of Springfield, which has just received an unexpected $4 million chunk of capital from a local investor to lend at 11½ percent for 30-year deeds of trust, with one or two points to buyers and sellers.

The tight market also means that consumers should get more familiar with creative finance—the use of techniques that reduce or eliminate the need for outside lenders to finance real estate transactions.

These techniques include provision by home sellers of:

A first deed of trust or mortgage to the buyer, with a short (three to five years) payback period, or longer period (20 to 30 years). With the help of a realty broker or attorney, the seller assumes the role of banker—deferring a large portion of the proceeds from the house until the borrower refinances.

A second ("purchase money") deed of trust or mortgage to help the buyer come up with the down payment required by a conventional lender. In this case the seller loans only a small portion of the proceeds on the sale, usually at a high rate for a short period.

A land contract (or contract for deed) to finance the buyer. This approach resembles a first trust from seller to buyer, except that in a land contract the deed doesn't change hands until a point specified in the contract.

A "wraparound" mortgage from the seller to the buyer. This involves a secondary loan that is large enough to encompass (wrap around) the existing debt on a home, plus some new amount the seller is willing to defer out of the proceeds of the sale. It works best when a buyer is seeking to assume an existing, low-rate mortgage but requires a down payment far beyond his or her resources.

Buyers and sellers can also expect more innovative mortgage terms and formats from conventional lenders in the coming year.

One Cleveland S&L, for example, has just introduced a one-year mortgage for hard-pressed purchasers, convertible at any time into a long-term, conventional mortgage carrying a rate that the S&L guarantees will not be higher than the first.

The so-called five-year Canadian "rollover" mortgage—rate and terms for which are renegotiated at five-year intervals—is also certain to become more common here, as long as the economy remains inflationary and short on capital.

Kenneth R. Harney is executive editor of the Housing and Development Reporter, published by BNA, Inc.●

Mr. EXON. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. Pending is the amendment offered by the Senator from Texas in the second degree to the amendment of the Senator from Texas in the first degree.

Mr. EXON. Would it be out of order if I ask for a vote?

Mr. LONG. Call the roll.

Mr. SCHMITT. Mr. President, I move to table the amendment No. 1444 and the yeas and nays have been ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 1444 of the Senator from Texas. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

The PRESIDING OFFICER. Is there any Senator in the Chamber who has not voted and who desires to do so?

The result was announced—yeas 41, nays 57, as follows:

[Rollcall Vote No. 492 Leg.]

YEAS—41

Armstrong
Bellmon
Boschwitz
Chafee
Cochran
Cohen
Danforth
Dole
Domenici
Garn
Goldwater
Hatch
Hatfield
Hayakawa
Heinz
Helms
Humphrey
Javits
Jepsen
Kassebaum
Laxalt
Levin
Lugar
Mathias
McClure
Packwood
Pell
Pressler
Proxmire
Roth
Schmitt
Schweiker
Simpson
Stafford
Stevens
Thurmond
Tower
Wallop
Warner
Weicker
Young

NAYS—57

Baucus
Bayh
Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cranston
Culver
DeConcini
Durenberger
Durkin
Eagleton
Exon
Ford
Glenn
Gravel
Hart
Heflin
Hollings
Inouye
Jackson
Johnston
Kennedy
Leahy
Long

Magnuson
Matsunaga
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Percy
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stennis
Stevenson
Stewart
Stone
Talmadge
Tsongas
Williams
Zorinsky

NOT VOTING—2

Baker
Huddleston

So the motion to lay on the table amendment No. 1444 was rejected.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the motion to lay on the table was rejected.

Mr. KENNEDY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. BENTSEN. Mr. President, I think we are ready to vote on this.

Mr. HEINZ. Mr. President, this will be very brief. I simply wish the attention of the managers of the bill for about 60 seconds if I may.

Mr. President, on Monday, November 26, the Senate adopted my amendment making coke ovens eligible for the alternative energy property investment tax credit contained in the Energy Tax Act of 1978. Since that time, some questions have arisen concerning both the scope of this amendment and of the entire section of existing law with respect to what equipment is covered. Therefore, I would like to clarify my intent in offering this amendment.

Specifically, this provision would make equipment for the production of coke and coke byproduct fuels eligible for the alternative energy property investment tax credit.

ELIGIBLE SOURCES

A credit is available for: First, equipment for converting an alternate substance into a synthetic liquid, gaseous or solid fuel, and second, equipment which uses coal (including lignite) as a feedstock for the manufacture of chemicals or other products.

Such equipment would be defined to include coke ovens, pollution control equipment including desulfurization facilities, and all other equipment which would be necessary to convert coal into a usable fuel such as coke, coke-gas, light oils, tars and other coke oven byproduct fuels. This credit would be available for the construction and erection of new equipment and for the reconstruction and rehabilitation of existing equipment, consistent with the provisions of section 48(1)(B)(i) of the Internal Revenue Code of 1954.

Any unused credit generated, due to the limitations of section 46(a) of the Internal Revenue Code of 1954 pertaining to the amount of credit allowed to be claimed in any one taxable year, may be carried back and carried over consistent with the rules of section 46(b) of the Internal Revenue Code of 1954.

EFFECTIVE DATE

This provision shall be applied, after the date of enactment of this act, under the rule applicable in section 48(m) of the Internal Revenue Code of 1954 (relating to the application of transitional rules).

Mr. President, I wish to ask the managers of the bill whether this interpretation is correct.

Mr. DOLE. Yes.

Mr. HEINZ. I yield to the Senator from Texas.

Mr. BENTSEN. Mr. President, may we have order?

The PRESIDING OFFICER. Will the Senator suspend until we get order in the Senate?

The Senator from Texas.

Mr. BENTSEN. Mr. President, I say to the distinguished Senator from Pennsylvania I happen to be a cosponsor of this amendment and, after reading an explanation of the provision, that is the understanding of the manager of the bill for the majority.

Mr. DOLE. Mr. President, if the Senator will yield, I think that is an accurate interpretation. We have checked this with the staff, and we agree with the remarks of the Senator from Pennsylvania.

Mr. HEINZ. I thank my colleagues, and I thank Senator BENTSEN and Senator DOLE for their time, careful consideration, and agreement.

● Mr. TALMADGE. Mr. President, I am delighted that the Senate is considering this amendment today as a part of the windfall profit tax bill. I want to commend my colleague from Texas, Senator BENTSEN, for his efforts in bringing this amendment to the Senate floor. I was delighted that the Senate Finance Committee approved overwhelmingly the Bentsen-Talmadge-Dole amendment to provide a $200 tax incentive for savings and investment as a compromise proposal. As one of the primary sponsors of savings legislation in the Senate, I am quite pleased that our amendment has the support and cosponsorship of at least 78 of my colleagues. As approved by the Senate Finance Committee, our amendment is modeled very closely after my bill, S. 1846. I am very hopeful that Congress will adopt this much needed provision to encourage savings, investment, capital formation, and productivity before adjournment this year.

The United States lags behind every other major industrial nation in the world in economic growth. We save at a lower rate. We invest at a lower rate. American productivity has been at a virtual standstill.

Not only are we not keeping up with the rest of the world in economic growth, we are falling farther and farther behind. Every day we are bombarded by economic indicators which show that the United States is no longer preeminent in technology and productivity.

The U.S. economy is losing its vigor. It is not an exaggeration to say that we could become a second- or third-rate economic power by the year 2000—and many noted economists are warning just that.

We must set new national goals. We must switch national priorities away from spending to saving.

Virtually every major foreign industrialized nation has institutionalized productivity—especially Japan and West Germany. They have established strong, working partnerships between government, business, and labor to increase national output, for the benefit of their own people and to make their products more competitive in the world market.

The facts speak for themselves. In the past 10 years, Japan increased its productivity 107 percent; France, 72 percent; West Germany, 70 percent; Italy, 62 percent; and United States, 30 percent.

The only bright part of the entire picture is in agriculture. U.S. agricultural productivity is increasing about 6.4 percent a year. It is the only segment of the American economy that is making any gains.

It is no secret that both personal savings and corporate retained earnings have declined as a percentage of the gross national product during the 1970's. We have a serious capital investment problem. In fact, we have the lowest level of capital investment of all of the newer industrialized nations. Japan invests over 35 percent of its gross national product in capital; West Germany, over 25 percent; the United States, only 17.4 percent.

This reduction in capital investment is directly related to America's poor savings record. The Japanese save almost 25 percent of their income. The West Germans save 15 percent. Even the British save 13 percent, while Americans save only 6½ percent.

Our reduced savings rate has resulted from the fact that "real" after-tax return on savings has plummeted into the negative numbers. During the period 1977–79, the after-tax return has been minus 5 percent, while the return on corporate bonds has been approximately minus 2.8 percent. This disincentive to save cuts down on the availability of investment for capital stock which reduces the capital-labor ratio and consequently results in a reduction of productivity growth.

To put it simply, our current tax laws penalize savings and investment. The United States is one of only a few industrialized nations that does not currently encourage long-term savings. West Germany and Great Britain provide for a total exclusion of interest earnings from taxation. Other nations such as France provide government bonuses of up to 5 percent on interest-earning savings accounts.

The time is long overdue for us to address this important issue and move toward putting the United States back into its rightful position of preeminence in the world economy. We must begin by adopting legislation to encourage Americans to have through tax incentives and I pledge my strong support and efforts to see that such a measure is adopted.●

Mr. DURENBERGER. Mr. President, at the beginning of the year, my staff informed me that the Senate would not consider any major tax reform bills in the first session of the 96th Congress. My response was, "Wait and see; I think you will be surprised." Well, my staff and many other people have been surprised. Today, the Senate is considering one of the most important tax reforms to have been introduced in this Congress. I refer to the savings exclusion amendment. That we are actually debating a proposal to encourage savings is a remarkable achievement on the part of my colleagues, the Senator from Texas and the Senator from Illinois. As a cosponsor of this measure, I am delighted at the progress that has been made.

The Federal income tax is a tax on consumption. We levy a tax on current consumption by taxing the income received for our labor. We levy a tax on future consumption, which is savings, by taxing the return on our capital resources. However, if we continue to tax away the return on savings, we will consume the resources necessary to insure consumption now and in the future.

The Tax Code and tax policy have for years favored current consumption over the future consumption. This discriminatory treatment of savings occurs in several ways. For instance, individuals are allowed to deduct the full cost of consumer credit borrowed to finance an individual's current consumption. In 1979, it is estimated that this deduction will cost $2.6 billion in tax revenues. The interest on a home mortgage, another current consumption item, is also deductible. The cost is $8.2 billion in 1979. Some would argue that buying a house is actually an investment. Today, it has become a necessary investment to protect the individual against inflation. But, this investment does not increase our real capital stock, nor increase productivity, nor improve this country's competitive position in the world market. The only tax incentive for an individual to save is the $100 dividend exclusion which affected tax revenues by $450 million this year. Savings is clearly at a disadvantage in comparison to consumption when it comes to taxes.

Our tax policy discriminates against savings in another, more subtle fashion. Beginning in the early 1960's, the Congress began to reduce tax rates. Until last year, this tax relief effort followed a curious pattern. The relief was directed mainly to low-income individuals in the form of income redistribution and more favorable tax rates. High-income individuals sought tax preferences to shelter income from the high tax rates which they experienced. By directing tax relief to the low-income individuals, our policy was a definite bias in favor of current consumption. By encouraging high-income individuals to invest in tax shelters, we have encouraged them to invest in unproductive pursuits to avoid high tax rates.

There is a third element in Federal tax policy which hinders savings. That is, the tax rate applies to any nominal return on investment. An individual may receive x amount of dollars in interest and dividends, and is taxed on the full value of this investment income. However, inflation has eroded the value of the return on investment. For instance, today, the middle-income saver receives about 6-percent return on savings from investment in a savings and loan. The rate of inflation is 14 percent, so the saver actually experiences an 8-percent reduction in the purchasing power of the savings. Yet, this individual is still subject to the Federal income tax.

In 1978, the Congress took the first step in almost two decades to reduce the tax bias against savings and investment, to reduce the tax burden on the middle class. It is the middle class, I will remind my colleagues, which provides most of the tax revenue in this country.

Last year, tax reduction was at last directed primarily at the middle-income taxpayer. It is this group of taxpayers which has been bearing the brunt of economic instability in the form of inflation in recent years. I do not want to get into the issue of indexing the Tax Code at this point, but that is exactly what this action represents. While the Congress was adjusting taxes for inflation, there was also a correct decision to reject an administration proposal to increase the tax on capital. Instead, the Revenue Act of 1978 provided a decrease in the capital gains tax. By reducing the tax on capital gains, a decision was made to increase the incentive to invest in new, innovative and productive endeavors.

In a recent floor statement, my colleague from Illinois described an analysis of the positive impact of the capital gains tax reduction. Mr. Percy cited a study by the Securities Industries Association which tracked the increased investment in the corporate stock of new business since the capital gains tax reduction. Of course, the economy has done everything possible short of total collapse to frustrate any positive benefits from new investment. I ask unanimous consent that a recent news article be printed in the Record at this point which describes the decline in stock market investment. The culprit is easily identifiable. It is inflation.

There being no objection, the article was ordered to be printed in the Record, as follows:

Review of Current Trends in Business and Finance

Boca Raton, Fla.—"How's the market?" When a conventioning executive anxiously asks that question, the context is usually the performance of stock prices in recent hours, and "compared to what?" wouldn't seem an appropriately serious response. But as evidenced by the soulsearching at the Securities Industry Association annual meeting here last week, such an answer needn't be flip at all.

Indeed, the counter-question bespeaks an increasingly serious concern; Compared to its own old standards and to debt financing, the market isn't doing very well in its wellspring function of helping American companies raise the capital for productive expansion.

It isn't that there isn't enough action in the market, to be sure. October brought a one-day record volume of 81.6 million shares traded on the New York Stock Exchange. The Big Board's daily volume averaged a record 28.6 million shares last year, and the dollar volume of shares changing hands then was also a record, $210.4 billion worth.

But against those robust volume figures, those on the equity capital raised by corporations appear all the more meager—$2.1 billion last year, Federal Reserve Board statistics show, and running at little more than $3 billion so far this year on all U.S. stock markets. As recently as 1976, NYSE volume (the bulk of all trading) was only $164.5 billion, but the markets supported $10.8 billion worth of equity financing.

Trading in existing issues has to be hefty, of course, to assure investors that their holdings really are liquid, or readily salable. But the shuffling of securities from one investor to another has become so large in relation to the capital raised in the process that, as one senior Wall Streeter whispers, it "almost amounts to churning," a practice barren of economic benefit except for the commissions accruing to the broker.

As a result, "the stock market system is in greater jeopardy than ever before," frets Arthur Levitt, Jr., chairman of the American Stock Exchange, which lists companies which have outgrown the over-the-counter market. Initial stock offerings did rise fivefold from a year before to $256 million in the first half, the SIA notes hopefully, but this is still "peanuts" against the needs today and against the billions of such financing a decade ago, an executive admits.

The alternative is borrowing, which has some drawbacks; it doesn't, for one thing, provide millions of Americans with a deeper psychological as well as ownership stake in the free enterprise system. Moreover, many fledgling companies "can't afford debt" at today's interest rates, Mr. Levitt says, finding scant hope for "innovative, risk-taking" ventures in the absence of equity financing.

Just how far stocks have faded as a way of financing the American economy shows in the Fed figures below on the net totals of funds raised, in billions of dollars:

	1973	1976	1978
Corp. Equities------	7.7	10.8	2.1
Corp. Bonds--------	9.2	22.8	20.1
Treasury Debt------	7.9	69.1	55.1
Home Mortg--------	46.4	63.7	104.5
Cons. Credit--------	26.0	25.6	50.6

More than suggesting special shortcomings on the part of the markets themselves, though, the statistics underscore what everyone sort of knows anyhow about the country's changing priorities—away from optimistic investment in stocks, towards borrowing to invest in houses and other things deemed more likely to rise in value as government defícts make inflation chronic.

All that creates what securities executives recognize as a vicious circle. In a decade, "the number of individual investors has shrunk from over 30 million to 25 million," former Treasury Secretary William Simon lamented here. That leaves the Big Board mainly the province of pension fund managers and other institutional investors, whose huge-volume trading for small, quick gains makes sustained advances rare among blue chips, further delaying the crucial return of small investors, others observe.

Even so, there are signs of hope for a breakout from the vicious circle during the impending decade of the 1980s. "A tremendous number of people in their thirties with double incomes" are apt to choose stocks to attain their financial goals, forecasts Walter R. Chambers of The Ohio Company, a Columbus-based securities firm.

There's growing awareness, he finds that "many people have done well" even in the last few years in "second and third-tier stocks" traded on markets which "aren't dominated by the institutions," and thus have been more volatile than the blue chips reflected in the Dow Jones and other prestigious averages. The NYSE index on Friday was 60.71, little different from its 1976 daily average of 54.45, but in the same span the American Stock Exchange index went to 227.78 from 101.63.

Although he isn't sure when, there will be a stock market "boom" again some time, predicts Harold Williams, chairman of the Securities and Exchange Commission. There's an "enormous, incredible" amount of "pent-up buying power" for stocks, he explains, and a parallel need for equity financing. That expectation is what underlies his concern that when the boom does come, a securities industry bent on diversifying into more fashionable activities such as real estate might not be able to cope with such a development.

Against the exigencies of recession, inflation, Iran and politics, that concern can't be a high public priority at the moment. But it ranks as a far more auspicious worry than those usually reflected these days in the old question, "how's the market?"

Mr. DURENBERGER. Mr. President, by passing the pending amendment, we would accomplish two goals. We would increase the incentive to save by reducing the marginal tax on savings and we would reduce the hidden tax of inflation on savings.

In a repeat of last year's performance, the administration is again in opposition to reducing the tax burden on capital and investment. In commenting on the original Bentsen-Percy amendment, the administration said that a more appropriate approach would be to repeal regulation Q. Repealing regulation Q would help some small investors but it does nothing to eliminate the tax bias in favor of consumption rather than investment. While I have voted for repeal of regulation Q, it is not the solution to the savings problem. The people need a positive incentive to invest in all forms of savings. They need some assurance that inflation and taxes will not wipe out any real gain.

In testimony against the savings incentive proposal, the administration has argued that a narrowly focused approach will merely distort the allocation of saving among financial assets. This is true. The same problem would occur if all we do is repeal regulation Q. We need a broadly focused incentive for savings and investment. That is what our amendment does. It is a positive incentive for all forms of investment.

When the Bentsen-Percy amendment was originally proposed in the Senate, the amendment only provided an exclusion for interest received on a savings account. Frankly, this approach was too limited. I agree with the administration on this point. Any savings exclusion should apply to all forms of investment income. It also has to be at a level which will be an incentive to savings. I have introduced legislation, S. 2057, to accomplish these two objectives. Fortunately, the sponsors of the amendment agreed with my approach, and correctly decided that the proposal should apply to all investment income. While the dollar amount—$200—does not go as far as I had proposed, it is an important first step.

By including all investment income, we avoid the obvious problem of switching between investments to maximize the tax advantage. In other words, an exclusion for just one form of savings is an incentive for investors to switch from one form of savings to another. Rather than providing an incentive to save, a limited exclusion would provide an incentive to switch. Our amendment has resolved this problem.

Inflation has been the major economic issue of the 1970's. Second in importance has been the problem of capital formation. During the 1960's, our expanding economy seemed to have an endless supply of capital. However, by the mid-1970's, analysts were writing about the capital shortage. Capital needs is a relative measurement. It refers to the fact that investment goals can exceed or trail forecast savings. It is a well-known economic principle that a system will always seek an equilibrium position. In other words, when excess demand for a good exists—in this instance, capital—prices will rise until demand and supply are equal. In capital markets, interest rates and the cost of equity capital would—and have—increased until firms match investment demands to available supply.

Thus, according to economic theory, a capital shortage is impossible. However, in terms of this country's needs for the 1980's, we have a definite shortage of capital, and it is time we acted to correct this fundamental problem. If we do not act, our ability to meet economic and social needs to remain internationally competitive is in doubt.

The lack of capital is a direct result of the lower savings rate which has become a trend in recent years. This lower rate of saving reflects a decision to increase current consumption while reducing future consumption. However, by decreasing capital accumulation now, we are assuring for ourselves a lower standard of living in the future. We will remove ourselves from any effective role in the rapidly developing world marketplace and we will decrease our ability to adequately fund our retirement programs in this country. The number of retirees compared to workers is growing in this country. If we do not increase savings in the form of pension plans, there will be hard times ahead for many people. Unfortunately, our largest retirement program, social security, is a pay-as-you-go system. There is no capital development generated by this program. Yet, if capital is not increased elsewhere, our ability to continue to support the heavy tax burden of social security will be in question.

There are two reasons for the decline in savings. The first is inflation. The American public is motivated by a psychology of inflation. The people have little incentive to save, because they believe that inflation will wipe out the real value of the savings. It makes more sense to them to spend today rather than waiting for a tomorrow of higher prices and cheaper dollars.

The second factor is the powerful distortion of savings decisions due to taxes and social security. Ideally, a retirement program should enable an individual to reduce current consumption through investment in a pension plan. This pension plan, in turn, would provide income for individual consumption during retirement years. In the meantime, the investment would be used to increase the country's capital stock. In short, a pension program should be a source of investment funds while providing income for retirement. Unfortunately, as I have just explained, social security is pay-as-you-go. It is a drain on our capital. It represents a system of income redistribution and immediate consumption. It decreases the ability of workers to contribute to pension plans and increase investment funds.

Tax rates are another disincentive to savings. For years, economists argued that the real rate of return on investment did not affect savings. The so-called Denison's Law articulated the erroneous argument that the savings rate is constant and unaffected by changes in the tax system.

This is one law which has been effectively sunsetted by more recent research. Michael Boskin, an economist at Stanford University, has convincingly refuted the argument of a constant savings rate. His analysis of the issue has provided the disturbing conclusion that savings has declined. The reason for the decline is the current tax system. The income tax decreases the after-tax rate of return on capital and transfers limited resources from the private sector to the public sector. The result is a lower level of savings, fewer dollars available for investment in plant and equipment, a curtailed rate of economic growth, and a lower level of national income.

Boskin's research indicates that a 10-percent change in the relative rate of return on investments results in a 4-percent change in the level of savings. In other words, a tax increase of 10 percent would decrease savings by 4 percent. Conversely, a 10-percent reduction in taxes would increase savings by 4 percent. The analysis is very persuasive, and we now have an opportunity to put the theory into practice.

The decline in savings is an enormous waste of resources and is a redistribution of income from labor to capital. This is a waste of resources because the capital accumulation is not sufficient to efficiently use available resources. It redistributes income from labor to capital because more income has to be diverted to attracting scarce capital reserves in capital shortage situations.

Now is the time for the Congress to adopt a constructive tax policy which will encourage savings and investment. Judging from the number of cosponsors of this amendment, a majority of the Senate is ready to act. I urge the adoption of this measure.

Mr. BENTSEN. Mr. President, I believe we are ready for a vote on this, and the yeas and nays have been ordered.

Mr. DOMENICI. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Let us have order in the Senate.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask the Senator from Texas. It is my understanding that amendments to amendments are not in order. However, we had discussed an amendment that would require that in addition to the inflation rate that is now to be on the return the Internal Revenue people are required to place on that return the difference in the inflation rate from the previous year to the year of the return. Is the Senator disposed to accept that amendment or would he raise a point of order to it?

Mr. BENTSEN. I say to my distinguished friend as that point the previous statement by the chairman of the committee and by the manager of the minority that an objection would be made to all nongermane amendments.

Mr. DOMENICI. I thank the Senator.

Mr. DOLE. Vote.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment in the second degree by the Senator from Texas.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

The PRESIDING OFFICER (Mr. EXON). Are there any other Senators in the Chamber desiring to vote who have not done so?

The result was announced—yeas 94, nays 4, as follows:

[Rollcall Vote No. 493 Leg.]

YEAS—94

Armstrong
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—4

Eagleton
Kennedy
Muskie
Stevenson

NOT VOTING—2

Baker
Huddleston

So Mr. BENTSEN's amendment (UP No. 1444) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 791) as amended.

The amendment, as amended, was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho.

AMENDMENT NO. 866, AS MODIFIED

Mr. McCLURE. Mr. President, I call up amendment No. 866, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. MCCLURE) proposes an amendment numbered 866.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . ALCOHOL FUELS DEFINITION.

(a)(1) IN GENERAL.—Clause (v) of subparagraph (A) of section 48(i)(15) (relating to biomass property), as amended by section 232(a)(7), is amended by striking "synthetic liquid" and inserting "synthetic liquid, alcohol fuel,".

(2) Subsection (d)(2) of section 44D as added by section 251(a), is amended by striking "and oceanic and terrestrial crops." and inserting "oceanic and terrestrial crops, and oceanic and terrestrial crop byproducts and residues.".

Mr. McCLURE. Mr. President, I wonder if I might have the attention of the Members for just a moment, because it is my intention to ask unanimous consent to modify the amendment. I want Senators to understand what it is I am doing, so that they will not think that I am trying to poll something and object without reason.

The amendment has two paragraphs, paragraph No. 1 and paragraph No. 2.

The first paragraph has already been taken care of by amendment No. 865, and therefore is not necessary, and might cast some ambiguity on the meaning of amendment No. 865. I therefore ask unanimous consent that the language on lines 2, 3, 4, and 5 of the amendment be stricken, and the subsequent section renumbered.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The amendment is so modified.

The amendment, as modified, is as follows:

At the appropriate place, insert the following new section:

SEC. . ALCOHOL FUELS DEFINITION.

Subsection (d)(2) of section 44D as added by section 251(a), is amended by striking "and oceanic and terrestrial crops." and inserting "oceanic and terrestrial crops, and oceanic and terrestrial crop byproducts and residues.".

Mr. McCLURE. I thank the Chair, and I thank my colleagues for agreeing to the modification.

This amendment simply says that reference to oceanic and terrestrial crops that are allowed certain biomass treatment be modified to show that it clearly means also byproducts and residues of both oceanic and terrestrial crops.

I have discussed this proposal with both the majority and minority leaders. I think there is no objection, and unless there is, I will take no further time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho.

The amendment (No. 866), as modified, was agreed to.

Mr. McCLURE. I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas.

AMENDMENT NO. 829

(Purpose: To provide for the granting of adjustments in cases of special hardship, inequity, or unfair distribution of burdens)

Mr. TOWER. Mr. President, I call up my amendment No. 829, and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas (Mr. TOWER), for himself, Mr. JOHNSTON, Mr. DOMENICI, and Mr. HELMS, proposes an amendment numbered 829:

On page 76, between lines 21 and 22, insert the following:

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. I ask unanimous consent that the names of Senators CRANSTON and BENTSEN be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 76, between lines 21 and 22, insert the following:

(j) REQUESTS FOR ADJUSTMENTS.—

(1) The Secretary in conjunction with the Secretary of Energy or any officer designated by such shall provide for the making of such adjustments in the payment of the windfall profit tax or to any rule, regulations, or other issued pursuant to the implementation of the windfall profit tax as may be necessary to prevent hardship, inequity, or unfair distribution of burdens and shall by rule establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, exception to, or exemption from, such tax, rule, regulation, or order.

(2) The Secretary in conjunction with the Secretary of Energy or any such officer shall insure that the adjustments under paragraph (1) shall have the effect of preventing the shutting in or premature abandonment of any barrel of domestic crude oil.

Mr. TOWER. Mr. President, this is a limited but potentially very important amendment, the purpose of which is to carry over to the windfall profit tax the process which now exists for the granting of special hardship executions under the oil price control regulations.

This amendment does not create—does not create—any new exemptions from the tax, nor does it provide different tax treatment for any category of oil. The amendment does nothing more than establish a mechanism for the consideration of individual cases in need of special attention under the windfall profit tax.

The approval of this amendment will

not reduce the tax revenues that would otherwise accrue to the Government by virtue of the windfall profit tax. In fact, if anything, this amendment will have a positive impact on revenue because it will keep in production significant quantities of taxable crude oil that would otherwise be lost.

The amendment provides that the Secretary of the Treasury, in conjunction with the Secretary of Energy, can make such adjustments in the payment of the windfall profit tax as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens. These adjustments are to be made in a manner that will have the effect of preventing the shutting-in or premature abandonment of domestic crude oil.

It has always been recognized that some kind of exceptions process is necessary to avoid unfair and unintended consequences that would otherwise result from blanket application of oil price controls. For that reason, there has existed since the inception of controls a mechanism for granting special exceptions to alleviate or prevent serious hardship or gross inequity.

Current law, as provided in the Department of Energy Organization Act, requires the DOE Office of Hearings and Appeals to:

> Establish criteria and guidelines by which . . . special hardship, inequity, or unfair distribution of burdens shall be evaluated.

Our amendment tracks very closely this language from existing law.

DOE exception relief at present makes possible the continued production of about 100,000 barrels per day of oil which would otherwise be left in the ground. DOE estimates that in 1981, after decontrol, there will be in excess of 50,000 barrels per day of production in need of exception relief. That figure is likely to again climb to more than 100,000 barrels per day in the mid-1980's.

Were we to completely decontrol crude oil and not enact this tax, there would be no need to continue the exceptions process. However, the enactment of this windfall profit tax will perpetuate the need for an exceptions or adjustment mechanism.

The reason is that although Federal price controls are being phased out, the windfall profit tax is based on the oil price control regulations. The tax uses as a starting point many of the oil price control concepts, categories, and definitions. The effect of the tax, therefore, is to perpetuate many of the inequities present under the oil price control rules.

Yet the windfall profit tax contains no mechanism for granting adjustments in specific cases to prevent the shutting-in or premature abandonment of existing oil production.

The committee substitute does contain a net income limitation which limits the maximum tax that can be imposed on a barrel of oil, but that provision does not eliminate the need for a special exception process.

The net income limitation simply limits the amount of revenue subject to the windfall profit tax to 90 percent of the net income from the barrel of oil. It establishes a ceiling on the amount of windfall profit tax imposed on a barrel of oil, but it does not obviate the need for possible case-by-case adjustments to the tax.

The net income limitation by itself will not insure that substantial quantities of domestic crude oil will not be abandoned and left in the ground. Even with the net income limitation, there will be many instances in which the combination of all taxes and production costs will result in so minimal a rate of return that the producer will be compelled to abandon the property and put his money to better use. Surely, this could not be the intended consequence of a tax measure that purports to tax only windfall profits.

Our amendment is designed to minimize the loss of much needed domestic oil production and to provide a measure of flexibility in the administration of this unique tax. It provides for the establishment of a process by which the Department of Energy can work together to evaluate applications for adjustment in the payment of the windfall profit tax. The guidelines and standards to be used in considering applications for adjustment are not spelled out in detail in the amendment. However, the specific intent of the amendment is that this process be modeled very closely after the existing DOE exceptions process.

The current DOE exceptions process has not, by any stretch of the imagination, been a bonanza to oil producers. The guidelines are strict, the scope of possible relief is limited, and any relief that may be granted is limited to 6 months duration.

Generally, DOE exception relief is granted only if the applicant demonstrates, with respect to the property involved, that production costs exceed or will exceed revenues, that profits are so low as to provide no incentive to continue production, or that relief on an existing property is necessary to create an incentive to undertake a new capital investment which would result in the recovery of a significant quantity of crude oil. The criteria are designed primarily to compensate for the impact of increases in operating costs so that the producer can be made whole in relation to his profit margin on May 15, 1973, prior to the imposition of controls.

Mr. President, the DOE exceptions process under existing law has made possible the continued production of very substantial quantities of domestic crude oil that otherwise would have been lost. This existing exceptions process has provided a critically needed element of flexibility in the oil price control program. It is crucial that there exist a similar process in conjunction with the windfall profit tax. This amendment would establish that process.

The committee substitute does contain a net income limitation which limits the maximum tax that can be imposed on a barrel of oil, but that provision does not eliminate the need for a special exception process.

I would simply suggest that, again, this will not cost us in any manner. In terms of revenue, there is no revenue cost. Indeed, it keeps in production crude oil that can be taxed but that otherwise would not be produced.

The idea here is to prevent the shutting in of highly marginal, high-cost production. This could result in our producing, provided this amendment is passed, some 50,000 to 100,000 barrels a day that would not otherwise be produced.

I again emphasize that it simply tracks with the current provision for seeking exceptions under current DOE regulations. This does not mandate any exception, it does not create any exception, it simply describes the circumstances in which an applicant might seek to gain exception. The final decision would have to be made by the DOE and the Treasury.

Mr. HELMS. Will the Senator yield?

Mr. TOWER. Yes, I yield to the Senator from North Carolina.

Mr. HELMS. Mr. President, I am pleased to join with the distinguished Senator from Texas (Mr. TOWER) as a cosponsor of this amendment. It is an excellent amendment and I urge the Senate to adopt it.

The sole purpose of the amendment is to carry over the existing exception process to the windfall profits tax. The Department of Energy has estimated that it is presently granting exception relief for 100,000 barrels per day. Without this procedure, these barrels would be shut in or prematurely abandoned. Even after decontrol, there will be in excess of 50,000 barrels per day of production that will need exception relief to maintain production. Estimates also indicate that in the mid-1980's the amount of crude oil requiring exception relief will again exceed 100,000 barrels per day. As world prices increase, more and more crude oil that has been abandoned or shut in could be produced if exception relief were available. The Department of Energy again estimates that for each $1 increase above the existing world price an additional 5,000 barrels per day would still be in need of exception relief.

Our amendment establishes a procedure by which the Treasury Department and the Energy Department can jointly evaluate applications for any adjustment in the payment of the tax. This adjustment process is patterned on the existing DOE exceptions procedure. This will be a workable mechanism and an excellent tool available to us to increase domestic production.

I urge adoption of the amendment.

Mr. MUSKIE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Maine.

Mr. MUSKIE. Mr. President, I understand that this amendment is not germane to the bill. It has been the practice all afternoon, I think, to raise a point of order with respect to germaneness. I must confess that I did not understand all of the implications of this amendment, including cost implication.

But it would seem to me, having adopted a uniform policy with respect to nongermane amendments, that that policy ought to be continued with respect to other amendments that are not germane.

Mr. LONG. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LONG. Mr. President, is the amendment germane or not germane?

The PRESIDING OFFICER. The amendment is not germane.

Mr. TOWER. Mr. President, let me address myself to the question of germaneness. I contend that it is germane.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, the amendment simply gives the Secretary of the Treasury, working with the Secretary of Energy, the authority to grant adjustments in specific cases on the basis of special hardship, inequity, or unfair distribution of burdens.

The section amended by the amendment, section 4992, provides for special rules, adjustments, and certain exemptions based on recognized public purposes. The Tower amendment, which is designed to prevent the unintended shutting in or premature abandonment of domestic crude oil, is very much germane to this section.

In addition, section 4994(b) of the committee bill grants the Secretary of the Treasury the authority to prescribe such regulations as may be necessary to carry out the purposes of the windfall profit tax, including, and I quote—

> Such changes in the application of the energy regulations for purposes of this chapter as may be necessary or appropriate to carry out such purposes.

The Finance Committee report commentary on this section mentions specifically the need for the Secretary of the Treasury and the Secretary of Energy to work closely so that the windfall profit tax does not have unintended results. The DOE exceptions process, which is the general subject of the Tower amendment, is referred to specifically in this context.

I, therefore, contend that the amendment is germane.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, there are other provisions in the bill that seek to protect the producer from hardship. There is a so-called 90-percent rule that was agreed to in committee. And that is in the bill.

There is also the right in the Department of Energy to raise prices.

Mr. President, on this matter of germaneness, every Senator who has been around here for a while ought to know that all you have to do before you vote on cloture is go down there and ask the Parliamentarian what he thinks about your amendment. Ask him if he thinks that the amendment is germane. Sometimes he will want some time to think about it.

But the Parliamentarian, in very short order, will tell any of the Senators whether an amendment is germane or not germane. That is a very, very strict rule on germaneness.

Oftentimes, even though I have been here for 30 years, I cannot tell whether an amendment is going to be ruled germane or not germane.

But the Parliamentarian is fairly familiar with all the precedents in that respect and it is a very strict rule. An amendment can be relevant to the subject of the bill, but not germane under the strict precedents. It is all just a matter of degree.

But the precedents of the Senate are such that the Parliamentarian is required to advise the Chair. Senators, when they vote for cloture, ought to have implicit in that that they are agreeing to abide by the precedents.

Mr. TOWER. If the Senator will yield, this Senator did not vote for cloture.

Mr. LONG. Mr. President, the rest of us who voted for cloture are bound by that.

I would ask the Chair to explain to us on what basis the amendment is not germane.

The PRESIDING OFFICER. The Chair ordinarily would not like to give advisory opinions before the point of order on germaneness has been made. But in this case, he will.

It is the opinion of the Chair that the amendment offered adds a new element, hardship, before an adjustment could be made. Thus, in the Chair's opinion, under the precedents previously established, it adds, therefore, a new element and is not germane.

Several Senators addressed the Chair.

Mr. MUSKIE. Mr. President, I make the point of order.

The PRESIDING OFFICER. The point of order having been made, the Chair sustains the point of order for the reasons stated.

Mr. TOWER. Mr. President, I appeal the ruling of the Chair, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

Mr. LONG. Mr. President, since this matter came up——

The PRESIDING OFFICER. Appeals are not debatable.

Mr. LONG. Mr. President, I ask unanimous consent that I might speak for 1 minute on this subject?

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered.

The Senator from Louisiana is recognized.

Mr. LONG. Mr. President, I felt very kindly toward the oil and gas industry and I have been severely criticized for being even too kindly disposed toward the oil and gas industry.

I am not opposed to the Senator's amendment on the merits. But, Mr. President, when I voted for cloture, like a majority of the Senators here, we voted implicit in that to abide by the strict precedents on germaneness. And they are very, very strict.

The Presiding Officer is doing nothing more than his duty, and the Parliamentarian is doing nothing more than his duty.

Although I, perhaps, would favor the amendment on its merits, it is my painful duty to vote against what the Senator is trying to do and ask everybody else to vote likewise.

Have the yeas and nays been ordered, Mr. President?

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is on germaneness, whether or not the decision of the Chair will stand as the judgment of the Senate.

The yeas and nays have been ordered and the clerk will call the roll.

Mr. LONG. A point of order, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. LONG. Is a vote to sustain the Chair a "yea" or a "nay" vote?

The PRESIDING OFFICER. The Chair will not interpret that question.

Mr. MUSKIE. What is the question?

Mr. CHILES. Will the Chair tell us what vote sustains the Chair?

The PRESIDING OFFICER. The Chair will simply say that it is the Chair's interpretation that a "yea" vote would uphold the Chair.

The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON) and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 61, nays 36, as follows:

[Rollcall Vote No. 494 Leg.]

YEAS—61

Baucus
Bayh
Bellmon
Biden
Boren
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cranston
Culver
Danforth
DeConcini
Dole
Durkin
Eagleton
Exon
Ford
Glenn
Gravel
Hart
Heflin
Inouye
Jackson
Leahy
Levin
Long
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Stafford
Stennis
Stevenson
Stewart
Stone
Talmadge
Tsongas
Weicker
Williams
Zorinsky

NAYS—36

Armstrong
Bentsen
Boschwitz
Chafee
Cochran
Cohen
Domenici
Durenberger
Garn
Goldwater
Hatch
Hatfield
Hayakawa
Heinz
Helms
Hollings
Humphrey
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Lugar
McClure
Morgan
Percy
Pressler
Schmitt
Schweiker
Simpson
Stevens
Thurmond
Tower
Wallop
Warner
Young

NOT VOTING—3

Baker
Huddleston
Kennedy

So the ruling of the Chair was sustained as the judgment of the Senate.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

AMENDMENT NO. 1038

(Purpose: To provide a tax credit for converting one's automobile to alcohol fuel)

Mr. BUMPERS. Mr. President, I call up amendment No. 1038.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an amendment numbered 1038.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. . CONVERSION OF AUTOMOBILE TO ALCOHOL.

Section 44C is amended by redesignating subsection (f) as (g) and by inserting after section (e) and following new subsection:

"(f) AUTOMOBILE CONVERSION.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount not to exceed $500 per vehicle, equal to 50 percent of the amount expended by the taxpayer in converting the engine of an automobile to use an alcohol fuel or fuels alone.".

Mr. BUMPERS. Mr. President, I ask unanimous consent to modify my amendment, so that every place the word "automobile" appears, the words "motor vehicle" be substituted, and that on line 7 of the amendment where "$500" appears, that "$300" be inserted.

Mr. DOLE. Mr. President, reserving the right to object if in fact the amendment were modified—I now make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. If the amendment were modified, would the amendment be germane?

The PRESIDING OFFICER. The Chair has that under advisement at this time, let me see how that comes in.

Mr. BUMPERS. Mr. President, if my colleagues will just give me 5 minutes, I will explain the amendment.

It provides a $300 tax credit to any automobile owner in America who converts his automobile to the use of alcohol.

Mr. President, let me explain what the amendment will do so far as our dependency on imports is concerned. Brazil is a good example to use by comparison.

When the Arab oil embargo occurred, the United States did nothing. On the other hand, Brazil acted to insure that a fairly significant amount of its energy supplies would be supplied by alcohol.

They intend to spend $5 billion between now and 1985 to convert 1,750,000 automobiles, out of a national fleet of 7 million, to use alcohol.

Mr. President, that is a monumental effort. I understand from an article in last week's New York Times that they are now 61 percent energy independent, because that is how much alcohol they are producing in their country. With this expenditure of $5 billion, they are planning to convert almost 25 percent of all the automobiles in that country to alcohol.

This is a simple tax credit of only $300. The cost of converting an automobile to use alcohol alone, not just gasohol, is probably between $800 and $1,000.

Mr. President, I want Senators to understand I have a parochial interest in this. There is a man in Fort Smith, Ark., who makes these conversions. He has been in the process of converting forklifts in the warehouses of the Whirlpool Corp., of the Gerber Baby Food Corp., and a couple of others. He has had fantastic success. He has experimented with it for years.

He has converted his Dodge Colt and other car, which, I believe, is a Pontiac. He has 112,000 alcohol miles on the Pontiac and he has 80,000 alcohol miles on the Dodge Colt.

He has testified that there is a very little difference in the mileage he gets.

Mr. President, I heard the distinguished Senator from West Virginia (Mr. RANDOLPH) state many times that he is the only Senator, that he is the only Member of Congress, for that matter, who was here when Franklin Roosevelt was inaugurated. He was a Member of the House of Representatives.

Not long ago, he and about 10 of us rode to the White House. He stood up and told President Carter, "Mr. President, you ought to tell the American people exactly what Franklin Roosevelt said in this same room to about 50 of us in 1933, in the depths of the Depression.

"He said, 'Gentlemen, we must act now. We will make some mistakes and we will try to minimize them, but we must act now.' "

Mr. President, I know this amendment is not going to save the world. I know it is not going to make this country energy independent. But it is a beginning, and I think a very significant beginning.

I have driven cars that run on alcohol and gasoline both. It is not a very unique technology. General Motors is going to produce such a car in 1983. But why should we wait until 1983 when the technology to retrofit 120 million automobiles is available to us now?

Let me state the economics of it. Let me state the cost of it.

If we converted 7 million automobiles to alcohol, we would save 500,000 barrels of oil a day, and the cost, Mr. President, to the U.S. Treasury, would be $2.1 billion.

Under the windfall profit tax bill as reported by the Senate Finance Committee, an extra revenue loss of $135 billion would produce 500,000 barrels of oil more in 1990—not more than we are producing now, but more than we would otherwise produce.

What I am saying, Mr. President, is that if this amendment works, we will save 500,000 barrels, for about one-seventieth—really, about one sixty-eighth—of what this bill will cost us.

So I think it is a bargain. I do not see how we could do otherwise.

I do not think people are going to rush to the local dealers to get their cars retrofitted. But if we have a supply interruption in the Middle East, which we might have at any time, we will be forced into doing something that will make a monumental contribution to the energy problems of this country.

So I plead with my distinguished friend from Kansas not to raise the point of order, whether the Parliamentarian feels or the Chair feels that it is or is not germane. It is a good amendment. I do not think anybody here questions the merits of what I am trying to do or the economics of it. I hope the point will not be raised.

Mr. DOLE. Mr. President, the Senator from Kansas is impressed with the argument and discussed it earlier with the Senator from Arkansas.

The point is that we made an agreement a few hours ago that nongermane amendments would be objected to. We just had the distinguished Senator from Texas (Mr. TOWER) telling us that his amendment had great merit, and it might have had. Those who voted for cloture—and the Senator from Kansas is one—knew this was the situation.

This is an avenue that should be pursued, and whether it will lower the cost or not, I think it is still subject to a point of order, and I reluctantly make the point of order that the amendment is not germane.

Mr. LONG. Mr. President, I ask that I may proceed——

The PRESIDING OFFICER. The point of order having been made, the point of order is not debatable.

Mr. BUMPERS. Has the point of order been raised, Mr. President?

Mr. DOLE. Yes.

The PRESIDING OFFICER. The point of order has been raised.

Mr. BUMPERS. Is the point of order, "Is the amendment germane?"

The PRESIDING OFFICER. The Chair is trying to rule on that. The point of order as to germaneness has been raised by the Senator from Kansas.

The Chair rules that since the amendment adds a new subject matter to the bill, it is not germane.

Mr. BUMPERS. Mr. President, I appeal the ruling of the Chair, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the decision of the Chair stand as the judgment of the Senate? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. INOUYE), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

The PRESIDING OFFICER (Mr. MELCHER). Have all Senators in the Chamber voted?

The result was announced—yeas 69, nays 26, as follows:

[Rollcall Vote No. 495 Leg.]

YEAS—69

Armstrong
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Bradley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
Dole
Domenici
Durenberger
Exon
Ford
Garn
Glenn
Gravel
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Javits
Jepsen
Johnston
Kassebaum
Leahy
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
Morgan
Moynihan
Muskie
Nunn
Packwood
Pell
Pressler
Proxmire
Randolph
Ribicoff
Roth
Schmitt
Simpson
Stafford
Stennis
Stevens
Stevenson
Stone
Talmadge
Thurmond
Tower
Tsongas
Warner
Weicker
Williams
Young

NAYS—26

Boschwitz
Bumpers
Church
DeConcini
Durkin
Eagleton
Goldwater
Hart
Helms
Hollings
Humphrey
Jackson
Laxalt
Levin
McGovern
Melcher
Metzenbaum
Nelson
Percy
Pryor
Riegle
Sarbanes
Sasser
Schweiker
Stewart
Zorinsky

NOT VOTING—5

Baker
Huddleston
Inouye
Kennedy
Wallop

So the ruling of the Chair was sustained as the judgment of the Senate.

Mr. LONG. Mr. President, I want to appeal to all Senators to abide by what is implicit in the cloture rule. When we vote cloture in the Senate there is an implicit contract among those who vote for it, the 60 percent who vote for it, that they are going to abide by the precedents of the Senate.

Now, no one is better qualified to say what are the precedents of the Senate than the Parliamentarian. Mr. President, before a Senator calls his amendment up he can go and inquire of the Parliamentarian whether that amendment is germane, and if it is not germane, he should not call it up.

Mr. President, I stood here for at least 2 weeks in the beginning of debate on this bill pleading with Senators to come to the floor and offer their amendments. At that time an amendment did not have to be germane. They could have offered anything they wanted to offer, and I tried to accommodate Senators to see if we could vote on their nongermane amendments before we voted on cloture.

But, Mr. President, the cloture rule will not work, it will not work, Mr. President, unless Senators are willing to vote their conscience on the germaneness issue and uphold the Parliamentarian.

If the Senate is not going to abide by its own rules and its own precedents, Mr. President, all kinds of violence could be done to this institution and to the way the Senate is expected to operate.

Mr. President, I could never vote for cloture if, having voted for cloture, the Senate is not going to abide by its own precedents, its own rules, if it will not respect its own Parliamentarian when the man is doing his honest duty as the good Lord gives him the light to see it.

There are some Senators here who have taken their amendments down to the desk, as they should, consulted the Parliamentarian about the amendment, been advised it is not germane because it raises new subject matter or raises a new issue, gone back and draft it in a way that would be germane. The Parliamentarian has been willing to help people in things of that sort.

But, Mr. President, if Senators are going to appeal the ruling of the Chair when the Parliamentarian is doing his painful duty, and when those who insist on making a point of order are doing their painful duty, we could be here forever.

I have a standing agreement with Mr. DOLE on his side of the aisle that when a Democrat raises a nongermane amendment, he will object and make the point of order that it is not germane, and on my side of the aisle I will assume the responsibility of making the objection if it is a Republican. If the Senator wants us to do it the other way around, we will do it. We are trying to follow that rule impartially. If an amendment is not germane we will make the point of order that it is not germane, and it is the duty of the Chair to uphold it.

Mr. President, I have not been just standing here and making that objection without having consulted the Parliamentarian first. As far as the Senator from Louisiana, the manager of the bill, is concerned, and I think I can say so far as the Senator from Kansas on the other side is concerned, we will willingly respect and support the Parliamentarian, even though it may look as though the Senator from Louisiana voted to impose hardships on oil producers when he voted against the amendment by the Senator from Texas, and though it may look like some of us are against gasohol or against making alcohol from waste materials, and things of that sort.

But, Mr. President, if this Senate is to be the great body it has been in the past, and which I believe it to be today, Senators are going to have to rise to the occasion and not vote to overrule the Chair because a friend had an amendment pending or because they like the amendment, even though it is not germane.

Just read the precedents of the Senate and you can see that the Parliamentarian has been doing his duty. The Parliamentarian would be glad to discuss the amendment with you and tell you how it looks to him and how he has been advised and why he feels he has to advise the Chair the way he does.

I hope, Mr. President, the Senate will recognize that we must be willing to have a fair arbiter at some point to decide the disputes among Senators. What better arbiter than that Parliamentarian? We hired him for that purpose, he has been trained in it for a great number of years. Sometimes I may not like his decision, but I am willing to take it, Mr. President, and abide by it. The Senator from Kansas is willing to abide by it on the other side.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. DOLE. I will just take 30 seconds, because I think most Senators would like to finish this bill by 8 o'clock. I have been telling everybody by 7:30. Of course, I started at 5:30, then at 6:30, and now at 7:30. As I said at the time, I made the point of order reluctantly. I do not like to do it. The Senator from Louisiana does not like to do it. I voted to sustain the Chair on the Republican side on Senator TOWER's amendment because I was dutybound to do so. We have about five amendments that are germane that I think we can move very quickly on, and I will just say to all of my colleagues on this side let us try to do in the next 30 minutes what I have just suggested, and it can be done.

Mr. LONG. Mr. President, I hope as amendments are called up hereafter that the Chair will recognize the manager of the bill, give me an opportunity if an amendment is not in order to make the point of order. While everybody would like to make a speech about his amendment, Senators will not appreciate it if you stand up here and make a half-hour speech on your amendment and then the amendment is ruled not germane. All you are doing is keeping Senators up here until midnight, and Senators do not appreciate that.

I hope if you want to make the speech about the subject matter that you wait until the Senate is not in such a sincere effort to try to finish its business on very important legislation or until you have not got 100 Senators who are waiting to vote on some important measure. Make it early tomorrow—at some point more to the convenience of the Senate.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I want to always lean over to be courteous, but I do want to call up an amendment.

Mr. BUMPERS. Mr. President, will the Senator yield to me for 1 minute?

Mr. President, I am not going to stand here and get into an argument about whether an amendment is germane or not, but I want to make a point.

There are still hundreds of amendments at that desk which, in my opinion, are germane, despite what the Chair says. I know what the Chair is going to rule on most of those amendments, and that its prerogative, but those of us who feel strongly about it have a right to appeal.

I am not trying to delay the Senate, but I stood here for 4 weeks, too, and I listened to the Danforth argument and the Long counterargument day after day after day; and the Bradley amendment, which I happily supported, was on the floor here for close to a week, and I came Saturday, hoping I would get a chance to offer my amendment.

To no avail. I came back early this morning and found out there was a wide agreement—there are about six amendments, the first one being the McClure amendment, which lasted until noon and, after that point, everything else was virtually down the tube.

So I do not have any choice. I feel as strongly about that amendment I just offered as any other Senator feels about his. I know that the Senator from Louisiana feels as strongly about the Danforth amendment as I feel about mine, and so I offered it.

I hope the Senate does not get to the point where Senators are intimidated by cloture. I voted for cloture, even though I almost did not because I knew what the Chair was going to rule, and I knew what this body was going to do when I appealed the ruling of the Chair.

I just want to make the point there are a lot of who waited for a long, long time, waited to offer good amendments, and we were not permitted to because the parliamentary situation was such that we could not. So I do not think anybody in this body ought to be intimidated.

Mr. DOLE. Mr. President, will the Senator yield to me?

Mr. BUMPERS. Yes.

Mr. DOLE. I think it is a good idea, we are going to have several bills coming through in the next 30 or 60 days, and there might be a possibility to do it then.

I have an amendment myself that I cannot call up because it is not germane, so I want to cooperate with the Senator from Arkansas.

Mr. BUMPERS. I thank the Senator very much.

AMENDMENT NO. 796

Mr. RANDOLPH. Mr. President, I appreciate the opportunity to call up amendment No. 796 and to ask unanimous consent that the names of the Senators from Alabama (Mr. STEWART and Mr. HEFLIN) and the Senator from Illinois (Mr. PERCY) be added to the amendment as it is at the desk as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, this is amendment No. 796, I believe.

Mr. RANDOLPH. That is correct.

Mr. LONG. Mr. President, I am advised that this amendment is germane to the bill.

Mr. RANDOLPH. That is correct, it is germane. It provides for the——

The PRESIDING OFFICER. Will the Senator allow the clerk to report the amendment?

Mr. RANDOLPH. Yes.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. RANDOLPH) proposes an amendment numbered 796:

On page 41, line 13, insert:

(e) FRONT-END TERTIARY OIL.—Taxable crude oil does not include front-end tertiary oil producd after September 30, 1980, if the tertiary technique involved consists of carbon dioxide injection.

Mr. RANDOLPH. Mr. President, the manager of the bill and the manager for the minority on the bill do know that the measure that I have offered is germane, and it fits within the pattern of the legislation.

It provides for enhanced oil recovery of front end tertiary oil through use of carbon dioxide injection technique.

On August 21, 1979, the Department of Energy issued a rulemaking designed to help crude oil producers offset certain costs associated with enhanced oil recovery techniques. The rule permits a qualified producer to recoup 75 percent of costs incurred in a project which utilizes specified enhanced oil recovery techniques provided that no more than $20 million of such costs are recouped with respect to a particular property.

Recoupment of these costs is achieved by permitting the producer to sell domestically controlled crude oil at world market prices, and requires that the differential dollars (market price minus domestically controlled price), called "tertiary incentive revenue," to be used to offset expenses incurred by the producer in connection with the qualified project.

In its rule, the Department of Energy specifically kept open the rulemaking process "for the limited purpose of taking appropriate account for the effects of the windfall profit tax when such a tax is enacted." My amendment is consistent and fully supportive of the Department of Energy position as set forth in the rulemaking.

The inclusion of this amendment should be interpreted as support for and encouragement of the Department of Energy's stated intention to allow project participants to apply against eligible project expenses the full amount of revenues that would have been received under the program before the windfall profit tax entered into the picture. Accordingly, the Department of Energy is urged to utilize its rulemaking authority to achieve its original objective by adopting regulations which will offset any reduction of revenue to project participants by reason of the windfall profit tax. This action should be taken promptly in view of the relatively short period of time remaining before the expiration of controls and because of the national need to promote technology to recover tertiary oil.

H.R. 3919 taxes the tertiary incentive revenue received from the sale of front-end tertiary oil at the same rate as tier 2 oil. Taxing front-end tertiary oil at this rate reduces the incentive available to a producer on a particular project by $12 million and thus substantially reduces the effectiveness of the Department of Energy's incentive rulemaking and, as a consequence, diminishes the likelihood that producers will undertake enhanced oil recovery projects.

My proposed amendment maintains incentive level intended by the Department of Energy for carbon dioxide injection techniques.

Mr. DOLE. Mr. President, the Senator from West Virginia has consulted with me on this proposal, as have the Senator from Illinois and the Senator from Alabama. All this amendment does is simply give what we call front-end tertiary the same tax status as tertiary oil recovered without subsidies and old oil, the same tax relief. It is a good amendment, substantially the same as what we adopted in the committee, and I move its adoption.

Mr. LONG. Mr. President, I personally favor the amendment, and I hope the Senate will see fit to agree to it.

Mr. HEFLIN. Mr. President, the amendment offered by Senator RANDOLPH is needed to permit a substantial tertiary-enhanced recovery project to be undertaken by the numerous small independent producers that control the Citronelle unit in Mobile County, Ala. It is well known that expensive tertiary methods of recovering known domestic reserves offer a significant potential for reducing our dependence on foreign producers. Unfortunately, the price controls and the tax legislation now under consideration have the effect of limiting the use of these capital-intensive and high-risk methods of recovery solely to the wealthy major oil companies.

The numerous small independents that control the Citronelle unit have been frustrated at every turn in their efforts to begin what could be one of the more significant tertiary projects in the country. This amendment would help these small owners to finance this project through reinvestment of the revenues from the limited number of barrels of oil that remain to be recovered by secondary recovery in this field.

The Citronelle Field is unique in many respects. It could well prove to be a key element in the development of our tertiary recovery technology.

The field was discovered in 1955. Production by primary techniques dropped off rapidly, and in 1961 the field was unitized and water injection was begun. A total of 341 tracts, extending over more than 13,000 acres, are included in the unit. The unit has more than 850 working interest owners and over 1,500 royalty owners. Less than 15 percent of the working interest is held by major oil companies, and a majority of the working interest is in the hands of persons with less than a 3-percent interest.

The geology of the field is extremely complex, and there were many who thought a waterflood of the more than 300 known reservoirs at depths of over 10,000 feet could not be accomplished. Nevertheless, the small independents who control this field have been able to produce more than 100 million barrels of oil from the field, most of it by operation of perhaps the most complex waterflood project in the country.

An estimated 7 to 14 million barrels of oil remains to be recovered by waterflood. Under present rules, this product is being sold for about $6 per barrel. The only hope the small independents have for financing the $60 million investment needed before the workability of tertiary techniques can be determined is through market-price sales of the remaining oil. But unless those market-price sales are made exempt from the windfall tax, the after-tax revenues from production in 1980 and 1981 will fall short of the amount that is needed.

I should note that the independent producer exemption, if it is enacted, would largely resolve this problem for the Citronelle field. But if that exemption is reduced or eliminated, an amendment such as the one now under consideration would be essential. The fact is that a successful tertiary project in this field could result in additional 30 to 60 million or more barrels of high quality domestic oil, with a corresponding reduction in payments to foreign producers of $2 billion.

The history of the efforts that have been made by the Citronelle unit to undertake this project would make a textbook case in how unresponsive bureaucracy can stifle initiatives that are professed by the Government to be of paramount importance to the country.

Mr. President, I note that because of budgetary restraints, Mr. RANDOLPH's amendment takes effect only after September 30, 1980. While this amendment is helpful, it would be of greater benefit to the small independents a Citronelle if it could be made effective for the current fiscal year. I understand the budgetary restraints, but I would ask the Senate conferees to keep this in mind if subsequent developments ease the budgetary problem.

I, therefore, ask that this amendment be approved, so that the small independents who control the Citronelle unit can move forward on their own initiative to take the risks and develop the technology that is essential if we are to make any progress in reducing our dependence on foreign oil.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 796) of the Senator from West Virginia (Mr. RANDOLPH).

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 1320

(Purpose: Providing a procedure to make items eligible for the residential energy credit)

Mr. CRANSTON. Mr. President, I call up my germane printed amendment No. 1320, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an amendment numbered 1320.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection to the request of the Senator from California?

Mr. LONG. Mr. President, reserving the right to object, I am advised that this amendment is germane, and I will not object to its consideration. I may have a suggestion to make.

Mr. CRANSTON. I thank the Senator very much.

The amendment is as follows:

On page 100, between lines 20 and 21, insert the following:

"(b) ADDITIONAL ENERGY CONSERVATION ITEMS.—Section 44C (relating to residential energy credit) is amended by redesignating subsection (f), (as amended by section 203(e)) as subsection (g) and by inserting after subsection (e) the following:

"'(f) ADDITIONAL ENERGY CONSERVATION ITEMS.—

"'(1) ADDITIONAL ITEMS.—

"'(A) IN GENERAL.—Except as provided in paragraph (2), any item included in the report submitted to the Congress under subparagraph (B) shall, for purposes of this section, be treated as an other energy-conserving component if the original use of such item begins with the taxpayer.

"'(B) REPORT BY SECRETARY OF ENERGY.—Not later than May 15 of each year, beginning with 1980, the Secretary of Energy shall submit to the Congress a report which includes any item the Secretary of Energy determines should be treated as another energy-conserving component under subparagraph (A). No item shall be included unless—

"'(i) the Secretary of Energy determines that such item achieves in a safe manner a significant reduction in the amount of energy consumed in the residence on or in which it is installed,

"'(ii) such item can reasonably be expected to remain in operation at least 3 years, and

"'(iii) such item meets such performance and quality standards (if any) which have been prescribed by the Secretary of Energy by regulations.

"'(2) CONGRESSIONAL DISAPPROVAL.—

"'(A) IN GENERAL.—Any item included in the report submitted under paragraph (1)(B) shall not be treated as an other energy-conserving component by reason of this subsection if the Congress, within 45 days of continuous session of Congress after the date on which such report is submitted, agrees to a concurrent resolution which disapproves of the inclusion of such item in such report. The continuity of session is broken only by an adjournment of Congress sine die, and the days on which either House of Congress is not in session because of and adjournment of more than 3 days to a day certain are excluded in the computation of the 45-day period.

"'(B) RULEMAKING POWER.—Subparagraphs (C) and (D) are enacted by Congress—

"'(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of a concurrent resolution described by this paragraph; and they supersede other rules only to the extent that they are inconsistent therewith; and

"'(ii) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"'(C) EXPEDITED PROCEDURE.—The provisions of subsections (e)–(k) of section 5305 of title 5 shall apply to the consideration of any concurrent resolution under this paragraph.

"'(D) CONFERENCE REPORTS.—The provisions of subsections (a)(4), (c), and (d) of section 305 of the Congressional Budget Act of 1974 (31 U.S.C. 1326) shall apply in the case of any conference report or any concurrent resolution under this paragraph.

"'(3) EFFECTIVE DATE.—The provisions of this subsection shall apply with respect to expenditures for any item on or after January 1 of the year in which such item is treated as an other energy-conserving component by reason of its inclusion in a report submitted under paragraph (1)(A) during such year, except that in the case of a report submitted during 1980, this subsection shall only apply to expenditures for such items after September 30, 1980.'".

On page 100, line 21, strike out "(b)" and insert "(c)".

On page 101, line 21, strike out "(c)" and insert "(d)".

On page 101, lines 21 and 22, strike out "this section" and insert "subsections (a) and (c)".

Mr. CRANSTON. Mr. President, the National Energy Act of 1978 specified a list of "energy conserving components" which qualify for a 15 percent tax credit if purchased by a homeowner for use in his home or installed by a business.

One example of such a device would be an energy-saving setback thermostat.

In addition to the specified list, the act gave the Secretary of the Treasury the authority to designate, in consultation with the Secretary of Energy, additional energy conserving devices as qualifying for a tax credit.

In the Finance Committee version of the Windfall Tax bill this authority is removed.

The Treasury Secretary apparently is troubled by the need to pass judgment on whether a number of new devices save enough energy to warrant tax credit.

In addition, the Treasury Department starts with a bias in favor of retaining revenues.

The Secretary is not eager to recognize energy saving devices and grant additional tax credits, regardless of how much energy they save.

The committee bill terminates the authority given to the Secretary without giving it to anyone less than a year after Congress decided that the authority to encourage use of energy-saving devices by use of tax credits was very important.

Certainly, nothing which has happened this year reverses that judgment.

My amendment would take the authority which the Finance Committee removes from the Secretary of the Treasury, and give it to the Secretary of Energy, in consultation with the Secretary of the Treasury, and subject to a congressional veto.

Mr. LONG. Mr. President, the present law includes a provision which gives the Secretary the authority to add items to the list which qualify for residential or business credits.

The committee agreed to a proposal by the Treasury Department to add additional items to the list and to delete the Secretarial authority to add new items. This was at the Treasury's suggestion.

The Senator from California's amendment would delete the committee provision. Since we worked out a compromise with the Treasury in the committee, I would like to ask the Senator to modify his amendment to leave the committee's provision in the bill and to add his provision at a different place in the bill.

Mr. CRANSTON. Mr. President, I welcome that suggestion from the Senator from Louisiana, the manager of the bill, and I send to the desk a modified version of the amendment doing exactly what the Senator has suggested. It is cosponsored by the Senator from Kansas (Mr. DOLE), much to my pleasure.

The PRESIDING OFFICER. The clerk will report the modification.

The assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes a modified version of amendment No. 1320—

Mr. CRANSTON. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

UP AMENDMENT NO. 886

SEC. 239. SECRETARY AUTHORITY TO QUALIFY CERTAIN PROPERTY FOR ENERGY CREDITS.

(a) RESIDENTIAL ENERGY CREDIT.—Subparagraph (A) of section 44C(c)(4) (relating to definition of other energy conserving components), as amended by section 202 of this Act, is amended—

(1) by striking out "or" at the end of clause (x),

(2) by striking out the period at the end of clause (xi) and inserting in lieu thereof a comma and "or", and

(3) by adding at the end thereof the following new clause:

"(xii) an item of the kind which the Secretary specifies by regulations as increasing the energy efficiency of the dwellings,".

(b) BUSINESS ENERGY INVESTMENT CREDIT.—Paragraph (5) of section 48(1) (relating to specially defined energy property), as amended by section 232 of this Act, is amended—

(1) by striking out "or" at the end of subparagraph (L),

(2) by inserting "or" at the end of subparagraph (M), and

(3) by inserting after subparagraph (M) the following new subparagraph:

"(N) any other property of a kind specified by the Secretary by regulations,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years ending after the date of enactment of this Act.

Mr. CRANSTON. Mr. President, I say to the Senator from Louisiana I am concerned as to whether the authority will be used as fully as the Congress intended. The Treasury Department has imposed limitations which Congress never specified, for example by insisting that energy saving devices be a part of the realty rather than merely installed in the home of the taxpayer.

The authority was given to Treasury to be used, and I hope that the committee will, in its oversight jurisdiction, urge the Secretary to use the authority appropriately.

I thank the Senator and ask that my substitute amendment be adopted.

Mr. DOLE. Mr. President, as I understand, both versions will be in conference, is that correct?

Mr. LONG. That is right.

Mr. DOLE. I think it is a good proposal.

Mr. LONG. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment as modified.

The amendment (No. 1320), as modified was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1318

(Purpose: To recognize future correction in the marginal property regulation for properties 10,000 feet or more in depth)

Mr. HEFLIN. Mr. President, on behalf of my distinguished colleague from Alabama (Mr. STEWART) and myself, I call up amendment No. 1318.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. HEFLIN) proposes an amendment numbered 1318:

On page 68, line 3, insert after "1979"—

Mr. LONG. Mr. President, it is my understanding that this amendment is germane, and I want the Senate to know that.

Mr. HEFLIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 68, line 3, insert after "1979" the following: ", except that the term 'marginal property' shall be deemed to include a property whose average daily production of crude oil (excluding condensate recovered in non-associated production) per well during calendar year 1978 did not exceed 40 barrels and whose average completion depth was 10,000 feet or more".

Mr. HEFLIN. Mr. President, this amendment on marginal property would clarify the meaning of that term to include a property whose average daily production of crude oil per well during calendar year 1978 did not exceed 40 barrels and whose average completion depth was 10,000 feet or more.

Mr. President, this technical amendment is necessary to protect the numerous small owners of the Citronelle Field in Mobile County, Ala. as well as other marginal producers. This amendment would insure that a mistake made by the Department of Energy when it excluded the Citronelle Field and other marginal properties from its marginal property definition is not carried over to this tax legislation.

The Alabama field I am referring to is unique in several respects. Its ownership is highly fractionated, with over 850 working interest owners and more than 1,500 royalty owners. The unit is controlled by small independents, many of whom depend on it for their livelihood. Major oil companies hold less than 15 percent of the working interest in the unit.

The Citronelle Field was discovered in 1955 and has produced over 100 million barrels of very high quality crude oil, much of it after the field was unitized and secondary recovery begun in 1961. But it is now in the last stage of production by waterflood, with an estimated 7 to 14 million barrels left to be recovered by that method.

When the DOE adopted the marginal property amendments that become effective on June 1 of this year and which are referenced in this tax bill for purposes of determining the level of tax that applies, it provided price relief for properties that during 1978 had average daily production per well of 20 barrels or less from depths of 2,000 feet or more; 25 barrels or less from depths of 4,000 feet or more; 30 barrels or less from depths of 6,000 feet or more, and 35 barrels or less from depths of 8,000 feet or more. By failing to continue these 5 barrels/2,000 foot qualifying brackets to include properties with average daily production per well of 40 barrels or less from depths of 10,000 feet or more, the DOE arbitrarily excluded the Citronelle Field from the price relief afforded by the marginal property rule.

The Citronelle Field produced less than 40 barrels per well per day from depths in excess of 10,000 feet in 1978, in one of the most complex waterflood operations ever operated successfully in the United States. It was unfairly excluded from marginal property status under the June 1, 1979 energy regulations, and remains subject to the lower tier price rule.

DOE officials have repeatedly declared their intention to amend the marginal property rule to correct this discriminatory error, but no action has yet been taken, despite the nearly 6 months since the rule became effective. Unless the amendment I have offered is adopted, the Citronelle Field is threatened with tier 1 tax treatment, even though it is clearly entitled to marginal property status and tier 2 tax treatment, and it must have such treatment to avoid premature abandonment and loss of domestic production.

I should note that the independent producer exemption, if enacted, would be applicable to most of the production from this unit. However, should that amendment not be included in the final legislation, the technical amendment I have offered would be essential to avoid the inequitable perpetuation of a mistake by DOE into the tax code, and the loss of needed domestic production from this field.

This amendment is also essential for reasons that go far beyond those related to the economic livelihood of the small community of Citronelle, Ala., and the 7 to 14 million barrels of oil that remain to be produced from this field by secondary production.

The Citronelle Field is an excellent prospect for a significant tertiary recovery project, a project that could yield 30 to 60 million or more additional barrels of high quality domestic crude oil. This potential production could reduce payments to foreign producers by $2 billion or more.

Because the enormous expense of this tertiary project cannot be undertaken by the small independent owners of the Citronelle unit except by reinvestment of revenues from remaining secondary production, the amendment I have offered is an essential element of any tertiary project for this field.

In summary, I ask your support for a technical amendment needed to correct an error made by the Department of Energy and to avoid shutting the door on the possibility of a substantial tertiary recovery project that would benefit all our citizens. Only about 15.000 to 20.000 barrels per day of production are affected by this amendment (only 5,000 per day of Citronelle) so that the revenue impact of the amendment is negligible, particularly in light of the potentially substantial tax revenues that would accrue if a tertiary project were to prove successful in this field.

I have discussed this amendment with the managers of the bill, and I do not believe there is any objection to it.

Mr. DOLE. Mr. President, I support the amendment of the distinguished Senator from Alabama.

Mr. LONG. Mr. President, I have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

The amendment (No. 1318) was agreed to.

Mr. HEFLIN. Mr. President, I move to reconsider the vote by which amendment No. 1318 was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there as sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1593

(Purpose: Exempting Federal interests from the tax)

Mr. LONG. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Louisiana (Mr. Long) proposes amendment numbered 1593:
>
> On page 76, between lines 21 and 22, insert the following:
>
> (j) Exemptions for Interests of the United States.—If an economic interest in crude oil is held by the United States, then no tax shall be imposed by section 4986 with respect to crude oil properly allocable to such interest.

Mr. LONG. Mr. President, first let me say that the Senate has voted previously that it would not apply the windfall profit tax to royalties on State lands. This amendment says that the windfall profit tax does not apply to royalties on Federal lands.

If such a tax were to be applied, it would amount to shifting the revenue from one pocket to another. It would have no difference as to how it would affect the States of the Union. Basically, I think most Senators would prefer that the distribution as between States remain the same as under existing law.

Mr. DANFORTH. Mr. President, I am sorry, but I am not familiar with this amendment. I am not sure exactly how it would work. I have had a somewhat passing interest in a related area. I wonder if the chairman would briefly explain it to us.

Mr. LONG. Mr. President, may I say to the Senator that I am advised by the staff that this amendment has no substantive effect; that this is the way the staff anticipated the bill was supposed to work out all the time.

But the point was raised before by one of the Senators in a different connection. In order to clarify it and make it clear that we are not changing the way that the royalties are distributed on Federal lands, this amendment is submitted.

Mr. STEVENS. Will the Senator yield to me for a question?

Mr. LONG. Yes.

Mr. STEVENS. Mr. President, does this apply to the royalty that is paid to the United States from production on Federal lands?

Mr. LONG. Mr. President, this applies to royalties paid to the United States from Federal lands, that is correct.

Mr. DANFORTH. Would it have any effect on State revenues?

Mr. LONG. Under the laws passed down through the years, there is a provision as to how royalties from State lands—be it timber, coal, oil, or any resource—is to be distributed. The distribution would be just exactly the way that the existing law declares it would be distributed.

My understanding is, under the bill without the amendment, that the States would get the same share that they would have gotten otherwise. But the amendment is offered in order to make it clear that that is how it would be.

Mr. DANFORTH. Would the effect of the amendment be to increase the dollar revenues for States in which Federal oil-producing land is located?

Mr. LONG. I am advised that the amendment would be to leave it the way it is.

Mr. DANFORTH. Will it be the same percentage on a larger base? Would that be the effect of it?

Mr. LONG. My understanding, as advised by our staff who prepared this amendment, is that the intent of the committee is the same as the intent of the amendment; in other words, that the bill that we have before us proposes the same thing as the amendment proposes, but that this amendment would make it more clear than it is at this point that that is the case.

In other words, if you did not want it done this way, you ought to offer an amendment to say that it will not be done this way. Because my understanding is that this really is an amendment in the nature of a clarification of what the bill provides already.

Mr. DANFORTH. So it is the Senator's understanding that this amendment will have no effect on revenues of the several States?

Mr. LONG. The intent is that it not change the distribution among States; that it not change the revenue of the States, but that it clarify the purpose of the bill which we believe to be the way the bill is drafted already. But it would clarify the bill that is before us.

Mr. DANFORTH. And it is not merely the percentage distribution that is involved. It is the actual dollar revenues per State, and the dollar revenues would not be increased as a result of this amendment?

Mr. LONG. That is my understanding.

Mr. DANFORTH. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Louisiana (Mr. Long).

The amendment was agreed to.

AMENDMENT NO. 805

(Purpose: To clarify taxation of Alaska Natives under the windfall profits tax)

Mr. GRAVEL. Mr. President, I call up my amendment No. 805.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

> The Senator from Alaska (Mr. Gravel) proposes an amendment numbered 805.

The amendment is as follows:

> At page 75 between lines 13 and 14 insert the following:
>
> "(C) held by any Native Corporation organized under the Alaska Native Claims Settlement Act, or".

Mr. LONG. Mr. President, I am advised that this amendment is germane. I would suggest that we consider it with that understanding.

Mr. DOLE. Mr. President, there may be some question on whether or not it is germane. I think the distinguished Senator from New Mexico (Mr. Schmitt) may wish to speak to this amendment.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. GRAVEL. Mr. President, I just want to explain the amendment briefly.

In committee, there was no tax on new oil, and the committee came up with the Wallop amendment, which was to exclude the American Indians from the windfall profit tax because some of them have old oil.

At that time, the staff was able to dissuade us from including the Alaskan Indians. Since we had no old oil, there obviously would have been a redundancy. We accommodated the staff in that regard.

Obivously, since the Senate has passed a windfall profit on new oil, it could potentially impact upon the Alaskan Indian.

We are seeking, with this amendment, to enjoy the same rights and privileges that the Indians in other parts of the United States enjoy. That is the impact of this amendment.

Mr. SCHMITT addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I frankly am not sure whether I support the amendment of the Senator from Alaska on its merits or not. It could potentially, in my mind, add a great deal of impact on other Indian law and on the question of equity for all Indian tribes or native American tribes around the country.

I think the Senate needs more time to consider this issue. I would be happy to participate in that consideration. But I would like to raise some points first about the nature of these corporations.

Mr. McCLURE. Mr. President, will the Senator from New Mexico yield for a question at this point?

Mr. SCHMITT. I am happy to yield for a question.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, my concern is very much parallel to that of the Senator from New Mexico. My first impression, when I knew of the amendment, was that it was doing exactly what the Senator from Alaska has said, just treating the Alaska Natives the same as others. Then I looked more closely at the provision of the bill that is before us, and I found, rather than treating them exactly as we treat others, it would seem to me that we would treat them differently than other Indians are treated, simply because the bill before us says that the Indians will receive the exemption only if the land is held in trust by the Government on their behalf.

The Native land in Alaska is not held in trust. It is similar to tribal lands that would be held in fee in the lower 48 States, which do not receive the exemption.

Does the Senator from New Mexico read the legislation the same way that the Senator from Idaho does?

Mr. SCHMITT. Well, I certainly read the potential implications of the legislation the same way. I do not know that the amendment or the legislation would go directly to that.

But I can certainly see us being faced with a question of equity in the very near future. Exactly how that can be resolved, I think, is beyond the time available to us at this time.

So not only do I think the Senate should have more time to consider this issue, and the Congress in general, looking very closely at the merits of the issue for all native Americans and Indian tribes, but I also am afraid, and would submit, that the amendment may not be germane to the bill before us.

Mr. President, I would just refer to the bill that is before us and then subsequently to the amendment.

On page 75, beginning on line 3, paragraph (g), the bill states:

> (g) EXEMPTION FOR CERTAIN INTERESTS HELD BY INDIAN TRIBES.—If—
>
> (1) an economic interest in crude oil is held by an Indian tribe, an individual member of an Indian tribe, or a tribal organization and the crude oil is produced from lands or mineral interests which are—

And I emphasize "which are"—

> (A) held in trust by the United States for that tribe, member, or organization,

Mr. President, I think it is clear in law that these corporations do not come under the trust relationship which the United States has with various Indian tribes and tribal organizations, including the Alaska Natives—

> (B) held by that tribe, member, or organization and are subject to a restriction against alienation imposed by the United States,

Mr. President, again, these Native corporations have no restriction against alienation, or at least not a permanent restriction agains alienation. They are both profit and nonprofit, and they can in fact dispose of their lands, according to the information I have.

The amendment by the Senator from Alaska (Mr. GRAVEL) would add a paragraph (C). That would say—

> Held by any Native corporation organized under the Alaska Native Claims Settlement Act, or.

Mr. President, for paragraph (C) to be germane, it would seem to this Senator that that native corporation organized under the Alaska Native Claims—

Mr. LONG. Mr. President, can we have order? I am trying to hear the Senator.

The PRESIDING OFFICER (Mr. SARBANES). The Senator's point is well taken. The Senate will be in order.

Will the Senator suspend until we do in fact have order?

The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I thank the distinguished Senator from Louisiana and the Chair for their courtesy. This is an important issue because the implications of this amendment could be extremely profound, not only financially but for all the tribal lands in this country.

Again, the amendment by Mr. GRAVEL, the Senator from Alaska, would add as a subparagraph (C) that any lands or mineral interests held by a Native corporation organized under the Alaska Native Claims Settlement Act would be exempt.

For that Native corporation to be exempt and, therefore, for this amendment to be germane, the corporation would have to be either an Indian tribe, an individual member of an Indian tribe, or a tribal organization.

It is my understanding, Mr. President, that these corporations are largely, if not entirely profitmaking, although they may have some subsidiaries that are not profitmaking; that they are included under the general laws of the State of Alaska; that they are subject to State laws as a corporation. Of course, tribal organizations are not, and Indian tribes are not subject to those laws; and there is no trust relationship between the corporation and the Federal Government.

I believe that is specifically said to be the case in the generic legislation, which is the Alaska Native Claims Settlement Act.

The corporation does not have health and welfare responsibilities as would a tribal organization under a number of acts; and we have only qualified these Native corporations under the Alaska Native Claims Settlement Act as tribal organizations or as Indian tribes when we have specifically intended to incorporate them in legislation subsequent to the generic legislation, which is the Settlement Act.

There are a number of laws, including the Indian Self-Determination and Education Reform Act, if I remember the title correctly, that include these corporations, or at least the subsidiaries of them, in the definition of Indian tribes. I believe there is a health act that also includes them. But there are also acts that do not include them; namely, the Revenue Sharing Act, if my information is correct.

Mr. President, I will yield for further debate on this issue of germaneness, but at the appropriate time I would plan to make a point of order as to germaneness. Since there does not seem to be any interest in discussing this——

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. SCHMITT. I will yield to the Senator from Montana, but I ask unanimous consent that I not lose my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I think the amendment makes all kinds of sense. If we are going to allow some Indians to have the benefit of this section of the bill, I would know of no reason not to allow the Natives in Alaska.

Mr. McCLURE. Will the Senator yield?

Mr. MELCHER. I will yield in just a minute.

The fact that under the Alaska Native Claims Settlement Act Native corporations were formed and established by law does not take away the primary thrust of what this section in the bill attempts to do. That is to give to Indians, to Native Americans, an exception. I think it only fair that the Alaska Natives have that same opportunity because they are just the same and ought to be treated just the same, in spite of the fact that under the Settlement Act we allowed for the creation of the Native corporations.

Mr. McCLURE. Mr. President, will the Senator yield to the Senator from Idaho?

Mr. SCHMITT. I will in a moment, but I will first say in response that the Senator from New Mexico is not debating the merits of the issue, even though there is a vast amount of resources, potentially, which would come under this provision. I am only debating, first, whether or not we should not take some more time on this, and in order to do so I am suggesting that the amendment may not be germane.

Mr. President, I ask unanimous consent that I may yield to the Senator from Idaho without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Reserving the right to object, what was the request?

The PRESIDING OFFICER. The unanimous-consent request is by the Senator from New Mexico that he be permitted to yield to the Senator from Idaho without losing his right to the floor.

Mr. ROBERT C. BYRD. Mr. President, I will not object in this instance, but under cloture it takes unanimous consent and we cannot undertake to yield the floor out too much longer. We hope to finish this bill tonight. I will not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. I thank the Senator for yielding. I want to respond to comments made by the Senator from Montana. I, too, feel that the Natives in Alaska are entitled to be treated exactly the same as the other Native Americans in the lower 48 States. We have a separate body of law evolving for the 50th State.

But I am concerned that, as a matter of fact, we are not doing that under this amendment. That is my reason for concern with it. I look back at the legislation that we have before us, and it says that if the land is held in trust, the oil produced from that land will be exempt from the windfall profit tax. If however, the land is not held in trust, it will be subject to the windfall profit tax.

I would say whether it is in Montana,

Idaho, Oklahoma, or in a number of other States in which land may be held by a tribal organization but not held in trust by the Federal Government for them, the production on those lands or that mineral production should be subject to the tax.

I think I am correct in that interpretation of the language of the legislation before us. If that is the case, then it seems to me that if we are going to talk about doing it exactly the same in Alaska as we are somewhere else, we have to make the case that the Indians in the lower 48 should not be discriminated against because they do not hold the land through a trust arrangement with the Federal Government, but hold it in fee.

So whether it is individual Indian holdings in fee or tribal holdings in fee, it is subject to the tax in this legislation, as I read the bill. I have talked to majority and minority staff, and I believe that is the correct interpretation of the bill.

If that is the case, and we are going to treat them the same in Alaska as we are in the lower 48, this amendment ought to be rejected on its merits, because we shall be setting up a separate class of Indian holdings that was subject to no taxation in circumstances that other Indians, throughout the rest of the 48 States, do not enjoy.

That has nothing to do with whether I want the Natives in Alaska to have the exemption or not. It is a question of whether the Indians in Montana, Oklahoma, in Idaho, or New Mexico are entitled to the same treatment that the Senator from Alaska seeks to get for the Native landholdings in the State of Alaska. It may be that the amendment ought to be changed to indicate that lands held by Indians, regardless of the nature of their holdings, whether it be in trust or not, would be subject to the exemption rather than seeking a special exemption for the Native land corporations in Alaska.

I might say in closing that that very argument was made in the House and that argument failed. In the other body, they refused to exempt the Alaska lands. They refused to exempt the nontrust holdings of Indians in the other 48 States.

I thank the Senator for yielding.

Mr. SCHMITT. Mr. President, I thank the Senator from Idaho for those words. He certainly set out some of the broad elements of the picture that need to be examined by Congress, to make sure that equity is at least obtained in these issues and to understand fully the implications of the amendment proposed by the Senator from Alaska.

Mr. President, I refer my colleagues to Public Law 92-203, which is the Alaska Native Claims Settlement Act under section 2, which is the declaration of policy, paragraph (b), which reads—I edit, hopefully conforming with law, as follows:

> The settlement should be accomplished rapidly . . . without creating a reservation system or lengthy wardship or trusteeship and without adding to the categories of property and institutions enjoying special tax privileges or to the legislation establishing special relationships between the United States Government and the State of Alaska.

Mr. President, paragraph (c) goes on to say further:

> No provision of this act shall replace or diminish any right, privilege, or obligation . . . to protect and promote the rights or welfare of Natives as citizens of the United States or of Alaska.

I emphasize the tie of this legislation to the State of Alaska.

Then, under section 3, "Definitions," Mr. President, paragraph (g), definition, "Regional Corporation," after saying " 'State' means State of Alaska,": "Regional Corporation means an Alaska Native Regional Corporation established under laws of the State of Alaska in accordance with the provisions of this Act." '

Mr. President, the next paragraph, (j), that is pertinent, defined village corporation in much the same way. It is organized under the laws of the State of Alaska as a business for profit.

Mr. President, later on, in the body of the text dealing with the corporations, there is further information—paragraph (d), section 7—that further ties the corporations to the State to be incorporated under the laws of Alaska.

So, Mr. President, I think that a case against germaneness is fairly strong, although I do realize that there is a great body of law that deals with the subject of what is an Indian tribe, when it should be defined as such and when not.

Mr. President, it is my understanding that the Chair and the Parliamentarian advising the Chair are determined that they would rule that this amendment is germane. I do not know the basis of that, except that I would say that it is not a clear issue, having been researching this for a fair period of time. So, Mr. President, I think it would probably be more appropriate, rather than putting the Chair on the spot, because of the complexity of this issue, the germaneness of this particular amendment——

Mr. DOLE. Mr. President, will the Senator yield?

Mr. SCHMITT. I am happy to yield to the Senator from Kansas. I do ask unanimous consent that I not lose my right to the floor, in all due respect to the majority leader, to make sure this issue of germaneness is fully discussed.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOLE. Mr. President, the question the Senator has is whether or not we are going to gain or lose revenue with this amendment. There was a loose agreement made that does not bind anybody who wants to offer an amendment, but among some of us who hammered it out, the agreement is that if it is going to lose revenue, we are all going to stand up and vote against it; if it is going to gain revenue, we are all going to stand up and vote against it, upward of the $178 billion figure. As a party to that agreement, I am bound by it. I do not know where to go for the information.

May I ask the chairman, has the staff made any conclusion on the revenue gain or loss of this amendment?

Mr. SCHMITT. I yield on the same conditions to the distinguished chairman for the purpose of answering the question.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. There is no way that I can estimate. The staff says they are not able to estimate. From the point of view of the staff, they have no way of estimating how much oil might be discovered, if any, and how much production there would be, so they have no way of estimating how much revenue might be involved here or any way to put a figure on it.

Mr. DOLE. If there is no revenue loss, it does not violate the agreement, if that is the conclusion of the staff.

Mr. LONG. The staff's attitude is that they are in no position to know. If they find a lot of oil, we could lose a lot of revenue. If they do not find any oil, we will not lose any. If they find a substantial amount and it is independents who discover it, they might not lose anything. If, on the other hand, it is found by a major company, it could involve a lot of revenue. It is very hypothetical.

Mr. DOLE. I think because it is hypothetical, it certainly would fall in that gray category, where I am not certain where we would come down. The chairman suggests that it might lose revenue but it might not lose revenue. If I were convinced it would lose revenue, I would move to table the amendment. I am not convinced of that, so I——

Mr. ROBERT C. BYRD. The Senator is not convinced that it will not lose revenue, either, and that was the agreement. We stood here, day after day, met hour after hour in my office, meeting early, meeting late at night. Those of us who worked in there agreed that we should stand against any amendments that reduced revenue, and we would stand against any amendments that increased revenues.

If this is a potential revenue reducer or a potential revenue raiser, I think those of us who entered into that agreement, that gentlemen's understanding together, should stick by our understanding.

Mr. GRAVEL. Mr. President, will the Senator yield on that point?

Mr. ROBERT C. BYRD. I do not have the floor.

Mr. SCHMITT. I think the majority leader and the Senator from Kansas have made an excellent point in addition to the point I have been trying to make with respect to other difficulties, that when you look at 40 or 45 million acres—I am not sure what it is—in the kind of country that is associated geologically in the areas, chances are that it will be a major revenue producer.

In that respect, by exempting it, it will, in fact, reduce the revenues collected under this bill.

I am not a great supporter of this bill, but I do think the agreement the majority leader referred to should be kept in mind on this issue.

Finally, Mr. President, in the report of the distinguished Committee on Finance dealing with this crude oil windfall profit tax, I quote from page 61 the following excerpts which I think are important, under paragraph d., on page 61:

> The committee substitute would exempt from tax certain oil production owned or received by Indian tribes, tribal organizations, and individual Indians over whom the United States exercises trust responsibilities.

Then it goes on to says:

> Thirdly, oil, the proceeds from which are paid into tribal or native trust funds in the United States Treasury, would be exempt from tax.

But then, Mr. President, in the next paragraph, it says:

> Thus, the exemption would not apply to Alaskan Native Claims Settlement Act Corporations.

So the committee specifically made a determination in their report it was not the intent of this particular act to take those corporations into account.

Once again, Mr. President, I do not want to be on record saying I am for or against the amendment except that I think the Senate needs to consider the implications of it a great deal more than is possible in this debate under cloture.

So, Mr. President, I would move to table the amendment——

Mr. GRAVEL. If the Senator will yield, the Senator has monopolized the floor and I have not had a chance to respond to a single argument he made. Now he would table it before I can respond.

Mr. SCHMITT. Mr. President, I think the Senator from Alaska has a valid argument. I would yield to him, again, though with unanimous consent I not lose my right to the floor for the purposes of making a tabling motion.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I will not object because I think the Senator from Alaska is entitled to speak on his amendment. So I will not object.

Mr. GRAVEL. Mr. President, I want to say that my colleague has raised quite a red herring here.

I came in good faith and was reciting what happened in the committee, that I supported the Wallop amendment which was to exclude Indian lands from being taxed on the windfall because we had old oil.

We raised the question as to whether or not we should include the Alaskans and they said "No, do not bother because we are only talking about old oil and the Alaska Indians do not have old oil, so it would be a redundancy."

So I did not insist we be included.

Now that the Senate has acted to go ahead and tax new oil, then, of course, respectively, the Alaskan Indian does not share equally with the other Indians in this country.

With respect to the sophistry I have heard with regard to the law, let me make it abundantly clear that in good faith I went to the Parliamentarian before this came up, with the Senator from New Mexico, and was prepared to abide by the ruling of the Chair. At this time, we went over law after law after law to try to satisfy the Senator from New Mexico. After the Parliamentarian looked at all the law and stated, "This is germane,'" the Senator from New Mexico walked away and said, "Well, I still do not like it."

Apparently he does not like it with respect to the law. He has other reasons for not liking it. I think that is very unfortunate. I cannot discern what those are. But I know he did say, "Well, what about if we had a group of natives, or Indians, that formed a corporation and bought some land? Maybe we could exclude them."

I told him, "No," I did not think that would apply; and it would not apply, because that corporation could sell the Senator from New Mexico shares in that corporation and he could enjoy that advantage.

That is not the intent of this exclusion. What we are trying to do is recognize a certain right, a trust obligation, that the Congress, the Government, has toward Indians, whether they be in Alaska or in New Mexico or in Arizona.

Now, when we talk about collective obligations, these corporations were a creation of the Congress, and we have just had a court decision. I would like to read that decision which was rendered:

> Legal precedent holds that the Alaska Native Claims Act is Indian legislation and should be interpreted as such. ANCSA provided a different form of land settlement from the traditional reservation, but did not change the trust relationship between the Alaska natives and the Federal Government.

That is what has just been held by the courts, and the law is replete. We will support it with respect to health, we will support it with respect to self-determination; the same thing with respect to education. The same thing.

I do not know how many times it is going to have to be shown to the Senator from New Mexico before he feels that the people who live in western Alaska, or Eskimos, are considered Indians, just like his Indians in his part of the country.

If he wants to persist in this kind of discriminatory action, I assure him he will rue the day, because he will do damage to both our indigenous peoples, those who live in Alaska and those who live in his part of the country.

I think the seed of his psychological desires for discrimination is the quantity of land in question, the possibility there may be a lot of money.

I submit that there may be some oil finds on all the other Indian land, lands in the United States, that may amount to billions and billions of dollars, and then he will stand up and say, "What is the difference" at that point.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. GRAVEL. Without losing my right to the floor, and I ask unanimous consent in that regard.

Mr. DOLE. I think the Senator from New Mexico has the floor. Will he yield?

The PRESIDING OFFICER. The situation with respect to the floor is that the Senator from New Mexico has the floor and he yielded to the Senator from Alaska by unanimous consent without losing his right to the floor.

Mr. SCHMITT. I will be happy to yield to the Senator from Kansas in a moment.

But I am sorry the Senator from Alaska feels that the Senator from New Mexico may have acted in bad faith. I have been with him in trying to understand this very complex body of law, along with the Parliamentarian, for the better part of the last hour or so, and I think everybody would admit that it is a complex body of law.

There are acts subsequent to the Alaskan Native Claims Settlement Act which did not include these corporations as tribes. The generic law is that act, Public Law 92–203, and in that generic law it does exclude the corporations from coming under the trust relationship.

The court's ruling, at least the part quoted by the Senator from Alaska, I do not think negates that. It just says that the Indians themselves, or the native Americans in Alaska, must be included under this trust relationship.

But the issue here is the corporation. Plus, the total issue of the impact of this kind of amendment, without the kind of oversight and discussion that this body supposedly is noted for.

The Senator from New Mexico is not interested in discriminating against the Native Alaskans. As a matter of fact, I think it is just great that, I believe, in 1990, these corporations go public, with the ability of the corporations then to transfer land—alienate land is the more legal term—which is a whole new ball of wax in terms of revenue impacts and the other impacts of this bill.

I now yield, again without losing my right to the floor, to the Senator from Kansas.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DOLE. The Senator from Kansas may be able to speed up the process. A lot of people want to be somewhere else now. I see three, at least, or more.

But I suggest to the Senator from Alaska and the Senator from New Mexico that, frankly, this Senator does not know much about this matter.

There is a close question. It is germane. At least, the Chair ruled it germane.

Why not accept the amendment? In the meantime, have those who have an interest in it on both sides consult with us who are conferees and give us the best legal authority. If, in fact, it is discriminatory against other tribes, I hope the Senator from Alaska will let us prevail in conference. If it is not, then he should prevail.

Mr. GRAVEL. I make that pledge: that if discrimination exists—and whether or not I am a conferee—we will correct that, one way or the other, so that there is unanimity in this regard.

Mr. DOLE. I urge the Senator from New Mexico to let us pursue that course. The Senator from Kansas will be a conferee. The Senator from Alaska will be a conferee. The Senator from Louisiana will be a conferee. I think we can adjust it so that nobody is discriminated against. We will have a day and a half before we start the conference, rather than trying to debate it on the Senate floor and discombobulate a number of colleagues.

Mr. SCHMITT. Mr. President, I would

be the last to cause any inconvenience to my colleagues. I suspect that they already think I have caused enough for 1 day.

Mr. DOLE. I did not suggest that.

Mr. SCHMITT. I think the Senator from Kansas has proposed a workable solution. I hope we will look not only at the short-term issue of discrimination but also at what kind of inequities we will be building in for the long term, including the time when these corporations, which are excluded from trust responsibilities, become public corporations, with a great deal of different implications involved.

So, with the assurance of the Senator from Kansas that this will be a subject of study prior to the conference and that the conference, at least within its lights, will proceed to do the right thing on the discrimination issue—but I am sure it also will look at the potential revenue impact of the amendment—I will not move to table the amendment.

Mr. GRAVEL. I thank the Senator.

Mr. WALLOP. Mr. President, I speak in support of the language adopted by the Senate Finance Committee that would exempt from the windfall profit tax the Indian share of oil production from restricted Indian lands and lands held in trust by the United States for the benefit of Indians. Section 4992(g), which contains this express exemption language, is an important reaffirmation of the long-standing congressional commitment to American Indians that their trust-protected assets shall not be diminished by the imposition of Federal taxation. The burden of taxation by the United States on these Indians and their tribal governments by elimination of the protection the Finance Committee would give them in section 4992(g) would be the first of its kind on these invaluable trust resources.

Those tribal governments which are so fortunate as to own oil on their federally protected lands have come to depend heavily on the royalties earned from those resources to fund the increasingly greater role these governments have taken in providing services to their own people. As an example, oil and gas revenues account for well over 90 percent of the tribal government budgets, apart from Federal funds, of the Shoshone and Arapahoe tribes of the Wind River Reservation in my own State of Wyoming, and of the northern Ute tribe. These oil royalty revenues are particularly important to tribal governments because other sources of funding available to State and municipal governments are not available to tribes. It is generally unfeasible for tribes to tax their own members because of their high unemployment and low income. Very few Indians make the $10,000 a year that is considered a living wage. Only 56 percent of Indian men are working, compared to 74 percent of all men in the United States. Not only do tribal governments lack a viable tax base, but they are also, under the law, unable to issue tribal development bonds on a tax-exempt basis as State and local governments can do.

It must also be borne in mind that the oil resources that tribes do depend upon are depletable. It would be unfair for the Congress to tax today a resource for tribes that may be unavailable to them in the future. This unfairness is compounded when one realizes that over the past 7 years tribal governments have had their own oil revenues held arbitrarily low through the imposition of oil price controls.

The loss of revenue to the Federal Government from an exemption for the Indian share of oil production taxation would be de minimus, especially when compared with the enormous hardship that would be imposed upon the tribes themselves should they lose the exemption.

The windfall profit tax is an excise tax, not an income tax. Indians and tribes have a clear exemption from Federal income taxation of income from their trust resources, including oil. See *Squire* v. *Capoeman*, 351 U.S. 1 (1955); *Stevens* v. *C.I.R.*, 452 F.2d 741 (9th Cir. 1971). While it seems clear to me, and the Treasury Department has expressed the view to the Finance Committee, that Indians enjoy the same exemption from excise taxes, the exemption language the Senate Finance Committee has offered in section 4992(g) will remove all doubt in order to honor our treaty and statutory commitments to the Indian people and to continue our promised efforts to assist them in improving their own self-governing capabilities.

I also urge support for the provisions of section 4992(d), which I offered in the Finance Committee and which the committee accepted. H.R. 3919, as passed by the House of Representatives, lacked a clarification as to the adjustment in the windfall profit tax which the bill granted in the case of severance taxes. The House language suggested that the adjustment would be permitted in the case of State severance taxes. In order to cure the possible interpretation that tribal severance taxes might not be similarly allowable adjustments, I introduced the amendment that has been accepted by the committee. This inclusion of tribal severance taxes along with the State severance taxes would be consistent with the action taken by Congress in the Natural Gas Policy Act, which provided that tribal severance taxes should be given the same status as State severance taxes.

Mr. BELLMON. Mr. President, I have an unprinted amendment at the desk which I call up.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

Mr. ROBERT C. BYRD. Mr. President——

The PRESIDING OFFICER. The Senator from West Virginia sought recognition before the vote.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I have an amendment, but I understand from the Parliamentarian and from previous rulings that it will be ruled as nongermane.

The amendment is straightforward and to the point. It addresses the other piece of the energy problem we have not yet tackled successfully as a nation—limiting our level of imports of crude oil and refined petroleum products. This is not addressed in the House or Senate bills.

Our current dependence on foreign oil imports is approaching 8 million barrels of oil and refined products a day. This is staggering. It comes close to the highest level of imports we have experienced in our history when, in 1977, we imported 8.8 million barrels a day.

I have heard some people say that we should use up the foreign oil first and save our domestic production. But the circumstances are much more complex than this statement would lead you to believe. It matters deeply that our reliance on foreign oil is nearing 50 percent.

These supplies are beyond our control and can be disrupted. We need look no further than the situation in Iran to see the evidence. Second, we continue to have a negative balance of payments based largely on these imports. This spurs inflation, and promotes dislocation and recession in our economy. The U.S. dollar as an international currency continues to be weak, affected by the imbalanced distribution of petrodollars, and our dependence on the Middle East. And third, it frankly causes inconsistent, shortsighted, and one-sided foreign policy decisions which are not necessarily in our benefit in the long run.

The simplest solution for reversing these trends is to find a means of limiting imports of oil and refined products. The amendment I offer is a step in the right direction toward getting our hands on this problem.

What my amendment would do is this: Using an import level of 6.5 million barrels a day, I would impose a $10 per barrel excise tax on all imports coming into the country above the 6.5 million barrel level. This would begin in 1981 and this level would serve as the base number. This number represents our current level of imports, 8 million barrels a day, and subtracts the number of imports we receive from sources in the Western Hemisphere, 1.5 million barrels a day.

Then in 1982, we would tax an additional 10 percent of the imports every year below that level. If imports stay steady through 1982, an additional 650,000 barrels would carry the $10 per barrel tax. If imports drop below 5.85 million barrels, there would be no tax to pay. In 1983, with imports steady, 1.3 million barrels would be taxed, or any level of imports above 5.2 million barrels, and so on. By the year 1991, 100 percent of the imports would carry the excise tax.

By phasing in the tax at a rate of 650-000 barrels per year—which is less than 3.5 percent of our daily usage in the country, time is permitted for industries which are dependent on oil imports and petroleum feedstocks to plan ahead without experiencing tremendous price dislocations.

This amount also takes into consideration that we are decontrolling domestic oil. Because domestic producers under decontrol could take advantage of the excise tax to drive their prices up proportionately, any price increases in domestic production which reflected this additional import cost would be taxed away under my amendment. This would act as a deterrent against domestic producers taking advantage of the excise tax to raise their prices; and it produces a price differential between imports and domestic oil.

I exempt from this excise tax any imports originating in Canada, the Commonwealth of Puerto Rico, and Mexico; and heavy oil imports from Venezuela. The Venezuelan imports are the distillates and residuals which supply about half the home heating oil needs of the Northeastern and Mid-Atlantic States.

Here are my objectives in proposing this amendment:

PRICE DIFFERENTIAL

The only competitive check on the domestic oil price is the cost of imported oil. This is because we are not self-sufficient and we have a seller's market. By forcing the price of imported oil higher than domestic, we produce a price differential, and a disincentive for buying imported oil ahead of domestic oil, or taking imports from our neighbors to the North and South.

Obviously, we cannot make the country self-sufficient through a price mechanism alone. We must have the geologic base for fossil fuels, and we know in the long run our known reserves in this country are only estimated at 8 to 9 years. The answer ultimately lies in a combined approach with fossil fuels and other alternative energy sources such as solar-based technology, synthetic liquids and gases, coal, and others. But what we may not have in the right geology here in this country, lies in ample supply to the south of us.

REFOCUS OUR FOREIGN POLICY—SEND A MESSAGE TO OPEC

Our estimates of Mexican oil fields on land shows 60 billion barrels; and with advancements in technology potentially 20 billion barrels more. Offshore, the Bay of Campeche structure in the Gulf of Mexico—this contains the IXTOC I well which has been spewing thousands of barrels of oil into the gulf every day since June 3—is estimated at 100 billion barrels with about 8 billion barrels immediately recoverable under present technology.

Venezuela is another case in point. We already import 800,000 barrels of heavy oil a day which is about one-third of their present production. The recent find of tar sands in the Orinoco belt there has reserves estimated at a minimum of 30 billion barrels. And we have the technology to process it.

I believe it is time we mended fences to the south of us. We can offer the kinds of sophisticated import-export packages—better reciprocal commodity agreements—which could make these supplies available, and strengthen our allies on and near our borders. We have been dependent on the Middle East for too long. The civil strife in Iran, our diplomatic personnel being held as hostages there, the influence of the Palestine Liberation Front—all suggest that we should have developed a more foresighted foreign policy and diversified our supply base for fossil fuels long before this. Why is it we always seem to suffer from chronic hindsight?

PROMOTE CONSUMER CONSERVATION

Particularly in economic areas where the demand is elastic, such as gasoline consumption, the increase in price will eventually reduce demand. However, in the first year or so, the phase-in of the excise tax is set so it will not produce a grossly disruptive inflation factor for the already burdened consumer. As the years progress, however, the cost of OPEC imports will rise appreciably as the tax eventually covers 100 percent of the imports. This in turn will reduce demand to a more acceptable level.

ADDITIONAL REVENUE

The revenue that would be raised by this excise tax could be used to offset the deficit. In the long-run, if the Congress found it desirable, a portion could be channeled through legislation to reduce social security taxes, as rebates for lower and fixed income families, and the like.

REDUCE IMPORTS

There are many advantages to this approach, then. But the primary objective has to be to reduce our level of imports.

Encourage our refiners to purchase domestically produced oil. Reorient our focus to the Western Hemisphere. Encourage conservation. Raise revenue. All of these are important and are benefits; but our purpose here is to send a message to the OPEC nations that we are going to decrease our dependence on their supplies. Our good friend and ally there, Saudi Arabia, has been direct in asking us to do this. Sheik Ahmed Zaki Yamani was quoted in the newspaper on Saturday as stating that Americans are the heaviest consumers of oil in the world, and the Saudis cannot feed our habit forever.

This is a clear-cut message, and it is time to send as clear a message back.

Mr. President, I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

At the appropriate place, insert the following new section:

SEC. 2. EXCISE TAX ON IMPORTED OIL AND REFINED PETROLEUM PRODUCTS

a. Notwithstanding any other provision of law, there is hereby imposed on the sale, use, or other disposition of imported crude oil or imported refined petroleum products by the importer thereof a tax of $10.00 per barrel (or per barrel equivalent). The tax shall be applicable to combined imports of crude oil and refined petroleum products above a base level of 6.5 million barrels per day as of 1981 and every year thereafter.

b. As of 1982 and for each year thereafter, the base level shall be reduced by an additional 10 percent of the base level established in 1981, until such time, as of 1991 and for each year thereafter, the tax shall be applicable to 100 percent of the barrels (or per barrel equivalent) of crude oil and refined petroleum products imported by such importer.

c. There is hereby imposed on the sale, use, or disposition of domestic crude oil and refined petroleum products a tax in an amount equal to any price increase which reflects the tax imposed under subsections (a.) and (b.) on imported crude oil and refined petroleum products.

d. The Secretary of the Treasury is hereby directed to promulgate regulations to implement the taxes imposed under subsections (a.), (b.), and (c.).

e. The Secretary of Energy is hereby directed to make appropriate allocation of the excise tax imposed under subsections (a.) and (b.) among such importers pursuant to the authorities vested in him under section 4 of the Emergency Petroleum Allocation Act of 1973, as amended (P.L. 93–159, as amended).

f. For the purpose of this amendment, the term "imported crude oil or refined petroleum products" does not include any imports originating within the territorial limits of Canada, the Commonwealth of Puerto Rico, Mexico, or Venezuela.

Mr. BELLMON. Mr. President, I have an unprinted amendment at the desk which I intended to call up; however, it has been held to be nongermane.

I call the attention of the Finance Committee chairman to the so-called home heating credit which is discussed on page 152 of the bill. I think that when the committee wrote that provision, they wrote it in such a way that it would encourage wasteful use of energy. I believe there is a better approach, which is contained in this amendment. I hope that when this bill goes to conference, this other approach could be looked at in connection with the home heating credit provision.

Mr. President, I ask unanimous consent that the name of the Senator from Tennessee (Mr. BAKER) be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, Senator BAKER and I are offering this amendment because we believe there has been insufficient attention here on the Senate floor to an important feature of H.R. 3919 as reported. I refer to part 1 of title III of the bill, the "Home Heating Credit."

This amendment, cosponsored by the distinguished minority leader and me, does three things: First, it lowers the income eligibility phaseout point for the home heating tax credit, from $20,000 in 1980 and $22,000 in 1981 and 1982, to $15,000. Second, it reduces from 25 to 20 percent the percentage of heating expenditure increase that a taxpayer can claim on his tax return. Third, the amendment creates an incentive for home energy conservation by adding a new section to the bill allowing a nonrefundable tax credit of up to $300.

Mr. President, the home heating tax credit, as presently constructed in the bill before us, troubles me from the standpoint of both tax policy and energy policy. The credit is based on energy consumption: The more energy you consume, the greater the credit you can claim. Such a credit seems to me to be out of harmony with other sections of this bill and with the provisions of S. 932, the synthetic fuels bill, which promote energy conservation.

Moreover, by making people with incomes as high as $22,000 eligible for the full credit, the present provision permits 46 million taxpayers to claim the credit at a cost of $1.2 billion in fiscal 1980, $1.9 billion in fiscal 1981, and $1.7 billion in fiscal 1982. Providing a credit of this sort to such a large number of taxpayers causes the credit to be a premature piece of tax relief, being dealt with separately from many other tax relief questions which Congress will undoubtedly take up next year.

We believe we can more effectively target this credit by lowering the income eligibility to $15,000, thus giving help to those whose family budgets are squeezed the worst by the rapid rises in the cost of energy. Even with this income eligibility, 34 million taxpayers may still claim the credit. Higher income taxpayers will still be able to claim a credit, but only if they conserve energy.

By lowering the so-called "multiplier" from 25 to 20 percent we extend the credit more evenly to energy consumers, all of whom have experienced higher energy bills, whether they use heating oil, natural gas, propane, coal, or electricity. This change also lowers the overall cost of the bill.

These two adjustments will reduce the cost of the heating tax credit by approximately $3 billion during the 3 years from 1980 to 1982. This $3 billion can more appropriately be used for a general tax cut, future energy legislation, or a response to unforeseen changes in fiscal demands than for a home heating credit that will tend to increase consumption.

The energy conservation section of this amendment shifts the emphasis to conservation by creating a new, separate credit to complement the credit I have just been discussing. This part of the amendment would enable a taxpayer to claim a credit for the amount of energy used to heat his principal residence if he reduces the amount of energy used in comparison to that used in the base period. Any taxpayer could claim a credit of up to $300, based on the energy he conserves.

Mr. President, this provision will reward taxpayers who cut back on their energy use. It will give them an incentive to lower their thermostats and take other steps to conserve energy. This provision does not rely on the amount a taxpayer's particular heating source may have risen in price and thus it does not rely on inflation. Instead, the amount of the credit is measured in Btu's—how much energy a taxpayer consumed in the tax year as opposed to how much he consumed in the 1978 base period, adjusted for annual variations in weather. A credit such as this makes good energy policy in an era of diminishing resources.

Mr. President, Senator BAKER and I realize that this amendment is being presented too late in the discussion of this bill to receive full consideration. We do ask, however, that these conservation-related considerations in the home heating credit be taken into account during the House-Senate conference on H.R. 3919 and that the Senate conferees do whatever is possible to deal with these concerns in the conference agreement.

Also, Senator BAKER and I believe it is vital that Congress find ways of building greater home energy conservation incentives into our income tax laws. We urge that the Finance Committee hold hearings early next year on the concept presented in this amendment and other proposals for providing such incentives. We plan to reintroduce this proposal as a free-standing bill at the start of the next session.

I ask unanimous consent to have the amendment printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

On page 154, delete lines 1, 2 and 3, and subtitute therefore "as exceeds $15,000."

On page 156, line 17, delete "(B).25" and substitute therefore "(B).20"

On page 160, between lines 7 and 8, insert the following:

SEC. 302. CREDIT FOR HOME HEATING CONSERVATION.

(a) IN GENERAL.—Subpart A of Part IV of subchapter A of Chapter 1 (relating to credits allowed), as amended by sections 251(a) and 301, is amended by inserting immediately before section 45 the following new section:

"SEC. 446. CREDIT FOR HOME HEATING ENERGY CONSERVATION.

"(a) GENERAL RULE.—There is allowed. as a credit against the tax imposed by this chapter for the taxable year, an amount equal to the taxpayer's residential heating energy savings for the taxable year.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT.—The amount of the credit allowed by subsection (a) for any taxable year shall not exceed $300 ($150 in the case of a married individual filing a separate return of tax based upon the cost of heating a principal residence which was also the principal residence of his spouse for more than 6 months of the calendar year).

"(2) PHASE-OUT OF CREDIT AFTER 1981.—For taxable years beginning after 1981, the amount of the credit allowable under subsection (a), after the application of paragraph (1), shall not exceed the amount of the credit, determined without regard to this paragraph, allowable by subsection (a) multiplied by a percentage equal to 100 percent reduced by 20 percent for each calendar year beginning after 1981 which begins with or within the taxable year for which the determination is being made.

"(3) MINIMUM DOLLAR AMOUNT.—If the amount of the credit allowable under subsection (a) for a taxable year, after the application of paragraphs (1) and (2), is less than $10, then no credit shall be allowed under subsection (a) for that taxable year.

"(c) RESIDENTIAL HEATING ENERGY SAVINGS.—

"(1) IN GENERAL.—The residential heating energy savings for a taxpayer for the taxable year is an amount equal to the amount the taxpayer would have had to pay for energy to heat a residence for the calendar year which ends with or within his taxable year if the amount of energy used, expressed in Btu's, for heating that residence for the calendar year, adjusted for weather, is less than the amount of energy used to heat that residence for the base period.

"(2) BTU EQUIVALENTS.—The Secretary, after consultation with the Secretary of Energy, shall promulgate an analysis of the number of potential Btu's for commonly-used units of measure for No. 2 fuel oil, natural gas, electricity, coal, wood, and other sources of energy used to provide space heating in residences.

"(3) BASE PERIOD.—The base period is calendar year 1978, except that, in the case of a taxpayer whose residence for an uninterrupted 36-month period beginning during 1978 is the same as his residence for the year for which the credit is being determined, the base period shall be the average annual amount of energy consumed during that 36-month period to heat his residence.

"(d) SPECIAL RULES.—

"(1) JOINT OCCUPANCY, ETC.—The Secretary shall prescribe rules which are the same as, or similar to, the rules prescribed for purposes of section 44F(d)(3)(A), (3)(C), and (5) for the application of this section in the case of heating costs not separable from cooling costs, condominiums and cooperatives, and joint occupancies.

"(2) RENTAL PROPERTY.—In the case of rental property, the credit allowable by subsection (a) shall be allowed to the taxpayer who pays directly for the energy used to heat the residential units. If the amount paid for heating costs, or for heating and cooling costs, is separately stated from the amount charged as rent, then the tenant shall be treated as paying directly for the heating costs, or heating and cooling costs; if such amount is not separately stated, then the landlord shall be treated as paying directly for such costs.

"(3) ADJUSTMENT FOR WEATHER.—

"(A) IN GENERAL.—The amount paid by the taxpayer for heating a residence for the calendar year shall be increased or decreased, as may be appropriate, by a percentage equal to the number of percentage points by which the weather index for that residence for the calendar year is more or less than the weather index for the base period for the State in which the property is located.

"(B) WEATHER INDEX.—The term 'weather index' means the average over a calendar year of the number of heating degree-days determined by the National Weather Service of the National Oceanic and Atmospheric Administration.

"(e) LANDLORD MUST PASS CREDIT THROUGH TO TENANTS.—If the amount of the credit allowed under subsection (a) for the taxable year to a taxpayer as landlord under subsection (d)(2) exceeds the aggregate amount of reductions in rents, or increases in rents permitted by law which the taxpayer demonstrates to have been scheduled but not implemented, for the property in connection with which such credit was claimed, then the taxpayer's liability for tax under this chapter shall be increased by an amount equal to such excess for the taxable year following the taxable year for which the credit was claimed.".

(e) CLERICAL AND CONFORMING AMENDMENTS.—

(1) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting immediately after the item relating to section 44F the following new item:

"SEC. 44G. CREDIT FOR HOME HEATING ENERGY CONSERVATION.".

(2) CONFORMING AMENDMENTS.—

(A) Sections 44C(b)(5), 55(b)(2), and 56(c) are each amended by striking out "and 44F" and inserting in lieu thereof "44F, and 44G".

(B) Section 6096(b) is amended by striking out "and 44F" and inserting in lieu thereof "44F, and 44G".

(f) The amendments made by this part shall apply with respect to taxable years beginning after December 31, 1979.

On page 38, in the table of contents, strike out the item relating to section 301 and insert in lieu thereof the following new items:

SEC. 301. CREDIT FOR INCREASED HOME HEATING COSTS.

SEC. 302. CREDIT FOR CONSERVING ENERGY IN RESIDENCES.

Mr. BELLMON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STONE). Without objection, it is so ordered.

AMENDMENT NO. 805

Mr. GRAVEL. Mr. President, apparently, at issue right now is the situation that those who are party to the agreement made a pledge to themselves that they would not vote to increase or decrease the revenues involved, and my amendment, which seeks to establish equity between the Indians of the south 48 and the Indians of Alaska, may potentially have a revenue increase if oil is discovered.

Mr. ROBERT C. BYRD. A reduction.

Mr. GRAVEL. A reduction of revenue. That sounds very good, but I can reverse that exactly, word for word; and that is, if we do not permit equity to be established, it is going to raise revenue. So those who have made the pledge not to lower or raise revenue are only taking one side of the argument and that is that they do not want to lower revenue. But by not agreeing to my amendment, which brings equity to all Indians, they are potentially raising revenue, so they get hung on their own petard.

I have no objection to an up-and-down vote on it. I just hope that we recognize that we are not bound by any rules whose broad impact we do not understand.

All we are interested in is justice and equality for all Indians. The ramifications of this vote could be substantial.

Mr. MUSKIE. Mr. President, I simply wish to describe the agreement that was made by those of us who were involved, not necessarily willingly, in trying to negotiate the revenue numbers to this bill.

Obviously there were those on one side who were opposed to any increase above $128 billion. There were others who wanted to generate more than $200 billion in revenue. After weeks of negotiation, we came to a figure of $178 billion.

But in order to make it binding those of us who were party to it agreed. For the protection of those who are against raising the taxes on the industry, we agreed to oppose any revenue raises. By the same token, to protect those who thought the amount agreed upon was not enough, we would oppose revenue losers.

That agreement was not focused on any particular amendment or any particular issue. It was simply an agreement that, if a party to the compromise broke the agreement, the agreement would be off and we might then find ourselves faced with amendments designed to increase revenues above the $200 billion mark or amendments to cut revenues below the $178 billion mark. So in order to keep that agreement together we have voted together against revenue raisers and revenue losers.

I voted against amendments here that I would have been for but for that amendment. I am sure others who were party to the agreement also did so.

With respect to new oil, new oil obviously can come from places not yet identified. So to the extent that we reduce the geography that is available for the discovery of new oil which would be subject to the minimum tax, which is 10 percent—only 10 percent—to that extent we reduce the possible revenues for the future. On that basis no one can estimate what it is. I certainly would not presume to. But that is the effect of it.

So those of us who are party to the agreement feel bound by it, and in voting that way I am not making any judgment about the equities to which the Senator from Alaska makes reference. I am not that knowledgeable about the Alaskan Indian Land Claims Act, the institutions that were created by it, and the interpretation of what they are and what they are not.

My vote is not based upon any such analysis. My vote is based upon the agreement I made with the majority leader, Senator DOLE, Senator STEVENS, Senator LONG, and others who were party to it.

Mr. GRAVEL. Mr. President, I wish to make an appeal to those Senators party to that agreement because this amendment does not violate that agreement, if I could have the attention of the Senator from Maine. What the Senators agreed, as I understand it, is to a sum of money to raise. That is what they agreed. They agreed not to go above that sum or below that sum.

What this amendment does not do is jeopardize that sum in the slightest. What it really says is that if we do not give the Alaskan Indians the same treatment as Southwest Indians it means that we are going to get money if they discover oil from the Indians rather than from the oil companies. That is what Senators mean.

This does not in any way lower the amount of money we are going to raise, or raise it.

Mr. MUSKIE. Mr. President, may I say to the Senator we never discovered any oil in Maine. I do not expect we ever will. But if we should, under this bill now, it would be subject to the 10-percent tax on new oil. If I were to propose exempting Maine from those provisions, the chances that we would lose any revenue would be nil, because there is not any oil there. But the fact is that we would have reduced the territory within which new oil could be explored, exploited, and developed. So to that extent, we reduced the potential revenues from new oil.

Mr. GRAVEL. The Senator is quite right.

Mr. MUSKIE. I have no difficulty understanding that with respect to that application of the principle, and all of us who were party to the agreement upon that application.

Mr. LONG. Mr. President, there is a little bit more here than was discussed. I believe I should make it available to the record.

I have not even called on the other Senators who understand it now who did not understand it when we first started discussing the amendment.

The staff of the Joint Tax Committee feels very badly about this situation because the staff of that committee feels that they gave the Senator from Alaska bad advice under the circumstances. Let me explain what happened.

The Senator from Alaska was a very busy man. He expects to be a candidate for reelection this year. So he could not attend all the committee meetings, and we voted to exempt new oil, and then we later on voted to exempt Indian tribes.

The Senator discussed this matter with the committee staff. The staff of the Joint Tax Committee explained to the Senator from Alaska that he had no problem because the new oil had been exempted.

What we are talking about is new oil. Therefore, the Senator was advised it was not necessary to offer his amendment in the committee because all new oil had been exempted.

If we had voted on his amendment at this time it would not have been an amendment that would have cost 1 dollar, because all new oil would have been exempted including the new oil in Alaska. So under those circumstances it would have made no difference. We would have had no problem with the amendment.

When we agreed that we would stay with the compromise that was hammered out with the Senator from Kansas and others to try to work out the revenue figures, we had staff members of the Joint Tax Committee sitting there working on the figures, and they did not take this into account one way or the other. It just was not considered. It was not taken into account at all.

The Senator from Alaska was not at that meeting and was not privileged to be there or be heard because he just did not know about it.

But now the Senator's position, unfortunately, representing a State of this Union, really has never been considered. The 10 percent minimum tax was agreed to in a compromise and the Senator from Alaska never had an opportunity to explain at any point along the way that this could adversely affect the Indians in Alaska. If he had known that the Indians' rights there might have been involved he would have offered his amendment. But he was informed there was no problem because all the new oil would be exempt.

Mr. President, under those circumstances the only fair thing I see to do is to take the amendment to conference and see what we can work out.

When we agreed that we were going to settle on the figure of $178 billion, the staff advises me they were not in position to say that this would raise or lower revenue. This was not in the overall calculation, and whether it makes money or loses money would depend upon who finds the oil up there and how much of it they find.

Mr. President, just trying to be fair to all concerned, I really think the fairest thing would be to take the amendment to conference. Meanwhile, we would know a lot more about it. I think we would want to be fair to all.

I mean I think if we just follow the "golden rule" as would say, look, if at no point has the merits of the Senator's argument been considered, and if he has been prejudiced by bad advice, his case should be heard at some point. The only way I see his case can be heard on any equitable basis is to take the amendment to conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska. (Putting the question.)

The amendment was agreed to.

Mr. GRAVEL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAVEL. I thank my colleagues.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 582

Mr. MELCHER. Mr. President, I will not take any time of my colleagues tonight concerning a minimum tax on foreign earnings.

I do wish to make this statement regarding amendment No. 582 if it were allowed to be called up and voted on. It would raise additional revenue and would again put the revenue where we ought to be gaining it, on foreign earnings from multinational corporations.

Mr. President, my amendment No. 582 will establish a minimum U.S. tax of 17.5 percent on the net foreign source income of U.S. companies. For this purpose, the net foreign source income of a U.S. company is the net foreign income reduced by the amount of foreign taxes paid. The company would pay the greater of the amount of tax computed under the regular rates with a full foreign tax credit allowed, or the 17.5-percent alternative minimum tax on net foreign source income. A recent study submitted to Alfred Kahn points out the methods multinational oil companies use to gain huge foreign profits. I quote:

> The bulk of foreign oil traded in international markets and imported into the United States is controlled by a handful of major international companies. Other companies buy all or most of their foreign oil from them. In recent months, as the world oil supplies became tight, these major companies reduced their third-party sales to other companies in order to meet their own needs and/or divert supplies to take advantage of high spot market prices. At the same time, they greatly expanded their mark-ups on remaining third-party sales. Their customers who were cut back were driven into very thin spot markets for oil where they bid up prices to extraordinary levels. They imported this oil at vastly inflated prices into the United States where it has had the double impact of driving up prices for both domestic crude oil and refined products.
>
> In past months, those few major companies who control the bulk of foreign oil moving in world commerce were able to reap immense profits, because: (1) they were assured of adequate supplies, as a result of the control they exercise; (2) they purchased their crude oil supplies at the lowest prices and often resold a portion of it at vastly inflated mark-ups in the limbo of international markets; and (3) they sold their refined products at market prices which reflected the costs of refiners who were buying crude oil at the highest prices.

According to estimates by the Joint Committee on Taxation, my amendment by itself will raise $2.5 billion in 1980 and approximately $25 billion during the life of the crude oil tax bill, using static estimates. In conjunction with ending tax deferral it would raise $41 billion during the life of the bill.

A minimum tax on foreign source book income is the simplest, fairest, and most direct way to bring more equity to our treatment of domestic versus foreign profits. My amendment applies to all foreign source income, but is especially critical right now in relation to crude oil. We are in the process of approving legislation that will raise $175 to $200 billion in revenues from domestic crude oil production over the next 10 years, but there is nothing in either the bill now before the Senate nor the House bill that will touch the huge foreign profits being made by the big multinational oil companies. Foreign profits for the third quarter 1979 were up over the same period last year by 145 percent for Exxon, 230 percent for Texaco, and 286 percent for Mobil.

The inequity in our current tax policy on these foreign profits—versus domestic income—can quickly be seen from a Treasury study made for Congressman Charles Vanik. The study points out that for the last year on which there is data available—1977—the eight largest domestic oil companies in this country paid an effective U.S. income tax rate of 35 percent on their earnings, but the eight largest multinational oil companies paid only an effective U.S. tax of 3 percent on their combined domestic and foreign earnings, thanks to foreign tax credits and other offsets.

I ask unanimous consent at this point that this Treasury study be inserted into the Record.

There being no objection, the study was ordered to be printed in the Record, as follows:

Tabulation of Selected Income and Tax Items for All Oil Companies in 1976, and for the Eight Largest Multinational and Eight Largest Domestic Oil Companies in 1976 and 1977

The attached tables summarize selected income and tax items for all oil companies in 1976, and for the eight largest multinational and eight largest domestic oil companies for tax years 1976 and 1977. The following notes are intended as an integral part of the tables.

1. The statistics are drawn from sampled tax return data posted to transcript files that ultimately underly published volumes of the "Corporation Statistics of Income." The statistics are preliminary both because they are normally transcribed from the unaudited returns as filed by the taxpayer and because they are subject to verification (such as computer-generated internal consistency checks) as the normal processing for statistical purposes continues.

2. Variations in taxpayer reporting practices, along with shifts in ranking depending on the item selected as a size descriptor, make it difficult to determine the largest eight corporations within any grouping. Criteria for selecting the largest multinational corporations included sales of $7 billion or more and net foreign taxable income of $500 million or more in 1977. Sales averaged $32.3 billion per return for this group in 1977, and $30.2 billion in 1976. For the eight largest domestic corporations, sales reported on the return in excess of $600 million in 1977 was the primary criterion, with average sales of $3.3 billion in 1977 and $2.6 billion in 1976. Domestic corporations were also defined as having little or no foreign tax credits reported on their 1977 returns. Since large corporations could have foreign losses (and thus no foreign income taxes to claim) it was necessary to use publicly reported information to determine if a corporation had sufficient foreign operations to be classified as multinational. Operations were frequently not clearly broken down between foreign and domestic and judgment was required.

3. Each return filed was considered to represent a separate corporation for purposes of selecting the two groups. One obviously large corporation was not considered for inclusion because it filed over one hundred separate returns. It was not feasible in this case to reconstruct one corporation out of these returns since (a) many were under the size requirement for 100 percent inclusion in the corporate sample and are not currently available on the transcripts and (b) even if available, netting of intercorporate transactions (to avoid double counting) is not possible from the income tax return.

4. The following is a brief description of the lines in the tables:

A. Sales—Generally, the gross operating receipts less cost of returned goods and allowances. Some taxpayers included sales taxes and excise and related taxes as part of gross sales (with an appropriate deduction in cost-of-goods sold or taxes paid). Others reported sales net of these taxes. No adjustment has been made for consistency.

B. Cost of sales and operations—Generally includes the direct costs of producing goods or providing services. To the extent possible, sales taxes and excise and related taxes included by the taxpayer in this category were removed and included as part of "taxes paid" (not shown separately).

C. Gross income from operations—Sales less cost-of-sales and operations.

D. Depletion—The allowable deduction for the exhaustion of natural deposits and timber. Oil production, other than that associated with independent producers and royalty owners, is limited to cost depletion.

E. Other income and deductions (net)—All other income items (such as capital gains and dividends) less all other deductions (such as interest paid, depreciation and intangible drilling costs).

F. Net income (or loss)—Gross taxable receipts (plus foreign income "constructively" received and required to be reported as income for tax purposes) less ordinary and necessary business deductions.

G. Statutory special deductions—Four special deductions permitted by the Code:

1. Net operating loss carryforward deduction.

2. Deduction for intercorporate dividends received.

3. Deduction for dividends paid on certain preferred stock of public utilities.

4. Western Hemisphere Trade corporation deduction.

H. Income subject to tax—Net income less statutory special deductions and less Subchapter S corporation net income taxed at shareholder level. For foreign operations this is the amount reported on Form 1118 in support of foreign tax credit claimed and represents taxable income computed under Subchapter B of the Code. Foreign source taxable income also includes income considered constructually received (the "includable income of controlled foreign corporations" and the "foreign dividend gross-up"). Domestic source income is a residual.

I. Gross federal income tax liability—The basic income tax derived by applying the normal, surtax and/or (where applicable) the alternative rate to income subject to tax.

J. Foreign tax credit—The amount allowed as a credit against U.S. income tax for income war profits and excess profits taxes paid or accrued to foreign countries or U.S. possessions. In the case of taxes paid on foreign extraction income, the taxes were generally reduced to the extent that they exceeded 50 percent of such income in 1976, and 48 percent of such income in 1977.

K. Investment tax credit—The amount, generally 10 percent, of investment in qualified property, allowed as a reduction in tax after foreign tax credit.

L. Other tax credits—Allowable reductions in tax for the work incentive credit, possessions credit, and the jobs tax credit.

M. Additions to tax—Sum of:

1. Tax from recomputing prior year investment tax credits and WIN credits.

2. Additional tax for tax preferences (minimum tax).

N. Total net federal liability—Gross federal income tax liability including additions to tax less allowable credits. This is the amount (per return as filed) actually paid to the Treasury (in estimated or final payments).

The preliminary and limited data available for 1977 makes it impossible to present the industry totals and more detailed analysis of investment and foreign tax credits earned and used in that year which are shown in the table for 1976.

SELECTED INCOME AND TAX ITEMS

8 LARGEST MULTINATIONAL AND 8 LARGEST DOMESTIC OIL COMPANIES, 1977

[In millions of dollars]

	8 largest multinational companies	8 largest domestic companies
Sales	258, 782	26, 196
Less: Cost of sales and operations	194, 621	20, 192
Equals: Gross income from operations	64, 162	6, 005
Less: Depletion	568	147
Plus: Other income less other deductions	−23, 945	−5, 287
Equals:		
Net income or loss	39, 649	570
Net loss		−561
Net income	39, 649	1, 131
Less: Statutory special deductions (returns with net income)	1, 152	11

	8 largest multinational companies	8 largest domestic companies
Equals:		
Income subject to tax	38, 495	1, 118
Foreign taxable income (less loss) as reported on form 1118 in support of foreign tax credit claimed	34, 446	8
Domestic (residual)	4, 049	1, 110
Gross Federal income tax liability	18, 440	533
Less:		
Foreign tax credit	16, 452	3
Investment tax credit	604	143
Other tax credits	(1)	(1)
Plus: Additions to tax	7	5
Equals: Total net Federal liability	1, 390	392

[1] Less than $500,000 per return.

Note: Details may not add to total due to rounding.

Source: Special tabulations by the Internal Revenue Service.

ALL OIL COMPANIES AND THE 8 LARGEST MULTINATIONAL AND 8 LARGEST DOMESTIC OIL COMPANIES, 1976

[In millions of dollars]

	8 largest multinational companies	8 largest domestic companies	All oil companies [1]
Plus: Additions to tax	8	5	59
Equals; Total net Federal liability	1, 557	524	3, 774
Addenda:			
Investment tax credit:			
Unused previous credits carried forward and reported on the return	414	88	666
Plus: Tentative (newly earned) credits	447	176	1. 294
Equals: Total credit available	858	265	1, 960
Less: Credit claimed	581	74	1, 141
Equals: Unused credits generally available for carryforward and carryback	278	191	819
Sales	241, 907	20, 979	353, 767
Less: Cost of sales and operations	186, 995	15, 740	270, 128
Equals: Gross income from operations	54, 912	5, 240	83, 639
Less: Depletion	540	136	1, 588
Plus: Other income less other deductions [2]	−14, 676	−3, 973	−33, 409
Equals:			
Net income or loss	39, 696	1, 121	48, 642
Net loss		−226	−730
Net income	39, 696	1, 347	49, 372
Less: Statutory special deductions (returns with net income)	2, 438	12	2, 941

	8 largest multinational companies	8 largest domestic companies	All oil companies [1]
Foreign tax credit:			
Unused previous credits carried forward and reported on the return	3, 789	....	3, 952
Plus: Taxes paid or accrued, or deemed paid in current year	30, 276	30	32, 495
Less: Reduction for oil and gas extraction taxes under sec. 907	10, 622	....	11, 235
Equals: Total foreign taxes available for credit	23, 443	30	25, 212
Less: Foreign tax credit claimed	15, 740	30	17, 239
Equals: Unused creditable foreign taxes [4]	7, 703	....	7, 973
Equals:			
Income subject to tax	37, 257	1, 334	46, 431
Foreign taxable income (less loss) as reported on form 1118 in skpport of foreign tax credit claimed	32, 876	66	36, 179
Domestic (residual)	4, 381	1, 268	10, 252
Gross Federal income tax liability	17, 870	625	22, 118
Less:			
Foreign tax credit	15, 740	30	17, 239
Investment tax credit	581	74	1, 141
Other tax credits	(3)	(3)	23

[1] Combines the oil and gas extraction industry and the petroleum refining (including integrated) and coal products industry—major industries 13 and 29 per the Statistics of Income definitions.

[2] Intangible drilling and development costs are not available for all firms and have therefore been included in "other deductions" to arrive at "other income less other deductions" (see attached notes). For the 6 of 8 largest multinational companies (accounting for 92.5 percent of the taxable income of all 8 of these companies) for which intangible drilling and development costs were available, these costs amounted to $1,681,000,000. For the 4 of 8 largest domestic companies (accounting for 82.1 percent of the taxable income of all 8 of these companies) for which intangible drilling and development costs were available, these costs amounted to $307,000,000. For all oil companies, intangible drilling and development costs are estimated, on the basis of nontax data, to have amounted to $3,272,000,000.

[3] Less than $500,000.

[4] Because some carryforwards into 1976 expired in that year, and because of the recomputation in subsequent years of carryforward credits required by sec. 907 the amounts shown here exceed the amount of foraign taxes available for carryforward.

Note: Details may not add to totals due to rounding.

Source: Internal Revenue Service, Preliminary Statistics of Income 1976: Corporation Income Tax Returns; and special tabulations. ●

Mr. MELCHER. The whole question of the use of foreign tax credits, particularly the credits claimed by the multinational oil companies is being looked into by various congressional committees. There are serious allegations of the severe abuse by some multinational corporations in the use of foreign tax credits. If these allegations prove true, we should reform the entire foreign tax credit law.

However, the point here is not to change the law on foreign tax credits. My proposal is to impose a minimum alternative tax of 17.5 percent on foreign source book earnings—or net foreign profits after they have been reduced by any taxes paid to foreign governments.

There are several good reasons why a minimum tax should be enacted. My amendment would bring greater tax equity to the treatment of multinational companies and domestic companies. Right now multinational companies have a tax advantage through foreign tax credits compared to their domestic counterparts. This comes about because, for purposes of calculating foreign tax credits, multinational corporations are permitted to count taxes paid to subnational units of the foreign governments as a dollar-for-dollar offset against their U.S. tax liability. Taxes that a domestic corporation pays to State and local government units in the United States, on the other hand, can only be deduced.

A few examples of the breakdown of taxes between national and subnational units in several countries will show the advantages that accrue to the multinationals under the tax credit system. In Austria, 20.3 percent of the corporate taxes collected are at the State and local level; in Belgium local taxes account for 11.1 percent of corporate taxes; in Canada they are 28.9 percent; in Denmark they are 15 percent; in Finland 46.9 percent; in Japan 18.1 percent; in Luxembourg 30 percent; in Norway 32.2 percent; in Spain 9.3 percent; in Sweden 60.1 percent; in Switzerland 70.6 percent; and in Germany 60.5 percent. In the United States these taxes are treated as a tax deduction and therefore worth 46 cents of tax relief for every dollar paid to the local government. However, under the current tax credit laws, the taxes paid to local governments overseas are worth a dollar-for-dollar offset against U.S. Federal taxes.

In a country like West Germany with a realized corporate tax rate of 43 percent in 1974, making full use of the tax credits available, the U.S. taxes on $1 in profits would be 3 cents. However, if, for purposes of U.S. taxation, we treated taxes paid to German subnational governments like we do taxes a domestic corporation pays to State and local governments in the United States, the U.S. taxes on profits of $1 would be 18 cents. The special treatment that German subnational taxes receive under U.S. foreign tax credits mean a tax saving of 15 cents on every dollar of profits made by the U.S. multinational operating in Germany over its counterpart in the United States.

A minimum U.S. tax will also permit U.S. companies operating in the United States and producing goods for export to compete on a more nearly equal basis with their U.S. based competitors who set up their manufacturing operations in the EEC countries to avoid the Common Market duties. Right now there is an incentive for a U.S. producer to move his operation out of the United States.

Also, since U.S. based companies benefit from the fact that they operate from a base in the United States, it is only fair that they pay at least some minimum amount of tax on their foreign source income. Another reason why the minimum tax on foreign earnings by multinational corporations is the following:

> Comments from financial report of Standard Oil of California, which demonstrate the financing between U.S. multi-national corporations and foreign governments to avoid paying U.S. taxes equitably compared to domestic U.S. corporations:
>
> A 1976 Internal Revenue Service ruling held that Indonesian taxes applicable to certain types of petroleum operations in that country would not be creditable against U.S. income taxes. The applicability of the ruling was to be deferred until 1978. In 1978, the Indonesian Government made certain amendments to its tax regulations, with appropriate changes to typical agreements with oil producers, in the Companies to achieve conformity with U.S. income tax requirements so that such income tax payments would continue during 1978 and after, to be creditable against U.S. income taxes.

There is a clear precedent for the concept of a minimum tax for both individuals and corporations in U.S. tax law. The minimum tax was first enacted in the Tax Reform Act of 1969 in order to make sure that at least some minimum tax was paid by high-income persons and corporations that were not paying their fair share of taxes. The minimum tax was further strengthened in 1976.

My amendment will insure that U.S. companies operating abroad will pay some U.S. taxes on their foreign income, no matter what other credits or offsets they claim. This is the simplist, fairest, and most direct way to insure that our domestic companies are not discriminated against in our tax laws and we ought to approve it.

Mr. DOLE. Mr. President, I have a statement in opposition to that amendment, had the Senator called it up, on the foreign tax credit.

Mr. President, I have serious reservations about the proposal to change the law relating to the foreign tax credit. The proposal, in my judgment, is both inconsistent with and inappropriate to our consideration of the so-called windfall profit tax on domestically produced oil. It also strengthens my belief that there are some in the Senate who are more interested in strangling the oil companies than in solving this Nation's serious energy problems.

As we all know, the foreign tax credit has been in use for more than 60 years. It was created, and still operates, to prevent double taxation of foreign income earned by all Americans working abroad and all U.S. companies operating overseas. The foreign tax credit is not unique to oil companies. It is used by all U.S. companies operating abroad.

The most important reason why we must not discriminate against American oil companies operating abroad is that this Nation will continue to need imported oil for many years in the future.

We have all witnessed, all too clearly in recent months, how great an impact a relatively small shortfall of imported oil can have on American motorists. And we have seen the OPEC cartel raise the price of its oil again and again. Our objective must be to prevent the recurrence of oil-import shortfalls and to take steps to counteract the ever-increasing prices charged by foreign oil-producing nations.

We can best achieve these goals by seeking to create more oil producing capacity throughout the world. More specifically, we should seek to diversify our international sources of supply if we are not to become even more dependent on unstable Middle East sources. To achieve that objective, we must strengthen the participation of U.S. oil companies in their overseas activities—not constrain them.

U.S. oil companies are already making great strides to diversify the sources of foreign oil. Just since 1970, American companies have aided in the discovery of about 19 billion barrels of additional crude oil in non-OPEC foreign countries.

Mr. President, the tax status of the foreign tax credit as it relates to oil companies is presently in dispute. It is an area which the Senate Finance Committee discussed in markup and which precipitated a special appearance by the Secretary of the Treasury.

Mr. President, on June 15 the administration announced proposed regulations purporting to aid in determining which payments by U.S. taxpayers to foreign governments may be credited against U.S. income tax liabilities.

Present statutory law has specific limitations on the foreign tax credit, 46 percent on extraction income in the case of U.S. taxpayers with foreign petroleum operations. This limit, which is in addition to the limitations applicable to all other taxpayers with foreign operations, was designed to deal with the issue of whether payments demonstrated as taxes by foreign governments were actually royalties. However, many believe the proposed regulations have additional substantial new provisions to limit or deny any credit for taxes paid to foreign governments on extraction income. In fact, the effect of the regulations may be to deny the foreign tax credit to all, or practically all, foreign taxes on extraction income. If this is the case, American companies will obviously be put in a tremendous competitive disadvantage vis-a-vis foreign petroleum operations. I am quite concerned about the regulations and the meat axe approach by the administration. I hope the entire problem can be resolved.

If this proposal is adopted, it is entirely possible that American oil companies may have to relinguish their present efforts to explore in new areas—in Africa, Latin American, and Asia. There is no question foreign oil companies would quickly move into the vacuum created by the withdrawal of the American oil companies. Surely, it would not be in our national interest to pave the way for foreign countries and foreign companies to control an even greater volume of the oil we need.

Adoption of this ill-conceived and ill-timed proposal would also be a clear signal to the OPEC cartel to further increase the price of their oil, and to withhold supplies when it is to the political advantage of the cartel members. Just as the imposition of a new excise tax on U.S. oil production signals that this Government has no interest in substantally expanding exploration and development of our petroleum resources, the adoption of this proposal would signal to OPEC that this Government has no interest in having U.S. oil companies compete in the exploration and development of oil in other parts of the world.

This is in stark contrast to the way other countries treat their companies operating elsewhere in the world. Several countries—most notably France, Australia, Belgium, and the Netherlands—do not impose any taxes on their companies' foreign source income. Other countries—specifically Great Britain, Canada, Japan, West Germany, and Italy—provide exemptions of the foreign income earned by their companies operating abroad.

In almost every case, in fact, the tax treatment applied by other countries is less restrictive than the foreign tax treatment now in effect in the United States.

Mr. President, this proposal is contrary to the best interest of this Nation and of American consumers of energy. It would reduce the amount and diversity of our future petroleum supplies. It would increase our dependence on foreign oil suppliers. If we are ever to reduce our heavy dependence on the OPEC oil cartel, we must look to other parts of the free world for new supplies of oil.

Mr. President, so far as the Senator from Kansas knows the Senator from Illinois has a matter he discussed with the Senator from West Virginia (Mr. RANDOLPH). I am not certain he has had a chance to discuss it with the distinguished Senator from Louisiana, but it does, in effect, perfect the amendment of the Senator from West Virginia (Mr. RANDOLPH), and I will be happy to yield to the Senator.

MODIFICATION OF AMENDMENT NO. 796

Mr. PERCY. Mr. President, I thank my good friend and colleague from Kansas. The amendment I offer would allow minimum tax treatment for so-called front end tertiary oil, where the method involved in the recovery process is either carbon dioxide injection or chemical surfactant flooding.

The purpose of this amendment is to speed new oil supplies to the country by a very rapid increase in the use of tertiary recovery methods. For every barrel of oil already brought to the surface, two barrels have been left behind, trapped in formations inaccessable by conventional methods such as natural pressure and water flooding. A study by the Office of Technology Assessment tells us that within the next 15 years the oil reserves of the United States could be doubled, from 33 billion barrels today to an additional 40 and 50 million barrels by tertiary recovery techniques.

But we also know these methods are costly, complicated and—in some cases—untested. That is why the program I am supporting and the amendment I offer is so important: We need to start testing and demonstrating what will work immediately.

My amendment would support and compliment a program just getting under way at the Department of Energy. This is a program which George Mitchell, the well-known chairman of Mitchell Energy, said is the "only dramatic thing the Department of Energy has done in 6 years." The program operates this way:

Companies which want to get oil out of the ground by tertiary recovery methods self-certify themselves to the Department—meaning they submit a plan. To pay for the extraordinary costs involved in these methods now, today, while oil is still controlled, companies are allowed to sell old oil, otherwise on the market for, say $6, at the world price. They are then allowed to spend the difference, which will be $24 on $30 per barrel oil, in their project on a 3-to-1 matching basis. The Government pays 75 percent of the cost to the company's 25 percent. With this program in place, during the next 20 months when oil is being decontrolled, the Department has expected between 80 and 100 projects to be started. One planned in my home State of Illinois would, for example, get 881,000 barrels of oil out of one 120-acre section of a reservoir.

If a non-oil-producing State like Illinois can find oil, there are billions of barrels that can be recovered in other States. There are potential projects, in Kansas, Oklahoma, Pennsylvania, Montana, California, Wyoming, Louisiana, as well as in Illinois.

But there is a problem. The Finance Committee has decided that when this old oil is released, it will be taxed at tier II rates, or 75 percent. This means that, in order to get enough money to run a project, the Government will have to allow the release of enough oil to first, get 25 percent for the project, and second, get 75 percent for itself. In other words, this is a plan to take money from the consumers—who pay for the higher priced oil—and give most of it to the Government, with only a small portion to the producer for the project.

The pending amendment would tax this old oil, as it is released to world price, only at the minimum tax rate for incremental tertiary oil, or 20 percent. Thus, less old oil will have to be released, refineries and consumers will have lower priced oil, and more tertiary recovery projects will be able to go forward.

I am particularly concerned about what the 75 percent rate will do to independent producers. Many of these projects are put together by independents. They simply cannot find enough old oil to pay for their costs and Government taxes.

To put together a project of $20 million, for example, will require $80 million worth of old oil. Presently, there are less than 10 reservoirs in this country with that much old oil, and all are controlled by the major oil companies. For a smaller project of $12 million, there are only 50 or 60 reservoirs with the requisite 48 million dollars' worth of old oil. Most of it is controlled by the majors.

I have spoken to some of the people putting together these projects. My staff has spoken to others. The unanimous conclusion is that the 75-percent tax rate will cut down the number of small projects considerably.

Mr. President, I am particularly interested in that method which will get the most oil out of the ground. That is the chemical surfactant method. It is this method which will be used in several projects in Illinois. This is the most costly method, but because it will ultimately recover the most oil it needs the greatest help.

I believe strongly that chemical methods should be given minimal tax treatment under this program, as well as carbon dioxide injection. It is my understanding that the revenue loss for the chemical method will be only half that of carbon dioxide. It will account for only 10 percent of the projects undertaken. But that is precisely why it should be favored: It offers the greatest hope for maximum recovery.

All of what I have just said, Mr. President, is verified by an article in the current, December 31, edition of Fortune magazine. I will insert this article at the end of my remarks.

(See exhibit 1.)

EXHIBIT 1

WE CAN WRING MORE OUT OF THE OIL PATCH

(By Peter Nulty)

The ordeal of American hostages in Tehran, coming in the wake of last summer's gasoline drought and the new exactions by OPEC countries, has led to a new, self-imposed restriction on U.S. oil supplies that are already more vulnerable than ever to the whims of unreliable foreign suppliers. In retaliation against the seizure of the hostages, President Carter has banned the importation of Iranian oil and the petroleum products derived from it, which together has supplied about 4 percent of this country's needs, or 700,000 barrels a day. Conservation, induced by soaring prices, could probably offset this cutoff—if that were the only supply problem. But several other OPEC countries are threatening to curtail oil exports, and recent output trends in the U.S. which now produces barely half of what it consumes, offer little encouragement. Outside of Alaska, U.S. production has been declining steadily, by about 3 percent a year on the average, from its 1970 peak of 9.6 million barrels a day.

It will be a long time before synthetic fuels can come to the rescue. Bills now making their way through Congress call for the production of only 1.5 million to 2 million barrels a day by 1995. The decontrol of U.S. crude-oil prices, now scheduled to take effect in 1981, could spur more drilling—provided that a windfall-profits tax does not unduly dampen incentives. But even the American Petroleum Institute does not promise that an all-out search would lead to an increase in crude production. The petroleum industry has already stepped up its exploration, and while the results have been somewhat encouraging in the case of natural gas, they have been dismal in the case of oil. Last year, only 1.3 billion barrels of oil that can be recovered by conventional methods were found in the U.S.—less than half of what was taken out of the ground. The nation's proven reserves are now down to 28 billion barrels, counting the huge 10-billion-barrel field at Alaska's Prudhoe Bay; at the current rate of consumption, these reserves represent less than a nine-year supply.

Fortunately, motorists don't have to get ready to put their cars up on blocks, for these figures exclude a vast potential petroleum resource that has already been found: the 300 billion barrels in known fields that cannot be extracted by traditional methods. A total of 450 billion barrels of oil have been discovered in the U.S. to date. Until fairly recently, it made no economic sense to remove more than a third of the oil in a typical field—the oil that was pushed to the surface by natural pressure and recovered by "primary" methods, or driven out by the simple injection of water, or "secondary" methods. Thus, only about 150 billion barrels of that oil was considered recoverable. Four-fifths of it has already been used, leaving only those 28 billion barrels of proven reserves—long defined as oil recoverable at present prices with existing technology.

COME AND GET IT

Two developments have made that concept obsolete as a true measure of the amount of oil in the national cupboard. One is the explosion of world oil prices, and the other is the steady advance in "tertiary" methods for wresting more oil from known fields. No one expects that all of that 300 billion barrels can be recovered by these methods, which oilmen prefer to call "enhanced oil recovery," or just "EOR." But it now looks as though 25 billion to 45 billion barrels of it can be coaxed from the ground, and one optimistic estimate puts the figure at 75 billion barrels—a figure equal to nearly half the proven reserves of Saudi Arabia.

Enhanced recovery is taking on new allure for many reasons. Not only does it dispense with exploratory drilling, but it makes use of many existing wells and pipelines. Says Lisle Reed, director of the office of oil and natural gas at the U.S. Department of Energy, "It's as though the oil is just begging us to come and get it."

Enhanced recovery cannot be stepped up quickly, for the processes by their very nature are slow, nor will it be cheap. Although industry and the Energy Department have probably spent more than $1 billion on research, many technical problems remain. Some oilmen are worried about the effects of the windfall-profits tax, even though the Senate version, at least, specifically excludes unconventional oil recovery. Still, enhanced recovery could make a big difference during the next decade. In 1978, some 200 projects already accounted for 4 percent of U.S. crude production, or 350,000 barrels a day. The A.P.I. estimates that another one million barrels a day of production can be added by 1985—more than enough to make up for the loss of Iranian oil. By the 1990's, the A.P.I. adds, production could rise to two million to five million barrels a day. Petroleum engineers grappling with the problems in the field are less optimistic than the A.P.I., but output will unquestionably rise a lot if Washington is careful not to destroy the incentives.

WHAT EVERY BOY SCOUT KNOWS

Enhanced recovery is an elaborate form of washing more fuel from oil-bearing rocks. As every Boy Scout and Boy Scout's mother knows, plain water leaves a lot of grease behind. The water used to flood an oil reservoir is no different, except that the crude oil, which is trapped inside tiny pores in the rock, is far more stubborn than grease on the trousers or the frying pan ever was. So the oil industry has experimented with dozens of ways to launder the rock more efficiently. The enhanced-recovery methods fall into three categories: thermal, miscible, and chemical. Thermal recovery uses either steam or fire in the reservoir. Miscible recovery floods the deposits with a solvent that mixes with the oil and makes it more fluid. Chemical flooding sweeps the reservoirs with detergent-like potions that free the oil from the rocks by reducing the "interfacial" tension between oil and water.

The best hope for boosting enhanced oil production soon lies in steam injection, which is also the only proved and commercial method; currently it accounts for 60 percent of tertiary oil recovery in the U.S. Steam works most effectively on thick or molasses-like "heavy" oil in shallow reservoirs, the largest of which are in southern California. According to some estimates, 10 billion barrels of heavy oil can be recovered with the steam technology we have now—an amount equal to the reserves in Alaska's Prudhoe Bay. Lisle Reed of the Energy Department believes that steam alone could add 750,000 barrels a day to U.S. production by 1990.

Most of the heavy-oil producers in California, including Getty, Standard Oil of California, and Shell, have been using steam for a decade or more. But until very recently they were in a serious economic bind because steam injection is energy intensive: one precious barrel out of every three produced has to be used to power the steam generators. Then President Carter decontrolled the price of heavy oil last July, and the price has since risen to about $16 per barrel, leaving the companies with an encouraging profit margin. In response, many companies are gearing up for an expansion of steam production.

The history of Belridge Oil, which Shell is about to snatch up for a record $3.7 billion, gives a hint of the dramatic results that could come as a result of the President's action. Back in 1973, before the Arab oil embargo set off the first of the decade's energy quakes, Belridge struck an appropriately modest pose. True, the company had sizable crude-oil reserves. But the price of oil then was only $3.89 per barrel and Belridge's production had fallen to a low 15,000 barrels a day. Moreover, a lot of the oil was heavy crude so reluctant to flow that most of the company's production came from tiny "stripper" wells, so called because they yield no more than ten barrels a day. And the oil was so dirty with sulfur that few refineries in the U.S. would even touch it. So Belridge kept a low profile, with its executive offices in a plain, two-story red-granite office building on an out-of-the-way corner of West Fourth Street near downtown Los Angeles.

But the price Shell is willing to pay for Belridge is no fluke, for the little company has changed drastically in seven years. After price controls were slapped on most U.S. production in the early Seventies, stripper wells were exempted. Accordingly, Belridge's production has almost tripled to 42,000 barrels a day, with steam injection providing most of the increase, and its proven reserves have swollen to more than 376 million barrels. The price Shell is willing to pay seems high for oil that is still in the ground. "But," sighs one executive familiar with Belridge, "if world oil prices reach $50 a barrel, as most people expect, then $3.7 billion for Belridge is a steal, plain and simple." (Texaco and Mobil, which together own 35 percent of Belridge, may try to block the deal.)

A CRACKDOWN THAT CUT OUTPUT

The main obstacle to steam development in the short run is its effect on the environment. The oil burned in the steam generators is a low-quality, sulfurous crude that gives off a lot of pollution. When the Bakersfield area failed to meet federal air-quality standards in December, 1978, for example, sixty-two of Getty's generators were shut down, halting 13,000 barrels a day of production. Getty is buying scrubbers for these generators, and all new generators in the region will have to have them. But now the California Air Resources Board is considering emission standards for nitrogen oxide (NOx), and some oilmen fear that its timetable for NOx control could cripple heavy-oil development.

While California is steaming out its reservoirs, Texas may soon be fizzing up its oil with carbon dioxide like so much licorice-flavored soda pop. Many miscible chemicals have been tested to drive oil out of reservoirs, including propane and butane, but most are too expensive, too ineffective, or too useful elsewhere.

Carbon dioxide, on the other hand, can be inexpensive. It can also be efficient if supplied in large quantities to the oil fields where it works best, like those in west Texas containing low-viscosity oil at depths below 4,000 or 5,000 feet. In these reservoirs, pressure forces the CO_2 to dissolve into the oil, which expands and becomes more fluid. Pullman Kellogg, a division of Pullman Inc., completed a study in August for the Department of Energy confirming earlier estimates that five billion to 10 billion barrels of oil can be recovered by CO_2, two billion to eight billion of that from west Texas alone. (That's still another potential Prudhoe Bay.) The cost was estimated at $18 to $20 a barrel in a 1976 study by Todd Doscher, a petroleum engineer at the University of Southern California, and would undoubtedly be higher today. Still, it is competitive with OPEC oil and shale oil and considerably below the $30 to $40 range that has been estimated for synthetic liquid fuels made from coal.

The major test of the CO_2 technology has been the Scurry Area Canyon Reef Operators' Committee project (or Sacroc) in west Texas, operated by Standard of California for 300 partners. Amazingly, Sacroc is supplied with a 200-mile pipeline built in the early Seventies to carry waste CO_2 from gas plants to the south. (The CO_2 in ginger ale is also a waste product, supplied by chemical plants.)

At least two of the partners in Sacroc, Getty and Marathon Oil Co., consider the project a failure because it yielded too little oil at too great a cost. But Atlantic Richfield and Shell, which own huge underground reserves of natural CO_2 are less discouraged. Sacroc did prove that CO_2 will move oil, Arco says, and with price deregulation—which was extended to other forms of enhanced recovery last summer—the economics could be right for CO_2 recovery to take off.

ARCO'S AMBITIOUS PLANS

So Arco is optimistically planning a 400-mile pipeline from its huge Sheep Mountain deposits in southeast Colorado (two trillion cubic feet) down to the Wasson-Seminole oil fields in west Texas. Tentative designs call for a pipeline twenty inches in diameter to carry the gas at "supercritical" pressures of up to 2.000 pounds per square inch. The estimated cost of laying the pipeline and developing Sheep Mountain is $300 million. Shell and Standard Oil of Indiana are considering similar projects.

Before CO_2 can become a major factor in oil production, other natural sources of the gas will have to be tapped. Major deposits have already been discovered in Colorado and New Mexico by Shell and Standard of Indiana, as well as Arco, and prospecting is under way for more. Pullman Kellogg estimates that U.S. reserves are now about 20 trillion to 28 trillion cubic feet, only half of what may be needed to recover 10 billion barrels of oil. Natural CO_2 will cost about $1 per thousand cubic feet, compared with $2 or more for CO_2 trucked in from industrial sources.

The most sophisticated technology of all is the chemical process that flushes out the reservoir with "surfactant" solutions. The idea is not new—soaps were tried in the oil fields of Pennsylvania back in the 1920's. But the process has advanced very slowly because of a difficult obstacle: minerals often found in reservoirs can counteract the surfactants much the way hard water frustrates a good lather.

Marathon Oil Co., the leader in the field, has spent over $100 million and twenty years on the problem, and has even built an underutilized plant to supply surfactants for its Maraflood oil-recovery process. The company reports great progress but not total victory. According to Barney Gogarty, associate research director for production, the Maraflood process today is technically capable of recovering 11 billion barrels (another Prudhoe Bay!) in relatively mineral-free sandstone oil reservoirs of the North, East, and Midwest. But it would not make economic sense to dislodge all of that oil, even at today's prices. Moreover, chemicals that will work in the briny and mineral-laden limestones of east Texas and the Gulf Coast have not yet been discovered.

Another problem for chemical recovery is the cost of the surfactants. In Illinois, where Marathon has done most of its testing, the chemicals represent 50 to 60 percent of the initial investment in the enhanced-recovery projects. And since the surfactants are made from petroleum, their cost increases along with the price of oil. Continental Oil says that a surfactant it used in a project in 1974 has nearly doubled in price. Nevertheless, Marathon estimates that this year's oil-price increases may have made chemically recovered oil competitive with world oil, and it is preparing the first commercial-scale (350-acre) surfactant project at its own Robinson oil field in Illinois.

Even if the price is right for enhanced recovery and many new ventures do go forward, production may grow more slowly than the optimists expect. Some of the technology, for one thing, has tricky twists that no one has mastered yet. Commercial projects—whether they involve steam, CO_2, or surfactants—take a long time to reach full-scale production. Each project has to be custom tailored to fit the unique characteristics of each reservoir. In other words, the laboratories have to come up with a new-formula Ajax for every sink in the land. At least one pilot test, lasting up to five years, is required in each oil field. That makes enhanced recovery as much as ten times more labor intensive than conventional oil production. And much of that labor consists of highly paid chemists and engineers.

Once a pilot test is successful, many new wells have to be drilled to scale the project up to commercial size. Exxon estimates that the average spacing in traditional production is one well per eighty acres; for some enhanced-recovery projects, it may be one well for every four acres. Once the wells are drilled, there may be a long wait before any oil flows; Marathon reports that the chemical surfactants travel from the injection wells to the producing wells at rates as slow as a few inches per day, and it may be two years after injection begins before any oil is recovered.

All this means that large capital investments have to be committed as much as ten years ahead of full-scale production. A recent Energy Department study estimates that $200 billion to $300 billion (i.e., $5 to $12 a barrel) will have to be invested over many decades to recover 25 billion to 45 billion barrels.

WHICH OIL IS WHICH?

Federal policies will strongly influence the tempo of enhanced recovery. At the moment, those policies can be characterized as a blend of potentially troublesome red tape leavened by a fairly alluring financial stimulus.

The price of oil produced by enhanced recovery, as noted, was decontrolled last summer. The potential red tape lies in the fact that this oil usually comes from a field that also produces oil by conventional methods. While the price of conventional oil remains controlled, companies claiming the free price for the tertiary oil have the mathematical burden of estimating which barrels were produced by which method. The burden will disappear, of course, in October, 1981, when conventional crude is scheduled to be decontrolled and the distinction will vanish.

The stimulus, also adopted last summer, allows oil producers to recover quickly some of the front-end costs of an enhanced-recovery project. Under new Energy Department rules, the conventional oil from a field with an enhanced-recovery project can be released from price controls until 75 percent of the cost of the enhanced-recovery project, or a maximum of $20 million, is recouped. With conventional oil still controlled and the front-end costs tax deductible, that amounts to a subsidy of up to $20 million. George P. Mitchell, chairman of Mitchell Energy & Development Corp., says the incentive feature is "the only dramatic thing the Department of Energy has done in six years." Federal officials say the subsidy is not big enough to encourage large projects such as Arco's CO_2 pipeline, but they believe it will encourage more small pilot projects in the field, which could lead to commercial production.

IT'S NOT A CINCH

The favored treatment for enhanced recovery, of course, will become unnecessary when conventional crude is decontrolled. The only cloud over the future is that windfall-profits tax, which some oilmen, rightly or wrongly, think could jeopardize enhanced recovery. Accordingly, they are rushing to take advantage of that subsidy while it is still available. Texaco, for one, says it has tripled the number of enhanced-recovery projects on its drawing boards.

Even with the wisest government policies, enhanced recovery will be no panacea for the energy crunches yet to come. But it promises to augment U.S. oil production significantly during the rest of this century. Says Don Covey, a senior vice president at Mitchell Energy. "The resource is out there if we are willing to pay the price. It's not a cinch even then, but it's a cinch we won't get anything if we don't pay the price."

Mr. President, as the Senate knows I have been a long time champion of conservation. I believe the cheapest source of energy and the most readily available are to be found in conservation. But I am also determined to find other new ways for the United States to approach self-sufficiency in energy. That is why I have been on the floor of the Senate these past few days, pushing for greater use of coal through incentives to industries to switch from oil. That is why I am on the floor today, asking for this amendment. This is oil that is available now, in our country, at world prices less the minimum tax. I urge the Senate to approve my amendment.

Mr. President, the effect of my amendment can be accomplished in one of two ways: The first and easiest way probably is just to amend Senator RANDOLPH's amendment No. 796 by adding the words "and chemcal surfactant injection."

I have discussed this with Senator RANDOLPH and it is acceptable to him. He would support it. This is the simplest and easiest way to do it, and I ask unanimous consent that I be permitted to amend that amendment to that extent.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Will the Senator state the amendment number again?

Mr. PERCY. It is amendment No. 796.

The PRESIDING OFFICER. The Senator is adding one word?

Mr. PERCY. The amendment which I have discussed with Senator RANDOLPH adds the words "and chemical surfactant injection" after the word "injection."

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, what is the amendment?

The PRESIDING OFFICER. Will the Senator from Illinois repeat his modification of the amendment of that of the Senator from West Virginia (Mr. RANDOLPH)?

Mr. PERCY. This matter could be handled in two different ways: One is to call up amendment No. 1435. The Senator from Illinois, however, has been advised that it could be handled in a much simpler fashion, by simply asking unanimous consent to amend Senator RANDOLPH's amendment No. 796. This would add at the end, after the word "injection," a comma and the phrase "and chemical surfactant injection."

This matter has been discussed with Senator RANDOLPH. It is acceptable to him, and I ask unanimous consent that the amendment be amended by the addition of those four words.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. PERCY. I thank my distinguished friend.

UP AMENDMENT NO. 887

(Purpose: To make additional technical corrections.)

Mr. LONG. Mr. President, I have several technical amendments here which I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an unprinted amendment numbered 887:

On page 106, line 9, strike out "48(1) (4)" and insert in lieu thereof "48(1) (2) (A) (ii)".

On page 108, line 17, after "with" insert "the commencement of".

On page 108, line 21, after "with" insert "the commencement of".

On page 119, line 10, after "to" insert "property placed in service before January 1, 1992".

On page 119, line 11, strike out "property".

On page 119, line 15, strike out "property".

On page 119, line 18, strike out "property".

Insection 328(b) (3) of the bill, strike out "(which, without limitation, may be made in the form of a duly issued coupon, stamp, or certificate)".

At the end of section 328 of the bill, add the following new subsection:

"(i) At the option of the State, payments described in section 328(b) may be made. without limitation, in the form of a duly issued coupon stamp, or certificate.".

Mr. LONG. These are technical amendments prepared by the staff to make the bill conform.

Mr. President, I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendments of the Senator from Louisiana.

The amendments en bloc (UP No. 887) were agreed to.

Mr. DOLE. Mr. President, so far as the Senator from Kansas knows we have finally exhausted everyone on this side or their amendments, probably the Members also, and I am ready for third reading.

The PRESIDING OFFICER. Are there further amendments?

Mr. BRADLEY. Mr. President, I withdraw my amendment to the House bill.

The PRESIDING OFFICER. The amendment is withdrawn.

The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the committee amendment in the nature of a substitute was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 767

● Mr. BAUCUS. Mr. President, on Saturday, December 15, in proposing amendment No. 767 to H.R. 3919, to permit gas produced from tight sand formations to be treated as a qualified fuel for purposes of the credit for production of fuels from nonconventional sources, regrettably the Senator from Florida (Mr. STONE) and the Senator from Nevada (Mr. LAXALT) were not listed as cosponsors. Both of these gentlemen actively supported the "tight sands" amendment, and had asked to be cosponsors. Unfortunately, their names were not shown on the amendment as printed and cannot now be added. Nevertheless, I want to express to Senator STONE and to Senator LAXALT my personal appreciation for their valuable efforts on behalf of the amendment. Through their efforts, and the efforts of their fellow cosponsors, I believe that the Senate has made a significant contribution to the timely expansion of domestic energy resources in the United States.●

Mr. BELLMON. Mr. President, this bill is only the latest in a long list of bills which hurt our Nation's efforts to reduce dependency on imported oil. Somehow it seems impossible for Congress to understand that the solution to our energy woes is greatly increased domestic production of liquid hydrocarbon.

President Carter took a correct and a courageous step when he decontrolled oil prices.

Congress, at President Carter's urging, is now taking a backward step in siphoning away capital needed by industry to build synfuel facilities, drill more and deeper wells, start tertiary recovery projects and make all the myriad of other investments needed to gain energy independence.

This bill will simply postpone the day when the United States will have available a dependable, affordable supply of energy.

By passing H.R. 3919 Congress is diverting hundreds of billions of dollars into the U.S. Treasury where it will be used to buy more Government which we do not need and away from energy investments where it would buy energy which we desperately must have. It is a bad choice for America now and for the future.

This bill is not an energy bill—it is a revenue bill. If more revenues are needed—and they are not—they would flow to the Treasury through the traditional corporate and income taxes if energy production was allowed to rise. Already the country was on the path to a balanced budget in fiscal year 1981—with a large surplus and a sizable tax cut in 1982 additional revenues are not needed. This bill will only produce more Government—not more energy.

It is understandable from a political viewpoint why Members are voting for a domestic crude oil excise tax. This vote looks like a vote against "big oil." In reality it is a vote for continued dependence upon OPEC, for continued inflation, for continued drain on the U.S. economy, for continued decline in the U.S. dollar and for continued foreign meddling in U.S. international policies.

Mr. President, the roughly $200 billion this bill will drain into the U.S. Treasury would build at least 40,000 to 50,000 plus barrels per day synfuel plants producing in excess of 2 million barrels per day of oil. This is roughly 25 percent of the amount we now import. These plants would have provided thousands of jobs for Americans and would have reduced the cost of imported oil by $22 billion per year. The same $200 billion invested in doubling the current rate of oil well drilling, both on and off shore, would have a similar impact both on increased domestic production and decreased imports as well as in strengthening the domestic economy.

Mr. President, had oil price controls never been imposed the Nation would now have been well along in working its way toward energy independence. We have largely wasted the past 6 years. This bill simply means that we waste additional time, time which we may not have.

WINDFALL PROFIT TAX—CONCLUDING THOUGHTS

● Mr. BAUCUS. Mr. President, for 6 months the members of the Finance Committee have grappled with the windfall profit tax. Today, we are on the verge of completing that effort; and, in my judgment, we have charted a sound course for this Nation's energy future.

When we began our consideration of the windfall profit bill I said it must meet one test—to be balanced. And, we have accomplished that goal.

The bill we have drafted will increase domestic production of oil and gas. It will encourage Americans to conserve energy and switch from oil and gas to other means of producing energy. And, finally it will tax oil fairly.

Americans are deeply troubled by this Nation's energy future. Reports that the major oil companies are reaping record profits anger cunsumers forced to pay more than $1 a gallon for gasoline or 90 cents a gallon for home heating oil.

To many, President Carter's decision to decontrol the price of domestic oil is nothing less than a rip-off by a band of greedy profiteers.

Likewise, to hear some oil producers describe this bill you would think the Federal Government wants to force the oil companies into bankruptcy. They say if Congress just would give them the money they would find the oil this Nation needs.

Both of these points of view exaggerate the truth to a certain extent. Both fail to provide the real answer to our energy dilemma.

Oil production in the United States has peaked, and now drops each year. Our goal must be to reduce the rate of that descent as much as possible by recovering every available drop of oil.

This bill includes the kind of incentives that will accomplish that goal:

An exemption for the first 1,000 barrels produced each day by any independent oil company. Independents conduct 90 percent of the exploratory drilling and produce 75 percent of the oil from newly developed fields;

A reduced tax on heavy oil, newly discovered oil and oil recovered using tertiary techniques;

An amendment I sponsored to grant a 50 cent per mcf tax credit for production of natural gas from tight sands formations; which could reach the equivalent of 1.8 million barrels of oil per day.

This bill addresses the reality that the easy-to-produce oil is gone or already being delivered. Producers of this oil do not need any more incentive; they are the ones who are reaping the benefits of decontrol.

Rather, the Senate's bill will spur production of the expensive-to-produce and hard-to-reach oil that up to now has been ignored. That is where our future lies and the windfall profit tax bill addresses that issue.

Second, this bill includes the kind of incentives that will spur energy conservation and a switch to alternative forms of producing energy.

Conservation, the cheapest way to produce a barrel of oil, is encouraged in the bill with several specific tax incentives:

The existing $300 credit for insulation would be extended to heat pumps, wood stoves, coal-fired furnaces and oil or gas furnaces that meet certain efficiency standards;

The credit for solar, wind and geothermal equipment would be raised from $2,200 to $5,000 and would be available for second homes and to landlords as well.

The Senate has acted wisely by investing the revenues collected by the windfall profit tax in incentives to conserve and to switch to alternative fuels.

There is no certainty that synthetic fuels will ever fulfill the hopes of its supporters. But we know conservation works. We know that America's businesses, industries, and utilities can save energy—and that is what this bill encourages.

Finally, the tax the Senate has approved is fair. It encourages new production while avoiding unearned profits for oil producers.

The price of oil has risen because of forces completely out of our control. We must regain that control, and I submit that this can be done best by making the kind of decisions that will encourage all of us to conserve, persuade producers to stretch our energy reserves, and prompt Americans to switch from oil to solar and other alternatives.●

SENATOR KENNEDY VOTES FOR WINDFALL BILL—MAY OPPOSE FINAL CONFERENCE REPORT

● Mr. KENNEDY. Mr. President, I am supporting passage of the windfall profit tax by the Senate primarily because it is not final action on this legislation. The Senate has slashed $100 billion from the House-passed bill, thereby dismantling a tax that was already inadequate to protect the American economy and the average American from the President's inflationary folly of crude oil decontrol. The House-passed tax, which a majority of the Senate apparently feels is too stiff, was in fact a compromise written by Representatives as fair and equitable. On the Senate floor, however, this same bill was considered a severe disincentive to production.

It is now virtually certain that oil prices will rise over the next decade considerably faster than the 2-percent-plus-inflation assumption of the Finance Committee. But even given those conservative assumptions, The House-passed bill would have granted the oil industry $166 billion in windfall revenues over the next decade—nearly 1½ times the value of all the estimated subsidies granted to this oil and gas industry over the last seven decades.

The fact that such a generous giveaway could be characterized as excessively stringent is a measure of how the entire debate has been distorted to the detriment of the public. Three weeks ago, the amendment cosponsored by Senator BUMPERS, myself, and others to increase the Senate Finance Committee bill to the House level of $277 billion was tabled. Since then, the Senate has drawn praise for increasing the Finance Committee bill by only $37 billion.

I agree with the chairman of the Senate Energy Committee, Senator JACKSON, who has called this process a lesson in "how to whitewash a windfall." I am still hopeful that the majority leader, Senator BYRD, is correct when he insists that President Carter will veto an unfair tax and reimpose controls. The President has been unwilling, however, even to hint at that possibility to date. On the contrary, his spokesmen have gone so far as to ridicule that suggestion. As a result, those of us who have sought to strengthen the Senate bill have had to proceed without the most basic leverage usually afforded proponents of a Presidential initiative—the threat of a veto.

It is still theoretically possible for the House-Senate conference to agree on a tax that will raise, at a minimum, 50 percent of the windfall revenues. This was the figure considered "fair" by the President last spring when he plunged ahead with decontrol.

Furthermore, it is also theoretically possible that the President will reassert some leadership on this bill by advising congressional opponents of a strong tax that he is willing to exercise all his Presidential powers on behalf of the public he represents.

Therefore, under the circumstances, I am voting for a bill that I believe is unacceptable as a final legislative product.

At the same time, I wish to make it clear that if the House-Senate conference sends this bill back to the Senate with a tax that raises less than the 50 percent revenue target set by the President, I will vote against the conference report.●

● **Mr. WEICKER.** Mr. President, I rise today in support of the compromise agreement reached by the Senate concerning H.R. 3919, the crude oil windfall profit tax bill.

At the outset of debate, I was concerned that the Finance Committee substitute, as reported, was weak and unresponsive to our future national energy needs. However, after almost 5 weeks of negotiations and debate by many Members of the Senate, a bill has emerged which achieves a fair balance between tax revenues and production incentives.

Specifically, H.R. 3919, as reported by the Finance Committee, raised three major concerns. First, the committee legislation captured approximately $136 billion, or about one-half the total revenues raised by the House-passed bill. This figure was unacceptable and insufficient to meet our future needs, to develop alternative energy sources, and to protect low-income and elderly persons suffering from price increases due to decontrol. However, after several weeks of debate, and with the adoption of major strengthening amendments, the Senate bill will now capture approximately $178 billion in windfall revenues. This increased revenue will insure the development of alternative energy sources and protect low-income and elderly households.

Second, the committee substitute, as reported, provided for several unjustified tax exemptions. These exemptions would have allowed oil producers and royalty owners to retain substantial windfall profits at a great cost to the American consumer. However, with the adoption of the Ribicoff-Bradley amendment, a 20-percent minimum tax will be imposed on heavy and tertiary recovery oil and a 10-percent tax on newly discovered oil. This amendment provides a more equitable tax base, which will not only help promote domestic production but will also substantially increase revenues.

Third, the original committee "phase-out" would have caused the tax to terminate at a rate of 3 percent per month beginning when 90 percent of the projected revenue of the tax had been raised. Therefore, the faster the price of oil rises, the faster the tax would phase out. The Senate adopted, however, an amendment offered by the Senator from New York (Mr. MOYNIHAN), which will now cause the tax to phase out when approximately $210 billion in revenues are collected.

For these and other valid reasons, Mr. President, I support the windfall profit tax as one step toward future energy independence and security.

However, I do not believe that a windfall tax is by any means the final solution to our energy problems. It will not increase domestic oil and natural gas production and it will not cause the prices at the pump to decrease. The only answer to our energy dilemma is to make fundamental changes in our lifestyles, and that means mandatory conservation.

For many years I have taken a stand on this floor advocating mandatory conservation. I have done everything within my power to get this message across to my colleagues. Indeed, during consideration of the windfall profit tax, I offered an amendment which would have required the President to set mandatory conservation targets to meet the expected shortfall due to the Iranian embargo. Although this amendment was defeated by a vote of 60 to 27, I was encouraged that 26 of my colleagues saw the light on this issue.

I will continue to push the issue of mandatory conservation on the Senate floor and assure my colleagues that they will have many other chances to vote on this important question.●

Mr. NELSON. Mr. President, half of all the energy used each day in the United States is generated by burning oil. In 1979, the daily amount consumed averaged 18.6 million barrels of oil, of which about 8.5 million were imported. Seventy-one percent of these imports came to the United States from a cartel operating under the name of the Organization of Petroleum Exporting Countries (OPEC). This cartel establishes the price of oil for their members, as well as for many other oil-producing nations, because they control so much of the world's known supply of oil. By virtue of controlling this supply, OPEC can respond to world demand or ignore it, depending on OPEC's political and economic needs.

In the United States, the controlled price of domestic oil has traditionally been much lower than the OPEC price. Consequently, domestic producers have contended that the lower domestic price discourages companies from exploring for oil. Some producers suggest that if the price increases, then the amount of exploration will increase and the supply of domestic oil will increase. By this scenario, America's reliance upon foreign will diminish and the political and economic security of the country will be enhanced.

Based upon these considerations, President Carter announced a phased decontrol of domestic energy prices to permit a gradual increase in these prices up to the world price set by OPEC, as an incentive to the domestic oil producers. Price decontrol will affect all categories of domestic oil including old oil as well as new. Consequently, oil profits will increase even though there will be no additional drilling or operational costs to justify the higher prices. Even in the category of new oil discovery, the cost of producing the new oil will not nearly approach the enormous revenues oil companies will experience from price decontrol and the continued manipulation of the American market by the OPEC nations.

What are the facts here?

In 1972, before the Arab oil embargo catapulted world oil prices, U.S. oil companies received $10.4 billion in total revenues from domestic crude production. Only 8 years later, those revenues increased to $48 billion, even though the cost of drilling wells and exploring for oil increased on average by only 12 percent in the last 8 years. Clearly, the cost of doing business for the oil companies has not risen anywhere near as fast as the revenues they have received. The result has been enormous profits.

Just in the last year alone, the world price of oil has increased almost 70 percent, while the cost of production increased only 12 percent. The recent OPEC price increases and the anticipated escalation from their meeting on December 17, will bring the world price of oil to nearly $30 a barrel. Assuming a base price of $30 a barrel in 1980, if the real price of oil increases at the rate of 2 percent a year throughout the 1980's, the oil companies will receive gross revenues of over $219 billion in 1990 alone. This figure gross revenues of over $219 billion in 1990 alone. This figure represents an increase of over 2,000 percent since 1972.

Moreover, the Congressional Budget Office (CBO) estimates total oil industry revenues for the decade, 1980–90, will exceed $1.6 trillion even under very conservative assumptions. But if prices rise at a more rapid rate, which is likely, oil producer revenues could easily exceed $2.2 trillion by 1990. These figures are beyond the realm of full understanding. The numbers are mind-boggling with implications impossible to predict.

However, what is well understood by the general public is that something must be seriously wrong. And they are right.

What is wrong?

When the cost of doing business is radically lower than the prices charged in a free enterprise system, the business which reaps the revenues of this good fortune is to be congratulated. These compliments, however, are contingent upon finding that the business did not illegally control price, supply, or quality. In the world oil market, the OPEC cartel controls the price—and much of the supply—of oil in a manner which would be illegal in our country.

Our response to the OPEC cartel has been to tie the domestic oil price to the OPEC world price. This assures enormous unearned revenues for American oil companies. If these revenues remain untaxed, the resulting profits are referred to as "windfall" profits because they are unearned, unjustified, and excessive in the extreme. They are benefits bestowed upon domestic oil companies by a foreign oil cartel. If this cartel were within the reach of our law it would be found guilty of a criminal conspiracy in violation of the antitrust laws.

Earlier this year, the President proposed a windfall tax plan which would have raised $296 billion between 1980 and 1990. In June, the House passed a weaker version, reducing the net revenue to $276 billion. The Senate bill, by exempting various categories of oil and independent producers from the tax, will raise only about $178 billion.

Many of the exemptions in the Senate bill are unjustified. But the high exemption for independent oil producers is particularly indefensible. This provision allows independents to produce up to 1,000 barrels of oil a day without paying any windfall tax.

Whatever rationale may be advanced for some exemption for small independent producers, a $20 billion windfall is not justified.

The President, the Congress, the country must make a decision on the windfall profit tax. We should be guided by the test of what best serves the long term interests of the country. While reasonable people will differ on what serves our best interests as a nation, it seems clear to me that this bill does not. The tax is too low, the benefit to the Nation too small, and the gift to the oil companies unconscionably generous.

This is the situation in summary. Based upon conservative estimates of $30/barrel of oil—adjusted for inflation plus 2 percent—the windfall profit for the next decade, 1980–90, will total $831 billion. Current projections now indicate that the windfall profits will in fact exceed $1 trillion because the $30/barrel projection for the next decade is already obsolete.

The President proposed a windfall tax of $296 billion, the revenues to be used for developing alternative sources of energy, energy conservation programs, research and development, and energy assistance to the elderly and low-income. This would leave to the oil companies windfall profits of some $700 billion in addition to ordinary corporate profits.

This windfall profit represents the largest income transfer in the history of the Nation—a vast transfer from the pockets of the American consumer to the profit ledgers of the oil companies. It is a gift to the oil companies which is unrelated to either increased efficiency or increased production. It is a huge unearned benefit that only a monopoly cartel outside the United States could confer upon our domestic oil companies.

The President's proposal was generous—exceedingly so. The Senate bill is $120 billion under the President. That is too much. As a member of the conference committee, I shall work for a compromise to increase the amount of the tax.

I think the windfall profit tax that we are considering in the neighborhood of $178 billion is too small. I, therefore, will be voting against the bill. I would hope, as a member of the Finance Committee and as a member of the conference, to see that amount raised.

● Mr. WALLOP. Mr. President, in many ways a recent column by Gregory Lewis says what many of us have been trying to say about the risk, and determination of independents in the oil business. I ask that the column by Mr. Lewis be printed in the RECORD with my wholehearted endorsement of his perspective.

The material follows:

TWO CHEERS FOR OILMEN

My father is an oilman, and I am unabashedly proud to say so.

This is probably the most unpopular pronouncement I could make, for today, as Americans fill their fuel tanks in preparation for winter, the oilman, once a romantic figure in American lore, is widely perceived as the gangster of U.S. capitalism. Across the land, the very word "oilman" evokes the sinister image of a robber baron in a Stetson hat, a venal plutocrat who chomps on Texas-size cigars, has crude on his breath, a diamond-studded derrick stickpin in his tie and a TV in his limousine so he can watch the news and snicker at everyone else waiting in gas lines.

Of course, this characterization is absurd, but it is nonetheless being used as a rallying cry against American oilmen, corporate and independent. Oilmen are ripping us off, we scream. Oil-company profits are a "national disgrace" and "unearned." Admittedly, these allegations are easy to accept. In the face of dollar-a-gallon gasoline and 85-cents-a-gallon heating oil, we overheat with rage and vilify the oilman, whoever he is. But is this justified?

I didn't care for the first oilman I met. His family lived in Colorado, but he worked in Indiana because there was an oil play there. He spent weeks away from home, often sleeping near a drilling rig in his car, always hoping the drill would find oil that day because he couldn't afford the next day's drilling. His children didn't recognize him as their father when he came home. He was just the man who fouled the air with his nervous chain-smoking, and drank a quart of milk at night to quell his ulcer. I was a child then; the oilman was my father.

DRY HOLES

Sentimental? Not really, because while many of his acquaintances in the early 1950s in Indiana never found oil and went broke, my father played poker with Mother Nature and won. He found oil, and he made a lot of money. But by the late 1950s he was losing. When I was a teenager, the ugliest words anyone could utter in our house were "dry hole," because dry hole meant untold hours spent and thousands of dollars invested without gain. And my father could drill dry holes as well as anyone. In 1956, he drilled 40 wells and found fifteen barrels of oil. Soon after, he contemplated trying something more secure, and briefly owned a small retail store. Although he found comfort in a business without substantial risk, he soon recognized there would never be substantial gain.

By 1960, he was concentrating again on the oil business, this time in Wyoming, with a plan to rejuvenate an exhausted oil field. He wanted to attempt secondary recovery, to drill water wells where the supply of underground water was uncertain, then inject this water back into the ground, gambling that a subterranean flood would untrap the oil he hoped was there. His associates deemed the project impracticable if not impossible. The dollar and time gamble was enormous. But the highly speculative project worked. Five years after he began, the first barrels of secondary oil were pumped from the ground.

Sure, my father made a lot of money, but his rewards were not greater than his risks. And the landowners, who had no risk, made money; and the government, which had no risk, made money; and Americans, who also had no risk, got oil and jobs.

Many children of self-employed men take over their father's business. I, however, have steered away from my father's trade. Actually, there's no business to inherit. Oh, there are a few oil wells, inexorably drying up, and there are a few leads on a few new, risky ventures. There is also so much paperwork that it's driving some independents out of business. And there is the uncertainty, not only about finding oil, but about what government is going to do and when. Independents find 45 percent of American oil. But I don't want to be an independent like my father—still working at age 65, and viewed with contempt.

Whoa, you say; we just hate Big Oil. And you know what? I also am irate at Big Oil. It's been far too smug. Because of its ill-conceived public relations, it has lost the trust of the American people. We detest Exxon for its profits of $1.1 billion in the third quarter of 1979 and, consequently, we ignore its announcement that it paid $6.2 billion in taxes in those three months. We don't want to know that Exxon has invested $3.1 billion so far this year in the search for more energy, and we're yelling "ripoff" so loudly that we haven't heard that Exxon's 1979 proceeds from its U.S. natural-gas and oil operations are up only 2.7 per cent. Did you know that U.S. manufacturing firms (excluding oil) earned 6.6 cents on each dollar of sales in 1979, while oil companies made 6 cents? We're so mad we're blind. Tragically, Big Oil has done little to strip our blinders away.

President Carter calls oil-company profits "unearned." To me, unearned profits are money made from collecting unemployment when you could work, from taking a day of sick leave when you're perfectly healthy. If I'm wrong, then why does anyone in this country work when all we have to do to reap unearned profits is go out and drill an oil well?

MIRROR

There have long been, and still are, controls on the price of domestic oil. But the costs of discovering, producing and refining oil are not controlled, and they have soared. Now that the price of oil has been partially freed to reach fair market values, the government wants to tax that additional money as "windfall profits." Can you imagine a labor leader who, after any period of unilaterally frozen wages, would allow the government to tax the salary increases of his union members as windfall profits?

If you want to blame someone, America, look in the mirror. We are a nation of energy winos, for too long besotted on the cheap high-octane stuff, and irrationally belligerent toward suggestions of temperance. Our national malaise is an energy hangover, and we demand a cure now.

But what kind of cure is it to overfeed Washington's lumbering bureaucratic brontosaurus with oil-company greenbacks?

Without a windfall-profits tax, decontrol would add an estimated $360 billion to Uncle Sam's coffers over the next eleven years, a genuine windfall for big government, and enough for efficient government, to promote energy growth, invest in mass transit and provide energy subsidies for America's indigent. Government should take punitive action against oil-company malfeasance, and it should ensure that oil companies reinvest their earned profits in all forms of energy development. But it should not threaten with demagoguery.

It may be chic to curse U.S. oilmen, but is it sensible? If we fetter the oilmen's incentive to seek oil, it is the sheiks who will have us by the pipelines. We Americans need oil. American oilmen want to find it for us. Their profits are not unconscionable; they are the promise of secure energy future.●

● Mr. JEPSEN. Mr. President, after considerable thought I have concluded that I cannot support final passage of this so-called windfall profit tax bill. I think we have gone much too far in taxing the oil companies, that this tax is going to have a very negative effect on domestic oil production, that it will be in effect a general tax increase on the American people, and that we are probably going to have to undo most of what we have done in a few years anyway, as the error of our ways becomes obvious.

Mr. President, because of the confusing events of the past several days I dug out and read President Carter's original proposal for a windfall profit tax which got this whole thing started. In light of what has happened it is somewhat illuminating.

As you remember, President Carter originally proposed a tax of 50 percent on the difference between the controlled price of oil on April 26, 1979, and the price which oil is allowed to receive under decontrol. At that time the official OPEC price of oil was set at $14.55 per barrel and the weighted average for all world oil was $16.25 per barrel.

Under President Carter's estimates, which assumed an increase in the world of 3 percent per year in real terms—adjusted for inflation—the windfall profit tax would have brought in an additional $9 billion between now and 1982. Another $9.3 billion would come in automatically from existing Federal taxes. Thus we were talking about another $18.3 billion into the U.S. Treasury.

Two things happened after this tax was proposed. First was a dramatic increase in the world price of oil. In December 1978 you could buy a barrel of oil on the world market for $13.80. Today it will cost you approximately $22 on a weighted average basis, with oil selling on the spot market for $30 or more. Thus we have had a 60-percent increase in the price of oil since last December and a 35-percent increase since President Carter announced his tax. This unanticipated increase in the price of oil would have led to a significant increase in Government revenues by itself even without any windfall profit tax at all.

The Congressional Budget Office estimates that with no windfall profit tax at all, under existing tax law, the Federal Government is going to get an extra $197.5 billion in new revenue between now and 1990. We do not have to pass any kind of tax at all and we are going to get $197.5 billion. Well I think that is a pretty big windfall for the Federal Government already. That is almost $200 billion more money than we would have without decontrol which we are going to get automatically even if we defeat the bill before us or just go home for the holidays.

A sum of $197 billion was not enough. The House decided that the Finance Committee could not be trusted to impose a tough enough tax on top of the $197 billion. So the House passed a bill which would impose an additional $245.3 billion tax on top of the $197 billion we were already scheduled to get. Under the House bill the Federal Government would get an additional $442.8 billion beyond what it would get if we just left the controls on, according to CBO.

Incidentally, do not let me forget that the State governments are going to get windfalls too. With no additional taxes they will get an additional $115.1 billion in new revenue. Interestingly, under the House bill they would only get $99.1 billion, the difference being caused by a decline in production caused by the tax.

Anyway, the Finance Committee did its work. And all things considered did a pretty good job. I congratulate them. Unlike our friends in the House they were not interested in blindly punishing the oil companies for having made wise investments. As Senator DOLE has repeated several times, they at least gave some consideration to production incentives. Newly discovered oil was exempted from a windfall tax; heavy oil, which is very expensive to produce, was also exempted, as the President had requested; incremental tertiary oil was exempted; and 1,000 barrels per day of stripper oil from independent producers was also exempted.

In addition, the committee provided tax credits for various kinds of conservation and production measures. But the committee came up with a tax which only raised an additional $118 billion. This was denounced by the President and others as a giveaway to the oil companies, even though total Federal revenues would still increase by more than $315 billion under the Finance Committee bill, including the automatic revenues I have already discussed.

A sum of $315 billion was apparently not enough for many of my colleagues. They wanted more money.

Thus they voted to impose a minimum tax, to impose a windfall profit tax on everyone who produces oil whether or not they are producing oil in exempted catagories, regardless of their costs of production, regardless of how much tax they may already be paying under existing law.

I have listened here while members of the Finance Committee have patiently attempted to explain that the reasons why exempted categories were created is because we will get more production that way. The result is that domestic oil production is expected to be 500,000 barrels per day greater under the original Finance Committee bill than under the House bill. Well I do not think that 500,000 barrels of oil production per day is something to be lightly tossed aside. Just a few weeks ago we passed legislation to spend $88 billion to produce synthetic fuels. A plant of this type which will produce 50,000 barrels per day costs about $5 billion. Thus we are going to have to spend another $50 billion on building synthetic fuel plants just to get back the production we will lose by passing a tougher windfall profit tax bill.

My colleagues talk a lot about the revenue raising effect of imposing a minimum tax or raising the tax on tier 2 oil or other toughening amendments. But have we considered the new expenditures which will be necessary to get back the production we are destroying? We are going to have to spend another $50 billion at least. Has anyone thought about that?

I am inclined to believe that some of them have and they do not care. What they really want to do is destroy the oil companies and substitute Government owned and controlled energy production. They want the people to be dependent upon them, not the private sector, for energy. The result will be that our energy industry, which for years brought us all the energy we could consume at low prices, will be run like the Post Office—or worse, like the Department of Energy. Do we really want the Post Office, which cannot deliver a letter across town in less than a week, or DOE, which has done a splendid job of screwing up almost everything it has touched from the petroleum reserve to the allocation of gasoline, ruining our energy industry? That is what we are going to get unless we provide some incentive for the private sector.

It is really getting beyond my comprehension how we can sit here and vote more and more taxes on the oil industry while continuing to profess a goal of energy independence. My colleagues behave as though the oil industry operates in a manner exactly opposite to that of every other business. Instead of discouraging production, taxes will some how stimulate production. Obviously, this is nonsense. When you put a tax on something, you get less of it. This tax will mean less oil production, and passage of a minimum tax will mean still less production.

I cannot get away from the absurdity of our actions. Here we have hostages being held by Iranian radicals and, as a result, we have had to place a self-imposed embargo on the importation of Iranian oil. How quickly we forget that it was the cutoff of Iranian oil earlier this year that led to long gas lines, the rapid escalation of oil prices, and a great hardship for all Americans. Instead of working toward a situation in which this is less likely to happen, we are putting ourselves onto a path which will make things worse. We are going to be more dependent on overseas oil, we are going to be more vulnerable to price increases, we are going to be in greater danger of unexpected oil cutoffs, and we have no one to blame but ourselves—not student radicals, not fanatical religious leaders, not cold-hearted Arab shieks.

We have the power to control our own destiny, and instead we are cutting off our nose to spite our face. The windfall profit tax bill would be more accurately named as Forbes said on December 10, "The OPEC Act of 1979."

The ultimate absurdity of this misnamed as Forbes said on December 10, impact only on domestic production. We are not taxing Arab oil, we are taxing American oil. The result must inevitably be that we will have more imports.

To my way of thinking, if we want to be less dependent on overseas oil, if we want to be able to stop sending billions of dollars overseas every year to pay for oil imports, if we want to enhance our national security, stabilize energy prices, and once again control our own destiny, then I think we ought to be offering more incentives for production, eliminating regulations, opening up Federal lands for oil exploration, and encouraging the oil companies to find more domestic oil, not placing additional burdens upon them.

It is so easy to be a demogogue, to cast the politically popular vote, to go along with the crowd. Let us face it, the oil companies are the bad guys and the politically expedient thing to do is slap a tax on them. The hard vote is the vote against a minimum tax, against higher tax rates, for production incentives, for energy independence.

Personally, I do not think we ought to cast our votes on the basis of having some personal dislike for a particular industry. We ought to be doing what is right for the country. And the right thing to do is to adopt policies which will produce more energy; not more taxes. We do not need more taxes, we have too many already. We need energy and we ought to have the guts to do what we need to do to get it and not worry about being called pawns of the oil industry by President Carter, a nice man personally but one whose administration has no more idea what constitutes a rational energy policy than the man in the Moon. When it comes to energy issues this administration just does not have any idea what they are talking about.

The truth is that this windfall profit tax is nothing more than a money grab by the U.S. Government. The bottom line is that all the beneficiaries of Government handouts just want the money.

This is obvious from the fact that the Senate twice voted down amendments offered by Senator ROTH to hold taxes and spending to specified percentages of gross national product. They were voted down, because a majority of Senators want to be able to tax more, spend more, and expand the size of Government without constraint.

Furthermore, the vote on the McClure amendment proves that a majority of Senators are not really concerned about windfall profits. Senator McCLURE's amendment would have imposed a 90-percent tax on excessive oil company profits. It would have been a true windfall profit tax, based on actual profits—unlike the present bill, which imposes an excise tax—with an exemption for money reinvested in domestic energy production. If we must have a windfall profit tax to satisfy some insurmountable political necessity, then this is the kind of tax we should have, not the misnamed monstrosity we are working on now.

Why are we so concerned about raising the maximum amount of revenue? Why is all the discussion about the minimum tax, the Danforth amendment, and other so-called toughening amendments always based on their revenue-raising potential? Do we really believe that the oil industry will pay this tax no matter how big it is? Are we totally unconcerned about the incentive to produce oil, the risk associated with oil production, and the massive capital investments needed to produce more oil? Is our faith in Government so great that we want to give it the responsibility for producing our energy instead of entrusting it to the private sector?

Well, I think we are in for a big surprise. I think this tax is going to significantly reduce oil production in the United States. I think that, within a short time, the American people will realize what a con job this whole thing is; that they, not the oil companies, are paying this tax.

The fact is that this tax never would have gotten off the ground if there were not such a gross misunderstanding about the incidence of the tax and its ultimate burden. It is obvious that taxes are not necessarily paid by those upon whom the tax is placed. To determine who actually pays the tax, we must look beyond the statutes to the way people alter their behavior because of the tax. This involves two considerations. First, it must be recognized that in the end, all taxes are borne by individuals. As Prof. Richard Musgrave of Harvard put it in his book, "Public Finance in Theory and Practice":

> Though taxes may be collected from business firms, their ultimate burden must be traced to individual households in their capacity as owners of the firms, as employees, or as consumers of their products.

Second, the burden may not necessarily fall upon those who are assumed to pay the tax. In this case, we are increasing taxes for corporations. Yet, as Dr. Joseph A. Pechman of Brookings has written in his book, "Federal Tax Policy":

> Despite its prominence in the federal revenue system, the corporation income tax is the subject of considerable controversy. In the first place, there is no general agreement about who really pays it. Some believe the tax is borne by the corporations and hence by their stockholders, others believe it depresses the rate of return to capital throughout the economy and is therefore borne by the owners of capital in general. Still others argue that the tax is passed on to consumers through higher prices, or may be shifted back to the workers in lower wages. Some believe that it is borne by all three groups—stockholders, consumers, and wage earners—in varying proportions.

The point I am returning to is that the windfall profit tax represents a general tax increase on the American people. In one way or another, we are all going to end up paying it, whether it is through lower wages for oil company employees, lower dividends for oil company stockholders, higher gasoline prices for consumers, or in reduced availability of energy, slower economic growth, and reduced national security.

I can only assume that my colleagues who have been voting to impose this tax and make it tougher must somehow believe that we are getting a free lunch—hundreds of billions of dollars of tax revenue to enact new programs and buy votes with. Unfortunately, as we all know, there is no such thing as a free lunch and the oil companies are not going to just give us this money for nothing any more than the tooth fairy will. We are imposing an enormous burden not only on the oil industry, which we need desperately to produce the oil we need, but on the economy as a whole. This massive tax burden, coming on top of the legislated social security tax increase and the automatic tax increase caused by inflation pushing people into higher tax brackets, may be all it takes to send our economy right into a tailspin. As a result of our actions, we are not only going to have less domestic energy but higher inflation, higher unemployment slower economic growth, and a reduced standard of living for all Americans.

Mr. President, in conclusion let me just restate my main points:

This bill is not a windfall profit tax, because it does not tax profits. It is an excise tax which must be paid whether an oil company earns a profit or not. As a result the Finance Committee was forced to include a provision in the bill which states that the windfall tax on a barrel of oil may not exceed 90 percent of the net income attributable to the barrel. In the absence of such an amendment the tax could easily exceed 100 percent, when one puts the windfall tax on top of the existing federal corporation tax and State and local taxes. In fact, even without a windfall tax the Federal Government will get windfall taxes from oil decontrol of $197.5 billion between now and 1990 and State governments will get $115.1 billion.

We are deluding ourselves if we believe that this tax will not have an effect on production. When you tax something you get less of it. Even the CBO admits that we would get 300,000 barrels per day less oil production by 1990 under the Finance Committee bill and 800,000 barrels per day less under the House bill. Considering the fact that we will be spending billions of dollars to produce synfuels over the next decade I do not think that these are numbers to be ignored. 800,000 barrels per day represents almost 10 percent of expected 1990 production.

I do not really think that the American people want this tax. We have enough taxes. What we need is more oil, and we ought to do what is necessary to get it. This tax works in the opposite direction of energy independence.●

Mr. McCLURE. Mr. President, is it in order to offer an amendment to the title?

The PRESIDING OFFICER. Not until the bill is passed.

Mr. McCLURE. I thank the Chair.

The PRESIDING OFFICER. If there are no further amendments, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

Mr. McCLURE. Mr. President, I just want to inform the Members that I will offer an amendment to the title.

Mr. LONG. Mr. President, I hope the Senators will remain. I do not know what the amendment to the title might be, and it might require a rollcall.

Mr. ROBERT C. BYRD. Mr. President, there will be another rollcall vote on an amendment to the title.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that that the Senator from Kentucky (Mr. HUDDLESTON) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 74, nays 24, as follows:

[Rollcall Vote No. 496 Leg.]

YEAS—74

Baucus
Bayh
Biden
Bradley
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Durenberger
Durkin
Eagleton
Exon
Ford
Glenn
Hart
Hatfield
Hayakawa
Heflin
Heinz
Inouye
Jackson
Javits
Johnston
Kassebaum
Kennedy
Leahy
Levin
Long
McGovern
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schweiker
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tsongas
Warner
Weicker
Williams
Young

NAYS—24

Armstrong
Bellmon
Bentsen
Boren
Boschwitz
Cochran
Domenici
Garn
Goldwater
Gravel
Hatch
Helms
Hollings
Humphrey
Jepsen
Laxalt
Lugar
McClure
Nelson
Schmitt
Simpson
Tower
Wallop
Zorinsky

NOT VOTING—2

Baker
Huddleston

So the bill (H.R. 3919) as amended was passed.

Mr. LONG. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, this vote for passage of the windfall profit tax represents an important, indeed a momentous occasion. Months ago, when the concept of a windfall tax was first proposed by the President, political commentators pronounced the measure dead, claiming that Congress would never impose such a tax upon the oil industry. But instead, this vote will result in passage of the largest single tax bill ever approved by the Congress. It is a bill which will produce energy. It is a bill which, above all, is fair and equitable to the American people.

This legislation was extremely complex and controversial. Emotions have run high during this debate. We have attempted to fashion a windfall tax which will promote the exploration, development and production of domestic petroleum resources, while remaining cognizant of the heavy burden imposed on the American people by the rapidly escalating costs of energy. This legislation has been shaped under the shadow of our continued dangerous dependence on foreign oil. While 50 hostages are being held illegally in Iran, the Senate has acted responsibly to assure our economic and national security through the development of our own energy resources.

It is often said that politics is the art of compromise. Nowhere was that more evident than in the extended negotiations among Senators which took place over the past several weeks. The Finance Committee bill was viewed as a good starting point by many, but substantial increases in the revenues to be raised by the tax were strongly urged by a number of Senators. Others, just as vigorously, opposed any increase in revenues and, in fact, contended that oil production would be stifled by any tax. This bill reflects a balance between those conflicting viewpoints, hammered out in the truest sense of compromise.

The American people should know, however, that they have not been compromised. This bill contains important benefits for all our citizens and insures that our national investment in energy independence will be made in the broadest possible sense. We have not sought to punish the oil companies. Rather, we have recognized the limited ability of the oil companies to apply all the windfall revenues to exploration and development. The increased revenues raised by the bill will be applied to urgent and necessary public purposes.

This is the 21st day of debate on this legislation. During that time, many Senators have devoted untold time and effort to this bill. At great personal sacrifice, Senators have spent hours and hours following this legislation on the floor and working behind the scenes to resolve the strong differences of opinion which existed among Senate Members. I am extremely grateful for their efforts, and believe that such dedication is one of the reasons why the Senate stands as this Nation's greatest deliberative body.

Above all, the chairman of the Finance Committee is to be commended. At a time when some said that the committee would never report a windfall tax bill, the distinguished chairman was working to insure that such legislation was produced. He guided the lengthy committee debate with his usual patience and humor and produced a bill which provided the proper framework for the ensuing Senate debate. He was willing at all times to listen to the concerns and interests of others who held opinions at times contrary to his, and worked to forge the compromise which resulted in this final legislation. He is to be commended and congratulated for his outstanding leadership.

I must especially comment upon the efforts of the distinguished junior Senator from New Jersey (Mr. BRADLEY). He has repeatedly demonstrated a mastery of the complex issues involved and the ability to effectively represent his interests and those of his constituents. His perseverence has won the admiration of all his colleagues and he has shown qualities of leadership far beyond his brief tenure in the Senate.

Other Senators must also be singled out for their important contributions to this bill. As members of the Finance Committee, the distinguished Senator from Connecticut (Mr. RIBICOFF), the distinguished Senator from Wisconsin (Mr. NELSON) and the distinguished Senator from New York (Mr. MOYNIHAN) lent their expertise to the committee deliberations and labored long and hard to break the impasse on this bill. As always, the wisdom of the distinguished chairman of the Budget Committee (Mr. MUSKIE) added significantly to our discussions. Finally, the insightful contributions of the distinguished chairman of the Energy Committee (Mr. JACKSON) and the distinguished Senator from Arkansas (Mr. BUMPERS) are to be commended.

On the other side of the aisle, I must commend the distinguished Senator from Kansas (Mr. DOLE) for his outstanding work in managing this bill. As ranking member of the Finance Committee, his dedicated efforts and expertise greatly contributed to this legislation. Together with the distinguished acting minority leader (Mr. STEVENS), they exemplified the spirit of cooperation and fairness which was necessary to achieve this result. Their leadership is to be commended and congratulated.

This windfall profit tax bill imposes a windfall profit tax on domestic oil producers and royalty owners to offset the decontrol of domestic oil prices implemented by the President. Over the period 1979–90, this tax will raise total revenues of $178 billion. To encourage greater oil production, some stripper oil and the first 1,000 barrels per day of independent production has been exempted from taxation. The Senate clearly, however, expressed its will that a minimum tax should be imposed upon other categories of oil, including newly discovered, incremental tertiary, and heavy oil. Such a minimum tax will have a nominal production effect but will go a long way toward making this bill meaningful to the American people.

This legislation also includes $3 billion for fiscal year 1981 and $4 billion for fiscal year 1982 in authorization for grants to low-income people for energy assistance.

An amicable resolution was achieved by the distinguished chairman of the Finance Committee (Mr. LONG) and the distinguished chairman of the Labor and Human Resources Committee (Mr.

WILLIAMS). Both committees had done a great deal of work on this very important issue. However, it was determined by the two chairmen that the approach developed by the Labor Committee should be included in this bill and that the Labor Committee should retain jurisdiction over the program.

I thank these two gentleman for their cooperation, which was in the interest of the poor and elderly who are suffering the most from high energy prices.

The authorization contained in the bill does not cover the $1.35 billion appropriated in the Interior appropriations bill for fiscal year 1980. This program was funded prior to passage of this authorization bill due to the approaching winter. As one of the authors of the amendment which funded the program for fiscal year 1980, I am very proud of the Senate's commitment to assisting the poor with skyrocketing fuel costs.

The legislation provides for the use of a portion of the windfall revenues to encourage conservation, primarily through a variety of residential energy and business investment tax credits. Consumers' tax credits are provided for installation of energy efficient furnances or heat pumps, storm windows, insulation and other energy conservation equipment. Additional tax credits are allowed for renewable energy source equipment, including solar and wind installations. These credits will make a host of alternatives available and affordable to the consumer and will mark a significant step toward achieving energy independence.

The committee substitute includes a coordinated package of energy investment credit incentives to encourage the development of additional energy resources other than oil and gas, to encourage energy conservation and to enhance incentives which were provided under the Energy Tax Act of 1978. These incentives take the form of new categories of energy equipment which are eligible for the tax credits, increased rates of energy credits and extension of the effective period for such tax credits where new technologies mandate such consideration. This scheme of tax incentives, together with the comprehensive energy production program incorporated in the synthetic fuels bill, provides a blueprint for reduced dependence on foreign oil.

Finally, the Finance Committee bill provided $15 billion over 10 years for the development of mass transit. Although it was the consensus of the Senate that a special trust fund should not be created for this purpose, the revenues raised by this bill will surely be available for increased investment in this critical area. Energy efficient transportation systems are a key weapon in the battle to achieve energy self-sufficiency.

Much hard work remains to be done. House and Senate conferees will soon be meeting in an effort to resolve the differences between the House bill and Senate bill. This conference will not be easy and strong opinions still exist on several key issues. Many Senators who are voting for this bill are hoping that the revenues raised by the tax will be significantly increased in conference. It is the hope that this conference will act expeditiously so that this critical legislation may soon be signed by the President.

Mr. President, this bill is an important step toward energy independence. In this atmosphere of heightened concern for our national security, this legislation will go a long way toward insuring our Nation's future. We must make this investment if we are to reap the dividends in the decades to come.

I urge the Senate's adoption of this legislation.

Mr. STEVENS. Mr. President, the Senate has been considering the windfall profit tax bill, H.R. 3919, for almost 5 weeks now. Today marks the 24th business day that it has been pending on the Senate floor. This does not even take into consideration the number of weeks and days it has preoccupied the Senate Finance Committee during its deliberations. I venture to guess that all told, the Senate has spent over 3 months in consideration of this measure. And there will be many more hours committed to this legislation once it goes to conference with the House.

These past few weeks have been particularly difficult for all Members of the Senate, but those of us who are not on the Finance Committee should consider the plight of our colleagues who have devoted so much time and effort toward assuring final passage of this important legislation. Each member of the Committee on Finance has had to make a number of sacrifices in order to expedite consideration of this bill and they deserve our thanks and praise at this time.

There are two people who, above all others, have given absolute priority to passage of this bill. They are the distinguished chairman of the Finance Committee (Mr. LONG) and our ranking member, Senator BOB DOLE. My friend and colleague, the majority leader, has commended the able chairman for his commitment to this cause. Let me add my personal thanks to Senator DOLE, for without his leadership anl protection of Members on our side of the aisle, the vote taken earlier with respect to cloture might have prevented this moment from coming at all.

Throughout this long and grueling debate, the Senator from Kansas has stood on this floor and kept a watchful eye on all proceedings to insure the protection of all minority Members. He has been most cooperative in helping each of us get our opportunity to have amendments considered, even if he did not endorse the substance of the amendment. In addition, many of us realize that he has made a tremendous sacrifice by staying in Washington to oversee the handling of this bill, rather than going off to campaign in his bid for the Presidential nomination.

I commend all members of the Finance Committee for their diligence in this effort. Senators PACKWOOD, ROTH, DANFORTH, CHAFEE, HEINZ, WALLOP, and DURENBERGER have all made major contributions to the bill and the final form it takes reflects the sincerity of their concern for the positions they have represented. Senator DANFORTH had a difficult task in presenting his arguments for an amendment of great controversy. Yet he did a terrific job in making his case and keeping a cool head throughout the sometimes heated debate. He has proven to be a conscientious, hard-working young member of the committee and we will continue to hear from him, of that I am sure.

Let me also take this opportuntiy to commend the staff of the Finance Committee, both majority and minority, for the excellent job they have done in assisting Senators on this bill. Particular thanks go to Bobby Shapiro and Mike Stern of the majority staff. They have been most helpful throughout the debate. On our side, Bob Lighthizer, Jack Nutter, and Rod DeArmand have done yeomen's work on the bill and I think they know we have all appreciated their dedication and hard work.

Finally, my personal thanks to all Republicans for their patience and cooperation. It has been a long, tiresome month but I think we are all satisfied that this bill has been given due hearing.

The majority leader has been, as usual, a gentleman in trying to expedite the work of the Senate and I thank him for his patience under very difficult circumstances. Tempers have flared on this controversial bill, but when the dust settles, I believe all of us will appreciate the effort that has been put forth on this, the most expensive tax bill ever.

The PRESIDING OFFICER. The clerk will report the amendment to the title.

The second assistant legislative clerk read as follows:

> An act to impose a windfall profit tax on domestic crude oil, and for other purposes.

Mr. HELMS. Mr. President, the Senate has just voted to assure that the American people will be paying $2 a gallon for their gasoline within the next year or so.

I voted against the so-called Crude Oil Windfall Profit Tax Act of 1979 because the energy supply situation in the United States today is already dangerous and we should be doing everything possible to increase, rather than decrease, domestic oil production.

However, instead of promoting an energy policy to increase production, the administration has promoted and the Senate has approved an excise tax on production which, when passed by Congress, will result only in fewer wells drilled and ultimately in a reduction in our own oil output. The American people, as a result of this legislation, might as well brace themselves for $2 a gallon gasoline within the next year or so.

The primary goal of decontrolling domestic crude oil prices was to increase production—a goal we should all support. Reliable estimates show that without the so-called windfall profit tax the reinvested revenues from decontrol would produce an additional 4 million barrels per day of oil by 1990 above that which would have been realized with continued controls. Needless to say, this additional supply would assume a critical role in meeting this Nation's energy requirements during the next decade—except for the fact that Congress is on the verge of taxing a large portion of it away.

This tax will be a windfall for the big spenders in Congress and in the Federal bureaucracy. It will diminish the increase in domestic production by at least 1 million barrels per day. Under the House-passed version, the reduction in domestic oil production will be about 2 million barrels per day. These are not insignificant figures, especially when we consider that the shortage that led to long gasoline lines earlier this year was less than a million barrels per day.

Obviously, this is not the result the American people desire. They want increased supplies of petroleum products without outrageous increases in prices. They want our Nation's reliance on OPEC lessened.

Yet, even while U.S. officials are urging the Saudis and other OPEC producing nations to maintain their current production levels to meet our import needs, Congress—at the urging of the administration—seems prepared to enact a tax that will guarantee less domestic production over the next decade. This flies directly in the face of commonsense, sound economics and the national welfare.

With all the talk about windfall, we ought to realize that the oil industry's profits are not out of line with other industrial profits in the United States and that the greatest windfall is going to accrue to the Federal Government through increased tax revenues. Existing Federal income tax laws with the present decontrol program and without a windfall profit tax would provide all the additional revenue President Carter claims he needs for synthetic fuels development and his conservation and social programs. The additional profits extracted by the Government under this bill will simply be unavailable to private industry for investing in the search for more oil here in America.

Our country's economic well-being is jeopardized because of our heavy reliance on imported oil. Each American energy program should therefore be subjected to one simple test: Does it reduce or increase our dependence on insecure foreign sources of energy?

The estimates that have been provided to us clearly show that the pending windfall tax fails this test. This additional tax on crude oil production would reduce the net returns and therefore reduce investment. Billions of barrels of domestic oil that could be economically produced at decontrolled prices are likely to be left in the ground.

The United States is spending about $60 billion a year on imported oil—almost half of our petroleum supplies. The foreign oil sources, by any current analysis, are growing more uncertain as American dependence on them increases. The national interest requires greatly increased investment in production of domestic energy. The windfall profit tax bill will deprive the petroleum companies of the capital needed for this additional domestic investment.

Enactment of the tax will reduce domestic production, increase our dependence on OPEC and encourage future OPEC price increases. I cannot lend my support to an effort that simply raises revenue for more government bureaucracy while crippling efforts to expand domestic oil production.

● Mr. STEVENSON. Mr. President, the OPEC current account surplus will exceed $80 billion this year. It may reach $100 billion in 1981. These surpluses are balanced by growing deficits in the oil consuming nations.

National insolvencies are looming. U.S. trade continues in deficit. The exchange of our working assets for foreign oil to burn continues. The dollar sinks. The price of gold has hit record high levels, as investors diversify out of currencies. The cost of imports, including oil, rises as the dollar declines, causing inflation. With payments deficits epidemic and no stable reserve currency, the international monetary system is subjected to instabilities and stresses which reduce levels of international investment and commerce and threaten a wave of protectionism.

U.S. gasoline stocks have declined to precarious levels. It is probable that less oil will be produced in the world next year than this. Our vulnerability to supply curtailments grows, and so does the possibility of such curtailments in the unstable Middle East.

Mr. President, the world already faces economic disorders and political instabilities more serious than those of 1973 and 1974, and today the OPEC oil ministers meet to consider higher oil prices and lower production levels. The United States does little to save itself.

The synfuels bill will bring no significant additions to energy supply until the 1990's, if then. The legislation before us, coupled with decontrol of wellhead prices, will cause recession and inflation. Its implications for energy production and conservation are problematical, and, in any event, it will not produce relief in the near future.

The alternative to immediate action by the United States is inflation, recession, unemployment, and political upheaval on a global scale—and the action most capable of significant near-term results is action to decrease the country's profligate consumption of gasoline. The U.S. consumes over 17 million barrels of oil per day, of which about 7 million barrels are for gasoline. The U.S. burns more gasoline than all the other non-Communist nations combined.

Mr. President, I have offered an amendment which would reduce the consumption of gasoline in the United States. If approved, it would signal, for the first time, the country's determination to conserve energy. It would strengthen the forces of moderation at the oil ministers meeting in Caracas.

This amendment would impose a 50-cent-per-gallon Federal excise tax on gasoline. Commercial, including agricultural, users of gasoline would be exempt from the tax.

The amendment would produce substantial revenues without imposing a drag on the economy, and it would save substantial amounts of petroleum. Because of its exemption for commercial uses of gasoline, it would add little to the cost of producing goods and services. Its long-term implications are both deflationary and expansionary.

The Congressional Budget Office estimates that this tax would produce $39.6 billion in revenues in 1980 and similar amounts in succeeding years. These revenues would be unencumbered by trust funds, reserve accounts and similar mechanisms which preordain patterns of Federal spending. Congressional authorizing and appropriating committees would not be precluded from adjusting priorities to changed circumstances.

Without such action as this the American people will pay higher energy prices and, with continued stagflation or worse, a higher price for the Nation's economic decline and insecurity in an unstable world. By the means I propose, the country will pay the oil tax into the Federal Treasury, instead of Middle East coffers. By this measure the trade deficit would be diminished, the dollar strengthened, inflation abated, and the national security enhanced by a significant reduction of our dependence on undependable foreign sources of energy.

This amendment would have an initial inflationary effect, for the most part nonrecurring. The President's Council of Economic Advisers has calculated that a 50-cent tax might add 2 or 3 percent directly to the Consumer Price Index and another 1 or 2 percent indirectly. However, this analysis assumes that businesses and farms would be subject to the tax and would pass forward resultant fuel cost increases to consumers.

Since this amendment exempts gasoline used for commercial purposes, these short-term inflationary effects would be much smaller than those estimated by the Council. The amendment would add nothing directly to the cost of producing goods and services. In fact, by suppressing noncommercial demand for gasoline, it would reduce gasoline prices to commercial users, and assure the availability of their gasoline supplies.

The inflationary results are limited to a one-time effect in the Consumer Price Index and a modest indirect effect caused by the CPI's effect on indexed wages. Furthermore, some evidence, such as this, of action at long last by the United States would have an immediate stabilizing effect on prices. The dollar would firm up, reducing the cost of imports, including oil. Reduced export prices would reduce domestic prices. The inflationary consequences of a declining dollar would be reversed by the immediate psychological impact upon a world which doubts our resolve and by the effect of reduced oil imports on the balance of payments.

The revenues generated by the tax could be used to reverse any adverse effect of higher gasoline prices. These revenues could be used to reduce payroll taxes. They could be used to stimulate capital formation and improved productivity through tax cuts for business. They could be used for mass transit, the rehabilitation of railroads and for aid to States and localities. They could be used to finance relief for the poor and to increase energy supplies through more production and conservation efforts. This tax would relieve the pressures on the Federal Reserve Board to pursue a harsh monetary policy which threatens recession. If the Congress did nothing with the revenues, the budget would be in surplus.

The amendment offers no panacea, but it would produce an immediate and significant reduction in the consumption of gasoline. The Congressional Budget Office conservatively estimates that this tax would immediately save 272,000 barrels of oil per day. It hits gasoline consumption where it is most wasteful, nonproductive and most sensitive to increase in gasoline prices.

The CBO figures conservatively that the near-term price elasticity of gasoline used for primarily noncommercial, nonfarming purposes is −0.15. That is, for each percentage increase in the price of gasoline, noncommercial consumption of gasoline is estimated to decline by 0.15 percent. Commercial uses decline at substantially lower rates. I understand that administration projections assume a short-term price elasticity of −0.2 percent for commercial and noncommercial uses, an assumption in line with findings compiled by the American Petroleum Institute. If the administration's assumption is correct, this tax would conserve substantially more oil than 272,000 barrels a day.

This amendment would curtail the wasteful burning of significant quantities of gasoline. Long-term savings would be more dramatic because increased gasoline costs would stimulate increased use of mass transportation, more rational residential patterns and accelerated development and use of fuel-efficient vehicles.

Finally, Mr. President, rationing is difficult and expensive to administer. This tax is not. It could be implemented almost immediately because it would be levied in the same manner as the 4-cent tax imposed by current law. Collection procedures would be the same, except that receipts from the 50-cent tax would be placed in general revenues. Farmers who burn gasoline for farming purposes would continue to enjoy a full exemption from gasoline excise taxes. Commercial users would be exempt from the 50-cent tax, and this exemption would be provided in the same fashion now used to implement the farming exemption: initial payment of the tax followed by a dollar-for-dollar rebate. "Commercial uses," as defined in the amendment, would be uses that qualify as deductible business expenses for Federal income tax purposes. No deduction would be provided for payment of the 50-cent tax; the deductibility criterion would merely establish, in a tried and tested way, the perimeters of the commercial exemption.

Mr. President, the world watches as America procrastinates. It is a world accustomed to paying much more for its gasoline than we do. The French pay gasoline taxes of $1.69 per gallon, while the West Germans pay $1.15.

The American public is impatient with a Government that year after year fails to act upon the deteriorating conditions caused by its inaction. Those of us who have supported increased gas taxes for many years are evidence that the public is ahead of the politicians on this issue. Action on the energy crisis is a duty neglected to the peril of the country and those who seek election to its leadership. No other effective action is feasible for the short run, except rationing—and that is a complex and costly alternative made difficult by restraints Congress has placed upon the President. Import fees would cause inflation and recession with a relatively small impact on consumption.

Mr. President, I recognize that the Senate has voted to invoke cloture and that the Parliamentarian has ruled this amendment nongermane. In these circumstances its adoption is impossible, and I do not propose to take up the Senate's time in a futile debate over procedure. I will press this issue again. I regret that the Senate is unwilling now to take some action against those in Iran and at Caracas and elsewhere who draw us for lack of resistance toward a cataclysm.●

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I have a title amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> The Senator from Idaho (Mr. McClure) proposes an amendment:
>
> On page 37, strike lines 13 and 14 and insert in lieu thereof the following:
>
> (a) Short Title—This Act may be cited as the "Domestic Oil Production Excise Tax of 1979."

Mr. McCLURE. Mr. President, I ask unanimous consent——

The PRESIDING OFFICER. The Senator has sent an amendment to the bill as opposed to an amendment to the title.

Mr. McCLURE. Mr. President, the title appears at the appropriate place referred to in the amendment. That is the exact spot that it appears in the text of the bill.

The PRESIDING OFFICER. The short title is not the title of the bill. The Senator may send an amendment to the title to the desk.

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> The Senator from Idaho (Mr. McClure) proposes an amendment:
>
> At the appropriate place strike the Short Title and insert in lieu thereof the following:
>
> (a) Short Title—This Act may be cited as the "Domestic Oil Production Excise Tax of 1979."

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> The Senator from Idaho (Mr. McClure) proposes an amendment:
>
> At the appropriate place strike the Short Title and insert in lieu thereof the following:
>
> "Domestic Oil Production Excise Tax of 1979."

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I indicated earlier that there might be a rollcall. It is not my intention to have a rollcall.

Mr. ROBERT C. BYRD. If the Senator presses this amendment there will be a rollcall, I am sorry to say.

Mr. LONG. Mr. President, a Senator cannot amend the short title after the bill has been passed.

Mr. McCLURE. Mr. President, I sent the amendment to the minority floor manager of the bill to indicate what I was intending to do with respect to the title of the bill. I might say to my friends who are concerned with what the amendment might be, I am not just playing games. The amendment is to change the title of the bill to the Domestic Oil Production Excise Tax of 1979. That I understand to be exactly what we are doing.

There are some of us throughout the debate, up and down, who have talked about excise taxes. There are some who have been talking about windfall taxes. This bill is neither a windfall tax nor a profits tax. It is an excise tax.

I think if we were to subject our bill to the Truth in Labeling Act we would find that it would have to be amended before it could be packaged and sent through the mails because to call it the windfall profit tax is obviously not correct. To call it a domestic oil production excise tax is correct.

Mr. President, I noted, when I gave a copy of the amendment to the majority floor manager of the bill, the distinguished Senator from Louisiana, that he immediately objected and some of his staff immediately objected by saying, "Well, the acronym of the Domestic Oil Production Excise Tax is DOPE," and indeed it is, as a matter of fact. The title is a dopey title for a very serious bill. It is just as easy to get hooked on a massive tax and the spending it will generate as it is to get hooked on dope of another variety.

It was then suggested we strike "Production" and it would read "domestic oil excise tax."

Then some of the people who are proponents of the bill, who would really rather package it and fly it under false colors, say, "No, we will not take that amendment either because we want it to be known as a Windfall Profit Tax. That has some kind of a ring of truth and veracity to it." As a matter of fact, it has neither the ring of truth nor veracity.

I would have agreed to a change in title to "domestic oil excise tax."

I might ask the managers of the bill if they would accept an amendment to the title that simply reads "crude oil tax." That is the title on the hearings that have been conducted by the Finance Committee on this bill. I would accept that as a substitute for the change I am seeking.

Mr. LONG. Mr. President, the words "windfall profit tax" on domestic crude oil go all through the bill. If one starts reading on page 37 and then proceeds to just go through section by section he will find the title and reference all through the bill.

If the Senator wanted to change the title, he would need to amend the bill in a great number of places, throughout the entire bill. All that passed so we cannot change that. It is all there inside the bill. It is not in conflict because the House in their bill have the same title, the same language.

Under the circumstances, Mr. President, to try to amend it now is to try to amend something that has been passed, that has been reconsidered, and the motion to reconsider laid on the table.

I would plead with the Senator to withhold this matter. If he was going to raise it, I wish he had raised it sooner. While of course he has a point, I would urge the Senator not to insist on this at this point because if it were to be done it should have been done earlier when we could have amended the bill throughout in the many places.

Mr. McCLURE. Mr. President, I suggested earlier that I amend the title and the Parliamentarian advised me that I could not do that until the bill was passed.

As a matter of fact, a little later, I then tried to submit the amendment and I was told, "Now it is too late; you should have done it before, because that is an amendment to the short title, not an amendment to the title."

So it has been drafted as an amendment to the title.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. McCLURE. I yield to the Senator from Kansas without losing my right to the floor.

Mr. DOLE. I just want to say, it is an excise tax. In fact, we made that point repeatedly for about 5 weeks in the committee and about 85 hours of markup. The Senator from Minnesota (Mr. DURENBERGER) offered that amendment in the Senate earlier. It was changed around. Notwithstanding that "windfall profit tax" is used throughout the bill, I think most of us know it is not a windfall profit tax. It probably would not be approved by the Federal Trade Commission as truth in advertising or truth in labeling. I hope that, at this late date, preparing to go into conference on Wednesday, the Senator from Idaho will not press the amendment.

I shall be glad, in conference, to mention every day that the Senator from Idaho thought this should have been named the Domestic Oil Production Excise Tax of 1979 and it would read "The DOPE Tax of 1979."

Mr. McCLURE. Mr. President, I shall take the Senator from Kansas at his word. I expect him to do just that.

Mr. DOLE. I hope I do not have to do it too often.

Mr. McCLURE. Mr. President, let me say further that, while we in this body may know that it is an excise tax, the American public does not. While we may know that it has nothing to do with profits, the American public does not. And while we may know it has nothing to do with windfall except a windfall of revenue to the Government, the American public does not. I think, frankly, that the amendment to the title ought to be adopted so that the American public would know clearly and distinctly what it is that we are talking about in this bill.

I understand that the hour is late and I have already abused the sensibilities of my friends in this body if, indeed, they have any left at this late date, and I am not going to insist upon my amendment nor a vote thereon. But, Mr. President, I do wish that we could have had at least the agreement to change it to what the Finance Committee hearings say it is.

Mr. President, I withdraw my amendment.

The amendment was withdrawn.

The PRESIDING OFFICER. Without objection, the committee title amendment is agreed to.

The title was amended so as to read:

An Act to impose a windfall profit tax on domestic crude oil, and for other purposes.

Mr. LONG. Mr. President, I move that the Senate insist on its amendments to the bill H.R. 3919, and request a conference with the House thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. STONE) appointed Mr. LONG, Mr. TALMADGE, Mr. HARRY F. BYRD, JR., Mr. NELSON, Mr. GRAVEL, Mr. BENTSEN, Mr. MOYNIHAN, Mr. DOLE, Mr. PACKWOOD, Mr. ROTH, and Mr. DANFORTH conferees on the part of the Senate.

Mr. LONG. I ask unanimous consent that the bill (H.R. 3919) be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes today.

Mr. DOLE. Mr. President, may I take just 1 minute?

Mr. ROBERT C. BYRD. Mr. President, if I may have the floor, I yield to the distinguished Senator from Kansas (Mr. DOLE).

The PRESIDING OFFICER. Without objection, the Senator from Kansas is recognized.

Mr. DOLE. Mr. President, I want to take 1 minute to thank our colleagues on both sides of the aisle. I have been told that we have been on this bill for 150 hours, 24 days. That is a long time. I believe that, though it is probably not the bill any of us would have liked to draft ourselves, and pass through the Senate, it does represent a lot of give and take by Members on both sides, the Members from producing and nonproducing States, Democrats and Republicans.

I also want to thank the Joint Tax Committee staff and the majority and the Republican staff, and all those who have participated in the debate. I think it has been constructive.

Finally, I want to thank the distinguished chairman for his leadership and the members of the Finance Committee on both sides, and the majority leader and the acting minority leader, for their efforts.

Mr. ARMSTRONG. Mr. President, I join in complimenting the distinguished managers of this bill. Though I disagree with it in its final form and voted against it, I think they have set an example of patience and legislative skill and endurance which is a service to all of us. If I may have the attention of the distinguished managers of the bill and also the majority leader, I do want to make one point that affects the future of the bill more than the 5 weeks of consideration we have had.

I hope that after the very lengthy and exhaustive debate that we have had, when the managers take this bill to conference and bring this very complex piece of legislation back to the floor, Senators will be permitted to have several days to study the printed conference report before we are called upon to vote on it. I have already discussed this concern privately with both the distinguished majority manager and the minority manager of the bill. I have discussed this concern on the floor previously with the majority leader and both on the floor and privately with the acting Republican leader, but I wanted to share it with all of my colleagues.

Because this is a bill of such enormous import to the future of the country, it would really be a shame if, when the conferees have gone over the bill, when they have had a full and, I am sure, very difficult conference resolving all of the questions that have been raised in both Houses, it came back and we did not have adequate time to consider it. On some occasions in the past, that has happened. I just wanted to express that concern before the Senate, and for the benefit of my colleagues, make it known, as I did on the floor the other day, that it will be the purpose of the Senator from Colorado to oppose, just as a matter of principle, the conference reports on any bills which come back on which we do not have a printed conference report available for the study of Senators for at least 2 calendar days prior to their consideration.

I stress that that is not related just to this bill. It applies to the Chrysler bill, and it applies to other bills on which there may be conference reports. I stress that I do not bring this up tonight for the first time, but only because it is timely at just this moment.

I should like to add this footnote: I believe I first raised this concern with my colleagues in January of this year. I have raised it on a number of occasions since, and I want to point that out, because the moment may come later this week when someone will feel it an inconvenience to scrupulously observe this protection of the right of all Senators. I feel that might happen. That is why I wanted to raise it.

I point out that all year long, we have been scrupulous in observing the 3-day rule, the right of Senators to speak, and the right of Senators to offer amendments. Sometimes, in some years past, the Senate has permitted, on the very last day of the session, even in the closing hour of the session, hard-fought battles to be reversed. In the closing hours of a session, rights which have been jealously protected for a whole year are sometimes permitted to go down the drain. I hope that will not happen in this case. I am sure that the managers of the bill, and others, share the concern I have expressed.

I just wanted to get that out on the table here tonight and to encourage the conferees to bring us a report at any early date so we may look at it.

Mr. LONG. Mr. President, I suggest to the Senator that if we can, we shall comply with what the Senator is suggesting. But this is the 17th day of December. There are a lot of Senators who hope to go home for Christmas, and hope they will not have to come back.

If we are able to move expeditiously and to resolve our differences efficiently and promptly in conference, the Senator is certainly privileged to sit as an audience and hear the conference and discuss the decisions with colleagues as they are made day by day.

I hope the Senate, if it wants to go home for Christmas, will try to vote on this measure by Christmas. For all I know, we might still be in conference by Christmas. If that is the case, we might say that all bets are off, anyway, and we may have to go over until next year.

But I would hope that this matter could be presented to the Senate for a vote prior to that time.

That being the case, I hope perhaps we can keep the Senate informed day by day of the decisions being made in conference.

We now have open conferences. I see the distinguished Presiding Officer nodding at that point because the able Senator from Florida (Mr. Stone) has been one who campaigned for the idea of openness, open conferences, open everything. Let the sun shine in and, thereby, know what is going on.

So that it may be, the Senate may well understand what was done.

But, of course, Mr. President, the Senator certainly, if he insists, can make us take whatever time he wants to make his case.

Mr. ARMSTRONG. Will the Senator yield for a moment?

Mr. LONG. Yes.

Mr. ARMSTRONG. I would like to make it plain that I am one of the Senators who have plans to go home for Christmas. I happen to be going to a part of my State where we have to have airline reservations 8 months ahead. I have those reservations. If we go beyond Thursday, night, I am going to miss a trip that is very meaningful in my family. I hope that does not happen.

So I am not insensitive to those concerns which I am sure are shared by many Members of this body.

But, Mr. President, I say to the distinguished Senator from Louisiana, the floor manager, this legislation is more important than the convenience of the Senator from Colorado or of other Senators.

I think there will be many Senators, I say to the manager, who feel as I do. We want to get out of here and go home. But it is far more important that we complete our work in an orderly way.

I say to the Senator that it is not enough to say "We will keep you informed," or even that "You can sit in the conference" because, like other Senators, I am also a conferee. In fact, I am sitting on two committees, running around the clock.

The only orderly way for a Senator to know what has been accomplished in a conference committee is to read the written report of the conference.

In fact, we are all really the captive of our staff. What I really mean is that I have to have time for my staff to read that report because, obviously, none of us can really remember all this technical discussion. My staff has to have an opportunity to call certain people outside the Senate because, particularly in a bill of this complexity, we are talking about provisions not readily understood from the conference report.

Let me emphasize to the Senator that nothing is further from the desire of the Senator from Colorado than to hold the Senate in session even a second beyond Friday night. I want to do all I can to further the work of the Senate.

I have not been on the floor and among those who have spoken at length on this, or offered numerous amendments. But I say that this is an important matter of principle, and I believe many share this concern.

Let me also point this out. This bill will be just as timely for action on the conference report when we return, hopefully, January 22, or whatever date has been agreed upon. Unlike, perhaps, some other legislation, there is nothing about that requiring action before the end of this week.

So I hope the conferees, if unable to give us a conference report well ahead of the end of this week, would perhaps think well of convening past Christmas and bring it to us in January.

I thank the Senator for his patience.

Mr. LONG. Mr. President, I do not recall the exact quotation. I am not that great a Bible scholar to recall precisely. But I will be glad to get the correct one and provide it. But I believe The Master said to take no thought for tomorrow, or tomorrow's morrow, that each day's worry be enough for that day.

At 9:15 p.m. today, after working on this bill for 24 days, as far as I am concerned, I am satisfied to let this day's work be enough.

I will keep in mind what the Senator said.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business not to extend beyond 15 minutes and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR BURIAL OF ELIZABETH MYERS McNEIL

Mr. THURMOND. Mr. President, I wish to take up an urgent private relief in behalf of Mrs. Elizabeth Myers McNeil, who passed away on Friday, December 14, 1979, in Columbia, S.C.

Mr. McNeil's husband, Winford McNeil, who was a World War I veteran, died in 1939. Mr. McNeil was buried at the Veals Chapels Cemetery on Government property at Fort Jackson.

Mr. President, it was the hope of Mrs. McNeil to be buried next to her husband. The family of the McNeils, many of whom have served and are serving in our military forces, have requested that Mrs. McNeil be buried at the Veals Chapels Cemetery at Fort Jackson.

It requires an act of Congress in such a case to authorize burial on Government property. In my judgment, this is a very worthy and justified case which should be authorized by the Congress. Time is of the essence, and I urge immediate approval of this humanitarian legislation.

Mr. President, I might say that at the time Mr. McNeil died, this property was not part of Fort Jackson Reservation. Later, it was taken in by Fort Jackson and the husband had been buried. So now there is a technicality in the law prohibiting his wife from being buried there.

Therefore, I send to the desk a bill to allow her to be buried with her husband, and I ask unanimous consent for its immediate consideration.

I might say, this has been cleared by the chairman of the Senate Armed Services Committee (Mr. Stennis) and the ranking member (Mr. Tower). It has been taken up with the floor manager and all concerned, including the majority leader.

Mr. ROBERT C. BYRD. That is correct.

I just wanted to be absolutely sure the distinguished Senator had cleared this with the chairman of the committee (Mr. Stennis).

Mr. THURMOND. Yes.

Mr. ROBERT C. BYRD. And he has.

Mr. THURMOND. Yes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from South Carolina?

There being no objection, the Senate proceeded to consider the bill (S. 2145) to authorize the burial of Elizabeth Myers McNeil in the Veals Chapels Cemetery, Fort Jackson, S.C.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second time, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 2145) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2145

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, the remains of Elizabeth Myers McNeil, late a resident of Columbia, South Carolina, may be buried in the Veals Chapels Cemetery located on the grounds of Fort Jackson, South Carolina, her late husband, Winford

McNeil, already being buried in such cemetery.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNIVERSITY OF HAWAII WOMEN CLAIM TWO NATIONAL VOLLEYBALL TITLES

Mr. MATSUNAGA. Mr. President, women athletes at the University of Hawaii captured the national limelight 9 days ago and have been "the talk of the town" ever since. On December 8, 1979, the varsity women's volleyball teams of the University of Hawaii at Manoa and the University of Hawaii at Hilo became national champions in division I and division II of the Association of Intercollegiate Athletics for Women (AIAW). The two national championship trophies are the first ever won by varsity teams at the University of Hawaii, and it took the women of Hawaii to do it.

The Manoa Campus team capped a 6-year effort to bring home the national division I title. In five previous attempts, the "Wahines" came in either second or third. This year's victory in Carbondale, Ill., was touch and go until the very last minute, when the Wahines defeated the defending champions, the Utah State "Aggies."

The Hilo "Vulcans" played in the division II competition for the first time in 1978 and were the No. 2 team that year. Their victory in this year's contest was almost assured when the defending champions from central Florida suffered a defeat early in the tournament. From than on, the Hilo Vulcans were the favored team.

A fast-paced game requiring considerable skill, intelligence, and coordination, volleyball, as played by the University of Hawaii women, is becoming a popular spectator sport in Hawaii. Of equal importance, however, is the fact that it fosters an appreciation of teamwork and cooperation, as well as competition and good sportsmanship among the young women who participate in the program. This is an object which deserves continued, increased support, not only at the University of Hawaii but at all universities and colleges throughout the Nation.

Mr. President, it may not be possible for us to fully share the elation felt by the people of Hawaii when they got the news last week, but I am sure that my colleagues will all join me and the senior Senator from Hawaii, Mr. INOUYE, in extending hearty congratulations to the two winning teams from the University of Hawaii, to their coaches, Dave Shoji of Manoa and Sharon Peterson of Hilo, and to Dr. Donnis Thompson, the director of women's athletics at the University of Hawaii. I am confident that this is just the beginning of a long series of victories for women athletes at the university.

THE GENOCIDE CONVENTION AND THE RIGHTS OF AMERICANS UNDER INTERNATIONAL LAW

Mr. PROXMIRE. Mr. President, opponents of the Genocide Convention have raised the specter of American citizens being tried in foreign courts without the benefit of American legal safeguards. They allege that this treaty would give foreign countries new authority to charge Americans traveling within their borders of genocide—an authority they do not currently have.

Mr. President, this argument is wrong. Dead wrong. It misrepresents the existing principles of international law regarding citizens abroad.

American citizens abroad are subject to each country's local criminal laws. If a foreign country includes genocide among condemnable crimes, then Americans are subject to accusation and trial regardless of whether either country is a party to the treaty. Our ratification of the convention would in no way further endanger American lives.

If anything, ratification would help to protect the rights of Americans. How? In two ways.

First, the ratification of the Genocide Convention would provide the United States a legal right under international law to request the return of any American accused of genocide in another land. Without ratification, and the necessary implementing legislation, we lack the competency to make such an appeal; without ratification, we could not guarantee a trial here in this country. With ratification, we can make that promise and see that our citizens are accorded the full protections of American jurisprudence.

Second, no chance exists under this treaty that Americans would be extradited abroad. The explanatory report of the drafting committee of the Genocide Convention, the formal understanding recommended by our Foreign Relations Committee and the proposed implementing legislation all specifically recognize our right to conduct the trials of Americans accused of genocide. It could not be more clear.

In summary, Mr. President, ratification of this convention would clearly establish the right of any American accused of genocide the right to a trial here at home, with full safeguards of our legal system, and it would provide us with a firm basis for requesting extradition home of any American accused of genocide while traveling in another country.

This convention strengthens our hand; it does not weaken it.

Mr. President, I urge ratification of the Genocide Convention.

THE MX PARADOX

Mr. PROXMIRE. Mr. President, the MX missile debate highlights the growing appreciation among U.S. defense experts of the relationship between arms control and internal weapon procurement decisions. Perhaps none has placed this symmetry of interests better than Mr. William H. Kincade in the winter issue of Foreign Policy Magazine. He states:

> From the debate over SALT II emerges a paradox that increasingly defines the strategic arms limitation process: to be politically viable, arms limits require new strategic weapons; and to be militarily viable, new strategic weapons require arms limits.

Such is the state of affairs today with the MX missile system. In order to achieve the climate for passage of SALT II and the promise of real reductions in SALT III, the interim price is a higher defense budget and complete dedication to the MX missile system. We must build up in order to cut back; increase our firepower so that we can negotiate future reductions. Arms control becomes the servant of an arms accumulation policy and the justification for basing concepts that ordinarily would fall of their own weight.

Mr. Kincade points out that the success of the MX deployment is predicated upon an assessment of likely Soviet reactions. While it may be that the Soviets will respond in some readily identifiable manner, there is every likelihood, given their prior history, that they will exploit any arms control loopholes generated by a mobile missile deployment and counter with either a deployment pattern or new system development that could have disastrous consequences for the relative balance of power. Soviet advantages in throw-weight or megatonnage and in large land areas for deployment give them inherent opportunities for seizing upon a strategy inimical to U.S. interests and to arms control in general.

Mr. President, I commend the analysis of Mr. Kincade to my colleagues and ask that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WILL MX BACKFIRE?

(By William H. Kincade)

From the debate over SALT II emerges a paradox that increasingly defines the strategic arms limitation process: to be politically viable, arms limits require new strategic weapons; and to be militarily viable, new strategic weapons require arms limits.

Despite 10 years of U.S.-Soviet negotiations, the process has clearly not reached the point where either side feels confident enough to forego some numerical or technological options while it forecloses others. Yet it is becoming equally clear that the technological innovation multiplies military problems as well as opportunities, thus making the comparative order that SALT could bring to the strategic environment all the more necessary. Moreover, it takes about 10 years to develop a major new system, meaning that its usefulness is difficult to calculate unless the environment in which it will be deployed can be foretold; arms control can contribute some of the needed predictability.

The United States has begun to respond to the paradox of simultaneous weapons buildups and arms limitation negotiations by deploying strategic systems that facilitate arms limits technically, that reduce uncertainties about the future vulnerability of its own strategic forces, and that provide incentives for the Soviet Union to negotiate limits. These inducements can be provided by weapons that deny the USSR any advantage in a further strategic competition and by weapons that threaten Soviet forces, encouraging Moscow to limit its own programs in return for controls on these threatening systems.

Although the logic of this approach may seem plausible, it is esentially a rationalization for the pursuit of two increasingly incompatible objectives: the reduction of nuclear arms and the acquisition of weapons ever more capable of destroying other nuclear weapons.

Moreover, the beauty of an incentive lies in the eyes of the beholder. The Soviet perception of a new American system may not coincide with the U.S. prediction of how the Soviets will perceive it. The Soviet reaction might be the opposite of that intended by the United States: a redoubled strategic competition instead of a declining one. Thus, the U.S. gamble that it can influence Soviet perceptions in ways favorable to arms control by deploying the new experimental missile (MX) in a mobile basing scheme looks like a bad bet.

The underlying reasons for deploying a mobile MX, of course, have little or nothing to do with arms control. The Air Force wants a new missile, one capable of destroying Soviet missiles in their silos. The administration wants to counter the widely held view that America's stationary, land-based intercontinental ballistic missile (ICBM) force will be vulnerable to a first strike by Soviet missiles in the early 1980s. The mobile MX is intended to send a signal to various audiences—domestic, allied, and Soviet—that the United States still has the political will and technical capability to protect its interests and that it will not tolerate even a remote, hypothetical threat to its land-based missiles. Alternatives to the deployment of MX missiles among multiple protective structures (MPS)—the mobile basing scheme that was chosen for the missile—were rejected because they would not carry this message, although they too would preserve a flexible deterrent force.

MX–MPS is a classic case of giving the Soviets every excuse and incentive to build up to worst-case levels, thereby stimulating, not retarding, the arms competition, while continuing to seek an elusive stability at ever higher force levels.

Why then has the Carter administration, nominally so committed to strategic arms control, pursued full-scale development of the MX–MPS combination? The conventional wisdom has been that MX–MPS is the coin with which approval of SALT II could be purchased. This is an important motive for some, but a review of the decision-making process leading to the June announcement in favor of the system suggests that a more fundamental, if not more substantial, rationale was compelling.

AN IMPRESSION OF WEAKNESS

During the May and June meetings of the National Security Council (NSC) that produced the initial MX–MPS decision, the main options under consideration were MX–MPS and the so-called "augmented dyad"—a program to expand airborne and seaborne forces with additional and new weapons, while improving but not enlarging the Minuteman ICBM force. (Earlier, truck-mobile, air-mobile, and sea-mobile MX deployment schemes had been rejected because the Air Force did not want the new system to be under the control of another service and because these schemes had high price tags, were not adequate in terms of command-and-control or accuracy potential, or required too much warning time before the missiles could be launched.) Although the augmented dyad would not, in fact, have departed from the traditional Triad of U.S. strategic forces—composed of airborne, seaborne, and land-based systems—and was conceded to have comparable security benefits, the administration decided that even appearing to move away from the Triad concept would create an impression of weakness or lack of resolve, resulting in adverse political and strategic consequences.

Although the mobile MX poses real problems for strategic arms control in terms of its potential for destroying Soviet missile silos and the difficulties it presents for verification of SALT, the administration needed to market it as consistent with SALT and conducive to deeper cuts in future negotiations. As part of a so-called countervailing strategy of meeting and beating the Soviets in their own area of comparative advantage—land-based ICBMs—the deployment of the MX, it is reasoned, will convince the Soviet Union of the futility of further rivalry in this category of weapons. Presumably, the result would be an agreement to limit these systems in terms of launchers or warheads or both.

"At the worst," states Hudson Institute analyst Colin Gray, "MX–MPS drives the Soviet Union into a cost-ineffective competition with the United States which it loses; while, at the best, MX–MPS compels the Soviet Union to agree to a basic draw-down in ICBM force levels."

If this perceptual ploy fails, the United States will still possess a countervailing threat to the hypothetical danger of a Soviet first-strike against American ICBMs. Moreover, any Soviet effort to overwhelm the mobile MX system might require so many warheads to insure success that the distinction between a small-scale strike aimed at ICBMs alone and a general attack on other targets would be insignificant. Thus, knowing that an attack on the new mobile missiles and the remaining stationary ICBMs would deplete Soviet forces and provide an equally massive response directed at the Soviet economy by U.S. submarine and bomber forces, the Soviets would give up any limited first-strike plans (if they have them) and the cause of deterrence would be served, albeit at higher levels of weaponry.

The mobile MX thus recycles the illusion of a technological fix to a perceived military problem that also serves as a bargaining chip. Squaring it with SALT, however, involves some beguiling administration doublethink, or at least double-talk, that ignores the first part of Gray's prediction—that the Soviet Union might not respond to the MX as the United States hopes and might instead accelerate its own arms programs.

Consider the list of leading arguments in favor of SALT II made by the administration. The agreement will supposedly maintain the stability of the strategic nuclear stalemate between the United States and the USSR; open the way for deeper cuts in superpower nuclear arsenals in future negotiations; and make the strategic environment of the 1980s more predictable.

Meanwhile, Pentagon officials and NSC staffers last summer made similar arguments in justifying the administration's decision to proceed with full-scale development of the MX–MPS combination. The mobile MX, they stated, will strengthen the possibility of significant weapons reductions and controls in SALT III by eliminating any possible Soviet advantage in an arms race. Moreover, they claimed it will stabilize the strategic balance. Without such basic stability, serious negotiations are not possible.

It is not claimed, however, that the MX would make the strategic environment more predictable. This suggests doubt about its impact on the strategic settings of the 1980s. The alternative claim that MX–MPS will forestall a Soviet edge in any future weapons competition, on the other hand, suggests that the system may aggravate the existing rivalry. And an aggravated competition would lead to a less predictable and less stable nuclear balance, and could slow or even halt the already tortoise-like pace of SALT.

A PENCIL-AND-PAPER THREAT

But to understand how the Soviets must behave if MX–MPS is to produce its magical benefits for SALT—and why there is ample reason not to expect such behavior—requires a review of the system's pertinent features. The MX–MPS system currently in development involves transporting some 200 large and lethal ballistic missiles around 200 separate, roughly oval courses ("racetrack") in approximately 100 valleys in Nevada and Utah. Each racetrack would have 23 spurs covered ("hardened") by enough concrete and steel to protect the contents against all but a direct hit or very near miss. The 95-ton missiles would be shuttled in canisters between the shelters on 200-foot-long flatbed vehicles called transporter-erector-launchers (TELs).

The missiles and launchers would be partially assembled at a central facility near the valleys; they would then be moved on a four-track, extra-heavy-duty railroad through some type of barrier or checkpoint to their separate racetracks. Each missile, canister, and launcher would have to pass through two checkpoints that would be opened long enough to let one missile and associated equipment reach the racetrack. After passing the second barrier, the system would be fully assembled and the missile would be driven onto the racetrack, where it could be moved among shelters.

The missile could be fired from its launcher at any point on the racetrack. To disguise its movement, a vehicle called a "visibility shield" would cover the entire missile and launcher, performing evasive maneuvers and creating false signals to obscure the missile's actual location. However, each of the 23 shelters on a racetrack would have a plug that could be removed to reveal whether the shelter is empty or contains a missile. Each shelter represents an "aimpoint" that Soviet warheads must strike in any effort to neutralize U.S. ICBMs.

The peculiar configuration of this gargantuan system arises out of five developments:

A shift in U.S. strategic doctrine over the last five years from a strategy emphasizing deterrence through large-scale nuclear retaliation against the Soviet Union to one that stresses deterrence through the ability to wage a nuclear war at less than large-scale exchanges, if possible.

Steady improvements in rocket and warhead design;

A growing concern about the potential vulnerability of American missiles housed in fixed silos to a Soviet missile attack;

A requirement that new systems be verifiable within the terms of current and anticipated SALT agreements; and

A propensity, partly stimulated by SALT, to give major importance to the impact of weapons system decisions on the perceptions of allies and adversaries and on America's own self-confidence. These decisions are manipulated to transmit signals about America's national will, determination, and the like.

In the 1980s Soviet and American ICBMs will have the combination of accuracy and explosive power (yield) to raise a hypothetical possibility that one or two warheads could destroy a land-based missile in its silo. Both superpowers may have enough ICBM warheads to allocate two to each of the other's silos. While simple calculations may demonstrate that land-based missiles are vulnerable to a rapid, disarming first strike, this is what Defense Secretary Harold Brown has called a "pencil-and-paper threat," because it overlooks two crucial factors.

First, there are significant problems and uncertainties with launching a carefully coordinated, near simultaneous, but never-before-attempted attack, using unproven command-and-control systems and hundreds of rockets fired over an as yet untried polar trajectory full of magnetic and other anomalies that affect guidance. Thus, the results of a first strike are impossible to predict, and there is little chance that any

Soviet leader would ever order such an attack without being virtually certain of its success. Second, U.S. submarine and airborne forces, which would survive the attack, would be available to deliver a punishing counterblow.

Moreover, there is no good reason for the United States to cope with this pencil-and-paper vulnerability by deploying a missile capable in theory of destroying Soviet missile silos. Given its planned accuracy, yield, and number of warheads, the MX can only be intended for silo destruction, since there are no targets in the Soviet Union that require rapid destruction and are incapable of being dug out by existing U.S. missiles or bombs.

Only command-and-control bunkers for launch crews and Soviet military and political leaders are as nearly invulnerable (hard) as silos. But rapid destruction of these bunkers may not be necessary or desirable. In any case, a few extra submarine missile warheads could rapidly render them uninhabitable. The administration contention that the MX will be as capable as the Soviet heavy SS–18 missile against unprotected (soft) targets, while true, is disingenuous. Designed to destroy silos, the MX would be wasted on soft targets, for which there are abundant warheads of other types.

A silo-destroying weapon is of comparatively little use except in a first strike, since most of an opponent's ICBM silos will be emptied before a second strike, and an effective silo reloading system, if it were developed, could be neutralized by existing weapons; it is barred by SALT II in any case. Indeed, if one side knows that the other has a silo-destroying missile, it will have an even stronger incentive to fire its ICBMs early, before they can be destroyed in a second wave. The possession by both the United States and the USSR of putative silo-destroying missiles thus creates pressures on both sides for a large-scale first strike rather than removing them, thus changing the psychology of the strategic stand-off.

The theory behind the decision to develop and deploy MX–MPS is that, if the United States has a protected silo-destroying missile, it can avoid the pressure to launch pre-emptively. Yet it is far from clear that those who are already exercised by a pencil-and-paper threat to fixed ICBMs will feel secure enough about mobile ICBMs to recommend riding out an attack, especially if the Soviet Union manufactures enough warheads to match U.S. aimpoints (silos and MX shelters).

The argument naturally arises that the MX is only a response to Soviet missiles—the SS–17, SS–18, and SS–19 models—that will threaten stationary American ICBMs in the 1980s because of the number of warheads each will be able to carry (throw-weight), the yield of those warheads, and missile accuracy. Although correct, this overlooks the fact that the advantage these missiles possess in throw-weight is largely a by-product of Soviet rocket technology, a by-product the Soviets could not have exploited had the United States seriously sought a ban on its own invention—the multiple independently targetable reentry vehicle, or MIRV. More important, fixing the blame for a competition in countersilo potential does not absolve either party of its responsibility to attempt to end that competition if it is provocative and frustrates the achievement of the announced goal of decreasing the risk of nuclear war.

FIVE BASIC CHOICES

Unless carried away by an uncharacteristically charitable attitude toward the United States, made less likely in the current climate of bellicose rhetoric, the Soviet planner must view MX–MPS as a formidable threat. It is ideal for a first strike against Soviet ICBMs, which carry 70 percent of the Soviet warhead inventory and comprise 56 percent of its launcher inventory. If the Soviet Union does not respond to the new U.S. system, it will be at a serious strategic disadvantage. For when MX–MPS is fully deployed in 1990, the United States will have 200 protected countersilo missiles carrying a total of 2,000 warheads, in addition to 1,050 warheads on its 350 countersilo-capable Minuteman III missiles, assuming SALT II limits are in effect. This total of 3,050 U.S. ICBM warheads will be enough to target the 1,400 existing Soviet ICBMs with two warheads apiece while retaining a reserve force of 250 warheads to compensate for failures and to conduct follow-up attacks, without using any of the far larger numbers of U.S. bomber and submarine weapons.

Moreover, if SALT II remains in effect beyond its expiration date of 1985, the Soviet Union will be barred from responding to MX–MPS by expanding its own ICBM warhead arsenal. To disarm an MX–MPS system of 4,600 shelters containing 200 missiles, 9,200 warheads would be needed, and 1,700 additional warheads would have to be targeted against the 854 fixed-silo Minuteman and Titan missiles the United States would be able to retain. This total of 10,900 warheads needed to combat the American first-strike potential is higher than the number the Soviets could deploy under the SALT II limits on ICBMs and warheads and, in any case, would leave the USSR with no reserves for Chinese or other contingencies.

Faced with this situation, the Soviet Union has five basic choices—other than doing nothing at all. It could agree to additional constraints on its larger ICBMs and their warhead capacity in return for American agreement to forgo MX–MPS. It could redistribute its strategic assets at great expense by putting more warheads on less vulnerable airborne and seaborne launchers, while reducing ICBM launchers or warheads. It could develop its own mobile deployment system for countersilo missiles. It could allow SALT II to lapse when it expires in 1985 and engage in a warhead-aimpoint competition, while refusing in the meantime to negotiate any further launcher or warhead limits and producing and stockpiling components to assemble additional missiles as soon as the treaty expires. Finally, it could withdraw from the 1972 Antiballistic Missile (ABM) Treaty and construct ballistic missile defenses to protect its missile fields.

The first option will doubtless encounter objections from Politiburo hard-liners and the military-industrial bureaucracy, which has staked the Soviet claim to strategic parity on the large, land-based ICBM. Much would depend on the precise nature of the tradeoffs that might be made in negotiations with the United States.

While the second choice—altering the composition of forces—makes sense, it would encounter technological, geographical, and doctrinal, as well as bureaucratic obstacles, and it would make the less numerous remaining Soviet ICBMs even more vulnerable to the MX. Moreover, the Soviet Union has de-emphasized true intercontinental bombers for many years and continues to experience problems with its missile-bearing submarines, which are in port more than they are on patrol and are susceptible to entrapment due to the Soviet Union's constrained access to the open ocean. Furthermore, a decision to rely on the less timely or less accurate alternatives to ICBMs would entail a change in Soviet strategic doctrine, which is based less on deterrence by threatening retaliation than on deterrence by limiting through pre-emption the damage from a U.S. attack.

Should the Soviets choose the third option—to deploy their own mobile ICBM—it will endanger SALT unless it meets the verification criteria established for MX–MPS. Yet verifiability and mobility work at cross purposes. Much of the Rube Goldberg character of the MX–MPS system is attributable to the twin imperatives of verifiability (visibility) and mobility (deception). Assuming that the U.S. system is verifiable, the Soviets will have to build a comparable one to satisfy American verification criteria, since the United States reviewed every conceivable option over a 10-year period before settling on the racetrack system as the sole candidate likely to meet SALT verification provisions.

But even if the Soviet Union constructed a mobile missile system according to U.S. blueprints, there would still be some doubt as to whether it was clandestinely stockpiling extra missiles in or near the racetrack complexes, because of the lack of information to supplement that obtained through satellite surveillance. (The parallel information on American systems is readily available to Soviet intelligence from published contracts, trade journals, and Pentagon statements.) Finally, even the American MX–MPS basing mode may not be verifiable with high confidence. Results of mathematical tests conducted by Stephen Meyer of Harvard University to determine the verifiability of MX–MPS were neither necessarily encouraging nor discouraging, depending on the level of confidence desired, the amount of cheating considered significant, and the willingness of the Soviet Union to expose the sheltered aimpoints for periodic U.S. satellite inspection. Assuming that a very high level of confidence in detecting possible extra missiles is desired and that the tolerance for cheating is nil, an analogous Soviet system could fail to meet U.S. criteria.

Yet several factors would make the development of a system closely parallel to MX–MPS unattractive in Soviet eyes. Advanced Soviet ICBMs are larger than American ones, necessitating either an even more gargantuan transporter system or fundamental changes in habitual approaches to rocket design. Because ICBMs form so large a proportion of Soviet forces, the USSR would probably feel disposed to make more of them mobile, entailing a larger investment than the United States must make for its system—a minimum of $30 billion. Soviet intercontinental missiles use storable liquid propellants that might make certain types of mobile systems unattractive, whereas a solid-fuel, truck-mobile system, such as the SS–20 intermediate-range ballistic missile or the aborted SS–16 ICBM, would create severe verification difficulties.

The fourth and fifth options open to the Soviets are to manufacture more warheads and to deploy ballistic missile defenses. Both will have a direct effect on SALT. Some American analysts have been arguing along sophisticated strategic lines that a Soviet decision to engage in a duel of warheads against aimpoints is a primitive and ultimately unproductive response. However, Soviet nuclear strategy has always been relatively more primitive: this is not to say relatively less effective. Soviet doctrine seems more sensitive to battlefield experience and to the broad unknowns of warfare and less concerned with theoretical elegance. The annals of military history are replete with cases of primitive strategies overcoming elaborate, textbook doctrines.

Moreover, an aimpoint-warhead duel is unproductive primarily in Western terms. For the Soviets, hitherto more concerned about being number two to the United States and hence about the political imagery of merely numerical disparities, keeping up with the United States in seemingly unemployable hardware might appear a necessary evil to sustain its worldwide propaganda about overtaking number one. For a variety of reasons, the Soviets also have a propensity to invest in numbers of systems, as opposed to more technologically advanced weapons in smaller quantities. In addition, the Soviet willingness to respond more or less in kind to earlier American strategic challenges points to a Soviet decision to engage in a warhead-aimpoint competition.

A Soviet decision to build defenses for its missile fields seems the least likely alternative. But it cannot be ruled out given the Soviet tendency to opt for defensive measures and recent advances in ABM technology, particularly for defending specific targets as opposed to wide areas. While the Soviets have been loath to abrogate or amend treaties once concluded, one possible Soviet incentive for an ABM treaty—the comparative superiority of U.S. technology—may now have disappeared, if it ever was a factor, since both sides have been conducting research and development programs in this technology since SALT I was concluded in 1972.

THE GAMBLE

The MX-MPS system confronts the Soviet Union with a politico-military dilemma (as it is intended to do) in which none of the choices is clearly attractive. This dilemma will be severe even if a faction that takes Leonid Brezhnev's line holds the reins of government in the future. His successors may find concessions to the military necessary for consolidating their position, as both Nikita Khrushchev and Brezhnev did. The result might be a decision not to withdraw directly from SALT, but to resist any further constraints on ICBMs or their warheads or to table proposals for specific relief from existing constraints in order to counter MX-MPS. These proposals would be unacceptable to the United States and thus would provide a pretext for Soviet withdrawal from SALT over alleged American intransigence.

It is not necessary for present purposes, however, to demonstrate that the Soviet Union will withdraw from SALT, enter a warhead-aimpoint race, or build an unverifiable mobile missile or ABM system. It is sufficient to highlight the incentives MX–MPS provides for doing any or all of these things in the context of past Soviet behavior and present posture. It should also be self-evident that complex political systems such as the Soviet government respond to intense stress in unpredictable ways, while U.S. hopes for MX–MPS are premised on the expectation that the Soviet Union will behave in a quite straightforward manner that is in keeping with Western strategic concepts and preferences. Therein lies the gamble.

This is not to say that U.S. planners have failed to prepare a fall-back position in the event that the Soviets do not conform to Western expectations. If they cannot be persuaded to make deeper cuts in ICBMs and warheads in SALT III, or at least dissuaded from allowing SALT II to lapse and from engaging in a warhead-aimpoint rivalry, then MX–MPS is capable of being expanded to at least 8,000 aimpoints.

In addition, the prospect that the United States might develop an ABM system for the further protection of MX–MPS is a real one. Lt. Gen. Thomas Stafford, deputy Air Force chief of staff for research and development, told the Senate Armed Services Committee in April: "[MX] would not require a ballistic missile defense for a period of time, but if the Soviets should increase their . . . number of re-entry vehicles, a ballistic missile defense could help offset them." Maj. Gen. Kelly Burke, director of operational requirements for Stafford, told the committee that in considering open-ended threats to MX–MPS, "We quickly came to the conclusion that the solution, and it seems to be a very happy one, is the marriage of our MPS system with the Army's ballistic missile defense system." With ballistic missile defense, Burke went on, "we could preferentially defend the occupied shelters and ignore the others." No doubt the same happy solution will occur to Soviet planners, if it has not already.

Although these measures may be designed to convince the Soviets of the capability and the credibility of MX–MPS, and thus of the necessity to behave in the desired way, they also raise questions as to whether the advocates of MX–MPS believe their own claims that this system will enhance stability, foster SALT reductions, and prevent a Soviet edge in the arms race.

Three major decisions and a host of smaller but consequential ones are thus required of the Soviets if the MX–MPS system is to achieve its arms control goals: They must decide not to resist lower limits on MIRVed ICBMs in SALT III, which would make the backbone of Soviet strategic forces potentially more vulnerable to the 200 MX missiles and reduce the possibility of a hedge in warheads against the deployment of MX–MPS. They must forgo the proliferation of warheads by renewing SALT II in 1985 or by adhering to a more stringent agreement. Finally, they must develop a mobile ICBM system substantially similar to MX–MPS and assist U.S. verification by agreeing to an inspection program that will satisfy American confidence criteria.

If the Soviets do not behave according to plan—and there are substantial reasons for them not to—the best that can happen is a stalemate in SALT III. The worst than can happen is a competition in which both sides multiply their numbers of warheads and aimpoints and perhaps ABM systems, adding the uncertainties these developments would cause for nuclear deterrence, strategic stability and predictability, and both verification and basic military intelligence.

Rather than preventing a Soviet edge in the strategic competition, therefore, MX–MPS is likely to stimulate a new chapter in the arms race. In that case, the Soviets might indeed gain an edge, for their missiles are bigger to begin with and can be fitted more readily with additional warheads, and it is likely to prove easier, and certainly faster, to multiply warheads than aimpoints, especially if the latter are as costly and cumbersome as the racetrack scheme. Indeed. SALT II does not prohibit the stockpiling of warheads to place on existing missiles in 1985, when MX–MPS will just begin deployment.

Unable or unwilling since entering office to present its overall defense program in a coherent, reassuring perspective, the administration found itself in desperate need of a bold measure to halt the decline in its domestic image and in foreign perceptions of the United States as the steadfast bulwark of the West. Even Harold Brown, who began his tenure trying to correct through fact and candor the adverse perceptual climate created by his recent predecessors, now appears to believe that weapons acquisition decisions are the best or only means to repair America's tarnished image or, at least, that enough other people believe this to make it the prevailing reality.

Whether weapons decisions can be fine-tuned to convey the right impression—and only the right impression—is cast seriously in doubt by the history of the Soviet-American nuclear competition. If the MX–MPS system provokes any of the adverse Soviet decisions suggested here, historians in years to come may have cause to observe that the long-term future of strategic stability and nuclear arms limitation was sacrificed to a short-term need to make a big splash.

NEW SAVINGS CERTIFICATES

Mr. PROXMIRE. Mr. President, on Friday the Federal financial institutions regulators announced the establishment of a new savings certificate with the rate of interest tied to the rate available on similar maturity Treasury obligations. The certificates would have no minimum set by the financial regulators, but it would have a minimum maturity of at least 2½ years.

This new certificate is a step in the right direction. It will provide some relief for the small savers of this country who desperately want to be able to earn a market rate of interest on their savings, but who are limited by interest rate ceilings imposed under Regulation Q. It should strengthen the ability of thrift institutions to attract funds. But this is only a modest step. It will by no means achieve equity for the small saver nor will it obviate the need for legislation to phase out interest-rate ceilings completely.

Equity is not achieved by these certificates because of their relatively long maturity—2½ years—which provides no liquidity for the small saver. Even worse, these certificates have a substantial interest penalty for early withdrawal.

Equity is not achieved by these certificates because the rate that may be paid is still below market rates. The rate ceiling for banks on the new 2½-year certificate is pegged at 75 basis points—that is, three-fourths of 1 percent—below the rate on 2½-year Treasury notes. For thrift institutions the rate is 25 basis points higher, or 50 basis points below the market rate.

Mr. President, these new certificates will replace the existing 4-year floating rate certificates that first became available on July 1, 1979. Those 4-year certificates had no legal minimum and had their rate pegged to 125 basis points below the rate on 4-year Treasury obligations for banks and 100 basis points below the same rate for thrifts. The reason why these certificates are being withdrawn is that they have been a flop. They were like the larger gas guzzlers when the market wanted the small fuel-efficient cars. They did not sell. The terms that were set by the regulators did not meet the market test and those certificates have not sold well at all. Since last July only a small amount of the 4-year certificates have been issued.

Obviously the new 2½-year certificates will be a little more attractive to the small saver and, therefore, will be more successful than the ill-fated 4-year certificate. But these new 2½-year certificates will still be unattractive to the small savers who need liquidity. Unfortunately no action was taken to lower the $10,000 minimum on the 6-month money market certificates which still remains in place. Moreover, no action was taken on the rate of passbook savings which is still only 5¼–5½ percent. This is very unattractive and very unfair to small savers who need liquidity.

In short, Mr. President, the new 2½-year certificate will provide no relief to those small savers who need to maintain liquidity during this time of rapid inflation and who do not have the $10,000 minimum to purchase the 6-month money market certificates. There is still an urgent need to provide the small saver of this country with relief from interest rate ceilings. There is still good reason to press for the phaseout of regulation Q and for the lowering of the $10,000 minimum on money market certificates.

WRIGHT BROTHERS' FLIGHT 76 YEARS AGO UNLOCKED SECRETS OF AIR TRAVEL, CHANGED PACE OF HISTORY

Mr. RANDOLPH. Mr. President, today marks the 76th anniversary of the first successful flight in a heavier-than-air, mechanically propelled airplane. Orville Wright flew 120 feet in 12 seconds, into a 27 mile-per-hour wind. Three flights later, his brother Wilbur traveled 852 feet in 59 seconds. The site was Kill Devil Hill, 4 miles south of Kitty Hawk, N.C.

Amazingly, the news of man's first powered flight received little attention. The astounding feat was generally dismissed as a curiosity by the media and the Wright brothers referred to as a couple of simple mechanics from Dayton.

Over the years, it has become apparent that a special kind of shared genius was at work; a special chemistry that allowed them to succeed where some of the most brilliant minds of the time had failed.

Their signal achievement of a centuries-old dream has, of course, been universally recognized as the beginning of an unending age of aerial exploration.

It is truly incredible the advances which have been made in the past three-quarters of a century, from that first feeble effort until today, when we have landed men on the moon and fly across oceans with hundreds of passengers in a few short hours.

Last Friday the Aero Club of Washington sponsored the 32d annual Wright Memorial Dinner at the Washington Hilton Hotel. Highlight of the dinner—attended by 1,200 men and women who have developed and directed the course of aviation over many years—was the presentation of the Wright Brothers Memorial Trophy to honor an individual who has contributed "significant public service of enduring value to aviation in the United States."

The recipient of the trophy for 1979 is T. A. Wilson, chairman and chief executive officer of the Boeing Co. John R. Alison, president of the National Aeronautic Association, which administers the Wright Brothers Memorial Trophy, made the presentation; Hugh Sidey of Time, Inc., served as keynote speaker.

In accepting the award, "T" Wilson observed that the "commercial jet transport has made the world one large community. Each year millions of people travel around the world seeing sights, making new friends, and somehow finding similarities in different customs and lifestyles."

He noted that more than 5,000 jet airliners are accounting for more than 630 billion revenue-passenger miles per year, and that the volume is expected to double by the end of the next decade.

Perhaps this is what Lord Tennyson had in mind almost a century and a half ago when he wrote the visionary poem, "Locksley Hall," and the words:

> For I dipt into the future, far as human eye could see,
> Saw the Vision of the world, and all the wonder that would be;
> Saw the heavens fill with commerce, agrosies of magic sails,
> Pilots of the purple twilight, dropping down with costly bales.

The Wright dinner honoree has most certainly contributed significant enduring value to U.S. aviation as a designer, manager, and industrial leader. He helped develop the B-47 and B-52 jet bombers and the Minuteman missile, workhorses of our defense strategy, and directed his company to a dominant position in the commercial jet aircraft market worldwide. Boeing today employs more than 102,000 workers in 48 States, and last year launched two new airplane programs, the 767 and the 757, which promise a new line of fuel-efficient airliners in the years ahead.

Acknowledging the problems facing American industry today, Mr. Wilson observed that "economics will determine how we solve our energy problems." He added:

> There will be a supply of expensive petroleum out there for the balance of this century, but we should be developing alternate fuel sources while we can do so on a well-planned, cost-effective basis. There are no easy solutions to energy problems. Increased costs and periodic shortages in the near term will require us to make some painful adjustments in our life styles, but, in the long term, I am optimistic. We have the technological resources to create a new energy base if we just put our know-how to work.

Wilson noted that when he informed his 87-year-old mother, the former Daffodil Allem of Wheeling, W. Va., of his selection for the award, she replied: "Well it took them a long time to get around to you."

The Wright Brothers Memorial Trophy—a silver replica of the aircraft they flew—was started in 1948 following the death of Orville Wright. Charles Lindbergh was the 1949 winner. General James Doolittle won it in 1952. General Ira Eaker, former 8th Air Force commander during World War II, was the 1977 recipient.

I was privileged to accept the award last year. Three of my Senate colleagues were previous recipients. They are: WARREN MAGNUSON, HOWARD CANNON, and BARRY GOLDWATER. Former Senators Stuart Symington and the late Mike Monroney also have been honored.

The Wright Memorial Dinner was directed by Richard K. Cook, president of the Aero Club of Washington, and attended by a cross-section of the aviation industry leadership in this Nation, and a number of distinguished guests. Among those present were my colleagues in the Senate, BARRY GOLDWATER, HENRY JACKSON, JOHN GLENN, BOB STAFFORD, and WARREN MAGNUSON; several Members of the House; Federal Aviation Administrator Langhorn Bond and heads of major airlines and related associates. Lawrence O. Kitchen, president of Lockheed Corp., whose Lockheed-Georgia subsidiary has a small plant in Clarksburg, W. Va., was present.

Mr. President, this world has always been peopled by doubters and dreamers. On April 27, 1822—almost a century before aviation was born, Thomas Jefferson replied to a letter from D. B. Lee which proposed a "means of artificial buoyancy by which man may be supported in the air." Jefferson politely acknowledged that it "is against no law of nature" that such might be achieved by a guided balloon, then added:

> But to do this by mechanical means alone in a medium so rare and unresisting as air must have the aid of some principle not yet generally known. However, I can really give no opinion understandingly on the subject and with more good will than confidence wish you success.—(sig.) Thomas Jefferson

The Wright brothers exemplified the spirit of free enterprise. They worked without the benefit of government subsidy or official encouragement. In 1893, a bill to "secure aerial navigation" was introduced in the United States Congress. It empowered the Secretary of the Treasury to pay $100,000 to any inventor who, prior to the year 1890, could construct a vessel demonstrating "the practicability of safely navigating the air at a speed of not less than 30 miles an hour, and capable of carrying passengers and freight with a total weight of at least five tons."

The Wright brothers fell 3 years and more than 4 tons short of that goal, but their place in history was assured by a wobbly 12 seconds of flight above the Earth. Today salute them, and all those men and women who have worked over the past three-quarters of a century to fulfill their dream.

DEEP SEABED MINERAL RESOURCES ACT

Mr. PERCY. Mr. President, the Deep Seabed Mineral Resources Act, as amended and passed by the Senate on December 14, provides the necessary framework for the development of seabed mining capabilities as well as a basis for eventual U.S. adherence to a comprehensive Law of the Sea Treaty—a goal which I continue to support. Indeed, a basic reason for my support of this legislation is the belief that only by demonstrating our determination to proceed with deep seabed mining can we move the U.N. Law of the Sea Conference in the direction of a treaty which two-thirds of the Senate can accept.

We have indications from the administration and elsewhere that 1980 may be the year for "wrapping up" the Law of the Sea negotiations. While I would be first to applaud the conclusion of a widely-accepted treaty, I am also concerned that in our eagerness to conclude this decade-long enterprise, we should not agree to provisions of a deep seabed arrangement which would be fatal to private mining operations or otherwise unacceptable to the Senate.

The Senate should have an opportunity to make a thorough evaluation of the final proposed treaty prior to its signature by the United States. Signing the treaty does not oblige us legally to ratify it, but it certainly implies that the United States finds the treaty acceptable enough to have reasonable prospects for ratification. We have been assured by the Administration that some of the troublesome articles on deep seabed mining of the present draft treaty represent compromises which are not acceptable to the United States. Before committing the United States formally to any final compromise which is deemed acceptable, it would be advisable to have the Senate fully informed and, at least tentatively, in agreement.

In this connection, I would like to refer to an exchange of correspondence I had last spring with Ambassador Elliot Richardson regarding several important issues affected by the Law of the Sea negotiations. On the subject of deep seabed mining, Ambassador Richardson wrote the following:

> I assure you that I will not recommend to the President that he submit to the Senate a draft treaty which does not meet our essential criteria for an economically viable and non-discriminatory international regime for mining the deep seabed.

Earlier in the letter, he referred to the essential standard as being "assured access under fair and reasonable terms and conditions and with security of tenure." I ask unanimous consent that the complete text of my exchange with Ambassador Richardson appear at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MARCH 26, 1979.

Hon. ELLIOT RICHARDSON,
Ambassador-at-Large,
Department of State,
Washington, D.C.

DEAR ELLIOT: I was not able to attend your briefing of the Foreign Relations Committee because of the funeral of Dewey Bartlett, but I would like to express certain concerns about the prospects for a future Law of the Sea agreement in the Senate.

I have been a supporter of the Law of the Sea negotiations from the beginning, and I continue to believe that a comprehensive agreement which adequately protects the key interests of the United States should be a major objective of our foreign policy. I commend you for your continued efforts in that direction.

However, I am concerned that we may be headed for the worst of all possible outcomes in these negotiations: a treaty which represents the product of years of effort by many nations being rejected by the United States Senate. As you well know, serious questions have been raised about the adequacy of the draft treaty now under negotiation and the prospects for improving it. Before an agreement is signed, thereby committing the prestige and good faith of the United States to its ratification, it seems to me imperative that you be able to assure our Committee—and refute all reasonable, arguments to the contrary—that such agreement adequately and unambiguously protects the following security interests of the United States:

(1) freedom of navigation for military and commercial vessels through major international straits, including the right of overflight for aircraft and the right of submerged transit for submarines;

(2) freedom of navigation for military and commercial vessels within 200-mile economic zones of coastal states, also including the traditional high seas rights of overflight and submerged passage;

(3) reasonable freedom to transit the territorial seas of coastal states in "innocent passage" that cannot be effectively denied or whittled away by the actions of those states;

(4) adequate and assured access to the vital minerals of the deep seabed by the time we need them, including the continued development of a capability to mine by our own private enterprises.

This list is by no means exhaustive of U.S. interests in these negotiations, but it is critical.

None of the above rights should be subject to the superseding jurisdiction of coastal states or to the direction or discretion of an international body which could unfairly restrict them. Nor should we have to rely upon ambiguous treaty language, unwritten or nonbinding understandings, or future promulgations of rules and regulations to protect these rights.

If we are not able to secure such guarantees in the near future, then I wonder if we are not misleading the rest of the international community into thinking that the U.S. Senate will go along with a treaty which is likely to be unsatisfactory to the United States on other important issues, such as scientific research, deep seabed mining, and dispute settlement. Admittedly, few Senators have probably had an opportunity to focus on these issues; your recent efforts at explanation, therefore are encouraging. But I would not misjudge the silence of most of the Senate on Law of the Sea matters for a general acceptance of the emerging treaty. In part because of the questions raised by legal experts outside the government, I think there is considerable skepticism about whether we are headed towards a favorable outcome in these negotiations.

You undoubtedly dealt with some of these concerns in the briefing for the Committee, and I was sorry not to have been there to hear you. At the same time, I think your case for the treaty needs to be made available in detail to the entire Senate, and the responses taken into account, before we commit ourselves to a final text.

Again, I express my genuine support for your efforts and for a successful session in Geneva.

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

DEAR CHUCK: Thank you for your letter of March 26 which was cabled to me here in Geneva. I too am sorry that you were not able to attend the briefing I gave the Foreign Relations Committee last month. In my view it was a constructive and informative meeting.

The primary goal of the Administration, and one to which I am personally deeply committed, is conclusion of a comprehensive treaty that will commend itself to the Senate. It must, as you state, therefore demonstrably protect and foster our vital interests in the oceans. The Administration has from the first sought a treaty that meets the essential criteria you spelled out in your letter.

I am satisfied that the negotiations to date have produced articles that protect our interests in freedom of navigation, submerged passage of submarines, and overflight, both military and commercial, on the high seas, in the economic zone, and through and over international straits and archipelagos. These are considerable improvements over the laws and practices of important coastal states, and would arrest an accelerating trend in the practice of states toward greater restrictions on military and commercial navigation and overflight. We have also gained general agreement at the Conference to improvements regarding innocent passage through the territorial sea of coastal states over the provisions of existing treaties. The current negotiating text contains provisions which in my judgment, and also I am pleased to note that of the Department of Defense, adequately protect these military and commercial uses of the oceans. At the same time, the text substantially advances environmental interests that were all too frequently—and unnecessarily—used as a pretext for unilateral claims by foreign nations that unduly interfere with navigation.

The Delegation and I have been ever vigilant to ensure that gains on these subjects, which have been the product of hard negotiating, remain unaffected as negotiations of other issues continue. We are particularly gratified that interference with navigation would—if there is a treaty—be subject to binding third-party dispute settlement procedures, thus giving the United States a choice other than confrontation or acquiescence.

Assured access for U.S. companies to seabed minerals is also an indispensable requirement of the United States. We have been striving to achieve compromises which will lead to a seabed regime which gives that assured access under fair and reasonable terms and conditions and with security of tenure. Whether we shall be able to succeed in this respect remains in the balance. This is the major unresolved issue at stake in the negotiations we are now engaged in. I assure you that I will not recommend to the President that he submit to the Senate a draft treaty which does not meet our essential criteria for an economically viable regime for mining the deep seabed.

Although it is still too early to tell whether we will be successful in attaining our objectives on seabeds issues, I am encouraged that Conference participants are showing an increasing sense of urgency, purpose and realism in addressing these issues. A small negotiating group has been formed to address them as a package, and the next week or so should tell us much about whether a consensus which the U.S. can accept is likely to emerge. I do not think that the international community or the Conference itself is under any misconception about what are the essential requirements of the United States in this negotiation. This I made clear when I met your colleagues on the Committee, and on numerous public occasions as well.

With respect to your reference to rules and regulations, I would note that no one has ever suggested that all the details necessary for the operation of a seabed mining regime can or should be included in the treaty. Obviously many details will have to be left to the rules and regulations, but we intend to press for a Preparatory Commission to work out these details before the treaty enters into force.

Finally, I remain firmly committed to full and frank consultation with the Congress, and I look forward to reporting to both Houses after this session has ended. I hope I will be able to report that we have made significant progress toward the goal of a treaty that safeguards all our vital interests. In this spirit I would like you to know that I would most warmly welcome your participation in the Conference, even briefly, as well as that of other Senators.

I thank you for your gratifying words of encouragement. These are tough negotiations. Your personal support and interest mean all that much more to me.

With warm regard,
Sincerely,

ELLIOT L. RICHARDSON.

Mr. PERCY. It remains to be seen, of course, Mr. President, what the outcome of these negotiations will be and what detailed arrangements will satisfy Ambassador Richardson and the U.S. delegation. I simply wish to reiterate that the Senate will also have criteria for the acceptability of a deep seabed regime and will have to make its own judgments about whether these are satisfied.

We should also note, Mr. President, that any treaty ratified by the Senate would supersede this legislation, and that any new obligations created under the treaty would have to be complied with by the firms already engaged in seabed mining. That point is made repeatedly in the legislation before us and should be clearly understood.

The Senate would never accept a treaty which put all existing mining operations out of business. As section 201 of the legislation reads, such a treaty should not have "the effect of preventing the continuation of such operations on a viable economic basis." That is not to say that a Law of the Sea Treaty could not impose additional obligations or requirements; we will have to consider those on their own terms when the treaty is presented to the Senate. But clearly the Senate would not accept an agreement which effectively undercut the private mining industry or indefinitely suspended its ongoing operations.

In my view, this legislation is compatible with the eventual transition to an internationally agreed on arrangement.

SENATOR RANDOLPH'S TIMELY WARNING

Mr. MUSKIE. Mr. President, last week, in Wheeling, W. Va., 1,700 persons from West Virginia and the Upper Ohio Valley areas in Pennsylvania and Ohio joined in a nonpartisan salute to our colleague, Senator JENNINGS RANDOLPH.

I have been a Member of the Senate with Senator RANDOLPH since we were both elected in 1958. I have been privileged to serve with him on the Environment and Public Works Committee during all of the years that have intervened and under his chairmanship for the last decade or more.

There is not a more effective or more dedicated, more committed Member of this body than my good friend, Senator JENNINGS RANDOLPH.

In connection with the tribute that was paid to him in Wheeling last week, a most appropriate editorial appeared in the Wheeling News-Register on Thursday, December 13, entitled, "Senator Randolph's Timely Warning."

One paragraph in that editorial caught my attention:

> So this country's "Man for All Seasons," Senator Jennings Randolph, speaks another timely warning for the nation. While he acknowledges that there is no parallel between Iran and the United States, the dangers, however, "inherent in a breakdown of individual responsibility, are vividly portrayed by events in Iran."

Mr. President, I ask unanimous consent that that editorial tribute be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SENATOR RANDOLPH'S TIMELY WARNING

If ever there was a "Man for All Seasons," U.S. Senator Jennings Randolph of West Virginia deserves such acclaim and so it is fitting that the area's leaders join tonight in a non-partisan salute to this outstanding representative of the people for his long years of faithful public service to the State of West Virginia and the country he loves.

We would not attempt again to list here the numerous examples of his foresight and leadership that date back to those first 100 days of the administration of President Franklin Delano Roosevelt, when Senator Randolph was a freshman member of the House of Representatives. Those who speak at the Wheeling Civic Center this evening at the dinner honoring the Senator can elaborate on his amazing record of accomplishments from helping the blind and the handicapped to assuring the future welfare of a major area basic industry.

Instead, we believe it appropriate to call attention to Senator Randolph's current thoughtful and intelligent perception of the American scene at a time when others who are of the Senator's age already have settled deep into retirement and inactivity.

At a recent workshop on citizen education held in Chevy Chase, Maryland, Senator Randolph called attention to the urgent need for a revival of good citizenship and virtue which made our nation strong over the years. He warned of the danger of allowing government to become the concern "of the few, by the few, and for the few."

The handwriting already is on the wall and Senator Randolph, who warned of the today's energy crisis as long as 30 years ago, now is signaling of a new danger that might become tomorrow's national tragedy.

He noted how in 1978, only 34 percent of America's voters exercised their responsibility. This represents a modern low for voter turnout.

Senator Randolph cited how less than 28 percent of President Carter's fellow citizens voted for him in the Presidential election of 1976. Less than three of every 10 eligible voters chose the President.

He said, "The voters of the United States no longer establish policy and elect our leaders and representatives by majority vote. A majority of the minority are serving this function—setting the course for the majority who choose not to vote. I submit that, as a Nation, we are courting disaster if we are not able to reverse this trend. Education for citizenship is a priority."

Ever alert to the changing scene of the moment, the Senator from West Virginia in pleading for a rebirth of individual responsibility, brought the current crisis in Iran into focus as it applies to our own shortcomings.

"We are witnessing evidence of tragedies which do occur in the absence of individual responsibility," he told his audience. "Hordes of a foreign country's citizens exhort profanities on our Republic while Americans are held hostage by a tyrranical regime."

He explained how beneath the Ayatollahs are hundreds of Vicars who pass judgment on both religious and public affairs. Below the Vicars are approximately 180,000 Mullahs, one for every 200 citizens, who minister directly to the people and between the Mullahs and the Vicars are an additional 100,000 religious men known as "Hafex" working directly with the population.

Senator Randolph asks and answers:

"Can an Iranian citizen exercise individual responsibility in this climate? It is doubtful."

A select few, the Ayatollahs, do all the thinking for an entire nation. In the Senator's view, the radical and irrational behavior of the Iranian citizenry is the product of a lack of individual thought and independent expression.

So this country's "Man for All Seasons," Senator Jennings Randolph, speaks another timely warning for the nation. While he acknowledges that there is no parallel between Iran and the United States, the dangers, however, "inherent in a breakdown of individual responsibility, are vividly portrayed by events in Iran."

Once again Senator Randolph has issued the clarion call for all Americans urging a rebirth of good citizenship. His message is clear—voter participation is critically important to sustaining a democracy.

THE RHODESIA SETTLEMENT

Mr. TSONGAS. Mr. President, a few hours ago in London, Mr. Mugabe and Mr. Nkomo of the Patriotic Front initiated the final cease-fire agreement, thus bringing to a successful conclusion the Rhodesia Settlement Conference. On December 5, some 12 days ago, these same leaders accepted common principles for the cease-fire. I, and I think most of my colleagues here in the Senate were convinced that this news was final, that there would be no further snags. For 12 days after I wondered whether our initial optimism was justified. Today there is no more need for anxiety. All parties to the Rhodesian war have officially signed on to the agreement forged in London. The road to a peaceful, democratic settlement in Rhodesia is finally open. It is truly a day of joy for all peace loving Americans and Africans.

I have spoken on this subject before and I have praised those who deserved credit and berated those who deserved criticism. I do not think it is useful to do all of that again. It is sufficient to say now that the great success in London was very much the product of African diplomacy and African resolve. There can be no downplaying the magnificent role of the British in this achievement—Prime Minister Thatcher and Foreign Secretary Carrington were brilliant managers of this conference. But, it should be clear to all that African diplomats worked behind the scenes and sometimes in front of them to push conference participants closer to an agreement. In this connection, the frontline African states deserve prominent mention. Zambia, Mozambique, Tanzania, Angola, and Botswana all contributed to the triumphant outcome in London. I salute them. Nigeria, although not a member of the frontline, was also a potent force behind the negotiations. This powerful African state with a brilliant future beckoning has been a force for peace and justice in Africa for a number of years now.

Nigeria, it should be noted, is a nation which we, here in the United States, should not ignore. Nigeria with over 80 million people and vast material and human resources is part of African emergent. That is an old term and it has been used loosely in the past, but there can be no denying that Nigeria is part of a new direction and emphasis in Africa. Last summer Nigeria conducted free and democratic elections open to all national political parties. Those elections brought Nigeria back to civilian rule and a democratic process after some thirteen years of military rule.

An article appeared in the last issue of Foreign Affairs on the Nigerian elections and that article makes for very interesting reading. Written by Jean Herskovits, the article sets out how a large and dynamic state with a tradition of regional and ethnic discord organized a series of local, state, and federal elections over successive weekends. It is an amazing saga of organization, skill, foresight and democracy in an African nation. I urge my colleagues to read this article.

Nigeria is the most dramatic example of this new direction in Africa, but there are other instances as well. Ghana has held elections this year under extremely poor economic conditions. A military coup marred the election result, but the military then stepped down in favor of the duly elected civilian government. This is encouraging news from a nation with a rich and proud heritage.

Elsewhere in Africa, three infamous dictators have fallen. Bokassa of the Central African Republic is no longer emperor. Nguema of Equatorial Guinea is gone. And Idi Amin was defeated by a combined force of Ugandan patriots and Tanzanian allies who had been provoked by Amin's invasion of their country. Three bloody dictators are no more. They have not been replaced by model governments, but the replacements are not repressive and have adopted public positions in favor of more political liberties.

These changes which have taken place over the course of this year are encouraging signs that Africa is moving forward. The call for a human rights agenda at the recent Organization of African Unity Meeting in Monrovia, Liberia, is an indication of this new direction. I am encouraged by all this. I think my colleagues should take encouragement. Africa deserves far more attention from this great deliberative body than it receives. The continent is becoming more important to the United States each year. It is also important that the executive branch of our Government follow policies and actions which support rather than hinder promising developments in Africa.

One particular problem is the administration's leisurely approach to the appointment of an ambassador to Uganda. Here is a country with enormous economic potential emerging from a disastrous period of misrule by Idi Amin. The country's economy has been devastated. Human relations have been poisoned by years of systematic imprisonment, torture, and murder.

The Congress has made its wishes clear to the administration. A program of aid and reconstruction is vitally important to help the moderate leaders now in power in Uganda. The administration has responded with a strong effort to supply that country with significant aid, for agriculture, for refugees, for education and industry. But there is no ambassador there to orchestrate this aid program. Ugandans must wonder how we do things over here. No ambassador and lots of aid. Economic help combined with a political slap in the face.

There can be little reason to delay any further on this important matter. There is no shortage of talented, dedicated professionals in the State Department. An appointment should be made promptly.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSSAGES FROM THE HOUSE

At 1:46 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 224. A concurrent resolution expressing the sense of the Congress that the American people should immediately send Christmas cards to the hostages being held in the Embassy in Tehran as an indication of our concern for their welfare and our support for the Government of the United States as it seeks to secure their release.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 241. An act to restructure the Federal Law Enforcement Assistance Administration, to assist State and local governments in improving the quality of their justice systems, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. MAGNUSON).

At 3 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House agrees to the amendment of the Senate to the text of the bill (H.R. 4998) to amend the Federal Reserve Act to require that detailed minutes of Federal Open Market Committee meetings shall be published on a deferred basis, with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, without amendment:

S. 716. An act to amend the Retired Federal Employees Health Benefits Act, as amended, with respect to the Government contribution toward subscription charge; and

S. 1874. An act to amend the act incorporating the American Legion so as to redefine eligibility for membership therein.

HOUSE CONCURRENT RESOLUTION REFERRED

The following concurrent resolution was read by title and referred as indicated:

H. Con. Res. 224. A concurrent resolution expressing the sense of the Congress that the American people should immediately send Christmas cards to the hostages being held in the United States Embassy in Tehran as an indication of our concern for their welfare and our support for the Government of the United States as it seeks to secure their release.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, December 17, 1979, he had presented to the President of the United States the following enrolled bill:

S. 241. An act to restructure the Federal Law Enforcement Assistance Administration, to assist State and local governments in improving the quality of their justice systems, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHURCH, from the Committee on Foreign Relations, without amendment, but with an amendment to the preamble:

S. Con. Res. 59. A concurrent resolution calling for an international conference on Cambodia (Rept. No. 96-505).

By Mr. GLENN, from the Committee on Foreign Relations, without amendment, but with a preamble:

S. Res. 316. An original resolution concerning Thailand's assistance to Kempuchean Refugees (Rept. No. 96-506).

By Mr. NUNN, from the Committee on Armed Services, with an amendment and an amendment to the title:

S. 523. A bill to amend chapter 5 of title 37, United States Code, to revise the special pay provisions for certain health professionals in the uniformed services (Rept. No. 96-507).

By Mr. PELL, from the Committee on Rules and Administration:

Special Report Pursuant to Section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 96-508).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. JAVITS (for himself, Mr. CHURCH, and Mr. LUGAR):

S. 2141. A bill to establish priorities in the payment of claims against the People's Republic of China; to the Committee on Foreign Relations.

By Mr. GRAVEL:

S. 2142. A bill to amend the Alaska Native Claims Settlement Act, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. TALMADGE:

S. 2143. A bill to provide for the conveyance of the lands comprising the Harris Neck National Wildlife Refuge, McIntosh County, Georgia, to the persons, or the heirs of the persons, who owned such lands prior to their condemnation by the United States in 1943; to the Committee on Environment and Public Works.

By Mr. SCHWEIKER:

S. 2144. A bill to amend the Public Health Service Act to revise titles VII and VIII of such act to provide new programs for training in the health professions and nursing, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. THURMOND:

S. 2145. A bill to authorize the burial of Elizabeth Myers McNeil in the Veals Chapels Cemetery, Fort Jackson, South Carolina; considered and passed.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JAVITS (for himself, Mr. CHURCH, and Mr. LUGAR):

S. 2141. A bill to establish priorities in the payment of claims against the People's Republic of China; to the Committee on Foreign Relations.

● Mr. JAVITS. Mr. President, on behalf

of Senators Church, Lugar, and myself, I am introducing legislation intended to rectify any inequitable distribution of funds which may arise from the claims settlement agreement reached between the United States and the People's Republic of China in March of this year.

After 30 years, the United States and China have now managed to set aside the longstanding dispute regarding seized assets both in China and here in the United States. This claims agreement now clears the way for U.S. firms to compete for business in the 900 million consumer Chinese market. The prospect for expanding world trade and especially opening up a promising new export market for U.S. goods is significant as we attempt to expand and strengthen the U.S. export performance.

Because the United States was not in a state of war with China at the time of expropriation, the administration of these assets will be conducted under the rules of the International Claims Settlement Act, not the War Claims Settlement Act. Unlike the War Claims Act, the International Claims Settlement Act establishes a procedure which seeks to assure that all claimants benefit equally from the pro rata distribution of funds. In the present case of the China claims, this pro rata distribution means that all claims will be compensated at a rate of $0.41 to $1—less a service fee to the Treasury.

Under the existing International Claims Settlement Act, all claimants are to be compensated equally on a pro rata basis, after an initial distribution of $1,000 or less to de minimum claimants. Unfortunately, the law in its present form does not provide for equal treatment because it neglects to weigh certain tax and commercial benefits available to corporations that are not available to nonprofits and charity groups. The legislation I am introducing today seeks to remedy this clear bias which provides advantages to certain corporate claimholders.

To accommodate for these provisions of the statute which distort the award process in favor of corporation claimants. I propose that cash awards to corporations which have enjoyed tax benefits on these claims be reduced to reflect those tax benefits and that awards to charitable and nonprofit organizations be raised commensurately. This will accomplish the restoration of assets to these groups in a manner that is consistent with the spirit of the law.

The bias, under present law in favor of corporations, results from the fact that certain corporations through provisions in the Internal Revenue Code were able in years subsequent to 1949, to write off property losses suffered in China and thus were able to recover immediately close to half of their losses. While these companies are eligible also to receive the pro rata cash awards resulting from the bilateral agreements, the IRS accordingly taxes these cash awards to reflect the earlier recovery through taxes. However, the IRS does not consider the use of the recovered funds for the approximate 25 years between the date of loss and the date of cash award in its calculation of benefits. This is not to say that corporations should be penalized for making a sound business decision, but rather it indicates that the earlier loss recovery should be taken into consideration and certainly weighed when the claims settlement takes place.

For one firm alone, the use of these funds for 10 years conservatively calculated at simple 6-percent interest would amount to more than $3 million. This is an option that corporations were able to exercise that nonprofits and charity groups, because of their tax status, could not.

Under the distribution formula that I propose, de minimus claims of $1,000 or less will be compensated fully as provided for in current law.

In the next category, individuals would be compensated at the negotiated pro rata share. This legislation would in no way diminish the returns to individuals of compensation for their losses.

The business firms which are certified claimants will be compensated in the following manner. First, to those companies who, for one reason or another have chosen not to, or were unable to exercise an option to write off these losses, a full pro rata share will be distributed. The inability or failure to write off these losses will not diminish the cash distribution to these firms.

The business firms which have in earlier tax years exercised the option of writing off all or part of these losses will be compensated in the following manner. The pro-rata cash distribution scheduled for payment to these companies will be reduced by the amount of the loss-related tax writeoff, but not reduced more than the amount paid in the first cash distribution this year. This first payment amounted to approximately three-eighths of their cash awards, which when added to the original tax deductions and use-of-funds benefits, will bring their net recovery well beyond that accruing to other groups of claimants.

This proposal would net to these needy charitable groups at least $12.5 million above what they would be receiving under current law. Under the pro rata distribution, charities, nonprofits and religious groups will be awarded approximately $23 million. This proposal would increase this distribution by more than 50 percent to $35.5 million.

The reasons for adopting these proposals are both clear and compeling. First, the failure of the International Claims Settlement Act to weigh in the tax benefits enjoyed by many companies provides a definite advantage to these business concerns that need to be balanced out if equity is to be achieved.

Also, an unwritten, but tangible element of the claims agreement will help to open up business opportunities to those firms which were heretofore locked out of the China market.

The Congress is now considering a bilateral United States of America and the Government of the People's Republic of China trade agreement. Such an agreement, of course, could never have been negotiated without first successfully resolving the claims issue. One cannot calculate the monetary value of this benefit, yet it certainly is substantial to both direct exporters and secondary suppliers. Of course, no such opportunities are open to the nonprofits and charities.

Perhaps most important, is the consideration that must be shown to those groups which are of a charitable nature. The people that will benefit by this legislation are the needy and disadvantaged who depend on the services of these groups and organizations. What may be construed as a windfall gain for some groups is a vital resource to the people who will be at the receiving end of these funds.

I hope that this legislation will receive speedy and favorable consideration.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2141

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7(b)(2) of the International Claims Settlement Act is amended by inserting after the first sentence the following: "Notwithstanding the preceding sentence, in the case of amounts covered into a special fund created for the purpose of making payments pursuant to subsection (f) of section 8, the Secretary of the Treasury shall deduct from such amounts, as reimbursement to the Government of the United States, the lesser of (A) the expenses incurred by the Commission and by the Treasury Department in the administration of this title with respect to claims included within the terms of the claims settlement agreement referred to in such subsection or (B) 5 per centum of such amounts.".

Sec. 2. Section 8 of the International Claims Settlement Act of 1949 is amended—

(1) in subsection (e), by striking out "The" after "(e)" and inserting in lieu thereof "Except as provided in subsection (f), the"; and

(2) by adding at the end thereof the following: "(f) (1) Out of sums covered after May 11, 1979, into the special fund created pursuant to this section to receive funds paid by the People's Republic of China, the Secretary of the Treasury is authorized and directed to make payment on account of awards certified by the Commission pursuant to this title with respect to claims included within the terms of the Agreement Between the Government of the United States of America and the Government of the People's Republic of China Concerning the Settlement of Claims, signed on May 11, 1979, concluded pursuant to section 4(a) of this title, in the following order of priority:

"(A) Payment in the amount of $1,000 or the principal amount of the award, whichever is less.

"(B) Thereafter, except as provided in paragraph (2), to the extent there remain unpaid principal balances on awards, payments from time to time on account of the unpaid principal balance of each remaining award which bear to such unpaid principal amount available for distribution at the time such payments are made bears to the aggregate unpaid principal balance of all such awards.

"(C) Thereafter, payments from time to time on account of the unpaid balance of each award of interest which bear to such unpaid balance of interest the same proportion as the total amount available for distribution at the time such payments are made bears to the aggregate unpaid balance of interest of all such awards.

"(2) (A) In the case of any claimant which was, on the date of nationalization or other taking of property, an incorporated business enterprise, and to which a deduction in determining Federal income tax liability was allowed for losses upon which such claims are based, the sum of the amounts which would otherwise be payable (but for this paragraph) under subparagraph (B) of paragraph 1 shall be reduced by the amount of such deduction, but not below an amount equal to payments made to such incorporated business enterprises before the date of enactment of this subsection. Such sum of the amounts which would otherwise be payable but for this paragraph which are not paid to such incorporated business enterprises shall be aggregated, and the Secretary of the Treasury is authorized and directed to make payments out of such aggregated sums in accordance with subparagraph (B).

"(B) To the extent that there remain unpaid principal balances on awards to claimants which were, on the date of nationalization or other taking of property, nonprofit organizations operated exclusively for the promotion of social welfare, religious, charitable, or educational purposes (after payments made to such nonprofit organizations pursuant to subparagraphs (A) and (B) of paragraph (2) are taken into account), the Secretary of the Treasury is authorized and directed to make payments from time to time on account of the unpaid principal balance of each remaining award to such nonprofit organizations which bear to such unpaid principal balance the same proportion as the total sums aggregated pursuant to subparagraph (B) at the times such payments are made bear to the aggregate unpaid principal balance of all such awards to nonprofit organizations.".●

By Mr. GRAVEL:

S. 2142. A bill to amend the Alaska Native Claims Settlement Act, and for other purposes; to the Committee on Energy and Natural Resources.

ALASKA NATIVE CLAIMS SETTLEMENT ACT AMENDMENTS

● Mr. GRAVEL. Mr. President, for the past 3 years the Alaska National Interest Lands Conservation Act has been the subject of considerable attention, emotion, and debate; a debate focused upon the proposed establishment of millions of acres of wilderness areas and other conservation system units throughout Alaska.

However, many Members may not be aware that independent of the issues relating to the establishment of conservation system units, a substantial number of the provisions of the House-passed bill, the bill reported last month by the Senate Energy Committee, and the proposed substitute for the latter bill recently introduced by Senator TSONGAS are virtually identical and have received nearly unanimous support from all interested parties. Those provisions are a series of amendments which either modify and improve the Alaska Native Claims Settlement Act (ANCSA), accelerate the implementation of the act, or facilitate and improve Native land selection patterns through land exchanges negotiated between the Native corporations and the Federal and State governments.

Mr. President, an important fact which has not always been at the forefront of the Alaska national interest lands debate is that the fundamental purpose of ANCSA was not the authorization of massive land withdrawals for future inclusion in one of the "four systems," but rather the achievement of an immediate and equitable settlement of the aboriginal claims of the 80,000 Native residents of Alaska. In 1971 the Congress intended that the commitment of the U.S. Government to the fulfillment of the settlement struck with the Alaska Native community was to be met first, and then, decisions relating to the disposition of the remaining public lands in Alaska would be made.

The method chosen by the Alaska Native people and the Congress as the vehicle for providing that settlement was unique and truly revolutionary in scope. Rather than basing the land settlement upon the archaic and dehumanizing reservation concept, or enacting a solely monetary settlement estranged from the sacred relationship of the Alaska Native people to the land and its resources, we established a complex structure of over 200 village and 13 regional corporations as private owners of some 44 million acres of land and recipients of a monetary settlement of nearly $1 billion. In this way it was hoped that through the opportunities and disciplines of corporate society the lands and moneys of the Settlement Act could continue to benefit Native peoples in Alaska for generations to come.

Every Alaskan Native alive at the date of enactment of ANCSA is a shareholder of one of the regional corporations and usually a shareholder of the village corporation representing his home community. Consequently, the success or failure of the settlement is dependent upon the success or failure of the Native corporations and the fairness and speed with which the Federal Government, including this Congress, executes its responsibilities to ensure that the goals we established in 1971 are attained.

Most of us who worked on ANCSA had no delusions about the conceptual difficulties, confusion, and not inconsiderable cultural trauma which would be engendered by the sudden imposition of a modern corporate structure upon rural Native communities whose culture and economy are based primarily upon the age-old subsistence way of life. However, we committed ourselves with the Alaska Native people to be imaginative in our approach to the implementation of ANCSA, to learn from our failures as well as from our successes, and to stand ready to continually improve the Claims Act as problems are identified and new approaches defined.

Until the Alaska national interest lands debate was superimposed upon the implementation of ANCSA, the Congress worked closely with the Alaska Native community to improve the act in response to changing conditions. However, even though the Native community, the Federal Government, the State of Alaska, and all other interested parties have now agreed upon several dozen needed changes to ANCSA which are critical to the success of the implementation of the act—changes for the most part completely unrelated to the controversy surrounding the designation of new conservation system units in Alaska—those changes have been inexplicably linked to the fate of the "four system" withdrawals. Amendments to ANCSA expediting the conveyance of lands to the Native community which Congress directed to conveyed "immediately" in 1971 but which have not yet been conveyed, amendments to extend the tax moratorium to reflect the delay in conveyance and economic benefit, amendments enabling Native villages which have not yet selected their full land entitlement to do so, and dozens of other technical and land exchange amendments have little bearing on decisions relating to the disposition of the public lands in Alaska and should no longer be delayed pending the uncertain resolution of that issue.

I might add that the land trades contained in these amendments in no way detract from or prejudice the ultimate decision of the Congress with respect to new conservation system units in Alaska. As a matter of fact, most of the trades have been successfully negotiated and accepted by all parties because they involve the relinquishment of valid Native corporation selections within key areas desired by the Department of the Interior and the environmental community for inclusion in conservation units. Under the terms of this bill such lands relinquished would revert to the Federal Government and would remain withdrawn from all selections and entries pending final disposition.

Consequently, the bill which I am introducing today contains all of the "Native" amendments which are critical to the success of the just and "immediate" settlement of aboriginal claims which we sought in 1971. The concepts embodied in the bill are noncontroversial. With one exception each provision was included in the Breaux-Dingell bill which was reported to the House floor by the Interior Committee and the Merchant Marine and Fisheries Committee, in the Udall-Anderson bill which was adopted by the House last May, in the bill reported last month by the Senate Energy Committee, and in the proposed substitute to the latter bill recently introduced by Senator TSONGAS.

The one exception is the submerged lands amendment which is included in all of the above bills except the Senate Energy Committee bill. Section 306 of my bill incorporates a series of important changes to the submerged lands amendment which were recently developed by the Department of the Interior and which are now acceptable to the Alaska Native community and the State of Alaska. With the inclusion of those changes that amendment also has become noncontroversial.

Mr. President, in closing I would again like to reiterate that although many Members of this body have distinct and often emotional differences with respect to the proper disposition of the public lands in Alaska, I do not believe that any Member has consciously intended to link the success of the implementation of ANCSA and the economic and cultural survival of the 80,000 Alaska Native residents of my State to the fate of unrelated proposals for the designation of conservation system units. The Congress has always been committed to a course of dealing with the Alaska Native people which is fair, sensitive, and dedicated to the provision of an equitable and timely opportunity for Native people to develop their own institutions and control their own destiny.

Therefore, I would respectfully urge all of my colleagues who have been so actively involved in the Alaska lands issue to join with me in supporting the enactment of the ANCSA amendments which I am introducing today.

Mr. President, I ask unanimous consent that a summary of these amendments from the Senate Energy and Natural Resources Committee Report No. 96–413 be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF ALASKA NATIVE CLAIMS SETTLEMENT ACT AMENDMENTS AND RELATED PROVISIONS FROM SENATE REPORT NO. 96–413

(Report of the Committee on Energy and Natural Resources, to accompany H.R. 39, reported November 14, 1979)

SECTION 1401: STOCK ALIENATION

This section is intended to allow Native Corporations the option of giving their shareholders and Corporations additional protection after 1992 when stock can be alienated. The section is also designed to limit the possibility of take over of Native Corporations by outside interests. This is accomplished by allowing the Corporations the option of amending their bylaws to provide for a right of first refusal before the culmination of a sale or other transfer of the stock and also to limit voting in Native Corporations to Alaska Natives or their direct descendants. In addition, this section allows Alaska Native members of professional organizations to alienate their stock in cases where holding Native stock may interfere with their ability to conduct their business.

SECTION 1402: SELECTION REQUIREMENTS

Grants discretionary authority to the Secretary to waive the requirement of section 12 of the ANCSA that Village Corporations select land in whole sections where waiver of the whole section requirement and use of natural features (such as meanderable bodies of water) as selection boundaries is justified and appears to be beneficial to the landowners—Native, State, or Federal. A waiver may also be granted where another Corporation is to receive title to a portion of the whole section.

SECTION 1403: RETAINED MINERAL ESTATE

Under many of the Public Land Laws, the United States retained all or a portion of the mineral estate when it conveyed lands to individual entrymen. This section would allow a Regional Corporation (1) to have included within its existing selection or selections certain contiguous retained mineral estates that were not withdrawn pursuant to Section 11 (a)(3) of the ANCSA, (2) to exclude certain retained mineral estates from the mandatory selection requirements of Section 12(c)(3) of the ANCSA, and (3) provide in lieu surface estate rights when such certain retained mineral estates are conveyed to Regional Corporations.

Where a Regional Corporation has selected received subsurface estate rights pursuant to Section 12(a)(1) or 14(h) it would have to exercise any in lieu surface estate rights in such areas first.

SECTION 1404: VESTING DATE FOR RECONVEYANCES

Subsections (a) and (b) make it clear that December 18, 1971, the date the Alaska Native Claims Settlement Act (ANCSA) became law, is the vesting date of rights of individuals, businesses, and nonprofit organizations to receive reconveyance of land from Village Corporations under Sections 14(c) (1) and (2) of the ANCSA. An exception is made for Village Corporations on the Pribilof Islands.

Subsection (c) amends Section 14(c)(4) of the ANCSA to make it clear that the Village Corporation is obligated to reconvey lands for airport sites, runways, facilities associated with the operation of airports, and land or easements necessary to maintain safe approaches to airports, based on the manner in which airports and related facilities were in existence on the date of enactment of the ANCSA.

If new airports have been constructed since December 18, 1971, on lands selected by Village Corporations, or if airports or airport facilities have been improved or expanded since that date, it is understood that such uses of selected land have been properly authorized by the Department of the Interior and as such are considered valid existing rights which will be recognized by the Village Corporation at the time they receive conveyance to their lands. This subsection also amends Section 14(c)(4) of the ANCSA to make it clear the Village Corporation's conveyance obligations at airports are limited to those lands associated with the provision of services by governmental entities and do not extend to the conveyance of lands associated with the provision of services by nongovernmental entities.

SECTION 1405: RECONVEYANCE TO MUNICIPAL CORPORATIONS

Amends Section 14(c)(3) of the ANCSA to provide that less than 1,280 acres may be reconveyed by a Village Corporation to a Municipal Corporation or the State in trust, if there is agreement to do so. Conveyance of 1,280 acres may not be necessary in certain communities but this should be determined on an individual basis by the local municipal government and the Village Corporation or in the absence of a municipal corporation, by the Village Corporation and the State in consultation with the local community. This subsection also amends Section 14(c)(3) to make it clear that it is the intent of ANCSA for the Village Corporation to receive the financial benefit from the sale of surface resources on lands reconveyed by them but that utilization of surface resources for local governmental purposes is not precluded.

SECTION 1406: CONVEYANCE OF PARTIAL ESTATES

This section amends the ANCSA to make it clear that the subsurface estate in lands located within National Wildlife Refuges will not be conveyed to a Regional Corporation under Section 14(h) (1), (2), or (5) of the ANCSA and will be retained in United States ownership. An exception is made for the subsurface estate underlying cemetery or historical sites of 640 acres or less in size conveyed under section 14(h)(1). In lieu rights are provided where the Regional Corporation does not receive the subsurface estate. Also, criteria are provided for the withdrawal for and selection of such in lieu rights. This section also amends Section 14(h)(6) of the ANCSA to make it clear that the retained mineral estate underlying allotments approved during the four year period following enactment of the ANCSA is to be conveyed to the appropriate Region Corporation unless the allotment lands are located in a Wildlife Refuge or, as provided in section 12 of Public Law 94–204, in the Lake Clark area.

Provision is made in subsection (e) for a 180-day period for Regional Corporations to assert any claim to the subsurface estate of lands in a Wildlife Refuge other than the 640-acre exception for 14(h)(1) selectable under 14(h) of the ANCSA. If such a claim is submitted, that Regional Corporation would not be entitled to the benefits provided by this section and Section 1403.

SECTION 1407: SHAREHOLDER HOMESITES

Amends section 21 of the ANCSA to provide that if land conveyed by a Village Corporation to a Village Corporation shareholder for the purpose of providing a homesite, that conveyance will not be considered a distribution of corporate assets provided certain restrictions and covenants are observed. The land conveyed to the shareholder may not exceed one and one-half acres in size and for a period of not less than ten years may only be used for single-family residential occupancy. If the shareholder ever subdivides the land, he becomes liable for all Federal, State, and local taxes which he would have had to pay were it not for the protection provided by this section.

SECTION 1408: BASIS IN THE LAND AND RESERVES FROM LAND

The Settlement Act originally provided that the basis in land should be the fair market value of land at the time of receipt of such land.

This provision defines time of receipt as "the time of the conveyance" but the Secretary of the Interior, regardless of whether the title document is a patent or an interim conveyance. The amendment further provides that the basis of mineral deposits and timber shall be the fair market value at the time of first commercial development.

SECTION 1409: FIRE PROTECTION

Makes it clear in Section 21 of the ANCSA that there is only one criterion for the continuation of fire protection of Native lands by the United States—lack of production of substantial revenues. The section also changes the adjective used in Section 21 to describe the kind of fire protection provided from "forest" to "wildland". The term "wildland fires" has a particular meaning as it applies to the Department of the Interior's operations in Alaska and is understood to cover the entire spectrum of fires, i.e., those occurring in tundra, brush, or timber areas, but does not include developments (mineral developments, oil rights, sawmills, etc.) or improved areas (towns, communities, groups of buildings, etc.).

SECTION 1410: INTERIM CONVEYANCE AND UNDERSELECTIONS

This section amends Section 22(j) of ANCSA to authorize the Secretary to convey lands by "interim conveyance" when the lands have not been surveyed. The interim conveyance shall convey the same right, title, and interest in and to the lands as a patent. After the survey, a patent shall be issued, and if necessary, the lands may be redescribed in reference to the plot of survey. The terms "Patent" and "Interim Conveyance" are made interchangeable throughout the Settlement Act. All interim conveyances issued prior to enactment of this Act are retroactively validated.

As amended by the Committee, Section 22(j) also gives the Secretary of the Interior the necessary authority to withdraw available lands for Village Corporation selection in those instances where it is determined a Village Corporation has not selected sufficient land to obtain its full entitlement. The Secretary is to make every effort to rewithdraw available land for underselected Villages from the original Village and deficiency withdrawals. Lands considered available for rewithdrawal would include all lands with those withdrawals which was considered public land and available for withdrawal at the time the ANCSA was passed in 1971, irrespective of classification of the land subsequent to passage of the ANCSA. If sufficient land to correct these problems is no longer available in the Village or deficiency withdrawals of the underselected Village, the Secretary is expected to locate other available land as close to the Village as possible for withdrawal and selection by the Village. Upon withdrawal and notification by the Secretary, the appropriate Village Corporation would make its selection within 90 days.

SECTION 1411: ESCROW ACCOUNT

Section 2 of Public Law 94–204, the Act January 2, 1976, provides for the payment into escrow, funds received after January 1, 1976, from leases, rights-of-way, etc., on lands withdrawn for Native selection. The escrowed funds are held pending conveyance or nonconveyance and paid, upon conveyance, to the appropriate Native entity.

This section amends and clarifies Section 2 of Public Law 94-204 to:

(1) Include within the types of receipts covered by the escrow account, funds received by the United States as a result of trespasses occurring on public lands after they were withdrawn for Native selection;

(2) Provide for proportionate payment of escrowed funds where the conveyed land does not include all of the area involved in the lease, rights-of-way, trespass, etc. and;

(3) Change the date for identification of funds derived from leases, rights-of-way, etc., for deposit in the escrow account from January 1, 1976, to the date of withdrawal of the lands for selection. To avoid delays in the conveyancing process, receipts due the Natives for the period between date of withdrawal and January 1976 would be identified within two years of conveyance of the land from which the receipts were derived or within two years of conveyance of the land from which the receipts were derived within two years of the date of this Act, whichever is later. These funds are then to be paid, subject to appropriation with interest to the appropriate Native entity.

SECTION 1412: LIMITATIONS

This section is a savings clause which provides that except as specifically provided in this legislation, the provisions of the ANCSA are fully applicable to this legislation and nothing herein shall be construed to alter or amend those provisions.

SECTION 1413: SUPPLEMENTAL APPROPRIATIONS FOR NATIVE GROUPS

This section authorizes the payments of grants to Native Group Corporations established pursuant to Section 14(h)(2) to the ANCSA. These grants are to be no more than $100,000 or less than $50,000 and are to be paid only after the Native Group receives final certification and has incorporated under Alaska State law. The Secretary's regulations specify that Native Groups are to have at least three but no more than 24 enrollees; therefore, it is intended that the difference between a minimum and maximum grant will be paid in proportion to the population of each Group. For example, a Group of three would receive the minimum grant of $50,000, while a Group of 24 would receive $100,000; Groups larger than three but less than 24 would receive the minimum grant of $50,000 plus $2,380.95 (or $50,000÷21) for each member over three. It is intended that these funds are to be used by the Native Group Corporations for such purposes as planning and development of their lands and organizational expenses of the corporations. These funds are granted in recognition of the fact Native Group Corporations as corporate entities do not receive a share of the Alaska Native Funds as do Village Corporations.

SECTION 1414: FISCAL YEAR ADJUSTMENT ACT

This section would require deposit in the Alaska Native Fund of the payments due under the ANCSA on the first day of the fiscal year and immediate investment of those deposited funds by the Secretary of the Interior. It would require him to distribute Alaska Native Fund deposits at the end of the first quarter in all fiscal years except 1979, and would require the Treasury to return and deposit in the Fund for distribution to the Native Corporations interest actually earned by the Secretary of the Interior through the Investment of funds appropriated for fiscal year 1977 and invested from October 1, 1976, to June 30, 1977.

* * * * *

SECTION 1416: ALASKAN TOWNSITES

Closes all remaining townsite lands in Alaska to further occupancy and entry. All unoccupied lands in the townsites for which the Townsite Trustee still retain title, are to be conveyed to the city in which the townsite is located, or if a city has not been incorporated or does not wish to receive the townsite lands, conveyed to the State. The State shall administer such lands in the same manner as lands conveyed to the State under Section 14(c)(3) of the ANCSA. The unoccupied townsite lands are to be conveyed to the city or the State without charge and shall be credited toward the reconveyance requirement of Section 14(c)(3), as are previous conveyances under the townsite laws. The Townsite Trustee is expected to hold sufficient lands or funds to complete all pending actions with respect to the townsites such as completion of subdivisional surveys, settlement of claims against the trust account, etc. In recognition of the repeal of the Alaska Townsite laws (Acts of March 3, 1891, and May 25, 1926) by the Federal Land Policy and Management Act of 1976 (Public Law 94-579) subsection (d) of this section makes it clear that the Secretary shall act on pending townsite petitions and applications and the Townsite Trustee shall discharge his trust responsibilities on all tracts lawfully occupied on the date this section becomes law, notwithstanding the 1976 repeal of the Alaska Townsite Acts. Discharge of this trust includes issuance of restricted deeds to qualified Alaska Native occupants of townsite lands.

SECTION 1417: PRIBILOF ACQUISITION AUTHORITY

This section would facilitate negotiation and acquisition by the United States of the bird cliffs of the Pribilof Islands, a natural wildlife habitat now under native ownership.

SECTION 1418: NANA/COOK INLET REGIONAL CORPORATION LANDS

Open lands that are currently classified under Sections 17(d)(1) or 17(d)(2) of ANCSA to selection by the NANA Corporation and, with the permission of NANA and the State of Alaska, the Cook Inlet Regional Corporation. The area withdrawn contains about 70,000 acres and is outside the NANA Section 11 withdrawals.

Subsection (a) describes and statutorily withdraws the lands that are made available for selection by NANA and Cook Inlet.

Subsection (b)(1) provides that the NANA corporation may file selections on the withdrawn lands within 180 days. The Cook Inlet Region may also file selections on the lands withdrawn by subsection (a) if the approval of the State of Alaska and the NANA Corporation is obtained. The NANA Corporation is to have first choice of all of the lands within the block, up to the limit of their entitlement under Section 14(h)(8) of the ANCSA. Any lands that the Cook Inlet Region is to obtain are to be considered as part of their entitlement under the "Terms and Conditions" of the Cook Inlet land exchange, Public Law 94-204, as amended.

Subsection (b)(2) sets forth the standards for Native selections within the withdrawal area. The remaining subsections provide that all of the selections are to be treated as selections made under the terms of the ANCSA; the land entitlements of the two regions are not increased or decreased by this provision. However, lands selected in the withdrawn area and conveyed to either of the Regions are to be charged against their existing entitlements; lands not selected by either of the two Native corporations are to be made available for conveyance to the State of Alaska, to the extent that the State interest lands overlap the lands withdrawn for Native selection; and any remaining lands within the withdrawal area that are not conveyed to NANA or Cook Inlet or the State are to remain in Federal ownership.

SECTION 1419: DOYON REGIONAL CORPORATION LANDS

This section as well as Sections 1420, 1421, and 1422 authorize a land exchange among the Secretary of Interior, the Doyon Regional Corporation and the State of Alaska. The exchange serves to reduce Native inholdings within two conservative system units; provide the State and Doyon lands they would like to own; and consolidate land ownership patterns in interior Alaska. The following chart summarizes the exchange, all acreage calculations are estimates:

KEY TO LANDS TO BE RELINQUISHED BY DOYAN

Area	Name	Receiving	Acres
A	Yukon-Charley National Preserve.	National Park Service.	190,080
B	Kanuti National Wildlife Refuge.	Fish and Wildlife Service.	28,800
C	Lower Yukon River	State	48,000
	Total		266,880

KEY TO LANDS TO BE RELINQUISHED FROM D-2 PROPOSALS TO STATE

Area	From—	To—	Acres
A	Yukon-Charley Preserve.	State	46,720

EXCHANGE SUMMARY

To—	From State	From D-1	From H.R. 39/D-2	From Doyon	Total
Doyon	94,720	81,800	79,160		255,680
State			46,720	48,000	94,720
Conservation units				218,880	218,880
Total	94,720	81,800	125,880	266,880	569,280

Section 1419(a) authorizes the Doyon Regional Corporation to relinquish certain described lands which they have previously selected within their region. For the described lands, Doyon is to relinquish all of their rights and interests in the lands so that they may be added to conservation system units. The lands described include all of the Native selections within the Charley River watershed; other selections within the Yukon-Charley Rivers National Preserve but outside of the Charley River watershed in the vicinity of Mount Sorenson; selections which lie within the Kanuti National Wildlife Refuge; and selections which are along the Yukon River near the Innoko National Wildlife Refuge. All of the lands relinquished under paragraphs (A), (B), and (C) are to be added to their respective conservation system unit without regard for the acreage figures indicated for the units in Titles II and III. The lands in paragraph (D) are to become available to the State of Alaska for selection under the terms of the Alaska Statehood Act. At such time that the Doyon Corporation relinquishes all of the selections described in the paragraph then the rest of this section as well as sections 1420, 1421, and 1422 become operative. This relinquishment of the Natives selections is mandatory before these sections may be implemented. Once the exchange is initiated by the Natives, then the remainder of these sections must be implemented. Doyon shall relinquish their selections within 90 days of enactment of the legislation. Should the Doyon Corporation not relinquish these selections within 90 days, then these sections are to be considered null and void.

Since some of the lands being relinquished by Doyon will result in their lands having natural boundaries rather than township and section lines, the Secretary and Doyon will have to work together in determining the exact acreage that was relinquished. Doyon is to receive, on an acre for acre basis, replacement lands for those relinquished. These can come from either the lands made available for Doyon in this section or through existing valid selections that might otherwise be overselections. The final decision is to be made by Doyon. The relinquishment of their lands on natural boundaries should not result in the lands they retain being ruled invalid due to requirements in existing regulations.

Section 1419(b) provides the lands that the Doyon Regional Corporation may be allowed to select in exchange for the lands relinquished. The action further provides for the minimum size and selection requirements that Doyon must meet in its final selections.

These selections by Doyon are to be treated as selections made under the terms of the ANCSA, thus all sections of ANCSA, such as easements, that apply to Native selections shall also apply to these selections, except for the necessary waiver of regulations described in 1419(a). All of the lands identified for selection by Doyon are withdrawn from all forms of appropriation under the public land laws by this Act in order to protect them until such time as Doyon receives conveyance to the lands. The Secretary is empowered to terminate the withdrawal one year after the enactment of this Act for those lands not actually selected by Doyon. The Secretary may also terminate the withdrawal anytime Doyon relinquishes a selection, or at such point that Doyon has received its full entitlement under ANCSA. The Secretary shall allow reasonable surface and mineral studies of the withdrawn lands by Doyon or its assigns. The Secretary shall develop regulations that govern such studies which serve to provide necessary environmental protections for the lands while the studies proceed. The development of such regulations are exempt from all of the provisions of NEPA so as to facilitate early completion of the regulations.

Section 1419(c) provides that Doyon may select the lands withdrawn for their selection in this section under the provisions of either sections 14(h)(8) or 12(c) of ANCSA. Doyon shall inform the Secretary at the time of selection under which authority they are making the selection. Once the lands have been selected under this section, the Secretary shall adjudicate the selection and issue an interim conveyance decision within 180 days of the time the Department receives the selection from Doyon.

Recognizing that Doyon will most likely not receive its full 14(h)(8) entitlement from the lands withdrawn under this section, the section provides Doyon the authority to file 14(h)(8) sections elsewhere within their region, within 6 months after the enactment of this Act, but only on those lands which were earlier validly selected under 12(c) of ANCSA. Doyon may not file any selections on lands they have relinquished either through this Act or any other action. The intent of the section is to allow Doyon the right to convert existing 12(c) selections to 14(h)(8) selections. However, Doyon may not file any 14(h)(8) selections on lands that were withdrawn under section 11 of ANCSA and are included within the boundaries of a conservation system unit.

The section further recognizes the need of Doyon to have access from the Kandik Basin to the existing highway system in the State. Thus the section provides that the Secretary shall grant a right-of-way for Doyon across the Yukon-Charley Rivers National Preserve. More than one right-of-way may be granted by the Secretary. However, the Secretary is prohibited from granting any right-of-way within or through the Charley River Watershed.

SECTION 1420: HODZONA RIVER STUDY AREA

Section 1420 establishes a study area within the Yukon Flats National Wildlife Refuge from which Doyon may be entitled to select up to one township of land. The land descriptions in this section are meant to describe the area on watershed lines and natural boundaries. The Secretary has the flexibility to modify the description as is necessary and in cooperation with Doyon to properly describe the watershed boundary should there be an error in the legal description in this section.

Doyon shall be allowed the rights to explore for minerals and investigate surface values within the study area. Surface disturbances must be held to a minimum, however, such techniques as core drilling shall be allowed. The Secretary shall develop regulations which serve to protect the natural values of the study area during the study period. Of particular concern, the regulations should address the need to protect the water quality and quantity of the Hodzona River. The Fish and Wildlife Service should also undertake such studies as are necessary which would identify any actions needed to protect the water quality and quantity of the Hodzona River should the Doyon Regional Corporation exercise its rights to select up to one township of lands within the study area. To this end the Secretary is urged to seek cooperative agreements with Doyon concerning research, uses and management of the study area should selections be conveyed. Doyon shall receive the title to both surface and subsurface within the township. If Doyon and the Secretary agree, the study period may be extended up to two years beyond the original termination date.

SECTION 1421: CONVEYANCE TO THE STATE OF ALASKA

Section 1421 provides for conveyance to the State of Alaska certain described lands. This section is part of the overall land exchange approved by the Committee and is activated only at such time as the agreement in section 1419 becomes operative through the relinquishment of lands by Doyon, Ltd.

SECTION 1422: DOYON SITE SPECIFIC AMENDMENT ON FORTYMILE RIVER (D)(1) FORMER (D)(2) LANDS

Section 1423 authorizes Doyon Regional Corporation to receive conveyances to lands that were selected by them but are the subject of litigation. As part of the overall exchange authorized by the Committee and in order to consolidate land ownership patterns in the region, this section allows Doyon to receive certain of those lands. Doyon does not have to refile selections. Rather they only have to identify to the Department which of the selections, within the lands and limits described within this section, that they would like to receive title to. Under this section, Doyon may select only those lands that are not included within the Fortymile Wild, Scenic, and Recreation River as established in this Act, and any expanded corridor associated therewith. This section can also only take effect after Doyon, Ltd. has executed and filed a stipulation consenting to the dismissal, with prejudice, of the lawsuit pending against the Department of the Interior, *Doyan* v. *Andrus*, Civil Action No. 78–1148 filed in the U.S. District Court, Washington, D.C. The stipulation must be filed within 60 days of the enactment of the Act. Failure by Doyon to file the appropriate stipulation shall nullify this section only and shall not affect the other sections, 1421, 1422 or 1423.

SECTION 1423: AHTNA REGIONAL CORPORATION

Withdraws approximately 80,000 acres of land in the Cantwell area outside the Ahtna section 11 withdrawals for selection by the Regional Corporation under Section 14(h)(8) of the ANCSA. Subsection (b)(1) gives Ahtna 180 days to file selections on the withdrawn lands; subsection (b)(2) sets forth standards for the selections made. The remaining subsections provide that all selections are to be treated as selections made under the terms of the ANCSA; the land entitlement of Ahtna is not increased or decreased by this provision, however, land selected in the withdrawn area and conveyed to Ahtna is to be charged against its existing 14(h)(8) entitlement; and any remaining lands within the area withdrawn by subsection (a) that are not conveyed to Ahtna are to return to the public domain.

SECTION 1424: BERING STRAITS REGIONAL CORPORATION LANDS

Withdraws approximately 34,000 acres of land in the Bering Straits Region outside the section 11 withdrawals for selection by the Bering Straits Regional Corporation under Section 14(h)(8) of the ANCSA. Subsection (b)(1) gives Bering Straits 180 days to file selections on the withdrawn land and subsection (b)(2) provides standards for Bering Straits selections pursuant to Section 14(h)(8) in the areas withdrawn by this section. In addition, it provides that the Secretary may waive these standards for good cause or when it can be shown that a hardship is created by the standards set forth. The blocks of lands withdrawn are of varying size, ranging from approximately 30 acres to over 6,900 acres. The minimum size which the Bering Straits Corporation may select is eight sections, or 5,120 acres, or the size of the tract withdrawn, whichever of them is the smallest in size. Obviously if the tract withdrawn for selection is smaller than eight sections or 5,120 acres, it may be selected.

Subsection (c) makes it clear that conveyance of lands selected will be made pursuant to the provisions of the ANCSA. Subsection (d) provides that the land entitlement of Bering Straits is not increased or decreased by this section, however, those lands selected in the areas withdrawn by subsection (a) and conveyed to Bering Straits are to be charged against the corporation's existing 14(h)(8) entitlement. The intent of subsection (e) is clear. Subsection (f) is intended to make it clear that when withdrawn lands are selected under section 14(h)(8) of the ANCSA, those selections will be superior to any existing selections. For example, if any of the lands withdrawn for selection under subsection (a) where selected under Section 14(h)(1) as cemetery or historical sites prior to the date of this legislation, the Bering Straits Region is still allowed to make a Section 14(h)(8) selection of those same lands. Similarly, if lands withdrawn by subsection (a) are not selected under Section 14(h)(8) for any reason by Bering Straits' corporation, existing 14(h)(1) selection on those lands, if any, are to be allowed to stand and be adjudicated in the normal manner.

SECTION 1425: EKLUTNA VILLAGE CORPORATION LANDS

This section is designed to solve severe land selection problems regarding the Native Village of Eklutna.

Subsection (a) declares the need for a special settlement and the goals of that settlement.

Subsection (b) empowers the Secretary and further obligates him to implement any agreement executed by the State of Alaska, the Municipality on Anchorage, and Eklutna, Inc. respecting those lands located within Eklutna's 11(a) withdrawal area and which are described in subsection (b)(1). The parties are authorized to relinquish selections previously made and to agree as to the future disposition of acreage or interest in lands withdrawn by subsection (b). These relinquishments and conveyances will serve to facilitate land management with the Eklutna withdrawal area. If no agreement is reached, the legislation will be of no force and effect.

Subsection (b)(1) withdraws from all forms of appropriation under the public land laws with the exception of PL 94–204, section 12 as amended before this Act, those lands within the Eklutna 11(a) withdrawal area which are owned by the United States and which were not previously withdrawn by the Alaska Native Claims Settlement Act. The withdrawal is intended to preserve the subject matter of the contemplated negotiations between the State, the Municipality, and Eklutna, for the period authorized for negotiations, and further to require implementation of any agreement, if and when executed. If no agreement can be reached by the parties, the withdrawal will expire March 15, 1982.

Subsection (b)(1) makes it clear that the withdrawal is intended to permit the agencies currently administering the lands described therein to continue to administer those lands to the extent that they may lawfully do so. The United States is authorized to dispose of the lands to the parties in accordance with the agreement after the agreement has been signed and as soon as the federal property has been declared excess, provided that the land has not also been surplused prior to July 15, 1979. Before July 15, 1979, Cook Inlet Region, Inc. may be offered the property in accordance with the document entitled "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area as clarified August 31, 1976", as amended November 15, 1977 (PL 95–178).

Subsection (b)(1) further provides for a recognition of the prior vested rights of Cook Inlet Region, Inc. to any lands located within the region which are surplused and placed in the "in-Region pool" pursuant to Public Law 94–204 as amended before this Act, prior to July 15, 1979. After July 15, 1979, the parties will be entitled to any land that is declared excess in accordance with the terms of the agreement.

Subsection (b) revokes PLO 5187, as it pertains to the lands withdrawn by subsection (b)(1). PLO 5187 was a blanket withdrawal of all federal defense withdrawals to permit classification pursuant to subsection 17(d)(1) of the ANCSA after termination of the original withdrawal. This subsection also revokes power project withdrawals as to the lands described in subsection (b)(1), other than the Eklutna power project 350, Eklutna, Inc. and the Department of the Interior being in agreement that no others would ever be activated.

Certain other provisions of subsection (b) were developed to meet the concerns of the Department of the Interior. The parties' agreement is not intended to reach fixtures and personal property located on the Federal withdrawals at the time they are excessed, and such classes of property are to be disposed of pursuant to existing law. Subsection (b) also makes plain that the parties cannot by their agreement impose any procedural requirements or require the reassignment of additional personnel, however the agreement can impose obligations and outlays of funds where reasonable in the ordinary course of business. Subsection (b) further exempts the lands from section 14(c)(3) of the ANCSA because the participation of the Municipality of Anchorage in the negotiations will protect those interests.

Lands conveyed to the State of Alaska, the surface estate of lands conveyed to Eklutna and the subsurface estate of lands conveyed to Cook Inlet Region, Inc. pursuant to the subject agreement are to be charged against their respective entitlements under the Statehood Act and section 12 and 14 of the ANCSA.

Subsection (c) authorizes the State and Eklutna, to reach a second agreement dispositive of certain other lands located outside Federal installations. Subsection (c) is not intended to have any effect upon vested third party rights not upon the rights of Eklutna in the event that no agreement is reached.

Subsection (d) authorizes the State and Eklutna to relinquish their prior selections, in whole or in part, pursuant to the agreements contemplated by subsections (b) and (c). This subsection is also intended to make the lands affected by the relinquishment part of the withdrawal under section 11(a)(1) of the ANCSA. The relinquishments by the State of its selections will relate back to the date of the passage of the ANCSA. Declaring any relinquished State selection as public land will mean the relinquished land will not count against the 69.120 acre limitation on State selections in subsection 12(a) of the ANCSA.

Subsection (e) and subsection (f) require the dismissal of the litigation which the agreements will compromise and settle. However, the obligation to dismiss does not arise before the settlements have been implemented.

Subsection (g) was requested by the Department of Interior to clarify the relationship between the subject agreements and Eklutna's existing selection rights and entitlement under the Settlement Act. Because the actual conveyance to Eklutna of acreage or interests in lands withdrawn by subsection (b)(1) is dependent upon a number of factors outside the control of the parties, Eklutna's entitlement under existing law will not be reduced. However, to safeguard the interests of the parties, Eklutna is required to subject to the land bank provisions of the Act, land of at least equal acreage to that which may at some future date be conveyed to Eklutna pursuant to the subject agreements. The lands subject to land bank provisions will remain available to be disgorged by Eklutna in the event of any oversatisfaction of its entitlement under the Settlement Act by reason of conveyances to it pursuant to the subject agreements. The State of Alaska is the intended recipient of these disgorged lands. In the event of any resulting oversatisfaction of the State's entitlement, the State is required to reconvey lands to the United States accordingly. The mechanism set forth in subsection (g) is designed to insure that neither Eklutna nor the State receives more than their respective entitlements under existing law.

Subsection (h) is intended to make clear that Cook Inlet Region, Inc. or its grantee can be the owner of the subsurface estate in those lands conveyed to Eklutna, Inc pursuant to the agreement. The mechanism adopted is as follows: (a) the Secretary will patent to Cook Inlet Region, Inc. or its grantee the subsurface estate in those lands conveyed to Eklutna, Inc.; if (b) the Region or its grantee disgorges to the State the subsurface estate in any lands the surface estate in which is disgorged by Eklutna to the State. Any disgorgement of the subsurface estate in those lands conveyed to Eklutna shall take place only upon the consent of the Region or its grantee; if that consent is not received, then the subsurface estate in those lands conveyed to Eklutna under the agreement shall be conveyed to the State.

SECTION 1426: EKLUTNA-ANCHORAGE AGREEMENT

Ratifies an agreement which is nearing final execution between the Eklutna Village Corporation, the Municipality of Anchorage, and the State of Alaska regarding Eklutna's, the State's and Anchorage's duties and rights under section 14(c)(2) and (3) of the ANCSA. If the agreement between the parties is not executed by the State of Alaska, Eklutna is not discharged from its obligations under section 14(c)(3) of the ANCSA and this section shall have no force and effect.

SECTION 1427: KONIAG VILLAGE AND REGIONAL CORPORATION LANDS

Subsection (a) defines pertinent terms.

Subsection (b)(1) identifies the Native corporations to receive title to the lands on Afognak Island to be conveyed pursuant to the section, and provides that such conveyances shall be in full satisfaction of the rights of each such corporation to conveyance under the Alaska Native Claims Settlement Act of lands and interests therein on the Alaskan Peninsula.

Subsection (b)(2) identifies exceptions to the conveyances provided for in subsection (b)(1).

Subsections (b)(23) and (b)(4) provide the mechanics of effectuating the extinguishment of certain Koniag Native corporation deficiency selection rights on the Alaska Peninsula in exchange for which the conveyances of land on Afognak Island are to be made.

Subsection (b)(5) provides for public access for recreational purposes to the lands on Afognak Island except in areas where commercial activities, such as logging, are taking place. Cooperative management agreements between the appropriate Koniag Native corporations and the Department of the Interior, appropriate state agencies and appropriate local political subdivisions (to the extent that the Department and such state and local agencies wish to enter into such agreements) may further define the lands to be so opened, the conditions under which they will be opened, and will establish appropriate limits and conditions upon the recreational uses.

Subsection (c) provides that the surface estate on Afognak Island to be conveyed under subsection (b)(1) is to be conveyed to a joint venture consisting of Koniag deficiency village corporations, Koniag 12(b) village corporations and Koniag, Inc. Provision is made, at the election of any of the Koniag Native corporations involved, to be represented in the joint venture by a wholly owned subsidiary corporation. The subsection prescribes the share each of the participants is to have in the joint venture. The patent will name all the grantees of the surface estate but it will not set out their relative shares. Simultaneously with the conveyance of the surface estate to the joint venture, the subsurface estate in the lands conveyed is to be conveyed to Koniag, Inc. Finally, the joint venture and Native corporations involved are prohibited from taking or permitting actions inimical to bear denning activity on the Tonki Cape Peninsula on Afognak Island.

Subsection (d) provides the means of resolving a dispute between Ouzinkie Native Corporation and Koniag, Inc. on the one hand and the Kodiak Island Borough on the other, over rights to the land on Kodiak Island described in the subsection. The dispute would be resolved by requiring the Secretary of the Interior to convey the surface and subsurface estate of the lands on Afognak Island described in the subsection to Ouzinkie Native Corporation and Koniag, Inc. respectively, in the event Ouzinkie Native Corporation and Koniag, Inc. enter into an agreement to convey to the Kodiak Island Borough their interests in the described Kodiak Island land which the Kodiak Island Borough desires as watershed.

Subsection (e) will, when implemented, resolve in favor of the Native villages listed therein, all disputes concerning their eligibility for ANCSA benefits and prescribes limits upon the ANCSA land benefits to which these villages shall be entitled. The time limits stated in this and other subsections are intended to be directory rather than mandatory.

Subsection (f). The intent of the subsection is to assure the applicability of the provisions of the Alaska Native Claims Settlement Act to conveyances to Native corporations made under this section to the extent that such provisions would have been applicable were the conveyances made pursuant to ANCSA. As one example, the applicability of otherwise applicable provisions of ANCSA are not to be affected by the fact that the conveyance provided for in subsection (c) is to be made to a joint venture rather than directly to the Alaska Native corporations that are the joint venturers.

Subsection (g) is a savings clause designed to preserve the rights of Koniag, Inc. on the Alaska Peninsula as therein provided.

Subsection (h) withdraws, subject to valid existing rights, public lands on Afognak Island to be conveyed to Native corporations within the Koniag region under this section, and provides for the opening of such lands, in the event any are not conveyed, to the extent the Secretary of the Interior deems appropriate.

Subsection (i). The right of access and use of surface estate preserved for Koniag, Inc. under this subsection are restricted to the purposes of prospecting for, extraction and removal of subsurface resources retained under the section by Koniag, Inc. on the Alaska peninsula. The rights of access and use preserved are those now provided for in existing regulations of the United States Fish and Wildlife Service (50 C.F.C. § 29.32) dealing with the rights of persons holding mineral interests in lands conveyed to the United States for wildlife refuge purposes. These regulations do not provide for permits but set forth standards designed to minimize, so far as practicable, adverse impact on other surface values.

Subsection (j) deals with one of the incidents of the settlement of the village eligibility dispute which is the subject of subsection (e). Its effect is, with the minor exception therein provided for amounting at the most to 1920 acres, to preclude diminution of land allocations to other Alaska regional corporations under subsection 12(b) of ANCSA because of resolution of the village eligibility dispute.

Subsection (k) is a corollary of subsection (f). The first sentence of subsection (k) makes it clear that Koniag, Inc.'s interest in the timber resources of the joint venture is to be deemed Koniag's timber resources for purposes of applicability of the revenue sharing provisions of ANCSA section 7(i). Subsection (k) also sets out the rules for determining the portion of Koniag's share of the proceeds from the timber resources of the joint venture which is to be distributed under section 7(i).

Subsection (l). By section (l) Koniag, Inc., surrenders all of its subsurface mineral rights on the Alaska mainland other than for oil and gas (which is to be understood as including minerals, for example, sulfur, found in solution or mixed with oil or gas) and sand and gravel used in prospecting for, extracting, storing and removing oil and gas in the event sand and gravel is judicially determined to be a part of subsurface estate as that term is used in ANCSA. This question is now in litigation before the United States Court of Appeals for the Ninth Circuit, Subsection (l) also restricts Koniag, Inc.'s exercise of its subsurface mineral rights similarly to the restriction effected by subsection (i) described above. In the event sand and gravel is determined to be an element of surface estate under ANCSA, subsection (l) requires the Secretary of the Interior to make available at fair market value, sand and gravel needed for oil and gas operations.

Subsection (m) incorporates within the Kodiak National Wildlife Refuge all remaining public lands on Afognak Island, including submerged lands below the line of mean high tide, within the present boundaries of the Chugach National Forest and not otherwise disposed of or dealt with in the section. It saves to the Native joint venture, however, the timber resources on two islands, Delphin and Discoverer, subject to management and harvest in accordance with management plans jointly developed between the joint venture and the Secretary of the Interior.

Subsection (n). The exclusions in subsection (n) are made because the section itself makes them unnecessary.

Subsection (o) is a savings clause designed to preserve existing Forest Service timber contracts and Forest Service Cabin leases on Afognak Island.

SECTION 1427: CHUGACH VILLAGE CORPORATION LANDS

Permits three villages in the Chugach Region to select their lands entitlement pursuant to section 12(b) of ANCSA from lands within the Chugach National Forest notwithstanding that the limitations on village selections from National Forest land contained in section 12(a) of ANCSA are applicable to section 12(b). Subsection (a) reaffirms this applicability but permits an exception for three villages.

Subsection (b) exempts from selection pursuant to this section certain environmentally sensitive areas in the Copper River Delta and the Southwestern Prince William Sound Area. Further, subsections (b) and (c) establish a 90-day selection period for the villages and a 90-day period for the Chugach Regional Corporation to provide the Secretary with the number to acres to which each village is entitled under 12(b). Under subsection (d), National Forest selection applications filed by the State in certain named areas under section 6(a) of the Statehood Act are determined to be in areas of high public interest, and, therefore, if the State's applications are rejected, the Chugach Villages will still not be allowed to make 12(b) selections in these areas. However, in other named areas, village selections will be conveyed notwithstanding selection applications filled by the State. The Village selections are also restricted to areas formerly withdrawn for village selection pursuant to Section 11(a) of ANCSA.

Subsection (f) provide that any relinquished 12(b) selections within a conservation unit automatically becomes part of the unit.

SECTION 1429: CHUGACH REGIONAL CORPORATION LANDS

Permits the Chugach Regional Corporation to select its land entitlement under section 14(h)(8) of ANCSA from lands within the Chugach National Forest. Subsection (a) establishes this section right but in recognition of certain key national values does not extend it to certain areas in Western Prince William Sound or the Copper River Delta areas within the Chugach National Forest. Subsection (b) authorizes the Secretary to consider selections made under this section as though they were timely and properly filed pursuant to section 14(h)(8) of ANCSA. In recognition of certain key public values important to the State, subsection (c) establishes the priority of State selection applications filed under section 6 (a) of the Statehood Act which overlap Chugach 14(h)(8) selections, but only if the State selection applications were filed before September 1, 1978. Through subsection (d), Chugach is allowed to relinquish its 14(h) (8) selections made outside of the National Forest and to replace them with regional selections under section 12(c) of ANCSA. Subsection (e) has the land selection made under this section subject to the proposal or legislation implemented pursuant to the study mandated in section 1430.

SECTION 1430: CHUGACH REGIONAL CORPORATION LANDS STUDY

Establishes a one year study to identify adequate and appropriate lands to be made available to the Chugach Regional Corporation for selection pursuant to Section 12(c) of the ANCSA.

Subsection (a) directs the Secretary of the Interior, the Secretary of Agriculture and the Alaska Advisory Coordinating Council, in conjunction with the Chugach Regional Corporation and the State of Alaska, to study land ownership and use patterns in the Chugach Region and identify lands in the Region or out of the Region for conveyance to the Chugach Regional Corporation. In addition, the study participants may consider cash in lieu of land and any other option that may achieve the purposes and objectives of the study.

Subsection (b) is intended to provide standards for identifying lands suitable for Section 12(c) selection by the Regional Corporation. Recognizing that the Chugach Natives are coastal people, it is intended that the lands identified should be coastal lands. The study participants efforts to comply with the terms of this section should not be impeded by the Wilderness Study provided for in Section 704.

Subsection (c) reflects the desirability of public review and comment in the study process and directs that at least three public hearings be held. The study participants should not be limited by this however, and are encouraged to sponsor additional public forums in or out of the region if they feel they would be useful.

Subsection (d) mandates that the study shall be completed and the President shall submit a report to Congress within 1 year of the date of this Act. It is the intent of the Committee that the report shall include an analysis of all alternatives considered during the study, including but not limited to social, economic and environmental factors. However, in view of the comprehensive nature of the study, the Committee intends that the National Environmental Policy Act of 1969 (83 Stat. 852) shall not be construed, in whole or in part, as applying to the preparation or submission of the study report or recommended legislation accompanying such report.

Subsection (e) extends section 12(c) selection deadlines for Chugach now scheduled to expire in December, 1978 and those 14(h)(8) selection deadlines established by this Act, until one year after the Secretary's report is submitted to Congress or until six months following the date of enactment of any legislation necessary to implement the study. The objective for the extension is to preclude any action having to be taken by Chugach which would result in elimination of an option the study participants want to pursue.

Subsection (f)(1) reflects agreement by the State to forego further selection under the Alaska Statehood Act in the Chugach National Forest until Congress acts on the study recommendations or until the study is implemented administratively by agreement of the parties. However, this section does not apply to State selections field before July 21, 1979 or to aquaculture sites identified before July 1, 1979.

Subsection (f)(2) authorizes the Secretary of the Interior to withdraw lands identified in the study for possible selection and conveyance to or exchange with the Chugach Regional Corporation. All Federal lands, including National Forest Lands, are included except lands within a conservation system unit or lands identified for wilderness study. These lands are excluded because they have already been withdrawn and are therefore already protected from appropriation or disposal, and because subsection (g) of this section mandates that interim management of these lands and all other lands identified in the study for possible selection and conveyance to or exchange with the Chugach Regional Corporation shall be conducted so as not to adversely affect or preclude options considered in the study.

Subsection (f)(3) provides that, prior to conveyance, lands selected by the Chugach region pursuant to the study, will be administered by the appropriate Federal agency under applicable law and in close consultation with the Chugach Regional Corporation, and that any lands selected by the Chugach Regional Corporation pursuant to the study shall not be subject to contract, lease, permit, right of way or easement without prior consent of the Chugach Region Corporation.

Subsections (f)(4) and (f)(5) provide that lands withdrawn pursuant to this section are not "lands held for the benefit of Indians, Aleuts and Eskimos" pursuant to section 103(e)(2) of Public Law 94–579 and that lands withdrawn pursuant to this subsection are subject to Section 2 of Public Law 94–204.

Subsection (g) is intended to insure that during the term of the study and during the time Congress is considering legislation necessary to implement the study recommendations, or if legislation to implement the study is not necessary during the time it is being done administratively, the Departments of Interior and Agriculture will manage lands under their respective jurisdictions in such a way as to not adversely affect any option being considered by the study participants or any course of action recommended by them. The direction to consult with the Chugach Region is to be closely adhered to.

Subsections (h) and (i) provide that any land relinquished by the Chugach Regional Corporation within a conservation unit system automatically becomes part of the unit and that, should Chugach desire to receive conveyance to previously selected lands, nothing in this section prohibits them from so doing.

SECTION 1431: ARCTIC SLOPE REGIONAL CORPORATION LANDS

Subsection (a) sets forth the purposes of Section 1431 and incorporates by reference the "Terms and Conditions" agreed to by Arctic Slope Regional Corporation (CASRC) and the Department of the Interior.

Subsection (b) and (c) confirm an administrative land exchange pursuant to the provision of Section 33(f) of ANCSA, as amended. Under the "Terms and Conditions," and as confirmed by subsection (b), ASRC relinquished its selection identifications in the John River and Kurupa Lake areas amounting to 115,000 acres. This relinquishment was a condition precedent to the exchange confirmed under subsection (c) whereby ASRC transferred 42,000 acres of land in the area south of Chandler Lake to the United States in return for a conveyance from the United States to ASRC of 19,000 acres of land at Kurupa Lake and 32,000 acres of subsurface lands (excepting sand and gravel) near Itkillik Lake. The Kurupa Lake lands will be subject to provisions requiring environmentally sound oil and gas operations as specified in the "Terms and Conditions" and will also be subject to reserved public easements of access to and from Gates of the Arctic National Park and the lake area as provided in the same document.

In consideration for the interests in land ASRC received in the Kurupa Lake area, conservation easements are granted to the United States to protect the endangered Arctic peregrine falcon along the Colville River. These easements are in lieu of conservation easements or similar land use restrictions along the Killik River on other ASRC-owned lands. This marks the first time that a private landowner has agreed to protect an endangered species in this manner and is in conformance with ASRC's continuing desire to protect the Artic peregrine falcon.

Subsection (c) also confirms an ANCSA 22(f) exchange between ASRC and the United States in the Anaktuvuk Pass area to consolidate the pattern of village and regional corporation ownership into a cohesive pattern. An important element of this land consolidation is an agreement between the parties (including the Nunamiut Corporation) to establish non site-specific easements on Native owned lands (including rights of overnight camping) to provide access to federally owned lands in this area. It is not necessary that the easements be restricted to specific corridors. These easements, which shall give due consideration to the cultural and other concerns of the Anaktuvuk people, will be in lieu of the normal site specific easements reserved under section 17(b) of ANCSA. Easements for roads and other rights-of-way also are not appropriate, as the affected lands are within Gates of the Arctic National Park. The Committee expects the National Park Service to take the lead in conducting easement negotiations with the Native corporations involved.

The Committee notes that the foregoing exchanges are consistent with the intent of Congress in amending section 22(f) of ANCSA in Public Law 94–204 to permit the exchange of Native selection rights and to allow exchanges for other than equal value when the Secretary has determined it is in the public interest.

Killik River Lands.—Subsection (d) directs the Secretary to convey to ASRC lands north of Gates of the Arctic National Park and along the Killik River to its confluence with the Colville River. As with the Kurupa Lake lands in subsection (c), these lands were identified for selection by ASRC pursuant to section 17(d)(2)(B) of ANCSA. The FLPMA 204(e) emergency withdrawal of a portion of these lands has been modified to permit conveyance of the lands to ASRC.

Subsection (e) provides authority for a later exchange of the lands that ASRC will own in the Kurupa Lake and Itkillik Lake areas. The Secretary may acquire such lands by exchange or purchase, but only with the consent of ASRC. If any such lands are so acquired the Arctic National Wildlife Refuge shall not be available for such a National Park. If a future exchange takes place, the Secretary would be authorized to make available to ASRC lands, or interests therein, from public lands within the Arctic Slope Region, including lands within the National Petroleum Reserve in Alaska in the event lands within the reserve are made subject to leasing under the Mineral Leasing Act of 1920, as amended, or are otherwise made available for purposes of development of oil, gas or other minerals. Lands within the Arctic National Wildlife Refuge shall not be available for such a future exchange.

To facilitate the delivery of oil or gas, should a discovery of commercial accumulations be made in the Kurupe Lake area or nearby, subsection (j) requires the Secretary to grant a right-of-way for oil and gas pipelines, related transportation facilities, and such other facilities as are necessary for the construction, operation and maintenance of the pipeline. This provision will ensure east-west access to the Trans-Alaska Pipeline corridor, but is not intended to provide southerly access through the Brooks Range other than by the existing corridor.

In addition to any rights of access that ASRC may have under common law, subsection (l) governs the access rights that ASRC will have to subsurface lands the corporation receives in the Itkillik Lake area within Gates of the Arctic National Park. Any exploration for and removal of oil and gas from these lands will be subject to rules and regulations applicable to such activities within the National Park system. In identifying sand and gravel sites, it is intended that the Secretary will bear any administrative costs involved with supervision of the site selection.

Other Land Exchanges and Transfers.—Subsection (f) provides for a land exchange between ASRC and the United States respecting certain lands north of Gates of the Arctic National Park. As a condition precedent to the exchange, ASRC agrees to accept an interim conveyance to certain lands previously selected so that these lands and the lands that the corporation receives in the exchange will form compact and contiguous tracts to permit the practice of sound land management. For its part of the exchange, ASRC will relinquish its rights to other nearby lands it has selected.

Subsection (g) provides for a land exchange that will allow Kaktovik Inupiat Corporation to receive its full entitlement at 92,160 acres within the National Arctic Wildlife Refuge instead of the 69,120 acres of lands village corporations are entitled to select within wildlife refuges under ANCSA. To effectuate this exchange, Kaktovik Inupiat Corporation and ASRC would give up the surface and subsurface lands already conveyed to them immediately west of the Canning River. ASRC would then receive title to an equivalent amount of subsurface lands from lands previously selected by ASRC pursuant to section 12(a)(1) of ANCSA. To fill out its entitlement, Kaktovik Inupiat Corporation would first receive title to all lands on Barter Island outside the reduced defense withdrawal and then the remainder of its entitlement from lands within, or within six miles of, the lands withdrawn under section 11(a)(1) of ANCSA. The land ownership pattern following the exchange would comply with the compact and contiguous requirements of section 12(a)(2) of ANCSA.

Two other land transfers involving smaller tracts of lands are provided for in subsection (h) and (i). Subsection (h) provides for conveyance to ASRC of a small tract near the former village site of Wevok that is of cultural significance to the people of Point Hope. Although this exchange is subject to the concurrence of the Secretary of Defense, the Committee expects the Secretary to be liberal in releasing lands that have no present national defense purpose. It should be noted the term "Wevuk" in the land description refers to the same place as Wevok. Subsection (i) provides for the transfer of certain lands within the Naval Arctic Research Laboratory withdrawal that are in excess of the laboratory's needs.

All of the exchanges or transfers provided for in subsections (f), (g), (h) and (i) are voluntary on the part of the Native corporations involved and no implication of a taking of property by the United States should be made.

Subsection (m) provides that the lands that ASRC and the village corporations will receive pursuant to the exchanges and transfers provided in Section 1431 shall be charged against their ANCSA acreage entitlements. Correspondingly, the acreage charges against the corporations will be reduced by the acreage of the lands that the Native corporations give up in the exchanges.

Subsection (p) requires that all conveyances shall be subject to valid existing rights and will be treated as conveyances in accordance with, and subject to, the provisions of ANCSA, except as otherwise expressly modified by this section and the "Terms and Conditions."

Reserved Submerged Lands in the Colville River Delta—Subsection (n) resolves an impediment that is presently delaying conveyance of lands that Kuukpik Corporation previously selected on or adjacent to the delta of the Colville River. The village corporation does not wish to receive title to the submerged lands in the bed of the Colville River or in the bed of any of the channels of the river named in subsection (n). Ownership of the submerged lands in the river and these channels is in dispute between the United States and the State of Alaska. Subsection (n) does not resolve that dispute or in any way prejudice the lawsuit, *State of Alaska* v. *Warner* (U.S.D.C. Alaska, Civil No. J75–13), or any other litigation that may arise concerning this issue. Subsection (n) does, however, provide that Kuukpik Corporation will not receive title to or be charged with the submerged lands in the river and the named channels, nor will AGRC receive title to or be charged with the corresponding subsurface estate.

Future Option Exchange.—Subsection (o) provides for a future exchange, at the option of ASRC and subject to the concurrence of the affected village corporation, whereby ASRC will be entitled to acquire the subsurface estate of lands within the National Petroleum Reserve in Alaska or the National Arctic Wildlife Refuge as appropriate, beneath lands that the village corporations have previously selected. The exchanges would be conditioned on commercial development (rather than exploration) taking place within 75 miles of the affected village corporation lands and such development taking place within 40 years of the date of enactment of this Act. If the Secretary takes action to open any of such lands in the reserve or refuge for commercial leasing with the intent that development take place, the option to exchange would be triggered prior to the issuance of any leases. The exchanges would be on an acre-for-acre basis from other in lieu subsurface lands that ASRC would identify. ASRC will not be entitled to identify lands for exchange which it has already developed unless the Secretary determines such an exchange would be in the public interest. Finally, if an exchange takes place under this subsection, the Secretary will be authorized to promulgate such regulations as may be necessary to protect the environmental values of the reserve involved and are consistent with the regulations governing the development of lands within the reserve that have been opened for development.

SECTION 1432: COOK INLET VILLAGE SETTLEMENT

This section would implement an agreement among the Salamatoff Native Association, Inc., Cook Inlet Region, Inc., and the Secretary of the Interior. The agreement settles the issue of Salamatoff's village eligibility under ANCSA and establishes the amount of lands to be conveyed to Salamatoff including lands from the Kenai National Moose Range.

The section also provides for implementation of a settlement agreement among Alexander Creek, Cook Inlet Region, Inc., and the United States, should such an agreement be reached prior to December 18, 1979. Alexander Creek, Inc., has an application for village status under ANCSA, pending before the Department of the Interior.

SECTION 1433: BRISTOL BAY NATIVE CORPORATION LANDS

Subsection (a) withdraws five sections of land (approximately 3,200 acres) within township 14 south, range 56 west.

Subsection (b) provides that Bristol Bay Native Corporation (BBNC) may select the withdrawn lands.

Subsection (c) provides for the conveyance to BBNC of selected lands.

Subsection (d) provides that the acreage entitlement of BBNC is not changed by the amendment.

Subsection (e) provides that the lands withdrawn under (a) but not conveyed under (c) shall return to their status prior to enactment.

SECTION 1434: SHEE ATIKA-CHARCOAL AND ALICE ISLAND

This section directs the Secretary to convey to Shee Atika, Inc. and the Sealaska Corporation lands comprising Charcoal and Alice Islands, which have been declared excess to Federal agency needs. In exchange, Shee Atika, Inc. (and Sealaska, Inc.) shall relinquish land of equal acreage selected by or conveyed to it under Section 14(h)(3) of ANCSA.

SECTION 1435: AMENDMENT TO PUBLIC LAW 94–204

This section amends Section 12(b) of Public Law 94–204, the Cook Inlet land exchange statute. It (1) authorizes Cook Inlet Region, Inc. (CIRI) to bid for surplus property in accordance with existing General Services Administration (GSA) regulations, (2) authorizes the Administrator to tender to the Secretary of the Interior surplus property to be offered to CIRI, (3) prohibits any disposition of property over the objection of State or local governments, (4) provides for the establishment of a CIRI surplus property account by the Secretary of the Treasury, (5) insures that GSA is credited, in accordance with existing law, for any dispositions of surplus property to CIRI, (6) establishes the basis of the land conveyed to CIRI, and (7) provides for a report to Congress on January 15, 1981.

SECTION 1436: BRISTOL BAY GROUP CORPORATION LANDS

The seven members of Tanalian, Inc. reside within the boundaries of Cook Inlet Region, but are registered at large to Bristol Bay Native Corporation (BBNC). This section would:

1. Validate the role prepared by the Secretary of the Interior, thereby confirming the status of the Native members of Tanalian Incorporated as shareholders at large within the Bristol Bay Region.
2. Provide that if Tanalian Incorporated is certified as a group under ANCSA, it and BBNC shall be entitled to make selections according to the terms of the section.
3. Describe the lands from which the selections may be made.
4. Permit BBNC to select an amount of acreage of subsurface estate within its boundaries equal to that which BBNC would be entitled to if Port Alsworth were located within the boundaries of the region.
5. Provide that neither the respective 12 (c) entitlements to acreage nor the boundaries of BBNC and CIRI shall be affected by the agreement.

* * * * *

SECTION 901: CONVEYANCES TO VILLAGE CORPORATIONS

This section provides for the conveyance by legislative action of surface rights to eligible Village Corporations, and in some cases, subsurface rights to eligible Regional Corporations. All conveyances made by this section are subject to valid existing rights and may be subject to public easement reservations as provided in Section 903(a).

Subsection (a) provides that the provisions of this section shall be applicable only to Native corporations which elect to receive conveyance pursuant to this section within 180 days.

Subsection (b) legislatively conveys land to eligible Village Corporations where such land is mandated by ANCSA to be selected by the Village Corporation.

Paragraph (1) conveys to a Village Corporation, found eligible by the Secretary, the surface estate to public land in its "core" township or townships. A "core" township is that township which encloses all or part of the improved area constituting the Village. The conveyance is immediate, subject to valid existing rights, and must be otherwise consistent with provisions of the ANCSA such as acreage limitations, contiguity, and location in respect to Home Rule or First-class cities.

Where two or more Villages, by reason of locality, have claim to the same township, the conveyance is delayed until the Village Corporations involved agree to the division of the township, or such dispute is settled by arbitration (see subsection (c)).

Paragraph (2) conveys to a Village Corporation, found eligible by the Secretary, the surface estate to State of Alaska "selected" lands (such are not public lands under Section 3(e) of the ANCSA) in the "core" township. The conveyance procedures and criteria are the same as for paragraph (1) except that certain types of lands, currently in litigation or dispute, are not conveyed by this legislation. These types of land are those lands selected, but not yet patented to the State, under the School or University Land Grants, the Mental Health Land Grant, or where the State had by December 18, 1971, conditionally granted title to a third party pursuant to the tentative approval authority of Section 6(g) of the Alaska Statehood Act. Should the results of the litigation or settlement of the disputes be in favor of the Native Corporation, the Secretary would be required to subsequently convey such lands under either the procedures of Section 902 or the ANCSA, as appropriate.

Paragraph (3) conveys both the surface and subsurface estate in the former Indian Reserve, as it existed and was described as of December 18, 1971, to those Village corporations who elected under Section 19(b) of the ANCSA to acquire its former reserve and forego all other land and monetary benefits of the ANCSA. The Village Corporations for the Native Villege of Klukwan is excluded from the provisions of this paragraph since it was handled separately in the Acts of January 2 and October 4, 1976.

Paragraph (4) conveys the subsurface estate in land conveyed to Village Corporations by paragraphs (1) and (2) to Regional Corporations to the extent they would otherwise have obtained such subsurface estate pursuant to Section 14(f) of the ANCSA. Excluded from such conveyance is the subsurface estate to lands in a National Wildlife Refuge (existing on December 18, 1971) or in the National Petroleum Reserve-Alaska) (formerly Naval Petroleum Reserve No. 4). As provided in Section 12 (a)(1) of ANCSA, the Regional Corporation receives an in-lieu selection right for any such subsurface estate not conveyed.

Subsection (c) directs the Secretary to issue interim conveyance or patent documents confirming the subsection (a) conveyances as of the date of this Act. These documents are to be issued as soon as possible after enactment of this legislation. For those Village Corporations whose eligibility is currently undecided title shall be deemed to have passed on the date the Village is determined eligible rather than date of enactment.

Subsection (d) provides that Village Corporations are obligated to make reconveyances under Section 14(c) of ANCSA upon receipt of either an interim conveyance or patent, whichever is issued first. The legislative conveyance or title document issued under this Act has the same effect as if issued under ANCSA. Disputes between or among Native Corporations over land conveyances, will be resolved through a Board of Arbitrators. The intent of this section is to expand the scope of the arbitration provisions of Section 12(e) of ANCSA to include, for purposes of this Act, other than Village Corporations. "Native Corporation" is defined by subsection (e) below.

Subsection (e) provides that any conveyances made by or pursuant to Sections 901 or 902 are subject to all of the benefits, restrictions, terms, and conditions of the ANCSA as if such conveyances had been made pursuant to that Act.

Subsection (f), for purposes of this Title IX, defines "Native Corporation" to include Village Corporations, Regional Corporations, the four "urban" Corporations formed for purposes of Section 14(h)(3) of the ANCSA, and any Native Group.

SECTION 902: OTHER CONVEYANCES TO NATIVE CORPORATIONS

This section offers a shortened method of achieving land conveyances to Native Corporations by placing certain commitments on the Corporations and eliminating portions of the Secretary's normal processing of selections under the ANCSA. Selections of land which a Corporation elects not to be included in this process or subsequently removes from the process (see subsec. (e)) are not affected and the Secretary will consider such selections in his normal ANCSA adjudication and conveyance process.

Subsection (a) provides 180 days for the individual Native Corporation to elect to utilize this expedited process. If the Corporation elects the process it must file a list of selected lands to be included and the priority of order that the Corporation wants the individual land parcels considered for conveyance. Changes in the priorities and/or additions to the list after the initial 180 day period are allowed only after a specific action by the Secretary but any such changes will extend the time for validity determination by the Secretary (subsec. (b)).

Subsection (b) sets forth the process for considering the lands placed in the expedited process, the conveyance of validly selected lands, and the consideration or resolution of disputes.

Paragraph (1) provides for the interim and final determination by the Secretary of the acreage entitlements for each Corporation under relevant sections or subsections of the ANCSA.

Within 60 days the Secretary is to publish a list of such acreage entitlements. For some categories of entitlement this will be a final figure; for others it will be his best estimate. Where the published acreage is his best estimate, the Secretary is to update and republish such estimates at least every six months until a final figure can be published.

To allow for changes in selection conditions occurring as a result of changes in the estimated entitlements, Corporations may alter their subsec. (a) priority list as to any unconveyed lands within a 30 day period following the publication of a re-estimation of entitlement by the Secretary. If such a permitted change by one Corporation involves land also selected by another Corporation, the other Corporation may also, during the 30 days period, modify its unconveyed land priority list even though its entitlement acreage may not have changed.

Paragraphs (2) through (7) provide the timing and methodology for publication of selection validity findings, resolution of disputes, and conveyance or non-conveyance of lands in the priority order set by the individual Native Corporation.

In paragraph (2) the Secretary is directed to publish his validity findings for selected and prioritized parcels within one year of the date of this Act, or the date of a revised priority list, or, for those Corporations found eligible after the date of this Act, the date the Corporation is determined eligible and files its priority list. It is not expected that the Secretary will provide for administrative appeals but that in questionable situations he will rule the selection invalid pending the resolution of the question. Procedures provided in paragraphs (4), (5), and (6) would cover these situations. Besides the validity determination, the Secretary would also provide the terms and conditions, including public easements, to which the conveyed land will be subject. No administrative appeal process would be available to dispute the validity finding or the terms and conditions to be imposed.

Paragraph (3) vests title in the appropriate Corporation 45 days after the publication of the validity determination for lands which were found to be validly selected, in the order of priority on the Corporation's list, and the acreage does not exceed the final or most recently published estimate of entitlement, reduced by:

Acreage previously conveyed under sec. 901 or this section,

Acreage previously conveyed pursuant to the ANCSA, and

Acreage of higher priority lands on the Corporation's list that were found invalid (paragraph (4)) or validly selected by another Corporation (paragraph (5)).

The Committee expects that Village Corporations will list as high priority any land to which it believed it is entitled within the "core" townshp that was not conveyed pursuant to section 901. In the event it does not, the Secretary is expected to provide for such possible mandatory selection and future conveyance in his validity determinations under this section or his normal processing under the ANCSA procedures.

Paragraph (6) provides for secondary and following conveyances where entitlement acreages were withheld from a conveyance as provided in paragraph (3). Upon the filing with the Secretary of a Corporation's acceptance of the Secretary's decision of invalidity or of a valid filing by another Corporation then the next parcel or parcels in the Corporation's priority listing, up to the acreage of the accepted area, will be conveyed or withheld on the basis of the Secretary's earlier published validity determination. The same procedure will apply to such Secretarial determinations that are subject to litigation or arbitration. Where the Secretary's determination is overturned, the parcel of land will be conveyed to the Corporation as appropriate with the decision or arbitration. This procedure will continue progressively down the Corporation's priority list until the Corporation has received the acreage to which it is entitled or the priority listing is completed.

Paragraph (7) directs the Secretary to issue an interim conveyance or patent document confirming the conveyance of land to the Corporation pursuant to paragraph (3) or (6) within 90 days of such conveyance.

CONVEYANCE BY PRIORITY PROCESS FOR CORPORATION HAVING ENTITLEMENT OF 70,000 ACRES

Priority	Acres	Cumulative total	Secretarial decision	Legislative conveyance	Native position	Subsequent conveyance	Native position	Subsequent conveyance	Cumulative total conveyed
1	10,000	10,000	Previously conveyed						10,000
2	10,000	20,000	Valid	10,000					20,000
3	10,000	30,000	Invalid		Invalid				
4	10,000	40,000	Valid	10,000					30,000
5	10,000	50,000	Selected by other corporation				5,000 acres each		35,000
6	10,000	60,000	Valid	10,000					45,000
7	10,000	70,000	do	10,000					55,000
8	10,000	80,000	do			10,000			65,000
9	10,000	90,000	Invalid				Natives—Valid Decision—Invalid		
10	10,000	100,000	Valid					5,000. Reject 5,000	70,000

Subsection (c) provides that land conveyed to a Corporation under Section 901(a) shall reduce, as appropriate, the Corporation's acreage entitlement under the expedited process of this section or under the ANCSA.

Under subsection (d), once a conveyance document is issued to a Corporation pursuant to subsection (b)(7), that Corporation's remaining unconveyed selections, under the entitlement category so conveyed, are limited to 125 percent of its maximum entitlement for that category less acreage previously conveyed together with any selections such Corporation has (1) where the land involved was also selected by that Corporation under another entitlement category and the land is counted toward the 125 percent figure for the other entitlement category, (2) where the land involved is also validly selected by another Corporation, or (3) where the land selected is the subject of litigation or is otherwise in dispute whether such land was validly selected by such Corporation. As to the last point, (3), it is noted that a dispute over the terms and conditions, including public easements, is not a dispute over whether the land was validly selected by the Corporation.

Where reduction in the acreage selected is required to reach the selection limit imposed by this subsection, the Corporation has 90 days from the issuance of the interim conveyance or patent to specify to the Secretary which lands are to be eliminated. Lacking receipt of a Corporation's identity of the lands to be eliminated, the Secretary shall reject selections on the Corporation's priority list beginning with the lowest priority. All lands selected by a Corporation under the specific entitlement category, whether or not on the Corporation's priority listing under Section 902(a)(1), are subject to this selection limitation. Although the Corporation may list lands to be eliminated that are not on the priority list, the Secretary is limited to rejecting only those on the priority list.

Once the Corporation has received the conveyance of acreage to which it is entitled under any one of the ANCSA categories, the Secretary will reject all remaining selections in that same entitlement category.

Subsection (e) allows a Corporation to opt out of the expedited process at any time by advising the Secretary in writing.

SECTION 903: EASEMENTS ON "CORE" TOWNSHIPS

Subsection (a) provides a one year period for the identification of and issuance of a decision to reserve, specified needed public easements across any lands conveyed pursuant to Section 901(a). The easements to be reserved are those described in Section 17(b) of ANCSA.

Subsection (b) sets forth certain principles the Secretary is expected to observe in reserving easements across Native lands.

Subsection (c) provides the Secretary with specific authority to acquire easements not reserved at the time of conveyance or pursuant to subsection (a), required for purposes specified in subsection 17(b)(1) of ANSCA. The easements may be acquired by purchase, donation, or exchange under the authority of Section 22(f) of ANCSA. This authority applies to conveyances made under this Act and under ANCSA.

Subsections (d) and (e)—The intent of these subsections is clear.

SECTION 904: TAX MORATORIUM EXTENSION

The purpose of the subsection of this section relating to taxation on exchanged land is to clarify a situation that might exist when a Native Corporation trades its own undeveloped lands for undeveloped lands owned by the Federal Government, the State government, a municipal government, other Native Corporations, or other private parties. The section provides that the 20-year protection from real estate taxes on undeveloped land will apply to exchanged lands if both the land traded and the land received is undeveloped. The section anticipates that there might be some cash received by either party in the trade. However, if the trade is between the Native Corporation and a private party, the amount of cash received by either party cannot exceed 25 percent if the tax exemption is to be maintained. In addition, the section provides that, if the Native Corporation trades various parcels of land having different ending dates for the tax moratorium because of different dates of conveyance from the Bureau of Land Management, then the tax moratorium on the lands received would be calculated by computing the percentage that the acreage of each tract given up in the trade bears to the total acreage given up by applying the percentage of related periods of tax exemption to the lands received. Thus, the tax exemption on the received lands would be a weighted average of the various periods of tax exemption of the lands given up in the trade.

SECTION 905: ALASKA NATIVE ALLOTMENTS

This section approves specified applications for allotments under the 1906 Alaska Native Allotment Act and provides further authority for the amendment and adjustment of such applications.

Section 905(a)(1) approves, subject to valid existing rights and stated exceptions, allotment applications which were pending before the Department on or before the effective date of the Alaska Native Claims Settlement Act and which seek land that was unreserved on December 13, 1968, the day preceding publication of the application for Public Land Order 4582. 33 Federal Register 18591. Allotments located in areas reserved prior to the PLO 4582 "land freeze" are thereby excepted from the approval and are to be adjudicated pursuant to the Alaska Native Allotment Act. The use of the December 13, 1968 date is not to be construed as signifying a Congressional determination concerning the segregative date or effect of Public Land Order 4582. The approval is made effective 180 days following the effective date of the Act to allow time adequate for the Department to finish its mineral evaluations of applied-for allotments and for the exercise of protest rights.

Subsection (a)(2) provides for the continuing reservation to the United States of coal, oil and gas desposits underlying Native allotments. Such reservations are made pursuant to the terms of the Act of March 8, 1922, 42 Stat. 415, which was first made applicable to Alaska Native alloments by the 1956 amendments to the 1906 Act. 70 Stat. 954. Applications which the Department identifies by a timely notice or decision as describing land valuable for minerals other than oil, gas or coal are not approved and are to be adjudicated as required by subsection (a)(3) to determine whether the land is in fact mineral in character. Subsection (a)(3) also clarifies that sand and gravel were not considered minerals for purposes of removing land from availability as "nonmineral" within the meaning of the 1906 Act.

Section 905(a)(4) removes from the general approval lands sought as allotments within the boundaries of National Park System Units established on or before the Act's effective date, with the exception of lands within such units which were withdrawn pursuant to Section 11(a)(1) of the Alaska Native Claims Settlement Act for selection by village corporations. Also excluded from the general approval are applied-for allotments which describe land selected by or tentatively approved to the State of Alaska on or before December 18, 1971. Applications for allotments in "core" townships of villages certified as eligible for land selections under Section 11(b) of the Alaska Native Claims Settlement Act are, however, subject to the statutory approval contained in subsection (a)(1) notwithstanding a State selection or tentative approval of such core township lands prior to December 18, 1971.

Native corporations, the State of Alaska and specified individuals and entities may, under Section 905(a)(5), require that all allotment applications be adjudicated by filing in the Department of Interior within 180 days of the effective date of the Act a protest setting forth the requisite factual statements. A village or regional corporation eligible to select land under the Alaska Native Claims Settlement Act may require adjudication of any allotment application which describes land within an area withdrawn for selection by the Corporation. The State of Alaska may require adjudication of any application which describes land necessary for access to lands owned by the United States, the State, or a State governmental unit, or to resources on such lands, or to public waters used for transportation purposes. All protects by the State must set forth in detail the facts upon which the conclusions concerning interference with access and absence of reasonable alternatives for access are based. Persons or entities claiming improvements embraced by another's allotment application may similarly require adjudication of the application by filing a timely protest.

As provided by subsection (a)(6), allotment applications which have been relinguished by the applicant are not subejct to approval pursuant to Section 905. In cases of doubt concerning the effectiveness of a relinquishment, the ordinary legal standards requiring that the relinquishment be given knowingly and voluntarily apply.

Section 905(b) provides continuing authority allowing the Secretary to adjust overlapping allotment descriptions in order to eliminate conflicts. The Secretary's discretion in resolving such conflicts is broad, but is also to be guided by prior land-use patterns and the Secretary's ordinary fiduciary obligation to exercise his discretion in a manner beneficial to the allottees. Additionally, where the concerned allotment applicants present a proposal for adjustment, the Secretary is required to implement it to the extent that it is feasible. An adjustment of conflicting applications which reduces an allottee's land area by less than 30 percent and does not include his or her claimed improvements (e.g., cabin, fishracks, fish-wheel or tent site) is not subject to judicial review. The Secretary is further authorized to reduce to 160 acres the land area of an allotment which exceeds 160 acres as described.

A significant percentage of Alaska Native allotment applications do not correctly describe the land for which the applicant intended to apply. Technical errors in land description, made either by the applicant or by the Department in computing a metes-and-bounds or survey description from diagrams, are subject to correction under authority of Section 905(c). In accordance with the Department's existing procedures for the amendment of applications, subsection (c) requires that the amended application describes the land the applicant originally intended to apply for and does not provide authority for the selection of other land. The allotment application, as amended, is subject to statutory approval or adjudication under the terms of Section 905 on the basis of the corrected land description. The Secretary is required, however, to notify the State of Alaska and other interested parties of the requested amendment prior to approving it. Protests submitted pursuant to Section 905(a)(5) in response to allotment amendments are timely if received by the Department within sixty days of the mailing of notice of amendment, even if the 180 day protest period provided in subsection (a)(5) has expired.

In the interest of finalizing plans of survey for Native village and regional corporations, the Secretary, following the required notice, may set a deadline for amendment of applications in a designated area. Allotment applications may not be amended for location following the adoption by the Department of a final plan of survey for the area in which the allotment as originally described or as it would be amended is located.

Section 905(d), which allotments in powersites, constitutes an exception to the requirements of subsection (a)(1) that allotments subject to the statutory approval must describe land which was unreserved on December 13, 1968. Vast expanses of land, most notably in the mid-Yukon River drainage, have been classified and reserved for electrical power projects which in all likelihood will not be constructed. Subsection (d) provides that for purposes of construing the Alaska Native Allotment Act, land withdrawn as powersites will be considered unreserved unless the land is included in a project already licensed under the Federal Power Act or is actually utilized for the generation or transmission af electrical power or for another Congressionally authorized project. The designation of unlicensed and undeveloped powersite lands as vacant, unappropriated and unreserved within the meaning of the Alaska Native Allotment Act does not revoke or otherwise affect classifications or reserves for power-project purposes.

All allotments approved in powersites are further subject to the right of reentry provided the United States by Section 24 of the Federal Power Act, 16 U.S.C. Section 818, if the applicant commenced use of the allotted land after the effective date of the powersite classification or withdrawal. Such reentry rights expires twenty years after the effective date of the Act unless the allotted land has been included in a license or an application for a license under Part I of the Federal Power Act or is actually being utilized or developed as a power project or for another authorized purpose.

Section 905(e) requires the Secretary to identify and to adjudicate any record entry which conflicts with an allotment application prior to approval of the application. The necessity for this provision is to insure that valid existing rights which may preclude allotment of the claimed land are determined before the allotment certificate is issued. Applications under the Alaska Native Allotment Act, the Alaska Native Claims Settlement Act and the Alaska Statehood Act are excluded from subsection (e) because the relation between an allotment claim and potentially conflicting applications under the excepted Acts is governed elsewhere.

The last sentence in subsection (e) clarifies that the Committee does not intend by Section 905 to resolve legal questions concerning the relationship between actual use of specific tracts of land by Alaska Natives and subsequent executive withdrawal of the same land. The Committee is aware that several classes of allotment applicants have commenced litigation to establish the availability for allotment of certain lands withdrawn from entry prior to December 13, 1968. Such lands are expressly excepted from approval under Section 905(a)(1), and nothing in the section is intended to reflect favorably or adversely on the pending litigation. Finally, subsection (e) provides that Section 905 does not alter the requirements for allotments in national forests.

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SECTION 907: ALASKA LAND BANK PROGRAM

Section 907 establishes the Alaska land bank program. The program provides that any private landowner is entitled to enter into a cooperative agreement with the Federal Government if his land adjoins or the use of his land would directly affect Federal land, Federal and State land, or State land if the State is not participating in the program. Any native landowner whose land does not adjoin or the use of his land would not directly affect, either Federal or State land also is entitled to enter in an agreement with the Federal Government. Any landowner whose land adjoins, or the use of his land would directly affect only State (or State and other private) land is entitled to enter into an agreement with the State if the State is participating in the program. A private landowner may include all or part of his lands in an agreement. However, lands of a non-native landowner shall not be included unless the appropriate Federal or State agency determines that the purposes of the program will be promoted by their inclusion. If the Federal Government is the contracting party with the private landowner, the State shall be afforded an opportunity to participate in negotiations and become a party to the agreement.

Regardless of whether the parties agree to any additional terms, the private landowner shall be entitled to enter into an agreement within 120 days of the date on which such owner communicates in writing to the appropriate Secretary or State agency head that he agrees to not alienate, transfer, assign, mortgage or pledge lands subject to the agreement (except as provided in section 14 (c) of the Alaska Native Claims Settlement Act), or develop or improve such lands except as provided in the agreement (if the private landowner and the Secretary or the State cannot agree on the extent or manner of development or improvements which will be permitted by the agreement, the landowner shall be in compliance with this requirement if he agrees not to develop or improve his lands), and also agrees to manage his lands in a manner compatible with the management plan, if any, for adjoining Federal or State lands, provide reasonable access for purposes relating to the administration of adjoining Federal or State lands, provide reasonable access to officers of the State for the purpose of conserving fish and wildlife, and not withdraw his lands from the program except as provided in section 907 (b)(7).

Lands subject to an agreement which are owned by Native corporations, groups or persons who have received lands pursuant to the Alaska Native Claims Settlement Act or sections 901 and 902 of this Act shall be immune from adverse possession, real property taxes and assessments by the United States, the State, or any political subdivision of the State (so long as the lands remain unimproved and undeveloped) or any Federal or State judgment in law or equity to recover sums owned or penalties incurred by any Native corporation or any officer, director, or stockholder of any such corporation. However, if the State is a party to the agreement and has enacted laws of general applicability which are consistent with the Alaska land bank program and which offer any or all the State (as opposed to Federal) immunities listed in the previous sentence, such State immunities shall be provided to the private landowner pursuant to State law while Federal immunities would continue to be provided pursuant to subsection (c)(2). Except as otherwise set forth above, nothing in the Alaska land bank program is intended to affect the civil or criminal jurisdiction of the State of Alaska.

SECTION 908: PROTECTION OF NATIVE LANDS IN CONTINGENCY AREAS UNDER TIMBER SALES

This section is intended to ensure that no Native Corporation will be deprived of the full value of its land entitlement because lands conveyed to it are within the "contingency area" of existing timber sale contracts. It provides that no Native land can be timbered, merely because it is within such a contingency area, without the consent of the Native corporations involved.

SECTION 909: USE OF PROTRACTION DIAGRAMS

This section authorizes the issuance of a patent document based on a protraction-diagram rather than actual "on-the-ground" survey where the party to receive the patent and the Secretary so agree.

A protraction diagram is a mathematical extension of the rectangular survey system over unsurveyed areas. Township and section corners are computed and identified by their longitude and latitude coordinates and the diagram becomes the survey plan when executed on the ground. Thus actual location of the corners on-the-ground and boundary lines between corners are the same whether actually surveyed or not. There is some possibility of error in the acreage within a tract shown by a diagram and what would be actually surveyed. This is because of differences between the topographic base map used for protection diagrams and actual ground conditions when actually surveyed; generally this is caused by water areas—streams, lakes, and coastal shore lines.

Since there is this possibility of error in the acreage of an area, any such loss or gain is borne by the patentee. To prevent misuse of this authority where it is known that substantial error exists, both the receiving party (Native Corporation or the State) and the granting party (Secretary) must agree on the use of the protraction diagram. Thus it is anticipated that the Native Corporation or State will not request this method where the possible error would result in a substantial shortage of actual acreage and the Secretary would not agree where the possible error would result in substantial coverage of actual acreage.

SECTION 910: STATUTE OF LIMITATIONS

Due to the interwoven nature of entitlements, decisions, and conveyances concerning land under this Title or the ANSCA, it is desirous that administrative decisions be absolutely final in minimum periods of time. This section provides that judicial review be instituted, if at all, within two years of the date a Secretarial decision becomes effective, or within one year of the filing of a map of the ANSCA section 14(c) reconveyance decisions by a Village Corporation.

The Secretary is expected to review his procedures and regulations to determine if public notice of the filing of the map by the Village Corporation should be provided in order to protect the public interest.

SECTION 911: NATIONAL ENVIRONMENTAL POLICY ACT

This section provides that the National Environment Policy Act (NEPA) shall not be construed as requiring the preparation of an environmental impact statement in the implementation of the Alaska Native Claims Settlement Act, as amended, or implementation of this Title. This section is intended to cover every possible action which has and will be necessary for the Secretary to take in the process of conveying land title to the Alaska Natives. It is intended that there will be no ambiguity as to the intent of this section and it should be liberally construed in order to expedite the implementation of the ANCSA, as amended, and this Title.

Actions taken by the Secretary under the ANSCA that may be interpreted as major Federal actions under the National Environmental Policy Act have principally been at the direction of Congress in the ANSCA or amendments thereto. It is imperative that the Natives receive their land as quickly as possible. Time is of the essence. Preparation of an environmental impact statement under the NEPA is unnecessary and not warranted where implementation of the ANCSA of this Title is involved.

SECTION 912: TECHNICAL AMENDMENT TO PUBLIC LAW 92–204

As suggested by the Administration, this section amends Public Law 92–204 to correct a number of typographical errors which appeared in that law's legal description of certain lands.●

By Mr. SCHWEIKER:

S. 2144. A bill to amend the Public Health Service Act to revise titles VII and VIII of such Act to provide new programs for training in the health professions and nursing, and for other purposes; to the Committee on Labor and Human Resources.

HEALTH PROFESSIONS EDUCATIONAL ASSISTANCE AND NURSE TRAINING ACT OF 1980

Mr. SCHWEIKER. Mr. President, I am today introducing the "Health Professions Educational Assistance and Nurse Training Act of 1980." This bill is a comprehensive reexaminaton of titles VII and VIII of the Public Health Service Act which provide for Federal programs affecting the education of health professionals and nurses. I am particularly proud of this bill because I believe it meets three important tests by which legislation should be judged. First, the bill would accomplish national goals in a direct and positive manner. Second, the bill represents a fiscally sound approach, blending needed budgetary restraint with adequate funding for programs that meet serious educational and health care problems. Third, the bill carefully avoids the imposition of further regulatory schemes upon our citizens and resists the temptation to create long-term programmatic structures and give aways that quickly become next year's uncontrollable expenditures. Instead the bill emphasizes that there are no free rides and stresses at every opportunity the value of inducements.

I believe we should continue student aid, because otherwise, the health professions would be only for the very rich.

Federal student assistance should also be based upon the fact that there is a need for more health professionals generally. Although a surplus of physicians is forecast during the 1980's, there will still be shortages by specialty and in the geographic distribution as well as a need for non-M.D. professionals.

But those who finish their education will be in a position to earn substantial incomes. They should be expected to help pay for their education.

So this legislation, while recognizing the high cost of training, signals and end to the free ride.

I am convinced that with encouragement from us, many health professionals will do voluntarily what we could not ask them to do otherwise. This bill provides considerable encouragement for individuals to practice their profession in underserved areas and to provide primary care, and for health professions schools to teach more about health promotion and disease prevention, about health care policy and economics, and about nutrition.

I will briefly describe the programs contained in this bill and discuss how each of the three principles—achievement of national goals, fiscal restraint, and use of inducements rather than regulation—are represented.

For the health professions schools (medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, and pharmacy) and their students, my bill would provide:

A new student loan program, utilizing the existing private loan markets, which would provide modest interest subsidies while the student is in school, but would be a market rate loan once the student is in practice;

Increased availability of loan forgiveness inducements for health professionals who practice in medically underserved area;

Expanded special projects grants to assist schools in carrying out programs designed to improve the geographic and specialty distribution of health professionals and to establish and strengthen curriculum offerings in key areas;

Special supplementary awards as part of each special projects grant made to a health professions school which is carrying out activities deemed to be in the national interest;

A new program of grants to States for service scholarship programs, thus involving States in solving geographic distribution problems;

Startup assistance only for schools of veterinary medicine, optometry, podiatry, and public health;

A new financial distress grant program, keyed to State and local support, for schools with long-term financial problems; and

A revised construction program which, instead of paying for new buildings, provides grants and interest subsidies for the renovation, modernization and conversion of existing facilities for use in teaching and research;

For schools of nursing and their students, my bill would provide:

Expanded special projects grants to assist schools in carrying out programs for advanced nurse training, nurse practitioner training, curriculum development, support for practicing nurses, and improvement of nursing education;

Special supplementary awards as part of each special projects grant that is made to a school of nursing which is carrying out activities deemed to be in the national interest;

Continuation of the nursing student loan program for 4 more years as a transition period during which nursing schools can begin to more fully utilize the guaranteed student loan program and other student assistance programs under the Higher Education Act.

A new start-up assistance program and a new financial distress program; and

A revised construction program for renovation, modernization, and conversion of existing facilities for use in nurse training.

My bill also proposes three other major policy shifts. Capitation grants, direct subsidies which have been provided to health professions and nursing schools, are discontinued. These grants, which have served useful purposes in the past, do not adequately assure that institutions receiving the grants are acting in the national interest and thus deserving of the money. We are in a time in which all Americans must restrain the demands they place upon the Federal budget. In these circumstances, capitation is a luxury we cannot afford.

Another policy change is to phase down, over a 2-year period, the National Health Service Corps scholarship program to about one-third of its fiscal year 1980 level. This program has, rather unfortunately I think, been expanded because of the demand for scholarship money for health professions students, rather than by a responsible assessment of the actual need for health professionals in nonmilitary service in 1985 and beyond; the general desirability or undesirability of a civilian Federal health corps; and the extraordinary cost to the Federal Government when these scholarship recipients join the Federal payroll and deliver health services under their scholarship commitments. In 1980 the field strength of the National Health Service Corps will be 2,820 individuals, at an estimated cost of $82 million. By 1985 this is expected to increase to 6,624 individuals assigned to provide service, at a cost of $275 million. Frankly, I do not think we will need anywhere near that many in 1985. Nor do I believe the Federal Government should be so massively involved in the direct delivery of health care services. Health care provided by the Federal Government is inefficient, insensitive to local needs, and makes it more difficult for nonscholarship physicians and dentists to set up a private practice in the same geographic area. As an alternative, I am proposing a Federal program of grants to States to fund State service scholarships. States should be encouraged to be more involved in meeting the needs of their medically underserved areas. They will also be much more inclined than HEW to let the scholarship recipients serve in private practice, which is a less costly, more stable, and more enduring means of meeting health care needs than the National Health Service Corps.

Finally, another major shift is away from giveaways and toward programs which focus directly on meeting our national health care needs. A key example is in the student assistance area where my bill stresses that every student should be responsible for the cost of his or her education, to be paid from their increased earning potential. Instead of scholarships and low-cost loans for a very few, I have proposed a very modestly subsidized loan program for students while they are in a health professions school; the student would be responsible for only 7 percent interest, repayment of which can be deferred. This subsidy will help moderate the more extreme debt situations. After the student is out of school, he or she would be responsible for the loan, at unsubsidized market interest rates. Individuals who act in the national interest, for example by receiving training in primary care, practicing in a medical shortage area, or entering a research career, would be entitled to continue to receive the interest subsidies. In addition, partial loan forgiveness will be more readily available for health professionals entering practice in an underserved area. I believe this is a more direct, more positive, and more equitable way of meeting the needs of our health professions students while keeping Federal costs minimal and encouraging individuals to act in the national interest.

In concluding, I feel it worth repeating that my bill is designed to maximize Federal impact on the health professions and nursing, students and schools, without extravagant spending or regulation. This bill authorizes for fiscal year 1981 for these programs, a mere 6 percent more than was appropriated in fiscal year 1980. Yet I am convinced that the legitimate needs of students and schools, as well as the Federal Government, are fairly and adequately met by this legislation.

At this time, I ask unanimous consent to have printed in the RECORD an analysis of the bill, a section-by-section summary, two authorization charts, and the text of the bill.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2144

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Health Professions Educational Assistance and Nurse Training Act of 1980".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The Congress finds that—

(1) the availability of high quality health care to all Americans is a national goal that can be met in the 1980's if the United States continues to train well qualified health professionals and nurses in sufficient numbers, and encourages such health professionals and nurses to practice among populations and in locations presently lacking adequate health services, and in types of practice for which there is an urgent need for additional practitioners;

(2) previous health manpower Acts have succeeded in alleviating the long-term shortage of allopathic physicians, osteopathic physicians, and dentists and have greatly improved the availability of health personnel in other health fields;

(3) the Federal Government can significantly contribute to improving geographic and specialty distribution of physicians in the 1980's without imposing a burdensome regulatory scheme to accomplish such goals; and

(4) in the 1980's there is likely to be an increase in public demand that health professionals, nurses, and allied health personnel receive high quality, broadly based, educational opportunities.

(b) The Congress declares that it is therefore appropriate to support the education and training of health professionals, nurses, and allied health personnel in order to encourage better specialty and geographic distribution and to ensure the initial and continuing competency of such professionals, nurses, and personnel.

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TITLE I—HEALTH PROFESSIONS AND ALLIED HEALTH PERSONNEL

SHORT TITLE

SEC. 101. This title may be cited as the "Health Professions Educational Assistance Act of 1980".

AMENDMENTS TO TITLE VII

SEC. 102. Title VII is amended—

(1) by striking out Parts A, B, D, E, and G;

(2) by striking out section 739 and redesignating section 789 as section 739;

(3) by redesignating Subpart IV of Part C as Subpart II of Part D;

(4) by redesignating sections 751, 752, 753, 754, 755, 756, and 757, as sections 765, 766, 767, 768, 769, 770, and 771, respectively;

(5) by redesignating sections 732, 733, 734, 735, 736, and 737 as sections 722, 723, 724, 725, and 726, respectively;

(6) by striking out sections 727, 728, 729, 730, 731, 734, and 738; and

(7) by striking out Subparts II, III, and V of Part C.

TITLE

SEC. 103. The title of title VII is amended to read as follows:

"TITLE VII—TRAINING OF HEALTH PROFESSIONS AND ALLIED HEALTH PERSONNEL"

GENERAL PROVISIONS; STUDENT LOANS

SEC. 104. Title VII is amended by inserting the following after the title:

"PART A—GENERAL PROVISIONS; FINANCIAL DISTRESS AND START-UP GRANTS

"DEFINITIONS

"SEC. 700. (a) For purposes of this title:

"(1) The term 'nonprofit' refers to the status of an entity owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(2) The terms 'school of medicine', 'school of osteopathy', 'school of dentistry', 'school of veterinary medicine', school of optometry', 'school of podiatry', 'school of pharmacy', 'school of public health', and 'graduate program in health administration' mean an accredited public or nonprofit private school or program in a State that provides training, leading respectively, to a degree of doctor of medicine, osteopathy, dentistry, veterinary medicine, optometry, or podiatry, a degree of bachelor of science in pharmacy, a graduate degree in public health, and a graduate degree in health administration, respectively, and includes equivalent degrees and advanced training related to such degrees provided by any such school.

"(3) The term 'teaching facilities' means facilities used by students, faculty, or administrative personnel for clinical purposes, research activities, libraries, classrooms, offices, auditoriums, dining areas, student activities, or other related purposes necessary for and appropriate to, the conduct of comprehensive programs of education. Such term includes interim facilities designed to provide teaching space on a short-term (less than ten years) basis while facilities of a more permanent nature are being planned and constructed but does not include off-site improvements or living quarters.

"(4) The term 'ambulatory, primary care teaching facilities' means facilities for the training of students in the diagnosis and treatment of ambulatory patients primarily in the specialties of family medicine, general pediatrics, general internal medicine, general dentistry, and pedodontics. Such facilities include examination rooms, clinical laboratories, libraries, classrooms, offices, and other areas for clinical or research purposes necessary for, and appropriate to, the conduct of comprehensive ambulatory, primary care training of allopathic physicians, osteopathic physicians, and dentists in such specialties.

"(5) (A) The term 'program for the training of physician assistants' means an educational program that has as its objective the education of individuals who will, upon completion of their studies in the program, be qualified to effectively provide health care as a physician assistant under the supervision of a physician.

"(6) (A) The term 'program for the training of expanded function dental auxiliaries' means an educational program that has as its objective the education of individuals who will, upon completion of their studies in the program, be qualified to assist in the provision of dental care as an expanded function dental auxiliary under the supervision of a dentist.

"(7) The term 'allied health personnel' means individuals with training and responsibilities for the facilitation or delivery of health care services (including the assistance of health professionals, and diagnostic, dietary, rehabilitative, and preventive health services) who are not graduates of schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, and public health, or graduate programs in health administration.

"(8) The terms 'training center for allied health personnel' and 'school of allied health' mean a public or nonprofit private junior college, college, or university—

"(A) which provides, or can provide, programs of education in a field of allied health leading to a baccalaureate or associate degree (or an equivalent degree of either) or to a more advanced degree;

"(B) which provides training for not less than a total of twenty persons in such curricula;

"(C) which, if in a college or university which does not include a teaching hospital or in a junior college, is affiliated with such a hospital; and

"(D) which is (or is in a college or university which is) accredited by a recognized body or bodies approved for such purposes by the Secretary of Education, or which is in a junior college which is accredited by the regional accrediting agency for the region in which it is located or there is satisfactory assurance afforded by such accrediting agency to the Secretary that reasonable progress is being made by such junior college toward accreditation.

"(9) The term 'Secretary' means the Secretary of the Department of Health and Human Services.

"(10) The term 'Department' means the Department of Health and Human Services.

"(11) The term 'Council' means the National Advisory Council on Health Professions Education, as provided in section 701 of this Act.

"(12) The term 'State' includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"(13) The term 'accredited' when applied to a school of medicine, osteopthy, dentistry, veterinary medicine, optometry, podiatry, pharmacy or public health, means a school that is accredited by a recognized body or bodies approved for such purpose by the Secretary of Education, except that a new school that, by reason of an insufficient period of operation, is not, at the time of application for a grant or contract under this title, eligible for accreditation by such a recognized body or bodies, shall be deemed accredited for purposes of this title, if the Secretary of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of the first entering class in such school.

"(b) Whenever in this title an applicant is required to provide assurances to the Secretary, or an application is required to contain assurances or be supported by assurances, the Secretary shall determine before approving the application that the assurances provided are made in good faith.

"NATIONAL ADVISORY COUNCIL ON HEALTH PROFESSIONS AND ALLIED HEALTH EDUCATION

"SEC. 701. (a) There is established in the Public Health Service a National Advisory Council on Health Professions and Allied Health Education (hereinafter in this title referred to as the 'Council'), consisting of the Secretary (or his delegate) who shall be Chairman of the Council, and twenty-one members appointed by the Secretary (without regard to the provisions of title 5 of the United States Code relating to appointments in the competitive service) from among persons who because of their education, experience, or training are particularly qualified to advise the Secretary with respect to the programs of assistance authorized by this title. The members of the Council shall be appointed as follows:

"(1) twelve shall be representatives of health professions schools and allied health training centers, including at least one representative each of schools of veterinary medicine, optometry, pharmacy, and podiatry, at least one representative of allied health training centers, and at least one representative of schools of public health and graduate programs in health administration;

"(2) three shall be full-time students enrolled in health professions schools or allied health training centers; and

"(3) six shall be members of the general public.

"(b) The Council shall advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this title.

"(c) The Secretary may use the services of any member or members of the Council in connection with matters related to the administration of this title, for such periods, in addition to conference periods, as he may determine.

"(d) Notwithstanding section 14 of the Federal Advisory Committee Act, the Council shall remain in existence until otherwise provided by law.

"ADVANCE FUNDING

"SEC. 702. An appropriation under an authorization of appropriations for grants or contracts under this title for any fiscal year may be made at any time before such fiscal year and may be included in an Act making an appropriation under such authorization for another fiscal year; but no funds may be made available from any appropriation under such authorization for obligation for such grants or contracts before the fiscal year for which such appropriation is authorized.

"DISCRIMINATION ON THE BASIS OF SEX AND RACE PROHIBITED

"SEC. 703. The Secretary may not enter into a contract with or make a grant, loan guarantee, or interest subsidy payment under this title to, or for the benefit of, any school, program, or training center which is eligible to receive assistance under programs authorized by this title unless the contract or the application for the grant, loan guarantee, or interest subsidy payment contains assurances that the school, program or training center will not discriminate on the basis of sex or race in the admission of individuals to its programs.

"RECORDS AND AUDITS

"SEC. 704. (a) Each entity that receives a grant, loan, loan guarantee, or interest subsidy or that enters into a contract under this title, shall establish and maintain such records as the Secretary shall by regulation or order require.

"(b) Each entity that received a grant or entered into a contract under this title shall provide for a biennial financial audit of any books, accounts, financial records, files, and other papers and property that relate to the disposition or use of the funds received under such grant or contract. For purposes of assuring accurate, current, and complete disclosure of the disposition or use of the funds received, each such audit shall be conducted in accordance with the standards and requirements of the individual or agency that conducts the audit and any standards applicable to the performance of the audit, as the Secretary may by regulation provide.

"(c) A student recipient of a service scholarship, traineeship, loan, loan guarantee, or interest subsidy under this title shall not be required to comply with subsection (a) or (b).

"(d) Each entity that is required to establish and maintain records or to provide for an audit under this section shall make such books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of such entity upon a reasonable request therefor.

"CONTRACTS

"SEC. 705. Contracts authorized by this title may be entered into without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529, 41 U.S.C. 5).

"APPLICATIONS AND PAYMENT

"SEC. 706. (a) No grant may be made or contract entered into under this title unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(b) Grants made under this title may be paid—

"(1) in advance or by way of reimbursement;

"(2) at such intervals and on such conditions as the Secretary may find necessary; and

"(3) with appropriate adjustments on account of overpayments or underpayments previously made.

"DIFFERENTIAL TUITION AND FEES

"SEC. 707. The Secretary may not enter into a contract with, or make a grant, loan guarantee, or interest subsidy payment under this title or title VIII to or for the benefit of, any school, program, or training center if the tuition levels or educational fees at such school, program, or training center are higher for certain students solely on the basis that such students are the recipients of traineeships, loans, loan guarantees, service scholarships or interest subsidies from the Federal Government.

"HEALTH PERSONNEL DATA

"SEC. 708. (a) The Secretary shall establish within the National Center for Health Statistics and the Bureau of Health Manpower jointly, a program to collect, compile, and analyze data on health personnel, including a uniform health professions data reporting system. Such program shall include data respecting allopathic and osteopathic physicians, dentists, pharmacists, optometrists, podiatrists, veterinarians, nurses (in conjunction with section 808 of this Act), public health personnel, audiologists, speech pathologists, medical technologists, other allied health personnel, and any other health personnel in States designated by the Secretary to be included in the program. Such data shall include data respecting the training, licensure status (including permanent, temporary, partial, limited, or institutional), place or places of practice, professional specialty, practice characteristics, age, sex, and socio-economic background of health personnel, and other demographic information regarding health personnel.

"(b) In carrying out subsection (a), the Secretary shall collect available information from appropriate local, State, and Federal agencies and other appropriate sources, and may enter into contracts, when necessary, to obtain such information, subject to the provisions of section 709.

"(c) The Secretary shall conduct, or enter into contracts for the conduct of, analytic and descriptive studies of health personnel, including evaluations and projections of the supply of, and requirements for, health personnel by specialty, goegraphic location, type of activity, and degree of utilization of auxiliary personnel.

"(d) Any school, program, or training center receiving funds under this title shall submit a report to the Secretary on an annual basis, containing such information as is necessary to assist the Secretary in carrying out this section. The Secretary shall not require the collecting or transmittal of any information under this subsection which is not readily available to such school, program, or training center. Information under this subsection shall be collected or transmitted only to the extent permitted by section 709.

"(e) The Secretary shall submit, on a biennial basis, a report to the President and Congress on the status of health personnel in the United States. Such report shall include a description and analysis of the information collected pursuant to this section.

"(f) There are authorized to be appropriated to carry out the purposes of this section $4,000,000 in the fiscal year ending September 30, 1981 and $5,000,000 in each of the subsequent three fiscal years.

"PERSONAL DATA

"SEC. 709. (a) The Secretary and any entity receiving funds under title VII, in securing and maintaining any record of individually identifiable personal data (hereinafter in this subsection referred to as 'personal data') for the purpose of carrying out section 708 or any grant or contract under this title, shall—

"(1) inform each individual who is asked to supply personal data whether such individual is legally required to supply such data and the specific consequences of providing or not providing such data; and

"(2) upon request of an individual, inform such individual—

"(A) as to whether such individual is the subject of personal data secured or maintained by the Secretary or entity pursuant to this title, and make such data available to such individual in a form comprehensible to him, and

"(B) concerning the use of personal data respecting such individual, the identity of the persons who will use such data, and the relationship of such persons to the grant or contract required such personal data under this title.

"(b)(1) Personnel data collected by the Secretary, entity, or local, State, or Federal agency pursuant to this title may not be made available or disclosed by the Secretary, entity, or local, State, or Federal agency to any person other than the individual who is the subject of such data, unless—

"(A) such person to whom such personal data was made available or disclosed requires such data in order to carry out the purposes of this title;

"(B) such personal data is made available or disclosed in response to a demand for such data made by means of compulsory legal process; or

"(C) the informed written consent of the individual who is the subject of such data has been obtained.

"(2) Data collected by the Secretary pursuant to this title that is not personal data shall be made available to bona fide researchers and policy analysts (including the Congress) for the purposes of assisting in the conduct of studies respecting health personnel.

"NONINTERFERENCE WITH ADMINISTRATION OF INSTITUTIONS

"SEC. 710. Nothing contained in this title shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, or supervision of, or control over, or impose any requirement or condition with respect to, the personnel, curriculum, methods of instruction, or administration of any institution.

"FINANCIAL DISTRESS GRANTS

"SEC. 711. (a) The Secretary may make grants to, and enter into contracts with, a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, or public health that is in serious financial distress for the purposes of assisting such school to—

"(1) meet the costs of operation;

"(2) meet applicable accreditation requirements if such school has a special need to be assisted in meeting such requirements; or

"(3) carry out appropriate operational, managerial, and financial reforms;

"(b) Any grant or contracts under this section may be made upon such terms and conditions as the Secretary determines to be reasonable and necessary, including requirements that the school agree to—

"(1) disclose any financial information or data necessary to determine the sources or causes of such school's financial distress;

"(2) conduct a comprehensive cost analysis study in cooperation with the Secretary; and

"(3) carry out appropriate operational, managerial, and financial reforms including the securing of increased financial support from State or local governmental units or the increasing of tuition.

"(c) In the case of a school that has received a grant or contract under this section in any fiscal year, the amount granted to such school under this section in any subsequent fiscal year may not exceed 75 percent of the amount granted to such school under this section in any fiscal year preceding such subsequent fiscal year. No school may receive a grant under this section if such school has previously received support for three or more years under this section or under section 788(b) (as it existed prior to October 1, 1980).

"(d) For the purpose of making grants and entering into contracts to carry out this section, there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1981, and for each of the three succeeding fiscal years.

"ADVANCED FINANCIAL DISTRESS GRANTS

"SEC. 712. (a) The Secretary may make grants to, and enter into contracts with, a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, or public health for the purposes of meeting the costs of operation and of appropriate operational, managerial, and financial reforms if such school is in serious financial distress and has previously received grant support under section 711 or under section 788(b) (as it existed prior to October 1, 1980).

"(b) No school may receive a grant or contract under this section unless—

"(1) the school has submitted to the Secretary a plan providing for the school to achieve financial solvency within five years and has agreed to carry out such plan;

"(2) such plan has been reviewed by a panel selected by the Secretary and consisting of three experts in the field of financial management who are not directly affiliated to the school or the Federal Government; and

"(3) the Secretary determines, after consultation with such panel, that such plan has a reasonable likelihood of achieving success.

"(c) The panel described in subsection (b)(2) shall be appointed by the Secretary within 30 days after the date of receipt of the school's plan and shall be dissolved no later than 45 days after the panel's recommendation has been transmitted to the Secretary. Members of the panel shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which they perform duties.

"(d) No school may receive a grant or contract under this section unless in the same year the school shall have received, or have a legally binding commitment to receive, a grant or contract from a State or local government or combination thereof for the exclusive purpose of alleviating such school's financial distress. Such grant or contract from a State or local government or combination thereof shall, in the first year of any support under this section, exceed any grant made in the preceding year by such State or local government by an amount equal to or greater than the amount of the proposed grant or contract under this section. In subsequent years of support under this section, such grant or contract from a State or local government or combination thereof shall exceed any grant made by such State or local government or combination thereof in the year prior to the first year of support under this section by an amount equal to or greater than the amount of the grant or contract under this section for such years.

"(e) No school may receive support under this section for more than five years. No grant or contract for support under this section shall be in an amount greater than (1) 75 percent in the third year, (2) 50 percent in the fourth year, and (3) 25 percent in the fifth year, of the average annual amount received in the first two years of grant or contract support under this section.

"(f) An application for a grant or contract under this section shall contain or be supported by assurances that the applicant will, in carrying out its function as a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, or public health, as the case may be, expend during the fiscal year for which such grant is sought an amount of funds from non-Federal sources (other than funds for construction and the grant or contract referred to in subsection (d)) at least as great as the average annual amount of funds from non-Federal sources expended by such applicant in the preceding two years.

"(g) For the purpose of making grants and entering into contracts to carry out this section, there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1981 and for each of the succeeding three fiscal years.

"START-UP AND CONVERSION ASSISTANCE GRANTS

"SEC. 713. (a)(1) For the purposes of meeting national or regional needs for veterinarians, optometrists, podiatrists, or public health personnel, the Secretary may make a grant to a new school of veterinary medicine, optometry, podiatry or public health which begins instruction after July 1, 1980. No school may receive a grant under this subsection unless the number of full-time students enrolled in its first school year of operation will exceed twenty-three.

"(2) The amount of any grant under this subsection may not exceed the following:

"(A) In the year preceding the first year in which such school has students enrolled, an amount equal to the product of $10,000 and the number of full-time students the Secretary estimates will enroll in such school in such first year.

"(B) In the first year in which such school has students enrolled, an amount equal to the product of $10,000 and the number of full-time students enrolled in such school in such year.

"Estimates of the number of full-time students enrolled in a school may be made on the basis of assurances provided by the school.

"(3) The Secretary shall give priority in the award of grants under this subsection to applicants for whom the receipt of such grant would facilitate the acceleration of the date upon which instruction would begin or increase the number of students enrolled in the entering class. The Secretary shall also give priority to applicants who will, by virtue of an affiliation with one or more existing health professions institutions, be able to make use of existing facilities and resources, including in the case of a new school of podiatry the use of the basic sciences faculty of a school of medicine or osteopathy.

"(4) The Secretary shall give special consideration to any application submitted by a school for a grant under this subsection if—

"(A) such school will be located in a

health manpower shortage area (designated under section 332); or

"(B) such school is a school of public health, optometry, veterinary medicine, or podiatry that will be located in a State that has no other such school.

"(5) For purposes of this subsection, any school of public health, optometry, veterinary medicine, or podiatry shall be considered a new school for any year if such year is—

"(A) the year preceding the first year in which such school has students enrolled;

"(B) the first year such school has students enrolled; and

"(C) the year following the first year such school has students enrolled.

"(6) Any school that first received a start-up assistance grant under the authority of section 788(a) (as it existed prior to October 1, 1980) and would have reasonably expected to have received subsequent grants under such authority in fiscal year 1981, 1982, or 1983, shall be eligible to receive such grants under this subsection on the same terms and conditions as were contained in section 788(a) (as it existed prior to October 1, 1980).

"(b)(1) The Secretary may make a grant to a public or nonprofit private two-year school of medicine that intends to become a school accredited to grant the degree of doctor of medicine. The amount of the grant to a school under this subsection shall be equal to the product of $25,000 and the number of third-year students that will be initially enrolled in such school. No school may receive more than one grant under this subsection nor receive a grant under this subsection during any fiscal year in which such school receives support under section 711 or 712.

"(2) No grant may be made under this subsection unless an application therefor has been submitted before October 1, 1981 and the school enrolls third-year students not later than the academic year beginning in the fiscal year ending September 30, 1983. A grant under this subsection shall be made available for expenditure in the school year preceding the year of initial enrollment of third-year students in such school and shall remain available for not more than 24 months. No grant may be made under this subsection unless the school for which the application is submitted will be affiliated with an accredited hospital in the fiscal year for which such grant is made.

"(3) No school may receive a grant under this subsection unless in the same year as such grant is received, the school has received or has a legally binding commitment to receive a grant or contract from a State or local government or a combination thereof for the exclusive purpose of converting from a two-year school to a degree-granting school. Such grant or contract from a State or local government shall exceed the amount of any grant or contract made in the preceding year by such State or local government by an amount equal to or greater than the amount of the proposed grant under this subsection.

"(c) For the purpose of making grants to carry out this section, there are authorized to be appropriated $4,000,000 in the fiscal year ending September 30, 1981 and in each of the succeeding three fiscal years.

"Part B—Student Assistance

"Subpart I—Student Loans

"ESTABLISHMENT OF LOAN PROGRAM

"Sec. 715. The Secretary shall establish a Federal program of student loan insurance and interest payments for students in schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, nursing (including advanced training programs), and public health. Loans made by eligible lenders in accordance with this subpart shall be insurable by the Secretary regardless of whether such loans are made from funds fully owned by the lender or from funds held by the lender in a trust or similar capacity and available for such loans.

"ELIGIBILITY OF STUDENT BORROWERS AND TERMS OF FEDERALLY INSURED LOANS

"Sec. 716. (a) A loan to a student made by an eligible lender shall be insurable under the provisions of this subpart only if such loan is made to a student who—

"(1) has been accepted for full-time enrollment at an eligible institution or is a full-time student at an eligible institution, and is a student in good standing at such institution as determined by such institution;

"(2) has agreed to utilize all funds received under such loan solely for tuition and other reasonable educational and living expenses, as determined by such student's school; and

"(3) in the case of a pharmacy student, has satisfactorily completed two years of training.

"(b) A loan to a student made by an eligible lender shall be insurable under the provisions of this subpart only if evidenced by a note or other written agreement that—

"(1) is made without security or endorsement, except that if the borrower is a minor and such note or other written agreement executed by him would not, under the applicable law, create a binding obligation, an endorsement may be required;

"(2) except as otherwise provided in this subsection, provides for repayment of the principal amount of the loan in installments over a period of not less than 10 years (unless repaid at an earlier date at the borrower's option) nor more than 15 years beginning not later than 12 months after the date on which the borrower ceases to be covered by the provisions of paragraph (4);

"(3) includes provisions relating to repayment by the borrower in the event of default in the payment of interest or other defaults by the borrower;

"(4) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period during which the borrower is—

"(A) pursuing a full-time course of study at any eligible institution (or at an institution defined by section 435 (b) of the Higher Education Act of 1965);

"(B) a participant in an accredited internship or residency program (not to exceed three years);

"(C) a member of the Armed Forces of the United States or of the National Health Service Corps (not to exceed three years); or

"(D) in service as a full-time volunteer pursuant to the Peace Corps Act or title I of the Domestic Volunteer Service Act of 1973 (not to exceed three years);

and any such period shall not be included in determining the 15-year period provided in paragraph (2) above;

"(5) provides for interest on the unpaid principal balance of the loan at a yearly rate, not to exceed the applicable maximum rate on a national, regional, or other appropriate basis, which interest shall be compounded not more frequently then semiannually and payable in installments over the period of the loan;

"(6) provides that payment of any interest otherwise payable—

"(A) before the beginning of the repayment period;

"(B) during any period described in paragraph (4); or

"(C) during any other period of forbearance of payment of principal,

may be deferred until the date upon which repayment of the first installment of principal falls due or the date repayment of principal is required to resume (whichever is applicable), and further provides that, on such applicable date, the amount of the interest which has so accrued may be added to the principal for the purposes of calculating a repayment schedule; and

"(7) entitles the borrower to accelerate repayment of the whole or any part of the loan without penalty.

"(c) For the purpose of subsection (b)(5), the maximum rate of interest on the unpaid balance of the loan, including interest payments deferred pursuant to subsection (b)(6), may not exceed the lesser of—

"(1) the average of the bond equivalent rates of the ninety-one-day Treasury bills auctioned for the previous quarter, plus 2.5 percent, the result percent rounded upward to the nearest one-eighth of one percent; or

"(2) 15 percent per annum.

"(d) No provision of any law of the United States (other than subsections (b)(5) and (c) of this section) or of any State that limits the rate or amount of interest payable on loans shall apply to a loan insured under this subpart.

"(e) Nothing in this section shall be construed to preclude the lender and the borrower, by mutual agreement, from consolidating all of the borrower's debts into a single instrument, except that the portion of such debt that is insured under this subpart shall not be consolidated on terms less favorable to the borrower than if no consolidation had occurred.

"(f) During any year in which repayment of interest is not deferred pursuant to subsection (b)(6), the total of interest payments made by a borrower during such year shall not be less than the annual interest (less interest payments under section 718, if any) on the outstanding principal of all loans to such borrower that are insured under this subpart.

"STUDENT LOAN INSURANCE AND INTEREST PAYMENTS FUND

"Sec. 717. (a) There is hereby established a student loan insurance and interest payments fund (hereinafter in this part referred to as the "fund") which shall be available without fiscal year limitation for making interest payments as specified in section 718, and for making payments in connection with the default of loans insured under this subpart. All amounts received by the Secretary, including receipts, earnings, or proceeds derived from any claim or other assets acquired in connection with operations under this subpart, and any other moneys, property, or assets derived from operations in connection with this section, shall be deposited in the fund. All interest payments and payments in connection with the default of loans insured under this subpart shall be paid from the fund. Moneys in the fund not needed for current operations under this section may be invested in bonds or other obligations guaranteed as to principal and interest by the United States.

"(b) If at any time the sums in the fund are insufficient to make interest payments or payments in connection with the default of any loan insured under this subpart, the Secretary may issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury, but only in such amounts as may be specified from time to time in appropriation Acts. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations issued hereunder and he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty

Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made from such fund.

"INTEREST PAYMENTS

"SEC. 718. (a) In the case of a borrower described in subsection (b), the Secretary shall, during periods described in subsection (c), pay to the holder of such borrower's loan insured under this subpart and for and on behalf of the borrower who received such loan an amount that is the excess of—

"(1) the amount that is the total annual interest on the unpaid principal amount of the loan (including interest payments deferred pursuant to section 716(b)(6)) over;

"(2) the amount that is the interest on such unpaid principal amount of the loan computed at a rate of seven percent (such amount to remain the responsibility of the borrower but payment of which may be deferred under section 716(b)(6)).

"(b) The Secretary shall make interest payments under subsection (a) to the holder of the loan insured under this subpart (for and on behalf of the borrower) only if at the time the loan was made the eligible institution at which the borrower was enrolled certified in writing to the Secretary that the borrower had a demonstrated financial need (as determined by such institution) for such loan.

"(c)(1) The Secretary shall make interest payments under subsection (a) to the holder of the loan insured under this subpart (for and on behalf of the borrower) only during periods—

"(A) not to exceed five years, when the borrower is enrolled in an eligible institution on a full-time basis and is in good standing at such institution, as determined by the institution;

"(B) not to exceed two years, when the borrower who is a graduate of a school of veterinary medicine, optometry, pharmacy, podiatry, public health, or nursing is a full-time participant in an accredited internship or residency program or other accredited program of advanced training;

"(C) not to exceed three years, when the borrower who is a graduate of a school of medicine, osteopathy or dentistry is a full-time participant in an accredited internship or residency in general internal medicine, general pediatrics, family medicine, general practice, preventive medicine, preventive dentistry, occupational medicine, physical and rehabilitative medicine or dentistry, general dentistry, or general pedodontics;

"(D) not to exceed three years, when the borrower receives advanced training as part of a research fellowship (such as the National Research Service Awards authorized by section 472 of this Act);

"(E) not to exceed three years, when the borrower is providing clinical or preventive health care services for a Federal, State, or local government agency as—

"(i) part of a service scholarship contract (such as the service scholarships authorized under Part D of this title);

"(ii) a full-time member of the Armed Forces of the United States; or

"(iii) a full-time volunteer under the Peace Corps Act or title I of the Domestic Volunteer Service Act of 1973;

"(F)(i) not to exceed two years, when the borrower practices primary or preventive health care in any area; or

"(ii) not to exceed five years, when the borrower practices primary or preventive health care in a health manpower shortage area (designated under section 332); and

"(G) not to exceed five years, when the borrower is performing biomedical research on a greater than half-time basis as part of a full-time research and teaching position as part of the faculty or staff of a health professions school, non-profit biomedical research institute, or Federal biomedical research institute.

"(2) In no case shall interest payments made pursuant to this subsection be paid for and on behalf of any borrower more than fifteen years after the date of the first loan made to such borrower insured under this subpart.

"(d) The Secretary may not approve an application for interest payments under this section unless he determines that the terms, conditions, security (if any), and schedule any amount of repayments with respect to the loan are sufficient to protect the financial interest of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed the maximum rate set by section 716(c).

"(e) If the Secretary determines to make interest payments on a loan insured under this subpart, the holder of a loan with respect to which payments are required to be made under this section shall be deemed to have a contractual right, as against the United States, to receive from the Secretary the portion of interest for which the United States is obligated. The Secretary shall pay such portion of the interest to the holder of the loan on behalf of and for the account of the borrower at such times as may be specified in regulations.

"LIMITATIONS ON LOANS AND LOAN INSURANCE

"SEC. 719. (a) The total amount of the loans made to a student in any academic year or its equivalent (as determined by the Secretary) that may be covered by Federal loan insurance under this subpart may not exceed $20,000 in the case of a student enrolled in a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, or podiatry, $12,500 in the case of a student enrolled in a school of pharmacy or public health, and $5,000 in the case of a student enrolled in a school of nursing. The aggregate insured unpaid principal amount for all such insured loans made to any borrower shall not at any time exceed $80,000 in the case of a borrower enrolled in a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, or podiatry, $50,000 in the case of a borrower enrolled in a school of pharmacy, $25,000 in the case of a borrower enrolled in a school of public health, and $20,000 in the case of a borrower enrolled in a school of nursing.

"(b) The insurance liability on any loan insured under this subpart shall be 100 percent of the unpaid balance of the principal amount of the loan plus interest. The full faith and credit of the United States is pledged to the payment of all amounts that may be required to be paid under the provisions of this subpart.

"APPROPRIATIONS

"SEC. 720. (a) For the purpose of carrying out this subpart there are authorized to be appropriated $20,000,000 for the fiscal year ending September 30, 1981, $40,000,000 for the fiscal year ending September 30, 1982, $60,000,000 for the fiscal year ending 1983, and $80,000,000 for the fiscal year ending September 30, 1984, to the student loan insurance and interest payment fund, and for fiscal years thereafter, such sums as may be necessary to provide interest payments and loan insurance and pay defaults on loans insured under the authority of this subpart prior to October 1, 1984 and to insure new loans as specified in section 721(a). Sums appropriated under this subpart shall remain available until expended.

"SCOPE AND DURATION OF FEDERAL LOAN PROGRAM

"SEC. 721. (a) The total principal amounts of new loans made and installments paid pursuant to lines of credit to borrowers covered by Federal loan insurance under this subpart shall not exceed $250,000,000 for the fiscal year ending September 30, 1981, $300,000,000 for the fiscal year ending September 30, 1982, $350,000,000 for the fiscal year ending September 30, 1983, and $400,000,000 for the fiscal year ending September 30, 1984. Thereafter, Federal loan insurance pursuant to this subpart may be granted only for loans made (or for loan installments paid pursuant to lines of credit) to enable students who have obtained prior loans insured under this subpart to continue or complete their educational program. No insurance may be granted for any loan made or installment paid after September 30, 1986.

"(b) The Secretary may, if necessary to assure an equitable distribution of the benefits of this subpart, assign, within the maximum amounts specified in subsection (a), Federal loan insurance quotas applicable to schools, eligible lenders, or to States or areas, and may from time to time reassign unused portions of such quotas.

"(c) The Student Loan Marketing Association, established under part B of title IV of the Higher Education Act of 1965, is authorized to make advances on the security of loans insured under this subpart, or purchase, service, sell, or otherwise deal in such loans.".

LOAN FORGIVENESS; SPECIAL PROJECTS

SEC. 105. Title VII is amended by inserting the following after section 726:

"Subpart II—Loan Forgiveness

"GENERAL

"SEC. 727. (a) The Secretary shall establish a Federal program of loan forgiveness payments to discharge all or part of the loan liabilities of individuals who are students, graduates, or former students of schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, and pharmacy.

"(b) Loan forgiveness payments as provided in subsection (a) shall apply only to loans—

"(1) incurred by individuals while enrolled as full-time students in a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or pharmacy; and

"(2) made under subpart I of this part, part B of title IV of the Higher Education Act of 1965, subpart I of part C of title VII of this Act (as it existed prior to October 1, 1980), or subpart II of part C of title VII of this Act (as it existed prior to October 1, 1980).

"STUDENT LOAN FORGIVENESS FUND

"SEC. 728. (a) There is hereby established a student loan forgiveness fund (hereinafter referred to as the 'fund') which shall be available without fiscal year limitation to the Secretary for making loan forgiveness payments in accordance with the priorities established by section 729. All amounts received by the Secretary pursuant to section 729A shall be deposited in the fund. Sums in the fund not needed for current operations may be invested in bonds or other obligations guaranteed as to principal and interest by the United States and may be expended in future years.

"(b) The Secretary shall not, in making loan forgiveness payments under this subpart or in making commitments to make such payments, expend any sums from the fund that are not currently available in such fund or make commitments to expend sums that will not be available before the end of the fiscal year.

"LOAN FORGIVENESS

"SEC. 729. (a) To the extent sums are available in the fund in any fiscal year, the Secretary may make loan forgiveness payments to discharge all or part of the loan liability on loans of individuals as provided in section 727(b) according to priorities set out in subsection (b) of this section.

"(b) The Secretary shall make loan forgiveness payments, as money is available and in the following priority order, to individuals who—

"(1) die or become permanently and totally disabled (as determined in accordance with regulations prescribed by the Secretary);

"(2) completed their first year exams at a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, or podiatry but failed to be advanced to the second year at such school and upon any subsequent attempt to retake the first year courses or exams were unsuccessful in achieving such advancement; and

"(3) entered into loan agreements that were governed by section 735(c), 741(f), or 741(l) (as such sections were in effect prior to October 1, 1980), and who subsequently met or currently meet the eligibility criteria in such sections but have not received loan forgiveness.

"(c)(1) No loan forgiveness payments made under subsection (b)(2) shall exceed the amount of nonreimbursable tuition and fees charged the student by the school.

"(2) Loan forgiveness payments under subsection (b)(2) may cover any loans made to an individual to enable such individual to retake the first year courses if, as a result, the individual does not succeed in advancing to the second year.

"(3) The Secretary may commit loan forgiveness payments but shall not expend such payments for any individual under subsection (b)(2) unless and until the school at which such individual was enrolled provides assurances that such individual cannot reasonably be expected to resume studies at such institution within five years following the date upon which such individual terminated such studies.

"(4) If at any time within five years following the date upon which any individual terminated his studies in an institution and was provided loan forgiveness payments under the terms of subsection (b)(2), such individual rematriculates in such institution or an institution providing a comparable degree, and such individual advances to the second year, the Secretary shall reinstate the original loan obligation.

"(d)(1) Loan forgiveness payments under subsection (b)(3) shall not exceed the amounts to which the individual would have been entitled if sections 735(c), 741(f), and 741(l) (as such sections were in effect prior to October 1, 1980), were still in effect on the date of such payments.

"(2) If insufficient sums are available to provide loan forgiveness payments under subsection(b)(3) to all qualified individuals, the Secretary shall prorate whatever sums are available to provide that all qualified individuals receive the same percentage of the amount otherwise due such individuals under paragraph (1).

"(e)(1) If at the end of any fiscal year there are sums remaining in the fund that the Secretary does not reasonably expect to need for loan forgiveness payments within the next fiscal year, the Secretary may use such sums to enter into a written contract with a borrower on whose behalf a loan has been insured under subpart I under which the Secretary agrees to assume the obligation of paying an amount, not to exceed $500 per month for not more than 24 months, toward the principal and interest due on such loan and the borrower agrees to serve in a full-time private clinical practice in a health manpower shortage area (designated under section 332) for a continuous period of not less than 12 months. Such service shall commence no later than 12 months after the date of the agreement between the Secretary and the borrower.

"(2) If an individual who has entered into a written contract under paragraph (1), for any reason breaches his contract obligations with respect to serving in a health manpower shortage area for the period specified in the contract, such individual shall not be entitled to further monthly payments under such contract and the United States shall be entitled to recover from such individual any monthly payments made by the United States for months that such individual did not fulfill such contractual obligation. In addition to recovery of such monthly payments, the United States shall be entitled, within six months after the date of the breach of such contract obligations, to receive from such individual the amount of $1,000 as liquidated damages.

"(3) The United States shall not be entitled to recover any damages from an individual under paragraph (2) upon the death of the individual.

"(4) The Secretary shall by regulation provide for—

"(A) the waiver or suspension of any obligation of service; or

"(B) the payment of any or all of the damages to which the United States is entitled under paragraph (2); whenever the Secretary determines that compliance by an individual with the contract is impossible or would involve extreme hardship to the individual and that recovery of such damages with respect to the individual would be unconscionable.

"DISTRIBUTION OF ASSETS OF STUDENT LOAN FUND

"SEC. 729A. (a) After September 30, 1980, and not later than March 31, 1981, each school that established a student loan fund (known as the Health Professions Student Loan Fund) pursuant to section 740 (as such section existed prior to October 1, 1980) shall provide for a capital distribution of the balance of such fund. The distribution of such loan funds by each school shall be as follows:

"(1) The Secretary shall first be paid an amount bearing the same ratio to such balance in such fund at the close of September 30, 1980, as the total amount of the Federal capital contributions to such fund pursuant to section 740(b)(2)(A) (as it existed prior to October 1, 1980) bears to the total amount in such fund derived from such Federal capital contributions and from funds deposited therein pursuant to section 740(b)(2)(B) (as it existed prior to October 1, 1980).

"(2) The remainder of such balance shall be paid to the school.

"(b) After March 31, 1981, each school that established a student loan fund in accordance with section 740 (as it existed prior to October 1, 1980) shall pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by the school after September 30, 1980, in payment of principal and interest on loans made from the loan fund, as was determined under subsection (a)(1).

"(c) Funds received by the Secretary under this section shall be deposited in the Student Loan Forgiveness Fund established under section 728.

"PART C—SPECIAL PROJECTS

"Subpart I—General

"GENERAL PROVISIONS

"SEC. 730. (a) The Secretary may make grants to, and enter into contracts with, schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, allied health, and public health, graduate programs in health administration, and other eligible entities in order to meet the costs of carrying out special projects as provided in this part.

"(b)(1) In calculating the amount of each special project grant or contract under this part which is made to an eligible school or graduate program, the Secretary shall add to the Federal share of the cost of carrying out such project an amount equal to 20 percent of such Federal share of the cost if the school or program provides assurances to the Secretary that it has met or will meet the applicable conditions specified in section 731.

"(2) If an application for a grant or contract under this part is submitted jointly by more than one school or program, and not all such schools or programs submitting such application provide the assurances required under paragraph (1) in order to receive the additional funds under such paragraph, the Secretary may provide such additional funds to such schools or programs providing such assurances, and deny such additional funds to such schools or programs failing to provide such assurances.

"(3) Such additional funds shall be used for the purpose of supporting any aspect of the educational programs of such schools, and any school receiving such additional funds shall be required to provide assurances that such funds are being used for such purpose.

"(c) Except in the case of applications for continuation awards, the Secretary shall give special consideration for grants and contracts under this part to applications made by applicants who would not otherwise receive a grant or contract under this part for the same fiscal year.

"CONDITIONS

"SEC. 731. (a)(1) No school or graduate program shall be eligible to receive the additional funds specified in section 730(b)(1), unless such school or graduate program, as part of its application for a grant or contract under this part, provides assurances that it has met (or will meet if the application is approved) the conditions specified in this section applicable to such school or graduate program. The willingness or failure of any school or graduate program to provide such assurances shall not affect whether such school or graduate program receives a grant or contract under this part.

"(2) For purposes of this section, a reference to a year class of students is a reference to students enrolled in such class for the first time.

"(b) To be eligible for the additional funds specified in section 730(b)(1), a school of medicine or osteopathy shall provide assurances that in the school year starting immediately before the fiscal year in which the grant would be made, such school has met or will meet three of the following conditions:

"(1) the school provides, or plans to provide with 12 months, at least one required course, or some comparable amount of instruction as part of other required courses, in health policy and health care economics;

"(2) the school's tuition and fees for both in-State and out-of-State students are not more than 10 percent greater than such school's tuition and fees for such students in the previous school year;

"(3)(A) the school provides, or plans to provide within 12 months, at least two courses, or some comparable amount of instruction in other courses, in any of the following areas: geriatrics, nutrition, occupational medicine, environmental medicine, medical ethics and forensic medicine, and preventive or community medicine (or public health); or

"(B) the school conducts, or plans to conduct within 12 months, a community medical education and screening program (of at least four months duration) designed to either (i) educate and screen the general population for preventable or controllable diseases or conditions, such as high blood pressure and obesity; or (ii) meet the health education needs of a defined special population, such as the handicapped, elderly, indigent, or institutionalized children;

"(4)(A) the school provides, or plans to provide within 12 months, opportunities for students to receive significant clinical training in areas in which medically underserved populations reside or in ambulatory care settings in areas geographically remote from the main site of the teaching facilities of the school; or

"(B) the school provides, or coordinates with an existing system to provide, or plans to do so within 12 months, a program for the delivery of primary or preventive health care services to an underserved population, such as local prisoners or public nursing home residents; and

"(5) of the school's filled first year positions in direct or affiliated medical or osteopathic residency training programs, the school has, or will have within 12 months, at least 65 percent of such positions in general internal medicine, general pediatrics, or family medicine.

"(c) To be eligible for the additional funds specified in section 730(b)(1), a school of dentistry shall provide assurances that in the school year starting immediately before the fiscal year in which the grant would be made, such school has met or will meet three of the following conditions:

"(1) the school provides, or plans to provide within 12 months, at least one required course, or some comparable amount of instruction as part of other required courses, in health policy and health care economics;

"(2) the school's tuition and fees for both in-State and out-of-State students is not more than 10 percent greater than such school's tuition and fees for such students in the previous school year;

"(3)(A) the school provides, or plans to provide within 12 months, at least one course, or some comparable amount of instruction in other courses in each of the following areas: use of dental auxiliaries, preventive or community dentistry, and nutrition; or

"(B) the school conducts, or plans to conduct within 12 months, a community dental education and screening program (of at least four months duration) designed to either (i) educate and screen the general population for preventable or controllable dental diseases or conditions; or (ii) meet the dental education needs of a defined special population, such as the handicapped, elderly, indigent, or institutionalized children;

"(4)(A) the school provides, or plans to provide within 12 months, opportunities for students to receive significant clinical training in areas in which medically underserved populations reside or in ambulatory dental care settings in areas geographically remote from the main site of the teaching facilities of the school; or

"(B) the school provides or coordinates with an existing system to provide, or plans to do so within 12 months, a program for the delivery of primary or preventive dental care services to an underserved population, such as local prisoners or public nursing home residents; and

"(5) of the school's filled first year positions in direct or affiliated dental specialty programs in excess of the number of such positions that were available on January 1, 1978, the school has, or will have within 12 months, at least seventy percent of such excess positions in general dentistry or pedodontics.

"(d) To be eligible for the additional funds specified in section 730(b)(1), a school of veterinary medicine shall provide assurances that in the school year starting immediately before the fiscal year in which the grant would be made, such school has met or will meet the following conditions:

"(1) the predominant emphasis of the school's clinical training is the care of food-producing and fibre-producing animals;

"(2) the school's first year student enrollment is the same or greater than the first year student enrollment in the previous school year; and

"(3)(A) at least 15 percent of the enrollment of full-time, first year students in the school is comprised of students who are residents of States in which there are no schools of veterinary medicine; or

"(B) the school provides, or plans to provide within 12 months, at least two courses, or some comparable amount of instruction in other courses, in any of the following areas: toxicology, environmental medicine, health policy and health care economics, laboratory animal medicine, and animal and human nutrition.

"(e) To be eligible for the additional funds specified in section 730(b)(1), a school of optometry shall provide assurances that in the school year starting immediately before the fiscal year in which the grant would be made, such school has met or will meet three of the following conditions:

"(1) the school's first year student enrollment is the same or greater than the first year student enrollment in the previous school year;

"(2) the school's tuition and fees for both in-State and out-of-State students are not more than 10 percent greater than such school's tuition and fees for such students in the previous school year;

"(3) the school provides, or plans to provide within 12 months, at least two courses, or some comparable amount of instruction in other courses, in any of the following areas: health policy and health care economics, rehabilitative procedures, use of optometric auxiliary, geriatrics, and public health and disease prevention;

"(4)(A) the school has since July 1, 1980, or will within 12 months of the submission of an application for a grant or contract under this part, increased the first year student enrollment by 5 percent or 6 students (whichever is less) over first year student enrollment in the previous school year and has agreed to maintain such increased enrollment level for at least three academic years; or

"(B) at least 20 percent of the enrollment of full-time, first year students in the school (or 40 percent if the applicant is a nonprofit private school of optometry) is comprised of students who are residents of States in which there are no schools of optometry; and

"(5)(A) the school provides, or plans to provide within 12 months, opportunity for students to receive significant clinical training in areas in which medically underserved populations reside or in ambulatory eye care settings in areas geographically remote from the main site of the teaching facilities of the school; or

"(B) the school conducts, or plans to conduct within 12 months, a community vision care education and screening program (of at least four months duration) designed to either (i) educate and screen the general population regarding preventable or controllable eye diseases or conditions; or (ii) meet the eye care education needs of a defined special population, such as the handicapped, elderly, indigent, or institutionalized children; or

"(C) the school provides or coordinates with an existing system to provide, or plans to do so within 12 months, a program for the delivery of primary eye care or preventive eye care services to an underserved population, such as local prisoners or public nursing home residents.

"(f) To be eligible for the additional funds specified in section 730(b)(1), a school of podiatry shall provide assurances that in the school year starting immediately before the fiscal year in which the grant would be made, such school has met or will meet three of the following conditions:

"(1) the school's first year student enrollment is the same or greater than the first year student enrollment in the previous school year;

"(2) the school's tuition and fees for both in-State and out-of-State students are not more than 10 percent greater than such school's tuition and fees for such students in the previous school year;

"(3) the school provides, or plans to provide within 12 months, at least two courses, or some comparable amount of instruction in other courses, in any of the following areas: health policy and health care economics, rehabilitative procedures, use of podiatric auxiliaries, geriatrics, and public health and disease prevention;

"(4)(A) the school has since July 1, 1980, or will within 12 months of the submission of an application for a grant or contract under this part, increased the first year student enrollment by 5 percent or 6 students (whichever is less) over first year student enrollment in the previous school year, and has agreed to maintain such increased enrollment level for at least three academic years; or

"(B) at least 40 percent of the enrollment of full-time, first year students in the school is comprised of students who are residents of States in which there are no schools of podiatry; and

"(5)(A) the school provides, or plans to provide within 12 months, opportunity for students to receive significant clinical training in areas in which medically underserved populations reside or in ambulatory foot care settings in areas geographically remote from the main site of the teaching facilities of the school; or

"(B) the school conducts, or plans to conduct within 12 months, a community foot care education and screening program (of at least four months duration) designed to either (i) educate and screen the general population relating to preventable or controllable foot diseases or conditions; or (ii) meet the foot care education needs of a defined special population, such as the handicapped, elderly, indigent, or institutionalized children; or

"(C) the school provides or coordinates with an existing system to provide, or plans to do so within 12 months, a program for the delivery of primary foot care or preventive foot care services to an underserved population, such as local prisoners or public nursing home residents.

"(g) To be eligible for the additional funds specified in section 730(b)(1), a school of pharmacy shall provide assurances that in the school year starting immediately before the fiscal year in which the grant would be made, such school has met, or will meet the following conditions:

"(1)(A) the school provides, or plans to provide within 12 months, at least two courses, or some comparable amount of instruction in other courses, in any of the following areas: health policy and health care economics, public health and disease prevention, nutrition, and geriatrics; or

"(B) the school's tuition and fees for both in-State and out-of-State students are not more than 10 percent greater than such school's tuition and fees for such students in the previous school year; and

"(2) the school requires each student who is enrolled in the school to participate in a training program in clinical pharmacy which, at a minimum, shall include—

"(A) an inpatient and outpatient clerkship experience in a hospital, extended care facility, or other clinical setting;

"(B) interaction with physicians and other health professionals;

"(C) training in the counseling of patients with regard to reactions to, and the appropriate use of, drugs; and

"(D) training in drug information retrieval and analysis in the context of actual patient problems.

"(h) To be eligible for the additional funds specified in section 730(b)(1), a school of public health or graduate program in health administration shall provide assurances that in the school year starting immediately before the fiscal year in which the grant would be made, such school has met or will meet the following conditions:

"(1) the school or graduate program's first year student enrollment is the same or greater than the first year student enrollment in the previous school year;

"(2)(A) the school or graduate program provides, or plans to provide within 12 months, a range of courses during evening and weekend hours such that students can matriculate on a part-time basis and receive a degree while working; or

"(B) the school or graduate program provides, or plans to provide within 12 months, a program of continuing education for health professionals who are involved, full-time or part-time, in public health or health administration and for graduates of a school of public health or graduate program in health administration; or

"(C) the school or graduate program requires, or plans to require within 12 months, each student who is enrolled in the school full-time in a course of study of more than one year's duration, to participate in a part-time clerkship or internship in a public health agency, or a hospital, extended care facility, or other facility where preventive or clinical health care is provided.

"(i) To be eligible for the additional funds specified in section 730(b)(1), a school of allied health (as defined by section 700(8)) shall provide assurances that in the school year starting immediately before the fiscal year in which the grant would be made, it provides, or plans to provide within 12 months, an opportunity for students enrolled in such school to participate in and receive credit for a course in health policy and health care economics, such course to be offered by such school directly, by agreement with another local health professions school, or by other arrangement, so long as such arrangement does not, by reason of traveltime or cost, discourage students from enrolling in such course.

"Subpart II—Graduate Training and Specialty Distribution

"GRANTS FOR TRAINING IN GENERAL INTERNAL MEDICINE, GENERAL PEDIATRICS, AND FAMILY MEDICINE

"SEC. 735. (a) The Secretary may make grants to and enter into contracts with schools of medicine and osteopathy to assist in meeting the costs to such schools of providing projects to—

"(1) plan, develop, and operate or maintain approved residency training programs in internal medicine, pediatrics, or family medicine which emphasize the training of residents for the practice of general internal medicine or general pediatrics or family medicine;

"(2) plan, develop, and operate or maintain programs (that may be structured differently than residency training programs) to train or retrain practicing physicians to practice general internal medicine, general pediatrics, or family medicine;

"(3) plan, develop, and operate or maintain programs (that may be structured differently than residency training programs) for the training of physicians who plan to teach in general internal medicine, general pediatrics, and family medicine training programs; and

"(4) provide financial assistance (in the form of traineeships and fellowships) to residents and practicing physicians who are in need of financial assistance and who are participants in a program described in paragraphs (1), (2), and (3), and who plan to specialize, teach, or work in the practice of general internal medicine, general pediatrics, or family medicine.

"(b) A school may apply for a grant or contract under this section for, or on behalf of, an affiliated training program or affiliated hospital, such program or hospital having primary control over the operation and curriculum content of the training to be provided.

"(c) There are authorized to be appropriated to carry out the provisions of this section $80,000,000 for the fiscal year ending September 30, 1981, $85,000,000 for the fiscal year ending September 30, 1982, $90,000,000 for the fiscal year ending September 30, 1983, and $95,000,000 for the fiscal year ending September 30, 1984.

"GRANTS FOR TRAINING IN GENERAL PRACTICE OF DENTISTRY

"SEC. 736. (a) The Secretary may make grants to, and enter into contracts with, schools of dentistry to assist in meeting the costs to such schools of providing projects to—

"(1) plan, develop, and operate or maintain an approved residency program in the general practice of dentistry; and

"(2) provide financial assistance (in the form of traineeships and fellowships) to residents in such program in need of financial assistance and who plan to specialize in the practice of general dentistry.

"(b) There are authorized to be appropriated to carry out the provisions of this section $6,000,000 for the fiscal year ending September 30, 1981, $7,500,000 for the fiscal year ending September 30, 1982, $8,500,000 for the fiscal year ending September 30, 1983, and $9,500,000 for the fiscal year ending September 30, 1984.

"PROJECT GRANTS FOR DEPARTMENTS OF FAMILY MEDICINE

"SEC. 737. (a) The Secretary may make grants to schools of medicine and osteopathy to assist in meeting the costs to such schools of providing projects to establish and maintain or improve academic administrative units (which may be departments, divisions, or other unts) to provide clinical instruction in family medicine.

"(b) The Secretary shall not approve an application for a grant under subsection (a) unless such application contains assurances that the academic administrative unit with respect to which the application is made—

"(1) will be generally comparable to academic administrative units for other major clinical specialties offered by the applicant with regard to currculum time, number of faculty, and clinical population served; and

"(2) has or plans to have within 12 months, a close affiliation with a three year approved or provisionally approved residency training program in family medicine or its equivalent (as determined by the Secretary) which shall have the capacity to enroll a total of no less than twelve interns or residents per year.

"(c) There are authorized to be appropriated to carry out the provisions of this section $12,000,000 for the fiscal year ending September 30, 1981, $13,000,000 for the fiscal year ending September 30, 1982, $14,000,000 for the fiscal year ending September 30, 1983, and $15,000,000 for the fiscal year ending September 30, 1984.

"GRANTS FOR TRAINING IN PREVENTIVE MEDICINE AND PHYSICAL AND REHABILITATIVE MEDICINE

"SEC. 738. (a) The Secretary may make grants to and enter into contracts with schools of medicine, osteopathy, and public health to assist in meeting the costs to such school of providing projects to—

"(1) plan, develop, and operate or maintain a physician residency training program in preventive medicine (including environmental medicine and occupational medicine); and

"(2) provide financial assistance (in the form of traineeships and fellowships) to residents in any such program in need of financial assistance and who plan to specialize or work in preventive medicine (or public health or environmental medicine or occupational medicine).

"(b) The Secretary may make grants to and enter into contracts with schools of medicine and osteopathy to meet the costs to such schools of providing projects to—

"(1) plan, develop, and operate or maintain a physician residency training program in physical medicine and rehabilitation; and

"(2) provide financial assistance (in the form of traineeships and fellowships) to residents in any such program in need of financial assistance and who plan to specialize or work in physical medicine and rehabilitation.

"(c) There are authorized to be appropriated to carry out the provisions of this section $7,000,000 for the fiscal year ending September 30, 1981, $8,500,000 for the fiscal year ending September 30, 1982, $10,000,000 for the fiscal year ending September 30, 1983, and $11,500,000 for the fiscal year ending September 30, 1984.".

SPECIAL PROJECTS; SERVICE SCHOLARSHIPS

Sec. 106. Title VII is amended by inserting the following after section 739:

"Subpart III—Improving Geographic Distribution

"AREA HEALTH EDUCATION CENTERS

"SEC. 740. (a) The Secretary may make grants or enter into contracts with schools of medicine and osteopathy for projects to assist in the planning, development, and operation of area health education center programs.

"(b) An area health education center program shall be a cooperative program of one or more nonprofit or public area health education centers.

"(c)(1) Each school of medicine or osteopathy participating in an area health education center program shall—

"(A) provide for the active participation in such program of individuals who are associated with the administration of the school and each of the departments (or specialties if the school has no such departments) of internal medicine, pediatrics, obstetrics and gynecology, surgery, psychiatry, and family medicine;

"(B) provide that no less than 10 percent of all undergraduate medical or osteopathic clinical education provided by the school is conducted in an area health education center and at locations under the sponsorship of a center; and

"(C) provide for the active participation of at least 2 schools or programs of other health professions (including a school of dentistry if such school is affiliated with the university with which the school of medicine or osteopathy is affiliated) in the educational program conducted in the area served by the area health education center.

(2) At least one medical or osteopathic school participating in each area health education center program shall be responsible for, or conduct, a program for the training of physician assistants (as defined in section 701(5)) or nurse practitioners (as defined in section 832) such program to give special consideration to the enrollment of individuals from, or intending to practice in, the area served by the area health education center.

"(d)(1) Each area health education center shall specifically designate a geographic area or a medically underserved population it will serve, which area or popualtion is in a location remote from the main site of the teaching facilities of the school or schools which participate in the program with such center.

"(2) Each area health education center shall—

"(A) provide for or conduct training in the area served by the center in health education services, including education in nutrition evaluation and counseling;

"(B) assess the health manpower needs of the area served by the center (in coordination with the activities of the local health systems agency or agencies relating to such health manpower needs of the area) and assist in the planning and development of training programs to meet such needs;

"(C) provide for or conduct a medical residency training program in family medicine, general internal medicine, or general pediatrics in which no fewer than six individuals are enrolled in first-year positions in such program;

"(D) provide opportunities for continuing medical education (including education in disease prevention) to all physicians and other health professionals, including allied health personnel, practicing within the area served by the center;

"(E) provide continuing medical education and other support services, to the extent needed, to National Health Service Corps members and to individuals providing Services under programs pursuant to section 760 in the area served by the center;

"(F) encourage the utilization of nurse practitioners and physician assistants within the area served by the center and the recruitment of individuals for training in such professions at the participating medical or osteopathic schools;

"(G) arrange and support educational opportunities for medical and other students at health facilities, ambulatory care centers, and health agencies throughout the area served by the center; and

"(H) be advised by an advisory board of which at least 75 percent of the members shall be individuals from the area served by the center including both health service providers and consumers.

Any school which is participating in an area health education center program in which another school has a medical residency training program described in subparagraph (C) that includes such center's area need not provide for or conduct such a medical residency training program.

"(e) The Secretary is authorized to make grants and to enter into contracts with schools of medicine and osteopathy that have cooperative arrangements with area health education centers, for the planning, development, and operation of area health education center programs. In entering into contracts under this subsection the Secretary shall provide that—

"(1) at least 75 percent of the total funds provided to any school shall be expended by an area health education center program in the area health education centers participating in such cooperative arrangement;

"(2) not more than 75 percent of the total operating funds of a program in any year shall be provided by the Secretary; and

"(3) no contract shall provide funds solely for the planning or development of such program for a period of more than two years.

"(f) There are authorized to be appropriated to carry out the provisions of this section $36,000,000 for the fiscal year ending September 30, 1981, $40,000,000 for the fiscal year ending September 30, 1982, $44,000,000 for the fiscal year ending September 30, 1983, and $48,000,000 for the fiscal year ending September 30, 1984.

"REMOTE SITE TRAINING

"SEC. 741. (a) The Secretary may make grants to and enter into contracts with schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, and pharmacy, to assist such schools in meeting the costs of projects to provide clinical training to students of such schools in areas that are geographically remote from the main site of the teaching facilities of the school and that are in areas in which medically underserved populations reside.

"(b) No grants or contracts under this section shall be made to carry out a project in an area health education center that has received funding under section 740.

"(c) There are authorized to be appropriated to carry out the provisions of this section $5,500,000 for the fiscal year ending September 30, 1981, $7,000,000 for the fiscal year ending September 30, 1982, $8,500,000 for the fiscal year ending September 30, 1983, and $10,000,000 for the fiscal year ending September 30, 1984.

"SUPPORT SERVICES FOR HEALTH PROFESSIONALS PRACTICING IN UNDERSERVED AREAS

"SEC. 742. (a) The Secretary may make grants to and enter into contracts with schools of medicine, osteopathy, and dentistry to assist such schools in meeting the costs of planning, establishing, and operating projects to provide support services to physicians or dentists practicing in medically underserved areas (designated under section 332). Such support services may include continuing education, relief services, specialist referral services, and placement of students in a preceptorial relationship with the practitioner.

"(b) No grant may be made to or contract entered into with a school under subsection (a)—

"(1) unless the school agrees to provide support services to any physician or dentist who request such services within the medically underserved area proposed to be served, including any physician or dentist who is a member of the National Health Service Corps or a service program assisted under section 760; and

"(2) to carry out activities required to be carried out under section 740.

"(c) Not more than 20 percent of the funds appropriated to carry out this section may be used by the Secretary to fund eligible recipients to carry out research relating to the support needs of practitioners in medically underserved areas, nor shall more than 40 percent of such funds be used to provide continuing education.

"(d) There are authorized to be appropriated to carry out the provisions of this section $5,500,000 for the fiscal year ending September 30, 1981, $7,000,000 for the fiscal year ending September 30, 1982, $8,500,000 for the fiscal year ending September 30, 1983, and $10,000,000 for the fiscal year ending September 30, 1984.

"Subpart IV—Training and Circular Development

"PROGRAMS FOR PHYSICIAN ASSISTANTS, EXPANDED FUNCTION DENTAL AUXILIARIES AND INTERDISCIPLINARY TRAINING

SEC. 745. (a) (1) The Secretary may make grants to and enter into contracts with schools of medicine, osteopathy, and dentistry to assist in meeting the costs to such schools of providing projects to—

"(A) plan, develop, and operate or maintain programs for the training of physician assistants (as defined in section 700 (5)); and

"(B) plan, develop, and operate or maintain programs for the training of expanded function dental auxiliaries (as defined in section 700 (6)).

"(2) No grant or contract may be made under this subsection unless the application therefor contains or is supported by assurances that the school receiving the grant or contract has appropriate mechanisms for placing graduates of the training program (with respect to which the application is submitted) in positions for which they have been trained.

"(3) The allowable costs for which a grant or contract under this subsection may be made include costs of preparing faculty members to teach in programs for the training of physician assistants and expanded function dental auxiliaries.

"(b) The Secretary may make grants to any health profession, allied health, or nurse training institution for the development of programs for cooperative interdisciplinary training among schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, nursing, public health, and allied health. Such programs shall emphasize—

"(1) the use of the multiple auxiliary team approach to the delivery of health services;

"(2) the training of physician assistants and nurse practitioners with physicians, the training of expanded function dental auxiliaries with the dentists, and the training of other auxiliaries with other health professionals; and.

"(3) the training of physicians, dentists, nurses, optometrists, podiatrists, and other health professionals in the organization, management, and effective utilization of assistants, practitioners, and auxiliaries.

"(c) The implementation of this section shall be consistent with the implementation of section 832.

"(d) There is authorized to be appropriated for grants and contracts under this section $23,000,000 for the fiscal year ending September 30, 1981, $29,000,000 for the fiscal year ending September 30, 1982, $30,000,000 for the fiscal year ending September 30, 1983, and $31,000,000 for the fiscal year ending September 30, 1984.

"PROJECTS AND ADVANCED TRAINEESHIPS FOR ALLIED HEALTH PERSONNEL

"SEC. 746. (a) The Secretary may make grants to and enter into contracts with schools of allied health to assist such schools in meeting the costs of planning, developing, demonstrating, operating, and evaluating projects relating to the following.

"(1) The establishment of regional resource centers for the coordination and management of data and research on the training of allied health personnel in educational institutions and clinical settings.

"(2) The development and implementation of programs to—

"(A) improve the clinical training of allied health personnel;

"(B) demonstrate the utilization of allied health personnel in containing health care costs; and

"(C) develop multiple competency allied health personnel.

"(3) The development and implementation of new or improved curriculum offerings in health promotion and disease prevention, environmental health, geriatrics, nutrition, and public health.

"(4) The establishment or improvement of programs of recruitment, training, and retraining of allied health personnel, emphasizing the needs of medically underserved areas.

"(5) The demonstration of methods of meeting new health services needs without creating new allied health occupations or specialties.

"(b) (1) The Secretary may make grants to schools of allied health to provide traineeships for allied health personnel for advanced training to enable such personnel to teach other allied health personnel or to serve in administrative or supervisory positions.

"(2) Grants shall be limited to such amounts as the Secretary finds necessary to cover the cost of tuition, fees, stipends, and allowances (including travel and subsistence expenses and dependency allowances) for the trainees.

"(c) There are authorized to be appropriated to carry out the provisions of this section $15,000,000 for the fiscal year ending September 30, 1981, $17,000,000 for the fiscal year ending September 30, 1982, $19,000,000 for the fiscal year ending September 30, 1983, and $21,000,000 for the fiscal year ending September 30, 1984.

"PROJECT AND TRAINEESHIPS FOR PUBLIC HEALTH AND HEALTH ADMINISTRATION

"SEC. 747. (a) The Secretary may make grants to schools of public health, graduate programs in health administration, and other educational institutions that provide post-baccalaureate programs in health administration, health planning and health policy analysis in order to assist such schools or programs in—

"(1) meeting the costs of projects to develop new curriculum programs, strengthen, improve, or expand existing curriculum programs, or carry out special projects in—

"(A) biostatistics or epidemiology;

"(B) health administration, health planning, or health policy analysis and planning;

"(C) environmental or occupational health;

"(D) diet and nutrition;

"(E) maternal and child health;

"(F) preventive medicine or dentistry;

"(G) gerontology; or

"(H) techniques for the evaluation of the cost, quality, and effectiveness of organizational structures and technology in the delivery of health care; and

"(2) providing traineeships to students enrolled at such entities at the post-baccalaureate level.

"(b) Grants for traineeships made under subsection (a)(2) shall provide for tuition and fees and such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary. Special consideration in the awarding of such traineeships shall be given to individuals who have at least one year of full-time work experience in health services.

(c) Not less than 80 percent of the funds appropriated to carry out subsection (a) shall be awarded to schools of public health and graduate programs in health administration.

"(d) There are authorized to be appropriated to carry out the provisions of this section $25,000,000 for the fiscal year ending September 30, 1981, $27,000,000 for the fiscal year ending September 30, 1982, $28,000,000 for the fiscal year ending September 30, 1983, and $29,000,000 for the fiscal year ending September 30, 1984.

"CLINICAL TRAINING

"SEC. 748. (a) For the purposes of improving and strengthening the clinical training provided to students in schools of veterinary medicine, optometry, pharmacy and podiatry, the Secretary may make grants to and enter into contracts with such schools to assist in meeting the costs of projects to—

"(1) establish new affiliations and expand existing affiliations with hospitals, ambulatory care centers, and practitioners, in order to provide students with clinical training; and

"(2) develop, establish, strengthen, or expand programs that provide students with clinical training.

"(b) The Secretary shall give special consideration under subsection (a) to applications for a grant or contract under this section for projects that emphasize clinical training in ambulatory settings and office-based settings, and in medically underserved areas.

"(c) In the case of a school of veterinary medicine, the Secretary shall not make a grant under subsection (a) unless such school provides assurances that the grant will not be used to establish, expand, or improve a clinical program which emphasizes care to companion animals.

"(d) There are authorized to be appropriated to carry out the provisions of this section $12,000,000 for the fiscal year ending September 30, 1981, $14,000,000 for the fiscal year ending September 30, 1982, $16,000,000 for the fiscal year ending September 30, 1983, and $18,000,000 for the fiscal year ending September 30, 1984.

"HEALTH POLICY AND HEALTH CARE ECONOMICS

"SEC. 749. (a) The Secretary may make grants to and enter into contracts with schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, and allied health to assist in meeting the costs of projects to—

"(1) develop innovative approaches to teaching health professions and allied health students about health policy and health care economics and the relationship between such policy and economics and the work of health care personnel; and

"(2) develop, establish, improve, or expand the curriculum of such schools with regard to health policy and health care economics, including the integration of such policy and economics into the clinical training of students enrolled in such schools.

"(b) There are authorized to be appropriated to carry out the provisions of this section $5,000,000 for the fiscal year ending September 30, 1981, $6,000,000 for the fiscal year ending September 30 1982, $7,000,000 for the fiscal year ending September 30, 1983, and $8,000,000 for the fiscal year ending September 30, 1984.

"CONTINUING EDUCATION

"SEC. 750. (a) The Secretary may make grants to and enter into contracts with schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, allied health, and public health, and graduate programs in health administration to assist in meeting the costs of projects to—

"(1) evaluate the effectiveness of current efforts to assure the continuing competency of health professionals and allied health personnel through continuing education;

"(2) assess future needs in the areas of continuing education;

"(3) develop innovative approaches to providing continuing education; and

"(4) provide continuing education programs for health professionals and allied health personnel who are in medically underserved areas or who do not have adequate access to such programs.

"(b) No grant or contract may be made under subsection (a)(4) to carry out any activities which are funded, directly or indirectly, by funds provided pursuant to section 740 or 742.

"(c) The Secretary shall give special consideration under subsection (a) to applications which emphasize the continuing education needs of health professionals who are involved in delivery of primary care.

"(d) There are authorized to be appropriated to carry out the provisions of this section $5,000,000 for the fiscal year ending September 30, 1981, $6,000,000 for the fiscal year ending September 30, 1982, $7,000,000, for the fiscal year ending September 30, 1983, and $8,000,000 for the fiscal year ending September 30, 1984.

"EDUCATIONAL COST

"SEC. 751. (a) The Secretary may make grants to and enter into contracts with schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, allied health, and public health, and graduate programs in health administration to assist in meeting the costs of projects to plan, develop, and demonstrate methods of reducing the total cost of education in such schools and such graduate programs without impairing the quality of such education.

"(b) There are authorized to be appropriated to carry out the provisions of this section $5,000,000 for the fiscal year ending September 30, 1981, $6,000,000 for the fiscal year ending September 30, 1982, $7,000,000 for the fiscal year ending September 30, 1983, and $8,000,000 for the fiscal year ending September 30, 1984.

"CURRICULUM DEVELOPMENT

"SEC. 752. (a) For the purposes of improving and strengthening the curriculum of health professions schools, the Secretary may make grants to and enter into contracts with schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, and pharmacy to assist in meeting the costs of projects to plan, develop, and establish courses, or expand or strengthen instruction in the following areas:

"(1) geriatrics;

"(2) diet and nutrition;

"(3) public health and community health education (or disease prevention and health promotion);

"(4) occupational and environmental health;

"(5) physical medicine and rehabilitative procedures;

"(6) toxicology; and

"(7) animal and human nutrition.

"(b) The Secretary may set aside not more than 20 percent of any amounts appropriated to carry out this section to make grants to assist schools to plan, develop, and implement innovative curriculum programs in health areas not specified in subsection (a).

"(c) There are authorized to be appropriated to carry out the provisions of this section $8,000,000 for the fiscal year ending September 30, 1981, $9,000,000 for the fiscal year ending September 30, 1982, $10,000,000 for the fiscal year ending September 30, 1983, and $11,000,000 for the fiscal year ending September 30, 1984.

"Subpart V—Student Diversity

"EDUCATIONAL ASSISTANCE TO INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS

"SEC. 755. (a)(1) For the purpose of increasing health education opportunities for individuals from disadvantaged backgrounds (as determined in accordance with criteria prescribed by the Secretary), the Secretary may make grants to and enter into contracts with schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, public health, and allied health and other public or private nonprofit health or educational entities to assist in meeting the costs described in paragraph (2).

"(2) A grant or contract under paragraph (1) may be used by such school or other entity to meet the costs of—

"(A) identifying, recruiting, and selecting individuals from disadvantaged backgrounds, for education and training in a health profession or allied health field;

"(B) providing counseling or other services designed to assist such individuals to enter and successfully complete their education at such a school;

"(C) providing, prior to the entry of such individuals into the regular course of education of such school, preliminary education designed to assist such individuals in successfully completing such regular course of education at such a school, or referring such individuals to institutions providing such preliminary education; and

"(D) publicizing existing sources of financial aid available to students in the education program of such a school and to students who are undertaking training necessary to qualify them to enroll in such a program.

"(b) Not more than 20 percent of the funds appropriated under this section may be used for grants or contracts to entities that are not schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, public health, or allied health. Not more than 5 percent of the funds appropriated under this section may be used for grants or contracts having the primary purpose of informing individuals about the existence and general nature of health careers.

"(c) There are authorized to be appropriated to carry out the provisions of this section $26,000,000 for the fiscal year ending September 30, 1981, $27,000,000 for the fiscal year ending September 30, 1982, $28,000,000 for the fiscal year ending September 30, 1983, and $29,000,000 for the fiscal year ending September 30, 1974.

"PART D—SERVICE SCHOLARSHIPS

"Subpart I—Grants to States for Service Scholarships

"GENERAL

"SEC. 760. (a) For the purposes of assisting States in meeting the health care delivery needs of health manpower shortage areas, the Secretary shall make grants to States to assist in the establishment or expansion of State service scholarship programs modeled on the National Health Service Corps Scholarship programs modeled on the National Health Service Corps Scholarship Program.

"(b) Grants under this subpart shall be made solely to fund the cost of service scholarships provided by a State service scholarship program.

"(c) The Secretary shall report to Congress on March 1 of each year regarding—

"(1) the allocation of funds for service scholarships to each State:

"(2) the number of service scholarship awards made by each State; and

"(3) the distribution of such service scholarships by each State among the health professions.

"(d) To carry out the purposes of this section there are authorized to be appropriated $40,000,000 in the fiscal year ending September 30, 1981, $50,000,000 in the fiscal year ending September 30, 1982, $60,000,000 in the fiscal year ending September 30, 1983, and $70,000,000 in the fiscal year ending September 30, 1984.

"STATE SERVICE SCHOLARSHIP PROGRAMS

"SEC. 761. (a) To be eligible to receive a grant under this subpart, a State shall establish or have established a State service scholarship program (hereinafter referred to in this subpart as 'State program') and such State shall submit or have submitted assurances that such program complies with the requirements of this section.

"(b) No grant may be made under this subpart unless the State provides assurances that funds received under the grant will be used to fund contractual agreements between the State and individuals who are students in schools of medicine, osteopathy, dentistry, nursing, veterinary medicine, optometry, pharmacy, podiatry, public health, and allied health, graduate programs in health administration, and programs for the training of physicians assistants, expanded function dental auxiliaries, and nurse practitioners. Such agreements shall at a minimum provide—

"(1) adequate notice to the individual of the rights and liabilities of such individual under such agreement;

"(2) that the individual must—

"(A) maintain enrollment in a course of study described in this section until the individual completes the course of study;

"(B) maintain an acceptable level of academic standing (as determined by the educational institution offering such course of study); and

"(C) agree to serve for a period of time equal to one year in a health manpower shortage area for each school year for which the individual was provided a scholarship under the State program, such health manpower shortage area (as designated pursuant to section 332) to be selected by the State, or as otherwise provided in this subpart;

"(3) for payment by or on behalf of the State of all or part of the educational expenses of the individual, but not to exceed tuition, reasonable educational expenses, and a monthly stipend of the same amount and adjusted in the same manner as the amount provided under section 765(g) of this Act;

"(4) that the State shall assign the individual to provide service in a health manpower shortage area, and shall assure such individual, either by direct employment or salary guarantee, a salary, during such period of obligated service, not less than the comparable salary of entry-level individuals employed by the State who possess a similar educational background;

"(5) that the individual may enter a private clinical practice in a health manpower shortage area in lieu of providing services pursuant to an assignment by the State upon application of such individual, but such practice must be subject to terms and conditions no less stringent than terms and conditions provided under section 767; and

"(6) that the State shall be required to enforce the agreement on the same basis as provided in section 768.

No State or school may require a student to accept such a contractual agreement as a condition of admission into a school or program.

"(c) States shall be required to give priority in the award of scholarships to individuals who have previously received a National Health Service Corps scholarship under section 751 (as it existed prior to October 1, 1980).

"(d) Upon the joint request of a State and an individual who has received a scholarship under this subpart and a scholarship as described in subsection (c), the Secretary shall transfer to such State the rights of the United States under the National Health Service Corps Service contract with such individual.

"(e) Any State that has a total of three or more schools of medicine, osteopathy, or dentistry, shall not allocate more than 50 percent of available service scholarships under this subpart to students at any one health professions school.

"ALLOCATION OF FUNDS

"SEC. 762. (a) The Secretary shall make grants to the States as follows:

"(1) Basic grants for which—

"(A) no less than 65 percent of the funds appropriated to carry out this subpart shall be used; and

"(B) the State is not required to provide matching funds as a condition of such grants.

"(2) Matching grants for which—

"(A) the State shall have received basic grants under this subpart;

"(B) the State shall commit one dollar for service scholarships under the State program for every three dollars made available through a matching grant to such State.

"(b) Funds shall be allocated to the States in accordance with the formula:

$$A=B(1/C+D/E)+F(1/G+D/H)$$

in which 'A' is the amount a State shall be allocated; 'B' is the total of funds available for basic grants; 'C' is the number of States participating in the basic grant program; 'D' is the population of a participating State; 'E' is the population of all States participating in the basic grant program; 'F' is the total of funds available for matching grants; 'G' is the number of States participating in the matching grant program; and 'H' is the population of all States participating in the matching grant program.".

CONSTRUCTION

SEC. 107. Title VII is amended by inserting the following after section 771:

"Part E—Grants, Loan Guarantees, and Interest Subsidies for Conversion, Renovation, and Construction of Teaching and Research Facilities for Medical, Dental, and Other Health Personnel

"GRANT AUTHORITY; AUTHORIZATION OF APPROPRIATIONS

"SEC. 775. (a) The Secretary may make grants to a school to assist in—

"(1) the renovation, modernization, or conversion of existing facilities for use in the training and research activities of allopathic physicians, osteopathic physicians, dentists, veterinarians, optometrists, podiatrists, pharmacists, and professional public health personnel;

"(2) the conversion of existing facilities for use as ambulatory, primary care teaching facilities for the training of allopathic physicians, osteopathic physicians, and dentists; and

"(3) the construction of facilities for use in the training and research activities of allopathic physicians, osteopathic physicians, dentists, veterinarians, optometrists, podiatrists, pharmacists, and professional public health personnel if, in the fiscal year ending September 30, 1978 or thereafter, such school received or was eligible to receive start-up assistance grants under either section 788 (g) (as it existed prior to October 1, 1980) or under section 713(a) (as it existed on October 1, 1980).

"(b) For grants under this section there is authorized to be appropriated $3,000,000 for the fiscal year ending September 30, 1981 and for each of the succeeding three fiscal years.

"APPROVAL OF APPLICATIONS

"SEC. 776. (a) To be eligible to apply for a grant under section 775(a), the applicant shall be a private school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, or public health, or any group of such schools.

"(b)(1) An application for a grant under section 775(a) or loan guarantee or interest subsidy under section 780, which would involve the construction, conversion, renovation, or modernization of all or part of a hospital or outpatient facility which is affiliated with but not owned by a school eligible for such grant under section 775(a) or loan guarantee or interest subsidy under section 780, shall be submitted jointly by the eligible school and the affiliated hospital or outpatient facility.

"(2) In the case of a joint application submitted under paragraph (1), assistance under section 775(a) or a loan guarantee or interest subsidy under section 780, shall be provided only for that portion of the proposed construction, conversion, renovation, or modernization which the Secretary determines to be reasonably attributable to the needs of such school for teaching or research purposes.

"(c) A grant under section 775 (a) or loan guarantee or interest subsidy under section 780, may be made only if the Secretary determines that the application contains or is supported by reasonable and adequate assurances that—

"(1) there is a need for the construction, conversion, renovation, or modernization and the facility or facilities will be used for the purposes for which the application has been submitted;

"(2) sufficient funds will be available to meet the non-Federal share of the cost of the proposed construction, conversion, renovation, or modernization;

"(3) sufficient funds will be available for effective use of the facility or facilities for the training or research for which the application has been submitted;

"(4) the plans and specifications are in accordance with regulations relating to minimum standards of construction and equipment;

"(5) in accordance with and to the extent required by the provisions of title XV of this Act, an opportunity has been provided to State and local health planning agencies to comment on the proposed construction, conversion, renovation, or modernization; and

"(6) any laborer or mechanic employed by a contractor or subcontractors in the performance of work on the proposed construction, conversion, renovation, or modernization will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (46 Stat. 1494; 40 U.S.C. 276a–276a–5), commonly referred to as the Davis-Bacon Act, and the Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. Appendix) and section 2 of the Act entitled 'An Act to effectuate the purpose of certain statutes concerning rates of pay for labor, by making it unlawful to prevent anyone from receiving the compensation contracted for thereunder, and for other purposes', approved June 13, 1934 (4 Stat. 1267; 40 U.S.C. 276c).

"AMOUNT OF GRANT; PAYMENTS

"SEC. 777. (a) The amount of any grant under section 775 (a) shall not exceed 70 percent of the necessary costs of such project. In determining the necessary cost of such project, the Secretary shall exclude from such costs an amount equal to the sum of—

"(1) the amount of any other Federal grant that the applicant has obtained, or is assured of obtaining, which grant will pay for any of such necessary costs; and

"(2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

"(b) Upon approval of any application for a grant under section 775 (a), the Secretary shall reserve, from any appropriation available therefor, the amount of such grant as provided in subsection (a). The Secretary's reservation of any amount under this section may be amended by the Secretary upon his approval of an amendment of the application.

"RECAPTURE OF PAYMENTS

"SEC. 778. If, within twenty years (or in the case of interim facilities, within ten years) after completion of any construction, conversion, renovation or modernization for which a grant under section 775 (a) has been made—

"(1) the school or other owner of the facility or facilities cease to be a public or nonprofit private school or entity;

"(2) the facility or facilities cease to be used for the teaching or research purposes upon which the grant under section 775 (a) was conditioned, (unless the Secretary determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from such obligation); or

"(3) the facility or facilities are used for sectarian instruction or as a place for religious worship;

the United States shall be entitled to recover from the applicant or other owner of the facilities the amount bearing the same ratio to the value of the facilities at the time that any events described in this section occurred (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility or facilities are situated) as the amount the grant under section 775(a) bore to the value of such facility or facilities at the time the construction, conversion, renovation, or modernization was completed.

"PRIOR CONSTRUCTION GRANTS

"SEC. 779. The Secretary shall unilaterally release all recipients of grants under section 720(a) (as it existed prior to October 1, 1980) from their contractual obligation to fulfill enrollment increases required by section 721 (as it existed prior to October 1, 1980).

"LOAN GUARANTEES AND INTEREST SUBSIDIES

"SEC. 780. (a) (1) The Secretary may guarantee payment of principal and interest on a loan made to a private school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, and public health by any non-Federal lender or by the Federal Financing Bank for the construction, conversion, modernization, or renovation of facilities as described in section 775(a) (regardless of whether a grant has been made under such section). No loan guarantee under this paragraph may be made after September 30, 1984.

"(2) No school shall qualify for a loan guarantee under paragraph (1) unless such school complies with all the applicable requirements under section 776. The Secretary shall notify both the school receiving the loan and the lender making such loan that the loan guarantee shall be deemed null and void at any time—

"(A) the school receiving the loan ceases to be a nonprofit private school;

"(B) if the facility or portion of the facility for which the loan guarantee was made ceases to be used for the teaching or research purposes upon which the loan guarantee was conditioned; or

"(C) if the facility or portion of the facility is used for sectarian instruction or as a place for religious worship.

"(3) The Secretary may make commitments, on behalf of the United States, to make such loan guarantees prior to the making of such loans. No such loan guarantee may apply to any amount which, when added to any grant under this part or any other law of the United States, exceeds 90 percent of the necessary costs of the construction, conversion, renovation, or modernization for which the loan guarantee is made.

"(b) (1) The United States shall be entitled to recover from the recipient of a loan guarantee under this section the amount of any payments made by the United States pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery. Upon making such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

"(2) Any loan guarantee made by the Secretary pursuant to this section shall be incontestable in the hands of a school on whose behalf such guarantee is made, or any person who makes a loan or contracts to make a loan to such school in reliance thereon, except for fraud or misrepresentation on the part of such school or other person.

"(3) To the extent permitted by paragraph (2), any terms and conditions applicable to a loan guarantee under this section may be modified by the Secretary upon a determination that such modification is consistent with the financial interests of the United States.

"(c) (1) The Secretary may pay to the holder of a loan made by a non-Federal lender or by the Federal Financing Bank to a private school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, and public health, in order to carry out the construction, conversion, modernization, or renovation of facilities as described in section 775(a) (regardless of whether a grant has been made under such section) such amounts as are sufficient to reduce the net effective interest rate otherwise payable on such loan by not more than 3 percent per annum on loans made prior to October 1, 1980, and not more than 6 percent per annum on loans made on or after October 1, 1980. Such interest subsidy shall be made for and on behalf of the nonprofit private school that received such loan.

"(2) No school shall qualify for an interest subsidy under paragraph (1) unless such school—

"(A) complies with all the applicable requirements under section 776; and

"(B) agrees to repay such interest subsidy plus six percent per annum simple interest if, within 20 years after completion of the construction, conversion, renovation, or modernization for which the interest subsidy was made—

"(i) the school ceases to be a nonprofit private entity;

"(ii) the facility or facilities cease to be used for the teaching or research purpose upon which the interest subsidy was conditioned (unless the Secretary determines, in accordance with regulations, that there is good cause for releasing the school from such obligation); or

"(iii) the facility or facilities are used for sectarian instruction or as a place for religious worship.

"(d) The Secretary may not approve an application for a loan guarantee or interest subsidy payment unless he determines that the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable. Such approval shall include a determination that the rate of interest does not exceed such percent per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States. The Secretary may not approve an application for a loan guarantee, unless he determines that the loan would not be available on reasonable terms and conditions without a guarantee by the United States under this section.

"(e) (1) There is established in the Department of the Treasury a loan guarantee and interest subsidy fund (hereinafter in this subsection referred to as the 'fund') which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts. Such fund shall be available to the Secretary—

"(A) to discharge responsibilities relating to guarantees issued under this section; and

"(B) for interest subsidy payments as provided by this section.

"(2) (A) There are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required for the fund, except that the amount appropriated for interest subsidy payments may not exceed $8,000,000 in the fiscal year ending September 30, 1981, $9,000,000 in the fiscal year ending September 30, 1982, $10,000,000 in the fiscal year ending September 30, 1983, and $11,000,000 in the fiscal year ending September 30, 1984.

"(P) There shall also be deposited in the fund moneys, property, and assets received by the Secretary under this section, including any money derived from the sale of assets.

"(C) If at any time the sums in the fund are sufficient to enable the Secretary to discharge commitments regarding loan guarantees and interest subsidy payments pursuant to this section, the Secretary may issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury, but only in such amounts as may be specified from time to time in appropriation Acts. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations issued hereunder and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which the securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subparagraph. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from the fund.

"(f) The total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under this section may not exceed such limitations as may be specified in appropriation Acts.".

CONFORMING AMENDMENTS

SEC. 108. (a)(1) Section 722(a)(1) (as redesignated by this Act) is amended by striking out "made upon such form, containing such information, and supported by such evidence as the Secretary may require, and otherwise in conformity with this section." in subsection (a)(1).

(2) Section 722(a)(2) is amended—

(A) by striking out ", except that the";

(B) by striking out ", in accordance with regulations,";

(C) by striking out ", in that event";

(D) by striking out "section 731(a)(1). Such insurance shall cease to be effective upon 60 days default by the lender in the payment of any installment of the premiums payable pursuant to subsection (c).";

(E) by inserting "The" after "issuance of the certificate"; and

(F) by inserting "section 717(a)." after "a student described in".

(3) Section 722(a)(3) is amended to read as follows:

"(3) An application submitted pursuant to subsection (a)(1) shall contain an agreement by the applicant that if the loan is covered by insurance the applicant will submit such supplementary reports and statements during the effective period of the loan agreement as may be needed."

(4) Section 722(b) is amended—

(A) by striking out ", in accordance with regulations consistent with section 728." in paragraph (1); and

(B) by striking out "Such regulations may provide for conditioning such insurance, with respect to any loan, upon compliance by the lender with such requirements (to be stated or incorporated by reference in the certificate) as in the Secretary's judgment will best achieve the purpose of this subsection while protecting the financial interests of the United States and promoting the objectives of this subpart, including (but not limited to) provisions as to the reporting of such loans and information relevant thereto to the Secretary and as to the payment of initial and other premiums and the effect of default therein, and including provision for confirmation by the Secretary from time to time (through endorsement of the certificate) of the coverage of specific new loans by such certificate, which confirmation shall be incontestable by the Secretary in the absence of fraud or misrepresentation of fact or patent error." in paragraph (1); and

(C) by striking out "section 728" in paragraph (2) and inserting in lieu thereof "section 715".

(5) Section 722 is amended—

(A) by striking out subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d), respectively; and

(B) by striking out ", subject to regulation by the Secretary," in subsection (c) (as redesignated by this Act).

(6) Section 723(d) (as redesignated by this Act) is amended—

(A) by striking out "section 732(a)(3), or to pay the required Federal loan insurance premiums";

(B) by inserting "or" before "to make the reports"; and

(C) by inserting "section 722(a)(3)" after "statements required under".

(7) Section 723 is amended—

(A) by striking out "section 732(d)" and inserting in lieu thereof "section 722(c)" in subsection (e);

(B) by inserting ", including interest" after "balance of such loans" in subsection (f); and

(C) by striking out subsection (g) and inserting in lieu thereof the following:

"(g) A debt which is a loan insured under the authority of this subpart may not be released by a discharge in bankruptcy under title 11 of the United States Code unless such discharge is granted—

"(1) after the expiration of the five-year period beginning on the first date, as specified in section 717(b)(2), when repayment of such loan is required;

"(2) upon a finding by the Bankruptcy Court that the non-discharge of such debt would be unconscionable; and

"(3) upon the condition that the Secretary shall not have waived his rights to apply subsection (f) to the borrower and the discharged debt.".

(8) Section 724 (as redesignated by this Act) is amended—

(A) by striking out paragraph (1) of subsection (a) and redesignating paragraphs (2), (3), (4) and (5) as paragraphs (1), (2), (3), and (4), respectively; and

(B) by striking out subsection (c).

(9) Section 726 (as so redesignated by this Act) is amended —

(A) by striking out paragraph (1) and redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2) and (3), respectively;

(B) by striking out "The term" in paragraph (1) (as redesignated by this paragraph) and inserting in lieu thereof "The terms 'eligible institution' and ";

(C) by inserting "nursing," after "veterinary medicine," in paragraph (1) (as redesignated by this paragraph); and

(D) by striking out "Commissioner of Education" each time it appears and inserting in lieu thereof "Secretary of Education".

(b) Title XII is amended by striking out "789" each place it appears and inserting in lieu thereof "739".

(c)(1) Title VII is amended by striking out "751", "752", "753", "754", "755", "756", and "757", each place they appear and inserting in lieu thereof "765", "766", "767", "768", "769", "770", and "771", respectively.

(2) Section 765 (as redesignated by this Act) is amended—

(A) by striking out "(as defined in section 822)" and inserting in lieu thereof "(as defined in section 832)" in subsection (a);

(B) by striking out subsection (d) and inserting in lieu thereof the following:

"(d)(1) In determining which applications under the Scholarship Program to approve and which contracts to accept, the Secretary shall give priority to applications made and contracts submitted as follows:

"(A) first, to individuals who have previously received one scholarship (but not more than one) under the Scholarship Program;

"(B) second, to individuals who have previously received two or three scholarships under the Scholarship Program;

"(C) third, to individuals who have previously received a scholarship under section 758 (as it existed prior to October 1, 1980);

"(D) fourth, to individuals who are entering the first year of study in a course of study or program described in subsection (b)(1)(B) in such school year.

"(2) Consistent with section 771, and to the extent necessary to carry out such section, the Secretary shall give priority within each category enumerated in paragraph (1) to individuals who will make a commitment to provide health services to Indians through the Indian Health Service.";

(C) by striking out "or under section 758 (relating to scholarships for first-year students of exceptional financial need)" and "(except as provided in section 711)" in subsection (g)(1); and

(D) by striking out subsection (j).

(3) Section 767, (a)(2) (as redesignated by this Act) is amended by striking out "and to provide the individual with income of not less than the income of members of the Corps".

(4) Section 768 (as redesignated by this Act) is amended—

(A) by striking out subsection (a) and redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively;

(B) by striking out "or" at the end of subsection (a)(2) (as redesignated by this subsection), inserting "or" at the end of subsection (a)(3), and inserting the following after subsection (a)(3):

"(4) fails to accept payment, or instructs the educational instruction in which he is enrolled not to accept payment, in whole or in part, of a scholarship under such contract,";

(C) by striking out "(for any reason)" in subsection (b) and inserting in lieu thereof "(for any reason not specified in subsection (a))".

(5) Section 770 (a) (as redesignated by this Act) is amended—

(A) by striking out the first sentence and inserting in lieu thereof: "There are authorized to be appropriated for scholarships under this subpart $55,000,000 for the fiscal year ending September 30, 1981, $35,000,000 for the fiscal year ending September 30, 1982, $30,000,000 for the fiscal year ending September 30, 1983, and $30,000,000 for the fiscal year ending September 30, 1984."; and

(B) by striking out "1981" and "1980" in the second sentence and inserting in lieu thereof "1985" and "1984", respectively.

(6) Section 771(a) (as redesignated by this Act) is amended by striking out "In addition to the sums authorized to be appropriated under section 756(a) to carry out the Scholarship Program, there are authorized to be appropriated $5,450,000 for the fiscal year ending September 30, 1978, $6,300,000 for the fiscal year ending September 30, 1979, $7,200,000 for the fiscal year ending September 30, 1980, and for each of the succeeding four fiscal years such sums as may be specifically authorized by an Act enacted after the date of enactment of this section, to" and inserting in lieu thereof "The Secretary, to the extent needed, shall".

(d)(1) Section 331 is amended—

(A) by striking out subsection (g);

(B) by redesignating subsection (h) as subsection (g);

(C) by striking out "section 751" in subsection (g)(2) and inserting in lieu thereof "section 765".

(2) Section 337 is amended by striking out subsection (c) and inserting in lieu thereof the following:

"(c) Notwithstanding section 14 of the Federal Advisory Committee Act, the Council shall remain in existence until otherwise provided by law.".

(3) Section 338 is amended by striking out subsection (a) and inserting in lieu thereof the following:

"(a) To carry out the purposes of this subpart there are authorized to be appropriated $110,000,000 for the fiscal year ending September 30, 1981, and $130,000,000.".

EFFECTIVE DATE

SEC. 109. The amendments made by this title shall become effective on October 1, 1980.

TITLE II—NURSE TRAINING

SHORT TITLE

SEC. 201. This title may be cited as the "Nurse Training Act of 1980".

NURSE TRAINING

SEC. 202. Title VIII is amended to read as follows:

"TITLE VIII—NURSE TRAINING

"Part A—General Provisions; Financial Distress and Start-Up Grants

"DEFINITIONS

"SEC. 800. (a) For purposes of this title—

"(1) The term 'nonprofit' means the status of an entity owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(2) The term 'school of nursing' means an accredited public or nonprofit private school or program in a State that provides training, leading to a baccalaureate degree, associate degree or diploma in nursing.

"(3) The term 'collegiate school of nursing' means a department, division or other administrative unit in a college or university that provides primarily or exclusively a program of education in professional nursing and allied subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing, and included advanced training.

"(4) The term 'associate degree school of nursing' means a department, division, or other administrative unit in a junior college, community college, college, or university that provides primarily or exclusively a two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree.

"(5) The term 'diploma school of nursing' means a school affiliated with a hospital or university, or an independent school, that provides primarily or exclusively a program of education in professional nursing and allied subjects leading to a diploma or to equivalent indicia that such program has been satisfactorily completed.

"(6) The term 'accredited' when applied to a school or program of nurse education means a school or program that is accredited by a recognized body or bodies approved for such purpose by the Secretary of Education, except that a new school or program that, by reason of an insufficient period of operation, is not, at the time of application for a grant or contract under this title, eligible for accreditation by such a recognized body or bodies, shall be deemed accredited for purposes of this title if the Secretary of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of the first entering class in such school.

"(7) The term 'teaching facilities' means facilities used by students, faculty, or administrative personnel for clinical purposes, research activities, libraries, classrooms, offices, auditoriums, dining areas, student activities, or other related purposes necessary for, and appropriate to, the conduct of comprehensive programs of education. Such term includes interim facilities designed to provide teaching space on a short-term (less than ten years) basis while facilities of a more permanent nature are being planned and constructed, but does not include offsite improvement or living quarters.

"(8) The term 'Secretary' means the Secretary of the Department of Health and Human Services.

"(9) The term 'Department' means the Department of Health and Human Services.

"(10) The term 'Council' means the National Advisory Council on Nurse Training, as provided in section 801 of this Act.

"(11) The term 'State' includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"(b) Whenever in this title an applicant is required to provide assurances to the Secretary, or an application is required to contain assurances or be supported by assurances, the Secretary shall determine before approving the application that the assurances provided are made in good faith.

"NATIONAL ADVISORY COUNCIL ON NURSE TRAINING

"SEC. 801. (a) There is established in the Public Health Service a National Advisory Council on Nurse Training (hereinafter in this title referred to as the 'Council'), consisting of the Secretary (or his delegate) who shall be Chairman of the Council, and nineteen members appointed by the Secretary (without regard to the provisions of title 5 of the United States Code relating to appointments in the competitive service) from among persons who because of their education, experience, or training are particularly qualified to advise the Secretary with respect to the programs of assistance authorized by this title. The members of the Council shall be appointed as follows:

"(1) twelve shall be representatives of the various fields of nursing, higher and secondary education, and hospitals and other institutions and organizations that provide nursing services;

"(2) three shall be full-time students enrolled in schools of nursing; and

"(3) four shall be members of the general public.

"(b) The Council shall advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this title.

"(c) The Secretary may use the services of any member or members of the Council in connection with matters related to the administration of this title, for such periods, in addition to conference periods, as he may determine.

"(d) Notwithstanding section 14 of the Federal Advisory Committee Act, the Council shall remain in existence until otherwise provided by law.

"ADVANCE FUNDING

"SEC. 802. An appropriation under an authorization of appropriations for grants or contracts under this title for any fiscal year may be made at any time before such fiscal year and may be included in an Act making an appropriation under such authorization for another fiscal year; but no funds may be made available from any appropriation under such authorization for obligation for such grants or contracts before the fiscal year for which such appropriation is authorized.

"DISCRIMINATION ON THE BASIS OF SEX AND RACE PROHIBITED

"SEC. 803. The Secretary may not enter into a contract with or make a grant, loan guarantee, or interest subsidy payment under this title to, or for the benefit of, any school of nursing or other entity that is eligible to receive assistance under programs authorized by this title unless the contract or the application for the grant, loan guarantee, or interest subsidy payment contains assurances that the school or other eligible entity will not discriminate on the basis of sex or race in the admission of individuals to its programs.

"RECORDS AND AUDITS

"SEC. 804. (a) Each entity that receives a grant, loan, loan guarantee, or interest subsidy or that enters into a contract under this title, shall establish and maintain such records as the Secretary shall by regulation or order require.

"(b) Each entity that received a grant or entered into a contract under this title shall provide for a biennial financial audit of any books, accounts, financial records, files, and other papers and property that relate to the disposition or use of the funds received under such grant or contract. For purposes of assuring accurate, current, and complete disclosure of the disposition or use of the funds received, each such audit shall be conducted in accordance with the standards and requirements of the individual or agency that conducts the audit and any standards applicable to the performance of the audit, as the Secretary may by regulation provide.

"(c) A student recipient of a traineeship or loan under this title shall not be required to comply with subsection (a) or (b).

"(d) Each entity that is required to establish and maintain records or to provide for an audit under this section shall make such books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of such entity upon a reasonable request therefor.

"CONTRACTS

"SEC. 805. Contracts authorized by this title may be entered into without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529, 41 U.S.C. 5).

"APPLICATIONS AND PAYMENT

"SEC. 806. (a) No grant may be made or contract entered into under this title unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(b) Grants made under this title may be paid—

"(1) in advance or by way of reimbursement;

"(2) at such intervals and on such conditions as the Secretary may find necessary; and

"(3) with appropriate adjustments on account of overpayments or underpayments previously made.

"DIFFERENTIAL TUITION AND FEES

"SEC. 807. The Secretary may not enter into a contract with, or make a grant, loan guarantee, or interest subsidy payment under this title to or for the benefit of, any school of nursing or other entity if the tuition levels or educational fees at such school, program, or training center are higher for certain students solely on the basis that such students are the recipients of traineeship, loans, loan guarantees, service scholarships, or interest subsidies from the Federal Government.

"HEALTH PERSONNEL DATA

"SEC. 808. (a) The Secretary shall establish within the National Center for Health Statistics and the Bureau of Health Manpower jointly, a program, including a uniform nursing data reporting system, to collect, compile, and analyze data on nurses and nurse training. Such data shall include data respecting the training, licensure status (including permanent, temporary, partial, limited, or institutional), place or places of practice, professional specialty, practice characteristics, age, sex, and socioeconomic background of nursing personnel and other demographic information regarding nurses. Such data shall also include—

"(1) the number and distribution of nurses, by type of employment and location of practice;

"(2) the number of nurses who are practicing full time and who are employed part-time, within the United States and within each State;

"(3) the average rate of compensation for nurses, by type of practice and location of practice;

"(4) the number of nurses with advance training or graduate degrees in nursing by specialty, including nurse practitioners, nurse clinicians, nurse researchers, nurse educators, and nurse supervisors and administrators; and

"(5) the number of registered nurses entering the United States annually from other nations, by country of nurse training and by immigrant status.

"(b) In carrying out subsection (a), the Secretary shall collect available information from appropriate local, State, and Federal agencies and other appropriate sources, and may enter into contracts, when necessary, to obtain such information, subject to the provisions of section 809.

"(c) The Secretary shall conduct, or enter into contracts for the conduct of, analytic and descriptive studies of nurses, including—

"(1) the supply (both current and projected, within the United States and within each State) of registered nurses, licensed, practical and vocational nurses, nurse's aides, registered nurses with advanced training or graduate degrees, and nurse practitioners;

"(2) the distribution, within the United States and within each State, of such nurses so as to determine (A) areas of the United States that have an oversupply or undersupply of nurses, or that have an adequate supply of such nurses in relation to the population of the area, and (B) the demand for the services provided by such nurses; and

"(3) the current and future requirements for such nurses, nationally and within each State.

"(d) Any school of nursing or other entity receiving funds under this title shall submit a report to the Secretary on an annual basis, containing such information as is necessary to assist the Secretary in carrying out this section. The Secretary shall not require the collecting or transmittal of any information under this subsection which is not readily available to such school or entity. Information under this subsection shall be collected or transmitted only to the extent permitted by section 809.

"(e) The Secretary shall submit, on a biennial basis, a report to the President and Congress on the status of nursing personnel in the United States. Such report shall include a description and analysis of the information collected pursuant to this section.

"(f) There are authorized to be appropriated to carry out the purposes of this section $1,000,000 in the fiscal year ending September 30, 1981, $1,250,000 in the fiscal year ending September 30, 1982, and $1,500,000 in each of the succeeding two fiscal years.

"PERSONAL DATA

"SEC. 809. (a) The Secretary and any entity receiving funds under title VIII, in securing and maintaining any record of individually identifiable personal data (hereinafter in this subsection referred to as 'personal data') for the purposes of carrying out section 808 or any grant or contract under this title, shall—

"(1) inform each individual who is asked to supply personal data whether such individual is legally required to supply such data and the specific consequences of providing or not providing such data; and

"(2) upon request of an individual, inform such individual—

"(A) as to whether such individual is the subject of personal data secured or maintained by the Secretary or entity pursuant to this title, and make such data available to such individual in a form comprehensible to him, and

"(B) concerning the use of personal data respecting such individual, the identity of the persons who will use such data, and the relationship of such persons to the grant or contract requiring such personal data under this title.

"(b)(1) Personal data collected by the Secretary, entity, or local, State, or Federal agency pursuant to this title may not be made available or disclosed by the Secretary, entity, or local, State, or Federal agency to any person other than the individual who is the subject of such data, unless—

"(A) such person to whom such personal data was made available or disclosed requires such data in order to carry out the purposes of this title;

"(B) such personal data is made available or disclosed in response to a demand for such data made by means of compulsory legal process; or

"(C) the informed written consent of the individual who is the subject of such data has been obtained.

"(2) Data collected by the Secretary pursuant to this title that is not personal data shall be made available to bona fide researchers and policy analysts (including the Congress) for the purposes of assisting in the conduct of studies respecting health personnel.

"NONINTERFERENCE WITH ADMINISTRATION OF INSTITUTIONS

"SEC. 810. Nothing contained in this title shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, or supervision of, or control over, or impose any requirement or condition with respect to, the personnel, curriculum, methods of instruction, or administration of any institution.

"FINANCIAL DISTRESS GRANTS

"SEC. 811. (a) The Secretary may make grants to, and enter into contracts with, a school of nursing that is in serious financial distress for the purposes of assisting such school to—

"(1) meet the costs of operation;

"(2) meet applicable accreditation requirements if such school has a special need to be assisted in meeting such requirements; or

"(3) carry out appropriate operational, managerial, and financial reforms.

"(b) Any grant or contracts under this section may be made upon such terms and conditions as the Secretary determines to be reasonable and necessary, including requirements that the school agree to—

"(1) disclose any financial information or data necessary to determine the sources or causes of such school's financial distress;

"(2) conduct a comprehensive cost analysis study in cooperation with the Secretary; and

"(3) carry out appropriate operational, managerial, and financial reforms including the securing of increased financial support from State or local governmental units or the increasing of tuition.

"(c) In the case of a school that has received a grant or contract under this section in any fiscal year, the amount granted to such school under this section in any subsequent fiscal year may not exceed 75 percent of the amount granted to such school under this section in any fiscal year preceding such subsequent fiscal year. No school may receive a grant under this section if such school has previously received support for three or more years under this section or under section 815 (as it existed prior to October 1, 1980).

"(d) For the purpose of making grants and entering into contracts to carry out this section, there are authorized to be appropriated $1,000,000 for the fiscal year ending September 30, 1981, and in each of the succeeding three fiscal years.

"ADVANCED FINANCIAL DISTRESS GRANTS

"SEC. 812. (a) The Secretary may make grants to, and enter into contracts with, a school of nursing for the purposes of meeting the costs of operation and of appropriate operational, managerial, and financial reforms if such school is in serious financial distress and has previously received grant support under section 811 or under section 815 (as it existed prior to October 1, 1980).

"(b) No school may receive a grant or contract under this section unless—

"(1) the school has submitted to the Secretary a plan providing for the institution to achieve financial solvency within five years and has agreed to carry out such plan;

"(2) such plan has been reviewed by a panel selected by the Secretary and consisting of three experts in the field of financial management who are not directly affiliated to the school or the Federal Government; and

"(3) the Secretary determines, after consultation with such panel, that such plan has a reasonable likelihood of achieving success.

"(c) The panel described in subsection (b)(2) shall be appointed by the Secretary within 30 days after the date of receipt of the school's plan and shall be dissolved no later than 45 days after the panel's recommendation has been transmitted to the Secretary. Members of the panel, while serving on the business of the panel, shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which they perform duties.

"(d) No school may receive a grant or contract under this section unless in the same year as such grant or contract, the school shall have received, or have a legally binding commitment to receive, a grant or contract from a State or local government or combination thereof for the exclusive purpose of alleviating such school's financial distress. Such grant or contract from a State or local government or combination thereof shall, in the first year of any support under this section, exceed any grant made in the preceding year by such State or local government by an amount equal to or greater than the amount of the proposed grant or contract under this section. In subsequent years of support under this section, such grant or contract from a State or local government or combination thereof shall exceed any grant made by such State or local government or combination thereof in the year prior to the first year of support under this section by an amount equal to or greater than the amount of the grant or contract under this section for such years.

"(e) No school may receive support under this section for more than five years. No grant or contract for support under this section shall be in an amount greater than (1) 75 percent in the third year, (2) 50 percent in the fourth year, and (3) 25 percent in the fifth year, of the average annual amount received in the first two years of grant or contract support under this section.

"(f) An application for a grant or contract under this section must contain or be supported by assurances that the applicant will, in carrying out its function as a school of nursing, expend during the fiscal year for which such grant is sought an amount of funds from non-Federal sources (other than funds for construction and the grant or contract referred to in subsection (d)) at least as great as the average annual amount of funds from non-Federal sources expended by such applicant in the preceding two years.

"(g) For the purpose of making grants and entering into contracts to carry out this section, there are authorized to be appropriated $1,000,000 for the fiscal year ending September 30, 1981 and in each of the succeeding three fiscal years.

"START-UP ASSISTANCE

"SEC. 813. (a) For the purposes of meeting national and regional needs for nurses, the Secretary may make a grant to a new school of nursing which begins instruction after July 1, 1980. No school may receive a grant under this section unless the number of full-time students enrolled in its first school year of operation will exceed twenty-three.

"(b) The amount of any grant under this section may not exceed the following:

"(1) In the year preceding the first year in which such school has students enrolled, an amount equal to the product of $5,000 and the number of full-time students the Secretary estimates will enroll in such school in such first year.

"(2) In the first year in which such school has students enrolled, an amount equal to the product of $5,000 and the number of full-time students enrolled in such school in such year.

"(3) In the second year in which such school has students enrolled, an amount equal to the product of $2,500 and the number of full-time students enrolled in such school in such year.

Estimates of the number of full-time students enrolled in a school may be made on the basis of assurances provided by the school.

"(c) The Secretary shall give priority in the award of grants under this section to applicants for whom the receipt of such grant would facilitate the acceleration of the date upon which instruction would begin or increase the number of students to be enrolled in the entering class. The Secretary shall also give priority to applicants who will, by virtue of an affiliation with one or more existing health professions institutions, be able to make use of existing facilities and resources.

"(d) The Secretary shall give special consideration to any application submitted by a school for a grant under this section if such school will be located in a health manpower shortage area (designated under section 332).

"(e) For purposes of this section, any school of nursing shall be considered a new school for any year if such year is—

"(1) the year preceding the first year in which such school has students enrolled;

"(2) the first year such school has students enrolled; and

"(3) the year following the first year such school has students enrolled.

"(f) For the purpose of making grants to carry out this section, there are authorized to be appropriated $1,000,000 in the fiscal year ending September 30, 1980, and in each of the succeeding three fiscal years.

"Part B—Student Loans

"LOAN AGREEMENTS

"Sec. 820. (a) The Secretary is authorized to enter into agreements with any school of nursing for the continuation of student loan funds which were established under section 835 (as it existed prior to October 1, 1980) or the predecessors of such section.

"(b) Each agreement entered into under this section shall—

"(1) provide for the continuation by the school of the previously established student loan fund;

"(2) provide for deposit in the fund of principal and interest on loans made from the fund, and any other earnings of the fund;

"(3) provide that the fund shall be used for—

"(A) loans to students of the school in accordance with the agreement; and

"(B) costs of collection of such loans and interest thereon;

"(4) provide that loans may be made from such fund only to students pursuing a full-time or half-time course of study at the school leading to a baccalaureate or associate degree in nursing or an equivalent degree, or a diploma in nursing, or a graduate degree in nursing; and

"(5) contain such other provisions as are necessary to protect the financial interests of the United States.

"LOAN PROVISIONS

"Sec. 821. (a) The total of the loans to any one student for any academic year (or its equivalent) made by schools of nursing from loan funds continued pursuant to agreements under this part may not exceed $2,500. No one student may receive loans from such fund totaling more than $10,000.

"(b) Loans from any such student loan fund shall be made on such terms and conditions as the school making such loans may determine, except that—

"(1) such a loan may be made only to a student who is in need of the amount of the loan to pursue a full-time or half-time course of study at the school leading to a baccalaureate or associate degree in nursing or an equivalent degree, a diploma in nursing, or a graduate degree in nursing;

"(2) such loan shall be repayable in equal or graduated periodic installments (with the right of the borrower to accelerate repayment) over the ten-year period beginning nine months after the student ceases to pursue a full-time or half-time course of study at a school of nursing, excluding from such 10-year period—

"(A) periods (up to three years) of active duty performed by the borrower as a member of a uniformed service or the National Health Service Corps or as a full-time volunteer under the Peace Corps Act or under title I of the Domestic Volunteer Service Act of 1973; and

"(B) periods (up to five years) during which the borrower is pursuing a full-time course of study at a collegiate school of nursing leading to a baccalaureate degree in nursing or an equivalent degree, or to a graduate degree in nursing, or is otherwise pursuing advanced professional training in pursuing (or training to be a nurse anesthetist);

"(3) the liability to repay the unpaid balance of such loan and accrued interest thereon shall be canceled upon the death of the borrower, or if the Secretary determines that such borrower has become permanently and totally disabled;

"(4) such loan, if made on or after October 1, 1980, shall bear interest on the unpaid balance of the loan, computed for the periods during which the loan is repayable, at the rate of 7 percent per annum;

"(5) such loan shall be made without security or endorsement, except that if the borrower is a minor and the note or other evidence of obligation executed by such borrower would not, under the applicable law, create a binding obligation, either security or endorsement may be required;

"(6) no note or other evidence of any such loan may be transferred or assigned by the school making the loan except that, if the borrower transfers to another school participating in the program under this part, such note or other evidence of a loan may be transferred to such other school.

"(c) An agreement entered into by the Secretary with a school pursuant to this part shall include provisions designed to make loans from the student loan fund reasonably available (to the extent of the available funds in such fund) to all eligible students in the school in need thereof.

"(d) A school may provide that, during the repayment period of a loan from a loan fund continued pursuant to an agreement under this subpart, payments of principal and interest by the borrower with respect to all the outstanding loans made to such student from such loan funds shall be at a rate equal to not less than $15 per month.

"(e) The liability to repay the unpaid balance including accrued interest of any loan made before October 1, 1984 from any loan fund established before October 1, 1980 and continued under this part may be canceled upon the same terms and conditions (and subject to the same limitations) as were specified in sections 836(b)(3), 836(h), 836(i), and 836(j) (as such sections were in effect prior to October 1, 1980).

"DISTRIBUTION OF ASSETS FROM LOAN FUNDS

"Sec. 822. (a) After September 30, 1984 and not later than March 31, 1985, each school that established a loan fund under an agreement pursuant to section 835(b) (as it existed prior to October 1, 1980) and continued such loan fund under an agreement pursuant to section 820 (as it existed on October 1, 1980) shall provide for a capital distribution of the balance of the loan fund. The distribution of such loan fund by each school shall be as follows:

"(1) The Secretary shall first be paid an amount bearing the same ratio to such balance in such fund at the close of September 30, 1984, as the total amount of the Federal capital contributions to such fund pursuant to section 835 (b) (2) (A) (as it existed prior to October 1, 1980) bears to the total amount in such fund derived from such Federal capital contributions and from funds deposited therein pursuant to section 835 (b) (2) (B) (as it existed prior to October 1, 1980) and section 820 (b) (2) as it existed on October 1, 1980).

"(2) The remainder of such balance shall be paid to the school.

"(b) After March 31, 1985, each school that made an agreement under this part shall pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by the school after September 30, 1984, in payment of principal or interest on loans made from the loan fund, as was determined for the Secretary under subsection (a) (1).

"Part C—Special Projects

"GENERAL PROVISIONS

"Sec. 830. (a) The Secretary may make grants to, and enter into contracts with, schools of nursing and other eligible entities, in order to meet the costs of carrying out special projects as provided in this part.

"(b) (1) In calculating the amount of each special project grant or contract under this part which is made to an eligible school, the Secretary shall add to the Federal share of the cost of carrying out such project an amount equal to 20 percent of such federal share of the cost if the school provides assurances to the Secretary that it has met or will meet two of the following:

"(A) the school's first year student enrollment is the same or greater than the first year student enrollment in the previous school year;

"(B) the school provides, or plans to provide within 12 months, a program of continuing education for practicing nurses;

"(C) the school provides, or plans to provide within 12 months, at least one required course, or some comparable amount of instruction as part of other required courses, in health policy and health care economics; and

"(D) the school's tuition and fees for both in-State and out-of-State students is not more than 10 percent greater than such school's tuition and fees for such students in the previous school year.

"(2) If an application for a grant or contract under this part is submitted jointly by more than one school, and not all such schools submitting such application provide the assurances required under paragraph (1) in order to receive the additional funds under such paragraph, the Secretary may provide such additional funds to such schools providing such assurances, and deny such additional funds to such schools failing to provide such assurances.

"(3) The willingness or failure of any school to provide assurances under paragraph (1) shall not affect whether such school receives a grant or contract under this part.

"(4) Such additional funds shall be used for the purpose of supporting any aspect of the educational programs of such schools, and any school receiving such additional funds shall be required to provide assurances that such funds are being used for such purpose.

"(c) Except in the case of applications for continuation awards, the Secretary shall give special consideration for grants and contracts under this part to applications made by applicants who would not otherwise have received a grant or contract under this part for the same fiscal year.

"ADVANCED NURSE TRAINING PROGRAMS

"Sec. 831. (a) The Secretary may make grants to and enter into contracts with collegiate schools of nursing to meet the costs of projects to—

"(A) plan, develop and operate;

"(B) significantly expand; or

"(C) maintain existing;

programs for the advanced training of professional nurses to teach in the various fields of nurse training, to serve in administrative or supervisory capacities, or to serve in other professional nursing specialties (including service as nurse clinicians) determined by the Secretary to require advanced training.

"(b) The Secretary shall give special consideration under subsection (a) to applications—

"(1) which would provide a program for advanced training in geographic areas lacking such a program; and

"(2) which include a program for advanced training on a part-time basis.

"(c) For payments under grants and contracts under this section there are authorized to be appropriated $20,000,000 for the fiscal year ending September 30, 1981, $22,000,000 for the fiscal year ending September 30, 1982, $24,000,000 for the fiscal year ending September 30, 1983, and $26,000,000 for the fiscal year ending September 30, 1984.

"NURSE PRACTITIONER PROGRAMS

"SEC. 832. (a)(1) The Secretary may make grants to and enter into contracts with schools of nursing, to meet the cost of projects to—

"(A) plan, develop, and operate;

"(B) significantly expand; or

"(C) maintain existing;

programs for the training of nurse practitioners.

"(2) For purposes of this section, the term 'programs for the training of nurse practitioners' means educational program for graduates of collegiate schools of nursing that have as their objective the education of nurses who will, upon completion of their studies in such programs, be qualified to effectively provide primary health care as nurse practitioners.

"(b) The Secretary shall give special consideration to applications for grants or contracts—

"(1) for programs for the training of nurse practitioners who will practice in health manpower shortage areas (designated under section 332); and

"(2) for programs to be located in geographic areas which do not have such a program.

"(c) For payments under grants and contracts under this section there are authorized to be appropriated $20,000,000 for the fiscal year ending September 30, 1981, $22,000,000 for the fiscal year ending September 30, 1982, $24,000,000 for the fiscal year ending September 30, 1983, and $26,000,000 for the fiscal year ending September 30, 1984.

"TRAINEESHIPS FOR ADVANCED TRAINING OF PROFESSIONAL NURSES

"SEC. 833. (a) The Secretary may make grants to schools of nursing to cover the costs of traineeships for the training of professional nurses—

"(1) to teach in the fields of nurse training (including practical nurse training);

"(2) to serve in administrative or supervisory capacities;

"(3) to serve as nurse practitioners; or

"(4) to serve in other professional nursing specialties determined by the Secretary to require advanced training.

"(b) Payments to institutions under this section may be used only for traineeships and shall be limited to such amounts as the Secretary finds necessary to cover the costs of tuition and fees, and stipends and allowances (including travel and subsistence expenses) for such trainees.

"(c) There are authorized to be appropriated for the purposes of this section $20,000,000 for the fiscal year ending September 30, 1981, $22,000,000 for the fiscal year ending September 30, 1982, $24,000,000 for the fiscal year ending September 30, 1983, and $26,000,000 for the fiscal year ending September 30, 1984.

"EDUCATIONAL ASSISTANCE TO INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS

"Sec. 834. (a)(1) For the purpose of increasing nursing education opportunities for individuals from disadvantaged backgrounds (as determined in accordance with criteria prescribed by the Secretary), the Secretary may make grants to and enter into contracts with schools of nursing and other public or private non-profit health or educational entities to assist in meeting the costs described in paragraph (2).

"(2) A grant or contract under paragraph (1) may be used by such school or other entity to meet the costs of—

"(A) identifying, recruiting, and selecting individuals from disadvantaged backgrounds for education and training in nursing;

"(B) providing counseling or other services designed to assist such individuals to enter and successfully complete their education at such a school;

"(C) providing, prior to the entry of such individuals into the regular course of education of such school, preliminary education designed to assist such individuals in successfully completing such regular course of education at such a school, or referring such individual to institutions providing such preliminary education; and

"(D) publicizing existing sources of financial aid available to students in the education program of such a school and to students who are undertaking training necessary to qualify them to enroll in such a program, with particular emphasis on individuals—

"(i) who are in high school; and

"(ii) who are practicing nurses and nursing assistants who want to upgrade their educational credentials.

"(b) Not more than 20 percent of the funds appropriated under this section may be used for grants or contracts to entities that are not schools of nursing. Not more than 5 percent of the funds appropriated under this section may be used for grants or contracts having the primary purpose of informing individuals about the existence and general nature of health careers.

"(c) There are authorized to be appropriated to carry out the provisions of this section $2,000,000 for the fiscal year ending September 30, 1981, $2,500,000 for the fiscal year ending September 30, 1982, and $3,000,000 for each of the two succeeding fiscal years.

"CURRICULUM DEVELOPMENT

"SEC. 835. (a) For the purposes of improving and strengthening the curriculum of schools of nursing, the Secretary may make grants to and enter into contracts with schools of nursing to assist in meeting the costs of projects to plan, develop, and establish courses or expand or strengthen instruction in the following areas:

"(A) health policy and health care economics;

"(B) maternal and child health, including pediatrics;

"(C) geriatrics;

"(D) diet and nutrition; and

"(E) public health and community health education.

"(b) The Secretary may set aside not more than 20 percent of any amounts appropriated to carry out this section to make grants to assist schools to plan, develop, and implement innovative curriculum programs in health areas not specified in subsection (a).

"(c) There are authorized to be appropriated under this section $6,000,000 in the fiscal year ending September 30, 1981, $7,000,000 in the fiscal year ending September 30, 1982, $8,000,000 in the fiscal year ending September 30, 1983, and $9,000,000 in the fiscal year ending September 30, 1984.

"SUPPORT FOR PRACTICING NURSES

"SEC. 836. (a) For the purposes of encouraging schools of nursing to provide support for practicing nurses and nursing aides, the Secretary may make grants to, and enter into contracts with, schools of nursing to assist in meeting the cost of projects to provide—

"(1) continuing education for nurses;

"(2) programs, including continuing education, to provide professional support for nurses, including nurse practitioners practicing in health manpower shortage areas;

"(3) appropriate retraining opportunities for nurses who (after periods of professional inactivity) desire to engage actively in the nursing profession;

"(4) training and education to upgrade the skills of licensed vocational or practical nurses, and nursing assistants and other paraprofessional nursing personnel, especially with regard to providing nursing services to special populations such as geriatric patients in nursing homes; and

"(5) programs to assist graduates of diploma and associate degree schools of nursing to upgrade their educational credentials.

"(b) There are authorized to be appropriated for the purposes of this section $10,000,000 for the fiscal year ending September 30, 1981, $11,000,000 for the fiscal year ending September 30, 1982, $12,000,000 for the fiscal year ending September 30, 1983, and $13,000,000 for the fiscal year ending September 30, 1984.

"IMPROVEMENT OF NURSING EDUCATION

"SEC. 837. (a) For the purposes of assisting in the improvement of nursing education, the Secretary may make grants to and enter into contracts with schools of nursing to assist in meeting the cost of projects to—

"(1) assist in mergers among hospital training programs, or between hospital training programs and academic institutions, or other cooperative arrangements among hospitals and academic institutions, that will result in the improvement of the nursing education provided;

"(2) significantly improve the quality and extent of clinical training provided to students in collegiate schools of nursing;

"(3) plan, develop, establish, or maintain programs of research in nursing education;

"(4) plan, develop, and demonstrate methods of reducing the cost of nursing education without impairing the quality of such education; and

"(5) help to increase the supply or improve the distribution of adequately trained nursing personnel (including nursing personnel who are bilingual) by geographic area or by specialty group.

"(b) There are authorized to be appropriated to carry out the purposes of this section, $12,000,000 in the fiscal year ending September 30, 1981, $13,000,000 in the fiscal year ending September 30, 1982, $14,000,000 in the fiscal year ending September 30, 1983, and $15,000,000 in the fiscal year ending September 30, 1984.

"PART D—GRANTS AND LOAN GUARANTEES AND INTEREST SUBSIDIES FOR RENOVATION AND CONSTRUCTION OF TEACHING FACILITIES FOR NURSES

"GRANT AUTHORITY; AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 840. (a) The Secretary may make grants to a school of nursing to assist in—

"(1) the renovation, modernization, or conversion of existing facilities for use in the training of nurses, and

"(2) the construction of facilities for use in the training of nurses if the first class of students is enrolled in the school in the fiscal year ending September 30, 1978 or thereafter.

"(b) For grants under this section there is authorized to be appropriated $1,000,000 for the fiscal year ending September 30, 1981 and for each of the succeeding three fiscal years.

"APPROVAL OF APPLICATIONS

"SEC. 841. A grant under section 840(a) or loan guarantee or interest subsidy under section 845, may be made only if the Secretary determines that the application contains or is supported by reasonable and adequate assurances that—

"(1) there is a need for the construction, conversion, renovation, or modernization and the facility or facilities will be used for the purposes for which the application has been submitted;

"(2) for not less than twenty years (or

in the case of interim facilities, within 10 years) after completion of the project, the facility will be used for the purposes for which the grant under section 840(a) was made, and will not be used for sectarian instruction or as a place for religious worship;

"(3) sufficient funds will be available to meet the non-Federal share of the cost of the proposed construction, conversion, renovation, or modernization;

"(4) sufficient funds will be available for effective use of the facility or facilities for the training for which the application has been submitted;

"(5) the plans and specifications are in accordance with regulations relating to minimum standards of construction and equipment;

"(6) in accordance with and to the extent required by the provisions of title XV of this Act, an opportunity has been provided to State and local health planning agencies to comment on the proposed construction, conversion, renovation, or modernization; and

"(7) any laborer or mechanic employed by a contractor or subcontractors in the performance of work on the proposed construction, conversion, renovation, or modernization will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (46 Stat. 1494; 40 U.S.C. 276a–276a–5), commonly referred to as the Davis-Bacon Act, and the Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. Appendix) and section 2 of the Act entitled 'An Act to effectuate the purpose of certain statutes concerning rates of pay for labor, by making it unlawful to prevent anyone from receiving the compensation contracted for thereunder, and for other purposes', approved June 13, 1934 (4 Stat. 1267; 40 U.S.C. 276c).

"AMOUNT OF GRANTS; PAYMENTS

"Sec. 842. (a) The amount of any grant under section 840(a) shall not exceed 70 percent of the necessary costs of such project. In determining the necessary cost of such project, the Secretary shall exclude from such costs an amount equal to the sum of—

"(1) the amount of any other Federal grant that the applicant has obtained, or is assured of obtaining, which grant will pay for any of such necessary costs; and

"(2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

"(b) Upon approval of any application for a grant under section 840(a), the Secretary shall reserve, from any appropriation available therefore, the amount of such grant as provided in subsection (a). The Secretary's reservation of any amount under this section may be amended by the Secretary upon his approval of an amendment of the application.

"RECAPTURE OF PAYMENTS

"Sec. 843. If, within twenty years (or in the case of interim facilities, within 10 years) after completion of any construction, conversion, renovation, or modernization for which a grant under section 840(a) has been made—

"(1) the school or other owner of the facility or facilities ceases to be a public or nonprofit private school or entity;

"(2) the facility or facilities cease to be used for the training purposes upon which the grant under section 840(a) was conditioned (unless the Secretary determines, in accordance with regulations, that there is good cause for releasing the school or other owner from such obligation); or

"(3) the facility or facilities are used for sectarian instruction or as a place for religious worship;

the United States shall be entitled to recover from the applicant or other owner of the facility or facilities the amount bearing the same ratio to the value of the facility or facilities at the time that any of the events described in clause (1), (2), or (3) occurred (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility or facilities are situated) as the amount the grant under section 840(a) bore to the value of such facility or facilities at the time the construction, conversion, modernization, or renovation was completed.

"PRIOR CONSTRUCTION GRANTS

"Sec. 844. The Secretary shall unilaterally release all recipients of grants under section 801 (as it existed prior to October 1, 1980) from their contractual obligation to fulfill enrollment increases required by section 802 (as it existed prior to October 1, 1980).

"LOAN GUARANTEES AND INTEREST SUBSIDIES

"Sec. 845. (a) (1) The Secretary may guarantee payment of principal and interest on a loan made to a private school of nursing by any non-Federal lender or by the Federal Financing Bank for the construction, conversion, modernization, or renovation of such facility or facilities as described in section 840(a) (regardless of whether a grant has been made under such section). No loan guarantee under this paragraph may be made after September 30, 1984.

"(2) No school shall qualify for a loan guarantee under paragraph (1) unless such school complies with all of the applicable requirements of section 841. The Secretary shall notify both the school receiving the loan and the lender making such loan that the loan guarantee shall be deemed null and void at any time—

"(A) the school receiving the loan ceases to be a nonprofit private school;

"(B) if the facility or portion of such facility for which the loan guarantee was made ceases to be used for the teaching or research purposes upon which the loan guarantee was conditioned; or

"(C) if such facility or portion of such facility is used for sectarian instruction or as a place for religious worship.

"(3) The Secretary may make commitments, on behalf of the United States, to make such loan guarantees prior to the making of such loans. No such loan guarantee may apply to any amount which, when added to any grant under this part or any other law of the United States, exceeds 90 percent of the necessary costs of the construction, conversion, renovation, or modernization for which the loan guarantee is made.

"(b) (1) The United States shall be entitled to recover from the recipient of a loan guarantee under this section the amount of any payment made by the United States pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery. Upon making such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

"(2) Any loan guarantee made by the Secretary pursuant to this section shall be incontestable in the hands of a school on whose behalf such guarantees is made, and as to any person who makes or contracts to make a loan to such school in reliance thereon, except for fraud or misrepresentation on the part of such school or such other person.

"(3) To the extent permitted by paragraph (2), any terms and conditions applicable to a loan guarantee under this section may be modified by the Secretary upon a determination that such modification is consistent with the financial interests of the United States.

"(c) (1) The Secretary may pay to the holder of a loan made by a non-Federal lender or by the Federal Financing Bank to a private school of nursing in order to carry out the construction, conversion, modernization, or renovation of facilities as described in section 840(a) (regardless of whether a grant has been made under such section) such amounts as are sufficient to reduce the net effective interest rate otherwise payable on such loan by not more than 3 percent per annum on loans made prior to October 1, 1980, and not more than 6 percent per annum on loans made on or after October 1, 1980. Such interest subsidy shall be made for and on behalf of the nonprofit private school that received such loan.

"(2) No school shall qualify for an interest subsidy under paragraph (1) unless such school—

"(A) complies with all the applicable requirements of section 841; and

"(B) agrees to repay such interest subsidy plus six percent per annum simple interest if, within 20 years after completion of the construction, conversion, renovation, or modernization for which the interest subsidy was made—

"(i) the school ceases to be a nonprofit private school;

"(ii) the facility or facilities cease to be used for the training purpose upon which the interest subsidy was conditioned (unless the Secretary determines, in accordance with regulations, that there is good cause for releasing the school from such obligation); or

"(iii) the facility or facilities are used for sectarian instruction or as a place for religious worship.

"(d) The Secretary may not approve an application for a loan guarantee or interest subsidy payment unless he determines that the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable. Such approval shall include a determination that the rate of interest does not exceed such percent per annum on the principal obligation outstanding as the Secretary determines to be reasonable taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States. The Secretary may not approve an application for a loan guarantee, unless he determines that the loan would not be available on reasonable terms and conditions without a guarantee by the United States under this section.

"(e) (1) There is established in the Department of the Treasury a loan guarantee and interest subsidy fund (hereinafter in this subsection referred to as the 'fund') which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts. Such fund shall be available to the Secretary—

"(A) to discharge responsibilities relating to guarantees issued under this section; and

"(B) for interest subsidy payments as provided by this section.

"(2) (A) there are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required for the fund, except that the amount appropriated for interest subsidy payments may not exceed $2,000,000 in the fiscal year ending September 30, 1981, $2,500,000 in the fiscal year ending September 30, 1982, $3,000,000 in the fiscal year ending September 30, 1983, and $3,500,000 in the fiscal year ending September 30, 1984.

"(B) There shall also be deposited in the fund moneys, property, and assets received by the Secretary under this section, including any money derived from the sale of assets.

"(C) If at any time the sums in the fund are insufficient to enable the Secretary to discharge commitments regarding loan guarantees and interest subsidy payments pursuant to this section, the Secretary may issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury, but only in such amounts as may be specified from time to time in appropriation Acts. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations issued hereunder and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which the securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subparagraph. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from the fund.

"(f) The total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under this section may not exceed such limitations as may be specified in appropriation Acts.".

EFFECTIVE DATE

SEC. 203. The amendments made by this title shall become effective on October 1, 1980.

HIGHLIGHTS AND ANALYSIS OF MAJOR PROGRAMS CONTAINED IN THE "HEALTH PROFESSIONS EDUCATIONAL ASSISTANCE AND NURSE TRAINING ACT OF 1980"

The "Health Professions Educational Assistance and Nurse Training Act of 1980" attempts to comprehensively revise federal programs which assist schools and students in the health professions and nursing. The following analysis compares existing programs with proposed new programs under my bill.

SPECIAL PROJECTS

Existing law provides a number of authorities for special projects grants to be made to health professions and nursing schools. Generally special projects have been a successful means of accomplishing national goals because the purposes of each project are well-delineated and each recipient school has known in a fairly clear manner what was expected of them. My bill continues, with considerable modifications in some cases, the most effective of the special projects from existing law. These projects are ones which provide support for: residency training in general internal medicine, general pediatrics, family medicine, and general dentistry; departments of family medicine; area health education centers; training physicians assistants and expanded function dental auxiliaries; interdisciplinary training; educational assistance to individuals from disadvantaged backgrounds; special projects and traineeships in public health and health administration; advanced nurse training projects; training for nurse practitioners; traineeships for advanced nurse training (including nurse practitioners); and special projects and traineeships in allied health.

In an effort to expand special projects and increase their impact on the achievement of national health goals, a number of new special projects areas have been added. These new projects will provide support for: remote site training; programs to provide professional support mechanisms for physicians and dentists practicing in medically underserved areas; residency training in preventive medicine and physical medicine and rehabilitation; clinical training in schools of veterinary medicine, optometry, podiatry, and pharmacy; curriculum development in health policy and health care economics; continuing education projects; projects to demonstrate means of reducing the cost of health professions and allied health education; curriculum development in health professions, allied health and nursing schools; support programs for practicing nurses, and projects to improve nursing education. In addition, those schools which meet certain conditions which show that they are carrying out programs calculated to achieve national goals and which receive a special project grant, are provided with an additional sum (calculated as 20 percent of the federal share of the cost of the project) to reward their efforts in the national interest.

CAPITATION

Under existing law, health professions and nursing schools receive grants to support their educational programs. These awards are calculated on a per student basis and thus are called capitation grants. While this program has contributed to institutional stability and may have kept tuitions from increasing more rapidly than they have, the limited amount of monies available for federal activities in the health professions and nursing areas requires priority to be given to programs, such as special projects and loans, which more directly achieve national goals.

STUDENT ASSISTANCE

Existing law provides three forms of financial assistance to health professions students. The first program is the Health Educational Assistance Loan (known as HEAL) program which provides federal loan insurance to guarantee loans made by private banks to health professions students. The maximum interest rate is 12 percent and there is no federal subsidy. This program is not considered a success because the interest rate is too low to stimulate the private loan market and because the accumulation of interest until the student is able to start repayments leads to unconscionably large debts (e.g., $10,000 per year for four years of medical school leads eventually to a 15-year payback of $150,000!). Although there is no hard evidence as of yet, it is often speculated that these large debts will force doctors into more lucrative specialties rather than into primary care. Nurses are not eligible for this program.

There is also currently available a very limited amount of subsidized loan money from the Health Professions Student Loan (HPSL) program and the Nurse Training Student Loan (NSL) program. These are revolving capital funds to which the federal government has contributed the predominant share. Since these funds cover the entire cost of each loan, relatively large amounts of money provide very little support ($10 million in FY' 79 provided loans to 9,920 students, but the average loan was only $1,200).

Also available under existing law are two scholarship programs: the Exceptional Financial Need (EFN) Program for first year health professions students and a scholarship grant program run through schools of nursing. Both programs, because they can only meet a fraction of the need, tend to create large and indefensible differences in debt load between individuals in roughly similar circumstances, one of whom receives an award and another who does not. Additionally, the FY'80 appropriation for EFN scholarships of $10 million will provide only about 900 scholarships: no more than 3 to 4 awards for each medical, osteopathic and dental school and about 1 to 2 awards for each veterinary, optometry, pharmacy, and podiatry schools. This is far too little impact for the money involved.

My bill replaces this entire student assistance structure based on four principles: students should be required to pay their own way to the maximum extent possible; assistance should focus on getting students through their school years with manageable debts until they reach the point that they can repay; federal funds should be used as leverage to generate substantial amounts of loan money in the private sector; and student assistance programs should encourage (but not compel) students to enter primary care practices in medically underserved areas.

Accordingly, my bill would establish a two-tiered loan program for most health professions students to permit them to borrow up to $20,000 per year to pay for tuition, educational expenses, and reasonable living expenses. Students with financial need (as determined by their school) would be able to borrow up to their needs at market rates (maximum rate: the lesser of the 91 day Treasury note rate plus 2.5 percent or 15 percent) with a federal subsidy which would reduce the effective rate to 7 percent while the student is in school. Students without need (as determined by the school) or who wished to borrow more than their need to pay expenses, would be able to borrow at market rates (as defined above). Whether the loan is subsidized or not the student would be able to defer payment of interest until after graduation and up to three years of graduate training.

The federal interest subsidy (market rate at the time the loan was made minus the seven percent for which the student is responsible) would continue while the student was in school; for up to two years graduate training for veterinary, optometry, pharmacy, podiatry, public health, and nursing students; for up to three years in primary care graduate training for medical, osteopathic, and dental students; and for other periods including time during which the individual is practicing primary care or is involved in research. When subsidies end, the borrower would be responsible for the full interest rate.

Leverage is an important component of this program. The $20 million authorized for interest subsidies in FY '81 could provide subsidies for $250 million of private sector loans. Further the subsidies, while of modest cost to the government, nonetheless have a significant impact on moderating total debt load and are structured to encourage primary care practice.

The federal government's income from dissolution of HPSL (estimated to be about $16 million or more in FY '81) is proposed to be used as a loan forgiveness fund to partially pay off the student loan debts incurred by certain first year health professions students who do not succeed in making it into their second year and to provide partial loan forgiveness to individuals who choose to practice in medically underserved areas. On one hand this will eliminate an inequity in making all health professions students responsible for the costs of their education: the individual who fails after one year is left with sizable debt and severely reduced prospects for repaying it. On the other hand, loan forgiveness will be used in encourage practice in medically underserved areas and in particular will redeem a commitment that the federal government made to many students during the 1970's that their loans would be all or partially forgiven for practicing in underserved areas.

The NSL Program for nurses would be continued through 1984 and then would be dissolved. Interest would continue to be charged under the program only during the repayment period, but the rate would be increased from 3 percent to 7 percent. Loan forgiveness for certain types of practice would be continued. Because nursing students are undergraduates, much more extensive use should be made by nurses of the Guarantee Student Loan Program (GSLP) and other programs available under the Higher Education Act. The proposed extension of NSL, without authorization for new federal capital contributions, is intended to provide the nursing school community with a transition period during which the switch to GSLP as the primary loan source can occur.

SERVICE SCHOLARSHIPS

Existing law provides for a National Health Service Corps (NHSC) Scholarships Program under which students, primarily at schools of medicine and osteopathy, agree to serve in the NHSC in a medically underserved area, one year for each year they receive an NHSC scholarship. The scholarships pay tuition, fees, other educational expenses, and a monthly stipend. Because the students who receive scholarships are primarily physicians with long training years ahead of them, NHSC scholarships recipients in FY '80 will, for the most part, not be available for service until 1987 at the earliest, with commitments for 2 to 4 years service beyond that date. The federal government's need for vast numbers of physicians in federal service in the late 1980's is at best a guess. Given the vast outpouring of doctors now emerging from our nation's schools it is likely that the need will be less than the 5,000 or more doctors who will owe service. In addition, the budgetary cost of having doctors provide health services while employed by the federal government is astronomical and the NHSC service program costs will, within 3 or 4 years, begin to squeeze out dollars vitally needed for other health programs. Further, a civilian federal health corps is generally undesirable and certainly inefficient. Every effort should be made to encourage NHSC scholarship recipients to utilize the private practice option, under which scholarship recipients are released from their federal service obligation if they set up a private clinical practice in a medically underserved area.

For all these reasons, it is proposed to phase the NHSC scholarship program down from the FY '80 appropriation of $85 million to authorizations of $55 million in FY '81 and $35 million in FY '82 and $30 million in FY '83 and FY '84. This should provide adequate manpower for federal service in 1990 and beyond, with particular emphasis to be placed on meeting the needs of the Indian Health Service.

To assist states in becoming more fully involved in solving the health manpower shortage problems within their own areas, including the use of a different mix of practitioners (including physician assistants, nurses, and nurse practitioners) whose service commitments would come due much sooner, a new program is proposed of grants to states to fund service scholarships. In addition to thereby having states absorb the costs of the future service owed by these individuals, this program would hope to take advantage of the greater sensitivity of state governments to local needs and of the likelihood that states would strongly encourage use of a private practice option.

FINANCIAL DISTRESS AND START-UP

Existing law provides for financial distress grants to health professions and nursing schools which are in serious financial distress, and start-up assistance to new health professions schools. My bill establishes two types of financial distress grants for health professions and nursing schools. The first is similar to existing law but available for no more than three years, and can be used for operating costs, accreditation, and carrying out operational, managerial, and financial reforms. The second is an advanced grant, available for up to five years, for schools that have already received financial distress grants under existing law or its continuation. To qualify for advanced grants, the school would be required to have an approved plan to achieve financial solvency with five years and a commitment from a state or local government to match the federal distress grant.

A revised program of start-up assistance grants would be available to schools of veterinary medicine, podiatry, optometry, public health, and nursing. Grants are also authorized for conversion of two-year medical schools to degree-granting institutions.

CONSTRUCTION

Existing law grants, loan guarantees, and interest subsidies for construction of: teaching facilities for health professions and nursing schools; and ambulatory primary care teaching facilities for the training of medical, osteopathic, and dental students. This program was designed to encourage enrollment expansion, which is no longer a federal goal. In addition, construction of new facilities for relatively stable enrollments is not cost effective, except in the case of new schools. However, there are a substantial number of health professions and nursing facilities in need of renovation in order to be used in an efficient manner, to carry out initiatives in ambulatory primary care, and to be able to provide students with the most up-to-date scientific experience. Accordingly, except in the case of new schools, no money for new construction would be made available. Instead, funds, primary interest subsidies rather than grants, would be available for renovation, modernization and conversion of existing health professions and nursing facilities for use in teaching and research, and for use as ambulatory primary care teaching facilities for medical, osteopathic, and dental students. To reflect higher current borrowing rates, interest subsidies first made after October 1, 1980 would be increased from 3 percent to 6 percent. In addition, previous recipients of construction grants would be provided with a unilateral release of their contractual obligation to fulfill enrollment increases.

Section-by-Section Summary

The proposed Health Professions Educational Assistance and Nurse Training Act of 1980 is divided into two titles, one devoted to the health professions and allied health personnel and the other to nurse training. Although some sections of existing law are reprinted in slightly modified form, the bill represents a substantial revision of programs under Title VII and Title VIII of the Public Health Service Act.

Findings and Declaration of Policy. The Congress finds that geographic and specialty distribution of health personnel continues to be a significant national problem and that it is appropriate for the United States to support the education and training of health professionals, nurses, and allied health personnel in order to encourage better specialty and geographic distribution and to ensure the initial and continuing competency of such professionals, nurses and personnel.

TITLE I—HEALTH PROFESSIONS AND ALLIED HEALTH PERSONNEL

Section 101. Title I may be cited as the "Health Professions Educational Assistance Act of 1980".

Section 102. Title VII of the Public Health Service Act (health professions education) is repealed, except for some existing sections dealing with student loan administration, emergency medical training, and the National Health Service Corps scholarship program.

Section 103. Title VII of the Public Health Service Act is retitled "Training of Health Professions and Allied Health Personnel".

Section 104. The following sections are inserted in Title VII:

Part A—General provisions; Financial distress and start-up grants

Section 700 contains definitions necessary for carrying out this title.

Section 701 establishes a 21 member National Advisory Council on Health Professions and Allied Health Education to advise the Secretary.

Section 702 permits programs under this title to be funded in advance of the authorized year as long as the money is not obligated prior to such year.

Section 703 requires schools, programs, and training centers which receive support under this title to provide assurances that they do not discriminate on the basis of sex or race in admission to their programs.

Section 704 contains records and audit requirements which must be met by recipients of funds or loan guarantees under this title.

Sections 705 and 706 are administrative provisions dealing with the making of grants and contracts.

Section 707 forbids the Secretary from providing support under this title to any school, program or training center which charges higher tuition or fees to certain students solely on the basis that such students are the recipients of traineeships, loans, loan guarantees, service scholarships or interest subsidies from the Federal Government.

Section 708 establishes a uniform health professions data reporting system and authorizes analytic and descriptive studies of such data.

Section 709 places restrictions upon the collection, maintenance, and transmittal of individually identifiable personal data under this title.

Section 710 states that nothing contained in this title shall be construed as authorizing interference in the administrations of educational institutions.

Section 711 creates a program of grants, not to exceed three for any school, to assist schools which are in serious financial distress to meet the cost of operation, to maintain accreditation, and to carry out operational, managerial, and financial reforms.

Section 712 provides for advanced grants for schools in serious financial distress that have previously received one or more financial distress grants. Up to five years of support is available under this section provided the school has an acceptable plan to achieve financial solvency within such time and has obtained a commitment for state and local funds to match the Federal distress grant.

Section 713 contains a program of start-up grants for new schools of veterinary medicine, public health, optometry, and podiatry, and grants for conversion of two-year schools of medicine to four-year degree granting institutions. Recipients of start-up assistance under existing law who would have reasonably expected to receive support in FY81, 82, or 83 are permitted to receive such support.

Part B—Student assistance

Subpart I—Student Loans

Section 715 establishes a program of federally insured loans and interest subsidies available to students in schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, nursing, and public health.

Section 716 limits such loans to full-time students in good standing to help them pay tuition and reasonable educational and living expenses (as determined by the student's schools), and establishes periods during which repayment of principal and interest may be deferred. The maximum interest rate is set at the 91 day Treasury note rate plus 2.5 percent, or 15 percent, whichever is less.

Section 717 establishes a Student Loan Insurance and Interest Payments Fund to pay interest subsidies (as provided in section 718) and defaults.

Section 718 provides that students who

have demonstrated financial need for the loans (as determined by their school) shall be entitled during specified periods to an interest subsidy sufficient to reduce the effective interest rate of the loan to the student to seven percent. Interest subsidies are available for such students while in school, for up to three years of residency or advanced training in primary care, for certain periods of practice in primary care or research, and for other specified periods.

Section 719 places limits on the amount a student may borrow under this program. For most health professions students this amount is $20,000 per year and $80,000 aggregate.

Section 720 authorizes appropriations for the Student Loan Insurance and Interest Payments Fund.

Section 721 limits the aggregate amount of all new loans which may be insured in any year, starting at $250 million in FY 81 and increasing in subsequent years.

Section 105. The following sections are inserted in Title VII.

Subpart II—Loan Forgiveness

Section 727 provides for a loan forgiveness program to discharge part of the loan liabilities incurred by certain health professions students, graduates, and former students while they were in a health professions school.

Section 728 establishes a Student Loan Forgiveness Fund to provide monies for the loan forgiveness program.

Section 729 specifies which individuals may receive loan forgiveness, and sets out priorities if insufficient funds are available. Partial loan forgiveness may be made to, or on behalf of, individuals who: die or become permanently and totally disabled; fail to complete their first year of health professions school; or practice their health profession in a medically underserved area.

Section 729A provides for a capital distribution of the funds in each school's Health Professions Student Loan Fund, with the federal share of such funds to be deposited in the Student Loan Forgiveness Fund under section 728.

Part C—Special projects

Subpart I—General

Section 730 authorizes the Secretary of Health and Human Resources to make special project grants and contracts to health professions schools and other entities and directs the Secretary, in calculating the amount of each grant or contract under this part made to a health professions school providing certain assurances under section 731, to add to the federal share of the cost of carrying out the project an amount equal to 20 percent of such federal share of the cost, to be used for educational purposes.

Section 731 describes the conditions which schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health and allied health, and graduate programs in health administration must meet in order to receive the added monies described in section 730.

Subpart II—Graduate Training and Specialty Distribution

Section 735 provides for grants for physician residency training programs and traineeships in the primary care fields of general internal medicine, general pediatrics, and family medicine.

Section 736 contains grants for dental residency training programs and traineeships in the general practice of dentistry.

Section 737 authorizes grants to schools of medicine and osteopathy for projects to establish and maintain or improve departments of family medicine.

Section 738 establishes grants for schools of medicine, osteopathy and public health to develop and maintain physician residency programs in preventive medicine, and for schools of medicine and dentistry to develop and maintain physician residency programs in physical medicine and rehabilitation.

Section 106. There is inserted in Title VII the following:

Subpart III—Improving Geographic Distribution

Section 740 provides for grants to schools of medicine and osteopathy to plan, develop, and operate area health education centers.

Section 741 creates a program of grants to health professions schools to assist in the cost of projects to provide clinical training in remote sites which serve medically underserved populations.

Section 742 contains a program of grants to schools of medicine, osteopathy, and dentistry for projects to provide support services to physicians and dentists practicing in medically underserved areas.

Subpart IV—Training and Curricular Development

Section 745 authorizes grants for the training of physicians assistants and expanded function dental auxiliaries, and for cooperative interdisciplinary training among health professions students, including multiple auxiliary teams.

Section 746 provides special projects for schools of allied health and traineeships for advanced training of allied health personnel for teaching, administrative, and supervisory positions.

Section 747 contains special projects for schools of public health, graduate programs in health administration, and other post-baccalaureate programs in these fields and traineeships for students at such schools and programs.

Section 748 authorizes grants to strengthen the clinical training provided to students in schools of veterinary medicine, optometry, pharmacy, and podiatry.

Section 749 establishes grants to health profession and allied health schools to develop courses and innovative teaching methods in health care policy and health care economics.

Section 750 creates grants for health professions and allied health schools for evaluating continuing education and developing innovative approaches to providing such education.

Section 751 provides grants to health professions and allied health schools to demonstrate methods of reducing the total cost of education in such schools without impairing quality.

Section 752 authorizes grants to health professions schools to develop and expand curriculum offerings in geriatrics, diet and nutrition, public health, occupational and environmental health, disease prevention and health promotion, physical health and rehabilitation, toxicology, and animal and human nutrition.

Subpart V—Student diversity

Section 755 contains a grant program for recruitment, counseling, and support services for individuals from disadvantaged backgrounds who are entering or planning to enter into a health career.

Part D—Service scholarships

Subpart I—Grants to States for Service Scholarships

Section 760 establishes a federal program of grants to states to fund the cost of service scholarships offered by the state to health professions students.

Section 761 specifies certain minimum requirements for the expenditure by states of monies provided under section 760, including the required service commitment, penalties and other aspects of a service scholarship agreement between a state and a service scholarship recipient.

Section 762 sets out a formula for the allocation of grant money to the states for service scholarships.

Section 107. There is inserted in Title VII the following:

Part E—Grants, loan guarantees, and interest subsidies for conversion, renovation, and construction of teaching and research facilities for medical, dental and other health personnel

Section 775 establishes a program of grants for: renovation, modernization, or conversion of existing facilities for use as teaching and research facilities at health professions schools; conversion of existing facilities for use as ambulatory primary care teaching facilities for physicians and dentists; and construction of teaching and research facilities at new health professions schools which meet certain criteria.

Sections 776, 777, and 778 set out administrative provisions dealing with applications for grants under section 775, including limits on the amount of any grant and recapture of payments by the federal government under certain circumstances.

Section 779 provides previous recipients of construction grants with a unilateral release of their contractual obligations to fulfill enrollment increases.

Section 780 contains a program of loan guarantees and interest subsidies to health professions schools to carry out the same type of projects for which grants are authorized under section 775.

Section 108. This section contains conforming amendments. Sections from existing law which deal with administration of student loans, the National Health Service Corps Scholarship program, and the National Health Service Corps service program are retained with amendments.

Section 109. The amendments made to Title VII are effective October 1, 1980.

TITLE II—NURSE TRAINING

Section 201. Title II may be cited as the "Nurse Training Act of 1980."

Section 202. Title VIII of the Public Health Services Act (dealing with nurse training) is repealed. A new Title VIII is proposed as follows:

Part A—General provisions; financial distress and start-up grants

Section 800 contains definitions necessary for carrying out this title.

Section 801 establishes a 19 member National Advisory Council on Nurse Training to advise the Secretary.

Section 802 permits programs under this title to be funded in advance of the authorized year as long as the money is not obligated prior to such year.

Section 803 requires schools which receive support under this title to provide assurances that they do not discriminate on the basis of sex or race in admission to their programs.

Section 804 provides records and audit requirements which must be met by recipients of funds or loan guarantees under this title.

Sections 805 and 806 are administrative provisions dealing with the making of grants and contracts.

Section 807 forbids the Secretary from providing support under this title to any school which charges higher tuition or fees to certain students solely on the basis that such students are the recipients of loans, loan guarantees, service scholarships or interest subsidies from the federal government.

Section 808 establishes a uniform nursing data reporting system and authorizes analytic and descriptive studies of such data.

Section 809 places restrictions upon the collection, maintenance, and transmittal of individually identifiable personal data under this title.

Section 810 states that nothing contained in this title shall be construed as authorizing interference in the administrations of educational institutions.

Section 811 creates a program of grants, not to exceed three for any school, to assist schools which are in serious financial distress to meet the cost of operations, to maintain accreditation, and to carry out operational, managerial, and financial reforms.

Section 812 provides for advanced grants for schools in serious financial distress that have previously received financial distress grants. Up to five years of support are available under this section provided the school has an acceptable plan to achieve financial solvency within such time and has obtained a commitment for state or local funds to match the federal distress grant.

Section 813 contains a program of start-up grants for new schools of nursing.

Part B—Student loans

Section 820 provides for the continuation of the Nurse Training Student Loan Fund.

Section 821 stipulates that loans from the fund to any student may not exceed $2500 per year or $10,000 aggregate, establishes periods for repayment and deferral of payment, sets the interest rate on the loan during repayment at 7 percent per annum, and continues existing provisions relating to loan forgiveness.

Section 822 provides for a distribution of the assets of the Nurse Training Student Loan Fund after September 30, 1984.

Part C—Special projects

Section 830 authorizes the Secretary of Health and Human Services to make special project grants and contracts to schools of nursing and other entities and directs the Secretary, in calculating the amount of each grant or contract under this part made to a school of nursing providing certain assurances under this section, to add to the federal share of the cost of carrying out the project an amount equal to 20 percent of such federal share of the cost, to be used for educational purposes.

Section 831 provides grants to collegiate schools of nursing to develop, expand, or maintain programs for the advanced training of nurses.

Section 832 provides grants to schools of nursing to develop, expand, or maintain programs to train nurse practitioners.

Section 833 provides grants to schools of nursing for traineeships for participants in programs of advanced nurse training, including nurse practitioner programs.

Section 834 contains grant authority for programs to recruit, counsel, and provide support services to individuals from disadvantaged background who are entering or considering a career in nursing.

Section 835 authorizes grants for schools of nursing to develop and expand curriculum offerings in health policy and health care economics, maternal and child health, geriatrics, diet and nutrition, and public health and public health education.

Section 836 provides authority for grants to schools of nursing to develop and implement programs which provide support for practicing nurses, such as continuing education and retraining for nurses re-entering the job market.

Section 837 establishes a grant and contract program for schools of nursing for the improvement of nursing education, such as clinical training for collegiate nursing students, reducing the costs of nursing education, and research in nursing education.

Part D—Grants, loan guarantees, and interest subsidies for renovation and construction of teaching facilities for nurses

Section 840 establishes a program of grants for: construction of teaching facilities at new nursing schools; and renovation, modernization, or conversion of existing facilities for use as teaching facilities at nursing schools;

Sections 841, 842, and 843 set out administrative provisions dealing with applications for grants under section 840, including limits on the amount of any grants, and recapture of payments by the federal government under certain circumstances.

Section 844 provides previous recipients of construction grants with a unilateral release of their contractual obligations to fulfill enrollment increases.

Section 845 contains a program of loan guarantees and interest subsidies to nursing schools to carry out the same type of projects for which grants are authorized under section 840.

Section 203. The amendments made to Title VIII are effective October 1, 1980.

PROPOSED AUTHORIZATIONS—TITLES VII AND VIII OF THE PUBLIC HEALTH SERVICE ACT

[In millions of dollars; fiscal years]

	1980 comparable appropriation	Authorizations			
		1981	1982	1983	1984
Health professions data (new sec. 708)	2.7	4.0	5.0	5.0	5.0
Financial distress grants (new sec. 711)	5.0	5.0	5.0	5.0	5.0
Advanced financial distress (new sec. 712)		5.0	5.0	5.0	5.0
Start-up (and conversion) assistance (new sec. 713)	2.7	4.0	4.0	4.0	4.0
Student loan subsidies (new sec. 720)		20.0	40.0	60.0	80.0
Primary care training (includes family medicine) (new sec. 735)	56.0	80.0	85.0	90.0	95.0
General dentistry training (new sec. 736)	4.0	6.0	7.5	8.5	9.5
Departments of Family Medicine (new sec. 737)	9.5	12.0	13.0	14.0	15.0
Preventive medicine and physical/rehabilitative medicine training (new sec. 738)		7.0	8.5	10.0	11.5
Area health education centers (new sec. 740)	21.0	36.0	40.0	44.0	48.0
Remote site training (new sec. 741)		5.5	7.0	8.5	10.0
Support services in underserved areas (new sec. 742)		5.5	7.0	8.5	10.0
PA's, EFDA's, interdisciplinary (new sec. 745)	21.6	28.0	29.0	30.0	31.0
Projects and training for allied health (new sec. 746)	10.0	15.0	17.0	19.0	21.0
Projects and training for Public health and health administration (new sec. 747)	14.0	25.0	27.0	28.0	29.0
Clinical training for VOPP schools (new sec. 748)		12.0	14.0	16.0	18.0
Health care policy and economics (new sec. 749)		5.0	6.0	7.0	8.0
Continuing education projects (new sec. 750)		5.0	6.0	7.0	8.0
Educational cost projects (new sec. 751)		5.0	6.0	7.0	8.0
Curriculum development (new sec. 752)		8.0	9.0	10.0	11.0
Disadvantaged assistance programs (new sec. 755)	19.6	26.0	27.0	28.0	29.0
Grants to States for service scholarships (new sec. 760)		40.0	50.0	60.0	70.0
National Health Service corps. scholarships (new sec. 765)	85.5	55.0	35.0	30.0	30.0
Construction grants (new sec. 775)	1.0	3.0	3.0	3.0	3.0
Construction interest subsidies (new sec. 780)	4.3	8.0	9.0	10.0	11.0
Nurse training—Continuing programs only (see separate sheet)	53.0	97.0	107.25	117.5	127.0
HPEA and NT programs—Not reauthorized and program support	182.5				
Title VII and VIII total	492.4	522.0	572.25	635.0	702.0

PROPOSED AUTHORIZATIONS—TITLE VIII—NURSE TRAINING ACT

[In millions of dollars; fiscal years]

	Fiscal year 1980 appropriation under continuing resolution	Authorizations			
		1981	1982	1983	1984
Nursing data (new sec. 808)		1.0	1.25	1.5	1.5
Financial distress grants (new sec. 811)		1.0	1.0	1.0	1.0
Advanced financial distress grants (new sec. 812)		1.0	1.0	1.0	1.0
Start-up assistance (new sec. 813)		1.0	1.0	1.0	1.0
Advanced nurse training projects (new sec. 831)	12.0	20.0	22.0	24.0	26.0
Nurse practitioner programs (new sec. 832)	13.0	20.0	22.0	24.0	26.0
Advanced/NP traineeships (new sec. 833)	13.0	20.0	22.0	24.0	26.0
Disadvantaged assistance projects (new sec. 834)	[1] 15.0	2.0	2.5	3.0	3.0
Curriculum development (new sec. 835)		6.0	7.0	8.0	9.0
Support for practicing nurse (new sec. 836)		10.0	11.0	12.0	13.0
Improvement of nursing education (new sec. 837)		12.0	13.0	14.0	15.0
Construction grants (new sec. 840)		1.0	1.0	1.0	1.0
Construction interest subsidies (new sec. 845)		2.0	2.5	3.0	3.5
NT programs not reauthorized	47.3				
Total	100.3	97.0	107.25	117.5	127.0

[1] Miscellaneous special projects.

ADDITIONAL COSPONSORS

S. 1444

At the request of Mr. BAUCUS, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of S. 1444, a bill to amend the Internal Revenue Code of 1954 and title 28 of the United States Code to provide for the award of reasonable court costs, including attorney's fees, to prevailing parties in civil tax actions, and for other purposes.

S. 1610

At the request of Mr. SCHWEIKER, the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1610, the "Blood Assurance Act of 1979."

S. 1680

At the request of Mr. Wallop, the Senator from Alaska (Mr. Gravel) was added as a cosponsor of S. 1680, the Western Lands Distribution and Regional Equalization Act of 1979.

S. 1885

At the request of Mr. DeConcini, the Senator from Oklahoma (Mr. Boren) was added as a cosponsor of S. 1885, a bill to eliminate the exclusionary rule.

SENATE JOINT RESOLUTION 19

At the request of Mr. Wallop, the Senator from South Dakota (Mr. Pressler), the Senator from New York (Mr. Javits), the Senator from Nevada (Mr. Laxalt), the Senator from Idaho (Mr. McClure), and the Senator from Michigan (Mr. Levin) were added as cosponsors of Senate Joint Resolution 19, proclaiming March of 1980 as "Youth Art Month."

SENATE RESOLUTION 207

At the request of Mr. DeConcini, the Senator from Oklahoma (Mr. Boren) was added as a cosponsor of Senate Resolution 207, a resolution to establish a Senate Select Committee on Narcotics.

SENATE RESOLUTION 307

At the request of Mr. Roth, the Senator from Indiana (Mr. Bayh) was added as a cosponsor of Senate Resolution 307, supporting the efforts of Secretary of State Cyrus Vance to secure the release of American hostages held in Iran.

AMENDMENT NO. 417

At the request of Mr. Moynihan, the Senator from Ohio (Mr. Metzenbaum) was added as a cosponsor of amendment No. 417 intended to be proposed to the SALT II treaty (Ex. Y, 96–1).

AMENDMENT NO. 595

At the request of Mr. McClure, the Senator from New Mexico (Mr. Schmitt) was added as a cosponsor of amendment No. 595 proposed to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

AMENDMENT NO. 694

At the request of Mr. Percy, the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. Durkin), and the Senator from Kentucky (Mr. Huddleston) were added as cosponsors of amendment No. 694, intended to be proposed to H.R. 3919, the Crude Oil Windfall Profit Tax Act of 1979.

AMENDMENT NO. 767

At the request of Mr. Baucus, the Senator from Florida (Mr. Stone) and the Senator from Nevada (Mr. Laxalt) were added as cosponsors of amendment No. 767 proposed to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

AMENDMENT NO. 791

At the request of Mr. Bentsen, the Senator from Ohio (Mr. Metzenbaum) was added as a cosponsor of amendment No. 791, intended to be proposed to H.R. 3919, the Crude Oil Windfall Profit Tax Act of 1979.

AMENDMENT NO. 865

At the request of Mr. McClure, the Senator from South Dakota (Mr. Pressler) was added as a cosponsor of amendment No. 865, as modified, proposed to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

SENATE RESOLUTION 316—ORIGINAL RESOLUTION REPORTED CONCERNING THAILAND'S ASSISTANCE TO KAMPUCHEAN REFUGEES

Mr. GLENN (from the Committee on Foreign Relations) reported the following original resolution, which was ordered placed on the calendar:

S. Res. 316

Whereas the invasion of Kampuchea by military forces of the Government of the Socialist Republic of Vietnam has disrupted the peace and stability of Southeast Asia, threatened neighboring countries and contributed to the vast human suffering which threatens the survival of the Kampuchean people; and

Whereas the Government of the Kingdom of Thailand has responded most generously to the urgent humanitarian needs of the Khmer and other suffering people in the region by opening its borders to provide asylum and assistance to those victims of war, famine and oppression;

Whereas the Government of the Kingdom of Thailand has demonstrated the humanitarian instincts of its people and leaders by providing asylum over the past four years to more than two hundred thousand Indochinese refugees; and

Whereas the Government of the Kingdom of Thailand has provided full cooperation and assistance to international organizations and voluntary groups which are working desperately to provide food and medical assistance to the Khmer and other refugees, and itself has taken on the burden of providing assistance to these people; and

Whereas the Government of the Kingdom of Thailand has consistently sought to achieve a solution to the crisis in Kampuchea by invoking the assistance of the United Nations; its ASEAN neighbors, and other members of the international community to reach a political solution to the war in Kampuchea and bring peace to the region; and

Whereas it has been the express policy of the United States to stress and support fundamental human rights in the conduct of foreign relations, to seek international assistance for Indochinese refugees, and to seek and end to the suffering of the Khmer people; and

Whereas the actions of the Government of the Kingdom of Thailand to assist these refugees reflects these same basic principles:

Now, therefore, be it resolved that it is the sense of the Senate that this body commend the Government of the Kingdom of Thailand for its noble humanitarian efforts to harbor, feed and assist Indochinese refugees and the victims of war, efforts which stand in sharp contrast to suffering caused by the policies of some of its neighbors; and

That the United States seek to continue its support for the Government of the Kingdom of Thailand and its people in their effort to provide asylum and humanitarian assistance to the Khmer people who have been driven to Thailand by war and famine, and to other Indochinese victims of oppression; and

That the United States, working with the international community, and the Government of the Kingdom of Thailand, seek every possible means to insure the survival of the Kampuchean people through an effective and widespread program of food and medical assistance and to bring a rapid end to the conditions causing dire suffering within Kampuchea.

AMENDMENTS SUBMITTED FOR PRINTING

RAILWAY POLICY ACT OF 1979—S. 1946

AMENDMENTS NOS. 1597 AND 1598

(Ordered to be printed and to lie on the table.)

Mr. McGOVERN submitted two amendments intended to be proposed by him to S. 1946, a bill to reform the economic regulation of railroads, and for other purposes.

AGRICULTURAL ADJUSTMENT ACT OF 1979—H.R. 3398

AMENDMENT NO. 1599

(Ordered to be printed and to lie on the table.)

Mr. MORGAN (for himself and Mr. Eagleton) submitted an amendment intended to be proposed by them, jointly, to H.R. 3398, an act to amend the Food and Agriculture Act of 1977 relating to increases in the target prices for the 1979 crop of wheat, corn, and other commodities under certain circumstances, and for other purposes.

DISASTER PAYMENTS

● Mr. MORGAN. Mr. President, today I submit, for Senator Eagleton and myself, an amendment to H.R. 3398, a bill to increase target prices on certain agricultural commodities and to extend the disaster payments program for 1 year.

I commented at length on what I believed were some faults in the disaster payments program in a speech to the Senate on November 20, 1979. My amendment would place a cap of $50,000 to individual producers and would bar payments to States or their political subdivisions.

Mr. President, I ask unanimous consent that the text of my amendment be printed in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Amendment No. 1599

On page 5, between lines 11 and 12, insert a new section as follows:

"LIMITATIONS ON DISASTER PAYMENTS

"Sec. 4. Effective for the 1980 and 1981 crops, section 101 of the Food and Agriculture Act of 1977 is amended by—

"(1) in subsection (1), inserting '(excluding disaster payments)' after 'payments';

"(2) inserting after subsection (1) a new subsection (2) as follows:

"'(2) The total amount of disaster payments which a person shall be entitled to receive under one or more of the annual programs established under the Agricultural Act of 1949, as amended, and the Agricultural Adjustment Act of 1938, as amended, for each of the 1980 and 1981 crops of wheat, feed grains, upland cotton, and rice shall not exceed $50,000. No disaster payments may be made to States, political subdivisions, or agencies thereof.';

"(3) redesignating subsections (2), (3), and (4) as subsections (3), (4), and (5),

"(4) in subsection (3), as redesignated by 'disaster loss or'; and

"(5) in subsection (5), as redesignated by clause (3) of this section, inserting after 'That' the following: ', except as otherwise provided in this section,'."

On page 5, line 13, strike out "Sec. 4." and insert in lieu thereof "Sec. 5.".●

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet during the session of the Senate today to hold an oversight hearing on whether to extend the April 1, 1980, statute of limitations on claims filed by the Federal Government on behalf of Indian tribes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. BENTSEN. Mr. President, at the request of the majority leader, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate today, beginning at 2:30 p.m., to consider S. 523, the health professionals pay bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CHRISTMAS 1979

● Mr. INOUYE. Mr. President, as we approach Christmas Day, we are all drawn to thoughts of our loved ones. We look forward in this season to being with our families and friends, sharing gifts and celebrating our many blessings.

This holiday season, however, there are 50 fellow Americans who face the possibility that they may not be able to spend Christmas with their families and loved ones. They may have to observe a Christmas of terror and loneliness in our besieged Embassy in Tehran.

In this season of giving and sharing we wonder what we might do for the families of the hostages. I know that this is in the minds and hearts of many Americans. Somehow I feel that the most important thing that we can do is to recognize the gifts that those families have given to all of us.

In a situation which could have been dominated by fear, these families have shown us tremendous courage.

In a crisis which could have produced deep hatred, they have shown us the sustaining power that comes from love.

In a time when prejudice is the easy way, they have taken the much more difficult road of understanding.

In an age of cynics and skeptics, they have been believers.

In a test of wills that could have produced great divisiveness, these families have instead brought us all closer together.

Courage, love, understanding, belief, and unity; these are the Christmas gifts that the families of the hostages have given to us. For these gifts we will all be eternally grateful.●

AMENDMENT TO RAILROAD TRANSPORTATION POLICY ACT

● Mr. BAUCUS. Mr. President, the Committee on Commerce, Science, and Transportation has reported legislation, the Railroad Transportation Policy Act (S. 1946), to reduce and reform Federal regulation of railroads.

The committee is to be commended for its efforts to develop a constructive proposal which will help solve the Nation's rail problems, and which is acceptable to the diverse interests involved.

Unfortunately, in its present form, the bill fails to adequately protect captive shippers from unreasonable freight rates.

In its bill and report, the committee stresses that "adequate revenues are not to be obtained by requiring an excessive contribution from captive traffic."

Captive shippers are distressed that the committee's fine intention is not backed up by meaningful protection.

As it is written, the Railroad Transportation Policy Act will limit the challenges to existing rates, and authorize new freight rate increases which will be difficult for shippers to challenge.

I am painfully aware of the critical need of the Nation's railroads for additional revenues. I support proposals that will give railroads additional pricing flexibility where competitive market forces can prevent freight rates which do not reflect costs of providing service.

But for some types of traffic in some regions of the country, competitive forces alone will not insure reasonable freight rates. The economy of my State of Montana is based on bulk commodities, especially grain, forest products, and minerals, which must be transported long distances to markets. Railroads provide the only practical means of transportation and have considerable economic power which they use to extract freight rates substantially in excess of costs of providing service.

The Railroad Transportation Policy Act requires the Interstate Commerce Commission to establish an average revenue-to-variable-cost ratio that, if realized by the railroad industry under honest, economical, and efficient management, would cover total operating expenses and provide a reasonable profit or return on capital. Under the legislation, rates below this level will be presumed to be reasonable by the Interstate Commerce Commission.

Obviously, if railroads are to attain this average, some rates will necessarily be above, and some below, the average. But some meaningful mechanism must be established to help insure that railroads do not meet their revenue needs by exploiting market power in the case of captive traffic.

Thus, when S. 1946 comes to the floor, I intend to support an amendment which will establish a threshold level above which the burden of proof for showing that rates are reasonable will be on the railroads. In other words, a rate above the threshold will be presumed not to be reasonable unless the presumption can be rebutted by clear and convincing evidence. The threshold and requirement of clear and convincing evidence should apply to all types of traffic.

This proposal will not place a "cap" on freight rates. Railroads will be free to propose and implement rates above the threshold if they can show a clear and convincing justification for such rates. Neither should this proposal prevent railroads from obtaining needed revenues. At a very minimum, railroads will be able to recover the full costs of providing service, including a return on capital invested.

Mr. President, shippers in Montana recognize the revenue needs of railroads. They stand willing to pay rates which reflect the full costs to the railroads of providing service, and which will provide profits to insure that investment capital is available for the railroads. But captive shippers should not be asked to subsidize other traffic just because of their unfortunate physical and economic position.

With an amendment to protect captive shippers, the Railroad Transportation Policy Act can be a constructive step toward solving rail problems. But without change, the legislation imposes an unfair and unreasonable burden on captive shippers.●

THE DEPARTMENT OF EDUCATION: LAST BUT NOT LEAST

● Mr. RIBICOFF. Mr. President, Dr. Samuel Halperin was one of the first witnesses to testify on the Department of Education legislation. In October 1977, he presented the Governmental Affairs Committee with excellent documentation showing how the present location and organization of education within the Department of Health, Education and Welfare has worked to produce fragmentation and inefficiency against the best interests of education.

Dr. Halperin has written an article for the November-December issue of Change entitled "The Department of Education: Last But Not Least." In the article, he discusses the challenges ahead for the new Department. I ask that it be printed in the RECORD.

The article follows:

THE DEPARTMENT OF EDUCATION: LAST BUT NOT LEAST

(By Samuel Halperin)

215 to 201. Thus a marginal House of Representatives majority voted in the long discussed and much delayed cabinet-level Department of Education. Matters now move from the interminable debates over a federal department's virtues to the new affairs of the education department.

Just what lies ahead and what are the issues to be faced now that the education department has become a reality? Laws are one thing and well-functioning programs and bureaucracies quite another. Learning from the fiasco surrounding the pell-mell establishment of the Department of Energy, Congress provided that the education department could take up to six months from the date of the secretary's confirmation by the Senate before actually coming into being. President Carter has named Shirley Mount Hufstedler, a federal judge from California, as the first education secretary; Office of Management and Budget (OMB) Director James McIntyre will unveil his education department transition implementation team; directives to the General Services Administration, Office of Personnel Management, and FBI will galvanize a search for office space (components of the new department are now scattered over at least 20 buildings), telephones, payroll and other management systems, top departmental personnel, and all the other resources needed to implement a department larger than 5 others now seated in the cabinet.

In the bitter struggle over the department various proponents and opponents predicted every conceivable benefit and danger were the thirteenth cabinet-level department to be created. The basic fact, however, is that President Carter proposed a governmental reorganization measure which does not in itself alter existing laws, programs, or policies. Whatever the possible implications for future federal education policy the immediate reality has to do mostly with bureaucratic structure and personnel. So now that the President's proposal is law, what are the expectations that will guide the Executive branch in setting up the department and choosing its baker's dozen of top appointees?

Foremost among the goals of the Carter administration is effective management of the more than $14 billion of federal education programs entrusted to Education. Public funds must reach congressionally targeted objectives promptly. They should obviously assist, not hamper, the operations of the myriad of educational institutions now receiving them. To do this the Office of Education (USOE), the core of the new department which is variously regarded (at least in official Washington) as "a bureaucratic mess" and an "administrative cesspool," must be reshaped and rejuvenated. Over time some 170 separate programs must be streamlined, coordinated, consolidated. Red tape and excessive paperwork must be trimmed. A largely demoralized bureaucracy—about 7,500, not including the 10,000 in the Department of Defense's Overseas Dependents' Schools—must be cut and simultaneously made more responsive to state and local educational authorities who frequently complain of costly delays, impotent replies, and sheer nonhelpfulness in meeting their urgent educational inquiries.

In short, with the full-time attention of a core cadre of 75 to 100 mostly new appointees with proven managerial competence, the Carter White House hopes the tarnished image of education in the nation's capital can be rehabilitated. (Removing the E from HEW, thus leaving the Department of Health and Human Services, is also touted as an important relief measure in helping Secretary Patricia Harris get control of her far-flung HHS domain. Its bureaucratic malaise is no less debilitating than that afflicting the Education division of HEW.)

Second, the Carter camp hopes that the education department will provide a new type of leadership to restore confidence to the entire American educational community and the public at large. Carter advisors know that deeply embedded traditions of diversity and autonomy make it highly unlikely that Washington can ever call most educational shots, nor do they profess a desire to do so. Neither do they foresee the availability of increased federal financial resources that could justify a larger federal role in education.

But vigorous action is needed nevertheless, they say, to help the American public grapple with a host of difficult issues (for example, declining test scores and enrollments, the viability of small colleges, the health of graduate education, the future of secondary schools, and the school-work transition). This new style of federal leadership is meant to "ask tough questions" about education and stimulate the entire society, not merely the educational establishment, to think innovatively about the answers. In short, by conceptualizing and energizing a vigorous national reconsideration of the central role of education in society the Administration hopes to see emerge a less parochial educational system, one that reaches out to construct new alliances with noneducational groups. Once again, in this vision, education will be seen as *the* indispensable investment of our entire society in future prosperity and a national sense of purpose.

The Carter team also recognizes that the new education department will face a number of formidable obstacles in its earliest days. First among these is the uncertainty of the President's own tenure in office. The hope of attracting unusually capable leadership to full-time direction of educational affairs was one of the most compelling arguments for creation of the new department. But with Education tentatively scheduled to begin operations in May 1980, only weeks before the Democratic national nominating convention and six months before the November Presidential elections, the White House worries whether exceptional talent will in fact be willing to accept the challenge—for a possibly very brief term of public service.

To overcome this highly unsettling prospect, the Carter camp hopes that the Hufstedler appointment will help attract equally talented, if possibly hesitant, people to the subcabinet levels. The current uncertainty surrounding the President's own political future and that of his would-be top appointees is compounded by the political near necessity of using at least some of the 13 principal new bureaucratic offices in Education and 60 to 80 other supporting political appointments to woo groups that the President needs for renomination and reelection. While all of this is a well-established American political tradition, Education planners in OMB and the White House worry that too many compromises of quality in the key appointments will prevent the new department from getting off to a fast and effective start. Wishing to see Education founded with a critical mass of unusually fine talent—an opportunity that rarely comes to pass in government—their counsel to the President will not be novel: "Resist appointing second-raters. Why not the best?"

At the same time the White House fills some two-score new staff and operational offices required for even the Spartan implementation of a new cabinet-level department, it must begin immediately to reduce Education's overall staff. As one condition of establishing the department the Congress required a net cut of 500 positions (on a base of approximately 7,500) by the end of 1981. What lies ahead is the establishment of new central support services (e.g., computer records, payroll) and the takeover of many of the functions of the Offices of Civil Rights and Inspector General, all now included under HEW's personnel ceilings. Combined with the enormous difficulty of eliminating unwanted employees protected by the civil service, all of this means that personnel matters will dominate much of Education's initial agenda to the possible detriment of larger issues.

Enforcement of civil rights in the field of education presently occupies 75 percent or more of the entire HEW Office of Civil Rights staff and also demands much time from the HEW secretary. With the old bifurcation between the U.S. Office of Education and the Office of Civil Rights abolished under Education, Judge Hufstedler will face exceedingly difficult managerial and political problems. It will be a constant struggle to keep her agenda clear for fresh thinking about educational issues beyond management and the politics of enforcing civil rights.

Nothing forces precision more surely than the annual preparation of the federal budget. Here too the new team at Education will have to run even before it learns to walk. The President has already decided that the new department will have its own budget for fiscal year 1981, to be included in the budget presented to the Congress in January 1980. Thus five months before there is an actual education department and probably months before the full staff is in place, a new departmental budget must be ready for the Congress.

Moreover, the new budget will be considered by several congressional committees organized along traditional jurisdictional lines, rather than by single appropriations subcommittees for the new department. The secretary and her principal aides will therefore have to make large investments of time on Capitol Hill defending budgets for undergraduate science education, the College Housing Loan Program, etc., in addition to the congressional subcommittees on labor and HEW appropriations.

With a projected federal deficit exceeding $30 billion, double digit inflation, deepening recession, increasing expenditures for defense, and rising unemployment, the new secretary of education will be hard pressed to please those constituents who expect the new department to increase federal spending for education. Yet the expectation in the federal city is that President Carter, Vice President Mondale, and OMB Director McIntyre, having made enormous personal and political investments to bring Education into being, will also find some way to pull a rabbit, even a lean one, out of their January 1980 fiscal hat. *Change* readers will have an early indication of Presidential intentions and possible favored treatment for education in January, months before the department actually hangs out its shingle.

Other knotty problems face the department:

The establishment of a new assistant secretaryship for educational research and improvement. What will be the fate of the much buffeted National Institute of Education, which is likely to be organizationally allied to such hitherto separate agencies as the Fund for the Improvement of Postsecondary Education, National Center for Education Statistics, Institute for Museum Services, and possibly some discretionary programs only recently grouped on paper in USOE's new Bureau of School Improvement?

The merger of previously separate, mostly noncooperating, and highly demanding programs—education of the handicapped and vocational rehabilitation—under a new assistant secretaryship for special education and rehabilitative services.

The absorption over a three-year period of the worldwide network of Department of Defense Overseas Dependents' Schools, one of the largest school districts in enrollment and by far the largest in area. Education will have to learn quickly how to actually operate school programs, rather than merely providing money for others to do so.

Finally but hardly least important, the department must deal with the accumulated burden of cynicism, suspicion, and distrust, fanned by much of the national media during the creation of Education. In this environment the new department may enjoy only the briefest of honeymoons with the Congress and key interest groups. Its every act, each new appointee, each change in regulation will be scrutinized under Mt. Palomar Observatory-sized lenses. The political Right will be watching for telltale signs of unwarranted federal control of education, which they believe are certain to appear; the political Left will be on alert for any indication of a weakening in the federal government's commitment to civil rights and affirmative action.

To keep the department from being tested prematurely and deflected into purely defensive postures, Education's new leadership will have to reach out early and reconstruct the former coalition of interests that was sundered in the legislative acrimony accompanying the department's birth. The department faces a most uncertain future unless it can win support from the American Federation of Teachers and the AFL-CIO, the various constituents of the Leadership Conference on Civil Rights, Catholic and other nonpublic school interests, senior citizens, feminists, the disabled, and a host of other organized interests that either opposed or were monumentally indifferent to its creation. And if Education falters or fails, it is difficult to see how anyone—ardent proponents or I-told-you-so's—will be better off in a general climate that is growing distinctly hostile to social programs and to education in particular.

THE DEPARTMENT OF EDUCATION

The Department of Education legislation separates education programs from the Department of Health, Education, and Welfare and combines them with programs of six other federal agencies. The new department includes more than 150 programs and 17,000 federal employees. It will have a budget of $14.2 billion, larger than five other existing departments—Energy, Justice, Commerce, Interior, and State. It will include:

Education Division, encompassing elementary, secondary, and postsecondary education programs and research activities, HEW.

Education and vocational rehabilitation related activities of the Office for Civil Rights, HEW.

Overseas Dependents' Schools of the Department of Defense.

Vocational Rehabilitation Program, HEW.

Law enforcement student loan programs of the Department of Justice.

The College Housing Loan Program, HUD.

Migrant education programs of the Department of Labor.

Special institutions for which HEW exercises budgetary oversight. including Howard University, Gallaudet College, the American Printing House for the Blind, and the National Technical Institute for the Deaf.

Telecommunications Non-Broadcast Demonstration Program, HEW.

USDA Graduate School.

Certain science education programs of the National Science Foundation.●

SOVIET SALT DECEPTION

Mr. HUMPHREY. Mr. President, I am pleased to announce the publication by the bipartisan Coalition for Peace Through Strength of a monograph written by my aide for SALT, Mr. David S. Sullivan. The monograph is entitled "Soviet SALT Deception," and I request that it be printed in the RECORD, along with a summary of its contents.

The material follows:

SOVIET SALT DECEPTION

Have the Soviets exploited the SALT I Agreements and the SALT II negotiating process to achieve strategic superiority over the United States? Are the Soviets engaged in SALT deception in order to achieve supremacy by 1985? These are two of the central issues in the Senate's impending, climactic SALT II debate. Dr. Zbigniew Brzezinski had a clear position on the issue of Soviet intentions in SALT in 1971, long before he became President Carter's National Security Assistant, when he wrote in Newsweek:

"My concern is that the Soviet leaders—particularly the Soviet military—may be deliberately exploiting SALT to attain military 'superiority' over the United States. In that context, SALT serves as a useful tactic, inhibiting U.S. efforts to improve the U.S. defense potential and strengthening the hand of those in the U.S. who argue for a lower U.S. defense posture as a means for promoting an eventual arms control agreement with the Soviet Union."

Dr. Brzezinski's words written in 1971 were a remarkably accurate prediction of what actually occurred in SALT I and now SALT II. The evidence of Soviet SALT deception indicates that he was absolutely correct about Soviet intentions.

But since he wrote these words in 1971, Brzezinski has somehow become a supporter of the SALT II Treaty. He has joined what initially touted itself as an "open administration," yet he has also participated in the suppression of a highly classified CIA intelligence analysis by David S. Sullivan showing Soviet deception in SALT. He also failed to correct the suppression of intelligence evidence related to SALT under past administrations. How has Brzezinski's sound, accurate prediction about Soviet intentions in SALT been implicitly disavowed in support of a dangerously flawed SALT II Treaty? How has the suppression of intelligence evidence and analysis of Soviet SALT deception affected the integrity of the U.S. intelligence process? These are questions which the news media might ask Brzezinski.

The facts of Soviet negotiating deception in May 1972 on each of the three main SALT I issues have been conclusively proven with solid, convincing evidence. The monograph entitled Soviet SALT Deception uses hard unclassified evidence to demonstrate clearly many examples of Soviet negotiating deception in both SALT I and SALT II. It is also well known that this analysis is based upon a highly classified CIA study, so there is additional supporting evidence. The facts of Soviet SALT deception simply cannot be refuted.

In May, 1972, the Soviets negotiated deceptively on all of the important issues of SALT I in order to allow their new ICBM and SLBM programs to escape constraint under SALT I. The summary of these Soviet SALT I deceptions is as follows:

Soviet false statements about the size of their then-secret new, large, heavy SS–19 ICBM, a Soviet false statement suggesting that the SS–19 could be banned, despite their then-secret plans to deploy it widely, and repeated Soviet false statements that the U.S. already knew about the characteristics of new Soviet heavy ICBMs;

The Soviet false claim to having 48 submarines operational or under construction in May 1972, carrying 768 SLBMs, when they really had about 710 SLBMs;

The Soviet fallcious "geographical asymmetry" argument allowing them a huge superiority over the U.S. in SLBMs, when in fact, their long-range SS–N–8 SLBM negated their geographical asymmetries;

The false Soviet pledge not to "build" mobile ICBMs, and the false Soviet statement that they did not have an ongoing mobile ICBM program, when they have in fact an ongoing SS–16 mobile ICBM production program;

The false Soviet claim that SALT I avoided a new arms race and contained no Soviet unilateral advantages, when in fact the Soviet strategic buildup continued unchanged after the Soviet "victory" in SALT I;

The massive, expanding Soviet nationwide camouflage, concealment, and deception program involving all Soviet strategic forces. This physical camouflage and deception was harnessed to negotiating deception, and its expansion during the years of SALT I represented a circumvention of SALT I's ban on deliberate concealment.

More significantly, the Soviets have continued to exercise deliberate negotiating deception in SALT II to allow all five of their new fifth generation ICBMs and SLBMs to be deployed. The Soviets have consistently refused to agree to a definition of heavy ICBM, or to other key definitions and baselines, following the pattern of similar refusals in SALT I and at Vladivostok. Soviet insistence upon imprecise SALT II "constraints" on "new type" of ballistic missiles, together with their refusal to ban telemetry encryption, constitutes negotiating deception.

Moreover, the Soviet statement made by Brezhnev excluding their Backfire bomber from SALT II denies Backfire's well-known and indisputable intercontinental and refueling capabilities. It is thus a false, deceptive statement from the top level of the Soviet government. And the Soviets have refused to agree to a definition of a heavy bomber, in order to exclude Backfire and their 3 new bombers reportedly under development.

To recapitulate, the Soviets negotiated deceptively in SALT II through:

Their insistence on imprecise and ambiguous constraints on "new type" ICBMs in SALT II's Article IV and in Article XV on verification;

Soviet refusal to agree to a definition of a heavy ICBM or to ICBM qualitative baseline data;

Their continued and arrogant telemetry encryption in missile R and D, indicating that they have many characteristics of their new ICBMs to hide;

Their continued massive concealment and camouflage;

The false Backfire range data provided by the Soviets in 1976 and 1977;

Brezhnev's false statement denying Backfire's intercontinental and refueling capabilities;

The Soviet refusal to agree to a definition of a heavy bomber, in order to exclude Backfire and their 3 new bombers reportedly under development.

Soviet negotiating deception in SALT II has also again been harnessed to Soviet physical concealment and camouflage. New Soviet strategic programs are being developed and will soon be tested using physical camouflage and telemetry encryption to conceal their vital characteristics. If the past is any guide to the future, it will take the U.S. at least 5 years to discover that we have again been deceived by the Soviets in SALT II, just as it took us 5 years belatedly to discover that we had been deceived in SALT I.

The combination of Soviet negotiating deception in SALT I and II, U.S. concessions, and the strong momentum of the Soviet strategic development and deployment programs is shifting the strategic balance. Even Administration testimony last summer suggests that SALT II will not allow the U.S. to preserve "essential equivalence" by the early 1980s, and that we will have only a "minimum deterrence" posture by 1985. Fully within the terms of the SALT II Treaty, the Soviets will gain clear strategic nuclear superiority over the United States by 1985. Soviet strategic supremacy will neutralize U.S. strategic forces, and this will have profound geopolitical significance.

Finally, a few other important examples of Soviet deceptions, falsifications, or arms control violations, extracted from my monograph should be emphasized:

Soviet falsification of the number of SS–7/SS–8 ICBMs being deactivated during 1976, three times. The Soviets may not have been in compliance with SALT I for as long as two years between 1976 and 1978.

The Soviet practice of maintaining eighteen SS–9 Fractional Orbital ICBMs clandestinely operational at a test range throughout the 5 years that SALT I was in effect. This circumvented SALT I's implicit limit on the number of allowed Soviet ICBMs.

Soviet deployment of an SS–11 ICBM canister and ground support equipment at an SS–4 MRBM silo, and deployment of large numbers of old SS–7 ICBMs at an unidentified installation. These facts suggest that the Soviets are using their stockpile of over 1200 old ICBMs as a strategic reserve, thereby circumventing the numerical limit of both SALT I and SALT II.

The Soviets have recently exceeded the 150 kiloton limit in at least five underground nuclear tests, which constitute likely Soviet violations of the Threshold Nuclear Test Ban Treaty. There have also been many reported Soviet venting violations of the 1963 Limited Test Ban Treaty.

And finally, the Soviets have sent "G" class diesel submarines carrying long-range submarine-launched ballistic missiles to Cuba twice, in both 1972 and also in 1974. The Soviets have also sent an "E" class nuclear submarine carrying long-range cruise missiles to Cuba. Both of these visits were in violation of the secret 1962 Cuban Missile Crisis agreement and the 1970–1971 Cienfuegos agreement. Moreover, the Soviets have recently completed in Cienfuegos a submarine base complete with a nuclear warhead and missile handling facility. They have also in the last year deployed nuclear-capable Mig-23 fighter-bombers to Cuba, and the Soviets have maintained a Combat Brigade in Cuba for years without U.S. detection. The Soviets have also manned Cuban air-defenses since 1974, and Soviet pilots have flown Cuban interceptors.

In conclusion, these facts of Soviet SALT deception should be well understood by the American people. But SALT II is not even a completed Treaty yet. Further negotiation on important issues is still required in the Standing Consultative Commission. Many aspects of the provisions are not yet even agreed, such as the definitions of a heavy ICBM and a heavy bomber. Moreover, important baseline data from which to measure 5 percent variances in missile characteristics are also not agreed. But the Administration is nevertheless willing to present this incomplete, unequal, unbalanced, destabilizing Treaty to the U.S. Senate for its approval.

The Senate would be foolish to approve this dangerous Treaty.

SOVIET SALT DECEPTION

(By David S. Sullivan)

In the summer debate in the Senate over SALT II, much attention was focused on the issue of verification. The Members of the Senate and their staff assistants wanted to know about the capabilities of U.S. intelligence-gathering satellites and about the importance of the facilities in Iran that were lost as a result of the revolution. The Senate Intelligence Committee was asked to provide a report on the subject, which has recently been published.

In the course of this investigation, no one questioned the intentions of the Soviets or their skills in frustrating U.S. attempts at verification.

A review of the record of SALT I will show a pattern of deception by the Soviet Union, both during the negotiations and afterwards. Moreover, the deception employed during the negotiating phase of SALT I has been repeated by the Soviets during the negotiating phase of SALT II. Therefore, it is logical to anticipate continued Soviet deception during the operational phase of SALT II..

Several months ago, I released a short paper to the press and published an article in the January 1979 issue of *Strategic Review* describing Soviet deception during SALT I. In the course of time, the proponents of SALT II responded with rebuttals of that paper.

Unintentionally, those rebuttals amounted to indictments of the SALT I documents. Those rebuttals rested their case heavily on the point that the Soviets had not violated the terms of the agreements. But the lack of precision and explicitness in the terms was carefully engineered by the Soviets and constituted part of the Soviet deception. Those rebuttals ignored altogether the obvious violations by the Soviets of the intent and purpose of the agreements. To no small degree, those rebuttals amounted to apologies for Soviet noncompliance with SALT I.

There is a fundamental philosophical disagreement between the authors of those rebuttals and those who believe, as I do, that the Soviets have engaged purposeful deception throughout the SALT process. At issue is the political significance of strategic nuclear power. Those who have defended Soviet compliance with SALT I have in the process revealed a willingness to accept the loss of strategic parity by the U.S. in favor of a posture of minimum deterrence.[1] Those of us who question Soviet compliance with SALT I believe that the U.S. should emphasize strategic power, in order to maximize U.S. technological superiority and best ensure deterrence against a nuclear or conventional attack at the theater level. We also hold that if U.S. strategic superiority is to be abandoned forever, then the maintenance of world peace demands that the U.S. have nothing less than strict equality, precisely applied, to all strategic measures.

CONFIRMATION OF SOVIET NEGOTIATING DECEPTION IN SALT I

The crux of the case regarding Soviet deception in the SALT I negotiations can be found in the issue of the SS–19. The SS–19's deployment is one of the chief factors in the growth of the Soviet counterforce threat, because it comprises about half of this threat. The Soviet SS–19 ICBM carries six highly accurate, large, hard-target warheads, and about 300 to 400 will be operational by the early 1980's. The SS–19 is thus a key U.S. national security issue. Those who assert that in May 1972 there was no Soviet negotiating deception regarding the SS–19 argue that the Soviets told us in May 1972 "quite precisely," "quite clearly," and "explicitly" about the large size and heavy throwweight of the SS-19. Ambassador Gerard Smith, for example, chief of the SALT I delegation, made this claim in a New York Times article of January 16, 1976.[2] Assistant Secretary of Defense Walter Slocombe is another who has gone to great lengths to apologize for the Soviets and to try to explain away both Soviet deception and U.S. gullibility.

THE SS–19 DECEPTION

Denials of Soviet deception fly in the face of all of the evidence. Dr. Henry Kissinger's 1972 and 1975 statements on the SS–19, cited in my original article, clearly indicate that he did not know about the large size of the SS–19 in May 1972. If, of course, Dr. Kissinger did know of the SS–19's large size in May 1972, as Assistant Secretary Slocombe claims, then Dr. Kissinger's 1972 and 1975 statements suggest that he not only misled Congress by incorrectly implying that the U.S. unilateral definition of a heavy ICBM would bind the Soviets, but that he also knew in 1972 that the Soviets would later violate the U.S. heavy ICBM definition by deploying the SS–19. The issue thus could become the old Watergate question: What did Kissinger know and when did he know it Mr. Slocombe's own analysis raises the unpleasant question of whether there was an attempt during SALT I to suppress critical intelligence information, a Watergate within Watergate, regarding the coverup of bona fide national security issues. Slocombe's description of the SS–19 case therefore implies a much more serious criticism of Dr. Kissinger than that he was simply duped by the Soviets and that he incorrectly assured the Congress that the U.S. unilateral heavy ICBM definition was binding on the Soviets. Slocombe's analysis implies that Kissinger knowingly misrepresented U.S. knowledge of the SS–19 to the Congress in 1972 and again in 1975. Further, Slocombe's analysis could also imply that Kissinger suppressed information on the SS–19 in order to delay widespread recognition of the true facts.

However, we need not settle these troubling questions here. There is additional evidence which shows clearly that U.S. SALT I negotiators were simply naive and did not know about the large size and throwweight of the SS–19 in May 1972.

The key lesson for us to learn from the SS–19 is that when the Soviets refuse to agree to a constraint or a precise definition, they are defending a program. Equally obvious, to claim that a U.S. unilateral statement will have a constraining effect on the USSR is foolish. Nevertheless, neither of these lessons was followed in negotiating Article IV of SALT II, as we shall see.

Ambassador Smith's New York Times article contains only half of an important story. Strangely, the facts have been suppressed and distorted. It is true that in early May 1972, the Soviets informally told U.S. SALT negotiators that they had two new missiles, now known as the SS–19 and SS–17, both of which were somewhat larger than the SS–11.

How much larger and how committed the Soviets were to these new missiles were the crucial questions, however. On these two key points, it is clear that the Soviets actively misled the U.S.[3] I would like to make several points to support this contention. First, the Soviets implied that the SS–19 was not much larger than the SS–11, when in fact they knew the SS–19 was much larger. By suggesting that it was not their intention to approach the mid-point in volume between the SS–11 and the SS–9 with their new missiles, as Smith reveals, they exploited U.S. uncertainties about the volumes of their earlier missiles as well as the complete U.S. ignorance of the volume of the SS–19, which at that point had not been flight-tested. The SS–19 had been under development since the mid-1960's; the Soviets clearly knew all along that the SS–19 was a heavy ICBM. In fact, the SS–19's volume is closer to the mid-point between the volumes of the SS–9 and the SS–11 than it is to the SS–11's volume.[4]

Second, the Soviets tried in May 1972 to justify their refusal to agree to a definition of a heavy ICBM by arguing that such a definition was unnecessary because both sides already knew which ICBMs were heavy and light. The Soviets said repeatedly in May 1972 at the Moscow Summit:

> There was no need for a definition of a heavy ICBM since the Soviet approach fully precluded conversion of launchers for other types of ICBMs covered by the agreement into launchers for heavy ICBMs [Article II]. It was the Soviet view that both sides had a clear understanding of what light and heavy ICBMs were and that there was no reason to believe that during the period of the Interim Agreement this understanding would not continue to prevail.[5]

This Soviet position was precisely the opposite of the true situation and a camouflage of their true intentions. They regarded the SS–19 as a heavy ICBM all along and as the prime candidate to replace the light SS–11. Hence the above Soviet statements were directly deceptive and misleading. They were a deliberate Soviet effort to circumvent Article II's prohibition against replacing light ICBMs with heavy ICBMs, and to deceive the U.S. about their intentions.

Third, the Soviets also hinted that they might be willing to agree to a total ban on any larger missile replacing the SS–11. This suggestion was, however, likewise diametrically the opposite of their true intentions, as revealed by their later large-scale deployment of the SS–19. Contrary to Slocombe's account, the Soviets implied the opposite of their true plans. All three of these little-known Soviet ploys were deliberately misleading, and each constituted a negotiating deception. They comprise clearcut evidence of an active, deliberate Soviet intention to mislead.

Was U.S. intelligence deceived? In 1971, U.S. Air Force intelligence warned of the likelihood that the Soviets would replace their small SS–11 missile with a much larger, heavier missile. This accurate USAF warning went unheeded, and in 1971 the U.S. intelligence community wrongly estimated that the SS–11 replacement missile would be a "new small ICBM." This judgment persisted through the May 1972 negotiations.

In the fall of 1972, even after SALT I was ratified and before the large SS–19 was flight-tested, U.S. intelligence was still wrongly referring to the SS–19 as the "new small ICBM." The SS–19 was not flight-tested until early 1973; so there probably was no feasible way that the U.S. could have known about its true size or throwweight throughout 1972.

Were senior Nixon Administration policymakers also deceived about the SS–19 in 1972? As noted, Dr. Kissinger assured Senator Henry Jackson and Congress on June 15, 1972, that: "There is the safeguard that no missile larger

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Footnotes at end of article.

than the heaviest light missiles now existing can be substituted," and that we had "adequate safeguards against a substantial substitution of heavy missiles for light missiles."[6]

All policy statements to the Congress during the summer of 1972 SALT I ratification hearings are fully consistent with Kissinger's "safeguard" assurances. For example, on June 6 and July 24, 1972, Defense Secretary Melvin Laird said this about *volumetric* constraints on new Soviet ICBMs:

> Senator Jackson . . . I believe that any growth of light missiles, in either diameter or depth, that exceeds 10 to 15 percent would be a *violation of the agreement*. * * * In no case would it be possible for the Soviet Union to retrofit their SS–11 silos with a new significantly *larger missile*. * * * I believe that up to a 30 percent *volume* increase in one dimension could be possible and I believe anything over and above that would a *violation* under the most liberal interpretation of the agreement.[7] (Emphasis added.)

Ambassador Smith said on June 28, 1972 to the Senate: "Well, [what] our position stated unilaterally was if they tried to deploy in SS–11 holes a missile substantially larger in volume than the SS–11, that would be considered a heavy missile and would count, and would be a violation of the nonconversion provision." When asked what the limits were on the size of new missiles, Smith then conceded, "We have no specific benchmark. *I think we will have to look at what comes along.*"[8] (Emphasis added.)

Finally, Admiral Elmo Zumwalt advocated clearer and stricter standards. He put the following statement into the Senate Hearing's record on July 21, 1972:

> It is my view that the same *10 to 15* percent understanding . . . should be applied also to the term "significantly greater" in Unilateral Statement D [i.e., the U.S. Unilateral Statement defining the *volume* of a heavy ICBM as any missile significantly greater in volume than the SS–11].[9] (Emphasis added.)

Thus any Soviet ICBM from ten to fifteen percent larger in volume than the SS–11 was to have been prohibited according to the U.S. unilateral definition as it was clearly explained to Congress. But the SS–19 turned out to be fifty to sixty percent larger in volume than the SS–11, however, and has four to five times the SS–11's throwweight.

We can therefore conclude that Dr. Kissinger, Secretary Laird, Ambassador Smith, and Admiral Zumwalt would *clearly* not have made these precise statements to the Congress in 1972 if they had known then that the SS–19 was in fact fifty to sixty percent larger than the SS–11 and at least 400 percent heavier in throwweight. Through a combination of own sloppy negotiating and Soviet duplicity, the USSR was able to wrest a clear strategic advantage from SALT I. My belief is that Dr. Kissinger was duped by the Soviets and misled the Congress by implying that the U.S. unilateral definition could bind the Soviets. Although some contend that the SS–19's deployment does not violate the SALT I Agreement in international legal terms, the fact cannot be denied that it violates the Interim Agreement *as it was explained to the Congress*.

Further evidence of U.S. ignorance of the SS–19 in 1972 comes from Defense Secretary James Schlesinger in March 1974:

> *What we were unprepared for was the enormous expansion of Soviet throwweight represented by the SS–X–19* as the potential replacement for the SS–11. Earlier versions of the SS–11 were of lesser throwweight but the SS–X–19 has a throwweight of 2 to 3 times as much as even the SS–11 Mod 3. . . . In recent years the USSR has been pursuing vigorous strategic R & D program. This we had expected. But its breadth, depth, and momentum as now revealed come as something of a surprise to us. During the past year alone, the Soviets have tested four new ICBMs, the SS–X–16, SS–X–17, SS–X–18, and SS–X–19 . . . *the new ICBMs are of special interest*. Three of the four have been flown with MIRVs, and all of them are being designed for increased accuracy. . . . The SS–X–17 and SS–X–19 are considered as successors to the relatively *light SS–11*. They have from *three-to-five* times the throwweight of the earlier model SS–11s. . . .[10] (Emphasis added.)

Dr. Schlesinger added in a 1974 press conference that the SS–17 and SS–19 "can no longer be treated as light missiles." Nevertheless, it took the U.S. as long as until early 1975, *after* the signing of the Vladivostok Accords, to raise the question with the Soviets about the SS–19 for the first time. And even then, the U.S. did not bring a charge of SALT violation; instead, the U.S. abjectly conceded to the Soviets that the SS–19 counterforce, first-strike weapon was really a light missile and not a heavy one after all. This was the surprising resolution of an issue at the core of U.S. national security.

In sum, even Dr. Kissinger reluctantly had to admit on August 12. 1979, that he had been "outfoxed" in SALT I by the Soviets.

> In 1972, the Soviet Union had two missiles that we were aware of. The SS–11 and the SS–9. The SS–9 was a heavy missile. At that time, the biggest worry that we had—in fact, the only worry we had about substitution—was the emplacement of the S–9 into the SS–11 silos, and we thought that we had sufficient assurance that the SS–9—that is to say, the heavy missile—would not be emplaced into the SS–11 silo. What we did not understand at that time *and on which we had no evidence whatever at the time, because it didn't exist*, was that the Soviet Union would construct a missile [i.e., the SS–19] which was *sort of halfway between the SS–11 and SS–9;* that is, technically it did not violate the limitations of a fifteen percent increase [i.e., silo size], * * * Using all the fine points of the print, [it] was technically within the agreement. It was simply our lack of knowledge that such a missile existed or could be built. . . . I would call it *sharp practice* [i.e., by the Soviets].[11] (Emphasis added.)

Kissinger thus explicitly conceded that he had been deceived by the Soviets in SALT I.

The CIA has concluded that "we cannot exclude the possibility that the Soviet leaders, if they believed they could succeed, would approve a program of concealment and deception designed to help gain a strategic advantage over the U.S."[12] We can now be more certain than the CIA. The Soviet leadership perpetrated the SS–19 deception, and this deception achieved a significant Soviet strategic advantage by dramatically increasing the Soviet counterforce threat. In sum, the Soviets actively misled the U.S. about the SS–19's size by suggesting that it was only slightly larger than the SS–11, and by suggesting that a large SS–11 replacement missile might be banded. They also falsely argued that there was no need for a heavy ICBM definition and that they did not intend to replace light missiles with heavy ones.[13]

Finally, we can conclude that the failure to anticipate a Soviet SS–11 replacement missile as large as the SS–19 was a massive U.S. intelligence failure as significant as the continuously worsening underestimates of Soviet strategic deployments durings the 1960's.

THE SLBM DECEPTION

In addition to the SS–19 deception, the Soviets executed a quite complex deception regarding SLBMs in May of 1972. This deception consisted of four false elements:

The Soviet-proposed level of 62 submarines/950 missile-launchers was, in fact, the *Soviet planned level* for 1977, although the U.S. did not realize this. The thirty old SLBMs on nuclear H-class subs were also hidden within the 950. This, too, was not known to the U.S. in 1972.

The Soviets actively *falsified* their claim of 48 subs with 768 SLBMs operational and under construction in May 1972 in order to minimize the number of old ICBMs they would have to deactivate. The U.S. only discovered this fact in 1978.

The agreed compromise level of 740 was also probably significantly higher than the actual Soviet level, still allowing them to minimize the required deactivation.

Most significantly, the whole Soviet rationale for such a high level of 62/950 was completely undercut by the existence of the long-range SS–N–8 SLBM which existed but was not demonstrated until after the May 1972 SALT I summit.

Since that summit, the Soviets have physically concealed submarine hull sections under construction, have built dummy submarines, have camouflaged subs, and have constructed berthing tunnels to conceal them. Thus there has been active physical deception related to all SALT I submarine issues, and this physical deception clearly aided the May 1972 negotiating deception.[14]

Those who defend Soviet compliance of SALT usually concede the SLBM deception. They generally admit that Soviet SLBM deployment was not frozen, but they argue that U.S. negotiators knew in 1972 that Soviet SLBMs were not really frozen. The main supporting evidence for the judgment that 62 subs with 950 missiles was the originally planned Soviet program through 1977 comes from Ray Garthoff. Garthoff wrote that the 62/950 was the *highest* level estimated in 1972 for 1977, and that this level provided no real restraint. From 1969 to 1972 Garthoff was a key member of the U.S. SALT I negotiating team. He made his analysis during the period 1972–77, with the benefit of hindsight and also the freedom to criticize the faulty submarine overestimates of 1972.

More significantly, all senior U.S. officials testified to Congress in 1972 that Soviet SLBM contruction would be *stopped* by SALT I. They argued then unanimously in Senate testimony that in the absence of the ostensible SALT I 62/950 "freeze" on Soviet SLBMs, the Soviets could have had *eighty* to *ninety* strategic submarines by 1977. Both Garthoff and John Newhouse point out, however, that this eighty to ninety boat estimate was exaggerated and was not a national intelligence estimate.[15] It was a deliberate overestimate, concocted by the National Security Council staff *after* the 62/950 was agreed upon, in order to make this level look like a major constraint of about eighteen to twenty-eight boats.

Finally, it should be clear to all that the SS–N–8's long range of over 4,300 n.m. completely undercut the rationale for allowing the Soviets their SALT I superiority of twenty-one more submarines than the U.S. This rationale was the "geographical asymmetry" argument. This was a *Soviet*, not a U.S. argument. The long range of the SS–N–8, however, demonstrated only after SALT I was signed, falsifies the *Soviet* argument for allowing *Soviet* superiority, and amounts to another clear-cut case of *Soviet deception*. Dr. Kissinger's public acceptance of the Soviet geographical asymmetry argument in May and June 1972 *proves* that the U.S. was deceived.

Americans need to understand clearly that the negotiations have been almost exclusively conducted using *U.S.* data for both sides. Even the SALT II quantitative data exchange, which some think is a breakthrough in traditional Soviet secrecy, can be faulted.

Footnotes at end of article.

Judging from the Data Exchange memoranda of SALT II, the Soviets merely provided data about the numbers of their own systems which could easily have been derived from the U.S. press. It should not surprise us that these data, of U.S. origin, are consistent with the U.S. intelligence data they are used to confirm. As long as the U.S. continues to provide essentially the data on the numbers and characteristics of the weapons for *both* sides, the U.S. will be at a crippling disadvantage. The Soviets have obviously been able to exploit this wholly one-sided negotiating environment quite well. It can reasonably be argued that the U.S. should negotiate no further arms limitation agreements with the Soviets until they provide all of their own data, especially qualitative data, in detail. Otherwise they will continue to exploit and even manipulate U.S. intelligence. The intelligence asymmetry is an extremely important Soviet advantage in the negotiations which has persisted throughout SALT I and II.

Finally, the Soviets could be charged with still another violation of SALT I. They reportedly now have more than their 62 allowed strategic missile submarines, but Defense Secretary Laird and Admiral Zumwalt both said in 1972 that simply having, even under construction, more than 62 strategic submarines by the end of SALT I would be a violation.[16]

THE MOBILE ICBM BUILDING DECEPTION

On mobile ICBMs, the Soviets not only ignored the U.S. Unilateral Statement against mobile ICBM *deployment*, but, more important, the Soviets violated Brezhnev's pledge to President Nixon not to *"build"* mobile ICBMs. The Soviets nevertheless have "built," tested, and stockpiled mobile ICBMs—a large number, over 100 SS–16s.[17] The testing, production and stockpiling of the SS–16 ICBMs were also thoroughly concealed, through active Soviet camouflage.[18]

Although it may be argued that the SS–16s have not been deployed, this status is in fact even *more dangerous* than if they were overtly deployed. Deployment could now occur suddenly in a crisis and dramatically shift the strategic balance. Moreover, the mobile SS–ICBM launcher is identical to the mobile SS–16 ICBM launcher, and the missiles are so similar that it would be very difficult under any circumstance to prove that SS–16s are *not* deployed.

Further, there is still more evidence of deception regarding mobile ICBMs. According to Ambassador Gerard Smith, the Soviets told us in SALT I that the Interim Agreement was a freeze on "ongoing programs," and that "neither side had mobile ICBMs." The Soviets added: ". . . therefore it was inappropriate to include them in a freeze."[19] Yet, on the contrary, the Soviets did have an ongoing mobile SS–16 ICBM program. This is another example of active Soviet falsification.

Finally, there has been continued deception in SALT II on mobile ICBMs. The Soviets were able to agree to SALT II's constraints on mobile ICBMs because they had probably already tested and produced as many as they needed. The U.S. has again been deceived into believing that SALT II constrains Soviet mobile ICBMs, when in fact it is the less advanced U.S. mobile M–X ICBM program which is constrained by the SALT II Protocol. And the ban on Soviet mobile SS–16 ICBM production is totally unverifiable.

THE OFFENSIVE "FREEZE"

The contention that the Interim Agreement did not constrain Soviet ICBM and SLBM programs is easily supported. There is good evidence that there was no restraint in SALT I on Soviet SLBMs. As we have noted, the originally planned Soviet SLBM program through 1977 was actually codified in SALT I, not limited. If SLBMs were not constrained, then it would seem unreasonable for the Soviets to have accepted constraints only on their ICBM deployment, the most important component of their strategic forces.

Why, then, have the Soviets halted the increase in their ICBM inventory? The following seven factors, not attributable to SALT, indicate that the Soviets themselves decided to stop adding additional ICBM launchers and to switch to MIRVing in 1970–1971:

The Soviets had already exceeded the long-frozen U.S. ICBM launcher number of 1,054.

The U.S. was at the same time emphasizing qualitative improvements—adding more warheads rather than launchers, through MIRVing.

Soviet ICBM factory production capabilities could not provide enough missiles for both new launchers and the retrofitting of old ones; and new MIRVed ICBMs had been under development since 1965, implying some dedication of production capability.[20]

U.S. ABM and MIRV deployments in early 1970, concurrent with U.S. SALT proposals designed to constrain Soviet ICBM MIRVs, combined to give the Soviets strong incentives to shift from quantitative to qualitative MIRV deployments themselves. An April 1970 Brezhnev speech also suggests this.[21]

In July 1970, the Soviets reportedly proposed that they might accept being allowed only 300 to 350 heavy ICBMs. These numbers probably reflected their original SS–9/SS–18 plans, because they bracket the 313 SS–9s allowed in SALT I.[22]

The Soviets reportedly started SS–19 and SS–18 silos in late 1970, and these were intended for MIRVed ICBMs.

The Soviet 1971–1975 five-year plan was approved in February 1971, just after the time the Soviets began construction of new silos for MIRVed ICBMs in 1970, suggesting that the emphasis in the 1971–1975 plan was upon MIRVing rather than additional launchers.

Garthoff sums up the situation of early 1970:

> . . . having surpassed the U.S. in number of ICBMs, *the Soviet leaders decided to cease the buildup of ICBM launchers*. After SALT began, no additional groups of ICBM silos were begun for a year. *Indeed, three groups of SS–9s in early construction were abandoned in 1970*. . . . The Soviet cessation of its ICBM buildup was, in my view, intended as a "signal" in SALT, although *it also reflected a Soviet intention to shift to a new generation of ICBMs* . . . construction began [in 1970] on some 80 new ICBM launcher silos. . . .[23]

Garthoff adds that these new silos were for the MIRVed SS–18 and SS–19, and the *abandonment* of the old SS–9 silos at the same time reinforces the conclusion that a shift in ICBM generations was occurring then. The decision by the Soviets to shift from increasing the number of launchers to MIRVing, i.e., increasing the numbers of RVs, was reached well before SALT I was signed.

Finally, we need to consider U.S. overestimates of Soviet forces used to justify SALT I. In mid-1972, the President, the Joint Chiefs of Staff, and the National Security Council did estimate that *without* the ostensible constraints of SALT I, the Soviets might have had as many as 2,400 ICBMs and eighty to ninety strategic missile submarines by 1977. These levels are obviously much higher than the Soviet SALT I levels of 1,408 ICBMs and 62 subs with 950 SLBMs. However, the Department of Defense conceded in 1972 that:

> A growth of 1,000 in the Soviet ICBM force over the period 1972–77 *is not projected in any NIE* [National Intelligence Estimate]. The President was alluding to Soviet *capabilities*. The Soviets have demonstrated a capability to deploy some 200 ICBMs per year. . . . At a production rate of eight [i.e., strategic missile submarines] a year [i.e., the maximum demonstrated rate], the Soviets could have about 67 [strategic submarines] operational at the end of the five-year period.[24]

Thus the overestimates were made by the White House, and were not agreed, coordinated NIEs. Moreover, by 1972 the Soviets had already stopped adding ICBMs, and the eighty to ninety submarine level was much higher even than the "maximum" level of 67. This evidence indicates that there were *deliberate overestimates* to justify SALT I, and a failure to recognize MIRVed ICBM retrofit as the Soviet intention.

Finally, since there has been widespread discussion of a highly classified CIA study by the present writer, it seems only fair to cite this evidence that SALT I did not constrain Soviet programs.

> The study . . . cites specific, documented instances when the late Marshal A. A. Grechko—until his death in 1976, the Soviet Defense Minister—issued dictates to Brezhnev concerning what was and was not acceptable to the Soviet military in the Politburo's SALT posture . . . the Soviet military five-year plan predetermines Moscow's SALT negotiating positions in a binding way. . . .[25]

The Soviet military did not allow any SALT constraints on their strategic programs.

THE SOVIET BOAST OF SALT VICTORIES

A number of defense officials have admitted to being puzzled about the purposes underlying Soviet deception and their massive strategic buildup. Assistant Secretary Slocombe, for example, declared, "Exactly why the Soviets are pushing so hard to improve their strategic nuclear capabilities is uncertain."[26] But, the Soviets are not uncertain; they clearly seek strategic and geopolitical supremacy over the U.S.

Unusual and striking evidence of aggressive Soviet intentions in SALT I and II has recently reached the West. A senior researcher on U.S. military policy, affiliated with the Institute of the USA and Canada (IUSAC), Rostislav G. Tumkovskiy, published the following frank description of SALT I and II in the Soviet historical journal (*Voprosy Istorii*) intended for *internal* Soviet dissemination:

> In essence, signing of the Interim Agreement . . . affirmed the effectiveness of the USSR's *reciprocal measures* to strengthen its defense and deter imperialist nuclear aggression. *The political significance of this victory of the Soviet Union in the arms race . . . can hardly be overevaluated* . . . [the] 1972 Moscow agreements, *like the Vladivostok agreement of 1974* [i.e., the basis for SALT II], noted the *defeat* of the American strategic arms race policy.[27] (Emphasis added.)

Tumkovskiy's unusual forthrightness about SALT I and SALT II through Vladivostok is surprising, especially given the timing of its publication just prior to the U.S. Senate's SALT II debate. Such a statement would indeed be unlikely to appear in the IUSAC's journal *USA*, which is intended for American readers.

Tumkovskiy does not mention strategic parity as a possible Soviet SALT goal. In fact, he states elsewhere that parity had to exist before SALT could begin. Nor does he deny that the Soviets seek superiority. He therefore implies that defeat of a presumed U.S. intention to preserve superiority left the way open for a Soviet attempt to go beyond parity. The recognition of Soviet victory in the arms race thus strongly implies the Soviet intention to achieve strategic superiority. Moreover, his references to Soviet reciprocal military measures apply to the massive

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Soviet military buildup now in fact heading for strategic superiority. The appearance of these statements suggests that the Soviets have confidence that the "correlation of forces" (including political, economic, social, psychological, as well as military factors) has shifted sufficiently in Soviet favor for them to express their stark SALT objectives more candidly. Further, the IUSAC is known to have close ties to the Soviet Politburo, so Tumkovskiy's views can be assumed to have reached the leadership. Indeed, their publication suggests that they were authorized by the leadership.

Tumkovskiy also exposes a highly competitive Soviet view of SALT, in contrast to the widespread Western view that SALT is a cooperative, non "zero-sum" game in which both sides and the whole world can win through mutual concessions and mutual advantages. Under the rules of detente, agreed to in May 1972 in the Declaration of Principles of U.S.-Soviet relations, seeking unilateral advantages in diplomacy is supposed to be illegitimate. Tumkovskiy reflects the Marxist dialectical, "zero-sum" approach to all negotiations, however, in which one side must win and the other must lose. Unilateral advantages at the expense of the other side are the standard Marxist goal.

Tumkovskiy's boast also implies that, as in SALT I, the Soviet leadership would only sign a SALT II Treaty in which it believes it has again won important unilateral advantages at U.S. expense. Just as he provides evidence that the leadership believes that it "won" in SALT I and through Vladivostok, he also implies that the leadership may believe that it has won again since Vladivostok in SALT II. By defeating ostensible U.S. aims for "superiority" in SALT I, they surely recognize that they have achieved quantitative strategic superiority, at least in the explicitly acknowledged category of number of "strategic delivery vehicles." Soviet SALT I quantitative superiority of 648 ICBMs and SLBMs is indisputable. His statements support the judgment that the Soviets will continue to try to increase their superiority even within the terms of SALT II, that they believe they have achieved the upper hand. Would Americans like to have the SALT II Vienna Agreement described as another Soviet victory in a few years?

Further evidence of Soviet recognition of their unilateral advantages and superiority from SALT I comes from an earlier volume of the same Soviet historical journal. Another Soviet strategic expert acknowledged with satisfaction the facts that the SALT I agreements directly resulted in a *cutback* of 200 in U.S. strategic delivery vehicles and also a *cutback* in U.S. strategic expenditures.[28] In contrast, it is well known that the massive Soviet strategic buildup in additional SLBMs and new MIRVed ICBMs continued uninterrupted throughout the 1972 period, and Soviet strategic spending has consistently *risen* throughout SALT I and II. In fact, the Soviets have spent over $100 billion more than the U.S. during the 1969–1979 SALT decade on strategic forces, about two and one half times more each year. During the 1969–1979 SALT decade, the Soviets have added over 1,000 new operational missile launchers and 150 Backfire bombers, while the U.S. has maintained a constant number of missile launchers and unilaterally deactivated over 250 B–52 bombers.

Finally, Tumkovskiy's recent statement can be contrasted with the May 26, 1972, statement of Soviet TASS Director, Leonid Zamyatin:

"In the opinion of the Soviet leaders, the concluded agreements should help us to *avoid a new round of the strategic arms race* . . . the agreements signed today are based on the recognition of the principle of equal security for both parties and do *not give unilateral advantages* to either side. . . ."[29]

But there was a new Soviet round in the arms race after SALT I, and a Soviet "victory" in SALT I can only be a unilateral advantage. Zamyatin's false 1972 assurance is merely another example of Soviet deception.

THE SOVIET THRUST TO SUPERIORITY THROUGH SALT

After ten years of détente and SALT, there is now sufficient evidence to conclude that the Soviets have been exploiting the SALT negotiating process to retard U.S. weapons programs and to lull the U.S. into complacency, while they complete their broadly-based military buildup and try to achieve overall geopolitical supremacy. The chief architect of détente and SALT, Dr. Kissinger, finally publicly recognized the relentless aggressive thrust of Soviet military and foreign policy. He said in 1979:

> . . . The 1980's could turn into a period of great instability . . . for a period of five to seven years the Soviets may develop an advantage in power useful for political ends . . . we could be heading into a period of maximum peril . . . by some time in the early 1980's the Soviet Union will have the capability to destroy with a reasonable degree of confidence most of our land-based ICBMs. In the same period of time we will not be able to destroy the Soviet ICBM force. This creates a gap in the design of the two forces that is bound to have a geopolitical consequence, especially since we are clearly inferior in forces capable of local intervention. . . . The present Treaty [SALT II] comes up for ratification at a time of grave danger to our national security and to the global equilibrium. The military balance is beginning to tilt ominously against the United States in too many significant categories of weaponry. . . the immediate future is a period of great peril.[30]

William Hyland, a former Kissinger deputy, also said recently, "We are already witnessing the political consequences resulting from a shift in the overall military balance."[31] These are disturbing forecasts from those who were SALT I's negotiators and defenders. The principal cause of the shift in the strategic balance was SALT I. This shift will not be arrested by SALT II. Given the long lead times required for strategic weapons, it may be almost too late for the U.S. to avoid the opening Minuteman vulnerability "threat window" of the early 1980's. By 1985, fully within the terms of SALT II, the Soviets will have achieved strategic supremacy.

In terms of Marxist dialectics, the shift in the "correlation of forces" is inevitable to the Soviets. The shift reflects their belief in the determinism of history. The Soviets and their proxies have already been exploiting this shift, as their relentless foreign policy achievements reflect:

SALT I, which the Soviets regard as a great "victory";

The Soviets' "Great Grain Robbery" of 1972;

The "face down" of the U.S. in the Yom Kippur crises, 1973:

Angola, 1974–1976;
Zaire, 1976, 1978;
Viet Nam, 1972–1975;
Laos, 1975;
Cambodia, 1975;
Ethiopia, 1976–1977;
South Yemen (PDRY), 1976–1979;
Afghanistan, Iran, 1977–1978;
Nicaragua, 1979;

Economic and trade relations with the West, 1971–1979, in which the Warsaw Pact has run up a credit debt to the West of about $60 billion. This is an indirect Western subsidy to the Soviet defense effort.

These expansionist and provocative activities by the Soviet Union in this era of détente provide a framework for a look at the more specific violations and falsifications of arms control agreements and related diplomatic provocations by the Soviet Union:

Questionable compliance with *all* major provisions of *both* SALT I agreements, most notably the failure to deactivate old ICBMs on time, testing air defense missiles and radars in an ABM mode, and *massive* circumvention of the *ban* on *deliberate* camouflage, concealment and deception through their nationwide camouflage program;

Encryption of telemetry in all SS–20 and in recent SS–18 ICBM tests;

Falsification of the number of ABM test launchers deactivated in 1973;

Falsification of the number of SS–7/8 ICBMs being deactivated during 1976, *three* times. They may not have been in compliance for as long as two years between 1976 and 1978;[32]

Keeping eighteen SS–9 Fractional Orbital ICBMs clandestinely operational at a test range throughout SALT I, circumventing SALT I's is implicit limit on the number of Soviet ICBMs;[33]

The maintaining of eighteen Fractional Orbital Bombardment Systems (FOBS) in the Soviet operational inventory is also a violation of both U.N. Resolution 1884, October 17, 1963, and the Outer Space Treaty of October 10, 1967. Both agreements forbad the placing in space of weapons of mass destruction. The Soviet argument, when challenged on FOBS, namely, that the agreement forbad their being "placed in orbit' but not their development, is a classic example of Soviet deception and of U.S. acquiescence in that deception.

Failure to notify the U.S. in advance as required about their new ABM radar at Kamchatka;

Reportedly providing false and misleading data on the range of the Backfire bomber during SALT II negotiations in Geneva, 1975–1976;[34]

The presence of an SS–11 ICBM canister and ground support equipment at an SS–4 MRBM silo, and sighting of large numbers of old SS–7 ICBMs at an unidentified installation,[35] suggesting that their 1,200 stockpiled old ICBMs may be used as a strategic reserve circumventing SALT I's numerical limits;

The fact that Brezhnev's SALT II statement on the Backfire bomber implies that it does not have intercontinental and refueling capabilities. But the Backfire, in fact, does have both intercontinental and refueling capabilities already;[36]

Soviet falsification of their conventional force levels in the MBFR negotiations;

Recently exceeding the 150 kiloton limit in at least five underground nuclear tests, likely Soviet violations of the Threshhold Nuclear Test Ban Treaty, together with many reported venting violations of the 1963 Limited Nuclear Test Ban Treaty;[37]

The successful, unprecedented, Soviet propaganda campaign against U.S. deployment of neutron warheads in NATO;

Recently resuming microwave bombardment of the U.S. Embassy in Moscow;

Using components from the Western-exported Kama River truck factory for military purposes contrary to the intent of Western exporters;[38]

Reneging recently on the previous Soviet agreement to allow U.S. seismic sensors on Soviet soil for monitoring a Comprehensive Nuclear Test Ban Treaty;[39]

Faulty compliance with the Helsinki (CSCE) agreements;

Reportedly sending "G" class diesel submarines carrying long-range sea-launched ballistic missiles to Cuba twice in 1974, in violation of the secret 1962 Cuban Missile Crisis agreement and the 1970–71 Cienfuegos agreement. Also, the reported presence of an "E" class nuclear submarine carrying long-range cruise missiles in Cuba. And the recent completion at the Soviet Cienfuegos sub-

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Footnotes at end of article.

marine base of a nuclear warhead and missile handling facility. Moreover, recently deploying nuclear-capable MiG-23 fighter-bombers in Cuba in 1978, and maintaining a Soviet combat brigade in Cuba. And, the Soviet manning of Cuban air defenses since 1974; [40]

Finally, laying down an intimidating ultimatum to the U.S. Senate that no amendments to the SALT II Treaty would be tolerated.

The above list is merely a brief recitation of some Soviet challenges to the U.S.-Soviet provocation and deception in foreign policy is nothing new, however. They are merely behaving like the same familiar opportunists they have always been, probing Western resolve and exploiting our weakness wherever possible, all the while expanding their spheres of influence.

The SALT negotiations are only another arena for competition, albeit an important one. Arms control negotiations are not an abstract exercise in legal compromise. SALT is an integral element of Soviet military policy, and the Soviet military clearly dominates their SALT decisionmaking. Their negotiators have no concept of mutual accommodation and concession which could lead to a mutually satisfactory middle ground. Their objective, based upon Marxist-Leninist ideology, is to gain unilateral advantages, which once achieved, are stubbornly defended. They seek to induce complacency and raise false hopes. They provide false information in the negotiations to bolster their negotiating positions. Their patience and tenacity are well known. The history of Soviet foreign policy contains many examples of falsifications, forgeries, and negotiating deceptions. The duplicity of Soviet diplomacy and their noncompliance with international agreements are notorious. Moreover, traditional Soviet military camouflage, concealment, and deception remain routine. After all, Stalin once said:

> Words must have no relations to actions—otherwise what kind of diplomacy is it? Words are one thing, actions another. Good words are a mask for concealment of bad deeds.[41]

This attitude toward diplomacy helps to explain Stalin's greatest diplomatic deception of the West, the surprise Nazi-Soviet Non-Aggression Pact of August 1939. In a similar vein, Khrushchev used Sputnik, missile production boasts, and rocket rattling threats to perpetrate the 1957–1961 "Missile Gap" deception on the U.S. And, in October 1962, Soviet Foreign Minister Gromyko *twice* personally lied to President Kennedy, denying the presence of Soviet offensive missiles in Cuba. Is this the same Gromyko who partcipiated in SALT I and personally negotiated much of SALT II?

SOVIET "GOOD FAITH" IN SALT I?

Dr. Kissinger said to Congress in 1972 that:

> The possibility always exists that the Soviets will treat the Moscow [SALT I] agreements as they have sometimes treated earlier ones, as just another tactical opportunity in the protracted conflict. *If this happens, the United States will have to respond*. . . . If this agreement were being *circumvented*, obviously we would have to take compensatory steps in the strategic field . . . the two countries have a unique opportunity right now to move into an entirely different relationship of building *additional trust*. . . . If it turns out that through legalistic interpretations of provisions of the agreement or through *failing to specify numbers* about which we have left absolutely no doubt as to our interpretation . . . if it should turn out that those numbers are being challenged in any significant way at all, then this would cast a doubt. It would not only threaten disagreement, but it would threaten the whole basis of this new relationship. . . .[42]

On August 12, 1979, Kissinger finally confessed, "I think the Soviets have pressed against the legal limits of SALT I," and, as we have seen, he conceded that the Soviet approach to defending the SS-19 from SALT I constraints was "sharp practice."[43] The conclusive evidence of Soviet negotiating deception in SALT I should raise serious and legitimate questions about their "good faith" in the entire SALT and arms control negotiating process.

Nevertheless, President Carter has averred several times in speeches that the Soviets negotiated both SALT I and II in "good faith." Moreover, Soviet spokesman Georgiy Arbatov (IUSAC Director) also reaffirmed recently, "I would like to reiterate that we conducted [SALT] negotiations in good faith with representatives of three U.S. administrations."[44] But beyond the equally difficult problems of trusting or verifying Soviet SALT compliance, can we trust the sincerity and validity of their negotiating positions?

In fact, however, the clearest evidence of Soviet "shyster" behavior in SALT negotiations and compliance should completely undermine the "good faith" basis of the entire arms control negotiating agenda, from SALT, TTBT, CTBT, MBFR, to ASAT negotiations. How can we even negotiate with a nation which deliberately misleads and falsifies basic data and which violates solemn agreements?

LEGACIES OF SALT I FOR SALT II

SALT I in fact codified U.S. strategic inferiority, which will persist throughout SALT II. The quantitative levels of about 2,650 Soviet U.S. delivery vehicles under SALT I and presently existing are indisputable, as are the massive Soviet advantages in ICBM and overall throwweight. While SALT II does provide, by 1981 various equal levels of 2,250 1,320, and 1,200, the Soviet Backfire bomber force, numbering about 375 by 1985 will be completely excluded, while U.S. Poseidon SLBMs dedicated to NATO *are included* in all U.S. SALT II aggregates. Moreover, the U.S. is going to deactivate *unilaterally* ten Polaris submarines carrying 160 SLBMs. We may never reach our allowed level of 2,250, and we will never have our allowed 820 MIRVed ICBMs, 550 being our ceiling.

Further, the Soviets will, under SALT II, be able to preserve their monopoly on heavy ICBMs. Their 308 SS-18 heavy ICBMs carry *at least* 3,080 warheads. The Soviet SS-18 force, *by itself*, carries more megatonnage than the *entire* U.S. missile force of ICBMs and SLBMs, about 2,618 megatons to 1,814 megatons.[45] The SS-18 force, *by itself*, can thus neutralize or checkmate *all* U.S. strategic forces, thereby giving this force profound geopolitical importance. Moreover, the SS-19 force of 300 to 400 *heavy* ICBMs carrying at least 1,860 warheads can also *by itself*, threaten all U.S. strategic forces. *The Soviets thus* have *two independent first-strike forces*. Their remaining ICBM, SLBM, and bomber forces would comprise a formidable second-strike capability.

Further, the last remaining U.S. advantages, warhead number and accuracy, will be gone by 1985, with or without SALT II. By then, the Soviets could realistically have about 14,500, mostly large, accurate warheads, compared to a U.S. total of, at most, 11,900, half of which would be relatively small and inaccurate SLBM warheads. Their warhead superiority could be achieved fully within the terms of SALT II and with 375 Backfires excluded. By exercising their "new type" exemption option to put ten MIRVed warheads on the entire force of 820 MIRVed ICBMs (which the U.S. has conceded is both feasible and legal and which the Soviets are likely to exploit), and by legally putting fourteen MIRVed warheads on each of 380 allowed SLBMs, the Soviet could achieve a force of about 8,180 counterforce, hard-target ICBM warheads and 5,320 retaliatory SLBM warheads by 1985. In addition, by 1985 they could have over 1,000 unMIRVed ICBM and SLBM warheads, for a probable likely total, approved and authorized by SALT II, of about 14,500 warheads.

But further, large numbers of Backfires, heavy bomber variants, G and H class SLBMs, stockpiled SS-16s, SS-20s, E class SLCMs, test and training ICBM launchers, and older stockpiled SLBMs and ICBMs would be totally excluded from the 2,250/14,500 Soviet SALT II force levels. They have as many as 1,200 stockpiled older ICBMs.

Both Defense Secretary Harold Brown, and Chairman of the JCS, General David Jones, have testified recently about this issue. General Jones declared:

> In some areas, they [the Soviets] have already surpassed us, and we are concerned because their momentum will allow them to gain advantage over the United States in most of the static indications of strategic force by the early 1980's . . . because of the lead times in modern weapons, this progressive shift in the military balance will continue into the mid-1980's with or without SALT.[46]

Defense Secretary Brown confirmed that statement, noting that the already declining U.S. strategic posture will get worse before it can get better:

> . . . The [strategic] balance will be less favorable in the early 1980's than it is now . . . our position will get worse between now and 1981 or 1982 . . . the growing vulnerability of our land-based missile force in the early 1980's could, if not corrected, eventually produce a significant element of U.S. disadvantage and contribute to a perception of U.S. strategic inferiority.[47]

Secretary Brown does not acknowledge that the reason for this further U.S. decline goes far beyond the Soviet counterforce "threat window" to Minuteman opening in 1980. We will have no significant increase in strategic capabilities until about 1982, when a few air-launched cruise missiles and Trident submarines begin to come into the force. Further, the combination of premature Polaris SLBM deactivation, Trident submarine delays, and Trident I missile replacement all occurring concurrently in the early 1980's will severely reduce the number of our *deployable* retaliatory SLBMs from 656 to less than 400. This alarming SLBM drawdown in the 1980's will occur precisely when the threat to our ICBMs is at its highest peak ever, and when we will most need our sub-based, survivable deterrent. Far fewer than even these minimal 400 SLBMs will be at sea at any one time, giving us a very thin sea-based leg of the Triad indeed. An international perception of further declining U.S. strength will inevitably result from the unilateral deactivation of our Polaris SLBMs during a period of growing vulnerability.[48]

More significantly, Under Secretary of Defense William Perry admitted in 1979 Senate hearings that, *in addition* to the severe SLBM drawdown in the early 1980's, *the other two legs of our strategic Triad will become vulnerable during the 1979–1985 term of the Salt II Treaty*. He said that our ICBMs will be vulnerable by 1982 (really 1980) and our bombers by 1985.[49] Thus, by 1985, we will be relying totally *on only part of one leg of our Triad*—patrolling SLBMs. We will lose "essential equivalence" and *we will in fact have a dangerous "minimum deterrence" posture under SALT II*. This is the thinking underlying the President's statement that all we need is one Poseidon submarine.

Probably most alarming is this 1979 JCS statement:

> The Soviets have been outspending us in this area [i.e., strategic forces] by a factor of between two and three for many years and they may well believe that they can achieve a margin of superiority over us in the early 1980's. It is now generally accepted by most

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defense analysts that, *regardless of U.S. actions*, Soviet strategic capability will increase relative to that of the U.S. through the mid-1980's, *with or without a SALT agreement*.[50] (Emphasis added.)

SALT II FLAWS

Pro-SALT advocates assert that SALT II permits the Soviets to deploy only one ICBM of a "new type," and make only "minor modifications" to others. But we have seen that the Soviet modernization and replacement allowed under SALT I exceeded expectations and went well beyond "minor modifications." Again, the SS–19 and the SS–N–8 were much more capable than expected. Yet the Soviets have again negotiated deceptively to achieve the ambiguous language in SALT II's Article IV on "new type" ICBMs. Their provocative, continued use of encrypted telemetry on recent deceptive SS–18 tests indicates clearly that they still have many capabilities to hide. There is sufficient ambiguity in both Articles IV (on new type ICBMs) and XV (on verification) to ensure that the Soviets will be able to test and deploy all five of their reported new fifth-generation ICBMs and SLBMs within the terms of SALT II. The Soviet insistence on this lack of precision and ambiguity in Article IV and their refusal to agree to specific baselines constitute negotiating deception. Just as at the time SALT I was signed the Soviets had convinced U.S. negotiators that what became the fourth-generation SS–19 ICBM would be banned, they have again succeeded in convincing U.S. negotiators that their new missiles will be constrained.

The Administration claims publicly that SALT II will prevent the Soviets from deploying more than one of their five new ICBMs. Nevertheless, the CIA Director reportedly has testified correctly in secret to the Senate Intelligence Committee that the Soviets could deploy all five of their new missiles legally within the terms of the SALT II Treaty.[51] Moreover, a defense official reportedly said privately that U.S. SALT II negotiators "know that the Russians deliberately negotiated Article IV so that they could go ahead and test and deploy all their new missiles without violating the Treaty."[52]

The massive new Soviet ICBM R&D and deployment activity is not likely to halt, even if SALT II is ratified. There is evidence, reportedly, of three new type test silos for the new fifth-generation Soviet ICBMs. As in the cases of the SS–19 and SS–N–8 in SALT I, the characteristics of the five new fifth-generation ICBMs and the new Typhoon SLBM will surprise us. Indeed, Dr. Kissinger sorrowfully said in August 1979:

"We have to count on the fact that the Soviet Union is likely to push to the very limits of the. [SALT II] agreement and do things that we cannot now foresee that would be technically legal but are now unforeseeable."[53]

Moreover, U.S. intelligence, especially the CIA, has a well-documented track record of underestimating both the quantity and quality of Soviet strategic forces, as well as the level of Soviet defense expenditures.[54] The CIA is also capable of overestimating Soviet forces on White House command to show how SALT agreements ostensibly constrain them. This scandalous track record should affect CIA's credibility regarding how SALT II "constrains" Soviet programs, and also U.S. verification capability.

A counter line one occasionally hears from SALT advocates is that U.S. military leaders never wanted heavy ICBMs. In fact, the USAF actually did have plans in the early 1960's for a total of about 250 Titan I and II heavy ICBMs. But a *civilian*, Defense Secretary Robert S. McNamara, cut those plans back to fifty-four. Moreover, in 1973 the M-X ICBM was originally planned to be a heavy throwweight ICBM carrying about fourteen warheads. The Soviet press *still* takes note of these early U.S. plans for fourteen RVs on the M-X. The designed throwweight and RV number of ten for the M-X has in fact been scaled down to fit into the SALT II definition of a "light" ICBM—the launch weight and throwweight of the SS-19. Most significantly, in 1970 the U.S. wanted to maintain the right in SALT I to have 250 *heavy ICBMs* while restricting the Soviets to the same number.[55] Hence, it has never been the case that the U.S. had no plans or military need for heavy ICBMs.

THE BACKFIRE FLAW

The proponents of SALT II also charitably accept the Soviet position on the Backfire. That position deserves analysis.

First, judgments about the mission of the Backfire are inferential, and its basing patterns are subject to rapid change.

Second, the Soviet concession in 1974 at Vladivostok to drop their insistence on counting U.S. "Forward Based Systems" (FBS) in SALT II is cited by the Administration as having been given in exchange for U.S. dropping of our insistence that Soviet heavy ICBMs be constrained. But, the Administration also argues that U.S. FBS were exempted from SALT II in exchange for exempting Backfire. U.S. exemption of our FBS was thus paid for by allowing both a Soviet monopoly on heavy ICBMs as well as a Soviet exclusion of Backfire. The U.S. has, in fact, paid *twice* for exempting our own FBS. Moreover, U.S. FBS already have Functionally Related Observable Differences (FROD) to fully justify their exclusion, and are also inferior in both number and quality to massive and growing Soviet theater nuclear forces. Finally, U.S. FBS are *still* negotiable in SALT III.

Third, counting three B–1s used only for flight tests and about 220 mothballed, unflyable B–52 hulks, while exempting 120 "unFRODed" Soviet TU–142 Naval Bears, 30 "unFRODed" Bison tankers, and 375 Backfires is hardly equitable, especially when over 1,200 stockpiled Soviet *missiles* are also exempted.

Fourth, Backfire's *one-way* range capability reportedly allows it to cover the entire U.S. on mission profiles exactly like those used on most B–52 and FB–111 missions, which are in fact *one way* missions recovering in third countries. But Backfire also reportedly has the capability for *two-way* coverage of the entire U.S. with refueling and Arctic basing. It also has the necessary refueling probes, and sufficient tankers for Backfire are probably available.[56]

Fifth, Backfire has capabilities *superior* to some of those heavy bombers which do count, the Bison and B–52. For example, the Backfire probably has a *range* superior to that of the Bison.

Sixth, by declaring that Backfire will not be given intercontinental or refueling capability, the Brezhnev Backfire statement contradicts the well-known facts that Backfire already has both capabilities. These Brezhnev falsifications are another example of Soviet negotiating deception.

Seventh, Backfire probably has further range growth potential, and its range upgrade is probably going to be difficult if not impossible to determine. Installation of long-range ALCMs on Backfire will probably also be difficult to detect. Further, there are no constraints on Backfire basing and training, another U.S. concession.

Finally, in the course of the negotiations, in 1975 and 1976 the Soviets also provided the U.S. with *falacious* and inconsistent range data on the Backfire. These Soviet data were questioned and quietly withdrawn, but they are another example of Soviet negotiating deception—active disinformation.[57]

In addition to Backfire, *three* more Soviet heavy bomber types are reported under development. Their status and exclusion will be dangerously left to further negotiations, where the U.S. will have reduced bargaining leverage.

FAILURE TO DEFINE HEAVY ICBMS

That the proponents of SALT II accept the current definition of a heavy ICBM is of equal if not greater significance than their acceptance of the Soviet Backfire position. There is a similar need for analysis of the definition of the heavy ICBM. One would think that the difficulties for the U.S. growing out of the imprecise terminology in SALT I would have demanded an exceedingly precise definition of the heavy ICBM. It is interesting to note that Walter Slocombe has declared that in negotiating SALT II, the U.S. has learned from our hard lessons of SALT I. He says that "the most important lesson was to be as specific and precise as possible in drafting treaty language constraining Soviet options." Nevertheless, during the course of SALT II we have *twice* repeated the most important mistake of SALT I—failure to define a heavy ICBM.

First, at Vladivostok in November 1974, we preserved the key SALT I prohibition on heavy ICBMs, but again as in SALT I, we did so without an agreed definition of a heavy ICBM.

In recognition of our lack of success with our 1972 Unilateral Statement on a definition of a heavy ICBM (and most of our other 1972 unilaterals), former SALT II chief negotiator Paul Warnke clearly ruled out U.S. unilateral statements in SALT II during his February 1977 Senate Confirmation hearings:

"My conviction is that with regard to any agreement which is entered into at this time on control of offensive nuclear weapons, *that we could not afford to have unilateral declarations*. The trouble with the unilateral declaration is that you say, 'I am now about to say something which you refuse to say.' So that is almost a built-in formula for disagreement, and I don't think that in the kind of arms control agreement that we ought to use to replace the interim agreement, we ought to have that kind of a situation."[58] (Emphasis added.)

Second, there is nevertheless an important U.S. unilateral statement in the SALT II Treaty. Again, unbelievably, the unilateral statement involves the troublesome definition of a heavy ICBM. Paragraph 7 of Article II partially defines heavy ICBMs as any missile larger in launch weight and throwweight than the SS–19, but, as we learned in SALT I, a clear, agreed distinction between light and heavy ICBMs must be established.

The Administration has conceded that the purpose of defining a heavy ICBM is to provide three key constraints in Article IV of the Treaty: 1) the freeze on the numbers of fixed launchers for modern heavy ICBMs, 2) the obligation that the one permitted new type ICBM be a light ICBM, and 3) the ban on mobile launchers of heavy ICBMs, on heavy SLBMs, and on heavy ASBMs. *A heavy ICBM definition is thus again the key definition of SALT II*.

The SS–19 is to be the baseline between light and heavy ICBMs. In order to be effective, however, the definition must have clear, specific, agreed data on the SS–19's *launch weight* and *throwweight*. Here is the full negotiating record for these specific weights:

On August 16, 1977, in a plenary statement, the United States informed the Soviet Union that ". . . for planning purposes, with respect to ICBMs it might develop, test or deploy in the future, the United States considers the launch-weight limit on light ICBMs to be 90,000 kilograms and the throwweight limit to be 3,600 kilograms." These figures are based on our estimates for the SS–19. *The Soviet Union did not respond to this statement*. The United States will regard these figures as the limits for the one

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new type of light ICBM permitted to the United States under Paragraph 9 of Article IV.[59] (Emphasis added.)

Thus the U.S. unilaterally defined only *U.S.* heavy ICBM's in terms of the SS–19. But we evidently did not even try to get the Soviets to agree to such a definition for Soviet ICBMs. The above statement thus only *implies unilaterally* that any ICBM on the Soviet side with a launch weight greater than 90,000 kilograms (198,000 lbs.) and a throw-weight greater than 3,600 kilograms (7,937 lbs.) will be regarded by the U.S. to be a heavy ICBM.

Not only did the Soviets not agree to these vital specific baseline data, they did not even respond to them. Despite this, the U.S. State Department in July 1979 still claimed: "The U.S. and USSR delegations agreed in the SALT II treaty on a *clear demarcation* in terms of missile *launch weight* and *throw-weight*, between light and heavy ICBMs." This Administration claim is falacious and shows wishful thinking. The Administration advances the strange idea that Soviet silence in the face of U.S. unilateral statements somehow confirms their agreed status.

The State Department claim notwithstanding, there is in effect a U.S. unilateral statement defining a heavy ICBM, just as in May 1972, the U.S. defined a heavy ICBM unilaterally. The only difference is that in 1972 we explicitly called it a unilateral statement. Indeed, our present SALT II unilateral definition is *even weaker* than our more explicit and more positive 1972 heavy ICBM unilateral statement.

Thus, there is still no agreed definition of a heavy ICBM in SALT II, well recognized as the major and most dangerous flaw in both the SALT I Interim Agreement and also the November 1974 Vladivostok Accord.[60]

One step the U.S. might have taken somewhere in the SALT II negotiations was to suggest a three-tiered classification for ICBMs: light, medium, and heavy ICBMs or light, heavy, and very heavy. Such a distinction would have facilitated the SALT II negotiations and the implementation of the "equal aggregates" provision of the Vladivostok Accord.

But, as Slocombe himself stated, "The Soviets should be presumed to be protecting something when they refuse to agree to a specific limitation." In 1976, Slocombe also said: "The lesson drawn from this episode [i.e., the SS–19 problem] by U.S. officials is the need for *explicit* and *precise acknowledgment by the USSR* on even the most technical *details* of these issues." [61] (Emphasis added.) Slocombe and other U.S. negotiators ignored this advice in negotiating SALT II.

It is curious that the new pro SALT II history of the negotiations, by "SALT supporter" Strobe Talbott recognizes that the Soviets "had exploited the failure of SALT to define heavy missiles."

Talbott nevertheless goes on to describe the strange U.S. use of the new diplomatic device of Soviet "noncontradiction" in SALT II:

> This rather contorted procedure, involving a Soviet lacuna filled by American "unilateral interpretation" in turn confirmed by Soviet "noncontradiction," had for a long time been a curious but common feature of the negotiating ritual in SALT . . . the Russians would assent by their silence . . . it had become a mutually accepted practice in SALT that if one side confronted the other with an explicit, unilateral interpretation and the second side did not object, then the interpretation was considered agreed and became enshrined in the negotiating record . . . according to diplomatic practice, Gromyko's "noncontradiction" would be considered tantamount to assent, and it would become part of the negotiating record that would accompany and amplify the treaty. . . .[62]

Thus the Administration claims that a U.S. unilateral statement not contradicted by the Soviets is somehow agreed. This is precisely the status of the heavy ICBM definition in SALT II. The U.S. on August 16, 1977 unilaterally provided U.S. data on the launch weight and throwweight of the Soviet SS–191 ICBM. This was an attempt to define a heavy ICBM. The Soviets, however, did not agree. They did not even respond. The Carter Administration evidently believes that this is another case in which Soviet "noncontradiction" constitutes agreement, because the Administration claims that there is a clear, agreed definition of heavy ICBMs.

Talbott himself recognizes the danger inherent in such U.S. wishful thinking, however:

> One trouble with the diplomatic device of noncontradiction is that an understanding arrived at by the silence of one party is easily undone; all that party has to do is break silence.[63]

Would a good lawyer negotiate key aspects of a commercial contract on this kind of "assent by silence" basis?

Moreover, the Soviets have told us repeatedly that they would not be bound by U.S. unilateral statements, emphasizing the unreality and danger of U.S. trust in the strange diplomatic device of "noncontradiction."

The significance of the continued failure to define a heavy ICBM is that it continues to allow dangerous Soviet deployment options. No launch weight or throwweight baselines for heavy ICBMs means that the Soviets can test and deploy new ICBMs somewhat heavier than the heavy SS–19. If the U.S. would complain or charge noncompliance, the Soviets can be expected to reply simply that they never agreed to the U.S.-supplied baseline data on the SS–19, and that these data are in any case wrong. They could then supply their own "correct" data. Hence, the road is open for continued Soviet deception and noncompliance.

Moreover, all constraints on testing and deploying new ICBMs, which are no more than five percent larger or smaller than existing Soviet ICBMs, also rely upon U.S. baseline data on the launch weights and throwweights. The same is true of the data on Soviet silo dimensions which would compromise the baseline data from which to measure the inexplicable increase of up to thirty-two percent in silo volume allowed in Article IV. But in all these cases, we have reportedly not revealed our data to the Soviets. They have thus not yet had the chance to avoid response, and it is equaly unlikely that they would agree with our data.

In sum, there are significant U.S. unilateral statements and unilateral baselines in SALT II, despite Warnke's disclaimer and our own hard experience in SALT I. Dr. Kissinger conceded on August 12, 1979, in his first explicit criticism of SALT II, that the failure to achieve an agreed definition of the SS–19 "was a weakness in the drafting" of SALT II.[64] Indeed, it could be a fatal weakness. How can Article IV constrain the new Soviet ICBMs without agreed baselines from which to measure five percent variances? Are we going to rely only on Soviet uncertainties about what U.S. baseline data are and on our increasingly weakening enforcement leverage?

The U.S. thus did *not* learn the main lesson of SALT I.

We should not have to tolerate Soviet secrecy in SALT. *The proposition that we can somehow outsmart the Soviets about the status and capabilities of their own secret programs, and then somehow induce them to agree to constrain themselves through SALT is preposterous.* Moreover, as we have seen, the Soviets made many significant false and deceptive statements to the U.S. during SALT I and II, but because they have *never* been called to account for them, they have gotten away with them all.

SUMMARY OF SALT II'S MAJOR FLAWS

In sum, we have not yet learned from Soviet negotiating deception in SALT I. Soviet deception, together with their exploitation of the intelligence asymmetry advantage and the superior negotiating leverage provided by their much more dynamic programs, have resulted in the following six additional fatal flaws in the SALT II Treaty beyond the failure to agree to heavy ICBM and heavy bomber definitions and baseline data:

The gross inequalities allowed in heavy ICBMs, throwweight, and counterforce capabilities. The Soviet monopoly on heavy SS–18 ICBMs, together with their potent heavy SS–19 force, will neutralize or checkmate all U.S. strategic forces, and reduce deterrence at intercontinental, theater nuclear, and conventional levels. And SALT II allows the Soviet counterforce threat to continue to grow dangerously;

The failure to include the intercontinental Backfire in the Soviet aggregate;

The destabilizing constraints, even if temporary and negotiable, on vital U.S. ICBM survivability options (MPS or mobility) in the face of the allowed growth in the Soviet counterforce threat;

The grossly *unequal* constraints on theater systems such as the U.S. GLCM and SLCM, while the Soviet SS–20 and Backfire run free;

The *failure* to adequately control ballistic or cruise missile production, stockpiling, excess missiles, and refire capabilities;

And the failure to prevent the nationwide Soviet camouflage, concealment, and deception program from hindering verification.

Totally within SALT II's provisions, the Soviet Union will have superiority in total warheads and accuracy, the last remaining U.S. advantages, by 1985. They will probably have 14,500 warheads compared to 11,900 for the U.S. They will have more than four times the U.S. ICBM throwweight, and more than two times the U.S. total throwweight (including bomber payload equivalent).

On balance, the present and growing Soviet counterforce capability is what is most dangerous to U.S. national security, because by threatening Minuteman and the other legs of the Triad, the strategic situation in the 1980's will be highly unstable. The Soviets can checkmate or neutralize all U.S. strategic forces, puncturing the U.S. nuclear umbrella over NATO and Japan. Deterrence will be eroded, and U.S. foreign policy is already on the global defensive.

Contrary to all assertions, SALT I and II are in large part responsible for the Minuteman vulnerability problem. The SALT I ABM Treaty denied the U.S. an adequate four- or even two-site ABM defense of Minuteman, which would have unilaterally solved our most serious strategic problem—the vulnerability of our ICBMs. The ABM Treaty does not allow the U.S. even "hard site" defense of ICBMs. We tried to constrain Soviet mobile ICBMs in SALT I, but in doing so we compromised our own option to make ICBMs mobile and therefore more survivable.

Further, both the U.S. Unilateral Statement of May 9, 1972, and the Jackson Amendment to SALT I made it clear that enhancing *the survivability* of U.S. strategic forces was the fundamental U.S. goal in SALT II.[65] It is obvious that SALT II has not achieved this U.S. goal; so in this sense SALT itself is responsible for the vulnerability of U.S. ICBMs. SALT II is thus unbalanced, unequal and destabilizing. And it actually increases U.S. vulnerability. We should not have tried to use SALT to solve what were U.S. unilateral strategic problems.

Allowing the Soviets to achieve an over-

Footnotes at end of article.

whelming counterforce capability and overall strategic superiority through negotiations is indeed a severe indictment of SALT.

FOOTNOTES

[1] Walter Slocombe, ***The Political Implications of Strategic Party*** (London: International Institute of Strategic Studies, May 1971), Adelphi Paper No. 77.

[2] Ambassador Gerard C. Smith, "Wrestling with the Plowshare Problem," The *New York Times,* January 16, 1976.

[3] *Ibid.*; Jack F. Kemp, "The SS–19 and the New Soviet ICBMs Vis-a-Vis SALT II," *Congressional Record,* August 2, 1979, p. 22493.

[4] Colin Gray, *The Future of Land Based Missile Forces* (London: International Institute of Strategic Studies, 1979), Adelphia Papers, pp 32–36; *National Review,* June 22, 1979, p. 795.

[5] *Air Force Magazine,* November 1979, p 22.

[6] *Military Implications of the Treaty on the Limitations of Anti-Ballistic Missile Systems and the Interim Agreement on Limitation of Strategic Offensive Arms,* Hearings before the Committee on Armed Services, United States Senate, 92nd Congress, June–July 1972, pp. 128–129.

[7] *Military Implications,* op. cit., pp 165 and 548; in addition, Senator Jackson asked the following questions for the record in July 1972, and Defense Secretary Laird and the Defense Department supplied the following answers: *Question:* "The largest part of the Soviet land-based ICBM force is in the SS–11 silos. If the Soviets were to retrofit their SS–11 silos with a new missile, how much could they (a) increase the volume of those silos, and (b) increase the volume of the missiles that go into those silos." DOD *Answer*: "Up to about 30 *percent* in both cases. This volume increase is not sufficient to permit installation of an SS–9 class missile in an SS–11 silo." [Author's note: The SS–19 is 50–60 percent larger in volume than the SS–11 and can thus be considered an SS–9 class missile.] *Question*: "Why in your view, did the Soviets refuse to agree to a prohibition on the deployment of ICBMs larger than 70 cubic meters [in excess of 313 permitted "heavy" launchers]?" *DOD Answer*: "In my view the Soviets might have decided they wanted to retain the option to deploy a slightly larger version of the SS–11." (Emphasis added), *Military Implications,* op. cit., pp. 565, 566; in December 1974 former Defense Secretary Laird wrote: "There is no question that if information is available indicating that the SS–X–19 missile deployment will go forward in 1975 with a volume 50 percent greater than the SS–11. such deployment would be in violation of the 1972 Interim Agreement . . . unless amended." Admirals Elmo Zumwalt and Worth Bagley, "Soviets Cheat and We Turn Our Backs," *Washington Star,* August 10, 1975.

[8] *Military Implications,* op. cit., pp. 341, 342.

[9] *Military Implications,* op. cit., p. 511.

[10] *Report of the Secretary of Defense James R. Schlesinger to the Congress on the FY 1975 Defense Budget and FY 1975–1979 Defense Program,* March 4, 1974, p. 5; See also, "News Conference with Secretary of Defense James Schlesinger and Dr. Fred C. Ikle, Director, Arms Control and Disarmament Agency," (Washington: Department of Defense, 1974), p. 12; Senate Foreign Relations Committee, *U.S.-USSR Strategic Policies,* 1974, pp. 4–5, in which Defense Secretary Schlesinger said "Subsequent to the signing of the argreement [SALT I] we see a Soviet research and development program of *astonishing depth and breadth.* This is not to say that they deceived us in the agreement or that the program had been designed to emerge after the agreement. Obviously, these developments were in the cards years in advance because the Soviets have the same kind of lead time problems that we have. But I think it is fair to say that many people, particularly people in the arms control community, have been *surprised* by the strength of those programs." Emphasis added. Later evidence has allowed the judgment that the Soviets in fact did deceive the U.S. with the SS–19, SS–16, and SS–N–8, and that the flight-tests of these programs may have been timed or conducted with the status of SALT I in mind.

[11] NBC–TV, "Meet the Press," Sunday, August 12, 1979, p. 9; "Kissinger Says Soviets Will Exploit SALT II," *Baltimore Sun,* August 13, 1972, p. 2.

[12] Jack Anderson, "Soviet Subterfuge a SALT Concern," *Washington Post,* May 22, 1979.

[13] Assistant Secretary of Defense, Walter Slocombe, in his rebuttal to an earlier article of mine, "The Legacy of SALT I: Soviet Deception and U.S. Retreat." *Strategic Review,* Winter 1979, erroneously describes the U.S. Unilateral Statement D (defining a heavy ICBM) as a "Common Understanding" implying Soviet agreement. The suggests that Slocombe is unfamiliar with the basic facts of SALT I.

[14] *Washington Post,* September 27, 1973; Michael B. Donley, ed., *The SALT Handbook* (Washington, D.C.: The Heritage Foundation, 1979); Senator Jake Garn, "The SALT II Verification Myth," *Strategic Review,* Summer 1979, pp. 19–20.

[15] John Newhouse, *Cold Dawn: The Story of SALT* (Boston: Little Brown, 1973), pp. 244–247.

[16] *Military Implications,* opt. cit., p. 544.

[17] Bernard Weintraub, "Pentagon Aides Say Moscow has Mobile Missiles Able to Reach Us," *New York Times,* November 2, 1977.

[18] See footnote 14.

[19] *Military Implications,* op. cit., p. 381.

[20] *Military Implications,* op. cit., June 28, 1972, pp. 319, 320, 583. Senator Jackson also said: "Ambassador Smith, is it correct that an aggressive Soviet program of qualitative upgrading in which they were to replace SS–9 missiles with a followon and the SS–11s with a followon *could absorb virtually the entire Soviet ICBM production capability as we have seen that capability demonstrated in the past? . . . Could they retrofit over 1200 missiles and at the same time add on to their total numbers in connection with their ICBM program?" Mr. Smith:* "I think that I know of no retrofitting operation of the dimensions you are talking about in the past. As far as I know, they might just go ahead and build new missiles of this type rather than retrofit."

[21] Raymond L. Garthoff, "SALT I: An Evaluation," *World Politics,* October 1978, p 15; Raymond L. Garthoff, "SALT and the Soviet Military," *Problems of Communism,* p. 30.

[22] *Military Implications,* op. cit., July 25, 1972, p 581, in which Professor William Van Cleave further said: ". . . It is clear that for the past two years expected *modernization* of Soviet forces has been regarded as the most *likely contingency* and the greatest matter of concern to us and this is not at all stopped by the agreements." Also, *Military Implications,* op. cit., June 15, 1972, in which Dr. Henry Kissinger said: "The field in which it is *most likely* that they the Soviets will make progress is in the *modernization* of the missiles that are permitted under the agreement. That is, they will not violate the numbers of the agreement, but *they will improve the quality, accuracy, number of warheads, and this is what will represent a threat to our strategic forces."* Also, *Military Implications,* op. cit., p. 245: "There is no evidence that they plan to deploy missiles beyond the new starts they had already made."

[23] Raymond L. Garthoff, "SALT and the Soviet Military," *Problems of Communism,* p. 30.

[24] *Military Implications,* op. cit., p. 565.

[25] *Air Force Magazine,* December 1978, p. 25; *Air Force Magazine,* January 1979, p. 17.

[26] Mr. Walter Slocombe, Public Statement on SALT II, March 21, 1978.

[27] Rostislav Tumkovsky, *Voprosy Istorii* [Problems of History] (Moscow), April 1979.

[28] Georgiy Svyatov, Voprosy Istorii [Problems of History] (Moscow), February 1978, pp. 66–92.

[29] *Military Implications,* op. cit., p. 104.

[30] Interview with Dr. Henry Kissinger, *The Economist (London),* February 3, 1979, p. 17; Dr. Henry Kissinger, Statement to Senate Foreign Relations Committee on July 31, 1979, pp. 3, 28.

[31] *Intelligence Digest Weekly Report,* November 22, 1978, p. 3. Helmut Sonnenfeldt, the other of Kissinger's key deputies added to the Senate Foreign Relations Committee on July 25, 1979 (p. 9, Statement); "There is serious 'concern that at both the theater and intercontinental levels, the ability to control escalation may be shifting to the Soviet side—that our strategic forces may be "decoupled" from our and the allies' other forces." And as Zbigniew Brzezinski wrote in *Newsweek* in 1971 (quoted by George Will in the *Washington Post,* July 8, 1979): "My concern is that the Soviet leaders—particularly the Soviet military—may be deliberately exploiting SALT to attain military 'superiority' over the United States. In that context SALT serves a useful tactic, inhibiting U.S. efforts to improve . . . the U.S. defense potential, and strengthening the hand of those in the U.S. who argue for a lower U.S. defense posture as a means for promoting an eventual arms control agreement with the Soviet Union."

[32] Garn, op. cit.; Rowland Evans and Robert Novak, "A Pattern of Selective Cheating," *Washington Post,* October 3, 1979.

[33] Senator Jake Garn, "The Suppression of Information Concerning Soviet SALT Violations by the U.S. Government," *Policy Review,* Summer 1979, p. 23.

[34] See footnote 22.

[35] *Air Force Magazine,* September 1979, p. 24.

[36] The White House, *SALT II Reference Guide,* questions and answers.

[37] *Washington Post,* June 28, 1979, p. A–14; *Air Force Magazine,* September 1979, p. 22; Rowland Evans and Robert Novak, "Violations of the Test Ban?" *Washington Post,* September 5, 1979; *Congressional Record,* September 5, 1979, p. 23124.

[38] "Soviet Truck Plant Linked to Military," the *New York Times,* May 24, 1979.

[39] Congressman Jack Kemp, Press Release, July 13, 1979.

[40] Senate Foreign Relations Committee, *Hearings on SALT II,* July 11, 1979, afternoon, pp. 92, 93, 95; the *New York Times,* August 6, 1979; ABC News, July 20, 1979; Rowland Evans and Robert Novak, "Latin Dominoes," *Washington Post,* August 6, 1979; p. A–21; William Safire, "The MiGs of April," the *New York Times,* April 1979; Dr. Henry Kissinger, Statement to Senate Armed Services Committee, July 1979; *Air Force Magazine,* September 1979, p. 22; "Soviet Brigade: How the U.S. Traced it," The *New York Times,* September 13, 1979; ABC World News Tonight, October 4, 1979.

[41] In 1839 the Marquis de Custine stated: "The Russians' Byzantine policy, working in the shadow, carefully conceals from us all that is thought, done, and feared in their country. We proceed in broad daylight; they advance under cover; the game is one-sided. The ignorance in which they leave us blinds us; our sincerity enlightens them. We have the weakness of loquacity; they have the strength of secrecy. There, above all, is the cause of their cleverness." *Custines Eternal Russia,* Monographs in International Affairs (Washington, Advanced International Affairs Studies Institute, 1976), p. 114. Also quoted by Foy D. Kohler, *SALT II: How Not to Negotiate with the Russians,* Monographs in International Affairs, Advanced International Affairs Studies Institute, 1979, p. 3.

[42] *Military Implications,* op. cit., p. 128.

[43] NBC-TV, "Meet the Press", Sunday, August 12, 1979, p. 8.

[44] *Newsweek,* May 28, 1979, p. 50.

[45] Seymour Shwiller and Adam Klein, *Strategic Missile Counterforce Capability, U.S. vs. USSR,* House Armed Services Committee unclassified staff paper, 1978.

[46] Hearings before the Senate Foreign Relations Committee, afternoon, July 11, 1979, p. 5.

[47] Hearings before the Senate Foreign Relations Committee, morning, July 11, 1979, pp. 23, 109.

[48] Statement by Senator Lloyd Bentsen, *Congressional Record,* July 16, 1979, p. 18730.

[49] Hearings before the Senate Foreign Relations Committee, morning, July 11, 1979, p. 64.

[50] General David C. Jones, *U.S. Military Posture for FY 1980,* overview p. V.

[51] *Baltimore Sun,* August 10, 1979, p. 1.

[52] Rowland Evans and Robert Novak, "SALT Soviet Style," *Washington Post,* August 10, 1979.

[53] NBC–TV, "Meet the Press," Sunday, August 12, 1979, pp. 9–10.

[54] Albert Wohlstetter, *Legends of the Strategic Arms Race,* U.S. Strategic Institute, USSI Report 75–1; William T. Lee, *Understanding the Soviet Military Threat: How CIA Estimates Went Astray,* National Strategy Information Center, 1977; Amb. Ellsworth and Kenneth Adelman, "Foolish Intelligence," *Foreign Policy,* Fall 1979.

[55] *Military Implications,* op. cit., p. 297; *Air Force Magazine,* September 1979, p. 45.

[56] *Jane's All the World's Aircraft;* Mr. Paul Nitze, Statement to the Senate Foreign Relations Committee, July 12, 1979, p. 5.

[57] See footnote 22.

[58] Paul C. Warnke, Hearings before the Senate Armed Services Committee, February 1977, p. 53.

[59] State Department Document 12A. *SALT II Treaty,* p. 13.

[60] Rowland Evans and Robert Novak, "The SS–19 Loophole," *Washington Post,* July 23, 1979.

[61] Walter Slocombe, "Learning from Experience: Verification Guidelines for SALT II," *Arms Control Today,* February 1976, p. 5.

[62] Strobe Talbott, *Endgame* (Harper and Row, New York, 1979), pp. 14–15, 18, 172–173, 242.

[63] *Ibid.,* p. 257.

[64] NBC–TV, "Meet the Press," Sunday, August 12, 1979, p. 10.

[65] Defense Secretary Laird said on July 24, 1972: "I believe that if the Soviet Union goes forward with a program and that we receive evidence that they are proceeding in a direction which goes beyond normal modernization and which appears to be a concerted attempt to undermine the *survivability* of the minuteman deterrent force, we would view this with great concern. In my view, *such a program would be contrary to the intent of the agreements that have been arrived at in SALT.*" Emphasis added. See also *Military Implications,* op. cit., p. 588. Further, Senator Jackson said, "The intent of the agreements is to enhance our security by enhancing the *survivability* of our deterrent. So you would view Soviet behavior that threatens the survivability of our deterrent as a *violation* of the *intent of the agreements?*" Secretary Laird answered, "I would agree." *Ibid.,* p. 563. Emphasis added. William Hyland concedes that, "The main criticism of SALT II, however, is likely to be that it *fails to make a dent on the problem of ICBM survivability.*" "SALT and Soviet-American Relations," *International Security,* Fall 1978, p. 160.●

A TRIBUTE TO DR. A. EDWARD MAUMENEE

● Mr. WILLIAMS. Mr. President, there is a man at the Wilmer Institute of Johns Hopkins University whose tireless efforts and unsurpassed contributions have quietly yet drastically advanced both clinical and research ophthalmology. His name is Dr. E. Edward Maumenee. I am proud to call him a cherished friend of mine and my wife, Jeanette, and I know that so many of my colleagues share this affection and friendship. Therefore, I would like to take a moment to share a brief history of his accomplishments with the Senate.

The American Journal of Ophthalmology recently published a special edition to honor Dr. Maumenee, and I have an excerpt of this document written by Alfred Sommer which eloquently summarizes his major contributions. I ask that this excerpt be printed in the RECORD.

The article follows:

CONTRIBUTIONS OF A. EDWARD MAUMENEE TO INTERNATIONAL OPHTHALMOLOGY AND THE PREVENTION OF BLINDNESS

Professor Maumenee's contributions to American ophthalmology are already well known and further chronicled elsewhere in this issue. I will dwell instead on a little recognized but no less important aspect of his work: tireless efforts on behalf of international ophthalmology in general and the prevention of blindness in particular. Even while helping to advance ophthalmic surgery to its specialized, sophisticated level of today, Dr. Maumenee recognized this had little meaning for the developing world, where the backlog of untreated cataracts continually grows larger and xerophthalmia, trachoma, and onchocerciasis remain the major causes of blindness.

Dr. Maumenee's involvement in international ophthalmology properly began close to home, when he joined the fledgling Pan-American Association of Ophthalmology, and helped establish its teaching arm, the Pan-American Foundation, for training postgraduate fellows in modern ophthalmic techniques. The highly successful Visiting Professor Program was an outgrowth of these activities, and Professor Maumenee eventually served as chairman of the Board of Directors of the Foundation and president of the Association.

Having established a well-earned reputation for decisive leadership and familiarity with the problems of developing countries, at Sir Stewart Duke-Elder's urging he joined the International Agency for the Prevention of Blindness in 1966, as its first Vice President. Subsequent positions, as its Vice President and Acting President, initiated one of the most fruitful working relationships in the field of blindness prevention, his close and continuing collaboration with Sir John Wilson, President of Britain's Royal Commonwealth Society for the blind.

These two dynamic men composed the first resolution on blindness ever put before the World Health Assembly, as well as the Resolution on Continuing Action adopted at the Jerusalem Seminar on the Prevention of Blindness in 1971, of which Dr. Maumenee was chairman. This was the largest international gathering on the prevention of blindness ever held, and its resolution was significant in several regards: it began the process of reinvigorating the International Agency; established a series of satellite groups, such as the Xerophthalmia Club, to pursue eradication of specific diseases; established the need for "more complete and accurate information on the prevalence of ocular pathology in order to establish appropriate priorities"; and advocated a new discipline, public health ophthalmology, to plan and execute multidisciplinary attacks on preventable causes of blindness, especially in the developing world. In short, this remarkable document laid the foundations for both the burgeoning activities so obvious in this field today, and its direction, declaring future activities "should not be to discuss prevention in global, abstract terms but to seek to formulate . . . plans of action."

Dr. Maumenee returned from visits to India and Africa with renewed concern for the masses of patients with untreated cataracts and blinding onchocerciasis, prodding the scientists and clinicians on his staff to spend at least part of their time addressing these problems. It was only natural he would generously serve on the World Health Organization's first Study Group on the Prevention of Blindness in 1972, and on the first Advisory Meeting of the newly established Special Program for the Prevention of Blindness in 1978, which, if not for prior commitments, he would have chaired. Other activities, including special consultancies to various WHO programs; membership on the Advisory Committee on Prevention Activities of Helen Keller International, among other foundations; organization of symposia, such as "International Problems in Ophthalmology" presented at the full meeting of the American Academy of Ophthalmology and Otolaryngology in 1974, are too lengthy to catalog in detail.

Dr. Maumenee's efforts in advancing the technical competence of ophthalmologists in developing countries and promoting an interchange of peoples and ideas between cultures and countries logically led to his membership on the International Council of Ophthalmology, of which he is now Vice President.

Of less global but greater personal significance to me was his unfailing support of a (then) young epidemiologist eager to apply his past training and experience to problems in ophthalmology, particularly prevention of blindness in the developing world.

Ed Maumenee's involvement continues unabated: at the first General Congress of the International Agency for the Prevention of Blindness, held in Oxford in 1978, where delegates from 50 countries converged to discuss strategies and actions to reduce the terrible burden of preventable blindness in the world today he gave one of the keynote addresses, immediately following Rt. Hon. Lord Home, Britain's former Prime Minister. His commitment and effectiveness undoubtedly spring from his breadth of interest and concern. As his good friend, Sir John Wilson has aptly described it, "so often his common sense and humanity have pierced through the abstractions of planning and priorities to see people behind the statistics." ●

GIRDING TO FIGHT FOR RIGHTS GLOBALLY

● Mr. LEVIN. Mr. President, an important article by Jacobo Timerman appeared on December 12 in the New York Times. Mr. Timerman published an independent newspaper, La Opinion, in Argentina until he was arrested and detained for 29 months, resulting from the Government's dislike of his views. Upon his release he emigrated to Israel.

Mr. President, I submit the article for printing in the RECORD.

The article follows:

[From the New York Times, Dec. 12, 1979]

GIRDING TO FIGHT FOR RIGHTS GLOBALLY

(By Jacobo Timerman)

I have not yet visited all the people and institutions that fought for my freedom for two and one-half years. If I have not done so in spite of the fact that I left Argentina toward the end of September, it is because I was left bewildered by my first encounters in Tel Aviv, New York and Washington. I thought everyone expected to experience a moment of happiness, and I was willing to express my gratitude. But they were not interested in my gratitude and there was not much happiness. I found overwhelmingly defeated men.

Jail and torture weigh so heavily upon the life of a prisoner that it becomes difficult for him to conceive an idea of the world that goes beyond his daily sorrows. When these sorrows end, he believes an entire world has changed. That is not so. In my first conversations, I understood that very little had changed except that one political prisoner—just one—was now a free man. That does not suffice to change the world. Nor does it suffice to change the spirit of those who fought for that freedom.

I found overwhelmingly defeated men who asked me questions with no easy answers. I had believed that these fighters for human rights knew all the answers. I was anxious to learn details of the struggle; they were anxious to know whether the struggle was worth carrying out. They told me about all they did and the little they got for their pains. As the days went by and we spoke, the headlines would bring more disasters than triumphs in the struggle for human rights: Vietnam, Laos and Cambodia, sentences in Prague, hostages in Teheran, assassinations in El Salvador, disappearances in Argentina.

Statistics are dangerous, because it is difficult to know the point of reference from which a statistic on human rights departs. The Soviet Union feels proud that 20 million heroes fell in the struggle against Nazism, but in the Gulags 25 million Russians have been assassinated to date. Statistics keep the count of all those freed from jails throughout the world, but they do not keep count of all those—the majority—that survive, that find strength to keep from dying, as a result of the few news stories about the struggle for human rights. There is a statistic that tells us that in spite of the defeat of Nazism and of Stalinism (that equally destructive phenomenon), horrors that are also unimaginable constantly reappear in places that one would not suspect—Uruguay, Chile. It is a statistic that completely destroys the spirit of struggle because the price humanity paid to defeat Nazism should have abolished horror from the earth.

Until now, the struggle for human rights has resulted from the solidarity expressed through innumerable institutions, individuals and just one Government, the United States. Today, the overall threat against rights easily surpasses the threat that could emerge from just a single state, as in the cases of Hitler's and Stalin's, or that could originate from a particular ideology. Aggression against human rights has become the recourse of all ideologies, of all tendencies. Whether in a minuscule rightist country such as Uruguay or in an immense leftist country such as China, the simplest formula for arriving at and staying in power is the unlimited destruction of human rights. When aggression against humanity centered on a symbol—Hitler or Stalin—it was easy to understand; it was easy to organize against its apocalyptic message. But today aggression against humanity is widespread, broken into tiny particles of infinite variations of aggression. As we enter the 80's, as we prepare to conclude this century, which saw the greatest, most beautiful, most original accomplishments of the spirit as well as the greatest horrors, it would appear that the final 20 years will be marked by horror.

Thus, the fighters for human rights should adjust themselves to this new situation. What has been a feeling of solidarity should now be transformed into an ideology. What until now has been an endless sequence of isolated institutions should solidify into a worldwide movement for human rights—a private movement without intervention of governments so that it will never feel the temptations of "reasons of state." What up to now has been the struggle for the rights of free speech, of information, of religious freedom, should convert itself into the struggle for only one right—the right to life.

Little news pierces the jail cell's darkness. Usually, it comes as whispers. But the news of this movement, of its ideology, would arrive. Even as he remained in his cell, the prisoner of conscience would find a way to use this news to survive. The first step would swell us with joy—even if it were just a first step, because the struggle for human rights will never conclude as long as men live. Herein lies its beauty, its tragic beauty.●

IOWA SETS THE PACE IN CONSERVATION SUPPORT

● **Mr. CULVER.** Mr. President, I am proud that Iowa was the first State to institute a cost-sharing program to assist farmers in installing good soil conservation measures. Since 1974, Iowa has provided over $20 million in cost-sharing moneys for effective soil conservation.

This year Iowa will establish another first with a new program which will provide farmers with cash payments as an incentive to switch to conservation tillage. The program, called Iowa Till, is designed to demonstrate on a widespread basis the benefits of conservation tillage in controlling soil erosion and water pollution and in saving energy.

The Iowa Till program was recently described in an article by Rod Swoboda in Wallaces Farmer. I commend this article to my colleagues because of the critical need to protect our irreplaceable soil and water resources. I ask that Mr. Swaboda's article, "New Iowa Soil Programs Emphasize Conservation Tillage," be printed in the RECORD.

The article follows:

NEW IOWA SOIL PROGRAMS EMPHASIZE CONSERVATION TILLAGE

(By Rod Swoboda)

Soil conservation cost-share programs have traditionally favored permanent practices such as terraces and other erosion control structures. But tillage is now getting more attention.

The Iowa Department of Soil Conservation (DSC) has two new such programs offering $1 million in total cash payments for 15 counties.

"The state of Iowa is funding this to speed up the pace at which farmers are adopting conservation practices," says DSC director Lary Vance. "This makes Iowa the first state with a state-funded program providing incentive payments to get farmers to switch to conservation tillage.

"We only have an average of 6 to 8 in. of the original 16 to 18 in. of topsoil left in Iowa," says Vance. "And at current rates we lose another inch every 12 years. That precious, food producing topsoil is the base of Iowa's economy and is worth protecting. Also, research shows that sediment eroded soil is the No. 1 polluter of our rivers, lakes, and streams.

"Presently, only about one-third of Iowa's cropland is adequately treated with conservation. At the rate present programs and practices are moving, it will take 150 years to resolve soil loss problems in Iowa. That will be too late.

"We're not trying to paint a pictuure of doom. We are involved in nonpoint (208) pollution planning which is called for by federal law. This has helped us identify erosion problem areas and consider new things we can do to save soil."

IOWA TILL

The 1979 Iowa legislature ruled to allow DSC to spend money on incentive payments for conservation tillage. Since 1973 the legislature has, from the general tax fund, provided DSC the money for voluntary 50 percent cost sharing for permanent conservation practices—terraces, waterways, etc. The legislature provided $5 million for this fiscal year and the next.

"So now, up to 10% of this appropriation may be used for one of the new programs, the one called Iowa Till,"explains Vance. In August, the state soil conservation committee decided to make use of the entire 10% allowable for conservation tillage. Thus, $500,000 has been allotted for the Iowa Till program.

"Farmers participating in Iowa Till receive a one time, one lump $30 payment," explains Leon Foderberg, DSC conservationist in charge of the two new programs. "You sign a 5-year contract, agreeing that a specified acreage will be planted in conservation tillage for 5 years.

"After the crop is planted, a minimum of 55 percent of the land surface must be covered by crop residue," says Foderberg. "That amounts to at least 2200 lb. of residue per acre for land previously in corn, and at least 1000 lb. per acre on land that was in soybeans.

"The first year a farmer complies with the program, he is paid $10 per acre shortly after planting," says Foderberg. "District technicians will check fields after planting each spring to make sure there's enough crop residue for the farmer to stay in the program. If the field doesn't meet contract specifications, the entire payment must be returned to the state of Iowa."

WINDBREAK INCENTIVE PROGRAM

In 1978, legislation passed to allow road use tax funds as incentive payments to install practices which prevent erosion by wind along ditches and roads. In July 1979 this was ruled constitutional by the Iowa attorney general. Work started with the Iowa DOT and city and county engineers to identify roads having bad problems with windblown soil.

Called WEICP, "this program aims to keep soil out of road drainage ditches and protect against driving hazards," says Foderberg. It would provide wildlife habitat and save tax money spent for ditch cleaning. WEICP options include:

Grass strips, 50 ft. wide, planted the length of the area to be protected, north or west of designated roads. Only tall grasses like brome or switchgrass qualify.

Grass strips must be left alone to grow tall year around. No grazing, harvesting, mowing, or driving on it is allowed. It's not to be a turn strip for equipment. Incentive payment for grass strips is a one time $500 per acre payment on a 5-year contract.

Field windbreaks. Single windbreaks can be no closer to the road than 200 ft.; multiple row windbreaks no closer than 100 ft. Tall growing trees or shrubs qualify. Incentive payment is a one time $1000 per acre on a 10-year contract.

Conservation tillage on land that's causing wind erosion near roads is a one time $30 per acre payment on a 5-year contract. At least 55 percent of the surface must be covered by crop residue.

"Any combination of these three practices is acceptable if the combination is needed and approved by DSC," says Foderberg. For example, you could be paid $30 per acre for conservation tillage. Then $500 per acre for a grass strip that's next to the conservation tillage. If the practices don't pass yearly inspection, the entire payment must be returned.

Counties selected and number of row crop acres on contract for Iowa Till for 1980 planting: Benton (967), Cedar (3333), Clinton (1546), Jackson (1967), Plymouth (1090), Story (3340), and Winneshiek (3554). For

WEICP, counties selected and acres on contract are: Greene (2340), Dallas (3056), Kossuth (2674), Pocahontas (321), Clay (2148), Cerro Gordo (8), Franklin (2074), Hardin (3½). Fifty-five total miles of road are protected.

Farmers signed up fast. Both programs are filled for 1980 planting. The state committee will decide if funds will be used to continue the programs in coming years and if they will be expanded to more counties.

WHAT IS IOWA TILL?

Vance admits that experts disagree whether 2200 lbs. of corn residue can cover 55 percent of the surface. "We're interested in how much residue is left on top after planting—not in the kind of equipment used," he says. "Minimum till, conservation till, no-till, etc., all mean different things to different people. But when someone says Iowa Till, you know they're talking about any kind of system that leaves 55 percent or more crop residue on top after planting."

Cost sharing for conservation tillage probably won't be funded on a widespread scale like permanent practices such as terraces and waterways are funded. "This Iowa Till program is a demonstration over wide acreage areas to show farmers what they can do to save energy, time, and soil," says Vance. "We selected large acreage watersheds where we could get a big group of farmers together in the area on the program. We will sample water to compare to areas not using Iowa Till.

"Such cost sharing will likely stop once we accomplish our goal of visible results on wide acreages," says Vance. "We hope farmers see these results and adopt Iowa Till in a big way on their own within a few years.

"You can cover a lot of acres with money spent for conservation tillage compared to permanent practices like terraces—which cover less acres for a high dollar amount.

"Of Iowa's 27 million crop acres, 18 million are either washing or blowing away. If farmers left at least 55 percent crop residue on the surface after planting, it would adequately control 60 percent of Iowa's erosion. However, there would still be a need for permanent practices like terraces where Iowa Till alone can't hold soil loss to a permissible level.

"Of that 18 million acres, about 14 million are being damaged by water, 4 million acres by wind. On the 4 million, Iowa Till and WEICP practices could reduce soil loss to acceptable limits. On 6 million of the 14 million acres with water erosion, Iowa Till could limit losses to acceptable. On the remaining 8 million acres, we can buy time by reducing soil loss up to 50 percent until permanent practices such as terraces are built." ●

TRUTH IN MILEAGE

● Mr. JAVITS. Mr. President, on November 28, 1979, I was joined by Senators DECONCINI, MUSKIE, and RANDOLPH in introducing amendment 715, the Truth in Mileage Information Act of 1979. This amendment is designed to correct the discrepancy that exists between the Environmental Protection Agency mileage estimates and actual (in use) fuel economy. In addition, it would assure that consumers will be able to rely upon the EPA mileage estimates on the stickers of new cars and thus be able to make a more informed automobile purchase decision.

The technology is in place to resolve this discrepancy. EPA has attempted to make changes in the fuel economy testing program but, these changes have been challenged. Without a clear congressional mandate the resolution of this problem will go unattended. I have asked that the Senate Energy and Natural Resources Committee move expeditiously to the consideration of this matter when the Senate reconvenes in January.

Again, I call the Senate's attention to the fact that the automobile fuel economy program is our Nation's most visible energy conservation program and it is the standard by which our conservation effort will be judged. Moreover, recent reports from the Department of Energy indicate that this discrepancy will widen as automobile manufacturers produce more fuel efficient automobiles. If this discrepancy is allowed to widen, it will be impossible to achieve the gasoline conservation goals we have established for the country.

I hope my colleagues will join with me and the cosponsors in assuring that consumers receive information on which they can depend with respect to automobile fuel economy.

The New York Times, in today's edition published an editorial entitled "Truth in Mileage." The editorial calls on both the Federal Government and the industry to provide prospective buyers with a more realistic guide to fuel efficiency. It also notes that if the discrepancy continues, it could cost the country an extra 1.2 million barrels of daily oil imports. I ask that this editorial be printed in the RECORD.

The editorial follows:

[From the New York Times, Dec. 17, 1979]

TRUTH IN MILEAGE

Is your 1979 sipmobile a secret tippler? Millions of Americans are discovering that cars with high fuel efficiency ratings from the Government in fact deliver far fewer miles per gallon than expected. At the least, prospective buyers need a more realistic guide to fuel efficiency than the numbers currently published by the Environmental Protection Agency. And it is time to take a hard look at Government requirements to see whether the public would be better served by tougher standards over the next five years.

In 1975, Congress ordered the auto companies to raise the average fuel efficiency of their new cars within a decade from about 14 miles per gallon to 27.5. The manufacturers have responded with design changes that meet the interim goals along the way and most industry experts predict that the targets will be achieved.

What Government surveys have belatedly discovered, however, is that in daily use, new models—particularly those with the best ratings—don't come close to meeting the promised performance. According to the Department of Energy, the 1978 models that are presumed to average 19.6 m.p.g. are in fact getting only 15.9. And by projecting this shortfall into the future, the department fears that the official 27.5 m.p.g. standard will in fact bring 1985 cars averaging only 19.2 m.p.g. If so, the shortfall will cost the country an extra 1.2 million barrels of daily oil imports.

There has been no fudging in the official testing. The ratings are based on simulated road tests of prototype models, which corresponded closely to actual performance when the testing began in 1975. Since then, however, the test results have increasingly diverged from reality. That is mostly because small, fuel-efficient cars have proved to be far more sensitive to adverse weather and road conditions and to poor maintenance and driving habits.

The agency could, of course, change its test procedures to reflect real driving conditions more accurately. But this would impose much tougher standards on the manufacturers in mid-program, which no one wants to do without the approval of Congress.

There are really two policy issues here. Car buyers surely have a right to know what mileage to expect. The Government should provide that information by testing ordinary production models under ordinary driving conditions. The second and tougher question is whether these findings should be substituted for past standards in determining compliance with the law.

Thus tightening the standards would save gasoline. But to comply, with the manufacture would have to accelerate the installation of expensive technology, reduce the number of larger cars they produce, or both. And until one knows what it would cost to improve efficiency more quickly, there is no telling whether a crash program is worth the effort. An improvement that would cost car buyers $20 and save a barrel of imported oil would obviously make sense. But what of changes that save $20 in fuel at a cost of $50 or $100?

Senator Javits is sponsoring legislation that would make certain the Government's numbers do not mislead car buyers. Without coercion, Detroit would be well advised to avoid misleading them in its advertising, as well. How much the shortfall can be corrected is not yet clear: it takes at least two years for modificaions in car design to reach the showroom. But it is not too early in any case to look for additional ways to save oil imports in the years ahead.●

GLOBAL CARTELS

● Mr. MATHIAS. Mr. President, on October 31, Senator JAVITS and I held hearings on S. 1010, our bill to establish a commission to study the impact our antitrust laws have overseas. We heard from many expert witnesses, and many of them ventured that these laws in practice work to the great disadvantage of U.S. manufacturers in the competition for overseas markets.

In this context, I request that an article from the December 11 Washington Post be printed in the RERORD.

The article follows:

DOCUMENTS SHOW GLOBAL CARTEL IN ELECTRICAL GEAR

(By Morton Mintz)

SOUTH BEND, IND.—In a rare glimpse inside the secret world of international cartels, a University of Notre Dame economist and two associates have obtained documents showing price-fixing, bid-rigging and elaborate other collusion in the worldwide sale of nearly $2 billion a year in heavy electrical equipment.

The documents are from an organization called the International Electrical Association. Its offices are in Switzerland; its members, as of 1977, were 49 West European and six Japanese manufacturers of gear for generating electric power in both conventional and nuclear plants.

No Americans firms belong. On the contrary, the documents and an accompanying draft report by the university economist and one U.S. associate indicate the cartel is powerfully squeezing U.S. companies, blocking them out of export markets. The domestic heavy electrical equipment industry is withering and this is one reason, the two suggest.

The documents also indicate that, at least in years past, the cartel companies have heavily overcharged their weaker customers, sometimes by as much as 60 percent and particularly in less developed countries of the Third World. The report estimates the likely present-day proceeds of this price inflation at $300 million to half a billion dollars a year.

The report also points out that cartel companies are now moving into the U.S. market for the first time and starting to form joint ventures with weakened U.S. competition. "In effect, the United States firms have become distributors for their former overseas rivals," the report says.

The material shows no clear violations of U.S. antitrust laws. But the 300 documents covering 2,000 pages lay bare a fascinating, generally unseen world of detailed compacts and coded communications, secret punctilio and bureaucracy. There is an "Agreement Y," an "Agreement X(W)," a reference in some of the documents to a "Mr. Japan." There is an elaborate nine-page set of "Conciliation Rules" to resolve disputes among members.

There is a pre-bid notification system—members must notify headquarters in Lausanne in advance of almost all bids they intend to make—which the report says has "been the backbone of the cartel's operations since 1930." There are also carefully worked out systems, product line by product line, for formulating prices before bidding and allocating sales among members, and procedures in some cases whereby designated winning bidders pay compensation to the "losers."

The Notre Dame economist is Richard S. Newfarmer. His associates are Barbara Epstein, also an economist and now vice president of Horace J. DePodwin Associates Inc., a New York consulting firm, and Kurt R. Mirow, a businessman who says the cartel impeded expansion of an electrical equipment company he owns in Brazil.

The documents, which detail activity into 1977, were leaked to them by an unidentified former member of the IEA staff.

They have written about the international electrical equipment industry before: in 1977, the United Nations Conference on Trade and Development published a report on the industry by Epstein and Mirow, and the next year published another by Newfarmer. Epstein and Newfarmer wrote the new report, which is based mainly on the 300 new documents. Newfarmer made the report and documents available last week to The Washington Post.

The Organization for Economic Cooperation and Development in Paris says that, as of 1974, there were more than 500 registered international and national cartels involved in world trade. The best known today is OPEC, the Organization of Petroleum Exporting Countries. The industrialized countries that are its main customers deplore OPEC's effect, and wince at talk that other raw material cartels may form along the OPEC model in the Third World.

Newfarmer and Epstein find irony in this, in light of IEA and other industrial cartels. "Tolerance of clandestine cartels places home governments in an increasingly awkward position when they express opposition to raw materials or other cartels in the Third World," they say.

Efforts last week to reach Derek F. French, IEA's secretary-general, for a response to the Newfarmer-Epstein report were unavailing.

Major U.S. companies claimed to know almost nothing of the cartel and reacted warily to the main recommendation Newfarmer and Epstein make, which is that there be a federal investigation of the cartel's impact on U.S. exports and domestic commerce.

In Fairfield, Conn., a General Electric Co. spokesman said the company "certainly would be interested . . . in any facts that would provide us with a clearer picture of any cartel situation that might exist."

In Pittsburgh, a Westinghouse Electric Corp. official said, "We are not in a position to judge whether the information now available would indicate whether any government inquiry should or should not occur." In a 1971 complaint against dumping of large power transformers, Westinghouse told the U.S. Tariff Commission it was "evident that a price-fixing agreement exists or did exist . . . among the European producers."

In Milwaukee, an Allis Chalmers Manufacturing Co. spokesman said any recommendations would be "premature since we have no knowledge of the IEA or its operations and activities." Allis Chalmers is a 50–50 partner in a domestic joint venture with Siemens of West Germany, a founding member of the cartel.

In Washington, Bernard H. Falk, president of the National Electrical Manufacturers Association, after being given a summary of the documents, told a reporter without commenting specifically on IEA that "Congress should give attention to any unfair, illegal, unethical international trade practices." NEMA's 575 members make all kinds of electrical gear.

The IEA was founded in 1930. Two U.S. firms, International General Electric and Westinghouse Electric International, were among the founders. Of the other founding companies, four were British, two German and one Swiss.

By 1939 the cartel had 39 members. Its activities were interrupted by World War II. After the war, the Federal Trade Commission forced the U.S. members to withdraw, on grounds their participation was a violation of antitrust laws.

In a 1948 report on the cartel the FTC said its purpose was to help member companies "get together for . . . discussing and agreeing upon price quotations and terms."

The most important postwar enlargement of the cartel came in the late 1960s, with the corraling of the renascent Japanese, who posed an increasing competitive threat to the older European members.

"The most critical change in cartel operations in recent years has been the incorporation of the Japanese manufacturers," Epstein and Newfarmer say.

They describe the firms as full "participants in IEA's cartel practices." Yet, the report notes, Japan in 1947 passed a law prohibiting its corporations from entering "into an agreement or international arrangement which contains such matters as constitute unreasonable restraint of trade or unfair business practices."

Partly because of this law, it appears the Japanese firms pay dues to the IEA on a different basis than the European. This "has the merit of establishing that you are not members," Secretary-General French said in a March 1978 letter to the Japanese firms.

Epstein and Newfarmer, however, note wryly that these Japanese nonmembers contribute one-fourth of IEA's entire budget.

The Japanese companies involved in IEA are Fuji Electric, Mitsubishi Electric, Toshiba Shibaura, Hitachi Limited, Mitsubishi Heavy Industries and Meidensha Electric. They are known inside IEA as the JPA. The JPA periodically designates an executive from one of its companies to speak for all in Lausanne; he becomes "Mr. Japan."

IEA's European members were, as of 1977: 11 Italian firms, including Fiat Termomeccanica e Trubogas; nine British, including General Electric Co. Ltd., which is unrelated to the U.S. GE, and C. A. Parsons Co.; eight French, including Compagnie Generale d'Electricite (Delle-Alsthom); five West German, including AEG-Telefunken, Siemens, and their joint venture, Kraftwerk Union; five Swiss, including Brown Boveri; four Swedish, including ASEA; two each Austrian, Dutch and Norwegian, and one Finnish.

For their estimates of cartel pricing practices, Epstein and Newfarmer rely heavily on IEA records of members' sales of large transformers in the years 1965 through 1967. The records—the best set the economists have—list base prices from points of shipment and exclude transportation and insurance costs.

Newfarmer and Epstein then looked at the prices paid, under various bidding conditions, by various countries, none of which is able to manufacture such equipment. They found three patterns.

First, higher prices, on average, were paid by developing than by developed countries. Second, prices were higher when cartel rules required winning bidders to compensate losers than when such rules weren't applied. Third, prices were highest—and the developing-developed country differential was the greatest—where only one IEA member bid than where several did.

In this last case, the economists found that developed countries (such as Australia, Greece, Ireland and Israel) paid 114 percent of the base price, on average, while developing countries (including Brazil, India, Indonesia, Mexico, and such OPEC members as Saudi Arabia and Venezuela) paid an average 162 percent.

Newfarmer said that sometimes there was only one bidder, apparently by pre-arrangement within the cartel. The authors also note in their report that the Japanese had not yet been brought into the cartel when this one set of transformer sales was made. After the Japanese joined up, they say, the number of "special arrangements" increased "substantially."

Their estimate of the proceeds from price inflation by the cartel is mainly an extrapolation from the 1965–1967 transformer accounting records at the IEA to allow for all product lines and present-day prices.

Many U.S. industries have lost some ground in world export markets over the last 20 years to resurgent competitors from Western Europe and Japan. In the electrical equipment industry. Newfarmer and Epstein suggest, the U.S. share of exports to countries covered by the cartel has fallen, probably in part because of the IEA's activities.

Here they note two patterns. Some U.S. companies have gone out of business; others have gone into joint ventures with IEA companies. They cite these examples:

In 1959, four American firms produced hydroelectric turbines. Today, there is only one major U.S. producer, Allis Chalmers.

In 1972, the Tariff Commission found that the eight U.S. producers of large power transformers had been injured by dumping, at depressed prices, by European IEA members. These, the commission warned, have the capacity "to threaten the continued existence" of the U.S. large-transformer industry.

A year later, one of the eight firms shut down. In 1976, a second stopped making such gear. Also in 1976, Allis Chalmers annouced it was halting production and forming a joint venture with Siemens of West Germany to import transformers.

(The Allis Chalmers spokesman said that Siemens-Allis operates under an agreement providing, "without any limitations," for doing business" anywhere in the world without control by either of the parent companies.")

Westinghouse is the only U.S. firm with its own technology for power circuit breakers. (Its spokesman recalled that "promptly" after acquiring a Belgian member of the IEA called ACEC, Westinghouse compelled it to resign from the organization. He declined to explain why.)

GE and Hitachi have formed a joint venture, High Voltage Breakers Inc., under which GE imports Hitachi main parts from Japan for assembly here. (The GE spokesman termed the agreement "very limited, specific, and entered into in the exercise of proper business purposes—in this case, to obtain the necessary technology that gives us a competitive product which is attractive to U.S. utilities.")

Brown Boveri bought Studebaker-Worthington's gas turbine division in 1977 and has a turbine servicing facility in Richmond.

Siemens-Allis is offering a full line of "engineered electrical equipment," some of it made in the United States and some in West Germany.

GE and Westinghouse have moved from temporary layoffs in turbine-generator production facilities to actual reductions in employment and manufacturing capacity.

As further indications of new IEA interest in the American market, Newfarmer and Epstein cite Agreement Y and Agreement X(W).

Under Agreement Y, cartel members began in 1974, for the first time, to report to Lausanne the value of orders from American buyers.

"At least on its face this isn't collusive," Newfarmer said in an interview. "But we don't know enough about it. It may indicate an increasing concern in the cartel for the American market."

Agreement X(W) requires cartel members who make water turbines to notify Lausanne whenever they plan to tender a bid to a prospective U.S. buyer.

"This creates the same opportunity for prebid price-fixing on orders in the United States as exists for developing countries in all of the product categories," Newfarmer told a reporter.

The report says that "there is no reason to believe that the European and Japanese firms colluding 'in the morning' on sales in the developing countries would be able to resist the temptation to do so 'in the afternoon' on sales in the United States."

Mr. President, I urge all of my colleagues to read this report. We, of course, have no way of knowing if the allegations are correct, and I will withhold judgment until the proper authorities in the European Economic Commission (EEC) and elsewhere have made their determination. But on its face, I find the phenomenon described as a flagrant and calculated act of economic warfare. While we insist that our manufacturers play by the rules, their foreign competitors have seemingly conspired to freeze Americans out of the market. If the behavior described in the article is accurate, I would expect it to fall clearly within the ambit of the antitrust laws of all of our major trading partners, including the EEC and Japan.

Senator JAVITS and I intend to have further hearings on S. 1010, and we will study this case in detail, especially its ramification on the enforcement of U.S antitrust laws at home and abroad. One provision in our bill requires the Commission to study the legal basis for the so-called effect doctrine. This doctrine allows the U.S. Government or injured parties to sue under our antitrust laws in our courts if the illegal activity has a serious effect on the United States, even if the conduct complained of occurs overseas.

The alleged international conspiracy to fix prices in heavy electrical equipment would be a good place to start the Commission's inquiry.

On a related matter, the Washington Post, in two recent editorials, underscored the importance of undertaking this examination of our antitrust laws at the earliest opportunity. The Department of State and the Department of Justice are engaged in a running dispute on the reach of the U.S. antitrust laws against foreign governments. Again, our proposed Commission intends to examine the issue in depth. I request that the following editorials be printed in the RECORD.

[From the Washington Post, Nov. 4, 1979]

ANTITRUST: THE NEW IMPERIALISM

American antitrust law does not travel well. The recent attempts of U.S. courts to reach across international borders to regulate the foreign operations of American companies—and sometimes the foreign operations of foreign companies—demonstrate that. The argument in favor of the practice is that it's necessary to control the activities, both competitive and anti-competitive, of the multi-national corporations. But the friction—unsurprisingly—rises when other governments, in particular in Western Europe and Canada, pursue national policies that openly conflict with American antitrust law. They frequently encourage—and sometimes even require—kinds of industrial cooperation that the United States regards as criminal conspiracy. In a pointed rebuke to the United States, the British government has now drafted legislation to shield companies in Britain from American courts.

The big and brilliant example is the Westinghouse uranium case—a head-on collision between two different concepts of justice and public interest. Westinghouse had promised cheap fuel to its nuclear customers and, when the price shot up in the early 1970s, the company was badly hurt. It charged that it was the victim of a price-fixing conspiracy based in Canada.

The Canadian government replied that it was no conspiracy—it was Canadian national policy to enforce a minimum price. American protectionism had driven the world price of uranium artificially low, the Canadians said (accurately), and they were acting to protect their own resources and their national interest from American exploitation.

But the Justice Department prosecuted the Gulf Oil Corporation, whose Canadian subsidiary was involved, and last year a federal judge fined it $40,000. Now, with far more money at stake, Westinghouse is in federal court in Chicago pursuing a civil suit against all of the companies that operated under the Canadian uranium scheme. The others are Australian, South African and British.

The British response is explicit. The bill now moving rapidly through Parliament not only would block any American attempt to subpoena evidence in Britain; if an American company were to get punitive damages against a British company, this bill would also provide that the British defendant could get compensation from the American company's British assets.

Especially in Europe, it is common for governments to promote industrial policies requiring mergers, division of product lines and markets, and pricing agreements. This is frequently done to create industries capable of competing with bigger and better established American companies. Americans have worked out their rules of competition at home, and are now trying to extend them into international commerce as sort of an afterthought. But to most Europeans and Canadians, competition mainly means international competition, with industry at home organized above all to meet the pressures of that unforgiving environment. The Sherman Antitrust Act is not a suitable instrument for the regulation of world trade. Maintaining international competition is the proper business of diplomats and negotiation, not federal judges and litigation.

[From the Washington Post, Dec. 11, 1979]

ECONOMIC IMPERIALISM

The Justice Department wants to investigate charges of price-fixing involving Saudi Arabian oil. Four American oil companies are partners in Aramco, which produces most of it. But the majority owner is the Saudi government. The Saudis are adamant in refusing the Justice Department's demands for internal Aramco financial data, and they theaten retaliation if those demands persist. The U.S. State Department is pressing Justice to back off.

It's another step in the Justice Department's campaign to treat other governments as though they were American companies subject to American antitrust laws. The deparment is being pushed by several congressional committees. But the State Department is, unfortunately, right in its warning of the damage that these grabs for extraterritorial jurisdiction are doing to American interests.

An earlier case began with Canada's policy of setting minimum prices on its uranium, some of which was being mined by an American company. That also seemed to the Justice Department to be a violation of American law. But there are not many subjects in world politics more touchy than the United States' voracious appetite for other countries' natural resources and American pressure for more production at lower prices. To other and smaller countries dealing with American oil and mineral companies, this legal campaign against their price policies has a sinister implication. It looks to them like an official attempt to reach through the American-based multinational corporations to force down the prices for the oil and the ores this country wants.

It's hard to think of a more foolish target for the Justice Department's zeal than Saudi Arabia and Aramco. For one thing, the Saudis are currently selling their oil for $8 a barrel less than, for example, the producers in the British North Sea. One very large question at the OPEC meeting next week in Caracas will be Saudi pricing for the coming year. Beyond that, Saudi Arabia can take over Aramco completely whenever it chooses. For the present, it has left the four American companies with 40 percent of the partnership because, presumably, it wants them to continue as engineers and managers for the fields. With a few more orders on the American companies for internal Aramco data, the Justice Department can succeed in effecting the complete nationalization of the company. But those are tactical considerations, and secondary. It's the principle that's wrong.

The Justice Department seems to be saying that when foreign governments deal with American economic system and consequently fall under the requirements of American commercial law. Canada has formally taken vigorous exception to that idea. So has Great Britain. So will Saudi Arabia.●

CONSTITUENT MAIL FAVORS FTC

● Mr. METZENBAUM. Mr. President, every day I continue to receive mail from people in Ohio and throughout the country commenting favorably on the actions of the Federal Trade Commission. These letters of support for the FTC are not the result of some organized campaign, but rather are individual and personal expressions of concern that the agency be allowed to continue its regulatory responsibilities on behalf of consumers.

I would like to share a newspaper column with my colleagues today which I am sure has encouraged more than one person to dash off a letter to a Member of Congress. This column, by the nationally syndicated columnist, Marianne Means, appeared in the Los Angeles, Calif., Herald Examiner on September 25.

I ask that the newspaper column be printed in the Record.

The column follows:

SPECIAL INTERESTS TAKE AIM AT THE FTC

Government deregulation has a nice ring to it. It sounds benign. It conjures up images of increased competition and lower prices in the marketplace. It holds out hope for less red tape and paperwork.

Lobbyists for big business interests have been very successful recently in drumming up support for the notion that the federal government imposes too many rules and standards on too many individuals and industries. Deregulation has become a popular rallying cry on Capitol Hill, and it has the potential for transforming some stultified industries, such as trucking.

Unfortunately, it is also the banner under which selfish special interests may be on the verge of destroying the Federal Trade Commission.

The FTC, you see, has been doing its job too well. It has aggressively been challenging a wide variety of industries suspected of unfair and deceptive trade practices. The FTC has initiated proceedings to regulate funeral directors, used car dealers, children's television advertising, the oil industry, credit bureaus, insurance underwriters, chemical companies, the auto industry, health spas and many other powerful vested interests.

As a result, nobody loves the FTC but the people. It is on the enemies list of the Chamber of Commerce, the National Association of Manufacturers, the Business Roundtable, and every industry on which it has focused. And these groups have mounted a massive campaign to put the FTC out of business.

There's more trouble ahead. The House of Representatives is pressing for a one-house veto over all future FTC regulations. Thus far, the Senate has not been enthusiastic about this evil little scheme, but it may be wavering. The one-house veto would allow either the Senate or the House, acting alone, to kill any FTC ruling within a specified period of time.

Unlike normal legislative decisions, the president would have no power to add his own veto.

President Carter opposes the one-house veto as unconstitutional, as President Ford did before him. It may represent a violation of the separation of powers, since the legislative branch would be intruding upon the functions of the executive branch.

The FTC is on the right track and it would be a betrayal of the public trust if Congress derails it with the one-house veto.●

ADDRESS BY LARRY YOUNG BEFORE HUMAN DEVELOPMENT CORPORATION ENERGY CONFERENCE

● Mr. MATHIAS. Mr. President, the Honorable Larry Young, member of the Maryland House of Delegates, recently wrote to me to underscore his feeling of urgency about encouraging community leaders at all levels to take prompt and necessary steps to address our problems of energy price and supply. Mr. Young set forth his views very eloquently in a speech he gave before the Human Development Corporation Energy Conference in St. Louis, Mo., entitled "Energy Crisis and Its Impact on the Poor" which I would like included in the Record at the conclusion of these remarks.

In his talk, Mr. Young touched on a problem of critical proportions. The price of energy, particularly home heating oil, strikes most severely at those least able to afford it. The result is that poor people in America are forced to sacrifice food for fuel.

Mr. Young urges us:

As key individuals in community action to address the paradox of poverty and wealth in America.

He encourages us:

To examine the energy situation with an open mind. Do not dismiss it simply as an oil-company rip-off, a government-industry conspiracy, or as international gamesmanship. Whatever the causes might be for the crisis we call energy, the problems and their impacts are painfully real.

And he reminds us that:

The opportunities for energy-related community action are also real. Tap any and every source you can to meet the needs of the people through programs which also contribute to the national goal of energy independence.

I request that the full text of Mr. Young's speech be printed in the Record as follows:

ENERGY CRISIS AND ITS IMPACT ON THE POOR

Good morning: It is both a privilege and a pleasure to address this assembly of those who have been and are now on the frontlines of the struggle for human dignity and equal opportunity for all Americans. You, who daily identify the problems and serve the needs of low-income communities, know that when crisis hit the nation as a whole, they batter down and trample on the poor. If it's getting chilly in Westchester, it's already freezing in Harlem. When they're buying less meat in suburban supermarkets, they're skipping whole meals in the inner city—and elderly people are eating food made for cats and dogs. When the middle class can no longer afford those quarter acre lots and homes, you know that the poor are being condo-converted onto the streets, "displaced" with no where to go. And so it will be no surprise to you when I say that the continuing national energy dilemma, an irritation and inconvenience for most Americas, is breaking the backs of the poor.

Those at the bottom rung of this country's economic ladder are being bumped off the ladder altogether. The average cost of home heating oil went up 8 percent from 1975 to 1976, by another 9 percent in 1977, an additional 12 percent in 1978, and now the crushing blow comes, a 62½ percent increase from 1978 to 1979. A projected increase to around $1.00 a gallon by the end of winter will bring the price level of oil to 271 percent of its 1975 level.

You all know the old saying about the rich getting richer and the poor getting poorer. Well, it's true. Between 1973 and 1976, the consumer price index rose about 30 percent. Average Aid for Dependent Children (AFDC) benefits and Supplemental Security Income (SSI) rose only about 19 percent. Major income maintenance programs did not maintain the real purchasing power of those receiving aid, real purchasing power actually dropped around 8 percent in those three years.

The staggeringly high inflation rate, we are experiencing now, led by inflation in the basic necessities and skyrocketing energy prices, makes all consumers feel the pinch, but it is the poor and the elderly who feel the bite. The Washington Post columnist Colman McCarthy brings this issue home to the human level in his description of an elderly St. Louis woman:

"She worked in a factory for 25 years, but the firm went out of business and she was laid off without a pension. Her husband died 10 years ago. She lives alone on a small Social Security check."

"She took pride in having made it this far. But now, for the first time in her life, she was frightened. She survived being poor and Black and old. But now, on top of it all, you can't depend on the money. She kicked her grocery bag: 'I pay double the prices and get half as much.' This winter, she said, she would have no money for fuel."

One of our responsibilities as planners and activists in low-income communities is to develop the compelling data that will convince everyone that energy is a basic necessity of life. Leaders in government and industry must be constantly reminded that our energy problems involve more than international politics, more than the economics of supply and demand, more than turning off lights and carpooling.

Our energy problems involve the suffering of real people, those who comprise the most vulnerable segments of our society. For example, the Community Action Agency in Forest Park, Georgia kept track of the household expenditures of twenty elderly households over the five month heating season this past winter in order to see how expenditures changed in response to higher fuel and utility bills.

In forty-two percent of the cases, expenditures for food went down as energy costs rose; in thirty-seven percent of the cases, expenditures for prescription medicines dropped as energy costs rose; and in twenty-one percent of the cases higher energy costs meant no regular visit to the doctor that month.

These twenty households, with ages between 63 and 79, had average monthly incomes of $212.00, almost fifty percent of which went to utilities, fuel and water. In one case the percentage was as high as sixty-five percent. What I have described is a continuing and worsening crisis which exists for all poor and near poor households, and for the elderly among them most severely. It is a crisis which is not triggered by exceptionally bad weather or a family emergency; but which has become a part of the normal condition of life for the elderly and the poor. Bad weather and family emergencies just make matters that much worse.

Compounding the impact of inflation are structural factors in the energy economy which further disadvantage the poor and substantially restrain this population from conserving energy. First among these factors is the energy pricing structure which continues to utilize inverted pricing schedules with declining rates at higher usage levels. In all fairness, this pricing structure originated in an era of inexpensive energy when industry was expanding rapidly.

It appears fair that large volume energy consumers should receive a discount rate until you consider the social outcome—the poor day more per unit of energy than do the middle and upper classes. In 1979, with energy conservation a national priority, inverted pricing schedules and declining block rates reward consumption while widening the gap between the rich and the poor in this Nation. Furthermore, utilities and heating oil dealers alike restrict credit and budget plans for the poor, demanding instead "cash on delivery."

Consequently, the seasonal impact on the cash flow of low-income households is devastating. Robert Pugh, President of the Texas Senior Citizens Association tells of meeting an elderly woman who had just paid her utility bill by adding 67 cents to her Social Security check. She paid that bill, but had nothing for food, rent, medicine or other necessities. She was an ashthmatic and a victim of emphysema and had to use a window air-conditioner in order to live.

Energy conservation, widely promoted but largely ignored by the public-at-large, is not a practical answer to the energy dilemma for the poor, at least not in the short-term. For economic reasons, the disadvantaged long ago made energy conservation a way of life.

Per capita 1975 figures show the poor using 50 percent less electricity and 24 percent less gas than the well-to-do and their usage has dropped since that time.

Yet the energy the poor do use is likely to do them less good, as conditions of low-income homes, appliances and automobiles owned by the poor are less efficient than the national average. Many Houses occupied by the disadvantaged need substantial rehabilitation to even begin to retain heat. Yet even modest investments in weatherstripping and caulking are beyond the limited budgets of many poor families.

Government recognition and response to the special energy hardships of the elderly and the poor can be characterized simply—too little, too late. Crisis intervention programs of the Community Services Administration intended to deal with winter energy emergencies have been implemented in the spring or summertime, well past program target dates.

My home town newspaper, the Baltimore Sun reported on September 19th, that the Department of Energy was just then channeling $200 million to the States for weatherization in fiscal year 1979, which ended Sunday, September 30th! Only half of the 90 million dollars provided in the previous two years was spent because of various problems with the program.

In regards to weatherization, I would like to call your attention to Senate Bill 1725, introduced by Senator GAYLORD NELSON of Wisconsin, and which is now under consideration. S. 1725 would expand and improve national weatherization efforts, link them with energy conservation counseling, and crisis intervention, while restoring weatherization management to the community service administration.

This is the kind of substantial program which would have positive impacts in areas of employment, housing, small business development—as well as energy. I urge you to promote weatherization on Federal, State, and local levels—and despite all the problems that have hampered weatherization in the past, use whatever resources you have been given or can get to make weatherization a success.

As regards energy emergencies, I am deeply concerned that this Nation still isn't ready for the colder, darker winter that is descending upon us, and the tragedies it will surely bring. We will be hearing from the President and the Congress from now until election day about how they provided over a billion dollars in energy assistance to the poor.

What we will not hear enough of is the fact that this large-sounding sum spreads out to roughly $200 per low-income household and that the need is at least three times as much. What we are unlikely to hear is that Congress considered other proposals, like that of Senator JACOB JAVITS, which would have provided greater assistance, more nearly approaching the true needs of the poor. Therefore, we must look to State, local, and private resources to fill the large gaps left by Uncle Sam.

In the city of Baltimore, we have put together an emergency fuel fund for the poor and elderly. The Baltimore Fuel Fund has a commitment from the gas and electric company to match up to $200,000 in private donations. Our local department of social services will distribute these monies when government sources run dry. Every community and every utility in this Nation should be preparing for this winter as Baltimore is doing. Community action agencies can be the catalysts for organizing similar energy emergency programs.

As key individuals in community action to address the paradox of poverty and wealth in America, I encourage you to examine the energy situation with an open mind. Do not dismiss it simply as an oil-company rip-off, a government-industry conspiracy, or as international gamemanship. Whatever the causes might be for the crisis we call energy, the problems and their impacts are painfully real.

But the opportunities for energy-related community action are also real. Tap any and every source you can to meet the needs of the people through programs and projects which also contribute to the national goal of energy independence. Some community action agencies are building solar greenhouses with funds from the National Center for Appropriate Technology. A sweat-equity tenant group in the South Bronx, NYC generates power from solar panels and a windmill atop their building.

In Atlanta and Denver, community action agencies helped develop energy education materials especially designed for Black and Hispanic communities. Minority oil dealers and small businesses, middlemen caught in the energy/inflation squeeze, are banding together in Connecticut and elsewhere, they need your help. In New Hampshire, CSA funds helped identify hypothermia as an energy-related health danger for 13 million older Americans; the special energy hardships of the elderly population deserve your attention and creative action.

Consumer information and protection in the energy field is needed. Renters are a special group, not covered by most national energy strategies, their energy problems must be addressed at state, local, and community levels. Government agencies and public service commissions hear too much from companies and corporations, not enough from consumers, and very little from low-income communities. Community action agencies should take a lead in making the voice of the poor heard among energy policy- and decision-makers.

The bottom line here is that we have a great deal to do in the coming months and years. We need not hide in the trenches and dugouts waiting for the bombs of the energy war that sure as rain will fall. We cannot afford to wait for rescue operations that always come too little and much too late.

Instead we must arm ourselves with information, ideas, cooperation and action to go on the offense in this energy war. We must aggressively pursue every opportunity to take advantage of energy strategies and programs. For if we don't, the names of the people we serve and represent will be listed as casualties.

Thank you for your attention to these remarks. If you desire more information on energy problems and programs for the poor, please contact the Center for Urban Environmental Studies (CUES), 1012 Fourteenth Street, NW, Suite 706, Washington, DC 20005. CUES is the nationally recognized leader in energy issues as they relate to minority and low-income groups. Our toll free energy information telephone number is 1-800-424-9591.

From the bottom we are in trouble this winter, and I don't have an idea of what's going on at the top.

Thank you and God bless you.●

RURAL AMERICA NEEDS SAFE DRINKING WATER SUPPLIES

● Mr. CULVER. Mr. President, two recent news articles in my State contained distributing figures which indicate that many small rural communities across Iowa and the rest of the Nation lack good quality drinking water. An article in the Iowa Farm Bureau Spokesman quoted Government figures that almost 7 million rural Americans rely on water supplies which fail to meet existing health standards, while a story in the Des Moines Register revealed that 40 to 45 percent of the wells sampled in a recent Iowa survey exceeded standards for bacteria or nitrate contamination.

At a hearing of the Senate Water Resources Subcommittee I chaired in Polk City, Iowa, last year, many Iowans testified about the difficulty they had in assuring enough safe drinking water at affordable costs. It is axiomatic that small communities cannot grow and prosper without adequate supplies of drinking water, and the fact that so many communities lack this basic and essential commodity cannot be tolerated and allowed to continue. I believe it is time for the Federal and State governments to renew their commitments to assure all citizens affordable supplies of this most precious resource.

As a result of the Polk City hearing, I have introduced "The Small Town and Rural Community Water Supply Assistance Act of 1979." This measure provides greater financial and technical aid to communities that seek to establish rural water systems. It will help assure that rural communities will be able to develop better water supplies. I have also sponsored an amendment to the Safe Drinking Water Act, which authorized EPA to spend $1 million for demonstration projects to assess new or alternative treatment methods for drinking water purification systems serving towns with populations of 5,000 or less. This provision would enable EPA to test less costly treatment systems that may be applicable for small towns and rural America, thereby allowing communities to have safe drinking water at affordable costs.

The EPA has subsequently decided to implement the small town water system demonstration program originally mandated by my amendment to the Safe Drinking Water Act. The Agency's Small Water Utility Research Unit is currently working to develop water treatment plants for small communities, and its fiscal year 1981 budget will propose additional funding to demonstrate the applicability of less expensive, small system treatment technologies. I am confident that Iowa and other predominantly rural States will apply for funding under this program.

I am pleased to have worked with Iowans to help develop legislation which will expand the Federal Government's commitment to share the need to meet the critical drinking water needs of rural America. As a member of the Environmental Pollution Subcommittee, which oversees the Safe Drinking Water Act, I will continue my efforts to assure that small communities will have access to quality drinking water.

Mr. President, I ask that the articles from the Des Moines Register and Iowa Farm Bureau Spokesman be printed in the RECORD.

The articles follow:

[From the Des Moines Register, Dec. 13, 1979]

RURAL IOWA WELL WATER WOES TOLD

(By Charles Bullard)

Rural Iowans are being forced to drill deeper wells to find pure water because Iowa's underground water is becoming increasingly polluted, State legislators were told Wednesday.

A major reason for the increasing contamination is poorly constructed wells that allow surface pollution to reach underground aquifers, said Kenneth Choquette of the Iowa Department of Health.

Choquette said that one out of three Iowans gets his drinking water from unregulated non-public wells, and that 40 to 45 percent of the water samples from such wells do not meet standards set by the U.S. Environmental Protection Agency.

The health department has drafted rules setting minimum standards for the construction of new wells and the reconstruction of existing wells.

The proposed rules, Choquette said, would prevent surface water from contaminating new and reconstructed wells and would reduce the surface pollution reaching underground aquifers.

"We're trying to provide better water for Iowans," said Choquette.

Cool Reception

The rules received a cool reception Wednesday from the Administrative Rules Review Committee, a panel of legislators that examines regulations proposed by State agencies.

Representative Lawrence Schroeder (Rep., McClelland), committee chairman, said the health department does not have authority to write rules governing the construction of wells.

"I think you are out in left field," Schroeder told Choquette.

Administrative rules implement State laws governing construction of wells.

Committee counsel Joseph Royce agreed, but Choquette replied, "We happen to believe we do have the authority."

Choquette said health department officials will seek an attorney general's opinion on the issue if they cannot convince Royce and committee members that the department has the power to write rules governing the construction of wells.

ACCEPTANCE URGED

A number of Iowa well drillers, an Iowa State University professor and a Des Moines County health official appeared before the committee to urge acceptance of the rules.

Dr. R. J. Cowles, administrator of the Des Moines County Health Unit, said Grade A dairy calves have better water to drink than many rural Iowa babies because wells on Grade A dairy farms are inspected for purity and most rural residential wells are not.

"Ladies and gentlemen, we need these rules," he said. "We need some standards."

Dr. Al Austin, professor of civil engineering at Iowa State, said a one-year study of wells in Poweshick County showed that water from many of the county's shallow wells were contaminated by bacteria or nitrates.

The rules would prohibit wells shallower than 20 feet and would set standards for sealing well casings so that polluted surface water cannot enter.

Austin said he knows surface water is the source of the pollution because the level of bacteria and nitrates in the shallow wells increased rapidly after a heavy rain. Similar fluctuations were not recorded in deeper Poweshick County wells, he said.

WELL DRILLER TESTIFIES

Howard White, a well driller from Lincoln, said the shallow Cedar Valley aquifer, which lies under 15 percent of Iowa land, is polluted. As a result, northeast Iowa well drillers are forced to tap deeper sources of water, he said.

The deeper a well, the more it costs to drill, said White.

"Once these aquifers are polluted, they cannot be cleaned up," added Wayne McLaughlin, executive secretary of the Iowa Water Well Association.

McLaughlin said an improperly constructed well can pollute an entire water-bearing system because the well provides a pathway to the underground water supply.

A nearby public water system also could be contaminated by a poorly constructed well, he said.

Schroeder said he does not think the problem is serious because few Iowans are coming down with illnesses that can be traced to drinking water.

In addition, improperly constructed wells are not the only source of underground water contamination, he said, noting that floods are a major source of pollution.

"I think they were over-dramatizing pollution of underground water," said Schroeder.

And he said the rules would raise the cost of new wells.

Choquette disagreed, saying competent well drillers already comply with the proposed rules. And he said he believes there are many cases of water-borne disease.

[From the Iowa Farm Bureau Spokesman, Nov. 11, 1979]

EPA Conducting Rural Water Survey in Iowa To Determine Safety of Drinking Water Supply

The Environmental Protection Agency (EPA) is conducting a rural water survey to determine available water supplies and the quality of water, the Region 7 EPA administrator said at a meeting in Des Moines last week.

Dr. Kathleen Camin told persons attending a National Rural Water Association meeting that the survey should be completed by February. The survey findings will help EPA "in fine-tuning and developing strategies for the future," she said.

Camin said that currently 1½ million rural Americans do not have running water while 7 million have private wells that don't meet the standards of the Safe Drinking Act.

Camin said that in the Region 7 states of Iowa, Nebraska, Kansas and Missouri more than 1,000 bacterial violations of water supplies were found in 1978. However, the incidence of bacteria in wells is down this year.

Looking at the future, Camin said a major problem will be nitrate levels in ground water. Recently, more than 100 wells in the four states were found to have nitrate levels exceeding the allowable limit of 10 milligrams per liter while another 150 wells had levels between 5 and 10 milligrams per liter. Camin said these were found primarily in community water supplies and that the EPA hasn't begun looking at rural wells.

She stated that in the future farmers may no longer be able to use irrigation and fertilizer as cheap economics to keep their crop yields up because of fertilizer leaching into drinking water.

Camin also said the EPA will be looking closer in the future at the problem of disposing hazardous wastes.

An official of the Farmers Home Administration (FmHA) said the federal agency loaned a record $13.8 billion in fiscal 1979 and approved grants totaling $800 million.

Dwight Calhoun, FmHA assistant administrator for community programs, said most of the funds went toward rural housing, water systems, waste treatment systems and to individuals.

He said a recent change increasing FmHA grants from 50 to 75 percent of the cost of a project will likely mean fewer grants will be approved in the future. However, fiscal 1980 is expected to be another record year in FmHA and grants, he said.

SENATOR BIDEN SPEAKS FOR SALT

● Mr. MATHIAS. Mr. President, the distinguished majority leader assures us that we will have an opportunity to debate the SALT II treaty early next year. To prepare ourselves for that momentous debate, it behooves each of us to examine all sides of this issue in exhaustive detail.

Those who are weighing the SALT II treaty and have not yet made a final decision have to compare the price of not proceeding with the treaty with the price of proceeding with the treaty. To make such comparisons intelligently, we should seek the views of the most eloquent and fervent exponents of both ratification and nonratification.

Our distinguished colleague, Senator Biden, has emerged as a forceful and articulate advocate of the SALT II treaty specifically and of the SALT process generally. He expresses his views with a brilliance and conviction that invigorate a dialog that has become mired in the specialized jargon of military hardware.

Last week, Senator Biden gave a particularly fine exposition of his views on SALT in a speech before the Arms Control Association, a national membership organization devoted to promoting public understanding of arms control and national security issues. While I do not agree with everything Senator Biden says in that speech—what Republican, for example, could accept the statement that "of our two major parties, Democrats are most instinctively disposed toward arms limitation," when the SALT process was started by a Republican administration?—I believe that what he says is important and thought-provoking.

Senator Biden makes a strong case that arms control is "not a luxury or a sign of weakness, but an international responsibility and a national necessity." He argues that SALT I and SALT II both serve the national security interests of the United States and he puts forward a number of interesting suggestions for areas in which SALT III too, if pursued, could enhance national security.

Senator Biden is deeply and widely read in this area and, in addition, in a recent trip to the Soviet Union he had an opportunity to discuss SALT with Alexei Kosygin, chairman of the Council of Ministers, and other Soviet leaders, which cannot fail to add a useful dimension to his perceptions on this issue.

I commend Senator Biden's speech to the attention of anyone who hopes to participate in the forthcoming debate on the SALT II treaty and I ask that it be printed in the Record. The text of Senator Biden's speech entitled "The Necessity of Arms Control" follows:

The Necessity of Arms Control

I was honored by your invitation to address the Arms Control Association today at its annual meeting, and I am pleased to be with you in the expectation that I will learn here as well as speak. Members of this Association represent a remarkable body of expertise, and I admire and congratulate you on your continuing efforts to contribute reasoned analysis to the American public debate. Arms control issues are inherently complex; and experience has demonstrated their immense susceptibility to misinformation and emotionalism. Your work is therefore invaluable.

We meet at a time when a pall has fallen over the entire subject of arms control. Ten years ago, when the Nixon Administration formalized the SALT process, hopes rose that arms limitation agreements could substantially enhance military security, create sizable economic savings, and provide a foundation for greater East-West harmony. Now, on both the right and the left of our political spectrum, many view those hopes as a cruel illusion. The very concept of detent—of which SALT was always an integral part—has fallen under steady attack. And as the momentum of arms control has dissipated, faith in its potential has faded. Whereas once this Association might have expected to celebrate here the ratification of SALT II, we now see that arms control's future stands perilously in doubt.

It therefore falls to those of us who view arms control not as a luxury, but as a crucial aspect of U.S. national security, to consider what has gone wrong and where effective arms control efforts must now be directed.

ARMS CONTROL UNDER SIEGE

Arms control has fallen under simultaneous siege by two rival armies, each equipped with a formidable critique. One has attacked from the right, the other stands to the left. Together, each led by articulate proponents, they seem ready to overwhelm those still holding out in defense of patient efforts toward formal arms limitation.

The main thrust has come from the right. According to this school of thought, arms control has done little more than distract us from giving proper national attention to maintaining an adequate American defense posture. Pointing to the Soviet military build-up and to such problems as Minuteman vulnerability, those voicing this critique suggest that somehow SALT is to blame. Although they profess a willingness to accept strategic parity with the Soviet Union, in practice they display a visceral resistance to the very idea. Their aim is defeat of SALT II as a way of initiating a new era in which the United States and its allies aggressively challenge what is described as a rising tide of Soviet adventurism. Stylistically, activists in this group favor references to Munich and quotations from Churchill. Occasionally, they also enjoy affirming a dedication to arms control, but usually just long enough to assert that because significant reductions in the Soviet arsenal have not yet been achieved, SALT must be a sham.

The critique from the left speaks more ingenuously about the absence of significant reductions after a decade of SALT. From this perspective, the arms race now seems not to be checked by SALT limits as once hoped, but rather to be fueled by the SALT process. First, bargaining chips are procured at great expense. Then, with negotiations complete, the ratification debate fans a national mood of anti-Sovietism which allows SALT critics to extract still more defense spending as a condition of Treaty support. Arms control, this school charges, has become an instrument of those whose principal goal is building weapons, not limiting them.

While the rightist critique is rooted in a deep-seated distrust of the SALT process itself, the left critique expresses a bitter disappointment that the process has proven perverse—that, while negotiations have dragged on, the rightist critique has proven so successful as to inflate the costs of arms control beyond the gains.

How has the rightist attack on SALT been so effective? As a politician, I find its powerful appeal explicable only by reference to a marked shift in the American political climate over the past decade.

When the SALT process began, America was essentially self-confident. To be sure, Vietnam had created bitter division; and as the 1960's drew to a close, the country was in turmoil. But the nation as a whole did not, I believe, feel truly threatened. Indeed, a good case can be made that the domestic cultural revolution of that period, though unsettling to many, was at its core an expression of American self-confidence. Politicians who specialize in threats seemed content to support the war and to rail about the outrages of the nation's youth.

The intervening decade, however, has produced a deeply disturbing sense of American vulnerability in the world. Just as defeat in Vietnam and the Watergate scandal were undercutting the faith of Americans in the efficacy of their government, a host of fundamentally challenging problems rapidly emerged: chronic inflation, rising foreign competition, a declining currency, a series of environmental alarms, and—most ominously—a steadily increasing dependence on unreliable foreign resources. An aura of jeopardy arose; as the American people, long comforted by a feeling of unique prosperity and impregnable strength, suddenly felt themselves fall subject to an uncertain fate in an uncertain world.

In evitably, such dramatic changes in national mood find political expression, and not always in a logical way. Thus it is that I believe SALT has become a lightning rod for a good deal of the country's current anxiety. In a time of complexity, politicians and pundits do not find it easy to placate the public desire for solutions. It thereby becomes intellectually and politically tempting to focus constituent anger on our familiar adversary, the Soviet Union, and, even more specifically, on a target such as SALT.

Most certainly, even for the wildest marksman, a U.S.-Soviet arms agreement is not a difficult target to hit. Soviet behavior at home and abroad provides a compelling argument for not doing business with this benighted enemy. And the inherently labyrinthine quality of a treaty on strategic weaponry easily lends itself to the charge that, in one way or another, the country is being sold out by the pin-striped boys, or is at least getting a bad deal. This message, which always finds a ready audience among certain American conservatives, may be particularly pleasing to those in the defense and arms production establishment whose dedication to arms control is tepid at best. Nor does the accuser, in these circumstances, really expose himself to criticism from other quarters. He is, after all, not against peace and arms control; he simply wants America to stand tough.

The political propensity to adopt such a position is abetted, one might point out, by the national media, even though—and here I speculate—there may exist a pro-SALT tendency among journalists themselves. The media thrive on issues, and the SALT debate has become a small national industry. In another time, say twenty-five years ago, arms limitation might have been considered a matter so specialized and momentous as to be better left to the wisdom of the President and his military advisers. Now, with Presidential legitimacy in tatters, no such sacred trust is allowed. Every issue is a 50–50 bet, with opponents and proponents automatically allowed equal time. Given the demagogic potential of the SALT issue, such an arrangement tends, I think, to give special prominence to anti-SALT spokesmen and favors the effectve promulgation of an anti-SALT message. Having appeared in favor of SALT in many a debate, I can tell you I would not find it difficult to make a good showing if I took the other side.

Finally, in trying to explain the adverse political climate which arms control now faces, one must point to party alignment. Here I will sound partisan, but I would posit that, of our two major parties, Democrats are most instinctively disposed toward arms limitation. Thus, at its outset, SALT enjoyed a beneficial arrangement: a President generally supported by Senate Republicans, and a process generally agreeable to Senate Democrats. In January 1977, of course, this changed. And while no proof is possible, I sometimes speculate that, were a Republican President in office today, the SALT II Treaty—as negotiated—would now be ratified. I hesitate to use this as an argument for electing a Republican President, but the phenomenon is worth considering. Certainly it serves as a reminder that, however we accomplish it, bipartisan support is crucial to successful arms control.

ARMS CONTROL'S CONTRIBUTION TO NATIONAL SECURITY

If we are to succeed with arms control, I know of no other way than to continue to carry the message to the American people that arms limitation, when properly conceived and implemented, can contribute effectively to the security of this nation. Having dwelled on the adverse political climate facing arms control and being a politician, I am keenly aware of current resistance to this message. But it must be delivered. Arms control already has very real accomplishments to its credit, and further accomplishments await to be made.

What are they?

One may begin by citing a range of agreements which have not necessarily received great public attention because they are not directly and immediately relevant to the strategic balance, but which are important nonetheless—primarily because they help to head off future weapons competition in certain areas, and also to curtail potential damage to the environment. Here our accomplishments to date in U.S.-Soviet negotiations include treaties banning the emplacement of weapons of mass destruction on the world's seabed, in the Antarctic, and in outer space; and treaties prohibiting warfare with biological weapons or through environmental modification. In this general context I would also place the Limited Test Ban Treaty of 1963, which had considerable political significance and continues to have great environmental value, but which did not—because of the effectiveness of underground nuclear tests—greatly slow the development of strategic weaponry.

More prominent and pressing are agreements pertaining to fundamental political-military problems arising from the existence of vast American and Soviet nuclear arsenals. This is the domain of SALT. Agreements within this category can achieve two important goals, related but distinct. One is to create a perception of strategic equality and thereby to contribute to political stability. The other goal is to strengthen the actual framework of mutual deterrence and thereby to contribute to military stability between the two superpowers.

Achieving Perceptual Equality. Achieving the goal of perceptual equality—by formalizing the existence of rough parity—is an extremely valuable contribution which SALT can make. Bilaterally, the formal acceptance of equality by the two superpowers can enhance mutual confidence and, on each side, dampen political tendencies toward fear and worst-cast analysis. Internationally, the perception of formalized equality can preclude the question of either side gaining a political advantage from the appearance of nuclear superiority.

The perceptual benefits would now be available from a ratification of SALT II which, through its equal aggregates and subceilings, can broadcast the useful political message of codified parity. While technical analysts may insist the numerical equality is neither necessary nor sufficient for effective deterrence, the graphs in Time magazine also shape attitudes and behavior in the real world. Thus, an equality formalized by treaty and transmitted on bar-charts by the world's media can make an immense contribution to bilateral and international stability.

Opponents of SALT II, of course, like to complain that the Treaty does not accomplish perceptual equality. And certainly they have made every effort to make the charge self-fulfilling. The Russians, they moan, have bigger missiles—regularly discounting our own calculated military decision to deploy smaller, more accurate ICBMs. This, of course, is the old problem: if we yell "We are inferior!" long and loud enough, somebody may believe us. But in this case I doubt it. Except to our own most dedicated SALT critics, SALT II effectively accomplishes the goal of perceptual equality.

Strengthening the Framework of Deterrence. The second goal of SALT agreements—improving the actual framework of deterrence—entails a recognition of the relationship between arms reduction and stability. Naturally we seek to reduce the level of nuclear weaponry and its potential for holocaust. But politically and militarily this is only possible under conditions of stable mutual deterrence.

Stabilizing deterrence means ensuring that our nuclear force can survive a Soviet attack and then penetrate Soviet defenses with accurately-delivered warheads. Accuracy comes from our own technology. Survivability and penetrability can be enhanced by SALT. Since our nuclear force consists of ICBMs, SLBMs, and heavy bombers, the scorecard of SALT's potential contribution to deterrence can be conceived as having six empty boxes—two boxes for each of the three systems. One box for each system represents a contribution to the survivability of that system; the other box, a contribution to penetrability.

How does our SALT scorecard now read?

Two of the boxes were filled in by the ABM Treaty of SALT I, which banned the construction of national anti-ballistic missile systems and thereby ensured penetrability for both ICBMs and SLBMs. The tremendous importance of this accomplishment must be stressed, for our strategic world would look very different today without that ABM agreement. Ten years ago, before SALT I was signed and with anti-ballistic missile technology beginning to be thought feasible, the American military establishment found itself virtually obsessed with the problem of assuring penetrability for our offensive missiles in a world with ABMs. Substantial defense funds had already been devoted to the problem, and vast additional expenditures were projected, both to create our own ABM system and to develop an ability to defeat the similar system which the Soviets would inevitably deploy.

Given all of the uncertainties, the implications of ABMs for deterrence were truly alarming. Yet, in a single stroke, the ABM Treaty solved this military problem, undoubtedly saving us tens of billions of dollars and preventing a slide into nuclear instability. It is no exaggeration at all to call the ABM Treaty of SALT I a triumph of arms control. Unfortunately, while recognized by specialists, the dimensions of that accomplishment are today little appreciated in a political climate where the very acronym SALT is often uttered with derision.

The clean perfection of the ABM Treaty in filling two boxes on the SALT scorecard by a straight ban on defensive missiles was simply not repeatable elsewhere, but nonetheless SALT's second round did make a further contribution to strengthening deterrence, principally in the box marked ICBM survivability. The increasing vulnerability of our silo-based Minuteman ICBMs is a function of the MIRVing and improving accuracy of Soviet ICBMs. SALT II's contribution to solving this problem is to curtail the Soviet MIRVing and modernization process through limits on MIRVed warheads and on new Soviet systems.

Now, as I made clear during the SALT hearings, I am among those who believe that Minuteman vulnerability is a problem more theoretical than real; I am confident that any sane Soviet leader will continue to regard a first-strike attempt against one element of our triad as an act of suicide. But I do recognize that ICBM vulnerability has become a concern. And I acknowledge that SALT II does not, by itself, completely fill in the box on the question of ICBM survivability; hence the President's decision to deploy a mobile ICBM, the MX. But is is important to note that the MX remedy actually works only if the Soviets are in fact constrained to the SALT II limits on missiles and warheads. Without SALT II, even an MX on a racetrack can't escape vulnerability, because the Soviets could target the whole area. Thus, if SALT II fails, the MX would lose its already highly theoretical rationale and would surely never be built—something possibly worth pointing out to hawkish proponents of the MX who are leaning against SALT.

With regard to MX deployment, one should mention here the Treaty critics' charge that the Administration selected a racetrack plan in response to Soviet objections that a shell-game mode is unverifiable, and has thereby permitted the tail to wag the dog—by allowing SALT to shape a U.S. defense decision. Without arguing the premise, I disagree with the conclusion. The President's concern has been defense. But he has taken the long-term view—as the United States did not when we raced ahead ten years ago to MIRV our own missiles, oblivious to the inevitable Soviet response. Today we could adopt a shell-game plan and probably even satisfy Soviet verification problems in the short-term. But we recognize that if the Soviets then emulated us in the shell-game mode, this would almost surely cause us serious verification difficulties. And we do not want avoidable verification obstacles to impede a SALT process that can continue to help stabilize deterrence—which, after all, remains our principal strategic aim.

Overall, it is one of the finer ironies of the SALT debate that Treaty critics have harped on Minuteman vulnerability as if SALT II were somehow to blame. Consider that this difficulty would not even exist, if a decade ago, we had succeeded in using the SALT process to establish a mutual ban on MIRVing—an effort, advocated by many at the time, which might conceivably have worked. So it is doubly ironic to suggest today that SALT is responsible for an ICBM survivability problem which SALT I, if allowed, might have prevented and which SALT II is now being used to solve.

SOME CONSIDERATIONS FOR THE FUTURE

Before turning to specific possibilities for the future of arms control, I would offer several general suggestions.

First, the experience of SALT II argues strongly for achieving arms control through smaller increments. Because the Treaty is so comprehensive and took so long to negotiate, the question of SALT II ratification became something of a fixture on our national political landscape for several years. This engendered the political circus we now observe. At this stage, perhaps no choice was available. And even future agreements will sometimes need to have breadth and complexity because, as in SALT II, one side's apples must often be balanced and traded against the other side's oranges. But where possible, we should incline toward smaller, more frequent steps, to prevent each step from becoming such a momentous issue. Greater frequency will make arms control appear more effective, and thus win it support. And a lower profile will reduce temptations to link arms control to unrelated issues—and free the President from dangerous pressures to conduct his foreign policy with bravado as a means of undermining arms control critics.

Second, we should keep the goal of equality in perspective. Perceptual equality is important politically and that may require equal numbers. But the more fundamental goal of arms control is deterrence, and here numbers are secondary. One of Secretary Kissinger's mistakes was to overemphasize the political content of arms control as opposed to its role in solving basic military problems. Ironically—because he was a Kissinger critic with a military orientation—Senator Jackson contributed to this distortion through his famous SALT I amendment which had the effect of making equal numbers seem an end in itself. Now that we have in fact obtained equal aggregates and perceptual equality—and I think this was a major U.S. accomplishment in SALT II—we should begin to emphasize arms control's more complicated military role in strengthening deterrence. This will not in every case require equal numbers. A good example is Europe, where achieving equal force levels in the theater itself would suggest a "decoupling" of the American deterrent from Allied defense.

Third, and relatedly, we should not focus excessively on obtaining substantial reductions. Reductions can be important politically; they manifest cooperation and can set an example of superpower arms restraint that could help stem nuclear proliferation. In some cases, reductions can also solve military problems, and certainly we should seek to eliminate redundancies wherever possible. But given the relatively small portion of defense expenditures devoted to maintaining our existing strategic deterrent, reductions are not likely to produce great savings. Moreover, if not properly conceived, reductions can actually exacerbate asymmetries and create problems. Again to take the European example, gross cuts in central systems could render imbalances in the theater far more significant and dangerous. As a general rule, heading off potential areas of future competition and instability should be seen as a more important goal than achieving reductions as an end in itself.

Fourth, we can't count on arms control to solve every military problem. Just as SALT shouldn't be blamed for ICBM vulnerability, SALT alone probably cannot solve this difficulty. Technology must assist. Either we must develop the ability to protect our land-based missiles—or we must shift to added reliance on the sea, possibly through a new shallow underwater system consisting of small missile-carrying submarines operating above the continental shelf. Such a system would combine the invulnerability of our Polaris/Poseidon force with the reliable command communications afforded by ICBMs. I might add that while this idea seriously intrigues me, I recognize the vested bureaucratic interests in our triad, which allots one system to each of our armed services. If an offshore missile system is to have a practical hope of replacing ICBMs, it may depend on the President's willingness to give small submarines to the Army.

Fifth, we shouldn't preclude negotiating in areas where we have a technological lead. Technological leads are temporary, and they tend to disappear quickly. MIRVs provide a powerful example. We went headlong into MIRVing, enjoying our superiority at the time, but implicitly inviting the Soviets to follow. Yet we now live in a world which almost any U.S. military leader would gladly give up if he could go back to a world without MIRVs. We must force ourselves to take the long view, and not to regard new technology as a child does a toy. The current analog to MIRV technology is the cruise missile, and I must confess some misgivings about the lead we seem to enjoy. It will be sad indeed if, a decade from now, we look back regretfully and realize that we repeated our experience with MIRVs. Despite our eagerness to deploy this new technology, I hope we will be wise enough to submit GLCMs and SLCMs to serious negotiation.

Sixth, in confronting the challenges of negotiation, we should remain confident that if there is a will, there is a way. The achievement of SALT II demonstrates that complex problems such as MIRV verification can be made to yield to determined effort—a reassurance worth remembering if we confront the challenge of limiting GLCMs and SLCMs. The Soviets are hardly cooperative partners, but they share our need to solve military problems through SALT.

ARMS CONTROL'S FUTURE POSSIBILITIES

As we look to the future, a number of promising possibilities suggest themselves—if the SALT process can be kept alive. By establishing an overall system of limits on strategic systems, and by inventing the complicated lexicon necessary for precise agreement, SALT II has erected a framework, and created the tools, for building a more complete structure during subsequent negotiation.

General Cuts. One obvious possibility is across-the-board reductions in the ceilings and sub-ceilings established by SALT II. Over a period of four or five years, one might hope that this could be accomplished in successive bites of 10 to 15 percent each, resulting in an overall reduction of 20–25 percent. From the American point of view, such cuts would have two principal advantages. First, they would help arms control to recapture a strong constituency: the left would be gratified by the clear step toward reduced weaponry; the right by reductions in the big Soviet ICBMs that have occasioned such alarm. Second, such cuts—by reducing Soviet land-based power—would have the likely effect of forcing the Soviets into a more diversified arsenal like our own. This would be in the Soviet interest—already the prospect of our ALCMs and accurate Minuteman IIIs must be creating an ICBM vulnerability scare in the Kremlin—but also in our interest, since such vulnerability on either side is potentially destabilizing.

Triad Survivability and Penetrability. In addition to seeking general cuts, we can also continue work on ensuring the survivability and penetrability of the three elements of our nuclear triad. Penetrability for ICBMs and SLBMs remains assured by the ABM Treaty, but confidence in the penetration capabilities of heavy bombers and ALCM carriers could be enhanced by an agreed limit governing air defense systems. On the survivability side, we have not yet identified a problem with regard to SLBMs, so immediate work in this area is unnecessary. But with regard to heavy bombers, where the survivability threat comes mainly from enemy SLBMs, one can envision several measures, including limits on the number and throw-weight of SLBMs; a general submarine stand-off agreement, which would keep each side's SLBMs far away from enemy airfields; and a ban on the development of depressed-trajectory SLBMs, which would further inhibit surprise attack capabilities. Finally, in the ICBM survivability box, the gains from SALT II, and from any across-the-board cut in SALT III, could be compounded by lower fractionation limits; in other words, by reducing the number of warheads per missile, we could begin to undo the MIRVing process that caused the vulnerability problem in the first place. While it has also been suggested that we amend the ABM Treaty to allow each side to deploy certain kinds of anti-missile defense around its own land-based missiles, I am strongly inclined to think the two sides would make a serious mistake in breaching the total ABM ban.

Codifying a TNF Balance. Still another possibility—and need—in future negotiations relates to the balance in the European theater. Among our allies, the combination of codified parity in central systems and Soviet improvements in theater nuclear forces—TNF—has generated concern about NATO's ability to deter a Soviet attack on Western Europe. The NATO response, now emerging, is to strengthen the Western position by planning the deployment of new cruise and medium-range ballistic missiles and then to seek East-West negotiations, probably through SALT III, toward codifying a threater nuclear balance.

Successful theater negotiations are important in themselves, because an arms race in Europe could prove even more destabilizing—politically and militarily—than a competition in central systems. And they are related to our aim of achieving significant SALT III cuts in central systems. Without a satisfactory resolution on TNF, general and equal cuts in central systems would be seen as exacerbating the East-West imbalance within the European theater.

Strangely, Treaty critics like to assert that Europeans have misgivings about SALT. Yet after thorough inquiry, including private conversations with dozens of key Allied leaders such as Helmut Schmidt, I find not a shred of significant evidence for this allegation. Indeed, I am convinced that for the U.S. to reject SALT II now, after seven years of negotiation by three Administrations, would send through Europe the most far-reaching doubts about American dependability.

The Allies look to us to conduct the SALT process as an integral part of the entire East-West relationship. Because they fear an arms race in Europe, their support for TNF modernization is based on the expectation that, simultaneously, serious arms control efforts will be made to codify a theater balance at the lowest possible level of missile deployments. Thus there can be no doubt that the Allies want SALT II ratified promptly—to open the way for SALT III. If we fail to take that step, we will exaggerate the stature of President Brezhnev's recent initiatives and alienate the very substantial body of European opinion which quite rightly does not want arms control to play second fiddle to TNF modernization. If, however, we move seriously into SALT III, we can enhance not only military stability in the European theater but also Alliance solidarity and American prestige.

The CTB and limits on missile testing. Beyond the SALT III goals I have cited—general cuts, direct measures to strengthen deterrence, and a codified TNF balance—lies a fourth possibility with strategic implications. I stated earlier that the Limited Test Ban Treaty prohibiting atmospheric testing has not significantly slowed the pace of technological advance. A comprehensive ban on the testing of nuclear devices could, however, accomplish precisely that, reducing the technological threat to existing conditions of stable deterrence as well as strengthening our international advocacy of non-proliferation. While much depends on SALT II's fate, I would hold good prospects that in 1980 the superpowers could complete work on the Comprehensive Test Ban Treaty—perhaps initially specifying a three-year duration as a way of easing into a longer-term regime. In the same vein, SALT III limits on the testing of missiles would also help to dampen technological change, and could further strengthen stability by reducing each side's confidence that its existing arsenal would be sufficiently reliable to accomplish a first strike.

Positive fallout elsewhere. In other negotiations, it is more difficult to foresee progress. Indeed, a cynic might say that on-going talks regarding the Indian Ocean, conventional arms transfers, and conventional force reductions in Europe have never held serious prospects for substantial agreement. One could argue, for example, that MBFR achieved its real purpose on the day it began, in that the U.S. and the Soviets—both fearful of the destabilizing potential of the Mansfield amendment—had a joint interest in heading it off and accomplished this by starting a negotiation.

But one cannot be sure. Perhaps, if the recent period of U.S.-Soviet chill gives way to a resumption of progress in SALT, possibilities will open. Certainly, with regard to conventional forces in Europe, we should actively consider all reasonable options, including the current West German proposal to achieve small but symbolically significant reductions in MBFR and the French proposal to shift discussions into the CSCE realm, where the emphasis would be on confidence-building measures.

A DEBATE WORTH WINNING

The crucial issue, however, is SALT. It is the most important arena of arms control, and without success here other efforts are almost certain to founder. So too will our sense of direction, the stability of East-West relations, and the confidence of our allies in America's ability to play a mature role in the world.

Last month, addressing the Committee on the Present Danger, Professor Eugene Rostow likened SALT supporters to the losers at Gettysburg, and exhorted his colleagues to "pursue the defeated illusionists until they are persuaded or dispersed." Since I support SALT, like a good fight, and am not yet ready for the religious conversion they propose, I await this pursuit with some anticipation. Just now SALT may be on the run, but I think we have no choice but to stand and to turn the tide.

In a dangerous nuclear world, arms control meets political and military requirements that cannot be met in any other way. Pursuing arms control is thus not a luxury or a sign of weakness, but an international responsibility and a national necessity. I hope that the tide will turn in favor of SALT. I for one intend to continue to advocate sensible arms control arrangements which contribute to American national security. And I urge this fine Association to continue its diligent work in support of that goal.●

ADDRESS BY SENATOR MATHIAS ON DEVELOPING A SOUND U.S. INTERNATIONAL TRADE AND MONETARY POSITION

● Mr. ROTH. Mr. President, as we stand on the threshold of a new decade it is appropriate to take stock of our strengths and weaknesses as a nation as they have emerged in the course of the previous decade. It seems to me that one of the most significant and potentially ominous developments of the 1970's has been the United States' increasingly unfavorable balance of trade. Our escalating oil imports, of course, bear a large share of the responsibility for this parlous situation. But a goodly share of the blame for America's decreasing exports can be laid at the door of Government as well.

If we are to restore this country to world economic leadership in the 1980's, then we must act expeditiously to remove the obstacles which we have set in the path of American businesses engaged in international commerce. Our colleague, Senator MATHIAS, has examined this question very extensively and has sponsored or cosponsored a variety of legislation designed to effectively address this problem. Senator MATHIAS has also held hearings in Baltimore on export problems and prospects and is a member of the Senate Export Caucus.

In a speech given earlier this year entitled, "Developing a Sound U.S. International Trade and Monetary Policy," Senator Mathias analyzes the factors that mitigate against American business in international competition and he makes some very constructive proposals for improving the business climate for these businesses. As he points out:

> If rational men and rational women were to sit down to devise a rational trade policy, they would not devise a policy anything like the one that burdens us today. Our trading partners do not labor under a similar burden, and we must get our laws in order if we are to remain competitive in international markets.

Obviously, reestablishing a favorable balance of trade must be given highest priority in the years ahead. If we are to achieve this, we must begin now. A good way to begin would be by reading Senator Mathias, address. I was particularly interested in Senator Mathias' statement on the need to review antitrust rules hampering U.S. business abroad. I submit the statement for printing in the Record.

The remarks follow:

DEVELOPING A SOUND U.S. INTERNATIONAL TRADE AND MONETARY POSITION

I am delighted to be here at your Foreign Trade Workshop and I congratulate you for taking the initiative in this critical area. If we are ever going to beat inflation and get our decelerating economy moving again, we've got to increase our exports.

The United States' share of international commerce has decreased from 27.7 percent in 1958 to 19.3 percent in the first half of 1978. More than half of our 1978 trade deficit of $34 billion can be traced to the decline in U.S. manufacturing and agricultural trade.

American exports in 1978 were only 6.7 percent of Gross National Product (GNP) while imports stood at 8.4 percent of GNP. Other major industrial nations in the world generally pay for the goods they import by what their exports earn. Our trade deficit has led to greater inflation and a dollar bleeding to death in world markets. The importance of exports to our economy cannot be overstated. One of every five production jobs in this country is involved with export; one of every three dollars of U.S. corporate profits comes from international activities, and exports now contribute more to our GNP than private corporate investment does.

Much of the blame for our poor export performance can be pinned on the maze of disincentives to trade which the federal government has built up over the years. I'm sure every one of you here today has wandered around in this bureaucratic maze and cursed your fate. And I'm sure you agree that it's time the government started removing some of the barriers it has put in the way of U.S. business seeking overseas markets.

I have introduced several bills that I think will get us moving toward a coherent, effective export promotion program. I'd like you to let me know what you think of them and I'd also like your ideas about what else needs to be done.

CABINET-LEVEL FOREIGN TRADE EXECUTIVE COMMITTEE

This bill, which is described in your Briefing Book, sets up a standing cabinet-level executive committee that would report on a monthly basis to the Congress on its programs to increase exports and the results of its efforts. It would also make legislative recommendations to the Congress. Part of the blame for our unfavorable balance of trade must be assigned to a lack of leadership. The many departments and agencies sharing jurisdiction over the programs often work at cross-purposes and provide little or no coherent guidance to exporters and would-be exporters. This bill, if passed, will help solve the leadership problem by mandating a degree of coordination and accountability in our export effort.

Several other bills have been introduced on this subject, and some of them are also mentioned in your Briefing Book. I think that mine stands the best chance of enactment because it doesn't require any of the giants of the cabinet to give up turf. An alley cats' fight is child's play, I assure you, compared to the scratching, clawing, and eye-gouging that goes on when cabinet secretaries are asked to give up a little authority.

The Governmental Affairs Committee, on which I serve, will turn to the issue of a Department of International Trade and Commerce in the near future, so whatever the outcome, we have at least started down the road to reform.

ANTITRUST STUDY COMMISSION

For many years, I have been troubled by the fact that our antitrust laws put U.S. manufacturers at a disadvantage in international trade. Now our deteriorating trade balance and the increased competition from abroad demand that we clarify the antitrust rules that hamper U.S. business abroad. Therefore, I have proposed a 12-month commission to study the extraterritorial aspects of U.S. antitrust laws and the various court rules that impinge on their enforcement against both foreign corporations and U.S. corporations that do business abroad. Too often U.S. manufacturers are barred from setting up the joint ventures available to their foreign competitors, and they lose business as a result. Also, foreign companies guilty of patently anticompetitive acts frequently hide behind the skirts of the foreign government, saying "I was told to do this by my government," or "I can't bring that evidence into court because my government has a law that forbids me to do so." I think that this area of the law requires immediate, close scrutiny if we are to respond to the nation's need for increased exports.

WEBB-POMERENE EXEMPTION EXTENSION TO COVER SERVICES

With Senator Javits of New York, Senator Danforth of Missouri, and Senator Bentsen of Texas, I have also introduced a bill that would expand the Webb-Pomerene exemption to the antitrust laws to cover services. Currently, as you know, it covers only manufactured goods.

In recent testimony before the Governmental Affairs Committee, the U.S. Chamber of Commerce representative urged that we give greater attention to the U.S. services industries. The United States has both the largest domestic services economy and the largest services labor force. It is also the largest importer and exporter of services and the largest overseas investor in services. Last year, our services trade totalled about $129 billion. Importantly, our services industry has a trade surplus of $23 billion, which helped offset the $34 bilion deficit suffered in merchandise trade.

For this reason, we thought that we should encourage the services industries by giving them equal footing with manufacturers in setting up Webb-Pomerene associations. Hearings were held on this bill this afternoon and I think it stands an excellent chance to be passed in the 96th Congress.

I hope you agree that these bills move in the right direction. But no amount of legislation alone can do the job that needs to be done. If export promotion is to become a top national priority—which it must—we need a team effort, with the federal government removing unwarranted barriers and substituting creative incentives to export, and with business making a greater and more aggressive commitment to exports.

We in government have already made some progress. The most significant development is passage of the Trade Agreements Act of 1979, which the President signed into law on July 26th. While the Act's provisions will be phased in over a period of years, I think its effect on our export trade will be immediately beneficial. The agreement will greatly reduce barriers to trade, both tariff and non-tariff.

As all of you know, both computers and business machines are among the many items on which tariffs will be reduced. On the non-tariff side, the Government Procurement Agreement, which was part of the Trade Agreements Act, will help U.S. industry penetrate this growing foreign market and bid for foreign government contracts. Also, many foreign design standards that had the effect of keeping U.S. products out of foreign markets will be eliminated.

The Trade Agreements Act may well create greater competition for all of you in the U.S. market—the Japanese have already adopted the mandatory standard for U.S. government contracts—but, if we ensure fair trade and fair competition in all markets, I think U.S. firms will more than hold their own.

The Senate has also passed S. 737—the Export Administration Act—to authorize some procedural changes to expedite the issuance of export licenses. This bill is of great importance to our export effort.

Exports in many ways should be looked upon as an opportunity—an opportunity that will be lost, if not acted on in a timely way. If U.S. manufacturers have to wait too long for an export license, they lose sales.

This is especially true in high technology items, as all of you are painfully aware. There is no need to remind this audience of the export license on the sale of computers to the Soviet Union—denied by President Carter last year on humanitarian, not security, grounds. The President later reversed himself, but it was too late; by then, the French were already supplying the computers.

Today, the world is buying high technology from the United States. If we delay for a year or even months trying to decide whether or not we should permit an export, the Japanese may beat us to the sale. They are on the verge of several major technological breakthroughs, and markets that today are exclusively ours will be shared in the years ahead. We must do all we can to help our manufacturers sell their products today.

Our worldwide environmental objectives also are intertwined with our export effort. Recently, President Carter issued an Executive Order on the environmental aspects of Export-Import Bank loans. The Order requires an "abbreviated environmental review" of Ex-Im Bank financing, but limits the review to especially hazardous exports, such as toxic chemicals and nuclear reactors. The Order will give the Ex-Im Bank wide discretion to preserve the competitive position of U.S. manufacturers in the cut-throat world of International trade.

This is important. The United States no longer dominates the competition for foreign markets. If we don't provide the technology and services people want, there are plenty of others who will. Japan, France, the Federal Republic of Germany, Great Britain and, even in some cases, the Soviet Union, are all poised at the market's edge with their arms outstretched toward prospective customers.

The United States can drive its customers into the eager arms of other suitors in two ways—first, by banning the sale abroad by U.S. manufacturers of certain products readily available elsewhere, and, second, by insisting that the products U.S. manufacturers sell abroad adhere to stringent domestic environmental standards.

Many believe that the moral issue involved here outweighs all other factors; and that we should not foist off on the rest of the world products and technology that do not meet our own high standards. The other side of the coin is that some countries are almost begging us to send them our pollution. Last year when I was in Brazil, several government officials actually said that to me. They said, "send us your pollution along with your technology."

I believe that we must find a middle ground on this. Certainly, foreign governments and private firms and individuals should expect and should get full disclosure of the potential hazards of the technology they want to import. But should we, for example, refuse to sell a coal-fired electric generating plant to a developing nation, if the plant is not equipped with sulfur dioxide scrubbers and would violate U.S. pollution standards? It may well be that the potential hazards of pollution are far less dangerous to the people of that country than the real hazards of grinding poverty. To many of them, a generating plant belching black smoke might be a real cause for rejoicing—maybe the first they've ever had.

This brings us to the philosophical dilemma that ultimately must be faced. Are we going to attempt to impose a kind of global environmental standard in the third world where the dangers to health from economic inadequacy may be far greater than they are from environmental hazard? Or are we going to be content simply to await the gradual impact of environmental education?

I think we may find that we can encourage pollution control on a worldwide scale better with a carrot than with a stick and, coincidentally, help U.S. manufacturers, who have the most sophisticated anti-pollution technology in the world.

The Ex-Im Bank, for example, could easily be authorized to make loans at low cost for the additional expense of pollution control devices. I have drafted a bill on this and am now discussing its impact with industry leaders and federal officials. Since this bill would make the loans available for the purchase of U.S.-made polluton control devices for installation on new U.S.-made equipment, it would promote our economic, as well as our environmental, objectives worldwide.

While we are on the subject of the Export-Import Bank, I will mention another matter of some importance to all of you. As you know, export financing is an integral part of the U.S. trade effort. I serve on the Appropriations Committee, and we will soon consider the Ex-Im Bank's authorization for FY '80. At the request of the U.S. Chamber of Commerce, I will introduce an amendment that will increase the authorization from $4.1 billion to $8 billion. The amendment stands an excellent chance of adoption before the Committee. It has the advantage of not costing the Treasury anything in real terms, since the Ex-Im Bank finances its own operations. I am convinced that, if passed, it will provide a great boost to exports.

Whenever I talk about export policies, I recall the story of Alexander the Great and the Gordian knot. The Delphic oracle predicted that whoever unraveled the knot would rule the world. Shortly thereafter, Alexander, still trying to emerge from his father's shadow, strode up to the knot, looked at it thoughtfully for a moment, then drew his sword and cut the knot in two.

For too long, the trade debate has been bogged down in the technical language of experts. We have passively adopted their terms of reference, and conducted the debate at the wrong level. We must now raise the level of the debate and talk in terms of national interest and economic survival.

My point is simple—if rational men and rational women were to sit down to devise a rational trade policy, they would not devise a policy anything like the one that burdens us today. Our trading partners do not labor under a similar burden, and we must get our laws in order if we are to remain competitive in international markets. We've got to cut the Gordian knot that hobbles U.S. trade, not pick at its edges.●

BLANCHARD RANDALL OF MARYLAND

● Mr. MATHIAS. Mr. President, the duty to set an example is out of fashion at the moment. But whether we like it or not, everyone alive is being observed by those about us, and is thereby setting an example, voluntary or involuntary, good or bad.

Blanchard Randall did not shirk that duty, as he did not neglect his other obligations to society. He not only did his part in life, but he did it in a way that set an example for others.

When he entered the political arena in 1935 it was a hard time to be a Republican in Maryland. Blanchard Randall understood the necessity of maintaining the two-party system in lean years, so he was a willing worker, and an enthusiastic candidate. He set the pace for those who lacked his historical perspective, and his sunny outlook.

He was a leader who could also be a good follower. His long association with Gov. Theodore R. McKeldin was a partnership, valuable for both of them, and for the people of Maryland.

His interests extended, however, far beyond the realm of politics. He was an active supporter of educational and medical institutions. Mr. Randall was also a student of history and knew a great deal about American history, and the way in which the Republic had been founded. His sense of personal integrity, and public obligation, made him a proper example of a Maryland gentleman.

I ask that an article in the Baltimore Sun, of December 16, 1979, be printed in the RECORD.

The article follows:

BLANCHARD RANDALL, EX-SECRETARY OF STATE OF MARYLAND ACTIVE IN CIVIC, BUSINESS AFFAIRS

Funeral services for Blanchard Randall, who was active in business, political and civic affairs—serving as Maryland's first full-time secretary of state and as the national head of the Society of the Cincinnati—will be held at 11:30 a.m. Tuesday at Old St. Paul's Episcopal Church, Charles and Saratoga streets.

Mr. Randall, who was 85, died Friday after an illness of several months at his home in the 5700 block Kenmore road.

He served as secretary of state from 1955 until 1957. In 1953, he was appointed administrative assistant to Governor Theodore McKeldin.

He began his political career in 1935 as a candidate for mayor, declaring at the start of his campaign: "In a few weeks I'll probably be thoroughly inflated with the idea that I'd make one hell of a good mayor. But my family and friends will take it out of me if I get too overbearing."

He lost that campaign, as he did his 1944 campaign for the U.S. senate. In 1956, he was named treaurer of the Republican State Central Committee.

Mr. Randall, who had served as president of the Maryland chapter of the Society of the Cincinnati, was elected president general of the society at a meeting in Paris in 1959. He was also named to the French Legion of Honor at the time.

Following World War I, Mr. Randall entered the grain business and was a partner in the firm of Gill and Fisher from 1924 until 1933. In 1929 he was elected president of the Chamber of Commerce, the grain merchants' organization.

He later served for about six years as president of the Mortgage Guarantee Company. He also served as an officer of other companies and as a member of the board of the Maryland Trust Company.

During World War II, he was a regional official of the salvage and conservation department of the War Production Board.

In the early 1950s, he headed a manufacturing firm, the Randall corporation, and after its merger with the Murray Corporation served for a time as a vice president of that firm.

At his death, he was president of the Green Mount Cemetery Company.

His civic activities date back to the 1930s when he headed fund drives and an organization to persuade people not to hoard money and hide it in such places as stoves—"cooked money," he called it at one point.

As a former chairman of the board of the old Eudowood Hospital for Consumptives of Maryland as well as a member of the board of the Johns Hopkins Hospital, he was instrumental in having Eudowood merged into the Children's Medical and Surgical Center at Hopkins. Also, he headed a fund drive for the construction of quarters for the center.

A former treasurer of the trustees of the Enoch Pratt Free Library, he had been a trustee of the Henry Watson Children's Aid Society, the Community Fund and the Maryland School for the Blind. He had also been vice chairman of the Baltimore chapter of the American Red Cross.

Mr. Randall was a member of the Merchants' Club and the South River Club.

Born in Catonsville, he was a graduate of the Gilman School and, in 1914, of the Johns Hopkins University.

He joined the 29th Division and saw service on the Mexican border and in France during World War I. He became a field artillery captain and general's aide and was awarded the French Croix de Guerre.

Active in sailing and other sports as a young man, he crewed for a starboat representing the Gibson Island Club in a 1931 international race on Long Island Sound.

His wife, the former Romaine LeMoyne McIlvane, died in 1974.

He is survived by two sons, Blanchard Randall III, of Baltimore, and John Le Moyne Randall, of Annapolis; two sisters, Katherine Pincoffs, of Baltimore, and Elizabeth Slack, of Lutherville; 13 grandchildren, and a great-grandson.●

THE WORLD COURT AND THE IRANIAN CRISIS

● Mr. MOYNIHAN. Mr. President, on November 20, I offered the thought on the floor of the Senate that the United States ought to make a case in the International Court of Justice at The Hague concerning the illegal seizure of our Embassy and Consulates in Iran, such that it would be wholly unambiguous that the Iranian Government was acting not merely in defiance of convention and custom, but in defiance of law as well. It is the great value of the International Court of Justice that it can, at the least, state what international law is, and what it is not.

Thus, I welcome the news of December 9 that the United States would do this. On December 10, the United States presented its case to the Court. Our Attorney General Benjamin Civiletti argued forcefully and well. Mr. Civiletti was quite correct when he told the justices that the Court "represents the highest legal aspirations of civilized man." Within 5 days, the Court acted. On December 15, it issued a unanimous opinion which wholly vindicated the American argument.

It is true enough that the order of the Court, calling for the immediate release of the hostages and the restoration of our diplomatic facilities to our control, is not self-executing and can be defied, as the Iran Government is now defying it. But surely it has at least two virtues. The first is to solidify the legal case for any action which the United States is compelled to take in this matter. The second is no less important.

When there is a palpable disregard for the norms of international law in all too many international bodies, the action of the World Court reminds us that our historic interest in these organizations has not been unwarranted. The Court remains a place where the letter of the law still makes a difference. Its speedy and forceful action in this matter gives us some hope that our aspirations are not wholly without foundation.

Mr. President, I request that the application of the United States to the International Court of Justice and excerpts from the findings of the Court be printed in the Record.

The material follows:

APPLICATIONS

WASHINGTON, November 29.—Following is the text of the application to the International Court of Justice in The Hague filed by Roberts B. Owen, legal adviser of the State Department, on behalf of the United States, seeking the release of the American hostages in Iran:

Under the jurisdiction thereby conferred upon the Court, I hereby submit, in accordance with Article 40(1) of the Statute and Article 38 of the Rules of Court, this application instituting proceedings in the name of the Government of the United States of America against the Government of Iran in the following case:

I. STATEMENT OF FACTS

At about 10:30 A.M., Teheran time, on November 4, 1979, during the course of a demonstration of approximately 3,000 persons, the United States Embassy compound in Teheran was overrun by several hundred of the demonstrators. The Iranian Government's security personnel on duty at the embassy compound apparently made no effort to deter or discourage the demonstrators from the takeover. Access to the compound and chancery building was gained by cutting chains and removing bars from a chancery basement window, and control of the first floor of the chancery was rapidly seized. In the process the invaders took hostage the embassy security officer, who had come out of the chancery to negotiate with them, and four of the embassy's Marine guards. A large group of embassy personnel, including consular and non-American staff and visitors, took refuge on an upper floor of the chancery.

About two hours after the beginning of the attack, and after the invaders had attempted to set fire to the chancery building and to cut through the upstairs steel doors with a torch, the demonstrators gained entry to the upper floor and seized the remaining personnel.

During the two hours of attack on the embassy, no Iranian security forces were sent to relieve the situation, despite repeated calls for help from the embassy to the Iranian Foreign Ministry, and despite the efforts of the United States chargé d'affaires, who made contact with the Prime Minister's office and Foreign Ministry officials at the time the attack occurred. No attempt was made by the Government of Iran to clear the embassy premises, to rescue the personnel held hostage or to persuade the invaders and demonstrators to terminate their action. Nor did the Government of Iran take any action when shortly after the embassy seizure, the U.S. Consulates in Tabriz and Shiraz were also seized.

Since the time of the takover, the embassy personnel have been held hostage in the compound under threatening and inhumane conditions. Some hostages have been paraded in sight of the crowd outside, blindfolded and hands bound, in full hearing of menacing, chanting crowds. Inside the buildings the hostages have been kept bound, often hand and foot, forced to remain silent, subjected to other forms of coercion and denied communication with their families and U.S. officials. Embassy records have been ransacked.

During the entire time, and with the support and assistance of the Iranian authorities, demonstrations have been occurring outside the compound, often quite vociferous. A crowd of hundreds of thousands of demonstrators converged on the embassy on Nov. 22.

Those holding the hostages have refused to release them and have conditioned their release on various unacceptable demands. They have threatened on several occasions that, in certain circumstances, the hostages would be put to death. While 13 hostages were released on Nov. 18 and 20, at least 50 Americans remain in captivity, virtually all of whom are diplomatic agents of the United States or members of the administrative and technical staff of the embassy. The group holding the embassy has asserted that the remaining hostages are guilty of espionage and will be tried for their "crimes" if their demands are not met. Non-Iranian outside observers have been permitted only limited access to the hostages. It is not certain that all persons held have been seen, and the conditions during these few visits did not permit free communication with the hostages.

During this continuing ordeal, the Government of Iran is failing and refusing to make any effort to secure the release of the hostages and the return of the embassy and consular premises to the United States' control. The Government has refused any direct substantive contact with United States Government officials in Teheran or at the United Nations. It refused to admit the special emissaries sent to Iran by the Government of the United States. The United States chargé d'affaires, who was at the Foreign Ministry at the time the attack began, has been confined to the Foreign Ministry and denied free access both to his diplomatic colleagues from other embassies and to senior Iranian officials.

Moreover, the Government of Iran, from an early stage of the crisis, has given direct support and encouragement to the group holding the embassy. Members of that group have been permitted to come and go freely from the compound. The Government of Iran has refused or ignored the repeated requests of the Government of the United States to free the hostages and to restore the embassy compound to the possession of the United States. The Government of Iran has supported the charges of espionage leveled against embassy personnel and has threatened to place the personnel on trial for espionage.

II. THE JURISDICTION OF THE COURT

Under Paragraph 1 of Article 36 of the Statute of the Court, the jurisdiction of the Court encompasses "all matters specially provided for . . . in treaties and conventions in force." The United States and Iran are, as members of the United Nations, parties to the statute, and are also parties to three international conventions, each of which independently establishes the Court's jurisdiction over the present dispute.

First, the United States and Iran are parties to the Vienna Convention on Diplomatic Relations (done at Vienna April 18, 1961) and its Optional Protocol Concerning the Compulsory Settlement of Disputes. As set forth separately in this application, the actions of Iran bearing on this dispute constitute multiple and profound violations of that Convention. Article I of the protocol provides:

"Disputes arising out of the interpretation or application of the convention shall lie within the compulsory jurisdiction of the International Court of Justice and may accordingly be brought before the Court by an application made by any party to the dispute being a party to the present protocol."

Second, the United States and Iran are parties to the Vienna Convention on Consular Relations (done at Vienna April 24, 1936) and to its Optional Protocol Concerning the Compulsory Settlement of Disputes. Article I of that protocol to the Convention on Diplomatic Relations, supra. The present dispute involves numerous violations of the Consular Convention.

Finally, the United States and Iran are parties to the Treaty of Amity, Economic Relations and Consular Rights between the United States and Iran, signed in Teheran on Aug. 15, 1955 (284 U.N.T.S. 93). As set forth below, numerous and serious violations of this treaty are also involved in the present dispute. Article XXI, paragraph 2, of the treaty provides:

"Any dispute between the high contracting parties as to the interpretation or application of the present treaty, not satisfactorily adjusted by diplomacy, shall be submitted to the International Court of Justice, unless the high contracting parties agree to settlement by some other pacific means."

That a dispute exists between the United States and Iran is clear. The present dispute has not been satisfactorily adjusted by diplomacy, Iran is continuing in its violations and Iran has refused to discuss pacific settlement of this dispute.

In addition to the foregoing, the United States and Iran are parties to the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents (done at New York Dec. 14, 1973). Serious violation of this convention are also involved in the present dispute. Article 13, paragraph 1, of the Convention provides:

"Any dispute between two or more states parties concerning the interpretation or application of this convention which is not settled by negotiations shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of them may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court."

In light of the urgency of rectifying the present violations of the convention and Iran's refusal to meet with United States emissaries on the subject, which renders impracticable and infeasible any prior resort to arbitration, it is submitted that the Court is competent to hear the United States' claims under this convention in connection with its other claims.

III. THE CLAIMS OF THE UNITED STATES

The Government of the United States, in submitting the dispute to the Court, claims as follows:

(a) Pursuant to Article 29 of the Vienna Convention on Diplomatic Relations, the Government of Iran is under an international legal obligation to the United States to insure that the persons of United States diplomatic agents be kept inviolate from "any form of arrest or detection" and that every such diplomatic agent shall be treated "with due respect" and protected from "any attack on his person, freedom or dignity." The Government of Iran has violated and is currently violating the foregoing obligations.

* * * * *

(b) Pursuant to Article 37 of the same convention, the Government of Iran is under an international legal obligation to the United States to insure that members of the administrative and technical staff of the United States Embassy in Teheran, and members of the families of United States diplomatic agents and of administrative and technical staff, enjoy the relevant privileges and immunities specified in Article 29 of the convention. The Government of Iran has violated and is currently violating the foregoing obligations.

(c) Pursuant to Article 31 of the same convention, the Government of Iran is under an international legal obligation to the United States to insure that its diplomatic agents shall be absolutely immune "from the criminal jurisdiction" of Iran and that, under Articles 31 and 37 of the convention, such immunity is accorded to members of the administrative and technical staff of the United States Embassy as well as to the families of diplomatic agents and of administrative and technical staff. By its threats of prosecution, the Government of Iran has violated and is currently violating the foregoing obligations.

(d) Pursuant to Article 22 of the same convention, the Government of Iran is under an international legal obligation to the United States to insure that United States diplomatic premises in Iran "shall be inviolable." The Government of Iran has violated and is currently violating this obligation.

(e) Pursuant to Article 24, 25, 27 and 47 of the same convention, the Government of Iran is under an international legal obligation to the United States to insure the inviolability of the archives and documents of the United States Embassy in Teheran, to accord full facilities for the performance of the functions of the embassy, to permit and assist embassy personnel to depart from Iran and to preclude discrimination between states in the application of the convention. The Government of Iran has violated and is currently violating the foregoing obligations.

(f) Pursuant to Articles 28, 31, 33, 34, 36 and 40 of the Vienna Convention on Consular Relations, the Government of Iran is under an international legal obligation to the United States to insure that the United States enjoys full facilities for the performance of consular functions; that United States consular premises, documents and archives are kept inviolate; that the consular personnel of the United States shall enjoy freedom of movement and travel in Iran; that such personnel shall enjoy the right to communicate and contact other United States nationals; that the consular personnel of the United States be treated with respect and protected from attack on their persons, freedom and dignity and that United States consular officers be free from arrest or detention. The Government of Iran has violated and is currently violating the foregoing obligations.

(g) Pursuant to Article 4 of the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, the Government of Iran is under an international legal obligation to the United States to cooperate in the prevention of crimes against the official premises and the staff of the United States Embassy in Tehran, including an obligation to take all practicable measures to prevent preparations in its territory for the commission of such crimes. The Government of Iran has violated and is currently violating the foregoing obligations.

(h) Pursuant to Article 7 of the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, the Government of Iran is under an international legal obligation to the United States to submit to competent Iranian authorities for the purpose of prosecution all those persons who, since Nov. 4, 1979, have been engaged in committing crimes against the official premises and the staff of the United States Embassy in Tehran. The Government of Iran has violated and is currently violating the foregoing obligation.

(i) Pursuant to Articles II(4) and XIX of the Treaty of Amity, Economic Relations and Consular Rights Between the United States and Iran, the Government of Iran is under an international legal obligation to the United States to insure that nationals of the United States shall receive "the most constant protection and security" within the territory of Iran; that such nationals shall, if placed in custody, receive reasonable and humane treatment; that the United States shall have the full opportunity to safeguard the interests of such detained nationals, and that such nationals shall, while in custody, have full access to United States consular officials and services. The Government of Iran has violated and is currently violating the foregoing obligations.

(j) Pursuant to Articles XIII and XVIII of the foregoing Treaty of Amity, Economic Relations and Consular Rights, the Government of Iran is under an international legal obligation to the United States to accord to the United States consular officers and employees the privileges and immunities accorded to officers and employees of their rank and status by general international usage and, in particular, immunity from local jurisdiction for acts done in their official capacities and within the scope of their authority; to accord to such consular officers and employees the opportunity to exercise all functions which are in accordance with general international usage, and to insure that consular offices are not entered by the police or other local authorities except in case of fire or other disaster. The Government of Iran has violated and is currently violating the foregoing obligations.

(k) The Government of Iran, or persons acting with its support and approval, are holding United States citizens as hostages and are threatening the lives of these hostages in order to coerce the United States into taking actions which the United States has no international legal obligation to take. This exercise of coercion is in violation of Iran's obligations under the Charter of the United Nations, particularly Article 2, paragraphs 3 and 4, and Article 33.

(l) The Government of Iran is under an international legal obligation to the United States to respect and observe, and insure respect for an observance of, the obligations of Iran under customary international law to insure the immunities of the diplomats and staff of the United States Embassy in Teheran, the inviolability of its embassy and the protection of its nationals. The Government of Iran has violated and is currently violating the foregoing obligations.

IV. JUDGMENT REQUESTED

Accordingly, the United States requests the Court to adjudge and declare as follows:

(A) That the Government of Iran, in tolerating, encouraging and failing to prevent and punish the conduct described in the preceding statement of facts, violated its international legal obligations to the United States as provided by:

¶ Articles 22, 24, 25, 27, 29, 31, 37 and 47 of the Vienna Convention on Diplomatic Relations,

¶ Articles 28, 31, 33, 34, 36 and 40 of the Vienna Convention on Consular Relations,

¶ Articles 4 and 7 of the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, and

¶ Articles II(4), XIII, XVIII and XIX of the Treaty of Amity, Economic Relations and Consular Rights Between the United States and Iran, and

¶ Articles 2(3), 2(4) and 33 of the Charter of the United Nations;

(B) That pursuant to the foregoing international legal obligations, the Government of Iran is under a particular obligation immediately to secure the release of all United States nationals currently being detained within the premises of the United States Embassy in Teheran and to assure that all such persons and all other United States nationals in Tehran are allowed to leave Iran safely;

(C) That the Government of Iran shall pay to the United States, in its own right and in the exercise of its right of diplomatic protection of its nationals, reparation for the foregoing violations of Iran's international legal obligations to the United States, in a sum to be determined by the Court; and

(D) That the Government of Iran submit to its competent authorities for the purpose of prosecution those persons responsible for the crimes committed against the premises and staff of the United States Embassy and against the premises of its consulates.

The Government of the United States has designated the undersigned as its agent for the purpose of these proceedings. All communications relating to this case should be sent to the Embassy of the United States, The Hague, Lange Voorhout 102.

Respectfully submitted,

ROBERT B. OWEN,
The Legal Adviser.

1. Articles II and III of the Protocols to the Vienna Conventions on Diplomatic and Consular Relations both provide that the parties may agree on alternate procedures—arbitration or conciliation—in lieu of proceeding directly to this Court. No such agreements have been made. Indeed, the Iranian authorities have refused to discuss the dispute—still less modes of settlement of it—with United States emissaries. The terms of the preambles to both protocols demonstrate the intent of the protocols to make recourse to the Court unconditional and not dependent upon joint pursuit by the parties of the options of arbitration or conciliation. They provide that: "Expressing their wish to resort in all matters concerning them in respect of any dispute arising out of the interpretation or application of the convention to the compulsory jurisdiction of the International Court of Justice, unless some other form of settlement has been agreed upon by the parties within a reasonable period.

EXCERPTS FROM WORLD COURT FINDING IN IRAN CRISIS

In a letter of 9 December, 1979, the Government of Iran maintains that the court cannot and should not take recognizance of the present case, for the reason that the question of the hostages forms only "a marginal and secondary aspect of an overall problem" involving the activities of the United States in Iran over a period of more than 25 years. It further maintains that any examination of the numerous repercussions of the Islamic revolution of Iran is essentially and directly a matter within the national sovereignty of Iran.

However important and however connected with the present case, the inequities attributed to the United States Government by the Government of Iran in that letter may appear to be to the latter Government, the seizure of the United States Embassy and consulates and the detention of internationally protected persons as hostages cannot, in the view of the court, be regarded as something "secondary" or "marginal," having regard to the importance of the legal principles involved.

If the Iranian Government considers the alleged activities of the United States of Iran legally to have a close connection with the subject matter of the United States application, it remains open to that Government under the court's statute and rules to present its own arguments to the court regarding those activities either by way of defense in a countermemorial or by way of a counterclaim filed under Article 80 of the rules of court.

IRAN SAID TO FORFEIT ARGUMENT

Therefore, by not appearing in the present proceedings, the Government of Iran, by its own choice, deprives itself of the opportunity of developing its own argument before the court.

The Government of Iran takes the position that "since provisional measures are by definition intended to protect the interests of the parties they cannot be unilateral." However, the hypothesis on which this proposition is based does not accord with the terms of Article 41 of the statute which refer explicity to "any provisional measures which ought to be taken to preserve the respective rights of either party."

The circumstances alleged by the United States Government which, in the submission of that Government, require the indication of provisional measures in the present case may be summarized as follows:

On 4 November, 1979, in the course of a demonstration outside the United States Embassy compound in Teheran demonstrators attacked the embassy premises. No Iranian security forces intervened or were sent to relieve the situation, despite repeated calls for help from the embassy to the Iranian authorities. Ultimately personnel, including consular and non-American staff, and visitors who were present in the embassy at the time were seized. Shortly afterwards, according to the United States Government, its consulates in Tabriz and Shiraz, which had been attacked earlier in 1979, were also seized, without any action being taken to prevent it.

HOSTAGES BOUND, BLINDFOLDED

Since that time, the premises of the United States Embassy in Teheran, and of the consulates in Tabriz and Shiraz, have remained in the hands of the persons who seized them. These persons have ransacked the archives and documents both of the diplomatic mission and of its consular section. The embassy personnel and other persons seized at the time of the attack have been held hostage with the exception of 13 persons released on 18 and 20 November, 1979. Those holding the hostages have refused to release them, save on condition of the fulfillment by the United States of various demands regarded by it as unacceptable. The hostages are stated to have frequently been bound, blindfolded, and subjected to severe discomfort, complete isolation and threats that they would be put on trial or even put to death. The United States Government affirms that it has reason to believe that some of them may have been transferred to other places of confinement.

FUNDAMENTAL PREREQUISITES

There is no more fundamental prerequisite for the conduct of relations between states than the inviolability of diplomatic envoys and embassies, so that throughout history nations of all creeds and cultures have observed reciprocal obligations for that purpose.

Continuance of the situation, the subject of the present request, exposes the human beings concerned to privation, hardship, anguish and even danger to life and health and thus to a serious possibility of irreparable harm. The decision given in the present proceedings in no way prejudges the question of the jurisdiction of the court to deal with the merits of the case or any questions relating to the merits themselves, and leaves unaffected the right of the Government of Iran to submit arguments against such jurisdiction or in respect of such merits.

PROVISIONAL MEASURES

The court, unanimously, indicates, pending its final decision in the proceedings instituted on 29 November, 1979, by the United States of America against the Islamic Republic of Iran, the following provisional measures:

A. (I) The Government of the Islamic Republic of Iran should immediately insure that the premises of the United States Embassy, chancery and consulates be restored to the possession of the United States authorities under their exclusive control, and should insure their exclusive control, and should insure their inviolability and effective protection as provided for by the treaties in force between the two states, and by general international law.

(II) The Government of the Islamic Republic of Iran should insure the immediate release, without any exception, of all persons of United States nationality who are or have been held in the Embassy of the United States of America or in the Ministry of Foreign Affairs in Teheran, or have been held as hostages elsewhere, and afford full protection to all such persons, in accordance with the treaties in force between the two states, and with general international law.

(III) The Government of the Islamic Republic of Iran should, as from that moment, afford to all the diplomatic and consular personnel of the United States the protection, privileges and immunities to which they are entitled under the treaties in force between the two states, and under general international law, including immunity from any form of criminal jurisdiction and freedom and facilities to leave the territory of Iran.

(B). (I) The Government of the United States of America and the Government of the Islamic Republic of Iran would not take any action and should insure that no action is taken which may aggravate the tension between the two countries or render the existing dispute more difficult of solution.

(II) Decides that, until the court delivers its final judgment in the present case, it will keep the matters covered by this order continuously under review.●

PRELIMINARY NOTIFICATION OF PROPOSED ARMS SALES

● **Mr. CHURCH.** Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million, or in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that seven such notifications were received on December 11 and 12, 1979.

Interested Senators may inquire as to the details of these preliminary notifications at the offices of the Committee on Foreign Relations, room S-116 in the Capitol.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., December 12, 1979.
In reply refer to I-9810/79ct.
Dr. HANS BINNENDIJK,
Committee on Foreign Relations,
Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a NATO country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,
ERNEST GRAVES,
Lieutenant General, USA, Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., December 12, 1979.
In reply refer to I-8915/79ct.
Dr. HANS BINNENDIJK,
Committee on Foreign Relations,
Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,
ERNEST GRAVES,
Lieutenant General, USA, Director.

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., December 12, 1979.
In reply refer to: I-9878/79ct.
Dr. HANS BINNENDIJK,
Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR DR. DINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,
ERNEST GRAVES,
Lieutenant General, USA, Director.

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., December 12, 1979.
In reply refer to: I-8960/79ct.
Dr. HANS BINNENDIJK,
Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act.

At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director.

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., December 12, 1979.

In reply refer to: I–9879/79ct.

Dr. HANS BINNENDIJK,
Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director.

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., December 11, 1979.

In reply refer to: I–10045/79ct.

Dr. HANS BINNENDIJK,
Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director.

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., December 11, 1979.

In reply refer to: I–9823/79ct.

Dr. HANS BINNENDIJK,
Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director.

PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD the notification I have just received.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., December 12, 1979.
In reply refer to: I–5947/79.

Hon. FRANK CHURCH,
Chairman,
Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80–25, concerning the Department of the Army's proposed Letter of Offer to Saudi Arabia for defense articles and services estimated to cost $464.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director.

Transmittal No. 80–25

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Saudi Arabia.

(ii) Total estimated value: Major defense equipment*, $0.0 million; other $464.0 million; total, $464.0 million.

(iii) Description of articles of services offered: This case provides funding for civil engineering and related services supporting the construction of facilities at Dammam, Jidda, Jubail, and Riyadh, Saudia Arabia, required by the Saudi Naval Expansion Program.

(iv) Military department: Army (HAQ–12).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date report delivered to Congress: Dec. 2, 1979.●

CHRYSLER CORPORATION LOAN GUARANTEE ACT OF 1979

Mr. ROBERT C. BYRD. Mr. President, I will not keep Senators waiting. It was understood earlier today that Mr. WEICKER had agreed the Senate should proceed to the consideration of Calendar Order No. 496 (S. 2094) with the understanding no cloture motion would be entered on that bill before Wednesday of this week, and, therefore, I make that request.

Mr. STEVENS. That is my understanding of the agreement the Senator made.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2094) to authorize loan guarantees for the benefit of the Chrysler Corporation.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

Mr. ROBERT C. BYRD. Mr. President, I will let most of the rest of my work go for a while. But I do want to do one matter here while Mr. McCLURE and Mr. THURMOND are on the floor.

TIME-LIMITATION AGREEMENT—H.R. 595, CRITICAL MATERIALS STOCKPILE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate considers a message from the House on H.R. 595, the critical materials stockpile bill, there be a time limitation of 10 minutes thereon, including all debatable motions relative thereto; that the time be equally divided between Mr. HART and Mr. THURMOND; and that there be 10 minutes for Mr. McCLURE.

Mr. THURMOND. Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank all Senators.

TRIBUTE TO MAJORITY LEADER ROBERT C. BYRD

Mr. RANDOLPH. Mr. President, I speak earnestly so that all can hear. It is because the remarks I make now must be spoken tonight and not tomorrow.

The accolades to those many persons who have been responsible for counseling in the Senate in connection with this vital measure just passed, as well as appropriate consultations outside this Chamber, have been known to Members as helpful to the final decision. I am the colleague from West Virginia of the majority leader, ROBERT C. BYRD, but it is not for that reason that I make these remarks. It is not because of my personal friendship for the majority leader that I make these remarks. It is simply that I feel in my heart, as a Senator, that I can properly make these remarks at the close of many, many long days and often long nights—even at this particular moment.

The legislative sea is more often rough than calm in these troubled times. But it is necessary when the water are rough that our Senate leader have a steady and strong hand on the rudder of the ship on which we are committed to pull our oars.

Senator ROBERT C. BYRD, I believe, regardless of differences with Members of the Senate on particular points—legislation, in an acknowledge sense—has the confidence of the 99 Members of this body who serve with him. His expertise, his patience, an his understanding are well understood by our colleagues who share with him, in their individual responsibilities, the opportunity to work with him as we serve the American people. I believe we serve them, the American citizenry, better because of the leadership of ROBERT C. BYRD.

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*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

Mr. ROBERT C. BYRD. Mr. President, I thank my senior colleague for his exceedingly kind comments on my behalf.

CHRYSLER CORPORATION LOAN GUARANTEE ACT OF 1979

The Senate continued with the consideration of the bill (S. 2094) to authorize loan guarantees for the benefit of the Chrysler Corp.

Mr. PROXMIRE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 2094, the Chrysler bill.

Mr. PROXMIRE. Mr. President, it has come to my attention that an amendment may be offered to the Chrysler loan guarantee measure to seek some form of interim financing from the Federal Government to meet its needs in the event that it runs out of money as early as mid-January, which now appears to be a distinct possibility. The proposed interim financing would involve $500 million in Federal guarantees for short-term loans to be repaid by the end of the first quarter, March 31. I have seen a proposal pertaining to the amendment, however, that would make that March 30. This proposed interim financing would be prior to and in addition to the long-term Federal loan guarantees of between $1.25 billion and $1.5 billion that would be authorized under the comprehensive financial legislation that is due for floor action tomorrow in both the Senate and the House. The idea behind the interim financing is that it would keep the company going until the overall financing arrangements contemplated by the Chrysler loan guarantee legislation were worked out.

Mr. President, as Chairman of the Committee on Banking, Housing and Urban Affairs, which handled this legislation and reported out the bill that the Senate will be considering, I should like to state right now my opposition to any such interim Federal financing.

In my view, it violates the basic principle of the bill reported by the Banking Committee. This principle is that the major part of the risk of any Chrysler financing arrangements should be borne by the non-Federal parties with a stake in the corporation's financial future—the labor unions, banks, suppliers and dealers, and others—and that substantial amounts of non-Federal financing must be committed and advanced before any Federal loan guarantees are made available. Any proposed legislation to provide $500 million in guaranteed loans to the Chrysler Corp. on an interim basis, in advance of any commitments from other, non-Federal parties, would obviously violate both the letter and the intent of the committee bill. In my view, such legislation would be both undesirable and unnecessary.

It would be undesirable because providing this interim financing could well undermine the Federal Government's ability to negotiate a tough financing package for the Chrysler Corp.—one which requires real commitments and real sacrifices from the non-Federal parties which have the most to gain from the corporation's continued operation. The leverage for negotiating such a financing package arises largely from the provisions of the Senate Banking Committee bill, S. 2094, which require that no Federal loan guarantees be made available unless and until binding commitments are received from the non-Federal parties with respect to the other pieces of the financing package. These would include such things as commitments from the banks on $500 million in new loans and concessions, agreement by the employees on a 3-year wage and benefit freeze, and financing commitments or concessions from dealers, suppliers, and State, local, and other governments. If the Federal Government is already on the hook for $500 million, and is the only party with any money at risk, then the Federal Government will also be the party most eager to reach an accommodation with respect to the other financing arrangements. Thus, all the leverage that the Federal Government might have in negotiating an overall financing package with the Federal loan guarantees to be committed only after the non-Federal share was in place would be totally lost. I believe this would render it most difficult to obtain a Chrysler financing package providing reasonable protection for the public interest and reasonable prospects for success.

Not only is this interim Federal financing undesirable, but also, in my view, it is unnecessary. Once Congress has approved and the President signed legislation to provide well over $1 billion in long-term Federal loan guarantees to the Chrysler Corp., I find it hard to believe that the corporation would be unable to obtain interim financing from other sources, pending completion of agreements on the overall financial package. If they cannot get other funds, then this is a very bad investment indeed, and we are inviting the American taxpayer to take the biggest bath he has taken in history with respect to any one corporation.

This "bridge" financing should logically come from non-Federal sources—from the banks, from suppliers and dealers, or from sales of assets. In fact, I understand that the Chrysler Corp. is pursuing all of these avenues with some expectation of success. All of the proposed financial plans involve some sales of assets, and presumably this would be a means of obtaining cash for the company rather quickly, especially since I understand that discussions have been underway for some time regarding the possible disposition of such assets as the shares of Peugeot stock held by the corporation, the New Process Gear facility, or part or all of the Chrysler financial subsidiary.

According to information provided by the Chrysler Corp., the Peugeot stock has a market value of about $125 million. That can be sold without any effect on the basic soundness of the Chrysler Corp. The New Process Gear facility is worth about $350 million. That, too, is available, and I am going to point out in a moment how that might be made useful in securing this financing without going to the Federal Government. Chrysler financial has a market value of at least $630 million. Thus, the Chrysler Corp. could easily cover the $500 million interim financing need through asset sales alone, and without any real danger to its overall financial condition.

This would provide more than a billion dollars at market in collateral for a $500-million loan from the banks. That is what banks are in business for. These are unencumbered assets which are available, and the bill would provide for a full repayment by the Chrysler Corp. to the Federal Government by May 31. There is no reason why the Chrysler Corp. could not raise $500 million in the private market, fully collateralized, especially on a short-term basis of less than 6 months.

While I have no intention of suggesting that Congress should require any specific asset sales or other interim financing arrangements, I do want to indicate strongly that it is not necessary for the Federal Government to play a role in making up those arrangements. Not only is it unnecessary, but as I stated above, it is highly undesirable, in view of the leverage that would be lost with respect to negotiating a workable long-term financial package for the Chrysler Corp.

Mr. President, I do have another concern which I should like to voice at this point. It is that neither the Banking Committee, nor the Congress, nor perhaps even the administration, has been receiving adequate and accurate information on Chrysler's financial situation. Just 3 weeks ago, I sent a letter to the Secretary of the Treasury requesting up-to-date information on Chrysler's projected end-of-year loss figures, and its financial outlook generally, in view of the substantial decline in automobile sales and in the Chrysler Corp.'s market share since the end of the third quarter.

The Secretary requested that the company respond directly to my inquiry, and I received a letter from Mr. G. Greenwald, executive vice president for finance, dated November 26, as I say only 3 weeks ago. Somewhat to my surprise, and I believe also to the surprise of certain other members of the committee, the reply was that first, Chrysler does not develop figures on operating losses on a week-to-week basis, and second, the fourth quarter operating results were essentially on track with the projections included in the October 17, 1979 submission to the Secretary of the Treasury. That particular submission adhered to figures previously contained in a submission to the Secretary dated September 15 which projected year-end losses of $1.07 billion.

Mr. President, I ask unanimous consent that the Greenwald letter be reprinted in full at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. RIEGLE). Without objection, it is so ordered.

(See exhibit 1.)

Mr. PROXMIRE. Mr. President, now, all of a sudden, on the eve of congressional action on the Chrysler Corp. loan guarantee legislation, we get this sudden news that loss figures are running at least $50 million ahead of projections and that the company will run out of money in mid-January and not in mid-February or late March, as previously anticipated.

This new-found information is then used as a justification for pursuing interim Federal loan guarantees of $500 million in addition to the long-term guarantees provided in the Senate and House bills. Whether the uncertainties surrounding the information on the company's financial condition arise within the Chrysler Corp., or between the corporation and the Federal Government and Congress, I find it disturbing that accurate information is not available at the time requested. This reinforces my opposition to putting any Federal money whatsoever on the line before comprehensive financing arrangements are worked out between the Chrysler Corp. and all of the non-Federal parties involved in the corporation's financial future, along the lines provided in the Senate Banking Committee bill, which, of course, is the bill worked out by Senator LUGAR and Senator TSONGAS at great pains and which passed the committee by a 10 to 4 vote.

Mr. President, the Senate and the Congress generally already have a monumental task ahead of them in trying to take final action on this Chrysler Corp. loan guarantee legislation by the end of this week. I do hope that our consideration of this issue will not be clouded by the advancement of additional proposals to provide interim financing as well, on grounds that I consider to be dubious at best.

Mr. President, I had intended to make no remarks tonight. I shall make an opening statement on the bill tomorrow. But because of the urgency of this legislation and because I have discussed this with Senator LEVIN, a man in whom I have great trust and respect and who obviously has been working very hard on this, along with the presiding officer, the distinguished senior Senator from Michigan (Mr. RIEGLE), I felt it was desirable that I state this tonight so it be on the record available to everyone as soon as possible because the cost of $500 million is a tremendous change in what we anticipated. The committee had no chance, as I say, to go over it. It is a sudden surprise, and I hope that we can act on this whole bill promptly and the more we can get before us as quickly as possible, the more quickly we will be able to act in a reasonable and measured way.

Mr. President, I yield the floor.

EXHIBIT 1

NOVEMBER 26, 1979.

Hon. WILLIAM PROXMIRE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PROXMIRE: This is in response to certain parts of the letter dated November 21, 1979 that you sent to Secretary Millier. We were asked this morning by the U.S. Treasury people to send the information on these parts of the letter directly to you, with a copy to them, rather than to send it directly to Treasury.

1. Chrysler does not develop weekly figures on operating losses. We will be closing the books on October later this week. However, we can say that the fourth quarter operating results are essentially on track with the projections included in the October 17, 1979 submission to the Government. October was slightly better than forecast. The months of November and December are expected to be slightly worse than forecast. The actual results for the quarter will be dependent upon the number of vehicles shipped to our dealer network, which is dependent upon sales at the retail level. At the present time, Chrysler's retail sales are being impacted by the news media reports on the congressional hearings, and the overall automotive industry is being affected by the general economic situation, talk of potential fuel problems, and the Iranian problem.

We still believe that the financing needs are about the same as included in the October 17, 1979 submission to the Government.

2. Enclosed is a sampling of reports on Chrysler Corporation prepared over the last 15 years by various analysts and investment banking firms.

3. Enclosed are copies of the parts of the Chrysler Corporation 10-K Reports of the last 10 years that cover the Chrysler Thrift-Stock Ownership Program and the Chrysler Stock Option Plan, and description of these employee benefit plans.

4. Regarding the request for information on the composition of Chrysler's equity base, we are preparing this information and will deliver it to you as soon as possible, hopefully by Tuesday, November 27th.

Please let us know if there is some additional information that you would like on these points or on any other.

Sincerely,

G. GREENWALD.

Mr. LEVIN. Mr. President, first I thank my friend from Wisconsin for his kind remarks at the end of his comments.

He has made reference to amendment which may be offered on the question of bridge financing, and indeed I have spoken to him and Senator LUGAR about the possibility that I would offer such an amendment. I have not determined to offer that amendment, and I am in the process of drafting it and redrafting the amendment. I have shared the language with the chairman and with Senator LUGAR so that I might get their informal comments on it.

I understand the chairman is opposed to it in principle but, nonetheless, I welcome his comments and Senator LUGAR's comments on this amendment in the event that I offer it to make it as strong as possible and to make it as protective of the Treasury as possible in order to preserve the principles which the chairman has espoused.

One of those principles is that there should be no risk to the taxpayers. At least, the risk should be reduced on anything we do.

The amendment which I am in the process of drafting is an amendment which would eliminate any risk to the Treasury and so meets that test at least that the chairman has raised throughout the debate on the Chrysler legislation and discussion of it.

I agree with him that any amendment which could seriously be considered relative to bridge loans should be an amendment which contains no risk to the Treasury. That is why I have sought his advice and that of Senator LUGAR in order to avoid such a risk, and I drafted that in a way that made such risk as unlikely as possible.

The present draft of the amendment has a double collateralized loan. If that does not eliminate the risk, I am sure there are other ways of eliminating the risk as well.

As far as the principle that the risk should be shared, which has been mentioned by the chairman, this amendment would go further. There would be no sharing of the risk at all if the amendment is well drafted. The risk would be that entirely of Chrysler because the collateral would be double the amount of the loan.

As far as the amount of the loan that is in this draft amendment, the figure $500 million is indeed in there, but again this amendment is in the process of being drafted and so it cannot be said that the amendment as of this time proposes or intends to propose a specific amount because the figure that is in that draft is in there only for draft purposes and is not necessarily the figure that will finally be in the amendment in the event that I offer it.

Next the chairman has said that this loan is unnecessary. He is confident and I am confident that in the event that the legislation is adopted Chrysler would be able to get through the interim period. But while I am confident that they could I am not certain that they could. If this Congress can provide a safety valve by means of bridge financing which is doubly collateralized and entails no risk to the Treasury, it would seem to me to be a wise move to make and a wise safety valve to build in.

I am one who when I look at this legislation realize that the legislation is intended to help Chrysler. If we pass such legislation, it would be tragic that the legislation holds out such assistance on the right hand, but then, purely because of the time that would be needed to renegotiate a contract with the UAW, the promise would be destroyed on the other hand because of the possible absence of bridge financing.

The chairman has pointed out the Peugeot stock and other assets of Chrysler, and I hope he is right. I believe he is right, and I am confident that he is right, that Chrysler would be able to negotiate an interim loan in the event that this Congress adopts the aid package, but I am not sure he is right. And if we can be sure that he is right without any risk to the Treasury, it seems to me that we should embark upon that certain course.

Finally, Mr. President, this amendment is going to be drafted and redrafted in the days ahead. I am going to seek to get from Chrysler the kind of information which the chairman has indicated will be useful.

I have to agree with him it will be useful. I assure the chairman and also Senator LUGAR and others who are in the Chamber, however, that I was the one who urged Chrysler that it was wise to proceed on this course.

I do not know whether or not they independently reached the same conclusion, but as far as I am concerned, I am not here carrying Chrysler's water. I am carrying the water of commonsense. When I say if we can at no risk to the Treasury build in a safety valve of bridge financing, we ought to do so so that we do not have the tragedy take place where this Congress might pass a bill to provide aid for the Chrysler Corp., and then see it dribble away and go down the drain because they would be unable during a period of 60 or 90 days to obtain their interim financing.

So, Mr. President, I do hope the chairman, Senator LUGAR, and others will work with me, but not in terms of committing themselves to a principle they might not agree with, but at least helping me shape an amendment which is the most sensible amendment in terms of the purpose to be served by it.

I will work with the chairman and the staff of the committee in the days ahead to produce such an amendment which again, while I know it will be objected to by the chairman, will be the most sensible kind of amendment possible under these circumstances.

I thank the chairman for yielding to me, and I yield the floor.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER (Mr. LEVIN). The Senator from Michigan.

Mr. RIEGLE. Mr. President, I had no plans either to make formal remarks this evening, but in light of the inital remarks of the chairman and the subsequent remarks of my colleague from Michigan, I think it is important to take part in the discussion that has started this evening.

First of all, I am surprised to hear the chairman of the committee speak so strongly in opposition to this prospective amendment that is still in the drafting stage. I am surprised basically because I think the objection I have heard raised is an unreasonable one, and that is if it is the will of the Congress to enact loan guarantee legislation to enable the financing of the recovery plan for Chrysler, then obviously we want to make sure that that plan is designed in a way where it can be implemented and be effective.

So I think we have to start by recognizing when Chrysler's cash flow requirements exist by looking at the plan that has been laid out and by looking at the realities that face the company over the next several weeks and months.

The fact of the matter is a request was made for loan guarantee assistance some time ago, and there has been a very long period of delay. It was delayed first within the administration as they undertook a very exhaustive analysis of the request by the Chrysler Corp. Finally, they completed that with the work of outside analysts and experts, Salomon Brothers, and others, to make a recommendation to the Congress.

Once it came to the Congress, frankly, it has taken us some period of time in the Senate Banking Committee. We have moved along and done a lot of work there, but it all takes time, and a lot of time has elapsed, to proceed through the hearings, and the period of time between the hearings and markup, and the period of time between the markup and reporting it to the floor, and so forth, and by the time we completed that work and had the bill ready on the Senate floor we were not able to take it up then because we had the windfall profit tax debate which had been going on for something in excess of 4 weeks and, frankly, it was not until tonight, the last week, the last planned week, of the session that we finally have had this matter come to the Senate floor for disposition.

So we are much later in time in terms of the schedule of events than we might have been.

When one looks at the realities of the financial picture outside this Chamber as it relates to Chrysler, one sees that, as we anticipated, their financing needs are very substantial in the early months of 1980. That is no surprise. That is no surprise. That is exactly why we are considering this legislation, because everyone who looks at it can see a very substantial financial requirement for the company that would occur in the early part of 1980, and for which, under conventional arrangements, there would not be adequate financing or financial support available.

So the fact of the matter is now that the Senate bill, as proposed and as before the Senate tonight, imposes conditions that are difficult ones to meet. For one, unless the 3-year wage freeze is changed in the bill, and I hope it will be, that on its face will require renegotiation of the UAW contract. Frankly, that will not be done overnight. That will take some period of time. It is a lengthy procedure. It has to be done plant by plant, and it is a very big company, and there are a lot of plants, and that takes time.

In the same sense it has been said by the Treasury Department that even without regard to the UAW contract, if we are just talking about the matter of getting the financial commitments in place, that the loan guarantee legislation would require that the period of negotiation that would have to be undertaken by the Treasury Department would probably take something on the order of 4 months or thereabouts to complete. It is very technical, very complex, but that is the kind of time period it took in the case of New York City, which is a somewhat comparable kind of negotiating position that the Treasury would be facing here.

So to assume that somehow magically Chrysler will be able to have the financial assistance it needs on a timely basis, recognizing the delays that are built into the legislation, I think is to expect the impossible.

Therefore, our intent—and I certainly hope it is the intent of the chairman, because he is going to be presenting the bill, defending the bill, although he is not going to vote for it he said repeatedly he intends to defend the bill as his responsibility as chairman—is that we would see to it that we have a bill that can work, not one that is so hamstrung that, in fact, if we pass it it would be one that could not work.

As my colleague from Michigan has said, he is working to draft a bridge loan amendment, and it is still in the drafting stage, nothing firm about it as yet, except the obvious need for something of that sort. He talks in terms of a draft that would include double collateralization and, as I listened to the chairman, it seems to me he understood that, yes, there were assets within the Chrysler Corp. that could be sold or presumably used in some form to provide this interim financing that it now appears will be needed until such time as the formal loan arrangements can be negotiated in place.

But if we want the company to get well—and I certainly do—in fact, the greatest safeguard to the taxpayers of the country will be to make sure that the plan is so solid that the odds of its working are very high, because the better the prospect for success for the company the less the risk to the taxpayers and, hopefully, that is what we are all seeking.

So in this particular instance, if we were to require today, because of delays of our own that accelerated the financing needs of Chrysler, and delays that we are building into the plan we are putting forward in terms of how long it will take to have it in place, if we work to turn around and say to the company, "Look, we want you to take your prime assets, the ones presumably you are going to need if you are going to get healthy on a long-term basis, and we want you to sell those off, let us sell off the healthy parts of the company and use that money for other purposes," I do not think that makes good sense.

Frankly, that was not envisioned in the plan that was originally put forward by the outside financial experts, but somehow in the face of a severe short-term financing pinch that the company should have to sell off prime assets that it may very well need in terms of building the long-term financial health and profitability of the firm.

So it would seem to me and I would hope the chairman would not take such a rigid view here because I think if the issue here is in passing a loan guarantee bill that will work, that will maximize the chances of the profitable recovery of the company and, in turn, minimize the risk of the taxpayers with respect to the loan guarantees that would be provided, the Federal loan guarantees, it would seem to me that the chairman ought to be looking for ways to keep the company stronger rather than looking for ways to weaken it further.

So I think the ultimate test of any amendment that is offered, that is stated on its face that it is designed to assist this package and its working, I think it finally has to be examined from the point of view of whether or not it actually makes the company stronger and actually minimizes the risk, the ultimate risk, to the taxpayers.

That is why bridge financing in this case may very well be necessary. I think, if so, it ought to be put in place, and I hope the chairman, rather than deciding right now that he is against it before we even have an amendment, would soften that opposition some and at least discuss it and at least be open to the possibility that, perhaps, there is some merit in it.

It is actually hard, it seems to me, to be able to dismiss something out of hand that is not even in final form.

Normally I know that on other matters that have come up in the committee on this the chairman has been willing to consider them, think about them, and I hope if he has a chance to think about this one and as we have a chance to work on an amendment that, perhaps, he will change his mind.

It seems to me the rationale that my colleague from Michigan has stated that this is not anything that would add any additional risk to the position of the Federal Government, that it is a sound position, I think the burden would fall on anybody who contested that to show, in fact, that the risk is greater.

But I think that argument is not available and, therefore, I think the proposition of my colleague from Michigan is a sound one and stands on its own.

Mr. President, with that, I am prepared to yield the floor at this point. I know others are prepared to begin the debate in earnest tomorrow. I look forward to a frank and full debate and, I think, in the end, a fair and prudent decision by the Senate as a whole on this very important and very complex matter.

Mr. BAYH. Mr. President, the hour is late, and the subject matter which has just been brought before the Senate is a very complex matter. Thus, I feel it would be inappropriate to address it at any length this evening.

However, I do not know of a matter that has come before this Senate in the 17 years the Senator from Indiana has had the good fortune to serve in this body and to represent more than 5 million Hoosiers that is a matter of greater economic consequence to the country and more specifically to my own constituencies.

I think the record of past debates on this floor will show that the Senator from Indiana views with great concern the involvement of the use of the taxpayers' money in efforts to try to shore up obvious failures in the free enterprise system. However, the Senator from Indiana in this particular instance feels that we are confronted with a possible consequence on the economy of his State and this entire country which forces one to reexamine old philosophies and to look at the hard facts as they are today.

To the tens of thousands of Chrysler workers, dealers, employees of dealers, workers, managers, owners of small businesses, and the hundreds of concerns that deal with Chrysler, the possible Chrysler bankruptcy would be a catastrophe. Given such circumstances, we cannot afford the luxury of blind subservience to philosophies which may have been passed by or which may not be at all applicable to the given situation.

Mr. President, I just wanted to participate in this opening few moments of debate on the Chrysler question to show my concern and to emphasize with those who have spoken recently the critical nature of that problem which is before us.

Obviously, to anyone who has followed the Chrysler question, the Members of this body are divided as to what, if anything, should be done. I want to express a particular word of gratitude to the chairman of the Banking Committee who, from the start, has been an opponent of this Chrysler measure, but who has, nevertheless, expeditiously held the hearings and has not been willing to join with others who would like to use the passage of time at the end of the session as a vehicle to kill the Chrysler matter.

I would like to also express appreciation to my colleague from Indiana for the concern he has shown. I believe as the debate continues it will be rather obvious that he and I view the solution from a different perspective. That is what makes the Senate the great body it is.

I do not see how this body and this Congress can ignore the dramatic consequences of a Chrysler bankruptcy on America. It could throw us into the worst economic slump we have had in modern history. It is rather clear that we are talking about not only Chrysler workers but several times more employees in other concerns that look to Chrysler as the fundamental ingredient in their success or, if Chrysler goes under, their failure.

I would like to express my deep gratitude to the two Senators from Michigan and the Senator from Missouri (Mr. Eagleton) for the active role they have played in the search for a resolution to the Chrysler question.

It has been my good fortune to be associated with them, with leaders and members of the United Auto Workers, with the entire management team of Chrysler in pursuit of a solution. We want a solution that will work, not one that holds out false hope, but when opened like an empty Christmas package under the tree on Christmas brings tears instead of gladness.

I think that the role which has been played by the Senators from Michigan, that State which has the most to lose by Chrysler failure, is exemplary; it is in the finest tradition of the Senate; it is in the finest tradition of the representative system where those of us in this body are supposed to adequately represent those we are fortunate enough to serve as Members of the Senate.

Mr. President, I am looking forward to this debate, to expressing myself in greater detail, and, hopefully, this Senate will work its will. We will have a solution that can keep Chrysler on its feet, that can make it more competitive and more productive, not less, and can show once again that even with a large corporate structure like Chrysler in trouble, once you get the barnacles off, the free enterprise system can work well. It is to that goal, to keep Chrysler in business, to keep Chrysler auto workers earning a living for themselves and their families, that I intend to work vigorously for a fair and equitable solution to this critical problem which is before us.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 11 A.M. ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour, of 11 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS BUMPERS AND PROXMIRE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, Mr. Bumpers be recognized for not to exceed 15 minutes, to be followed by Mr. Proxmire for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

REDUCTION OF TIME ALLOCATED TO THE TWO LEADERS UNDER THE STANDING ORDER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders on tomorrow under the standing order be reduced to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—CONFERENCE REPORT ON H.R. 3875

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate considers the conference report on H.R. 3875, Housing and Community Development, there be a time limitation of 20 minutes, overall, including all debatable motions relative thereto; with the time to be equally divided between Senator Proxmire and Senator Garn.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT ON CONFERENCE REPORT ON S. 673

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate considers the conference report on S. 673, the Department of Energy authorization, there be a time limitation of 10 minutes, overall, including all debatable motions relative thereto; with the time to be equally divided between Senator Jackson and Senator Tower.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 11 A.M. TOMORROW

Mr. BAYH. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 11 a.m. tomorrow.

The motion was agreed to, and the Senate, at 10:08 p.m., recessed until Tuesday, December 18, 1979, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate December 17, 1979:

IN THE COAST GUARD

The following-named commanders of the Coast Guard Reserve to be permanent commissioned officers in the Coast Guard Reserve in the grade of captain:

James S. Painton, Jr.
Walter L. Henson
David A. Treffs
John P. Lynker
John A. Kwekel
Norman E. Tyler
William J. Wardle
Albert R. Matt, Jr.
George E. Anderson
James P. Schmidt
John P. Stozich
Robert L. Pendleton
John H. Coble
Gerald W. Seelman
Henry R. Mann
Kingsley M. Hendrick
Joseph B. Embres
John T. Kanne
Richard C. Cunan
Francis M. Fairbank
Neil R. Coley
Richard W. Strachan
David E. Zwerner
Armand E. Breard
Paul F. Egner, Jr.
Robert W. Dinsmore
Kenneth E. Sanders
Richard L. Smith
Normal E. Patterson
John M. Cece
Elliott R. Lese
Joseph F. Baroco, Jr.
Joseph E. Manfreda
Stephen J. Baumrind
Ronald G. Grimmer

IN THE NAVY

Vice Adm. Clarence R. Bryan, U.S. Navy, (age 56) for appointment to the grade of vice admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

Vice Adm. Robert P. Coogan, U.S. Navy, (age 57) for appointment to the grade of vice admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

The following-named officer having been designated for commands and other duties of great importance and responsibility in the grade of vice admiral within the contemplation of title 10, United States Code, section 5231, for appointment while so serving as follows:

To be vice admiral

Rear Adm. Robert F. Schoultz, U.S. Navy.

EXTENSIONS OF REMARKS

AUSTIN IS PROUD OF DON BAYLOR

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1979

● Mr. PICKLE. Mr. Speaker, a sporting event of significance, not only to the Nation, but also to the 10th Congressional District of Texas, occurred this past week. It is a "local boy makes good" story, but the local folks still count him as a fellow resident. California Angels baseball star Don Baylor was named the American League's Most Valuable Player this week by Sporting News.

To the people who know him in Austin, Don Baylor has been a most valuable friend for years. And to express their appreciation, Don's family and friends are throwing a celebration in his honor on December 20.

Baseball has been in Don Baylor's blood since he began his sporting career at O'Henry Junior High School in Austin almost 20 years ago. At Austin High School, Don knew he fit into athletics as well as a fast ball whizzes into the glove of an alert catcher.

Don graduated from Austin High in 1967, having played baseball and football. Fresh from high school, he signed up with the Baltimore Orioles and played several outstanding seasons in the minors. In fact, he was voted the Minor League Player of the Year when he played for the O's farm club in Rochester, N.Y.

After crackling the bat for the Orioles and Oakland, Don landed at the Angels in 1976 and found a home. At the start of the 1977 season, the Angels knew they had found their man. Don signed a 5-year contract. This year, he gave them their money's worth. He hit 139 runs—about 3 dozen of them were home runs. It is easy to see why this left fielder and designated hitter is a Most Valuable Player.

Don Baylor is not only a star at baseball, but gives of himself to the community, as well. His roots are an old Austin family, which are firmly established. During baseball season, Don takes time off from his team duties and is active in a chapter of cystic fibrosis. In fact, Austin's local chapter will recognize him for his work.

While he is not playing ball, Don, his wife, and small son live in Austin. Don has fans around the Nation, but he has not forgotten or foresaken his old stomping grounds. His friends and family are so proud, they do not really mind sharing him with California and baseball fans from coast to coast.

Don Baylor is a fine athlete; a good sportsman; a generous human being; and a devoted family man. It is fitting that his family of friends and supporters in Austin give him a special celebration next week—and that the city council has declared it as "Don Baylor Week." He is a most valuable human being.●

INNOVATIVE AND CREATIVE LEGISLATION

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1979

● Mr. COLLINS of Texas. Mr. Speaker, many newly elected Congressmen and even some with several years of seniority unfortunately judge their contribution to our country by the volume of innovative and creative legislation they introduce.

Why are Congressmen so interested in innovative and creative legislation? It provides them with more press coverage. It creates new constituencies for them by providing more handouts to particular groups. It puts their names in the history books by having a bill named for them.

Congress has more than doubled the number of votes in the past few years. In the 86th Congress, which covered the years 1959 and 1960, Congress cast 180 votes. In the last full Congress, the 95th, over 1,500 votes were cast. Government spending has increased and inflation has skyrocketed to over 14 percent. In 1960, Congress was spending $100 billion, but this year Congress will spend $549 billion as the Federal deficit continues to grow. It now takes 42 cents in taxes out of every dollar you earn to pay for these innovative and creative inflationary programs. That is just too much government.

Fiscal responsibility requires us to say "No" to the things we simply cannot afford. It is high time Congressmen learned to say "No" to all these innovative and creative ways of spending tax dollars.

What this country needs is less government, less regulation, less spending, and less taxes.●

SAMOLIA: A TRAGEDY BEYOND CAMBODIA'S

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1979

● Mr. BINGHAM. Mr. Speaker, in many parts of the world, hosts of refugees are suffering starvation and disease. Compared to the tragedy of Cambodia, the situation in Somalia has received little attention. I commend to my colleagues and other readers of the RECORD the following firsthand account of the plight of refugees in Somalia by the distinguished New York physician, Dr. Kevin M. Cahill, which appeared in the New York Daily News for December 4:

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

[From the New York Daily News,
Dec. 4, 1979]

SOMALIA: A TRAGEDY BEYOND CAMBODIA'S

(By Kevin M. Cahill, M.D.)

Death may be very gentle after all:
He turns his face away from arrogant knights
Who fling themselves against him in their fights;
But to the loveliest he loves to call.
And he has with him those whose ways were mild
And beautiful; and many a little child.
—Oliver St. John Gogarty

The call of death is common today along the Ogaden-Somali border, and it is the children who are summoned most often—the innocent young who bear the overwhelming burden of poverty, illness and the violence of war in the largest refugee population in the world today.

There are now more refugees in Africa than in Southeast Asia, according to the United Nations High Commissioner for Refugees. And in Somalia, there are more refugees than in all the Cambodian and Vietnamese camps combined, though few in our nation are even aware of the problem. Africa, in fact, is being penalized for generously accepting refugees; whereas the obscene practice of expelling refugees in Southeast Asia brings the matter to America's attention and touches our hearts.

The amount of American aid committed to alleviate the current tragedy of Combodia refugees is many times greater than that even being considered by our government for all of Africa. Possibly the plight of the desperate dying children of Somalia does not touch the complex guilt feelings of America regarding Cambodia and Vietnam, but the Somali child is dying just as rapidly and with the same permanence. To complicate matters even more, the 1980 budget of UNHCR allocates almost three times more funds to Southeast Asia than it does for Africa. To use a diplomatic euphemism, the response of both the United States and the U.N. refugee organization is "restrained."

For the past 15 years I have worked annually among the Somalis, trekking with the nomads for weeks on end while tracing their diseases. They are a tough, proud people who eke out an existence herding camels and goats over a lunar-like landscape. Survival in such an area, where daily temperatures frequently reach 100 degrees and life is an endless search for water, has earned the Somalis the designation as the "Irish of Africa." They have learned to endure drought and to expect periodic famine. The loyalty of the clan usually sustains the needy, and an intense national pride prevents them from easily seeking or readily accepting outside assistance.

Four years ago, when the great Sahelian drought moved eastward and enveloped Somalia, I also worked in their relief camps. At that time, nomadic families were recycled for settlement on arable land or along the vast Horn of Africa's Indian Ocean coastline and transformed into farmers and fishermen. Today Somalia is in the throes of a far greater crisis, caught up in a refugee problem without parallel in modern times.

Cambodian and Vietnamese refugees have been turned away at gunpoint from neighboring shores or forced back across borders to certain death. By contrast, Somalia has quietly and steadily accepted the refugees of the Ogaden, for the majority are ethnic brothers and sisters. Nevertheless, this admirable and fraternal national feeling is rapidly reaching the breaking point, for there are now over one million refugees in a total population of five million. Furthermore, women and children account for 90 percent of the refugees in the camps.

The men in these families are gone; some have been killed in the sputtering Ogaden war, many in bombing and strafing raids that have characterized Cuba's and Russia's contribution to the overt Ethiopian effort at permanently depopulating the contested area; other men continue to fight in one of the Somali Liberation Front units, while a few remain in the bush with their dying livestock.

In mid-1978 there were 88,000 refugees in Somali camps, but by mid-1979 the number had risen to 220,000. In the past three months the flight has become a flood tide, with over 1,000 new refugees arriving daily, most in far worse physical condition than those who elected to return to Somalia in 1978. There are now over 360,000 refugees in makeshift camps, and American refugee experts in Africa forecast that a million homeless will be in Somali camps within the year.

I have made medical rounds in the emergency camps in the past week. In most, a single young Somali doctor strives to serve up to 50,000 sick, frightened, homeless people. He works with almost no laboratory or surgical equipment, few nurses and grossly inadequate drugs and medical supplies in one of the five transit and 21 permanent camps. The huts, constructed from mud and thatch, are infested with disease-carrying insects. There are no latrines in any of the camps that I visited, and the only water comes from nearly parched beds of neighboring rivers or stagnant pools that serve the animals as well as the humans.

I have visited the transit camps near the border, where new arrivals are received and three of the large "permanent" settlements, where survivors toil at modest farming projects—growing corn and papayas. I have revisited hospitals in Mogadiscio and Hargeisa to see the meager health service of Somalia begin to callapse under the new pressures.

Infectious diseases—malaria, tuberculosis, hepatitis, dysentery, bronchitis—are rife and the potential for truly decimating epidemics of cholera, for example, is frighteningly predictable. The death rate is astronomic; in one camp of 41,000 women and children, there had been 2,000 deaths in the last two weeks, with 41 pregnant women having died from dysentery during the week I visited the camp. Contrast that with New York State, where all last year only 28 pregnant women died from any cause, and only one was due to an infection, following an abortion.

Even as I write this article, I cannot eradicate the image and smell of a bullet-shattered limb on a woman who had to be carried by camel over 70 miles to the safety of the border before any medical attention could be provided; I cannot forget the vacant stare and bloated bellies of babies—by the dozen—dying from starvation.

Today Africa looks to America to acknowledge its brotherhood with the vast hordes of homeless, displaced persons who have no hold on our conscience—as do the Vietnamese and Cambodians—except for the overriding fact that they are human and starving. Is it too much to hope, for example, that at least the Black Caucus in Congress might agitate for a greater awareness of the problems of Africa? Is it not right to ask that the media help to educate the American public by stressing the scope of the Somali disaster rather than focusing solely on the refugee problem in Southeast Asia? Time is rapidly running out on Somalia, and since that nation can no longer cope alone with the largest refugee population in the world today, the specter of massive famine and death haunts all of us in the human family.●

NEW "QUICK-REACTION" FORCE WOULD BE HANDY—BUT RISKY

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1979

● Mr. HUBBARD. Mr. Speaker, I would like to call to the attention of my colleagues an editorial which appeared in the December 12 issue of the Courier-Journal of Louisville, Ky., which assesses this Nation's need for a highly mobile, quick reaction military strike force.

With the acuity that is the standard of this newspaper, this editorial concludes that a rapidly deployable strike force is this Nation's best option for protecting American interests in the volatile Mideast and other sensitive areas of the globe. The editorial follows:

> Only four years ago, it seemed safe to say that the United States had painfully outgrown the illusion that there's a military solution to every international problem. After the long nightmare of Vietnam, in fact, Americans appeared to have succumbed to the equally dangerous illusion that application of military muscle was almost never justified—or even expedient.
>
> But the pendulum has begun another swing. Largely because of our dependence on Persian Gulf oil, the Pentagon has strong support, both from the White House and Capitol Hill, for its proposal to create a highly mobile "quick-reaction" force to deal with regional crises. This 100,000-man, combined air, sea and ground force presumably would be available to protect U.S. interests anywhere in the world. But the emphasis clearly is on the Persian Gulf and Middle East.
>
> The importance of that volatile region to Western economies is indisputable. And there's growing evidence—in South Yemen, Ethiopia and Afghanistan—that the Soviet Union recognizes this vulnerability and is gaining the means to exploit it. Soviet efforts consist, at the moment, of shipments of military hardware to client states and the presence of Cuban, East German and Soviet military advisers. Eventually, as national security expert Edward Luttwak observes in the December *Commentary*, it also may include Cuban combat troops on the Arabian peninsula—troops trained by that controversial Soviet armored brigade in Cuba.
>
> These developments, plus the revolution in Iran, have left the fragile Saudi regime isolated and exposed. No wonder, then, that the Saudis have been so eager to mend fences with their more radical Arab neighbors, and to maintain their credentials as enemies of Israeli "imperialism."
>
> Obviously, the U.S. has a strong interest in blocking the expansion of Soviet influence and military capabilities in the region, and in bolstering friendly regimes. Yet, when it comes to specific measures, these goals may not always be compatible.
>
> An American takeover of Israeli-built air bases in the Sinai, for instance, makes enormous strategic sense, if only military logistics are considered. But both Egypt and Saudi Arabia reject the idea, on the understandable grounds that such a highly visible American presence might provoke political unrest in their own countries.
>
> Creation of the Pentagon's proposed rapid-deployment force would carry similar political risks, at least to the extent that it involved a greater U.S. naval presence, including sea-

borne Marines, in the Indian Ocean and Arabian Sea. Yet the risks are great, too, if the U.S. is unable to respond quickly to an external military threat to Saudi Arabia.

It would help, obviously, if the American public and our friends abroad had a clearer idea just what this new force was designed for and under what circumstances it might be used. The Saudis, for instance, might privately welcome the availability of U.S. forces as a deterrent to mischief by South Yemen or Iraq. But the same U.S. forces that could come to their aid in a crisis, could, under different circumstances, be used to seize Arabian oil fields. The Saudi royal family doubtless wouldn't relish that kind of "protection."

One alternative, of course, is for the U.S. to minimize the presence of its own forces and concentrate, instead on building up the military might of friendly countries. But this was up the Nixon-Kissinger strategy in beefing up Iran under the Shah, and no one needs to be reminded just how dismal a failure that was.

Another course is to do nothing and hope for the best. But that might be interpreted by the Soviets and by the more radical regimes in the area as a sign that the U.S. will tolerate any level of interference, short of cutting off the flow of oil. That's too big of a gamble. While a direct oil cut-off almost surely would mean war, the West cannot afford to be in a position where that step is even conceivable by and available to our adversaries.

On balance, then, development of a quick-reaction force is probably the safest of several risky options, so long as the attendant political hazards are recognized. Moreover, no one in Washington should be under the illusion that military intervention in the Persian Gulf to protect the flow of oil would necessarily achieve that objective. A Library of Congress study released last summer concluded that such a U.S. move might result in destruction of the oil fields and probably would trigger Soviet countermeasures. The latter could take the form of direct confrontation in the Persian Gulf region or diversionary threats in Korea or Berlin. Either could quickly escalate into full-scale war.

But creation of a quick-reaction force would signal U.S. resolve and could, as in the case of our strategic nuclear deterrent, make armed conflict less rather than more likely. Much would depend, of course, on the wisdom and caution of whoever was president during a Mideast crisis. Used recklessly, American forces could do more harm than good. The only thing worse would be to invite trouble by having too little available when and where it was genuinely needed.●

MERC MARAN

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1979

● Mr. EDWARDS of California. Mr. Speaker, I want to bring to my colleagues attention the outstanding record of community involvement of Merc Maran. Merc is retiring on January 31 and Santa Clara County will be losing the services of an outstanding leader in the areas of vocational rehabilitation and veteran's assistance. His lengthy career in this area has brought him recognition as an authority in his field of vocational services. We have seen many of the ideas and programs he originated implemented on State and national levels.

Merc has spent the last 22 years supervising the Vocational Services Division for Santa Clara County. His wide experience has brought many to seek his counsel on manpower issues and especially veteran's programs. He still advises Governor Brown on manpower policy from his position on the State CETA Advisory Council. We all regret that Santa Clara County will not have the benefit of his hard work any further. I am sure though that he will remain active in our communities. Merc's drive and desire to help and assist his fellow man assures us that we can count on him for many years to come.

Merc's friendship has meant so very much to me these past years. I hope that I and his many, many other friends can rise to the high standards of humanity and social concern that he has set. The gap that his leaving presents to us will be very hard to fill. We all feel better through in knowing that our communities were blessed with his talents for so many years.●

STATEMENT ON TEAMSTERS' CENTRAL STATES PENSION FUND

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1979

● Mr. PICKLE. Mr. Speaker, in several recent statements, I have expressed concern with the progress of the Government cleanup of the Teamsters' Central States Pension Fund. One of the major components of that cleanup, which I would like to say a few words about today, was the so-called loan review or "legal audit of past loans." In March, 1977, the Internal Revenue Service and the Department of Labor announced that:

> The Fund has agreed to cause an independent review to be made of all loans and related financial transactions entered into by the fund from February 1, 1965 to date with a view to determining what remedial action, if any, must be taken by the fund. . . .

When it restored the fund's tax exemption on April 26, 1977, the IRS—which had the primary supervisory authority over the loan review—set a completion deadline of May 1, 1978 and further defined the requirement:

> The results of this examination, including all background information, conclusions and recommendations will be submitted to unrelated independent professionals to determine if the Fund has any enforceable causes of action or other recourse arising from the transactions.

Mr. Speaker, I am sorry to say that what appeared to be a promising method to recover for rank-and-file fund participants losses through fraud and other breaches of trust turned out to be almost worthless to participants and downright insulting to the IRS.

The trouble started shortly after the imposition of the loan review requirement when the IRS allowed the review, advertised as independent, to become internal on the part of the fund. In other words, the IRS allowed the fund to investigate itself and even to develop the standards for investigating itself.

More specifically, the fund has managed during the past year, first, to redefine the "legal audit" process (that is, make it an internal rather than independent external review) and to redefine its scope (from "all" loans to only those which the fund deems "questionable"); second, to invent the standards to apply in deciding what is "questionable" under the process; third, to superimpose its own cumbersome internal review structure; fourth, to use that structure to delay and frustrate the entire process; fifth, to apparently not adhere to the priorities for loan review set by the IRS; and sixth, to argue that it should be excused from the legal audit requirement on the ground that it is unreasonably expensive.

Interminable footdragging became predictable and inevitable when the IRS allowed the fund to create its own "comprehensive and multilevel review," a three-stage internal review before a decision would ever be made regarding the need for referral to outside independent lawyers for court action. In a report to the IRS, the Fund defined its version of an independent review as follows:

> The first level of review will be accomplished by the Fund's Real Estate Loan Analysts starting with those questioned real estate transactions specifically designated. . . . (e.g., Aladdin Hotel Corp.; Agent Corp.; Hudson Properties, LaCosta Land Company; Moorefield Enterprises, Inc., etc.). . . .
>
> After the Analysts complete their examination of a loan file, that file along with the Analysts written findings will be reviewed by various consultants and members of the administrative staff in order to determine whether further action is necessary. . . .
>
> Initial staff analysis will include direct participation by attorneys, . . . The final phase of the internal loan review will be the responsibility of the Attorneys Committee. . . . (emphasis added)

Soon after that, as I mentioned, the fund was setting its own standards for its own internal review. Rather than referring all transactions to outsiders and letting the independent outsiders decide whether court action would be warranted, the fund would allow only those loans which the three levels of insiders decided to be "questionable," as defined by the fund, to be referred to outsiders. In the words of the fund:

> These analyses and reports will not classify a loan or other transaction as "questionable" unless an irregularity or possible impropriety is revealed by documents of the Fund or by information or documents obtained elsewhere. Those loans and transactions which staff analyses reveal to be "questionable" will be referred promptly to "outside professionals" with all the relevant and necessary documentation. . . ."

* * * * *

After 18 months of this brand of "independent review," the bottom line was that only two sets of transactions in the entire real estate portfolio had actually been referred to an independent outside attorney for his opinion on the feasibility of legal action.

To repeat, only two in the entire real estate portfolio of approximately 500 mortgage notes and collateral loans valued on January 31, 1976 at $832,000,000 have reached independent outsiders after nearly 1 year. And only four have made their way past the third internal level. (This may be contrasted with the far larger record number of loans the fund was able to enter into in a single month, December 1974, which was, of course, the last month before the effective date of ERISA's fiduciary rules.)

Nowhere to be seen, moreover, even in the first internal level of review, are: Aladdin Hotel Corp. (a large Las Vegas casino); Argent Corp. (controlled by reputed organized crime frontman Allen Glick); LaCosta Land Co.; Pensaquitos Inc., and other reputedly organized-crime-related complexes. These and some 16 others were initially specified by the IRS, with fund agreement, for priority review in the internal audit process.

In short, Mr. Speaker, the fund trustees and their attorneys have avoided even the most basic of reviews. The reviews have been a sham.

Then, Mr. Speaker, to add insult to injury, the trustees moved to kill the entire loan review by declaring that it was too expensive and by unilaterally interpreting an IRS extension of the May 1, 1978 completion date as a suspension of the entire loan review requirement.

In most people's minds, the IRS does not immediately come to mind when the word "pushover" is mentioned. And after nearly 2 years of allowing the fund to fiddle around, the IRS finally moved to take matters into its own hands by looking directly at the specific loans. By then, however, it was too little and too late: Legal statutes of limitations, problems of information gathering, and the fact that "tax information" could not be made available to the trustees for their use in pursuing those who had defrauded the fund all conspired to make the once promising loan review just about worthless.●

CARRYOVER BASIS AND THE NON-LAWYER

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1979

● Mr. CONABLE. Mr. Speaker, last week the Democratic Study Group published a special report relative to the repeal of carryover basis. That report contained a partial listing of those organizations supporting repeal of carryover, and I felt that Members would be interested in a more complete listing.

That list follows:

Associations for Repeal of Carryover Basis

American Bankers Association, American Bar Association, American Farm Bureau Federation, American Horse Council, Association of General Contractors of America, Chamber of Commerce of the U.S., Families Associated for Inalienable Rights, Inc., Forest Industry Committee on Timber Valuation and Taxation, American Paper Institute, Forest Farmers Association, National Association of Manufacturers, National Association of Realtors, National Association of Retail Grocers, National Forest Products Association, and National Grange.

National Housing Conference, National Solid Waste Management Association, National Wool Growers, International Council of Shopping Centers, Building Owners and Managers Association, National Association of Home Builders, National Cattlemen's Association, National Federation of Independent Business, National Restaurant Association, National Realty Committee, National Retail Merchants Association, United Egg Producers, Southern Forest Products Association, National Association of Wheat Growers, National Cotton Council of America, National Milk Producers Federation, Maryland Christmas Tree Association, Southern Governors' Association, American College of Probate Counsel, and American Council for Capital Formation.●

PREDATOR CONTROL

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1979

● Mr. SYMMS. Mr. Speaker, the issue of predator control in the Western States is a serious one which is the source of great frustration from stockmen who see the mandates of the Federal Government virtually putting them out of work.

It is a credit to the spirit of cooperation that exists among those in the West that they banded together to try to solve this problem, which the Environmental Protection Agency has the authority, but not the resolve, to handle. The group that was formed was called the Sheep Producer/Environmentalist Committee, and it was made up of representatives of woolgrower and environmental groups from five Western States—Idaho, Montana, Wyoming, Colorado, and Oregon.

I enclose today, for the attention of the Members of the House, the results of a meeting in late September of this committee. It is my sincere hope that this body can show the cooperation that the Sheep Producer/Environmentalist Committee has shown to enact effective predator control legislation.

The letter and resolution of the committee read as follows:

The Sheep Producer/
Environmentalist Committee,
November 29, 1979.

Mr. Cecil Andrus,
Secretary of the Interior,
Department of Interior,
Washington, D.C.

Dear Mr. Andrus: In late September the Sheep Producer/Environmentalist Committee met in Rock Springs, Wyoming. Again, the issue of predator control was one of our major agenda items. Two resolutions were passed by the committee and are attached to this letter.

The concept of predator control appears to be a never-ending source of controversy within the Department of Interior and various sectors of the public. Our committee would like to see some effort made to resolve this issue in a neutral and reasonable fashion. Our assistance in this matter would be appreciated.

Sincerely,

Mr. Laird Noh.
Ms. Laney Hicks.

Predator Control Resolution

A strong responsive and responsible Animal Damage Control program is imperative to the survival of the western sheep industry. The program must be fully funded, staffed, and supported as a matter of federal policy.

In our opinion, no one method is a panacea for the protection of livestock. The Animal Damage Control program must include a wide variety of methods, lethal and nonlethal, applied under careful supervision, as specific circumstances dictate.

Research must continue to be supported. Until other satisfactory alternatives are found, research must continue to seek an environmentally sound method of employing toxicant in those limited situations where other methods are not effective.

National Symposium

The Sheep Producer/Environmentalist Committee recommends:

During the next year there should be convened a national symposium on the role and use of chemical toxicants and repellants for animal damage control.

The symposium should be held at a western university involved in animal damage control research.

All groups involved in the animal damage control controversy, including scientific societies, livestock interests, and wildlife conservation groups, should be urged to cosponsor the symposium. All co-sponsors should be consulted on the format and content.

Funding for the symposium should be sought from co-sponsors and those agencies that have been funding animal damage control research.●

TRIBUTE TO JUDGE FLOYD R. GIBSON

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1979

● Mr. SKELTON. Mr. Speaker, on December 31, Judge Floyd R. Gibson will retire as chief judge of the 8th Circuit U.S. Court of Appeals.

Judge Gibson began his career in 1940 as a member of the House of Representatives in the Missouri General Assembly. After serving three terms in the house, he was elected to the Missouri Senate. There he was elected president pro tem and was named the "most valuable" member of the 1959 assembly.

He was appointed to the U.S. District Court for the Western District of Missouri in September 1961 by the late President John F. Kennedy. Judge Gibson became a member of the court of appeals in 1965 and has served as the chief judge of the 8th Judicial Court since 1974.

Judge Gibson has certainly made an outstanding contribution to his State and to our judicial system. I want to congratulate him on his many years of service and to wish him all the very best in the days ahead.●

ON OUR WAY, SEMANTICALLY, TO MUNICH

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1979

● Mr. DERWINSKI. Mr. Speaker, some of our more plain-spoken colleagues have often deplored the widespread "pollution" of our language which forever is calling things what they are not. Others have pointed out how the Soviets have been allowed to misappropriate certain words over the years, like "democratic," "peace," and "people's," to the extent that many in the world audience are not only confused, thereby, but come to adopt the Soviet meanings themselves. As a consequence, of course, things become clouded and communication suffers. Thus, the pollution of our language. And it is deplorable.

Former Ambassador Henry Catto had something valuable to say on this matter in an editorial column in the Washington Post of December 13. What the Ambassador has to say is especially relevant in view of the current terrorist crisis in Tehran.

The text of the article follows:

ON OUR WAY, SEMANTICALLY, TO MUNICH

(By Henry E. Catto, Jr.)

The Watergate cataclysm left America changed in countless ways. Among these changes, it is at least arguable that the most profound is a sharply heightened sense of skepticism on the part of the press when dealing with statements by U.S. government figures: No longer is there any acceptance of the proposition that if the president says it, it is true; indeed, the opposite often obtains. The president's press spokesman is regarded as a practiced and—occasionally—talented liar. The press gives no quarter in the battle to bring the truth, the facts, to a public hungry to know.

It is, therefore, puzzling that the very reporters and commentators who probed every word President Nixon uttered, who laughed behind their hands at the idea that President Ford could ski and who lift a dubious eyebrow when President Carter logs his miles jogged statistics are able to swallow uncritically the most transparent propaganda if it comes from a foreign source.

Take the case of the Iranian "students." The Tehran government—if the shrewd but lawless fanatics who currently speak for that unhappy nation can be so dignified—announced on Nov. 4 that the U.S. Embassy had been overrun by students thirsting to force the wicked Americans to turn over the former shah for trial. The American press—from The New York Times, The Washington Post, Walter Cronkite and John Chancellor on down (Richard Valeriani was a rare exception)—docilely reported on these "students" and their demands.

The first reaction of the reader or viewer is, I suspect, likely to be one of bemused tolerance. Here in America in the 1960s, genuine students did indeed engage—quite successfully—in legitimate political activity. Every American family has a student or two, rosycheeked and earnest. They are sometimes given to rowdy excess, to be sure, but boys will be boys. Can Iranian students be all that different?

Alas, our keen reporters do not answer for us questions that beg to be asked. What schools do these people attend? Are the weeks spent trespassing on American property while kidnapping American diplomats excused absences? Is the whole scene a bizarre fraternity initiation? Do these students engage in terror for credit? If so, what course are they taking, American Humiliation 101?

The fact is that these young Iranians are political terrorists, blackmailers and kidnappers, and they should be so labeled. Yet after 40 days of this nightmare, the Iranian description persists: they are "students" to the gullible.

This case is not an isolated one. Another prime example is the word "socialist." It is far from rare to read that the "socialist bloc" claims this or that, or to hear even U.S. diplomats speak of the "socialist" nations. The unwary conjure a picture of gentle Fabians taking tea in their London salons, clucking earnestly at capitalist outrages. Or of Harold Wilson puffing benignly on his pipe. Or Norman Thomas running with equal measure of jollity and futility for president of the United States every four years.

Again, we are unwary. "Socialist" is a euphemism used by the communist propaganda apparat. It is employed when frankness is deemed unadvisable, and the usage is parroted by people who feel it is somehow impolite or McCarthyite to call someone a communist. The State Department, in a message to all posts in 1976, warned U.S. diplomats to avoid falling for this transparent attempt to disguise communist rapacity with socialist respectability, but the message has not gotten through.

In June of this year, Havana played host to an international meeting, that of the "non-aligned" nations. The unaligned movement was begun decades ago by Tito of Yugoslavia and Nehru of India and, as conceived, it had a certain validity. Today, the story is different. The Soviet lap dog, Fidel Castro, is president of the group for the next three years; and despite valiant efforts by certain countries such as Yugoslavia and Egypt to maintain the integrity of the original name, the Havana meeting became a forum for ritual anti-American creeds. "Non-aligned," nonetheless, seldom appears in quotation marks or prefaced with a consumer-beware warning such as "so-called." (FTC, where are you?)

Sloppy word usage is by no means the sole proprietorship of the press. Sen. Edward Kennedy, in attacking the shah as among the worst rulers in history, is equally guilty. Whatever his shortcomings, the shah cannot be classified by reasonable men with Hitler, Stalin and Pol Pot; that Khomeini lives is proof enough that Pahlavi did not eradicate all his opponents. Had the shah's crimes been Hitlerian in magnitude, surely the senator would not have supped so often at Iran's table. The senator's hyperbole merely lends credibility to the rancid ravings of the ayatollah, who is—let's use the proper words—our enemy.

Americans, press and politicians alike should read words with as much care as they do medicine labels, for words are potent and potentially poisonous. Misrepresentation and manipulation from abroad must be avoided; to do otherwise is to go, semantically, to Munich.●

OLDTIME FIDDLERS WEEK

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1979

● Mr. SYMMS. Mr. Speaker, today I am introducing a joint resolution to designate the week beginning June 15, 1980, as "National Oldtime Fiddlers Week," in conjunction with the National Oldtime Fiddlers' Contest which is held in Weiser, Idaho. The competition takes place through June 22, and fiddlers come from all over the United States and Canada to display their skills and interest in oldtime fiddling and the folk music of early Americans. This resolution will hopefully inspire continued interest in this historic art form and designate our contest in Weiser as an important national event.

I am extremely proud of all the people in Weiser who participate in the Oldtime Fiddlers Contest and who share this wonderful music with the rest of the country. I look forward to a great week of "Fiddling Magic" in June of 1980, and I urge my colleagues to support this resolution in the House which Senator McCLURE has introduced in the Senate.●

LEGION COMMANDER ACTIVELY OPPOSING SALT II

HON. JIM JEFFRIES

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1979

● Mr. JEFFRIES. Mr. Speaker, the American Legion traditionally has been a proud ally of the American people's right to a national defense that guarantees their safety in a hostile world. And the Legion's position in the debate over the SALT II treaty is no exception, according to Frank van der Linden of the Sacramento Union.

In his December 4 article Mr. van der Linden recounts some of the activities of the American Legion's national commander, Frank Hamilton. It is refreshing to read of Mr. Hamilton's efforts on behalf of our country's safety, and I would like to submit the article for my colleagues' attention.

The article follows:

LEGION COMMANDER ACTIVELY OPPOSING SALT II

WASHINGTON.—Despite pressure from President Carter, the American Legion's new national commander is actively working against the SALT II treaty, and that could be a decisive factor in its likely defeat by the Senate next year.

Frank I. Hamilton, the national leader of the 2.6 million-member Legion, met with Carter a few weeks ago and heard his emotional appeal for the pact with the Soviet Union which Carter characterized as vital to avoid a massive and dangerous nuclear arms race.

Hamilton said the Legion would support an arms control agreement that limited Soviet strategic forces "and their capacity to strike the United States and its allies."

But, he added, Carter's treaty failed to meet the test and the Legion insisted on amendments to curb the Soviet Backfire bombers and SS–20 missiles.

Then the Senate Foreign Relations Committee turned down all such key amendments while approving the pact by a 9–6 vote, and Hamilton opened fire on it with both barrels.

"It is unequal and unfair and not adequately verifiable to protect the American people," the commander declared. He began notifying legionnaires around the country to let their senators know that "American veterans will not lend support to a flawed agreement."

Next, he came to Washington from the Legion's Indianapolis headquarters and took part in the "National Peace Through Strength Week," sponsored by the American Security Council, lobbying intensely with senators in behalf of the Legion's amendments.

Hamilton, 56, a lawyer from Greensburg, Ind., who was an infantry lieutenant in World War II, did not mince words in warning senators against approving SALT II in its present form. At a reception on Capitol Hill, he encountered Maryland Sen. Charles Mathias, a liberal Republican who helped Carter win Senate approval of the Panama Canal treaties opposed by the Legion.

An eyewitness reported that Hamilton said: Senator, you sold us out on the Panama Canal, you'd better not do it on SALT II."

On another occasion, Hamilton was asked how he, as a lawyer, would treat a senator who continued to support SALT II even after being shown that the pact was not in the national interest.

"As a lawyer," he replied, "I would have to regard the senator as a hostile witness and invite him back into the cloakroom for a conference."

"Down in Indiana," he said, "we call that 'thumpin the watermelon.'"

To his surprise, the new commander found that some advisers in his own Washington office did not share his intense opposition to SALT II. They preferred the Legion's declaration, at its August convention in Houston, that "we support any SALT agreement which is genuinely equitable, one which actually halts the nuclear arms race, reduces tensions and guarantees full compliance by both sides."

The Carter White House welcomed that language because it could be interpreted as Legion backing for SALT II. But Hamilton pointed out that the SALT II pact does not do any of those things and so the Legion must oppose it.

As a result, he is being criticized as "reactionary" and "negative." He is learning fast that anyone who opposes the liberal establishment in Washington will be called both of those names—and worse.●

DUVAL COUNTY IS TOP FULLY ACCREDITED SCHOOL SYSTEM IN THE COUNTRY

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1979

● **Mr. BENNETT.** Mr. Speaker, the people of Duval County, Fla., and the school board and Herb Sang, the school's superintendent, and all others who have helped, deserve great credit for their achieving the distinction of having now the largest fully accredited school system in the country. I include a news article from the December 10 edition of the Florida Times Union which gives details:

DUVAL TO BE TOP FULLY ACCREDITED SCHOOL SYSTEM

(By Margo C. Pope)

The Southern Association of Colleges and Schools on Tuesday will lay claim to having among its members the largest fully accredited school system in the nation—Duval County.

Although the 29 remaining Duval elementary schools and six junior high schools receive their certificates of accreditation today, the official recognition of systemwide accreditation for Duval's elementary schools takes place Tuesday afternoon at the SACS convention at the Atlanta Hilton.

There is no systemwide accreditation recognition for secondary schools. Nevertheless, with the recognition Tuesday, Duval Schools Superintendent Herb Sang will have no qualms about making the claim that Duval, with 133 accredited schools, is indeed the nation's largest.

Duval can lay claim to that title because Florida school systems are county systems, rather than being divided up into separate school districts within one county.

In many states, school systems are divided into separate city and county systems, such as they are in Georgia.

Duval can also claim the title of the nation's largest fully accredited school system because SACS accredits elementary schools and has been doing so for many years.

Dr. John Davis, SACS associate executive commissioner for elementary schools, said SACS was the first of the nation's regional accrediting associations to accredit elementary schools.

According to Davis, the North Central Association of Colleges and Schools, which is the largest regional association geographically and covers the Midwest, began accrediting elementary schools three years ago.

The Middle States Association, which includes New York, Pennsylvania and New Jersey, has formed a group to begin elementary accreditation.

The New England Association also is beginning elementary accreditation, while the Western Association, which includes California, has elementary accreditation under study.

Davis said there are several large school systems in SACS which, if they accredited all their schools, would be larger than Duval.

However, he said, these systems—such as Jefferson County (Louisville), Ky., and Memphis, Tenn., do not seek accreditation for all.

"The trend, though, is toward accreditation, and Florida is right up there in terms of getting as many of its schools accredited as it can," he said. "And Mr. Sang has done more with this process than anyone I have ever known."

Duval's celebration of total accreditation is already evident within the county.

Last spring, the school system printed up bumper stickers for its employees which read either, "I work [or I teach] in the nation's largest fully accredited school system."

Vocational printing classes throughout the school system have been making the bumper stickers as class projects. The materials were left over from the old Technical High School, which was closed last spring, according to a school system spokesman.

During the past month, James Lashley, school system communications director, has solicited contributions from business for highway billboards which will promote the accreditation achievement.

Lashley said he hopes to get enough money to place four to six billboards on main highways into Jacksonville.

He said Prudential Insurance Co. has contributed $1,000 and other firms are considering participation.

The school system's elementary and secondary principals, through their own independent associations, have contributed a total of $250 for a sign which will be displayed inside Jacksonville International Airport.

Lashley said that when Will Rogers Jr. was in the city recently, he agreed to make several radio and television public service announcements for the school system.

Joann DiGiandomencio, president of the Duval County Council of PTAs, said the organization is giving the accreditation achievement notice in all of its mailings throughout the county and the state.

Lashley's office also has produced a brochure on accreditation which is being distributed to real estate agencies, the military and prospective businesses.

On Friday, the Jacksonville Area Chamber of Commerce, through its River City Forum, will recognize the total accreditation at a luncheon at the Thunderbird Motor Hotel.

The Duval County School Board will make special presentations later this year to the 35 schools which completed the accreditation drive this year.

The elementary schools are Rutherford, Axson, Lackawanna, Beal, Central Riverside, Upson, Morgan, Norwood, Scott, Kite, Arlington, Oceanway, Venetia, North Shore, Spring Park, Lake Forest, Hyde Park, Forest Hills, Windy Hill, Sherwood Forest, Morse Avenue, West Jacksonville, Brown, Woodson, Pickett, Normandy Village, Greenfield, Grand Park Exceptional Child Center and Gilbert Seventh Grade Center.

The junior highs are Gorrie, Kirby-Smith, Landon, Fletcher, Lake Shore and Mayport.●

EDGAR J. MASON—VA PROFESSIONAL

HON. RAY ROBERTS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1979

● **Mr. ROBERTS.** Mr. Speaker, on July 21, 1980, the Veterans' Administration will celebrate its 50th anniversary as the sole Federal agency responsible for caring for the needs of our Nation's veterans. As we approach this milestone in public service, I would like to pay special tribute to the 228,000 dedicated VA employees who, on a day-to-day basis, get that job done, speeding benefits and services provided by a grateful nation for over 30 million veterans in the United States today. While every VA employee deserves the thanks of the Congress and the appreciation of the American people, I would like to cite one specific example of the type of dedication and professionalism which can be seen within that Federal agency.

Edgar J. Mason came to the VA in 1948 as a legal assistant in the insurance underwriting field within the Department of Insurance in Washington, D.C Over the years he has improved his position and developed highly specialized expertise in one of the most technical but also one of the most beneficial, veterans services provided by our Government. In helping to direct the operation of the VA insurance program he has given sound legal and technical counsel to the Department of Veterans' Benefits and the VA general counsel staff. He has been directly responsible for developing, reviewing, and implementing such major insurance legislation as the servicemen's group life insurance program in 1965 and the Insurance Act of 1974. Both initiatives extended valuable insurance coverage and benefits to thousands of worthy servicemen, veterans and survivors. Through such skills and with such administrative ability, the VA and the Congress have been able to fine tune veterans insurance programs to meet the changing needs and changing expectations of today's veteran population.

On December 28, 1979, Ed Mason will retire after 38 years of Federal service and 31 years within the Veterans' Administration itself. I would like to take this opportunity to congratulate him for his dedication and loyal service at the VA. But I would also like to express my appreciation, as chairman of the House Committee on Veterans' Affairs, for his special help and support for our work on the committee. Over the years we have learned to rely on his influence and sound judgment, and we are truly grateful for his counsel and advice in our coordinated effort to provide for those who have served this Nation in our Armed Forces. We will miss Ed Mason when he retires, but I am confident and thankful that his type of dedication and ability will remain throughout the Veterans' Administration.●

FLORIDA'S LEGISLATURE RESOLVES ON THE IRANIAN SITUATION AND ON A PROBLEM WITH FOOD STAMPS

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1979

● Mr. BENNETT. Mr. Speaker, the Florida Legislature recently passed two resolutions which I set out hereunder:

The first, in strong support of the President's efforts to secure the safe return of the 50 hostages in Iran.

The second, requesting a change in the Privacy Act to allow the States to require an applicant for food stamps to present his social security number for verification.

The resolutions follow:

HOUSE CONCURRENT RESOLUTION NO. 46–C

A concurrent resolution expressing support for the President of the United States in his efforts to obtain the safe release of Americans being unlawfully detained in Iran

Whereas, on November 4, 1979 hundreds of Iranians attacked the United States Embassy in Tehran, Iran and held over 60 American citizens captive within the embassy, and

Whereas, this outrageous and unprovoked attack upon the United States Embassy and the Americans employed therein has since been ratified and praised by the leadership of Iran, including the Ayatollah Khomeini, and

Whereas, this unlawful and contemptible action cn the part of Iran to blackmail the United States into releasing the former Shah of Iran to certain death in Iran cannot be tolerated, and

Whereas, the Legislature of the State of Florida wishes to express its concern for the Americans being held hostage in Iran and to their families, and

Whereas, the Legislature of the State of Florida, representing over 8,000,000 United States citizens in Florida, fully supports the President of the United States in his efforts to secure the safe release of the 50 American hostages still being detained in Iran and condemns the actions of Iran in their seizure and continued detention of our fellow citizens, Now, Therefore,

Be It Resolved by the House of Representatives of the State of Florida, the Senate Concurring:

That the Legislature of the State of Florida expresses its unequivocal support of the President of the United States in his efforts to secure the safe return of the 50 American citizens being unlawfully detained by Iran and joins the President of the United States and all citizens of Florida and of the United States in condemning the actions of Iran in its continued detention of those Americans.

Be it further resolved that copies of this resolution be forwarded to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

HOUSE MEMORIAL NO. 753

A memorial to the Congress of the United States, Urging Congress To Propose an Amendment to the Privacy Act of 1974 To Allow Verification of an Applicant's Social Security Number at the Time of Application for Food Stamps

Whereas, the incidence of fraud associated with the food stamp program is becoming an increasingly serious problem, and

Whereas, state requirements with respect to the Aid to Dependent Children program have shown that requiring an applicant to present his Social Security number for verification is an effective deterrent against fraud, and

Whereas, such a requirement with respect to the food stamp program is presently prohibited by the federal Privacy Act of 1974, Now, Therefore,

Be it Resolved by the Legislature of the State of Florida, That the Congress of the United States is requested to amend Section 7 of Public Law 93–579, the Privacy Act of 1974, to allow the states to require an applicant for food stamps to present his Social Security number for verification.

Be it further resolved, That copies of this memorial be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.●

TELEVISION DIPLOMACY

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1979

● Mr. LAFALCE. Mr. Speaker, the journalism profession, and particularly television journalists, face grave responsibilities and difficult judgments in their efforts to report to the American people on the crisis in Iran.

On the whole, our free press has done well under very trying circumstances. But I am deeply concerned about the fact that the present regime in Iran—Khomeini, his henchmen and the so-called students—are trying to manipulate our journalists and to conduct what I call "television diplomacy" instead of dealing within the world community the way every other nation on the globe does.

An editorial in the December 22 TV Guide, reprinted in today's Wall Street Journal, reviews this issue at length and calls on the TV networks to remember that "restraint, good judgment and thought of what harm could be done to our Government's efforts to free the hostages are among their responsibilities." This editorial parallels my sentiments closely, and I would like at this time to share it with our colleagues.

The editorial follows:

THE HOSTAGES AND THE RATINGS

The race to be No. 1 in the ratings is no longer simply business competition when it affects the welfare of our country. The sometimes thoughtless coverage by the three networks of events in Iran, their overplaying of demonstrations orchestrated for American television cameras, their haste to report unsubstantiated rumors and their furthering of Iranian propaganda goals by helping shift attention from the kidnaped embassy staff members—who are the issue—to the Shah—who is not—cannot help but make the job of our Government more difficult.

The shocking invasion of an embassy, the seizing of its personnel and the resultant international furor make exciting news copy. The Iranian crisis has boosted the ratings of all three network evening news shows, and the late-night specials rounding up the day's events in Iran convince the audience of a network's unselfish devotion to informing the public—hang the expense.

But there must be a limit to how far a network's ambition to be first should go in scraping the bottom of the Iranian news barrel for another morsel to titillate the morbidly curious and the unquestioningly naive. Was it necessary, really, to dig up three fierce American female radicals and put them on camera to spout their absolute endorsement of Iran's unconscionable crime? Who checked the bona fides of the neatly attired Iranian woman in black who was shown explaining that her four sons were killed by the Shah's secret police? And aren't the networks submitting to exploitation by the terrorists when they give the Iranian foreign minister free daily access to American television audiences in order to repeat, again and again, his tortuous justification for barbaric actions condemned by every civilized government? Is it in the interest of the United States to permit him to dodge questions—about why the hostages must be bound, why no neutral observers were permitted to see them—and then to allow him to make speeches about the alleged actions of the Shah? Finally, in order to get an interview with a hostage, should a network submit to Iranian blackmail and grant the captors prime time to read their propaganda message?

We have seen enough unwashed Iranians chanting their slogans and waving their fists on cue to last a lifetime. We know that a block or so away from the American Embassy demonstration grounds in Tehran, streetcars are running, stores are open and it's business as usual. Only on American television is all of Iran spending all its time vociferously demanding death to the Shah, death to President Carter, glory to the holy Ayatollah.

Obviously the legitimate news must be covered and we must be informed as to what is happening. The newsmen the networks have on the story in Iran and in Washington are seasoned journalists. They know when they're being used. They know when what looks like a story may in reality be phony. They know that restraint, good judgment and thought of what harm could be done to our Government's efforts to free the hostages are among their responsibilities. They know, and we know.

Let the ratings be damned.●

KENNEDY-CARTER DIFFERENCES ON DEFENSE SIGNIFICANT

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1979

● Mr. SIMON. Mr. Speaker, during the conference between the House and Senate on the budget for fiscal year 1980, Senator HENRY BELLMON, the outstanding Senator from Oklahoma who has been the ranking Republican on the Senate Budget Committee and who is unfortunately retiring, made a point about the defense budget which we would do well to heed. He said that while he favored any steps necessary to maintain an adequate defense for this Nation, he was concerned about grabbing arbitrary and meaningless percentage figures out of the air as goals.

Senator BELLMON is correct. We should be doing more to see that an adequate number of airplanes are on our aircraft carriers, for example, a deficiency we now have. But to arbitrarily say that regardless of the impact on the economy and regardless of the defense needs of this country we are going to increase spending 3 percent or 5 percent above inflation, that strikes me as an imprudent and economically dangerous course—and a course not in the best interests of the security of this Nation.

A debate may be commencing on this issue. I am inserting into the RECORD a speech delivered in Chicago by Senator KENNEDY. Both leaders make clear that the United States cannot retreat to a second-place position in security, but the approach of the two leaders differ. I urge my colleagues to study those differences carefully, because this issue is a fundamental one as we approach the fiscal year 1981 budget.

Let me add that if we increase defense spending 5 percent above the inflation rate, we will be compounding all of the economic problems of this country. I hope we move with considerable caution before we accept what is an initially appealing recommendation, but one which has long-run major complications for the social programs of this country and for the economy of the Nation.

The speech follows:

ADDRESS ON "AMERICAN SECURITY" BY SENATOR EDWARD M. KENNEDY—CHICAGO COUNCIL ON FOREIGN RELATIONS

It is a pleasure to meet again with the members of the Chicago Council on Foreign Relations. From a city in the heartland of the nation, you in this forum look across the seas to the challenges America faces in the wider world.

First, I want to say a brief word about events in Iran. Our primary concern is the safe and early release of our fellow citizens now being held as hostages in Tehran. I fully support our country's effort to free them. Whatever the grievances against the Shah and his regime, there is no justification for terrorist actions and outlaw conduct.

All Americans condemn this flagrant violation of international law. We are one nation indivisible in our determination to protect our diplomats everywhere in the world, and never to submit to blackmail anywhere in the world.

I believe that in the 1980's, America can look to the wider world and lead with a new sense of confidence.

There are too many today who see a false image of the United States. They see temporary stumbling as evidence of permanent disability. They suspect that we cannot stand up for our interests and speak up for our ideals.

I reject that vision and that verdict.

I do not believe that any of us would trade America's place in the world with any other nation. We can regain the productive capacity of our industry and sustain the abundance of our agriculture. We can reclaim our leadership in technological innovation and renew the vitality of our economy.

Defense is the cornerstone of foreign policy, but the foundation is the strength and prosperity of our own society. National security begins at home. We will be weak in the world so long as the dollar is weak. We will be insecure in the world so long as inflation subverts our economy. We will be diminished in the world so long as others dictate the terms of our energy supply.

The day is past when foreign policy fits into a neat category of its own separate from the other great issues. In the year ahead, every speech on the economy or energy in effect will also be a speech on foreign policy. Unless we can restore our economy and resolve our energy crisis, our potential role in the world will continue to be questioned by our allies and challenged by our adversaries.

At the same time, new forces of change and instability are erupting around the world. Nations are insensitive and ineffective in meeting the plight of refugees and the continuing shame of global hunger.

We also witness the emergence of new centers of political and economic power. Revolutionary upheavals, religious nationalism and regional conflicts test American resolve. The Yankee trader is being out traded in the global market place. Ten years ago, we had barely heard of OPEC. Today its shadow falls across every American factory, farm and home.

These are the new realities of foreign policy that confront us in the decade of the 1980s. And we must face the fact that the old danger now intrudes with a new and threatening reality. We must deal with the dual danger of a Soviet arsenal of mounting weaponry and a Soviet policy of constant probing wherever they see opportunity and vulnerability.

The painful lesson of the past is that we cannot act as a world policeman. But the emerging lesson of Iran is that we cannot withdraw into heedless hibernation from the world.

The military balance between the United States and the Soviet Union is central to our national defense. What makes the present situation so different from the past is the approximate military parity between our two countries. It took the Soviets almost three decades to match our power. They have spent vast sums on their military, at the expense of their consumer economy. In all probability, they will continue to make other sacrifices in order to expand their military might.

The United States must not retreat in the face of rising Soviet power. This nation must never accept second place in national security.

That is why I favor all necessary spending for effective strategic and conventional forces. That is why I favor the current development phase of the MX mobile missile system, with a full study of alternative missiles and basing structures before proceeding with deployment. That is why I favor the SALT agreement before the Senate. SALT enhances our security, by setting limits on the weapons each side can deploy. The rejection of SALT would damage our security, by removing significant constraints on Soviet strategic arms. It would signal a new era of confrontation between our nations.

And the process of negotiation must go forward.

Beyond SALT II lies the prospect of SALT III and the promise of meaningful reductions in nuclear weapons, instead of mere limits on their growing numbers. By the expiration of SALT II in 1985, the United States and the Soviet Union together could possess some 22,000 nuclear warheads. We must find a way to halt this awesome proliferation of the means of mass destruction.

A second challenge for defense policy is to strengthen our general purpose forces.

The price of weapons has soared over the past three decades. Even excluding inflation, the price of a main battle tank has multiplied by 10, the price of a standard fighter plane by 100, and the price of the radar and other electronics in that plane 1000 times over.

We must continue to develop sophisticated weapons, because we cannot counter modern Soviet forces with the arsenal of the 1960's. But few experts would contend that the improved performances of these weapons on the battlefield is proportional to their increased price. To pay for more expensive systems within a budgetary ceiling, successive Administrations have sacrificed other values. Despite huge expenditures on defense, the basic values needed to keep a military force ready, reliable and capable of combat have suffered.

Quantity has suffered. While we do need sophisticated weapons, we must not pay for those we do not need. Instead of gold plating every new ship, plane, and tank, we should concentrate on a sufficient quantity of weapons that can do the job. Instead of building one more nuclear aircraft carrier, we could buy six attack submarines.

Readiness has suffered. On any given day, one-third to one-half of our ships and planes are not prepared for battle. Yet it costs only ten percent as much to make a plane combat-ready as it does to buy a new one. If we raised our readiness by ten percent, we could add over 400 Air Force, Navy and Marine Corps planes to our active arsenal.

Training and personnel have suffered. Many pilots fire only one live missile at a target every two years. Weapons are only as good as the people who operate them. The most important personnel problem of our armed forces is not recruitment—which is what the controversy over the All Volunteer Force is all about. The most important problem is retention—retention of adequate numbers of men and women with experience, skills, and motivation in military service.

As civilian executives know, if you cannot keep experienced managers and skilled operators on the job, you have lost the core of the business. The institutional memory is gone. Our armed forces have faced that plight for many years. The chief petty officers who actually run the Navy, the sergeants who run the other services, are forsaking their careers for the added benefits of private life.

We must reverse the drain on our military forces. We must offer the pay, housing, medical care, education, and other facilities necessary to conserve our resources of trained servicemen and women.

As we enter a new decade, our defense priority must be to make our forces ready, reliable, combat-capable—and, in the long run, cheaper.

In the 1970s, Americans spent over a trillion dollars for defense. Because defense takes so much of our money, we owe it to the taxpayers not to play a simplistic game of numbers with the budget for national security. We owe it to the American people not to engage in empty debates over arbitrary percentages of budget growth. The important question is not how much we buy, but whether it enhances our security.

John Stennis, the Chairman of the Senate Armed Services Committee, was right when he said before voting against an amendment for 5 percent real growth in defense spending:

"Beware, beware of this process. It breeds trouble; it does not have the technical basis; it does not have the analysis; it does not have the recommendations, except just the dollar amount."

We must spend to be secure in fact, not for the psychic satisfaction of feeling that military spending is going up.

The challenge of this era in defense and foreign policy is more subtle than mere money for military hardware. No matter how much we have, we cannot pursue our global purposes on our own. We must reinforce our alliances from Western Europe to Asia to the Middle East. We should plan for collective security and for other initiatives—political and economic—that will serve our common interests.

In Europe, the NATO ministers will meet this week to consider how to enhance the Alliance's nuclear deterrent. NATO should move toward modernization of theater nuclear forces while seeking force reductions on both sides.

In the Middle East, Israel is—and will continue to be—a sure and certain ally.

The security of Israel is indispensable to the security of the United States.

We must seek to advance the peace process that President Sadat and Prime Minister Begin so bravely initiated. We must encourage the other nations in the region to join in the negotiations.

And we must never give terrorism the stamp of our approval by openly or covertly dealing with the P.L.O. The P.L.O. cannot contribute to the peace as long as it has an oath registered in its basic covenant to destroy the state of Israel.

In addition to our traditional defense alliances, we must also form a new alliance for energy. A NATO to defend Europe must be matched by an alliance for collective energy security. This alliance should provide for more effective conservation. It should also provide for increased oil sharing in an emergency.

It should offer every nation the opportunity to be a partner; but it should assure that never again will America and its allies become victims. The alliance should help other countries to tap potential resources of energy. According to the World Bank, 44 developing nations need assistance for oil exploration and production.

Within our own hemisphere, we should establish new arrangements of cooperation, not exploitation, with Canada, Mexico, Venezuela and others to develop oil and gas supplies.

Finally, in foreign policy, Americans have aways known that strength comes from right as well as might.

On this 31st anniversary of the Declaration of Human Rights, we should reaffirm our commitment to the rights which have always been the highest purpose of our country. It is to the United States that people defect, not to the Soviet Union. And it should be the United States that people see as a source of progress, not the Soviet Union.

Today, one-third of the planet is ill-housed, ill-clothed, and ill-fed. The refugees of Southeast Asia and the families in the huts and villages around the globe seek freedom from both poverty and repression. Our resources of food, technology, and diplomacy can advance our national interests by assisting their efforts to advance themselves.

We need not be late to problems and short on solutions. Surely a nation that could deliver bombs to Cambodian rice fields in a matter of hours can deliver rice to starving Cambodian children without a delay of months.

Other times in our history have brought change and peril. America began as a tiny band of colonists struggling against an empire. We passed from one World War to another and into a Cold War that several times took us to the brink of a final conflict. We have experienced success and setback. But in the long view of history, not the short-sight of a moment, we have always won through to an "ultimate triumph", as Franklin Roosevelt confidently said on the dark day after Pearl Harbor.

Let us be confident again. Let us summon and strengthen all the parts of our power—military, moral, economic and political—and the power of our allies as well, for we are not alone.

Let us shape a policy that will assure the survival and prosperity of our system and our society—and that can secure the ultimate triumph of our ideals.

As Franklin Roosevelt once said, "There are no limitations upon the nation's capacity to obtain and maintain true freedom, no limitations except the strength of our nation's desire and determination."●

A LOOK AT CALIFORNIA'S GOVERNOR BROWN

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1979

● Mr. BROWN OF California. Mr. Speaker, yesterday's Washington Post carried an extensive article about the politics and actions of Gov. Jerry Brown. The author of this article is a well-known political scientist with considerable national political experience and, I am proud to say, a constituent whom I greatly admire. As one who has worked with Governor Brown and his administration, I have often felt he is getting a bum rap by those who do not live in California. Regardless of whom one supports for President, it is always preferable that one view the candidates in a fair and accurate light.

I recommend the following article by Dr. Francis Carney to those who are interested in learning more about Governor Brown.

The article follows:

JERRY BROWN IS NO FLAKE—AND NO LEADER

(By Francis Carney)

With Sen. Edward Kennedy edging rightward and President Carter belligerently defending his center turf against all interlopers, Gov. Jerry Brown deserves a serious reexamination.

This assertion will undoubtedly be greeted with skepticism, for Brown's ideas have been obscured in a media fog—and, to be fair, a fog that Brown's own temperamental and ideological ambiguities have helped create. Still, Brown's case has not been helped by the press. One has to go back to George Romney in 1968 to think of a big-time presidential candidate getting a worse mauling.

There are really two different kinds of criticism of Jerry Brown. First is the kind of *ad hominem* attack in the national media. Its essentials are that Brown is a "flake," a "kook" or a "California crazy"; that Brown manipulates the media; that he is a triumph of symbol over substance, and that he is unprincipled, faithless, cynical, committed only to his own ambition and the ego rewards that come with high office. These intimations of bad character in Brown come from all across the political spectrum.

The kook/flake charge is silly. Anyone who knows him at all or who has paid attention to his career these last five years laughs at any depiction of Brown as a mellowed-out, laid-back California narcissist and hedonist. Brown is uptight, controlled in manner. He doesn't use or understand "Calspeak." Neither does he discourse in Zen koans or medieval Latin. He is almost dandyish in dress, almost never seen without a tie. His views on sex and marriage are "boring, Irish-Catholic straight," as one of his oldest friends put it.

What puzzles people about Brown politically is his embrace of many of the ideas and policies associated with the left wing of the Democratic Party while acting as tight as any Republican with public money and sounding as bearish as, say, Ronald Reagan, on the chances of much good coming out of central bureaucracies. Throughout Brown's five years as governor there has been no general tax increase in California. Neither have spending levels increased save for inflation. That means that the whole range of the state government's financial involvement with the poor, the elderly, the schools, the cities, the environment, transportation and the like has remained fixed at about the levels reached in the Reagan regime.

But that doesn't mean there was no change in state government from Reagan to Brown. Different people with different priorities are in the command posts. Different interest groups (labor, consumers, minorities, women, environmentalists) have access to Gov. Brown from those that had access to Gov. Reagan (agribusiness, developers, highway interests).

Brown is loath to set down any list of "objectives" for his administration. He is not comfortable when a reporter asks him about his "vision" of the good society. Gray Davis, Brown's chief of staff, tries to express it by saying that they will have done what they set out to do if when they leave office Californians will have gained a new appreciation of the finiteness of our resources and the limits that this must set on our desires.

Brown, it is clear, does not admire the Hamiltonian style in chief executives—the "bold," "energetic," "innovating," "chief legislator," of which FDR was the real thing and Jack Kennedy merely the mock.

To an interviewer, Brown insists that he really does believe in the separation of powers. He likes to say that he regards himself as a catalyst, as part of a process of resolution and decision rather than as the sole author of all action. Brown has an almost mystical belief in something he calls "the process," by which he seems to mean something remarkably like the pluralists' clash of interests mediated by government.

To people schooled in the traditions of liberal Democratic activism, all of this appears as dereliction of duty or plain old Republican passivism. It is the foundation of the "symbols instead of substance" and "do-nothing governor" charges.

Brown, quite naturally, demurs. Liberals, he believes, "often deal in shibboleths." Humphrey-Hawkins, which Brown supported, for example, is a shibboleth. "Does anyone think that it is a 'real' answer to unemployment?" he asks. Or, "If I support increased appropriations for all kinds of special education programs then I am supposed to be taking real action. But who can still believe that giving more money to the education bureaucrats, to the same people who have been presiding over the decline of the schools, is going to reverse the process? Pouring money into programs you don't believe are working seems to me to be the essence of symbolic action.

Brown insists that many of what his critics call "merely symbolic gestures" are instead real or substantive actions. Recently, for example, he appointed the liberal black former congresswoman, Yvonne Brathwaite Burke, to the Los Angeles County Board of Supervisors. "Is Yvonne a 'mere symbol?' " he asks. "The L.A. board is one of the most powerful governing bodies in the world. It has never had a woman or a black. Yvonne is a major black leader, a leading liberal. In appointing her I changed the board from one with a conservative majority to one with a liberal majority. I call that action, not symbols."

Brown makes the same claim for the most controversial of all his appointments, that of his friend and former cabinet officer Rose Elizabeth Bird to be chief justice of the California Supreme Court. Bird had no judicial experience, enjoyed a modest legal career and was a tough and very political secretary of agriculture in Brown's cabinet. Her appointment outraged conservatives, produced plenty of apprehension in the legal community and from the start sharply divided the court itself. She and the court were subjects of an unprecedented commission if inquiry growing out of charges that she or one of her allies on the court withheld an opinion detested by law-enforcement circles until Bird had won her hairbreadth public confirmation in November 1978.

Critics dismiss the Bird appointment as another of Brown's "symbolic gestures." A reporter asked Brown why he didn't appoint any of two or three quite distinguished liberal women already on the bench. "You don't understand," he said. "Any of those people you mention, while they are good lawyers, are members of the 'old boys' club." Rose is not one of the old boys. She has a different perspective. The courts are dominated by a single outlook, a well-to-do white male outlook, an upper-class outlook, if you will. We have to enlarge the outlook of the bench. Rose will do that. She will shake things up. That's why I appointed her and not just to get a woman on the court."

It is not only to the courts that Brown has directed his attention. He has been transforming the dozens of boards and commissions that regulate and monitor so much of the everyday activities of Californians. It would be tedious to enumerate all of the changes. The state Public Commission can serve as the most important example.

The PUC was a product of the progressive era and the administration of Gov. Hiram Johnson early in this century. In a familiar process, the commission became the captive of the very interests it was created to tame and regulate. But no longer. The five-member commission now is made up solely of Brown appointees. It couples pro-consumer and conservationist orientation with a sophisticated grasp of the utilities' problems. The utilities don't like the conservation regulations and some of the rate-setting innovations, but they live with them and prosper.

It is fair to say that California is showing the way into the new energy environment even though, under Brown, it has turned away from further nuclear development. Brown has taken a lot of ridicule for his commitment to discovering and developing new, nonnuclear energy sources. But he looks better and better on this issue. Californians don't believe that it is kooky to think about solar, wind and other still more novel renewable energy sources. California Republicans have tried linking these things to Brown's alleged "flakiness," and it has cost them.

All along the line—air pollution control, transportation policy, forest conservation and the like—Brown administration people have been challenging major corporate interests. They don't always win. Sometimes they back down. But that they are involved in substantive action seems undeniable. Brown argues that all of this is the real action. What he calls "legislative laundry lists" and "10-point programs" he dismisses as more symbolic than real, thus turning the argument around on his critics.

Arguments that Brown is "unprincipled" tend to focus on his alleged "turnaround" on Proposition 13 in 1978 and his embrace of the movement to call a constitutional convention to get a balanced-budget amendment.

Having led the fight against the Proposition 13 initiative measure, repeatedly calling it a "rip-off" and a "snare," Brown, following the voters' overwhelming approval of Proposition 13, said that he "recognized" and "accepted" the decision and that he would return to Sacramento and give his full energy to the implementation of the property-tax-cutting measure. When Brown made this accession to the will of the voters, he was in political trouble, running even with or trailing the Republican nominee in the best state polls. That was June. By September, Brown had virtually obliterated any memory that he had once been the leading foe of Howard Jarvis and the Proposition 13 forces and had successfully identified himself with the "spirit of Proposition 13." He won by a landslide that November.

Brown argues that he did not do a "turnaround." He claims, correctly enough, that he has always sought to hold down government spending and has been more successful at it than Reagan was. Brown also claims, accurately, that he had tried to get a better property tax bill through before Jarvis came along but that it foundered in the legislature over his efforts to put a progressive feature into the property tax assessments. Brown's case is a good one. He could not very well have said that he would refuse to recognize the landslide victory of Proposition 13 and, therefore, work to frustrate its implementation. His assumption of leadership in carrying out Proposition 13 does not, of itself, condemn him as "unprincipled."

It was the style that did him in. He skipped breathlessly to his tryst with middle-class resentment. Brown turned into an almost simpering votary of Jarvis.

From the pinguid embrace of Jarvis to advocacy of a convention to amend the U.S. Constitution is not a giant step. It is this willingness to ally himself with unsavory folk calling for a convention to write a balanced-budget amendment that liberals finally detest most in Brown. The liberal imagination easily conjures visions of a conclave of fanatics, eyes glinting, lips tightened in stifled range and resentment, joylessly gutting the Bill of Rights, prohibiting abortion, guaranteeing each person the right to arm himself to the teeth. That Brown, in pursuit of his ambition to be president, could countenance the calling of such a convention was for liberals the final proof of Brown's irresponsibility or recklessness.

Few, moreover, believed that Brown was even interested in balancing the federal budget. Most assumed that he was simply trying to position himself to the right of Carter and Kennedy on the government spending issue, riding the "Spirit of Proposition 13" to a higher position in the polls. That, of course, only made more heinous his willingness to risk the parade of horribles that the constitutional convention supposedly entails.

Brown, first of all, brushes aside the charge of "irresponsibility." He thinks that there are plenty of safeguards against the feared right-wing spasm of a convention. But he also doesn't think that a constitutional convention would have such a character.

"'That's just 'elitist democracy,' " he insists. "Elite democracy is the belief that only the highly educated and well-to-do elites have a real commitment to democratic values, while rank-and-file citizens are viewed as ever ready to junk the Bill of Rights, repress unorthodoxy, establish majority tyranny and so on. Why do so many liberals think that only people in the media and in government can be trusted with democratic liberties?" he adds.

Brown, in fact, thinks that it would not be difficult to confine such a convention to the single topic of the balanced budget, but he is not certain that it ought to be confined to the one subject. Brown is surely right about "elite democracy," but he doesn't understand that a constitutional convention shouldn't be used as a safety valve for present discontents.

Brown is less certain of himself on the question of the balanced budget. As one might expect, he is at least as interested in the symbolic value of an amendment as he is in the possibility that a couple of balanced budgets in a row might stop inflation in its tracks. He knows that he has no solid evidence that unbalanced budgets "cause" inflation. He knows that there is no longer anything resembling a consensus among economists on causes and cures of inflation.

Brown, in fact, has virtually ceased looking to economists for clues about what must be done. "'There is no 'managerial' solution," he says. It is going to take a political decision by the American people. He admits that right now the "people" can't make such a decision and, anyway, have no confidence in their ability to do so. He believes that that is where a balanced budget amendment becomes important.

"It would be a concrete step," he says. "It would be a sign that government had at least brought itself under control and was capable of moving in purposeful ways to stop inflation. That's the insidious thing about inflation. It spreads wide the sense of things being out of control. It feeds feelings of passiveness and helplessness. Someone has to get a grip on it because trust in government is melting away."

Brown has been saying these things for a long time, and practicing them as governor. It is not some sudden cynical departure for him. The bedrock for these views is loss of faith in the capacity of government—large-scale, centralized, bureaucratic, modern government—to manage this society through planning.

Brown, then, is not kooky. He does manipulate or seek to manipulate the media. So, of course, do Kennedy and Reagan and Connally and Carter. Brown engages in symbolic communication quite regularly. But he can properly deny that he takes symbolic action only or that he is a do-nothing governor. Brown is not unprincipled, and it is more than a little ironic that writers who find him to be too unprincipled even now beat the drum for a heavyweight championship bout between Ted Kennedy and John Connally. Brown is a public man with public ends. There is a clear and consistent pattern to his actions and statements.

But Jerry Brown is not ready to be president. He is not yet a political leader but only a rather popular political celebrity. A political leader lights up dangerous and unknown ground and leads a people across it. A leader articulates yearnings of the people and shows them the way to a realization of what is yearned for. A leader builds a movement that will live on when the leader is gone. Being elected and reelected are only conditions of leadership, not its definition.

Brown must disabuse himself of the motion that a chief executive is merely a catalyst, just another step in something called "the process." He must define problems and offer solutions. Brown must also clarify and certainly change his opposition to governmental planning. It is fun to be a gadfly and make jokes about planners and their exectrable prose and their'10-point programs. But if we don't plan, what are we to do? Brown cannot believe that something like Adam Smith's invisible hand is going to lead us safely through a world of limited resources and technological overkill.

Jerry Brown is estranged from much of what is established in America. He is iconoclastic. He is ready for new ways of doing things. But he is also estranged from the New Deal and from the liberalism of his father's generation. He is bereft of their optimism about what government can do to solve or ease human dilemmas and agonies. When he comes to believe that something can be done and when he shares his convictions with the public, he will be on the way to political leadership. He will come close to doing what Pat Caddell once wrongly gave him credit for doing, for "making a new definition of American politics."●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations, or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, December 18, 1979, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

DECEMBER 19

9:00 a.m.

Finance

Taxation and Debt Management Generally Subcommittee

To hold hearings on S. 1913, to retain the existing excise tax treatment for wine and distilled spirits products by providing a credit against the distilled spirits tax for the amount of alcohol in the product.

2221 Dirksen Building

9:30 a.m.

Governmental Affairs

To resume oversight hearings on the Department of Energy, focusing on the activities of the Office of Competition.

6226 Dirksen Building

Judiciary

Administrative Practice and Procedure Subcommittee

Business meeting, to mark up proposed legislation proposing regulatory reform to coordinate and oversee Federal policy.

424 Russell Building

Judiciary

Constitution Subcommittee

Business meeting, to begin markup of proposals advocating a balanced Federal budget or restricting in some way the growth of Federal outlays (S.J. Res. 2, 4, 5, 6, 7, 9, 10, 11, 13, 16, 18, 36, 38, 45, 46, 56, 76, 79, 86, and 93).

5110 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs

Rural Housing and Development Subcommittee

To hold oversight hearings to examine the use of urea-formaldehyde foamed-in-place insulation to promote energy conservation in rural housing.

5302 Dirksen Building

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

Foreign Relations

Arms Control, Oceans, International Operations and Environment Subcommittee

To resume hearings on S. 1450, proposed Foreign Service Act.

4221 Dirksen Building

Governmental Affairs

Federal Spending Practices and Open Government Subcommittee

To resume oversight hearings to examine alleged fraud and mismanagement practices in the General Services Administration focusing on procurement practices and control procedures of individual Federal agencies.

3302 Dirksen Building

DECEMBER 20

9:30 a.m.

Judiciary

To hold hearings on the nomination of Sanford M. Litvack, of New York, to be an Assistant Attorney General.

2228 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold oversight hearings on the enforcement of fair mortgage lending laws and regulations.

5302 Dirksen Building

Foreign Relations

Closed, to hear Secretary of Defense Harold Brown on his forthcoming trip to the People's Republic of China.

S-116, Capitol

DECEMBER 21

10:00 a.m.

Banking, Housing, and Urban Affairs

To continue oversight hearings on the enforcement of fair mortgage lending laws and regulations.

5302 Dirksen Building

JANUARY 14

10:00 a.m.

Select on Indian Affairs.

To hold hearings on S. 1466, to provide for the payment of Indian Claims Commission judgments in favor of the Delaware Tribe of Indians and the absentee Delaware Tribe of Western Oklahoma.

5110 Dirksen Building

JANUARY 15

10:00 a.m.

Banking, Housing, and Urban Affairs.

International Finance Subcommittee

To hold hearings to examine U.S. trade and technological competitiveness with other industrialized countries, focusing on a report by the International Trade Commission on international trade in integrated circuits relating to the electronics industry.

5302 Dirksen Building

JANUARY 21

10:00 a.m.

Select on Indian Affairs

To hold hearings on H.R. 3979, to modify and ease certain Federal laws restricting commercial transactions between Indians and Federal employees.

5110 Dirksen Building

JANUARY 29

10:00 a.m.

Select on Indian Affairs

To hold hearings on S. 1507, to provide for the purchase of certain facilities, lands, and water rights in and around the San Luis Rey River, San Diego, California, to be held in trust for, and operated and maintained by certain boards of Mission Indians.

5110 Dirksen Building

JANUARY 30

10:00 a.m.

Select on Indian Affairs

To hold hearings on S. 2055, to establish a reservation for the confederated tribes of Siletz Indians of Oregon.

5110 Dirksen Building

FEBRUARY 5

10:00 a.m.

Select on Indian Affairs

To hold hearings on S. 1998, to provide for certain public lands to be held in trust by the United States for the Tule River Indian Tribe.

5110 Dirksen Building

SENATE—*Tuesday, December 18, 1979*

(Legislative day of Saturday, December 15, 1979)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. BRADLEY).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

God of our fathers and our God, on this special day of national unity may we rally around the flag, display it with pride and proclaim its message of human dignity, personal freedom and self-government.

May the flag, carried in the forefront of freedom's cause, continue to float in majestic silence over Americans everywhere, holding us firmly together in the bonds of national unity and purpose. Invest every American with a new sense of reverence for our heritage, a nobler patriotism and a purer dedication to Thee and to doing Thy will.

As we prepare our hearts to receive Thy great gift at Christmas, we present

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

to Thee the gift of ourselves, our hearts, our minds, our bodies in the service of Thy kingdom.

We pray in Thy holy name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield what time he may desire of my order to the Senator from Kentucky (Mr. FORD).

The ACTING PRESIDENT pro tempore. The Senator from Kentucky.

SETTING THE RECORD STRAIGHT

Mr. FORD. Mr. President, on November 20, of this year, the Senate Committee on Commerce, Science, and Transportation marked up S. 1991, the Federal Trade Commission Act of 1979. This bill changes procedures for agency investigations and rulemaking in the consumer protection area, effects certain trade regulation procedures, and clarifies and amends the statutory authority with respect to commercial advertising in rulemaking. The legislation would authorize to be appropriated $70 million for fiscal year 1980 and $75 million for fiscal year 1981.

Mr. President, while I welcome debate over the merits of the provisions of S. 1991, I am troubled by the printing of articles about S. 1991 citing many provisions which are not in the bill. Furthermore, many of these provisions which have been reported in the press as part of the bill, I have opposed in the Senate Commerce Committee or intend to oppose on the Senate floor.

For the purposes of clarifying the provisions of S. 1991 I ask unanimous consent that a summary of S. 1991 as ordered reported be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF SECTION-BY-SECTION ANALYSIS

Section 1. Title.—This section is the title of the bill, "The Federal Trade Commission Act of 1979."

Section 2. Reporting of Orders.—This section requires the Commission to reopen any order issued under section 5 of the FTC Act if a person, partnership, or corporation subject to that order files a request with the Commission stating with particularity the changed conditions of law or fact that require the order to be altered, modified, or set aside. Such a request must be considered by the Commission within 120 days of the date of filing.

Section 3. Disclosure of Commercial or Financial Information.—This section amends section 6(f) of the Federal Trade Commission Act to make explicit the protections to be accorded trade secrets and confidential commercial and financial information which the Commission obtains from private sources. Although 6(f) currently prohibits the disclosure of "trade secrets and names of customers", the Commission has had no statutory prohibition against disclosure of confidential commercial and financial information which does not come within the Commission's definition of "trade secrets."

Section 4. Confidentiality of Line-of-Business Reports.—Under section 6 of the Act, the Commission may issue special orders to file statistical reports such as the Line of Business Reports. In connection with the Line of Business Reports, Congress, in appropriating funds for the Commission, has passed three separate restrictions on the Commission's disclosure of this information with the last of these appropriation acts expiring in September of 1977. The purpose of section 4 is to make permanent the protection against disclosure of line-of-business data in such a way that an individual company could be identified.

Section 5. Investigations of Insurance.—Section 5 amends section 6 of the Federal Trade Commission Act. Under the amendment, the FTC's investigative and reporting powers are made inapplicable to the business of insurance (except to the extent authorized by section 6(c) and 6(d) relating to antitrust investigations). The amendment does not affect the existing authority of the FTC, under sections 5 and 18 of the FTC Act, to conduct law enforcement investigations or to issue trade regulation rules to the extent such an investigation or trade regulation rule is consistent with the McCarran-Ferguson Act.

Section 6. Enforcement Authority.—Section 6 would eliminate the threat of criminal sanctions applied to those recipients of a subpena who in good faith resist unnecessary investigations by making such sanctions inapplicable prior to a judicial order of enforcement.

Section 7. Advertising Rulemaking.—This section would amend the section 18 rulemaking authority of the FTC to provide that the Commission may issue rules with respect to commercial advertising that would prohibit "false or deceptive commercial advertising." This would eliminate "unfairness" as a basis for Commission rulemaking relating to commercial advertising. Section 7 also provides that the Commission must publish the text of any rule, or alternatives, at the commencement of a rulemaking proceeding. Finally, section 7 provides that the provisions requiring the publication of a rule are applicable to any rulemaking proceeding in which all hearings have not been completed. This will have the effect of terminating the children's television advertising proceeding.

Section 8. Standards and Certification Rulemaking.—This section provides that the Commission shall not have any authority under section 18 of the FTC Act to develop or promulgate any trade rule or regulation with regard to standards and certification activities. The effect of this amendment will be to terminate the Commission's current standards rulemaking proceeding. The amendment will not effect the authority of the Commission to bring individual actions for violations of section 5 of the Federal Trade Commission Act.

Section 9. Prevalence of Unlawful Acts or Practices.—Section 9 reemphasizes the importance of prevalence as a basis for rulemaking. A rulemaking should only be instituted if the Commission has reason to believe that unlawful acts are prevalent.

Section 10. Advanced Notice of Proposed Federal Trade Commission Rules.—Following the recommendation of the Administrative Conference of the United States, this section requires the FTC to publish a notice before an initial notice of proposed rulemaking to apprise the interested public of FTC regulatory plans.

Section 11. Presiding Officer.—This section will insure the independence of the presiding officers in rulemaking proceedings.

Section 12. Public Participation.—This section limits to $50,000 per year or per proceeding the amount any one group may receive under the program, with a reduction in the total program authorization, and raises the ceiling on small business funding from 25 to 50 percent.

Section 13. Ex Parte Meetings.—This section requires meetings with the Commissioners and rulemaking staff or outside parties once a rulemaking has begun to be "on-the-record."

Section 14. Civil Investigative Demand.—Section 14 is designed to curtail the issuance by the Commission of overly broad subpenas for the purpose of investigating unfair or deceptive acts and practices as defined in section 5 of the FTC Act. This section is modeled after the criteria and procedures used by the Department of Justice in issuing a Civil Investigative Demand. Section 14 requires that the Commission state the nature of the conduct constituting the alleged violation under investigation and the applicable provision of law and includes appropriate safeguards to protect the legitimate rights and interests of every person subjected to investigation.

Section 15. Confidentiality.—This section is intended to complement the substantive protections of section 3 of the bill by establishing safeguards and procedures for the treatment of proprietary material obtained by the Commission from private parties. These procedures are not new, but are parallel to procedures at the Department of Justice, or are a clarification of certain procedures currently employed by the Commission.

Section 16. Definitions.—This section defines the term "rule" as is used in sections 17 through 19 of this bill to include any rule issued under section 6 or 18 and any amendment to such a rule if the amendment would have a major effect on the economy.

Section 17. Regulatory Agenda.—This section requires publication of a regulatory agenda listing the rules the Commission expects to propose or promulgate in the next 12 months.

Section 18. Regulatory Analysis.—This section requires an analysis of the benefits and the adverse effects of a rule at the initial notice stage and upon promulgation of the rule.

Section 19. Judicial Review.—The regulatory analysis would only be subject to judicial review as part of the whole record in connection with judicial review of the final rule.

Section 20. Award of Attorney Fees and Other Expenses.—This section establishes a procedure for awarding litigation expenses to small businesses who prevail in actions brought by or against the Commission unless the Commission shows its position was substantially justified.

Section 21. Authorization of Appropriations.—This section provides a 2-year authorization for the Commission. The authorization level for Fiscal Year 1980 would be $70,000,000 and for Fiscal Year 1981 would be $75,000,000.

Section 22. Oversight.—This section provides for oversight hearings by the Senate Consumer Subcommittee every 6 months.

Section 23. Used Car Warranty Authority.—This section clarifies and limits the FTC's authority to issue a trade regulation rule with respect to the sale of used cars. The amendment makes it clear that the Commission "may not require a mandatory warranty or inspection in connection with the sale of a used motor vehicle." It is the

Committee's view that this was the original intent of section 109(b) of the Magnuson-Moss Warranty Act, but this amendment will make the limitation on the Commission's authority unambiguous. This amendment will not terminate the used car rulemaking proceeding, and is consistent with the recent action of the Commission regarding this rulemaking proceeding.

Mr. FORD. I thank the majority leader for yielding me his time.

Mr. ROBERT C. BYRD. Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. ROBERT C. BYRD. I believe the Senator from Arkansas has an order, does he not?

RECOGNITION OF ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the acting minority leader is recognized.

Mr. STEVENS. Mr. President, I shall yield to the distinguished Senator from Arkansas in a moment.

TURN THE SATELLITE OFF IRAN

Mr. STEVENS. Mr. President, I noted with dismay in the morning paper the action of the Iranian Government in expelling two American newsmen, one of whom served on the Senate staff for some time. I should like to place that article from the Washington Post in the Record following my remarks and to state that I have asked my staff to look into the question of whether or not we have the capability of literally turning off the satellite on the Iranian episode.

It is my feeling that freedom of speech does not cover the utilization of the sophisticated techniques of bringing instantaneously the action of people such as the so-called students into the households of every American every day, time after time, through the use of American technology. If it is possible to pull the plug on the satellite, as our good friend from California did so dramatically in the days of the Vietnam riots, I should like to assist in pulling the plug on the satellite.

If they can expel those who are writing the truth as they see it under our freedom of speech doctrine, I think we can expel their propaganda from our American homes.

I ask unanimous consent that the article be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

Iran Orders Expulsion of Two Reporters for Time

(By Stuart Auerbach)

Tehran, December 17.—Iranian authorities today ordered the expulsion of two Time Magazine correspondents, accusing the publication of arousing U.S. "hatred" of Iran.

An Iranian government spokesman also charged that one of the correspondents formerly was a CIA agent. The spokesman said Time would not be allowed to send other correspondents here.

The expulsion orders came just two days after one of the correspondents, Bruce Van Voorst, had been granted a rare exclusive interview with Ayatollah Ruhollah Khomeini, who is rumored here to be a leading candidate for Time's Man of the Year for 1979.

The other Time correspondent affected by the order is Roland Flamini, a Maltese national from the magazine's Rome bureau. The expulsion of the two brings to 23 the number of foreign correspondents kicked out of Iran since the February revolution.

In New York, a spokesman for Time said the magazine regrets the expulsion orders and remains proud of both correspondents' work. The spokesman confirmed that Van Voorst worked for the CIA 18 years ago, but said he severed his connection with the agency when he began his career in journalism in 1963. He said Time hired Van Voorst this year "because he is an experienced foreign correspondent and a good journalist."

Before joining Time, Van Voorst served as a legislative assistant for then senator Dick Clark (D-Iowa). Prior to that, he worked for Newsweek.

While Iran has opened its doors to reporters since 50 Americans were taken hostage in the U.S. embassy 44 days ago, during the past weeks authorities here have been raising increasing complaints about the type of press coverage this country has received.

Last week Associated Press correspondent Alex Efty was expelled for writing stories about national minorities' demands for autonomy and mentioning that antigovernment protesters had chanted "Death to Khomeini."

Iranian authorities did not accuse either of the two Time correspondents here of using their press credentials to spy for the United States.

Abol Ghassem Sadegh, head of foreign press for the Ministry of National Guidance, said Iran knew in advance that Van Voorst had been a CIA agent in the past but decided to admit him anyway.

While highlighting the CIA connection Sadegh denounced Time magazine coverage during the past six weeks, calling it "one-sided and biased."

"Since the hostages were taken," he said, "the magazine has done nothing but help arouse the hatred of the American people toward Iran."

"Time has done much damage to this country in the eyes of Americans that we really cannot afford," continued Sadegh, a former VISTA volunteer who worked on an Indian reservation in South Dakota and says he renounced his U.S. citizenship in 1975 in disgust over the way the Americans treat the Indians.

One Time cover, which he displayed for television cameras covering his press conference, showed a painting of a blindfolded hostage and had the headline, "Blackmailing the U.S." He said that cover is enough to "create the kind of misunderstanding reaction of the U.S. toward Iran."

Sadegh said he was especially angry about a short article in Time's Dec. 17 issue that questioned security procedures at the U.S. Embassy here. The article said that sensitive documents that named CIA agents and listed their cover should not have been allowed to fall into the hands of the militant students.

He shrugged off questions by other correspondents who pointed to Time stories that appeared more favorable to the Iranian revolution and criticized the deposed shah.

Sadegh also attacked other news organizations including the British Broadcasting Corp. and CBS News. The BBC was bitterly denounced by Iran's previous government under the shah and praised by the opposition now ruling the country.

CBS has been blackballed by students holding the embassy and prevented from covering some press conferences.

The strong opposition to the American network stems from a Washington report by Marvin Kalb, whom Sadegh quoted as saying that the Iranians who captured the U.S. Embassy here are not really students but belong to Marxist organizations and are affiliated with terrorist groups such as Italy's Red Brigades and West Germany's Baader-Meinhof gang. CBS correspondents here said the students holding the embassy were especially angered by a Kalb comment that the takeover was led by Palestinians.

Sadegh said press coverage around the world "is moving in a fairer direction" as far as Iran is concerned because it is beginning to criticize the shah's rule and look more deeply into the Iranian revolutionary government.

But he said the coverage still angers many Iranians around the world and blamed it for attacks on Iranian nationals in the United States.

"Students in the United States see the whole world getting on Iran's back and they consider it the fault of the news media."

He said that correspondents here should look at the Iranian situation "from our point of view" not from their national, cultural biases.

RECOGNITION OF SENATOR BUMPERS

Mr. ROBERT C. BYRD. Mr. President, I have 2 minutes remaining. I ask unanimous consent that it be made available to the Senator from Arkansas.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas is recognized.

HALF A TRILLION IS REAL MONEY

Mr. BUMPERS. Mr. President, I send an editorial from the New York Times edition of Sunday, December 2, to the desk and ask unanimous consent that it be printed in the Record at this point.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Half a Trillion Is Real Money

Everett Dirksen's famous wisecrack about Federal arithmetic is already out of date. It was only a dozen years ago that the long-time Senate minority leader used to say, "A billion here, and a billion there. Pretty soon it runs into real money." To judge by the Senate's activity this week on the bill to tax windfall oil profits, the Dirksen formulation is three zeros short. The Senators are urging a rate change here, worth $22.5 billion, or a new minimum tax there, worth $45 billion. But even those huge amounts are, in a sense nickels and dimes, for the senators seem to be ignoring a provision of the bill that could cost the Treasury *half a trillion dollars.*

The windfall tax bill can be described as the other shoe, President Carter dropped the first one last summer when he announced he was gradually decontrolling the price of oil. That is a step we strongly favor because it will impel consumers to use less oil and induce producers to find more oil. But by itself, decontrol would mean vastly increased revenues for the oil companies for oil already in production. Hence the windfall tax proposal. The House version would raise an estimated $277 billion in taxes in the 80's. The Senate Finance Committee settled instead on a version that would bring in about $128 billion. What the Senate is now debating is how many billions it will add to that total.

But whatever the outcome of this heated argument over the windfall tax revenues in the 80's, a much costlier question remains: what about revenues in the 90's?

The Finance Committee would phase out the tax once it has raised an amount equal to present estimates of revenue by 1990. This would be enough to cover various energy-related expenditures. Further, phasing out the tax would eliminate the need for the cumbersome Federal regulatory machinery. And the prospect of big increases in profits would, arguably, stimulate oil companies to find and produce yet more oil.

The arguments against such a phase-out are far stronger. The phase-out would in fact retard the development of new oil supplies. If producers know the windfall tax will terminate, they will wait before developing promising new reserves; they would be foolish not to. They might not even have to wait until 1990. If oil prices rise faster than the Finance Committee estimates, as is easily conceivable, the windfall tax would reach the stipulated limit years sooner.

And in any case, it can hardly be wise public policy to let the oil companies retain all the profit involved. The total is immense: $500 billion in the 90's alone, according to a new Congressional Budget Office study of the windfall tax. To avoid major economic dislocation, such a vast amount would have to be recycled quickly; it is unlikely that this could be accomplished privately by the oil companies.

Perhaps, in some future year, producers will be able to demonstate that removing part or all of the windfall tax would truly benefit the public by stimulating new oil production. If so, let Congress relax the tax accordingly—then. It makes no sense to do so years in advance. Half a trillion here, half a trillion there: pretty soon, the Senate will find, it runs into real anger.

Mr. BUMPERS. Mr. President, every Senator is often troubled about whether to vote for a bill with which he disagrees because the bill is an improvement over what it could have been. I was confronted with this issue last evening when we came to the passage of the windfall profit tax bill. Should I have voted against it because I thought it was a disgrace, or should I have voted for it because it was at least better than the bill reported out of the Finance Committee 6 weeks ago? The truth always has a very difficult time catching up with a lie and with real fear that somebody would say I had voted against a windfall profit tax, I went ahead and voted for it. Many Senators did likewise. Some voted against it, and many of them stated their reasons in the RECORD.

But I decded to wait until this morning to express my thoughts about the windfall profit tax bill because no issue has troubled me more since I have been in the Senate.

The Senate Finance Committee's assumptions about the impact and effect of the tax were terribly wrong, as the meeting in Caracas by the OPEC nations today demonstrates. The assumptions were that oil would be $30 a barrel this last quarter of 1979 and the price would increase at a rate of inflation plus 2 percent. With the increases announced by even the moderates among the OPEC nations, the price this year by the OPEC cartel will have gone up 110 percent.

The distinguished Senator from Washington (Mr. JACKSON) and I have been saying for 6 weeks that the price of oil will unquestionably go to $50 a barrel over the next 2 years. Mr. President, I think it is fair to assume now that the price of oil will almost certainly reach $50 a barrel by the end of 1980.

In one sense, it can be argued that the tax rate under the bill will not be different even if the price goes higher. Even if that were true—and I do not believe it is—it has been terribly misleading to the American people. They have been led to believe that their cost under this bill will only be $800 billion over what it would be under controlled prices over the next 10 years.

Unhappily, that is not the case. The Congressional Budget Office estimates, even under the Finance Committee assumptions, that the oil companies will keep $800 billion over the next 10 years. In my opinion, the cost to the American people will not be $800 billion. If prices escalate according to one foreign minister who was quoted on the news this morning, the American people will be asked to cough up at least $3 trillion more as a result of decontrol over the next 10 years.

Mr. President, $3 trillion is 1½ times the total gross national product of this Nation this year, 1979. That is what the oil companies will get in addition to what they would have received if we had not passed a windfall profit tax bill. The only thing that may keep this dire prediction from coming true will not be that the price did not go as high as predicted. It may not reach that point because the people cannot pay the price. Their living standard is going to suffer dramatically, as it has already begun to do.

The oil companies cry that they need more money to explore. How many times have we heard that on the floor of the United States Senate in the last 6 weeks? Yet, there is not one credible statistic to back it up.

Time and time again it was pointed out to the Senate that Exxon spent less than 1.3 percent of their revenues last year on exploration and Texaco spent about 0.7 percent.

We see these exorbitant profits being reported quarterly. Simultaneously Exxon is trying to acquire Reliance Electric at a cost of about $1.2 billion and Tenneco is trying to buy Southwestern Life Insurance Co., one of the biggest insurance companies in the Southwestern part of the United States.

We know the Saudi Arabians have been subsidizing the world to the tune of about $100 billion a day by their oil policy, on the assumption that the Aramco partners, Standard Oil of California, Mobil, Exxon, and Texaco would bring a giant share of this production to this country, which they have not done. Instead of bringing a significant portion, the Aramco partners only brought 1.4 billion barrels into this country, and the balance has gone to Western Europe and Japan where they could reap the highest profits possible.

Do they need more money? This year their profits are $35 billion, and their exploration costs are only $15 billion. They have put less than one-half in exploration, in expectation of their profits.

I can understand that because I see statistics which show that since 1974, 80 percent of all drilling rigs in this country have been in operation and utilized.

Mr. President, it is a sad day. What we have done in the name of free enterprise is to make the oil companies partners in a price-fixing conspiracy—the bane of the free enterprise system.

The political system which we cherish and defend thrives on political accountability.

Those who, in my opinion, consistently disregard and demonstrate an insensitivity for the plight of the millions with the specious argument that while the whole thing may be painful, it is really in their best interests, will have a golden opportunity in November 1980 explaining why inflation continues to rage unabated. Energy price is the main culprit.

They will have the opportunity to explain to their constituents why oil company profits continue to soar at unprecedented rates while production continues to decline.

They can explain why gasoline prices are $1.50 or above, and no relief in sight. They can explain why their social security taxes are going up and their disposable income is going down due to energy prices. They can explain why many can no longer even afford the necessities. They can explain why some small businesses, and some not so small, are going bankrupt because people are having to allocate such an inordinate portion of their disposable income to energy, leaving nothing for the purchase of other items.

Mr. President, even those who salve their conscience with a tax cut know those proposals for a $20 or $30 billion tax cut over the next 3 years should know that it is simply a reduction of a tax with the benefit going to the major oil companies.

Maybe those who have voted for a weak tax can even explain voting against my amendment last night which would have had the effect of saving approximately 500,000 barrels of oil a day over the next 5 or 6 years at a cost to the United States Treasury of $2.1 billion, while we give the major oil companies $135 billion under this bill to do the same thing.

Mr. President, I hope the House will not recede to the Senate position. I hope they will hang tough. I would rather see the bill vetoed, than see the Senate version become law.

Regardless if the House hangs tough or not, Mr. President, the U.S. Senate, has shamelessly exploited the American people, especially working people and retired people of this country, under the most specious arguments I have ever heard.

This is a very sad time in the history of this country, Mr. President, when 50 of our citizens are held hostage in Tehran. But it is also a very sad time for me when the Senate has abdicated its responsibilities to so many people. The consequences of this action will be devastating to our Nation unless the Congress undoes in the next 12 months what it has just done.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BUMPERS). Without objection, it is so ordered.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin (Mr. PROXMIRE) is recognized for not to exceed 15 minutes.

AUTOMATIC INCREASES IN DEFENSE SPENDING ASSURE MORE WASTE—NOT BETTER DEFENSE

Mr. PROXMIRE. Mr. President, the proposals for percentage increases in defense spending above the inflation rate by both the President and many Members of the Senate are mindless and wholly unworthy of the able people who are making the proposals.

Yes, indeed, I would concede we need a stronger military force. We need more combat forces in relation to those in supply and support. We need more ships in our Navy rather than huge, gold-plated, dinosaur aircraft carriers that cost more than scores of smaller, more effective ships. We need more fighter aircraft, but not at a cost of $15 to $20 million a copy.

The Federal Government is replete with waste, and the Defense Department is no exception. We can have a far more effective military force without spending a great deal more money, simply by making tough, painful decisions that cut costs.

THE MEAT AX

Consider that for years, Senators who offered amendments to the defense budget that cut a percentage were attacked for using a "meat-ax" approach and were called on not to offer the meat-ax approach but instead to cut specific defense spending for procurement, maintenance, or personnel in a particular area. What was the so-called meat-ax approach? It was an across-the-board, overall percentage cut in the defense budget below what the President or the Armed Services Committee had called for.

But now, Mr. President, consider the irony of the present situation.

Those who are united to a man in calling for a percentage increase in defense spending were unanimous in calling the percentage reduction in defense spending a know-nothing, indiscriminate, "meat ax"—that was the word—"meat-ax" approach.

Now—well, now we are engaged in an overall proposal not to reduce the defense budget by an overall amount below the request of the President or the committee but to increase it by giving the Defense Department appropriation all of any inflation increase plus what the President first proposed as a 3-percent real increase, and what now he suggests could be about a 5-percent increase. This increase is not just this year but every year for the next 5 years.

Can you imagine the howls if anyone had proposed not just to reduce the defense appropriations by 3 or 4 or 5 percent below the increase requested but had proposed that each year it would be cut by a fixed percentage? Such a policy would indeed have been irresponsible as well as wasteful.

How does this differ in principle from the so-called alleged meat-ax approach to the reduction of a specific defense appropriation bill by a percentage amount except that the proposed increase is more outrageous since it would carry over for years to come?

A HUNDRED BILLION DOLLAR INCREASE

How much money does an annual average growth rate of 4.85 percent mean? Well, it depends on the inflation rate. Given a 100-point scale starting in fiscal year 1981 and extending to 128.81 by fiscal year 1985 and given real growth projections of 5.6 percent, 10.6 percent, 15.5 percent, 20.3 percent, and 25.4 percent over a base year, then the fiscal year 1985 budget will be in the neighborhood of $232.5 billion. Of course, this assumes a slightly declining inflation rate starting at about 7.1 percent DOD-wide and ending with about 6 percent. This inflation computation could well be too low, even including the more conservative manpower calculations.

Thus, we are facing defense budgets increasing about $100 billion in 5 short years; $100 billion. This would be about a 75-percent increase over the base year of fiscal year 1980 including inflation and real growth.

Mr. President, if there is one simple principle I have learned in 22 years in the Senate, it is that we do not solve problems simply by throwing money at them. And that is just as true of defense as it is for the problems of our cities and education. We have exploded our Federal spending for education—overall, by a mammoth 400 percent in the last 15 years, far more than the inflation rate plus the increase in pupils, far more. And what has been the result? The scholastic aptitude scores—as good a measure of progress in education as we can find—shows that the scores are going down every year—not up, down. There is a near perfect negative correlation. The more we spend, the dumber the kids get.

SPENDING AND THE CITIES: AN OBJECT LESSON

How about the cities? We have increased spending for the cities by the Federal Government from about $2 billion a year in 1957 to $85 billion 20 years later, in 1977. What is the result? Are the cities better?

Dr. Richard Nathan of Brookings completed a study not long ago of our cities, evaluating what has happened to our cities over the 20 years, between 1957 and 1977. He used three objective criteria: The level of poverty, the age of housing, and the movement of population. What did he find after this remarkable explosion of Federal spending for our cities? Had they vastly improved with the forty-fold increase in Federal spending?

No. With the exception of a relatively few cities in the Southern and Southwestern part of the country which had benefited because of powerful economic factors, the vast majority of the cities had gotten worse. Not better—worse.

MORE SPENDING: MORE WASTE

Mr. President, I could go on. But it should be clear that we cannot guarantee a stronger military force simply by appropriating more money. In fact a regular assurance to the Defense Department of more and more money every year will not give us a better defense. It will give us one thing for sure: More waste. More waste.

Mr. President, I am not one of those who argue that there is more waste for every dollar spent by the Defense Department than there is in education or transportation or housing or any other area of Federal spending. But I would certainly argue there almost certainly is not any less waste. Anyone who has spent 5 years in the Army, as I have, or 5 days in the military, can cite heartbreaking examples of waste, big waste.

Mr. President, regardless of who is President of the United States, regardless of who is appointed Secretary of Defense, such waste is absolutely sure to increase if we follow an automatic policy of providing an automatic multibillion-dollar increase in defense appropriations every year.

AND MORE INFLATION

Mr. President, that policy is sure to make inflation worse. It is sure to take needed investment as well as capital resources from our private economy that we urgently need. It is no accident that the two economies that have lead the world consistently, year in and year out, for the last 20 years have been the economies of Japan and Germany, which have not had to shoulder the immense military spending burden that this country has had to endure. Japan and Germany spend far less than we do in relationship to the size of their economy on military weapons. And what has been the result? Their growth, their productivity, their standard of living have been the marvel of the world. In all these indices of economic performance, they have walloped this country.

Again, Mr. President, I am not calling for a reduction in military spending. I am not calling for a smaller or weaker military force. I am not even calling for us to hold down military appropriations to our present rate of military spending. I am calling for us to appropriate only as much as can be justified on a specific, item-by-item basis. If we need additional ships or tanks or planes or missiles, let us appropriate the money and build them. But let us not follow a policy of automatically, blindly, year after year, guaranteeing that we will spénd a particular percentage more for military goods. That is not the route to a stronger military force. It is the route to more waste, more inflation, a bigger deficit.

Mr. President, I ask unanimous consent that an editorial from the New York Times of Monday, December 17, entitled, "Only a Better Defense is Better," be printed in the RECORD at this point, and I strongly recommend that my colleagues read it.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

ONLY A BETTER DEFENSE IS BETTER

There is more than one motive for President Carter's pledge to raise military budgets by more than 4.5 percent a year until 1985. Militarily, he argues that some defense preparations have for too long been neglected. Diplomatically, he thinks his plan will pay the Senate's ransom for ratification of the SALT II treaty, itself a contribution to security. And politically, Mr. Carter thinks it will position him neatly between those who still judge military spending as too high and those who find it dangerously inadequate.

All in all, therefore, the President's five-year defense plan is one of calculated moderation. But the pledge is for more real spending, after inflation, and it can become expensive. The SALT debate, Iran and the deterioration in relations with the Soviet Union have unquestionably eroded public resistance. But the real value of more military spending, after emotion, can only be determined by the quality of what it buys. The President thought only recently that less would do. He has a right to change his mind and to make his case, but Congress needs to judge the particulars and rival claims on the budget from year to year.

Some of the very people who normally decry "throwing money" at domestic problems have been demanding a fixed commitment to a 5 percent annual increase in military spending. Some have conditioned their support for SALT on that figure—although defense spending would logically have to be still greater without the treaty. Mr. Carter has yielded to their mood but tried to finesse the challenge. He suggests an average annual increase of nearly 5 percent, but would begin by spending only 3.4 percent more next year. What will happen in subsequent years should depend not only on his intentions but on the annual judgment of Congress and the Pentagon's performance.

More spending does not automatically mean better defense. More and more has been spent, for example, to recruit volunteers for the armed services, yet the military commanders are now gravely concerned about the quality of the recruits. Against the President's better judgment, Congress insisted on a fifth giant nuclear aircraft carrier and other extravagances, thus diverting huge sums from more pressing but less glamorous military programs. Even by the most hawkish standards, aggregate sums are a poor measure of what the country needs.

The public that now seems ready to spend more for defense will also have to agree to be taxed more for it. No major program, therefore, should escape tough analysis. Mr. Carter began the discussion by making a good case for better "quick reaction" forces—marines and soldiers that could be sent to almost any spot if carefully packed supply ships were strategicaly stationed around the world. Such a force could not extricate the Tehran hostages, but it could be diplomatically useful in the next decade. Is it worth $9 billion? A good debate would be instructive.

Let us spend more if we must, but let us reckon the need one program at a time. As Senator Hart has put it, "Only better is better."

SALT II: A DIET THAT WILL GET YOU FATTER

Mr. PROXMIRE. Mr. President, SALT II is very appealing. How can any sane person oppose limiting nuclear arms? And is that not precisely what SALT II—Strategic Arms Limitation Treaty—I repeat limitation, yes, I said limitation; treaty does.

Is it not time that if you are for peace and want to stop the insane arms race you vote for SALT?

The answer is not as obvious or automatic as it appears. The trouble is that SALT I—which had the same noble purpose—did not limit arms at all. What happened under SALT I?

Did nuclear arms decline? No, they increased. They increased more rapidly than ever before.

Oh yes, but what will happen under SALT II? Surely they will decline under SALT II—will they not? No, they will increase massively. We will build our nuclear capacity greatly and with the MX and cruise missiles make the nuclear arsenal less vulnerable, far more accurate, and more devastating. And under SALT II the U.S.S.R. will also race ahead with nuclear production. But without SALT I would the situation not be worse? Would the United States and the U.S.S.R. not have increased their military arsenals even more? Maybe. Maybe not. It is hard to see how the U.S.S.R. could have been restrained by SALT I since they have had the most massive increase in strategic arms in their history since SALT I, and with SALT II this country is embarking on a huge buildup of strategic and conventional arms—exceeding anything in our peacetime history and all this at a time of rampaging, out-of-control inflation.

There is an analogy with SALT I and II and dieting that I cannot resist. Suppose you are overweight and you go to a doctor who puts you on a reducing diet.

After a month you find you have gained 5 pounds. So you go back and say, Doc, that diet of yours is not working. I followed it to the letter but I gained 5 pounds and I have never before gained 5 pounds in a month. The doc tells you—do not worry if you had not been on that diet you could have gained 10 pounds. That is SALT I. Then the doc says here is SALT II—try this for a month—this time I want to warn you, you are going to gain 10 pounds in the coming month. But if you were not on the diet, you would gain 20.

When you question this the doc says—now listen: "To lose weight you have to get into the process of dieting and that takes some getting used to."

In the same way we are told we have to be patient in this nuclear arms race and recognize both the Russians and this country are building bigger and more devastating nuclear arsenals so the best we can do is to keep talking to each other about it. But like a diet that puts on weight this is a phony arms limitation treaty that permits a huge buildup.

Frankly all this is not good enough for me. I think we should say to this diet doctor "Dammit, Doc, this diet of yours is going to turn me into a blimp. Six months with you and I am the circus fat man. I want a diet that makes me lose weight, starting right now. And I mean business, if I do not start shedding pounds in the next month, I am going to get a new doctor and a new diet."

This is the way I feel about SALT and this is why we must insist that SALT III—negotiations for which are scheduled to begin as soon as SALT II is ratified—must result in an actual reduction in nuclear capability both by the U.S.S.R. and the United States.

We should write this direction to SALT III negotiations into SALT II treaty as an amendment.

We should not settle for a charade of arms limitation treaties that cloaks the deadly serious threat to mankind's existence on this planet.

Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 3 minutes and 15 seconds remaining.

GENOCIDE CONVENTION: AN AFFIRMATION OF HUMAN RIGHTS

Mr. PROXMIRE. Mr. President, I have spoken out many times in support of the Genocide Convention on the grounds that it would be a major step forward for the cause of human rights. How strange it is, then, to hear an argument against the treaty based on the premise that its ratification would be a dangerous threat to these same human rights.

But this is precisely the reasoning of Mr. Stan Rittenhouse, a representative for Liberty Lobby who testified before the Foreign Relations Committee's last hearings on the convention. He contends that under the treaty, any attempts by Christian missionaries to make converts, anywhere in the world, could be considered acts of genocide. He argues that this is the logical conclusion which "liberals around the world" would draw from the convention's definition of genocide.

Mr. President, nothing could be further from the truth. The treaty is very specific in holding that genocide cannot be charged unless there is a premeditated intent to destroy an entire people. Although such destruction might be mental as well as physical, the United States would ratify the Convention only under an understanding defining such mental harm as "permanent impairment of mental facilities." A careful reading of the treaty shows that it clearly does not apply to religious conversions.

But these are technical observations. What do religious leaders say? The U.S. Catholic Conference, with many missionaries throughout the world, completely rejects Liberty Lobby's claim. The Reverend Bryan Hehier, a spokesperson for the Conference, stated that the precise wording of the Genocide Convention "would discourage frivolous allegations". He maintained that the treaty would threaten the human rights of no one, including those of Christian missionaries.

The Genocide Convention, which has been signed by 83 nations, is simply an affirmation of the proposition that the mass destruction of entire peoples is something abhorrent to the community of civilized nations. It is a fundamental statement of protection for human rights.

The Catholic Conference has supported ratification of the Genocide Convention for many years, as have dozens of other national organizations. Incidentally, every religious group that has taken a position takes the position in favor of the Genocide Treaty. The foundation of this broad support, I believe, is the almost universal recognition that this treaty represents a major step forward for the cause of human rights. It is long past due for the Senate to recognize this. I urge my colleagues to do so, and to ratify the Genocide Convention.

Mr. President, I yield back the remainder of my time and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1979—CONFERENCE REPORT

Mr. WILLIAMS. Mr. President, I submit a report of the committee of conference on H.R. 3875 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3875) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 13, 1979.)

Mr. WILLIAMS. Mr. President, I ask unanimous consent that Albert Eisenberg, David Yudin, Jesselie Barlow, Steven Rohde, Annie Jones, Howard Menell, and Charles Marinaccio of the Committee on Banking, Housing, and Urban Affairs be accorded the privilege of the floor during the consideration of the conference report on H.R. 3875.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair advises the Senator from New Jersey that on the conference report there is a 20-minute time agreement to be equally divided between the Senator from Wisconsin (Mr. PROXMIRE) and the Senator from Utah (Mr. GARN).

Mr. WILLIAMS. I thank the Chair.

Mr. PROXMIRE. Mr. President, I am happy to yield to the Senator from New Jersey whatever time he requires.

Mr. WILLIAMS. Mr. President, I am pleased to bring before the Senate the conference report on H.R. 3875, the Housing and Community Development Amendments of 1979. The distinguished chairman of the Senate Banking Committee (Mr. PROXMIRE) who served as vice chairman of the conference, deserves commendation for his fine work in developing a compromise out of some very difficult and complicated issues. I also want to express my appreciation to the distinguished ranking minority member of the committee (Mr. GARN) for his own excellent contributions as a participant in the conference, particularly in the area of homeownership opportunities for young or first-time home buyers.

The conference agreement resolves important questions concerning federally assisted housing programs, homeownership programs, the UDAG program, interstate land sales regulation, and rural housing. While I support the conference report, and earnestly urge my colleagues to do the same, I also must admit to reservations about certain agreements reached.

In the area of assisted housing, the conferees agreed to accept the Senate's provision of $1.140 billion in contract authority—sufficient to fund an additional 265,000 units of section 8 and public housing during fiscal year 1980. This matches the amount approved in the fiscal year 1980 HUD appropriations bill. About two-thirds of these units would be newly constructed or substantially rehabiliated, reflecting the mix of unit types presented to the Department in local housing assistance plans. In contrast to recent years, this conference report would allow one of the smallest efforts in assisted housing and inflation can be expected to erode still further the number of units to be assisted.

Some will applaud this as a victory for necessary budget restraint during a time of inflation. I can appreciate and support the sincere interest of many Members in bringing the Federal budget under tighter control. But in aiming their sights at the assisted housing budget, they risk a far different outcome. As the overall supply of rental housing continues to shrink, especially for low- and moderate-income households, and as demand continues to grow, housing costs must escalate. The short-term savings accomplished by reducing our commitment to housing for the poor will cost us dearly later on—when construction costs will be higher, and when the pressures of unmet demand for all types of rental housing will be enormous.

The conferees also agreed on eligibility and tenant contribution issues involving assisted housing. A Senate provision lowering the eligibility ceiling for section 8 and public housing programs from 80 to 70 percent of the median area income was deleted, thereby retaining the present ceiling of 80 percent of median area income. I believe this was a wise decision for it allows some degree of flexibility in determining the mix of tenants within HUD assisted projects. I am disappointed however that the conferees also agreed to a House provision raising the maximum tenant contribution from 25 to 30 percent of median area income, and according to a sliding scale of income.

While this House provision was improved by applying it only to those tenants entering assisted housing after January 1, 1980, I feel that it will establish an unwelcome new direction in tenant contributions. One of the fundamental purposes of federally assisted housing programs is to bring decent shelter within the affordable range of low and moderate income people. By raising the tenant contribution, as the conference report has done, we surely undermine this purpose, and impose on HUD and local housing authorities a substantial, and unnecessary, administrative burden.

In recognition of the need to rehabilitate public housing projects now in existence, the conferees agreed to increase the President's request for public housing modernization contract authority to $50 million. A recent HUD report indicated that in some projects as many as 20 percent of the units stand vacant because they are uninhabitable. It makes good economic sense to upgrade and preserve this existing housing resource, and I am pleased that the conferees have reached this agreement.

The conference report contains an expansion of the UDAG program to include so-called pockets of poverty in cities now ineligible for the program. Such pockets would be able to receive up to 20 percent of the $675 million authorized for fiscal year 1980 in the legislation. A number of restrictons have been imposed by the conferees on the use of funds to assist pockets in order to assure that the program focuses properly on truly distressed sections of communities. Particularly important, the conferees have made it clear that cities which apply for UDAG funds may not receive awards if they have neglected their responsibilities to provide basic public services to all their residents on a nondiscriminatory basis. The UDAG program from its inception was designed to be targeted to those areas most in need of assistance. Adoption of the pockets of poverty provision in the conference report should not be interpreted as an abandonment of the principle of targeting, rather it should be viewed as a recognition of the differing forms of distress that may exist among urban areas.

Cities with pockets of poverty must put up a local match of Federal, State, or local funds, equal to 20 percent of the grant. In addition, funds must go to benefit low and moderate income people in the pocket and projects funded must be limited, except under unusual circumstances. There are also special poverty, population, and area configuration requirements that must be met for a pocket of poverty to be eligible for funding.

Another important change in the UDAG program is a Senate provision, adopted in the conference report, to make towns and townships eligible for grants. Previously, such communities were excluded, not on the basis of need, but because of the statutory definition of "municipalities."

Also within the context of the community development block grant program, the conference report includes:

A Senate provision, offered by the distinguished Senator from Vermont (Mr. LEAHY), which I was pleased to cosponsor, to increase the authorization level for the section 701 comprehensive planning program to $50 million, in order to assure adequate planning assistance for smaller cities and for States;

New authorization for the livable cities and neighborhood self-help programs;

A recommendation that new communities under the title VII program found financially infeasible by the Department should be closed out with a minimum of Federal exposure, while insuring that the reasonable interests of surrounding local governments not be jeopardized; and

An authorization for the section 312 rehabilitation loan program of $140 million, which combined with about $55 million from the program's revolving fund, would allow a program activity level of $195 million for fiscal year 1980.

The conference report makes important changes in FHA programs.

Mortgage limits for FHA single-family programs are increased across the board by an amount intended to allow FHA to remain an effective force in the moderate-income housing market, without fueling inflation. The basic one unit limit, for example, is increased from $60,000 to $67,500, with appropriate increases for two- to four-unit dwellings.

Mortgage limits for multifamily projects in high cost areas will be allowed to increase to 75 percent over current statutory limits, with an additional increase to 90 percent over these limits, where determined necessary by the Secretary on a project-by-project basis. These new high cost area variations are important steps toward permitting the production of rental housing in areas where inflation has brought the multifamily housing market to a virtual halt.

Loan limitation on mobile homes have been increased, as have loan terms. This increase is also designed to reflect the climb in production costs since the last increase was enacted.

The conference report also overrides State usury limitations for FHA programs. This is necessary to prevent the shutdown of FHA in a number of States in which the FHA rate currently exceeds the State usury ceiling.

Another FHA provision allows new houses covered by HUD-approved warranties to be eligible for the lowest FHA downpayment without a preconstruction approval from FHA. I believe that this is a welcome advance in the development of housing warranty programs and should encourage improved protection for homebuyers. I know that the FHA program has traditionally involved compliance inspections of new homes prior to final approval for insurance in order to make sure that new home construction meets FHA standards. While warranty programs can improve the protection of purchasers against construction defects or their problems, a warranty alone does not substitute for reasonable steps during construction aimed at avoiding such problems in the first place. Therefore, the Secretary should be very careful to develop guidelines for approval of warranty plans that require adequate inspection practices at least as professional and complete as FHA compliance inspections, so that the effect of this provision will be to increase the overall level of protection afforded to home buyers.

I am particularly pleased that the conference report contains a substantial version of the Homeownership Opportunity Act of 1979 which I introduced along with the distinguished chairman and ranking member of the Banking Committee (Messrs. PROXMIRE and GARN). This provision will make the FHA graduated payment mortgage program more useful to moderate income-homeowners who are having so much difficulty finding affordable housing in today's market. Under this legislation, the required downpayment for a GPM will be reduced to the same amount as required in FHA-level payment programs—a 3- to 5-percent downpayment, instead of the current GPM downpayment of about 8 percent. The legislation also establishes several limitations, designed to make the new program more secure, and to target it to home buyers most in need of the kind of boost this program can offer. By its terms, the legislation is limited to first-time home buyers and persons who cannot afford to purchase the home using other FHA programs. However, the conferees expect these limitations to be liberally interpreted.

An area which was particularly difficult to resolve in this conference was the title amending the Interstate Land Sales Full Disclosure Act.

The conference report adopts the basic approach which I have advocated for the 2 years that revisions to this act have been under consideration: That we must balance the need for legitimate regulatory relief for developers against the need to improve the protections and remedies available to purchasers.

I am very pleased that this legislation adopts several new purchaser protections or remedies which were contained in the legislation originally introduced by Representatives ASHLEY and MINISH in the House, and by myself in the Senate. Particularly helpful are those provisions which strengthen consumer remedies and protections. Among the more important improvements is the longer "cooling-off" period, during which a purchaser may review his signed agreement and decide to rescind. It will be extended to 7 calendar days.

Larger lots (up to 20 acres in size) will now be covered under the act. Also strong disincentives are created against the use of liquidated damages clauses in land sales contracts. This will protect purchasers who have paid in substantial equity on a lot from losing all their equity in the event they default.

The antifraud provisions have been strengthened so that the omissiin of any material fact will now be prohibited under that section.

A new provision has also been added which requires that a developer who makes representations—whether oral or written—that roads, sewers, water, electricity, or other amenities will be provided must obligate himself in the contract to carry out those representations. This will make it possible for a purchaser to take appropriate action in the event the developer does not perform.

The statute of limitations for violations of registration and disclosure requirements has been strengthened and extended. This will give purchasers a fair opportunity to achieve redress in the event the developer violated the law.

With regard to relief for developers, a series of new exemptions have been created which should allow many developers, primarily smaller and local ones, to be relieved of the Federal registration and disclosure requirements. These include exemptions from intrastate sales, sales within the SMSA, and sales in subdivisions of less than 100 lots.

I am concerned, however, that the conference, in trying to reconcile two vastly different approaches which formed the basis of the House and Senate actions, may have created so complex a series of exemptions that many developers who are in need of regulatory relief, may be confused and thus put in jeopardy of unknowingly violating the law.

I urge HUD in implementing these many changes to keep in mind the purpose of the regulatory reform as expressed in both the Senate and House bills: To allow local and smaller developers to get out from under the sometimes excessively difficult administrative process created by HUD to implement this law. Administration of these new exemptions should be keyed to the idea that these developers should be relieved of unnecessary regulations, but that the public interest in having reasonable consumer protections and remedies is the paramount purpose of this law.

Under the leadership of the chairman of the Rural Housing Subcommittee (Mr. MORGAN), the conference report includes authorization for a number of programs under the Farmers Home Administration. These include additional funding levels for technical assistance FmHA rental projects, training for self-help housing agencies and organizations, an extension of the period during which FmHA-assisted homeowners could request assistance for construction defects, financial assistance for farm labor housing, and a higher loan amount for the section 504 home repair loan or combined loan grant program.

I believe the authorizations, included in large part through the dedicated efforts of Senator MORGAN, will enable the Farmers Home Administration to continue its substantial contribution to better housing for low and moderate income rural residents.

The rural housing section of the conference report contains an agreement on prepayment of rural housing loans, the single most difficult issue that faced the conferees. It came to the attention of the Banking Committees in both the House and the Senate that there exists substantial potential for owners of housing projects financed under the section 514 and 515 rural housing loan programs to prepay their properties after only a few years of ownership, paving the way for conversion of the properties to other purposes. This prepayment holds enormous implications for individual tenants, who could be displaced in a tight rental market.

This issue also is of concern to taxpayers who have supported these programs through public funds for the development of shelter for families with modest incomes. Both House and Senate bills contained separate provisions prohibiting prepayment in most cases for prospective owners of such buildings for the full term of their mortgages, while the House extended the prohibition to owners with contracts already in force. The conferees agreed to impose restrictions on both future and current owners.

The conference report provides that the Secretary may not accept an offer for prepayment of a section 514 or 515 loan unless the owner or the owner's successor is obligated to use the housing for the purposes specified in these sections for a period of 20 years, where the housing was assisted through interest credit, rental or section 8 assistance, or 15 years where such assistance was not used. In the case of preexisting contracts, the conferees determined that the Secretary should accept offers to prepay unless such an offer, involving more than 10 dwelling units, would result in the displacement of tenants who would not have an opportunity to relocate into affordable, decent, safe, sanitary, and available alternative housing; or where such an action would adversely impact the supply of housing for low- and moderate-income and elderly persons who reside in the area. The Secretary would be authorized to accept prepayment upon a binding condition that tenants who would not be able to relocate into decent, safe, and affordable housing be allowed to remain in the project at the same rent as if there had been no prepayment until such alternative housing is available, or until the expiration of the applicable 15- or 20-year period.

The agreement signifies the conferees affirmation of the original purposes of section 514 and 515 loans—to provide housing for families with modest incomes—and their belief that it is unsound public policy from both an economic and social standpoint for the Federal Government to find itself obligated to expend considerable additional sums replacing housing it encouraged to be built and which has been converted to other uses.

Mr. President, this has been a long and arduous conference, but the product represents the true spirit of compromise that the process is designed to foster. Enactment of this conference report is necessary to the continued operation of essential housing and urban developing programs, and I urge my colleagues to approve it.

Mr. GARN. Mr. President, today the Senate will consider the conference report for H.R. 3875, the Housing and Community Development Amendments of 1979. This represents a 10-month effort in bringing the conference report to the floor.

Senator WILLIAMS has already gone through the particulars of the conference report. On the whole, I think we have a modest proposal before us for fiscal year 1980. There are no new major, expensive initiatives in the housing and community development programs but rather refinements of ongoing HUD and Farmers Home programs.

I was the only one of the Senate conferees who did not sign the conference report. This was not without a great deal of anguish on my part. The reason I refrained from signing the report had to do with the retroactive changes accepted in conference concerning prepayment or refinancing under the FmHA's section 514 and section 515 rural housing loan programs. I find this provision particularly shocking and unconscionable. I am sure that this will result in extensive litigation by borrowers and investors under this program since all loan agreements contain the clear mandate which directs refinancing through private credit sources.

However, despite how strongly I feel about the retroactive provision, I do not think we should lose sight of several other important provisions in this bill. I am particularly pleased with the adoption of the expanded section 245 GPM program which will provide much needed housing to 50,000 first-time home buyers without any Federal subsidy and the increases in the maximum FHA mortgage limits. Also, we have made some constructive changes in the cumbersome reporting requirements of the Interstate Land Sales Act.

The main thing for us now is to finish this legislation and get it over to the House so that the President can sign it and the authorities of HUD and Farmers Home Administration can be reactivated without further delay.

Mr. PROXMIRE. Mr. President, I urge the Senate to adopt the conference report on H.R. 3875. While the conference this year on the housing and community development amendments proved to be long and difficult, I believe that the ultimate product produced by the conferees represents a fair and reasonable compromise between the Senate and House positions on a large range of issues. I will focus my comments on a few of the more important provisions included in the conference report.

The conferees gave some recognition to the necessity of fiscal restraint by adopting the Senate provision on the authorization level for section 8 and public housing. The Senate had adopted a level for annual contract authority of $1.141 billion. This was the level that had been recommended by the President. On the other hand, the House bill included an annual contract authority $145 million above the Senate level. This represents a difference of $3.5 billion in budget authority. While I personally believe that a strong argument can be made that even the Senate level is too high, that level did represent the will of the Senate, and in any event a lower level was not within the scope of the conference.

In another important decision affecting assisted housing, the conferees agreed to a provision to increase the maximum rent-to-income ratio in section 8 and public housing from 25 percent to 30 percent. This increase is an example of the painful but necessary steps we are going to have to take in order to begin to get a handle on the costs in assisted housing programs. The provision is a limited one, in that the higher ratios will only apply to people with incomes above 50 percent of the area median. In addition, as amended by the conferees, the higher ratios will only affect tenants who move into assisted housing on or after January 1, 1980. We expect the Secretary of HUD to move expeditiously to implement the new rent-to-income ratios.

The conference report contains a number of provisions designed to address the problem of displacement. For example, local governments will now be explicitly required to include, in their housing assistance plan, an assessment of the impact of condominium conversions on the housing assistance needs of lower income persons. In addition, provisions were included to give preference in obtaining assistance under the section 8, public housing and section 235 programs to families facing displacement. Further, a provision was agreed to which allows the maximum mortgage limits under the section 235 program to be increased by 20 percent if the property is in an urban neighborhood where a community sponsored program of concentrated redevelopment or revitalization is being undertaken and HUD determines that the increase in mortgage limits is necessary to enable eligible families residing in the area who occupy substandard housing or are being involuntarily displaced to remain in the area in decent, safe, and sanitary housing. Finally, provisions were agreed to designed to promote the preservation of the low-income character, and to prevent displacement in public housing projects and also rural rental projects under the section 514 and 515 programs.

This last provision, which placed limitations on prepayment of sections 514 and 515 loans, was the issue which deadlocked the conference for so long. Some of the Senate conferees held very strong philosophical views against any such limitation placed on loans made prior to the enactment of this act. However, under the circumstances, I do believe that the final resolution was a reasonable compromise of the conflicting considerations.

In summary, this year's housing legislation manifests an increasing sensitivity to the problem of displacement of low- and moderate-income persons. However, although some steps are being taken, we have by no means fully addressed the problem. Continued attention to the problem of displacement will be necessary.

With respect to the UDAG program, the conference report provides that a UDAG grant may be made only where the Secretary of HUD determines that there is a strong probability that the non-Federal investment in the project would not be made without the UDAG grant and where the Secretary determines that there is a strong probability that the grant would not substitute for non-Federal funds which would otherwise be available to the project. I have reservations, generally, about the UDAG program as a whole. However, if UDAG grants are to be made, in order to achieve maximum impact I believe that it is critical that the grant leverage other investments, and that the grant not substitute for local public funds which would be spent anyway if the grant were not approved.

Studies done by the GAO have raised questions regarding the accuracy of stated leverage ratios. In addition, in testimony before the Banking Committee earlier this year, HUD indicated its view that in some cases substitution of UDAG funds for local public funds would be appropriate. The provision agreed to by the conferees strongly reaffirms congressional intent that substitution is inappropriate and that leveraging is critical. Moreover, it places a clear and affirmative obligation on the Secretary to make an explicit determination, based on a thorough examination of available information, that there is a strong probability that the grant would not substitute for local public funds.

It is my understanding that HUD sought to include, in the joint explanatory statement of the committee of conference, some language indicating that for the purposes of the determination regarding substitution, all the Secretary would have to determine would be that there was no non-Federal investment already committed for the specific purpose for which the UDAG grant would be used. However, language to this effect was deliberately excluded from the joint explanatory statement. Moreover, it is plainly inconsistent with the joint explanatory statement which was adopted.

This statement says that in making the required determinations, "the Secretary should, at a minimum, consider the financial characteristics of the project and reviews undertaken by the area and central office staff and should seek assurances from the investors and the local government that they would not provide the funds, were it not for the inducement of a UDAG grant, and that other funds would not be available if the grant were not approved." Further, the Secretary is expected to make a "reasoned judgment based on a thorough examination of available information." The Banking Committee will closely monitor the Secretary's actions in implementing this provision.

Finally, the conference report contains a major rewrite of the Interstate Land Sales Full Disclosure Act. Resolving the differences between the Senate and House positions on this issue proved to be a difficult process. While the ultimate resolution contained in the conference report is certainly not perfect, I believe that the compromises worked out reflect a good balance of competing interests. Substantial assistance is provided in easing the burden for small, local developers while at the same time strengthening certain consumer protection provisions.

Several significant new exemptions to the Interstate Land Sales Full Disclosure Act would be created by this legislation. The sale of real estate by a developer engaged in a sales operation which is intrastate in nature would be exempted from the registration and disclosure requirements of the act. Further, if the subdivision contains fewer than 300 lots, the sale of a lot to a purchaser who resides in the same SMSA as the lot purchased would be exempted. However, for a lot to be exempted under either of these provisions it must be free and clear of liens, and there must be an onsite inspection by the purchaser.

In addition, all subdivisions containing fewer than 100 lots would be exempt from registration and disclosure, and in counting the number of lots in a subdivision for this purpose, lots totally exempt from the act pursuant to other exemptions shall not be counted.

From the consumer's perspective, a number of new protections have been added, including, among others, an increase in the cooling off period from 3 days to 7 days, protections against abuse of consumers in the use of installment land sales contracts, and a strengthened statute of limitations section.

Mr. President, the Housing and Community Development Amendments of 1979 contains a number of significant new improvements in the law. I urge the Senate to approve this measure.

Mr. GARN. Mr. President, I do have one question I would like to address to the distinguished chairman of the full Banking Committee.

With regard to the amendments to the Interstate Land Sales Full Disclosure Act, there has been some confusion as to how and whether the SMSA exemption or the intrastate exemption can be used in combination with the regulated jurisdiction exemption. In other words, would it be possible for some lots in a subdivision to qualify for, say, the SMSA exemption if other lots in the subdivision are exempt pursuant to the regulated jurisdictions exemption? In my opinion, this could be done, as long as all of the stated requirements of the law are met. What is the chairman's view?

Mr. PROXMIRE. The Senator is absolutely correct. However, for these exemptions to be used in combination in this way, the subdivision must meet all of the subdivision tests, as outlined in the joint explanatory statement of the committee of conference, and each lot must satisfy all of the lot by lot requirements for the particular exemption pursuant to which the particular lot is to be exempted.

There is nothing in the statute that says that particular lots cannot qualify for the intrastate or SMSA exemption if other lots in the subdivision qualify for the regulated jurisdiction exemption. However, because of the manner in which the subdivision test for the intrastate exemption is defined, in order for the intrastate exemption to be used in the same subdivision where the regulated jurisdictions exemption is also being used, all lots sold pursuant to the regulated jurisdictions exemption must be sold within the State.

Mr. GARN. I thank the chairman.

INTERSTATE LAND SALES

● Mr. NELSON. Mr. President, I appreciate the opportunity to speak in support of the conference agreement relating to the Interstate Land Sales Full Disclosure Act reached by the conferees on the housing bill. The conference agreement strikes a balance between the need to provide consumers with adequate disclosures about their purchases, and a recognition of the legitimate business interests of the developer. I particularly want to commend my colleague from Wisconsin, the distinguished chairman of the Banking Committee (Mr. PROXMIRE), as well as Congressman REUSS, chairman of the House Banking Committee and Congressman ASHLEY, chairman of the Housing Subcommittee in the House for their diligence and evenhandedness in dealing with this important but complicated area.

Legislation which I again introduced on April 5 with nine other Senators, has been approved twice by the full Senate. The version adopted by the conferees has improved upon that legislation. Hopefully, this legislation is so clear that it cannot be misinterpreted in the future the way the existing statute has been misinterpreted and misapplied in the past.

Furthermore, this will be the second consecutive year that Congress has adopted amendments to the Interstate Land Sales Full Disclosure Act. These changes unmistakably dictate congressional direction for the Office of Interstate Land Sales Registration (OILSR) in administering this statute.

The Interstate Land Sales Act is a disclosure act only; it has not been, nor is it designed to be substantive, regulation over the land sales industry. The fact of registration, and of prescribing certain requirements for the developer to meet in order to qualify for an exemption from registration, adds to the already growing costs of buying land. But I believe that that is a small price to pay for relief from the labyrinth of rules, regulations, and advisory opinions that have significantly contributed to the current regulatory problems of land sales in this country, without in any way jeopardizing consumers' ability to make a knowledgeable decision about these major purchasers.

Mr. President, both the House and the Senate Banking Committees have done an excellent job in melding what I have always considered to be complementary amendments to the Interstate Land Sales Act. Specifically, I am pleased that the conferees recognize that OILSR no longer can require complex and costly registration from small developers engaged in a sales operation which is intrastate in nature. These developers are not, have never been, and now will not be, part of the problem which the Congress sought to address through this disclosure statute.

By adopting these amendments it is reasonable for the Congress to expect the Office of Interstate Land Sales Registration to confine its activities to the protection of buyers in the interstate market.

The conference agreement provides only an exemption from registration and disclosure. But it should be well understood that there are new requirements attached to this exemption before a developer can seek relief from the statutory registration scheme. These additional requirements are all in the nature of mandatory disclosures to purchasers. It has been my intention from the beginning that there be no exemption from the fraud provisions of the act.

In addition, the original version of my legislation would have expanded the intrastate exemption to include the sale of land to a purchaser when the primary residence of that purchaser is within 100 miles of the lot to be purchased. Conferees have developed a modified version of this provision. When a developer is engaged in the sale or lease of lots in a subdivision containing fewer than 300 lots, the principal place of residence of the purchaser or leasee is within the same standard metropolitan statistical area as the development, and certain disclosures are made to the purchasers, that developer will also be exempt from registration. Again, it should be pointed out that this is not an exemption from the fraud provisions.

Mr. President, the amendments relating to land sales which we will adopt today leave little room for doubt about the enforcement direction Congress wishes the Office of Interstate Land Sales Registration to take. With the continued operation of my colleagues of the Senate Banking Committee, I am confident that as we mark the 13th anniversary of this act, we will have established a fair and workable disclosure statute.

Unfortunately, I do not believe the Congress can now walk away from this subject area secure in the knowledge that we have, in fact, resolved the problems. This Senator, for one, intends to continue to monitor the regulations and activities of the Office of Interstate Land Registration, particularly as they seek to implement the "intrastate" and "SMSA" exemptions.●

The ACTING PRESIDENT pro tempore. Do Senators yield back their time?

Mr. WILLIAMS. I yield back my time.

Mr. PROXMIRE. I yield back my time.

Mr. GARN. I yield back the time for the minority.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the conference report.

The conference report was agreed to.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the pending business——

Mr. CRANSTON. Mr. President, will the Presiding Officer withhold for one moment? There is another matter that may come up.

FEDERAL OPEN MARKET COMMITTEE MEETING MINUTES

Mr. CRANSTON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 4998.

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the text of the bill (H.R. 4998) entitled "An Act to amend the Federal Reserve Act to require that detailed minutes of Federal Open Market Committee meetings shall be published on a deferred basis", with the following amendment:

In lieu of the matter proposed to be inserted by said amendment, insert:

That section 19(i) of the Federal Reserve Act (12 U.S.C. 371a) is amended—

(1) by striking out "(1)" after "shall not apply" and inserting in lieu thereof "(A)";

(2) by striking out "(2)" after "mutual savings bank, or" and inserting in lieu thereof "(3)";

(3) by inserting "(1)" after "(i)"; and

(4) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding the provisions of paragraph (1) or any other provision of law, a member bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to a written authorization from the depositor to make such payments or transfers in connection with checks or drafts drawn upon the bank. Such withdrawals shall be made under such terms and conditions as the Board shall prescribe for such accounts.".

SEC. 2. Section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended by inserting "(1)" after "(g)" and by adding at the end thereof the following new paragraph:

"(2) Notwithstanding the provisions of paragraph (1) or any other provision of law, an insured bank, including an insured mutual savings bank and an insured savings bank, may permit withdrawals to be made automatically from a savings deposit that consists only of funds deposited to the credit of and in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or transfer of credit to a demand or other deposit account of the same depositor pursuant to a written authorization from the depositor authorizing such payments or transfers in connection with checks or drafts drawn by the depositor upon the bank. Such withdrawals shall be made pursuant to terms and conditions prescribed by the Board of Directors.".

SEC. 3. Section 5(b)(1) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)(1)) is amended by adding at the end thereof the following: "Nothing contained in this section or in any other provision of law shall prohibit the establishment of remote service units by associations for the purpose of crediting existing savings accounts, debiting such accounts, crediting payments on loans, and offering related financial transactions as provided in regulations prescribed by the Board.

SEC. 4. Section 107(6) of the Federal Credit Union Act (12 U.S.C. 1757(6)) is amended by inserting after "prescribed by the Board" the following: ", and to permit negotiable or nonnegotiable drafts to be utilized to withdraw shares from a share draft account subject to such terms, rates, and conditions as may be prescribed by the Board".

SEC. 5. The amendments made by this Act shall be effective only during the period beginning on December 31, 1979, and ending on April 1, 1980.

Resolved, That the House concur in the Senate amendment to the title of the bill, with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment to the title of the bill, insert: "An Act to authorize automatic transfer accounts at commercial banks, remote service units at Federal savings and loan associations, and share draft accounts at Federal credit unions during the period beginning on December 31, 1979, and ending on April 1, 1980."

UP AMENDMENT NO. 888

(Purpose: To authorize temporarily the automatic transfer of funds, remote service units, and share draft accounts, and for other purposes)

Mr. CRANSTON. Mr. President, I move that the Senate concur in the House amendment to the Senate amendment to H.R. 4998 with an amendment which I now send to the desk.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) for himself, Mr. PROXMIRE, Mr. WILLIAMS, Mr. GARN, and Mr. TOWER proposes an unprinted amendment numbered 888 to the House amendment to the Senate amendment.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter inserted by the House amendment, insert the following:

TITLE I—CONSUMER SERVICES AND USURY

SEC. 101. (a) Section 19(i) of the Federal Reserve Act (12 U.S.C. 371a) is amended by adding at the end thereof the following: "Notwithstanding any other provision of this section, a member bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts drawn upon the bank, pursuant to terms and conditions prescribed by the Board.".

(b) Section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended by inserting "(1)" after "(g)" and by adding at the end thereof the following:

"(2) Notwithstanding the provisions of paragraph (1), an insured nonmember bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts drawn upon the bank, pursuant to terms and conditions prescribed by the Board of Directors.".

SEC. 102. Sections 5(b)(1) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)(1)) is amended by adding at the end thereof the following: "This section does not prohibit the establishment of remote service units by associations for the purpose of crediting existing savings accounts, debiting such accounts, crediting payments on loans, and the disposition of related financial transactions as provided in regulations prescribed by the Board.".

SEC. 103. (a) Section 101 of the Federal Credit Union Act is amended—

(1) by inserting before the semicolon at the end of paragraph (5) the following: ", and such term also includes a share draft account";

(2) by striking out "and" at the end of paragraph (8);

(3) by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following:

"(10) the term 'share draft account' means an account on which payment of interest may be made on a deposit with respect to which the credit union may require the member to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the member is allowed to make withdrawals by negotiable or transferable instrument for the purpose of making payments to third persons or otherwise. Such account shall consist solely of funds in which the entire beneficial interest is held by one or more individuals, or by an organization operated primarily for religious, philanthropic, charitable, educational, or other similar purposes and not for profit.".

(b) Section 107(6) of such Act is amended by inserting before the semicolon at the end thereof the following: ", and to issue, deal in, and accept share drafts as orders of withdrawal against shares, subject to such terms, rates, and conditions as may be prescribed by the Board".

SEC. 104. The amendments made by sections 101 through 103 of this title shall take effect on December 31, 1979, and shall remain in effect until the close of March 31, 1980.

SEC. 105. (a)(1) The provisions of the constitution or law of any State expressly limiting the rate or amount of interest, discount points, or other charges which may be charged, taken, received, or reserved shall not apply to any loan, mortgage, or advance which is—

(A) secured by a first lien on residential real property or by a first lien on stock in a residential cooperative housing corporation where the loan, mortgage, or advance is used to finance the acquisition of such stock;

(B) made after the date of enactment of this Act; and

(C) described in section 527(b) of the National Housing Act, except that the limitation described in section 527(b)(1) that the property must be designed principally for the occupancy of from one to four families shall not apply, the requirement contained in section 527(b)(1) that the loan be secured by residential real property shall not apply to a loan secured by stock in a residential cooperative housing corporation, and for the purpose of this section, the term "lender" in section 527(b)(2)(A) of the National Housing Act shall also be deemed to include any lender approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act.

(2) The provisions of the constitution or law of any State expressly limiting the rate or amount or interest which may be charged, taken, received, or reserved shall not apply to any deposit or account held by, or other obligation of a depository institution. As used in this paragraph, the term "depository institution" means—

(A) any insured bank as defined in section 3 of the Federal Deposit Insurance Act;

(B) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act;

(C) any savings bank as defined in section 3 of the Federal Deposit Insurance Act;

(D) any member as defined in this section;

(E) any insured institution as defined in section 408 of the National Housing Act; and

(F) any insured credit union as defined in section 101(7) of the Federal Credit Union Act.

(b) The provisions of subsection (a)(1) shall apply to loans, mortgages, and advances made in any State unless and until the State adopts a provision of law (prior to the close of March 31, 1980) limiting the rate or amount of interest, discount points, or other charges on any such loan, mortgage, or advance, except that at any time after the date of enactment of this Act any State may adopt a provision of law placing limitations on discount points or such other charges on any such loan, mortgage, or advance.

(c) The Federal Home Loan Bank Board is authorized to issue rules and regulations and to publish interpretations governing the implementation of this section.

(d) The provisions of subsection (a)(1) expire at the close of March 31, 1980, except that such provisions shall continue to apply to any loan, mortgage, or advance described in subsection (a)(1) for the duration of such loan, mortgage, or advance if it is made prior to such expiration or if it is made during the two year period beginning on the date of enactment of this Act pursuant to a commitment issued prior to such expiration.

(e) For the purpose of this Act and any amendment made by this Act, the term "State" includes the several States, Puerto Rico, the District of Columbia, Guam, the Trust Territories of the Pacific Islands, and the Virgin Islands.

SEC. 106. The President shall convene an interagency task force consisting of the Secretary of the Treasury, the Secretary of Housing and Urban Development, the Federal Home Loan Bank Board, the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the National Credit Union Administration Board. The task force shall conduct a study to determine the difficulties faced by depository institutions which have sizable portfolios of low-yield mortgages. In carrying out such study, the task force shall solicit the views of, and invite participation by, consumer and public interest groups, business, labor, and State regulators of depository institutions. Not later than 45 days after the date of enactment of this Act, the task force shall transmit to the President and the Congress its findings and recommendations for such action as it deems appropriate.

SEC. 107. Section 2(a) of Public Law 93-100 (12 U.S.C. 1832(a)) is amended by inserting "New Jersey," after "New York,".

TITLE II—INTEREST RATE AMENDMENTS REGARDING STATE USURY CEILINGS ON CERTAIN LOANS

SEC. 201. Section 5197 of the Revised Statutes, as amended (12 U.S.C. 85), is amended by inserting in the first and second sentences before the phrase "whichever may be the greater", the following: "or in the case of business or agricultural loans in the amount of $25,000 or more, at a rate of 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located,".

SEC. 202. The Federal Deposit Insurance Act (12 U.S.C. 1811–1831) is amended by inserting after section 23 the following new section:

"SEC. 24. (a) In order to prevent discrimination against State-chartered insured banks with respect to interest rates, if the applicable rate prescribed in this subsection exceeds the rate such State bank would be permitted to charge in the absence of this subsection, a State bank may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

"(b) If the rate prescribed in subsection (a) exceeds the rate such State bank would be permitted to charge in the absence of this paragraph, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than is allowed by subsection (a) when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the State bank taking or receiving such interest.".

SEC. 203. Title IV of the National Housing Act (12 U.S.C. 1724–1730f) is amended by inserting after section 411 the following new section:

"SEC. 412. (a) If the applicable rate prescribed in this section exceeds the rate an insured institution would be permitted to charge in the absence of this section, such institution may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the institution is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

"(b) If the rate prescribed in subsection (a) exceeds the rate such institution would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging of a greater rate of interest than that prescribed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the institution taking or receiving such interest.".

SEC. 204. Subsection (h) of section 308 of the Small Business Investment Act of 1958 is amended to read as follows:

"(h)(1) The purpose of this subsection is to facilitate the orderly and necessary flow of long-term loans and equity funds to small business investment companies to small business concerns.

"(2) In the case of a business loan the principal amount of which is $25,000 or more, the small business investment company making such loan may charge interest on such loan at a rate which does not exceed the lowest of the rates described in subparagraphs (A), (B), and (C).

"(A) The rate described in this subparagraph is the maximum rate prescribed by regulation by the Small Business Administration for loans made by any small business investment company (determined without regard to any State rate incorporated by such regulation).

"(B) The rate described in this subparagraph is the maximum rate authorized by an applicable State law which is not preempted for purposes of this subsection.

"(C)(i) The rate described in this subparagraph is the higher of the Federal Reserve rate or the maximum rate authorized by applicable State law (determined without regard to the preemption of such State law).

"(ii) For purposes of clause (i), the term 'Federal Reserve rate' means the rate equal to the sum of 5 percentage points plus the discount rate on 90-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district in which the principal office of the small business investment company is located.

"(iii) The rate described in this subparagraph shall not apply to loans made in a State if there is no maximum rate authorized by applicable State law for such loans or there is a maximum rate authorized by an applicable State law which is not preempted for purposes of this subsection.

"(3) A State law shall be preempted for purposes of paragraph (2) (B) with respect to any loan if such loan is made before the earliest of—

"(A) in the case of a State statute, July 1, 1980;

"(B) the date, after the date of the enactment of this paragraph, on which such State adopts a law stating in substance that such State does not want this subsection to apply with respect to loans made in such State; or

"(C) the date on which such State certifies that the voters of such State, after the date of the enactment of this paragraph, have voted in favor of, or to retain, any law, provision of the constitution of such State, or amendment to the constitution of such State which prohibits the charging of interest at the rates provided in this subsection.

"(4)(A) If the maximum rate of interest authorized under paragraph (2) on any loan made by a small business investment company exceeds the rate which would be authorized by applicable State law if such State law were not preempted for purposes of this subsection, the charging of interest at any rate in excess of the rate authorized by paragraph (2) shall be deemed a forfeiture of the greater of (i) all interest which the loan carries with it, or (ii) all interest which has been agreed to be paid thereon.

"(B) In the case of any loan with respect to which there is a forfeiture of interest under subparagraph (A), the person who paid the interest may recover from a small business investment company making such loan an amount equal to twice the amount of the interest paid on such loan. Such interest may be recovered in a civil action commenced in a court of appropriate jurisdiction not later than 2 years after the most recent payment of interest.".

SEC. 205. (a) In order to prevent discrimination against any financial institution chartered pursuant to the statutes of the United States with respect to interest rates, if the applicable rate prescribed in this section exceeds the rate such federally chartered financial institution would be permitted to charge in the absence of this section, the federally chartered financial institution may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the federally chartered financial institution is located.

(b) If the rate prescribed in subsection (a) exceeds the rate such federally chartered financial institution would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate than is allowed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the loan carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of interest paid from the federally chartered financial institution taking or receiving such interest.

SEC. 206. If any provision of this title or the application of such provision to any person or circumstance shall be held invalid, the remainder of the title and the application of such provision to any person or circumstance other than that as to which it is held invalid shall not be affected thereby.

SEC. 207. The amendments made by sections 201 through 205 of this title and the provisions of sections 201 through 205 of this title shall apply only with respect to loans made in any State during the period beginning on the date of enactment of this Act and ending on the earliest of—

(1) in the case of a State statute, July 1, 1980;

(2) the date, after the date of the enactment of this Act, on which such State adopts a law stating in substance that such State does not want the amendments made by sections 201 through 205 of this title and the provisions of this title to apply with respect to loans made in such State; or

(3) the date on which such State certifies that the voters of such State, after the date of the enactment of this Act, have voted in favor of, or to retain, any law, provision of the constitution of such State, or amendment to the constitution of such State which prohibits the charging of interest at the rates provided in the amendments made by sections 201 through 205 of this title and the provisions of this title.

SEC. 208. Section 19 of the Federal Reserve Act (12 U.S.C. 461 et seq.) is amended by inserting after subsection (j) the following new subsection:

"(k) No member bank or affiliate thereof, or any successor or assignee of such member bank or affiliate or any endorser, guarantor, or surety of such member bank or affiliate may plead, raise, or claim directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such member bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such penalty which would otherwise be applicable under such provision shall apply to such member bank or affiliate or to any other person.".

SEC. 209. Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by inserting after subsection (j) the following new subsection:

"(k) No insured nonmember bank or affiliate thereof, or any successor or assignee of such bank or affiliate or any endorser, guarantor, or surety of such bank or affiliate may plead, raise, or claim, directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such bank or affiliate or to any other person.".

SEC. 210. Section 5B of the Federal Home Loan Bank Act (12 U.S.C. 1425b) is amended by inserting after subsection (d) the following new subsection:

"(e) No member or nonmember association, institution, or bank or affiliate thereof, or any successor or assignee, or any endorser, guarantor, or surety thereof may plead, raise, or claim, directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such member or nonmember association, institution, bank, or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such member or nonmember association, institution, bank, or affiliate or to any other person.".

SEC. 211. The amendments made by sections 208, 209, and 210 of this title shall apply only with respect to deposits made or obligations issued in any State during the period beginning on the date of the enactment of this Act and ending on the earliest of—

(1) in the case of a State statute, July 1, 1980;

(2) the date, after the date of the enactment of this Act, on which such State adopts a law stating in substance that such State does not want the amendments made by sections 208, 209, and 210 of this title to apply with respect to such deposits and obligations; or

(3) the date on which such State certifies that the voters of such State, after the date of the enactment of this Act, have voted in favor of, or to retain, any law, provision of the constitution of such State, or amendment to the constitution of such State which limits the amount of interest which may be charged in connection with such deposits and obligations.

SEC. 212. Effective at the close of the day preceding the date of enactment of this title, the Act entitled "An Act to authorize on a temporary basis certain business and agricultural loans, notwithstanding interest limitations in State constitutions or statutes, and for other purposes" (Public Law 96–104), and the amendments made by such Act, are repealed, except that—

(1) the amendments made by title I of such Act and the provisions of such title shall apply to any loan made in any State on or after November 5, 1979, but prior to such repeal; and

(2) the amendments made by title II of such Act shall apply to any deposit made or obligation issued in any State on or after November 5, 1979, but prior to such repeal.

SEC. 213. Notwithstanding any other provision of this title, subject to sections 207 (2) and (3) and 211 (2) and (3) of this Act and section 308(h)(3) (B) and (C) of the Small Business Investment Act of 1958, the provisions of this title shall continue to apply until July 1, 1981, in the case of any State having a constitutional provision regarding maximum interest rates.

Mr. GARN. Mr. President, will the Senator yield for a unanimous-consent request? Mr. President, I ask unanimous consent that Dan Wall of the Banking Committee staff be permitted the privileges of the floor during the consideration of this measure.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CRANSTON. The bill before us, H.R. 4998, as passed the House approves the Senate amendment permitting a form of interest bearing checking accounts to continue at banks, savings and loan associations, and credit unions for 3 months until the House and Senate can work out the differences on H.R. 4986, the depository institution deregulation bill now pending in conference between the Senate and House.

The amendment I am sending to the desk is cosponsored by Senators PROXMIRE, WILLIAMS, GARN, and TOWER. It provides for an override of the usury laws on residential home mortgages until March 31, 1980, an override of the usury laws on agricultural and business loans, a 45-day study on the law yielding mortgage portfolio problems of thrift institutions, and authorizes interest bearing checking accounts for the State of New Jersey.

Mr. President, H.R. 4986, pending in conference contains a permanent usury override provision on which there is no disagreement. The 90-day temporary usury amendment we are sending to the House today is in anticipation of positive final action being taken by the conference committee before March 31, 1980, and in recognition of the serious effects usury ceilings are having on borrowers, depositors and the home mortgage market. This temporary override is vitally important in view of the present high interest rates that the country is now experiencing.

Past history has shown us that when market interest rates exceed usury ceilings, credit for borrowers becomes scarce, secondary market operations are inhibited, and homebuilding activities come virtually to a halt. The reduced supply of housing merely increases the cost to those who can still afford to purchase. Rather than protecting consumers, these laws harm them by reducing the availability of credit and increasing the cost of credit and housing.

This evidence collected over the years indicates that elimination of usury limits would be in the public interest even on a temporary basis. I have been assured that the House is in agreement with this amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to concur in the House amendment to the Senate amendment with an amendment.

The motion was agreed to.

Mr. PROXMIRE. Mr. President, I support the amendment. The amendment insures that ATS, RSU, and share draft services offered by credit unions will not be terminated as of January 1 because of an adverse court decision. Otherwise they would have been terminated.

As the Senate knows we are now in conference with the House to give permanent authorization to these services. Unfortunately the House requires more time to address itself to the necessity to phase out regulation Q so that savers may earn a fair rate of return. I believe this 3-month extension will give the conferees the time they need to come to terms on their differences in H.R. 4986.

It will give the House time to hold hearings they need to hold.

Mr. President, this legislation also provides temporary relief from restrictive State usury lending ceilings which have become self defeating and counterproductive. Yesterday the Banking Committee heard testimony that unless relief is granted from restrictive home mortgage usury limits 85,000 housing units that would be built will not be built in the coming year. That was testimony by Jay Janis, who is very careful about this, former Under Secretary of HUD, and now head of the Home Loan Bank Board. He based it on four separate but confirming private studies.

Certainly the failure to build 85,000 housing units will be counterproductive to a healthy economy. It would mean 170,000 lost jobs.

This legislation will provide relief from usury limits on home mortgage loans and business and agricultural loans over $25,000.

I hope the entire Senate will support this amendment.

Mr. WILLIAMS. Mr. President, I would like to describe very briefly the purpose of section 107 of the bill. The provision would repeal the prohibition against NOW accounts in the State of New Jersey. NOW accounts are savings accounts from which funds may be withdrawn by means of negotiable order of withdrawal. The negotiable order functions essentially like a check except that NOW accounts provide the convenience of a checking account while paying interest like a savings account.

This legislation is necessary at this time to prevent a severe competitive imbalance among State and federally chartered depository institutions in New Jersey and neighboring States created by a combination of existing law and recent State legislative action. Due to these circumstances, it is necessary to avoid even a slight delay in permitting the introduction of NOW accounts in New Jersey.

Mr. President, just last week the New Jersey legislature granted checking account powers to State-chartered savings and loan associations. The Governor has announced his intention to sign the bill in the near future. As a consequence, Federal savings and loan associations in New Jersey will be the only kind of depository institutions without comparable third-party payment powers, leaving them at a serious competitive disadvantage. A similar situation existed in New York last year causing the Congress to approve NOW accounts for that State.

In New Jersey, the situation is even more deserving of enacting this amendment without further delay and in advance of the enactment of nationwide NOW account legislation next year when the conferees on H.R. 4986 can complete their deliberations on this and other important issues. As I mentioned, State-chartered New Jersey savings and loans have received checking account powers. Savings banks have long had these powers, as have commercial banks. In addition, commercial banks in New Jersey will be able to continue the preauthorized transfer account as a result of this bill.

The implications for federally chartered savings and loans is clear—they will not have a commensurate power or an equivalent service in the absence of this legislation. Add to this the fact that all institutions in New York already have the authority to offer NOW accounts. Press accounts indicate that the attractiveness of NOW accounts has been responsible for a flow of New Jersey deposits to institutions across the river to New York where all institutions may offer NOW accounts. I ask unanimous consent that a series of newsoaper articles be printed in full in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WILLIAMS. Mr. President, there are more than 1 million customers of the 23 federally chartered savings and loan association in New Jersey. These consumers will be inconvenienced if they are forced to move their accounts or financially disadvantaged if they do not because they will have lost the opportunity to earn additional interest income at a time when inflation makes every penny count. And my colleagues are well aware of the deposit outflows which savings and loans as a class have been suffering. We must do everything in our power to avoid placing further strains on these institutions.

Mr. President, I want to thank my colleague, Representative JOE MINISH, for his cooperation. Congressman MINISH has sponsored similar legislation in the House—H.R. 6149—which has the full backing of the New Jersey delegation. Finally, I want to thank Senator PROXMIRE for his assistance and understanding in responding quickly to these sudden developments in New Jersey.

EXHIBIT 1

JERSEY BANKERS FEAR NEW YORK NOW LURE

(By Alexander Milch)

Major campaigns under way by a number of financial institutions in New York offering the public "5 per cent checking"—the newly-authorizing NOW accounts—are confronting New Jersey banks which compete against them for commuter business.

Some of the banks here are not at all happy over the situation.

"We would much prefer to provide NOW accounts to our customers." Peter M. Kolben, president of the Broadway Bank & Trust Co. of Paterson, said yesterday.

"Instead, what we offer in its place is a Rube Goldberg contraption called automatic transfer service (ATS), and the response of our customers to it has been very slow indeed."

Said another banker, who asked not to be identified.

"It would seem that we cut off our nose to spite our face when we went to Washington recently to knock New Jersey out of a section of the banking reform package extending NOWs to New York and Jersey, and making us rely instead on ATS."

NOWs (negotiable orders of withdrawal), which have been legal in New England for several years with congressional approval, are savings accounts against which checks may be drawn.

ATS, authorized by Washington regulators as of Nov. 1, creates the equivalent of interest on checking accounts by use of side-by-side savings and checking accounts preauthorized transfers are made from savings into checking to honor incoming checks.

A delegation of top officials of the New Jersey Bankers Association (NJBA) which made the Washington visit was successful in persuading Sen. Harrison A. Williams, Jr. (D–N.J.) as sponsor to withdraw the name of his state from the enabling legislation just before its final passage.

The basic argument used was that NOWs in New Jersey would not alter the "unfairness" of the Federal Reserve's Regulation Q, which limits commercial banks to paying one-quarter of one per cent less for regular savings accounts than thrift institutions may pay. (The argument did not apply to NOWs themselves, they carry a maximum interest rate of 5 per cent regardless of type of institution.)

The NJBA stand was also influenced—and heavily so—by its adamant opposition to legislation pending in Trenton which would grant checking account authority to state-chartered savings and loan associations.

NOWs in New Jersey would have applied to all federally-chartered S&Ls and to all nationally-chartered commercial banks, as is already the case in New York.

But events since the aborting of NOWs have undercut the NJBA, because the state's 22 federally-chartered S&Ls are about to get almost exactly the same powers by regulatory edict. The Federal Home Loan Bank Board (FHLBB) will shortly permit any federal S&L wishing to do so to provide check-like payment account orders (POAs) to their customers.

With at least three of the state's larger federal S&Ls getting ready to offer POAs, pressure is all the more likely to develop for the Legislature at least to give checking account rights to state-chartered S&Ls.

But there isn't much the Legislature can do for New Jersey banks forced to meet NOW competition from New York with ATS. The New Jersey bank can't even promote ATS as checking accounts earning 5 per cent interest, federal regulations for this form specifically forbid such a statement.

What is more, the New Jersey banks are finding their ATS systems complicated and expensive, and the public response rather lethargic.

That is why bankers like Kolben are looking longingly at NOW accounts, which are relatively simple and not as expensive.

Under the NOW concept, each customer opens a single account earning 5 percent interest on the average monthly balance, against which drafts (checks) can be drawn. The customer can keep the major part of his savings in a separate account, earning 5.25 percent if it is on deposit with a thrift institution.

One bank in Boston anxious to cash in on the public interest in NOWs is proclaiming that its NOW account is free if a $400 balance is maintained, as against balances of $2,000 to $3,000 being asked by New York banks.

In New Jersey, all kinds of minimum balances in either savings or checking are required for ATS if service charges are not to reduce earnings on interest.

Robert R. Ferguson, Jr., immediate past president of NJBA and also president of the First National State Bank of New Jersey, Newark, said he supports what was done in Washington. He has been a leader in the fight against "unfair advantages" allegedly granted to thrift institutions.

New Jersey banks in general don't need NOWs, he said, because they really offer the same thing through ATS, especially where zero-balance checking accounts are used.

"But obviously we now have a problem developing in the northern part of the state, because more and more New York banks will be offering what they call 5 percent checking," he said.

"The New York banks have choice between offering NOWs (5 percent checking) or ATS to their customers, while we in New Jersey don't have that choice."

[From the Star Ledger, Mar. 11, 1979]

YOUNG BANKER TALKS FRANKLY TO THE INDUSTRY

(By Alexander Milch)

Peter M. Kolben, who at age 38 is one of the state's youngest bank presidents, is attracting attention because of his innovative ideas—and his willingness to speak up on problems facing the banking industry.

Kolben, a former Newark banker who now heads the $115-million-deposit Broadway Bank & Trust Co. of Paterson, didn't like the idea of New Jersey requesting that it be omitted from federal legislation last year granting negotiable order of withdrawal (NOW) account authority to New York. And he said so.

"We would much prefer to provide NOW accounts to our customers," he said at the time.

"Instead, what we offer in its place is a Rube Goldberg contraption called automatic transfer service (ATS). The response of our customers to it has been very slow indeed."

NOWs, legal in New England states, are spreading among banks and S&Ls in New York. They are 5 per cent savings accounts against which checks may be drawn. ATS, legal throughout the country since Nov. 1, creates the equivalent of interest on checking by use of side-by-side savings and checking accounts, pre-authorized transfers are made from savings into checking as needed.

Kolben's criticism was directed against top officials of the New Jersey Bankers Association, who went to Washington to lobby successfully against NOWs to prevent S&Ls from getting the authority.

"I think we blew it by not getting the NOWs," he said yesterday.

"We bankers should be able to compete in this case with New York, and be able to take advantage of what is available to the market place. People just don't understand what we are offering in place of NOWs."

Kolben, concedes that some bankers he has heard from around the country weren't sympathetic with his stand. They don't want NOWs, or for that matter ATS, because they fear that paying interest on checking will erode their earnings.

But a number of bankers in New Jersey, who are "under the gun" of NOW competition from New Jersey institutions, have told him they agree with him according to Kolben.

Kolben last month created a bit of a sensation in the industry, both in New Jersey and around the country, by announcing a trailblazing after-hours "hotline" service for businessmen.

Asserting that his bank recognized the fact that many businessmen don't stop work at 5 p.m., or over weekends, Kolben arranged for officers of the bank's corporate lending division to take turns in being available at home from 5 to 10 p.m. nightly, and also on Saturdays and Sundays, to handle calls. He is taking part himself, along with Martin Sukenick, chairman of the bank. Calls are routed to the "officer of the night" via a telephone answering service.

Kolben reported yesterday that response has been good, with some callers turning out to be individuals who simply wanted to know how to go about arranging for a loan.

Kolben's idea intrigued bankers outside New Jersey and inquiries came to him from such states as Oklahoma, Illinois and Connecticut.

Actually, according to Kolben, his "hotline" was intended to call attention to the fact that under his regime, which started last June, Broadway Bank & Trust, long a retail-oriented institution, intends to expand its corporate and business lending as well.

The new emphasis on commercial loan growth has been reflected in a 35 per cent increase in these loans last year, he said. These commercial and industrial loans totaled $16.4 million as of year's end, with most of the increase coming in the second half.

Kolben came to the Paterson bank from Midlantic National Bank of Newark, which he had served as vice president and branch administrator since 1974. Following him from Midlantic not long after was Harland Fullam, who was placed in charge of corporate marketing to expand business lending.

Kolben, a native of Red Bank who was raised in Paterson, is dedicated to helping in the revitalization of Paterson. His bank, along with others in the city, is participating in a program to channel federal funds to redevelopment of a 50-acre industrial tract and rehabilitation of the Great Falls Historic District. More than $15 million in such funds have been awarded to the city in the past two years.

Kolben's father Alfred ran a cigar store in downtown Paterson, not far from the new office building in which the son now has his headquarters.

Kolben went to Rutgers University and on graduation was hired by recruiters from National Newark & Essex Bank, now Midlantic. From his start in 1962, he began a rapid rise in the banking organization, becoming a vice president in 1973.

It was his Rutgers connection which led to Kolben's switch to Paterson banking. A professor he had known at Rutgers introduced him early last year to Paul Nadler, another Rutgers business professor. They became friendly, and Nadler, who knew that Susenick was looking for a president, recommended Kolben.

Kolben has ambitious plans for Broadway Bank's growth—and they include the possibility of acquiring other banks through merger. But any larger bank that wants to acquire Broadway for expansion purposes of its own will get the cold shoulder, he indicates.

[From the Star Ledger, Dec. 5, 1978]

CITIBANK MOVES TO FILL JERSEY'S NOW VOID

(By Alexander Milch)

Refusal by New Jersey bankers to accept the NOW accounts offered them by Congress "doesn't make much sense," John S. Reed, executive vice president of Citibank of New York, said yesterday.

Reed asserted this following a talk before the 32d annual midyear meeting of the National Association of Mutual Savings Banks at the Waldorf-Astoria Hotel in New York in which he said that his bank, second largest in the country, had been "happy" to take advantage of the privilege.

Citibank already has a promotional campaign under way to tell residents of the New Jersey-New York area that it is offering "5 per cent checking," its own name for the new service. NOWs for (negotiated orders of withdrawal) are 5 per cent savings accounts against which checks may be drawn.

Many bankers, particularly in North Jersey, are getting restive over the Citibank effort, which is directed toward commuters who live in New Jersey and work in New York. New Jersey bankers can counter only with automatic transfer service (ATS), a rather complicated system of transfering funds from savings into checking to meet income checks.

The Financial Institutions Regulatory and Interest Rate Control Act (FIRA), signed into law by President Carter last month, adds New York to the six New England states with NOW authority. The measure had included New Jersey as well until it was dropped at the insistence of a delegation from the New Jersey Bankers Association.

Reed, who is in charge of Citibank's retail banking operations, said that although inclusion of New York had caught his bank by surprise, it was nevertheless taking quick advantage of the opportunity since it believes that people are entitled to interest on their checking accounts. That goes too for people in North Jersey which is part of Citibank's market area, he said.

Reed said he understood well enough that many bankers in New Jersey didn't want savings and loan associations to have NOW accounts, since they would include checking account powers now denied to S&Ls in the state. But this was not reason enough to stop NOWs for the state, he said.

Citibank has never opposed additional lending and consumer powers for savings institutions, Reed said, because it believes in competition. It will, however, continue to oppose the one-quarter of one per cent differential imposed by the federal government in favor of thrifts in the matter of savings accounts, he said.

The Citibank official, who is in charge of 277 branches in New York, said that the automated banking centers installed in them are already responsible for one-third of all branch transactions. Deposits are being made at the rate of 12.5 million transactions a year, withdrawal at eight million, and inquiries as to the amount on deposit at 15 million.

Sen. Jake Garn, (R-Utah), warned the savings bankers' meeting against over-regulation by governmental agencies which he said adds millions of dollars unnecessarily to the cost of doing business. He urged that bills considered by Congress should each have an analysis of its cost effect included.

Carter H. Golembe, chairman of Carter H. Golembe Associates of Washington, predicted that credit allocation is ahead, the only question being "who will be in charge."

Charles A. Pearce, association chairman and president of the Quincy (Mass.) Savings Bank, said that the provision in FIRA establishing federal charters for savings banks will have the effect of bringing the savings bank and S&L industries closer together since their federal members will both be under supervision of the Federal Home Loan Bank Board.

[From the American Banker, Dec. 15, 1978]

N.Y. BANKS OFFER TO FILL N.J. NOW VOID

NEWARK, N.J.—Negotiable order of withdrawal accounts, denied to New Jersey by last-minute lobbying by the New Jersey Bankers Association, are being made available to residents of the state, particularly commuters, by banks on the other side of the Hudson River—in New York.

An increasing number of New Jersey bankers do not like the situation in which they find themselves, particularly since the most aggressive NOW advertiser—both by newspaper and over the air—is Citibank NA, New York.

John S. Reed, executive vice president in charge of the Consumers Services group at Citibank, commented at the midyear meeting of the National Association of Mutual Savings Banks in New York that the NJBA action against NOWs "didn't make much sense."

Citibank, for its part, proposes to fill the void in New Jersey because geographically the state is part of its marketing area, he said.

What the $60.8 billion-deposit Citibank offers is "5% Checking," a label used instead of NOW on the theory that it is more understandable to the public.

But in New Jersey, banks can counter the Citibank campaign with the automatic transfer service. This too provides the equivalent of 5% checking, but it is complicated and more expensive—for both banks and their customers.

"We would much prefer to provide NOW accounts to our customers," Peter M. Kolben, president of the $112.6 million-deposit Broadway Bank & Trust Co., Paterson, said.

"Instead, what we provide in its place is a Rube Goldberg contraption called ATS. The response of our customers to it has designated it to cost them about the same as NOWs would."

Robert R. Ferguson Jr., president and chief executive office of the $1.2 billion-deposit First National State Bank of New Jersey, Newark, largest commercial bank in the state, said that while he supports the action of the NJBA against NOWs, the fact remains that in New York banks have a choice of offering their customers NOWs or ATS, while banks in New Jersey do not. Mr. Ferguson is immediate past president of the NJBA.

When the Financial Institutions Regulatory and Interest Rate Control Act was about to be adopted by Congress in October, NJBA was embroiled in a fight—still going on—to prevent state-chartered savings and loan associations in the state from getting checking-account authority.

Therefore, when it was learned that the bill contained a section extending NOW account authority to New York and New Jersey—Pennsylvania had been dropped—a delegation of top NJBA representatives went to Washington and had New Jersey eliminated. NOWs in New Jersey would have given checking account rights to Federal S&Ls.

But since then the Federal Home Loan Bank Board has announced proposed regulations to authorize payment order accounts for all Federal S&Ls. These accounts will be similar to NOWs, since they too earn 5% and checklike instruments can be drawn against them.

The $1.1 billion-deposit City Federal S&L Association, Elizabeth, largest S&L in the state, is already advertising that its BOAs are coming, and offering free deposits of $5 to those signing up.

[From the Star Ledger, Oct. 20, 1978]

S&LS IN STATE REACT TO NOW PROHIBITION

(By Alexander Milch)

There were repercussions yesterday in New Jersey and Hawaii over little-noticed actions by Congress earlier this week in passing a financial reform measure now awaiting President Carter's signature.

The bill in question was amended at the last moment to deny New Jersey financial institutions the right to offer NOW (negotiated orders of withdrawal) accounts. An additional aspect of the bill granted specific authority to the U.S. Comptroller of the Currency to issue national bank charters limited to trust powers only.

NOW account authority currently extends only to five New England states. NOWs are savings accounts against which checks may be drawn, permitting interest to be earned until the last possible moment. Checking accounts do not earn interest.

The financial package measure—which included such things as an extension of the interest rate differential for thrift institutions and providing for federal charters for mutual savings banks—contained a provision extending NOWs to federally chartered savings and loan associations and nationally chartered commercial banks in New York and New Jersey.

But New Jersey was dropped quietly from the provision after some intensive lobbying in Washington by Anthony D. Schoberl, a Somerset banker, and Robert C. Forrey, chairman and president respectively of the New Jersey Bankers Association (NJBA). They contended that NOWs would be another example of "unfair" advantages granted thrift institutions.

Gilbert G. Roessner, president and chairman of the City Federal S&L of Elizabeth, charged yesterday in a statement released in Honolulu, where he has been attending the annual convention of the National Savings and Loan League, that "consumers in New Jersey have lost out on a major new financial service."

"NOW accounts would provide that return—and Congress hopefully will recognize this fact when it returns for its next session in January," Roessner added.

By giving NOW account authority to New York federally chartered institutions, the measure seeks to alleviate the condition in that state created by Albany legislation last year that granted checking accounts rights to state-chartered S&Ls and savings banks. Federally chartered S&Ls, excluded from the authority, were hurt competitively.

But the pinch will now extend to New Jersey, it was stressed yesterday by Edmund V. Lawlor, Jr., president of the New Jersey Savings League, trade organization of the state's S&Ls.

"We are very much concerned," he said, "because as of Nov. 1 not only will all banks be able to provide linked accounts (pre-authorized automatic transfers from savings to checking accounts), but also our S&L competition in New York will be offering NOW accounts to commuters from New Jersey who work in New York.

"S&Ls in New Jersey, whether federally or state chartered, will be unable to compete, because none of us can offer linked accounts since we do not have checking account authority, nor will any of us be able to offer NOW accounts.

Lawler noted that a similar situation applies to the southern part of the state, because state-chartered S&Ls in Pennsylvania recently have been granted "withdrawal by assignment" authority, similar to checking account.

The Bankers Association's Forrey said yesterday that NOW authority granted to national banks in New Jersey would mean little since linked accounts that they will be permitted to offer effective Nov. 1 accomplish the same effect of paying interest on checking accounts. Fees charged can be about the same for either service, he said.

The fact that Congress has given the comptroller the right to issue limited charters was revealed by Roessner.

City Federal is affected because it owns City Trust Services, which provides trust services, Roessner said. It is the only bank in the country owned by an S&L.

The right of the comptroller to issue a limited charter is being challenged by the National State Bank of Elizabeth and the NJBA. They won before District Court Judge H. Curtis Meanor, who ordered the comptroller last year to cancel the City Services charter. That decision however is under appeal to the U.S. Third Circuit Court of Appeals in Philadelphia.

Forrey charged that provisions authorizing limited charters had been put in the bill shortly before the final vote, without any committee having held hearings on the matter.

"It was a legislative trick, something that came out of left field," he said.

[From the Star Ledger, Oct. 27, 1978]

ABA Hears Jerseyan on U.S. Reform Plans

(By Alexander Milch)

HONOLULU.—The New Jerseyan who is shaping banking policy recommendations for the Carter Administration said here yesterday that his proposals will be based on what is best for the public.

Orin S. Kramer of South Orange, associate director of the domestic policy staff at the White House, told the American Bankers Association convention here that the Administration will be actively involved in such pending legislative proposals as reform of the McFadden Act, NOW accounts expansion, compulsory membership in the Federal Reserve System, consolidation of bank regulatory agencies and interest rate differentials.

Theodore A. Doremus Jr., a native of Red Bank who serves as minority counsel to the House Banking Committee, said the financial reform package just passed by Congress extended NOW accounts only to New York, while omitting New Jersey, "because New York needed them and New Jersey didn't need them as much." NOWs, previously legal only in New England, are savings accounts against which checks may be drawn.

Kramer said that a task force is being formed from various concerned governmental agencies for a year-long study of the McFadden Act, passed in 1927, that prohibits interstate banking and requires nationally chartered banks to observe state-imposed restrictions on branching.

The old law requires change because it does not deal with the emerging electronic funds transfer technology and because it is concerned with geography rather than natural banking markets, he said. States have been liberalizing their banking laws while the McFadden legislsation has remained largely unchanged, he pointed out.

The study was ordered by the International Banking Act passed earlier this year, Kramer said. One important consideration to be kept in mind is that the dual banking system of national and state banks must be retained, Kramer said.

The White House has not reached a decision on compulsory Fed membership and supervisory consolidation, he said.

A White House task force under Kramer's direction, which has been looking into the question of the effect of interest rate differentials on housing finance, will have recommendations ready by the end of this year. Under the differentials, savings institutions dedicated to mortgage lending can pay higher rates to consumers than commercial banks may pay.

The task force has just asked for data on the new six-month certificates tied to 26-week U.S. Treasury bill rate, Kramer revealed. These certificates, sold by banks and S&Ls, do not have the interest rate maximums that apply to other savings accounts.

Kramer said the White House was not involved when NOW accounts for New Jersey were dropped from the financial reform package just before its passage.

In other convention developments, John H. Perkins, president of the Continental Illinois National Bank and Trust Co. of Chicago, was elected ABA president, while his place as president-elect was taken by C. C. Hope Jr., vice chairman of the First Union National Bank of Charlotte, N.C. Thomas R. Smith, a Marshalltown, Iowa, banker, was re-elected treasurer.

Perkins, in a press conference, commended President Carter's program of voluntary price and wage controls. He was particularly encouraged, he said, by the President's emphasis on the long time it will take to eliminate inflation.

"I'm pleased that no quick fix or gimmick to fix up everything overnight is being proposed," he said.

[From the American Banker, Jan. 29, 1979]

Dollar Savings, N.Y., Moves All Checking Into NOW Accounts

(By Gordon Matthews)

NEW YORK.—The $2.4 billion-dollar Dollar Savings Bank here is apparently the first mutual savings bank in New York State to automatically convert all checking accounts, which it must offer free under state law, into carrying a schedule of monthly charges for depositors who fail to maintain a $1,000 balance.

The move by the nation's fifth largest savings bank is being watched closely by others in the thrift industry here, some of whom have expressed concern about the customer relations aspects of the action. Henry G. Waltemade, Dollar's chairman, defended the changeover, effective Jan. 15, as necessary because of costly low-balance checking accounts.

As of last week, he said, the average balance in Dollar's checking-type accounts already had risen to $500 from $350 before the move. Aggregate deposits in the third-party-transfer category at the savings bank had increased by $4 million, to $19.7 million, since yearend.

Checking customers of the $2.4 billion-deposit thrift were told in a letter dated Dec. 8 that their accounts "will automatically be transferred to a NOW account." The number of the account, the letter stated, "will remain the same and you continue to use your present checks and deposit tickets."

It continued: "Your NOW account is free of monthly charges as long as you maintain a balance of $1,000 or more. If the balance falls below $1,000 in any monthly statement period, there will be a small charge for that period."

The charges were outlined as $1.25 on balances from $500 to $999.99 and $2.50 on balances less than $500. No per-item charges will be assessed, the letter pointed out.

Mr. Waltedmade said the thrift's management has so far not been disappointed by reaction to the changeover, although some complaints have been registered. One customer disputed the move by contending that she had a contract with the thrift for checking services, he noted.

The impact may be greater after the first charges for low balances are assessed on February 15. Dollar Savings has its headquarters in the Bronx but also has a Park Avenue office in Manhattan and a number of suburban branch facilities.

A spokesman for the New York State Banking Department said officials there were aware of the move by the savings bank, but had received no customer complaints and perceived no legal problems. Officers at other major savings banks in the city expressed some concerns, however.

While acknowledging that checking is a costly service, one officer at a New York savings bank said he hoped that the action by Dollar Savings would not be compared to the recent realignments in pricing of services by commercial banks at the advent of automatic transfer between savings and checking accounts.

In the past few years, the state's savings banks have attempted to identify themselves as different from commercial banks. An industry advertising campaign, recently found in a survey to be quite effective, proclaims that savings banks are "people banks" while commercial banks are for business.

Other savings bankers, however, said they felt the move by Dollar was healthy because it opened up considerations of pricing of services at a time when the thrifts here are increasingly concerned about issues of capital and earning. Automatic transfer service, NOW accounts and money market certificates were not in existence when state-chartered thrifts first gained checking powers in New York State, one industry source noted.

The thrifts here entered the checking field in 1976 after a lengthy campaign to gain the legislature's approval. The enabling legislation forbade thrifts from levying any charges on the checking accounts.

Since then the thrifts had made inroads into the checking market in the state but their average account balances have remained significantly below those at commercial banks, according to a quarterly survey by the State Banking Department and the Federal Reserve Bank of New York.

The most recent survey, covering the third quarter of last year, found that the average checking balance for thrifts was $372, compared with $1,069 at commercial banks.

The study noted that the thrifts "continued to penetrate the market for nonbusiness demand deposits during the third quarter of 1978, though at a somewhat slower rate than in earlier quarters. At the end of September, thrift institutions held 7.2 percent of total nonbusiness demand deposits in New York State and 18.3 percent of the total number of accounts."

[From the American Bankers, Oct. 31, 1978]

CHEMICAL, CHASE SLATE NOWs

(By Laura Gross)

NEW YORK.—Chase Manhattan Bank NA and Chemical Bank have become the first two major commercial banks in New York State to disclose they will offer negotiable order of withdrawal accounts.

Chase announced late Monday that it would not offer an automatic transfer service because "by moving directly into NOW accounts, we will avoid presenting our customers with a confusing array of product designs and pricing structures." Its negotiable order of withdrawal account, which will be called, simply a NOW account, will be available Jan. 2, 1979, a Chase spokesman said.

Chemical said in a brochure explaining its automatic transfer service and its checking products that it will offer a NOW account shortly. Chemical will call its NOW account "5% Checking." A spokesman said it would be available sometime later this year or early next.

A spokesman for the bank noted that operations considerations will keep the NOW account from making its debut until later this year or early next. Chemical may phase out its automatic transfer service when 5% Checking comes in, he added.

Pricing on 5% Checking will be similar to the revised prices Chemical has established for "5% Savings/Checking," its automatic transfer service, the brochure said.

Chemical now is going to offer ATS free to those maintaining combined minimum balances of $2,000 in savings and checking; charge 25 cents per check for balances between $500 and $2,000 and $1 per month and 25 cents per check for balances under $500.

The Chemical brochure will be offered in branches beginning Monday or Tuesday and will also be mailed to selected checking customers, the spokesman said.

Only one other financial institution in New York has stated it will definitely offer a NOW account—the East New York Savings Bank, with 12 branches in metropolitan New York. It announced late last week that it will offer a NOW account simultaneous with President Carter's signing enabling legislation.

The NOW will be free if a $1,000 initial deposit is maintained as a minimum balance and no interest will be earned, if the balance falls below that, from the first day of the preceding quarter until the balance is brought back to $1,000 again.

Eugene Rubin, counsel for East New York, said he thinks the mutual can offer the NOW under the Federal legislation, despite some concern here that state-chartered institutions need further permission or clarification from the New York State Banking Department or the state legislature.

Charles Buchta, Chase vice president and product manager, said that prices are now being reviewed for the January NOW account, but that "we believe our customers will find it equitable and consistent with other consumer banking products."

Chase has 238 branches statewide.

The Chase and Chemical disclosures came one day before Citibank NA has slated a formal press conference to discuss what it calls "recent changes in consumer banking legislation and announces its own plans for new consumer banking services."

Richard Kovacevich, senior vice president and head of the New York banking division, also will "review the first year operating results of the bank's Citicard Banking Centers and discuss the future of retail banking in the New York metropolitan area."

Some bankers here think that this conference will reveal Citibank's plans for competing in the New York market now that NOW accounts have been authorized.

Mr. GARN. Mr. President, I regret the fact that we were not able to reach a satisfactory conference agreement on all of the items on a very comprehensive financial institution reform package. It has been going on for some time. As a matter of fact, since 1975 we have been trying to reach an agreement with the House on comprehensive legislation.

Nevertheless, we have not been able to, and that is why this extension is absolutely necessary.

I support it. I hope that within the 3-months' extension that on many of the issues the distinguished Senator from Wisconsin has mentioned we will be able to reach agreement with the House of Representatives.

In the meantime we have been assured by certain House Members that they will be willing to accept the New Jersey NOW account amendment to their simple extension bill sent over to us, and also the usury override. I hope that will be the case, that our private assurances will, in fact, be realized, and that we can, after getting this bill here in the Senate this morning, have it very rapidly approved by the House so that it can go to the President, and the court decision will not become effective on January 1.

So, with those reservations, and the hope that the House will follow suit, I support this amendment.

Mr. CRANSTON. Mr. President, I move that the Senate concur in the House amendment to the Senate amendment to the title of the bill.

The motion was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the votes by which the motions were agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHRYSLER CORPORATION LOAN GUARANTEE ACT OF 1979

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume the consideration of the pending business (S. 2094), which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 2094) to authorize loan guarantees for the benefit of the Chrysler Corporation.

The Senate resumed the consideration of the bill.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the following staff members of the Committee on Banking, Housing and Urban Affairs, have the privilege of the floor during the consideration of S. 2094.

Kenneth McLean, Elinor Bachrach, Steven Roberts, Mary Lynn Seymour, Ev Engstrom, Andy Carothurs, Jonathan Fleming, Howard Menell, Phil Corwin, Judith Davison, Don Campbell, John Runyan, Mitch Tyson, Bob Barbera, Missy Grealy, Susan Broh, M. Danny Wall, John Collins, John Daniels, David Gogal, Mitch Daniels, and Mark Lubbers.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, having cleared these matters with the distinguished acting Republican leader, who is on the floor, that the Senate proceed to the consideration of Calendar Order Nos. 478, 482, 488, 497, 498, 505, 511, and 512.

Mr. STEVENS. We have no objection.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

(Later the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the action taken earlier today on Calendar No. 478, S. 1978, be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMPROVED EXTRA LONG STAPLE COTTON PROGRAM

The Senate proceeded to consider the bill (S. 1978) to establish an improved program for extra long staple cotton, which had been reported from the Committee on Agriculture, Nutrition, and Forestry with amendments as follows:

On page 1, line 4, strike "extra-long-staple" and insert "extra long staple";

On page 2, line 10, strike "extra-long-staple" and insert "extra long staple";

On page 2, line 11, strike "as follows:" and insert "by—";

On page 2, line 13, strike "section 344 (m)(2) is amended by";

On page 2, line 14, after "sentence" insert "of section 344(m)(2)";

On page 2, line 16, strike "extra-long-staple" and insert "extra long staple";

On page 2, line 20, strike "section 347(f) is amended by";

On page 2, line 21, after "sentences" insert "of section 347(f)";

On page 2, line 24, strike "extra-long-staple" and insert "extra long staple";

On page 3, line 1, strike "extra-long-staple" and insert "extra long staple";

On page 3, after "lease" insert comma;

On page 3, line 4, after "planted" insert a comma;

On page 3, line 10, after "transfer" insert a comma;

On page 3, line 12, after "planted" insert a comma;

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That effective with respect to the 1980 subsequent crops of extra long staple cotton, section 101(f) of the Agricultural Act of 1949 is amended by—

(1) striking out "1968" and inserting in lieu thereof "1980";

(2) striking out "50" and inserting in lieu thereof "85";

(3) striking out "100" and inserting in lieu thereof "135"; and

(4) striking out "65" and inserting in lieu thereof "55".

SEC. 2. Effective with respect to the 1980 and subsequent crops of extra long staple cotton, the Agricultural Adjustment Act of 1938, is amended by—

(1) inserting immediately before the period at the end of the first sentence of section 344(m)(2) the following: ": *Provided*, That any extra long staple cotton allotment that is voluntarily surrendered to the county committee must be surrendered not later than January 15 of the year in which the crop is planted"; and

(2) striking out the first and second sentences of section 347(f) and inserting in lieu thereof the following: "Notwithstanding any other provision of law, beginning with the 1980 crop of extra long staple cotton, the Secretary shall (1) permit the owner and operator of any farm for which an extra long staple cotton acreage allotment is established to sell or lease, not later than January 15 of the year in which the crop is planted, all or any part or the right to all or any part of such allotment to any other owner or operator of a farm in any State or county for transfer to such farm: *Provided*, That no such allotment shall be permitted to be leased by an owner or operator for any total period greater than three years; and (2) permit the owner of a farm to transfer, not later than January 15 of the year in which the crop is planted, all or any part of such allotment to any other farm in any State or county owned or controlled by him.".

The amendments were agreed to.

● Mr. TALMADGE. Mr. President, I introduced S. 1978 on November 5, 1979, at the request of the administration. The bill will make needed changes in the extra long staple cotton and remove the need for price-support payments to be made to extra long staple cotton producers in the near future.

American-pima is the only type of extra long staple cotton currently produced in the United States, although the extra long staple cotton program also applies to sea island and sealand cotton, which have been grown in Florida and Georgia.

S. 1978 is the product of the efforts of the Department of Agriculture working closely with the Supima Association, the extra long cotton producer organization. These producers are to be commended for being instrumental in the formation of legislation that will improve the program and save the Treasury over $30 million over the next 4 years.

I would be remiss if I did not take the opportunity to express my appreciation to the Department of Agriculture for working with these producers to formulate an improved program for extra long staple cotton.

I urge my colleagues to join me in supporting S. 1978.

Mr. President, I ask that a section-by-section analysis of S. 1978 be printed in the RECORD.

The analysis follows:

SECTION-BY-SECTION ANALYSIS

SECTION 1. EXTRA LONG STAPLE COTTON LOAN AND SUPPORT LEVELS

Section 1 amends section 101(f) of the Agricultural Act of 1949, effective with respect to the 1980 and subsequent crops of extra long staple cotton.

Section 1(1) increases the minimum extra long staple cotton loan level from 150 to 185 percent of the upland cotton loan level.

Section 1(3) increases the maximum extra long staple cotton loan level from 200 to 235 percent of the upland cotton loan level.

Section 1(4) reduces the minimum required support level for extra long staple cotton from 65 to 55 percent of parity.

SECTION 2. TRANSFERS OF EXTRA LONG STAPLE COTTON ALLOTMENTS

Section 2(1) amends section 344(m)(2) of the Agricultural Adjustment Act of 1938, effective with respect to the 1980 and subsequent crops of extra long staple cotton, to establish January 15 of the year in which the crop is planted as the final date to release or transfer extra long staple cotton allotments.

Section 2(2) amends section 347(f) of the Agricultural Adjustment Act of 1938, effective with respect to the 1980 and subsequent crops of extra long staple cotton to (1) require the Secretary of Agriculture to permit transfers of extra long staple cotton by sale, lease, or owner, not later than January 15 of the year in which the crop is planted, (2) permit the sale, lease, and owner transfer of extra long staple cotton allotments across State lines, which is currently prohibited, and (3) limit the leasing of extra long staple cotton allotments to a maximum total period of 3 years.●

● Mr. HUDDLESTON. Mr. President, S. 1978 will substantially improve the operation of the extra long staple cotton program. Extra long staple cotton is a specialty type cotton, used mostly in thread. The extra long staple cotton program, a loan and payment program, is generally applicable if marketing quotas are approved by not less than two-thirds of the extra long staple cotton farmers voting in a referendum.

I

S. 1978 would, beginning with the 1980 crop—

First, increase the minimum and maximum extra long staple cotton loan levels from 150 and 200 percent to 185 and 235 percent, respectively, of the upland cotton loan level;

Second, reduce the minimum required support level for extra long staple cotton from 65 to 55 percent of parity;

Third, establish January 15 of the year in which the crop is planted as the final date to release or transfer extra long staple cotton allotments;

Fourth, require the Secretary of Agriculture to permit transfers of extra long staple cotton by sale, lease, or owner; currently this is discretionary;

Fifth, permit the sale, lease, and owner transfer of extra long staple cotton allotments across State lines, which is currently prohibited; and

Sixth, limit the leasing of extra long staple cotton allotments to a maximum total period of 3 years.

II

By permitting the transfer of extra long staple cotton allotments across State lines, S. 1978 will allow the movement of unused allotments in Texas and New Mexico to Arizona.

III

Currently, there is no limit on the number of years extra long staple cotton allotments may be leased. S. 1978 would authorize this leasing to no more than a cumulative total of 3 years. This change will facilitate the permanent movement of allotments to producers using the allotments.

IV

S. 1978 establishes January 15 of the year in which the crop is planted as the final date to release or transfer extra long staple cotton allotments. This change will facilitate earlier movement of allotments so that producers can plan accordingly.

V

Current extra long stable price support legislation, enacted in 1968, provides for a loan and payment program with a minimum support level of 64 percent of parity and a maximum support level of 90 percent of parity. The Secretary of Agriculture has discretionary authority to set the loan level anywhere between 150 and 200 percent of the upland cotton loan level—which are the minimum and maximum allowable levels. The 1979 loan level is 92.95 cents per pound, or approximately 185 percent of the 1979 upland loan level. Payments are required if the loan level does not equal the minimum total support level. Although no payments have been made during the past 3 years, beginning next year they can be expected in substantial amounts unless legislative action is taken.

Current estimates project a lower upland cotton loan level for 1980 and a sharp increase in the parity price for extra long staple cotton. Due to these anticipated movements the Department of Agriculture estimates a minimum 1980 payment rate of about 11 to 12 cents per pound. The total payments for the 1980 crop year would approximate $4.7 million. Under current law, the Department estimates payments totaling $34.3 million over the next 4 crop years.

Neither the Department nor the majority of extra long staple cotton producers want to return to a payment situation. The lower support level and higher minimum and maximum loan levels contained in S. 1978 should preclude any payments during the next several years. These changes will give the Department the flexibility to set the extra long staple cotton loan level at an appropriate point, within the statutory range, which will insure the marketability of the commodity in foreign markets and at the same time, to the extent possible, avoid the necessity of making price support payments to producers.

The decrease in the minimum total support level, with the corresponding increase in loan levels, will narrow or extinguish the margin of difference between the loan level and minimum support level, which is currently increasing due to lower upland loan levels, thereby enabling the Secretary to avoid the presently anticipated payments for the 1980 crop year.

S. 1978 will reduce Government outlays by over $30 million over the next 4 crop years.

VI

S. 1978 was developed by the Department of Agriculture working closely with the extra long staple cotton producer association, the Supima Association. The bill will improve the extra long staple cotton program and save the Federal Government money. I urge my colleagues to join me in supporting S. 1978.●

The bill was ordered to be engrossed for a third reading, was read the third time and passed.

The title was amended so as to read:

A bill to establish an improved program for extra long staple cotton.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(As noted above, the passage of S. 1978 was subsequently vitiated by unanimous consent.)

IMPROVING THE WATER BANK PROGRAM

The Senate proceeded to consider the bill (S. 837) to amend the Water Bank Act for the purpose of authorizing the Secretary of Agriculture to adjust payment rates with respect to initial conservation agreements and to designate certain areas as wetlands, and for other purposes, which had been reported from the Committee on Agriculture, Nutrition, and Forestry with an amendment to strike all after the enacting clause and insert the following:

That the third sentence of section 3 of the Water Bank Act (16 U.S.C. 1302) is amended to read as follows: "The Secretary shall, beginning in 1980, reexamine the payment rates at the beginning of the fifth year of any such ten-year initial or renewal period and before the beginning of any renewal period, in the light of the then current land and crop values, and make needed adjustments in rates for any such initial or renewal period as provided in section 5 of this Act. In addition, the Secretary shall, beginning in 1980, reexamine the payment rates in any agreement that has been in effect for five years or more in the light of current land and crop values and make any needed adjustments in rates.".

SEC. 2. The fourth sentence of section 3 of the Water Bank Act (16 U.S.C. 1302) is amended to read as follows: "As used in this Act, the term 'wetlands' means (1) the inland fresh areas described as types 1 through 7 in Circular 39, Wetlands of the United States, published by the United States Department of the Interior (or the inland fresh areas corresponding to such types in any successor wetland classification system developed by the Department of the Interior), (2) artificially developed inland fresh areas that meet the description of the inland fresh areas described in clause (1) of this sentence, and (3) such other wetland types as the Secretary may designate.".

SEC. 3. Section 5 of the Water Bank Act (16 U.S.C. 1304) is amended by adding at the end thereof a new sentence as follows: "The rates of annual payment shall be adjusted, to the extent provided for in advance by appropriation Acts, in accordance with section 3 of the Act.".

SEC. 4. Section 11 of the Water Bank Act (16 U.S.C. 1310) is amended by—

(1) inserting after "program," in the second sentence the following: "in each fiscal year through the fiscal year ending September 30, 1980,"; and

(2) adding at the end thereof two new sentences as follows: "In carrying out the program, in each fiscal year after the fiscal year ending September 30, 1980, the Secretary shall not enter into agreements with owners and operators which would require payments to owners or operators in any calendar year under such agreements in excess of $30,000,000. Not more than 15 percent of the funds authorized to be appropriated in any fiscal year after the fiscal year ending September 30, 1980, may be used for agreements entered into with owners or operators in any one State.".

The amendment was agreed to.

○ Mr. MELCHER. Mr. President, I support S. 837, which makes several changes in the water bank program. These changes will insure the continued viability of the program.

The purpose of the water bank program is to conserve water, preserve and improve the habitat for migratory waterfowl, and secure other wildlife benefits through long term land use agreements with landowners and operators in vital migratory waterfowl nesting and breeding areas.

Under the program, the Secretary of Agriculture enters into agreements with landowners and operators for the conservation of specified, privately-owned wetlands. The agreements are for 10 years, with provisions for renewal for additional periods. During the period of the agreement, landowners agree not to drain, burn, fill, or otherwise destroy the wetland character of these areas. Annual payments are made to the landowners at rates determined by the Secretary.

This successful program is carried out in harmony with the wetland programs administered by the Secretary of the Interior. Technical and related services of appropriate State, Federal, and private conservation agencies are used to assure that there is coordination.

The water bank program began operating in 1972. Since that time, Congress has appropriated $82.5 million for the program. From the program's inception through September of 1978, 4,608 agreements have been entered into on 503,000 acres of land in 155 counties.

Under existing law, the Secretary is authorized to spend up to $10 million annually for payments to landowners to preserve wetland types 1 through 5 (as described in the Department of Interior's circular 39, "Wetlands of the United States"). Type 1 wetlands are inland fresh seasonally flooded basins or flats usually well drained during much of the growing season, and type 2 wetlands are inland fresh meadows usually without standing water during most of the growing season, but are usually waterlogged. Type 3 wetlands are inland shallow fresh marshes usually holding up to 6 inches of water. Type 4 wetlands are inland deep fresh marshes with up to 3 feet of standing water. Type 5 wetlands consists of inland fresh open water areas that may have shallow marshy borders and up to 10 feet of water. The Department of Agriculture has specified that privately owned land eligible for the water bank program must be inland fresh wetland of types 3, 4, or 5 or other land, including types 1 and 2, if it is adjacent to types 3, 4, and 5 and is essential for breeding and nesting of migratory waterfowl.

Each agreement with a landowner specifically identifies designated areas to be maintained as wetlands, and the manner in which the conservation objective is to be achieved. The program offers landowners an attractive alternative to the permanent conveyance of land for conservation purposes.

In carrying out program objectives to protect breeding and nesting areas for migratory waterfowl, voluntary water bank program agreements also serve to protect multiple resource benefits of certain wetlands. These benefits have a high economic value and include flood water retention, groundwater recharge, nutrient production, pollution and sediment control, and ecological productivity. These are values that a landowner cannot translate into a marketable commodity. The water bank program helps to compensate landowners for maintaining public resource values on private land.

Without such incentives, landowners are likely to put wetlands to other uses, which would result in the loss of valuable public resources.

In President Carter's 1977 environmental message, concern was expressed over the rapid loss of the Nation's remaining wetlands. The President pointed out that the lasting value of wetlands far exceeds the short term economic gain that owners derive from draining them. Yet is estimated that the Nation is losing 300,000 acres of wetlands each year.

The bill before us expands the definition of wetlands with respect to the water bank program to include wetland types 6 and 7, and it allows the Secretary to apply the program to other types of wetlands, such as coastal wetlands, where their inclusion in the program would assist in meeting the goals of the water bank program.

Further, the bill increases the amount which the Secretary may pay to a landowner. In a report this year, the General Accounting Office indicated that 38 percent of the water bank agreements will be terminated before the end of the 10-year period because of the rising cost of land and rentals. The bill allows the Secretary to review and adjust payments for agreements that have been in force for 5 years or more to reflect current land and crop values. At present, no adjustments can be made during the 10-year agreement with a landowner.

These adjustments and the inclusion of additional kinds of wetland areas, will increase the costs of the program. Therefore, the annual authorization for appropriations for the program is increased under the bill from $10 million to $30 million.

S. 837 provides that no State may receive more than 15 percent of the $30 million authorized in any 1 year.

S. 837 provides that existing agreements with landowners are to be reviewed in calendar year 1980, but that payment adjustments may not be made except as authorized in advance in appropriation acts.

Mr. President, this is an excellent bill that will do much to protect the Nation's wetlands. I urge my colleagues to join me in assuring its prompt passage.

I ask that a section-by-section analysis of S. 837 as reported by the Committee on Agriculture, Nutrition, and Forestry be printed in the RECORD.

The analysis follows:

SECTION-BY-SECTION ANALYSIS

SECTION 1. ADMINISTRATION OF PAYMENTS

Section 1 amends section 3 of the Water Bank Act to authorize the Secretary of Agriculture, beginning in 1980, to reexamine the payment rates and make needed adjustments in any agreement that has been in effect for 5 years or more and at the beginning of the fifth year of any initial or renewal period of an agreement. Under existing law, the Secretary is authorized to reexamine the payment rates at the beginning of any renewal period of an agreement and make needed adjustments in rates for any such renewal period. (All agreements are entered into for 10 years with provision for renewal for additional periods of 10 years each.)

SECTION 2. ELIGIBLE WETLANDS

Section 2 amends section 3 of the Water Bank Act to expand the types of wetlands covered under the water bank program to include, in addition to types 1 through 5 in existing law, types 6 and 7 of both inland fresh areas and artificially developed inland fresh areas.

Briefly explained, inland fresh areas, types 1–7, as defined in circular 39, Wetlands of the United States, published by the Department of the Interior are as follows: (1) Seasonally flooded basins or flats; (2) fresh meadows; (3) shallow fresh marshes; (4) deep fresh marshes; (5) open fresh water; (6) shrubs swamps; and (7) wooded swamps. Artificially developed inland fresh areas must meet the description of types 1 through 7.

Section 2 would also provide for the recognition of successor wetland classification systems, if developed by the Department of the Interior.

SECTION 3. LIMITATION ON ADJUSTMENTS

Section 3 amends section 5 of the Water Bank Act to assure that the annual adjustments in water bank contract payments are available only as provided in advance by appropriation acts.

SECTION 4. PROGRAM FUNDING

Section 4 amends section 11 of the Water Bank Act to increase, beginning in fiscal year 1981, from $10 million to $30 million the amount of authorized program funding and provides that not more than 15 percent of the $30 million may be expended in any one State.●

● Mr. TALMADGE. Mr. President, S. 837 makes needed changes in the water bank program. The bill would first, allow the Secretary of Agriculture, beginning in 1980, to adjust payment rates under waterbank program agreements to reflect prevailing land and crop values, Second, expand the types of wetlands eligible for the program, and third, increase, beginning with fiscal year 1981, from $10 million to $30 million the yearly limitation on program expenditures. Not more than 15 percent of the $30 million may be used for agreements entered into in any one State.

Waterbank program agreements offer landowners an attractive alternative to the permanent conveyance of land for conservation purposes. Without incentives, landowners are likely to put wetlands to other uses that would result in the loss of valuable public resources.

The program currently covers only types 1 through 5 wetlands. This limitation has effectively precluded vast areas of the country from program participation. The Department of the Interior estimates that we are losing about 300.-000 acres of valuable wetlands each year. Tre greatest losses are occurring in the lower Mississippi River region. The Mississippi River bottomlands are among the most important breeding areas for wood ducks and a major wintering area for many species of waterfowl. Much of this area is ineligible for the program because it contains types of wetlands not currently included in the water bank program.

In February 1979, the General Accounting Office stated in its report on wetlands that 38 percent of the waterbank program agreements will be terminated before the end of the 10-year agreement period. The Department of Agriculture has stated that the largest single reason for terminations is the rising cost of land and rental rates. Allowing the Secretary to make adjustments in the payment rates to reflect current land crop values will hopefully stem the tide of these terminations.

Senator MELCHER is to be congratulated for the way he guided this bill through his subcommittee and the full Committee on Agriculture, Nutrition, and Forestry. Senator BOSCHWITZ and Senator YOUNG made valuable contributions to the consideration of S. 837.

I urge my colleagues to join me in supporting this bill.●

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be discharged from further consideration of H.R. 2043 and that the Senate proceed to its immediate consideration.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 2043) to amend the Water Bank Act for the purposes of authorizing the Secretary of Agriculture to adjust payments rates with respect to initial conservation agreements and to designate certain areas as wetlands, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all after the enacting clause be stricken and that the text of S. 837, as amended by the Senate, be inserted in lieu thereof.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be ordered to be engrossed for a third reading, read the third time, and passed, and a motion to reconsider and a motion to lay on the table and that S. 837 be indefinitely postponed.

Mr. STEVENS. Mr. President, there is no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PANG CHONG AE

The bill (H.R. 1283) for the relief of Pang Chong Ae, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEAT IMPORT ACT OF 1979

The bill (H.R. 2727) to modify the method of establishing quotas on the importation of certain meat, to include within such quotas certain meat products, and for other purposes, was announced as next in order.

● Mr. DOLE. Mr. President, I rise in support of H.R. 2727, the Meat Import Act of 1979. This bill will make important changes in the current meat import law—changes that will help both consumers and cattlemen.

The most important feature of this bill is the establishment of a so-called countercyclical formula for determining meat import levels. This sounds like a fancy concept, but it is really quite simple in effect. The cattle industry historically has run in cycles. Low beef prices discourage production of cattle, to the point where beef supplies become tight. Prices rise as a result which leads cattlemen to build up herds. This ultimately leads to a relative oversupply, bringing prices down once more. This cycle tends to play out over several years.

For the cattlemen, the cycle has meant prolonged periods of losing money, followed by periods of more remunerative prices. Consumers, though apparently benefitting from the periods of ample supplies and low prices, have seen beef costs rise quickly as the cycle turns around.

Beef imports account normally for about 7 percent of our beef consumption. Those imports could help to stabilize the domestic beef cycle so that cattlemen and consumers alike can plan for more stable supplies and prices. The key to this is to assure that more imports are allowed when domestic production is low while imposing tighter restrictions when domestic supply is high. This is what the countercyclical formula in H.R. 2727 accomplishes.

The countercyclical formula in this bill constitutes a major improvement over the formula in the current Meat Import Act. The current formula actually exaggerate the beef cycle, allowing greatest imports when domestic production is high, and least when supply is tight and prices are relatively high. This formula in current law thus denies protection to cattlemen when they need it most. By changing to the countercyclical formula, we reverse this disruptive effect and can actually provide more meat to consumers over the long term while providing necessary protection to cattlemen.

I would further note that I am pleased that the countercyclical formula in H.R. 2727 is virtually identical to that employed in S. 441, a bill I introduced earlier this year, S. 55, Senator BENTSEN's bill, and the bill passed last year but vetoed by the President. I would further note that this bill passed the House overwhelmingly by a vote of 352 to 48—a good indication of the support for this counter-cyclical bill among producer and consumer interests.

Mr. President, there are two other major aspects to this bill which I would like to highlight. First, we are incorporating a "floor" on imports into the law. At least 1.25 billion pounds of meat imports will be allowed, even if the countercyclical formula results in a lower number. This figure presents a compromise with the administration, which wanted 1.3 billion pounds.

Second, the bill also limits the discretion of the President to increase or suspend quotas when the beef cycle is in a phase of ample domestic supply. Current law gives the President discretion to suspend quotas or increase their level in three basic situations: First, when there is an economic or national security emergency; second, when there is inadequate supply at reasonable prices; or third, when trade agreements have been concluded which fulfill the objectives of the act. H.R. 2727, preserves this discretion for tight supply situations, but imposes further limitations on this discretion when the countercyclical formula indicates that herds are being liquidated. At such time, supply will likely be plentiful and prices low, and it is unlikely that there would be any justification for increasing the level of imports.

In those situations, the President can increase or suspend quotas only: First, if required by overriding national security interests during a period of declared national emergency under the National Emergencies Act of 1976; second, if the President proclaims that domestic supplies will be inadequate because of a natural disaster, disease, or major national market disruption; or third, if a revised calculation under the countercyclical formula indicates the cycle is in a herd buildup, rather than herd liquidation phase. These are intended to be very narrow situations, as discussed in the Finance Committee report and the record of our hearings.

H.R. 2727 also changes current law by requiring the President to give the public 30 days to comment before he can increase or suspend quotas.

Mr. President, I will be candid in saying I would have preferred the still more stringent limitations on discretion in the bill we passed last year or the bill I introduced this year. However, in the interests of obtaining Presidential approval this year, and recognizing we got almost all we asked, I can accept this compromise on the issue of Presidential discretion. We have provided statutory limitations. I trust we will avoid in the future the kind of ad hoc Presidential intervention that upset the beef market last year. With a countercyclical formula, only a true emergency should in any sense justify Presidential intervention.

Mr. President, I urge this body to act quickly and positively on H.R. 2727. We have a good bill, beneficial to cattlemen and consumers, and we should not let this opportunity lapse.●

● Mr. JAVITS. Mr. President, I would like to record my opposition to H.R. 2727, the Meat Import Act of 1979, which I believe is highly inflationary, protectionist, and may strain our vital trade relations with many of our important trading partners.

I am especially concerned that at such a critical time for our counry's economy, enactment of this bill would work to the detriment of the U.S. consumer by driving up the price of certain categories of widely used beef. Imported lean beef is an inflation fighter which is primarily used in the preparation of hamburgers, hot dogs, and other low-priced meat products. Domestic cuts of beef, on the other hand, are of a much higher quality and are not, I repeat, not interchangeable with imported beef. The countercyclical mechanism contained in the bill, which allows imports to increase as domestic production declines and reduces imports when domestic production rises, will result in meat imports being curtailed simply because more "table quality" meat is being produced in the United States.

New York State is a meat-consuming State and like so many other States, can only benefit from the elimination of import restrictions—not the further protection of the domestic cattle industry—which would reduce—not increase—the relative price of hamburger and other manufactured beef prices.

Higher meat prices resulting from such import restrictions ironically will hurt the U.S. meat industry by inducing consumers to purchase meat substitutes. In addition, increased demand for these meat substitutes will result in higher prices causing a rippling inflationary effect throughout the economy. With domestic inflation already at double-digit levels, I do not believe that we should implement a program which will exacerbate this situation.

In addition, the minimum level of 1.25 billion pounds for these meat imports is still less than the level that we had agreed with Australia and other world suppliers to maintain in the package deal which had reciprocal benefits for us, during the recent Tokyo Round of trade negotiations under the GATT in Geneva. As a proponent of open and fair international trade, I believe that it is in the U.S. interest to live up to its international obligations and thereby to encourage the development of an open world trading system.

After a careful consideration of both the foreign policy implications and the domestic ramifications of H.R. 2727, I have come to the conclusion that I cannot support this legislation, which I feel benefits unduly cattle producers at the expense of consumers and our Nation's aggregate economic interests.●

THE MEAT IMPORT ACT OF 1979—H.R. 2727

Mr. BENTSEN. Mr. President, the enactment of a countercyclical meat import law is long overdue, and I strongly urge my colleagues in the Senate to pass this bill without amendment so that it can be sent directly to the President and signed into law this year.

The Meat Import Act of 1979, which is now before us as H.R. 2727, has been thoroughly studied and discussed during these last 2 years. This bill represents a compromise which is beneficial and acceptable to all parties concerned. The administration has asked that this bill be passed and sent to the President as soon as possible so that it may be signed into law this year.

Mr. President, the need for legislation such as this has become glaringly apparent during the last few years. The American housewife has been faced with sharp cyclical swings in the price of beef, especially hamburger, over the last few years. At the same time this cycle has driven many small cattlemen out of business and has driven many others to the very edge of bankruptcy. Then, just as prices started to recover from the lows which were exacerbated by the current meat import law, action was taken under this law which dealt a severe psychological blow to the markets at a critical time.

Under current law importation of meat into the United States is regulated by quotas which are set by a mathematical formula based on domestic beef production. This formula is designed to guarantee our trading partners uninterrupted access to the U.S. market with a market share comprising about 7 percent of total domestic consumption. To do this, import quotas are raised as domestic production increases and are lowered as domestic production decreases.

The guarantee of continued market access for our trading partners is a reasonable one and a worthy one. However, in practice this method of providing it has turned out to have a destabilizing influence on our domestic market.

Beef production in this country tends to run in cycles. When times are good and prices are high, cattlemen hold back calves in order to add to their breeding herds. Diverting these calves from the slaughter market reduces the supply of available meat, further increasing prices. These larger breeding herds produce more calves, and when these larger calf crops reach slaughter, which takes about 3 years after the decision to increase the breeding herd, there is a large increase in the available meat supply. This then depresses prices. The lower prices force marginal cattlemen to liquidate their herds. As they sell off their breeding stock many of these breeding cows then go to slaughter, further increasing the supply of meat and depressing prices. With fewer breeding cows in the herd, we get smaller calf crop. This and the elimination of the one-shot increase in the meat supply, which resulted from slaughtering breeding animals, causes a shortage and higher prices. This then starts the cycle all over again.

I would point out that this is a natural cycle based on the laws of economics and the biology of the cow. It is unlikely that we can eliminate this cycle and the hardship that it periodically causes in the cattle industry. However, we can see to it that our meat import policies do not exaggerate the swings of this cycle and make the trauma even worse. And I believe that it is in the best interest of the cattlemen, the consumer, and the Nation as a whole to do so.

The formula in our current law increases meat imports during herd liquidation, when domestic meat supplies are high and prices are low. This depresses prices and drives the cattle cycle even lower, in the process bankrupting many cattlemen who might otherwise have survived. This is especially hard on the young beginning rancher, who is very vulnerable during that first critical downturn but would normally be secure enough by the next one to have a reasonably good chance of riding it out.

Then during the rebuilding phase of the cattle cycle the formula in our current law decreases our meat imports. This is at a time when domestic supplies are low and prices are high. These cutbacks cause further price increases, which are passed directly through to the consumer. These higher-than-normal prices have a major consumer impact, and any housewife can tell you that grocery store prices never seem to come down as fast or as far as they go up.

Another major problem with the existing law is the almost unlimited authority which it gives the President in imposing and suspending these import quotas. This broad authority, when faced with the procyclical problem of our current formula and with domestic political pressures to react to perceived high meat prices, has resulted in Presidential action to increase these quotas in almost every year since 1970. This has injected a very high and very damaging degree of uncertainty into the cattle business.

Ranchers are called on to make production decisions 3 years before the consumer will see the meat which the cattleman decides today to produce. Past Presidential decisions to increase meat import quotas have sometimes been a major shock to the cattlemarket and have triggered sharp price declines. These decisions have had only a very minimal impact on the consumer price of meat but they have sometimes had a major psychological impact on the cattle market. Given this high degree of uncertainty and its impact on the market, cattlemen, who are now in a herd rebuilding phase of the cattle cycle, have naturally reacted cautiously and are being very slow in rebuilding their herds. This will translate into fewer beefsteaks and less hamburger at correspondingly higher prices in about 3 years.

This issue of Presidential discretion is a thorny one, but it must be addressed. It has already resulted in a veto of similar legislation, which is why I now present this countercyclical proposal to the Senate for the third time. This bill is almost identical to S. 55, which has 26 cosponsors in addition to this Senator as its sponsor. It addresses both the concern of the President and the concern to the cattle industry on this issue.

The President wishes to have the discretionary authority in order to prevent any mathematical formula from setting quotas which would result in excessively high domestic meat prices. The President will have that authority during the rebuilding phase of the cattle cycle. During this time domestic production is down and the countercyclical formula is increasing our imports in response to this drop in domestic supply. Domestic prices will be moving up and the President will be able to increase meat import quotas if he believes that the countercyclical formula is not increasing the quotas fast enough to meet our domestic needs.

However, the cattleman also needs some protection from unwarranted and unexpected changes in these quotas. He will get it under this bill. The President's discretionary authority will be severely restricted during the liquidation phase of the cattle cycle. During this time domestic meat supplies are increasing, and the countercyclical formula will be decreasing imports to make room for this increase in domestic supplies. Domestic prices will be down and the small cattleman, who is trying to ride out this downturn in the cattle cycle by tightening his belt, will be very vulnerable to actions which would further depress prices. During this time the President could still increase the meat import quotas if needed, but he would have to meet very strict conditions to do so. During this liquidation phase the President could increase the quotas only in case of a national emergency or in case of a shortage resulting from natural disaster, disease, or major national market disruption.

As I have stated, a major objective of the 1964 law was to insure that our trading partners would have continued access to the U.S. market. Under current law their import quotas grow as our market grows, keeping their market share constant at about 7 percent. This guarantee of continued access to the U.S. market is retained in this bill. The countercyclical formula will retain this market share target, and it will over the long run increase our total imports as the size of our domestic market increases.

In addition, the bill sets a minimum import quota level of 1.25 billion pounds per year. This provision is designed to guarantee our trading partners in the plainest manner possible that the U.S. policy on meat imports will continue to be the most liberal by far of any beef producing nation in the world. This level of 1.25 billion pounds per year is half way between the 1.2 billion pound figure in previous bills and the 1.3 billion pound figure sought by the administration.

Mr. President, this bill was passed by the House of Representatives by a vote of 352 to 48. The administration testified in favor of this bill during Finance Committee hearings which I chaired on September 26. This bill was reported unanimously by the Senate Finance Committee. This bill is essentially identical to S. 55 as introduced by myself and 26 cosponsors. A total of 35 Senators are cosponsoring various countercyclical meat import bills in this Congress. I believe that a strong record of support for this bill has clearly been established.

In addition to agreeing to sign this bill, the administration has also asked that this legislation be passed and sent to the President as quickly as possible. These meat import quotas are determined and allocated among the various countries on calendar year basis. These quotas will very shortly have to be announced for the year 1980. If this bill does not become law until after January 1, then the administration will be forced to recompute these quotas after the first of the year and will have to administer these quotas under a new set of rules. This will inevitably lead to administrative problems and confusion among the countries which export meat to the United States. Because of the late date the administration is even now preparing two different sets of quota announcements. This is of course, causing confusion and uncertainty among our trading partners. I am sure that they have no more liking for uncertainty than does the American cattleman.

Mr. President, it is high time that we do something to take the Government out of the boom and bust of the cattle cycle. This bill will add a vital element of stability and certainty to our meat import policy which has long been sadly missing. Uncertainty is ever the foremost enemy of productivity, and it is increased productivity which will keep reasonably priced meat on the plate of the American housewife in years to come. Enactment of this countercyclical meat import bill is long overdue, and I strongly urge the acceptance of this bill without amendment so that it can be enacted into law this year. This Christmas present will pay positive dividends to both consumers and producers of meat for many new years to come.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CUSTOMS COURT ACT OF 1979

The Senate proceeded to consider the bill (S. 1654) to improve the Federal judicial machinery by clarifying and revising certain provisions of title 28, United States Code, relating to the judiciary and judicial review of inter-

national trade matters, and for other purposes, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Customs Courts Act of 1979".

TITLE I—PURPOSES

Sec. 101. The Congress declares that the purposes of this Act are—

(a) to provide for a comprehensive system of judicial review of civil actions arising from import transactions, utilizing, whenever possible, the specialized expertise of the United States Customs Court and Court of Customs and Patent Appeals and insuring uniformity afforded by the national jurisdiction of these courts;

(b) to assure access to judicial review of civil actions arising from import transactions, which access is not presently assured due to jurisdictional conflicts arising from the presently ill-defined division of jurisdiction between the district courts and the customs courts;

(c) to provide expanded opportunities for judicial review of civil actions arising from import transactions;

(d) to grant to the customs courts the plenary powers possessed by other courts established under Article III of the Constitution of the United States; and

(e) to change the name of the United States Customs Court to the United States Courts of International Trade to be more descriptive of its expanded jurisdiction and its new judicial functions and purposes relating to international trade in the United States.

TITLE II—COMPOSITION OF THE COURT OF INTERNATIONAL TRADE AND ASSIGNMENT OF JUDGES TO OTHER COURTS

Sec. 201. The United States Customs Court shall continue as constituted on the day before the date of enactment of this Act, and shall, after the date of enactment of this Act, be known as the United States Court of International Trade.

Sec. 202. (a) Section 251 of title 28, United States Code, is amended by striking out the first and second paragraphs of such section and inserting in lieu thereof the following:

"(a) The President shall appoint, by and with the advice and consent of the Senate, nine judges who shall constitute a court of record to be known as the United States Court of International Trade. The court is a court established under Article III of the Constitution of the United States.

"(b)(1) The chief judge shall be the judge in regular active service who is senior in commission of those judges who—

"(A) are sixty-four years of age or under;

"(B) have served for at least one year as judge of the court; and

"(C) have not served previously as chief judge.

"(2)(A) In any case in which no judge meets the qualifications under paragraph (1), the youngest judge in regular active service who is sixty-five years of age or over and who has served as a judge of the court for at least one year shall act as the chief judge.

"(B) In any case under subparagraph (A) in which there is no judge in regular active service who has served as a judge for more than one year, the judge in regular active service who is senior in commission and who has not served previously as chief judge shall act as the chief judge.

"(3)(A) Except as provided in subparagraph (C), a chief judge shall serve for a term of seven years, and may continue to serve after the expiration of such term until another judge is eligible to serve as chief judge under paragraph (1).

"(B) Except as provided in subparagraph (C), a judge acting as chief judge under subparagraph (A) or (B) of paragraph (2) shall serve until another judge is eligible to serve as chief judge under paragraph (1).

"(C) A judge may not serve or act as chief judge after attaining the age of seventy years unless no other judge is eligible to serve as chief judge under paragraph (1) or is eligible to act as chief judge under paragraph (2).

"(c) If the chief judge desires to be relieved of his duties as chief judge while retaining his active status as a judge, he may so certify to the Chief Justice of the United States, and thereafter, the chief judge of the court shall be such other judge who is qualified to serve or act as the chief judge under subsection (b).".

(b) The third paragraph of section 251 of title 28, United States Code, is amended by inserting "(d)" immediately before "The offices".

(c) The amendments made by this section to section 251 of title 28, United States Code, shall take effect on the date of enactment of this Act, except that those judges serving on the United States Customs Court on the day before the date of enactment of this Act shall continue to serve as judges of the Court of International Trade, and the chief judge of the Customs Court serving on the day before the date of enactment of this Act shall continue to serve as chief judge of the Court of International Trade until he attains the age of seventy years.

Sec. 203. (a) Section 293(b) of title 28, United States Code, is amended by striking out all that appears after "duties" and inserting in lieu thereof the following: "in any circuit, either in a court of appeals or district court, upon presentation of a certificate of necessity by the chief judge or circuit justice of the circuit in which the need arises.".

(b) Section 293(d) of title 28, United States Code, is amended to read as follows:

"(d) The chief judge of the Court of International Trade may, upon presentation to him of a certificate of necessity by the chief judge of the Court of Customs and Patent Appeals or the chief judge of the Court of Claims, designate and assign temporarily any judge of the Court of International Trade to serve as a judge of the Court of Customs and Patent Appeals or the Court of Claims.".

TITLE III—JURISDICTION OF THE COURT OF INTERNATIONAL TRADE

Sec. 301. (a) Chapter 95 of title 28, United States Code, is amended to read as follows:

"Chapter 95—Court of International Trade

"Sec.
"1581. Civil actions against the United States.
"1582. Civil actions commenced by the United States.
"1583. Counterclaims.
"1584. Cure of defects.
"1585. Powers generally.

"§ 1581. Civil actions against the United States

"(a)(1) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced by any person whose protest under the Tariff Act of 1930 has been denied, in whole or in part, by the appropriate customs officer, if the administrative decision, including the legality of all orders and findings entering into the protest, involves—

"(A) the appraised value of merchandise;

"(B) the classification, rate, and amount of duties chargeable;

"(C) all charges or exactions of whatever character within the jurisdiction of the Secretary of the Treasury;

"(D) the exclusion of merchandise from entry or delivery or a demand for redelivery to customs custody (including a notice of constructive seizure) under any provisions of the customs laws, except a determination appealable under section 337 of the Tariff Act of 1930;

"(E) the liquidation or reliquidation of an entry, or a modification thereof;

"(F) the refusal to pay a claim for drawback; or

"(G) the refusal to reliquidate an entry under section 520(c) of the Tariff Act of 1930.

"(2) Section 516A of the Tariff Act of 1930 provides the exclusive remedy for any determination subject to judicial review under such section, and such a determination is not otherwise reviewable under this subsection or any other provision of law.

"(b) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced under section 516 or 516A of the Tariff Act of 1930.

"(c)(1) After the decision of the President has been published in the Federal Register, the Court of International Trade shall have exclusive jurisdiction to review advice, findings, recommendations, and determinations of the International Trade Commission under sections 131, 201, 202, 203, 304, 406, and 503 of the Trade Act of 1974, sections 336 and 338 of the Tariff Act of 1930, and section 22 of the Agricultural Adjustment Act, solely for the purposes of determining the procedural regularity of those actions.

"(2) If no advice, findings, recommendations, or determinations have been provided to the President by the International Trade Commission, the Court of International Trade shall have exclusive jurisdiction to review any action of the commission under the sections specified in paragraph (1) of this subsection, solely for the purposes of determining the procedural regularity of those actions.

"(d) After the decision of the President has been published in the Federal Register, the Court of International Trade shall have exclusive jurisdiction to review any action of the Office of the Special Trade Representative under section 302(b)(1) or 304 of the Trade Act of 1974, solely for the purposes of determining the procedural regularity of those actions.

"(e) The Court of International Trade shall have exclusive jurisdiction of any civil action to review any determination of the Secretary of Labor or the Secretary of Commerce certifying or refusing to certify workers, communities, or businesses as eligible for adjustment assistance under the Trade Act of 1974. No injunction or writ of mandamus shall be issued in any civil action arising under this subsection.

"(f) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced by a party-at-interest to review a final determination made under section 305(b)(1) of the Trade Agreements Act of 1979.

"(g) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced under section 777(c)(2) of the Tariff Action of 1930.

"(h)(1) In addition to the jurisdiction conferred upon the Court of International Trade by subsections (a) through (g) of this section and subject to the exceptions provided in subsection (i), the Court of International Trade shall have exclusive jurisdiction over any civil action against the United States, its agencies or its officers, which—

"(A) arises directly from import transactions; and

"(B)(i) involves the Tariff Act of 1930, the Trade Expansion Act of 1962, the Trade Act of 1974, or the Trade Agreements Act of 1979; or

"(ii) a provision of—

"(I) the Constitution of the United States, "(II) a treaty of the United States,

"(III) an executive agreement executed by the President, or

"(IV) an Executive order of the President, which directly and substantially involves international trade.

"(2) Section 516A of the Tariff Act of 1930 provides the exclusive remedy for any determination subject to judicial review under such section, and such a determination is not otherwise reviewable under this subsection or any other provision of law.

"(i)(1) The Court of International Trade shall not have jurisdiction—

"(A) of any civil action arising under section 305 of the Tariff Act of 1930;

"(B) subject to the provisions of paragraph (2), to review any ruling or refusal to issue or to change a ruling relating to classification, valuation, rate of duty, marking, restricted merchandise, entry requirements, drawbacks, vessel repairs, and similar matters issued by the Secretary of the Treasury under applicable regulations other than in connection with a civil action commenced under subsection (a) of this section; or

"(C) of any civil action with respect to any effort by the United States to recover a civil fine or penalty or to enforce a forfeiture, to recover upon a bond, or to recover customs duties, other than as specified in section 1582 of this title.

"(2) Paragraph (1)(B) shall not apply if a plaintiff demonstrates that, without a substantial doubt, (A) it would be commercially impractical to obtain judicial review under subsection (a) of this section; and (B) the plaintiff would otherwise suffer irreparable injury. If the plaintiff fulfills the conditions set forth in the preceding sentence and demonstrates that the Secretary's ruling or refusal to issue or to change a ruling is arbitrary or capricious or otherwise contrary to law, the court shall award appropriate declaratory relief.

"§ 1582. Civil actions commenced by the United States

"(a) Subject to the provisions of subsections (b) and (c) of this section, the Court of International Trade shall have exclusive jurisdiction of any civil action commenced by the United States under section 592, 704 (1)(2), or 734(1)(2) of the Tariff Act of 1930.

"(b)(1) Any party to a civil action described in subsection (a) who desires to have the action tried before a jury may, within 30 days after the action is commenced in the Court of International Trade, file a motion with the clerk of the court requesting a transfer of the action to an appropriate district court.

"(2) The Court of International Trade shall promptly order the action transferred to the appropriate district court if the court determines that the moving party is entitled to a trial by jury in such action.

"(c) Within 10 days after the issuance of an order of transfer under subsection (b) (2), the clerk of the Court of International Trade shall transmit all pleadings and documents to the clerk of the appropriate district court. The action shall proceed as if it had been commenced in the district court in the first instance, and the court shall determine the matter de novo.

"(d) The relevant provisions of sections 2461 through 2465 of this title, section 592 (e) of the Tariff Act of 1930, and the Federal Rules of Evidence shall apply in any action commenced in the Court of International Trade or transferred to a district court under this section.

"§ 1583. Counterclaims

"The Court of International Trade shall have jurisdiction to render judgment upon any counterclaim asserted by the United States—

"(1) which arises out of an import transaction pending before the court;

"(2) to recover upon a bond relating to an import transaction pending before the court; or

"(3) to recover customs duties relating to an import transaction pending before the court.

"§ 1584. Cure of defects

"(a) If a civil action within the exclusive jurisdiction of the Court of International Trade is commenced in a district court, the district court shall, in the interest of justice, transfer such civil action to the Court of International Trade, where the action shall proceed as if it had been commenced in the Court of International Trade in the first instance.

"(b) If a civil action within the exclusive jurisdiction of a district court or a court of appeals is commenced in the Court of International Trade, the Court of International Trade shall, in the interest of justice, transfer such civil action to the appropriate district court or court of appeals, where the civil action shall proceed as if it had been commenced in the district court or court of appeals in the first instance.

§ 1585. Powers generally

"The Court of International Trade shall possess all the powers in law and equity of, or as conferred by statute upon, a district court of the United States.".

(b) The table of chapters for part IV of title 28, United States Code, is amended in the item relating to chapter 95 by striking out "Customs Court" and inserting in lieu thereof "Court of International Trade".

TITLE IV—COURT OF INTERNATIONAL TRADE PROCEDURE

SEC. 401. (a) Chapter 169 of title 28, United States Code, is amended to read as follows:

"Chapter 169—COURT OF INTERNATIONAL TRADE PROCEDURE

"Sec.
"2631. Persons entitled to commence a civil action.
"2632. Commencement of a civil aciton.
"2633. Procedure and fees.
"2634. Notice.
"2635. Filing of official documents.
"2636. Time for commencement of action.
"2637. Exhaustion of administrative remedies.
"2638. New grounds in support of a civil action.
"2639. Burden of proof; evidence of value.
"2640. Scope and standard of review.
"2641. Witnesses; inspection of documents.
"2642. Analysis of imported merchandise.
"2643. Relief.
"2644. Decisions; findings of fact and conclusions of law; effect of decisions.
"2645. Retrial or rehearing.
"2646. Precedence of cases.

"§ 2631. Persons entitled to commence a civil action

"(a) A civil action contesting the denial, in whole or in part, of a protest under section 515 of the Tariff Act of 1930 may be commenced in the Court of International Trade by the person who filed the protest under section 514 of the Tariff Act of 1930, or by his estate, heirs, or successors or by a surety of such person in the transaction which is the subject of the protest.

"(b) A civil action contesting the denial, in whole or in part, of a petition under section 516 of the Tariff Act of 1930 may be commenced in the Court of International Trade by the domestic interested party who filed the petition or his estate, heirs, or successors.

"(c) A civil action contesting a determination listed in section 516A of the Tariff Act of 1930 may be commenced in the Court of International Trade by any interested party who is a party to the administrative proceeding or his estate, heirs, or successors.

"(d) A civil action to review a final determination made under section 305(b)(1) of the Trade Agreements Act of 1979 may be commenced in the Court of International Trade by any party-at-interest.

"(e) A civil action involving an application for an order to make confidential information available under section 777(c)(2) of the Tariff Act of 1930 may be commenced in the Court of International Trade by any interested party who is a party to the investigation.

"(f) A civil action, other than a civil action specified in subsections (a) through (e) of this section, may be commenced in the Court of International Trade by any person adversely affected or aggrieved by an agency action within the meaning of section 702 of title 5, United States Code.

"(g) Except in civil actions commenced under section 1581(a) of this title or section 516 of the Tariff Act of 1930, any person who would be adversely affected or aggrieved by a decision in a civil action pending in the Court of International Trade may, by leave of court, intervene in that civil action. In exercising its discretion, the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

"(h) Any person who is a party to the investigation and would be adversely affected or aggrieved by a decision in a civil action involving an order to make confidential information available under section 777(c)(2) of the Tariff Act of 1930 may, by leave of court, intervene in that civil action.

"(i) For the purposes of this section, the term—

"(1) 'interested party' means—

"(A) a foreign manufacturer, producer, or exporter, or the United States importer, of merchandise which is the subject of an investigation under title VII of the Tariff Act of 1930, or a trade or business association the majority of the members of which are importers of such merchandise;

"(B) the government of a country in which such merchandise is produced or manufactured;

"(C) a manufacturer, producer, or wholesaler in the United States of a like product;

"(D) a certified union or recognized union or group of workers which is representative of an industry engaged in the manufacture, production, or wholesale in the United States of a like product; and

"(E) a trade or business association the majority of whose members manufacture, produce, or wholesale a like product in the United States;

"(2) 'domestic interested party' means a party as defined in subparagraphs (C), (D), and (E) of paragraph (1);

"(3) 'party-at-interest' means—

"(A) a foreign manufacturer, producer, or exporter, or a United States importer, of merchandise which is the subject of a final determination;

"(B) a manufacturer, producer, or wholesaler in the United States of a like product;

"(C) United States members of a labor organization or other association of workers whose members are employed in the manufacture, production, or wholesale in the United States of a like product; and

"(D) a trade or business association a majority of whose members manufacture, produce, or wholesale a like product in the United States; and

"(4) 'like product' means a product which is like, or in the absence of like, most similar in characteristics and uses with the article subject to an investigation under title VII of the Tariff Act of 1930 or a final determination under section 305(b)(1) of the Trade Agreements Act of 1979.

"§ 2632. Commencement of a civil action

"(a) Each civil action under section 516 of the Tariff Act of 1930 or section 1581(a) of this title shall be commenced by filing with the clerk of the Court of International Trade a summons, with the content and in the form, manner, and style prescribed by the rules of the court.

"(b) Each civil action under section 516A of the Tariff Act of 1930 shall be commenced by filing with the clerk of the court a summons or a summons and a complaint, as prescribed in that section, with the content and in the form, manner, and style prescribed by the rules of the court.

"(c) Except for those civil actions specified in subsections (a) and (b) of this section, all civil actions shall be commenced by filing with the clerk of the court a summons and complaint, with the content and in the form, manner, and style prescribed by the rules of the court.

"(d) The Court of International Trade may prescribe by rule that any pleading or other paper mailed by registered or certified mail properly addressed to the clerk of the court with the proper postage affixed and return receipt requested shall be deemed filed as of the date of mailing.

"§ 2633. Procedure and fees

"(a) A filing fee shall be payable upon the commencement of an action. The amount of the fee shall be fixed by the Court of International Trade, but shall be not less than $5 nor more than the filing fee for commencing a civil action in a United States district court. The Court of International Trade may fix all other fees to be charged by the clerk of the court.

"(b) The Court of International Trade shall prescribe rules governing pleadings and other papers, including their amendment, service, and filing, and for consolidations, severances, suspension of cases, and other procedural matters.

"(c) All pleadings and other papers filed in the Court of International Trade shall be served on all parties in accordance with the rules prescribed by the court. When the United States, its agencies, or its officers are adverse parties, service of the summons shall be made upon the Attorney General and the head of the agencies whose actions are complained of, and when injunctive relief is sought, upon the named officials sought to be enjoined.

"§ 2634. Notice

"Reasonable notice of the time and place of trial or hearing before the Court of International Trade shall be given to all parties to any civil action in accordance with the rules prescribed by the court.

"§ 2635. Filing of official documents

"(a)(1) Upon service of the summons on the Secretary of the Treasury in any civil action contesting the denial of a protest under section 515 of the Tariff Act of 1930, or the denial of a petition under section 516 of that Act, the appropriate customs officer shall forthwith transmit to the clerk of the Court of International Trade, as prescribed by its rules, and as part of the official record—

"(A) the consumption or other entry and the entry summary;

"(B) the commercial invoice;

"(C) the special customs invoice;

"(D) a copy of protest or petition;

"(E) a copy of the denial of a protest or petition in whole or in part;

"(F) any importer's exhibits;

"(G) the official and other representative samples;

"(H) any official laboratory reports; and

"(I) a copy of any bond relating to the entry.

"(2) If any of the items listed in paragraph (1) do not exist in a particular civil action, an affirmative statement to that effect shall be transmitted to the clerk of the court.

"(b)(1) In any action commenced under section 516A of the Tariff Act of 1930, within forty days or within such period of time as the Court of International Trade may specify, after service of the complaint upon the administering authority established to administer title VII of the Tariff Act of 1930 or the United States International Trade Commission, the administering authority or the commission shall transmit to the clerk of the court, as prescribed by its rules, the record which, unless otherwise stipulated by the parties, shall consist of—

"(A) a copy of all information presented to or obtained by the administering authority or the commission during the course of the administrative proceedings, including all governmental memorandums pertaining to the case and the record of ex parte meetings required to be maintained by section 777(a)(3) of the Tariff Act of 1930; and

"(B) a copy of the determination with a statement of reasons, if any, all transcripts or records of conferences or hearings, and all notices published in the Federal Register.

"(2) Any documents, comments, or information accorded confidential or privileged status and required to be transmitted to the clerk of the Court of International Trade under paragraph (1) shall be transmitted as prescribed by its rules to the clerk of the court under seal, and its confidential or privileged status shall be preserved in the litigation. Any such documents, comments, or information shall be accompanied by a nonconfidential description of the nature of such confidential documents, comments, or information. The court may examine, in camera, the confidential or privileged material and may make such material available under such terms and conditions as the court may order.

"(c) Within fifteen days or within such period of time as the Court of International Trade may specify, after service of the complaint upon the administering authority or the commission in a civil action involving an application for an order to make confidential information available under section 777(c)(2) of the Tariff Act of 1930, the administering authority or the commission shall transmit, as prescribed by its rules, to the clerk of the court under seal, the confidential information involved together with the pertinent parts of the record.

"(d)(1) In any other civil action in which judicial review is based upon the record made before the agency, the agency shall, within forty days or within such time as the Court of International Trade may specify after service of the complaint upon the agency, transmit to the clerk of the court, as prescribed by its rules—

"(A) a copy of the contested determination and the findings or report upon which it is based;

"(B) a copy of any reported hearings or conferences conducted by the agency; and

"(C) any documents, comments, or other papers filed by the public, interested parties, or governments with regard to the agency's action, identifying and transmitting, under seal, any documents, comments, or other information obtained on a confidential basis, including a nonconfidential description of the nature of such confidential documents, comments, or information.

"(2) The parties may stipulate that fewer documents, comments, or other information than that specified in paragraph (1) shall be transmitted to the court.

"(3) The confidentiality accorded such documents, comments, and information shall be preserved in the litigation, but the court may examine in camera such documents, comments, and information and may order the disclosure of such documents, comments, or information under such terms and conditions as the court deems appropriate.

"§ 2636. Time for commencement of action

"(a) A civil action contesting the denial of a protest under section 515 of the Tariff Act of 1930, is barred unless commenced in accordance with the rules of the Court of International Trade—

"(1) within one hundred and eighty days after the date of mailing of notice of denial, in whole or in part, of a protest by the Customs Service;

"(2) if no notice is mailed within the two-year period specified in section 515(a) of the Tariff Act of 1930, within one hundred and eighty days after the date of the expiration of the two-year period specified in such section; or

"(3) within one hundred and eighty days after the date of denial of a protest by operation of law under the provisions of section 515(b) of the Tariff Act of 1930.

"(b) A civil action contesting the denial of a petition under section 516 of the Tariff Act of 1930 is barred unless commenced in accordance with the rules of the Court of International Trade within thirty days after the date of mailing of a notice transmitted under section 516(c) of the Tariff Act of 1930.

"(c) A civil action contesting a determination by the administering authority, under section 703(c) or 733(c) of the Tariff Act of 1930, that a case is extraordinarily complicated is barred unless commenced in accordance with the rules of the Court of International Trade within ten days after the date of the publication of the determination in the Federal Register.

"(d) A civil action contesting a reviewable determination listed in section 516A of the Tariff Act of 1930, other than a determination under section 703(c) or 733(c) of that Act, is barred unless commenced in accordance with the rules of the Court by International Trade within thirty days after the date of publication of the determination in the Federal Register.

"(e) A civil action involving an application for an order to make confidential information available under section 777(c)(2) of the Tariff Act of 1930 is barred unless commenced in accordance with the rules of the Court of International Trade within ten days after the date of the denial of a request for confidential information.

"(f) A civil action contesting a final determination made under section 305(b)(1) of the Trade Agreements Act of 1979 is barred unless commenced in accordance with the rules of the Court of International Trade within thirty days after the date of publication of the determination in the Federal Register.

"(g) A civil action, other than an action specified in subsections (a) through (f) of this section, of which the court has jurisdiction under section 1581 of this title is barred unless commenced in accordance with the rules of the Court of International Trade within two years after the cause of action first accrues.

"§ 2637. Exhaustion of administrative remedies

"(a) A civil action contesting the denial of a protest under section 515 of the Tariff Act of 1930 may be commenced only if all liquidated duties, charges, and exactions have been paid at the time the action is commenced, except that a surety's obligation to pay such liquidated duties, charges, and exactions is limited to the sum of any bond relating to each entry included in a denied protest. If a surety commences a civil action in the Court of International Trade, the surety shall recover only the amount of the liquidated duties, charges, and exactions paid on the entries included in the action. The excess amount of any recovery shall be paid to the importer of record, or its estate, heirs, successors, or assigns.

"(b) A civil action contesting the denial of a petition under section 516 of the Tariff Act of 1930 may be commenced only by a person who has first exhausted the procedures specified in that section.

"(c) In any civil action not specified in this section, the Court of International Trade shall require the exhaustion of appropriate administrative remedies.

"§ 2638. New grounds in support of a civil action

"In any case in which the denial, in whole or in part, of a protest is a precondition to the institution of a civil action in the Court of International Trade, the court, by rule, may consider any new ground in support of the civil action if the new ground—

"(1) applies to the same merchandise that was the subject of the protest; and

"(2) is related to the same administrative determinations listed in section 514 of the Tariff Act of 1930 that were contested in the protest.

"§ 2639. Burden of proof; evidence of value

"(a) In any civil action over which the Court of International Trade has jurisdiction under subsection (a) or (b) of section 1581, the determination of the Secretary of the Treasury, the administering authority, or the International Trade Commission, or their delegates, is presumed to be correct. The burden to prove otherwise shall rest upon the party challenging the determination.

"(b) Where the value of merchandise or any of its components is in issue—

"(1) reports or depositions of consuls. customs officers, and other officers of the United States, and depositions and affidavits of other persons whose attendance cannot reasonably be had may be admitted into evidence when served upon the opposing party in accordance with the rules of the Court of International Trade;

"(2) price lists and catalogs may be admitted in evidence when duly authenticated, relevant, and material; and

"(3) the value of merchandise shall be determined from the evidence in the record and that adduced at the trial, whether or not the merchandise or sample thereof is available for examination.

"(c) The provisions of subsection (a) shall not apply to any action commenced in the Court of International Trade under section 1582 of this title, unless permitted by the Federal Rules of Evidence.

§ 2640. Scope and standard of review

"(a) The Court of International Trade shall determine the matter de novo upon the basis of the record made before the court in the following categories of civil actions:

"(1) Civil actions contesting the denial of a protest under section 515 of the Tariff Act of 1930 involving—

"(A) except to the extent judicial review is available under subsection (b) of this section in the case of a determination made reviewable under section 516A of the Tariff Act of 1930—

"(i) the appraised value of merchandise;

"(ii) the classification, rate, and amount of duties or fees chargeable;

"(iii) all charges or exactions of whatever character within the jurisdiction of the Secretary of the Treasury; and

"(iv) the required redelivery of imports under the terms of an entry bond or the exclusion of merchandise from entry or delivery under the customs laws or under an action of the Customs Service;

"(B) the refusal to pay a claim for a drawback; and

"(C) the refusal to reliquidate an entry under section 520(c) of the Tariff Act of 1930.

"(2) Civil actions commenced under section 516(c) of the Tariff Act of 1930.

"(3) Civil actions commenced under section 1581(f) of this title.

"(4) Civil actions commenced under section 1581(g) of this title.

"(5) Civil actions commenced in the Court of International Trade under section 1582 of this title.

"(b) In any civil action commenced under section 516A of the Tariff Act of 1930, the court shall review the matter as specified in subsection (b) of that section.

"(c) In any civil action commenced under subsection (c) or (d) of section 1581 of this title, the court shall review the matter as specified in those subsections.

"(d) In any civil action commenced under section 1581(e) of this title, the court shall review the matter as specified in section 250 of the Trade Act of 1974. The determination of the Secretary of Commerce under sections 251 and 271 of the Trade Act of 1974 shall be subject to judicial review in the same manner and to the same extent as provided in section 250 of the Trade Act of 1974.

"(e) In any civil action not specified in this section, the court shall review the matter as provided in section 706 of title 5, United States Code.

"§ 2641. Witnesses; inspection of documents

"(a) Except as otherwise provided by law, in any civil action in the Court of International Trade, the parties and their attorneys shall have an opportunity to introduce evidence, to hear and cross-examine the witnesses of the other party, and to inspect all samples and all papers admitted or offered as evidence under rules prescribed by the court. Except as provided in section 2639 of this title, subsection (b) of this section, or any rule prescribed by the court, the Federal Rules of Evidence shall apply to all civil actions in the Court of International Trade.

"(b) The Court of International Trade may order that in any civil action trade secrets and commercial or financial information which is privileged and confidential, or any information provided to the United States by foreign governments or foreign persons, shall not be disclosed or shall be disclosed to a party, its counsel, or any other person, only under such terms and conditions as the court may order.

"§ 2642. Analysis of imported merchandise

"The Court of International Trade may order an analysis of imported merchandise and reports thereon by laboratories or agencies of the United States.

"§ 2643. Relief

"(a) In any civil action commenced under section 1581 or 1582 of this title or in any counterclaim asserted under section 1583 of this title, the Court of International Trade may, if appropriate, enter a judgment for money for or against the United States.

"(b) In any civil action commenced under section 1581(a) of this title or section 516 of the Tariff Act of 1930, if the Court of International Trade is unable to arrive at the correct determination on the basis of the evidence presented, the court may order such further administrative or adjudicative procedures that the court deems necessary.

"(c) In any civil action involving an application for an order requiring the administering authority or to the International Trade Commission to make confidential information available under section 777(c)(2) of the Tariff Act of 1930, the court may issue an order of disclosure only with respect to the information specified in that section.

"(d) In addition to the orders specified in subsections (a), (b), and (c) of this section, the Court of International Trade may order any form of relief which is appropriate, including, but not limited to, declaratory judgments, orders of remand, writs of mandamus, and prohibition and injunction.

"(e) The Court of International Trade may, in extraordinary circumstances, grant appropriate preliminary or permanent injunctive relief upon the request of a person who, after exhausting all appropriate administrative remedies, would have the right to commence a civil action in the Court of International Trade. In ruling upon such a request, the court shall consider, among other matters, whether the person making the request will be irreparably injured if the relief is not granted, and if so, whether the irreparable injury outweighs the effect that the issuance of the requested injunction would have upon the public interest.

"§ 2644. Decisions; findings of fact and conclusions of law; effect of decisions

"(a) A final decision of the Court of International Trade in a contested civil action or a decision granting or refusing an injunction shall be supported by—

"(1) a statement of findings of fact and conclusions of law, or

"(2) an opinion stating the reasons and facts upon which the decision is based.

"(b) Upon motion of a party, or upon its own motion, made not later than thirty days after entry of judgment, the court may amend its findings or make additional findings and may amend the decision accordingly.

"(c) A decision of the Court of International Trade is final and conclusive, unless a retrial or rehearing is granted under section 2645 of this title or an appeal is taken to the Court of Customs and Patent Appeals within the time and the manner provided in section 2601 of this title.

"§ 2645. Retrial or rehearing

"After the Court of International Trade has rendered a judgment or order the court may, upon motion of a party or upon its own motion, grant a retrial or rehearing, as the case may be. A party's motion shall be made or the court's action on its own motion shall be taken, not later than thirty days after entry of the judgment or order.

"§ 2646. Precedence of cases

"(a) A civil action involving the exclusion of perishable merchandise shall be given precedence over other civil actions pending before the Court of International Trade, and shall be assigned for hearing or trial at the earliest practicable date and expedited in every way.

"(b) Except those civil actions given precedence under subsection (a), a civil action for the review of a determination under section 516A(a)(1)(B) or under section 516 A(a)(1)(E) of the Tariff Act of 1930 shall be given precedence over other civil actions pending before the court, and shall be assigned for hearing or trial at the earliest practicable date and expedited in every way.

"(c) Except those civil actions given precedence under subsection (a) or (b), a civil action involving the exclusion or redelivery of merchandise arising under section 1581 of this title or under 516 or 516A of the Tariff Act of 1930, shall be given precedence over other civil actions pending before the court, and shall be assigned for hearing or trial at the earliest practicable date and expedited in every way.".

(b) The table of chapters for part VI of title 28, United States Code, is amended in the item relating to chapter 169 by striking out "Customs Court" and inserting in lieu thereof "Court of International Trade".

TITLE V—COURT OF CUSTOMS AND PATENT APPEALS

SEC. 501. (a) Section 1541(a) of title 28, United States Code, is amended by striking out: "and from any interlocutory order granting, continuing, modifying, refusing, or dissolving an injunction, or refusing to dissolve or modify an injunction, under section 516A(c)(2) of the Tariff Act of 1930;".

(b) Section 1541 is amended by adding at the end thereof the following:

"(c) The Court of Customs and Patent Appeals has exclusive jurisdiction of any appeal from an interlocutory order of the Court of International Trade granting, continuing, modifying, refusing, or dissolving injunctions, or refusing to dissolve or modify injunctions.".

Sec. 502. (a) Section 1543 of title 28, United States Code, is amended to read as follows:

"§ 1543. International Trade Commission determinations

"The Court of Customs and Patent Appeals shall have jurisdiction to review the determinations of the United States International Trade Commission made under section 337 of the Tariff Act of 1930 relating to unfair trade practices in import trade.".

(b) The table of sections for chapter 93 of title 28, United States Code, is amended by amending the item relating to section 1543 to read as follows:

"1543. International Trade Commission determinations.".

Sec. 503. (a) Chapter 93 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1546. Rules of evidence; powers in law and equity; exclusive jurisdiction

"(a) Except as provided in section 2639 of this title, subsection (b) of section 2641 of this title, or any rules prescribed by the Court of Customs and Patent Appeals, the Federal Rules of Evidence shall apply in the Court in any appeal from the Court of International Trade.

"(b) The Court of Customs and Patent Appeals shall have all the powers in law and equity of, or as conferred by statute upon, the courts of appeals of the United States.

"(c) The Court of Customs and Patent Appeals has exclusive jurisdiction to review—

"(1) any decision of the Secretary of the Treasury to deny or revoke a customs brokers' license under section 641(a) of the Tariff Act of 1930; and

"(2) any action challenging an order to revoke or suspend a license under section 641 (b) of the Tariff Act of 1930.".

(b) The table of sections for chapter 93 of that title is amended by adding at the end thereof the following:

"1546. Rules of evidence; powers in law and equity; exclusive jurisdiction.".

Sec. 504. (a) Section 2601(a) of title 28, United States Code, is amended by adding the following at the end thereof: "If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within fourteen days after the date on which the first notice of appeal was filed.".

(b) The first sentence of section 2601(b) of title 28, United States Code, is amended—

(1) by inserting "or cross appeal" after "appeal" each time it appears; and

(2) by striking out "which shall include a concise statement of the errors complained of".

(c) The third sentence of section 2601(b) of title 28, United States Code, is amended by striking out "and the Secretary of the Treasury or their designees" and inserting in lieu thereof "and any named official".

(d) Section 2601(c) of title 28, United States Code, is amended by inserting the following after the first sentence: "Findings of fact shall not be set aside unless clearly erroneous and due regard shall be given to the opportunity of the Court of International Trade to judge the credibility of the witnesses. A party may raise on appeal the question of whether findings of fact are clearly erroneous, whether or not the party raising the questions made an objection to such findings in the Court of International Trade or made a motion to amend such findings.".

Sec. 505. (a) Section 2602 of title 28, United States Code, is amended to read as follows:

"§ 2602. Precedence of cases

"(a) A civil action involving the exclusion of perishable merchandise shall be given precedence over other civil actions pending before the Court of Customs and Patent Appeals, and shall be assigned for hearing at the earliest practicable date and expedited in every way.

"(b) Except those civil actions given precedence under subsection (a), a civil action for the review of a determination under section 516A(a)(1)(B) or under section 516A (a)(1)(E) of the Tariff Act of 1930 shall be given precedence over other civil actions pending before the court, and shall be assigned for hearing at the earliest practicable date and expedited in every way.

"(c) Except those civil actions given precedence under subsection (a) or (b), a civil action involving the exclusion of redelivery of merchandise arising under section 1581 of this title or under 516 or 516A of the Tariff Act of 1930, shall be given precedence over other civil actions pending before the court, and shall be assigned for hearing at the earliest practicable date and expedited in every way.

"(d) Except those civil actions given precedence under subsection (a), (b), or (c), an appeal from findings of the Secretary of Commerce provided for in headnote 6 to schedule 8, part 4, of the Tariff Schedules of the United States (19 U.S.C. 1202) shall be given precedence over other civil actions pending before the court, and shall be assigned for hearing at the earliest practicable date and expedited in every way.".

(b) The item relating to section 2602 in the table of sections for chapter 167 of title 28, United States Code, is amended to read as follows:

"2602. Precedence of cases.".

Sec. 506. (a) Chapter 167 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 2603. Judicial conference

"The Court of Customs and Patent Appeals is authorized to conduct an annual judicial conference for the purposes of considering the business of the court and improvements in the administration of justice in the court.".

(b) The table of contents for chapter 167 of such title is amended by adding at the end thereof the following new item:

"2603. Judicial conference.".

TITLE VI—CONFORMING AMENDMENTS RELATING TO THE NAME OF THE COURT

Sec. 601. Section 1 of the Act entitled "An Act to provide the name by which the Board of General Appraisers and members thereof shall hereby after be known", approved May 28, 1926 (19 U.S.C. 405(a)), is amended by striking out "Customs Court" and inserting "Court of International Trade" each time it appears.

Sec. 602. Section 305 of the Tariff Act of 1930 (19 U.S.C. 1305) is amended by striking out "Customs Court" and inserting "Court of International Trade".

Sec. 603. Section 502(b) of the Tariff Act of 1930 (19 U.S.C. 1502(b)) is amended by striking out "Customs Court" and inserting "Court of International Trade".

Sec. 604. Section 503 of the Tariff Act of 1930 (19 U.S.C. 1503) is amended by striking out "Customs Court" and inserting "Court of International Trade".

Sec. 605. Section 514(a) of the Tariff Act of 1930 (19 U.S.C. 1514(a)) is amended by striking out "Customs Court" and inserting "Court of International Trade" each time it appears.

Sec. 606. Section 516(d) of the Tariff Act of 1930 (19 U.S.C. 1516(d)) is amended by striking out "Customs Court" and inserting "Court of International Trade".

Sec. 607. Section 516(e) of the Tariff Act of 1930 (19 U.S.C. 1516(e)) is amended by striking out "Customs Court" and inserting "Court of International Trade".

Sec. 608. Section 516(f) of the Tariff Act of 1930 (19 U.S.C. 1516(f)) is amended by striking out "Customs Court" and inserting "Court of International Trade".

Sec. 609. Section 516A of the Tariff Act of 1930 is amended by striking out "Customs Court" and inserting "Court of International Trade" each time it appears.

Sec. 610. Section 528 of the Tariff Act of 1930 (19 U.S.C. 1528) is amended by striking out "Customs Court" and inserting "Court of International Trade".

Sec. 611. Section 563(a) of the Tariff Act of 1930 (19 U.S.C. 1563) is amended by striking out "Customs Court" and inserting "Court of International Trade".

Sec. 612. Section 7443(d) of the Internal Revenue Code of 1954 (26 U.S.C. 7443(d)) is amended by striking out "Customs Court" and inserting "Court of International Trade".

Sec. 613. Section 252 of title 28, United States Code, is amended by striking out "Customs Court" and inserting "Court of International Trade".

Sec. 614. Section 253(a) of title 28, United States Code, is amended by striking out "Customs Court" and inserting "Court of International Trade".

Sec. 615. Section 254 of title 28, United States Code, is amended by striking out "Customs Court" and inserting "United States Court of International Trade".

Sec. 616. Section 255(a) of title 28, United States Code, is amended by striking out "Customs Court" and inserting "United States Court of International Trade".

Sec. 617. (a) Section 293(b) of title 28, United States Code, is amended by striking out "Customs Court" and inserting "United States Court of International Trade".

(b) Section 293(c) of title 28, United States Code, is amended by striking out "Customs Court" and inserting "United States Court of International Trade" each time it appears.

Sec. 618. Section 569(a) of title 28, United States Code, is amended by striking out "Customs Court" and inserting "United States Court of International Trade".

Sec. 619. Section 605 of title 28, United States Code, is amended by striking out "Customs Court" and inserting "United States Court of International Trade" each time it appears.

Sec. 620. Section 871 of title 28, United States Code, is amended by striking out "Customs Court" and inserting "United States Court of International Trade".

Sec. 621. Section 873 of title 28, United States Code, is amended by striking out "Customs Court" and inserting "United States Court of International Trade".

Sec. 622. Section 1340 of title 28, United States Code, is amended by striking out "Customs Court" and inserting "United States Court of International Trade".

Sec. 623. (a) Section 1541(a) of title 28, United States Code, is amended by striking out "Customs Court" and inserting "Court of International Trade".

(b) Section 1541(b) of title 28, United States Code, is amended by striking out "Customs Court" and inserting "United States Court of International Trade" each time it appears.

Sec. 624. Section 2601 of title 28, United States Code, is amended by striking out "Customs Court" and inserting "United States Court of International Trade" each time it appears.

Sec. 625. The table of chapters for part I of title 28, United States, Code is amended in the item relating to chapter 11 by striking out "Customs Court" and inserting "United States Court of International Trade".

Sec. 626. The table of chapters for part III of title 28, United States Code, is amended in the item relating to chapter 55 by striking out "Customs Court" and inserting "United States Court of International Trade".

Sec. 627. (a) The section heading for section 1541 of title 28, United States Code, is amended by striking out "Customs Court" and inserting "Court of International Trade".

(b) The table of sections for chapter 93, title 28, United States Code, is amended in the item relating to section 1541 by striking out "Customs Court" and inserting "Court of International Trade".

Sec. 628. (a) The section heading for section 2601 of title 28, United States Code, is amended by striking out "Customs Court" and inserting "Court of International Trade".

(b) The table of sections for chapter 167, title 28, United States Code, is amended in the item relating to section 2601 by striking out "Customs Court" and inserting "Court of International Trade".

TITLE VII—TECHNICAL AND CONFORMING AMENDMENTS

Sec. 701. Section 337(c) of the Tariff Act of 1930 is amended—

(1) by inserting immediately after "Appeals" the following: ", subject to chapter 7 of title 5, United States Code,"; and

(2) by striking out the last sentence and inserting in lieu thereof the following: "Notwithstanding the foregoing, review of commission determinations under subsections (d), (e), and (f) as to its findings on the amount and nature of bond, the appropriate remedy, or the effect of such order on the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, shall be reviewable only for abuse of administrative discretion.".

Sec. 702. Section 516A(a)(1) of the Tariff Act of 1930 is amended by inserting "or such other time as provided by statute" immediately after "30 days".

Sec. 703. The second sentence of section 516A(c)(2) of the Tariff Act of 1930 is amended to read as follows: "In ruling upon a request for such injunctive relief, the court shall consider the factors set forth in section 2643(e) of title 28, United States Code.".

Sec. 704. The second sentence of section 516A(d) of the Tariff Act of 1930 is amended to read as follows: "The party filing the action shall notify all such interested parties of the filing of an action under this section in the form, manner, style and within the time prescribed by the rules of that court.".

Sec. 705. Section 592(e) of the Tariff Act of 1930 is amended in the introductory paragraph to read as follows:

"(e) Court of International Trade and District Court Proceedings.—Notwithstanding any other provision of law, in any proceeding commenced by the United States in the Court of International Trade or in a United States district court, section 604 of this Act for the recovery of any monetary penalty claimed under this section, or transferred from the Court of International Trade to a district court under section 1581 of title 28, United States Code—."

Sec. 706. (a) The second sentence of the second paragraph of paragraph (b) of section 641 of the Tariff Act of 1930 is amended by striking out all that appears after "filing," and before "sixty," and inserting in lieu thereof "in the Court of Customs and Patent Appeals, within".

(b) The second paragraph of section 641 (b) of the Tariff Act of 1930 is amended by inserting the following immediately after the third sentence: "For purposes of this paragraph, all relevant rules prescribed in accordance with sections 2072 and 2112 of title 28, United States Code, apply to the Court of Customs and Patent Appeals.".

Sec. 707. (a) Section 250(a) of the Trade Act of 1974 is amended by striking out "court of appeals for the circuit in which such worker or group is located or in the United States Court of Appeals for the District of Columbia Circuit" and inserting in lieu thereof "Court of International Trade".

(b)(1) Section 250(c) of the Trade Act of 1974 is amended by inserting the following immediately after the first sentence: "The judgment of the Court of International Trade shall be subject to review by the United States Court of Customs and Patent Appeals as prescribed by the rules of the Court of Customs and Patent Appeals.".

(2) Section 250(c) of the Trade Act of 1974 is further amended by striking out "court" the second time it appears and inserting in lieu thereof "Court of Customs and Patent Appeals".

Sec. 708. Section 518(a) of title 28, United States Code, is amended by inserting "and in the Court of International Trade" immediately after "Claims".

Sec. 709. Section 751 of title 28, United States Code, is amended by adding at the end thereof the following:

"(f) When the Court of International Trade is sitting in a judicial district other than the Southern and Eastern Districts of New York, the clerk of that district court or an authorized deputy clerk, upon the request of the chief judge of the Court of International Trade and with the approval of that district court, shall act in the district as clerk of the Court of International Trade in accordance with the rules and orders of the Court of International Trade for all purposes relating to any case pending before the court.".

Sec. 710. Section 1331(b) of title 38, United States Code, is amended by adding at the end thereof the following: "The district courts shall not possess jurisdiction under this section over any matter within the exclusive jurisdiction of the Court of International Trade.".

Sec. 711. Section 1337 of title 28, United States Code, is amended by adding at the end thereof the following:

"(c) The district courts shall not possess jurisdiction under this section over any matter within the exclusive jurisdiction of the Court of International Trade.".

Sec. 712. Section 1355 of title 28, United States Code, is amended by adding at the end thereof the following: "The Court of International Trade shall have jurisdiction of any such action or proceeding commenced in such court under section 1582 of this title.".

Sec. 713. Section 1356 of title 28, United States Code, is amended by adding at the end thereof the following: "The Court of International Trade shall have jurisdiction of any such action or proceeding commenced in such cort under section 1582 of this title.".

Sec. 714. The second paragraph of section 1491 of title 28, United States Code, is amended by inserting "within the exclusive jurisdiction of the Court of International Trade, or" after "suits" the first time it appears in the first sentence.

Sec. 715. Section 1919 of title 28, United States Code, is amended by inserting "or the Court of International Trade" after "court" the first time it appears.

Sec. 716. Section 1963 of title 28, United States Code, is amended by inserting the following immediately after "district court" the first time it appears: "or in the Court of International Trade".

Sec. 717. The first paragraph of section 2414 of title 28, United States Code, is amended by inserting "or Court of International Trade" after "court" in the first sentence.

Sec. 718. (a)(1) Except as provided in paragraph (2), this Act, and the amendments made by this Act, shall become effective on the date on which title VII of the Tariff Act of 1930, as added by title I of the Trade Agreements Act of 1979, takes effect.

(2) The amendments made by section 506 of this Act shall become effective on October 1, 1980.

(b) Nothing in this Act shall cause the dismissal of any action commenced prior to the date of enactment under jurisdictional statutes relating to the United States Customs Court or the United States Court of Customs and Patent Appeals in effect before the date of enactment of this Act.

(c)(1) Except as provided in paragraph (2), in reviewing any determination made before January 1, 1980, under section 303 of the Tariff Act of 1930 or the Antidumping Act, 1921, the Court of International Trade and the Court of Customs and Patent Appeals shall base its review on the law as it existed on the date of such determination.

(2) The scope of review and procedures for such review shall be governed by the provisions of, and the amendments made by, this Act.

The amendment was agreed to.

● Mr. DeCONCINI. Mr. President, I am pleased to initiate discussion of S. 1654, as amended, the Customs Courts Act of 1979, a bill to improve the laws governing the jurisdiction, powers and procedures of the U.S. Customs Court.

The history of the U.S. Customs Court has been one of constant evolution, from an administrative unit to a court established under article III of the U.S. Constitution. In the late 1960's, it was recognized that both the procedures and jurisdiction of the Customs Court were in need of revision. Congress decided at this time to devote its efforts to the enactment of the Customs Court Act of 1970, a reform which substantially modified procedures, leaving the clarification of jurisdictional matters for the future. To complicate matters, the types of decisions involving import transactions was expanded as the Customs Court evolved. It is with these considerations that I believe the proposed Customs Courts Act of 1979 will help clarify the law through the resolution of jurisdictional and other problems regarding its status as a court established under article III.

This legislation is the end product of a comprehensive effort by the committee to assess and incorporate information gathered from hearings held on last year's predecessor bill, S. 2857 and this year's proposal, S. 1654.

The comparatively recent increase of litigation in the field of international trade, combined with the overburdened and overworked district courts have caused considerable delays in the resolution of disputes. Conversely, the volume of litigation instituted in the Customs Court has decreased. Under these circumstances, the committee believes that it makes good sense to clarify the ill-defined jurisdiction and to require that some of the cases now instituted in the overcrowded district courts be transferred to the underutilized Customs Court.

S. 1654 would create a comprehensive system of judicial review of civil actions arising from import transactions. This court, redesignated the U.S. Court of International Trade, would be equipped with the same expertise and specialized skills that the U.S. Customs Court has acquired through the years. It will also insure that it has all the powers in law and equity of a district court of the United States. Moreover, the court would continue to remain national in scope to insure uniformity of decision and policy to import action litigation.

The committee believes that the clarification and expansion of Custom Court's jurisdiction will help to assure access to judicial review of these civil actions arising from import transactions. A national court with nationwide impact would eliminate the possibility of conflicting decisions on any one point of dispute and would enable the Customs Court to render extremely expeditious decisions.

Prior to today's consideration of S. 1654, as amended, there has been some discussion regarding proposed section 1581(i)(1).

Inadvertently, the section-by-section analysis of the report which accompanies S. 1654 regarding section 1581(i)(1)(A) indicated that section 305 of the Tariff Act of 1930 referred to actions concerning national security. Instead this reference should have referred to the prohibition upon the importation of immoral articles. Although the reference to national security was inadvertent and the statement in the report should have referred to the prohibition, it is the intent of this legislation to retain judicially developed rule that the courts will not review the merits of determinations by the President that considerations of national security require him to exercise certain statutory authority such as that contained in section 232 of the Trade Expansion Act of 1962.

In addition to this clarification regarding subsection (i)(1)(A) there has been some question as to the intent of subsection (i)(1)(C). Subsection (i)(1)(C) is designed to make it clear that no civil action may be commenced in the Court of International Trade by the United States to recover a civil fine or penalty or to enforce a forfeiture, to recover upon a bond, or to recover customs duties, other than as specified in section 1582 of the bill. Those actions are limited to civil actions commenced under section 592, 704(i)(2), or 734(i)(2) of the Tariff Act of 1930. Section 1581(i)(1)(C) is in no way intended to limit actions which may be brought against the United States.

While technically this provision might have more appropriately been incorporated into section 1582, I feel that the intent has been made sufficiently clear in the bill and certainly in this statement. Of course, the counterclaim provision contained in section 1583 of the bill is also an implicit exception to the general prohibition contained in subsection (i)(1)(C) of section 1581.

Concluding, S. 1654 would make it clear that the U.S. Court of International Trade possesses broad jurisdiction to entertain certain civil actions arising out of import transactions. In addition, the Customs Courts Act of 1979 would make it clear that, in those civil actions within its jurisdiction, the court possesses the authority to grant the appropriate relief when required to remedy an injury. This legislation will offer the international trade community, as well as domestic interests, a vastly improved forum for judicial review of administrative actions dealing with importations.

Mr. President, I would like to take this opportunity to pay special tribute to those individuals who, through their untiring efforts, have made this bill a reality so that it could come to the floor today.

Michael Altier, counsel to the subcommittee which I chair, deserves the lion's share of the credit for the outstanding and immense amount of effort he put in. I know firsthand of the many hours, late nights and weekends that he has devoted to this legislation. Also, Romano Romani, my staff director, deserves a great deal of credit for his tireless efforts in preparing this proposal for our review today.●

● Mr. DOLE. Mr. President, as ranking minority member of the Subcommittee on Improvements in Judicial Machinery of the Judiciary Committee, I am pleased to support S. 1654, the Customs Courts Act of 1979. This legislation was originally introduced late in the 95th Congress. Since that time, we have held hearings on the measure and have been able to devote extensive scrutiny to its provisions. Based on this work, this bill in its current form corrects many problems identified with earlier legislative proposals on this subject. Thus, we on the Judiciary Committee feel this to be a generally uncontroversial bill and one which can be recommended to our colleagues in the Senate.

To a great extent, this bill is part of a broader legislative effort undertaken by the Senate Finance and House Ways and Means Committees. Earlier this year, those committees began an examination of issues relating to judicial review of countervailing and antidumping duty decisions. The work of those committees culminated in the Trade Agreements Act of 1979, which is now law. Several of the provisions of an earlier version of the Customs Courts Act were incorporated in that statute. The present bill which we are now considering articulates with the provisions of the Trade Agreements Act and thus may generally be considered part of the implementing legislation of that act.

S. 1654 will provide for a comprehensive system of judicial review of civil actions arising from controversies over import transactions. Whenever possible the specialized expertise of the U.S. Customs Court and the Court of Customs and Patent Appeals will be utilized. In this regard, that bill assures access to the courts for such civil actions by more clearly defining the division of jurisdiction between the district courts and the customs courts. Furthermore, the bill grants to the customs courts the plenary powers possessed by other courts established under article III of the Constitution. Finally, S. 1654 provides expanded opportunities for judicial review of civil actions arising from import transactions and changes the name of the U.S. Customs Court to the U.S. Court of International Trade to reflect this expanded and more comprehensive jurisdiction.

In addition, Mr. President, because this bill might be the last legislation coming from our subcommittee which will reach the Senate floor this session, I would like to take this opportunity to compliment our able chairman, the Senator from Arizona (Senator DECONCINI). Senator DECONCINI has not only been an effective and enthusiastic chairman of the Subcommittee on Improvements in Judicial Machinery, but he and his staff have extended every courtesy to myself and my staff working on the minority side. In this environment, I feel we have developed a very fruitful working relationship which has redounded to the benefit of the Senate and the citizens we serve. Thus, I would like to express my personal appreciation for the effective leadership demonstrated by the Senator from Arizona. I look forward to continuing this productive relationship in the coming session of Congress.

To return to the pending business, in sum I believe this bill makes some worthwhile, albeit technical improvements in our judicial machinery dealing with international transactions. I recommend it to my colleagues and encourage them to support this legislation.●

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONVEYANCE OF CERTAIN LANDS IN THE CITY OF HOT SPRINGS, ARK.

The Senate proceeded to consider the bill (S. 1850) to authorize the conveyance of lands in the city of Hot Springs, Ark., which had been reported from the Committee on Energy and Natural Resources with amendments as follows:

On page 2, line 12, after "are" insert "assigned or";

On page 2, line 14, after "elderly" insert "or the purposes provided for in the Act of May 8, 1922,";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any provisions of the Act of May 8, 1922 (42 Stat. 506), the Leo N. Levi Memorial Hospital Association is authorized to assign or convey all or any portion of or interests in and to lots one and two, in block 114 in the city of Hot Springs, Arkansas, to a nonprofit corporation organized under the laws of the State of Arkansas, its successors or assigns, for the purpose of erecting and maintaining thereon a housing facility for the elderly. Execution of such assignment or conveyance by the Leo N. Levi Memorial Hospital Association and execution of mortgages by said nonprofit corporation or its successors or assigns, in connection with the housing facility, shall not constitute a forfeiture of any rights granted to the Leo N. Levi Memorial Hospital Association by said Act of May 8, 1922. If at any time after lots one or two of block 114 are assigned or conveyed to said nonprofit corporation the property is used or permitted to be used for purposes other than housing facilities for the elderly or the purposes provided for in the Act of May 8, 1922, all the rights, privileges, and powers in such property authorized by this Act or by said Act of May 8, 1922, shall be forfeited to the United States.

The amendments were agreed to.

● Mr. BUMPERS. Mr. President, the passage of S. 1850 by the Senate today will help make possible the construction of badly needed housing for the elderly in the city of Hot Springs, Ark.

I introduced S. 1850 on October 1, 1979, and the Committee on Energy and Natural Resources reported it unanimously on December 6.

The bill authorizes the Levi Memorial Hospital Association to convey its interests in certain lands located in Hot Springs to Levi Towers, Inc., a nonprofit corporation. The lands will be used for the construction of a housing facility for the elderly by Levi Towers, Inc.

Legislation is required because the property involved originally belonged to the Federal Government. In 1922, Congress granted the hospital association exclusive rights to use the property for hospital purposes. However, under the terms of the grant, these rights are to be forfeited to the Federal Government if the property is used for any other purpose.

S. 1850 permits a change in use from hospital purposes to housing for the elderly without a forfeiture to the United States. The property would continue to be used for a public purpose. Therefore the administration has also endorsed the proposal.

I urge the Senate to vote favorably on S. 1850.●

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DOCUMENTATION OF THE VESSEL "SARA"

The Senate proceeded to consider the bill (S. 1442) to authorize the documentation of the vessel *Sara* as a vessel of the United States with coastwise privileges, which had been reported from the Committee on Commerce, Science, and Transportation with an amendment on page 2, line 6, strike "citizen of the United States" and insert "domestic corporation which is exempt from Federal taxation pursuant to section 501 of the Internal Revenue Code of 1954 (26 U.S.C. 501);

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of section 4132 of the Revised Statutes of the United States, as amended (46 U.S.C. 11), or any other provision of law, the Secretary of the department in which the Coast Guard is operating, shall cause the vessel, *Sara* (vessel numbered 530082), presently owned by the Newport Maritime Historical Association of Newport, Oregon, to be documented as a vessel of the United States with the privileges of engaging in coastwise trade, upon compliance with the usual requirements, so long as the vessel is owned by a domestic corporation which is exempt from Federal taxation pursuant to section 501 of the Internal Revenue Code of 1954 (26 U.S.C. 501).

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NS "SAVANNAH"

The Senate proceeded to consider the bill (S. 1863) to authorize the Secretary of Commerce to charter the NS *Savannah* to Patriots Point Development Authority, an agency of the State of South Carolina, which had been reported from the Committee on Commerce, Science, and Transportation with an amendment on page 4, beginning with line 20, strike through and including line 25, and insert in lieu thereof the following:

SEC. 5. Funds appropriated pursuant to authorizations contained in title III of the Act of September 24, 1979 (93 Stat. 416; Public Law 96–68), are authorized to be expended to tow the nuclear ship *Savannah* to a site at Patriots Point at Mount Pleasant, South Carolina. Beginning in fiscal year 1981 there are authorized to be appropriated such sums as may be necessary to inspect and maintain the hull of the nuclear ship *Savannah* below the waterline during the term of the charter and any renewals thereof.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Commerce is authorized within one year after enactment of this Act, to charter the nuclear ship *Savannah* to Patriots Point Development Authority, without monetary consideration, for a minimum of five years and a maximum of thirty years, with options to renew for five-year periods thereafter, for use as a museum ship and for other public purposes, but not for transportation, together with such of her fixtures, tackle, apparel, furnishings, and equipment as the Secretary of Commerce, in the Secretary's discretion, determines.

SEC. 2. The charter authorized by section 1 shall include a provision that—

(a) the Secretary of Commerce shall be responsible for inspection and maintenance of the hull below the waterline and that Patriots Point Development Authority shall be responsible for all other maintenance, including the paying for the electrical power for the cathodic hull protection system;

(b) the Patriots Point Development Authority shall save the United States harmless from all liability with respect to the vessel;

(c) the Patriots Point Development Authority shall return the vessel to the Secretary of Commerce at the termination of the charter or any renewal thereof in the same condition, fair wear and tear excepted, as when the charter was entered into; and

(d) the Patriots Point Development Authority shall obtain such insurance and provide such other assurances as the Secretary of Commerce may require to carry out its obligations under this Act.

SEC. 3. The Secretary of Commerce, acting for the United States Government as owner of the vessel, and Patriots Point Development Authority shall apply to the Nuclear Regulatory Commission for a license to possess but not to operate the nuclear utilization facility under which the sole liability of the Secretary of Commerce shall be that the Secretary will bear the financial responsibility for the ultimate disposal of the reactor and other nuclear systems and radioactive contaminated components in the vessel in accordance with a plan which the Secretary of Commerce will submit at the time the reactor, nuclear systems, and radioactive components are to be disposed of and which is then approved by the Nuclear Regulatory Commission as required by the Atomic Energy Act of 1954. The Authority shall be responsible for compliance with the license for the monitoring and security of the reactor and all nuclear systems and radioactive components in the vessel and for filing all reports that may be required as the licensee.

SEC. 4. Any funds appropriated pursuant to authorizations contained in the Act of October 21, 1975 (89 Stat. 611; Public Law 94–121), July 14, 1976 (90 Stat. 937; Public Law 94–362), August 2, 1977 (91 Stat. 419; Public Law 95–86), and October 10, 1978 (92 Stat. 1021; Public Law 95–431) are authorized to be used for preservation work on the nuclear ship *Savannah*. Expenditures authorized by the preceding sentence for the preservation of the nuclear ship *Savannah* shall not exceed that amount which the Secretary of Commerce, in the Secretary's discretion, determines to be necessary to make the vessel suitable for use by the Patriots Point Development Authority pursuant to section 1 of this Act. No part of any funds authorized to be expended by this section shall be obligated or expended except in connection with work which the Secretary of Commerce determines would otherwise be performed on the nuclear ship *Savannah* if the vessel were to be laid up in the National Defense Reserve Fleet pursuant to section 11 of the Merchant Ship Sales Act of 1946 (60 Stat. 49).

SEC. 5. Funds appropriated pursuant to authorizations contained in title III of the Act of September 24, 1979 (93 Stat. 416; Public Law 96–68), are authorized to be expended to tow the nuclear ship *Savannah* to a site at Patriots Point at Mount Pleasant, South Carolina. Beginning in fiscal year 1981 there are authorized to be appropriated such sums as may be necessary to inspect and maintain the hull of the nuclear ship *Savannah* below the waterline during the term of the charter and any renewals thereof.

The amendment was agreed to.

Mr. THURMOND. Mr. President, I am pleased to join with my distinguished colleague from South Carolina. Senator HOLLINGS, in seeking approval of this bill that would authorize the Secretary of Commerce to charter the NS *Savannah* to the Patriots Point Development Authority near Charleston, S.C.

The NS *Savannah*, like its predecessor, the SS *Savannah*, represents a major technological era in maritime history; therefore, it is most appropriate that all Americans be offered the opportunity to see this fine ship and to share the achievements it represents.

Mr. President, the people of South Carolina, like all Americans, are justifiably proud of this Nation's maritime history. The museum, established by the South Carolina Legislature at Patriots Point, has done an excellent job in educating those who have visited it regarding the involvement of the United States in maritime activities of both a military and commercial nature. I urge my colleagues in the Senate to support this effort to insure that the NS *Savannah* receives the continuing honor and attention it deserves.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96–478), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE

S. 1863 would authorize the Secretary of Commerce to charter the Nuclear Ship (NS) *Savannah* to Patriots Point Development Authority, an agency of the State of South Carolina.

"In [a] climate of advancement and compensation, the United States, in 1959, undertook the construction and operation of the world's first nuclear-powered merchant ship, NS *Savannah*, to develop a possible new propulsion system. Launched in 1959 and operated during the 1960's for the Maritime Administration by States Marine Lines and then American Export Lines, she proved to be an excellent teacher in the field but—as understood from the outset—economic considerations and continuing uncertainties concerning radiation and related environmental dangers made her an evolutionary dead end for the post-war era and a questionable alternative for merchant-ship design technology [at that time]." She was turned back to the Maritime Commission, and has been in lay-up since 1970, at Charleston, S.C.

The Patriots Point project is a naval and maritime museum near Charleston, S.C. The museum is comprised of a series of decommissioned ships, including the aircraft carrier U.S.S. *Yorktown*. The NS *Savannah* would be an important educational addition because it would provide an opportunity for citizens to visit and learn about nuclear-powered vessels.

According to the Maritime Administration, the Secretary of Commerce's authority to charter a vessel is limited by Congress in section 706(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1196). Under that provision, the Secretary may not charter a vessel to a private operator except upon competitive, sealed bids. To charter the NS *Savannah* to the Patriots Point Development Authority therefore requires special legislation.

MANDATORY AGE REQUIREMENT FOR CERTAIN PILOTS

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Cannon, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be discharged from further consideration of H.R. 3948 and that the Senate proceed to its immediate consideration.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

The bill (H.R. 3948) to require a study of the desirability of mandatory age retirement for certain pilots, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection?

There being no objection, the Senate proceeded to consider the bill.

UP AMENDMENT NO. 889

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Cannon, I send to the desk an amendment and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. Robert C. Byrd), for the Senator from Nevada (Mr. Cannon), proposes an unprinted amendment numbered 889:

Page 3, strike out lines 1, 2, and 3 and insert in lieu thereof the following:

Sec. 2. No funds are authorized to be appropriated for the fiscal year commencing October 1, 1979, in addition to funds otherwise available to carry out the study described in section 1 of this Act.

Mr. STEVENS. Mr. President, it is my understanding that this bill has been cleared by both the majority and minority on the Commerce Committee and on that basis I have no objection.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (UP No. 889) was agreed to.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill was read the third time and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished acting Republican leader.

Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. The pending business is S. 2094.

Mr. ROBERT C. BYRD. I thank the Chair.

CHRYSLER CORPORATION LOAN GUARANTEE ACT OF 1979

The Senate continued with the consideration of the bill (S. 2094).

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, the bill before us today is S. 2094, the Chrysler Corporation Loan Guarantee Act of 1979.

This legislation was ordered reported as an original bill by the Committee on Banking, Housing, and Urban Affairs on November 29. Despite time pressures, the committee gave extensive and thorough consideration to this legislation. We held 3 days of background hearings in October, before any legislation was introduced and during those 3 days we studied the alleged economic effect of a Chrysler shutdown or a Chrysler bankruptcy.

Then we held 6 days of legislative hearings in November, during which we considered the administration bill, S. 1965, and other legislative proposals. Many of those days we were in session both morning and afternoon. We heard from all of the parties closely involved in this issue: The Secretary of the Treasury, the chairman of the board of the Chrysler Corp., Governors and mayors from the States and cities most affected by the Chrysler situation, and representatives of the United Auto Workers union, the domestic and foreign banks lending to Chrysler, investment banking and accounting firms, and Chrysler dealers and suppliers.

In the earlier hearings, we also heard from outstanding economic experts, from financial analysts familiar with the automobile industry, and from experts in bankruptcy law.

The bill reported subsequently, S. 2094, represents the Banking Committee's best judgment as to the most appropriate way to aid the Chrysler Corp. in dealing with its financial problems so that it can regain long-term viability. In the view of the committee, this legislation provides both the strongest basis for a Chrysler recovery plan and the greatest protection for the public interest consistent with such a plan.

Mr. President, before I go on to describe the provisions of the committee bill, I think I should state at the outset that I am opposed to any legislation to provide Federal financial assistance to the Chrysler Corp. or to any other private corporation in order to prevent it from failing. The possibility of failure is as much a linchpin of the free-enterprise system as the possibility of success. In my view, we will be setting a most dangerous precedent if we pass a Chrysler bailout bill—a precedent which could seriously damage our economy in the years to come. We will be making a basic policy judgment that some firms are too large to be allowed to fail—regardless of their inability to meet the demands of the market; regardless of the mistakes made by management; regardless of the inefficiency of their operations.

We let about 7,000 businesses fail in 1978, and 8,000 fail in 1977.

We did not make any attempt to provide a loan guarantee or any other kind of Federal financial assistance to prevent those firms from failing.

Once we establish the principle that the right to compete in the marketplace does not include the right to fail—if you happen to be a large corporation with a lot of powerful allies willing to lobby on your behalf—then where do we draw the line?

From my perspective, we have already gone entirely too far along the road to providing automatic bailouts for failing enterprises, with the Lockheed loan guarantee and the New York City loan guarantee and the loan guarantees for steel companies. Now we have proposals before us to provide as much as $1.5 billion in Federal loan guarantees to our 10th largest corporation, despite the fact that it has no detailed financing plan and doubtful prospects of recovery in a rapidly declining automobile market.

Just this morning we were reminded about a statement by a top executive of the Ford Motor Co. The company expects this to be another dismal automobile year, the second bad year in a row. Because of the energy situation and for many other reasons, the automobile industry is not promising.

I fear we may—in passing this Chrysler legislation—be issuing an engraved invitation to the Ford Motor Co. to come to the Federal Government for loan guarantees next year, as its loss figures mount.

Ford lost $1 billion on its North American operations in 1979; that is the present estimate. Only because the company has vast and profitable operations abroad was it able to go through the year without the same kind of disastrous losses as Chrysler.

And once we have said "yes" to Chrysler, how could we say "no" to Ford? We risk ending up in the position from which the British Government is now trying to extricate itself. The Federal Government is likely to be called upon to pour more and more money into less and less efficient operations—all in the name of preserving old, unstable jobs where new, more stable jobs could otherwise have been created, if credit resources had been allocated more wisely.

Mr. President, there has been a great deal of discusssion of this matter. A young Congressman from Michigan (Mr. STOCKMAN) had a very interesting article in the Washington Post a week ago last Sunday on this very issue. One of the things we should be aware of is that the dynamic part of our economy is the small and medium sized businesses. Ninety-five percent of all the new jobs in the economy came from these small and medium sized businesses, not from large businesses, in the last 3 years.

Mr. President, I should like to make some additional points in connection with this Chrysler legislation as reported by the committee. The main argument made for providing Federal loan guarantees to the Chrysler Corp. has been the need to maintain the jobs involved—not only the employment at Chrysler itself, but also the jobs provided by the corporation's dealers and suppliers and other related employment.

I know that my colleagues are worried about the threat of heavy loss of jobs as a result of a Chrysler collapse and about the serious impact this could have on the economy of certain regions of the country—particularly on Detroit and on the State of Michigan generally. Because of this, some are concerned that if we pass a tough bill—along the lines of S. 2094, as reported by the Banking Committee—that all of the parties might not play, that the union or the banks or some other party might refuse to make the necessary commitments and concessions and the whole Chrysler financial plan could be jeopardized.

Mr. President, I can certainly understand these concerns, but I am convinced that they are far overstated, for a number of reasons.

First, for all of the reasons stated above and more, I think there is actually a better chance of getting a workable comprehensive Chrysler financing plan in place and formally agreed to if we do keep this bill tough and explicit. If we tell the different parties what is expected of them right in the legislation, while allowing some flexibility—if we make it clear that everyone involved is expected to make significant contributions and real sacrifices—then I feel strongly that we will be strengthening the hand of the Board and creating a greater likelihood of its being able to put together an agreement on the formal financing arrangements within a reasonable period of time. On the other hand, if the bill passed by the Congress is vague, and if the amounts authorized may fall short of what is actually needed, then I think the negotiations on a Chrysler financing plan could be far more severely impeded than they would ever be under a bill along the lines of S. 2094.

Second, I would like to address directly the questions of job losses that might be suffered if there were a Chrysler collapse. In my view, and according to the testimony of witnesses appearing before the Banking Committee, we have been treated to a great deal of misinformation and exaggeration on this subject. There has been much attention given to studies done by Data Resources Inc. for the Congressional Budget Office and by the Transportation Systems Center of the Department of Transportation—studies which show losses of as much as 600,000 jobs as a result of a Chrysler collapse. What has received much less publicity is the fact that the persons who did these studies appeared before the committee and stated that these are "worst case" scenarios which they were asked to do and that in all probability the actual impact would be far less than that portrayed in the "worst case" analysis.

As a matter of fact, it was not just a worst case analysis: It was a ridiculously impossible analysis. What was provided was an analysis of what would happen if all of Chrysler's operations were shut down and jobs were not developed in other areas.

The Secretary of the Treasury acknowledged the weakness of these "worst case" analyses in his testimony when he pegged the job loss estimates far lower—at between 75,000 and 100,000 jobs. A follow-up study for CBO done by Chase Econometrics also projected lower job losses—90,000 by early 1982.

It should be rated that these lower figures came from the Secretary of the Treasury, who supports aid for Chrysler.

Moreover, it should be noted that all of the macroeconomic studies showed no impact on employment whatsoever a couple of years after a Chrysler collapse—the effects shown were temporary and not permanent. This does not, of course, address fully the possible continuing regional impact.

Mr. President, we should be aware of the fact that we now have a monetary policy that limits the availability of credit in this country, and if $1.25 billion or $1.5 billion in federally guaranteed loans is going to go to Chrysler, that is as much as $1.5 billion that will not be available for that dynamic part of our economy, the growing part, the small- and medium-sized businesses, which has been the area where the greatest increase in jobs has occurred.

So when we vote for a $1.25 billion or a $1.5 billion loan guarantee to Chrysler, that has the effect of allocating credit to an old company with obsolete plant and away from the dynamic, growing sectors of our economy.

We also have to realize that lay-offs are running at a very high level in all of the domestic automobile companies. Conceivably, the effect of a Chrysler collapse could be to put more people back to work at General Motors and Ford. In this case, the net effect on employment of a Chrysler collapse could be even lower than projected.

The Secretary of the Treasury's analysis assumed that Ford and General Motors would not have the capacity to pick up all of the jobs that were lost at Chrysler. However, the additional demand for their products that would be likely to occur in the event of a Chrysler collapse could enable Ford and GM to pick up some of those unemployed Chrysler workers, it would certainly enable them to put many of their own laid-off employees back to work.

Are people going to buy fewer cars because Chrysler fails? Hardly. They will buy the same number of cars. Some of those cars will be from firms overseas. But, 80 percent, at least, are very likely to be cars that will be purchased in this country from General Motors and Ford.

Mr. President, for all the reasons given above, I think we should act on S. 2094.

Mr. President, although I intend to vote against any bill to provide loan guarantees to the Chrysler Corp. on final passage, I nonetheless believe that the bill reported by the Banking Committee—the bill before us today, S. 2094—represents the most responsible approach yet proposed toward developing a financial plan for the Chrysler Corp. involving Federal loan guarantees. I hope that the Senate will approve this legislation without substantial amendments, since I believe it provides both the best chance for success in a Chrysler financial recovery effort and also the best protection for the public interest of any of the Chrysler aid proposals advanced to date. It is a significant improvement over the administration bill, S. 1965, which contains few specifics and still fewer safeguards. The distinguished Senator from Indiana (Mr. LUGAR), who played a major role in drafting this legislation and is now managing it for the minority, and the distinguished Senator from Massachusetts (Mr. TSONGAS), who did the big job on the majority side of the committee, both deserve a great deal of credit for the effort they put into shaping the legislation before us today.

FEATURES OF S. 2094

Mr. President, S. 2094 has some important features which are not contained in the administration bill, nor in any other bill which came before the committee for consideration. These features give the bill a strength and an internal logic which are lacking in other proposals.

First, S. 2094 recognizes that one of the great problems here is that we have a loan guarantee program that will be administered in an election year.

I think President Carter has great integrity, as great integrity as any President we have had. But I think we have to recognize that he is running for reelection; his administration is concerned about reelection. They will be under great pressure to act under that grim but certain fact of life. Therefore, it is very important that we do all we can to provide that we have a board which is insulated from the kind of political pressure that an administration trying to be reelected will be under. For that reason, we establish an independent Chrysler loan guarantee board. We do not just say the administration can administer this. Instead, we have replaced the proposal in the administration bill, which would have the Secretary of the Treasury in sole charge of the program. The Secretary of the Treasury is appointed by the President and politically obligated to him. He would still be on the Board and, in fact, would serve as chairperson. But the other two members of the Board would be persons with some independence of the executive branch: The Chairman of the Board of Governors of the Federal Reserve System who is, of course, the country's central banker, expert in the area of credit, a highly competent individual, Paul Volcker, and the Comptroller General of the United States, who heads the General Accounting Office, who is appointed for 14 years and cannot be reappointed—his pension for life is based on the salary he receives—and who, as we all know, is completely independent of the Executive—would be the third member of the Board.

The Board is given full authority to make all the determinations required under the provisions of the act, and to make commitments and issue guarantees on the basis of those determinations.

That is the first part of why we think this is a stronger bill, a bill more protective of the taxpayer and more certain to be administered objectively and fairly and without political considerations than the bill we received from the administration.

Second, the bill provides for an overall financing plan of $4 billion—a more realistic estimate of the amount that may actually be needed than either the $3 billion provided in the administration bill or the $2.1 billion contemplated in the Chrysler Corp.'s October 17 plan—the most recent plan available to the committee in its deliberations.

Third, the bill sets out the specifics of the $4 billion financial plan: Not only the $1.25 billion in Federal loan guarantees authorized through December 31, 1983, but also the amounts expected to be provided by the non-Federal parties with "an existing economic stake in the health of the corporation." These include about $1.32 billion to be realized from a 3-year wage and benefit freeze imposed on all Chrysler employees, and $1.43 billion in nonfederally guaranteed assistance to be provided from various other sources, including domestic and foreign banks; State, local and other governments; dealers and suppliers; asset sales; and sales of additional equity securities. The administration bill, on the other hand, provides $1.5 billion in Federal guarantees and calls for an additional $1.5 billion in nonfederally guaranteed financial assistance—but no details of this non-Federal share are provided, either in the legislation, or in the testimony of the Secretary before the committee.

So under S. 1965, you would have, on the one hand, an administration which is up for reelection administering the program; on the other hand, you would have a wide-open, no-commitment arrangement in this administration bill. We felt it was essential to correct these problems.

Incidentally, Mr. President, the previous bills that have provided loan guarantees, including the New York City bill and the Lockheed bill, both contained specific requirements and understandings regarding those who would contribute the non-Federal share. In some cases, we had commitments in writing before we acted.

Fourth, the bill establishes the principle that the major part of the risk involved in any Chrysler financial plan is to be borne by the non-Federal parties and not by the Federal Government. The financial assistance provided is in a 2 to 1 ratio, non-Federal to Federal share, rather than in the 1 to 1 ratio provided under the administration bill. Furthermore, there are annual limitations placed on the amount of Federal loan guarantees to be provided, and the issuance of each guarantee is conditioned on the commitment beforehand of a larger amount of non-Federal financial assistance. In this way, the bill insures that the greater risk is borne by the parties with the most to gain from Chrysler's recovery and that the public interest is more adequately protected than under the administration bill.

Fifth, the committee bill eliminates certain waivers of the Federal interest provided in the administration bill. Specifically, S. 2094 eliminates the authority provided to the Board under S. 1965 to waive the Federal Government's right to security for the guaranteed loans, to subordination of existing loans to the guaranteed loans, and to the prohibition of payment of dividends on any common or preferred stock. The bill also retains the absolute Federal priority in the event of bankruptcy, which could have been waived under the administration. The only waiver permitted in S. 2094 is the right to subordination of future unguaranteed loans, and this waiver is intended to be used only in unusual circumstances, and only with the proviso that under no circumstances can the guaranteed loans be subordinated. Thus, in these respects also, the committee bill is far more protective of the public interest than the administration bill.

Mr. President, questions have been raised about certain provisions of this legislation—questions which I should like to respond to now. Once my colleagues know the reasoning behind these provisions, I believe they will better understand why the committee found it necessary to include them.

$4 BILLION FINANCING PLAN

The question is often asked, "Why does the Senate Banking Committee bill require a $4 billion financing plan?" Then the question continues, "After all, the administration only asked for $3 billion, and the Chrysler Corp. in its October 17 plan said it needed only $2.1 billion. Why does the committee think the needs are so much greater? Wouldn't it be easier to cut down the $4 billion to a lower figure?"

The answer is that the $4 billion financial plan required by S. 2094 is a realistic assessment of Chrysler's financing needs over the next 4 years based on reasonable assumptions.

The figures used are Treasury's own estimates, as provided in the Secretary's testimony and in response to questions I submitted to the Secretary subsequently. These figures suggest that the $2.1 billion figure contained in the Chrysler Corp.'s October 17 plan is highly optimistic. And, in fact, that plan is based on certain assumptions which appear to be highly optimistic, including a projected 20-percent increase in Chrysler's market share by 1985 and a stable supply of gasoline with no rapid price increases and no protracted shortages of gasoline or oil. Indeed, the administration figure of $3 billion also appears relatively optimistic, in view of the fact that over half of the estimates shown in the Secretary's testimony indicate financing needs of over $3 billion. Moreover, when I asked the Treasury Department to extrapolate from these figures and project Chrysler's financing needs under alternative but quite realistic assumptions of market share and automobile industry sales volume, the figures all came out to over $3 billion and some were over $4 billion, ranging as high as $5.6 billion.

So we are not going to the extreme by requiring $4 billion. But we are providing, certainly, more protection than the administration requested, because this would seem to be realistically necessary.

Mr. President, I ask unanimous consent that the tables attached to my statement showing these various Treasury estimates be printed in full in the RECORD at this point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

ALTERNATIVE PROJECTIONS OF CHRYSLER PROFITS AND FINANCING NEEDS—CUMULATIVE FUNDS REQUIRED

[In million of dollars]

	1980	1981	1982	1983
Chrysler plan, Oct. 17	1,554	1,915	2,116	2,113
1st base case:				
100 percent base volume	1,472	1,959	2,266	2,342
95 percent base volume	1,571	2,230	2,773	3,133
90 percent base volume	1,669	2,502	3,280	3,923

	1980	1981	1982	1983
2d base case:				
100 percent base volume	1,593	2,308	2,860	3,261
95 percent base volume	1,689	2,572	3,351	4,025
90 percent base volume	1,784	2,836	3,843	4,789
Adjusted base case 2:				
100 percent base volume	1,593	1,994	2,196	2,309
95 percent base volume	1,689	2,258	2,687	3,073
90 percent base volume	1,784	2,522	3,179	3,837

Plan	Total U.S. auto sales (millions)				Chrysler share of auto market (percent)				Cumulative funds required (millions)			
	1980	1981	1982	1983	1980	1981	1982	1983	1980	1981	1982	1983
Alternatives to 2d base case:												
(1) Constant 1979 share [1]	9.3	10.3	10.8	11.4	10.2	10.2	10.2	10.2	$1,646	$2,266	$2,935	$3,742
(2) Constant auto share at 10 percent	9.3	10.3	10.8	11.4	10.0	10.0	10.0	10.0	1,649	2,252	2,847	2,545
(3) Constant auto share at 9 percent	9.3	10.3	10.8	11.4	9.0	9.0	9.0	9.0	1,763	2,583	3,463	4,505
(4) 10,000,000 auto volume at 10 percent	10.0	10.0	10.0	10.0	10.0	10.0	10.0	10.0	1,564	2,169	2,912	3,935
(5) 10,000,000 auto volume at 9 percent	10.0	10.0	10.0	10.0	9.0	9.0	9.0	9.0	1,686	2,496	3,504	4,836
(6) 9,000,000 auto volume at 10 percent	9.0	9.0	9.0	9.0	10.0	10.0	10.0	10.0	1,686	2,496	3,504	4,836
(7) 9,000,000 auto volume at 9 percent	9.0	9.0	9.0	9.0	9.0	9.0	9.0	9.0	1,795	2,791	4,036	5,648

[1] Assumes a constant 10.5-percent share of the truck market by Chrysler. All other projections assume Chrysler will capture 10.9 percent of the truck market in 1980; 11.4 percent in 1981; 11.9 percent in 1982; and 12.2 percent in 1983.

Mr. PROXMIRE. Mr. President, the Treasury figures show that the requirement of a $4 billion Chrysler financial plan, as provided in S. 2094, is not overkill but in fact is a reasonable and prudent measure to take at this time. Otherwise, the total financing assistance provided under this legislation could well fall short of the company's needs, which would be far worse than erring on the higher side. This could result in either the corporation's coming back to the Federal Government for more money or its going bankrupt with over $1 billion in federally guaranteed loans at risk. It seems evident to me, as it did to a majority of the members of the committee, that requiring a $4 billion financing plan to begin with is far more desirable.

THREE-YEAR WAGE AND BENEFIT FREEZE

Another question commonly asked concerns the 3-year wage and benefit freeze mandated by the bill as an essential part of the Chrysler financing plan. Committee members are asked, "Isn't a 3-year freeze too harsh?"

I suppose we were asked that more, and it is a more compelling, dramatic, and immediate problem than any other in the bill. We are asked, "Are you not singling out the workers for undue punishment by requiring a larger sacrifice from them than from the other parties?"

These are more difficult questions to answer, because they require both looking at the committee bill as a whole and also considering the potential alternatives. While the requirements in the bill are strict, it was the Committee's judgment that this compensation freeze is necessary for the corporation's survival. Moreover, these provisions involve a great deal more flexibility and potential for future compensation than is generally recognized. Let me make several points in this regard:

First, it should be made clear that the 3-year wage and benefit freeze required under S. 2094 applies to nonunion as well as union employees. Every employee of the company would have his or her compensation frozen for as long as 3 years, right up through top management.

Second, this provision of the bill recognizes the simple fact that the employees of the Chrysler Corp. probably have the most at stake here, and the most to gain from the company's continued operation and financial recovery. These employees include some of the highest paid blue collar workers in the country at the present time.

Mr. President, we should keep that in mind. These are not people who are low-paid. These are not poor workers. These are the aristocracy of the blue-collar movement. These are among the highest paid workers in the world. Of course, if they lose their jobs, then they have no jobs and they have no income. They have a great deal at stake. Providing a freeze, even a 3-year freeze, should be put into that context.

There are few alternative jobs open to them, since both Ford and General Motors are also laying-off large numbers of people. The new UAW-Chrysler contract provides for about a 33-percent increase over 3 years, which the committee was told by Mr. Kahn, who is the outstanding expert in the Government on this, is in probable violation of the Council on Wage and Price Stability guidelines. It may well be that the Chrysler workers will have to choose between their raises and their jobs. If the job does not exist, because the company goes under, then the raise does not mean much.

Third, the bill provides some flexibility with respect to the third year of the wage and benefit freeze. This provision would permit the workers to get back some or all of their increases in the third year if the company does well, while retaining the financial cushion provided by the freeze if the company does badly.

What is wrong with that? What we are saying, in the main, is that this may be a 1- or 2-year freeze, rather than a 3-year freeze.

In the third year, the employees will not have a freeze if the company is doing well. If the company recovers, they escape. If not, I do not know how anybody could argue it is more important they get a pay raise than that the company avoid failure.

How can that argument stand up?

Since most of the foregone increases would occur in the third year, the amounts involved are substantial. It is that third year that is crucial. The provision involved would require the Board to determine, after the end of the second year of the freeze, whether all of the $4 billion in the financial plan is likely to be needed by Chrysler or whether that total can be reduced by a specific amount without impairing the corporation's ability to continue in operation or to achieve long-term viability. If the Board does decide that a reduction is justified—a reduction in the amount required to keep the company going—if the Board decides that is necessary, then 50 percent of the amount involved could be used for increases in wages and benefits in the third year. Thus, for example, if the administration proves to be right and $3 billion is all that is needed, then the total financial plan could be reduced by $1 billion, and $500 million more would be available to the employees for raises. This is almost the entire amount of the increases provided in the third year under the contract originally negotiated, which is the year of the biggest increase. So they would get that back if the administration and the Treasury Department were right in the estimate and $3 billion was all that was needed.

If this is a good risk, the workers would be rewarded and would enjoy, as I say, a $500 million increase.

Under the rest of this provision, another 25 percent of the amount of the reduction in the financing plan would go to reduce the amount of the Federal guarantees. The remaining 25 percent would be used to reduce the amount of the nonfederally guaranteed assistance from parties other than the employees.

Fourth, and probably most important, because this is another way the workers will be able to get back what they give up in the freeze on wages and benefits, the committee bill requires, as an offset to the 3-year wage and benefit freeze, that the Chrysler Corp. establish a $250 million employee stock ownership plan (ESOP) over the 4-year period of the loan guarantee program. Each employee will receive an equal amount of this newly issued common stock and will have full ownership and voting rights in it. Certain studies have indicated that the establishment of an ESOP results in greater motivation for the workers and higher profitability for the company. If this is the case with the Chrysler Corp., then the value of the stock involved in the ESOP should rise over time. Thus the employees stand a chance of getting back all or a large part of the value of their foregone wage and benefit increases in some future year, as a result of their contribution to the company's financial recovery.

Let me make that clear because I think it is really a startling part of this proposal. The employees would get 40 percent of the company. If the projections by Mr. Iacocca are correct, that 40 percent of the company could be worth well over $1 billion in 1983. I say that because the projected yield per share would give them a share value of $20, $25, $30 a share, and with 40 percent of the company and 40 million shares, which is what it would be, that translates into a very handsome reward.

Again, it is true that this is problematical; it depends on the success of the Chrysler Corp. The employee would only be fully rewarded if the Chrysler Corp. were to succeed. But I assume that is fair. If the Chrysler Corp. fails, the taxpayer stands to take a $1.25 billion bath. If it succeeds, the benefits go to the workers. Of course, if it fails, they would not have their jobs at their present very high wages for the next 3 years.

So the $250 million ESOP provision should be viewed as mitigating to a significant degree the strictness of the 3-year freeze and should be proof positive that this is not in any way intended to be a "punitive" measure. Indeed, the whole package—including the freeze and the ESOP—should be viewed as an investment by the employees in Chrysler's future.

NONFEDERALLY GUARANTEED FINANCING COMMITMENTS

Other questions are asked regarding the specific commitments for at least $1.43 billion in nonfederally guaranteed assistance required under S. 2094. This provision calls for $500 million from U.S. banks and other creditors; $150 million from foreign banks; $250 million from State, local and other governments; $180 million from dealers and suppliers; $300 million from asset sales; and at least $50 million in sales of additional equity securities.

Questions raised are "Is it justified to specify particular amounts to be provided by each category?" and "What happens if one or more of the parties involved won't 'play'?"

One answer is that this is a situation in which no party is likely to be willing to "play" unless everyone "plays." In the view of the committee, it was desirable to set specific goals in certain categories to give some shape to a financing package.

As I said before, in the past we have had firm commitments in writing, we have known how much would be available from other parties before we passed legislation.

These figures were all taken from the testimony of the chairman of the board of the Chrysler Corp. They indicate his best judgment as to what types of financial assistance were likely to be available from what sources.

Beyond all this, the board is given ample authority to modify the amounts required in any particular category—but only so long as the total amount of at least $1.43 billion in nonfederally guaranteed financial assistance remains the same.

The board can modify these amounts. If the banks do not come up with $500 million, and somebody else can come up with more, the board can take that into consideration. They can permit that to happen, provided the full amount is subscribed. But we feel very strongly that proposing these as benchmarks will be very helpful in getting everyone aboard.

Moreover, S. 2094 also sets out certain standards for computing the amount of such assistance provided in each case. This is to insure that the amounts offered represent real money and that they actually and substantively contribute to meeting the corporation's financing needs.

Finally, this section of the bill requires that there be legally binding commitments for all of the nonfederally guaranteed assistance required (except in the case of State, local, and other governments, where reasonable assurances may be accepted). The purpose here is to make sure that all of the financing expected to be needed is in place before any Federal guarantees are committed and issued. This is likely to give a stronger assurance of the company's financial future.

TERMS AND CONDITIONS OF THE GUARANTEED LOANS

S. 2094 sets a number of terms and conditions with respect to the $1.25 billion in loan guarantees authorized. The guarantees can only be provided through December 31, 1983, and the loans must mature no later than December 31, 1990. Relending of amounts repaid on the guaranteed loans is prohibited, except for repayments of loans maturing within 1 year.

Before issuing a loan guarantee under the act, the board must determine:

First, that credit is not otherwise available to the corporation under reasonable terms and conditions;

Second, that there is reasonable assurance of repayment of the guaranteed loan;

Third, that the interest rate is not higher than the rates on similar guaranteed obligations of comparable maturities; and

Fourth, that the borrower is in compliance with all the terms and conditions of the act and of the loan guarantee commitment, except as modified, amended or waived.

The bill requires a guarantee fee of not less than 1 percent per year on the outstanding principal amount of the guaranteed loans. In addition, the Board is directed to take other actions to insure that the Federal Government is compensated for the risk assumed in making the guarantees, to the maximum extent feasible.

In order to qualify for the guaranteed loans, the corporation is required to submit satisfactory 6-year operating and financing plans, which are to be revised on an annual basis under standards set by the Board. The Board must determine that the operating plan is realistic and feasible, and that it demonstrates the ability of the corporation to continue as a going concern without additional Federal aid after December 31, 1983. For the purpose of making these determinations, the Board is required to prescribe certain tests of viability that the corporation must meet in order to qualify for the guarantees.

OTHER PROVISIONS

S. 2094 requires the Board to make a number of determinations before it issues a guarantee. In order to assess the factors involved in these determinations, the committee required that the Board transmit to the appropriate committees of the Congress a written report setting forth each determination required and the reasons for making it, not less than 15 days before any guarantee is issued. This is to allow the Congress to have time to scrutinize these materials and protest any problems, while not impeding the issuance of guarantees.

The bill gives the Board the right to evaluate the impact of any major contract or any sale of a major asset. The Board may block the issuance of any further guarantees and accelerate the repayment of all guaranteed loans outstanding if it determines that such contract or such asset sale is likely to impair the corporation's ability to repay the guaranteed loans or to remain in operation as a going concern and regain long-term viability.

Other provisions of the bill provide for a study of long-term trends in the automobile industry, for audits by the GAO, and for regular reports to the Congress.

The bill authorizes such sums as are necessary to carry out the act and subjects the loan guarantees to limitations contained in appropriation acts. Sales of any of the guaranteed loans to the Federal Financing Bank are prohibited.

Mr. President, I have now described the basic provisions of S. 2094, the bill reported by the Banking Committee. This legislation is thorough; it is careful; it is intended to do the job of providing sufficient financial assistance to the Chrysler Corp. to bring about its financial recovery, if this is possible. I believe that this is the best legislation proposed under the crcumstances, and I urge my colleagues to give it their full consideration.

Mr. GARN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. GARN. Mr. President, I intend to yield the floor shortly to Senator LUGAR, who will be acting as floor manager for the minority during consideration of S. 2094.

When the President originally sent up his bill, I was very much opposed to that particular piece of legislation.

I would like to commend my colleague and friend from Indiana (Mr. LUGAR) for coming up with a bill that I believe is infinitely superior and better than that proposed by the administration.

He has put a great deal of time and effort into drafting that legislation, and for that reason, he will be managing the bill for the minority. Before doing so, I should like to make a few comments about this bill.

The Banking Committee conducted 3 days of "background" hearings on the Chrysler financial situation, and 6 days of hearings on the legislative proposals before it. During the course of those hearings, it became apparent that the administration's proposal to aid Chrysler, if adopted, would probably lead to the worst of both worlds: On the one hand it would inject the Federal Government more deeply into the economic system by choosing to exempt a particular company from the discipline of the marketplace; at the same time it would almost certainly be insufficient to restore Chrysler to financial health. In other words, we were asked to postpone everything but the precedent, facing the prospect of the need for further Chrysler rescues in years to come.

Further, the administration's proposal would put the taxpayers at the front of the line, without conditioning the Federal loan guarantees on meaningful sacrifice by those most affected by a Chrysler shutdown, particularly its employees—both in management and in the United Auto Workers. The recent contract between Chrysler and the United Auto Workers calls for increased labor expenses of more than $1 billion over the next 3 years. At a time when Chrysler is seeking $1.5 billion in loan guarantees, such a contract is obviously an inappropriate demonstration of the commitment of most of Chrysler's employees to the goal of saving the company.

Furthermore, the bill submitted by the administration would not require any binding concession from Chrysler's nonunion employees. Although the company's management and white collar workers are now making a sacrifice, there was no assurance that they would continue to do so. I believe that it is critical that, if the Federal taxpayer is forced to stand behind a major portion of Chrysler's debt, there be concrete assurances that the loan guarantees will not merely become a means for Chrysler to expand its payroll.

The bill approved by the Banking Committee addresses these deficiencies. I am not sure if the $4 billion financing plan required by the bill is enough or not; but I know that the administration's $3 billion plan would be insufficient if any of the underlying assumptions—including projections about the State of the economy, total domestic automobile sales in future years, and Chrysler's future market share—proved optimistic.

I began the consideration of Chrysler loan guarantees with a great deal of skepticism. As a matter of principle, I oppose the use of Federal financing to assist failing businesses. But I have kept an open mind as the bill has been considered, in view of the significant impact which a Chrysler bankruptcy would be likely to have upon the economy generally and upon the workers, suppliers, and dealers whose lives would be most affected by a Chrysler bankruptcy.

Having listened to the testimony at our hearings, I am convinced that, if any legislation is enacted, it must demand very real sacrifice on the part of all those who will benefit. Resort to the Federal Treasury must be as limited as possible, and it is vital that such assistance be without question a last resort. Only when all of Chrysler's constituent groups agree to bear most of the burden should loan guarantees or similar assistance be available.

This is the approach embodied in S. 2094, and the Senate should resist any attempt to weaken those conditions. In that regard it is my view that any proposals to weaken the protections—including the requirement that Chrysler's employees, dealers, and suppliers all make substantial commitments to Chrysler—should be acted upon only after the most careful and thorough analysis of the implications in terms both of the Federal risk in the Chrysler case and of the effect which such action might have if other companies seek Federal assistance in the future.

If the Senate chooses to provide financial assistance to Chrysler—and I am not recommending that it do so—the bill approved by the Banking Committee is the most appropriate way of achieving that result. Our willingness to require painful but necessary sacrifices now will determine whether Federal loan guarantees are in fact a "last resort" for failing companies, or whether this legislation becomes an attractive invitation for other companies in the future.

Mr. President, I believe that the Banking Committee bill is far, far superior to the administration bill and does a great deal more for the security of the taxpayers of America than the administration bill.

This has been a very difficult position for me. I started out with the premise that I was opposed to loan guarantees of any sort, from a philosophical base, but that I was willing to look carefully at the Chrysler situation. I do not want Chrysler to fail. I certainly hope they do not. However, after weeks of detailed study and consideration of the Chrysler financial situation, I have come to the conclusion that even though I do support the Banking Committee's bill as being superior to that proposed by the administration, I cannot vote for any bill by the Senate.

I must agree with the distinguished chairman of the Banking Committee that our bill is superior, but I also agree with him that my vote will be cast against any loan guarantees.

I now yield to the distinguished Senator from Indiana for his statement. He will manage the bill on behalf of the minority.

Mr. LUGAR. Mr. President, I thank the distinguished ranking minority member of the Banking Committee for his analysis and for his willingness to allow me to make this statement and to manage the bill on behalf of the minority.

I also am grateful to the distinguished chairman of the Banking Committee for his leadership throughout the hearings and markup and for his comprehensive analysis of the bill that is before us today.

Also, I express my gratitude to the Senator from Massachusetts (Mr. TSONGAS), my colleague on the Banking Committee, who worked with me to fashion much of the text that appears as part of this bill, together with the chairman, with Senator GARN and others, and especially with the Senator from Michigan (Mr. RIEGLE), who has offered tremendous leadership in making certain that hearings were held, that the consideration was adequate, and that there was impetus and momentum toward conclusion.

Mr. President, I shall not reiterate all the points made by the chairman of our committee, because I believe he has moved through the text adequately. He has described the nature of the process that led to this proposed legislation.

I will express, however, a different point of view from that offered by the chairman as to why each member of the Banking Committee, and now each Member of this body, must determine whether the Chrysler Corp. should receive any aid at all. This is the fundamental question with which we begin, and there is serious disagreement in the country on that point, at the outset.

Very clearly, it has been argued that the attention being paid to Chrysler is attention being paid to size—the size of the corporation; the size of the labor union, the representatives of the majority of its workers; the sheer size of the 10th largest corporation in the country and its impact on suppliers and on the surrounding communities. Indeed, such size does command our attention, but I submit that it is not size alone that commands our attention.

It is the predicament of people, ordinary people, caught in a complex national economy, in the complexities and facts of an international economy that the Chrysler Corp. represents.

A case could be made—and many of us will make it—that whether Chrysler suceeds or fails ultimately, this legislation is absolutely vital in order that the portions of Chrysler that might be viable could come into strong hands; that the communities that are affected would not have a total disruption of their civil revenues, of their ability to remain viable communities.

In short, taking the worst case, if one were to determine, after careful analysis, that Chrysler Corp. will not make it as Chrysler Corp., the case is still a powerful one that people living in those communities which are vastly affected by Chrysler—individuals as employees now, retirees who have been Chrysler people in the past, suppliers of Chrysler, and what have you—are going to need appropriate assistance. They are going to need that in any event, whether Chrysler succeeds or not.

The problem of the Chrysler Corp. now is a grim one. In the State of Indiana, which I represent, more than 5,000 of 14,000 Chrysler production workers are now laid off. It is anticipated that many hundreds in addition will be laid off before calendar 1979 is concluded.

These are not temporary layoffs in the sense of a few days or even a few weeks. For many of those employees there is not a good chance of further employment until August or even September of next year, if then.

We are talking now about a situation that is not potential but one that is actual. We can see the difficulties of that unemployment in communities of America now.

I suggest that anyone looking at this legislation in a compassionate sense must be impressed with the possibilities of alleviation of unnecessary human suffering in our country if we are to act with prudence and with wisdom. I think Americans find this idea appealing.

The question asked by Americans as taxpayers as opposed to Americans as compassionate human beings is simply what is the degree of the Federal involvement, what is the risk, what are the possibilities that tax dollars will be lost? Or to state it more candidly, what is the possibility literally that good money will be thrown after bad, that the exercise will be one of futility, that governmental deficits at the Federal level, already very high, will be increased and, worse still, that a precedent will be set in which other troubled corporations come to this body and ask for relief?

Therefore, we have a very solemn obligation in fashioning a compassionate remedy to make certain, it seems to me, of these vital principles.

First of all, the solution must not be one that invites repetition by Chrysler Corp. or by others. To the extent that we are able to fashion a remedy that no other corporation would want to adopt, we shall have succeeded in preventing a long line following Chrysler, and that is an important principle. It was one before the Senate at the time of New York City's last financial crisis and at that time many of us on the Banking Committee and then in the Chamber said one of the guiding principles must be that a remedy must be fashioned that will not lead to a long line of cities following New York down the trail.

Mr. President, I believe we have succeeded in that respect. There indeed have been cities that have been in financial difficulties since the New York situation. Indeed they were simultaneous with that New York dilemma.

But the cities have not been willing to take on the burdens and the guidelines that were involved in the New York solution for good reason. They involve the loss of considerable degree of sovereignty, a considerable degree of change in Federal, State, and city relationships, a very considerable degree of change in labor negotiations at the civil level, a whole raft of things that were not appealing.

I make that point because the solution fashioned for Chrysler is not appealing to the constituents who are involved. Those of us who have been involved in drafting the legislation have not been candidates for popular approval from any of the parties involved.

I can remember in fact so few letters, cards, calls, visits, of persons who are in any way pleased with this legislation that I suspect on the fingers of both hands one can count those persons and on the other hand rafts of mail, of difficult conversations of people, all of whom condemn the legislation out of hand while at the same time being certain that we should be doing something.

Mr. President, this is not an easy task, and that is why it has been left perhaps to these final days of the session. It must be done well and with a certain degree of style, grace, and certainly camaraderie or it will not happen at all. And that is why all of us involved I think have tried to move tactfully and diplomatically to say that the Chrysler Corp. should be assisted because there are humans being involved; second, it can be assisted without starting a trial of applicants behind it; and, third, we have tried to answer the question of why other courses of action were not preferable. Specifically chapter 11 of the Bankruptcy Act has been suggested by some as a way and it is strengthened by dimensions of bringing about a solution. I am persuaded and I think the majority of the members of the Banking Committee were persuaded that bankruptcy under chapter 11 is singularly inappropriate for the Chrysler Corp. due to the nature of its business.

The Chrysler Corp. is in a substantial transition of its capital lines to produce different types of cars and a different response to the market.

The receiver of this situation finds someone in capital transition in other words, a lot of useless capital, as the changeover is being made, and that the corporation as an entity is sort of halfway through the process. It is not a going concern in the regular conditions in this type of transition because the appeal has been the K-line, the new cars, the new response, the ways in which essentially marketshare would change for the good and which American appetites for the smaller, better cars that Chrysler might produce would be satisfied.

Furthermore, an automobile is a large purchase for most Americans, maybe second only to that of a residence, and people are disinclined, as the market will show and the showrooms will indicate in the last few weeks, to purchase an item as large as an automobile without confidence of the continuity of the firm and the ability to make good on the warranties and the promises.

In short, the Chrysler Corp. as a totality is not a good candidate for vital change under chapter 11. In fact, I think it can be asserted that a very substantial degree of the reorganization of Chrysler Corp. will occur under this legislation if the legislation passes and is implemented.

A degree of organization can occur in place without the disruption and the heartaches that would be involved in substantial and massive layoffs, lack of confidence, and the panic that might attend the market. That is a vital point, it seems to me, in favor of this legislation.

If, however, aid is to come, what character should that aid assume?

And here we come to the difficult aspects for those of us who have made up our minds that aid to the Chrysler Corp. is appropriate.

I try to demarcate these two questions because there will be honest disagreement on the first question, but if one is determined to try to help the Chrysler Corp. then what aid should there be, and in what form and who should be the contributors? And with this the Banking Committee, the administration, indeed the Chrysler Corp. itself struggled for some time.

And the legislation produced is a compromise of many different points of view, contributions from many sources that coalesced finally in this bill.

Mr. President, let me suggest, without reiterating all of the points made by our distinguished chairman, that the Banking Committee has been guided by at least these sorts of principles. If there were a desire to make certain that a long trial of companies not follow Chrysler, there also was a desire on the part of the Banking Committee that if the taxpayers became involved at all they should be by far the most secure partner in the endeavor. Indeed, every attempt has been made in the drafting of this legislation to make certain that taxpayers of this country will not lose any money at all.

The best of all worlds, in a way, Mr. President, is a plan in which people who are involved in Chrysler and all that surrounds Chrysler are assisted and the taxpayers are able to render that assistance without losing any money by simply guarranteeing the glue factor that holds the whole thing together without there being fiscal cost.

That degree of security is likely to be the greatest if the taxpayer contribution is fairly small to begin with in proportion to what all the rest of the partners are putting into the plan.

The Banking Committee plan, in short, attempts to suggest that $1.25 billion of Federally guaranteed loans, spaced over time, not in one chunk but spaced over time, after certain conditions are met at each stage along the way, would be matched by as much as $2.75 billion of private source money coming from two principal areas, the employees of the firm and foreign bankers, domestic bankers, the suppliers, State and local governments, and others who might be friends of the Chrysler Corp., such as those who would invest in common stock, preferred stock, other equity stock that might come into the picture, $2.75 billion from the collection of all of these persons.

We believe that offers much greater security to the taxpayers to have that type of ratio, 1.25 to the 2.75, than did the original administration plan, which balanced off $1.5 billion from each, and with far less security to the taxpayers of the $1.5 billion contribution.

So we believe it is a more secure plan in that respect. We believe that $4 billion more or less is required. Honest men and women will differ on that point and, indeed, the committee has been challenged, as have its individual members, that we have planned for too much. In fact, the challenge has been offered to us in terms of how are we, as Senators, to judge differently what others who are experts have already judged to be the case, namely, the Chrysler Corp. originally asking for $2.1 billion and asserting in some circles still that that is an adequate amount of money?

The tortured aspect of this legislation follows, as you will recall, Mr. President, a plea for over $1 billion of advanced tax credits to be given to the Chrysler Co., to bring about better liquidity, operating capital.

That having been rejected, sessions followed with the Secretary of the Treasury which were described as unsatisfactory because Chrysler asked for $1.2 billion, which was rejected out of hand; and tried again for three-quarters of a billion dollars, with no answer for a while.

Finally, the administration, on the basis of analysis, picking up the Chrysler figures, superimposing its own thoughts, decided the $3 billion package was probably going to be required.

For those who are skeptical about this proposition, the members of the committee have not asserted their own expertise of the automobile industry, but have cited at page 11 of the Chrysler Corp. Loan Guarantee Act of 1979 report various base cases suggested, first of all, by the company, and reiterated by the Treasury, showing Chrysler volume at certain levels, and assumptions as to how much capital will be required over the course of time.

Mr. President, as affairs have progressed in the real world, Chrysler's share of the market has not improved. Indeed, the market has been a disaster as far as automobile sales in the final months of this year are concerned. Whatever might have been the most pessimistic assumptions of the committee have been overtaken by the actualities of market.

So when we talk about the sum of money involved, the committee tried to be prudent, and it suggested that something more than $3 billion was required; as a matter of fact, it is $4 billion, which is probably a better idea.

But, Mr. President, the chairman has already mentioned that the committee has no feeling of certainty about this issue, and said if $4 billion was not required, if in fact we have grossly overestimated the amount of money that is needed, then we ought to fashion a remedy so that those who have been inconvenienced, including the taxpayers, by putting their money into this partnership, ought to get their money back.

In commonsense terms, Mr. President, let me describe that operation:

Let us say, for example, that only $3 billion finally is required; that Chrysler goes through its change to the K line, whatever else is required to modernize at the extremity, only $3 billion is required, and then the tide turns, Chrysler comes back, money comes into the Treasury without need for these extraordinary measures.

The three-man Board, the Secretary of the Treasury, the Chairman of the Federal Reserve Board, the Comptroller General, take a look at the situation and say, "Indeed, Chrysler has recovered. It took only $3 billion not $4 billion. The Banking Committee was far too conservative, misjudging it altogether."

The Board can then say, "All right, organized workers, you may receive back $500 million of the wage freeze that is involved in this bill. Your contribution that would have been $1.077 billion will now be only $577 million. And, taxpayers, you receive back at least a quarter of a billion dollars. Your commitment is only going to be $1 billion and not $1.25 billion, and ditto for the whole group of financiers and others who participated."

Let us take what I think is the case usually made by the Chrysler Corp., that only $2.1 billion will be required, only half of what the Banking Committee is suggesting. If that is true, $1.9 billion is going to be redistributed, and that would mean $950 million back to the workers out of $1.077 billion. In essence, the $127 million is the net cost of the whole operation at that point, the whole cost of the so-called wage freeze, $127 million less than the $203 million already given up by the union in the negotiations that have proceeded.

Mr. President, if we really believe that $2.1 billion was right, we would not be involved in this exercise so strenuously. Most of us believe the Chrysler Corp. is in dire straits. Most of us are not surprised day by day to find that things are worse the day after than we were told the day before. Indeed, we have some reason for skepticism about all of the data, and this is why we have been conservative.

I make this point because, Mr. President, as we discussed the most controversial item of the whole package, namely, the wage freeze, the point usually made is that all of that money is really not required in the plan; that, in fact, the plan is oppressive on the UAW, on Chrysler organized workers, oppressive without any cause; that essentially it is almost a vendetta by those who are vindictive with regard to organized labor, a way of evening up scores, all under the guise of trying to help a company stay alive.

Indeed, Mr. President, the case is made by some that if the sum of money required for all of this plan was much less, the requirement from the UAW would be correspondingly much less, and ditto for the taxpayers, I presume, and for everybody else.

That is why the amount of money is an important factor, and that is why, Mr. President, the flexibility that the so-called wage freeze clause presented we believed was important.

Let me just make this admission: That is that in fashioning the so-called wage freeze clause which appears in section 6 of the bill, I think most of us who voted for that, who are involved in any way with this authorship, believed this was an equitable, flexible way of bringing together a partnership.

It was not my intent, I am certain not that of Senator TSONGAS, as the chief person working on this bill, or any other member of the committee to try to fashion a wage freeze per se. It is not a part of my philosophy that wages ought to be frozen, that we ought to intrude upon collective bargaining operations, ought to bring about inflexible operations in which a so-called brain drain might occur, and in which skilled workers would leave the company, in droves in which, as has been alleged, men and women who have worked for Chrysler would lose their homes, would lose their Christmas, would lose everything involved. That is not the nature of the situation in which we have been involved.

The so-called wage freeze was a legislative method of trying to define the contribution of hourly employees in one clause and of salaried management employees in still another clause, and to do so in such a way that if we were too conservative about the amount of money required in the plan that the burden assigned to the hourly employees and the salaried employees might have been correspondingly decreased, and by a three-member board, not with reference back to this body and a more complex mechanism.

Mr. President, I would say that with regard to the public relations surrounding that particular clause, we have failed, simply because the whole issue with regard to the Chrysler bill has now dissolved down to whether a wage freeze for Chrysler employees ought to occur in this country, with some citizens believing that wages ought to be frozen for employees in a corporation that might face bankruptcy very shortly and when the taxpayers as a whole are being asked to pick up the tab, and other Americans saying that as a matter of constitutional right wages ought never to be frozen, by congressional enactment or by such stringent guidelines as to inhibit collective bargaining and reverse 40 years of labor progress.

It is not my intent on this bill to bring about debate on labor law reform, or labor law in general, or to tip the scales or affect history. We have been attempting to bring about some equitable contribution by organized labor, namely, the UAW, under this plan. Indeed, Mr. Fraser, president of the UAW, in conversations I have enjoyed with him, appreciates precisely the need for contribution. He did so at the time of the original negotiation, in the contract as ratified, and in the give-up of $203 million of benefits in what otherwise would have been a $1.2 billion package.

It is fair to say the UAW has already given up one-sixth of the potential total benefits of that settlement, provided, of course, that the company survives and thrives for 3 years, and members are on the job and the layoff status is moved back. It is very substantial to give up one-sixth of a contract, with the ratification gained by a large majority of that principle, and it would not have come about without strong recognition by Mr. Fraser; and his associates recognize that, and he does, too.

What we are talking about, I suppose, is what ought to be a fair share, not whether there can be a wage freeze, a total disruption of collective bargaining, but how can a package be fashioned that will offer the highest degree of safety to Chrysler employees as they think about the continuity of that firm, and to the taxpayers that are going to provide the glue money for the operation?

Mr. President, in order to expedite the procedures in the consideration of this bill, I have decided upon a course of action this morning that I want to explain, and that I hope will meet with the approval of my colleagues.

I am mindful, as we have been through the long and arduous negotiations on the windfall profit tax, that there are dangers in making one's position too clear to all. One of the problems in this body is that legislation takes a while to digest, particularly complex legislation dealing with hundreds of millions of dollars or billions of dollars. Men and women of honest conviction are not moved rapidly and expediently, and sharp pencils are not quickly out trying to define the point of compromise. Mr. President, we are, I suppose, at one of those junctures with this legislation at which there are all sorts of reasons why it might fail procedurally. It is that time of the year; there are Members, with their schedules for departure all too obvious, pleading for some consideration. There are those who want adequate notice, and appropriately so, of a conference report. There are many who want ample consideration of each step along the way.

Mr. President, we could indulge in debate all of today. We could have opening statements one after another tumbling out, as each one of us seeks to make known his position on this important legislation. We could have absolutely no movement, and a number of conference in the front rooms, the backrooms, and every room that is available for this type of thing, and at that point still not known what we were doing, because we were waiting for the House to act, for example—waiting for the House to give signals as to what we ought to do. But what, Mr. President, if the House of Representatives today, in its wisdom, rejects all the alternatives and says, "We are looking to the Senate for leadership?" This is a situation fraught with potential disaster, and I suppose it is important for those of us who really want a bill to succeed to say so, not to be dogs in a manger, but to offer up front what is on our minds.

What is on my mind, Mr. President, is the need to get the debate off the track of discussing a wage freeze. The UAW has stated in a number of forums, starting with the president, Mr. Fraser, proceeding through various officials who have spoken at various levels on down to local leaders from Kokomo, New Castle, Indianapolis, Michigan City—all cities in my State—who say that a wage freeze is unacceptable, that a wage freeze, if not unconstitutional, is simply out of the ball park of consideration.

Mr. Fraser has stated, if he is quoted accurately by the press, as saying that the 3-year wage freeze as proposed by the Senate bill is simply a guarantee that there will be no bill, that the UAW will take the position that if the company fails under those circumstances, the company will simply have to fail.

Mr. President, I am certain Mr. Fraser meant that, but I am also aware that in the rhetoric of this type of debate, sometimes we do not mean precisely what is said. Maybe he meant a wage increase of $1.2 billion has been negotiated, and that we felt, and Mr. Fraser knows it, that that would be unacceptable. That, of course, is not what the Banking Committee suggested, and I would get back to the point first made by our colleague from Wisconsin (Mr. PROXMIRE) that the first year of the wage freeze could be waived altogether if the money is now needed, and that $116 million had already been frozen, representing fringe benefits, health benefits, and pension benefits which had been moved right along the lines negotiated by the UAW for 3 years, so roughly 10 to 12 percent of the so-called wage freeze had already been unfrozen, with much of the rest of it in the process of being unfrozen if this plan works.

But I think, Mr. President, trying to explain all of that in union halls in towns and villages all over America that are going to be discussing this is likely to take us too long, whatever the wisdom of that flexibility might be. It appears to me, Mr. President, that the debate can be narrowed to a more constructive channel by eliminating that section 6 provision with regard to wage freeze language, and simply getting to a mandatory contribution figure from hourly workers.

Such language has in fact been suggested by the Senator from Massachusetts (Mr. TSONGAS). It has been suggested, as I recall, by Senator RIEGLE and others, in various pieces of legislation, and may in fact be considered by the House of Representatives today: Sums of money that would represent a fixed amount, a quantity easily reckoned and to be found through renegotiation of the contract by the UAW with Chrysler, not by Congress. No Member need to worry about lack of flexibility, about a brain drain, about skilled workers leaving, with the responsibility back into the hands of the president in collective bargaining, but under the mandate that they would have to fashion a contract that arrived at a certain sum of money that became the contribution of the hourly workers to the total package. That could be measured in the same way as the contribution of bankers, foreign or domestic, or of State and local governments or of salaried, management employees.

Mr. President, in a moment I shall introduce an amendment that will be narrow in its focus, but I hope important. It appears to me that this is not the only debate we shall have on the Chrysler legislation, but it is by far the most important. It has brought, by far, the most attention to our work and the most threats of failure altogether if we cannot resolve it satisfactorily, and that is the problem of the contribution of the hourly employees and the form in which that ought to be provided for in the law.

What I am going to suggest, Mr. President, is a figure. I am hopeful that it will seem a reasonable sum. It is fashioned on the basis that we still will need an adequate amount of money. That was one of the basic points of our exercise to begin with, that additional capital come into this firm to keep it alive.

Second, it must be a sum of money large enough to be credible to those who are a majority of the Banking Committee to begin with, and who, I hope, are a majority of those of us on the floor now who believe that there must be a very substantial contribution by those parties that are most affected; namely, hourly workers and salaried workers of the Chrysler Corp.

Mr. President, we are going to ask the taxpayers, generally, of this country, many of whom earn a great deal less than Chrysler employees, to guarantee the wages that are involved in those contracts. I think that Americans are compassionate, but, at the same time, they appreciate they are being asked to guarantee something that may be substantially above the average of hourly workers in this country—by some calculations, 42 percent above the average presently—and that ordinary Americans, through their taxes, will be asked to guarantee that.

Mr. President, I am going to suggest that the total contract that the UAW won from Chrysler over a 3-year period of time represents approximately $1.2 billion. The gist of my amendment will be that the contribution of the hourly workers should be $800 million, two-thirds of that amount. Now, that will not be a wage freeze. It will not be a freeze of anything. It will suggest that, given a generous wage settlement of $1.2 billion, that would be equivalent to what Ford and General Motors receive from the UAW. If Chrysler workers got the same thing, they would have gotten $1.2 billion.

But, in fact, we are going to suggest, Mr. President, that in order to keep this company going, Chrysler workers will need to give up two-thirds of that increase and keep one-third and keep their jobs. In addition, they will be eligible for the $250 million of stock, common stock, from the firm through which they could regain all that they have lost if, in fact, the corporation is successful and productive.

Chrysler stock is now selling at roughly $6 a share. The book value of Chrysler is $29 a share. The investment community believes it is going to be insolvent. A company that is obviously headed not only toward solvency but toward a dynamic future has stock worth a multiple of $6, and that will be owned by salaried and hourly employees. Because we are not changing the contribution, Mr. President, of the salaried employees, the amount of money that they are putting in under my scheme today does not change at all.

We have required of them roughly $243 million and said that there could be some flexibility within that. But that is still the contribution and there is no change in that today, Mr. President. The change is from what was estimated a maximum $1.077 billion contribution by the hourly employees, if all 3 years were imposed, to $800 million, a reduction of the maximum liability by $277 million.

That is the nature of the compromise that I am suggesting, as well as the intent to get this on track in a way which could reach a conference and a ready compromise solution with the conference with the House of Representatives and to indicate momentum to the House and some confidence that this legislation is going to pass, some figure that, at least, in my judgment, a majority of my colleagues might support without a long and tedious philosophical argument over wage freezes or intrusions on collective bargaining or a change altogether in the labor laws of this country.

Mr. President, my amendment will not be an easy one for Members to support, simply because a number of officials in the UAW will point out that it is unsatisfactory. They have said so to me, face to face, as we have visited about this. I appreciate that point of view and I do not take it lightly.

I suppose, Mr. President, that if I had been discouraged by each party in all of this dispute who found elements unsatisfactory, I would not have proceeded far.

The taxpayers of the country may find the whole plan to be unsatisfactory, in which case it shall pass neither the House or Senate or fail by one. We do not have a sure thing occurring here at all, Mr. President, in terms of legislation.

But I would suggest that if there is a feeling on the part of the public that those most vitally involved were not giving up all hope of maintaining a standard of living—Mr. President, we do not know what inflation will be in the next 3 years. We are all prayerful it will not be 10, 11, 12, or 14 percent. Much of what we do in this body really might help determine that, might make the pain for all workers, Chrsyler workers included, much less.

I know of no way to guarantee Chrysler workers, during this period of sacrifice, that they will come out whole, although I think that the ESOP plan offers a pretty good escape in the event this thing is turned around; much better than I suppose most firms, large or small, in this country have had.

Mr. President, I am hopeful that Members will consider seriously this proposal. In making it, I will leave intact all the rest of the bill, which I feel is very important, in terms of the safeguards given to the taxpayers.

UP AMENDMENT NO. 890

(Purpose: To substitute an $800 million contribution from Chrysler Workers in lieu of a wage freeze)

Mr. LUGAR. Mr. President, at this time I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Indiana (Mr. LUGAR) proposes an unprinted amendment numbered 890.

Mr. LUGAR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, strike all language after line 16 through line 25 on page 17, and insert in lieu thereof:

SEC. 6. (a) (1) No loan guarantee may be issued under this Act if, at the time of issuance or the proposed issuance, the Board determines that collective bargaining agreements entered into by the Corporation after September 14, 1979, with labor organizations representing employees of the Corporation which govern the payment of wages and benefits to such employees from September 14, 1979, to September 14, 1982, have not been modified so that the cost to the Corporation of such wages and benefits, as determined by the Board, shall be reduced by a total amount of at least $800,000,000 for the 3-year period ending on September 14, 1982, below the cost of such wages and benefits which the Corporation would otherwise have been obligated to incur during such period, except that such dollar amount shall include $203,000,000 in wages and benefits to be forgone pursuant to the master collective bargaining agreement entered into on October 25, 1979, between the Corporation and the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America.

(2) To meet the requirements of this subsection, the Corporation shall not enter into a collective bargaining agreement with a labor organization which—

(A) reduces the amounts and levels of wages and benefits provided by such a collective bargaining agreement beyond the labor organization's proportionate share, as determined by the Board; or

(B) reduces wages and benefits below the levels and amounts provided on September 13, 1979.

(3) For purposes of this subsection, the proportionate share of a labor organization shall be determined by multiplying the total reduction required by paragraph (1) by the quotient obtained by dividing the total represented by that labor organization whose proportionate share is to be determined by the total number of the Corporation's employees represented by labor organizations.

(4) The cost reduction realized by the Corporation under the terms of this subsection shall not be recoupable.

(b) No loan guarantee may be issued under this Act if at the time of issuance or proposed issuance the Board determines that for any fiscal year beginning before December 31, 1982, the total annual cost of wages and benefits for employees not represented by a labor organization exceeds the total annual cost of such wages and benefits for such employees for the fiscal year ending December 31, 1979, unless the excess results from increases in the Corporation's production level, as determined by the Board.

(c) For the purpose of subsections (a) and (b)—

(1) the limitations set forth therein shall not apply to any increase in wages or benefits required by law; and

(2) any increase in the wages and benefits of a person employed by the Corporation resulting from reclassification or reevaluation of a job or a promotion effected in order to evade the provisions of this section shall be considered an indirect form of compensation.

Mr. LUGAR. Mr. President, I will conclude now, because I look forward to the comments of my colleagues from Massachusetts and Michigan, and others who have been so instrumental in the formulation of this legislation.

Let me conclude simply by saying, Mr. President, that I have attempted to think through as well as I could this morning what would bring about expeditious but thorough debate on this bill, how the issues could be narrowed, so that that which was most important could come to the floor, be resolved, be in a position to be compromised, if necessary, in conference with the House of Representatives, without violating the structure of the bill or the trust that many have had in us to come forth with something that would give the Chrysler Corp. a reasonable chance of recovery and give the country a reasonable chance of not having to suffer through all of the fallout that has been described vividly and, I fear, accurately.

Mr. President, I am hopeful that the amendment I have suggested will meet with favor. It is my hope, as a matter of fact, that debate could ensue, that a vote would be taken, and that the bill would be passed today. I simply want to say for my part, Mr. President, that on our side of the aisle there are a great number of us who are deeply concerned about the Chrysler Corp. and a constructive resolution, who see all signs of difficulty with the timetable of this week, who want to simply say in a straightforward way, "We believe the bill should be well debated today and the bill ought to be passed. We believe we have offered at least an avenue in which that type of constructive action might occur."

Mr. President, I yield.

Mr. TSONGAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I would like the record to reflect that Senator LUGAR is to my right, Senator RIEGLE is to my left, and that we are a lot closer physically than we were when the year began. I think the amendment by Senator LUGAR has narrowed the discussion. In fact, in dollar amounts, we are about $390 million apart, if my mathematics are correct, between the substitute that is going to be offered in the House today and that which Senator LUGAR has just articulated. I believe that given good faith there is no reason this issue cannot be resolved this week.

I hope the Senator from Indiana will not be offended by this analogy. I do not think he would be.

One of the more humorous events which took place when I was in Congress was in the fight for chairman of the House Administration Committee where Frank Thompson took on Wayne Hays in that year when we were in the mood to topple everybody. Of course, the fight was very bitter. On that particular issue we had Ed Koch taking the podium in support of Wayne Hays.

Those of us who referred to ourselves as reformers and all the righteousness which that involved, were just aghast by his doing that. He took the podium, looked at us, smiled, and said, "You are probably saying to yourselves; 'What is a nice Jewish boy like him speaking for Wayne Hays for?' " which was exactly what was in our minds.

When I meet my liberal labor constituency, I get the same kind of reaction: why am I in concert with those who want to impose a wage freeze?

I guess I have an obligation to make my position known because I feel strongly about it. In this world, the fewer people we have who deal in absolutes, the better off we are going to be.

The first question before the Senate is whether this bill or the modification thereof is in the national interest. That is the first question.

If the answer to that is no, then we should just kill it. If the answer is yes, then we go on and try to fashion a package.

In my mind, there are two arguments against any bill. One is the abysmal history of the auto industry. I must say, despite my admiration for him and his capacity, there is the history of Mr. Iacocca personally in the auto industry addressing the energy crisis in this country. The fact is, as I said in committee, that the auto industry did what was in their self-interest in 1975 when they scuttled the auto efficiency standards bill. The country be damned, they were going to do what they wanted.

Times have followed when GM introduced their first downsize automobiles and Ford tried to say to the American public, "If you are going to pay a full-size price, get a full-size car," and Mr. Iacocca was part of Ford when that happened.

I remember that because what happened on that bill, on the key vote of the so-called Sharp amendment and the so-called Fisher amendment, was that the companies went to the Republican side of the aisle, the unions went to the Democratic side of the aisle, and the country got squeezed in between.

That evening there was a celebration in Detroit, and it was part of that attitude that put us in the mess that we are in. I vowed that night that I would never do anything to play into the hands of those people. In fact, when I do town meetings in Massachusetts, which I do on a regular basis, I use that example as the worst example I have ever seen of lobbying, when the lobbyists won and the country lost. There is no way I can overstate how strongly I feel about that particular incident.

The second argument against doing anything for Chrysler is this notion that we are a laissez faire economy until something happens, the argument that we are going to set a precedent, in that in this, the best of all possible worlds, we are going to have laissez faire profits and socialized losses; that we want a completely laissez faire system as long as we are doing all right, but as soon as we get in trouble, "Government, here we come." I do not care where we are in the political spectrum, when it is your State involved and you have a lot of employees, baby, you have no philosophy, you are going to be in bed with everybody else.

The danger if we set that kind of precedent is that you just take the incentive out of our system, which I think is very important.

The arguments in favor of the bill: One, it is going to cost a lot of money anyway. I will not introduce figures. We have heard so many different variations that anyone can pick their own and they will be as good as anybody else's.

Second, as I assume Senator RIEGLE will point out later, Chrysler will have, next year, the best line of fuel-efficient cars of any of the big three, with the Omni and Horizon coming into full production and the so-called K body style cars coming out in September.

If you are interested in fuel-efficient cars, there is a good reason to support Chrysler. On my own staff, most of the staff people have bought American cars, though some have not, and they have all bought Omnis and Horizons. So there is a small sample to suggest that there is a market there.

The third reason is Detroit. I grew up in Lowell, Mass., which is an old mill town which is now coming back. I grew up during the period when the textile industry left and the city was decimated. I know what that feels like and what it does to a community.

I went to Detroit by sheer happenstance a month ago and decided, while I drove through that city, it reminded me of all the cities in the Northeast and the Midwest that are being squeezed by changing economics, and that I did not want to do to Detroit what others have done to my city.

The fourth reason is that, by having only GM and Ford, we have two, and there is an argument for competition in the industry and if we do not have Chrysler, a lot of the buyers will simply go to foreign manufacturers, with the obvious implication to the balance-of-payment problem.

The last argument is that to say that this is a precedent suggests that one does not look at history. American Motors came to Washington when they were in trouble and they got help. They are now a profitable enterprise. It is not with disrespect—in fact, it is with some admiration for his position—that I say the chairman of the full committee supported, as Senator RIEGLE is wont to point out with a wry smile, the efforts of American Motors. Lockheed and New York City are other examples.

I do not know anyone who would—I suppose there are some, but not many who, in retrospect, would have pulled the plug on American Motors, Lockheed, New York City or whatever. A bad precedent is one that affects another State; a good precedent is one that affects your State. That is how it is defined.

If we look at these arguments on balance, it is my opinion, as someone who has no Chrysler plant in his State and has received no support of any significance that I am aware of from any Chrysler dealer, that it is true, yes indeed, that it is in the national interest to have a Chrysler bill. Let me say parenthetically that there has been a lot made—there was a story in the Boston Globe, which appeared on Sunday, that suggested I was doing all this because I wanted to get back at the UAW because they supported my opponent. Mr. President, if I waited for the unions to support my candidacy, I would still be in the Lowell City Council.

If I were into retribution, Senator LUGAR and I could have just stopped the bill in committee and that would have been it. Retribution is not my thing, although I must admit, if I am going to get all the credit for it, I might as well engage in it once in a while.

If it is in our interest to have a Chrysler package, what are the goals? There are two. One is that the package has to be viable. The dollar amount has to make sense.

Second, the process has to be basically unpleasant. Nobody should walk through this door again as an alternative to self-discipline, as an alternative to good management. That applies to Chrysler and the unions, in particular.

The goal is not to seek to satisfy anybody, and if anybody gets up in a union hall or in a Chrysler plant or in a boardroom and gives the final details and gets a standing ovation, something is wrong.

What is the middle ground between Scrooge and St. Nick? That is what the bill is all about. Assuming we want viability and we want the process to be basically unpleasant, how much money do we need? That clearly is the first of a number of questions to be answered. If we look at the administration figures and those of Chrysler, it gives us some guidance. Chrysler seeks to get $2.1 billion. That was based on the October 17 plan, which may be referred to as the pre-ayatollah Chrysler plan. The administration came up with first base case, second base case, and adjusted base case II, which suggested what the volume in the industry is going to be and what the Chrysler share is going to be. This chart is also available on the floor and the Members have received it in their offices.

The adjusted base case says that if you have a moderate position—in essence, a rosy prediction—Chrysler will need $3.2 billion. The middle-road case is $3.07 billion, and the worst-case moderate is $3.8 billion. The worst case of the second base is $4.7 billion. If we get to $4.7 billion, we are all going to be owning GM and Ford anyway, so there is no point in pursuing absolute worst-case examples.

But let us say that we have an ayatollah. That may seem like an absurd example, but let us say there is an ayatollah some place that scares everybody about the availability of fuel. Let us take another absurd hypothetical, that we have a recession and people are not going to buy as many cars as we predict; and then a third absurd hypothetical that the downturn in December will be 35 percent.

Assuming those to be accurate, to opt out for the best-case or moderate-case scenarios does not make sense. If we are not going to give them enough money to survive, let us not give them anything. Otherwise, we are just fooling each other.

Senator LUGAR and I sat down and decided what language to go with. We decided to open up with the worst-case moderation position—which almost sounds like a contradiction of terms—which is an exaggeration of the worst case worst-case position.

That was a little over $3.8 billion. The question, then, is, all right, let us say you want around $4 billion. How do we get there from here?

Well, we went back to the testimony and looked at what the non-Federal share from the banks, from the dealers, from the States, from the cities could be. If we just add up those numbers, the realistic numbers, it comes out to $1.43 billion.

No one argues that figure. No one, anywhere, argues that figure. It is in our plan, it is in Senator Lugar's compromise plan of this morning, it is in the administration's plan, it is in everybody's plan at this point. So that figure is, at this point, somewhat reversed and I think it stands on its own. If you assume a Federal share of 1.5 or 1.25, as in the committee bill, there is not that much difference. That is clearly subject to negotiation.

So the question then came down to how much can you get out of the Federal Government, 1.5? How much can you get out of the bank and other non-Federal sectors, 1.43? What can you get out of wages? The wages were obvious, 1.32, so we put that in.

We tried to maximize the viability of the company. We were not trying to make anybody happy. We thought we were here to make Chrysler survive.

Well, liked damned fools, we thought about the equity of this and said, "Well, we'll do two things: If it is obvious they do not need the money, it will be freed out in the second period of years. In August, say, of that point, you can distribute it because it makes no sense to have it if you don't need it. To make people whole over the long term, we'll give them $250 million worth of equity."

I do not mean to offend the Chair, but it is like giving out Confederate money, apparently, in this day and age. That equity offer was worthless from the point of view of the parties involved. Yet, if Chrysler came back and shares were given out at $6 or $7 a share and it came back to some viability, not only would they be whole, but they would make money over the long term. But you cannot pay your mortgage with equity that has not been realized. So it did not have any impact.

What did we come out with? We came out to the $4 billion through some negotiations and we set in motion a fire storm. Well, that fire storm was endorsed by the New York Times and condemned by the Washington Post, so we knew we were somewhere close to where we should be.

I might also say it was condemned vehemently by the Lowell, Mass., Sun.

I think we made one mistake in the compromise that Senator Lugar and I put together.

That is, we underestimated the threshold point at which it is no longer in the interest of the UAW to ratify the compromise.

It is obvious to me after much negotiation and a few more gray hairs that there are two critical threshold points in this bill. If we are aware of what they are, and deal with them properly, we can pass the bill, Chrysler will be viable, and we will all fill in our reelection brochures the next time around.

If these threshold points are not dealt with properly, the bill will not survive, and if it does, it will be worthless to anybody and we will all say that the other guy did it.

The two points are as follows: First, at what point is it in the self-interest of the UAW to sabotage the compromise?

At what point is it in the self-interest of the UAW, in effect, to abondon Chrysler? We have to realize that the UAW not only represents Chrysler, they also represent GM and Ford. Most of their people are in GM and Ford, and if the compromise erodes their position so badly that their contracts with GM and Ford are jeopardized, there comes a point at which we tip them over, that the long-term deterioration of their position and that of unionism in the auto industry is so compromised, it is no longer in their interest to continue the process, and it is better to have Chrysler go under.

I am not labeling this attitude either good or bad. I just think it exists. I did not think so when I began this, but I am convinced of it now.

The second threshold is the question that I think Senator Weicker refers to in a different kind of way. That is, what is the point of sacrifice that offends the public sense of what is proper? At what point do we make it so easy for Chrysler and UAW that the American people get upset and say that is not right, and we set in motion what is referred to in this campaign as the East Room approach. We bring everybody down when they are in trouble and take care of them. So that any other company in trouble comes to Washington.

I will give my best judgment as to where the threshold points are, in my judgment as to where we will come out in conference. It is my belief the threshold point of the UAW is $500 million. I think if we push the UAW to $500 million and beyond that, it is no longer in their interest to ratify a renegotiation.

It is my judgment of the best figure we can come up with for UAW and management, is $475 million UAW and $125 million management.

It is also my judgment that the point of sacrifice that would be deemed to be inadequate is what is now before the House. That is, the $200 million.

I think if we pass anything like that, the public will be outraged, and properly so.

I think there is a mood in this country for self-discipline that we have not seen in years. I think this would fly in the face of what the country will accept, and rightly so, and I would reject that figure, as well.

I do not know what will happen here, but I do know that there has been movement. There has been significant movement by the Senator from Indiana, and that is appreciated. There has been significant movement by Senator Riegle, the UAW, the House people, and that has been appreciated.

I do not think we are very far apart. I think if we continue in good faith that in conference we can arrive at a figure that, (a), provides reasonable viability; and (b), provides reasonable sacrifice.

If we can fashion that mix, I think we will have served not only Chrysler and UAW, but, even more importantly served the Nation, as well.

Mr. President, I did not intend to get involved with this issue when I began. But that is the way it has evolved. I hope my views will be seen as someone who has no State interest involved of any magnitude, but someone who felt there was another way of doing it. I hope in time that participation may be seen as constructive.

Mr. President, I hope we can resolve this issue in the next couple of days so that it can be passed by both Houses. If we wait until January, then I would advise we go out and trade in our Horizon while there is still someone to service it.

This has to be done now. Either way, let us get it done. Extended Senate debate is in no one's interest.

Mr. President, I yield back my time.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan (Mr. Riegle) is recognized.

Mr. RIEGLE. I thank the Chair.

Mr. President, I say at the outset how much I appreciate the observations, and the constructive work and leadership of the Senator from Massachusetts who has just spoken.

No one has invested more time or effort than he has in seeking both the facts about this case and then, in turn, a workable solution.

The fact that he would come today and say that the original banking bill, conceived in good faith and worked out under the time constraints we had at the time, is, in light of later analysis and later observation, not the best that we can do and defective in some ways, is something that happens only rarely in legislative bodies, because usually I think those of us who are legislators plant our feet on a given proposal and identify with it and become quite reluctant to budge off that position.

That has not been the case with this bill. Certainly, Senator Tsongas has clearly continued to work to find a solution that makes sense, and no one has made a more constructive effort in that regard than he has.

I also commend Senator Lugar who also worked very hard and diligently in the committee hearings, with his staff and Senator Tsongas' staff and other Members, to also try to find a formulation that would meet a number of very complex requirements, to develop a package that was fair and solid, that would work and could be ultimately passed by the Congress and implemented.

I would like to say on behalf of those who have taken the position I have taken that we have also been working in the same fashion to try to not lock in on a single, hard-line position, but to move from that, to try to work toward some center position where eventually all of us could meet and we could have a package that had met the test of a cross section of different judgments, and also was a package that was equitable and workable and something that could be implemented by the board, the loan guarantee board charged with the responsibility.

We have made progress, and I think

today's debate so far indicates further progress. I will get to that in a moment, but I think the point we should make at the outset has to do with the spirit and the principles that have brought to this problem to try to find an answer, and not to become frozen into positions that would prevent us from resolving this situation.

I respect very much both colleagues I have mentioned, as well as others who have worked on this matter, for the constructive attitudes they have brought to it and for their personal contribution involving this problem.

In terms of a review of the specifics of this situation, when we started out, we had a proposition from the administration, endorsed by me and 11 other Senate colleagues on both sides of the aisle, that were quite different from the range of positions we have narrowed down to as of this hour.

Without going back to review that entire Treasury position, in the position then of the roughly dozen Senators who sponsored that particular bill, we have come on the key issue; namely, the 3-year wage freeze or, stated another way, the contribution to be made by the workers under contract for Chrysler. They have made a contribution, in their negotiations to ratify an agreement, of $200 million of nonrecoverable investment in the country, in terms of foregone compensation on their part. On the other side, the original Banking Committee bill started out with a figure, with respect to the UAW's contribution, that was slightly in excess of a billion dollars—$1.077 billion.

We have moved since that time. We have tried to close that gap as best we could, in light of what was workable, what was fair, and what could fit into the context of a particular package. So the movement has taken place.

Today, Senator LUGAR has put forward a modification of his proposal which I think is evidence of the constructive attitude he has brought to this problem. Those of us on the other side also have developed and are putting forward today a compromise proposal that moves in the direction of the Banking Committee bill and of Senator LUGAR's position. The two principal sponsors of that, who will discuss it later in the day, are the Senator from Delaware (Mr. ROTH) and the Senator from Missouri (Mr. EAGLETON).

That would incorporate, among other things, on the essential point of the UAW contribution, an increase in contributions from $200 million to $400 million, a very substantial amount of money. On a monthly equivalent base, it figures out to a 19-month wage freeze. I think that is pretty good, when the inflation rate is running at 14 percent or higher. On a dollar basis, it figures out to about $4,000 per worker.

One might say, "Well, fine, $4,000 a worker. That is a good healthy contribution, but we would like more." If you sit back and look at this for the moment, we have roughly 600,000 jobs across the United States connected with and dependent upon the Chrysler Corp. Of those 600,000, slightly more than 100,000, or about one-sixth, are the UAW workers who are the contract workers for Chrysler. The remainder of the 600,000 workers include steelworkers, glassmakers, rubbermakers, textile workers, people in other kinds of small supplier companies that feed into Chrysler, and there are 20,000 of those companies.

Absolutely no wage freeze is required for any of those workers in this proposed legislation. The measure asks for a wage sacrifice, a compensation sacrifice, only for the class of workers who are under contract to the Chrysler Corp.; namely, the UAW workers.

Setting aside for the moment the equities of the situation—although I think that is a fundamental point here—we have another practical problem if the Senate or Congress endeavors to step into the collective bargaining process, requires the vitiation of a collective bargaining agreement, and mandates the new terms. In this case, if we were to go so far as to require, in effect, a 3-year wage freeze or something close to it, the problem is that the workers are then forced to make a very difficult judgment; and their decision will impact not just their employment situation but also the roughly 500,000 other people whose jobs depend upon Chrysler.

If Chrysler were to go into bankruptcy, these other 500,000 people would be thrown out of work, although they have no direct say in the matter. Obviously, that is something about which we care very much, and we should care about it very much, because that is an enormous human circumstance, in terms of the country's interests. Also, it has some very substantial financial aspects in terms of the impact on the Federal budget, the Federal deficit.

At a time when the inflation rate is running at 14 percent, if we were to demand a 3-year wage freeze, or something close to it, of the Chrysler workers who are members of the UAW, we would be asking them to accept a reduction in their real standard of living, over the next 3 years, of approximately 35 percent or more.

One can argue that they should or would not see that as in their own self-interest. But there is a very critical additional problem with it, and that is that the work force of UAW and Chrysler is made up of many different workers. Many of them are in what we might think of as critical skill areas, and those people with those job skills today are very much in demand, despite the fact that the unemployment level is higher than I wish it were. Some workers in critical positions in Chrysler can go down the street tomorrow and find another job. If there is a wage freeze, they can find another job at a higher salary level.

You do not have to lose very many of these critical skills before, suddenly, you have crippled the company, especially at a time of rapid technological change and where a company is fighting to make a turnaround in the face of other factors, which we will talk about shortly.

For example, 14,000 hourly skilled trade workers who are under the United Auto Workers' contract are in very high demand in today's market situation and, in all likelihood, would not feel that they could afford to remain under a wage freeze for 3 years if, in their situation, looking out for the interests of their families and their circumstances, they could go elsewhere—in the aerospace industry, in the auto industry, or even work for a foreign oil manufacturer—in order to find a job at a wage level that is pegged to their professional achievements.

Among those 14,000 hourly skilled trade workers are machine repairmen, diemakers, toolmakers, electricians, skilled machinists, millwrights, pipefitters. You cannot get along without folks who can do these particular kinds of highly specialized and skilled assignments.

Also, what is not generally known is that among the salaried personnel in Chrysler who—using the management jargon out of the textbooks—are white collar workers, we have 9,000 who are covered under the United Auto Workers contract, where this demand is being brought down on just one class of workers whose jobs are involved here.

What are some of the job categories of these 9,000 persons? Tool engineers—in very short supply in today's market; process engineers; plant engineers; quality engineers; mathematical analysts, and tool and die designers.

One does not have to be an expert about the automobile industry today to know that there is a tremendous technological transformation underway and the skills that I have just mentioned are the key skills in terms of being able to make that transition and make it effectively within whatever company we may be talking about.

So we want to help the Chrysler Corp. work through these difficulties and get back on a strong footing. I am convinced that they can get back on a strong footing, and I think the case is very solid that demonstrates that. But I am just as quick to say it is not going to happen if they do not have these critical talents. It is like any organization. It is like the Senate or it is like any other organization. What makes the institution work are the people who are in it. When we drive out of the Chrysler Corp. the very human talents that are essential to its future success we have not accomplished any constructive purpose.

We do not want to do that. I am encouraged by the fact that the longer and the more carefully this is studied by our colleagues—and we all have reservations about parts of this thing—this is a very difficult and very complex issue. It is not a simple issue. But as Members have said with regard to where they started out, then at the point they got deeper in the issue of the implication of the wage freeze, they have begun to realize that beyond that point it is counterproductive and, in fact, it can sink the corporation just as fast as any other device that we might find if what we wanted to do is put Chrysler out of the game.

After he had a chance to analyze the Banking Committee bill, Secretary of the Treasury Miller, who would be responsible for implementing the loan guarantee legislation, said the following, and this a direct quote from him:

> Under the proposed bill, efforts to aid Chrysler would fail because the conditions of the bill simply could not be met. The terms of the bill would substantially impair the operations of the Chrysler Corporation, risking loss to the company of many of its most reliable employees and seriously damage the morale and productivity of workers essential to the company's future success.

That is a very powerful observation by the person given the lead role in implementing the legislation that we have before us.

But we have even a better cross-check, in my judgment, than Secretary Miller, and that is the Chrysler Corp. itself. On the face of it, one would say if the company can get a 3-year wage freeze why is that not just terrific from their point of view because that means they will be able to save the money that they otherwise would have to pay the employees over that 3-year period of time?

So, on the face of it, the principal beneficiary of the wage freeze should be the Chrysler Co. But what does the company say?

They turned around and they said:

> Whatever you do, please, do not insist on the three-year wage freeze because it will kill us, because it will be counterproductive. It will have exactly the reverse effect. It will mean that the critical talents that we need to keep within the company will leave because the financial disparities that they will be faced with will be so great because those skills are in demand out in today's market and in the future market, looking out over a 3-year period of time, we will not be able to hold together the mix of talent that we need to get Chrysler back on a strong footing.

I think that is now becoming more apparent. I notice even this morning the Washington Post, a newspaper editorially that has not been terribly warm toward the Chrysler loan guarantee proposal, nonetheless concluded that it would be a mistake to insist on the 3-year wage freeze for this very reason, that it would drive out of the company those critical talents that they need to turn the corner and to get back on a profitable footing.

So I think we are making some progress here. We have made some material progress. We have lifted the UAW contribution up to $400 million. Senator LUGAR has proposed adjusting his downward from $800 million. So that is where we are at the moment. We are between the $400 million and the $800 million, and that represents movement on both sides.

I think that has been constructive and helpful, and we are not finished.

So I think what we need to do is to continue to talk, work, and see if we cannot resolve all these issues because ultimately the success of the bill legislatively and as a practical effect will depend upon reaching some position that at least a majority of us can support.

Mr. President, I now wish to set that particular part of the discussion aside, and I shall make some other basic comments with respect to this bill.

First, I say to Senator LUGAR, who is in the Chamber, that I appreciate very much his gracious comments earlier, and he was very kind to make them, and I shall repeat again what I said in his absence. I appreciate more than I know how to express adequately the leadership and constructive attitude he has shown in terms of dealing with this problem through the hearings, the markup, and since. He and Senator TSONGAS, and I also include Senator GARN and others, have been very helpful and very constructive in trying to sort this matter out and to see how we might resolve it fairly and practically.

We have one other sort of unique situation, and I shall simply mention it in passing and get it out here because this one concerns Congress the more one sees such limitations that are unusual. This is my 13th year here, 10 in the House of Representatives and 3 in the Senate, and I have seen a lot of things happen, at different times, and so forth. But I think it is important that everyone understand exactly what the situation is with respect to the advocacy of the bill as reported by the Banking Committee because, as I heard the chairman of the committee, my good friend for whom I have great personal regard, Chairman PROXMIRE, speak at the outset, he said two things that would seem on the face of it to be at odds with one another. On the one hand, he said he is against the bill and does not think there should be a bill and is determined to vote against it, period, end of deliberations on that point.

But then he says, on the other hand, that the Banking Committee has reported the bill and that, as the chairman, he will come in and present the bill and be the floor manager of the bill on our side which, obviously, has to create some difficult moments because, on the one hand, he is absolutely and categorically against the bill and has decided to vote against it and, on the other hand, being in the position of having to be its chief advocate on the floor.

He is a man of enormous talent and skill, and I know he will find a way to blend those two feelings as best he can. But I think what it does mean, as we go down through this thing in terms of votes, tabling motions, and other things, we have to pay very careful attention here as to exactly what the specifics of any particular amendment might be, what its bearing might be on the legislation.

I do not know if the committee will move to table amendments. I hope it will not. I hope we will have a situation when amendments are offered that we can vote amendments up or down. We will cross that bridge when we get to it. But this is something of a unique situation. I know we will have plenty of time for debate, but I want to make sure that on matters that arise with respect to technical corrections on the bill or major substance, that they are fully debated, and that everyone fully understands where the principal players are coming from in terms of what the ultimate objective is with respect to this bill.

Let there be no confusion about the fact that I want to see a bill passed. I think it is absolutely essential that a bill be passed, and that it be passed quickly. I think Senator TSONGAS has illustrated, and Senator LUGAR earlier, the time urgency of this particular matter and why it is that it has to be dealt with now and not at some future date.

I think it is also important to note that in the last month, apart from the generic problem facing the automobile industry with respect to high interest rates and the onset of the recession and the uncertainties about energy supply and higher energy costs, and so forth, in addition to that Chrysler has had to carry another burden, and that burden has been the drumfire of negative commentary and publicity which has come its way as a result of this request and the pending legislation that is before us.

Perhaps a large part of that was inescapable, but I am frank to say, having gone through the 9 days of hearings in the Banking Committee, that the drumfire of negative commentary, which always seemed to come at the opening of the session for some reason, when the press was there so that usually that was the story that went out that evening, was that so-and-so comes in and lambastes Chrysler, and so forth.

Of course, we would have other witnesses who would come along later, who would dispel the great part and most of what was said in the negative, but it would come and the testimony would come at a different time and, as a result, their comments did not get the same kind of national treatment and same sort of national exposure.

But I think it is clear, I think anybody who looks at the marketing data can see today, that Chrysler is suffering from this drumfire of negative publicity and also about the uncertainty as to the question of what will the Congress do, because the moment for decision has come. This issue has come forward, and we are now going to decide it, and a lot of people have stepped back and are saying, "I am not sure I want to buy a car right now because I want to see what Congress is going to do. If Congress responds favorably then I feel I will be free to go ahead."

But I think those people, backing off and waiting 1 week or 2 or 3 to see what happens, have added materially to Chrysler's problem in the immediate term. I think it is important that we note that because it is a practical fact and we ought not to fail to take account of it.

By the same token, I think the minute Congress acts, and acts favorably, as I hope it will, I think you are going to see an immediate improvement in the Chrysler situation for the same reason that we have seen the result of this uncertainty taking its toll over the last 2 or 3 weeks particularly.

I am going to try in the time we have today to recount fully all of the aspects of the bill point by point. But I do feel it is necessary to lay down and juxtapose to the presentation made by the committee chairman earlier today a summary of the case facts as they bear on the realities of this situation, because I take very strong exception to the summary presented by the chairman today. I think the conclusions are not correct. I think they substantially portray, they portray in a substantial way, a picture that I do not think fits the facts. I do not think it fits the analysis that we heard.

We had some very skilled people who worked on the Chrysler program literally for months and months, people hired by the Department of the Treasury, outsiders who were independent, as Salomon Bros., one of the major investment banking houses in the country; we had a major national accounting firm come in, had access to all of the Chrysler information; they went out there, spent weeks, teams of people, combing the records, doing the analysis, and so forth, and they came back and they said, "It makes sense to offer the loan guarantees. Chrysler can work through these difficulties. It is a cash flow problem. It is temporary, it is correctable." They came in with all the hard data, and that data are represented on these charts.

We at no time in the Banking Committee hearings had a single expert come in, who had done an equivalent analysis, who challenged anything that was said by those expert witnesses who had been commissioned to do this job by the Department of the Treasury, and that stands today.

Yes; you had different opinions. You had people who have looked at it and said, "I do not think it ought to be that way, I think it ought to be this way."

But in terms of professional analyses by people who had access to the information and who devoted, as I say, literally hundreds of hours of time examining this, they came back with a very strong recommendation.

I have gone over and over in my mind why it is that that fact has somehow gotten buried underneath a lot of other news commentary that is not based on that kind of careful analysis. The more I thought about it the more I realized that the reason why it happened was very simple once you thought about it. The day those witnesses came before our committee it was late, it was after the lunch hour. We had earlier witnesses that morning. We had one witness from New York, a well-known person, who had not studied all of the financial information, but who came in to make a presentation and who decided that the loan guarantees did not make sense. That was the big opening show that day, and so forth.

Then by the time we actually got around to the people who had analyzed this problem in detail, lo and behold it was about 1 o'clock in the afternoon or 1:30, and most everybody had gone because they were hungry, and they had gone for lunch, so that commentary never really saw the light of day. But it is in the committee hearings, the committee hearing sessions, and so anybody who really wants to dig into the analysis of the people who had the expertise to do the serious work on this thing, that information is available. It is solid and it justifies, I think, fully responding in the affirmative to the Chrysler situation.

I want to quickly move through some facts that I think will present a different picture than the one presented earlier, so let me now do that, and I will do this as quickly as I can. Then I want to yield the floor so that others who wish to speak may do so.

I first became involved in the Chrysler problem some months ago because Chrysler has so many manufacturing facilities and employs so many workers in my own State of Michigan. I must say that I did not realize at first the enormous size and reach of this particular company.

It is the 10th largest industrial corporation in our Nation. Its sales last year were $13 billion. In 1978 the Chrysler Corp. employed some 10,000 persons in its manufacturing operations alone. But in addition to that there were 20,000 supplier companies all across the United States feeding products, goods, and services into the Chrysler Corp.

In addition to that, there were 4,800 retail dealerships located again in all the 50 States.

If you just take the direct employment for the Chrysler Corp., itself, for these independent dealers across the country and for the retail automobile dealerships of the Chrysler Corp., independently owned companies themselves for the most part, the total number of direct jobs was 430,000. That is a lot of jobs. That is a lot of households. That is a lot of people directly affected by one company.

But that is not the total number. That is just the people directly affected because, as anyone knows who thinks about it, if you go into an area where you have got major manufacturing facilities, and you shut them down, what happens to all the other smaller businesses in the area that are there to service the bigger company?

What happens to them? Suddenly their customers disappear, so they have to scale down or shut down. Then you have another secondary effect, and that is, what about the income that would be earned by these 430,000 direct employees? If they are not earning and not generating that income, they are not spending it, and if they are not spending it, people downstream whose jobs depend upon that income stream working through the economy also are going to be laid off. And we have economic models that pin this down quite precisely, so that we know what the secondary effects are in this case.

That is why we can say that if Chrysler goes into bankruptcy in a matter of 3 or 4 weeks, we are going to see about 600,000 people across this country lose their jobs. Some, the lucky few who may have special skills like the ones I mentioned earlier, will probably be able to find work other places. I do not know what that number is. I do not know whether the number is 20,000, 15,000, 10,000 or 9,000. I wish them well, if it comes to that.

But what about the other 580,000 in all the 50 States who suddenly find that they do not have a job?

"Well," you say, "they go out in the job market and they find another job."

Well, the job market today is a bit of a problem, especially in my home State of Michigan. I do not know what the unemployment numbers are right now in Indiana, but my guess would be that they are rising, and that they are above the national average, as they are in Michigan, because those States where heavy industry is centered are beginning to feel in a heavier way the higher interest rates and the inflationary pressures, and so the labor market situation for workers of a general sort is not a promising one to enter at this time.

And, of course, you have all the other residual effects of that. Suddenly people are out of work; it has an enormous disruptive effect on the family situations involved. We know what all the human travail is that goes with that, people not being able to make car payments, house payments, medical bill payments, and what have you.

But in addition to that, the Federal Government then finds itself involved in terms of supplying unemployment compensation payments, food stamps, and all those kinds of things.

Mr. President, the workers of Chrysler I have talked to and the others outside Chrysler whose jobs depend upon the company have said they do not want to be on welfare, they do not want to have to draw food stamps, they do not want to be in unemployment lines. They want to be working.

They want to be working, and they ought to continue to be working, because it is good for the country and it is good for them. The last thing our economy right now needs, at this point, is the sudden shock of the 10th largest manufacturing company going into bankruptcy and knocking 600,000 people out of work. It does not make sense with respect to our international economic situation, our international financial situation, and it certainly does not make sense domestically in terms of hastening the recession, sending us down that road in a steep slide, and also starting to draw large sums of money out of the Federal Government to compensate for the damage done by all that unemployment, and increasing the Federal deficit, increasing the inflationary pressure—these are the last things in the world we need.

The shock waves that would go through our economy are of a size that we have never seen before. We have never had an economic failure of this size and this consequence at one time before.

There are lots of hidden facts that have not been brought to light. Let me give you one. I have not seen this particular fact in print one time; I do not know that it will be in print after today. I hope it is. It will be in the RECORD, if no other place.

If Chrysler goes into bankruptcy, it will wipe out 1 percent of all the black income in the United States—a figure somewhere in the range between $800 and $900 million a year.

Now, you have to think about that for a while in terms of what it means. Chrysler has been a corporation that has kept inner city plants in major metropolitan areas, so its ratio of minority employees has been higher than with most other companies, and they have a good record with respect to affirmative action. At the same time, a lot of minority members have come in and found work in the automobile industry. One percent of all the black income in the United States depends upon the survival of this corporation.

I would just ask the question, what

happens if the corporation fails? Where are those workers going to find other jobs?

You know, we spend a lot of time and effort here, as we should, trying to figure out how we deal with the problems of hardcore unemployment and discrimination in employment. We try to create a situation where all Americans have a chance to get into the economic system and to have jobs, and good paying jobs, so that they can build their lives and provide for their families.

This would present a windfall loss to our economy, to our constituents, to the workers involved. Its particular impact on the minority community, among the black persons I have just mentioned, would be on a scale and a dimension that we have never seen before in the United States.

I am not here to suggest that we should decide this issue on that single point. I do not think there is a single point either way that you can decide the issue on; but there are lots of points that have to be taken together, and this is one; but it is an important one.

What about the impact on the Federal budget? The Treasury Department is very conservative in estimating these things, because they did not want to run into a lot of criticism in the Banking Committee; so they erred on the side of being very, very conservative.

They came in and said, "Look, if Chrysler goes under, the cost to the Federal Government will be at least $2 billion, and that is the impact on the Federal deficit. This is a loss in tax revenues and an increase in transfer payments for unemployment compensation, food stamps, and other things."

They said, "The cost will be a minimum of $2 billion. It will hit the deficit, and in addition to that, there is a pension liability in excess of $2 billion that will also have to be picked up downstream."

I think you can do a better analysis than that. I think the eventual cost, over a year or two, to the Federal Government, is much nearer $6 billion to $10 billion, and there are studies that bear that out.

Pick your study, and take the most conservative one, the $2 billion plus, in addition to the $2 billion for pension guarantees. That is a figure larger than $3 billion. Those are windfall losses, if you will.

Now, what do we have on the other side? If we spend those sums of money in that form, what is our alternative over here on the other side?

Well, the alternative on the other side is a secured Federal loan guarantee. But, now, what is a loan guarantee? Is it giving a blank check? Of course not. Is it handing someone cash? No, it is not.

Mr. WEICKER. Mr. President, will the Senator yield for a question?

Mr. RIEGLE. I am going to yield to my friend. Let me just say, before I do, that after we have had a chance to talk—I think this is a good time; I will probably have another 10 minutes that I want to put into the Record, but I will be happy to do that a little bit later. I yield to my good friend from Connecticut.

Mr. WEICKER. As I understand, the pending question is on agreeing to the amendment of the Senator from Indiana. Is there any reason why we could not go ahead and go to a vote on that amendment in the very near future? Is that within the plans of the distinguished Senator from Michigan?

The only reason I ask is, when we do have this time to address ourselves to the amendment and to vote I know that I seem to be the one singled out as the one delaying this bill. I would hate to see that happen. I want the substance to be voted on here and not procedure.

I was wondering whether or not it is within the plans of the distinguished Senator from Michigan to permit us to move on to a vote on the amendment of the Senator from Indiana (Mr. Lugar).

Mr. RIEGLE. Mr. President, I appreciate the question from the Senator from Connecticut.

Let me indicate where we are. We got started early in the day. What you are hearing now from me is my opening statement. I have not spoken before today. I know that Senators Levin, Eagleton, Roth, and there are others who are planning to speak, none of whom have yet had a chance to speak.

The order of things, as it has gone today, the chairman (Mr. Proxmire) opened up and spoke first, followed by Senator Garn, then Senator Lugar, Senator Tsongas, and I am now in the midst of my statement.

But I would think that once everybody who has been involved in this for some period of time has had a chance to make their initial statements—I think Senator Stewart also wanted to be heard, particularly with respect to the ESOP side of it—that once all of that debate is out of the way, I expect that we will proceed.

I appreciate the willingness of the Senator from Connecticut to allow us to take the bill up. I know he has serious reservations about it, as he has expressed. I appreciate the fact that we have been able to get the debate started. I have anticipated that the Senator would come and want to engage in the debate at some point. As a matter of fact, I am prepared to yield for that point so that we could, maybe, discuss some of these issues.

I do not know how much time, for example, the Senator feels that he will need to enable us to debate the issue.

Mr. WEICKER. Mr. President, I have an opening statement and I am fully prepared to debate those who are proponents of any legislation and argue that there should be no Chrysler bill at all.

Mr. RIEGLE. I beg the Senator's pardon. I did not hear the Senator.

Mr. WEICKER. That there should be no Chrysler bill at all. I am fully prepared to debate anyone and everyone on that issue.

But we are in a vacuum. I hear there is a Lugar amendment, a possibility of a Riegle amendment, and a possibility of a Tsongas amendment. We have a whole batch of different bills over on the House side. I think we better start to whittle these things down.

We have the first amendment up in front of the Senate and granted, we all have statements to make. Is there any possibility of entering into a unanimous-consent agreement that at 5 o'clock we can vote, at least on the Lugar approach and get it out of the way or accept it? Is that something that has any appeal?

Mr. RIEGLE. I appreciate the suggestion of the Senator, because I think Senator Lugar and I and others want to move the thing along. I wonder if we could enter into an overall time agreement.

Mr. WEICKER. I do not know what we are entering into a time agreement on. That is my difficulty. That has been my difficulty all along.

Even now the amendment that is before this Chamber is of first impression and only an hour old.

Mr. RIEGLE. That is right.

Mr. WEICKER. That is one of my criticisms of what we are being asked, in haste, to act upon.

I will tell you what I am not going to do in any manner, shape, or form: Frustrate the will of this body on substance. That does not mean substance as some one person wants it. I mean, everybody can put their arguments out there and their proposals out there and let us vote up or down on it.

Certainly, I am not proposing any procedural blocks here at all. As I indicated to the majority leader in my discussions with him—I was trying to protect rights on this side as the minority, and he wanted to make sure substance would get voted upon.

Now, it seems to me that we have a matter of substance before us. I see no reason in the world why we should not get to vote on it or, if the distinguished Senator from Michigan wants to amend it, amend it and vote on that.

But what I think is terribly important is that it is clearly understood by those in the Chamber, those outside, and those in the media that there is no procedural fight going on here; that we are interested in producing the best possible piece of legislation, not that dictated by the administration, not that dictated by Chrysler, or maybe no legislation at all.

But at least let us all go at this thing. I have interposed absolutely no objections to anything being raised or anything being voted on.

Tell me, does the Senator from Indiana (Mr. Lugar) have any objection if we vote on his amendment at 5 o'clock? Would the Senator object to that?

Mr. LUGAR. Mr. President, I would respond that I would be very pleased if we had a vote at 5 o'clock on my amendment.

Mr. WEICKER. Fine.

Mr. PROXMIRE. I suggest to the distinguished Senator from Michigan (Mr. Riegle), who has the floor, and the Senator from Connecticut——

Mr. RIEGLE. Mr. President, I yield to the Senator from Wisconsin for the purpose of making a comment.

Mr. PROXMIRE. That the Senators who have not spoken yet, I am sure can speak later. Their remarks do not relate to the Lugar amendment, probably, and if they do they would have time during the debate. We could start the time running at 3 o'clock, have a 2-hour debate, an hour on each side, and have the vote at 5 o'clock.

Mr. RIEGLE. If I may respond to that.

I want to hasten the thing, let me be frank to say. And I appreciate the suggestion of the Senator from Connecticut (Mr. WEICKER), because I think it is helpful. I do not think anybody is looking for ways to delay things.

I must say that some of my colleagues are at a disadvantage right now.

Let me just explain the situation. Senators ROTH and EAGLETON will be proposing a version that will be an alternative to Senator LUGAR's, which moves, I think, substantially in the direction of his position, but certainly not all the way. I think, within a matter of minutes, they are going to be meeting with press people to describe the thrust of their amendment.

It would be my thought that at the time that they are available to come to the floor to present that, that that would be offered—perhaps even by myself, as I have the floor—as a substitute for the Lugar amendment that is before us.

Now, let me also say, as I said before the Senator from Connecticut arrived on the floor, that the Senator from Indiana has been constructive in every respect from the beginning on this matter. He has put this proposal forward today. There has been no opportunity for us to discuss it before today. It has not been generally available to look at. We are analyzing it now. I am attempting to analyze it, as is my staff, as are others on my side of the issue.

We have no desire for undue delay, I assure the Senator from Connecticut. But I think, in light of the fact, as the Senator pointed out, that the amendment is an hour old, and it is a very important amendment, that we do need some time to study it, and we need to think in terms of in what ways, if any, we might want to modify our own amendment that we may offer as a substitute.

Mr. PROXMIRE. If the Senator will yield, I think this is a golden opportunity here. The Lugar amendment only makes one slight modification. It is not complicated at all. We ought to take advantage of the opportunity to move along.

The Senator from Michigan probably has the strongest interest, along with his colleague from Michigan, of any Senator here to see prompt action on this bill. There is something that can certainly be discussed in 2 hours since, as I say, it is only a modification. If the Senator wants to offer a substitute, he can do that, and we can vote on that, then we can start really moving on this.

I think we have a remarkably good opportunity and we ought to seize it, take advantage of it.

The Senator from Connecticut has the strongest and deepest feeling of opposition on this. But he, too, does not want to delay it in any way.

So let us move. Let us take advantage of it.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. RIEGLE. Mr. President, without losing my right to the floor, I yield to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I hope that Senators will come to the floor who have amendments. Let us get votes. I am very encouraged by the desire on the part of the Senators—Mr. WEICKER, Mr. PROXMIRE, and others—to reach some judgment on amendments.

Mr. RIEGLE. We have asked someone to get in touch with Senator EAGLETON and Senator ROTH.

I might say that I know Senator STEVENSON, a member of the committee, was here earlier and was waiting to speak and has not spoken. I know that Senator STEWART, a member of the committee, also wants to speak and has not spoken.

Mr. BAYH. Will the Senator yield?

Mr. RIEGLE. Mr. President, I yield, without losing my right to the floor.

Mr. BAYH. Mr. President, I do not want to interrupt this colloquy but I must say that I share the concern of every Member here, having the second largest number of auto workers in the State of Indiana.

I think the Senator from Connecticut makes a very good case that it is only an hour old and he is not going to let anybody rush us through on the substance. We are here on a new amendment, which the Senator from Wisconsin (Mr. PROXMIRE) says makes only one little change involving several hundred million dollars.

I was one of the original sponsors of legislation in this area. I do not have the good fortune to serve on his committee. Subsequently, several of us introduced the Treasury bill and realistically now I think we have to understand that those two particular bills are not going to fly. But the question is, How far are we prepared to go from that, and how far—and I know my distinguished colleague from Indiana who has given a great deal of study and time to this—is the Senator willing to go how far in resolving the difference? That will take a good deal of study on everybody's part. For that matter, I would like to have the time to study this.

Mr. WEICKER. Will the Senator yield?

Mr. RIEGLE. I yield without losing my right to the floor.

Mr. WEICKER. This does take a little time to study. But, nevertheless, when the distinguished majority leader talked to me, it was with the idea that we would debate substance and not have a procedural hold.

I would like to point out to the majority leader that these people who plan to offer amendments are holding press conference on their amendments rather than announcing them on the floor of the Chamber. It seems to me that will take a little time, to go through this exercise. I want to make it clear that I am not holding the floor at this stage of the game. I want the distinguished leader and distinguished Senator from Michigan to know that I will not do anything to bar any vote on substance here. I want to see how the House acts and where the votes are, but I do not think any of us know where the votes are on a variety of issues. But let us get on with it.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. RIEGLE. I yield without losing my right to the floor.

Mr. ROBERT C. BYRD. Mr. President, I welcome the statement by the distinguished Senator from Connecticut. He has indicated that he is not standing in the way of votes on substance. Indeed, he is not. I would hope that Senators would come to the Chamber and call up their amendments, and, after having debate, let us have some votes on amendments. I have a speech, but I can put mine into the RECORD. The important thing is to get action. Of course, that action may be determined by the words which are spoken by Senators who are very knowledgeable on this matter.

I am not saying let us rush to judgment, but I do hope that Senators will come to the floor and call up their amendments. The press is here and they will know what is being called up. Then the Senate can reach a judgment. Time is running out. This matter has to be resolved before the end of the week, well before the end of the week. I thank the Senator.

Mr. RIEGLE. Let me say I very much appreciate what the Senator from Connecticut has said. We have served on both sides of the Capitol together. I appreciate his desire to move things forward. I assure the Senator that is my desire and I know of no desire on my side from people who have my view or a little different view to not move as quickly as we can.

Let me make a couple of points. I would like to size up, too, where we are on the matter of time so we can all do some planning, we can all do some planning in terms of resolving these questions which are before us.

It seems to me that the people who are either committee members, who have been actively involved in this for some time, or people who have sponsored bills in their own right, ought to have some opportunity to make an opening statement. I mentioned three or four on my side who have been waiting to come over until they could be given the cue to do that. I, for one, would feel uncomfortable in foreclosing them from having the same chance that I received and others received. I do not think the Senator from Connecticut would suggest otherwise. He made no hint to that effect. I just think in terms of the equities of debate probably those people who have evidenced a desire to speak should have the chance to do so.

Then, in terms of moving on to amendments, it would be my intention, if I am controlling the floor at that time, to offer an amendment to the one offered by Senator LUGAR today, a short time ago, which, as I say, we are presently analyzing. I think my current intention would at least be to yield to my colleagues so they can do it in their own name, but it will be to offer the amendment which has been developed by Senator ROTH and Senator EAGLETON.

I wonder if the Senator from Connecticut has a feeling as to how much time we might need on both the Lugar amendment and on the substitute or the alternative for it?

Mr. WEICKER. I will say to my distinguished colleague from Michigan I am perfectly prepared to go ahead and vote on the Lugar amendment within the hour and vote on the substitute amendment within the hour. I mean what I said before. I am prepared to vote on Lugar right now, but obviously that is not in the cards.

I would imagine once the Senator offers his amendment that will then be voted on first, as his amendment will be in the second degree. I am perfectly willing to say we should vote on the Riegle-Roth-Eagleton amendment at 6 o'clock and the Lugar amendment immediately upon the termination of the Riegle amendment. I would be perfectly willing to a unanimous-consent request of that sort. I will ask the Senator from Indiana. I was asked about how much time. I am willing to agree to a unanimous-consent, that we vote on the Riegle-Roth-Eagleton amendment at 6 o'clock and then vote on the Lugar amendment a half-hour later.

Mr. LUGAR. I would say that would be all right provided the amendment offered by the others would pertain only to section 6, that it would be a substitute for a specific amount.

Mr. RIEGLE. How about this as a way for us to go.

First, let me say to my friend from Connecticut that our intentions are essentially the same. In other words, I want us to proceed as efficiently as we can move the thing along.

Senator ROTH has just said to me that he has spoken to Senator LUGAR and in the light of the fact that they made arrangements to discuss it—and there is a great interest in the proposal they are putting forth—they are to meet with representatives of the press to respond to questions about it shortly. Once that is done, they can come to the floor and we will take the matter up and see if we can reach some kind of a time agreement on both their proposals as well as the one of the Senator from Indiana. I believe we can.

Senator ROTH and Senator EAGLETON had a prearranged commitment that they would come and we will see if we can work out a time agreement.

Mr. LUGAR. I am willing to agree to anything to expedite this.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. RIEGLE. I yield.

Mr. ROBERT C. BYRD. Senators from both sides of the aisle will be engaged in a briefing by Secretary Vance on the Iranian situation. We have had these periodic briefings. That will be at 3 p.m. I hope all parties will be agreeable to recess for 1 hour to let Senators attend the briefing.

RECESS UNTIL 4 P.M.

Mr. ROBERT C. BYRD. I ask unanimous consent, Mr. President, unless a Senator wishes to have the floor at this moment, that we recess until 4 o'clock.

Mr. RIEGLE. Reserving the right to object.

Mr. ROBERT C. BYRD. I want to recess for 1 hour.

Mr. RIEGLE. Is it all right that when we resume, my right to the floor will be protected?

Mr. ROBERT C. BYRD. That is all right with me.

I ask unanimous consent, Mr. President, that the Senate stand in recess until 4 o'clock today, with the understanding that Mr. RIEGLE be recognized immediately upon reconvening.

There being no objection, the Senate, at 2:59 p.m., recessed until 4 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. NUNN).

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I was in the process, before the recess, of completing my opening statement on the Chrysler matter. I know there are other colleagues that will wish to make their opening statements.

Senator JACKSON, who was on the floor a moment ago, will be back on the floor and has a conference matter that he wishes to bring out, which he says will take a very short period of time. When Senator JACKSON comes in, I will propose to yield to him for a brief time, without losing my right to the floor, if that is acceptable to the Senate. If not, then I will just continue with my own remarks for the time being. But, until he arrives, I would like to resume my own statement.

At the time that we went into recess, I was talking about the financial impact to the Federal Government of the possible failure by the Chrysler Corp., indicating that the potential cost just to the Federal Government was $6 to $10 billion, coming straight through to the deficit over the next 2 years, in the event of a collapse, was, of course, far greater than the scale of Federal loan guarantees we are talking about, something on the order of $1.5 billion, which, of course, would be loan guarantees and not outright grants of money and, in addition loan guarantees that would be secured with collateral, with assets that would, of course, have real value in the event that there were some need to make a call on those assets against the loan guarantee itself.

So that if we just look at the question of the dollar impact to the Federal Government, we are faced with a situation where the dollar impact is far greater and the impact on the deficit is far greater if we turn our back, allowing Chrysler to go into a default and into bankruptcy, than if we respond in the alternative with a balanced package that would provide limited loan guarantee assistance and, in a form that would fully protect the taxpayers' interest.

So I think that is one of the basic arguments that needs to be considered.

I see Senator JACKSON has come into the Chamber.

Mr. JACKSON. Will the Senator from Michigan yield for the purpose of calling up very briefly—it will take about 1 minute—a message from the House on S. 585, with the stipulation and understanding that the Senator shall not lose his right to the floor in any manner, shape, or form. Upon the completion of my presentation, the floor will revert to him.

Mr. RIEGLE. I have no objection and I yield to that request for that purpose only.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, reserving the right to object, and I will not object, I would like to clarify the number.

Mr. JACKSON. Pending the arrival of Senator DOMENICI, I was calling up the matter on reclamation.

But I will call up, instead, the nuclear authorization bill, which is S. 673, with the same stipulation.

Mr. RIEGLE. Mr. President, again, as long as my right to the floor is protected, I have no objection. I do not know if anybody else has an objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF ENERGY NATIONAL SECURITY AND MILITARY APPLICATIONS OF NUCLEAR ENERGY AUTHORIZATION ACT OF 1980—CONFERENCE REPORT

Mr. JACKSON. Mr. President, I submit a report of the committee of conference on S. 673 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 673) to authorize appropriations for the Department of Energy for national security programs for fiscal year 1980, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 13, 1979.)

The PRESIDING OFFICER. There is a 10-minute time limitation on this conference report, to be divided between the Senator from Washington (Mr. JACKSON) and the Senator from Texas (Mr. TOWER).

Mr. JACKSON. Mr. President, the conference report before the Senate represents agreement with the House on the Department of Energy programs which support our national defense effort. For fiscal year 1980 the conference report authorizes slightly more than $3 billion for these programs.

Mr. President, this bill provides an extremely important part of the total national defense effort. This bill authorizes the necessary funds for the production of nuclear warheads and for the research and development effort necessary to maintain the United States as the preeminent world power in nuclear weapons technology.

For the most part, the Senate bill and the House amendment were quite similar and the conferees readily resolved the issues. The most difficult issue to resolve concerned the Waste Isolation Pilot Plant (WIPP) project near Carlsbad, N. Mex. This project, originally authorized in 1976, will be the first demonstration effort designed to answer questions about the long-term retrievable storage of defense nuclear wastes. I would invite my colleagues' attention to the statement of managers for a very complete discussion of the WIPP project. I want to emphasize two key points:

One, WIPP should proceed now. We have studied nuclear waste for years. The problems with the long-term handling of nuclear waste are now largely institutional and not technological. We have studied alternative sites and the current WIPP site was selected for this demonstration effort. The position of the conferees and the position that I hope the Congress will endorse in this bill is that this WIPP project should proceed now, with continued site characterization in fiscal year 1980 and then to completion without delay.

Second, the State of New Mexico must be in a position where its legitimate concerns with respect to public health and safety are fully and responsibly considered; on the other hand, the State should not be given the authority to in effect veto this project—Federal supremacy in that regard cannot be avoided. We have, I think, completely and adequately treated this premise in the conference report and the statement of managers and I again invite my colleagues' attention to those documents.

Mr. President, I urge my colleagues to support this conference report.

Mr. DOMENICI. Will the Senator yield to the Senator from New Mexico?

Mr. JACKSON. Yes, I yield to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I thank my good friend from Washington.

Let me first take this opportunity to thank the distinguished manager of the bill (Mr. JACKSON) for his extensive efforts on behalf of the New Mexico delegation and the State of New Mexico with respect to the waste isolation pilot plant. As Senator JACKSON has just mentioned, this project was the key issue during the conference on this bill.

The conference bill is, I feel, clearly a better bill than the House amendment. The procedures which have been included in the statute to provide for participation by the State of New Mexico are designed to protect the legitimate interests of the State with respect to public health and safety issues.

I would like to ask the distinguished chairman one question. Section 213b(2) requires that the Secretary of Energy seek to enter into an agreement with the State of New Mexico that will specify the procedures to be used in the consultation and cooperation process.

What happens if the parties, that is, the National Government through the Secretary of Energy and the State of New Mexico, through its appropriate officials, are unable to negotiate an agreement that is acceptable to both sides?

Mr. JACKSON. Before responding to the question from my colleague from New Mexico, let me thank him for his efforts in bringing the WIPP issue to a conclusion. Both Senator DOMENICI and Senator SCHMITT spent a great deal of their time contributing to refining the language that finally appears in both the bill and the statement of managers. As I mentioned earlier, I think it is absolutely essential that the States be given a legitimate role in working with the Federal Government to resolve our nuclear waste problems.

Now with respect to your question, in the first place I would not expect the situation to arise where the Department of Energy and the State of New Mexico could not reach agreement on how to proceed under the provisions in this bill. The State of New Mexico has a long history of involvement in atomic energy matters and I feel confident that procedures to accomplish this project can be worked out.

During hearings on the fiscal year 1981 Department of Energy budget which should take place in the spring, we will examine the negotiation process to see if progress is being made toward reaching an agreement. If for some reason agreement is not reached, it will be necessary through the hearing process to determine why it was impossible to reach agreement and to propose the necessary legislation to remedy the situation.

Mr. DOMENICI. I thank the Senator for his response.

I might just say to the Senate, from my standpoint, I believe there is yet a better way to handle the issue involved here, the issue of participation by our State in this kind of a project.

I also understand that this particular project is authorized only for 1 year and, as the Senator from Washington indicated, if, during that period of time, the State and the Federal Government cannot reach an agreement, the Senator has clearly indicated that there would be hearings to determine why, before the next phase of this project would be authorized by the Congress.

I want to make only one point. I believe that the U.S. Government has made a rather significant commitment to a process of concurrence and consultation with the respective States if they are going to ever reach a host status, the status of hosting one of these projects. The National Government, through an interagency task force, has indicated that this process of concurrence and consultation must evolve if we are going to solve the problem of proper involvement by the people of a State that the project might be housed in.

I had hopes we would use this particular research project as a true and total experiment in terms of that process, but the House was not agreeable. As I indicated, the distinguished Senator from Washington and the Senate conferees had agreed with the New Mexico position which would have truly caused this process to have a thorough trial to see if it would work.

The House would not agree and, obviously, this is a far better approach, recognizing a State's legitimate interest and recognizing an effort to agree with the Federal Government on interests of mutual concern or interests of particular interest to a State. This is the best the conferees could get. I am hopeful that as the year proceeds, the State of New Mexico will find it adequate to protect their interests. If they do not, as the Senator from Washington indicated, Congress will have to take another look.

I thank the Senator from Washington for his assistance in this regard.

Mr. SCHMITT. Will the Senator yield?

Mr. JACKSON. I yield to the junior Senator from New Mexico.

Mr. SCHMITT. Mr. President, I want to associate myself very clearly with the colloquy which just occurred between the distinguished Senator from Washington and the distinguished senior Senator from New Mexico (Mr. DOMENICI). I am particularly gratified that the conferees agreed to language in their final report in addition to that which has been discussed which would allow the development of procedures for resolving conflicts as part of a negotiated Federal-State agreement dealing with WIPP construction as well as issues of technical standards.

This whole process is a step in the right direction. But I am still disappointed, as I believe most New Mexicans are, that the conferees did not include the concept of concurrence in their final report. To me, concurrence means a consultation process in which the State and Federal Governments would work out their differences to the mutual benefit of both parties. If irreconcilable differences occur, the issue can always be brought to the Congress to settle. I want to see us make a stab at the way for Federal and State authorities to work together as equals on projects of this nature. But, unfortunately, the conferees from the other body did not seem to understand what we meant by concurrence. Time will tell whether we can persuade them otherwise.

The adoption of the language, however, that allows an arbitration procedure to go forward does not rule out the possibility, for example, that a three-member arbitration panel could be established to resolve any conflict between State and Federal officials. This is a possibility, but the actual procedural process must be left up to the State and Federal negotiators. Obviously, this was the best deal we could get under the circumstances, as indicated by Senator DOMENICI.

As the procedures in this agreement develop, we can evaluate the need for further action in the authorization or appropriation.

Mr. President, I would call the attention of my colleagues to another bill which is in the Commerce Committee, S. 535, which deals with nuclear waste transportation. This is a very important part of the future of WIPP, as well as other nuclear materials transportation problems in the country.

It is the intention of Senator CANNON, a cosponsor of that bill, myself, and Senator Stevenson, who is in the Chamber, to try to have a markup session early next year on this issue, which relates so closely to the one at hand.

I thank the distinguished Senator from Washington for his cooperation in the matter and hope we can work further on this process in the next year.

Mr. JACKSON. Mr. President, I thank both of my colleagues from New Mexico. This is a good example of working together to try to find solutions. Both Senators were in attendance at the conference and expressed their views on this matter.

I think it is important that Senators have that opportunity. Let me conclude by making a couple of observations.

The PRESIDING OFFICER. All time has expired.

Mr. JACKSON. I ask unanimous consent that I be granted 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, the problem of nuclear waste is a Federal problem. There are only a few sites in the country where we can accomplish the long-term disposal of nuclear waste. We must, however, involve the State in these siting decisions prior to a final decision. But the ultimate responsibility is Federal. I want to emphasize that point. However, I do think we can make this process work a lot better.

Mr. DOMENICI. Will the Senator yield for 1 additional minute to the Senator from New Mexico? I ask unanimous consent that we be granted 1 additional minute on the conference report, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I think the distinguished Senator from Washington and my colleague from New Mexico would agree that, for those who are interested in seeing a relationship of trust and of good faith evolve between the National Government and the States with reference to nuclear waste deposits, if they will read this transcript and read the dialog they will see that this is indeed the first step in an understanding of a national program which will permit the States to involve themselves in a process which will end up with them concurring, which will end up with them being consulted, a process to resolve disputes.

I hope everyone will begin to see what we mean when we talk about a process of trust and good faith with dimensions for consultation, concurrence, and cooperation that might end up with an agreement by one or more of our States regarding nuclear waste.

This is less than that but in a very real sense it is a big first step in understanding this process of developing that kind of relationship.

I yield the floor, and I thank my friend from Washington.

Mr. LEVIN. Mr. President, I want to congratulate the distinguished Senator from Washington on the way he has dealt with this issue and the leadership he has demonstrated on it in the conference. I also want to take this opportunity to clarify one issue with him. This conference report discusses the rights of the State and the State's relationship with the Federal Government only within the context of this demonstration project for the long-term disposal of defense generated nuclear waste, does it not?

Mr. JACKSON. That is correct.

Mr. LEVIN. In that context, as the Senator knows, there is a good deal of controversy about what the rights and relationships between the State and Federal Government ought to be in the entire area of nuclear waste disposal. There are, as you know, several pieces of legislation before the Senate which are designed to address that issue. It is my understanding that this legislation before us is not designed to serve as a precedent in our general policy deliberations on nuclear waste disposal. Is my understanding correct?

Mr. JACKSON. I recognize the fact that there are disputes about the best way to deal with this issue. For some Senators, there are different policies which are appropriate when dealing with defense generated nuclear wastes as opposed to civilian generated nuclear waste. In that sense, I do not see this legislation as setting a precedent which necessarily goes beyond the WIPP project.

Mr. LEVIN. I thank the Senator.

Mr. JACKSON. Mr. President, I move adoption of the conference report

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington.

The motion was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. STEVENSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHRYSLER CORPORATION LOAN GUARANTEE ACT OF 1979

The Senate continued with the consideration of the bill (S. 2094).

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. JACKSON. Mr. President, will the Senator yield for 1 minute with the same stipulation?

Mr. RIEGLE. In other words, the Senator is requesting unanimous consent for additional time and I will not lose my right to the floor?

Mr. JACKSON. That is correct.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

YAKIMA RIVER BASIN WATER ENHANCEMENT PROJECT

Mr. JACKSON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 585.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 585) entitled "An Act to authorize the Secretary of the Interior to engage in a feasibility study of the Yakima Basin Water Enhancement Project", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That the Secretary of the Department of the Interior is authorized and directed to conduct a feasibility study of the Yakima River Basin Water Enhancement Project, which shall include an analysis by the United States Geological Survey of the water-supply data for the Yakima River Basin. The Secretary is authorized to accept moneys from the State of Washington or other persons or entities, public or private, to assist in the financing of the feasibility study.

Amend the title so as to read: "An Act to authorize the Secretary of the Interior to engage in a feasibility study.".

Mr. JACKSON. Mr. President, I will shortly move that the Senate concur in the House amendment to S. 585. However, I would like to comment on the House action striking from the measure the provision that funds contributed by the State of Washington toward the cost of a feasibility investigation authorized by S. 585 could be later credited toward any cost to be borne by the State as a result of the construction of the project.

Mr. President, I want to make it clear that the Senate's agreement to the House amendment does not projudice such a credit being allowed for in the future, should the project be authorized. The strong support for S. 585 by the State of Washington and local interests is clearly documented. No better endorsement can be found than the pledge by the State of Washington to contribute toward the cost of the study. The normal practice of the Department of the Interior in calculating repayment is to deduct such contributions from the project cost.

Adoption of the House version of S. 585 is not to be construed as expressing in any way the sense of the Senate that the funds provided by the State for the study should not be later applied toward any required repayment or State contribution, should the project be authorized and constructed.

Mr. President, I move Senate agreement to the House amendment to S. 585.

Mr. LUGAR. Will the distinguished Senator yield for a question?

Mr. JACKSON. Yes.

Mr. LUGAR. Has the S. 585 motion been cleared with the minority?

Mr. JACKSON. Yes, with Senator Hatfield. I do not think the Senator was on the floor at the time, but it has been cleared by the minority.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. STEVENSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHRYSLER CORPORATION LOAN GUARANTEE ACT OF 1979

The Senate continued with consideration of the bill.

Mr. WEICKER. Mr. President, will the Senator from Michigan yield for a question?

Mr. RIEGLE. Yes.

Mr. WEICKER. I wonder if I might also get the majority leader's attention? I should like to know if there is any possibility, pursuant to my earlier request, that we might have the amendment of the distinguished Senator from Indiana (Mr. LUGAR) or the distinguished Senator from Michigan (Mr. RIEGLE) if that is the one, or the Roth-Eagleton amendment—if there is any possibility of getting to a point where we can vote.

I want to point out that an hour today is the same as an hour on Friday. I want that understood. I do not want the heat on the Senator from Connecticut when we meet Friday. It is the same 24 hours a day, the same effect on legislation if we do these things now. I do not want to hear people complaining when, all of a sudden, I have a few things to say later on.

I repeat, I hope we can address ourselves to this amendment, or possibly even that of the Senator from Illinois, who, I think, has probably the best answer of any of us to the problems confronting the country in this matter.

Can we get some agreement to vote on these matters within the next several hours?

Mr. RIEGLE. If I may respond to the question of the Senator from Connecticut, my concern and interest are the same as his. Let me review the situation as it stands right now, so we can see what the possibilities are.

We have not yet gotten through the phase where people have been able to make their opening statements. As the Senator knows, Senator LUGAR, in the course of his opening comments, laid down an amendment which is presently being analyzed. As a matter of fact, any amendment to his amendment, and I propose at some point to offer one, has to be keyed to his amendment. So we are in the process of redrafting, based on the fact that we have a new version that we must key from. That is just as it is. We are moving here as quickly as we can, because this is coming up very late in the session.

I know, as I have said earlier, that Senator LUGAR is moving in every way he can to facilitate and expedite things, as I am and as are others on this side. We are in the process of doing that at the present time.

The other issue that I raise is this, that Senator STEVENSON, who is on the Banking Committee, has not yet spoken. I have not yet completed my opening statement. Senator EAGLETON, at a point at which I or he, or whoever puts forward the amendment that he and Senator ROTH have developed, will, of course, want to speak, as will Senator ROTH.

Senator STEWART, I think, has had to leave town, although he was seeking a chance to speak earlier and could not get into the queue and left, thinking that this main issue, which is at the heart of the Lugar alternative presented today, would be voted on tomorrow. I know he left with that thought in mind. I know there are no guarantees and the situation has taken a new turn, so anybody who has left is in a sort of awkward spot.

I know there are some other members of the committee who may also wish to speak. I know Senator SARBANES, for example, also wished to speak.

I think that, once we get the opening statements out of the way and we have a chance for the presentation of the alternative to the new Lugar alternative and we have a chance for some debate, I think we can probably enter into a time agreement. I could not say now what the best time would be to enter into it in terms of a target, because I think we have other—I think it works to the disadvantage of other Members who have worked on this a long time and have not had a chance to utter a syllable in this debate. I want to move as rapidly as possible, but not so rapidly that people get cut out of having a chance to participate on the same basis that others have participated who spoke earlier today. The chairman has spoken at length and I have, although I have not quite finished my statement, and others have.

I think we have to allow everybody to have their time here.

Mr. WEICKER. I could not agree more with the distinguished Senator, but again, I want to make the point that because I choose to speak on Friday and the Senator from Michigan chooses to speak on Tuesday does not make me the filibusterer. I have a strange feeling that there is a little extended debate going on here right now.

I am not so sure, in other words, that the word has come from on high yet. I do not know, in other words, what it is the UAW wants. Maybe it is not their word that has to come down, maybe what has been thrown out here in the last few minutes has not been agreed on by the administration. All I want to make sure of is that this Senator came on the floor Tuesday of this week ready to go up or down on the issues confronting the Chrysler Corp. Any delay on that can now sit on the doorsteps of those who are advocates of aid and not those who oppose it.

Mr. RIEGLE. Let us try this, then, if the Senator feels that way. I hate to be put in the position where, by inference, I am being made to be the person who is unreasonable, because it certainly is not my intention. I do not think I have been. I have not spoken as long today, I might say, in terms of my opening statement as the chairman, Senator LUGAR, or Senator TSONGAS as yet. I yielded in the middle of my opening statement to the Senator from Connecticut, as he knows. So it is not for any purpose of mine that I did not finish my statement at that time.

Right after that, there was the request that we recess for an hour to meet with the Secretary of State on the Iranian issue. That was certainly nothing of my doing and the fact that Senator STEVENSON and others who have worked on this for a long time are waiting to speak is again nothing of my doing. I think anybody in the queue who is waiting to make an opening statement ought to be able to make one.

Mr. WEICKER. I agree. I have not made my opening statement. I have said nothing of my opposition in this matter. I think everything the Senator says is true. But why is it, if somebody insists that there be some consideration and debate given to the large matter before us, that he is delaying, he is filibustering? Yet, when these individual amendments come up by the proponents of the legislation, they do not feel they are yet positioned to go ahead and have an up or down vote—I understand that. There is nothing mysterious about it. I do the same thing. And I think the Senator from Michigan has been reasonable in the way he has allowed others to speak on the floor. That is no problem at all. But I think at the outset of this debate, it is very important to put in the proper focus what it is that has happened since the legislation has come onto the floor.

Mr. RIEGLE. If I may, let me respond in good spirit to my friend from Connecticut, because he makes a good point. I would like to see us finish the bill tomorrow. I do not know whether that is possible or not, but I might have to confess that it is a wish that is large in my soul.

Mr. WEICKER. What bill are we going to finish tomorrow?

Mr. RIEGLE. I mean disposing of the bill that is before us, with whatever amendments the Senate can hammer out.

Mr. WEICKER. That is the problem I have. Why I want to pursue these votes is that it is a little difficult for me to present intelligent arguments against something that is not. I want the Chrysler loan to take a definite shape. I do not know whether I am dealing with a Lugar amendment, a Riegle amendment, a Roth-Eagleton, or what. All of these are substantive changes from that proposed by the Banking Committee, which is different from that of the administration, all of which are different from those on the House side.

I am not pressing the Senator to embarrass him, but I am not the type of filibusterer who gets up here and reads the Columbia Encyclopedia. I try to bring a little logic to what I am saying and I do not know how I can debate something when that something is not before us. That is all I ask.

Mr. RIEGLE. If I may respond to the Senator from Connecticut, I want us to work together. I want to find a way that we can move ahead in tandem on this thing and not any other way. We are, right now, redrafting the Roth-Eagleton compromise. It has to be re-done because it has to be keyed to the Lugar alternative that was presented a while ago—not all that long ago—which had not been circulated before among us.

So as soon as that is done, I promise the Senator I will deliver a copy to him. I want to see it myself in terms of having a chance to take a look at it. I think we ought to debate it. I would like to set a time certain to vote on it.

Mr. WEICKER. Does the Senator think there is any possibility we might have a vote on this this evening, or does he think tomorrow?

Mr. RIEGLE. I think we would have to discuss that.

I say to the Senator, if the Senator

wants to enter into an agreement that says we could vote at, say 10:15 tomorrow morning, I would be happy to do it right now. I mean, I do not know how late we want to stay tonight. My guess would be if they want to stay until 9 or 10 o'clock tonight, that that is probably what it will take if we want to go ahead and do the debate on the two options.

Bear in mind, we are talking about the principal issue in dispute, the question of the UAW contribution and how that fits the entire package.

The Senator from Indiana made a new proposal today, and the Senator from Missouri and the Senator from Delaware are making a new proposal today. That is where the debate will center.

I say to the Senator that I think once that issue is fully debated and voted on, it is downhill from there. I think the residual issues to be dealt with, and there are two or three, are relatively minor in consequence.

Mr. WEICKER. Put it this way, I may be willing to vote tonight, tomorrow, 10 o'clock, 10:15, no problem getting my consent, or a unanimous-consent request. But when the Senator says that it is all downhill, I have not read the text of the Senator from Illinois——

Mr. RIEGLE. Let me just say——

Mr. WEICKER. But I happen to know generally his approach toward this matter.

Believe me, do I think that deserves serious consideration in light of the difficulties of Ford, No. 1; General Motors probably coming on hard behind; I surely do.

No. It is not a simple matter ironing this out in terms of just a Chrysler deal. There is a lot more involved, is all I am saying.

Let us all know, if, indeed, there will be talk this evening. It is nice to know.

I say to the majority leader that he has my consent to any votes on these matters this evening, 9 o'clock, 10 o'clock tomorrow, I am ready to go, and I think everybody that I have talked to, trying to keep an open mind, is ready to go, also.

If it is just a matter of talk this evening, fine. But it is not mine.

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. I do not have the floor. If I could just say——

The PRESIDING OFFICER. The Senator from Michigan has the floor.

Mr. RIEGLE. I yield without losing my right to the floor.

Mr. ROBERT C. BYRD. Mr. President, I appreciate the attitude of the Senator from Connecticut and the spirit in which he addresses the question.

I hope in due time we can reach votes on amendments, and I hope this spirit will be a spirit joined in by all who participate.

Mr. RIEGLE. Let me say to follow up on it, I think maybe the point is that we can do that.

Before I finish, I will lay down the amendment, as soon as it is discussed in the proper form, that constitutes the Roth-Eagleton substitute, or amendment to the Lugar proposition.

I would be prepared to have a unanimous-consent agreement entered into now, if the leader were willing to do so, that would have us vote on that tomorrow morning at 10:15, with perhaps 4 hours of time equally divided, and between now and then we can debate it fully.

Mr. LUGAR. Will the Senator yield for a question on this?

Mr. RIEGLE. Yes, I yield for a question.

Mr. LUGAR. Would the Senator not be willing to consider 4 hours, 2 hours to a side, with a vote at 8:30 this evening?

I fail to see why 10 o'clock in the morning has any particular magic, and the matter progress to a vote this evening after discussion of this amendment.

Mr. RIEGLE. Here is the problem, and, as I said, I do not think anybody intended it to be this way, it just is this way.

The Senator from Indiana brought in a new package today. It has not been circulated. It is not in print. I have not seen it. I do not think anybody else has.

In the same fashion, the Senators from Delaware and Missouri today have developed a package which also is not in print, which I have not seen, and everybody is operating under the same time pressures.

As I said before, I do not think anybody worked any harder on this issue than the Senator from Indiana to resolve it. But it seems to me, because of these two new packages which are fresh out of the box, no previous discussion and not in print, nobody has had a chance to read and consider them, and because they go to the heart of the matter, to the essential point around which debate has been centering, leading up to taking up the bill, it seems to me that in light of the fact that they are sort of newly minted, we ought to debate them, and let this evening go by to have a chance to read them or to see them in print.

The first thing tomorrow morning, with our debate out of the way, it will be in the RECORD, people can read it and the amendments, and let us vote.

I might say that whatever happens on that vote certainly does not in any way prejudice what follows after it. They are either there, or not, and the Senate can continue to work its will from that point.

Mr. LUGAR. Will the Senator consider making a part of the unanimous-consent request the certainty of an up or down vote within a certain period, a time certain, on my amendment in the event the substitute would fail?

Mr. RIEGLE. Well, at some point, I certainly am prepared to do that. I am willing to get at it. I do not want to delay it. I do not want to foreclose anyone. If the substitutes to be offered were not to carry, I would not want to foreclose anybody else's right, keeping that in mind, to offer another alternative. I mean, that is always a possibility.

But I would not be a party to some who want to delay, to prevent us from getting to the Senator's measure, assuming something as a substitute were not adopted first.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. RIEGLE. Yes, without losing my right to the floor.

Mr. ROBERT C. BYRD. There are several Senators with whom a time agreement will have to be cleared. I want to be helpful. I want to be useful, if I possibly can be, in helping clear any time agreement. I want to see if we can advance the bill as expeditiously as possible.

But I do not think right at this given moment the Senator can enter into any time agreement as to a vote at a time or with any conditions thereon. There are other Senators on both sides of the aisle.

So I would only suggest that for the moment we might want to get on with the debate and let us see, by talking about the various amendments and by discussing a time agreement as time goes on.

Perhaps we will have a time agreement before the end of the day; perhaps not.

In any event, I would have to clear any time agreement with interested Senators, on that side of the aisle, as well.

So, if I may suggest, for the time being we not discuss time agreements any further, but a little later.

Mr. RIEGLE. Mr. President, let me say, if I may, to the majority leader, I appreciate exactly what he said and, certainly, it is his responsibility to offer and enter into time agreements. I respect that. I do not mean to intrude on that in any way at all.

I would just like to clarify and say in response to the Senator from Connecticut that I made a tentative suggestion of 10:15 tomorrow morning just to make clear I do not want an endless amount of time to run on before I am prepared to see a vote take place.

But I would concur. I am open to working with the majority leader; I trust others are, too, and let us have our discussions as people make their opening statements here, and see what might be worked out. Let us see what might be done. I am open to discussing it.

The one thing I have to do at the moment is to hold the floor, to be in a position to offer the amendment that is being drafted. I cannot offer it until that is done. It had to be redone because it is keyed to the new Lugar amendment. When the amendment is available and ready to be offered, I will offer it; and when I do, I presume I will lose my right to the floor. Until that time, I will not surrender the floor, because I want to be able to lay down the amendment.

Mr. PROXMIRE. Mr. President, will the Senator yield, briefly?

Mr. RIEGLE. I yield, with the understanding that I do not lose my right to the floor.

Mr. PROXMIRE. I hope Senators will not continue to hold the floor and refuse to agree to a time limitation this day because they have to have another amendment printed. It is a very simple amendment. It is a very important amendment, but the idea is very simple—it eliminates the requirement for an absolute wage freeze and reduces the amount of the UAW contribution by $277 million compared to the committee bill.

It seems to me that if we are going to say that we have to go over this amendment for a full day, we will be here a lot longer than next Saturday.

So I hope that Senators, in the future,

will not say that they will have to wait and go over night to study amendments which have not been printed. Others may have amendments they want to consider. If we follow that procedure, we are not going to be able to handle this matter before Christmas, and I know the Senator from Michigan does not want to do that. But he cannot have it his way all the time.

If the Senator from Connecticut wants to offer an amendment tomorrow or Thursday, he can follow the Riegle precedent and say, "I want to go over until tomorrow so that I can study these other amendments that are coming up to my amendment. Therefore, I'm going to hold the floor and not agree to a time agreement."

I hope the Senator will agree to a time agreement. He can recognize that when we have a simple amendment such as that offered by the Senator from Indiana, we should be able to make up our minds on it.

We have had this matter before the Senate for many days. The committee has studied it in great detail. Other Senators have been studying it for a long time. Let us get action on this and not delay it for any reason.

Mr. RIEGLE. I repeat to the chairman that I am open to entering into a time agreement on anything. I am entirely open to that. I am prepared to talk with anybody about it now or 5 minutes from now. I hope we can do it. I want to wrap up this thing. In fact, I want to wrap it up even more than the chairman does.

However, at the same time, I do not think it is correct for the chairman to minimize this particular issue. This is the issue. This is the cutting edge issue, and it has to do, in the minds of many of us, with whether or not the program will be workable if it is adopted. These are brand new packages.

I ask the chairman: Before 1 o'clock today, when the first new package was introduced, was he aware of it? I certainly was not.

Mr. PROXMIRE. It is a very simple amendment.

Mr. RIEGLE. That is not my question.

Mr. PROXMIRE. It cuts down the amount of the labor contribution. I was aware of it earlier today.

The Senator has previously served in the House. We have had hours to study this amendment, and we are willing to provide 4 more hours to study it. If we cannot make our minds on an amendment such as this in 4 hours, we will never make up our minds.

Mr. RIEGLE. Should Senator STEVENSON have the same right to make an opening statement as the Senator from Wisconsin has?

Mr. PROXMIRE. Of course.

Mr. RIEGLE. How about Senator EAGLETON?

Mr. PROXMIRE. Of course.

Mr. RIEGLE. How about Senator ROTH?

Mr. PROXMIRE. Of course.

Mr. RIEGLE. How about Senator BIDEN?

Mr. PROXMIRE. Certainly.

Mr. RIEGLE. How do we take account of those time requirements? Should I have a chance to finish my opening statement?

Mr. PROXMIRE. Senators do not have to make their opening statements before we act on amendments, when we have the opportunity the Senator from Connecticut has made available to us for some momentum. I would be willing to postpone my opening statement, even though I am managing the bill.

Mr. RIEGLE. That is easy for the Senator from Wisconsin to do after he has made his opening statement. The chairman made a very eloquent, very passionate, and a very long and detailed statement.

Mr. PROXMIRE. My statement was 30 minutes less than that of the Senator from Michigan. I have just checked the record, and it was 30 minutes less.

The Senator from Michigan is filibustering his own bill.

Mr. RIEGLE. I have no desire to get into a quarrel with the chairman. He is my friend, and we have worked together on a lot of things. We do not always agree on things.

As to the point he has just made, in terms of the amount of time and my statement earlier, before I yielded to the Senator from Connecticut at his request, versus the amount of time others have spoken, it is not different by 30 minutes. That is not true, and I do not want it to stand in the RECORD as being true.

Mr. STEVENSON. Mr. President, will the Senator yield? I can make my opening statement now.

Mr. RIEGLE. Mr. President, I ask unanimous consent, without losing my right to the floor, that the Senator from Illinois be permitted to make his opening statement at this point and that when he finishes, I retain the floor.

The PRESIDING OFFICER. Is there objection?

Mr. PROXMIRE. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

The Senator from Michigan has the floor.

Mr. RIEGLE. I am sorry objection was made, because I think all members of the committee should have a right to at least make their opening statements. The Senator from Illinois has been waiting patiently for at least 2 hours.

Mr. PROXMIRE. I agree, but the Senator from Michigan should not hold the floor and farm it out. That is not the way we operate in the Senate. He should finish his statement and let the Senator from Illinois make his statement. What is wrong with that?

Mr. RIEGLE. What I said to the chairman, and I will say it now, is that I am prepared to offer an amendment. The amendment has not yet been drafted, for the reason that it has to be keyed to the new Lugar proposal, which was just made available a short time ago.

So it is being rewritten to be keyed to that, so that it is in the right parliamentary form. The chairman understands that. When it is ready to be offered, I will offer it.

The question is, Can we proceed with general debate until that time? I had hoped we could get the initial statements out of the way before we got into amendments, but that is not the way the flow of events occurred. The Senator from Louisiana laid down his amendment in the course of his opening statement, which is his right.

Are other Members now going to be foreclosed from their right to make opening statements, and are others going to be foreclosed from their right to offer an amendment to the amendment?

I hope the Senator from Wisconsin will reconsider.

Mr. PROXMIRE. Mr. President, I withdraw my objection.

Mr. LUGAR. Mr. President, will the Senator yield for a question?

Mr. RIEGLE. I yield for a question.

Mr. LUGAR. Will the Senator not admit that the drafting problem phase would be simplified by simply inserting the figure $400 million where I have $800 million? Is this not the issue, and is that not the drafting problem?

I fail to see why there has been such a dilemma. Indeed, if more drafting than that is going on, there may be a point of order attached to it. It does not pertain to section 6. Why not get on with the $400 million and get on with the vote?

Mr. RIEGLE. I say to the Senator that that is a fair question. I have not undertaken to draft the amendment and key it into the Senator's amendment.

Mr. EAGLETON. Mr. President, will the Senator yield to me for the purpose of responding to the Senator from Indiana, without the Senator from Michigan losing his right to the floor?

Mr. President, it is not as simple as the Senator from Indiana puts it. That would be one part of the amendment. There is a provision in section 6(a)(4) of Senator LUGAR's amendment that relates to ESOP and what have you, and that is one facet of it on which we are working.

The drafting will be over in the not too distant future, and then we can, in due time, offer that amendment.

I ask unanimous consent, Mr. President, that the Senator from Illinois (Mr. STEVENSON) be given the right to make his opening statement, without the Senator from Michigan (Mr. RIEGLE) losing his right to the floor.

The PRESIDING OFFICER. Is there objection?

Mr. LUGAR. I object, simply for the purpose of carrying on for a moment this colloquy with my distinguished colleague from Missouri. Will the Senator yield for one more question?

The reason I raise the question about drafting is that I have a feeling that the ESOP question does not lie within the purview of the problem we are debating and has not been overtaken by my amendment. It was a narrow amendment that dealt simply with the wage freeze question.

I make that point so that we do not get into further difficulties, amending what really was not meant to be contentious.

Mr. EAGLETON. Let us take a look at that.

Mr. President, I renew my unanimous-consent request.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. STEVENSON. Mr. President, I thank my good friends from Michigan and Missouri for making this time available to me.

Mr. President, I ask unanimous consent that Andrew Carothers and Barbara Bruns be accorded the privilege of the floor during debate on S. 2094.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, the issue is far larger than a few million dollars, more or less, for employees of Chrysler or for the taxpayers. It is far larger than Chrysler itself. As the Senator from Connecticut mentioned a moment ago, it is an issue which involves the direction of American industry. It is an issue which has been neglected by this debate.

S. 2094 the proposed "fix" for Chrysler, unites all the worst facets of Government meddling in industry. It is a shortsighted reaction to economic necessities with political expediencies. It is thin on constructive ideas. It leaves critical questions about the long-term futures of hundreds of thousands of workers unarticulated and unanswered. It makes abundantly clear that the intention is to forestall a Chrysler collapse and not facilitate the long-term process of adjustment that could promote economic growth, expand employment, and increase real wages. Alternative forms of government involvement offer economic efficiency and social welfare. The "bailout" we are presented assumes the two are incompatible, but they are not.

This plan is presented, and the debate proceeds, as if the only alternative to a bailout for Chrysler is a bankruptcy for Chrysler. We have heard no debate about the alternative uses of $1.5 billion, or $3 billion, or the $4 billion which this bill proposes for Chrysler.

The Government guarantees guarantee nothing. These sweepstakes over elements of the loan package destroy the credibility of those who have argued that $4 billion or $3 billion or $3.8 billion is necessary to save the company. All these figures are arbitrary. They all derive from a recovery plan Chrysler presented 2 months ago which was based on market projections and production strategies which the administration, private consultants, and two committees of Congress have successively examined and rejected.

Those projections showed a growing Chrysler market share by 1981—after years of steady decline. They predicted buoyant overall auto demand through 1980. They described Chrysler's plans to remain a full line company, while making no effort to expand production of its subcompact cars, although this is the fastest growing, and largest, segment of the auto market.

The Federal Government is called upon to accept risks and cover costs which the parties with a direct stake in Chrysler's fate decline. Once "over the hump," Chrysler will face stiffer competition than ever. The imperatives of high oil prices will not go away. The trend toward increasingly standardized production of internationally marketable "world cars" will not abate. GM's size advantage, Ford's worldwide marketing network, the efficient production of foreign manufacturers, none of these will diminish during Chrysler's rehabilitation. As I indicated, Chrysler is rehabilitating itself for the markets of the past, not the future—markets its competitors have already seized.

This bailout has been presented as a cost-free illusion, when nothing could be further from the truth. By guaranteeing loans to Chrysler we divert some $4 billion in capital resources to an unproductive firm and a singularly poor risk.

The true cost of this bailout is upward of $4 billion; it includes all the wealth and employment $4 billion could generate if invested in dynamic and profitable enterprises.

The entire pool of venture capital in this country invested in new, high technology and other enterprises this year was between $200 and $300 million, that is, less than 10 percent of what we propose in one bill to invest in Chrysler. Yet these enterprises of the future are certain to generate more growth and employment than Chrysler.

A 5-year National Science Foundation program of support to fledgling high technology enterprises had only $3 million to invest. Yet with this $3 million, over 30 new ventures were spawned, 1,000 new jobs were created, and sales in excess of $690 million—over 230 times the original investments—were generated.

One day the President sent up his long awaited industrial innovation policy. It included $55 million for an innovation policy for American industry, and the very next day they sent up a bill that provided $1.5 billion for Chrysler.

Such comparisons have been conspicuously absent from the debate over Chrysler. Instead, the "fallacy of misplaced concreteness" governs. Attention is focused on the jobs to be protected rather than the many more potential jobs we are not creating because of resources wasted in subsidizing the old industry. The costs of a Chrysler bailout will be substantial. But they will be spread throughout the population in the form of higher prices, higher taxes, and a reduced supply of capital and managerial skill.

No vocal segment of the population perceives itself to be affected unfairly; no legion of lobbyists is spawned and distends on the Hill to protest. But the toll, over time, of less investment, lower productivity and more inflation will be borne by every segment of the population.

Mr. President, for what?

If the final bill includes all the safeguards for the Government's share proposed by the Senate version, there is a strong likelihood the other contributions, mandated or not, will not be found.

The company will go bankrupt and the Government will have done nothing to help those who are displaced.

If a more flexible loan guarantee package is passed, the company will limp along for several more years. It may ultimately survive in some form.

But we can be virtually certain that form will not be a "full line" company, employing 120,000, and with a stable or growing share of the world market. Sooner or later, a radical transformation of the company will be inevitable, either through bankruptcy or additional, and larger, loans from the Federal trough.

Either way, the demise of a marginal firm in an industry with the excess capacity will not have been averted, only forestalled. No bailout is a solution. Subsidies, by definition, block economic adjustment. And adjustment is the issue, the real issue with Chrysler. Instead of revitalizing Chrysler, this bailout will have deprived other firms of capital and subsidized the competition for Ford and other manufacturers.

Evidence that America's manufacturing sector is in for a wave of radical retooling is pervasive. We do not have to look far for signs of the Chrysler syndrome. Ford has joined the billion dollar league due to losses on its North American production. United States Steel has announced it can no longer produce steel profitably in many of its plants. Five other steel companies are already receiving Federal assistance. The textile industry is in chronic difficulty.

In just the first wave of layoffs, United States Steel has disgorged 13,000 workers. In the auto industry, 150,000 are on temporary or indefinite layoffs. Federal programs of adjustment assistance are piecemeal; mechanisms are available, but they lack funds and a mandate. We prefer the illusion that Chrysler is an anomaly, or that we are helping steel workers by propping up Jones and Laughlin. In fact, we are consigning these workers to lives on and off the unemployment rolls.

The alternative to bailing out Chrysler is not Government inaction, but a responsible policy of economic adjustment. Government resources should be used to help businesses like Chrysler adapt to change, not resist it. Programs of worker adjustment assistance should be made effective. Ultimately, the most constructive response is broad support for research, innovation and investment in the enterprises of the future.

An alternative adjustment policy would help industry adapt to change, not resist it, and benefit the public. It would let the market and bankruptcy procedures parcel out the pieces of noncompetitive companies and assist the competitive survivors. But that way requires some fortitude for the long haul. Our politics is geared to the next election and the short haul. At stake here is whether we will go the British route and mortgage posterity to the expediencies of the present. Far more is at stake than the fate of one company.

The macroeconomic effects of a Chrysler bankruptcy would be manageable if Chrysler were to be reorganized under bankruptcy. A number of its pieces—such as the plants producing subcompacts in Belvedere, Ill., transmissions in Kokomo, Ind., and components in Syracuse, N.Y., could clearly find buyers. GM, Ford, and AMC could easily expand production, recall the tens of thousands of workers they now have on temporary or indefinite layoff, and supply the 1.2 million cars Chrysler hoped to sell. A relatively small portion of this demand (less than 20 percent) would turn to foreign producers, and then only temporarily.

However, because of slack in their own labor forces and differences in plant location the other major firms would pick up relatively few of the workers left unemployed by a Chrysler shutdown. As many as 30,000 production workers in the Detroit area could be unemployed and unemployable unless they are relocated and retrained. Another 30,000 to 50,000 employees in industries which supply Chrysler could expect an extended period of unemployment. If the Federal Government has a responsibility in cases like Chrysler it is to these workers. Yet, the inadequacy of Government mechanisms for positive adjustment assistance in such cases combines with the political pressures to dictate recourse to loan guarantees which simply prop up the existing structure, no matter how futile and wasteful and cruel to the human beneficiaries of our professed solicitude.

At issue should not be whether or not the Government acts, but how to act intelligently. The British have made support for geriatric industrial sectors a national habit, and, led by the labor unions, have dragged their economy into a spiral of decline. The Japanese have meddled no less extensively in private sector affairs, but have achieved dramatically different outcomes. Everyone is familiar with the decades of direct subsidies and import protection the Japanese offered its steel, chemical, automobile, and electronics industries. Less noted are their quiet steps to wean labor and capital away from declining industries and into the future.

I believe we should go the way of the Japanese, not the British, and by means of our own American making. If Congress takes the easy way out, the course set could be irreversible. Once invested to the extent of $1.5 billion, we will continue with more money to protect the old, as banks do to protect their loans in certain less developed countries. The Congress will be too weak to accept the consequences of its mistake. And it will have established a precedent. Having bailed out one, it will be more difficult to refuse the next. And there will be more—many more if the United States resists change, instead of adapting to it. So, I urge you to oppose this bailout. It is not an up or down proposition. We must redefine the relationship between Government and industry in a rapidly changing, highly competitive world. This is an opportunity to point the United States away from the past and toward the future by rejecting this bill.

I have an amendment which would move the United States forward. We could facilitate the process by which the physical assets and personnel of Chrysler and other industries are reorganized and enlisted in new enterprises. They can take off where the old fail, develop and produce efficiently products for which there is a market.

This bailout moves the United States down the British route of subsidizing geriatric industries, and that, Mr. President, not wage rates, not the share of the Federal Government, is the real issue. The real issue is whether the United States is going to continue—not go—but continue, down the British road of economic decline or take another road, a road that leads in the direction of our strongest competitors abroad, like the West Germans, like the Japanese. That is the real issue, and that is an issue which so far has not been addressed.

(Mr. PRYOR assumed the chair.)

Mr. PROXMIRE. Mr. President, will the Senator from Illinois yield briefly without the Senator from Michigan losing his right to the floor?

Mr. RIEGLE. I have the floor.

Mr. PROXMIRE. Will the Senator allow me to interrogate the Senator from Illinois?

Mr. RIEGLE. If I do not lose the floor.

Mr. PROXMIRE. Is it not true that the Senator from Illinois is from one of the six States that have very heavy Chrysler employment?

Mr. STEVENSON. Yes; that is right.

Mr. PROXMIRE. I want to congratulate the Senator. It takes considerable courage to make the statement that he has made. What he says is correct. The fundamental mistake we are making here is a gross misallocation of resources. We are keeping resources in an inefficient company. We are, as the Senator said, relying on the British geriatric approach instead of a dynamic approach of encouraging new and dynamic industries. This is an allocation of credit and an allocation of resources, no question about it.

The Senator also has indicated, as I understand it, that bankruptcy for the Chrysler Corp. would result in a smaller but a healthy company, but he is also saying that the principal victims about whom we should be concerned are the workers, and that the only way the workers are going to be really assisted in the long run with Chrysler is to be retrained and to be relocated so that they can get the kind of jobs and do the kind of jobs that would not be dead end and would not mean that eventually they would lose their jobs anyway; is that correct?

Mr. STEVENSON. The Senator is correct. We only have to look at the experience of the British for an example of what happens. In that country unemployment levels are high. In other countries which moved out of the past and into the future, facilitating the adjustment of capital and of workers, the employment levels are high. West Germany is an example, and so is Japan, so are many European countries.

This bill is a sign of political weakness, and its principal victims will be those for whom we profess the most solicitude, the innocent, the workers. It provides no assistance for them. It provides temporary relief in a futile attempt to prop up a failing company in an industry for which there is already excess capacity.

So, like the Senator from Wisconsin, I want to represent those workers. I want to represent the workers of American Motors in the Senator's State and the workers of Ford in my State, and all workers in the economy-at-large.

How will the workers of AMC or of Ford be helped by this subsidized competition from Chrysler?

Mr. RIEGLE. Mr. President, if Senators will entertain a three-way conversation, as long as I have the floor, I would like to get into this discussion because it is an important one and, as the Senator from Illinois knows, I strongly support his views about the need for an altogether different approach toward the reindustrialization of the United States, especially in the basic industries, pressuring us back in on a more competitive footing with other major industrial countries.

But I trust that the Senator from Illinois knows that it is one thing to point to the example of British Leyland and use that as a strawman for the case we are debating, of Chrysler; but if one looks at Japan or if one looks at Germany, one finds quite a different response. Let me just quote Representative CHALMERS WYLIE in the House debate on the Chrysler situation, on this very point. According to the CONGRESSIONAL RECORD, he makes this point; he says:

> In the mid-1970's, Volkswagen lost $4 billion. The West German Government gave—yes, gave—Volkswagen $1 billion to keep them producing. Japan makes up Toyota's losses. Mazda has never made money.

A lot of people do not realize that Germany owns 40 percent of Volkswagen. We also own, indirectly, a piece of American Motors, because we have helped on at least five occasions with Federal loan guarantees and other Federal help to respond to the problems of another motor company, in the same industry sector.

If we look today at the world picture, we see the American automobile industry is competing in a world market situation where the other world market producers are operating effectively as partners with their governments. We find ourselves in a situation where our Government is fixed in an adversary relationship with our domestic automobile industry. As a matter of fact, there is a little story on the front page of the New York Times yesterday to the effect that the American industry has decided it is time to start coordinating better the cost burden of Government regulation on the domestic automobile industry, because it is adding to severe problems of transportation and putting us at an increasing annual disadvantage in the world market.

Many of our colleagues do not know, but after oil, the balance-of-payments problem in the second place is that of the automobile today. So why we would go about dismantling further a part of our domestic automobile industry, especially when we have a firm that is now ahead in the percentage of new product line, that is, in the smaller, fuel-efficient cars? Here is a firm that, within 10 months, will have 800,000 units of front-wheel drive, small fuel efficient vehicles for sale, a higher percentage by far than Ford or General Motors.

If we fail to respond to the need to keep this company in business in this year of changeover within the plant, we will forfeit all that production, and most of it, contrary to what was said by the Senator from Wisconsin, will go to foreign suppliers and increase the balance of payments deficit.

I do not know why it makes sense to play into the hands of the Japanese and Germans when we are absolutely beating our brains out in competition with them, when we now have an opportunity to come back at them head on. It makes no sense at all.

Mr. STEVENSON. Mr. President, may I respond?

Mr. RIEGLE. Yes.

Mr. STEVENSON. Mr. President, the Germans and Japanese are doing what I suggested: they are moving out of the automobile industry. They support vital industries. We could have done it years ago. We did not do it, because we did not have an industrial strategy in place, but the Senator from Wisconsin and I are suggesting we need one for the future.

The Japanese are moving into space, electronics, new materials, seabed mining—they support these new industries. They do not encourage automobiles, of which there is a substantial oversupply in the United States.

If anybody can make anything of the assets of Chrysler, let these assets be reorganized or transferred under the provisions of the bankruptcy law. Let the assets be transferred to companies that can make something of them.

The United States is down to two bus manufacturers. We do not have adequate capacity for the manufacture of railroad equipment, let alone the high technology industries of the future, in which we are getting increasingly severe competition from foreign countries. They do recognize a valid distinction between their private and public sectors. Let us do likewise, move in that direction, and redefine the relationship between the private and public sectors in the United States, instead of going the British Leyland route.

Mr. RIEGLE. Let me ask the Senator this: When you say we have excess capacity today in the American automobile industry, you would not be prepared to say, I do not suppose, that we have excess capacity with respect to the new, smaller, fuel-efficient cars which the changes in the market have made in demand. I am sure you know that right now General Motors is having difficulty building their X cars fast enough to meet deliveries, and Chrysler has had the same problems with the Omni and the Horizon. The production has been limited because of an arrangement to buy engines from Volkswagen.

So, while we may have excess capacity at the large end of the car spectrum, the facts are exactly to the contrary with respect to small, fuel efficient cars, and that is the niche that Chrysler is prepared to fill. That is the irony of the situation; they will have 800,000 units available in 10 months if they can remain in business and meet the capital requirements to produce those cars.

Mr. STEVENSON. Mr. President, the Senator is right; there is excess capacity at home and in the world for the manufacture of automobiles, but there is, as he points out, insufficient capacity at home for the manufacturer of small automobiles.

Chrysler's intention, however, is to increase the production of large automobiles. It wants to get out of the manufacture of small automobiles. We have the charts; they were laid out before the Senate Banking Committee. They are going to go back to manufacturing Imperials, and reduce the number of subcompacts.

Why? Because of the same old notion that profit margins are larger on the larger vehicles. Besides that, Mr. President the world is not going to stand still. Toyota is not standing still. Volkswagen is not standing still, nor is General Motors, Ford, or AMC, which now has a joint venture with Renault. They are going to be making smaller automobiles. If there is insufficient capacity in the United States, as there is, for production of small automobiles, then let us facilitate the transfer of workers and assets to companies that would use them for that purpose, or for other purposes to fulfill the great demand in the world. It may not be automobile equipment——

Mr. PROXMIRE. Mr. President, will the Senator yield at that point?

Mr. RIEGLE. As soon as we finish with this point, I will be happy to.

Mr. PROXMIRE. I want to speak to that point, too, because this is a rigged chart going beyond 1979.

Mr. RIEGLE. Not at all. The fact of the matter is that Chrysler today, whatever other mistakes it may have made, has a larger percentage of its production in small cars than either Ford or General Motors. It was 66 percent in 1979, and in terms of the 1980 models, it goes up over 70 perecnt.

So this is one of the most important parts of this story. We have not been able to get its part of the story out before now, and I thank the Senator from Illinois for doing it, because the fact of the matter is, you have a company here where the lion's share of its production is exactly the kind of car, first, that the American public now says it wants, second, which we need to sell in order to fight off foreign competition, and third, that we need to sell in order to save energy, which is why we were debating here for the last 4 weeks.

We have a chance of meeting all three objectives if this company is allowed to remain in business.

Mr. STEVENSON. Mr. President, will the Senator yield for my part of the story?

Mr. RIEGLE. Yes, I yield for a question.

Mr. STEVENSON. Mr. President, it comes straight from Chrysler, in its presentation to the Senate Banking Committee.

In that presentation Chrysler projects production of 249,000 subcompact cars in 1979. That is the smallest car it makes. Others, of course, make even smaller cars.

For 1985, it projects a decline to 223,000 cars in the smallest of its category. Conversely, the Aspen, which no longer is a small car, is projected to rise from 275,000 in 1979 to 515,000 in 1985.

The middle-sized car, the LeBaron, rises from a projected 144,000 in 1979 to 172,000 in 1985.

The Cordoba, which is a so-called mid-sized car—I think most people nowadays would regard these as large cars—rises from a projected 93,000 units in 1979 to 199,000 units in 1985.

The largest cars, the Newport and Imperial, remain static.

Mr. PROXMIRE. Will the Senator yield?

Mr. STEVENSON. They continue relatively constant, going from 117,000 in 1979 to 111,000 in 1985.

Those, Mr. President, are Chrysler's own figures.

Mr. RIEGLE. Does the Senator have the weights there?

Mr. STEVENSON. They show an increase in the production of large cars and a decrease in the production of small cars.

Mr. President, I ask unanimous consent that this document, "Chrysler U.S. Car And Penetration By Segments, Calendar Years" be printed in the RECORD at this point.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

EXHIBIT VIII

CHRYSLER U.S. CAR AND PENETRATION BY SEGMENTS, CALENDAR YEARS

[Retail units in thousands]

	Actual		Projection						
	1977	1978	1979	1980	1981	1982	1983	1984	1985
Chrysler (units):									
Subcompact (Omni 4-door)	77	251	249	178	187	198	224	234	223
Compact (Aspen)	551	367	275	278	400	494	519	510	515
Small specialty (Omni 2-door)	51	61	185	181	177	204	246	255	250
Total, small	679	679	709	367	764	896	989	999	988
Basic middle (LeBaron)	262	284	144	158	167	125	122	201	172
Mid-specialty (Cordoba)	180	154	93	170	169	168	163	136	199
Total, middle	442	438	237	328	336	293	285	337	371

	Actual		Projection						
	1977	1978	1979	1980	1981	1982	1983	1984	1985
Chrysler (units); Continued:									
Basic large (Newport)	168	74	117	98	109	84	55	51	79
Luxury (Imperial)				8	24	27	28	28	32
Total, large	168	74	117	106	133	111	83	79	111
Total, Chrysler	1,289	1,191	1,063	1,071	1,231	1,300	1,357	1,415	1,470
Chrysler share of segment (percent):									
Subcompact	3.9	11.9	9.7	8.2	8.4	9.1	9.7	9.7	9.0
Compact	35.3	22.5	17.0	13.9	20.0	24.0	23.9	22.3	21.8
Small specialty	4.8	5.1	12.6	12.6	11.2	12.3	14.4	14.4	13.6
Total, small	14.7	13.7	12.6	11.3	13.2	15.0	16.0	15.5	14.8
Basic middle	13.7	17.6	12.9	15.2	13.3	10.3	10.3	16.5	14.5
Middle specialty	10.9	8.3	6.5	11.2	10.2	10.1	9.5	7.7	11.1
Total, middle	12.4	12.6	9.3	12.9	11.6	10.2	9.7	11.3	12.5
Basic large	7.4	3.5	6.8	5.7	6.1	4.8	3.2	3.0	4.7
Luxury				1.4	4.0	4.5	4.8	4.8	5.5
Total, large	5.9	2.7	5.3	4.6	5.6	4.7	3.6	3.5	4.9
Total, industry	11.7	10.7	10.2	10.2	11.1	11.6	11.9	12.1	12.4

Mr. RIEGLE. Mr. President, let me just inquire: Does that list the car weight and does it show the configuration of the car, apart from the name of the car, the name on the outside of the car?

Mr. STEVENSON. No, it does not. But as I pointed out a moment ago, everybody is downsizing cars. Toyota is going to downsize its cars; General Motors is going to downsize its cars; Ford is going to downsize its cars. So you end up in the same position.

Mr. PROXMIRE. There are even later figures that are worse than that. The December 17 figure that I have here shows that the large cars would go from 123,000 in 1979 to 172,000 in 1985.

It shows further that the luxury Imperial—the real gas guzzler—goes from zero production in 1979 to 35,000 units in 1985.

So there is not any question that the Senator from Illinois is absolutely right in using Chrysler's own figures to show what they are going to be doing is producing more big cars.

Mr. RIEGLE. What is their total production, when you talk about 35,000 units, and how big is that Chrysler Imperial which you speak of? That Chrysler Imperial which you speak of in 1985 weighs 2,800 pounds and is smaller than their small car today, which is 3,400 pounds. So let us put the weight in and the fuel economy in if we are going to be honest about it.

Mr. PROXMIRE. Well, of course, all of the automobile companies are making smaller cars in the future. But the Senator from Illinois is dead right: The subcompact, the smallest car is not going to increase under Chrysler's plan, it is going to decline and they are going to build more cars at the larger end of the spectrum. All cars will be smaller than they are today. That is correct.

But you have to put this into perspective and you have to recognize that Chrysler will still be shifting toward larger cars. You have to recognize, also, that we are putting money, as the Senator from Illinois says so truly, into an industry which has overcapacity and into an industry which is still building cars which are bigger than we are likely to require in 1985.

Mr. President, will the Senator permit me to get unanimous consent to have these later figures printed into the RECORD?

Mr. RIEGLE. I have no objection.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that exhibit IV in the December 17 booklet from Chrysler be printed in the RECORD at this point.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

EXHIBIT IV

DEC. 17 CHRYSLER PLAN—CHRYSLER U.S. CAR PENETRATION BY SEGMENTS

[Retail units in thousands, calendar years]

	Actual		Projection						
	1977	1978	1979	1980	1981	1982	1983	1984	1985
Chrysler (units):									
Subcompact (Omni 4-door)	77	251	249	206	206	215	207	237	245
Compact (Aspen)	551	367	300	233	448	553	586	579	605
Small specialty (Omni 2-door)	51	61	185	207	205	264	291	304	318
Total, small	679	679	734	646	859	1,032	1,084	1,120	1,168
Basic middle (LeBaron)	262	284	153	109	120	111			
Middle specialty (Cordoba)	180	154	97	146	141	139	105	160	150
Total, middle	442	438	250	255	261	250	105	160	150
Basic large (Newport)	168	74	123	68	65	85	74	85	137
Luxury (Imperial)				7	25	25	22	25	35
Total, large	168	74	123	75	90	108	96	110	172
Total, Chrysler	1,289	1,191	1,107	976	1,210	1,390	1,285	1,390	1,490
Chrysler share of segment (percent):									
Subcompact	3.9	11.9	10.0	9.7	8.4	8.5	8.7	9.2	9.0
Compact	35.3	22.5	18.8	12.7	20.4	22.6	26.2	23.6	23.2
Small specialty	4.8	5.1	12.8	15.4	11.9	11.0	16.6	15.8	15.5
Total, small	14.7	13.7	13.2	12.2	13.5	14.6	17.0	16.1	15.8
Basic middle	13.7	17.6	13.9	13.1	10.9	9.6			
Middle specialty	10.9	8.3	6.5	12.1	9.8	8.7	7.2	10.0	9.0
Total, middle	12.4	12.6	9.8	12.5	10.3	9.1	4.2	5.9	5.4
Basic large	7.4	3.5	7.2	4.7	4.2	4.9	5.1	5.6	8.7
Luxury				1.5	4.8	4.4	4.4	4.7	6.3
Total, large	5.9	2.7	5.6	3.9	4.3	4.8	5.0	5.4	8.1
Total, industry	11.7	10.7	10.7	10.5	11.0	11.5	11.9	11.9	12.1
Original plan				10.2	11.1	11.6	11.9	12.1	12.4

Mr. RIEGLE. I would just say at this point that I do not know whether the Senate is aware of this or not. But let us take Chrysler, No. 3 in the industry, versus the No. 1 company in the industry—the one that started in my hometown of Flint, Mich.—General Motors.

As a percentage of sales, Chrsyler's small cars are more than double those of General Motors right today. I do not know whether the chairman knew that fact or not. But you could just go right down through here, in terms of the subcompacts, the compacts——

Mr. PROXMIRE. Since the Senator directs my attention to that, I would like to ask the Senator how many of those are built in Japan? The real economy cars, the subcompact cars, were not built in Flint, Mich. but in Japan.

Mr. RIEGLE. A very small part.

Mr. PROXMIRE. What do you mean a small part? It is constructed in Japan.

Mr. RIEGLE. I might say that the reason they have done some business there—and I have no problem with that, because the Japanese have been very good about providing financing. As a matter of fact, the Japanese banking interests have been more helpful than some of own friends here in the United States.

Mr. PROXMIRE. Whether or not they are helpful or not, the fact is they are cars built in Japan. They are not American jobs; they are Japanese jobs.

Mr. RIEGLE. What percentage is the Senator saying constitutes cars built outside of the United States? A fraction, a tiny fraction.

Mr. PROXMIRE. What fraction?

Mr. RIEGLE. Well, you raised the point. What fraction is it?

Mr. PROXMIRE. Well, as I say, Chrysler boasted about the fact—and it was a proper claim to make—that they had cars that had the best miles per gallon performance of any. Where were those cars built? They were built in Japan. The two cars that led all the rest of the American-produced cars by Chrysler, Ford, and General Motors were built in Japan.

Mr. RIEGLE. Let me tell you something, the Omnis and Horizons, of which they will have the capacity to produce 300,000 in 10 months, and these K model cars, the capacity of which they will have to produce 500,000 in 10 months, are all built in the United States. That is 800,000 units.

Mr. PROXMIRE. And they are going to build fewer, according to their own statistics, in 1985 than they are building now.

Mr. RIEGLE. I do not know what you are referring to. I think what is confusing us here is with the model names, rather than the configuration of the car.

Mr. PROXMIRE. We are talking about Chrysler's own data.

Mr. RIEGLE. But if you do not talk about the size and weight and fuel economy, it is a meaningless discussion. You cannot use the same car name and extend it out 5 years. These cars are going to be absolutely redesigned and rebuilt. That is what the money is needed for.

And, I might say that the country needs to have that happen, because we cannot afford to continue to have cars that burn gasoline like the ones we have had in the past.

Incidentally, what the chairman should know, and other Members of the Senate should know, is right today in Canada, they have not experienced the same gasoline problems that we have had, they have not had the gasoline lines we have had this year in the United States, and their gasoline prices are lower. The price of a gallon of gasoline in Canada is closer to 85 cents now and we are about a dollar. Do you know what cars are selling in Canada today? The big cars. You cannot sell small cars in Canada.

The whole automobile industry has turned around in the United States and I think it has turned around for good. I think now we are on a track where we are going to be building and buying smaller cars. I think that makes sense. It makes sense from an energy conservation point of view.

But, Mr. President, you cannot do this overnight. None of the companies can do it overnight. The fact of the matter is that Chrysler is ahead of General Motors and Ford right at the moment. But they are not going to be for long, if we hold its head under the water. And that is exactly what we are going to be doing if we do not pass these loan guarantees.

We have 800,000 units of national production of small cars, four-cylinder, front-wheel drive cars ready to go in 10 months if Chrysler remains in business. If we are going to fight off the Japanese, if we are going to fight off the Germans, who are knocking our brains out in the foreign trade account for motor vehicles, the only way we are going to do it is if we have got some American built cars of the same size.

I have talked to Members of this Senate who own Omnis and Horizons. I have heard a couple of grumbles. But I have heard a lot more people say nice things about them, including Senator TSONGAS today, who was talking about somebody on his staff who had one. They are good cars. They are good cars.

We are going to have a lot of them available for sale in 10 months if we can go ahead and get this loan guarantee legislation passed.

What Chrysler is asking for here—they are not asking for any grant of money. They have a cash flow problem because they are retooling, rebuilding these plants, to produce the kind of cars the country needs. It is in the national interest that those cars be available.

Once that money is made available and we get this job done, these cars will sell. That is why this company is going to be back on a profitable footing. That is what makes sense. It protects the jobs, keeps them in the United States, rather than have them moved to foreign countries.

But it also means that we are going to reduce our balance of payments deficit. That is going to help the inflation problem. And it is about time we got a little help on inflation.

What I do not understand is why, when our country is in trouble anyway, we have economic difficulties, we are on the edge of a recession, why do we have to land another plow on our economy? I mean, what in the world is the commonsense of destroying the 10th largest corporation in this country and the 600,000 jobs that go with it, especially when we need the production that we are on the verge of realizing? It just does not make any sense.

At a minimum, this thing is a bargain. Again, it may not seem so, because it is a caricature of life. Cartoonists have a lot of fun with the Chrysler situation. And there is no question but, in the past, they have made their fair share of mistakes.

But the fact of the matter is you have got a new company, in the sense of new management. You have got a product line that is developing, and we in this country need the cars.

We have got two choices. We can go ahead and spend a lot more money in the Federal Government if we go the major route and spend the money on unemployment compensation and food stamps and lost tax revenues. We can go ahead and spend somewhere between $4 and $10 billion, if we want to.

Or we can take the other track. We can provide $1.5 billion, or something close to it, in loan guarantees, fully secured, with assets to back it up, so that if there is a liquidation at some future time for some set of reasons no one can foresee, we will get our money back. But I will tell you what we will have at that time: Plants that are modern, plants that are up to the minute in terms of the competitive situation with the Japanese. We will not tear these units down, we will not have 600,000 people on the unemployment rolls, and we will have the kind of cars that we need if people are going to save energy.

Mr. PROXMIRE. Will the Senator yield?

Mr. RIEGLE. I will yield for a question.

Mr. PROXMIRE. Well, let me put it in the form of a question. If the situation is as rosy as the Senator paints it, if 10 months from now Chrysler will produce a car that will sell, that people will want, why do not the banks come in to help them out? The chairman of Manufacturers Hanover Bank told our committee that even in the event we provide a guarantee they will not provide a commitment for more funds. Why is it that the whole banking community, including Citibank, advise against this, saying it is a mistake, that they will not finance it? Why is it that the bankers, who make the hard decisions, will not make the kind of investment the Senator is asking the Senate to make? We have a far lesser background than the people who studied the business all their lives.

Mr. RIEGLE. There are three answers to that. First of all, the bankers are in good shape because the interest rates are higher than they have ever been. That is one of the reasons Chrysler is in trouble. If you bring the interest rates back down in this country, their problem will not be nearly as severe as we see here.

So the banks are charging sky-high interest rates and they are sitting there and can afford to be choosy about who they offer the money to. They have people who, on the face of it, are better credit risks. They will not loan the money to Chrysler if they can loan it to somebody else who is a stronger credit risk.

One of the reasons that Chrysler does not look so hot today is we have had folks sort of pounding on Chrysler for the last several weeks generating a lot of negative publicity about the company. I am surprised they have been able to stay afloat.

Mr. PROXMIRE. When they come to the Federal Government and ask for a $1.5-billion guarantee, what do they expect? Do they expect us not to debate this, not to criticize the Chrysler Corp. for what they have done wrong? That is our job.

What does the Senator mean when he says people are beating on Chrysler? If I come to the Federal Government and say I want a $1.5 billion guarantee, I have to expect a little opposition, a little criticism.

Mr. RIEGLE. Well, there is a difference, in my judgment, between a tough cross-examination and asking all the questions they want to ask, versus beating on this thing in such a way that we create such negative impressions that the company actually gets sicker. I think that has happened.

Mr. PROXMIRE. Give me an example. Give me one example.

Mr. RIEGLE. I will give an example.

Mr. PROXMIRE. All right, go ahead.

Mr. RIEGLE. I will give an example of what we did with the first automobile company that came to the Congress for help.

Mr. PROXMIRE. That is not what I asked. I asked for an example of who has been beating on Chrysler. The Senator cannot give me one example.

Mr. RIEGLE. I am about to give an example.

Mr. PROXMIRE. The Senator wants to talk about what happened to Rio or Studebaker.

Mr. RIEGLE. No; I want to talk about something that happened to American Motors, which the Senator supported and so did I.

Mr. PROXMIRE. The Senator went over this American Motors story about 25 times in committee. It has nothing to do with the situation. We did nothing for American Motors except change the tax laws slightly. Twenty million dollars was involved, not $1.5 billion. As far as the environmental situation was concerned, it was supported by Senator MUSKIE, passing the Senate committee by a 17 to 1 vote. There was no analogy and the Senator knows that.

Mr. RIEGLE. The only reason I want to raise American Motors is that it is an illustration of the fact that sometimes it makes sense for the Federal Government to involve itself in a constructive way helping a company, even in the automotive sector, through a tough problem. The chairman knows that because he supported those things and so did I. I helped the chairman in those instances and I will again. I think it makes sense for American Motors to remain in production even though it only has a 1-percent market share in the United States. I have a hard time, I might say, in drawing the distinction between——

Mr. PROXMIRE. The Senator has no trouble drawing a distinction. It is perfectly obvious. There is no connection. There was no guarantee there. There was a change in the carryback-carry forward tax provision so that instead of a carry forward of 5 years and a carry back of 3, it was reversed. Furthermore, there was no possible way in which the Federal Government had any money at risk in the American Motors situation, and it was only $20 million, less than 1 percent of what we are providing for Chrysler.

Mr. RIEGLE. With inflation, the $20 million was worth $20 million. I do not want to get into that debate again. We can do it, but that is not my point. Briefly, it is not my point. I know that is kind of an awkward issue.

Mr. PROXMIRE. It is not awkward.

Mr. RIEGLE. Well, I think if we talked about it long enough, it would be awkward.

Mr. PROXMIRE. Awkward for the Senator from Michigan.

Mr. RIEGLE. I am not sure that it is because I supported the Senator in that case. I think he did the right thing in fighting for American Motors and I supported him in five different instances and I will do it again in the sixth. By the way, they are back now knocking softly on the door, as the Senator knows, because they need additional help.

Let us put American Motors aside. The only reason I mentioned that is because that was a case in which we responded and it worked. Today the company is all right and I am delighted that they are.

Mr. PROXMIRE. That has nothing to do with their present situation. The present situation developed because Renault, a French corporation, came in and made this investment. It had nothing to do with the Federal Government assistance at that time. The Senator knows that.

Mr. RIEGLE. I do not want to dwell on American Motors. I think the chairman is overly sensitive about that and maybe I am partly the cause for that. I do not want to stay on that subject. I only want to make the point that we had another automobile company experiencing some of these same problems and we decided to respond to them in a constructive fashion. As a matter of national policy it worked. I think one can show that by helping American Motors through its difficulties we ended up ahead as a nation.

Sure, the jobs are in Wisconsin. It does not matter whether they are in Wisconsin or somewhere else. The fact of the matter is I think the country came out ahead.

It is the same issue that we are facing in Chrysler. I am simply saying that we have already had one case in the auto industry so Chrysler ought not to be thought of as a new sitaution or as precedent. We have already been down that road in that industry. But we have been down this road in other industries, in different cases, the situations being somewhat different.

Take Lockheed. There was a big debate on the Lockheed situation. The chairman voted against it and I voted against it. It passed and it worked. That was a situation where we helped a company through a very particular kind of financial situation. It worked out. We never had to put a dime of money in it.

Mr. PROXMIRE. We bailed them out with defense contracts. The Senator knows that. Over two-thirds of what they sold they sold to the Federal Government. That is not true of Chrysler. There is no real comparison.

Mr. RIEGLE. I will yield for further comments and questions from the Senator in a moment. But I want to finish my thought.

We went ahead and did the Lockheed deal. I voted against it, but I have learned from it because it worked out. We did not have to spend 1 penny of Federal money. We earned a $30 million profit and Lockheed is still in business. We have not given the business away in that area of product to the Japanese or anywhere else.

Mr. LONG. Will the Senator yield?

Mr. RIEGLE. I will yield for a question.

Mr. LONG. Let me ask the Senator if I am correct. My recollection is we passed a law with a floor amendment here on the Senate floor to permit American Motors to carry their loss back where otherwise they could not have done it, to carry it back into their profitable years so that they could claim a refund on their losses against taxes they paid in earlier years. It was important to them. I do not say that was a matter of a company surviving or not surviving, but if the Senator had been in the position that I was in at that time when they explained it to me, and I was the committee chairman at the time, my impression was if we did not do that, that company would be on the ropes, that they were really in trouble.

I believe the Senator's point is that at the time we did that we did not beat on American Motors and tell about their bad management, their bad decisions, and upbraid the company about all sorts of things they might have done or not have done and second guess them, looking back.

Almost everybody has 20/20 vision looking out the rear window. But when you are looking ahead to try to see what is going to happen, that is sort of hard to do, predict what will happen in the future.

I believe the Senator's point was that when we helped American Motors, we did not hold American Motors up to a lot of calumny and scorn at the time. We said:

> These fellows look like they need the help. These look like the sort of circumstances that can help them. If they make it, they will pay the money back.

Mr. RIEGLE. I appreciate the Senator from Louisiana making that point. We not only did the tax thing he talked about; it was a grant because it, in effect, relieved them of taxes they would otherwise have had to pay. It was not a loan guarantee. This was in effect a grant of cash reducing the taxes they would otherwise have had to pay.

Let me say what other things we did. We gave American Motors a waiver from the Justice Department regulations on monopoly in the auto industry so they did not have to spend all the money to invent the emission technology, which was very difficult and very expensive. Chrysler looked at it; the Government said, "We will give it to American Motors, we will not give it to Chrysler." So Chrysler spent a lot of money they could ill afford on all that technology.

About 4 months ago, the Justice Department turned around and said, "Now we will give Chrysler the exemption." Chrysler said, "You are about 4 years too late. We have spent all the money."

What the chairman is saying is that he is willing to give Chrysler that break now when it is not worth anything, when 4 years ago, when American Motors got it, it was worth plenty. As a matter of fact, I do not think they would have made it otherwise.

Mr. LONG. If the Senator will yield at that point, my impression is it was not any help to American Motors. If they went broke, we would lose the money we gave them. When we helped American Motors, we took them at their word that they thought they could make it and it worked.

Mr. RIEGLE. That is right.

Mr. LONG. The representation at that time was parallel to the representation the Senator is making, that if that company went out of business, Uncle Sam was going to lose a lot of money on unemployment benefits, on welfare payments, on losses that all sorts of people would have to write off, including bankers that had made loans. So the representation was parallel, that if the Government did not help, did not see their problem and try to help with it, that company was going to be in severe difficulty and might not make it.

Now, the Senator from Louisiana could look at this a little bit differently, because he did not have any jobs involved at American Motors and the Senator from Louisiana has no jobs involved with Chrysler. Chrysler wanted to have a little plant—not the automotive part, some other parts plant, down there in Louisiana, and they were not able to make it. They got in labor trouble or something or other, and it did not work out. But it had nothing to do with automotive operation.

The Senator from Louisiana is looking at it as one who has no jobs involved with American Motors and has no jobs involved with Chrysler. The situation is parallel. It is true there is more money involved in one case than the other, but it seems to me we ought to do something because it is right or because it is wrong, not because it involves a large or small amount of money. If it is right, it seems we are justified in doing it. If it is wrong, we should never do it. It does not matter if it is $20 million.

I believe that, in the American Motors case, we did one other thing.

Mr. RIEGLE. Yes; just let me give a couple more.

Mr. LONG. I am not holding American Motors up for scorn.

Mr. RIEGLE. I understand. I supported those things, and I think the program worked. I just want to apply the same principle here, because I think it will work as well here.

One other thing we did: the Clean Air Act laid down a number of requirements that some of the makers thought would be tough to meet. We gave American Motors a specific waiver on the nox standards, which is a tough one to make, on the 1981 and 1982 cars. It saved them a lot of money. They could not do it if we had not done that. Chrysler asked for it and we turned them down.

Here is one that will tickle the Senator from Louisiana, especially in light of what the Senator from Wisconsin said a moment ago about defense business for Lockheed after the loan guarantees for Lockheed.

In American Motors, it was designated as a small business to get preference in selling cars to the U.S. Government. But there is an even better one than that. The General Services Administration, GSA, issued an edict to agencies to buy vehicles from American Motors and, in fact, the Post Office Department rewrote the specifications to accommodate American Motors. So we locked them right in, you see, as a Government supplier.

That is the same thing that the chairman was speaking about a minute ago with Lockheed.

Mr. PROXMIRE. It is not the same thing at all. Mr. President, that is outrageous. Lockheed sells two-thirds of what they sell to the Government. American Motors sells very, very little.

Furthermore, the Senator from Wisconsin had nothing to do with that. I did not ask for it, I did not approve it, I did not support it. It was something the administration decided to do. If they decided to do it for American Motors, so be it.

That has nothing to do with $1.5 billion for Chrysler and the Senator knows it. The Senator is making a big point of the fact that American Motors happens to be in my State.

Mr. RIEGLE. I am not at all.

Mr. PROXMIRE. Of course he is; that is all the Senator is arguing about. I will always fight for people in my State.

Mr. RIEGLE. I will, too.

Mr. PROXMIRE. There is nothing wrong with that. The Senator from Louisiana will fight for people in his State, so will the Senator from Michigan. That does not mean that any time somebody else comes around and wants something that the Senator says will be the same, I have to support it. I think it is different, I think it is greatly different, and I have a right to think it is different. I pointed out why it is different one hundredfold. It is not $20 million, it is $1.5 billion. That is a terrific difference and the Senator must realize that.

Mr. LEVIN. Will the Senator yield for a question?

Mr. LONG. Will the Senator yield for a question?

Mr. RIEGLE. I yield for a question to the Senator from Louisiana.

Mr. LONG. How many employees does American Motors have?

Mr. RIEGLE. We figure there are about 600,000 connected with Chrysler, about 124,000 direct in Chrysler and most of the rest of them in the 1,020 supplier companies and the dealerships. Then the rest of the jobs out there in parts and so on, about 600,000. I think in the case of American Motors, about 30,000 or 40,000 employees would be my guess. And that may be high. It is a much smaller company.

Mr. LONG. But to declare it to be a small business——

Mr. RIEGLE. That is a pretty healthy small business.

Mr. LONG. That is a pretty big business. When I came here, about 200 jobs was about as big as you could be and be considered a small business.

When Government specifications are written so that a little company can meet the specifications and General Motors and Ford and Chrysler cannot meet the specifications, putting out the same weight car, the same type, the same speed, when they write specifications so it just happens to fit the American Motors automobile, it is too bad; Mr. Ford cannot bid on it and General Motors cannot bid on it, either.

Do I take it that the Senator said that that is a case of doing somebody a favor? You write the specifications so the other guy cannot bid? I am not saying it was not justified, now; not saying it should not have been done.

Mr. RIEGLE. Exactly, and I am not here to speak against it.

Mr. LONG. Just recognizing that the people had a problem, they were important to the economy, and the Government would like to see them survive.

Mr. RIEGLE. And I think it was good for the country. I think, on balance, the country came out ahead. I do not think it had anything to do with where the company is located. I do not think that had anything to do with it. Pick any of the 50 States and that is fine with me.

The question is just, Did the country come out ahead if we responded in an affirmative way rather than in a negative way?

I think the Chrysler case is much more important and much more serious, not just because of the size but because it relates to this balance-of-payments problem, where the motor vehicle deficit is our second biggest problem in our balance-of-payments deficit of $7 billion last year.

You see, we have the Japanese and the Germans poised to take full advantage of this change in market preference in the United States. They just jacked up their market share to about 24 percent. It was down below 20 as recently as a year ago. Now, because the buying preference has changed in the United States, it is in our country's interest to get the market segment, to compete, just as fast as possible. As it turns out, who is the company that is the closest to being ready to do it in volume? Chrysler. Whatever other mistakes they may have made 2 or 3 years ago, somebody started getting them ready to produce these smaller cars in volume.

So here we sit. Ten months from now, they will have 800,000 units of production, which is over 70 percent of their total production, which will be in four-cylinder, front-wheel drive, high-mileage cars.

They have already had some market acceptance because 300,000 of those are the Omnis and Horizons, which we know are good cars, have good market acceptance. In fact, they can sell more of those right now, but they are in a limitation agreement on the engines, because they have to buy the engines from Volkswagen and Volkswagen will not sell them any more, because they would rather sell the whole car—keep the engine in the car and sell the whole thing.

Chrysler is redoing all these plants, so we shall have the 800,000 units ready to go in 10 months.

If we could step outside of this situation and look in on it in terms of the energy impact, in terms of saving oil and fighting off this problem in our balance of payments, we would want to find a situation like this that we could, somehow, promote or assist, in some way have happen, so that we could strengthen ourselves in these other areas where we have a national problem.

It is exactly in line with the precedent of American Motors, and Lockheed with a somewhat different set of facts.

We are doing this now with some steel companies. We passed legislation not long ago because we have a problem in the steel industry where, as a result of high costs, the environmental equipment that has to be installed, plus pressure from foreign competition, and I think some foreign dumping, trying to get rid of surplus production and keep foreign workers working and paying taxes.

We responded with a program of economic development assistance of $550 million in the steel industry. Four or five firms came in to get grants to help them through their financial capital pinch. I supported that. I think it makes sense.

Why injure our own economic foundation at this point when we are in a vulnerable position anyway?

What I want to do is strengthen it, get it reindustrialized, as the Senator from Illinois was talking about.

We have got to get up to date. We cannot stay 10 or 15 years behind.

I know the Senator from Michigan has been waiting patiently to make his opening statement and, if we can get consent, I would like to enable him to do that.

But some people say, "Well, this plan, can you give me an ironclad guarantee it will work?" Nothing comes that way in this world.

But the question is, if we look at all the fundamentals, how well is the plan constructed, what kind of cars are we going to have, what does the market situation look like, how good is management, headed by Mr. Iacocca, a top executive, a good, competent, solid manager, and so forth? Take a look at this thing and say that the plan looks solid, like they can get it done, and it fits the realities that we see.

But suppose we go ahead and do it and provide $1.5 billion in loan guarantees and get down the road 1½ or 2 years and something unforeseen happens, the worst takes place. So, despite everybody's best estimates, maybe we find ourselves in a situation where it has not worked out, so something has to be developed at that point.

Mr. LUGAR. Will the Senator yield for a question?

Mr. RIEGLE. As soon as I finish this point, then I will be happy to yield for a question.

Even if we get to that point where we are 1½ or 2 years down the road, all the plants are rebuilt, modernized, we are ready to start producing the cars in volume that the country needs, with a large demand for them.

If at that point Chrysler should develop another problem, and I do not see it, I think they will work this through and be back on a sound footing, but if they did not and we found ourselves in a situation at that time where the country had to take the blow and then go through some kind of reorganization or dissolution, at that point they are in a position where they can enter into a corporation arrangement, where they are an attractive merger partner—things that do not exist today.

So the worst possible time for the country to have to contend with Chrysler going out of business would be right now. This would be the worst possible time because, in a sense, we lose everything that has been done up until this point, unless we compete this transition and get ourselves on a new footing. The beauty is that it not only protects the communities where they are involved around the country, but it protects the jobs.

So, if we have modern plants a year or two from now, with a different name—I think it will be Chrysler for a long time—but if one wants to argue the other way, we have facilities that get recycled like that, so we do not have the blow then, because of these windfall loans, to the Federal budget and the deficit.

And that to me is a far wiser course.

Somebody says, "What happens to the loan at that point?"

Well, we have security. Everybody that put a dime into Chrysler today stands behind the Federal Government in terms of loan guarantees should they have to be honored in terms of our having collateral for this thing in terms of physical assets.

So the risks, I think, have been minimized as much as we can. That is why I think we have a reasonable proposition. If we want to do something to help the country rather than sheer damage, I think this is prudent.

I yield to my colleague from Indiana for a question.

Mr. LUGAR. I appreciate the Senator yielding.

My question is one of, once again, procedure, the timetable for this evening.

I appreciate that the drafting situation, with regard to a substitute amendment, has been underway for the last couple of hours. As a matter of fact, I simply inquire of the Senator, is it his intent to reoccupy and dominate the floor so there will not be votes this evening?

Many Senators are asking for some advise from the junior Senator from Indiana, and would like to go home in the event the Senator plans to talk all night.

In essence, we would like to know, are we going to have a vote or not?

Mr. RIEGLE. I appreciate the question because I am about talked out.

Let me make this suggestion, I would like to see if we cannot enter into a time agreement. The majority leader, when he was on the floor earlier, indicated he was available for that purpose, to try to work one out.

Until I offer the amendment, I cannot leave the floor, but I will have somebody go in my behalf to meet with the Senator.

Mr. PROXMIRE. May I suggest that the Senator from Michigan has been waiting for some time to speak. Why not yield to him without the Senator losing his right to the floor, and the Senator can explore the possibility with the majority leader?

Mr. RIEGLE. I appreciate that suggestion.

Mr. President, I ask unanimous consent to yield to the Senator from Michigan, my colleague, with the understanding I not lose my right to the floor, and that I resume the floor when he finishes.

Mr. HEINZ. Reserving the right to object, for how long?

Mr. RIEGLE. Does the Senator have an idea how long his remarks will take?

Mr. LEVIN. Perhaps 20 minutes.

Mr. RIEGLE. I would be happy to make some accommodation to the Senator from Pennsylvania. I know he has been waiting patiently, he is a member of the committee, and has not made his statement.

I have no objection to anybody proceeding as long as I continue to hold the floor, or a time agreement, but I do not want to lose my right to the floor.

Mr. LEVIN. If the Senator will yield on this, because the majority leader did caution not talking about a time agreement while we have not checked with a number of Senators that did want to make opening statements. I do think we ought to add that cautionary note before we talk too much about a time agreement.

The PRESIDING OFFICER. Is there objection to the Senator's request?

Without objection, it is so ordered.

Mr. RIEGLE. I wish to inquire of the Chair and the Parliamentarian. Under the consent agreement just entered into, I gather the Senator from Michigan will hold the floor for about 20 minutes. I would like to accommodate the Senator from Pennsylvania because I know he wants to speak and he is a member of the committee. Is it within my rights under that understanding to leave the floor to talk to the majority leader, or must I remain on the floor physically in order to protect myself under that unanimous-consent agreement?

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senator from Michigan be allowed to leave the floor without losing his right to the floor under this previous unanimous-consent agreement.

Mr. PROXMIRE. May I suggest, instead of that, will the Senator from Michigan hold the floor, with the understanding that the junior Senator from

Michigan be recognized, and at the end of his speech the senior Senator from Michigan will be, once again, recognized so he may yield the floor to the Senator from Pennsylvania.

Mr. LEVIN. Is that all right?

Would it help everybody if I ask the Senator from Pennsylvania whether or not he is, indeed, seeking the floor and, if so, how long he would be, because I would be happy to accommodate him to talk first.

Mr. HEINZ. I thank the Senator from Michigan.

I can perfectly easily wait. I have no problems with anybody proceeding ahead of me. Whatever strikes the Senator is fine with me. There is no problem.

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senator from Michigan be allowed to yield the floor to me and have the right to the floor after I am finished and that he be allowed to leave the floor without losing that right.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

Mr. LEVIN. I thank the Chair and I thank my colleague from Michigan.

Mr. President, before I begin my opening remarks, I would like to comment on one statement the Senator from Illinois made, before he leaves. That is the comment he made relative to how this bill helps Ford workers, how this bill helps GM workers, and how this bill helps AMC workers.

I think the people who are in the best position to answer that question are those who have been elected to represent the GM workers, who have been elected to represent the Ford workers, and who have been elected to represent the AMC workers. They are the representatives of the union, and that is the UAW, which certainly has taken a position favoring the proposed legislation. I think they are in the best position to say what is in the best interests of the people they have been elected to represent, and that answer should be sought from them, if there is any doubt about whether this legislation would benefit the other people the UAW represents.

I believe this country is as strong as its weakest region, and that is what the bill is all about. We cannot have parts of this country that would be economically damaged to the extent that a Chrysler failure would damage many parts of this country.

Mr. President, let me begin by observing that this legislation obviously is not a total response to the serious structural problem which confronts the economy of this Nation. The Senator from Illinois and others have commented on that fact, and I think it is a truism that we have serious structural problems in this country which are not addressed by this legislation. Those are structural problems which need attention. They are crying out for attention from Congress. I hope Congress will attend to it and will address itself to the structural problems which the Senator from Illinois and others have raised. Admittedly, this bill does not do it. But that in no way means that this bill does not serve a useful purpose.

Chrysler has called our attention to the problems created by the energy crisis we confront, the regulations we create, and the aging industrial base that is at the heart of our traditional economic structure. Within the time frame of the Chrysler crisis, we have not had an opportunity to address this issue. Our attention, very properly, has been focused on the need to act in order to save the 10th largest industrial firm in the Nation. But after we act on this legislation, we cannot turn away from the compelling causal forces which created it.

That is the national context. We also could look at the regional context, a context in which the Northeast-Midwest has lost a good deal of its industrial vitality.

In our discussions of the windfall profit tax, the Senate was generally sensitive to the issue of regional interests. In regard to the Danforth amendment, for example, we discussed what impact the loss of $10 billion would have on several States. In that case, Mr. President, we were discussing the impact of taking from growing States a portion of an increasing revenue and we wisely decided not to do it. In the case of Chrysler, however, we are talking about taking from older industrial States a substantial portion of a reduced economic base.

That point was made clear in a recent analysis prepared by the Senate Northeast-Midwest Coalition. That report reached two major conclusions. First, 94 percent of direct Chrysler employment is in the Northeast and Midwest and employees there received over $3.5 billion in wages last year. If Chrysler fails, most of these employees will be unable to secure new positions. As the Department of Transportation study indicates, these employees are not located in areas in which one could anticipate expansion by the remaining auto firms, even if those firms increased production sufficiently to rehire all their own laid off workers and still have positions available. The net result would be significant pockets of long-term unemployment—unemployment which would cost St. Louis 3.5 percent of its local manufacturing jobs; Detroit, 9 percent of its industrial employment; Belvidere, Ill., 9 percent of its local employment; and Syracuse, N.Y., about 5 percent of its local manufacturing jobs.

This unfortunate mix of location, skills, and overall employment demand led Secretary Miller to conclude that 75,000 to 100,000 jobs would be lost during 1980–81. It led DRI to conclude that up to 600,000 jobs would be lost in the peak period and 200,000 to 300,000 would be lost to the economy permanently. And it led DOT to project a loss of between 290,000 to 439,000 jobs. The Northeast and Midwest would have difficulty recovering from that kind of long-term unemployment.

But, second, the coalition study suggests that 91 percent of all Chrysler suppliers operate in the Northeast and Midwest and received $5.4 billion in orders from Chrysler last year. Approximately 70 percent of those suppliers are small firms heavily dependent upon sales of items specifically designed for Chrysler. Even if they could raise the capital to retool, the integrated structure of the remaining domestic car companies mitigates against them retaining a sufficient volume of business to remain in operation in their current form.

Mr. President, I do not believe my region could come through the dislocation of a Chrysler collapse. And if the effects are as catastrophic as I fear, then we will see more than the end of an industrial corporation—we may well see a radical shift in the economic, political, and demographic character of this Nation. And that is simply not something that this country can absorb at this time. And it is not something that I believe the Congress is prepared to cope with.

We are also not prepared to cope with the truly national impacts of a Chrysler collapse. We are not ready to see the $2.75 billion loss to the Federal Treasury in 1980–81 that Secretary Miller predicted would take the form of decreased revenue, increased unemployment claims and larger welfare obligations. Nor are we ready to see foreign producers eat up the approximately 250,000 units of car sales that Treasury projects at a cost of over $1.5 billion in added trade deficits as estimated by the Department of Transportation. Nor can we afford to see our budget estimates thrown off by almost $3 billion as we sit in this Chamber and debate ways to balance the budget.

Mr. President, neither my region nor our Nation can afford a Chrysler collapse. As I indicated earlier, I believe this Nation is as strong as its weakest region. But that collapse can be avoided. It seems to me that that is the key question: Can the collapse be avoided? I believe it can. Can the provision of guarantees bring the Corporation through this period in a viable form? And can we do that with a minimal risk to the taxpayers' dollars.

The answers to those questions, Mr. President, hinge on some basic assumptions. Assumptions that are within Chrysler's control and within our control as a Congress. Let me turn to those assumptions specifically.

First, Chrysler needs to make a product people will buy. They have done so for years in the past and they are leading the way to do so in the future. The new K body, front-wheel drive, fuel-efficient car they have scheduled for production in the fall of 1980 is clearly competitive. Their downsized versions of current models also clearly have the capacity to increase their market share. Their fixed cost reduction program is well under way and Booz-Allen indicates that "successful completion of the program appears likely." Their variable margin improvements project is similarly well designed and conceived. With modifications suggested by the Treasury there seems to be little reason to question Booz-Allen's conclusion that these programs "appear reasonable."

But the key to the effectiveness of these programs rests in total volume projections for the industry and Chrysler's share of the market. Here the concerns are real and the outcome really rests more in our hands than in Chrysler's.

The key question revolves around total volume—Chrysler's share of that volume will increase at projected rates as their new product line comes on stream. In that regard, the Department of Treasury, Chrysler, and Booz-Allen have projected total volume sales sufficient to allow Chrysler to return to profitability. With 1980 industry volume projections ranging from 9 million to 10.5 million and 1981 projections between 10.3 million and 11.1 million. Chrysler, Treasury, and Booz-Allen project sufficient sales to see the corporation through to profitability and independence with a financing package of about $3 billion. The higher Banking Committee projection of total need is a response to recent trends which suggest a lower industry volume figure. And the even more recent compromise legislation discussed informally in this body and offered formally in the House of Representatives is a response to slightly more optimistic figures.

The bottom line in all of this, however, is not the state of Chrysler's health; it is the state of the economy's health. If the critical question in the minds of the Senate is Chrysler's ability to survive with a one-time assist from the Federal Government, then the onlly reason to vote against this legislation is if one does not believe that the economy will allow Chrysler to be profitable. And if that is the vote Members wish to cast, and if that is the assumption they base it on, then I hope they will make the argument explicitly. If my analysis is correct, a vote against this bill is a vote of no confidence in the economy and our ability to control it more than a vote of no confidence in Chrysler. A "nay" vote is rooted in the belief that the economy will not improve, that inflation will not abate, or that interest rates will not decline—the energy situation will not get any better—that the price of gas will continue to skyrocket and that the availability of gas will continue to decrease.

I do not think Members of this body believe that the future of this country is that bleak. And if it is not that bleak for the economy, it is not that bleak for Chrysler.

The major thrust of my argument then is this, Mr. President: the Nation cannot afford the economic, social, and political costs of a Chrysler failure. And Chrysler need not fail if we act to help them and if we act to improve the economic climate of this Nation.

Let me conclude here by making three additional points which I hope to develop at greater length during the course of this debate.

First, there are those who persist in arguing that bankruptcy or reorganization is viable for Chrysler. The plain truth is that it is not viable; it is simply a first step toward liquidation because a company that trades in consumer confidence cannot survive the stigma of a formal bankruptcy. Additionally, some continue to claim that bankruptcy is, like death and taxes, an inherent part of the economic system. That is true. But if it is a part of the system which creates significant economic and social cost and which can be avoided, then we need not accept it. We have not accepted it for steel companies, for aircraft manufacturers, for shipbuilders, for farmers, and for small businesses. We have not accepted it for literally thousands of firms that have benefited from the billions of dollars outstanding now in EDA guarantees and SBA guarantees. Nor should we have accepted it. We did not accept it for Lockheed and we need not accept it now for Chrysler. We are breaking no new philosophic ground here. We are treading over well-plowed economic pragmatism which has sustained many a firm in this Nation.

Second, some will suggest that if Chrysler is to earn our support, then the parties with a vested interest in the corporation's survival must make larger sacrifices. This is the motive for the Banking Committee bill and its requirement that unionized workers at Chrysler agree to a total wage freeze for the next 3 years. That argument has, on the surface, some appeal. And clearly it is legitimate to call for a meaningful contribution—even a sacrifice—from those parties in interest. But the call made by the Banking Committee is a call for more than a sacrifice. It asks the workers to work as hard for the next 3 years as they have for the last 3, but for 30 percent to 40 percent less. That is an argument which is unconscionable to accept and this is an argument which we cannot accept. It has within its logic the message we long ago rejected in this Nation. That message says, in essence, that workers should be happy to work for whatever they can get. The establishment of minimum wage provisions, of child labor laws, of the union movement—all of these things stand in repudiation of that message. There are more equitable levels of sacrifice to be called for, and we will hear that call later in this debate. It seems to me that it is a call we should listen to because it is equitable and it is sufficient. And it is workable. The Banking Committee approach is neither equitable nor workable. It holds out a promise of a solution with one hand, and it takes it back with the other.

Third, during the course of this debate various figures will be presented to demonstrate the impact of Chrysler's collapse and the prospects of Chrysler's ultimate success. Those figures may well be at variance with my own. I say now, however, that those members who oppose assistance to Chrysler have an obligation to be consistent in their presentation. The logic of their argument so far has not, to my mind, been consistent. They argue on the one hand that Chrysler workers will be absorbed into a growing and healthy economy, and on the other hand they say Chrysler cannot succeed because the economy is not healthy enough to sustain it. On its face, that argument is internally invalid. If workers will be absorbed, if domestic production will pick up the bulk of Chrysler's sales, then if Chrysler gets adequate funding Chrysler will be a viable and going concern. You cannot minimize the impact of collapse without saying that collapse can be prevented. You cannot say jobs will be retained here and production will stay in this country without saying that there is sufficient demand to allow Chrysler to stay in business. By the same token, because of the special circumstances which surround the location of the Chrysler work force and supplier system, it is perfectly consistent, as the DOT study indicates, to say that the effect of failure will be massive and sustained and yet suggest that Chrysler can survive and be viable in the future.

Mr. President, these are concepts which, as I suggested, I hope to develop, along with others, during the course of the debate. For now let me simply close by paying a brief tribute to my colleague, Senator RIEGLE, who has consistently demonstrated his ability to master detail, his willingness to engage in negotiations, and his commitment to this issue and to the people of his State and Nation. I also recognize the contributions made by Senator LUGAR and Senator TSONGAS, who gave the aid package a push forward. And finally, I thank Senator PROXMIRE who is, as we all know, opposed to this bill, but who has made it clear that he wants the Senate as a body to work its will on this legislation. He has not attempted to bottle it up in committee or throttle it on the floor.

Mr. President, under the prior unanimous-consent request and agreement, I now yield back the floor to my colleague from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. RIEGLE. Thank you, Mr. President.

Let me just say I appreciate very much both the statement and the leadership of my colleague from Michigan on this issue over a long period of time, many months, leading right up to the current hour.

In terms of the parliamentary situation at this point, I simply inform my colleagues that Senator LUGAR and I have had a chance to speak. I know Senator EAGLETON has not yet spoken and I know Senator HEINZ was here a minute ago and wishes to speak and has not done so as yet, and he is a member of the committee.

During the period when I was out of the Chamber, I went to meet with the majority leader to indicate that it is the desire of all of us to see if we can reach a time agreement hopefully to tuck in the opening statements of Senators who are still struggling and still in the queue trying to make it but to lay before the Senate the amendment, the Eagleton-Roth substitute, and to reach a time agreement and either vote this evening or the first thing tomorrow morning. We discussed that and will try to work it out.

As soon as the leader comes in we can engage in a discussion to see if an agreement can be reached.

So let me, by virtue of this comment, also invite any other Senators who are within earshot who want to participate in that discussion and who may want to just be part of any agreement that is made to come to the floor so that they can seek to protect their own rights and see if we cannot work out an agreement.

Mr. METZENBAUM. Mr. President, will the Senator from Michigan yield to the Senator from Ohio to make a statement.

Mr. RIEGLE. I yield, without losing my right to the floor.

Mr. METZENBAUM. Mr. President, I rise today to express once again my support for Federal help to restore the Chrysler Corp. to financial stability.

The legislation before us today will allow Chrysler to raise $4 billion in new capital. Most experts agree that our third largest automaker needs this huge amount to survive.

As a Senator from Ohio, where up to 60,000 jobs depend on Chrysler, I know full well the damage and hardship a Chrysler shutdown would cause in my State and elsewhere. As a businessman, I know that the company desperately needs an infusion of new capital to regain its profitability. And as a Senator who is deeply concerned about this Nation's eroding economic position in the world, I cannot accept a business failure that would in the next 18 months deliver a $3 billion new car market to foreign manufacturers.

I do not argue with those who believe that in return for the assistance made available by this bill, the Congress has a right to expect sacrifice on the part of all who want Chrysler to survive.

But, Mr. President, I do argue strongly with those who propose to use the Chrysler legislation as a vehicle for inflicting unfair and wholly unwarranted punishment upon the rank-and-file union members employed by this ailing corporation.

If the Government and, thereby, the taxpayers are expected to guarantee over a billion dollars in loans to the company, then Chrysler creditors, stockholders, employees, dealers, and suppliers should also be ready to pitch in. That is only fair.

But what is not fair is the idea that the brunt of the sacrifice should be placed on the shoulders of Chrysler workers. The amendment we are now considering will require rank-and-file workers at Chrysler to sacrifice $800 million in wages and benefits over the next 3 years.

This requirement is unfair, illogical and unnecessary.

It is too much—too much to ask of workers whose union has already agreed to a favorable contract with Chrysler and whose pension funds will be used to assist the company.

This amendment would drive highly skilled employees out of Chrysler and into the employ of Chrysler's competitors. The bill encourages a brain drain. That is not good business sense if our major purpose is to keep Chrysler above water.

And it would require Chrysler workers and their families to bear a double sacrifice—the $800 million sacrifice demanded by this amendment and the sacrifice extorted from all of us by inflation.

This amendment is unnecessary. The workers, through the recently negotiated UAW/Chrysler contract, have shown that they are ready to make major sacrifices to keep Chrysler operating.

For the first time in the UAW's history, the union negotiated a contract which will give Chrysler workers less than what was agreed upon for workers employed by the other two major auto manufacturers. The UAW contract will save the Chrysler Corp. $203 million by foregoing certain wage increases for the next 2 years.

Under the negotiated contract, Chrysler wages will only be brought in line with those wages paid by the other auto companies during the third year—a time when Chrysler says it will be able to absorb the costs because it will once again be turning a profit.

This amendment, on the other hand, does not ask for reasonable sacrifices from Chrysler workers. Rather it punishes them for Chrysler's current financial plight. It provides Chrysler workers with conflicting and ironic messages. It says to them if they want to keep their jobs, then they had better be prepared to take food out of the mouths of their families. And it says to them, Mr. President, that the Senate of the United States is requiring the working men and women of Chrysler to foot the bill for management's past mistakes.

To me that is unacceptable logic. And I hope that it will be so to my colleagues in the Senate.

Mr. RIEGLE. Mr. President, I see now that the two sponsors of the substitute that I will lay down shortly are on the floor, Senators Roth and Eagleton, and I am just wondering if, to expedite things, I can propose this unanimous-consent agreement.

I would propose the same unanimous-consent request we had before, and that is, I ask unanimous consent, without losing my right to the floor, to offer an amendment, which I will do upon the conclusion of their remarks, and that they now have an opportunity to make their opening statements and describe their alternative.

I see Senator Heinz, and I know he also has been seeking a chance to speak, so maybe what we could do is just reach an agreement here in terms of Senator Eagleton, Senator Roth, and Senator Heinz, all having a period of time to speak, at the end of which I will go ahead and lay the amendment down. In the meantime we can see if we can reach a time agreement. Would that be satisfactory to the Senator from Indiana?

Mr. LUGAR. May I ask just this question: At what point will the amendment be laid down? Is it to be laid down now and the speeches are to follow or what is the procedure the Senator is suggesting?

Mr. RIEGLE. I am prepared to go and do it now. The problem is the minute I drop it in I lose my right to the floor. The three Members here, who have been waiting to speak, and particularly the cosponsors, ought to have a chance—I do not know how much time they need, 10 or 15 minutes apiece—so can we reach some understanding on that basis, because none of the three of them has spoken as yet?

Mr. EAGLETON. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER (Mr. Heflin). The Senator will state it.

Mr. EAGLETON. If Senator Riegle sends up a perfecting amendment on his behalf and others, does he lose his right to the floor?

The PRESIDING OFFICER. He does.

Mr. PROXMIRE. Mr. President, will the Senator yield for an inquiry?

Mr. RIEGLE. Without losing my right to the floor.

Mr. PROXMIRE. As I understand it, the Senator has been holding the floor for one reason, and that is that he did not want another amendment substituted in the second degree, which would knock out the amendment he wants to offer. Since he is going to offer his amendment, and since that is his purpose, why does he not offer it and yield the floor? Nobody else wants to speak except Senator Eagleton and Senator Roth, and that is it.

Mr. RIEGLE. That is exactly the effect we can accomplish. I earlier said to Senator Eagleton and, through an intermediary, to Senator Roth, because I have the floor and would offer the amendment for them, I would lay it down and I would hold the floor for that purpose until they had it ready, and also then to enable them, as the sponsors of this amendment, to have a chance to speak.

I am prepared to surrender my right to the floor. The only thing I want to do is to have an understanding that they now have an opportunity to be heard on it, as well as Senator Heinz, who has been waiting for at least 2 hours.

Mr. PROXMIRE. No problem.

Mr. HEINZ. Mr. President, will the Senator from Michigan yield?

Mr. RIEGLE. In one moment.

Mr. HEINZ. Without losing his right to the floor?

Mr. RIEGLE. Mr. President, I ask for the yeas and nays on the Lugar amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. RIEGLE. Mr. President, I further add, before sending this amendment to the desk, that we enter into an agreement that Senator Eagleton, Senator Roth, and Senator Heinz, each in sequence, have 15 minutes to speak. Would that be acceptable?

Mr. HEINZ. Mr. President, reserving the right to object, in what sequence?

Mr. RIEGLE. Pardon?

Mr. HEINZ. In what sequence, what would the sequence be?

Mr. PROXMIRE. What order? Who is first?

Mr. RIEGLE. I think if the Senator has a particular time problem that there would not be any objection to his going first.

Mr. HEINZ. If it will not inconvenience anybody I would appreciate it.

Mr. RIEGLE. The Senator wants to go before——

Mr. HEINZ. Yes, because I want to speak on the general situation. I do not want to speak on the Eagleton-Roth amendment.

Mr. ROTH. Mr. President, I would like to ask a question, without the Senator from Michigan losing his right to the floor. I do have a general statement, and

I ask unanimous consent to include it at this point as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Does the Senator reserve the right to object? Then the last ruling of the Chair is rescinded pending the reservation of the right to object.

Mr. LUGAR. Mr. President, I simply want to query before settling this, why it is necessary for the Senator from Michigan to control the floor for the rest of the evening? I would have thought, and let me ask this question of the Senator, having laid down the amendment, why not simply allow the Chair to recognize Senators in order as they seek recognition?

Mr. RIEGLE. I am prepared to do that. Maybe it is a fine point. The understanding I had reached earlier with the sponsors of the amendment was because I had the floor and, therefore, was in position to lay down the amendment, and I would do so, but it is their amendment. So it seems to me, as I did that, which in a sense is something that under the normal circumstances they might do themselves, that they ought to be assured of the right to at least speak to their amendment. I want to yield the floor, let me say that. But it seems to me it is not right for me to try to protect their rights, at least based on my understanding with them in the last 2 hours, and not at the same time accord the courtesy to the Senator from Pennsylvania who has been waiting, and who is a member of the committee. Any understanding is sufficient with me. I would like as quickly as possible to have other people speak and yield the floor, and I will once I have laid the amendment down and we have an understanding of the others speaking.

Mr. EAGLETON. Mr. President, if the Senator from Michigan will yield the floor, I hope the Chair will recognize me to offer the amendment, which would then be the pending business, and I would be delighted to yield to Senator Heinz who has been anxious to speak. I will make my speech on the amendment, and I think we will work out an agreement wherein it will be voted on early tomorrow.

The PRESIDING OFFICER. Does the Senator from Michigan so yield?

Mr. RIEGLE. Perhaps—I want to be sure that the understanding is that if I yield the Senator from Missouri is recognized. Unless I am certain of that understanding I would rather send the amendment to the desk now.

Mr. HEINZ. Mr. President, will the Senator yield without losing his right to the floor? Why does he not ask unanimous consent that the Senator from Missouri be so recognized?

Mr. RIEGLE. Mr. President, I ask unanimous consent that if I yield the floor at this point the Senator from Missouri is recognized so that he can offer the amendment.

The PRESIDING OFFICER. I believe the pending business is the unanimous-consent request of the Senator from Delaware on which there was a reservation of an objection, and I am not sure that the objection has been withdrawn or made.

Mr. LUGAR. I object.

The PRESIDING OFFICER. Objection being heard, the Senator from Delaware is not allowed to introduce his speech on the floor as if read.

(Later the following occurred:)

Mr. ROTH. Mr. President, I ask unanimous consent that my opening remarks be included in the Record at the earlier portion of the discussion, as if read.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

Mr. ROTH. Mr. President, over the past 6 months a great deal of public attention has focused on the financial plight of the Chrysler Corp. While there has been disagreement and heated debate on exactly who or what was responsible for creating the huge losses that Chrysler has reported this year, there is no question both that the 10th largest U.S. corporation is in serious trouble and that immediate Government financial support is required to prevent a Chrysler bankruptcy.

During this period thousands of Chrysler employees have been placed in the cruel position of listening daily to doomsday forecasts predicting that their job loss is imminent. Vague promises by reckless economic forecasters that those laid off would easily find employment elsewhere have done nothing to settle the jittery nerves of Chrysler workers who must deal with the cold reality of hungry families and impatient bill collectors. For these workers, it is only fair that Congress put an end to the rhetoric and make an immediate decision as to what role the Federal Government should play in helping out Chrysler.

The Chrysler problem is one of enormous size and complexity. As a Senator from Delaware, it is important that my colleagues in the Senate clearly understand that the future of Chrysler is of critical importance to the people of Delaware. Over 4,600 employees in the Newark assembly plant and thousands more working for Chrysler suppliers throughout Delaware would be affected by a Chrysler bankruptcy. The costs to the State of Delaware alone would be enormous and devastating.

Over $7.5 million per year in State revenues would be lost. An additional $3 million in property taxes would also be threatened should those 4,600 employees be forced to move elsewhere to find employment. The ripple effect of a Chrysler shutdown is estimated to put an additional 10,000 people out of work in Delaware. Delaware's total economic loss might well reach $1 billion if Chrysler is allowed to go under.

Delaware would also be forced to come up with $17 million a year in State unemployment compensation payments in just the first year of a Chrysler shutdown. Not only does Delaware not have anywhere near that amount built up in reserve, but it still owes the Federal Government millions of dollars borrowed in 1973 when a slump in car sales and resulting automobile unemployment completely depleted the State fund.

According to the U.S. Department of Transportation, shutting the Newark Chrysler plant would cost the Delaware economy upwards of $980 million—and that is in a State where the total State budget is only $500 million. A Chrysler failure would have a brutal impact on jobs in my home State, an impact second to none—not even Michigan. The Northeast-Midwest coalition has estimated Chrysler employment represents 6.5 percent of total manufacturing employment in Delaware—that compares to 4.6 percent for the entire State of Michigan and 2 percent for Missouri, the next two highest impacted States.

Mr. President, at this point in the Record, I ask unanimous consent to have printed in the Record a statement by the Governor of the State of Delaware, Pierre S. DuPont, in support of Federal loan guarantees for Chrysler and detailing the impact the failure of Chrysler would have on the working people and economy of our home State.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement of Governor du Pont on Chrysler Loan Guarantees to Congress

I want to express my strong support for federal loan guarantees for Chrysler and I would urge the U.S. Congress to pass legislation before the holiday recess.

In Delaware, Chrysler workers represent 6.5 percent of our manufacturing employment. We can ill afford to have that large segment of our labor force be displaced when a remedy is at hand. This would be particularly painful when we already face the prospect of a national recession. The U.S. DOT study indicates that total primary and secondary job losses in Delaware could exceed 13,000, or five percent of our total employment. Economic losses to Delaware have been estimated at $980 million a year. And unemployment benefit payments to Chrysler workers would exceed $17,000,000.

So while 4,500 employees may seem small relative to the numbers Congress usually deals with, in a state with a little over 300,000 total taxpayers it is a great deal.

I sympathize with those members of the Congress who believe that all parties with an economic interest in Chrysler should be a part of the solution. While the impact that a small state such as Delaware can have on Chrysler's 3 billion dollar problem cannot be substantial, still I recognize the contribution that Chrysler and its employee's make to the Delaware economy. Consequently, when the State legislature convenes in January I will recommend state financial assistance for Chrysler contingent upon passage of federal loan guarantees.

Again, in the face of uncertain economic conditions and the growing prospect of higher unemployment, I urge your swift and affirmative action on Chrysler loan guarantee legislation.

Mr. ROTH. Chrysler is not just a Delaware problem but a national problem as well. A Chrysler collapse could affect up to 600,000 employees, devastate communities, bankrupt hundreds of suppliers, and create shock waves that could cost the Federal Government billions of dollars. The 1980 job loss could translate into a reduction in GNP of some $18–$20 billion. As a consequence Federal tax revenues would be reduced at least $4.5 billion, not to mention the tax losses at the State and local levels that I have already discussed. In addition, transfer outlays for unemployment compensation, welfare, and food stamps all will have to rise at an additional budget cost of at least $1 billion.

Further, the Federal Government is already obligated by law under the Employee Retirement Income Security Act of 1974 to insure the financial solvency of the Chrysler pension program. Should Chrysler be unable through bankruptcy to maintain its pension program, the cost to the Federal Government to cover the existing pension guarantees would be $1 billion.

At a bare minimum, the total Federal budget loss could be $6 billion. Viewed from this perspective, a Federal loan guarantee of $1.5 billion is a cheap price to pay.

Contrary to popular belief, Federal assistance to various forms of economic activity is hardly unprecedented, and Congress has recognized a national interest in helping major domestic industries compete in changing international markets. The fiscal 1978 State-justice appropriations bill, for example, authorized the Economic Development Administration to provide up to $550 million in loan guarantees for special steel industry companies.

Delaware's Phoenix Steel was recently the recipient of over $30 million in loan payments under this program. In establishing this program, Congress established three objectives: steel companies would be helped to modernize so that they could first, better face foreign competition, second, meet Government-mandated environmental standards, and third, retain jobs in the United States. Certainly, Chrysler Corp. meets all of these criteria.

The Government has extended financial assistance to thousands of private borrowers for a multitude of purposes. Over $7 billion in loan guarantees are currently outstanding to foreign countries. The Agriculture Department has outstanding loan guarantees of about $54 billion to help investment in farms, rural housing and rural electric facilities. The Commerce Department has over $7 billion in outstanding guarantees to finance shipbuilding and other industries. HEW has over $1 billion of guarantees outstanding to finance medical facilities. Railroads have about $300 million in outstanding guarantees; New York City has about $700 million. And the Small Business Administration has outstanding guarantees of over $11 billion. The Federal Government now has outstanding a total of some $240 billion in loan guarantees.

Finally, there is the example of the 1971 Federal loan guarantee to Lockheed—which I voted for. The Treasury in the end actually earned $31 million in interest from this legislation that did not cost the taxpayers a single dollar.

Mr. President, I also feel very strongly that we must maintain a strong, competitive domestic automobile industry. This year alone, the United States will spend $7 billion more on imports of motor vehicles and parts than we earn from their export. Should Chrysler go out of business, there is no question but that foreign companies would gain an even greater percentage of the United States auto market, particularly in the subcompact market where GM and Ford would be unable to pick up the slack.

To limit our increasing dependence on foreign oil, we must convert as quickly as possible to a more fuel efficient fleet of vehicles. Chrysler is addressing that problem directly with the introduction in the fall of 1980 of a new line of compact cars with significant mileage gains over their current models.

Chrysler will then be able to produce over 800,000 cars annually with 4-cylinder engines. It makes little sense to allow the production of those 800,000 cars to occur in a foreign country—yet this is certainly what will occur if Chrysler is allowed to go under.

Any Federal loan to Chrysler can and should be fully secured and protected. As indicated with Lockheed, the Government has developed experience in helping a large corporation work through a complex financial crisis and doing so in a way that fully protects the taxpayers' interests. Further, a loan to Chrysler should have strings attached that require new capital be used only for the specified purpose of enabling Chrysler to return to a secure and profitable operating position. Finally, management, union workers and stockholders must all be willing to make sacrifices until that time when Chrysler is again financially solvent.

Mr. President, I do not pretend to imply that a Federal Government loan guarantee can guarantee a company's future. Quite frankly, it cannot. It can only give a company's management time to prove eventually it can turn out products that the consumer will buy. Because of all the extenuating circumstances that I have mentioned, I feel strongly that this is a chance that we must take with Chrysler. The uniqueness of Chrysler is that it may well cost this country less in the end to help the company than to let it fail.

Mr. President, the economy of the United States is already in deep trouble. It is the opinion of many economists that the United States is on the verge of a serious and deepening recession. Ever higher oil prices combined with oil shortages, double-digit inflation, and serious unemployment that CBO predicts will rise as high as 8.25 percent in 1980 make this indeed an ominous period. The collapse of our 10th largest industrial corporation, the unemployment of an additional 400,000 or more employees, the out-of-pocket costs to our Federal and State governments through unemployment benefits, pension guarantees and other programs, as well as the loss of billions of dollars of revenue—$13.6 billion in 1978 generated by the Chrysler sale of 1.2 million cars and 190,000 trucks—could have a devastating impact on our economy. Let no one be mistaken, the Chrysler bankruptcy could trigger a massive recession in view of the delicate state of our economy.

All industry—steel, chemicals, textiles—would suffer a grievous blow through the loss of the American manufacture and sale of these cars. Foreign-made cars would undoubtedly take up much of the slack caused by a Chrysler bankruptcy, thereby increasing our balance-of-payment problem. Does any one seriously believe that our foreign competitors, such as Japan and Germany, would permit a national asset, like Chrysler, to go under. The answer is clearly "no." Nor should the United States, a viable competitive American automobile industry so essential to a healthy U.S. economy. There is ample precedent for the action, both in preserving and strengthening our economy, but especially in alleviating human suffering and disaster that would otherwise prevail. I urge my colleagues to support a loan guarantee for Chrysler as a measure to build for America's future.

(Conclusion of later proceedings.)

Mr. RIEGLE. Mr. President, I propose this unanimous-consent request: That in the event I yield the floor now it be with the understanding that the Senator from Missouri be immediately recognized for the purpose of offering the amendment, the Eagleton-Roth amendment, which it had been my intention to lay down.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Missouri is recognized.

UP AMENDMENT NO. 891

(Purpose: To substitute a $400 million contribution from Chrysler workers in lieu of a wage freeze)

Mr. EAGLETON. Mr. President, I have an amendment on behalf of myself, Senator ROTH, Senator BIDEN, and others.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) for himself, Mr. ROTH, Mr. BIDEN, Mr. BAYH, Mr. LEVIN, and Mr. RIEGLE proposes an unprinted amendment numbered 891.

Mr. EAGLETON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 13, insert the following: On amendment No. 809 to S. 2094, delete "800,000,000" and substitute therefor "400,000,000".

Mr. EAGLETON. Mr. President, this amendment changes the figure from $800 to $400 million.

Mr. President, I yield to the Senator from Pennsylvania—I ask unanimous consent that I may yield to the Senator from Pennsylvania for the presentation of his speech without losing my right to the floor.

The PRESIDING OFFICER. Without objection, is is so ordered.

Mr. HEINZ. Mr. President, I thank the distinguished Senators from Michigan and Missouri for their courtesy. I hope I will not take anywhere near the amount of time we were talking about.

Mr. President, I rise to discuss the pending legislation, S. 2094. It is legislation that my colleagues on the Banking Committee and I have worked at and labored long and hard at to bring to the floor.

As the Senate considers this measure, I would like to share with my colleagues some of the considerations which have guided my evaluation of the Chrysler loan guarantee proposal over the last several weeks.

At the outset, let me state that as a matter of long-held principle I do not favor removing the incentives of profit and loss which operate to keep the American enterprise system remarkably efficient. In the long run, American economic vitality will not be restored by following the British model of pouring ever-increasing amounts of taxpayers' funds into declining industries and companies such as British Leyland Motors.

There is powerful logic to the proposition that we should be strengthening the free enterprise system, not undermining it, and that our best efforts should be directed in the way of strengthening it, should be concentrated on providing tax and other incentives for savings, for investment and for productivity improvements; toward alleviating overly burdensome Federal regulations; and toward easing inflationary pressures on the economy by curbing Federal spending and other means.

Now, on a more practical level, I have to say that I wonder if, in passing this legislation as reported by the committee, the Senate might not be sending a message to the average American worker and taxpayer that we have two economic systems in this country: One of welfare and bail outs for the rich, the big, or the powerful, and the other of free enterprise for the small and the powerless.

The average American taxpayer must deal on a daily basis with those very same factors that have brought Chrysler hat in hand to the doorsteps of every Member of the U.S. Senate—soaring interest rates, double digit inflation, and disruptions in energy supplies. When the average American taxpayer falls behind in his mortgage payments, his car payments, his revolving charge card payments, his medical bills, or his taxes he cannot and does not expect other taxpayers to foot the bill. In a similar vein, thousands of small business people—the corner grocer, the local carwash, the foundry which might be the major employer in a little town—are confronted with the same market pressures, the same Government regulations that Chrysler says are responsible for its current predicament. If we vote to grant Federal aid to Chrysler, how do we answer the thousands of small entrepreneurs who cannot afford to hire lobbyists and do not have friends in high places but who say, "What about my situation? What about me?"

How are we to answer the charge that this is welfare for the rich and free enterprise for the poor? And how are we to answer the taxpayer who says, "When I get behind in my payments, nobody does this for me. What," say many Americans, "about me?"

Mr. President, despite these serious reservations which I have outlined briefly above, I have given the Chrysler aid proposal my most serious attention. The logical question is, in view of my stated reservations, why do I have an open mind on Chrysler?

Perhaps the first and foremost reason is the specter of increased unemployment which a Chrysler failure raises. I have no doubt that the failure of Chrysler would have a massive impact on people—600,000, in the worse case estimate—and a devastating impact on such places as Detroit, Kokomo, and Huntsville.

And in examining whether Federal loan guarantees represent a prudent commitment of taxpayer funds, I have been forced to look at the other side of the coin. The question which every taxpayer who is concerned about the costs of a Federal bailout must ask himself is: What would it cost not to bail out Chrysler? During the course of its proceedings, the Banking Committee heard testimony that the costs to the Federal Government of a Chrysler bankruptcy would be far greater than the amount of the loan guarantees. One estimate of the lost tax revenues, increased unemployment claims and welfare costs, and other costs to the Federal Government of a Chrysler failure ran as high as $2.75 billion for 1980 and 1981 alone.

Those are fairly substantial taxpayer costs, just as the worse case estimate of unemployment of 600,000 is a very serious case to consider. But those are not the only reasons, Mr. President, that forced me to carefully examine the proposition before us.

A third reason for my careful consideration of the Chrysler aid proposal is the potential impact of a Chrysler failure on my own State of Pennsylvania were Chrysler to fail. Although Pennsylvania is not home to any major Chrysler facilities, the direct employment and that of dealers and that of major suppliers such as glass and steel are nonetheless quite substantial.

In Pennsylvania, Chrysler employs directly over 900 individuals whose wages total over $25 million. In addition to this direct employment by the parent company, there are over 900 Chrysler suppliers in the State who employ an additional 20,000 plus individuals, and the over 300 independent businessmen who are Chrysler dealers in Pennsylvania employ better than 8,000 people.

For these reasons, and I think it is fair to say for these reasons alone, I have felt an obligation to keep an open mind on the Chrysler aid proposal during the long deliberations on the measure. Given the many compelling arguments for Federal aid to Chrysler, and the many reasons that such aid might not be a good idea, I have tried to formulate a means, in my own mind, of balancing these competing considerations. After much careful thought I have concluded that the only basis upon which it makes sense to consider this legislation is in terms of the following three principles:

First, any commitment of taxpayer funds must be fully protected—not only must we in the Senate be convinced that aid to Chrysler represents a prudent investment of taxpayer dollars, federally guaranteed loans must have priority over those of all other creditors as well.

Second, those with a direct stake in the survival of Chrysler—management, employees, creditors, dealers, suppliers, and stockholders—and not the American taxpayer must bear the greatest burden and assume the greatest risk in restoring Chrysler to viability.

Third, Congress must make the terms of any aid package so stringent that granting loan guarantees to Chrysler would not invite similar requests for government bailouts by the thousands of businesses which fail every year.

Mr. President, the original aid proposal which the administration sent over failed all three of these tests. That is why, as a member of the Banking Committee, I have worked with Members on both sides of the aisle to include these principles in the bill which the committee reported. And I must say that as a result of the efforts of my distinguished colleagues on the Banking Committee—Senator LUGAR, Senator TSONGAS, and others—the Senate is now considering a bill which represents a vast improvement over the administration proposal.

In particular, I find that S. 2094 goes a long way toward protecting the commitment of $1.25 billion in taxpayer funds by:

Giving taxpayer dollars priority over those of all other creditors;

Requiring that private financing commitments be secured before loan guarantees are granted;

Mandating an overall aid package which will hopefully be sufficient to meet Chrysler's long-term financing needs;

Requiring, as a result of amendments which I was successful in getting the committee to accept, that the Chrysler Loan Guarantee Board review major sales of assets and major contracts of the corporation to insure that the Federal position is not jeopardized as long as Federal loan guarantees are outstanding.

Second, this legislation does indeed provide for those with a direct stake in the survival of Chrysler to make substantive contributions, just as the American taxpayer is being asked to do; for example, management and employees are asked to give up part of their scheduled wage and benefit increases, and dealers and suppliers are expected to provide certain levels of unguaranteed assistance;

Third, there has been movement in the direction of making the terms of the aid package more stringent so as not to invite similar requests on the part of other companies.

But with respect to these last two goals, that of making sure that those with the most direct stake in the survival of Chrysler make substantive contributions and that there is an approach sufficiently stringent so as not to invite more requests from others down the road, I must state that the committee bill does not go far enough.

I am deeply concerned that the committee bill does not make the terms of aid onerous enough to discourage similar requests on the part of other companies. Should Congress pass this aid package in its present form, I would hate to see, as indeed I fear I would, the shareholders and the Board of Directors of Chrysler Corp. congratulating each other. And as the Chrysler aid bill now stands, why should they not do so?

Mr. President, I think they would. I will tell you exactly why.

What the Chrysler Corp. board and its shareholders have gotten the U.S. Government to do in this bill is to handle its labor negotiations for maybe the next 3 years. They have gotten the U.S. Government and the Congress to take care of its debt rescheduling. They are getting the Congress and the Federal Government to be its banker. They are getting the Government to hire management consultants—and all this with little or no cost to those who might be expected to contribute the most to the recovery of Chrysler. And who is that? It is the owners of the Chrysler Corp., its stockholders, and their nominees, the board of directors.

Frankly, I fear that, as drafted, S. 2094 sends an invitation in the name of every Senator in this body to stockholders meetings and board meetings across this country. That invitation says that the best way for management to avoid making the tough decisions which often have to be made for the survival of a company in the competitive marketplace is to come to the Federal Government for a bailout.

Mr. President, it is inconceivable to me that Congress would want to send such an invitation. I do not wish to send such an invitation to companies across America. And, accordingly, I have decided to try to do something about it.

After much thought, I have reached the following conclusions about the legislation now before us.

First, if the Federal Government is to guarantee loans to Chrysler, the length of time that taxpayers' dollars are at risk—the time during which, in effect, the Federal Government "owns" part of Chrysler—that amount of time must be further minimized.

Second, because Chrysler's request for assistance is motivated by its inability to raise additional equity—the usual source of risk capital—there must be a mechanism so that federally backed loans are replaced with stock held by members of the general public at the earliest possible date.

Third, although it is in the best interests of Chrysler to raise additional equity capital as soon as market conditions permit, the fact is that new public stock offerings are not popular with current stockholders because they are perceived as diluting the value of the existing stock. Unless we move to require them as a condition of Federal assistance, equity offerings sufficient to restore the company's long-term viability are simply not likely to be approved by the stockholders.

Fourth, just as S. 2094 requires contributions from workers, management, creditors, dealers, suppliers, and taxpayers, it is only right to expect contributions from those with everything to lose if Chrysler fails and everything to gain if the loan guarantee package is successful: The owners of Chrysler, its stockholders, and their nominees on the board of directors. This principle must be made operative. Otherwise, Mr. President, the stockholders and boards of directors of companies across America will be invited to avoid those tough decisions and instead come to Washington to request a Federal bailout. And we in Congress will be asked, time and again, to respond to these requests.

Mr. President, I have incorporated these principles into an amendment which I intend to offer at the appropriate time. This amendment, the idea of which is quite simple, requires that before any Federal loan guarantees can be committed or granted, Chrysler must issue to a special Board of Trust two shares of additional common stock for every share outstanding as of October 17, 1979. The Board of Trust, which would have no control—and I emphasize this—no control over management or stockholder decisions, would be directed to sell all or part of its holdings as soon as it deemed such sale to be feasible. As long as any guaranteed loans were outstanding, the proceeds of sales of stock would be transferred to the corporation with the stipulation that these funds be used to pay off the guaranteed loans as scheduled, or sooner. Once the guaranteed loans were paid off, proceeds from the sale of stock, or any dividends paid on stock held by the Trust, would be transferred to the corporation for such needs as capital investment, debt retirement, and so forth.

Issuance of this new common stock would, of course, have a one-time, temporary diluting effect on Chrysler stock currently held, thus making the Federal loan guarantees less popular with stockholders than they otherwise would have been.

Even more important from the standpoint of the American taxpayer, the sale of stock by the Trust would establish a mechanism for insuring that federally guaranteed loans are in fact paid off as scheduled, if not sooner.

These equity infusions, which may or may not be popular with the current stockholders, would further protect taxpayer dollars by reducing the corporation's debt to equity ratio, thus enhancing the long-term viability of Chrysler.

Mr. President, I will be prepared to discuss the specifics of my amendment in greater detail at the appropriate time in the Senate's deliberations.

At this point, and in closing, I simply urge my colleagues, as they consider the committee bill and as they consider amendments offered by others, to weigh carefully my own amendment and to consider the immediate benefits that we can achieve through the improvement of the legislation in this regard.

It is clear to this Senator that the issue of establishing a dangerous precedent, and the issue of making sure that all parties who stand to benefit contribute to the solution, must be observed if we are not to be guilty of an irresponsible approach to legislating.

It is my hope that my colleagues will support me when I offer this amendment.

Thank you, Mr. President.

Mr. EAGLETON. Mr. President, I ask unanimous consent that I may yield to the Senator from Delaware (Mr. ROTH) for the purpose of his making his opening remarks, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I am pleased to join with Senator EAGLETON, Senator BIDEN and others in offering a compromise amendment to the Chrysler bill on the Senate floor.

I strongly believe, at this late stage in our deliberations, that our compromise amendment is the best hope for Congress to get a workable, doable concensus on Chrysler to the President and the Chrysler employees and their families before it is too late.

We firmly believe it is the only compromise that will do the job Congress intends, that will keep Chrysler's head above water, that will keep Chrysler workers from being drained away from the company in droves, and that will help Chrysler regain its place as a successful competitor in a dynamic American auto industry.

Our amendment provides a total Chrysler package of $3.2 billion, consisting of $1.25 billion in Federal loan guarantees, $400 million in wage concessions, $100 million in management contributions, and $1.43 billion in non-Federal financing from banks, Chrysler suppliers, and State and local governments.

Those of us who are sponsoring this amendment represent a bipartisan coalition seeking to break the legislative logjam on aid to Chrysler. We believe our amendment is a breakthrough on this issue. Our amendment is supported by the United Auto Workers, Chrysler, and the administration, all of whom have pledged their support for our compromise.

Our amendment is a compromise between the Moorhead-McKinney bill being debated today in the House and the Senate Banking Committee bill.

Our amendment changes the Senate Banking Committee bill in only one respect. Our amendment provides for a $400 million wage concession by Chrysler unionized employees, compared to the $1.1 billion wage freeze in the Senate Banking Committee bill. The reason for this change is to require over 100,000 Chrysler unionized workers and skilled tradesmen—who have a stake in Chrysler's future—to make a contribution to Chrysler's recovery without making that contribution so punitive that they are driven away from Chrysler to higher paying jobs.

Make no mistake about it, we are convinced if the $1.1 billion wage freeze in the Senate committee bill is adopted, Chrysler will suffer a massive drain of skilled workers from which it may never recover.

On the other hand, our $400 million wage freeze is $200 million higher than the union contribution required in the House committee bill. Although the UAW has previously refused to renegotiate its contract, our amendment would require it to do so.

The future of Chrysler is of critical importance to the people of my home State of Delaware. Over 4,600 employees in the Newark assembly plant and thousands more working for Chrysler suppliers throughout Delaware would be affected by a Chrysler bankruptcy. The costs to the State of Delaware alone would be enormous and devastating. Over $7.5 million per year in State revenues would be lost. An additional $3 million in property taxes would also be threatened should those 4,600 employees be forced to move elsewhere to find employment.

According to the U.S. Department of Transportation, shutting the Newark Chrysler plant would cost the Delaware economy upward of $980 million—and that is in a State where the total State budget is only $500 million. A Chrysler failure would have a brutal impact on jobs in my home State, an impact second to none—not even Michigan. The Northeast-Midwest coalition has estimated Chrysler employment represents 6.5 percent of total manufacturing employment in Delaware—that compares to 4.6 percent for the entire State of Michigan and 2 percent for Missouri, the next two highest impacted States.

In short, we are offering a plan we believe will work— a plan that can be supported by all parties already involved and one that can be supported by a majority of the Congress.

Mr. President, I think it is also serious as to the effects it would have on the economy of the United States. Certainly, it is the opinion of many economists that the United States is on the verge of a serious and deepening recession. Ever higher oil prices combined with oil shortages, double-digit inflation, and serious unemployment that CBO predicts will rise as high as 8.25 percent in 1980, make this indeed an ominous period.

The collapse of our 10th largest industrial corporation, the unemployment of an additional 400,000 or more employees, the out of pocket cost to our Federal and State governments through unemployment benefits, pension guarantees, and other programs, as well as the loss of billions of dollars of revenue, $13.6 billion in 1978 generated by the Chrysler sale of 1.2 million cars and 190,000 trucks, could have a devastating impact on our economy. Let no one be mistaken, Chrysler bankruptcy could trigger a massive recession in view of the delicate state of our economy. All industry—steel, chemicals, textiles—would suffer a grevious blow through the loss of the American manufacture and sale of these cars. Foreign made cars would undoubtedly take up much of the slack caused by a Chrysler bankruptcy, thereby increasing our balance of payments problems.

Does anyone seriously believe that our foreign competitiors, such as Japan and Germany, would permit a national asset like Chrysler to go under? The answer is clearly no. Nor should the United States. A viable competitive American automobile industry is essential to a healthy U.S. economy. There is ample precedent for the action both of preserving and strengthening our economy, but especially in alleviating human suffering and disaster that would otherwise prevail.

Mr. President, I urge my colleagues to support a loan guarantee for Chrysler as a measure to build for America's future.

I yield back the floor to the distinguished Senator from Missouri.

Mr. EAGLETON. Mr. President, I ask unanimous consent that I may yield to my colleague (Mr. BIDEN) for his opening remarks without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. I thank my colleague from Missouri.

Mr. President, I rise to speak in favor of the amendment of which I am a cosponsor and of the bill in general. I listened with great interest to my distinguished colleague from Pennsylvania (Mr. HEINZ), and I have listened to others who have articulated I think very well the argument against not only possibly this amendment but the bill. I have heard mentioned time and again over the past several months in my State and in other parts of the Nation, the concern of the business women and men of America as to what precedent we may be setting, what invitation we are holding out, and what consequences for the free enterprise system may or may not flow from our action on this floor this evening and tomorrow and the next day if we, in fact, move, with the help of the Federal Government, to make Chrysler Corp. a viable corporation again.

I have also heard from some of my colleagues who are not here today. I heard time and again the concern raised about whether or not the very people we are "saving" are giving enough. The people to whom they refer are the blue collar workers, the UAW members, whose jobs the U.S. Congress is in the process of "saving."

When I hear these and other arguments made, I hear little discussion about how we really got to this point in the first place, who contributed most to this dilemma, and what we are going to do about where we are. The fact remains none of us—I do not expect Senator EAGLETON to be, I do not expect Senator ROTH to be, and I know I am not, nor is anybody else who supports this legislation—is enthusiastic about the opportunity for the Federal Government in any way to come forward and prop up, aid, abet, any word you would like to use, a major corporation by the use, temporary or otherwise, of Federal loan guarantees.

It is not something we rush to do. The fact of the matter is, we are where we are and we must not only consider what happens if we do go forward but, almost as importantly, what happens if we do not go forward to rectify the situation.

The fact of the matter is that I am not very comfortable with the idea, nor do I think, for example, the UAW is very comfortable with the idea of standing on this floor arguing that the Federal Government should be directly involved in a significant way. But the fact of the matter is that we are here because there is so much at stake.

If you look at it in relative terms, Mr. President—that is, relative to what happens if we do not do anything—this legislation and the amendment that we are offering are a budget bargain. Chrysler's failure, as has been mentioned time and again, means the loss of Federal revenue and increased spending for unemployment compensation and other programs to aid those persons who are out of work.

We might say that it would not be as much of a bargain if we were sure that every Senator on this floor who votes against the Chrysler bill would also be prepared, when unemployment hits 8½ or 9 percent, when the recession deepens, to come to the floor and stand firm on principle and articulate, in the best free-enterprise jargon that could be mustered, that we are not going to do anything about the unemployed folks, that we are not going to do anything about unemployment insurance, that we are not going to do anything more about food stamps, that we are not going to do anything more about dealing with the unemployment that already exists and which, if this bill fails and Chrysler goes under, would, in fact, be compounded in a very serious manner.

In the next 2 fiscal years, 1980 and 1981, these costs of unemployment benefits and the like would increase our deficit—and I am a member of the Budget Committee. We talk about this constantly. I see another member—two members—of the Budget Committee are on the floor. It will increase the deficit by $2.75 billion. All we need to do to prevent this loss is guarantee a private loan of $1.5 billion with, probably and hopefully, no cost to the Federal Government.

There are a lot of folks who want to balance the budget. A lot of folks want to do something about the deficit. A lot of folks point out to us that the deficit impacts on inflation and inflation is still our No. 1 problem. It seems to me that, as much as I do not like the idea of aiding any corporation, the fact of the matter is that the national economy will be affected in a significant way. But even if we discount that, I doubt whether anybody seriously argues that the deficit will not be increased, and all those who suggest that the deficit has something to do with inflation should be prepared to answer the question of how and what they are doing about inflation if they vote against this legislation.

The Chrysler collapse will be a serious shock to the economy that most economists agree is moving into recession. You have heard the figures, Mr. President, time and again, that unemployment could be increased by up to 500,000 jobs, half a percentage point, and there could be a decrease in real economic growth of as much as a full percentage point if, in fact, Chrysler goes under.

Again, I do not like bailing out Chrysler, loan guarantees or otherwise, even if it costs the Federal Government no money. That is one of the things we all have to grapple with. Why? The Senator from Pennsylvania made a very strong argument. I thought it was interesting: Is the message we are sending that we have welfare for the rich and not for the poor?

That sounds good, it even feels good when I say it, Mr. President. It fits right in with my democratic principle, my skepticism about major corporations and their interest in the American economy, and it sounds great. I feel like a true American, a true Democrat, with a capital D. But, quite frankly, it does not mean a whole lot, because the fact of the matter is that we are going to have a whole bunch of folks affected directly—about half a million jobs.

My colleague from the State of Delaware (Mr. ROTH) is on the Committee on Finance and is dealing with trade questions and is considered somewhat of an expert in that area. He points out that we shall also be increasing our balance of payments deficit if Chrysler goes under. I do not expect the Japanese and the Germans or anybody else are going to sit by and say, "Chrysler went under. We are just going to sit here now; we are not going to move into that market. We are not going to do anything because America is in trouble; we do not want to aggravate that problem."

But I shall not go into any detail on that. There will be more time for that later.

There will be a loss in direct local taxes of more than $140 million at a time when Congress is considering a program of countercyclical revenue sharing. Again, we sit in the Budget Committee and we argue about countercyclical revenue sharing. Some of the people who have expressed skepticism about this legislation to me are also some of the people, and I am not speaking about Senator LUGAR now, who tell me there is a need for countercyclical revenue sharing. We have a countercyclical revenue bill in front of us now, $140 million worth.

The studies show that this particular bill, if passed, will enable Chrysler to become a viable company. I must admit I have doubts about that. I cannot stand here and guarantee my colleagues that if we pass this, absolutely, Chrysler is going to go to town and make it. I can tell what will happen if we do not. Everyone seems in general agreement that if we pass this bill, the prospects of Chrysler being able to make it are good and the assistance need only be temporary.

The proposal is not precedent setting, in my opinion, Mr. President. We have helped the steel industry, we have helped other industry. We have used EDA as a mechanism to aid companies. We have a Small Business Administration that has been using loans and loan guarantees for a long time. And, of course, there are Lockheed and New York City, successful examples of loan guarantees.

But again, I do not like lending Chrysler the money. It does not sound good. It does not feel good. It does not fit in with my rhetorical speeches that I like to make in chambers of commerce about how the free enterprise system works. But I see those same guys out there in business, who are lining up saying this is not such a good idea, are the same guys who come knocking on my door and saying, "We need more money for the Small Business Administration, free enterprise." They come and knock on my door and say, "We have to help the steel industry."

They come and knock on my door and say, "We need help."

There was a little discussion one of my administratives aides was having with some people in Delaware that I would like to share with you all. These are all good, free enterprise people. They were talking about Chrysler and the impact on Delaware, and they took an informal vote, about eight of them. Half were for, half were against. The ones who were against got up and one of them made a really good speech. The only comment made by a person who was for, which is in line with this free enterprise discussion I am having, was simple He turned and looked at the other person and said, "Yes, but if you had a branch in Newark"—that is where our plant is located—"you would not think that way."

Is that not basically what we are talking about here? We do it all the time.

I hope we come along and see to it that if we do not help Chrysler in the manner we are suggesting, we also all stand firm here on the floor next year while we are buffeted by the winds of unemployment and higher inflation and we all go back to our constituencies and make those speeches about free enterprise and let it work. I am all for that.

If everybody would sign on right now, all of us right now, or if we made our votes conditioned on our commitment to sign on right now, and not be here on the floor asking help for our States, I think maybe we might set a new policy and trend in this country. I think we would go to heaven in a handbasket, in the meantime, but it might happen.

I must admit, I am sure some Senators are wondering why the senior Senator from Delaware and the junior Senator from Delaware have joined the senior Senator from Missouri to support his compromise. I am sure none of the Senators know whether or not I have a parochial interest in this. I am sure they all knew the only reason I was standing here was because of my deep philosophic commitment to this issue.

I do not like to bail out Chrysler. I do not like Chrysler, and I did not when they approached me when I was on the Public Works Committee, that they would corner the market on big cars—I am serious, they told me—corner the market on big cars.

I did not like them then. I do not now. I do not drive a Chrysler. But many of us may wish we could.

But, for the record, I can think nothing other than the Du Pont Co. moving out of Delaware that could affect my State more than the Chrysler Corp. going under. It is a very significant impact. My colleague from Delaware pointed out the numbers.

Keep in mind, in my State we have about 300,000 people in the work force—300,000—as big as some of the counties in Michigan and other States.

The direct impact would be about 13,000 jobs. Total economic activity generated by Chrysler, about $998 million. The taxes paid are $3.6 million. Chrysler suppliers received $11.2 million.

I found it interesting, we also have a Governor in our State who is interested in the free enterprise system. His study group, I assume he will go along with it, and I heard, coming down from Delaware today, on the radio, they are willing to write off Chrysler's taxes for a year. I suspect they are willing to do even more because so much is at stake.

I will conclude very shortly.

I conclude by pointing out that the implications for the Federal budget process, the deficit, unemployment and inflation, are very, very, very consequential.

Again, in this amendment I have joined Senators EAGLETON and ROTH in the support of the bill. Overall, we are not asking whether one likes Chrysler, not saying they deserve it. It is not based on whether or not they warrant it. But two things are clear. The UAW did not do this to Chrysler, and the UAW should not have to carry all the burden.

When we talk about, which we will later in the debate, the specifics of the amendment, not only do I think that a larger contribution is not equitable, but I also think it is counterproductive to trying to keep Chrysler afloat.

Senator EAGLETON, I am sure, will speak in detail in regard to the loss of skilled jobs, why they would be lost, if we go much higher than the figure we have in our amendment.

Last, if, in fact, Chrysler goes under, the repercussions from it going under are ones we will have to pay for at a time, in the 7 years I have been here, which is about the worst possible time in the economy that we can allow something like this to happen.

Oil prices are skyrocketing. Inflation is out of control. Unemployment is just waiting to leap up.

Let me remind all those Senators who, back in the last recession, took great solace from those figures where unemployment stayed down at a nice level. Within 2 months it leapt significantly so that we ended up having unemployment all of a sudden being our major problem.

Unemployment got big and it hurt, not just the people unemployed, but it hurt everybody, and we were forced to react. We passed a lot of legislation to deal with it that cost us more money than if we had never allowed it to occur in the first place.

I would like to thank the Senator from Missouri for yielding. I urge my colleagues to listen closely to the Senator from Missouri and support both our amendment and the final piece of legislation.

(During the preceding remarks, Senator BURDICK assumed the chair.)

Mr. EAGLETON. Mr. President, I thank my colleague from Delaware.

From the very onset of this Chrysler matter, he has played a very significant role, trying to formulate a plan or a mechanism by which meaningful assistance could be rendered unto Chrysler, so that the corporation could remain in business.

Of course, as he pointed out, it has a substantial impact on his State of Delaware, although more jobs in gross numbers are in jeopardy in the State of Michigan.

As far as Delaware is concerned, on the jobs affected as a percentage of total job market, it is absolutely frightening.

We all think of the Du Pont Chemical Co. as being, in essence, the industrial lifeblood of Delaware. Indeed, it is very important. But Chrysler, right along with it, is part of the industrial lifeblood of the State of Delaware.

Mr. President, I ask unanimous consent I may yield to the Senator from

Kentucky without losing my right to the floor.

Mr. LUGAR. Reserving the right to object, I would like to query the Senator from Missouri as to whether it is his intent to literally parcel out the floor over a period of time because, if so, I would be constrained to object.

Mr. FORD. Mr. President, may I say I have a unanimous-consent agreement, 30 seconds, on the alcoholic beverage thing.

Mr. LUGAR. Reserving the right to object, I will not object on this occasion, but in the event the Senator from Missouri is attempting to hold the floor longer, I would object to that procedure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, the Senator from Indiana asked what my intention was. My intention is to give some remarks with respect to the pending amendment, which is the Eagleton-Roth-Biden-Bayh, et al amendment to the Lugar amendment, and then it is my understanding that at some time in the not too distant future we may be discussing when tomorrow morning we might vote on the amendment.

THE CASE FOR CHRYSLER

Mr. President, the issue of aid to Chrysler already has provoked much heated discussion and news coverage. Undoubtedly, the coming debate will see new clouds of rhetorical smoke waft over the Capitol. But I hope that, as the debate unfolds, my colleagues will keep a few salient facts in mind.

Chrysler Corp. is not just its president. It is not just 12 people sitting on a board of directors. Chrysler is a network of manufacturing and dealer facilities employing more than 300,000 people across the country. Chrysler represents nearly $8 billion in purchases and additional hundreds of thousands of jobs for Chrysler suppliers. Chrysler means nearly $4 billion in payrolls invested in our Nation's banks and spent in our Nation's retail stores each year by Chrysler employees.

As these figures indicate, a Chrysler shutdown would have a devastating impact on all Americans. A study for the Congressional Budget Office predicts that a Chrysler failure would put as many as 600,000 people out of work and cause the loss of $19.3 billion in personal income through 1981. Many of these lost jobs would be permanently exported overseas.

In my own State of Missouri, where we have a truck and car assembly plant and hundreds of dealers and suppliers, the economic consequences would be severe. The study by the Department of Transportation has estimated that directing secondary job losses in St. Louis alone would range from 21,360 to 26,700 and a decline in economic output of almost $2 billion.

These figures do not include dealers of which there are 135 in Missouri employing 1,650 persons. Nor does it fully account for the losses likely to be experienced by the 561 Chrysler suppliers throughout Missouri—mostly small firms—who collectively do about $100 million a year in Chrysler business.

Mr. President, in other cities, a shutdown or major reduction in Chrysler operations could have devastating employment and economic effects. According to the Department of Transportation study, the Detroit area could see its jobless rate increase from the current 8.7 to 16 or 19 percent. Direct taxes to the city of Detroit would be reduced by $34 million, severely limiting the city's capacity to meet increased unemployment and welfare payments. A very high percentage of Chrysler's Detroit workforce consists of minority workers.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield?

Mr. EAGLETON. I yield to the majority leader without losing my right to the floor.

Mr. ROBERT C. BYRD. I thank the Senator.

Will the Senator yield to me for the purpose of recessing for 5 minutes with the understanding that he regain the floor after the recess?

Mr. EAGLETON. I so do.

RECESS UNTIL 7:35 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 5 minutes.

There being no objection, the Senate, at 7:30 p.m., recessed until 7:35 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. Gravel).

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared with Mr. Proxmire, Mr. Lugar, Mr. Roth, Mr. Eagleton, Mr. Garn, Mr. Riegle, Mr. Tsongas, Mr. Biden, Mr. Baucus, the distinguished Republican leader, and other Senators.

I ask unanimous consent, with the understanding that there will be no rollcall votes tonight, that on tomorrow after the two leaders have been recognized under the standing order—and I ask unanimous consent that that time be reduced to 5 minutes each.

Mr. STEVENS. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. That the remaining time up until 11 a.m. be equally divided between Mr. Eagleton and Mr. Lugar; that a vote occur on the Eagleton-Roth amendment at 11 a.m.; provided further, that if the Eagleton-Roth amendment is rejected, there then be 30 minutes for debate on the amendment by Mr. Lugar to be equally divided and controlled by Mr. Lugar and whoever is in opposition to that.

Mr. PROXMIRE. Mr. President, I think the manager of the bill should have it, but I will delegate the opposition to Senator Riegle.

Mr. RIEGLE. I thank the Senator.

Mr. ROBERT C. BYRD. All right.

Provided further, that if in the event the amendment by Mr. Lugar is rejected Mr. Tsongas be recognized to call up an amendment and that there be 30 minutes for debate thereon to be equally divided between Mr. Tsongas and Mr. Lugar; that a vote occur then on the amendment by Mr. Tsongas.

Mr. STEVENS. Mr. President, reserving the right to object, and I shall not object, it is my understanding that there will be no motion to table, that it will be an up and down vote at the time specified?

Mr. ROBERT C. BYRD. That is correct.

The PRESIDING OFFICER. Is there objection?

Mr. TSONGAS. Mr. President, as a point of reference, I do not know at this time what the figure will be in my amendment.

Mr. ROBERT C. BYRD. Could we get this request agreed to before something comes out of the woodwork?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Missouri continue to yield to me?

Mr. EAGLETON. I yield.

ORDER THAT IT BE IN ORDER TO ORDER THE YEAS AND NAYS EN BLOC

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order at this time to order the yeas and nays on all of the three amendments which will occur, of course, in the events as previously described, with one show of seconds at any time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the three amendments.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. I thank all Senators, and I yield the floor back to Mr. Eagleton.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. TSONGAS. Mr. President, will the Senator yield to me for a moment?

Mr. EAGLETON. I yield to the distinguished Senator.

Mr. TSONGAS. Mr. President, as a point of information, my amendment will only be necessary if the amendment of the Senator from Missouri and the Senator from Delaware should not be successful and it will be a figure equidistant from the final compromise figure I spoke about last week and the House action tonight. There is no way I can give Senators that figure until I know what the House of Representatives does. But assuming they come up with $400 million for the UAW and $100 million for management, I wish to get out of conference at $475 million and $125 million, so the amendment will be on the other side of those figures.

But I do not want to be committed to a particular figure until I know what the House votes, so that will have to wait until tomorrow's session.

I thank the Senator for yielding.

Mr. EAGLETON. Mr. President, I will shortly relinquish the floor and save the remainder of the speech time under the time constraints that obtain for tomorrow.

I thank the distinguished majority leader for working out this very effective way of accommodating the competing interests. I yield the floor.

Mr. ROBERT C. BYRD. I thank the

distinguished Senator for his cooperation.

Mr. CRANSTON. Mr. President, I ask unanimous consent that I may at this time bring up a noncontroversial amendment that I understand will be accepted.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 892

(Purpose: To authorize a study of the Corporation's capability to produce a fuel efficient, safe vehicle similar to the research safety vehicle designed and built under contract to the National Highway Traffic Safety Administration)

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 892.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 27 at the end of line 14 insert the following:

"The study shall include an examination of the Corporation's capability to produce for sale an automobile similar to those vehicles developed under the research safety vehicle program of the National Highway Traffic Safety Administration. The study shall consider government procurement as one means of establishing a market for this automobile."

Mr. CRANSTON. Mr. President, the amendment I am offering will authorize a study by the Department of Transportation of the Chrysler Corp.'s capability to produce for sale within a reasonable time a fuel-efficient, low-polluting, safe vehicle along the lines of research safety vehicles already designed and built by Chrysler and Minicars, Inc., under contract to the National Highway Traffic Safety Administration.

The Chrysler Corp. participated with the Calspan Corp. in designing and building the research safety vehicle. The research vehicle uses the Chrysler-Simca 1307 body frame and Chrysler's Omni/Horizon engine.

Other research safety vehicle work has been done in Goleta, Calif., by Minicars, Inc., also under contract to the National Highway Traffic Safety Administration.

These safe, low-polluting, fuel-efficient cars can quite apparently be produced. A prototype has already been built.

I am not asking the Department to study some science-fiction car. I am asking it to study one that a DOT factsheet refers to as the existing car.

Given the enormity of the public's financial involvement in the welfare of the Chrysler Corp. and its employees, I think it reasonable to ask the Department of Transportation to study the feasibility of producing and selling the car on the part of the Chrysler Corp. I also believe the study should examine whether Government procurement policy and practice can support the economic feasibility of such a project. Similar procurement practices assisted the American Motors Corp. several years ago.

There are many Americans who would like the opportunity to buy a safe, fuel-efficient car. The amendment I am proposing offers a chance that they might have such an opportunity.

I wish to point out that the amendment in no way saddles the Chrysler Corp. with any responsibility for such a project. It will not hinder the necessary financing arrangements vital to the company's survival. The amendment instead demonstrates an affirmative, positive interest in the well-being of the company and an interest in the product line it will be developing if successful.

I urge adoption of the amendment.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. CRANSTON. Of course.

Mr. PROXMIRE. I commend the Senator on this amendment. I believe it is a constructive and useful amendment.

I do want to find out, however, how much this amendment would cost.

Mr. CRANSTON. It would be absolutely minimal because it will be carried on in the same study already enumerated in the bill on page 27 under long-term planning study.

Mr. PROXMIRE. The House had a provision requiring, as I understand it, that Chrysler produce fuel-efficient cars in some way. The Senator in his remarks indicated that his amendment in no way required Chrysler to do this, and I appreciate that part of the amendment, because I think it would be a mistake for us to do this with a company that is in trouble—to require them to do anything that is not absolutely essential.

Mr. CRANSTON. I would agree.

Mr. PROXMIRE. Furthermore, I think it would be an interference with management decisions, and it is tough enough as it is, as we know, for an automobile company to make it these days. All the Senator's amendment does then is to provide a study by DOT of Chrysler's capability of producing this kind of a car?

Mr. CRANSTON. That is right. It mandates nothing.

Mr. PROXMIRE. It would be beneficial to them. The cost could be low and it would be in the public interest because it would mean we would have fuel-efficient, safer automobiles.

Mr. CRANSTON. It gives a greater hope that we will have that. It mandates nothing to Chrysler, but it provides an opportunity to do something that Chrysler is already engaged in.

Mr. PROXMIRE. Mr. President, I support the amendment.

Mr. LUGAR. Mr. President, on our side of the aisle we support the amendment of the Senator from California. Clearly the intent of the study idea was to try to find new ways for Chrysler to meet the market and, in our judgment, Chrysler is performing that service in a way in the California plant that was cited.

Mr. CRANSTON. That is correct. I thank the Senator very, very much.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 893

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 893:

On page 28, strike out all beginning on line 24 down to and through line 2 on page 29 and insert in lieu thereof:

"(b) Notwithstanding any other provision of this Act, the authority of the Board or the Secretary of the Treasury to make any commitments to guarantee loans or any guarantee shall be limited to the extent such amounts are provided in advance in appropriation Acts."

Mr. PROXMIRE. Mr. President, I am offering this amendment which, incidentally, is precisely the language in the House bill, the language that we had felt we had but we did not, to correct what is an oversight in the Senate bill, because the Appropriations Committee staff has called to our attention the fact that the language that appears now on page 28, line 24, of the bill says the following:

(b) Notwithstanding any other provisions of this Act, commitments to guarantee loans under this Act shall not exceed such limitations on such commitments as are provided in general provisions of appropriation Acts.

They contend that this would not require an appropriation before the money is made available. It certainly was the intention of the Banking Committee not to go around the Appropriations Committee and not to move into their jurisdiction or provide that there would be a commitment or a guarantee before the Appropriations Committee had an opportunity to pass on it.

All this does, as I say, is to make it conform to our intention, make it conform also to the language in the House bill.

I have discussed this with Senator LUGAR, who is managing the bill for the minority, and I understand he has no objection.

Mr. LUGAR. The Senator is correct. We commend the amendment.

Mr. RIEGLE. Mr. President, I reserve the right to object at the appropriate place because I have not seen the amendment nor had it discussed.

I would like to engage in colloquy to see if I can support it. Is now a good time?

Mr. PROXMIRE. The amendment is up now for a vote, and if the Senator wants to discuss it, of course, that is absolutely his right, and I am happy to answer any questions the Senator may have with respect to this amendment.

Mr. RIEGLE. We are trying to get a copy of it so that we can have it in front of us to look at. Would it be possible before offering subsequent amendments like this to look at them ahead of time?

Mr. PROXMIRE. I would be happy to do that. This is not a substantive amendment, and I am sure the Senator will agree when he looks at it. It certainly is in the form of a technical correction. It does not change in any way the intention which was indicated by the committee and, as I say, it is the same as the House language.

Mr. RIEGLE. It seems to me the problem we might face with that, of course—and the Senator, the chairman, serves on the Appropriations Committee, and as I do not, he is perhaps more familiar with the procedures on the Appropriations Committee of the Senate—but it seems to me that the difficulty that we could face here is if we go ahead and pass the authorizing legislation and we pass the loan guarantee legislation we are, in effect, giving the Secretary of the Treasury or the loan board the authority to go out and within the bounds of the legislation negotiate the terms and conditions laid out in the bill, secure the outside commitments and do what other things are necessary to meet the test to qualify for the Federal loan guarantees.

If for some reason they get that done and the Appropriations Committee back here is out of sequence, and for some reason or other is not in position to act on a timely basis, it seems to me that what you are saying, you are, in effect, taking away the very authority that we are proposing to give in this legislation to the Secretary of the Treasury, and that is if he can put this deal together he is absolutely authorized to make the commitments for the loan guarantees, assuming that all the tests are met in the law.

To impose a new test and to interpose a new committee and a new committee process that may or may not be time-phased to cooperate with this other process I see as unnecessary.

I do not see why you want to insert another committee into the act. Could the chairman explain to me why the language that is in the bill now that addresses this point is not sufficient? What is the difference between the change he is now proposing versus the language he originally proposes in the text of the bill as printed?

Mr. PROXMIRE. Well, that is the key question, and I think it is a very good question. I think any commonsense reading of the language would suggest there has to be an appropriation, because it says:

> Notwithstanding any other provisions of this Act, commitments to guarantee loans under this Act shall not exceed such limitations on such commitments as are provided in general provisions of appropriation Acts.

That could mean, and to some members of the staff meant, that we had to have an appropriation first, and that was our intention.

However, we discussed this with the staff of the Appropriations Committee, and they tell us this does not conform with the requirement which we had in the New York City bill, and which the House has in its Chrysler bill, which reads:

> Notwithstanding any other provision of this Act, the authority of the Secretary to make any guarantee under this Act shall be limited to the extent such amounts are provided in advance in appropriations Acts.

The amendment has the same language as the House bill, and I think it would be a great mistake for the Senate to try to move in on the established jurisdiction of the Appropriations Committee. I would think Senator MAGNUSON and other members of the committee—I happen to be a member of the Appropriations Committee myself—would be very concerned about that.

It is obvious, on the basis of the New York City loan guarantee record, that there has never been any attempt and there would not be any attempt now to delay this for a minute. The Appropriations Committee would go ahead with it. But the Appropriations Committee has a right to insist on its jurisdiction with respect to guarantees. They have had it in the past, and I am sure they would not want to give it up.

I think if the Senate would want to have the Appropriations Committee——

Mr. RIEGLE. Well, I guess it was my intention——

Mr. PROXMIRE. Protest this amendment, they would, very strongly; and if there was any way this bill would be held up, it would be by a committee like the Appropriations Committee asserting its jurisdiction.

Mr. RIEGLE. Let us say this loan guarantee legislation passes, and we are in the spring of the year, and the Secretary of the Treasury is putting all the preparation together and working out the package according to the guidelines here in the law, and he has everything set. In other words, he has the whole situation arranged with the outside parties, and is ready to enter into the commitments.

Now, I know the chairman was of a mind to want to require legally binding commitments in the first instance, before anything could be done, and what I am concerned about is, I want to make sure we are not putting the Secretary of the Treasury in a position that, once he has the package negotiated according to our guidelines, he will not then be able to proceed to go ahead and make the commitments, despite this legislation.

Mr. PROXMIRE. Oh, there is no question that if the Secretary of the Treasury conforms to the requirements established in the bill, the Appropriations Committee would go ahead. I cannot imagine that there would be a single dissenting vote under those circumstances.

But because this does, as I say, involve an enormous amount of money, hundreds of billions of dollars, and the Appropriations Committee has handled guarantees in the past, they would want to have that that way. But, based on our experience with New York and elsewhere, that approval would be easily forthcoming.

Mr. RIEGLE. So the Senator is not in any way addressing the question of new budget authority?

Mr. PROXMIRE. That is correct.

Mr. RIEGLE. My understanding, then, would be correct to assume that this is a standard form; in other words this conforms to existing practice and policies in all respects?

Mr. PROXMIRE. That is right.

Mr. RIEGLE. I thank the chairman for the explanation, and on that basis and the basis of this colloquy, I withdraw my objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment (UP No. 893) of the Senator from Wisconsin.

The amendment was agreed to.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TSONGAS. Mr. President, the House has voted by a 2-to-1 margin, as I understand it, on the question of the aid package, and resolved the issue. Now that that has been done, let me indicate where I will come down tomorrow in my amendment.

The House language provides $400 million in terms of UAW contributions, and $100 million in terms of management contributions. I indicated last week that I felt that the most logical middle ground in terms of maximizing both passability and viability of Chrysler was 475 for UAW and 125 for management. Therefore, assuming that is the end result to be gained in conference, my amendment would read 550 UAW and, were that to pass, I would introduce an amendment at 150 for management, and that gets us equally distant between the House version and that, so that the final product would revert back to 475 UAW and 125 management, for a total of $600 million between the two parties.

I thank the chairman for yielding.

Mr. PROXMIRE. Mr. President, if there are no further amendments and no further discussion of the bill at this time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, a little earlier I expressed appreciation to Senators for their cooperation and assistance in working out the time agreement on the amendments tomorrow, and I inadvertently overlooked the names of Mr. WEICKER, Mr. BAYH, and Mr. LEVIN. I want to express my appreciation to them, and to any others I may yet have overlooked.

● Mr. ARMSTRONG. Mr. President, it would be easy to vote for this bill. I do not like to contemplate the lost jobs, economic dislocation, and hardship that may result if the Chrysler Corp. goes under. And even though I happen to believe the worse fears have been exaggerated, the situation is clearly very serious.

I sympathize with Chrysler's plight.

The company has been whip-sawed by economic and political circumstances beyond its control. The company was caught on the wrong side of the 1974 Arab oil embargo, the 1974–75 recession, and a regulatory quagmire which costs the firm $160 million monthly. These factors, along with double-digit inflation, stiff import competition, rapidly changing consumer tastes, punitive taxes, and the anti-business attitude in Washington have staggered strong and well managed firms and have already ruined many weaker firms.

Indeed, Chrysler's illness is merely a warning of what is happening to the domestic auto industry and to the entire economy. Ford Motor Co. and General Motors reported heavy third-quarter losses on domestic operations. United States Steel Corp. is laying off 13,000 employees and closing 18 antiquated facilities because it does not "want to become the Chrysler of the 1980's." Examples abound of American businesses strapped for capital, harassed by regulations, pressed by inflation, and faced with expensive and uncertain fuel supplies.

Key indicators of the Nation's economic vitality have been faltering for years; the savings rate is down; productivity has slipped; plant modernization has been deferred; the dollar has weakened; the stock market has been stagnant for a decade; countless firms—less visible and with less political clout than Chrysler—have gone under. Others are on the brink of doing so.

So if Congress approves this legislation, other firms will probably be coming to Washington with similar requests. That prospect, and the experience of other nations, notably the United Kingdom, that have tried to save failing companies without correcting underlying economic problems convinces me this bill is misguided.

This legislation may help Chrysler in the short run; over a period of time, however, it is almost certain to leave the Nation worse off. George Romney, who has firsthand experience with struggling auto companies, summed up admirably in testimony before the committee:

> Underwriting Chrysler loans without eliminating the conflict in national economic policy and the anti-profit, anti-investment tax policies that discourage capital formation will not save Chrysler; it will merely postpone its ultimate fate until our economy as a whole is in deeper trouble, and more companies and industries are pleading for help.

This Chrysler relief bill emphasizes the transformation of the American economy and how heavily American business has been dominated by the dependency upon Government. This bill carves out for one company an exemption from the general rule that the Nation's economic well-being is best served when individual firms prosper or fail without direct Government intervention. But while this direct Government help of an individual firm is extraordinary, if not unprecedented, we should not overlook the fact that hundreds of industries, thousands of business, and millions of individuals already receive, or clamor for, Federal help. And Congress responds by creating loan guarantees, direct loans, interest subsidies, operating subsidies, block grants, categorical grants, grants-in-aid, target prices, price supports, acreage set-asides, insured loans, rent subsidies, price guarantees—a myriad of economic poultices.

Once these programs are created, political clout becomes the final arbiter in determining aid. So more and more, economic success depends on political influence, not risk-taking, innovation, satisfying consumer needs, quick wits, or good business sense. Rather than write guidelines under which all business can compete, Congress draws boundary lines between and among firms to protect them from the market, from their competitors, suppliers, even their own customers.

In this instance, Congress is asked to draw a boundary line around Chrysler and to suspend the rules of fair competition for credit.

What will result from the loan guarantees in this bill? For one thing, that Chrysler will be able to borrow. But also that other firms will not be able to do so. In this legislation, Congress encourages lenders to divert funds that would otherwise be available to finance firms with a better credit rating and stronger future prospects. In propping up a weak firm, we unavoidably penalize stronger, more efficient firms.

Every time the Government intervenes in this way, the Nation suffers the consequences of a less efficient economy. In the end, it adds up to a lower productivity, fewer jobs, less profit, reduced incentives. If we insist on such intervention on a large scale, for which Chrysler could be the precedent, the United States will end up like Britain—subsidizing inefficient industries with capital that could have been used to create new jobs and suffering all the pains of retrenchment, trying to allocate fairly the goods and services of a shriveling economy. I am, therefore, constrained to vote against the bill.

Despite my skepticism about the basic idea of Federal loan guarantees of the type sought by Chrysler Corp., I acknowledge that the Banking Committee bill is a vast improvement over the original administration proposal or the House version. My colleagues Dick Lugar and Paul Tsongas have drafted, and the committee has endorsed, a bill which is light years ahead of its predecessor. To cite a few of the advantages, the Lugar-Tsongas-Banking Committee proposal:

Provides a total financial package of $4 billion which is much closer to meeting Chrysler's needs as projected in the administration's own analyses.

Reduces the taxpayers' contribution while at the same time increases the private sector contribution in aiding Chrysler.

Establishes financial goals that each segment of the Chrysler Corp. must meet as a precondition for awarding guarantees, and

Places prudent limits on loan guarantee fees, payment of stock dividends, wage and benefit increases, and release of Government-backed loans.

Whether this legislation passes or not, I hope Chrysler succeeds. I am impressed with the enthusiasm and leadership ability of the corporation's new management team. The company and its dealers express confidence in the firm's plans and product line. They believe that it is possible for Chrysler to overcome the past, regain a larger share of market and resume profitable operations. With or without loan guarantees, I wish them well in their efforts to do so.●

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business of not to exceed 15 minutes, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

IOWA EXPERT IDENTIFIES KEY ISSUES REGARDING RESTRUCTURING OF THE ROCK ISLAND AND MILWAUKEE RAILROADS

Mr. CULVER. Mr. President, among the most serious transportation problems confronting this Nation are the bankruptcies of the Rock Island and Milwaukee Railroads, which are two of our Nation's leading grain hauling lines.

This year, Iowa will have record corn and soybean harvests. The bankruptcies of these two lines—which together comprise 43 percent of the total track in my State—has had a devastating impact on the agricultural economy of my State. The Federal and State Governments will soon make decisions affecting the long-term restructuring of these lines, and it is imperative—for the health of Iowa and the Nation—that economical and efficient rail service be developed for the communities that rely on these two railroads.

At the request of myself and Senator Jepsen, Prof. C. Phillip Baumel, professor of Economics at Iowa State University, and a recognized authority on railroad economics, has prepared a paper which comprehensively identifies and analyzes the bankruptcies of the Rock Island and Milwaukee Railroads, and the major factors which must be taken into account by policymakers so that sound long-term service can be reestablished.

Professor Baumel makes some telling points. He concludes that some reduction in nonessential mainline and branchline track is needed so that railroads can commit their scarce capital to upgrading essential track and making urgently needed improvements in terminals and switching yards. He cites the need for private and public interests to make informed judgments concerning the future of the railroads as quickly as possible, in order to reduce the uncertainty faced by farmers and shippers.

Professor Baumel also identifies other important areas concerning the future of midwestern rail service, including an emphasis on western grain shipments to Seattle in addition to the historical reliance of Iowa farmers upon export terminals in New Orleans and Houston. He also succinctly discusses the different transportation problems of farmers in western and central Iowa, who lack alternative modes of transportation available to eastern Iowa farmers.

Professor Baumel makes no personal policy recommendations regarding the Rock Island and Milwaukee railroads. Not everyone will agree with his identification of key issues or his presentation of alternatives. However, he has performed a major service by comprehensively describing the variables that must be analyzed and satisfactorily answered if the restructuring of the two lines is to lead to the establishment of the kind of first-class rail systems which farmers expect and to which they are entitled.

I thank Professor Baumel for his most valuable effort, and I commend his work to my colleagues.

Mr. President, I ask unanimous consent that Professor Baumel's paper, entitled "Bankrupt Railroads: Issues and Alternatives for Rail Shipments of Iowa Grain," be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Bankrupt Railroads: Issues and Alternatives for Rail Shipments of Iowa Grain

RECENT HISTORY

Chicago, Rock Island and Pacific Railroad Company:

1963.—Rock Island Board of Directors proposed that the Chicago, Rock Island and Pacific Railroad Company be included in a merger with one or more competing lines.

January 1965.—Stockholders of the Rock Island voted to seek a merger with the Union Pacific.

August 1968.—After 27½ months from the initiation of the merger hearings and 274 days and 48,00 pages of testimony, the Interstate Commerce Commission public hearings on the Rock Island-Union Pacific merger ended.

October 29, 1974.—ICC gave preliminary approval of the merger.

March 17, 1975.—Rock Island Board of Directors voted to file a voluntary petition of Reorganization under Section 77 of the Bankruptcy Act.

March 27, 1975.—Union Pacific formally terminated the merger agreement.

March 28, 1975.—A U.S. District Court Judge appointed a trustee to oversee the operations and assets of the Rock Island.

August 28, 1979.—Members of Brotherhood of Railway and Airline Clerks struck the Rock Island over retroactive pay issues.

September 22, 1979.—ICC directed the Kansas City Terminal Railway Company to establish a management team to provide railroad service over the bankrupt Chicago, Rock Island and Pacific Railroad Company for 60 days. The directed service order was later extended for an additional 90 days.

October 10, 1979.—A U.S. District federal judge directed the Rock Island trustee to develop a plan by December 10, 1979 for making the Rock Island system from Kansas City to Minneapolis and Omaha to Chicago into a streamlined viable operating railroad. If the trustee is unable to demonstrate that the Rock Island can operate as a viable core or if such a system is tried and fails, the Rock Island system will likely be liquidated. The date for submitting the plan was later extended to December 28, 1979.

December 3, 1979.—ICC granted operating rights with no subsidy to the Southern Pacific Transportation Company on the Santa Rosa, New Mexico to St. Louis line owned by the Rock Island.

Chicago, Milwaukee, St. Paul and Pacific Railroad:

March 2, 1970.—Four railroads merged into the Burlington Northern. At the merger hearings, representatives of the Chicago, Milwaukee, St. Paul and Pacific Railroad stated that the merger would have a detrimented impact on the Milwaukee earnings. A petition was filed by the Milwaukee asking that the Milwaukee be included in the merger. Management of the Milwaukee has made several other merger proposals with the Burlington Northern and other competing railroad companies. None of the proposals have been accepted.

December 19, 1977.—The Milwaukee filed a voluntary petition for reorganization under Section 77 of the Bankruptcy Act.

January 18, 1978.—A U.S. District Court Judge appointed a trustee to oversee the operations and assets of the Milwaukee.

August 3, 1978.—The Milwaukee trustee announced that the Milwaukee lines west of Minneapolis would not be included in the reorganization and that an attempt would be made to sell portions of this track.

April 23, 1979.—The Milwaukee trustee filed a request for an embargo of approximately 75 percent of the Milwaukee track. The Federal District Court Judge denied the petition.

August 10, 1979.—Milwaukee trustee filed a plan for reorganization and asked for an embargo on approximately 65 percent of the Milwaukee track. The proposed surviving system has been called Milwaukee II.

September 26, 1979.—U.S. District Court Judge authorized the embargo of approximately 65 percent of the Milwaukee track.

November 1, 1979.—The Milwaukee trustee issued an embargo on approximately 50 percent of all Milwaukee track.

November 2, 1979.—Congress passed the Milwaukee Railroad Restructuring Act. This bill mandated operation of the entire Milwaukee system and $75 million of guaranteed loans and grants. The Act requires that the entire Milwaukee system be operated until an employee-ownership proposal is developed and accepted or rejected or until April 1, 1980.

December 1, 1979.—Milwaukee employees and shippers presented plans for employee-shipper ownership of parts of the Milwaukee system. The ICC must accept or reject the proposed plan by December 31. The bankruptcy judge must rule by January 10, 1980 on whether the proposed plan is fair and equitable to creditors.

PURPOSE OF THIS ANALYSIS

To identify the relevant issues and alternatives in the event that the bankrupt railroads discontinue service on parts or all of their lines.

ISSUES TO BE CONSIDERED IN EVALUATING ALTERNATIVE METHODS OF RESTRUCTURING THE BANKRUPT RAILROADS

1. Access to alternative grain markets:

Rock Island grain shippers have often cited the Rock Island direct line from Northwest Iowa to Houston and Galveston as the Rock Island asset of most value to Iowa. While the Rock Island does have a direct line to Houston, the railroad does not directly serve any grain export elevators in Houston or Galveston. All Rock Island grain shipments to Houston for export must be turned over to the Houston Belt Terminal Railroad (HBT). HBT then moves the cars to either the Port Terminal Railroad Association or the Southern Pacific for delivery to the Houston export grain elevators. Similarly, Rock Island grain shipments to Galveston must be turned over to Galveston Wharves for switching to Galveston export grain elevators. Moreover, the Rock Island line from Dallas to Galveston is jointly owned by the Rock Island and by the Fort Worth and Denver Railroad Company, a wholly owned subsidary of the Burlington Northern. In the event that the Rock Island line south of Kansas City is liquidated, it seems logical to assume the Dallas-Galveston segment will be purchased by the Burlington Northern.

Houston has been the most important export port in Texas for Iowa grain exports. According to data from Texas A and M University, Iowa exported 60.4 million bushels of corn and 6.1 million bushels of soybeans through Texas ports in 1977.

Texas ports are particularly important to Western Iowa grain producers. First, New Orleans area export elevators tend to be oriented to barge grain from Eastern Iowa, Western Illinois, Southern Indiana and Southwest Ohio. Secondly, most of the grain railed into New Orleans area elevators originates in Illinois. This rail grain typically arrives in 100- or 125-car unit trains. Unit grain trains from Iowa—usually 50- or 75-cars—have difficulty competing in this market. Iowa grain often competes most successfully at Texas ports and at export elevators in Pascagoula, Mississippi, Mobile, Alabama and more recently at West Lake Charles, Louisiana. While it is important to have rail access to New Orleans area ports, Western Iowa grain shippers feel strongly that access to Texas ports is vital to continued growth in Iowa grain exports.

Occasionally, some of the smaller Texas ports are important markets for Iowa grain. However, over the long run, the size of the grain export facilities in Houston and Galveston—the Farmers Export Elevator at Galveston which was destroyed by an explosion will be rebuilt by 1980—combined with the fact that there are no unit grain train rates from Illinois to Texas ports, make Houston and Galveston especially important for Iowa corn exports. Moreover, it is important that the restructuring of the bankrupt railroads provide enough flexibility for Iowa grain to be able to compete in other export markets. For example, from time to time, Mobile, Alabama and Pascagoula, Mississippi offer premium bids for Iowa grain. In addition, Agri-Industries recently leased a 1 million bushel elevator at West Lake Charles, Louisiana primarily for Iowa grain.

The export elevators at the North Pacific, especially Seattle, Tacoma, Portland, and Kalama, may become an important alternative for shipping grain to three of the nation's best customers for grain—Japan, Korea and Taiwan. China has been an "on and off" purchaser of U.S. grain since 1972. During 5 of the 25 weeks from May 1979-October 31, 1979, the North Pacific offered higher bids, net of transportation costs, for grain shipped from one South Central Iowa shipper located on the Burlington Northern than any Gulf port. This shipper has a 50-car rail rate to Gulf ports. Conclusion:

In restructuring the bankrupt railroads, it is important that Iowa farmers be given maximum flexibility to reach all relevant grain markets.

2. Energy:

Restructuring the bankrupt railroads presents many opportunities for reducing the amount of energy consumed in shipping Iowa grain to market. These opportunities are present in the gathering of grain, in the long haul shipment to export ports and in the ocean leg of the shipment. All energy saving opportunities will not be identified in this analysis. Rather, examples of these opportunities will be cited. Maps 1, 2, and 3 show alternatives for reducing energy consumption in gathering grain from Palmer, Iowa—located on the Rock Island—for southbound movements through Des Moines and for eastbound movements through Iowa Falls.

The trucking distance from Palmer to Pioneer would be approximately 28 round-trip miles compared to a round-trip rail mileage savings of 286 miles. Assuming the grain is trucked from farms east of Palmer to Pioneer, the average round-trip trucking distance would be about 20 miles—compared to a rail mileage saving of 286 round-trip miles.

Another alternative would be to rebuild the abandoned rail line from Palmer to Manson. In this case, grain would move over the Illinois Central Gulf to Webster City and then south on the Chicago Northwestern to Des Moines or directly to Iowa Falls on the Illinois Central Gulf. However, it is unlikely that the remaining railroad companies would agree to work together. Alternatively the grain could move by rail north to Laurens, then east to Rolfe and south to Des Moines as shown in Map 3. This route is 292 round-trip miles compared to 478 round-trip miles over the present Rock Island routing and would save 186 round-trip miles over the present routing. Alternatively the rail car could be routed north to Webb and south to Des Moines on the Milwaukee. This route is 330 round-trip rail miles compared to 478 round-trip miles over the present routing. Either of these latter two routes would have the advantage of efficiently serving all the traffic originating on the Royal-Palmer line. Conclusion:

There are several alternatives in moving grain from Palmer to Des Moines or Iowa Falls that are superior to the present routing. However, these efficiencies are not likely to be achieved with a multi-railroad company situation because the competition does not encourage cooperation.

Fuel savings are also possible from alternative mainline movements from the same origin to the same destination. The round-trip distances on the alternative rail routing from Kansas City to Houston range from 1,618 miles to 2,234 miles, a difference of 616 round-trip miles. The round-trip distances from Kansas City to Beaumont range from 1,534 to 1,880 miles, a difference of 346 round-trip miles.

The Milwaukee route to Houston through Kansas City is very circuitous. The total mileage from Spencer to Kansas City is 342 round-trip miles longer over the Milwaukee line direct to Kansas City than over the Milwaukee line to Des Moines and the Chicago and Northwestern to Kansas City. The Milwaukee route direct to Kansas City is 332 round-trip miles longer than over the Milwaukee line to Des Moines and the Rock Island to Kansas City.

The total distance from Nevada, Iowa to Kansas City is identical over either the Rock Island and the Chicago and Northwestern mainline routes. Nevertheless, the Rock Island line is somewhat more desirable because the grades and curves are more severe on the Chicago and Northwestern line.

One alternative which could yield major potential fuel savings is in grain shipments to Japan, Korea and Taiwan. The ocean distance from Seattle to Japan is approximately 4500–4700 nautical miles, depending on the location of the importing port. The distance from New Orleans to Japan is approximately 9600–9800 nautical miles. Distance from Western Iowa to Seattle is approximately 2000 miles while the rail distance to New Orelans is approximately 1200 miles. Reliable fuel consumption data to compare the relative fuel efficiencies of the New Orleans-Seattle routings are not available. Nevertheless, any restructuring of the Rock Island should at least consider the likelihood of fuel savings and possibly cost savings from increased movements of Iowa corn to North Pacific ports. The possibility of this type of movement is emphasized by the rapid growth in corn exports from Pacific ports.

Ocean freight rates from Gulf ports to Japan in over 18,000 ton vessels increased from about $12 per ton in 1978 to about $25 per ton from 1978–1979. Rates from the Pacific Northwest increased from about $12.50 per ton to about $18.50 per ton during the same period. Part of the large increase in Gulf ocean freight rates may reflect the large increase in bunker fuel costs which occurred in mid-1979.

The combined November freight rates were slightly in favor of the North Pacific ports. Lack of elevator capacity at these ports would prohibit a major increase in grain exports from Iowa to North Pacific ports. However, further increases in fuel costs may encourage additional facilities at these ports.

CONCLUSION

Restructuring the bankrupt railroads presents opportunities to maximize the use of short distance routes. Maximizing the use of the short distance routings could lead to concentrating more grain on fewer mainlines and thereby create potential earnings to further upgrade these lines.

3. Monopoly power:

A grain elevator is an immobile structure. Therefore, any elevator served by only one railroad company faces a railroad monopoly unless the elevator operator is willing to truck his grain to a railroad line operated by a different railroad company, to a grain processor or to a river barge terminal. Since grain produced in Eastern Iowa has access to barge transportation operating on the nine-foot channel on the Mississippi River, this discussion of railroad market power on grain shipments focuses on Central and Western Iowa. It is obviously too costly to have two railroad companies serving each grain elevator. Therefore, from the standpoint of an individual grain elevator, the railroad company serving that elevator has considerable market.

An individual railroad company has considerably less market power from the standpoint of the grain producer. This is because each grain producer must haul his grain to an elevator to be shipped by rail. Therefore, grain at the farm is mobile and can be hauled in any direction. The farmer must incur the cost of a vehicle to haul the grain off his farm as well as the cost of loading and unloading the grain regardless of where he hauls his grain. The key issue in evaluating the market power effects of restructuring the bankrupt railroads is the additional cost a farmer must incur to reach a rail line operated by another railroad company or to an elevator served by barge transportation.

At the present time, Northwest Iowa is served by 5 railroad companies. The Spencer-Marquette line of the Milwaukee Lines presently hauls large quantities of grain to the Mississippi River to be transported by barge to New Orleans export ports. In addition, there are three 75-car grain shippers, four 50-car shippers and four 25-car grain shippers on this line in Northwest Iowa. Assuming this line is made a part of Milwaukee II, and that Milwaukee II at least retains a 50-car grain tariff to Gulf ports for winter shipment, there seems to be limited opportunity for any railroad company to exercise much more market power than currently exists. This is because there is only about 44 miles between the Illinois Central Gulf mainline and the north Milwaukee line at the widest point west of Mason City. Assuming only 2 railroad companies, a freight rate increase of 7 cents per bushel by one railroad company would drive most of the grain to the other company. The major exceptions would be grain hauled to the nearest elevator at harvest time and grain hauled to a given elevator because of customer loyalty.

The situation appears to be less certain in West Central Iowa. If the Milwaukee lines and the Rock Island lines were to either be abandoned or taken over by the Chicago and Northwestern, there would be no railroad company other than the Chicago and Northwestern operating in the area roughly bordered by the Illinois Central Gulf through Fort Dodge and Denison to Omaha, and the Norfolk and Western from Des Moines south to Albia and the Burlington Northern from Albia west to Omaha. The maximum distance between Fort Dodge and Afton is about 105 miles. Thus, there is more potential for railroad market power in this area than in Northwest Iowa. However, there is little rail competition in this area at the present time on rail export movements because most of the multiple-car grain shippers are located on either the Chicago Northwestern or the Illinois Central Gulf.

The average net operating earnings of the Illinois Central Gulf over this 5-year period was $8 million per year. The average net earnings of the Chicago and Northwestern over the same period was $8.6 million dollars. Moreover, each railroad company experienced wide variations in earnings during this 5-year period. With the relatively low level and wide range of earnings of the Illinois Central Gulf Railroad and the Chicago and Northwestern Transportation Company, one major issue of restructuring the bankrupt railroad is the impact on the Illinois Central Gulf and the Chicago and Northwestern. A relatively small impact on the earnings of these two railroad companies could be a contributor to the bankruptcy of one or both of these companies. If this were to happen, elevators and farmers served by one or both of these railroad companies could suffer the loss of income and service that has been inflicted on Rock Island and Milwaukee shippers. Moreover, the possible elimination of one or both of these railroad companies could create a greater potential for railroad market power than the bankruptcy of the Rock Island and the Milwaukee.

4. Reduction of the size of the railroad plant:

In general, the most profitable railroad companies serve the western United States where the density of railroad plant is the lightest. The other areas served by profitable railroad companies are the southeast where there has been a rapid increase in industrial output and in heavy coal producing areas of Appalachia. The bankrupt railroads—Conrail, Rock Island, Milwaukee—and a number of railroads with relatively low levels of income—Illinois Central Gulf, Chicago and Northwestern, Missouri Kansas and Texas, Kansas City Southern—serve the Northeast and Midwest United States. These areas are characterized by a very heavy density of railroad plant, slow growth in industrial output and well developed inland waterway systems. The waterway system includes the St. Lawrence Seaway, the Mississippi, Illinois, Ohio, Arkansas, Missouri and Tennessee River. Moreover, a federal judge recently ruled that construction of a new 1200-foot lock and dam could be initiated to replace the currently congested Locks and Dam 26 at Alton, Illinois. While the new lock and dam will not be completed for approximately 10 years, the heavy competition and heavy density railroad plant in the Northeast and Midwest, raise the question of whether railroad companies operating in this area can become profitable without some reduction and modernization of the railroad plant.

Conclusion: Some reduction in the amount of both mainline and branch line track could permit railroad companies to concentrate the traffic on fewer miles of track and at the same time enable the companies to concentrate their scarce capital on upgrading fewer miles of track and in making badly needed improvements in switch and terminal yards. This could reduce railroad overhead costs and create the potential for lower rates than would otherwise be possible. Moreover, it could increase the rail grain carrying capacity.

5. Rail Car and Locomotive Supply:

Over the years, the major complaint of ra' shippers has been railcar shortages. Mo recently, it has become evident that shortages of locomotives have resulted in both loaded and empty railcars sitting for days, and in some cases, weeks waiting for locomotives to move the cars. The railroad companies with the largest number of jumbo covered hopper cars on order on October 1, 1979 were the Union Pacific, the Burlington Northern and the Chicago Northwestern. The railroad companies with the largest number of locomotives on order on October 1, 1979 were the Union Pacific, the Burlington Northern, the Missouri Pacific and the Santa Fe.

6. Delays in Seeking a Solution to Restructuring the Bankrupt Railroads:

Delays in reaching a solution to restructuring the bankrupt railroads could stem from regulatory indecision, inability of interested parties to reach a concensus or from court suits. Shippers have expressed a need for a relatively quick solution to restructuring the bankrupt railroads. They cite uncertainty arising from delays in reaching a solution could result in continued reduced prices to farmers, inability of shippers to plan and make facility investments and to plan and develop transportation capability. Moreover, the opportunity for a quick solution could result in more railroad companies being interested in acquiring parts of the bankrupt railroads.

On the other hand, the failure to ascertain the full effects of a quick solution could result in a continuation of present rail problems involving other railroad companies and other Iowa shippers.

7. Short Line Railroads:

The possibility of abandonment of a number of bankrupt lines suggests that short line railroad companies be considered to operate the abandoned lines. Short line railroad companies offer several potential advantages. These include a small management staff with a short and effective span of control, shipper commitment to the railroad company if it is owned by the shippers, and low labor costs if the labor force is nonunionized.

Short line railroad companies also suffer some disadvantages. These disadvantages frequently include capital shortages to upgrade rack and to buy or lease railcars and locomotives, inexperienced management, and lack of market power to effectively negotiate with connecting railroad companies.

There are about 330 short line railroad companies in the United States. The most successful short line companies are owned by steel mills, electric utility plants and other large industrial firms. The traffic from these owning companies is often heavy and almost always captive to the short line companies.

The least successful short line railroad companies own and operate low traffic density branch lines that were abandoned by other railroads or were originally parts of bankrupt railroads. There are about 25 short line companies that were formed as part of the restructuring of the bankrupt Penn Central. All of these short lines still require state or federal operating subsidies.

At the present time, there are six short line railroads operating in Iowa. Three are owned by Class I railroad companies, two are owned by electric utility companies and is an independent company which operates between Mason City and Clear Lake. It has connections with three Class I railroad companies.

One short line railroad company—Central Iowa Railway Company—was formed in Iowa in May 1973 to operate an abandoned light density branch line between Hills, Iowa and Montezuma, Iowa. The major commodities hauled by this railroad company were grain, fertilizer and lumber. It defaulted on a $400,000 debt to the Small Business Administration. The line was abandoned in 1978 and the materials were sold in partial payment of about a $1 million debt. A similar type of short line railroad was formed in June 1974 in Nebraska to operate an abandoned branch line servicing grain elevators. This short line railroad company—Great Plains Railway Company—was abandoned in 1975 after just one year of operation. During this year, expenses were 300 percent greater than revenues.

The best opportunities for short line railroad companies seem to be for branch lines that currently ship large volumes of grain, that currently lease covered hopper cars, have upgraded all or parts of their line and connect with at least two railroad companies. Moreover, these are the lines that will likely be desired by major railroad companies.

8. Alternative solutions:

There are several alternative solutions to restructuring the bankrupt railroads. These alternatives include:

a. Sell the entire bankrupt systems to one non-Iowa operating railroad company.

b. Sell the entire bankrupt systems to one Iowa operating railroad company.

c. Sell parts of the bankrupt systems to two or more Iowa railroad companies.

d. Sell parts of the bankrupt systems to the highest bidder.

e. Purchase and upgrade of the Rock Island mainline from Minneapolis to Kansas City by the federal government with operating rights for all railroad companies currently operating between Minneapolis and Kansas City.

f. If the above alternatives include the abandonment of some parts of the bankrupt systems, operate the nonpurchased lines as short line railroads.

At least the following questions need to be answered in evaluating each alternative solution:

1. Will the alternative solution enable Iowa grain to economically reach all Gulf export ports as well as Great Lakes, North Pacific. California and East Coast ports by rail?

2. Will the alternative solution provide the routings, upgradings, abandonments, and joint trackage rights that will minimize total fuel consumption?

3. Will the alternative solution create pockets of railroad market power which could prohibit farmers from economically hauling to a competing railroad line?

4. Will the alternative solution weaken an existing Iowa railroad company or companies and thereby create the potential for future railroad bankruptcies, along with disruptions similar to those caused by the Rock Island and Milwaukee bankruptcies and the potential for significant reductions in railroad competition?

5. Will the alternative solution increase, decrease or result in no change in rail car and locomotive supply to haul grain?

6. Will the alternative solution provide for capital to upgrade the necessary parts of the severely deteriorated bankrupt systems?

7. Will the alternative solution encourage railroad companies to work together to develop joint operating rights to reduce costs and fuel consumption?

8. Will the alternative solution require major and continuing government subsidies to keep the restructured system operating?

9. Will the alternative solution permit railroad companies to operate profitably?

10. Can existing Iowa railroad companies operate profitably if they take over only small parts or none of the bankrupt railroads?

11. What is the tradeoff between the threat of additional bankruptcies of Iowa rail carriers and the need for competition to discipline the market place with respect to pricing and service?

12. What is the tradeoff between the benefits of a quick solution and the need to ascertain the full impacts of the alternative solutions?

REBUILDING AMERICA'S RAILROADS WILL PROMOTE ENERGY CONSERVATION

Mr. CULVER. Mr. President, much has been said about the need to rebuild our ailing railroad system. Our midwestern railroads are indeed in a state of chaos. Many lines are bankrupt, track is being abandoned at a steadily increasing rate, and the orderly transportation of Iowa's record corn and soybean crops is virtually impossible. We must revitalize the rails so that the agricultural commodities so critical to the economy of Iowa, the Midwest, and the Nation can be delivered to domestic and foreign markets.

There is, however, another reason for rebuilding the railroads, one which has been overlooked in the past. Sound rail systems are essential if our country is to develop an effective energy conservation policy.

It will be impossible to conserve energy if we cannot improve the fuel efficiency of our transportation modes. Over 24 percent of all energy used in this country goes for transportation, principally for highways. Unless we promote efficient forms of transportation, it will be much more difficult to make significant savings in energy consumption.

Railroads are potentially the most energy-efficient mode of transportation, if track and equipment can be maintained in good condition. Although railroads consume only 3 percent of energy used for transportation, they carry 34 percent of all intercity freight. It is more fuel efficient, for example, to move grain by railroad than trucks over long hauls. With an energy future of even higher prices and reductions in imported oil, there will be a tremendous increase in the demand for grain-hauling trains. In short, a sound rail system can be one of our major potential assets in achieving energy independence.

If we are to achieve the kind of energy-efficient rail system this country requires for the future, we have to upgrade railbeds, purchase new locomotives and boxcars, and build modern switching centers. This is among the most effective action we can take to promote energy savings in the transportation sector.

For these reasons, I recently coauthored the amendment to the windfall profit tax bill which reserves $1 billion of the windfall revenues for railroad rehabilitation. The amendment, which was adopted, specifies that one of the major criteria for determining the allocation of these funds will be the increased fuel efficiency that will be promoted by upgrading particular rail lines. This amendment is a $1 billion investment which will pay enormous dividends in the long run, by resulting in an efficient, sound national rail system which promotes energy conservation while also assuring the orderly and timely movement of our agricultural commodities.

Thank you, Mr. President.

THE STEVENS TAX CREDIT AMENDMENT

Mr. PERCY. Mr. President, on Monday, December 10, I voted with 30 of my colleagues to approve an amendment to H.R. 3919, offered by the distinguished Senator from Alaska (Mr. STEVENS).

That amendment, if approved, would have given oil producers a dollar-for-dollar tax credit for half of their qualified development costs incurred producing oil and natural gas in Alaska's North Slope.

The credit would have made $7.2 billion available to these producers, and would have been earmarked primarily to encourage construction of Alaska's natural gas pipeline. The amendment, unfortunately, was defeated.

This was a plowback amendment. I have generally felt that tax credits should be used to encourage new production rather than providing tax credits for energy resources already in production.

It was of primary importance to me that we use the windfall profit tax bill and amendments to it to further the expansion of domestic energy resources—whether these resources are petroleum, natural gas, synthetic fuels, coal, or conservation.

I voted for the Stevens amendment because I saw, and continue to see, a compelling national need to begin now the Alaska natural gas pipeline that has been on the boards for so long. The cost was originally projected to be $10 billion. Then it was $13 billion; now the expected expense is $15 billion.

Mr. President, there are 26 trillion cubic feet of natural gas in Alaska waiting for a pipeline to be built. The companies have told us repeatedly that they cannot fund this pipeline on their own, and there is great reason to believe them.

Natural gas from an Alaskan pipeline can fuel homes and businesses all over America and Canada. States in the Midwestern region, especially, are in desperate need of this supply.

It was my belief that the earmarking of funds in this amendment for development of the natural gas pipeline afforded us with an important opportunity to spur the completion of this important national resource.

HEALTH EFFECTS OF AGENT ORANGE MUST BE RESOLVED

Mr. PERCY. Mr. President, 2 weeks ago, the Senate passed H.R. 3892, directing the Veterans' Administration to conduct an epidemiological study of Vietnam veterans who were exposed to the defoliant known as "agent orange." The Senate also approved S. 2096, to require the Department of Health, Education, and Welfare to conduct a study of people who were exposed to the chemical in its domestic applications. I am deeply concerned that these two pieces of legislation may represent a compromise which will prove detrimental to the interests of Vietnam veterans who may have been exposed to the herbicide, agent orange.

Agent orange was sprayed over wide areas of Vietnam between 1965 and 1970. It contains a substance known as dioxin. Dioxin is contaminated with TCDD, one of the most deadly chemicals known to man—many times more poisonous for instance, than cyanide. In fact, it has been shown to cause cancer in laboratory rats in concentrations as low as five parts per trillion. A recent study performed by the Veterans' Administration revealed that 10 of 22 veterans tested were found to have dioxin present in their body tissues at concentrations ranging from 3 to 57 parts per trillion above normal levels.

Thousands of former U.S. ground troops in Vietnam have reported that they and their children suffer from a wide range of illnesses and disabilities as a result of their exposure to agent orange. Over 5,000 veterans have contacted the Veterans' Administration, reporting that they were exposed to the substance while in Vietnam. Many of them present strikingly similar symptoms—cancer, genetic damage, psychological abnormalities, nervous disorders, skin rashes, and a host of other pathologies. To date, approximately 750 veterans have filed disability claims based on exposure to agent orange. Only two have been granted compensation.

Thousands of other veterans have been living in fear, wondering if they, too, will suddenly be struck by the host of illnesses that other veterans have reported. The anguish of uncertainty has become a part of their lives.

Until recently, however, there was no reliable documentation of which military units in Vietnam were likely to have come in contact with Agent Orange. In an effort to end this uncertainty, I requested the General Accounting Office on May 21, 1979, to investigate Department of Defense records to determine what military units in Vietnam, if any, were likely to have been exposed to Agent Orange.

GAO's findings are now public. They concluded that there were thousands of Marines and Army troops in or near areas sprayed with Agent Orange; 5,900 Marines in the northern sector of Vietnam, known as I Corps, were headquartered a third of a mile or less from sprayed areas on the very same day the spraying missions, collectively known as "Operation Ranch Hand," were flown. More than 7 percent of all the Marines in that sector between 1966 and 1969, in fact, were in similarly close proximity to sprayed areas within 4 weeks of the spraying. No special precautions were taken to preclude U.S. ground troops' exposure to Agent Orange.

Scientific controversies over the precise effects of Agent Orange are as yet unsettled. Yet the preliminary scientific evidence of Agent Orange's danger to human health, as well as the first-hand accounts of Vietnam veterans, cannot be ignored. The U.S. Government must make every effort to resolve the medical questions surrounding the use of Agent Orange in Vietnam.

In other circumstances, I might look to the Veterans' Administration and the Department of Defense to conduct medical studies on the veterans and still-active soldiers who were exposed to the chemical. However, in the minds of many, including the Vietnam veterans, these agencies have proven themselves to be unresponsive on the issue of Agent Orange.

Months ago, the VA appointed an interagency task force to study the problem. To date, the task force has produced few visible results. The VA's official policy is to perform a thorough physical examination for any veteran who believes he may have been exposed to Agent Orange while in Vietnam. Many veterans, however, have told me that VA doctors frequently fail to perform these exams.

A VA circular of instruction on Agent Orange dated April 16, 1979, says:

> It is to be emphasized that at this time VA medical centers will refrain from efforts to induce veterans who are not currently part of their patient population to undergo an examination for possible health-related effects of herbicides.

In light of the GAO's findings and the results of the VA's own dioxin testing program, that policy seems inappropriate, to say the least.

On November 20, 1979, I wrote to Administrator Cleland of the VA, apprising him of the GAO's findings and requesting him to begin an immediate outreach program, working with the Department of Defense, to contact those individuals who may have been exposed. Today, nearly 4 weeks later, Mr. Cleland has not responded. VA's actions in this matter have been and continue to be unsatisfactory.

In conducting its inquiry, GAO asked the Department of Defense for its policy on the entry of U.S. troops into areas sprayed with agent orange. The Department responded that "DOD personnel did not enter sprayed areas until defoliation was complete. This required approximately 6 weeks." Now, the GAO has shown that statement to be wrong. In a letter of November 20, I asked Secretary Brown to account for the discrepancy between GAO's findings and his Department's assertions. I also asked that he cooperate with the VA in contacting those veterans with a high probability of exposure. I have not received a response from Secretary Brown.

Six months ago, in response to growing White House and congressional pressure, the Air Force announced an epidemiological study of the 1,200 pilots and crew members of the "Operation Ranch Hand" spraying missions. To date, the protocol of that study has not been approved.

In short, I believe that the VA and DOD have delayed far too long in initiating medical research into the health effects of dioxins. I remain convinced that an unbiased, impartial study of agent orange's health effects on Vietnam veterans would best be done by the agency principally responsible for the Nation's health needs—HEW. Regrettably, the House of Representatives has insisted that the VA retain control of any such study, and its view has prevailed. The compromise reached 2 weeks ago in H.R. 3892 is, in my opinion, distinctly inferior to the Senate's original proposal requiring HEW to conduct the study.

I do believe that this compromise is better than having no study done at all, and so I reluctantly supported the Senate's action on these two bills. However, I wish to advise the VA that the Senate, and I in particular, will be closely scrutinizing the planning and implementation of this study.

I am heartened by the Carter administration's announcement last week of the formation of an interagency work group to coordinate the research into the health effects of herbicides used in Vietnam. The group will be chaired by HEW, will include the VA and DOD, and will oversee Federal agency research on the herbicides. This is an encouraging sign. We must end the uncertainty surrounding agent orange as soon as possible.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of the November 16, 1979 GAO report entitled "U.S. Ground Troops in South Vietnam Were in Areas Sprayed With Herbicide Orange," as well as my letters of November 20, 1979 to Secretary Brown and Mr. Cleland.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. GROUND TROOPS IN SOUTH VIETNAM WERE IN AREAS SPRAYED WITH HERBICIDE ORANGE

Between 1966 and 1969 a large number of U.S. ground troops in Vietnam were in areas sprayed with herbicide orange both during and shortly after spraying. DOD took few precautions to prevent exposure because at that time it did not consider the herbicide to be toxic or dangerous to humans.

Marines assigned to units in sprayed areas can be identified, but Army personnel cannot because Army records are incomplete. Troops' actual exposure or the degree of exposure to the herbicide cannot be documented from available records. Also, the long-term effects of exposure remain largely unknown.

The Congress should direct DOD, VA, HEW, or the Environmental Protection Agency to determine whether a study is needed of the health effects of herbicide orange on ground troops discussed in this report.

GAO issued this report at the request of Senator Charles Percy, Ranking Minority Member of the Permanent Subcommittee on Investigations, Senate Committee on Governmental Affairs.

COMPTROLLER GENERAL OF THE
UNITED STATES,
Washington, D.C.

Hon. CHARLES PERCY,
Permanent Subcommittee on Investigations, Committee on Governmental Affairs, U.S. Senate.

DEAR SENATOR PERCY: As requested in your letter of May 21, 1979, and as discussed with your office, we continued our study of the use of herbicide orange in South Vietnam. We directed our study toward determining (1) when and what military units were in or near areas sprayed with herbicide orange and (2) what precautions were taken to prevent ground troops and others from exposure.

A large number of U.S. Army and Marine Corps ground troops were in and close to sprayed areas during and shortly after spraying. The names and last known addresses of marines assigned to these units can be identified. However, Army personnel cannot be identified because Army records are incomplete. At that time the Department of Defense (DOD) did not consider herbicide orange toxic or dangerous to humans and took few precautions to prevent exposure to it.

SUMMARY OF OUR PREVIOUS REPORTS

At the request of the late Representative Ralph H. Metcalfe, we began studying DOD's use of herbicides in Vietnam and the Veterans Administration's (VA's) handling of herbicide exposure disability claims submitted by Vietnam veterans. We issued an interim report (CED-78-158, Aug. 16, 1978) which addressed the (1) extent of DOD's use of herbicides and other chemicals in South Vietnam, (2) number of military and civilian personnel exposed to these chemicals, and (3) DOD-funded studies of these chemicals' effect on health. A second report, "Health Effects of Exposure to Herbicide Orange in South Vietnam Should be Resolved" (CED-79-22, Apr. 6, 1979), focused on VA's reponse to veterans' concerns on herbicide exposure in South Vietnam and health effects studies of TCDD (2, 3, 7, 8-tetrachlorodibenzoparadioxin) a highly toxic contaminant found in 2, 4, 5-T, one of herbicide orange's components.

From 1965 to 1970 DOD sprayed 10.65 million gallons of herbicide orange in Vietnam. The National Academy of Sciences reported that 90 percent of the herbicide orange was used for forest defoliation. Crop destruction missions accounted for 8 percent of the herbicide orange applied. The remaining 2 percent was used around base perimeters, cache sites, waterways, and communication lines.

Herbicide orange was sprayed undiluted in Vietnam at the rate of about 3 gallons (containing 12 pounds of 2,4-D and 13.8 pounds of 2,4,5-T) per acre. Civilian applications of this herbicide's components are usually diluted in oil or water. According to industry officials, the civilian application rate of 2,4,5-T varies from 1 to 4 pounds per acre. A DOD official said that the heavier application was needed to assure success of the herbicide operations. Defense officials also stated that, due to the dense jungle canopy, the amount of herbicide penetrating the forest floor would have been similar to that normally applied to brush infested ranch land in the United States.

VA began receiving herbicide-related compensation claims in late 1977. As of September 30, 1979, 750 persons had submitted claims. VA has allowed no compensation claims based solely on herbicide exposure in Vietnam. However, two veterans did receive benefits for a skin condition existing inservice which VA believes may have been related to herbicide exposure. Actions to resolve herbicide claims have been hampered by inconclusive information on TCDD's long-term effects on health.

STATUS OF DOD AND VA EFFORTS ON PREVIOUS RECOMMENDATIONS

In our earlier reports we recommended that the Administrator of Veterans Affairs provide guidelines to assure that,

In evaluating herbicide-related claims, regional offices obtain all military record information pertaining to a veteran's possible exposure to herbicides in Vietnam and

All veterans submitting such claims to VA regional offices are encouraged to contact VA health care facilities.

We also recommended that DOD, with the assistance and guidance of an appropriate interagency group, survey any long-term medical effects on military personnel who were likely to have been exposed to herbicides in South Vietnam.

VA is now developing a list of all Vietnam veterans who have been treated for herbicide related health problems. As of September 30, 1979, about 4,800 people had requested treatment. Those on the list will be asked to come to a VA health care facility for a standard physical examination. Individuals will be examined once a year for 5 years to determine if they are suffering any symptoms which may be related to herbicide orange exposure. VA has also instructed its regional offices to encourage veterans submitting herbicide-related claims to contact VA health facilities.

The Air Force has initiated a health effects study of Air Force personnel involved in operation "Ranch Hand" who sprayed herbicide orange in Vietnam. DOD believes these individuals had the greatest potential for exposure. The study will try to determine whether a causal relationship can be established between exposure to herbicide orange and long-term health effects. Presently, the study is in the protocol or planning stage and is being reviewed by the University of Texas at Houston, the Air Force Scientific Advisory Board, the Armed Force Epidemiological Board, and the National Academy of Sciences. This stage should be completed in January 1980.

DOD officials said that the Department of Health, Education, and Welfare (HEW), the Environmental Protection Agency, and various industry groups are also studying the effects of TCDD. The Senate has amended a veterans affairs bill to direct the Secretary of HEW to perform an epidemiological study of the long-term health effects of exposure to dioxins.

FEW PRECAUTIONS TAKEN TO PREVENT TROOPS' EXPOSURE TO HERBICIDE ORANGE

DOD considered herbicide orange to be a low health hazard and took few precautions to prevent troops' exposure to it. The precautions DOD did prescribe were consistent with those applied in the domestic use of herbicide orange and other herbicides and the prevailing knowledge of the environmental and health effects of herbicides existing before the Vietnam conflict.

DOD guidelines on herbicide usage

Army manuals explain the tactical uses of herbicide orange and other herbicides; the command and control of herbicide operations, and herbicide dissemination methods and handling procedures. Herbicides were used tactically to enhance security; improve observation; and destroy enemy food supplies.

Commanders requesting herbicide aircraft missions submitted an overlay or photograph depicting the exact area to be sprayed. The request for these missions passed through the military chain of command to the U.S. Embassy and through the South Vietnamese government which had to approve the mission. Approval took from 90 to 180 days. Most helicopter missions and all truck, boat, and hand spraying were conducted at the discretion of unit commanders. Also, no approval was required to treat "free spraying" areas with herbicide orange. These areas included the demilitarized zone, the A Shau Valley on the Laotion border in northern South Vietnam and the first 100 meters outside any base camp.

Army manuals described herbicide orange as "relatively nontoxic to man or animals." DOD officials believe toxicological studies still support this statement. Personnel subject to splashes from handling the herbicide were instructed to shower and change clothes at a convenient opportunity. DOD officials stated that Air Force personnel supervising herbicide handling were instructed on appropriate precautions, including the use of gloves and face shields.

Former chemical officers in Vietnam and operation "Ranch Hand" commanders who were in daily contact with herbicide orange said they took no special safety precautions to prevent exposure because they did not consider the herbicide dangerous. Herbicide handlers and pilots usually worked in fatigue pants and tee shirts or no shirts.

DOD officials stated that no known special precautions were taken to preclude ground personnel's exposure to herbicide spraying. They added that exposure was very unlikely since DOD personnel did not enter a sprayed area until approximately 4 to 6 weeks after the mission when defoliation was complete and the herbicide had biodegraded or photodegraded. This restriction was for operational reasons, not health reasons. However, Army manuals did not mention the need to restrict ground troops from sprayed areas within 4 to 6 weeks after spraying. Chemical officers confirmed that no restrictions were placed on entering sprayed areas. "Ranch Hand" personnel and chemical officers stated that troop commanders were notified 48 hours before an Air Force herbicide mission and were asked to keep troops clear of the area during the spraying mission. This was not to prevent herbicide exposure but to prevent troops from being wounded or killed by the fighter aircraft which often protected the spraying aircraft.

PROXIMITY OF GROUND TROOPS TO HERBICIDE ORANGE SPRAYING MISSIONS

DOD maintains a computer data base on herbicide spraying missions conducted between August 1965 and February 1971. This data base includes the date, number of planes, amount of herbicide dropped, and the location for approximately 86 percent of all herbicide operations in South Vietnam. By comparing this data base with daily troop locations and strengths, it is possible to estimate the number and proximity of troops to herbicide missions. However, actual exposure could not be documented from available records.

Evaluation of available Army records

Army records from the Vietnam conflict are neither complete nor well organized. This results from the Army's rapid pullout from Vietnam.

We reviewed 31 quarterly operational reports from 13 major Army combat units located throughout Vietnam. These reports did not have enough information on troop locations and strengths to establish a data base for comparison with herbicide spraying missions. However, 10 of the 13 units reported using herbicide orange on perimeters, roads or crops, or fixed-wing aircraft missions in areas of operation. For example, the 11th Armed Cavalry Regiment reported the following herbicide orange sprayings from August 1, 1968, to October 31, 1968:

Truck spraying of about 275 acres of base camp perimeter.

Defoliation of 2 miles of communication lines.

32 "Ranch Hand" missions flown in the unit's area of operation.

Thus, it appears that some Army troops were close to areas sprayed with herbicide orange.

Comparison of Marine Corps locations with herbicide orange spraying missions

Monthly Marine Corps battalion reports contained detailed information on location, strength, and personnel turnover necessary to develop a data base to compare with herbicide orange spraying missions.

Our proximity estimates relate to marines and Navy medical personnel assigned to infantry battalions in I Corps—the northern section of South Vietnam—during 1966–69. During these 4 years, 2.18 million gallons of herbicide orange were sprayed in I Corps. Thus, about 20 percent of the herbicide orange used in Vietnam was applied in the area and time frame covered by our analysis.

We compared ground troop locations with herbicide orange missions, considering both the time and geographic proximity of battalion locations to spraying sites. We analyzed various time and distance combinations because many variable affect an individual's potential for exposure. Different estimates exist on both the life of TCDD and the drift of herbicide orange from target areas.

The four time periods used were the day the mission was conducted (day 1) and within 7, 14, and 28 days after the mission. The 28th day is significant because DOD has consistently stated that ground troops' exposed to herbicide orange was unlikely because they did not enter sprayed areas until 4 to 6 weeks afterward.

We used distance criteria of .5, 1.5, and 2.5 kilometers. These criteria equal about .3, .9, and 1.6 miles, respectively. Distance from a sprayed area is important because the herbicide orange sprayed from a plane often drifted beyond the target area. Drift was affected by four variables: (1) altitude of the aircraft, (2) speed of the aircraft, (3) terrain, and (4) climate. DOD studies conducted at Eglin Air Force Base in Florida showed that drift was generally less than 1 kilometer when the aircraft sprayed herbicide orange at an altitude of 150 feet, an airspeed of 130 to 140 knots, and wind speed of less than 10 knots. The National Academy of Sciences reported that there was evidence of widespread crop damage resulting from drift. In fact, its study showed that crop damage resulting from drift on missions designated as defoliation was greater than that caused by crop destruction missions. Herbicide mission commanders stated that drift was a common problem and could extend from 1 to 2 kilometers.

One "Ranch Hand" commander said in several cases drift could be up to 10 kilometers. These instances were in the mountainous areas of I Corps which were normally occupied by enemy forces. Dr. Matthew Meselson of Harvard University reported in 1970 that drift could extend up to 20 kilometers from the target area. The possibility of drift was much greater for missions aborted because of mechanical failure or damage from hostile fire. In these cases the herbicide was immediately dropped from altitudes of up to 10,000 feet to facilitate the aircraft's safe return. DOD records show only 33 aborted missions cut of about 3,600 herbicide orange missions from 1966–69. Our sample methodology and results are discussed in appendix IV.

The following table shows the estimated number of marines assigned to Marine Corps infantry battalions in I Corps from January 1, 1966, to December 31, 1969, within the various time and distance criteria from sprayed areas.

	Within days of spraying mission	Estimated number of Marines
Within kilometers of sprayed area:		
0.5	1	5,900
	7	7,600
	14	9,100
	28	16,100
1.5	1	16,500
	7	21,500
	14	25,800
	28	30,100
2.5	1	17,400
	7	23,900
	14	29,900
	28	39,400

We estimate that about 5,900 marines were assigned to units within .5 kilometers of areas sprayed with herbicide orange on the same day. This represents about 2.7 percent of the 218,000 marines in our universe.

The number of marines within .5 kilometers of sprayed areas before the 4-week reentry period which DOD established was about 16,100 or 7.4 percent.

Names and addresses of marines within selected proximity criteria can be determined

The Marine Corps records and files section retains a roster of all personnel assigned to a battalion during a given month. Using names and military service numbers, the Marine Corps can determine:

Current unit addresses for those still on active duty.

Current unit addresses for those in the active Marine Corps Reserves.

Names of those marines killed on active duty.

Retirement date and last known address.

Separation date for those who left the service before retirement.

The last known address of separated marines can be obtained from discharge papers in individuals' personnel folders at the National Records Center in St. Louis.

CONCLUSIONS

A large number of marines in the I Corps section of Vietnam from 1966–69 were in or close to areas sprayed with herbicide orange on both the day of the spraying and within 4 weeks afterward. Some Army units were also close to herbicide orange spraying. Thus, DOD's contention that ground troops did not enter sprayed areas until 4 to 6 weeks afterward is inaccurate; the chances that ground troops were exposed to herbicide orange are higher than DOD previously acknowledged. However, we could not document from available records whether ground troops were actually exposed or the degree of exposure. Also, long term effects of TCDD exposure on human health remain largely unknown.

The names and last known addresses of marines assigned to units close to herbicide orange spraying can be obtained from Marine Corps records. However, we could not estimate the number of soldiers in Army units close to sprayed areas because Army records lacked sufficient information.

In our earlier report, "Health Effects of Exposure to Herbicide Orange in South Vietnam Should Be Resolved" (CED–79–22, Apr. 6, 1979), we stated that a survey of military personnel identified as most likely to have been exposed to herbicides might provide data on any long-term medical effects. We now believe that the group of personnel most likely to have been exposed could include ground troops as well as herbicide handlers and aircraft crew members. However, ground troops are not included in the ongoing studies.

RECOMMENDATION

We recommend that the Congress direct DOD, VA, HEW, or the Environmental Protection Agency to determine whether a study is needed on the health effects of herbicide orange on ground troops identified in our analysis. This determination should be based on:

The feasibility and value of a new or expanded health effects study.

The need to resolve veterans' concerns over the alleged health risks attributed to herbicides.

As agreed with your office, we discussed this report with DOD officials and incorporated their comments where appropriate. They generally agreed with our recommendations.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of issue. At that time we will send copies to interested parties and make copies available to others upon request.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., September 4, 1979.
MR. WILLIAM J. MCCORMICK, JR.,
Associate Director, Federal Personnel and Compensation Division, U.S. General Accounting Office, Washington, D.C.

DEAR MR. MCCORMICK: This is in response to your letter of July 2, 1979, to the Secretary of Defense concerning your follow-up review of the General Accounting Office's final report entitled, "Health Effects of Exposure to Herbicide Orange in South Vietnam Should Be Resolved" (CED–79–22) (OSC Case 4992A).

I have enclosed detailed responses to your four questions and three technical reports that contain material provided for the armed forces' use during the Vietnam herbicide operations.

We appreciate your concern in this matter and assure you that it is receiving priority attention within the Department of Defense.

Sincerely,

RICHARD DANZIG,
Principal Deputy Assistant, Secretary of Defense (MRA&L).

Enclosures.

DEPARTMENT OF DEFENSE RESPONSE TO QUESTIONS, GENERAL ACCOUNTING OFFICE LETTER OF JULY 2, 1979, "HEALTH EFFECTS OF EXPOSURE TO HERBICIDE ORANGE IN SOUTH VIETNAM SHOULD BE RESOLVED"

1. GAO question:

What precautions did DoD take to protect herbicide handlers from exposure to herbicide orange?

DoD response:

The DoD, other United States government agencies, and the private sector generally considered herbicide orange to be a low health hazard material. Even today, there is no valid scientific evidence to support a causal relationship between low dosage exposure and unspecific human diseases of delayed onset. Consequently, DoD's health precautions reflected this perceived low risk potential. For example:

Army's guidance concerning handling information and precautions is addressed in two Army publications, Army Training Circular 3–16, Employment of Riot Control Agents, Flame, Smoke, Antiplant Agents and Personnel Detectors in Counterguerrilla Operations, April 1969, and Army Field Manual 3–3, Tactical Employment of Herbicides, December 1971. Herbicide orange was described as relatively nontoxic. The first publication prescribed showers and clothing change at a "convenient opportunity" for personnel subject to splashes from handling the agent. The latter publication states that "ORANGE may be handled with ordinary sanitary precautions; however, this agent on skin or clothing, or in the eyes should be removed promptly by rinsing copiously with clear water to prevent possible irritation. Contaminated clothing should be washed before reuse." Pertinent sections of the above documents are enclosed.

In addition, the Army Plant Sciences Laboratory in December, 1969, issued miscellaneous publication number 33 entitled "Information Manual for Vegetation Control in Southeast Asia," which included on pages 19 and 20, some basic safety and health precautions. A copy of that manual is enclosed, and

Air Force personnel charged with the supervisory responsibilities of handling the herbicides were indoctrinated in appropriate safety precautions including the use of gloves and face shields as needed. Personnel handling the chemicals were encouraged to "take normal sanitary precautions and to maintain personal cleanliness and to avoid skin and eye contact with the material." Contaminated clothing was to be washed before re-use. Spillage on the skin or in the eyes was to be rinsed copiously with clear water. Those health and safety precautions are described on pages 19–24 of Technical Report SAOQ–TR–69–11078, August, 1969, entitled "Herbicides Used in Southeast Asia". A copy of that technical report is enclosed.

In addition, the Air Force Armament Laboratory in March, 1970, published Technical Note AFATL–TN–70–1, which describes the toxicology of herbicide orange. A copy of that technical note is enclosed.

2. GAO question:

What steps did DOD take to protect U.S. ground troops, Corps of Engineers personnel and others who may have been exposed, from inadvertent exposure to herbicide orange?

DOD response:

Herbicide orange was designated as a defoliant to be applied to non-occupied areas in support of tactical objectives. No known special precautions were taken to preclude accidental exposure to ground personnel. Exposure was, however, very unlikely since DOD personnel did not enter a sprayed area until defoliation was complete. This required approximately six weeks. In addition, the DOD on October 29, 1969, restricted the use of herbicide orange to areas remote from population centers. All DOD use of herbicide orange for defoliation was suspended on April 15, 1970. Enclosed are copies of DOD memoranda and a White House statement of December 26, 1970, which restrict or suspend the use of herbicide orange.

3. GAO question:

What were the military guidelines concerning the entry of U.S. troops and personnel into defoliated areas? What was the standard operating procedure concerning reentry? If guidelines existed, how did the military monitor their implementation, and what reports are available?

DOD response:

U.S. ground forces generally did not enter an area which was sprayed with herbicide orange until defoliation was complete. Defoliation required approximately six weeks, at which time the herbicide was either biodegraded or photodegraded. The comprehensive Air Force Technical Report, OEHL TR–78–92, "The Toxicology, Environmental Fate, and Human Risk or Herbicide Orange and its Associated Dioxin" describes those degradation processes. Since the purpose of herbicide orange was to deny the enemy cover and thus preclude ambush, U.S. ground force entry into a treated area before defoliation was complete, was unlikely.

4. GAO question:

What steps has DoD taken to comply with the recommendations made in the previously mentioned report? Has an effort to initiate an epidemiological report begun?

DOD response:

The military departments have now issued guidance to their medical facilities concerning herbicide orange health effects to ensure uniform monitoring and evaluation.

As stated in our responses to the draft and final reports, we do not concur with the recommendation that the Department of Defense undertake a comprehensive epidemiological study of all military personnel who may have been exposed to herbicide orange in Vietnam. We have embarked, however, upon a more limited health study. The Air Force will study the health of "Ranch Hand" personnel who sprayed Herbicide Orange in Vietnam. Ranch Hand was a code name for Air Force aircrews involved in herbicide spraying between 1962 and 1971, when the operation was terminated. Since those personnel were engaged in the actual handling and aerial dispersion of herbicide orange, they have the greatest potential for exposure. The health study will determine whether a causal relationship can be established between exposure to the herbicide and changes in the long-term health of those who participated in the spraying. The study will begin in October and involve both veterans and active duty members.

SAMPLE METHODOLOGY AND RESULTS

A total of 24 Marine infantry battalions were in I Corps for various lengths of time between January 1966 and December 1969. The total number of months these battalions were assigned to I Corps during this period was 976.

We randomly selected 276 monthly battalion reports from the total of 976. This sample size insures that the percent of instances in our sample found to be in or close to sprayed areas is projectable to the universe within a plus or minus 5-percent sampling error at the 95-percent confidence level.

We collected battalion strength, turnover statistics, and geographic location from each monthly battalion report in the sample.[1] Battalion size included enlisted and officer strengths of marines and Navy medical personnel assigned to the sample battalions. The average monthly battalion strength for our sample was 1,206. Turnover comprised all personnel leaving the control of the battalions, including those classified as dead, wounded, prisoners of war, missing in action, and transferred. The average monthly battalion turnover was 202. Geographic location was the daily map coordinates of the battalion command post. These coordinates specify location to the nearest .1 kilometer.

Using average strength and turnover figures for our sample we estimated 218,000 personnel were assigned to the 24 battalions in I Corps between 1966 and 1969.

The following table shows the number of sample units found to have battalion locations within the various times and distances. The table also shows the estimated number of marines in our sample within the proximity criteria. These estimates represent the total monthly strength of the battalions involved. When a battalion was involved more than once, we used an appropriate turnover factor to avoid double counting.

	Within days of spraying mission	Instances in sample	Estimated number of Marines
Within kilometers of sprayed area:			
0.5	1	3	4, 300
	7	4	5, 500
	14	6	6, 000
	28	10	10, 900
1.5	1	10	11, 200
	7	14	14, 300
	14	17	16, 900
	28	20	19, 600
2.5	1	11	11, 700
	7	16	15, 600
	14	20	19, 400
	28	26	25, 900

Our analysis shows that three of our sample units were located within .5 kilometers of areas sprayed with herbicide orange during the same day. Considering battalion strength and personnel turnover, we estimated that 4,300 marines were assigned to these 3 units. Seven additional sample units were within 1.5 kilometers of sprayed areas on the same day. We estimated that 11,200 marines were assigned to the 10 units within 1.5 kilometers of sprayed areas.

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[1] Location data were not available in three monthly battalion reports. This reduced the sample size to 273.

The location of these 10 units in relation to herbicide missions is displayed on the following pages. On the first chart, point A is the location of the 1st Battalion of the 3rd Marine Regiment Command Post on December 28, 1967. This unit was directly in the flight path of a herbicide orange spraying mission conducted on that day. Point B is the command post location of the 1st Battalion of the 4th Marine Regiment on March 28, 1968. This unit was located .5 kilometers from a herbicide orange spraying mission conducted on that day.

The next table shows the projected range of units based on the 95 percent confidence level and the estimated number of marines assigned to them. The estimates on page 7 of the letter represent the statistically best single estimates of the number of marines assigned to the units meeting the proximity criteria.

	Within days of spraying missions	Range of instances	Estimated No. of Marines
Within kilometers of sprayed area:			
0.5	1	3–21	4, 300–8, 000
	7	4–26	5, 500–10, 000
	14	7–36	6, 200–12, 100
	28	17–54	12, 300–19, 700
1.5	1	17–54	12, 600–20, 100
	7	28–72	17, 100–26, 000
	14	37–85	20, 900–30, 600
	28	46–97	24, 900–35, 200
2.5	1	20–59	13, 500–21, 400
	7	34–80	19, 200–28, 500
	14	46–97	24, 700–35, 000
	28	64–122	33, 600–45, 300

The estimated number of marines was derived by multiplying a constant (average monthly battalion turnover) times the projected number of instances within the proximity criteria which exceeded those identified in our sample. To this product we added the estimated number of personnel already accounted for by our sample.

DOD officials indicated that the assumptions used in our computations result in estimates subject to considerable uncertainty. Specifically, they questioned the:

Assumption that all battalion personnel were located at the battalion command post, since line companies were usually dispersed around this area.

Use of average battalion turnover, since this double counts those who were with a battalion longer than this average.

Assumption that all instances projected to be within the proximity criteria beyond those found in our sample occurred on consecutive months, while it is likely that more time may have elapsed, and therefore more troops would have been involved.

In spite of these reservations, DOD officials stated that our basic conclusion that a large number of U.S. ground troops were in close proximity to herbicide orange is probably correct.

We acknowledged the points raised by DOD and concluded that their overall impact makes our estimates conservative. Data on line companies' strength and location were generally not available. However, we believe individual line companies were more likely to have been in or near sprayed areas because they were dispersed around the command posts. While using average battalion turnover may have resulted in counting some individuals twice, those who stayed less than the average would be undercounted. Finally, we made the most conservative assumption possible regarding the elapsed time between instances within the proximity criteria (i.e., consecutive months) since there is no way to determine the actual dispersion without studying the entire universe.

COMMITTEE ON GOVERNMENTAL AFFAIRS, SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,

Washington, D.C., November 20, 1979.

Hon. HAROLD BROWN,
Secretary of Defense,
Washington, D.C.

DEAR SECRETARY BROWN: I am sure you share my conviction that the American government owes a solemn debt to those men and women who served in the United States Armed Forces in Vietnam, during the most unpopular war in our nation's history. Far too often, however, they have been repaid with scorn and neglect.

I am particularly concerned about the welfare of those individuals who may have been exposed to the defoliant commonly known as "Agent Orange." Thousands of veterans have reported that they were exposed to Agent Orange while serving in Vietnam. Many of them have reported strikingly similar pathologies, including cancer, genetic damage and sexual impotence.

Alarmed by both the mounting evidence of Agent Orange's toxicity and the increasing numbers of veterans who have claimed they were exposed to the herbicide while in Vietnam, I requested on May 21, 1979 that the General Accounting Office determine whether it was possible to identify military units that were in or near areas sprayed with Agent Orange.

In a letter report to me of November 16, 1979, the GAO has concluded that "a large number of Marines in the I Corps section of Vietnam from 1966 to 1969 were in or close to areas sprayed with herbicide orange on both the day of spraying and within four weeks afterward. Some Army units were also close to herbicide orange spraying." GAO estimates that 5,900 Marines were headquartered within one-third of a mile from sprayed areas on the day of the spraying. About 19,100 Marines in the I Corps were stationed within one-third of a mile from sprayed areas within four weeks after spraying. This latter figure represents approximately 7.4 per cent of all the Marines stationed in I Corps between 1966 and 1969. Ten of thirteen Army units, whose records the GAO scrutinized, were also in close temporal and geographic proximity to spraying missions.

In addition, GAO was informed by the pilots who flew the mission that frequently clouds of Agent Orange drifted up to a mile and a quarter away from targeted areas and at times drifted as much as six miles.

These findings represent a look at only I Corps between 1966 and 1969. Only about 20 per cent of the Agent Orange used in Vietnam was applied in I Corps during this time frame. I enclose a copy of Comptroller Staats' report for your own review.

On July 2, 1979, the GAO submitted a list of four questions to the Defense Department. Principal Deputy Assistant Secretary of Defense Richard Danzig responded to the GAO's inquiry in a letter of September 4, 1979. To the GAO's question: What steps did DOD take to protect U.S. ground troops, Corps of Engineers personnel and others who may have been exposed, from inadvertent exposure to Agent Orange? Mr. Danzig responded, "exposure was . . . very unlikely since DOD personnel did not enter a sprayed area until defoliation was complete. This required approximately six weeks." The GAO also asked, "What were the military guidelines concerning the entry of U.S. troops and personnel into defoliated areas? What was the standard operating procedure concerning re-entry?" Mr. Danzig replied, "U.S. ground forces generally did not enter an area which was sprayed with herbicide orange until defoliation was complete. Defoliation required approximately six weeks."

In light of the GAO report, Deputy Secretary Danzig appears to be completely unaware of the fact that many thousands of Marines not only entered the target areas within four weeks of the spraying but that thousands of Marines were headquartered within one/third mile of the target area on the day of the spraying. I do not understand how it was possible for the Defense Department to be in the dark about what GAO has no trouble finding in the Department's own records.

I request, therefore, that you immediately forward to me an explanation of the Department's statements in this matter. I attach the highest urgency to receiving your prompt and full response.

Our Vietnam veterans should be treated with honor and respect. They served courageously in the most difficult and divisive war this nation has ever fought. Yet those veterans who now claim debilitating illness as a result of exposure to Agent Orange have been viewed with suspicion, mistrust and what is as bad, apathy and lack of concern. Almost as tragic as the physical suffering has been the anguish of uncertainty. Thousands of veterans now live in the shadow of fear, and wonder if they, too, will suddenly be struck by the host of illnesses that other veterans have reported.

The GAO used DOD's own records in its study. I request that the Department apply GAO's techniques to other heavily sprayed areas of South Vietnam—III Corps, for example—to try to determine if any military units in those areas were in close proximity to spraying missions.

The GAO has also concluded that Marines in areas sprayed with Agent Orange can be individually identified. They reported that "The Marine Corps records and files section retains a roster of all personnel assigned to a battalion during a given month. Using names and military service numbers, the Marine Corps can determine:

Current unit addresses for those still on active duty;

Current unit addresses for those in the active Marine Corps Reserves;

Separation date for those who left the service before retirement.

The last known address of separate Marines can be obtained from discharge papers in individual's personnel folders at the National Records Center in St. Louis."

During the course of the GAO's research, they accumulated enough personal information to identify one Marine who was in I Corps between 1966 and 1969, and who has told the VA that he was exposed to Agent Orange while in service. The GAO found, in tracing this man's movements, that he was directly in the path of spraying missions not once, but twice. Army battalions located close to sprayed areas are identifiable by unit number. I also request that you cooperate with the Administrator of the Veterans Administration, Max Cleland, to whom I am also writing, to use the data unearthed by the GAO immediately to:

(1) Identify the names and current addresses of Marine Corps personnel determined to be in close proximity to spraying missions, inform them of this fact, and the serious questions that have been raised with regard to the health effects of Agent Orange, and encourage them to contact a DOD or VA health care facility for further information and/or treatment.

(2) Commence an advertising campaign aimed at those individuals formerly in Marine and Army units determined to be in close proximitey to spraying missions who cannot be identified individually.

As you know, I have co-sponsored an amendment in the Senate that would have the Department of HEW immediately undertake an epidemiological study of Agent Orange. The results of GAO's inquiry, coupled with the mystifying lack of awareness by the Defense Department of the records it has which could shed light on this matter, reconfirm my strong belief that HEW is best equipped to conduct this study. Obviously, the identity of those individuals in the U.S. ground forces headquartered near or in the sprayed areas will be indispensable to those charged with conducting the study.

I reiterate my strong conviction that the American government has a clear moral and legal responsibility to these individuals. It is imperative that we move with utmost dispatch to resolve the questions surrounding the effects of Agent Orange.

I await your prompt response. Should you have any questions in this regard, please have your staff contact Susan Morgan of my staff at 224-2172.

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

COMMITTEE ON GOVERNMENTAL AFFAIRS, SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
Washington, D.C., November 20, 1979.

Hon. MAX CLELAND,
Administrator, Veterans' Administration,
Washington, D.C.

DEAR MR. CLELAND: I know you share my conviction that the American government owes a solemn debt to those men and women who served in the United States Armed Forces in Vietnam, during the most unpopular war in our nation's history. Far too often, however, they have been repaid with scorn and neglect.

I am particularly concerned about the welfare of those individuals who may have been exposed to the defoliant commonly known as "Agent Orange." Thousands of veterans have reported that they were exposed to Agent Orange while serving in Vietnam. Many of them have reported strikingly similar pathologies, including cancer, genetic damage and sexual impotence.

Alarmed by both the mounting evidence of Agent Orange's toxicity and the increasing numbers of veterans who have claimed they were exposed to the herbicide while in Vietnam, on May 21, 1979 I requested that the General Accounting Office determine whether it was possible to identify military units that were in or near areas sprayed with Agent Orange.

In a letter report to me of November 16, 1979, the GAO has concluded that "a large number of Marines in the I Corps section of Vietnam from 1966 to 1969 were in or close to areas sprayed with herbicide orange on both the day of spraying and within four weeks afterward. Some Army units were also close to herbicide orange spraying." GAO estimates that 5,900 Marines were headquartered within one-third of a mile from sprayed areas on the day of the spraying. About 19,100 Marines in the I Corps were stationed within one-third of a mile from sprayed areas within four weeks after spraying. This latter figure represents approximately 7.4 percent of all the Marines stationed in I Corps between 1966 and 1969. Ten of thirteen Army units whose records the GAO scrutinized were also in close temporal and geographical proximity to spraying missions.

In addition, GAO was informed by the pilots who flew the missions that clouds of Agent Orange frequently drifted up to a mile and a quarter away from targeted areas and at times drifted as much as six miles. No special precautions were taken to preclude accidental exposure of ground personnel. Enclosed copy of Comptroller Staats' report for your own review.

This finding represents a look at only I Corps between 1966 and 1969. Only about 20 percent of the Agent Orange used in Vietnam was applied in I Corps during this time frame.

As I noted to you in my letter of April 11, 1979, I have been concerned that the Veterans Administration's response to the problems posed by Agent Orange may be inadequate. VA Circular 10–78–219 dated September 14, 1978, stated that the VA's policy was to "examine thoroughly all veterans who claim toxic effects from exposure to herbicides during the Vietnam War." From personal reports of these veterans to my office, thorough examination seems to have been the exception rather than the rule. I am not satisfied by the changes VA has implemented, as exemplified by a revised circular, dated April 16, 1979. Paragraph six of that circular reads, in part, "It is to be emphasized that at this time VA medical centers will refrain from efforts to induce veterans who are not currently part of their patient population to undergo an examination for possible health related effects of herbicides." In light of the GAO's report, which indicates that we can identify some of these people, paragraph six seems totally inappropriate.

Our Vietnam veterans should be treated with honor and respect. They served courageously in this nation's most divisive and difficult war. Yet those veterans who now claim debilitating illness as a result of exposure to Agent Orange have been viewed with suspicion, mistrust, and what is as bad, apathy and lack of concern. Almost as tragic as the physical suffering has been the anguish of uncertainty. Thousands of veterans now live in the shadow of fear, and wonder if they, too, will suddenly be struck by the host of illnesses that other veterans have reported.

The GAO has also concluded that the Marines in areas sprayed with Agent Orange can be individually identified. They reported that "The Marine Corps records and files section retains a roster of all personnel assigned to a battalion during a given month. . . . The last known address of separated Marines can be obtained from discharge papers in individual's personnel folders at the National Records Center in St. Louis."

During the course of the GAO's research, they accumulated enough personnel information to identify one Marine who was in I Corps between 1966 and 1969, and who has told the VA that he was exposed to Agent Orange while in service. The GAO found, in tracing this man's movements, that he was directly in the path of spraying missions not once, but twice. Army battalions located close to sprayed areas are identifiable by unit number.

Certainly, the scientific controversy over the long term health effects of Agent Orange is far from being resolved. As you know, I have co-sponsored an amendment in the Senate that would have HEW immediately undertake an epidemiological study of Agent Orange. The findings of the GAO convince me·now, more than ever, that a major epidemiological study of Agent Orange needs to be conducted. Obviously, the identity of those individuals in the U.S. ground forces headquartered near or in the sprayed areas will be indispensable to those charged with conducting the study.

I am today sending a similar letter to Secretary of Defense Brown. I urge you to work with him and to use the data unearthed by GAO to:

(1) identify the names and current addresses of former Marine Corps personnel in close proximity to spraying missions. Inform them of this fact and the serious questions that have been raised with regard to the health effects of Agent Orange and encourage them to contact DoD or a VA health care facility for further information and/or treatment.

(2) commence an advertising campaign aimed at individuals formerly in Marine and Army units determined to be in close proximity to spraying missions who cannot be identified individually.

(3) report to me as soon as possible on the progress of the VA's "Committee on the Health Related Effects of Herbicides," detailing any substantive action the task force has taken since its inception and its plans and schedules, if any, for future work.

I reiterate my strong conviction that the American government has clear moral and legal responsibilities to these individuals. It is imperative that we move with utmost dispatch to resolve the questions surrounding the effects of Agent Orange.

I await your prompt response. Should you have any questions in the regard, please have your staff contact Susan Morgan of my staff at 224–2172.

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

MOYNIHAN-PACKWOOD CHARITABLE CONTRIBUTION BILL

Mr. HEFLIN. Mr. President, I have today asked Senators MOYNIHAN and PACKWOOD to add my name as a cosponsor to S. 219, a bill which would amend the Internal Revenue Code of 1954 to allow the charitable deduction to taxpayers whether or not they itemize their personal deductions.

Mr. President, I have been studying this issue for several months now trying to familiarize myself with the arguments of both the proponents and the opponents of this measure. I have concluded that the bill is a good one for several reasons.

First and foremost, Mr. President, as we all know, the wealthy taxpayers of this Nation almost all itemize their tax deductions and are thus able to take advantage of the charitable deduction for the moneys they give to charities. The bill before us, Mr. President, will benefit the lower- and middle-income taxpayers almost exclusively. The wealthy already receive tax benefits for their charitable gifts. Enactment of this measure will give a real and tangible tax cut to those who need it most, the average working person.

This measure has been criticized by some, Mr. President, who claim that it will be a benefit to taxpayers who currently elect the standard deduction and also give to charity. But it must be remembered that these are predominantly lower- and middle-income taxpayers who contribute to their churches, the Salvation Army, American Cancer Society, March of Dimes, American Red Cross, United Way, a local scout troop or service organizations, or the local libraries or worthy organizations of this nature.

Because of their income levels, they use a standard deduction and these taxpayers are not now entitled to the tax benefit for charitable giving that wealthy taxpayers enjoy. Enactment of the Moynihan-Packwood bill certainly would not be a windfall to these taxpayers, it would simply adjust the Tax Code to conform with our long-standing public policy that maintains that these taxpayers should not have been taxed on money they donated to the benefit of churches and other charitable organizations. Under this bill taxpayers in the lower- and middle-income groups who elect the standard deduction would no longer be penalized by having to pay taxes on money freely given for the good of their community.

Mr. President, this country more than any other has always relied on voluntary organizations to meet community needs. The nonprofit segment reaches into almost every field of human interest and supports a vast variety of institutions including churches, medical research, museums, libraries, health clinics and hospitals, the Salvation Army, United Way, and like organizations. Taken together they constitute an indispensable part of the American scene. Unfortunately, Mr. President, private giving of time and money and labor have declined in recent years. A major reason for the decline in charitable giving can be laid directly at the feet of our Tax Code. In 1970, 52 percent of the taxpayers took the standard deduction. By 1977, the figure had risen to 77 percent. The Revenue Act of 1978 added an estimated 2.5 million more taxpayers to the number of nonitemizers by repealing and changing certain other itemized deductions. As a result of these changes, contributions to public charities have decreased substantially.

The decrease in the number of persons who take itemized deductions has resulted in a real and substantial decline in charitable giving as fewer and fewer taxpayers have the additional tax incentive to give. As a result of this decline, contributions to charity have fallen from 1.98 percent of the gross national product in 1971 to 1.74 percent in 1976. Contributions would have been $4 billion higher in 1976 if the 1.98 rate had continued.

Although tax incentives may be part of the motivating factor leading to charitable contributions, it certainly is not the major or most important factor. But there is no doubt that tax incentives play a role in determining not only whether a person gives but how much he gives. A national survey conducted by the Michigan Survey Research Center in 1973 determined that persons who itemize their deductions contribute almost twice as much to charitable organizations as persons who do not itemize and who are in the same income level.

Thus, Mr. President, I would urge every Member of this body to take a fresh look at this problem with the view toward moving this proposed legislation into law. I think our average citizens who are taxpayers are entitled to this tax relief and I urge that it be expeditiously cleared by the Senate Finance Committee and passed by this body.

ESTABLISHMENT OF THE MARINE QUICK REACTION FORCE

Mr. HEFLIN. Mr. President, 2 weeks ago I made a speech before this body urging that a quick reaction force be established to meet the challenges of unrest and turmoil around the world which placed the lives and property of Americans in danger. As a former Marine, I am glad to note today that a special mission is being given to the U.S. Marine Corps, as well as to certain elements of the U.S. Army, to plan for the deployment of this quick reaction force.

I note in an article which appeared in the Washington Post on Thursday, December 6, 1979, that the first of 3 16,500 man Marine brigades will be ready for airlifting to trouble spots around the world by 1983.

In my judgment, Mr. President, this is a move in the right direction. I only wish that we could speed up the process dramatically. I call upon the Department of Defense to reexamine the priorities of readying this quick reaction force for deployment. In these times of turmoil we must be ever vigilant to protect the lives and property of American citizens and I fear that many events will occur between now and 1983 which will be appropriate for the utilization of this quick reaction strike force. Although I do not purport to suggest to the DOD where adjustments in its timetable might be made, I would just urge that a strong effort be made to trim the target date back to the later months of 1980 or early 1981, if feasible.

Nevertheless, I commend the Department of Defense and especially the Marine Corps for the decisive action which is being taken to sharpen our capability to react to the situation which will be facing us in the years and decades to come. We must remain flexible and we must look to the future in honing our military strengths. We can no longer rely strictly on our nuclear arsenal which would be impractical to use in many brush fire situations around the world, but rather we must be able to react in kind to a force with a commensurate force when necessary. We must be firm but restrained in the use of force but we cannot allow ourselves to be bullied by second rate dictators of any persuasion.

I fully support the efforts by our defense establishment and I only urge that the target dates for implementation of this force be moved up.

Mr. President, I request that the article from the Washington Post dated Thursday, December 6, 1979, by Mr. George C. Wilson, be inserted at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MARINES TO FORM RAPID REACTION FORCE

(By George C. Wilson)

Against the backdrop of the Soviet brigade in Cuba and turmoil in Iran, Marine leaders disclosed yesterday that they had been ordered to organize a 50,000-man spearhead for President Carter's Rapid Deployment Force.

The first of three bridages of 16,500 Marines will be ready for airlifting to distant trouble spots by 1983, Maj. Gen. Paul X. Kelley, Marine planning chief, said yesterday in describing the corps' role in the quick reaction force.

Although planning for this outfit, which the Army calls the Unilateral Corps, preceded the current crisis in Iran, Pentagon officials said that rising concern about the oil-rich Persian Gulf is providing a sense of urgency to implement these plans. The basic idea is to give the President more military options in the Third World than he has now.

Each brigade would be supported by five supply ships deployed ahead of time near likely trouble spots around the world. Kelly said a Marine brigade could operate on its own, though presumably not fight any kind of major battle, for 30 days before having to depend on the ships for resupply.

White House budget chiefs, in reviewing the Pentagon's fiscal 1981 money request, to be sent to Congress next month, have given their blessing to the Rapid Deployment Force. They have approved about $80 million to start developing a successor to the C5 transport plane for airlifting troops and supplies and $220 million for the first two of a fleet of cargo ships.

Defense officials said yesterday that over the next several years about $6 billion will go for the new CX transport aircraft, with about 50 planes costing $180 million each. Another $3 billion in the quick reaction force account is earmarked for 16 ships loaded with Marine gear and pre-positioned near likely areas of conflict.

The Army's 82nd Airborne Division and armored units from Ft. Hood, Tex., and Ft. Carson, Colo., are expected to be designated as part of the force. Their heavy tanks and other weaponry are expected to take up most of the space on the fleet of CX planes.

Navy leaders are cool to the idea of building special cargo ships for the Marines and deploying them near likely trouble spots. The admirals complain that such ships would take money out of their already-strained shipbuilding budget and predict that warships ultimately would have to be assigned to protect them.

Defense Secretary Harold Brown has overridden these objections. Not only has he directed the Marine Corps to bring its 50,000-member special airlift force into being by the mid-1980's, but he approved extra money so the corps does not have to go through with its planned cut of 10,000 men.

To ease the corps' budget crunch, Marine Commandant Robert Barrow had decided to reduce his force from 189,000 to 179,000 by the end of fiscal 1981. The extra money approved by Brown, Kelley said, will enable the Marines to field a force of 185,200, a cut of only 3,800.

Kelley said the Marines wanted to brief reporters on the Rapid Deployment Force because some "of our friends" had gotten the idea that the corps' mission was being changed. He said that, on the contrary, the corps is enthusiastic about its new role.

"In looking at the 1980s," Kelley said, "It becomes obvious that we need a sharper focus for the Third World."

The United States would "do well to sharpen that focus before we let it [Third World] slip through our fingers," he said.

Kelley said the Marines have traditionally designed their forces to go into battle in a hurry but that a "glaring deficiency" is the shortage of long-range planes to carry them to crises.

He said the present airlift force of 70 C5 transports and 234 C141s is not enough to carry troops and weaponry to distant points. The new CX cargo plane, he added, will help close that gap.

To fly one brigade of 16,500 Marines in a quick reaction unit would require 130 round trips of the following aircraft: 14 C5s; 102 C141s and 14 wide-bodied civilian transport planes pressed into service as part of what is called the Civil Reserve Air Fleet.

Kelley said the Marine brigade would not be targeted on any specific area of the world but could go anywhere. Asked about getting to the Persian Gulf, he said that one option would be to fly Marines from Okinawa to Diego Garcia in the Indian Ocean.

The transport planes, as well as the fighter-bombers which would support the Marine ground troops, would have to be refueled en route by Air Force flying tankers.

Although he did not volunteer it, when pressed by reporters Kelley said Diego Garcia could indeed become the "linchpin" as the United States increases its military presence for conflicts in the Mideast and Africa.

In the past, some members of Congress have been reluctant to increase the U.S. military presence on the island for fear of making the Indian Ocean a new area of confrontation for the superpowers, the United States and Soviet Union. Sen. Sam Nunn (D-Ga.), is leading a delegation of the Senate Armed Services Committee to the Persian Gulf early next year to assess the need for addditional U.S. military facilities in the area, including Diego Garcia.

One staffer of the Senate Foreign Relations Committee, who observed the Senate effort of recent years to restrict military activities on Diego Garcia, said: "That was a different era Iran has changed all that."

DEATH OF SHERMAN P. LLOYD

Mr. HATCH. Mr. President, I was saddened to learn Saturday of the death of the former Congressman from Utah's Second District, Sherman Parkinson Lloyd. Sherm served Utah and the country for 8 years as a Member of the U.S. House of Representatives, as he had served ably in the Utah State Senate before. But even after he lost the election of 1972 Sherm continued to offer his considerable talents to the service of his State and party and to the youth of the country.

Sherm was a remarkably principled man. He was twice defeated as a candidate for the nomination of his party for a U.S. Senate seat, but he was never defeated as a man, as I learned so well in 1976. Going into the Utah State Republican Convention in 1976 there were five candidates for the Republican nomination to the Senate, including Sherm and me. Only two candidates survived the convention vote for the September primary, and Sherm was thus denied the nomination. He had also run in 1964 when the nomination went to another of mv mentors, the distinguished former president of Brigham Young University, Ernest L. Wilkinson.

Losing candidates often drop out of sight to recover, but Sherm refused to do so. He was out of the race for himself, but he graciously offered me advice that I found vitally important during the following 6 months prior to the final election. Sherm saw his duty as an active participant in the elective process, not just as a voter. He was a candidate for election to public office no fewer than 10 times. But he never ran for himself—he always ran for the people. It should have been no surprise that he volunteered to help me, but that unselfish quality has become increasingly rare in political life. It is to the unselfishness of the people Sherm Lloyd epitomized that most of us owe our election to this august deliberative body.

Sherm was not a native Utahan, having been born in St. Anthony, Idaho. But he was as proud of Utah as anyone who was ever born there. Educated at Utah State University at Logan, Sherm graduated in 1935 and went on to law school at George Washington University from which he graduated in 1939.

Sherm Lloyd spent a lot of time in Washington, D.C.—but he always had Utah firmly in mind. While attending law school here and for a while after graduation, he worked at the Department of Agriculture, later transferring to San Francisco and Denver. But he returned to Utah where he established a reputation as the advocate for Utah small business while serving as general counsel for the Utah Retail Grocers' Association, a post he held for 22 years. Elected to the Utah State Senate in 1954, he was elected majority leader of that body in 1957 and served as senate president from 1959 to 1961.

In 1961, after the Republicans lost the majority in the Senate, Sherm continued service to his party and the State as minority leader of the senate.

Sherm returned to Washington in 1962, having been elected to the U.S. House of Representatives. In 1964 Sherm sought the nomination of his party for the U.S. Senate but was defeated by Ernest Wilkinson, as I mentioned. Yet I always marveled at how these two former foes later came to my aid in 1976. Each of them was motivated by their principles of service to the people of Utah, undiminished by any petty differences that might have arisen when they opposed one another. With the inestimable aid of these two magnanimous people the Republicans were able to work an upset victory in the 1976 Senate campaign. Sherm Lloyd and Ernest Wilkinson were both as much elated at Republican victory as if they had been given the privilege to serve here themselves. Such dedication to principle is impressive and of itself commands respect.

Sherm returned to Utah for 2 years, after 1964, and taught at the University of Utah. He was sent back to Washington again as a Member of the House in 1966, where he served with distinction for 6 more years. After his defeat in the general election of 1972 he joined the U.S. Information Agency, but again returned to Utah to assume the Milton R. Merrill Chair in political science at Utah State University. In 1974 he was named director of the Utah office of the Department of Commerce, a fitting position for one who believed so strongly in a free enterprise economy.

His mark on Utah is permanent. In the Utah Legislature he established the Utah Council on Higher Education, and he created the Utah Council on Criminal Justice. In the U.S. Congress he was noted by former President Gerald Ford as an excellent team leader, exemplified perhaps by his work for production of oil from oil shale in 1970, years before even the first Arab oil embargo and a full decade before Congress got around to it.

Sherm never stopped looking for ways to serve his country and State. In 1975 he founded Bear Lake magazine, a publication of information about the Bear Lake region of Idaho and Utah, the area in which he was born and educated and for which he always held enormous affection.

Sherm Lloyd will be laid to rest in Salt Lake City today.

Mr. President, Sherm Lloyd held elective office in the service of Utah three times and sought to serve in other public offices a number of times. He was a lawyer, a banker, a businessman, a politician, an educator and scholar, a publisher and journalist. He made significant contributions to Utah in fields as diverse as criminal rehabilitation and energy development. He was foremost in the service of his fellow citizens, his fellow Utahans, his fellow Americans. And we shall all miss him terribly.

During my election, he helped me; but afterward, I recall that when we were fighting the common-situs picketing battle, Sherm came back and gave me assistance as a freshman Senator with very little experience. He had a tremendous impact on my life and on the lives of many other Utahans. I appreciate his memory and will always remember him.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial from Salt Lake City's Deseret News, from yesterday afternoon's edition.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SHERMAN P. LLOYD

With the death the past weekend of Sherman P. Lloyd, Utah has lost an outstanding citizen whose wide range of talents were reflected in his many contributions to this state.

The broad scope of his abilities and interests were reflected in more than a distinguished career that spanned service as lawyer, business leader, editor, publisher, university lecturer, and public servant in the Utah Legislature and U.S. Congress.

That same spectrum of talents was reflected in more, too, than his wide range of civic and church responsibilities that included high level posts in several charitable organizations plus service to the LDS-Church as officer and teacher in various auxiliary organizations.

In addition to these facets of this highly accomplished man, there was also the Sherm Lloyd who championed the orderly development of natural resources through controlled private enterprise long before these concerns became as highly fashionable as they are now.

There was the Sherm Lloyd who magnanimously put the interests of the entire group ahead of his own or other narrow interests. Many Utahans still remember how, as President of the State Senate, he made sure the opposing political party was given the chairman ships of many important committees even though his own party was in firm control of the Legislature. Because of his statesmanlike approach, the Senate functioned with notable smoothness and effectiveness during his leadership there.

There was the Sherm Lloyd who lost no time in speaking up whenever he was displeased or thought there was an injustice that ought to be corrected. One was never in doubt about where one stood with him.

Then there was the Sherm Lloyd who could teach many another politician a valuable lesson about how to be gracious in defeat. When Sherm left Congress after a hotly contested campaign, there was no bitterness or rancor. His statement of gratitude at having had the opportunity to serve Utah in the nation's capital for eight years was a masterpiece of high-mindedness.

Likewise, there was the mellow Sherm Lloyd of his final years—the ones he spent as editor and publisher of The Bear Lake Magazine. Sherm fell in love with that part of Utah and was indefatigable in keeping the public informed about it. His writing was good-humored, folksy, and down to earth.

To his many friends and fine family, the Deseret News expresses its condolences at Sherman P. Lloyd's passing along with our gratitude for the remarkable legacy of public service he has left.

AFFIRMATIVE ACTION AGAINST EQUAL PROTECTION—VI

Mr. HATCH. Mr. President, about 10 years ago, our civil servants seem to have decided to impose quotas on every area of American life, despite the wording and intention of the 1964 Civil Rights Act. This was a revolutionary development, but it went largely unremarked in the Nation's press. Partly, as I have said earlier in this series, this was because of a general good-will toward anything thought, however mistakenly, to be linked to the cause of civil rights.

One of the first to notice the illiberal nature of affirmative action was Commentary magazine. It began publishing articles on affirmative action when its defenders and clients were attempting to maintain that there was a distinction between quotas and "goals," "guidelines," or whatever other euphemism they could invent for what they were doing.

On May 15 of last year, Prof. Joseph Adelson of the University of Michigan wrote an analysis of the situation on our campuses which achieved a remarkable standard of eloquence and perception. Drawing on his own experience, Professor Adelson demonstrated that quotas are unfair, cannot achieve the ends to which they are addressed, and are associated with a moral corruption among those compelled to administer them.

When Professor Adelson's article appeared in commentary, he could conclude by hoping that the Supreme Court would rule against quotas and that the issue would "fade away, to be remembered only as one of the many unpleasant episodes of the 70's."

The intense pressure the Court was under showed in the schizophrenic Bakke decision. But since Weber, it has begun to appear that the vested interests behind affirmative action are prevailing in their attempt to reorganize the principles upon which this Nation was founded.

Thus, it is essential that those of us in elected office speak up in defense of Professor Adelson's conclusion:

> . . . authoritarian means, however well meant, will not achieve democratic ends.

I commend his article to my colleagues, and I ask unanimous consent to have it printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LIVING WITH QUOTAS

Several months ago, former President Gerald Ford spoke to a political-science class at my university. During the question period that followed he was asked for his views on the Bakke case, and replied that he was opposed to "arbitrary numerical quotas." Thereupon the class broke into what the local newspaper termed "vociferous applause."

A few days later I was interviewed by a young journalist who thought the story might be worth pursuing. He had himself been so disbelieving of the original press account that he had sought out and listened to the tape made during the former President's appearance. Sure enough, he told me, the applause had been enthusiastic, so much so that he would describe it as turbulent. He was dumbfounded. Is that what the students really felt? At Michigan—of all places—the founding campus of SDS? What did it mean? Was I as surprised as he was? I told him I would not have expected the students to have made public their private feelings, but was not at all surprised by the direction and intensity of those feelings; that most students in my experience have come to despise "affirmative action" because of the double standards it imposed, and which victimized them; furthermore, that most of the faculty I knew were equally scornful because of the duplicities these programs have come to involve; and that to my certain knowledge many in the administration hoped, in private, that the Court would hold for Bakke and thus rescue them from their own cant. And that, I said, was the story he ought to write. He ought to reflect upon his own surprise, and recognize that the press had made almost no effort to discover whether racial-preference programs—after nearly a decade in place—had in fact fulfilled their promises, and what faculty and students now thought about them. Why such indifference to reality? What was at work, I suggested, was a strong wish not to know, to sustain a state of self-deception.

At this my interviewer became noticeably morose. He told me he felt very ambivalent about the problem. He had himself been in graduate school several years earlier, had been disturbed by the poor quality of minority students then enrolled; on the other hand, he could see no alternative except to admit many such students in the hope that some of them would make it. So he could not bring himself to write that story. Perhaps someone else could; perhaps I could. And with that we returned to the story he wanted to write, a "changing mood of the campus" piece.

Note that the key term in this anecdote is doubleness. The journalist describes himself as ambivalent (of mixed or double feelings). The students resent the double standard, and the faculty feel themselves forced into duplicity (double dealing). The administration is troubled by its hypocrisy (double facedness). These and other dualities dominate the history of affirmative action and in a sense fittingly, since these programs have from the beginning been haunted by an unacknowledged ambiguity or doubleness of purpose—whether to expand opportunity, or to compensate for prior injustice. The major means chosen has been a double-track system of admissions. Unable to confess to these contradictions, those in charge of racial-preference programs find themselves using deceptive or ambiguous language—that is, of mixed or double meaning: most commonly, the word "goal" when "quota" is meant, or, as will be evident later, the word "qualified" when in fact "marginal" or "unqualified" is correct. To sustain these deceptions, or to keep them hidden, other dualities come into play: the world is divided between insiders and outsiders, those who are and are not privy to secret information; or a schism develops between public and private discourse, the first tending toward blandness and boosterism, the second toward rumor and innuendo. The ultimate effect is a corruption both of language and conduct.

Does that seem overstated? Yet consider that in a milieu like the university, where one is customarily buried in statistics, it is generally difficult to obtain accurate information on the comparative credentials of majority and minority students, or on the relative attrition rates of the two groups, or on the costs—many of them hidden—that these programs entail. Since any good news is an immediate stimulus for publicity and self-congratulation, one tends to assume, in most cases correctly, that no news is bad news. The subordinating of information to policy is something we have become accustomed to in other domains of public life, but it takes some getting used to at the university, and it has had a troubling effect on the way its members regard themselves and relate to each other.

An example: last summer a professor I know was called by a law firm and asked whether he could obtain some data on his university's medical school's admissions policies. The firm was preparing an amicus brief for the then-forthcoming Bakke hearing before the Supreme Court, and wanted to argue that objective credentials—test scores, grade point—were in fact valid predictors of achievement in medical school. Though it was generally held by expert sources that this was so, they had been unable to find enough published evidence, despite a thorough search of the literature, and were now fairly sure it was being suppressed. Perhaps as an insider he could obtain data pertaining to his own medical school. The professor thought he could; he remembered that an old friend of his had connections there and would no doubt have the information. He called upon the friend who first asked him, suspiciously, which side he was on, then told him, bitterly, that he did not think the data would be released, and that one ought to expect to get the runaround from the medical school. Not that one could trust the figures in any case, since the admissions dean was known to put the best face on things. There were only two sure ways to get the data—to threaten to sue if it were not released, but since that would take time, a more expedient means would be to find a Deep Throat, someone at the medical school who had access to the information and would be willing to steal it!

Finding both these alternatives too troubling to contemplate, the professor thereupon arranged an informal, off-the-record interview with the admissions dean, representing himself as sympathetic but concerned, and thus inducing the dean to unburden himself. The dean depicted himself as a beleagured man, caught between the university administration, which kept urging him to keep the minority numbers up, and the medical-school faculty, which kept wanting him to keep the standards up. The trouble was that the administration was not being realistic about what level of intellectual quality was required to complete medical school these days. He had some serious questions about many of the minority students he was admitting, perhaps as many as half. Some of them he knew would not be able to make it through, and he felt sorry for what would happen to them. But he was even more worried about those who would just manage to get through and were, as he saw it, doomed to a career of marginal competence. Medicine became every day more technical, more demanding; and he doubted that they could keep up. It was not a matter of race. During the 50's the medical schools had so few really good applicants that they accepted and pushed through many white students of low quality. And what had happened to them? The dean was convinced that this was the group now giving medicine its rotten public image, through malpractice suits and Medicaid ripoffs. And at that point he launched into what the professor later characterized as "lurid medical detail."

It is tempting to linger over those details, since stories of incompetence—real, imagined, or prospective—form a familiar genre of academic gossip; yet in doing so we would ignore what may be far more significant—the skewed relationships among colleagues which this anecdote reveals: false assumptions, misunderstood motives, an atmosphere of mistrust and paranoia which comes to infect almost everyone involved. It is the ambience of a novel of intrigue—Eric Ambler, let us say. The professor, an innocent, embarks upon what seems to be a simple enough errand of discovery, and is quickly drawn into the suspicions of the milieu. A friend, hitherto open, at first mistrusts him, then, assured of his loyalty, warns him to expect thwarting and deceit, and hence feels it legitimate to deceive in return. (The friend, it will later turn out, is deceived in another sense, in that he misunderstands the dean's public statements, thinking they reflect his actual sentiments, which turns out not to be quite the case.) The professor, in hopes of evoking honesty from the dean, engages in some deceit of his own, simulating a sympathy he does not really feel. The dean reveals himself to be a deeply divided person, seeing himself compelled to offer entirely different messages to different audiences, telling the university administration one thing: "We're doing the best we can"; the medical school faculty another: "Do the best you can, and I'll try to limit the damages"; the outside world still another: "Standards are not going down, you can count on that"; and apparently sympathetic insiders yet another: "Caveat emptor."

What are we to make of the admissions dean? We may think of him as a divided, indeed fragmented soul, but it is unlikely that he would agree. Though he sees himself as subjected to contradictory pressures, he probably does not recognize the degree of inner division he must maintain. Nor would he accept our judgment that such extraordinary differences between public and private discourse amount to a form of fraud; he would be offended, or hurt, by that charge, since it does not take into account his sincere belief in racial equality. One is led ultimately to the idea that everyone is right—the dean is indeed divided, and to be so eases the practice of duplicity, itself in the service of an undeniable good.

In this sense, the dean's contradictions, internal and external, are no different from those experienced by anyone who must serve the inherently divided, confused, ambivalent aims of a racial quota system—they are merely more visible, more dramatic, because of the peculiarly salient position he occupies. What strikes me as more important is that similar divisions, similar deceptions have now become commonplace, almost a habit of mind, so taken for granted as to escape notice. Another example: we are now at a faculty dinner party and and one of the guests, looking like the cat who swallowed the canary, announces that he has managed to secure from the dean of his college a "slot," that is, permission to appoint an assistant professor—a rare opportunity given the privations we share. He is head of the search committee and is overwhelmed by the range and depth of talent available. There are several hundred applicants, and at least fifty seem good enough to warrant a closer look. The problem the committee will have is narrowing that number down to the handful who will be invited to visit—no simple task since a number of them—all younger than thirty—already have substantial bibliographies and burgeoning national reputations.

At this point another guest asks him whether there were any minority candidates, and if so what did they look like. He is startled by the question, then recovers, and says something like: "Oh yes, there was I believe—uh—one and she was—oh—somewhere well below the midpoint." As he tells us this his face breaks into an astonishing sequence of expressions—first a slight closing of the eyes, almost a wink; then a sardonic half-smile; then the sudden assumption of the most solemn gravity. It is over in a moment, so quickly that no one else there, I suspect, caught that quick sequence, and I imagine I would not have seen it myself had I not at that time been pondering whether to write this essay. The final phase of that sequence—the solemn expression of sincerity—will be seen again, and more than once, certainly when he informs the departmental meeting of the committee's search for a candidate, of its success, and of the earnest efforts to find suitable minority candidates.

It may also be seen in a later colloquy with the dean, wherein those efforts are again described, and in that conversation several persons will be present—my friend addressing the dean, the dean nodding gravely, my friend half-winking, half-smiling, to signal his detachment from and acceptance of the ritual, and the dean winking back. In that exchange they are signaling their submission to the improbabilities and absurdities of academic hiring in the era of affirmative action: the improbability that there is an undiscovered abundance of minority talent, that diligent search will uncover it, that bureaucratic monitoring (carried out by failed or mediocre academics) is necessary to insure the diligence of that search, because—credo quia absurdum—the modern university, that most liberal of American institutions, and beyond that devoted fanatically to the celebration of achievement, is nevertheless so steeped in racial bigotry that it cannot be trusted to recognize and overcome it independently.

In my view, it is the university's failure to resist that last, malicious idea, the idea of its bigotry, which is a major source of its current loss of dignity and self-respect.* But to return now to the professor and the dean, we may observe that the interchange between them, marked by acquiescence and inner disavowal, by a seeming acceptance of the forms and an aloof contempt for them, involves an internalization of dissent and thus its inhibition. Dissent is kept "inside," either inside the self, or inside the dialogue (as in the hinting and winking among "insiders") or within the "system," whatever that may be at the moment—the committee, the department, the college.

By keeping potential dissent confined to the family, one also keeps the secrets which occasion and sustain that dissent, in this case the illusions and falsehoods which have gathered around university quota systems. I have over time become convinced that this is not merely the effect of keeping dissent inside, but its unconscious intention. One is permitted to take a critical position about affirmative action as long as this is done on the grounds of high principle; but one produces consternation and panic through a descent to mere information. Several months ago I mentioned to a colleague of mine that I had collected some data which suggested the essential futility of our own well-regarded efforts in affirmative action, and that I was planning to bring these dolorous findings to the attention of our faculty. My friend looked at me in genuine horror and urged me not to do it, saying that many of our colleagues become agitated when confronted with unpleasant facts about our quota system.

I decided not to do it, no doubt prudently; but if you think my colleague's alarm overdone, consider the truly curious case of Dr. Bernard Davis of the Harvard Medical School. To remind you: Dr. Davis is a distinguished medical scientist who was one day overcome by an aberrancy of candor. It led him to write an editorial for the New England Journal of Medicine, in which he worried about a possible erosion of standards due to affirmative action. Having read the editorial a dozen times, I can attest that there is nothing in the least provocative about it, that it is cautious and sober to a fault. But it was Dr. Davis's error to cite a specific example, involving the waiving of requirements for a minority student, and it was that concreteness, one may imagine, that led the press to pick up the story. From that moment on, all of Dr. Davis's scrupulosity of tone was of no avail, since he had "gone public" (however fortuitously) and had offered a datum. He was thereupon the object of demonstrations, denunciations, and a motion of censure brought against him by the more thuggish elements of the Harvard medical faculty, many of them no doubt Life Members of the ACLU.*

The gravamen of the charge directed against Dr. Davis is not merely that his concerns found their way into the press, but that once made known they tended to mislead the public, who would mistake the part for the whole, and would be led to distrust all minority medical students and physicians because of statements—either true or false in substance—which apply only to some. It is certainly true that the public is uneasy about possible minority incompetence; and it is also true that the competent—such as my own current group of minority students—are thereby unfairly burdened. But the distrust felt by the public is due not to the breaking of the silence, but to the silence itself. The unvarying diet of sanctimony and false reassurances purveyed by our educational leaders has in the end produced an almost complete cynicism, not only in the university, but in the public at large. Those youngsters applauding Gerald Ford have parents and friends and neighbors living in the real world, and the word gets out that the official pieties are not to be believed. What is believed is hard to say: it seems to be the usual mixture of truths and exaggerations and some falsehoods; but on balance—and it grieves me to say so—the uninformed gossip of the public is far closer to the truth than all the press releases issued by all the law- and medical-school deans in all America.

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*What is worse, the university masochistically subsidizes its own defamation, in its sponsorship of affirmative-action apparatchiks whose sole métier is the propagation of witless charges of racism and the like. Here is one of our own, addressing the multitudes: "There is no way a white male professor will bring a minority person into his clan." Here is another: "The old-boy network has always worked . . . there is really no affirmative-action program." All this, mind you, at a university which submits—meekly, obsequiously—to the most outrageous demands made upon it in the name of affirmative action. We still await the day when the leadership of a major university defends itself or its faculty against such derogation. The failure to do so both reflects and contributes to the university's loss of self-confidence.

*There is an excellent account of the Davis incident, by J. W. Foster, in the New Republic, July 17, 1976.

I spoke earlier about the illusions and falsehoods which have gathered around the topic of affirmative action. The vast outpouring of writing prompted by the Bakke hearing has made these more evident than before, in that the arguments offered for reverse discrimination have involved the reiteration of certain ideas about the quota systems—how they work, whom they work for, and what their long-range effects have been. We find that in particular three central statements recur: (1) that whatever one may feel about the moral worth of these programs, they enjoy the merit of success; (2) that those being helped are the disadvantaged; and (3) that those favored are fully qualified for the programs they enter and fall short only in modest and easily remedied ways. I want to take up these assumptions and show that each of them is open to serious question, the realities are far more complex.

1. Are quotas successful? In the course of arguing with any proponents of racial preference systems, one is likely to find, sooner or later, that the trump card offered is the argument from results. Triumphantly: "Whether you like it or not, the fact is that it works!" Or beseechingly: "I don't see what else we can do—it's the only thing that will work." Here is Father Hesburgh of Notre Dame, in a letter commending an article by McGeorge Bundy, telling us that the "embryonic effort of a decade has multiplied by a factor of ten or more the number of minority students now preparing nationwide to be doctors or lawyers." That is an inflated figure, as such figures often are, but let it stand. Let us accept that there has been a substantial rise in the number of minority students enrolled—from 2 to 3 per cent before affirmative action to about 9 per cent today.

That is indeed an impressive increase, if we can bring ourselves to believe it—that is, to believe not merely the numbers but also what they are meant to imply: that the increase in those preparing will translate into an equivalent increase in those being graduated; that those graduated are fully competent; that the rise is due to quotas themselves; and that nothing else will work.

Note first that these figures almost always tell us the proportions admitted or enrolled, and rarely the percentages who are graduated. We know how many are in the pipeline, but not how many emerge, and it is no longer quite the secret it once was that there is often a considerable gap between those numbers. To take an example close to home: my own training program in clinical psychology adopted in the early years an ambitious one-third minority quota, and in order to meet it admitted students recklessly. The attrition rate has been extremely high: of those admitted in those early years, at most one in five will achieve the doctorate (compared with two-thirds of those admitted regularly). We brandish one statistic, the large percentage of minority students admitted and enrolled, and conceal, even from ourselves, the fairly complete failure to carry students through the doctorate. Nor do we comment on the cruel loss of time and self-esteem suffered by the students involved; all of them would have succeeded elsewhere, but were misplaced in our program, drawn there only to satisfy political demands and our own moral vanity. Somewhat similar patterns have been reported for many law schools where, at least in the past, the proportion of minority students graduating is substantially lower than those enrolling, and the percentage of those who pass the state bar exams is lower still, at times shockingly low.

Yet I would not want to lean heavily on these or other examples. To do so is only to add to the general mindlessness, wherein statistics when available are torn out of context, or otherwise used to dissemble and deceive. In particular one must take skeptically the news that things are going swimmingly at Harvard Law and Stanford Medical and MIT Economics and the like. Elite schools and programs, once they put their minds to it, can command the best of everything, and their successes in minority training tell us nothing at all about what is happening elsewhere. This country's educational institutions are so diverse, and so variously organized, that it is nearly impossible to discern what any given set of figures actually means. I know of two nearby law schools: one is elite, admits selectively, and fails hardly anyone. Another is non-elite, admits more generously, yet fails a large percentage. There is no easy way one can compare their statistics of "success" or aggregate them; nor do national statistics tell us much unless we have some sense of what levels of competence those figures represent. The only thing we can say with confidence is that the statistics of "success" bandied about are inflated to an unknown degree.

What is even more troubling than the inflation is the tacit assumption that all improvements in minority enrollment are due only to the quota programs. We have here the characteristic mindset of the New Class of foundation executives, university presidents, bureaucrats, and publicists who simply cannot bring themselves to understand that good things can happen without the benefit of their intervention. One would never suspect, in reading the reams of anti-Bakke writing, that minorities—and especially blacks—have during the last generation accomplished, partly through the vagaries of history and partly through their own exertions, an amazing series of transformations: from agrarian to urban, from poverty to the beginnings of economic stability, from dispossession to modernity. One would never imagine that these profound demographic changes may account for the largest part of the increased representation of minority students in higher education. None of this is evident in Father Hesburgh's letter, which asserts that "for only ten years now have we provided a modicum of equal educational opportunity . . ." etc., etc. That is de haut en bas, the voice of the good Father tending a mute and faithful flock, or of the foundation chief dispensing largesse to those he deems worthy. It simply does not correspond to the realities of an energetic and clamorous democratic culture, in which we do not provide for them, but in which all of us strive, compete, negotiate, accommodate, succeed, fail, rise and fall and rise again.

2. Do quotas help the disadvantaged? One afternoon several years ago, while serving on our admissions committee, I came across the applications of two young women. One was an ambassador's daughter who had been educated in private secondary schools, and was attending a most prestigious Ivy League university. The other might have stepped out of a Harriet Arnow novel. She had been born in Appalachia, the daughter of a poor farmer. The farm failed, the family moved north her father died, the family survived on welfare and odd jobs, she married young, bore a child, was divorced, began attending a municipal university and ultimately was graduated with an excellent record. With respect to objective measurements—test scores and the like—these two young women were more or less evenly matched. It was the ambassador's daughter who, being black, was offered an invitation (which she did not ultimately accept, having a surfeit to choose from); the welfare child, being white, was not admitted did not come close.

This anecdote has been chosen to illustrate as succinctly as possible the moral problems inherent in any system which provides privileges by race alone, and which will not recognize other bases of disadvantage. Either one must argue that race is the only stigmatizing American condition, an argument sometimes made but not commonly accepted; or else one must assume that race and class are essentially identical, which is simply not the case. And it is least likely to be the case at the higher reaches of higher education, given the strong association between social class and scholastic competence, an association which seems to be universal. This past year our admissions committee decided to give some attention to the socioeconomic status of all plausible candidates. What we found was startling: of the five minority "finalists," three were attending elite private colleges, and two were at selective state universities. Only one had received scholarship help. Three of the five came from affluent—not merely comfortable—families, and one of these gave every evidence of being rich. The committee member who interviewed most of them reported back to our faculty, somewhat ruefully, that their average family income was considerably higher than that enjoyed by the faculty itself.

The luck of the draw that year may have given us an unusually well-to-do group—I suspect it did—but the fact remains that during the last few years almost all of the minority students in our program have appeared to be of middle-class background, to judge by dress, speech, and quality of sensibility. They are talented and likable and interesting; they are well-schooled; they will succeed in getting their degrees. But it is pointless to pretend that they are disadvantaged, or that their presence introduces any diversity to our program except in the most superficial fashion. Nor does one find them all that interested, as a group, in specifically minority problems (nor do I think they ought to be), especially after they have been admitted to graduate training, and can relax and discover what really interests them.

The interaction between class and race is an issue which has yet to be addressed seriously by most commentators on affirmative action, not to mention its bureaucrats. Any intelligent analysis of the issue will have to begin by recognizing the aforementioned relationship between being middle class and being competent scholastically. Hence a policy of preferential admissions which favors the disadvantaged—of any race or ethnic group—will involve a high rate of failure; conversely, any attempt to chose minority students likely to succeed means a preference for the middle class among them. What has happened, I think, is that the strong departments and schools—such as my own—having viewed the wreckage of their earlier efforts to favor the economically deprived, have now decided to recruit those more likely to succeed, which in practice means middle-class minority students. Hence a program which began as an effort to remedy disadvantage has become increasingly a program which most helps those minority youngsters who least need help.

3. Are the students qualified? I have kept for last the most difficult question of all, the meaning and use of the term "qualified." The question is so difficult emotionally that only a genuinely self-confident minority scholar, like Thomas Sowell, can deal with it in a straightforward way. It is also difficult conceptually, since the term is intrinsically a matter of context—when we use the word we ordinarily specify when and how and for what purposes and compared to whom. Given these sources of ambiguity, it makes one uneasy to observe the shrillness with which the idea is advanced that minority students chosen for professional training

are "entirely qualified." A few nights ago I watched a television debate on the Bakke case in which an old warhorse of the old liberalism insisted that the minority students chosen ahead of Bakke were qualified—he stressed the word, almost shouted it. What made him think so, he was asked. Well, the doctors who chose them thought so, otherwise they would not have been chosen. And having uttered that tautology, he broke into a smile of seraphic self-satisfaction.

What lies behind all this blustering, all this shrillness, is an intention to rewrite the common understanding of what it means to possess adequate academic qualifications. A subsidiary intention is to depict academics as rigid, hard-hearted pedants who for the sake of a few measly points on this or that meaningless test refuse to offer a helping hand to deserving minority students. Yet the differences are not trivial. Were they trivial there would be no issue, since it is hard to imagine many teachers or students becoming indignant or concerned about the difference between an A— or a B+ level of achievement, or between a Graduate Record Examination score of 650 as against 600. The differences we worry about are large and at times enormous, so much so as to raise issues which go beyond the issue of fairness to the larger question of whether the public is being responsibly served. It is rather ironic to note that the more sophisticated moral arguments in favor of reverse discrimination have emphasized "the common good," yet it is precisely that common good which a feckless reliance upon quotas is liable to injure.

One of the unexpecteed byproducts of the Bakke case is that it liberated data on medical-school admissions held closely or concealed. These findings are especially important in that they refer to the medical school Bakke sued—the University of California at Davis, a run-of-the-mill institution—rather than to Harvard or Johns Hopkins and the like, which can choose from among the very best minority applicants. The findings from the Davis medical school may in that sense be more representative, and what they tell us is simply distressing. Students admitted under a quota to the school had an undergraduate grade-point average in the B— to C range. You will not grasp what these figures say without being aware of the current level of grade inflation at American universities. For example, the typical student at my university graduates with a B+ average, and a good (though not brilliant) one will graduate with an A—. The minority students admitted to the Davis medical school were at the very bottom of the grade distribution; in an era of honest grading, most of them would have been at the D level or below. A friend of mine, deeply sympathetic to affirmative action, looked over the table of grades and test scores I provided for him, groaned, and said, "My Lord. If that's who they let in, whom do they keep out?"

These are painful matters to read and to write about, yet anyone confronting the Davis medical statistics for the first time, as I myself did a few weeks ago, and can construe from his own experience what they mean, will likely find himself overcome with dismay. It is deporable that these data have received almost no attention in the press; that the university presidents and deans who have access to this information keep silent; that students so marginal are encouraged to enter medical training; and that as a consequence the able minority student inevitably comes under suspicion.

When quota programs in higher education first went into effect, thoughtful critics warned that the logic of the situation would ultimately compel an extension of quota-mindedness into all other areas of public life, and not merely by infection and example. They reasoned that marginal students, once recruited and enrolled, would tend to be passed through educational programs—at least in many cases—and then be unable to compete equally in an open market for talent. Hence new systems of preferment would be established and sustained. That is just what has happened. The emerging solution, which we see in faculty hiring and elsewhere, is to set aside, tacitly, certain positions as "minority" slots. Thus we reach the final and most wretched duality of all—a two-tier system of categories, involving on the one hand "real jobs" for which serious candidates compete seriously, and on the other, "minority jobs" which are set aside as a sop either to conscience or, more often these days, to the demands of the government bureaucracies. The corrupt means chosen to achieve the virtuous aim of integration ends in imposing, for the first time, segregated statuses within the university.

At this writing, the ultimate fate of racial preference systems remains unclear, pending the Court decision on Bakke. Most lawyers I speak to believe the Court will rule as narrowly as possible, and if it does we can expect the struggle to continue, even to intensify, and to be fought via legislation and popular initiative. On the other hand, the Court may hold for Bakke on broad constitutional grounds, and the quota issue will fade away, to be remembered only as one of the many unpleasant episodes of the 70's. Yet even so we would be left with the most disturbing questions about how social policy is made in this country.

The rapid conversion of "affirmative action" to bureaucratically mandated quotas has taken place despite specific congressional intentions to the contrary, despite its overwhelming rejection in public opinion polls, despite the solemn disavowals of President Carter both before and after his election, and despite a body of legal doctrine presumably removing race as an acceptable criterion for preferment. None of this has made the slightest difference. Congress is paralyzed. The President, characteristically, waffles and then yields. Some of our most prominent legal theorists promptly discover that, on second thought, a little racial discrimination is just what the country needs, as long as it is understood to be for our own good, and carried out by high-minded folk. Those folk turn out to be revenants from the Great Society—McGeorge Bundy, Joseph Califano, and the like—who seem bent on repeating all of the errors of that era, who are still unable to grasp that sheer energy and mere good will, do not in themselves accomplish wise policy, and that authoritarian means, however well meant, will not achieve democratic ends. A thwarted and resentful public seems to understand this perfectly; it's only our leadership which cannot.

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 11:02 a.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 887. An act for the relief of Elizabeth Berwick and Alexander Berwick, her husband;

H.R. 2477. An act for the relief of Jesus Reveles y Rivera;

H.R. 2531. An act for the relief of Russell W. Allen; and

H.R. 4943. An act granting the consent of Congress to the compact between the States of New York and New Jersey providing for the coordination, facilitation, promotion, preservation, and protection of trade and commerce in and through the Port of New York District through the financing and effectuation of industrial development projects.

The enrolled bills were subsequently signed by the President pro tempore (Mr. Magnuson), with the exception of H.R. 4943 which was signed by the Acting President pro tempore (Mr. Bradley).

At 1:19 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3919) to impose a windfall profit tax on domestic crude oil; that the House agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Ullman, Mr. Rostenkowski, Mr. Vanik, Mr. Corman, Mr. Gibbons, Mr. Pickle, Mr. Rangel, Mr. Cotter, Mr. Stark, Mr. Jones of Oklahoma, Mr. Conable, Mr. Duncan of Tennessee, Mr. Archer, Mr. Vander Jagt, and Mr. Moore were appointed as managers of the conference on the part of the House.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3928. An act to amend the act of November 8, 1978 (92 Stat. 3095) to designate certain Cibola National Forest lands as additions to the Sandia Mountain Wilderness, New Mexico;

H.R. 5174. An act to amend section 209 of title 18, United States Code;

H.R. 5523. An act to establish an improved program for extra long staple cotton; and

H.R. 5973. An act to amend the Internal Revenue Code of 1954 to waive in certain cases the residency requirements for deductions or exclusions of individuals living abroad, to allow the tax-free rollover of certain distributions from money purchase pension plans, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 219. A concurrent resolution calling for an international conference on Cambodia.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 716. An act to amend the Retired Federal Employees Health Benefits Act, as amended, with respect to the Government contribution toward subscription charge; and

S. 1874. An act to amend the act incorporating the American Legion so as to redefine eligibility for membership therein.

The enrolled bills were subsequently signed by the President pro tempore (Mr. Magnuson).

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 3928. An act to amend the Act of November 8, 1978 (92 Stat. 3095) to designate certain Cibola National Forest lands as additions to the Sandia Mountain Wilderness, New Mexico; to the Committee on Energy and Natural Resources.

H.R. 5973. An act to amend the Internal Revenue Code of 1954 to waive in certain cases the residency requirements for deductions or exclusions of individuals living abroad, to allow the tax-free rollover of certain distributions from money purchase pension plans, and for other purposes; to the Committee on Finance.

HOUSE BILL AND CONCURRENT RESOLUTION PLACED ON CALENDAR

The following bill was read twice by title and ordered placed on the calendar:

H.R. 5523. An act to establish an improved program for extra long staple cotton.

The following concurrent resolution was read by title and ordered placed on the calendar:

H. Con. Res. 219. Concurrent resolution calling for an international conference on Cambodia.

HOUSE BILL ORDERED HELD AT DESK

The following bill was read by title and ordered held at the desk, by unanimous consent:

H.R. 5174. An act to amend section 209 of title 18, United States Code.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, December 18, 1979, he presented to the President of the United States the following enrolled bills:

S. 716. An act to amend the Retired Federal Employees Health Benefits Act, as amended, with respect to the Government contribution toward subscription charge; and

S. 1874. An act to amend the Act incorporating the American Legion so as to redefine eligibility for membership therein.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RIBICOFF, from the Committee on Governmental Affairs, with amendments:

S. 1419. A bill to provide for the transfer of the Foreign Claims Settlement Commission of the United States to the United States Department of Justice as a separate agency in that Department; to provide for the authority and responsibility of the Department of Justice to supply to the Foreign Claims Settlement Commission certain administrative support services without altering the adjudicatory independence of the Commission; to change the terms of office and method of appointment of the members of the Commission; and for other purposes (Rept. No. 96–509).

By Mr. NUNN, from the Committee on Armed Services, without amendment.

S. Res. 317. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 523. Referred to the Committee on the Budget.

By Mr. BAYH (for Mr. Kennedy), from the Committee on the Judiciary, without amendment:

S. 157. A bill for the relief of Anibal Hadad, his wife Alicia Hadad, and his son Daniel Hadad (Rept. No. 96–510).

S. 207. A bill for the relief of Doctor Herman Sardjono and his wife, Erianda Sardjono (Rept. No. 96–511).

S. 629. A bill for the relief of Niobe Giovannelli and Pieruigi Pacini (Rept. No. 96–512).

S. 1375. A bill for the relief of Pandelis Perdikis (Rept. No. 96–513).

S. 1771. A bill for the relief of Doctor George Chrousos and his wife, Doctor Georgia Chrousos (Rept. No. 96–514).

H.R. 894. An act for the relief of Gina Marie S. Hernandez (Rept. No. 96–515).

H.R. 900. An act for the relief of Grace Maria Salazar Santos (Rept. No. 96–516).

H.R. 901. An act for the relief of John A. Townsley (Rept. No. 96–517).

H.R. 918. An act for the relief of Maryrose and Rosemary Evangelista (Rept. No. 96–518).

H.R. 1489. An act for the relief of In Sun Pineiro (Rept. No. 96–519).

H.R. 1619. An act for the relief of Rolando R. Gaza Teresita C. Gaza, and Rolynne Therese Gaza (Rept. No. 96–520).

H.R. 1827. An act for the relief of Emiko Okuma Colona (Rept. No. 96–521).

H.R. 1887. An act for the relief of Solomon Mani (Rept. No. 96–522).

H.R. 2593. An act for the relief of Mariana de Jesus Roca and Francisco Rubira Roca (Rept. No. 96–523).

H.R. 3234. An act for the relief of Rodolfo Jose Kozul (Rept. No. 96–524).

H.R. 3320. An act for the relief of Eileen Ferraren Fair (Rept. No. 96–525).

S. 1489. A bill to consent to the amended Bear River Compact between the States of Utah, Wyoming, and Idaho (Rept. No. 96–526).

By Mr. BAYH (for Mr. Kennedy), from the Committee on the Judiciary, with an amendment:

S. 659. A bill for the relief of the Black Hills Area Council of the Boy Scouts of America (Rept. No. 96–527).

By Mr. BAYH (for Mr. Kennedy), from the Committee on the Judiciary, without amendment:

S. 521. A bill to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn, or fiber, and for other purposes (Rept. No. 96–528).

By Mr. BAYH, from the Committee on the Judiciary, without amendment:

S.J. Res. 40. Joint resolution to authorize the President to proclaim annually the last Friday of April as "National Arbor Day" (Rept. No. 96–529).

By Mr. SASSER, from the Committee on Governmental Affairs, without amendment:

S. 1835. A bill to extend the Joint Funding Simplification Act of 1974 (Rept. No. 96–530).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. RANDOLPH, from the Committee on Environment and Public Works:

William H. Wilcox, of Pennsylvania, to be an Associate Director of the Federal Emergency Management Agency.

Albert P. Smith, of Kentucky, to be Federal Cochairman of the Appalachian Regional Commission.

(The above nominations from the Committee on Environment and Public Works were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BAYH (for Mr. Kennedy), from the Committee on the Judiciary:

Ira M. Schwartz, of Washington, to be Associate Administrator of Law Enforcement Assistance.

(The above nomination from the Committee on the Judiciary was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BAYH (for Mr. Kennedy) from the Committee on the Judiciary:

Terry J. Hatter, Jr., of California, to be U.S. District Judge for the Central District of California.

Edward Dean Price, of California, to be U.S. District Judge for the Eastern District of California.

Dorothy Wright Nelson, of California, to be U.S. Circuit Judge for the Ninth Circuit.

By Mr. CHURCH, from the Committee on Foreign Relations:

Deane R. Hinton, of Illinois, to be Assistant Secretary of State.

Victor H. Palmieri, of California, to be Ambassador at Large and U.S. Coordinator for Refugee Affairs.

(The above nominations from the Committee on Foreign Relations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Victor H. Palmieri.

Post: Ambassador-at-Large and U.S. Coordinator for Refugee Affairs.

Contributions, amount, date, and donee:

1. Self, (See attachment).
2. Spouse, Martha C. Palmieri, none.
3. Children and spouses names, Victor H. Palmieri, Jr., and Matthew B. Palmieri, none.
4. Parents names, John W. Palmieri, and Mary Rosati, none.
5. Grandparents, deceased.
6. Brothers and spouses names, Frederick W. Palmieri, none.
7. Sisters and spouses, none.

FEDERAL POLITICAL CONTRIBUTIONS

Date and amount

Frank Church, July 29, 1979, $500.

Ravenel For Senate Committee, August 3, 1979, $100.

Alan Cranston, August 15, 1979, $1,000.

Friends of Ada Deer, August 30, 1978, $50.

Charles Ravenel (S.C.) September 6, 1978, $500.

James C. Corman—Congressman, September 26, 1978, $150.

National Women's Political Caucus—ERA Fund, October 1978, $100.

Now/ERA Fund, October 27, 1978, $100.

Californian's for Brown '78, August 25, 1978, $500.

Salute to Yvonne Burke (Congress), September 27, 1977, $250.

Salute to the President, October 5, 1977, $1,000.

Corman Campaign Committee, October 19, 1977, $140.

Women's Political Committee, March 13, 1978, $125.

Lowenstein '76 Committee, September 13, 1976, $100.

Citizens for John V. Tunney, September 20, 1976, $500.

D. DeConcini For Senate, September 29, 1976, $250.

D. Riegel for Senate, September 29, 1976, $250.

Committee for Birch Bayh, February 6, 1976, $500.

Carter for President, April 2, 1976, $500.

Mankiewicz for Congress, April 2, 1976, $250.

Church for President Committee, April 2, 1976, $250.

Jerry Brown for President Committee, March 29, 1976, $1,000.

Beilenson for Congress Committee, April 26, 1976, $200.

Carter for President, May 28, 1976, $500.

Church for President Committee, June 8, 1976, $250.

Rees for Congress Election Committee, September 10, 1974, $150.

Harris for President, October 31, 1975, $500.

Riegle for Senate, November 19, 1975, $100.

Citizens for Senator John V. Tunney, December 5, 1975, $1,000.

By Mr. CHURCH, from the Committee on Foreign Relations:

Sidney Anders Rand, of Minnesota, to be Ambassador Extraordinary and Plenipotentiary of the United States to Norway.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Sidney Anders Rand.

Post: Ambasador to Norway.

Contributions amount, date, and donee:

1. Self, (see attached sheet).

2. Spouse, (see attached sheet).

3. Children and spouses names, Peter & Nancy Rand; Gary & Mary Williams; J. Ben & Sarah Buck; and Mark Ekeren, none.

4. Parents, deceased.

5. Grandparents, deceased.

6. Brothers and spouses names, Lyman & Helen Rand; Harold & Mary Miller, none.

7. Sisters and spouses names, none.

ATTACHMENT TO FORM NO. 5 (CONTRIBUTIONS)

Self and Spouse—(all contributions made jointly)

1975 Republican Committee, $75.
1976 Republican Committee, $90.
1976 Congressman Albert Quie, $75.
1977 Republican Committee, $50.
1977 Governor Rudy Perpich, $25.
1978 Commissioner Arlen Erdahl, $75.
1978 Congressman Albert Quie, $100.
1978 Candidate Rudy Boschwitz, $50.
1978 Candidate Marjorie Cox, $25.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CRANSTON:

S. 2146. A bill for the relief of Byron and Helen Anderson, Kenneth C. and Lois Mahan, James W. and Mary Irene Riley, James and Mary Waggoner, Ellis and Myrtle Waggoner, Delman and Donna Ford, and Otto and Agnes Kraasch; to the Committee on the Judiciary.

By Mr. CULVER (for himself, Mr. LAXALT, Mr. KENNEDY, Mr. THURMOND, Mr. LEAHY, Mr. MATHIAS, Mr. METZENBAUM, Mr. HATCH, and Mr. BIDEN):

S. 2147. A bill to establish the Regulatory Policy Board, to provide for the regulatory analysis of proposed major rules, to improve rulemaking procedures affecting small businesses and local governments, to require the Congress and the President to review certain regulatory agencies, to increase competition in regulated industries, to make other improvements in regulatory procedures, and for other purposes; to the Committee on the Judiciary and the Committee on Governmental Affairs, jointly, by unanimous consent.

By Mr. TSONGAS:

S. 2148. A bill for the relief of Moschos Chahlidis; to the Committee on the Judiciary.

By Mr. CRANSTON (for himself, Mr. HAYAKAWA, Mr. DECONCINI, and Mr. GOLDWATER):

S. 2149. A bill to amend the Agricultural Adjustment Act to allow the crediting of certain obligations of handlers who engage in the marketing of grapefruit, lemons, or oranges subject to marketing orders if such fruits are grown in the State of Arizona or the State of California; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. METZENBAUM (for himself, Mr. RANDOLPH, Mr. STEWART, Mr. HEINZ, Mr. HUDDLESTON, and Mr. LEVIN):

S. 2150. A bill to provide and protect employment opportunities in steel, coal, and automobile impacted communities; to the Committee on Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRANSTON:

S. 2146. A bill for the relief of Byron and Helen Anderson, Kenneth C. and Lois Mahan, James W. and Mary Irene Riley, James and Mary Waggoner, Ellis and Myrtle Waggoner, Delman and Donna Ford, and Otto and Agnes Kraasch; to the Committee on the Judiciary.

BYRON T. AND HELEN I. ANDERSON, ET AL.

● Mr. CRANSTON. Mr. President, I am introducing today legislation for the relief of six taxpayers of Mendocino County, Calif.; whose cases (eight by docket number) were omitted from a group of about 26 similar cases settled by the Internal Revenue Service. Their cases were omitted because the 90-day time to appeal from dismissal by the Tax Court had expired.

I am confident that the taxpayers in these cases merit the relief sought by my bill. The bill permits the courts to rehear, determine, and render judgment in accordance with audits to be conducted by the Appeals Division of the Internal Revenue Service.

All of the taxpayers in question, upon the advice of two tax preparers, refused to submit records to the Internal Revenue Service. The IRS responded to this maneuver by arbitrarily assessing the taxpayers for estimated deficiencies and moving to enforce the deficency judgment.

As matters turned out, the tax preparers were not licensed to represent their clients in court. As a result, the taxpayers' appeals were filed in a variety of different courts where they remained, undefended by counsel.

Eventually, the taxpayers retained proper counsel who successfully obtained an order from the Ninth circuit court of appeals consolidating all but eight cases in question here. In the case of the eight omitted taxpayers, time for filing an appeal had expired.

The ninth circuit in its opinion had this to say about the merits:

> The petitions of the above-named taxpayers were all dismissed by the Tax Court pursuant to the Tax Court's rules, and taxpayers have appealed to this Court. It appears that all of the appellants followed the tax advice of two grossly incompetent individuals who held themselves forth as income tax advisors in Mendocino County, California. The catalog of malpractice is too extensive to recount here, but it is clear that the above-named taxpayers were misled in many cases with disastrous results.
>
> In the interest of justice, the above cases are all remanded to the Commissioner for consideration of the books and records of the taxpayers which previously were not submitted by the taxpayers because of the grossly erroneous advice upon which they relied.

Although the tactics of the IRS were successful in bringing to an end the misguided adventure of the taxpayers, the assessments levied were wildly in excess of the true liability of the taxpayers—in 16 out of 26 cases the assessments varied more than 20 percent and as high as 55 percent in excess of the taxpayer's true liability. Clearly, in such a situation to enforce arbitrary assessments would be unjust, as the court and the IRS have recognized.

The bill I have offered will permit the remaining eight cases to be settled in the same manner as the others.

So that the record may be complete, I ask unanimous consent that a memorandum prepared by Victor T. Schaub of Eureka, Calif., the attorney who successfully represented the taxpayers, be printed in the RECORD, together with the text of the bill.

There being no objection, the bill and memorandum were ordered to be printed in the RECORD, as follows:

S. 2146

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 7481 of the Internal Revenue Code of 1954, or any other statute of limitations, laches, or lapse of time, jurisdiction is hereby conferred upon the United States Tax Court and the United States Court of Appeals for the Ninth Circuit to rehear, determine and render judgment in accordance with audits to be conducted by the Appeals Division of the Internal Revenue Service in the following tax cases:

1. Byron and Helen Anderson, for taxable years 1967, 1968, 1969, and 1970.

2. Kenneth C. and Lois Mahan, for taxable years 1968, 1969, and 1970.

3. James W. and Mary Irene Riley, for taxable years 1967, 1968, and 1969.

4. James and Mary Waggoner, for taxable years 1971 and 1972.

5. Ellis and Myrtle Waggoner, for taxable years 1971 and 1972.

6. Delman and Donna Ford, for the taxable year 1969.

7. Otto and Agnes Kraasch, United States Tax Court docket number 8704–74, for the taxable years 1971 and 1972.

SEC. 2. Actions under this Act shall be instituted within one year of the date of enactment of this Act.

SEC. 3. Nothing in this Act shall be construed as an inference of liability on the part of the United States.

MEMORANDUM

Hon. Alan Cranston.
From Victor T. Schaub.
Re Memorandum in Support of Private Relief Bill for Byron T. and Helen I. Anderson, et al.

In the spring of 1975, Attorney Richard Daly and myself embarked upon the representation of numerous taxpayers who had become involved in the cause celebre of two tax preparers whom the United States Court of Appeals for the Ninth Circuit later called "grossly incompetent individuals." We entered all of these cases at approximately the same time, finding them in various courts and at various procedural stages. Some were in the Ninth Circuit calendared for oral argument or awaiting such calendaring. Some were in the United States District Court for the Northern District of California where motions were pending concerning the validity of certain administrative summonses. Some were in the United States Tax Court where they were awaiting assignment for trial, had motions by respondent to dismiss pending, had motions by respondent to dismiss granted less than 90 days previous, or had motions by respondent to dismiss granted over 90 days previous.

The taxpayers involved in these 35 cases (which were some of the more than 200 known within the IRS as the "Mendocino cases") were the first in Northern California to finally realize that they had been seriously misled by their now notorious tax advisers, Ted Watkins and Oscar Klee, and that the substantive and procedural position they had theretofore maintained were not meritorious. Mr. Daly and I advised all of our clients that we would not represent them unless they were willing to show their books and records, abandon their previous positions, and fully cooperate with audits. From the very outset, Mr. Daly and I have sought nothing more than an audit in each case in order to determine each taxpayer's true tax liability. The procedure used in each case depended on which court had jurisdiction of the case and the procedural stage at which we found it. Our entry into the cases was obviously welcome both by the service and the courts as each case was unwound and reinstated, usually by stipulation, on the Tax Court's trial docket from which each was settled based on appellate conference audits without the necessity of trial. Those pending oral argument in the Ninth Circuit were remanded to the Tax Court pursuant to our motions and over the objection of the Department of Justice. In fact, in response to our motion involving only five cases, the Ninth Circuit remanded a total of 34 cases in one opinion. See *Hawn* v. *Commissioner*, decided 12/23/75 and amended 3/10/76, Ca. 9, No. 74–2551. In so doing, the court used the following language:

"The petitions of the above-named taxpayers were all dismissed by the Tax Court pursuant to the Tax Court's rules, and taxpayers have appealed to this Court. It appears that all of the appellants followed the tax advice of two grossly incompetent individuals who held themselves forth as income tax advisors in Mendocino County, California. The catalog of malpractice is too extensive to recount here, but it is clear that the above-named taxpayers were misled in many cases with disastrous results.

"In the interest of justice, the above cases are all remanded to the Commissioner for consideration of the books and records of the taxpayers which previously were not submitted by the taxpayers because of the grossly erroneous advice upon which they relied."

As a result of the example set by these taxpayers having sought counsel and fully cooperated with audits, other so-called Mendocino Case taxpayers have done likewise, thereby helping to diffuse some of the opposition being encountered by the Service in this part of the country. Some of these taxpayers had set up phony corporations in an attempt to hide assets from collection. Those corporations were dissolved by agreement, and those taxpayers have fully complied with their agreements to not dispose of any of the assets transferred out of their corporation until the appeal is finally resolved.

When Mr. Daly and I first entered these cases, the Service was adamant in its insistence that "field audits" upon which the deficiency notices were based were not arbitrary. The taxpayers, on the other hand, insisted from the outset that such audits were grossly arbitrary and designed to harass them in an effort to get them to stop using the services of Messrs. Watkins and Klee. In fact, these were the reasons they gave for not having cooperated in the first place. As more and more of the cases were audited along the road to settlement, it became increasingly clear that the figures used on the deficiency notices were arrived at by simply recognizing all income reported on the returns and disallowing all business expenses for lack of substantiation. Because these taxpayers derive all of their income as either self-employed commercial fishermen or self-employed loggers, the result was a gross inflation of each taxpayer's taxable income. In fact, the disallowance of business expense deductions was so complete as to disallow obviously reasonable expenses verifiable from information already in the possession of the Service, such as reported wages paid to the taxpayers as employees and other federal taxes and permit fees paid. For at least the past two and one-half years, the appellate conferees and the attorneys from Regional Counsel's Office in San Francisco have openly acknowledged that the deficiency assessments were almost completely arbitrary, and have tried to give our clients the benefit of the doubt whenever possible.

My point is well illustrated by the case of James W. and Irene Riley (No. 75–3629) which involves the taxable years 1967, 1968 and 1969. Mr. Riley and a Mr. Bushnell jointly operated a commercial fishing boat as equal partners during the taxable years 1968 and 1969. Both had their income tax returns for those two years prepared by Mr. Watkins. Both had their returns for both years audited, and both ended up with tax court cases involving those same years, Mr. Riley's bearing tax court docket 4826–71 and Mr. Bushnell's bearing tax court docket number 5236–72. Both cases were dismissed on the motion of respondent for failure to prosecute. While Mr. Watkins filed a Notice of Appeal on behalf of Mr. Bushnell, he failed to do so on behalf of Mr. Riley. Both Mr. Bushnell and Mr. Riley retained our office at the same time, Mr. Bushnell's case pending appeal in a consolidated appeal and Mr. Riley's case having become final by virtue of the expiration of 90 days after the dismissal. Mr. Bushnell's appeal was eventually remanded to the Tax Court pursuant to our motion and settled, the audit showing a total deficiency for 1968 and 1969 of $2,203.00, only 29.4 percent of the $7,491.00 stated in the original Notice of Deficiency. Audits of Mr. Riley's books and records have been completed in the course of settling other Tax Court cases of his that were still "alive" when he retained us. These cases were settled with the final deficiencies being 30.4 percent of those originally claimed. A principal point of disagreement was the treatment of salary payments to Mr. Riley's father-in-law. This issue was resolved in Mr. Riley's favor.

The fact that the deficiencies claimed are far in excess of each taxpayer's true liability is further illustrated by the following schedule developed from information from the files of the 27 settled cases, grouped according to the procedure whereby each was eventually settled, (those case names preceded by an asterisk are other cases of the same taxpayers for whom we herein seek relief):

Name	Tax court docket No.	Original deficiency	Final deficiency	Percentage
A. Motion to set aside dismissal made within 90 days from decision of dismissal:				
Emery & Aloma Wilson	8710–74	$1,657	$665	40
Lena Christensen	8709–74	10,956	2,239	20.4
Jack Wells	8707–74	13,991	2,623	18.7
Alec & Brenda Anton	6622–75	10,883	605	5.6
B. Motion by respondent to dismiss denied after filing of opposition to motion:				
Lena Christensen	2732–73	16,187	4,589	28.3
Jack Wells	2731–73	14,859	4,264	28.7
C. Remanded from 9th circuit to tax court:				
*James and Mary Irene Riley (9th cir. 74–3335)	3755–74	4,766	2,339	49
Emory & Aloma Wilson (9th cir. 74–2551)	5418–72	7,292	(3,281)	
*Ellis & Myrtle Waggoner (9th cir. 74–2707)	5400–72	13,502	4,412	32.7
*James & Mary Waggoner (9th cir. 74–2569)	5419–72	6,294	1,374	21.8
Claude & Joyce Bushnell (9th cir. 75–1350)	5236–72	14,339	(2,592)	
Alec & Glenda Anton (9th cir. 75–3005)	2249–74	80,805	378	.4
Lars T. Larson (9th cir. 74–3493)	4044–73	2,877	1,595	55.47
Lars T. Larson (9th cir. 74–3364)	2250–74	5,303	1,862	35.0
Carl Anderson (9th cir. 74–2624)	5391–72	1,108	(1,588)	
Richard Haman (9th cir. 74–2656)	5495–72	18,011	(8,528)	
*Otto Kraasch (9th cir. 74–3454)	3089–74	1,037	(418)	
Don Sparks	5314–72	11,153	3,750	33.6
D. Substitution of attorneys for proper petitioners before any motion by respondent to dismiss:				
*Delman & Donna Ford	3930–74	29,151	459	1.6
*James and Mary Irene Riley	3484–75	10,905	2,431	22.3
E. Original petitions filed by our office while handling other pending cases for same taxpayers:				
Pete & Shirley Gibney	6463–75	3,948	1,703	43.0
*James & Mary Waggoner	6911–75	8,987	1,477	16.4
Claude & Joyce Bushnell	4637–75	979	(731)	
Claude & Joyce Bushnell	5574–75	2,662	1,483	55.7
Carl Anderson	4316–78	455	45	9.9
Harold Christensen	490–78	893	150	16.8
Total		303,164	21,845	

As can be seen, the total of the final deficiencies in these cases was only 7.2 percent of the amounts sought in the original deficiency assessments.

That brings me to the problem encountered in the only eight cases in which we have not obtained relief for the taxpayers. The names, Ninth Circuit docket numbers, and the amounts of the taxpayers' alleged deficiencies are set forth in Schedule A attached to this memorandum. In these eight cases, the 90-day time to appeal from dismissal by the Tax Court had expired prior to our being retained, again due to the incompetent handling of the cases by Messrs. Watkins and Klee. Although the Service had cooperated in each of the other cases with our efforts to have them restored to active status on the Tax Court docket, upon the advice of the then-Deputy Chief Counsel of the Litigation Division of the IRS and contrary to the inclinations of the then head of the Office of Regional Counsel in San Francisco (where the cases were docketed) who is now Director of the Litigation Division, the IRS attorneys opposed our motion to set aside the dismissals that had been entered by the Tax Court on the grounds that the cases had become final under Internal Revenue Code § 7481 (26 USC 7481).

Because the Tax Court judges believed that the court lacked the power to set aside its own decisions by virtue of the finality rule of IRC 7481 absent a showing of "fraud upon the court", our motions were denied. We then took an appeal to the United States Court of Appeals for the Ninth Circuit on the alternative premises that (1) the Tax Court, just like any other legislative court, has the inherent power to set aside its own decision in order to do justice despite IRC § 7481, and (2) even if that were not the case, the only recognized exception to the finalty rule—i.e., where there has been a fraud upon the court—should apply in view of the fraudulent activities of the two tax preparers.

Copies of the Brief for the Appellants, Brief for the Appellee, and Reply Brief for the Appellants are enclosed as Exhibits A, B and C, respectively. The Ninth Circuit agreed with the government: although there was a fraud committed on the taxpayers, there was no "fraud on the court." A copy of its Opinion is enclosed as Exhibit D. Undaunted, we filed a Petition for Rehearing and Suggestion for Hearing in Banc, a copy of which is enclosed as Exhibit E. On May 9, 1979, that too was denied.

The only difference between these eight cases and the 27 similar cases itemized above is that the former were technically "dead" because of the passage of a few days time. The taxpayers simply want to submit their books and records to audit, and pay whatever tax is found to be owing. Under the circumstances, and in view of the lack of any other remedy to obtain substantial justice in these cases, we respectively request a private relief bill to give the United States Tax Court and the United States Court of Appeals for the Ninth Circuit the jurisdiction/power to resolve these cases in accordance with audits to be conducted by the Appeals Division of the Internal Revenue Service, notwithstanding the provisions of IRC § 7481.

Respectfully Submitted,

VICTOR T. SCHAUB.

SCHEDULE A

Taxpayers' names and 9th circuit docket No.	Taxable years	Deficiency
Byron and Helen Anderson:		
75–3148	1967	$2,715.74
	1968	4,199.97
	1969	5,357.66
75–3196	1970	3,079.05
Kenneth C. and Lois Mahan: 75–3530	1968	2,414.06
	1969	2,893.38
	1970	3,155.94
James W. and Mary Irene Riley: 75–3629	1967	1,494.00
	1968	7,367.00
	1969	5,725.00
James and Mary Waggoner: 76–1210	1971	2,409.32
	1972	2,135.63
Ellis and Myrtle Waggoner: 76–1211	1971	23,409.53
	1972	26,503.27
Delman and Donna Ford: 76–1232	1969	43,085.26
Otto and Agnes Kraasch: 8704–74 (U.S. Tax Court)	1971	1,482.00
	1972	875.00

Note: The above figures do not include accumulated interest or penalties, which in the older cases amounts to half as much as the deficiencies. ●

By Mr. CULVER (for himself, Mr. LAXALT, Mr. KENNEDY, Mr. THURMOND, Mr. LEAHY, Mr. MATHIAS, Mr. METZENBAUM, Mr. HATCH, and Mr. BIDEN):

S. 2147. A bill to establish the Regulatory Policy Board, to provide for the regulatory analysis of proposed major rules, to improve rulemaking procedures affecting small businesses and local governments, to require the Congress and the President to review certain regulatory agencies, to increase competition in regulated industries, to make other improvements in regulatory procedures, and for other purposes; to the Committee on the Judiciary and the Committee on Governmental Affairs, jointly, by unanimous consent.

REGULATORY FLEXIBILITY AND ADMINISTRATIVE REFORM ACT OF 1979

Mr. CULVER. Mr. President, today I am introducing an omnibus regulatory reform bill that reflects a wide spectrum of interests and viewpoints.

The Regulatory Flexibility and Administrative Reform Act of 1979 incorporates concepts and requirements from a number of different regulatory reform proposals that are before the Judiciary Subcommittee on Administrative Practice and Procedure. These include S. 755, the Carter administration's bill, S. 262, introduced by Mr. RIBICOFF, S. 1291, introduced by Mr. KENNEDY, Mr. METZENBAUM, and Mr. RIBICOFF, and S. 299 which I introduced.

With close cooperation from Mr. LAXALT and his staff, we have drafted truly bipartisan regulatory reform legislation. We believe this bill will improve the planning and management of the Federal regulatory process, without jeopardizing those regulations that protect the public health and safety and our environment.

I particularly want to thank Mr. LAXALT and his staff, Mr. KENNEDY and his staff, Mr. RIBICOFF, his staff and that of the Governmental Affairs Committee, and the Carter administration for their help, because without their assistance this comprehensive legislation never could have been produced.

Mr. President, the confidence of the American people in the regulatory process has been eroded by regulations that are unnecessarily costly and burdensome. They have given Congress a mandate to make our Government perform better and more efficiently, to improve and streamline its procedures, to reduce its costs and the disproportionate burden that it places on small businesses, organizations, and local governments.

In an effort to provide this legislation with the broadest base of support possible, the Subcommittee on Administrative Practice and Procedure has reached out to a wide spectrum of groups to get their views on and concerns about regulatory reform. During extensive hearings last summer, the subcommittee heard testimony from Federal regulators, small businessmen and representatives of small organizations and local governments, members of the bar, environmental groups, trade associations, organized labor, public interest groups, representatives of the Administrative Conference of the United States and administrative law judges.

After these hearings were concluded, the subcommittee worked on draft omnibus regulatory reform legislation that could address as many of these groups diverse concerns as possible. Those groups that participated in the early stages of the legislative process have remained integrally involved in the drafting and shaping of this proposal. Their advice has proved invaluable in producing a consensus regulatory reform bill.

The legislation we are introducing recognizes that Government regulation is an effective means of protecting the environment and the public health and safety. It also will address many of the fundamental problems of the Federal regulatory process. The Regulatory Flexibility and Administrative Reform Act of 1979 provides for:

A Regulatory Policy Board to consolidate existing regulatory oversight functions in the executive branch. It should be noted that the Board would not involve the creation of a new entity or expenditure, but would bring together several fragmented regulatory oversight functions of the Federal Government. Among its other functions, the Board will also be responsible for issuing the semi-annual Calendar of Federal Regulations containing information on all major rules agencies are considering or developing during the following year.

Rulemaking agendas to act as early warning signals for the public that an agency is considering developing a regulation and to encourage public input in the early stages of the agency's decisionmaking process. The bill will require all Federal agencies to issue a semi-annual regulatory agenda listing any regulations that will be developed or reviewed during the following year.

Deadlines to be set by agencies for proposed action. To encourage expeditious action once the regulatory process is set in motion, agencies will be required to set and publish deadlines.

A regulatory analysis of proposed major rules to reduce the burden of regulation. All Government agencies will be required to examine the need for a proposed rule and its projected consequences, as well as what practical alternatives there are to such an action.

A regulatory flexibility analysis to mitigate the adverse impact of regulations designed for large businesses on small businesses, organizations, and local governments. The bill will encourage regulatory agencies, whenever it is possible and feasible and if it is permitted by law, to tailor their rules to fit the scale and resources of the individuals, businesses, organizations, or Government jurisdictions that must comply with those regulations.

Periodic review of regulations to insure that Federal resources are allocated wisely. The bill will require agencies to review existing major regulations to determine whether they are outmoded, whether they could be more effectively or efficiently accomplished or whether they can be eliminated completely.

A procompetitive standard to encourage competition and innovation. The legislation will create a new standard that will require economic regulatory agencies in certain instances to choose the least anticompetitive alternative when issuing a major rule or policy.

An improved agency decisionmaking process. The bill will authorize agencies to adopt "hybrid" rulemaking procedures when developing major rules that resemble legislative-style hearings, rather than simple notice and comment procedures. Agencies also will be able to use mediation techniques and create expert advisory councils.

Expedited formal hearings to reduce needless delay and rigidity in the decisionmaking process. The bill will establish expedited hearings procedures for rulemaking and licensing proceedings, except for individual benefit claims.

Creation of a uniform, Government-wide subpena process, but not granting that authority to those agencies which currently do not have it. The bill will establish tougher penalties for unlawful disregard of agency subpenas. It also will create an orderly and timely opportunity for court review of subpenas.

Reform of the process to select administrative law judges. The legislation will give the Chairman of the Administrative Conference of the United States the authority to set qualifications for judges and to establish and implement a system to recruit, examine, and register judges.

A Presidential Commission to review the performance and continued need for Federal regulatory agencies and programs and to make recommendations to Congress on legislative changes that are needed to improve the agencies it studies.

Changes in the structure and duties of the Administrative Conference to provide better oversight and coordination. The bill will give the Conference the authority to administer the personnel system of the administrative law judge corps and allow it to create model uniform administrative procedural rules.

THE NEED FOR ACTION

Government regulation has become an accepted means of dealing with America's social, environmental, and economic problems. The Federal regulatory process, however, needs some fine tuning to make it perform better and more efficiently, to streamline its procedures and to make it more responsive.

Some Federal regulations have imposed unnecessary costs, compliance, and paperwork burdens on the public, particularly on individuals, small businesses, organizations, and local governments. Having to comply with needless Government rules not only costs money, but also has an emotional impact. One small businesswoman in Iowa testified that "a lot of small business people are getting discouraged and giving up," because they cannot make a profit and comply with Federal regulations.

In our zeal to improve the Federal regulatory process, we must not lose sight of the major advantages and compelling need for effective health, safety, and environmental rules. There are undeniable and unquantifiable benefits that we all derive from regulation in these areas. Much of the protection afforded by these Government regulations is taken for granted: pasteurization, meat and poultry inspections, drug testing, and aviation and highway safety.

These regulations must be safeguarded. The Regulatory Flexibility and Administrative Reform Act of 1979 will strike a balance between remedying the fundamental problems of the Federal regulatory process, without endangering those rules that play such an important part in assuring the quality of life for all Americans.

Mr. President, I ask unanimous consent that the text of the bill, together with a summary and section-by-section analysis, be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2147

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Regulatory Flexibility and Administrative Reform Act of 1979".

TITLE I—THE MANAGEMENT, PLANNING AND ANALYSIS OF REGULATORY FUNCTIONS

FINDINGS AND PURPOSES

SEC. 101. The Congress finds and declares that—

(1) the growth of Federal regulation has been accompanied by a failure to analyze the complete range of effects produced by such regulation, and this failure has often resulted in unexpected adverse effects on the productive functioning of the economy which threaten to undermine the salutary goals to be achieved by appropriate regulation;

(2) agency rules should be clear, rational, and as simply stated as possible;

(3) agencies should examine the need for proposed actions and for existing rules and policies, as well as the projected consequences of and practical alternatives to such actions, rules, and policies;

(4) regulation is an effective means of protecting the envirnoment and the public health and safety, of promoting conservation of energy and other natural resources, of governing economic and commercial activity, and of enhancing human rights; when regulating, agencies should seek to achieve statutory goals as effectively and efficiently as possible without imposing unnecessary burdens on the public;

(5) to avoid overlap, duplication, and conflict, agencies should attempt to measure regulatory proposals against existing or proposed regulations of other agencies relating to the same subject matter;

(6) to improve management and planning in the regulatory process, it is important to establish a board in the executive branch to oversee and monitor the implementation of regulatory reform and to identify overlapping, duplicative, conflicting, or unnecessarily burdensome rules promulgated by different agencies;

(7) Federal regulations have become so numerous and are so diverse in their purposes that citizens often are unable to identify regulations which affect them;

(8) to mitigate the disproportionate adverse economic impact of regulations, agencies should be encouraged, whenever feasible and if permitted by statute, to tailor regulations to fit the scale and resources of the individuals, businesses, organizations and governmental jurisdictions subject to regulation;

(9) in the normal course of events, the free market is the appropriate means for allocating goods and services and has proved to be the most effective means of regulating the economy;

(10) to encourage competition and innovation, government regulations should not impose needless entry barriers to the marketplace;

(11) the adoption of rulemaking proceedings that more closely resemble legislative hearings will, in a significant number of cases, increase the ability of decisionmakers to analyze policy issues, increase the ability of the public to contribute to the proceedings, and reduce the time required to decide such matters;

(12) agencies and administrative law judges should prevent parties or intervenors in a proceeding from unduly or intentionally delaying any stage of the proceeding;

(13) to improve the efficiency of the decisionmaking process, agencies, in appropriate cases, should be encouraged and should have additional authority to delegate the responsibility for making final decisions to administrative law judges and employee appeal boards;

(14) personnel laws governing the selection and evaluation of administrative law judges should be changed to assure high quality work by those judges; and

(15) the Administrative Conference of the United States can play an important role in administering and supervising improvements in the regulatory process because of its considerable expertise and experience.

IMPROVING THE REGULATORY PROCESS

SEC. 102. (a) Title 5, United States Code, is amended by adding immediately after chapter 5 the following new chapter:

"Chapter 6—THE MANAGEMENT PLANNING, AND ANALYSIS OF REGULATORY FUNCTIONS

"Subchapter I—Definitions; Regulatory Policy Board

"Sec.
"601. Definitions.
"602. Establishment of Regulatory Policy Board.
"603. Functions of the Board.
"604. Comprehensive index of agency rules.
"605. Administrative provisions.
"606. Data collection and disclosure.
"607. Authorization of appropriations.

"Subchapter II—Establishing regulatory agendas and schedules for completing proceedings

"611. Regulatory agenda.
"612. Establishment of deadlines.

"Subchapter III—Analysis of regulatory proposals

"621. Determination of major rule.
"622. Initial regulatory analysis.
"623. Final regulatory analysis.
"624. Effect on other law.
"625. Preparation of regulatory analyses.
"626. Elimination of duplicative analyses.
"627. Procedure for waiver or delay of completion.
"628. Judicial review.

"Subchapter IV—Regulatory flexibility

"631. Definitions.
"632. Initial regulatory flexibility analysis.
"633. Final regulatory flexibility analysis.
"634. Avoidance of duplicative or unnecessary analyses.
"635. Procedures for agency consideration of rules.
"636. Judicial review.
"637. Effect on other law.

"Subchapter V—A Procompetitive Standard for Federal Regulation

"641. Definition of effects on competition.
"642. Procompetitive standard for Federal agencies.
"643. Applicability.
"644. Notification and discovery.

"Subchapter VI—Agency Review of Policies and Practices

"651. Periodic review of regulatory requirements.

"Subchapter I—Definitions; Regulatory Policy Board

"§ 601. Definitions

"For purposes of this chapter—

"(1) the term 'agency' has the same meaning as in section 551(1) of this title;

"(2) the term 'agency action' has the same meaning as in section 551(13) of this title;

"(3) the term 'rule' has the same meaning as in section 551(4) of this title, except that the term 'rule' does not include a rule issued relating to any matter described in clauses (A), (B), (C), (E), and (F) of section 553 (a)(1) of this title;

"(4) the term 'major rule' means a rule that is estimated will—

"(A) have an annual effect on the economy of $100,000,000 or more;

"(B) cause a significant change in costs or prices for individual industries, geographic regions, or levels of government;

"(C) have a significant impact on employment or the competitive process; or

"(D) otherwise have a major impact,

except that such term does not include a rule promulgated to implement the internal revenue laws of the United States;

"(5) the term 'rule making' has the same meaning as in section 551(5) of this title;

"(6) the term 'regulatory function' includes any agency function which involves the protection of the public interest or the determination of the rights, privileges, benefits, or obligations of private persons through the issuance or enforcement of rules or licenses, or the conduct of adjudications, except that the term 'regulatory function' does not include a military or foreign affairs function of the United States;

"(7) the term 'Board' means the Regulatory Policy Board established in section 602 of this title; and

"(8) the term 'Chairman' means the Chairman of the Board.

"§ 602. Establishment of Regulatory Policy Board

"(a)(1) There is established the Regulatory Policy Board. The Board shall be composed of the Director of the Office of Management and Budget, the Chairman of the Administrative Conference of the United States, a member of the Council of Economic Advisers, the heads of three Federal agencies responsible for a regulatory function, appointed by the President, and the heads of three independent regulatory agencies, appointed by the President.

"(2) For purposes of paragraph (1) of this subsection, the term 'Federal agency' has the same meaning as in section 3502 of title 44, United States Code.

"(3) Every other year, the President shall designate a Chairman and Vice-Chairman of the Board. In designating the Chairman and Vice-Chairman, the President shall rotate such positions among the members of the Board.

"(b)(1) The head of each agency responsible for a regulatory function who is not a member of the Board under subsection (a)(1) of this section may attend and participate in meetings of the Board but may not vote.

"(2) For purposes of paragraph (1) of this subsection, the term 'agency' does not include an agency which is within another agency.

"(c) There shall be an Executive Director of the Board, to be appointed by the President, by and with the advice and consent of the Senate. The Executive Director shall be compensated at the rate prescribed for level III of the Executive Schedule under section 5314 of title 5, United States Code. The Executive Director shall be responsible for the executive and administrative operation of the Board and shall perform such additional functions as the President may prescribe.

"§ 603. Functions of the Board

"(a) The Board shall—

"(1) prepare and publish during November and May of each year, a semiannual Calendar of Federal Regulations, which shall contain information concerning all major rules under development or consideration or expected to be under development or consideration by all agencies during the 12 months immediately following the date of publication of the Calendar, and which shall be prepared on the basis of the regulatory agendas prepared under section 611 of this title;

"(2)(A) identify (i) overlapping and duplicative rules promulgated by agencies and (ii) areas of Federal regulation which significantly affect single sectors of the economy as a result of the cumulative impact of rules promulgated by different agencies; and

"(B) establish interagency task forces to make recommendations to the President and the Congress concerning such rules and areas;

"(3) monitor agency compliance with sections 621, 622, 632, 633, 635, and 651 of this title and report to the President and the Congress pursuant to section 103 of the Regulatory Flexibility and Administrative Reform Act of 1979;

"(4) (A) select for review the initial regulatory analyses of (i) up to twenty major rules proposed by Federal agencies which if promulgated, will have the most significant economic and other effects of the rules promulgated during that year, and (ii) such additional major rules which the Board determines should be reviewed due to exceptional circumstances;

"(B) organize interagency reviews of such analyses; and

"(C) submit public comments on such regulatory analyses during the rule making proceedings for such rules; and

"(5) consult with State and local governments to devise model procedures and techniques for identifying overlapping and duplicative reporting requirements imposed by Federal, State and local governments, and develop possible methods to reduce such overlapping and duplicative requirements.

"(b) Prior to the publication of each Calendar of Federal Regulations by the Board, each agency shall provide the Board with a statement of the status of each rule listed in any prior Calendar of Federal Regulations which has not been promulgated or explicitly withdrawn by the agency.

"§ 604. Comprehensive index of agency rules

"(a) The Executive Director of the Board shall, in consultation with the Director of the Federal Register, develop categories for the classification of all agency rules. Such categories shall include (1) the subject areas of agency rules, (2) the agencies promulgating rules, and (3) the persons or classes of persons subject to regulation by agency rules. Within 6 months after the effective date of this chapter, the Executive Director shall transmit a copy of the categories developed under this section to the head of each agency responsible for a regulatory function.

"(b) Within 18 months after the effective date of this chapter, the head of each agency responsible for a regulatory function shall classify all rules of that agency according to the categories developed under subsection (a) of this section and shall transmit such classifications to the Executive Director of the Board.

"(c) The Executive Director of the Board shall compile the classifications of agency rules received pursuant to subsection (b) of this section into a comprehensive index of all agency rules. Within 24 months after the effective date of this chapter, the Executive Director shall prepare the index and shall publish in the Federal Register a statement explaining how the public may obtain access to the index.

"(d) Each year, the head of each agency responsible for a regulatory function shall update the classification of agency rules required by subsection (b) of this section and shall transmit such updated classification to the Executive Director of the Board. The Executive Director shall compile all updated classifications received pursuant to the preceding sentence, prepare an updated index of agency rules, and publish in the Federal Register a statement explaining how the public may obtain access to the updated index.

"(e) To carry out the provisions of subsections (a), (b), and (c) of this section, there are authorized to be appropriated $3,000,000 for fiscal years 1981 and 1982. To carry out the provisions of subsection (d) of this section, there are authorized to be appropriated $500,000 for fiscal year 1983 and each succeeding fiscal year.

"§ 605. Administrative provisions

"(a) The Executive Director is authorized—

"(1) to appoint such personnel as may be necessary in accordance with the provisions of title 5, United States Code;

"(2) to employ experts and consultants in accordance with the provisions of section 3109 of such title; and

"(3) to utilize, with their consent, the services, equipment, personnel, and facilities of other Federal departments and agencies and of State and local agencies and instrumentalities, with or without reimbursement therefor, and to transfer to such departments and agencies funds made available to the Board pursuant to this subchapter as reimbursement for the utilization of such services, equipment, personnel, information, and facilities.

"(b) Upon request of the Board, the head of each agency shall promptly make the services, equipment, personnel, and facilities available to the Board to the greatest extent practicable.

"§ 606. Data collection and disclosure

"(a) Any agency which collects, generates, or otherwise prepares or maintains data or information pertaining to Federal regulatory activities shall, upon the request of the Board, make that data or information available to the Board.

"(b) Disclosure of information obtained by the Board from sources other than Federal agencies or State or local government agencies and departments shall be in accordance with section 552 of this title.

"(c) Disclosure by the Board of information obtained from a Federal agency or a State or local agency or department shall be in accordance with section 552 of this title, all laws applicable to the agency or department from which the information was obtained, and the rules of practice and procedure of such agency or department.

"(d) Consistent with the provisions of section 7213 of the Internal Revenue Code of 1954 (26 U.S.C. 7213), this subchapter shall not be construed as providing for or authorizing any agency to divulge or to make known to the Board the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed solely in any income tax return, or to permit any income tax return filed pursuant to the provisions of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) to be seen or examined by the Board.

"§ 607. Authorization of appropriations

"To carry out the functions of the Regulatory Policy Board, there are authorized to be appropriated $5,000,000 for each of the fiscal years 1981, 1982, and 1983.

"Subchapter II—Establishing Regulatory Agendas and Schedules for Completing Proceedings

"§ 611. Regulatory agenda

(a) (1) During the months of October and April of each year, each agency responsible for a regulatory function shall publish in the Federal Register a regulatory agenda. Each regulatory agenda shall contain a list of rules that the agency expects to propose or promulgate, and a brief description of the areas of regulatory inquiry under consideration by the agency, during the 12 months immediately following the date of publication of the agenda.

"(2) For each rule listed on a regulatory agenda, the agency shall—

"(A) briefly describe the rule;

"(B) briefly state the objectives of and the anticipated benefits of the rule;

"(C) cite the statutory authority for the issuance of the rule;

"(D) specify any dates established or anticipated by the agency for taking action on the rule, including dates for notices of proposed rule making and final agency action; and

"(E) state whether the agency estimates that the rule is or may be a major rule, and if the agency estimates that the rule is a major rule, shall give, to the extent practicable, a brief description of the economic impact of the rule.

"(3) For each area of regulatory inquiry listed on a regulatory agenda, the agenda shall contain a brief statement of (A) the area of inquiry under consideration, (B) the objectives which the agency is interested in achieving through its future action, and (C) whether the inquiry is likely to lead to the development of a major rule.

"(4) Each regulatory agenda shall include a list of rules, policies, and practices scheduled to be reviewed in accordance with section 651 of this title during the twelve months immediately following the date of publication of the agenda.

"(5) Each regulatory agenda shall state the name, address, and telephone number of an agency official responsible for handling inquiries about each rule, policy, or practice listed on the agenda.

"(b) An agency shall transmit to the Board a copy of each regulatory agenda published pursuant to this section.

"(c) (1) For each area of regulatory inquiry listed on a regulatory agenda, an agency—

"(A) shall, in the agenda, invite suggestions with respect to the area of inquiry; and

"(B) may use such mechanisms as the agency determines useful, in its discretion, to obtain suggestions regarding the area of inquiry, including mechanisms such as the holding of informal public meetings on the area of inquiry or the creation of ad hoc advisory committees.

"(2) An agency is not required to respond to suggestions received from the public under paragraph (1) of this subsection.

"(d) The Board may determine whether a rule proposed or under consideration by an agency is a major rule for the purposes of this chapter.

"(e) Agencies shall prepare and announce regulatory agendas under this section solely for the information and guidance of Congress, the Board, and the public. Nothing in this section precludes an agency from considering or acting on any matter not included in the agenda, or requires an agency to consider or act on any matter listed in such agenda. Agency compliance with the requirements of this section is not subject to judicial review.

"§ 612. Establishment of deadlines

"(a) (1) Whenever any agency responsible for a regulatory function provides notice of a proposed agency action pursuant to section 553(b) or 554(b) of this title, or other similar requirement of law, the agency shall include in such notice an announcement of the date by which it intends to complete final agency action on the matter.

"(2) If any agency announcement under this section indicates that the proceeding relating to such matter will require more than one year to complete, the agency shall also indicate the date by which it intends to complete each major portion of the proceeding. In carrying out the requirements of this subsection, the agency shall select dates for completing agency action which will assure the most expeditious consideration of the matter possible, consistent with the interests of fairness and other agency priorities.

"(3) The requirements of this subsection do not apply to any matter in which the agency intends to complete action within 120 days of providing notice of the proopsed action.

"(b) If an agency fails to complete action in a proceeding, or a major portion of a proceeding, by the date announced, or, in the case of a proceeding described in subsection (a) (3) of this section, an agency fails to complete action within 120 days of providing notice of the proposed action, and the expected delay in completing action will exceed 30 days, the agency shall notify the Executive Director of the Board and the public of the new date by which the agency intends to complete action in such proceeding, including each major portion of the proceeding. The agency shall include with such notice a brief statement explaining why the agency failed to complete action by the date announced, or in the case of a proceeding described in subsection (a) (3) of this section, within 120 days of providing notice of the proposed action.

"(c) Each agency responsible for a regulatory function shall by rule indicate any other category of significant agency action which the agency determines should be subject to the provisions of this section in whole or in part.

"Subchapter III—Analysis of Regulatory Proposals

"§ 621. Determination of major rule

"Prior to publishing general notice of proposed rule making for any rule, each agency shall determine whether the rule is a major rule under section 601(4) of this title. If an agency determines that a rule is not a major rule, the agency shall publish, at the time of publication of general notice of proposed rule making for the rule, a statement explaining the reasons for such determination.

"§ 622. Initial regulatory analysis

"(a) Whenever an agency is required by section 553(b) of this title, or by any other law, to publish general notice of proposed rule making for any major rule, the agency shall prepare an initial regulatory analysis, written in plain English, for the rule. The agency shall make copies of the initial regulatory analysis available to members of the public without charge and shall publish in the Federal Register at the time of publication of general notice of proposed rule making for the rule a statement describing how members of the public may obtain such copies.

"(b) Each initial regulatory analysis shall contain—

"(1) a description of the reason why action by the agency is required;

"(2) a succinct statement of the need for and objectives of the rule and of the statutory authority on which the rule is based;

"(3) a description of the projected reporting, recordkeeping, and other compliance requirements of the rule;

"(4) an identification, to the extent practicable, of all relevant rules which the proposed rule may duplicate, overlap, or affect;

"(5) a description of the reasonable alternatives to the proposed rule that may accomplish the stated objectives of the rule in a manner consistent with applicable statutes; and

"(6) for the proposed rule, and for each alternative described pursuant to clause (5) of this subsection, a preliminary description of the projected economic effects, including costs and economic benefits, and of the projected health, safety, environmental and other effects, and an appraisal of the predicted effectiveness of each alternative in meeting the stated objectives of the proposed rule.

"(c) In carrying out the provisions of subsection (b) (4), an agency shall use the comprehensive index of agency rules if such index is completed and available when the initial regulatory analysis is prepared.

"(d) Following the publication of general notice of proposed rule making for a rule which the agency determines under section 621 of this title is a major rule, the agency shall allow a period of not less than 60 days prior to the promulgation of the final rule in order to provide opportunities for public comment on the initial regulatory analysis and for public participation in the rule making under section 553(c) of this title. In addition to making the initial regulatory analysis available to the public in accordance with subsection (a) of this section, the agency shall take whatever additional steps it deems appropriate to ensure that interested members of the public receive notice of the availability of the initial regulatory analysis. The agency shall transmit a copy of the initial regulatory analysis to the Executive Director of the Board.

"§ 623. Final regulatory analysis

"(a) Whenever an agency—

"(1) prepared an initial regulatory analysis of a rule under section 622 of this title; or

"(2) determines, on the basis of comments received concerning a proposed rule, or on the basis of changes made in the rule by the agency, that such rule is a major rule under section 601 (4) of this title for which an initial regulatory analysis should have been prepared under section 622 of this title; the agency shall prepare and make available to the public, upon adoption of the rule, a final regulatory analysis. The agency shall make copies of the final regulatory analysis available to members of the public without charge and shall publish in the Federal Register with the publication of the final rule under section 553 (d) of this title a statement describing how members of the public may obtain such copies.

"(b) Each final regulatory analysis shall contain—

"(1) a succinct statement of the need for, and the objectives of, the rule;

"(2) a description of each of the alternatives to the rule which were considered by the agency, and a statement of the reasons why each one of the alternatives was rejected;

"(3) a detailed analysis of the projected economic effects, including costs and economic benefits, and of the projected health, safety, environmental and other effects which may result from the rule;

"(4) a summary of the comments made by the public in response to the initial regulatory analysis, a summary of the assessment made by the agency of such comments, and a statement of any changes made in the proposed rule as a result of such comments; and

"(5) a description of any reporting or recordkeeping requirements which will result from the final rule.

"(c) An agency shall transmit a copy of

the final regulatory analysis to the Executive Director of the Regulatory Policy Board.

"§ 624. Effect on other law

"The requirements of sections 622 and 623 of this title do not alter in any manner the substantive standards applicable to agency action or the procedural standards otherwise applicable to agency action.

"§ 625. Preparation of regulatory analyses

"(a) (1) In carrying out the provisions of section 622(b)(5) and 623(b)(3) of this title, an agency shall not be limited to qualification or numerical estimation of the effects of a rule. The agency shall include in the initial or final regulatory analysis, as the case may be, a reasoned estimate of the quantifiable and nonquantifiable effects of a rule which is based upon the experience of the agency and any information from external sources which is available to the agency. If the agency finds it impracticable to provide a reasoned estimate of the effects of the rule for the purposes of such sections, the agency shall include in the initial or final regulatory analysis, as the case may be, a general description of the nature and extent of nonquantifiable effects of the rule.

"(2) In any case in which an agency relied on information from external sources in the preparation of any regulatory analysis for a proceeding required to be decided on the basis of a record, the agency shall include in the record of the proceeding the information relied upon in the preparation of a regulatory analysis or a reference to such information.

"(b) An agency may not arrange for the preparation of an initial or final regulatory analysis by contract other than a contract for the provision of the temporary or intermittent services of experts or consultants under section 3109 of this title.

"§ 626. Elimination of duplicative analyses

"In order to avoid duplicative action or the waste of resources, an agency may—

"(1) consider a series of closely related rules as one rule for the purposes of sections 622 and 633 of this title; and

"(2) whenever appropriate, incorporate any data or analysis contained in a regulatory analysis in any other impact statement or analysis required by law.

"§ 627. Procedure for waiver or delay of completion

"(a) An agency head may waive or delay the completion of some or all of the requirements of section 622 of this title by publishing in the Federal Register, not later than the date of publication of the final rule, a written finding, with reasons therefor, that the final rule is being promulgated in response to an emergency that makes compliance or timely compliance with the provisions of section 622 of this title impracticable.

"(b) An agency head may not waive the requirements of section 623 of this title. An agency head may delay the completion of the requirements of section 623 of this title for a period of not more than 60 days after the date of publication in the Federal Register of a final rule by publishing in the Federal Register not later than such date of publication a written finding, with reasons therefor, that the final rule is being promulgated in response to an emergency that makes timely compliance with the provisions of section 623 of this title impracticable.

"§ 628. Judicial review

"(a) Except as otherwise provided in this chapter, any determination by an agency or the Board concerning the applicability of any of the provisions of this chapter to any action of the agency, including any determination that a rule is not a major rule, shall not be subject to judicial review.

"(b) Any regulatory analysis prepared under sections 622 and 623 of this title and the compliance or noncompliance of the agency with the provisions of this subchapter in preparing and adopting the analysis shall not be subject to judicial review, provided that the contents of the regulatory analysis shall, to the extent relevant, be considered by a court when determining the validity of the rule which is the subject of the regulatory analysis. When an action for judicial review of a rule is instituted, any regulatory analysis for such rule shall constitute part of the whole rule making record of agency action in connection with such review.

"(c) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise provided by law.

"Subchapter IV—Regulatory Flexibility

"§ 631. Definitions

"For purposes of this subchapter—

"(1) the term 'individual' does not include any individual who is affected by a rule primarily in his capacity as an officer or employee of a business, organization or governmental jurisdiction;

"(2) the term 'small business' has the same meaning as the term 'small business concern' under section 3 of the Small Business Act, unless an agency, after consultation with the Office of Advocacy of the Small Business Administration, establishes by rule in accordance with section 553 of this title, a definition of 'small business' appropriate to the activities of the agency, or any rule of the agency, and publishes such definition in the Federal Register;

"(3) the term 'small organization' means (A) any not-for-profit enterprise which is independently owned and operated and is not dominant in its field and (B) any such other group or enterprise as the agency shall establish by rule in accordance with section 553 of this title; and

"(4) the term 'small governmental jurisdiction' means—

"(A) governments of cities, counties, towns, villages, school districts, water districts, or special assessment districts, with a population of less than one hundred thousand; and

"(B) other governmental jurisdictions which the agency shall establish by rule in accordance with section 553 of this title, to be of limited means or resources based on factors such as location in rural or sparsely populated areas or limited revenues due to the population of such jurisdiction.

"§ 632. Initial regulatory flexibility analysis

"(a) Whenever an agency is required by section 553 of this title, or any other law, to publish general notice of proposed rulemaking for any proposed rule, the agency shall prepare and make available for public comment an initial regulatory flexibility analysis. Such analysis shall describe whether the proposed rule will have an adverse economic impact on individuals, small businesses, small organizations, and small governmental jurisdictions. This initial regulatory flexibility analysis, or a summary of the analysis, shall be published in the Federal Register at the time of the publication of general notice of proposed rulemaking for the rule. The agency shall transmit a copy of the initial regulatory flexibility analysis to the Chief Counsel for Advocacy of the Small Business Administration.

"(b) Each initial regulatory flexibility analysis required under this section shall contain a description of reasonable alternatives to the proposed rule which accomplish the stated objectives of the proposed rule in a manner consistent with applicable statutes and which minimize the burdensome effect of the proposed rule on individuals, small businesses, small organizations, and small governmental jurisdictions. The analysis shall discuss alternatives such as—

"(1) the establishment of differing compliance or reporting requirements of timetables that take into account the resources available to individuals, small businesses, small organizations, and small governmental jurisdictions;

"(2) an exemption from coverage of the rule, or any part thereof, for such individuals, businesses, organizations, and governmental jurisdictions;

"(3) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such individuals, businesses, organizations, and governmental jurisdictions; and

"(4) the use of performance rather than design standards or any other suitable means to reduce the adverse effect of the rule on such individuals, businesses, organizations, and governmental jurisdictions.

"§ 633. Final regulatory flexibility analysis

"(a) When an agency promulgates a final rule under section 553(d) of this title, the agency shall prepare a final regulatory flexibility analysis. Each final regulatory flexibility analysis shall contain—

"(1) a succinct statement of the need for, and the objectives of, the rule;

"(2) a summary of the issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments; and

"(3) a description of each of the alternatives to the rule which were considered by the agency and which would minimize the adverse effect of the rule on individuals, small businesses, small organizations, and small governmental jurisdictions, and a statement of the reasons why each one of the alternatives was rejected by the agency.

"(b) The agency shall make copies of the final regulatory flexibility analysis available to members of the public without charge, and shall publish in the Federal Register at the time of publication of the final rule under section 533(d) of this title a statement describing how the public may obtain such copies.

"(c) An agency shall transmit a copy of each final regulatory flexibility analysis to the Executive Director of the Board.

"§ 634. Avoidance of duplicative or unnecessary analyses

"(a) Any Federal agency may perform the analyses required by sections 632 and 633 of this title in conjunction with or as a part of any other regulatory analysis required by this title or any other law if such other analysis satisfies the provisions of such sections.

"(b) Sections 632 and 633 of this title shall not apply to any proposed or final rule if the agency determines that the rule will not, if implemented, have an adverse effect on a substantial number of individuals, small businesses, small organizations, or small governmental jurisdictions. If the agency makes a determination under the preceding sentence, the agency shall publish, at the time of publication in the Federal Register of general notice of proposed rulemaking for the rule or at the time of publication of the final rule, a statement explaining the reasons for such determination.

"§ 635. Procedures for agency consideration of rules

"When any rule is promulgated which will have an adverse economic impact on individuals, small businesses, small organizations, and small governmental jurisdictions, the head of the agency promulgating the rule or the official of the agency with statutory responsibility for the promulgation of the rule shall assure that individuals, small businesses, small organizations, and small governmental jurisdictions have been given an opportunity to participate in the rule making for the rule through techniques such as—

"(1) the publication in a regulatory agenda of a notice that the proposed rule may have an adverse effect on a substantial number of individuals, small businesses, small organizations, and small governmental jurisdictions;

"(2) the publication of general notice of proposed rule making in publications likely to be obtained by individuals, small businesses, small organizations, and small governmental jurisdictions affected by the rule;

"(3) the direct notification of interested individuals, small businesses, small organizations, and small governmental jurisdictions;

"(4) the conduct of open conferences or public hearings concerning the rule for individuals, small businesses, small organizations, and small governmental jurisdictions; and

"(5) the adoption or modification of procedural rules to reduce the cost or complexity of participation in the rule making by individuals, small businesses, small organizations, and small governmental jurisdictions.

"§ 636. Judicial review

"(a) A regulatory flexibility analysis prepared pursuant to this subchapter shall be subject to judicial review in accordance with the provisions of section 628 (b) of this title governing the judicial review of regulatory analyses.

"(b) Any agency action or failure to act under section 635 of this title shall not be subject to judicial review.

"§ 637. Effect on other law

"The requirements of sections 632 and 633 of this title do not alter in any manner the substantive standards applicable to agency action or the procedural standards otherwise applicable to agency action.

"Subchapter V—A Procompetitive Standard for Federal Regulation

"§ 641. Definition of effects on competition

"For the purposes of this subchapter the term 'effects on competition' means effects on the competitive process and not upon individual competitors or any one competitor.

"§ 642. Procompetitive standard for Federal agencies

"(a) Notwithstanding any other provision of law, no Federal agency shall adopt an agency policy or promulgate a major rule, which directly—

"(1) regulates or licenses entry under a scheme in which the level of entry is subject to limitation;

"(2) sets, or reviews, with authority to accept, reject, or modify, the monetary price charged for goods or services;

"(3) sets, limits, or allocates the production or distribution of goods or services; or

"(4) reviews, approves, rejects, or regulates the terms and conditions of agreements among providers or purchasers of goods or services,

unless the agency has considered the effects on competition of the policy or rule and has made a finding that the policy or rule is the least anticompetitive alternative legally and practicably available to the agency to achieve its statutory goals.

"(b) The finding required by subsection (a) of this section shall be included in any opinion accompanying an agency order and shall be included in the statement of basis and purpose incorporated in any rule.

"§ 643. Applicability

"(a) The provisions of section 642 of this title do not apply to programs specifically authorized by law to encourage or stabilize the production or regulate the orderly marketing of agricultural products.

"(b) The provisions of section 642 of this title do not apply to the application of the Natural Labor Relations Act and the Railway Labor Act.

"(c)(1) The provisions of section 642(a)(1) of this title do not apply to any regulation or license of energy which is based upon a finding that an applicant for entry or a licensee does not meet specified standards of health or safety as required by a law that specifically regulates health or safety.

"(2) The provisions of section 642(a)(3) of this title do not apply to any regulation of the production or distribution of a good or service based upon a finding that such good or service does not meet specified standards of health or safety as required by a law that specifically regulates health or safety.

"(3) This subsection does not bar an agency from considering competition if otherwise appropriate.

"§ 644. Notification and discovery

"(a) Each agency after consultation with the Attorney General and within 120 days after the effective date of this subchapter shall establish procedures by which the Attorney General will be notified of important pending agency actions subject to section 642 of this title.

"(b) In any administrative proceeding or judicial review of such a proceeding subject to section 642 of this title, the Attorney General may appear as a party of right.

"(c) The Attorney General may utilize any authority conferred upon him by any other provision of law, including the antitrust laws and the Antitrust Civil Process Act, in carrying out his responsibilities under this subchapter.

"Subchapter VI—Agency Review of Policies and Practices

"§ 651. Periodic review of regulatory requirements

"(a) Within 4 months after the effective date of this section, each agency shall prepare a list of all major rules promulgated by the agency prior to the date of preparation of the list.

"(b)(1) Within eight months after the effective date of this section, each agency shall prepare and publish in the Federal Register a draft schedule for the review of rules, policies, and practices of the agency during a five year period beginning on the date on which the final schedule for the review of rules, policies, and practices is published under subsection (c) of this section. In each of the five years in which the review is to be conducted, the agency shall review (A) ten percent of the major rules contained in the list prepared pursuant to subsection (a) of this section, but no more than ten such rules, and (B) such additional rules, policies, and practices of the agency as the agency may select.

"(2) In selecting rules, policies, or practices for review under paragraph (1) and in determining the order of such review, the agency shall consider—

"(A) the extent to which the rule, policy, or practice has significant effects on the economy, health, safety, energy, the environment, or other areas;

"(B) the extent to which the rule, policy, or practice duplicates or overlaps with or conflicts with any other Federal rule, policy, or practice;

"(C) the length of time since the rule, policy, or practice was adopted or became established;

"(D) the nature of any technological, economic, social, or other changes which have taken place in the area affected by the rule, policy, or practice since the rule, policy, or practice was adopted or became established;

"(E) the effectiveness and efficiency of the rule, policy, or practice in achieving its stated objectives;

"(F) whether the rule, policy, or practice can be readily understood by those who are affected by it; and

"(G) any comments made by members of the public concerning the effects of the rule, policy, or practice as implemented by the agency.

"(3) Each draft schedule shall contain a brief explanation of the reasons for selecting each rule, policy, or practice on the schedule and shall set a date for the completion of the review of each such rule, policy, or practice. The agency shall set a date for each item on the schedule in a manner to insure the simultaneous review of related items and to achieve a reasonable distribution of reviews over the period of the schedule. Each draft schedule shall list the rules, policies, and practices in the order in which the agency plans to conduct its review, divided by each of the five years of the review period.

"(4) At least 60 days before publishing the draft schedule in the Federal Register, each agency shall make the draft schedule available to the Executive Director of the Board. To the maximum extent practicable, the Executive Director of the Board shall assist in the coordination of simultaneous reviews of related items by different agencies.

"(c) Not later than one year after the effective date of this section, each agency shall publish in the Federal Register a final schedule for the review of rules, policies, and practices. Each final review schedule shall contain the information required under subsection (b)(4) of this section. Each agency shall publish with the final schedule the response of the agency to significant comments received concerning the draft schedule.

"(d) On the date of publication of a final major rule in the Federal Register, each agency shall announce a date for the review of the rule in accordance with subsection (e) of this section. The agency shall set the date for review of the rule at not more than 10 years from the date on which the final major rule is published in the Federal Register.

"(e)(1) When an agency reviews a rule, policy, or practice scheduled for review under subsection (c) or (d) of this section, the agency shall prepare an assessment of the rule, policy, or practice, including an analysis of—

"(A) the economic, health, safety, environmental, and other benefits being provided by the rule, policy, or practice;

"(B) the adverse economic effects, including costs, the effects on competition, and other effects of the rule, policy, or practice;

"(C) the cost and nature of any problems encountered by the agency in obtaining compliance with the rule, policy, or practice; and

"(D) the extent to which the rule, policy, or practice overlaps with or duplicates other Federal rules, policies, or practices, including rules, policies, or practices of other agencies.

"(2) The assessment required by paragraph (1) of this subsection shall include recommendations by the agency, based on the matters analyzed pursuant to clauses (A) through (D) of such paragraph, as to whether—

"(A) agency activities to obtain compliance should be revised or strengthened to better achieve the objectives of the rule, policy, or practice; or

"(B) the rule, policy, or practice should be rescinded, amended to enhance the achievement of its objectives or to reduce any adverse effects of achieving its objectives, or continued without change.

"(3) An agency may include a series of closely related rules, policies, or practices in a single assessment.

"(4) Each agency shall make copies of each assessment made under paragraph (1) of this subsection available to members of the public without charge, and shall publish in the

Federal Register a statement describing how members of the public may obtain such copies.

"(5) An agency may comply with the requirements of this subsection by publishing a notice of proposed rule making instead of an assessment if the notice of proposed rule making concerning the rule, policy, or practice under review contains the information required by clauses (A) through (D) of paragraph (1) and by paragraph (2) of this subsection and the proceeding otherwise complies with applicable law.

"(f) The agency may amend any schedule for review of rules, policies, and practices with the concurrence of the Executive Director of the Board by publishing such amendment in the Federal Register.

"(g) No agency action under this subchapter nor any failure of an agency to carry out the provisions of this subchapter shall be subject to judicial review.

"(h) Four years after the effective date of this subchapter, the President shall prepare and transmit to the Congress a report which evaluates the effectiveness of the procedure established by this section for the review of agency rules, policies, and practices and makes recommendations for legislative action concerning the establishment of another five year period for an additional review of agency rules, policies, and practices.".

(b) The table of chapters for part I of title 5, United States Code, is amended by inserting immediately after the item relating to chapter 5 the following:

"§ 6—Management, planning, and analysis of regulatory functions

(c) Section 5314 of such title is amended by adding at the end thereof the following:

"(70) Executive Director, Regulatory Policy Board.".

ANNUAL REPORT ON REGULATORY ACTIVITIES

SEC. 103 (a) For each of the first five fiscal years beginning after the effective date of this Act, the Regulatory Policy Board established under section 602 of title 5, United States Code (as added by section 102 of this Act) shall prepare and transmit to the President and the Congress a report on the regulatory activities during each such fiscal year of all Federal agencies subject to the provisions of this Act and the amendments made by this Act. The report shall include the information required by subsection (b) and such other information as the Regulatory Policy Board determines appropriate. The Regulatory Policy Board shall transmit the report required by this subsection to the President and the Congress between October 1 and October 31 of the fiscal year after the fiscal year for which the report is made, and shall make such report available to the public.

(b) The report prepared by the Regulatory Policy Board under subsection (a) shall include—

(1) a comprehensive evaluation of the effectiveness of the provisions of this Act and of the amendments made by this Act and of agency compliance with such provisions, including an analysis of the agency activities—

(A) to insure effective policy oversight of the regulatory process;

(B) to insure meaningful participation by the public in regulatory decisions;

(C) to provide for a thorough analysis of regulatory alternatives;

(D) to minimize undue burdens of compliance with rules, regulations, and reporting requirements on individuals, businesses, organizations, and governmental jurisdictions, particularly disproportionate burdens on small businesses, small organizations, and small governmental jurisdictions;

(E) to eliminate unnecessary delay in the regulatory process; and

(F) to systematically review and evaluate the need for and effectiveness of rules and regulations and to eliminate duplicative, overlapping, or conflicting rules and regulations; and

(2) a summary of the comments made by interested citizens and groups concerning the effectiveness of the provisions of this Act and of the amendments made by this Act and concerning agency compliance with such provisions.

REVIEW BY THE DIRECTOR OF THE CONGRESSIONAL BUDGET OFFICE

SEC. 104. (a)(1) For each of the first three fiscal years beginning after the effective date of this Act, the Director of the Congressional Budget Office shall, through periodic review of selected agency actions in accordance with paragraph (2), monitor agency compliance with the requirements of subchapters III and IV of chapter 6 of title 5, United States Code (as added by section 102(a) of this Act), and shall keep Congress fully informed of any failure by an agency to comply with such subchapter, or of any problems arising in the implementation by an agency of the requirements of such subchapter.

(2) The Director of the Congressional Budget Office shall review a selected number of rulemaking proceedings that have been completed by agencies in order to determine the extent of agency compliance with the requirements of such subchapter which are applicable to the issuance of such rules. In conducting such review, the Director shall consider, whenever appropriate, agency statements such as—

(A) the determination by the agencies under section 621 of such title that a rule is not a major rule;

(B) the initial regulatory analysis prepared by the agencies under section 622 of such title;

(C) the final regulatory analysis prepared by the agencies under section 623 of such title; and

(D) a finding of waiver or delay of completion made under section 627 of such title.

(b) The Director of the Congressional Budget Office shall select for review statements described in subsection (a)(2) on the basis that—

(1) the economic, and health, safety, environmental, or other effects of the rule with which the statement is concerned are particularly significant;

(2) the rule with which the statement is concerned may overlap or be inconsistent with other rules or policies of the Federal Government;

(3) the statement raises other policy issues of broad interest to Federal agencies, Congress, or the public; or

(4) review will help assure full and effective implementation of the provisions of this subchapter.

(c) In reviewing a statement under this section, the Director shall consider—

(1) the methodology used in preparing the statement;

(2) the thoroughness and adequacy of the statement;

(3) the usefulness of the statement to the agency, Congress, and the public; and

(4) such other factors as the Director finds appropriate.

TITLE II—IMPROVING THE EFFICIENCY OF ADMINISTRATIVE PROCEEDINGS

Part A—Administrative Procedures—Informal Rulemaking

IMPROVING THE QUALITY OF AGENCY RULEMAKING

SEC. 201. (a)(1) Clauses (1) and (2) of section 553(a) of title 5, United States Code, are redesignated clauses (A) and (B), respectively.

(2) The matter preceding clause (A) of such section (as redesignated by paragraph (1) of this subsection) is amended—

(A) by striking out "This section applies" and inserting in lieu thereof "(1) Subsections (b) through (e) of this section apply"; and

(B) by inserting "notice and hearing is not required by statute and that" before "there is involved".

(3) Clause (A) of such section (as redesignated by paragraph (1) of this subsection) is amended by striking out "or" after the semicolon.

(4) Clause (B) of such section (as redesignated by paragraph (1) of this subsection) is amended—

(A) by striking out "or" after "management" and inserting in lieu thereof a comma and "organization,"; and

(B) by striking out "or to public property, loans, grants, benefits, or contracts." and inserting in lieu thereof a comma and "or rules of agency practice or procedure;".

(5) Such section is amended by adding after clause (B) (as redesignated by paragraph (2) of this section) the following:

"(C) a rule relating to—

"(i) the acquisition by the Federal Government by contract of real or personal property or services, through purchase, lease, or barter, which is promulgated in compliance with criteria and procedures established by the Administrator for Federal Procurement Policy; and

"(ii) the disposal by contract of sale of surplus and personal property of the United States, which is promulgated in compliance with criteria and procedures established by the Administrator of General Services;

"(D) a rule which the agency for good cause finds—

"(i) involves a matter for which notice and public procedure is impracticable, unnecessary, or contrary to the public interest; or

"(ii) is being adopted in response to an emergency situation or is governed by short term statutory or judicial deadlines which make compliance with the provisions of this section impracticable;

"(E) is an interpretative rule; or

"(F) is a general statement of policy.

"(2) In the case of a rule for which an agency makes a finding under clause (D) of paragraph (1) of this subsection, the agency shall—

"(A) publish the rule in the Federal Register with a statement of the finding of the agency under such paragraph and the reasons therefor; and

"(B) comply with the provisions of this subchapter, whenever appropriate, after the publication of the rule.".

(b)(1) The first sentence of section 553(b) of such title is amended by striking out "subject thereto" and inserting in lieu thereof "all persons substantially interested in the matter".

(2) Clause (2) of such section is repealed.

(3) Clause (1) of such section is redesignated as clause (2).

(4) Clause (3) of such section is redesignated as clause (1) and is amended by striking out the period and inserting in lieu thereof a semicolon.

(5) The last sentence of such section is repealed.

(6) Such section is amended by adding at the end thereof the following new clauses:

"(3) a discussion of the legal basis of the proposed rule;

"(4) a statement that the agency seeks proposals from the public for alternative means to accomplish the stated objectives of the proposed rule in a manner consistent with applicable statutes which are more effective or less burdensome than the approach used in the proposed rule, including means such as (A) the establishment of differing compliance and reporting requirements for segments of the population subject to the rule and (B) the clarification, simplification, and consolidation of compliance and reporting requirements; and

"(5) with regard to any reporting or recordkeeping requirement which the agency anticipates will occur as a result of the proposed rule—

"(A) a statement of the purpose of the requirement and a description of its form, its length, and the type of professional skills necessary for preparation of the report or record;

"(B) an estimate of the classes of persons who will be subject to the requirement and, to the extent practicable, the number of persons who will be required to submit or maintain the reports or records; and

"(C) an estimate of the time required to complete such reports or records.".

(c)(1) The first sentence of section 553(c) of such title is amended by inserting "subsection (b) of" before "this section".

(2) Such section is amended by inserting "(1)" after the subsection designation.

(3) The third sentence of such section is redesignated as paragraph (3).

(4) Such section is further amended by inserting after paragraph (1) (as redesignated by paragraph (2) of this subsection) the following new paragraph:

"(2) If an agency determines that a rule is a major rule under section 621 of this title, the agency shall use either oral or written procedures, as the agency determines, in its sole and unreviewable discretion, are appropriate for resolution of significant controversies over material factual issues, including—

"(A) informal public hearings, meetings, or conferences;

"(B) the creation of expert advisory councils;

"(C) mediation techniques; and

"(D) the presentation of studies, documents, and staff arguments for written comment and rebuttal; and

"(E) the presentation of witnesses.".

(5) Section 553(c)(3) of such title (as redesignated by paragraph (5) of this section) is amended by striking out "sections 556 and 557" and inserting in lieu thereof "section 554".

(d)(1) The second sentence of section 553(c)(1) of such title (as redesignated by paragraph (2) of subsection (c)) is redesignated as the first sentence of section 553(d).

(2) The first sentence of section 553(d) of such title (as redesignated by paragraph (1) of this subsection) is amended—

(A) by striking out "rules" and inserting in lieu thereof "final rule";

(B) by striking out "their" and inserting in lieu thereof "the"; and

(C) by inserting "of the rule" immediately in lieu thereof "the"; and before the period.

(3) The second sentence of such section (as redesignated by paragraph (1) of this subection) is amended to read as follows: "The statement shall include a response to the significant issues raised by the comments received by the agency concerning the proposed rule and by the comments received by the agency upon any significant alternatives which were considered by the agency.".

(4) Such section is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraph:

"(2) Except in the case of a substantive rule which grants or recognizes an exemption or relieves a restriction and unless a longer period of time is required by law or provided in the rule or if the agency for good cause determines otherwise, the agency shall, not less than 30 days before the effective date of the final rule, publish the final rule in the Federal Register unless persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law.".

(e)(1) Section 553(e) of such title is redesignated as section 553(f).

(2) Section 553 of such title is amended by inserting after subsection (d) the following new subsection:

"(e)(1) The agency shall maintain a file for each rule making proceeding. Except as provided in paragraph (2) of this subsection, the file shall include—

"(A) the notice of proposed rule making and any supplemental notice;

"(B) copies of, or identification of, all studies and documentary material upon which the agency substantially relied in formulating the rule;

"(C) copies of all written comments received from the public on the proposed rule or area of inquiry after the notice or advance notice of proposed rule making was published in the Federal Register;

"(D) all material which the agency by law is required to make public in connection with the rule making or which the agency determines to make part of the record;

"(E) any statement, description, or analysis required to be prepared by the agency in formulating the rule, including—

"(i) the initial regulatory flexibility analysis and the final regulatory flexibility analysis required by sections 632 and 633 of this title; and

"(ii) in the case of a rule determined to be a major rule under section 621 of this title, the initial regulatory analysis and the final regulatory analysis required by sections 622 and 623 of this title; and

"(F) in the case of a rule determined to be a major rule under section 621 of this title, any record of outside communication required under section 553a of this title.

"(2) The file required by paragraph (1) of this subsection need not include any material which is exempt from public disclosure under section 552(b) of this title if the agency includes in such file a statement which notes the existence of such material and the basis upon which such material is exempt from public disclosure under such section.".

OPEN COMMUNICATIONS IN INFORMAL RULEMAKING

SEC. 202. (a) Subchapter II of title 5, United States Code, is amended by adding after section 553 the following new section:

"§ 553a. Maintenance of records of outside communications in informal rulemaking

"(a) For purposes of this section—

"(1) the term 'agency official' means a member of the body comprising the agency or other agency employee who is or may reasonably be expected to be significantly involved in the decisionmaking process of the rulemaking proceeding concerned; and

"(2) the term 'outside communication' means an oral or written communication between an agency official and any person outside the Government which is not on the record and which is relevant to the merits of a rulemaking proceeding for a rule determined to be a major rule under section 621 of this title, but does not include (A) any request relating to the status of any agency proceeding or (B) any communication from a member of the working press who is acting in a news gathering capacity.

"(b) An agency official participating in any oral or written outside communication shall prepare and maintain a record of any such communication (A) which he reasonably determines was intended to affect the merits of a rulemaking proceeding conducted under section 553(c) of this title for a rule determined to be a major rule under section 621 of this title and (B) which was made after the publication of general notice of proposed rulemaking for such rule under section 553(b) of this title.

"(c) Each record of outside communication shall contain—

"(1) the name and position of the agency official participating in the communication;

"(2) the date on which the communication was made;

"(3) if practicable, the name, address, and position of the person outside the Government participating in the communication, and the name of any person on whose behalf such person was acting in making the communication;

"(4) in the case of any oral communication, a brief summary of the substance of the communication; and

"(5) in the case of any written communication, including a communication through a letter, a document, a brief, or other written material, a copy of such communication in its original form.

"(d) Each agency official who participates in an outside communication for which a record of communication is required under subsection (b) of this section shall prepare such record within five working days after the date on which the communication was made. The agency shall include any such record in the file required by section 553(e) of this title, except that the agency need not include in such file a copy of any written communication which is exempt from public disclosure under section 552(b) of this title if the agency includes in such file a statement which notes the existence of such communication and the basis upon which such communication is exempt from public disclosure under such section.

"(e) Upon review, no court shall hold unlawful or set aside any agency action on the basis that the agency failed to comply with the provisions of this section unless (1) the outside communication involved in such failure presented data, views, or arguments which the agency significantly relied upon in promulating the final rule and (2) the parties to the proceeding had not been given reasonable notice of such data, views, or arguments .".

(b) The table of sections for chapter 5 of title 5, United States Code, is amended by inserting after the item relating to section 553 the following new item:

"§ 553a. Maintenance of records of outside communications in informal rule making.".

PART B—ADMINISTRATIVE PROCEDURES

PROCEEDINGS ON THE RECORD

SEC. 211. (a) Section 554(a) of title 5, United States Code, is amended—

(1) by inserting "(1)" before "This";

(2) by striking out "in every case of adjudication" and inserting in lieu thereof "to all adjudication and rule making proceedings";

(3) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively; and

(4) by adding at the end thereof the following new paragraph:

"(2) Hearings held for adjudication and rule making proceedings subject to the provisions of paragraph (1) of this subsection shall be conducted in accordance with the provisions of subsections (b) through (d) of this section and section 555 or 556 of this title, as the case may be, except in any case in which a statute applicable to an agency establishes a different rule making procedure for the agency.".

(b) The matter following clause (3) of section 554(b) of such title is amended by striking out "moving parties" and inserting in lieu thereof "parties initiating the proceeding".

(c)(1) Section 554(c) of such title is redesignated as section 556(b).

(2) Clauses (1), (2), and (3) of the first sentence of section 556(b) of such title are redesignated as clauses (i), (ii), and (iii), respectively. The first and second sentences of such section are redesignated as subpara-

graph (A) of section 554(c)(1). The third, fourth, and fifth sentences of section 556(b) of such title are redesignated as subparagraph (C) of section 554(c)(1).

(3) Clauses (1) through (9) of section 556(c) of such title are redesignated as clauses (A) through (I), respectively. Such subsection is redesignated as paragraph (2) of section 554(c).

(4) The matter preceding clause (1) of the first sentence of section 554(c)(1)(A) of such title (as redesignated by paragraph (2) of this subsection) is amended to read as follows:

"(c)(1)(A) A presiding employee shall preside at hearings conducted pursuant to this section. For purposes of this section, and of sections 555, 556, and 557 of this title, the presiding employee may be—".

(5) Clause (iii) of the first sentence of such section (as redesignated by paragraph (2) of this subsection) is amended by striking out "section 3105" and inserting in lieu thereof "section 802".

(6) The second sentence of such section is amended by striking out "This subchapter does not" and inserting in lieu thereof "Nothing in this paragraph shall" and by striking out "conduct of" and inserting in lieu thereof "manner in which".

(7) Paragraph (1) of section 554(c) of such title (as redesignated by paragraph (2) of this subsection) is amended by inserting after subparagraph (A) the following new subparagraph:

"(B) The presiding employee at a hearing conducted under this section shall comply with the requirements of section 557 of this title unless he becomes unavailable to the agency. If the presiding employee becomes unavailable to the agency, another employee qualified to preside at hearings under this section shall discharge the functions of the unavailable employee.".

(8)(A) Clause (C) of section 554(c)(2) of such title (as redesignated by paragraph (3) of this subsection) is repealed.

(B) Clauses (D), (E), (F), and (G) of such section (as redesignated by paragraph (3) of this subsection) are redesignated as clauses (C), (D), (E), and (F), respectively.

(C) Clause (E) of such section (as redesignated by subparagraph (B) of this paragraph) is amended by striking out "by the consent of the parties" and inserting in lieu thereof "upon the initiative of the presiding employee or at the request of the parties".

(D) Such section is amended by inserting after clause (F) (as redesignated by subparagraph (C) of this paragraph) the following new clause:

"(G) ask such questions, or conduct such cross-examination, as the presiding employee believes are appropriate;".

(E) Clause (H) of such section (as redesignated by paragraph (3) of this subsection) is amended by inserting "or findings" after "decisions" and by striking out "and" after the semicolon.

(F) Clause (I) of such section (as redesignated by paragraph (3) of this subsection) is redesignated as clause (J).

(G) Such section is amended by inserting after clause (H) (as redesignated by paragraph (3) of this subsection) the following new clause:

"(I) request the agency to consider and act on interlocutory appeals when agency action on such appeals would help expedite final agency action; and".

(9) Section 554(c) of such title is amended by adding at the end thereof the following new paragraph:

"(3) In a hearing conducted under this section the presiding employee shall act to—

"(A) assure that discovery, and all other prehearing and hearing stages of the proceeding, are completed in a manner which is expeditious and which is consistent with statutes applicable to the agency and rules promulgated by the agency to implement such statutes;

"(B) provide a record of the proceeding which is not unduly repetitious and which contains in a concise form only matters that are relevant and material to a decision in the case;

"(C) establish deadlines for the completion of the hearing and any other portion of the proceeding, except that any such deadline shall be consistent with the deadlines established by the agency pursuant to section 612 of this title;

"(D) rule on questions of fact or law in such a manner as to define the issue involved in as narrow and specific a manner as possible; and

"(E) take any other appropriate action authorized by this subchapter or any other applicable law designed to assure prompt disposition of the matter.".

(d)(1) The first and fourth sentences of section 554(d) of such title are repealed. Clauses (1) and (2) of the second sentence of such section are redesignated as clauses (A) and (B), respectively. The second sentence of such section is redesignated as paragraph (1) of section 556(e). The third sentence of section 554(d) of such title is redesignated as paragraph (2) of section 556(e).

(2) Section 556(e) of such title is redesignated as section 554(d).

(3) The first sentence of section 554(d) of such title (as redesignated by paragraph (2) of this subsection) is amended by inserting "conducted under this section" after "proceeding".

(4) Section 554(e) of such title is redesignated section 555(f).

(e)(1) The second heading of section 554 of title 5, United States Code, is amended to read as follows:

"§ 554. Proceedings on the record".

(2) The item relating to section 554 in the table of sections for chapter 5 of title 5, United States Code, is amended to read as follows:

"554. Proceedings on the record.".

EXPEDITED HEARING PROCEDURE

SEC. 212. (a)(1) Sections 558 and 559 of title 5, United States Code, are redesignated as sections 559 and 560, respectively.

(2) Section 555 of such title is redesignated as section 558.

(b) Subchapter II of chapter 5 of such title is amended by inserting after section 554 the following new section:

"§ 555. General hearing process

"(a) This section applies to—

"(1) any rule making, ratemaking, or licensing proceeding subject to section 554 of this title, except a proceeding to withdraw, suspend, revoke, or annul a license or a proceeding before the Nuclear Regulatory Commission;

"(2) any proceeding subject to section 554 of this title to determine an initial claim for a subsidy, right, or any other benefit, except any proceeding to determine an initial claim for a subsidy, right, or benefit for an individual; and

"(3) any other agency proceeding subject to section 554 of this title which the agency determines should be conducted under the provisions of this section after considering such factors as the extent to which the decision is likely to depend on the resolution of genuine and substantial disputes of facts, the number of persons interested in participating in the proceedings, and whether the conduct of the proceeding solely in accordance with this section is sufficient to a full and fair disclosure of all material facts, except that the provisions of this paragraph do not authorize an agency to conduct under this section any proceeding which is excepted from the provisions of this section under paragraph (1) or (2) of this subsection or any proceeding to impose a sanction.

"(b) In the case of any proceeding conducted under this section, each agency shall require the party initiating the proceeding, including the agency, to submit in written form at the time the proceeding is initiated all the facts and arguments upon which such party proposes to rely that are known at such time to such party. In any proceeding conducted under this section, the agency shall conduct a hearing to afford parties an opportunity to submit for the record such written data, views, or arguments and such responses to the data, views, or arguments submitted by other parties, as the agency or the presiding employee may specify. At the request of any party in the proceeding, the hearing shall include an opportunity for oral argument with respect to such written submissions. To the extent authorized by section 558 of this title or other law, the hearing shall be preceded by such discovery procedures as the agency or presiding employee determines appropriate.

"(c)(1) At the conclusion of any hearing conducted under subsection (b) of this section, the presiding employee shall designate any disputed question for resolution in a formal hearing conducted under section 556 (d) of this title, only if he determines—

"(A) there is a genuine and substantial dispute of fact, including a dispute—

"(i) involving factual assumption or methodology upon which expert opinion is based; or

"(ii) concerning the credibility of an expert witness significantly relied upon by one or more parties to the proceeding,

which can only be resolved with sufficient accuracy by the introduction of reliable evidence in a formal hearing; and

"(B) the decision of the agency in the case is likely to depend in whole or in part on the resolution of such dispute.

"(2) In making a determination under paragraph (1) of this subsection, the presiding employee shall designate in writing the specific facts which are in genuine and substantial dispute, and the reason why the decision of the agency is likely to depend on the resolution of such facts. Upon review no court shall hold unlawful or set aside any agency action, finding, or conclusion on the basis of any choice of procedures made by the agency under this subsection, unless such choice was an abuse of discretion which substantially prejudiced the rights of the parties.

"(d) For the purposes of any proceeding conducted under this section, the agency may designate one or more employees to assist the presiding employee by questioning parties at an oral hearing, or by advising the presiding employee. No employee designated under this subsection shall have any authority to issue any findings, decisions, or other orders in the proceeding.

"(e)(1) An employee or agent engaged in the performance of investigative or prosecuting functions for an agency in a proceeding under this section may not, in that proceeding or a factually related proceeding, participate or advise in the making of any agency decision pursuant to section 557 of this title, except as a participant or counsel in public proceedings.

"(2) For purposes of paragraph (1) of this subsection, the term 'investigative or prosecuting functions' refers only to such functions as the presentation or cross-examination of witnesses or the preparation of pleadings after a proceeding has begun, or the appearance as a witness, and does not include participation in a judicial proceeding relating to the agency proceeding.".

(c)(1) The item relating to section 555

in the table of sections for chapter 5 of such title is amended to read as follows:

"555. General hearing process.".

(2) The items relating to sections 558 and 559 in such table are redesignated as the items relating to sections 559 and 560, respectively.

(3) Such table is amended by inserting after the item relating to section 557 the following:

"558. Ancillary matters.".

FORMAL HEARINGS

SEC. 213. (a) Section 556(a) of title 5, United States Code, is amended to read as follows:

"(a) This section applies to all proceedings subject to section 554 of this title except proceedings or portions of proceedings conducted pursuant to section 555 of this title.".

(b) Subsection (b) of section 556 of such title (as redesignated by section 211(c)(1) of this Act) is amended—

(1) by striking out the dash and "(1)";

(2) by striking out "and" following the semicolon and the semicolon and inserting in lieu thereof a period; and

(3) by striking out "(2) to" and inserting in lieu thereof the following:

"(c) To".

(c) Subsection (c) of such section (as redesignated by paragraph (3) of subsection (b)) is amended—

(1) by inserting "the agency shall conduct a formal" before "hearing";

(2) by striking out "and decision"; and

(3) by striking out "sections 556 and 557" and inserting "this section and section 557".

(d)(1) The second sentence of section 556(d) of such title is amended by striking out "agency" and inserting in lieu thereof "presiding employee".

(2) Paragraph (2) of section 557(d) of such title is redesignated as paragraph (3).

(3) The fourth sentence of section 556(d) of such title is redesignated as paragraph (2) of section 557(d).

(4) The last sentence of section 556(d) of such title is amended to read as follows: "Subject to published rules of the agency and within its powers, presiding employees at formal hearings may rule on offers of proof and receive relevant evidence. The presiding employee may require the submission of evidence in written form, if oral presentation of testimony is not required for a full and true disclosure of relevant evidentiary facts and a denial of such opportunity for oral proceedings would not materially prejudice such party. Upon a motion by any party, the presiding employee may, prior to the completion of the hearing, issue a decision in the case when there is no genuine and substantial dispute as to any material fact and the moving party is entitled to a judgment as a matter of law.".

(e)(1)(A) Section 556(e)(1) of such title (as redesignated by section 211(d)(1) of this Act) is amended by striking out "such an employee may not" and inserting in lieu thereof "neither the employee who presides over a proceeding conducted under this section, nor any person participating or advising in any decision or review of a decision pursuant to section 557 of this title, including any member of an employee board established under this section, or any other responsible employee, may".

(B) Clause (A) of such section is amended by striking out "a person or party on a fact in issue" and inserting in lieu thereof "a party, a person outside the agency, or an agency employee participating in an investigative or prosecuting function, on a fact in issue in that case or proceeding or a factually related case or proceeding".

(2) Section 556(e)(2) of such title (as redesignated by section 211(d)(1) of this Act) is amended—

(A) by inserting "or proceeding subject to this section" after "in a case";

(B) by inserting "case or proceeding" after "in that";

(C) by inserting "or proceeding" after "related case"; and

(D) by striking out "witness" and inserting "a participant, witness,".

(3) Section 556(e) of such title is amended by adding at the end thereof the following new paragraph:

"(3) Paragraph (1) of this subsection does not prohibit members of an employee board established under section 557 of this title from consulting with each other, and does not prohibit employees advising the presiding employee pursuant to section 555 of this title from consulting among each other or with the presiding employee. Paragraph (2) of this subsection does not apply to the agency or any member of the body comprising the agency.".

(f)(1) The section heading of section 556 of title 5, United States Code, is amended to read as follows:

"§ 556. Formal hearings; powers and duties of presiding employees; burden of proof; evidence; separation of functions.".

(2) The item relating to section 556 in the table of sections for chapter 5 of title 5, United States Code, is amended to read as follows:

"556. Formal hearings; powers and duties of presiding employees; burden of proof; evidence; separation of functions.".

AGENCY REVIEW OF DECISIONS

SEC. 214. (a) Section 557(a) of title 5, United States Code, is amended by striking out "in accordance with section 556" and inserting in lieu thereof "under section 554".

(b)(1) The first sentence of section 557(b) of such title is amended—

(A) by striking out "When" and inserting in lieu thereof "(1) If));

(B) by striking out "reception of the evidence" and inserting in lieu thereof "hearing"; and

(C) by striking out "employee, or, in cases not subject to section 554(d) of this title" and inserting in lieu thereof "employee".

(2) The last sentence of such section is amended to read as follows:

"(2) Where the entire record has been certified to the agency for decision pursuant to paragraph (1) of this subsection, the presiding employee shall recommend a decision before certifying the record to the agency in cases conducted under section 556 of this title. In any proceeding conducted pursuant to section 555 of this title, the agency may require the presiding employee to certify the record to it with a recommended decision, or without a recommended decision but with such analysis of the record as the agency may specify except that in the case of any disputed question designated under subsection (c) of such section for resolution in a formal hearing conducted under section 556(d) of this title, the agency shall require the presiding employee to make proposed findings and conclusions concerning such question.

"(3) Whenever the presiding employee submits the record without an initial or recommended decision, the agency shall issue a tentative decision or shall designate one of its responsible employees to recommend a decision.

"(4) This subsection does not apply in any case in which the agency finds on the record that due and timely execution of its functions imperatively and unavoidably requires a decision to be made in a proceeding without an initial, tentative, or recommended decision.".

(c) Section 557(c) of such title is amended by striking out "subordinate" each time it appears and inserting in lieu thereof "presiding or responsible".

(d)(1) Section 557(d) of such title is redesignated as section 557(e).

(2) Section 557 of such title is amended by inserting after subsection (c) the following new subsection:

"(d)(1)(A) Each agency may establish by rule one or more employee boards to review decisions of presiding employees in accordance with the provisions of this section, except that no agency may subject any decision of the presiding employee to more than two different levels of review, including any review conducted by the agency itself. Each board authorized by this subsection shall be composed of one or more members of the body comprising the agency, or three or more agency employees of any type, including any member of the body comprising the agency, any administrative law judge, or any other appropriate agency employee, except that such board may not include the presiding employee in the proceeding under review, or any employee who advised the presiding employee pursuant to section 555(d) of this title. Subject to paragraph (2) of this subsection, any agency may provide by rule that—

"(i) any decision or any category of decisions by the presiding employee shall become final unless reviewed by an employee board or by the agency; and

"(ii) any decision or any category of decisions made by an employee board on review shall become final unless reviewed by the agency.

"(B) Each agency shall specify by rule the circumstances and conditions, if any, under which the agency will entertain and consider appeals from the decision of the employee board or presiding employee. Such rule shall also specify the circumstances and conditions under which the agency shall exclude from the jurisdiction of the employee board responsibility for reviewing a decision or category of decisions.

"(2) Nothing in this subsection shall be construed to supersede—

"(A) any provision of law specifically governing the composition and organization of any employee board of a particular agency or the right of any agency members of a particular agency to direct review of decisions, or

"(B) any other authority of an agency to delegate the final decision to any agency members or other employees.".

(e)(1) Section 557(e)(1) of such title (as redesignated by paragraph (1) of subsection (d)) is amended by striking out "subsection (a) of this" and by inserting "554" after "section".

(2) Clause (B) of section 557(e)(1) (as redesignated by paragraph (1) of subsection (d)) is amended by inserting "or any factually related proceeding" after "the proceeding".

(3) Section 557(e)(2) of such title (as redesignated by section 213(d)(3) of this Act and paragraph (1) of subsection (d)) is amended by striking out "section 557(d) of this title" and inserting "this subsection".

SUBPENA POWER AND OTHER ANCILLARY POWERS

SEC. 215. (a) Subsection (b) of section 558 of title 5, United States Code (as redesignated by section 212(a) of this Act) is amended by inserting "presiding or" before "responsible employees".

(b)(1) Section 558(d) of such title (as redesignated by section 212(a) of this Act) is amended by inserting before the first sentence the following: "In any proceeding subject to section 554 of this title, the agency may issue a subpena authorized by law to require any person to appear and testify or to appear and produce books, papers, documents, or tangible things, or both, at a hearing or deposition at any designated place.".

(2) The second sentence of such section (as redesignated as a result of the amendment made by paragraph (1) of this subsection) is amended by striking out "Agency

subpenas" and inserting in lieu thereof "Any subpena".

(3) The third and fourth sentences of such section (as redesignated as a result of the amendment made by paragraph (1) of this subsection) are amended to read as follows: "Each agency shall designate by rule the officers authorized to sign and issue subpenas or similar process, and shall include in such designation the presiding employee in all proceedings subject to section 554 of this title, authorized to sign and issue subpenas or similar process.".

(4) Such section is further amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraphs:

"(2) In case of failure or refusal of any person to obey a subpena or similar process, the agency may invoke the aid of the district court of the United States for any district in which such person is found, resides, or transacts business, or in which the proceeding or inquiry is carried on, to enforce the subpena or similar process. In a proceeding for enforcement of a subpena or similar process found to be in accordance with law, the court shall issue an order requiring compliance with such subpena or similar process under penalty of punishment for contempt for failure to comply.

"(3) Except as provided in paragraph (4) of this subsection, if any person wrongfully fails to comply with any subpena or similar lawful process issued by the agency, and if such failure continues for 30 days after service by the agency on such person of a notice of such default, such person shall be liable to the United States for a civil penalty of not more than $2,000, as the court may determine, for each day that such failure continues after such 30th day. The civil penalty shall be recoverable in a civil action brought in the district court of the United States for any district in which person is found, resides, or transacts business, or in which the inquiry is carried on. In determining the amount of such penalty, the court shall take into account the reasonableness and good faith of any action or inaction of such person with respect to which the penalty is being assessed, and such other matters as justice may require. Such penalty shall be payable into the Treasury of the United States.

"(4) Any person who has been served with a notice of default issued by the agency with respect to any subpena or similar process referred to in paragraph (3) of this subsection may apply to an appropriate district court of the United States challenging the validity of such subpena or similar process. The filing of an action under this paragraph shall toll the accumulation of penalties for failure to comply with any part of the subpena or similar process beginning on the date such action is filed. The district court shall issue a final ruling in such action in accordance with paragraph (3) of this subsection.

"(5) In any action brought under paragraph (2) or (4) of this subsection to challenge the validity of an agency subpena or similar process issued in connection with a proceeding under section 554 of this title, the district court shall issue a final ruling in the action within 45 days after the date on which the action is filed, unless the court agrees to extend the period for decision upon the request of all parties to the action.

"(6) No court shall have jurisdiction over any action to challenge the validity of or enjoin the enforcement of any subpena or similar process issued by an agency in connection with a proceeding under section 554 of this title, or to stay the accumulation of any penalties authorized by paragraph (3) of this subsection, unless the action is brought by a person upon whom a notice of default respecting such subpena or similar process has been served, or by a person authorized by other law to bring such action. Any such action shall, at the request of the agency, be transferred to a court in which there is pending an action or proceeding for enforcement or civil penalties based on the same or a substantially similar subpena or other similar process.

"(7) In any proceeding subject to section 554 of this title, the agency is authorized, whenever a person fails to comply with a subpena or similar process issued in the course of that proceeding, to take such action in regard to such failure as is just, including (A) refusing to allow such person to support or oppose designated claims or defenses, or prohibiting such person from introducing designated matter into the record; (B) inferring that the testimony, documents, or evidence concerning which the subpena or similar process was issued would have been adverse to such person; or (C) striking out pleadings or motions or parts thereof, or staying further proceedings until the subpena or similar process is obeyed, or dismissing the proceedings or any part thereof, or rendering any decision by default against such person.

"(8) The authority granted by this subsection is in addition to, and does not limit, any other statutory authority for the issuance of agency subpenas or similar process or the enforcement thereof.".

(c) Section 558 of such title is amended by adding at the end thereof the following new subsection:

"(g) Each agency shall compile and maintain a file which contains significant material from the record of proceedings conducted under section 554 of this title which are likely to be of particular interest to the agency or other persons participating in subsequent agency proceedings, together with a detailed subject matter index to such file. The agency shall include in such file any motions, briefs, and other legal arguments or pleadings relating to each such proceeding filed with the agency by any party, and any action issued by the agency in connection with any such filing. In the case of a rule making proceeding, the agency shall include in the file required by this subsection the file required by section 553(e) of this title. The agency shall make the file and index required by this subsection readily accessible to the public, and shall take any additional steps the agency determines appropriate to provide for the dissemination of such material to interested members of the public.".

JUDICIAL REVIEW

SEC. 216. (a)(1) Section 703 of title 5, United States Code, is amended—

(A) by inserting "(a)" immediately before "The"; and

(B) by adding at the end thereof the following new subsection:

"(b) If no special statutory review proceeding is applicable, an action for review of a rule promulgated under subchapter II of chapter 5 of this title shall be brought in the United States Court of Appeals, and venue shall be determined in accordance with section 2343 of title 28, United States Code.".

(2)(A) Chapter 83 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1295. Agency rulemaking

"The United States Courts of Appeals shall have exclusive original jurisdiction of any civil action under section 703(b) of title 5, United States Code, to enjoin, set aside, suspend, modify, or otherwise review an agency rule.".

(B) The table of sections for chapter 83 of such title is amended by adding at the end thereof the following: "1295. Agency rulemaking.".

(b) Section 706 of title 5, United States Code, is amended by inserting "(a)" immediately before "To" and by adding at the end thereof the following new subsection:

"(b) In determining whether to compel, pursuant to subsection (a)(1) of this section, agency action unreasonably delayed the reviewing court shall consider, in addition to any other relevant factors, the extent to which the agency has failed to complete the action or a portion of the action by any date announced by the agency for completion of such action in accordance with section 612 of this title.".

(c) Section 706(a)(2)(E) of such title (as redesignated by subsection (b) of this section), is amended by striking out "sections 556 and 557" and inserting in lieu thereof "section 554".

CONFORMING AMENDMENT

SEC. 217. The first sentence of section 559 (c) of title 5, United States Code (as redesignated by section 212(a) of this Act), is amended by striking out "sections 556 and 557" and inserting in lieu thereof "section 554".

PART C—APPOINTMENT AND REASSIGNMENT OF ADMINISTRATIVE LAW JUDGES

SEC. 221. (a) Title 5, United States Code, is amended by adding the following new chapter immediately following chapter 7:

"Chapter 8—APPOINTMENT AND REASSIGNMENT OF ADMINISTRATIVE LAW JUDGES

"Sec.
"801. Definitions.
"802. Appointment.
"803. Classification and pay.
"804. Reassignment.

"§ 801. Definitions

"For purposes of this chapter, the term—

"(1) 'agency' means an agency as defined in section 551(1) of this title;

"(2) 'administrative law judge' means an individual appointed under section 802 of this title; and

"(3) 'Chairman' means the Chairman of the Administrative Conference of the United States.

"§ 802. Appointment

"(a) Subject to the provisions of this section, each agency shall appoint as many administrative law judges as are necessary for proceedings required to be conducted in accordance with section 554 of this title. Administrative law judges shall be assigned to cases in rotation insofar as practicable, and may not perform duties inconsistent with their duties and responsibilities as administrative law judges.

"(b)(1) The Chairman shall provide for the wide dissemination of information about administrative law judge positions and shall recruit for administrative law judge positions from all groups of qualified persons.

"(2) In consultation with the Office of Personnel Management, the Chairman shall establish qualification requirements for administrative law judges and shall adopt and administer a system for examining and selecting administrative law judges. The system adopted shall provide for—

"(A) ranking eligible candidates for administrative law judge in accordance with their relative qualifications; and

"(B) consistency with section 2302 of this title. Eligible candidates shall be ranked and certified in numerical order or by category.

"(3) If an appointing agency requests from the Chairman a certificate of eligibles for the position of administrative law judge, the Chairman shall certify from the register of eligibles for the position of administrative law judge the names of the 10 eligibles with the highest ratings.

"(4) For appointment to each vacancy as an administrative law judge, the appointing agency shall select from the highest 10 eligibles available for appointment on the certificate furnished under paragraph (3) of this subsection.

"§ 803. Classification and pay

"(a) The Chairman shall establish and from time to time revise the maximum number of administrative law judges that may at any one time be placed in GS–16, GS–17, or GS–18 of the General Schedule. The total number of such positions may not exceed 350. These positions shall not count against any other Government-wide or agency limit on positions specified in section 5108 of this title.

"(b) Administrative law judges appointed under section 802 of this title are entitled to pay prescribed by the Chairman independently of any agency recommendations or ratings and in accordance with subchapter III of chapter 53 and with chapter 51 of this title.

"§ 804. Reassignment

"The Chairman of the Administrative Conference of the United States shall select administrative law judges appointed under section 802 of this title to be detailed from any agency to any other agency that occasionally or temporarily is insufficiently staffed with administrative law judges, and such administrative law judges shall be detailed if the agency from which they are to be transferred and each administrative law judge to be transferred consents to the tansfer.".

(b)(1) Chapter 21 of title 5, United States Code, is amended by adding the following section after section 2101a:

"§ 2101b. Administrative Law Judge Career Service

"The Administrative Law Judge Career Service consists of administrative law judges appointed under section 802 of this title.".

(2) The analysis of chapter 21 of such title is amended by adding immediately after the entry for section 2101a the following new entry:

"2101b. Administrative Law Judge Career Service.".

(c) Section 2101(a)(1) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (B);

(2) by adding "and" at the end of subparagraph (C); and

(3) by adding at the end thereof the following new subparagraph:

"(D) administrative law judge positions;".

(d) Section 2103 of title 5, United States Code, is amended by striking out "or the Senior Executive Service" and by inserting in lieu thereof "the Senior Executive Service, or the Administrative Law Judge Career Service".

(e) Section 2108(3) of title 5, United States Code, is amended by striking out the period at the end and inserting a semicolon in lieu thereof, and by adding at the end thereof, "but does not include applicants for the position of administrative law judge or administrative law judges.".

(f) Section 7521 of title 5, United States Code, is amended by striking out "section 802" and inserting in lieu thereof "section 3105".

(g) Section 3320 of title 5, United States Code, is amended by adding at the end thereof the sentence "This section does not apply to administrative law judges appointed pursuant to section 802 of this title.".

(h) Section 3324(a)(1) of title 5, United States Code, is amended by substituting "in section 802 or 5108(c)(2) of this title" for "in section 5108(c)(2) of this title".

(i) Section 4301(2)(D) of title 5, United States Code, is amended by substituting "section 802" for "section 3105".

(j) Section 1305 of title 5, United States Code, is amended by striking "For the purpose of sections 3105, 3344, 4301(2)(D), and 5372 of this title and the provisions of section 5335(a)(B) of this title that relate to administrative law judges, the Office of Personnel Management may and for" and inserting in lieu thereof "For".

(k) Sections 3105, 3344, and 5372 of title 5, United States Code, are repealed.

(l) Section 559 of title 5, United States Code, is amended by striking out "3105", "3344", and "5372" and inserting in lieu thereof "802", "804", and "803", respectively.

(m) Sections 554(a)(2), 4301(2), and 5335(a)(3)(B) of title 5, United States Code, are amended by striking out "3105" and inserting in lieu thereof "802".

TITLE III—REVIEW OF THE EFFECTIVENESS OF AND CONTINUING NEED FOR GOVERNMENT REGULATION

PURPOSES

Sec. 301. The purposes of this title are—

(1) to provide for a review by the President and Congress of the impact of regulatory policy;

(2) to enhance the effectiveness of regulatory agencies in achieving their statutory goals;

(3) to analyze the goals of various agencies in light of other Federal policies;

(4) to examine nonregulatory alternatives for the achievement of statutory goals; and

(5) to examine alternatives that will improve productivity in the economy.

DEFINITIONS

Sec. 302. For purposes of this title—

(1) the term 'agency' has the same meaning as in section 552(e) of title 5, United States Code; and

(2) the term 'Committee' means the Committee on Regulatory Evaluation established by section 303.

COMMITTEE ON REGULATORY EVALUATION

Sec. 303. (a) The President shall establish a Committee on Regulatory Evaluation to conduct the evaluation and examination required by section 305 and to provide information and advice to the President as may be necessary to assist him in carrying out his responsibilities under this title.

(b) The Committee shall be composed of—

(1) the Attorney General;

(2) the Secretary of Labor;

(3) the Chairman of the Federal Trade Commission;

(4) the Chairman of the Council on Wage and Price Stability;

(5) the Chairman of the Council of Economic Advisers;

(6) the Special Assistant to the President for Consumer Affairs;

(7) the Executive Director of the Regulatory Policy Board;

(8) the Administrator of the Small Business Administration; and

(9) not more than five individuals appointed by the President for a term of two years, who shall be broadly representative of regulated interests, including small business, labor, and consumer interests.

(c)(1) The President shall appoint the Chairman of the Committee. The Committee shall meet at the call of the chairman at least twice each year.

(2) A majority of the members of the Committee shall constitute a quorum. A vacancy in the Committee shall not affect its power to function.

(d) Each member of the Committee who is not otherwise employed by the United States Government shall receive compensation at a rate prescribed by the President which is not in excess of the daily rate prescribed for GS–18 under the General Schedule under section 5332 of title 5, United States Code, for each day, including traveltime, such member is engaged in the actual performance of duties as a member of the Committee. A member of the Committee who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(e) The Chairman shall appoint such staff as are necessary to carry out the provisions of this title.

SCHEDULE

Sec. 304. In the Congress specified in clauses (1) through (6) of this subsection, the Congress shall evaluate and examine the regulatory functions of each of the following agencies and shall review any regulatory reform bill or report transmitted by the President with respect to each such agency:

(1) In the Ninety-eighth Congress, the following agencies concerned with energy:

(A) the Nuclear Regulatory Commission;

(B) the Federal Energy Regulatory Commission; and

(C) the Department of Energy;

(2) In the Ninety-ninth Congress, the following agencies concerned with the environment and natural resources:

(A) the Environmental Protection Agency; and

(B) the Department of the Interior;

(3) In the One Hundredth Congress—

(A) the Federal Maritime Commission;

(B) the Federal Communications Commission; and

(C) the Interstate Commerce Commission;

(4) In the One Hundred-first Congress, regulation of safety and consumer protection by the following agencies:

(A) the Consumer Product Safety Commission;

(B) the Food and Drug Administration of the Department of Health, Education, and Welfare;

(C) the Food Safety and Quality Service and the Animal and Plant Health Inspection Service (or their successors) of the Department of Agriculture;

(D) the National Highway Traffic Safety Administration of the Department of Transportation; and

(E) the Occupational Safety and Health Administration of the Department of Labor;

(5) In the One Hundred-second Congress, regulation of commerce and international trade by the following agencies:

(A) the International Trade Commission;

(B) the Commodity Futures Trading Commission;

(C) the Federal Trade Commission;

(D) the Industry and Trade Administration (or its successor) of the Department of Commerce; and

(E) The Agricultural Stabilization and Conservation Service and the Agricultural Marketing Service (or their successors) of the Department of Agriculture; and

(6) In the One Hundred-third Congress, regulation of banking and finance by the following agencies:

(A) the Federal Housing Administration of the Department of Housing and Urban Development;

(B) the Office of the Comptroller of the Currency of the Department of the Treasury;

(C) the Federal Deposit Insurance Corporation;

(D) the Federal Home Loan Bank Board;

(E) the Board of Governors of the Federal Reserve System;

(F) the National Credit Union Administration;

(G) the Federal Savings and Loan Insurance Corporation; and

(H) the Farm Credit Administration.

EVALUATION AND EXAMINATION OF AGENCIES

Sec. 305. (a) Not later than May 1 of the second session of the Congress preceding the Congress in which the evaluation and examination of an agency is scheduled under section 304, the Committee on Regulatory Evaluation shall evaluate and examine each agency scheduled for review in the following Congress and any other relevant agency or function of an agency which the Committee determines should be evaluated and examined, and shall prepare and transmit to the President recommendations concerning the need for reform of the agency together with recommedations for legislation to accomplish such reforms as the Committee determines appropriate. In formulating its recommendations, the Committee shall consider agency reforms which—

(1) increase economic competition;

(2) enhance the ability of agencies to protect health and safety and the interests of consumers;

(3) achieve the statutory goals of the agency by less restrictive or nonregulatory means, including the use of taxes, penalties, market-based incentives, bargaining techniques, required disclosure, or the creation of new causes of action;

(4) increase the effectiveness of regulatory programs; and

(5) increase productivity in the economy.

(b) In conducting the evaluation and examination of an agency required by this section, the Committee shall invite the head of the agency concerned to participate in the evaluation and examination.

REGULATORY REFORM BILL AND REPORT

SEC. 306. (a) Not later than October 1 of the second session of the Congress preceding the Congress in which the evaluation and examination of an agency is scheduled under section 304, and after consideration of the recommendations made by the Committee under section 305, the President shall prepare and transmit to the Congress, with respect to the regulatory functions of the agency under review and any relevant agency or regulatory function of an agency which the President determines should be analyzed, a regulatory reform report concerning the need for reform of the agency and any regulatory refrom bill which the President determines appropriate.

(b) The report required by subsection (a) shall explain why any proposed legislation fulfills one or more of the objectives for reform listed in clauses (1) through (5) of section 305(a) and shall—

(1) examine the impact of the regulatory activities of the agency on regulated industries, geographical regions, consumer groups, the environment, and health and safety;

(2) analyze whether the statutory goals or the policies of the agency conflict with other Federal statutes or other agency policies; and

(3) explain in detail the provisions of any regulatory reform bill proposed by the President, or in any case in which the President does not propose any regulatory reform bill for the agency, a description of the reasons for his determination.

PROCEDURES FOR CONSIDERATION OF REGULATORY REFORM BILLS

SEC. 307. (a) Subsections (b) through (e) of this section are enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of regulatory reform bills; and they shall supersede other rules only to the extent they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(b) Each regulatory reform bill or regulatory reform report transmitted by the President shall be referred to the appropriate committee or committees of the Senate or the House of Representatives having legislative jurisdiction or oversight responsibilities with respect to the subject matter of the bill or report.

(c)(1) By May 15 of the second session of a Congress in which an agency is scheduled for evaluation and examination under section 304, each committee to which a regulatory reform bill or report is referred shall review the bill or report transmitted by the President, and shall report to the Senate or the House of Representatives, as the case may be, on its review, together with such legislation as each committee determines appropriate. If two other committees of the House of Representatives or the Senate to which a regulatory reform bill is referred can agree concerning a report, the committees shall issue a joint report.

(2)(A) If, by May 15 of the second session of a Congress in which an agency is scheduled for review, a committee has failed to report a regulatory reform bill, it is in order to move to discharge the committee from further consideration of a regulatory reform bill transmitted by the President, except that such a motion shall not be in order after the committee has reported or has been discharged from consideration of an identical regulatory reform bill transmitted by the President.

(B) A motion to discharge may be made only by an individual favoring the bill, may be made only if supported by one-third of the Members of the House involved (a quorum being present), and is highly privileged in the House of Representatives and privileged in the Senate; and debate thereon shall be limited to not more than 1 hour, the time to be divided in the House equally between those favoring and those opposing the bill, and to be divided in the Senate equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(C) If a motion to discharge a committee from further consideration of a regulatory reform bill transmitted by the President is adopted by a majority of the members of the House involved, such committee shall be discharged from further consideration of such bill unless, within 30 calendar days after such motion is adopted, such committee reports a regulatory reform bill.

(d)(1) When a committee of the House of Representatives has reported, or has been discharged from further consideration of, a regulatory reform bill, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the bill. The motion shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate on a regulatory reform bill in the House of Representatives shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the bill or resolution. A motion further to limit debate shall not be debatable. It shall not be in order to move to reconsider the vote by which a regulatory reform bill is agreed to or disagreed to.

(3) Motions to postpone, made with respect to the consideration of a regulatory reform bill, and motions to proceed to the consideration of other business, shall be decided without debate in the House of Representatives.

(4) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any regulatory reform bill shall be decided without debate.

(5) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of any regulatory reform bill and amendments thereto (or any conference report thereon) shall be governed by the Rules of the House of Representatives applicable to other bills, amendments, and conference reports in similar circumstances.

(e)(1) Debate in the Senate on any regulatory reform bill, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(2) Debate in the Senate on any amendment to a regulatory reform bill shall be limited to 2 hours, to be equally divided between, and controlled by, the mover and the manager of the bill. Debate on any amendment to an amendment, to such a bill, and debate on any debatable motion or appeal in connection with such a bill shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill; except that in the event the manager of the bill is in favor of any such amendment, motion, or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. No amendment that is not germane to the provisions of a regulatory reform bill shall be received. Such leaders, or either of them, may, from the time under their control on the passage of a regulatory reform bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

(3) A motion to further limit debate is not debatable in the Senate. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed 3, not counting any day on which the Senate is not in session) is not in order in the Senate. Debate on any such motion to recommit shall be limited to one hour, to be equally divided between, and controlled by, the mover and the manager of the regulatory reform bill.

(4) The conference report on any regulatory reform bill shall be in order in the Senate at any time after the third day (excluding Saturdays, Sundays, and legal holidays) following the day on which such a conference report is reported and is available to Members of the Senate. A motion to proceed to the consideration of the conference report may be made even though a previous motion to the same effect has been disagreed to.

(5) During the consideration in the Senate of the conference report on any regulatory reform bill, debate shall be limited to 2 hours, to be equally divided between, and controlled by, the majority leader and minority leader or their designees. Debate on any debatable motion or appeal related to the conference report shall be limited to 30 minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report.

(6) Should the conference report be defeated, debate in the Senate on any request for a new conference and the appointment of conferees shall be limited to one hour, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee, and should any motion be made to instruct the conferees before the conferees are named, debate on such motion shall be limited to 30 minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report. Debate on any amendment to any such instructions shall be limited to 20 minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report. In all cases when the manager of the conference report is in favor of any motion, appeal, or amendment, the time in opposition shall be under the control of the minority leader or his designee.

(7) In any case in which there are amendments in disagreement, time on each amendment in the Senate shall be limited to 30 minutes, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee. No amendment that is not germane to the provisions of such amendments shall be received.

AUTHORIZATION OF APPROPRIATIONS

SEC. 308. For the purpose of carrying out this title, there are authorized to be appropriated $2,000,000 for each of the fiscal years 1980 and 1981.

TITLE IV—THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES ORGANIZATION

SEC. 401. (a) Section 573 of title 5, United States Code, is amended by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively, and by inserting before subsection (b) the following new subsection:

"(a) The Administrative Conference of the United States shall be an independent commission headed by a Chairman appointed by the President, by and with the consent of the Senate. The Chairman shall be appointed for a term of four years which shall be coterminous with the term of the President, except that any person serving as Chairman whose term has expired may serve until his successor is appointed and confirmed. The Chairman may be removed from office by the President only for inefficiency, neglect of duty, or malfeasance in office. The Chairman is authorized to appoint, subject to the provisions of this title, such officers and employees as may be necessary to administer the provisions of this subchapter, and to prescribe the powers, duties, and responsibilities of such officers and employees. The Chairman shall be compensated at the rate provided established for level III of the Executive Schedule under section 5314 of this title.".

(b) Section 573 (b) of such title (as redesignated by subsection (a) of this section) is amended by striking out "subsection (b)" and inserting "subsection (c)".

(c) Section 573(c)(1) of such title (as redesignated by subsection (a) of this section) is amended to read as follows:

"(1) the Chairman of the Conference.".

(d) Section 573(c) (6) of such title (as redesignated by subsection (a) of this section) is amended by adding at the end thereof the following new sentence: "At least one-fourth of the members appointed by the Chairman shall be individuals who shall be broadly representative of regulated interests, including small business and consumer interests.".

FUNCTIONS OF THE CONFERENCE

SEC. 402. (a) Section 575(c) of such title is amended—

(1) by inserting "and administrative officer" immediately after "executive";

(2) by striking out "and" at the end of clause (14);

(3) by striking out the period at the end of clause (15) and inserting in lieu thereof a semicolon and the word "and"; and

(4) by adding after clause (15) the following new clause:

"(16) provide for the selection and reassignment of administrative law judges in accordance with sections 802, 803, and 804 of this title.".

(b) Section 575 of such title is amended by adding at the end thereof the following new subsection:

"(d)(1)(A) The Conference shall establish a Committee on Administrative Procedures which shall be composed of—

"(i) the Chairman of the Conference, who shall serve during his term of office as Chairman of the Committee; and

"(ii) ten members of the Conference who shall be appointed by the Chairman with the approval of the Council.

"(B) In selecting members for the Committee under clause (ii) of paragraph (1) (A) of this subsection, the Chairman shall select five members who are employees of Federal regulatory agencies or executive departments and five members who are not employed by the Federal Government and who are broadly representative of regulated interests, including small business and consumer interests. A Vice Chairman shall be selected by the Committee from among its members.

"(2) The committee shall, within two years after the effective date of the Regulatory Flexibility and Administrative Reform Act of 1979, draft and submit to the Conference model uniform procedural rules to be considered by agencies and adopted, if appropriate, for use in conducting proceedings subject to sections 553 through 558 of this title. The Committee shall amend or revise such rules as the Committee finds appropriate. The rules shall be consistent with sections 553 through 558 of this title and shall be designed to improve the fairness, quality, and efficiency of agency proceedings and to enhance opportunities for public participation in agency proceedings. In drafting the rules required by this section, the Committee shall provide public notice and an opportunity for oral or written participation by the public.".

TITLE V—MISCELLANEOUS

EFFECTIVE DATE

SEC. 501. The provisions of this Act shall take effect 180 days after enactment, except that—

(1) at any time on or after the date of enactment of this Act, the President may appoint the members of the Regulatory Policy Board established under section 602 of title 5, United States Code (as added by section 102(a) of this Act); and

(2) within 150 days after the date of enactment of this Act, each agency subject to the provisions of title II of this Act and the amendments made by such title shall promulgate such rules as are required to conform the procedures of the agency to the requirements of such provisions.

A SUMMARY OF THE REGULATORY FLEXIBILITY AND ADMINISTRATIVE REFORM ACT OF 1979

The Regulatory Flexibility and Administrative Reform Act of 1979 incorporates concepts and requirements from a number of different regulatory reform proposals that are pending before the Subcommittee on Administrative Practice and Procedure, including S. 262, introduced by Senator Ribicoff; S. 299, introduced by Senator Culver; S. 755, the Administration bill; and S. 1291, introduced by Senator Kennedy.

The legislation includes procedures designed to improve management and planning of the federal regulatory process and to identify overlapping and duplicative rules promulgated by different federal agencies.

The measure will encourage agencies to invite examination, at an earlier point in the rulemaking process, of the need for the proposed regulatory action, the consequences that will result from such action, and to identify any practical alternatives that there may be in lieu of the proposed regulatory action.

In addition, there are more specific provisions which will encourage agencies, wherever feasible, to tailor the regulations to fit the scale and resources of the individuals, businesses, organizations, and governmental jurisdictions that are required to comply with their rules.

The Regulatory Flexibility and Administrative Reform Act of 1979 includes the following major provisions:

TITLE I—THE MANAGEMENT, PLANNING AND ANALYSIS OF REGULATORY FUNCTIONS

Regulatory Policy Board

S. establishes a Regulatory Policy Board to oversee and monitor reforms of the regulatory process and to identify overlapping and duplicative rules promulgated by different agencies. The Board is not a new agency with entirely new functions but is created to consolidate regulatory oversight functions now being carried out by a number of different entities in the executive branch. The creation of the Board is designed to bring together many of these functions now performed by the Regulatory Council, the Regulatory Analysis Review Group and others within one regulatory oversight structure.

The duties of the Board would include the preparation and semi-annual publication of the Calendar of Federal Regulations containing information on all major rules that agencies are considering or intend to develop during the subsequent twelve month period. A "major" rule is defined as any regulation that an agency projects will have an annual effect of $100 million or more on the economy or cause a substantial change in costs or prices to an industry, geographic region or level of government, have a significant impact on employment or the competitive process, or otherwise have a major impact.

The Board is directed to set up interagency task forces which would review major rules issued by agencies and monitor compliance with the provisions of this bill, such as the preparation of the regulatory analysis. The Board also is directed to help state and local governments identify and reduce overlapping and duplicative reporting requirements imposed by Federal, state, and local governments. Membership on the Board would include the Director of the Congressional Budget Office, the Chairman of the Administrative Conference, a member of the Council on Economic Advisors, and representatives of executive agency and independent regulatory agency heads.

Uniform index of Federal regulations

The bill directs the Regulatory Policy Board to create a uniform index of all federal regulations. The index would classify rules by subject, by the agency which promulgated them, and by the classes of people or industries subject to the rule. The index should be completed within two years after the effective date of the Act and would be made available to the public in the most useful form—either as a printed publication or through the use of computer technology.

Regulatory agendas and deadlines

In addition, the bill requires each agency to issue a semi-annual agenda of regulations it expects to develop or areas of inquiry it plans to have under review under the subsequent twelve months. The regulatory agenda would include a description of the rule, its objective and anticipated benefits, its statutory authority and requirements, a time table for further action, an estimate of whether the rule is or may be a "major" rule and, if it is, a brief statement of the economic impact of the proposed rule. Each federal agency would also be required to establish deadlines for the completion of interim and final action on regulations. Each agency would be required to establish deadlines for completing interim and final rulemaking action.

Analysis of regulatory proposals

When an agency determines that a proposed regulation is a "major" rule, it is required to prepare an initial and a final regulatory analysis. The initial regulatory analysis will include a statement explaining why a rule is needed, what its objectives are, what its projected reporting, recordkeeping and compliance requirements are, what other rules it may overlap, duplicate or affect, what alternatives are available, and what projected economic, health, safety and environmental effects, including costs and benefits, it will have.

At the same time the final rule is published, the agency will then publish a final regulatory analysis to include a more detailed evaluation of these questions and a statement responding to issues raised by the public in response to the initial analysis.

An agency will not be limited to a quantified, numerical estimation of a rule's effect. The analyses should include a reasoned estimate of the quantifiable and non-quantifiable alternatives. Agencies could also consolidate related regulations to eliminate duplicative analyses.

When an action to review a rule is undertaken, any regulatory analysis of such a rule would only be as a part of the whole rulemaking record of agency action.

Regulatory flexibility

Federal regulations often impose unnecessary and burdensome paperwork and compliance burdens on individuals, small businesses, organizations and local governments. The legislation directs agencies to use a variety of techniques to ensure that small entities participate fully in the rulemaking process. Agencies could solicit suggestions and possible alternatives to a proposed rule from those that are affected by the regulation or from the public.

The bill will require agencies to publish an initial and a final regulatory flexibility analysis for every proposed rule to identify and describe alternatives to the proposed rule that would accomplish the same objectives but would minimize the burden and disproportionate effect such a rule would have on individuals, small businesses, organizations and local governments.

Regulatory flexibility analyses would be subject to the same judicial review as a part of the whole record of agency action in connection with the rule. This is the same standard of review as for regulatory analyses.

A procompetitive standard for Federal regulations

When adopting policies or promulgating major rules, economic regulatory agencies must consider the anti-competitive impact of the policy or rule, and choose the least anti-competitive alternative consistent with statutory goals.

Agency review of policies and practices

For a period of five years, the bill requires agencies to experiment with conducting a periodic review of their major and other selected rules to assess the benefits which have been provided by these rules, any adverse economic or other effects, whether less intrusive alternatives could accomplish the same objectives and whether any overlap or duplication with other rules exists. After five years, Congress could authorize the review of additional rules.

TITLE II—IMPROVING THE EFFICIENCY OF ADMINISTRATIVE PROCEEDINGS

Informal rulemaking

The bill will amend the informal rulemaking process, section 533 of the Administrative Procedure Act, to incorporate so-called "hybrid rulemaking" procedures for all major rules. Agencies are authorized to use, in their sole discretion, a variety of procedures to resolve significant controversies, including informal public hearings, meetings or conferences, ad hoc expert advisory councils, or mediation techniques.

Ex parte communications

The bill would require agencies to keep records of all communications intended to influence the merits of a rulemaking between its officials and any party outside of the government which occurred after a proposed rule was published. Requests for the status of a proposed rule would not be covered by this logging requirement.

Proceedings on the record

The bill amends section 554 of the Administrative Procedure Act to give administrative law judges greater authority to speed up proceedings, where statutes require a full trial-type hearing, by settling deadlines, and holding meetings to narrow the number and scope of issues.

In section 555, the bill establishes an expedited hearing process similar to that currently used by many agencies. This will apply essentially to non-adversary, non-accusatory proceedings, such as initial licensing, rate-making cases and approvals of financial transactions. This process begins with written submissions and then oral arguments based on those submissions, but without a full hearing complete with cross-examination of witnesses.

An ALJ could authorize full, formal hearings with cross-examination, if it is determined that there are genuine and substantial disputes of fact likely to affect the final decision.

The expedited procedures would not apply to social security claims cases or other proceedings that involve claims, subsidies, or rights of individual citizens, any proceeding involving a civil fine or sanction, or to licensing cases at the Nuclear Regulatory Commission.

Subpoena authority

In section 558, the bill will establish a uniform, government-wide subpoena process, but will not grant that authority to those agencies which currently do not have it. It also will create an orderly and timely opportunity for court review of subpoenas and civil fines for failure to comply with agency subpoenas.

All appeals of agency rules would be brought in the U.S. Court of Appeals.

Appointment and evaluation of administrative law judges

Reforms in the process to select administrative law judges. The legislation will give the Chairman of the Administrative Conference of the United States the authority to set qualifications for judges and to establish and implement a system to recruit, examine, and register judges.

TITLE III—REVIEW OF THE EFFECTIVENESS OF AND CONTINUING NEED FOR GOVERNMENT REGULATION

Title III creates a Presidential commission to review the performance and continued need for federal regulatory agencies and programs. The commission also will make recommendations to Congress on what legislative changes are needed to improve the agencies that it has studied.

TITLE IV—THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

The bill would retain the Conference's current structure with a Presidentially-appointed Chairman, but would add to its functions the selection, evaluation, and reappointment of administrative law judges.

The Conference also would be directed to propose model uniform procedural rules to encourage consistency in the regulatory process.

SECTION-BY-SECTION ANALYSIS

TITLE I—THE MANAGEMENT, PLANNING, AND ANALYSIS OF REGULATORY FUNCTIONS

Section 101. Findings and Purposes.

Section 101 establishes the findings and purposes of this bill.

Section 102. Improving the Regulatory Process.

Section 102 establishes a new chapter 6 in title 5 of the United States Code. Chapter 6 would have the following new provisions:

Subchapter I—Definitions; Regulatory Policy Board

Section 601. Definitions.

Section 601(1) defines an agency by referring to the definition in Section 551(1) of title 5 of the United States Code. Both executive and independent agencies are considered "agencies" under this definition.

Section 601(2) defines "agency action" as the whole or part of an agency rule, order, license, sanction, relief or the equivalent or denial thereof, or failure to act, as provided in Section 551(13), title 5, United States Code.

Section 601(3) defines "rule" as the same as in section 551(4), title 5, United States Code, except that that definition does not include rules issued relating to matters in which the following are involved: (a) military or foreign affairs functions of the United States, (b) matters relating to agency management, organization, personnel or rules of agency practice or procedure, (c) rules relating to the acquisition by the Federal government by contract of real or personal property or services through purchase, lease or barter which are promulgated in compliance with criteria and procedures established by the Administrator for Federal Procurement Policy or rules relating to disposal by contract of sale of surplus and personal property of the United States, which are promulgated in compliance with criteria and procedures established by the Administrator of General Services, (d) interpretative rules, and (e) general statements of policy.

Section 601(4) provides the definition of a major rule for the purpose of conducting a regulatory analysis and other functions under this chapter, and for the use of alternatives to notice and comment rulemaking under chapter five of title 5 of the United States Code.

The definition is constructed broadly since it is not subject to judicial review and is designed to provide discretionary administrative guidance to an agency to select those rules which it estimates will have an annual effect on the economy of $100 million or more or have a comparable effect on the change in costs or prices for individual industries as a whole, broad geographic regions, or levels of government, such as state or local government. Also to be considered in this determination is whether the rule will have a comparable impact on conditions of employment or on the competitive process, or whether the rule would otherwise have a major impact similar to the annual impact on the economy of $100 million or more. The term major rule does not include rules involving the Internal Revenue laws of the United States.

Section 601(5) defines "rule making" as the same as in section 551(5), title 5, United States Code. Rule making is the term for agency processes by which rules are formulated, amended or repealed.

Section 601(6) defines "regulatory functions" as those agency actions which involve the protection of the public interest and the determination of the rights, privileges, benefits or obligations of private persons through the issuance or enforcement of rules or licenses or the conduct of adjudications, but does not include military or foreign affairs functions of the United States.

Section 601(7) explains that uses of the term "Board" are references to the Regulatory Policy Board established in section 602 of this title.

Section 601(8) explains that references to the "Chairman" are references to the Chairman of the Regulatory Policy Board.

Section 602. Establishes the Regulatory Policy Board.

Section 602(a)(1). This section mandates the creation of a nine-member Regulatory Policy Board. The Board will be composed of a member of the Council of Economic

Advisors, the Chairman of the Administrative Conference of the United States and the Director of the Office of Management and Budget as well as the heads of three Federal agencies appointed by the President, and the heads of three independent regulatory agencies, also appointed by the President.

Section 602(a)(2). "Federal agency" is defined as in section 3502 of title 44 of the United States Code.

Section 602(a)(3). Every other year the President shall designate, on a rotating basis, two of the agency members of the Board as Chairman and Vice-Chairman of the Board.

Section 602(b)(1). Agency heads who are responsible for regulatory functions yet are not Board members as defined in paragraph (a)(1) of this section may attend meetings of the Board but may not vote.

Section 602(b)(2). For purposes of this subsection, "agencies" does not include agencies which are within other agencies such as the Food and Drug Administration within the Department of Health, Education, and Welfare.

Section 602(c). The President will, with the advice and consent of the Senate, appoint an Executive Director of the Board who shall be its principal executive officer. The Executive Director will be paid at Level III, 5 U.S.C. § 5314.

It will be the responsibility of the Executive Director to conduct the executive and administrative operation of the Board. In addition, the Executive Director will be prepared to perform extra functions as the President shall request.

Sections 603. Functions of the Board.

Section 603 describes the functions of the Regulatory Policy Board, established to improve management and planning in the regulatory process.

Section 603(a)(1) requires the Board to prepare and publish a semi-annual Calendar of Federal Regulations. This calendar, to be drawn from the regulatory agendas to be published by each federal agency responsible for a regulatory function under section 611, will contain descriptions of all major rules being considered over the succeeding twelve months and deadlines for action on such rules.

The Board, in its discretion, may include in the Calendar other data or interpretations of data as it deems appropriate for use by Congress and the public.

The Calendar of Federal Regulations is to be published regularly during the months of November and May of each year.

Subsection 603(a)(2)(A) directs the Board to identify overlapping and duplicative rules promulgated by different federal agencies on the same or similar subjects. The Board will also be required to identify those single sectors of the economy, including particular industries or geographic regions, which are significantly affected as a result of the cumulative impact of rules promulgated by different agencies. The Board should utilize the regulatory agendas developed by each agency pursuant to section 611 to accomplish these purposes.

Section 603(a)(2)(B) authorizes the Board, if any of the above instances are identified, to establish interagency task forces to make recommendations to the President and the Congress proposing solutions to eliminate or greatly reduce any adverse effects which could result from such instances. Thus, if two agencies' rules appear duplicative, the Board would be authorized to bring the relevant agency officials together to discuss areas of conflict regarding jurisdiction, compliance, and enforcement, but may not overrule agency decisions.

Section 603(a)(3) requires the Board to review and assess agency compliance with several requirements aimed at improving the agencies' ability to achieve statutory goals as effectively and efficiently as possible without imposing unnecessary burdens on the public. Thus, the Board is required to oversee agency performances in the following areas: (1) the quality of decisions on whether their rules are to be considered "major" rules (section 621); (2) how well agencies are undertaking and subsequently publishing the regulatory analysis on major rules, including how well such analyses are written in plain English and the adequacy of estimates on paperwork impact, economic effects, and reasonably available alternatives (section 622); (3) how well agencies are undertaking and complying with the provision requiring review of existing rules (section 651); (4) how well agencies are undertaking and subsequently publishing the regulatory flexibility analysis, including the quality of agencies' evaluations of possible disproportionate impact on small businesses, small organizations, small jurisdictions and individuals and whether agencies are taking responsive actions to eliminate or reduce such discrepancies (sections 632 and 633); and (5) whether agencies are assuring that individuals, small businessses, small organizations and small governmental jurisdictions are given ample opportunity to participate in the rulemaking process by instituting "regular" procedures such as directly notifying such parties, conducting open conferences and public hearings or adopting or modifying procedural rules to reduce the cost or complexity of such participation.

To assist in executive and Congressional oversight of the regulatory process, the Board is given the responsibility to report its oversight findings, with recommendations, to the President and the Congress through its "Annual Report on Regulatory Activities" required under section 103 of this act.

Section 603(a)(4) gives the Board authority to each year select and organize interagency reviews of up to twenty proposed major rules which the Board estimates will have the most significant economic and other effects of the rules promulgated during that year. The Board may also select and organize reviews of other additional rules which it finds should be reviewed due to exceptional circumstances. The interagency review groups will assess the initial regulatory analysis of each responsible agency performed in promulgating one of these rules.

Each interagency review group will then submit comments for the record based on its evaluation of the proposed rule during the public comment period established by the agency.

The areas subject to comment shall include the need for the rule, whether projected reporting, recordkeeping, and other compliance requirements are accurate, and whether stated or other alternatives may accomplish the stated objectives of the rules, and whether the projected economic effects and the projected health, safety and environmental benefits are adequately portrayed.

In reviewing the potential economic effects of such rules, the review groups may contact and consult with the Council on Wage and Price Stability (COWPS) to assist them in presenting their views as to the inflationary impact that might result from the possible outcome of the rulemaking proceeding.

Section 603(a)(5) authorizes the Board to consult with state and local governments to devise model procedures and techniques aimed at identifying and subsequently reducing overlapping and duplicative reporting requirements imposed by federal, state and local governments.

Section 603(b) requires each agency to update the status of each rule listed in any previous Calendar of Federal Regulations which has yet to be promulgated and has not been explicitly withdrawn by the agency. The agency shall provide the Board with a statement describing such rules prior to the publication of each Calendar

Section 604. Comprehensive Index of Agency Rules.

Section 604(a) requires the Executive Director of the Board, in consultation with the Director of the Federal Register, to develop categories under which agency rules can be grouped for indexing purposes. Among the categories which will be established are the subject of the rules, the agency promulgating those rules and the persons or groups of persons who are required to comply with the rules. The Executive Director shall develop the categories within six months of the effective date of this chapter and transmit a copy of the categories to the head of each agency responsible for a regulatory function.

Section 604(b) requires that within 18 months of the effective date of this chapter, the head of each of the agencies receiving a copy of the categories developed under subsection (a) shall assign each of the rules of the agency into the applicable categories and transmit a copy of that classification to the Executive Director.

Section 604(c) requires the Executive Director to assemble a comprehensive index of agency rules using the classifications submitted pursuant to section 604(b). The index shall be completed within 24 months of the effective date of this chapter, and the Executive Director shall publish a statement in the Federal Register explaining how the public may obtain access to the index. It is expected that the agencies and the Executive Director will use available data processing technology to index the rules and to make the index available to the public in its most useful form.

Section 604(d) requires the index to be updated annually by the heads of those agencies having rules in the index. Updating will include placing in the index any new rules and, if appropriate, suggestions for new categories which may have become necessary. Updated information is to be forwarded to the Executive Director of the Board who will compile that information, prepare an updated index, and publish information in the Federal Register explaining how access of the updated index can be obtained by the public.

Section 604(e) authorizes the appropriation of special funds for the execution of this section. Three million dollars is to be appropriated for use during fiscal years 1981 and 1982 and an additional $500,000 is to be appropriated for fiscal year 1983 and each fiscal year thereafter.

Section 605. Administrative Provisions.

Section 605(a)(1) authorizes the Executive Director of the Regulatory Policy Board to appoint, in accordance with the applicable sections of title 5 of the United States Code, the persons necessary to accomplish the objectives of this chapter.

Section 605(a)(2) to employ experts and consultants in accordance with the provisions of 5 U.S.C. § 3109. (Employment of experts and consultants; temporary or intermittent),

Section 605(a)(3) and use, with their consent, the employees, services, equipment, funds, information and facilities of other Federal departments and agencies and state, local, and private agencies and instrumentalities. The Board may use these resources without reimbursement or may provide reimbursement through transferral of funds made available to it pursuant to this subchapter.

Section 605(b) authorizes the Board to request the use of department or agency employees, services, equipment, facilities or information. Upon request, agency heads are to make these resources available to the

Board as promptly and as extensively as is practicable.

Section 606. Data Collection and Disclosure.

Section 606(a) The Regulatory Policy Board shall have access to all data and information pertaining to Federal regulatory activities which is collected, generated or otherwise prepared or maintained by any agency. This data or information is to be made available to the Board promptly upon request to the agency.

Section 606(b) The Board will adhere to the requirements of section 552, title 5, United States Code in determining whether information obtained by it from sources other than Federal agencies or state or local government agencies and departments will be disclosed.

Section 606(c) The Board will adhere to the requirements of section 552, title 5, United States Code in determining whether information obtained by it from Federal agencies or state or local agencies or departments will be disclosed. In making its determination whether to disclose information, the Board will also adhere to all applicable rules of practice and procedure of the agency or department from which the information was taken.

Section 606(d) This subchapter does not authorize the Board to violate existing privacy protection statutes. Specifically, in compliance with section 7213 of the Internal Revenue Code of 1954 (26 U.S.C. § 7213), this subchapter is not to be read as authorizing any agency to divulge or make known to the Board the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed solely in any income tax return, or to permit any income tax return filed pursuant to the provisions of the Internal Revenue Code of 1954 (26 U.S.C. § 1 et seq.) to be seen or examined by the Board.

Section 607. Authorization of Appropriations.

The functions of the Regulatory Policy Board will be funded through the authorization of appropriations contained in this section. That authorization is for $5,000,000 for each of fiscal years 1981, 1982, and 1983.

Subchapter II—Establishing regulatory priorities and schedules for completing proceedings

Section 611. Regulatory Agenda.

Section 611(a)(1) requires each agency responsible for a regulatory function to publish during October and April of each year an agenda of the rules that the agency expects to propose or promulgate during the next twelve months. In addition, the agenda shall briefly describe any areas of regulatory inquiry which it expects to have under consideration in the next twelve months. An agency would engage in a regulatory inquiry when it has an area under consideration which the agency believes may warrant rulemaking, but for which the agency has not yet developed a proposed rule. The agenda would not, however, require agencies to announce enforcement proceedings which they are considering to issue.

Section 611(a)(2) requires the agency to include in the agenda: (A) a brief description of each rule being considered; (B) a brief statement of the objectives and benefits to the public anticipated to result from the rule; (C) the statutory authority for the issuance of the rule; (D) when the agency plans to take any action in proceeding with the rule, including notices of proposed rulemaking, or final agency action; and (E) whether the agency believes the rule is or may be a major rule and, if so, to the extent practicable, a brief description in general terms of the economic impact of the rule.

Section 611(a)(3) requires the agency to briefly describe, for each area of regulatory inquiry listed, the area under consideration, the objectives which the agency intends to achieve through proceeding with any future action, and whether the inquiry is likely to lead to the development of a major rule.

Section 611(a)(4) requires the agency to identify in the agenda any existing rules, policies, or practices scheduled to be reviewed in accordance with section 651, establishing a system for periodic review of existing rules over the next twelve months, and to report on the status of any proposed rules listed on previous agendas that have been withdrawn or that have not yet been promulgated.

Section 611(a)(5) requires each agenda to give the name, title, address and telephone number of a responsible agency official who is to receive inquiries from the public about each rule, policy, or practice listed on the agenda.

Section 611(b) requires each agency to submit a copy of each regulatory agenda it publishes to the Regulatory Policy Board, for use in preparing the semi-annual Calendar of Federal Regulations for identifying major rules, overlapping and duplicative rules, and those rules which singularly or cumulatively affect single sectors of the economy, pursuant to section 603.

Section 611(c)(1)(A), in order to involve the general public early in the regulatory process, requires each agency to invite suggestions from the public regarding areas of regulatory inquiry that are listed in the agenda.

Section 611(c)(1)(B) authorizes each agency to use any mechanisms it finds useful, in its sole discretion, to obtain suggestions from the public on any area of regulatory inquiry listed. Examples of such mechanisms include holding informal public meetings on the area of inquiry where agency officials can listen for suggestions and alternatives by the general public or the creation of ad hoc advisory committees, made up of agency personnel and members from the public to serve the limited purposes of (1) discussing the area of inquiry, (2) encouraging development of a proposed rule; or (3) recommending possible alternatives to the agency's plans to proceed with a rulemaking.

Section 611(c)(2) makes it clear that the agency may take such actions only if it deems that they may be useful in pursuing an area of regulatory injury. The agency is not required to respond to suggestions from the public pursuant to their early invitation for comment included in the agenda.

Subsection 611(d) authorizes the Board to determine whether a rule is a major rule under the definition contained in section 601(4). Such determination will be final for purposes of this chapter.

Subsection 611(e) sets out the legislative intent that the announcement of anticipated regulatory activities and priorities, in the agenda, is solely for the purposes of providing information and guidance to Congress, the Regulatory Policy Board, and to the public. Thus, in those instances where an agency may need to consider or act upon a rule that did not appear on the agenda, it may do so. Similarly, an agency will not be required to consider or act on any matter listed on the agenda. Since the procedures are written with sufficient flexibility to allow agency compliance without excessive burden, agency compliance with the agenda requirements will therefore not be subject to judicial review.

Section 612. Establishment of Deadlines.

Subsection 612(a)(1) requires agencies responsible for regulatory functions to include the date by which the agency intends to complete final action on a matter when they give general notice of any proposed action under section 553(c) (informal rulemaking) or 554(b) (proceedings on the record) of title 5, United States Code, that is expected to take longer than 120 days.

Subsection 612(a)(2) If the proceeding is expected to take more than one year to complete, then the notice should indicate when each major portion of the proceeding will be completed. Agencies are instructed to select dates that will assure the most expeditious consideration of the matter possible, consistent with the interest of fairness and other agency priorities.

Subsection 612(a)(3) Deadlines are not required for the types of short-term proceedings that take less than 120 days.

Subsection 612(b) states that if any agency failed to complete action by the date announced in the general notice, or within 120 days if no dates were announced, then the agency is to establish a new date for completion unless the expected delay will be thirty days or less. The agency must then notify the public and the Executive Director of the new dates, together with a brief statement of why the agency failed to complete action by the announced date.

Subsection 612(c) provides that each agency responsible for a regulatory function may, in its discretion, adopt rules requiring the use of deadlines for other kinds of significant agency actions, such as major policy statements or investigations that are not subject to the mandatory requirements of this section.

Subchapter III—Analysis of regulatory proposals

Section 621. Determination of Major Rule.

Section 621 requires that before an agency publishes a notice of proposed rulemaking, it determines whether a rule is a major rule under the definition contained in section 601(4). A final determination by the Executive Director or the Regulatory Policy Board under section 611(b) would control agency action under this section. If the agency determines that a rule was not a major rule, it must publish its reasons for that determination at the time it publishes the general notice of proposed rulemaking.

Section 622. Initial Regulatory Analysis.

Section 622(a) requires an agency which is required to publish a notice of proposed rulemaking and which has determined that a rule is a major rule under section 621 to prepare an initial regulatory analysis. The regulatory analysis is an analytical tool which will enable agencies to consider a broad range of effects, including the costs and economic benefits as well as health, safety and environmental effects of proposed regulations. The requirement to prepare a regulatory analysis shall aid agencies in the development of effective and efficient regulations, while minimizing burdens imposed on the public by federal regulation.

It should be emphasized that regulatory analyses are analytical tools designed for better decisionmaking and impose no new substantive standards on the agency. This section only requires agencies to consider regulatory approaches that are consistent with applicable statutes.

Section 622(b) establishes that the initial regulatory analysis will contain (1) a description of the reasons why action by the agency is required; (2) a brief statement of the need for and objectives of the rule and the statutory authority on which the rule is based; (3) a description of projected reporting and recordkeeping requirements to the extent that they are known at the time the initial rule is published; (4) an identification, where practicable, of relevant rules which the proposed rule may duplicate, overlap or affect; (5) a description of the reasonable alternatives to the proposed rule that the agency calculates may accomplish the stated objectives of the rule in a manner consistent with applicable statutes; (6) a preliminary description of projected economic effects, including costs and economic benefits, and of the projected health, safety, environmental and other effects which will result from the rule and from each alternative, together with an appraisal of the predicted effectiveness of the rule and of each alternative in meeting stated objectives of the rule; in describing the projected effects of the rule and the alternatives to the rule, the agency should attempt, wherever practicable, to indicate the persons or classes of persons upon whom the costs would fall and to whom the benefits would flow.

Section 622(c) makes clear that when identifying duplicating, overlapping and affected rules, the agency will use the comprehensive index of agency rules authorized in section 604 after that index is completed and available.

Section 622(d) recognizes that since a regulatory analysis could be quite lengthy, the agency does not have to publish the analysis itself in the Federal Register, but must publish a statement of availability in the Federal Register and take whatever additional steps it deems appropriate to insure that interested members of the public receive notice of the availability of the regulatory analysis. Copies of the analysis shall be made available to the public without charge. The agency also is required to transmit a copy of the initial analysis to the Executive Director for the Board's use in its oversight function.

Following the publication of notice of proposed rulemaking for a major rule, the agency also is required to transmit a copy of the initial analysis to the Executive Director for the Board's use in its oversight function.

Following the publication of notice of proposed rulemaking for a major rule, the agency will give interested members of the public not less than sixty days to comment on the rule and the initial regulatory analysis before publishing the final rule.

Section 623. Final Regulatory Analysis.

Section 623(a) requires an agency which has published an initial regulatory analysis under section 622 or determines, based on public comments or changes in the rule, that the rule is a major rule under the definition in section 601(4) to prepare a final regulatory analysis which will be issued at the time of publication of the final rule.

Section 623(b) requires that the final regulatory analysis be more comprehensive than the initial analysis and should contain: (1) a succinct statement of the need for and objectives of the rule; (2) a description of the alternatives which were considered by the agency and the reasons why they were rejected; (3) a detailed analysis of projected economic effects, including costs and economic benefits, and of projected health, safety, environmental and other effects which may result from the rule; (4) a summary of public comments made in response to the initial regulatory analysis and a summary of the assessment made by the agency to such comments, including any changes made in the rule as a result of the comments; and (5) a description of any known reporting or recordkeeping requirements which will result from the rule. In carrying out its responsibilities under this section, an agency is only required to consider alternatives to the proposed rule that are consistent with applicable statutes. In describing the projected effects of the rule, the agency should, wherever practicable, describe the persons or classes of persons upon whom the costs of the rule would fall and to whom the benefits of the rule would flow.

As in section 621, the agency need not publish the regulatory analysis in the Federal Register but need only publish a notice of its availability. Copies of the analysis shall be made available to the public without charge.

Section 623(c) requires the agency to also submit a copy of the final analysis to the Executive Director of the Regulatory Policy Board.

Section 624. Effect on Other Law.

Section 624. makes it clear that the requirements for the preparation of the initial and final regulatory analyses in sections 622 and 623 do not change the substantive or procedural standards applicable to the agency action pursuant to other statutes, except for those procedural standards otherwise established under this bill. Thus, if a statute directs any agency to take a specific action, such as the removal of carcinogenic substances from the marketplace and to do so without regard to any other standard, the requirements in section 622 and 623 do not alter that mandate, but merely require the agency to consider the alternative methods for implementing the mandate.

Section 625. Prepartion of Regulatory Analysis.

Section 625(a)(1) informs agencies which are required to provide analyses of projected economic, health, safety and environmental effects when promulgating a major rule under section 622(b)(5) and 623(b)(3), that such analyses need not be limited to a quantification or numerical estimation of the rule's effects. Instead, the agencies are free to make reasoned estimates of quantifiable and non-quantifiable effects of their proposals, basing such estimates upon experience and expertise of agency personnel and any other information made available to the agency by external sources, If, finally, such a reasoned estimate is not practicable, due to the inherent difficulty in quantifying many benefits, such as safety in the workplace, the agency should state generally a description of the nature and extent of nonquantifiable effects of the rule.

Section 625(a)(2) requires agencies which utilize external sources for assistance in preparing a regulatory analysis (for those proceedings to be decided on the basis of a record) to include in the record copies of any information which was relied upon. In the alternative, the agency may make a reference to such information if copies would otherwise be costly or impractical.

Section 625(b) makes it clear that agencies are precluded from contracting out the preparation of an initial or final regulatory analysis. Agencies will still be authorized to contract for temporary or intermittent services of experts or consultants to assist in developing data for consideration in the analysis.

Section 626. Elimination of Duplicative Analyses.

Section 626 is designed to help reduce paperwork and delay by authorizing agencies to consider a series of closely-related rules or alternatives as one rule or alternative in complying with the requirements in sections 622 and 623 to prepare initial and final regulatory analyses. In addition, agencies are given authority to incorporate any data or analysis contained in a regulatory analysis from any other impact statement or analysis required by law.

Section 627. Procedure for Waiver or Delay of Completion.

Section 627(a) allows the head of an agency to waive or delay completion of an initial regulatory analysis pursuant to section 622, if he/she certified, through publication in the Federal Register, that the agency's action is in response to an emergency which makes compliance or timely compliance impracticable. Such publication should be made not later than the date of publication of the final rule, and should include reasons for the waiver or delay.

Section 627(b), however, precludes waiver of the final regulatory analysis required to be promulgated in section 623. Thus, a final regulatory analysis must be performed and published with the promulgation of every major rule, including those developed in response to an emergency.

The completion of the requirement may be delayed (for not more than sixty days after the date of publication of the final rule) by the agency head only upon certification that such delay is due to an emergency which makes timely compliance impracticable. The certification should be made through publication in the Federal Register and should include reasons for the delay.

Section 628. Judicial Review.

Section 628(a) provides that the decision by an agency with respect to what proposed rules would constitute a major rule under the definition provided in section 601(4) shall not be subject to judicial review. This decision is regarded as a management decision for determining when the agency shall conduct a regulatory analysis and should remain in the sole discretion of the agency subject to the review by the Regulatory Policy Board. Section 611(d) requires the concurrence of the Board on the designation of major rules by an agency. This is designed to assure effective oversight of major rule designations without unduly delaying these decisions by review in the Federal courts. Because judicial review of other parts of Chapter 6 has been treated specifically elsewhere, this subsection further provides that there is no judicial review of any determination by an agency or the Board of the applicability of any provision of this Chapter except as otherwise provided in the Chapter.

Section 628(b) provides that a regulatory analysis is a management tool to effect improved rulemaking. Neither the manner of conducting regulatory analysis nor the content of the analysis should be subject to judicial review. Any agency's failure to comply with regulatory analysis requirements is subject to correction by the Regulatory Policy Board, not by the judiciary. But once a regulatory analysis has been prepared, its contents will be considered by the reviewing court along with other relevant material in determining the validity of the rule which is the subject of the analysis.

The court will look to the statement of the basis of purpose published by the agency along with its final rule to determine whether the rule is valid when viewed in light of the final regulatory analysis and other factors which the agency is required or permitted by law to consider.

Section 628(c) provides that if another impact statement or analysis is required by a different statute, this section does not offset existing requirements for judicial review of that statement or analysis.

Subchapter IV—Regulatory flexibility

Section 631. Definitions.

Section 631 defines the four terms which have particular significance in this subchapter. These are "individual," "small business," "small organization," and small governmental jurisdiction."

Subsection (1) makes clear that the term "individual" does not include any person who is affected by the rule primarily in his or her capacity as an officer or employee of a business or other entity.

Subsection (2) defines the term "small business" as having the same meaning as the term "small business concern" under the Small Business Act (15 U.S.C. §§ 631 et seq.). The Small Business Act has essentially a three-part definition of small business concern: (a) one that is independently owned and operated, (b) which is not dominant in its field, and, (c) which falls within the size standards regarding sales and/or employment established by the Small Business Administration by rule.

It is the intent of the bill that agencies should first try to adopt the SBA definition appropriate to their needs for two reasons. First, the SBA presently possesses most of the information and expertise in the Federal government concerning business size. Second, having agencies adopt the SBA definition when possible, would avoid conflicts between varying definitions in different agencies and the resulting public confusion.

If an agency can establish that the SBA definition is inappropriate, however, it may promulgate an alternative definition, provided that: (a) the Office of Advocacy of the Small Business Administration is consulted, and (b) the new definition is adopted after notice and opportunity for a hearing in accordance with Section 553 of Title 5 of the U.S. Code. These provisions are designed to emphasize that it is the responsibility of the agency to justify a departure from the present statutory and regulatory definitions of small business after receiving public comments on the proposal.

Subsection (3) defines "small organization" as not-for-profit enterprises which are independently owned and operated and not dominant in their fields. An agency may include other groups or enterprises in this definition by rule. It is the intent of the bill that the application of the term "small organization" be guided by the spirit of the definition of small business.

The phrase "not dominant in their fields" should be interpreted liberally with respect to nonprofit, public service organizations. While some such organizations, for example, YMCA/YWCA's, or Boy Scouts/Girl Scouts, may have activities nationwide, decisions on whether to treat them as small organizations should depend on an analysis of several factors. For example, the agency should examine the structure and operating characteristics of the organization at the local as well as the national level, and should consider the organizational resources and ability to comply with rules and reporting requirements at both the local and national levels.

It is not the intent of the bill that nationwide not-for-profit public service organizations be excluded from being defined as small organizations merely by virtue of their nationwide status. If for-profit and not-for-profit enterprises offer analagous goods or services, agencies should consider similar factors for both types of enterprises in determining which are small.

Finally, it is not the intention of the bill to alter the definitions of the Small Business Act, or Small Business Investment Act of 1958, or in rules, such as those affecting the Federal government, which have been promulgated by SBA pursuant to those acts.

Subsection (4) defines the term "small governmental jurisdiction" to include cities, counties, towns, villages, school districts, water districts, or special assessment districts, with a population of less than 100,000 or others as established by agency rule. Definitions established by agency rule need not adhere strictly to the 100,000 population standard nor are they restricted to the types of governmental jurisdictions listed in the first part of the definition. Definitions established by rule should aim at identifying jurisdictions of limited means or resources relative to the types of requirements the agency may impose under a rule affecting governmental jurisdictions. Also of relevance are factors such as location in a rural or other relatively sparsely populated area even if the total population of the government unit exceeds 100,000 in that particular governmental jurisdiction.

Section 632. Initial Regulatory Flexibility Analysis.

Section 632(a) requires that when an agency is required by a law, including and especially section 553 of Title 5, United States Code, to publish a general notice of proposed rulemaking, the agency will be required, at the same time, to prepare an initial regulatory flexibility analysis (IRFA) of that proposed rule. The IRFA will be a preliminary agency determination and statement of whether its proposed rule will have an adverse economic impact on individuals and on small businesses, organizations and governmental jurisdictions. The actual IRFA or a summary of the analysis will be published in the Federal Register at the time the general notice of proposed rulemaking is published. It is anticipated that the actual IRFA will be published rather than a summary. Interest in the IRFA is expected to be widespread and the document should be sufficiently brief that publication in its entirety will be practical. A copy of the IRFA will also be sent to the Counsel for Advocacy of the Small Business Administration.

Section 632(b) provides that initial regulatory flexibility analyses will contain a description of reasonable alternative approaches to the rule being considered which would minimize the burdensome effect of the proposed rule on individuals, and small businesses, organizations and governmental jurisdictions. An alternative must allow the agency to accomplish the stated objectives of the proposed rule in manner consistent with the applicable statutes. Alternative approaches might include:

Varying compliance and reporting requirements and timetables, taking into account the resource available to small entities.

Providing that small entities would be exempt from compliance with all or part of the proposed rule.

Clarifying, consolidating or simplifying the compliance and reporting requirements of the proposed rule.

Favoring performance standards over design standards.

Agencies will be free to explore and implement any other suitable means of reducing the burdensome and disproportionate effect of the proposed rule on smaller entities.

Section 633. Final Regulatory Flexibility Analysis.

Section 633(a) requires agencies to prepare a final regulatory flexibility analysis (FRFA) of rules which are promulgated under proposed section 553(d) of Title 5, United States Code. Final regulatory Flexibility analyses will include:

A succinct statement of the need for the rule and its objectives.

A summary of the issues raised by the public in their comments on the IRFA, a summary of the agency's assessments of those issues, and a statement of changes made in the proposed rule as a result of the comments.

A description of each less burdensome alternative to the rule considered by the agency and rejected and an agency statement of why the alternative was rejected.

Section 633(b) provides that copies of the complete FRFA will be available to members of the public without charge. Information on how members of the public can obtain copies of the FRFA will be included in the Federal Register publication of final rules promulgated under section 553(d), Title 5, United States Code.

Section 633(c) provides that copies of all FRFAs must be transmitted to the Executive Director of the Regulatory Policy Board.

When promulgating major rules (as defined in proposed section 621 under proposed section 553, Title 5, United States Code, agencies are to maintain a file for each rulemaking proceeding. The purpose of the file would be to insure that the public has continuous access to all pertinent and disclosable information about the proceeding. Copies of the initial and final regulatory flexibility analyses are to be included in this file.

Section 634. Avoidance of Duplicative and Unnecessary Analysis.

Section 634(a) provides that agencies may perform the analyses required by sections 632 and 633 (initial and final regulatory flexibility analyses) in conjunction with or as a part of any other regulatory analysis required by law.

Section 634(b) makes it clear that if an agency rule does not, in fact, have an adverse economic impact on a substantial number of individuals, small businesses, small organizations, and small governmental jurisdictions that the agency need not prepare an initial or final regulatory flexibility analysis under sections 632 and 633. The agency would make this determination when it proposes or promulgates a rule. The agency is required to explain any determination that a rule does not have an adverse impact on a substantial number of such persons or entities. This explanation shall be published at the same time as the agency publishes its general or final notice in connection with a rulemaking. It makes no sense to require agencies to prepare an analysis of the impact of a rule on small businesses if the rule does not have an adverse impact on a substantial number of such businesses.

Section 635. Procedures for Agency Consideration of Rules.

Section 635 requires the head of any Federal agency which is proposing to adopt a rule which would have a disproportionate adverse impact on small businesses, organizations or governments to assure that these groups have adequate opportunities to comment upon the rule prior to its adoption. Suggested methods include the following: (a) direct notification of interested individuals and small businesses, organizations, and governments, (b) placing notice of the proposed rule in publications likely to be obtained by individuals, small businesses, organizations and governments; (c) the conduct of open conferences or public hearings; and, (d) the adoption or modification of procedural rules to reduce the complexity or cost of participation in the rulemaking by individuals and small entities. The bill grants to agencies the discretion to choose among these and other methods of outreach. Thus, section 636 of the bill provides that agency choices of procedures under this section are not subject to judicial review.

Section 636. Judicial Review.

Section 636(a) states that judicial review of regulatory flexibility analyses prepared pursuant to this subchapter will be as provided in section 628 of the bill. To assure serious agency attention to the preparation of the analyses, judicial review is permitted. However, it is intended that courts examine regulatory analyses as only a part of the whole record of agency action presented at the review of rulemaking. Because of this emphasis on the examination of the entire record of agency action, interlocutory review of regulatory flexibility analyses is not provided nor may courts base a review of an agency's decision solely on an examination of the regulatory flexibility analysis which was prepared.

Section 636(b) provides that agency action or failure to act under section 635 of this title will not be judicially reviewable. This is an emphatic statement that the agency decision to use the procedures in section 635 and the choice of procedures to be used will not be subject to judicial review.

Section 637. Effect on Other Law.

Section 637 makes it clear that the requirements for the preparation of the initial and final regulatory flexibility analyses in sections 632 and 633 do not change the substantive or procedural standards applicable to the agency action pursuant to other statutes, except for those procedural standards otherwise established under this bill. Thus, if a statute directs an agency to take a specific action, such as the removal of carcinogenic substances from the marketplace and to do so without regard to any other standard, the requirements in sections 632 and 633 do not alter that mandate, but merely require the agency to consider the alternative methods for implementing the mandate.

Subchapter V—A pro-competitive standard for Federal regulation

The purpose of this Subchapter is to increase competition in regulated industries by requiring Federal agencies, in certain circumstances, to choose the least anti-competitive alternative when engaging in economic regulatory activities. The provision is targeted at those regulatory policies and rules which directly substitute economic regulation for the free operation of the marketplace. It is not designed to create a pro-competitive standard for regulations in the health and safety area.

Section 641. Definition of effects on competition.

Section 641 defines "effects on competition" as "effects on the competitive process," rather than on individual competitors or any one competitor.

Section 642. Pro-competitive standard for Federal Agencies.

Section 642(a) requires that Federal agencies examine and analyze effects on competition of proposed agency policies and major rules which directly: (1) regulate or license entry under a scheme in which the level of entry is subject to limitation; (2) set, or review, with authority to accept, reject, or modify, the monetary price charged for goods or services; (3) set, limit, or allocate the production or distribution of goods or services; or (4) review, approve, reject, or regulate the terms and conditions of agreements among providers or purchasers of goods or services.

After duly considering possibly anti-competitive effects, the agency must find that the proposed policy or rule is the "least anti-competitive alternative legally and practically available to achieve statutory goals." Thus, the agency is required to make this competitive finding before the agency can adopt the policy or promulgate the rule.

Section 642(b) provides that the findings of the agency shall be included in any opinion accompanying an agency order and shall be included in the statement of basis and purpose incorporated in any rule. The findings of the agency are subject to judicial review only if challenged by a person aggrieved by the final agency order and otherwise has standing to challenge the rule under the existing Administrative Procedure Act.

Section 643. Applicability.

Section 643(a) provides that this subchapter does not apply to programs which are specifically authorized by law to encourage or stabilize the production or regulate the orderly marketing of agricultural products.

Section 643(b) provides that this subchapter does not apply to any activities covered by the National Labor Relations Act and Railway Labor Act.

Section 643(c) provides that this subchapter does not apply to certain regulatory activities involving health and safety standards. For example, licensing the market entry or regulating the production of drugs would not be subject to the section's requirements.

Section 644. Notification and Discovery.

Section 644(a) specifies that the Attorney General and the agency shall jointly establish procedures within 120 days of the enactment of this subchapter to ensure that the Attorney General will be notified of important pending agency actions.

Section 644(b) provides that the Attorney General may appear as a party of right in any administrative proceeding or judicial review proceeding covered by this subchapter.

Section 644(c) provides that the Attorney General may use any authority conferred upon him by any other provision of law including the antitrust laws and the Antitrust Civil Process Act.

Subchapter VI—Agency review of policies and practices

This subchapter requires that agencies begin a systematic review of their major rules and additional rules, practices and policies as they may designate. One goal of this review will be the identification and elimination, when possible, of unnecessary overlap, duplication and conflicts within agency rules or between the rules of different agencies. This review is established on a pilot basis for five years, with agencies reviewing ten percent of their rules but not more than ten rules in each of those years. If the program is successful, it is expected that Congress will extend the review cycle to ten years and continue a regular cycle for each decade thereafter.

Section 651. Periodic Review of Regulatory Requirements.

Section 651(a) provides that within four months after the effective date of this subchapter, each agency affected by the subchapter will have prepared a list of its major rules promulgated prior to the date on which preparation of the list is to be complete. Major rules are as defined in section 601(4) of the legislation.

Section 651(b)(1) provides that within eight months after the effective date of this subchapter, each agency will have prepared and published for comment in the Federal Register a draft schedule whereby major rules and selected additional rules, policies and practices of the agency will be reviewed over a five-year period beginning with publication of the final review schedule.

During each of the five years of review, the agency will review ten percent of the major rules listed pursuant to section 651 (a) but no more than a total of ten rules, and additional rules, practices and policies as the agency may choose.

Section 651 (b) (2) requires that in selecting rules, policies and practices for review, the agency will consider (1) the extent to which the rule, policy or practice has significant economic, health, safety, environmental or other effects; (2) the extent to which the rules, policies or practices duplicate or overlap with or conflict with any other federal rule, policy or practice; (3) the length of time since the rule, policy or practice was adopted or became established; (4) the nature of any technological, economic, social or other changes which have taken place in the area affected by the rule, policy or practice since the rule, policy or practice was adopted or became established; (5) the effectiveness and efficiency of the rule, policy or practice in achieving its stated objectives; (6) whether the rule, policy or practice can be readily understood by those affected by it; and (7) any comments made by members of the public concerning effects of the rule, policy or practice as implemented by the agency.

Rules, policies and practices which have evidenced problems in more than one of the areas listed above would clearly be targets for review. Once the agency has determined which rules, policies and practices should be reviewed, it will proceed to ensure that those rules, policies and practices most in need, potentially, of improvement will be reviewed first. Rules, policies and practices which appear to be overlapping, outdated, conflicting, unclear or ineffective will be considered targets for early review.

Section 651 (b) (3) requires that draft review schedules include brief explanations of why each rule, policy or practice was chosen for review. In addition, a review completion date for each rule, policy or practice will be set. In setting the review completion dates, the agency will endeavor to ensure that related items are reviewed together. Also in setting the dates, the agency will distribute the reviews evenly over the five-year period. The draft review schedule, then, will list rules, policies and practices to be reviewed over five years, divided by year, in the order in which the reviews will take place.

Section 651 (b) (4) provides that at least sixty days before the draft schedule is published in the Federal Register, each agency must make its draft schedule available to the Executive Director of the Regulatory Policy Board. Part of the reason for circulating the review schedule to the Executive Director of the Regulatory Policy Board will be to enlist the aid of the Board in ensuring that related items being reviewed by different agencies are reviewed simultaneously.

Section 651 (c) requires that no later than one year after the effective date of this legislation (four months after publication of the draft schedule), each agency will publish in the Federal Register a final schedule for review of rules, policies, and practices. The final review schedule will include, for each rule, policy and practice, a brief explanation of why the rule, policy, or practice was selected for review and a date when that review will be complete. The agency will include the significant comments received from the public concerning the draft schedule in the publication of the final schedule.

Section 651(d) requires, beginning on the effective date of this legislation, that no affected agency may publish a final major rule without publishing a schedule date for review of that rule. The review date must be within ten years of the publication of the final major rule.

Section 651(e)(1) provides that the product of the review of a major or selected rule, policy or practice will be either an assessment of that rule, policy or practice or publication of a notice of proposed rulemaking. It is anticipated that if the agency determines that no changes in the rule, policy or practice are necessary or possible, it will simply publish an assessment and place a summary of that assessment in the Federal Register. If, however, the agency determines that changes in the rule, policy or practice are necessary and possible, it is anticipated that the product of the examination will be a notice of proposed rulemaking and the agency will proceed to make whatever changes are necessary and possible. The assessment to retain the rule would not constitute a notice of proposed rulemaking.

Both the assessment and the notice of proposed rulemaking must include a statement of the following: (1) ecomonic, health, safety, environmental and other benefits being provided by the rule, policy or practice; (2) adverse economic effects, including costs and other effects of the rule, policy or practice; (3) cost and nature of any problems encountered by the agency in obtaining compliance with the rule, policy or practice, and (4) the extent to which the rule, policy or practice overlaps with or duplicates other federal rules, policies or practices, including rules, policies or practices of other agencies.

Section 651(e)(2) requires that an agency recommendation, based on the points in section 651(e)(1), above, of whether enforcement policy should be amended or the rule, policy or practice should be rescinded, amended in order to make it more efficient or effective, or continued without change be included in the assessment or notice of proposed rulemaking provided for in this subchapter.

Section 651(e)(3) allows closely related rules, policies and practices to be evaluated in single assessments in order to avoid excess procedures or paperwork.

Section 651(e)(4) provides that copies of assessments are to be available to the public at no cost. Federal Register publication of the summary assessment will describe how the public can obtain copies of this assessment.

Section 651(e)(5) provides that when changes in the rule, policy or practice are discovered to be necessary, the product of the review will be a notice of proposed rulemaking placed in the Federal Register. The notice of proposed rulemaking shall include information required by sections 651(e)(1) and (2).

Section 651(f) allows amendment of review schedules with the consent of the Executive Director of the Regulatory Policy Board. Amendments must be published in the Federal Register.

Section 651(g) provides that the Internal Revenue Service will not be required to review its rules under this section, because of the particularly large volume of major rules issued by that agency. However, it is expected that IRS will adopt its own review schedule.

Section 651(h) provides that no agency actions nor any failure to act under this subchapter will be subject to judicial review.

Section 651(i) states that the agency review of rules program has the potential for extension. The President will assess programs under this subchapter after four of the five years of review and will submit a report of his determinations to Congress. If appropriate, the President will recommend to Congress that legislation be passed extending review for an additional five-year period.

Section 103. Annual Report on Regulatory Activities.

Section 103(a) provides that the Regulatory Policy Board carefully monitor the effectiveness of and agency compliance with the provisions of this legislation. Between the October 1 and October 31 following each of the first five fiscal years after enactment of this legislation, the Board will prepare and transmit to the President and to Congress and will make available to the public a report on progress under the Act.

Section 103(b)(1) states that the annual reports on regulatory activity will include comprehensive evaluations of the effectiveness of the provisions of this legislation and its amendments and agency compliance with those provisions. The analysis will include an evaluation of agency efforts to (1) ensure effective policy oversight of the regulatory process; (2) ensure meaningful participation by the public in regulatory decisions; (3) provide for a thorough analysis of regulatory alternatives; (4) minimize imposition of undue rule, regulation and reporting compliance burdens on individuals, businesses, organizations and governmental jurisdictions, particularly and disproportionate burdens on small businesses, small organizations and small governmental jurisdictions; (5) eliminate unnecessary delay in the regulatory process; and (6) systematically review and evaluate the need for the effectiveness of rules and regulations and eliminate duplicative, overlapping or conflicting rules and regulations.

Section 103(b)(2) requires that the annual report include a summary of comments made by interested citizens concerning the effectiveness of the amendments to the APA created by this bill.

Section 104. Review by the Director of Congressional Budget Office.

Section 104 instructs the Director of the Congressional Budget Office to monitor, for the first three fiscal years following enactment of this legislation, agency compliance with provisions of this title requiring regulatory and regulatory flexibility analyses and to conduct reviews of a selected number of rulemaking proceedings in each of these years.

Section 104(a)(1) During the first three fiscal years after the effective date of this Act, the Director of the Congressional Budget Office will, through periodic review of selected agency action, monitor agency compliance with the subchapters of this legislation which would require development of regulatory analyses and regulatory flexibility analyses (subchapters III and IV). The Director will keep Congress informed of problems arising from agency efforts to implement those subchapters and of any failure to comply with the provisions of that subchapter.

Section 104(a)(2) In order to assess agency compliance with subchapters II and IV, the Director will, each year for three years, review a selected number of rulemaking proceedings. In making his or her review, the Director will examine, among other things: (1) the agency section 621 determination that a rule is not a major rule; (2) preparation of the initial regulatory analysis under section 622 of this title; (3) preparation of the final regulatory analysis under section 623 of this title; and (4) findings of waiver or delay of completion made under section 627 of this title.

Section 104(b). In deciding which rulemaking proceedings to review the Director will give special consideration to those proceedings in which (1) the economic, health, safety, environmental or other effects of the rule with which the statement is concerned are particularly significant; (2) the rule with which the statement is concerned may overlap or be inconsistent with other rules or policies of the federal government; (3) the statement raises other policy issues of broad interest to federal agencies, Congress, or the public; or (4) review will help assure full and effective implementation of the provisions of this subchapter.

Section 104(c). In conducting the actual review of the rulemaking proceeding, the Director will examine (1) the methodology used in the preparation of the statement; (2) the thoroughness and adequacy of the statement; (3) the usefulness of the statement to the agency; and (4) any other factors which the Director finds appropriate.

TITLE II—IMPROVING THE EFFICIENCY OF ADMINISTRATIVE PROCEEDINGS

Part A—Administrative Procedures—Informal Rulemaking

Section 201. Improving the Quality of Agency Rulemaking.

Section 201 revises section 553 of title 5, United States Code (section 4 of the Administrative Procedure Act) which governs agency rulemaking. Section 553 prescribes minimum standards for notice to the public and comment in "informal" rulemakings. Kenneth Culp Davis has referred to "informal" notice-and-comment rulemaking under section 553 "one of the greatest inventions of modern government." Section 201 reorganizes, clarifies, and strengthens the procedural guidepost in light of over thirty years of agency and judicial experience.

Section 201(a) of this bill consolidates the exemptions to notice-and-comment rulemaking into a revised section 553(a). The exemptions for military and foreign affairs functions and matters relating to agency management or personnel are retained and redesignated as sections 552(a)(1)(A) and 553(a)(1)(B) respectively.

The exemption from the notice requirement for rules of agency organization procedure or practice are consolidated with the agency management and personnel exemptions as section 553(a)(1)(B). Likewise, the exemption for interpretative rules and general statements of policy are continued and redesignated as sections 553(a)(1)(E) and 553(a)(1)(F) respectively. The exemption from notice-and-comment rulemaking procedures for rules relating to public property, loans, grants, benefits or contracts has been narrowed. This so-called proprietary exemption will now apply only to those rules that are issued pursuant to the standards established by the Office of Federal Procurement Policy or the Administrator of General Services. Since the exempt rules under the new section 553(a)(1)(C) are already subject to comparable processes established by other statutes, the public would have input in the development of all proprietary rules.

Section 553(a)(1)(D) clarifies that the agency need not comply with the section when promulgating an emergency rule or a rule governed by short-term statutory or judicial deadlines, while retaining the exemption for rules for which notice and public procedure is impracticable, unnecessary or contrary to the public interest.

Section 553(a)(2) makes clear, in line with current law, that paragraphs (B), (C), (E) and (F) of section 553(a)(1) do not apply where notice and comment are required by other statutes.

Section 553(a)(3) narrows the emergency rule exemption by requiring compliance with section 553, wherever appropriate, after the publication of the rule. It also requires that when an agency makes a finding under section 553(a)(1)(D) that it publish the rule in the Federal Register with a statement of the finding and the reasons for such finding.

Section 201(b) of this bill sets forth the minimum requirements for notifying the affected public of a proposed rulemaking. Notice must be published in the Federal Register unless all persons substantially interested in the matter are named and personally served or otherwise have actual notice of the rulemaking. This language alters existing law by expanding the service exemption to all persons substantially interested in the matter.

The material to be included in a notice of proposed rulemaking is also substantially expanded. The notice will include either the terms or substance of the proposed rule or a description of the subjects and issues involved, continuing the current flexible practice. It will also include the current requirement of a statement of the time, place, and nature of public rulemaking proceedings. The bill clarifies the language of the current law by requiring a description of the legal basis of the proposed rule. The bill expands current law by requiring the agency specifically to solicit the public for alternative proposals which would accomplish the objectives of the proposed rule in a manner consistent with applicable statutes that are more effective or less burdensome than the approach used in the proposed rule. This requirement is designed to stimulate dialogue on the overall regulatory approach of the agency rather than directing all comments towards amending a regulatory scheme which may never be adequate. Finally, where the agency reasonably anticipates a reporting or recordkeeping requirement resulting from the proposed rule, the agency must: (a) state, to the extent practicable, the purpose of the requirement together with a description of any forms and the type of professional skills necessary for the preparation of the record or report; (b) estimate the classes and numbers of persons who will be required to submit or maintain the reports or records; and (c) estimate the time required to complete the reports or records. This will enable the public to comment not only on the potential burden or benefit from compliance with the proposed regulation but also on the paperwork burden which may result from the agency's action. It will also provide a forum for public comment directed at clarifying, simplifying, or consolidating paperwork requirements.

Section 201(c) of this bill continues much of the practice for receiving public input in the formulation of federal rules. Informal rulemaking for non-major rules would follow current practice under section 553(c).

The bill creates a new "hybrid" informal rulemaking procedure when an agency determines that a rule is a major rule under section 621 of title 5. In addition to the existing requirements for public comment, the agency is directed to use additional public procedures for the resolution of significant controversies including holding informal public hearings, meetings or conferences, creating expert advisory councils, using mediation techniques, presenting studies, documents and staff arguments for written comment in rebuttal, and presenting witnesses. The choice of procedures is left solely to the discretion of the agency. These hybrid procedures would allow an expanded opportunity for presentation of views in areas which are becoming increasingly complicated and technical and where present notice-and-comment techniques may be inadequate. At the same time, allowing the agency the sole and unreviewable discretion over the decision of what procedures to use continues current practice regarding procedural decisions and avoids the lengthy delays and administrative uncertainty which would result from allowing judicial review of the agency's procedural decisions. Absent "constitutional constraints or extremely compelling circumstances" agencies will be able to fashion their own rules of procedure free from judicial review or intervention. *See Vermont Yankee Nuclear Power Corporation v. Natural Resources Defense Council,* 435 U.S. 519, 543 (1978).

Where rules are required by statute to be made on the record, section 554 would govern the taking of public comment. This requirement is redesignated as section 553(c)(3).

Section 201(d) of the bill clarifies the requirement of existing section 553(d) that agencies publish a final rule not less than thirty days before the effective date of the final rule, except in the case of a rule that grants or recognizes an exception or relieves a restriction and unless a longer period of time is required by law or if the agency finds for good cause that it cannot comply with this restriction. In addition to clarifying the language of the existing statute, section 553 (d) is amended to require that agencies respond to significant issues raised by the comments received by the agency concerning the proposed rule or any significant alternatives which the agency considered. This incorporates existing agency practice and case law into statute.

Section 201(e) of the bill redesignates section 553(e) as section 553(f) and adds a new section 553(e). Under the new section 553 (e), the agency must maintain a file in all rulemaking proceedings. The file will contain: (1) the notice of proposed rulemaking and any supplemental notices; (2) copies or identification of all studies and documentary material substantially relied on by the agency in formulating the rule; (3) copies of all written public comment; (4) copies of all material the agency is by law required to make public as part of the rulemaking; (5) the initial and final regulatory flexibility analyses required by sections 632 and 633 of title 5 and, in the case of major rules, the initial and final regulatory analyses required by sections 622 and 623; and (6) records of outside communication required by section 553a of title 5.

Section 553(e)(2) makes clear that the agency may not include in the file any material exempt from public disclosure under section 552(b), the Freedom of Information Act, if the agency includes in the file a statement noting the existence of such material and the basis upon which the material is exempt.

Section 202. Open Communications in Informal Rulemaking.

Section 202 revises subchapter II of title 5, United States Code, by adding section 553 (a), requiring an agency involved in informal rulemaking to make public the comments made to it by persons outside the government about the merits of a proposed major rule and allow rebuttal of such comments.

Section 553a(a)(1) defines "agency official" as a member of the agency, such as a commissioner or agency head, or any other employee who is or may reasonably be expected to be significantly involved in the decision-making process of the rulemaking proceeding.

Section 553a(a)(2) defines "outside communication" to include each oral or written communication between agency officials, as defined in subsection (a)(1), and any person outside the government which is relevant to the merits of a major rule (as defined in section 621) and which is not on the rulemaking record developed pursuant to section 553. Mere status requests made to the agency by a person outside the government or communications from a member of the working press, acting in a news-gathering capacity, will not be considered "outside communication" for purposes of this section.

Section 553a(b) requires each agency official who participates in any oral or written outside communication to prepare and maintain a record of such communication if (1) the official reasonably determines it is intended to affect the merits of the agency's promulgation of a major rule under section 553, and (2) it is made by any person outside the government after the general notice of proposed rulemaking is published in the Federal Register.

Section 553a(c) outlines the contents of any record required to be kept by an agency official. Each record of communication must contain the name and position of the agency official participating in the communication, the date on which such communication was made, if practicable, the name, address, and position of the person outside the government participating in the communication, and, if applicable, the name of any person on whose behalf such person was acting in making the communication.

If the communication was made orally, the record shall contain a brief summary of the substance of the communication.

In the case of any written communication, such as letters, documents, or briefs, a copy of the original form shall be placed in the public record.

Section 553a(d) requires that records made pursuant to this section be prepared and placed in the public rulemaking file (under section 553(e)) within five (5) working days after the date on which the communication was made. The agency, need not, however, include copies of any written communications which would be exempted from disclosure by section 552(b) (Freedom of Information Act). In such instances, the agency will be required to provide notice in the file that a relevant communication has been received and briefly outline the basis upon which such communication is exempt from public disclosure under the Freedom of Information Act.

Section 553a(e) precludes a reviewing court from holding unlawful or setting aside any agency action on the basis that the agency failed to comply with the "recording" provisions set out in this section, unless (1) the agency had significantly relied on the communication involved in such failure in promulgating the rule; and (2) the parties to the proceeding had not been given reasonable notice of such data, views, or arguments.

Part B—Administrative procedures

Sections 211 through 215 amend sections 554 through 558 of the Administrative Procedure Act concerning proceedings required by statute to be decided "on the record after opportunity for agency hearing." This includes preceedings such as formal rulemaking, adjudication, and licensing. The purpose of these amendments is to reduce unreasonable delay in the agency decision-making process and increase the ability of decisionmakers to analyze the policy issues involved.

Provisions governing on-the-record proceedings in sections 554 through 557 have been reorganized to achieve greater clarity. Section 554 now contains the provisions in title 5 which apply to *all* on-the-record proceedings. Additional provisions applicable only to expedited proceedings appear in a new section 555 (created in bill section 212). For proceedings requiring a full, trial-type hearing, provisions beyond those in section 554 are placed in section 556 (amended in section 213 of the bill).

Section 211. Proceedings on the Record.

Section 211 of the bill contains a number of technical amendments to section 554 of the APA. These amendments conform section 554 to other amendments contained in sections 212, 213, 214 and 215 of the bill. They reorganize a number of existing provisions of the APA and explicitly describe the responsibilities of the presiding employee.

Section 554(a) of the APA is amended to clarify that section 554 applies to rulemaking proceedings requiring to be made on the record as well as to adjudications. The title of section 554 is therefore changed from "Adjudications" to "Proceedings on the Record" to more clearly indicate the scope of the section. This is not a substantive change in the APA. Currently, formal rulemaking proceedings are governed by section 554.

Section 554(b) concerning notice of a hearing remains unchanged from the current version except that, for purposes of clarity, the term "moving parties" is changed to "parties initiating the proceeding".

Section 554(a). Provisions now in subsection 556(b) have been moved to paragraph (A) of section 554(c)(1). This language provides that a presiding employee may be the agency, a member of the body comprising the agency, or an administrative law judge.

Section 544(c)(1)(A) makes another technical modification to conform to other changes made to this bill. Section 221 of the bill repeals section 3105 of title 5 which provides for appointment of administrative law judges and replaces it with a new section 802. Thus, section 554(c) refers to section 802 in order to conform with section 221 of this bill.

The final sentence in section 554(c)(1)(A) essentially restates language formerly in section 556(b) which provides that special administrative procedures established for certain classes of proceedings by other laws are not superseded by this paragraph.

New paragraph (B) of section 554(c)(1) clarifies an ambiguity in the current APA. Section 554(d) of the current APA fails to specify what happens if a presiding employee becomes unable to continue his or her duties, for example, because of serious illness or retirement. Section 554(c)(1) states that in such a case another qualified employee may be appointed to take his place and conclude the hearing. The change, recommended by the Administrative Law Conference, should help assure that most proceedings will not have to begin all over again if the presiding employee becomes unavailable to the agency. Current case law, however, that requires a new hearing where the credibility of witnesses is a key to the outcome of the case would not be changed by this amendment.

Section 556(c) of the current APA is redesignated as section 554(c)(2) and amended to permit the employees who preside at formal hearings to: (1) hold conferences for the settlement or simplification of the issues upon the initiative of the presiding employee or at the request of the parties; (2) ask such questions or conduct such cross-examination as the presiding employee believes are appropriate; and (3) request the agency to consider and act on interlocutory appeals when agency action on such appeals would help expedite final agency action. Presiding employees are also directed (subject to the published rules of the agency) to: (1) assure that discovery and all prehearings and hearings are completed expeditiously; (2) provide a record that contains in concise form only matters that are relevant and not unduly repetitious; (3) establish, when appropriate, deadlines for completion of the hearing, or portions of the hearing, in a manner that is consistent with the deadlines required in section 612; (4) rule on issues so as to define them as precisely and specifically as possible; and (5) take other authorized action designed to dispose of matters promptly.

Section 212. Expedited Procedure for Formal Hearings.

A general consensus has emerged among administrative law experts that trial-type hearings are inappropriate for some licensing, formal rulemaking (rulemaking, including ratemaking, required by statute to be based on a formal hearing) and similar decisions. Such hearings should be replaced with a more flexible procedure, that begins with written submissions, or when appropriate, public hearings. Unresolved issues would then be aired in legislative-type hearings before panels of agency experts. Cross-examination would be held after the less formal procedures, so that it could be used most effectively, without covering issues that had already been fully illuminated.

The theory underlying this procedure is that when a decision involves policy judgments, rather than simple fact-finding to enforce a given policy or law, the elaborate mechanics of a trial-type hearing are not needed to protect individual rights. Moreover, because trial-type hearings are cumbersome, they can divert attention from the important questions of policy and analysis; they can cause unreasonable delay; and they can place an excessive burden on the agency and on the parties to the proceeding.

Section 212 of the bill adds a new section 555 to the Administrative Procedure Act. New section 555(a)(1) states that the new expedited procedure must be used in all *formal* rulemaking cases (including ratemaking) and all licensing cases other than proceedings to withdraw or suspend an license. All proceedings before the Nuclear Regulatory Commission are exempted from this new section because of their peculiar importance and because the Senate Energy and Natural Resources Committee is currently drafting special procedures for NRC cases.

Section 555(a)(3) provides that agencies *may* use the expedited procedure for other types of proceedings that are now handled in formal hearings. For example, certain cases of license revocation, such as revocation of a new drug approval, may actually be policy judgments based on new data rather than judgments that past standards have been violated. Agency discretion in this regard is limited by certain factors listed in paragraph (2)(3).

Section 555(a)(2), however, prohibits agencies from using the expedited procedure for claims for a subsidy, right or benefit for an individual. The major example in this category is Social Security claims. In fact, Social Security benefits decisions constitute the bulk (33 percent in fiscal 1975 according to the Administrative Conference of the United States) of all formal adjudications in the federal government. Special considerations of fairness, the predominance of questions of fact rather than policy, and the fact that most Social Security claimants are not represented by counsel argue for requiring a full trial-type hearing in such cases.

Section 555(a)(3) contains a further exemption from this expedited procedure for proceedings to impose sanctions or civil penalties. This is because such actions typically turn on factual disputes over responsibility for misconduct rather than on questions of policy. Thus, because of their accusatory nature, a full trial-type proceeding, conducted under section 556, is entirely appropriate. Examples of such cases are proceedings to recover penalties for violations of the Coal Mine Health and Safety Act (30 U.S.C.A. §§ 801–961 (Supp. 1978) conducted under 30 U.S.C. § 820 (Supp. 1978)), unfair labor practice cases, and penalty proceedings under the Occupational Safety and Health Act, 29 U.S.C. § 659 (1976).

On-the -record proceedings subject to an expedited hearing have certain fundamental characteristics which differentiate them from those proceedings exempted from this process. Essentially, section 555 applies to proceedings in which agencies use the adjudicatory format to make or apply policy when no one is accused of violating a law. They do not contain overtures of culpable wrongdoing.

Although borderline cases do exist, most non-accusatory policy-dominated decisions are quite easily identified. There are three major classes of economic regulation which clearly fit this pattern: ratesetting, approval of financial transactions, and decisions on market entry or exit. These categories account for a large share of significant decisions by agencies reached after a trial-type proceeding. In such cases, agencies must choose among several alternatives based on incomplete and quickly obsolete factual data. They of necessity utilize projections, predictions and general policy choices prior to a final determination.

The Governmental Affairs Committee study on Delay in the Regulatory Process, S. Doc. No. 72 (95th Congress (1977)) found that these non-accusatory proceedings would clearly benefit from an expedited hearing process. Other knowledgeable students of administrative procedure agree with the basic distinctions made in this section. Verkuil, The Emerging Concept of Administrative Procedure, 7 Colum. L. Rev. 258 (1978); Pederson, The Decline of Separation of Functions in Regulatory Agencies, 64 Va. L. Rev. 991 (1978).

Section 555(b) would require an administrative law judge or a member of the agency to preside at the hearing. In addition, the agency could name a panel of employees to sit with the presiding officer, because cases that are complex and policy-dominated often can benefit from a variety of views and division of labor during the agency decision process.

The bill gives the presiding officer all the power he or she would have in a formal hearing of the traditional type. These powers should be exercised in a manner appropriate to the new, streamlined procedures.

Subsections (c) and (d) of section 555 provide that the expedited proceeding begin with an informal "legislative" hearing. A formal hearing, with full cross-examination, would then be allowed if the presiding officer determines: (1) there is a genuine and substantial dispute of fact, including a dispute involving factual assumptions or methodology upon which expert opinion is based, or a dispute as to the credibility of an expert witness significantly relied upon by one or more of the parties in the proceeding, which can only be resolved with sufficient accuracy by a formal hearing; and (2) the decision of the agency is likely to depend in whole or in part on the resolution of that dispute.

New section 555(e) describes the extent to which persons making a decision for an agency in an expedited procedure case should be allowed to consult with other agency staff members. Such provisions are usually called separation of functions rules. The bill would allow decision-makers to consult any other agency staff members except for those engaged in the performance of "investigating or prosecuting functions" in the case. This means actual participation at the hearing stage.

Generally speaking, the expedited procedure of section 555 covers the same cases that are currently classified as initial licensing and formal rulemaking. Since there are no separation of functions requirements for these proceedings under the current APA, section 555(e) has the effect of expanding the application of separation of functions requirements to more proceedings than in present law.

To the extent that section 555 is applied to cases that do not fit within these existing categories, subsection 555(e) would change the law as follows:

(1) It defines more precisely than current law who performs an investigative or prosecuting function and therefore may not advise in an agency decision.

(2) It allows persons responsible for agency decisions to consult agency employees, other than staff, on matters in issue.

(3) It permits persons who perform investigative or prosecuting functions for agencies to advise in decisions, as long as they had not actually participated in that proceeding or in a factually related one.

The bill applies separation of functions to those who act as trial staff in a hearing because this is a job that can generally only be done well by people who take an adversarial position toward the issues, an attitude that acts as a "psychological disqualification" against informally advising in subsequent agency deliberations. Attorney General's Committee on Administrative Procedure, Administrative Procedure in Government Agencies, S. Doc. No. 8 (77th Congress, 1st Sess., p. 56 (1941)).

No other separation of functions barriers are imposed because they are not needed for a fair decision in nonaccusatory, policy dominated proceedings and because they affirmatively diminish the quality of agency decisions.

Agencies make their policy decisions through a division of staff labor that allows different experts to work on different pieces of a decision. This division of labor leading to a better final product as the result of teamwork is one of the major reasons for having administrative agencies in the first place. *See* 2 K. Davis, Administrative Law Treatise § 11.10 at 87, (1958).

Strict separation of functions provisions (as contained in section 556(e)) would damage this division of labor.

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Agencies generally cannot afford to duplicate their expert knowledge, so that there are two offices within each agency that are expert on any given subject. In such circumstances separation of functions means that either agency heads will have to decide without an informed understanding of the record or that the participants at the hearing will not know what the agency really thinks.

New section 555(e) solves this dilemma by allowing those agency experts to be named to a hearing panel. In that capacity, they could both express their views at the hearing, in a non-adversarial way, and be available to advise the decision-makers later.

Section 555 proceedings are still subject to the prohibitions contained in section 557 (c)(1) pertaining to communication with persons outside the agency. The bill makes no change in the applicability of that section.

Section 213. Formal Hearings.

Section 213 contains amendments to section 556 of the APA, which governs the conduct of formal trial-type hearings, and the duties and power of presiding employees.

Section 556(a) is amended to change the application of this section to all proceedings subject to section 554 except any proceeding, or portion of a proceeding, which is subject to a section 555 expedited hearing. This conforms section 556(a) to other changes made by the bill in earlier sections.

Section 556(b). Section 554(c)(1) in the current APA is redesignated as section 556 (b). It provides that the agency must give all parties an opportunity to submit facts, arguments and proposals to the extent the public interest permits. No change in wording is made by the redesignation.

Section 556(c) contains language which formerly appeared in section 554(c)(2). It requires agencies to conduct a formal hearing pursuant to this section and section 557 if the parties have been unable to settle a controversy by consent. Standard changes are made to conform this section with the grammatical style appropriate for its new location.

The bill moves to section 556(d) the authority, currently provided in section 556 (c), of the presiding officer to rule on offers of proof and receive relevant evidence. Section 556(d) is further amended to encourage reliance on written material rather than oral hearings. It authorizes the presiding employee to require the introduction of evidence in written form if an oral presentation of testimony is not necessary for a full and true disclosure of relevant evidentiary facts, and denial of such opportunity would not materially prejudice a party. However, the current law concerning the right of a party to conduct oral cross-examination is not altered by the bill. The amendment removes any uncertainty about the authority of an agency to require the submission of evidence in written form regardless of the kind of formal proceeding involved.

The bill also amends section 556(d) to make clear that the presiding employee may upon motion issue a summary decision at any time in the course of the proceeding where it is clear from the evidence submitted or exchanged that there is no genuine and substantial dispute as to any material fact and that the moving party is entitled to a judgment as a matter of law. This may occur, for example, after the pre-hearing conference, or after one side has submitted its case. In such instance, the development of a further evidentiary record only delays the final agency disposition in the matter. The agency, through its presiding employee, should be free to conclude the evidentiary stage of the hearing at that point, just as a court may issue a summary judgment to avoid unnecessary further proceedings.

The provision authorizing summary decision is basically a clarification designed to encourage all agencies to take advantage of a procedure already employment in many agencies. Agencies that already use summary decisions include the Food and Drug Administration, the Federal Communications Commission, the Federal Trade Commission, and the Environmental Protection Agency.

Finally, section 556(e) amends the current provisions on ex parte communication and separation of functions to clarify existing law. Redesignated subsection (e)(1) is amended to make clear that participating or advising employee and members of an employee review board, as well as presiding employees are subject to separation of functions provisions.

The ex parte communication provision in clause (A) is amended by striking "a person or party on a fact in issue" and substituting more specific language. Taken literally, the word "person" would prohibit a presiding employee from communicating with anyone, even a clerical assistant.

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Professor Kenneth C. Davis has forcefully argued that this language should not be read to bar the presiding employee from consulting informally with agency staff experts who did not play an adversary role in the hearing. 2 K. Davis, Administrative Law Treatise § 11.17 (1958). The amended language refers to parties, persons outside the agency, and agency employees participating in an investigative or prosecuting function.

One portion of former section 554(d) of the APA which prohibits presiding employees from being under the supervision of an employee engaged in an investigative or prosecutive activity is redesignated as section 556(e)(1)(B) without change.

Another part of former section 554(d) is redesignated as subsection (e)(2) and amended to allow an agency employee to advise the presiding employee if he or she is a participant in the public proceedings.

New paragraph (3) in section 556(a) states that members of employee boards may consult with each other and persons advising the presiding employee may consult among themselves and with the presiding employee despite the other separation of functions provisions of section 556(e). The exemption for agency heads from the provisions of 556(e) (2) is retained but is redesignated to 556(e) (4) from section 554(d).

Section 214. Initial Decisions, Appeal Boards and Agency Certiorari Review.

Section 214 revises section 557 of the Administrative Procedure Act. The bill would allow the agency to use some agency official other than the presiding employee to prepare or recommend a decision, to issue a tentative decision, or to prepare an analysis of the record in any proceeding conducted under the procedures of section 555. Currently, section 557 permits a recommended or tentative decision by an agency employee only in initial licensing or rulemaking proceedings. A decision by the presiding employee would still be required in every case conducted under section 556.

When a case involves policy questions more than factual questions, it may be more valuable to have an employee familiar with these questions and the agency's attitude toward them make proposed findings or conclusions, recommend a decison, or draft a tentative decision. This will give the parties a better sense of the tentative thinking of the agency heads themselves. In addition, where the issues are complex, it may be more efficient to have those most familiar with them summarize the record. This was one major purpose of the provisions in present section 557 (*see* "Administrative Procedure Act: Legislative History," S. Doc. No. 248 (79th Cong., 2d Sess., p. 229 (1946)), and it is retained in the bill.

Section 557(a) is amended by replacing a reference to section 556 with a reference to section 554. This conforms this section with earlier amendments.

Section 557(b) is amended to make several technical wording changes. The word "hearing" is used instead of "reception of the evidence" to clarify the meaning. A reference to cases not subect to section 554 (d) is deleted as no longer applicable because of earlier amendments.

The last sentence of section 557(b) is also amended to specify when presiding employees may be required to recommend a decision, to analyze the record, or to make proposed findings and conclusions. In those portions of expedited proceedings which require a formal hearing to resolve, the agency must require the presiding employee to make proposed findings and conclusions concerning such an issue.

Section 557(c) is amended by striking the word "subordinate" each time it appears and inserting "presiding or responsible" in its place. This conforms the language of this subsection with changes in terminology made earlier in the bill.

Section 557(d). The principal amendment made by bill section 214 is the addition of a new subsection (d) to section 557 providing specific authority for the establishment of agency appeal boards and so-called certiorari-type review.

Section 557(d)(1)(A) gives the agency broad discretion in specifying the manner of selection and removal of the members of the employee boards and in selecting the type of employees chosen to serve on the board. A review board may be composed of one or more members of the body comprising the agency or three or more employees. The employee board may not include the presiding employee in the proceeding which is on appeal or any member of a hearing panel under the new "expedited procedure". In order to avoid unnecessary layers of review, the bill limits the levels of review by the agency to two. Thus, a presiding employee's decision could, at the most, be reviewed by one employee board and by the agency head or commissioners. Normally, though, there would be no more than one level of review within the agency.

Section 557(d)(1)(B) requires agencies to specify clearly the circumstances and conditions under which an agency will consider appeals from an employee board or a presiding employee.

The discretionary review procedure would not affect judicial review in any way. A final decision, whether made by the agency heads, a review board, or a presiding employee, would be judicially reviewable under the same standards and procedures. An agency decision to grant or deny review would not itself be judically reviewable.

Section 557(d)(2) specifies that the provisions of this subsection do not supersede any pre-existing provision of law governing a particular agency's ability to create review boards or to delegate a final decision to one or more of its members or other employees. For example, several agencies, such as the Interstate Commerce Commission, the Federal Communications Commission, and the Nuclear Regulatory Commission already have specific authority to create such boards.

Section 215. Subpoena Power and Other Ancillary Powers.

Section 215 of the bill amends section 558 (d) of title 5, United States Code, as redesignated, to establish a general procedure by which agencies which are otherwise authorized to issue subpoenas may do so.

The Administrative Procedure Act does not now contain a general grant of subpoena power and none is added by the bill. Section 558 still refers to "subpoenas authorized by law." The bill also retains the statement in section 555(d) that, where agency subpoena power exists, subpoenas must be made available to private parties in adversary proceedings to the same extent that they are available to agency counsel. One technical amendment is made changing "agency subpoenas" to "any subpoena".

Subpoena power in practice varies widely among administrative agencies and executive departments. Most agencies that conduct formal proceedings under the APA do possess subpoena power through a grant in the agency's organic legislation or in the particular substantive statute under which the proceeding is conducted.

Section 558(d) is also amended to specify that the agency shall authorize the presiding employee, as well as any other official the agency may wish to designate, to issue subpoenas or similar process. Although section 556 of the present Act implies such a delegation, it is desirable to clarify that officials who preside at hearings should have such authority. It would be inefficient to require agency heads to sign off on routine subpoena requests.

New paragraph (2) further amends section 558(d) by authorizing agencies to obtain enforcement of subpoenas or similar process through actions brought in the District Court of the United States for any district in which the person is found, resides, or transacts business or in which the inquiry is carried on. This action would be brought either by agency lawyers or the Department of Justice, in accordance with current law. Once a court issues an order requiring compliance with a subpoena or similar process, any failure to obey the court order may be treated as contempt of court. This is the usual procedure now. The Federal Rules of Civil Procedure apply to such a proceeding except as otherwise provided by statute, by rules or order of the district court in the proceeding.

New paragraph (3) in section 558(d) permits a district court to assess a civil penalty of up to $2,000.00 per day against a party who fails to comply with an agency subpoena. This fine will begin to run thirty days after the agency issues a notice of default concerning a subpoena.

New paragraph (4) of section 558(d) provides that a person served with a notice of default by an agency may file a suit in district court to challenge the validity of a subpoena. The filing of such an action also acts to toll the accumulation or fines for failure to comply with the agency subpoena.

Paragraph (5) of this section adds a requirement that a district court must decide a case involving the validity of a subpoena within 45 days unless both parties agree to an extension. This is to eliminate the possibility of long, time-consuming court actions involving subpoenas which unreasonably delay the administrative process.

Paragraph (6) amends section 558(d) to provide that a district court has jurisdiction over an action to challenge a subpoena only if the action is brought by a person who has received a notice of default or by a person expressly authorized by other law to bring such an action (for example, the Financial Privacy Act of 1978, P.L. 95–630). An action challenging an agency's compulsory process is premature if no notice of default has been issued. Pre-enforcement challenges to agencies' compulsory process have increased in recent years and have resulted in unnecessary delay. By prohibiting actions to challenge the validity of a subpoena prior to the issuance of a notice of default, the Act would eliminate premature and duplicative actions. Agencies and the courts will thus be spared wasted time and resources.

In order to reduce the problems that result when a number of different parties challenge essentially identical subpoenas in different courts, paragraph (6) of section 558(d) also provides that any action to challenge a subpoena may be transferred to a court in which a similar action is pending. The transfer would be made at the agency's request.

Paragraph (7) of this section provides an additional means to avoid delay. The presiding employee may make certain rulings against a party who causes delay by failing to cooperate in a discovery request. This power provides an incentive for parties to refrain from dilatory tactics. The presiding employee may refuse to allow a party to support or oppose claims or defenses or prohibit him from introducing matters into the record, which depend on the facts sought. He may infer that the testimony, documents, or evidence which the party failed to supply would have been adverse to the party. He may strike out pleadings or motions, or dismiss an action, or render a decision by default, against a person who declines to comply with an agency subpoena. Where the delay is caused by the moving party in the proceeding, the presiding employee may stay proceedings until the discovery order is obeyed. Of course, these actions are all appealable to the courts and they are normally appealable to the agency head.

These provisions are analogous to Rule 37(b) of the Federal Rules of Civil Procedure and provisions in the current procedural rules of the Federal Trade Commission.

Paragraph (8) of this section provides that the authority provided to an agency pursuant to this section are in addition to, and do not limit, any other statutory authority for the issuance of subpoenas or their enforcement.

Section 555(e) is redesignated section 558(e) without change. It provides that agencies give prompt notice of a denial of any petition by an interested party.

A portion of former section 554(e) is redesignated as section 558(f). This subsection explicitly recognizes the authority of agencies to maintain order in their proceedings.

New subsection (g) amends section 558 to require agencies to index motions, briefs and other materials to facilitate access to them by persons practicing before the agency.

Section 216. Judicial Review.

Section 216 adds a new subsection to section 703, Title 5, United States Code, and to Chapter 83 of Title 28 of that same Code.

Section 216(a)(1) adds a new subsection to section 703, Title 5, United States Code which would require that, when a special review proceeding has not been provided for by statute, actions for review of rules promulgated under sections 551–559, Title 5, United States Code, be brought in a United States Court of Appeals. The determination of proper venue would be as provided in existing section 2343, Title 28, United States Code.

Section 216(a)(2)(A) adds new section 1295 to Chapter 83 of Title 28, United States Code, entitled "Agency Rulemaking" designating United States Courts of Appeals with exclusive jurisdiction of actions to enjoin, set aside, suspend, modify or otherwise review rules promulgated under sections 551–559, Title 5, United States Code.

Section 216(b) amends section 706, Title 5, United States Code by requiring that when a reviewing court is considering whether to compel agency action which has been unreasonably delayed, it must include the extent to which the agency has failed to meet its deadlines, as established under section 612 of Title 5, United States Code, as a relevant factor in its deliberations.

Section 216(c) makes conforming changes to Title 5, United States Code.

Section 217. Conforming Amendment.

Section 217 makes conforming amendments to Title 5, United States Code.

Part C—Appointment and reassignment of administrative law judges

Section 221. Appointment and Reassignment of Administrative Law Judges.

Section 221 establishes a new chapter 8 in title 5 of the United States Code. Chapter 8 would have the following new provisions:

Chapter 8—Appointment and Evaluation of Administrative Law Judges

Section 801. Definitions.

Section 801(1) defines agencies by referring to the definition in section 551(1) of title 5 of the United States Code. Both executive and independent agencies are considered "agencies" under this definition.

Section 801(2) defines administrative law judges as those individuals appointed under section 802 of this title. Individuals who were appointed as administrative law judges under existing section 3105, title 5, United States Code, which section 802 replaces, are also administrative law judges under this definition.

Section 801(3) provides that references to the "Chairman" are references to the Chairman of the Administrative Conference of the United States.

Section 802. Appointment.

Section 802(a) provides that administrative law judges (ALJs) are to be appointed to conduct proceedings as required in section 554 of the bill. Appointment will be as specified in chapter 8 of the bill. Cases will be distributed evenly among ALJs to the greatest degree possible. The duties and responsibilities of ALJs are provided for specifically in chapter 8 and in other provisions of title 5 of the United States Code and careful performance of and compliance with those duties and responsibilities is expected.

Section 802(b)(1). Chapter 8 makes the Chairman of the Administrative Conference of the United States responsible for recruiting candidates for ALJ positions. The Chairman is encouraged, particularly, to insure that the availability of ALJ positions is made known to eligible individuals who are not employees of the Federal government.

Section 802(b)(2) provides that the Chairman, in consultation with the Office of Personnel Management, will establish qualification requirements for ALJ positions. Having established these requirements, the Chairman will set up and administer a system for examining and selecting ALJs. Those candidates who, after being tested, are found to be qualified for appointment as ALJs are to be ranked in order of their relative qualifications. The purpose of the ranking is to create a list of ALJ candidates in numerical order of their qualifications. Under this legislation the Chairman also has the option of developing, in consultation with the Office of Personnel Management, categories of specialties to be used in ranking ALJ candidates. An example of a specialty would be expertise in Labor Law. Candidates would be ranked in numerical order of their qualifications within such a list. Testing and ranking of ALJ candidates is to be in compliance with section 2303 of title 5, United States Code which lists prohibited personnel practices.

Section 802(3). When the need for an additional ALJ arises, agencies are to contact the Chairman and request a list of eligible candidates. In response, the Chairman will forward to the agency a list of the ten highest ranking candidates.

Section 802(4). In selecting an ALJ, the agency may choose any one of the ten candidates certified to it by the Chairman but must make its selection from the list.

Section 803. Classification and Pay.

Section 803(a) provides that the Chairman will monitor the number of ALJs whose general schedule rank is 16, 17 or 18. The Chairman will revise the maximum number of these individuals from time to time and the total number of these individuals will not be allowed to exceed 350. However, ALJs ranking GS–16, 17 or 18 will not be counted against the maximum numbers of GS–16, 17 and 18 ranked individuals provided for in section 5108 of title 5, United States Code.

Section 803(b) states that the pay of ALJs will be set by the Chairman in compliance with chapters 53 and 51 of title 5, United States Code. The provision states that pay decisions will be made independently of agency recommendations or ratings in order to make it clear that merit pay is expressly excluded from this legislation.

Section 804. Reassignment.

Section 804(a) provides that ALJs appointed under this chapter can, at the discretion of the Chairman and as the need arises, be reassigned to other agencies which are understaffed with ALJs. The agency supplying the additional ALJ and the ALJ to be transferred must consent to the transfer.

Section 804(b) amends chapter 21, title 5, United States Code by adding a section entitled, "Section 2101b. Administrative Law Judge Career Service." The effect of this section is to create for ALJs, a status which is distinct from the Senior Executive Service and any other service.

Section 804(c) amends section 2101(a)(1), title 5, United States Code to exclude ALJ positions from the competitive service.

Section 804(d) amends section 2103, title 5, United States Code by adding the ALJ career service to those services which are not in the excepted service. Sections 804(c) and (d) place ALJs in a position which is unique among employees of the Federal government.

Section 804(e) amends section 2108, title 5, United States Code to exclude ALJ positions from those positions to which the veteran's preference will be applied. Thus, the veteran status of an ALJ candidate will not be taken into account when ranking that individual for ALJ appointment eligibility.

Section 804(f) amends section 7521, title 5, United States Code, bringing that section into conformity with the change in the section under which ALJs are selected.

Section 804(g) makes it clear that ALJs are not included in those persons whose appointment to the excepted service in the executive branch and the government of the District of Columbia is affected by section 3320, title 5, United States Code.

Section 804(h) amends section 3324(a)(1), title 5, United States Code, bringing it into conformity with the changes made by various provisions of this title.

Section 804(i) amends section 4301(2)(D), title 5, United States Code, bringing it into conformity with the changes made by various provisions of this title.

Section 804(j) amends section 1305, title 5, United States Code, bringing it into conformity with the changes made by other provisions of this title.

Section 804(k) repeals sections 3105, 3344, and 5372, title 5, United States Code. These sections have been replaced by sections 802, 803, and 804 of this title.

Section 804(l) brings section 559, title 5, United States Code into synchronization with changes made by this title.

Section 804(m) brings sections 554(a)(2), 4301(2), and 5335(a)(3(B) into synchronization with changes made by this title.

TITLE III—REVIEW OF THE EFFECTIVENESS OF AND CONTINUING NEED FOR GOVERNMENT REGULATION

Title III establishes a process for Congress and the President to review over a 10-year period the policies and statutory mandates of the major Federal regulatory agencies. It is designed to help improve the effectiveness of regulatory agencies in achieving their statutory goals.

Section 301. Definitions.

Section 301 defines the term "agency" to have the same meaning as in section 552(e) of title 5, United States Code, and establishes that the term "Committee" refers to the Committee on Regulatory Evaluation established in section 302.

Section 302. Committee on Regulatory Evaluation.

Section 302(a) provides for the establishment of a Committee on Regulatory Evaluation to aid the President in the review of regulatory agencies and the formation of regulatory reform legislation.

Section 302(b) provides that the Committee shall be composed of the Attorney General; the Secretary of Labor; the Chairman of the Federal Trade Commission; the Chairman of the Council on Wage and Price Stability; the Chairman of the Council of Economic Advisors; the Special Assistant to the President for Consumer Affairs; the Executive Director of the Regulatory Policy Board; and the Administrator of the Small Business Administration. The President is given the authority to designate not more than five individuals to serve on the Committee who shall be broadly representative of regulated interests including business, labor, and consumer interests. The membership was carefully structured to represent those points of view which are critical to a balanced, fair and effective review of regulatory policies.

Section 302(c) gives the President the power to appoint the Chairman of the Committee; and provides that the Committee members must meet, at the call of the Chairman, at least twice a year. It also provides that a majority of the members of the Committee shall constitute a quorum and that a vacancy in the Committee does affect its power to function.

Section 302(d) specifies the compensation that shall be paid to the nongovernmental members of the Committee. Governmental employees shall not receive additional compensation. All members of the Committee are reimbursed for expenses incurred by them in the performance of their duties.

Section 302(e) gives the Chairman of the Committee the power to appoint staff to carry out the provisions of the title.

Section 303. Schedule.

Section 303(a) establishes the schedule which the Congress must follow in reviewing regulatory agencies. The schedule is predicated on sessions of Congress rather than on calendar years. The 10-year schedule begins in the ninety-eighth Congress and ends with the 103rd Congress. Altogether, 25 agencies and departments—health and safety as well as economic—are specifically named on the review schedule.

Section 303(b) provides that the President may, by Executive Order, change the order of the schedule established by subsection (a) whenever he determines such change to be in the national interest.

Section 304. Evaluation and Examination of Agencies.

Section 304(a) sets forth the Committee's responsibilities in reviewing the regulatory agencies. The Committee must propose to the President regulatory reform legislation and issue a report concerning an agency by May 1 of the second session of the Congress preceeding the Congress in which that agency is subject to review under the Schedule established in section 303. The section establishes a framework within which the Committee (and later the President) must conduct the review process and propose legislation. The framework contains five main objectives: (1) to increase economic competition; (2) to enhance the ability of agencies to protect public health and safety; (3) to increase the effectiveness of regulatory programs; (4) to achieve the statutory goals of the agency by using nonregulatory means—like taxes or mandatory disclosure—wherever possible, instead of more restrictive "command and control" regulations; and (5) to increase business productivity.

Section 304(b) requires the Committee to invite the head of an agency to participate in the review and evaluation of that agency.

Section 305. Regulatory Reform Bill and Report.

Section 305(a) provides that by October 1 of the second session of the Congress before the Congress in which an agency is to be reviewed, the President must send to Congress a report and legislation to achieve the goals established by section 304.

Section 305(b) provides that report must explain why the proposed legislation meets these goals and must also discuss the impact of the agency's regulatory activities on regulated industries, geographical regions, and on the environment, public health and safety, conflicting regulatory policies, and the relationship between the agency's regulatory policies and relevant subsidy programs.

Section 306. Procedures for Consideration of Regulatory Reform Bills.

This section provides action forcing procedures to facilitate and expedite Congressional consideration of regulatory reform legislation. These procedures are derived from the Impoundment Control Act. It should be noted that, unlike sunset legislation, it still takes two Houses of Congress and the President to change the statutory mandate of an agency.

Section 306(a) states, among other things, that the procedures provided in this section are enacted as an exercise of the rulemaking power of the Senate and House, respectively, and with full recognization of the power of either House to change the rules at any time.

Section 306(b) provides that the President's regulatory reform bill and report are referred to those Congressional committees having legislative jurisdiction or oversight responsibilities with respect to the subject matter discussed in the bill or report.

Section 306(c) requires a Congressional committee which has jurisdiction over the regulatory reform bill to report out a bill and report by May 15 of the second session of the Congress in which an agency is scheduled for review. If two or more committees in either House can agree, they may issue a joint report.

If the committee fails to act in a timely fashion, a motion is in order to discharge the committee from further consideration of the President's regulatory reform bill. A discharge motion may be made only by one favoring the President's regulatory reform bill, and may be made only if supported by one-third of the members of the House involved. The motion is "highly privileged" and debate on the motion is limited to not more than one hour. The debate time is divided between opponents and proponents of the bill according to slightly different procedures for the House and Senate. Neither amendments to the motion nor motions to reconsider the vote on the discharge motion are in order.

Once a majority of either House has passed the discharge motion, the committee has 30 days to act before it is discharged from further consideration of the President's regulatory reform bill.

Section 306(d) establishes the procedures for considering the legislation on the floor of the House of Representatives and the Senate. The procedures are detailed and are slightly different for the House and Senate.

In the House of Representatives, the section provides, among other things, that it is at any time in order to move to consider the bill. This motion to proceed is highly privileged and not debatable. Amendments or motions to reconsider are not permitted. Debate on the bill in the House of Representatives is strictly limited to two hours which is divided equally between those favoring and those opposing the bill.

Section 306(e) establishes the action-forcing procedures in the Senate. Among other things, debate on the regulatory reform bill and all related amendments and motions is limited to not more than ten hours. Debate time on an amendment is limited to two hours and is equally divided between opponents and proponents of the measure. Non-germane amendments are not permitted. A motion to recommit is not permitted except a motion to recommit with instructions to report back within three days. There are also procedures for expediting consideration of the conference report in the Senate including a limit of two hours on the debate on the conference report.

Section 307. Authorization of Appropriations.

Section 307 provides for the appropriation of $2 million for fiscal years 1981 and 1982 to carry out the provisions of this title.

TITLE IV—THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Section 401. Organization.

Section 401(a) retains the present structure of the Administrative Conference of the United States (ACUS) as an independent commission, headed by a Chairman, who is appointed by the President and confirmed by the Senate.

The Chairman would be appointed to a four-year term coterminous with the term of the President and be removable only for inefficiency, neglect of duty, or malfeasance in office. In addition, the Chairman would be retained until a successor is named at the end of each term.

Finally, the Chairman is authorized with the general administration of the Conference, and is given additional matters of authority in Section 402.

Section 401(d) preserves the ability of the Chairman to select up to 36 members of the Conference from the practicing bar, from academic institutions in the field of administrative law or government, and other knowledgeable individuals. In this group, the section mandates that at least one-fourth be individuals representative of small businesses, consumers, and others regularly affected by the regulatory process.

Section 402. Functions of the Conference.

Under existing law, the Chairman of ACUS is given a number of functions, including making recommendations to the full Conference of appropriate subjects for study and providing financial assistance to Federal agencies on matters of administrative procedure.

Section 402(a) retains the present functions of the Conference and gives the ACUS Chairman a major role in selection and reassignment of administrative law judges (ALJs).

Specifically, the Chairman is authorized to perform the following related functions: select ALJs for appointment (§ 802), monitor the number of ALJs ranked at general schedule 16, 17 and 18 and prescribe ALJ pay (§ 803), and recommend reassignment of ALJs to insufficiently staffed agencies (§ 804).

Section 402(b) authorizes the Conference to establish an in-house Committee on Administrative Procedures which shall prepare model uniform rules on administrative procedure. These rules, to be sent to the Conference for full consideration within two years, will be similar in principle to the Federal Rules of Civil Procedure, but will constitute non-binding recommendations for agencies to consider and adopt, where appropriate.

In drafting the recommendations, the Committee is instructed to provide public notice and opportunities for oral or written participation by the public.

TITLE V—EFFECTIVE DATE

Section 501 contains the effective dates for the bill. This section states that the provisions of the bill shall take effect 180 days after enactment, except that at any time on or after the date of enactment of this Act, the President may appoint the members of the Regulatory Policy Board established under section 602 of title 5, United States Code, (as added by section 102(a) of this Act); and within 150 days after the date of enactment of this Act, each agency subject to the provisions of title II of this Act (amendments to the Administrative Procedure Act) and the amendments made by such title shall promulgate such rules as are required to conform the procedures of the agency to the requirements of such provisions.

Mr. CULVER. Mr. President, I ask unanimous consent that S. 2147, the Regulatory Flexibility and Administrative Reform Act of 1979, be jointly referred to the Committee on the Judiciary and the Committee on Governmental Affairs.

Mr. ROBERT C. BYRD. That request has been cleared on both sides.

Mr. CULVER. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. LAXALT. Mr. President, I am pleased to join Senator Culver and several of my other colleagues in cosponsoring the Regulatory Flexibility and Administrative Reform Act of 1979.

As the ranking minority member of the Administrative Practice and Procedure Subcommittee of the Judiciary Committee, my staff and I have played an active part in working out the provisions of this bill with Senator Culver and his staff, and I believe that what we have finally agreed to presents a constructive and positive approach to regulatory reform, and will hopefully be a basis on which the full committee and the full Senate can build to act in this important area.

We have all been inundated with letters, telephone calls and visits from our constituents urging us to do something about the Federal regulatory process, which has become, in many ways, so abusive to the private sector. We all know, I believe, that the regulatory system, as it now exists, no longer serves individual taxpayers, businessmen, or any of the rest of us as it was designed to do, but that it is a drain on our productivity, on the courts and the legal system, and on our economy generally, and in many cases only serves the bureaucrats who administer it. Regulations are proposed and promulgated by agencies which, in many cases, cause far greater problems than they solve, and are given the force of law by agencies without any serious consideration of what their impact will be. The result is, of course, that we all suffer.

Many proposals have been made in this and the past Congress to reform that system. Nearly everybody who has seriously considered the subject has come up with a scheme or program to reform the system to make it more responsive to the need of the American people, to make it more accountable, and to make it less abusive. As those of us on the committees to which these bills were referred examined the proposals, however, we realized that because of their breadth and diversity, it would be virtually impossible to have a customary "markup session" on these bills. Accordingly, Senator Culver and I decided, last August, to try to agree on some of those proposals on which we could agree, and to leave the rest for dicussion and votes in the normal basis. The accompanying bill is the result of that process.

I strongly believe that the bill that we are introducing today will serve to get the issue before the full Judiciary Committee, and will serve for a vehicle, ultimately, for a strong and effective regulatory reform bill. Because of the complexity of the issue and diversity of philosophies represented, however, the bill which we are introducing is by no means perfect, and will be subjected to many changes and improvements before it reaches a markup session in the full committee.

There are parts of the bill with which I disagree, just as there are parts of the bill with which Senator Culver disagrees. However, because of the nature of the problem which we took on, we have agreed that overall the bill which we are introducing is a positive step, and even in its present form would be a vast improvement over the system as it now exists. That is not to say, of course, that the bill cannot be improved. The other minority members of Judiciary and I intend to work with the majority in order to do that, so that we can pass a bill which will have definite and positive impact on the regulatory system.

One provision which I have proposed which is not included in the bill, and about which some of my colleagues and I feel very strongly, would change the venue laws to provide that appeals from agency proceedings be filed in the Circuit Court of Appeals for the circuit in which the injury or impact is most significant rather than in the Circuit Court for the District of Columbia. Senator Kennedy and Senator DeConcini, chairman of the Subcommittee on Improvements in Judicial Machinery have agreed to hold hearings on that subject in January, and I will place an amendment before the full Judiciary Committee to the bill we are introducing today to include such a provision in it. That provision is similar to a bill which I introduced earlier in the session, and which enjoys considerable support from Members from this body.●

Mr. CULVER. Mr. President, I ask unanimous consent that a statement by the Senator from Massachusetts (Mr. Kennedy), who is a cosponsor of this bill, be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement By Senator Kennedy

I am pleased to join Senator John Culver (D-Iowa) and Senator Paul Laxalt (R-Nevada) in proposing the Regulatory Flexibility and Administrative Reform Act of 1979.

The comprehensive regulatory reform legislation which we are introducing today responds to the frustration felt by a growing number of American consumers and businesses with the costs created by government regulation. This legislation provides a necessary handle to control excessive government regulation while at the same time preserving the ability of our regulatory agencies to fulfill important social needs such as the protection of health and safety.

It is not surprising that the American people have begun to focus on the problems created by excessive regulation. Since the New Deal, and especially over the past few decades, the federal bureaucracy has grown at an unprecedented rate. Our 56 regulatory agencies spend four times more today than they did 10 years ago. Today government regulation affects virtually every sector of the economy and has an important impact on the daily lives of most Americans—the food we eat, the air we breathe, the safety of our workplaces.

Clearly, we need government regulation to solve many of the complex social and economic problems which we face in a modern technological society, especially in the areas of health and safety, and where the structure of a marketplace is not competitive. We cannot turn back the clock to the laissez-faire days of Adam Smith. But the pendulum toward government regulation has swung too far. Although the American people believe that the free enterprise system and the spirit of competition are the cornerstones of this nation's economic success, today government interference in the marketplace is as much the rule as the exception.

We are beginning to learn that regulation can create as many problems as it solves. In paperwork alone, regulations cost our economy between $25 billion and $50 billion, and compliance costs for the private sector may run another $100 billion. In just the trucking industry, economic regulations cost consumers over $5 billion with no significant compensating benefit. And until airlines were deregulated, excessive regulations cost consumers billions in higher air fares.

Some of these costs derive from necessary concerns, but by no means all of it. In too many areas regulation stifles competition, entrenches leading firms, hurts productivity, and causes higher prices for consumers. In a time of tight budgets and double-digit inflation, we have to rethink our regulatory policies, to make them effective where regulation is necessary and to eliminate excessive and costly government interference where it is not. That requires not only an analysis of each regulatory agency, but a comprehensive review of all agencies.

The comprehensive legislation introduced today improves the fairness, quality and effectiveness of agency decision-making. I would like to commend Senator Culver and the staff of the Subcommittee on Administrative Practice and Procedure for the excellent work they have done in combining the many regulatory reform proposals pending before that Subcommittee into one comprehensive piece of legislation to decrease the burden of government regulation on the American public.

I would also like to point out the bipartisan support in the Judiciary Committee for this legislation. It is co-sponsored by Senator Leahy, Senator Metzenbaum, Senator Thurmond, Senator Laxalt, Senator Mathias, and Senator Hatch. Our goal in the Judiciary Committee is to pass a responsible regulatory reform bill which will improve, and not cripple, the regulatory process.

HIGH NOON

I was particularly pleased to see that many of the key regulatory reform proposals contained in my bill, S. 1291, The Administrative Practice and Regulatory Control Act of 1979, have been incorporated into this legislation.

Most importantly, it contains my High Noon proposal which mandates an agency-by-agency review of regulatory policies. The High Noon proposal reflects my firm belief that the best approach to accomplishing meaningful, substantive reform of our regulatory policies is to look at each one of our regulatory agencies with an unjaundiced eye, and with a strongly rooted presumption that regulation should be used only "as a last resort" where market forces will not protect important public needs like health and safety, or competition itself. This is the approach I have taken in reforming regulation of the airline industry, the trucking industry, and the drug industry. We should take this approach in reforming each one of our regulatory agencies.

The High Noon proposal establishes a two-stage legislative mechanism. In the first stage, the President, assisted by a newly established Committee on Regulatory Evaluation, reviews certain regulatory agencies according to a fixed schedule and proposes to Congress legislation to eliminate excessive regulation and to make regulation more effective. In the second stage, the appropriate congressional oversight committee is given a certain amount of time to evaluate the proposed regulatory reform legislation. If it does not report out legislation according to schedule, there are action-forcing procedures to facilitate consideration of the legislation on the floor of the House and Senate. Unlike Sunset legislation, the High Noon proposal requires that the two Houses of Congress and the President must approve regulatory reform legislation before the statutory mandates of an agency are abrogated. However, by creating action-forcing procedures—like discharge mechanisms and limits on debate—the High Noon proposal ensures that the regulatory reform legislation and report will not be just another volume accumulating dust on a library shelf.

I call this mechanism my "High Noon" provision because it exposes regulatory agencies to bright, piercing sunlight which should expose defects in the regulatory process. This is not a magic formula for solving all the problems created by government regulation, but it does give the political system the necessary impetus to reform the regulatory process. It is time that we in Congress faced our responsibility for the functioning of our regulatory process.

OTHER PROVISIONS

The legislation introduced today contains other provisions, which I have proposed, to deal with the problems created by our regulatory process. It contains a provision which, under certain circumstances, creates a procompetitive standard for economic regulatory actions. It contains procedures to give the public a more effective voice in the outcome of agency proceedings. It opens rulemaking proceedings to public scrutiny by requiring agencies to inform the public of communications by outside lobby groups intended to influence the merits of a rule.

In addition, the legislation acknowledges the enormous impact which individual rules can have on our economic growth and on individual businesses. It contains a proposal which had been introduced earlier this year by Senator Ribicoff, and supported by the Administration, that requires an agency to analyze the economic impact of each of its major rules. It also contains a provision, which Senator Culver has fought hard for, that encourages agencies to reduce the impact regulations have on small businesses and small governmental jurisdictions.

There is, however, one area where the Subcommittee could not agree, which I believe should be considered during this debate.

I have fought long and hard for the creation of a public participation program which will enable needy groups to participate in agency proceedings. Several studies, including those conducted by the Judiciary Committee and the Governmental Affairs Committee, demonstrate the need to enable public interest groups and small businesses to have an effective voice in the outcome of agency rulemakings. Too often the only voice an agency hears is that of well-funded regulated interests. We have learned much in the past four years about the need for a public participation funding program from our experience with the Federal Trade Commission under the Magnuson-Moss Act. The FTC public participation program has enabled many groups to represent the consumer in agency proceedings. It has also enabled needy small businesses to participate.

I understand that the Subcommittee in its markup will evaluate proposals to improve the intervenor funding proposal. I firmly believe that, especially in a government-wide program, Congress must take the responsibility for expressly spelling out safeguards to ensure that the funds are distributed fairly and that procedures are adequate to ensure that the funds are well spent. I welcome all such improvements in the program.

This legislation is an important step in accomplishing meaningful regulatory reform this Congress. I look forward to working with all the Members of the Committee, with the Governmental Affairs Committee, with other Members of Congress, with the Administration, and with regulated, labor, and consumer interests in passing comprehensive legislation which will eliminate the unnecessary costs and burdens placed on the American public and economy by government regulation.

● Mr. MATHIAS. Mr. President, the Code of Federal Regulations weighs 224 pounds; as every doctor knows, that means it is time for a diet. Business and industry are overregulated and frustrated. The rules and regulations are written in technical, incomprehensible prose, so we should not be surprised to discover that the general public can not understand the workings of the agencies that control their lives and cannot participate in the rulemaking process. In the end, the American taxpayer and consumer bear the burden of excessive redtape and bureaucracy. And this dead weight makes American products less competitive in world markets.

Today the Judiciary Committee submits a comprehensive regulatory reform bill to answer the question that so many people ask: How can we reestablish the proper balance between Government, business, and the American public? It is quite clear that the relationship between the three is now out of whack.

Government should be the regulator of the last resort. It should be a reluctant referee who intervenes in the private sector only when no one else can or will satisfy a perceived need. Nevertheless, for the past 45 years, the growth of the Federal Government has been the most striking change in our political landscape. During this period of expansion, the Federal Government, through various forms of carrot-and-stick regulation, has wrought striking changes of its own in virtually every area of national life.

Now, with our air, water, food, clothes, cars, medicine, and even our borrowing regulated and made safer, Americans are crying for relief. I think it would be a mistake, however, to read into these anguished cries a desire to turn back the clock to the time when air pollution alerts were routine in most of our great industrial cities and when factories dumped their effluent into our lakes and rivers with reckless abandon. I think that those days are gone forever, and good riddance.

What people are asking for now, and what they have every right to expect, is the application of a little commonsense in where and how the Federal Government imposes regulations. They are not seeking to amputate the regulatory arm of Government. They are seeking some assurance that the Federal hand will intrude itself only when absolutely necessary, and then with a deftness that has been lacking up to now.

The bill we introduce today attempts to make some progress in this direction. The bill will require the agencies to issue more extensive agendas and notifications of proposed regulations, to weigh more heavily the projected economic costs and benefits and estimated paperwork burdens. It would also require the agencies to publish summaries of public comment and identify what influence the public had on the final regulations. In short, the bill will help reduce undue burdens on business and make the agencies more responsive to the will of the people.

In the section on administrative law judges, the bill incorporates my amendments to insure that the judicial integrity and independence of these judges are preserved, and that they are protected from undue political influence, either from the agencies on which they serve or from the political operatives of the Executive.

The bill is a step toward rationalizing the decisionmaking process in the regulatory area, and I hope all my colleagues will join me in supporting this initiative for long-overdue reform. If the free enterprise and free market system is going to survive in this country, we are going to have to strike a better balance between Government, business, and the people.●

By Mr. CRANSTON (for himself, Mr. HAYAKAWA, Mr. DECONCINI, and Mr. GOLDWATER):

S. 2149. A bill to amend the Agricultural Adjustment Act to allow the crediting of certain obligations of handlers who engage in the marketing of grapefruit, lemons, or oranges subject to marketing orders if such fruits are grown in the State of Arizona or the State of California; to the Committee on Agriculture, Nutrition, and Forestry.

FEDERAL MARKETING ORDERS FOR CALIFORNIA AND ARIZONA CITRUS

● Mr. CRANSTON. Mr. President, I introduce for appropriate reference a bill to amend the Federal marketing order for California and Arizona citrus. I am delighted to have Senators HAYAKAWA, DECONCINI, and GOLDWATER joining me on this bill. The measure is identical to H.R. 5795 introduced in the House by Congressman COELHO and 23 cosponsors.

Mr. President, the authorized California-Arizona citrus marketing order already provides for generic advertising-promotion. However, the administrative committee which operates this marketing order has never implemented the advertising program.

California and Arizona growers believe that an advertising program which highlights California and Arizona citrus would be effective in promoting southwest citrus in the highly competitive domestic and international markets. But the growers want to be sure that the cost of their own brand advertising is credited against the costs that otherwise would be allocated to them by the administrative committee for generic advertising.

The purpose of this bill is to authorize that brand advertising expenditures be credited toward the brand advertiser's obligations under a generic advertising marketing order.

Mr. President, there is precedent for this type of provision. The California almond marketing order, the raisin marketing order, and the Florida grapefruit marketing order all provide for crediting brand advertising costs.

I also want to make it clear that this is merely enabling legislation. Any such marketing order must be approved by the growers and handlers themselves in a referendum. It is my understanding that the California-Arizona Citrus League supports this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2149

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8c(6)(I) of the Agricultural Adjustment Act (7 U.S.C. 608c(6)(I)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937 (Public Law 137; 50 Stat. 246), is amended—

(1) by striking out "and" before "Florida Indian River grapefruit", and

(2) by inserting ", and grapefruit, lemons, and oranges which are grown in the State of Arizona or the State of California" after "Florida Indian River grapefruit".●

ADDITIONAL COSPONSORS

S. 1688

At the request of Mr. MATHIAS, the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 1688, a bill to clarify the extent to which a State or political subdivision may tax certain income from sources outside the United States.

AMENDMENT NO. 724

At the request of Mr. NELSON, the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of amendment No. 724 proposed to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

SENATE RESOLUTION 317—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. NUNN, from the Committee on Armed Services, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 317

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 523, a bill to amend chapter 5 of title 37, United States Code, to revise the special pay provisions for certain health professionals in the uniformed services.

Such waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402 (a) of such Act are waived with respect to S. 523 as reported by the Committee on Armed Services.

AMENDMENTS SUBMITTED FOR PRINTING

CHRYSLER LOAN GUARANTEES—S. 2094

AMENDMENTS NOS. 1600 THROUGH 1602

(Ordered to be printed and to lie on the table.)

Mr. LEVIN submitted three amendments intended to be proposed by him to S. 2094, a bill to authorize loan guarantees for the benefit of the Chrysler Corp.

AMENDMENTS NOS. 1603 THROUGH 1614

(Ordered to be printed and to lie on the table.)

Mr. WEICKER submitted 12 amendments intended to be proposed by him to S. 2094, a bill to authorize loan guarantees for the benefit of the Chrysler Corp.

● Mr. WEICKER. Mr. President, I am today submitting a number of amendments to S. 2094, a bill to authorize loan guarantees for the benefit of the Chrysler Corp., to be offered by myself and Senator BELLMON.

As my colleagues know, I am opposed on principle to a Federal bailout of Chrysler. Nevertheless, I plan to offer, along with Senator BELLMON, amendments to S. 2094 that would strengthen the terms and conditions of the Federal commitment. It is our hope that these amendments will focus constructive debate on the critical substantive issues raised by the proposed loan guarantee. We urge our colleagues to consider carefully these amendments.

Mr. President, I ask unanimous consent that the amendments be printed at this point in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1603

On page 5, starting with line 15, strike all through line 17 and insert in lieu thereof the following:

"(B) the Board is satisfied that both the scope and detail of the operating plan are realistic and feasible.".

AMENDMENT NO. 1604

On page 5, line 7, strike out "(including budget and".

On page 5, line 8, strike out "cash flow projections)".

On page 5, line 14, strike out "; and" and insert in lieu thereof the following:

"The operating plan shall include budget and cash flow projections and shall provide adequate means for its execution, including, but not limited to—

(i) a determination of the feasibility of a limited product line and the amount of Federal loan guarantees that would be saved by a limited product line; and

(ii) transfer of all or part of the Corporation's assets to one or more entities; or

(iii) merger or consolidation of the Corporation with one or more entities; or

(iv) satisfaction or modification of any lien;

(v) cancellation or modification of any indenture or similar instrument; or

(vi) extension of a maturity date or a change in an interest rate or other term of outstanding securities; or

(vii) amendment of the Corporation's charter; or

(viii) issuance of securities of the Corporation, or of any entity referred to in (ii) or (iii) of the subparagraph, for cash, for property, for existing securities, or in exchange for claims or interests, or for any appropriate purpose; and".

AMENDMENT NO. 1605

On page 3, line 2, after "market," insert "which has a minimum net worth in excess of that prescribed by the Board pursuant to section 4(d)".

On page 10, between lines 2 and 3, insert the following:

"(d) In the event that the net worth of the Corporation, as determined by the Board, falls below the minimum net worth which the Board shall prescribe, the Corporation shall convert that portion of its outstanding debt which the Board specifies into equity through the conversion of such debt or the offering of a new issue of common stock. If the Corporation fails to comply with the preceding sentence, the Board shall not issue any further guarantees for loans under this Act, and all loans guaranteed under this Act shall be due and payable in full.

(e) In the event that the case under chapter 11 of title II, United States Code, the Board shall not issue any further guarantees for loans under this Act, and all loans guaranteed under this Act shall be due and payable in full.

AMENDMENT NO. 1606

On page 10, strike out lines 13 through 17, and insert in lieu thereof the following:

"(2) the loan to be guaranteed is of such sound value or so secured as reasonably to assure repayment in accordance with its terms;".

AMENDMENT NO. 1607

On page 5, line 6, strike out "(A)".

On page 5, starting with line 14 strike out all through line 17 on page 5 and insert in lieu thereof the following: "Federal financing. The operating plan shall be deemed to be not satisfactory if the Board finds that pursuant to the plan there is, or will be—

(i) continuing loss to or diminution of the Corporation's assets and an absence of a reasonable likelihood of rehabilitation;

(ii) an inability of the Corporation to effectuate the plan;

(iii) an inability of the Corporation to effectuate substantial consummation of the plan if approved; and

(iv) a material default by the corporation with respect to the plan if approved;".

AMENDMENT NO. 1608

On page 3, line 2, after "market," insert "which has a minimum net worth in excess of that prescribed by the Board pursuant to section 4(d)".

On page 10, between lines 2 and 3, insert the following:

"(d) In the event that the net worth of the Corporation, as determined by the Board, falls below the minimum net worth which the Board shall prescribe, the Corporation shall convert that portion of its outstanding debt which the Board specifies into equity through the conversion of such debt or the offering of a new issue of common stock. If the Corporation fails to comply with the preceding sentence, the Board shall not issue any further guarantees for loans under this Act, and all loans guaranteed under this Act shall be due and payable in full.".

AMENDMENT NO. 1609

On page 25, line 8, after the period insert the following: "Notwithstanding the foregoing, no commitment to guarantee may be issued under this Act until the Corporation divests itself of all interests in subsidiaries where such divestiture would not result in less vertical integration of the Corporation.".

AMENDMENT NO. 1610

On page 2, line 9, after "affiliates" insert the following: ", except that such term does not include any such subsidiary or affiliate which is carried on the Corporation's financial statement as an unconsolidated subsidiary".

AMENDMENT NO. 1611

On page 4, line 24, after "that" insert "no officer, director, or management employee of the Corporation holds any stock options which may be exercised and that".

AMENDMENT NO. 1612

On page 21, between lines 10 and 11, insert the following:

CONVERSION OF DEBT

SEC. 8. No commitment to guarantee may be issued under this Act until the Corporation converts not less than 50 per centum of the existing outstanding indebtedness of the Corporation into equity in such form as the Board may prescribe.

Redesignate succeeding sections, and all cross references thereto, accordingly.

AMENDMENT NO. 1613

On page 4, line 17, strike out "and".

On page 4, line 18, before the period insert the following: ", and four individuals from the private sector to be appointed by the President by and with the advice and consent of the Congress, of which one shall be a representative of the investment banking industry, one shall be a representative of the commercial banking industry, one shall be an executive from a private enterprise which is not related to the automobile industry, and one shall be an economic expert who is not connected with the Federal Government or any State government".

AMENDMENT NO. 1614

On page 23, line 12, after the word "waived" strike out the "comma" and insert in lieu thereof a "period" and strike out the remainder through line 13.●

AMENDMENT NO. 1615

(Ordered to be printed and to lie on the table.)

Mr. JAVITS submitted an amendment intended to be proposed by him to S. 2094, a bill to authorize loan guarantees for the benefit of the Chrysler Corp.

AMENDMENT NO. 1616

(Ordered to be printed and to lie on the table.)

Mr. SASSER submitted an amendment intended to be proposed by him to S. 2094, supra.

AMENDMENT NO. 1617

(Ordered to be printed.)

Mr. LUGAR proposed an amendment to S. 2094, supra.

AMENDMENT NO. 1618

(Ordered to be printed.)

Mr. EAGLETON (for himself, Mr. ROTH, Mr. BIDEN, Mr. BAYH, Mr. LEVIN, and Mr. RIEGLE) proposed an amendment to S. 2094, supra.

FEDERAL TRADE COMMISSION AMENDMENTS—S. 1991

AMENDMENT NOS. 1619 THROUGH 1622

(Ordered to be printed and to lie on the table.)

Mr. RIBICOFF (for himself, Mr. JAVITS, and Mr. LEVIN) submitted four amendments intended to be proposed by them, jointly, to S. 1991, a bill to amend the Federal Trade Commission Act to change procedures for agency adjudications and rulemaking, to extend authorizations for appropriations for the Federal Trade Commission, and for other purposes.

● Mr. RIBICOFF. Mr. President, the Senate Commerce Committee has recently reported S. 1991, the Federal Trade Commission Act of 1979. Today, Senator JAVITS, LEVIN, and I are submitting amendments to that bill.

S. 1991 results from the commendable work by my distinguished colleague, Senator FORD. The extensive FTC oversight hearings which his subcommittee held have contributed to a better understanding of the problems of that agency.

There is widespread consensus that there are regulatory problems—at the FTC as well as other agencies—which require responsible reform. I want to see Congress respond to those concerns. I am committed to a more effective and efficient regulatory process. It is for that reason I introduced S. 262, the Reform of Federal Regulation Act, which now has 34 cosponsors in the Senate. That bill will meaningfully address the pressing problems of all Federal regulatory agencies, including the FTC.

S. 1991 contains broad regulatory reform proposals not unlike those proposed for all agencies in S. 262. For example, the FTC bill would require a regulatory analysis on proposed rules—something which was first advanced in S. 262. The FTC bill also contains—as does S. 262—proposals to improve the efficiency of the administrative process, and increase the ability of members of the public to effectively participate in agency proceedings.

However, there are several significant differences between the provisions of S. 262 and S. 1991. If both are enacted into law, the Trade Commission would be subject to different requirements than all other regulatory agencies.

That result should be avoided. To as great an extent as possible, the provisions should be consistent with the approach proposed for all regulatory programs. Thus regulatory analysis and ex parte contacts are addressed by these amendments. We also propose to establish a standard of reasonableness, implicit in S. 262 guidelines on public participation, for the related provisions of S. 1991.

I ask unanimous consent that the text of the amendments be printed in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1619

(1) Strike section 16 (Regulatory Analysis), and insert in lieu thereof the following:

REGULATORY ANALYSIS

SEC. 16. The Federal Trade Commission Act, as amended, is further amended by adding immediately after section 23, as added by section 15 of this Act, the following new section:

"SEC. 24. (a) In any case in which the Commission publishes notice of a proposed rulemaking, the Commission shall issue a preliminary regulatory analysis relating to the proposed rule involved. Each preliminary regulatory analysis shall contain—

"(1) a succinct statement of the need for, and objectives of, the rule, and the statutory authority on which the rule is based;

"(2) whenever feasible, a description of no fewer than two available alternative approaches which could most nearly accomplish the stated objectives of the rule; and

"(3) for the rule, and for each of the alternatives required by paragraph (3), a preliminary description of projected economic, and projected health, safety and other noneconomic effects which the Commission is permitted by law to take into account, and an appraisal of the effectiveness of each approach in meeting the stated objectives of the rule.

"(b) In any case in which the Commission promulgates a final rule, the Commission shall issue a final regulatory analysis relating to the rule. Each final regulatory analysis shall contain—

"(1) a succinct statement of the need for, and the objectives of, the rule;

"(2) whenever possible a description of at least two alternatives to the rule which were considered by the Commission, and a statement of the reasons why each one of the alternatives was rejected;

"(3) a detailed analysis of projected economic and projected health, safety and other noneconomic effects, including the major advantages and disadvantages, which may result from the rule, and which the Commission is permitted by law to take into account; and

"(4) a summary of the significant issues raised by the comments submitted during the public comment period in response to the initial regulatory analysis, and a summary of the assessment by the Commission of such comments.

"(c) In order to avoid duplication or waste, the Commission is authorized to—

"(1) consider a series of closely related rules as one rule for the purposes of this section; and

"(2) whenever appropriate, incorporate any data or analysis contained in a regulatory analysis in any other impact statement or analysis required by law, and incorporate by reference in any initial or final regulatory analysis information contained in a notice of proposed rulemaking or a statement of basis or purposes.

"(d) The Commission is authorized to delay the completion of any of the requirements established in this section in whole or in part by certifying in writing that the action of the Commission is being taken in response to an emergency situation or is governed by short term statutory or judicial deadlines which make compliance with this section in whole or in part impracticable. The Commission shall, within a reasonable time, but in no event later than the publication of the final rule, publish the certification of waiver in the Federal Register, along with a statement of the reasons justifying the waiver of such provisions.

"(e) The requirements of this section shall not alter in any manner the substantive or procedural standards otherwise applicable to Commission action."

AMENDMENT No. 1620

(2) Strike section 17 (Judicial Review), and insert in lieu thereof the following:

JUDICIAL REVIEW

SEC. 17. The Federal Trade Commission Act, as amended, is further amended by adding immediately after section 24, as added by section 16 of this Act, the following new section:

"SEC. 25. (a) In conducting its review of a rule in accordance with applicable law, the court may consult, as an ancillary part of the whole record, any analyses of such rule prepared by the Commission pursuant to section 24. Such analyses shall not be subject to separate judicial review, either in an independent action or in a proceeding to review the underlying rule. Nor shall the sufficiency or the conclusions of the analyses, or of any other procedures or determinations under this subchapter, be subject to any judicial review.

"(b) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise provided by law."

AMENDMENT No. 1621

(3) In section 11 (Ex Parte Meetings), on page 12, insert the word "pending" before the phrase "rulemaking proceeding" in line 16, insert a period after the word "proceeding" in line 16, and strike the phrase "for any investigation preliminary to a contemplated rulemaking proceeding." On page 13, lines 3 through 18 strike paragraph (j) and insert in lieu thereof the following:

"(j) Within sixty days after the date of enactment of this subsection, the Commission shall publish a proposed rule, and within 180 days after the date of enactment of this subsection, shall promulgate a final rule, which, except to the extent required for the disposition of ex parte matters as authorized by law, shall prohibit employees or agents of the Commission with investigative or program responsibilities in rulemaking proceedings, from communicating or causing to be communicated to any member of the Commission or to the personal staff of any Commissioner any fact relevant to the merits of that proceeding that is not on the rulemaking record of that proceeding, unless the communication is made available to the public, and included in the rulemaking record."

AMENDMENT No. 1622

4(a) In section 18 (Award of Attorney Fees and Other Expenses), strike the words, "was substantially justified," on page 33, line 19, and insert in lieu thereof, "had a reasonable basis in law and fact".

(b) In section 18, strike, "except" on page 35, line 19 and all thereafter through line 21, and insert in lieu thereof, "specifically for this purpose by Congress."

(c) In section 18, strike the words, "was substantially justified," on page 36, line 11, and insert in lieu thereof, "had a reasonable basis in law and fact."

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet during the session of the Senate tomorrow—beginning at 1:30 p.m.—to mark up S. 1464, a bill dealing with the acquisition of land for the Mille Lac Chippewa Indians; S. 1832, authority for the Secretary of the Interior to declare land to be Indian reservation land; and S. 1855, amending the tribally controlled Community Colleges Act of 1978.

The PRESIDING OFFICER. Without objection, so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, December 20, beginning at 1:30 p.m., to resume consideration of the nomination of L. T. Senter, Jr. for U.S. district judge for the northern district of Mississippi.

The PRESIDING OFFICER. Without objection, so ordered.

COMMITTEE ON SCIENCE, COMMERCE, AND TRANSPORTATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Wednesday, December 19, 1979, to hold a hearing on the nomination of Philip Klutzick as Secretary of the Department of Commerce.

The PRESIDING OFFICER. Without objection, so ordered.

ADDITIONAL STATEMENTS

FAR OUT IN THE BALTIMORE CANYON, OIL COMPANIES PLAY FOR HIGH STAKES

● Mr. BELLMON. Mr. President, it is difficult for those who have not had the opportunity to personally witness oil drilling operations to understand the magnitude, the complexity and the costly nature of such endeavors. An article entitled "Far Out in the Baltimore Canyon, Oil Companies Play for High Stakes," written by William MacLeish and published in the December 1979 issue of Smithsonian magazine captures the flavor and presents in a highly readable fashion the risks and dangers involved in drilling operations at sea.

I believe this information will help Members better understand what is at stake in attempting to find and produce oil on the Outer Continental Shelf. In this regard, I ask that this article be printed in the RECORD.

The article follows:

FAR OUT IN THE BALTIMORE CANYON, OIL COMPANIES PLAY FOR HIGH STAKES

Ken Kaigler danced a little on the long afterdeck of the service boat. He was trying to keep his lizard-skin boots away from the seas sheeting in over the stern. All the day before Kaigler had sat around the general manager's office in Davisville, Rhode Island, waiting for a break in the weather big enough to get a helicopter through. No luck. Instead of the 90-minute hop, he had boarded *Biehl Trader* for a 12-hour run, out past Block Island and then south into quartering seas. *Trader* is a Cadillac of a craft, but the pitch and roll had brought uncertainty to Kaigler's stomach.

He stood brooding at a sight that would have amazed almost anyone else: thick yellow tubes of steel rising right out of the ocean toward a behemoth of a box 80 feet above. The neck of a crane showed birdlike over the edge of the one-acre deck, and a rope-and-rubber basket came twisting down through the wind to land on the fantail. Kaigler and three others tied on grimy life vests, stepped up on the rubber doughnut and shot skyward.

Thirty seconds later, the crane operator set Kaigler down smoothly on Norwegian territory, the deck of the semisubmersible drilling rig *Zapata Ugland*, anchored in 443 feet of water 100 miles due east of Atlantic City, New Jersey, over a stretch of ocean bottom known as the Baltimore Canyon.

Crossing to the crew's quarters, Kaigler headed down a long corridor, past neatly kept sleeping quarters, offices and a recreation room to a sign marked "Company Representative." He walked into the tiny cabin and grinned up at the occupant, a short, stout Texan saluting a tall, stout Oklahoman. "Greater love," he said to Don McCollough, "greater love hath no man but that he should relieve his buddy by boat." The big drilling engineer grinned back and down. Oilmen call a spell of work a tour and pronounce it "tower." Don and Ken had been alternating 14-day tours. Now, with the testing coming up, it would be seven days on, seven off. Each was on call the full time aboard, and any more duty under that kind of pressure would have been pushing luck.

McCollough chafed at the weather. He was eager to get home to his family. But he stayed to take an order for a $160 pair of cowboy boots from a big Norwegian seaman before grabbing his bags. Kaigler was now the company man, top representative on the rig for Tenneco Inc. of Houston. That meant he had hands-on responsibility for a multimillion-dollar, months-long, brain-bending, tendon-stretching effort to see if there were hydrocarbons in profitably extractable amounts somewhere under the nine square miles of sea bottom known as Block 642.

He lowered himself into the seat of authority, a swivel chair in easy reach of a computer terminal, a radio transmitter, and files of reports and printouts. He commenced to thumb, hum and grunt his way through the pages that told him what was going on beneath him in a hole inches wide and miles deep.

Ken Kaigler was involved in a gamble with stakes that make those in Atlantic City's new casinos, 100 miles across the water, look puny indeed. The name of the game is offshore drilling. With land-based oil reserves dwindling and Middle East oil rapidly growing more expensive, oil companies are looking more and more to the petroleum potential of the continental shelf—off New Jersey, off New England, off Alaska. The financial risks in this kind of prospecting are staggering. The odds are about 50 to 1 against a given hole providing enough of a find to cover the bills and produce a profit. But the hit more than pays for the misses. Much more.

There are a number of junctions, critical points on the long line to an oil or gas find, and in each one the switches must be set just right. To begin with, your prospect has to have a sufficient amount of dispersed organic material—the remains of plants and animals. If the time and temperature involved in cooking the stuff are within the productive ranges, you're still in the game. If there are rock formations like sandstone, porous enough to act as reservoirs, things are looking up. If there is impermeable rock, like shale, over the reservoirs to prevent hydrocarbons from seeping to the surface, you're halfway home.

Now, if something has occurred to create a trap that will dam the hydrocarbons in their percolation—a faulting of a formation, the thrusting up of a dome—and if the entrapment occurred at the right time during the thousands of gestatory millennia, you can begin to smile. If nothing has broken the seal or trap, chances are you you have oil or gas or both.

You can learn a lot about those switches through geologic know-how and good seismic work—reading echoes bouncing back from the formations. But at some point, if you want to find out what you've got, you have to bet on a pants-seat hunch. You have to hire yourself a rig and a Ken Kaigler and go out and drill.

Satisfied with his self-briefing, Kaigler got on the radio to his boss, Hugh Horton, general manager of the Tenneco venture. They talked with the concern of surgeons about completing the hole to its targeted depth of 18,400 feet.

It was time to see how h.s contractors and subcontractors were doing, the multinational jumble of specialists characteristic of oil operations. The rig is owned by Norway's shipbuilding Ugland family. It is operated under long-term lease by Zapata Corp., a Houston-based drilling contractor and holder of a two-well contract with Tenneco. A flock of other outfits roosted on the rig—divers, testers, drilling specialists.

Out in the day, now bright and brilliant, Kaigler, the little Texan, moseyed past drilling pipe racked high on the vast deck. The derrick drew the eye, thrusting from the raised drilling floor. Some 300 feet from the top of the sea. Eiffel afloat. The twin pontoons, each longer than a soccer field, rode deep in the water, their ballast tanks full, to dampen the surges. All this is to keep downhole work on schedule, close as possible to the $12 million Tenneco had budgeted for the drilling and testing. There had been a winter day, the well half-drilled, when 40-foot waves and 70-knot winds had shut down operations on the handful of other rigs in the area. But not the *Zapata Ugland*. She was built for the North Sea, home of foul weather. She can work in seas up to 50 feet and remain anchored until they reach 100.

Kaigler took a detour below deck to the mudroom, the source of the sharp-sweet smell that pervaded the rig. The drilling fluid swirled in its mixing tanks, a cocktail of refined clays and chemicals whose composition could be changed almost instantly to meet shifting conditions. Piped down the hole, the mud could be used to increase or decrease pressure, to cool and lubricate machinery, even to coat delicate formations whose exposed surfaces at the wellbore needed protection. The whole operation was tied into computers and run by a geologist with a quarter of a century in mud. He had seen or heard of it all—walnut hulls, chicken feathers, telephone poles, you name it—put down the well in the name of control.

Back up on deck to talk to people from a firm called Johnston-Schlumberger, which handled many of the testing functions. A stop at a computer-filled van run by well-monitoring people calling themselves simply The Analysts. Working with geologists and other specialists, they were keeping series of logs showing various properties of the formations drilled through.

Then up the steep flights of steel stairs to the drilling floor, a boxy nave of a place under the great spire of the derrick. The floor pulsed as the rotary table spun, about 120 revolutions per minute at its center. In the jaws of the rotary turned the kelly, more than 50 feet of hexagonal, hollow tubing screwed to the top of thousands of feet of pipe—the drill string—and powering the rolling fists of the drill bit as their tungsten knuckles crushed the rock below.

The tool pusher, the shift boss, came over to fill Kaigler in. He was young and Australian and carried the catchy name of Blue Rapley. Over in a corner, the driller stood in his glassed cab, a Scot with a yell on him like the noon whistle. One hand on the brake lever controlling the drawworks, the winch and cable that held the half-million pounds of metal turning in the hole. One eye on the gauges that gave him his drilling speed, mud-pump pressures, the weight on the bit—40,000 pounds. Across the deck, "roughnecks," the men tending the drill string, watched as the kelly spun. The roughnecks were young, all of them. Their fitness gave them a look of innocence.

The caterers were ready with the noon meal in the mess on the lower deck of the crew's quarters. Men just off their 12-hour tour came steaming from the showers, unrecognizable in their cleanliness. Babel sounded. The overworked vowels of the all-Norwegian marine crew clashed with the accents of Scotland, Australia, Wales, Canada, the slurs and twangs of the Sun Belt. There were 80 men aboard, no women.

They ate hugely, concentrating on what was in front of them. "A man," said a sedentary supervisor, eyeing his paunch, "has to watch what he eats out here or he's gonna look like a wine barrel with the staves kicked out." From others came a sense of what it is that brings them to the rig and keeps them there, celibate, boozeless, limited in entertainment to books, TV, movies and their own devices.

The pay is good: one year on the Zapata Ugland brings the roustabouts, the beginners, about $18,000. Their year, split into three weeks on, three weeks off, really comes to about six months of hard labor; the rest is free time. Free transportation home and back between stints. Free room and board. And even the odd schedule attracts some. "When I come home to my woman," said a tall, bald Canadian, "it's like starting all over again. We both like it this way."

Deeper down, accepted and seldom talked about, is the sense of being a part of risk, of mixing muscles with sophisticated and dangerous machines, of chancing a mashed hand or worse to be in on the big find.

"Wildcatters," said a Tenneco front-office man on board for the day, "do it for the thrill."

That seems true all the way to the top. If there is anything monolithic about big oil, it is The Gamble. The nation's most ardent oddsmakers are in Houston, not Reno. Today the wildcatter's game is opening the Atlantic frontier.

Phil Oxley is a player respected at any table. He is a geologist, a former teacher of geology, who jokes about having sold his soul to industry. He has done well in the bargain, is now senior vice president for exploration of Tenneco Oil Co., a subsidiary of Tenneco Inc. A tall man, brown eyes clear behind half-glasses, Oxley leaned a little on his pedagogical talent as he talked about how his company had joined the betting on Baltimore Canyon. "A lot of us wanted to believe that we could find gas or oil off the Atlantic Coast," said Oxley, "near such a lovely market. Some companies that went all out in the Baltimore Canyon were just starved for domestic reserves."

"IT'S LIKE A GAME OF BATTLESHIP"

In 1975 the Department of the Interior, which handles such matters, decided to initiate the complex ritual dance that would lead to actual exploration of the Baltimore Canyon area: lease sale number 40. The United States Geological Survey (Smithsonian, March 1979) ran an environmental impact study. Maps were prepared of the region's outer continental shelf. Each map was divided into numbered 5,700-acre blocks, chips in the poker game. The companies retired to their headquarters, pulled the shades, and planned their plays. Those opposed to the sale on environmental, economic or political grounds did the same. Months of litigation followed. Then, late one August day in 1976, a crowd of oilmen, their supporters and their opponents, all gathered in the ballroom of New York's Statler Hilton hotel, got word that the sale could proceed. More than 400 bids were submitted. The winners received five-year drilling rights to 93 tracts. They had paid the federal government a record $1.1 billion for the privilege.

"It's like a game of Battleship," Oxley said. "You're trying to figure out if the treasure lies all under one block or under a string of them." The most promising structure, at least the most popular, was a huge bulge in the rock near the landward flank of the 300-mile-long Baltimore Canyon area—the Great Stone Dome. The giants were interested in that, and bids were likely to be high.

There was a strong argument in Oxley's shop that things would go better farther out to sea. That was where Block 642 was, about 20 miles east of the Dome. Tenneco looked at the block just north, 598, liked it but figured it would go for more than the company wanted to pay. With a partner, Tenneco put in a bid of $8,190,000 for 642.

As always in these sales, insiders like to look at the difference between the top bid and the runner-up. They call it money left on the table. It's an estimate of how much you lose by winning, of how different gamblers read their hands. Tenneco left some $6 million on the table for 642. "We were a little amazed we were so far out of line," said Oxley. "But it was a bargain, compared to many blocks on the Dome." It was. Over there, one block had gone for $107 million.

Tenneco joined its colleagues on the long and costly trail of the permit seeker. An exhaustive environmental impact statement had to be prepared for each block. The Environmental Protection Agency looked at what Tenneco was going to do to keep pollutants out of the sea. (From 642 the garbage was going to be hauled to a landfill in Rhode Island.) The USGS looked at the company's procedures for handling blowouts and other emergencies. Governments of affected states took their turn at review. Finally, after more than 18 months of regulatory work and legal maneuvering, it came time to drill.

The oil companies made more than a dozen holes in the first flush, many on the Dome, a few on some blocks there in which Tenneco had an interest. All were dry but one. And that one, gas, was on Block 598, right next to 642.

Texaco, with five partners, held the lease on 598, and announced their find significant but not commercially producible. A frontier find has to be big to be profitable. Everything must start from scratch. Tens of millions of dollars must go into designing and building the production platforms. Then there is a pipeline. Down in the Gulf there is so much that they call a stretch of bottom near the Houston Ship Channel the "spaghetti bowl". Here there is nothing. All told, it might take almost a billion dollars to connect Baltimore Canyon gas with consumers.

It was still, as a distinguished president of Yale used to say, better than a slap in the belly with a wet fish. Tenneco sent word for the *Zapata Ugland* to come across the pond and drill 642. She can make more than nine knots steaming under her own power, more when the wind is astern of the towering derrick. But the wind was from the west, and the rig stayed within sight of the Azores for almost a week. The trip took 45 days.

To expedite drilling and save costs, Tenneco and its neighbors got neighborly. Texaco agreed to drill inside 642's northern line with Tenneco sharing expenses and geological data. Giant Exxon agreed to pay half of the Zapata Ugland's drilling costs in exchange for geologic information.

The Zapata Ugland spudded-in in January this year. One hundred and eighteen drilling days later—two short of budgeted time—the well reached its target depth. It was cased to 13,700 feet with pipe designed to protect both the hole and the formations it had pierced. Now for the test.

Big Don McCollough was the company man aboard. The test would be along a 30-foot section 13,500 feet down. Don went up to the drill floor to watch them run the testing tool down the hole at the end of its tubing. Stands of the tubing about 100 feet long were stacked vertically in one corner of the derrick, racketing in the wind. At their top, a man rode a racker arm out into space, guiding them one by one out to where he could clip them into clamps hanging from a huge steel hook. Below him, roughnecks attached each stand to the tubing already in the well. Down went the hook, up again for a new stand. And again and again, the teamwork never faltering. They had been going like this for almost 12 hours, and the testing tool was about where it should be in the wellbore.

The casing at the selected depth had been perforated by a multiple-shot shaped-charge device. Now a rubber bushing on the testing tool bulged out, sealing off the top of the zone. Everything was ready.

The Johnston-Schlumberger employees swarmed around the rotary, natty in their blue coveralls. They attached an array of piping and gauges straight out of Smokey Stover. With infinite care, pumps applied pressure to the drilling fluid, the all-essential mud. The Johnston-Schlumberger people peered at their instruments; one stuck a tiny plastic tube in a bucket of water and watched for air bubbles.

Pressure built up. Something was forcing the cushion of seawater in the tubing up and out. Valves were thrown, diverting the flow to heaters and separators on the main deck, and from there to a long outboard boom. A specialist touched off the pilot light at the end of it. Orange and black, flame and smoke bannered out over the ocean. Men felt the heat at the opposite end of the deck and whooped.

This wasn't Clark Gable standing heroic, grinning skyward while a gusher fountained oil on his face. This was a high-rolling, high-technology, high-cost cigarette lighter out there, and it was something to see.

It was all over the network news that night. The next morning, Ken Kaigler landed on the copter pad with a newspaper under his arm: "Tenneco strikes gas off coast. Second Baltimore Canyon find revives hopes of discovering major deposit in area." Everyone did a lot of grinning that day.

Tenneco kept testing, coming up with gas a little higher up the hole and with gas and some oil at about 8,000 feet. Ashore, or in the Gulf, both the Tenneco and Texaco finds would probably have been regarded as commercial. But there still wasn't enough evidence that the requisite amount of gas was down there. Tenneco had two choices. It could hold the *Zapata Ugland* on standby while waiting to see what Texaco and Exxon discovered on neighboring blocks; that meant paying Zapata about $20,000 a day, probably for months. Or it could drill on another block and come back if yet another well made sense.

The decision was to move the *Zapata Ugland*. There was some ribbing aboard. "That's one reason why geologists don't like drillers," drawled a crewman. "Drillers are forever making hole down to good prospects and killing them."

The big anchors were broken loose by the service boat and winched in. *Zapata Ugland* rose almost 60 feet as the ballast tanks emptied. The Norwegians took over, bringing their monstrous vessel onto a southerly course. The rig headed for Block 495, leased by Tenneco in the area's second sale—a lackluster affair held early this year, that netted a mere $41 million.

In October, after 120 days of drilling, 495 turned up a dry hole. But later in the month Texaco, in its own well on 642, struck gas again—in modest quantities. Tenneco sat back to reevaluate its cards. To many, the Baltimore Canyon trough had come to look like one long shot. Better explore elsewhere for new finds, they said in the Arctic, the vicious seas off Alaska. Not Phil Oxley. "The conventional wisdom is that the trough has been a disappointment," he said. "But there's still a lot of area to be explored. You never know when these things are going to turn around. They drilled, I don't know, 40 years in Alaska before they found what was in Prudhoe Bay. They sank 50 wells in the North Sea before the Ekofisk discovery."

The cost of doing business offshore is rising. The well at 642 was perhaps five times more expensive than a comparable land well. Figures will soar with the investment in new technology needed to produce in really deep water and with the environmental regulations that are sure to come in the wake of the huge Ixtoc I oil spill off Yucatán earlier this year.

Could there be enough oil and gas out there to cover costs and gladden stockholders?

"Conceivably, there could be a major source of hydrocarbons," said Oxley the geologist.

Said Oxley the gambler: "It's at least possible." ●

CONSUMERS NEED FTC—NO. 4

● Mr. METZENBAUM. Mr. President, many sensible and sound arguments can be made in favor of permitting the Federal Trade Commission to continue along its current regulatory path, unencumbered by congressionally applied restraints. To me, the most persuasive case for the FTC revolves around the agency's impact on American consumers.

It is the FTC which helps to encourage competition in the marketplace. And it is the FTC which helps to insure consumers the availability of lower priced and better quality goods and services. No other Federal agency plays such a role on behalf of consumers.

The fourth in the series of newspaper editorials I am submitting in the RECORD expounds on this theme that the FTC serves the American consumer well. Today's editorial appeared in the Honolulu Advertiser on December 3.

I ask that the following editorial be printed in the RECORD.

The editorial follows:

THREATS TO FTC

What do orphans and widows, used-car buyers, pre-schoolers who watch television, and life insurance customers have in common? For one thing they are not as well represented by trade associations and lobbies as are the funeral industry, auto dealers, TV advertisers or insurance agents, respectively.

As a result, their voices are not heard as clearly on Capitol Hill as are the voices of business groups which would like to see the Federal Trade Commission restrained.

The FTC has been around for 65 years. But only in the last decade—roughly coincidental with increased consumer awareness—has it become an aggressive advocate. It is perhaps the only regulatory agency not generally sympathetic to the industries it regulates.

There has been considerable criticism of the FTC, and not just from those powerful groups it has antagonized—including the America Bar Association, large agricultural co-ops and the drug industry.

The FTC is one of the few agencies pushing for more, not less, government regulation of business. Its rulings have the force of law and, like other agencies, it has not always used its power prudently.

And like the Occupational Safety and Health Agency, for example, the FTC has at times been overbearing and petty. Some of the hundreds of lawyers working for the commission no doubt have an anti-business bias.

But while its chairman has been called a socialist, many of the FTC's actions are aimed at increasing good old capitalistic competition by ending bans on advertising of prices and services and by requiring businesses to more accurately inform the customer about what they are selling.

Part of FTC activism can be traced to the 1974 Moss-Magnuson Act which gave it extensive powers, like the ability to represent itself in court. But in its last session, Congress defeated the proposal for a consumer protection agency and that encouraged the present attempt to restrain the FTC.

The most important proposal to this end would allow either house of Congress to override an FTC ruling. The "one-house veto" will likely be attached to an FTC funding bill, making it very hard to stop. In addition, Senate committees have passed amendments which specifically prohibit the FTC from looking into various businesses and from pursuing anti-trust investigations.

Much of the rhetoric about reforming the FTC has to do with reducing wasteful bureaucratic interference. But the rush by special interests to protect their particular industries from scrutiny shows where most of the initiative for this legislation comes from. It also points up the danger of the one-house veto which, by ignoring traditional legislative checks-and-balances, increases the influence of lobbyists.

If the FTC is thus restrained it would be the first regulatory agency to lose its independence in this way, which many think may be unconstitutional.

By and large, the independent, aggressive FTC has served the American consumer well. Though its targets may not realize it, the FTC could also serve those in fields that are traditionally and stereotypically mistrusted—like used-car sales or insurance—by suggesting clear rules for all to follow.

The FTC's powers should be reviewed from time to time and the commission ought to be accountable for what it does. For this purpose the Congress has the power of the purse and the power to pass other laws—that is, in effect, the two-house veto. But the one-house veto and subservience to powerful special interest lobbies at the expense of the consumer are not the way.●

SAVINGS IN PRINTING COSTS

● Mr. SASSER. Mr. President, I should like to call the attention of my colleagues to a rather obscure—but, I think, significant—change in the Federal Register program.

As the Members may recall, the Federal Register provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest.

The Legislative Branch Subcommittee of the Senate, along with our sister subcommittee in the House, have been urging the elimination of the appropriation of subsidies for publications that are sold below cost, such as the Federal Register.

At the urging of our subcommittees, the Administrative Committee of the Federal Register recently raised the price of annual subscriptions from $50 to $75 to be effective February 1, 1980. The single copy price will be increased from $0.75 to $1.

Subscription prices to the Federal Register were last increased in September 1975. Since that time, the number of pages has been increased and labor and newsprint costs have risen. This has required an ever increasing subsidy of Federal funds.

The Government Printing Office has now advised that the actions of the Administrative Committee of the Federal Register, in response to the directives of the Legislative Branch Subcommittees that this publication become self-supporting and not require appropriated funds, will have the effect of reducing the legislative branch budget by about $2.6 million a year.

Mr. President, the Public Printer is to be commended for his responsiveness to our Legislative Branch Subcommittee and the concerns of our fellow taxpayers that unnecessary Federal expenditures be eliminated whenever and wherever possible.●

FIFTIETH ANNIVERSARY OF THE INAUGURATION OF HERBERT HOOVER TO BE THE 31ST PRESIDENT OF THE UNITED STATES

● Mr. HATFIELD. Mr. President, one of the great libraries and research institutions in the world is the Herbert Hoover Institution on War, Revolution, and Peace at Stanford University. Since the collection of materials for the institution was originally funded in 1919 with a $50,000 grant from Hoover, the archival holdings of the institution have steadily grown to the point that they now total 25 million documents.

Dr. W. Glenn Campbell has been the director of this vast and priceless resource for nearly 20 years. To commemorate the 50th anniversary of the inauguration of Hoover in 1929 as our 31st President, Dr. Campbell has prepared an essay describing the origin, development and present stature of the institute.

According to one scholar, Hoover was "the greatest book collector among the Presidents since Jefferson." For example, he collected a comprehensive set of books on China during his work there, which he gave to Stanford. Hoover's inspiration for the creation of a collection of works on World War I, the original purpose of the institution, was the autobiography of President Andrew Dickson White of Cornell University. During his student days in Paris, Dr. White collected materials about the French revolution, which he later gave to Cornell. Because of his presence in Europe during the "Great War," Hoover realized he was in the position to follow Dr. White's pattern. He collected works on his own, and then expanded these efforts by the $50,000 gift to Stanford, which paid for the University's sending of personnel to Europe with the purpose of document acquisition. Gen. John J. Pershing also cooperated by the release of historians under his command.

One "historical sleuth" accumulated over 25,000 books, and nearly 60,000 materials, dealing with the Russian revolution and its aftermath. Another, Dr. Ralph Lutz, who was to be director of the Hoover War Library (one of several former names) from 1925 to 1944, gathered comprehensive records of Bela Kun's Hungarian Communist Government.

The results of Hoover's foresight, and the dedicated efforts of so many others, is a national treasure—one which has been liberally shared on an international level. For example, Alexander Kerensky spent 4 years at the institution compiling and documenting his books on his 1917 provisional government in Russia. In recent years, Alexander Solzenitsyn utilized the collection on Russia, indicating that it contains just the sort of materials the Soviets destroyed in order to rewrite history.

Mr. President, the Hoover Institution on War, Revolution, and Peace is one of most valuable of the legacies of Herbert Hoover. I request that Dr. Campbell's description of it be printed in the RECORD, along with a brief biographic sketch of the author.

The article follows:

W. GLENN CAMPBELL

EDUCATION

1944: B.A., University of Western Ontario, London, Canada.

1946: M.A., Harvard University (Economics).

1948: Ph. D., Harvard University (Economics).

PROFESSIONAL CAREER

1948–51: Instructor in Economics, Harvard University.

1951–54: Research Economist, U.S. Chamber of Commerce.

1954–60: Research Director, American Enterprise Institute for Public Policy Research, Washington, D.C.

1960– : Director, Hoover Institution on War, Revolution and Peace, Stanford University.

OTHER PROFESSIONAL ACTIVITIES

1968– : Member, Board of Regents, University of California.

1972–78: National Science Board, National Science Foundation.

1976– : Member, President's Committee on Science and Technology.

1969–74: Member, President's Commission on White House Fellows.

1979– : Member, Board of Visitors, Bernice P. Bishop Museum.

1964– : Trustee, Herbert Hoover Presidential Library Association.

1960– : Program Adviser, American Enterprise Institute for Public Policy Research, Washington, D.C.

1975– : National Advisory Board, Institute of International Studies, University of South Carolina.

1965–67: President, The Philadelphia Society.

1962– : Founding member, Executive Board, Center for Strategic and International Studies, Georgetown University.

1956–57: Co-Director for Report on American Competitive Enterprise, written for Senate Special Committee studying the foreign aid program.

ORGANIZATIONS

American Academy of Political and Social Sciences.

American Economic Association.

The Philadelphia Society.

Royal Economic Society.

Mont Pelerin Society.

PUBLICATIONS

1963: "Assuring the Primacy of National Security," in National Security: Political, Military, and Economic Strategies in the Decade Ahead.

1960: Voluntary Health Insurance in the United States.

1957: Co-author, American Competitive Enterprise, Foreign Economic Development and the Aid Programs.

1952: Economics of Compulsory Health Insurance.

1952–53: Co-author, American Competitive Enterprise Economy.

1952: Editor and co-author, Economics of Mobilization and War.

PERSONAL DATA

Born: April 29, 1924—Komoka, Ontario, Canada (U.S. citizen by naturalization, 1953).

Married: Rita Ricardo Campbell—1946.

Children: Barbara Lee (1954), Diane Rita (1956), Nancy Elizabeth (1960).

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HERBERT HOOVER AND THE HOOVER INSTITUTION

(By W. Glenn Campbell)

At the same time that we commemorate the 50th anniversary of Herbert Hoover's inauguration as President of the United States, it is fitting to call attention to the 60th anniversary of another of his great achievements: his creation, in 1919, of what is now known as the Hoover Institution on War, Revolution and Peace at Stanford University. It is one of Mr. Hoover's major legacies, so it is appropriate to recall the circumstances of its founding and of his active role in helping the Institution to grow to its present size and stature.

Today, the Hoover Institution is a world-renowned library and research center on social, political and economic change in the twentieth century. Its goals, conceived and promoted by Mr. Hoover, are to serve the worldwide community of scholars, to promote knowledge and understanding of the factors which foster peaceful cooperation among men and nations, and to analyze developments which precipitate revolution and war. To accomplish these objectives, it has assembled three great resources: archives, library, and a staff of scholars.

The Archives of the Hoover Institution comprise one of the largest private repositories in the United States, indeed in the world. The archival holdings now total 25,000,000 documents in nearly 4,000 collections, including the papers of prominent diplomats and military officers, statesmen and heads of governmental agencies, scholars and journalists, among others. The Archives also contain the records of numerous American and foreign organizations in all fields of endeavor. In addition, the Archives include an incomparably rich collection of leaflets, tracts, broadsides, photographs, posters, banners—materials traditionally called "ephemera," which are extremely valuable for understanding the growth and appeal of political movements and ideologies.

In addition to its archival holdings, the specialized library of the Hoover Institution contains almost 1.5 million books, pamphlets and government publications from approximately 100 foreign countries, as well as 24,000 magazine and 6,000 newspaper titles.

The third major resource of the Hoover Institution is its staff. At present, this includes some 170 resident fellows, research associates, curators, archivists, librarians and support personnel. The areas of scholarly expertise of these men and women include economics, education, history, international law, political science, sociology and philosophy. These staff members come from 29 countries and speak a total of 41 languages.

How did this rich network of resources and scholars come into existence? Herbert Hoover set it all in motion, when, in early 1919, he sent a cable from Europe to President Ray Lyman Wilbur of Stanford University, his alma mater. Hoover offered $50,000 as a gift to enable the University to organize a team of historians to search out and obtain—by gift or purchase—materials on the causes and consequences of the recently ended World War. President Wilbur dispatched Professor Ephraim D. Adams from Stanford's History Department to direct the gathering of materials. From this initial gift grew the present storehouse of valuable primary resources.*

Throughout the next 45 years of his life, he worked diligently to build his collection. It may seem out of character for Mr. Hoover, if one's impression of him is that of a man of practical affairs—a geologist, engineer and businessman—but not a scholar, bibliophile or student of history. He was, in fact all of these things. Few individuals have ever pursued such an extensive range of interests.

Hoover was an avid student of history, and read widely in both source works and interpretive analyses. It was in 1914, while he was reading the autobiography of a distinguished scholar-educator, President Andrew Dickson White of Cornell University, that he first conceived the idea of collecting and preserving documentation on the Great War.

In his autobiography, Dr. White wrote about preparing a course of lectures on the French Revolution during his early teaching career:

"During my student life in Paris, and at various other times, I had devoted much time to the study of this subject . . . [and] had collected, in all parts of France, masses of books, manuscripts, public documents and illustrated materials on the whole struggle: full sets of leading newspapers of the Revolutionary period, more than seven thousand pamphlets, reports, speeches, and other fugitive publications, with masses of paper money caricatures, broadsides, and the like, thus forming my library on the Revolution, which has since been added to that of Cornell University."

As he read Dr. White's words, Mr. Hoover realized that he could perform a similar service—collecting and preserving documents on the Great War—for use by future generations of scholars. He was aware that he had a rare opportunity to preserve valuable written records before they vanished or were destroyed. Fortunately, Mr. Hoover was a man of scholarly temperament, a prolific writer, a tireless historian detective; and so he became intrigued by the challenge of building a great documentary collection. This side of Mr. Hoover's personality is little known.

In 1935, in a paper presented to the American Antiquarian Society, Dr. A. S. W. Rosenbach, the foremost book collector and bibliophile of our century wrote:

"Mr. Hoover is the greatest book collector among the Presidents since Jefferson. He has an unusual faculty of delving in out-of-the-way places, in searching for material not readily accessible. He resembles Jefferson in that on all his journeys he gathered volumes that in time would be valuable to the student. Thus, when he was in China, in 1899, he gathered a most comprehensive collection of books, in many languages, on China and the Chinese people. This he gave to Stanford University, becoming the nucleus of the great Chinese library there. The Hoover War Library at Stanford is also a monument to his diligence and foresight as a collector. He gathered all through the War every document, pamphlet, proclamation, periodical or broadside relating thereto, which in time will be the foundation material for the history of the great contest. This achievement is the greatest of any of the Presidents in the field of book collecting."

Dr. Rosenbach also noted an earlier scholarly and bibliographic achievement:

"In 1912, Herbert Clark Hoover and his wife, Lou Henry Hoover, issued in London a translation of Agricola's 'De Re Metallica,' from the first editions published in Basle in 1556. It is a treatise on mining and metals and is one of the classics of its kind. The notes by Mr. Hoover show a large knowledge of the subject and an intimate acquaintance with the rare books of that period. In fact, there are twelve books printed before 1500 mentioned in the original edition of Agricola. Mr. Hoover succeeded in securing all twelve."

I think the point to be drawn from this expert's testimonial is clear: Mr. Hoover was a passionate bibliophile-scholar long before he encountered Andrew Dickson White's description of his collection on the French Revolution. Mr. Hoover realized that he could combine his wartime mission—to relieve the famine, to feed the innocent civilian victims of the war in the occupied nations of Europe—with his deep-rooted interest in acquiring and preserving rare books and documents. He managed to pursue both interests simultaneously with great ingenuity and energy.

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* This gift was only the first of Mr. Hoover's benefaction to Stanford. A year later, in 1920, he persuaded the Carnegie Corporation in New York to support the creation of a Food Research Institute at Stanford to continue his work on world food supplies. The Institute is active and flourishing to this day. Also in 1920, he and Mrs. Hoover personally contributed the money for the Stanford Union, a building to house various student organizations, recreational facilities and restaurants.

Then, in 1924, while serving as Secretary of Commerce under President Coolidge, he suggested that Stanford needed to establish a Graduate School of Business to train future leaders of the world of business. He helped to raise money among his wide circle of friends and the new school was opened in 1925.

Finally, the Hoover home on the Stanford campus was given to the University after the death of his wife Lou Henry Hoover, in 1944. It now serves as the home of the President of the University.

By 1919, when Mr. Hoover made his initial gift of $50,000 to acquire documentation on the War, the collecting effort had already begun. The records of the Commission for Relief of Belgium and Hoover's personal collection of war materials provided the base to build on. After the signing of the Armistice, when he returned to Europe in late 1918 as Director-General of Relief for the Allied and Associated Powers, he decided to put the process of collecting documents on a more organized basis; hence, his offer to President Wilbur.

Three scholars were sent from Stanford University to serve as his assistants. First, President Wilbur despatched Professor E. D. Adams. Upon his arrival, Hoover requested that General John J. Pershing release a number of young historians from the American Expeditionary Forces to begin systematic collecting. General Pershing agreed, and Dr. Adams acquired a corps of "historical sleuths" who scoured Europe in search of records. These soldier-scholars included Dr. Ralph Lutz, who later served from 1925 to 1944 as Director of the Hoover War Library. Among his many collecing coups were comprehensive records of Bela Kun's short-lived communist regime in Hungary.

The third collector was added in 1921, two years after Adams and Lutz. Professor Frank Golder was sent to Russia to serve on the American Relief Administration under Mr. Hoover's direction. He managed to acquire more than 25,000 books and nearly 60,000 government publications, newspapers, and magazines dealing with the last days of the Tsarist government, the short-lived Provisional Government headed by Alexander Kerensky, and the years of rule by the Bolsheviks under Lenin. He even secured a rarity which did not survive in the Soviet Union—a copy of the very first issue of Pravda.

As early as 1921, the collections had grown to such size and value that a more systematic and permanent basis for collecting and preserving materials had to be adopted. President Wilbur proposed that the Hoover War Collection (as it was then known) be renamed the Hoover War Library, a title which signified permanence. Mr. Hoover agreed to the name change, but he wanted a guarantee that the Collection would have a separate identity. He wanted the War Library to be an independent Institution, free from control by the University faculty at large, or by any committee composed of faculty members.

Hoover believed that autonomy was necessary to preserve the independence and integrity of the collections, to prevent them from being assimilated or swallowed up or dispersed in the University's general library and archives. He also felt very strongly that the separate identity of the War Library would enhance its ability to attract gifts of money and scholarly source materials. Over the years, the wisdom of his judgment has been borne out many times. President Wilbur accepted this stipulation, and the relationship has continued to this day. As expressed in a Resolution of Stanford's Board of Trustees on May 21, 1959, the Hoover Institution is "an independent Institution within the frame of Stanford University."

After the issue of the War Library's independence was settled, another decision had to be made: to what time period should collecting efforts be limited? That is, should it acquire or accept materials, covering only the war years, 1914–1918? Mr. Hoover realized the artificiality and impracticality of such limits. For example, the outbreak of war in 1914 was due to antecedent causes, so it would be senseless to preclude the acquisition of materials which explained or illuminated those causes.

Similarly, the war had set in motion a number of new movements and political developments whose long-term significance could not be ignored. These included the rise of the League of Nations; attempts at disarmament; the controversy over reparations and war debts; and the rise of totalitarian governments in Russia, Italy and Germany. Years after, Mr. Hoover explained his decision to extend the Collection's scope:

"Soon after the War, I became impressed by the fact that the most important event of the century was perhaps not the War so much as the consequences of the War. That is, the social, economic and political currents and effects which had sprung from it. Therefore, instead of closing the Library to purely War material, I determined that collections should be made continuous and especially directed to securing records of these movements. The rise of democracy in Europe after the War and its collapse into Communism, Fascism and National Socialism have all contributed to make one of the greatest human crises in history."

From the mid-1930's, the War Library's collecting program was open-ended, and its acquisitions for the period after 1918 helped to illuminate the origins and aftermath of the new war which erupted in 1939. Today, the Hoover Archives contain more material on the growth and spread of communism than can be found anywhere outside Russia; more pro-Mussolini and anti-Mussolini data than can be found in Italy; and probably the most complete record on Hitler and the Nazi movement extant. It is the place where scholars can document the story of Vichy France, the upheavals in the Balkan countries, the German and Japanese economic recovery "miracles," the rise of a communist government in Mainland China or the undergrounds in a score of European countries temporarily eclipsed by German or Russian conquests. Its collection on the USSR, Germany and China are unequalled. Many of its documents constitute the only existing records of the movements that have shaken the world in this century.

Throughout the entire period, before, during and after his term as President, Mr. Hoover played an active role in building the collections, and his name served as a magnet to attract gifts of both documents and money for acquisitions and administration.

By 1941, in a world torn by war, the enduring importance of the Hoover War Library's collections was undeniable, and a special building—the Hoover Tower—was built on the Stanford campus to house the existing materials and to provide room for additional materials certain to arrive in the years ahead. In 1967, a second structure was added: the Lou Henry Hoover Building, combining offices for scholars and a new home for the East Asian Collection. And in 1974, on the centennial of Mr. Hoover's birth, Congress voted funds to build the Herbert Hoover Memorial Building, which completes the Hoover facility at Stanford.

Through the years, more name changes have occurred. In 1938, the Hoover War Library became the Hoover Library on War, Revolution and Peace; it was changed in 1946 to the Hoover Institute and Library on War, Revolution and Peace. In 1957, the present name was adopted: the Hoover Institution on War, Revolution and Peace. But the changes in name did not obscure one enduring fact: that it was Mr. Hoover who created and sustained the Institution. He gave it leadership, and direction; he gave generously of his own funds and appealed to his friends and admirers to supplement his gifts. Today, the Institution's collections are used by visitors from all over the world, as well as, of course, by the scholars in residence.

Some users of the collections are military men and strategic planners Some are students—from Stanford or other universities—seeking documentations for research projects or dissertations Others are historians writing monographs addressed to a comparative handful of fellow specialists. And some are writers who direct their findings to general readers. Three such works, which became bestsellers, were William L. Shirer's "The Rise and Fall of the Third Reich," Barbara Tuchman's "The Guns of August," and George F. Kennan's "Russia Leaves the War."

After his visit, Mr. Kennan, the former U.S. Ambassador to the Soviet Union, wrote:

"I have no hesitation in saying that the collections now present at the Hoover Institution make it one of the truly great world centers in these fields . . . and it represents in this sense an important scholarly asset for the entire western world."

Similar appraisals have been expressed by other distinguished scholars. For example, Professor David Thomson of Cambridge University, writing in the Journal of Modern History:

"France has, for thirty years, had its Institute d'histoire des relations internationales contemporaines, but neither Britain nor France has any institution in the field that is comparable in importance with the Hoover Institute and Library at Stanford."

Recently, the Bulletin of the Library of Congress contained this evaluation of our East Asian Collection:

"It is generally agreed among specialists on the Far East that Hoover, through extensive expenditures of funds and effort, and the application of outstanding administrative flexibility in acquisitions procedures, has developed the strongest collection on modern China in the Western World."

Scholars affiliated with academic institutions are not the only ones who regularly use these collections. Other users are individuals who have fled or been expelled from their native countries. They consult the collections in the Hoover Institution Archives in order to reconstruct important eras in their countries' history. Alexander Kerensky spent four years in residence using our holdings to compile and edit a massive three-volume documentary collection on the short-lived 1917 Provisional Government which he headed in Russia. More recently, materials from our great Russian collection were smuggled into the Soviet Union for the use of Alexander Solzhenitsyn, who was barred by official censorship from using documentary sources on Russia during World War I.

In 1974, when Solzhenitsyn was forcibly expelled from Russia, Stanford's President Lyman and I cabled him:

"Please know that should you desire to continue your research and writing, we will do all we can to facilitate your work and to accommodate you and your family. The libraries and archives of the Hoover Institution and Stanford University will be at your disposal should you so desire."

More than a year passed before we received any reply. Then, in late May of 1975, came a telephone call from Alaska. It was Mr. Solzhenitsyn, alerting us that he would arrive in three days. To this courageous dissident, whose work Mr. Hoover would have so much admired and applauded, I turned over the huge eleventh floor office in the Tower in which Mr. Hoover had worked for many years. Solzhenitsyn and his wife, Natalya, worked without interruption, avidly pouring through literally thousand of items which traced Russia's history in 1917.

Years before, Mr. Hoover had noted that some people doubt the value of preserving historical records. He wrote:

"I suppose someone will wonder why all this trouble and expense to preserve these records. They embrace the campaigns of armies, the negotiations of statesmen. They tell of the great drama of superlative sacrifice, of glory, of victory, of death, or sorrow, of frustration and defeat. If we assume that humanity is going to abandon the lessons of its own experience, the whole of this collection is useless, except to the casual visitor. But sometimes the voice of experience does call out to stop, look and listen. And sometimes people respond to that call."

Mr. Solzhenitsyn was precisely the kind of user Mr. Hoover hoped for, someone who could call mankind's attention to tyranny, brutality, censorship and despotism.

As he concluded his first visit, Mr. Solzhenitsyn offered this appraisal of the Hoover Institution:

"In my own country, Russia, I had no access to any archival materials. The documentation I have examined is outstanding and, in many respects unique. Materials dated prior to 1922 are especially well represented here. It is the kind of original source material that the Soviets, in order to rewrite history, either destroyed or refuse to make available to scholars . . . Here I have had open access to the richest archival material dealing with Russia, and I can work without any interruption or interference. I look forward to using your special collections and library materials for the rest of my life.

It is an eloquent testimonial that Mr. Hoover's creation—the Hoover Institution—is a living legacy to men who cherish freedom.●

COMMENDATION FOR FULLER SCHOOL OF PSYCHOLOGY

● Mr. **HATFIELD**. Mr. President, I would like to commend the remarkable work of Fuller Theological Seminary of Pasadena, Calif., and particularly its graduate school of psychology. For all the 29 years of my public life, I have watched with interest, and encouraged where I could, the development of Fuller Seminary in its unique approach to the training of professional ministers. Now with the needs of people becoming so complex in our modern society, the goal of this unique school of higher education is to create a distinctive kind of clinical psychologist with a special ability to guide persons in the larger community toward wholeness. To that end its program is designated to accomplish the melding of theology and psychology so that both disciplines will serve the needs of our contemporary society. This purpose is admirably fulfilled on a number of levels including research, personal experience and clinical practice within the community.

The psychological center directed by Fuller is a novel institute which serves to train clinical psychologists, to conduct research, and primarily, to provide superior services to people of all ages who have emotional, developmental, or psychological problems. It includes a number of clinics, day treatment programs, residential treatment facilities and havens for respite care. The center forms a bridge between the secular and religious human services available in the Los Angeles basin area, serving as a worthy model for the entire country.

The child development clinic provides professional services to the community, some of which have been funded by the National Institute of Mental Health. In addition to direct services to children and their families, the staff provides psychological consultation to teachers and case workers in the community, utilizing a modern and well-equipped facility.

The gerontology clinic provides services to senior citizens, including the victim assistance program which identifies and aids the elderly who are victims of personal crime. This program was recently refunded by the Law Enforcement Assistance Administration and is viewed as a model of its kind. Other services for the aged include a day treatment program and residential treatment facilities.

The Pasadena Community Counseling Clinic, staffed by Fuller, serves the community by assessing and treating a wide variety of clients from adolescents to adults.

Mr. President, the challenges of developing the services, facilities, programs and projects of the psychological center are being admirably met by Fuller Theological Seminary's Graduate School of Psychology under the capable leadership of Dr. David Hubbard and his outstanding staff. I believe they are deserving of special commendation.●

UNITED STATES-SOVIET RELATIONS: THE ROME FORGERY

● Mr. **HUMPHREY**. Mr. President, I would like to submit for the RECORD another example of a Soviet forgery of an official U.S. document.

The forgery purported to have originated from the U.S. Defense Attaché Office in Rome was sent to various Italian newspapers. It first came to the DIA's attention when the forgery addressed to the defunct Italian newspaper Presenza Socialdemocratica was returned to the U.S. Embassy in Rome. Despite errors in format codes and correspondence serialization, the DIA concluded that the Soviet's use of official looking stationery was "sufficient to provide the forgery with a plausible appearance, and, no doubt some elements of the Italian public were deceived by the forgery despite a statement from the U.S. Embassy, Rome, which deplored this 'scurrilous attempt to spread distrust and antagomism by preying on the grief of innocent people.' "

In many respect this forgery—designed by the Soviet Politburo—to exploit public concern over the death of more than 80 infants primarily from the Naples slum area represents one of the more reprehensible Soviet attempts to sow anti-American feeling that I have revealed to date. The letter was clearly aimed at raising fear in the minds of the Italian public that American military facilities outside Naples posed a serious health hazard, and according to DIA, if totally successful could have led "to outraged cries for the removal of NATO/U.S. facilities in the Naples area, or at least circumscription of activities conducted at those facilities." Rumors generated by the forgery, however, have been effective in prompting the Italian authorities to ask U.S. specialists to investigate whether or not the infant deaths could be linked to a new form of virus.

Mr. President, the issue of Soviet forgeries of U.S. documents needs to be explored fully. Clearly the administration is unwilling to come clean on this aspect of Soviet chicanery, just as it is unwilling to discuss fully and openly Soviet attempts to inflame the crisis in Iran or, for that matter, Soviet violations of arms control agreements. Why Mr. President, is the Carter administration so adamant in protecting the "reputation" of the Soviet Union? I will leave the obvious answer to this question to my distinguished colleagues.

The material follows:

EMBASSY OF THE
UNITED STATES OF AMERICA,
DEFENSE ATTACHÉ OFFICE,
Rome, Italy, March 29, 1979.

Chief Editor of Presenza Socialdemocratica,
Via Maddaloni 6,
80134 Naples

DEAR SIR: I wish to notify you officially that the rumors suggesting the death of the children in Naples could be due to chemicals or bacteriological substances stored at NATO, or rather American bases near Naples, are completely unwarranted. I think those rumors hinting that the containers which disappeared in December, 1977 held substances dangerous to human beings are especially harmful. Just as absurd is the idea that the oyster beds at Naples will have to be periodically destroyed if the substances spill into the sea.

There is no truth to the gossip that the Italian and foreign specialists investigating the matter are acting under duress and the influence of U.S. military agencies.

U.S. officials believe the present Naples administration, which is incapable of handling the sanitation problem of the city, is solely and exclusively responsible for the regrettable epidemic among the children.

I hope your newspaper will inform the Italian public about the matter in line with the above. I am also taking this opportunity to convey my profound condolences to the parents of the dead children.

Sincerely,
WILLIAM C. GREEN,
Captain, U.S. Navy,
U.S. Defense and Naval Attaché.

One of the letters involved in the 1979 Rome Forgery Case.●

NEW GASOHOL INCENTIVES

● Mr. **CULVER**. Mr. President, last night the Senate completed action on the Windfall Profits Tax. I was pleased to cosponsor a comprehensive alcohol fuels amendment which greatly improves our national energy policy. This amendment, which is now part of the windfall bill, provides an excellent package of tax incentives and reductions in Government redtape that will spur the production and use of gasohol and other alcohol fuels through the year 2000.

The present 4-cent-per-gallon Federal excise tax exemption has been extended, and provisions have been made so that people who paid tax on gasoline they used for the production of gasohol can receive payment equal to the tax they paid.

Credits are also included for blenders and users of fuel alcohol. The credit can be up to 40 cents per gallon for 190-proof alcohol. The credit could be obtained for use of straight alcohol in tractors, industrial engines or utility turbines, or as a blend with liquids other than gasoline, such as diesel oil, which is suitable for use in internal combustion engines.

Of particular importance to the farming community is a provision taken in part from a bill that I cosponsored previously that would reduce the delays, bonding requirements, and paperwork associated with the Bureau of Alcohol, Tobacco and Firearms permits for alcohol plants. Small on-farm producers would not be required to post a bond, and the Treasury Department would be required to act on the application within 60 days, or it would be automatically approved.

Mr. President, as you know, I have long been a supporter of the use of renewable resources as an immediate means to reduce this country's crippling dependence on imported oil. As the demand for alcohol fuels increases, we must act quickly to prevent a new dependence of foreign alcohol. One company plans to import 150 million gallons of alcohol from Brazil this year. Actions such as the amendment I coauthored to the Economic Development Administration Reauthorization Act to provide $10 million in grants and loan guarantees for alcohol plants can help to prevent this. I was also an original cosponsor of the Talmadge Agriculture, Forestry and Rural Energy Act. The language of this act is now part of the Omnibus Energy Act passed by the Senate, and includes $1 billion per year for loan guarantees, and $250 million for direct loans for on-farm and commercial alcohol fuel production.

Fuel alcohol, Mr. President, is not the total answer to our energy problems. It is, however, the most immediate solution to the shortage of motor fuels. The technology exists today to develop a strong alcohol fuels industry that can move our country toward energy independence. The State of Iowa is already leading the country in gasohol production and use, and is setting a nationwide example. Nearly 13 percent of the automobile fuel sold in Iowa is gasohol. This exceeds the national goal of 10 percent set by the Secretary of Energy for 1980. Naturally I am proud that my State has emerged as a leader in the field, but Iowa is not the only place where gasohol is coming on strong. Major oil companies, such as Phillips, Texaco, Arco, and Citgo, are test marketing in many areas of the country.

I feel that the Omnibus Energy Act and the windfall profit tax bill represents a major step forward, and will encourage fuel alcohol. Particularly in Iowa and the Midwest, alcohol for gasohol offers a significant contribution to meeting our energy needs. I hope that the Senate position on this matter will prevail in conference, and those tax incentives and simplified regulatory procedures will soon be public law.●

SOVIET NUCLEAR OFFER WITHDRAWN

● Mr. BIDEN. Mr. President, in an attempt to dissuade NATO from its December decision to produce and deploy 572 new theater nuclear weapons, the Soviet Union made a conditional offer, in October, to reduce the number of its medium-range nuclear vehicles deployed in its western regions.

As you know, Mr. President, the need for NATO force modernization is to endow the defense of Western Europe with sufficient counterstrength against the whole range of Soviet intermediate-range missiles—in particular, the powerful SS–20. The Soviet conditional offer to reduce the number of its nuclear vehicles is, unfortunately, no assurance of a decreased nuclear capability against Western Europe. In fact, by replacing the older single-warhead SS–4's and SS–5's with independently targeted three-warhead SS–20's, the Soviet Union sizably reduces its force while at the same time greatly increasing the nuclear destructive power aimed at Western Europe.

NATO wisely decided last week to deploy new intermediate-range nuclear weapons. The skillfully worded Soviet "offer" was, as you can see by the news report that follows, withdrawn.

It is to be hoped, nevertheless, Mr. President, that the Soviet Union will realize that it is in our common interest to negotiate limits on nuclear forces in the European theater and that their initial disappointment over the NATO deployment decision will be followed by a willingness to join in meaningful negotiation. I would like to submit the following news report of the Soviet withdrawal of its offer on nuclear weapons for the RECORD for the information of my colleagues.

The report follows:

SOVIET EMPHASIZING WITHDRAWAL OF ITS OFFER ON NUCLEAR WEAPONS

MOSCOW, December 16.—The Soviet Union repeated today that it was no longer ready to withdraw medium-range nuclear forces from the European theater after last week's decision by NATO to produce and deploy 572 new American missiles in Western Europe starting in 1983.

"The Soviet Union was ready to reduce the number of medium-range nuclear vehicles deployed in its western regions if there would be no additional deployment of such forces in Western Europe," the Communist party newspaper Pravda said in its authoritative weekly review.

"Now the basis for such negotiations has been destroyed by the NATO decision," Pravda said, "so a favorable opportunity for Europe has been passed up."

The Pravda statement followed a similar warning by the chief of the Government news agency Tass on Friday.

TALKS ARE EXPECTED ANYWAY

Nevertheless, diplomats here believe the Russians have withdrawn only a specific negotiating proposal and remain willing to negotiate on the missile issue on some different basis.

Moscow and Washington have committed themselves to resuming talks on strategic arms, including for the first time systems based in Europe, after the United States Senate approves the arms treaty signed in Veinna in June.

But now the Warsaw Pact, like NATO, seems certain to increase its own nuclear forces in Europe rather than freeze them before negotiations begin. The proposal to reduce Soviet missiles if the West would forgo new ones was made by Leonid I. Brezhnev, the Soviet leader, in East Berlin in October.

Communist bloc officials in Moscow and East Berlin have indicated that the Soviet-led alliance, anticipating the NATO decision, approved its own additional military program in a meeting in the East German capital Dec. 6.

PROSPECTS FOR PROPOSALS

NATO will make a proposal on reducing nuclear and conventional arms in Central Europe at the East-West force-reduction talks in Vienna on Monday.

Diplomatic arms specialists here believe the Russians will come up with a proposal of their own later, perhaps after waiting to see if the Western political forces that resisted the NATO decision, and forced Belgium and the Netherlands to attach reservations to their concurrence, can now reverse it.

"Our country is taking part in many talks with the Western powers—the Vienna talks, talks on the Indian Ocean, on a comprehensive nuclear test ban treaty, etc.," Pravda said today, "but there is no doubt that the decision taken by NATO complicates the situation—for example, it doesn't make the talks in Vienna any easier."

Pravda also criticized President Carter's announcement of a 5 percent increase in United States military spending next year.

Despite all this, a decree of the Communist Party Central Committee today said Moscow's "peace program" of negotiations with the West would continue.

"The entry into force of the Soviet-American SALT II treaty can bring about a considerable improvement in the world political climate," the decree said.

The Senate debate on the treaty has been postponed until next year, and the vote is expected to be extremely close.●

UNITY DAY—BUFFALO, N.Y.

● Mr. JAVITS. Mr. President, at the initiative of several teachers in Buffalo, N.Y., the city of Buffalo will be observing 2 minutes of silence on Wednesday, December 19 from 11:00 to 11:02 a.m. for the American hostages being held in Tehran. Students in the Buffalo area have written close to 50,000 cards and letters to the hostages, and representatives of the community expect to deliver the cards and letters to the Iranian Mission in New York while Buffalo observes the 2-minute silence.

The citizens of Buffalo are urging the citizens of other cities throughout the United States to join them in their demonstration of American support for the fate of the hostages. In this time of grave national crisis, it is imperative that we demonstrate to the people of Iran and the world the American unity behind U.S. policies, and against the flagrant violation of basic international law in holding our hostages. Many millions of Americans are joining with the people of Buffalo in observing 2 minutes of silence on Wednesday.

I request that the following letter from organizers of Buffalo's demonstration of unity sent to President Carter be printed in the RECORD:

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The teachers of Buffalo, New York have initiated what appears to be building into a massive and united show of compassion for our fellow Americans in Iran.

We ask that all Americans join with us on December 19th from 11:00 to 11:02 for two minutes of silence. We also ask that this silence be so complete that all people will realize that in no other country do the words "united we stand" mean what they do for the people of the United States of America.

Respectfully,

THOMAS J. PISA.
PHILIP RUMORE.●

NORTHROP'S HANK CHOUTEAU—TEST PILOT SUPREME

● **Mr. GOLDWATER.** Mr. President, I would like to recognize the vital contributions made by airplane test pilots in developing aircraft to help guarantee our national security. The test pilot's painstaking job in developing a new or modified aircraft requires strong experience and heavy responsibility. As a pilot myself I not only know the feeling but appreciate and respect the test pilot's role.

Recently, the Wall Street Journal published an article about Henry E. Chouteau, chief test pilot for Northrop Corp., explaining how Mr. Chouteau not only flies aircraft, but also uses his mechanical-engineering background to develop aerodynamic simulations and to help design new aircraft, such as Northrop's multirole warplane, the F18L.

Mr. President, I would like to call special attention to the invaluable efforts of Mr. Chouteau and our Nation's other test pilots and therefore ask that the column from the December 7, 1979, issue of the Wall Street Journal be printed in the RECORD.

The article follows:

THE TEST PILOT HELPS DESIGN PLANE, ACTS AS SALESMAN—EVEN FLIES IT

(By Roy J. Harris)

PALMDALE, CALIF.—Shielding their eyes from the desert sun, foreign air force officers watch Hank Chouteau put a Mach 2 F18L fighter through its paces. The camouflaged blue-and-white jet glides along just above the runway, and then suddenly points its nose skyward and takes off like a rocket.

Mr. Chouteau moves into a 20-minute aerobatic display, ending with a spectacular roll against a backdrop of distant purple mountains. The visitors murmur their approval. Back on the ground, Mr. Chouteau assures them that they easily could perform the same maneuvers.

"The only thing magic about this plane is that the performance is so good you don't have to think much about flying," he says.

Chief test pilot is the title that Henry E. Chouteau carries at Northrop Corp. He helps to design a plane, or a modification of a plane, he flies that plane through various stages of development—and then he pitches in as a salesman, uniquely situated to get the ear of the prospective customer.

"He's the voice of the airplane," says Thomas V. Jones, Northrop's chairman.

HE LIKES HIS WORK

Mostly Hank Chouteau likes to fly. He flew B26 Marauders during World War II and piloted P51 Mustangs against Soviet MIGs in Korea. And sometimes he now travels to work in one of Northrop's little Beechcrafts, rather than drive. "It's just the flying I love, and you have to be enthusiastic about that to do my job," he says.

Selling the F18L Hornet takes more than flying skills. And the stakes are high. Northrop sees a world-wide market of up to $60 billion over the next decade for 4,000 planes of the F18's type, plus related equipment.

The Hornet is billed as a "multi-role" warplane, with what the U.S. Navy calls a "superb" combat dogfighting ability and the range, accuracy and weaponry of a strike fighter. The plane can fly at twice the speed of sound or dawdle along at less than 100 miles per hour. It has competition: the F18A, for which McDonnell Douglas Corp. is the prime contractor; General Dynamics Corp.'s F16; and the French Mirage 2000.

Hank Chouteau is an Oklahoman, a stocky six-footer with a weathered ruddy face and dark hair peppered with gray. A touch of flyboy flamboyance comes out in the arrowhead and fleur-de-lis crest that he designed for his helmet and flight suit. It reflects his family heritage—Osage Indian and French. (An ancestor is Auguste Chouteau, a fur trader who cofounded St. Louis.)

Test pilots aren't reckless jet jockeys. They stand out most for their years of experience, knowledge, maturity and stability. "One younger than 30 is a rarity," says Thomas H. Smith, general manager of the 1,300-member Society of Experimental Test Pilots. Hank Chouteau is 55 and a grandfather.

PAINSTAKING PROCESS

The pilot's work in developing a new or modified aircraft is painstaking. The corporate goal is to make the process surprise-free. The investments involved are huge. The test pilot moves toward testing the limits of the plane's abilities in tiny, incremental steps that purposely drain the drama from test flights.

"It may take us 50 flights on a new commercial airliner before we reach the limits of design capability," says George R. Jansen, director of flight operations for the Douglas Aircraft unit McDonnell Douglas, which currently is testing new versions of the DC9 twin-jet and the DC10 jumbo tri-jet.

For all the precautions, being a test pilot remains risky. One day in 1961, a Northrop F5 that Mr. Chouteau was flying lost an engine after takeoff at El Paso, Texas, and skidded through a chain-link fence. Hank Chouteau got a broken back, but was flying again in four months.

At the Experimental Test Pilots' Society headquarters in nearby Lancaster, Calif., the names of the six or seven members who die in test-related crashes each year are added to a plaque that now has more than 150 nameplates on it. A neighbor of Mr. Chouteau's, Fairchild Industries test pilot Howard W. ("Sam") Nelson, died in an accident at the 1977 Paris Air Show.

Mr. Chouteau doesn't like to talk about the hazards of his job, but when pressed, he describes his work as "hours and hours of boredom and seconds of total terror." Low-level runs like his demonstration for the Australians present their own special challenge; if something goes wrong, there is little time or space in which to correct it. "The ground is an extremely unforgiving barrier," Mr. Chouteau notes matter-of-factly.

The 1960s were an unusually hazardous period for military test pilots because of wartime experimental programs. "There were a lot of big smoking holes in the desert" where planes went down, one pilot recalls. This man found flight duty in Vietnam less dangerous than being a test pilot at home.

Northrop Corp. has six test pilots, some of whom specialize in the relatively mundane work of testing planes slated for delivery to customers. Hank Chouteau, the corporation's No. 1 experimental test pilot, joined Northrop in 1952. He graduated from the Air Force's test pilot school in 1958, worked on Northrop's T38 trainer and F5 fighter development programs, and moved in the mid-1960s to the advanced fighter program.

Soon after the program was proposed, Mr. Chouteau applied his mechanical-engineering background to help developing aerodynamic simulations. These were fed into the computerized ground simulator Northrop used for almost nine years until the maiden flight of the F18L—the plane that resulted. His expertise as a flier first went into designing cockpit controls to fit the needs of the pilot and the performance characteristics planned for the plane.

Once the simulator was ready, he maned the controls during tests to see how many hours the plane could be flown under various conditions. The object was to make the prototype airplane fly just like the simulator, and when it took to the sky in June 1974, there were few surprises for its pilot, Mr. Chouteau.

A high degree of stability in flight and an expansive view from the pilot's seat were particular goals Mr. Chouteau had in helping design the aircraft. He insisted on a special high-visibility cockpit canopy, composed of two pieces to provide windshield protection even if the outer shell blew off. Designing the cockpit was like "designing my own office," with everything in easy reach, he says, and Northrop gave high priorty to Mr. Chouteau's ideas.

"Hank was very much the key to the evolution of this airplane," says Mr. Jones, the Northrop chairman. Mr. Jones was responsible for promoting Mr. Chouteau to chief test pilot because of his "analytical mind and his cool, objective, dispassionate and unbiased character," qualities Mr. Jones says are vital in an experimental pilot.

Because the aircraft was essentially designed around him, Northrop figures Mr. Chouteau's value in marketing the F18L is greatly enhanced. The company doesn't brief him on what to say to prospective buyers, but relies on his "unflappable integrity' to tell customers everything they need to know, Mr. Jones asserts.

Despite the job's danger, the experience required and the heavy responsibility, a test pilot isn't the best paid of pilots. At Douglas Aircraft, Mr. Jansen says test pilots make between $40,000 and $50,000 a year, although "we're flying the same equipment for which the airline pilot is making the best money," as much as $75,000 a year flying a wide-bodied passenger plane coast to coast.

Charles R. Anderson, a veteran General Electric Co. test pilot based in Los Angeles, works with aircraft powered by his company's engines and says he wouldn't trade places with a better-paid airline captain. "I'd go crazy as an airline pilot; it would drive me up the wall," he says. His own job has "the challenge of doing something that hasn't been done before. It's a risk, sure, but a highly calculated risk," he says.

Mr. Chouteau won't discuss his annual income except to say that it is "considerably less" than the pay of top airlines pilots. But he says it easily supports his life style of yardwork and archery practice at his Lancaster home, built on a 2½-acre lot, and occasional hunting and fishing trips. He and his wife, Betty Ann, have two grown daughters and a granddaughter.

Mrs. Chouteau is a plain-talking West Virginian who met her husband 33 years ago when she was a nurse in Germany. She says she has accepted the "calculated risks" that are part of his job—and part of her daily thoughts.

"If he'd go, he'd go happy," she says.●

ILLEGAL ALIENS MAY DISTORT REAPPORTIONMENT

● **Mr. HUDDLESTON.** Mr. President, the debate over illegal aliens has generally centered around the question of whether the massive influx of illegals contributes to unemployment. While depriving jobs to American citizens and legal residents is a matter that should be of paramount importance, there is another aspect of the illegal alien problem which will have a more profound and long-range impact upon the United States.

The U.S. Census Bureau is preparing to conduct the 1980 census and from all indications it will be the most thorough count of people in the United States ever undertaken. As part of this effort to count everyone, the Census Bureau intends to make a special effort to count illegal aliens. The Bureau has undertaken substantial advertising and public relations campaigns to encourage illegal aliens to cooperate on the 1980 census. Illegal aliens are, in effect, being promised immunity from our immigration laws and are being coached on the benefits that will accrue to their communities in the form of Federal funds if they come forward to be counted.

In cooperation with this effort, the Immigration and Naturalization Service has suspended searches of residential neighborhoods with known concentrations of illegal aliens so that they will not be "scared off" when the census takers arrive. Government moneys have been spent for the placement of newspaper ads and TV spots directed toward educating illegal aliens on the 1980 census and the importance of their response to it.

The Census Bureau is correct in its effort to count illegal aliens. However, it is wrong to include them in the general census without distinguishing how many are illegal aliens. To do so will result in congressional seats being reapportioned on the basis of large concentrations of illegal aliens. Some States will gain Representatives they would not otherwise have gained and other States will lose Representatives on the same basis. To allow this to happen would be a violation of the constitutional concept of "one person-one vote" and would distort the political influence of certain States.

Inflated census figures also will affect the distribution of Federal funds among the States. More than 100 Federal programs depend, at least partially, on the size of some population group to determine distribution ratios. I believe that directing scarce Federal funds to areas with high concentrations of illegal aliens is not in the best interest of our own disadvantaged who reside in other localities.

Because of my deep concern about this matter, I had the Library of Congress do a series of computations projecting congressional apportionment figures, given various assumptions about illegal aliens. I supplied the assumptions about the numbers and distribution of illegal aliens, and the Library of Congress only did the necessary computations using existing census figures.

Admittedly, the final figures could vary since we do not have definite information on the numbers or distribution of illegal aliens in the United States. These figures contain three types of projections:

A. REAPPORTIONMENT GAINS OR LOSSES WITHOUT COUNTING ILLEGAL ALIENS

These are U.S. Census Bureau projections based upon their computation of the U.S. population in 1978. This projection serves as the base line to which numbers of illegal aliens were added.

B. ILLEGAL ALIENS DISTRIBUTED THE SAME AS LEGAL RESIDENT ALIENS

These projections assume six different population levels of illegal aliens between 3 and 12 million. They assume that the distribution of illegal aliens is the same as the distribution of legal resident aliens in this country, based upon Immigration and Naturalization Service information.

C. ILLEGAL ALIENS DISTRIBUTED IN FOUR STATES

This projection assumes a distribution of all significant numbers of illegal aliens in the four States with recognized large illegal alien populations. These States are California (1,000,000 estimated illegal aliens), Illinois (500,000 estimated), New York (500,000 estimated), and Texas (750,000 estimated). The distribution in other States is assumed to be either balanced or insignificant for purposes of apportionment. This projection assumes the smallest number of illegal aliens.

I ask unanimous consent that the result of these computations be printed in the RECORD.

The table follows:

NUMBERS OF SEATS ADDED OR LOST WITH VARIOUS ILLEGAL ALIEN POPULATIONS

[Millions]

State	Present	(A) Without illegal aliens	(B) Distribution the same as legal aliens						(C) Distribution in 4 States (California, Illinois, New York, Texas)
			3	4.3	6	8	10	12	2.75
Alabama	7							−1	
Alaska	1								
Arizona	4	+1	+1	+1	+1	+1	+1	+1	+1
Arkansas	4								
California	43	+2	+2	+4	+5	+8	+10	+13	+3
Colorado	5								
Connecticut	6							+1	
Delaware	1								
Florida	15	+2	+2	+3	+3	+4	+4	+5	+2
Georgia	10						−1	−1	
Hawaii	2							+1	
Idaho	2								
Illinois	29	−2	−2	−1	−2	−1	−1	−1	−1
Indiana	11			−1	−1	−1	−1	−1	
Iowa	6					−1	−1	−1	
Kansas	5				−1	−1	−1	−1	
Kentucky	7						−1	−1	
Louisiana	8						−1	−1	
Maine	2								
Maryland	8								
Massachusetts	12								−1
Michigan	19	−1	−1	−1	−1	−1	−1	−1	−1
Minnesota	8						−1	−1	
Mississippi	5					−1	−1	−1	
Missouri	10			−1	−1	−1	−1	−1	
Montana	2								
Nebraska	3								
Nevada	1								
New Hampshire	2								
New Jersey	15					+1	+1	+1	−1
New Mexico	2								
New York	39	−4	−3	−3	−2	−1	+1	+2	−3
North Carolina	11					−1	−1	−1	
North Dakota	1								
Ohio	23	−2	−2	−2	−2	−3	−3	−4	−2
Oklahoma	6					−1	−1	−1	
Oregon	4	+1	+1	+1	+1	+1	+1	+1	+1
Pennsylvania	25	−1	−2	−2	−2	−3	−3	−4	−2
Rhode Island	2								
South Carolina	6					−1	−1	−1	
South Dakota	2	−1	−1	−1	−1	−1	−1	−1	−1
Tennessee	8	+1	+1						+1
Texas	24	+2	+2	+2	+2	+3	+3	+3	+3
Utah	2	+1	+1	+1	+1	+1	+1		+1
Vermont	1								
Virginia	10							−1	
Washington	7	+1	+1						
West Virginia	4					−1	−1	−1	
Wisconsin	9							−1	
Wyoming	1								

HIGH INTEREST RATES HURT AMERICAN AGRICULTURE

● Mr. McGOVERN. Mr. President, earlier today the Senate Subcommittee on Agricultural Credit and Rural Electrification held an oversight hearing on the effect curent high interest rates have on the agricultural economy and agricultural productivity. I had requested these hearings because of my continuing concern for the farm credit situation in rural America. The hearings were chaired by our distinguished colleague from Nebraska, Mr. ZORINSKY.

Though, in my opinion, this question is not given the attention it deserves, nevertheless this particular hearing produced some exceptionally well prepared witnesses who addressed the problem with unusual familiarity and frankness. Their insights should not be limited to the audience in the committee room.

One witness, Mr. Reuben L. Johnson, Director of Legislative Services for the National Farmers Union, told the subcommittee that—

> Interest outlays of American farmers are expected to reach 14 billion dollars in 1980, almost twice the level of 1977.

Another witness, Mr. Charles L. Frasier, Washington representative of the National Farmers Organization, expressed deep concern for the effect of the high-interest policy during the coming year.

Mr. President, for the information of other Senators, all of whom represent farmers to one degree or another, I request that the text of the testimony of Mr. Johnson and Mr. Frasier be printed in the RECORD.

The material follows:

STATEMENT OF REUBEN L. JOHNSON

(Charts referred to are not reproducible in the RECORD.)

Mr. Chairman, I want to commend you very highly for conducting these hearings upon the impact of current federal money and credit policies upon American farmers.

Early in 1977—about two-and-a-half years ago—the prime interest rate was 6.25 percent. The prime rate, which is the pacesetter for interest rates generally, advanced to 11.75 percent by the opening of this year and since June, we have seen an interest rate explosion which has driven the prime rate nearly to 16 percent.

In opening, we just want to observe that these record interest rates, coming at a time when farm debt was also balooning to record levels, has extracted a fearful price from farmers. We maintain that had the basic interest rate remained in the neighborhood of 6 to 7 percent, the net income of U.S. farmers would have been substantially higher than it was in 1978 and this year.

According to our calculations, about $5 billion in income has been diverted from the income side to the cost side of farm balance sheets due to the impact of the higher interest rates.

In our formal statement, which we trust that you will place in the record of this hearing, we attempt a general overview of the money and credit crisis.

However, we recognize that, important as these overall statistics and trends may be, there is always the possibility that we may lose sight of the human element—the farmers and the farm wives and family members and the manner in which they feel the effects of the debt burden and the high interest rates.

We therefore want to devote some of our presentation to a look at conditions as they are reported to us by our state Farmers Union organizations and by individual farm families attempting to cope with the interest rate situation.

We call your attention to the dimensions of the credit crisis in Attachment "A."

On next January 1, just two weeks away, the outstanding debt of U.S. farmers will be $157 billion—that is almost twice what it was in 1975, and six times what it was in 1960.

During 1978, farm debt increased by $18.2 billion, this year it is increasing by $20 billion, and next year it is projected to increase by almost $25 billion.

In Attachment "B," we show the annual average prime rate for the past 30 years together with the monthly figures for the past four years.

The prime rate is now almost 8 times higher than it was in 1949, and about 2.5 times what it was early in 1977.

In Attachment "C," we show the interest outlays by farmers over the past 20 years, from a grand total of $1,269 million in 1960, to a projected $14 billion for 1980. That is more than a ten-fold increase from 1960, and a doubling in just four years.

It is sometimes maintained that the changes in interest rates do not make themselves immediately felt. The interest rates in some mortgages and many promissory notes are fixed and so the new rates do not become an immediate problem. However, that assumption can be misleading.

If you will refer to Attachment "D," we show that only about 36 percent of real estate debt and only 12 percent of short-term debt is not immediately affected by interest rates changes.

About 31 percent of the outstanding real estate debt each year is new borrowing—so that will be affected by the new rates. The Federal Land Bank system, which accounts for one-third of the real estate lending, is now largely on a variable interest rate basis. The rates float according to prevailing market conditions and so these loans are affected soon, if not immediately, by the new rates.

On the short-term loan side, almost all of the debt on many farms is rotated every year. It is paid off and new loans are drawn. There are some loans, for example, on farm machinery purchases, which may run three to five years in duration. But, as best as we can calculate, these longer-term "short-term" loans make up only about one-eighth of the non-real estate debt burden.

In Attachment "E," we show the farm debt-to-asset ratio over the past forty years.

While the ratio looks modest—about one dollar of debt for each six dollars of assets—the figure is still on the high side.

The January 1, 1979, ratio of 16.8 was equal to the 1970 and 1972 ratios, which were the most unfavorable since 1941.

A more meaningful measurement is the rate of substitution of credit for income which we show in Attachment "F" relating to the cash sources of funds of farm operators.

What this shows is that farm operations are not generating internal capital as they have or as they should, but instead are increasingly dependent on borrowed funds for cash operating money.

In 1970, new loans—or the net increase in loans—represented only 5 percent of the cash sources of funds of farmers.

By 1975, this figure had risen to 12 percent, and in 1978 and 1979 it has amounted to more than 17 percent. Projections are that farmers in 1980 will have to look to borrowed money for 21 percent of their cash sources of operating funds.

In attachment "G," we look at several measures of the ability of farmers to handle their debt burden.

The first of these is the U.S. parity ratio—currently at 68 percent of parity—what it means is that farmers are able to pass through only 68 percent of their operating costs (including interest) in the price of their products.

The second item shows the per capita income of farmers from farming compared to the per capita income on non-farmers. The ratio of 42 percent is not a good omen of the viability of farming as an economic enterprise.

In the third item, we show the return to farm equity compared to the rates of profits in selected manufacturing industries. Again the 3.6 percent farm rate does not compare well within the 24 percent rate in all manufacturing enterprises.

It is sometimes contended that the growth of farm debt and the high interest rates are offset by the spectacular growth of the value of farm assets.

However, item four is worth some study. It shows that in the past five years, if you take inflation out of it, farm real estate values have actually declined.

Now, of course, the higher land values do make it possible to incur larger debts.

But what it does is increase farmers' ability to borrow, without increasing their ability to repay.

Repayment depends on income—and we should never lose sight of that.

In closing, let us observe that the Nation's farmers are also affected by what high interest rates do to the remainder of the national economy. Obviously, the higher interest rates are diverting consumer purchasing power which could be used for food, for housing, for automobiles and other manufactured goods.

Should anyone be surprised that the housing construction industry is ailing with housing mortgages at interest rates of 14, 15 percent, and more?

Should anyone be surprised that American cars are not selling with car finance costs where they now are?

You have all been told many times that these tight-money, high-interest rate policies are justified on the basis that they will reverse inflationary pressures and save the value of the dollar.

Perhaps farmers would be willing to go through the wringer, workers to be unemployed, and other citizens to forego purchases of a house, a car, or other major item, and our whole society to accept a lower standard of living, if it achieved anything in the war on inflation.

But that policy is not succeeding—it never has without precipitating depression—and it probably never will.

A better remedy is available—better for the national economy and the American people than the severe hardships now being endured for no effective purpose. That would be to use the authority on the federal statute books in the Emergency Credit Control Act of 1969. Under that law, the President has power to limit credit use, to prescribe interest rates and credit terms and, if needed, to allocate credit to productive uses. We believe it would be preferable for him to use those powers, severe as they are, than to continue in the present policies.

COMMENTS FROM FARMERS UNION STATE OFFICES

Harold Dodd, President of Illinois Farmers Union, informs us that interest rates in the mid-Illinois area for operating loans are at 14.5 percent for loans running six to nine months (some running for a year).

Regarding real estate loans, practically no one is making loans except the Federal Land Bank. Their rate is 9.75 percent. Five percent of the loan must be placed in stock, with nothing back in return on that stock. The 5 percent required in stock amounts to approximately three-quarters of a percent added to 9.75 interest. Dodd thinks interest rates in metropolitan areas like Chicago or St. Louis would be more than that.

Dodd notes that agriculture has traditionally looked to the Federal Credit agencies to provide the lowest and most reasonable rates. However, these agencies do have to secure their loan funds through the private money market which means that it is very difficult for them to provide farmers with substantially lower interest rates.

Donna Cootware, President of Michigan Farmers Union, reports that her local banker estimates that average operating loans in Michigan are now running at 15 percent. Real estate loans are a little lower—approximately 13 percent. Typical operating loan in Michigan is short term, not necessarily annual. High interest rates are eating up much working capital.

Comparing with about 15 years ago, farmers are becoming more and more dependent on loans.

Brad Shaffer of Montana Farmers Union Staff reports that Production Credit Association is charging 11.5 percent for operating loans.

Federal Land Bank is charging 9.75 percent for real estate loans.

Alan Austad of North Dakota Farmers Union Staff reports that at the Production Credit agency in Jamestown, the farm operating loan rate is running at 12.7 percent as of December 1979. In December of 1978, they were running at 10.6 percent.

The Federal Land Bank farm ownership loans are currently 9.75 percent; in 1978, they were 8.25.

FmHA is loaning at 10 percent currently; a year ago, the figure was 8.5.

Rates are all tied to cost at which the lending agencies have been able to obtain money. It is expected that interest rates will be up in the Spring as funds currently held are used up and new money is sought on the market at the current rates.

J. D. Fleming, Assistant to the President of Oklahoma Farmers Union, reports that most of the financing of land for farmers is done through the Federal Land Bank. Up to June 1979, the interest rate was 9 percent and increased to 9.5 percent where it is still holding at the present time. It is slated to go to 10.5 percent during January 1980.

What little financing of land that is done by insurance companies is at 12.5 percent.

The demand for loans for land is high, running at about $65 million per month for the Federal Land Bank in Wichita. They currently have on hand requests for loans that will take approximately six months to process.

Currently, the bank has $3.5 billion on loan and practically no delinquencies.

Operating interest costs vary from 12.5 percent to 14.5 percent, slated to go higher after January.

Oklahoma has experienced record production in 1979 for wheat, cotton, and hay, with prices fair for all crops and good comparatively for cattle.

There is no indication that interest rates are causing farmers to back off from seeking credit. As long as the money is available, they are going hell-bent regardless of cost.

The only evidence of any slackening is in the purchase of cattle. For a cow-calf operation, the interest on a cow may run to $100 annually.

The effect of the interest rate is that net income is reduced and farmers really do not know where they are on that score until the show is over.

Neil Oxton, President of Nebraska Farmers Union, reports the following conditions at particular localities:

Verdigre—10.5 percent on all farm loans. (Slightly reduced for good risks and larger loans. The bank says that they are losing money at these rates.)

York—Prime rate—12 percent. Operating loans—12.5 percent. Term loans—over one year—13 percent. Large farm and real estate loans (if they have to go out of the bank for the money)—14.5 percent.

Hartington Federal Land Bank—9.5 percent since April; effective February 1—10 percent.

Beatrice—Operating loans—12.5 percent. Real estate loans—12.5 percent (not taking much right now).

(Rates above fairly representative for that area.)

Production Credit—13 percent.

Charles Nash, Executive Director of the Ohio Farmers Union, reports the prevailing interest rate now in the 13 to 14 percent range, with some city banks in Ohio at 15 to 15.5 percent on farm real estate loans.

Life insurance companies are active in farm loans in some areas of the state, with interest rates running around 12 percent.

On farm real estate, the Federal Land Bank has an average percentage rate of 10.75 percent on loans up to $300,000, Nash reports, but closing fees add the equivalent of another 2.25 percent.

Production Credit Associations, on December 1, were charging 11.5 percent interest on operating loans up to $50,000, with an 11 percent rate on loans above $50,000.

Mark McAfee of Minnesota Farmers Union staff reports the following prevailing interest rates:

Federal Land Bank of St. Paul—10.25 percent on farm loans, 10.75 percent on rural housing.

Farmers Home Administration—10 percent on farm ownership loan program; 10.5 percent on farm operating loans; 4 to 6 percent on limited resource loans.

Farmers State Bank of Trimont—10.25 percent to 12.5 percent on real estate; 13 percent to 15.5 percent on farm operating loans.

McAfee cites three individual case studies:

Mr. E. D., a Moose Lake cattle rancher who until recently was able to obtain loans for operating costs at 9 to 10 percent interest. On a $700 cow, this meant an interest charge of $63 to $70. Now, he faces an interest charge of 15 percent if he wishes to expand his herd. This would mean an interest charge of $105 per cow. Other operating costs, such as fertilizer are rising rapidly in cost and also require 15 percent interest rates on financing.

Mr. R. R., a Fisher grain and sugar beet raiser, reports that five years ago he was able to borrow for operating purposes at 8 percent and money was always readily available. Now, credit is harder to obtain and the interest rate is 13 percent. He is in the process of taking over farming operation from his father. He is in a situation where farm equipment must be replaced, but this poses a difficulty since grain prices have not kept pace with energy and equipment costs.

Mr. A. G., a Richmond dairyman, tried for two years to get an FHA loan, now has obtained one at 5 percent. He has been obtaining loans for personal property from his local bank at 9.5 percent, but reports he will face 12 to 13 percent interest rates next time he applies. He is seriously thinking of expanding his dairy herd, but despairs that he will be able to do so at current 15 percent loan rates.

Leroy Schartz, Pawnee County, Belpre, stated that current interest rates on operating loans made by the First State Bank, Larned, Kansas, are 14.45 percent. He indicated that real estate interest rates in the area are ranging around 12 percent.

Vernon Deines, Box 6, Ramona, stated that from his personal experience, the present interest rate on machinery loans through the Ramona State Bank is 13.5 percent. He thinks that this rate is the approximate rate for other operating loans.

Larry Conyac, R. R. 2, Box 172X, Stockton, stated that operating loans made by the Stockton Production Credit Association have an interest rate of 11.62 percent. Longer term real estate loans at the Hays Federal Land Bank Association are at 10 percent.

Morris Burwell, Route 4, Abilene, states that the Federal Land Bank loans on real estate are 10 percent, and that operating credit from the Farmers National Bank for cattle are 13.5 percent and up to 14 percent on other operating loans.

Vern Frankhauser, Elmdale, stated that operating loans through the Peoples Exchange Bank are 14 percent, but that he receives one-half of one percent reduction because he owns stock in the bank. His outstanding real estate indebtedness bears an interest of 9.5 percent. It would appear that he negotiated his real estate loan several years ago.

Keith Nelson, Pawnee Rock, stated that the First National Bank, Larned, Kansas, has the same rate, 14.45 percent, for both operating and real estate loans.

Fred Hornbaker, R. R. 3, Stafford, states that the Farmer National Bank has interest rates on operating loans of 13.5 percent, and so-called longer "short-term" loans on livestock at 10.25 percent.

STATEMENT OF CHARLES L. FRAZIER

Mr. Chairman and Members of the Subcommittee, you are to be complimented for directing the attention of Congress to the probable consequences of high interest rates in the farm and range communities. For a number of years we have steadily replaced labor and some of the old-fashioned farming practices with modern technology and increased use of borrowed capital. This is occasionally labelled progress. Perhaps the producers who have borrowed heavily, the policy makers in Government and the bankers must share responsibility for the current threat to stability in farm ownership and operation. The squeeze that developed first in the energy field and now in the money markets promises to become more difficult in 1980. Many family-size farming operations will be in trouble if all our costs continue to rise without compensating increased prices on our products.

In this acceptance statement following election as our new president of the National Farmers Organization in Kansas City last week, DeVon R. Woodland said to the membership: "One of my goals is to retire farm debt . . . excessive farm debt will eventually destroy our family farm structure and, in many cases, it will break up good farm families."

Even though most of us reluctantly accept the new policies of the Federal Reserve Board announced on October 6, 1979, in the interest of turning back inflation in this country, we are also keenly aware that the farm sector may be asked to bear a disproportionately heavy share of the burden. Although I do not pretend to have all the answers, or even to be certain of action to be taken in this Subcommittee, let me explain our concern with the effect of the Volcker policy during the company year.

Other segments of the economy upon which we are dependent for equipment, supplies and repairs are able to reflect higher interest charges in their prices. Those who receive our raw products, then process and distribute food are able to work with short-term borrowings; they, too, may reflect higher capital costs in the prices charged the ultimate consumers.

Farm and range operators who borrow in the Spring of 1980 to put in a new crop or make a change in their livestock operations are stuck with the higher interest charges for at least one season before they will have an opportunity to retire even the short-term borrowings and reduce their interest costs. If we assume that the new policies may be successful, others can look forward to some relaxation on interest rates after a few months. The effect of such relief simply will not be available to farmers and ranchers in their 1980 operations. Their commitments for the year will have been made at an earlier date or they will have passed up opportunities to finance new production that might well be used in the national economy.

THE CURRENT SITUATION

In times past we have customarily thought of credit as falling easily into two categories: rather large long-term borrowings were traditional for producers entering farming or expanding their real estate holdings. Operational money customarily served the purpose of financing fuel, fertilizer, chemicals, breeding stock or feeders and it was expected that these loans would be retired at the end of the season. The character of such borrowings has changed substantially.

This is best illustrated by describing the actual experience of one of our good farmer members. He normally uses two combines on grain and soybeans; he has, as a matter of good practice, alternately replaced each of them after two or three years of operation. Because of an accident, it was necessary to replace both of his machines for the harvest this Fall. The two new machines cost him $150,000. In commenting on the current cost of farming, he simply stated, "Chuck, not too long ago I could buy a good farm for that amount of money." This single experience simply illustrates that too many of our producers today find it necessary to capitalize such equipment purchases, repairs and other farm improvements over a longer period of time. Too many of the expenses are becoming a part of the ongoing debt load in farming. If we must now think in terms of interest rates ranging from 14 to 18 percent, it simply means that a number of the young farm couples who should have an opportunity to survive in farming may be forced into bankruptcy or forced sellouts at an alarming rate.

The results of a quick survey of interest rates and available capital is attached for your perusal. Incidentally, I might offer you another small, but precise, indication of the state of the economy in a typical farm community in the Mid-West. Only this weekend one of the leading merchants in a Mid-West trade center of about 3,000, that is made up of a reasonably good balance of farm trade and local industry, reported to me that the number of "rubber checks" coming over the counter to him this month is up about 100 percent over the same period a year ago. He explained to me that good people who are normally quite reliable are simply short of money to pay necessary bills at current prices.

PRODUCTIVITY AND SURVIVAL IN FARMING

From 1972 to 1978, farm productivity increased at an average annual rate of 3.3 percent. In 1977 it increased 8.2 percent; in 1978 it declined 2.1 percent from the 1977 rate. Even though the figures for both 1977 and 1978 are the highest ever recorded on the index, 152.5 and 144.1 respectively, there are indications that farmers will not be able to finance continuing gains.

The USDA estimate that net farm income will decline by 20 percent next year is reinforced by the opinions commonly taking shape out in the country. The farm productivity levels may remain higher than those for the non-farm business sector, but the rate of increase will slow down in the near future. There is no guarantee that it can continue to advance.

We cannot escape the obvious conclusion—12 to 18 percent interest rates will hasten the demise of some family-sized farm units. That land will move to investors who are not so concerned with the affairs of the local communities. As a larger proportion of our farming is operated in this fashion, productivity will suffer and it will be a loss for the whole country. In final analysis, this matter of interest rates and available funds is very serious. If there are ways to lessen the impact on the efficient mid-size units we should move as quickly as possible.

MORTGAGE AND CREDIT SITUATION

(Compiled through personal contacts in the National Farmers Organization, early December 1979.)

Arkansas.—Small amount of 10 percent commercial; very little available.

California.—14–17 percent on available funds.

Georgia.—Some Federal Land Bank and PCA money available.

Idaho.—Nothing available at less than 2 percent over prime.

Illinois (NW).—No real estate loans available; 14–14½ percent on operating funds—very tight.

Iowa (NE).—13 percent commercial rate but tight on availability. 17 percent to get federal guaranteed money.

Kansas.—13–14 percent on commercial. PCA 12.1 percent but after January 1 will go to 15 percent. 9½ percent FLB. Money is tightening up quickly.

Kentucky (Central).—15 percent bank loans available.

Michigan.—Possible to get operating capital at 18 percent; these are small, short term loans from local banks.

Minnesota (West Central).—14 percent on commercial money; some still available.

Nebraska.—Some funds still available to regular customers at 10–12 percent interest; one producer member recently borrowed at 10.65 percent—no problems but no more available at same source.

New York.—FmHA has some 8 percent money available to very few small farmers; special programs in PCA at 11 percent.

Oklahoma.—12–18 percent commercial; a few have been getting 9 percent on cattle loans; 90 days to a year to wait for FmHA loans.

Ohio (North).—14 percent on most machinery, operation, cattle; some as high as 18 percent; no land money; FmHA not immediately available; 12 percent at PCA.

South Dakota.—12 percent commercial but very little available.

Washington.—12–17 percent, requirement of 4 to 6 times amount of loan.●

FORMER SPEAKER PERRY O. WILKINSON

● Mr. MATHIAS. Mr. President, on my first day as a legislator the Maryland House of Delegates elected Perry Wilkinson as speaker. For as long as I served in the general assembly, he was an important influence in my legislative life.

In 1959 I was a member of a tiny minority, seven Republicans in a house of 123 members. I was not only a freshman, but from a rural county. It would have been easy for the speaker to ignore me. Perry Wilkinson never did that. On the contrary, he encouraged me and protected the rights of all the minority.

Last Friday Maryland lost this outstanding civic leader, businessman, and educator.

Mr. Wilkinson, a Marylander born and bred, served five terms in Maryland's House of Delegates and 12 years as speaker pro tempore. He served as speaker of the house of delegates until 1962 when he left public office.

Mrs. Mathias and I extend our deepest sympathies to Mrs. Wilkinson and her family.

Mr. President, I ask that the following obituary, from the Baltimore Sun, of this dedicated public servant be printed in the Record.

Perry O. Wilkinson Dies at Age of 74, Former Speaker of House of Delegates

Hyattsville (Special)—Services for Perry O. Wilkinson, a former speaker of the Maryland House of Delegates who was elected to the state legislature five times from Prince Georges county, will be held at 3 p.m. today at Gasch's funeral establishment in the 4700 block Baltimore avenue here.

Mr. Wilkinson, 74, a retired businessman and civic leader, died Friday of leukemia, a week after he entered Doctors Hospital of Prince Georges County in Lanham. He lived on Oglethorpe street here and was a longtime Hyattsville resident.

During the 27 years that Mr. Wilkinson operated a general insurance agency here, he served as president of the Chamber of Commerce and the Prince Georges County Kiwanis Club. He also headed fund-raising drives for war bonds, the Red Cross and Police Boys' Clubs. Mr. Wilkinson was a past president of the Montgomery County-Prince Georges County Association of Insurance Agents and a director of the state Association of Insurance Agents.

A former president of the Young Men's Democratic Association of Prince Georges County and active in numerous other Democratic Party organizations, Mr. Wilkinson was first elected to the House of Delegates by county voters in 1942.

After 12 years as speaker pro tem of the House, he served as speaker from 1959 through 1962 during the second term of the late Governor Millard Tawes.

In 1962, Mr. Wilkinson was defeated by Carlton R. Sickles, a fellow delegate from Prince Georges county, in the Democratic primary race for Maryland's newly created eighth congressional seat.

During his 20 years in the legislature, Mr. Wilkinson served as chairman of the House Education Committee; on banking, insurance and Social Security committees or subcommittees, and as vice chairman of the Legislative Council.

In Feburary, 1963, only a few weeks after the end of his fifth term in Annapolis, Mr. Wilkinson underwent brain surgery following a cerebral hemorrhage. The illness left him unable to speak and almost entirely paralyzed on his left side. But five years of rigorous speech and physical therapy helped him regain about 80 percent of his ability to speak, and, for the last several years, he was even able to walk—although with some difficulty—without the aid of a cane.

He had managed to get back to Annapolis at least once a year during recent legislative sessions, either for small dinners in his honor attended by Democratic leaders or to meet former colleagues on the House and Senate floors.

Born in Hebron in Wicomico county, Mr. Wilkinson attended Wicomico High School and was graduated in 1928 from the University of Maryland, from which he earned a master's degree in 1936.

From 1929 through 1930, he taught and coached at the Upper Marlboro and Mount Rainer high schools in Prince Georges county, serving as vice principal at Mount Rainer for five years and coaching the school's two state champion basketball teams in the early 1930s.

He left teaching and established the Perry O. Wilkinson General Insurance Agency in Hyattsville in 1940. He sold the firm to his son, Perry O. Wilkinson, Jr., in 1967.

Mr. Wilkinson was a member of Mount Herman Masonic Lodge No. 179, Loyal Order of the Moose Lodge No. 453 and Prince Georges County Forest No. 139 of the Tall Cedars of Lebanon. He was a charter member of Elks Lodge No. 1778 and the University of Maryland's Terrapin Club and a past president of the men's Sunday school class at Hyattsville's First United Methodist Church.

Besides his son, Mr. Wilkinson is survived by his wife, the former Mabel Barnes of Frederick, and two sisters, Lula W. Dashiell and Susie Wilkinson, both of Salisbury.●

SENATOR MUSKIE POSES CHALLENGE TO ARMS CONTROL ADVOCATES

● Mr. McGOVERN. Mr. President, at a recent conference in Maine on arms limitation, Senator MUSKIE posed a series of challenges to arms control advocates. He urged that the supporters of arms control become more effective in the national security debate by addressing issues of nuclear doctrine and force levels as well as continuing to raise the problems of nuclear overkill. The Senator from Maine sees a real danger, as I do, in the development of war fighting doctrines and technology in American and Soviet forces. A war could start if each side fears the other side has the capacity to launch a disarming first strike. Senator MUSKIE finds that arms controllers must participate more in the theoretical and practical dimensions of policy formulation. I commend our colleague from Maine for raising this challenge. His speech to the Arms Limitation Conference in Bangor, Maine, will serve as an important reference for the forthcoming SALT debate.

Mr. President, I ask that the text of Senator MUSKIE's remarks be printed in the RECORD.

The text follows:

REMARKS OF SENATOR EDMUND S. MUSKIE

The national debate on the SALT II treaty has raised the consciousness of many Americans on strategic questions. The historic debate in the Senate has led many Senators to new ways of thinking about the arms race and about relations between the United States and the Soviet Union. Unfortunately, from the arms controller's point of view, the debate has been going in the wrong direction. The President recently decided to build the biggest, most threatening possible MX missile and even Senators who support the concept of arms control that is represented by the SALT II treaty have supported increases in defense spending beyond those recommended by the President.

These recent events are indications to me that arms control advocates have not been as effective as they should or could be. Arms control advocates such as those represented in this conference have done a good job of making arms control a national issue. They have not done a good job of making their point of view a basis for decision making.

In making this statement, I mean to say that arms control advocates have been successful in having arms control considerations discussed when defense decisions are made. But, because these issues have been raised in such a way that they have been irrelevant to the principle criteria on which force decisions are actually made, arms control issues have not been important to the eventual decision.

If arms control arguments are to be successful in affecting the size and structure of our nuclear forces, advocates of arms control must participate more effectively in the debate. In order to do this you and your fellow arms control advocates must lead the debate out of the technological arena where the questions focus on the capabilities of opposing forces and into the political arena where the focus of the debate is on the needs and uses for these forces in peacetime, crisis and wartime.

If arms control advocates can change the terms of the debate in this way, I believe you have a chance of making a serious impact on this country's nuclear doctrine and on the size and structure of our forces.

If you are to change the debate, there are a number of things you must do.

First, you must recognize and accept the fact that the United States is in a serious competition with the Soviet Union. That the major part of this competition is in military strength, and that this competition is not likely to go away in the foreseeable future. If you accept these points, then you must accept the need to be tough with the Soviets and the need to continue to modernize our nuclear forces.

Once you have accepted the continuing competition in nuclear arms you must begin to change the terms of your arguments and in so doing so change the basis on which decisions about nuclear weapons are made. Arms controllers have talked too much about the horrors of nuclear war and have argued too much that both sides have more than enough weapons. These arguments have not been and will not be successful in reducing arms.

Success in having major impact on the final decisions about the size and structure of our forces has consistently gone to the advocates of the "strategic" argument. The most successful strategic argument has been that the United States must have a flexible response capability after a Soviet surprise attack on our nuclear forces. Unfortunately, even though this is basically a war fighting and not a deterrence argument, arms control advocates have not challenged it because strategy is apparently seen as something that military professionals and hard liners are uniquely capable of understanding.

This is a serious mistake. Military people and hard liners have no more experience in nuclear war than anyone else. Indeed, since the political factor is so important in nuclear war and since the military factors are so uncertain, political rather than military considerations should dominate the discussion of nuclear strategy and of the need for particular kinds of forces.

In order to change the terms of the argument in this way, you must become participants in the development of nuclear strategy. Further, you must expand the strategy to include the most important political considerations and to include the full spectrum of nuclear war.

Let me explain what I mean by the terms "nuclear strategy", "political considerations" and the "full spectrum of nuclear war."

Nuclear strategy is the way we plan on using our nuclear forces in peace and war to protect U.S. interests. The strategy includes both political and military uses.

"Political considerations" are faced by political leaders, on both sides as they contemplated the risks of nuclear war. As McGeorge Bundy said ten years ago:

"In the real world of real political leaders—whether here or in the Soviet Union—a decision that would bring even one hydrogen bomb on one city of one's own country would be recognized in advance as a catastrophic blunder; ten bombs on ten cities would be a disaster beyond history; and 100 bombs on 100 cities are unthinkable." (Foreign Affairs, Oct. 1969)

This is the nut of a political leader's concern. While his technical and military advisers, confident of the untested capabilities of their forces and practiced in the mad calculus of flexible response, limited nuclear exchange, and megadeaths, may advise the use of these forces, the political leader, recognizing the uncertainties inherent in human responses even if he does not recognize the technological uncertainties, must concern himself with the possible loss of his entire country.

Regardless of the views of his hard line advisers, no political leader on either side can easily contemplate the certain loss of millions of citizens in a war of attrition nor can he easily contemplate the high probability that mistakes will lead to attacks on cities and the destruction of the entire nation. These are the political considerations that are not incorporated into our nuclear forces today.

The full spectrum of nuclear war extends from peacetime deterrence, through crisis deterrence, to war fighting, and to war termination. In other words, the spectrum extends from today when we are at peace through a political or military crisis that threatens nuclear war, to the war itself, and finally to the way the war ends.

In order to properly protect U.S. interests there must be a strategy that covers this full spectrum. At the present time we have no such strategy. Arms control advocates and most political leaders have spent their time developing the theory of peacetime deterrence. This is a civilian theory that is good only in peacetime. Civilians in general and our political leaders in particular have not developed a theory for deterrence in a crisis when the fear of surprise attack makes war more likely. Nor have they developed a theory for fighting a war or for ending it.

Our military leaders, on the other hand, are responsible for fighting wars and they have developed plans for fighting nuclear wars. In doing so they are meeting their responsibilities and I can find no fault in their performance of their duty. Unfortunately their plans are strictly military plans. They are not coordinated with the political leadership and there is no systematic procedure for civilian review.

This, then, is the problem with our nuclear forces today. Arms controllers and civilians generally have focused on peacetime deterrence and have ignored the other aspects of nuclear strategy. The military has concentrated on plans for fighting a war. No one has addressed the other aspects of the strategy much less put it together in a comprehensive whole.

Perhaps the best example of this disconnect is our failure to develop a credible civil defense capability. Years ago civil defense was made a civilian responsibility but the civilians ignored it because it was seen as enhancing our war fighting capability and weakening peacetime deterrence. The military, concerned about war fighting and limiting damage in the U.S., had no responsibility for civil defense and turned instead to weapons that could limit damage by destroying Soviet weapons. Thus, civil defense, perhaps the most common sense way of defending the people of this country has been ignored.

The larger result of this disconnect has been a peacetime Mutual Assured Destruction theory that is inadequate for making force decisions and a war fighting strategy that does not involve political considerations but is the basis for our existing forces.

In other words, although the United States argues that its strategic nuclear forces are structured for deterrence, the real basis on which our forces are built is the military's war fighting strategy.

By leaving the development of war fighting strategy to the military, we have allowed the military to develop strategic nuclear forces that are designed to meet their war fighting objectives without regard for political objectives. This is exactly how we got MIRVs and how we are getting an ever increasing capability to destroy Soviet Strategic Nuclear Forces in a U.S. first strike.

Let me quote the Chairman of the Joint Chiefs of Staff, General Jones, in his SALT II testimony before the Senate Foreign Relations Committee in July of this year. (Vol. I, P. 381) In referring to the U.S. theory of deterrence through mutual assured destruction, General Jones said:

"I would agree that an assured destruction capability is at important part of our strategic force, but if we only had that, I believe we would have a very dangerous situation in the world. . . .

"I think that it would be a very inadequate force, and it would be very dangerous. We never had that strategy in all the time that I have been associated with the strategic forces."

In other words, General Jones is saying very explicitly that our forces are not designed for mutual assured destruction. There is no question that our forces are designed for fighting a war more than for deterring that war.

How does this differ from what the Soviets do? You are all familiar with the argument that we design our forces for deterrence while the Soviets design their forces for war fighting. That argument is obviously only half right. In the same way as in the United States, the Russians have allowed their military to develop forces to meet war fighting criteria. Unlike the United States, Soviet political leaders have not even made a pretense of developing a peacetime deterrence theory. In other words, the development of Soviet nuclear strategy and force structure has been left to the military who are concerned exclusively with fighting and winning the war they think is likely.

Fortunately for us and for the world, political leaders in both the United States and the Soviet Union have retained absolute control on the authority to use nuclear weapons. And fortunately, for one reason or another, we have not gone to war with the Russians.

But what frightens me and what should frighten you is that the nuclear forces on both sides have been designed to meet miliary war fighting criteria. The failure to include political criteria means that we have forces designed for the military concept of war fighting that fail to meet the political criteria for both deterrence and war fighting. We have been lucky so far. But I am concerned for the future as both side's war fighting capabilities improve geometrically while our understanding of the political factors increases little or not at all.

I believe the real danger to the United States is the failure to develop a comprehensive nuclear strategy that covers the spectrum from peacetime deterrence through crisis deterrence, war fighting and war termination and the failure to develop a force structure appropriate to that strategy.

The failure to include political factors in the development of strategy and forces means that when either side looks at the opponent, regardless of that opponent's public doctrine, the other side sees a war fighting, indeed, a first strike capability.

While I do not believe that the United States would ever strike first, I believe that the current situation could lead to a Soviet first strike. Such a first strike would not be the bolt out of the blue attack that worries so many of my Senate colleagues. That attack is inconceivable because there is no way the Soviets can be confident of destroying enough of our retaliatory capability to insure that they could escape a retaliatory attack. Testimony during the SALT II hearings (Vol. II page 427) has shown that today after a Soviet surprise attack and a U.S. retaliation against Soviet strategic forces, the United States retains the capability to destroy over 50 percent of Soviet industrial capacity and over 50 percent of Soviet nonsilo military targets. By 1985, before the MX is operational, that capacity will have expanded by about 25 percent.

Given this U.S. capability, it is inconceivable that Soviet political leaders, remembering the devastation of World War II, would risk such a loss when the two countries were relatively at peace as they are today.

The danger arises during a major political crisis such as a war in the Middle East when important U.S. and Soviet interests are threatened. The danger arises because:

First, the Soviets fear a U.S. first strike just as we fear a Soviet first strike.

Second, the Soviets do not believe in our definition of deterrence, instead they look at our nuclear forces and see a first strike capability.

Third, the Soviets are determined to never again allow an enemy to gain a first strike advantage as Hitler did in 1941.

And finally, in expectation of a U.S. first strike, Soviet political leaders will have no option but to turn to the military whose war fighting strategy clearly requires a Soviet preemptive attack on U.S. nuclear forces.

In other words, the danger is that, in a crisis, the Soviets will perceive a U.S. intent to strike first and in order to reduce the risk to the Soviet Union will strike first themselves.

If we are to change this highly dangerous situation we must participate more effectively in the development of nuclear strategy and of nuclear forces. We must focus our efforts on finding ways to reduce the possibility that a crisis could lead to a nuclear war.

Let me repeat the steps that you as advocates of arms control need to take if you are to contribute effectively to the decision making process that, in the final analysis, determines the strategic forces the United States will deploy.

First, you must accept the existence and continuation of the U.S./Soviet competition and the need for the modernization of our nuclear forces.

Second, you must enter the strategic debate and break new ground in the development of a strategy that covers the entire spectrum of nuclear war from peacetime deterrence to war termination.

Third, as part of your participation in this debate you must develop realistic solutions to the strategy and equipment problems that face the United States. You must find ways to modernize our forces so that they become appropriate to our political needs. In particular you must find ways to eliminate the real possibility that deterrence will break down in a crisis. The only way I can see to do this is to find ways to insure that the forces retain their retaliation capability but lose their first strike capability.

While I don't profess to be an expert in the development of strategic nuclear forces or of nuclear strategy, I think there are a few options that deserve consideration.

One step would be to buy MX but buy less than would be necessary for a credible U.S. first strike on Soviet strategic forces. Alternatively, we could gradually shift most of our retaliatory capability to submarine launched missiles and cruise missiles that have a secure retaliatory capability but not a first strike capability. Both of these steps would help to reduce Soviet fears of a U.S. first strike.

Another step would be to improve our damage limitation capability through increased civil defense measures rather than through developing forces that have the capability of destroying Soviet forces. The effect of this option would be to reduce the U.S. first strike capability while enhancing U.S. survivability.

A third step would be to improve command and control, intelligence and warning, and endurance capabilities of our forces so that the Soviets will be more certain of our ability to retaliate to a first strike even if our total forces are reduced.

There are bound to be many other ways to enhance our security while reducing the risk of war and I challenge you to work at finding them.

So far in this discussion I have not mentioned SALT II and the SALT process. Although the issues that I have raised today are not addressed in SALT, both the treaty and the process are important in the development of a more rational nuclear strategy and force structure.

The SALT process itself means that both U.S. and Soviet civilian leaders are becoming more involved in the development of strategy and force structure. It also means that both sides are becoming more aware of the concerns and fears of the other. Arms control advocates must take advantage of this new sensitivity to increase the awareness and participation of political leaders in the development of the full spectrum of nuclear strategy.

The SALT II treaty also makes a number of important first steps. The treaty provides agreed limits that, in the Soviet case, are less than they might otherwise have had at current building rates. The treaty also provides limits on concealment that will make both sides more confident of their security and their protection from surprise attack. Finally the treaty establishes weapons categories that can be used as the basis for further reductions.

Unfortunately, neither the treaty nor the process reflect an understanding of the issues that I am raising today. And, while both are helpful to a limited degree in eliminating some of the most dangerous aspects of the current situation, until these issues are faced head on, there is little chance of solving the major problems. Forcing these issues to the forefront of the debate would be the greatest contribution you could make to enhancing the security of the United States.●

JUDGE JOSEPH SHERBOW

● Mr. MATHIAS. Mr. President, Maryland has been fortunate in being served by many scholarly lawyers. It is rare, however, to find in one person both a depth of learning of the law, a tactical sense of how to apply the rules of law, and a zeal for justice. Such an unusual man was Judge Joseph Sherbow.

In my years of public service I have had many occasions to observe Judge Sherbow in action. He always inspired both admiration and respect by the way in which he tackled a legal problem. In the first place he knew the law in depth and stated it accurately. He would then relate the cause he advocated to the general interests of the public. Finally he would argue the basic equities of the relief he sought. It was a powerful exercise of professional talent and responsibility.

Not the least of the legacies left by Judge Sherbow is the valuable education he provided to young lawyers. Law may be learned in law school, but the practice of law is generally learned from other more experienced lawyers. Judge Sherbow was one of those highly visible members of the bar who can inspire and teach their younger colleagues, and he clearly did so.

I ask that the following article which appeared in the Baltimore Sun on Monday, December 17, be printed in the RECORD.

The article follows:

JOSEPH SHERBOW, POWERFUL LAWYER AND JUDGE, DIES

Joseph Sherbow, a former city Supreme Bench judge and adviser to governors whose contributions to Maryland government and his profession included far-reaching tax and judicial reforms, died yesterday at Sinai Hospital.

Mr. Sherbow, 78, who was widely known as one of the state's top constitutional and tax lawyers, had been ill for several weeks.

During his years on the Supreme Bench of Baltimore from 1944 to 1952, he earned a reputation as a crusading judge who often abandoned the bench's traditional role to demand reforms in the courts, the welfare system and other branches of government—or to criticize police for ignoring certain laws.

Upon learning of Mr. Sherbow's death, Chief Judge Robert C. Murphy of the state Court of Appeals said last night: "He will be terribly, sorely missed. He was the dean of the bar and with his background as a judge he was someone other judges could emulate. . . . He was a special friend, certainly of mine, and I'm sure of many others.

"He was one of those legends that will live on for a long time. He was a marvelous man—a very powerful lawyer and a very powerful judge," he added.

Mr. Sherbow's help and advice were solicited by governors and city mayors, both Democrat and Republican, over half a century. His influence extended from the 1920s and 1930s administration of the late Governor Albert C. Ritchie well into the present decade. Those who recall the Ritchie days say he was regarded as one of the "bright young stars" of Mr. Ritchie's four terms.

One of the last "Sherbow Commissions" he headed was the Maryland Commission on the Functions of Government, appointed by former Governor Marvin Mandel to investigate which government services should remain locally financed and which should be taken over by the state. The commission's 1975 report recommended the abolition of state property taxes and the substitution of increased income or sales tax as fairer methods of raising necessary revenue.

After Mr. Sherbow's retirement from the Supreme Bench, he returned to practicing law, handling primarily corporate and public-utilities cases. He served as chief counsel of the old Baltimore Transit Company until 1970. He was known as the "dean of public-utilities counsel in Maryland," his law partner of more than 25 years, Edward F. Shea, said yesterday.

Mr. Sherbow was also chairman of the Appellate Judicial Nominating Commission, screening candidates for Maryland's two highest courts.

As an active and influential participant in the state's Constitutional Convention of 1967, he headed the Maryland Bar Association's committee on the constitution and the committee on state finance and taxation.

A strong advocate of the revised constitution that was later rejected by voters, he discounted claims by the opposition that the new constitution would be too costly. Saying the cost would be minimal, he added, "I don't think you can put a dollar value on good government."

Mr. Sherbow served on numerous state commissions studying tax reform, duplication of services in the city and state, social services and regulatory law.

Mr. Sherbow was a fiscal adviser to Governor Ritchie and was secretary of the late Governor Herbert R. O'Conor's Commission on Revenue and Taxes in 1939.

Seven years later the first important Sherbow Commission, also named by Governor O'Conor, made the first careful study of how the state should share its revenues with local subdivisions.

The recommendations were so widely approved that the governor called a special session of the legislature in December, 1946, to enact a major portion of the commission's proposed program, recalls Richard W. Case, a fellow member who is now chairman of the board of trustees of the Peabody Institute and senior partner of the law firm of Smith, Somerville and Case.

Most of the other recommendations became law during the 1947 regular session of the General Assembly, according to Mr. Case.

In 1960, Mr. Sherbow was named to represent Baltimore on a city-state committee charged with finding new revenue sources for the city.

He nurtured an interest in politics throughout his lifetime and, as head of the Sherbow, Shea and Tatelbaum law firm, became one of the most influential lobbyists in Annapolis in the early 1960s.

While sitting on the Supreme Bench, Mr. Sherbow ruled that the Maryland Subversive Activities Act—known as the Ober law—denied constitutional freedoms. The decision, which gained him national publicity, was later reversed by the Court of Appeals, but it had rendered the act void for practical purposes.

Mr. Sherbow was active in judicial reform—a movement intended to keep politics out of the courtroom—for more than four decades. He called for the elimination of competitive judicial elections and the creation of a "merit system" for appointing judges.

In a 1975 article in The Sun, he wrote: "All judicial candidates, including the incumbent judges, must raise funds for advertising, printing, television and radio. They must conduct active campaigns, go to political meetings, oyster roasts, crab feasts, etc.

"This is demeaning and out of character with judicial office. The language of the constitution that judges must be 'most distinguished for integrity, wisdom and sound legal knowledge' is rarely, if ever, mentioned in that kind of a campaign."

Now, most judges in Maryland, including those who sit on the two highest courts, run on their records in nonpartisan elections.

After his retirement from the Supreme Bench—an action he took because, he said, the pay was too low—Mr. Sherbow remained active in both legal and political affairs. He was appointed special prosecutor to investigate the state's scandal-ridden Department of Employment Security in 1955.

From 1929 until 1935, he served as an associate judge of the People's Court. He later was named chairman of a special committee of the city bar which worked to reorganize the People's Court.

Services for Mr. Sherbow will be held at 10:30 a.m. tomorrow at the Baltimore Hebrew Congregation Temple, 7401 Park Heights avenue.

Mr. Sherbow is survived by his wife, the former Sara Rosenblum; 2 sons, Theodore Sherbow, and Arthur D. Sherbow, both of Baltimore; a daughter, Joan E. Winston, who lives near Annapolis, and 12 grandchildren.●

SENATOR MATHIAS LOOKS AT THE FUTURE

● Mr. JAVITS. Mr. President, on December 15, 1979, my good friend and colleague, the senior Senator from Maryland, Mr. MATHIAS, was the guest speaker at the Anti-Defamation League's Americanism Dinner in Miami, Fla. Senator MATHIAS enjoys a high reputation in the Senate of being one of its most thoughtful Members and graceful speakers. On this occasion, he titled his speech "The Future: Is It Still What It Used To Be?"

Senator MATHIAS' foray into the future is richly informed with a sense of the sweep of history and of the promise of the future.

Mr. President, I request that the full text of Senator MATHIAS' speech be printed in the RECORD.

The address follows:

THE FUTURE: IS IT STILL WHAT IT USED TO BE?

This is the last talk I will make in the 1970's, so it seems appropriate to try to sum up the decade very briefly. Then I would like to speculate a little about the coming decade and what it may require of us as individuals and as a nation.

George Will describes the 70's as "another decade of technological virtuosity and political brutality, of a test tube baby and an Ayatollah Khomeini." And that's a pretty apt description.

The decade began brutally, with an expanded war in Vietnam and the killings at Kent State, and it is ending brutally, with Americans held hostage in Iran against the practices of international law and the principles of civilized people.

The intervening years have brought a rise in terrorism at home and abroad that has shaken our confidence in our ability to protect ourselves either individually or collectively. Political scandals, from Watergate to Koreagate, have undermined confidence in the Executive and the Congress. And, starting today, the public will be able to buy a book that, by all acounts, will shake its confidence in the Supreme Court as well. The gasoline lines this summer, for the second time in a decade, were an unpleasant reminder that we no longer call all the shots even in areas most intimately involved in our national security.

But the same decade that brought us all these unsettling developments as well as the near-miss at Three Mile Island, also brought us the wonderful news that 90 percent of our children are now immunized against preventable childhood disease. Unfortunately, however, it is human nature to forget the good too quickly and to remember the bad too long, so we close the books on the 70's with a bitter taste in our mouths.

We enter the 80's with our national confidence shaken and with a lot of people wondering if Paul Valéry wasn't right to complain that, "The trouble with the future is that it isn't what it used to be."

Kenneth Clark, in his book Civilization, gives us some valuable insights into the dangers of this state of mind. The fall of Rome:

". . . shows that however complex and solid it seems (civilization), is actually quite fragile. It can be destroyed."

Civilization's enemies, he says, are:

". . . fear—fear of war, fear of invasion, fear of plague and famine, that makes it simply not worthwhile constructing things, or planting trees or even planting next year's crops."

Because of our technological, military and industrial strength and because of our achievements in medicine, those particular fears do not incapacitate us, as they did the ancient Romans. But the absence of fear does not determine the vitality of a civilization. That, according to Clark:

". . . requires confidence—confidence in the society in which one lives, belief in its philosophy, belief in its laws, and confidence in one's own mental powers."

As I said earlier, I detect a certain erosion of confidence in America. But I think it is basically unjustified. While it is true that unprecedented problems confront this nation and mankind generally, it is also true that we are in the process of developing equally unprecedented methods of managing, if not solving, those problems.

These festival days of Chanukah are a reminder that miracles are real and that even the most terrible and intractable problems can be solved. So this is a good time to inventory our stock of problems and to see what miracles of human ingenuity are available to solve them.

Perhaps the most unsettling fact of life, as we enter the decade of the 80's, is that the earth's human population will double in the next generation. That raises the specter that food for people and forage for animals will grow perilously scarce.

Already, 28 people die of starvation every single minute of every hour of every day. And between 450 and 750 million people in the world—more than the combined population of the United States and the Soviet Union—suffer from serious malnutrition. (World Military and Social Expenditures 1979. Ruth Legar Sivard.)

These statistics are tragic. But they are not inevitable. Miracles are at hand that can turn this situation around.

One approach to a solution, for example, is to produce the most meat from the least feed and to breed cattle selectively to achieve this goal. And right now in Sherwood, Maryland, a company is marketing a technique of embryo transplanting that makes it possible for a farmer's best cow to have 12 calves a year instead of one. The upgrading of beef and dairy herds that can result from the use of embryo transplants has very significant and positive implications for the world food supply.

Another problem is cereal foods and our ability to manage the grain economy of the world on a global scale. For centuries, most of the world has so mismanaged its food production system that Plato's description of Greece in the Fourth Century B.C. applies almost worldwide. He wrote:

". . . our land, compared with what it was, is like the skeleton of a body wasted by disease. The plump soft parts have vanished, and all that remains is the bare carcass."

Any of you who have flown over the Middle East must have been as forcibly struck as I have been by the stark contrasts between the present and the past. Cedars no longer crown the mountains of Lebanon. On the slopes of the Atlas Mountains, they are planting almond trees now to renew the vegetation and halt erosion begun when North Africa was the richest granary in the Roman Empire. Today, North Africa is a major food importing area.

In Iraq, the formerly lush valley of the Tigris and Euphrates Rivers—believed by many to have been the site of the Garden of Eden—is barren, its once rich soil white with salt. This valley nurtured the Sumerian civilization to wealth and power in 4,000 B.C., but 2,000 years of bad Sumerian irrigation practices so debased the soil that it has not yet recovered:

In Syria, another granary of the ancient world, the green oasis that supports Damascus stands in vibrant contrast to Mount Cassioun, the naked hill that dominates the city, and to the encroaching desert that encircles it.

The Zagros and Elburz Mountains in Iran—home of the ancient Medes and Persians and of the Achamenians and Sassanians—are almost treeless now. Once, their lush vegetation gave cover to bear, lion and the profusion of wild animals which generations of Persian artists celebrated in miniature paintings and in hunting carpets.

We have been slow to learn the lessons of the past. When the world was younger, like the young, it managed somehow to survive its heedlessness. Today it cannot.

"As recently as the mid-1930's Western Europe was the only continent with a grain deficit," Erik P. Eckholm reports in Losing Ground, his somber appraisal of world food prospects.

"One by one," he says, "continents have dropped from self-sufficiency to become net importers of food . . . (and) by the mid-seventies North America and Australia (were) the only regions with a net grain surplus."

Peter Schwarts, Director of Future's Research for Stanford Research Institute, suggests:

"In the past, human energy focused on solving problems in the world as we found it. The future's critical problems will be those of the world as we have made it."

Managing the world food supply in the face of mounting population pressures is certainly a problem of "the world as we have made it." Where much of the world once was self-sufficient, now we must learn how to handle bumper crops in one place and drought in another so that they balance out to make a stable supply of grain available everywhere. Up to now, that has not been the case and farmers in America's breadbasket sow and reap in basic ignorance of crop projections in China and the Soviet Union which will determine the size of the market.

We have it in our power to change all that. Thanks to pictures taken by Landsat 571 miles above the earth, predicting the global harvest is now possible. At the Space Center in Houston, an experiment to monitor world wheat production has given conclusive proof that satellites can provide measurements accurate enough for crop forecasting. The three-year project, christened LACIE for Large Area Crop Inventory Experiment, turned in a best estimate of the 1977 Soviet wheat harvest that was as good or better than that from any other source.

Judging by these results, I think it is logical to assume that, in addition to monitoring and predicting crop yields, we can integrate weather satellites and all the various satellite systems which sense and observe the Earth from space into a global information network to warn of natural catastrophes, report on sea conditions, locate distress signals, monitor pollution sources, track deforestation, spot erosion and generally provide the data necessary to restore our planet to health and manage it sensibly.

Of course, if we are to manage our planet properly, we will certainly have to manage ourselves with more skill than we have mustered in the past. We have got to bring the political brutality which has dominated so much of our life, nationally and internationally, under control. It will profit us very little to bring nature under control, if human nature runs amok.

We have reached a point in our civilization where the blind can use a computer that will write, store and communicate Braille; where the deaf can wear a "ticklebelt" that will translate sounds into skin sensations they can understand; where crystals grown in space, in a weightless environment free from gravity, will save us 50 percent of the electricity transported on long distance, high-tension wires; where we can mine the sea bed and farm it too; where it is even conceivable that the ultimate solution of our energy dilemma could be a pincers movement from space—the use of remote sensing to locate new supplies of fossil fuels to sustain us while we evaluate and develop the concept of unlimited solar energy beamed from space to power grids on Earth.

Some day we may even discover that international tensions could be reduced and the threat of nuclear war eliminated by the development of renewable resources from space which would prevent competition for the finite resources in our planet's crust, by a space information system which opens the world to the eyes of all nations, and by a space communications network which would tie the peoples and the nations of the Earth together in the mutual management of the planet in the interests of all its inhabitants.

This probably sounds like pie in the sky coming on the heels of Senate Majority Leader Robert Byrd's announcement that consideration of the SALT II Treaty has been deferred until the next session of Congress.

But are these ideas really so far-fetched when you consider the alternatives?

Not long ago, at a meeting of the Congressional Clearing House of the Future, someone asked Arthur C. Clarke what would happen to the universe if we destroyed ourselves.

His answer was simple.

"The universe wouldn't notice."

But, Clarke continued:

"In a few thousand years the universe will notice if we do not destroy ourselves. One day humans may control the destiny of the stars. . . ."

I believe in that prophesy and I want to help make it come true.

I have seen almost as unlikely happenings come to pass. For example, in April 1977 when I proposed the creation of a joint energy project in the Sinai of tremendous scope and potential that would employ the talents of both Egyptians and Israelis to benefit the entire area, the suggestion was considered pretty far-out. My colleagues were pleasant about it, but it was met with a good deal of skepticism. I arranged for private feasibility studies of the proposal, but couldn't spark much official interest.

That, of course, was seven months before Anwar Sadat made his historic trip to Jerusalem.

This fall when I recommended that $5 million be reappropriated for "Middle East Regional Cooperation and Development" projects to improve relations between Israel and her Arab neighbors, my Sinai proposal suddenly seemed to be a good idea whose time had come.

All of which goes to prove that we shouldn't sell the future short. It can only be what we dare to make of it. Paul Valéry got it wrong. The future is what it has always been—overflowing with wonders. The question is: Are we?

In closing, I would like to tell you a story that I think helps answer that question.

When the great French military figure, Marshal Lyautey, was in his late eighties and retired on his farm in Lorraine, he approached his gardener about planting an orchard.

"But," protested the gardener, "the trees would not bear fruit for 20 years."

"Then," replied the aged Marshal, "we must begin planting at once." ●

PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulated that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the Record the two notifications I have just received. An annex to each notification, which is classified information, has been deleted for publication, but is available to Senators in the office of the Foreign Relations Committee, room S116 in the Capitol.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., December 14, 1979.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations,
United States Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80–18 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Navy's proposed Letter of Offer to Japan for defense articles and services estimated to cost $26.6 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

ERNEST GRAVES,
Lieutenant General, U.S.A., Director, Defense Security Assistance Agency.

[Transmittal No. 80–18]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL

(i) Prospective purchaser: Japan.

(ii) Total estimated value: Major defense equipment,* $18.0 million; other, $8.6 million; total, $26.6 million.

(iii) Description of articles or services offered: Six (6) PHALANX Close-In Weapon Systems.

(iv) Military Department: Navy (LFL).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid:

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex under separate cover. [Annex deleted.]

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., December 14, 1979.
Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, United States Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80–19 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Navy's proposed Letter of Offer to Japan for defense articles and services estimated to cost $19.2 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director, Defense Security Assistant Agency.

[Transmittal No. 80–19]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchases: Japan.

(ii) Total estimated value: Major defense equipment,* $17.3 million; other, $1.9 million; total, $19.2 million.

(iii) Description of articles or services offered: Twenty-four (24) RGM–84A HARPOON missiles and spare parts.

(iv) Military Department: Navy (AEH).

(v) Sales Commission, fee, etc. paid, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the Defense Articles or Defense Services Proposed to be sold: See Annex under separate cover. [Annex deleted.]

(vii) Section 28 report: Case not included in Section 28 report.

(viii) Date report delivered to Congress: ●

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on December 14, 1979.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room S–116 in the Capitol.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C. December 14, 1979.
Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a European country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director, Defense Securitly Assistance Agency.●

NUCLEAR REGULATORY COMMISSION AUTHORIZATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 562.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill (S. 562) entitled "An Act to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1980

SEC. 101. (a) There is hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 2017), and section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), for the fiscal year 1980 the sum of $426,821,000 to remain available until expended. Of the total amount authorized to be appropriated:

(1) not more than $66,510,000, may be used for "Nuclear Reactor Regulation", of which an amount not to exceed $1,000,000 is authorized to accelerate the effort in gas-cooled thermal reactor preapplication review,

(2) not more than $42,440,000, may be used for "Inspection and Enforcement": Provided, That, of the total amount appropriated for this purpose, $4,684,000 shall be available for support for 146 additional inspectors for the Resident Inspector program;

(3) not more than $15,953,000, may be used for "Standards Development",

(4) not more than $32,380,000, may be used for "Nuclear Material Safety and Safeguards", of the total amount appropriated for this purpose not less than $60,000 shall be available only for the employment by the Commission of two qualified individuals to be assigned by the Commission to implementation of the United States International Atomic Energy Agency Safeguards Treaty, following ratification of such treaty by the United States Senate, and not less than $180,000 and six additional positions shall be included in the Division of Safeguards for the regulatory improvement of material control and accounting safeguards and the development of improved regulatory requirements for safeguarding the transportation of spent fuel.

(5) not more than $213,005,000, may be used for "Nuclear Regulatory Research", of which an amount not to exceed $3,700,000 is authorized to accelerate the effort in gas-cooled thermal reactor safety research,

(6) not more than $18,125,000, may be used for "Program Technical Support": *Provided,* That, of the total amount appropriated for this purpose, not less than $1,465,000 shall be available to the Office of State Programs (A) for training and assistance for State and local governments in establishing radiological emergency response planning and operations, including support for eight additional positions and (B) for providing financial assistance to the States to be used for the purchase of appropriate radiation monitoring equipment, and

(7) not more than $38,408,000 may be used for "Program Direction and Administration".

(b) No amount appropriated pursuant to subsection (a) for purposes of paragraphs (1) through (7) of such subsection may be used for any function of the Commission in excess of the amount expressly authorized to be appropriated for functions referred to in such paragraphs, if such excess amount is in excess of $500,000, nor may the amount available from any appropriation for any function referred to in such paragraphs be reduced by more than $500,000, unless—

(1) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of any adjournment of more than three calendar days to a day certain or an adjournment sine die) has passed after the receipt by the Committee on Interior and Insular Affairs and the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate of notice given by the Commission containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the proposed action, or

(2) each such committee before the expiration of such period has transmitted to the Commission written notice stating in substance that such committee has no objection to the proposed action.

(c) No amount authorized to be appropriated by this Act may be used by the Commission to enter into any contract providing funds in excess of $20,000 encompassing research, study, or technical assistance on domestic safeguards matters except as directed by the Commission, by majority vote, following receipt by the Commission of a recommendation from the Executive Director for Operations supporting the need for such contract.

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* As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(d) No amount authorized to be appropriated by this Act may be used by the Commission to—

(1) place any new work or substantial modification to existing work with another Federal agency, or

(2) contract for research servicés or modify such contract

in an amount greater than $500,000, unless such placement of work, contract or modification is approved by a Senior Contract Review Board, to be appointed by the Commission within sixty days of the date of enactment of this Act. Such Board shall be accountable to and under the direction of the Commission. If the amount of such placement, contract, or modification is $1,000,000 or more, approval thereof shall be by majority vote of the Commission. Prior to affording any approval in accordance with this subsection, the reviewing body designated hereunder shall determine that the placement, contract, or modification contains a detailed description of work to be performed, and that alternative methods of obtaining performance including competitive procurement, have been considered.

SEC. 102. During the fiscal year 1980, moneys received by the Commission for the cooperative nuclear research programs may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and shall remain available until expended.

SEC. 103. During the fiscal year 1980, transfers of sums from salaries and expenses may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred.

SEC. 104. (a) Of the amounts authorized to be appropriated under section 101(a), such sums as may be necessary shall be used by the Nuclear Regulatory Commission to—

(1) establish, by rule, standards for State radiological emergency plans which provide for the response to an emergency involving any material or facility required to be licensed under the Atomic Energy Act of 1954.

(2) review all plans and other preparations respecting such an emergency which have been made by each State in which there is located a nuclear reactor or in which construction of a nuclear reactor has been commenced and by each State which may be affected (as determined by the Commission) by any such emergency,

(3) assess the adequacy of the plans and other preparations reviewed under paragraph (2) and the ability of the States involved to carry out emergency evacuations during an emergency referred to in paragraph (1) and submit a report of such assessment to the appropriate committees of the Congress within 6 months of the date of enactment of this Act,

(4) identify which, if any, of the States described in paragraph (2) do not have adequate plans and preparations for such an emergency and notify the Governor and other appropriate authorities in each such State of the respects in which such plans and preparations, if any, do not conform to the guidelines promulgated under paragraph (1),

(5) submit a report to Congress containing results of its action under the preceding paragraphs and its recommendations respecting any additional Federal statutory authority which the Commission deems necessary to provide that adequate plans and preparations for such radiological emergencies are in effect for each State described in paragraph (2), and

(6) submit a report within 120 days from the date of the enactment of this Act which—

(A) lists each current rule, regulation, Division 1 regulatory guide and staff technical position which applicants for construction permits and operating licenses are currently required to meet and indicates on such list which of such rules, regulations, guides, and positions are safety-related;

(B) lists, for each licensee of an operating nuclear reactor which of the rules, regulations, regulatory guides and staff technical positions referred to in subparagraph (A) the licensee was required to meet at the time the operating license was granted and which the licensee was not required to meet at such time;

(C) lists the generic safety issues listed in NUREG 0410 (including categories A, B, C, and D), for which technical solutions have been developed;

(D) lists operating nuclear reactors in which the technical solutions referred to in subparagraph (C) have been implemented; and

(E) provides a schedule for developing a technical solution to those generic safety issues listed in NUREG 0410 which have not yet been technically resolved.

(b) In carrying out its review and assessment under subsection (a)(2) and (3) and in submitting its report under subsection (a)(5), the Commission shall include a review and assessment, with respect to each nuclear reactor and each site for which a construction license has been issued for a nuclear reactor, of the emergency response capability of State and local authorities and of the owner or operator (or proposed owner or operator) of such reactor. Such review and assessment shall incude a determination by the Commission of the maximum zone in the vicinity of each such reactor for which evaluation of individuals is feasible at various different times corresponding to the representative warning times for various different types of nuclear incidents.

SEC. 105. (a) The Commission shall within 90 days of enactment of this legislation, promulgate regulations providing for timely notification to the Governor of any State prior to the transport of nuclear waste, including spent nuclear fuel, to, through, or across the boundaries of such State. Such notification shall not be treated as "safeguards information" for the purposes of section 147 of the Atomic Energy Act of 1954. The Commission may require each Governor receiving such notification to comply with the procedures and the standard of confidentiality respecting such notification as the Commission deems necessary pursuant to section 147 of the Atomic Energy Act of 1947.

(b) As used in this section, the term "State" includes the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Somoa, the Trust Territory of the Pacific Island, and the Commonwealth of the Northern Mariana Islands.

SEC. 106. The Commission shall include in its annual report to Congress under section 251 of the Atomic Energy Act of 1954 a statement of—

(a) the direct and indirect costs to the Commission for the issuance of any license or permit and for the inspection of any facility;

(b) the fees paid to the Commission for issuance of any license or permit for the inspection of any facility.

SEC. 107. No amount authorized to be appropriated by this Act will be used to grant any license, permit, or other authorization or permission to any person for the transportation to or the interim, long-term, or permanent storage of spent nuclear fuel or high-level radioactive waste on any territory or insular possession of the United States or the Trust Territory of the Pacific Islands unless—

(1) the President submits to the Congress a report on the transfer at least 30 days before such transfer and on a day during which both Houses of the Congress are in session or either or both Houses are not in session because of an adjournment of three days or less to a day certain; or

(2) the President determines that an emergency situation exists with respect to such transfer and that it is in the national interest to make such transfer and the President notifies as soon as possible the Speaker of the House of Representatives and the President of the Senate of such transfer.

The provisions of this section shall not apply to the cleanup and rehabilitation of Bikini and Enewetak Atolls.

SEC. 108. From sums appropriated under section 101(a), the Nuclear Regulatory Commission shall use such sums as may be necessary to develop revised employee training and certification standards to ensure that operators, supervisors, and other employees at nuclear powerplants licensed by the Commission who are responsible for responding to radiological emergencies are adequately trained to operate the plant safely and to detect and respond to radiological emergencies.

TITLE II—AUTHORITY TO MAKE PAYMENTS

SEC. 201. Notwithstanding any other provision of this Act, no authority to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

TITLE III

SEC. 301. Section 234 of the Atomic Energy Act of 1954 is amended by striking out "$5,000" and inserting in lieu thereof, "$100,000", and by striking out, after the word "violation", all that follows in the first sentence, and submitting in lieu thereof a period.

SEC. 302. (a)(1) The Atomic Energy Act of 1954 is amended by adding a new section 147, "Safeguards Information" to read as follows:

"SEC. 147. SAFEGUARDS INFORMATION.—

"a. In addition to any other authority or requirement regarding protection from disclosure of information and notwithstanding section 552 of title 5, United States Code, relating to the availability of records, the Commission shall prescribe such regulations or orders as it may deem necessary to prohibit the unauthorized disclosure of safeguards information which identifies a licensee's or applicant's detailed—

"(1) control and accounting procedures or security measures (including security plans, procedures, and equipment) for the physical protection of special nuclear material, by whomever possessed, whether in transit or at fixed sites, in quantities determined by the Commission to be significant to the public health and safety or the common defense and security;

"(2) security measures (including security plans, procedures, and equipment) for the physical protection of source material or byproduct material, by whomever possessed, whether in transit or at fixed sites, in quantities determined by the Commission to be significant to the public health and safety or the common defense and security; or

"(3) security measures (including security plans, procedures, and equipment) for the physical protection of and the location of certain plant equipment vital to the safety of production or utilization facilities involving nuclear materials covered by (1) and (2) in this paragraph,

if the unauthorized disclosure of such information could have a significant adverse effect on the health and safety of the public or the common defense and security by facilitating theft, diversion, or sabotage of such material or such facility. The Commission shall exercise the authority in this subsection so as to apply the minimum restrictions needed to achieve the abjectives of protecting the health and safety of the public or the common defense and security, and upon a determination that the unauthorized disclosure of such information could have a significant adverse effect on the health and safety of the public or the common defense and security by facilitating theft, diversion, or sabotage of such material or such facility. Any person, whether or not a licensee of the Commission, who violates any regulation adopted under this section shall be subject to the civil monetary penalties of section 234 of this Act. Nothing in this section shall be construed to authorize the withholding of information from the duly authorized committees of the Congress.

"b. For the purposes of section 223 of this Act, any regulations or orders prescribed or issued by the Commission under this section shall also be deemed to be prescribed or issued under section 162 b. of this Act.".

(2) The table of contents for such Act is amended by inserting the following new item after the item relating to section 146:

"Sec. 147. Safeguards information.".

(b) Section 181 of the Atomic Energy Act of 1954 is amended—

(1) by striking out "or defense information" the first time it appears and substituting ", defense information, or safeguards information protected from disclosure under the authority of section 147", and,

(2) by striking out "or defense information" in each other place it appears in such section and substituting ", defense information, or such safeguards information".

Sec. 303. (a) The Atomic Energy Act of 1954 is amended by adding a new section to read as follows:

"Sec. 235. Sabotage of Nuclear Facilities.—

"(a) Any person who willfully injures, destroys, or contaminates or attempts to injure, destroy, or contaminate, any nuclear production facility or utilization facility licensed under this Act, any special nuclear material or by-product material possessed pursuant to a license issued by the Commission under section 53 or section 81 of this Act or pursuant to a license issued by a State under an agreement entered into under section 274 of this Act, or any special nuclear material or byproduct material contained in a carrier, shall be fined not more than $10,000 or imprisoned for not more than ten years, or both.

"(b) For purposes of this section—

"(1) the term 'carrier' means any motor vehicle, railroad train, or aircraft; and

"(2) the term 'nuclear waste storage installation' means a facility or area the purpose of which is to contain nuclear byproduct material.".

(b) The table of contents for such Act is amended by inserting the following new item after the item relating to section 234:

"Sec. 235. Sabotage of nuclear facilities."

TITLE IV—PROTECTION FOR INSPECTORS

Sec. 401. Section 1114 of title 18, United States Code is amended by inserting "any construction inspector or quality assurance inspector on any Nuclear Regulatory Commission licensed project," after "Department of Justice,".

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate disagree with the amendments of the House of Representatives to S. 562, and request a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on behalf of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. Hart, Mr. Randolph, Mr. Moynihan, Mr. Simpson, and Mr. Domenici conferees on the part of the Senate.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order Nos. 333 and 332, in that order.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1979

The Senate proceeded to consider the bill (H.R. 5010) to amend the Federal Election Campaign Act of 1971 to make certain changes in the reporting and disclosure requirements of such Act, and for other purposes.

UP AMENDMENT NO. 894

(Purpose: To provide an amendment in the nature of a substitute)

Mr. ROBERT C. BYRD. Mr. President, for myself, Mr. Pell, and Mr. Hatfield, I send to the desk an amendment in the nature of a substitute, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. Robert C. Byrd), for himself, Mr. Pell, and Mr. Hatfield, proposes an unprinted amendment numbered 894.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Federal Election Campaign Act Amendments of 1979".

TITLE I—AMENDMENTS TO FEDERAL ELECTION CAMPAIGN ACT OF 1971

DEFINITIONS

Sec. 101. Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431), hereinafter in this Act referred to as the "Act", is amended to read as follows:

"DEFINITIONS

"Sec. 301. When used in this Act:

"(1) The term 'election' means—

"(A) a general, special, primary, or runoff election;

"(B) a convention or caucus of a political party which has authority to nominate a candidate;

"(C) a primary election held for the selection of delegates to a national nominating convention of a political party; and

"(D) a primary election held for the expression of a preference for the nomination of individuals for election to the office of President.

"(2) The term 'candidate' means an individual who seeks nomination for election, or election, to Federal office, and for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election—

"(A) if such individual has received contributions aggregating in excess of $5,000 or has made expenditures aggregating in excess of $5,000; or

"(B) if such individual has given his or her consent to another person to receive contributions or make expenditures on behalf of such individual and if such person has received such contributions aggregating in excess of $5,000 or has made such expenditures aggregating in excess of $5,000.

"(3) The term 'Federal office' means the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress.

"(4) The term 'political committee' means—

"(A) any committee, club, association, or other group of persons which receives contributions aggregating in excess of $1,000 during a calendar year or which makes expenditures aggregating in excess of $1,000 during a calendar year; or

"(B) any separate segregated fund established under the provisions of section 316 (b); or

"(C) any local committee of a political party which receives contributions aggregating in excess of $5,000 during a calendar year, or makes payments exempted from the definition of contribution or expenditure as defined in section 301 (8) and (9) aggregating in excess of $5,000 during a calendar year, or makes contributions aggregating in excess of $1,000 during a calendar year or makes expenditures aggregating in excess of $1,000 during a calendar year.

"(5) The term 'principal campaign committee' means a political committee designated and authorized by a candidate under section 302(e)(1).

"(6) The term 'authorized committee' means the principal campaign committee or any other political committee authorized by a candidate under section 302(e)(1) to receive contributions or make expenditures on behalf of such candidate.

"(7) The term 'connected organization' means any organization which is not a political committee but which directly or indirectly establishes, administers, or financially supports a political committee.

"(8)(A) The term 'contribution' includes—

"(i) any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office; or

"(ii) the payment by any person of compensation for the personal services of another person which are rendered to a political committee without charge for any purpose.

"(B) The term 'contribution' does not include—

"(i) the value of services provided without compensation by any individual who volunteers on behalf of a candidate or political committee;

"(ii) the use of real or personal property, including a church or community room used on a regular basis by members of a community for noncommercial purposes, and the cost of invitations, food, and beverages, voluntarily provided by an individual to any candidate or any political committee of a political party in rendering voluntary personal services on the individual's residential premises or in the church or community room for candidate-related or political party-related activities, to the extent that the cumulative value of such invitations, food, and beverages provided by such individual on behalf of any single candidate does not exceed $1,000 with respect to any single election, and on behalf of all political committees of a political party does not exceed $2,000 in any calendar year;

"(iii) the sale of any food or beverage by a vendor for use in any candidate's campaign or for use by or on behalf of any political committee of a political party at a charge less than the normal comparable charge, if such charge is at least equal to the cost of such food or beverage to the vendor, to the extent that the cumulative value of such activity by such vendor on behalf of any single candidate does not exceed $1,000 with respect to any single election, and on behalf of all political committees of a political party does not exceed $2,000 in any calendar year;

"(iv) any unreimbursed payment for travel expenses made by any individual on behalf of any candidate or any political committee of a political party, to the extent that the cumulative value of such activity by such individual on behalf of any single candidate does not exceed $1,000 with respect to any single election, and on behalf of all political committees of a political party does not exceed $2,000 in any calendar year;

"(v) the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of 3 or more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply to any cost incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines, or similar types of general public political advertising;

"(vi) any payment made or obligation incurred by a corporation or a labor organization which, under section 316(b), would not constitute an expenditure by such corporation or labor organization;

"(vii) any loan of money by a State bank, a federally chartered depository institution, or a depository institution the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration, other than any overdraft made with respect to a checking or savings account, made in accordance with applicable law and in the ordinary course of business, but such loan—

"(I) shall be considered a loan by each endorser or guarantor, in that proportion of the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors;

"(II) shall be made on a basis which assures repayment, evidenced by a written instrument, and subject to a due date or amortization schedule; and

"(III) shall bear the usual and customary interest rate of the lending institution;

"(viii) any gift, subscription, loan, advance, or deposit of money or anything of value to a national or a State committee of a political party specifically designated to defray any cost for construction or purchase of any office facility not acquired for the purpose of influencing the election of any candidate in any particular election for Federal office;

"(ix) any legal or accounting services rendered to or on behalf of—

"(I) any political committee of a political party if the person paying for such services is the regular employer of the person rendering such services and if such services are not attributable to activities which directly further the election of any designated candidate to Federal office; or

"(II) an authorized committee of a candidate or any other political committee, if the person paying for such services is the regular employer of the individual rendering such services and if such services are solely for the purpose of ensuring compliance with this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954,

but amounts paid or incurred by the regular employer for such legal or accounting services shall be reported in accordance with section 304(b) by the committee receiving such services;

"(x) the payment by a State or local committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids, and yard signs) used by such committee in connection with volunteer activities on behalf of nominees of such party: *Provided*, That—

"(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

"(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

"(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or particular candidates;

"(xi) the payment by a candidate, for nomination or election to any public office (including State or local office), or authorized committee of a candidate, of the costs of campaign materials which include information on or reference to any other candidate and which are used in connection with volunteer activities (including pins, bumper stickers, handbills, brochures, posters, and yard signs, but not including the use of broadcasting, newspapers, magazines, billboards, direct mail, or similar types of general public communication or political advertising): *Provided*, That such payments are made from contributions subject to the limitations and prohibitions of this Act;

"(xii) the payment by a State or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by such committee on behalf of nominees of such party for President and Vice President: *Provided*, That—

"(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail or similar type of general public communication or political advertising;

"(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

"(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or candidates;

"(xiii) payments made by a candidate or the authorized committee of a candidate as a condition of ballot access and payments received by any political party committee as a condition of ballot access; and

"(xiv) any honorarium (within the meaning of section 323 of this Act).

"(9)(A) The term 'expenditure' includes—

"(i) any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office; and

"(ii) a written contract, promise, or agreement to make an expenditure.

"(B) The term 'expenditure' does not include—

"(i) any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate;

"(ii) nonpartisan activity designed to encourage individuals to vote or to register to vote;

"(iii) any communication by any membership organization or corporation to its members, stockholders, or executive or administrative personnel, if such membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any individual to Federal office, except that the costs incurred by a membership organization (including a labor organization) or by a corporation directly attributable to a communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the express advocacy of the election or defeat of a clearly identified candidate), shall, if such costs exceed $2,000 for any election, be reported to the Commission in accordance with section 304(a)(4)(A)(i), and in accordance with section 304(a)(4)(A)(ii) with respect to any general election;

"(iv) the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of 3 or more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply to costs incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines, or similar types of general public political advertising;

"(v) any payment made or obligation incurred by a corporation or a labor organization which, under section 316(b), would not constitute an expenditure by such corporation or labor organization;

"(vi) any costs incurred by an authorized committee or candidate in connection with the solicitation of contributions on behalf of such candidate, except that this clause shall not apply with respect to costs incurred by an authorized committee of a candidate in excess of an amount equal to 20 percent of the expenditure limitation applicable to such candidate under section 315(b), but all such costs shall be reported in accordance with section 304(b);

"(vii) the payment of compensation for legal or accounting services—

"(I) rendered to or on behalf of any political committee of a political party if the person paying for such services is the regular employer of the individual rendering such services, and if such services are not attributable to activities which directly further the election of any designated candidate to Federal office; or

"(II) rendered to or on behalf of a candidate or political committee if the person paying for such services is the regular employer of the individual rendering such services, and if such services are solely for the purpose of ensuring compliance with this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954,

but amounts paid or incurred by the regular employer for such legal or accounting services shall be reported in accordance with section 304(b) by the committee receiving such services;

"(viii) the payment by a State or local committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids, and yard signs) used by such committee in connection with volunteer activities on behalf of nominees of such party: *Provided*, That—

"(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail or similar type of general public communication or political advertising;

"(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

"(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or particular candidates;

"(ix) the payment by a State or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by such committee on behalf of nominees of such party for President and Vice President: *Provided*, That—

"(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail or similar type of general public communication or political advertising;

"(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

"(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or candidates; and

"(x) payments received by a political party committee as a condition of ballot access which are transferred to another political party committee or the appropriate State official.

"(10) The term 'Commission' means the Federal Election Commission.

"(11) The term 'person' includes an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons, but such term does not include the Federal Government or any authority of the Federal Government.

"(12) The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

"(13) The term 'identification' means—

"(A) in the case of any individual, the name, the mailing address, and the occupation of such individual, as well as the name of his or her employer; and

"(B) in the case of any other person, the full name and address of such person.

"(14) The term 'national committee' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level, as determined by the Commission.

"(15) The term 'State committee' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level, as determined by the Commission.

"(16) The term 'political party' means an association, committee, or organization which nominates a candidate for election to any Federal office whose name appears on the election ballot as the candidate of such association, committee, or organization.

"(17) The term 'independent expenditure' means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate.

"(18) The term 'clearly identified' means that—

"(A) the name of the candidate involved appears;

"(B) a photograph or drawing of the candidate appears; or

"(C) the identity of the candidate is apparent by unambiguous reference.

"(19) The term 'Act' means the Federal Election Campaign Act of 1971 as amended.".

ORGANIZATION OF POLITICAL COMMITTEES

SEC. 102. Section 302 of the Act (2 U.S.C. 432) is amended to read as follows:

"ORGANIZATION OF POLITICAL COMMITTEES

"SEC. 302. (a) Every political committee shall have a treasurer. No contribution or expenditure shall be accepted or made by or on behalf of a political committee during any period in which the office of treasurer is vacant. No expenditure shall be made for or on behalf of a political committee without the authorization of the treasurer or his or her designated agent.

"(b)(1) Every person who receives a contribution for an authorized political committee shall, no later than 10 days after receiving such contribution, forward to the treasurer such contribution, and if the amount of the contribution is in excess of $50 the name and address of the person making the contribution and the date of receipt.

"(2) Every person who receives a contribution for a political committee which is not an authorized committee shall—

"(A) if the amount of the contribution is $50 or less, forward to the treasurer such contribution no later than 30 days after receiving the contribution; and

"(B) if the amount of the contribution is in excess of $50, forward to the treasurer such contribution, the name and address of the person making the contribution, and the date of receipt of the contribution, no later than 10 days after receiving the contribution.

"(3) All funds of a political committee shall be segregated from, and may not be commingled with, the personal funds of any individual.

"(c) The treasurer of a political committee shall keep an account of—

"(1) all contributions received by or on behalf of such political committee;

"(2) the name and address of any person who makes any contribution in excess of $50. together with the date and amount of such contribution by any person;

"(3) the identification of any person who makes a contribution or contributions aggregating more than $200 during a calendar year, together with the date and amount of any such contribution;

"(4) the identification of any political committee which makes a contribution, together with the date and amount of any such contribution; and

"(5) the name and address of every person to whom any disbursement is made, the date, amount, and purpose of the disbursement, and the name of the candidate and the office sought by the candidate, if any, for whom the disbursement was made, including a receipt, invoice, or canceled check for each disbursement in excess of $200.

"(d) The treasurer shall preserve all records required to be kept by this section and copies of all reports required to be filed by this title for 3 years after the report is filed.

"(e)(1) Each candidate for Federal office (other than the nominee for the office of Vice President) shall designate in writing a political committee in accordance with paragraph (3) to serve as the principal campaign committee of such candidate. Such designation shall be made no later than 15 days after becoming a candidate. A candidate may designate additional political committees in accordance with paragraph (3) to serve as authorized committees of such candidate. Such designation shall be in writing and filed with the principal campaign committee of such candidate in accordance with subsection (f)(1).

"(2) Any candidate described in paragraph (1) who receives a contribution, or any loan for use in connection with the campaign of such candidate for election, or makes a disbursement in connection with such campaign, shall be considered, for purposes of this Act, as having received the contribution or loan, or as having made the disbursement, as the case may be, as an agent of the authorized committee or committees of such candidate.

"(3)(A) No political committee which supports or has supported more than one candidate may be designated as an authorized committee, except that—

"(i) the candidate for the office of President nominated by a political party may designate the national committee of such political party as a principal campaign committee, but only if that national committee maintains separate books of account with respect to its function as a principal campaign committee; and

"(ii) candidates may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee.

"(B) As used in this section, the term 'support' does not include a contribution by any authorized committee in amounts of $1,000 or less to an authorized committee of any other candidate.

"(4) The name of each authorized committee shall include the name of the candidate who authorized such committee under paragraph (1). In the case of any political committee which is not an authorized committee, such political committee shall not include the name of any candidate in its name.

"(5) The name of any separate segregated fund established pursuant to section 316(b) shall include the name of its connected organization.

"(f)(1) Notwithstanding any other provision of this Act, each designation, statement, or report of receipts or disbursements made by an authorized committee of a candidate shall be filed with the candidate's principal campaign committee.

"(2) Each principal campaign committee shall receive all designations, statements, and reports required to be filed with it under paragraph (1) and shall compile and file such designations, statements, and reports in accordance with this Act.

"(g)(1) Designations, statements, and reports required to be filled under this Act by a candidate or by an authorized committee of a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, and by the principal campaign committee of such a candidate, shall be filed with the Clerk of the House of Representatives, who shall receive such designations, statements, and reports as custodian for the Commission.

"(2) Designations, statements, and reports required to be filed under this Act by a candidate for the office of Senator, and by the principal campaign committee of such candidate, shall be filed with the Secretary of the Senate, who shall receive such designations, statements, and reports, as custodian for the Commission.

"(3) The Clerk of the House of Representatives and the Secretary of the Senate shall forward a copy of any designation, statement, or report filed with them under this subsection to the Commission as soon as possible (but no later than 2 working days) after receiving such designation, statement, or report.

"(4) All designations, statements, and reports required to be filed under this Act, except designations, statements, and reports filed in accordance with paragraphs (1) and (2), shall be filed with the Commission.

"(5) The Clerk of the House of Representatives and the Secretary of the Senate shall make the designations, statements, and reports received under this subsection available for public inspection and copying in the same manner as the Commission under section 311(a)(4), and shall preserve such designations, statements, and reports in the same manner as the Commission under section 311(a)(5).

"(h)(1) Each political committee shall designate one or more State banks, federally chartered depository institutions, or depository institutions the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration, as its campaign depository or depositories. Each political committee shall maintain at least one checking account and such other accounts as the committee determines at a depository designated by such committee. All receipts received by such committee shall be deposited in such accounts. No disbursements may be made (other than petty cash disbursements under paragraph (2)) by such committee except by check drawn on such accounts in accordance with this section.

"(2) A political committee may maintain a petty cash fund for disbursements not in excess of $100 to any person in connection with a single purchase or transaction. A record of all petty cash disbursements shall be maintained in accordance with subsection (c)(5).

"(i) When the treasurer of a political committee shows that best efforts have been used to obtain, maintain, and submit the information required by this Act for the political committee, any report or any records of such committee shall be considered in compliance with this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954.".

REGISTRATION OF POLITICAL COMMITTEES; STATEMENTS

Sec. 103. Section 303 of the Act (2 U.S.C. 433) is amended to read as follows:

"REGISTRATION OF POLITICAL COMMITTEES; STATEMENTS

"Sec. 303. (a) Each authorized campaign committee shall file a statement of organization no later than 10 days after designation pursuant to section 302(e)(1). Each separate segregated fund established under the provisions of section 316(b) shall file a statement of organization no later than 10 days after establishment. All other committees shall file a statement of organization within 10 days after becoming a political committee within the meaning of section 301(4).

"(b) The statement of organization of a political committee shall include—

"(1) the name, address, and type of committee;

"(2) the name, address, relationship, and type of any connected organization or affiliated committee;

"(3) the name, address, and position of the custodian of books and accounts of the committee;

"(4) the name and address of the treasurer of the committee;

"(5) if the committee is authorized by a candidate, the name, address, office sought, and party affiliation of the candidate; and

"(6) a listing of all banks, safety deposit boxes, or other depositories used by the committee.

"(c) Any change in information previously submitted in a statement of organization shall be reported in accordance with section 302(g) no later than 10 days after the date of the change.

"(d)(1) A political committee may terminate only when such a committee files a written statement, in accordance with section 302(g), that it will no longer receive any contributions or make any disbursements and that such committee has no outstanding debts or obligations.

"(2) Nothing contained in this subsection may be construed to eliminate or limit the authority of the Commission to establish procedures for—

"(A) the determination of insolvency with respect to any political committee;

"(B) the orderly liquidation of an insolvent political committee, and the orderly application of its assets for the reduction of outstanding debts; and

"(C) the termination of an insolvent political committee after such liquidation and application of assets.".

REPORTS

Sec. 104. Section 304 of the Act (2 U.S.C. 434) is amended to read as follows:

"REPORTS

"Sec. 304. (a)(1) Each treasurer of a political committee shall file reports of receipts and disbursements in accordance with the provisions of this subsection. The treasurer shall sign each such report.

"(2) If the political committee is the principal campaign committee of a candidate for the House of Representatives or for the Senate—

"(A) in any calendar year during which there is regularly scheduled election for which such candidate is seeking election, or nomination for election, the treasurer shall file the following reports:

"(i) a pre-election report, which shall be filed no later than the 12th day before (or posted by registered or certified mail no later than the 15th day before) any election in which such candidate is seeking election, or nomination for election, and which shall be complete as of the 20th day before such election;

"(ii) a post-general election report, which shall be filed no later than the 30th day after any general election in which such candidate has sought election, and which shall be complete as of the 20th day after such general election; and

"(iii) additional quarterly reports, which shall be filed no later than the 15th day after the last day of each calendar quarter, and which shall be complete as of the last day of each calendar quarter; except that the report for the quarter ending December 31 shall be filed no later than January 31 of the following calendar year; and

"(B) in any other calendar year the following reports shall be filed:

"(i) a report covering the period beginning January 1 and ending June 30, which shall be filed no later than July 31; and

"(ii) a report covering the period beginning July 1 and ending December 31, which shall be filed no later than January 31 of the following calendar year.

"(3) If the committee is the principal campaign committee of a candidate for the office of President—

"(A) in any calendar year during which a general election is held to fill such office—

"(i) the treasurer shall file monthly reports if such committee has on January 1 of such year, received contributions aggregating $100,000 or made expenditures aggregating $100,000 or anticipates receiving contributions aggregating $100,000 or more or making expenditures aggregating $100,000 or more during such year: such monthly reports shall be filed no later than the 20th day after the last day of each month and shall be complete as of the last day of the month, except that, in lieu of filing the report otherwise due in November and December, a pre-general election report shall be filed in accordance with paragraph (2)(A)(i), a post-general election report shall be filed in accordance with paragraph (2)(A)(ii), and a year end report shall be filed no later than January 31 of the following calendar year;

"(ii) the treasurer of the other principal campaign committees of a candidate for the office of President shall file a pre-election report or reports in accordance with paragraph (2)(A)(i), a post-general election report in accordance with paragraph (2)(A)(ii), and quarterly reports in accordance with paragraph (2)(A)(iii); and

"(iii) if at any time during the election year a committee filing under paragraph (3)(A)(ii) receives contributions in excess of $100,000 or makes expenditures in excess of $100,000, the treasurer shall begin filing monthly reports under paragraph (3)(A)(i) at the next reporting period; and

"(B) in any other calendar year, the treasurer shall file either—

"(i) monthly reports, which shall be filed no later than the 20th day after the last day of each month and shall be complete as of the last day of the month; or

"(ii) quarterly reports, which shall be filed no later than the 20th day after the last day of each calendar quarter and which shall be complete as of the last day of each calendar quarter.

"(4) All political committees other than authorized committees of a candidate shall file either—

"(A)(i) quarterly reports, in a calendar year in which a regularly scheduled general election is held, which shall be filed no later than the 15th day after the last day of each calendar quarter: except that the report for the quarter ending on December 31 of such calendar year shall be filed no later than January 31 of the following calendar year;

"(ii) a pre-election report, which shall be filed no later than the 12th day before (or posted by registered or certified mail no later than the 15th day before) any election in which the committee makes a contribution to or expenditure on behalf of a candidate in such election, and which shall be complete as of the 20th day before the election;

"(iii) a post-general election report, which shall be filed no later than the 30th day after the general election and which shall be complete as of the 20th day after such general election; and

"(iv) in any other calendar year, a report covering the period beginning January 1 and ending June 30, which shall be filed no later than July 31 and a report covering the period beginning July 1 and ending December 31, which shall be filed no later than January 31 of the following calendar year; or

"(3) monthly reports in all calendar years which shall be filed no later than the 20th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pre-general election report shall be filed in accordance with paragraph (2)(A)(i), a post-general election report shall be filed in accordance with paragraph (2)(A)(ii), and a year end report shall be filed no later than January 31 of the following calendar year.

"(5) If a designation, report, or statement filed pursuant to this Act (other than under paragraph (2)(A)(i) or (4)(A)(ii)) is sent by registered or certified mail, the United States postmark shall be considered the date of filing of the designation, report, or statement.

"(6)(A) The principal campaign committee of a candidate shall notify the Clerk, the Secretary, or the Commission, and the Secretary of State, as appropriate, in writing, of any contribution of $1,000 or more received by any authorized committee of such candidate after the 20th day, but more than 48 hours before, any election. This notification shall be made within 48 hours after the receipt of such contribution and shall include the name of the candidate and the office sought by the candidate, the identification of the contributor, and the date of receipt and amount of the contribution.

"(B) The notification required under this paragraph shall be in addition to all other reporting requirements under this Act.

"(7) The reports required to be filed by this subsection shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during such year, only the amount need be carried forward.

"(8) The requirement for a political committee to file a quarterly report under paragraph (2)(A)(iii) or paragraph (4)(A)(i) shall be waived if such committee is required to file a pre-election report under paragraph (2)(A)(i), or paragraph (4)(A)(ii) during the period beginning on the 5th day after the close of the calendar quarter and ending on the 15th day after the close of the calendar quarter.

"(9) The Commission shall set filing dates for reports to be filed by principal campaign committees of candidates seeking election, or nomination for election, in special elections and political committees filing under paragraph (4)(A) which make contributions to or expenditures on behalf of a candidate or candidates in special elections. The Commission shall require no more than one pre-election report for each election and one post-election report for the election which fills the vacancy. The Commission may waive any reporting obligation of committees required to file for special elections if any report required by paragraph (2) or (4) is required to be filed within 10 days of a report required under this subsection. The Commission shall establish the reporting dates within 5 days of the setting of such election and shall publish such dates and notify the principal campaign committees of all candidates in such election of the reporting dates.

"(10) The treasurer of a committee supporting a candidate for the office of Vice President (other than the nominee of a political party) shall file reports in accordance with paragraph (3).

"(b) Each report under this section shall disclose—

"(1) the amount of cash on hand at the beginning of the reporting period;

"(2) for the reporting period and the calendar year, the total amount of all receipts, and the total amount of all receipts in the following categories:

"(A) contributions from persons other than political committees;

"(B) for an authorized committee, contributions from the candidate;

"(C) contributions from political party committees;

"(D) contributions from other political committees;

"(E) for an authorized committee, transfers from other authorized committees of the same candidate;

"(F) transfers from affiliated committees, and, where the reporting committee is a political party committee, transfers from other political party committees, regardless of whether such committees are affiliated;

"(G) for an authorized committee, loans made by or guaranteed by the candidate;

"(H) all other loans;

"(I) rebates, refunds, and other offsets to operating expenditures;

"(J) dividends, interest, and other forms of receipts; and

"(K) for an authorized committee of a candidate for the office of President, Federal funds received under chapter 95 and chapter 96 of the Internal Revenue Code of 1954;

"(3) the identification of each—

"(A) person (other than a political committee) who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions have an aggregate amount or value in excess of $200 within the calendar year, or in any lesser amount if the reporting committee should so elect, together with the date and amount of any such contribution;

"(B) political committee which makes a contribution to the reporting committee during the reporting period, together with the date and amount of any such contribution;

"(C) authorized committee which makes a transfer to the reporting committee;

"(D) affiliated committee which makes a transfer to the reporting committee during the reporting period and, where the reporting committee is a political party committee, each transfer of funds to the reporting committee from another political party committee, regardless of whether such committees are affiliated, together with the date and amount of such transfer;

"(E) person who makes a loan to the reporting committee during the reporting period, together with the identification of any endorser or guarantor of such loan, and the date and amount or value of such loan;

"(F) person who provides a rebate, refund or other offset to operating expenditures to the reporting committee in an aggregate amount or value in excess of $200 within the calendar year, together with the date and amount of such receipt; and

"(G) person who provides any dividend, interest, or other receipt to the reporting committee in an aggregate value or amount in excess of $200 within the calendar year, together with the date and amount of any such receipt;

"(4) for the reporting period and the calendar year, the total amount of all disbursements, and all disbursements in the following categories:

"(A) expenditures made to meet candidate or committee operating expenses;

"(B) for authorized committees, transfers to other committees authorized by the same candidate;

"(C) transfers to affiliated committees and, where the reporting committee is a political party committee, transfers to other political party committees, regardless of whether they are affiliated;

"(D) for an authorized committee, repayment of loans made by or guaranteed by the candidate;

"(E) repayment of all other loans;

"(F) contribution refunds and other offsets to contributions;

"(G) for an authorized committee, any other disbursements;

"(H) for any political committee other than an authorized committee—

"(i) contributions made to other political committees;

"(ii) loans made by the reporting committees;

"(iii) independent expenditures;

"(iv) expenditures made under section 315(d) of this Act; and

"(v) any other disbursements; and

"(I) for an authorized committee of a candidate for the office of President, disbursements not subject to the limitation of section 315(b);

"(5) the name and address of each—

"(A) person to whom an expenditure in an aggregate amount or value in excess of $200 within the calendar year is made by the reporting committee to meet a candidate or committee operating expense, together with the date, amount, and purpose of such operating expenditure;

"(B) authorized committee to which a transfer is made by the reporting committee;

"(C) affiliated committee to which a transfer is made by the reporting committee during the reporting period and, where the reporting committee is a political party committee, each transfer of funds by the reporting committee to another political party committee, regardless of whether such committees are affiliated, together with the date and amount of such transfers;

"(D) person who receives a loan repayment from the reporting committee during the reporting period together with the date and amount of such loan repayment; and

"(E) person who receives a contribution refund or other offset to contributions from the reporting committee where such contribution was reported under paragraph (3) (A) of this subsection, together with the date and amount of such disbursement;

"(6)(A) for an authorized committee, the name and address of each person who has received any disbursement not disclosed under paragraph (5) in an aggregate amount or value in excess of $200 within the calendar year, together with the date and amount of any such disbursement;

"(B) for any other political committee, the name and address of each—

"(i) political committee which has received a contribution from the reporting committee during the reporting period, together with the date and amount of any such contribution;

"(ii) person who has received a loan from the reporting committee during the reporting period, together with the date and amount of such loan;

"(iii) person who receives any disbursement during the reporting period in an aggregate amount or value in excess of $200 within the calendar year in connection with an independent expenditure by the reporting committee, together with the date, amount, and purpose of any such independent expenditure and a statement which indicates whether such independent expenditure is in support of, or in opposition to, a candidate, as well as the name and office sought by such candidate, and a certification, under penalty of perjury, whether such independent expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such committee;

"(iv) person who receives any expenditure from the reporting committee during the reporting period in connection with an expenditure under section 315(d) in the Act, together with the date, amount, and purpose of any such expenditure as well as the name of, and office sought by, the candidate on whose behalf the expenditure is made; and

"(v) person who has received any disbursement not otherwise disclosed in this paragraph or paragraph (5) in an aggregate amount or value in excess of $200 within the calendar year from the reporting committee within the reporting period, together with the date, amount, and purpose of any such disbursement;

"(7) the total sum of all contributions to such political committee, together with the total contributions less offsets to contributions and the total sum of all operating expenditures made by such political committee, together with total operating expenditure less offsets to operating expenditures, for both the reporting period and the calendar year; and

"(8) the amount and nature of outstanding debts and obligations owed by or to such political committee; and where such debts and obligations are settled for less than their reported amount or value, a statement as to the circumstances and conditions under which such debts or obligations were extinguished and the consideration therefor.

"(c)(1) Every person (other than a political committee) who makes independent expenditures in an aggregate amount or value in excess of $250 during a calendar year shall file a statement containing the information required under subsection (b)(3)(A) for all contributions received by such person.

"(2) Statements required to be filed by this subsection shall be filed in accordance with subsection (a)(2), and shall include—

"(A) the information required by subsection (b)(6)(B)(iii), indicating whether the independent expenditure is in support of, or in opposition to, the candidate involved;

"(B) under penalty of perjury, a certification whether or not such independent expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and

"(C) the identification of each person who made a contribution in excess of $200 to the person filing such statement which was made for the purpose of furthering an independent expenditure.

Any independent expenditure (including those described in subsection (b)(6)(B)(iii)) aggregating $1,000 or more made after the 20th day, but more than 24 hours, before any election shall be reported within 24 hours after such independent expenditure is made. Such statement shall be filed with the

Clerk, the Secretary, or the Commission and the Secretary of State and shall contain the information required by subsection (b)(6)(B)(iii) indicating whether the independent expenditure is in support of, or in opposition to, the candidate involved.

"(3) The Commission shall be responsible for expeditiously preparing indices which set forth, on a candidate-by-candidate basis, all independent expenditures separately, including those reported under subsection (b)(6)(B)(iii), made by or for each candidate, as reported under this subsection, and for periodically publishing such indices on a timely pre-election basis.".

FEDERAL ELECTION COMMISSION

SEC. 105. Title III of the Act (2 U.S.C. 431 et seq.) is amended—

(1) by striking out sections 305, 306, 308, 311, 318, and 329;

(2) by redesignating section 307 as section 305;

(3) by redesignating sections 309 and 310 as sections 306 and 307, respectively;

(4) by redesignating sections 312 through 317 as sections 308 through 313, respectively;

(5) by redesignating sections 319 through 328 as sections 314 through 323, respectively; and

(6) by amending section 306, as so redesignated by section 105(a)(3), to read as follows:

"FEDERAL ELECTION COMMISSION

"SEC. 306. (a)(1) There is established a commission to be known as the Federal Election Commission. The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives or their designees, ex officio and without the right to vote, and 6 members appointed by the President, by and with the advice and consent of the Senate. No more than 3 members of the Commission appointed under this paragraph may be affiliated with the same political party.

"(2)(A) Members of the Commission shall serve for terms of 6 years, except that of the members first appointed—

"(i) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1977;

"(ii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1979; and

"(iii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1981.

"(B) A member of the Commission may serve on the Commission after the expiration of his or her term until his or her successor has taken office as a member of the Commission.

"(C) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he or she succeeds.

"(D) Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.

"(3) Members shall be chosen on the basis of their experience, integrity, impartiality and good judgment and members (other than the Secretary of the Senate and the Clerk of the House of Representatives) shall be individuals who, at the time appointed to the Commission, are not elected or appointed officers or employees in the executive, legislative, or judicial branch of the Federal Government. Such members of the Commission shall not engage in any other business, vocation, or employment. Any individual who is engaging in any other business, vocation, or employment at the time or his or her appointment to the Commission shall terminate or liquidate such activity no later than 90 days after such appointment.

"(4) Members of the Commission (other than the Secretary of the Senate and the Clerk of the House of Representatives) shall receive compensation equivalent to the compensation paid at level IV of the Executive Schedule (5 U.S.C. 5315).

"(5) The Commission shall elect a chairman and a vice chairman from among its members (other than the Secretary of the Senate and the Clerk of the House of Representatives) for a term of one year. A member may serve as chairman only once during any term of office to which such member is appointed. The chairman and the vice chairman shall not be affiliated with the same political party. The vice chairman shall act as chairman in the absence or disability of the chairman or in the event of a vacancy in such office.

"(b)(1) The Commission shall administer, seek to obtain compliance with, and formulate policy with respect to, this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954. The Commission shall have exclusive jurisdiction with respect to the civil enforcement of such provisions.

"(2) Nothing in this Act shall be construed to limit, restrict, or diminish any investigatory, informational, oversight, supervisory, or disciplinary authority or function of the Congress or any committee of the Congress with respect to elections for Federal office.

"(c) All decisions of the Commission with respect to the exercise of its duties and powers under the provisions of this Act shall be made by a majority vote of the members of the Commission. A member of the Commission may not delegate to any person his or her vote or any decisionmaking authority or duty vested in the Commission by the provisions of this Act, except that the affirmative vote of 4 members of the Commission shall be required in order for the Commission to take any action in accordance with paragraph (6), (7), (8), or (9) of section 307(a) of this Act or with chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

"(d) The Commission shall meet at least once each month and also at the call of any member.

"(e) The Commission shall prepare written rules for the conduct of its activities, shall have an official seal which shall be judicially noticed, and shall have its principal office in or near the District of Columbia (but it may meet or exercise any of its powers anywhere in the United States).

"(f)(1) The Commission shall have a staff director and a general counsel who shall be appointed by the Commission. The staff director shall be paid at a rate not to exceed the rate of basic pay in effect for level IV of the Executive Schedule (5 U.S.C. 5315). The general counsel shall be paid at a rate not to exceed the rate of basic pay in effect for level V of the Executive Schedule (5 U.S.C. 5316). With the approval of the Commission, the staff director may appoint and fix the pay of such additional personnel as he or she considers desirable without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

"(2) With the approval of the Commission, the staff director may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS–15 of the General Schedule (5 U.S.C. 5332).

"(3) In carrying out its responsibilities under this Act, the Commission shall, to the fullest extent practicable, avail itself of the assistance, including personnel and facilities of other agencies and departments of the United States. The heads of such agencies and departments may make available to the Commission such personnel, facilities, and other assistance, with or without reimbursement, as the Commission may request.

"(4) Notwithstanding the provisions of paragraph (2), the Commission is authorized to appear in and defend against any action instituted under this Act, either (A) by attorneys employed in its office, or (B) by counsel whom it may appoint, on a temporary basis as may be necessary for such purpose, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title. The compensation of counsel so appointed on a temporary basis shall be paid out of any funds otherwise available to pay the compensation of employees of the Commission.".

POWERS OF THE COMMISSION

SEC. 106. Section 307, as so redesignated in section 105(a)(3), is amended to read as follows:

"POWERS OF THE COMMISSION

"SEC. 307. (a) The Commission has the power—

"(1) to require by special or general orders, any person to submit, under oath, such written reports and answers to questions as the Commission may prescribe;

"(2) to administer oaths or affirmations;

"(3) to require by subpena, signed by the chairman or the vice chairman, the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

"(4) in any proceeding or investigation, to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (3);

"(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States;

"(6) to initiate (through civil actions for injunctive, declaratory, or other appropriate relief), defend (in the case of any civil action brought under section 309(a)(8) of this Act) or appeal any civil action in the name of the Commission to enforce the provisions of this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954, through its general counsel;

"(7) to render advisory opinions under section 308 of this Act;

"(8) to develop such prescribed forms and to make, amend, and repeal such rules, pursuant to the provisions of chapter 5 of title 5, United States Code, as are necessary to carry out the provisions of this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954; and

"(9) to conduct investigations and hearings expeditiously, to encourage voluntary compliance, and to report apparent violations to the appropriate law enforcement authorities.

"(b) Upon petition by the Commission, any United States district court within the jurisdiction of which any inquiry is being carried on may, in case of refusal to obey a subpena or order of the Commission issued under subsection (a), issue an order requiring compliance. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(c) No person shall be subject to civil liability to any person (other than the Commission or the United States) for disclosing information at the request of the Commission.

"(d)(1) Whenever the Commission submits any budget estimate or request to the

President or the Office of Management and Budget, it shall concurrently transmit a copy of such estimate or request to the Congress.

"(2) Whenever the Commission submits any legislative recommendation, or testimony, or comments on legislation, requested by the Congress or by any Member of the Congress, to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress or to the Member requesting the same. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, testimony, or comments on legislation, to any office or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

"(e) Except as provided in section 309(a)(8) of this Act, the power of the Commission to initiate civil actions under subsection (a)(6) of this section shall be the exclusive civil remedy for the enforcement of the provisions of this Act.".

ADVISORY OPINIONS

SEC. 107. (a) Section 308 of the Act, as so redesignated in section 105(a)(4), is amended to read as follows:

"ADVISORY OPINIONS

"SEC. 308. (a)(1) Not later than 60 days after the Commission receives from a person a complete written request concerning the application of this Act, chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or a rule or regulation prescribed by the Commission, with respect to a specific transaction or activity by the person, the Commission shall render a written advisory opinion relating to such transaction or activity to the person.

"(2) If an advisory opinion is requested by a candidate, or any authorized committee of such candidate, during the 60-day period before any election for Federal office involving the requesting party, the Commission shall render a written advisory opinion relating to such request no later than 20 days after the Commission receives a complete written request.

"(b) Any rule of law which is not stated in this Act or in chapter 95 or chapter 96 of the Internal Revenue Code of 1954 may be initially proposed by the Commission only as a rule or regulation pursuant to procedures established in section 311(d). No opinion of an advisory nature may be issued by the Commission or any of its employees except in accordance with the provisions of this section.

"(c)(1) Any advisory opinion rendered by the Commission under subsection (a) may be relied upon by—

"(A) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered; and

"(B) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.

"(2) Notwithstanding any other provisions of law, any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of paragraph (1) and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction provided by this Act or by chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

"(d) The Commission shall make public any request made under subsection (a) for an advisory opinion. Before rendering an advisory opinion, the Commission shall accept written comments submitted by any interested party within the 10-day period following the date the request is made public."

ENFORCEMENT

SEC. 108. Section 309 of the Act, as so redesignated in section 105(a)(4), is amended to read as follows:

"ENFORCEMENT

"SEC. 309. (a)(1) Any person who believes a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has occurred, may file a complaint with the Commission. Such complaint shall be in writing, signed and sworn to by the person filing such complaint, shall be notarized, and shall be made under penalty of perjury and subject to the provisions of section 1001 of title 18, United States Code. Within 5 days after receipt of a complaint, the Commission shall notify, in writing, any person alleged in the complaint to have committed such violation. Before the Commission conducts any vote on the complaint, other than a vote to dismiss, any person so notified shall have the opportunity to demonstrate, in writing, to the Commission within 15 days after notification that no action should be taken against such person on the basis of the complaint. The Commission may not conduct any investigation or take any other action under this section solely on the basis of a complaint of a person whose identity is not disclosed to the Commission.

"(2) If the Commission, upon receiving a complaint under paragraph (1) or on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities, determines, by an affirmative vote of 4 of its members, that it has reason to believe that a person has committed, or is about to commit, a violation of this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission shall, through its chairman or vice chairman, notify the person of the alleged violation. Such notification shall set forth the factual basis for such alleged violation. The Commission shall make an investigation of such alleged violation, which may include a field investigation or audit, in accordance with the provisions of this section.

"(3) The general counsel of the Commission shall notify the respondent of any recommendation to the Commission by the general counsel to proceed to a vote on probable cause pursuant to paragraph (4)(A)(1). With such notification, the general counsel shall include a brief stating the position of the general counsel on the legal and factual issues of the case. Within 15 days of receipt of such brief, respondent may submit a brief stating the position of such respondent on the legal and factual issues of the case, and replying to the brief of general counsel. Such briefs shall be filed with the Secretary of the Commission and shall be considered by the Commission before proceeding under paragraph (4).

"(4)(A)(i) Except as provided in clause (ii), if the Commission determines, by an affirmative vote of 4 of its members, that there is probable cause to believe that any person has committed, or is about to commit, a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission shall attempt, for a period of at least 30 days, to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with any person involved. Such attempt by the Commission to correct or prevent such violation may continue for a period of not more than 90 days. The Commission may not enter into a conciliation agreement under this clause except pursuant to an affirmative vote of 4 of its members. A conciliation agreement, unless violated, is a complete bar to any further action by the Commission, including the bringing of a civil proceeding under paragraph (6)(A).

"(ii) If any determination of the Commission under clause (i) occurs during the 45-day period immediately preceding any election, then the Commission shall attempt, for a period of at least 15 days, to correct or prevent the violation involved by the methods specified in clause (i).

"(B)(i) No action by the Commission or any person, and no information derived, in connection with any conciliation attempt by the Commission under subparagraph (A) may be made public by the Commission without the written consent of the respondent and the Commission.

"(ii) If a conciliation agreement is agreed upon by the Commission and the respondent, the Commission shall make public any conciliation agreement signed by both the Commission and the respondent. If the Commission makes a determination that a person has not violated this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission shall make public such determination.

"(5)(A) If the Commission believes that a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has been committed, a conciliation agreement entered into by the Commission under paragraph (4)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of $5,000 or an amount equal to any contribution or expenditure involved in such violation.

"(B) If the Commission believes that a knowing and willful violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has been committed, a Revenue Code of 1954 has been committed, a Commission under paragraph (4)(A) may require that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation.

"(C) If the Commission by an affirmative vote of 4 of its members, determines that there is probable cause to believe that a knowing and willful violation of this Act which is subject to subsection (d), or a knowing and willful violation of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has occurred or is about to occur, it may refer such apparent violation to the Attorney General of the United States without regard to any limitations set forth in paragraph (4)(A).

"(D) In any case in which a person has entered into a conciliation agreement with the Commission under paragraph (4)(A), the Commission may institute a civil action for relief under paragraph (6)(A) if it believes that the person has violated any provision of such conciliation agreement. For the Commission to obtain relief in any civil action, the Commission need only establish that the person has violated, in whole or in part, any requirement of such conciliation agreement.

"(6)(A) If the Commission is unable to correct or prevent any violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, by the methods specified in paragraph (4)(A), the Commission may, upon an affirmative vote of 4 of its members, institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order (including an order for a propriate order (including an order for a civil penalty which does not exceed the greater of $5,000 or an amount equal to any contribution or expenditure involved in such violation) in the district court of the United States for the district in which the person against whom such action is brought is found, resides, or transacts business.

"(B) In any civil action instituted by the Commission under subparagraph (A), the court may grant a permanent or temporary injunction, restraining order, or other order, including a civil penalty which does not exceed the greater of $5,000 or an amount equal to any contribution or expenditure involved in such violation, upon a proper showing that the person involved has committed, or is about to commit (if the relief sought is a permanent or temporary injunction or a restraining order), a violation of this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

"(c) In any civil action for relief instituted by the commission under subparagraph (A), if the court determines that the Commission has established that the person involved in such civil action has committed a knowing and willful violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the court may impose a civil penalty which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation.

"(7) In any action brought under paragraph (5) or (6), subpenas for witnesses who are required to attend a United States district court may run into any other district.

"(8) (A) Any party aggrieved by an order of the Commission dismissing a complaint filed by such party under paragraph (1), or by a failure of the Commission to act on such complaint during the 120-day period beginning on the date the complaint is filed, may file a petition with the United States District Court for the District of Columbia.

"(B) Any petition under subparagraph (A) shall be filed, in the case of a dismissal of a complaint by the Commission, within 60 days after the date of the dismissal.

"(C) In any proceeding under this paragraph the court may declare that the dismissal of the complaint or the failure to act is contrary to law, and may direct the Commission to conform with such declaration within 30 days, failing which the complainant may bring, in the name of such complainant, a civil action to remedy the violation involved in the original complaint.

"(9) Any judgment of a district court under this subsection may be appealed to the court of appeals, and the judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(10) Any action brought under this subsection shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than other actions brought under this subsection or under section 310 of this Act).

"(11) If the Commission determines after an investigation that any person has violated an order of the court entered in a proceeding brought under paragraph (6), it may petition the court for an order to hold such person in civil contempt, but if it believes the violation to be knowing and willful it may petition the court for an order to hold such person in criminal contempt.

"(12(A) Any notification or investigation made under this section shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

"(B) Any member or employee of the Commission, or any other person, who violates the provisions of subparagraph (A) shall be fined not more than $2,000. Any such member, employee, or other person who knowingly and willfully violates the provisions of subparagraph (A) shall be fined not more than $5,000.

"(b) Before taking any action under subsection (a) against any person who has failed to file a report required under section 304(a) (2) (A) (iii) for the calendar quarter immediately preceding the election involved, or in accordance with section 304(a) (2) (A) (i), the Commission shall notify the person of such failure to file the required reports. If a satisfactory response is not received within 4 business days after the date of notification, the Commission shall, pursuant to section 311(a) (7), publish before the election the name of the person and the report or reports such person has failed to file.

"(c) Whenever the Commission refers an apparent violation to the Attorney General, the Attorney General shall report to the Commission any action taken by the Attorney General regarding the apparent violation. Each report shall be transmitted within 60 days after the date the Commission refers an apparent violation, and every 30 days thereafter until the final disposition of the apparent violation.

"(d) (1) (A) Any person who knowingly and willfully commits a violation of any provision of this Act which involves the making, receiving, or reporting of any contribution or expenditure aggregating $2,000 or more during a calendar year shall be fined, or imprisoned for not more than one year, or both. The amount of this fine shall not exceed the greater of $25,000 or 300 percent of any contribution or expenditure involved in such violation.

"(B) In the case of a knowing and willful violation of section 316(b) (3), the penalties set forth in this subsection shall apply to a violation involving an amount aggregating $250 or more during a calendar year. Such violation of section 316(b) (3) may incorporate a violation of section 317(b), 320, or 321.

"(C) In the case of a knowing and willful violation of section 322, the penalties set forth in this subsection shall apply without regard to whether the making, receiving, or reporting of a contribution or expenditure of $1,000 or more is involved.

"(2) In any criminal action brought for a violation of any provision of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, any defendant may evidence their lack of knowledge or intent to commit the alleged violation by introducing as evidence a conciliation agreement entered into between the defendant and the Commission under subsection (a) (4) (A) which specifically deals with the act or failure to act constituting such violation and which is still in effect.

"(3) In any criminal action brought for a violation of any provision of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the court before which such action is brought shall take into account, in weighing the seriousness of the violation and in considering the appropriateness of the penalty to be imposed if the defendant is found guilty, whether—

"(A) the specific act or failure to act which constitutes the violation for which the action was brought is the subject of a conciliation agreement entered into between the defendant and the Commission under subparagraph (a) (4) (A);

"(B) the conciliation agreement is in effect; and

"(C) the defendant is, with respect to the violation involved, in compliance with the conciliation agreement.".

ADMINISTRATIVE PROVISIONS

Sec. 109. Section 311 of the Act, as so redesignated in section 105(a) (4), is amended to read as follows:

"ADMINISTRATIVE PROVISIONS

"Sec. 311. (a) The Commission shall—

"(1) prescribe forms necessary to implement this Act;

"(2) prepare, publish, and furnish to all persons required to file reports and statements under this Act a manual recommending uniform methods of bookkeeping and reporting;

"(3) develop a filing, coding, and cross-indexing system consistent with the purposes of this Act;

"(4) within 48 hours after the time of the receipt by the Commission of reports and statements filed with it, make them available for public inspection, and copying, at the expense of the person requesting such copying, except that any information copied from such reports or statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee. A political committee may submit 10 pseudonyms on each report filed in order to protect against the illegal use of names and addresses of contributors, provided such committee attaches a list of such pseudonyms to the appropriate report. The Clerk, Secretary, or the Commission shall exclude these lists from the public record;

"(5) keep such designations, reports, and statements for a period of 10 years from the date of receipt, except that designations, reports, and statements that relate solely to candidates for the House of Representatives shall be kept for 5 years from the date of their receipt;

"(6) (A) compile and maintain a cumulative index of designations, reports, and statements filed under this Act, which index shall be published at regular intervals and made available for purchase directly or by mail;

"(B) compile, maintain, and revise a separate cumulative index of reports and statements filed by multi-candidate committees, including in such index a list of multi-candidate committees; and

"(C) compile and maintain a list of multicandidate committees, which shall be revised and made available monthly;

"(7) prepare and publish periodically lists of authorized committees which fail to file reports as required by this Act;

"(8) prescribe rules, regulations, and forms to carry out the provisions of this Act, in accordance with the provisions of subsection (d);

"(9) transmit to the President and to each House of the Congress no later than June 1 of each year, a report which states in detail the activities of the Commission in carrying out its duties under this Act, and any recommendations for any legislative or other action the Commission considers appropriate; and

"(10) serve as a national clearinghouse for the compilation of information and review of procedures with respect to the administration of Federal elections. The Commission may enter into contracts for the purpose of conducting studies under this paragraph. Reports or studies made under this paragraph shall be available to the public upon the payment of the cost thereof, except that copies shall be made available without cost, upon request, to agencies and branches of the Federal Government.

"(b) The Commission may conduct audits and filed investigations of any political committee required to file a report under section 304 of this Act. All audits and field investigations concerning the verification for, and receipt and use of, any payments received by a candidate or committee under chapter 95 or chapter 96 of the Internal Revenue Code of 1954 shall be given priority. Prior to conducting any audit under this subsection, the Commission shall perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act. Such thresholds for compliance shall be established by the Commission. The Commission may, upon an affirmative vote of four of its members, conduct an audit and field investigation of any committee which does not meet the threshold requirements established by the Commission. Such audit shall be commenced within 30 days of such vote, except than any audit of an authorized committee of a candidate, under the provisions of this subsection, shall be commenced within 6 months of the election for which such committee is authorized.

"(c) Any forms prescribed by the Commission under subsection (a)(1), and any information-gathering activities of the Commission under this Act, shall not be subject to the provisions of section 3512 of title 44, United States Code.

"(d)(1) Before prescribing any rule, regulation, or form under this section or any other provision of this Act, the Commission shall transmit a statement with respect to such rule, regulation, or form to the Senate and the House of Representatives, in accordance with this subsection. Such statement shall set forth the proposed rule, regulation, or form, and shall contain a detailed explanation and justification of it.

"(2) If either House of the Congress does not disapprove by resolution any proposed rule or regulation submitted by the Commission under this section within 30 legislative days after the date of the receipt of such proposed rule or regulation or within 10 legislative days after the date of receipt of such proposed form, the Commission may prescribe such rule, regulation, or form.

"(3) For purposes of this subsection, the term 'legislative day' means, with respect to statements transmitted to the Senate, any calendar day on which the Senate is in session, and with respect to statements transmitted to the House of Representatives, any calendar day on which the House of Representatives is in session.

"(4) For purposes of this subsection, the terms 'rule' and 'regulation' mean a provision or series of interrelated provisions stating a single, separable rule of law.

"(5)(A) A motion to discharge a committee of the Senate from the consideration of a resolution relating to any such rule, regulation, or form or a motion to proceed to the consideration of such a resolution, is highly privileged and shall be decided without debate.

"(B) Whenever a committee of the House of Representatives reports any resolution relating to any such form, rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and is not in order to move to reconsider the vote by which the motion is agreed to or disagreed with.

"(e) Notwithstanding any other provision of law, any person who relies upon any rule or regulation prescribed by the Commission in accordance with the provisions of this section and who acts in good faith in accordance with such rule or regulation shall not, as a result of such act, be subject to any sanction provided by this Act or by chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

"(f) In prescribing such rules, regulations, and forms under this section, the Commission and the Internal Revenue Service shall consult and work together to promulgate rules, regulations and forms which are mutually consistent. The Commission shall report to the Congress annually on the steps it has taken to comply with this subsection.".

STATEMENTS FILED WITH STATE OFFICERS

Sec. 110. Section 312 of the Act, as so redesignated in section 105(a)(4), is amended to read as follows:

"STATEMENTS FILED WITH STATE OFFICERS

"Sec. 312. (a)(1) A copy of each report and statement required to be filed by any person under this Act shall be filed by such person with the Secretary of State (or equivalent State officer) of the appropriate State, or, if different, the officer of such State who is charged by State law with maintaining State election campaign reports. The chief executive officer of such State shall designate any such officer and notify the Commission of any such designation.

"(2) For purposes of this subsection, the term 'appropriate State' means—

"(A) for statements and reports in connection with the campaign for nomination for election of a candidate to the office of President or Vice President, each State in which an expenditure is made on behalf of the candidate; and

"(B) for statements and reports in connection with the campaign for nomination for election, or election, of a candidate to the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, the State in which the candidate seeks election; except that political committees other than authorized committees are only required to file, and Secretaries of State required to keep, that portion of the report applicable to candidates seeking election in that State.

"(b) The Secretary of State (or equivalent State officer), or the officer designated under subsection (a)(1), shall—

"(1) receive and maintain in an orderly manner all reports and statements required by this Act to be filed therewith;

"(2) keep such reports and statements (either in original filed form or in facsimile copy by microfilm or otherwise) for 2 years after their date of receipt;

"(3) make each report and statement filed therewith available as soon as practicable (but within 48 hours of receipt) for public inspection and copying during regular business hours, and permit copying of any such report or statement by hand or by duplicating machine at the request of any person, except that such copying shall be at the expense of the person making the request; and

"(4) compile and maintain a current list of all reports and statements pertaining to each candidate.".

PUBLICATION AND DISTRIBUTION OF STATEMENTS AND SOLICITATIONS

Sec. 111. Section 318 of the Act, as so redesignated in section 105(a)(5), is amended to read as follows:

"PUBLICATION AND DISTRIBUTION OF STATEMENTS AND SOLICITATIONS

"Sec. 318. (a) Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public advertising, such communication—

"(1) if paid for and authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication has been paid for by such authorized political committee, or

"(2) if paid for by other persons but authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication is paid for by such other persons and authorized political committee;

"(3) if not authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee.

"(b) No person who sells space in a newspaper or magazine to a candidate or to the agent of a candidate, for use in connection with such candidate's campaign, may charge any amount for such space which exceeds the amount charged for comparable use of such space for other purposes.".

TECHNICAL AMENDMENTS

Sec. 112. (a) Section 305 of the Act, as so redesignated in section 105(a)(2), is amended—

(1) by striking out "sixty" and inserting in lieu thereof "60";

(2) by striking out "twenty" and inserting in lieu thereof "20"; and

(3) by striking out "Federal Election".

(b) Section 306(c) of the Act, as so redesignated in section 105(a)(3), is amended by striking out "section 310(a)" and inserting in lieu thereof "section 307(a)".

(c) Section 310(a) of the Act, as so redesignated in section 105(a)(4), is amended by striking out "of the United States" the first place it appears therein.

(d) The first sentence of section 316(b)(4)(B) of the Act, as so redesignated in section 105(a)(5), is amended by striking out "it" and inserting in lieu thereof "It".

(e)(1) Section 403(a) of the Domestic Volunteer Service Act of 1973 is amended—

(A) by striking out "section 301(a)" and inserting in lieu thereof "section 301(1)"; and

(B) by striking out "section 301(c)" and inserting in lieu thereof "section 301(3)".

(2) Section 6 of the Department of State Appropriations Authorization Act of 1973 is amended by striking out "section 301(e)" and inserting in lieu thereof "section 301(8)".

USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES

Sec. 113. Section 313 of the Act (as redesignated by section 105(4)) is amended to read as follows:

"USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES

"Sec. 313. Amounts received by a candidate as contributions that are in excess of any amount necessary to defray his expenditures, and any other amounts contributed to an individual for the purpose of supporting his or her activities as a holder of Federal office, may be used by such candidate or individual, as the case may be, to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office, may be contributed to any organization described in section 170(c) of the Internal Revenue Code of 1954, or may be used for any other lawful purpose, including transfers without limitation to any national, State, or local committee of any political party; except that, with respect to any individual who is not a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress on the date of the enactment of the Federal Election Campaign Act Amendments of 1979, no such amounts may be converted by any person to any personal use, other than to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office.".

TITLE II—AMENDMENTS TO OTHER LAWS

MISCELLANEOUS AMENDMENTS TO TITLE 18, UNITED STATES CODE

Sec. 201. (a)(1) Chapter 29 of title 18, United States Code, is amended by striking out section 591.

(2) The table of sections for chapter 29 of title 18, United States Code, is amended by striking out the item relating to section 591.

(3) Section 602 of such title is amended to read as follows:

"SOLICITATION OF POLITICAL CONTRIBUTIONS

"SEC. 602. It shall be unlawful for—

"(1) a candidate for the Congress;

"(2) an individual elected to or serving in the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

"(3) an officer or employee of the United States or any department or agency thereof; or

"(4) a person receiving any salary or compensation for services from money derived from the Treasury of the United States.

to knowingly solicit, any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 from any other such officer, employee, or person. Any person who violates this section shall be fined not more than $5,000 or imprisoned not more than three years, or both.".

(4) Section 603 of such title is amended to read as follows:

"MAKING POLITICAL CONTRIBUTIONS

"SEC. 603. (a) It shall be unlawful for an officer or employee of the United States or any department or agency thereof, or a person receiving any salary or compensation for services from money derived from the Treasury of the United States, to make any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 to any other such officer, employee or person or to any Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, if the person receiving such contribution is the employer or employing authority of the person making the contribution. Any person who violates this section shall be fined not more than $5,000 or imprisoned not more than three years, or both.

"(b) For purposes of this section, a contribution to an authorized committee as defined in section 302(e)(1) of the Federal Election Campaign Act of 1971 shall be considered a contribution to the individual who has authorized such committee.".

(5) Section 607 of such title is amended to read as follows:

"PLACE OF SOLICITATION

"SEC. 607. (a) It shall be unlawful for any person to solicit or receive any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 in any room or building occupied in the discharge of official duties by any person mentioned in section 603, or in any navy yard, fort, or arsenal. Any person who violates this section shall be fined not more than $5,000 or imprisoned not more than three years, or both.

"(b) The prohibition in subsection (a) shall not apply to the receipt of contributions by persons on the staff of a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, provided that such contributions have not been solicited in any manner which directs the contributor to mail or deliver a contribution to any room, building, or other facility referred to in subsection (a), and provided that such contributions are transferred within seven days of receipt to a political committee within the meaning of section 302(e) of the Federal Election Campaign Act of 1971.".

MISCELLANEOUS AMENDMENT TO THE INTERNAL REVENUE CODE OF 1954

SEC. 202. Section 9008(b) of the Internal Revenue Code of 1954 is amended by striking out at the end thereof the figure "$2,000,000" and inserting in lieu thereof "$3,000,000".

MISCELLANEOUS AMENDMENT TO TITLE 5, UNITED STATES CODE

SEC. 203. Section 3132(a)(1) of title 5, United States Code, is amended—

(1) by adding "or" after the semicolon at the end of subparagraph (B); and

(2) by adding the following new subparagraph at the end thereof:

"(C) the Federal Election Commission;".

TITLE III—GENERAL PROVISIONS

EFFECTIVE DATES

SEC. 301. (a) Except as provided in subsection (b), the amendments made by this Act are effective upon enactment.

(b) For authorized committees of candidates for President and Vice President, section 304(b) of the Federal Election Campaign Act of 1971 shall be effective for elections occurring after January 1, 1981.

VOTING SYSTEM STUDY

SEC. 302. The Federal Election Commission, with the cooperation and assistance of the National Bureau of Standards, shall conduct a preliminary study with respect to the future development of voluntary engineering and procedural performance standards for voting systems used in the United States. The Commission shall report to the Congress the results of the study, and such report shall include recommendations, if any, for the implementation of a program of such standards (including estimates of the costs and time requirements of implementing such a program). The cost of the study shall be paid out of any funds otherwise available to defray the expenses of the Commission.

TRANSITION PROVISIONS

SEC. 303. (a) The Federal Election Commission shall transmit to the Congress proposed rules and regulations necessary for the purpose of implementing the provisions of this Act, and the amendments made by this Act, prior to February 29, 1980.

(b) The provisions of section 311(d) of the Federal Election Campaign Act of 1971 allowing disapproval of rules and regulations by either House of Congress within 30 legislative days after receipt shall, with respect to rules and regulations required to be proposed under subsection (a) of this section, be deemed to allow such disapproval within 15 legislative days after receipt.

● Mr. BUMPERS. Mr. President, I would like to commend the members of the Senate Rules and Administration Committee for reporting legislation that makes commonsense improvements in the Federal Election Campaign Act. In particular, I want to highlight one issue on which I have received correspondence from the secretary of the State of Arkansas, Paul Riviere, who must abide by the regulations Congress imposes.

Under current law, the retention period for which States must keep multicandidate and candidate committee reports on hand for Senate and Presidential candidates is 10 years. The period for reports relating solely to House candidates is 5 years.

From 1976 through October 26 of this year, there were only three requests to review the multicandidate committee reports in Arkansas, while there were 189 requests to review Candidate Committee reports. The State of Arkansas must keep on hand 5,200 multicandidate report filings when the public is clearly not sufficiently interested in them, and which will probably never be looked at by more than a dozen people. If other States' experience is similar to Arkansas—and I suspect it is—then Congress should take steps to reduce this administrative burden.

The House has already approved legislation that contains provisions to reduce the retention periods for these reports. Candidate committee reports would be kept on hand for 2 years, and all other reports would be kept through April 30 of the year following the calendar year in which the report was filed.

The Senate Rules and Administration Committee has agreed to use this approach by requiring all committee reports to be kept for 2 years, which I think strikes the proper balance between the public's right to this information and manageable paperwork requirements on State election officials.●

● Mr. PELL. Mr. President, on behalf of the Committee on Rules and Administration, Mr. HATFIELD and I, as ranking minority member and chairman, respectively, have submitted an amendment in the form of a substitute bill for H.R. 5010, a bill to amend the Federal Election Campaign Act of 1971.

In September, the Committee on Rules and Administration reported S. 1757, a bill designed to correct certain inequities in the Federal Election Campaign Act of 1971. At the time S. 1757 was reported, the House had passed and sent to the Senate H.R. 5010, which also revised the Campaign Act of 1971. Since the House bill was similar in purpose to the Senate bill, and included a number of like provisions while being somewhat more comprehensive in scope, Mr. HATFIELD and I prepared a substitute measure in amendment thereof which uses the House bill as a basis and adds some provisions of the Senate bill. In an attempt to achieve a bill acceptable to both Houses of Congress, sections of the two bills that were not similar were either deleted or modified.

It is the purpose of this statement, and that of Senator HATFIELD, to explain the intent of the provisions so modified where such intent is not clearly evident from the respective committee reports.

By way of introduction and background, the Federal Election Campaign Act of 1971 (the act) was last amended in 1976. In 1977 a bill, S. 926, did pass the Senate by a vote of 88 to 1, but was not considered by the House. That legislation was an attempt to correct many of the problems that candidates had experienced during the 1976 elections.

The need for campaign reform was again expressed after the 1978 elections. In response to the continued and demonstrated need for corrective legislation in this area, the Committee on Rules and Administration, in September, considered and reported S. 1757 which incorporates many of the provisions of the 1977 bill. The House then considered and unanimously passed H.R. 5010. Both bills seek to simplify the reporting and recording requirements, expand the role of political parties, and increase the "grassroots" participation in Federal election campaigns.

FILING REQUIREMENTS

For candidates and for party committees, the bill alleviates the present act's filing requirements. Under present law, "candidate" is so defined that anyone receiving contributions or making expenditures must file. This bill establishes separate contributions and expenditure thresholds of $5,000 each, thereby exempting persons raising or spending less than that amount from the act's requirements. The purpose of this is to eliminate a major enforcement problem of the nonfiling candidate, while not significantly compromising the financial disclosure purposes of the act.

As to political committees, the bill continues to require them to file if they have raised or spent $1,000. It also permits, however, party committees to expend up to $5,000 on materials used in connection with volunteer activities before they must file. The purpose is to encourage such activity on behalf of Federal candidates at the State and local levels.

VOLUNTEER ACTIVITY

Volunteer and grassroots activity is generally encouraged by the bill. Under present law, if volunteers pay for their own travel expenses or use their own residences for a campaign, then the costs for doing so are not reportable up to $500. The bill increases the exemption to $1,000, and extends the exemption to volunteer services for political party committees with a reporting exemption of $2,000 for such volunteer activity.

GRASSROOTS ACTIVITY

As to grassroots activity, the bill permits State and local party committees to conduct voter registration and get-out-the-vote drives for their Presidential and Vice Presidential nominees, and to pay costs in connection with volunteer activities, subject only to a reporting requirement when the costs exceed $5,000.

Another provision of the bill allows a candidate to make reference to another Federal candidate on campaign materials used in connection with volunteer activities, without it being a contribution. This provision, when read in conjunction with the previous section concerning get-out-the-vote activity, would permit State and local party committees to make an incidental reference to other Federal candidates as well as the party's Presidential and Vice Presidential nominees.

SENATE PROCEDURE—REVIEW OF REGULATIONS

A new section to the bill provides for an expedited Senate procedure should the Senate choose to disapprove a rule, regulation or form submitted to it by the Federal Election Commission. Existing law provided for a similar expedited procedure for the House of Representatives, but not for the Senate.

REPORTING REQUIREMENTS

Reporting requirements in the bill generally simplify existing law by reducing the amount of information to be included in reports, as well as reducing the number of reports which must be filed. Also, the reporting threshold for contribution and expenditures is raised in the bill from $100 to $200. The reporting threshold for independent expenditures is also raised to $250 and only the person making the independent expenditure must report this.

SMALL CONTRIBUTIONS

Another new provision in the bill places a time limitation on the forwarding of contributions to a political committee by persons receiving contributions on behalf of that committee. Such persons have 10 days after receipt to forward all contributions to a candidate's authorized committee. As to all other committees, contributions of more than $50 must be forwarded no later than 10 days of receipt, while contributions of less than $50 must be forwarded no later than 30 days of receipt.

The difficulty in the handling and transmittal of these smaller contributions prompted the lengthening of the frame to 30 days for such contributions.

PAC LOCAL AFFILIATES

Also, by way of clarification, the change in the definition of "political committee" to specifically include "separate segregated funds" (section 301(4)(B)) is to be read in light of the act's overall purpose which is to regulate Federal election activity. A fund which is established for the purpose of financing political activity in connection with State or local elections is not required to register or report. For example, a fund established by an entity such as a local union affiliated with a national union or a corporate subsidiary to engage in both State and local election activity need not report so long as it devotes its share of the money raised to State and local election activity and transfers only funds for Federal candidates collected at joint fundraisers to appropriate political committees registered under the act. In such a situation the local union or corporate subsidiary fund would be merely acting as the registered committee's agent in collecting and transferring the latter's share of the joint fundraising's receipts.

COMPLAINTS—JUDICIAL REVIEW

The Commission is entrusted with the responsibility of passing on complaints. Section 309(a)(8) provides that an order dismissing a complaint is reviewable in court solely to assure that the Commission's action is not based on an error of law. And to assure that the Commission does not shirk its responsibility to decide that section also provides that a total failure to address a complaint within 120 days is a basis for a court action. But these two limited bases for judicial intervention are not intended to work a transfer of prosecutorial discretion from the Commission to the courts. Thus, for example, if the Commission considers a case and is evenly divided as to whether to proceed, that division which under the act precludes Commission action on the merits is not subject to review any more than a similar prosecutorial decision by a U.S. attorney.

SENIOR EXECUTIVE SERVICE

A question has arisen as to the applicability to the senior executive service program to the top personnel of the FEC. It is a bipartisan agency, and should have a personnel policy free of involvement by the executive branch, but it is the intent of the amendment to resolve the question by specifically exempting the agency from the SES program.

In light of the upcoming elections, timely implementation of these reforms is essential as candidates and committees are already preparing for the next elections. Delay in passage of this bill will make it difficult for the Federal Election Commission to administer and for the affected parties to comply with its changed requirements. I therefore urge immediate consideration and passage of the bill, as amended.●

● Mr. HATFIELD. Mr. President, I strongly concur in the remarks of my colleague on the effect this bill will have in easing the restrictions which have so severely curtailed grassroots involvement in Federal campaigns, and particularly the Presidential race.

A number of other provisions of the bill deserve comment. There are substantial modifications of the enforcement process. A respondent is given additional protections by requiring that he or she be given a more detailed notice of any charges, as well as an opportunity to formally respond to charges prior to any determination by the Commission that he or she has violated the act.

Time limits for Commission response to a request for an advisory opinion are imposed for the first time. The Commission must respond within 60 days if the request for an advisory opinion is made more than 60 days before an election, and within 20 days if the request is made in the 60 days preceding an election.

Although the language describing the Clearinghouse function at the Federal Election Commission has been revised, the Clearinghouse function remains largely unchanged. It is intended, however, that copies of reports or studies done by the Clearinghouse will be available only upon payment of their cost. The sole exception would be for agencies of the Federal Government.

The bill sets out more clearly the guidelines the Commission is to follow in conducting audits of political committees. A political committee may be audited if it fails to meet threshold requirements for substantial compliance with the act. These threshold requirements are to be established by the Commission. This provision is consistent with the recommendations of the Arthur Andersen Co. evaluation of FEC audit procedures. This report advised the Commission to concentrate audit resources in those areas in which there was a high risk of noncompliance with the act.

Certain revisions are also proposed to the Criminal Code as it applies to political contributions by or to Federal employees. Current provisions of the Criminal Code reflect a longstanding concern that no Federal employee be subject to any form of "political assessment." Consistent with this underlying concern, the revised language permits a Federal employee to make a voluntary contribution to another Federal employee who is not his or her employer or employing authority. No Federal employee may solicit contributions from another Federal employee, although this prohibition does not apply to solicitation of Members of Congress.

Solicitation or receipt of contributions in any room or building occupied by a Federal employee in the course of official duties is prohibited. The sole exception is for contributions received by an individual on the staff of a Member of Congress, provided the contributions are transferred to the Member's political committee within 7 days. This exception is intended to cover situations in which a contributor, although not requested to, mails or delivers a contribution to a Federal office. The exception does not authorize solicitations from a Federal office, nor does it permit receipt of contributions in a Federal office where such contributions have been solicited in any manner which directs the contributor to return contributions to a Federal office.

A final provision of the bill deals with the disposition of excess campaign funds. Senate rule 46 currently prohibits Members and former Members from converting campaign funds to personal use. The Special Committee on Official Conduct in its report accompanying Senate Resolution 110 in the 95th Congress, recommended that the Federal Election Campaign Act be amended to incorporate the language of the Senate Rule, to insure that the prohibition on converting campaign funds to personal use could be applied to former Members.

A compromise provision reflecting the differing views of the Senate and the House on this issue partially implements the committees' recommendation. Campaign funds may not be converted to personal use, however, an exception is made for current Members of Congress, who would be subject only to the rules of the House or Senate. Members newly elected to the Congress after the date of enactment of this legislation would be subject to the prohibition on converting campaign funds to personal use.

While I do not personally favor carving out this exception, I feel the compromise was necessary to insure passage of a bill which does bring many needed reforms to Federal campaign laws. In my opinion, the current Senate rule, which bars converting any campaign funds to personal use by any Senator or former Senator, accurately reflects the position of the Senate on this issue.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute.

The amendment (UP No. 894) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 5010) was read a third time and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar No. 332, S. 1757, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

LITTLE SISTERS OF THE POOR

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair lay before the Senate H.R. 5645.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

> A bill (H.R. 5645) to grant to the Little Sister of the Poor all right, title, and interest of the United States in the land comprising certain alleys in the District of Columbia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second time and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CODE REVISION RELATING TO DEPRIVATION OF CERTAIN RIGHTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to lay before the Senate H.R. 3343.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

> A bill (H.R. 3343) to permit civil suits under section 1979 of the Revised Statutes (42 U.S.C. 1983) against any person acting under color of any law or custom of the District of Columbia who subjects any person within the jurisdiction of the District of Columbia to the deprivation of any right, privilege, or immunity secured by the Constitution and laws.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second time and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that on the table.

The motion to lay on the table was agreed to.

DISTRICT OF COLUMBIA LEGISLATION

Mr. EAGLETON. Mr. President, two bills of concern to the District of Columbia have been held at the desk since House passage of the measures by voice vote on November 27. I urge my colleagues to act on both measures before the Christmas recess.

The first bill, H.R. 5645, would relinquish a Federal reversionary interest in some alleys in the District of Columbia to the owners of the adjoining parcels, the Little Sisters of the Poor.

Since 1871, the Little Sisters of the Poor have operated a Convent and St. Joseph's Home for the Aged on the block bounded by 2d and 3d Streets and "H" and "I" Streets in Northeast Washington. The home was a nursing facility for the elderly poor of the Washington area.

In 1893, the 53d Congress enacted, "An act to close alleys in square numbered 751 in the city of Washington, District of Columbia," 28 Stat. 21 (December 12, 1893), which closed all the alleys on that parcel and conveyed title therein to the Little Sisters of the Poor, provided that the adjoining land remained used for charitable purposes. The effect of this law was to close two 15-foot wide alleys and one 30-foot alley so that the Sisters could erect new buildings and expand their facility.

The Sisters remained on the property with perfect title, until 1976, when construction on the "H" Street overpass with its attendant dirt and noise, made the property unfit for the care of the sick. At that time, the Sisters were forced to purchase a new facility in Northeast Washington and moved to the new location. When they attempted to sell St. Joseph's, however, they found that the reversion constituted a cloud on their title to the old alleys. Because there was a period of time when the property stood vacant, the reverter could automatically have gone into effect and they could not convey good title.

Meanwhile the Capital Children's Museum had obtained a Department of Housing and Urban Development innovative projects grant to purchase the facility for its fair market value, $1.7 million. The museum moved into the buildings on the property in 1978, but the sale has not been completed due to the question of ownership of the alleys. Those alleys, however, are no longer in existence as buildings were erected over their boundaries several times in the past 70 years.

The Capital Children's Museum is a nonprofit organization whose use of the 3d and "H" Street property will fulfill the charitable use restriction enacted by the 53d Congress. If the Little Sisters of the Poor had been able to sell the property directly to the Children's Museum before moving out, they could have sold the entire parcel, and the question of ownership of alleys would not have been raised. But, because they were forced to abandon their property by necessary construction of the "H" Street overpass around Union Station, both the Sisters and the Capital Children's Museum are being prevented from effectively carrying out their worthy tasks.

H.R. 5645, as amended, grants all right, title, and interest in the alleys on square 751 to the Little Sisters of the Poor. This relinquishes the reversionary interest of the Federal Government and gives complete title to the Little Sisters of the Poor so that the property can be conveyed. The parties involved would like to settle as soon as possible, so I again urge my colleagues to act on this matter forthwith.

The second bill sent over from the House and held at the desk, H.R. 3343, amends section 1983 of title 42 of the United States Code so that residents of the District of Columbia can sue under section 1983 as can all other citizens.

Section 1983 of title 42 United States Code provides:

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, or any State or Territory, subjects, or causes

> to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

H.R. 3343 will amend this section by adding the words, "or the District of Columbia" immediately after the words, "any State or Territory" as they appear in the statute.

The bill will also amend section 1343 (3) of title 28 which gives the Federal district courts jurisdiction of section 1983 actions. This conforming amendment expands district court jurisdiction to include actions brought against the District of Columbia government.

Section 1983 is the basic remedy for violations of civil rights by local government authority. Working with section 1343, it provides a right of action in Federal court against persons who, acting under color of local law or custom, deprive someone of constitutional or statutory rights.

Common examples of section 1983 actions involve police brutality and discrimination in government hiring or job promotion. A recent Supreme Court case, however, *District of Columbia* v. *Carter*, 409 U.S. 418 (1973), held that the District of Columbia was not a "person, State or Territory" for purposes of section 1983, and that no suits could be brought under that section against the District government.

Chief Judge Theodore R. Newman, Jr., of the District of Columbia Court of Appeals, testified at the House hearing on the bill that:

> In its decision, the Court quite properly noted that when Congress enacted 42 U.S.C. 1983, it was concerned that state courts not provide an adequate forum for the vindication of Federally protected rights. However, in 1971, and indeed until quite recently, Federal courts in the District were courts of dual jurisdiction, with general jurisdiction over Federal as well as local matters. Congress understood that a Federal forum already existed for citizens of the District and to enact separate legislation comparable to section 1983 for the District's residents would have been superfluous.
>
> However, much has changed since the passage of section 1983 over 108 years ago. Indeed, it has been Congress that has spurred those changes. Congress has recognized that quite apart from being the seat of the national government, the District is a viable local community with problems and resources like other communities, across the nation, and that the citizens of the District should enjoy the same rights and privileges of other citizens. In 1970, Congress enacted the District of Columbia Court Reform and Criminal Procedure Act. Among other things, the Act established an independent court system with exclusive jurisdiction over local matters. In 1973, the Congress enacted the Home Rule legislation that provided for the office of the Mayor and a City Council with executive and legislative authority, respectively, to govern the local affairs of the District. In the near future, the Congress is likely to consider legislation that would transfer the jurisdiction of the U.S. Attorneys over local crimes, to the Office of the Corporation Counsel. And, of course, there is now pending a Constitutional Amendment that would give the citizens of the District full voting representation in the Congress and the Senate.
>
> This brief review of some of the significant pieces of legislation in which Congress has moved toward granting the citizens of the District those basic rights and privileges enjoyed by citizens of other states underscores the significance of H.R. 3343. The District is no longer the city viewed by the Congress in 1871. It is no longer a city where Congress must assume responsibility over every aspect of local matters. Thousands of city employees and officials have accepted the authority that Congress has delegated and the city functions as other communities all across the nation. It is for this reason that the premise behind the denial of access to a Federal forum for the vindication of Federally protected rights is no longer valid.

Since the Supreme Court has held in other cases that municipal governments are liable for their actions under section 1983, the Carter case means that the District of Columbia is the only American locality not subject to the civil rights statute. District residents may still pursue actions under the D.C. human rights law, title VII of the Civil Rights Act, or in common law civil suits, as all other citizens, but these types of action have serious limitations on their effectiveness in civil rights enforcement.

The most important problem stemming from the Carter decision is that it denies District residents and other citizens aggrieved by D.C. Government action, the use of the Federal courts as a neutral forum. Citizens who sue their legal governing body should not be forced to resort to a local court system to be heard.

H.R. 3343 will open the avenue of a Federal remedy and put District residents on an equal footing with the citizens of all other jurisdictions.

This bill has been cleared with both the minority and majority of the Senate Judiciary Committee, and there are no objections. I urge immediate passage.

TIME-LIMITATION AGREEMENT—H.R. 3951

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that such time as Calendar Order No. 510, H.R. 3951, metro funding, is called up and made the pending business before the Senate, that there be a time limitation thereon of 30 minutes on the bill, to be equally divided between Mr. LEVIN and Mr. PERCY; and that no amendments be in order, that there be a time limitation on any debatable motion, or point of order, if such is submitted to the Senate for its discussions, of 20 minutes, the agreement to be in the usual form.

Mr. STEVENS. Mr. President, reserving the right to object, does that include a provision that there will be no motion to table that bill, but an up or down vote on the bill?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may include that in the request.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOUSE BILL HELD AT DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 5174 from the House be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for 1 minute to consider the nominations on the Executive Calendar beginning on page 2, under U.S. Air Force, including all the nominees on that page, all on page 3, all on page 4, all on page 5, all on page 6, all on page 7, all on page 8, and all under U.S. Navy on page 9; all under the nominations to be placed on the Secretary's desk in the Air Force, Army, and Marine Corps on page 9.

Mr. STEVENS. Mr. President, that does not include Calendar No. 517.

Mr. ROBERT C. BYRD. Mr. President, that is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the aforesaid nominees be considered and confirmed en bloc, that the President be immediately notified, that the motion to reconsider en bloc be laid on the table, and that the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc in the U.S. Air Force, U.S. Army, U.S. Navy and nominations placed on the Secretary's desk in the Air Force, Army, and Marine Corps are printed at the conclusion of today's Senate proceedings.

LEGISLATIVE SESSION

ORDER FOR RECOGNITION OF SENATOR TSONGAS ON THURSDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Thursday, after the two leaders or their designees have been recognized under the standing order, Mr. TSONGAS be recognized for not to exceed 15 minutes.

Mr. STEVENS. Mr. President, reserving the right to object, what does that do about our votes?

Mr. ROBERT C. BYRD. I spoke of Thursday.

Mr. STEVENS. All right.

RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 10 o'clock tomorrow morning.

The motion was agreed to; and at 8:06 p.m., the Senate recessed until Wednesday, December 19, 1979, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 18, 1979:

IN THE AIR FORCE

The following officers for temporary appointment in the U.S. Air Force under the provisions of chapter 839, title 10 of the United States Code:

To be major general

Brig. Gen. Merton W. Baker, 398–14–4215 FR, Regular Air Force.

Brig. Gen. Ernest A. Bedke, 519–38–7785 FR, Regular Air Force.

Brig. Gen. Donald W. Bennett, 232–50–8473 FR, Regular Air Force.

Brig. Gen. Richard T. Boverie, 499–32–6104 FR, Regular Air Force.

Brig. Gen. John T. Buck, 386–26–6193FR, Regular Air Force.

Brig. Gen. Louis C. Buckman, 449–64–3696 FR, Regular Air Force.

Brig. Gen. William J. Campbell, 387–26–0119FR, Regular Air Force.

Brig. Gen. John T. Chain, Jr., 161–28–5418 FR, Regular Air Force.

Brig. Gen. Harry Falls, Jr., 237–26–4089 FR, Regular Air Force.

Brig. Gen. Lawrence D. Garrison, 548–36–4414FR, Regular Air Force.

Brig. Gen. Guy L. Hecker, Jr., 424–38–0092 FR, Regular Air Force.

Brig. Gen. George J. Kertesz, 477–20–4143 FR, Regular Air Force.

Brig. Gen. James E. Light, Jr., 365–28–9187 FR, Regular Air Force.

Brig. Gen. George C. Lynch, 574–09–1934 FR, Regular Air Force.

Brig. Gen. John B. Marks, Jr., 437–38–3811 FR, Regular Air Force.

Brig. Gen. Forrest S. McCartney, 535–24–8198FR, Regular Air Force.

Brig. Gen. Russel E. Mohney, 284–26–2591 FR, Regular Air Force.

Brig Gen. Cornelius Nugteren, 503–30–5575 FR, Regular Air Force.

Brig. Gen. Waymond C. Nutt, 465–44–4751 FR, Regular Air Force.

Brig. Gen. John W. Ord, 542–16–9009FR, Regular Air Force, Medical.

Brig. Gen. John R. Paulk, 253–48–7056FR, Regular Air Force.

Brig. Gen. Kenneth L. Peek, Jr., 314–30–4967FR, Regular Air Force.

Brig. Gen. Marc C. Reynolds, 504–16–1608 FR, Regular Air Force.

Brig. Gen. Davis C. Rohr, 391–22–9105FR, Regular Air Force.

Brig. Gen. Robert D. Russ, 537–28–9188FR, Regular Air Force.

Brig. Gen. Richard K. Saxer, 287–26–1820 FR, Regular Air Force.

Brig. Gen. Richard V. Secord, 302–24–7854 FR, Regular Air Force.

Brig. Gen. Mele Vojvodich, Jr., 235–42–3435 FR, Regular Air Force.

The following officers for appointment in the Regular Air Force to the grades indicated, under the provisions of chapter 835, title 10, of the United States Code:

To be major general

Maj. Gen. Robert W. Bazley, 188–18–6278 FR, (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. William E. Brown, Jr., 137–22–1897FR (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Philip J. Conley, Jr., 035–20–5730 FR, (brigadier general, Regular Air Force), U.S. Air Force.

Lt. Gen. Hans H. Driessnack, 064–22–2830 FR, (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Walter D. Druen, Jr., 228–26–0380FR, (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Billy J. Ellis, 436–32–2398FR, (brigadier general, Regular Air Force), U.S. Air Force.

Brig. Gen. Harry Falls, Jr., 237–26–4089 FR, (brigadier general, Regular Air Force), U.S. Air Force.

Lt. Gen. Lincoln Faurer, 208–12–8092 FR, (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. William D. Gilbert, 433–36–1600 FR, (brigadier general, Regular Air Force), U.S. Air Force.

Lt. Gen. Andrew P. Iosue, 023–20–5608FR, (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. William J. Kelly, 021–12–9188 FR, (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. John E. Kulpa, Jr., 158–20–2271 FR (brigadier general, Regular Air Force), U.S. Air Force.

Lt. Gen. Richard L. Lawson, 479–24–4413 FR (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Howard W. Leaf, 353–18–3384 FR (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Thomas H. McMullen, 467–36–7147FR (brigadier general, Regular Air Force), U.S. Air Force.

Lt. Gen. Freddie L. Poston, 267–18–2438 FR (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Daryle E. Tripp, 096–22–9928 FR (brigadier general, Regular Air Force), U.S. Air Force.

Lt. Gen. Stanley M. Umstead, Jr., 577–38–1425FR (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Hoyt S. Vandenberg, Jr., 579–34–3982FR (brigadier general, Regular Air Force), U.S. Air Force.

To be brigadier general

Brig. Gen. Merton W. Baker, 398–14–4215 FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Donald W. Bennett, 232–50–8473 FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. James R. Brown, 565–36–3216 FR (colonel, Regular Air Force), U.S. Air Force.

Lt. Gen. Kelly H. Burke, 419–20–0489 FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. William J. Campbell, 387–26–0119 FR (colonel, Regular Air Force), U.S. Air Force.

Maj. Gen. Van C. Doubleday, 261–32–7992 FR (colonel, Regular Air Force), U.S. Air Force.

Maj. Gen. James C. Enney, 283–24–1982 FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Donald L. Evans, 570–22–6591 FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Lawrence D. Garrison, 548–36–4414FR (colonel, Regular Air Force), U.S. Air Force.

Maj. Gen. Fred A. Haeffner, 726–10–7497 FR (colonel, Regular Air Force), U.S. Air Force.

Maj. Gen. Charles C. Irions, 312–24–6750 FR (colonel, Regular Air Force), U.S. Air Force.

Maj. Gen. John H. Jacobsmeyer, Jr., 002–22–5332FR (colonel, Regular Air Force), U.S. Air Force.

Maj. Gen. Doyle E. Larson, 477–26–9917 FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. James E. Light, Jr., 365–28–9187 FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. George C. Lynch, 574–09–1934 FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. John B. Marks, Jr., 437–38–3811 FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Forrest S. McCartney, 535–24–8198FR (colonel, Regular Air Force), U.S. Air Force.

Maj. Gen. George D. Miller, 197–20–5982 FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Russell E. Mohney, 284–26–2591 FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Cornelius Nugteren, 503–30–5575 FR (colonel, Regular Air Force), U.S. Air Force.

Maj. Gen. Jerome F. O'Malley, 171–24–0533 FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. John W. Ord, 542–16–9009 FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Marvin C. Patton, 524–22–0507 FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. John R. Paulk, 253–48–7056 FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. John T. Randerson, 098–22–5729 FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Marc C. Reynolds, 504–16–1608 FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Graham W. Rider, 381–26–5453 FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Davis C. Rohr, 391–22–9105FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Richard K. Saxer, 287–26–1820 FR (colonel, Regular Air Force), U.S. Air Force.

Maj. Gen. Stuart H. Sherman, Jr., 251–64–4005FR (colonel, Regular Air Force), U.S. Air Force.

Maj. Gen. Robert C. Taylor, 593–34–0070FR (colonel, Regular Air Force), U.S. Air Force.

Maj. Gen. Wayne E. Whitlatch, 479–24–0179FR (colonel, Regular Air Force), U.S. Air Force.

In the Army

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Marvin Don Fuller, 504–05–4547, (age 58), Army of the United States (major general, U.S. Army).

The following-named officer to be assigned to a position of importance and responsibility designated by the President under the provisions of title 10, United States Code, section 3066(a) in grade as follows:

To be lieutenant general

Maj. Gen. Richard Edward Cavazos, 452–34–5055, U.S. Army.

In the Navy

The following-named officer, having been designated for commands and other duties of great importance and responsibility in the grade of vice admiral within the contemplation of title 10, United States Code, section 5231, for appointment while so serving as follows:

To be vice admiral

Rear Adm. John G. Williams, Jr., U.S. Navy.

The following-named officer, having been designated for commands and other duties of great importance and responsibility in the grade of vice admiral within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving and for appointment as Senior Navy Member of the Military Staff Committee of the United Nations in accordance with title 10, United States Code, section 711.

To be vice admiral

Vice Adm. Sylvester R. Foley, Jr., U.S. Navy.

In the Navy

The following-named captains of the Reserve of the U.S. Navy for temporary promotion to the grade of rear admiral, in the line and staff corps, as indicated, pursuant to the provisions of title 10, United States Code, sections 5910 and 5912:

LINE

John William Cronin, Jr.
Howard Roop
Thomas Albert Stansbury
Lester Robert Smith
Michael Peter Nemchick
Carlos Paul Baker, Jr.
Donald Thomas Corrigan
Whitney Hansen
Ted Levy

MEDICAL CORPS

Joseph Hardy Miller

SUPPLY CORPS

Gerald Clayton Sullivan

JUDGE ADVOCATE GENERAL'S CORPS

Julian Robert Benjamin

IN THE AIR FORCE

Air Force nominations beginning John P. Tindall, to be lieutenant colonel, and ending Richard J. Sherrier, to be lieutenant colonel and temporary colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 27, 1979.

IN THE ARMY

Army nominations beginning Irwin E. Abt, to be colonel, and ending William R. Steele, to be first lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 16, 1979.

Army nominations beginning Charles E. Chambers, to be colonel, and ending James J. Stenger, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 28, 1979.

Army nominations beginning Michael W. Grant, to be second lieutenant, and ending Thomas W. Williams, to be second lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 30, 1979.

IN THE MARINE CORPS

Marine Corps nominations beginning William L. Buck III, to be lieutenant colonel, and ending Mark D. Ziobro, to be captain, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 27, 1979.

HOUSE OF REPRESENTATIVES—*Tuesday, December 18, 1979*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

On this day of national unity, we commend to You, O God, all those people who do not have the freedom they deserve or the liberty they rightly expect. We think specially of the 50 fellow citizens held hostage and we earnestly pray for their release and their return home. During these holy days cause Your spirit, O God, to be with them and their families, and may Your word of reconciliation and of peace on Earth transcend all our differences. As we stand united in prayer and in supplication remind us of Your providence in days past that we may be filled with hope and faith for the days ahead, secure in the knowledge that You are with us, even to the end of the age. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3919. An act to impose a windfall profit tax on domestic crude oil.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3919) entitled "An act to impose a windfall profit tax on domestic crude oil," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LONG, Mr. TALMADGE, Mr. HARRY F. BYRD, JR., Mr. NELSON, Mr. GRAVEL, Mr. BENTSEN, Mr. MOYNIHAN, Mr. DOLE, Mr. PACKWOOD, Mr. ROTH, and Mr. DANFORTH to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 493. An act to promote the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto, and for other purposes; and

S. 2145. An act to authorize the burial of Elizabeth Myers McNeil in the Veals Chapels Cemetery, Fort Jackson, S.C.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

CLARENCE S. LYONS

The Clerk called the bill (H.R. 3818) for the relief of Clarence S. Lyons.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

COL. (DR.) PAUL A. KELLY

The Clerk called the bill (H.R. 2148) for the relief of Col. (Dr.) Paul A. Kelly.

There being no objection, the Clerk read the bill, as follows:

H.R. 2148

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Colonel (doctor) Paul A. Kelly, United States Air Force, of the United States Air Force Academy, Colorado 80840, the sum of $30,000 to be used by him for the exclusive purpose of satisfying the monetary obligation set forth in the settlement agreement entered into between parties in Sheila M. Jackson against Paul A. Kelly, civil numbered 75-F-31, a civil law suit pending against Colonel Kelly in the United States District Court for the District of Colorado, for alleged malpractice to Sheila M. Jackson, the dependent wife of an Armed Forces member, which is alleged to have occurred during the delivery of a child in June 1972 at Lakenheath Air Force Base in England.

With the following committee amendment:

Strike all after the enacting clause and insert:

That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Sheila M. Jackson, SSN 529-76-6000, of Lehi, Utah, the sum of $30,000. The payment of such sum shall be in full satisfaction of all her claims, and those of her husband, Melvin D. Jackson, against the United States and Colonel (doctor) Paul A. Kelly, United States Air Force, of the United States Air Force Academy, Colorado, arising from the medical malpractice upon Sheila M. Jackson which is alleged to have occurred during the delivery of a child in June 1972 at Lakenheath Air Force Base in England. The payment authorized by this Act is conditioned upon the execution of a written release by Sheila M. Jackson and Melvin D. Jackson which forever discharges Paul A. Kelly, his heirs, representatives and assigns, and the United States, it officers, agents, and employees, from all liability, claims, and demands, of whatever nature, arising from the incident described in this Act.

AMENDMENT OFFERED BY MR. SENSENBRENNER TO THE COMMITTEE AMENDMENT

Mr. SENSENBRENNER. Mr. Speaker, I offer an amendment to the committee amendment:

The Clerk read as follows:

Amendment offered by Mr. SENSENBRENNER to the committee amendment: On page 3 after line 4 add the following new section:

SEC. 2. No amount in excess of 15 per centum of the sum appropriated by the first section of this Act shall be paid to or received by any agent or attorney in consideration for services rendered in connection with the claims described in the first section. Any violation of this section is a misdemeanor and any person convicted thereof shall be fined not more than $1,000.

The SPEAKER. The Chair will ask the gentleman from Wisconsin, Is this amendment to the committee amendment?

Mr. SENSENBRENNER. Yes, and it has been approved by the committee, Mr. Speaker.

The SPEAKER. The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) to the committee amendment.

The amendment to the committee amendment was agreed to.

The SPEAKER. The question is on the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The SPEAKER. Does the gentleman from Iowa (Mr. HARKIN) desire to address the amendment?

Mr. HARKIN. Not the amendment, Mr. Speaker, but the bill itself.

The SPEAKER. Does the gentleman object to the bill?

Mr. HARKIN. I will ask unanimous consent that the bill be passed over without prejudice, Mr. Speaker.

The SPEAKER. The gentleman's request comes too late.

Mr. HARKIN. Then, Mr. Speaker, I would oppose the amendment.

The SPEAKER. The amendment has been agreed to. The committee amendment as amended, has also been agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

BALL STATE UNIVERSITY AND THE AMERICAN ASSOCIATION OF COLLEGES FOR TEACHER EDUCATION

The Clerk called the bill (H.R. 3872) for the relief of Ball State University and the American Association of Colleges for Teacher Education.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

MORRIS AND LENKE GELB

The Clerk called the bill (H.R. 4285) for the relief of Morris and Lenke Gelb.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

JOHN H. R. BERG

The Clerk called the bill (H.R. 2782) for the relief of John H. R. Berg.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

NELIA RUIZ HEDLUND

The Clerk called the bill (H.R. 1559) for the relief of Nelia Ruiz Hedlund.

There being no objection, the Clerk read the bill as follows:

H.R. 1559

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Nelia Ruiz Hedlund may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. James D. Hedlund, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PEDRO G. FERARO

The Clerk called the bill (H.R. 3139) for the relief of Pedro G. Feraro.

There being no objection, the Clerk read the bill, as follows:

H.R. 3139

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Pedro G. Feraro shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas and entries which are made available to such natives under section 202(e) of such Act.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That, in the administration of the Immigration and Nationality Act, Pedro Gauyan Nelson may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Mr. and Mrs. James R. Nelson, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "For the relief of Pedro Gauyan Nelson."

A motion to reconsider was laid on the table.

BARBARA LAWS SMITH

The Clerk called the bill (H.R. 891) for the relief of Barbara Laws Smith.

There being no objection, the Clerk read the bill as follows:

H.R. 891

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of the Immigration and Nationality Act, Barbara Laws Smith, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper official to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas and entries which are made available to such natives under section 202(e) of such Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LORAINE SMART AND ROBERT CLARKE

The Clerk called the bill (H.R. 1829) for the relief of Loraine Smart and Robert Clarke.

There being no objection, the Clerk read the bill as follows:

H.R. 1829

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of section 201(b) of the Immigration and Nationality Act, Loraine Smart and Robert Clarke shall be held and considered to be the natural born alien children of their grandmother, Mrs. Katherine Mitchell, a citizen of the United States: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That, for the purposes of the Immigration and Nationality Act, Loraine Smart and Robert Clarke shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct two numbers from the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act or, if applicable from the total number of such visas and entries which are made available to such natives under section 202(e) of such Act.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CASIMIR JAN KRAY

The Clerk called the bill (H.R. 2318) for the relief of Casimir Jan Kray.

There being no objection, the Clerk read the bill as follows:

H.R. 2318

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Casimir Jan Kray, of Arlington, Virginia, the sum of $5,566. The payment of such sum shall be in full settlement of all his claims against the United States for services performed as a civil engineer with the United States Army during World War II, while on leave without right of salary from the Polish Army, in connection with repairs and reconstruction in the ports of Bremen and Bremerhaven.

SEC. 2. No amount in excess of 10 per centum of the sum appropriated by the first section of this Act shall be paid to or received by any agent or attorney in consideration for services rendered in connection with the claims described in the first section. Any violation of this section is a misdemeanor and any person convicted thereof shall be fined not more than $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the Private Calendar.

PANAMANIAN HOSPITALITY

(Mr. BOWEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOWEN. Mr. Speaker, I know that many Members of the House of Representatives share my sentiment in commending the Republic of Panama for the friendship shown to the United States in admitting the former Shah of Iran to residence in their country.

This act of humanitarianism on the part of Panama has undoubtedly taken a good deal of political courage and comes at a time when many other nations, though sympathizing with the plight of our hostages in Iran and the special problems created by the presence of the Shah of Iran in the United States, have nonetheless been unwilling to consider the Shah for asylum or have even retreated from earlier offers of asylum.

This action by our small neighbor to the south, at the crossroads of the Americas, should, we all sincerely hope and pray, reduce substantially the dangers to our American hostages being held in Tehran by the international bandit, the Ayatollah Khomeini.

I know that many Americans would like to join me in offering a modest word of gratitude to the Government and people of the Republic of Panama for providing this degree of assistance to our country at a time when we need it most.

I am pleased that the smooth and peaceful implementation of the Panama Canal treaties has helped to establish the kind of harmonious relationship between our countries which has made possible this gesture of friendship on the part of the Republic of Panama.

Sometimes you do not know who your friends really are until you have the occasion to call upon them for help. The Republic of Panama has responded when we needed that help most, and this act of cooperation, which might well help defuse one of the major international crises of this decade, is a good example of the true spirit of pan-American friendship and bodes well for future cooperation between our two nations.

NATIONAL UNITY DAY

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, today is National Unity Day as proclaimed by President Carter. It is a day when we as a nation and a people should direct our thoughts and our prayers to our 50 brethren who remain captives in Iran. It is also a day for us to show our support for the President and the exemplary leadership he has demonstrated throughout this national ordeal. The President has shown calmness but never weakness and has placed the safety of the hostages above all other considerations.

Our most fervent wish would be for all the hostages to be freed in time to spend Christmas with their families and loved ones. Yet, realistically, as each day passes, the chances become more remote. If Christmas comes and our fellow Americans remain hostages, our Nation should unite again in prayer.

As the President has suggested I am displaying the American flag outside the door of my office. I urge all my colleagues to do the same as well as the American people. A show of national patriotism and unity today could speed the release of the hostages in the future.

TRIBUTE TO THE LATE HONORABLE SHERMAN P. LLOYD

(Mr. MARRIOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARRIOTT. Mr. Speaker, on Saturday, December 15, former Congressman Sherman P. Lloyd (Republican of Utah) passed away, marking the end of two decades of public service to both the State of Utah and the National Government.

Sherm Lloyd has faithfully served his State in both the State senate, where he was president, and for four terms in the U.S. House of Representatives, where he served on the Committees on Banking, Foreign Affairs, and Interior and Insular Affairs.

Sherm Lloyd had great interests in U.S. foreign policy and in energy independence, where his work and research made a great contribution to those of us who took over where he left off.

Sherm Lloyd was a statesman of the first caliber, a family man, a church man, a devoted father and husband, a teacher and a leader, a friend of small business and agriculture, and an effective advocate for the interests of the West and of the Nation as a whole.

Sherm was respected and admired by all who knew him. All of us, his colleagues in the House, will miss him.

His memory will endure in our thoughts as one who represented all that is good, honest, and decent in American public life. At this time of his passing, we send our sincere sympathy to his wife and family and pay tribute to him for his service to his country as a Member of the U.S. House of Representatives. Sherman Parkinson Lloyd was a great American.

EXPLANATION AS TO VOTE

(Mr. DANIELSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. DANIELSON. Mr. Speaker, I was unable to be on the floor of the House for the votes on Friday, December 14, 1979, rollcalls Nos. 731 through 739. I announce how I would have voted had I been present:

On rollcall No. 731, when the House approved the Journal of December 13, 1979, I would have voted "aye."

On rollcall No. 732, when the House agreed to order the previous question on House Resolution 506, the rule under which it is considering H.R. 5980, to authorize a program of fiscal assistance during economic recessions, I would have voted "aye."

On rollcall No. 733, when the House agreed to House Resolution 506, the rule under which it is considering H.R. 5980, I would have voted "aye."

On rollcall No. 734, when the House agreed to table a motion to reconsider the vote on House Resolution 506, I would have voted "aye."

On rollcall No. 735, when the House agreed to resolve itself into the Committee of the Whole for the consideration of H.R. 5980, I would have voted "aye."

On rollcall No. 736, a quorum call, if I had been present I would have voted "present."

On rollcall No. 737, a quorum call, if I had been present I would have voted "present."

On rollcall No. 738, then the House agreed to five technical amendments to H.R. 5980, I would have voted "aye."

On rollcall No. 739, when the House agreed to an amendment to H.R. 5980 that reduces the targeted fiscal assistance authorization from $250 million to $150 million, I would have voted "nay." ●

REPRESENTATIVE CONABLE OFFERS INSTRUCTIONS TO CONFEREES TO ACCEPT SENATE REPEAL OF COST BASIS CARRYOVER PROVISIONS OF WINDFALL PROFITS TAX

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONABLE. Mr. Speaker, when the windfall profit tax is sent to conference later this morning, I will offer an instruction to the conferees to accept the Senate repeal of the cost basis carryover provisions, which were enacted first in the 1976 act and the effective date of which was postponed in the 1978 Tax Act.

This idea of carrying over the cost basis of appreciated assets from one generation to another would not harm the wealthiest with their liquid estate assets, but would hurt the estates of small businessmen and family farmers who might have to sell appreciated assets to pay estate taxes and, as a result, get a pyramiding of taxation at a time when the family can least afford it.

Mr. Speaker, I urge my colleagues to be present and to vote for the instruction to the conferees to accept the Senate amendment repealing cost basis carryover. It is an idea whose time has not come and I do not believe it should be permitted to come into effect at any time in the foreseeable future.

UNANIMOUS RESOLUTION OF UNANIMITY

(Mr. BUCHANAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUCHANAN. Mr. Speaker, as a cosponsor of House Concurrent Resolution 221 on behalf of the hostages in Iran, I find it particularly appropriate that on the day the President has designated National Unity Day, the House should consider this resolution, unanimously reported out by the Committee on Foreign Affairs and, hopefully, which will be overwhelmingly approved by the House in a few moments.

I have not in my personal experience known greater unanimity in the United States, certainly not since World War II, than that which exists on behalf of our hostages in Iran. These courageous Americans are in a situation akin to that of prisoners of war. It is right that we should so recognize them today, They are illustrative of the courageous men and women serving in many places of danger in the Foreign Service. We should not forget the Service and the sacrifice of those Foreign Service officers who have given their lives and the many more who have endured grave risks for our country. We have reason to be grateful for them all.

PRIME MINISTER THATCHER CONFIRMS SUPPORT FOR HOSTAGES

(Mr. SHARP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHARP. Mr. Speaker, Prime Minister Thatcher yesterday confirmed the strong support of Great Britain for our efforts to free the hostages in Iran and to end the outrageous breach of international law by the Government of Iran.

Mr. Speaker, on this day of national unity, we are grateful for the support of those allies who have courage enough to stand up and give us that support.

BRIGHT SPOT ON THIS WEEK'S CALENDAR—ABSENCE OF H.R. 5980, TARGETED FISCAL ASSISTANCE BILL

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, the one bright spot on this week's calendar is the absence of H.R. 5980—the targeted fiscal assistance bill. Unfortunately, its demise is only temporary and we will see it again during the second session.

Antirecessionary fiscal assistance was unique—it was a Federal spending program that was actually allowed to expire. But rather than leaving it dead and buried, H.R. 5980 would breathe new life into this program.

H.R. 5980 is an example of legislation at its worst, because its costs are so drastically understated. I have heard many Members remark that it is a bad program, but that they will vote for it because it will cost only—and I use the word advisedly—$1.15 billion. But where will that money come from? It will have to be borrowed, and then we will continually have to borrow more and more to pay the interest on that original borrowing of $1.15 billion. Based on current long-term interest rates for Treasury debt issues, that mere $1.2 billion antirecessionary outlay in 1980 ends up costing the American taxpayers $16,940 million over the next 30 years to cover the compounded interest on the borrowing.

In other words, we hand out the money in 1980 and get the political benefits next fall, but the taxpayers go on paying and paying for that extravagance long after the political gains have been reaped and forgotten. So when the House leadership decides to sneak H.R. 5980 back onto the calendar, remember, its price tag is not $1.15 billion, but rather the $16.94 billion the taxpayers will be footing for the next 30 or more years. This program cannot justify the expenditure of $1 billion, let alone $16.94 billion, but that is exactly what we will be sticking the taxpayers with if H.R. 5980 becomes law.

COMMENDATION TO THAILAND FOR ASSISTING REFUGEES

Mrs. BOGGS. Mr. Speaker, I send to the desk a resolution (H. Res. 509) expressing the sense of the House of Representatives in commendation of the Kingdom of Thailand for its assistance to refugees, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER. Is there objection to the request of the gentlewoman from Louisiana?

There was no objection.

The Clerk read the resolution, as follows:

H. Res. 509

Whereas the people and the Government of the Kingdom of Thailand have responded in a noble and humanitarian manner to grant first asylum and refuge to hundreds of thousands of refugees from Vietnam, Laos and Kampuchea (Cambodia); and

Whereas by opening its borders in this manner and in providing assistance to those victims of war, famine, and oppression, the Government of the Kingdom of Thailand has demonstrated courage, compassion and restraint which is in the best tradition of the Thai people; and

Whereas the people of the Kingdom of Thailand and their government, in addition to their own efforts which have placed heavy additional burden on their domestic economy, have provided cooperation and assistance to international organizations and voluntary groups which seek to provide food and medical assistance to these refugees; and

Whereas the Government of the Kingdom of Thailand has sought every diplomatic means and invoked the support of the United Nations and the world community to achieve a solution to the crisis in Kampuchea and to bring peace to the region; and

Whereas these actions by the Kingdom of Thailand reflect and share the express policy of the United States to stress and support fundamental human rights in the conduct of foreign relations, and to seek international assistance for all refugees: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

The people of the Kingdom of Thailand and their Government be commended for their leadership and courage as a nation and supported in their determination to take upon themselves so much of the burden of given refuge and assistance to these refugees; and that

The United States, working with the international community, seek every possible means to attempt to insure the continued survival of the Kampuchean people through effective and widespread international programs of food and medical assistance to the Khmer refugees; and that

The United States express its particular admiration for the efforts by the Kingdom of Thailand in providing and assisting the world community in providing continued humanitarian relief to the Khmer refugees, and granting asylum to all Indochinese refugees in cooperation with the other countries and entities in the region which share in this crucial humanitarian duty.

Mrs. BOGGS (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Louisiana?

There was no objection.

The SPEAKER pro tempore. The gentlewoman from Louisiana (Mrs. Boggs) is recognized for 1 hour.

Mrs. BOGGS. Mr. Speaker, the purpose of this resolution is to commend the people and the Government of the Kingdom of Thailand for their efforts on behalf of the refugees from Cambodia, Laos, and Vietnam, who have sought sanctuary in Thailand.

Mr. Speaker, last month I joined my distinguished colleagues, who are all cosponsors of this resolution, the gentlewoman from New York (Ms. Holtzman), the gentlewoman from Massachusetts (Mrs. Heckler), the gentlewoman from Colorado (Mrs. Schroeder), the gentlewoman from Maryland (Ms. Mikulski), the gentlewoman from New Jersey (Mrs. Fenwick), and the gentlewoman from Maine (Mrs. Snowe), on a mission to Southwest Asia, which the Speaker most graciously made possible, for us to see firsthand the misery and suffering experienced by the refugee population now sheltered in Thailand.

● Ms. MIKULSKI. Mr. Speaker, as a cosponsor I want to express my strong support for House Resolution 509, a resolution offered by my good friend and colleague, Lindy Boggs, which recognizes the actions of Thailand regarding the Kampuchean tragedy. The resolution puts this House on record as officially recognizing the great service and valiant efforts of the Thai Government and Thai people in their work to aid the Kampuchean refugees. Thailand should be very proud of its humanitarian and generous actions in response to the tragedy.

In the past 4 years, approximately 4 million Kampucheans have died as a result of the strife and famine in that nation. The horror which I viewed in Thailand and Kampuchea several weeks ago along with several of my colleagues is almost beyond comprehension. The sight of starving and dying people there have left me permanently affected, with visions of gaunt children indelibly marked in my mind. Currently, over 300,000 Kampuchean refugees are living in Thailand. The number of new refugees continues to multiply daily.

Thailand is not a wealthy country; the Kampuchean refugees represent a new drain on the Thai economy and a large sacrifice for the Thai people. Therefore, Thailand's response to the tragedy is even more remarkable and noteworthy.

Thailand has opened its border to the refugees and has provided them with first-nation asylum. It has permitted the establishment of refugee camps on Thai territory where the refugees can live. Finally, the Thai Government has worked closely with international relief agencies and private groups to insure that the refugees are provided with food and other assistance.

Our Government must recognize the actions of the Thai Government with a deep sense of admiration. Moreover, our Government must reaffirm our own commitment to help save the Kampuchean people. Thailand neither can, nor should be expected to shoulder the burden on its own. It is essential that we send food and other aid. In addition, we must accept into our country a reasonable number of refugees for permanent resettlement. All governments of the world should follow the example set by the people of Thailand in helping to put an end to the Kampuchean nightmare.●

□ 1020

GENERAL LEAVE

Mrs. BOGGS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution under consideration.

The SPEAKER pro tempore (Mr. DANIELSON). Is there objection to the request of the gentlewoman from Louisiana?

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

U.S. BUSINESS NEEDS CAPITAL FUNDS

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, with all the current discussion on automobiles, one factor comes out very strong, that is the need for capital funds. Chrysler has been losing money, so I turned to GM for a comparison. Taking the first 9 months of 1979, I compared it to the base year of 1973. The earnings by share in constant dollars of purchasing power dropped from $6.54 to $5.30. That means they were earning 23 percent more in 1973 per share in terms of constant dollars.

On the other hand, payroll of General Motors in terms of constant dollars had increased from $7,647 to $8,836 billion. This means that in terms of real constant dollars that payroll was up 16 percent.

The unions have done an excellent job in negotiations. They have gotten more and more in their contracts. I am not sure that the workers in UAW fully realize how capable their negotiators have been in the settlements.

But GM union and all other labor must see to it that business retains more capital funds. The Japanese automobile manufacturers are staying modern. I saw a recent statement that six of Toyota's eight plants were built between 1965 and 1975. I saw that Toyota with mechanized plants had direct man-hours per vehicle of 1.6 compared to 3.8 for the United States.

For American labor to stay competitive in the automobile market, Labor must allow business to retain more capital for reinvestment in new plants and machinery.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, the unfinished business is the vote on the motion offered by the gentleman from New York (Mr. BINGHAM) to suspend the rules and agree to the concurrent resolution (H. Con. Res. 221) on which further proceedings were postponed on Monday, December 17, 1979, and on which the yeas and nays were ordered.

INSURING APPROPRIATE FINANCIAL RECOGNITION FOR HOSTAGES IN TEHRAN

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution (H. Con. Res. 221).

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BINGHAM) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 221) on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 369, nays 4, answered "present" 6, not voting 54, as follows:

[Roll No. 740]

YEAS—369

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson,
  Calif.
Anderson, Ill.
Annunzio
Anthony
Applegate
Archer
Ashley
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Bonior
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Byron
Campbell
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dodd
Dornan
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Okla.
Emery
English
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Green
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammer-
  schmidt
Hance
Hansen
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Lederer
Lee
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead,
  Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman

Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—4

Collins, Tex.
Leath, Tex.
McDonald
Paul

ANSWERED "PRESENT"—6

Atkinson
Bonker
Gaydos
Guarini
Jacobs
McEwen

NOT VOTING—54

Alexander
Andrews, N.C.
Andrews, N. Dak.
Ashbrook
Aspin
Bedell
Boner
Bouquard
Brown, Calif.
Burton, Phillip
Butler
Carney
Cheney
Conte
Crane, Daniel
Crane, Philip
Daschle
Dingell
Dixon
Donnelly
Dougherty
Duncan, Oreg.
Edgar
Edwards, Calif.
Erdahl
Erlenborn
Flood
Giaimo
Goodling
Gray
Hall, Ohio
Hanley
Heckler
Holt
Ichord
Johnson, Colo.
Kastenmeier
Lehman
Loeffler
Moffett
Murphy, Ill.
Nelson
Pepper
Richmond
Sebelius
Simon
St Germain
Stangeland
Symms
Treen
Van Deerlin
Wilson, Bob
Yates
Young, Alaska

☐ 1040

The Clerk announced the following pairs:

Mr. Hanley with Mr. Butler.

Mr. Murphy of Illinois with Mr. Donnelly.

Mr. St Germain with Mr. Loeffler.

Mr. Richmond with Mr. Nelson.

Mr. Dingell with Mr. Erlenborn.

Mr. Giaimo with Mr. Goodling.

Mr. Lehman with Mr. Carney.

Mr. Pepper with Mr. Daniel B. Crane.

Mr. Van Deerlin with Mrs. Holt.

Mr. Yates with Mr. Young of Alaska.

Mr. Ichord with Mr. Symms.

Mr. Phillip Burton with Mr. Sebelius.

Mr. Brown of California with Mr. Stangeland.

Mr. Alexander with Mr. Johnson of California.

Mr. Kastenmeier with Mr. Andrews of North Dakota.

Mr. Simon with Mr. Ashbrook.

Mr. Bedell with Mr. Cheney.

Mrs. Bouquard with Mr. Philip M. Crane.

Mr. Edwards of California with Mr. Daschle.

Mr. Moffett with Mr. Dougherty.

Mr. Boner of Tennessee with Mr. Andrews of North Carolina.

Mr. Aspin with Mr. Carney.

Mr. Edgar with Mr. Erdahl.

Mr. Duncan of Oregon with Mr. Hall of Ohio.

Mr. Dixon with Mrs. Heckler.

Mr. Gray with Mr. Bob Wilson.

Messrs. MATTOX, FUQUA, HEFNER, McCLORY, and COUGHLIN changed their votes from "nay" to "yea."

Mr. GAYDOS and Mr. ATKINSON changed their votes from "yea" to "present."

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 3919, CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3919) to impose a windfall profit tax on domestic crude oil, with the Senate amendments thereto, disagree to the Senate amendments, and agree to the conference requested by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. CONABLE. Mr. Speaker, reserving the right to object, may I ask what the distinguished chairman has requested of the Chair?

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Oregon.

Mr. ULLMAN. I have just asked unanimous consent to go to conference on the windfall profit tax bill.

Mr. CONABLE. Further reserving the right to object, is the gentleman also asking to agree to disagree with the Senate amendments and request a conference?

Mr. ULLMAN. Let me read the unanimous-consent request again.

I ask unanimous consent to take from the Speaker's table the bill (H.R. 3919) to impose a windfall profit tax on domestic crude oil, with the Senate amendments thereto, disagree to the Senate amendments, and agree to the conference requested by the Senate.

Mr. CONABLE. Mr. Speaker, I withdraw by reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon (Mr. Ullman)?

There was no objectiton.

PREFERENTIAL MOTION OFFERED BY MR. CONABLE

Mr. CONABLE. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Conable moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 3919, the Crude Oil Windfall Profit Tax Act of 1979, be instructed to concur in the language of the Senate amendment which would repeal carryover basis, as follows:

Sec. 401. Carryover Basis.

(a) In General.—Subsections (a), (d), and (e) of section 2005 of the Tax Reform Act of 1976 (relating to carryover basis), and subsection (a), paragraphs (2) through (9) of subsection (c), and paragraphs (1) and (3) of subsection (r) of section 702 of the Revenue Act of 1978, and the amendments made by those subsections or paragraphs are hereby repealed.

(b) Revival of Prior Law.—Except to the extent necessary to carry out subsection (d), the Internal Revenue Code of 1954 shall be applied and administered as if the provisions repealed by subsection (a), and the amendments made by those provisions, had not been enacted.

(c) Conforming Changes.—

(1) Subsection (c) of section 1016 (relating to increase in basis in case of certain involuntary conversions) is amended to read as follows:

"(c) Increase in Basis in the Case of Certain Involuntary Conversions.—

"(1) In General.—If—

"(A) there is a compulsory or involuntary conversion (within the meaning of section 1033) of any property, and

"(B) an additional estate tax is imposed on such conversion under section 2032A(c), then the adjusted basis of such property shall be increased by the amount of such tax.

"(2) Time adjustment made.—Any adjustment under paragraph (1) shall be deemed to have occurred immediately before the compulsory or involuntary conversion.".

(2)(A) Section 1040 (relating to satisfaction of a pecuniary bequest) is amended to read as follows:

"Sec. 1040. Use of Farm, Etc., Real Property To Satisfy Pecuniary Bequest.

"(a) General Rule.—If the executor of the estate of any decedent satisfies the right of a qualified heir (within the meaning of section 2032A(e)(1)), to receive a pecuniary bequest with property with respect to which an election was made under section 2032A, then gain on such exchange shall be recognized to the estate only to the extent that, on the date of such exchange, the fair market value of such property exceeds the value of such property for purposes of chapter 11 (determined without regard to section 2032A).

"(b) Similar Rule for Certain Trusts.—To the extent provided in regulations prescribed by the Secretary, a rule similar to the rule provided in subsection (a) shall apply where—

"(1) by reason of the death of the decedent, a qualified heir has a right to receive from a trust a specific dollar amount which is the equivalent of a pecuniary bequest, and

"(2) the trustee of the trust satisfies such right with property with respect to which an election was made under section 2032A.

"(c) Basis of Property Acquired in Exchange Described in Subsection (a) or (b).—The basis of property acquired in an exchange with respect to which gain realized is not recognized by reason of subsection (a) or (b) shall be the basis of such property immediately before the exchange increased by the amount of the gain recognized to the estate or trust on the exchange.".

(B) The item relating to section 1040 in the table of sections for part III of subchapter O of chapter 1 is amended to read as follows:

"Sec. 1040. Use of farm, etc., real property to satisfy pecuniary bequest.".

(3) The second sentence of section 2614 (a) (relating to special rules for generation-skipping transfers) is amended to read as follows: "If property is transferred in a generation-skipping transfer subject to tax under this chapter which occurs at the same time as, or after, the death of the deemed transferor, the basis of such property shall be adjusted in a manner similar to the manner provided under section 1014(a).".

(d) Election of Carryover Basis Rules by Certain Estates.—Notwithstanding any other provision of law, in the case of a decedent dying after December 31, 1976, and before November 7, 1978, the executor (within the meaning of section 2203 of the Internal Revenue Code of 1954) of such decedent's estate may irrevocably elect, within 120 days following the date of enactment of this Act and in such manner as the Secretary of the Treasury shall prescribe, to have the basis of all property required from or passing from the decedent (within the meaning of section 1014(b) of the Internal Revenue Code of 1954) determined for all purposes under such Code as though the provisions of section 2005 of the Tax Reform Act fo 1976 (as amended by the provisions of section 702(c) of the Revenue Act of 1978) applied to such property acquired or passing from such decedent.

(e) Effective Date.—The amendments made by this section apply to estates of decedents dying after December 31, 1976.

Mr. CONABLE (during the reading). Mr. Speaker, I ask unanimous consent that the motion to instruct be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. CONABLE) is recognized for 1 hour.

Mr. CONABLE. Mr. Speaker, it is my intention to recognize in opposition to my motion to instruct such people as may be designated by the distinguished chairman of the Ways and Means Committee to the extent of 30 minutes for the purposes of debate only and not for purposes of amendment.

Mr. Speaker, I yield myself such time as I may consume for the purpose of further explaining the instruction to the conferees which I am now offering.

This instruction to the conferees relates to a nongermane amendment added by the Senate to the windfall profit tax bill, repealing the so-called cost-basis carryover provisions of the 1976 Tax Reform Act.

This particular provision went into effect as of January 1, 1977.

Subsequently, in the Tax Reform Act of 1978, because Treasury regulations had not been possible, because it had proved to be unworkable and because there was a growing opposition to the measure, we retroactively postponed the effective date of the cost-basis carryover provisions of the 1976 act until January 1, 1980.

It is my instruction to the conferees, which I hope my colleagues will support, to accept the Senate bill to the extent that it repeals outright this provision of the 1976 act.

There will be in all probability some effort made in connection with the previous question on the motion to instruct, to suggest that this provision should be simply amended rather than repealed outright.

It is an unworkable provision. It works to the detriment of those people who are neither wealthy nor poor, who are the owners at death of substantial appreciated assets and in general the holders of nonliquid estates, where the appreciated assets might have to be sold in order to pay the estate tax.

People who have substantial wealth normally are sufficiently liquid so they can pay their estate taxes without liquidating appreciated assets. People with modest holdings, family farms, small businesses and so forth, because much of the value of their estates may be concentrated in one nonliquid asset, may have to sell a portion of that appreciated asset in order to pay the estate tax and in so doing, under the cost-basis carryover rule, they would have the untoward effect of a pyramiding of taxes at the time of death, having to pay a capital gains in addition to the estate tax; therefore, winding up with substantially greater estate taxation than the law previously imposed.

□ 1050

Mr. JACOBS. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman for purposes of debate only.

Mr. JACOBS. The gentleman has said people of substantial means, that is to say estates with substantial assets really do not have trouble administering the carryover basis.

Mr. CONABLE. They are likely to be more liquid than those with a few appreciated assets.

Mr. JACOBS. My question to the gentleman is while I sympathize entirely with the plight of those he describes as having a plight, why throw the baby out with the bath water? Why not require people with substantial estates to pay their fair taxes, particularly when it is the heirs who did not do anything to earn the assets and are suddenly given a tax break?

Mr. CONABLE. May I say to my friend that if there are very substantial assets, the chances are the estate will be taxed at more than 50 percent for estate tax purposes anyway.

I think it is very bad public policy to leave an unadministratable, unworkable, and unfair rule in place, but to apply it to fewer estates by raising the exemption, as my friend and some of his colleagues on the Democratic side may wish to do, rather than repealing this rule. I ask the gentleman, however, if the Treasury Department is so intent on reforming this rule, why have they not reformed it previous to this time, and why do they now come in after the other body has voted 81 to 4 to repeal cost basis carryover and suggest that it is possible to make an unworkable rule work by applying it to fewer estates?

Mr. ARCHER. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Texas for purposes of debate only.

Mr. ARCHER. Mr. Speaker, is it not true that a mere tinkering with the formula would still place the administrative burden on every owner of any piece of property to maintain all of the records inasmuch as one never knows prior to death what the amount of the estate is going to be. So even people with the smallest means would be forced to bear this tremendous, meticulous, costly administrative burden of keeping all of the records because they are not going to know at time of death how much they are going to be worth?

Mr. CONABLE. I thank my friend from Texas for his contribution. Let me say one of the reasons this rule is so unworkable is because of the recordkeeping requirements. If we are to pierce the generational veil and start taxing for capital gains purposes estate assets that were purchased in previous generations, we will find a very serious problem of proof as well as administration, inasmuch as the recordkeeping is not subject to effective review once the decedent has left the scene.

Mr. LATTA. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Ohio for purposes of debate only.

Mr. LATTA. Mr. Speaker, I wish to commend the gentleman from New York for his offering of this motion. I expect to support it.

I might say to the gentleman that I am in the position where I can say "I told you so." I opposed this legislation at the time of its passage for the very reasons the gentleman now presents to the House for its repeal. It is unworkable and unjust. You have double taxation as the result of death. You have a capital gains tax at the time the decedent's property is sold plus an inheritance tax on the property as it passes to his heirs. By virtue of this double taxation, many children would not be able to maintain family farming operations after the death of their parents. This is wrong and I support the gentleman's amendment.

Mr. CONABLE. I thank the gentleman for his contribution. I would like to point out when this measure went into effect in the 1976 Tax Act, a substantial opposition to it was registered here on the floor. My memory is 181 Members of this House voted against it at that time.

However, it was something that was not generally understood. Its effects have now been analyzed by many people in the country, including a great many lawyers, may I say, Mr. Speaker, and 38 of the State bar associations have offered resolutions in opposition to the cost basis carryover provisions, thus giving. I think quietus to that old canard that lawyers like complicated rules. The lawyers found this one virtually impossible to administer, on behalf of the widows and orphans they have represented, and I have urged its repeal consistently since its amendment.

Mr. LATTA. Speaking of the complicated situations in which lawyers will find themselves unless this amendment passes, let me say they will not be alone. Tax experts would be stifled and not be in a position to utilize this expertise. When you have to establish the value of a particular piece of property at a definite time in the past, you come up with an almost impossible duty to fulfill. For all practical purposes, you would be engaging in a guessing game with the IRS.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Illinois for purposes of debate only.

Mr. HYDE. Mr. Speaker, I, too, commend the gentleman for bringing this motion forward. I would like briefly to comment on a statement made by the distinguished gentleman from Indiana (Mr. JACOBS) who said this is sort of a windfall for the heirs who did not do anything to earn this estate. It seems to me that a lot of people work very hard all of their lives so that they may leave something for their heirs, so they may pass on some security in a very uncertain world.

Mr. CONABLE. I thank the gentleman for his contribution.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Ohio for purposes of debate only.

Mr. ASHBROOK. Mr. Speaker, I thank my colleague. I want to commend him for his usual eye level, proper addressing of an issue. But for those of us who are a little more inclined to remember the politics of it, and I well remember the politics of it, it is a classic example, the American people well understand, of many of our liberal friends on the other side, whenever they have a so-called reform, they give a little bit through the front door and take a lot more through the back door.

We all remember the great clamor for the family farm because there were many that could not keep their farms, and all of them responded and said yes, we will help them. But then in the fine print they tried to take away a great amount of what they gave in the proclaimed increasing of the tax, estate tax exemptions. We all know the politics of it. It is the way they operate. Those who believe that the Government owns all of the money should have it, and the people out there in the private sector owe it to the Government. It is a part of that philosophy.

I thank my colleague for his learned presentation, but I think the American people understand the politics of this also.

Mr. CONABLE. In fact, estate taxation is quite burdensome by itself. There is a pyramiding of taxes by adding cost basis carryover, and its possible implications in terms of capital gains taxation from one generation to another.

Mr. SAWYER. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Michigan for purposes of debate only.

Mr. SAWYER. Mr. Speaker, I thank the gentleman for yielding. I congratulate him on offering this motion.

Virtually every tax practitioner in my entire district is crying about this provision's unmanageability, and certainly when we look at the bills we are going to approach today; namely, the loan guarantee for Chrysler, I think just what we do not need is more capital starvation type bills. This, of course, severely impacts the owners of small businesses, unlisted family businesses as well as farms and land holdings. I think we need to do something to help preserve our capital so that we do not see more and more of these Chrysler bills coming down the pike. I thank the gentleman.

Mr. CONABLE. Mr. Speaker, I appreciate the gentleman's contribution. I would like to add something. We are not talking about large sums of tax revenue in this particular measure. Cost basis carryover, were it to go into effect, is assumed to raise somewhere in the neighborhood of $100 million in the first year of its operation. As a matter of fact, our total estate taxation raises normally in the area of only $5 billion out of a total Federal budget of $500 billion. So we are not talking about relatively large sums of money. We are talking about a burdensome and aggravating rule which would further exacerbate the problems of people who find themselves even now living foolishly so that they can die smart.

We need very seriously to consider also the need to settle the law in this area. For 3 years now no estate planning has been possible. People have not made wills simply because the law was so unsettled as a result of the pendency of this rule. It is time, and I think my colleagues will find the universities of this country and other great charitable institutions agreeing, it is time to get this issue resolved so that people will know where they stand on the taxation of estate assets. Cost basis carryover is a terribly complicating factor.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Indiana for purposes of debate only.

Mr. MYERS of Indiana. Mr. Speaker, the gentleman said that it was not a large sum of money, and this is true as far as the impact upon the Federal Government is concerned and taxes paid. However, it is a big impact on individual taxes.

Mr. CONABLE. Absolutely.

Mr. MYERS of Indiana. And the estates that have to deal with this, not only in taxes paid but also, as the gentleman said, in the burden of attorney fees, if nothing else. It is very, very costly.

Mr. CONABLE. It could be a terrible complication for individuals without compensating benefit to the Treasury to any substantial degree.

Mr. JACOBS. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield briefly for purposes of debate only to my friend from Indiana (Mr. JACOBS).

Mr. JACOBS. I thank the gentleman. Just for the record, I think it should be stated there is, is there not, an adjustment to the carryover basis by the amount of estate tax paid by the estate?

Mr. CONABLE. Yes; and that is one of the complications that many people do not understand.

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Mr. JACOBS. But, a favorable complication. The second point is, we speak of cost basis carryover, and I think the point should be made that there is a step up, is there not, under current law?

Mr. CONABLE. It is phased in.

Mr. JACOBS. I see. It is not going back to, say, 1913 or 1940, but I believe the end of 1977?

Mr. CONABLE. 1977 in the original act. That was a further complication because of the problems of apportionment that had to be dealt with. It measured appreciation to that point.

Mr. JACOBS. But again, a generous complication.

Mrs. SMITH of Nebraska. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentlewoman from Nebraska (Mrs. SMITH).

Mrs. SMITH of Nebraska. Mr. Speaker, I rise in support of the motion by the gentleman from New York (Mr. CONABLE) to instruct House conferees to support the carryover basis repeal attached to H.R. 3919, the Windfall Profit Tax Act.

Designed to remedy so-called inequities between taxpayers, carryover basis fosters an insidious bias against farmers, ranchers, and small businesses. Most of their assets, such as land, machinery, and livestock, fall within the definition of carryover basis property. Thus, the gain on its sale by an heir is subject to increased capital gains taxes under the carryover basis provision because the heir must use the decedent's basis to determine gain. The heir must pay tax on appreciation that accrued prior to his or her inheritance. More often than not, the appreciation in capital assets largely reflects inflation rather than an increase in the productive value of the land or other property.

Land is the most valuable asset farmers own. There are 871-million acres of farm and ranch land in this country. Farmers and ranchers own approximately one-half of it, and about 431 million of their 493-million acres are in farms and ranches. USDA statistics emphasize the contribution that inflation has played in increasing the value of land. Since 1970, the average value per acre of farmland and building has nearly tripled.

The rate of return on equity in farmland has averaged only about 5 percent per year since 1970—far below the average annual appreciation in the price of farmland itself. Capital gains have become a major source of returns on farmland investments. Although a relatively small amount of farmland changes hands yearly, the value of land sold is significant to individual sellers, particularly when one considers the effect that inflation has played in creating capital gains.

In addition to the taxation of appreciation caused by inflation, the carryover basis calculations for land, buildings, machinery, livestock, and timber have been described as, at best, potential nightmares. Determination of the decedent's income tax basis in property acquired in the 1930's or 1940's is going to be difficult especially for family farm and ranch estates where the farm and ranch have usually been held for a great number of years. This problem will be particularly acute if property must be traced through several transactions, or even generations, to determine the decedent's income tax basis.

The provision that where the decedent's basis in property is unknown such basis will be the fair market value of the property on the date the decedent acquired such property may be more illusionary than helpful. In the case of farm and ranch properties acquired in different segments and at various times over many years, such calculation will be burdensome. Moreover, any fair market value so determined can be expected to be examined and questioned by the Internal Revenue Service, resulting in additional controversy and expense.

When the Congress passed the Revenue Act of 1978, it recognized the urgent necessity to provide greater incentives for capital investment in the Nation's businesses. I now urge my colleagues to support the motion by the gentleman from New York and provide an incentive for farmers and ranchers and all business to grow and prosper by repealing the carryover basis provision. In doing so, Congress will recognize the contribution of a sector of our society and economy that has taken great economic risks to build a productive and efficient agriculture and business community.

Mr. CONABLE. I thank my friend from Nebraska for her contribution.

Mr. MILLER of Ohio. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I would like to yield for purposes of debate only to the gentleman fom Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Speaker, I thank our colleague for bringing the motion before the House. I support the motion.

Mr. Chairman, I want to commend the gentleman from New York (Mr. CONABLE) for his motion. The carryover basis provision of the 1976 Tax Reform Act must be repealed if we want to achieve an equitable tax structure in this country.

As we have discussed so far, the carryover is very complicated and costly to administer. The burden of the tax will have a disproportionate effect on small estates—especially small farm and landowners. As a result, this provision poses a direct threat to family farming. It will also discourage capital formation and savings which we need to promote economic growth.

One of the greatest weaknesses with the carryover provision centers around the fact that the Government profits from inflation by taxing the inflated value of the asset as well as appreciated value. For example, if a person sells property which he inherited from his parents, he must pay a capital gains tax on the difference between the selling price and the original purchasing price of his parents.

The appreciation in capital assets year after year largely reflects inflation rather than an increase in the productive value of the land or other property. As a result, the Government reaps a windfall tax at the expense of the taxpayer. Furthermore, the carryover basis establishes a permanent disincentive to sell property. Unless this provision is repealed, it will have a damaging impact on families all across this land, as well as the American economy as a whole.

The complexity of this law will force legal and accounting fees to skyrocket.

One of my constituents recently wrote my office claiming:

> As a Trust Banker and as an individual, I am keenly aware of the tax problems created by the carryover basis tax if it is not repealed. This new form of tax will be extremely harmful to small businessmen and farmers—the kind of people who work for years to cause their assets to appreciate only to be charged with a large tax at death.

I could cite other illustrations of the negative impact of this provision. The plain and simple fact is that the Congress made a serious mistake in 1976 by including the carryover basis in the Tax Reform Act. We must correct that mistake before it is too late.

Mr. TAYLOR. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield for purposes of debate only to the gentleman from Missouri (Mr. TAYLOR).

Mr. TAYLOR. Mr. Speaker, let me commend the distinguished ranking minority member of the Committee on Ways and Means for bringing this motion before the House. It is a traumatic thing for the American people. I see universal opposition to the carryover provisions not only from the people, but from tax practitioners, who found it unworkable. I certainly agree with the gentleman, we should concur with the Senate amendments on this piece of legislation.

Mr. CONABLE. I thank my friend for his contribution.

Mr. ABDNOR. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield now to my friend from South Dakota (Mr. ABDNOR) for purposes of debate only.

Mr. ABDNOR. Mr. Speaker, I rise in support of the motion offered by my colleague, the distinguished ranking minority member of the Ways and Means Committee.

Mr. Speaker, in 1976 this body put forth considerable effort to adopt major revisions in the Internal Revenue Code with the stated purpose of improving the Federal estate tax system. Unfortunately, despite what might have been good intentions, Congress modified one section of the code which has since proven to be a nightmare.

I am speaking of course about the provisions known as "carryover basis." Under these provisions, heirs are required to pay not only taxes on capital gains occuring during the actual time inherited property was in their ownership, but also on any gains which occurred during the entire time elapsing from the original purchase by the benefactor.

By requiring that the basis of inherited assets is "carried over" we are forcing taxpayers to pay exorbitant amounts of capital gains on false profits which are only the result of the continual inflation which our Nation has suffered through in recent years. These are not real profits, but rather paper profits which have done nothing to add to the real value of the assets in question.

Most of us in this body have also heard of the encumbrance of recordkeeping which is required under the carryover basis system. To be in compliance with the carryover basis provisions, it is necessary for individuals to maintain scrupulous records as to the purchase date and original cost of virtually all assets making up an estate. In the situation of an estate involving the operation of a farm, the carryover basis forces farmers to know when every calf was born or purchased, when grain went into the silo, and the value of those products which fluctuate virtually every day.

To be in compliance with the provisions of the carryover basis, records must be available in most cases to establish the cost basis and capital gains due. Because of the complexity involving these calculations, the fees assessed for the transfer of the estate are also much higher. This is in direct conflict with the goals of Congress in 1976 when we struggled to simplify our estate tax laws.

Mr. Speaker, as evidenced by the overwhelming vote in the Senate, the citizens of this Nation are demanding the repeal of this confiscatory tax. I urge my colleagues to support the gentleman from New York in his motion to instruct House conferees to accept the Senate's position with regard to repeal of the carryover basis.

Mr. CONABLE. The gentleman is completely right, in keeping with his usual practice.

Mr. FITHIAN. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to my friend from Indiana (Mr. FITHIAN) for purposes of debate only.

Mr. FITHIAN. Mr. Speaker, I rise in support of the motion of the gentleman from New York primarily because of the adverse impact the carryover basis on estate taxes is having on farms and small businesses. While I have some sympathy for the point of view of my colleague from Indiana (Mr. JACOBS) with regard to what this does to the large estate holdings, my concerns are for the family farm and the closely held (family owned) small businesses.

Mr. CONABLE. I thank my friend for his contribution.

Mr. Speaker, I would like to remind the House that some 243 Members of this body, a clear majority, have cosponsored repeal of this legislation. I trust that they will understand that this is their opportunity to strike a blow for those people aggrieved by this rule.

Mr. BOWEN. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield briefly to the gentleman from Mississippi (Mr. BOWEN), for purposes of debate only.

Mr. BOWEN. Mr. Speaker, I rise in support of the motion of the gentleman from New York to instruct the conferees to accept the Senate repeal of the carryover basis provision.

The carryover basis is both unfair and unworkable. It represents an exorbitant new tax burden that could be devastating to virtually every family or small business that has accumulated even a modest amount of property. It could be particularly catastrophic to the farm families of this country.

In my own State, a great many families already are forced to sell off a part of the property they inherit in order to pay the estate taxes on it. Under the carryover basis, the portion they would have to sell would be even greater due to the substantial increase in capital gains taxes. As has been pointed out already, the tremendous rise in farm property values due to inflation has not been matched by increased farm revenues relative to investment.

The complicated provisions of carryover might represent a windfall to the legions of lawyers and accountants who would have to be called in to deal with it, except that most of those I have spoken with would rather forgo the nightmare of paperwork and potential litigation it entails. The enormous costs of their services, of course, would be an extraordinary additional burden on the already beleaguered taxpayer.

The carryover provision rejects the American family's traditional rights of inheritance by imposing an unfair tax burden on living heirs, and I urge its repeal.

Mr. CONABLE. I thank the gentleman.

Mr. Speaker, I would like to reserve the balance of my time at this point. I wish now to yield to the gentleman from Oregon (Mr. Ullman) for purposes of debate only, to yield to such Members as he may designate.

Mr. ULLMAN. Would the gentleman yield to the gentleman from Virginia (Mr. Fisher) 3 minutes?

Mr. CONABLE. I yield 3 minutes to the gentleman from Virginia (Mr. Fisher) for purposes of debate only.

Mr. FISHER. Mr. Speaker, I appreciate the gentleman yielding to me. I oppose this motion of instruction, and urge my colleagues to vote in whatever way would defeat this and make possible a vote on an amendment which Mr. Jones of Oklahoma and I will be offering. The motion is on a subject that has nothing to do with the oil windfall profit tax at all. I notice the DSG supplement today lists two items for our consideration. One is called "elephant protection," and the second is called "windfall oil tax bill." It is not too clear which one we are considering right now.

The amendment that Mr. Jones of Oklahoma and I hope to offer as an instruction to the House conferees would substitute H.R. 4694, a simplification bill on carryover basis, which has been through hearings in the Ways and Means Committee. In addition, we would raise the exemption from $175,000 to $200,000, which would ease the burden on many of the small farmers and property owners. We would grandfather all capital gains on assets owned December 31 of this year, which would greatly ease this record-keeping problem that continues to be cited. One would not have to go back and deal with assets acquired earlier. All assets owned this year would be grandfathered.

Furthermore, we would apply the tax only on assets of persons dying after December 31 next year, 1980. This is what we mean by a streamlined, simplified, workable carryover basis tax. The basic reason, of course, for preferring the substitute that we hope to offer is the equity of it. The only ones who would gain by forgetting about these capital gains are very, very few in number.

Under our version, less than 3 percent of the persons who might be involved in this, the wealthiest 3 percent, would be affected. They are the ones who can postpone the selling of an asset before death, because they do not need the money. It is a very restricted thing we are talking about, and the gains would pile in on just a very few people.

Our simplified carryover basis approach is really workable, in spite of all that we hear. The Treasury Department agrees that it is workable, and they would have to administer the version of it that we would prefer.

The SPEAKER. The time of the gentleman from Virginia has expired.

Mr. CONABLE. Mr. Speaker, I yield 2 additional minutes to the gentleman from Virginia for purposes of debate only.

Mr. FISHER. I thank the gentleman very much.

Most persons in this very wealthy bracket keep records anyway, and furthermore, as I said, all assets owned prior to the end of this year would be grandfathered in. Even the American Institute of CPA's testified to us that this is quite workable, as did a couple of previous Commissioners of IRS.

Much is said about the small farms and the small property owners. Well, we would provide a $200,000 exemption anyway, and there are other technical provisions that would insure reasonable liquidity for those people. Let me remind my colleagues that the gains tax would not be paid anyway until the heir actually sells that farm, so that if there is some farmer in a Member's district who is worried about what happens to his farm after he dies, the Member can tell him that nothing will happen; there will be no capital gains tax until the heir, his son or daughter or whoever, actually sells the property.

Now, the revenue loss, although it does not run into the billions, would run into several hundred million dollars after a few years if we impose the capital gains tax on the carryover basis. Repeal would amount to a significant amount of money that would be lost to the Government and unavailable for reducing the deficit.

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These are some of the reasons why I believe that it would be far preferable as a matter of public policy and tax policy to put in a simplified, workable carryover basis law.

I urge my colleagues to vote against this motion to instruct. Only in this way can the reform, passed in 1976, as simplified and improved by the version Mr. Jones and I hope to offer, be kept alive.

Mr. CONABLE. Mr. Speaker, I now yield 2 minutes for the purpose of debate only to the gentleman from Ohio (Mr. Vanik).

Mr. VANIK. Mr. Speaker, under the rules we cannot present a proper argument against this motion because most of the time is under the control of the proponent of the proposal. This estate tax issue has really no place in the oil windfall bill. We ought to handle it as a separate bill on the issue of estate taxation.

There are only 53,000 beneficiaries of this provision. In effect we are writing a special tax bill for 53,000 people. The last time we dealt with the estate taxes, we provided an exemption for transfers between husband and wife of almost a half million dollars. This proposal applies to all estates, small and large, it has no top. We have talked about small estates; we have heard about small farms; but this is a proposal which will be primarily used by large estates to ease their way around a proper tax. They will ride free. They are going to get a free tax ride on the plea for family-owned small farms and small business. The Conable motion will create a tremendous gaping hole in the law which gives large estates to step by the tax collector without a moderate measure of taxation.

In this country, we very heavily tax income, what a man works for. We very heavily tax consumption through sales taxes and other devices. But we hardly tax wealth or inheritance of wealth. Other nations have put a tax on property, a tax on estates, a tax on wealth. At this moment when other countries are moving in that direction, in the direction of tax justice, the effort would move us the opposite way.

Mr. Speaker, I hope that the Conable motion is defeated so that the House Committee on Ways and Means and the Senate Committee on Finance can work out a fair approach to this problem. I would be happy to move in the direction of some help for family-owned farms and small business if there were a ceiling or a cap as is proposed by the Fisher proposal. This issue is certainly important enough to be the subject of a separate bill so that it could be properly debated and considered.

Mr. CONABLE. Mr. Speaker, I will ask the gentleman from Oregon (Mr. Ullman) whom he would like to have me yield time to.

Mr. ULLMAN. Mr. Speaker, would the gentleman yield, time to the gentleman from California (Mr. Stark) for 2 minutes, and then to the gentleman from Oklahoma (Mr. Jones) for 5 minutes?

Mr. CONABLE. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. Stark) for purposes of debate only.

Mr. STARK. Mr. Speaker, I would just like to address the equity of the Conable motion to urge the Members to defeat the previous question so that we can vote on the Fisher-Jones compromise in the interests of equity for all the taxpayers of this country. Quite frankly, we have protected the small business and the small family farmer with exemptions totaling, as the gentleman from Ohio (Mr. Vanik) said, almost a half million dollars. Beyond that we have provided simple 10-year, 6-percent loans for people to pay their inheritance taxes if there are any above that half million dollar limit.

But there are many people in this country, people who work hard and save their money in a savings account, or buy series E bonds, or invest in property which they cannot transfer easily without sale at death. They pay their taxes. Many of them pay as much as 50 percent a year. They all pay a minimum of 20 percent a year. But these 50,000 more or less very wealthy families who will pass property on to children have never paid any income tax on the property they are going to transfer—not 1 dime.

It is a huge loophole which allows people who can acquire property by inheritance or buy at very low basis—the best example would be investment real estate—to continue to trade it, never pay any taxes, and pass it to an estate. They may have bought for $20,000 in 1970, and when it is worth $200,000 10 years later, they still do not pay any taxes, although the income from that property may have increased tremendously. Then it can be passed through to their heirs without paying taxes. It is a matter of simple equity that everybody should pay their fair share of taxes.

If we made our wealthy friends, whom

the gentleman on the other side may be trying so hard to protect, pay their fair share of taxes, we might, indeed. lower taxes for all Americans, which I think is really what we all want to achieve.

Mr. CONABLE. Mr. Speaker, I now yield 5 minutes for purposes of debate only to the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Mr. Speaker, I rise in opposition to the Conable motion to instruct the conferees to repeal the carryover basis provisions of the 1976 Tax Reform Act. As many of you know, there are very few provisions of the 1976 tax bill that I support. The carryover basis provisions are among those that I think should stay in the Tax Code.

I am generally against instructing conferees at all, but in this situation the only way we can keep the principle of carryover basis is to vote down the previous question and then to vote for the amendment that will be offered by the gentleman from Virginia (Mr. FISHER) and me to amend the present rules on carryover basis, but to keep the principle in effect.

First of all, what are carryover basis rules? The carryover basis applies only to the donee of property who gets that property by inheritance, and it only applies when that donee of property wants to sell the property. Basically what we are talking about is property basis. If an owner acquires property, he takes a basis in that property, and that basis is maintained until he sells that property, and he pays a capital gains tax on the difference between the basis and what he sells the property for. If a person gets property by a gift from a live donor, the person who gets that gift takes the donor's basis in the property, and if the donee later sells the property, he pays a capital gains tax on the difference between the donor's basis in that property and what he gets from that property. However, prior to 1976 if a donor of the property got that property by inheritance, then the basis of the original owner of that property was stepped up to the value at the time of death, and then if later the donee sold that property, he paid the capital gains tax on the difference between the value at the time of death when he got the property and what he sold the property for. So what happened is that for the capital appreciation of the property, between the original purchaser and the time that person died, that capital gain went untaxed, and that is the amount of money we are talking about. When they say it is a small amount of money, it is only about $700 million to $1 billion a year in lost revenues. Also, it does not affect many people, as has been brought out. It affects only the top 1 to 3 percent of all the estates in the country, clearly the very wealthiest estates.

It is true that the 1976 tax bill on carryover basis, with the subsequent postponement of implementing these carryover basis rules, developed a lot of administrative nightmares. For example, if someone inherited a painting that was purchased back in 1920, how does one know what the basis in that property should be? There are other horror stories like this. Clearly the 1976 carryover rules need to be changed and need to be improved from an administrative standpoint.

What the gentleman from Virginia (Mr. FISHER) and I are asking you to do is to support an amendment to the 1976 bill. Treasury has agreed to these amendments. In addition to the basic Fisher bill which the gentleman from Virginia (Mr. FISHER) has already explained, let me explain the other necessary points that I would like to add to this amendment.

First of all, all estates under $200,000 would be exempt entirely from the carryover basis rules. There are very few estates that are going to exceed $200,000.

Second, the carryover basis rules would apply only to property acquired after this year, so anything that is in an estate now would be grandfathered in and would not be subject to carryover basis rules. That substantially, if not totally, solves the administrative problems involved.

Third, in order to allow these estates to get ready for these new rules, the effective date would be January 1, 1981, so you have 2 years to get ready for the new rules.

☐ 1120

The SPEAKER. The time of the gentleman has expired.

Mr. CONABLE. I yield 1 additional minute to the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Fourth, Mr. Speaker, the annual gift tax exclusion will be raised.

As I said, I took a great deal of time to determine what my position would be on this, because I was not an expert on estate and gift taxes. What decided it for me was my belief that the donee of a gift from a live donor and the donee of a gift from inheritance should be taxed on the same basis. It seems to me that any donee of property should pay the same capital gains tax which we fought so hard to reduce last year. The donee should pay the same capital gains tax if he or she sells that property, no matter whether that property was received from a live donor or from inheritance. It just seems to me that if there are no administrative problems, as none have been noted, with the carryover basis rules for live gifts, then it does not seem to me that there will be any great administrative problem with the amendments to carryover basis for inherited gifts.

Mr. Speaker, I think it is important that the Members understand the procedures that are being followed here. It is my understanding that the gentleman from Oklahoma (Mr. JONES) and the gentleman from Virginia (Mr. FISHER) will urge a vote against the previous question on the motion to instruct. If they are successful in that, they will then urge a suggested reform to the cost-basis, carryover rule rather than the repeal which I am urging as an instruction to the conferees.

Mr. Speaker, I think it is important also in this connection for all the Members tempted to vote for the alternative reform of the gentleman from Oklahoma (Mr. JONES) or the gentleman from Virginia (Mr. FISHER) to understand that two of the provisions they have provided in their suggested alternative appear to be beyond the scope of the conference and therefore subject to a point of order. These are, increasing the exemption from $175,000 to $200,000, which is not subject to conference, or included in the provisions that are in the Senate version. The second provision is it increases the gift tax exemption from $3,000 to $4,000 which also is not included in the Senate version of the bill. Therefore, in the event they are successful, I want to serve notice that I will make a point of order against their alternative provision on the grounds that it is not within the scope of the conference.

Mr. Speaker, I now yield 3 minutes to the gentleman from Indiana (Mr. JACOBS) for purposes of debate only.

Mr. JACOBS. Mr. Speaker, I thank the gentleman for yielding.

To put the matter into perspective for Members who may not have followed this very closely, let me pose a question: Does anybody believe that the heir to an estate—let us be more specific. Does anybody believe that a son should not stand in his father's shoes, should not have any tax advantage that his father did not have with respect to the property that is passed on to the son? I think most people would agree that if the son is going to stand in his father's shoes and own that lovely building the son should stand in his father's shoes and have the same tax liabilities that the father had with respect to the building.

The problem with this capital gains business is, if the father sold that building 5 minutes before he died, the sale would be subject to a capital gains tax. Let me point out that only last year the capital gains tax was substantially liberalized. A great tax break was given to the father in that situation. But if that property should not be sold before the father passed on and it went to the son, suddenly, if the father paid $20,000 for the property and it grew to a worth of $200,000, all that gain, would be forgiven the son if there were no carryover law.

Mr. Speaker, why would we make any exception to the equitable rule that the son would stand in the same shoes as the father in the case of tax liability as well as for the enjoyment of the asset?

As the gentleman from New York (Mr. CONABLE) has pointed out quite rightly, it is very complicated in many cases for relatively modest estates to keep the necessary records.

The ultimate question is, For whom is it too complicated? Does anybody believe the Rockefeller family does not keep records on their assets? Does anybody believe that the J. Paul Gettys of this country do not keep records of their assets? No. Nobody believes that.

Mr. Speaker, the question therefore is, What should be done for the people who do have a hardship in making these calculations without letting the superrich hit the exemption jackpot with the farmer's and small business people's nickel? That is the issue.

What the gentleman from Virginia (Mr. FISHER) proposes is a $200,000 exemption. I am here to say if you made it $1 million exemption you would for sure catch everybody you are conceivably talking about in terms of hardship. But

I am talking about the $1 billion estate, the $500 million estate. That goes off the rolls with the motion of the gentleman from New York (Mr. CONABLE) as well. The heirs of those estates are not made to stand in the shoes of their progenitors, so far as the negative part of their good luck that they have had to be born in the right womb is concerned. That is the issue.

Mr. CONABLE. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. DOWNEY) for purposes of debate only.

Mr. DOWNEY. I thank the gentleman for yielding.

Mr. Speaker, I support the Fisher-Jones motion. It seems to me those of us who are Democrats can take little pride in the 96th Congress which will be remembered, unfortunately, as the Congress that provided for oil decontrol, and extended the notion of proposition 13 to millionaires. I think we need to examine very carefully this particular vote because as the gentleman from Indiana (Mr. JACOBS) has pointed out, I think most appropriately, what we are doing here is throwing out the baby with the bath water and providing not a lifeboat for millionaires but the Cunard Line for them to sail on.

Mr. CONABLE. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. STARK) for purposes of debate only.

Mr. STARK. Mr. Speaker, I also want to point out to my colleagues in asking them to vote no on the previous question, that, for someone to take advantage of this carryover basis, they would have to start with an estate somewhat in excess of $2.5 million net after all costs and expenses. That might require a $3 million estate or, in the case of a couple, a $6 million estate. That would be no help at all for the average working person in my district and I am sure in most other districts. It is only for the very rich. It is a loophole we ought to close and I urge a no vote on the previous question.

Mr. CONABLE. Mr. Speaker, I now yield such time as he may consume to the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Speaker, I rise in strong support of the motion offered by the gentleman from New York.

Mr. Speaker, I rise in support of the motion to instruct House conferees on the Windfall Profit Tax Act to support a Senate amendment aimed at the repeal of the carryover basis provision of the tax reform law of 1976. The carryover provision has been described by its supporters as an effort to close "the tax loophole of death." However, as we more closely look at this radical legislative proposal, it becomes apparent that with the carryover basis provisions in effect, "the loophole may close in January—but it will be closing around the necks of our children."

Because I represent a district in a heavily agricultural State, I am very concerned about the effect the carryover provisions will have on small farmers. However, I also recognize that citizens on most economic levels and in both urban and rural areas will be affected by this stunning change in our Nation's tax laws.

Contrary to the statement made by supporters of the carryover provision, most small farmers, as well as small businessmen, would be affected by the new provisions even if Congressman FISHER's legislation would exempt estates under $175,000 in total worth from the new provision. Proponents of this legislation have argued that increasing the minimum for the carryover basis from $60,000 to $175,000 would reduce the effective application of carryover basis to just 2.7 percent of decedent's estates in this country. In other words, only the largest, wealthiest estates in the land would be affected by this change.

But today, with skyrocketing land and farm machinery prices, I challenge anyone to find a successful farm in the First District in Nebraska that is not valued at over $175,000. Likewise, most urban businesses would not be excluded from the carryover basis as the cost of urban property, building facilities, and stock on hand rises daily with 14 percent inflation. And even if the figures of 2.7 percent of the estates being affected is accurate, how accurate will it be in a year, or 5 years, or 10 years as inflation continues to rapidly boost the paper value of family assets. It is not a case of carryover basis affecting only a few estates at the top of the economic ladder, but rather a case of only a few at the bottom not being overwhelmed during probate proceedings. The carryover basis would now or very soon in the future affect almost every estate.

ADVERSE IMPACT ON SMALL BUSINESS

While opposition to the new provisions would be understandable from the wealthiest of businessmen in the country, the broad potential application of the carryover basis is reflected in its opposition by groups representing small businessmen.

Under the carryover provisions, small, independent businessmen would become endangered species. After years of work and investment, a small businessman might build up a substantial business only to have his heirs taxed on the appreciation earned by hard work and already once taxed upon.

Added to this worry, small businessmen will also have to become better schooled in recordkeeping and tax laws. Currently it is hard enough for larger businesses with the help of accounting firms to keep their tax record in order. What then happens to the smaller businessman who tries to tackle his own tax problems to hold down the overhead? He will have to wrestle with a whole new set of complicated tax laws while keeping a strict record of his assets.

The result will be that small businesses will fold after the original owner dies and the heirs are unable to find enough liquidity to both keep the business running and pay the capital gains and estate taxes. Another result will be the gradual merging of small businesses into larger corporations where their heirs could receive stock and allow them to avoid these taxes. Either way, this double taxation on the heirs will force many small firms out of business.

DEVASTATING IMPACT ON RURAL AMERICA

In the rural areas, descendents inheriting farms, because of inflated land prices, have to sell off part of the inherited property just to pay current estate taxes. Under the carryover provisions, heirs would then have to pay capital gains taxes on the inherited assets from the time the property was originally bought by the decedent until the inherited property is sold—rather than just the gain that occurred during the heir's ownership. While this statement may oversimplify the actual probate situations because the carryover provision legislation contains many complicated adjustments concerning the application of death taxes to the estate and so on, the new rule still makes drastic changes in the tax law and will complicate the distribution of property after death.

Anyway one looks at it, capital gains taxes under the carryover provisions will be exorbitant and may lead to a mushrooming effect where heirs are forced to sell off even more property to pay the mounting double taxes. In many instances, heir would find themselves in a "Catch-22" situation of being forced into selling assets to meet higher estate taxes, only then to be hit with higher capital gains taxes on what was sold.

In extreme cases, this situation of double taxation on inherited property could lead to an heir selling off so much property and land from an inherited farm that the farm would become too small to efficiently and economically operate. Added to this problem for farmers is the fact that today more often than not the price of farm land is based on scarcity of land and bears little relationship to its revenue-producing potential. Over a period of years, the carryover provisions could lead to a condition where the land market in the Midwest stagnates as heirs hold on to land rather than selling for profit because of a fear of high prices when they sell it. Land would become more and more scarce on the open market and that would in turn drive land prices even higher.

But finding the money to pay taxes on highly inflated, inherited land is only part of the monstrous problems the carryover provision would burden small farmers with. The paperwork and recordkeeping aspects of the new provisions become overwhelming when estate administrators are faced with finding the basis for the hundreds of assets in a farm's physical plant. The amount of machinery, small handtools, stored grains, and livestock all needing to be valued is incredible. Although the carryover legislation has a "fresh start" provision of January 1, 1977 established within it, it is still necessary in many cases to determine the original value of many assets to prorate appreciation over a lifetime. How, it can be asked, do you determine the value of an asset of a deceased relative that may have been purchased or even bartered for over 40 years ago? And looking to the future, how much time will small farmers and businessmen have to spend in keeping accurate records of purchases and costs of all of their assets to meet the carryover provisions of their estates?

REPEAL OF CARRYOVER BASIS IS ESSENTIAL

In view of what has been stated, it becomes clear why many estate executors and administrators oppose the carryover provision. It is an unmanageable, complicated tax law that requires incredible recordkeeping for whoever has to handle it. Attorneys in Nebraska have told me that if they have to work with estates involving the carryover provision, many of them will turn over those estates to certified public accountants for computation of the carryover basis. This additional step in the preparation of an estate would add even more costs to an already expensive situation for the inheriting taxpayer. There are estimates that two to five times as many more chargeable hours will be required of estate administrators in attempting to meet the laws' requirements. An example of the complexity of the provisions is an outline for computing carryover basis that was prepared by a trust officer at a Denver, Colo., bank. The outline calls for a potential 61 figures and supporting calculations for each asset of an estate.

The burden the carryover provision would put upon small farmers should also be viewed in context of the economic environment of today's farmer. In a time when this Nation is being rocked by double-digit inflation and low productivity, the American farmer forms the most productive sector of our economy. He holds his position despite low prices for his grain and livestock, soaring energy costs and a transportation system which costs him time and money in his attempts to get his products to market.

Added to these problems, the young farmer may now be hit with a manmade disaster. He may face taxes so high and paperwork so thick that the farm the family had worked and made productive may now all but be confiscated because of awesome, ill-planned taxes. The carryover basis would put the family farm, an institution that helps form both the moral and economic backbone of this Nation, in mortal jeopardy. No legislation adopted recently poses the serious threat to the existence of the family farm than does the carryover basis provisions of the Tax Reform Act.

In conclusion, I would like to make one last observation about the whole area of increasingly complicated tax laws and governmentally imposed paperwork. Each election year many of us who represent the citizens of the United States pay what sometimes seems to be simply lipservice to a promise to trim the bureaucracy and cut the redtape that our Federal Government is plaguing the businessmen of this country with. On the bottom line, the carryover provisions of the tax reform law of 1976 is another move by an already out-of-control, bureaucratically steered Government to land on the backs of the American people more paperwork, more legal entanglements, more burdensome taxes, and less of a chance to enjoy the American dream they and their families have worked for.

I am reminded of a statement by Thomas Mann who once wrote, "A man's dying is more his survivor's affair than his own." With the carryover basis provisions in effect, that statement could be changed to, "A man's dying is more his government's affair than his own or his survivor's."

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Speaker, I rise in support of this legislation.

Mr. Speaker, I also rise in support of the motion to instruct the House conferees to go along with or accept the Senate language repealing carryover basis. As you know, the Senate has included within the provisions of H.R. 3919 language that repeals the carryover basis rules mandated by the Tax Reform Act of 1976.

I thought that carryover basis was bad back in 1976 and worked to defeat its inclusion in the Tax Reform Act of 1976. Nothing that I have read or heard over the past 3 years has served to change my mind. It is unworkable, bad legislation.

Those opposed to repealing carryover basis are the big spenders who need increased Federal revenues in order to finance Federal spending programs. They have enlisted the support of the administration as evidenced by a letter—hand-delivered to me this morning—from the Secretary of the Treasury G. William Miller. The letter states that the Carter administration is, and I quote, "strongly opposed to its repeal" and argues that carryover basis repeal would "result in a substantial tax grant to the most wealthy 3 percent of the country." To me, this shows that the President hasn't done his homework in his efforts to enlist the help of Iowans in securing another 4 years in office. It betrays an ignorance of the problems that everyday citizens desirous of transfering a farm or small business on to their heirs, lawyers and estate planners face in complying with the current law.

I submit that those arguing in favor of the current law have never tried living with its unworkable provisions and have not given more than passing consideration to its consequences outside of how much money they will have to spend if the current law is retained. I would suggest that they read the hundreds of thoughtful and incisive letters I have received from lawyers, estate planners, and everyday citizens. They ought to talk with the people who must comply with the onerous provisions of carryover basis.

If those Members against this motion to instruct would do this, I am confident they would agree: First, that the people who will be hurt are not wealthy millionaires; second, that carryover basis is impossible to comply with; and third, that the adverse effects of carryover basis far outweigh its revenue raising potential.

Mr. Speaker, I believe that we should not be legislating unworkable laws. We should not be disrupting the smooth transfer of family farms and small businesses between generations.

It is ironic that while President Carter is in Iowa campaigning, his administration is trying to stop the repeal of a law that could spell the death of Iowa's lifeline—the family farm. Today the Carter administration urged House conferees to reject the repeal of the carryover basis that was tacked onto the windfall profit tax bill approved by the Senate last night. The carryover basis requires heirs who sell inherited property to pay taxes on any gain over the original price. Without this repeal, the law would go into effect January 1, 1980. To me, this shows that the President has not done his homework in his efforts to enlist the aid of Iowans in securing another 4 years in office. It betrays an ignorance that the law would make it virtually impossible for Iowans to pass on a successful business or farm.

Mr. CONABLE. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. PICKLE) for purposes of debate only.

Mr. PICKLE. Mr. Speaker, the members of our committee, and the House, made a mistake when we passed this carryover provision in the first place. We tried to adjust to it. It has been very unworkable. We have postponed the effective date of it once and now the question is do we postpone it or take some other action, such as modification or repeal.

□ 1130

There is a temptation to go to a modification and that is offered with sincerity; but, Mr. Speaker, all the perfume in the law books is not going to make this carryover basis look better, or smell a little bit better.

Every accountant in my district tells me that it is not workable. They do not speak for the rich or the middle class or the poor. They speak for all property owners.

The best thing for us to do is repeal this provision. Doctored up with a little perfume and a little word changing is not going to help it. The best thing to do is just to repeal this thing and start over again.

Mr. CONABLE. Mr. Speaker, I thank the gentleman for his contribution.

Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. Mr. Speaker, I rise in support of the motion by Mr. CONABLE to instruct the House conferees to agree to the Senate amendment to H.R. 3919 repealing the carryover basis rule.

We should support the move by the gentleman from New York and enact repeal of the carryover basis rule at the first opportunity.

When Congress enacted the Tax Reform Act in 1976, the goal of the carryover basis rule was equitable taxation. Unfortunately, it does not work equitably. The current provision has been especially hard on farm widows and family farmers. Because of the rapidly inflating value of farmland, they face excessive capital gains tax burdens.

We have an opportunity today to take an action that will be helpful to our family farms. We should do it and support the gentleman from New York's motion.

Mr. CONABLE. Mr. Speaker, I yield 3 minutes for purposes of debate only to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I rise in support of the preferential motion offered by the gentleman from New York (Mr. CONABLE) to instruct the conferees to agree with the Senate to repeal the cost-basis carryover provisions in our estate tax law.

Some of you may have gotten the idea from listening to previous speakers who are opposed to this motion that some estates are not paying taxes at all or that we are repealing a tax that is now in existence.

I think we ought to know that contrary to an earlier reference all income from estates, is, of course, taxable and that all estates are subject to very high rates of taxation, to a maximum of 20 percent and higher. Moreover, the carryover basis has never been in effect. So if we repeal it, we are really not taking away an existing tax, and we are not giving anyone any advantage which is not available today.

As a matter of fact, everybody knows we made a mistake when we passed this bill. The House recognized it when we deferred the effective date of it. We will have to defer the effective date again if we do not repeal it. It makes far more sense to repeal it now.

The heavy weight of testimony in the Ways and Means Committee showed that this cost basis carryover was administratively unworkable, and that it created an intolerable recordkeeping and paperwork burden.

It would be very nice and tidy for recordkeeping if all estates were composed of listed common stocks. They are not. They are composed of farms, and businesses, and crops in the ground, and antiques, and paintings, and items which are very hard to value.

It would also be nice if we Americans were all perfect recordkeepers. We are not. People lose their records. They have fires. They move their homes. Their lawyers die. Their records are lost. People do not expect to die and recordkeeping is seldom up to date.

Remember too that the carry-forward basis only hurts those estates which have to sell their assets. It does not hurt the very wealthy estates who are liquid enough to hold appreciated assets.

The carry-forward basis is a foot in the door for capital gains taxes at death, which this Congress has never accepted, and which I believe it will not accept.

Most of the probate lawyers in the United States have endorsed the repeal. Lawyers, who stand to gain from administering all this paperwork, would prefer not to have it because they realize that it is counterproductive and represents an unfair burden on the estate and its intended beneficiaries.

Remember, too, that inflation will creep up and destroy the effect of the Fisher-Jones amendment. While it would be restricted now, inflation will soon push those estates exempted temporarily under Fisher-Jones back under the obvious provisions of the carryover basis.

It is also true that inflation makes capital gains taxes not a tax on capital gains at all. With inflation, a capital gains tax is on capital. That, of course, is something that our economy can no longer stand. We are a capital starved economy. We need to make more capital available. We need to provide incentives for capital formation.

A previous speaker spoke of the need to equalize gifts of living and dead people. I submit that those two conditions are quite different. The live person puts his/her affairs in order and makes gifts at times of convenience. The dead person dies with crops in the ground, buildings half built, and records incomplete. Most of us would rather be live taxpayers than dead tax avoiders.

Mr. Speaker, this House has a great opportunity today. One of the speakers opposed to this motion said that this is not the right forum. This is the only forum. A majority of the House has already sponsored repeal. The committee will give the majority no other way to work its will. This is our only chance. I urge every member to vote for repeal of cost-basis carryover.

Mr. CONABLE. Mr. Speaker, I yield 1 minute for purposes of debate only to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I thank my colleague for yielding.

Mr. Speaker, I rise in support of the motion of the gentleman from New York.

We must repeal the mistake that we made in 1976. I did not vote for that act. I was one of seven, because it came to the House in such a confused manner. We created even greater confusion with what we did with that law in trying to delegate to others how to administer that law.

I disagree with my colleague, the gentleman from Virginia. There is no way to modify a bad law. I encourage my colleagues to support the motion of the gentleman from New York.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas (Mr. HAMMERSCHMIDT).

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in strong support of the motion to instruct the House conferees to accept the Senate amendment to the windfall profit tax bill which repeals the carryover basis provision of the income tax law enacted by the Tax Reform Act of 1976.

In fact, in the 95th Congress and the 96th Congress I have sponsored legislation to this effect, since I am convinced of the need to repeal the harsh estate tax carryover basis provision which was approved at the last minute as a part of the Tax Reform Act of 1976. Back then I objected because there was little discussion of this critical amendment and virtually no public hearings.

Congress, through the Revenue Act of 1978, revealed its misgivings about the 1976 legislation by postponing the application of carryover until January 1, 1980. It was stated that time was needed to review the law.

Since that time, many have come to regret the haste in which Congress acted. Over 200 Members of Congress have sponsored legislation to repeal the feature completely. Carryover has proven to be extremely complex and costly, if not impossible, to administer. The burden of both the tax and the cost of compliance falls disproportionately on smaller estates.

Prior to 1976, the capital gains tax on inherited property was assessed against the appreciation from the date inherited to the date disposed. The Tax Reform Act of 1976 increased the tax liability by broadening the basis to include not only the appreciation accrued during the inheritor's ownership but also the gains made during the decedent's possession.

The estate tax reforms of 1976 did not solve all of the problems of passing property to families. Under carryover basis, heirs will be paying more taxes when selling inherited property. Parents who saved all their lives and leave property to their children would be hindred in their objective, since the new rule imposes greater taxes on the inherited property when the child goes to sell it to pay education or health expenses.

Carryover will force heirs to pay heavy income taxes on most inherited property if they sell any of it. If the heirs never sell inherited property they will be able to avoid the income taxes triggered by carryover basis. But the vast majority of farm estates usually have to sell some property to pay costs and taxes, or to divide the estate fairly among heirs. That is why carryover basis will hit even modest estates so hard.

As an example of this confiscatory effect, imagine a married couple that owns a small home, a small farm, personal property, and a truck, all of which total $65,000 in value. At the husband's death, the fair market value for estate tax purposes is determined to be $130,000—there are no estate taxes due. But when the widow a few years later needs to sell the home and farm and move to a retirement home, she finds that she will owe $7,000 in income taxes because of carryover basis. This modest estate that was to be exempt from taxes ends up with nearly $10,000 in taxes due to carryover basis.

A critical impediment to carryover is the often arduous and time-consuming task of providing the basis for each asset. Although a fresh start, as of January 1, 1977 was established, it is necessary to determine the original value in order to prorate the appreciation over the lifetime of the asset. For many estates, however, records do not exist for a great number of the assets subject to carryover. In addition, most people lack the tax sophistication to correctly and economically maintain the necessary records.

Carryover has significantly raised the cost of administering estates. Citibank has estimated that carryover causes a 20- to 30-percent increase in the time required to administer estates. The expense falls disproportionately upon the smaller estates. In a sense, costs mandated by the law are a form of the tax. This cost makes the carryover regressive. Smaller estates with smaller death taxes will pay proportionately more in carryover basis.

The difficulty of estimating carryover is exacerbated by the tentativeness of the tax. Since the carryover is a residue of the Federal and State taxes, the lengthy resolution of these taxes, often a matter of years, will impede the carryover calculation.

The carryover tax places a particularly onerous burden on the farm community. Farms experience roughly three times the liquidity problems of other estates. In addition, farmland values have increased at a rate substantially exceeding the general inflation rate, yet bearing little relation to the real return on farming. Estate taxes may force the sale of certain assets which will then have a mushroom effect, forcing the sale of more assets. In some cases the sale of certain farm assets may very well reduce the efficiency and profitability of the entire farm operation.

Carryover also creates severe proof-of-basis problems for farmers. The ordinary difficulty of determining basis is multiplied several times when dealing with physical plant improvements or livestock. Each animal, for instance, must have its own basis.

The carryover-basis tax hinders economic performance and imposes a significant burden on smaller estates and deserves to be repealed once and for all.

Mr. CONABLE. Mr. Speaker, I yield 3 minutes for purposes of debate only to the gentleman from New York (Mr. KEMP).

Mr. KEMP. Mr. Speaker, I thank my colleague for yielding.

Mr. Speaker, I, too, rise in strong support of the efforts of my colleague, the gentleman from New York, to repeal the carryover basis provision of the 1976 Tax Reform Act. I do so for three reasons:

First, efficiency. I think the point has been well made that the law as it is written is unworkable.

Second, it would provide encouragement to small entrepreneurs, not only businessmen but farmers as well, as they would be able to leave their estates to their families facing the liquidation of those estates.

Third, I think that it would restore an important incentive to our economy. For too long now we have been widening the tax "wedge" between an individual's effort and his or her reward. By chipping away at this wedge we can, I believe, promote savings, investment, production, employment, and noninflationary economic growth.

We have heard the argument this morning that this provision helps only upper income Americans. I think this argument has been effectively demolished by previous speakers. But let me add that I certainly object not only to this punitive tax on capital, but also to our punitive taxes on labor. For I am convinced that just as capital is discouraged by heavy taxation from mobilizing on behalf of greater production, so is labor discouraged from offering itself in the marketplace.

Thus I rise in support, as I have in the past, of lowering the tax rates on all the American people.

Efforts have been made in previous Congresses to reduce the tax rate on both labor and capital. Some of us on this side of the aisle have, indeed, had the supposedly outrageous notion that all the American people are drowning today, that all are being squeezed by a tax code that discourages greater effort and success in production by penalizing higher wages. We will continue to argue that the economy of this country will not get moving again until we reduce this tax burden on our greatest productive asset: the American people.

I would suggest that by voting for this measure today we would take an important step forward toward restoring incentives to the American economy, and an important step back from the shortsighted policies of the recent past. Let us take this opportunity to tell the American people that we support, indeed encourage, their efforts to better their own lives and the lives of their children.

Now, one of the best things that we did in 1978 was lower the tax rate on capital gains. If our former colleague, the gentleman from Wisconsin, were here today—as I very much wish he were—he would surely contribute his deep understanding of how people respond to rewards. Consider the evidence that entrepreneurs have responded to his capital gains amendment. Stanley Pratt, editor of Venture Capital, estimates that private partnership venture capital investments amounted to only about $22.5 million in 1974. No private funds were committed to venture capital enterprises during 1975. In 1976 such investments amounted to only $25.7 million and in 1977 just $20.2 million. In 1978, however, private partnership venture capital investments rose dramatically, to $215 million. The bulk of this increase took place in the fourth quarter, when congressional passage of the capital gains tax was imminent. Many forecasters believe that venture capital investments will reach close to $300 million in 1979—back where they were in 1969, before Congress raised the maximum tax rate on capital gains from 25 to 49 percent.

This measure, like the Steiger amendment, would restore the rewards for small entrepreneurs, small farmers, and small businessmen and women in this country, by allowing them to leave their families a significant portion of the fruits of their productive efforts.

For this reason I strongly support it. I especially appreciate the leadership of my distinguished colleague, the gentleman from New York. And I urge all my colleagues to follow his lead in this matter.

Mr. CONABLE. Mr. Speaker, I thank the gentleman for his contribution.

Mr. Speaker, I yield 2 minutes for purposes of debate only to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Speaker, I want to begin by thanking the gentleman from New York.

I rise in support of the gentleman's motion and I want to say that as we rapidly approach the effective date of the carryover-based provision, it becomes more and more apparent that repeal is absolutely essential.

In my opinion, harmed the most by what I believe is an ill-conceived provision are middle-class farmers and small businessmen. They have modest, but taxable estates, to leave their heirs. While the wealthy can afford the complex recordkeeping and accounting, the new law in my judgment would be a real hardship, particularly on the family farmer.

□ 1140

Proponents of the carryover basis claim that current law keeps property off the market because it is being held until they can avoid the capital gains tax, but I believe that the new law threatens to make matters worse and not better. With the new law, heirs will still have to continue to hold the inherited property to avoid complicated financial filings and large complicated taxes.

Mr. Speaker, let me just say that in my congressional district, in the 13 years I have been here I have watched farmland go from something like $300 an acre up to about $3,000 per acre, and yet the return on investment, the net return of the family farmer, has been minimal. So what I am worried about is that we are going to see these gigantic taxes that will be imposed at the time of a sale on a family farmer, and frankly it seems to me that with that very small return they have enjoyed over the useful lifetime of the asset, it would be a serious mistake not to repeal this provision.

Mr. CONABLE. Mr. Speaker, I yield 4 minutes to the gentleman from Louisiana (Mr. MOORE) for purposes of debate only.

Mr. MOORE. Mr. Speaker, I thank the ranking minority member for yielding this time to me.

Mr. Speaker, I, along with the gentleman from Florida (Mr. GIBBONS), introduced H.R. 2692 in March of this year, which has the exact same repeal language as the Senate amendment adopted to the windfall profit tax bill. Therefore, I very strongly urge that we vote today in favor of the Conable motion to instruct our conferees to retain that Senate amendment.

For two reasons, I urge this upon the Members of this House. First, this tax is onerous. We heard a moment ago that this tax is only going to hit wealthy people with estates of $2.5 million and above.

According to the Ways and Means Committee counsel who advised me, that is not correct. If one has an estate valued at over $425,000, this onerous tax is going to come to bear. I assure the Members that there are not very many small businesses or working farms today in these days of inflated values that are not above that level.

So what we are doing with this tax is forcing small businesses and forcing small farms out of business and to be sold to pay high taxes, which is at odds with our efforts through small business loans and Farm Home Administration loans to help them stay in business.

The second point I want to make is that this tax is administratively unworkable. We have heard that before. On November 13, 1979, in hearings before the Committee on Ways and Means, I questioned witnesses who came before us to testify on this point. The witnesses represented probate counselors and trust officers from around the country who are regularly handling these estates. They indicated that they foresee now a 3-page printed form, single spaced, with some 61 steps for each item in the estate that has to be valued to calculate this tax. And it has to be done each time there is a transfer of that property and each time there is a purchase of additional stock, if that is what it is, to be able to compute what the tax will be.

That is an administrative nightmare. There would be 61 steps, with 3 printed pages for each item, and there may be hundreds of items in that estate. This might have to be done as many as perhaps 50 times if one bought a certain stock 50 different times during the lifetime of a decedent. That is an administrative nightmare.

The Fisher proposal will reduce that a little bit. It might turn a nightmare into a terribly bad dream. It might reduce the steps down as many as 10 steps; it might bring them down to a total of 50. His proposal may be calling for about a 2¼-page printed form, with about 50 steps that has to be done on each item every time that is purchased.

But that is not going to solve the problem, because the problem of an onerous tax and administrative unworkability is still there.

It has been said that due to the grandfather clause, he has satisfied many of these problems. It might make it simple for the first 3 or 4 or 5 or 10 years, because they are not starting an evaluation process earlier than this year, but 10, 20, or 30 years down the road they are right back where they started. They are right back with the same onerous taxes, the many steps and the many faceted problem that this tax presents at the present time.

So the Fisher substitute is nothing more than a little grease to correct a bad problem. It is a little grease on a badly squeaking wheel, but the wheel is still bad and will not work as we go along down the road.

Thirty-eight bar associations across this country have spoken out in resolutions saying that this tax is unworkable and that it cannot be made workable urging its repeal. That is every single State bar association in the country that has addressed this issue. These are the people who have to work with this tax and have to advise their clients.

So, Mr. Speaker, let me say to the Members of the House that this motion ought to be passed. This tax ought to be repealed. It is too onerous in terms of the tax that is going to have to be paid by the little people in this country, the small businessmen and the small farmers, and it is administratively too complex and cannot be made simple.

The SPEAKER. The Chair will advise the gentleman from New York (Mr. CONABLE) that he has 5 minutes remaining.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. HAGEDORN).

● Mr. HAGEDORN. Mr. Speaker, I rise in support of the proposal of my colleague to instruct the House conferees to the windfall profit bill to agree to the Senate proposal to repeal the carryover basis provisions. It is heartening to see this action taken on the floor of the House since the Ways and Means Committee has not reported out any bill containing such a repeal provision. I also commend the Members of the Senate who have attached this type of provision to their version of the windfall profit tax bill.

Shortly after the Tax Reform Act of 1976 was passed, it became evident that the carryover basis provision would be extremely complex and administratively unworkable. Administrators of estates testified that compliance with the provisions caused a tremendous increase in the time required to administer an estate and resulted in raising the cost of administration. In response to the problems that had become evident, the Revenue Act of 1978 temporarily postponed the implementation of the provision, but the Congress must take action before the end of this year to insure the permanent withdrawal of this law.

I supported efforts in the 95th Congress to repeal this provision. I again supported legislative efforts in the 96th Congress, cosponsoring a bill and including such a repeal provision in my comprehensive tax measure designed to protect the family farm, H.R. 4662, the Family Farm Tax Relief Act. Due to the importance of retaining a decedent's rural property in the family and the significant increase in the appreciation of the value of farmland, this repeal is of importance to all landowners.

The Ways and Means Commitee is presently considering another portion of my bill that deals with the taxation of capital gains on the sale of rural property owned by foreign interests. I hope that the committee and the Congress will continue their interest in legislative proposals designed to protect the interests of our farmers. The passage of this motion to instruct will certainly be another step in the right direction—a step that we need to witness in other areas.

Again, I commend the ranking minority member of the Ways and Means Committee for his introduction of this proposal designed to promote our mutual legislation to repeal this carryover basis provision.●

Mr. CONABLE. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina (Mr. FOUNTAIN) for purposes of debate only.

Mr. FOUNTAIN. Mr. Speaker, I wish to associate myself with the remarks of the gentleman from New York (Mr. CONABLE) in asking for repeal of this carryover tax basis rule.

I recall that I had one bad tire on my automobile some time ago. I patched it three times, but it kept going flat, and finally I decided to get a new tire. In that same vein, I think we need to repeal this tax which amounts to a flat tire in our Tax Code. If we want to start over and study a different form of taxation, we can at least try to get something our people might understand.

It has been said that only the rich and affluent favor repeal of this carryover provision. That is not true as far as my section of the country is concerned. For instance, I come from an agricultural area where the per capita income is low, and the farmers and farm organizations in my section are for repeal of this tax.

Mr. Speaker, I strongly support the Conable motion to instruct the House conferees to agree to the Senate amendment repealing the carryover basis rule. In fact in this Congress, I have cosponsored legislation, H.R. 2744, which would accomplish repeal. Last year, I supported the move to delay the effective date of the rule.

Unless the Congress acts responsibly on this matter before the end of the year, many of our people—particularly those in the middle income category—will be saddled with an inequitable tax on inherited property which they can generally ill afford to pay. The carryover basis rule will gobble up much of the value of inherited property in one fell swoop without sufficiently taking into account the effects of inflation on that value.

In these inflationary times, the dollar value of most real estate—the family farm and the family residence, for example—has increased, oftentimes dramatically. The same is true of much valuable personal property such as family heirlooms, jewelry, and silverware.

Mr. Speaker, our farmers will be especially affected adversely and will experience serious hardships if the carryover basis rule is put into effect. Farmers need to preserve the necessary capital to keep the family farm going and suitably equipped with all the machinery needed today for profitable farming. They do not need, nor should they have, an additional, confiscatory tax burden.

In fact, farm land values tend to increase at a much faster rate than other real estate, meaning an even bigger tax load for the agricultural sector of our economy if the carryover basis rule is put into practice next year.

Innumerable administrative problems will also be created by the new law unless we repeal it now. It will be almost impossible to administer fairly and equitably. For example, trying to assess the value of individual pieces of property as of a time certain many years ago is a difficult task, even if it can be discovered exactly when a decedent acquired that piece of property.

In the final analysis, Mr. Speaker, the carryover basis rule should not have been enacted in the first place and should be repealed now. In fact, it was slipped into the conference report on the Tax Reform Act of 1976 and approved by the 94th Congress in its waning hours without adequate consideration.

Ordinarily, I do not like to vote to instruct House conferees because it can serve to tie their hands unnecessarily. However, in this case, the need to repeal the carryover tax right away is so clearly evident that I support the Conable motion. I therefore urge my colleagues to join me in supporting the previous question on the Conable amendment and thereafter to vote for the Conable amendment instructing the Congress to accept the Senate amendment repealing the carryover basis rule. No patchwork can improve this inequitable tax.

Mr. CONABLE. Mr. Speaker, I thank the gentleman from North Carolina (Mr. FOUNTAIN).

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. CLINGER).

Mr. CLINGER. Mr. Speaker, I rise in very strong support of this motion, because the carryover basis has been unworkable and has paralyzed estate planning in this country for 3 years.

As a lawyer who was active in estate planning before assuming my present office, I am convinced that the carryover provision is unworkable because of the enormous difficulties in determining the cost basis for assets held over a long period of time. Moreover, the double taxation aspect concerns me. Assets which are subject to estate tax at date of death values should not also be subject to capital gains tax on the appreciation of those assets from date of acquisition.

Mr. Speaker, I urge support of the motion.

Mr. CONABLE. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, the situation in which we find ourselves is this: I am moving to instruct the conferees to accept the Senate amendment repealing the cost basis carryover provisions. Those Members in this House who oppose the cost basis carryover provisions going into effect as of January 1, 1980—and they are a majority of the House—should vote for the previous question. In other words, the vote is "yea."

Mr. Speaker, I believe this is a fair thing to be doing. It is badly needed in order to settle the law of estate taxation, because this rule has been so complicated and so confusing. The Treasury Department has not issued regulations, and this has been pending now for 3 years, having been in effect briefly and then retroactively having its effective date postponed by the 1978 act.

This is our chance to act. Unless the conferees adopt the Senate amendment, cost basis carryover will go into effect on January 1, 1980. Inflation has done much to dissipate the effect of any increase in the exemptions and exclusions in the revisions of the estate and gift tax law.

The people who are concerned that wealthy people are not going to pay adequate taxes on their estates are ignoring the fact that the estate tax itself reaches a maximum of 70 percent for those who are the weathiest in this country. The rule we are moving against would provide for additional taxation of appreciation in the hands of the heirs of such people, regardless of estate taxes paid.

This unfair rule also ignores the fact that almost every State has a death duty that it levies in addition to the estate taxation levied by the Federal Government.

Those who suffer most under this provision, however, Mr. Speaker, are those with nonliquid assets, the holders of family farms which have appreciated substantially during their lifetimes, and the holders of small businesses that have been built up and have increased in value to the point where the business might have to be sold and the taxation thus pyramided as a result of the cost basis carryover provision and the requirements of the estate tax itself.

I hope my colleagues will put an end to this ill-advised adventure in taxation. The cost basis carryover provision has proved not only unsatisfactory but very unsettling. It is time to stabilize the law. I hope all my colleagues will vote for the previous question, resisting efforts by the gentleman from Virginia and the gentleman from Oklahoma to change the basically unfair provision in some minor way.

Mr. Speaker, I ask for an "aye" vote.

● Mr. MONTGOMERY. Mr. Speaker, the Senate has added to their version of the windfall profit tax bill an amendment that would repeal the carry over basis inheritance tax. I would urge my colleagues to instruct the House conferees for windfall profits to concur with that Senate amendment.

When we added carryover to the complicated tax reform bill in 1976, I do not believe we adequately addressed the implications it would have on family estates, farm, and businesses. Last year the impact was recognized when Congress delayed implementation for 1 year, and now it is time for us to repeal this provision and completely remove the unnecessary burden on beneficiaries of family properties. Time is of the essence, since failure on our part to act before the end of this year will allow carryover to become effective on January 1.

For many Americans increased taxes on inherited properties will make possession of family estates, farms, and businesses impossible. Family wealth that is accumulated and invested in business and property to pass on to future generations could end up instead in the Government till. This would deny many the right to maintain property ties to their past heritage as well as bring us closer to a form of government that engages in a socialistic redistribution of the wealth.

In today's marketplace inflated values of farms and businesses are not indicative of the income generating ability of the property, and I do not feel it is equitable to impose increased capital gains taxes on such properties that have already been subjected to a large inheritance tax. It seems to me that in an attempt to achieve tax equity we are discriminating against a minority group of our population who have provided this Nation with the greatest farm production and small business community in the world.

Mr. Speaker, I believe the stepped up basis rule under which we are now functioning for capital gains taxation on inherited properties that are sold after inheritance is adequate. I do not believe it provides unreasonable access to tax loopholes for the Nation's wealthiest families. Instead of seeking more punitive tax measures I believe we should be seeking ways in which to make it easier for Americans to retain the properties that their families worked hard to put together. I, therefore, urge this body to instruct the House conferees to concur in the Senate's carryover amendment to the windfall profit bill.

Thank you.●

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Mr. CONABLE. Mr. Speaker, I move the previous question on the preferential motion.

PARLIAMENTARY INQUIRY

Mr. JONES of Oklahoma. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. JONES of Oklahoma. Mr. Speaker, on the previous question, is it accurate that the only way the Fisher-Jones of Oklahoma amendment can be considered is to vote down the previous question?

The SPEAKER. The gentleman is correct.

Mr. JONES of Oklahoma. I thank the Chair.

The SPEAKER. The question is on ordering the previous question.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 293, nays 106, not voting 34, as follows:

[Roll No. 741]

YEAS—293

Abdnor
Akaka
Albosta
Ambro
Anderson, Ill.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
AuCoin
Badham
Bafalis
Bailey
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bereuter
Bethune
Bevill
Boggs
Boner
Bouquard
Bowen
Breaux
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Dornan
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fazio
Fenwick
Findley
Fish
Fithian
Flippo
Foley
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gibbons
Gilman
Gingrich
Glickman
Goldwater
Gradison
Gramm
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harkin
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lent
Levitas
Lewis
Livingston
Lloyd
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Mica
Michel
Miller, Ohio
Mineta
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
O'Brien
Panetta
Pashayan
Patten
Paul
Perkins
Petri
Peyser
Pickle
Preyer
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rostenkowski
Roth
Rousselot
Royer
Rudd
Runnels
Russo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Iowa

Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stratton
Stump
Synar
Tauke
Taylor
Thomas
Traxler
Trible
Vander Jagt
Volkmer
Walgren
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zeferetti

NAYS—106

Addabbo
Anderson, Calif.
Atkinson
Baldus
Barnes
Beilenson
Benjamin
Biaggi
Bingham
Blanchard
Boland
Bolling
Bonior
Bonker
Brademas
Brodhead
Brown, Calif.
Burlison
Burton, John
Carr
Chisholm
Clay
Collins, Ill.
Conyers
Corman
Danielson
Dellums
Diggs
Dixon
Dodd
Donnelly
Downey
Drinan
Early
Eckhardt
Edgar
Fascell
Ferraro
Fisher
Florio
Ford, Mich.
Ford, Tenn.
Garcia
Gephardt
Gonzalez
Gore
Gray
Green
Guarini
Harris
Hawkins
Holtzman
Jacobs
Jones, Okla.
Kastenmeier
Kildee
Kostmayer
Lederer
Leland
Lowry
McCormack
McHugh
Maguire
Markey
Matsui
Mavroules
Mikulski
Miller, Calif.
Minish
Mitchell, Md.
Moakley
Moffett
Mottl
Murphy, N.Y.
Nedzi
Oakar
Oberstar
Obey
Ottinger
Patterson
Price
Ratchford
Reuss
Rodino
Rosenthal
Roybal
Sabo
Scheuer
Seiberling
Shannon
Simon
Solarz
Spellman
St Germain
Stark
Stokes
Studds
Thompson
Udall
Vanik
Vento
Waxman
Weaver
Weiss
Wirth
Zablocki

NOT VOTING—34

Alexander
Andrews, N.C.
Andrews, N. Dak.
Aspin
Burton, Phillip
Cheney
Crane, Philip
Dingell
Dougherty
Edwards, Calif.
Erdahl
Flood
Giaimo
Ginn
Goodling
Hanley
Holt
Ichord
Lehman
Loeffler
Murphy, Ill.
Pease
Pepper
Richmond
Sebelius
Swift
Symms
Treen
Ullman
Van Deerlin
Whitten
Wilson, Bob
Wilson, C. H.
Yates

□ 1200

The Clerk announced the following pairs:

Mr. Hanley with Mr. Cheney.

Mr. Richmond with Mr. Dougherty.

Mr. Murphy of Illinois with Philip M. Crane.

Mr. Giaimo with Mr. Andrews of North Dakota.

Mr. Ginn with Mr. Loeffler.

Mr. Alexander with Mrs. Holt.

Mr. Phillip Burton with Mr. Symms.

Mr. Dingell with Mr. Sebelius.

Mr. Edwards of California with Mr. Bob Wilson.

Mr. Pepper with Mr. Swift.

Mr. Yates with Mr. Goodling.

Mr. Charles H. Wilson of California with Mr. Erdahl.

Mr. Ichord with Mr. Pease.

Mr. Van Deerlin with Mr. Aspin.

Mr. Lehman with Mr. Andrews of North Carolina.

Mr. Ullman with Mr. Whitten.

Messrs. GONZALEZ, SIMON, and BURLISON changed their votes from "yea" to "nay."

Messrs. STEED, WOLFF, and STACK changed their votes from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the preferential motion to instruct offered by the gentleman from New York (Mr. CONABLE).

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CONABLE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 326, noes 77, not voting 30, as follows:

[Roll No. 742]

AYES—326

Abdnor
Akaka
Albosta
Ambro
Anderson, Calif.
Anderson, Ill.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Boggs
Boland
Bolling
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Donnelly
Dornan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fazio
Fenwick
Findley
Fish
Fithian
Flippo
Foley
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gradison
Gramm
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harkin
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hutto
Hyde
Ireland
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lent
Levitas
Lewis
Livingston
Lloyd
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mavroules
Mazzoli
Mica
Michel
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Obey
Panetta
Pashayan
Patterson
Paul
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Roth
Rousselot
Royer
Rudd
Runnels
Russo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stockman
Stratton
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Vander Jagt
Volkmer
Walgren
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOES—77

Addabbo
Beilenson
Biaggi
Bingham
Blanchard
Bonior
Brodhead
Brown, Calif.
Carr
Chisholm
Clay
Collins, Ill.
Conyers
Corman
Danielson
Dellums
Dixon
Dodd
Downey
Drinan
Eckhardt
Fascell
Ferraro
Fisher
Florio
Ford, Mich.
Ford, Tenn.
Garcia
Gephardt
Gore
Gray
Green
Guarini
Hawkins
Holtzman
Hughes
Jacobs
Jones, Okla.
Kildee
Leland
Lowry
McHugh
Maguire
Markey
Matsui
Mikulski
Mitchell, Md.
Moffett
Mottl
Nedzi
Nolan
Oakar
Oberstar
Ottinger
Patten
Rangel
Ratchford
Reuss
Rodino
Rosenthal
Rostenkowski
Roybal
Sabo
Scheuer
Seiberling
Shannon
Simon
Solarz
Stark
Stewart
Stokes
Studds
Udall
Vanik
Vento
Weaver
Weiss

NOT VOTING—30

Alexander
Andrews, N.C.
Andrews, N. Dak.
Aspin
Burton, Phillip
Crane, Philip
Dougherty
Edwards, Calif.
Flood
Giaimo
Goodling
Hanley
Holt
Ichord
Johnson, Calif.
Lehman
Loeffler
Murphy, Ill.
Pease
Pepper
Richmond
Sebelius
Symms
Treen
Ullman
Van Deerlin
Waxman
Wilson, Bob
Wilson, C. H.
Yates

□ 1220

The Clerk announced the following pairs:

Mr. Hanley with Mr. Sebelius.

Mr. Giaimo with Mrs. Holt.

Mr. Phillip Burton with Mr. Andrews of North Dakota.

Mr. Edwards of California with Mr. Philip M. Crane.

Mr. Murphy of Illinois with Mr. Loeffler.

Mr. Richmond with Mr. Bob Wilson.

Mr. Charles H. Wilson of California with Mr. Symms.

Mr. Van Deerlin with Mr. Pease.

Mr. Ichord with Mr. Goodling.

Mr. Lehman with Mr. Dougherty.

Mr. Pepper with Mr. Alexander.

Mr. Yates with Mr. Andrews of North Carolina.

Mr. Johnson of California with Mr. Ullman.

Mr. Waxman with Mr. Aspin.

Mr. ROSTENKOWSKI changed his vote from "aye" to "no."

So the preferential motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. The Chair appoints the following conferees: Messrs. Ullman, Rostenkowski, Vanik, Corman, Gibbons, Pickle, Rangel, Cotter, Stark, Jones of Oklahoma, Conable, Duncan of Tennessee, Archer, Vander Jagt, and Moore.

GENERAL LEAVE

Mr. CONABLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include therein extraneous material on the subject of my motion to instruct conferees on the windfall profit tax.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair would like to make the following announcement:

During the dialog between the leadership last week, whether to convene early Tuesday to take up the Chrysler bill was discussed. It is now 12:30, and the leadership does hope that the House can finish the bill. That was part of the dialog, as the Chair recalls it, last week.

That means that if the House has to remain in session until 9 o'clock, 10 o'clock, or 11 o'clock, it will. If the bill prevails, it must be sent to conference and the conference report disposed of by the House by Friday of this week.

So, the Chair would hope that the Members would bear that in mind. The Chair would hate to have to keep the House in session until the wee, early hours of the morning, but the Chair thinks that this is a tremendous obligation the House has at this particular time.

The Chair hopes that a quorum will remain on the floor.

CHRYSLER CORPORATION LOAN GUARANTEE ACT OF 1979

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5860) to authorize loan guarantees to the Chrysler Corp.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania (Mr. Moorhead).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5860, with Mr. Bolling in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Thursday, December 13, 1979, the gentleman from Pennsylvania (Mr. Moorhead) had 14 minutes of general debate remaining, and the gentleman from Ohio (Mr. Stanton) had 15 minutes of general debate remaining.

The Chair recognizes the gentleman from Ohio (Mr. Stanton).

Mr. STANTON. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, ladies and gentleman, as we start consideration here this afternoon on the subject of the Chrysler Loan Guarantee Act of 1979, and as we first finish general debate on this legislating, having 30 minutes saved for today, I think it is interesting to note, Mr. Chairman, that the debate has already had 90 minutes of consideration last Thursday. Of this 90 minutes, 69½ minutes were taken by those who were for the bill, and just 20½ minutes by those who were opposed. I think. Mr. Chairman, this could be accounted for for two reasons.

First, Mr. Chairman, those of us who have taken the position of taking a second look at this legislation are not, and even until this moment, are not sure what bill will be presented here in a few minutes for final consideration before the Committee. We have had, as the Members know, five or six different pieces of legislation, and I think those who might have wanted to ask questions held them off until today, until they have had an opportunity to see what the Committee would bring to them.

Second, Mr. Chairman, I think it is very fair to point out that if one is not from Michigan or enthusiastically for this legislation, then indeed it is a very tough decision that we have here today. Certainly, if one were to base his decision on the short-term remedy over the next couple of years to the aid of the employees and families of Chrysler Corp., then it would be my sincere wish that there be a 100-percent vote for the legislation, especially if we could do it without any expense and cost to the taxpayers. Regrettably, Mr. Chairman, those are not the facts of life as we now know them, and regrettably there is not too much, fundamentally, that we can do about it except to bring to the attention of the Members the facts. On our side of the aisle there are many undecided as to how to vote on the legislation.

I would also—although the Speaker said that we may be here until rather late tonight—I would hope that by the time we vote we would have a very meaningful bill.

☐ 1230

What is at stake, in my opinion, Mr. Chairman, is not just aid to Chrysler Corp. but, fundamentally, what course and what path this country will follow henceforth in years to come in regard to loan guarantee operations and loan guarantees in general, but more specifically in regard to the involvement of the Federal Government in the day-by-day operations of the free enterprise system.

Mr. Chairman, this legislation has been referred to as not historic because of the New York City legislation or the loan guarantee to Lockheed. Let me point out, Mr. Chairman, it is different from the loan guarantee to Lockheed. First of all, it was specific legislation to the degree that the loan guarantee of 1970, which passed this body by a simple vote of 192 to 189, was for a $200 million bank guarantee for 5 years that was so wrapped up, so tight, so that on the part of those who were opposed to it there was never the argument of whether or not the taxpayers would receive the money back.

Second, Mr. Chairman, all of us know the history of New York City, and the sacrifices asked of the city employees and of the union, and of New York State; certainly these sacrifices are not in the legislation that is here before us today.

Lastly, Mr. Chairman, is the question of why we have a problem.

As I say, Mr. Chairman, people like myself and the gentleman from Michigan who may follow me oppose this type of legislation do it very softly and very quietly. It is regrettable in the short run, as I have previously stated, but what we have to take into consideration, Mr. Chairman, is that, first, Chrysler would not be here if it had not been for the subject of bad management. They would agree with that, that we are rewarding a company in which management could have prevented this company from being here before us today.

Second, Mr. Chairman, Secretary Miller pointed out that they are the 10th largest industrial corporation in America in terms of sales. I do not know exactly what this meant because it comes to my mind, Mr. Chairman, that General Electric is the eighth largest. They have some one hundred thousand more employees than the Chrysler Corp. I do not know what we would do to the people who travel from here to Florida on Eastern Airlines.

Look at what their employees did when their company was in trouble. They took a freeze.

Mr. Chairman, let me simply say in conclusion that I would hope that this debate would be meaningful debate because it is, indeed, an historical occasion in which we are to contribute the taxpayers' money to an organization, when we have the type of banker such as Walter Wriston, chairman of Citicorp, who has said that this is a poor risk.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New Jersey (Mr. Minish), a member of the committee.

Mr. MINISH. Mr. Chairman, I rise in support of the Moorhead substitute for H.R. 5680, the Chrysler Corporation Loan Guarantee Act.

This substitute, developed by my Banking Committee colleague, Mr. Moorhead, creates a Chrysler Corp. loan guarantee board and authorizes that board to guarantee up to $1.5 billion in loans to the Chrysler Corp. over the next 4 years. These loan guarantees cannot be issued by the board unless Chrysler receives commitments of $1.83 billion in non-Federal assistance.

The failure of the Chrysler Corp. would have a devastating impact on our national economy, the Federal budget, and hundreds of thousands of our citizens. Providing Chrysler with the $1.5 billion in Federal loan guarantees as in the pending measure would be less expensive to the American taxpayers than permitting Chrysler to go out of business. The Treasury Department has estimated conservatively that the direct impact on the Federal budget of a Chrysler failure would be an increase in the deficit of $2.75 billion in calendar years 1980 and 1981 combined, because of both higher outlays and reduced revenues.

Other experts have estimated that the real impact on the deficit would be closer to $10 billion to $11 billion. In addition, the Pension Benefit Guaranty Corp. would be liable for $1.1 billion of Chrysler's unfunded pension liabilities. Loss in revenue to State and local governments has been estimated at $266 million. Thus, the Federal Government and American taxpayers stand to pay a great deal of money if Chrysler goes bankrupt. If Chrysler returns to profitability, the loan guarantees will not cost the taxpayers anything.

The collapse of the country's 10th largest corporation would be felt throughout the economy. There would be a substantial increase in the national unemployment rate and an appreciable reduction in the gross national product. The Nation's balance of payments would suffer by at least $3 billion a year, since experts estimate that foreign automakers would take at least 25 percent of the market now filled by Chrysler products. Chrysler's failure also would seriously undermine the competitive structure of the Nation's automobile industry—leaving only two major domestic producers.

In addition, the impact of a Chrysler failure would be devastating on individual human lives. The U.S. economy experiences job loss and job gain every day, and it normally can adapt. But a Chrysler failure would create consequences of an entirely different order of magnitude. Over 500,000 people would be affected directly by Chrysler going out of business: The 140,000 persons directly employed by Chrysler, the 150,000 employees of its dealers, and the 250,000 employees of its suppliers.

The substitute before us today differs in three major respects from the legislation reported by the Banking Committee. The major compromises which have been worked out and which I support are as follows:

First. Contribution of the employees: The bill as reported requires total non-Federal assistance for the company of $1.5 billion, with the employees listed as one contributor but with no specific amount. The substitute requires a non-Federal contribution of $1.83 billion, with $400 million of this to come from the employees. The concessions already made by the unions to Chrysler, amounting to an estimated $203 million, will count against the $400 million.

The contributions of others, such as banks, dealers, suppliers, and State and local governments, are spelled out by amounts, but these amounts can be adjusted as long as the total of $1.43 billion from these sources is attained.

Second. Administration: Under the bill as reported the Secretary of the Treasury would be the sole administrator. Under the substitute the program for Chrysler would be administered by a five-person board, with the Secretary of the Treasury as chairman and including the Chairman of the Federal Reserve Board, the Comptroller General, the Secretary of Transportation, and the Secretary of Labor.

Third. Protection of Federal interest: The bill as reported gave the Secretary the right to waive U.S. priority as a creditor if needed to mobilize the package of assistance. The substitute requires full collateral as security behind the federally guaranteed loans and also bars any waiver of the No. 1 U.S. position as a creditor except in two limited cases: Claims by State and local governments and claims of up to $100,000 by suppliers.

Mr. Chairman, I urge prompt approval of this most necessary legislation.

Mr. STANTON. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Michigan (Mr. STOCKMAN).

Mr. STOCKMAN. Mr. Chairman, as I have listened to this historic debate, about the only serious argument I have heard is that we need to be relentlessly pragmatic, fix it up now and worry about the consequences later, preferably after November 1980. Do not bother yourselves with elegant theories about whether or not this is sound public policy. Do not speculate about future precedents. Do not inquire about the equity of legislating job security for 4,000 workers at Chrysler's Mack Avenue plant but not 4,000 workers at the Campbell works, or Bethlehem Lackawanna, the W. T. Grant Co., and the hundreds of others that occur every year.

Do not trouble yourselves with the economic efforts of catapulting Chrysler from the back of the credit line to the front. Do not linger over the irrefutable fact that the banks do not have a rainy day fund set aside to rescue failing firms, and that somebody else is going to be squeezed out of the market—small manufacturers, construction firms, auto dealers, farmers, with reduced production and employment elsewhere. After all, the single-minded purpose is to keep Chrysler's 43 plants operating, regardless of whether or not they are making cars people want to buy, regardless of whether or not that represents an efficient and profitable use of the capital, labor, and materials involved. We could do worse, of course.

We could pirate $2 to $3 billion of the Nation's desperately short capital supply to make buggy whips, mechanical cash registers, vacuum tube radios, or pyramids. That would maintain employment, too, even if no one wanted their product, even if this subtracted from rather than added to real wages levels and national income. But all of that involves too much conceptualizing, too much effort to probe the complex mysteries of our vast $2.5 trillion economy.

What we are told is that the occasion involves meat and potatoes, seat-of-your-pants pragmatism. As one of our colleagues said recently in a different context: "Sometimes free enterprise is too important to be left to the workings of the private marketplace * * *"

So now it is up to Congress to step into the breach with a plan to put Humpty Dumpty back together again.

I am not sure what the plan is as of today, but I do understand that involves something like $2 billion in additional new debt for Chrysler, when it is drowning in debt already. I still do remember Mr. Riccardo with his tax turnabout plan, whereby the Treasury would pay taxes to Chrysler instead of vice versa, and his dogmatic argument that the additional debt, guaranteed or otherwise, was the fastest way to sink the company.

But that was way back in July. In August the new debt all of a sudden became the source of salvation—$1.2 billion worth. By September that had shrunk to only $750 million. By October it was back up to $1.5 billion. By November Chrysler signed a promissory note to pay its employees up to $40,000 a year in total compensation by 1982—some more debt. So in December the Senate Banking Committee slapped on a $1.3 billion, 3-year wage freeze, which thawed or melted down to only $400 million somewhere between the Dirksen Office Building and the House Committee on Rules.

But, for heaven's sake, do not torture yourselves trying to remember all of these plans and numbers, because they are about as permanent as the daily racing forms. Let us just stick to our pragmatic guns and ask one relevant question: Will this plan and $1.5 billion in Federal loan guarantees solve the problem once and for all? Or is it only the first play in an endless saga of more money, revised plans, new conditions, and protracted congressional involvement in managing a quasi-State auto company.

My pragmatic sense tells me it is the latter, because it is apparent to me that a plan which changes every day is incapable of solving a problem that gets visibly worse every day. For a moment anyway I would suggest to the House that we take an unflinching, steely eyed look at the enterprise we are investing taxpayer money in. It is now offering $50 bonuses just to get people off the street into the showroom. It is now selling some 1979 models to dealers at $2,000 below the factory price. This year it will lose $700 on each and every vehicle it sells. During 1978, the second best auto sales year on record, it lost a quarter billion dollars while Ford, GM, and its foreign competitors were making money by the bushel basket.

Since 1973 its cash registers have turned over $65 billion in sales, and yet its cumulative bottom line is a $700 million loss. The problem has been developing for 6 years, not 6 months. Is it any wonder there is not a single institution, a single investor anywhere on the globe with real money to invest or loan that is willing to come forward to the rescue?

☐ 1240

Not the big money centers, banks that are choking on OPEC deposits and who are willing to make high-risk loans everywhere from Zaire to Turkey, but not Highland Park. Not the free-spending Arab investors who even bought Burt Lance's bank, but will not touch Chrysler. Not the bond market, the insurance companies, or the commercial paper market, not the suppliers, dealers, or impacted State and local governments who talk big but will not ante up a dime until Uncle Sam promises to underwrite the risk.

Mr. Chairman, when you look at this record, I am only reminded of the remarks of W. T. Barnum who once said, "There is one born every day." You can count on it.

Apparently the U.S. Congress is the only one left and from a strictly pragmatic point of view I would suggest to the House that is one too many. I urge defeat of the legislation.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. I thank the gentleman for yielding. I had an opportunity to speak last week on this subject. I do support the Moorhead-McKinney substitute. We cannot put people out of work at this time.

Mr. Chairman, I rise in support of Moorhead-McKinney substitute. As Members of this body are well aware, it is essential that the Chrysler Corp. receive some kind of economic relief from its present moribund state. The Congress has a responsibility to foster and promote the interests of our domestic enterprises, and the proposed legislation would facilitate the maintenance of high levels of American prosperity and productivity.

I would betray my convictions, however, if I did not express serious misgivings about the principle of such a move. I am gravely concerned about the precedent set by the bailing out of Chrysler. A blanket loan guarantee without the consideration of future private sector loan requests smacks of fiscal and political irresponsibility. The Chrysler problem is not terribly exceptional; it is symptomatic of a larger economic malaise.

We must not bail out Chrysler as though its failure is an aberration. We must treat the disease, not the manifestation. If we do not act properly now in the method of dispensing this assistance, then other domestic industries are sure to follow. The problems associated with the Chrysler debacle are generic to a number of maturing industries in the United States which may have reached a temporary plateau. We must take this into account when evaluating the corporation's current woes.

But we also must distinguish this trend in American industry from poor business acumen and a general reluctance to rely upon innovation. We in Congress must not get into the habit of implicitly condoning the practice of bad management by subsidizing its perpetuation. This is only one of my reservations in the legislative proposal which we are addressing today.

Chrysler has advanced the claim that excessive Government regulation falls disproportionately on the smaller competitors. They purport that a relaxation of these Federal constraints will ameliorate their current financial difficulties. Chrysler points the finger at the mileage and safety impositions imposed by the Environmental Protection Agency. They assert that the cost of these impositions weighs more heavily upon them than upon their competitors because their share of the market is considerably smaller. All this may be true. But these assertions ignore the obvious market trends prevalent in the auto industry since the 1974 oil embargo. The mileage restrictions imposed upon auto manufacturers are almost superfluous since the American buyer is demanding mileage which is greater than the specifications imposed by the Federal Government. Thus, Chrysler would be required to meet the standards merely in order to maintain an adequate share of the market.

Moreover, the antiregulation argument advanced by Chrysler does not promote the contention that their financial posture would improve without Federal mandates. As former Secretary of Transportation Brock Adams noted in the September 9 edition of the Washington Post:

> Without the mileage restrictions imposed by the EPA, Chrysler would have even less of the auto market than it presently enjoys.

I, therefore, say to my colleagues that we must use the Chrysler example to inject into the private sector a larger sense of social responsibility to controlled corporate growth. Chrysler has griped and grumbled about the extent of the Federal regulation imposed upon them. They maintain that their larger competitors are better able to absorb the cost of the EPA guidelines. They would like a hands-off attitude, with fewer Federal mandates. I wonder then about the sincerity of this argument which seeks aid from the hand it is attempting to bite.

I would abhor any suggestion that America be turned into a vast welfare state with the Federal Government as the sole arbiter of our Nation's destiny. The large corporations have vociferously opposed this kind of tentacular bureaucracy. Yet, bailing out Chrysler without due consideration to the consequences would implicitly legitimize the kind of welfare system which free competition advocates have historically opposed. The only difference would be that the corporation is the recipient instead of the poor and the disenfranchised.

However, despite all of these reservations, I would urge this body to approve H.R. 5860. We are all aware of what impact the demise of the Nation's third largest auto manufacturer would have upon the economy. Opponents of this legislation may assert that the automobile industry is accustomed to feeling the roller-coaster effects of sales slumps and oil price hikes. Yet it must be emphasized that the Chrysler effect would be immediate and permanent, perhaps destroying forever the substantial production base in many cities.

The failure to assist Chrysler would precipitate enormous problems in the minority communities of all industrial areas. After much ill feeling and bloodshed within the past decade and a half, the ugly scars of social unrest have begun to heal. If one of our Nation's major employers would fail to provide employment opportunities, the faith and dreams built upon the industrial base those cities would be hopelessly frustrated. It is difficult to say what manifestations those frustrations may take.

I ask my colleagues to join me in supporting this vital piece of legislation.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I now yield 3 minutes to the distinguished chairman of the Committee on Appropriations, the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Chairman, each day we read of more and more American companies building all their expansion plants abroad. Domestic production goes down mainly because of undue regulation at a time when we need all-out production.

Our money is held by others around the world. The way to get those dollars back is through more production, yet by Government regulations we are strangling American business, the American farmer and, yes, costing our consumers more and more because the dollar gets cheaper.

I have become convinced that if this major corporation should go under, it might well be the start for hundreds and then thousands, all the way down to the small businessman to go under. Many are overextended, greatly overextended, and operate at the mercy of Government departments and agencies.

Before us is a holding action—mostly guarantees—while the company gets its house in order it is to be hoped that unnecessary restrictions on American production will be relaxed. For clearly more and more of our industry is moving out. Our research and development is being retarded. We must not become No. 2 in world commerce.

Mr. Chairman, anyone who remembers the effects of the crash of the early thirties or who has read about it, is bound to agree that we should do everything possible to prevent a repetition of such a disaster—and it could happen. Surely, we must do everything to prevent it.

When I became chairman of the Appropriations Committee in January of this year, a study showed that the dollar had lost 50 percent of its value since 1967. Fifty-eight percent of the laws on our statute books have built-in escalating clauses—that is, they provide increased inflation to offset inflation—which of course adds to the rate of inflation.

Though our Committee on Appropriations has recommended and Congress has backed us in holding appropriations below the budget for 35 years, through the use of entitlements—by bypassing the annual review and appropriations process—we consistently exceed the budget and increase inflation.

Today, in addition to a debt in excess of $800 billion we have outstanding obligations or guarantees in excess of $500 billion. Many of these are in housing, in farm loans, and many other areas.

I pointed these matters out to members of the Committee on the Budget—for we need all the help we can get to balance the budget, to level off.

Mr. Chairman, I am convinced the best we can do to control inflation is to level off. Of course we must hold down spending, but we must keep income up: You cannot pay back a cheap dollar you borrowed with a hard to get dollar.

I realize the Chrysler problems we are facing today is a symbol of what I believe is happening throughout our economy. While a loan guarantee will obviously help Chrysler and hopefully stave off its bankruptcy it will also give us time to strike down some of the underlying problems which Chrysler and other segments of American industry face as a result of the action of our own country.

I realize to meet the problems now in sight, we need to create a Reconstruction Finance Corporation type of Government corporation. We should establish a new corporation in tune with our current needs and economic situation, built upon our solid foundation of experience with the Reconstruction Finance Corporation.

Over the years in Congress, my experience with Government operations like the FDIC, the Export-Import Bank, the old Homeowners Loan Corporation, Farmers Home Administration, Small Business Administration, and my legal experience with the old Reconstruction Finance Corporation have all led me to believe that a new Reconstruction Finance Corporation approach to modern business problems is essential. I introduced such a bill on the 15th day of November, H.R. 5920.

I recognize, however, that this approach, while necessary in the long-term, would in no way meet Chrysler's immediate needs. Besides the time involved in the legislative process for creating such a corporation, it would also take some time to assemble the kind of expert staff that would be required.

Mr. Chairman, I am glad to note the provision which calls for action by the Appropriations Committee before loan guarantees are made. Such a requirement is essential, if we are to obtain any control over the $500 billion plus that the Government now has outstanding in loan guarantees and should prove beneficial to both the Government and Chrysler in working out of its problems.

And I would assure my colleagues that the Appropriations Committee will move promptly to consider this matter, although the approaching holidays pose a serious problem in this regard.

Mr. Chairman, I had earlier contemplated an amendment to the legislation before us which would have required the Secretary of the Treasury to determine on or before March 31 if existing laws or regulations of the Federal, State, or local governments have contributed to the present financial plight of Chrysler and recommend to the Congress what changes are deemed essential for Chrysler's final and permanent recovery.

I believe now the objectives of such an amendment can be perhaps best pursued by the committee and the Congress otherwise.

As I stated earlier Government policies and regulations have caused us to increase imports and decrease exports, have increased inflation, and caused the value of the dollar to be cut in half over the last 10 years. We have taken the gold and silver from our currency, and in general made it more and more difficult for American businesses to compete abroad and even at home with foreign businesses.

There are numerous rules and regulations of the Government which have contributed to this.

In general the policies of all levels of government have not been conducive to business expansion. There has been no positive stimulus from the Government toward American business. At times it has even appeared that the Government seemed to be making competitors out of our former customers. Can you imagine our Nation turning over the automobile industry to foreign competitors by regulations of our own making?

Government regulations of all kinds have diverted capital needed for product innovation and research to nonproductivity areas and undoubtedly the national tax policy has not been promoting business expansion in recent years.

Of course, not all the blame can be laid at the Government's doorstep for there have been many excesses by industry and otherwise—but I do believe we should attempt to hold the line while we get these problems worked out.

Mr. Chairman, I came through the period of trying to come back from the last depression—such a breakdown in our economy that it took many years to recover. We must not risk such a breakdown. Our Nation cannot afford to go through such a period again.

I say the danger is so great that we must risk increasing our outstanding guarantees or obligation from the present $500 billion by less than one-half of 1 percent as long as it offers hope.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. AuCoin).

Mr. AuCOIN. Mr. Chairman, it is with some degree of regret that I stand before the committee, at odds with the distinguished gentleman from Pennsylvania the chairman of the subcommittee, but I must do so.

In considering the legislation that we are about to amend, I hope every one of my colleagues understands that we are not dealing with a fleeting issue. This is not a one-time thing. What we are dealing with here is a watershed issue. Because if we should pass this legislation, we will be creating a precedent that is clear and strong and irresistible. The precedent is simply this: Unlike the case of Lockheed where there was a thin veil of national security involved, and unlike the case of New York City in which general revenues from another unit of government could be depended upon for repayment, in this case we are dealing with a consumer-products company, a company whose goods and products have been rejected in the marketplace by the American consumer. If we take the step of offering a credit allocation, loan-guarantee form of assistance to such a company, then how can this Congress ever resist any other consumer-products company at any time, coming before us and making a similar claim? How can we discriminate?

I say to my colleagues we cannot.

Mr. STANTON. Mr. Chairman, I yield 2 additional minutes to the gentleman from Oregon.

Mr. AuCOIN. Mr. Chairman, the problem is this: First, we are distorting one of the two principles that have powered our economic system from the beginning. Those two principles are: The opportunity for profit and the risk of loss. Both are equally important. What we are doing here is insulating a consumer-products company from the risk of loss. What does that mean? Lazy management decisions in the future on the part of Chrysler and all other corporations who think they can come to Congress as the banker of last resort. Leniency on the part of corporate managers in making sound, tough, practical business judgments. The result will be less efficiency, less careful thought on the part of corporate managers and lower national productivity. That in turn will mean a continuing drag on the economy at the very time we need to be producing greater efficiency and greater productivity.

Mr. Chairman, if you carry this logic to its extreme, the Federal Government would be expending billions of dollars propping up firms that are producing products that consumers do not want. If this thinking had carried the day in the past, the Federal Treasury would today be propping up the manufacturers of buggy whips and washboards.

Mr. Chairman, if this bill should be passed, the economic system will never, ever be the same again. This Congress will find itself hard pressed to ever resist repeating the precedent that is being created here.

I ask my colleagues to consider these points and then reject the legislation.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. Stark).

Mr. STARK. I thank the gentleman for yielding to me.

As the gentleman knows, I oppose the bill. I intend to offer some amendments which I think, if it does pass, will make it more equitable, particularly to the laboring men and women of this country. While so many seem to think this bill is a panacea to the unemployment it is really a result of inept management and indifferent attitudes by that management toward the American consumer and the American energy crisis.

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I happen to have had some experience as a banker before I came to this Congress. I suggest that no banker in his right mind would invest money in Chrysler at this point.

The real question now is that of Chrysler coming in and asking for bridge financing before they have a definitive commitment from the banks. The House version of this bill just asks for "assurances" while the Senate version asks for a definitive commitment. I say that there is not a bank today that would offer a letter of credit, that would not discharge its chief loan officer if they offered a letter of credit with Chrysler finances in the kind of situation they are in, even with this guarantee.

There is a far greater point.

What about all the other companies that are in line and will be coming to us next week and next month for the same kind of help?

I would much rather be here today debating what is in the national interest for our enterprise, for our exports, for our working men and women. What ought to be the broad parameters of a government enterprise partnership to lead this country to the economic greatness it once knew? That is what we ought to be debating. Then if Chrysler fits within that definition, let us help them; but let us not react, let us not just wait for the next person going broke to come in and beg. Let us look ahead and plan our own destiny for the economic future of this country.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Hawaii (Mr. HEFTEL).

Mr. HEFTEL. Mr. Chairman, it has been suggested that some great precedent will be established that is derogatory to the best interests of this Nation if we decide in whatever form to assist the Chrysler Corp.

I would hope that the precedent would be one of a different kind, one that would finally let us tell the people of the world and this Nation that no longer are we going to make business and Government two antagonists, that we are not going to ask American business to compete in the world against business which competes with the strengths of its own business and the Government it represents in unison.

The time has come to understand that if America is going to compete in the world, in business and commerce, it must have business working in cooperation with Government. It cannot ignore the status of business, when Government passes laws, regulations, establishes tax policies and does a number of other things which may or may not be destructive to competitive business in America and in our world markets.

Yes, there is a precedent to be established, one which states that we must learn to operate Government in concert with business, not in competition with it.

I would hope that this legislation, in a fair and equitable forum, would, in fact, pass.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. SHARP).

Mr. SHARP. Mr. Chairman, I thank the gentleman for yielding. Mr. Chairman, I believe it is essential that the House and Senate enact promptly the Chrysler Corp. assistance bill now before us. I urge my colleagues to support the Moorhead-McKinney substitute.

The debate on the merits of Government action to assist the company should focus on the consequences of our decisions. We should be discussing not only the risks and merits of providing assistance, but also the profound consequences of our not approving the assistance legislation.

There are risks to be weighed in providing a loan guarantee and all of us represent taxpayers who should be fully aware that we are not guaranteeing that the company will not go into bankruptcy. By our not providing assistance, however, we are guaranteeing that the company would not survive and that taxpayers would have to provide billions of dollars for food stamps, welfare and job training program benefits. Estimates of total costs in the event the company fails vary widely, with the Department of the Treasury conservatively estimating a $2.75 billion increase in next year's deficit. The only responsible decision we can make is to provide a $1.5 billion loan guarantee, and to make the effort to avoid the much greater outlay of tax money which is inevitable if the company fails.

Loan guarantees by the Federal Government are common and benefit millions of Americans. VA, HUD, and Farmers Home Administration loans have built millions of homes and many water systems in our communities. In Indiana alone, there have been over $2.6 billion in VA guaranteed home mortgages. Hundreds of thousands of students have been able to receive a college education because of federally guaranteed education loans. Thousands of businesses in our communities flourish as a result of billions of dollars in Small Business Administration development loans. The 1980 Federal budget shows there is currently $10.4 billion in outstanding SBA loan guarantees.

The goal of keeping an estimated 500,000 Americans working is no less important a goal. We have helped other corporations through special legislation in the past, such as the $22 million cash rebate provided American Motors in 1967 as well as the specific waiver of various Government regulations given AMC since that time. The Lockheed loan is a clear precedent of the principle of providing corporations in financial difficulty with loan guarantees. These loans were successful and a good investment for taxpayers.

It is important to look beyond the notion of aiding a giant industrial corporation and to recognize we are aiding communities and thousands of small businesses which will be affected. I represent a community which would be one of the most seriously affected by a collapse of Chrysler: New Castle, Ind. Chrysler has been the major employer in the community since it began operations there in 1925. Of the 23,000 people in the community, more than 10,400 are either Chrysler employees or their dependents. Many others hold jobs in smaller companies supplying Chrysler. Thousands of unemployed workers in a single community is a situation far different than turning empty gas stations into pizza parlors, as one of our colleagues suggests is how the free enterprise system should solve economic dislocation.

Across Indiana, there will be between 32,000 and 41,000 fewer jobs if the company ends operations. Over $410 million in wages will be lost. State and local government tax revenue will shrink and public assistance payments will swell. New Castle is not the only community in Indiana nor is Indiana the only State in the country to be severely affected

Thousands of employees working for the 17,000 suppliers of the company would also be affected. Most of those suppliers are small businesses. In the 10th district, there are 154 Chrysler suppliers providing $51.0 billion in goods and services to the company.

We are no longer living in a world in which we can afford to rely on 18th-century economics for solutions to our problems. Ours is a vast, complex and interdependent industrialized economy and society. The consequences of a Chrysler collapse would be far-reaching. There would be: $1.5 billion in unemployment compensation payments; 1.1 million family members turning to welfare assistance; $500 million less collected in income taxes as well as less collected in direct property, corporate and sales taxes; increases in interest rates in financial markets and fewer housing starts; $1.1 billion in Government guaranteed pension benefits; a $4.0 billion drop in the gross national product in 1980 and a $6.0 billion drop in 1981; reduced competition in the domestic automobile manufacturing industry; hundreds of thousands of fuel-efficient cars imported instead of made by Americans; an increase by $1.5 billion in the balance-of-payments deficit with further damage to the American dollar abroad.

In dollars and cents, we simply cannot afford to withhold assistance and permit Chrysler to fail.

Mr. STANTON. Mr. Chairman, I yield my final one-half minute to the distinguished gentleman from Connecticut (Mr. MCKINNEY).

Mr. McKINNEY. Mr. Chairman, we are going to hear a great deal today, as we did from the gentleman from California, as to the problems and the malaise and the regulations that have brought Chrysler to its knees. That is the problem; but Chrysler has to be taken care of today. Congress, this body, sitting right here, we are responsible for all these things that have brought Chrysler to its knees.

I hope that the Members who express those theories and those problems, while we are watching Chrysler sink, will certainly help solve them in the next session. That they will remember that Congress can change the regulatory climate, that Congress can change the investment climate, and that Chrysler's problem is only a symptom of a national disease.

If most House Members feel as though they have had a crash course in the automotive industry over these past few weeks, then BILL MOORHEAD, JIM BLANCHARD, and I qualify for our master's degree. Since early August I have had the opportunity to learn more about automobile engineering, automotive industry economics and demographics and other related topics than I ever wanted to know.

I did not feel totally uninformed when this issue was first discussed as a possible issue for the Economic Stabilization Subcommittee. Before coming to Congress most of my business experience came from automotive-related endeavors. I spent a good part of 1975 and 1976 as a member of the House Automobile Task Force investigating many of the problems which are directly related to Chrysler's request for Federal loan guarantee assistance. In all honesty I can say to my colleagues that initially I was opposed to any Federal assistance to Chrysler on philosophical grounds.

Today I still have some reservations about supporting this type of legislation, but I feel this assistance is more beneficial to the welfare of the American people than would be the failure of the Chrysler Corp. A great many of our constituents have formed an opinion on this issue without full knowledge of the impact that our inaction would have. In numerous cases this awareness has been gained only after the question has been brought to them on a personal basis.

There are 19,000 companies which are suppliers to the Chrysler Corp.—the vast majority of which are small businesses. The $8 billion of business volume that they do with Chrysler may be a small part of our GNP but for many of those companies it may represent the difference between success and failure and for their employees, the difference between a job or welfare. We can also imagine the impact on the dealers if they are forced to go out of business and, on another level, the impact on thousands of local banks which have made business loans to these dealers and suppliers. These loans are not made to Chrysler; they are not secured by a plant in Detroit. The bank's security is the showroom and service equipment on Main Street. The members of the Banking Committee are very concerned about the high cost of housing in this country and the severe shortage of mortgage money for homebuyers. In my opinion the problems these thousands of dealers and many thousands of Chrysler suppliers would have in paying off their business loans would further exacerbate the problems local banks are having in this period of unusually high interest rates and capital shortages.

In the Banking Committee report on H.R. 5860, I inserted additional views that were endorsed also by my two Republican colleagues who joined me in voting for the bill, Chalmers Wylie and Tom Evans. Those views stated in some detail the depths of the study made by the Banking Committee into the nature of Chrysler's financial problems and also the efforts that were made to find some alternative form of assistance from the private sector. My conclusion is that there is no logical or reasonable alternative to a Federal loan guarantee. For the benefit of those Members who have not seen the report I shall repeat those views:

> The decision to support this legislation was made after many hours of deliberation. There is a natural reluctance to interject the Federal government into the affairs of the business community to any greater extent than it is involved already. Philosophically speaking, the granting of Federal assistance to a specific company is abhorrent as the rejection of a basic element of the free enterprise system. But looking at this situation from a theoretical perspective ignores the realities that are involved and it was these realities that convinced us that there is a need for Congress to act.
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> The bill reported by the Committee is not perfect. We have reservations about the effectiveness of some elements of the Administration's proposal and there is much that needs to be done by the other participants to the financial plan to demonstrate an actual sacrifice. If the U.S. government is going to put taxpayers money at risk to help the Chrysler Corporation, there must be evidence that all of the other parties with an economic interest in a healthy Chrysler have made a total commitment to the success of this plan prior to our involvement.
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> The basic problem facing Chrysler is the inability to generate, internally or from outside private sources, sufficient operating capital to complete a program to downsize its fleet and put small, fuel-efficient lines of cars into production. The difficulty in raising this capital can be attributed to three primary causes: changes in consumer auto buying patterns caused by OPEC actions, poor management decisions made 5–6 years ago and the heavy cost burden of meeting government regulations. Any one, or all, of these problems could probably be handled by Chrysler without government help over a normal period of time. but that time is not available.
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> Chrysler's management in the early 1970's failed to recognize the long-term impact of the OPEC embargo. When the company's program to meet federal fuel efficiency and emission standards was launched belatedly a major portion of the funding for the development and production of these new models was expected to come from sales of Chrysler's larger cars and its truck and van lines. Higher world oil prices, the Iranian situation and the domestic recession combined earlier this year to cause an abrupt and radical change in America's car-buying habits. Big cars could not be given away and small cars brought premium prices.
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> This change in trends, which appears to be long-term in nature, will be a major reason why Chrysler expects to lose approximately $1 billion this year. In addition, the company's share of the auto market which has been above 12 percent in eight of the last 10 years has slipped below 10 percent at this time. Throughout the auto industry the only positive note is the strong demand for subcompact and compact cars.
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> The domestic producers are dependent on imported small models, such as GM's Opel, Ford's Fiesta, and Chrysler's Champ or Colt. These cars are made in Japan or Germany; they have a six month waiting list for delivery; and, they contribute liftle to our economy. The irony of the situation is that Chrysler has the brightest outlook among the Big 3 for the production of the type of compact car best suited for the American market in the 1980's. GM's production capability for its "x-body" cars is at its limit. Additional capacity is not available in less than two years and then only with a huge capital investment that GM does not intend to make. Ford will introduce subcompact models by 1981, but it does not intend to break into the compact market until 1985. Chrysler, however, can produce domestically 500,000 units of 4-cylinder front wheel drive, fuel efficient compact cars by 1981 and upwards of 800,000 units by 1982. This production can be achieved only if Chrysler can continue to pay for retooling and other production changes that have progressed to within a year of actual production of these models. If Chrysler is unable to obtain the necessary funding, the only source capable of meeting that demand would be imports and it is estimated this would increase the balance of payments deficit by $3 billion by 1982.
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> The logical question to ask at this point is why won't Chrysler's creditors advance the necessary capital? Given the "Catch-22" nature of this situation, the logical answer is that the risk is too great. Banks loans to Chrysler have been classified by federal regulators, which limits the ability of the banks to extend further credit to the company. Also, the loan officer passing judgment on Chrysler is concerned about his bank's stockholder liability and not about any of the non-business considerations that have to be weighed by the Members of Congress.
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> Another source of capital would be the possibility of a merger or takeover. Chrysler does not represent an attractive opportunity to foreign car manufacturers for a variety of reasons. Perhaps the most fundamental is the cost of manufacturing an automobile. In most foreign countries the manufacturer is subsidized by his government, labor costs are much lower and there is no need to meet the stringent federal regulations imposed in this country. With only a few exceptions there are no large cars, as Americans know them, being produced so there is no problem adapting to size preferences. If a foreign manufacturer were to acquire Chrysler, it would be competing with itself rather than improving its market.
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> There are other considerations for foreign manufacturers to avoid offering financial help. Volkswagen currently sells 300,000 4-cylinder engines to Chrysler. These engines are desperately needed by VW and it would willingly terminate its contract with Chrysler. The German manufacturer would gladly put those engines into VW Rabbits which it could sell more profitably to Americans. In Japan, Mitsubishi which manufactures most of the subcompact and compact cars imported by the Chrysler Corporation is eager to develop its own distribution system in this country, but not if it involves the acquisition of Chrysler's manufacturing and assembly facilities.
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> Domestically the prospect of merger is presently non-existent. Antitrust considerations preclude either GM or Ford from talking to Chrysler and no other company is interested in investing in the problems of the automobile industry.
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> The conclusion, then, was that conventional sources of capital were not available to Chrysler. Since the issue facing Congress could be defined as should the Federal government extend assistance to this private corporation and what form and size should that assistance take, it was necessary to examine fully the options available and to weigh the implications of offering that aid.
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> Our study of these options began with the assumption that no Federal loans or guarantees would be given to Chrysler. A number of analyses of Chrysler's financial condition have been made—some of three months duration and at least one for more than two years. The analysts have all concluded that without a massive infusion of capital, Chrysler is faced with bankruptcy, most likely within three months. What impact that action would have on Chrysler's future, its employees and the communities and regions where the plants are located has been the subject of some dispute. In our opinion, there is no "best case" solution if Chrysler files for bankruptcy protection. There will only be varying degrees of "worst case" scenarios.
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> First, we should look at what bankruptcy or reorganization under the law offers in the Chrysler framework. There have been large companies that have filed for bankruptcy and have undergone liquidation or in some cases they have survived after court-supervised reorganization. The major differences in this instance are that there has never been a similar case where the entity was a manufacturer of a major product as well as the national distributor of that product. When W. T. Grant or Food Fair Stores or Robert Hall were forced to close their doors, there were other chains willing and able to sell the products they had carried. The circumstances are not quite the same in the automobile industry.
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> Perhaps the most unique factor to be considered is the importance of consumer confidence to such a corporation. Among the forty witnesses who came before the Committee during the nine days of hearings were representatives of Chrysler's dealers and a panel of bankruptcy experts. The dealers placed special emphasis on the psychologically devastating impact that bankruptcy would have on their business. It was estimated that 80% of the 4700 Chrysler dealers

would be forced to close their doors within two weeks of a bankruptcy petition being filed. These dealers did not expect that they would reopen the next month selling Ford or GM cars or a new import line: those franchises have already been taken. Their employees would not be absorbed in any volume by other dealers and the vast majority of the 150,000 employees of Chrysler dealerships would add to the increasing number of unemployed Americans.

The dealers also expressed to us the opinion that bankruptcy would be self-defeating since the Chrysler dealerships would not be there to service the millions of cars already on the road. Some might argue that reorganization differs from bankruptcy but the dealers argued very strongly that the man in the street does not understand the difference. If the media say the company is going to court, their sales will disappear, their bank credit will dry up and if under reorganization the court were to order the disposition of Chrysler Financial Corporation, the last source of funding for car inventories will be gone.

The outlook for suppliers to Chrysler is likewise bleak under either bankruptcy or reorganization. Last year approximately 17,000 companies, mostly small businesses, did $8 billion in orders with Chrysler. Since the auto maker has been much more dependent on outside sources for its parts and components, there would be very little shifting of this business for Chrysler to any other car manufacturer. It is likely that thousands of jobs would be lost and many of these companies would be forced to declare bankruptcy themselves.

The third area of impact to consider concerns the Chrysler Corporation itself. Bankruptcy (without Federal aid) would bring the company's production to a halt since credit lines would cease to be available. The greatest effect of this shutdown would be regional. Chrysler has facilities in seven states but the impact would reach far beyond the midwest. Although there are only 4,500 Chrysler employees in Delaware, for example, the impact on that state's economy could have a devastating impact. One analysis estimates that unemployment compensation, lost wages and lost purchasing power would cost the state economy almost one billion dollars. In metropolitan Detroit Chrysler employs 74,000 people and pays them nearly $2.4 billion annually in direct and indirect wages. The loss of this income flowing through Detroit's economy would bring the city to its knees and similarly severe repercussions would be seen in many other cities. Several states would be in dangerous financial straits from lost tax revenues and unexpectedly large demands on their unemployment compensation funds.

Much has been said about the use of "worst case" statistics to generate support for Chrysler. That may have been a valid objection if some reasonable assurance could be given that the risk of the "worst case" scenario developing was not so great. We have studied all of the information that has been made available to the Banking Committee. After listening to the many witnesses testify about the technical problems of the automobile industry and its suppiers and dealers; about the economic and social impact on cities and states around the country, and; about the practical and psychological impact of the bankruptcy laws, there is a need for Federal assistance to the Chrysler Corporation.

When Congress revised the bankruptcy laws, three areas were delineated which were considered necessary for development if a debtor were to succeed in its efforts toward reorganization. These were, first, the ability to attract and to hold skilled management; second, the ability to obtain credit; and, third, the corporation's ability to project to the public an image of vitality. In our opinion, Chrysler is engaged in an out-of-court reorganization that with governmental assistance has a much more realistic chance of success. In reaching this decision we agree with Benjamin Weintraub, a bankruptcy law expert, who testified before the Committee:

"Paradoxically, if this out-of-court plan fails because many of the assumptions are not realized, there is always the alternative of Chapter 11.

"However, if a Chapter 11 petition is filed, it will never be known what would have happened if the loan guarantee request had been granted."

After the decision to extend Federal assistance was made it was necessary to determine how much was needed and how it should be delivered. As we stated earlier, immediate action is necessary to prevent Chrysler's financial collapse. This factor limits the type of aid that can be given which can be truly effective to loan guarantees or direct loans. Some combination that would involve revision of regulatory standards and tax depreciation schedules could be arranged, but there would be no immediate impact to meet the immediate cash flow problem, so that was rejected.

Also, the difficulties caused by the heavy costs of the Federal regulatory burden and outdated tax laws are not peculiar to Chrysler. All major industries in this country are faced with the same prospects as Chrysler unless Congress acts on these issues. We urge our colleagues to look at the Chrysler situation and to resolve that this exercise will not be repeated. An initiative such as the "10–5–3" depreciation proposal will do much more to stimulate capital formation than massive loan guarantee programs and regulatory burdens can be eased without losing our direction.

Although there are precedents for direct loans and loan guarantees, any use of a direct Federal loan to Chrysler was precluded by a Minority amendment which we supported. The Administration requested a loan guarantee and has structured its plan requirements around that approach. Also, we do not think that the Federal Government should obtain an equity participation in Chrysler as a result of extending financial assistance. Rather than seeking a means of additional corporate involvement, we should try to remove the government from Chrysler's affairs as soon as the company is financially stable.

Early in our hearings we expressed concern that the plan being discussed by Chrysler and the Treasury Department did not call for sufficient capital to insure viability. The $1.5 billion figure authorized in H.R. 5860 which must be matched with $1.5 billion in commitments from the private sector is a much more realistic figure.

No one can predict what the future holds and we cannot guarantee that this plan will restore Chrysler to profitability. We can say with assurance that there is a much greater probability that the rescue plan will succeed at this funding level and that there is much less risk of taxpayers' money being lost under these circumstances. Also, we can say with certainty that the U.S. Government and the American taxpayers will lose billions of dollars in welfare, unemployment compensation and lost taxes if we do not help Chrysler.

It must be stressed that aid to Chrysler is not going to come only from the Federal Government. In his testimony before the Committee, Treasury Secretary Miller spelled out a number of conditions which must be satisfied before a loan would be guaranteed. He also made reference to the Department's experience in similar financing programs. In that regard we would like to refresh his memory and add a reminder.

This Committee has had much experience with loan guarantee programs, such as the Emergency Loan Guarantee Act specifically tailored for Lockheed and the New York City Loan Guarantee Act. In addition, numerous hearings have been held on loan guarantees and how to structure them. Conditions attached to the guarantees, we realize, are unique to each situation. In the case of the Chrysler legislation the Banking Committee has tried to permit the Secretary of the Treasury to have some flexibility in drawing together the various parties with an interest in Chrylser's economic health. In granting this flexibility to the Secretary we hope that it is understood that the Congress is not abdicating its responsibility to protect the taxpayers' interests. The Secretary's actions, Chrysler's actions and the efforts of all other interested parties will be monitored closely for compliance with our intent.

There is a great deal that can be said about the Chrysler Corporation and this legislation. The problem is much more complex than most people believe. Unfortunately, academic theories about the free enterprise system do not provide the practical solutions needed in the real world. Our support for H.R. 5860 is based on meeting such a need.

There are a number of conditions which we would like to see the Secretary include before loan guarantees are given. We think that there should be additional liquidation of nonessential assets such as stock in foreign operations; there should be firm commitments from the major creditors for new capital; there should be more in the way of "hard" contributions from the employees either as cash or in wage reductions; there should be protection against the loan guarantees going to foreign corporations in the event of a merger; and, there should be adequate protection for the taxpayers' interests vis-a-vis other creditors. The Secretary should have it understood that the U.S. government will be the last party into the agreement and the first one out with its interests securely protected. This may not be very popular with the creditors, but the purpose of this legislation is not to bail out the banks or the stockholders. Nor is it intended to open the Treasury to raids by other corporations.

We support this loan guarantee to Chrysler because we are confronted with a unique situation with national dimensions. Chrysler's survival is important for the continued vitality of our auto industry; Chrysler's ability to produce its new fuel efficient cars is important to our national energy conservation policy and will have a positive impact on our balance of payments. Federal assistance does not absolve Chrysler for its poor management decisions, but failure to provide Federal aid will punish hundreds of thousands. The Mayor of Detroit said Congress should draw the line to extend help at the point of perceptible negative impact on the national economy. The condition of the national economy is tenuous now. We cannot afford to test its resiliency by refusing this loan guarantee to Chrysler.

When the Committee of the Whole House votes on amendments to the legislation reported by the Banking Committee, it will be asked to consider an amendment in the nature of a substitute offered by Mr. MOORHEAD and cosponsored by myself. This language was drafted after long hours of negotiating and represents a bipartisan compromise to meet the strongest objections and criticisms of H.R. 5860.

For example, the Republican Conference held a meeting to discuss the loan guarantee proposal. The major criticisms that I heard of the committee bill were that the authority to make guarantees had been given to the Treasury Secretary, that the United States' priority was waived on guarantees, that the Chrysler financial plan was not specific, and that the employees contribution was not high enough.

The amendment which Mr. MOORHEAD will offer as a substitute is an honest attempt to meet those objections. It has been hammered out on a bipartisan basis and in cooperation with some of our colleagues from the other House. Three of the four points have been accepted. We include a board; we specify in line items how the components of the financial plan are to be put together and we remove the waiver authority except for State and local governments and for small suppliers. This last point is one which my friend on the committee, JIM LEACH, offered as an amendment in our committee. I supported him then and had stated that without protection for the U.S. interests, without an agreement that the United States would be the last in, the first out and our interests protected, any loan guarantee proposal could not pass. We have that protection and I urge the bill's passage.

The last criticism has been a major point of dispute. The question of a reasonable level of participation from the employees has ranged from the level in H.R. 5860 of $200 million in a wage contribution to the level of $1.3 billion in wages and benefits in the Senate bill. As a result of our negotiations we have doubled the level of employee contribution to $400 million and we have raised the ante for some of the other players as well. The level of Federal assistance remains the same, at $1.5 billion, but the nonfederally guaranteed contributions have been increased from $1.5 billion to $1.83 billion, and the total amount provided would be $3.33 billion.

Some may say that we should get additional sacrifices from the employees. I would caution about being so demanding that the end result is detrimental to the company's future prospects. There is a point beyond which the employees or the banks are not willing to go. Many of Chrysler's skilled employees are willing to take what is in effect a freeze for 1 year or even 18 months, but to demand that they do so for 3 years is unreasonable to them. I am concerned that if these people leave Chrysler to work in the aerospace industry, who will be left to design any future generations of Chrysler cars? We were very critical of Chrysler's management for laying off engineers during the oil embargo rather than using them to plan for the future. I think that we would make an equally foolish choice for Chrysler's future by taking what would be a politically more acceptable choice now if we put more of a burden on the employees than is contained in this compromise substitute.

I hope that this bill will be debated in an open and fair fashion. I believe that the American people will understand the need to make assistance available to Chrysler if they are given the facts. If they understand that Chrysler's failure will cost them billions in tax dollars and have untold other impacts on our economy, an insurance policy of $1.5 billion for Chrysler will be seen as the better alternative.

The reference to insurance brings to mind the matter of pension fund liability which I have not previously addressed. Chrysler has a present pension fund liability insured by ERISA of $1.1 billion. That is not a direct liability to the Treasury. However, the current condition of ERISA reflects a deficit of almost $300 million. If Chrysler's pension funds were dropped on the Pension Benefit Guaranty Corporation, there is no denying that every company now paying a premium to the PBGC under ERISA would be forced to increase its premium substantially to meet that additional burden. There is no way of denying that that premium increase would be a "Chrysler" tax on all businesses covered by ERISA.

The way Congress should look at this proposed loan guarantee is the way any businessman should approach the problem: On the bottom line, what will it cost if we do not? The cost if we do not act begins at more than $2.5 billion for unemployment and keeps on climbing. The cost if we do act may be heavy also, but there is an option not available if we let Chrysler fail. We may be able to save jobs for hundreds of thousands of Americans, we may maintain some competitiveness in our domestic automobile industry; we may improve our energy conservation potential; we may keep our balance of payments deficit from increasing; and, we may be able to retain the confidence of thousands of American businessmen in the democratic system.

My analysis of the Chrysler situation leads me to believe that Federal assistance is necessary. We have a tough bill forcing all of the parties to make sacrifices. With this program Chrysler can succeed. But any other company that tried to get similar assistance would be discouraged by these terms. This is not a bailout: We are protecting a major segment of the American economy and we are not violating any great American traditions. The Moorhead-McKinney amendment goes as far as we can reasonably go to meet the needs of Chrysler while protecting the American taxpayer.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. GARCIA), a member of the committee.

Mr. GARCIA. Mr. Chairman, as one who has had an opportunity over this past year to travel through many of the cities of America as the chairperson of the Census Subcommittee, I can tell each and every person here that American cities are dying.

I represent the south Bronx community in the city of New York, which constitutes perhaps our Nation's most serious example of urban decay, and remains one of our most serious centers of unemployment.

If we were to allow the Chrysler Corp. to fail, the only result would be a half-million Americans out of work. This would then begin a devastating downward spiral in the city of Detroit, as we have seen in so many other cities across America.

Yes, there are arguments on both sides, regarding whether we should or should not bail out the Chrysler Corp. But as one who understands the crippling effects of unemployment on families today, I can assure you that the last thing we want to do—in a large urban center like Detroit—is to let that city fail.

There is no question in my mind, as one familiar with the needs and concerns of today's urban America, that without the Chrysler Corp., Detroit would go down. I do not base my predictions solely on my experiences in the city of New York. I do not believe that because we are from New York, we must vote for Chrysler. But I do believe that the Chrysler Corp.—at this particular moment in the history of this Nation—is vital to the economy of a major U.S. city. I urge my colleagues to give serious thought to this situation when considering aid to the Chrysler Corp.

● Mr. GRASSLEY. Mr. Chairman, thank you very much for the opportunity to say a few words on this topic of great concern to me and my constitutents. A Chrysler bankruptcy affects each and every one of us in a very direct way—a fact I need not emphasize because I am sure you and my colleagues are receiving a great deal of mail from Chrysler suppliers, dealers, and dependents about the consequences of a Chrysler failure.

When a crisis of this magnitude occurs, it is necessary for everyone to pitch in and help out. Chrysler management must rigorously cut back on waste. It must make more of an effort to anticipate consumer demand, it must make more of an effort to modernize existing facilities, and it must be prepared to take a cut in pay. Chrysler's financiers must pull together and device an investment strategy to put Chrysler on a firm financial footing.

The role of Lockheed's bankers cannot be underestimated in advising and instructing the corporation on how to regain profitability. Chrysler's bankers must provide the same careful and coordinated assistance for the future of their investment and the entire Nation's money markets. Finally, the employees must do their share, too. They must accept more of a wage cut if the corporation is to survive. Chrysler's obligation under the newly negotiated UAW contract is almost $1.3 billion in the next 3 years; the company is only seeking a $1.5 billion loan guarantee. Chrysler employees can recoup some of their lost wage increases when the corporation's financial footing improves and stock dividends are declared.

Chrysler shareholders must be willing to forgo dividends for the strength of the corporation. Chrysler dealers must try to assimilate management's new strategy as quickly as possible. They must be keenly aware of their responsibility to keep management informed as to how these strategies are working out in the field.

All of these efforts by the Chrysler Corp. and its employees should be a precondition to the receipt of a Federal loan guarantees; $1.5 billion dollars is no small sum. If Chrysler defaults, it would become an enormous Federal burden. A default of this magnitude would move us farther away from our goal of balancing the Federal budget, a task all of us have undertaken in the most serious way any Congress has in years. We have made agonizing decisions about which Federal programs will have to receive less funding to get our ledgers balanced; we must require Chrysler to do the same thing.

This loan we are pledging to the Chrysler Corp. is from the taxes of our constituents. I am acutely aware that the average nonsupervisory production worker in Iowa earns $11,175 annually as of June 1979. I cannot return home and tell my constituents that I have pledged their money to a private corporation for loan guarantees so that such a corporation can pay its average production worker $24,600 at the end of its 3-year contract period. I cannot look them in the eye and say the wage benefits of Chrysler employees, the steady flow of Chrysler dividends and the subsidy of obsolete Chrysler plants are more important to me than more Federal funding for programs under the Older Americans Act, more important than increased veterans and social security benefits, more important than defense spending and national security, more important than rural post offices or more important than so many of our Federal programs that would be sacrificed if Chrysler defaults.

Without major sacrifices on the part of the Chrysler Corp. and its employees, it would be difficult for me to obligate the taxpayer's funds for a loan guarantee program. The taxpayers will certainly sacrifice tax dollars and funding for Federal programs if Chrysler defaults. It would be morally wrong not to require the same sort of sacrifice from the Chrysler Corp. and its employees.●

● Mr. DELLUMS. Mr. Chairman, the tragedy of the present debate is that we are being forced to react to a desperate situation at the 11th hour. There is little to be done at this point with regard to Chrysler except consider whether or not the loan guarantees are to be supported.

But we are arguing from a handicapped position. We are not in a position to consider alternatives. We are not in a position to act as a deliberative body; rather we are reduced to reacting on the most minimal intellectual level—the questions have been defined by others; not by our own analysis and understanding of the situation.

This is not, however, a moment to lament, it is a moment to act. To recognize that we are not now prepared to deal substantively with this debate. Chrysler unfortunately is not the only corporation in serious trouble. Tens of major corporations are reported to be in potentially serious trouble. And Chrysler was not the first.

We must recognize that a failing corporation holds a commanding position, they cannot be allowed to fail, they must be saved, because of the disastrous impact on the Nation's economy—but at what price?

Once again the Federal Government is being asked to prevent a corporate collapse in the name of preserving the free enterprise system.

The proposed solutions offered thus far are not real solutions because they do not address the fundamental issues at hand. The proposed solutions are predicated on an invalid assumption, an assumption that these corporate managers know what is best for their industry.

The record proves otherwise. We are being asked to perpetuate a demonstrated record of managerial incompetence and sustained corporate failure.

But who is really to blame for this failure? The corporate managers would have you believe that the failure is the direct result of worker nonproductivity and consumer ignorance.

The facts say otherwise. The consumers are not ignorant. They have successfully resisted the incessant blandishments of the advertising media which are a coverup for faulty engineering design and safety, ostentatious extras, and poor gas economy.

The workers have been exploited repeatedly as a consequence of continued management inefficiency. The corporate legislative lobbying has not been in the direction of greater efficiency and productivity, but solely in the name of corporate survival. And the workers and consumers are supposed to bear the economic burden of their incompetence? Why?

It is in this context that I am calling for the establishment of a select congressional committee to investigate the entire spectrum of corporate bankruptcies, plant closings, and dissolution of private investor savings. The time has come to put an end to these abuses of the public trust. The time is now for starting the search for new directions in using our industrial potential for maximum benefit of all the people, not the corporate few.●

Mr. FRENZEL. Mr. Chairman, we get the opportunity to cast plenty of difficult votes in this House, and the Chrysler loan guarantee is among the most difficult.

Chrysler employees are naturally concerned about their jobs. Dealers have the same concerns. Employees, dealers, management, creditors, and others have confidence in the ability of the company to succeed if only it can get the loan guarantee.

They say the Government has helped create the near-insolvency of Chrysler, and, therefore, the Government has an obligation to help. But their principal argument is that without a guarantee the company will founder with disastrous effects on the economy in terms of unemployment and lost Treasury revenue.

We do have to worry about all these things. But there are many arguments on the other side. The Government should not interfere. Farms go broke every day, but only large mistakes are rewarded by Government. To provide the opportunity to succeed in our society, requires the discipline of the market place which also provides the possibility of failure.

It also seems likely that Chrysler may not succeed, guarantees not withstanding. The governmental interference that allegedly helped to put Chrysler in trouble has not been changed. The track record of the corporation is not one to inspire confidence.

I felt obliged to vote against the Lockheed guaranteed but I believe that Lockheed which did succeed, had a far better chance for survival than does Chrysler today.

It is not necessarily true that a bankruptcy must mean economic disaster for our country. There will be local and regional disaster, but they will likely be "less worse" than if the company would fail after the guarantee.

But what bothers me most about the guarantee is that Government finds it almost impossible to disengage once it interjects itself into the private sector. Once we support Chrysler, I fear we will have the same difficulty letting go of it that the United Kingdom, for instance, has had with the British shipbuilding industry. That has required a multibillion subsidy for years with no end in sight.

I would not say the Government should never be involved in the private marketplace. But it should be involved very rarely, and it begins to look as though the Chrysler loan is a good incursion to resist.

Although it is tempting to yield to the requests of those who desperately want the Chrysler loan—they are many, and the organized resistance is nil—that temptation ought to be avoided. If one starts, as I do, with a deep suspicion of governmental intervention, the other conditions will lead to the conclusion that the loan guarantee ought to be rejected.

There is some probability of Chrysler failure and some significant risk for taxpayers. It is hard to tax $15,000 per year people to some $25,000 per year jobs for other people. It is hard to let small companies fail, while we use the taxpayers' money to prop up larger ones.

In spite of valid reasons in favor of the guarantee, all the reasons against it persuade me that I should vote against it. I am not so confident of that decision that I urge it on my colleagues. They will have to make their own decisions, but I will have to vote "no."

● Mr. HUGHES. Mr. Chairman, I rise in support of H.R. 5860, the Chrysler Corporation Loan Guarantee Act.

I know that many of my colleagues are deeply concerned, as I have been, about the past management failings of the Chrysler Corp., and the potential cost of this legislation. Many are also concerned about the precedent that such a loan guarantee might set, and its relationship to our allover economic philosophy of free enterprise, and competition.

Those are legitimate concerns.

Certainly, if Chrysler's past performance was the sole issue before us, the answer would have to be an overwhelming "no." Likewise, if we lived in a society where economic theory went hand-in-glove with economic fact, we would be entirely justified in voting down this measure.

But that is not the case.

Chrysler's past performance is not nearly so important today as the more basic question of what is best for our country. We are beset with all kinds of serious economic problems now, including unemployment, lagging productivity, inflation and tough foreign competition. The economic health of our industries and our labor force here at home must be our primary concern.

That is the real issue we must deal with. And in dealing with it, we must work with the facts as they exist, not theory.

The theory holds that government should not interject itself into the free enterprise system.

The fact is that government is deeply involved in all aspects of the business world, and promotes the health of specific and general measures.

That is certainly the case with our foreign competitors, who use a whole arsenal of economic weapons, such as subsidies, tariffs, trade incentives, and tax incentives, to promote and protect their domestic industries.

The same is true here in the United States.

We have import quotas and tariffs, We have a wide range of tax provisions that include accelerated depreciation, specific deductions, exemptions and allowances, and credits, all of which are targeted at promoting specific policies and industries.

We have a large number of loan guarantee programs that operate not just through the Small Business Administration by Farmers Home and other agencies as well. The Economic Development Administration helps in financing private businesses, and its counterparts at the State and local government level do the same thing, as do various bonding programs. The Federal Government has some $44 billion exposed in loan guarantees of one type or another.

No matter how you look at it. Government is deeply involved in the business world. Only this year, we passed a synthetic fuels measure in this body that is targeted at promoting a specific industry.

The only difference between this bill and these other programs is that the Chrysler proposal is targeted at a specific company, but even that has precedent in the case of the Lockheed loan guarantee.

I read recently where one of our domestic companies will be building the world's largest solar electric plant not here, but in Saudi Arabia under a joint funding arrangement between our two governments. It seems to me that if we can be funding and promoting projects that benefit other countries, we must do it here at home as well.

I know that the cost of this program is of concern to many Members, but let us not engage in a false economy. The cost of a Chrysler bankruptcy to our economy and tax base, and in increased unemployment payments, will easily exceed the cost of the loan guarantee.

We cannot be certain beyond a doubt that the program will work, but we can be certain that without it, these costs to our economy are virtually inevitable. With the enactment of the guarantee, we will at least have a fighting chance of staving off a bankruptcy and avoiding its consequences.

The mechanism chosen to achieve these goals is the most reasonable and responsible approach imaginable.

There is no direct grant or loan—only a loan guarantee. It imposes tough requirements on the company to match the Federal obligation. Others with a financial stake in the company's future are also required to participate along with Chrysler and the Federal Government. The compromise language recognizes the Government's rights as a creditor.

I do not like Chrysler's past failings any more than any of my colleagues. But that is not the issue. Nor is this a time to be looking backward and finding fault. It is a time for looking forward.

And when we look forward, the choices become very clear. On the one hand, we have a bankruptcy with a guaranteed loss of billions of dollars. On the other, we have a guaranteed loan that at least holds out the hope of survival for our country's 10th largest corporation.

Let us not make the mistake of looking at this measure as a bill for the benefit of Chrysler. It is not. It is a bill for the benefit of our entire country.

I hope my colleagues will decide, as I have done, that our country must come first. I urge your support for this bill.●

● Mr. HAGEDORN. Mr. Chairman, since I first heard about the Chrysler Corp.'s request for some form of financial assistance, I have followed the developments in this matter with a great deal of interest because of the effect that the situation will have on the free enterprise system, the American taxpayer and the individuals who directly or indirectly depend upon Chrysler for their livelihood.

Throughout my careful study of this matter, I have kept the welfare of these individuals uppermost in my mind. There are several hundred citizens in the Second Congressional District of Minnesota who are working with the 26 Chrysler dealers and there are many more who work with businesses that furnish some of the materials used in the manufacture of Chrysler products. Therefore, no matter what the outcome of the financial future of the corporation, there will be an effect on some of my constituents and I am well aware of the possible negative impact from Chrysler's bankruptcy.

The national impact of a possible Chrysler failure must also be considered. I have read the variety of studies that have been compiled and am aware of the hundreds of thousands of individuals whose jobs will be affected in some way by whatever happens. Many of these studies have offered what have been referred to as "worst-case" scenarios which describe the very worst that could result from a Chrysler bankruptcy.

A majority of the citizens of the Second District have elected me to the House of Representatives because they believe in my basic political philosophy of a strong free enterprise system, with as little Government intervention in the operation of the marketplace as possible. Most of them believe in competition in the marketplace where businesses have the right to compete successfully and be rewarded with profits; or have the "right" to fail if they have been judged to be noncompetitive by the consumers. In our Nation, the free market concept determines success or failure and the Chrysler financial aid package is a severe jolt to this principle.

Because of the potential impact on individuals and my strong political philosophy, it has been a difficult situation on which to take a position. I have had numerous conversations with dealers and employees in the district. Scores of letters and telegrams have come into my office from those who work with Chrysler. Most of those I have personally talked with have told me that they cannot believe they are supporting this type of Government involvement in the free enterprise system. According to them, if it were the "next guy" or another business affected by the same circumstances, they would not support such a financial aid package; but when it is their money, business or job involved, their political philosophy and view of Government involvement is expediently changed because of this special interest.

While I personally can understand their specific views, I almost must think about the other citizens I have been elected to represent. Some of them have told me that they were once involved with failing businesses and received no help from the Government. An important question they asked me—and one that I ask of each Member of the House—is what if the situation happened to a small business that did not have the lobbying resources of a giant corporation? The answer would be what happens to thousands of businesses each year—it would go under if it could not make it on its own. No promises of possible changes in the future would matter; no assurances of better days to come because of new management or products would count; no corrections in past mistakes would make any difference. The business would fold if it could not survive in the competition of the marketplace.

Through this debate, my colleagues have discussed the various facts and figures associated with Chrysler's financial difficulties. These can be interpreted according to which side one is on or one's basic philosophy toward the situation. There is doubt that the predictions of nationwide gloom would be as bad as some would have us believe because of the worst-case assertions and assumptions that no Chrysler workers would be able to attain employment elsewhere. About the only thing that is predictable is that present Chrysler wage earners would not be able to get the same wages they have contracted for if they were forced to enter other employment fields.

This brings me to the principal difficulty that I have with the entire Chrsyler matter. Any individual or organization representing individuals who are about to lose their jobs because of the impending bankruptcy of the employer should be willing to do anything to help save that company and therefore save their jobs. If they are not willing to make personal financial sacrifices to insure the survival of the company, no other person should be called upon to step in and take financial risks to help save those jobs.

Under this bill, the American taxpayer is being asked to underwrite the Chrysler Corp. for $1.5 billion in loan guarantees. Since we represent the taxpayer in Congress, we must insure that those most directly affected by Chrysler's situation have made and will continue to make significant sacrifices. Chrysler's workers would be expected to bear the most direct burden of a failure and the most direct benefit of survival and therefore, should be the first to limit requests for wage increases or accept pay cuts if necessary. Rather than volunteer such drastic moves in this drastic situation, the United Auto Workers has taken the position that it would rather see the business fail than give up $1.3 billion in increased wages and benefits over the next 3 years. Rather than take the lead, the union is trying to keep the increases and have the Government furnish the backing to insure receiving them.

In the midst of the pressing cash squeeze on Chrysler, those representing labor and management agreed on a contract providing for such a wage package. The President's inflation fighter, the Chairman of the Council of Wage and Price Stability, reportedly called this agreement "inflationary and outrageous". By their willingness to demand such increases in the face of impending financial failure, it is evident that the workers are not willing to take every possible action on their own to save the corporation and yet they feel they can come to the Federal Government and have the amount of the new contract underwritten by the American taxpayer. Mr. Chairman, I cannot in good conscience support any type of financial assistance package without a guaranteed sacrifice by those most directly affected by the possible bankruptcy.

Therefore, I would be prone to support an aid package only if it contained provisions to insure that the wage increases of workers are frozen and that salary ranges of management personnel are limited. If we are going to ask the citizens of our district who do not work for Chrysler to help save the jobs of those who do work for Chrysler, then we must insist that all Chrysler workers do whatever is necessary to help save their own jobs. Since it has been made evident that the wage earners are not willing to make such extreme sacrifices, I will not be able to support the final passage of the assistance bill without such restrictions.

This type of wage and salary restriction would satisfy the principles that I honestly believe must be met before any type of financial aid package should be placed on the American taxpayer and the free enterprise system. Before any loan guarantee is provided, the plan must demand maximum sacrifices by all those involved with the corporation seeking such a guarantee; the plan must provide sufficient resources for the corporation to survive in a difficult market situation; the plan must be so unattractive that other corporations in financial trouble would not be prone to seek Federal assistance; and the plan must protect the interests of the taxpayers.

There may be other "Chryslers" waiting to see how this legislation is handled before they come to the Congress for assistance. Other ailing companies must know that they hold the key to success or failure. Without making financial assistance legislation as distasteful as possible, the Congress would be showing that the Federal Government is willing to rescue any company that cannot make it in the marketplace. If these criteria are not part of the final package, where will we draw the line? Where will be the incentive for other companies to be willing to be competitive in the marketplace when they feel that any unreasonable chances which result in failures will not matter since the Federal Government will be there to support them?

As I stated earlier, the only support I have found in the Second District is from those individuals who are directly involved with the Chrysler Corp. Many of them find this support going against their economic, political, and social principles and they could not support the bill if the situation did not affect them so directly.

I also doubt that any of them would be willing to support assistance for other businesses whose employees were not willing to do everything possible on their own to save the company. Under the recently ratified UAW-Chrysler settlement, the average worker's wage-benefit package is worth over $15 per hour for the first year and substantially more in the next 2 years. The average American industrial worker's wage-benefit package is worth about $7.50 per hour. A freeze would still keep these workers well above the national average. Yet, while the union officials and members are not willing to take any kind of cut in pay, they have no problem with asking the American taxpayer to insure that they receive a guaranteed raise of 33 percent in wages and benefits over the next 3 years. I am sure that every American worker, whether in a large corporation or a small business, would like to have such an insurance backed up by the Federal Government.

Mr. Chairman, throughout this discussion, my colleagues have mentioned the use of Federal loan guarantees in other programs and how this consumer marketplace matter significantly differs from those previous situations. We have also heard comments about the applicability of the bankruptcy laws to protect the interests of suppliers, creditors, and consumers who deal with Chrysler. Because these have been discussed at length on the floor and through communications with Members, I will not take up more time with further discussion. The main topic I wanted to discuss in my remarks was the difficulty that I have had in reconciling the effect this situation will have on certain constituents in the light of the position taken by the production wage earners. The workers' unwillingness to take the lead by promoting a wage freeze may well prove to be the significant factor leading to the defeat of this proposal.

As I stated earlier, this has been a difficult matter to take a position on because of the conflict between my concern for the welfare of the affected individuals in my district and my political philosophy. I have waited until today to finally make up my mind and take a firm position on my vote. In all fairness, I think that I should also state that it was not until today that the final versions we will be voting on have been available for study and debate. Supporters have been changing the various legislative proposals on a daily basis to try to get enough support. Thus far I have not seen any proposal that goes far enough in meeting the principles that I feel must be in any financial assistance package. The supporters are trying to get the most out of the Government without making the package extreme enough to prevent this from happening again. Support would be impossible for me without provisions that spread the risk out among all concerned. When the Congress is called upon to put $1.5 billion on the line and set dangerous precedents without assurances that the risk is divided among all parties, I cannot support the passage of such a financial assistance request.●

● Mr. CONYERS. Mr. Chairman, I have been involved in the Chrysler issue from the beginning. Its employees are my constituents. The corporation is headquartered in Highland Park, Mich., in the district I represent. On countless occasions I have sat down with the workers at the Dodge-Main plant and other plants, and have learned firsthand about their insecurities about losing their jobs and their commitment to their work.

My colleagues are aware that among Members of this body, I do not have any particular fondness for the giant corporations of this country, that too often serve their own interests at the expense of the Nation's. Then why am I such a strong supporter of the Chrysler legislation, in particular the Moorhead-McKinney substitute?

First and foremost, because I want to save the jobs of the hundreds of thousands of Chrysler employees whose very lives depend on Chrysler production. The prospect of a horrendous addition to the unemployment roles, resulting from the forced liquidation of Chrysler, and the attendant heavy costs to the Government and taxpayers leaves no other choice for responsible Members of Congress than support of the Moorhead-McKinney substitute. Just the arithmetic of the Chrysler situation should be sufficient to dispel doubts that it is less costly to aid Chrysler now then to allow it to go under later on.

The guarantees covering Chrysler pensions, the unemployment compensation, the related welfare costs, the loss to local, State, and Federal treasuries of Chrysler's share of tax revenues, the sharp decline in consumer-buying power that would result from a Chrysler collapse, are estimated to cost taypayers twice the amount of the loan guarantees; and the costs of a Chrysler collapse far exceed $3 billion, while the cost of loan guarantees amount to $1.5 billion under the worst case scenario.

My good friend and the distinguished economist, John Kenneth Galbraith, frequently observes that Chrysler, like other large corporations, are really quasi-public entities that serve the public purposes of maintaining employment, production, and income for the society. They cannot simply be dismissed as private entities irrespective of what free enterprise mythology says. Because they are quasi-public enterprises Galbraith points out that major industrial nations such as France, Germany, England, and Italy have to, and do, come to their aid when they are in jeopardy, because of the public purposes these corporations serve.

Critics argue that this bill establishes a dangerous new precedent of aiding the private sector with public funds. This is patently untrue. My colleague, Tom Evans, points out that there are already roughly $409 billion in loan guarantees and insured loans on the books—protecting virtually all sectors from housing, agriculture, to steel, and railroads. The major question to raise regarding Chrysler is: Can it make it with this Federal assistance? I am convinced that it can.

I do not have to remind you the enormous injury that a Chrysler collapse would have for the Detroit and Michigan regional economies. The figures have been well-documented already. I see the Chrysler legislation as the beginning of a major venture in rebuilding our industrial economy, in rejuvenating the older, industrial centers of the Nation, in maintaining American production by American workers for American consumers. I trust that my colleagues share my view, and will support the Chrysler loan guarantee legislation.●

● Mr. HANLEY. Mr. Chairman, today the House has the opportunity to demonstrate its confidence in the viability of the free enterprise system—by allowing the Federal Government to pledge its backing for the borrowings needed by the Chrysler Corp. to remain solvent and productive. This may seem a backward argument to some of the "risk of the marketplace" theorists but it is the real consequence of aid extended in a time of temporary adversity for this troubled company.

Looking at the potential distress to hundreds of thousands of individuals, to hundreds of small businesses, to localities, and most especially to the taxpayers of this Nation which would result from the dissolution of ths company it is unavoidably clear that the national interest and the national purse is best served by a no-cash guarantee to the lenders to the Chrysler Co. The direct economic cost of a shutdown of the 10th largest company in the Nation has been estimated at over $2.75 billion in job assistance, welfare payments, job retraining, and lost income to the Treasury. This is money paid out of the Federal taxpayer's pockets, not money pledged to back the loans of traditional sources in the financial marketplace.

It seems that on the money cost basis alone there is an advantage to cosigning the loans rather than paying the bills immediately due upon default and dissolution of the enterprise.

However, there are sound reasons in the bill which the Banking Committee has endorsed with perfecting and clarifying amendments made today for which a positive decision to aid the company can be made with confidence.

First, not one dime is to be paid from the Federal Government, not one penny can be pledged by the Federal Government until after the assurances of equitable concession and ample sacrifice have been certified by the Loan Guarantee Administrative Board on the part of Chrysler employees, labor unions, company officials, stockholders, suppliers, dealers, and State and local units of government, and all current lenders.

Second, the onerous stipulations which will apply to the company and its satellite family members are not ones which would be attractive to any other business; namely, a subordination of the private decisionmaking process to a governmental overseer and loan manager. This prospect is not a kindly option which many companies will welcome.

Third, there is an anticipation that the balancing of sacrifice by each of the Chrysler participants will not be an easy burden. It will truly be a burden for the term of the loan guarantee. Labor contracts, lending agreements, repayment plans, outstanding indebtedness—all will entail a burden to the potentially benefiting party.

Fourth, the position of the Federal taxpayer is equal or better than any other party to the new financing plan so that in the case of the feared failure of the company, the taxpayer will be the preferred creditor in most instances.

Today we are called upon to plumb these depths of national character as perhaps never before. Surely, we have had the terror of civil war, the curse of depression, a thousand natural disasters of wind and flame and flood and drought to live through in 200 years of this continent. But the present danger and the current challenge is more subtle than an Indian attack or a Johnstown flood. It is basically economic and thus a potentially divisive force. Instead of summoning to the fore the best in our character, a troubled economic situation creates an anxiety and a doubt which erodes our faith in our neighbors and cautions against generosity.

What we must decide as a government and as partners in our national survival is whether the distressed Chrysler Co. meets the test of deserved aid, whether we want to help, as our ancestors did, in raising a new barn for a burned-out neighbor.

I suppose I would be less than candid if I did not admit that the generosity of American spirit has been taken advantage of in the past and that those sad events of duplicity, and fraud and betrayal have given us a healthy skepticism about anyone crying wolf at our door.

This is the balancing force of our good-natured impulses—a flickering, momentary hesitation which cautions against foolhardy involvement where merit is lacking or success impossible.

That is where we stand today with Chrysler—torn by our traditional desire to help someone in need and by our reluctance to embrace a drowning corpse.

That the human side of the equation argues for aid cannot be denied. The almost 300,000 people whose livelihoods are bound to Chrysler in one way or another account for $22 billion in salaries, in goods and services bought and sold in this country. The misery of joblessness, the waste of human productivity, the technology which would atrophy subsequent to a major shutdown of Chrysler would be a blot on every company and every working person. The cost to Government of unemployment benefits and welfare for the jobless and their families is estimated at $1.2 billion. The lost tax revenues would be even more.

Against this toll would be the orthodoxy of the marketplace, the law of the economic jungle. I do not dismiss those laws lightly; in fact, do not dismiss them at all as a work-a-day measure of the vitality of free enterprise. The risk of capital, the pressure of competition, the finesse of negotiations, and the power of amassed industrial might are the ingredients of American economic tradition and prosperity. There is reward for success, oblivion for failure—that is the law of the market.

We have to ask at what point the responsibility of Government begins and ends when it comes to aiding business, aiding it to prosper or to survive. Government extends contracts, offers tax concessions, becomes the purchaser of last resort, guarantees credits, encourages foreign expansion, and does a host of other things to enhance business success.

When it comes to an ailing industry, however, Government pulls back with that healthy skepticism I spoke of earlier and weighs the evidence before giving carte blanche help. Harsh conditions, outside monitors, strict performance standards, along with reorganization and reform of past practices, are mandatory to any aid formula, as in the Lockheed and New York City crises.

Congress may decide to help Chrysler. Congress may decide that the devastation of bankruptcy would be worse than the slight erosion of our free enterprise ethic. Congress may decide that a salvagable corporation with a new outlook and a positive role in this Nation's transportation network can be organized. Then the American people will be asked if they stand by their troubled neighbor, if they agree that the prodigal son has reformed and deserves the fatted calf.●

● Mr. LELAND. Mr. Chairman, I rise to support the Moorhead-McKinney substitute. It is a good compromise and it is a bill that carefully and fairly distributes the risks, the responsibilities, and the rewards associated with the loan guarantees.

I would like to speak briefly to the arguments, advanced by some of my more fiscally conservative colleagues, that passage of this bill will jeopardize our free enterprise system.

Actually, the loan guarantees will rejuvenate, rather than destroy, our free market economy. They will allow a large corporation—our 10th largest—to continue production in the U.S. marketplace. On the other hand, allowing Chrysler to collapse will involve the Federal Government in private business to a far greater extent. As you all know, Chrysler employs 140,000 people directly, and indirectly another 400,000. And, I might add in passing that a disproportionate percentage of these workers are blacks and low-to-middle-income employees. Can we really comprehend how much "Government" will be needed to relocate, retrain, reemploy, and care for these workers while they are out of work? Millions of dollars in unemployment compensation, job training, CETA jobs, and other social services will be necessary if Chrysler is shut down. What will that reality do to our free enterprise system?

The proper solution, I assert, to Chrysler's problems—however they may have been created—is to keep the people working, not to turn them into the streets. At this time of economic crisis, when we are facing a recession, and alarmed over our declining growth in the GNP and our reduced production, what we do not need is even less production and more unemployment.

This bill offers us a unique opportunity to recapture the ingenuity and determination of our pioneer forefathers who built American business. For once we see a classic example of Americans pulling together to attack a mutual problem—organized labor, management, and Government working hand-in-hand to preserve our economy and our way of life.

It concerns me greatly that my more conservative colleagues, who normally want less Government and less Federal involvement in social programs, have changed their minds. A guaranteed loan is not socialized business nor is it a Government bailout. Rather, it is a conscious governmental decision to help perpetuate a large segment of the free enterprise system. This remote loan guarantee seems a small infringement by the Government into the private sector, compared to the alternative—massive Federal employment and other assistance.

Perhaps more important, are the benefits that the American people will receive for their loan guarantee. First, our balance of trade is critically unfavorable. Why should we fuel that fire by handing a large portion of the small, fuel-efficient car business to foreign companies and send even more of our dollars abroad? Second, Chrysler has agreed to reorient its priorities and redesign its products to accomplish vital public purposes. The corporation is committed to help the entire country survive the energy crisis by its concentration on fuel-saving automobiles. In short, the American taxpayers are getting a lot in return for their potential investment.

Opponents of this bill should not delude themselves or the American people by portraying this bill as a new or precedent-setting intrusion by the Federal Government. Our history is replete with examples of justifiable Federal activity in the private sector. Often it seems, that whether governmental action is viewed as positive or negative depends on whether the critic is a beneficiary of that action or not. But here, the fact is that America, as a whole, will benefit from this measured, limited, and well-structured loan guarantee program. I urge support of the substitute.●

● Mr. BROYHILL. Mr. Chairman, deciding how to vote on the Chrysler loan guarantee legislation has been difficult. After much personal study and after talking personally with constituents and reading many of their comments, I have decided to oppose the Federal legislation.

Under certain conditions, I could have reluctantly supported this legislation in an effort to keep the Nation's 10th largest corporation in busines. A strong effort was made to assure that if a Government loan was made, that employee's and executives of Chrysler, who do have an economic stake in the survival of the company, make a larger contribution to the survival plan. These efforts were rejected.

The average assembly line worker at Chrysler makes more than $15 per hour—much, much more than the average industrial worker in the 10th District of North Carolina. The 50 top Chrysler executives receive an average of $83,987 per year, while another 1,500 executives at Chrysler make an average of $46,700 per year. When so many of my constituents are struggling to make ends meet, I cannot support Federal legislation which could result in taking more money out of the Federal Treasury.

Another major factor in my decision to vote against Government assistance is the feeling that Chrysler's financial problems are so deep that a Government-guaranteed loan would, in effect, be a direct grant from the taxpayers, because $1.5 billion would not keep the company in business for very long. The company has already borrowed nearly $5 billion from financial institutions.

A third major reason for my opposition is the precedent which this loan would set. A loan guarantee to Chrysler in 1979 could be followed by a request from General Motors in 1980 and Ford in 1981. In this country, a company has the "right" to make a profit. It also has the "right" to go bankrupt. More than 16,000 companies have gone bankrupt in the United States during the past 2 years. This is certainly regretful, but is it right to reward admittedly poor management with financial help from the Federal Treasury when the Government has not stepped in to keep the other thousands and thousands of businesses afloat?

Bailout supporters have repeatedly pointed to $362 billion in outstanding Federal loan guarantees as evidence that guarantees for Chrysler would be nothing new. This is very, very misleading. Of the $362 billion in outstanding loan guarantees, $309 billion (over 85 percent) have gone to families for the purchase of homes. An additional 10 percent have been used to rebuild cities, to construct health facilities, and to provide higher education—all public, rather than private, sector activities.

Advocates have repeatedly drawn parallels with loan guarantees made by the Small Business Administration. But it is important to remember that these loans are available only to healthy, small firms seeking to expand production, to market a new product, or enter new lines of activity. No SBA loan guarantees are issued to failing firms like Chrysler.

The Lockheed loan precedent is often mentioned in an effort to garner votes for Chrysler. Again, the comparison is an inaccurate one. Lockheed was the single largest supplier of essential defense equipment to the Federal Government. The collapse of Lockheed could have posed an immediate threat to national security. Second, since contracts for the majority of its products were held by the Defense Department, there was virtually no question of a Lockheed failure and the ensuing default of the guaranteed loans.

The ripple effect of a Chrysler failure on the economy is uncertain, and it causes concern to all of us, no matter which side we were on during this complex debate. I have been contacted by Chrysler dealers and by suppliers in the 10th District. More than $8 million in supplies is purchased annually from companies in my district.

It is my hope that Chrysler survives and grows stronger, and if it does not, I believe that the Government has an obligation to give technical assistance to those companies which have been hurt by the possible Chrysler bankruptcy. New markets can be opened and it is quite possible that investors who purchase Chrysler's assets will require greater productivity from those resources, and thus greater numbers of jobs will become available.

Yes, Mr. Chairman, this was a difficult decision. A "yes" vote might have been more popular; however, after taking the numerous factors on both sides of the question into consideration, I could not support what I believe to be a bad precedent and a further drain on the pocketbooks of the taxpayers in this country.●

● Mr. OBERSTAR. Mr. Chairman, I rise in support of the Moorhead-McKinney amendment. If this were simply a Federal bailout of one mismanaged corporation, I would urge my colleagues to vote no.

If this total legislative package would encourage other companies to expect an easy Federal bailout, I would say: Vote no.

The House Banking Committee, however, has not sent to us a bill which is corporate welfare, which will serve only a single corporation or establish a dangerous precedent.

On the contrary, this bill is carefully crafted. not to save Chrysler, but to protect over 500,000 American jobs, a $6 billion annual payroll, the future of a major American city, and to prevent a national economic tragedy.

This bill should be voted up or down on the issues, not on vague generalities about bailouts or on whether this is some kind of popularity contest for Chrysler.

Let us look at what this bill does and what a Chrysler failure will do to America—and I mean all of America.

The effects of the failure to aid Chrysler are sobering: The GNP will decrease by $4 billion in 1980 and by $6 billion in 1981. $800 million in wages to blacks will be terminated. The trade deficit will rise $1.5 billion as more foreign cars come to displace lost Chrysler business. Government revenues will be drastically reduced—by $1 billion in 1980 and $1.5 billion in 1981. This includes $30 million a week in increased unemployment compensation payments.

The Federal Government will assume a liability of $1 billion to cover insured pension plans. In addition. $500 million will be lost in revenues to State and local governments from income taxes and another $140 million to States from corporate taxes.

We are familiar with these figures by now and there are more. But, to me, the most persuasive consideration is that the national unemployment rate will rise .5 percent as a direct result of a Chrysler bankruptcy and liquidation.

This is not a figure weighed only in economic terms; it has enormous human and social impact. For the most part, these half a million jobs, including those of 38,000 minority workers, cannot be absorbed by the other American auto companies. Any expansion by these companies to fill the gap left by Chrysler would not result in hiring any significant number of Chrysler workers. First of all, G.M. already has more employees laid off than Chrysler. Second, the other auto manufacturers are required by their union contracts to hire laid-off workers first before hiring those of other auto companies. Moreover, no assumption should be made that a smooth transfer of jobs or skills can occur from one company to another.

The loss of jobs resulting from the collapse of Chrysler will be widespread outside of the corporation as well as within it. By helping Chrysler, we will save the jobs of thousands of steelworkers, iron ore miners, and workers in the more than 40,000 small businesses which supply parts to Chrysler and which are dependent upon the company for their livelihood.

Nor will domestic automakers necessarily inherit the entire Chrysler market. Over a quarter of that market will be lost to foreign manufacturers building their cars with foreign steel.

Consequently, other American manufacturers will be severely crippled, such as the steel industry which sells 19.4 percent of its production to the auto industry.

And the reverberations will be felt by still another category of people: The retirees, who have worked for years—even decades; who have paid their taxes and made their contribution to society and to the company, but who now stand to lose life insurance benefits, health insurance coverage, and pension benefits if we allow Chrysler to collapse. I am talking about 40,000 retirees who have already put in their years of service and paid their dues, who have fought for every cent of their wages through long hours of hard work often under tough conditions to survive and support their families and who now are dependent upon a successful Chrysler Co. for their pension benefits.

The viability of entire communities is also at stake. Chrysler is no less than the lifeline to Detroit, Huntington, and Newark. The effects will be doubly severe for these cities: Skyrocketing unemployment and social services such as police protection, schools, and sanitation services jeopardized by the immediate loss of revenues due to the personal and corporate tax base that will vanish with Chrysler.

For families, unemployment may directly spell out the tragedies of depression, alcoholism, and family instability. Crime rates rise in populations where the unemployment rate is unusually excessive. Thousands of families will be uprooted in what may prove to be an unending search for work.

These are the effects at the personal level—the level from which I appeal to you not to deny Chrysler the chance to restructure and turn back from this brink of national disaster. Chrysler is not getting away with a free lunch. This bill is not a handout. The Federal Government is not doling out money directly to Chrysler. It is providing a guarantee for loans to the company from private interests. In return, Chrysler is making concessions and sacrifices. The corporation must raise $1.83 billion in nonfederally guaranteed assistance. It must meet strict operating and financial plans. It must search out every source of financing possible before the Government Federal guarantees are the last resort.

Chrysler's ability to fulfill these stipulations before receiving Federal loan guarantees will demonstrate that others also have confidence in Chrysler's ability to survive and again become a viable company.

It cannot be ignored that Chrysler workers are making great sacrifices, too. Under the Moorhead-McKinney amendment, employees will sacrifice $400 million, which is equivalent to a contribution of $4,000 per worker over a 3-year period—the same as a year and a half wage freeze.

We are not setting a precedent that will result in every business in the Nation begging for loan guarantees. Four hundred and eight billion dollars in guarantees to other businesses and farming interests have already been made over the years by the Federal Government. The Lockheed experience has shown us that the loan guarantee approach can be successful.

We cannot ignore the pleas of the 2 million people who will be affected by a collapse of Chrysler. I appeal to your conscience—not to save the Chrysler Corp., but to save the lives, jobs and livelihoods of its workers and suppliers.●

● Mr. DODD. Mr. Chairman, I rise in support of the McKinney-Moorhead substitute. This substitute is a tough but fair compromise between the two bills recently passed by the House and Senate Banking Committees. It will mean a workable program that will maintain the much-needed productive capacity in a major industrial sector. It will mean that large-scale human misery in the form of massive unemployment in Detroit and other cities can be avoided. It will prevent the combined loss of over $7 billion in Federal, State, and local revenues, guaranteed pension payments, and our world trade balance. Finally, and perhaps most importantly, it will provide an essential first step toward the restoration of our industrial base to a position where it can provide for the continued well-being, competitiveness, and growth of our economy, which can only improve our standing in the world community.

The question of whether to provide Federal loan guarantees to Chrysler has troubled me for some time. Although the immediate implications of support or rejection are reasonably clear, the question of Chrysler's viability is indicative of a much larger, more important problem: Is American industry competitive?

For the last several years, we have witnessed several of our most important industries steadily lose ground to foreign competitors. Our steel industry, beset with the problems of outdated technology, is continuously losing market share to Japanese and other producers. In 1978, 14 of the world's 22 largest blast furnaces were in Japan, while none were in the United States. The Japanese have eclipsed American productivity in a whole range of products, including radios, tape recorders, hi-fi's, motorcycles, watches, optical equipment, musical instruments, and so forth. In the late 1970's, Japan increased its shipbuilding to 50 percent of the world's total. In 1977, Japan sold 2 million cars in America, while America sold only 15,000 cars in Japan.

And now, the Japanese and Germans are anxiously awaiting the opportunity to acquire, through default, an even greater share of the U.S. market in the wake of a projected Chrysler collapse. Thus we are faced with the immediate prospect of surrendering to foreign competition a major share of the domestic small car market unless the Federal Government provides immediate and direct assistance. Clearly, given this situation, there is no other immediate response available—we must provide the needed assistance. However, in the long run, we must develop more creative solutions which will enable American industry to once again become competitive with foreign industries. Due to the overall decline in America's rate of productivity growth, we can be sure that, unless something is done, Chrysler will not be the last corporation to come to the Federal Government for this type of assistance.

Foreign industry, particularly Japanese and German industry, is growing rapidly in large part because of active cooperation between business and government. For too long, we Americans have applied 19th century economic notions to 20th Century economic problems which require active cooperation between the public and private sectors. It is interesting to note that two areas of the American economy which have maintained a strong competitive edge—agriculture, through the USDA Extension Service, and the areospace industry—rely heavily on interaction with the Federal Goverment in the areas of funding, research, development, and administration. In addition, other industries are facing severe capital constraints that cannot be dealt with in the absence of positive business/government interaction.

The issue we face is not simply the success or failure of an individual company. We need to give Chrysler the chance to be productive. Between now and 1983, total annual American small-car production capacity will approach 1.6 million units, 700,000 of which will be Chryslers. It should be obvious to all that we cannot afford to lose that capacity to foreign producers.

Rather, the issue today is whether the

American economy will succeed or fail in the 1980's. It is imperative that, starting today, together we come to grips with the longstanding problem of industrial stagnation which threatens to undermine our national self-assurance and prosperity.

I urge my colleagues to support the McKinney/Moorhead substitute. It is a tough bill, it is a fair bill, and, above all, it is a workable bill.●

● Mr. VANIK. Mr. Chairman, as chairman of the Ways and Means Trade Subcommittee, I am concerned that Federal loan guarantees to Chrysler may enable them to become a larger importer of assembled autos and auto parts. Aid to Chrysler is defensible only as aid to the American economy. In general, I support assistance to Chrysler as a means of maintaining domestic employment, encouraging increased domestic productivity, and stabilizing imports. But we need reassurances from Chrysler concerning the future percentage of their sales which will be foreign autos, either in full or in part.

It is my understanding that the Motor Vehicle Information and Cost Savings Act, as amended by the Energy Policy and Conservation Act (EPCA), requires each car manufacturer to meet higher and higher average fuel economy standards beginning with model year 1978. The average fuel economy standard for passenger automobiles manufactured by any manufacturer in the 1980 model year, the current year, is 20 miles per gallon. Further, after the 1979 model year manufacturers may not include imports in calculating their average fleet fuel economy. Under EPCA, an automobile is considered domestically manufactured if at least 75 percent of the cost to the manufacturer is attributable to value added in the United States or Canada. This is a law which Chrysler must continue to live with.

In discussions with Chrysler representatives I have been told that they plan to meet the mandatory fuel economy standards by increasing their capacity to produce small, fuel-efficient autos at home. In the model year 1981 these autos will be the Omni/Horizon and the yet-to-be-introduced "model K" cars. The engine blocks for these cars will be produced both here and abroad. So that while we will see a temporary increase in our autopart imports from Germany and Japan, we can expect fewer auto and autopart imports as Chrysler meets the domestic production requirement under the law. This is my understanding of Chrysler's energy saving plan to produce more fuel-efficient autos which is required by Chairman HENRY REUSS' amendment to the Banking Committee bill.

Legislation introduced November 20 by Congressman THOMAS ASHLEY and Senator GAYLORD NELSON—H.R. 5944 and S. 2035—would help American Motors meet the mandatory fuel-economy standards after model year 1979. The bill allows a small manufacturer, defined as one who produced less than 300,000 passenger automobiles in 1978, to have included in its domestic fleet a number of nondomestic passenger automobiles not to exceed 150,000, beginning in the 1980 model year. It is my understanding that this legislation would apply only to small manufacturers and would not apply to Chrysler.●

● Ms. HOLTZMAN. Mr. Chairman, I rise in support of the Chrysler Corporation Loan Guarantee Act. I have reached this decision despite serious misgivings that the proposed aid effort will not succeed in halting Chrysler's continued decline and that such an effort, even if unsuccessful, will establish an undesirable precedent for future corporation bailouts.

The proposal before us today enables Chrysler to undertake a massive multi-billion-dollar program of development and retooling. Such a program offers no guarantee that the company will eventually reemerge in a strong enough condition to compete in a radically transformed and highly competitive world auto market. Given Chrysler's declining share of the domestic auto market, its dwindling capital assets and its cumulative net loss of over $650 million, I doubt whether it can recover.

But as much as I have philosophical and practical objections to the proposed aid program, I cannot overlook the potential human suffering inherent in a Chrysler failure. More than 545,000 workers could lose their jobs at Chrysler plants and at dealers and suppliers throughout the Nation. With the economy balanced on the brink of recession, a failure of this magnitude could trigger the kind of widespread economic disruption we have worked to avoid.

The recent rise in unemployment in the steel and automobile industries illustrates that the prospects faced by Chrysler workers are not confined to one ailing company, nor to a single industry. Plant closings are becoming a serious national problem as levels of productivity continue to decline. Rather than trying to prop up a single troubled company, Congress should act to develop a comprehensive national policy for dealing with plant closings and for channeling vital capital and human resources along more efficient lines.

Mr. Chairman, while I prefer a broad national approach to the problems underlying Chrysler's decline, it would be wrong to ignore the immediate problem posed by the potential loss of a half-million Chrysler jobs. I therefore support the aid proposal and urge its adoption.●

● Mr. GOLDWATER. Mr. Chairman, I rise in opposition to any loan guarantees for the Chrysler Corp.

Chrysler claims that Federal assistance is justified because of the costs the Government has imposed upon this company for compliance with pollution control, safety standards, and fuel economy regulations. I agree that Government regulations have contributed to the economic burden placed on Chrysler. However, Government regulations are not unique to the automobile industry. The Federal Government has stuck its long nose into just about every area of private industry—from small business, to health care, to cosmetics.

Chrysler must take responsibility for its problems. This corporation has suffered losses in 5 out of its last 10 years. Chrysler's losses in the third quarter of 1979 came to $460.6 million and is the largest deficit for a corporation in our history.

This corporation is in a mess because it refused to read the handwriting on the wall. Management was too slow in anticipating the demand for fuel efficient cars. As a result, Chrysler is saddled with a 391-day supply of the discontinued 1979 Plymouth Grand Fury.

A stronger commitment from those who have an economic stake in the future of Chrysler is not too much to ask. A 3-year wage freeze for Chrysler management and employees would save the company $1.3 billion. Yet, the UAW stated that they would not accept such a freeze, calling a wage freeze "ridiculous" How can such a provision be termed "ridiculous" if it means saving the company that employs you?

The question here is should the Federal Government bail out large corporations? The answer is, "No." I firmly believe that if this loan guarantee passes, we will be hearing from other companies, large and small, who find themselves in similar circumstances. Chrysler's problems not withstanding, if anyone needs assistance, it is our small businesses. They are over-regulated, over-taxed, and wallowing in paperwork. Small business is the backbone of our country, and many are on the verge of collapse. Yet we do not recognize their plight. SBA loan guarantees are not issued to failing firms.

Free enterprise is exactly that—the freedom to enter the marketplace and then succeed or fail. Government does not exist to guarantee either. Government has a responsibility to maintain a stable economic climate, void of excessive regulations and incentive-destroying taxes. If we have erred, if Government has contributed to Chrysler's demise, then we would best serve our Nation by correcting those things which act as barriers to success, and to the efficient functioning of the marketplace. Our time would be better spent analyzing the Government's role in order to undo the problems that constantly plague all commercial activities.

In a cometitive enterprise system, there will always be some companies that thrive, while others fail. I am not convinced that loan guarantees will be enough to turn Chrysler around. Nor am I convinced that Chrysler can weather another automobile sales slump, without coming back for additional guarantees.

What we are doing here today is removing the incentives for firms to make it on their own. Government guarantees are not the answer, and I urge my colleagues to vote against this legislation.●

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I have no further requests for time. I ask that the Clerk read.

The CHAIRMAN. Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on Banking, Finance and Urban Affairs now printed in the reported bill shall be considered as an original bill for the purpose of amendment, and each section shall be considered as having been read.

The Clerk will designate section 1.

Section 1 reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Chrysler Corporation Loan Guarantee Act of 1979".

The **CHAIRMAN.** Are there any amendments to section 1?

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MOORHEAD OF PENNSYLVANIA

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. MOORHEAD of Pennsylvania: Page 14, strike out line 10 and all that follows through page 32 and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Chrysler Corporation Loan Guarantee Act of 1979".

DEFINITIONS

SEC. 2. For purposes of this Act—

(1) the term "Board" means the Chrysler Corporation Loan Guarantee Board established under section 3;

(2) the term "borrower" means the Chrysler Corporation, any of its subsidiaries or affiliates, or any other entity the Board may designate from time to time which borrows funds for the benefit or use of the Corporation or which—

(A) produces transportation or energy equipment which meets the goal of lessening the dependence of the United States on petroleum;

(B) provides employment in areas where the Chrysler Corporation has or plans to discontinue operations; and

(C) utilize facilities presently owned by the Chrysler Corporation;

(3) the term "Corporation" means the Chrysler Coporation and its subsidiaries and affiliates;

(4) the term "financing plan" means the financing plan required pursuant to section 4(a)(4) and revised in accordance with section 5(a)(4);

(5) the term "fiscal year" means the fiscal year of the Corporation;

(6) the term "going concern" means a corporation—

(A) the net earnings of which, as projected in the operating plan required under section 4(a)(3), are determined to be sufficient to maintain longterm profitability after taking into account probable fluctuations in the automobile market; and

(B) which meet such other tests of viability as the Board shall prescribe;

(7) the term "labor organization" has the same meaning given such term in section 2 of the National Labor Relations Act;

(8) the term "operating plan" means the plan required pursuant to section 4(a)(3) and revised in accordance with section 5(a)(4); and

(9) the term "persons with an existing economic stake in the health of the Corporation" means banks, financial institutions, and other creditors, suppliers, dealers, stockholders, labor unions, employees, management, State, local, and other governments, and others directly deriving benefit from the production, distribution, or sale of products of the Corporation.

CHRYSLER CORPORATION LOAN GUARANTEE BOARD

SEC. 3. There is hereby established a Chrysler Corporation Loan Guarantee Board which shall consist of the Secretary of the Treasury who shall be the Chairperson of the Board, the Chairman of the Board of Governors of the Federal Reserve System, the Comptroller General of the United States, the Secretary of Transportation, and the Secretary of Labor. The Board shall act by affirmative vote of a majority of its members. It shall be the duty of the Board to carry out the provisions of this Act.

AUTHORITY FOR COMMITMENTS FOR LOAN GUARANTEES

SEC. 4. (a) The Board, on such terms as it deems appropriate, may make commitments to guarantee either the principal amount of loans to a borrower or the principal amount of, and interest on, loans to a borrower. A commitment may be made only if, at the time the commitment is issued, the Board determines that—

(1) there exists an energy-savings plan which—

(A) is satisfactory to the Board;

(B) is developed in consultation with other appropriate Federal agencies;

(C) focuses on the national need to lessen United States dependence on petroleum; and

(D) can be carried out by the borrowers;

(2) the commitment is needed to enable the Corporation to continue to furnish goods or services, and failure to meet such need would adversely and seriously affect the economy of, or employment in, the United States or any region thereof;

(3)(A) the Corporation has submitted to the Board a satisfactory operating plan (including budget and cash flow projections) for the 1980 fiscal year and the next succeeding three fiscal years demonstrating the ability of the Corporation to continue operations as a going concern in the automobile business and, after December 31, 1983, to continue such operations as a going concern without additional loan guarantees or other Federal financing; and

(B) the Board has received such assurances as it shall require that the operating plan is realistic and feasible;

(4) the Corporation has submitted to the Board a satisfactory financing plan which meets the financing needs of the Corporation as reflected in the operating plan for the period covered by such operating plan, and which includes, in accordance with the provisions of subsection (c), an aggregate amount of nonfederally guaranted assistance of at least $1,830,000,000—

(A) from financial commitments or concessions from persons with an existing economic stake in the health of the Corporation in excess of their outstanding commitments or concessions as of October 17, 1979, or from other persons;

(B) from capital to be obtained through merger, sale or securities, or otherwise after October 17, 1979;

(C) from cash to be obtained from the disposition of assets of the Corporation after October 17, 1979; and

(D) from the issuance of $100,000,000 of common stock of the Corporation which shall be made available by the Corporation to its employees and to labor organizations which are parties to collective bargaining agreements with the Corporation;

(5) the Board has received adequate assurances regarding the availability of all financing contemplated by the financing plan and regarding its adequacy (taking into account the amount of loan guarantees to be issued) to meet all the Corporation's projected financing needs during the period covered by the operating plan;

(6) the Board has received assurances from existing creditors that they will continue to waive their rights to recover under any prior credit commitment which may be in default unless the Board determines that the exercise of those rights would not adversely affect the operating plan submitted under paragraph (3) or the financing plan submitted under paragraph (4);

(7) no credit extended or committed on a nonguaranteed basis prior to October 17, 1979, is being converted to a guaranteed basis pursuant to this Act; and

(8) the financing plan submitted under paragraph (4) provides that expenditures under such financing plan will contribute to the domestic economic viability of the Corporation.

(b)(1) In computing the aggregate amount of at least $1,830,000,000 in nonfederally guaranteed assistance required to be provided under subsection (a)(4), there shall be excluded the deferral of any dividends on common or preferred stock which is outstanding as of October 17, 1979.

(2) All nonfederally guaranteed assistance included under subsection (a)(4) may apply toward the requirements of subsection (c).

(c) The aggregate amount of nonfederally guaranteed assistance of at least $1,830,000,000 required to be provided under subsection (a)(4) shall include—

(1) at least $400,000,000 from employees of the Corporation represented by a labor organization, including the amount of concessions obtained under the existing labor contract dated October 25, 1979;

(2) at least $500,000,000 from United States banks, financial institutions, and other creditors of which—

(A) at least $400,000,000 shall be new loans or credits, in addition to the extension of—

(i) the full principal amount of all loans committed to be made but not outstanding as of October 17, 1979; and

(ii) the entire amount of credits committed to be extended but not outstanding as of October 17, 1979; and

(B) at least $100,000,000 shall be concessions with respect to outstanding debt of the Corporation;

(3) at least $150,000,000 shall be from foreign banks, foreign financial institutions, and other foreign creditors in the form of new loans or credits, in addition to the extension of—

(A) the full principal amount of all loans committed to be made but not outstanding as of October 17, 1979; and

(B) the entire amount of credits committed to be extended but not outstanding as of October 17, 1979;

(4) at least $300,000,000 shall be from the disposition of assets of the Corporation;

(5) at least $250,000,000 shall be from State and local governments;

(6) at least $180,000,000 shall be from suppliers and dealers of the Corporation, of which at least $100,000,000 shall be in the form of capital; and

(7) at least $50,000,000 shall be from the sale of additional equity securities.

(d) The Board may, as necessary and in consultation with the persons specified in subsection (c), modify the amounts of assistance required to be provided by any of the categories referred to in subsection (c) (other than subsection (c)(1)) so long as the aggregate amount of at least $1,830,000,000 in nonfederally guaranteed assistance is provided under subsection (a)(4).

(e) With respect to any borrower other than a borrower under subparagraphs (A), (B), and (C) of paragraph (2) of section 2, the Board may make commitments to guarantee loans and may make loan guarantees under this Act to any such borrower before the energy-saving plan required under subsection (a)(1) is developed if the Board determines that such commitments or loan guarantees are necessary to preserve the Corporation for the development of the plan required under subsection (a)(1).

(f)(1) Notwithstanding the provisions of subsection (a)(4), no loan guarantee may be made under this Act unless—

(A) the Corporation offers for sale not less than $100,000,000 of stock of the Corporation which—

(i) was issued after October 17, 1979; or

(ii) was held by the Corporation as treasury stock of the Corporation before October 17, 1979; (B) the Corporation secures commitments to purchase not less than $100,000,000 of such stock from persons with an existing economics take in the health of the Corporation; and

(C) the commitments referred to in subparagraph (B) exceed such persons' outstanding commitments to purchase such stock as of October 17, 1979.

(2) Any financial commitment or concession made under paragraph (1) may be applied toward the requirements of subsection (c).

REQUIREMENTS FOR LOAN GUARANTEES

SEC. 5. (a) Loan guarantee may be issued under this Act only pursuant to a commitment issued under section 4. The terms of any such commitment shall provide that a loan guarantee may be issued under this Act only if at the time the loan guarantee is issued, the Board determines that—

(1) credit is not otherwise available to the Corporation under reasonable terms or conditions sufficient to meet its financing needs as reflected in the operating plan;

(2) the prospective earning power of the Corporation, together with the character and value of the security pledged, furnish reasonable assurance of repayment of the loan to be guaranteed in accordance with its terms;

(3) the loan to be guaranteed bears interest at a rate determined by the Board to be reasonable taking into account the current average yield on outstanding obligations of the United States with remaining periods to maturity comparable to the maturity of such loan;

(4) the operating plan and the financing plan of the Corporation continue to meet the relevant standards set forth in section 4 and appropriate revisions to such plans (including extensions of such plans to cover the then current four-year period) have been submitted to the Board to meet such requirements;

(5) the Corporation is in compliance with such plans;

(6) the Board has received such assurances as it may require that such plans are realistic and feasible;

(7) the Corporation has agreed for as long as loan guarantees issued under this Act are outstanding to prepare and deliver to the Board, within one hundred and twenty days following the close of each fiscal year, an analysis reconciling the Corporation's actual performance for such fiscal year with the operating plan and the financial plan in effect at the start of such fiscal year; and

(8) the borrower is in compliance with the terms and conditions of the commitment to issue the loan guarantee required by the Board pursuant to section 8(b), except to the extent that such terms and conditions are modified, amended, or waived by the Board.

(b) Any determination by the Board that the conditions established by this Act have been met shall be conclusive, and such determination shall be evidenced by the issuance of the loan guarantee or commitment for which such determination is required. The validity of any loan guarantee when made by the Board under this Act shall be incontestable in the hands of a holder, except for fraud or material misrepresentation on the part of such holder. The Board is authorized to determine the form in which any loan guarantee made under this Act shall be issued.

(c) The Board shall prescribe and collect no less frequently than annually a guarantee fee in connection with each loan guarantee made under this Act. Such fee shall be sufficient to compensate the Government for all of the Government's administrative expenses related to the loan guarantee, but in no case may such fee be less than one-half of 1 per centum per annum of the outstanding principal amount of loans guaranteed under this Act, computed daily.

(d) To the maximum extent feasible, the Board shall ensure that the Government is compensated for the risk assumed in making loan guarantees under this Act, and for such purpose the Board is authorized to—

(1) prescribe and collect a guarantee fee in addition to the guarantee fee required under subsection (c);

(2) enter into contracts under which the Government, contingent upon the financial success of the Corporation, would participate in gains of the Corporation or of persons who hold an equity interest in the Corporation; or

(3) use other instruments deemed appropriate by the Board.

(e) All amounts collected by the Board pursuant to this Act shall be deposited in the Treasury as miscellaneous receipts.

EMPLOYEE STOCK OWNERSHIP PLAN

SEC. 6. (a) No guarantee or commitment to guarantee any loan may be made under this Act until the Chrysler Corporation, in a written agreement with the Board which is satisfactory to the Board, agrees—

(1) to establish a trust which forms part of an empolyee stock ownership plan meeting the requirements of subsection (c);

(2) to make employer contributions to such trust in accordance with such plan; and

(3) to issue additional shares of qualified common stock at such times as such shares are required to be contributed to such trust.

(b) No guarantee or commitment to guarantee any loan may be made under this Act after the close of the one hundred and eighty day period beginning on the date of the enactment of this Act unless the Chrysler Corporation has established a trust which forms part of an employee stock ownership plan meeting the requirements of subsection (c).

(c) An employee stock ownership plan meets the requirements of this subsection only if—

(1) such plan is maintained by the Chrysler Corporation;

(2) such plan satisfies the requirements of section 4975(e)(7) of the Internal Revenue Code of 1954 (determined without regard to subparagraph (A) of section 410(b)(2) of such Code);

(3) such plan provides that—

(A) employer contributions to the trust may be made only in accordance with requirements of subsection (d);

(B) each participant in the plan has a nonforfeitable right to the participant's accrued benefit under the plan;

(C) each employer contribution to the trust shall be allocated in equal amounts (to the extent not inconsistent with the requirements of section 415(c) of such Code) to the accounts of all participants in the plan; and

(D) distributions from the trust under the plan will be made in accordance with the requirements of section 401(k)(2)(B) of the Internal Revenue Code of 1954; and

(4) such plan benefits 90 percent or more of all employees of the Corporation, excluding the employees who have not satisfied the minimum wage and service requirements, if any, prescribed by the plan as a condition of participation.

(d)(1) Employer contributions meet the requirements of this subsection only if such contributions—

(A) will total not less than $150,000,000 before the close of the four-year period beginning not later than the one hundred and eightieth day after the date of the enactment of this Act;

(B) are made in such amounts and at such times that no time during such four-year period will the amount of employer contributions to the trust be less than the amount such contributions would have been if made in installments of $37,500,000 made at the end of each year in such period; and

(C) are made in the additional qualified common stock which the Chrysler Corporation issues by reason of subsection (a)(3).

(2)(A) In the case of a qualified loan to the trust for the purchase of qualified common stock the amount of such stock purchased with the proceeds of such loan shall be treated for purposes of paragraph (1) as an employer contribution to the trust made on the date such stock is so purchased.

(B) For purposes of subparagraph (A), the term "qualified loan" means any loan—

(i) which may be repaid only in substantially equal installments;

(ii) which has a term of not more than ten years; and

(iii) the proceeds of which are used only to purchase an amount of the additional qualified common stock which the Chrysler Corporation issues by reason of subsection (a)(3).

(e) For purposes of this section, the term "qualified common stock" means stock of the class of common stock of the Chrysler Corporation which is outstanding on October 17, 1979, and which is readily tradeable on an established securities market.

(f) An amount equal to $150,000,000 of the additional qualified common stock issued by the Corporation by reason of subsection (a)(3) shall not be treated for purposes of this Act as assistance received by the Chrysler Corporation from other than the Federal Government pursuant to section 4(c).

LIMITATIONS ON GUARANTEE AUTHORITY

SEC. 7. (a) The authority of the Board to extend loan guarantees under this Act shall not at any time exceed $1,500,000,000 in the aggregate principal amount outstanding.

(b) Subject to subsection (a), the total principal amount of loans which are guaranteed under this Act and which are outstanding at any time shall not exceed the aggregate amount of financial commitments and concessions which have accrued to the Corporation.

TERMS AND CONDITIONS OF LOAN GUARANTEES

SEC. 8. (a) Loans guaranteed under this Act shall be payable in full not later than December 31, 1990, and the terms and conditions of such loans shall provide that they cannot be amended, or any provision waived, without the Board's prior consent.

(b)(1) Any commitment to issue guarantees entered into pursuant to this Act shall contain all the affirmative and negative covenants and other protective provisions that the Board determines are appropriate.

(2) Each loan guaranteed under this Act shall be secured by sufficient property of the borrower to fully collateralize the loan involved. In determining the amount of property which is needed to fully collateralize any such loan, the Board shall determine the value of such property based upon such property's value in the event that such property is sold in connection with the liquidation of the assets of such borrower.

(3)(A) Notwithstanding any other provision of law and subject to subparagraphs (B), (C), and (D), whenever any person is indebted to the United States as a result of any loan guarantee issued under this Act and such person is insolvent or is a debtor in a case under title 11 of the United States Code, the debts due to the United States shall be satisfied first.

(B) Subject to subparagraphs (C) and (D), the Board may waive the priority established in subparagraph (A) if—

(i) the Board determines that the waiver of such priority is necessary to facilitate the ability of the Corporation of any borrower to obtain financing; and

(ii) the Board determines that, despite such waiver, there is a reasonable prospect of repayment of the loans guaranteed under this Act.

(C) Subject to subparagraph (D), waivers under subparagraph (B) may only be issued—

(i) with respect to any State or local government; and

(ii) with respect to a supplier of the Corporation except that no supplier of the Corporation may receive waivers under subparagraph (B) with respect to claims of such supplier in any amount of more than $100,000.

(D) A waiver under subparagraph (B) with respect to a supplier of the Corporation may not by its terms subordinate the claims of the United States under this Act to those of any other creditor of the Corporation or of any borrower.

(4) The Corporation may not pay any dividend on its common or preferred stock during the period beginning on the date of the enactment of this Act and ending on the date on which loan guarantees issued under this Act are no longer outstanding.

(c) If the Board determines that the inability of the Corporation to obtain credit without a loan guarantee under this Act is the result of a failure on the part of management to exercise reasonable business prudence in the conduct of the affairs of the Corporation, the Board shall require before issuing any loan guarantee to any borrower that the Corporation make such management changes as the Board deems necessary to give the Corporation a sound managerial base.

(d) In issuing any loan guarantee under this Act, the United States shall be responsible only for the payment of such loan and shall not be responsible for any other liability of the borrower.

INSPECTION OF DOCUMENTS; AUDIT BY THE GENERAL ACCOUNTING OFFICE

SEC. 9. (a) At any time a request for a loan guarantee under this Act is pending or a loan guaranteed under this Act is outstanding, the Board is authorized to inspect and copy all accounts, books, records, memoranda, correspondence, and other documents and transactions of the Corporation and any other borrower requesting a loan guarantee under this Act.

(b) The General Accounting Office may make such audits as may be deemed appropriate by the Comptroller General of the United States of all accounts, books, records, memoranda, correspondence, and other documents and transactions of the Corporation and any other borrower. No loan guarantee may be made under this Act unless and until the Corporation and any other borrower agree, in writing, to allow the General Accounting Office to make such audits. The General Accounting Office shall report the results of all such audits to the Congress.

(c) The Board is empowered to investigate and shall investigate any allegations of fraud, dishonesty, incompetence, misconduct, or irregularity in the management of the affairs of the Corporation which are material to the Corporation's ability to repay the loans guaranteed under this Act.

PROTECTION OF GOVERNMENT'S INTEREST

SEC. 10. (a) The Board shall take such action as may be appropriate to enforce any right accruing to the United States or any officer or agency thereof as a result of the commitment or issuance of loan guarantees under this Act.

(b) The Board shall be entitled to recover from the borrower, or from any other person liable therefor, the amount of all payments made pursuant to any loan guarantee issued under this Act, and upon making any such payment, the Board shall be subrogated to all the rights of the recipient thereof.

(c) The remedies provided in this Act shall be cumulative and not in limitation of or substitution for any other remedy available to the Board or the United States.

(d) The Board may bring action in any United States district court or any other appropriate court to enforce compliance with the provisions of the Act or any agreement related thereto and such court shall have jurisdiction to enforce such compliance and enter such orders as may be appropriate.

(e) A loan shall not be guaranteed under this Act if the income from such loan is excluded from gross income for purposes of chapter 1 of the Internal Revenue Code of 1954 or if the loan guarantee provides significant collateral or security to other obligations, the income from which is so excluded.

(f) If any provision of this Act is held to be invalid or the application of such provision to any person or circumstance is held to be invalid by a court of competent jurisdiction, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

PROHIBITION ON USE OF THE FEDERAL FINANCE BANK

SEC. 11. Notwithstanding the provisions of section 6 of the Federal Financing Bank Act of 1973 (12 U.S.C. 2285) or any other provision of law, none of the loans guaranteed or committed to be guaranteed under this Act shall be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank or any other Federal agency or department or entity owned in whole or in part by the United States.

REPORTS TO CONGRESS

SEC. 12. (a) The Board shall submit to the Congress semiannually a full report of its activities under this Act during fiscal years 1980 and 1981, and annually thereafter so long as any loan guaranteed under this Act is outstanding.

(b) Not less than 15 days before the issuance of any loan guarantee under this Act, the Board shall transmit to the appropriate committees of the Congress a written report containing—

(1) the details of such loan guarantee;

(2) the specific assurances received by the Board under the provisions of sections 4 and 5; and

(3) the specific determinations made by the Board under the provisions of sections 4 and 5.

AUTHORIZATION OF APPROPRIATIONS

SEC. 13. (a) There are authorized to be appropriated beginning October 1, 1979, and to remain available without fiscal year limitation, such sums as may be necessary to carry out the provisions of this Act.

(b) Notwithstanding any other provision of this Act, the authority of the Board to make any loan guarantee under this Act shall be limited to the extent such amounts are provided in advance in appropriation Acts.

TERMINATION

SEC. 14. The authority of the Board to make commitments to guarantee loans or to issue loan guarantees under this Act expires on December 31, 1983.

PARLIAMENTARY INQUIRIES

Mr. STANTON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. STANTON. Mr. Chairman, are we reading now the substitute bill offered by the gentleman from Pennsylvania, is that what is being read?

The CHAIRMAN. That is correct, the amendment.

Mr. STANTON. Mr. Chairman, I have seen the length of this bill and I presume the gentleman will be explaining thoroughly what the substitute bill is.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, if the gentleman will yield, the gentleman from Pennsylvania will do the best he can.

Mr. STANTON. Well, Mr. Chairman, I think it would be better to do that than to read the entire bill.

Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio (Mr. STANTON)?

Mr. FORD of Michigan. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will read.

☐ 1300

Mr. GREEN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GREEN. Mr. Chairman, if I have an amendment to offer to section 3 of the Moorhead substitute, may I ask, at what point is it in order to offer it?

The CHAIRMAN. The Chair will state

that the gentleman's inquiry is not in order until the Moorhead amendment has been read.

The Clerk will read.

(The Clerk continued the reading of the amendment in the nature of a substitute.)

Mr. MOORHEAD of Pennsylvania (during the reading). Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, is it my understanding that the Clerk is now reading not the bill as reported by the committee but the amendment in the nature of a substitute which I offered?

The CHAIRMAN. The gentleman is correct.

Mr. MOORHEAD of Pennsylvania. Then, Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

(The Clerk continued the reading of the amendment in the nature of a substitute.)

Mr. STANTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. Moorhead) is recognized for 5 minutes in support of his amendment in the nature of a substitute.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I rise in support of the amendment.

Let me say first, Mr. Chairman, that this is not exclusively my amendment. It has been worked out with the ranking minority member of the subcommittee, the gentleman from Connecticut (Mr. McKinney), and other members of the committee.

The amendment, Mr. Chairman, follows the same basic approach as the committee bill and is in many respects identical. It authorized $1.5 billion of Federal loan guarantees on condition that the company mobilize a large package of financial assistance from non-Federal sources, a package totaling $1.83 billion in the substitute, which is a more prudent cushion for the company than the $1.5 billion in the committee bill. This money will come from the sale of assets, the sale of new stock, and, most of all, from those with an economic stake in the company's survival, just as in the committee bill.

The chief change made by the substitute is that it requires a larger and more specific contribution by the company's workers who are members of a union. This contribution is specified at $400 million, of which about $203 million has already been contributed because the Chrysler United Auto Workers contract is less liberal than those with General Motors and Ford.

This $400 million amounts to about $4,000 per union worker and will probably require that the contract be renegotiated. While it is a close matter of judgment as to exactly what sacrifice the workers should make, I regard this figure as balanced and fair. The stake of the workers, of course, is the greatest of anyone because it involves their jobs, but I believe we would risk wrecking the whole package if we pushed the union employees any further than this substitute calls for.

A second change, for which I want to give full credit to the gentleman from Iowa (Mr. Leach), would significantly increase the protection of the taxpayers by giving the United States as a creditor first place in case of default or insolvency by the company without any waivers. The only exception would be for loans made by State and local governments and supplier claims of up to $100,000, which would protect the hundreds of very small suppliers of the company. While I fully support this change, I think we should all be aware that it may complicate the problem of negotiating the total package, particularly with the company's banks and other lenders.

☐ 1310

The substitute in a third change spells out the amount expected from each source of non-Federal funds. These amounts, though not—and I repeat not—the union employees' contribution, are subject to negotiation, provided the total from these sources of $1.43 billion is attained, but specifying the amounts gives all parties at interest a clear idea of what is expected of them.

A fourth change would have the program administered by a five-person Board instead of exclusively by the Secretary of the Treasury. We believe that this will bring to bear additional viewpoints as key decisions are made, without causing harmful delay. The device worked well in the Lockheed loan. Along with the Secretary of the Treasury, who would be the Chairman, the Board would include the Chairman of the Federal Reserve Board, the Comptroller General, and the Secretaries of Transportation and Labor.

All of these changes, Mr. Chairman, plus a few minor ones, bring this bill closer to the version reported by the Banking Committee in the other body. I believe that they should both increase support for the bill and improve the chances of early passage.

There is one difference, Mr. Chairman, between the substitute I am offering today and the one printed in the Congressional Record of last Wednesday.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. Moorhead) has expired.

(By unanimous consent, Mr. Moorhead of Pennsylvania was allowed to proceed for 1 additional minute.)

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, section 11 of the original version printed in the Congressional Record called for a study by the Secretary of Transportation of the long-term viability of Chrysler as an automobile producer and other aspects of the automobile industry. I am informed that this provision might be subject to a point of order as going beyond the scope of the bill, and that is why it has been removed. The deletion does not, of course, alter the substance of the bill.

Let me conclude, Mr. Chairman, with a word of caution about amendments. This substitute reflects a carefully crafted and balanced compromise, and we tinker with it at our peril. I believe it is fully workable, but I do not believe it should be altered in any significant respect because it would throw out of balance this carefully structured substitute.

AMENDMENT OFFERED BY MR. BRADEMAS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MOORHEAD OF PENNSYLVANIA

Mr. BRADEMAS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Brademas to the amendment in the nature of a substitute offered by Mr. Moorhead of Pennsylvania: Strike line 7, page 5, through line 7, page 9, (section 4(a)(4) through section 4(d)) and replace with the following:

(4) the Corporation has submitted to the Board a satisfactory financing plan which meets the financing needs of the Corporation as reflected in the operating plan for the period covered by such operating plan, and which includes, in accordance with the provisions of subsection (c), an aggregate amount of nonfederally guaranteed assistance of not less than $1,930,000,000—

(A) from financial commitments or concessions from persons with an existing economic stake in the health of the Corporation in excess of their outstanding commitments or concessions as of October 17, 1979, or from other persons;

(B) from capital to be obtained through merger, sale of securities, or otherwise after October 17, 1979;

(C) from cash to be obtained from the disposition of assets of the Corporation after October 17, 1979; and

(D) from the issuance of $100,000,000 of common stock of the Corporation which shall be made available by the Corporation to its employees and labor organizations which employees representative groups that are parties to collective bargaining agreements with the Corporation;

(5) the Board has received adequate assurances regarding the availability of all financing contemplated by the financing plan and regarding its adequacy (taking into account the amount of loan guarantees to be issued) to meet all the Corporation's pro-

jected financing needs during the period covered by the financing plan;

(6) the Board has received assurances from existing creditors that they will continue to waive their rights to recover under any prior credit commitment which may be in default unless the Board determines that the exercise of those rights would not adversely affect the operating plan submitted under paragraph (3) or the financing plan submitted under paragraph (4);

(7) no credit extended or committed on a nonguaranteed basis prior to October 17, 1979, is being converted to a guaranteed basis pursuant to this Act; and

(8) the financing plan submitted under paragraph (4) provides that expenditures under such financing plan will contribute to the domestic economic viability of the Corporation.

(b) In computing the aggregate amount of at least $1,930,000,000 in nonfederally guaranteed assistance required to be provided under subsection (a)(4), there shall be excluded the deferral of any dividends on common or preferred stock which is outstanding as of October 17, 1979.

(c) The aggregate amount of nonfederally guaranteed assistance of at least $1,930,000,000 required to be provided under section (a) shall include—

(1) at least $400,000,000 from the employees of the Corporation represented by a labor organization, and at least $100,000,000 from employees of the corporation not represented by a labor organization, which for employees represented by a labor organization shall include the amount of concessions obtained under the existing labor contract dated October 25, 1979, and for employees not represented by a labor organization shall include wages and benefits foregone during the period of that contract;

(2) at least $500,000,000 from United States banks, financial institutions, and other creditors of which—

(A) at least $400,000,000 shall be new loans or credits, in addition to the extension of the full principal amount of any loans committed to be made but not outstanding as of October 17, 1979; and

(B) at least $100,000,000 shall be concessions with respect to outstanding debt of the Corporation;

(3) at least $150,000,000 shall be from foreign banks, foreign financial institutions, and other foreign creditors in the form of new loans or credits, in addition to the extension of the full principal amount of any loans committed to be made but not outstanding as of October 17, 1979; and the entire amount of credits committed to be extended but not outstanding as of October 17, 1979; and

(4) at least $300,000,000 shall be from the disposition of assets of the Corporation;

(5) at least $250,000,000 shall be from State and local governments;

(6) at least $180,000,000 shall be from suppliers and dealers, of which at least $100,000,000 shall be in the form of capital as defined in subsection (b)(1)(C); and

(7) at least $50,000,000 shall be from the sale of additional equity securities.

(d) The Board may, as necessary and in consultation with the persons specified in subsection (c), modify the amounts of assistance required to be provided by any of the categories referred to in this subsection (other than paragraph (1)) so long as the aggregate amount of at least $1,930,000,000 in nonfederally guaranteed assistance is provided under subsection (a)(4).

Mr. BRADEMAS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the gentleman from Indiana?

Mr. STANTON. Mr. Chairman, reserving the right to object, we do not have a copy of the gentleman's amendment.

Mr. BRADEMAS. Mr. Chairman, if the gentleman will yield, I think a copy has just gone over to the gentleman.

Mr. STANTON. Mr. Chairman, I would like a couple of moments to look this over and, therefore, I object.

The CHAIRMAN. Objection is heard.

The Clerk will continue to read.

The Clerk continued the reading of the amendment.

Mr. BRADEMAS (during the reading). Mr. Chairman, I renew my unanimous consent request that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, does this take out the $400 million requirement of the UAW?

Mr. BRADEMAS. If the gentleman will yield, it does not.

Mr. ROUSSELOT. The gentleman is sure of that?

Mr. BRADEMAS. Yes.

Mr. ROUSSELOT. That is not the way I read it.

Mr. BRADEMAS. If my colleague will yield further, I think the gentleman will find that this amendment is not—terribly controversial, and the gentleman will be pleased to support it himself. But it does not—to repeat, in response to the gentleman's question—take out that provision of $400 million on the part of the union employees.

Mr. ROUSSELOT. Mr. Chairman, further reserving the right to object, that is comforting to know the gentleman has taken that out. However, we have just seen this; it is new. Did the gentleman have it in the RECORD last night?

Mr. BRADEMAS. No, I did not.

Mr. ROUSSELOT. It is kind of brand new today.

Mr. BRADEMAS. Mr. Chairman, if the gentleman will yield further, given an open rule, that of course was not required.

Mr. ROUSSELOT. Mr. Chairman, let us hear some more of it so that we can make up our minds.

Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will continue to read.

The Clerk continued the reading of the amendment.

Mr. McKINNEY (during the reading). Mr. Chairman, as subcommittee chairman, I have had time to study this amendment. I ask unanimous consent that it be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. BRADEMAS. Mr. Chairman, the purpose of my amendment is to require Chrysler's management employees to make a financial sacrifice equal to that required of union employees by the Moorhead-McKinney substitute.

Mr. Chairman, this requirement is a matter of simple equity.

The Moorhead substitute requires as a precondition to Federal loan guarantees being extended to Chrysler that the various parties with a direct stake in Chrysler's survival raise a total of $1.83 billion in nonfederally guaranteed assistance.

The Moorhead substitute further requires that at least $400 million of this $1.83 billion in nonfederally guaranteed assistance be the contribution of Chrysler's unionized employees. This portion amounts to $4,000 per union worker over a period of 3 years.

Specific contributions from other directly interested parties—U.S. and foreign banks, State and local governments, suppliers and dealers, and the assets of the corporation itself—also are listed in the Moorhead substitute.

But, Mr. Chairman, so long as the aggregate contribution of all of the interested parties, including union members, reaches $1.83 billion—the contribution of each of these nonemployee groups, unlike the contribution specified for unionized employees, is subject to modification by the Loan Guarantee Board created by the bill.

I repeat, under the Moorhead substitute, only the contribution of $400 million from the unionized employees—$4,000 per union worker—is a fixed, firm obligation of a specific group.

Mr. Chairman, these several provisions of the substitute are not unreasonable when considered by themselves.

I am willing to follow the judgment of the committee in requiring nonemployee groups with an interest in Chrysler's survival to contribute their share toward renewed solvency, and in a manner that allows flexibility in working out the exact division of responsibility among them.

Similarly, Chrysler's unionized employees obviously have a major stake in the survival of the company, and it is appropriate that they should be required to participate financially in the effort to return the company to a solvent position.

But, Mr. Chairman, there seems to be no rational or equitable basis for absolving Chrysler's 25,000 nonunion employees, which is to say management employees, of the same burden as that placed on the 100,000 employees who are members of the union.

For the interest of nonunion employees in the survival of the company is precisely the same as that of unionized employees. In no respect is the interest of the nonunion employees distinguishable; they should be required to bear the same burden.

Mr. Chairman, my amendment will subject nonunion, that is, management employees, each to the same burden of forgoing approximately $4,000 in salary and benefit increases over a 3-year period.

Let me also, Mr. Chairman, observe that in the process of doing so, my amendment will increase by $100 million—from $400 to $500 million—the total amount of compensation required to be forgone by both union and nonunion employees.

Moreover, Mr. Chairman, in addition to requiring management employees to make a sacrifice equal to that of union members, the additional $100 million consequently made available in nonfederally guaranteed assistance may well diminish the total sum of federally guaranteed loans necessary to see the company through.

The taxpayers' position, therefore, will be significantly improved.

Mr. Chairman, none of us relishes the prospect of Congress having to shore up the financial condition of a major corporation. It is something to be done reluctantly, carefully, and in my judgment only because the livelihoods of so many people are at stake.

But as the Governor of my State, Dr. Otis Bowen, told the members of the Indiana congressional delegation in a message dated November 28, 1979, in urging support of Federal loan guarantees for Chrysler:

> A limited form of government assistance seems to be justified in this situation.

I agree with Governor Bowen; it does seem appropriate that Congress go forward with this legislation.

And it is appropriate that the employees of Chrysler make a significant contribution in advance of the taxpayers' dollars being put at risk.

But, Mr. Chairman, that means all of the employees of Chrysler, not just those who belong to a labor union. That simple measure of equity is what my amendment seeks to achieve and I urge its adoption.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. I thank the gentleman for yielding.

I hope my colleague does not interpret my question as being inclined one way or another on his amendment.

It was my understanding that some sort of salary freeze had been instituted on management in Chrysler. Is that an incorrect understanding?

Mr. BRADEMAS. Perhaps the chairman of the subcommittee, the gentleman from Pennsylvania (Mr. MOORHEAD), would like to respond.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. Yes, top management. This goes further down to the ranks to the white collar employees who are not unionized. They should participate.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. BRADEMAS) has expired.

(At the request of Mr. MITCHELL of Maryland and by unanimous consent, Mr. BRADEMAS was allowed to proceed for 1 additional minute.)

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. My second question is: The argument that was raised against a salary freeze for top management was that if such a freeze were imposed, top management would move to other automobile industries. I did not believe that was a valid argument.

Is there any danger that these white collar workers, if they face such requirements, might then move away, taking their skills to another automobile industry?

Mr. BRADEMAS. I might say to the gentleman from Maryland, this amendment should not create any extra difficulty, because the pattern in the auto industry has been that any salary and benefit increases for nonunion employees follow rather closely wage and benefit increases for employees who are subject to collective bargaining agreements. So that, more bluntly, when the compensation of union members goes up, so does the compensation of the nonunion employees, generally by the same percentage. All this amendment does is merely mandate what has been the pattern and is likely to continue to be the pattern.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. BRADEMAS) has again expired.

(At the request of Mr. HILLIS and by unanimous consent, Mr. BRADEMAS was allowed to proceed for 2 additional minutes.)

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from Indiana.

Mr. HILLIS. I thank the gentleman for yielding.

As I understand the gentleman's amendment, this would be to ask management to do what the Moorhead-McKinney substitute, asks organized labor to do, that is, make a significant financial contribution to the package of $100 million? For a total package of $500 million rather than $400 million—is that correct?

Mr. BRADEMAS. That is correct.

Mr. HILLIS. We are not putting a wage freeze on here. We are asking for a fair contribution by management?

Mr. BRADEMAS. The gentleman is correct.

Mr. HILLIS. I might say I rise in wholehearted support of the amendment. I think it is certainly an equitable approval to the problem. I think the corporation's attitude has been, since the beginning, that this was a joint management-labor effort to save the corporation when they came to Washington in the first place, and certainly including management and non-union people in the plan I think is a very good one.

I might mention that information I have is that in September of this year, the 50 officers and directors, which is the top management of Chrysler, did take a 10-percent cut in pay, which was as they should do in my opinion, but be that as it may, I think the gentleman's amendment is a very good one. It increases the amount of aid from within the family, the corporate family, the workers and the officers and directors; and that is as it should be, before they come to us.

I wholeheartedly support it.

Mr. BRADEMAS. Including, just to add to what the gentleman said, the other nonunion employees of the family. The gentleman is correct. I thank him for his support.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from Connecticut.

Mr. McKINNEY. I thank the gentleman for yielding.

I am delighted with the gentleman's amendment. I had been disturbed with the language on page 5 through 9, which just simply stated that the $400 million had to come from employees of the corporation represented by a labor organization.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. BRADEMAS) has expired.

(At the request of Mr. McKINNEY and by unanimous consent, Mr. BRADEMAS was allowed to proceed for 2 additional minutes.)

Mr. McKINNEY. If the gentleman will continue to yield, it seems to me with roughly 20 percent of the employees of the Chrysler Corp. nonunionized, that they should carry an equal burden to continue their jobs.

I would congratulate the gentleman on the amendment and wholeheartedly support it.

Mr. BRADEMAS. I thank the gentleman.

Mr. Chairman, I might simply say in the remainder of my time that the arguments and contributions that have been made by my colleagues on both sides of the aisle seem to me accurately to sum up the thrust of the amendment, and I hope that it will have strong support from Members on both sides of the aisle.

I yield back the balance of my time.

Mr. KELLY. Mr. Chairman, I move to strike the last word.

If I could, I would like to engage the author of the amendment in some colloquy and pose some questions with regard to his amendment.

As I understand, the gentleman's amendment simply causes the management personnel to forego part of their wage increases, the same as the union workers would be required to forego their wage increases. Is that correct?

Mr. BRADEMAS. Mr. Chairman, will the gentleman yield?

Mr. KELLY. I yield to the gentleman from Indiana.

Mr. BRADEMAS. The gentleman is correct.

Mr. KELLY. There is no difference in the quality of the exercise in that regard?

Mr. BRADEMAS. No difference in what?

Mr. KELLY. No difference in the quality of the exercise? In other words, in both instances we are dealing with a reduction in wage increases?

Mr. BRADEMAS. We are speaking in both cases, in respect of both categories of employees, of both salary and benefit increases.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. KELLY. I yield to the gentleman from Connecticut briefly.

Mr. McKINNEY. I would take slight exception with that. I think in both cases we are putting down an amount of contribution and that contribution could come through a wage cut, a benefit cut, a direct payment, a stock purchase or some other form.

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Mr. KELLY. I thank the gentleman for that assistance. I would like to then comment on the amendment in this way: We have been floating as part of the lobbying effort in this bill that the union workers and now management personnel will make sacrifices in order to help buoy up Chrysler. I would just like to take this opportunity to try and put this into proportion because pretty clearly what happens is this: Chrysler is going broke, and under the old wage contract they lost three-quarters of a billion dollars just this year. So there is not in any way a sacrifice. What this exercise we are engaged in is doing is financing a wage increase both for the union personnel and the nonunion personnel. Everybody is getting paid more, not less. The only way they can get paid more is for this Congress to vote the financing to pay wage increases when the corporation cannot pay the wages under the old contract.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. KELLY. I am happy to yield.

Mr. STANTON. Mr. Chairman, I think we should clear up a point here. Maybe I am wrong in this regard, but the way I read the original bill, and I will ask the author of the new one or the gentleman in the well, we do not want to kid these workers or the American people on who is giving how much to whom, but the way I understand the gentleman's amendment is that it requires $400 million from the United Auto Workers and $100 million from the management personnel in one form or another.

The gentleman's amendment states:

> The Board may, as necessary and in consultation with the persons specified in subsection (c), modify the amounts of assistance required to be provided by any of the categories referred to in this subsection so long as the aggregate amount of at least $1,930,000,000 in nonfederally guaranteed assistance is provided under subsection (a)(4).

Under this language in the gentleman's amendment, under this subsection they may change this amount as they see fit. So I would think this would give the Board the authority and maybe the gentleman could clarify this point.

Mr. BRADEMAS. Mr. Chairman, will the gentleman yield to me?

Mr. KELLY. I yield to the gentleman from Indiana.

Mr. BRADEMAS. Mr. Chairman, I can only tell the gentleman in all candor that I did not hear his question. Could the gentleman speak up? I am having trouble hearing.

Mr. STANTON. Let me repeat and I will be happy to repeat the exact language. Section (c) of the gentleman's amendment outlines some $250,000,000 from State and local government and so forth. Then it says in paragraph (d):

> The Board may, as necessary and in consideration with the persons specified in subsection (c), modify the amounts of assistance required to be provided by any of the categories referred to in this subsection so long as the aggregate amount of at least $1,930,000,000 in nonfederally guaranteed assistance is provided under subsection (a)(4).

The CHAIRMAN. The time of the gentleman from Florida has expired.

(By unanimous consent Mr. KELLY was allowed to proceed for 5 additional minutes.)

Mr. KELLY. Mr. Chairman, I would like to reclaim my time.

Mr. BRADEMAS. Will the gentleman yield so that I may respond to the gentleman?

Mr. KELLY. I am happy to yield to the gentleman.

Mr. BRADEMAS. The gentleman from Ohio, I regret to say, has failed to read a very important phrase in the amendment that I offered. Following the words, "referred to in this subsection" are the words "other than paragraph (1) so long as the aggregate amount of at least $1.9," and so forth.

Mr. KELLY. Mr. Chairman, if I may reclaim my time?

Mr. BRADEMAS. Could I answer the gentleman's question?

Mr. KELLY. I would like to regain my time to finish making my statement, and then I will be glad to yield further to the gentleman if I have the time.

In order to put all of this in proper perspective, when we are talking about the $500 million sacrifice and the $400 million sacrifice, I think we should all understand that Chrysler, under the first year of the contract, is going to wind up with union employees making an average salary that will be five times, five times that of the people that are working in our districts on minimum wage. In other words, Chrysler workers will be making five times as much as an individual working on minimum wage. That worker will be making nearly 400 percent of those people in my colleagues' districts that are working for $4 an hour. They will be making more than twice as much as the average production worker.

So I want to continually cause this to be brought into proportion. When we are talking about sacrifice, we are talking about sacrifice at the expense of the American taxpayer, the economy, and the other workers and the consumers that will pay higher prices due to artificially high wages. We are going to have political solution to Chrysler's financial problems. We are not talking about sacrifices, we are not talking about the union workers and the nonunion workers at Chrysler making any sacrifice. We are talking about Chrysler workers being paid more than most workers in the United States at the expense of the people, the taxpayers.

So these people are going to be paid more, they are not going to sacrifice, they are not going to sacrifice under this bill. We are financing a pay raise so they can be paid more than the other people in the United States. That is exactly what this exercise is about.

The amendment of the gentleman simply does not change that. It reduces the increase they will get, maybe, because of the kind of fuzzy language contained in the gentleman's amendment. But it certainly does not constitute any kind of a sacrifice. Those workers are going to be paid more because of the money this Congress votes.

Mr. BRADEMAS. Mr. Chairman, will the gentleman yield?

Mr. KELLY. I am happy to yield.

Mr. BRADEMAS. Mr. Chairman, I am aware of the gentleman's opposition to this whole piece of legislation, but I must respectfully bridle at the gentleman's suggestion that my amendment is fuzzy. My amendment is very clear. It says that the substitute under consideration mandates a contribution of $400 million from the unionized employees and that there ought also to be a mandated contribution of $100 million from the nonunionized employees.

Mr. KELLY. May I ask the gentleman are there not certain discretions afforded to the Board under the gentleman's amendment?

Mr. BRADEMAS. I thank the gentleman for asking that question, because it enables me to respond to Mr. STANTON.

The CHAIRMAN. The time of the gentleman from Florida has again expired.

(At the request of Mr. BRADEMAS

and by unanimous consent. Mr. KELLY was allowed to proceed for 1 additional minute.)

Mr. BRADEMAS. If the gentleman will continue to yield, that discretion which the gentleman from Florida rightly notes is afforded to the Loan Guarantee Board runs to the other categories of parties, but not, if my amendment were adopted, to the two categories of unionized employees and nonunionized employees.

Mr. KELLY. But the gentleman's amendment does not provide for any pay cuts. It only reduces the size of wage increases that will be available as a result of this legislation. Is that not correct?

Mr. BRADEMAS. My amendment does not run to the problem of which the gentleman from Florida speaks. My amendment presumes approval of the amendment of the gentleman from Pennsylvania (Mr. MOORHEAD) and the gentleman from Connecticut (Mr. McKINNEY) and runs only to the question of equity of contributions by nonunionized employees and unionized employees.

Mr. KELLY. I thank the gentleman, but I just want to remind the Members of the House that they are voting for a pay increase at the expense of their constituents, and not a reduction in wages. It is a pay increase, not a sacrifice, a pay increase.

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You are giving the Chrysler people a pay increase at the expense of your constituents. That is what you are doing. That is what the exercise is about.

Mr. BLANCHARD. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak in favor of the amendment.

Mr. Chairman, earlier Members heard some fairly sophisticated and, I think to some degree, good arguments that we have not addressed a number of the larger philosophical questions regarding the matter of Federal financial assistance to Chrysler. There are a lot of reasons for that. One is time, and one is graphically demonstrated before us at this moment.

We have an amendment offered by Mr. BRADEMAS which I support, and I think it is only fair and equitable to require the same type of contribution from management as from labor. Yet, previous speakers have not wanted to deal with that issue. We have actually spent more time in dealing with the opponents of this legislation. We have had opponents on both sides of the aisle. This is not a partisan issue.

We have spent more time hassling over what the UAW will or will not do, and avoiding some of the more important philosophical questions; avoiding even dealing with the essence of what it is we are going to do at the stroke of midnight to help the Chrysler Corp. and those tens of thousands of workers.

The gentleman from Indiana has offered a wise amendment which requires of management the same thing that the Moorhead-McKinney substitute requires of labor; the equivalent contribution of $4,000 per worker. I would like to hear for at least once maybe one speaker, one time, someone who is willing to stand up and apply the same standards to management they have so rigorously insisted be applied to the working men and women.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I will be delighted to yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I thank the gentleman for yielding. As I understand the amendment, the only thing that the gentleman from Indiana is doing is making certain that nonlabor employees are treated the same way as labor employees under the terms of the substitute. Is that in essence what it is?

Mr. BLANCHARD. I think that is an accurate summary.

Mr. HUGHES. In addition, $100 million is going to be raised from nonunion employees?

Mr. BLANCHARD. Nonorganized, yes.

Mr. HUGHES. Let me ask, if I may, something further. Does the term "employees" also embrace the officers of the corporation?

Mr. BLANCHARD. I would think that, but the definitional section would provide that.

Mr. BRADEMAS. Yes.

Mr. HUGHES. There is sometimes a distinction made between the officers and other employees of the corporation. So, the essence of what we are saying is that $100 million additional will be raised from nonorganized labor employees?

Mr. BLANCHARD. I believe that is right.

Mr. HUGHES. In addition to the $400 million to be raised from organized labor employees?

Mr. BLANCHARD. For a total of $500 million. That is mandatory. Contrary to all kinds of implications, as I read the amendment, there is absolutely no way for that to be wormed out of. It is mandatory.

Mr. HUGHES. I support the amendment, and I do not see how anybody could support the inequities that apparently are created in the bill by differentiating between these two classes.

Mr. WOLPE. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to my colleague from Michigan.

Mr. WOLPE. Mr. Chairman, I thank the gentleman for yielding. I want to associate myself fully with his remarks and support the Brademas amendment. I think it is an important amendment, as I do think that the general substitute before us now is critical legislation.

Mr. Chairman, I rise today in strong support of the Moorhead-McKinney substitute, and of the Brademas amendment, and I want to commend the two cosponsors of the substitute and the gentleman from Michigan (Mr. BLANCHARD) for the creative and determined leadership they have brought to this difficult question.

I must indicate that my support for this legislation is not without some very serious reservations and misgivings. In my judgment, Chrysler represents the worst in corporate America. Its share of the domestic market began to decline long before the development of the various Government regulations it has so long bemoaned, and the corporation plunged its head fully into the sands when it decided to ignore the clear implications of the energy crisis and to continue to pour limited resources into large-energy, inefficient automobiles. To its credit, the corporation now, at the 11th—some would say the 12th—hour, is making the necessary adjustments, developing small car lines that will be competitive not only in domestic, but in foreign markets as well. But the awakening comes late. Had the corporation invested one-tenth of the commitment and resources it has brought to its fight against emission and fuel efficiency standards these many years in the development of an energy efficient product, it would not be in its present fix. Even today, its management continues to look everywhere but at itself for the cause of its troubles.

But mismanagement is only one element of the Chrysler story. In part, what Chrysler's difficulties reflect is the broad failure of American society to adjust to a changing international economic order. In effect, Chrysler may well be the tip of the iceberg. We are already hearing murmurs of anticipated problems at Ford. And the industrial malaise goes beyond even the automobile sector. Economists are alerting us to the beginning of what may be a long-term decline in the rate of growth of the equally critical steel and petrochemical industries. And the unhappy reality is that the American economy appears ill prepared to cope with any of these developments. We need desperately to look toward the future, to recognize the serious structural problems confronting our basic industries, and to develop the means necessary to accomplish the necessary retooling of our industrial plant. We need, in short, a policy and plan of industrial conversion.

Quite frankly, I would be far more comfortable with the Chrysler legislation if we had had the time to address these broader policy considerations and to develop criteria and tools for facilitating the industrial modernization and conversion effort that would have general applicability. I would hope that, at a minimum, the Chrysler debate will be a catalyst for a systematic examination by this Congress of a strategy for industrial conversion.

Federal loan guarantees may well be an element of such a strategy, but we need to establish clear and reasoned standards for the extension of such guarantees, or of any other form of Federal assistance. Our failure to do so will mean that we will move from crisis to crisis, and that America's competitive position in the world economy will continue to decline. In this connection, it is well to note—as has been observed earlier in this debate—that American industries are not operating in a totally free world market: they are competing not simply against other industries, but against other governments, as well. In point is the assistance that the German Government has extended to Volkswagen, and the Japanese Government to Toyota and Mazda—assistance which has directly impacted upon the competitiveness of Chrysler and other American car manufacturers.

My reservations regarding the legislation before us notwithstanding, I find myself in full support of the Moorhead-McKinney substitute. I honestly do not believe we have a choice. The costs of a Chrysler failure—to our economy, to hundreds of thousands of workers, and to the American taxpayer—would be staggering. I want to stress, in particular, the costs to the taxpayer, because the $1.5 billion loan guarantee that this legislation would extend represents a far lower potential cost to the taxpayer than the costs of Chrysler going belly-up. Specifically, it is projected that a Chrysler shutdown would mean, in the first 2 years, increased welfare costs of $1 billion and increased unemployment insurance costs of another $1 billion. In addition, the financial liability of Chrysler's retirement plan exceeds its assets by $1.2 billion, and under the Pension Benefit Guaranty Corporation, these funds would have to be made up either by sharply increasing premiums on other employers or by general fund expenditures.

Other economic costs of a Chrysler failure would include: A loss of $500 million in Federal, State, and local income tax revenues, a loss of more than $140 million in corporate taxes to State and local governments; a reduction in the gross national product of $4 billion in 1980 and $6 billion in 1981; an increase in the foreign trade deficit of $1.5 billion; and loss of an estimated 500,000 to 600,000 jobs, 200,000 to 300,000 of which would represent a long-term job loss. My State of Michigan would be devastated. In Michigan, we are talking about a job loss of over 150,000 jobs. Welfare costs alone would increase by $121 million in fiscal year 1980 and $340 million in fiscal 1981. Of this, the Federal cost would be approximately $63 million and $165 million in the respective years, while the State would pick up the remaining $58 million and $175 million. And I have said nothing about the increased unemployment compensation costs that Michigan would also assume. These costs are clearly unacceptable, and philosophical reservations notwithstanding, require congressional approval of the Moorhead-McKinney substitute.

Admittedly, there is no certainty that this Federal loan guarantee will do the job. But the new conditions attached to this Federal assistance in the substitute bill substantially increase the likelihood that the sacrifices required by all parties will, in fact, be made, and that the capital required to sustain Chrysler will be forthcoming. It is time now to act. I urge approval of the Moorhead-McKinney substitute.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I thank the gentleman for yielding. If I understood correctly, the gentleman is saying that we are going to insist that there is some equity in this matter by having an equal sacrifice by management employees and the workingmen on the assembly line, is that right?

Mr. BLANCHARD. That is the intent.

Mr. EDWARDS of Oklahoma. I think the gentleman used the figure of $4,000 apiece.

Mr. BLANCHARD. Over a 3-year period.

Mr. EDWARDS of Oklahoma. That is equity? When the man on the assembly line is making a decent wage and trying to get by, and Chrysler has 50 top executives who are earning an average of nearly $87,000 a year? The gentleman is saying that is an equal sacrifice?

Mr. BLANCHARD. Nothing is ever completely equitable, but I think it is about as equal as we can make it. I should also say that most of those managers have already taken anywhere from 2- to 10-percent cuts, which are already in effect.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(At the request of Mr. Evans of Delaware and by unanimous consent, Mr. Blanchard was allowed to proceed for 2 additional minutes.)

Mr. EVANS of Delaware. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from Delaware.

Mr. EVANS of Delaware. Mr. Chairman, the question of whether we should provide assistance for Chrysler is an extremely complex one with far-reaching consequences to our Nation. There are some risks involved in a Federal loan guarantee of $1.5 billion. However, those risks pale in comparison to the tremendous costs in human and economic terms. The benefits to our Nation far exceed the potential risks in view of the consequences.

I think it may be appropriate to ask who benefits the most in the event we do not pass the bill. The answer is that we would be benefiting Japanese automobile manufacturers, West German automobile manufacturers, and other foreign competitors.

My vote is going to be cast for an American company and American workers and I hope the vast majority of this body will come to the same conclusion.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield to allow me to answer that point?

Mr. BLANCHARD. If I have the time.

Mr. EDWARDS of Oklahoma. I thank the gentleman for yielding. Let me merely say to my friend from Delaware that in this case, since the bill has come to the floor asking the American people to bail out Chrysler, I am not going to make comparisons between Chrysler and General Motors; I am going to make comparisons between Chrysler and the people in my district whom you are asking to bail Chrysler out.

Mr. EVANS of Delaware. If we are going to succeed at this, let us give Chrysler a reasonable opportunity to succeed. I think that is the question.

Mr. BLANCHARD. The gentleman is still waiting to hear some support from opponents of this bill for treating management equally with labor. I am stunned that they have not come forward.

(At the request of Mr. Kelly and by unanimous consent, Mr. Blanchard was allowed to proceed for 3 additional minutes.)

Mr. KELLY. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from Florida, and I am anxiously awaiting.

Mr. KELLY. I thank the gentleman for yielding, and I think that the gentleman's wait will be fruitful.

As I understand, the gentleman's support of the amendment is predicated upon the fairness and equity so that the management employees and union employees will be treated equally, but I think there is a third party, called the American taxpayer, involved. I have a better idea. Why not just not give Chrysler any money and treat them all alike in the free enterprise system, and give everybody the same opportunity; if Chrysler does not have a chance in the United States of America to succeed, then there is no place in the world where Chrysler could get a fair chance. I thank the gentleman, and I hope that suggestion will be hopeful.

Mr. BLANCHARD. My distinguished Judge, I still have not heard that support for this amendment, but let me, since the gentleman is talking about free enterprise, let me say that we are going to save the American taxpayers several billions in welfare costs by doing the right thing, and the right thing is to support this amendment and the Moorhead-McKinney substitute.

Mr. KELLY. Will the gentleman yield so that I can answer that?

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman for yielding. I think that the Brademas amendment is a worthy amendment. Is that what you were looking for?

Mr. BLANCHARD. I am stunned.

Mr. ROUSSELOT. I do not want to shake up the gentleman.

Mr. BLANCHARD. I am stunned.

Mr. BRADEMAS. I thank the gentleman from California.

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from Indiana.

Mr. HILLIS. Mr. Chairman, I think to get this matter into proper perspective, rather than just single out 50 people and say they are not doing their share, we ought to look at the average salaries of management employees of Chrysler across the board, not including these 50 people, because they are going to be called on to make a large contribution to the amendment my friend from Indiana offers, and that is $25,000 a year—$26,670 a year.

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If you take an average of the 1,500 executives of the corporation, it is $46,700 a year. That is considerably different from these 50 top people. I think we ought to look at the whole ball game here rather than single out the top side of the curve.

Mr. BLANCHARD. That is another reason to support the Brademas-Rousselot amendment.

Mr. STARK. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from California.

Mr. STARK. I thank the gentleman for yielding. I have been an opponent of the bill, as the gentleman knows. I intend to support the Brademas amendment. It is picking one more louse off the turkey. If we can pick another louse off, and another louse, we will bloodv it up so that the rest of the animals will clearly see that it is not a dead bird.

Mr. FITHIAN. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from Indiana.

Mr. FITHIAN. I thank the gentleman for yielding.

Mr. Chairman, it seems to me that most of the argument for the last many minutes now is totally irrelevant to the Brademas amendment.

The **CHAIRMAN.** The time of the gentleman has expired.

(At the request of Mr. FITHIAN, and by unanimous consent, Mr. BLANCHARD was allowed to proceed for 1 additional minute.)

Mr. BLANCHARD. I yield to the gentleman.

Mr. FITHIAN. My colleague, the gentleman from Florida, makes an argument, whatever one may think of it, against the Chrsyler bill, but it seems to me we could expedite the business of the House if we can discuss the Brademas amendment, which I think is an amendment that would provide equitv in this bill. Therefore, I would urge the House to support the Brademas amendment, whether one is for the Chrysler bailout bill or against the Chrysler bailout bill. The Brademas amendment will stand on its own merits. All Chrysler employees ought to share equally the burden of helping the company get on its feet. That is all the Brademas amendment says.

Mr. BLANCHARD. The gentleman's point is well taken, and I thank the gentleman.

Mr. PAUL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the previous gentleman asked for a consistent opposition to this particular amendment. I do oppose the amendment, and I believe I can explain why it is consistent to oppose it. I, for one, as most of you know, am opposed to the bailout for Chrysler and I also recognize that the UAW workers receive an artificial wage, that is artifically high, that should be reduced. If we had a market economy, I am sure the wage would be lower. It would be as simple as that. In order for a company to survive in a market economy, something has to give when a financial crisis occurs. The first things that go are the profits, the dividends, and the high salaries. Also if wages are too high, a downward correction is made. The financial condition of a company sets the wages of that particular company, not the wages throughout the country or the wages of another car dealer, unless you have a monopoly wage established by powerful unions. When a company gets into trouble and we accept the idea that Government is the solution, and we fail to recognize that inflation, taxes, and regulation were the problem, offer a bailout program, this is readily accepted. It is received by both business and the union. I am not surprised to see Congress fail to resist the temptation to proceed along this line and then designate exactly how this money should be spent. Those of you who would set the wages of a workingman or the salary of an executive are doing the same thing as those of you who would say that there should be a certain automobile built, whether Chrysler should build tanks or small automobiles, or whether we should have autos with fins.

The previous gentleman from Michigan has made comments about the hassle of deciding whether or not the car should have fins. This is the same principle. We are designating how the money should be spent, and who should do the sacrificing. This is not an inconsistent position. I would have to agree this is very consistent when you accept the idea of interventionism, when you accept the idea that Government should rule the roost, to come in and tell people what to do, since it's our money. It is not our money; it is the taxpayers' money; and it is assured that we have the responsibility to protect that investment.

Therefore, it follows we should set the wages. I am in opposition to setting wages, just as I am in opposition to the bailout. It certainly does not help us to penalize everybody equally. Just because you have taken the rights away from a workingman to make a legitimate market wage—one determined by the market alone—and you proceed to put the executives under the same restraints, it does not make it right. It might make it equal, but you have just taken the rights away from everybody equally. It is equally disastrous. Designation wages and salaries follows the sequence of events we have pursued so often here in Congress.

One Government intervention leads to another, and eventually eliminates all of our freedoms, especially freedom in the marketplace. But, seeing that individual freedom is not separate from economic freedom, I cannot see that this is a worthwhile amendment. Therefore, I feel it quite consistent to oppose wage and price controls across the board and wage controls under the guise of bailouts or controls on wages or salaries for executives for any reason.

Mr. KELLY. Mr. Chairman, will the gentleman yield?

Mr. PAUL. I yield to the gentleman from Florida.

Mr. KELLY. I thank the gentleman for yielding. I certainly agree with the gentleman in principle, but I think that in dealing with this legislation, we are not dealing in principle, so I would just like to briefly take this opportunity to express my support for the Brademas amendment so that at least if we are headed in the wrong direction we will be logical.

Mr. PAUL. I think there is a time, though, when, hopefully, we would start to deal in principle.

Mr. Chairman, I yield back the remainder of my time.

AMENDMENT OFFERED BY MR. QUAYLE AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MOORHEAD OF PENNSYLVANIA

Mr. QUAYLE. Mr. Chairman, I offer an amendment as a substitute for the amendment in the nature of a substitute.

Mr. DINGELL. Mr. Chairman, I reserve a point of order.

The Clerk proceeded to read the amendment.

Mr. QUAYLE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The **CHAIRMAN.** Is there objection to the request of the gentleman from Indiana?

Mr. DINGELL. Mr. Chairman, I reserve the right to object until we have a copy of it.

The **CHAIRMAN.** The amendment being read is a substitute amendment for the Moorhead amendment in the nature of a substitute, not an amendment to the Brademas amendment.

Mr. DINGELL. I thank the Chair, but I would like to see it before I dispense with the reading.

The **CHAIRMAN.** The Clerk will read.

The Clerk continued reading the amendment.

Mr. QUAYLE (during the reading). Mr. Chairman, in view of the time and a compromise that was reached, I ask unanimous consent to withdraw this amendment. I will reintroduce it after the Brademas amendment is disposed of.

The **CHAIRMAN.** Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. STANTON. Mr. Chairman, I move to strike the requisite number of words, and I rise in favor of the Brademas amendment.

Mr. Chairman, all I would say to our distinguished majority whip is that I wish he had showed us on our side of the aisle the amendment before we started the amendment process, and we would have clearly understood what the gentleman was attempting to do, and that was to add the $100 million contribution by nonmembers of the union of Chrysler to the $400 million that you are asking of the Chrysler union employees. That is the way I understand the amendment. We did not have it at the start of this colloquy, even a copy of the amendment, so in retrospect we could probably have saved a lot of time. I hope the gentleman will agree with me on that.

I have just one last comment. Under the agreement of $400 million, of course, in that contract there was $200 million or so agreed to be contributed. In reading the gentleman's amendment, I am not sure that under the $100 million contribution of the officers and other employees whether previous contributions prior to October 25 are in any way counted toward that $100 million?

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What I have in mind is, the chairman of the board had a $300,000 salary. He cut it back to $1. Can we not count that as a contribution or, if the gentleman reads the same as I do, it is only those contributions after October 25. I am sure to a lot of white-collar workers who took a cut prior to October 25, this could mean a considerable amount of additional sacrifice under the cuts they already took, if we do not clarify that particular point.

Mr. BRADEMAS. I think the gentleman raises a good question. I note that the language of my amendment which tracks the language of the substitute amendment does specify that the concessions that had been obtained under the existing labor contract dated October 25, 1979, must be included.

With respect to employees not represented by a labor organization, I would only assume—I would say to the gentleman I have not directed my attention to the gentleman's question—that it would include wages and benefits that were foregone during the period of that contract because if the gentleman would direct himself to the specific language of my amendment, he will see in subsection (c)(1) that the language reads as follows: I will read the entire subsection (1).

> (1) at least $400,000,000 from the employees of the Corporation represented by a labor organization, and at least $100,000,000 from employees of the corporation not represented by a labor organization, which for employees represented by a labor organization shall include the amount of concessions obtained under the existing labor contract dated October 25, 1979, and for employees not represented by a labor organization shall include wages and benefits foregone during the period of that contract;

Mr. STANTON. Mr. Chairman, I understand what the gentleman from Indiana is saying. If the other body does not have this exact language, I am sure we can clear it up in conference at a later time. It would be my hope that those who have already taken a cut will not be asked to take further additional cuts, and that in some way their contributions would not be able to be considered.

PARLIAMENTARY INQUIRY

Mr. BETHUNE. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BETHUNE. If the Brademas amendment is agreed to—as I understand it, it runs from page 5 of the Moorhead substitute, line 7, all the way to page 9, line 7—would it then foreclose a particular amendment to any of the sections that are within that area of the substitute?

The CHAIRMAN. Amendments only to those sections would be precluded.

Mr. BAUMAN. Will the gentleman yield?

Mr. STANTON. I yield to the gentleman from Maryland.

Mr. BAUMAN. I would say to the gentleman from Arkansas that the Chair is certainly correct, but you have to realize there are a number of amendments that Members had intended to offer to this very section. There was no need for the gentleman from Indiana to draft his amendment in a manner that, if adopted, would destroy the rights of other Members to offer their amendments, but that is precisely what it is going to do. Whether that was the intention or not, I leave that to the committee to judge. But, if for no other reason, this amendment ought to be defeated because of the way it is drafted in a manner to preclude Members from working their will on this bill. It is a very adroit move we are seeing here.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BAUMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to reemphasize to the House the parliamentary situation which presents itself because of this amendment. For instance, the gentleman from Michigan (Mr. Stockman) has an amendment that would change the phrase "assurances" to "legally binding commitments," dealing with the financing section of the bill. If the Brademas amendment is adopted in its present form, that amendment will be precluded. I think the gentleman from California (Mr. Stark) has an amendment to that section which will also be prevented. Other amendments were intended to be offered.

Mr. Chairman, this is a very cute way to legislate. It is perfectly within our rules, but there was no need for the gentleman from Indiana to draft the amendment in this form so as to prevent other Members from offering amendments. The gentleman could very easily redraft his amendment to deal with the amount in the section that he changes and the requirement for contribution from the management-level employees. However, that is not what the gentleman chose to do. Therefore, we are not voting just on the Brademas amendment if we vote on this proposition, we are voting on a whole host of other amendments as yet unseen.

Mr. Chairman, I would strongly urge that the amendment be defeated. It is a parliamentary ploy, as I say, within our rules, but it would be very damaging to any other Members who try to perfect the bill.

Mr. QUAYLE. Will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Indiana.

Mr. QUAYLE. I thank the gentleman for yielding.

Mr. Chairman, perhaps we should go forward with other amendments and not preclude other amendments from this very important section. I had recognition and was prepared to offer my substitute. Then, during collective bargaining here it was decided I should withdraw my substitute. I did not know that this would preclude other amendments. I do not know if the gentleman from Indiana (Mr. Brademas), the distinguished whip, knew that this would preclude other amendments. I am sure that would not be his intention because I know how fair and openminded he has been. If it is not his intention, then I, after the gentleman from Maryland yields back his time, will seek recognition and go forward with my substitute, unless some other arrangement can be worked out.

PARLIAMENTARY INQUIRIES

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. MOORHEAD of Pennsylvania. If the gentleman from Indiana (Mr. Quayle) should decide to offer his substitute to the Moorhead-McKinney amendment before the vote on the Brademas amendment, it would be in order, would it not?

The CHAIRMAN. It would be in order to offer it.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I have an amendment at the desk to section 4 of the Moorhead substitute as does the gentleman from Oregon (Mr. Weaver). Would our amendments be in order if the Brademas amendment passes?

The CHAIRMAN. The Chair will have to examine them if and when offered.

AMENDMENT OFFERED BY MR. QUAYLE AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MOORHEAD OF PENNSYLVANIA

Mr. QUAYLE. Mr. Chairman, I offer an amendment as a substitute for the amendment in the nature of a substitute.

PARLIAMENTARY INQUIRY

Mr. PEYSER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. PEYSER. Mr. Chairman, in the procedure we are now, with the gentleman in the well, that gentleman had offered his amendment and then asked unanimous consent to withdraw his amendment. That request was granted. Within the same section can the gentleman again offer the same amendment without unanimous consent to reintroduce that amendment?

The CHAIRMAN. The amendment may be offered.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. Quayle as a substitute for the amendment in the nature of a substitute offered by Mr. Moorhead of Pennsylvania:

SHORT TITLE

Section 1. This Act may be cited as the "Chrysler Corporation Loan Guarantee Act of 1979".

DEFINITIONS

Sec. 2. For purposes of this Act—

(1) the term "Board" means the Chrysler Corporation Loan Guarantee Board established by section 3;

(2) the term "borrower" means the Chrysler Corporation, any of its subsidiaries or affiliates, or any other entity the Board may designate from time to time which borrows funds for the benefit or use of the Corporation;

(3) the term "Corporation" means the Chrysler Corporation and its subsidiaries and affiliates;

(4) the term "financing plan" means a plan designed to meet the financing needs of the Corporation as reflected in the operating plan and indicating in accordance with the requirements of section 8 the amounts to be provided at dates specified (for each year of the plan) from internally generated sources (including earnings and cost reduction measures), from loans guaranteed under this Act, and from nonfederally guaranteed assistance as required pursuant to section 4(a)(3);

(5) the term "fiscal year" means the fiscal year of the Corporation;

(6) the term "going concern" means a corporation the net earnings of which, as projected in the plan required under section 5(a)(2), are determined to be sufficient to maintain long-term profitability after taking into account probable fluctuations in the automobile market, and which meets such other tests of viability as the Board shall prescribe;

(7) the term "labor organization" has the same meaning as in section 2 of the Labor-Management Relations Act, 1947;

(8) the term "operating plan" means a document detailing production, distribution, and sales plans of the Corporation, together with the expenditures needed to carry out those plans (including budget and cash flow projections), on an annual basis, and an energy efficiency plan setting forth steps to be taken by the Corporation to reduce United States dependence on petroleum, in accordance with section 4(a)(2);

(9) the term "persons with an existing economic stake in the health of the Corporation" means banks, financial institutions, and other creditors, suppliers, dealers, stockholders, labor unions, employees, management, State, local, and other governments, and others directly deriving benefit from the production, distribution, and sale of products of the Corporation; and

(10) the term "wages and benefits" means any direct or indirect compensation paid by the Corporation to employees of the Corporation and shall include, but is not limited to, amounts paid in accordance with wage scales, straight time hourly wage rates, base wage rates, base salary rates, salary scales, and periodic salary grades, overtime premiums, night shift premiums, vacation payments, holiday payments, relocation allowance, call-in pay, bonuses, bereavement pay, jury duty pay, paid absence allowances, short-term military duty pay, paid leaves of absence, holiday pay including personal holidays, and medical, health accident, sickness, disability, hospitalization, insurance, pension, educational, and supplemental unemployment benefits.

CHRYSLER CORPORATION LOAN GUARANTEE BOARD

SEC. 3. There is established a Chrysler Corporation Loan Guarantee Board which shall consist of the Secretary of the Treasury who shall be the Chairperson of the Board, the Chairman of the Board of Governors of the Federal Reserve System, and the Comptroller General of the United States.

AUTHORITY FOR COMMITMENTS FOR LOAN GUARANTEES

SEC. 4. (a) Subject to the provisions of this Act, the Board, on such terms and conditions as it deems appropriate, may make commitments to guarantee the payment of principal and interest on loans to a borrower only if at the time the commitment is issued, the Board determines that—

(1) the commitment is needed to enable the Corporation to continue to furnish goods or services, and failure to meet such need would adversely and seriously affect the economy of, or employment in, the United States or any region thereof;

(2)(A) the Corporation has submitted to the Board a satisfactory operating plan (including budget and cash flow projections) for the 1980 fiscal year and the next succeeding five fiscal years demonstrating the ability of the Corporation to continue operations as a going concern in the automobile business, and after December 31, 1983, to continue such operations as a going concern without additional guarantees or other Federal financing; and

(B) the Board has received such assurances as it shall require that the operating plan is realistic and feasible;

(3) the Corporation has submitted to the Board a satisfactory financing plan which meets the financing needs of the Corporation as reflected in the operating plan for the period covered by such plan, and which includes an aggregate amount of nonfederally guaranteed assistance of at least $1,430,000,000 as determined under subsection (b)—

(A) from financial commitments or concessions from persons with an existing economic stake in the health of the Corporation in excess of commitments or concessions outstanding as of October 17, 1979, or from other persons;

(B) from capital to be obtained through merger, sale of securities or otherwise after October 17, 1979; and

(C) from cash to be obtained from the disposition of assets of the Corporation after October 17, 1979;

(4) the Corporation has commitments for all financing contemplated by the financing plan and that such financing is adequate (taking into account the amount of guarantees to be made available and the amount of wages and benefits not to be paid as a result of section 6) to meet all the Corporation's projected financing needs during the period covered by the financing plan; and

(5) the Corporation's existing creditors have certified to the Board that they will waive their rights to recover under any prior credit commitment which may be in default unless the Board determines that the exercise of those rights would not adversely affect the operating plan submitted under paragraph (2) or the financing plan submitted under paragraph (3).

(b)(1) For the purpose of computing the aggregate amount of at least $1,430,000,000 in nonfederally guaranteed assistance required to be provided under subsection (a)(3)—

(A) the term "financial commitment" means a legally binding commitment to provide additional nonfederally guaranteed assistance to meet the financing needs of the Corporation in excess of any such commitments outstanding as of October 17, 1979;

(B) the term "concession" means a legally binding commitment (or in the case of a concession from a State, local, or, other government, a concession for which the Board has received adequate assurances) which will result in a reduction in the financing needs of the Corporation by an amount which is more than the amount of any reduction accomplished by any concessions outstanding as of October 17, 1979, and, except for a loan or other credit, shall be nonrecoupable;

(C) the term "capital" means sales of equity securities, any other transactions involving non-interest-bearing investments in the Corporation, or subordinated loans on which payment of principal and interest is deferred until after all guaranteed loans are repaid; and

(D) the amount of "cash to be obtained from the disposition of assets of the Corporation" shall be determined by the Board based on a conservative estimate of the minimum value realizable in a sale, with reference to the potential circumstances surrounding such a sale.

(2) In computing the aggregate amount of at least $1,430,000,000 in nonfederally guaranteed assistance required to be provided under subsection (a)(3), there shall be excluded—

(A) the extent of any contribution, concession, or other element that does not actually and substantively contribute to meeting the Corporation's financing needs as defined in the financing plan required by this section; and

(B) deferral of any dividends on common or preferred stock outstanding as of October 17, 1979.

(c) The aggregate amount of nonfederally guaranteed assistance of at least $1,430,000,000 required to be provided under subsection (a) shall include—

(1) at least $500,000,000 from United States banks, financial institutions, and other creditors, of which—

(A) at least $400,000,000 shall be new loans or credits, in addition to the extension of the full principal amount of any loans committed to be made but not outstanding as of October 17, 1979; and

(B) at least $100,000,000 shall be concessions with respect to outstanding debt of the Corporation;

(2) at least $150,000,000 shall be from foreign banks, financial institutions, and other creditors in the form of new loans or credits, in addition to the extension of the full principal amount of any loans committed to be made but not outstanding as of October 17, 1979;

(3) at least $300,000,000 shall be from the disposition of assets of the Corporation;

(4) at least $250,000,000 shall be from State and local governments;

(5) at least $180,000,000 shall be from suppliers and dealers, of which at least $100,000,000 shall be in the form of capital as defined in subsection (b); and

(6) at least $50,000,000 shall be from the sale of additional equity securities.

The Board may, as necessary, modify the amounts of assistance required to be provided by any of the categories referred to in this subsection, so long as the aggregate amount of at least $1,430,000,000 in nonfederally guaranteed assistance is provided under subsection (a)(3).

REQUIREMENTS FOR LOAN GUARANTEES

SEC. 5. (a) A loan guarantee may be issued under this Act only pursuant to a commitment issued under section 4. The terms of any such commitment shall provide that a loan guarantee may be issued under this Act only if at the time the loan guarantee is issued, the Board determines that—

(1) credit is not otherwise available to the Corporation under reasonable terms or conditions sufficient to meet its financing needs as reflected in the financing plan;

(2) the prospective earning power of the Corporation, together with the character and value of the security pledged, furnish reasonable assurance of repayment of the loan to be guaranteed in accordance with its terms;

(3) the loan to be guaranteed bears interest at a rate determined by the Board to be reasonable which shall not be more than the current average yield on outstanding obligations guaranteed by the United States with remaining periods to maturity comparable to the average maturity of such loan;

(4) the operating plan and the financing plan of the Corporation continue to meet the requirements of section 4 and appropriate revisions to such plans (including extensions of such plans to cover the then current

six-year period) have been submitted to the Board to meet such requirements;

(5) the Corporation is in compliance with such plans;

(6) the Board has received such assurances as it may require that such plans are realistic and feasible;

(7) the Corporation has agreed for as long as guarantees issued under this Act are outstanding—

(A) to have prepared and submitted on or before the thirtieth day preceding each fiscal year beginning after December 31, 1980, a revised operating plan and financial plan which cover the six-year period commencing with such fiscal year and which meet the requirements of section 4; and

(B) to prepare and deliver to the Board within one hundred and twenty days following the close of each fiscal year, an analysis reconciling the Corporation's actual performance for such fiscal year with the operating plan and the financial plan in effect at the start of such fiscal year; and

(8) the borrower is in compliance with the terms and conditions of the commitment to issue the guarantees required by the Board pursuant to section 9(b), except to the extent that such terms and conditions are modified, amended, or waived by the Board.

(b) Any determination by the Board that the conditions established by this Act have been met shall be conclusive, and such determination shall be evidenced by the issuance of the guarantee or commitment for which such determination is required. The Board shall transmit to the appropriate committees of the Congress a written report setting forth each such determination under this Act and the reasons therefor not less than fifteen days prior to the issuance of any guarantee. The validity of any guarantee when made by the Board under this Act shall be incontestable in the hands of a holder, except for fraud or material misrepresentation on the part of such holder. The Board is authorized to determine the form in which any guarantee made under this Act shall be issued.

(C) The Board shall prescribe and collect no less frequently than annually a guarantee fee in connection with each guarantee made under this Act. Such fee shall be sufficient to compensate the Government for all of the Government's administrative expense related to the guarantee, but in no case may such fee be less than 1 per centum per annum of the outstanding principal amount of loans guaranteed under this Act computed daily.

(d) To the maximum extent feasible, the Board shall ensure that the Government is compensated for the risk assumed in making guarantees under this Act, and for such purpose the Board is authorized to—

(1) prescribe and collect a guarantee fee in addition to the fee required by subsection (c);

(2) enter into contracts under which the Government, contingent upon the financial success of the Corporation, would participate in gains of the Corporation or its security holders; or

(3) use other instruments deemed appropriate by the Board.

(e) All amounts collected by the Board pursuant to subsections (c) and (d) shall be deposited in the Treasury as miscellaneous receipts.

REQUIREMENTS APPLICABLE TO EMPLOYEES

SEC. 6. (a)(1) No loan guarantee may be issued under this Act if, at the time of issuance or the proposed issuance, the Board determines that collective bargaining agreements entered into by the Chrysler Corporation after September 14, 1979, with labor organizations representing employees of the Chrysler Corporation which govern the payment of wages and benefits to such employees during the 3-year period beginning September 14, 1979, and ending September 14, 1982, have not been modified so that the cost to the Chrysler Corporation of such wages and benefits, as determined by the Board, shall be reduced by a total amount of at least $900,000,000 for such 3-year period below the cost of such wages and benefits which the Chrysler Corporation would otherwise have been obligated to incur during such period under the terms of such collective bargaining agreements, except that such dollar amount shall include $203,000,000 in wages and benefits to be forgone pursuant to the master collective bargaining agreement entered into on October 25, 1979, between the Corporation and the International Union United Automobile Aerospace and Agricultural Implement Workers of America.

(2) To meet the requirements of this subsection, the Chrysler Corporation shall not enter into a collective bargaining agreement with a labor organization which reduces the amounts and levels of wages and benefits provided by such a collective bargaining agreement beyond the proportionate share of such labor organization, as determined by the Board. For purposes of this paragraph, the proportionate share of a labor organization shall be determined by multiplying $900,000,000 by the quotient obtained by dividing the total number of employees of the Chrysler Corporation represented by such labor organization by the total number of employees of the Chrysler Corporation represented by all labor organizations.

(3) The cost reduction realized by the Chrysler Corporation under the terms of this subsection shall not be recoupable.

(b) No loan guarantee may be issued under this Act if at the time of issuance or proposed issuance the Board determines that for any fiscal year beginning before December 31, 1982, the total annual cost of wages and benefits for employees not represented by a labor organization exceeds the total annual cost of such wages and benefits for such employees for the fiscal year ending December 31, 1979, unless the excess results from increases in the profits of the Chrysler Corporation, as determined by the Board.

(c) No guarantee or commitment to guarantee a loan under this Act may be made unless labor organizations representing employees of the Chrysler Corporation have made non-guaranteed loans to the Chrysler Corporation aggregating not less than $100,000,000 on terms and conditions substantially similar to loans under section 4(c).

(d) For the purpose of subsections (a) and (b)—

(1) the limitations set forth therein shall not apply to any increase in wages or benefits required by law;

(2) any increase in the wages and benefits of a person employed by the Chrysler Corporation resulting from reclassification or reevaluation of a job or a promotion affected in order to evade the provisions of this section shall be considered an indirect form of compensation.

SALE OF STOCK

SEC. 7. No guarantee may be issued after the expiration of 1 year after the date of enactment of this Act unless prior to such issuance, the Corporation has sold to the public common stock for which the Corporation has received not less than $60,000,000. The stock sold pursuant to this section shall be in addition to the amounts referred to in section 4.

EMPLOYEE STOCK OWNERSHIP

SEC. 8. (a) No guarantee or commitment to guarantee any loan may be made under this Act until the Corporation, in a written agreement with the Board which is satisfactory to the Board, agrees—

(1) to establish a trust which forms part of an employee stock ownership plan meeting the requirements of subsection (c);

(2) to make employer contributions to such trust in accordance with such plan; and

(3) to issue the additional shares of qualified common stock at such times as such shares are required to be contributed to such trust.

(b) No guarantee or commitment to guarantee any loan may be made under this Act after the close of the one hundred and eighty-day period beginning on the date of the enactment of this Act unless the Corporation has established a trust which forms part of an employee stock ownership plan meeting the requirements of subsection (c).

(c) An employee stock ownership plan meets the requirements of this subsection only if—

(1) such plan is maintained by the Chrysler Corporation;

(2) such plan satisfies the requirements of section 4975(e)(7) of the Internal Revenue Code of 1954 (determined without regard to subparagraph (A) of section 410(b)(2) of such Code); and

(3) such plan provides that—

(A) employer contributions to the trust may be made only in accordance with requirements of subsection (d),

(B) each participant in the plan has a nonforfeitable right to the participant's accrued benefit under the plan,

(C) each employer contribution to the trust shall be allocated in equal amounts to the accounts of all participants in the plan, and

(D) distributions from the trust under the plan will be made in accordance with the requirements of section 401(k)(2)(B) of the Internal Revenue Code of 1954.

(d)(1) Employer contributions meet the requirements of this subsection only if such contributions—

(A) will total not less than $250,000,000 before the close of the four-year period beginning not later than the one hundred and eightieth day after the date of the enactment of this Act,

(B) are made in such amounts and at such times that at no time during such four-year period will the amount of employer contributions to the trust be less than the amount such contributions would have been if made in installments of $62,500,000 made at the end of each year in such period, and

(C) are made in the additional qualified common stock which the Corporation issues by reason of subsection (a)(3).

(2)(A) In the case of qualified loan to the trust for the purchase of qualified common stock—

(i) the amount of such stock purchased with the proceeds of such loan shall be treated for purposes of paragraph (1) as an employer contribution to the trust, and

(ii) subparagraph (C) of paragraph (1) shall not apply.

(B) For purposes of subparagraph (A), the term "qualified loan" means any loan—

(i) which may be repaid only in substantially equal installments,

(ii) which has a term of not more than ten years, and

(iii) the proceeds of which are used only to purchase an amount of the additional qualified common stock which the Chrysler Corporation issues by reason of subsection (a)(3).

(e) For purposes of this section, the term "qualified common stock" means stock of the class of common stock of the Corporation which is outstanding on October 17, 1979, and which is readily tradeable on an established securities market.

(f) An amount equal to $250,000,000 of the additional qualified common stock issued by the Corporation by reason of subsection (a)(3) shall not be treated for purposes of this Act as assistance received by the Corporation from other than the Federal Government pursuant to section 4(c).

TERMS AND CONDITIONS OF LOAN GUARANTEES

Sec. 9. (a) The aggregate principal amount of the loan guarantee under this Act outstanding at any time shall not exceed the lesser of $1.25 billion or 87 percent of the amount of non federal guaranteed assistance made available to the Corporation and taken into account for the purpose of Section 4 (a) (3) (A).

SUBORDINATION

Sec. 10. (a) Notwithstanding any other provision of law and subject to subsections (b), (c), and (d), whenever any person is indebted to the United States as a result of any loan guarantee issued under this Act and such person is insolvent or is a debtor in a case under title 11 of the United States Code, the debts due to the United States shall be satisfied first.

(b) Subject to subsections (c) and (d), the Board may waive the priority established in susbection (a) if—

(1) the Board determines that the waiver of such priority is necesary to facilitate the ability of the Corporation or any other borrower to obtain financing; and

(2) the Board determines that, despite such waiver, there is a reasonable prospect of repayment of the loans guaranteed under this Act.

(c) Subject to subsection (d), waivers under subsection (b) may only be issued—

(1) with respect to any State or local government; and

(2) with respect to a supplier of the Corporation, except that no supplier of the Corporation may receive waivers under subsection (b) with respect to claims of such supplier in an amount of more than $100,000.

(d) A waiver under subsection (b) with respect to a supplier of the Corporation may not by its terms subordinate the claims of the United States under this Act to those of any other creditor of the Corporation or of any borrower.

INSPECTION OF DOCUMENTS; AUDIT BY THE GENERAL ACCOUNTING OFFICE

Sec. 11(a). At any time a request for a loan guarantee under this Act is pending or a loan guaranteed under this Act is outstanding, the Board is authorized to inspect and copy all accounts, books, records, memoranda, correspondence, and other documents and transactions of the Corporation and any other borrower requesting a guarantee under this Act.

(b) The General Accounting Office may make such audits as may be deemed appropriate by the Comptroller General of the United States of all accounts, books, records, memoranda, correspondence, and other documents and transactions of the Corporation and any other borrower. No guarantee may be made under this Act unless and until the Corporation and any other borrower agree, in writing, to allow the General Accounting Office to make such audits. The General Accounting Office shall report the results of all such audits to the Congress.

PROTECTION OF GOVERNMENT'S INTEREST

Sec. 12. (a) The Board shall take such action as may be appropriate to enforce any right accruing to the United States or any officer or agency thereof as a result of the commitment or issuance of guarantees under this Act.

(b) If the Corporation undertakes a sale of any asset having a value in excess of $5,000,000, and if the Board determines such sale is likely to impair the ability and capacty of the Corporation to repay the guaranteed loans as scheduled, or to impair the ability of the Corporation to continue as a going concern or to meet such other tests of viability as the Board shall prescribe, the Board shall not issue any further guarantees for loans under this Act, and all guaranteed loans made prior to such determination shall be due and payable in full.

(c) If the Corporation enters into any contract, including but not limited to future wage and benefit settlements, having an aggregate value of $100,000,000 or more, the Board shall determine and certify that the performance of the obligations of the Corporation pursuant to such contract will not reduce the ability of the Corporation to repay the guaranteed loans as scheduled, will not conflict with the Corporation's operating plan or financing plan as required under this Act, and will not impair the ability of the Corporation to continue as a going concern or to meet such other tests of viability as the Board shall prescribe. If in any case such determination and certification cannot be made, the Board shall not issue any further guarantees for loans under this Act until such certification can be made, and all loans guaranteed under this Act shall be due and payable in full.

(d) The Board shall be entitled to recover from the borrower, or from any other person liable therefor, the amount of all payments made pursuant to any guarantee entered into under this Act, and upon making any such payment, the Board shall be subrogated to all the rights of the recipient thereof.

(e) The remedies provided in this Act shall be cumulative and not in limitation of or substitution for any other remedy available to the Board or the United States.

(f) The Board may bring action in any United States district court or any other appropriate court to enforce compliance with the provisions of the Act or any agreement related thereto and such court shall have jurisdiction to enforce such compliance and enter such orders as may be appropriate.

(g) A loan shall not be guaranteed under this Act if the income from such loan is excluded from gross income for purposes of chapter 1 of the Internal Revenue Code of 1954 or if the guarantee provides significant collateral or security to other obligations, the income from which is so excluded.

(h) If any provision of this Act is held to be invalid or the application of such provision to any person or circumstance is held to be invalid by a court of competent jurisdiction, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby evaluating the Corporation's financing plan and operating plan.

FEDERAL RESERVE BANKS AS FISCAL AGENTS

Sec. 13. Any Federal Reserve bank which is requested to do so shall act as fiscal agent for the Board. Each such fiscal agent shall be reimbursed by the Board for all expenses and losses incurred by it in acting as agent on behalf of the Board.

REPORTS TO CONGRESS

Sec. 14. The Board shall submit to the Congress semiannually a full report of its activities under this Act during fiscal years 1980 and 1981, and annually thereafter so long as any guaranteed loans are outstanding.

FEDERAL FINANCING BANK

Sec. 15. The Federal Financing Bank shall not acquire any obligation the payment of interest on or principal of which has at any time been guaranteed in whole or in part under this Act.

AUTHORIZATION OF APPROPRIATIONS

Sec. 16. (a) There are authorized to be appropriated beginning October 1, 1979, and to remain available without Federal fiscal year limitation, such sums as may be necessary to carry out the provisions of this Act.

(b) Notwithstanding any other provisions of this Act, commitments to guarantee loans under this Act shall not exceed such limitations on such commitments as are provided in general provisions of appropriation Acts.

TERMINATION

Sec. 17. The authority of the Board to make commitments to guarantee or to issue guarantees under this Act expires on December 31, 1983.

☐ 1410

Mr. McKINNEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut (Mr. McKinney)?

Mr. BAUMAN. Mr. Chairman, I reserve the right to object.

Mr. DINGELL. Mr. Chairman, I reserve a point of order.

Mr. BAUMAN. Mr. Chairman, in view of the parliamentary situation in which we find ourselves, it seems to me, since the rights of the Members might be precluded, we ought to know precisely what we are doing.

I will object at any time to dispensing with the reading of this or any other of these amendments until this matter is worked out in a suitable fashion.

Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk continued the reading of the amendment.

Mr. MITCHELL of Maryland. Mr. Chairman, I rise to ask a question of the maker of the amendment.

The CHAIRMAN. The Chair has not yet recognized the gentleman. The substitute has not been completely read. Nobody has the floor. The substitute is being read.

The Clerk continued the reading of the amendment.

Mr. EVANS of Delaware (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Delaware (Mr. Evans)?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, on further exploration of the situation in which we find ourselves, it occurs to me that the only way the Brademas amendment could be changed so as to protect the rights of the Members to amend other sections of the bill would be for the gentleman from Indiana to withdraw his amendment and resubmit it in a form that only amends those two specific areas to which the gentleman's intent goes.

In the form it is now pending, it cannot be amended. A substitute cannot be offered to the Brademas amendment.

Therefore, it seems to me that we are being subjected to a parliamentary ploy to prevent the House from working its will. Under those circumstances, I do not think any Members are under any obligation to expedite the procedure.

Mr. Chairman, I will be constrained to object. I object.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk continued the reading of the amendment.

☐ 1420

Mr. BAUMAN (during the reading). Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

☐ 1430

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The Clerk will read.

The Clerk continued the reading of the amendment.

Mr. STANTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. BAUMAN. Reserving the right to object, Mr. Chairman, the gentleman from Ohio can perhaps inform the Committee of the current situation. It is my understanding that all of those Members who had wished to offer amendments to the sections that are covered by the Brademas amendment now will be able to redraft their amendments in a form that will allow them to be offered at the end of the Brademas amendment if it is adopted, or in some other form that protects their rights; is that correct?

Mr. STANTON. If the gentleman will yield, it is my understanding, at least on my side of the aisle, that that is a fact.

Mr. BAUMAN. Mr. Chairman, further reserving the right to object, I understand from the gentleman from Indiana (Mr. BRADEMAS) that he has made a good faith attempt in suggesting that he might withdraw his amendment so that it could be offered in a redrafted form and that, as he put it, he has "Baumans" on his side of the aisle, too, and that, therefore, there would probably be objection to that request; is that correct?

Mr. STANTON. The gentleman is once again correct.

Mr. BAUMAN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. Does the gentleman from Michigan (Mr. DINGELL) desire to press his point of order?

Mr. DINGELL. No, Mr. Chairman, I do not.

The CHAIRMAN. The gentleman from Indiana (Mr. QUAYLE) is recognized for 5 minutes in support of his substitute amendment.

Mr. QUAYLE. Mr. Chairman, my substitute to the Moorhead of Pennsylvania-McKinney substitute is a compromise between what the Senate Banking Committee has done and the new compromise now before us, the Moorhead of Pennsylvania-McKinney substitute.

☐ 1440

Let me try to just put in perspective what we will be voting on and what is confronting the House this afternoon.

As the Members recall, the administration came forward last summer with a proposal of Federal assistance to Chrysler at $750 million.

The House Committee on Banking, Finance and Urban Affairs upped that to $1.5 Federal matching funds with $1.5 in non-Federal.

The Senate Committee on Banking then came in with a compromise to that, which called for a 3-year wage freeze, which totaled about $1.077 billion and also an aggregate wage freeze on management as well.

On top of that, they came up with a $250 million ESOP program.

The Moorhead-McKinney bill before us has the following features in it: It has a $400 million commitment for the hourly personnel, and as it stands now, nothing for management.

We know that the Brademas amendment is pending, which forces a management compromise into $100 million. Instead of the $250 million ESOP, it has $150 million ESOP.

Before I get into some of the other differences, I want to preface my remarks on offering this substitute. I am sure a number of other people in this House are not too comfortable talking about any kind of a bailout for Chrysler, but if we are going to have taxpayers' assistance, I think that two principles must apply.

First, I think that the taxpayers' investment must have a top priority, and second, and probably to the heart of the matter, that the arrangement of those involved with Chrysler directly must be one of sacrifice.

That would include workers. That would include management. That would include shareholders, and that would also include bankers as well.

The bill that I have substituted for the Moorhead-McKinney substitute is in my opinion a fair but a tough bill.

I do not think that the Federal Government ought to just be rolled, for the sake of big business.

Last year, there were 7,000 small businesses in this country that failed. There was not any bailout nor any assistance for those people. They have families. They have responsibilities as well as do the employees of big business. I think that there is probably a general feeling in this country, and one which I share, that if you are big in our society, that you do not have to abide by the rules of the game. You do not have to abide by the rules of the judiciary. You do not have to abide by the rules of the regulatory system. You are exempt.

Big government does not have to balance its budget. A big business can suspend the rules and get special relief. Big unions do not have to worry about restraint, because big business and big government will be there to help them in time of crisis.

A number of people in this House have campaigned against big government and big business and big unions.

In essence, we are saying there are perhaps two standards, one for big firms and one for the small guy.

In summary, perhaps the argument can be advanced that we do have a double standard and that big business has no right to fail.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. QUAYLE. I yield to the gentleman from New York.

Mr. STRATTON. I was just wondering if the gentleman would comment on the fact, if somebody is careless and allows his pipes to freeze in the wintertime, and ultimately it floods the basement and several rooms of his house, he cannot of course really go to the Federal Government and get any help. But if we have a big flood and not just one home but thousands of homes are affected, this Congress thinks nothing of appropriating money to help that particular situation. So I say it is not a question of size. It is a question of numbers of people affected.

In this case, we have hundreds of thousands of employees who are going to be affected. That is a principle which Congress has always followed. It's nothing new. And yet we don't help one single individual whose business may have gone broke in his corner store.

Mr. QUAYLE. I think the gentleman's point underscores my point, in that we will come to the assistance of big business, and the rules of the game do not apply to big business or big government or big unions.

Mr. STRATTON. But it is not big business in the Chrysler case. It is the number of small people who are involved in a possible bankruptcy.

Mr. QUAYLE. I sort of think that Chrysler is in the category of big business. I suppose one can make the argument it is small business, but I think it is big business. I think if it were smaller and if it were one of those 7,000 businesses that went out of existence last year, we would not even be talking about this issue today.

I also think we can make a very intelligent, cohesive argument that we should not be discussing this matter. However, the fact is, as the gentleman from New York (Mr. STRATTON) points out, there are around 300,000 jobs that are at stake, as well as the economic viability of a number of communities and smaller to medium-sized communities.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. QUAYLE) has expired.

(By unanimous consent, Mr. QUAYLE was allowed to proceed for 3 additional minutes.)

Mr. QUAYLE. My compromise is facing reality. If we are going to help Chrysler, we are going to make it tough and we are going to make it fair.

Let me just go through the differences

between the Quayle and the Moorhead-McKinney substitute.

The Federal guarantee under the Quayle is 1.25 and Moorhead-McKinney is 1.5. The employee contribution under Quayle is $900 million; under Moorhead it is $400 million. The nonunion contribution, management, under Quayle is $243 million; under Moorhead, it is zero, acknowledging the Brademas amendment is pending, it could be $100 million.

I am glad that criticism I pointed out in my "Dear Colleagues" was picked up and responded to by the eloquent whip from Indiana.

The board composition, and this is a very important fact, is different. Mine is a three-member independent board with the Fed, the Treasury, being the chairman, and Comptroller General.

Under the Moorhead bill, we have a five-member board.

Besides those three, you have transportation and labor, which gives the President three appointments out of five. I think that the political overtones could be more dominant on the Moorhead board than would be on mine.

The ESOP, employee stock ownership program, under Quayle is $250 million and under Moorhead, $150 million.

The guaranteed authority by the Federal Government is matching funds to what Chrysler can come up with. Under the Quayle bill, it is 87 percent of private funding. Under Moorhead, it is 100 percent of private funding. Priority of Federal interest—and I commend the gentlemen for their improvement on the bill—is the same, and that is equal basis for State and local government and industries contributing less than $100,000. I think that is a constructive movement.

As far as management interference, there is no possibility for management interference under the Quayle bill. There is under the Moorhead bill, where the board can dismiss management personnel. In other words, if the Board says that Mr. Iacoco could get fired for incompetence, that can be done.

The Quayle bill does not allow that interference. I do not think the Government or Board has a very good record of running business. I think if we want to give Chrysler a chance, we ought to stay out as far as management decisions are being made.

The financial commitment under the Quayle bill has to be legally binding.

Under the Moorhead bill, the wording is assurances of availability. That is a very substantive difference, ladies and gentlemen, between legally binding and assurances of availability. Ours is a much tougher position on financial commitments than is the Moorhead bill.

Finally, I would just like to talk about sacrifice that has been talked about a lot this afternoon. There has been mention of a $4,000 sacrifice by workers over a 3-year period of time. But if you take the $400 million and subtract the $200 million that was already negotiated in the contract, you are talking about a new $200 million in sacrifice.

If you subtract from that figure $150 million that the workers are going to get back under the ESOP arrangement, you are talking about $50 million over a 3-year period of time.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. Quayle) has expired.

(By unanimous consent, Mr. Quayle was allowed to proceed for 1 additional minute.)

Mr. QUAYLE. If you subtract the $150 million from the $200 million, that leaves $50 million over 3 years, and divide that out, and it comes out to less than $200 per year per employee in wages and benefits. This could be personal days off or any other benefits that they want to forego.

In conclusion, Mr. Chairman, I urge a vote for the compromise. I think it is in the best interest of the taxpayers, and I think it is a tough and fair proposal for those involved in Chrysler, management, workers, shareholders and bankers to show some sacrifice if the Federal Government is going to come to their assistance.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I rise in opposition to the amendment.

I rise in opposition to the amendment not without some regret, because my friend from Indiana (Mr. Quayle) has worked long and hard on this; but I think that the members of the committee should be aware that this substitute contains a lot of items which have never been considered by committee in the House. Before we accept an amendment of this size on the floor, we should think long and hard.

☐ 1450

I will say, Mr. Chairman, this amendment does come, in addition to many other things, to a very key issue, which is: What is a fair and reasonable sacrifice to ask of the company's workers.

A second question is also important: How far can we push the various interests with an economic stake in the survival of the corporation, including but not limited to the union employees, before we push them over the brink and they simply prefer to accept a Chrysler bankruptcy, which almost all of us have agreed is not in the national interest.

Let me begin by saying there is a real danger that we will have no package for Chrysler at all if we push these various groups too far. We are right on the edge already with the banks and our requirements for Federal priority as a creditor, to cite one example. This amendment goes to how much the union and its members are willing to do. In brief, I believe this amendment pushes the union to the brink and quite possibly over it. It is roughly equivalent to a 3-year wage freeze which will be contained in the motion to recommit.

It is true, of course, that automobile workers are well paid by the standard of other manual workers. But it is also true that the original substitute, my substitute and Mr. McKinney's, as written, requires a sacrifice from unionized workers of $400 million, which amounts to about $4,000 per worker. If the Brademas amendment is adopted, there will be an additional $100 million from nonunion workers. This means, Mr. Chairman, that these workers will get no real wage increase over the life of the contract and will probably suffer a small real wage loss, depending upon the rate of inflation.

These workers are not millionaires. They have to pay the mortgage and the grocery bill and they are squeezed right now. I am convinced that if we force them, through this amendment, to take a severe cut in their living standards they are likely to say the hell with it and take their chances on finding a job elsewhere. Many of them will not find such jobs, of course. But we are dealing with psychology here.

The committee put together a very good package. It will, I think, be improved by the relatively minor change of the Brademas amendment, but that is significant. But if we go much beyond that, and the amendment of my friend from Indiana goes much beyond it, we risk having no package at all. The sacrifice demanded of the workers is actually larger than most, if not all of the other categories. The loans from the banks, and let us understand this, the loans from the banks, for example, will be repaid if the company survives, as we expect it to do.

What the substitute, both the Quayle and the Moorhead-McKinney, does is require what that the work force gives up, they give up forever, they do not recoup what they give up, and the banks and the suppliers will recoup. I think this is an important distinction that has not yet been made.

Mr. BLANCHARD. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from Michigan.

Mr. BLANCHARD. I thank the gentleman. I think he has made a very clear case. It should really be summarized that the Quayle substitute essentially guts the bill. It guts the opportunity to help Chrysler and its tens of thousands of employees. All it is is a refined version of the Lugar-Tsongas, which admittedly by its own proponents is an approach which will not work. I do not know of anyone seriously interested in helping Chrysler that believes that the formula offered by the gentleman from Indiana will work.

Beyond that, it doubles the contribution of the workers and really does not do that with the banks, the dealers, and suppliers. Further, it distracts again from the arguments we were trying to make earlier about having an equitable package. I want to echo the comments of the gentleman from Pennsylvania (Mr. Moorhead) and oppose the Quayle substitute.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(At the request of Mr. Quayle and by unanimous consent, Mr. Moorhead of Pennsylvania was allowed to proceed for 2 additional minutes.)

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, the sacrifice by the workers of $400 million plus $100 million is a carefully balanced figure and it is equitable. The Quayle amendment would more than double that. The amendment makes other changes, as the gentleman has pointed out, such as reducing the Federal loan guarantee authority from $1.5 billion to $1.25 billion. It changes the composition of the Board.

We very carefully put the Secretary of Transportation on the Board because DOT has made the most intense study of the automobile industry of any department. Also, because we are going to be dealing probably with renegotiation of a labor contract, we included the Secretary of Labor.

The gentleman pointed out that there was a difference in his language between "legally binding" and "assurances" on our part. We say that the Board can make commitments to make loan guarantees based on assurances, but no loan guarantee will be issued until the non-Federal money is firmly at hand. So again I think this permits a little more flexibility in negotiation.

The gentleman from Indiana mentioned the provision that gives the Board the opportunity to throw out management. Well, that is tough. That is mean. Yet we know that some of the problems of the Chrysler Corp. were management errors of the past.

This provision of the bill has one other purpose and that is no other corporations, except in extremes, would ever accept this kind of a regimentation. So we accomplish that objective.

The CHAIRMAN. The time of the gentleman from Pennsylvania has again expired.

(At the request of Mr. QUAYLE and by unanimous consent, Mr. MOORHEAD of Pennsylvania was allowed to proceed for 3 additional minutes.)

Mr. MOORHEAD of Pennsylvania. We did this in the New York City loan guarantee program and made it so mean and nasty that no city has come back to us. I want to do some of the same in Chrysler so that no other corporation, except in extremes, will come back to us.

Finally, the gentleman's amendment puts the interest rate on the loan guarantees as no more than the Treasury rate. I think that means a greater subsidy than is provided for in the Moorhead-McKinney substitute which would say a reasonable rate, which would be higher than that. Therefore, members of the committee, since they are being asked to vote on a new substitute that really has come to us today, I think members of the committee should have reliance on the committee and the committee members who have worked on this legislation and defeat the Quayle amendment.

Mr. QUAYLE. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to my good friend from Indiana (Mr. QUAYLE).

Mr. QUAYLE. I thank the gentleman for yielding and do want to commend him for his work on this effort and for moving in a direction that I think is positive, and one that is going to benefit the taxpayer and the Chrysler employees. I just hope that we can get the gentleman to move a little further in this direction.

First of all, as far as the board interference in management, it is tough, but I think it is wrong. I just do not think that the Federal Government knows how to run business and, whether it is Chrysler or any other business, I think we ought to leave that management decisionmaking power out of the realm of the board. I think we ought to have tough guidelines on how they are going to come up with a financial commitment, and so forth, but not in the actual decisionmaking process.

Second, as the gentleman pointed out quite accurately, it is not a wage freeze and it is a level of $900 million against $400 million. I want to say unequivocally that I have taken the position at home, and I have taken the position on the floor today, and I do not particularly like the position, but my position is to help Chrysler. I want to see Chrysler go forward. I will tell the gentleman one thing, I do not think that $400 million figure is going to sell. That will not be the final figure. Now, it may not be $900 million which the Quayle proposal is going to be, but it will not be the $400 million figure, and that is why I am offering a compromise, to try to go in the direction where we can get a consensus of opinion and help the Chrysler employees. I thank the gentleman for yielding.

Mr. BONIOR of Michigan. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I am happy to yield to the gentleman.

Mr. BONIOR of Michigan. I would like, if I could, to underscore a point the gentleman from Pennsylvania made with respect to the wage figure. The gentleman from Indiana is talking in the neighborhood of $900 million. When that is costed out per worker, we are talking about a sacrifice of roughly $8,400 over a 3-year period per worker.

The point I want to make is that there is a small group of employees, union employees, very small group of skilled trades people who are in very high demand, not in the automobile industry alone, but also in the aerospace industry and in the durable goods industry.

□ 1500

If we go above, as the gentleman indicated, the $4,000 figure that will have to be sacrificed, we threaten to lose these people. When we lose that very small, highly technical, skilled group of people, we threaten the rest of the company and the rest of the people.

Mr. STANTON. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak in favor of the Quayle amendment.

Mr. Chairman, there are several things that have been said here in the last couple of minutes worth repeating, or asking for clarification. I do not think my friend from Michigan (Mr. BLANCHARD) meant that the Quayle amendment guts the bill. You know, it is essentially the same bill that came out of the Senate committee by 10 to 5 on one vote, and 10 to 4 on the other. So I would hope that we would not consider that it guts the bill.

Mr. BLANCHARD. Mr. Chairman, will the gentleman yield?

Mr. STANTON. I yield to the gentleman from Michigan.

Mr. BLANCHARD. Mr. Chairman, I think the reason it has been modified is that it does gut the bill. The only reason it came out of the Senate committee is that they were trying to have something to work with. That is why we came forward with the Moorhead-McKinney compromise. We found the compromise, and I urge support of it.

Mr. STANTON. The gentleman will have to take time this afternoon to find out if his contribution from labor, of which $200 million is taken care of, as the gentleman from Indiana says, will fly.

I was particularly glad to hear Mr. MOORHEAD of Pennsylvania state that what we wanted on this bill was just basically the same fundamental restrictions we had for New York City, such as restrictions on what we did to the labor unions up there. Furthermore, I would think that the Quayle amendment as it has been offered is basically the same as the amendment of the Senator from Indiana, Senator LUGAR. It has been worked on very heavily in the Senate. It seems to be a compromise that had the support of, not only the Senate committee, but hopefully quite a few Members on the Senate floor.

So, Mr. Chairman, I would think that the Members of the House would be wise, at the proper time, to cast a proper vote for the Quayle amendment.

Mr. McKINNEY. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak against the amendment.

Mr. Chairman, I really do not like to have to fight the amendment of a colleague and good friend, but I think there are several things that we really ought to think about. We can either help Chrysler and keep people working and stop the Government from having an enormous deficit and huge financial problems, probably amounting to at least $4.5 billion total in unemployment, ERISA obligations, welfare aid to Detroit, to Michigan, to Indiana, to Ohio, and so forth, or we can kill Chrysler by saying that we are writing a fair bill. I am afraid my friend from Indiana has decided to kill Chrysler.

In fact, even these figures which my good ranking minority member has just brought up as figures carefully thought out in the Senate of the United States—whose lead we do not often follow in this body—have been withdrawn by their own author, Senator LUGAR, just today.

There is no longer in the Senate bill a 3-year wage freeze nor that equivalent amount of money because the Senate seems to have realized what I think Mr. MOORHEAD and I and the committee realized in months of study and discussion and last-minute changes. There is a limit to which every one of these parties can go. We should not try to prove a point for one party over some other party because you are going to be either a hero to banks, a hero to management, a hero to labor, or a hero to somebody else. By going too far in one direction we simply, by killing that part, kill this entire compromise.

I have spent hours talking to union people, and I can tell the Members that I have never gotten a dime from union workers; I have talked with Chrysler and

I have very few Chrysler operations in my district.

I have spent hours talking with banks, and I wished that the banks would have come forward and spoken with us more freely. I told them that we needed their input. They have cooperated reluctantly and I applaud them for it. I have sat and listened to the auto dealers council concerned talk about their contribution. I have sat and listened to the small bankers, who said, "Stop talking about big banks, big corporations. Start thinking a little bit."

That is heard from your Main Street banks up and down and across this country who have loans to Chrysler dealers, Chrysler parts distributors. When those people go under, those small banks are going to have to readjust their portfolios. They are going to have to carry over some of the losses those banks have from their investment trusts and withdraw money from other small businesses. They will offer lower commitments and cut money out of the housing business.

In other words, there is a readjustment across the whole board. I agree with my good friend from Indiana that big does not make them right. Chrysler management has been terribly wrong in the past, but Chrysler is not living in a world climate as the gentleman discusses. Chrysler is living in a climate that this body created and the regulatory agencies downtown have made worse. They are living in the world where they are finding auto industry competition, is totally Government-subsidized; governments refusing to let our companies do in their countries what their companies can do in this country. It is that way across the board.

Volkswagen is given a direct payment of $400 million. Toyota is given money. Mazda is lifted up and carried along every year by Japan. These are the people they are in competition with.

I also find some really bad technical problems with the amendment. For instance, the gentleman describes his Board as independent. I find the Board members deeply involved. First of all, we have the Federal Reserve Board Chairman, who is going to classify all the loans this Board is going to be talking about for the U.S. Government for the Federal Reserve, and then act on letting the loans out. Then, we have the Comptroller General who heads GAO, which is going to do the audits and investigation.

Then, we have the Secretary of the Treasury, a Cabinet-level officer. In fact, the Comptroller of the Currency is an instrument of this Department. So, we have two members on the Board who are going to be reviewing the decisions of the Board. I think that is something we have to keep in consideration. It is not an independent Board.

My colleagues of this House, there is nothing perfect about the Moorhead-McKinney substitute. What was attempted, and I think accomplished, was a long, involved arbitration between all of the different players in this very complicated scenario concerning the viability of the tenth largest corporation in the United States of America. If we do not save this corporation, mark my words, the cost to the taxpayers will be close to $4 billion at the minimum.

The CHAIRMAN. The time of the gentleman from Connecticut has expired.

(By unanimous consent Mr. McKinney was allowed to proceed for 1 additional minute.)

Mr. McKINNEY. Mark my words, there is going to be a $4½ to $5 billion direct cost to the Federal Government versus a guarantee of $1.5 billion. We can expect to have a temporary and, on good authority, 500,000 to 600,000 job layoff. We will have a long-term 150,000 to 250,000 job layoff. We will have the collapse of several city governments financially, and the human toll that we take by demagoguing on how we are going to make one segment or the other pay is just not right. The problem is real, the problem is here, the problem should be acted on by pragmatism, intelligent discussion, arbitration. I think the Moorhead-McKinney substitute does that, and I hope the Members vote down the Quayle amendment.

(At the request of Mr. Stanton and by unanimous consent, Mr. McKinney was allowed to proceed for 2 additional minutes.)

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, I have been watching closely and listening to the gentleman very intently. I may have missed a point, but I understand his main objection to the Quayle amendment is the constitution of this Board.

Mr. McKINNEY. That was a side issue. I said Comptroller of the Currency instead of Comptroller General.

Mr. STANTON. I understood what the gentleman meant, but honestly and truly, I listened very intently because the gentleman had some very specific points in opposition to the Quayle amendment. But, fundamentally, I can see the pride of authorship of the gentleman's own amendment; but except for that Board, you know, I honestly cannot think the gentleman gave any reason.

Mr. McKINNEY. I can give the gentleman the most important reason. The gentleman from Indiana is suggesting a figure based on Senate figures which those Senate authors have withdrawn as impractical and impossible.

□ 1510

Mr. STANTON. I do not think that is quite fair.

Mr. McKINNEY. I think it is very fair, because I have seen it happen just this afternoon.

Mr. STANTON. What I understand that the gentleman from Indiana in the Senate has withdrawn was a wage freeze. Of course, that is a big difference between $400 million and now in the gentleman from Indiana's amendment $900 million. But of this $400 million is not $200 million already contributed by the labor contract?

Mr. McKINNEY. I believe $203 million, which is a positive bottom line on the Chrysler wage contract.

Mr. STANTON. And the credit now that is coming along for the employees amounts to about $150 million; is that not it?

Mr. McKINNEY. The gentleman is exactly correct.

Mr. STANTON. So now we are down to $50 million, is that it, in contributions?

Mr. McKINNEY. I do not think that I know many factory workers who would want as a gift under their Christmas tree a share of Chrysler stock.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Quayle, and by unanimous consent, Mr. McKinney was allowed to proceed for 2 additional minutes.)

Mr. QUAYLE. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from Indiana.

Mr. QUAYLE. I thank the gentleman for yielding.

First of all, I do not think it is fair to categorize the figure of $900 million as an attempt to kill the bill. A higher figure passed the Senate Banking Committee. I am under the impression that so far the members of the Senate Banking Committee and the Senator from Indiana and others have come off the wage freeze. I have come off of the wage freeze, and we are perhaps now down below $900 million. That is the thrust of it.

Mr. McKINNEY. The gentleman is correct. The Senate is working its will, so no one knows what the answer will be. The particular Senator, the coauthor of the wage freeze, has dropped the figure to the $800 million figure.

Mr. QUAYLE. Eight hundred million dollars would be acceptable to me. Maybe we can have a consensus and move forward. This thing is like the stock market. It opens up, and, down. First of all, we hear, "The sacrifice is $203 million; we can't go any further." Another week later, "Well, we can go to $400 million, but we can't go any further." Then later, "Maybe we can compromise at $500 million." Now we are back to $800 million. It is like the stock market.

My amendment tries to come to some reasonable solution. If it is $800 million rather than $900 million, you would find cooperation over here, and we can get down to business and then go home.

Mr. McKINNEY. If the gentleman will refer back to the negotiating time, we had everybody confronting our committee refusing to take an initial stand. As usual, the House went ahead. This is the final hammering out after month after month after month. Most certainly one cannot listen to half the figures one reads bandied around in the newspapers. The administration plucked a figure out of the air.

Chrysler plucked a figure out of the air. Then they together plucked a figure out of the air. Labor was not going to give any more. I threatened to announce the names of some banks on the floor every day in a 1 minute special order to get them to come in and testify. Everybody has come around finally. If one has ever been in labor negotiations, he knows that nobody comes in and sits down and says, "Here are my cards."

I am not so sure, I would state to my good friend, that when we finally see a conference report on this thing, the total might not be a little bit higher, but it is my honest judgment, and that is the only judgment I have, that that figure of $400 million is the equivalent of a 20-month wage freeze. And I think it is a rather substantial contribution on the part of the workers.

Mr. AuCOIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we have heard criticism of the Quayle amendment because it has not been considered thoroughly by the House Banking Committee. I want to say to my colleagues that whatever fault one might find with the Quayle amendment, one also ought to realize that the substitute we are dealing with is subject to the same criticism. The House Banking Committee did not consider the Moorhead-McKinney substitute. In fact, we did not know what the Moorhead-McKinney substitute was until the evening before this House voted on the rule on the Chrysler bill. So no matter what fault one might find with the Quayle substitute, let us not use that canard as a criticism against the gentleman's amendment.

Mr. QUAYLE. Mr. Chairman, will the gentleman yield?

Mr. AuCOIN. I yield to the gentleman from Indiana.

Mr. QUAYLE. I thank the gentleman for yielding. I take no pride in authorship of this substitute. What I did was I took language that was in the language that was in the Senate Banking Committee bill, lowered some of the figures, and put it together, so there is no original authorship. It is simply a compromise, and that is what we are trying to do is compromise and come out with a fair, intelligent bill.

Mr. AuCOIN. The gentleman made that point. He makes it again, and I think the Members ought to examine the criticism against his amendment for what it is.

My friend, the gentleman from Michigan (Mr. Bonior), offered an argument I feel I ought to address as well. He indicated that by going the direction of the Quayle amendment and asking for additional contributions on the part of the employees, we might as a Congress be encouraging or pushing employees out of Chrysler and into more attractive jobs somewhere else in other technological firms. I would have to say to my friend, the gentleman from Michigan that I thought the problem we were dealing with was a loss of jobs. I thought the problem was that we had jobs at stake in which people were going to be in the street and unable to find other employment.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. AuCOIN. I will yield soon to my friend, the gentleman from Connecticut, because I respect him, and I know he has worked hard on this, and his views are sincere, as are mine.

The gentleman made an argument of his own that I would like to focus on. He posed the question as to the limit to which this House can push the various Chrysler constituency groups before the whole package begins to unravel. The greater issue is; to what limit can we push the Federal taxpayer who as a consumer has rejected the products of this corporation and now is being asked as a taxpayer to share the risk of a corporation whose products that consumer has rejected to the tune of $1 billion in sales losses this year, a U.S. record. That is the greater issue. Now I will yield to my friend, the gentleman from Connecticut.

Mr. McKINNEY. I thank the gentleman for yielding. The gentleman poses two issues I have to answer. One is that our colleague, the gentleman from Michigan, is absolutely right. A labor force at Chrysler Corp. is a very involved and complicated thing. You can find me a half million jobs all the way through the suppliers, but when you get into the union structure of Chrysler and the United Auto Workers, the top 8 to 10 percent could easily get jobs elsewhere. They are machine tool and die people, draftsmen, engineers and complicated machinery employees. They are in demand all over the country. Aircraft companies are actually giving bonuses to them to go to work, if they have been awarded a big contract. But that is not the guy on the assembly line; that is not the guy delivering paper towels; that is not the guy doing all the rest of the stuff. Those are the people who are going to be out of work. Those are the people who are going to be on welfare. Chrysler is the biggest employer minoritywise of any of the auto companies.

One other question the gentleman brought up: all American cars have been rejected. Ford has lost almost as much money as Chrysler, in the domestic market, except that their European market bails them out.

Mr. AuCOIN. No car manufacturer in the United States has run up the sales deficits that this corporation has run up.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent Mr. AuCoin was allowed to proceed for 4 additional minutes.)

Mr. AuCOIN. That sales record is so bad that there is not a financial institution in America or abroad, from all I can gather, that is willing to take the risk that the Congress seems to be willing to take. I think that raises a question: If bankers and financial experts are not willing to take this risk, are politicians any better able to judge the economic viability of the corporation? Are they better able to judge whether or not this is a prudent risk?

□ 1520

My suspicion is that the answer is no, that we are not.

Mr. Chairman, I want to answer one other point that my colleague from Connecticut raises. I know the gentleman feels we are going to have incredible numbers of unemployed persons as a result of the Congress failure to pass the loan guarantee program.

However, I submit that that is simply not true. We have a procedure under which this corporation can go forward, short of this extraordinary claim that Chrysler is bringing to the Congress. It is called, as was brought out in general debate, the chapter 11 procedure under the Bankruptcy Act, a provision that was enacted as part of the Bankruptcy Reform Act of 1978.

Mr. Chairman, this is what chapter 11 means: it means a bankruptcy proceeding does not involve liquidation. It means that a proceeding can go forward and factories can continue to operate, windows will not be boarded up, gates will not be locked, people will be able to continue to work, products will still be able to be produced but it will be under the specific guidance of the bankruptcy court which will insist that the corporation stand its creditors in line in an orderly way for repayment. It will supervise the reorganization of the corporation that is woefully in need of reorganization today, as its billion dollar sales deficit surely brings out. It buys "breathing time" for that corporation to accomplish reorganization.

Mr. Chairman, what all this means is that these dire predictions of unemployment simply will not come true. There may be some dislocations but these massive unemployment predictions simply are not accurate.

Mr. Chairman, to the extent that this corporation must cease activities and terminate unprofitable divisions, and to the extent that that in turn means unemployment, the same will be true under the loan guarantee program because the loan guarantee program ostensibly is to give this corporation time to get its house together, to get its act together. By definition, that means streamlining and reorganization.

Mr. Chairman, this whole argument about job losses is—even though I believe these arguments are being sincerely made—not the issue. I think it is a shame to focus, as someone did under general debate, on the Chrysler issue as a "jobs issue." A certain number of jobs are going to be lost anyway but other people who lose jobs are going to be employed by someone else and let us be honest about it, that is exactly what the case is going to be and no matter what we do, whether it is a chapter 11 proceeding or whether it is the loan guarantee proceeding.

Mr. KELLY. Mr. Chairman, I move to strike the requisite number of words, and I will rise in support of the amendment.

Mr. Chairman, as a member of the subcommittee, I have assumed the role during the course of the proceedings up to this point, to keep trying to bring the situation back into perspective and I want to resume that role now.

There has been some conversation during the course of the dialog here this morning that we are going to have unemployment of a half million people and that people are going to be unemployed all over the United States.

Mr. Chairman, I want to assure the Members of this House that the quality of the proceedings before the subcommittee were so short, so abbreviated, and so inadequate—so wanting of substantive content—that there was no way that anyone in this House could have a reasonable predicate for what we are undertaking at this time with this legislation.

Now, Mr. Chairman, with regard to the unemployment figures, let me assure the Members of this House that there is not one shred of testimony, not one single bit of support in the testimony before this House except from those directly associated with Chrysler, just Chrysler saying there is going to be this unemployment is all there is. There is no independent objective testimony. They did go to some analyst and say, "Assume there is going to be a half million people unemployed and then tangentially there will be several hundred other people unemployed; what would be the result?"

Mr. Chairman, there is no evidence of this unemployment. No statement to the effect of massive unemployment can be relied upon by anyone and if there was any reason to believe this was true the supporters of Chrysler would have come forward with testimony to justify it.

Mr. Chairman, the next question: Why should we have a freeze in this case? Pretty clearly the answer is this: Chrysler employees make 100 percent more than the average production worker in the United States. One hundred percent more. They make 500 percent more under the new contract than an individual working on minimum wage.

Now, Mr. Chairman, obviously if the corporation has lost three-quarters of a billion dollars so far this year it cannot pay even the wages under the old contract. So how, then, can they afford to pay more wages? There just is no rational way that can be accomplished.

Clearly, Chrysler is paying its employees far more than the company can afford and is then coming and wanting those who are paid substantially less to artifically finance the company so they can pay even more wages.

Mr. Chairman, let us now compare Chrysler wages with those of our foreign competitors. Everyone is decrying the fact that we are losing our domestic automobile markets to foreign manufacturers. Let us examine that. A Japanese automobile production worker produces 40 cars a year and he gets paid about $6.50 an hour. A Chrysler production worker, or the average American production worker, I am surer Chrysler would be lower than that, produces 25 cars a year and gets paid under Chrysler's new wage program $15.50 an hour.

What is happening is this: when we artificially permit Chrysler to increase wages we are doing a lot of things. One thing we are doing, we are being unfair to every American worker in this entire country whether he makes more or less. In addition to that, we are passing on, automatically, higher priced cars; artificially higher priced cars; to the American consumer to which is especially hard on those who do not have the benefit of large union contracts that permit the cost-of-living benefits or work for the Government. Also we severely damage our ability to compete with foreign competition by artificially increasing production costs.

Mr. Chairman, we have a situation where we are doing what Alfred Kahn, the chief administration inflation fighter, says is outrageous. We are permitting Chrysler to give "outrageous" wage increases to Chrysler union workers which violates the voluntary wage and price guidelines and we are going to finance that from the Public Treasury.

(By unanimous consent, Mr. KELLY was allowed to proceed for 2 additional minutes.)

□ 1530

Mr. KELLY. Now we have an industrial and financial problem. We are trying to solve it by politics.

The suggestion was made by the gentleman from Michigan that we are getting ready to gut this bill if we have a wage freeze. Of course, we are going to gut the bill if we have a wage freeze and everyone should understand that, because that is what we are doing. That is the purpose of this legislation to give the unions a wage increase.

The unions have received such "outrageous" wage increases that the market and the company that hires them can no longer pay the wages. There is only one way the wages can be paid, come to the Government and get the taxpayers to do it and that is exactly what we are doing. If you refuse to let them get a pay raise, then there is absolutely no way that those unions can get such an artificial pay increase and then pass poor quality workmanship and higher prices on to the American consumer, unless the Members of this House on a political basis will provide the money so that those artificial raises can be given, and that is exactly what this exercise is about and it is really not about anything else.

Mr. BLANCHARD. Mr. Chairman, will the gentleman yield?

Mr. KELLY. I would be happy to yield to the gentleman from Michigan.

Mr. BLANCHARD. Mr. Chairman, I did not want to interrupt this very impartial analysis of this legislation.

I do think the gentleman exhibits this truth, as I said earlier, the gentleman from Oregon (Mr. AUCOIN) did; both are opposed to this bill and both are for the Quayle substitute.

The CHAIRMAN. The time of the gentleman from Florida (Mr. KELLY) has again expired.

(By unanimous consent, Mr. KELLY was allowed to proceed for 3 additional minutes.)

Mr. KELLY. Mr. Chairman, there were some suggestions made here that a wage freeze is undesirable. Now, this is a wage freeze at a level at which Chrysler was losing three-quarters of a million dollars just this year; so pretty obviously wages should be frozen.

We are not competitive with foreign manufacturers, either as to wages or productivity. To freeze Chrysler wages makes sense. That change in direction gives America an opportunity to survive. Then the value of our dollar will stop deteriorating. Our balance of payments will improve. Americans can go to work again because they are competitive in a real world. The alternative of greater capital investment as a means for increasing productivity is ignored in the rush to gain the short term advantage of wage increase, long range even the workers at Chrysler will lose.

The suggestion was that this is a worker sacrifice. How can it be a sacrifice to cause a company that cannot afford to pay one wage level to then increase the wages by 33 percent over a 3-year period? That is exactly what Chrysler did.

The gentleman from Oregon suggested that they would take a job elsewhere. That is exactly the purpose and that is why there is no testimony that there would be all this unemployment, because no one could come forward with any kind of authority and say that this unemployment would exist, because Chrysler employees would work elsewhere in the economy. Certainly there would not be any reason to devastate the situation.

Then there was the question about being mean and nasty, like Congress was with New York. We are going to do this mean and nasty like New York. Did New York come back for additional financing after we were so mean and nasty to them in the subcommittee? They did, and Chrysler will come back forever, because they are going to have to keep giving these cost-of-living increases to the unions.

They are all artificial. There is no place to go but the taxpayers, so they would have to come back here; so pretty clearly that is the answer to that suggestion.

Now, the proposition was that there be $4,000 cut per worker. These workers are getting $30,000 a year under this new contract. That is $30,000 a year under this new contract. How many workers in America in your district would be willing to take a $4,000 cut in order to get a $30,000 salary? That was the testimony before the subcommittee and let somebody stand up and say that that is not what the vice president of Chrysler himself said would be the average annual wage of a Chrysler worker, because that is exactly what he did say, $30,000. He first said $20,000 and then he corrected it to $30,000 on further questioning.

So, Mr. Chairman, I submit that if the Members of this House politically want to make a gift, this is the way to do it.

Mr. MITCHELL of Maryland. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the Quayle amendment.

Mr. Chairman, we have been on this issue for some time. I felt that it was the appropriate time for me to speak to what may appear to be a hidden agenda with reference to the Chrysler legislation before use.

Let me make it absolutely clear. What I have to say does not apply to the maker of the amendment, the gentleman from Indiana (Mr. QUAYLE). I have no reason to doubt the gentleman's sincerity or to question the gentleman's motivation in offering the amendment.

I think we have to face up to the fact that there are those in this House who are going to attempt to take this piece of legislation and use it as a technique to get back at organized labor.

I think that is going to happen. There are 435 Members of the House, some are prolabor, some are antilabor. I think some Members are going to stand up and say, "Here is a chance for us to sock it to labor." Well, do not use this vehicle to do it. If you think like that, do not use this vehicle to do it.

What has happened, I think the Members, the major actors in this legislation, have done an excellent job in balancing out a fair contribution.

Let me ask, and I would not dare ask for the record, but how many Members of this House would say, "OK, let me take a $4,000 a year cut." How many of them would say, "Freeze my wages right now." No, you are not going to say it, because you are contributing based on your work, and I would not argue with you if you asked for a salary increase, if you think you are worth it; but for those who are antilabor, they are going to say, "Stick it to them a little bit more. If we get $4,000 out of them, let us get $8,000, and if we get $8,000 out of them, let us go for $10,000 and go for broke."

That is wrong. That is immoral and unjust.

Let me also point out, there may be another hidden agenda here. I have spoken earlier on in this legislation about my feeling toward Chrysler. I resent some of the things that Chrysler has done, but I applaud Chrysler for staying in Detroit when other automobile industries moved out of the cities, moved to the suburbs, thereby almost denying maximum involvement of minorities. Chrysler has an excellent record of employing minorities.

I wonder, maybe I am getting paranoid or something, but I wonder if there is some resentment over the fact that a black worker or a Hispanic worker working on the line at Chrysler is making a good wage. Maybe it is just paranoia, but if that is paranoia, I will have to live with it; but if it is not paranoia, then I say it is wrong to take that attitude.

There is one other point I would like to make. What one pays for food, certain kinds of food in Seattle, Washington, is not the same price one pays for food in Washington, D.C., nor is it the same price that one pays for food in Florida. There are differences in the cost of living. There are regional differences in the cost of living.

Therefore, what is reflected in the average wage, which by the way I think my colleague, the gentleman from Florida, has greatly distorted, but we will get to that in a moment when I yield to the gentleman; if there is a larger wage paid to the Chrysler autoworkers, it is only for one reason, that the cost of living is higher there than it would be in some other parts of the Nation.

Now, if I may, I would like to yield briefly to one gentleman to whom I promised I would yield, and then I will try to yield to the other gentleman.

Mr. Chairman, I yield to the gentleman from Michigan (Mr. BONIOR).

Mr. BONIOR of Michigan. Mr. Chairman, I thank my colleague for yielding. I do not mean to prolong the debate, but it has been raised here in the debate that we are really not going to get a dislocation of jobs if we let Chrysler go down.

The gentleman from Florida made the point, we had some allusion to it by the gentleman from Oregon. I would if I could just take 1 minute of the gentleman's time to go through a couple of communities to show the Members of this body what the effect will be.

In Huntsville, Ala., where they employ a total of around 1,700 Chrysler employees, the average unemployment rate through a 24-month period ending in June of this year was 6.4 percent. With a closing of Chrysler, that rate goes up to 8.1 percent. If you add in the multiplier effect, it is 10.65 percent.

Kokomo, Ind., employs about 7,000 employees. With the closing of Chrysler, that skyrockets from an 8.5 percent average to 22.4 percent, and you add the multiplier effect, it is 43 percent.

□ 1540

The CHAIRMAN. The time of the gentleman from Maryland (Mr. MITCHELL) has expired.

(By unanimous consent, Mr. MITCHELL of Maryland was allowed to proceed for 2 additional minutes.)

Mr. BONIOR of Michigan. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I will continue to yield briefly to the gentleman from Michigan.

Mr. BONIOR of Michigan. Mr. Chairman, to continue with this table: Indianapolis, Ind., 4,000 workers—the same thing, a 5.7-percent average. With the closing of Chrysler, it is up to 6.5 percent. Additionally, it goes up to 7.7 percent with the multiplier effect.

New Castle, Ind., 2,600 workers. This shows 7.7 percent average unemployment, and it is 19.3 percent with the closing of Chrysler Corp., with a 36-percent multiplier effect.

Mr. Chairman, I could go on and on with this, and I will include the table showing the possible unemployment effects of a Chrysler closing in the RECORD, as follows:

TABLE 1.—POSSIBLE UNEMPLOYMENT EFFECTS OF A CHRYSLER CLOSING

Locations of Chrysler auto production—City, State (county)	Total Chrysler employment, May 1979	Chrysler employment as percent of metropolitan area employment, May 1979	Average unemployment rate—24 mo ended June 1979	Possible unemployment rate with Chrysler failure (percent)	
				Multiplier=1 1(2)+(3)	Multiplier=2.5 2.5(2)+(3)
	(1)	(2)	(3)	(4)	(5)
Huntsville, Ala	1,741	*1.7	6.4	*8.1	*10.65
Newark, Del	4,477	*2.3	*9.7	*12.0	*15.45
Belvidere-Rockford, Ill. (Rockford)	5,076	*4.3	5.8	*10.1	*16.55
Indianapolis, Ind	4,042	.8	5.7	6.5	*7.70
Kokomo, Ind	6,764	*13.9	*8.5	*22.4	*43.25
Michigan City, Ind	295	*1.6	6.2	*7.8	*10.20
New Castle, Ind. (Henry Company)	2,607	*11.6	*7.7	*19.3	*36.70
Ann Arbor, Mich	1,276	1.0	3.7	4.7	6.20
Detroit, Mich	51,676	*3.0	*8.9	*11.9	*16.40
Lansing-Lyons, Mich	652	.4	6.8	7.2	*7.80
St. Louis, Mo	8,900	.9	6.4	7.3	*8.65
Syracuse, N.Y	3,679	*1.5	6.9	*8.4	*10.35
Dayton, Ohio	1,926	.5	6.6	7.1	*7.85
Fostoria, Ohio (Seneca Company)	652	*2.5	5.2	*7.7	*11.45
Sandusky, Ohio	344	1.0	5.5	6.5	*8.00
Toledo, Ohio	2,389	.7	6.7	7.4	*8.45
Twinsburg, Ohio	3,748	*1.7	5.7	7.4	*9.95
Van Wert-Lima, Ohio (Lima)	347	.4	*8.4	*8.8	*9.40
Total number distress, by 7.5 measure			5	10	17

NOTES

Col. (2)* = Chrysler employment more than 1 percent of metropolitan area employment.

Col. (3)* = Unemployment rate data for single city or county noted as exception in parentheses, otherwise for city noted in left-most column.

Col. (3), (4) and (5)* = Unemployment rate above S. 914 minimum for the 24-mo rate of 7.5 percent.

Mr. MITCHELL of Maryland. Mr. Chairman, I appreciate the gentleman's remarks, and I think he has stated the case accurately. There will be gross, disproportionate unemployment that will not be handled by relocation. That is the point on which I wanted to end. Either we do it this way or we do it the other way.

Mr. KELLY. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. In just a second, Mr. Chairman, I will yield to the gentleman.

Mr. Chairman, either we support this package before us or else we must be prepared to shell out something like $17 billion a year for every 1 percent of increased unemployment. We anticipate that the total ripple effect will be something like 750,000 jobs lost. Now, that is going to cost us as much as the amount of guarantee that we are offering under this legislation.

Mr. Chairman, I urge defeat of the Quayle amendment, and at this point I will yield to my good friend and distinguished colleague, the gentleman from Florida (Mr. Kelly).

Mr. KELLY. Mr. Chairman, I thank the gentleman for yielding.

(On request of Mr. Kelly, and by unanimous consent, Mr. Mitchell of Maryland was allowed to proceed for 1 additional minute.)

Mr. KELLY. Mr. Chairman, I want to point out, however, as a member of the subcommittee that there is no testimony that this result would be indicated. That the gentleman has cast out a challenge, I think, to the Members of this Congress. I, as one Member of Congress, would be heartened at the prospect for our Nation with a diminution of the inflation rate in this country.

Mr. MITCHELL of Maryland. Mr. Chairman, I will reclaim my time. I understand what the gentleman is saying, and I do reclaim my time. The gentleman from Florida (Mr. Kelly) always rises to the occasion of speaking for the country, and I admire him for it.

Mr. Chairman, let me just point out, if I may, that although there may not have been enough testimony before the subcommittee—but I believe there was—many Members of the House, including this Member, have pursued the matter of potential unemployment resulting from a failure to save Chrysler. We have done that on our own, and there are materials all over the place for one to study. Most of those materials are objective. Most of the reports I have read are objective, and I think I have enough information on which to stake my claim.

Mr. QUAYLE. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to my good friend, the gentleman from Indiana.

Mr. QUAYLE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I appreciate the gentleman's prefacing his remarks to not include me with any of those who might have some motivation for a hidden agenda.

Let me just assert that any hidden agenda of "socking it to labor" would also result in a hidden agenda of "socking it to big business," because in the Moorhead substitute there was zero contribution to management. I circulated a petition to point that out.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. Mitchell) has expired.

Mr. MITCHELL of Maryland. Mr. Chairman, I urge defeat of the Quayle amendment.

(On request of Mr. Hillis, and by unanimous consent, Mr. Mitchell of Maryland was allowed to proceed for 2 additional minutes.)

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from Indiana.

Mr. HILLIS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I just want to put to rest for a moment the argument that we hear that there are no studies or no testimony, and that these figures of unemployment are drawn out of the air.

There are a number of studies made on this question, and to reinforce what my good friend, the gentleman from Maryland in the well, is talking about, the Department of Transportation made a study on the effect of a Chrysler shutdown as of August 31 as of this year. They said at that time that it could be between 290,000 and 439,000 jobs that would be affected or lost.

The study showed that of Chrysler's 40 production facilities, only about four would be candidates for purchase by other firms, and that only about 6,000 jobs could be retained at these plants.

The record should show that there are numerous studies. One was commissioned by the Congressional Budget Office.

That is very current. It is dated August 14 of this year. It said that the long-term job loss resulting from the increased foreign market shares if Chrysler fails is between 200,000 and 300,000.

Mr. Chairman, I just wanted the record made clear here that what my friend, the gentleman from Maryland (Mr. Mitchell), is saying is accurate, and there are a lot of studies to prove his point.

Mr. MITCHELL of Maryland. Mr. Chairman, I thank the gentleman for his contribution.

Mr. STARK. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from California.

Mr. STARK. Mr. Chairman, I am just afraid, from what I have been hearing, that although the gentleman would not support the idea of the trickle-down effect, he is now mesmerized by the ripple effect, which would be no more fruitful than the trickle-down effect.

I wonder, then, if the gentleman would support an amendment which I intend to offer which would prohibit any of this money we are going to guarantee to be used to expand plants in Canada and Mexico, where engines would be made, rather than to build those plants in this country where our citizens would be employed.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. Mitchell) has expired.

Mr. SAWYER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the substitute amendment.

Mr. SAWYER. Mr. Chairman, up until Friday I was one of two Members of the Michigan delegation in both Houses who was opposed to this bill.

Frankly, when the Moorhead-McKinney amendment became available in the Congressional Record, I decided that I could support that amendment. As I told some of the media in my district, it just makes me gag, whereas the original bill made me throw up.

So I am not an enthusiastic supporter. But I think, when we weigh this bill against the human impact and the absolute devastation to one of our cities, namely, Detroit, the risks involved here are well worth taking.

When I first heard it, I thought I might be inclined to support the Quayle substitute, but as I have analyzed it on the spread sheet, I believe it just goes so far that Chrysler cannot use the bill. I think it would not be a double bill.

Let us bear in mind that we are asking financial institutions that are already deeply in this to put in an additional half-billion dollars subordinated to the Federal Government. To financial institutions the word, "subordinated," when applied to them, is a dirty word. They only like it for other people. If, in addition to that half-billion dollars, we also required that only 87 percent of the money put in under the guarantee is secured by the guarantee I think we are coming very close to breaking the camel's back with additional straws.

Mr. Chairman, let me make one other observation. I am satisfied with the elimination of the power to waive subordination. I am satisfied that with a substantial elimination of the waiver in the substitute bill, the Moorhead-McKinney bill, the chances of our losing any money are just about zero. Chrysler has $7 billion worth of net book assets. Like most older or mature companies, that book value should be considerably below the liquidation value, particularly as to real estate. If we go to the head of the line in case of liquidation with this billion-and-a-half dollars, given only parity with the States and local governments and very small suppliers, I see no realistic risk that, with $7 billion worth of depreciated book assets there, we cannot get our billion-and-a-half dollars back with some ease.

So I think the risk is minimal, if it exists at all, along this route, whereas I think the refusal to guarantee is going to cost our taxpayers $4 billion, $5 billion, $6 billion, or $7 billion, but certainly a multiple of $1.5 billion.

Mr. Chairman, with the lack of risk, which was eliminated by the Moorhead-McKinney substitute, I can support this bill. I think support of the amendment offered by my friend, the gentleman from Indiana (Mr. Quayle), would in in effect be going so much further, both as to the unions and the financial institutions, as to make the bill unusable and defeat its purpose while appearing to support the bill.

Mr. FITHIAN. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from Indiana.

Mr. FITHIAN. Mr. Chairman, I thank the gentleman for yielding, and I compliment him on his very constructive contribution to the debate today. It is very substantive, and it goes to the heart of the matter.

□ 1550

I think that the Quayle substitute is unworkable. I believe that any analysis, such as the gentleman's, will demonstrate that it is unworkable, and it comes to be something of a shame.

There is one additional point I would like to raise here with my good friend, the gentleman from Oregon. When the gentleman talked about chapter 11 proceedings, the gentleman's analysis was correct, with the alarming absence of one issue, and that is the issue of subsequent car sales should an automobile company have to go through a chapter 11.

I do not know very many consumers who would buy a Chrysler product, assuming they were going to try to drive it for 4 or 5 years, if they really knew, as the public will know, that they are going through chapter 11.

Mr. SAWYER. Mr. Chairman, if I may reclaim my time, an automobile, as we all know, is the second largest purchase investment that the average citizen makes, and warranties have become exceedingly important parts of the sale, as you can see from the thrust of the advertising by the automobile companies. If you have a receivership or a potentially bankrupt company as a warrantor, all you have is a piece of paper. I am convinced that that alone would sink salability of the Chrysler automobile.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from Oregon.

Mr. AuCOIN. I appreciate the gentleman's yielding.

Mr. Chairman, I am interested in the fact that the gentleman feels that the substitute before the committee right now removes the risk of failure on the part of Chrysler Corp. Unfortunately, the Banking Committee on which I serve——

The CHAIRMAN. The time of the gentleman from Michigan (Mr. SAWYER) has expired.

Mr. AuCOIN. Mr. Chairman, I ask unanimous consent that the gentleman from Michigan be allowed to proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

Mr. OBERSTAR. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. EVANS of Delaware. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me say at the outset that if we are going to help Chrysler, let us give Chrysler a reasonable chance to succeed. I think there is a risk. There is a risk in life. There is a risk in anything. And it seems to me there is a risk in whether or not Chrysler will succeed if we do go forward with $1.5 billion in Federal loan guarantees. But I think that that risk pales in comparison with what would happen if Chrysler does collapse, in terms of human suffering, the economic impact on this Nation, the impact on our balance of trade.

I think it might be appropriate to ask the question: Who would we be helping if we do not pass a bill to assist Chrysler Corp. through their transition to produce smaller, more fuel-efficient automobiles? We would be helping the Japanese manufacturers of automobiles and we would be helping the West German manufacturers of automobiles and we would be helping West German jobs and we would be helping Japanese jobs. That is for sure.

I think repeatedly it was pointed out by expert after expert in the hearings that were chaired by my friend, the gentleman from Pennsylvania (Mr. MOORHEAD), that the penetration of Chrysler's share of the smaller fuel efficient automobile market would come at the expense of American automobiles. It would mean that foreign competition would have a further toehold in the American market.

I for one am going to cast my vote in favor of American jobs and in favor of an American company.

I would just like to address briefly two points that were raised in the debate. One was that the banks are not going to be willing to share the burden of keeping Chrysler afloat. They have a tremendous stake in Chrysler. There are some $4 billion in loans outstanding at the present time that are unsecured. I think the compromise addresses that. It says that those loans, the $4 billion plus any new loans, are going to be subordinated to the $1.5 billion in Federal guarantees. But the bill itself and the compromise requires that we raise an additional $1.43 billion. It requires, at least it suggests, $500 million, from our domestic banks. That is not saying to the banks, "You could be off the hook." They are not being bailed out. They are being asked to bear a share of the responsibility of trying to keep Chrysler alive and the hundreds of thousands of people who are affected.

The second question that was raised during the debate which I think needs to be addressed is: Why do we not use chapter 11 and reorganize the company? I refer the Members to some remarks that were made in testimony before the Senate Banking Committee by Benjamin Weintraub, who I think is recognized as one of the leading experts in the bankruptcy field, and he said reorganization would not accomplish anything that is not already being done to streamline and to save Chrysler already. He also pointed out that there was no precedent under chapter 11 for reorganizing a manufacturer of consumer durables whose customers rely on continuing warranty and service coverage. Indeed, it is likely that any easing of cash pressure from suspension of payments to creditors under chapter 11 would be offset by drastic reduction in cash sales. The ripple effect would be tremendous on suppliers, dealers and other small business people throughout the United States. The uncertainty and the lack of confidence would be rampant. Many local banks would be forced to cut off credit to some of those local suppliers and dealers. The end result of chapter 11 would be a rapid shutdown of Chrysler's operation with a payout to creditors of only a fraction of the obligation owing to them. That is certainly not in the national interest.

I think that the question here should be not so much can we afford to assist Chrysler; the question should be, under the circumstances, can we afford not to?

Mr. STOCKMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think I have been around here long enough to recognize that when somebody cannot think of a good argument against an amendment or a pending proposal, then what you do is scream out that it guts the bill, or what you do is engage in vehement rhetorical battles with hidden agendas and other issues that are not relevant to the matter pending before us.

Now we have been told by the managers of this bill that you do not dare change a number, you do not dare change a feature or a comma or a line on a provision of this plan that is before us. We have been told that it was delicately arbitrated and that it is now fair, equitably balanced, and so forth, but it strikes me that that sounds a little bit like the pot calling the kettle black because this plan has been changed so many times in all of its particulars just over the last week that how anyone can unequivocally say it cannot be changed any more and that this amendment which essentially changes one number or one issue having to do with the labor contribution would gut it, would jetison it, seems to me to be not a creditable statement.

It has been said that this is delicately balanced. But who said that? The answer is that it has been said by interested parties; and, of course, they are the ones who negotiated this package. But I think the issue, really, before the House is: Can we hope to run an economy as big as $2.4 trillion, an activity as complex, as interrelated as ours, and allow things to be negotiated by the interested parties in the back corridors of the Congress of the United States?

There has been great discussion the last hour about the jobs issue, and it seems to me that on this question alone—and I am glad that the gentleman from Oregon raised it—there has been more exaggeration than any other aspect of this whole proposal. We have been given the figure many times 600,000 jobs, families and people distressed, up to a total of one-half million people, and where does that number come from? It comes from the sheer mathematical exercise of single-entry bookkeeping. It is based on the notion that the American economy is like a giant bathtub and that if a company goes bankrupt or if a company goes into reorganization that all of the plants, all of the jobs, all of the suppliers, all of the dealers disappear down the drain. The fact is that the 600,000 number is based on the fact that there are 400,000 people employed by Chrysler suppliers and dealers, and they take that 400,000 and they multiply it by a factor of 1.5 and that is supposed to represent the multiplier effect of the income lost to Chrysler workers and employees. But whether you agree or not that its the correct solution we do have an unemployment insurance protection system now in this country.

☐ 1600

Whether you think this is the right option in this case or not, every one of the Chrysler plants has been certified for trade adjustment assistance, and every one of those employees will be guaranteed 90 percent of their takehome pay for a year. So there will be no income loss, and there will be no multiplier effect of 1.5; and you are talking about 200,000 jobs that are just concocted.

Then another 100,000 of that 400,000 is composed of employment at the dealer level of people that ship and sell and service the cars.

I do not think anybody made any argument that the total number of cars in our economy that are sold is going to decline. Whether they are replaced by Fords or Toyotas of Volkswagens built in Pennsylvania, the same number of cars will be sold, and the same number of people will be employed in the dealer network.

There will be some people who have "Bud" on the front of their shirt and Junction City Chrysler on the back who will have to change their shirt, but the number of jobs in the dealer sector will not change.

You are left basically with 300,000 jobs that may be in jeopardy at Chrysler and their suppliers.

My friend from Delaware (Mr. EVANS) suggests that if we do not adopt this bailout or if we adopt this amendment, all of those will go fleeing offshore; the Japanese and the West Germans will take them over.

He wants to vote for American jobs. Let us look at the issue a little more carefully.

In the first place, if we are concerned about Japanese jobs, let us remember that 20 percent of all those small cars that Chrysler is selling that you hear so much about are made in Japan already by Mitsubishi. Those jobs are not going to disappear. They already have.

Let us remember that half of the cars that Chrysler sells every year are trucks and RVs and large cars that are not made anywhere outside the United States, not in West Germany, Japan or anywhere else. They will be made here by other manufacturers.

So if you analyze this carefully, sure there will be some job dislocation for some people. Sure, in the short run, there might be some net loss. But to talk about hundreds of thousands of people unemployed is simply to engage in hyperbole and exaggeration. It is not the real issue involved.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from Oregon.

Mr. AuCOIN. I appreciate the gentleman yielding.

I think he makes an excellent point.

The unemployment figures we have heard within the last few minutes contemplate a shutdown. That is what one of the speakers just said, a shutdown of the Chrysler Corp. But that would not be the case under the chapter 11 proceedings. Therefore, these estimates, as the gentleman from Michigan well points out, are off base.

An additional point needs to be made. Why is not someone talking about the jobs that could be created by the venture capital that will be siphoned away into this inefficient, grossly mismanaged firm—away from firms that are productive, who need the capital and are waiting for an opportunity to expand. There is only so much capital around. It is a capital-short economy.

Make no mistake about it. We are rewarding an inefficient firm at the expense and out of the hides of other firms, which will hire additional people, people who have no one to represent them here today.

Mr. STOCKMAN. The gentleman makes a very excellent point. It is one that needs to be underscored again and again. There is no rainy day fund out there. The bankers have not set aside a little stash of $1.5 billion just waiting for a failing corporation to struggle in and ask Congress to appropriate. No, you are going to take that money out of a tight credit market, and it means somebody else will be denied, a small manufacturer, an auto dealer, or farmer. That means jobs and production in the economy elsewhere.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. STOCKMAN) has expired.

Mr. JOHN L. BURTON. Mr. Chairman, I ask unanimous consent that the gentleman from Michigan be allowed to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. OBERSTAR. Mr. Chairman, I object.

I believe there is an effort to attempt to limit debate on this amendment, and in view of that attempt to limit debate, which I think is entirely proper, I object.

The CHAIRMAN. Objection is heard.

Mr. JOHN L. BURTON. Mr. Chairman, I move to strike the requisite number of words.

The gentleman mentioned trade assistance and unemployment insurance. Who pays for that?

Does that come out of the sky or out of the taxpayers' pockets?

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from Michigan.

Mr. STOCKMAN. I was not arguing whether that is the proper solution or not.

Mr. JOHN L. BURTON. The gentleman's words were, when we discussed this before the bill came up, and I asked what was the solution for the worker, the gentleman said there is unemployment insurance, a trade assistance plan, 90 percent of their wages, and we are asking, that is going to get paid from the Federal Treasury or some place else?

Mr. STOCKMAN. I think the gentleman will agree we have adopted these programs because they are necessary to prevent that hardship.

Mr. JOHN L. BURTON. If my friend would answer, where will that money come from? Will it come from the General Treasury of the United States and the taxpayers?

Mr. STOCKMAN. Of course it will, just like the Chrysler bailout.

Mr. JOHN L. BURTON. Case closed.

I am just saying that with unemployment insurance and trade adjustment assistance we are not talking about money that will be loaned and paid back. We are talking about the dole. We are talking about giving taxpayers' money and not getting it back.

Mr. EVANS of Delaware. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from Delaware.

Mr. EVANS of Delaware. I think what we are also talking about is trying to minimize the risk to the American taxpayer.

There is going to be some risk, but I think the risk to the American taxpayer, to our economy, to those whose jobs depend on Chrysler, including many small business people around the country, is greater if we do not give Chrysler some reasonable chance to succeed.

I thank the gentleman for yielding and for giving me a chance to answer the gentleman from Michigan on several points, or the gentleman from Oregon (Mr. AuCOIN), who referred to the mismanagement, the grossly inefficient management of the Chrysler Corp.

I do not personally, and I do not think anyone who supports this bill applauds Chrysler's past management. The past management made some mistakes.

I do submit that the present management is taking some new initiatives. They have new leadership there.

There were some mistakes that were made in the past. For example, their overseas investments were extended too far. This has been corrected and their European operations are in the process of being sold. They have also sold their South American operations and are in the process of selling their Far Eastern operations.

They made some mistakes in establishing a sales bank, and producing automobiles before firm orders were in hand. That mistake has been rectified by present management.

The other mistake they were making, as the gentleman from Michigan (Mr. STOCKMAN) knows, is that they were leasing cars to the rental companies rather than selling them. They have corrected that mistake. They are, as they would under reorganization, eliminating some of the older facilities. And, most importantly they are moving ahead to produce smaller more fuel efficient automobiles to meet the market demand. I think they are taking the same steps that they would be taking under chapter 11 reorganization, and I think that the correct action is not reorganization, but rather giving Chrysler Corp. and its employees a reasonable chance to succeed which is precisely what this bill is attempting to do.

Mr. BRODHEAD. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from Michigan.

Mr. BRODHEAD. I thank the gentleman for taking the time to point out that the cost to the taxpayer and, this is undisputed as far as I know, the costs to the taxpayer of standing back and doing nothing are far greater than the costs of doing something. Of course, this is a loan guarantee, not a loan from the Government and it will be paid back. It will be paid back with interest. The corporation does have assets; and even in the event of liquidation, there is going to be no cost to the taxpayers.

So on the one hand, we have a bill which will save some jobs at no cost to the taxpayers.

Mr. JOHN L. BURTON. The other is having the taxpayer pick up the entire tab, the unemployment insurance, welfare, and trade assistance payments.

Mr. BRODHEAD. And the pension loss. I understand that a Chrysler failure would cost American taxpayers in excess of $1 billion a year, in pension guarantees.

Mr. JOHN L. BURTON. When we think of the small businesses that are across the street from the plants, like the coffee shop and the people who come around with the coffee, they will all go out of business. They are small businesses that will go out of business, that are not related to Chrysler.

Mr. BRODHEAD. It is also important to point out that Chrysler Corp. has 19,000 suppliers and that most of these suppliers are small businesses. Many of them are very small businesses indeed, and their fate rests very, very heavily on what we do here today.

I think the gentleman has made a most useful contribution to this debate.

Mr. PURSELL. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from Michigan.

Mr. PURSELL. I would like to make a remark in regard to imports. Chrsyler in its plant is redoing the Trenton plant to produce 400,000 four-cylinder engines. You cannot buy a four-cylinder engine anywhere in the world today. I would like to compliment Chrysler on that effort.

Mr. JOHN L. BURTON. I would like to close by yielding back the balance of my time.

☐ 1610

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. BRADEMAS) to the amendment in the nature of a substitute offered by the gentleman from Pennsylvania (Mr. MOORHEAD).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 407, noes 1, answered "present" 1, not voting 24, as follows:

[Roll No. 743]

AYES—407

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolpe
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOES—1

Paul

ANSWERED "PRESENT"—1

Gradison

NOT VOTING—24

Alexander
Andrews, N. Dak.
Burton, Phillip
Crane, Philip
Edwards, Calif.
Flood
Giaimo
Ginn
Goldwater
Hanley
Holt
Lehman
Loeffler
Murphy, Ill.
Richmond
Sebelius
Simon
Symms
Treen
Van Deerlin
Wilson, Bob
Wilson, C. H.
Wolff
Yates

☐ 1620

So the amendment to the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. QUAYLE) as a substitute for the amendment in the nature of a substitute offered by Mr. MOORHEAD of Pennsylvania.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. STANTON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 107, noes 296, answered "present" 1, not voting 29, as follows:

[Roll No. 744]

AYES—107

Abdnor
Anthony
Archer
Ashbrook
Atkinson
AuCoin
Badham
Bafalis
Bauman
Bennett
Bereuter
Bethune
Bowen
Brown, Ohio
Broyhill
Burgener
Butler
Campbell
Carney
Cheney
Clausen
Cleveland
Coleman
Collins, Tex.
Conable
Corcoran
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Derwinski
Devine
Dickinson
Dornan
Edwards, Ala.
Edwards, Okla.
Erdahl
Findley
Frenzel
Gibbons
Gingrich
Goodling
Grassley
Green
Grisham
Hagedorn
Hammerschmidt
Hansen
Hinson
Hopkins
Ichord
Jeffords
Jeffries
Johnson, Colo.
Kelly
Kindness
Kramer
Lagomarsino
Latta
Lewis
Livingston
Lott
Lujan
Lungren
McClory
McDonald
McEwen
Madigan
Mathis
Mica
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Nichols
Pritchard
Quayle
Rhodes
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Satterfield
Schulze
Sensenbrenner
Shumway
Shuster
Smith, Nebr.
Snyder
Solomon
Spence
Stangeland
Stanton
Stockman
Stump
Taylor
Thomas
Trible
Vander Jagt
Walker
Whitehurst
Whittaker
Wydler
Young, Fla.

NOES—296

Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Applegate
Ashley
Aspin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Buchanan
Burlison
Burton, John
Byron
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clay
Clinger
Coelho
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Courter
D'Amours
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Dicks
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Emery
English
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gilman
Glickman
Gonzalez
Gore
Gramm
Gray
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Leland
Lent
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCloskey
McCormack
McDade
McHugh
McKay
McKinney
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Michel
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rinaldo
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Runnels
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Shelby
Skelton
Slack
Smith, Iowa
Snowe
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thompson
Traxler
Udall
Ullman
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Weaver
Weiss
White
Whitley
Whitten
Williams, Mont
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolpe
Wright
Wyatt
Wylie
Yatron
Young, Mo.
Zablocki
Zeferetti

ANSWERED "PRESENT"—1

Gradison

NOT VOTING—29

Alexander
Andrews, N. Dak.
Beard, Tenn.
Burton, Phillip
Crane, Philip
Diggs
Edwards, Calif.
Erlenborn
Flood
Giaimo
Ginn
Goldwater
Hanley
Holt
Lehman
Loeffler
Murphy, Ill.
Richmond
Sebelius
Simon
Symms
Treen
Van Deerlin
Waxman
Wilson, Bob
Wilson, C. H.
Wolff
Yates
Young, Alaska

☐ 1640

The Clerk announced the following pairs:

On this vote:

Mr. Goldwater for, with Mr. Ginn against.

Mr. Loeffler for, with Mr. Hanley against.

Mr. Sebelius for, with Mr. Diggs against.

Mr. Symms for, with Mr. Phillip Burton against.

So the amendment offered as a substitute for the amendment in the nature of a substitute, as amended, was rejected.

AMENDMENT OFFERED BY MR. WYLIE TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MOORHEAD OF PENNSYLVANIA

Mr. WYLIE. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. WYLIE to the amendment in the nature of a substitute offered by Mr. MOORHEAD of Pennsylvania:

On page 1, line 10, immediately following the word "its", insert the word "domestic".

On page 1, line 11, immediately following the word "other", insert the word "domestic".

On page 11, line 9, immediately following the semicolon, insert the following new subsection, and renumber the succeeding subsections accordingly:

"(5) there is no substantial likelihood that Chrysler Corporation will be absorbed by or merged with any foreign entity;"

On page 13, line 12, insert a new section as follows and renumber the sections accordingly:

"RESTRICTIONS ON LOAN GUARANTEES

"SEC. 6. Nothing in this act shall be interpreted to mean that any loan guarantee of the Federal Government under this act is in any way an asset of the Corporation which can be sold or assigned by the Chrysler Corporation to any foreign entity."

Mr. DINGELL. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Michigan reserves a point of order.

Mr. WYLIE. Mr. Chairman, this is a modification of an amendment which I offered in committee and I believe I have it worked out with the chairman of the subcommittee. I did announce my intention of offering this amendment in the report accompanying this bill. What the amendment basically does is say that none of the benefits of the loan guarantee arrangement under this bill will go to a foreign corporation or a foreign country. The intent behind this amendment is to assure that any money guaranteed by the bill would go to preserve Chrysler as a viable, independent American corporation.

Mr. Chairman, I might say that I am for the bill and gave my reasons for support of the bill on last Thursday, but I do think we place ourselves in line for criticism if we open up the possibility that any loan guaranteed by the Federal Government would be utilized to help foreign corporations compete against our other domestic corporations. I think indeed we would frustrate the whole purpose of this bill if this amendment is not adopted.

☐ 1650

So the basis of my amendment is to assure that any guarantee is directed to help make Chrysler a viable domestic corporation, if that is possible. If that is not possible and a sale is ultimately made to a foreign corporation, the U.S. taxpayer money should not go to pay off loans for the benefit of a foreign corporation or a foreign government.

My amendment does not go to the guarantee of loans to the corporation per se; rather, it would preclude guaranteed loans for the benefit of foreign companies and foreign governments.

I do think that this is a desirable amendment to help achieve the purpose of this bill.

Mr. Chairman, I yield to the chairman of the subcommittee, the gentleman from Pennsylvania (Mr. MOORHEAD).

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I thank the gentleman for yielding.

I also want to express my thanks for the good work the gentleman did in the committee.

Mr. Chairman, I believe that the amendment of the gentleman is a good one. None of us intends that the guarantees go to a foreign entity or a foreign nation.

I do say that in accepting this amendment, it is my understanding that it will not cast any cloud on the validity of any guarantee once issued by the Board; so I hope the amendment is adopted.

If the gentleman would yield further, I would like to ask some questions.

Part of the bill talks about selling assets and so forth. Would this prevent Chrysler from selling assets or a subsidiary to a foreign entity to raise money for part of this package?

Mr. WYLIE. No, it would not. As that was one of the objections which was raised in the full Banking Committee, I was persuaded to withdraw my amendment at that time.

As a matter of fact, I would recommend that the sale of some of the unprofitable subsidiaries, or even some of the profitable subsidiaries to raise some extra cash for the parent corporation might be recommended; so no, it is not the purpose of my amendment or the intent of my amendment to preclude such sales.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, if the gentleman would yield further, would the amendment of the gentleman preclude the purchase of Chrysler stock on the open market by a Japanese banker, for example?

Mr. WYLIE. No, it would not preclude the purchase of stock for portfolio investment. What it would do would be to preclude direct investment in the corporation, so that some entity foreign to the United States or someone other than a citizen of the United States would not be permitted to purchase an investment in the corporation which would lead to a takeover of the management and directorship of Chrysler.

Mr. MOORHEAD of Pennsylvania. I believe that the amendment now offered by the gentleman from Ohio in response to my inquiries has answered all the questions raised in the committee.

I, for one, hope the amendment will be adopted.

Mr. WYLIE. Mr. Chairman, I thank the gentleman very much for his support and compliment him for his work on this bill.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. Yes, I will be glad to yield.

Mr. STANTON. Mr. Chairman, as the gentleman from Ohio has said, this did come up in the committee. To be very honest, it still bothers me considerably, not from the point of view of opposing it, but I do really question how the company can live with an amendment of this particular type. Maybe the gentleman once again could clarify this.

Mr. WYLIE. Well, may I reclaim my time for just a moment to explain. I have checked this with Chrysler officials and they say they can live with it.

Mr. STANTON. Then who am I to question it; but I just wonder, before the Board could issue loan guarantees, according to the gentleman, they have to certify that there is no substantial likelihood that Chrysler Corp. will be absorbed by or merged with any foreign entity; is that correct?

Mr. WYLIE. That is correct.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. WYLIE) has expired.

(At the request of Mr. STANTON, and by unanimous consent, Mr. WYLIE was allowed to proceed for 1 additional minute.)

Mr. STANTON. Mr. Chairman, will the gentleman yield further?

Mr. WYLIE. I yield.

Mr. STANTON. Mr. Chairman, the loan guarantees run for 10 years to be paid back. Nobody can foretell down the road 2 or 3 years what is really meant by that. Nobody can tell if the Japanese we referred to a while ago would go on the open market or any market and slowly buy up Chrysler stock, that they will not end up controlling that corporation.

I see the principle of that and I am not about to hold it up any more tonight. If the company accepts it, then certainly I hope by the time we get to conference we can clarify this.

I thank the gentleman for yielding.

Mr. WYLIE. Mr. Chairman, I just think everyone ought to be on notice that this Congress has made the determination that the intent of this bill is to help Chrysler. As I say, I think it would frustrate the whole purpose of the bill if the benefits of a loan guarantee were to enure to a Japanese corporation, or a West German corporation, to compete with General Motors or Ford or AMC.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. Yes, I would be glad to yield.

Mr. ASHLEY. Mr. Chairman, I opposed this amendment in committee, but I will not oppose it at this time. But if there are any more amendments to be offered that are offered on expectation that they are going to be accepted on the floor without opposition, amendments that have been defeated in committee, I just want to advise that that is not going to be the way of it, because I opposed it for what I thought was good reason in committee.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. WYLIE) has again expired.

(At the request of Mr. ASHLEY, and by unanimous consent, Mr. WYLIE was allowed to proceed for an additional 30 seconds.)

Mr. ASHLEY. Mr. Chairman, if the gentleman will yield further, I was on the side that prevailed and the gentleman's amendment was voted down, and I think for good reason.

Mr. WYLIE. Mr. Chairman, may I reclaim my time to answer.

The amendment on this subject which I offered in committee has been modified greatly; although the intent is the same. I did see that there could be some objection to the amendment which I offered in the committee, in that as the chairman of the subcommittee pointed out, there might have been the possibility of precluding the sale of some subsidiaries for the purpose of raising extra needed cash; but the general purpose of the amendment offered in committee and the general intent of my amendment now is the same, and that is not to use taxpayers' money to fortify foreign corporations through this loan guarantee.

Mr. SKELTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wish to engage in a colloquy with the gentleman from Pennsylvania, the manager of the bill.

Mr. Chairman, I would like to voice my concern over this particular subject, because I hope that we are not creating in the future a bonanza for foreign competitive markets.

Now, section 4(A)(8) of the bill calls for the Board of Advisers that we designate to ascertain that the financing of plans submitted to them by Chrysler contribute to the domestic economic viability.

The committee report on page 29 refers to the company's domestic operations being the sole beneficiaries of this assistance.

This entire area concerns me because I do know that in the past Chrysler has owned either wholly or partially subsidiaries in Canada, Mexico, South Africa, England, France, Australia, Switzerland, Panama, West Germany, and Norway; also, they have substantial investments in Japan.

I want to make sure that this bill, as well as this amendment, aims toward creating domestic economic viability as we understand it, and not in the long run increases our trade deficit. It bothers me and I would like to have the gentleman's thoughts and the gentleman's answers to my concern on that, if I may.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I certainly yield.

Mr. MOORHEAD of Pennsylvania. Chrysler has sold all, except for a minor bit, all of its foreign assets, with two exceptions, Mexico and Canada. None of the investment will go to Mexico. The cars sold by the Mexican subsidiary contain 35 percent U.S.-made parts and components. The Mexican subsidiary, therefore, adds to U.S. jobs.

Mr. SKELTON. So actually we are exporting to them to put the parts together to make automobiles in Mexico.

Mr. MOORHEAD of Pennsylvania. That is correct. In Canada there is a complete and free interchange of autos and components between the two countries. We have a common market in automobiles between the two countries. Some investment may go to Canada, but this turns out to be in our best national interest.

I hope that satisfies the gentleman.

Mr. SKELTON. Then with those two exceptions which the gentleman has very clearly explained, then the loan guarantees will not go toward assisting those operations elsewhere and increase our foreign trade deficit.

Mr. MOORHEAD of Pennsylvania. The gentleman is entirely correct.

Mr. SKELTON. I thank the gentleman so much.

The CHAIRMAN. Does the gentleman from Michigan (Mr. DINGELL) withdraw his point of order against the amendment offered by the gentleman from Ohio (Mr. WYLIE)?

Mr. DINGELL. Yes, Mr. Chairman, I withdraw my point of order, and I support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. WYLIE) to the amendment in the nature of a substitute offered by the gentleman from Pennsylvania (Mr. MOORHEAD).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. STARK TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MOORHEAD OF PENNSYLVANIA

Mr. STARK. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I reserve a point of order on the amendment.

Mr. DINGELL. Mr. Chairman, I also reserve a point of order on the amendment.

The CHAIRMAN. The two gentlemen reserve a point of order.

The Clerk will report the amendment.

The Clerk read as follows:

> Amendment offered by Mr. STARK to the amendment in the nature of a substitute offered by Mr. MOORHEAD of Pennsylvania: At the end of section 4 of the matter proposed to be inserted, insert the following new subsection:
>
> "(o) During the period in which any loan guarantee is outstanding under this Act, the Corporation shall not spend any funds to purchase or expand manufacturing facilities which are not located in the United States."

□ 1700

The CHAIRMAN. The gentleman from Pennsylvania (Mr. MOORHEAD) has reserved a point of order on the amendment.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I will withdraw my point of order.

Mr. DINGELL. Mr. Chairman, I reserve my point of order.

The CHAIRMAN. The gentleman from Michigan (Mr. DINGELL) reserves a point of order on the amendment, and the gentleman from Pennsylvania (Mr. MOORHEAD) has withdrawn his point of order.

The gentleman from California (Mr. STARK) is recognized in support of his amendment.

Mr. STARK. Mr. Chairman, quite simply, this amendment will write into the loan agreement the language that the Chrysler Corp. will not build any new plants or expand plants outside of the United States. In other words, any of the Government-guaranteed money that we are going to pump into Chrysler will go to create jobs here for American employees.

There is a plant being built in Mexico at the expense of the Mexican Government. That can continue; we cannot control that. But this will assure that Chrysler does not go on, if that becomes profitable and a lower wage rate prevails there than the wage rate our American workers are getting across the border, and expand that plant to the detriment of our employees.

Mr. Chairman, it is a very simple amendment, and I urge its adoption.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, the gentleman's amendment is similar to the one we just considered in that it raises some troubling questions.

Does the gentleman specify that the investment outside of the United States by Chrysler Corp. is limited as an investment directly attributable to these guarantees, and, if so, how does the gentleman separate that?

Mr. STARK. I do not indeed. The funds are not distinguishable.

Mr. Chairman, while the guarantee is in effect they will not expend any corporate funds to expand or purchase manufacturing facilities outside the United States. While we are carrying this corporation and supporting it with a Federal guarantee, they should expand plants and build new plants in this country, not overseas.

Mr. FORD of Michigan. Mr. Chairman, I will take a back seat to no one on protectionism and trying to protect American jobs. However, the gentleman is aware, is he not, that the Canadian Government has already agreed to give substantial financial assistance to Chrysler of Canada, which is a wholly owned subsidiary of Chrysler Corp.? Now, does the gentleman intend in any way to affect that?

My problem is that it seems to me what the gentleman is really saying is that Chrysler shall not do business in any way outside the United States, even where that business is for the purpose of catching a third world country market and sending money back to the United States.

Mr. STARK. Mr. Chairman, in response to the gentleman, let me say that if the Canadian Government provides funds or the Mexican Government provides funds, there is nothing in what I suggest that would prohibit that or prohibit that expansion.

Mr. FORD of Michigan. Mr. Chairman, let me ask another question, if the gentleman will yield further.

Mr. STARK. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. How does the gentleman separate these investments?

Mr. STARK. Mr. Chairman, I think it is quite simple. If they are going to build a plant for $2 million in Canada and the Canadian Government has given them $2 million for that, this amendment would not prohibit that.

Mr. FORD of Michigan. The Canadian Government has already given them the money.

Mr. STARK. Then I say there is no question about that, and the amendment is quite clear on that point. If the Canadian Government is providing money to build that plant, that is the Canadian Government's money and we have no control over that.

Mr. FORD of Michigan. No, it is not the Canadian Government's money. It becomes a part of the pot of money that the Chrysler Corp. has to operate its business.

Mr. STARK. Mr. Chairman, if the gentleman is attempting to build legislative history, I would say it would seem to me quite clear, by the intent of the amendment, that if the Canadian Government provides money to build a plant and they run a check through the Chrysler checking account, that ought to be relatively simple for the gentleman to understand.

Mr. FORD of Michigan. The problem is, however, that we are not talking about an industry that is predictably profitable on one side of the Detroit River or the other side.

Mr. STARK. I am merely talking about building or expanding plants.

Mr. FORD of Michigan. All right. But suppose the big money in the project is Canadian money at the same time that Chrysler is building on one side of the border and also building on the other side. Suppose in a subsequent year of the agreement that situation reverses itself and the big money being spent is here and, therefore, the Canadian money is acting as a support. How do the Chrysler managers handle that situation?

Mr. STARK. Mr. Chairman, I think the gentleman obfuscates the simplicity of the amendment, which states that Chrysler, as long as it is guaranteed by the Federal Government, will not expend funds to expand or build new plants outside of the United States. If there are some plants that are being built by foreign governments, this amendment would not affect that.

The amendment says nothing about operating funds or it says nothing about maintenance funds; it says merely, to expand or build plants. It is presumed, of course, that the Chrysler managers, before they pay off this loan, should not be allowed higgledy-piggledy to build plants all over the world.

Mr. FORD of Michigan. Mr. Chairman, I am sure the gentleman is aware of the fact that the other two big automobile companies are making a profit overseas and losing their tails here in this country.

Mr. STARK. Mr. Chairman, my quarrel is not with any of the automobile companies. My amendment is offered to preserve jobs in the United States.

If we are guaranteeing a billion-and-a-half dollars and another $1.1 billion in pension funds which may be lost to employees, I want to see that Chrysler, whose record is not too good in this respect, keeps those jobs for American workers in the United States.

The CHAIRMAN. The time of the gentleman from California (Mr. STARK) has expired.

POINT OF ORDER

The CHAIRMAN. The Chair would like to dispose of the reservation of a point of order. Does the gentleman from Michigan (Mr. DINGELL) insist on his point of order?

Mr. DINGELL. I do. Mr. Chairman.

The CHAIRMAN. Will the gentleman state his point of order?

Mr. DINGELL. Mr. Chairman. I make a point of order that the amendment is not germane.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. DINGELL. Mr. Chairman, the rules of the House require that the amendment be germane to both the bill and the amendment to which it is offered, as well as to the particular portion of the amendment to which the proposal is offered. This amendment, I think, fails to meet all three of these requirements.

The particular section of the amendment to which this amendment is offered reads as follows: "Authority for Commitments for Loan Guarantees." This section deals with two things: No. 1, that the builder of the automobile to receive the loan guarantee shall have an energy savings plan. That is the first one. It shall have such a plan as a part of both its operating and its financial plan.

The section subsequently goes on and lays down what goes into a satisfactory financing plan. If the Chair will follow this, he will find that the particular section deals with the financing plan clear through the section and deals with the actions of the corporation which will be taken to satisfy a satisfactory financing plan and a plan which will assure the protection of the United States and the interest of the taxpayers in the loan.

The proposal that is offered by the gentleman from California (Mr. STARK) dictates what shall be done by Chrysler, not what will respond to the requirements of this particular section which deal with the financial capability and financial ability of the corporation to repay and as to what constitutes a satisfactory financing plan by the corporation. Rather, the amendment would dictate where the corporation can spend money, and these matters do not refer to the financial ability of the corporation to repay the loan or to meet the tests which are set out elsewhere in the language of the amendment in question.

The same thing might be said to be true of the Moorhead-McKinney amendment to which this is offered.

The reason, Mr. Chairman, is pretty obvious. The Moorhead-McKinney proposal is a broad proposal relating to an overall pattern of doing several things: first, making loan guarantees to Chrysler; second, requiring that there be actions taken to assure repayment; and, third, to see to it that there is an appropriate financial and operating plan set up to assure that the corporation will be able to repay the loans which will be guaranteed in the appropriate fashion and at the appropriate time and place.

□ 1710

The amendment offered by my good friend, the gentleman from California—and I have the greatest regard for him—says that during the period of the loan guarantee the corporation will not spend funds to purchase or expand manufacturing facilities which are not located in the United States.

This condition is not anywhere met, nor is any similar condition met anywhere in the bill, in the Moorhead of Pennsylvania-McKinney amendment or in the particular section of the bill. In consequence, Mr. Chairman, I point out that the amendment is not germane because it does not fall in the category of conditions that are met in any of the 3, the bill, the amendment to the bill or the particular section to which it is made.

The CHAIRMAN. Does the gentleman from California (Mr. STARK) desire to be heard?

Mr. STARK. Yes, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from California.

Mr. STARK. Mr. Chairman, if the Chair will bear with me, my amendment, I believe, is to section 40. The gentleman from Michigan is quite correct that that is the authority for commitments under loan guarantees. On page 4 of the committee print of the amendment in the nature of a substitute, on line 14, under the sections which the gentleman from Michigan stated:

> . . . the commitment is needed to enable the Corporation to continue to furnish goods or services, and failure to meet such need would adversely and seriously affect the economy of, or employment in, the United States or any region thereof.

Going along further, under the financial plan, which the gentleman said should be submitted, on page 6, paragraph (8):

> . . . the financing plan submitted under paragraph (4) provides that expenditures under such financing plan will contribute to the domestic economic viability of the corporation.

I certainly presume that domestic economic viability of the corporation relates to expenditures in the United States and not overseas.

So I would submit that my amendment deals directly with assuring that the intent of section (4) will be carried out by the Board and, therefor, is of the most germane nature and very important to the bill.

Mr. Chairman, I urge that the point of order be overruled.

The CHAIRMAN. Does any other Member desire to be heard on the point of order? If not, the Chair is ready to rule.

The Chair feels that the argument made by the gentleman from California (Mr. STARK) is to the point, that both the provisions mentioned are pertinent, and that the amendment is pertinent to the general purposes of the Moorhead amendment in the nature of a substitute, as indicated by related provisions in the section in question and especially by the substitute as a whole.

Therefore, the Chair overrules the point of order.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, in adopting the Wylie amendment just recently, we did the only thing that we could do, that the gentleman from California (Mr. STARK) seeks to do, in a flexible way that would permit the Chrysler Corp. to continue operations that are profitable.

There is a complete interchange of automobiles and parts between the United States and Canada. There is a deal now for expansion of the Chrysler Canadian plant, 50 percent by United States funds, 50 percent by Canadian funds. This is good for Chrysler, this is good for the United States. It could not be done under this amendment, and I urge the defeat of the amendment.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, I certainly join in strong opposition to the amendment. What could be said for Canada could be said for Chrysler in Mexico. I certainly would not stop Chrysler's expansion down there in Mexico if they could make money there and send it here. This is a very bad amendment.

Mr. BRODHEAD. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from Michigan.

Mr. BRODHEAD. I thank the gentleman for yielding.

Mr. Chairman, I also want to register my opposition to this amendment. I think it is very ill-conceived. This amendment will cost American jobs. The purpose of this legislation is to save American jobs. If this amendment is adopted, the legislation becomes unworkable and American jobs thus will not be saved. This is an anti-American jobs amendment, not a pro-American jobs amendment.

Let us clearly understand that if you vote for this amendment you are voting to kill American jobs and not to save them. In point of fact, it is unworkable.

We have a treaty with Canada. In compliance with that treaty, Chrysler Corp. does business on both sides of the border.

In the case of Mexico, there is a plant that is contemplated to be built in Mexico. It is not going to be built with American funds, but rather with funds totally raised in Mexico. This amendment would prohibit the construction of that plant with any kind of corporate funds, even though these corporate funds are totally Mexican.

Mr. Chairman, I might also add that this plant being built in Mexico is being built pursuant to an agreement with Mexico and a requirement imposed by the Government of Mexico that Chrysler, which has taken so much out of Mexico, would be putting something back in.

This amendment makes the bill unworkable, and it is an antijobs bill. I urge its defeat.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

Mr. Chairman, with all respect to the author of the amendment, the language says that the Chrysler Corp. shall not spend any funds to purchase or expand manufacturing facilities which are not located in the United States. They cannot spend money that would be made available in Mexico by the Mexican Government, they cannot spend money that would be made available by the Canadian Government.

The term "expand" means to prepare lines to make new automobiles, and to make upgraded, more fuel-efficient automobiles. And since we have an agreement with the Canadians, which essentially has a common market in auto parts, it would literally mean that lines presently manufacturing parts for

Chrysler-produced automobiles could not be changed, could not be improved, could not be redesigned or restructured, could not be utilized as Chrysler intends. Rather than help the bill, this language makes it literally unworkable and assures that it will not help Chrysler. What it does is guarantee that Chrysler will probably go under. So if you want to gut the bill, this is a very fine way to do it.

Mr. KELLY. Mr. Chairman, will the gentleman yield?

Mr MOORHEAD of Pennsylvania. I yield to the gentleman from Florida.

Mr. KELLY. I thank the gentleman for yielding.

Mr. Chairman, I would like to take this opportunity to commend the author of the amendment, because I think there is going to be a very interesting exercise to see all of the people in this Congress vote and demonstrate that it is a virtue when the Government spends its money to encourage production in foreign countries but when American corporations do it it is a sin. I am just interested in seeing how it is all going to finish up, and we will be able to see it, and the insanity that is going on here will certainly be consistent.

I think that we should revel in that, if nothing else.

Mr. STARK. Mr. Chairman, will my distinguished chairman yield for a response?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from California.

Mr. STARK. Mr. Chairman, the distinguished gentleman from Florida is very perceptive, and it will be an interesting exercise in doublespeak to see how those who supported American jobs for so long could oppose the Stark amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. STARK) to the amendment in the nature of a substitute offered by the gentleman from Pennsylvania (Mr. MOORHEAD).

The amendment to the amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. GREEN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MOORHEAD OF PENNSYLVANIA

Mr. GREEN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. GREEN to the amendment in the nature of a substitute offered by Mr. MOORHEAD of Pennsylvania: In the first sentence of section 3 of the matter proposed to be inserted, strike out "the Secretary of Transportation" and insert in lieu thereof "the Comptroller of the Currency".

Mr. GREEN. Mr. Chairman, the amendment I am offering is quite simple. Under the Moorhead substitute, the Chrysler Corporation Loan Guarantee Board consists of the Secretaries of the Treasury, Labor, and Transportation; the Chairman of the Federal Reserve System; and the Comptroller General. My amendment drops the Secretary of Transportation from the Board and replaces him with the Comptroller of the Currency. My purpose is simply to create a Board the majority of whose members do not work for or serve at the pleasure of the President.

Why do I seek this change in the Board?

I do so because the Board has been given a much more open-ended situation in deciding whether to proceed or not to proceed with the loan guarantee contemplated by this bill than was the case in either the Lockheed or New York City situations. That is true for the following reasons:

First. Unlike the Lockheed and New York City situations, where there was a financial plan in place before Congress acted, there is today no Chrysler financial plan. Thus, the Board will have to review whatever financial plan is developed, without the presumption of validity that arose in the Lockheed and New York City cases from prior congressional action.

Second. Under the Moorhead substitute, the Board cannot make the loan guarantee unless, in addition to other requirements, "the Corporation has submitted to the Board a satisfactory operating plan * * * demonstrating the ability of the Corporation to continue operations as a going concern in the automobile business." This is critical to the protection of the American taxpayer.

The Board's discretionary authority in making that determination is complicated because the economic assumptions which underlie the Treasury $3 billion bailout proposal are extremely shaky. For example, the Treasury assumes that car sales in 1980 will not drop below 9.3 million units, and that, over the next 4 years, Chrysler's share of the car market will rise from 10.2 percent to 11.7 percent. In fact, recent car sale statistics raise a serious possibility that car sales in 1980 will be well under 9.3 million units, and Chrysler's share of market has been slipping, not growing. I asked the Treasury to do a projection of Chrysler's cash needs using all of its original assumptions with a single change: Chrysler's share of the market should be assumed to stay constant at 10.2 percent of cars and 10.5 percent of trucks, instead of increasing. The Treasury informed me that under those circumstances, Chrysler's cash needs would be not $3 billion, as in the Treasury bill, or $3.4 billion, as in the Moorhead substitute as amended by the Brademas amendment, but about $3.75 billion. In other words, under those circumstances, the Moorhead substitute, as amended, falls at least $300 million short of meeting Chrysler's cash needs if Chrysler's market share does not increase.

My amendment removes the Secretary of Transportation from the Board and replaces him with the Comptroller of the Currency. That changes the Board from one where a majority of members works for and can be fired at will by the President to one where a majority of the members has independent standing. The Lockheed case provides ample precedent as its Board had an independent majority.

Now it is no secret that 1980 is a Presidential election year. And the Secretary of Transportation has made clear his view that his principal responsibility in performing his job is to further the renomination campaign of President Carter. Our colleagues from Chicago can testify to that. The Chrysler Loan Guarantee Board cannot conduct its work in that spirit.

If we pass this bill, we at least owe it to the American taxpayer to insure that the Board that makes the final judgment whether or not to proceed with the loan guarantee acts purely on the merits, without regard to political considerations. My amendment will accomplish that result, and I urge my colleagues to adopt it.

□ 1720

Mr. BETHUNE. Mr. Chairman, will the gentleman yield?

Mr. GREEN. I yield to the gentleman from Arkansas.

Mr. BETHUNE. I thank the gentleman for yielding.

I would like to compliment the gentleman on the point that he has made here today. It is the same point he brought out in the committee, which I think was the best point made in the entire committee process, and that is that this entire bill is like a house of cards.

The CHAIRMAN. The time of the gentleman from New York (Mr. GREEN) has expired.

(At the request of Mr. BETHUNE and by unanimous consent, Mr. GREEN was allowed to proceed for 1 additional minute.)

Mr. BETHUNE. Mr. Chairman, will the gentleman yield?

Mr. GREEN. I yield to the gentleman from Arkansas.

Mr. BETHUNE. It is predicated on this assumption that Chrysler will increase its market share by 2 percent, and I think that that is a faulty assumption.

It is clear that it is a faulty assumption now. The gentleman has proved that. But I think that is related to the gentleman's amendment, because the fact is this loan guarantee will not be well monitored, because there is no incentive on the part of the private lender to monitor the loan. He has got a 100-percent guarantee. I think the gentleman makes a good point.

Mr. GREEN. I thank my colleague on the Committee on Banking, Finance and Urban Affairs for his kind comments on my work.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. GREEN. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I would like to take the other side. I think if there is any Cabinet officer who desperately needs to be on this Board, it is the Secretary of Transportation.

In the bill, I think the chairman of the full committee added language, which I intend to try to clarify later, dealing with fuel-efficient vehicles. One of the major things we are looking at as a result of this Chrysler loan is whether we can develop more fuel-efficient vehicles which will do more to reduced petroleum consumption than anything else. I cannot for the life of me decide why the gentleman would pick the Secretary of Transportation as the one to remove, unless the gentleman were trying to take some punitive action against this current Secretary for what he might have said in the past.

The CHAIRMAN. The time of the gentleman from New York (Mr. GREEN) has again expired.

(By unanimous consent, Mr. GREEN was allowed to proceed for 2 additional minutes.)

Mr. GREEN. If I may respond to the gentleman, I am not trying to take a punitive action, though obviously the remarks of the Secretary of Transportation made with respect to aid to Chicago do influence my judgment. I recognize that there are important labor interests in this situation. I, therefore, chose to remove the Secretary of Transportation rather than the Secretary of Labor from the group in order to produce a 3-to-2 majority of those who are independent members of the Board.

I am sure that the Secretary of Transportation will make the talents of his Department available to the Board, and his own personal talents, in providing the Board with whatever technical information it needs on fuel efficiencies, first or I am sure the Department of Energy will be happy to do the same and all others in the Government who have that sort of technical expertise.

I think the key thing is that we ought to have an independent Board. If there are three Cabinet members and only two non-Cabinet members who are independent, we do not have that.

Mr. GLICKMAN. The gentleman just made an arbitrary choice then if he pulled out the Secretary of Transportation.

Mr. GREEN. There are three Cabinet members in the Moorhead substitute. Obviously, any choice of any one of those three is arbitrary in a sense, but I want to produce a Board that is 3-to-2 with an independent majority.

Mr. PURSELL. Mr. Chairman, will the gentleman yield?

Mr. GREEN. I yield to the gentleman from Michigan.

Mr. PURSELL. I would like to assure my colleague from New York that those of us who supported New York did so in an economic stand to help New York.

Most importantly, the assumption is a little premature. The market and percentage of the marketplace I think by 1985 accurately says they will have at least 12 percent of the market. This is a 10-year loan guarantee. I think we have to look at the long range and hope that this bill will give us the turn-around time within the next year in order to put them in a marketable profitable position in a 10-year position; therefore, they will, in fact, have at least 12 percent of the market by 1985.

The CHAIRMAN. The time of the gentleman from New York (Mr. GREEN) has again expired.

(At the request of Mr. KELLY and by unanimous consent, Mr. GREEN was allowed to proceed for 1 additional minute.)

Mr. GREEN. Mr. Chairman, I have no desire to get into a guessing game with the gentleman from Michigan as to whether Chrysler's share of the market will increase or decrease or what the size of the market will be.

All I am saying for the purposes of this amendment is that Chrysler's financial situation is very sensitive to the level of sales. I think it is important that we have a board that has a nonpolitical majority running this program. That is all that I am saying.

The gentleman and I can have different guesses as to what the future will bring for the automobile industry, but we ought to be able to agree that this program ought to be run in a nonpolitical way.

□ 1730

Mr. KELLY. Mr. Chairman, will the gentleman yield?

Mr. GREEN. I yield to the gentleman from Florida.

Mr. KELLY. I thank the gentleman for yielding. I want to commend and congratulate the gentleman for the amendment and for his work on the committee. The gentleman's expertise and knowledge of financial matters made a tremendous contribution to the work of the subcommittee, and I congratulate the gentleman.

Mr. GREEN. I thank my colleague on the Committee on Banking, Finance and Urban Affairs for his kind words.

Mr. REUSS. Mr. Chairman, I move to strike the last word and rise in opposition to the amendment.

This amendment should be opposed because it removes an essential member of the Board and substitutes for him an irrelevant member.

No person on that five-person Board is more essential than the Secretary of Transportation. He is the one who has to oversee the various plans, particularly the energy-saving plan. He is the one that has to see that Chrysler's activities conform with national transportation goals. He ought to be on the Board.

In his place is substituted the Comptroller of the Currency, a worthy gentleman whose task here in Washington is to charter national banks and send examiners out to examine national banks, completely irrelevant to the legislation before us.

It is said that the Comptroller of the Currency, whom it is sought to substitute for the Secretary of Transportation, is independent of the Cabinet. Not at all. The Comptroller of the Currency is the creature and servant of the Secretary of the Treasury, and the Secretary of the Treasury appoints every employee and officer of the Comptroller of the Currency. So even the purpose of independence would not be accomplished, though I would point out that two of the most independent people in Washington, the Chairman of the Fed and the Comptroller General of the United States, are on the Board. They are about as independent as one can get.

So I would hope that the amendment would be voted down.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. REUSS. I yield to the chairman of the subcommittee.

Mr. MOORHEAD of Pennsylvania. Further indicating the fact that the Comptroller of the Currency is not independent, the statute under which he is appointed says that he can be removed by the President, not for cause, but removed by the President upon reasons to be communicated by him to the Senate. He is not as independent as members of the Cabinet.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. REUSS. I am glad to yield to the gentleman.

Mr. GREEN. Mr. Chairman, I am really startled that the distinguished chairman of the Banking Committee tells us how essential it is to have the Secretary of Transportation on this Board, because when he reported this bill out of his committee the Secretary of Transportation had nothing to do with this. Only the Secretary of the Treasury was passing on the question of whether the loan guarantee should be given. So he did not seem to think the Secretary of Transportation was so essential just a couple of weeks ago when he brought this bill out of his committee.

Mr. REUSS. When we reported the bill out, I said I thought it was a fine bill, but that it was capable of improvement. It has been improved, and I think that is a good thing.

Mr. BLANCHARD. Mr. Chairman, will the gentleman yield?

Mr. REUSS. I yield to the gentleman.

Mr. BLANCHARD. I want to echo the gentleman's remarks. I think this is a terrible amendment. The original bill we all introduced in the House has the Secretary of Transportation on that Board for all of the reasons the gentleman has indicated.

To have the Comptroller of the Currency in this potential conflict position, replacing someone as important as our chief policymaker on transportation, is absolutely ridiculous. I am opposed to it and I thank the chairman for speaking so eloquently on this important subject.

Mr. REUSS. I thank the gentleman and hope that the amendment will not prevail.

Mr. STANTON. Mr. Chairman, I move to strike the last word and rise in strong support of the amendment.

Mr. Chairman, we have been here in this Committee now for 4½ or 5 hours. I honestly think this is the first important and first meaningful amendment that has really been offered on this legislation.

Let me say to my friend from Michigan, this is not a terrible amendment. Let us look at it this way: it is obvious in this House, hopefully in 2 or 3 hours, that the overwhelming majority is going to spend potentially $1.5 billion of the taxpayers' money and my money. We are going to be asking the Board to monitor the $1.5 billion in Federal loan guartees as well as up to $4 billion in total new financing, hopefully to bring back into functional operation a major corporation of our country. It is a tremendous task.

The gentleman from New York simply wants to take it out of the realm of petty partisan politics. It is terrible the way the bill came out solely under the direction of the Secretary of the Treasury. I think the gentleman from New York has made an excellent point in taking it out of the realm of three Cabinet officers and putting the Comptroller of the Currency on this Board together with the Chairman of the Federal Reserve Board and the Comptroller General.

In petty arguments about whether or not it is the Secretary of Transportation or the Secretary of Labor, we can stand up here all night and give arguments that it should be the Secretary of Commerce, that it is his business, that this affects small business or something, and that the Secretary of Commerce should be there as well as the Secretary of Labor. We can keep this up all night. For those who are so anxious to get home for Christmas and to get this subject out of the way, truthfully, I hope that they could give control to someone who would be a meaningful participant and do the best for my taxpayers and the gentleman's taxpayers to protect their money.

Mr. Chairman, I urge an aye vote on this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Green) to the amendment in the nature of a substitute offered by the gentleman from Pennsylvania (Mr. Moorhead).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. GREEN. Mr. Chairman, I demand a recorded vote and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1740

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from New York (Mr. Green) for a recorded vote.

A recorded vote was refused.

So the amendment to the amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. SOLOMON TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MOORHEAD

Mr. SOLOMON. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Solomon to the amendment in the nature of a substitute offered by Mr. Moorhead of Pennsylvania: On page 23 after line 5, insert the following new subsection (c):

"(c) The Board shall have the power to require the Secretary of Transportation to complete, within six months of such request, an assessment of the economic impact on the automobile industry of Federal regulatory requirements and the necessity thereof."

Mr. FORD of Michigan. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from Michigan reserves a point of order.

The gentleman from New York (Mr. Solomon) will be recognized for 5 minutes in support of his amendment.

Mr. SOLOMON. Mr. Chairman, let me just say at the outset that there are a number of Members in this House, including myself, who are undecided on how we are going to vote on the final passage of this legislation. Philosophically, I have been opposed to the legislation for a bailout of Chrysler as I would have been for a bailout of Lockheed because I do not believe the Federal Government belongs in this particular issue. But, like many other of my colleagues, I am concerned that the Federal Government has caused much of the problem of the Chrysler Corp. Because of that, I have tried to personally keep an open mind on this issue.

What this amendment does is require that the Board shall have the power to require the Secretary of Transportation to complete within 6 months of such request an assessment of the economic impact on the automobile industry of Federal regulatory requirements and the necessity thereof.

Nowhere in this legislation is there any talk about the problems of Federal regulatory requirements. I personally met with many Members of this House, with Mr. Iacocca and Mr. Larsen, and we talked about this particular issue.

We were told by Chrysler Corp. that they are presently spending $167 million a month in research and development just to meet the Federal regulatory requirements passed by the Congress dealing with only three areas: First, emission standard controls; second, fuel economy; and third, mandatory airbags (which incidently will cost the consumer $700 per car). Is it any wonder that the Chrysler Corp. cannot survive.

Mr. Chairman, there is a serious question whether or not Chrysler can survive even with these guaranteed loans. In order to really save them and perhaps General Motors and Ford as well, it may be necessary to relax or relieve the automobile industry of some of the over-regulations they are presently saddled with. The inclusion of my amendment in this legislation will give the Congress the information we need to make that determination.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, I would just like to tell the gentleman that I highly approve the gentleman's amendment. Throughout my service on the auto industry task force during the last auto recession in 1974, I believe, this same point was raised. There is a real problem with Federal regulation, a real problem with per-unit cost of Federal regulation.

I was fascinated to note, though, that a certain Member of the other body who has screamed mightily and loudly against helping Chrysler has said we in the Congress should enable American Motors to call their four-door sedan, with four-wheel drive, and their station wagon, to be called trucks so that they can get past Federal regulation. I think the subject deserves study, and I think we should know what we have been doing.

Mr. SOLOMON. I thank the gentleman.

Mr. EVANS of Delaware. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Delaware.

Mr. EVANS of Delaware. Mr. Chairmain, I thank my friend from New York for yielding. I would just like to congratulate him on an excellent amendment. Overregulation is strangling productivity in the United States. Businesses and small businesses are being hurt very badly. They have got to pass the cost of these excessive regulations on to the American consumer. That is adding to the inflationary spiral we find ourselves in.

I hope the amendment is accepted, and I congratulate the gentleman from New York on his initiative.

Mr. SOLOMON. I thank the gentleman from Delaware.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I thank the gentleman for yielding. I think this amendment is a workable amendment and will not interfere. As far as I am concerned the amendment should be accepted in the spirit of harmony that now prevails across this floor. I suggest we have a vote as soon as possible.

Mr. SOLOMON. I certainly thank the chairman for his remarks.

The CHAIRMAN. Does the gentleman from Michigan press his point of order?

Mr. FORD of Michigan. I do not, Mr. Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Solomon) to the amendment in the nature of a substitute offered by the gentleman from Pennsylvania (Mr. Moorhead).

The amendment to the amendment in the nature of a substitute was agreed to.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I rise to see if it would be possible to have unanimous consent on some limitation of debate. I will speak as long as I can to see how many Members are likely to be talking.

I ask unanimous consent, Mr. Chairman, that all debate on the Moorhead-McKinney amendment and all amendments thereto close at 6:30 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. EDWARDS of Oklahoma. Mr.

Chairman, reserving the right to object, may I ask the chairman, if an amendment is already printed in the Record, the Member who offered that amendment will still be recognized for 5 minutes on that amendment; is that correct?

The CHAIRMAN. That is correct.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I move that all debate on the Moorhead-McKinney amendment and all amendments thereto close at 6:30 p.m.

The CHAIRMAN. The question is on the motion offered by the gentleman from Pennsylvania.

The motion was agreed to.

□ 1750

The CHAIRMAN. Members standing at the time the motion was agreed to will be recognized for approximately 1½ minutes each.

The chair recognizes the gentleman from New Jersey, Mr. Maguire.

AMENDMENT OFFERED BY MR. MAGUIRE TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MOORHEAD OF PENNSYLVANIA

Mr. MAGUIRE. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Maguire to the amendment in the nature of a substitute offered by Mr. Moorhead of Pennsylvania: Insert the following new Section 11 immediately after line 6, page 22 and renumber the following sections accordingly;

LONG-TERM PLANNING STUDY

Sec. 11. (a) The Secretary of Transportation, after consultation with other appropriate federal agencies, shall submit to the Board and to the Congress as soon as practicable, but not later than six months after enactment of this Act, an assessment of the longterm viability of the Corporation's involvement in the automobile industry.

(b) The Secretary of Transportation shall conduct a study to assess the feasibility of the Corporation producing advanced alternatives to existing automobiles which can be manufactured at reasonable cost, for a broad market, and which incorporate the best conservation, safety, and environmental characteristics of the experimental motor vehicles designed under contract to the National Traffic Safety Administration. The study shall include the feasibility of federal, state, and local governments, and private corporations contracting, over the next three to five years, with the Corporation for the purchase of such advanced automobiles.

The Secretary shall report the results of his study to Congress and to the Board, with his recommendations, not later than six months after the enactment of this Act.

(c) The Board shall take the results of the studies into account when examining the Corporation's financing plan and operating plan.

Mr. MAGUIRE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. STANTON. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. DINGELL. Mr. Chairman, I reserve a point of order.

The Clerk continued reading the amendment.

Mr. MAGUIRE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. MAGUIRE. Mr. Chairman, during the debate on this legislation, two essential points have been raised. Most Members have acknowledged that the automobile industry is floundering because of the uncertainties raised by our energy problems, the industry's unique capital requirements and the pressures brought to bear by the influx of foreign subcompacts. And, as the distinguished chairman of the House Banking Committee said:

> What is in the bill is the mandate that those who are making up the plan for Chrysler concentrate on energy-saving things, not energy-wasting things.

The Members realize that Chrysler's problems are endemic to the automobile industry and that the solution to its problems was directly related to its ability to respond to the American consumers' demands for energy-efficient transportation designed for the 1980's.

My amendment speaks to both of these concerns. I believe that study language should be added to this legislation to investigate: First, the long-term viability of Chrysler's involvement in the automobile industry; and second the feasibility of Chrysler's ability to mass produce a vehicle that Chrysler built under contract to the Department of Transportation that meets the needs of the eighties.

We are told that Chrysler needs an infusion of capital now in order to survive as a member of the auto industry. But that survival is contingent upon more than cash. For Chrysler to compete in the auto industry it must respond to likely energy trends, to the need for technological change, for shifts in market characteristics and to its need for modern materials. Chrysler needs this data and the Board, in evaluating the corporation's annual operating plan and financial plan, needs this information as well. My amendment calls upon the Secretary of Transportation to prepare a study of these important questions which the Board would take into account at the time the operating and financial plans were reviewed. This information would help the Board determine if this bill passes, how a hopefully rejuvenated Chrysler would meet the challenges of the automobile industry.

Another element which ought to be in the bill is an opportunity for Chrysler to build on a significant engineering breakthrough which Chrysler itself achieved in July of this year. Under a contract with the Department of Transportation, Chrysler built the prototype of an automobile which was capable of achieving 28 miles per gallon city/highway combined when the engine was tuned to California emission standards, the toughest in the Nation. What is more, the vehicle was capable of protecting its occupants at impacts up to 40 miles per hour. In other words, this advanced alternative exceeded current safety, fuel economy and emission control standards.

Chrysler was responsible for all aspects of the vehicle design with the exception of the restraint system. Chrysler designed the vehicle's structure, the drive train, and all functional performance characteristics. In the area of weight control, Chrysler's research vehicle achieved a curb weight of 2,675 pounds, an unparalleled feat for a safety vehicle. Emission reduction goals were exceeded. Drive line performance met all claims in testing and evaluation. Major emphasis was placed on producibility using conventional Detroit fabrication techniques. This car is not a museum piece. It can be mass produced.

In summary, DOT has conducted tests on this vehicle which have demonstrated that Chrysler's design can meet or exceed 1983 safety and fuel economy standards and will simultaneously meet the national goals of pedestrain safety, emissions, damageablity, and cost savings.

My amendment would require the Secretary of Transportation to study the feasibility of Federal, State, and local governments, and private corporations, contracting with Chrysler to purchase these clean-running, fuel-efficient and crash-resistant vehicles. Federal agency procurement (used before to help the American Motors Corp., at its time of need) could assure a minimum purchase of 10,000 to 20,000 vehicles yearly. By doing so, the Federal Government could establish a niche for these advanced vehicles in the American market.

Chrysler can build upon these successes. My amendment would provide the data it needed without putting the heavy hand of the Government into the day-to-day operations of Chrysler. The studies, taken together, will add to the loan guarantees by showing us where Chrysler is going if it is again capable of operating in the marketplace.

Here is an opportunity to show the American people that we do not just throw dollars at problems. If you believe, as I do, that Chrysler's difficulties are symptomatic of a wider, more serious disease than a temporary shortage of cash, then we must do more than sign a loan guarantee.

We are not a Congress that is loathe to study. In the case of Hospital Cost Containment, we decided to wait and establish a study commission to determine the nature and cause of cost inflation in the health care sector and then to decide if controls were one appropriate response. In the case of the Experienced Pilots Act, the House decided not to raise the age ceiling until the National Institutes of Health conducted a study to see if that was consistent with our commitment to safety in aviation.

We are told by our colleagues that dilatory tactics could spell doom for the corporation. They say we must act now. Because we do not have the luxury to study the problem first, that does not mean that the problem does not bear study.

My amendment to study the corporation's long-term viability in an industry marked by rapidly shifting energy and capital trends does not delay the extension of the guarantees. The study on Chrysler's ability to produce their experimental and truly unique vehicle does not introduce any delay. But if we overlook either of these questions, we do so at the peril of Chrysler, its employees, and the economy as a whole.

I urge my colleagues to support my amendment.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Michigan (Mr. Dingell) insist on his point of order?

Mr. DINGELL. I do, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. DINGELL. Mr. Chairman, I make the point of order that the amendment is not germane. Mr. Chairman, under the guise of having here a direction to the Secretary of Transportation to make certain additions to the financing plan, the gentleman would impose on an officer of Government, little mentioned in the legislation, the responsibility of doing a number of things: First, consulting with other agencies; second, submitting to the Board and the Congress an assessment of the long-term viability of the corporation; but in addition to that it would require them to conduct a broad study to assess the feasibility of the corporation's producing advanced alternatives to existing automobiles which may be manufactured at a reasonable cost, for a broad market, and which incorporate the best conservation, safety and environmental characteristics, and so forth.

The study shall include the feasibility of State and Federal Government's engaging in certain actions, including private corporations contracting, over the next 3 to 5 years, with the corporation for the purchase of such advanced automobiles.

Mr. Chairman, we have a situation where we have, first of all, essentially a lengthy study to be completed, and recommendations with regard to the purchase of advanced automobiles, something which is nowhere in contemplation of the Board. They are not to engage in the purchase of automobiles, and it would just occur to me, Mr. Chairman, that this goes beyond the language in the legislation which is simply to afford loan guarantees to Chrysler and not to set up lengthy studies for the Department of Transportation.

As a matter of fact, Mr. Chairman, were this amendment to be introduced to stand on its own, it would have been referred to an entirely different committee, probably the Committee on Interstate and Foreign Commerce. For that reason, Mr. Chairman, it is both nongermane as relates to the general purposes of the bill, which are to set up a program of loan guarantees for Chrysler; but, second, it is not even within the jurisdiction of the committee which has considered this matter and reported it to the House.

The CHAIRMAN. Does the gentleman from New Jersey (Mr. Maguire) desire to be heard on the point of order?

Mr. MAGUIRE. May I be heard on the point of order?

Mr. Chairman, I really do not think that the lengthiness of a study goes to the issue of whether or not an amendment is germane. The gentleman has made a number of points, including the lengthiness of the study. I am well acquainted with the gentleman's skepticism about proceeding with some aspects of a safety program with respect to vehicles. I do not think that his views on that matter pertain to whether or not this amendment is germane.

The amendment is germane because it relates to the subject matter that is before us in this bill, and I would simply say that I think the gentleman has failed to sustain his case.

The CHAIRMAN (Mr. Bolling). Are there additional Members who desire to be heard? If not, the Chair is prepared to rule.

The Chair would like to make two points: First, the amendment requires a study of just the Chrysler Corp., and that is certainly pertinent to the bill; but, in addition to that, the Committee of the Whole has already adopted in the Solomon amendment a study dealing with the economic impact of the whole automobile industry on a variety of things. The Chair, therefore, believes that this amendment is germane, and he overrules the point of order.

The question is on the amendment offered by the gentleman from New Jersey (Mr. Maguire) to the amendment in the nature of a substitute offered by the gentleman from Pennsylvania (Mr. Moorhead).

The question was taken; and on a division (demanded by Mr. Maguire) there were—ayes 15, noes 19.

Mr. MAGUIRE. Mr. Chairman, on that I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

□ 1800

AMENDMENT OFFERED BY MR. BETHUNE TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MOORHEAD OF PENNSYLVANIA

Mr. BETHUNE. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Bethune to the amendment in the nature of a substitute offered by Mr. Moorhead of Pennsylvania:

Page 22, line 21, insert after "outstanding." the following new sentence: "The final report for 1981 shall include an evaluation of the long-term economic implications of the Chrysler loan guarantee program, with findings, conclusions and recommendations for legislative and administrative actions considered appropriate to future Federal loan guarantee programs."

Mr. BETHUNE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

Mr. DINGELL. Mr. Chairman, I reserve a point of order. It is difficult to object without seeing the amendment.

The CHAIRMAN. The gentleman from Michigan has been furnished with the amendment.

Mr. DINGELL. Mr. Chairman, I withdraw my point of order.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The CHAIRMAN. Has the amendment of the gentleman from Arkansas (Mr. Bethune) been printed in the Record?

Mr. BETHUNE. Mr. Chairman, the amendment was not printed in the Record.

The CHAIRMAN. The gentleman is recognized for 1 minute.

Mr. BETHUNE. I thank the Chairman.

Mr. Chairman, this is a simple amendment which I believe has been agreed to by the chairman of the subcommittee. The amendment simply drives to the point about which I was concerned last week in general debate and that is that we have the cart before the horse when we consider a specific loan guarantee program without first considering the long-term consequences of loan guarantees generally.

The amendment does require a study of the Chrysler loan guarantee program but directs that findings, conclusions, and recommendations be made for legislative and administrative action considered appropriate to future loan guarantee programs. I think the people who will be watching this program as it progresses will be in an excellent position to advise this Congress with respect to the administration of loan guarantee programs in the future.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I will be happy to yield.

Mr. MOORHEAD of Pennsylvania. We have had an opportunity to study this amendment. I think it is a constructive amendment which I hope will be adopted.

Mr. BETHUNE. I thank the chairman.

Mr. FISHER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this is along the line of the amendment that I had printed in the Record and was going to offer. I want to inquire of the gentleman who has just presented this amendment if he would accept an addition to his amendment to incorporate some of the features of the amendment that I was going to propose.

Mr. BETHUNE. Mr. Chairman, would the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from Arkansas.

Mr. BETHUNE. I am familiar with the gentleman's amendment, having read it in the Record. I think the gentleman has some excellent points in his amendment. I would certainly be amenable to the gentleman's suggestion.

The CHAIRMAN. A modification should be submitted in writing and can be adopted by unanimous consent.

Mr. FISHER. Mr. Chairman, the amendment appears in writing. It would be the part beginning with the sentence just prior to the numbered items:

> The study shall consider for inclusion in guidelines relating to aid of this kind the following factors.

The factors are there listed.

Mr. Chairman, I gather the gentleman from Arkansas (Mr. BETHUNE) would accept that.

Mr. BETHUNE. Mr. Chairman, I would accept that.

The CHAIRMAN. The Chair will have to ask that the amendment be reduced to writing as modified. That is the only way in which it can be considered without the possibility of error.

Mr. FISHER. Mr. Chairman, the amendment is at the desk.

The CHAIRMAN. The Chair feels that the committee should have before it an amendment that includes the modification.

Mr. FISHER. May I ask unanimous consent that the portion I just read be included in this amendment with the consent of the maker of it?

The CHAIRMAN. Would the gentleman repeat that portion so that we can see if we can accommodate the gentleman?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The question is on the amendment offered by the gentleman from Arkansas (Mr. BETHUNE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HUGHES TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MOORHEAD OF PENNSYLVANIA

Mr. HUGHES. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

> Amendment offered by Mr. HUGHES to the amendment in the nature of a substitute offered by Mr. MOORHEAD of Pennsylvania: On page 19 strike lines 1 through 8.

Mr. HUGHES. Mr. Chairman, I am extremely concerned about the collateral and the priority sections of the bill. It seems to me, that we have provided for a waiver under certain conditions for suppliers to the corporation, at an amount up to $100,000, among other things.

Mr. Chairman, we could have literally thousands of large corporate suppliers who would be eligible for a waiver up to $100,000. It makes no distinction between small business and large business.

Mr. Chairman, I am also concerned about subsection (d) at the top of page 19 because it would appear to be inconsistent with the waiver provision. It says in essence, that, with respect to a supplier of the corporation, there shall not be a subordination of the claims of the United States under this act, and yet, under the previous sections we are indicating that under certain circumstances we may waive.

Mr. Chairman, I think what we have to do under the circumstances is to strike lines 1 through 8. I hope the Committee will support my amendment.

Mr. LEACH of Iowa. Mr. Chairman, I move to strike the last word and will speak in opposition to this amendment.

Mr. Chairman, I would only respond to the gentleman from New Jersey briefly by saying that what is given is discretion of the Board to a waiver. This is intended to apply to small business suppliers of the Chrysler Corp., so that we do not have a situation where small businesses refuse to deal with Chrysler, or are forced into the position of dealing with Chrysler on a basis with a substantial overhead extra cost on their bids.

What would occur in the event of a large situation, as the gentleman described it, is that the Board would have the option not to grant a waiver and that would be the intent of this legislation. Beyond this the section (d) to which the gentleman has referred does not put them ahead of the Government, it only makes them equal to the Government. We are saying that small business suppliers shall have a position equal to that of the Government but there is no intention whatsoever that this would apply to the large corporate suppliers.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words. I will speak in opposition to the amendment.

I associate myself with the remarks of the gentleman from Iowa.

Mr. Chairman, the purpose of the substitute as drafted is to have subparagraph (d) say that in no event may the Government be made lower than other creditors but in very limited situations, States, localities, and smaller claimants relatively speaking, the Government can be brought down to equal status if the Board decides, but the Board need not give that waiver.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. Mr. Chairman, I understand what the gentleman intends. As a matter of fact, as I understood it, we were going to try to draft some language which would insure that small suppliers would be eligible for this waiver. However, we do not say that and indeed the Fortune 500 companies would be eligible for claims up to $100,000 under the language of this amendment insofar as the (d) subsection is concerned.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, the Board would not grant a waiver for the Fortune 500, but if they did, $100,000 does not mean that much to them.

□ 1810

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. HUGHES) to the amendment in the nature of a substitute offered by the gentleman from Pennsylvania (Mr. MOORHEAD).

The amendment to the amendment in the nature of a substitute was rejected.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. MARKS).

Mr. MARKS. Mr. Chairman, I rise to engage the gentleman from Iowa (Mr. LEACH) in a colloquy to establish some legislative history.

Mr. Chairman, I would like to ask the gentleman, does section 8 of the Moorhead-McKinney substitute bill in fact give the U.S. Government the first priority on Chrysler's assets, with respect to all other creditors, both those existing before passage of this bill and those which are made subsequent to passage of this bill (or subsequent to October 17, 1979)? Or is the U.S. Government's first priority claim only with respect to new lenders, under the loan guarantees provided by this act?

Mr. LEACH of Iowa. Section 8 places the U.S. Government in a first priority position with respect to all other lenders, existing and new, unguaranteed and guaranteed, unless limited waivers are granted for State and local governments and certain suppliers.

Mr. MARKS. Do I understand the response of the gentleman from Iowa to mean that the Government has the first priority on Chrysler's assets, whether in insolvency or in bankruptcy, over all loans which were made to Chrysler prior to passage of this bill (or October 17, 1979)? And that in addition the U.S. Government has first priority over all loans made to Chrysler subsequent to passage of this substitute bill? There are only two exceptions: That State and local governments may be given a waiver by the Board to come before the U.S. Government, and that suppliers of less than $100,000 may be given a waiver by the Board to be equal with the U.S. Government. Is this the interpretation of the gentleman from Iowa?

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. McDADE).

Mr. McDADE. Mr. Chairman, I rise in support of the Moorhead-McKinney amendment.

Mr. Chairman, I rise in support of H.R. 5860 providing loan guarantees for the Chrysler Corp. and to urge the Members of this House to approve it.

Mr. Chairman, I support this legislation not because I believe we have an obligation to reward or in any way condone bad management. There is ample blame to place for Chrysler's financial predicament. But before we cast this vote we had better look at the hard economic numbers which loom before us if we fail to keep Chrysler out of bankruptcy.

The central issue before the Congress is whether or not we are going to allow a direct increase in our national unemployment of up to 500,000 workers. My own congressional district, containing a Chrysler defense plant, would lose nearly 800 workers, a tremendous setback to a region where unemployment constantly hovers near 9 percent.

Mr. Chairman, this Congress is faced with an ominous collection of threats to our national economy. Our unemployment is rising to recession-like levels. Our interest rates are setting record levels with no relief in sight. We have faced double digit inflation for the past year with little prospect for relief.

I cannot imagine how at this uncertain time in our Nation's economic life we would allow our third largest automaker to collapse.

And these figures do not contain the most recent jolts to our economy—the closing of 16 steel plants with the loss of 10,000 jobs or the closing of 16 rubber plants with the loss of 8,000 more workers. This is not the time to send thousands more workers into the unemployment lines. This is the time to call a halt.

Not too many years ago the Congress faced a similar decision with the fate of 40,000 workers at Lockheed and we heard the same arguments advanced then: poor management, economic misfortune, Government overregulation. But the bottom line was jobs and we passed the bill and it was a wise decision. Let us make another wise decision today and pass this bill.

If Chrysler can be rescued from its financial woes, then it is proper for us to look beyond this emergency legislation. If new management is needed, let it happen. If Government regulation is strangling a major corporation, then let us reexamine our regulations. However, in my opinion, with 25 percent of the Nation's automobile market now in the hands of foreign competition, we need three major auto producers in this country. We need to put a halt to a transfer of domestic wealth, whether it is in the energy industry, in the automobile industry, or anywhere else.

Mr. Chairman, in a perfect world we would have come forth with legislation that would be perfect. We have not. But what we have here today is a new life for 500,000 workers, a chance to relieve our balance-of-payments problems, and an opportunity to reverse the economic shocks that have plagued us this year. I hope the Members will vote to protect 500,000 jobs and vote for this bill.

(By unanimous consent, Mr. McDade yielded the balance of his time to Mr. McKinney.)

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. Dingell).

Mr. DINGELL. Mr. Chairman, I rise in support of the legislation before us, the Moorhead-McKinney proposal.

Mr. Chairman, I rise in support of the loan guarantee legislation for Chrysler Corp. and support the substitute bill offered by Mr. Moorhead and Mr. McKinney.

The U.S. Congress does not want to see and should not permit massive job loss when there is an action plan ready to prevent such a disaster and hardship to those American workers affected. There would be 200,000 to 300,000 people who would be permanently lost to our automotive manufacturing communities.

In those States, like Michigan, where there are concentrated Chrysler manufacturing facilities and vast supplier networks to that company, the unemployment problem and social consequences would be devastating. I believe that to be totally wrong. The online autoworker—and they constitute the vast majority—would have no place to turn to find immediate alternate employment. General Motors, Ford, and American Motors do not have vast opportunities for job openings.

The Congress does not look favorable upon allowing employment levels to drop when Congress is in a position to provide a remedy. We are in that position regarding Chrysler workers. The current economic situation in the United States, which I think everyone would admit is reaching deeper and deeper into recession, is not a time to add to the Nation's economic woes nor to any individual State or city's increased burden of unemployment, loss of productivity, and loss of tax revenue. We are in a position to prevent that and to maintain jobs with the new compromise Chrysler bill.

Productivity in the United States is low—too low for comfort—and the loss of jobs through a Chrysler Corp. collapse for the Nation and for several specific States is not, in my judgment and I hope the judgment of the House of Representatives, good economics. More importantly, and the main reason I support the substitute, is that I do not believe the loss of jobs by the hundreds of thousands of workers involved who are related to manufacturing of Chrysler products is fair. I would indeed term it inhumane action if the House and the Senate fail to produce the proper legislation to prevent a Chrysler collapse and the subsequent unemployment problems.

The downturn in productivity in this Nation for the past several years, the loss of the value of the dollar, and the ever-present critical energy supply and price situation coupled especially with events in certain oil exporting countries, has produced massive problems not just for Chrysler, but for other automobile manufacturers. The entire domestic industry, in my opinion, is facing at this time the worst of all possible scenarios in the free market enterprise system. Massive changes have taken place in the automobile manufacturing community both nationally and internationally in light of energy problems and too stringent U.S. Federal regulations.

It is my personal opinion, and I believe this is an opinion shared by other Members of this body and of scores of economists and academicians elsewhere, that a full review of this industry's future and to problems regarding both Federal regulations and the energy marketplace—require a thorough inspection by the Congress.

Such a total review to set in motion certain policy guidelines regarding Federal Government actions is not timely for Chrysler and its workers in terms of the elements surrounding the pending threat—which is very real—of a potential total collapse of a major U.S. business and subsequent job loss.

There is not time now for that total review in light of the immediate Chrysler situation. There is not time to delay in providing affected cities and the employees of the Chrysler Corp. and Chrysler's related supplier and dealer workers with protection against unemployment. The ax is anticipated about to fall on Chrysler in the next 2 months, or even 1 month.

The time for action has come. That action must be the adoption of this legislation to prevent the total shutdown and total loss of jobs, which directly and indirectly could effect 540,000 workers located across the United States.

We are well aware at this time that there are in excess of 130,000 automobile workers laid off and a 24-percent decline in the past few days of domestic auto sales. This amounts to a major collapse in domestic auto sales for the first time in 5 years since the 1973–74 Arab oil embargo. This is brought on by energy supply problems to a great degree and, to a sufficient degree that Congress must realize, due to certain Federal agency regulations a great number of which are all impacting on the industry and its job market in each of the next 4 to 5 years. This includes automotive clean air, fuel economy, and safety standards.

The Federal Government has a responsibility to those workers in Chrysler plants. Congress and Federal agencies have heaped regulation after regulation on the automobile industry. The pace of achieving those standards set by the Department of Transportation, the National Highway Traffic Safety Administration and the Environmental Protection Agency is faster than the companies can meet. Recent declining productivity, inflation, and the drying up of available capital to refinance plant improvements must be considered in the Chrysler case.

Yet we have seen in the past 3 to 4 years a massive change in U.S.-manufactured motor vehicles: This has been accomplished at a cost of billions to the industry for the downsizing and retooling for the production of more efficient cars and trucks.

Chrysler under the circumstances has been doing its share and has redesigned its entire product line with 1982 its last year of the typically large-size passenger car. In the automobile manufacturing industry, you just do not drop everything overnight and change the entire product line. In fact, you just do not stop producing large cars which are profitmakers and which are helping the largest three producers of cars in this country to offset their new retooling costs. The manufacture and sale of small cars help the companies reach their corporate average fuel economy standards we have mandated for purposes of achieving new fuel efficiency goals, but there is but little profit to the carmakers in those subcompact sales. Profits in small car sales can change for the better as more and more energy conservation-minded American consumers join the waiting lists for the new fuel-efficient U.S.-made cars.

The marketplace is right for the small

cars with fuel economy now fast becoming a major consumer guide determining what we buy. Accordingly, to produce more and more of those smaller fuel-efficient models requires company investment. Chrysler has moved rapidly to that position and is at the brink of having a whole new lineup of such gas-thrifty models available to the consumer in 8½ months—if Congress acts wisely.

And, Congress must act because the 400,000 to 800,000 Chrysler fuel-efficient cars will be needed. Consumer demand is there and neither Ford nor GM have the capacity to make up the demand.

Without the Chrysler production that is planned, U.S. jobs will be lost to mostly foreign car manufacturers as the other domestic auto manufacturers do not have the capital nor capacity to make up the loss due to increased demand for the new fuel-thrifty cars. We will be exporting U.S. jobs if the aid plan for Chrysler's survival in the marketplace is not approved and we would not be acting wisely to try to correct our balance-of-trade deficit.

Let us prevent job collapse and hardships in our cities and prevent the spin-off of U.S. jobs to foreign manufacturing facilities. We must work to maintain our efforts to close the gap in the trade balance. And, let us insure that the U.S. consumer's demand for the fuel-efficient cars of the 1980's has a better chance of being met by putting these vehicles into production next model year.

(By unanimous consent, Mr. Dingell yielded the balance of his time to Mr. Moorhead of Pennsylvania.)

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr Bonior).

Mr. BONIOR of Michigan. Mr. Chairman, I rise in support of the Moorhead-McKinney amendment.

Mr. Chairman, Federal aid to Chrysler is an issue which is very important to me not only because of the major economic impact it would have on the Detroit metropolitan area, but for many personal reasons as well.

I grew up in Hamtramck, Mich., a city whose livelihood is dependent upon the Chrysler assembly plant. For many years, my father and grandfather as well as almost everybody we knew worked at that plant. I witnessed firsthand the problems large-scale layoffs will cause. The thought of a Chrysler shutdown and massive unemployment is extremely disheartening. We cannot emotionally or economically afford to experience a Chrysler shutdown.

One of the major questions asked by many people is what sacrifices have the employees of the company made. First, the employees are the only group so far to make any sacrifices. The union contract provides for $403 million in delayed pay increases and payments to the pension fund. Yet some argue that they need to do more. Many say that the UAW workers are so well paid that they can afford it. While they are well paid compared to other factory workers, their average salary is $18,900 annually. This assumes working for a full year. Layoffs and model changeovers prevent thousands of workers from working a full year. The average income is below the national median income for a family of four of $20,484 and that figure is based on 1978 data which is the most recent available.

A wage freeze will require the contract to be renegotiated. This is time consuming because once the new contract is worked out, it must be ratified by the union membership of 106,000. I do not believe that the Congress has the right to mandate a private company and a union to renegotiate a contract. A wage freeze for 3 years is going to cause many skilled craftsmen with marketable skills to leave the company which will hamper its ability to become efficient and productive. Many of these workers have privately told me that they have jobs all lined up if a 3-year freeze is instituted. Already, the pay cuts for management employees have caused some managers, especially the young ones, to leave. This will hurt the company's ability to become profitable and repay the loan.

The Moorhead-McKinney substitute requires a great sacrifice from the unionized employees who are 77 percent of the Chrysler employees and 20 percent of the total number of workers affected by a possible shutdown. It requires $400 million in wage sacrifices. This amounts to a 1½-year wage freeze and a cut in earning power per worker of $4,000 over the next 3 years. It also provides the flexibility that a mandated 3-year wage freeze would not. A 3-year wage freeze would cost each worker a loss in earning power of 50 percent over the next 3 years, costing each worker $9,000.

Is it fair to require the unionized employees to take a 50-percent cut in pay when the managers took 2 to 5 percent, the officers 10 percent, and the rest of the salaried nonunion workers none? The Chrysler unionized workers are only 20 percent of the 550,000 workers affected by a possible shutdown. Why should they bear the entire burden of employee contribution? What about the rest of the workers whose jobs are at stake? What sacrifices are the 157,000 dealer and 241,000 supplier employees making? What sacrifices are the banks, creditors, suppliers, and others affected making?

The Quayle substitute would require a $900 million sacrifice from the union employees averaging $8,460 per worker. It also requires a $243 million sacrifice from nonunion employees amounting to $7,900 per worker. Why should union employees who are usually paid less than nonunion workers be forced to sacrifice $560 more than the nonunion employees including supervisors and managers? This large a sacrifice per employee is too much and will lead to workers with marketable skills leaving, whereby damaging the company's chances to become profitable.

My colleague from Michigan (Mr. Stockman) has sent you a "Dear Colleague" letter as well as written an article which appeared in the Washington Post on why you should not support the aid package, but he has not given you all of the facts.

He attacks computerized supplier printouts claiming that we might as well go ahead and authorize a Gosplan for the entire economy. I would like to point out to my colleague that computerized printouts are a way of life today. What Federal grant agency does not send us printouts showing dollars into our districts, especially before important votes on their legislation. The Corps of Engineers develops extensive charts, they even know how much they spend on routine operations and maintenance in your district. The computerized printouts are crucial when determining allocation formulas.

All of us want to know how our constituents are going to be affected by bills before we vote on them and these printouts are one tool that we use. He states that 71 firms on his supplier list did less than $100,000 in business with Chrysler. It bothers me to see Mr. Stockman, who prides himself on his concern about small business, not consider the thousands of small businesses that will be affected by a Chrysler shutdown. He appears to believe that if you do not do more than $100,000 in business with Chrysler, you would not be affected by a shutdown. Many small manufacturing shops in my district have their entire business in the range of $200,000. A loss of even $15,000 in business would significantly damage their business. According to a DOT study:

> We estimate approximately 70 percent of Chrysler supplier companies are small manufacturing concerns with great concentrations of business in Chrysler products.

While cursory inspection may have settled Mr. Stockman's concern about the effect of a Chrysler shutdown on suppliers and their employees in his district, that was not enough for me. I wanted to know the actual effects on my district which has 490 suppliers doing $165 million in Chrysler business. I sent out a questionnaire to all of the Chrysler suppliers in my district about 3 weeks ago. I asked:

First, what percentage of your business which was done with Chrysler?

Second, could you replace that business?

Third, what percentage of your workforce and actual number of employees would be laid off by a Chrysler shutdown?

Fourth, what Federal action do you support?

The response has been great, over 50 percent have responded already. I would like to share the results with you.

First, 32 percent of my suppliers did over $100,000 in Chrysler business; 16 percent of my suppliers did over $500,000 in Chrysler business; and 8 percent of my suppliers did over $1,000,000 in Chrysler business.

Second, the size of Chrysler business in dollar terms bears little relation to the dependency on that business. Many businesses did $20,000–50,000 in Chrysler business but it was 20–80 percent of their entire business.

Third, regardless of the size of Chrysler business, few expected to be able to replace it especially in the next 18 to 24 months.

Fourth, over 1,700 jobs would be lost immediately and this does not include a large portion of the questionnaire responses which expressed job loss only in percentage terms. Generally speaking, whatever percentage of the business was done with Chrysler, at least that percentage of the workforce would be laid off.

Fifth, many of the companies indicated that they will fold because such a large portion of their business is with Chrysler and they cannot replace it. These are independent small businessmen who have worked hard and saved to start up a company and develop sufficient demand for their products only to see their company fold. This means a loss of their jobs, lost savings, risks to future credit, and a loss of pride in their work.

Sixth, the effects may be even greater because many of these suppliers also supply other suppliers.

Seventh, over 90 percent want loan guarantees and additional help from State and local governments.

This response was typical:

> How can our government subsidize grain shipments to Russia and not support our own taxpayers?

This aid package will help thousands of small businessmen including those in my district survive. They will continue to employ people, pay taxes, develop new methods of operation to be more efficient and contribute to our communities. Given the lack of investment and innovation in this country, I do not want to see these small companies put out of business.

There are many other problems with Mr. STOCKMAN's "Dear Colleague" letter. He mentions the built-in shock absorbers that can cushion the effect of a shutdown but he does not mention that the severity of the unemployment from a shutdown will overwhelm these programs. Like the shock absorbers in your car that can cushion bumps but not withstand the impact of a major collision, these programs can survive minor recessions but not the 20-percent unemployment which the Detroit area will face.

First. He does not tell you that the Pension Benefit Guarantee Board cannot afford to provide the $1 billion in pensions to Chrysler workers that they have guaranteed. He does not tell you that the Board will have to come to Congress for that money. He does not tell you that a Chrysler shutdown threatens the entire pension benefit guarantee program which protects the pensions of millions of workers.

Second. He does not tell you that the Michigan Unemployment Compensation Fund still owes the Federal Government $624 million from the money it borrowed in the last recession. It stands to add at least another 100,000 recipients if Chrysler shuts down at the same time that its income will be drastically reduced because so many people will not have jobs and will not be paying into the fund.

Third. He does not mention the cost of increased unemployment, welfare and lost tax revenue might reach $1 billion which would kill our efforts to balance the budget, a cause Mr. STOCKMAN supports so strongly.

Fourth. What I find particularly disturbing are his comments on the Trade Adjustment Assistance Act. He says that all but two plants are covered, workers make $1,100 a month and that it is nearly total income replacement.

The following are the facts:

First. The claim that all but two plants are covered is not true. The following plants are not covered:

Arizona Proving Ground	20
Belvedere Assembly (IL)	4,750
Michigan City Molded Products (IN)	300
Chelsea Proving Grounds (MI)	900
Vernor Tool and Die (MI)	800
Winfield Foundry (MI)	300
Amplex Harper (MI)	430
Sheerwood Ave (MI)	
Detroit Universal (MI)	1,100
Trenton Engine (MI)	3,600
McGraw Glass Import-Export (MI)	590
Northern Steel (MI)	40
New Process Gear (NY)	3,700
Dayton No. 1 & 2	2,000
Sandusky Plastics	350
	18,880
Chrysler Transportation	650
Parts Depots	2,900
Defense	
Detroit Tank	1,600
Scranton	550
Misc.	450
	2,600
Total hourly not covered by Trade Adjustment Assistance	22,730

NOTE.—The number of employees listed is only the number of hourly employees. It does not include salaried employees both unionized and nonunion or the workers who do not qualify individually:

Second. Claims have been made that it covers 90 percent of pay and amounts to $1,100 a month.

It covers only 70 percent of your pay.

Your pay rate is based on your salary 15 months (1¼ years) ago.

The maximum is $250 a week. In order to earn that, you must have earned $360 a week or $18,720 annually 15 months ago. That was less than the average UAW salary at the time. The average salary at that time would only allow the average worker to collect $235 a week. Skilled workers and managers would get considerably less than 70 percent of their pay.

Trade adjustment assistance is reduced by the amount of unemployment compensation paid. In Michigan, the maximum unemployment compensation is $136 a week. This means that if you were entitled to $235 a week in trade adjustment and maximum unemployment compensation, your total weekly income would still be $235 of 70 percent of your income.

In order to qualify for trade adjustment assistance, you must have worked 26 out of the last 52 weeks. Layoffs and model changeovers have made many workers ineligible.

Third. The trade adjustment assistance legislation runs out of authority in September 1982.

Mr. STOCKMAN claims that there will be little increase in imports:

> At least 80 percent of Chrysler's domestic production would be shifted to other U.S. firms.
>
> There is no evidence that a Chrysler collapse would reduce total sales and little probability that a Chrysler collapse would cause a significant increase in the existing foreign share of the U.S. market.

The DOT report states the following facts:

> Plants making small cars that are in demand are at full capacity and cannot expand for sometime, perhaps 2 to 3 years because of the lead time required to change production lines. There are 226,000 units of the smallest cars and 15,000 of the next largest size which could not be picked up domestically. This 241,000 units would go to imports.
>
> We estimate that several thousand units of sales would be picked up by imports owing to constrained production facilities at GM and Ford. This would increase the value of imports by $1.5 billion.

Other estimates of the effect on imports have been that the balance-of-payments deficit would increase by $3 billion.

Mr. STOCKMAN says that the actual number of people being unemployed would be low because many would be switched to other companies. The DOT study states:

> It is also clear that more than 100,000 production workers would be directly affected and would effectively be removed from the economy at least until the current economic slowdown ends.
>
> Under the most optimistic scenario, only 12,000 workers would be eligible for retention. A more realistic assessment would be 6,000. This assumes immediate takeover by another company.

In terms of supplier employment, many cannot switch to Ford and GM, both of which are well intergrated and buy little from outside suppliers.

Mr. STOCKMAN assumes that almost all dealers will move to other companies and not loose business. There are a number of problems with this assumption. In my own experience, 90 percent of my dealers expect to close if Chrysler shuts down. They do not expect to switch to other companies for the following reasons:

First, too many dealers are in most areas already. There are already Ford and GM dealers in most places and VW, Fiat, Datsun, and Toyota dealers in many areas. Those present dealers will not tolerate the opening of a new dealership in their market area.

Second, in most areas there are two Chrysler dealers, one Dodge dealer and one Chrysler-Plymouth dealer. It would be almost impossible for other companies to pick up these dealerships.

Third, any new company coming in or expanding wants their own management, not Chrysler's.

Fourth, individual people have invested money in these dealerships. Even if they are taken over, it may take time and some of their money could be lost.

Fifth, some employees would be laid-off while looking for a new buyer. It is likely that a new dealership will probably need a smaller workforce at the beginning of its business.

Regardless of the economic well-being through aid programs, unemployed workers have a feeling of rejection and uselessness. In this society which judges us on our jobs and incomes, to lack a job is to lack self-worth.

There are few things more dejecting than to stand in unemployment lines, especially when they are 3 hours long and there is little hope of a new job.

There are many social problems which also result from unemployment:

First. Child and wife abuse increase, as do alcoholism, heart problems, psychological disorders, and suicides.

Second. One study showed that unemployed workers with little hope of new jobs had suicide rates 30 percent higher than the general population.

Third. Another study showed that a 1-percent increase in unemployment (1 million workers) over a 6-year period were associated with: 20,420 cardiovascular deaths; 920 suicides; 648 homicides; 495 deaths from cirrhosis of the liver; 4,227 State mental hospital admissions; 3,340 State prison admissions.

Fourth. All of these problems will tax already overcrowded and underfunded State institutions and social welfare programs. The added costs to the State and local governments which provide these programs will be large.

I hope that my colleagues will think about this bill not just in terms of the billions of dollars it involves, but will also relate to the Chrysler worker and his family who have little in savings and face a tough year if Chrysler goes under. They face the Christmas season not knowing if they will have a job in a month. If there is anything that they have asked me, it is to get Congress to make a decision as soon as possible so they can have some idea about what their future holds.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. PURSELL).

Mr. PURSELL. Mr. Chairman, I rise in support of the McKinney-Moorhead substitute.

Mr. Chairman, my esteemed colleagues have presented a variety of considerations and arguments for the extension or denial of a Federal loan guarantee to Chrysler Corp. The against the guarantee generally make the claim on two grounds; that a loan guarantee is incompatible with a free market economy, and second, that the undeniable risk of assisting Chrysler is simply too great because of the auto company's possible default of its loan obligations.

On the other hand, those in favor of Government backing note the numerous precedents for varying types of loan guarantees in our economic system and assert that the risk to the taxpayer is less hazardous than the demise of the Nation's 10th largest corporation.

However, both sides would quickly agree that it is not the role of Congress to underwrite a commercial corporation's success. Nevertheless, everyone of us has the task of safeguarding the economic well-being of every American willing to work without overturning the free enterprise system. In my view, placing the obligation on the party with the greatest motivation to correct its seemingly dismal circumstances is the best possible alternative to an unfortunate situation. Consequently, an examination of Chrysler's profitmaking potential and review of its recent management decisions is in order. Only in this manner can we properly assess the perils involved and ascertain if it is likely that Chrysler will, within the next few years, vindicate our possible support by once again becoming a strong, financially sound competitor in our economy.

Even a brief review of what Chrysler has already accomplished in its cost saving measures is impressive:

The company has suspended all merit and cost-of-living increases for its nonunion employees. It has formulated a plan to exclude its white collar workers from contract settlement provisions. That alone will save Chrysler $27 million annually.

It has reduced the salaries of its 1,700 senior executives by 2 to 10 percent and the base fees received by members of its board of directors by 50 percent providing the corporation with $3 million more annually.

Chrysler has trimmed the number of professional employees by 8,500 for a savings of $204 million.

It has shaved and then eliminated dividends on its common stock (shareholders alone received $52 million in dividends in 1978).

Chrysler head, Lee Iacocca, has revamped the company's inventory system and now builds vehicles on dealers' orders saving hundreds of thousands of dollars in storage costs yearly.

These among other cost reduction measures will slash Chrysler's annual fixed costs by $460 million in 1979 and by $567 million in 1980.

But conservation of financial resources alone does not promise profitability. Another major concern must be what Chrysler is doing presently to meet consumer preferences, both now and tomorrow.

The most obvious achievement is the corporation's extensive reorganization and strengthening of its top management echelon by attracting several new but experienced automotive personnel from outside of the company.

For sound economic reasons, Chrysler officials remain committed to a full line auto company but with a significant change. To obtain maximum variety of choices for the consumer, management has reduced the number of basic car families from 5 to 3. This strategy eliminates the high cost usually associated with the development of unique new platforms. Two of the car families will feature front wheel drive, a fast growing demand among autobuyers. Indeed, Chrysler will very soon possess the capacity to produce about 1 million front-wheel-drive cars annually.

A closer look at the auto platforms will show new drive train components for greater fuel efficiency. The capital plan calls for $2.8 billion to be invested in new small proficient engines and conventional transmissions. Thus, the current outlay of funds will maintain Chrysler as the domestic fuel economy leader as well as enabling it to continue to sell a higher percentage of its small cars than either Ford or GM.

Chrysler's recent internal reorganization and endeavor to improve its position in the market is unparalleled in the industry. The company's market research division has solid evidence that through its aggressive measures it can increase its penetration of the American auto market to 12 percent in 1985. And it is good to note that Chrysler need not become another General Motors to be profitable. In fact, a 1-point increase in Chrysler's market share will generate a $190 million increase in profit.

We should keep in mind that foreign car manufacturers, particularly the Japanese, are increasing their production capacity to satisfy the new-found American demand for fuel efficient automobiles. Despite the depressed state of auto sales, in November alone, purchases of Japanese vehicles in this country rose 46 percent to over 136,000 units.

I bring these facts to the attention of my fellow members not primarily as conclusive evidence that a Federal loan guarantee is a worthy investment but to suggest that the risk of it is not as great as some would suggest and that Chrysler has no intention of abandoning the marketplace but rather to strengthen its place in it.

Iacocca's credentials are inpeccable. No one has a better management team in the automobile industry today. And Chrysler workers produce a quality product. Consequently, I remain confident that Federal assistance to our third largest auto manufacturer will eventually strengthen our free enterprise system. Even more important, a favorable decision by us will prevent a massive increase in our social welfare costs and loss to tax revenues. It is time that we help Chrysler help itself.

(By unanimous consent, Mr. PURSELL yielded the balance of his time to Mr. HILLIS.)

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. Mr. Chairman, I also rise in strong support of the legislation.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. BRODHEAD).

Mr. BRODHEAD. Mr. Chairman, I rise in support of the Moorhead-McKinney substitute.

Mr. Chairman, I yield to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Chairman, I would like to ask the chairman of the full committee, the gentleman from Wisconsin (Mr. REUSS) to respond to a very important section of the bill which creates an energy saving plan, which as I understand it before any loan guarantees are given that Chrysler and the Board must prepare an energy saving plan which deals with vehicular energy savings, as well as with the operations of the company itself and anything else that it sells.

I just wanted to ask the gentleman from Wisconsin, in the language of this section, it looks a bit illusory. I just want an assurance from the gentleman that this plan means something, that Chrysler will come up with a plan that will demand fuel efficiency from the vehicles it sells.

Mr. REUSS. Mr. Chairman, if the gentleman will yield, it is not an illusion. It is the real thing and that is precisely what is expected from the Board being satisfied that there is, indeed, an energy savings plan.

Mr. GLICKMAN. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Chairman, I rise in support of the McKinney-Moorhead substitute.

(By unanimous consent, Mr. KILDEE yielded the balance of his time to Mr. BLANCHARD.)

AMENDMENT OFFERED BY MR. PATTERSON TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MOORHEAD OF PENNSYLVANIA

Mr. PATTERSON. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. PATTERSON to the amendment in the nature of a substitute offered by Mr. MOORHEAD of Pennsylvania: Section 13, insert the following new subsection:

(c) The Secretary of the Treasury in consultation with the Secretary of Defense shall conduct a study regarding the possibility of establishing the Tank Division of the Chrysler Corporation as an independent corporation which is not financially dependent upon the Chrysler Corporation. Such study shall consider the potential advantages and disadvantages which establishing such a corporation would have on the tank production program of the United States Army and the operation of the Chrysler Corporation. Not later than 180 days after the date of the enactment of this act, a report shall be transmitted to the Congress containing the findings and conclusions of such study and such recommendations regarding the establishment of such corporation as the Secretary of the Treasury and the Secretary of Defense consider appropriate.

Mr. PATTERSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. PATTERSON. Mr. Chairman, my amendment to H.R. 5860 would simply require the Secretary of the Treasury in consultation with the Secretary of Defense to conduct a study on the feasibility of separately incorporating Chrysler's tank division in order to provide financial independence in the event that the parent corporation is forced into bankruptcy. In such an event, financial independence of the tank division would be essential in order to reimburse subcontractors throughout the Nation for services rendered and to assure prompt delivery of equipment.

As my colleagues may recall, under the Lockheed loan guarantee, that company's missile and space division was separately incorporated and continues today to be a profitable subsidiary of Lockheed.

The significance of my amendment is to assure that our defense program, in particular the smooth production of the Army's XM-1 tank, will not suffer even temporary disruption. The XM-1 tank is the only tank being produced for the Army.

For the information of my colleagues, I corresponded with the Army beginning in August on contingency plans that that Department has in store for the continued production of the XM-1. As the Army's November 9 response clearly reveals, a contingency plan does not exist. This makes my amendment even more essential in order to prevent an abrupt halt to a significant part of the Nation's defense program.

Inserted into the RECORD at this point is my correspondence with the Army Department:

WASHINGTON, D.C.,
August 7, 1979.

Hon. CLIFFORD ALEXANDER,
Secretary, Department of the Army, The Pentagon, Washington, D.C.

DEAR MR. SECRETARY: The widely reported financial crisis at the Chrysler Corporation raises very grave concerns in my mind about the implications on our national defense programs. Specifically, it is my understanding that Chrysler is the only manufacturer of the Army's XM-1 tank. The XM-1 contract, initially granted in 1976, involves at least $10 billion. According to various reports, Chrysler lost $260 million last year, may lose as much as $500 million this year, and perhaps more in 1980.

Questions that I will now raise, as I am sure you will agree, and of utmost significance to those of us in policymaking and policyreviewing positions. Should the Administration recommend granting Chrysler a loan guarantee, for instance, I expect to be reviewing the proposal as a Member of the Banking, Finance, and Urban Affairs Committee.

1. What specific provisions are contained in the Army's XM-1 contract with Chrysler Corporation to protect the government's interests in the event of default or bankruptcy in order to prevent disruption of the production schedule?

2. What specific steps does the Army plan to take to offer Chrysler financial relief? Are such provisions contained in the contract or under any existing defense procurement statute?

3. If Chrysler should go into default, what contingency plans does the Army have for assuring continued production? Will it be able to bring another contractor on board to resume production at the DOD owned Chrysler plant? At what cost and in approximately what time frame?

4. Did the Army in conjunction with the Defense Department conduct any defense acquisition reviews prior to, at the time of, or after granting the XM-1 contract? Did those reviews reveal the possibility of financial difficulties? Did any other Defense Department reviews of Chrysler indicate the existence of financial problems?

5. In the event that Chrysler goes under, how many subcontractors will be impacted?

I would appreciate your response as soon as practicable and also wish to meet with you in early September to discuss these issues in detail.

Sincerely,

JERRY M. PATTERSON,
U.S. Congressman.

DEPARTMENT OF THE ARMY, OFFICE OF THE ASSISTANT SECRETARY,
Washington, D.C., September 5, 1979.

Hon. JERRY M. PATTERSON,
House of Representatives,
Washington, D.C.

DEAR MR. PATTERSON: This responds to your inquiry addressed to the Secretary of the Army concerning the Chrysler Corporation.

Chrysler has been the sole product of main battle tanks for the Army for over 20 years. Significant current contracts include those for the XM1 tank and the M60 tank family. The Army currently has over 200 open contracts for tank production as well as for production of spare and repair parts for the tank family and other peripheral equipment with a value in excess of $500,000,000 with Chrysler related to the M60 program. As prime contractor for the XM1 and M60 programs, Chrysler has nearly 2,000 vendors supporting M60 tank production and eight major subcontractors and approximately 1,700 vendors supporting the XM1. The Army owns most of the buildings and equipment used to produce both the M60 and XM1 tanks.

Most of the Army contracts under which Chrysler is currently performing are of the fixed price type. These contracts with Chrysler contain a provision for progress payments which permits Chrysler to be paid 80 percent of its incurred costs in advance of delivery of the end product. The Defense Acquisition Regulations contain provisions for extraordinary progress payments under which these could be increased to 100 percent of incurred costs. Chrysler has submitted a request for weekly payment of 100 percent progress payments. We are currently reviewing this request. Under those cost type contracts which exist with Chrysler, the company receives reimbursement of allowable costs as they are incurred and invoiced. The defense business constitutes a small portion of Chrysler's sales, amounting to approximately 5 percent of annual sales in 1978. Therefore, any action which the Army may take with regard to Chrysler will have minimal fiscal leverage on their larger corporate problem.

Chrysler's financial responsibility was considered during the XM1 Source Selection process in 1976 and Chrysler was found capable of performing. Chrysler now indicates to the Army that its defense operations have been and continue to be profitable and they will continue to be a viable defense contractor capable of delivery on their open contracts.

Although we are closely monitoring the situation, the Army anticipating that Chrysler Defense Division will continue as its prime contractor for the XM1 and M60 tanks.

I appreciate your interest in this matter and will be happy to discuss it with you at your convenience.

Sincerely,

PERCY A. PIERRE,
Assistant Secretary of the Army, Research, Development and Acquisition.

October 29, 1979.

Percy A. Pierre,
Assistant Secretary of the Army, Research, Development and Acquisition, Department of the Army, Washington, D.C.

Dear Mr. Pierre: As you may recall, on August 7 I wrote Secretary Alexander concerning several aspects of the Chrysler Corporation's tank division. You responded to that inquiry on September 6. I have reviewed the information provided in your letter and draw your attention to the fact that several questions were answered inadequately. Those questions are, therefore, listed below for your further reply. I would also appreciate your responses being numbered to the specific questions posed.

Your September 6 letter also raises another issue. You state that "Chrysler now indicates to the Army that its defense operations have been and continue to be profitable and they will continue to be a viable defense contractor capable of delivery on their open contracts."

If this is the case, why has Chrysler submitted a request to the Army for weekly payment of 100% progress payments as opposed to the contract provisions permitting progress payments of 80%?

I am also interested in the status of that request and any actions taken or intended to be taken by the Army with respect to that request.

The questions being resubmitted for your response are as follows:

1. What specific provisions are contained in the Army's XM-1 contract with Chrysler Corporation to protect the government's interests in the event of default or bankruptcy in order to prevent disruption of the production schedule?

2. What specific steps does the Army plan to take to offer Chrysler financial relief? Are such provisions contained in the contract or under any existing defense procurement statute?

3. If Chrysler should go into default, what contingency plans does the Army have for assuring continued production? Will it be able to bring another contractor on board to resume production at the DOD owned Chrysler plant? At what cost and in approximately what time frame?

4. Did the Army in conjunction with the Defense Department conduct any defense acquisition reviews prior to, at the time of, or after granting the XM-1 contract? Did those reviews reveal the possibility of financing difficulties? Did any other Defense Department reviews of Chrysler indicate the existence of financial problems?

I appreciate your attention to this inquiry. The Banking Committee, of which I am a Member, is moving swiftly in its consideration of the Chrysler loan guarantee. Thus, I hope to hear from you by Tuesday, November 6.

Cordially,

Jerry M. Patterson,
U.S. Congressman.

Department of the Army,
Office of the Assistant Secretary,
Washington, D.C., November 9, 1979.

Hon. Jerry M. Patterson,
House of Representatives,
Washington, D.C.

Dear Mr. Patterson: This letter responds to your 29 October 1979 correspondence relative to the financial status of the Chrysler Corporation and augments my 5 September 1979 response on the same subject. The following numbered paragraphs reply specifically to the questions in your letter:

1. You address two different eventualities here: default and bankruptcy. In the case of default or an inability to produce, the contract contains standard provisions. However, these provisions cannot insure a continuation of production. In the case of bankruptcy, it is possible to avoid a disruption of production with the cooperation of the court that takes jurisdiction. There are no defense acquisition provisions specifically designated for such a purpose.

2. The Army and Department of Defense are not considering any requests for financial relief for Chrysler other than Unusual Progress Payments.

3. The President has requested loan guarantees to assist Chrysler to avoid a default. The Army supports the President's actions in this regard.

4. There have been three Defense and Army System Acquisition Reviews conducted on the XM1 program since its inception at critical decision milestones. For the second System Acquisition Review in 1976 prior to entering Engineering Development, financial responsibility was addressed during the XM1 Source Selection process and Chrysler was found capable of performing. Both the Army and the Department of Defense have been aware of Chrysler's recent financial difficulties.

Finally, the request for Unusual Progress Payments has not been received as yet. Therefore, I am not aware of Chrysler's specific rationale for the request. However, I would assume that it would be based on an attempt to free the Defense Division from the cash flow problems affecting Chrysler's commercial business.

Sincerely,

Percy A. Pierre,
Assistant Secretary of the Army (Research, Development and Acquisition).

Mr. Chairman, I yield to the gentleman from Pennsylvania (Mr. Moorhead).

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I thank the gentleman for yielding.

As far as I am concerned, I would accept the amendment, as long as it is understood that that is in no way an indication that I think it should be done. I just merely think that a study is all right.

Mr. PATTERSON. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Patterson) to the amendment in the nature of a substitute offered by the gentleman from Pennsylvania (Mr. Moorhead).

The amendment to the amendment in the nature of a substitute was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from Connecticut (Mr. McKinney).

Mr. McKINNEY. Mr. Chairman, I just want to take this time to ask everyone to please support this bill. I think the country needs it. I think it will help us. I hope we will never have to do this again.

I want to thank my chairman, the chairman of the full committee and the staff on both sides for some of the most incredible hours ever put on any subject and some of the most incredible frustrations. I offer my deep thanks to all of them.

PREFERENTIAL MOTION OFFERED BY MR. ROUSSELOT

Mr. ROUSSELOT. Mr. Chairman, I offer a preferential motion.

The CHAIRMAN. The Clerk will report the motion.

The Clerk read as follows: Mr. Rousselot moves that the Committee do now rise and report the bill, H.R. 5860, back to the House with the recommendation that the enacting clause be stricken out.

Mr. ROUSSELOT. Mr. Chairman, I yield to my colleague, the gentleman from Mississippi (Mr. Hinson).

Mr. HINSON. Mr. Chairman, in subcommittee, in the full committee and on the House floor we have seen aired rather comprehensively the various arguments for and against this legislation. We have been told the Chrysler wives, widows, and children will suffer. We have heard arguments that sound like a primer on laissez faire capitalism, or on "modern" interventionist capitalism, or that we ought to face the increasingly grim realities of economic life in these United States during this last quarter of the 20th century.

To adhere mindlessly to the classic tenets of pure capitalism is just as destructive as the cheerful acquiescence to an unparalleled, unprecedented raid on the U.S. Treasury and the pocketbooks of the taxpayers which support it. The question we are here trying to resolve is whether it constitutes the best interests of the people we represent to provide loan guarantees to the Chrysler Corp. To do that, we must proceed through a thicket of philosophical and economic pitfalls which imperil the quick progress vital to Chrysler's survival, and which renders nearly impossible the setting of a set of priorities which satisfy all or most of the questions that have been raised.

I stated in committee and I think it bears repeating here. We do not live in a vacuum in this country, and we are not dealing today with a problem limited to the automobile industry. In recent years we have seen an increase in the use of loan guarantees in widely varied areas of our economy; heavy industry, small business, minority businesses, and disaster victims. New York City was here asking for a hand up. They got it. Lockheed was here. They got a hand up. Penn Central was here. They did not get it and it cost more to create Conrail, its successor Railroad, than it would have cost it to bail them out. Reliable figures now indicate that Conrail itself is near bankruptcy. So we go from Penn Central to son of Penn Central, to Abbott and Costello meet Penn Central.

What we are dealing with here is an economic phenomenon of historic proportion. It carries with it absolutely fundamental issues which call into question the economic and philosophical assumptions upon which we have based the free enterprise system as it has evolved in the United States. It is without precedent, and it poses an excruciatingly difficult dilemma for this Congress as the forum for debate of the Nation's business.

It may be a dilemma which is unsolvable. Whether it is or not, this Congress ought to be acutely aware of what it is about here. We are in the process of making international economic history and, if the bill passes, of establishing, for the first time, the U.S. Government as the banker of last resort for all American businesses. From there it is only a small step to rationalize providing more Government services to every businessman whether he is in financial trouble or not. In other words, Government again moves to preempt the role of a vital part of our Nation's economy, the banks. Government will do what the commercial lenders will not do, and for reasons based, not on sound banking practice and experience, but on priorities unrelated to the economic process, upon which all such decisions should be made.

But as I said, we do not live in a vacuum. There is no doubt that a Chrysler failure will bring severe economic difficulties to the Detroit area and to those other areas with Chrysler facilities. What has happened to New York City could, and probably will, happen to other American cities, North and South. Cleveland, Ohio may be next.

Jackson, Miss., God forbid, could eventually follow. Other industries, including Ford, are waiting in the wings at this moment. Business enterprises of every size and stripe will follow what we do here today and they are going to be lined up to the horizon and beyond if we pass this bill.

I cannot, however, try though I may, justify what we are about here. As improved as this bill is, it still constitutes an assault on the credit market, at a time of unprecedented credit shortages, double-digit inflation and interest rates, and it arbitrarily rearranges the allocation of credit in our country to the possible detriment of smaller, more efficient, job-creating companies.

We might as well begin, on a formal basis, the allocation of credit nationwide and on priorities of social welfare, regional redevelopment, minority growth, and the hundreds of other reasons for which this arbitrary credit reallocation will be not only requested, but demanded.

We provide loan guarantees to Americans for a number of valid reasons. We have never, however, made a habit in this country of granting loan guarantees to bankrupt corporations guilty of fiscal and corporate mismanagement on a near cosmic scale. I do not think we ought to start now.

Mr. ROUSSELOT. Mr. Chairman, I have not been convinced by this debate that this is a wise legislative course to follow. I regret that we are engaging in mandated credit allocation. I think that is the establishment of a major precedent, regardless of what my colleague, the gentleman from Connecticut says.

I do not think there are any of us in this room that want to see one single employee of Chrysler have to go to the marketplace and search for a new job; but we are putting ourselves in the position of federalizing this whole process, of turning our backs almost entirely on the liberalization of the bankruptcy procedures that we established in this Congress on reorganization procedures. I think we will live to regret the day that we have so federalized this process.

I think it is a mistake to establish what, in fact, is mandated Federal credit allocation at a time when the American public is saying to the Congress over and over again that we should be moving away from involving the Federal Government in so many phases of our lives.

Now, if Chrysler were not a top corporation, we would not even be here. If this corporation did not have tremendous clout with the President and Members of this Congress and that we had not all heard from every Dodge and Plymouth dealer in our districts, we would not even be here.

I sincerely regret that we have taken this course, because I think we will live to regret it. This is a form of mandated Federal credit allocation.

□ 1820

It is terribly unfortunate that we are not considering procedures for other companies in which have fared similar hardship conditions. They are faced with many of these problems because this Congress has given these struggling corporations, those in the private sector these problems by imposing unreasonable rules and regulations and incredible levels of taxation, preventing them from being able to accomplish the kind of investment goals that they need.

Mr. Chairman, I must say to the Members that I think we have made a terrible mistake. It is probably too late to do much about it. The consumers and taxpayers are very apt to be the losers.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I rise in opposition to the preferential motion.

Mr. Chairman, I regret that the debate, the reports, and all the analyses have failed to persuade the gentleman from California (Mr. ROUSSELOT). However, I hope, particularly in view of the vote on the Quayle substitute, that a large majority of the Members have been persuaded.

We have been persuaded that bankruptcy proceedings is not a viable alternative because if the word, "bankruptcy," is mentioned, Chrysler will go down the tube and will have to be liquidated because customer confidence will disappear.

Furthermore, a bankruptcy proceeding will rearrange old debts, but what this corporation needs is an influx of new money to get it over the transition stage so it can build the kind of small, fuel-efficient automobiles that we think it should be producing.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to my friend, the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, I would like to add to this debate the point that I do not think anyone can argue with what the gentleman from California (Mr. ROUSSELOT) in offering his preferential motion had to say about allocating most of this money or the rest of it. We are operating on a symptom, but if we were not to operate on it, the results would just be appalling across this country.

We have heard a lot of talk today about "stupid management" and "stupid" everything else. I would say it is a pretty stupid Congress that allows the investment climate to get as bad as it is in the United States of America, that allows every major industry from the steel industry to automobiles and rails, right on down the line, to get in such terrible, terrible shape.

There is a lesson here. We can operate on this one symptom, but we are not going to save our Nation if we do not do something about the cause of this disease.

Mr. Chairman, I invite all these Members who have railed against Chrysler and its problems to join me in a tough position on this issue. I urge the Members to come back in the next session of this Congress and do something about this mess.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I thank the gentleman from Connecticut (Mr. McKINNEY) for his contribution to this debate, and I want to say how much I have enjoyed working with the gentleman. I want also to emphasize what a large contribution he made. During the course of the hearings and during the debates he became a real expert on the automobile industry and was able to craft the original committee bill and then the compromise McKinney-Moorhead amendment in a way that, I think, satisfies people. That is the kind of a bill we can support, and, quite frankly, I believe we must defeat the motion to recommit.

Mr. Chairman, I urge defeat of the preferential motion.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from California (Mr. ROUSSELOT).

The preferential motion was rejected.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. KELLY).

Mr. KELLY. Mr. Chairman, I rise in opposition to the legislation.

(By unanimous consent, Mr. KELLY yielded his time to Mr. STANTON.)

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. STANTON).

Mr. STANTON. Mr. Chairman, in a couple of minutes I simply wish to tell the members of the committee that there will be offered a motion to recommit with instructions. I will, of course, explain the motion fully when it is offered.

Let me say in conclusion, though, that in this debate one has to be a little bit disappointed with the debate, because we have, of course, spent a majority of our time on a pay cut of $400 or $800 million or something of that nature. We have never hit the crux of the problem, which is the precedent we are establishing here.

I am sure that if that is not on our lips, it is bound to be in our minds. What we are doing is wondering who will be next and why they will be next. I happen to think that is all important.

As we take this historic vote in the

next half hour, Mr. Chairman, some of us will stop and think, as we go home for Christmas, of the potential problems that our vote in favor of this legislation will cause.

The CHAIRMAN. The Chair recognizes the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. Mr. Chairman, I came into this Chamber with an open mind, and I kept looking for two things that would convince me to vote for this legislation: First, that the majority of the money or the biggest part of the money, this $1.5 billion, was not going simply for raises.

It seems to me that if one is losing his job, the least he could do is just accept the amount of money that he now has and go on.

The second thing that I looked for and hoped that I would find was that there is a plan by which the corporation could be saved. I did not find anything positive in the entire debate on that score.

Mr. Chairman, I must regrettably vote against this entire bill.

The CHAIRMAN. The Chair recognizes the gentleman from Wyoming (Mr. CHENEY).

Mr. CHENEY. Mr. Chairman, I rise in opposition to the legislation to bail out Chrysler.

I think it is clear, even from what little debate we have had here today, that it will not work, and that it sets a terrible precedent. It is a precedent that we will all live to regret.

I am only sorry that we did not have a chance to get into some of the issues that the ranking minority member of the committee, the gentleman from Ohio (Mr. STANTON), mentioned as being of vital importance to the bill.

For us to approve a bailout on the ground of incompetence and because Chrysler is unable to compete is fundamentally wrong. We did not do that for thousands of other firms that went bankrupt last year, and we should not do it for Chrysler.

(By unanimous consent, Mr. FORD of Michigan yielded his time to Mr. MOORHEAD of Pennsylvania.)

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Chairman, I rise in opposition to this legislation for three basic reasons: First, I do think it sets the wrong kind of precedent in terms of the future and the other companies and other businesses that are going to be lined up for the kind of support we are providing here.

Second, this legislation ties the Federal Government in for a long period of time. We are kidding ourselves if we think this is just a short-term loan. The fact is that the situation with Chrysler will require that the Federal Government be involved for a long time.

Third, I think the legislation sets out false hopes for the employees of this corporation. The fact is that Chrysler is not going to survive. We are going to have to face these issues sooner or later, and we should do it now.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. LUNDINE).

Mr. LUNDINE. Mr. Chairman, I rise in support of this legislation and of the Moorhead-McKinney substitute.

Mr. Chairman, I believe the substitute is a good compromise between a position that emphasizes stiff sacrifices by certain parties and various restrictions on Federal involvement and the flexible position advocated by the administration. If the Moorhead-McKinney plan can be approved in essentially this form—without the addition of trivial or unwarranted requirements, I believe it will work and prospects that the company will be rescued are maximized.

Congress cannot anticipate every contingency, and I understand the need to leave the program administrators sufficient latitude in their dealings with this company. I was bothered, however, that the bill reported out of the Banking Committee did not expressly require additional participation by banks, suppliers, and other groups with an economic stake in Chrysler. The substitute, by specifying minimum levels of financial concessions in each of these cases, substantially strengthens the committee's bill.

In deciding the structure of Federal assistance to Chrysler, I further consider it essential that significant financing be in the form of new equity. The substitute, among other provisions involving the sale of equity, requires the purchase of at least $100 million of new issue Chrysler stock by the company's suppliers and dealers.

The other crucial requirement, in my judgment, is the establishment of a broad employee stock ownership plan at Chrysler, both to strengthen incentives to improve productivity at the company and assure an equitable distribution of benefits if the rescue effort succeeds.

The condition will mean that Chrysler employees will take a portion of their compensation in stock rather than cash. The ESOP provision included in the substitute requires a larger amount of stock and a somewhat differently structured plan than passed by the House Banking Committee. Because the substitute has altered other conditions—such as the level of financial sacrifice being required of the workers, I feel such changes are entirely appropriate.

The substitute requires Chrysler to contribute $150 million of newly-issued common stock to an ESOP, in order to remain eligible for Federal loan guarantees. The company has 180 days from the enactment of the bill to establish the plan, which must meet certain conditions.

The $150 million in stock is to be provided over the 4-year period of the loan guarantee program, in partial exchange for financial concessions being required of Chrysler workers. Generally, all employees—union and nonunion—who meet minimum age and service standards should be eligible to participate, and the plan must cover at least 90 percent of those eligible employees. Chrysler may choose to establish more than one plan, as long as together these plans satisfy the coverage requirements and include the same terms.

Chrysler must contribute the stock to the plan in annual amounts with a value of at least $37.5 million. The provision alternatively permits the trust to purchase the stock from the company with the proceeds from a loan, which would be repaid by the company in regular amounts. The stock initially is held in a suspense account and allocated to employees' accounts as the loan is repaid. This method, if it can be arranged, would allow the entire stock purchase to occur at the outset, while the price is relatively low, and permit employees to realize the full value of the appreciation.

The provision further requires that equal amounts of stock be allocated to the accounts of participating employees. Once the stock is allocated, the employee is 100 percent vested and can exercise voting rights with respect to the stock. Cash distributions cannot be made except in such circumstances as retirement, death, disability, and separation from the company.

The plan must also comply with Federal tax and pension laws applicable to tax qualified employee stock ownership plans.

This provision is virtually identical to the ESOP provision in the bill reported by the Senate Banking Committee. The Senate version currently requires the contribution of $250 million of stock, in exchange for more stringent wage/benefit concessions by Chrysler employees. The original House provision required that 10 million new shares be issued to an ESOP (worth about $60 million at current prices) and that employees directly purchase two-thirds of those shares.

The provision of $150 million of stock to an ESOP, as called for by the substitute will mean an average of approximately $1500 worth of common stock per Chrysler employee. The amount of stock owned by employees is closely related to the value of the ESOP as an incentive: In a study by the University of Michigan's Survey Research Center, profitability increased the most in firms that were significantly employee-owned.

The same study showed that, on average, employe-owned companies were 1.5 times as profitable as nonemployee-owned companies. The Senate Finance Commtitee, in a recent survey of companies with ESOP's found that the firms increased sales by 72 percent, employment by 37 percent, and profits by 157 percent in a 3-year period, as compared with a 24-year period before establishing such plans.

While a broad employee ownership plan has not been attempted in as big a company as Chrysler, the success stories include large as well as small firms. In Chrysler's case, the effects on employee motivation could be very important, prompting new efforts to find ways of making the company run better.

The plan called for in this provision is not a "gift" to Chrysler employees, as some press accounts have suggested. The ESOP does not "cost" the company in terms of cash flow: It is simply a paper transfer from the current shareholders—who may see some temporary dilution in the value of their stock—to the employees. There will be savings to Chrysler, since the workers are being required to make additional financial concessions and because productivity should be enhanced. But the company would not find itself with an extra $150 million if this provision did not exist.

Without a plan for significant employee ownership at Chrysler, we are risking $1.5 billion of the taxpayer's money to bail out the company's shareholders without the assurance that all employees have an equity interest in its success. Among the biggest beneficiaries will be Chrysler executives who own nearly one third of the current outstanding stock.

By adopting the Moorhead-McKinney substitute, we will give all Chrysler workers a stronger stake in the company's future. If it pulls through, they will share in that success. We will further have improved the company's prospects for recovery and reduced the risk that the American taxpayer will have to bear the costs of default.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. Blanchard).

Mr. BLANCHARD. Mr. Chairman, I rise in strong support of the Moorhead-McKinney substitute.

I want to take this opportunity to thank the chairman of the subcommittee, the gentleman from Pennsylvania (Mr. Moorhead), the ranking minority member, the gentleman from Connecticut (Mr. McKinney), all the members of the Committee on Banking, Finance and Urban Affairs, the Michigan delegation, and the members from all over the country who have joined here in a bipartisan operation. I thank them for their work on this issue and for their understanding. All of us from Michigan in particular are deeply appreciative of their work and thoughts, and we hope to remember them always.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, I rise in support of the Moorhead-McKinney substitute and I urge my colleagues to vote for this proposal.

We are considering this legislation today not because the Government is, wants to be, or will be, in the business of "bailing out" individual, private corporations when they run into financial problems—but because the Chrysler situation poses grave national concerns. Our responsibility as legislators prohibits us from ignoring the national consequences that will result if we fail to enact this legislation. Just look at some of these consequences.

A Chrysler failure will end up costing the Federal Government, and the taxpayer, more money if we do not act now. The legislation calls for up to $1.5 billion in loan guarantees. Yet, the Department of the Treasury has estimated, conservatively, that a Chrysler failure would result in a loss of Federal revenues of $2.75 billion. This loss will hardly help us in our goal to balance the Federal budget.

The cost to the Government does not stop there. More than $1 billion would be needed to pay the federally guaranteed pension benefits to Chrysler workers. Additionally, State and local governments may lose as much as $266 million in revenues—that is more money than would be provided under the targeted fiscal assistance program that this body began debate on last week. Where are our priorities?

The human tragedy of seeing hundreds of thousands of workers lose their jobs should be of the greatest concern to us all. A Chrysler failure could raise the national unemployment rate by half a percentage point within 1 year. We are talking about some 540,000 workers—and their families—who are directly or indirectly dependent upon continued Chrysler operations. Of these people, more than 200,000 would be permanently unemployed if we do not pass this legislation. Failure to recognize the personal hardships which will follow, if this proposal is defeated, totally contradicts the congressional efforts and commitments in recent years to eliminate high unemployment in this country.

A Chrysler failure would force thousands of small businesses into bankruptcy. And yet, I would wager that each and every one of my colleagues want to see small businesses in this Nation thrive, and have voted for other legislation to expand small business opportunities, and assist growing businesses in their struggle to survive. A vote against the Moorhead-McKinney substitute is a vote to close down thousands of small businesses nationwide.

Chrysler is ready to produce, for model year 1981, at least 400,000 new fuel-efficient engines which will help us in our energy conservation goals. No other domestic auto manufacturer could fill this void if Chrysler fails. The unfilled consumer demand for energy-efficient cars would consequently be met by imported automobiles. If Chrysler is allowed to fail, the increase in purchases of foreign-produced cars will cost the United States an additional $3 billion in balance-of-trade payments. As a Nation that is struggling to reduce its balance-of-trade payments, we cannot afford to ignore the impact of a Chrysler failure at this time.

A Chrysler failure would also lead to the devastation of Detroit and many other communities throughout our country. All of our efforts and money to revitalize these areas would be lost when these cities collapse in the wake of the Chrysler failure.

We have a responsibility to be consistent in our national policies, and in order to meet that responsibility, it is incumbent upon each of us to support this legislation providing loan guarantees to Chrysler Corp. A vote against the Moorhead-McKinney substitute is a vote to increase the budget deficit, a vote to promote economic havoc in State and local governments nationwide, a vote to significantly increase unemployment rates, a vote to shut down small businesses, a vote to increase our balance of trade payments, and a vote against our national effort to reduce fuel consumption.

The Moorhead-McKinney substitute is a fair proposal that has been carefully drafted. It does not require a sacrifice to be made only by the Federal Government, but requires a $1.83 billion commitment from non-Federal sources, including a $400 million contribution from Chrysler employees. There is a legitimate, and very real, national interest in securing the enactment of this proposal and I, again, emphatically urge my colleagues to cast their vote in favor of the Moorhead-McKinney substitute.

(By unanimous consent, Mr. Mitchell of Maryland yielded his time to Mr. Moorhead of Pennsylvania.)

Mr. NEAL. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from North Carolina.

Mr. NEAL. Mr. Chairman, from time to time truly momentous issues come before the Congress, issues which affect all Americans and affect the course of our Nation for long periods of time. SALT is one such issue; our energy policy decisions are of this magnitude, and, Mr. Chairman, I submit that this Chrysler bailout issue is of very major significance also.

Mr. Chairman, if we approve $1.5 billion in loan guarantees for the Chrysler Corp., we are likely to find ourselves voting frequently on whether private businesses are worthy of being saved by the Government.

Next year, perhaps, it will be the steel industry, or the rubber industry, or the mousetrap industry, or the local widget works. Our experience with Federal programs should have taught us at least one lesson: If we help one deserving applicant, we soon will have a dozen more knocking at the door.

Mr. Chairman, if we pass this bill, any of the 6,000 or so businesses that fail every year could legitimately come to us for loan guarantees; some could even submit as strong an argument for help, and could muster as much political support, as Chrysler has.

We could wind up spending much of our time—and how much extra time do we have here?—passing judgment on sick companies, and on their managers and markets.

We could see the Secretary of the Treasury and other busy Government officials become full-time babysitters for scores of ailing corporations.

Worst of all, Mr. Chairman, by helping Chrysler we could be making unintended but radical changes in the economic and political systems that have served us so well. By gradually expanding the role of Government in making private economic decisions—by literally having Government oversee and second-guess corporate managers—we would almost certainly undermine our free-market system. Some will say that this is an alarmist view, but I suggest that we examine where such steps have taken the British.

Mr. Chairman, as much as I want to help the Chrysler Corp., as much concern as I feel for the thousands of hard-working Americans whose livelihood depends on Chrysler, I cannot support this bill. The precedent we would be setting is simply not an acceptable risk. We have too much to lose by accommodating Chrysler.

Mr. Chairman, I have many other reasons for opposing this bailout.

For one thing, Federal guarantees are not essential to Chrysler's survival. Only last year, the Congress updated and improved bankruptcy laws that are designed specifically to help companies like Chrysler. A chapter 11 bankruptcy proceeding could enable Chrysler to reorganize, reschedule its debts, streamline its operations, and emerge as a stronger, more competitive company.

Chrysler's managers tell us that bankruptcy is unthinkable because consumers will not buy cars from a company whose future seems in doubt. Buyers understandably want to be sure of future service, parts, and resale value. It seems to me, however, that most Americans already know that Chrysler is in trouble; the congressional hearings have made that clear. Will potential customers find a $1.5 billion loan guarantee any more reassuring than they would find an honest, prudent reorganization under chapter 11? I doubt it.

Mr. Chairman, if Chrysler demonstrates its ability to put good cars on the market at fair prices, Americans will buy those cars, whether the cars are produced under the supervision of a bankruptcy court or under the eye of the Secretary of the Treasury.

It is highly probable, moreover, that Chrysler can avoid bankruptcy and still survive without Government assistance. The company has yet to do all that it might to survive; it might sell off some of its profitable subsidiaries; it might appeal for help to its stockholders, who presumably assumed risks when they invested; it might negotiate a merger or cooperative agreements with other companies; it might go further in trimming its operations and tightening belts.

But what if Chrysler does not make it? We all know that the collapse of this giant company could be a terrible, disorienting blow to our economy. Adding up the impact on the company, its suppliers, its dealerships, and its other economic partners, we might indeed have up to 500,000 persons affected. We could have high expenses for unemployment insurance and welfare payments. The loss in tax revenue at all levels of government could be substantial.

It is important to remember, however, that these negative effects would be temporary. Our economy absorbs thousands of business failures every year. Almost invariably, workers find other jobs, and resources are allocated to more productive uses. The thousands of people who now buy Chrysler products every year would not quit buying cars. They would still be shopping around, and you can bet that other automakers would be competing for their favor. It seems logical that a great many Chrysler employees would find new jobs serving this market, perhaps making the small, fuel-efficient cars that Chrysler now intends to produce.

In any case, Chrysler's employees, its distributors and suppliers—with all their skill and experience—would not waste time in finding other outlets for their services. In the interim, Government assistance would be available for those who needed it. My guess is that surprisingly little would be needed.

Mr. Chairman, supporters of Federal aid to Chrysler argue that these loan guarantees would be no different than the other $233 billion worth of loans the Government is now guaranteeing for various economic enterprises. I disagree. Most loan guarantees heretofore have been to launch or sustain promising new ventures. To my knowledge, except for the Lockheed Corp. bailout (which had national defense implications), our Government has not been in the habit of propping up failing companies.

In that regard, I think we should be mindful of our responsibilities to successful businesses. If we assure Chrysler of $3 billion in loans by enacting this legislation, we will be taking $3 billion of investment capital that others might want to borrow to launch new businesses, to invest in plant and equipment, or to use for other productive purposes. In the process of maintaining jobs at Chrysler, then, we will be foregoing jobs and productivity in other places where the businessman could not go to the bank with a Government guarantee in his pocket.

Mr. Chairman, another thing that troubles me about this legislation is that we would be pledging the tax dollars of millions of underpaid American workers to guarantee the jobs of higher-paid Chrysler workers. There is something inherently unfair in that. I know too many low-paid, hard-working North Carolina factory and office workers, farmers and small business owners who are already burdened by high taxes, and disheartened by years of inflation. I will not suggest to them that they should, as taxpayers, cosign a $1.5 billion note to assure the jobs of workers far away who make far more money than they do.

Mr. Chairman, I have the greatest respect and affection for the sponsors of this legislation, particularly the gentleman from Michigan (Mr. Blanchard). I have the keenest sympathy for Chrysler and its employees in this time of crisis. But if we approve this legislation, I fear that we will be establishing a dangerous and costly precedent. Even the demise of Chrysler (which I consider highly unlikely) would be less costly to us in the long run than passage of this bill which would radically alter the course of our private enterprise system. I believe, though, that a great company like Chrysler can find a way to survive on its own, and that its plants will be producing cars for a long, long time.

Mr. Chairman, this bill is essentially a bailout for banks to and stockholders of Chrysler. Its passage would not only be extremely costly to the taxpayers of America, but would also set a dangerous precedent for our country, and should be soundly defeated.

Mr. FISHER. Mr. Chairman, I have an amendment at the desk, and I will ask the gentleman to yield so I may offer it.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, about 20 seconds is all I have left, and I yield to the gentleman from Virginia (Mr. Fisher) to offer his amendment.

AMENDMENT OFFERED BY MR. FISHER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MOORHEAD OF PENNSYLVANIA

Mr. FISHER. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute, and I ask unanimous consent that this amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

(The amendment to the amendment in the nature of a substitute reads as follows:)

Amendment offered by Mr. Fisher to the amendment in the nature of a substitute offered by Mr. Moorhead of Pennsylvania: Page 22, line 21 insert at the end thereof the following:

The study shall also consider for inclusion in any guidelines covering future assistance to corporations the following factors:

(1) the prospective economic environment at the time the assistance would have its intended effect, and the impact that either the granting or denial of assistance will have on the environment,

(2) the importance, in terms of size and in terms of goods and services rendered, of the corporation or business entity to the national economy.

(3) the appropriateness of aggregate limits for such Federal assistance per fiscal year,

(4) the order of preference for specific types of assistance, and

(5) the degree to which assisted corporations or business entities should be required to adhere to other governmental policies as a condition for the assistance.

Mr. FISHER. Mr. Chairman, this is the amendment we spoke of earlier, the one that is agreed to by the gentleman from Arkansas (Mr. Bethune).

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, if the gentleman will yield, which amendment is this?

Mr. FISHER. This is the amendment calling for a study.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, if that is the amendment, I hope that it will be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. Fisher) to the amendment in the nature of a substitute offered by the gentleman from Pennsylvania (Mr. Moorhead).

The amendment to the amendment in the nature of a substitute was agreed to.

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AMENDMENT OFFERED BY MR. EDWARDS OF OKLAHOMA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MOORHEAD OF PENNSYLVANIA

Mr. EDWARDS of Oklahoma. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. EDWARDS of Oklahoma to the amendment in the nature of a substitute offered by Mr. MOORHEAD of Pennsylvania: At the end of section 4 of the matter proposed to be inserted add the following new subsection:

(g) During the period in which the loan guarantees issued under this Act are outstanding, every employee of the Corporation making a salary of $40,000 or more as of August 31st, 1979, shall receive a salary no greater than 80 per centum of the salary that employee was making as of August 31, 1979, provided that in no case shall any employee of the Corporation earn a salary of no more than $50,112.50 or more than an additional $4,479.42 in nonsalaried compensation.

Nor shall any such employee receive any increase in salary or nonsalaried compensation beyond that which was being paid to that person as of August 31, 1979, if that person was an employee of the Corporation at that time.

Nor shall the Corporation pay any compensation to any person as a consultant on any other basis other than as an employee if that person was an employee of the Corporation as of August 31, 1979.

Mr. EDWARDS of Oklahoma (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. DINGELL. Mr. Chairman, I reserve a point of order on the amendment.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, it is easy to look for villains in this Chrysler situation. Chrysler has been labeled anti-free enterprise because they are unwilling to slug it out in the marketplace where failure or success is determined by the rigors of open competition.

We could poke through past decades and identify Chrysler's well-publicized management blunders, and then point the finger at the people now unwilling to "take their medicine."

But I happen to sympathize with Chrysler. This is no matter of mere balance sheets; it is a very serious problem of people and what happens if their company fails to survive. We are talking about the livelihoods of 140,000 workers and company staff and their dependents, plus hundreds of thousands of dealers and suppliers and subcontractors and all of their dependents. We are really talking about a Chrysler family comprising over 2 million Americans—and no matter what the critics say, the lives of these men and women and their families will be disrupted if Chrysler goes down.

I also admire Chrysler's scrappy band of managers, many of whom are new to the company. I admire their confidence and their new leadership ability. And much of what they say is right: Chrysler has borne the brunt of disruption in an industry that has perhaps ungone more swift change than any industry in the country. There is a saying in the industry that when things go bad, General Motors gets a runny nose and Ford just a severe cold, but Chrysler catches pneumonia.

Because of the industry it is in, because of its size, because of its relative price position, Chrysler has always found itself surrounded by economic and political circumstances somewhat beyond its control. They were caught on the wrong side of the 1974 Arab oil embargo; found themselves most vulnerable to the 1974–75 recession; and were least able to bear the relentless hammer of more and more Government regulation. There is no denying that these burdens fell heaviest on the company with the smallest management and the smallest capital resource base.

Consider for a moment the smothering effect of Government regulation. Only 12 years ago, there was virtually no Federal regulation of the automobile. But in 1967 the car safety standards started pouring out of Washington. In 1970 the emission standards were piled on. In 1975 fuel economy regulations were added. The piling up of this regulatory load has squeezed Chrysler's normal 15- to 20-year cycle for complete turnover of all product manufacturing facilities to just 5 years. Not only did they have to raise 15 to 20 years' worth of capital in 5 years, but Chrysler had to deploy 15 to 20 years' worth of management and engineering talent in just a fraction of the time to get the job done.

Not all of the regulations were bad; many, like windshield safety glass, were necessary when it became clear that car buyers on their own were not willing to pay for sensible features which were socially desirable. But now we have a $13 billion corporation (and an industry) which, if it can turn itself around, is prevented legally from selling a single car during the 1980's unless it contains airbags and three-way catalysts and meets an inflexible set of fleet fuel economy standards.

We casually mention the Federal Government's fuel economy standards. But we are talking not about adding on a few pieces of equipment to the car. We are talking about creating entire fleets of radically new vehicles, requiring not only huge expenditures for research and development, but the development and production of completely new engines, transmissions, transaxles, and new stamping and assembly lines. The retooling requirements are dramatic, entailing the wall-to-wall gutting of plants that are often equivalent in size to a small town. Then these plants must be rebuilt from the ground up.

I believe many of the auto standards can be changed, to Chrysler's benefit, without affecting the social goals of automobile safety, fuel economy, and pollution control. This is why I joined Congressman DAVE STOCKMAN in sponsoring the Motor Vehicle Regulatory Reform Act, which provides sensible improvement of current Federal standards and regulations.

But despite the efforts for regulatory relief, this apparently is not enough. Chrysler is hemorrhaging almost by the hour. Indeed, the company's plight is merely a warning of what is going on in the entire domestic auto industry, and in our economy as well. Ford Motor Co. suffered a billion dollar loss in 1979, almost all of it in domestic sales. Will Ford be our next Chrysler? Many expect Ford to have a billion and a half dollar loss in 1980 and are saying the only thing keeping them afloat is their strong sales on European markets. In my own district in Buffalo, Bethlehem Steel has recently experienced major layoffs affecting a thousand workers. United States Steel is laying off 13,000 employees and closing 18 antiquated plants because it "doesn't want to become the Chrysler of the eighties." And other examples abound of businesses unable to cope with double-digit inflation, the unavailability of capital, high marginal tax rates, and the punitive tax of persistent Government regulation.

That Chrysler is seriously ill with Ford close behind should be of no surprise. Our whole economy, essentially, is ill. The productivity of our economy has fallen steadily since the late 1960's. The value of our capital stock, as measured by the stock market, is (in real, noninflationary terms) less than one-third its value compared to February 1966. The purchasing power of the U.S. dollar has fallen steadily by over two-thirds in the 1970's. Private saving has been at a 30-year low. Unemployment is increasing simultaneously with inflation, and our conventional Keynesian economic theorists can provide no solution to this malaise. The whole country is suffering and all our people, while Congress debates just one corporation and prevents us from legislation that would help.

So here we are having seen many American firms already struggle and go down in defeat, and now Chrysler is on the brink of doing so. It would be easy to go along with this bill, for the sake of the people involved. But I do not think in good conscience that I can. While it may help Chrysler in the short-run, this legislation would actually be to the detriment of our country as a whole. By having the Federal Government try to save jobs and commerce at Chrysler Corp., we would lose a greater number of jobs and commerce throughout the rest of our economy.

There is this illusion that a $1.5 billion Chrysler loan guarantee will not cost anything because it does not show up in the Federal budget. But that is not necessarily so. The bailout will have an indirect impact on the private credit market by, essentially, jumping Chrysler, now in last place in the credit line, up to first place—ahead of all the other struggling American companies which are trying to make it like Chrysler. As Congressman DAVE STOCKMAN put it:

> Since the total credit supply is limited, especially under the present stringent policies of the Federal Reserve, this arbitrary reshuffling necessarily means that someone else will be bumped out of the market; perhaps a small manufacturer needing credit to finance inventory; a contractor needing construction loans; an auto dealer needing credit to finance his floor plan; or a farmer needing credit for spring planting. One way or another, the arbitrary preemption of credit if . . . will result in less production and employment elsewhere in the economy."

While in the best of intentions, Chrysler may have also painted too rosy a picture of anticipated auto sales, which directly affected how they arrived at the $1.5 billion loan guarantee figure. If the prospects for the health of the economy next year are as favorable as Chrysler says, why is it that the company cannot persuade the private financial markets to invest? We know what the loan guarantee figure is now. What it will be if the economy gets worse next year, as most analysts predict? Maybe $3 billion? Or maybe we should expect a $5 billion loan guarantee?

Colleagues in the Senate have proposed some changes in the current Chrysler bill, one of which would freeze for 3 years the wages of the Chrysler workers. I am strongly opposed to any wage freeze. While I appreciate their efforts to improve this legislation, the answer is not to let the worker carry the load—to be the "fall guy" for our economic failures. Consider what effect this would have on the worker's income.

A married auto worker earning the median income of $18,208 takes home $14,782 after Federal taxes. With a wage freeze, he or she will have to forego a total of $6,446 in cost-of-living raises by 1982, while facing a 9.3-percent hike in the social security tax. He or she will lose $3,941 (26.7 percent) in real income after taxes and inflation under a 3-year wage freeze probably more.

A married auto worker earning $32,000 today takes home $24,138 after Federal taxes. With wages frozen, he or she would have to forgo $11,328 in cost of living raises by 1982, while facing a 52-percent hike in the payroll tax. He or she would lose $6,846 (28.4 percent) in take-home pay after taxes and inflation under a 3-year wage freeze or more. This certainly is not the answer to Chrysler's problems or any other business.

I could support Chrysler if I thought there would be no more Chryslers, but without fundamental changes in our Nation's economic policy, the future holds nothing but more and more failing companies, more unemployment. The road to a healthier economy is to get rid of our unhealthy tax and regulatory policies—something Congress and this administration continually refuses to do, as it pursues austerity and study as you go economics.

I urge Congress today to take the steps toward encouraging the supply and production side of our economy. In addition to reducing the Government's regulatory load on business and individuals, we must adjust business depreciation for inflation; index capital gains rates; lower business tax rates; remove controls on wages and prices; freeze payroll tax rates; encourage private saving and investment; stop taxing American energy production to subsidize imports of foreign energy; and get rid of the anti-business and "let the worker be the fall guy" attitude that now dominates Washington.

This is what Congress must do to avoid further catastrophes like Chrysler. As for the men and women behind the company, I wish them well, no matter what the result of this vote before us. I hope Chrysler makes it through its financial crunch and is able to get a profitable footing. I hope we can avoid the colossal human and financial costs to the thousands of people whose livelihoods depend on Chrysler. And especially for them, as well as for ourselves, I hope we can begin the task of getting our Nation's economic house in order to prevent further Chryslers down the road and equally important prevent the unemployment and inflation and loss of enterprises so vital to our Nation and our people.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I offer this amendment on behalf of myself and the gentleman from Oregon (Mr. WEAVER).

Mr. Chairman, this bill asks the American people to sacrifice, if necessary, to help the good folks at Chrysler. And they are good folks. And most of them are willing to sacrifice, too. The union members, who work on the assembly lines, are willing to sacrifice.

But, they did not cause the problem. Management caused the problem. Not assembly-line workers but people who live in big homes, eat steaks, join country clubs, and apparently could not manage a sidewalk Kool-Aid stand.

Who is being asked to sacrifice to help who?

The people on the assembly line are being asked to sacrifice.

The people in my district, with a median income of $7,500 a year are being asked to sacrifice if necessary.

The people in your districts, with a median income of $7,000 or $8,000 or $10,000 a year, are being asked to sacrifice.

But what about the people who caused this mess?

Two executives at Chrysler—two—have made a big thing out of working for a dollar a year. They have not said much about the small fortunes they are going to be getting in deferred compensation.

You are asking my constituents, who wait on tables or sell shoes or work on an assembly line at General Motors to save Lee Iacocca's job—but he is going to take his million and a half dollars in bonuses, and the people in my district and yours who are struggling to pay for their groceries are going to underwrite it for him.

Mr. Chairman, the median income in my district is $7,569 a year. Chrysler has 1,500 employees earning an average of nearly $47,000 a year. Chrysler has 50 executives earning an average of nearly $84,000 a year.

Now these management people swallowed hard, and they punished themselves for their incompetence by taking cuts of between 10 percent and 2 percent.

Mr. Chairman, I am overwhelmed by such generosity. Somebody making $100-000 a year is asking people making $7,000 a year to underwrite his salary, and in exchange he is willing to take only $90,000 instead of $100,000. Has the world ever before known such self-sacrifice?

And what about the people at Chrysler who have been earning an average of nearly $47,000 a year? They will take a cut of 2 to 5 percent. What sterling character. What a great sacrifice to protect their own jobs.

This Congress has come a long way.

We used to be Robin Hoods around here taxing the rich to help the poor. But now we are taking from the poor to help the rich.

I cannot stand quietly by and watch this Congress try to justify, taking money from people earning $7,000, $8,000 or $10,000 a year, so 100 or 1,000 people at Chrysler can keep up their country club memberships.

This amendment is very simple.

It imposes a 20-percent salary cut on all Chrysler executives earning at least $40,000 a year. And that is certainly fair.

It prohibits any pay increase for Chrysler executives during the duration of the loan guarantees. And does anybody here really believe we should ask the taxpayers to underwrite a pay raise for $50,000- or $100,000-a-year executives.

And the amendment sets a maximum compensation for any Chrysler employee of just over $50,000 a year and in salary and just under $5,000 a year in other compensation—the same pay level the Congress has set for GS–18 level employees, the highest management position in the civil service.

I think its fitting that the top Chrysler executives be paid the same as top civil service workers. If Chrysler's executives want the taxpayers to take care of them, they ought to work for what the taxpayers pay.

This is a reasonable amendment. We should not ask moderate income people in our districts who are struggling to get by, to underwrite $80,000 or $90,000 or $100,000 salaries.

If we are going to ask people in our districts who do not work for Chrysler to sacrifice to save the jobs of those who do the executives who have those high-paying jobs should make the first and biggest sacrifices. If they are not willing to give up some of their excess luxury to keep their jobs, why should the working people of this country give up money they need far more.

The Chrysler management should make a meaningful sacrifice to save the company and this amendment will see that they do.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, I join with the gentleman from Oklahoma (Mr. EDWARDS) in offering this amendment.

Top corporate management sets its own salaries, of course the board does, subject to stockholder approval—but why are car executives paid huge salaries: H. Ford, $1 million; P. Caldwell, $1 million; Ed Lundy, $1 million; Tom Murphy, $975,000; and Eliot Estes, $925,000.

The people pay those salaries, both through taxes and in cars they buy. Chrysler has been in trouble a long time—but paid Lee Iacocca a $1.5 million bonus. These bonuses and salaries are guaranteed by this loan.

I have no objection to people making money. If contributions are great, pay should be great, incentives great.

The truth is, car companies, other giants, are slothful, inert bureaucracies. That should be self evident, and investors in stock markets feel the same. Dow Jones average of huge corporations is down. AMEX—small entrepreneurial common stock soars to new highs. So why should the very executives responsible for the disastrous corporate decisions of the 1970's receive the highest salaries? Why should Chrysler executives, coming to the Federal taxpayer for loan guarantees make more than top management of government? Even the Post Office supposedly made a profit this year while Chrysler lost a billion setting maximum income for Chrysler management at GS levels may be somewhat insulting to civil servants, but it is fairer than salary levels now. What are Chrysler executives responsible for? In 1961 they engineered the slant 6 and two new cars, the Valiant and Lancer. They were light and fuel efficient. My aide who owns one gets 25 miles per gallon. I repeat, 1961.

Subsequent executives made decision after decision to enlarge and weigh down these cars. Instead of simple inexpensive choices, they brought out multiple engines, multiple transmissions (Chevy—1 and 2 now 11 and 21) so each change of design required billions of dollars. Not a good way to run a business.

But you say the American consumer demanded those things?

The American consumer is demanding the opposite, 25 percent of the car market is now foreign.

You say Government regulations and standards forced these costs? Practically all those foreign cars now meet our standards.

Why could not Chrysler build a car comparable to these foreign cars? Do they lack the engineering skills? No. Do they lack materials? No.

They lacked management ability. These high salaries paid to managers are to get the right people to make the right decisions. High pay failed.

Chrysler executives must prove themselves. It is a challenge. Their Government guaranteed salaries should not be more than Government salaries.

The CHAIRMAN. Does the gentleman from Michigan (Mr. DINGELL) insist upon his point of order?

Mr. DINGELL. No, Mr. Chairman.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am forced to oppose this amendment. It is truly an extraordinary amendment. It really gets the Congress into the business of setting wages and salaries for a particular corporation. Part of the section says if you earn more than $40,000, then we, the Congress, say that you can earn only 80 percent of that. We do not know the individuals involved.

Then it tries to relate the pay of the people working for private enterprise to the position of a GS level in the Federal Government. If we have ever seen a case of Government intruding upon private industry, it is this amendment. It is absolutely unprecedented.

Second, we have already faced this issue. We faced it this morning when we adopted the Brademas amendment. We said what the organized union employees of the corporation should make. Then with the Brademas amendment we said what the nonunionized employees would make as a sacrifice. So we have really voted and voted rather overwhelmingly on this.

Finally, before our subcommittee and our full committee, but particularly the subcommittee, was the testimony of the concern, particularly of some of the management consultants like Booz, Hamilton, that the danger to Chrysler would be that some of these highly skilled people, if we tried to legislatively cut their wages, would find a job someplace else. If these expert craftsmen are gone, then we have insured that Chrysler would have to be liquidated.

So I urge the defeat of this amendment.

Mr. EVANS of Delaware. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from Delaware.

Mr. EVANS of Delaware. I thank the gentleman for yielding.

Mr. Chairman, I must say that I am a little surprised at my good friend, the gentleman from Oklahoma, for offering this type of an amendment. It is so inconsistent with basic principles of free enterprise by injecting the Government to this degree into the internal affairs of a company. I cannot believe it. I must say this: What we are trying to do here is to insure the success of the Chrysler Corp., not its failure. This amendment would insure its failure.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. EDWARDS) to the amendment in the nature of a substitute offered by the gentleman from Pennsylvania (Mr. MOORHEAD).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. One hundred and four Members are present, a quorum.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

Mr. BAUMAN. Mr. Chairman, on that I demand a division.

On a division (demanded by Mr. BAUMAN) there were—ayes 14, noes 65.

So the amendment to the amendment in the nature of a substitute was rejected.

□ 1840

The CHAIRMAN. Are there further amendments? If not, the question is on the amendment in the nature of a substitute offered by the gentleman from Pennsylvania (Mr. MOORHEAD), as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. The question is on the Committee amendment in the nature of a substitute, as amended.

The Committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BOLLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5860) to authorize loan guarantees to the Chrysler Corp., pursuant to House Resolution 505, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the Committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. STANTON

Mr. STANTON. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. STANTON. I am, Mr. Speaker, in its present form.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. STANTON moves to recommit the bill H.R. 5860 to the Committee on Banking, Finance and Urban Affairs with instructions to report back the same forthwith with the following amendment: On page 23, after line 18, add the following new section:

"REQUIREMENTS APPLICABLE TO EMPLOYEES

SEC. . (a) No loan guarantee may be issued under this Act if at the time of issuance or the proposed issuance the Board determines that—

(1) the Corporation, before September 13, 1982, has entered into and not revised, implemented, or continued an agreement with a labor organization which directly or indirectly—

(A) increases wages and benefits beyond

the levels and amounts provided on September 13, 1979, except that—

(i) nothing in this section limits increases in the Corporation's contribution toward premiums to be paid between September 14, 1979, and September 13, 1982, relative to the maintenance of medical benefits in effect on September 13, 1979, except that the amount of such increases may not exceed $65,000,000;

(ii) the Corporation may increase basic pension benefits in accordance with terms of any collective bargaining agreement to the extent that the cost of such increased pension benefits to the Corporation during the period of September 14, 1979, through September 13, 1982, does not exceed $23,000,000 in addition to amounts necessary to comply with the Employee Retirement Income Security Act of 1974;

(B) increase wages and benefits according to a cost-of-living allowance or other mechanism providing automatic wage and benefit increases reflecting fluctuations in foreign or domestic consumer price indexes relative to price inflation, living costs, or consumer purchasing power;

(C) grants automatic or periodic wage and benefit increases in accordance with an annual improvement factor or a similar mechanism of any kind;

(D) provides wage and benefit increases in excess of the rates or amounts provided by the Corporation on September 13, 1979, relative to incentive job classifications; or

(E) provides any wage and benefit increases on a deferred basis; or

(2) for any fiscal year beginning before December 31, 1982, the total annual cost to the Corporation of wages and benefits for employees not represented by a labor organization exceeds the total annual cost of such wages and benefits for such employees for the fiscal year ending December 31, 1979, unless the excess results from increases in the Corporation's production level, as determined by the Board.

(b) The limitations set forth in subsection (a) of this section shall not apply to any increase in wages or benefits required by law.

(c) Any increase in the wages and benefits of a person employed by the Corporation resulting from reclassification or reevaluation of a job or a promotion effected in order to evade the provisions of this section shall be considered an indirect form of compensation.

(d) After September 13, 1981, if the Board determines—

(1) that the total aggregate amount of financial assistance required by the Corporation under the financing plan pursuant to section 4 exceeds, by a specified amount, the Corporation's needs, as defined in revised plans pursuant to sections 5(a)(4) and 5(a)(7)(A);

(2) that a reduction of not to exceed such specified amount in the total aggregate amount of financial assistance required will not impair the ability of the Corporation to continue as a going concern, or to meet such other tests of viability as the Board shall prescribe; and

(3) that the Corporation is in compliance with all terms and conditions imposed under this Act;

then the Board may—

(A) permit the Corporation to negotiate and enter into an agreement with a labor organization and with employees not represented by a labor organization which increases the levels and amounts of wages and benefits for the period from September 14, 1981, through September 13, 1982, beyond the levels and amounts in effect on September 13, 1979, so long as the Board determines that the amount of such increase does not exceed 50 per centum of the specified amount of the reduction in the total aggregate amount of financial assistance required; and

(B) when any such agreement becomes effective, reduce the amount available for Federal loan guarantees or commitments to guarantee and the amount of nonfederally guaranteed assistance to be obtained, each by not to exceed 25 per centum of the specified amount of such reduction.

(e) If the Board determines that cash contributions from labor organizations or employees are legally committed so that the total contributions from employees and labor organizations during the period of September 13, 1979, through September 13, 1982, will exceed the total amount of wages and benefits not paid as a result of subsection (a), the Board may permit an increase in the levels and amounts of employee wages and benefits beyond the levels and amounts in effect on September 13, 1979, which would otherwise be prohibited by subsection (a), if (1) such increase will not impair the ability of the Corporation to continue as a going concern, or to meet such other tests of viability as the Board shall prescribe, and (2) the amount of such increase does not exceed the amount of the cash contributions committed.

(f) For the purposes of this Act, the term "wages and benefits" means any direct or indirect compensation paid by the Corporation to employees of the Corporation and shall include, but is not limited to, amounts paid in accordance with wage scales, straight time hourly wage rates, base wage rates, base salary rates, salary scales, and periodic salary grades, overtime premiums, night shift premiums, vacation payments, holiday payments, relocation allowance, call-in pay, bonuses, bereavement pay, jury duty pay, paid absence allowances, short-term military duty pay, paid leaves of absence, holiday pay including personal holidays, and medical, health, accident, sickness, disability, hospitalization, insurance, pension, educational, and supplemental unemployment benefits."

Mr. STANTON (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the Record.

The SPEAKER pro tempore (Mr. Wright). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER. The gentleman from Ohio (Mr. Stanton) is recognized for 5 minutes in support of his motion to recommit.

Mr. STANTON. Mr. Speaker, the motion to recommit fundamentally is the 2-year wage freeze that we have been discussing. I will explain it within my 5 minutes.

Ladies and gentlemen, I would appreciate your attention, because as we draw to a conclusion on the subject of the Chrysler Loan Guarantee Act of 1979, some of my colleagues will be going home hopefully by the end of this week.

I do not know how the Members will answer this question, but at the present time under the legislation as it now exists, we are asking our taxpayers for $1.5 billion of loan guarantees. Of that money in the bill, $400 million will come from the employees, $200 million already in the contract, $200 million more to come from some other place.

Mr. Speaker, what it amounts to, some $1.1 billion of the money of our taxpayers will go to pay an increase in salary to the employees of the Chrysler Corp. over the next 3 years.

A lot of people want this legislation. I do not know though how we can look them in the face back home and when we tell them, "Three-quarters of the loan that you taxpayers have given this country is going to increase an already rather healthy segment of our society."

Now, Mr. Speaker, a couple of other points: I heard a lot today about fairness, and I hope that the Members here in the House and those watching on television will think of one thing when they think of this wage freeze. I have stood in this well on three different loan guarantee programs. I have seen the Lockheed pass by only 3 votes, 191 to 188. I have seen the New York City loan pass only by 10 votes. It only passed for New York when this House stood for the principle of sending to the Financial Control Board the following principle: The Board in this Congress insisted that the Board adopt the following general wage and salary policies which were applicable during the emergency period.

No. 1, no agreement shall provide for general wage or salary increases or increases in fringe benefits.

What this Congress did, Mr. Speaker, was to make, and it is right in the resolution, to the extent that the collective bargaining agreement recently negotiated by the Transit Authority of New York City to give effect to the fact that the general wage and salary policies herein adopted, the board will establish such conditions and limitations to come within the framework of the Congress of the United States request.

What we have done here in this motion to recommit, for those who are particularly involved, what they will tell the 6,000 and some other people who have gone out of business already in this country, when you get back home and you tell your constituents that $1.1 billion of the $1.5 billion are going for salary increases, and you did not do for the Chrysler Corp. employees that which you demanded for the employees of the union of the city of New York, then I think you have a point that I do not know quite how to explain.

Let me explain one other point, Mr. Speaker, in conclusion of this legislation.

I looked today and had checked in the well of this House, while we were in debate, if we really wanted to help the Chrysler Corp., I sent somebody over into the garages that have our automobiles. In 1,760-some stalls there were 175 Chrysler products. The number of foreign-made Volkswagens and Toyotas outnumbered in our garages the number of Chrysler products. I do not know why anybody did not mention that in helping the Chrysler Corp., but I would simply say to the Member, in conclusion, Mr. Speaker, this has been just a fair debate; but I think it is an extremely important principle for those who have insisted that principles be met as far as a loan guarantee program is concerned.

☐ 1850

Let me conclude, Mr. Speaker, with something I said earlier today. That is the subject matter of what we owe our taxpayers in this regard as far as the loan guarantee. I would hope, No. 1, any plan must demand sacrifices of all of those involved with the corporation.

No. 2, any plan must provide sufficient resources for the corporation to survive in a difficult market, that any plan must be so unattractive, so unattractive that any other ailing corporation will not seek Federal assistance, that any plan must protect the interests of the taxpayers.

Now, Mr. Speaker, in conclusion I would yield to the gentleman who will take his own time here, the distinguished Speaker of the House, to tell us all why we have to save the country. In the meantime, I do appreciate my colleagues' attention.

Mr. O'NEILL. Mr. Speaker, I rise in opposition to the motion to recommit.

I have great admiration for the gentleman that just took the microphone.

Today I rise as Tip O'Neill, the Congressman, not as a Democrat or a Republican, just as a fellow that has been in public life for 43 years. I have seen recessions and depressions, upturns and downturns.

You know, I wonder how many of my colleagues here today served in public life back in the thirties. It was quite an experience. I saw Eddie Boland over there, and we were commenting on it. Have any of my young colleagues here had somebody run up to their doorbell at 5 o'clock in the morning, then looked out the door to find 300 or 400 people waiting for a snow button so that they could earn $3 by shoveling snow for the city or State, or for the MBTA? How many of my colleagues have ever had people waiting in their homes when they came home at night who wanted to get on the CPA or the PWA for the magnificent salary of $13.50 a week and work 3 days a week?

The dignity of people was destroyed at that time. We talk about what the cost to the American taxpayer is for this legislation, and, what the cost is if we allow Chrysler to fail. A Chrysler collapse would cost the taxpayers of America about $4 billion, of which about $1 billion is in ERISA, a program we put through concerning pensions here about 5 or 6 years ago. We have unemployment compensation, welfare, taxes, both local and national, and the taxes that the employees earn. We would have a total loss of $4 billion, and here we are talking about $1.5 billion to try to save a company.

Now, Chrysler is not just any troubled company. It is the tenth largest corporation in America. Sure, there have been 10 years of mismanagement. But I know there are Members on my side and Members on the other side who say, can we take the chance of salvaging a company that has had 10 years of bad management. I say to them, we can ill afford not to take the chance.

I talked to Bill Miller, the Secretary of the Treasury. I said, Bill, give me the accurate figures on how many people will lose their jobs. He said the best we can determine is somewhere between 360,000 people up to as high as 700,000. Three hundred and sixty thousand jobs. That is the low figure. Between the years of 1972, 1973, 1974, 1975, and 1976 we only created 360,000 new jobs each year.

What does this mean to me in my district? I understand in the Commonwealth of Massachusetts, we will lose 5,600 jobs. I understand in the State of Connecticut, they will lose 8,000 jobs. That is how recessions start. That is how depressions start. You know, the fellow has a nice little home, a fellow who has been working for Chrysler, or somebody that supplies Chrysler in a job for 25 or 30 years. All of a sudden he has lost his job. The neighbors were going to buy a new car, or they were going to buy a stereo, or they were going to buy a refrigerator. Then they saw that the next-door neighbor had lost his job, so they tightened their belts and they did not buy some product along the line. Then it spreads, and it spreads, and it spreads.

I have seen this in a lifetime of public service. I have seen communities where a Government operation or a defense plant closed and 8,000, 10,000, 12,000 people lost their jobs. Once a recession starts in a community, it spreads, and it spreads, and it spreads.

You know, I look at this issue and I think of the bleak days of October 1929, 50 years ago when I was a kid and "The Crash" came. We did not realize then that 10 years of the deepest national depression had commenced.

By laying off 700,000 people, and that is what a Chrysler collapse could do, we would start a chain reaction; and believe me, we would not be able to dig ourselves out for the next half-a-dozen years. I speak as Tip O'Neill, who has been through it a long time, who has seen the ups and downs of this country. I say to you as an American, the right, the solid thing to do is to think of the future of this country. Never mind Chrysler as a corporation. We cannot afford what would happen at this time if Chrysler went down the drain.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. STANTON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 114, nays 295, answered "present" 1, not voting 23, as follows:

[Roll No. 745]

YEAS—114

Abdnor
Andrews, N.C.
Archer
Ashbrook
Atkinson
AuCoin
Badham
Bafalis
Bauman
Beard, Tenn.
Bennett
Bereuter
Bethune
Bowen
Brinkley
Brown, Ohio
Broyhill
Burgener
Butler
Campbell
Cheney
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
de la Garza
Devine
Dickinson
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Findley
Forsythe
Gibbons
Gingrich
Goodling
Gramm
Grassley
Gudger
Hagedorn
Hammerschmidt
Hansen
Harsha
Hinson
Hopkins
Hyde
Ichord
Jeffords
Jones, N.C.
Kelly
Kindness
Lagomarsino
Lewis
Livingston
Lott
Lujan
Lungren
McClory
McCloskey
McDonald
McEwen
Martin
Mica
Michel
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Neal
Pashayan
Pritchard
Quayle
Regula
Rhodes
Ritter
Robinson
Rousselot
Royer
Rudd
Runnels
Satterfield
Schulze
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Stangeland
Stanton
Stark
Stockman
Stump
Synar
Tauke
Taylor
Thomas
Trible
Walker
Whitehurst
Whitley
Young, Fla.

NAYS—295

Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Anderson, Ill.
Annunzio
Anthony
Applegate
Ashley
Aspin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brodhead
Broomfield
Brown, Calif.
Buchanan
Burlison
Burton, John
Byron
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Clay
Coelho
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Courter
D'Amours
Danielson
Daschle
Davis, Mich.
Davis, S.C.
Deckard
Dellums
Derrick
Derwinski
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Early
Eckhardt
Edgar
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gilman
Glickman
Goldwater
Gonzalez
Gore
Gray
Green
Grisham
Guarini
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Ireland
Jacobs
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Leland
Lent
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCormack
McDade
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Reuss
Rinaldo
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Russo
Sabo
Santini
Sawyer
Scheuer
Seiberling
Sensenbrenner
Shannon
Sharp

Skelton
Slack
Smith, Iowa
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Swift
Thompson
Traxler
Udall
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolpe
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

ANSWERED "PRESENT"—1

Gradison

NOT VOTING—23

Alexander
Andrews, N. Dak.
Brooks
Burton, Phillip
Crane, Philip
Edwards, Calif.
Flood
Giaimo
Ginn
Holt
Lehman
Loeffler
Murphy, Ill.
Richmond
Schroeder
Sebelius
Simon
Symms
Treen
Van Deerlin
Wilson, Bob
Wolff
Yates

☐ 1910

The Clerk announced the following pairs:

On this vote:

Mr. Philip M. Crane for, with Mr. Wolff against.

Mr. Loeffler for, with Mr. Simon against.

Mr. Sebelius for, with Mr. Yates against.

Mr. Symms for, with Mr. Van Deerlin against.

Until further notice:

Mr. Alexander with Mr. Bob Wilson.

Mr. Brooks with Mrs. Holt.

Mr. Phillip Burton with Mr. Lehman.

Mr. Ginn with Mr. Murphy of Illinois.

Mrs. Schroeder with Mr. Edwards of California.

Mr. Giaimo with Mr. Richmond.

Mr. Flood with Mr. Andrews of North Dakota.

Mrs. FENWICK, Mr. STENHOLM, and Mr. WILLIAMS of Montana changed their votes from "yea" to "nay."

Mr. DANIEL B. CRANE changed his vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. STANTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 271, nays 136, answered "present" 3, not voting 23, as follows:

[Roll No. 746]

YEAS—271

Addabbo
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Applegate
Ashley
Aspin
Atkinson
Bailey
Baldus
Bedell
Benjamin
Bereuter
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Buchanan
Burlison
Burton, John
Byron
Carney
Carr
Carter
Chappell
Chisholm
Clausen
Clay
Coelho
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Danielson
Daschle
Davis, Mich.
Davis, S.C.
Deckard
Dellums
Derrick
Derwinski
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gilman
Gonzalez
Goodling
Gore
Grassley
Gray
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Hansen
Harsha
Hawkins
Heckler
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Leland
Lent
Lloyd
Long, La.
Luken
Lundine
McClory
McCormack
McDade
McHugh
McKay
McKinney
Madigan
Markey
Marks
Marlenee
Marriott
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nelson
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Reuss
Rinaldo
Roberts
Rodino
Roe
Rosenthal
Rostenkowski
Roybal
Royer
Russo
Sabo
Sawyer
Scheuer
Seiberling
Shannon
Sharp
Skelton
Slack
Smith, Iowa
Solarz
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Thompson
Traxler
Udall
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Waxman
Weiss
Whitehurst
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Winn
Wolpe
Wright
Wyatt
Wylie
Yatron
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

NAYS—136

Abdnor
Anderson, Ill.
Anthony
Archer
Ashbrook
AuCoin
Badham
Bafalis
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Beilenson
Bennett
Bethune
Bevill
Bowen
Brown, Ohio
Broyhill
Burgener
Butler
Campbell
Cavanaugh
Cheney
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
de la Garza
Devine
Dickinson
Dornan
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Findley
Fisher
Fountain
Frenzel
Gibbons
Gingrich
Glickman
Goldwater
Gramm
Green
Grisham
Hagedorn
Hammerschmidt
Harkin
Harris
Hefner
Hinson
Hopkins
Ichord
Jeffords
Jeffries
Jones, Okla.
Kelly
Kemp
Kindness
Lagomarsino
Levitas
Lewis
Livingston
Long, Md.
Lott
Lowry
Lujan
Lungren
McCloskey
McDonald
McEwen
Maguire
Martin
Mica
Michel
Miller, Ohio
Montgomery
Moore
Neal
Nichols
Panetta
Paul
Petri
Pritchard
Regula
Rhodes
Ritter
Robinson
Rose
Roth
Rousselot
Rudd
Runnels
Santini
Satterfield
Schroeder
Schulze
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Stanton
Stockman
Stump
Swift
Synar
Tauke
Taylor
Thomas
Trible
Walker
Watkins
Weaver
White
Whittaker
Wirth
Wydler
Young, Fla.

ANSWERED "PRESENT"—3

Gradison
Mottl
Stark

NOT VOTING—23

Akaka
Alexander
Andrews, N. Dak.
Brooks
Burton, Phillip
Crane, Philip
Edwards, Calif.
Flood
Giaimo
Ginn
Holt
Lehman
Loeffler
Murphy, Ill.
Richmond
Sebelius
Simon
Symms
Treen
Van Deerlin
Wilson, Bob
Wolff
Yates

☐ 1930

The Clerk announced the following pairs:

On this vote:

Mr. Wolff for, with Mr. Philip M. Crane against.

Mr. Ginn for, with Mrs. Holt against.

Mr. Simon for, with Mr. Loeffler against.

Mr. Phillip Burton for, with Mr. Stark against.

Mr. Akaka for, with Mr. Symms against.

Until further notice:

Mr. Alexander with Mr. Andrews of North Dakota.

Mr. Brooks with Mr. Edwards of California.

Mr. Bob Wilson with Mr. Richmond.

Mr. Yates with Mr. Sebelius.

Mr. Lehman with Mr. Van Deerlin.

Mr. Giaimo with Mr. Murphy of Illinois.

Mr. STARK. Mr. Speaker, I have a live pair with the gentleman from California (Mr. PHILLIP BURTON). If he had been present, he would have voted "yea." I voted "nay." I withdraw my vote and vote "present."

Mr. CLINGER changed his vote from "yea" to "nay."

Mrs. BOGGS changed her vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AUTHORIZING BURIAL OF MRS. ELIZABETH MYERS McNEIL IN VEALS CHAPELS CEMETERY, FORT JACKSON, S.C.

Mr. SPENCE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2145) to authorize the burial of Elizabeth Myers McNeil in the Veals Chapels Cemetery, Fort Jackson, S.C., and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. pro tempore. Is there objection to the request of the gentleman from South Carolina?

Mr. NEDZI. Mr. Speaker, reserving the right to object, I yield to the gentleman from South Carolina for an explanation of the Senate bill.

Mr. SPENCE. Mr. Speaker, I urge my colleagues to give their favorable and immediate attention to a much-needed private relief bill. S. 2145, which passed the Senate yesterday, would authorize the burial of Mrs. Elizabeth Myers McNeil beside her late husband at Fort Jackson, S.C.

Mrs. McNeil passed away in Columbia, S.C., on Friday, December 14, 1979. It was her wish to be buried beside her husband, Winford McNeil, who was a veteran of World War I and who died in 1939. The Veals Chapel Cemetery in which he is interred was not then a part of Fort Jackson, but it has since been acquired by the Government. Thus, an act of Congress is required to authorize Mrs. McNeil's burial on what is now Government property. I ask my colleagues to join with me in supporting this important piece of legislation.

Mr. NEDZI. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina (Mr. SPENCE)?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2145

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, the remains of Elizabeth Myers McNeil, late a resident of Columbia, South Carolina, may be buried in the Veals Chapels, Cemetery located on the grounds of Fort Jackson, South Carolina, her late husband, Winford McNeil, already being buried in such cemetery.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 5079, ENERGY-EXPO 1982

Mr. ZABLOCKI submitted the following conference report and statement on the bill (H.R. 5079) to provide for participation of the United States in the International Energy Exposition to be held in Knoxville, Tenn., in 1982, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 96–714)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5079) to provide for participation of the United States in the International Energy Exposition to be held in Knoxville, Tennessee, in 1982, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That, in accordance with the Act entitled "An Act to provide for Federal Government recognition of and participation in international expositions proposed to be held in the United States, and for other purposes", approved May 27, 1970 (Public Law 91–269; 22 U.S.C. 2801 et seq.), the President is authorized to provide for United States participation in an international exposition to be known as Energy-Expo 82 (hereinafter in this Act referred to as the "exposition"), to be held in Knoxville, Tennessee, in 1982. The purposes of the exposition are—

(1) to offer the citizens of the world a greater understanding of the effective uses of energy and energy resources, of the necessity to conserve existing energy resources, and of the need for creativity in the development of new and alternative energy sources; and

(2) to encourage tourist travel in and to the United States, stimulate foreign trade, and promote cultural exchanges.

SEC. 2. (a) The President, through the Secretary of Commerce (hereinafter in this Act referred to as the "Secretary") and the other officials designated in this Act, is authorized to carry out in the most effective manner the proposal for United States participation in the exposition, transmitted by the President to the Congress pursuant to section 3 of Public Law 91–269 (22 U.S.C. 2803), and to carry out the responsibilities of the Federal Government for the organization, development, and administration of the exposition as required by the Convention Relating to International Expositions, done at Paris on November 22, 1928 (hereinafter in this Act referred to as the "Convention"), and the General Rules for Energy-Expo 82, as approved by the Bureau of International Expositions.

(b) The President is authorized to appoint, by and with the advice and consent of the Senate, a Commissioner General of the United States Government for Energy-Expo 82, who shall be the senior Federal official for the exposition and who shall have such duties and exercise such responsibilities for the organization, development, and administration of the exposition as may be necessary and appropriate to fulfill the requirements of the Convention and the General Rules for Energy-Expo 82. The Commissioner General shall be in the Department of Commerce and shall be compensated at the rate of basic pay which is equal to the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(c) The Secretary shall designate a Commissioner General of Section for United States participation in the exposition (as provided for in the proposal referred to in subsection (a)), who shall be in the Department of Commerce and who shall perform such duties in the execution of this Act as may be delegated or assigned by the Secretary, including serving as director of the United States pavilion.

SEC. 3. (a) The Secretary is authorized to obtain the services of consultants and experts as authorized by section 3109 of title 5, United States Code, at rates not to exceed the daily rate in effect for grade GS–18 under the General Schedule, to the extent the Secretary deems it necessary to carry out the provisions of this Act. Subject to the availability of appropriations, persons so appointed shall be reimbursed for travel and other necessary expenses incurred, including a per diem allowance, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(b) Subject to the availability of appropriations, the Secretary is authorized to enter into such contracts as may be necessary to provide for United States participation in the exposition.

(c) The Secretary is authorized to erect such buildings and other structures as may be appropriate for United States participation in the exposition on land (approximately 4.6 acres, including land necessary for ingress and egress) conveyed to the United States in consideration of participation by the United States in the exposition and without consideration. The Secretary is authorized to accept title in fee simple to such land and any interest therein if the Secretary determines that it is free of liens, or of any other encumbrances, restrictions, or conditions that would interfere with the use of the property by the United States for purposes of this Act or would prevent the disposal of the property as provided in section 6. In the acceptance of such property, and in the design and construction of buildings and other structures and facilities on such property, the Secretary shall consult with the Administrator of General Services and the heads of other interested agencies to assure that such activities will be undertaken in a manner that (1) minimizes to the greatest extent practicable any adverse efforts on the recreational and other environmental values of the area, and (2) preserves and enhances to the greatest extent practicable the utility of the property for public purposes, needs, or other benefits following the close of the exposition.

(d) Subject to the availability of appropriations, the Secretary is authorized to incur such other expenses as may be necessary to carry out the purposes of this Act, including but not limited to (1) expenditures involved in the selection, purchase, rental, construction, and other acquisition, and in the disposition, of exhibits and of materials and equipment for exhibits and in the actual display of exhibits, and (2) related expenditures for transportation, insurance, installation, safekeeping, printing, maintenance and operation, rental of space, representing and dismantling, and the purchase of reference books, newspapers, and periodicals.

SEC. 4. The head of each department, agency, or instrumentality of the Federal Government is authorized—

(1) to cooperate with the Secretary with respect to carrying out any of the provisions of this Act; and

(2) to make available to the Secretary from time to time, on a reimbursable or nonreimbursable basis, such personnel as may be necessary to assist the Secretary in carrying out any of the provisions of this Act.

SEC. 5. Within one year after the date of the official close of the exposition, the Secretary shall transmit to the Congress a report on the activities of the Federal Government pursuant to this Act, including a detailed statement of expenditures. Upon transmission of such report to the Congress, all appointments made under this Act shall terminate, except those which may be extended by the President for such additional period of time as he deems necessary to carry out the purposes of this Act.

SEC. 6. After the close of the exposition, all Federal property shall be disposed of in accordance with provisions of the Federal Property and Administrative Services Act of 1949 and other applicable Federal laws relating to the disposition of excess and surplus property.

SEC. 7. The functions authorized by this Act may be performed without regard to the prohibitions and limitations of the following laws:

(1) That part of section 3109(b) of title 5, United States Code, which reads "(not in excess of one year)".

(2) Section 16(a) of the Administrative Expenses Act of 1946 (31 U.S.C. 638a) to the extent that it pertains to hiring automobiles.

(3) Section 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481) (procurement).

(4) Section 305(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255(c)) (security for advance payments), and section 3648 of the Revised Statutes of the United States (31 U.S.C. 529) (advance of public moneys), if the Secretary determines that it is impracticable to obtain adequate security and that there is a compelling need to make an advance payment.

(5) Section 322 of the Act of June 20, 1932 (40 U.S.C. 278a) (lease of buildings to the Federal Government), if the Secretary determines that waiver of that section would be in the best interests of the Federal Government.

(6) Section 2 of the Act of March 3, 1933 (41 U.S.C. 10a) (Buy American Act).

(7) Section 501 of title 44, United States Code (printing by the Government Printing Office).

(8) Section 3702 of title 44, United States Code (advertisements without authority).

(9) Section 3703 of title 44, United States Code (rates of payment for advertisements).

Sec. 8. To carry out United States participation in the exposition, there are authorized to be appropriated $20,800,000 to remain available until expended.

And the Senate agree to the same.

Clement J. Zablocki,
L. H. Fountain,
Dante B. Fascell,
Jonathan Bingham,
Don Bonker,
Donald J. Pease,
Michael D. Barnes,
Howard Wolpe,
Wm. Broomfield,
Robert J. Lagomarsino,
Paul Findley,
Benjamin A. Gilman,
Managers on the Part of the House.

Frank Church,
Claiborne Pell,
Jacob K. Javits,
Howard Baker,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5079) to provide for participation of the United States in the International Energy Exposition to be held in Knoxville, Tennessee, in 1982, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SALARY OF THE COMMISSIONER GENERAL

The Senate amendment provided that the Commissioner General shall be compensated at the rate prescribed for level IV of the Federal Executive Salary Schedule.

The House bill did not prescribe the salary to be paid to the Commissioner General.

The Conference substitute provides that the Commissioner General shall be compensated at the rate of basic pay equal to the rate payable for level IV of the Executive Schedule.

EXPENSES OF CONSULTANTS

The House bill made reimbursement of the expenses of consultants and experts subject to the availability of appropriations.

The Senate amendment did not provide such a limitation to this authority.

The Conference substitute is the same as the House provision.

HIRING OF EMPLOYEES

The Senate amendment exempted the hiring of employees from title 5 of the U.S.C.

The House bill did not contain a comparable provision.

The Conference substitute is the same as the House position, based on the understanding that the Executive branch already has adequate flexibility for the hiring of temporary personnel to perform specialized functions as required for the exposition.

AUTHORITY TO ENTER INTO CONTRACTS

The Senate amendment authorized the Secretary of Commerce to enter into such contracts as may be necessary to provide for United States participation in the exposition.

The House bill did not contain a comparable provision.

The Conference substitute is the Senate provision with an amendment to subject the authority to the availability of appropriations.

EXPENSES

The House bill subjected the authority of the Secretary to incur expenses to the availability of appropriations.

The Senate amendment contained no comparable provision, but did add the disposition of exhibits and materials to the list of expenses that could be incurred.

The Conference substitute combines the House and the Senate provisions.

EXEMPTIONS FROM CERTAIN GOVERNMENT PROCUREMENT LAWS

The House bill includes various exemptions from specific Government procurement laws.

The Senate amendment deleted several of the exemptions and restricted some of the other exemptions.

The Conference substitute is the same as the Senate provision.

Clement J. Zablocki,
L. H. Fountain,
Dante B. Fascell,
Jonathan Bingham,
Don Bonker,
Donald J. Pease,
Michael D. Barnes,
Howard Wolpe,
Wm. Broomfield,
Robert J. Lagomarsino,
Paul Findley,
Benjamin A. Gilman,
Managers on the Part of the House.

Frank Church,
Claiborne Pell,
Jacob K. Javits,
Howard Baker,
Managers on the Part of the Senate.

☐ 1010

"COMPLIMENTS" FROM REPRESENTATIVE UDALL

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SOLOMON. Mr. Speaker, in a recent fundraising letter for the Democratic Congressional Campaign Committee, Representative Morris Udall describes myself and my 37 other freshman Republican colleagues as "swaggering to the drumbeat of radical conservatism." "Help bar the radicals from Congress," comes the war cry from the former Presidential candidate whose own party apparently found him too "radical" to hand him even one primary victory in 1976.

Mr. Speaker, I understand Representative Udall's concern. Before his very eyes, he has witnessed in recent years the unraveling of the liberals' big-spending, high-taxing, and overregulating philosophy. During the 1978 election campaigns, liberal candidates and officeholders everywhere ran for cover under the banner of fiscal responsibility. They either changed their tune or they lost.

What are these "radical" ideas expounded by the Republican freshmen which have Mr. Udall so alarmed? Policies such as a balanced budget, tax cuts and putting the brakes on the Federal Government's regulatory steamroller.

Mr. Speaker, there is only one place in the Nation today where these concepts are considered radical and that is in Washington, D.C.—in the Congress and the White House. What is radicalism to Mr. Udall and the Washington establishment is simple commonsense to most Americans: The Federal Government should not spend more money than it has to spend; incentive—namely, tax cuts—is the key to a healthy, productive economy; the private sector performs best when it is unhampered by unnecessary Government regulations.

Representative Udall recognizes neither the validity of these ideas nor their current popularity among the American people. Whatever popular support for these measures exists, he implies, exists as a product of a "massive arch-conservative treasury." He charges that the Republican goals are to "buy the Senate in 1980. Buy the House in 1980 and 1982." A couple of sentences later, he asks for money.

Mr. Speaker, I am proud of my record in the House of Representatives as well as the records of my 37 Republican freshman colleagues. We have helped establish a concept of fiscal responsibility in Congress which is already beginning to bear results. We know that the overwhelming majority of Americans supports our efforts. If Rep. Udall is alarmed at our success in articulating this common sense policy on behalf of the American taxpayer, I hope we go right on scaring him.

Mr. Speaker, a recent editorial in the Albany Times-Union skillfully summarizes these thoughts. I offer it here for the consideration of my colleagues:

THAT "RIGHT WING" BLOC

One of Satchel Paige's whimsical commandments to his fellow man went like this: "Don't look back. Something may be gaining on you."

Morris Udall, Democratic congressman from Arizona, recently ignored this advice and looked over his shoulder. What he saw gaining on him was the dark cloud of "a right-wing Republican takeover," and it made him shudder.

Marianne Means of *The Times-Union* Washington Bureau commented that "Udall complains that 38 freshmen Republicans vote regularly as a bloc, 'looking backward in a naive nostalgia . . . waiting for the problems of inflation and energy to vanish through neglect—and confidently marking time until 1980's reinforcements arrive.' "

The young Turks have been meeting not only regularly, but compatibly. They are mostly of one conservative mind, as the freshman class president, Rep. Edwin Bethune of Arkansas has explained:

"We've got the gospel," and that gospel, as Columnist Means pointed out, "is the familiar song about fiscal responsibility, increased military preparedness, tax cuts and less federal government regulation."

If these are the policies of those right-wing freshmen, we wonder why Mr. Udall is so worried. A lot of hard-pressed taxpayers in this country are cheering them on as they champion that old-fashioned ethic known as "fiscal responsibility." It is too bad those words don't mean more to President Carter, under whose administration the number of federal employees in the nation's capital has grown from 352,000 to 365,000.

ICC SHOULD REJECT EXPENSIVE MILWAUKEE ROAD BAILOUT

(Mr. SENSENBRENNER asked and was given permission to address the House for one minute and to revise and extend his remarks and include extraneous matter.)

Mr. SENSENBRENNER. Mr. Speaker, the Interstate Commerce Commission has until January 1st to decide whether to accept a proposal to restructure the Milwaukee Railroad pursuant to Public Law 96–101.

The ICC should reject this plan. It does not meet the tests of economic viability set forth in the law. There is no assurance of adequate public or private financing and losses could run as high as $700 million by 1986.

I have written the Commission urging their rejection of this expensive new bailout and ask unanimous consent that my letter be inserted into the RECORD at this point:

WASHINGTON, D.C., *December 14, 1979.*

HON. A. DANIEL O'NEAL,
Chairman, Interstate Commerce Commission, Washington, D.C.

DEAR CHAIRMAN O'NEAL: I am writing to comment on the New Milwaukee Lines Employee-Shipper Ownership Plan that was submitted to the Interstate Commerce Commission on December 1, 1979.

Under the Milwaukee Railroad Restructuring Act (P.L. 96–101), a proposal was submitted to the Interstate Commerce Commission (Financial Docket No. 29171) by the New Milwaukee Lines for an Employee-Shipper Ownership Plan pursuant to Sec. 6 of the law. P.L. 96–101 clearly states that the Commission must review the Plan submitted by the New Milwaukee Lines in great care in order to make certain that the findings, carefully spelled out in the law, are addressed. The findings required under P.L. 96–101 are specific and clear on their face. Those findings contained in paragraph (3) of subsection (a) of Sec. 6, are as follows:

(A) adequate public and private financing is available to the proponents of such plan;

(B) such plan is fair and equitable to the estate of the Milwaukee Railroad;

(C) implementation of such plan will occur by April 1, 1980;

(D) the railroad contains an assessment of all operating practices, and includes agreements by labor and management to make implementing changes designed to achieve labor productivity increases (which may include changes in work rules to increase productivity) consistent with safe operations and adequate service.

I submit that the assumptions made by the New Milwaukee Lines are based upon fallacious reasoning and insufficient facts. The proposal submitted by the New Milwaukee Lines fails to comply with the aforementioned Section 6 of P.L. 96–101.

First, there is not adequate public and private financing available to the New Milwaukee Railroad. The plans for financing the New Milwaukee indicate a need for $150 million of external financing. As referenced in a letter dated December 6, 1979, which was sent to the Honorable Neil Goldschmidt, Secretary of the Department of Transportation, a copy of which was sent to the Interstate Commerce Commission, it was stated that $122 million of these funds was to come from Section 505 and 511 of the Railroad Revitalization and Reform Act (4R Act). These 4R funds are to be used for rehabilitation and improvement of the New Milwaukee Railroad lines, in addition to being used for equipment rehabilitation and the building of a new yard in Takoma, Washington. It appears to me that New Milwaukee Lines has assumed it will get one-half of the Section 505 money, the maximum amount it can get under Section 16(g) of the Act.

In addition to the aforementioned $122 million of 4R funds, the New Milwaukee Railroad is also requesting $15 million of loans guaranteed by the Economic Development Administration or FmHA or both. This money is to be used to fund the Employee Stock Ownership Trust.

Unfortunately, the $135 million of federal funds needed by the New Milwaukee Lines falls short of the mark by at least $250 to $500 million, and perhaps much more. In other words, the federal government will be asked again for an infusion of dollars to prop up the railroad. The underestimate can be traced to several factors.

First of all, the New Milwaukee Lines underestimates the income of the new railroad. It is estimated by New Milwaukee Lines that the income for the railroad will be $60 million in 1986. However, by 1986, after the first seven years of operation, the loss may run to $700 million. This represents $674 million more than the $26 million figure estimated by the New Milwaukee Lines.

This deficiency arises from certain miscalculations, which include:

1. unrealistic revenue projections,
2. rehabilitation costs underestimate,
3. fuel costs underestimate,
4. lease costs underestimate.

In addition, New Milwaukee Lines has incorrectly figured into the equation a credit for increased labor protection. Nowhere in the New Milwaukee Lines proposal are there any specifics relating to the hypothetical labor savings. There is a letter from one of the railroad unions suggesting that future considerations might be worked out to increase productivity. To comply with the findings required by P.L. 96–101, the Interstate Commerce Commission needs more than a general letter upon which to base a dollar assessment on specific cost savings brought about by improved operating practices. It should be emphasized that the same cost savings can accrue to the Milwaukee II proposal, now before the bankruptcy court, should the labor organizations wish to use the restructured Milwaukee as a model for work rule simplification and efficiency. The existing problem of the western line employees having agreements which impose higher obligations on the railroad than the eastern line employees is going to have to be resolved.

The New Milwaukee Lines projects that it will employ approximately 8,000 employees in the first year of its operations. By 1982, it is proposed that the New Milwaukee Railroad will require a work force of 9,032 employees. However, this additional increase of 857 employees is predicated on the fact that all contingency lines will be in operation. If none of the contingency lines are in operation, there needs to be factored in the equation of potential liability an additional $68 million.

I would also emphasize that some of the figures mentioned in the plan regarding labor productivity, i.e., labor ratios, are totally unrealistic. There has been only one railroad able to achieve comparable productivity. This railroad is the Florida East Coast Railroad, which is composed of 1,000 miles of track. It should be emphasized that the labor-productivity ratio was achieved only in the light of peculiar labor-management relations.

Finally, the projected operating ratio of the new railroad is totally unrealistic. It is projected that by 1986 the New Milwaukee Lines will have an operating ratio of 72.7 percent. In fact, with their hypothetical improvements, the ratio will actually be 69 percent.

Presently, the Union Pacific, which has one of the best operating ratios in the country, has an operating ratio of 74.5 percent. Burlington and Northern has an 83.1 percent operating ratio (Financial and Operating Statistics, Class I Railroads, December 31, 1977, Interstate Commerce Commission). It is hard to believe that a railroad which has gone bankrupt three times would, in a matter of seven years, have an operating ratio that is better than the Union Pacific and be 14 percent better than the Burlington and Northern. It should be noted that, if this figure is off by 10 to 12 percentage points, an additional $40 to $50 million would be added to the annual operating costs of the new railroad at the present time. Such figures would wipe out the projected earnings of $60 million by 1986, because by 1986 the implications of such changes would be much greater.

Before concluding, I would like to mention that the Burlington and Northern and the Union Pacific will be stiff competition for the new railroad. These railroads will not roll over and play dead just to give the new railroad a chance to survive.

If the railroad fails again, the costs will be tremendous. In addition to the lost government funds, the estate will surely be depleted by going through another bankruptcy proceeding.

For the above stated reasons, the Interstate Commerce Commission should find the Employer-Shipper Ownership Plan, known as the New Milwaukee Proposal, is not feasible, thereby permitting the orderly restructuring of the Milwaukee Railroad to continue as contemplated by the Milwaukee Railroad Restructuring Act of 1979. I urge that the Interstate Commerce Commission reject this plan.

Sincerely,
F. JAMES SENSENBRENNER, Jr.,
Member of Congress.

THE LATE SHERMAN P. LLOYD OF UTAH

(Mr. McKAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McKAY. Mr. Speaker, I rise with sadness today to call the attention of this body to the recent passing of one of its distinguished former members, Sherman P. Lloyd of Utah.

Utahans knew of Sherm Lloyd as a man of many interests and as a man of many talents. He served a total of 8 years in the House of Representatives, where he served with distinction on the Committee on Interior and Insular Affairs, the Committee on Foreign Affairs and the Committee on Banking and Currency. His colleagues on the Foreign Affairs Committee, where he developed special expertise in policy issues involving the Middle East and Panama, have often spoken of Sherm as a knowledgeable, responsible legislator who was deeply interested in furthering American democratic ideals and national interests around the globe. He was later able to apply this expertise as assistant director of the U.S. Information Agency.

Sherm came from sturdy pioneer stock and was deeply interested in his pioneer heritage. Many of us who knew him well suspect that some of Sherm's resolute independence was this pioneer ancestry showing through.

When Sherm was only a youngster, his father died, and his mother was determined that her son would grow up strong, capable and worthy, despite the absence of fatherly influence. She sent him to study and work his way through the Utah State Agricultural College in northern Utah at an early age, and from that point onward he was able to stand tall and fend for himself. These valuable lessons of personal responsibility contributed to the leadership which emerged in Sherm Lloyd, and which he used in the service of his fellows in a succession of important State and Federal offices, and in dedicated church service. Throughout his life he remained a faithful member of the Church of Jesus Christ of Latterday Saints.

During his four terms in the Utah State Senate he held the offices of minority leader, majority leader and president of the Senate, and also the chairmanship of the Utah Legislative Council. He authored legislation establishing the local option sales tax and the Utah Council on Criminal Justice and coauthored legislation setting up the Utah Council on Higher Education.

During his years in the Congress he worked with diligence and foresight toward the development of alternative national energy sources. He promoted an initiative to develop a prototype oil shale production plant. Though this measure was never enacted, it and others like it were helpful forerunners of the synthetic fuels programs which this year have been or will yet be signed into law.

Sherm was successful in pressing for the inclusion of a so-called water and energy corridor in the legislation which established Utah's Glen Canyon Recreation Area earlier in this decade.

Utahans rightly recall Sherm Lloyd as a champion of small business during his years in the Congress and in executive agencies. He brought with him to these posts a great deal of practical experience and understanding gained both in the private and public sectors.

He recorded many of his insights and experiences in office and has donated his journals to the Utah State Historical Society, which is preparing them for publication. He also shared his insight with new generations of citizens through his associations with Utah State University and the University of Utah.

In recent years he had devoted considerable effort to the launching of a successful publishing effort, the "Bear Lake Magazine," which he dedicated to the collection and preservation of the history and lore of his beloved Bear Lake, an area which figures prominently in his family's own history.

I know my colleagues today will want to join with the people of Utah as we offer our wishes of peace, gratitude and comfort to the Lloyd family.

THE 50-CENT-A-GALLON GASOLINE TAX

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 15 minutes.

Mr. PAUL. Mr. Speaker, the idea of taxing consumers 50 cents more per gallon of gasoline has to be the most foolish proposal of the year. Except for the price and allocations controls instituted in the early 1970's, which caused our current energy crisis, this has to be the most absurd solution ever dreamed up.

It is not surprising that the same manipulators of the economy—the economic interventionists—are promoting this scheme. I do not doubt that most are motivated by anything but good intentions. But no matter how good intentions may be, they can never overcome the ill effects of bad ideas.

This 50 cents tax represents the most abusive kind of taxation. It ripples through the whole economy, since transportation is a fundamental cost for every product and service.

It hurts the workingman much more than the businessman. The businessman at least can deduct his car expenses; the workingman cannot. If my bill, H.R. 4786, allowing deductions for travel and eating expenses for working people, were to pass, this inequity could be rectified. Unless legislation of this type is passed, the workingman will continue to suffer from this injustice of our tax system; this 50 cents tax would only make the burden on him that much worse. This tax, because of its regressive nature, would bear at least twice as heavily on the workingman as on the businessman.

It is also more harmful to the poor, since the percentage of their income spent on energy and transportation is much higher than for the wealthy. It would hardly lessen the driving of those who ride in chauffeur-driven limousines, whether privately or publicly owned. But the widowed and the elderly, living on small, fixed incomes, would not be able to drive to the store or church.

It also is based on the false assumption that conservation, combined with lowered expectations for all of us, is inevitable.

Allocations of scarce resources, through voluntary purchases, and a free and flexible pricing system, are the keys to a market economy. But such an economy never presupposes a necessary decline in our living standards. Quite the contrary, a free-market economy is the only moral and economically efficient way of conserving resources when necessary, and fairly and efficiently allocating services and goods without shortages and black markets.

New and cost-efficient energy alternatives can only be developed in an economy that operates freely. Bureaucrats and politicians are unable to anticipate consumers' demands or to produce anything in a cost-efficient manner. The economic schemers even admit that the main reason for Government involvement in alternative fuels is that they are not cost-efficient and therefore the market would not respond—a very good reason not to give the bill to the poor and the working people who already pay the major cost of big Government through direct taxation, and the deceitfully hidden tax of inflation.

It is only through the voluntary purchasing and withholding of purchases by the consumer that the market can function. These decisions are based on all kinds of information, such as the efficiency of the market, the product itself, the need for the product, and the market price, that permits true conservation. It is only through the free market that alternative sources of fuel can be developed wisely, quickly, smoothly, and cost effectively.

The increase in the consumer's cost with this tax will only produce more shortages. Because bureaucrats and politicians are incapable of outthinking the marketplace, their attempts to develop and produce synthetic fuels will either totally fail or result in an outrageously expensive fuel; fuel that is economically unnecessary because of the readily available abundant petroleum products we still have.

With costs going up due to the tax and production going down, due to regulations and lack of incentives, shortages will become even more significant, pushing prices much higher. Thus this "conservation" attempt will yield nothing but chaos.

In contrast, if a scarce resource is handled by the marketplace and prices go up temporarily, there will be conservation in a fair and equitable manner. The higher costs go to the producers of energy, not the destroyers of production—the Government. It is literally a question of production versus destruction. Free-market pricing and less-burdensome regulations will result in increased production and a smooth transition to alternative sources of energy at the appropriate time.

With additional incentives, production goes up, if we can get the Government to quit running the monetary printing presses. With inflation stopped, the price of energy would go down. We then can go back to the days of gasoline price wars.

Even if some decrease in usage occurred with a 50 cents tax per gallon, it would only compound our problems. A 50 cents tax, a windfall tax, would mean billions of dollars for the Government. Such a tax would have taken $56.8 billion dollars in 1978 alone from the people and given it to public officials who are totally ignorant of the needs of the consumer.

The U.S. Government is destroying

production, debasing the currency, causing inflation, and confiscating the wealth of its citizens. It deserves not one more cent of tax tribute. Government exists, according to the Constitution, to protect its citizens, uphold private ownership of property, permit a free-market economy to operate, prohibit monetary destruction, and provide equal justice for all. How anyone can advocate allowing the Government to dissipate even more wealth and capital is beyond me.

What would the Government do with the windfall tax revenue? Who knows? My guess is that it would continue to do exactly what it has been doing with tax revenues: hire more bureaucrats, write more regulations, create more obstacles to energy self-sufficiency, and destroy more real jobs, thus increasing shortages, and creating longer and more hostile gasoline lines. Then the Government will scream, through Government-paid advertisements, for nationalization of the oil companies because "free enterprise" failed to produce.

When are the American people going to call the U.S. Congress to account?

We never waited in lines for coffee when the price tripled in a short time, because the market was allowed to operate and soon the price went back down. I am sure if our Government had mandated a comparable tax on coffee ($2) and prohibited the coffee growers from getting their temporary "windfall" profits, production and imports to this country would have gone down, not up, and we would either be waiting in long lines or paying exorbitant prices on the black market for coffee. Only the wealthy would then have been able to afford coffee.

High taxes, big Government, overregulation, debased currency, wasteful spending, and huge deficits, always lead to economic distortions, artificial shortages, social upheavals, runaway lobbyism, and anger and frustration. These problems never have and never will be solved by resorting to more Government extortion of our citizens' wealth. The gun of Government, stuck in the ribs of every citizen purchasing a gallon of gas, will make our problems much worse. If this tax is passed, it will be the 20th-century equivalent of the British tax on tea, and a modern-day Boston Tea Party will occur. Congress should remember what happened to King George.

☐ 1940

Mr. EVANS of Delaware. Mr. Speaker, will the gentleman yield?

Mr. PAUL. I will be glad to yield to the gentleman from Delaware.

Mr. EVANS of Delaware. Mr. Speaker, I just want to say to the gentleman from Texas (Mr. Paul) that I agree with him completely. I agree that a 50-cent-a-gallon tax on gasoline does not make any sense. We have an inflation problem here in the United States. It is our No. 1 domestic problem. This tax would just further fuel the fires of inflation, and it is wrong.

Mr. Speaker, I thank the gentleman for yielding.

Mr. PAUL. Mr. Speaker, I thank the gentleman from Delaware (Mr. Evans) for his comment.

Mr. EDWARDS of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. PAUL. I am glad to yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I want to compliment the gentleman from Texas (Mr. Paul) for bringing this matter to our attention.

During a debate we had a short time ago here on the floor I made the point that we have gotten in the habit here of too often taxing the poor to help the rich. I think that is something we have to be very careful about.

This kind of a tax, as the gentleman very well points out, will be to the serious detriment of poor people because they are the ones who cannot afford to have that tax added on to their already high cost of living.

Mr. Speaker, I compliment the gentleman for making this point. I join with him on his opposition to this tax, and I thank him for bringing this issue to the floor.

Mr. PAUL. Mr. Speaker, I thank the gentleman from Oklahoma (Mr. Edwards) for his comments.

WAGE AND PRICE CONTROLS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Weiss) is recognized for 60 minutes.

GENERAL LEAVE

Mr. WEISS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject matter of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. WEISS. Mr. Speaker, I have requested this time in order to address myself to an issue of the gravest consequence to the people of this country, an issue which the Congress and the administration have so far all but totally ignored; that is the unchecked rate of inflation which during the course of 1979 has been rising at an annual rate of 13 percent. All efforts to try to put a brake on that rising inflation rate by doing that which has been done in previous instances where the economy seemed to have been going out of control have been ignored.

I am talking about the imposition of mandatory wage and price and profit controls. In order for such controls to be imposed, the President, who should have the power to make that determination on as broad or selective basis as he deems appropriate in the national interest, must have the authority granted by Congress to do so. The authority to do that does not currently exist on the books, and so even were the President inclined to impose wage, price, and profit controls, he would not be able to do so.

In conjunction with a number of my colleagues, I have had pending in the House, both in 1978 and again in 1979, legislation which would authorize the President to impose controls as he saw fit and on those sectors of the economy where he saw fit. The House of Representatives and indeed the entire Congress have been totally unreceptive to the suggestion that the President of the United States ought to have that standby authority.

☐ 1950

Every effort that I and a few of my colleagues in the Democratic Caucus have made to get the Caucus to go on record has also been met with the same kind of negative response. Indeed, in the Caucus, where the resolution to have the House Democrats go on record supporting the enactment of legislation giving the President standby authority, we have been unable to muster a quorum since June, when I first introduced the resolution.

And so one wonders what the Members of this Congress and the President are thinking of? Surely, none of us can be ignorant of what is happening to the economy and what is happening to the very lives of the people of this country.

When the inflation rate rises at a 13-percent rate, it means that the capacity to maintain one's normal standard of living is being totally and constantly eroded. It means that people who are on fixed incomes must make constant choices as to whether they can afford to eat or pay the rent or buy clothing for their children. And, of course, the lower the income, the graver the consequences. The poor of this country, the elderly on fixed incomes and the middle-income families of this country are going through the kind of economic crisis which has been unparalleled in our country perhaps since the days of the great depression in the 1930's. As far as the inflation rate itself is concerned, it is higher today than at any time since the end of the Second World War.

I ask why nothing is being done. The answer cannot be that the people do not want it done. In poll after poll, the people of this country have told the pollsters, public and private, that overwhelmingly they want wage and price controls.

Gallup took a poll in May of this year, for example, and at that time 57 percent of the people who were polled indicated that they favored the Government adopting and imposing wage and price controls.

The argument that we seem to get from both the administration and from those in Congress who predominate at all levels of the House, both in leadership of the House and in committees and in the rank and file, seems to be that the people do not really know what is good for them. It is a strange situation.

The Democratic Party, both at the executive branch level and at the congressional level, has in essence bought lock, stock and barrel the arguments against mandatory controls that have been used by the most conservative—Republican, if you will—economists. That is strange because at the onset of the Second World War and again at the time of the Korean

War, it was under Democratic administrations that wage and price controls were imposed.

But even more significantly the Republicans have had the good sense to insist on the dogma opposing controls only in the abstract but not when they were in power and it came to a question of making economic life and death decisions for the people of this country.

I cite as the case in point President Richard Nixon who, in 1971, after having publicly insisted to the very eve of his imposition of wage and price controls that he would never under any circumstances impose controls because it was contrary to his economic philosophy, did impose controls when in his judgment the economy and inflation were in danger of getting out of hand.

It is ironic that a Republican President had no compunction about turning his back on his own party's economic dogma, but the Democrats at this time having control of the Congress and of the executive branch of Government with inflation ranging at almost 3 times the level of inflation when Nixon imposed controls cannot find the will to act. They have accepted as valid the very Republican dogma which the Republicans themselves discarded when it was in the national interest to do so. Of course today's crop of out-of-power Republicans have now reverted to their original dogma.

In 1971, when Richard Nixon imposed controls, the inflation rate was running at approximately 4.8 percent. And in spite of all of the arguments that one now hears from the administration and the administration's economists that there is a danger in imposing controls, because of what will happen afterwards when controls are lifted, the fact is that historically it has been demonstrated over the course of the last 40 years, in the three instances which I have cited, that mandatory wage and price controls do work. There is far greater danger, certainly, in doing nothing. Mandatory controls do not themselves cure inflation. They are not intended to. They serve the purpose which they are intended for—and that is to put a brake on the inflationary spiral.

President Carter seemed to understand that proposition when he was running for President for the first time. On April 22, 1976, shortly before the Pennsylvania primary, Mr. Carter issued "An Economic Position Paper For Now and Tomorrow." I quote from that statement. The President said:

> While I oppose across-the-board permanent wage and price controls, I favor standby controls which the President can apply selectively.

Then he went on to say:

> I do not presently see the need for the use of such standby authority.

Those of us who have introduced legislation which is pending in this House have been attempting to thrust upon the President that standby authority. A word from the President reaffirming his 1976 position would, I am sure, quickly persuade the leadership of the House as well as the Democratic membership of the wisdom of speedy action. He has chosen not only not to request that standby authority but apparently to discourage whatever efforts have been made in this House.

Of course, that does not absolve those of us who serve in the Congress. Each of us, when we were elected to this body, took the position with our own constituents that we would seek to do that which we felt was in the national interest in a whole range of issues. I am sure that none of us said that when it came to the matter of inflation we would leave that totally in the hands of the President. Indeed, there is a great deal of talk of inflation in this body. It is almost as if the words were being used to cover up the lack of action.

☐ 2000

I think that the people of this country have the right to conclude that they have been callously neglected and perhaps even betrayed. I am sure that that feeling of betrayal extends across the board from the President to the Members of the Congress.

The last word, of course, will be had by the American people.

We are now in the midst of the Presidential campaign of 1980.

Perhaps one or another of the many candidates in the Republican and Democratic Party will finally heed the cries and the outcries of the American people and come out in favor of mandatory wage and price controls.

There is a recognized tendency that people when running for office are more sensitive to the needs of the people than at other times.

It is a great tragedy that we have wasted so much time and that we have allowed so much pain and suffering to take place.

We are, everybody tells us, on the verge of a severe recession, and so, once again, the American people will be suffering a deep recession and galloping inflation at the same time; and while the country burns, like current day Neros we simply fiddle.

I think that the people of this country have the right to expect better of their elected representatives.

There will be an occasion tomorrow morning for the Democratic Caucus once again to consider the resolution supporting the bill to give the President wage and price control authority. Adoption of that resolution would be an important first step.

The motion that will immediately come up for a vote will be to table that resolution; that is, to set it aside, without taking a stand on the merits of the issue.

So far, we have not been able to get a quorum even to consider the issue. It would be ironic if the first quorum that we achieved in some 7 months of trying will be to defer action on what is clearly the most overriding economic concern of the American people.

I hope for the sake of the people of this Nation that the caucus tomorrow morning will take the first step toward giving the people of this country some relief from an inflation which until now they have had to face by themselves without any help from their Government.

● Mr. MOTTL. Mr. Speaker, the gentleman from New York (Mr. Weiss) and I have invested much time and effort trying to get this Congress on record in favor of giving the President standby authority to impose wage and price controls.

But it seems we have only been hearing the echoes of our own voices, as we call on this Congress to act. As is too often the case, Congress is out of tune with the clear public sentiment supporting mandatory controls.

Asked if they supported mandatory economic controls across the board, my constituents responded early this year with a resounding "yes." Sixty-five percent favored such controls, with 35 percent opposing them. And those results came when inflation was at least a few points lower than today.

Clearly, the public recognizes that controls will break the inflationary psychology that has everyone scrambling just to stay in the same place.

The public recognizes that controls would give us time—time to balance the Federal budget, implement a meaningful energy conservation program and take other long-term steps to stabilize the economy.

The public is willing to join in the inflation fight, if there is assurance that the burdens will be fairly shared. Controls would make certain that everyone does his part.

It is high time that Congress got the message on mandatory wage and price controls. Again, we are proposing standby authority for the President to impose controls. In the face of explosive inflation that is only expected to worsen with the new year, providing the President with this authority is the least that we can do as responsible legislators.●

NEED FOR THE REPEAL OF CARRYOVER BASIS PROVISION

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LaFalce) is recognized for 20 minutes.

● Mr. LAFALCE. Mr. Speaker, I feel that it is vitally important to repeal the provisions that would change the basis of taxing capital gains on inherited property when it is sold. There are numerous strong arguments against carryover basis, and I would like to take this opportunity to point some of them out.

Time is crucial, because the new carryover basis rules take effect on January 1, 1980.

The case for repeal of carryover basis is overwhelming as it violates virtually every principle of taxation. Let us consider the important principle of tax equity. The strongest argument in favor of carryover basis has ostensibly relied on tax equity or fairness. Yet, close scrutiny of this argument reveals that it is unsound. Generally accepted principles of tax equity require that real income be used as the tax base. Yet the carryover basis rule proposes to tax only nominal capital gains as income. This will lead inescapably to different tax treatment of an individual with the same ability to pay; that is, equal real incomes, and therefore violates the canon of horizontal equity. Further, taxation of nominal gains may lead to taxation of real losses. Therefore, real capital gains could be taxed at rates exceeding 100 percent.

The distorting effects of inflation are perpetuated and compounded by carryover basis. There are two reasons for this. First, carryover basis postpones the taxation of nominal capital gains for a longer period of time. Second, with progressive taxation of long-term gains upon realization, the included portion of long-term gain is taxed at least at the taxpayer's highest marginal tax rate on ordinary income. If the gain is large relative to ordinary income, it could fall into a still higher marginal rate bracket, and incur a tax liability significantly higher than if part of the gain were taxed each year during which the asset was held. This effect is known as bunching and it is only partially offset by the income averaging provision.

Considering that annual rates of inflation are currently at about 13 percent and that they are expected to remain at that rate or even accelerate, the equity problems associated with the carryover basis law may worsen. There is some evidence of this. In a 1978 study based on actual stock sales in 1973, entitled "Inflation and the Excess Taxation of Capital Gains on Corporate Stock" (National Tax Journal, June 1978), Martin Feldstein and Joel Slemrod discovered that individuals paid nearly $500 million of extra tax on nominal gains on corporate stock, because of the taxation of $4.5 billion in nominal gains instead of the corresponding $1 billion in real losses. These authors conclude that "inflation distorts all aspects of the taxation of personal income but is particularly harsh on capital gains."

Taxing nominal gains may well lead to a distribution of the overall tax burden which is excessively and unintentionally skewed toward higher incomes. This would be an infringement on the principle of tax progressivity or vertical equity. The principle of vertical equity suggests that individuals with higher incomes should pay a greater proportion of their income in taxes. This is called tax progressivity. While this principle does not dictate the exact best or optimal degree of progression, the degree of progression should not be punitive.

Empirical studies on the incidence of taxation conclude that the Federal personal income tax is already highly progressive. (See, for example, Richard A. Musgrave, Karl E. Case, and Herman Leonard, "The Distribution of Fiscal Burdens and Benefits," Public Finance Quarterly, July 1974; and Joseph A. Pechman and Benjamin A. Okner, "Who Bears the Tax Burden?" (Washington, D.C., the Brookings Institution, 1974)). The severe distortion induced by income taxation of nominal capital gains, compounded by carryover basis, may lead to an unintentional overtaxation of higher incomes, which would be inconsistent with reasonable notions of vertical equity. Thus, on grounds of vertical equity, the case against the carryover basis rule is also compelling.

In a number of ways carryover basis will be detrimental to the efficiency of capital markets, and consequently to the entire economic system. First, it may discourage risk taking. Investment in capital assets (such as corporate stock) is by its very nature a risky but a socially desirable enterprise, the degree of which may be reduced by carryover basis. Second, carryover basis may reduce the aggregate level of savings because it would lower the aftertax rate of return to havings in the form of capital assets. This would aggravate an already severe and widely recognized capital shortage. Third, carryover basis may increase the locking-in effect for those assets in the hands of the heir.

Locking-in refers to the tendency of investors to postpone the sale of appreciated capital assets and defer realization of any gains thereon; that is, investors remain locked into assets which do not offer the best available pretax yield. Lock-in occurs to a great extent because of the adverse tax consequences upon realization of gain. This implies that carryover basis may induce more lock-in since the potential income tax liability is extended to the benficiary.

Thus, the beneficiary may continue to eschew the selling of the assets because of the income tax consequence. The effect of lock-in is to inhibit capital from being allocated to where it yields the maximum pretax rate of return. There is also evidence that locking-in will accentuate fluctuations in security prices by inducing investors to sell their assets when prices are falling, and postpone sales when asset prices are rising. This effect encourages instability in the capital markets. Both the reduced mobility of capital and the heightened instability of capital markets translate into capital market inefficiencies and general economic distortions.

Mr. Speaker, even if theoretical issues were favorable to the carryover basis law, practical considerations run overwhelmingly opposed to it. Actual implementation of the carryover basis rule has proven to be technically and administratively infeasible. This is so primarily because, as a tax rule, it is extremely complicated and the mere mathematical computations required to comply with the provisions are burdensome and costly. For example, according to a trust officer of the First of Denver Bank, there are 61 steps involved in determining basis for each asset.

Furthermore, if the value of any asset is changed during an estate tax audit, then some of the steps involved in these computations would have to be repeated for each asset. This is rendered considerably more complex by the fact that the Internal Revenue Service can challenge a basis long after an estate has been closed, when a beneficiary sells the asset and reports a gain or loss on his income tax return. In some cases, administrative implementation is rendered virtually impossible by the difficulties in proving basis.

For many assets, adequate cost records do not exist and once the buyer or decedent has died and can no longer furnish information, it becomes difficult, if not impossible, for the beneficiary and his executor to reconstruct these records. The assets most often mentioned as examples are personal and household effects, personal residences (especially when numerous improvements are made over a long period of time), stamp and coin collections, and investment in mutual fund shares where dividends have been reinvested.

Carryover basis may be particularly burdensome on fiduciaries. A fiduciary's role is complicated further by the many difficult decisions which have to be made with respect to selection of property to be excluded under the "household effects exclusion." Severe problems can be created because when assets are sold to liquidate debts or pay administrative or funeral expenses, the executor must evaluate the consequences of selling versus distributing to beneficiaries high or low basis assets. This evaluation includes a consideration of the future income tax consequences to the beneficiaries from a sale by them of high or low basis assets. This conflict may, in some cases, lead to problems of fiduciary liability.

The technical problems of carryover basis are so severe and pervasive that they immediately aroused the concern of the Congress. On July 25, 1977, almost 9 months from the date when President Ford signed carryover basis as part of the Tax Reform Act of 1976, the Senate Finance Committee Subcommittee on Debt Management held hearings on the carryover basis rule. Although the impact on farms and small businessmen was an important issue, the problems of recordkeeping and executor administrative burden were of particular concern to Congress.

Recently, there have been some proposals to clean up the carryover basis law. However, these proposals reduce the administrative and technical problems from a virtually impossible level to an unworkable one. Moreover, even the most ambitious cleanup proposals will have difficulty in overcoming the many underlying equity and efficiency problems of the carryover basis law.

Mr. Speaker, we must repeal the carryover basis provisions.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. NELSON) is recognized for 5 minutes.

● Mr. NELSON. Mr. Speaker, I was absent due to official business and was not recorded on rollcall No. 740 earlier today. If I had been present, I would have voted "yes" on House Concurrent Resolution 221, respecting financial recognition for the Americans held hostage in Iran.●

TO AMEND THE PUBLIC HEALTH SERVICE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. MURPHY) is recognized for 5 minutes.

● Mr. MURPHY of New York. Mr. Speaker, I, with my colleagues, Representatives MIKULSKI, LOWRY, and

PRITCHARD, are pleased to introduce today, a bill which will allow merchant seamen, who have retired from active service due to age or disability, to continue to be eligible to receive medical care from the U.S. Public Health Service hospitals.

The PHS hospital system was established to provide health care to a segment of the population which serves our country as its fourth arm of defense. It is a peculiar quirk in the law that these institutions, which are unique repositories of that expertise necessary to treat seamen's injuries and diseases, cannot continue to care for merchant seamen once they retire. In many instances, the disabilities seamen suffer directly result from their service at sea. To endow a health care system with the capability of serving a unique population group and then break off the continuum of care is an anomaly which this bill will correct. This legislation will also require that persons participating in medical insurance plans shall reimburse the Service for treatment received. Consequently, it is anticipated that this clarification in beneficiary designation will not add to the public cost of operating these vital hospitals.

The bill also removes an ambiguity in the description of U.S.-flag vessels which provide the basis for a seaman being eligible for PHS hospital care.

I call on my colleagues to support this important measure.●

WOONSOCKET JUNIOR HIGH SCHOOL STUDENTS' MESSAGE TO THE AYATOLLAH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 5 minutes.

● Mr. ST GERMAIN. Mr. Speaker, the terrible situation in Iran which occupies our thoughts constantly these days has inspired over 200 students from Woonsocket Junior High School, Woonsocket, R. I., to participate in a project that is truly meritorious and worthy of mention before this body. These concerned students have written messages to the Ayatollah Ruhollah Khomeini and the anti-American terrorists who are holding our fellow countrymen hostage expressing their deep dismay and urging a prompt end to the situation.

I take pleasure in bringing to the attention of my colleagues the actions of the young students, whose project is a show of solidarity and a way of letting the Iranians know that Americans stand behind their Government in its call for an end to this hostile act of terrorism.

I feel certain that these letters capture the sense of outrage felt by most Americans. We, as a nation, stand united in our continuing call for the freedom of our citizens.

The teachers who were involved in the writing project include George Briggs, Roger Gagnon, Suzanne Marrah, Thomas Wrona, Joseph Mullaly, Robert Tanfani, Armand Houle, Richard Dubois, Richard Gariepy, Ralph Scott, James Healey, Eugene Doyle, Alfred Brennan, Michael Ouimette, Albert Brouillard, and Rose Marie Cipriano, chairperson of the school's social studies department, who brought this commendable project to my attention.●

INTRODUCTION OF LEGISLATION ESTABLISHING GOVERNMENT "YARDSTICK" CORPORATION TO IMPORT OIL AND NEGOTIATE GOVERNMENT-TO-GOVERNMENT OIL CONTRACTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, I am today introducing legislation to establish a TVA-type Government corporation which can serve as an occasional purchaser of imported oil and a negotiator of government-to-government oil import contracts.

This legislation is the result of 3 days of hearings by the Subcommittee on Trade of the Committee on Ways and Means on the subject of oil import policy and on legislation establishing oil import purchasing agencies and corporations.

I hope that the introduction of this legislation will spur further debate on this issue. It is my intention to schedule additional subcommittee hearings on the issue of Government involvement in purchasing oil for importation into the United States. The introduction of this bill language should enable witnesses at future hearings to respond to a specific proposal.

Some 80 Members of the House have introduced legislation to establish some form of Government agency or Government corporation which would be responsible for purchasing 100 percent of the oil being imported into the United States. The purpose of these bills has been to break the close relationship between the big multinational oil companies and the oil producing nations. It has been felt that the oil companies have little or no reason to resist price increases by OPEC and others, since their profits increase (or certainly do not decrease) as producing nations raise prices. A Government agency or corporation, on the other hand, would be a tougher negotiator and would be able to search for alternative sources of supply. In addition, such a Government agency or corporation would be able to negotiate long-term government-to-government oil contracts. Such negotiations could be successful, because the Government entity would be able to offer items other than money in exchange for long-range supplies of oil—defense agreements, investment understandings, commercial and trade packages, the barter of technology and equipment, et cetera.

For proposals of this type to work, however, there needs to be some softness in the world oil markets, some occasional excess supply. As we enter the new decade, however, it appears that there may be less and less opportunity to find softness in the market—and that supplies may become genuinely tight in the years ahead. In addition, the requirement in previous bills that the agency or corporation be responsible for the purchase of all oil destined for import into the United States, raises the danger that foreign producers might more easily combine to take political economic action against an arm of the U.S. Government. In addition, there is the danger that converting exclusively to this system of purchasing oil would be accompanied by disruptions and confusion as a new bureaucracy sought to replace an established market system.

Therefore, drawing on much of the language of the bills which have been previously introduced, I am today proposing a government corporation which may enter the oil markets when and where it sees the opportunity to make a good purchase on behalf of the American economy. This corporation will also work with other Federal agencies to negotiate occasional government-to-government long-term oil purchase contracts. In other words, instead of proposing a monopoly purchaser of oil, I am proposing a more flexible corporation which may make occasional purchases and contracts. Such an agency would be able to serve as a yardstick for measuring the price level of private corporate purchases, and would be able to offer the benefits of long-range government-to-government oil contracts. It offers the advantages contained in the previously introduced bills, without the potential dangers involved in those bills.

The corporation I am proposing will be similar to government oil corporations in many of the OECD countries and similar to Petro-Canada, a corporation which the Canadian Government established several years ago and which includes in its duties the negotiation of government-to-government oil import contracts.

I believe that this legislation will remove many of the private sector's and the Administration's concerns about previous oil import purchase authority bills.

I hope that in the near future, we will be able to move forward with this legislation.●

PENSION TASK FORCE TO PRESENT LEGISLATION EARLY NEXT SESSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. THOMPSON) is recognized for 5 minutes.

● Mr. THOMPSON. Mr. Speaker, I am pleased to advise the House that the pension task force of the Committee on Education and Labor has completed its work on markup of H.R. 3904, a bill that will strengthen multiemployer pension plans throughout the country. As you and our colleagues know, there are literally thousands of these plans affecting the future of millions of American workers. Experience these past years under the Employee Retirement Income Security Act of 1974 has shown us that substantial revision of the pension guaranty program is necessary if the plans are to remain financially sound in future years. The administration presented recommendations to the task force earlier this year. We held many meetings with representatives of employer groups and labor to obtain a consensus on amendments necessary to achieve our purpose. I am pleased to say that we have reached a consensus, and the task force has modified the original recommendations in certain respects. The task force will present the bill as reported to the Committee on Education and Labor for its consideration early in the next session. Following the full committee vote we will, of course, make a much more detailed report to the House.●

FARM LABOR CONTRACTOR REGISTRATION ACT AMENDMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, today I join my colleagues, Mr. FOLEY, Mr. WAMPLER, Mr. COELHO, and Mr. SYMMS, in offering two amendments to the Farm Labor Contractor Registration Act, which this body may have an opportunity to address in the very near future. It is likely that our colleagues in the Senate will be taking action on identical measures, thus bringing these issues before this body for consideration.

Since enactment of the Farm Labor Contractor Registration Act in 1963, the Department of Labor has consistently misinterpreted several sections of the law. This misinterpretation has resulted in numerous law suits as well as general confusion throughout the agricultural community over the issue of who is and who is not a farm labor contractor under the law. In fact, that law has been interpreted such that family farmers who obtain farm labor solely for use on their own farms are being forced to comply with complicated registration forms and maintain detailed records, and are subject to a variety of investigations and inspections.

Recently, 52 Senators joined in a letter to the Secretary of Labor asking him to correct the Department's interpretation of the Farm Labor Contractor Registration Act. A copy of that letter as well as Secretary Marshall's response is reproduced here for your information.

COMMITTEE ON APPROPRIATIONS,
Washington, D.C., October 24, 1979.

Hon. F. RAY MARSHALL,
Secretary of Labor,
U.S. Department of Labor,
Washington, D.C.

DEAR MR. SECRETARY: We are writing this letter to express our increasing concern over the Department of Labor's administration of the Farm Labor Contractor Registration Act as amended.

The Farm Labor Contractor Registration Act was enacted by Congress to protect not only migrant and seasonal agricultural workers, but also farmers and other agricultural employers from abuses and exploitation by unscrupulous crew leaders. This remains the purpose of the Act and we fully support the continuing need for such legislation. However, we are concerned that the law is not being administered fairly or uniformly in a manner consistent with Congressional intent.

In a growing number of actions the Department has ruled that farmers and certain other agricultural employers, or their employees, are required to register as farm labor contractors. Such a requirement we believe goes beyond any reasonable interpretation of the law.

Under Sections 3(b)(2) and 3(b)(3), no "farmer, processor, canner, ginner, packing shed operator, or nurseryman who personally engages in any such activity for the purpose of supplying migrant workers solely for his own operation, or any full-time or regular employee of such entity . . . who engages in such activity solely for his employer on no more than an incidental basis . . ." is required to register as a farm labor contractor.

The Department's actions, which are apparently based on its own extremely narrow interpretation, are completely contrary to Congressional intent and purpose and has only served to impose an undue penalty and economic burden on those specifically exempted by Congress from the scope and coverage of the law's requirements. Moreover, these actions have resulted in a misdirection of the Department's limited resources at the expense of those the law was intended to protect.

We strongly urge therefore that the Department review its present policy and concentrate its resources on curbing abuses by unscrupulous crew leaders as Congress intended.

We appreciate your attention to these concerns and we look forward to hearing from you.

Sincerely,

J. Bennett Johnston, Lloyd Bentsen, Herman E. Talmadge, Thad Cochran, Donald W. Stewart, Russell B. Long, David Pryor, Dale Bumpers, George McGovern, J. James Exon.

John Tower, Dennis DeConcini, S. I. Hayakawa, Thomas F. Eagleton, Lawton Chiles, John C. Stennis, Strom Thurmond, Pete V. Domenici, Henry Bellmon, David L. Boren.

Milton R. Young, Richard (Dick) Stone, Ernest F. Hollings, Jesse Helms, Edward Zorinsky, Richard Lugar, Gordon J. Humphrey, Rudy Boschwitz, John Melcher, William S. Cohen.

Barry Goldwater, Donald W. Riegle, Jr., Sam Nunn, Howard H. Baker, Jr., Bob Dole, Roger W. Jepsen, Orrin G. Hatch, Jim Sasser, Harrison Schmitt, Nancy Landon Kassebaum, William V. Roth, Jr.

Bob Packwood, Harry F. Byrd, Jr., Frank Church, Dave Durenberger, Mark O. Hatfield, Howell T. Heflin, Larry Pressler, Paul Laxalt, Malcolm Wallop, Robert Morgan, James A. McClure.

U.S. DEPARTMENT OF LABOR,
Washington, D.C., November 26, 1979.

DEAR SENATOR: Thank you for your letter of October 24, 1979, regarding the administration of the Farm Labor Contractor Registration Act (FLCRA). We agree that enforcement under the Act be targetted on repeat and serious violations which jeopardize labor standards for agricultural workers. To the extent that FLCRA enforcement has not been so targetted in the past, we are issuing field instructions to assure that there will be appropriate and consistent enforcement priorities.

As you know, FLCRA was enacted in 1963 to provide certain basic labor protection for migrant agricultural workers whose employment was dependent upon crewleaders. In hearings preceding passage of the Act, Congress found widespread abuses in this relationship. It found that migrant workers were not receiving proper pay, transportation or housing arrangements. Often these workers and their families were transported in unsafe vehicles and were misled about the job conditions to be found at the work site.

After ten years of experience under the Act, Congress determined that the abuses had not ended, and passed the 1974 FLCRA amendments to extend coverage and improve enforcement. The legislative history of these amendments indicates that although Congress extended coverage generally, it intended to exempt family farms and agriculturally related businesses (such as canners, ginners and packing shed operators) which "personally" recruited migrant labor for their own operation. Congress also exempted from coverage any full-time or regular employees of any incorporated farm or agricultural business if the employees only performed farm labor contractor-type activities on an "incidental" basis.

Consistent with this statutory language and legislative history, the Department has exempted family farms in which the farmer personally hires agricultural employees. We have also taken the position that the family farm does not lose the exemption for farm labor contracting activities done personally by the farmer and solely for the farm's own operation, simply because the farm is incorporated.

Even if the farmer does not personally perform those activities, the Department does not apply the Act unless the farm has employees who engage in farm labor contracting activities on "more than an incidental basis." If the farm, whether incorporated or not, does not have any employee performing these tasks on more than an incidental basis, the statutory exemption from registration applies.

We believe, therefore, that FLCRA applies where there is a crewleader hiring or transporting workers or where there are company employees substantially engaged in activities generally performed by crewleaders. We also believe that it is critical to enforce the Act in a way which discourages evasion of its provisions—to deter farm labor contractors from being placed on payrolls and appearing to assume the status of full-time or regular employees. This enforcement approach is consistent with both the letter and spirit of the Act. It recognizes the classic farm labor contracting activities to which the Congress intended the Act to be applied irrespective of the relationship (i.e., direct employee or independent contractor) between the farm and the individual performing farm labor contracting activities.

We recognize the concerns which have been expressed by farm operators, canners, packing shed operators, processors and others regarding the application of the Act's requirements when they hire or transport agricultural employees directly through the use of full-time or regular employees of the company and where such employees do not spend a substantial amount of their working time in these activities. In this regard, we concur in their view that the Department may not have defined the term "incidental" as specifically as possible.

We, therefore, intend to adopt an interpretation of the term "incidental" that will include any full-time or regular employee of a farmer, processor, canner, ginner, packing shed operator or nurseryman who does not spend more than 20 percent of his time in farm labor contracting activities and performs that activity solely for his employer.

With this refinement of the definition of "incidental", we believe that in the great majority of cases, neither the corporate employer nor any of its employees will be required to register as a farm labor contractor.

We are also instructing our field enforcement staff to make certain that they concentrate on serious violations committed by traditional farm labor contractors who have repeatedly and seriously violated the Act.

These administrative changes will clarify our enforcement position while at the same time preserving important protections for farm workers under the Act. These include protections designed to generally prohibit convicted felons from being crewleaders; protections relating to housing and transportation safety; protections designed to assure workers of advance and continuing notice of wages, hours and working conditions and to assure that workers will receive prompt payment of wages.

Although the Occupational Safety and Health Act and the Fair Labor Standards Act provide coverage to farm workers in certain instances, neither statute affords farm workers the basic labor protections which are set forth in FLCRA.

The Labor Department owes farm workers, the Congress and employers a FLCRA enforcement program that concentrates on major violations and we appreciate your support in helping to make FLCRA work precisely as it was intended.

Sincerely,

F. RAY MARSHALL,
Secretary of Labor.

The amendments we are offering today focus on the two key problems in the Department's enforcement of the law. Their adoption would eliminate any doubt about congressional intent regarding who is and who is not a farm labor contractor for the purposes of the law.

First, the term "personally" should be deleted from subsection 3(b)(2). The Department's interpretation of this term means that virtually every agricultural employer who is incorporated is a crew leader or a farm labor contractor. By eliminating this term, we will restore the exemption intended to apply to ongoing operations with fixed assets that hire farm labor solely for their own operation.

In addition, the term "incidental" in subsection 3(b)(3) should be specifically defined in the manner outlined by Secretary Marshall in his letter. This exemption would apply to regular and full-time employees who do not spend more than 20 percent of their time in any given year on hiring farm labor and who perform this activity solely for their employer.

Adopting these measures will clarify congressional intent in this area and prevent the Department of Labor from continuing to misdirect its efforts in enforcing this important law at the expense of those the law was intended to protect.

The text of the amendments is as follows:

This act may be cited as the "Farm Labor Contractor Registration Act Amendments."

SEC. 2. Section 3(b)(2) of the Farm Labor Contractor Registration Act of 1963, as amended, is amended by striking the word "personally".

SEC. 3. Section 3 of the Farm Labor Contractor Registration Act of 1963, as amended, is amended by adding a new subsection as follows:

"(h) The term 'incidental basis' means no more than 20 per centum of an employee's total hours of employment during any calendar year."●

FACING UP TO THE CARIBBEAN CHALLENGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FASCELL) is recognized for 5 minutes.

● Mr. FASCELL. Mr. Speaker, the Caribbean—a region too long neglected in our foreign policy—at last appears to be receiving a measure of the attention it should in our country. Events of the past year have demonstrated the strength of new forces surging in many of the countries of the Caribbean, and the importance of political changes in those countries to our own national interest.

One of the encouraging developments of the past year has been the growth of interest on our part, both public and private, in this neighboring region which is, in effect, our "third border," after Canada and Mexico. Over the long run, our policies toward these 30 million people on our doorstep will be wise and well-informed only if we extend the countries of the Caribbean the close attention, understanding, and concern they deserve of the United States.

One sign of this new interest and concern is the formation of the Committee for the Caribbean, a nonprofit, nongovernmental organization funded by leading U.S. businesses concerned about the future of the Caribbean. The Committee for the Caribbean was created to harness U.S. private sector resources for Caribbean development, to increase the sensitivity of the U.S. public and Government to Caribbean needs and priorities, and to strengthen relations between the United States and Caribbean societies. Already in its first year of operation the Committee for the Caribbean is, in my view, off to an excellent start in building new links between our country and the Caribbean. In late November, for example, it cosponsored a highly successful Conference on the Caribbean in Miami. This conference, which President Carter addressed in a special videotaped message, brought together a large number of government and private sector leaders from nearly all the countries of the Caribbean for a frank and stimulating exchange with American business leaders, Government officials, and others interested in the Caribbean. I plan to say more about this conference on another occasion.

At this time, I would like to call to our colleagues attention an article by an associate director of the Committee for the Caribbean recently published in the Harvard International Review. I believe, Mr. Speaker, that our colleagues will find this article as thought provoking as I did:

FACING UP TO THE CARIBBEAN CHALLENGE—"SUDDEN" CHANGES, LONG-TERM CHALLENGES, AND THE ROLE OF U.S. ENTERPRISE

(By Catherine A. Pearson)

As a foreign policy year, 1979 has been dominated by Camp David, SALT II, and maneuverings over Southern Africa—each in its own way a race against time to control powder kegs whose explosion could engulf much of mankind in carnage of unprecedented proportions. By contrast, the problems of small nations of the Eastern Caribbean have not been high on anyone's list of gripping concerns around the American dinner table.

Nevertheless, a series a unrelated events over recent months has put the Caribbean at least momentarily on the nation's front pages, and may have the cumulative effect of directing long-overdue serious attention toward the region.

First there was the Grenada coup last spring, ousting the long-entrenched government of Eric Gairy in favor of the left-leaning New Jewel Movement. In rapid succession the Dominica government was forced out by a long labor strike and replaced by an interim cabinet, and scheduled elections in St. Lucia brought to power the left-of-center opposition party. The end of summer brought a new assortment of heavier Caribbean headlines—the devastation of Hurricane David, the meeting of the Nonaligned Conference in "neutral" Havana, and the revelation of the presence of Soviet combat troops in Cuba.

Each of these events tended to be viewed by Americans, at least those Americans that followed them, as unsettling to one degree or another, and in many instances as a pattern that spelled trouble for the United States. Congressman Yatron convened his Subcommittee on Inter-American Affairs on short notice in August to consider characteristics of the Caribbean that make the region "vulnerable to sudden changes."

Commentary in some sectors of the press and public tended to paint the recent governmental changes as not only sudden but adverse to U.S. interests, an ideological setback possibly portending new inroads of Cuban or Soviet influence in the region, stretching from the Pacific (Nicaragua) to the equatorial Atlantic.

Whether this climate of growing concern represents a surmounting, or merely the latest repetition, of the American habit of ignoring the Caribbean until some East-West confrontation seems to loom on the horizon, the fact is that the United States can continue to ignore the region only at its peril.

The changes and challenges we confront in the Caribbean don't happen to fit the rhetorical molds the Cold War enthusiasts tend to put them in. But they are no less real. The region is strategically important. It is in a period of rapid change. And it is poised in a delicate balance between Western and Marxist alternatives, as individual Caribbean nations try to chart new development paths, looking to the East and to the West in search of the most relevant models and the most meaningful support.

If the United States sees itself losing ground in that contest for influence, it is not for want of vigilance about Soviet or Cuban intentions in the region, but for want of adequate attention to the concerns and priorities of the Caribbean societies themselves.

A constructive new concern on the part of Americans toward the Caribbean must include three elements—an ability to distinguish among changes of unlike origin and import, a recognition of the primarily economic nature of the long-term challenge for the U.S. in the Caribbean, and an appreciation for the critical role of enterprise in the U.S.-Caribbean future.

A REALISTIC LOOK AT "SUDDEN" POLITICAL CHANGES

Economists may argue about whether Caribbean ministers are "viable" as independent entities, but the fact is that each Caribbean nation—in its politics, its personalities, its traditions, and its circumstances—is unique. Too often this fact is forgotten.

Because most Americans know so little about the history, internal politics, and current issues of Caribbean societies, when they read about major political changes, they tend to see them as expressions of some international pattern ("Why are those governments so unstable?"; "There's another country probably going Communist"; "Pro-Western regime ousted"); rather than the product of political forces within the individual country. But as we know from our own polls and elections, foreign issues often take a back seat to domestic issues, and issues of all types often take a back seat to other forces such as personality, partisanship, or the feeling it's time for a change. This is equally true in the Caribbean.

Early this summer a research analyst for a major American company sought to direct some questions to the State Department about Dominica. First, where is it? And second, didn't they just have a revolution? The kind of misconception of events revealed in the second question is the almost inevitable follow-on to the innocence of basic information reflected by the first.

There has, in fact, been a tendency in some quarters to lump together the area's recent governmental changes—Dominica's, St. Lucia's, and Grenada's—and to envision all three as some type of armed overthrow of a lawful government by extremist elements bent on pursuing an anti-U.S. course with the blessing and perhaps assistance of Havana. The stereotype, fortunately, fits none of the facts.

Of the three, only Grenada experienced a change of government in the American as opposed to the British sense of the term. Even there, the overthrow was accomplished virtually without loss of life, and the transition took only a day. While many questions have been raised about the new government's direction, particularly in its relationship to Cuba, there is little doubt anywhere that the coup was precipitated not by foreign or even domestic ideological loyalties, but by dissatisfaction with the Gairy government.

The Dominica and St. Lucia changeovers were not revolutions in any sense; they were the equivalent of a U.S. change in administration. In Dominica charges of malfeasance and corruption brought on a strike by public employees' unions, which in turn led to mass resignations from the Cabinet and the formation of an interim government. Fears of a constitutional crisis were raised by the refusal of the prime minister to resign after losing the confidence necessary to govern. With due allowance for the differences between parliamentary and presidential democracies, the Dominica situation can be seen as roughly akin to our own Watergate crisis and non-elective presidency of President Ford.

Finally, the change of power in St. Lucia was not even in that league. It was a simple change of administrations involving a change of parties, with completely regular election processes giving a majority to the party out of power, which happened to be somewhat to the left of the party it replaced. This was about as revolutionary as the election of FDR in 1932 or John Kennedy in 1960.

To say that new Caribbean governments have come to power in less exotic ways than casual news readers might imagine is not to say they pose no concern for the United States. That could only be determined by looking at each situation individually, and following it over a period of time.

It is a conceit to imagine that developing countries select their policies in an effort to be pro- or anti-U.S. Most decide on the basis of what appears to be their own best interests according to domestic values and priorities. The United States, however, is not a disinterested bystander to these decisions, since they can profoundly affect not only direct U.S. interests and our relations with the country involved, but also the prospects for advancing the kind of individual rights, democratic institutions, and economic progress that constitute the U.S. notion of a better world.

In some instances a party coming to power on anti-U.S. rhetoric might prove a welcome change, from the U.S. point of view, because its better prospects for popular support and effectiveness at governing could strengthen Western-style democracy in its country. In other instances a party elected solely on the personality of its leaders, with no ideological overtones at all, may not opt for a direction in international policy that the U.S. would find deeply disturbing.

The fundamental fact Americans must face is that Caribbean countries, by free choice through legitimate governments, may turn away from the United States and its political and developmental model unless the U.S. makes a good case for adopting our approach. This is a challenge more sobering in many ways than the myth that asks us to see hostility behind every new face.

THE DEVELOPMENTAL CHALLENGE

The basic sources of potential friction in U.S.-Caribbean relations are not ideological; they are economic. On the ideological side, most of the region's nations have strong roots and long traditions of human rights, pluralistic party politics, an independent judiciary, constitutional democracy, and opportunities for business and labor. The United States does not need to "sell" these developing nations on Western values; their people claim them for their own sake, not ours.

What the United States does need to demonstrate is, one, the genuineness of our friendship and concern, and, two, the relevance of our economic model to Caribbean needs. Both are viewed with skepticism through much of the Caribbean.

Though Caribbean nations differ greatly from one another in resource endowment, stage of development, and income distribution, they share with each other and with other developing countries in putting their struggle for economic advancement at the head of their priority lists. And in that struggle they face many similar obstacles.

They need job-producing industries to cut staggering unemployment. They need increased exports, and higher stable prices for basic commodities, to earn the foreign exchange for consumer goods and capital equipment. They need investment capital. They need technology and managerial talent. They need to modernize agriculture, reduce dependence on single crops, and grow more of their own food. They need to pay for education and other basic social services. They need to find ways to bring the earning power of industries like tourism, and the potential spinoffs from it, back into the local economy. They need to find ways of spreading the fruits of economic progress equitably through the population.

Some of these are unarguable-sounding apple-pie-and-motherhood objectives which nevertheless mask highly controversial choices—choices involving painful shifts of power or benefits, or sacrificing some values for others. For the most part, though, the choices are not of this type. They are just practical matters of how best to get the job done, and where to find the resources to do it.

Caribbean countries tend to view the friendliness of the United States and other developed countries according to the nature of their impact on that effort—helpful, indifferent, or counterproductive.

One measure of helpfulness or indifference. obviously, is the amount and flexibility of direct aid, country-to-country or through international agencies. Even more important as a public sector response is the way the trade game is played—whether countries like those of the Caribbean can get their exports into developed-country markets, the relative prices their products can command, how the cost of and access to credit is managed, how price fluctuations are controlled. Too often when poor countries look at the protectionist trade policies of rich countries, they conclude that—despite any charitable gestures in the form of aid—the basic posture of the developed country toward those struggling to break into the system is not only unhelpful but actually hostile.

In many respects, however, the primary impression a country like the United States projects to Caribbean nations has little to do with official U.S. policy—and everything to do with the present direction, past performance, and Caribbean image of the U.S. private sector. And more so than many developing nations have traditionally acknowledged, their own development hopes and plans are closely bound up in their effectiveness in harnessing private enterprise—both domestic and foreign—as a developmental instrument.

The question of the role of business in developing countries is so central—to the rhetoric of exploitation, to the reality of past abuses as well as achievements, to the perceptions of ideological and political choices, but most importantly to the practical options for future economic advancement—that no approach to the Caribbean makes sense without some guiding concepts about the role of enterprise in the region.

PRIVATE ENTERPRISE IN CARIBBEAN DEVELOPMENT

One must start by stripping away the ideological framework that reduces practical problem-solving to irrelevant philosophical alternatives.

The simplistic formulas from Communist or anti-Communist dogma serve no one's purpose. It wasn't so long ago that Americans could be heard suggesting that any developing country that decided to build a state-owned steel mill had effectively resigned from the "free world" and started on the sure road to Soviet totalitarianism. And it wasn't so long ago that Marxist leaders were heard seriously to suggest that an impoverished peasant or assembly-line worker is magically transformed into an owner controlling his own destiny merely because he now works for a public rather than a private bureaucracy.

Complicating the ideological philosophizing about whether any form of public ownership (or private ownership, depending on the viewpoint) is compatible with public morality and human freedom has been the more substantial question of to what extent private *foreign* ownership or management is compatible with independence, or whether anti-colonialism compels rejection of such ties as the economic flip-side of the discarded political relationships.

Whatever dislocations or grievances might have been involved as newly independent nations grappled with the task of resolving those issues in recent decades, in today's world the philosophical debate has been largely overtaken by events. Developing nations have more bargaining chips than they used to. Mixed economies (to the confusion of purists of both persuasions) are more the rule than the exception.

Third World governments have largely succeeded in setting their own investment rules and having them respected. Foreign partnerships are no longer inherently unequal, and by the same token no longer as easily ruled out—or repudiated once made—on ideological grounds.

Yet in the new climate, the role of private—and particularly foreign—enterprise is still a controversial one. And it is an issue in whose outcome the United States has a broad policy stake.

The United States would like to see a private enterprise model, as opposed to a Soviet-style socialist model, emerge as the developmental choice of Third World nations. This is true for several reasons.

On one level, it is a simple matter of economic self-interest. Expanding business opportunities in the developing world—whether in trade, investment, consulting, or whatever—can only benefit our own economy and the options for advancement open to individual American citizens and firms. On another level, it is also a matter of political self-interest. The United States obviously would prefer a situation where other nations look to it, rather than to the Soviet Union, for ideas, inspiration and example as they look for systems that "work" and offer the best prospect for a more prosperous and equitable society.

But it is not necessary, and probably not accurate, to reduce the U.S. stake in the role of enterprise in the developing world to one of simple self-interest. On a more important level, it is simply a reflection of the American stake in, and sympathy for, the success of Third World development aspirations themselves, coupled with the conviction that the contribution of private enterprise is an important, even an essential, ingredient for bringing that success about. The vision of a future where two-thirds of the world is engulfed in poverty, frustration, and the bitterness of failed hopes is not one that the United States could live comfortably with.

either morally or practically. To the extent that U.S. ideas and resources can advance the development process, instinct as well as interest counsels that direction.

What, though, does the "private enterprise model" mean for the developing country, say a Caribbean country, today? What are they being asked to consider, as opposed to what other options?

It means, essentially, that the policy of the government and the design of its economy is one in which privately owned enterprise, whether foreign or domestic, has a recognized and welcome role to play, and there is room for private initiative, risk-taking, and reward. It does not mean there is no room for state-owned enterprises, nor does it mean an absence of government regulation of industry and involvement in the economy.

One of the cruel paradoxes of the way the debate is often posed is that governments and businesses are led to believe there are only two basic models—a socialist model where the state claims and manages all the wealth for social aims, but in doing so closes the door on all private initiative and commerce, or a laissez-faire capitalist model where private businessmen are unfettered and therefore all decisions of economic priorities and distribution of benefits are made for narrow private gain in defiance of the public interest.

Fortunately, there is another model, and it is one that makes sense. It is a model in which the government exercises its right to set economic priorities and parameters on private conduct, determines the kind of economic mix and degree of government involvement it believes will work best for the society's particular objectives, and provides the leadership and momentum to direct the society's energy and resources toward equitable, social and economic advancement.

Within those parameters, it is a model in which individual entrepreneurs have the widest possible latitude and encouragement to participate in the development process, with scope for initiative and creativity, a diversity of options (ownership, partnership, management contracting, etc.), a minimum of bureaucratic red tape, and a firm basis for confidence that the government will play fairly and consistently by its own rules.

Why is this type of operating scope for private entrepreneurship important? Because it works. Not because morality or ideology or democracy compels it, but because experience has shown it makes economic progress more achievable.

As an economic model, state socialism has not turned out the way the Soviet Union hoped. The Cuban economy stays above water only with massive continuing doses of Soviet aid. Within the countries of Eastern Europe and the Soviet Union itself, enormous productivity differences have emerged whenever, as in the agricultural sector, individuals are permitted to divert small amounts of their time or land to private entrepreneurship.

Within the Caribbean, most economies are mixed, with significant levels of govenment involvement and ownership along side a major private sector. The patterns range from the example of Barbados, which has consistently emphasized the potential of the private sector for national development, to countries like Jamaica and Guyana, which moved in recent years toward a more socialist, public-enterprise economy.

Increasingly, Caribbean countries, whatever their economic philosophy, have been experimenting with ways to attract private investment in a way that will contribute to their own development goals. In some cases, particularly Jamaica, that involves the extra burden of overcoming an anti-business image that now derives more from past rhetoric and experiences than from present policy.

The fact is that Caribbean experience over the last decade has shown not only that even societies with some socialist principles can benefit from a healthy private sector as a development partner, but it has also shown that effective governments can go a long way in taking control of their economies without losing the respect and cooperation of the private business community. For instance, Trinidad and Tobago enjoys a business reputation as being very free enterprise-oriented, even though it has a high degree of state majority ownership in key industries, and strict regulatory policies in many aspects of commercial life.

The fact is that the partnership of a healthy, dynamic private sector and a tough, progressive, pragmatic government is a natural one, given the nature of development goals and development problems. It is a relationship that can be managed by business and government alike on the basis of mutual respect and mutual benefit.

AMERICAN ENTERPRISE IN THE CARIBBEAN

All this is entirely applicable to the relationship of developing country governments and their own domestic private sectors. But it takes on special meaning in the potentially more troublesome relationship between the developing country and the foreign investor.

Caribbean countries approach the North-South equation with one of the basic premises espoused by most Third World countries—that healthy relations as well as human equity require a major transfer of resources from the industrialized countries to the developing ones. This includes technology and expertise as well as substantial amounts of capital.

Presuming for the moment that the Third World expectations are legitimate and that the United States and other developed countries are willing to make their best efforts to accommodate them (both premises are disputed by some, but won't be discussed here), then the role of the private sector is crucial for two reasons.

Looking toward the United States, the public sector simply has not the resource base to match the potential of the private business community. Not only the technology and managerial talent and the room for innovation but the wealth itself in the United States is primarily in private (mostly corporate) hands. Official sources, whether foreign aid through AID, support of international banks, or other governmental programs, can draw from only a limited pool in the best of times compared with the wealth of the nation as a whole.

Looking toward the Caribbean itself, healthy private sector institutions, a network of business organizations and their products and services, play an important role in the society's ability to absorb foreign capital, whether in the form of grants in aid or in the form of private investment.

One cannot simply throw massive amounts of money at developmental problems. A network of interacting structures from supplying to transforming to packaging to transporting to marketing, not to mention supporting services in financing, communications and a host of other functions easily taken for granted, must be in place, or brought into place relatively simultaneously. The right people with the right training and the unique imagination to make things work must be available in the right place at the right time.

All this is a worthy goal, but a hopeless task, for the most exceptional bureaucracy, let alone the kinds that flourish in every nation on earth, including ours. It is a difficult task, but not an impossible one, for a society where individual creativity and a multiplicity of productive relationships are encouraged to spring up from many directions at once.

For American business, this means a tremendous challenge as well as opportunity. Because of history, the sensitivity of newly independent nations, and the potential for abuse in any system (like democracy or capitalism) that gives wide reign to individual ambition, American businesses will always find their activities in the Caribbean closely scrutinized and subject to potential controversy. But because they hold so much potential for contributing substantially to economic betterment and development in their host countries (most of which are small enough that the input of even one firm can make a major difference), they can expect to find an increasingly warm welcome and a climate not only of mutual respect but of enthusiastic partnership.

And as the Caribbean economies become stronger, with more sophisticated supply and marketing systems, growing purchasing power, and larger numbers of skilled middle management personnel, American firms can expect to find increasing opportunities not only for investment but for export-import trade. U.S.-Caribbean trade already exceeds six billion dollars annually, and is one of the few regions yielding a trade surplus for the United States.

The success of American business partners and Caribbean nations will not only mean increased earnings for U.S. firms and individual investors. It may well also make or break U.S.-Caribbean relations in the international arena.

Just as past misunderstandings and charges of business rip-offs and unequal relationships played a major role in the development of "imperialism" rhetoric and political friction, by the same token successful, welcome, equality-based business relationships can set a firm foundation for sound and friendly relations between the U.S. and Caribbean nations. For both the United States and the nations of the Caribbean, the rewards of success in that effort stand in stark contrast to the very real dangers of drifting further apart.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. BONKER) is recognized for 5 minutes.

● Mr. BONKER. Mr. Speaker, today the House took up and passed House Concurrent Resolution 211, financial recognition for hostages in Iran, which I have cosponsored.

I would like the record to show that I intended to vote "yes" instead of the inadvertent "present" which appears on the official record.●

MOUNT MARTY COLLEGE CONSERVATION PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Dakota (Mr. DASCHLE) is recognized for 5 minutes.

● Mr. DASCHLE. Mr. Speaker, throughout the Nation many Americans without fanfare are taking the initiative to save energy and conserve fuel. In some instances, the energy savings are truly remarkable and the time, effort and personal investment in these conserving efforts deserve public acknowledgment.

In my district, Mount Marty College, which is located in Yankton, S. Dak., has made just such an energy conserving effort. Through hard work, dedication and persistent effort, Mount Marty College has achieved a nearly 41 percent decrease in energy use. I am very proud of the efforts made to conserve energy at Mount Marty and the impressive and significant results.

While these energy savings are obviously impressive and commendable, Mount Marty College is not yet satisfied. The already successful efforts to conserve energy are continuing and Mount Marty hopes to achieve an additional decrease in energy use of up to 20 percent in the coming years.

Mount Marty College is demonstrating energy conservation is practical, possible and effective and energy consumption can be significantly reduced. Mount Marty College which is already nationally recognized in anesthesiology has now also demonstrated leadership in energy conservation and set an example of reduced energy use others will hopefully follow.

Mount Marty College: A Benedictine Community of Learning

Yankton, S. Dak.—Energy-saving devices have resulted in a 40.8 percent decrease in energy use at Mount Marty College in Yankton. But the war against rising energy costs goes on and college officials are hoping for an additional decrease of 15–20 percent over the next few years.

"We're studying several ways on how we can conserve energy," says Sister Marie Helene Werdel, MMC's director of maintenance and operation.

The Mount has implemented several new energy-saving programs over the past several years and has updated virtually all energy generating devices.

One of the first projects to be undertaken was the purchase of 507 combination storm windows for Bede and Whitby Halls. An additional 40 windows were purchased for St. Joseph's Hall, a dorm for men.

But the project didn't stop there. Sister Marie Helene estimates that over $50,000 has been spent to conserve energy at the Mount and thereby cutting down on the rising utility costs.

This past summer, the college installed new thermostats in each room of Whitby Hall, a dorm for men. Prior to that, the dorm had one thermostat which regulated the heat throughout the entire building. "Some rooms were too cold—some too hot. Now, students can regulate their own temperature and they're pretty good at keeping it set between 63° and 70°," Sister Marie Helene admits.

The college is in the process of re-insulating all heating pipes located in underground tunnels on campus in an effort to curb additional heat loss. The current insulation is approximately 20 years old and beginning to deteriorate.

Early this fall, all the control valves for the radiators in Bede Hall received new packings and disks, and in some cases, had the valves ground to secure a tighter fit. Sister Marie Helene estimates that this $4,000 project will pay for itself in one and a half years.

Nearly 40 percent of all the lights in the library building have been eliminated by replacing the incandescent lights with more efficient fluorescent lighting. In Marian Auditorium, the new energy saving lamps should reduce the overall usage by 50 percent, without giving up any wattage.

The lighting in the parking lots has also been improved. The college has installed Lucalox lights (similar to those now used on Broadway in Yankton) in place of mercury vapor lighting. Sister Marie Helene claims that one Lucalox light can give off as much light as six mercury vapor lights—thereby saving a considerable amount of electricity.

The main source of heat at the college is natural gas, with fuel oil used as a backup system. Last year, the college consumed approximately 26,000 gallons of fuel oil. "Our price last year was 46.5¢ per gallon and the current rate is 88¢." College officials anticipated the sharp increase in cost and purchased over 30,000 gallons last spring at a lower price. The college's two 10,000 storage tanks are now full, with the remainder in storage with a local distributor.

The college also used over one million kilowatt hours of electricity in 1978, at a cost of nearly $33,000.

A major problem on the MMC hilltop is that the college has one electric meter for the entire campus and cannot measure the amount of electricity used in each building. However, the college has ordered meters for each building which will be installed in the near future. In addition, the college also will install steam condensate meters, which will measure the amount of steam used in each building as well. "Once we know how much electricity and steam we're using in each building, we'll be in a better position of knowing where additional cuts can be made." The college will also replace two burners on two of the three heating boilers. A more efficient-type burner will be installed. These two projects have been made possible by a $41,000 grant from the Benedictine Service Fund of Sacred Heart Convent.

"Cutting down on the consumption is the key," says Sister Marie Helene, and the college will do just that once the new hospital is completed. The new building will operate off the same power plant as the college does. The same amount of steam currently used to air condition Roncalli Center in the summer as well as supply hot water to several MMC buildings, will be used for the hospital's hot water system and sterilizers—thereby cutting Mount Marty's cost.

Under the direction of Bob Gullikson, superintendent of plant maintenance at the Mount, the school is participating in an energy audit sponsored by the South Dakota Office of Energy Policy. The pre-energy audit has been completed and the "walk-through" energy audit is now in progress. The 70-page manual gives direction on how to conserve energy.

"The task is endless, but every measure must be taken to conserve energy and reduce the utility bills," says Sister Marie Helene. And, to date, the college community has adjusted very well. "Sure, we get an occasional complaint about it being too hot or too cold, but everyone has been very cooperative." Cooperation is the key in Sister Marie Helene's opinion. "All our energy-saving devices aren't worth anything if we're not willing to sacrifice a little comfort for a little conservation." ●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. Ginn (at his own request) for the balance of the week on account of death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Edwards of Oklahoma) to revise and extend their remarks and include extraneous material:)

Mr. Collins of Texas, for 10 minutes, today.

Mr. Kemp, for 15 minutes, today.

(The following Members (at the request of Mr. Weiss) to revise and extend their remarks and include extraneous material:)

Mr. LaFalce, for 20 minutes, today.

Mr. Gonzalez, for 15 minutes, today.

Mr. Weaver, for 5 minutes, today.

Mr. Nelson, for 5 minutes, today.

Ms. Holtzman, for 5 minutes, today.

Mr. Murphy of New York, for 5 minutes, today.

Mr. St Germain, for 5 minutes, today.

Mr. Vanik, for 5 minutes, today.

Mr. Thompson, for 5 minutes, today.

Mr. Panetta, for 5 minutes, today.

Mr. Fascell, for 5 minutes, today.

Mr. Bonker, for 5 minutes, today.

Mr. Daschle, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Edwards of Oklahoma) and to include extraneous material:)

Mr. Young of Florida.
Mr. Broomfield.
Mr. Corcoran.
Mr. Collins of Texas in two instances.
Mr. Dornan in six instances.
Mr. Hammerschmidt.
Mr. Young of Alaska.
Mr. Grassley.
Mr. Symms.
Mr. Carter.
Mr. Vander Jagt.
Mr. Rhodes.
Mr. Paul.
Mr. Tauke.
Mr. Ritter.
Mr. Derwinski in two instances.
Mr. Michel.
Mr. Hyde.
Mr. Ashbrook in three instances.
Mrs. Fenwick.
Mr. McClory.
Mr. Carney.

(The following Members (at the request of Mr. Weiss) and to include extraneous matter:)

Mr. LaFalce in four instances.
Ms. Mikulski in two instances.
Mr. Udall.
Mr. Gray.
Mr. Florio in two instances.
Mr. McDonald in five instances.
Mr. Dellums in five instances.
Mr. Mitchell of Maryland.
Mr. McKay.
Mr. Mazzoli.
Mrs. Spellman.
Mr. Drinan.
Mr. Barnes.
Mr. Conyers.
Mr. Skelton.
Mr. Leland.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following title:

S. 716. An act to amend the Retired Federal Employees Health Benefits Act, as amended, with respect to the Government contribution toward subscription charge; and

S. 1874. An act to amend the act incorporating the American Legion so as to redefine eligibility for membership therein.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 887. An act for the relief of Elizabeth Berwick and Alexander Berwick, her husband;

H.R. 2477. An act for the relief of Jesus Reveles y Rivera;

H.R. 2531. An act for the relief of Russell W. Allen; and

H.R. 4943. An act granting the consent of Congress to the compact between the States of New York and New Jersey providing for the coordination, facilitation, promotion, preservation, and protection of trade and commerce in and through the Port of New York District through the financing and effectuation of industrial development projects.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that the committee did on December 14, 1979, present to the President, for his approval, bills and a joint resolution of the House of the following titles:

H.R. 1616. For the relief of Caroline M. Babcock;

H.R. 1888. For the relief of Kenneth and Jacqueline Traylar;

H.R. 1889. For the relief of Naomi Chen;

H.R. 2532. For the relief of Gail Williamson;

H.R. 2594. For the relief of Lunette Joyce Clarke;

H.R. 5359. Making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes; and

H.J. Res. 458. To authorize and request the President to issue a proclamation designating December 18, 1979, "National Unity Day."

ADJOURNMENT

Mr. WEISS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 9 minutes p.m.) the House adjourned until tomorrow, Wednesday, December 19, 1979, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3046. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassadors-designate Victor Palmieri and James W. Spain, and by members of their families, pursuant to section 6 of Public Law 93-126; to the Committee on Foreign Affairs.

3047. A letter from the Chairman, Federal Communications Commission, transmitting the final report on the Commission's study of public maritime coast station services, pursuant to section 506(b) of the Communications Satellite Act of 1962, as amended; jointly, to the Committees on Interstate and Foreign Commerce, and Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5278. A bill to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments; with amendments (Rept. No. 96-710). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5036. A bill to require the Secretary of the Interior to convey a parcel of land located in Colorado to the Ute Mountain Ute Tribe and to pay an amount to such tribe for economic development; with amendments (Rept. No. 96-711). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4996. A bill to restore the Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah as a federally recognized sovereign Indian tribe, to restore to the Cedar City, Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah and its members those Federal services and benefits furnished to federally recognized American Indian tribes and their members, and for other purposes; with amendments (Rept. No. 96-712). Referred to the Committee of the Whole House on the State of the Union.

Mr. ZABLOCKI: Committee on Foreign Affairs. H.R. 6081. A bill to amend the Foreign Assistance Act of 1961 to authorize assistance in support of peaceful and democratic processes of development in Central America. (Rept. No. 96-713). Referred to the Committee of the Whole House on the State of the Union.

Mr. ZABLOCKI: Committee of conference. Conference report on H.R. 5079 (Rept. No. 96-714). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, bills and resolutions of the following titles were introduced and severally referred to as follows:

By Mr. BOWEN:

H.R. 6161. A bill to authorize the Secretary of Agriculture to guarantee loans for the construction and operation of alcohol fuel plants, to provide for the sale of agricultural commodities for the operation of such plants, to amend the Agricultural Act of 1949 with respect to the set-aside program for feed grains, and for other purposes; jointly, to the Committees on Agriculture, Banking, Finance and Urban Affairs, and Interstate and Foreign Commerce.

By Mr. BROOKS:

H.R. 6162. A bill to discontinue or amend certain requirements for agency reports to Congress; to the Committee on Government Operations.

By Mr. DOWNEY:

H.R. 6163. A bill to amend title II of the Social Security Act to reaffirm the fact that benefits payable thereunder are exempt from all taxation; to the Committee on Ways and Means.

By Ms. FERRARO:

H.R. 6164. A bill to amend the Public Health Service Act to provide for research concerning Reye's syndrome, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HEFNER (for himself and Mr. ROBERTS):

H.R. 6165. A bill to amend title 38, United States Code, to allow certain veterans with active duty service prior to January 1, 1977, to participate in the contributory educational assistance program under chapter 32 of such title; to the Committee on Veterans' Affairs.

By Mr. HEFNER (for himself and Mr. ROBERTS):

H.R. 6166. A bill to amend title 38, United States Code, to provide for disbursement of unused chapter 32 contributions upon the death of the participant; to the Committee on Veterans' Affairs.

H.R. 6167. A bill to amend title 38, United States Code, to preclude tutorial assistance to eligible veterans by certain family members; to the Committee on Veterans' Affairs.

By Mr. HEFNER (for himself, Mr. ROBERTS, and Mr. HAMMERSCHMIDT):

H.R. 6168. A bill to amend title 38, United States Code, to increase the rates of educational assistance and special training allowance paid to eligible veterans and persons, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. LIVINGSTON:

H.R. 6169. A bill to establish the Bogue Chitto National Wildlife Refuge; to the Committee on Merchant Marine and Fisheries.

By Mr. LUJAN:

H.R. 6170. A bill to amend the Higher Education Act of 1965 to authorize the garnishment of wages of Federal employees for the collection of student loans; to the Committee on Education and Labor.

By Mr. NOWAK:

H.R. 6171. A bill to encourage small business capital formation by amending the Internal Revenue Code of 1954 to increase to $200,000 the cost of used property which is eligible for the investment tax credit; to the Committee on Ways and Means.

By Mr. RINALDO:

H.R. 6172. A bill to amend the Internal Revenue Code of 1954 to exclude each year $10,000 of pensions and annuities from the gross income of individuals who have attained age 65; to the Committee on Ways and Means.

H.R. 6173. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income $500 of interest on deposits in certain savings institutions; to the Committee on Ways and Means.

By Mr. VANIK:

H.R. 6174. A bill to establish a Federal Corporation with authority to purchase foreign crude oil and petroleum products for importation, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, Ways and Means, and the Judiciary.

By Mr. DELLUMS (for himself, Mr. EDWARDS of California, Mr. FAZIO, Mr. MATSUI, Mr. STARK, and Mr. SHUMWAY):

H.R. 6175. A bill to provide that certain lands constituting part of the El Dorado National Forest be conveyed to certain persons who purchased and held such lands in good faith reliance on an inaccurate surveyor's map; to the Committee on Interior and Insular Affairs.

By Mr. MURPHY of New York (for himself, Ms. MIKULSKI, Mr. LOWRY, and Mr. PRITCHARD):

H.R. 6176. A bill to amend the Public Health Service Act to allow certain former seamen to receive medical care and treatment at Public Health Service hospitals and stations; to the Committee on Interstate and Foreign Commerce.

By Mr. PANETTA (for himself, Mr. FOLEY, Mr. WAMPLER, Mr. COELHO, and Mr. SYMMS):

H.R. 6177. A bill to amend the Farm Labor Contractor Registration Act of 1963, as amended, and for other purposes; to the Committee on Education and Labor.

By Mr. ROSENTHAL:

H. Con. Res. 230. A resolution to disapprove the sale of smart bombs and missiles to Saudi Arabia; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

329. The SPEAKER presented a memorial of the Legislature of the State of Indiana, relative to Iran; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mrs. SPELLMAN:

H.R. 6178. A bill for the relief of John D. Rogers; to the Committee on the Judiciary.

By Mr. STANGELAND:

H.R. 6179. A bill for the relief of Sophia Sanchez; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 75: Mr. Madigan, Mr. Lungren, Mr. Lott, Mr. Rousselot, Mrs. Snowe, Mr. Butler, Mr. Mazzoli, Mr. Kindness, Mr. Reuss, Mr. Bauman, Mr. Frost, Mr. Santini, and Mr. Atkinson.

H.R. 76: Mr. Madigan, Mr. Lungren, Mr. Lott, Mr. Rousselot, Mrs. Snowe, Mr. Butler, Mr. Mazzoli, Mr. Bauman, Mr. Frost, Mr. Santini, and Mr. Atkinson.

H.R. 77: Mr. Madigan, Mr. Lungren, Mr. Lott, Mr. Rousselot, Mrs. Snowe, Mr. Butler, Mr. Mazzoli, Mr. Kindness, Mr. Reuss, Mr. Wirth, Mr. Bauman, Mr. Frost, Mr. Santini, and Mr. Atkinson.

H.R. 78: Mr. Madigan, Mr. Lungren, Mr. Lott, Mr. Rousselot, Mrs. Snowe, Mr. Butler, Mr. Mazzoli, Mr. Kindness, Mr. Reuss, Mr. Wirth, Mr. Bauman, Mr. Frost, Mr. Santini, and Mr. Atkinson.

H.R. 168: Mr. Madigan.

H.R. 169: Mr. Madigan, Mr. Whitehurst, Mr. Rousselot, Mr. Symms, Mr. Hyde, and Mr. Pritchard.

H.R. 172: Mr. Madigan.

H.R. 173: Mr. Madigan.

H.R. 174: Mr. Madigan.

H.R. 801: Mr. Kazen.

H.R. 882: Mr. Mica.

H.R. 2341: Mr. Broomfield.

H.R. 2400: Mr. Lowry and Mr. Young of Alaska.

H.R. 2447: Mr. D'Amours, Ms. Ferraro, Mr. Gray, Mr. Leach of Iowa, Mr. Moakley, Mr. Patterson, Mr. Stokes, and Mr. Wirth.

H.R. 2769: Mr. Rousselot, Mr. Roberts, Mr. Clausen, Mr. Ichord, Mr. Andrews of North Dakota, Mrs. Holt, and Mr. Treen.

H.R. 3246: Mr. Nolan.

H.R. 3252: Mr. Kemp and Mr. Railsback.

H.R. 3264: Mr. Bereuter, Mr. Dornan, Mr. Kogovsek, and Mr. Stangeland.

H.R. 4358: Mr. AuCoin, Mr. Brown of Ohio, Mr. Clinger, Mr. Hance, Mr. Hammerschmidt, Mr. Kemp, Mr. Leland, Mr. Marriott, Mr. Mineta, Mr. Mitchell of New York, Ms. Oakar, Mr. Tauke, and Mr. Vento.

H.R. 4516: Mr. Edwards of Oklahoma, Mr. Jones of North Carolina, Mr. Robert W. Daniel, Jr., Mr. Huckaby, Mr. McDonald, Mr. Andrews of North Dakota, and Mr. Gingrich.

H.R. 4563: Mr. Cavanaugh.

H.R. 4588: Mr. Conte, Mr. Derwinski, Mr. Horton, Mr. Murphy of Pennsylvania, Mr. Rahall, Mr. Whitehurst, Mr. Weiss, and Mr. Simon.

H.R. 4631: Mr. Murphy of Pennsylvania, Mr. Scheuer, Mr. Charles H. Wilson of California, Mr. Ottinger, Mr. McKinney, Mr. Yatron, and Mr. Edwards of Oklahoma.

H.R. 4678: Mr. Volkmer, Mr. Sabo, Mr. Williams of Montana, Mr. English, Mr. Whitehurst, Mr. Vento, Mr. LaFalce, Mr. Simon, Mr. Dougherty, Mr. Anthony, Mr. Pease, Mr. Yatron, Mr. Hollenbeck, Mr. Downey, Mr. Wolpe, Mr. Studds, Mr. Roe, Mr. Carr, Mr. Rinaldo, Mr. Bedell, Mr. Coelho, Mr. Daschle, Mr. Gray, M. Hawkins, Mr. Richmond, Mr. Seiberling, Mr. Bingham, Mr. Mineta, Mr. Burgener, Mr. Hughes, Mr. Beilenson, Mr. Nolan, Mr. Stenholm, Mr. McCormack, Mr. Corrada, Mr. Royer, Mr. Miller of California, Mr. Murphy of Pennsylvania, Mr. D'Amours, Mr. Jeffords, Mr. Gore, Mr. Fazio, Mr. Oberstar, Mr. Panetta, Mr. Heftel, and Mr. Neal.

H.R. 5282: Mr. Roe.

H.R. 5616: Mr. Roybal.

H.R. 5642. Ms. Holtzman.

H.R. 5715: Mr. Fuqua, Mr. Ritter, and Mr. LaFalce.

H.R. 5756: Mrs. Chisholm.

H.R. 5813: Mr. Duncan of Tennessee, Mr. Runnels, Mr. Young of Florida, Mr. Derwinski, and Mr. Bob Wilson.

H.R. 5847: Mr. Ireland.

H.R. 5862: Mr. Archer, Mr. Benjamin, Mr. Bowen, Mr. Buchanan, Mr. Burgener, Mr. Collins of Texas, Mr. Erlenborn, Mr. Gudger, Mr. Hinson, Mr. Hyde, Mr. Kemp, Mr. Kindness, Mr. Treen, Mr. Walker, Mr. Whitehurst, and Mr. Charles Wilson of Texas.

H.R. 5909: Mr. Gilman, Mr. Mineta, Mr. Collins of Texas, Mr. Dicks, Mr. Bedell, Mr. Lagomarsino, Mr. Murphy of Pennsylvania, Mr. Carr, Mr. Wolpe, Mr. Jenrette, Mr. Edwards of Oklahoma, Mr. Barnard, Mr. Pepper, Mr. Scheuer, Mr. Patten, Mr. Mitchell of New York, and Mr. Barnes.

H.R. 6062: Mr. Mottl, Mr. Bevill, and Mr. Stump.

H.R. 6063: Mr. Ambro, Mr. McDonald, Mr. Charles Wilson of Texas, Mr. Bevill, Mr. Montgomery, Mr. Whitehurst, Mr. Lagomarsino, Mr. Nichols, Mr. Leach of Louisiana, and Mr. Stump.

H.R. 6070: Mr. Perkins, Mr. Ullman, Mr. Dickinson, Mr. Montgomery, Mr. Chappell, Mr. Mathis, Mr. McKay, Mr. Runnels, Mr. Johnson of Colorado, Mr. Lott, Mr. Regula, Mr. Charles Wilson of Texas, Mr. Young of Alaska, Mr. Huckaby, Mr. Marriott, Mr. Stump, Mr. Anthony, Mr. Clinger, Mr. Leach of Louisiana, and Mr. Wampler.

H.R. 6109: Mr. Benjamin, Mr. Pepper, Mr. Whitehurst, Mr. LaFalce, Mr. Lagomarsino, Mr. Winn, Mr. Stangeland, Mr. Murtha, Mr. Regula, Mr. Lujan, Mr. Dougherty, Mr. Derwinski, Mr. Lungren, Mr. Rhodes, Mr. Mazzoli, Mr. Gudger, Mr. Won Pat, Mr. Hyde, Mr. Roe, and Mr. Buchanan.

H.R. 6149: Mr. Thompson, Mr. Guarini, Mr. Forsythe, Mr. Florio, Mrs. Fenwick, Mr. Hollenbeck, Mr. Howard, Mr. Hughes, Mr. Maguire, Mr. Patten, Mr. Roe, Mr. Rodino, and Mr. Rinaldo.

H.R. 6152: Mr. Bowen and Mr. Staggers.

H.J. Res. 15: Mr. Marriott.

H.J. Res. 414: Mr. Addabbo, Mr. Davis of South Carolina, Mr. Gray, Mr. Guarini, Mr. Kostmayer, Mr. Lloyd, Mr. Lowry, Mr. McCormack, Mr. Matsui, Mr. St Germain, Mr. Seiberling, Mr. Stack, and Mr. Wirth.

H.J. Res. 432: Mr. Yatron, Mr. Heftel, Mr. Brown of Ohio, and Mr. Gramm.

H.J. Res. 445: Mr. Markey, Mr. Perkins, Mr. Mitchell of New York, Mr. Leach of Louisiana, Mr. Lagomarsino, Mr. Nichols, Mr. McDade, Mr. Forsythe, Mr. Clinger, Mr. Lederer, Mr. Sabo, Mr. Snyder, Mr. Lundine, Mr. Dougherty, Mr. Frost, Mr. Barnes, Mr. Boland, Mr. Gradison, Mr. Jones of North Carolina, Mr. Stokes, Mr. Preyer, Mr. de la Garza, Mr. Lent, Mr. Cheney, Mr. Fountain, Mr. Traxler, Mr. Mottl, Mr. Addabbo, Mr. Patten, Mr. Quillen, Mr. Long of Maryland, Mr. Emery, Mr. Downey, Mr. Dornan, Mr. Myers of Pennsylvania, Mrs. Spellman, Mr. Duncan of Tennessee, Mr. Fary, Mrs. Snowe, Mr. Railsback, and Mr. Matsui.

H. Con. Res. 129: Mr. Hanley, Mr. Burgener, and Mr. Roe.

H. Con. Res. 225: Mr. O'Brien, Mr. Hopkins, Mr. Evans of the Virgin Islands, Mr. Lederer, Mr. Dan Daniel, Mr. Winn, Mr. Perkins, Mr. Applegate, Mr. Moakley, Mr. Whitehurst, Mr. Forsythe, Mr. Murphy of Pennsylvania, Mr. Gaydos, Mr. Barnes, Mrs. Chisholm, Mr. Derwinski, Mr. Kostmayer, Mr. Goldwater, Mr. Scheuer, Mr. Roe, Mr. Marks, Mr. Mitchell of Maryland, Mr. Leach of Iowa, Mr. Nowak, Mr. LaFalce, Mr. Swift, Mr. Kramer, Mr. Davis of Michigan, Mr. Dingell, Mr. Young of Alaska, Mr. Yatron, Mr. Richmond, Mr. Hyde, Mr. D'Amours, Mr. Murphy of Illinois, and Mr. Panetta.

PETITIONS, ETC.

Under clause 1 of rule XXII,

255. The SPEAKER presented a petition of the House of Representatives of the Republic of Cyprus, relative to disarmament; to the Committee on Foreign Affairs.

EXTENSIONS OF REMARKS

CAREER OF TOM BERKLEY

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. DELLUMS. Mr. Speaker, it is with great pleasure that I commend to my colleagues the following article, recently published in the Oakland Post newspaper, commemorating the career of Tom Berkley.

Mr. Berkley is a man with many careers in the bay area. He is a lawyer, newspaper publisher, and director of one of the major U.S. ports. His is a career which by example has offered promise to many black and minority persons and he is a person who has always sought to positively influence the development of minority business and political leadership. Many people in the bay area are indebted to him for his fine contributions to our community. I take great pleasure in commending this article to my collegaues:

[From the Oakland Post, Nov. 16, 1979]

FIVE HUNDRED TO HONOR TOM BERKLEY TONIGHT

Mayors of six Bay Area cities and Los Angeles have proclaimed today "Thomas L.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Berkley Day", in honor of Post Publisher and Editor and Oakland Port Commission President Atty. Thomas L. Berkley.

Over 500 persons are expected tonight to when a gala salute to Berkley will be held at Goodman's Hall in Jack London Square in Oakland.

The cities of Oakland, Berkeley, San Francisco, Fremont, Hayward and Alameda have named the day in Berkley's honor and Mayor Lionel J. Wilson of Oakland and Fremont Mayor Gene Rhodes will be among those at the dinner tribute tonight. Los Angeles Mayor Tom Bradley, a college friend of Berkley will be unable to attend.

Participants in tonight's salute include members of the University of California Los Angeles 1938 Track Team, who will give a mini roast of their teammate Berkley, Mayor Wilson, Former Manhattan Burrough President Percy Sutton, Charles Paterson, vice president of World Airways, Senator Nicholas Petris, Appelate Court Judge Clinton White, Oakland Port Executive Director Wally Abernathy, Rev. Hazaiah Williams, Weon Miller, Attorneys Craig Randall and Mas Yonemura and Dr. Marvin R. Poston.

Greetings have been sent to Berkley from President Carter.

A native of Du Quoin, Illinois, Berkley attended school in Southern California where his family moved when he was four. He is a graduate of Fullerton Junior College and the University of California Los Angeles. Berkley was a star athlete in basketball and track at Fullerton and broke records in track at UCLA. He would have participated in the Olympic Games in 1938, but they were cancelled when World War II broke out.

Berkley came to the Bay Area in 1938 to attend the University of California's Boalt Hall School of Law and graduated from UC's Hastings College of Law in 1943.

He has since had a distinguished career in many fields of endeavor, including law, politics, finance, industry, communications and human services.

Berkley established the largest integrated bi-lingual law firm in the United States, was co-founder and first president of Beneficial Savings and Loan Association of Oakland, cofounded the Oakland chapter of the Mexican American Political Association and founded the Inter-City Democratic Club of Northern California.

He has been an advisor to two United States Presidents and was appointed by President Carter and currently serves on the Minority Business Resources Center of the Department of Transportation.

He is a member of the Board of Directors of Commercial Bank of San Francisco, and the Board of Directors of the Golden State Mutual Life Insurance Company.

He is also a member of the Commonwealth Club of San Francisco, the San Francisco World Trade Club, the National Association for the Advancement of Colored People.

Berkley is a former member of the Oakland Board of Education, the Board of Regents of John F. Kennedy University in Orinda and the Board of Trustees of Childrens Hospital Medical Center of Northern California.●

MAGNET SCHOOL OF INTERNATIONAL AFFAIRS

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. GRAY. Mr. Speaker, the magnet school concept is based on an educational program built around a particular discipline such as mathematics, science, the performing arts, and in this case, international studies. The Magnet School of International Affairs—to be established in center-city Philadelphia as the first of its type in the United States—will provide a strong academic program in areas such as global economics, international politics, foreign policy, communications, world resources and cultures, as well as the contemporary global issues of population, environment, energy, food and hunger, and disarmament. Related to these academic offerings will be an intensive foreign-language component to be required for attending students.

The Magnet School of International Affairs will give its carefully selected students an opportunity to develop the skills and understandings necessary for seeing the economic, ecological, social, cultural, political, and biological relationships of an interdependent world. Students will also have opportunities to explore and develop the skills and understandings necessary for careers in diplomacy, business, commerce, communications, governmental and nongovernmental institutions of an international nature, and other related professions and fields in a transnational world.

The World Affairs Council, utilizing its experience in areas of international concerns and programs has brought together an advisory committee of internationalists to provide creative thinking on the direction and substance of this pioneering magnet school. The council will provide outside-resource people and specially prepared materials, trips, and programs for the curriculum. The resource people and the universities, agencies, and corporations represented by an advisory committee, will give guidance and support in a similar manner to the establishment of a "chair" at the university level. Outside-resource people will be an integral part of the Magnet School of International Affairs, rather than occasional visitors, and they will address national and international issues in a challenging manner to enhance the strong academic and special language programs of the school.

This Magnet School will be funded by the Department of Health, Education, and Welfare through the Emergency School Aid Act, and by the School District of Philadelphia.●

TERMINATING SANCTIONS AGAINST ZIMBABWE-RHODESIA

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. BROOMFIELD. Mr. Speaker, I want to take the occasion of Prime Minister Margaret Thatcher's visit to Congress to commend the Prime Minister and her Government for so brilliantly setting the stage for a lasting peace in Rhodesia. The Prime Minister's adroit handling of the Lancaster talks provides a boost to Western diplomacy at a time when the free world's interests are being so seriously jeopardized elsewhere.

In recognition of the Prime Minister's achievements, I joined with the other Members of Congress in sponsoring legislation (S. 2076) calling for a termination of U.S. sanctions against Rhodesia when the British Governor, Lord Soames, assumed authority in Rhodesia to implement the London Agreement.

Governor Soames has now taken over the reigns of the transitional government, thereby signaling the end of a state of rebellion in Rhodesia against Britain, internationally recognized as the proper administering authority. As we all know, ending the state of rebellion was the goal of the international sanctions, and President Carter's decision to terminate our own trade embargo against Zimbabwe-Rhodesia acknowledges that reality. Now that the settlement effort is on the verge of ushering in an era of peace in a country sorely in need of that condition, it would be very counterproductive to maintain U.S. sanctions against the administration of a British Governor. Also, it would demonstrate a lack of confidence and support for British efforts at a very critical juncture.

In addition to my fervent hope for the speedy completion of the process agreed to by the interested parties which will result in a fair and peaceful end to the hostilities in Rhodesia, I feel a certain sense of personal satisfaction about the central thrust of S. 2076. During the House debate on sanctions legislation last June, I offered a motion to recommit with instructions which would have had the effect of ultimately keying the lifting of U.S. sanctions to the termination of sanctions by Great Britain, whose Government retains responsibility for Rhodesia under international law. Regrettably, at the time a majority of the House did not have a sufficient confidence in the diplomatic skills of our British allies, and the motion failed. It appears the sentiment of the House has now changed for the better on this matter.●

DUE COMPENSATION FOR VETERAN

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. YOUNG of Alaska. Mr. Speaker, today I am introducing legislation that would correct a gross injustice to one of our Nation's veterans that occurred due to improper treatment and gross negligence at Keesler Air Force Hospital.

The bill states that the Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to Mr. Paul D. Camp, Sr., of Fairbanks, Alaska, the sum of $1,000,000 on account of his claims against the United States arising out of medical care and treatment which resulted in the amputation of his right hand and forearm. Such care and treatment, with respect to an injury to a finger of his right hand, was accorded Paul D. Camp, Sr., during the period April 1973 to June 1975 at Keesler Air Force Base, Miss. These claims of Paul D. Camp, Sr., are not cognizable under the Federal tort claims provisions of title 28, United States Code. The provisions of sections 8116 (b) and (c) of title 5, United States Code, do not apply with respect to the claims of Paul D. Camp, Sr., dealt with in this act.

Paul Camp, in April 1973, received an injury at Keesler Air Force Base that resulted in a stiff right little finger. Improper treatment of this minor injury led to his having his right arm amputated, complete uselessness of his upper right extremity—called Causalgia Major and continuous severe pain. The man is 100 percent disabled and thus cannot work.

A million dollars may sound like a lot of money. I feel it is more than justified after totaling the losses that this man has incurred due to the negligence of Keesler Air Force Hospital. He has lost years of wages and he has lost the possibility of ever making a living for his family and himself again. He has endured extreme pain and suffering and probably always will. He has lived with a disfigurement. The present and future security of his family, added to these other factors, warrants, I think, this settlement.

I would like to submit excerpts from Mr. Camp's own summary of the events which led to his tragic situation. I am omitting the names of the doctors.

It is my opinion that I am a victim of extreme malpractice in as much as I feel that I was used by doctors to gain experience in hand surgery. I am informed that a zigzag incision known as a Brenner's Incision is never used in hand surgery but this type of incision was used on my hand.

Multiple operations were performed on my hand within a ten months period. I am told that multiple operations should never have been performed on a hand in less than one year and the time should be eighteen months. It should be noted that the tendon graph, used to replace the Hunter's Prothesis, was taken from my left leg rather than the left arm as I had been told would be the case.

Even though I was losing ground, in relation to my hand and arm, I was put on a worldwide status back to duty and am thoroughly convinced that this was done to try and cover up the malpractice or the wrong doings of my operable procedures.

It is also my opinion that if I had been sent to Duke University as requested by my doctor in 1975, but denied by the hospital commander, I would at least have some usefulness of the hand and would have never had Causalgia Major or an amputation as I now have.

The Physical therapist at Keesler also suggested that my little finger be amputated after many months of physical therapy but the doctor disagreed. I feel strongly that this also would have probably saved my hand from amputation and the Causalgia Major.

It became readily apparent, after I acquired the services of an attorney, that all medical personnel backed off when it came to doing anything with my hand, in fact, with any part of my case. After the doctor left the Air Force, the other doctors did not want to become involved in my case because of pending lawsuits I had against the Air Force.

I have been fighting for six and a half years to try and get some relief from the malpractice that was involved in early 1973. As of this date I am in extreme pain most of the time. Any stress, excitement, sexual activity, anxiety or whether change all trigger the electrical type shocks and burning sensation all the way up to the base of my skull.

I am asking the support of my colleagues for due compensation for this veteran, who through the gross negligence on the part of VA doctors, has had his life shattered.●

TELEVISION AND THE CRISIS IN IRAN

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. LaFALCE. Mr. Speaker, U.S. News & World Report this week carried an analysis of the role of television, particularly the U.S. networks, during the crisis in Iran. In it three problem areas were raised, as follows:

First. Providing a forum: The State Department has expressed concern that providing the Iranian authorities and the so-called students with a forum for their denunciations of the Shah will only lessen their interest in talking about the real issue, the hostages.

Second. Causing inflexibility: Diplomats worry that journalists' questions may push the Iranians into taking inflexible positions, exacerbating the problem of freeing the hostages. The State Department apparently feels, for example, that the TV interviews with Khomeini precipitated his vow that the hostages would be tried as spies.

Third. "Creating" news: The red eye of the camera has a magical influence on the crowds in front of our embassy in Tehran. Some say that when it lights up an otherwise docile—and generally friendly—crowd becomes "enraged." Does carrying such demonstrations accurately reflect events or does it distort them?

The importance of this issue should not be overlooked, Mr. Speaker, for the judgments of our television journalists may have a direct bearing on the resolution of this crisis. I commend this article to all our colleagues' attention:

TV's CONTROVERSIAL ROLE IN IRAN CRISIS

Day after day, night after night, television is bringing the Iranian crisis into American living rooms—and, in the view of some critics, prolonging the ordeal of the hostages.

Although network executive insist such attacks are unjustified, protests are growing as a result of NBC's December 10 interview with a captive marine. On the same day that U.S. Atty. Gen. Benjamin Civiletti was telling the International Court of Justice that the 50 American hostages were "in peril of their lives," 21-year-old Cpl. William Gallegos was advising NBC's viewers that "everybody's O.K."

Representative Robert Bauman (R-Md.) said the interview should merit NBC "the Benedict Arnold award for broadcast journalism." House Speaker Thomas O'Neill accused the network of falling "into the trap of Iranian propaganda." The White House stopped short of publicly criticizing NBC, but Press Secretary Jody Powell described the Iranians' display of their young captive as "cruel and cynical."

It was not just the interview with Gallegos that touched off the furor. Many also were angered that NBC transmitted a 5-minute unedited propaganda speech by a young Iranian revolutionary known only as "Mary."

Ford Rowan, NBC's Pentagon correspondent, resigned on the ground that, by failing to include an interview with U.S. officials giving their point of view, the network made itself a platform for Iranian propaganda.

Even before the Gallegos interview, State Department officials were complaining about "television diplomacy." They argued that, as long as the networks provide a forum for Iran's denunciation of the Shah, Teheran will show little interest in talking about the hostages.

Another problem: Diplomats, hoping to find room for negotiations, fear the Iranians will be pushed into inflexible stands by journalists asking questions aimed at clarifying positions.

State Department spokesman Hodding Carter III speculated that TV interviews precipitated the Ayatollah Khoemeini's vow that hostages would be tried as spies. Others noted that the crowd outside the captured U.S. Embassy is largely friendly and relaxed until TV cameras turn up, then is transformed into a howling mob.

Teheran militants had offered the Gallegos interview to all three TV networks on these conditions: Iranians would pick the hostage, man the cameras and censor questions, and the show—with the propaganda speech—would run unedited in prime time.

ABC and CBS refused to go along. Explained CBS News President William Leonard: "We didn't want to become a tool for them."

NBC said its decision to go ahead came only after the Iranians met a counterproposal that no questions be submitted in advance and that editing be allowed. NBC News President William Small termed the interview "an important contribution to understanding what is happening in Iran."●

CITIES SERVICE REINVESTS MORE

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. COLLINS of Texas. Mr. Speaker, in reviewing the operating results of the U.S. oil companies, I was proud to see that Cities Service anticipates in 1979 that they will be spending $750 million on capital expenditures. This is more than twice their anticipated 1979 earnings. Covering the entire past 10 years, expenditures to find and develop oil and gas, expand their refinery, building pipelines and storage, and increase their chemical and copper facilities, we find Cities Service has far exceeded their profits.

It costs money to produce energy, and what the oil industry needs is more retained capital funds. To drill a well offshore can easily cost $10 million and it will probably be a dry hole. Cities Service's share of the $2.2 billion syncrude tar sands project in Canada to produce oil will cost them $400 million. Cities Service is building a gas pipeline from Wyoming, which will cost $127 million.

Remember that 80 percent of the world's existing supply of crude oil is sour. Sour crude refers to crude that is higher in sulphur content, which is environmentally undesirable. Therefore, larger investments are required of U.S. refineries to meet these environmental requirements.

Bankers Trust Co. and Chase Manhattan Bank have independently estimated that for the United States to maintain current oil and gas reserve levels, the U.S. petroleum industry will need to spend an average of $40 billion a year through the 1980's. Cities Service is typical of the leading oil companies who have been spending twice as much on capital expenditures as their profits.

America must not become completely dependent on OPEC oil. Since price control and full regulation went on the backs on the U.S. oil companies, our U.S. oil production has dropped, since 1973, from 9.2 billion barrels a day to 7.6 billion barrels a day. Our imports of OPEC oil have risen from $3 billion in 1973 to $60 billion this year, and probably $80 billion next year.

Would it not be better to have the U.S. oil companies reinvest $40 billion each year in the United States and maintain an energy balance. When U.S. oil companies spend money, it is for U.S. pipe, U.S. jobs, U.S. transportation, and U.S. machinery.

Cities Service is an outstanding oil company. It joins with all it resources in building U.S. oil and gas reserves. Congress needs to provide more financial incentives to assist in capital formation.●

GAO SUPPORTS H.R. 2735, INTERGOVERNMENTAL PRODUCTIVITY IMPROVEMENT ACT OF 1979

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. CORCORAN. Mr. Speaker, I was pleased to note that the Comptroller General of the United States, Elmer B. Staats, recently testified in favor of a bill I introduced earlier this year. My bill (H.R. 2735), the "Intergovernmental Productivity Improvement Act of 1979", was introduced on March 8 and referred to the House Committees on Government Operations and Post Office and Civil Service. Companion legislation, S. 1155, was introduced on May 15 by Senator CHARLES H. PERCY, and referred to the Committee on Governmental Affairs. This legislation would amend the Intergovernmental Personnel Act of 1970 to authorize funding for general management improvement projects for State and local governments.

Comptroller General Staats' testimony was delivered on October 3 before the Senate Governmental Affairs Subcommittee on Intergovernmental Relations. His testimony was primarily related to S. 878, the "Federal Assistance Reform Act" and S. 904, the "Federal Assistance Reform and Small Community Act of 1979." I am an original cosponsor of S. 878's House companion legislation, H.R. 4504, introduced on June 18 by Congressman LES AUCOIN.

Mr. Speaker, for the benefit of our colleagues, I would like to include in the CONGRESSIONAL RECORD at this point the portion of Comptroller General Staats' October 3 testimony in which he states his strong support for H.R. 2735:

> While Federal grant reform initiatives are clearly needed to improve the workings of our intergovernmental system, enhancing State and local capacity to implement grant programs is equally important. Indeed, due to the close interdependence of our levels of governments, the Feleral Government has vital interest in improving the productivity and management capacity of State and local governments.
>
> In a recent report [1] we recommended an enhanced Federal role in assisting States and localities to improve their productivity, including an expanded Federal seed money grant program for management improvement efforts. Our report indicated that a Federal seed money program could serve as a catalyst in helping State and local governments initiate new productivity programs or expand existing ones.
>
> We are encouraged that an identical Intergovernmetal Productivity Improvement bill has been introduced in both the Senate and House (S. 1155 and H.R. 2735). This legislation would amend the Intergovernmental Personnel Act to provide additional limited Federal assistance for State and local productivity improvement projects that would otherwise not be started. I strongly support this bill and urge the Subcommittee to consider it as part of your grant reform efforts.●

MAKE WINN-DIXIE FREE AT LAST

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. MITCHELL of Maryland. Mr. Speaker, Winn-Dixie a southern supermarket chain, has become the symbol of rightwing, antilabor activity in the food industry.

For over a decade, Winn-Dixie strongly opposed the efforts of its workers to organize into unions. Many unfair labor practice cases have been decided in favor of these workers by the National Labor Relations Board. Cases stemming from Winn-Dixie's activities have even gone to the Supreme Court.

The effort to organize Winn-Dixie workers is accelerating. It is now led by the new United Food & Commercial Workers International Union, a 1.3 million member organization resulting from the merger of the former Amalgamated Meat Cutters and Butcher Workmen and the former Retail Clerks International Union. The UFCW is the largest union in the AFL-CIO. It has vowed to use its strength to help Winn-Dixie workers organize.

The UFCW and other unions are conducting a consumer boycott of Winn-Dixie because of its antiworker and anticonsumer activities. As part of that campaign, a rally was held by the AFL-CIO Food and Beverage Trades Department in New Orleans, La., in April. One of the principal speakers was Dr. Joseph E. Lowery, president of the Southern Christian Leadership Conference.

Dr. Lowery's remarks are instructive and important. I urge my colleagues to read them.

Dr. Lowery's remarks follow:

AN ADDRESS BY DR. JOSEPH E. LOWERY

> We've come here to demand from America's public and private sectors a kind of sensitivity to the needs of the poor that calls for justice to roll down like waters and righteousness like a mighty stream. We cannot heal a broken and divided world if we allow our nation to break and divide its working people by oppression, unfair working conditions, inhuman wages and the kind of persecution that Winn-Dixie is guilty of in this nation.
>
> We have to call upon the Winn-Dixies of this country to be fair to those working people who keep the bells tingling and the cash registers ringing. We cannot allow unfair labor practices, unfair working conditions to divide this country between the haves and the have nots. Corporations must not be allowed to exploit those who work for a living. We live in a crisis period when unemployment and underemployment are choking so many of us to death. And we've come to understand that it's time now for a new coalition in this country of working people, regardless of race, color or creed. If we work for a living, we have more things that pull us together than we do things which keep us apart.
>
> People who are enemies of working people are enemies of black people. People who are enemies of black people are enemies of poor working people, whether they're white, brown, red, yellow or black. Black folks' enemies are not poor working white people, and black folks are not the enemies of poor working white people. Our enemy is that corporation which wants to keep us divided so they can follow the old policy of divide and conquer.
>
> Big corporations don't care any more about poor working white folks than they do poor working black folks. What they love is the green money that they can squeeze out of the labor of both black and white.
>
> We've come to say to America that we must form a new coalition that supersedes color. Black must not have to get back. Red must be able to get ahead. Brown must be able to stick around. Yellow must be mellow and white can be alright.
>
> And when we bring that new coalition to Winn-Dixie, Winn-Dixie will be losing Dixie unless she straightens up and flies right.
>
> We haven't beaten Winn-Dixie yet because we haven't yet begun to fight. We've just been warming up on the sidelines. I don't want you to be like I was when I played football in college. The coach had me warming up one day. He told me right after the half, "Warm up, son." And I ran up and down the sidelines until the third quarter passed, and he said, "Keep on warming up son." And finally the fourth quarter came, and it was halfway through and he said, "Keep on warming up, son." And two minutes before the game was over he told me to go in and I collapsed as soon as I went out on the field. I had warmed up too long.
>
> I tell you now we need to say to Winn-Dixie we've warmed up long enough. We're ready to go into the game now. We've come with the new coalition—black folks, white folks, red folks, yellow folks, all folks of goodwill say to Winn-Dixie: Straighten up and fly right or we're going to clip your wings, so you can't fly at all.
>
> We've come to say to Winn-Dixie that we want you to be born again. I believe in being born again. I believe that every child of God ought to be born again, and we have to say it to the corporate world that they must be born again.
>
> When you're born again you don't do things like you use to do. That's what the

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[1] "State and Local Government Productivity Improvement: What Is the Federal Role'? (GGD-104, December 6, 1978)

old prophet in the Bible said after he had been born again, he said: "I looked at my hands and my hands looked new. I looked at my feet and my feet did too." When Winn-Dixie is born again they're going to look at their employment policies and they'll look new. They're going to look at their wage policies and they will look new. They're going to look at their working conditions and they'll look new. They'll look at their pension program and it will look new, but somebody's got to help Winn-Dixie be born again.

You don't get born again by yourself. Somebody has to preach the Gospel to Winn-Dixie. I'm calling upon this new coalition of blacks and women, minorities and majorities, blue-eyed blondes and brown-eyed brunets, bowlegged fat folks and skinny, knockkneed, slue-footed Big John. I don't care who you are, if you love the Lord, if you love justice, if you want to see this economic crisis wiped out, I'm saying let's help Winn-Dixie be born again.

Let's help Winn-Dixie be baptized by the Holy Ghost of justice, washed in the blood of righteousness and make a new creature out of it. So that Winn-Dixie can stand up and all of us can stand around it and we can cry out in the words of our forefathers: Free at last, free at last. We're gonna make old Winn-Dixie free at last—or it will be last to ever be free.●

AMNESTY INTERNATIONAL 1979 REPORT ON HUMAN RIGHTS IN NORTHERN IRELAND

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. BIAGGI. Mr. Speaker, as chairman of the 130 member Ad Hoc Congressional Committee for Irish Affairs, I wish to place into the RECORD the portion of the 1979 Amnesty International report which deals with the human rights situation in Northern Ireland. As my colleagues may remember, Amnesty International in 1978 issued a report detailing numerous human rights violations in Northern Ireland primarily directed at prisoners and prison suspects by British and Irish security forces.

Later in 1978, the British Government appointed a commission to review the Amnesty findings. The Bennett Commission in fact confirmed Amnesty's charges. The report I will place into the RECORD provides an overview of the situation in this past year.

Of special concern is the report's reference to the Royal Ulster constabulary, the main police force operating in Northern Ireland. In July of this year, I was joined by a number of my colleagues, most notably the Speaker, in filing a protest to a decision by the State Department to sell 3,500 weapons to the Royal Ulster Constabulary. Our contention was that the RUC had been cited for human rights violations and the Foreign Assistance Act has strict prohibitions against providing U.S. military aid to nations or organizations with proven human rights violations. Following an amendment I offered to ban the use of State Department funds for future sales to the RUC, the Department of State itself announced an indefinite ban on such sales "pending a full review of U.S. policy." The fact that this ban began in August and is still in effect lends credence to our earlier human rights concerns. The Amnesty report representing the most current observations confirms our concerns that much further.

Prime Minister Thatcher is presently conducting a state visit to the United States. According to press accounts she is seeking a lifting of the suspension of U.S. arms to the RUC. However first and foremost, this is a matter of U.S. law. If the United Kingdom were to make a concerted and good faith effort to improve human rights conditions in Northern Ireland, consideration should be given to lifting the suspension.

Human rights violations in Northern Ireland is no longer in issue. It is a confirmed fact and our real emphasis now should be working for their cessation and the establishment of peace and justice for all of Ireland. The Amnesty report follows:

UNITED KINGDOM (OF GREAT BRITAIN AND NORTHERN IRELAND)

Against the background of continuing political violence, Amnesty International focused its work on the rule of law in Northern Ireland, where emergency legislation affects procedures relating to arrest, detention, questioning of suspects and trials in special courts.

The Report of an Amnesty International Mission to Northern Ireland (28 November–6 December 1977) concluded that "changes in the law relating to arrest, detention and the admissibility of statements in court have combined to reduce safeguards against improper police conduct" and that "the reduction of procedural safeguards regarding the admissibility of statements, the extension of the discretion of the single judge and the absence of a jury enhance the danger that statements obtained by maltreatment of suspects will be used as evidence in court".

In virtually cases, charges brought against prisoners arrested under the emergency legislation relate to the use or advocacy of violence, and none of those imprisoned has been adopted as prisoners of conscience. Although Amnesty International has continued to take an active interest in the operation of the special courts, its primary concern has been the investigation of allegations of ill treatment of suspects held by the Royal Ulster Constabulary.

In April 1978, Amnesty International submitted to the government the report of its mission to Northern Ireland to investigate these allegations. The report concluded that ill-treatment of suspects by plain-clothes detectives had taken place with sufficient frequency to warrant a public inquiry. On 8 June 1978, five days before this report was published, the government announced that it had decided to appoint a committee of inquiry (Amnesty International Report 1978).

The committee consisted of Judge H. G. Bennett QC; Sir James Houghton, a retired English Chief Constable; and Professor John Marshall, a neurologist. Its mandate was: "To examine police procedures and practice in Northern Ireland relating to the interrogation of persons suspected of scheduled offences; to examine the operation of the present procedures for dealing with complaints relating to the conduct of police in the course of the process of interrogation; and to report and make recommendations". It was not authorized to investigate individual allegations of ill-treatment, which the government stated should be investigated through normal criminal investigation, prosecution and trial. It took evidence from members of the public, from police, prosecution and other official agencies and from non-governmental organizations, including Amnesty International.

The Bennett Committee submitted its report to the government in February 1979. The government published it in March 1979. It largely confirms Amnesty International's concerns about the ill-treatment of suspects, the inadequacy of legal safeguards, incommunicado detention and the complaints procedure. Although the committee did not pronounce on individual allegations, it had before it medical evidence which was "detailed, extensive and from independent sources". It accepted that with regard to allegations of ill-treatment there is a concerted propaganda campaign against the Royal Ulster Constabulary, but concluded that, although some allegations were fabricated, there were others where injuries could not have been self-inflicted, or where detailed examination "led forensic medical officers to the conclusion that they were not self-inflicted". The government and the Chief Constable have consistently claimed that the injuries were self-inflicted and the allegations part of a propaganda campaign inspired by the Provisional Irish Republican Army. The committee also stated: "If, as we have found on the basis of medical evidence, ill-treatment causing injury could occur, so could ill-treatment which leaves no marks". While the committee was not in a position to assess the extent of ill-treatment, concern expressed on various occasions by the Northern Ireland Police Authority, the Northern Ireland Association of Forensic Medical Officers, and doctors working in different interrogation centres, which was recorded in the committee's report, showed that the allegations meriting concern did not relate to just a few isolated cases.

The Bennett Committee, in finding prima facie evidence of ill-treatment, examined in great detail the current procedures and practices for the detention and interrogation of suspects, with a view to protecting future suspects from ill-treatment and police from false allegations. The committee's numerous recommendations are aimed mainly at strengthening internal control by uniformed officers over plain-clothes detectives.

The government accepted the committee's recommendation to install closed-circuit television in interrogation centres, though no film or sound recordings will be made. The recommendation that suspects should have access to a solicitor after 48 hours of detention was also accepted.

Amnesty International publicly welcomed the limitation placed on incommunicado detention and the strengthening of internal control within the Royal Ulster Constabulary, but expressed concern that, as internal discipline had not prevented ill-treatment in the past, the absence of a reliable record of interrogation was likely to continue to raise controversy. Amnesty International said that the recommendations could not be considered in isolation from the whole framework of the criminal process—in particular the rules of admissibility of statements in court.

The government requested the Bennett Committee to furnish the prosecuting authority with information on individual cases of alleged ill treatment which were presented to the committee and criticizes Amnesty International's decision not to furnish the prosecuting authority with information on the cases in its possession. Amnesty International reiterated the view stated in its 1978 report that this would not reveal all cases of ill-treatment. Under this procedure, the Director of Public Prosecutions examines the complaints with the sole purpose of establishing whether there is sufficient evidence to instigate criminal prosecution against individual police officers. This remedy is rendered ineffective by the difficulty of securing probative evidence because there is no reliable record of the interrogations which take place while suspects are held incommunicado.

More than 300 prisoners convicted of, or awaiting trial for, terrorist offenses under the emergency legislation have continued their protests demanding "political" status. They refuse to wear prison uniform, to clean their cells or wash or use other facilities for hygiene, and have continually smeared excreta on the walls of their cells. On disciplinary grounds, they have been almost totally confined to their cells for periods of up to two years, with no exercise and no reading or writing or other occupational materials.

Following a letter to the Secretary of State for Northern Ireland in May 1978 in which Amnesty International asked the British government to invite an independent inspection of conditions in the "H" blocks of the Maze Prison where the protest takes place, the government replied that in every respect the prisoners were punished in accordance with the prison rules. The government also stated that they saw no grounds for inviting Amnesty International to visit the prison but that they would give careful consideration to any similar request from other organizations. A number of restricted visits by members of parliament, Church officials and journalists have since taken place. Amnesty International has since written to the government reiterating its concerns and urging that measures be taken without delay to ensure that the prisoners receive adequate exercise and occupational facilities and do not spend long periods confined to their cells.

Amnesty International does not support the demand for a special status for any prisoner. The prisoners' refusal to accept anything less than political status and permission to organize paramilitary groups within the prison meant that Amnesty International was restricted to expressing its humanitarian concern.●

H.R. 5586

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVE

Tuesday, December 18, 1979

● Mr. SYMMS. Mr. Speaker, I enclose for the benefit of the Members of this body a copy of a letter to my colleague JOHN SEIBERLING dealing with H.R. 5586, but more importantly, with the issue of wilderness enactment.

The letter aptly points out the similarities between land use in the Middle Ages and single-use management we today call wilderness. I commend it to the attention of my colleagues, in the hope that as wilderness designations face us that will result in the loss of jobs and a crippled economy, that we will stop to examine the complete effects of our actions.

The letter reads as follows:

NOVEMBER 13, 1979.

Hon. JOHN F. SEIBERLING,
Chairman, Subcommittee on Public Lands, Committee on Interior and Insular Affairs, Washington, D.C.

DEAR CONGRESSMAN SEIBERLING: I urge your support of H.R. 5586—Johnson, because it is a sound environmental bill which balances the interests of many and sometimes conflicting land uses.

If you believe in the efficient use of natural resources, including the land resource, if you believe in recycling of resources, then rationally you must believe in the multiple-use of resources, again including land.

Locking up land use for a single purpose to the detriment of all other purposes is a throwback to the Middle Ages, except that instead of a Devine Right of Kings, we have substituted the Devine Right of Public Interest, which has become an Orwellian term for single-purpose interest.

In the Middle Ages, you were executed for killing the King's deer, even if your family was starving; or for sawing down a tree with the King's broad arrow brand on it, even if your family was freezing to death. Trespassing on the King's land was done at your peril.

I would hope that we are more enlightened today, and that we have done away with the concept of Devine Right. The process of determining Federal Forest land use was one that was totally satisfying to probably no one, but it was a process which solicited and obtained input from all interested citizens. If we don't allow that process to conclude, then by that much we are no longer a Democracy, but one establishing the Devine Right of a Special Interest.

Yours truly,

R. L. SPENCER.

SUTTER CREEK, CALIF.●

HOSTAGES AND THE PRESS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. LAFALCE. Mr. Speaker, a column in yesterday's Washington Star by that paper's "ombudsman," George Beveridge, cogently outlined and analyzed the problems faced by journalists trying to cover the story evolving in Iran.

Beveridge quite correctly points out that those who will take hostages cannot be expected to have scruples about the ethical questions faced by journalists covering such stories. And he also points out that each situation of this kind raises new and different ways in which those who are seeking publication of their views will try to manipulate the media as best they can.

Yet he also sets forth a rational set of guidelines for journalists to try to follow in crises of this kind, to wit: A journalist's "basic obligation" is "to tell the story fully without becoming a part of it." This means reporters should avoid "interference with public authorities negotiating for the release of hostages and doing nothing to increase risks to human life." And he said there should be "special restraints in contacts with the terrorists." Finally, he pointed out that the media should refuse "to serve as an unfettered conduit for the terrorists' propaganda."

Observers may differ in their assessments of how well American television journalists have adhered to these guidelines. I personally believe that while the coverage on the whole has been good, there have been too many instances where our TV networks, wittingly or unwittingly, have been manipulated by the terrorists in Iran and have, as a result, served as an "unfettered conduit" for their propaganda, and have become "a part of" the situation, rather than "tellers" of it.

Mr. Beveridge's column raises many excellent questions about the role of journalists in general, and particularly in a situation of this kind. I commend it to all our colleagues' attention.

The column follows:

HOSTAGES AND THE PRESS

(By George Beveridge)

Well before the seizure of the U.S. embassy in Tehran, the tide of terrorist/hostage activity around the world had produced some fairly specific areas of agreement in the press community on what constituted responsible coverage of such incidents.

The basic obligation, it was widely agreed, was to tell the story fully without becoming a part of it.

That meant, according to guidelines endorsed by a number of news organizations, avoiding interference with public authorities negotiating for release of hostages and doing nothing to increase risks to human life. It meant exercising special restraints in contacts with the terrorists.

It meant, too, since a desire for publicity is the dominant motivation in virtually all hostage situations, refusing to serve as an unfettered conduit for the terrorists' propaganda.

A point about journalistic guidelines that many people have trouble grasping, though, is that the best of them are really little more than expressions of professional intent. In the real world, no reporter or editor can foresee the precise circumstances of any story, or what new challenges will arise.

The first six weeks of the Tehran ordeal were a classic example.

Those sensible guidelines noted above were largely responsive to well-documented abuses—especially TV abuses—that arose in such prior hostage incidents as the Hanafi-Muslim seizures here in 1977.

To the surprise of no professionals in the news business, Tehran subjected them to wholly new pressures that virtually invited abuses.

In the absence of normal diplomatic channels, for example, negotiations in the usual sense for the hostages' release simply haven't occurred. What the television crews in Tehran reported, therefore, was what they saw, and what they saw was almost solely the revolutionaries' side of the story.

Whether the television barrages that ensued were overdone, whether the State Department's complaints of "TV diplomacy" were justified, will be argued long after the ordeal ends.

One thing that the performance indisputably illustrated, however, was the degree to which TV is peculiarly susceptible to prolonged exploitation by the captors of hostages, and its seeming helplessness to do anything about it.

Khomeini's spectacular success in maintaining that unanswered stream of anti-American, anti-shah invective, both to Amercan shores and to the world, was abetted, ironically, by the media's understandable failure to pursue the shah controversy aggressively while the hostages were still captive.

In a critique, Time magazine's Thomas Griffith called the phenomenon a news "brownout of self-restraint" unparalleled in American life. "While hostages are in jeopardy," he wrote, "the only minidebate that has been allowed to erupt publicly is over who-let-the-shah-in. When Carter's foreign policy again becomes fair game for partisan attack, it is doubtful that the strengths of the shah's regime can ever be asserted as full-throatedly as before."

There is a measure of irony, too, that what precipitated the first major flap over ethics in the whole press performance last week was a TV effort to advance the Teheran story beyond the material hand-fed its cameras.

In accepting the revolutionaries' tight conditions for an interview with Marine Cpl. Gallegos, NBC undeniably surrendered journalistic rights that would never have been yielded in normal circumstances. The student revolutionaries, not the network, called the shots on prime-air time for the interview and imposed strict editing limitations. They won, too, the right to air a stridently partisan statement.

But there was also, surely, a strong dose of hypocrisy in the CBS and ABC attacks on their sister network for agreeing to the arrangement.

What about the concessions of CBS and ABC in submitting written questions, with no rights of follow-up, as a price of their earlier interviews with the ayatollah?

There are differences in the controls yielded, but they are largely differences of degree. And it is interesting, at least, that the morning after the NBC interview both CBS and ABC elected to carry brief canned interviews with Gallegos that were prepared entirely by the Iranians.

NBC is more vulnerable to criticism, it seems to me, on the complaint of its correspondent, Ford Rowan, that the network failed to include in the Gallegos broadcast a State Department response to the interview. (Rowan reportedly resigned as result of the network's decision.)

Of all the issues of journalistic integrity, in fact, Rowan's concern about the problems of telling both sides of the story as fully and fairly as possible is probably the major concern of most editors grappling with the Tehran crisis, in the print and broadcast fields alike.

A common-sense regard for the hostages' safety clearly compels decisions of extraordinary restraint, as in any terrorist/hostage situation. The decisions are of a sort, however, that take editors into terrain where the most well intentioned of guidelines are of little help.

The remarkable thing about the Tehran coverage is that so few issues of real controversy have thus far emerged. Given the circumstances, there are apt to be others.●

NEW JERSEYITE HARNESSES WIND AND SUN

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. FLORIO. Mr. Speaker, a new feature of the Northeast Solar Energy Center's publication, Update, is to report news of people, places, and events which shape the world of solar energy in the northeast. The December issue, I am pleased to say, focused attention upon the ingenuity of my constituent, Mr. Vito Maglio, of Clarksboro, N.J.

Mr. Maglio's response to the rising costs of energy is an inspiring story which I would like to share with my colleagues. Recently, when I visited Mr. Maglio to view his solar system, and his windmill, he expressed the hope that the success of his dual system of solar and wind power would encourage others to follow his lead. Toward that objective, he is now conducting seminars and workshops.

The article from Update follows:

NEW JERSEYITE HARNESSES WIND AND SUN

The biggest windmill in New Jersey is in Vito Maglio's backyard in Clarksboro.

Standing like a silent sentinel over Maglio's 29 acres in rural Gloucester County, the 60-foot tall wind turbine soon will churn out 45 kilowatts of electricity—more than double Maglio's present needs.

The windmill is not Maglio's only attempt at energy self-sufficiency. Two years ago the retired building contractor installed an elaborate solar hot water and space heating system in the house he was building for himself and his wife.

"I knew that fossil fuel was going to be expensive, so I built an all-electric house and decided to give solar a try," he explains.

He added a carport and installed solar collectors on its roof and a 2,000-gallon water storage tank under the driveway. He read solar and wind magazines and designed the project himself, purchasing most materials from local building supply companies (the windmill, however, was built by Energy Development Company of Hamburg, Pennsylvania).

A tour of Maglio's basement reveals the meticulously installed solar apparatus. He will incorporate air cooling into the intricate network of piping before next summer, he says.

With the windmill now in place and ready to spin, Maglio expects to wipe out his power costs, and in fact to sell surplus electricity to the Atlantic City Electric Company.

"That's why I put up such a big machine," he explains. "I wanted to interface with the electric company. The manufacturer says this machine generates 45,000 to 60,000 kilowatt-hours per year, and I only need 20,000 for my house."

In the future he will use some of the excess for outdoor lights, his workshop and other buildings on his property. He is negotiating with Atlantic City Electric to monitor the output of the machine during the coming year to determine how much electricity it will actually produce.

Maglio knows that he may not be entirely self-reliant, since wind can be replaced by calm. His array of eleven 12 1/2-volt industrial storage batteries should hold enough electricity for at least two days, he believes.

The inventive retiree had to prepare a site plan for his local zoning and planning boards before erecting the windmill. He needed a variance, since a 35-foot structure was the maximum allowed, and his windmill is 60 feet.

"My neighbors were all for it," he says. He sent letters to 20 of them telling about the wind turbine and the need for a variance. The manufacturer provided a letter assuring abutters that the machine would produce no radio or television interference since it runs slowly (60 r.p.m.), and that it is quiet at a distance of 100 feet or more.

In fact, response to Maglio's dual system has been so positive that he is holding seminars twice a month to introduce others to solar and wind energy. At the first seminar on September 15, his workshop was transformed into a classroom for several electrical and plumbing contractors, a member of the local zoning board and a representative of the electric company. The charge for attending the day-long sessions is $50.

More information may be obtained from: Vito Maglio, 5 Curriden Avenue, Clarksboro, New Jersey 08020. Telephone: (609)-423-5080.

Maglio's next solar-related projects? Air cooling in his house, solar hot water and space heating in the workshop and finally, solar hot water in the eight apartment Victorian mansion on his land."●

THE 100TH ANNIVERSARY OF WIEDERKEHR WINE CELLARS

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. HAMMERSCHMIDT. Mr. Speaker, the new year of 1980 will mark the 100th anniversary of the Wiederkehr Wine Cellars near Altus, Ark.

This enterprise was begun by a Swiss immigrant and is today still a family business run by the two grandsons, Al and Leo Wiederkehr.

Because many of my colleagues may not be familiar with the production of excellent wine in western Arkansas, a feature article by Tom Wood, which appeared in the Arkansas Democrat newspaper on Sunday, November 11, entitled Wiederkehrs Grows into Award-Winning Winery, is included at this point in the RECORD:

WIEDERKEHRS GROWS INTO AWARD-WINNING WINERY

(By Tom Wood)

WIEDERKEHR VILLAGE.—Because the specific founding date is not known, Wiederkehr Wine Cellars, Inc. will celebrate its 100th anniversary all year long in 1980.

This giant of the Arkansas wine industry had a modest beginning in 1880 when a Swiss immigrant, Johann Andrew Wiederkehr, made his first wine in this country and stored it in his cellar, a niche carved out of a hillside here not far from Altus.

Old Johann's first products were not grape wines. They were from other fruits raised in Arkansas—persimmon, cherry and apple.

The Wiederkehr firm, now able to store two million gallons of wine for aging, not counting a warehouse capable of holding 65,000 cases of products from the vine, actually inched its way into prominence, which now includes winning gold, silver and bronze medals in wine competitions with California, New York and other wines.

In the 1880's, the founder would make his wine and stash it in his cellar. When it was ready, he would cap crock jugs with corn cobs, load them into his hack on a Saturday night and head for Altus, then an active mining town. He'd come back with the hack empty and his pockets full.

At that time he was one of as many as 14 small wine producers. As time went on, Johann persevered and most of the other competitiors faded away.

His grandson, Alcuin (Al) Wiederkehr, the present chairman of the board, said no one knows where the original grape stock came from. It is only known that Johann only brought pear, cherry and rose cuttings from the old country when he brought his family here.

Johann built a cabin, a cellar and a lean-to kitchen on his 80-acre start. By 1881, he was planting grapes. He and three neighbors had only one pony among them to work the vineyarus. He produced an increasing amount of wine, aged it, then corked them in one, two and five-gallon jugs.

According to the grandson, production never exceeded 5,000 gallons a year until after the turn of the century, a time when the container size had increased to five- and ten-gallon kegs, along with an occasional 50-gallon keg.

Only six Swiss-German families and one Irishman had arrived ahead of Johann. Al Wiederkehr credits energy, ingenuity and luck with his grandfather's success.

He didn't know it was good wine country, but all of the settlers came with the belief that Arkansas soil could grow anything. This spurred the energy and ingenuity. Luck came with the sandy loam and the location of the vineyards on a plateau between two ranges of mountains, the Bostons on the north and the Quachitas on the south.

Conditions were more temperate than the surrounding areas. The plateau was off the valley floor and afforded a view across the valley to the west, where the Subiaco Monastery watched over the terrain and the Arkansas River cut its path on the way to joining the Mississippi River.

Johann died in 1927 at age 74. His son, Herman, took over and expanded the winery. He had tenure during prohibition and the Great Depression.

Although Arkansas was considered an upstart wine region at the time, Herman began to expand his trade territory.

"He'd take the back seat out of the family car, load it up and drive to outlets in towns over the region," Al Wiederkehr said.

It was a time when Wiederkehr's made and sold sacramental and medical wines. It is even said that notorious mobster Al Capone got his hands on some Wiederkehr wines, although no shipments were made directly.

Wiederkehr's began a substantial expansion in the 1930s when prohibition began to lose ground. Growth was slow and steady. Imbibers early had taken a liking to Wiederkehr wines and often would order shipments from great distances over the country. Herman Wiederkehr, now 84 and still an executive consultant to the company, endured until the third generation—sons Leo and Al—were able to lift much of the burden.

Al Wiederkehr, with a bachelor's degree in commerce from Notre Dame University, joined his brother and they conducted experiments on 100 varieties of grapes until they finally settled most of their output on new French hybrids.

Johann, during his first years in Arkansas, had joined his fellow settlers in working out a substitute for coffee which, at most, was only passable. In those rugged days, that part of Arkansas had no coffee. Johann and the others charred peanuts and brewed their "coffee."

When the grandsons came along, a change was in the wind. Herman had expanded the wine storage area beyond the original cellar, pushed his trade routes out, signed on with beer or whiskey distributors and increased vineyard space. The grandsons followed that path, but they did more.

Al, who became a marketing expert and an exceptional merchandiser, studied law at the University of Arkansas at Fayetteville in a successful effort to protect the wine industry in Arkansas. He even wrote bills which others introduced into the legislature successfully. He visited all the wine districts in France after going abroad on a scholarship.

Back home, Al designed many of the labels to go on Wiederkehr bottles. The Wiederkehr grandsons improved storage and machinery for the processing of better wine products, including destemmers and automatic pickers. Al purchased large storage trunks in the north and had them installed on the winery grounds here.

The quality and variety of wines improved and increased in output. Regional distribution was expanded and additional distant shipping began taking place. When Oklahoma went wet in 1960, Al engineered the introduction of a 20 percent Concord wine and even managed to break the pattern in the codes surrounding display of wines and spirits through the use of a tri-pak, three different wines in the same package.

This enlarged display attracted a lot of attention to Wiederkehr wines. According to Oklahoma law, he said, the three wines could not be shipped into the state, but after they arrived, the retail dealer could mix them as he saw fit. The Sooners went for the Wiederkehr wines, which were higher priced than most popular wines but still competitive. During the first year of this innovation, Wiederkehr sold 15,000 bottles of their products in Oklahoma.

Thus, the Concord wine was a turning point in expansion. The change was dramatic. That was when Al went north to Chicago, Detroit and Evansville, Ind., to look for storage facilities. He came back with 48 tanks with the capacity of 16,000 gallons each.

Arkansas wines began finding space on the shelves of the nation, in competition with Italian Swiss Colony and Gallo, then pressed on into the category of quality wines.

In the years since old Johann had started the trail blazing, this Swiss family clung to Swiss-German patterns and instituted an Oktoberfest, a celebration for the harvest. The Wiederkehrs began buying quality grapes from other growers and the area of the plateau vineyards grew to occupy most of a 2,900-acre tract.

The Wiederkehr vineyards expanded to include 560 acres of grapes, including one hardy strain that has been in production for the last 70 years.

The family incorporated its holdings in the 1960s. Wiederkehr Wine Cellars, Inc. then had subsidiaries—Swiss Family Vineyards Inc., Alpine Nurseries and the Weinkeller Restaurant, a quality dispenser of Swiss-German foods. They imported a Swiss chef and the entire family chipped in their efforts for the expanded operation. Leo took over the restaurant, which began attracting so many people that reservations were the only assurance of a table in the restaurant. The Weinkeller Restaurant now occupies the cellar first hewn out of the hills by the founder, Johann Wiederkehr, before he was 40 years old.

Wiederkehr Village now consists of the winery itself, the restaurant, a wiengarten that seats nearly 400 celebrants at festive occasions and a gift shop.

People visiting Wiederkehr Village still have the opportunity to chat with Herman Wiederkehr, now 84 years old. He's frequently at the gift shop or on the grounds, where he's on standby as a consultant.

In the past few years, Wiederkehr Wine Cellars, Inc. has stepped to the front of the wine business by winning medals for their fine wine.

Wiederkehr finds itself in compatible circumstances, the soil and climate are friends, its products are being accepted increasingly and their overview from the heart of the valley offers beauty and peace. About two miles away is St. Mary's Church, which is celebrating its 100th birthday Thanksgiving, only a month or so before Wiederkehr starts its own series of festivals.

"I am not sure, but we expect to have something going on intermittently all year long. We'll try to have something at least once a month. We may bring in a series of bands to play in the wiengarten," Al said.●

THE 10TH ANNIVERSARY OF THE WEST OAKLAND HEALTH CENTER

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. DELLUMS. Mr. Speaker, I would like to acknowledge December 9, 1979, as the 10th anniversary of the founding of the West Oakland Health Center. The center has provided essential health service to the West Oakland community these past 10 years. It serves as an outstanding model for a health care delivery system that truly meets the needs of those it serves.

I would like to pay special tribute to the citizens of the West Oakland area who have given of their time and effort to make this center a success.●

CUSTOMS BROKERS: THE MIDDLE PEOPLE

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Ms. MIKULSKI. Mr. Speaker, I would like to bring to the attention of my colleagues and others, both in Government and the private sector, who are interested in significant aspects of our international trade, two articles relating to the important and basic roles played by both the U.S. Customs Service and the thousands of small businessmen known as customs brokers and international freight forwarders.

I have had ample opportunity over some years to know of the professional, expert, and vital services rendered by the members of the Baltimore Customhouse Brokers and Forwarders Association. Thus, I read with particular interest an article that appeared in the summer edition of Customs Today, the official magazine of the U.S. Customs Service. Entitled "Customs Brokers: The Middle People," the article reports an interview with William R. Casey conducted by Edward L. Kittredge of the Customs' headquarters staff. From my standpoint, one of the many significant responses made by Mr. Casey was his statement:

> The most common complaint that I hear is lack of uniformity between the different Customs districts as well as the regions.

Mr. Casey is president of the National Customs Brokers & Forwarders Association (NCBFAA) of which the Baltimore Association is among the 23 regional and local affiliated associations throughout the country. Mr. Casey is also chairman and chief executive officer of the Myers Group, one of the most prominent customs brokerage and international freight forwarding firms. In the interview Mr. Casey explains how the unique talents of the hundreds of small businessmen that comprise the national association have helped reduce the complexities of our international commerce since the association was founded in 1897.

I am proud to say that a number of these small business entrepreneurs are located in my own congressional district in the port of Baltimore. Thus, I have had an opportunity to see at firsthand the high standards and professionalism of the work which they perform.

Currently, when the commerce of this Nation is undergoing increased consolidation into large-scale enterprises, small business survival depends to an ever-increasing degree on the availability of competent, personalized service by those who are experts in their field. This fact is particularly true in the specialized areas of international freight forwarding and customs brokerage. In this work, moreover, the firms are primarily small ones which employ between 10 and 50 persons.

Though the functions of the international freight forwarder and customs broker are not well known to the general public, their work is well known and respected by officials of the U.S. Customs Service, the Federal Maritime Commission, the Civil Aeronautics Board and the many other Federal agencies with which they are in frequent contact on behalf of their clients.

Many Senate and House committees have received testimony and counsel from members of the national association in efforts to help solve problems related to international trade. One such committee, on which I have the privilege of serving, is the House Merchant Marine and Fisheries Committee.

The second article which merits attention is "Pamphleteering" by Leonard M. Shayne. It is in the August issue of the American Import Export Bulletin.

The thrust of this article by a former president and chairman of the National Customs Brokers & Forwarders Association is that the U.S. Customs Service in recent years has been publishing pamphlets in which "the graphics and the contents have been improving. Legalese has given way to common language." Mr. Shayne, who is president of Leading Forwarders, credits Commissioner Robert E. Chasen with bringing an improved and businesslike approach to the work performed and the publications issued by the U.S. Customs Service.

The two articles are being inserted in the RECORD because they are worthy of note by my colleagues, and by all Americans interested in this country's need to develop increased, beneficial international trade.

The articles follow:

CUSTOMS BROKERS: THE MIDDLE PEOPLE

Customs Today: We would like to congratulate you, Mr. Casey, on your election as president of the National Customs Brokers and Forwarders Association.

Casey: Thank you.

Our readers would be interested in knowing something about the history of your association; how and when was it formed?

The Association was founded in 1897 as the Customs-Clerk Association of the Port of New York and its members were customhouse brokers and clerks in the U.S. Customs Service. When it was reorganized in 1922 as the New York Customs Brokers Association, its membership was limited to licensed customs brokers in New York only. Over the years, licensed brokers all over the United States were permitted to join. In 1962, the group became known as the National Customs Brokers and Forwarders Association.

How many members do you have?

Somewhere close to 400 members. We assume that takes in most of the active customs brokers firms in the U.S. We'll be interested to find out, when you finish your census, how many customs brokers there are in the U.S. We do not know, and apparently Customs won't know until the census under P.L. 95–110 is completed.

How many of your members are customs brokers and how many are forwarders?

Generally most firms are both brokers and forwarders. They are really sister professions. The usual entry into the field is as a customs broker. And then, if a client wants to ship something to France the next thing you know you are learning to be an international freight forwarder.

It's a little different in Europe where the entry into the field as a freight forwarder usually leads one to become a customs broker.

Does a freight forwarder have to have a customs brokers license then—a license given by U.S. Customs?

No, the freight forwarder is not licensed by Customs. Customs licenses Customs brokers for the import function, the Federal Maritime Administration licenses people as ocean freight forwarders on the export side, and the Civil Aeronautics Board licenses air freight forwarders.

How do the local branches of your organization relate to the national office?

There are 23 regional associations around the country. Firms in any region may belong to the regional association and to the national. There are firms which belong to the national and not the local. Vice versa, there are firms which belong to the regional association and not to the national.

Ideally, we would like all customs brokers to join both. Each of the regional associations appoints a National Advisory Committeeman who sits in with our executive committee at meetings.

He or she participates in the decisions we make. We are reorganizing our whole system so it will become a true association of associations.

What functions do your members perform? How do they deal with Customs?

Generally customhouse brokers represent the importer in dealing with Customs. I'd say that 98 percent of all imports in the U.S. go through the customhouse brokers. Typically, the brokers receive the import documents prior to the shipment's arrival.

On or after ship arrival or arrival of aircraft or truck or railcar, the broker presents the invoices, bills of lading, procedure bills, and other necessary papers to Customs for examination and release of the merchandise under the entry procedure in P.L. 95–410 or the old I.D. (immediate delivery) system on the border.

The broker also orders the transporter to forward the merchandise from the pier or airport to the consignee.

Then 10 days later the broker presents to Customs an entry summary with all documents needed to appraise and classify the merchandise, as well as to verify statistical information. Along with these papers is a check or checks representing the estimated duty.

This is, of course, over-simplified. There are many complicated entries involving quotas, GSP, and the regulations Customs enforces for other agencies.

Upon receipt of the entry summary package, Customs immediately deposits the checks under the new cash flow program and then sends the entry package to the appropriate commodity specialist who accepts or rejects it; if he accepts it, he checks the broker's work in detail as to classification, value, and so forth.

Explain, if you will, the function of freight forwarders and how they interact with Customs.

Generally they interact on an export shipment. Of course, they file a shipper's export declaration, and secure export licenses if they are needed. They generally do almost the same thing a customs broker does but in reverse. Since Customs polices our export laws for many other agencies, it also reviews the documentation for exporting. In some cases the documentation is considerable, except where the merchandise is not sensitive.

If we're acting as a forwarder as well as a customhouse broker, we have physical possession of the merchandise in that particular case. And in some instances we must have common carrier bonds as well.

So a forwarder actually works in both directions?

Yes. Most people think of a forwarder as an outbound shipper—but actually it is becoming more common now for a forwarder to work on inbound, too.

Do forwarders have anything to do with shipping goods on land?

Yes. In that case they either act as a shipper's agent or as an Interstate Commerce Commission inland forwarder. These are ICC rights that forwarders have to apply for and to be licensed by the ICC. That's not so common. We have them ourselves on the West Coast. In that case as an inland forwarder you file a tariff with ICC, you have your own house bills of lading, and you are holding yourself out as a common carrier.

Forwarders also can act as carriers—as an NVOCC—a non-vessel operating as a common carrier by ocean. They can file a tariff and issue their own bills of lading even though they do not own any vessels. In effect then, they contract with the underlying carrier and retail the underlying carrier's space—whether it is a full container or less than container load—to the importer and exporter. And the air freight forwarder does the same thing—by air.

How does your organization feel about the proposed changes in reducing the deferral period, using monthly accounts and such things?

To tell you the truth, we think reducing the deferral period would be an unmitigated disaster, for various reasons. One is that we are used to operating on the 10-day cycle now, and it takes the average efficient broker three days to prepare an entry properly.

Brokers may not even have the proper paperwork—documents come in from all over the world. Sometimes a foreign shipper will send them, or another forwarder in a foreign country—it is not just the importer who sends them.

Sometimes the shipments arrive ahead of the proper documentation. In many cases brokers do not receive the proper documentation within the 10-day period. Therefore, the rejection rate by Customs would be extremely high, as would the amount of penalties for late filing.

We understand there has been talk of this for some time?

Generally the thrust for the 3-day duty payment comes from the Office of Management and Budget (OMB). My understanding is that it is not a Treasury proposal but that it comes from OMB in an attempt to improve cash-flow. Here in New York we are trying the system of immediately stripping the check from the entry when it's presented at the customhouse, before going to the import specialist. That should improve the cash flow.

But I don't know how that will be squared away with the no errors policy that Customs has on rejections. Once the check has been shipped off ahead of the entry, it's going to call for a lot of adjustments when it reaches the import specialist. It's going to call for more duty on a considerable number of entries, and it will mean that some have been overpaid. I think it is going to be difficult to get very prompt refunds on the overpayments.

But we'll soon see.

Do you see any benefits or possible problems that might occur with the aligning of the 7501 entry form and the international standard master form?

I have given that some hard thought. I know the National Committee for International Trade Documentation (NCITD) has worked on that. They are the authors of the international standard master. But I can't really see where the 7501 comes in on that because the 7501 would not normally be prepared by the foreign shipper. It is prepared by the importer and signed by the importer or the importer's agent, the customhouse broker. The broker would have to pre-prepare it anyway—and would have to prepare it all over again when it came in because it would be almost impossible for the foreign exporter to have all the information necessary to prepare the 7501; that would just be one document and there are so many other documents that are sent in with the entry. Whereas, if the system were automated, the broker or importer would just have to redo that all over again anyway.

I see no harm to it. But I don't see any particular value to it either. There is the possibility that foreign shippers might put poor or misleading information on the documents which might get copied when it came through and could lead to more fraud cases. That would be the only negative thing about it.

What changes, for instance, would your organization like to see in the licensing procedure?

The primary change we would like to see in the licensing would be a national licensing system, rather than a district system. It's a district licensing system now—not even a region, but a district, and it really gets to be extremely onerous because, for example, our firm operates in about 40 different ports.

Now last year we asked for licenses in two ports. It took six or eight months to get licensed, and yet Customs knows everything they need to know about us and it's all in their files. We went through the licensing process in one port that year and turned around to another port in another district and had to go through the same thing again.

And the reason is that Customs has delegated that authority to the District Director. The District Director has to reinvent the wheel every time. He has to go through a complete investigation using Customs agents and everything else. If the Customs agents are chasing something a little more glamorous like contraband, they are going to put this licensing thing right at the bottom of their heap. It's extremely expensive because in order to apply for the license you need qualified people and an office, and since they just sit there for six or eight months, they can't make any money.

So we would like to see a national licensing system where if you are licensed in any district you can extend your license to any other district automatically. Then if Customs finds for some reason or another that you do not have qualified people in that district, they can then either warn you or withdraw your license in that district. But I would rather see the positive thing done.

I also think there might be input from the trade. I think, pretty generally, the exams that are now given by Customs are very adequate professionally, but we think in the matter of ethics and business practices it might be well if our association had some input, as they do in the CPA and the Bar Association and their members.

Do you see a need or desirability for your association to administer these tests rather than having the government do it?

Yes I think that's done in some countries. In fact I think the Canadians do it. I think we could take it off Customs' hands. I think Customs has always wanted to monitor it to be sure we don't let up on standards. But I think probably if the brokers and forwarders did it themselves they would make it even more difficult because they would have sort of a built-in bias to keep too many people out of the trade.

But do you think Customs could adequately police customs brokers and forwarders by some other means than testing?

Brokers are actually controlled now through the auditing function. And that's been stepped up over the past several years. You get audited fairly often.

What problems does a broker encounter in day-to-day meetings with Customs that could be changed—that we could improve without going to Congress, but simply by making regulatory changes?

The most common complaint that I hear is lack of uniformity between the different Customs districts as well as the regions. To give you an example: If you follow up an IRS tax return—a 10-40 or whatever it is—in any Internal Revenue region in the country, it is the same thing, one form, one format. With Customs there's almost a separate format for each district or port. For example, we have an on-line computer system in our firm and we almost have to have a separate program for every different port. Each port wants certain information in certain spaces on the form and some want some information and don't want others.

Do you think that is because classification is subjective?

I think it's because of lack of adequate modern machinery in Customs. I hope the AMPS (Automated Merchandise Processing System) or the EIS (Early Implementation System) systems will make a difference and solve that problem. But right now, the ability of Customs to insure this is hampered by lack of proper machinery. They just have too much paper going around that is not automated.

You feel that the answer lies in automation?

Yes. I'd say another problem we run into occasionally is inadequate training in the cases of some of the examining officers. We've had cases where prohibited merchandise or quota merchandise has been released by a Customs officer and we have been penalized for it. But I guess that is a minor objection. The only real problems we have are the lack of uniformity.

One more question. What impressions did you take away from the recent Regional Commissioners conference you attended in California?

I can't tell you how positive it was. In all the years that I've been in this business I have never seen all of the Regional Commissioners and the new Commissioner together at one time at a meeting, and really it was just incredible to see them all out there. We just felt so extremely flattered that they would take that matter of our organization and want to work with us in that way. It was just wonderful.

PAMPHLETEERING

(By Leonard Shayne)

For some years now the Customs has been publishing pamphlets for public information on various subjects. Gradually both the graphics and the contents have been improving. Legalese has given way to common language. These pamphlets are interesting and instructive and they clarify complicated points even for professionals. I am sure the program has not been without some cost, and the budgeters must have wondered on occasion whether the output has been worth the expense. I have no quantitative answer for them but I do have an opinion—which is that an educated importing public makes the government's job easier. Many of the violations of our complicated import laws are purely unintentional, the result of ignorance. If even a small percentage of these violations can be prevented thru programs of public education, the Customs gains much return for its dollars.

When Robert E. Chasen became Commissioner, many were pleased that finally a businessman was at the helm. We had had, in my opinion, a succession of excellent commissioners from the ranks of government, but many thought that a new point of view would prove valuable. Of course, Chasen had both a business executive and an FBI background, so there was no telling what kind of regime would follow.

If you want a key to that regime, get a copy of the Customs pamphlet for Customs Employees called "Courtesy and Service". It's a remarkable document to be issued by a tax collector and policeman, a policeman with powers to search without warrant which exceed in some ways those of any other law enforcement body in our democratic country. The chapter headings are: Step 1 Be Concerned; Step 2 Offer Prompt and Friendly Assistance; Step 3 Be Understanding and Patient; Step 4 Be Respectable and Presentable; Step 5 Be Tactful; Step 6 Practice Empathy; Step 7 Say Thank You and You Are Welcome.

The back cover says: "Simply A Matter of Courtesy In Law Enforcement".

It's a pamphlet worth reading. And a commissioner who publishes a booklet like it, is a commissioner worth having.●

THE FEDERAL GOVERNMENT'S NEED TO LEAD IN TIMES OF ENVIRONMENTAL EMERGENCIES

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. LAFALCE. Mr. Speaker, on November 9 I wrote a letter to the President regarding the lack of commitment and leadership on the part of the Federal Government to help the innocent victims of the Love Canal disaster.

Mr. Speaker, as you may remember, in August of 1978 the President set a precedent by declaring a manmade environmental tragedy a national emergency, thus triggering a Federal response to the problems of the Love Canal. I applauded his efforts because I expected his declaration to bring with it the urgent and comprehensive attention that the situation demands.

However, as I note in my letter the Federal response has been minimal. At no time have the Federal agencies, either individually or collectively, assumed a leadership role. Nor have the Federal agencies learned from this tragic experience, because they have not tried to learn.

I find the Federal Government's record at the Love Canal particularly disturbing because the Environmental Protection Agency has estimated that there may be as many as 2,000 more "Love Canals" waiting to explode.

I am inserting in the RECORD today a copy of my letter to the President so that my colleagues can be aware of the frustrations I have felt over the last 12 years when trying to get the Federal Government to define its role in this and future environmental emergencies caused by the escape of toxic chemicals from abandoned hazardous waste disposal sites.

Mr. Speaker, I firmly believe that the time has come for the President, himself, to exert himself and to develop a responsible, comprehensive plan for the Federal Government which delineates the Federal Government's role as a whole and the role of each component agency in handling environmental disasters of this nature.

I know that many of my colleagues share my concern over the lack of a comprehensive Federal policy and a lack of Federal leadership in the area of hazardous waste cleanup and containment of abandoned sites. Therefore, I invite my colleagues to make their views known to the White House as I have done so that the President can understand that the American people want action.

The letter follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., November 9, 1979.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As you know, the Love Canal in Niagara Falls, New York, is in my Congressional district. In August of 1978 you determined that this area was so dangerously contaminated by hazardous wastes that you declared the existence of an "emergency" under the Disaster Relief Act, thus underscoring the New York State Health Commissioner's finding that the Love Canal is a "great and imminent peril to the health of the general public residing at or near the site."

I applauded your willingness to set a precedent by declaring a man-made environmental tragedy a national emergency thus triggering a federal response to the problems at the Love Canal. However, since your declaration the federal government has not responded in the urgent, responsible, comprehensive and compassionate manner that the situation demands.

In fact, Mr. President, I believe I can state without reservation that each federal agency that has been called upon to help at the Love Canal—including OMB, HEW, HUD, EPA, FDAA, and your own White House staff—has taken the position that it will do as little as possible so as to minimize its role instead of doing as much as possible to help the innocent victims of an environmental disaster of immense proportions.

At no time have federal agencies, either collectively or individually, assumed a leadership role. At no time have federal agencies, individually or collectively, attempted to define the federal role in this or future environmental emergencies caused by the escape of toxic chemicals from abandoned hazardous waste disposal dumps.

Mr. President, the Love Canal is only the first of what may prove to be many exploding ticking time bombs. Yet the federal government has been remiss in its responsibility to the public to act in this case and formulate an approach for handling future Love Canals. It has learned little from this tragic experience because it has not tried to learn.

Mr. President, I have seen approximately 2,000 of my constituents—500 families—suffer needlessly over the last several years because the federal government has not responded adequately even after you declared an emergency.

I have exercised great restraint, and have tried to work within the system and with your appointed secretaries and administrators. However, I have reached the limits of my endurance. I see no prospect of this situation resolving itself without your direct intervention and forceful leadership. The Love Canal is no longer a matter which can be handled by Secretary Harris, Secretary Landrieu, Administrator Costle, Mr. McIntyre, Mr. Watson or Mr. Macey because each of these individuals has had his or her chance and has failed to respond effectively.

Mr. President, let me explain the specifics of the Love Canal situation and some of the ways in which the federal government has abrogated its responsibilities.

THE $6 MILLION CAP

Following the "emergency" declaration on August 7, 1978, Mr. Watson held a meeting in the White House on August 9 so that representatives of the various federal agencies involved, as well as State officials, could meet to discuss the appropriate role for each agency. The FDAA agreed to help by funding emergency construction work on the Love Canal. I, along with Senators Moynihan and Javits, helped secure Congressional approval of a special appropriation for EPA in the amount of $4 million to conduct a demonstration project at the Love Canal.

However, between the time that FDAA agreed to spend money at the Canal and the passage of the special appropriation, OMB decided, arbitrarily and capriciously, to limit the federal involvement to no more than $6 million. This cap on federal assistance was based on no relevant information about the costs which might be incurred to remedy the environmental hazards at the Love Canal. OMB will not state publicly that it put this arbitrary cap on federal spending, but it did! When the costs mounted at the site and New York State came to the federal government for more assistance, OMB said "no", asserting that the federal government had done its share. In fact, the federal government has not.

EPA'S "DEMONSTRATION PROJECT"

EPA was given $4 million by Congress to spend at the Love Canal in order to conduct a demonstration project. However, EPA was strapped from the beginning because it had to use a large proportion of its money to do construction work which should have been paid for by FDAA, thus freeing up the EPA money to do what Congress intended it to do: provide information on how to deal with cleaning up and containing leaching hazardous waste landfills.

However, EPA did not seize the opportunity it had to make the most of its demonstration project. EPA signed a cooperative agreement with New York State for the demonstration grant, gave its money to the State to spend, and then deferred almost completely to the State. EPA has not even attempted to monitor the project to see if the construction work has been a success, or to see if the place is, indeed, a healthier and safe place in which to live.

I have asked EPA time and time again to examine new information which has come to the public's attention supporting allegations that the construction work might need to be redesigned in various ways, and I have not received a reply. Now the construction work has ended and it is too late. The federal government may have spent $4 million ineffectively. I sincerely hope not.

In addition to EPA's abrogation to the State, it has been remiss in organizing itself so that it could centralize its efforts at the Love Canal. My office, a legislative office, has had to serve as a virtual traffic cop for the Agency, and indeed for all the federal executive branch agencies. It is so bad that one of my staff was called by a person in Water Enforcement at EPA to find out how EPA obtained its authority to spend the $4 million it was spending at the Love Canal. A very high-ranking EPA official did not even know the name of the person within EPA responsible for the Love Canal demonstration project.

HUD/EPA "COORDINATION"

The Cancer Assessment Group (CAG) under EPA's Assistant Administrator for Research and Development, formulated a report for HUD to advise HUD on what policy it should consider regarding FHA mortgage insurance in the Love Canal area. I had originally contacted HUD in February asking them to make a policy statement on this issue. Ten months have gone by and I have yet to receive a reply from that agency.

To make matters worse, I found out about the CAG report because a member of my staff happened to be at a meeting (to which she invited herself) which was being held at EPA, although it was under the auspices of HEW's task force to assess the impact of hazardous wastes on the public (a group which had also been formed at my request). My staff had to advise the Assistant Administrator of EPA, as well as its Congressional Liaison Office, of the existence of this report, its implications if released to the public in the form in which it had been drafted, and its irrelevance to the questions I had originally asked.

The CAG was about to forward the report to HUD with no cover letter, and without advising anyone of its existence, if I had not stepped in. Once the Legislative Liaison Office at EPA and the Assistant Administrator knew of its existence, it still took constant prodding from my office to have them issue a release to the public explaining the "real" meaning of the report, actions necessitated because the draft had already been sent to the President of the Love Canal Homeowners Association.

HEW'S RESPONSE TO A HEALTH EMERGENCY

The Department of Health, Education, and Welfare has proved itself to be no better organized than EPA or HUD to handle environmental emergencies of this kind. As with those agencies, bureaus and offices within HEW don't know what each other is doing, to say nothing of what other agencies are doing. Coordination seems to be absent from the vocabularies of the federal officials who have been asked to help with regard to the Love Canal.

For example, I asked one of the health bureaus of HEW—the Center for Disease Control—to provide physicians to help examine residents of the Love Canal area. Initially the response was that CDC would do this, but when it counted and the request came in, CDC reversed its position. And only when I inquired further did we learn that while CDC was unwilling to send experts for such a purpose, another bureau—the Health Services Administration—would do so. Why this information wasn't known and/or volunteered leaves me baffled.

Again and again in my dealings with HEW officials, up to and including those from an agency called the National Institute of Environmental Health Sciences, I've essentially been told that the responsibility belongs elsewhere. If the Love Canal doesn't fall into the purview of the National Institute of Environmental Health Sciences, what in the world does?

The same thing happened when I requested neutral federal experts to review the conflicting findings of the New York State Department of Health and those of a respected, local scientist regarding health conditions of the area residents. If I were a federal health official, I know I'd jump at the opportunity to study the Love Canal, clearly a benchmark in environmental health. But federal scientists and federal health agencies apparently don't care.

One result of the initial HEW/EPA study, which I had to instigate, was the formation of another task force. Yet it is studying theoretical problems, not reality. EPA's own estimate—that there are perhaps 2,000 dumps across the country which may present imminent and substantial health problems—should alone have been enough to spur that agency, and any other federal agencies which ought to have been involved, into action. Why did they wait for a Congressman to demand study and action? And why, I wonder, has EPA not assigned top-level personnel to work as part of the task force along with scientists and technicians?

This seemingly logical step, too, has been overlooked.

OMB AND THE WHITE HOUSE

Last, but certainly not least, is the role which OMB and the White House have played in the Love Canal tragedy. As I noted earlier, OMB arbitrarily and capriciously put a $6 million cap on the federal participation at the Love Canal. This arbitrary cap is absurdity in the specific.

Just as absurd has been OMB's and the White House's role in developing legislation to deal with emergencies of this kind and prevent them in the future. Because of the Love Canal, along with EPA's findings that there were thousands of other potential "Love Canals" around the country, I had been urging your Administration to come up with a comprehensive program to deal with these issues. After much talk, but little action, I prepared my own bill, based on a "Superfund" concept, to provide a meaningful federal role in dealing with these emergencies and assisting the innocent victims of exposure to hazardous wastes.

A month later you announced that the Administration had its own "Superfund" proposal, and you sent a bill to Congress for consideration. I was gratified to hear you say at that time that this is a high priority for the Administration, yet I noted the irony of the situation where I and a number of other federal legislators had developed major legislative initiatives before your "experts" did.

Irony turned to despair, however, when I read the Administration bill as initially drafted and learned that it had two incredible omissions: First, it would have provided no funds to assist the State of New York with regard to the tens of millions of dollars it is spending to clean up the Love Canal, the tragedy which had spurred the development of the bill itself. Secondly, it contained no provision to assist the individuals and families whose health and welfare are threatened by environmental emergencies such as these.

My cajolery helped convinced EPA and OMB that a revision had to be made in the bill to include assistance for states that have met their responsibilities and tried to deal with these situations, rather than letting them fester, and I'm grateful that the Administration has agreed to that change in its proposal. However, I have yet to succeed in persuading your people that our government, of the people, ought also to care about the people and provide assistance to innocent victims of tragedies of this kind.

Mr. President, I have testified on the Hill no less than a dozen times over the last year on the need for new laws and regulations which would authorize the federal government to clean up, contain, and monitor abandoned sites as well as compensate victims for personal injury and property damage. I have also testified on the need for the Administration to implement the laws that Congress has already passed.

The Administration has been lax and indeed negligent in its efforts to promulgate regulations for the Resource Conservation and Recovery Act which Congress passed in 1976; it has been remiss in promulgating regulations for the hazardous discharge subsection of Section 311 of the Clean Water Act; it has been derelict in its duty to propose a National Contingency Plan for the implementation of the regulations for the hazardous discharge provision of Section 311 (something that is now six years overdue); and it has been delinquent in its duty to request funds for Section 504 of the Clean Water Act so that the federal government can exercise its present authority, limited as that is, to act in times of environmental emergencies. Mr. President, this is not a record of which one can be proud.

I have found over the last two years that I have had to attempt to orchestrate the federal bureaucracy single-handedly if I want any federal governmental action to help the people of the Love Canal.

Mr. President, I am a legislator, not a bureaucrat. I am a lawmaker, not a traffic cop. I have hired a staff to help me in my duties, not to carry out the entire Administration's. I believe the time has come for you, personally, to review the Love Canal situation and the federal government's role in environmental disasters of this nature, and to develop a responsible, comprehensive plan for the federal government which delineates the federal government's role as a whole and the role of each component agency. This matter needs your immediate, personal attention. It needs your immediate, forceful leadership. I stand ready to help should you call on me.

Sincerely,

John J. LaFalce,
Member of Congress. ●

IN MEMORY OF FULTON JOHN SHEEN

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. CORCORAN, Mr. Speaker, it was with fond memories of a time when the Government was not perceived as the source of all solutions that I learned of the passing of the Most Reverend Archbishop Fulton Sheen. For nearly 30 years, His Excellency communicated to the people of our country the interrelationship of society and religion with what can only be termed oratorical brilliance.

The Archbishop was born on May 8, 1895, in El Paso, Ill., which is located in my congressional district. Today, El Paso is still a place of neighborliness and respect for the good things that have so bountifully been granted to the members of that community. While in his youth, Archbishop Sheen moved with his family to Peoria, which is ably represented in the House of Representatives by my distinguished colleague, Bob Michel. After attending a secondary school in Peoria conducted by the Christian Brothers, he pursued his studies at St. Viator's College in Kankakee where he was graduated with a bachelor of arts degree.

The obituary notice which appeared in the Post contained an interesting passage:

> Called home in 1926, he was assigned for a year to a poor parish in his home town. "For all intents and purposes," he recalled, "that was to be my life and I was happy about it."
>
> In less than a year he was assigned to teach philosophy at Catholic University. His bishop told him that the brief posting to Peoria had been a test of his humility and obedience.
>
> "It was a great lesson to me," Bishop Sheen said.

Archbishop Fulton Sheen remembered that lesson and shared it with the American people. His ecumenical advice has meant much to those who had the fortune to hear it spoken by a man who had "no earlier recollections than a desire to be a priest." ●

LETTER FROM DR. DANA RAPHAEL

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. DELLUMS. Mr. Speaker, the following letter was sent to me by Dr. Dana Raphael of the Human Lactation Center in reply to my comments which appeared in the Congressional Record of July 25, 1979. I welcome her comments and recognize her sincere desire to help solve a tragic problem. Her comments follow:

The Human Lactation Center, Ltd.,
Westport, Conn., September 7, 1979.

Rep. Ronald Dellums,
Rayburn Office Building,
Washington, D.C.

Dear Ronald Dellums: My answers follow to the charges you read into the Congressional Record of July 25, 1979.

Ill-advised is the word for your decision to cite two sentences from a letter sent only to Members of the Board of The Human Lactation Center. You have used my words out-of-context to fashion a fantasy world of conflict-of-interest situations.

You attempt, by subtle nuance, to cast doubt on my credibility because I advised an infant food company on the scientific aspects of a film. Yes, I have served as consultant anthropologist with full knowledge of my board, whenever there was an opportunity to work in behalf of women in poverty.

I helped Nestle take a somewhat self-serving film and turn it into a valid presentation of what mothers are experiencing in three different areas—a Gambian village, a Kenyan urban environment, and an East Indian community in Glasgow, Scotland. Several pediatricians and nutritionists from the United Kingdom and sectors of the developing world also were among the consultants. There was no "cloaking of our advocacy efforts" as you claim. Nestle identifies all of us quite openly at the end of the film.

Contrary to your suspicions, neither The Center nor I personally took a fee for my counsel, only travel expenses. It has been a policy of The Center not to take funds from the infant formula companies.

You imply that we deliberately published the Margaret Mead Memorial Issue of The Lactation Review to serve the infant formula companies. Not so. The staggering number of inquiries regarding the controversy had prompted us to contract with Mr. Edson to write an impartial history of this issue. He did so well, but neither group is satisfied. Each claims he favored the other.

My hope was that the infant food companies also would see this history of the breast/bottle controversy as a balanced presentation of the issues and distribute it widely. I am anxious to have all our publications read because they contain information about the plight of women in developing countries that is not known nor available elsewhere. Some companies did buy several thousand copies of this issue and, I am delighted to say, are distributing them to people who have expressed concern about the fate of malnourished children in developing countries. But, not all, as you would have the Congress believe. In fact, Nestle has no interest in the Margaret Mead Memorial Issue.

As for the two nutrition and health experts whom you claim resigned from The Center because of our advocacy role. Let me enlighten you. Dick and Pat Jelliffe, from your home state, resigned because we could not work out the responsibilities of the West/East Coast units of The Center, and we disagreed on the role of the formula companies in solving the problems of infant malnutrition. I believe the companies are as much a part of the solution as the problems. They do not. I exchange views with these companies and work with them on a no-strings basis whenever my own expertise can be usful.

We make no claims as to have studied the long term effects of the use of infant formula. In fact, no group has studied the phenomenon completely to date. Even now, bids are out to begin research in this area (AID #2003). We have our hunches about what happens, having had the extraordinary opportunity to work with mothers in over a dozen cultures. But, contrary to those who take advocacy positions, we must await thorough research and careful data analysis before we issue any public statements which might affect United States food policies.

I welcome your so-called "detailed critique" of The Center's various publications. I cannot believe, since the judges you have chosen, including the Jelliffes, have already admitted their biases that it could be of much value. Let me save you some time and public money. You will find, Congressman, that all our work and my public statements pursue one clear path. Our policy remains akin to what Margaret Mead cautioned when we first discussed the ramifications of working with Nestle on a film. She said, "Make sure this is the clearest representation of women's lot that it can possibly be."

I have only one axe to grind—babies can't wait while we, well-fed professionals, advocates and political figures, debate who is right and who said what to whom in the halls of Congress or at "by invitation only" conclaves.

Sure we all believe that breastfeeding is best. I have spent 25 years of my life trying to convince whomever would listen that this is so. However, we are discussing the essential nature of the additional food the infants must have after three months. Tragically, each human baby cannot possibly have milk, no less formula. It is up to us to stop quarreling and find a substitute that can keep them healthy. Food first, please, no matter what the delivery system—breast, cups, bottles or hands.

You say you are open to further discussion of the issues. I would be happy to meet with you when you return to Washington.

I request that you read this reply into the Congressional Record. If you feel it is inappropriate for you to do so, please advise me. I will be glad to ask another one of your colleagues to do so.

Yours truly,

DANA RAPHAEL, PH. D.,
Director.●

CONYERS BILL ADDRESSES WORKWEEK ISSUES

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. GRAY. Mr. Speaker, just recently the Labor Standards Subcommittee of the House Committee on Education and Labor completed hearings on legislation which would combat unemployment by shortening the traditional workweek and curbing excessive overtime work.

The focus of these hearings was the Fair Labor Standards Amendments of 1979, H.R. 1748, introduced by Mr. CONYERS, myself, and 13 of our colleagues.

This legislation would raise the overtime rate of pay, from time-and-a-half to double-time. Also, it would require the consent of employees in the scheduling of overtime, and would reduce the standard workweek from 40 hours to a new level of 35 hours, phased in over the course of 4 years.

I commend to the attention of our colleagues the testimony of my friend, Mr. CONYERS, at the recent hearings. Mr. Speaker, his testimony explains the purposes of this legislation, the issues which have given rise to the need for this bill, and the relationship between this bill and the larger question of how our economy can move toward the goal of full employment, as mandated by the Full Employment and Balanced Growth Act of 1978.

Congressman CONYERS' testimony follows:

TESTIMONY OF REPRESENTATIVE JOHN CONYERS BEFORE THE SUBCOMMITTEE ON LABOR STANDARDS

Mr. Chairman and Members of the House Labor Standards Subcommittee, as principal sponsor of legislation to shorten working hours and abolish compulsory overtime, I am honored to come before this Committee and be identified with a great historical movement of American labor—the struggle of working men and women to obtain a fair share of the fruits of their labor and to create a full employment economy in the nation.

A century and a half ago, American workers were on the job from "sunup to sundown." The demand for shorter hours was at the center of all major labor events in the first half of the 19th century—the first industrial strike, the development of labor organizations, the participation of women in the labor movement. By 1860 industrial workers won the 10-hour day, yet the movement to shorten hours continued in full force as soldiers returned from the Civil War unable to find jobs. Swings in the business cycle, in particular the economic depression in the 1870s and, again, in the 1890s, rekindled the demand for shorter hours as the way to combat unemployment. This gave rise to one of the central principles of American labor—the need to spread work around so that labor would not be divided between those fortunate to find work and others, who through no choice of their own, were condemned to unemployment. Samuel Gompers, the founder of the American Federation of Labor, some 90 years ago captured the essence of the shorter workweek movement when he declared: "So long as there is one man who seeks employment and cannot find it, the hours of labor are too long."

During the Great Depression one of the principal means to keep unemployment in check was the passage of the Fair Labor Standards Act in 1938, which cut the workweek from 48 to 40 hours and established a premium rate for overtime work in order to discourage excessive overtime and encourage new hirings. American labor's advocacy of shorter hours always has been tied to the specter of massive unemployment and its efforts to build a full employment economy.

The hearings before your Committee represent the first major Congressional inquiry into overtime and worktime issues in more than 15 years. Much has changed in this period of time. Fringe benefits have risen considerably as a proportion of workers' earnings so that today it costs employers less to pay their existing employees overtime, despite the time-and-a-half, than it does to hire new workers.

The overtime provision of the 1938 law is simply not working as it was intended—namely, to encourage new hirings. Industrial workers' productivity doubles roughly every few decades, and in the last 15 years has increased on the average 3% annually—a very respectable amount—when we take out the 3 recession years of 1969–70 and 1974 (years when the whole economy declined through no fault of production workers). During this period of time the number of overtime hours worked in manufacturing continued to increase, despite the fact that aggregate national unemployment rates, particularly the jobless rates of black Americans, young people, and of minority communities in central cities, jumped tremendously. Fifteen years ago, a 5 or 6% jobless rate was considered a national crisis; today, that same rate is widely regarded as normal, as the best we can do to lower unemployment.

Also during this period of time, since the last significant Congressional inquiry into worktime and overtime, technology has continued to throw out of work hundreds of thousands of American workers and the rate of industrial plant closings has accelerated. Technology creates unemployment when it is not balanced with the need for full employment. As examples, 30 years ago, several thousand telephone operators handled 1 million long-distance calls; today, ony a few dozen operators are needed. 30 years ago, a single auto worker produced the equivalent of 8.4 cars per year; today, he or she produces 17. 30 years ago, roughly 13 million manufacturing production workers produced one-third of what the same number of workers produce today. In other words, about 4 million workers today are creating as much productive wealth as 13 million created in 1948.

Shorter hours—a shorter workweek—is a necessary and desirable response to the tremendous erosion of industrial employment that has taken place over this period of time. In addition, the Full Employment and Balanced Growth Act of 1978 mandates the reduction in the national unemployment rate of persons 20 years of age or older to 3% by 1983, a mere 4 years away. There is little evidence that we can reach these mandated goals simply by relying on newly generated jobs in the private or public sector. These hearings will examine the dominant approach to curbing unemployment historically—the reduction in working hours and the curbing of excessive overtime, particularly compulsory overtime, as the means to spread around employment.

The severe decline in the industrial workforce, the chronic high levels of unemployment, the excessive use by employers of relatively uncostly overtime at the expense of the unemployed are some of the reasons that I introduced the Fair Labor Standards Amendments of 1979 (H.R. 1784) in the 95th and 96th Congress. These amendments would raise the statutory premium on overtime work from time-and-a-half to double-time; require employers to obtain their employee's consent in the scheduling of overtime; and reduce by stages over a 4-year period the standard workweek from 40 to 35 hours. This legislation keeps in force for their duration existing collective bargaining agreements, and it provides flexibility during periods of national emergency.

The purpose of H.R. 1784 is to stop the erosion of industrial employment in the nation and open up new jobs that will be created—it is estimated some 8 million new jobs—when we curb overtime and shorten the workweek to 35 hours. It does not propose anything that is revolutionary or even novel. We reduced the workweek from 60 hours to 48 hours to 40 hours over the last one hundred years, without having to reduce wages overall, and we found that business and industry benefitted. Productivity of workers increased. These gains made it possible to maintain income standards.

Numerous industries already have adopted a reduced workweek. Garment workers have worked a 35-hour week for many years. Typographical workers, electrical workers, and telephone operators already are working a reduced workweek. In 1974 telephone operators went on a 37½ hour week (35 hours in some States like New York). They did this without losing wages, and the telephone industry has discovered that its employees are working more productively at no added cost as a result. It is estimated that American industry as a whole, on an annual basis, spends between $20-30 billion on absenteeism and job-related stress, including increased medical costs. The experience learned from those industries that have moved to a reduced workweek is that on a 35- or 37½-hour week, worker morale and productivity is higher, management is tighter, and the whole work and productive process is more efficient than it was before.

Opponents of a shorter work week assert that reduced hours of work would contribute to inflation. There is no evidence, historically, to verify this charge. Nor is there any evidence that workers' wages are a cause of inflation. Actually, manufacturing wages, in real rather than inflated dollar terms, have decreased in the past decade and workers' purchasing power has diminished. The real sources of inflation—complex as they are—lie in other areas: in the incredible boost in OPEC oil prices which led to the rise in domestic prices; in the incredible increase in interest rates, the result of Federal Reserve Board action; in administered pricing in oligopolistic industries, which the real wages of working people have not kept up with.

Opponents of a shorter work week, who also, incidentally, are opponents of a full employment economy, charge that productivity would decline if working hours were reduced. History shows, however, that, just the opposite is true. Furthermore, industrial productivity in the United States has grown each year, not declined. It continues to grow in those industries that already have adopted a reduced workweek.

Productivity would increase considerably, furthermore, if our society ever finds the means to create a full employment economy. The 7 to 10 million Americans today who are unemployed—the figure depending on whether or not "discouraged workers" and workers forced to work part-time who want to work fulltime are included—are truly unproductive, through no fault of their own, and the tremendous social costs of unemployment and the unproductivity of involuntarily unemployed workers are the real culprits behind whatever productivity probems exist in our society. American taxpayers are paying for unemployment and underemployment, and the under-utilization of our human and material resources. We would all be better off were we to find jobs for all persons who are able and willing to work but who cannot find it. We would all be better off were work spread around the greatest number of workers.

There is another reason that recommends reduced working hours as a means to combat unemployment. Recent participation of women, the increasing number of multiple-earner households, working husbands and wives, and the reduced size of families—point to the shorter hour and shorter workweek as a sensible and desirable method for combatting unemployment, maintaining existing industrial employment, and creating new sources of employment.

The Fair Labor Standards Amendments of 1979 (H.R. 1784) represents a solid method for moving toward a full employment economy, as mandated by the Full Employment and Balanced Growth Act. They make a great deal of sense from the point of view of trends in industrial production and the changes taking place in the workforce. For this reason, H.R. 1784 enjoys the support of the AFL-CIO, the U.A.W., 20 other national and international unions, and more than 100 labor organizations across the nation. Similar legislation has been introduced in several States. A major national grass-roots movement for a shorter workweek—spearheaded by the All-Unions Committee to Shorten the Workweek—in two years' time has generated tremendous support both inside and outside the labor movement.

Mr. Chairman, the Labor Standards Subcommittee today is tackling work issues that have been neglected for too many years. These hearings accur at a time when conventional economic policies clearly are not working, and new ideas and fresh approaches are needed to solve the nation's economic problems. The provisions of H.R. 1784 hold the promise of a new policy to combat unemployment. The hearings this week can be a significant breakthrough in implementing at last a full employment economy.●

REPEAL OF ESTATE TAX CARRYOVER BASIS

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. GRASSLEY. Mr. Speaker, we found out in the last 3 years that the carryover basis is not only detrimental to the maintenance of family farms and businesses, but that it is impossible to administer.

Throughout my study of this matter I have had the able assistance of attorneys and tax planners located in the State of Iowa. Arley Wilson of Marshalltown performed yeoman's work educating me and other Members of Congress as to the impact of carryover basis. The Iowa Bar Association has also been of invaluable assistance. I would like to share with my colleagues a resolution which the Iowa State Bar Association adopted on December 7, 1979:

RESOLUTION

Whereas, we understand that the Treasury Department and Internal Revenue Service are going to attempt to substitute a bill called the "Fisher Bill," H.R. 4694, instead of repealing carryover basis, and

Whereas, because the Fisher Bill, in fact, does not in any way solve the basic problems of carryover basis and, in fact, increases them, and

Whereas, to illustrate, Congressman Fisher is quoted (CONGRESSIONAL RECORD, November 19, 1979, p. 33084) as saying "The bill is a reasonable, workable proposal" and provides "simple administrable rules", and

Whereas, the American Bankers Association's excellent study of the Fisher Bill (CONGRESSIONAL RECORD, November 19, 1979, p. 33084) states:

"To assert that the Bill is either simple or administrable is a gross distortion of the true facts. One need only to read and note the length of proposed section 1023 in order to appreciate its complexity. We also disagree with the suggestion made by the Congressman that carryover basis in the form contained in the Bill will promote 'tax equity and justice'. A system that will substantially increase the cost of administering estates, that will place a higher relative burden on smaller estates than on larger estates and that is riddled with exceptions and exclusions, is not entitled to make this claim.", and

Whereas, The Iowa State Bar Association, its members, and a host of other professional groups have thoroughly studied the carryover basis problem. (CONGRESSIONAL RECORD, November 19, 1979, p. 33080). All of these professional groups have concluded that carryover basis is unworkable, and

Whereas, Senator Byrd has stated the facts as well as they can be stated (CONGRESSIONAL RECORD, November 19, 1979, p. 33080) as follows:

"Mr. President, the reason that it is important to repeal the carryover basis is that it is a totally unworkable law. It is totally unworkable. Virtually every individual who has testified on the subject so states. * * *

I have just read the number of organizations which are strongly opposed to it and feel it must be repealed. That is the only sensible thing to do, Mr. President. The only sensible thing to do is to repeal it, because it does not work, it cannot work. It cannot be complied with and it cannot be administered.",

and

Whereas, the Fisher Bill would not cure any of the basic problems in carryover basis and, in fact, in many instances would make them worse.

Now, therefore, we urge our Iowa Senators and Congressmen to oppose the passage of any legislation such as the Fisher Bill and we also urge that they use their best efforts to persuade their colleagues that the only answer to carryover basis or any refinement thereof is to repeal it.●

SENIOR CITIZENS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. FLORIO. Mr. Speaker, Government recognition of the problems facing older citizens, and their capacity to continue to serve their communities, was highlighted by congressional passage of the Older Americans Act in 1965.

That act established a nationwide network of aging offices, concerned with meeting the economic and other needs of senior citizens. Further amendments made to the 1965 act have greatly expanded the responsibilities of local aging offices. Today these offices serve as a one-stop agency where older citizens can receive a daily meal; obtain help on a legal, transportation, medical or home-repair problem; or find a community-service job where their career-long talents can be put to good use.

I am particularly pleased over the remarkable strides the Camden County Office on Aging has made during the last decade in meeting the needs of southern New Jersey senior citizens. Directed by Edward L. Donohue, the office serves a major portion of elderly citizens in my congressional district. I have worked closely with Mr. Donohue and his staff, and I am consistently impressed over the professionalism and efficiency the office has achieved in meeting the concerns of Camden County senior citizens.

I would like to direct my colleague's attention to the summary provided below of the 10-year service growth of the Camden County Office on Aging. Without reservation, I feel that the achievements of the office represent what a "model" area agency on aging should emulate. I look forward to continue to work with

Mr. Donohue and his staff in further improving the lives of Camden County's elderly population.

The summary follows:

A DECADE OF CHANGE, GROWTH AND ACHIEVEMENT

(A Synoptic Review of the Camden County Office on Aging 1970–1980)

As we enter a new decade on January 1, 1980, it is both practical and prudent to review the past, to study the present and to prepare for the future.

The Camden County Office on Aging has undergone more change and progress during the 1970's in serving the needs of the County's older citizens than probably any other department within Camden County's government.

In 1970, the Office on Aging had a budget well under $100,000, whereas today, ten (10) years later, our budget, including funding from all sources (federal, state and county) exceeds $2 million.

Our scope of services has increased incredibly during the 1970's. Ten years ago, the Office on Aging was primarily an Information & Referral Agency as well as an advocate for senior citizens. Today, in addition to I & R and advocacy, services and programs emanating from the Office as an Area Agency on Aging envelops practically every essential facet of an older person's life including: congregate nutrition sites and home delivered meals; legal aid; coordinated transportation (18 vehicles) for medical and other emergencies; housing assistance; in-home services such as health/homemaker aides; minor home repairs/renovations and chores; a nursing home ombudsman program for long term/alternate care with specialized case management; multipurpose senior centers and much, much more!

Operating on a sub-grantee basis, the Camden County Office on Aging is responsible for more than 200 paid workers supplemented by over 100 trained and active volunteers to deliver all of the various services mentioned previously.

All of this has been accomplished with an additional five (5) county employees over a span of ten years (January 1970—4 county employees; January 1980—9 county employees).

However, with all of these increased services and programs requiring extensive planning and coordination as well as exhaustive monitoring and evaluation, the salary structure of the Executive Director and his professional staff has not nearly kept pace with other County departments. Without designating specific departments for comparison, a rather perfunctory review would reveal this significant and obvious inequity, bearing in mind the importance of serving our older citizens in a professional and sincere manner.

The time has long passed when the realities surrounding the efficient and effective operation of a county office on aging (NOW an area agency on aging) must be faced and resolved. Our new decade of the 1980's hovers on the horizon, and the continued enhancement of the quality of life for Camden County's older citizen lies in our hands.

Let's hope and pray that their future years are bright and happy because those in positions of authority Care! ●

A GREAT ENTERTAINER AND AN EQUALLY GREAT HUMANITARIAN—FRANK SINATRA

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. VANDER JAGT. Mr. Speaker, in recent days, media throughout the country has spotlighted Frank Sinatra's 40th year in show business. It was highlighted by a dinner and show at Caesar's Palace in Las Vegas last week with the great and near great not only of screen, stage and television, but from all walks of life, paying homage.

It was a tremendously warm outpouring to a man who for over 40 years has enjoyed top billing in achieving a magical and unique entertaining hold on our country. Fortunately, the rest of America will have a glimpse of this wondrous evening as NBC has scheduled it for a 2-hour television special on January 3.

But, while millions of Americans know and recognize him as perhaps the No. 1 entertainer in the world, little is really known of his wonderful humanitarian contributions. I am pleased that a front-page editorial from the Las Vegas Sun was recently sent to me so that I had the opportunity to read of this man's great generosity and love of people. Briefly, the editorial mentioned concerts he has given to build homes for orphans in Japan and Hong Kong and that he has endowed children's homes in several countries.

It was said that Nevada owes much to Frank Sinatra. He put Las Vegas on the entertainment map. It is probable, as more and more Americans learn of his private, less publicized work for his fellowman, that our country owes him even more.

The editorial from the December 12, 1979, edition of the Las Vegas Sun follows:

[From the Las Vegas Sun, Dec. 12, 1979]

DOUBLE MAGIC: SINATRA AND LAS VEGAS

Front page editorials are usually reserved for public matters of great significance, or the memoralization of momentous historic events.

Entertainers' contributions normally have exposure in the entertainment sections of a newspaper, as notable sports figures are found in the sports pages.

But when an entertainer, a singer, has impacted the world social order and an entire city in particular, a front page expression of gratitude would not be overstated.

Frank Sinatra will be honored with a party commemorating his 40th year in show business. The event will take place at Caesars Palace and it is also of significance that it falls on his birthday.

Why does this man merit front page editorial space in a Las Vegas newspaper?

It is the magic of the man.

It is quite true that the public's reaction to many entertainers is a will-o-the-wisp emotion—a love affair that fizzles after the first glow subsides.

Not so with the 40 years of affection and admiration that has been showered on Frank Sinatra by adoring fans.

The man with the golden voice and magnetic personality has survived all the mood changes of a fickle public. No matter what kind of music became the fad, his magic always worked with audiences all over the world. He is the master singer and when he sings the world beats a path to his door.

In 1971, when Sinatra decided to pack it all in and give up his entertainment career, he had visions of a semi-retirement wherein he could relax and enjoy life without the continual demands of show business.

It wasn't long before he realized this was not the life for him. The lure of the spotlights—the rapport with audiences who loved him—the sharing of his talent for worthy causes—all conspired to bring him back to the place where he belongs.

And tonight, when he is honored on his 40th year in show business, we can all be thankful that his "retirement" was only an hiatus.

Few entertainers in show business can boast the individual honors and adulation accorded Frank Sinatra. His many years in the limelight have not dimmed the brilliance of his individual star.

That, after 40 years, he is still considered the number one, entertainer in the world is a tribute to his talent and charisma.

In Las Vegas he is a legend. He almost single-handedly helped put our city on the international map and every Sinatra appearance in Las Vegas heralds a huge influx of media attention and visitors. He is synonymous with Las Vegas, and since it was his decision as to where tonight's event should take place, he does us honor to have chosen Las Vegas and Caesars Palace.

Los Angeles wanted to host the affair as did New York City. Had Sinatra decided on either locale there could have been no arguments from any quarters. Certainly these are glamorous, populous sites with immediate access to international press. Sinatra's choice of Las Vegas was made because he has repeatedly triumphed here as a performer. His return to show business took place at Caesars Palace. He likes Las Vegas, and the city and all its inhabitants return that affection a thousandfold.

An honorary doctorate at the University of Nevada, Las Vegas is evidence of the esteem in which he is held by our community and state.

His name is magic on a marquee and his appearance at any charitable event is assurance of success.

Tonight we will be honoring two Sinatras—the truly great entertainer and an equally great humanitarian.

Sinatra's dedication to humanity does not end in our country. Whether it's Nevada, Egypt, Israel or the Far East—wherever you go, you'll most likely see a project that is there because of Sinatra's generosity and deep love of people, especially children.

He has given concerts to build homes for orphans in Japan and Hong Kong and has endowed children's homes in several countries. In almost every country you visit, he has made contributions to orphans, the poor, the less fortunate of our society; and has given financial support to educational institutions round the world.

Frank Sinatra was born with a voice that has thrilled the world, but behind that voice is a man who recognizes that he has been doubly blessed and shares his good fortune with those who are in trouble and in need.

He is a dedicated champion of the underdog, a spokesman for the underprivileged of our society.

He has compassion for his fellows because he has been up on top and back down again, only to persevere until he again reached the top. Few entertainers have taken more blows or achieved greater success; and none has equalled the joy and delight he has brought into the lives of all who have heard him.

Nevada owes much to Frank Sinatra and the Sun joins the people of Las Vegas in letting him know what is in our hearts.

May he continue doing all these glorious things his way, because his way is our way.●

EUGENE LELAND MEMORIAL HOSPITAL

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mrs. SPELLMAN. Mr. Speaker, a few days ago, it was my happy duty to be present at the dedication of an $8 million addition to Eugene Leland Memorial

Hospital in Riverdale, Md. The first full-service hospital constructed in Prince Georges County, Leland remains today one of the key medical facilities in my congressional district.

In an effort to enlighten my colleagues on the subject of this exemplary institution, I would like to share with them my remarks at the dedication ceremony, held Sunday, December 9, 1979.

The remarks follow:

My father taught us that "work is love made visible." If ever there was an institution which proves his point, it is this one. The number of people Leland has helped, whose lives it has touched, since its doors opened some four decades ago is incalculable—young children, heads of families, mothers, fathers, brothers, sisters, cousins, aunts and uncles. Leland touches them all everytime a seriously ill patient enters its doors.

And now, with this new wing, with more beds, with better facilities, there will be even more patients—more acts of mercy, of caring—more "love made visible" through Leland Hospital and its work.

How did it all begin? It began with two special people, two brothers in medicine as well as in life, Drs. Wendell and Lawrence Malin. Without their dedication and love, there would be no Leland Memorial Hospital. Theirs is an inspiring story, a story of vision and commitment, a story well worth recalling as we mark the latest expansion of this facility.

It begins in the mid-1930s, in the depths of the Depression, with a dream. In retrospect, it seems a far-seeing vision—a vision of a full-fledged, self-supporting hospital in this area.

It was a revolutionary idea at that time. There were no hospitals at all in Prince Georges County in those days. But there are no rules of architecture for castles in the clouds, so it didn't matter that what the Malin brothers were thinking of was unprecedented.

So often, of course, such dreams remain just that—dreams—dreams which are never realized. But not so with Wendell and Lawrence Malin. They believed, as I do, that things don't turn up in this world until somebody turns them up. So when they saw the need for a hospital here, they went to work.

The first tangible result of the Malin brothers' dream was the purchase in 1936 of a vacant lot one block west of Highway 1.

Up to that point, Wendell Malin had been practicing medicine out of his home. He must have had a good practice. His home was bursting at the seams. So the lot was purchased for construction of a new home, large enough to provide care for his patients. And it wasn't long before the first building of what was to become Leland Memorial Hospital was up.

In 1938, Lawrence Malin joined his brother in the rapidly expanding practice on Queensbury Road. And four years later, in 1942, the brothers' dream was realized in full. On Labor Day that year, a 58-bed hospital—the first in Prince Georges County—officially opened its doors.

A couple of years after that, the Malin brothers were paid perhaps the ultimate compliment.

Another hospital, 100-bed Prince Georges General, had just been completed. And leading physicians in the county maintained it was the example of the Malin brothers, more than any other single factor, that led to construction of the county facility. So, where just a few short years earlier there had been no hospitals, now there were two—both in large part due to the commitment of Wendell and Lawrence Malin.

The Malins named their hospital after their great uncle, Eugene Leland. But this facility is as much a monument to the brothers' own spirit and dedication as it is to their relative's. It was their dream. It was their determination. It was their work which resulted in its construction. It was their continued involvement and interest which led to its steady expansion through the years.

I said before there are no rules of architecture for castles in the clouds. I know the Malin brothers would be the first to agree. A castle in the clouds—a dream come true. That's what Leland is. The Malin brothers' foresight made it all possible. And since, it has been their donation of time, their guiding hand which have caused it to flourish.

And you and I have reaped the benefits, many times over. Their work truly is "love made visible." It has made an indelible mark on this community in the form of Leland Memorial Hospital. And with this new addition we are dedicating today, that mark, that imprint, will continue to grow ever larger, ever greater.●

WHEN ARE THEY INFLUENCING?

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. LAFALCE. Mr. Speaker, events taking place in Iran during the past 6 weeks have become the center of worldwide attention.

The information we get about this situation must rely almost completely on journalists, for the Iranian Government, such as it is, has eschewed use of normal diplomatic channels and other means of communication within the world community. This puts a very heavy burden on the journalistic profession, and most particularly on television journalists on whom many Americans rely for much of their information about this crisis.

Making news judgments in these circumstances is extremely difficult, for as a recent analysis in Newsweek (December 24, 1979) pointed out, there is always the question of when a news story does more than just report on events and, instead, begins to influence them. This is an important question which should not be ignored, and I commend this article to my colleagues' attention.

The article follows:

TV: HELD HOSTAGE?

It was the break every American reporter in Iran had been waiting for—the first chance in more than five weeks to question one of the 50 hostages held in the U.S. Embassy in Teheran. But when NBC broadcast its eighteen-minute interview with Marine Cpl. William Gallegos last week, it set off a storm of controversy that had been brewing for the past month—ever since then networks agreed to submit questions in advance to obtain interviews with Ayatollah Ruhollah Khomeini.

During the crisis, the media—and primarily television—have been accused of everything from letting themselves be manipulated by the Iranians to subverting the diplomatic process—and even of being unpatriotic. Administration officials have voiced contradictory complaints. Press secretary Jody Powell criticized TV reporters for failing to ask Iranians "tough question," while State Department spokesman Hodding Carter III accused correspondents of pressing so hard that they forced Khomeini and others into more extreme positions. President Carter was so "disgusted" with the NBC interview, said an aide, that he turned it off halfway through—only to have it replayed later. Republican Rep. Robert E. Bauman of Maryland suggested that "NBC should be nominated for the Benedict Arnold Award for broadcast journalism." CBS and ABC also sniped at their rival's exclusive. "I'm surprised and disappointed that NBC did it," sniffed ABS News president Roone Arledge. "It was not television's proudest moment."

CONDITIONS

Such indictments were hardly supported either by NBC's journalistic conduct or the interview itself, in which the young marine gave creditable answers reflecting the tension in which the hostages live. The charge most widely—and unfairly—leveled at NBC was that it surrendered editorial control by agreeing to conditions imposed by the student captors. In fact, NBC, CBS and ABC had all rejected initial proposals by the militants for a pooled, prime-time interview with a hostage, with questions submitted in advance, plus the opportunity for students to present a statement of their own. Unlike the other two networks, NBC took advantage of the opening to make this counterproposal: a half-hour interview in prime time conducted by NBC correspondents Fred Francis and George Lewis—with no restrictions on questions, no questions submitted in advance and no editing by anyone but NBC. The students asked for a few minutes of air time in return. NBC agreed, but only on condition that it retain the power not to run the program at all.

The other two networks say they believe they would have relinquished editorial control by giving the militants unedited time to state their case and by acceding to demands that the program be carried in prime time. (The next morning, both CBS and ABC televised portions of a different interview with Gallegos—conducted solely by the Iranian students and so identified by the newscasts.) NBC's Pentagon correspondent Ford Rowan resigned over the interview, accusing the network of "irresponsible journalism." He was openly miffed because NBC's first telecast did not carry his own two-minute spot giving a response by State Department spokesman Tom Reston, although anchorman John Chancellor had summed up Reston's remarks.

For its part, NBC had clearly explained to viewers the conditions under which it got the interview. The network justified giving five minutes to the militants' spokeswoman, "Mary," on the ground that her speech showed the intensity of the students' feelings. It is hard to conceive that U.S. viewers were brainwashed by her statement—any more than they have been by the views of Foreign Minister Sadegh Ghotbzadeh as frequently (and properly) televised by all three networks.

NBC's decision to run the interview raised larger questions about television diplomacy. When are the media being manipulated? When are they influencing events they seek to cover? Although the media are keenly aware of these problems, the situation in Iran is unprecedented. Direct diplomatic channels are nonexistent and U.S. officials are understandably frustrated by the media's easy access to sources in Iran.

The lack of official communication has also created the temptation to enlist the press and TV as vehicles to present the cases of both sides. "We knew that some people would accuse us of spreading propaganda for the Iranians or of not being pro-American," said NBC's George Lewis. "But we are not here to be pro-American. We are here to tell people what is happening here."

Although the effectiveness of their message is diluted by its doctrinaire content, the militants have shown impressive TV savvy.

Like Ghotbzadeh himself, who has been in charge of Iranian TV, they know the size of the U.S. prime-time audience and are masters at staging media events. They have even installed three cameras and a microwave dish inside the embassy compound to facilitate transmission of film to the main TV station. The captors receive instant feedback by telephone from Iranians in the U.S. about the content of press coverage—and are not above punishing those they consider out of line. When the students misinterpreted a commentary by columnist Carl Rowan on WDVM, CBS's TV affiliate in Washington, D.C., they briefly denied CBS access to the satellite in Teheran.

FEAR

Some journalists argue that if NBC had rejected the militants' demand for air time, the Iranians might have backed down and granted an unconditional interview. But, said NBC News president William J. Small, "experts on hostages have pointed out that the worst thing you can do is have a total news blackout, because then the captors do more dramatic, more radical things to get attention." Walter Cronkite raised a related concern: the fear that terrorists might someday hold hostages against a demand of air time. "The alarm that is felt by some network news executives," said Cronkite, "is that NBC let the Iranian students get their foot into that door."

The debate over the media's role in Iran will continue long after the hostage crisis ends. "It's an old story," says Reuters State Department reporter Jeffrey Antevil. "The fact is, TV is there and we'd be subjected to a lot more criticism if we started deciding which events not to cover." When unusual circumstances arise and the media do make exceptions to established journalistic standards, most critics believe that news organizations can fulfill their responsibility by clearly explaining the conditions under which the story was obtained.●

DAN SMOOT TIRELESS PATRIOT

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. McDONALD. Mr. Speaker, one of the most noted Americans in our history is a gentleman from Big Sandy, Tex., by the name of Dan Smoot. He is a graduate of Southern Methodist University and has a master's degree in American history from Harvard University.

After honorably serving in the FBI for almost a decade, he changed his activities to devote full time in an effort to build an informed electorate. Over the past three decades he has authored numerous works on our constitutional republic and the threats to it; in addition he has been a noted television and radio program host as well as an active speaker for the American cause.

On November 17 of this year in Denver, Colo., Dan Smoot addressed the council dinner at the quarterly John Birch Society Council meeting. His words are giving warning to all Americans, and even more so, coming from such a noted authority on the U.S. Constitution.

For the benefit of my colleagues and all concerned Americans, his speech follows:

Almost every time Jimmy Carter does something else atrocious—which is daily—I hear someone say: Why can't we get the kind of government we deserve? Maybe we have it. That thought frightens me. If we have sunk so low that we deserve what we have in Washington, I do not believe America can be saved, or merits saving.

It would not be so bad—in fact, it might be fun—if we who believe in freedom could have it, and let all the rest go hang. But freedom is not divisible. In the end, it is freedom or slavery—for all.

There is no middle ground. Commentators who have daily access to a national television audience say otherwise. They rejoice at political party activity which shuns ideology, and they praise political moderates who swim in the mainstream of American politics and shun extreme positions which tend to overheat the voters and obscure their judgement.

There is a mainstream in American politics; and, for a generation, it has been sweeping our nation inexorably toward totalitarian socialism. In the past 25 years, there has been striking change in tone, appearance, and tempo; but direction has not altered. The direction and ultimate goal of our mainstream political leadership was the same in the 1950's under Eisenhower as it is now under Carter.

The mainstream is so strong and wide that it carries along, and makes use of, every political leader who, imagining that he is too shrewd to swim against it, tries to slow down or deflect it.

Remember the late Robert A. Taft, Sr. (known in his time as Mr. Conservative Republican)? Senator Taft wrote the Public Housing Act of 1949, knowing it was unconstitutional and economically unsound. He was making a tactical maneuver—sponsoring a little public housing law which the nation could live with, even though bad, to forestall liberals from enacting a law that would socialize the housing industry. Taft's Public Housing Act of 1949 has been the general statute of reference for the mass of socialistic legislation in the broad field of housing ever since.

Remember the political struggle over socialized medicine in the last years of the Eisenhower Administration. Leftist Democrats introduced legislation to do what Franklin Roosevelt had failed to do in the thirties: Add medicare to social security. This came to be known as the King-Anderson approach to medical care—after the names of two Democrat sponsors.

Mainstream Republican leadership countered with legislation written by two other Democrats who were called conservatives: Senator Robert Kerr and Congressman Wilbur Mills. Kerr-Mills medicine proposed a complicated mess of federal grants to states for tax-financed medical care, known as medicaid.

King-Anderson medicare or Kerr-Mills medicaid? This became a major issue between John Kennedy and Richard Nixon in 1960. Kennedy advocated the King-Anderson approach. Nixon called that socialism. He stood four-square for the Kerr-Mills approach, calling it the free-enterprise way. What did we get in the end? We got both: Medicare and medicaid.

How many times have you seen mainstream conservatives in Congress supporting the broad outlines of American foreign policy while complaining about its handling and its consequences? Did you ever hear one of them openly demand that we abandon, in toto, the foreign policy which every administration and every congressional majority has supported since 1940? No. They have tried to change implementation so that our military interventions and outpourings of wealth would help foreign governments that seemed friendly toward us, instead of destroying our friends and helping our enemies as our foreign policy has consistently done.

Such efforts were doomed to failure. If you will take our foreign policy at face value—not analyzing it in terms of what you know about the conspiracy, but just taking it at face value—the best that you can call it is a policy of evangelistic imperialism, as distinguished from conventional or rapacious imperialism. Our government has assumed the right and responsibility of aiding, uplifting, and defending any part or all of the foreign world, as, when, and where the administration in power deems proper.

No matter how administered, a policy of imperialism, whether evangelistic or rapacious, would be disastrous for our Republic.

Under the Constitution, our government has no legitimate mission to aid and defend the world. Its mission is to secure the blessings of liberty to ourselves and our posterity.

History seems to indicate that a Republic which adopts a policy of imperialism cannot remain a Republic. In the second century B.C., the last full century before the Roman Republic became the Roman Empire, Aemilius Paulus, Roman general, conquered Macedonia. From that one foreign conquest, he brought so vast a quantity of money into the public treasury that the people of Rome paid no taxes whatever for more than 125 years. Republican Rome had a strong currency so there was none of that hidden taxation which we now call inflation. For 125 years, Romans paid no taxes. In the end, however, the imperialism which brought such lavish benefactions to Rome damaged the Roman Republic, more fatally than it damaged the foreign nations that were pillaged. Imperialism requires autocratic control at the top. Trading their liberty for huge infusions of something for nothing seemed like a good bargain to the people of Rome. But the infusions so corrupted the people and their armies and their rulers that the Republic died; and its successor, the Empire, rotted away from the same cause. The Roman people got what they deserved.

We can readily understand how the Romans were corrupted. They were greedy.

So are we. The political appeals to our greed have not been as direct and honest as those made in ancient Rome and the payoff has certainly not been as real and dazzling in our case as in the case of Rome. But greed has played a major role in the decline of our Republic. Hundreds of unconstitutional multi-billion-dollar domestic programs that are corrupting the people and bankrupting the nation are the progeny of greed—greed for office, fame, riches, and power on the part of politicians who get elected on promises to give people something to be paid for by someone else. Greed motivated the people to sell their votes for those promises.

Appeals to greed account in large degree for public acceptance of our suicidal foreign policy, too. There was a heavy mixture of high-sounding but false idealism in the rationale advanced to win public acceptance; but most people tuned that out as routine political rhetoric, while listening to idiotic appeals to greed. For example, the cheapest way to defend our nation is to give economic and military aid to foreign nations, making them strong enough to help us in time of crisis; keeping their forces strong and in readiness will cost us far less than maintaining the huge armies we would need without the certainty of their assistance. Another example: America can no longer stand alone; without allies, we would collapse at the first assault; therefore, because we cannot stand up without help, we must run full tilt with scores of other nations on our back until they get strong enough to help us. Another example: many nations are too poor to buy our products; but if we will give them money to buy, then we can sell, and we will all be prosperous.

How was it possible to sell such nonsense to the people of a literate nation?

The policies of our government were set by a conspiracy operating to drag America into the quagmire of one-world socialism; and massive resources were marshalled to achieve public acceptance.

But with all that, I do not believe that a majority of Americans were ever sold on the post-World War II policies of our government. The public went along in groping confusion, because there was no real opposition to the fundamentals of those policies. Leaders of the mainstream conservative opposition supported the fundamentals and broad outlines of the domestic and foreign policies set by totalitarian liberals, but caviled about details.

There is no moderate or middle ground in the struggle to determine the fate of the American Republic. Every political practitioner must be somewhere in the mainstream—along with people like John Connally and Howard Baker, and people like Edward Kennedy and Andrew Young—or he must stand squarely against the mainstream current, determined to turn it around and head it in the opposite direction. We have only two choices: Restore the traditional American foreign policy of benign neutrality and reestablish a free-market economy under strictly limited constitutional government, or continue on the road to doom.

There is evidence that doom awaits us.

There is also evidence to the contrary. Something fine is still alive in the American spirit.

Despite half a century of saturation bombing with the propaganda of socialism, Americans will still respond to the old American ideal of liberty, with God's help, under severely limited constitutional government. The traditions of freedom are deeply rooted and strong; and the blessings of liberty are still green in the national memory of America. Otherwise, how can you account for the fact that, in the present Congress, we have a comforting number of real statesmen—men like Larry McDonald and 35 others, in House and Senate, who currently have 100 percent Americanist voting records? In the previous Congress, we had eighty 100 percenters, which was probably more absolutely-right men in Congress than we have had in any other Congress in this century.

Absolute-righters will provide the political leadership to save our country, if it is to be saved. When they fall much below absolutely-right, they are floundering around in the mainstream and, by their ineffectual presence, swelling its volume.

I pin my hope on the belief that our good men in Congress are not political sports who got there by accident. They are there because the ideal of being not partially right, but absolutely right on all major issues is becoming more and more pervasive. And for that, I attribute a lion's share of the credit to you—the tireless, dauntless, educated patriots of the John Birch Society. Standing stubbornly for what is absolutely right, you have been sowing seeds. There has already been good harvest. There will be more.

To sum it up: the nation will continue to move in the direction Jane Fonda wants, or it will swing around and go the way Bob Welch is pointing. I think Bob is gaining on her.●

CHARTING SILVER'S FUTURE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● **Mr. McDONALD.** Mr. Speaker, on Wednesday, the House considered the conference report on H.R. 595, and voted to delete the sale of silver from the measure. At that time some of the Members in favor of the sale of silver appeared to be unaware of what is actually taking place worldwide as regards silver. In hopes of remedying this gap in the knowledge of some of the Members, I am placing in the RECORD an article by Mr. H. J. Maidenberg of the New York Times on this issue. It appeared on December 10, 1979, and discusses the silver market as interpreted by Mr. Paul Sarnoff of Conticommodity of New York City, who is a distinguished commodities analyst.

The article follows:

CHARTING SILVER'S FUTURE

(By H. J. Maidenberg)

No commodity market analyst is ever at a loss to explain a market's behavior after the fact; rare is the one, however, who can predict a price trend for a year ahead with accuracy.

But Paul Sarnoff, New York director of research at Conticommodity Services Inc., correctly called the silver market a year ago. At that time, cash silver was selling at $5.50 an ounce, having wavered between $4.50 and $6 for several years.

Mr. Sarnoff declared at the time that silver would be $8 by mid-1979 and would undoubtedly go much higher. Also present at that interview was Norton Waltuch, Conticommodity's chief metals trader, who recently gained widespread notice in the trade as a leading silver bull. He said Mr. Sarnoff's forecast was far too conservative.

"Actually," Mr. Sarnoff recalled last Friday, "I agreed with Norton, but as I explained to the Northwest Mining Association meeting in Seattle yesterday, had either Norton or I said a year ago that silver would go to $16 or $20, our employers, our clients and families would have thought we had gone stark raving mad."

Last Friday, the most widely held silver futures contract on New York's Commodity Exchange, the near March delivery, closed at $19.37 an ounce, up 10 cents on the week and $1.23 below its record of $20.60 set earlier in the week. Each 1-cent move in silver futures represents $50 per contract of 5,000 ounces.

Having explained his caution a year ago, Mr. Sarnoff was asked to look into the silver market and say what he saw there in the year ahead. "I'll repeat what I told the mining people yesterday, but first I'd like to make some general comments," he replied.

"First and foremost, I am a fundamentalist. I follow basic supply-and-demand factors in any given market. A year ago it was clear that the recovery of silver from coinage, which had helped bridge the growing gap between supply and demand, was coming to an end. The supply of silver-content coins was near exhaustion."

Mr. Sarnoff then noted that despite supplies of recycled silver, the nation was still short about 100 million ounces a year and that this gap would widen. "We then calculated the soaring price of oil and other inflationary factors as well as silver's historic price linkage to gold, and we had our basic trend for silver in 1979," he said. "I concede that I didn't expect the degrees of emotional and speculative fervor that gripped the silver market last September and October."

Studying the silver situation recently, with an eye toward catching next year's price trend, Mr. Sarnoff first looked at the supply side.

"The nation will have another deficit in the silver supply-demand equation in 1980, as we have had every year since 1946," he went on. "The deficit next year will probably be another 100 million ounces. We are just as dependent on foreign silver as we are on foreign oil. Our national silver output remains at roughly 43 million ounces; usage will be steady at 160 million, and recycled metal will provide about 20 million."

The biggest silver exporters are Mexico, which produces about 56 million ounces a year; Peru, with 44 million, and Canada, with 43 million. But Conticommodity's New York research chief also discovered something far more important, he said. As he observed:

"The Soviet Union has quietly been importing large amounts of silver, and our research here and abroad strongly indicates they will be taking another 100 million ounces in 1980. Moscow buys its silver through Swiss banks, through which it sells its gold, platinum and other metals. The Soviets rarely, if ever, export silver."

Unlike the United States, the Soviet Union depends almost wholly on secondary recovery of silver found in mining baser metals. "They are not blessed with Idaho's silver valley," Mr. Sarnoff continued. "The people there also like to take pictures of their children," he noted. "Soviet usage of silver for photographic film is climbing.

"More important, Moscow is intensely interested in solar cells for the production of electricity," he went on. "The reflective materials in these solar cells are heavily silvered. And the Russians prefer using silver for missile batteries to using lithium chloride, and so forth."

He stressed that solar cells should not be confused with the more familiar solar-energy systems designed to heat homes and other buildings.

Given these situations, Mr. Sarnoff concluded:

"I sincerely believe that unless the recession gets out of control today's silver prices could well be the floor for 1980. If Soviet Union imports of silver continue at the 1979 rate, $25 to $30 would not be unreasonable. And if gold takes off after oil prices, then $30 would be very conservative a year from now. In fact, I think we'll see a 20-to-1 ratio between gold and silver late next year; it's that close now."

Last Friday, the spot December Comex gold contract closed at $426 an ounce, up $7.90 on the week. At a silver/gold price ratio of 20 to 1, silver should be selling at $21.30 an ounce. The spot Comex silver contract ended at $18.76 an ounce, off 6 cents on the week.●

IVEY BROTHERS

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● **Mr. DELLUMS.** Mr. Speaker, I would like to take this opportunity to praise the work of three men: partners in the development, implementation and, now, expansion of Ivey's Restaurant in the Eighth California Congressional District. Fred, James, and John Ivey opened Ivey's Restaurant on November 12, 1976, in the historic Jack London Square area of Oakland. Its popularity—a tribute to the dedication of these three men and the cuisine of their mother. Ms. Rosia Lee Ivey—has made it an enduring success.

I thank my colleagues for taking note of the achievement of these minority business persons. Men whose father, Fred Ivey, Sr., cultivated the soil of Arkansas and California and who themselves now bring food to the tables frequented by many hundreds. I congratulate them on entering into their fourth year in business and wish them every success for the New Year.●

CIVIL AERONAUTICS BOARD

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. RHODES. Mr. Speaker, early this month, my very good friend Richard J. O'Melia, who is a member of the Civil Aeronautics Board, was in Scottsdale, Ariz., to address a meeting of the Hickory Association, which is a cooperative of travel agents.

It was an excellent speech, describing the steps the CAB is taking to "vanish into the sunset," as my friend described it, in conformance with the Airline Deregulation Act of last year. I commend it to my colleagues and ask that it be placed in the RECORD:

ADDRESS OF MEMBER RICHARD J. O'MELIA AT HICKORY ASSOCIATION INAUGURATION BANQUET AND SALUTE TO INDUSTRY ASSOCIATES

Good Evening:

Thank you for asking me to join with you at your Inauguration Banquet here in beautiful Scottsdale. I will take just a few moments of your full program to tell you a little about what is going on of interest to travel agents at the activist Civil Aeronautics Board. I'm sure you are all well briefed because I regularly see the agency press and I must say that Travel Agent, Travel Weekly, Travel Trade and all the rest provide some of the very best coverage in the aviation industry.

It was from that press that I first heard of the travel agent movement toward cooperatives like this association. I have heard that the Hickory Association is among the most active and successful co-ops though perhaps not among the very first nor the biggest. In fact I have come out here to Arizona to find out more about this movement in our industry.

I am here today in a rather unique capacity. That is, as a Member of the most successful 41 year old agency in Washington ever to vanish into the sunset. As you know, the Airline Deregulation Act was signed into law last October 1978. As a result, our current functions will either terminate or be transferred to other agencies by December 31, 1985. That Act is a final 5-year plan for the CAB.

Within that time frame, we've been directed to make major changes in every area of our responsibilities. The new Act stresses competition and safety. It significantly changed the standards by which we make route awards. It reduced our control over fares. It broadened our jurisdiction over carrier agreements. It gave us a detailed mandate to assure essential air service to small communities. Our future and final success will be judged by how well we administer the gradual phaseout of our current responsibilities.

Unlike most legislation, the Deregulation Act is unified around the central theme of encouragement of competition through gradual loosening of past regulatory controls. Congress didn't hint around. Over and over, in both the text of the Act and in the accompanying conference report, it directed us to place maximum reliance on competitive forces, to maintain a system based on competition and to encourage entry into the industry. Regardless of which section of the Act you examine, that stress on competition is apparent. The ultimate evidence that Congress has confidence that competition would benefit both the airlines and their passengers is its decision to abolish the Board and the bulk of our functions by the end of 1985.

It may have occurred to some that leaving control over the transition to deregulation in the hands of an agency involved over many years in detailed regulation was quite an act of faith. I should allay any doubts. We are well on our way to deregulation, perhaps with more speed than Congress intended.

Some of the major changes were made in the route licensing area. They are primarily aimed at making it less difficult for carriers to receive authority to serve new markets. We no longer need to make the finding that the service is required by the public convenience and necessity. Instead, the service an airline proposes must be "consistent with" that standard.

As you know, bills are in varying states of approval in the House and Senate that would apply similar liberal standards to international route licensing. We could well have a final international aviation bill passed this year. It has been in a House-Senate Conference Committee this past week.

The new Act's treatment of fare regulation is brief and to the point. Within a specified range, carriers are free to compete for ticket sales by charging whatever fares they choose. The draft international aviation bills contain similar proposals on fares. We at the Board take the credit, or you may say the blame, for developing this scheme. Before the Deregulation Act was passed, we issued a rule which in effect told carriers that we would not interfere if they lowered their fares up to 70 percent of the industry's standard fare level or raised their fares a small percentage. The Deregulation Act adopted our approach and created a no-suspend zone of reasonableness for passage fares of 50 percent down and up 5 percent on certain routes.

We have seen many results of our innovation in fare policies. Hundreds of thousands of people are flying for the first time. Airport operators say they can no longer identify separate peak periods of air travel. Businessmen no longer see each other on nearly empty planes. As you know so well, your favorite airline probably can't begin to describe all the discount fares that are now available.

We regret the inconveniences that air travellers—especially those accustomed to the more individualized treatment that the airlines offered in the old days—are now enduring. Most mornings we would rather not look at our consumer complaint statistics, which were up 40 percent during the first nine months of this year over a similar period last year. Most of that increase is traceable either to the huge growth in the number of passengers flying or to the rapid schedule changes made since last October. Changes and increases in fares are also included.

But it is equally important to keep in mind that we are not receiving any sizeable proportion of letters clamoring for those good old days of lower load factors. Instead we read reports that our encouragement of lower fares has been so satisfactory that Congress is eyeing other regulatory agencies with a view towards attempting to achieve similar results.

I know, and I can assure you that the Board and staff know, that you and all travel agents have had many problems with the multitudinous new fares that have resulted. I understand the difficulty having tried to figure out the best fare available for some of my recent travels. But as in all transitions, I think some of this confusion will subside. We are seeing some settling down now in the fare structure and I expect that increasing access to industry automated fare systems will go a long way to help.

Of course the biggest news for the travel agent today is the Competitive Marketing Investigation[1] launched by the Board in September, along with the companion order tentatively disapproving the agreements that set the levels and methods for compensating agents.[2] The primary focus of the show cause order, the "open commissions" order, is on the commissions ceiling set by the Air Traffic Conference carriers. Similar ceilings for international sales under the auspices of the International Air Transport Association (IATA) were, as you well know, disapproved last summer.[3] The recent show cause order parallels the IATA order.

I should point out that none of the comments received to date on the "open commissions" show cause oppose abolition of fixed commissions. Aside from comments in support, objections go either to the mechanics or the timing of moving to open commissions. Our work tracking system shows a February decision date on open commissions. We may even do better than that and get it out next month.

The Competitive Marketing Investigation is at this point very broadly defined to cover everything from rules requiring exclusive use of conference accredited agents to the standards to be used for accreditation. It involves restructuring the pricing system for air travel and can dramatically and drastically alter the travel agent's role in retail marketing. It may provide new alternatives to the travel agent or airline ticket office. By that, I mean "net fares", which, to me at least, is a term that still requires further definition in the investigation.

We are reviewing right now at staff level Pan American's recent filing to sell "Group Contractor Fares" in the U.S.-Germany market and National's proposed contract bulk fares in the New York-Miami market. I guess these are our first "net fares".

In the past, we have ruled that the purchaser of blocks of tickets in circumstances like National's contract bulk fares proposal amounts to an indirect air carrier holding himself out to the public as selling air transportation. Thus, under the Aviation Act, the seller at retail requires a CAB license. I suspect that is the issue that will warrant most of the Board's attention. From what I have been hearing in Board Room discussions, "net fare" experiments are welcomed. I, myself, do not know if "net fares" are a good idea or not. I do know travel agents are very concerned about the concept. I also suspect that the co-ops will have a very important role in how "net fares" will work out for the passenger, and for the travel agent industry. We have not yet reviewed these proposals at Board level but I suspect we will be seeing more of them before the Marketing Investigation gets decided.

I am glad to see that the Hickory Association has asked to participate in the Marketing Investigation, as well as in the show cause proceeding. The Board welcomes extensive agency participation in these proceedings. After all, who is in a better position than working agents to describe the effects of current ATC and LATA programs. No one can better predict the effects of modifications of these programs.

I guess I can't say much more than this about our two big cases without getting myself in trouble with our rules on ex parte communications when it comes time to make a final decision.

There is a related matter, however, that I can report on. Shortly after the Board issued the Marketing Investigation order, IATA submitted a revised United States agency resolution which contains a number of significant changes. Under the new agreement, the prohibition on paying compensation to non-accredited agents is limited to "sales agency remuneration". According to IATA, its carriers would be free to pay commissions for non-"sales agency" selling.

The new program also creates a travel agent commissioner with functions similar to the ATC commissioner. The commissioner would have the power to review applicants denied accreditation as well as IATA's agency administrator decisions to withdraw accreditation. Unlike with ATC, the IATA Commissioner would be funded jointly by agents and IATA members, rather than just by the carriers.

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[1] Order 79–9–64, September 13, 1979.

[2] Order 79–9–65, September 13, 1979.

[3] Order 78–8–87, decided August 13, 1978.

IATA also established new working capital and equity ratios to gauge an agent's financial standing. Finally, IATA intends to set up a joint agent/airline committee to consider and recommend changes to the agency program before they are considered by the IATA membership as a whole. That seems to me to be an excellent idea. IATA has asked that its new program be considered in the Marketing Investigation but that the Board also approve it on an interim basis in the meantime. If you have ever read ATC or IATA resolutions, you can understand that it will take us several weeks to get the new rules sorted out.

I referred earlier to the Board's 1978 decision disapproving international commission agreements. That commission system had been in effect at least 20 years. Information available to the Board from a variety of sources indicates that, on balance, open commissions have not meant radical changes for agents. I would be interested to know if your individual experience has been different.

The reports we have on commissions paid by carriers, filed under Part 253, indicate a rise of a point to a point and a half in the average commission paid over the old IATA ceiling with present average commissions at about 8 percent. While some carriers experimented for awhile with substantially higher commissions, some as high as 25 percent, they appear to have been in connection with promoting new service or have been short lived.[4]

Comparing either entry and exit of international travel agents under closed and open commissions, or by comparing domestic agents under fixed commissions with international agents under open commissions, shows that opening up commissions does not appear to have made the travel agent industry significantly more or less attractive to new entrants, nor made it significantly easier to stay in business. Applications for both ATC and IATA accreditation each generally increase from year to year. New entrants remain at a fairly constant proportion of 11 to 13 percent of existing accredited agents. Withdrawal rates disclose no discernible trend, although interestingly enough the fluctuation in the rates of exit for IATA agents appears to be less under open commissions than under closed.

The Louis Harris/Travel Weekly Biennial Survey of Agents also contains a variety of information on the effects of open commissions. Agency business broken down between domestic and international travel remains roughly two thirds domestic to one third international. This is the same breakdown as in 1976 and 1974. This suggests that open commissions have not in fact caused a dramatic shift in travel agent marketing efforts.[5] This fact is also borne out by that part of the survey which indicates that over 80 percent of vacation and pleasure travellers have at least a general idea of where they want to go and that agents are only moderately successful in influencing their customers to completely abandon these plans.[6] On the other hand, most agents reported that they could influence the choice of a particular destination within a general area.[7] This type of choice might be more susceptible to competition in commission levels.

The question of open commissions aside, the Harris/Travel Weekly Survey discloses another important development in the increase of commercial travel handled by agents.[8] For a change, you might say, with all the turmoil we have been causing, the Board took action in the past year that should encourage that growth. In December we approved lifting the ban on commissions on point to point sales made on the Universal Air Travel Plan (UATP) credit card.[9] From what I've read in the trade press this change has been a boon to carriers and agents alike in handling commercial customers. I assume you have been heavily involved in that trend with your high proportion of business travel.

The Board has made it easier to set up inplant travel agency locations, branch offices on the premises of commercial customers. Last February the Board passed on a petition filed by a travel agent and its customer, concluding that employee-sharing agreements between an agent and its customer were legal under the Federal Aviation Act. Under that decision the customer of an inplant agency can be reimbursed by the agent for providing the agent with its own employees, so long as the recompense is based on time worked, and not on the volume of sales.[10]

We have taken another action within the past year that tips the carrier/agent balance in favor of agents. Again, as a result of a petition by an agent, the Board, starting last October, inquired into then existing ATC practices which required conference-wide termination of an agent's appointment based on a single carrier's claim that the agent had defaulted on its obligations.[11] As a result of that review, ATC modified its rules so that now the Travel Agent Commissioner reviews individual complaints before concerted action can be taken. This eliminated altogether disputes over liability for stolen tickets as a cause of conference-wide action.[12]

Again on the basis of a petition by an agent, the Board took favorable action on dishonored travel agent checks. Under ATC's new revised rules, agents are no longer required to immediately pay on demand all money owed after a check is dishonored. Rather, the agent must make good on the check which was dishonored. All other money owned is then collected under ATC's normal reporting and remitting schedule.[13]

I mention these few cases, which you all know about, to indicate that the Board has been listening to you and that we will continue to listen. Travel agents are uniquely situated to give the Board a view from the front lines in marketing air transportation. We welcome your individual and collectively-stated views in general and particularly in the big marketing case. Your views are absolutely necessary for the Board to make a balanced, intelligent decision in that important case.

Thank you.●

HUNGER—A SOBER REPORT

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. DRINAN. Mr. Speaker, the Christian Science Monitor has an excellent editorial praising the report of President Carter's Commission on World Hunger.

The editorial—like the President's Commission report—notes that 5 years have passed since the World Food Conference in Rome, but the results are disappointing.

The challenging editorial follows:

HUNGER—A SOBER REPORT

The hostage crisis in Iran. The nuclear missile debate in NATO. These are the international topics commanding front-page attention in this week's newspapers. But it is an item of news on the inside pages which is likely to prove the most crucial to global stability over the long term. That is the report of President Carter's Commission on World Hunger stating that the world's food situation is getting worse rather than better and calling on the United States to lead a worldwide effort to eliminate hunger in the next 20 years. It hardly needs pointing out that the cost of failure to respond, because of inertia or lack of foresight, could be high. As the commission bluntly declared:

"A major crisis of world food supply—of even more serious dimensions than the present energy crisis—appears likely within the next 20 years, unless steps are taken now . . ."

Summoning up the moral conscience, political will, and perseverance needed to come to grips with the problem of food sufficiency clearly should be a most pressing goal of American policy. Yet the record leaves much to be desired. It is now five years since the World Food Conference in Rome and the results are disappointing. No system of international grain reserves has yet been set up to protect countries against sudden food shortages. Good harvests in major food-producing countries in the past three years have made the food situation seem secure, but specialists warn that two consecutive bad years in such regions as China, the Soviet Union, and India could place many countries in jeopardy. Even with the good world harvests of recent years the number of the world's hungry has grown from 740 million to 800 million.

Of greatest concern to aid experts is the fact that the poor countries of the world, where population growths are highest, are sinking in their efforts to produce more food and that many are unable to pay for food imports. Robert McNamara of the World Bank notes, for instance, that a major structural change has occurred in the pattern of global grain trade. The better-off developing countries, the OPEC countries, and the USSR are today the chief customers in the grain market, with the result that the poorest of the poor are being priced out of the market.

If the problem looms large, it is not beyond solving. The commission in fact makes the reassuring statement that in the next two decades "there appear to be no major physical barriers to feeding all the world's inhabitants." The principal grain producers, notably North America, will continue to be relied upon for commercial grain sales and food grants. But the only long-term solution is to help the developing countries produce their own food and this will require more aid and investment. To double their farm output in the next 20 years will take $30 to $40 billion a year, according to estimates. Here the United States is reminded yet once again that it has fallen far behind other rich nations of the world in amount of aid given in terms of percentage of gross national product. The commission recommends the U.S. double the $1.5 billion it supplies annually in technical and economic aid to developing countries for advancing agriculture.

The other side of the coin is that the poor nations themselves must institute the social and economic reforms needed to make the foreign aid effective. Land reform, for example, is desperately needed in many areas to give farmers incentive to produce more. The poorest people in the world, according to a Worldwatch Institute study, are not small farmers but landless laborers, sharecroppers, and marginal farmer who form the rural majority in most developing countries. It is therefore not unreasonable to ask that U.S. and other Western aid programs be made dependent on structural reforms. Pouring funds into the coffers of affluent landowners or ruling elites will not get at the root of the problem and in fact only aggravates rich-poor disparities.

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[4] See Order 77–8–14, August 3, 1977.

[5] Table I–3, page 9 of Study.

[6] Tables III–1, III–2 and III–3 at pp. 62 through 65 of the Study.

[7] Table III–4, p. 166 of Study.

[8] Tables I–5 and I–7, pp. 13 and 15 of Study.

[9] Order 78–12–155, December 21, 1978.

[10] Order 79–2–92, February 15, 1979.

[11] Order 78–10–31, October 5, 1978.

[12] Order 79–8–134, August 24, 1979.

[13] Order 79–7–202, July 30, 1979.

In sum, the United States and other rich nations must give far more attention to the economic needs of the third world. Primary emphasis in recent decades has been placed on military assistance. But, as the presidential commission points out, the chronic hunger of over a half billion people could lead to disastrous political instability. Iran itself is a sharp reminder of how little military weapons count when people's aspirations for a better society appear to them threatened. If there is a lesson to be learned from that experience, it is surely that the U.S. stands most to gain—morally and politically—by addressing above all the social and economic rather than military needs of the developing world. The commission's report on world hunger should help reorder the nation's priorities.●

I WAS THE ONLY VICTIM OF THREE-MILE ISLAND

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. McDONALD. Mr. Speaker, what follows is a statement by our famed nuclear scientist, Dr. Edward Teller, the father of the H-bomb. This, in turn, is followed by a series of questions and answers in which Dr. Teller discusses safety and nuclear power. Dr. Teller is perhaps the most knowledgeable person in the world on nuclear energy and he should be listened to. The Jane Fondas of the world who experts on nothing but carefully staged theatrics should not be listened to. The items follow as they appeared in a Dresser Industries, Inc., ad.

I WAS THE ONLY VICTIM OF THREE-MILE ISLAND

On May 7, a few weeks after the accident at Three-Mile Island, I was in Washington. I was there to refute some of the propaganda that Ralph Nader, Jane Fonda and their kind are spewing to the news media in their attempt to frighten people away from nuclear power. I am 71 years old, and I was working 20 hours a day. The strain was too much. The next day, I suffered a heart attack. You might say that I was the only one whose health was affected by that reactor near Harrisburg. No, that would be wrong. It was not the reactor. It was Jane Fonda. Reactors are not dangerous.

Now that I am recovering, I feel compelled to use whatever time and strength are left to me to speak out on the energy problem. Nuclear power is part of the answer to that problem, only a part, but a very important part.

I have worked on the hydrogen bomb and on the safety of nuclear reactors. I did both for the same reasons. Both are needed for the survival of a free society. If we are to avoid war, we must be strong and we must help to generate the progress that makes it possible for all nations to grow and prosper.

And what is the greatest present-day threat to the prosperity and even the survival of nations? A lack of energy. Both developed and developing nations are threatened.

The citizens of the United States have just begun to recognize the impact of the world's growing energy shortage. Gasoline lines, electrical brownouts and higher prices are minor irritants. They are nothing compared to what may lie ahead. In a struggle for survival, politics, law, religion and even humanity may be forgotten. When the objective is to stay alive, the end may seem to justify the means. In that event, the world may indeed return to the "simpler" life of the past, but millions of us will not be alive to discover its disadvantages.

When our existence is at stake, we cannot afford to turn our backs on any source of energy. We need them all. When it comes to generating electricity, we especially need nuclear power. Contrary to what Nader and Fonda, and their friends such as Sternglass, Wald and Kendall, would have you believe, nuclear power is the safest, cleanest way to generate large amounts of electrical power. This is not merely my opinion—it is a fact. Due to the lessons learned at Three Mile Island, the nuclear way of generating electricity will be made even safer.

I have attempted to respond briefly to some of the questions which people ask about nuclear power. The problems that these questions raise are problems because of political indecision or public fear. Technically, they are nonproblems, because the dangers they imply either do not exist or else we have the know-how to solve them. I am absolutely convinced of this, after a lifetime of work as a nuclear scientist.

I was once asked how I would like for my grandson, Eric, to think of me and my life's work after I am gone. Eric is nine years old. He is a terrible guy—he beats me at the game of "GO." I am enormously fond of him, but I have not given much thought to what he will someday think of my life's work. I have given a great deal of thought to whether he will be alive in the next century, and whether he will be living in freedom or in slavery. If he is living under communism, he will know I was failure.

I believe that we have reached a turning point in history. The anti-nuclear propaganda we are hearing puts democracy to a severe test. Unless the political trend toward energy development in this country changes rapidly, there may not be a United States in the twenty-first century.

The President has recognized the danger of the energy shortage. As yet, he has given only some of the answers. I think—I hope—that democracy has enough vitality to evaluate the risks and to recognize the great benefits of nuclear power to human health and well-being, and to the survival of our free society.

Q. Can a nuclear reactor explode like an atomic bomb?

A. No. Energy cannot increase fast enough in the reactor. Therefore, it is absolutely impossible for a nuclear power plant to explode like a bomb. For this to happen, the laws of nature would have to be repealed.

Q. What is the risk of nuclear power compared to other forms of producing electricity?

A. It is far safer than coal or hydroelectric power, but all three are necessary to meet our need for energy. It may sound strange to say it, because coal has been around so long, but we know more about controlling radiation than we do about controlling the pollutive effects of burning coal. And, of course, a dam has no backup system to protect those who live below it. Indeed many of these people have lost their lives and more their homes.

Q. I live within 50 miles of a nuclear power plant. What are my chances of being injured by a nuclear accident?

A. About the same as being hit by a falling meteor.

Q. What about the effect of an earthquake on a nuclear plant?

A. At the first sign of a tremor, the reactor would shut down automatically. Also, reactors are built to withstand enormous structural damage. The only man-made structures I can think of that are more stable are the pyramids of Egypt.

Q. Is it true that we still have no satisfactory way to dispose of nuclear wastes?

A. No. Ways do exist. What we have not had is a decision by our government on which way to go. Waste disposal is a political problem, not a technical problem.

Q. How much radioactive waste materials are produced by nuclear plants?

A. At the moment, about 12½ percent of our electricity is generated by nuclear power. If all of it were produced this way, the wastes from these plants over the next 20 years would cover a football field to a depth of about 30 feet. To dispose of this waste a mile underground would add less than one percent to the cost of electricity.

Q. How dangerous is the release of low-level radiation from a nuclear power plant?

A. If you sat next to a nuclear power plant for a whole year, you would be exposed to less radiation than you would receive during a round-trip flight in a 747 from New York to Los Angeles.

Let me put it another way: The allowable radiation from a nuclear plant is five mrems per year. In Dallas, people get about 80 mrems per year from the natural background of buildings, rocks, etc. In Colorado, people get as much as 130 mrems per year from the natural background. Therefore, just by moving from Dallas to Boulder you would receive ten times more radiation per year than the person gets who lives next to a nuclear power plant.

A mrem is an appropriate unit used to make comparisons.

Q. How much radiation were the people around Three-Mile Island exposed to during the accident?

A. Let me put it this way. Your blood contains potassium 40, from which you get an internal dose of some 25 mrems of radiation in one year. Among the people not working on the reactor, a handful may have gotten as much radiation as 25 mrems.

Q. Should "spent" nuclear wastes be reprocessed to save the plutonium and other by-products?

A. Yes. Plutonium, for example, is as valuable as the original uranium fuel, because of its potential use to produce still more energy. In the end, reprocessing is needed to make nuclear energy abundant and lasting.

Q. Is there a danger that the plutonium produced by nuclear reactors might be stolen by terrorists and used to construct homemade nuclear explosives?

A. I believe that reactor products can be properly safeguarded from terrorists. This can be much more easily done than the guarding of airplanes. Also, any terrorist who puts his mind to it can come up with ways to terrorize a population that are less dangerous to himself than handling plutonium. The answer is not to get rid of the reactors—let's get rid of the terrorists.

Q. Will the expansion of nuclear power by other countries enable them to produce nuclear weapons?

A. Unfortunately, yes. This is already happening. Two-thirds of the reactors in operation in the free world today are outside the United States. Since we can't stop other nations from building nuclear plants or weapons, what we must do is find better solutions to international problems. An energy-starved nation is much more likely to make and use nuclear weapons as a last resort to survival. The only way to prevent that is to see to it that there is enough energy to go around, and to strengthen cooperation and confidence among the nations.

Q. What have we learned from the accident at Three-Mile Island?

A. Two things. First, that nuclear reactors are even safer than we thought. Despite many human errors and a few mechanical failures at Three-Mile Island, the damage was contained. No one was killed, or even injured. We have also learned that a lot can be done by better educated, better paid and more responsible reactor operators, and by a more efficient display of the state of the reactor by modern instrument panels.

Three-Mile Island has cost $500-million, but not a single life. We must pay for safety and, even after we have paid for it, nuclear energy is the cheapest source of electrical power. It is most remarkable that in the case of nuclear energy we are paying for our lessons in dollars, not in lives.●

MICHAEL FEDOR OF MILFORD, CONN.—PEACE CORPS VOLUNTEER

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. GIAIMO. Mr. Speaker, we are all aware of the excellent humanitarian work that is carried on day after day by the volunteers of the Peace Corps. The Peace Corps is the only U.S. agency which provides individual Americans the opportunity to work with the people of developing nations while living as part of their communities. Throughout the globe, the United States is proudly represented in 60 countries by nearly 6,000 volunteers working on a broad range of programs, motivating people to utilize local resources in meeting their basic needs, and showing them how to become more self-reliant. Last year alone, nearly 1 million people in the Third World benefited from the work of Peace Corps members.

Every volunteer is unique in the special gifts that they bring to their job. I have become aware of the work of one of my constituents, Michael Fedor of Milford, Conn. For over a year Michael has been working and living in the city of Quito, Ecuador. His main project is to prepare mentally retarded children for their participation in the special olympics he has organized. He directs physical education and recreation programs at two special education institutions.

He also works with the children in an orphanage, where he assists them with recreation and manual activities, accompanies them on outings and picnics, and has begun organizing activities to develop a library and obtain urgently needed clothing, supplies, and toys.

In addition to his work with children, Michael has made innumerable contacts with Ecuadorean citizens who are interested in giving moral and financial support to his activities. This has been crucial for acquiring the resources necessary to sponsor the special olympics. In the true spirit of the Peace Corps, he is attempting to recruit various Ecuadorean physical education instructors to assist him with the organization and development of the special olympics. He realizes that, if he does not help create the local capability to carry on his work once he leaves, the benefits will be short-lived.

Michael travels by bus every day to and from his work sites, which are on the outskirts of Quito in poor neighborhoods. While there are approximately 30 other Peace Corps volunteers working in special education and vocational training in Ecuador, Michael is thought by all to be a special volunteer.

What makes Michael's work extraordinary is the fact that he is blind. By example, he is showing other people with handicaps that it is possible to lead happy and productive lives. His work should make an impression upon all of us who sometimes blind ourselves to the conditions of the Third World poor. I commend Michael's dedication to his fellow man, and I am certain that the people of Quito will remember his efforts for a long, long time.●

JUDGE GREEN AND EQUAL PROTECTION OF IRANIANS

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. HYDE. Mr. Speaker, the Government has been stymied in its appropriate reaction to the acts of war committed by the so-called Government of Iran, by an ill-considered ruling of a local district court judge. The Chicago Tribune's editorial of December 13, 1979, provides a clear answer to Judge Green's unfortunate decision:

EQUAL PROTECTION OF IRANIANS

The federal court order stopping immigration checks into the status of Iranian visitors in the United States is based upon a misconception of the Constitution and ought to be reversed.

U.S. District Court Judge Joyce Hens Green ruled in Washington that singling out Iranian nationals for special scrutiny to determine whether they are complying with immigration laws amounts to a violation of their rights to equal protection of the laws.

The constitutional question, however, is not simply whether an identifiable group is being treated differently than other groups, but whether the difference in treatment reflects a valid and sufficient government interest.

The emphasis in drug law enforcement on heroin sellers as opposed to marijuana sellers, for example, would hardly be considered unconstitutional simply because it puts heroin peddlers at greater risk. That policy reflects a reasonable judgment that heroin trafficking represents a greater national danger at this time.

The decision to place priority on enforcing immigration laws with respect to nonpermanent resident alien Iranians came after the rapid deterioration of relations between the U.S. and Iran. It is hardly unreasonable for the government, responding to an act of war by another nation, to check up on that country's nationals here and deport any who are violating immigration laws. To do less would be negligent, if only because of the risk that some may be acting illegally as foreign agents.

Moreover, immigration policy has traditionally been bound up with U.S. foreign policy. The acceptance of foreign students and implementation of cultural exchanges is often a sign of strong or strengthening relations with another nation. Tolerance of infraction by a given country's visitors here—indeed, general restraint in pursuing violators because of the risk of creating ill will in a foreign capital—has also been common.

Likewise, when relations with another country are shattered by a violent and hostile act against the United States, it is altogether proper for immigration law enforcement attention to turn to visitors from the offending state. It is significant that despite the domestic rage at Iran's behavior, of the more than 50,000 Iranian visitors interviewed by immigration officials after the takeover, more than 41,000 were found to be complying with the law and allowed to continue to go about their business.

Not only has the U.S. enforcement effort in the wake of the embassy takeover in Iran been entirely legal and constitutional, it has been really quite selfrestrained.●

BEN PRESS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. SKELTON. Mr. Speaker, it is with great sadness that I inform my colleagues of the recent death of a good friend of mine, Ben Press of Independence, Mo.

Mr. Press was born on January 7, 1905 in St. Joseph, Mo. After moving to Jackson County, he became the owner of Lee's Sporting Goods in 1945. Mr. Press was an active member of the Independence Rotary Club. The club is establishing a memorial in his honor for his 25 years of service.

He was also a licensed architect and a member of the Beth Israel Abraham and Voliner Congregation.

He was a warm and congenial person, active in his community, and had scores of friends from all walks of life.

Ben Press will be missed by his friends and his community. I wish to extend my sincere sympathy to his widow, Mrs. Doris Press.●

HOUSE OF REPRESENTATIVES—*Wednesday, December 19, 1979*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

For Your goodness to us, O Lord, we give our thanks, for Your mercy to us, we offer our praise. O Lord, You have been with us at all the moments of life, at the times of highest joy to walking with us through the valley of the shadow of death. Your love, O God, is so great that it surrounds us whatever we do, wherever we are, and is new every morning. In this time of stress and apprehension, we pray that You will continue to bless our Nation. Give us wisdom to know the right, courage to do the right, and patience to hear Your voice amidst the clamor of the world. In the name of the Prince of Peace, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 1283. An act for the relief of Pang Chong Ae;

H.R. 2727. An act to modify the method of establishing quotas on the importation of certain meat, to include within such quotas certain meat products, and for other purposes;

H.R. 3343. An act to permit civil suits under section 1979 of the Revised Statutes (42 U.S.C. 1983) against any person acting under color of any law or custom of the District of Columbia who subjects any person within the jurisdiction of the District of Columbia to the deprivation of any right, privilege, or immunity secured by the Constitution and laws; and

H.R. 5645. An act to grant to the Little Sisters of the Poor all right, title, and interest of the United States in the land comprising certain alleys in the District of Columbia.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3875) entitled "An act to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 673) entitled "An act to authorize appropriations for the Department of Energy for national security programs for fiscal year 1980, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 585. An act to authorize the Secretary of the Interior to engage in a feasibility study of the Yakima River Basin Water Enhancement Project.

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate with an amendment to a bill of the House of the following title:

H.R. 4998. An act to amend the Federal Reserve Act to require that detailed minutes of Federal Open Market Committee meetings shall be published on a deferred basis.

And the Senate agreed to the amendment of the House to the amendment of the Senate to the title of the foregoing bill.

The message also announced that the Senate had passed with amendments, in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2043. An act to amend the Water Bank Act for the purposes of authorizing the Secretary of Agriculture to adjust payment rates with respect to initial conservation agreements and to designate certain areas as wetlands, and for other purposes; and

H.R. 3948. An act to require a study of the desirability of mandatory age retirement for certain pilots, and for other purposes.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 562) entitled "An act to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HART, Mr. RANDOLPH, Mr. MOYNIHAN, Mr. SIMPSON, and Mr. DOMENICI to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 328. An act for the relief of Mr. Oliver O. Ratajczek and his wife, Christine Diane Ratajczek; and

S.J. Res. 108. Joint resolution to validate the effectiveness of certain plans for the use or distribution of funds appropriated to pay judgments awarded to Indian tribes or groups.

EXPLANATION OF TWO RECORDED VOTES MISSED ON DECEMBER 18, 1979

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, because of a commitment I had at noon yesterday in downtown Washington, I was not present or recorded on rollcall votes Nos. 741 and 742. The former was a vote on the previous question on the Conable motion to instruct the House conferees to the windfall profit tax bill (H.R. 3919). It would have instructed the House conferees to accept the Senate's repeal of "carryover basis" tax treatment of inherited assets. The second vote was on the Conable motion itself.

If I had been present I would have voted "no" on both these measures.

I would have opposed the previous question as moved by the gentleman from Oklahoma (Mr. JONES) because I would rather have voted for the motion to instruct that Congressman JONES intended to offer in lieu of the Conable motion.

I would have opposed final passage of the Conable motion because I do not believe that the situation called for a draconian move to repeal carryover basis. Rather than resorting to procedural devices such as this, I would have preferred that the Ways and Means Committee review present law and consider and recommend changes if they are needed.

Mr. Speaker, I realize that carryover basis has come to be an enormous thorn in the sides of some taxpayers and the people who serve them, but I am not willing to repeal what was considered an important tax reform only a few years ago. If there are administrative problems with carryover basis they should be addressed—but in a cleanup bill such as our colleague from Virginia (Mr. FISHER) or Congressman JONES proposed, not by an outright repeal of the language the Congress carefully considered and passed in the Tax Reform Act of 1976.

ELECTION OF MEMBER TO STANDING COMMITTEE OF THE HOUSE

Mr. FOLEY. Mr. Speaker, as chairman of the Democratic Caucus and by direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 510) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 510

Resolved, That the following-named Member be, and he is hereby, elected to the following standing committee of the House of Representatives:

Committee on Small Business: CHARLES W. STENHOLM, Texas.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 985, AMENDING CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 985) to amend the Consolidated Farm and Rural Development Act, with the House amendment thereto and the Senate amendment to the House amendment, disagree to the Senate amendment, and agree to a conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Washington? The Chair hears none, and appoints the following conferees: Messrs. FOLEY, Jones of Tennessee, HARKIN, HUCKABY, GLICKMAN, HANCE, BROWN of California, RICHMOND, BALDUS, BEDELL, ENGLISH, PANETTA, DASCHLE, MADIGAN, JEFFORDS, KELLY, COLEMAN, MARLENEE, HOPKINS, and THOMAS.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO MEET DURING 5-MINUTE RULE ON WEDNESDAY, THURSDAY, AND FRIDAY

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the House Committee on Agriculture may have permission to meet while the House is sitting under the 5-minute rule today, tomorrow, and Friday.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

THE ITALIAN GOVERNMENT HAS BEEN A STAUNCH ALLY DURING THE IRANIAN ORDEAL

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, I wish to strongly dispute a recent statement made on the House floor which called into question the support which the Government of Italy has provided to the United States during our Iranian ordeal.

Simply put, we have no stronger or visible supporter among our allies than Italy. Less than 1 week after the hostages were seized, the Italian Government filed an official protest and urged the release of all hostages.

In an extraordinary gesture, Italian President Pertini sent a strongly worded personal telegram to the ayatollah reiterating the Government position. This act drew special praise from both President Carter and Secretary of State Vance.

The Italian Government deserves our thanks for their support. Instead, some choose to malign it because Italy is a member nation of NATO which has chosen not to intervene militarily in Iran. This is a sound position consistent with our own policy. Italy always has and always will be one of this Nation's most trusted and cherished allies and when we look to them for support in times of crisis—they always come through.

THE CASE OF THE STOLEN CALENDARS

(Mr. ANTHONY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANTHONY. Mr. Speaker, during the time of Christmas, when everyone is supposed to have the spirit, I would just like to announce that someone found this spirit, found my storage bin across from 506 Cannon Office Building, and also found that they may have more constituents than I do. They ripped me off of 700 historical calendars.

The mere loss of 700 calendars is no great loss, but having spent 10 years of my life before coming here as a prosecuting attorney, and having tried many petty and also serious criminal offenses, I found it highly irritating that in the Nation's Capital we would have someone who would go around the halls ripping people off. I would challenge every Member to inquire of his or her staff, if they have acquired additional calendars, wherein they received them.

Not only was I ripped off, but there have been two other instances of people being ripped off on the fifth floor. After calling Chief Powell, I find that this is a regular occurrence over the last few years. I would hope that all the constituents and Members of Congress would have listened to the prayer today and take the opportunity to learn from it.

Mr. THOMPSON. Mr. Speaker, will the gentleman yield?

Mr. ANTHONY. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Speaker, there has been considerable argument over whether we should continue to have calendars or not. A great majority believe that we should have, and it is a tragedy when they are ripped off.

I might suggest that the gentleman look at the list of those who voted against getting calendars with the thought that perhaps some of them may have changed their minds and have gotten them surreptitiously rather than on the record.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. ANTHONY. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, my calendars were delivered yesterday and are still in the hall. I wonder, in the spirit of the season, if my colleague would help me move them out of the hall.

Mr. ANTHONY. Yes, I will move 700 of them for the gentleman.

ANDERSON LEGISLATION WILL HELP THE GOVERNMENT SAVE ENERGY AND MONEY

(Mr. ANDERSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON of California. Mr. Speaker, for some time now, I have been advocating greater use of the bicycle as a practical mode of transportation in this Nation. In the name of energy efficiency, in the name of clean air, and in the name of good health, the Government should encourage bicycle use.

Yet, incredibly enough, the Federal Government presently discourages its own employees from using bicycles on official business. The Government will pay a civil servant 18.5 cents per mile if one uses his or her own automobile in the course of business, but not a penny for the use of a personally owned bicycle.

This, frankly, makes no sense to me. Because it costs so much less to purchase and operate a bicycle than it does an automobile, we can save the taxpayers' money by reimbursing the cost of an official trip taken by bicycle. Today, I am introducing legislation that will do just that. If enacted, this bill would allow a Federal worker who uses a privately owned bicycle on official business to claim 4 cents for each mile traveled. This figure is pegged at what is acknowledged to be the cost of using a bicycle. It is also the amount now paid by my State of California to its employees who use bicycles for business purposes.

Mr. Speaker, those of us familiar with urban traffic know that it takes no longer to ride a bike in town than it does to drive a car. And once one reaches his or her destination, we know the high cost of parking that is often charged in our Nation's cities. Of course, that charge is also passed along to the Government and the taxpayer. It is also a charge that would be eliminated on bicycle trips.

So, for economic reasons, for reasons of personal health, the environment, and energy conservation, I urge our colleagues to join Congressman MATSUI and myself in sponsoring this new legislation. It is time that the U.S. Government ended its illogical discouragement of the use of the bicycle.

☐ 1010

CUBAN ATTEMPTS TO SECURE A SEAT ON THE U.N. SECURITY COUNCIL

(Mr. COURTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COURTER. Mr. Speaker, the Communist Government of Cuba is apparently trying to set some sort of record for achieving the most important posts bestowed upon a nation by the international community in a given year. Earlier this year Cuba became chairman of the nonalined movement though Cuba is very closely alined with the Soviet Union and has troops in many Third World countries trying to suppress democratic forces.

In the United Nations, Cuba is now trying to gain a 2-year term on the Security Council. This would be tantamount to be giving the Soviets an automatic second vote. After 112 ballots the contest between Cuba and more neutral Colombia has been inconclusive. At times more ballots were cast than members were present leaving the clear impression that vote fraud was taking place. It is my sincere hope that on the 113th ballot the U.N. members voting for this important seat will try to seat a more representative member of the nonalined bloc. This would be one step toward depoliticizing the United Nations and renew faith in the West that the United Nations has not become a pawn of the Soviets.

OUR STRATEGIC RELATIONSHIP WITH THE SMALL, COURAGEOUS NATION OF ISRAEL

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, we have in the most spiritual period of the year ample opportunity to pray not only for our hostages but, also, for God's guidance in this most difficult period in our history. I would ask my colleagues in this august house and Members of the other body, also, to give extensive reflection concerning our strategic relationship and related priorities with regard to the small beleaguered nation of Israel.

We often hear on this House floor and read in newspaper columns across the country about our special relationship with Israel and about our moral commitment to that tiny country. I am most comfortable with those expressions of friendship; some people are not.

Therefore, I would ask that this Congress take a very hardnosed look at our entire diplomatic, economic, and military relationship with this courageous people and keep in mind in light of the current Persian Gulf crisis that Israel is still the only democracy in all of the Middle East, and I might add, for thousands of miles to the north, east, and south of that historic crossroads. Think how steadfast and loyal their friendship has been with our Nation. We should begin to speak in clear, concise terms of national interest about how really important Israel is to the United States of America, irrespective of any special or moral commitment that we have to their survival.

ADDITIONAL ALLOTMENT FOR WATER POLLUTION CONTROL PURPOSES

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 4113) to amend the Federal Water Pollution Control Act to provide an additional allotment of funds to certain States, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4113

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title II of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new section:

"ADDITIONAL ALLOTMENT

"SEC. 218. (a) If on March 31 of any fiscal year a State which has obligated 90 per centum or more of the funds allotted to such State for the preceding fiscal year under section 205 of this title, the Administrator shall allot to such State for obligation after the first day of the fiscal year which begins after such March 31 an amount equal to the difference between the amount allotted to such State for such fiscal year under section 205 and the amount appropriated under section 207 of this title for such fiscal year and attributable to such State.

"(b) Any allotment to any State under this section shall be available for the same purposes as allotments for such State under section 205 of this title.

"(c) Sums allotted to the States under this section for a fiscal year shall remain available for obligation for the fiscal year for which authorized and for the period of the next succeeding twelve months. The amount of any allotment not obligated by the end of such twenty-four month period shall be imediately reallotted by the Administrator equally among the States eligible to be allotted sums under this section in the fiscal year in which such reallotment is to be made, except that none of the funds reallotted by the Administrator shall be allotted to any State which failed to obligate any of the funds being reallotted. Any sum made available to a State by reallotment under this subsection shall be in addition to any funds otherwise allotted to such State for grants under this title during any fiscal year.

"(d) If for any fiscal year the amount appropriated under authority of this section is less than the amount necessary to carry out this section, the amount each State receives under subsection (a) of this section for such year shall bear the same ratio to the amount such State would have received under such subsection in such year if the amount necessary to carry it out had been appropriated as the amount appropriated for such year bears to the amount necessary to carry out such subsection for such year.

"(e) There is authorized to be appropriated such sums as are necessary to carry out this section."

SEC. 2. The first sentence of section 205(g) (1) of the Federal Water Pollution Control Act is amended by inserting "of the amount authorized under section 207 of this title for purposes" after "2 per centum".

SEC. 3. Notwithstanding section 205(d) of the Federal Water Pollution Control Act (33 U.S.C. 1285), sums allotted to the States for the fiscal year 1978 shall remain available for obligation for the fiscal year for which authorized and for the period of the next succeeding twenty-four months. The amount of any allotment not obligated by the end of such thirty-six month period shall be immediately reallotted by the Administrator on the basis of the same ratio as applicable to sums allotted for the then current fiscal year, except that none of the funds reallotted by the Administrator for fiscal year 1978 shall be allotted to any State which failed to obligate any of the funds being reallotted. Any sum made available to a State by reallotment under this section shall be in addition to any funds otherwise allotted to such State for grants under title II of the Federal Water Pollution Control Act during any fiscal year.

COMMITTEE AMENDMENTS

The SPEAKER. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 4, line 1, strike out "1978" and insert in lieu thereof "1979".

The committee amendment was agreed to.

The SPEAKER. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 4, line 9, strike out "1978" and insert in lieu thereof "1979".

The committee amendment was agreed to.

Mr. ROBERTS. Mr. Speaker, I yield myself so much time as I may consume.

Mr. Speaker, I rise in support of H.R. 4113.

H.R. 4113 is an immediate response to problems in the stability and predictability of funding for the waste treatment works construction grant program authorized by the Federal Water Pollution Control Act.

Although no new budget authority is created by H.R. 4113, it does provide mechanisms for more effectively utilizing existing authorizations.

Section 1 provides for two separate appropriations within the existing construction grants authorization. The first appropriation is distributed among all States according to the statutory allotment formula. If this appropriation is less than the authorization, a second appropriation is authorized to be distributed only among certain eligible States. Therefore, this section is applicable only in fiscal years where the amount appropriated is less than the amount authorized.

In order to qualify for a share of the second-tier appropriation, a State must obligate 90 percent of its currently allotted funds by March 31 of the calendar year preceding the start of the next fiscal year. For example, 90 percent of fiscal year 1978 funds must have been obligated by March 31, 1979, in order for a State to qualify for a share of a second-tier appropriation from the fiscal year 1980 authorization.

It is expected that the second-tier appropriation will be sufficient to provide each eligible State with an appropriation equal to the difference between the amount allotted in the first tier and the amount authorized for the fiscal year. In this way, States which have demonstrated an ability to effectively manage their construction grant programs will be rewarded by receiving their alloted share of the fully authorized amount.

Section 2 of H.R. 4113 provides that the Administrator may reserve up to 2 percent of the amount authorized for alotment to each State or $400,000, whichever is greater, for the purpose of making grants to States which are administering certain delegated functions of the construction grants program. Under existing law such grants are based on the appropriated rather than the authorized levels. Because there have been such fluctuations in the appropriation levels, States have been unable to plan adequately for the necessary staffing to administer the program.

This situation is especially unfortunate because the management assistance program was created by the Clean Water Act of 1977 for the specific purpose of speeding up construction by reducing costly and time-consuming duplicative review of project applications; strengthening the monitoring, audit, and problem-solving role of EPA; and improving the management of the program at both State and Federal levels. The method chosen was delegation, by EPA, of responsibility for the day-to-day management of the construction grants program to qualifying States choosing to enter into agreements with EPA.

At precisely the point where this provision shows evidence of working, reductions in appropriations threaten the stability of the State program. States now participating face funding cutbacks, layoffs of key personnel, and the prospect of turning back newly assumed responsibilities to EPA. For them, the problems which occasioned enactment of the State management assistance program in the first place would return with a vengeance. Other States, now in the process of negotiating agreements with EPA or planning to do so, would be deterred from following through. Section 2 of H.R. 4113 would alleviate these problems created by funding instability and reinforce the initial purpose of the State management assistance program.

Section 3 of H.R. 4113 will extend from 24 to 36 months the amount of time available to obligate fiscal year 1979 construction grant funds. This amendment was requested by EPA to provide States with sufficient time to effectively manage their programs.

In calendar 1979, EPA raised the concern that as many as 17 States could lose up to $550 million of fiscal year 1978 construction grant funds to reallotment. In fact, only one State lost money and then, as compared to initial predictions, the impact was relatively minor. There is a concern, though, that States have the opportunity to effectively plan and manage their grants program, making the best water pollution control impact as possible with the investment of their funds. The issue is not just the utilization of funds, but insuring the quality of the projects. Section 3 of H.R. 4113 provides States the time they need to assess the management of their programs to insure such effective utilization of construction grant funds.

Mr. Speaker, the Subcommittee on Water Resources held hearings in July in which we heard from the Environmental Protection Agency and representatives of industry, cities, and States. Much support was expressed for the provisions in this bill.

It is due to the leadership of the distinguished chairman of the full committee, Congressman Bizz Johnson of California, that this important legislation is brought to the House. It is a real pleasure to have the opportunity to work with him.

I want to compliment my colleagues Congressman Jim Wright and Congressman Jim Cleveland for the interest and leadership they have shown in the development of this bill. They have done an excellent job in developing an important piece of legislation.

Also, I compliment my distinguised colleagues, Congressman Don Clausen, ranking minority member of the subcommittee, and Congressman Bill Harsha, ranking minority member of the full committee, for the excellent cooperation and working relationship we have always shared.

Mr. Speaker, H.R. 4113 is a necessary and important piece of legislation. I urge that it be enacted.

Mr. JOHNSON of California. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from California.

● Mr. JOHNSON of California. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of H.R. 4113.

H.R. 4113 would amend the Federal Water Pollution Control Act to provide a two-tier appropriation for construction grants, modify the funding of the State management assistance program, and provide a reallotment extension for fiscal year 1979 construction grant funds. No new budget authorizations are created by the bill. Rather, mechanisms are provided which will enable a more effective utilization of existing authorizations.

H.R. 4113 is directed to a serious issue which has plagued the construction grant program from its inception—the provision of stable and predictable levels of funding to assist States and municipalities in meeting federally mandated treatment requirements.

From the start, progress in this program has been slow. There were extensive delays due to: impoundments, erratic funding and obligation levels, redtape, overly ambitious time frames, numerous State and regulatory requirements, retroactive application of regulations, and understaffing at both the State and Federal levels.

The Federal Water Pollution Control Act Amendments of 1972 authorized $18 billion in contract authority over 3 fiscal years. Contract authority, which was later limited as a result of congressional budget reforms in 1974, provided assured funding. In 1977, Congress reaffirmed its commitment with the provision of $25.5 billion in grant authorizations over 5 fiscal years.

The construction grant funds were authorized to assist communities in meeting federally mandated water pollution control requirements.

Annual appropriations have failed to keep pace with the authorized amounts. In fiscal year 1978, the fully authorized level of $4.5 billion was appropriated. In 1979, the program was cutback from the authorized level of $5 billion to only $4.2 billion. There was a further decline in fiscal year 1980 to an appropriation of only $3.4 billion. Although Congress has chosen to provide less than full funding, the statutory requirements remain intact.

It is recognized that a major change in the Federal Water Pollution Control Act in 1977 was the provision making the amounts of each authorization subject to appropriations acts. This provision was adopted so as to comply with the Congressional Budget and Impoundment Control Act of 1974. However, making the authorizations subject to annual appropriations act reintroduced the very uncertainty in the level of funding that Congress had attempted to eliminate in the Federal Water Pollution Control Act Amendments of 1972, when it provided for contract authority. Therefore an allotment of the authorization is no longer a commitment to fund because, although contract authority is still theoretically available, it no longer has any significant impact on the availability of funds.

The Budget Impoundment and Control Act of 1974 anticipated that, in the absence of effective contract authority, the Appropriations Committees would make available advanced appropriations for programs, such as the construction of wastewater treatment works, which require long-term planning commitments for efficient expenditure of funds. Only if a 1-year advance appropriation is provided for fiscal years 1980, 1981, and 1982, can States and communities know in advance that adequate funds will be available and proceed to plan for construction of needed wastewater treatment works.

Sections 1 and 3 of H.R. 4113 are a direct response to the problems States are facing in managing their programs in an uncertain funding atmosphere. Some States are moving rapidly to fully utilize their allotments and could effectively utilize more funds if available. Other States, for reasons not necessarily of their own making, have faced problems in obligating their funds before the reallotment date.

Section 1 provides for a two-tier appropriation process, applicable only in fiscal years where the initial appropriation is less than the authorization. The second tier appropriation is available only to qualified States which have obligated 90 percent of their current allotment of grant funds by March 31 preceding the new fiscal year. The States may receive a share of a second appropriation within the amount authorized to give them a total appropriation equivalent to that which they would have received had the fully authorized amount been appropriated for all States.

Section 3 of H.R. 4113 extends for 1 year the time available to States to obligate their allotment of fiscal year 1979 grant funds. This will provide all States the necessary time and opportunity to make their programs fully effective.

The patterns of States in obligating funds—some fully utilizing their allotment and others facing problems in obligating their funds before the reallotment date—point to problems in the structure of the allotment formula. This issue must be examined in depth between now and 1981 when a new formula must be provided for the fiscal year 1982 grant authorization. In the interim, it is expected that States, which are charged by law with determining the priority for funding of projects eligible for Federal grant assistance, and EPA will give full management consideration to the range of water pollution control problems which now exist. This includes a recognition of the fact that major needs will occur in the Nation's major metropolitan areas, including those now undergoing judicial or administrative proceedings or those likely to do so. In managing their grant funds, it is expected that States will continue to consider in their development of priorities projects necessary to comply with court order, consent agreements, administrative orders and other deadlines established under the enforceable requirements of the act.

Section 2 of H.R. 4113 deals with a problem affecting a program authorized in 1977 whereby qualifying States can assume responsibilities, delegated by the Environmental Protection Agency, for day-to-day management of the construction program. Existing law provides that States assuming delegation can use up to 2 percent or $400,000, whichever is greater, of their construction funds to staff their water pollution control agencies, enabling them to accelerate development of projects and improve monitoring of their programs.

The 2 percent is based on funds actually appropriated, rather than the authorized amount, with the result that appropriations cutbacks lead to loss of funds for State management, layoffs of personnel and disruption of the program. This has been such a severe problem that a number of States, including California, have considered turning back some of the delegated management activities to EPA. Section 2 remedies the funding problem faced by these States by basing the 2-percent set-aside on the more stable authorized amount rather than fluctuating appropriations.

Mr. Speaker, H.R. 4113 goes a long way toward providing necessary assurances of stable predictable funding for the management and actual construction of wastewater treatment works projects.

I urge enactment of this important legislation.●

Mr. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from California.

Mr. CLAUSEN. I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of H.R. 4113 and I urge all of my colleagues here in the House to join me in voting to pass this very significant piece of legislation.

I would also like to thank the distinguished chairman of the Committee on Public Works and Transportation and my good friend from Texas, the chairman of the Subcommittee on Water Resources, for their encouragement of and strong bipartisan support for this bill. And finally, I would like to recognize my fellow Californian, the chairman of our Subcommittee on Oversight and Review, whose hearings helped establish the need for this legislation, and also the gentleman from New Hampshire, ranking minority member of the Subcommittee on Oversight and Review, who is the primary author and, with the majority leader, is one of the principal cosponsors of H.R. 4113.

Mr. Speaker, the construction grants program established under the Federal Water Pollution Control Act has been responsible for our making major strides toward cleaning up the Nation's waters. However, the program, like so many other things today, has experienced severe financial strain over the past few years and we can expect there to be a continued severe strain on construction grants funding in the future. EPA estimates the Nation's total municipal wastewater treatment requirements at $106 billion in 1978 dollars, approximately $80 billion of which will be Federal funds. Inflation is rapidly escalating these cost estimates. Just between 1976 and 1978, inflation alone caused these cost figures to increase by $13 billion. And I do not have to remind you that the situation is not getting any better. The current annual rate of inflation in the waste water construction industry is 13 percent, which means that the cost figures I just spoke of will be rising even more rapidly than in the past.

To meet the Federal share of the total construction needs over a 20-year period would, EPA believes, require an annual appropriation of $6.6 billion at an annual construction inflation rate of only 7 percent, and $8.2 billion at a 10-percent inflation rate. The construction grants program, however, has hardly been funded at levels even close to those in the past. Consider the record: 1977, $1 billion; 1978, $4.5 billion; 1979, $4.2 billion; thus far in 1980, $3.4 billion; and talk of even less in 1981.

How can we expect to continue to achieve the goals of the Clean Water Act and to satisfy the tremendous water cleanup needs of the Nation if we allow the money we are willing to commit to this program to diminish at the same time that the purchasing power of those fewer dollars is also being destroyed by inflation? What are we going to say to the many cities and counties which have committed themselves to major expenditures for their share of the cost of required treatment works and now may discover that the Federal commitment to such support is not as binding as their own? What does all this mean for the States and people we all represent?

We received testimony in our Water Resources Subcommittee hearings that, typical of many States, costs in Illinois over the past several years have been increasing at the rate of 10 to 14 percent per year. Assuming the lower figure for illustration purposes, a project delayed 2 years longer than necessary because of procedural, funding or any other reason will increase in cost by 21 percent. This requires a 21-percent increase on local cost share for the program which in turn is reflected as increased cost to the users of the system. With levels of appropriations remaining at a fixed amount—and remember, they are not; the trend in the program is toward declining appropriations levels—but with fixed levels of appropriations, the amount of water quality improvement purchased following a 2-year delay is only 79 percent of that which could have been purchased 2 years earlier with the same funds. With declining levels of appropriations, the problem becomes worse.

We simply cannot sit idly by and allow this situation to go unchecked. The States and people we represent are best served, economically and environmentally, by implementing an expedited construction grants program.

At the same time, though, experience has demonstrated that not all State programs operate at the same or even proportional rate and pace. The construction grants program must, therefore, be able to expedite national progress while at the same time allowing the scope of any given State's program to be determined by the needs, timing of need satisfaction, and experience of performance of that same State.

H.R. 4113 hones and refines the operation of the Clean Water Act to better accomplish these most important objectives. It does this in three ways: First, by creating a "two-tier" system of construction grants program funding which provides funds to States on the basis of their demonstrated ability to obligate funds; second, by basing the act's section 205(g) State management assistance funds on authorization, not appropriation, levels to provide stability to State water pollution control programs, and; third, by permitting a 1-year reallotment deadline extension for fiscal year 1979 funds.

Under the two-tier mechanism, the first tier is the sum of funds appropriated and allotted under existing law by the current allotment formula. All States, whatever their rate of spending, share in the base or first-tier appropriation according to existing formula. The second tier is a separate appropriation to States which by March 31 had obligated 90 percent of their previous year's allotments. The amount of the second tier equals the sum sufficient for qualifying States to bring their allotments for the next year up to the full amount authorized under existing law by the existing formula.

Assuming the bill were to pass in its present form, it would work as follows in the first year. Those States which have obligated 90 percent of their fiscal year 1978 funds by March 31, 1979, would qualify for a second-tier appropriation in fiscal year 1980. Their combined allotment, that is, first and second tiers together, would be the equivalent of what they would have received under the existing allotment formula if the total $5 billion in authorizations were appropriated.

Some perceive H.R. 4113's two-tier approach as one State taking money from another State or as a change in the act's allotment formula. This is a misconception. Under the two-tier system, all States share in the base funding level pursuant to the existing allotment formula. Incentive funds are made available to qualified States up to a maximum share, but this takes place in a separate appropriation. No funding is taken away from noneligible States. Neither does the two-tier concept open up the allotment formula for revision or itself constitute a revision to the allotment formula. On the contrary, H.R.

4113 uses the existing formula for determining States' shares of both the base and incentive funds. Construction grants monies will continue to be distributed by the same allotment formula established by Congress and presently in use.

I should also point out that the bill is not designed or intended to change the priorities established by any State for expenditure of its share of construction grant monies. Neither is it meant to effect, one way or the other, the method of establishing priorities being employed by the States. H.R. 4113 has been very intentionally crafted to be completely neutral on issues associated with how the States are to determine their own priorities for use of Federal water pollution control funds.

It is no wonder that commitments have been obtained in both the House and the Senate for favorable consideration of a supplemental appropriation for fiscal year 1980 to fund the second tier if this authorizing legislation is enacted. The two-tier approach is precisely what is needed at this point in the construction grants program's functioning. It balances authorization and appropriation considerations while driving the program to reduce delays and funding cuts attributable to the presence of large unobligated balances. If base funding is cut back, more States should be able to qualify as "Incentive States" able to obligate 90 percent of first-tier funds. As more States qualify for incentive funding, support for appropriation levels closer to the authorization levels will grow. As appropriation levels approach authorization levels, more and more States will be able to satisfy their program needs at a faster rate. As this occurs, the need for a special incentive will diminish and hence the amount of money in the second tier will be reduced. The bonus automatically "self-destructs" when the construction grants program is operating as Congress intended at the authorized levels. Meanwhile, major total program savings have been achieved, both Federal as well as State and local, as a result of eliminating delays in this time of high inflation.

In addition to setting up a two-tier funding mechanism, H.R. 4113 also amends the Clean Water Act to better assure the States of the resources necessary to manage their water pollution control programs. When the Congress enacted the act's midcourse corrections some 2 years ago, we declared in clear and unmistakable terms that it was our desire that the States manage the construction grants program. EPA was to delegate to the States program management responsibilities formerly held at the Federal level. To assist the States in retaining and expanding the staff necessary to perform these additional duties, Congress authorized 2 percent of the States allotments to be set-aside for funding State program administration.

This approach has not been without its successes. As of October 1, 1979, 30 agreements had been signed with States delegating authority for administering the program. Three more were expected to be signed by the end of this calendar year, with another nine more by the end of the fiscal year. Two States, New Hampshire and my own State of California, had assumed full program responsibilities.

The continued success of this effort, however, has been cast into doubt, most seriously by the major funding cutbacks that the construction grants program has recently experienced. As appropriations have fallen far short of authorized levels and hence the 2 percent set-aside has fallen correspondingly, States have found themselves with substantially reduced resources with which to assume program responsibilities. States already having negotiated delegation agreements, on the assumption that one level of Federal commitment would be forthcoming and on the basis of representations made a few years ago, have found themselves threatened with the need to return some of their delegated responsibilities to EPA as lower Federal funding levels have been appropriated. My own State of California is presently facing this dilemma and is in the process of being forced to gradually give up its administration of the program. The executive director of the California Water Resources Control Board informed me that a reduction of 20 staff positions has occurred and as many as 40 people may be cut from his staff if relief was not found. Other States have had to slow down their assumption of construction grants program functions until future planning can be based upon more certain sources of funding.

The threat that this represents to the success of the construction grants program is obvious. The Congress chose 2 years ago to focus program management responsibilities on the States because of the increased efficiency and appropriateness that such a change entailed. Yet here we are 2 years later pursuing a policy which is almost guaranteed to frustrate our goal. We ask the States to accept additional management responsibilities but at the same time we cut back on the resources available to them to perform this function. Without the necessary funds to support adequate staffing, the States become less able to give the program the attention it needs. This, in turn, results in examples of State inability to manage the program, which helps make the case for returning administration to the Washington bureaucracy. And there we are, faced with going full circle by returning management to the more expensive, more time consuming and less flexible Federal establishment.

It is a perfect case for robbing Peter to pay Paul, of being pennywise and pound foolish.

Section 2 of H.R. 4113 is meant to address this problem. It complements the two-tier mechanism of section 1 by enabling the States to gear up to take advantage of it. Instead of basing the 2-percent set-aside on appropriated levels, the bill shifts the base for the set-aside to the authorized level, thereby shoring up the State management program with greater stability and predictability.

The third change to the operation of the construction grants program that H.R. 4113 produces is a 1-year extension of the deadline for reallotment of fiscal year 1979 funds, which otherwise would lapse on September 30, 1981. This provision was requested by the Environmental Protection Agency to help accommodate the problem of slower spending States having allotments that cannot be used promptly.

Mr. Speaker, H.R. 4113 preserves the original intent of the construction grants program by encouraging construction of quality projects in a timely and efficient manner. It permits funds to be allotted not only where needed, but also where they can and are being utilized. This, along with continued careful scrutiny of proposed construction grant projects to insure cost-effectiveness and need, will permit the maximum amount of water pollution control to be brought with each taxpayer dollar. This bill very much deserves the support of all of us on the floor today and I urge you to join me in voting to pass it.

Mr. CLEVELAND. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from New Hampshire.

Mr. CLEVELAND. I thank the gentleman for yielding.

Mr. Speaker, as author of H.R. 4113, with the gentleman from Texas (Mr. WRIGHT), I suppose I might be expected to deliver some imaginative rhetoric in support of its passage; but I cannot top the observation of the gentleman from Texas (Mr. ROBERTS), the chairman of the Subcommittee on Water Resources at the full committee markup last week. After two hearings and a subcommittee markup remarkably devoid of dissent, he commented that this is a bill that nobody opposes. At least on the House side where reason prevails in this instance over less laudable considerations.

And it is supported by the States, Mr. Speaker. From Maine to California, the State water pollution officials who have taken a look at this bill and taken a position on it support the legislation overwhelmingly. The Environmental Protection Agency, recognizing that the construction grants program will die unless we enact something along this line, supports it in principle; and EPA has not managed to come up with anything that would do the job better.

H.R. 4113 is a simple, quick and clean measure in both principle and procedure. It simply allows an extra ration of funds for those fast-moving States whose construction programs would otherwise be cut back by reduced appropriations. The beauty of this is that it authorizes a separate appropriation—additional funds but within the currently authorized level—so it does not take a dime away from any State not qualifying for the second tier in any particular year.

Mr. Speaker, rather than rehash the entire rationale for this bill—it is amply dealt with in the committee report—let me offer a few observations for consideration of the House and others interested in this legislation.

First, it is no secret that EPA would like to see this used as a vehicle for changes in the substantive provisions of the basic law, such as limitations on the eligibility of various categories of projects for Federal assistance. In that connection, I posed the following question to

Thomas C. Jorling, then Assistant Administrator for Water and Waste Management at EPA to be answered in writing for the record of our hearing last July:

> Is it your position, then, that the question of eligibilities need not be addressed in this bill, and that project categories can properly be deferred until the Congress takes up reauthorization of the program?

His response:

> If treating eligibilities would lead to a lengthy process which might delay this bill well into the future, we would propose that the eligibility restrictions be taken up in the context of the reauthorization of the current statute.

This is exactly what the committee has chosen to do: defer the issue of eligibilities until consideration of subsequent legislation. Thus it should be evident that nothing in this bill alters eligibilities in any sense, in terms either of the type of projects assisted or the categories of applicant communities. Project selection remains with the States, according to State priorities, as reserved to the States by existing law which in this respect is in no way affected by H.R. 4113.

Another observation relates to the provision in H.R. 4113 relating to State management assistance, better known as Cleveland-Wright State certification. Again, the substance of the provision is dealt with in the report. But what should be pointed out is that it took 3 years to get State certification enacted into law. There was strong resistance in the other body. Now that it is in operation, I know of no objections to the basic provision or the amendment to it in H.R. 4113 to assure it funding stability. That point should be kept in mind by those whose enthusiasm for two-tier in this bill might benefit from historical perspective.

In closing, I would like the record to reflect the contribution made by Mr. Michael Mauzy, the State environmental control administrator for the State of Illinois, who worked directly with my office staff in shaping the two-tier provisions. This is an outstanding example of initiative on the part of a State administrator in helping to translate a problem in his own State into a solution for many States and an improvement in the program nationwide.

I also want to commend those State administrators, like Larry Walker of California, until recently executive director of the State water resources control Board, who took the lead in advocating enactment of the two-tier provision of H.R. 4113 even though their States would not immediately benefit in terms of eligibility in fiscal year 1980. They recognize the needs in States of their colleagues, the utility of the provision to their own States as early as 1981, and the benefit to the program nationwide.

Another instance of support along the same lines as reflected in the letter from Henry E. Warren, commissioner, Maine Department of Environmental Protection, to the senior Senator from that State. The text of the letter follows.

STATE OF MAINE, DEPARTMENT,
OF ENVIRONMENTAL PROTECTION,
Augusta, Maine, June 28, 1979.

HON. EDMUND S. MUSKIE,
Washington, D.C.

DEAR SENATOR MUSKIE It is my understanding that your colleague, Senator Durkin of New Hampshire, has introduced legislation designed to correct a serious funding problem affecting Maine's municipal treatment plant construction program. The bill, patterned after a House bill introduced by Representatives Cleveland and Wright, establishes a two tier system of funding designed to allow states which have effective construction programs to be rewarded for their efforts rather than delayed by the failure of the majority of states to commit their funds.

Maine, as you know, has long been a leader in managing its federal funds so as to maximize construction to the benefit of our communities, our workforce, and our environment. It is distressing to me to contemplate reducing the momentum of the program while we wait for others to catch up. Should this happen community efforts will again be discouraged and costs of construction will rise when the facilities are eventually built.

Your support of this legislation would be welcomed. If we can provide details on the Maine program, please let me know.

Sincerely,

HENRY E. WARREN,
Commissioner.

● Mr. HARSHA. Mr. Speaker, I rise in support of H.R. 4113, legislation which will increase the effectiveness of the management of funds made available for the construction grants program of the Clean Water Act.

The gentleman from Texas has already ably explained the purpose of this legislation and I shall not duplicate his statement. I would like, however, to underscore several points. First, this legislation creates no new budget authority. Rather, it provides a mechanism for more effective management of funds already authorized under the Clean Water Act.

Second, these changes are important. The decreasing appropriations for the construction grants program, which have resulted from the huge unobligated balances which exist, are creating disincentives for States to gear up for the fight against water pollution. We now have a situation where there is a Federal agency, EPA, promulgating a vigorous enforcement policy to force those municipalities which are not in compliance with the deadlines of the Clean Water Act to achieve compliance. At the same time those same municipalities are not able to construct the wastewater treatment facilities necessary to comply with the law. These problems result from burdensome program requirements, lack of resources and management problems, and a lack of timely funding to carry out the projects.

Mr. Speaker, H.R. 4113 is intended to respond to these problems and to assure our municipalities that no decrease in the Federal commitment to clean water has occurred.

Section 1 of the bill creates an incentive program for States by rewarding performance with additional funds. A State which is able to obligate 90 percent of its appropriation within 18 months of the date that it is made available will qualify for additional funding in the next appropriation cycle. It is intended that this increase in a State's appropriation will be equal to the difference between what the State actually receives from the fiscal year's appropriation and what the State would have received if the total amount authorized had actually been appropriated. This means that States which perform will be rewarded with full funding. Obviously, the provision is based on two premises: One, that the appropriations will continue to be less than the authorized level, which will penalize States able to obligate more funds than they receive; and second, that the appropriations committees will fund this incentive program.

In the first case, it is my understanding that the administration will request only $3.6 billion for fiscal year 1981 for the construction grants program, while $5 billion is authorized. This follows a trend which began in fiscal year 1978 of funding less than the authorized amount—remember that in fiscal year 1980, only $3.4 billion of the $5 billion authorized was appropriated.

Based on the anticipated administration action and the programs history it is virtually certain that decreased appropriations will continue.

On the second point, Mr. BOLAND, chairman of the Appropriation Subcommittee responsible for funding the construction grant program, has agreed to provide funds in fiscal year 1980 for the incentive program, if it is authorized.

It should be pointed out, Mr. Speaker, that some witnesses who testified at the hearings conducted by the Subcommittee on Water Resources, including EPA, recommended that funds appropriated for the incentive program be available only for projects necessary to meet the enforceable requirements of the act. The Committee on Public Works and Transportation rejected this proposal and leaves existing law in place. As anyone familiar with the construction grants program knows, the States are responsible for determining the priorities for funding projects eligible for Federal assistance under the Clean Water Act. Congress has never assigned a priority to the varying catagories of projects eligible for assistance, and, in the Clean Water Act of 1977, wrote into the law that, "It is the policy of this Act that the States manage the construction grants program * * *." H.R. 4113 continues the absolute right of the States to determine the priority given to the various projects which might be funded under the incentive program of section 1.

Section 2 of the bill addresses a serious problem being experienced with the program. The decreasing level of appropriations has jeopardized the ability of States to administer the construction grant program functions delegated to them. Under the law a State can set aside 2 percent of the funds appropriated for the construction grants program for administration purposes. This allows them to hire the personnel necessary to make the program work. To date, 30 States have assumed these management functions.

However, the current provision allows

the State to set aside the 2 percent from the appropriated funds rather than those authorized. This has resulted in uncertainty in the State programs since they do not know what the Federal appropriation will be from year to year. With decreasing funding, the States are not able to maintain their staff and the State programs may be returned to EPA, which would be disastrous for the program. Therefore section 2 of H.R. 4113 amends the existing law to allow the 2-percent set aside to be based upon the authorized levels rather than that appropriated.

Section 3 of the bill, which extends for 12 months the reallotment deadline for obligation of fiscal 1979 funds, recognizes that in certain States the loss of construction grant funds will only exacerbate pollution control efforts. Under existing law, a State has 24 months in which to obligate funds made available by Congress. If these moneys are not obligated they are realloted to States which were able to utilize all of their appropriation. While only one State has suffered reallotment in the history of the program, it does appear that unless Congress acts a large number of States will suffer reallotment in fiscal year 1979. While some States should benefit from reallotment, it is my opinion that the purposes of the program—to clean up the Nation's waters—will not be served. Therefore, I support this change.

Mr. Speaker, I would like to compliment the gentleman from New Hampshire (Mr. Cleveland) for his effort on this legislation. I would also like to publicly thank Chairman Johnson, Chairman Roberts, and Congressman Clausen, for their support to bring this bill to the floor. This legislation is well balanced and a needed correction for the management, and success, of the construction grants program. I urge my colleagues to support its passage.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERSONAL STATEMENT

(Mr. AKAKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AKAKA. Mr. Speaker, yesterday, during the consideration of the Chrysler aid package, I am not recorded as having voted on final passage. Apparently a mechanical failure did not record my "yes" vote, and I want to restate my strong support for the Chrysler aid package, H.R. 5860. I would also like to request that my statement appear immediately after the vote in the permanent Record.

CONTINUING PROHIBITION ON ISSUANCE OF FRINGE BENEFIT REGULATIONS

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 5224) to continue through May 31, 1981, the existing prohibition on the issuance of fringe benefit regulations, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2, strike out lines 7 to 20, inclusive, and insert:

Sec. 3. Payment of Interest Where Levy Has Been Wrongfully Made and Money Received by United States.

(a) In General.—Section 6343 (relating to release of levy and return of property) is amended by adding at the end thereof the following new subsection:

"(c) Interest.—Interest shall be allowed and paid at an annual rate established under section 6621—

"(1) in a case described in subsection (b)(2), from the date the Secretary receives the money to a date (to be determined by the Secretary) preceding the date of return by not more than 30 days, or

"(2) in a case described in subsection (b)(3), from the date of the sale of the property to a date (to be determined by the Secretary) preceding the date of return by not more than 30 days."

(b) Technical Amendment.—Subsection (a) of section 6621 is amended to read as follows:

"(a) In General.—The annual rate established under this section shall be such adjusted rate as is established by the Secretary under subsection (b)."

(c) Effective Dates.—

(1) The amendment made by subsection (a) shall apply to levies made after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

Sec. 4. Repeal of Requirement That Transferors of Certain Property to Exempt Organizations Must File Returns.

(a) General Rule.—Section 6050 (relating to returns relating to certain transfers to exempt organizations) is hereby repealed.

(b) Clerical Amendment.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking out the item relating to section 6050.

(c) Effective Date.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

Sec. 5. Repeal of Addition to Tax in Case of Jeopardy.

(a) General Rule.—Section 6658 (relating to addition to tax in case of jeopardy) is hereby repealed.

(b) Clerical Amendment.—The table of sections for subchapter A of chaper 68 is amended by striking out the item relating to section 6658.

(c) Effective Date.—The amendments made by this section shall apply to violations (or attempted violations) occurring after the date of the enactment of this Act.

Sec. 6. Repeal of Requirement That Information Be Furnished to the Service In Connection With Certain Options.

(a) General Rule.—Section 6039 (relating to information required in connection with certain options) is amended to read as follows:

"Sec. 6039. Information Required in Connection With Certain Options.

"(a) Furnishings of Information.—Every corporation—

"(1) which in any calendar year transfers a share of stock to any person pursuant to such person's exercise of a qualified stock option or a restricted stock option, or

"(2) which in any calendar year records (or has by its agent recorded) a transfer of the legal title of a share of stock—

"(A) acquired by the transfer or pursuant to his exercise of an option described in section 423(c) (relating to special rule where option price is between 85 percent and 100 percent of value of stock), or

"(B) acquired by the transfer or pursuant to his exercise of a restricted stock option described in section 424(c)(1) (relating to options under which option price is between 85 percent and 95 percent of value of stock),

shall (on or before January 31 of the following calendar year) furnish to such person a written statement in such manner and setting forth such information as the Secretary may by regulations prescribe.

"(b) Special Rules.—For purposes of this section—

"(1) Treatment by employer to be determinative.—Any option which the corporation treats as a qualified stock option, a restricted stock option, or an option granted under an employee stock purchase plan shall be deemed to be such an option.

"(2) Subsection (a)(2) applies only to first transfer described therein.—A statement is required by reason of a transfer described in subsection (a)(2) of a share only with respect to the first transfer of such share by the person who exercised the option.

"(3) Identification of stock.—Any corporation which transfers any share of stock pursuant to the exercise of any option described in subsection (a)(2) shall identify such stock in a manner adequate to carry out the purposes of this section.

"(c) Cross References.—

"For definition of—

"(1) The term 'qualified stock option', see section 422(b).

"(2) The term 'employee stock purchase plan', see section 423(b).

"(3) The term 'restricted stock option', see section 424(b)."

(b) Technical Amendments.—

(1) Subsection (a) of section 6652 is amended—

(A) by inserting "or" at the end of paragraph (1),

(B) by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2), and

(C) by striking out "return referred to in paragraph (2) or (3)" and inserting in lieu thereof "return referred to in paragraph (2)".

(2) Section 6678 (relating to penalty for failure to furnish certain statements) is amended to read as follows:

"Sec. 6678. Failure to Furnish Certain Statements.

"In the case of each failure—

"(1) to furnish a statement under section 6042(c), 6044(e), 6049(c), or 6052(b), on the date prescribed therefor to a person with respect to whom a return has been made under section 6042(a)(1), 6044(a)(1), 6049(a)(1), or 6052(a), respectively, or

"(2) to furnish a statement under section 6039(a) on the date prescribed therefor to a person with respect to whom such a statement is required,

unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to so furnish the statement $10 for each such statement not so furnished, but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed $25,000."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to calendar years beginning after 1979.

SEC. 7. EXTENSION OF TIME FOR FILING GIFT TAX RETURN FOR FOURTH CALENDAR QUARTER

(a) GENERAL RULE.—Paragraph (1) of section 6075(b) (relating to due date for gift tax returns) is amended to read as follows:

"(1) GENERAL RULE.—Except as provided in paragraph (2), returns made under section 6019 (relating to gift taxes) shall be filed on or before—

"(A) in the case of a return for the first, second, or third calendar quarter of any calendar year, the 15th day of the second month following the close of the calendar quarter, or

"(B) in the case of a return for the fourth calendar quarter of any calendar year, the 15th day of the fourth month following the close of the calendar quarter."

(b) EXTENSION OF DATE FOR FILING INCOME TAX RETURN TREATED AS EXTENSION OF DATE FOR FILING GIFT TAX RETURN.—Subsection (b) of section 6075 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) EXTENSION WHERE TAXPAYER GRANTED EXTENSION FOR FILING INCOME TAX RETURN.—Any extension of time granted the taxpayer for filing the return of income taxes imposed by subtitle A for any taxable year which is a calendar year shall be deemed to be also an extension of time granted the taxpayer for filing the return under section 6019 for the fourth calendar quarter of such taxable year."

(c) TECHNICAL AMENDMENTS.—Paragraph (2) of section 6075(b) is amended—

(1) by striking out "the 15th day of the second month after" and inserting in lieu thereof "the date prescribed by paragraph (1) for filing the return for", and

(2) by striking out "the close of" in subparagraphs (A) and (B).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to returns for gifts made in calendar years ending after the date of the enactment of this Act.

SEC. 8. EXTENSION OF CERTAIN TEMPORARY TAX PROVISIONS.

(a) GOVERNMENT HEALTH PROVISION SCHOLARSHIP PROGRAMS.—Subsection (c) of section 4 of Public Law 93-483, as amended, is amended—

(1) by striking out "1980" and inserting in lieu thereof "1981", and

(2) by striking out "1984" and inserting in lieu thereof "1985".

(b) NATIONAL RESEARCH SERVICE AWARDS.—Paragraph (2) of section 161(b) of the Revenue Act of 1978 (relating to national research service awards) is amended by striking out "1979" and inserting in lieu thereof "1980".

(c) DEDUCTION FOR ELIMINATING ARCHITECTURAL AND TRANSPORTATION BARRIERS TO THE HANDICAPPED.—Subsection (c) of section 2122 of the Tax Reform Act of 1976 (relating to effective date for allowance of deduction for eliminating architectural and transportation barriers to the handicapped) is amended by striking out "January 1, 1980" and inserting in lieu thereof "January 1, 1983".

(d) CONTROVERSIES INVOLVING WHETHER INDIVIDUALS ARE EMPLOYEES FOR PURPOSES OF THE EMPLOYMENT TAXES.—

(1) IN GENERAL.—Subsection (a) of section 530 of the Revenue Act of 1978 (relating to termination of certain employment tax liability for periods before 1980) is amended—

(A) by striking out "January 1, 1980" in paragraphs (1)(A) and (3) and inserting in lieu thereof "January 1, 1981",

(B) by striking out "1980" in the subsection heading and inserting in lieu thereof "1981", and

(C) by striking out "1979" in the heading for paragraph (3) and inserting in lieu thereof "1979 and 1980".

(2) PROHIBITION AGAINST REGULATIONS AND RULINGS ON EMPLOYMENT STATUS.—Subsection (b) of section 530 of the Revenue Act of 1978 is amended by striking out "January 1, 1980" and inserting in lieu thereof "January 1, 1981".

(e) ADDITIONAL 2-YEAR DELAY IN APPLICATION OF THE NET OPERATING LOSS RULES ADDED BY THE TAX REFORM ACT OF 1976.—Paragraphs (2) and (3) of section 806(g) of the Tax Reform Act of 1976 (relating to effective dates for the amendments to sections 382 and 383 of the Internal Revenue Code of 1954) are amended by striking out "1980" each place it appears and inserting in lieu thereof "1982".

The Clerk read the House amendment to the Senate amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SEC. 3. STATE LEGISLATORS' TRAVEL EXPENSES AWAY FROM HOME.

(a) GENERAL RULE.—Subsection (a) of section 604 of the Tax Reform Act of 1976 (relating to State legislators' travel expenses away from home) is amended—

(1) by striking out "who elects the application" and inserting in lieu thereof "who, for the taxable year, elects the application", and

(2) by striking out "January 1, 1978" and inserting in lieu thereof "January 1, 1981".

(b) TECHNICAL AMENDMENT.—Effective for taxable years beginning after December 31, 1977, subsection (d) of section 604 of the Tax Reform Act of 1976 is amended by striking out the last sentence.

SEC. 4. PAYMENT OF INTEREST WHERE LEVY HAS BEEN WRONGFULLY MADE AND MONEY RECEIVED BY UNITED STATES.

(a) IN GENERAL.—Section 6343 of the Internal Revenue Code of 1954 (relating to release of levy and return of property) is amended by adding at the end thereof the following new subsection:

"(c) INTEREST.—Interest shall be allowed and paid at an annual rate established under section 6621—

"(1) in a case described in subsection (b)(2), from the date the Secretary receives the money to a date (to be determined by the Secretary) preceding the date of return by not more than 30 days, or

"(2) in a case described in subsection (b)(3), from the date of the sale of the property to a date (to be determined by the Secretary) preceding the date of return by not more than 30 days."

(b) TECHNICAL AMENDMENT.—Subsection (a) of section 6621 of such Code is amended to read as follows:

"(a) IN GENERAL.—The annual rate established under this section shall be such adjusted rate as is established by the Secretary under subsection (b)."

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to levies made after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 5. REPEAL OF REQUIREMENT THAT TRANSFERORS OF CERTAIN PROPERTY TO EXEMPT ORGANIZATIONS MUST FILE RETURNS.

(a) GENERAL RULE.—Section 6050 of the Internal Revenue Code of 1954 (relating to returns relating to certain transfers to exempt organizations) is hereby repealed.

(b) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by striking out the item relating to section 6050.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

SEC. 6. REPEAL OF ADDITION TO TAX IN CASE OF JEOPARDY.

(a) GENERAL RULE.—Section 6658 of the Internal Revenue Code of 1954 (relating to addition to tax in case of jeopardy) is hereby repealed.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 68 of such Code is amended by striking out the item relating to section 6658.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to violations (or attempted violations) occurring after the date of the enactment of this Act.

SEC. 7. REPEAL OF REQUIREMENT THAT INFORMATION BE FURNISHED TO THE SERVICE IN CONNECTION WITH CERTAIN OPTIONS.

(a) GENERAL RULE.—Section 6039 of the Internal Revenue Code of 1954 (relating to information required in connection with certain options) is amended to read as follows:

"SEC. 6039. INFORMATION REQUIRED IN CONNECTION WITH CERTAIN OPTIONS.

"(a) FURNISHING OF INFORMATION.—Every corporation—

"(1) which in any calendar year transfers a share of stock to any person pursuant to such person's exercise of a qualified stock option or a restricted stock option, or

"(2) which in any calendar year records (or has by its agent recorded) a transfer of the legal title of a share of stock—

"(A) acquired by the transferor pursuant to his exercise of an option described in section 423(c) (relating to special rule where option price is between 85 percent and 100 percent of value of stock), or

"(B) acquired by the transferor pursuant to his exercise of a restricted stock option described in section 424(c)(1) (relating to options under which option price is between 85 percent and 95 percent of value of stock),

shall (on or before January 31 of the following calendar year) furnish to such person a written statement in such manner and setting forth such information as the Secretary may by regulations prescribe.

"(b) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT BY EMPLOYER TO BE DETERMINATIVE.—Any option which the corporation treats as a qualified stock option, a restricted stock option, or an option granted under an employee stock purchase plan shall be deemed to be such an option.

"(2) SUBSECTION (A)(2) APPLIES ONLY TO FIRST TRANSFER DESCRIBED THEREIN.—A statement is required by reason of a transfer described in subsection (a)(2) of a share only with respect to the first transfer of such share by the person who exercised the option.

"(3) IDENTIFICATION OF STOCK.—Any corporation which transfers any share of stock pursuant to the exercise of any option described in subsection (a)(2) shall identify such stock in a manner adequate to carry out the purposes of this section.

"(c) CROSS REFERENCES.—

"For definition of—

"(1) The term 'qualified stock option,' see section 422(b).

"(2) The term employee stock purchase plan', see section 423(b).

"(3) The term 'restricted stock option', see section 424(b)."

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of section 6652 of such Code is amended—

(A) by inserting "or" at the end of paragraph (1),

(B) by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2), and

(C) by striking out "return referred to in paragraph (2) or (3)" and inserting in lieu thereof "return referred to in paragraph (2)".

(2) Section 6678 of such Code (relating to penalty for failure to furnish certain statements) is amended to read as follows:

"SEC. 6678. FAILURE TO FURNISH CERTAIN STATEMENTS.

"In the case of each failure—

"(1) to furnish a statement under section 6042(c), 6044(e), 6049(c), or 6052(b), on the date prescribed therefor to a person with respect to whom a return has been made under section 6042(a)(1), 6044(a)(1), 6049(a)(1), or 6052(a), respectively, or

"(2) to furnish a statement under section 6039(a) on the date prescribed therefor to a person with respect to whom such a statement is required,

unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to so furnish the statement $10 for each such statement not so furnished, but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed $25,000."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to calendar years beginning after 1979.

SEC. 8. EXTENSION OF TIME FOR FILING GIFT TAX RETURN FOR FOURTH CALENDAR QUARTER.

(a) GENERAL RULE.—Paragraph (1) of section 6075(b) of the Internal Revenue Code of 1954 (relating to due date for gift tax returns) is amended to read as follows:

"(1) GENERAL RULE.—Except as provided in paragraph (2), returns made under section 6019 (relating to gift taxes) shall be filed on or before—

"(A) in the case of a return for the first, second, or third calendar quarter of any calendar year, the 15th day of the second month following the close of the calendar quarter, or

"(B) in the case of a return for the fourth calendar quarter of any calendar year, the 15th day of the fourth month following the close of the calendar quarter."

(b) EXTENSION OF DATE FOR FILING INCOME TAX RETURN TREATED AS EXTENSION OF DATE FOR FILING GIFT TAX RETURN.—Subsection (b) of section 6075 of such Code is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) EXTENSION WHERE TAXPAYER GRANTED EXTENSION FOR FILING INCOME TAX RETURN.—Any extension of time granted the taxpayer for filing the return of income taxes imposed by subtitle A for any taxable year which is a calendar year shall be deemed to be also an extension of time granted the taxpayer for filing the return under section 6019 for the fourth calendar quarter of such taxable year."

(c) TECHNICAL AMENDMENTS.—Paragraph (2) of section 6075(b) of such Code is amended—

(1) by striking out "the 15th day of the second month after" and inserting in lieu thereof "the date prescribed by paragraph (1) for filing the return for", and

(2) by striking out "the close of" in subparagraphs (A) and (B).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to returns for gifts made in calendar years ending after the date of the enactment of this Act.

SEC. 9. EXTENSION OF CERTAIN TEMPORARY TAX PROVISIONS.

(a) GOVERNMENT HEALTH PROFESSIONS SCHOLARSHIP PROGRAMS.—Subsection (c) of section 4 of Public Law 93-483, as amended, is amended—

(1) by striking out "1980" and inserting in lieu thereof "1981", and

(2) by striking out "1984" and inserting in lieu thereof '1985".

(b) NATIONAL RESEARCH SERVICE AWARDS.—Paragraph (2) of section 161(b) of the Revenue Act of 1978 (relating to national research service awards) is amended by striking out "1979" and inserting in lieu thereof "1980".

(c) DEDUCTION FOR ELIMINATING ARCHITECTURAL AND TRANSPORTATION BARRIERS TO THE HANDICAPPED.—Subsection (c) of section 2122 of the Tax Reform Act of 1976 (relating to effective date for allowance of deduction for eliminating architectural and transportation barriers to the handicapped) is amended by striking out "January 1, 1980" and inserting in lieu thereof "January 1, 1983".

(d) CONTROVERSIES INVOLVING WHETHER INDIVIDUALS ARE EMPLOYEES FOR PURPOSES OF EMPLOYMENT TAXES.—

(1) IN GENERAL.—Subsection (a) of section 530 of the Revenue Act of 1978 (relating to termination of certain employment tax liability of periods before 1980) is amended—

(A) by striking out "January 1, 1980" in paragraphs (1)(A) and (3) and inserting in lieu thereof "January 1, 1981",

(B) by striking out "1980" in the subsection heading and inserting in lieu thereof "1981", and

(C) by striking out "1979" in the heading for paragraph (3) and inserting in lieu thereof "1979 and 1980".

(2) PROHIBITION AGAINST REGULATIONS AND RULINGS ON EMPLOYMENT STATUS.—Subsection (b) of section 530 of the Revenue Act of 1978 is amended by striking out"January 1, 1980" and inserting in lieu thereof "January 1, 1981".

(e) ADDITIONAL 2-YEAR DELAY IN APPLICATION OF THE NET OPERATING LOSS RULES ADDED BY THE TAX REFORM ACT OF 1976.—Paragraphs (2) and (3) of section 806(g) of the Tax Refrom Act of 1976 (relating to effective dates for the amendments to section 382 and 383 of the Internal Revenue Code of 1954) are amended by striking out "1980" each place it appears and inserting in lieu thereof "1982".

Mr. ROSTENKOWSKI (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the House amendment to the Senate amendment.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, H.R. 5224 as it passed the House extends the existing prohibition on the issuance of regulations relating to the taxation of employee fringe benefits until June 1, 1981, extends the existing prohibition on the issuance of rulings or regulations with respect to the deductibility of certain commuting or transportation expenses paid or incurred prior to June 1, 1981, and extends, for 3 additional years, provisions relating to the tax treatment of travel expenses incurred by State legislators while away from home.

The bill, as amended by the Senate, deletes the provision relating to the tax treatment of travel expenses incurred by State legislators and adds provisions relating to the simplification of certain tax procedure rules and the extension of other provisions which are about to expire. The provisions added by the Senate are identical to provisions contained in H.R. 5505, which was passed by the House on October 30, 1979.

The simplification provisions amend certain procedural rules to improve them or to eliminate unnecessary provisions. These amendments provide for: First, the payment of interest on certain wrongful levies by the Internal Revenue Service; second, repeal of unnecessary reporting for certain transfers of property to an exempt organization; third, repeal of an unnecessary penalty for certain jeopardy assessments; fourth, repeal of certain information reporting requirements for stock options; and fifth, extension of the due date for filing certain gift tax returns to conform to the due date for filing the individual income tax return. The amendments extending provisions about to expire relate to: First, the tax treatment of certain scholarship awards; second, the treatment of expenses incurred in removing architectural barriers to the elderly and handicapped; third, the classification of a worker as an employee or independent contractor; and fourth, the application of special limitations on net operating loss carryovers.

Mr. Speaker, I urge the House to concur in the Senate amendment which added the simplification and extension provisions previously approved by the House. Also, I urge that the House amend the bill to restore the provision relating to the tax treatment of travel expenses of State legislators.

Mr. LEDERER. Mr. Speaker, reserving the right to object, I will state for the record I concur with the remarks of the gentleman from Illinois, ask that the bill be returned and the amendments perfected.

Mr. Speaker, I withdraw my reservation of objection.

Mr. LEVITAS. Mr. Speaker, I reserve the right to object.

Mr. Speaker, I would point out to the gentleman from Illinois (Mr. ROSTENKOWSKI) I voted against this bill when it first passed the House. I think I was 1 of 14 who did so. My vote was a protest against the special State legislator tax treatment portion of the bill.

I totally agree with the position of the Committee on Ways and Means on the other aspects of the bill except the special treatment travel deduction for State legislators. I especially support the prohibition on the fringe-benefit taxation as proposed by IRS regulations. I have voted for the prohibition before and will again. That policy is not sound as proposed and it is a decision that Congress should make, not one to be made by unelected IRS officials.

If the Members of Congress were treated in the same way as the State legislators are under this provision, would that permit Members of Congress to deduct their travel, transportation, and living expenses while in Washington, as well as having a residence back in their district?

Mr. ROSTENKOWSKI. Mr. Speaker, under the bill, the State legislators are allowed expense deductions of up to $35 per legislative day (unless Federal Government per diem in a particular State capital is higher). In Washington, per diem is $50 and would thus establish a maximum deduction allowance of $50. That is how this would work if this bill applied to Congress—we would be treated exactly as State legislators are, and would be allowed to deduct up to the maximum Government per diem (here $50) for living expenses for each away from home legislative day.

Mr. LEVITAS. That would represent a substantial increase over the $3,000 deduction which is presently available to Members of Congress?

Mr. ROSTENKOWSKI. It probably would, but Mr. Speaker, it should remain clear we do nothing to increase the $3,000 congressional living expense allowance in this legislation at all.

Mr. LEVITAS. In other words, State legislators are treated substantially more favorably than are Members of Congress as a result of this provision. Is that correct?

Mr. ROSTENKOWSKI. I would interpret that as being correct.

Mr. LEVITAS. I do not think Members of Congress should receive different tax treatment from other citizens, nor do I think State legislators should receive different treatment from other citizens.

Mr. ROSTENKOWSKI. I agree with the gentleman. What we have here are restrictions on deductions otherwise allowable to an ordinary businessman.

Mr. LEVITAS. Mr. Speaker, I withdraw my reservation of objection.

Mr. ROBERTS. Mr. Speaker, reserving the right to object, I am one of those unfortunates who has just been audited for 2 straight years. They have now informed me that no congressional entertainment is deductible because Congress is not a business. Will this have any effect on that? I think it is ridiculous. Your entertainment of a constituent is no longer deductible.

Mr. ROSTENKOWSKI. If the gentleman will yield, this legislation has nothing to do with Members of Congress.

Mr. ROBERTS. Mr. Speaker, I withdraw my reservation of objection.

Mr. SCHULZE. Mr. Speaker, reserving the right to object, H.R. 5224 as passed by the House of Representatives extended various tax provisions including the special election allowed State legislators under the Tax Reform Act of 1976. The Senate amended H.R. 5224 to include certain provisions of H.R. 5505 which this House passed but deleted the State legislature election. This deletion would cause State legislatures to be subject to the generally applicable tax rules which do not operate properly when applied to State legislatures. For this reason I urge my colleagues to support H.R. 5224 as passed by this House.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Illinois (Mr. ROSTENKOWSKI)?

There was no objection.

A motion to reconsider was laid on the table.

ASSISTANCE TO THE PEOPLE OF NICARAGUA

(Mr. BONIOR of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONIOR of Michigan. Mr. Speaker, recent events in the world have led many of us in Congress to believe that the number of friends we have in the community of nations is dwindling. In the face of our present dilemma, I have yet to notice an unsolicited inquiry for assistance from our traditional allies. Yet, the Republic of Panama, with minimal consultation, has allowed admittance to the Shah of Iran for an unlimited stay Mr. Speaker, I feel it is important that we recognize the helping hand offered by our neighbors to the south. In that same spirit, I feel we should be assisting our neighbors by moving quickly on a most necessary and humanitarian aid package to the people of Nicaragua.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO HAVE UNTIL MIDNIGHT, JANUARY 18, 1980, TO FILE REPORT ON HOUSE CONCURRENT RESOLUTION 204, MOST FAVORED NATION TREATMENT FOR CHINA

Mr. VANIK. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means have until midnight, January 18, 1980, to file a report on the concurrent resolution (H. Con. Res. 204) approving the extension of nondiscriminatory treatment to the products of the People's Republic of China.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

CONFERENCE REPORT ON S. 1143, ENDANGERED SPECIES ACT AUTHORIZATION

Mr. MURPHY of New York. Mr. Speaker, I call up the conference report on the Senate bill (S. 1143) to extend the authorization for appropriations for the Endangered Species Act of 1973, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. MINISH). Pursuant to the rule the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of December 11, 1979.)

The SPEAKER pro tempore. The gentleman from New York (Mr. MURPHY) will be recognized for 30 minutes, and the gentleman from New Jersey (Mr. FORSYTHE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report on S. 1143, would authorize appropriations to carry out the Endangered Species Act through fiscal year 1982. I can unequivocably say that the House conferees have retained each and every major provision of the bill as passed by the House.

The Endangered Species Act has been extremely controversial for several years now. The 95th Congress substantially amended the Endangered Species Act by establishing an exemption process for all projects that develop conflicts with endangered species. Under these amendments any project can be considered for an exemption from the requirements of the act by a seven-member committee. This committee is composed of representatives of several Federal agencies as well as the representative of the State involved.

Although the 1978 amendments were developed after extensive hearings and markup sessions in the Merchant Marine and Fisheries Committee, several Members of the House expressed concerns last year that the House be given an opportunity to review the Endangered Species Act again in the 96th Congress after the General Accounting Office completed its review of the administration of the act.

We have kept that pledge that we made to these Members in the House last year. The General Accounting Office report has been completed and oversight hearings on that report have been conducted. The Department of the Interior has initiated steps to correct nearly all of the difficiencies cited by the GAO report.

The GAO and the administration also suggested several legislative changes to clarify some of the provisions in the 1978 amendments. The conference report includes several of these amendments.

The major issue for the House this year involved the implementation of the Convention on International Trade in Endangered Species. The gentleman from Louisiana, who is also the chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, offered an amendment to the bill which established the Secretary of the Interior as the Scientific Authority under the terms of the convention. Under the convention, the U.S. designates two agencies—a Management Authority and a Scientific Authority—to administer trade involving species whose survival is threatened by commercial exploitation. The U.S. Management Authority resides in the Interior Department, while the Scientific Authority is composed of seven natural scientists, from various executive departments. The gentleman's amendment would have transferred the Scientific Authority functions to the Secretary of the Interior and would have established the existing membership of the Scientific Authority as an advisory group within the Fish and Wildlife Service of the Department of the Interior.

A number of wildlife conservation organizations expressed concern that this arrangement would hinder the ability of the Secretary to receive independent scientific advice from the various naturalists represented on ESSA. The compromise agreed to by the House and Senate conferees retains the basic structure of the House-passed version, but introduces some significant changes to accommodate the concerns of the environmental community.

First, the conference report removes the Scientific Advisory Commission from the Fish and Wildlife Service and makes the Advisory Commission independent. Second, it requires the Secretary to respond to the recommendations of the Advisory Commission, and explain why any recommendation is not accepted. Third, it requires the Scientific Authority to publish its responses to Commission recommendations in the Federal Register. Fourth, Education, and Welfare with a State Fish and Game Official appointed by the Secretary. And fifth, it allows the election of the chairman of the Advisory Group by the membership of the Commission.

The conference report addresses the basic concern of the gentleman from Louisiana—that the Scientific Authority be within a single Department of the Federal Government so that the decisions of the Authority are accountable to both the Congress and the executive branch. The conference report, however, also significantly responds and addresses the concerns of the conservation community by establishing a wholly independent Scientific Advisory Commission. This Commission will be authorized to advise the Secretary on all Scientific Authority matters. The Secretary will have to give serious consideration to these recommendations and he will have to explain to the independent advisory commission why it is that he is not accepting their recommendations.

The conference report retains all of the provisions of the amendments offered by the gentleman from Mississippi (Mr. BOWEN). These amendments will help clarify some important provisions of the 1978 amendments. The conference report does extend the emergency listing time period to 240 days. The conferees determined that the additional procedural requirements added to the act last year justify extending the time during which a species can be listed on an emergency basis.

Congress has taken a long, hard, and sometimes painful look at the Endangered Species Act. The Subcommittee on Fisheries and Wildlife Conservation and the Environment conducted 8 days of oversight hearings on the act last year. They conducted 3 more days of hearings this year. The General Accounting Office investigated the operation of the endangered species program. The committee has evaluated the GAO report. In short, the administration of the endangered species program has been analyzed in excruciating detail.

We believe that many of the problems with the Endangered Species Act that have been discussed over the last several years have been adequately addressed by the Congress. It is now time to give this act a needed rest, and to allow the departments to begin to implement and administer the recently enacted amendments.

The Endangered Species Act is good, sound, and very necessary environmental legislation. I do not believe that any of us here would like to see the bald eagle, the grizzly bear, or the gray wolf vanish. I doubt that we would like to see the purposeful extermination of many of the less romantic species when there are reasonable alternatives available to conserve these species. That is what the act and what the amendments adopted over the last 2 years provide.

I urge that the House adopt the conference report on S. 1143.

□ 1030

Mr. FORSYTHE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report which will extend the authorization for the Endangered Species Act for 3 years and make certain amendments to the act. The amendments which were adopted by the committee of conference essentially parallel the bill as it passed the House.

The amendments add a new perspective and balance to the Endangered Species Act by clarifying the purpose and intent of the 1978 amendments. The committee of conference has, for example, adopted language which provides that Federal agencies are no longer held to the standard of guaranteeing that their actions will in no way have any adverse effects on an endangered species or its critical habitat. Instead, the conferees have adopted language approved by the House which establishes that Federal agencies must only insure that their actions "are not likely to" have an adverse effect on endangered species or their critical habitats. By replacing the ironclad statutory standard with something which does not require an absolute, 100 percent guarantee, the conferees have taken a major step forward to insure that needed balance is preserved in the Endangered Species Act.

The conferees have also preserved the House language providing that once an exemption is granted for a project, that exemption should be permanent unless it will result in the extinction of a species and, even then, the exemption should remain permanent unless the Endangered Species Committee specifically decides to overturn a previously approved exemption. Once an exemption is granted it should, to the maximum extent possible, be considered as a project exemption, and not a species exemption.

The conference report makes several other amendments to the act which are fully explained in the report and which I believe substantially improve the operation of this important statute. The Endangered Species Act is landmark legislation which firmly establishes that this Nation's policy is to be in favor of conserving and protecting the fish, wildlife, and plant resources of this Nation. It is estimated that every decade approximately 20 species become extinct in the United States, and an even greater number enter the endangered category. If this rate applies worldwide, then an estimated 300 species could become extinct every 10 years. The endangered species program is designed to halt this unacceptable trend and to improve the quality of life in America by conserving our natural wildlife and plant resources. I believe it is an important act which must be extended and I urge the adoption of the conference report.

Mr. Speaker, I have no further requests for time.

Mr. MURPHY of New York. Mr. Speaker, I yield to the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. Mr. Speaker, I rise in strong support of the conference report on the Endangered Species Act authorization. I believe it is a good report, that carries out the intent of the House bill.

The conference report preserves the basic integrity and spirit of the act, which is to protect those species that have become threatened or endangered through man's activities. It also proposes a number of relatively minor changes that will make the act more workable.

One of the key proposed changes is the provision to place the Endangered Species Scientific Authority under the jurisdiction of the Secretary of the Interior. This provision was adopted by the House several weeks ago. It would make certain that our Government speaks with one voice, not two, when it administers trade regulations aimed at protecting agencies threatened by commercial exploitation.

At present, ESSA is an independent scientific agency that stands apart from any other Federal agency. It has the authority to issue far-reaching regulations that can cancel out the effect of Interior Department regulations. This arrangement, quite clearly, could result in stalemates and inaction by our Government in regulating trade in threatened or endangered species.

The conference report would clear up this bureaucratic mess. It places ESSA within the Interior Department. It thereby insures that our country will have only one policy and one set of regulations to protect wildlife threatened by the pressures of international trade.

The conference report also makes several other administrative improvements in the act. It requires the Secretary of Interior to establish priority systems for the listing and recovery of endangered species. Such systems can be developed by guidelines, rather than regulation. In addition, the conference report extends the time period in which a species can be given an emergency listing as endangered or threatened. The current law provides a 120-day limit on such listings. The conference report provides a 240-day limit. The report also allows owners of scrimshaw and sperm whale oil to continue to do business for an additional 3 years.

In summary, I feel the conference report represents a strong commitment to continue to protect endangered and threatened species. I urge my colleagues to support it.

Mr. MURPHY of New York. Mr. Speaker, I yield to the gentleman from Michigan (Mr. BONIOR).

Mr. BONIOR of Michigan. Mr. Speaker, I thank the gentleman for yielding.

I also would like to echo the remarks of my colleague, the gentleman from New Jersey, and support the conference report; in particular the work that was done by the staffs of both the House and the Senate and the chairman, the gentleman from Louisiana (Mr. BREAUX) and the chairman, the gentleman from New York (Mr. MURPHY).

I think it is a piece of legislation that the House can be proud of, and a piece of legislation that will help us move through the whole question of the endangered species in the next decade.

● Mr. BREAUX. Mr. Speaker, I rise in support of the conference report on S. 1143. The conference report contains all of the important and significant provisions adopted by the House on this legislation. It includes the amendments offered by the gentleman from Mississippi (Mr. BOWEN) authorizing informal consultation on proposed species as well as the amendment requiring the Secretary to conduct a review of the status of species before proposing species for listing as endangered or threatened. The conference report also adopts provisions clarifying that any exemption granted from the act by the Endangered Species Committee would apply to all endangered and threatened species affected by the agency action as long as the exemption applicant had conducted a biological assessment.

The conference report adopts the House provision requiring the Secretary to develop a system prioritizing the listing of endangered and threatened species. Although the House amendment required this system to be developed by regulation, the conferees felt that these systems could be just as adequately developed by departmental guideline, as long as the Department provided, an adequate opportunity for public comment.

The major issue of the conference involved the status of the Endangered Species Scientific Authority. The Subcommittee on Fisheries, and Wildlife Conservation and the Environment conducted oversight hearings on the Scientific Authority last July. Those hearings revealed some very serious problems in the implementation of the International Endangered Species Convention.

In my view, the Scientific Authority had substantially exceeded its authority under the terms of the convention. It was in clear violation of the memorandum of understanding that it had signed with the Management Authority. Despite these violations, no one in the Government could review the unilateral decisions of the ESSA because of the unique independent nature of the Scientific Authority.

I originally drafted an amendment that not only put the Scientific Authority within the Fish and Wildlife Service, but it attempted to interpret the language of the convention for purposes of our domestic law to resolve many of the outstanding problems. A number of individuals in the administration and in the conservation community, objected to several aspects of my original amendment—especially the portion of the amendment that attempted to interpret the language at the convention. I met with the administration and agreed to substantially revise my amendment before offering it on the House floor. My revised amendment established the Secretary as the Scientific Authority and established the existing ESSA as an advisory group within the Fish and Wildlife Service.

The conferees have made further changes in my amendment. It gives a degree of independence to the Advisory Commission that I had originally opposed. It puts the Secretary in the difficult position of having to respond to the recommendations of the Commission and explain why he failed to follow the recommendations.

Nevertheless, I believe that the resolution of this issue proposed by the conference committee is a reasonable one and should be adopted by the House.

I urge the House to adopt the conference report.●

Mr. MURPHY of New York. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

ELEPHANT PROTECTION ACT OF 1979

Mr. MURPHY of New York. Mr. Speaker, I call up the bill (H.R. 4685) to provide for the control of the importing into, and the exporting from, the United States of elephants and elephant products, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4685

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Elephant Protection Act of 1979".

FINDINGS AND POLICY

SEC. 2. (a) The Congress finds and declares that there has been a drastic decline in the population of elephants in some countries in East Africa, that there has been a gradual and steady decline in the population of elephants throughout many of the African countries, and that one of the causes for this decline is the illegal killing of elephants for their ivory tusks.

(b) It is the policy of the United States—

(1) to actively pursue through international initiatives the establishment of effective controls on international trade in products from elephants such as ivory;

(2) to provide all appropriate forms of aid to nations acting to prevent the destruction of elephant habitats and the expoitation of elephant populations; and

(3) to develop effective programs to conserve elephants.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) the term "elephant" means a member of the species Loxodonta africana, the African elephant;

(2) the term "elephant product" means any part of an elephant or any product derived in whole or in part from an elephant;

(3) the term "person" includes any individual, partnership, association, corporation, trust, or any other organization subject to the jurisdiction of the United States;

(4) the term "Secretary" means, unless otherwise specified in this Act, the Secretary of the Interior; and

(5) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Federated States of Micronesia, and any other territory or possession of the United States.

PROHIBITED ACTS

SEC. 4. (a) It is unlawful for a period of six months beginning on the effective date of this Act for any person—

(1) to import into the United States or export from the United States any elephant or elephant product;

(2) to transport in interstate commerce any elephant or elephant product imported in violation of this Act;

(3) to sell, receive, acquire, or purchase any elephant or elephant product which has been imported in violation of this Act and which has moved in interstate commerce; or

(4) to attempt to commit, solicit another to commit, or cause to be committed any offense defined in this section.

(b) Notwithstanding subsection (a), the Secretary may grant a permit, under such terms and conditions as the Secretary may prescribe, for the importation or exportation of any live elephant held in captivity prior to the date of passage of this Act, provided it is imported or exported for zoological, educational, scientific, or exhibition purposes.

PERMITTED EXPORT AND IMPORT

SEC. 5. (a) Beginning six months after the effective date of this Act the Secretary may grant a permit, under such terms and conditions as the Secretary may prescribe, allowing the importing into or the exporting out of the United States of elephants and elephant products if the Secretary, after consultation with the wildlife management authorities of the government of the nation in which such elephant or elephant product originates, finds that—

(1) a management program for elephant conservation in the nation in which such elephant or elephant product originates has been developed or is being effectively developed, which—

(A) provides for elephant population evaluations based on the best available data on the total numbers, age, sex-class distributions, geographic distribution, and annual recruitment of elephants;

(B) provides for evaluations of historical and present habitats of elephants, including the status of vegetation (species composition and relative abundance), soil conditions, available water (including spatial and temporal distribution), and seasonal variability in climate;

(C) provides for monitoring and managing such pressures on elephant populations as habitat loss, poaching, natural mortality, sport hunting, and culling or other deliberate population regulation;

(D) provides for adequate enforcement of domestic and applicable international laws and regulations concerning elephant conservation;

(E) provides that the export of elephant or elephant products from such nation will not be detrimental to the maintenance of stable elephant population in such nation; and

(F) provides that any living elephant imported or exported will be prepared and shipped so as to minimize the risk of injury or damage to health and will not be cruelly treated; and

(2) the nation in which the elephant or elephant product originates has established a mechanism to regulate and administer the handling in commerce of elephant products, which includes sufficient recordkeeping and marking requirements to assure that legal and illegal traffic in such products can be traced and accounted for.

(b) If the elephant or elephant product is imported into the United States from a nation other than the nation in which the elephant or the elephant product originates, the Secretary shall grant a permit allowing such importing only if the Secretary finds that the nation exporting the elephant or elephant product to the United States has established a mechanism to regulate and administer the handling in commerce of elephants and elephant products which mechanism includes sufficient recordkeeping and marking requirements to insure that such products can be traced as having originated in a nation meeting the requirements of subsection (a), having been legally imported into the nation in question, and having been exported without commingling with other elephant products not subject to the requirements of subsection (a).

(c) The Secretary may grant a permit, under such terms and conditions as the Secretary may prescribe, after the end of the period of six months occurring after the effective date of this Act for the exportation of any live elephant held in captivity in the United States prior to the date of passage of this Act provided it is exported for zoological, educational, scientific or exhibition purposes. Such a permit may also authorize the importation of the same elephant into the United States.

(d) (1) The Secretary may grant a permit, under such terms and conditions as the Secretary may prescribe, allowing, for scientific purposes or to enhance the propagation or survival of the affected species, any act otherwise prohibited by this Act.

(2) The Secretary may grant any permit under paragraph (1) only if the Secretary determines to his satisfaction that such permit—

(A) was applied for in good faith;

(B) will not operate to the disadvantage of the species; and

(C) will be consistent with the findings and policy contained in section 2 of this Act.

(e) The Secretary shall submit a report to the chairman of the Committee on Environment and Public Works of the Senate and the chairman of the Committee on Merchant Marine and Fisheries of the House of Representatives not later than six months after the date of the enactment of this Act which includes any terms and conditions prescribed by the Secretary under subsections (a) and (d) and any procedures established by the Secretary for the granting of permits under this section.

PENALTIES

SEC. 6. (a) No person who the Secretary determines has violated this Act may import into the United States or export from the United States any elephant or elephant product during the period ending on the date one year after the determination with respect to such person is made, the date a civil penalty is assessed against the person under subsection (b), or the date the person is convicted under subsection (c), whichever occurs first.

(b) (1) A civil penalty of not more than $10,000 for each violation may be assessed by the Secretary against any person who knowingly violates this Act or any regulation promulgated under this Act and against any person primarily engaged in business as an importer of wildlife or wildlife products who violates this Act or any regulation promulgated under this Act. A civil penalty of not more than $5,000 for each violation may be assessed by the Secretary against any person, except a person engaged in business as an importer or exporter of elephants or elephant products, who otherwise violates this Act or any regulation promulgated under this Act. No penalty may be assessed under this subsection unless such person is given notice and opportunity for a hearing with respect to such violation.

(2) Any person against whom a civil penalty is assessed under this subsection may not import into the United States or export from the United States an elephant or elephant product for a period of one year after the first such penalty is assessed and for a period of two years after any subsequent penalty is assessed under this subsection.

(3) Each violation shall be a separate offense. Any civil penalty may be remitted or mitigated by the Secretary. Upon failure to pay a civil penalty assessed under this subsection, the Secretary may request the Attorney General to institute action to collect the penalty in a district court of the United States for any district in which such person is found, resides, or transacts business, and such court shall have jurisdiction to hear and decide any such action. The court in deciding the action shall only consider the record made before the Secretary and shall sustain the action of the Secretary if it is supported by substantial evidence on the record considered as a whole.

(4) Hearings held during proceedings for the assessment of civil penalties shall be conducted in accordance with section 554 of title 5, United States Code. The Secretary may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths to witnesses. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In the case of contumacy or refusal to obey a subpena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found, resides, or transacts business (upon application by the United States and after notice to such person) shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order may be punished by such court as a contempt thereof.

(c) (1) Any person who knowingly violates this Act (or any regulation promulgated under this Act) shall, upon conviction, be fined not more than $20,000 or imprisoned for not more than one year, or both. Each violation shall be a separate offense. In the case of the second and any subsequent criminal conviction for a violation of this Act, the person convicted shall be fined not more than $30,000 or imprisoned for not more than two years, or both.

(2) Any person who is convicted of violating the Act under this subsection may not import into the United States or export from the United States an elephant or elephant product for a period of one year after the first such conviction and for a period of two years after any subsequent conviction under this subsection.

FORFEITURE TO THE UNITED STATES

SEC. 7. (a) Any elephant or elephant product purchased, acquired, received, transported, or sold contrary to this Act (or any regulation promulgated under this Act) and any vessel, vehicle, aircraft, or other equipment used to aid in the transporting, selling, receiving, acquiring, or purchasing of an elephant or an elephant product contrary to this Act (or any regulation promulgated under this Act) shall be forfeited to the United States.

(b) All applicable provisions of law which are not inconsistent with this Act and which relate to (1) the seizure, forfeiture, and condemnation of a vessel for violation of the customs laws; (2) the disposition of such vessel or the proceeds from the sale of the vessel; or (3) the remission or mitigation of such forfeiture, shall apply to the seizures and forfeitures under this Act, except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Treasury Department shall, for the purposes of this Act, be exercised and performed by the Secretary or by such persons as the Secretary may designate.

ENFORCEMENT

SEC. 8. (a) The Secretary, the Secretary of the Treasury, and the Secretary of the Department in which the Coast Guard is operating shall enforce this Act and all regulations promulgated under this Act. Any Federal or State agency shall provide to the Secretary, with or without reimbursement, any personnel, services, or facilities requested by the Secretary to assist in enforcing this Act.

(b) (1) Any person authorized by the Secretary to enforce this Act—

(A) may detain for inspection and inspect any package, crate, or other container (including its contents and all documents) imported into, or exported from, the United States;

(B) may execute and serve for the enforcement of this Act any arrest warrant, search warrant, or other warrant or civil or criminal process issued by any officer or court of competent jurisdiction;

(C) may search or seize, with or without a warrant, as authorized by law; and

(D) may make arrests for any violation of this Act without a warrant if the person has reasonable grounds to believe that the person to be arrested is committing the violation in such person's presence or view.

(2) Any elephant or elephant product seized under section 7(a) shall be held by a person authorized by the Secretary to hold the elephant or the elephant product pending disposition of civil or criminal proceedings, or the institution of an action in rem for the forfeiture of such elephant or elephant product, except that the Secretary may (in lieu of holding such elephant or elephant product) permit the owner or consignee to post a bond or other surety satisfactory to the Secretary.

(c) The several district courts of the United States (including the courts enumerated in section 460 of title 28, United States Code) shall have jurisdiction over any actions arising under this section. For the purpose of this Act, American Samoa shall be included within the judicial district of the District Court of the United States for the District of Hawaii. The judges of the district courts of the United States and the United States magistrates may, within their respective jurisdictions upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for the enforcement of this Act and any regulations promulgated under this Act.

(d)(1) Upon the recommendation of the Secretary, the Secretary of the Treasury shall pay either $5,000, or one-half of the penalty or fine paid as required by the judgment finding a criminal conviction or evil assessment under section 6 for a violation of this Act, whichever is less, to any person who furnishes information which leads to such conviction or assessment.

(2) Any officer or employee of the United States, or of any State or local government, who furnishes information or renders services in the performance of his official duties, is ineligible for payment under this subsection.

ADMINISTRATION

SEC. 9. The Secretary is authorized to promulgate such regulations as may be appropriate to enforce this Act, and charge reasonable fees for expenses to the Government connected with permits or certificates authorized by this Act including processing applications and reasonable inspections, and with the transfer, board, handling, or storage of elephant or elephant products seized and forfeited under this Act. All such fees collected pursuant to this subsection shall be deposited in the Treasury to the credit of the appropriation which is current and chargeable for the cost of furnishing the services. Appropriated funds may be expended pending reimbursement from parties in interest.

COORDINATION WITH OTHER LAWS

SEC. 10. This Act supersedes, with respect to elephants and elephant products, the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), sections 42 through 44 of title 18, United States Code, and the Tariff Act of 1930, and any law or regulation of any State which—

(1) permits what is prohibited by this Act or by any regulation promulgated under this Act; or

(2) prohibits what is permitted by this Act or by any regulations promulgated under this Act.

EFFECTIVE DATE

SEC. 11. (a) This Act shall take effect ninety days after the date of the enactment, except that during this ninety-day period, the Secretary—

(1) shall forbid the importation into the United States of any worked ivory which is imported with the intention of being sold in the United States; and

(2) shall limit the importation into the United States of raw, unworked ivory to no more than 500 pounds by any one person importing such ivory, but in no case shall the total amount of such imports exceed 10,000 pounds.

(b) If the Secretary determines that the 10,000-pound limit on the importation into the United States of raw, unworked ivory imposed by subsection (a)(2) will be reached within the next ten-day period, the Secretary shall publish an emergency notice in the Federal Register giving ten days notice that the limit will be reached and no further importations of raw, unworked ivory after the end of such ten-day period will be permitted for the remainder of the ninety-day period.

MERCHANT MARINE AND FISHERIES COMMITTEE AMENDMENTS

The SPEAKER pro tempore. The Clerk will report the Merchant Marine and Fisheries Committee amendments.

The Clerk read as follows:

SHORT TITLE

SECTION 1. This Act may be cited as the "Elephant Protection Act of 1979".

FINDINGS AND POLICY

SEC. 2. (a) The Congress finds and declares that there has been a drastic decline in the population of elephants in some countries in East Africa, that there has been a gradual and steady decline in the population of elephants throughout many of the African countries, and that one of the causes for this decline is the illegal killing of elephants for their ivory tusks.

(b) It is the policy of the United States—

(1) to actively pursue through international initiatives the establishment of effective controls on the international trade in elephant products such as ivory;

(2) to provide all appropriate forms of aid to nations acting to prevent the destruction of elephant habitats and the exploitation of elephant populations; and

(3) to develop effective programs to conserve elephants.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) the term "elephant" means a member of the species Loxodonta africana, the African elephant;

(2) the term "elephant product" means any part of an elephant or any product derived in whole or in part from an elephant;

(3) the term "person" includes any individual, partnership, association, corporation, trust, or any other organization subject to the jurisdiction of the United States;

(4) the term "Secretary" means, unless otherwise specified in this Act, the Secretary of the Interior; and

(5) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Federated States of Micronesia, and any other territory or possession of the United States.

PROHIBITED ACTS DURING THE INITIAL SIX MONTH PERIOD

SEC. 4. During the period of six months beginning on the date of the enactment of this Act, no person may—

(1) import into or export from the United States any elephant or elephant product, except that—

(A) during such six month period, a total of 10,000 pounds of unworked ivory may be imported into the United States and elephant products containing such unworked ivory may be exported from the United States; and

(B) during the period of ninety days beginning on the date of the enactment of this Act, worked ivory may be imported into the United States if such ivory is imported with no intention of being sold in the United States;

(2) transport in interstate commerce any elephant or elephant product which was imported into the United States in violation of paragraph (1) of this section;

(3) sell, receive, acquire, or purchase any elephant or elephant product which was imported into or exported from the United States in violation of paragraph (1) of this section and which has moved in interstate commerce; or

(4) attempt to commit, solicit another person to commit, or cause to be committed any act prohibited by this section.

PROHIBITED ACTS AFTER THE INITIAL SIX MONTH PERIOD

SEC. 5. (a) Beginning on the date occurring six months after the date of the enactment of this Act, no person may—

(1) import into or export from the United States any elephant or elephant product unless such person obtains a permit under section 6 allowing such import or export;

(2) transport in interstate commerce any elephant or elephant product imported into the United States after such date by a person who has not obtained a permit under section 6 allowing such import;

(3) sell, receive, acquire, or purchase any elephant or elephant product which was imported into or exported from the United States after such date by a person who has not obtained a permit under section 6 allowing such import or export and which has moved in interstate commerce; or

(4) attempt to commit, solicit another person to commit, or cause to be committed any act prohibited by this section.

GRANTING OF PERMITS

SEC. 6. (a) The Secretary is required to grant a permit to any person for the importing into or exporting from the United States of any elephant or elephant product if, after consultation with the wildlife management authorities of the government of the nation in which such elephant or elephant product originates and the Secretary of State, the Secretary finds that—

(1) the nation in which such elephant or elephant product originates has developed and implemented a management program for elephant conservation which—

(A) provides for monitoring and managing such pressures on elephant populations as habitat loss, poaching, natural mortality, sport hunting, and culling or other deliberate population regulation;

(B) provides for adequate enforcement of domestic and applicable international laws and regulations concerning elephant conservation;

(C) provides that the export of any elephant product from such nation will not be detrimental to the maintenance of a stable or increasing elephant population in such nation; and

(D) provides that any living elephant imported or exported will be prepared and shipped so as to minimize the risk of injury or damage to health and will not be cruelly treated;

(2) the nation in which the elephant or elephant product originates has established a mechanism to regulate and administer the handling in commerce of elephants and elephant products, which includes sufficient record keeping and marking requirements to assure that legal and illegal traffic in such products can be traced and accounted for;

(3) the elephant or elephant product is acquired and transported in compliance with any laws of the nation in which the elephant or elephant product originates;

(4) the importing or exporting of the elephant or elephant product will not be detrimental to the survival of the species imported or exported; and

(5) such permit is applied for in good faith.

(b) If any elephant or elephant product is imported into the United States from a nation other than the nation in which the elephant or the elephant product originates, the Secretary is required to grant a permit allowing the importing of such elephant or elephant product if, in addition to subsection (a), the Secretary finds, after consultation with the Secretary of State, that—

(1) the nation exporting the elephant or elephant product to the United States has established a mechanism to regulate and administer the handling in commerce of elephants and elephant products which includes

sufficient record keeping and marking requirements to ensure that the nation in which such elephant or elephant product originates can be accurately determined and that such elephant or elephant product has not been mingled with any elephants or elephant products originating in nations for which the Secretary has not made the findings specified in subsection (a);

(2) such elephant or elephant product is imported into and exported from the nation in accordance with the laws of such nation;

(3) such importing will not be detrimental to the survival of the species imported; and

(4) such permit is applied for in good faith.

(c) In addition to subsections (a) and (b), the Secretary may grant a permit allowing the importing into or the exporting from the United States of any elephant or elephant product only if the Secretary finds that—

(1) such importing or exporting is to enhance the propagation or survival of the species imported or exported;

(2) such importing or exporting will not be detrimental to the survival of the species imported or exported;

(3) such permit is applied for in good faith; and

(4) the grantng of such permit will be consistent with section 2 of this Act.

REPORTS

SEC. 7. The Secretary shall submit a report to the chairman of the Committee on Environment and Public Works of the Senate and the chairman of the Committee on Merchant Marine and Fisheries of the House of Representatives not later than six months after the date of the enactment of this Act which includes any rule or regulation promulgated by the Secretary under this Act and any procedures established by the Secretary for the granting of permits under section 6.

CIVIL PENALTIES

SEC. 8. (a) (1) A civil penalty of not more than $10,000 for each violation may be assessed by the Secretary against any person who knowingly violates this Act (or any rule or regulation promulgated under this Act) and against any person engaged in business as an importer or exporter of wildlife or wildlife products who violates this Act (or any rule or regulation promulgated under this Act).

(2) A civil penalty of not more than $5,000 for each violation may be assessed by the Secretary against any person who otherwise violates this Act (or any rule or regulation promulgated under this Act).

(b) Any person against whom a civil penalty is assessed under this section may not import into or export from the United States any elephant or elephant product for a period of one year beginning on the date the first such penalty is assessed against such person and for a period of two years beginning on the date any subsequent penalty is assessed against such person.

(c) No civil penalty may be assessed under this section unless notice is given and an opportunity for a hearing with respect to such violation is given. Hearings held for the assessment of civil penalties shall be conducted in accordance with section 554 of title 5, United States Code. The Secretary may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths to witnesses. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In the case of contumacy or refusal to obey a subpena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found, resides, or transacts business (upon application by the United States and after notice to such person) shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order may be punished by such court as a contempt thereof.

(d) Any civil penalty assessed under this section may be remitted or mitigated by the Secretary. Upon the failure of any person to pay a civil penalty assessed under this section, the Secretary may request the Attorney General to institute a civil action to collect such penalty in a district court of the United States for any district in which such person is found, resides, or transacts business, and such court shall have jurisdiction to hear and decide any such action. Any court in deciding such action shall only consider the record made in the hearing before the Secretary and shall sustain the action of the Secretary if it is supported by substantial evidence on the record.

CRIMINAL PENALTIES

SEC. 9. (a) (1) Any person who knowingly violates this Act (or any rule or regulation promulgated under this Act) shall, upon convictions, be fined not more than $20,000 or imprisoned for not more than one year, or both. Each violation shall be a separate offense.

(2) In the case of the second and any subsequent criminal conviction for a violation of this Act, the person convicted shall be fined not more than $30,000 or imprisoned for not more than two years, or both.

(b) Any person who is convicted under this section may not import into or export from the United States any elephant or elephant product for a period of one year beginning on the date the first such conviction of such person and for a period of two years beginning on the date of any subsequent conviction of such persons.

FORFEITURE TO THE UNITED STATES

SEC. 10. (a) Any elephant or elephant product which is imported, exported, transported, sold, received, acquired, or purchased in violation of this Act (or any rule or regulation promulgated under this Act) and any vessel, vehicle, aircraft, or other equipment which is used to aid in the importing, exporting, transporting, selling, receiving acquiring, or purchasing of an elephant or elephant product in violation of this Act (or any rule or regulation promulgated under this Act) shall be seized and held by the United States pending disposition of civil or criminal proceedings or the institution of an action in rem for the forfeiture of such item and may be subject to forfeiture.

(b) All applicable provisions of law which are not inconsistent with this Act and which relate to (1) the seizure, forfeiture, and condemnation of a vessel for violation of the customs laws, (2) the disposition of such vessel or the proceeds from the sale of the vessel, or (3) the remission or mitigation of such forfeiture, shall apply to any seizures or forfeitures under this Act, except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Treasury Department shall, for the purposes of this Act, be exercised or performed by the Secretary or by such person as the Secretary may designate.

ENFORCEMENT

SEC. 11. (a) The Secretary, the Secretary of the Treasury, and the Secretary of Transportation shall enforce this Act and all rules and regulations promulgated under this Act. Any Federal or State agency shall provide to the Secretary, with or without reimbursement, any personnel, services, or facilities requested by the Secretary to assist in enforcing this Act.

(b) (1) Any person authorized by the Secretary to enforce this Act may—

(A) detain for inspection and inspect any package, crate, or other container (including its contents and all accompanying documents) imported into or exported from the United States;

(B) execute and serve for the enforcement of this Act any arrest warrant, search warrant, or other warrant or civil or criminal process issued by any officer or court of competent jurisdiction;

(C) search or seize, with or without a warrant, as authorized by law; and

(D) make arrests for any violation of this Act without a warrant if the person has reasonable grounds to believe that the person to be arrested is committing the violation in the presence or view of such person.

(2) Any item seized and held pursuant to section 10(a) and any elephant or elephant product seized under this subsection shall be held by a person authorized by the Secretary to hold such item, elephant, or elephant product pending disposition of civil or criminal proceedings, or the institution of an action in rem for the forfeiture of such item, elephant, or elephant product, except that the Secretary may (in lieu of holding such item, elephant, or elephant product) permit the owner or a consignee to post a bond or other surety satisfactory to the Secretary.

(c) The several district courts of the United States (including the courts enumerated in section 460 of title 28, United States Code) shall have jurisdiction over any actions arising under this section. For the purpose of this Act, American Samoa shall be included within the judicial district of the District Court of the United States for the District of Hawaii. The judges of the district courts of the United States and the United States magistrates may, within their respective jursdictions upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for the enforcement of this Act and any rules and regulations promulgated under this Act.

(d) (1) Upon the recommendation of the Secretary, the Secretary of the Treasury shall pay either $5,000, or one-half of any penalty, fine, or assessment paid pursuant to a judgment finding a criminal conviction under section 9 or a civil violation under section 8, whichever is less, to any person who furnishes information which leads to such judgment.

(2) Any officer or employee of the United States, or of any State or local government, who furnishes information or renders services in the performance of his official duties, is ineligible for payment under this subsection.

(e) To promote the effective enforcement of this Act, any elephant product permitted under section 6 to be imported into or exported from the United States shall be imported or exported through either the Port of New York or the Port of Seattle, Washington.

ADMINISTRATION

SEC. 12. The Secretary is authorized to promulgate such rules and regulations as may be appropriate to enforce this Act, and may charge such reasonable fees, as the Secretary may determine, to compensate the United States for any expenses incurred by the United States in connection with any permits granted under this Act (including expenses of processing applications and making inspections) and any expenses incurred by the United States in the transfer, boarding, handling, or storage of any item, elephant, or elephant product seized or forfeited under this Act. All fees collected under this section shall be deposited in the Treasury of the United States and shall be credited to the account which is charged for the cost of such expenses.

EXCLUSIONS

SEC. 13. (a) This Act shall not apply to any elephant which is imported into or exported from the United States for zoological, educational, scientific, or exhibitional purposes, as determined by the Secretary.

(b) This Act shall not apply to any elephant product which is included in a keyboard which is part of, or made for, a musical instrument.

(c) Except for acts prohibited pursuant to section 4 during the period of six months beginning on the date of the enactment of this Act, this Act shall not apply to any elephant product which the Secretary determines—

(1) was taken by a person who is a sports hunter and was imported into or exported from the United States by such sports hunter; and

(2) was taken and transported in compliance with the laws of the nation in which the elephant from which such elephant product originates was taken.

COORDINATION WITH OTHER LAWS

SEC. 14. This Act supersedes, with respect to their application to elephants and elephant products, section 4(d) of the Endangered Species Act of 1973 (16 U.S.C. 1533 (d)), any regulation issued under such section, and any law of any State which the Secretary determines conflicts with this Act.

INTERNATIONAL ASSISTANCE PROGRAM

SEC. 15. The Secretary of State shall establist a program to assist any nation—

(1) in protecting the habitat for elephants in such nation;

(2) in conserving elephants living in such nation; and

(3) in developing and implementing a management program of elephant conservation in such nation which will provide for the factors specified in section 6(a) (1).

AUTHORIZATION OF APPROPRIATIONS

SEC. 16. There is authorized to be appropriated to carry out this Act—

(1) the sum of $1,500,000 to the Secretary and the sum of $2,000,000 to the Secretary of State for the fiscal year ending on September 30, 1980; and

(2) the sum of $2,500,000 to the Secretary and the sum of $5,000,000 to the Secretary of State for each of the fiscal years ending on September 30, 1981, September 30, 1982, and September 30, 1983.

Amend the title so as to read: A bill to provide for the control of the importing into and the exporting from the United States of elephant and elephant products, and to provide for other purposes.

Mr. **MURPHY** of New York (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendments be considered as read and printed in the RECORD.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The **SPEAKER** pro tempore. The question is on the Merchant Marine and Fisheries Committee amendments.

The Merchant Marine and Fisheries Committee amendments were agreed to.

WAYS AND MEANS COMMITTEE AMENDMENTS TO THE MERCHANT MARINE AND FISHERIES COMMITTEE AMENDMENTS

The **SPEAKER** pro tempore. The Clerk will report the Ways and Means Committee amendments.

The Clerk read as follows:

Committee amendments: Page 18, line 10, after "ivory" insert "(as classified under item 160.90 of the Tariff Schedules of the United States)".

Page 27, line 11, strike out "shall" and insert "may".

Page 27, line 12, after "Acts," insert "also".

Page 27, line 24, before "detain" insert "in coordination with the Secretary of the Treasury,".

Mr. **MURPHY** of New York (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendments be considered as read and printed in the RECORD.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The question is on the Ways and Means Committee amendments to the Merchant Marine and Fisheries Committee amendments.

The Ways and Means Committee amendments to the Merchant Marine and Fisheries Committee amendments were agreed to.

Mr. **MURPHY** of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4685 was reported out of the Merchant Marine and Fisheries Committee unanimously on October 31, 1979. This bill was sequentially referred to the Foreign Affairs Committee and the Ways and Means Committee. The Foreign Affairs Committee elected not to report the bill and the Ways and Means Committee reported the bill unanimously with technical amendments which the Merchant Marine and Fisheries Committee accepts.

The African elephant, a species which is over 300,000 years old, once ranged throughout all of Africa—from the Mediterranean Sea to the Cape of Good Hope. Today, the range of the African elephant is limited to those nations lying south of the Sahara Desert. The elephant has become extinct in five nations and, in all but five others the population is small and vulnerable. Many scientists fear that if present trends continue, the African elephant will become extinct in even larger portions of its remaining range. The most significant immediate threat to the African elephant is the unregulated and uncontrolled international ivory trade. Although the United States cannot enact statutes which would transcend national sovereign boundaries, it can act to regulate constructively the flow of elephant ivory into this Nation.

H.R. 4685, as ordered reported by the committee, would impose a 6-month moratorium on the importing into and exporting from the United States of any elephant or elephant product. However, during that period, the legislation would exempt from the prohibition 10,000 pounds of unworked ivory.

In addition, during the first 90 days of the period, the bill would exempt worked ivory purchased abroad by tourists and not intended for resale. After the initial 6-month period, imports and exports of elephants and elephant products would be allowed but only if a permit was obtained from the Secretary of the Interior. The Secretary would be required to issue an import permit if, after consultation with the Secretary of State and with the appropriate authorities of the nation concerned, he finds that a management program has been developed and implemented by the nation from which such elephant originates that would adequately provide for elephant conservation.

Exempted from the coverage of the legislation would be imports and exports for zoological, educational, scientific, or exhibitional purposes; keyboard ivory which is a part of a musical instrument; and after the 6-month moratorium elephant trophies taken by a sports hunter provided they were taken and transported in compliance with the laws of the nation which the elephant trophies concerned originated.

Violators of the act would be subject to a civil penalty of $10,000 and a criminal penalty of $20,000 or 1-year imprisonment or both. To assist in carrying out the legislation, there would be authorized to be appropriated over the 4-year life of the program $9 million to the Secretary of the Interior and $17 million to the Secretary of State.

Mr. Speaker, H.R. 4685 has been reported out of two committees of the House unanimously, with strong bipartisan support. It is a good bill and I urge its prompt passage.

Mr. **VANIK**. Mr. Speaker, will the gentleman yield?

Mr. **MURPHY** of New York. I yield to the distinguished gentleman from Ohio.

Mr. **VANIK**. Mr. Speaker, H.R. 4685, the Elephant Protection Act of 1979 was referred to the Ways and Means Committee for consideration of such provisions of the bill and amendments as fall within its jurisdiction.

The Ways and Means Committee reported out the bill on December 13, with several amendments which were originally made by the Subcommittee on Trade. These amendments are technical in nature and relate solely to the administration and enforcement of the legislation by the U.S. Customs Service. They are noncontroversial amendments and I recommend their approval.

Mr. **MURPHY** of New York. Mr. Speaker, I move the previous question on the bill.

The previous question was ordered.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 5269, PANAMA CANAL AUTHORIZATIONS, 1979

Mr. **MURPHY** of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5269) to authorize appropriations for the fiscal year beginning October 1, 1979, for the maintenance and operation of the Panama Canal, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

MOTION OFFERED BY MR. BAUMAN

Mr. **BAUMAN**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BAUMAN moves that the conferees on the part of the House, at the conference on the disagreeing votes of the two Houses on the bill, H.R. 5269, to authorize appropriations for the fiscal year beginning October 1, 1979, for the maintenance and operation of the Panama Canal, and for other purposes, be instructed to adhere to the language of section 4 of H.R. 5269 as passed by the House with respect to the matters considered therein.

The SPEAKER pro tempore. The gentleman from Maryland (Mr. BAUMAN) is recognized for 1 hour.

Mr. BAUMAN. Mr. Speaker, I will be very brief. This motion has the concurrence of the gentleman from New York, the chairman of the Committee on Merchant Marine and Fisheries.

The motion allows the House to insist upon its interpretation of the Panama Canal implementing legislation and the provision dealing with the emergency fund, section 1303 of Public Law 96-70.

Most recently on November 15 of this year the House voted overwhelmingly by a vote of 366 to 10 to support this position and interpretation when the issue arose in connection with the transportation appropriation.

My motion restates the decision of the House to stand by our interpretation of the law and I suggest that the debate that occurred in the House on November 15 contains a correct statement of the law.

Mr. MURPHY of New York. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Speaker, I concur in the remarks of the gentleman from Maryland and feel that the conference is necessary to restate clearly the accepted interpretation of this particular section of H.R. 1111.

Mr. BAUMAN. Mr. Speaker, I move the previous question on the motion to instruct.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. BAUMAN).

The motion was agreed to.

APPOINTMENT OF CONFEREES

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. MURPHY of New York, DINGELL, BOWEN, HUBBARD, BONIOR of Michigan, WYATT, MCCLOSKEY, BAUMAN, and CARNEY.

There was no objection.

CONFERENCE REPORT ON S. 918, SMALL BUSINESS ACT

Mr. SMITH of Iowa. Mr. Speaker, I call up the conference report on the Senate bill (S. 918) to amend the Small Business Act and the Small Business Investment Act of 1958.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Under the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of December 13, 1979.)

The SPEAKER pro tempore. The gentleman from Iowa (Mr. SMITH) will be recognized for 30 minutes, and the gentleman from Pennsylvania (Mr. MCDADE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Speaker, this conference report has had a long and rugged road. It is a very comprehensive bill to which some important provisions were added in the Senate. It was reported out of the full committee on March 9, one of the first bills that was reported out in this Congress. It went to the Committee on Rules.

□ 1040

We eventually got through both the House and the Senate, but we have been held up in conference for a substantial length of time.

The bill includes a total of about 15 programs, and they are authorized for 3 years. A number of committees would have made 45 bills out of that instead of 1. They would have had each program authorized for 1 year, and the legislation would have been on the floor 45 times. We thought it would be better to have one comprehensive bill, and that would save the Members a lot of time on the floor. I still think that was good judgment.

Eventually we have worked out a bill here that I believe is not too controversial. There were some provisions added to this bill which amend the Consolidated Farm Act with regard to disaster loans for farmers. The FmHA provisions that appear in the conference report were worked out by members of the Committee on Agriculture who were added as conferees, and those are word for word in their language.

In general, what was done in this bill with regard to disasters was to say that the Farmers Home Administration, in the administration of disaster loans, would be consistent with the authority of SBA, and if they are not, then the small business or other disaster victim can go to SBA.

In this instance some abuses that were called to our attention on a nationwide television program had already been corrected in this bill prior to that time. We have, in the SBA-administered disaster program, required that the loan not be in excess of the net loss. We have also put a limit on the amount of the loan. In addition to that, and we had some other limitations to prevent the kind of abuses that were shown to have existed in the Farmers Home Administration loans. In any event, this bill puts those kinds of limitations on the Farmers Home Administration also, and this should go most of the way toward correcting any abuses that were justifiably revealed.

As agreed to by the conferees this bill:

First. Sets SBA program levels and provides authorizations for fiscal years 1980, 1981, and 1982.

Seoond. Revises the disaster assistance programs administered by both the SBA and the FmHA.

The interest rates on loans to offset net losses on principal residences and personal property contained therein will be 3 percent on losses up to $55,000 and under certain conditions up to an additional $50,000 at 8¼ percent;

The Small Business Administration will continue to make all loans on homes and personal property contained therein, whether located in cities, in rural areas or on farms;

Busineses, including the owners of residential buildings rented to others, who cannot obtain sufficient credit elsewhere may receive a loan at 5 percent to offset net losses up to a maximum of $500,000, whether the applicant goes to SBA or is qualified at FmHA;

Businesses, including farmers, which do not have a bad credit rating which feel they need a short-term loan to handle cash flow problems, avoid high costs of temporary financing, and so forth, shall have a right to obtain a loan up to a maximum of $500,000 at a rate of interest equal to the cost of money to the U.S. Government for comparable length bond issues, plus not more than 1 percent. At the present time this would be a maximum of 11½ percent. This applies whether the applicant is being processed by SBA or FmHA. After 3 years, these loans are subject to being reviewed to see if the borrower is able to obtain a loan elsewhere at reasonable rates and on acceptable terms.

Since the above provisions now will provide equal terms for those who are eligible at FmHA with those who are eligible under the SBA administered program, those eligible for FmHA loans would be required to apply there first; however, if declared ineligible at FmHA or if the FmHA declines to make them a loan at an interest rate substantially similar to that in effect at SBA, they can then go to SBA. In other words, no one will be discriminated against because they happen to be in one kind of business rather than another kind of business.

An exception to the $500,000 loan limit to businesses could be made by SBA if the applicant is a major employer and a substantial percentage of the work force in the community is unemployed as a result of the disaster.

Third. Authorizes SBA to make grants through a small business development center pilot program. If fully funded at the end of the pilot, it probably would be a $65 million national program in 1979 dollars; however, during the pilot the program is authorized funding at $12 million in fiscal year 1979 and $20 million in fiscal year 1980. Grant applicants, primarily universities, would be required to obtain matching funds on a 50/50 basis from non-Federal sources and would be entitled to a maximum SBA grant based on the percentage of the population proposed to be served as compared to total population in the United States. The grant recipients would provide management, technical, and technological assistance to small business concerns.

Fourth. Directs the compilation of information needed to assess fully the current status of small business and its needs, including:

A listing of small businesses so that SBA could notify them of appropriate programs of Federal assistance and export opportunities;

An economic data base showing employment, sales, purchases, and other numerical data on the small business sector of the economy;

A Presidential report on small business and competition; and

An inter-agency study of small business credit needs.

Fifth. Authorizes organizations of handicapped in fiscal 1980–1982 to bid on up to $100 million for small business set-aside contracts.

Sixth. Authorizes Federal guarantees of debentures issued by certain State and local development companies for investment in small business.

Seventh. Makes permanent and revises the labor surplus area factor in setting priorities for awarding small business set-aside contracts.

Eighth. Allows SBA to guarantee loans to qualified Employee Stock Ownership Trusts or Plans for the purchase of a small business or qualified corporation.

Ninth. Eliminates the requirement that SBA pay interest to the Treasury Department on outstanding disaster loans. This present requirement is merely a paper transaction and does not represent any income to the Government. On the other hand, it can substantially delay SBA in providing loan assistance to disaster victims as it reduces the amount of money SBA has available to loan. Striking this requirement, as the bill does, simply allows SBA to assist disaster victims more promptly and eliminates needless Government redtape and does not cost the U.S. Treasury even one dollar.

Mr. Speaker, I do not believe there is any great controversy over this bill, and I reserve the balance of my time.

Mr. McDADE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report accompanying the Senate bill, S. 918. The bill provides economic encouragement to the small business community of our Nation, and that is essential to the well-being of our Nation.

This extension of the SBA business loan assistance programs, from my standpoint, is particularly critical. I believe, if the Small Business Administration is to help people cope with the twin problems of the effects of inflation and the money market situation. However, my support and the support of those on the minority side is tempered because we are disappointed about the final agreement relating to the disaster program.

I emphasize the fact that this is only one of the programs authorized in this omnibus bill, and this is the one that causes us problems. Historically, disaster loan programs have helped thousands of victims to recover from unexpected tragedies. Without these low-interest loans, damaged homes would not have been rebuilt and many businesses would never have reopened their doors. Jobs would have been lost, and we would have seen disaster victims further demoralized. The SBA disaster loan program has been effective in stimulating economic recovery for two reasons: First, the interest rates on all loans was always reasonable, and second, there was a minimum of redtape involved in processing those loan applications.

I am concerned that both of those cornerstones on which this program is built are under some attack in this bill. Interest rates can go up quite high for the first time for disaster victims who, through no fault of their own, are trying to refinance and reopen their businesses. Indeed the definition of an "interest rate disaster loan" has been changed for the first time, and it is conceivable that if the current interest rates do not moderate we can see disaster loan programs in this country being required by this administration to hit all-time new highs.

I want to emphasize this to my colleagues on the committee because we have reacted, as my chairman pointed out, under the threat indeed of a veto and a future threat of vetoes concerning the program.

We could see disaster loans going out in certain circumstances at roughly 11 percent. That to me is unconscionable, and I do not think it is at all workable insofar as the disaster loan program is concerned.

We have introduced as well a credit elsewhere test, which never existed under SBA programs in the past. In the past the criterion was the ability to repay the loan.

There has been no argument that the laws were administered improperly, and a person's financial situation in general was not looked at. With SBA, the terms and conditions of the loan was the key. We gave the Small Business Administration in the disaster loan program authority to set terms and conditions of repayment.

We have now placed another layer between an applicant seeking a loan and a loan officer at SBA, and that is the credit elsewhere test.

As my colleague, the gentleman from Iowa (Mr. SMITH), pointed out, there was national attention directed to one of the disaster loan programs which contained that very test run by the Farmers Home Administration. It was looked at and found to be wanting. As my friend, the gentleman from Iowa, pointed out, there have been efforts in the Congress in another committee to tighten up that program. That problem did not exist in the Small Business Administration loan program.

As a matter of fact, I speak from my own experience. I have had the unhappy experience of being out there when Hurricane Agnes hit seven States, including parts of my own district. The people in the Small Business Administration who ran the program brought to the program imagination, brought to it a compassion, and brought to it a willingness to try to do what I believe the Congress wants this program to do, namely, to rehabilitate and get back in as prompt a time as possible a community which has been hit by a disaster to its status quo, to get people back to work and back into their homes, to give them a new start in life, and to try to help them through a disaster which occurred and for which they have absolutely no fault.

I think that tradition of holding out a helping hand to our neighbors is being impeded by this conference report with respect to this one section. I know that we are going to have hearings on this as we look toward the next Congress, and I know, with the assistance of my able friend, the gentleman from Iowa (Mr. SMITH), we look forward to taking a hard look at this program.

As I said, on this side of the aisle we enthusiastically endorse the regular SBA loan programs which, as my friend, the gentleman from Iowa, points out and has explained to the House, have been authorized through the period 1982. I am talking about the loan guarantees, and I am talking about the direct loan program and other special purpose lending assistance which have been the mainstay of governmental help to small businesses.

They have enabled new enterprises to open, they have sustained ongoing businesses, and we ought to bear in mind that over the last decade some 60 percent of new jobs created in this country have been created under the aegis of small business.

So, Mr. Speaker, we on this side of the aisle generally endorse these programs and join our colleagues on the other side in recommending these direct loan programs, the normal authorization programs that are contained in this bill. We recommend their enactment.

Mr. Speaker, at this time I am pleased to yield to my friend, the gentleman from Kentucky (Mr. CARTER). May I say that I think all of us in this House were saddened to learn that the able gentleman from Kentucky, who has served not only on this committee but on the important Committee on Interstate and Foreign Commerce, has announced his intention to retire from the House. I know of no Member who has contributed more to so many programs than my dear friend and colleague, the gentleman from Kentucky.

The thought of the gentleman from Kentucky not being here leaves all of us with a deep feeling of sadness at the thought of his tremendous talents, his tremendous compassion, and his tremendous intellect being lost to our Nation's problems. We will miss the gentleman.

With that, Mr. Speaker, I yield to my friend, the gentleman from Kentucky.

Mr. CARTER. Mr. Speaker, I thank the distinguished gentleman from Pennsylvania (Mr. McDADE). Over the years the gentleman from Pennsylvania has been a wonderful friend, and I am pleased to have him as the ranking minority member on the subcommittee of the Committee of Small Business.

I support the major portion of this legislation, as I always have, because as my friend has so aptly remarked, small business constitutes such a huge segment of our economy at the present time.

However, in my district we had a serious disaster about 2 weeks ago, and at that time we were able to obtain low interest rate loans for those of our people who had their homes flooded, washed away, and destroyed.

Mr. Speaker, I would like to ask my good friend, the gentleman from Pennsylvania, what the interest rate will be for those people who suffered such disasters and need funds for rebuilding.

Mr. McDADE. Mr. Speaker, in response, let me say to my friend, the gentleman from Kentucky, that under the bill today the interest rate to a homeowner is 3 percent on the first $55,000 and the cost of money thereafter.

□ 1050

As I indicated earlier, the definition of "cost of money" has been changed. If we were to look at what the Treasury calculation was on 1 October, it would be 8¼ percent. With respect to a business, we have interposed this credit-elsewhere test now for the first time. The cost of money is 5 percent with a cap of $500,000 with one exception that the gentleman will recall that we wrote in which says they can exceed that cap if it is a substantial employer in the community, but thereafter it is the cost of money, and it could be as much as 10⅞ percent with respect to a business loan after that $500,000. In today's economy, it is not hard to get up to that $500,000.

Mr. CARTER. I would agree with the gentleman and say that 10⅞ percent is an extremely high rate of interest for anyone to pay at any time, and particularly when he has suffered a disaster and is trying to build back. In fact, if one receives 10⅞ percent income on his investment, he is doing extremely well at any time. At the same time, it is passing strange, I would remark to my distinguished friend, that we send billions and billions of dollars overseas without any interest charges. Yet, when our own people are flooded or when their homes are wrecked by a disastrous tornado, something of that nature, we will go up to an interest rate of 10⅞ percent. I do not think this is hardly fair.

I will ask my distinguished friend if he agrees with me.

Mr. McDADE. I agree with my friend completely. The gentleman will recall the history of this legislation. This was not where the House started out at all. We had a veto, a Presidential veto. We attempted to get a compromise and we earlier on had a cap on the maximum amount of interest that could be paid. That cap has been removed. And so we are looking at a disaster victim facing the vagaries of the market. We can talk to the Secretary of the Treasury one day and the Chairman of the Federal Reserve the next, and they will both give you conflicting viewpoints on whether or not interest rates have peaked.

So we have changed the definition of what it costs to borrow money to a more expensive formula and we are in a sense playing roulette with the interest rates insofar as they affect disaster victims in the United States, once you exceed the cap or once you exceed the $55,000.

Mr. CARTER. Once you exceed the cap, the interest rates go up steeply.

Mr. McDADE. Yes.

Mr. CARTER. On that very thing, even with the prime rate at 15 percent and with the Federal exchange rate at 12 percent, this country, in my opinion, without interest rates lowered, faces a disaster.

As the majority leader one time remarked, increasing the interest rate is like pouring gasoline on the fires of inflation. It increases it. I do hope that the Chairman of the Federal Reserve Board will see fit to bring that 12-percent exchange rate down and that these banks, the large banks which loan at 15 percent now and can borrow at the same time time from the Federal Reserve at 12 percent, I would hope that they would lower these rates and think of the common man and the common people.

I want to say that it has been a pleasure to serve with the distinguished gentleman from Pennsylvania (Mr. McDade) and to support him in his worthy efforts.

Mr. McDADE. I thank the gentleman for his kind remarks.

Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from Mississippi (Mr. Hinson).

Mr. HINSON. I thank the gentleman for yielding.

Mr. Speaker, I would like also to associate myself with the remarks of the gentleman from Pennsylvania (Mr. McDade) relating to Dr. Carter. His departure is going to be a real loss to this House. It is going to be a real loss to the people of Kentucky. I personally have enjoyed working with him regarding medical care for poor children and, in this particular instance, trying to get interest rates lowered for our disaster victims.

Mr. Speaker, I consider lower interest rates for disaster victims to be an absolutely urgent priority of this House. I was very concerned earlier in the year when the House failed to act to reduce interest rates for certain disaster victims in my own State, and others throughout the country. We provide assistance for earthquake victims in Nicaragua, Cambodian refugees, which I supported, Vietnamese refugees, medical care for poor children, housing for low-income people; yet it seems that we throw administrative difficulties and high interest rates in the way of disaster victims.

I consider it very important that we should set standards of eligibility in interest rates which are equitable and fair and not burdened with redtape.

By this disaster program, we ought to be restructuring local economies to restore them to their full vigor, to restore the lives of millions of Americans who are taxpaying, productive citizens. I think this is appropriate and fully consistent with the intent of this legislation and with the generosity that our Government has always shown to disaster victims.

I intend to continue to work with the gentleman from Pennsylvania and other interested Members to try to get interest rates lowered for disaster victims to a more reasonable level and with an absolute minimum of administrative difficulty.

Mr. McDADE. I thank the gentleman for his remarks.

Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. Madigan).

Mr. MADIGAN. Mr. Speaker, I am very much interested in what the gentleman from Kentucky and others have had to say about the SBA, and I am confident that they are sincere in wanting to make it a workable program that reaches out and is of sincere assistance to people in small business who have problems as a result of one kind of a disaster or another.

I think that the House ought to be aware that, if I understand correctly what this conference report does, it makes sure that the Small Business Administration is going to be less able to help people than it was before this conference report was adopted.

The reason that I say that is because if I understand this conference report, farmers are going to be able to come in to the Small Business Administration for disaster loans as a result of this conference report, rather than go to the Farmers Home Administration, at any time that the interest rates are more attractive in the Small Business Administration Act than they are in the Farmers Home Administration Act.

I think the House ought to understand that the Congress is moving at this time to tighten up some of the provisions in the Farmers Home Administration Act, and they have previously done that by an amendment here on the floor of the House.

The conference meets on that bill this afternoon, the Farmers Home Administration bill. I have just talked to the chairman of the Committee on Agriculture, the gentleman from Washington (Mr. Foley), and he has assured me of his support for tightening up the credit provisions in the Farmers Home Administration Act. The result of that action is going to be to take people out of that and into this. When they could meet the credit-elsewhere test in the Farmers Home Administration Act and could go someplace else to a commercial lender and get money, they are not going to do that as we want them to do. They are instead going to go to this act to get their money because the money is going to be cheaper here than it will be through the commercial lender that will be available to them.

We have talked on the floor of the House about the embarrassment that the Farmers Home Administration disaster program has been. We have talked about the fact that we have seen on national television people with garages full of Rolls Royce automobiles and Cadillac automobiles, with lots full of show horses, obtaining money at special interest rates through the Farmers Home Administration. We are going to stop that. We are going to stop that in a conference this afternoon in EF-100 in this building. But the result of our stopping that, combined with what we are going to do here, is to take those people out of the Farmers Home business and instead of taking them into the commercial money market where we think they ought to go, you are going to take them over into the SBA, with the provisions of this conference report. So I think you are going to be providing less help to people in small business who have disasters of one kind or another than you intend to, because you are going to have more borrowers than you intend to have.

Mr. SMITH of Iowa. Mr. Speaker, I yield the gentleman from Illinois (Mr. Madigan) 2 additional minutes, and I will ask the gentleman if he will yield to me.

Mr. MADIGAN. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, I would like to point this out: I am not sure just exactly what the gentleman said, but at the present time, before the passage of this bill, any and all farm businesses have a right to choose, whether they go to SBA or to Farmers Home Administration. After passage and signing of this bill, they must go to the Farmers Home Administration provided the Farmers Home Administration has similar interest rates, and so forth.

Mr. MADIGAN. If the gentleman will allow me to acquaint him with what we are doing to that program, we are changing that program. We are saying to the farmer who comes into the Farmers Home Administration as a result of a disaster that "you are going to have to first apply for a guaranteed loan. If you qualify for a guaranteed loan, that is what you are going to get from Farmers Home. You are not going to get a direct loan from Farmers Home."

So that is going to be at a higher rate of interest if their credit is good enough to do that.

□ 1100

The gentleman is saying, and I am quoting the language of his report:

> If an applicant can not get FmHA emergency loan at substantially similar interest rates, they can go to the SBA and get an SBA economic disaster loan.

We are trying to set them up to get a guaranteed loan rather than a direct loan. The gentleman is saying that if they do not want our guaranteed loan, this other avenue is going to be available to them to come over to the program in SBA and get a cheaper loan there than what they could get from us.

I am just saying we are going to have so much traffic at SBA, we are not going to be able to handle it.

Mr. SMITH of Iowa. Mr. Speaker, the fact of the matter is that there are 3 million small businesses that are in the farming business. We do not think that people who happen to be in the production of agricultural products ought to have any less made available to them in a disaster assistance program than people in the beer business or some other business. That is why our report states:

> Unless agricultural enterprises receive emergency loan assistance at substantially similar interest rates from FmHA as other business disaster victims receive from SBA, they may seek assistance from SBA.

Mr. MADIGAN. I understand what the gentleman is saying, but the fact of the matter is—and it is my time, and the gentleman yielded it to me, so if I may reclaim it—the fact of the matter is if we have people who experience disasters, and I do not question that they have a disaster, but the fact of the matter is we are going to allow them to get into these programs even though they have sufficient capital of their own. I do not see where the Government should be doing that.

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. MADIGAN) has expired.

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

What the gentleman from Illinois did not point out is that the SBA program has had an administrative cap on the maximum loan amount but the FmHA program did not. Also, under the SBA program, a disaster victim cannot borrow more than the amount of the net actual loss. That is where the problem was in the Farm Home Administration. Applicants at FmHA may have had a net loss of $100,000 and borrowed a million.

The SBA administered program would not permit them to do so for two reasons. To start with, SBA has a cap on these loans, unless an exception is made by the Administrator, and second, SBA disaster loans are limited to net loss. This bill imposes a $500,000 cap on disaster loans whether made by SBA or FmHA.

I think this bill treats people fairly and also tightens up the program.

Mr. McDADE. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. ERDAHL).

Mr. ERDAHL. Mr. Speaker, I thank the gentleman for yielding.

I commend the gentleman from Iowa (Mr. SMITH) and the ranking minority member from Pennsylvania (Mr. McDADE) for steering this important bill through the House and through the conference committee. I associate myself with the remarks of our distinguished chairman and ranking minority member and share their concern that disaster victims get the lowest possible reasonable interest rates.

Mr. Speaker, I rise in support of S. 918. Although the conference report did not produce a bill that contains all of the provisions I originally supported, I feel this bill is a reasonable compromise and should be accepted by the House.

In an effort to move toward a community concept of regional rehabilitation following a natural disaster, S. 918 includes homeowners among those persons who are eligible to participate in the SBA loan program. Farmers, however, will be less likely to in the program since they will only be eligible for SBA loans if they cannot receive credit from the Farmers Home Administration.

A very favorable feature of the conference report is the establishment of a loan program for employees who wish to purchase a small business that would otherwise be relocated or sold to an unrelated interest.

Mr. McDADE. Mr. Speaker, will the gentleman yield?

Mr. ERDAHL. I yield to the gentleman from Pennsylvania.

Mr. McDADE. I want to take this opportunity to commend the gentleman from Minnesota. He is a new Member of this body and a new member of our committee and one of the ablest and most valuable members of the committee. We are grateful for all the work he has done over the year on all these bills which have been under consideration. We are at the final point after enacting a conference report. A great deal of what happened is due in no small measure to the effort of the gentleman. I want to commend him.

Mr. ERDAHL. I want to thank the gentleman for his kind remarks.

Mr. BEDELL. Mr. Speaker, I rise in opposition to S. 918, the conference report on the bill to amend the Small Business Act and Small Business Investment Act of 1958. I would briefly like to state the reasons for my opposition.

Mr. Speaker, on May 22 this body considered H.R. 4011, which was a compromise version of H.R. 90 reported out of the House Small Business Committee earlier in the year. At that time, I expressed my support for the measure because as I indicated at the time, it reflected some significant reforms in the Federal physical disaster loan assistance effort, primarily by coordinating SBA and Farmers Home Administration activities in the agricultural disaster area.

The language of that compromise measure, I felt, represented a reasonable resolution between those who desired a continuation of the open-ended authority of SBA to make low interest disaster loans to farmers who had suffered natural disaster losses, and those like myself who felt that such involvement should at the very least be constrained by the requirement that all borrowers meet "credit elsewhere" tests, just as Farmers Home Administration borrowers had always been required to do. That such a change was needed had been made painfully clear by the General Accounting Office's revelation that the highly subsidized rates offered by SBA (then 3 percent) were in many instances made available to very wealthy farmers. Also, the Des Moines Register found that, in 1978, the top 28 recipients of these loans in Iowa had an average net worth of about $2.5 million. For those reasons, I felt that a change was badly needed in the way SBA approached its disaster lending for farmers, and I supported H.R. 4011 as a first step toward reform.

Unfortunately—and unwisely, in my opinion—the language in H.R. 4011 was altered during conference proceedings. While I was not a conferee, I am aware that much behind-the-scenes bargaining went on, and that several substantive changes were made. These changes, in my view, critically weakened the bill, and for all practical purposes, undid the improvements that so many people had worked so hard to achieve last spring. For that reason, I oppose the conference report now before us.

Probably my greatest disappointment in the changed language is the way the mechanism for assuring that prospective agricultural borrowers first apply for assistance to the lending agency which has had the most expertise in assisting them; that is, FmHA was subverted. Not only has the language in the conference report provided for the possible circumvention of the FmHA requirement that all borrowers that can receive credit elsewhere go to private sources for assistance, it has also set the foundation for total circumvention of the "credit elsewhere," FmHA, SBA "pecking order" by applying a new "substantially similar" test for interest rates.

In effect, by saying that an agricultural borrower that "is declined for, or would be declined for emergency loan assistance at substantially similar interest from the Farmers Home Administration" could legally apply for, and receive, SBA loan assistance, we are leaving the door open to future legislatively mandated reductions in the SBA interest rate which could then trigger the renewed incentive for agricultural borrowers to go to SBA for loan assistance, rather than to FmHA where they actually belong.

Most of my other concerns are related to this redirection. For instance, in the report accompanying the conference measure, it was noted that the provision which authorizes FmHA to depart from its traditional exclusion of those who have not passed a "credit elsewhere" test is expected to result in a 25-percent increase of the workload for that agency. According to the reports' estimates, this could translate into an increase in the program level by $400 million and an increase in the administrative expenses of the agency by $4 million, and will require an additional 200 staff-years to make and service the loans. The administration has supposedly promised to raise USDA's personnel ceilings and provide for the additional 200 staff persons.

However, the changes made in conference mean that instead of using these increased administrative resources for the making and servicing of loans that are badly needed by farmers who cannot get credit elsewhere, this increased administrative capability will be used to process loans for those who could actually receive the loan assistance from the private sector. To me, this is not in the best interests of either the agricultural sector, nor of the Nation as a whole.

In yet another unfortunate relaxation of the guidelines for determining the credit worthiness of the agricultural borrower, the conferees changed the provision that would have required a reassessment of whether or not the borrower could graduate to the private sector 2 years after the approval of the loan, and every 2 years thereafter, to 3 years after the initial approval.

Admittedly, there is some indication that SBA and FmHA can take some administrative steps to see that borrowers whom the private sector regards as credit worthy are better identified, such as having the agency reviewers check the bank's letters of rejection against the borrowers' actual balance sheets. If this is done, the Government can at least save the taxpayers money by preventing borrowers from receiving subsidized loans (5 percent) instead of having to pay the cost of money to the Government. I intend to urge both FmHA and SBA to take the steps necessary to accomplish this bit of cost savings.

In summary, Mr. Chairman, I oppose this conference report because I feel that it does not properly represent the intent of this body when we approved the House measure last spring. I firmly believe that, in its present form, the Federal Government is still exposed to unnecessary expenditures in the form of disaster loan assistance to those who do not need it. Beyond this concern, I fear that the door has been left open for the Small Business Administration to be thrust back into the business of making farm disaster loans on a large scale, a practice which has been decried by the Administrator of SBA himself.

● Mr. ANNUNZIO. Mr. Speaker, I rise in support of this conference report on the Small Business Act, but I must add that my support is tempered.

While in conference, the House moved to accept a Senate provision to allow the SBA Administrator to delegate his responsibility of overseeing SBA loans to certain financial institutions. Such responsibilities include the determination of eligibility and creditworthiness, and loan monitoring, collection, and liquidation.

I am deeply concerned that this provision will lead to scandals and loss of taxpayers' money to those who will take advantage of this loosening of Government regulation on SBA loans. But, this bill has so many other good provisions that I find I must support it.

I would have preferred if the House conferees had not accepted this Senate provision, but they did, and now it is part of the bill. I can only hope that the SBA Administrator uses this authority to delegate responsibility wisely and is prudent in monitoring actions taken under this provision.

I do not want this delegation of small business loan responsibility to become an open invitation to abuse of taxpayers' money. So, with my support of this conference report I also promise that I will watch developments in this area very closely, and am putting financial institutions on alert that I will be watching how they handle this trust with great interest.●

Mr. SMITH of Iowa. Mr. Speaker, I have no further requests for time.

I do want to point out that all the members of the committee have been very helpful in the development of this bill. I want to thank the gentleman from Pennsylvania and the members on the minority side as well as on the majority side.

Mention was just made of the ESOP program, employee stock ownership plans, that is in this bill. That was developed primarily by the subcommittee headed by the gentleman from New York (Mr. NOWAK). That is a very important provision and could permit in the future some small businesses being owned by employees through a loan that is facilitated through the Small Business Administration.

I think this is the most important small business bill that has ever passed the Congress. It is certainly the most comprehensive. I urge its passage.

I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

DIRECTING SECRETARY OF SENATE TO CORRECT ERROR IN ENROLLMENT OF S. 918, SMALL BUSINESS ACT

Mr. SMITH of Iowa. Mr. Speaker, I send to the desk a concurrent resolution (H. Con. Res. 231) directing Secretary of Senate to correct error in enrollment of S. 918, to amend the Small Business Act and the Small Business Investment Act of 1958, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 231

Resolved by the House of Representatives (the Senate concurring), That the Secretary of the Senate shall, in the enrollment of the bill (S. 918) to amend the Small Business Act and the Small Business Investment Act of 1958, make the following correction:

Amend section 112 of the bill to read as follows:

(a) Section 7(c) of the Small Business Act is amended by striking the period at the end and inserting in lieu thereof "; and" and by adding the following new paragraph:

"(C) if the loan proceeds are to repair or replace property damaged or destroyed and if the applicant is a business concern which is able to obtain sufficient credit elsewhere, the interest rate shall not exceed the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans and adjusted to the nearest one-eighth of 1 percent, and an additional amount as determined by the Administration, but not to exceed 1 percent: *Provided*, That three years after such loan is fully disbursed and every two years thereafter for the term of the loan, if the Administration determines that the borrower is able to obtain a loan from non-Federal sources at reasonable rates and terms for loans of similar purposes and periods of time, the borrower shall, upon request by the Administration, apply for and accept such loan in sufficient amount to repay the Administration: *Provided further*, That no loan under subsection (b)(1) shall be made, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under such subsection would exceed $500,000 for each disaster, unless an applicant constitutes a major source of employment in an area suffering a disaster, in which case the Administration, in its discretion, may waive the $500,000 limitation.";

(b) Section 18 of the Small Business Act is amended by—

(1) striking the comma after the phrase "agricultural related industries" and inserting the following: ": *Provided*, That prior to October 1, 1982, an agricultural enterprise shall not be eligible for loan assistance under paragraph (1) of section 7(b) to repair or replace property other than residences and/or personal property unless it is declined for, or would be declined for, emergency loan assistance at substantially similar interest rates from the Farmers Home Administration under subchapter III of the Consolidated Farm and Rural Development Act," and

(2) striking subsection (b) and inserting in lieu thereof the following:

"(b) As used in this Act—

"(1) 'agricultural enterprises' means those businesses engaged in the production of food and fiber, ranching, and raising of livestock, aquaculture, and all other farming and agricultural related industries; and

"(2) 'credit elsewhere' means the availability of sufficient credit from non-Federal sources at reasonable rates and terms, taking into consideration prevailing private rates and terms in the community in or near where the concern transacts business for similar purposes and periods of time.".

(c) The amendments made by this section to sections 7(c)(3)(C) and 18 of the Small Business Act shall not apply to any disaster which commenced on or before the effective date of this Act.

Mr. SMITH of Iowa (during the reading). Mr. Speaker, I ask unanimous consent that the concurrent resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. SMITH of Iowa. Mr. Speaker, the resolution is solely for the purpose of making technical changes necessitated by the 1979 supplemental appropriation bill. It makes no substantive changes in law. It will avoid some duplication in the law. I do not believe it is controversial.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

RESIGNATION AS MEMBER OF COMMITTEE ON POST OFFICE AND CIVIL SERVICE

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Post Office and Civil Service:

WASHINGTON, D.C.,
December 19, 1979.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Please accept my resignation from the House Post Office and Civil Service Committee effective December 19, 1979.

With warm regards, I remain,
Sincerely yours,
CHARLES W. STENHOLM,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

CONFERENCE REPORT ON S. 673, DEPARTMENT OF ENERGY, NATIONAL SECURITY AND MILITARY APPLICATIONS OF NUCLEAR ENERGY AUTHORIZATION ACT OF 1980

Mr. PRICE. Mr. Speaker, I call up the conference report on the Senate bill (S. 673), Department of Energy, National Security and Military Application of Nuclear Energy Authorization Act of 1980.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Under the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of December 13, 1979)

The SPEAKER pro tempore. The gentleman from Illinois (Mr. PRICE) will be recognized for 30 minutes, and the gentleman from Virginia (Mr. ROBERT W. DANIEL, JR.) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. PRICE).

Mr. PRICE. Mr. Speaker, I yield myself such time as I may consume.

I realize that the House has a very crowded schedule and, therefore, I shall be as brief as possible.

The House conferees on this Department of Energy appropriation authorization bill, S. 673, reached agreement with the Senate after three formal conference sessions and extended negotiations.

The conference report was printed in the CONGRESSIONAL RECORD for Thursday, December 13, beginning on page 35796, and thus has been available to all Members for several days. The authorization bill as initially approved by the Senate provided for a total of $3,030,000,000 for fiscal year 1980. The House amendment provided authorizations which total $3,002,000,000. As a result of the compromise made during the conference, the conference report contained authorizations which total $3,054,000,000.

In line with the specific authorization provided by the House, the conference went into closed session when required for national security purposes and only closed after the House conferees so agreed by a rollcall vote. Sitting Members of the House and Senate were allowed to sit in on all closed sessions. Only one of the three sessions required the conference to close.

I would like to express my thanks to the House conferees who were diligent in their attendance at the conference and who worked hard on the numerous issues being considered.

The major total authorizations approved by the conference are as follows:

Operating expenses for seven Department of Energy defense programs, $2,475,000,000;

New plant and capital equipment, $2,475,000,000.

One of the most difficult issues in conference involved the waste isolation pilot plant (WIPP); an R. & D. facility to be located in southeastern New Mexico. After a great deal of consideration and negotiation, the conferees resolved this issue by adopting most of the language of the House amendment which specifically authorizes this project as a research and development and demonstration project for the safe storage of nuclear wastes generated for national defense purposes.

There was a great deal of discussion during the conference as to whether the State of New Mexico, or any State, should have a veto power over this Federal defense project. The House conferees strongly opposed such a State veto power for several good reasons which are cited in the Statement of Managers.

At the same time, Mr. Speaker, the conferees believed that the State of New Mexico should have the opportunity to consult and cooperate with the Federal Government with respect to public health and safety concerns and that any State concerns should be given consideration.

For this reason, the conferees adopted language in section 213 of the conference report which sets forth a framework for consultation and cooperation under the oversight of the Committees on Armed Services of the House and Senate. I emphasize, however, that the action of the conferees did not provide the State with either a one-time or continuing veto power.

In summary, Mr. Speaker, I believe we have obtained the best bill we could expect. While the authorizations contained in the bill are $30,000,000 less than the amount contained in the President's request, the bill provides for the more urgent needs of the defense programs of the Department of Energy in a better manner than the original legislation submitted to Congress. I urge all Members to support the conference report.

Let me briefly summarize the agreement on some of the more important matters the conference report provides: $138,690,000 for inertial confinement fusion research; $278,367,000 for naval reactors development; $1,738,005,000 for weapons activities—R. & D., testing, production, maintenance; $37,860,000 for verification and control technology; $522,548,000 for materials production; $291,871,000 for defense waste management; and $46,627,000 for nuclear materials security and safeguards.

Mr. Speaker, I want to point out that there is a printing error on page 23 of the report where the differences in the provisions of the Senate bill and the House amendment with respect to operating expenses for defense waste management are discussed.

These differences were correctly printed in the CONGRESSIONAL RECORD for December 13, 1979, page 35802, and I am including the corrected language for the Joint Statement of Managers at this point as follows:

> The Senate bill authorized $216.501 million for the defense waste management program including the following allowances: $110.515 million for interim waste management operations; $63.495 million for long term waste management technology; $20.8 million for terminal storage operations; $1.691 million for program direction; and $20.0 million for an undistributed amendment.
>
> The House amendment authorized a total of $211.25 million including allowances as follows: $125.851 million for interim waste management operations; $76.708 million for long term waste management technology; $2 million for decontamination and decommissioning; $5 million for transportation research and development; and $1.691 million for program direction.

The report, however, correctly reports the authorizations and amounts agreed to by the conference committee for the defense waste management program.

☐ 1110

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the conference report and want to associate myself with the remarks of Chairman PRICE.

This conference report is important to our national security, not only with respect to the appropriations and construction projects it authorizes, but also with respect to the policy guidance it provides for the Department of Energy.

In the very important areas of weapons testing and production, laser, and electron beam fusion research, and the production of nuclear materials, the conference report provides sufficient authorizations above amounts already appropriated to offset some of the inflation which will occur in fiscal year 1980.

Mr. Speaker, the U.S. strategic triad depends on the annual authorizations represented by this conference report. So does NATO's tactical nuclear force, which just a few days ago we promised to modernize.

Within the scope of the House and Senate bills, I believe that the conferees arrived at the best possible compromise for our strategic and tactical weapon needs. I am concerned, however, by the trend of the past few years where the administration's annual requests have consistently underfunded crucial defense programs.

The crucial research and development and testing programs at the Livermore and Los Alamos National Laboratories have been underfunded for the past 3 years. The same has been true for the weapons production and the important inertial confinement fusion programs. From what I hear, the administration's request for fiscal year 1981 will be no exception.

Mr. Speaker, the President made a very important defense policy statement, on December 12, in which he laid out a program to improve our strategic forces and to upgrade our NATO forces. Evidently a copy of that statement has not yet arrived at the Office of Management and Budget. We cannot make commitments to our defenses, and keep those commitments, without sufficient funds.

I support and urge the adoption of the conference report.

Mr. Speaker, I have no apparent requests for time, and reserve the balance of my time.

Mr. PRICE. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. CARR).

Mr. CARR. Mr. Speaker, I rise in reluctant opposition to this conference report, and I do so principally because of the way in which an amendment which I offered in the committee was pushed aside in the conference committee. I think it points out what some of us have been saying for a long time; that we need to reform the rules by which conference committees are conducted. I have the utmost respect for my chairman, the gentleman from Illinois, and we have worked together on many issues, some times opposing and some times agreeing. But, here is what happened in this particular instance. I offered an amendment before the subcommittee, which was adopted by the subcommittee, which would have required that the Secretary of Energy renegotiate the contract that DOE has with the Washington Public Power Supply System up in the State of Washington for the supply of steam.

Now, I would remind the House that this steam comes from a weapons reactor. The central purpose of the reactor is the weapons program. I am all for cogeneration of power if that is something that is attainable, that is energy efficient, and something we ought to do. So, I do not mind that a weapons reactor which is not licensed by NRC, which is not an NRC license containment and does not fulfill the other NRC nuclear power licensing criteria, also supplies power to the Washington Public Power Supply System. I am not opposed to that, but what I am opposed to is the fact that they sell this steam for less than fair market value to the Washington Public Power Supply System, and that operates as a subsidy by the Federal weapons program to the electric ratepayers in the State of Washington, ratepayers which, by virtue of their hydroelectric power situation out there which is also paid for and financed by all of the taxpayers of America, already have the lowest electric rates in the Nation.

Well, I am glad for those ratepayers, but I do not think that in a time of scarce energy, in a time when our country has moved from a cost-of-production basis to a replacement basis for all energy sources, that we ought to be subsidizing that electric rate out in the State of Washington through the nuclear weapons program of America.

So, what did I do? I offered an amendment which was adopted in subcommittee. It was adopted by the full committee, and it was adopted on the floor of the House here, and it was the House position. The problem was that it ran headlong into the chairman of the conference from the other body, the Senator from the State of Washington. Now, in a meeting the last day of our conference, we had a meeting of the House conferees, and we took up this issue. We all said that, with some varying degrees of agreement, that we would uphold the House position. That was approximately between 11:30 and 12 o'clock. My esteemed chairman, for whom I have the highest regard, at that point in time said something to the effect that, "I do not know what we are arguing about here. Of course we are going to uphold the House position."

The House-Senate conference took up the measure at precisely 2 o'clock. I was unable to be there precisely at 2 o'clock, although I had two staff aides there. I walked into the room at 2:10 p.m. to find that my colleagues on the House conference were already signing preprepared statement of managers, signing the forms. My own people tell me that when the matter came up the Senator from Washington, from the other body, asked our conference chairman whether the House was going to recede on this important section 212, and that our chairman, without consulting the other members of the conference, without a vote, without properly moving to recede and having a vote, without allowing a conferee whom they knew was on the way to have his last final day in court—and I might well have been defeated, and probably so—to have his say, the whole thing was dispensed with.

☐ 1120

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. PRICE. Mr. Speaker, I yield 2 additional minutes to the gentleman from Michigan.

Mr. CARR. I thank the gentleman for yielding.

The whole thing was dispensed with. If that is how the conferees are going to support the House position in this conference, or in any other conference, I think we can essentially do away with the House floor and, indeed, maybe a lot of the committees around here because they do not mean a darned thing. I happen to think, as I have investigated this one, that it was probably an oversight, that there was probably some misunderstanding, and I have no bitterness toward my chairman. But when you fight for an amendment and you get it adopted all the way along the line right up until 2 hours before the final conference and it just gets chucked aside without any official vote by the conferees, I think it is the kind of thing that makes you feel you have got to stand here and explain that to the House and explain why you did not sign a conference report and explain why you are going to vote against this conference report, if for no other reason than out of protest, protest against a system of conference committees which amount to in many cases floating crap games. Where negligent procedure can be "cured" by people signing the conference report. I know that sometimes it happens on issues that favor my position and sometimes it happens on issues which do not favor my position.

What I am standing here trying to explain to the House today is that I will try to be consistent in trying to get House managers to uphold the House position, whether I happen to favor it or not, and that should I ever be appointed to another conference, this Member, knowing what was done to him on one day, is going to always try to remember that whether I believe in the position or not as a conferee I am going to try to uphold the House position, and I hope that this committee is going to do that, too, in the future.

Mr. PRICE. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I just would like to engage in colloquy with one of the members of the committee, but I think the record should be correct. I think the record should be accurate. I will do my best to explain to the House exactly what did happen on that occasion.

I have listened carefully to the remarks of my friend, the gentleman from Michigan (Mr. CARR). We have heard his version of what he refers to as facts. As a member of the conference committee who was in attendance at the third meeting when the remaining matters were resolved, I want to give the Members of this House the benefit of the true facts.

The gentleman from Michigan (Mr. CARR), who was also a member of the conference, was not there. He had the same time schedule as every other member of the committee. Every other conferee was in attendance at the time.

The facts are, first, the conferees resolved 63 out of 70 differences during their first meeting. There remained only three major items which were to be worked out. One of these items was a section of the House bill which had been sponsored by the gentleman from Michigan (Mr. CARR). The Senate conferees objected to this provision and, in my opinion, made a very forceful and convincing argument against it. In fact, I do not believe we would now have a conference report had the House adamantly insisted on those provisions.

At the final meeting of the conference, five of the eight House Members were present. The most controversial problems were quickly settled. Two issues remained, both involving provisions contained in the House version but not in the Senate bill. A proposal was made on behalf of the Senate conferees that the Senate recede on one of the provisions and that the House recede on the provision in which the gentleman from Michigan (Mr. CARR) was interested. The five House conferees present agreed to this proposal, and the conference was adjourned. Unfortunately, the gentleman from Michigan (Mr. CARR) was absent when these matters were compromised, and when he arrived some 5 minutes after the conference had adjourned, he was quite naturally upset. But he had not informed the chairman that he was going to be late for the meeting; otherwise, the chairman would have done as we do in many cases—held up the conference. I am almost certain, Mr. Speaker, that those of us who have been in the House for several years have found themselves in similar positions and have learned from experience. I can assure the gentleman that the House conferees who were present had on intention of denying him any privilege. In fact, had he notified the conferees that he was coming to the meeting late, we would have asked the Senate conferees to wait for him. However, in the absence of any timely knowledge of his intention, we proceeded with the business at hand and were in the process of signing the conference papers when he arrived. I can say to the gentleman, however, that I believe the results would have been the same whether he had been present or not.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CARR. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 359, nays 32, not voting 42, as follows:

[Roll No. 747]

YEAS—359

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Boggs
Boland
Bolling
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Donnelly
Dornan
Dougherty
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gibbons
Gingrich
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Railsback
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stokes
Stratton
Stump
Swift
Tauke
Taylor
Thomas
Thompson
Traxler
Treen
Trible
Udall
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—32

AuCoin
Bedell
Beilenson
Bingham
Bonior
Carr
Cavanaugh
Chisholm
Clay
Conyers
Dellums
Downey
Eckhardt
Garcia
Gray
Hawkins
Kastenmeier
Maguire
Markey
Miller, Calif.
Moffett
Obey
Ottinger
Rahall
Rangel
Scheuer
Seiberling
Stark
Studds
Weaver
Weiss
Wolpe

NOT VOTING—42

Andrews, N. Dak.
Badham
Beard, R.I.
Brooks
Burton, John
Burton, Phillip
Coelho
Crane, Philip
Deckard
Dixon
Edwards, Calif.
Ferraro
Flood
Florio
Ford, Mich.
Giaimo
Gilman
Ginn
Hansen
Heckler
Holt
Holtzman
Howard
Jeffords
Lehman
Loeffler
McClory
McCloskey
Mitchell, Md.
Murphy, Ill.
Richmond
Roberts
Runnels
Sebelius
Simon
Stockman
Symms
Synar
Van Deerlin
White
Wilson, Bob
Yates

☐ 1140

The Clerk announced the following pairs:

Mr. Van Deerlin with Mr. Sebelius.
Ms. Ferraro with Mr. Bob Wilson.
Mr. Florio with Mr. Loeffler.
Mr. Giaimo with Mr. McClory.
Mr. Ford of Michigan with Mr. Deckard.
Mr. Mitchell of Maryland with Mr. Philip M. Crane.
Mr. Richmond with Mr. Badham.
Mr. Roberts with Mr. Andrews of North Dakota.
Mr. Brooks with Mr. Gilman.
Mr. John L. Burton with Mr. Hansen.
Mr. Ginn with Mr. Stockman.
Mr. Lehman with Mr. Symms.
Mr. Phillip Burton with Mrs. Heckler.
Mr. Runnels with Mr. Synar.
Mr. White with Mrs. Holt.
Mr. Howard with Mr. Jeffords.
Ms. Holtzman with Mr. McCloskey.
Mr. Beard of Rhode Island with Mr. Coelho.
Mr. Dixon with Mr. Flood.
Mr. Simon with Mr. Yates.

Messrs. HAWKINS, WOLPE, GARCIA, and GRAY changed their vote from "yea" to "nay."

Mr. GLICKMAN changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PRICE. Mr. Speaker, I ask unanimous consent that all Members may have

5 legislative days in which to revise and extend their remarks on the conference report on the Senate bill, S. 673, just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 562, NUCLEAR REGULATORY COMMISSION AUTHORIZATION, 1980

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 562) to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes, with the House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona? The Chair hears none and, without objection, appoints the following conferees: Messrs. UDALL, BINGHAM, SHARP, WEAVER, MARKEY, VENTO, STAGGERS, DINGELL, SYMMS, LUJAN, BROWN of Ohio, and CORCORAN.

There was no objection.

□ 1150

PUBLISHING MINUTES OF FEDERAL OPEN MARKET COMMITTEE MEETINGS

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 4998) to amend the Federal Reserve Act to require that detailed minutes of Federal Open Market Committee meetings shall be published on a deferred basis, with a Senate amendment to House amendments to Senate amendments, and concur in the Senate amendment to House amendments to Senate amendments with an amendment.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will report the Senate amendment to House amendments to Senate amendments and the proposed House amendment.

The Clerk read as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment to the Senate amendment to the text of the bill, insert:

TITLE I—CONSUMER SERVICES AND USURY

SEC. 101. (a) Section 19(i) of the Federal Reserve Act (12 U.S.C. 371a) is amended by adding at the end thereof the following: "Notwithstanding any other provision of this section, a member bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts drawn upon the bank, pursuant to terms and conditions prescribed by the Board.".

(b) Section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended by inserting "(1)" after "(g)" and by adding at the end thereof the following:

"(2) Notwithstanding the provisions of paragraph (1), an insured nonmember bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts drawn upon the bank, pursuant to terms and conditions described by the Board of Directors.".

SEC. 102. Section 5(b)(1) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464 (b)(1)) is amended by adding at the end thereof the following: "This section does not prohibit the establishment of remote service units by associations for the purpose of crediting existing savings accounts, debiting such accounts, crediting payments on loans, and the disposition of related financial transactions as provided in regulations prescribed by the Board.".

SEC. 103. (a) Section 101 of the Federal Credit Union Act is amended—

(1) by inserting before the semicolon at the end of paragraph (5) the following: ", and such term also includes a share draft account";

(2) by striking out "and" at the end of paragraph (8);

(3) by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following:

"(10) the term 'share draft account' means an account on which payment of interest may be made on a deposit with respect to which the credit union may require the member to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the member is allowed to make withdrawals by negotiable or transferable instrument for the purpose of making payments to third persons or otherwise. Such account shall consist solely of funds in which the entire beneficial interest is held by one or more individuals, or by an organization operated primarily for religious, philanthropic, charitable, educational, or other similar purpose and not for profit.".

(b) Section 107(6) of such Act is amended by inserting before the semicolon at the end thereof the following: ", and to issue, deal in, and accept share drafts as orders of withdrawal against shares, subject to such terms, rates, and conditions as may be prescribed by the Board".

SEC. 104. The amendments made by sections 101 through 103 of this title shall take effect on December 31, 1979, and shall remain in effect until the close of March 31, 1980.

SEC. 105. (a)(1) The provisions of the constitution or law of any State expressly limiting the rate or amount of interest, discount points, or other charges which may be charged, taken, received, or reserved shall not apply to any loan, mortgage, or advance which is—

(A) secured by a first lien on residential real property or by a first lien on stock in a residential cooperative housing corporation where the loan, mortgage, or advance is used to finance the acquisition of such stock;

(B) made after the date of enactment of this Act; and

(C) described in section 527 (b) of the National Housing Act, except that the limitation described in section 527 (b)(1) that the property must be designed principally for the occupancy of from one to four families shall not apply, the requirement contained in section 527 (b) (1) that the loan be secured by residential real property shall not apply to a loan secured by stock in a residential cooperative housing corporation, and for the purpose of this section, the term "lender" in section 527 (b) (2) (A) of the National Housing Act shall also be deemed to include any lender approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act.

(2) The provisions of the constitution or law of any State expressly limiting the rate or amount of interest which may be charged, taken, received, or reserved shall not apply to any deposit or account held by, or other obligation of a depository institution. As used in this paragraph, the term "depository institution" means—

(A) any insured bank as defined in section 3 of the Federal Deposit Insurance Act;

(B) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act;

(C) any savings bank as defined in section 3 of the Federal Deposit Insurance Act;

(D) any member as defined in this section;

(E) any insured institution as defined in section 408 of the National Housing Act; and

(F) any insured credit union as defined in section 101 (7) of the Federal Credit Union Act.

(b) The provisions of subsection (a) (1) shall apply to loans, mortgages, and advances made in any State unless and until the State adopts a provision of law (prior to the close of March 31, 1980) limiting the rate or amount of interest, discount points, or other charges on any such loan, mortgage, or advance, except that at any time after the date of enactment of this Act any State may adopt a provision of law placing limitations on discount points or such other charges on any such loan, mortgage, or advance.

(c) The Federal Home Loan Bank Board is authorized to issue rules and regulations and to publish interpretations governing the implementation of this section.

(d) The provisions of subsection (a) (1) expire at the close of March 31, 1980, except that such provisions shall continue to apply to any loan, mortgage, or advance described in subsection (a) (1) for the duration of such loan, mortgage, or advance if it is made prior to such expiration or if it is made during the two year period beginning on the date of enactment of this Act pursuant to a commitment issued prior to such expiration.

(e) For the purpose of this Act and any amendment made by this Act, the term "State" includes the several States, Puerto Rico, the District of Columbia, Guam, the Trust Territories of the Pacific Islands, and the Virgin Islands.

SEC. 106. The President shall convene an interagency task force consisting of the Secretary of the Treasury, the Secretary of Housing and Urban Development, the Federal Home Loan Bank Board, the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the National Credit Union Administration Board. The task force shall conduct a study to determine the difficulties faced by depository institutions which have sizable portfolios of low-yield mortgages. In carrying out such study, the task force shall solicit the views of, and invite participation by, consumer and public interest groups, business, labor, and State regulators of depository institutions. Not later than 45 days after the date of enactment of this Act, the task force shall transmit to the President and the Congress its findings and recommendations for such action as it deems appropriate.

Sec. 107. Section 2(a) of Public Law 93–100 (12 U.S.C. 1832(a)) is amended by inserting "New Jersey," after "New York,".

TITLE II—INTEREST RATE AMENDMENTS REGARDING STATE USURY CEILINGS ON CERTAIN LOANS

Sec. 201. Section 5197 of the Revised Statutes, as amended (12 U.S.C. 85), is amended by inserting in the first and second sentences before the phrase "whichever may be the greater", the following: "or in the case of business or agricultural loans in the amount of $25,000 or more, at a rate of 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located,".

Sec. 202. The Federal Deposit Insurance Act (12 U.S.C. 1811–1831) is amended by inserting after section 23 the following new section:

"Sec. 24. (a) In order to prevent discrimination against State-chartered insured banks with respect to interest rates, if the applicable rate prescribed in this subsection exceeds the rate such State bank would be permitted to charge in the absence of this subsection, a State bank may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

"(b) If the rate prescribed in subsection (a) exceeds the rate such State bank would be permitted to charge in the absence of this paragraph, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than is allowed by subsection (a) when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the State bank taking or receiving such interest.".

Sec. 203. Title IV of the National Housing Act (12 U.S.C. 1724–1730f) is amended by inserting after section 411 the following new section:

"Sec. 412. (a) If the applicable rate prescribed in this section exceeds the rate an insured institution would be permitted to charge in the absence of this section, such institution may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the institution is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

"(b) If the rate prescribed in subsection (a) exceeds the rate such institution would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than that prescribed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the institution taking or receiving such interest.".

Sec. 204. Subsection (h) of section 308 of the Small Business Investment Act of 1958 is amended to read as follows:

"(h)(1) The purpose of this subsection is to facilitate the orderly and necessary flow of long-term loans and equity funds to small business investment companies to small business concerns.

"(2) In the case of a business loan the principal amount of which is $25,000 or more, the small business investment company making such loan may charge interest on such loan at a rate which does not exceed the lowest of the rates described in subparagraphs (A), (B), and (C).

"(A) The rate described in this subparagraph is the maximum rate prescribed by regulation by the Small Business Administration for loans made by any small business investment company (determined without regard to any State rate incorporated by such regulation).

"(B) The rate described in this subparagraph is the maximum rate authorized by an applicable State law which is not preempted for purposes of this subsection.

"(C)(i) The rate described in this subparagraph is the higher of the Federal Reserve rate or the maximum rate authorized by applicable State law (determined without regard to the preemption of such State law).

"(ii) For purposes of clause (i), the term 'Federal Reserve rate' means the rate equal to the sum of 5 percentage points plus the discount rate on 90-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district in which the principal office of the small business investment company is located.

"(iii) The rate described in this subparagraph shall not apply to loans made in a State if there is no maximum rate authorized by applicable State law for such loans or there is a maximum rate authorized by an applicable State law which is not preempted for purposes of this subsection.

"(3) A State law shall be preempted for purposes of paragraph (2)(B) with respect to any loan if such loan is made before the earliest of —

"(A) in the case of a State statute, July 1, 1980;

"(B) the date, after the date of the enactment of this paragraph, on which such State adopts a law stating in substance that such State does not want this subsection to apply with respect to loans made in such State; or

"(C) the date on which such State certifies that the voters of such State, after the date of the enactment of this paragraph, have voted in favor of, or to retain, any law, provision of the constitution of such State, or amendment to the constitution of such State which prohibits the charging of interest at the rates provided in this subsection.

"(4)(A) If the maximum rate of interest authorized under paragraph (2) on any loan made by a small business investment company exceeds the rate which would be authorized by applicable State law if such State law were not preempted for purposes of this subsection, the charging of interest at any rate in excess of the rate authorized by paragraph (2) shall be deemed a forfeiture of the greater of (i) all interest which the loan carries with it, or (ii) all interest which has been agreed to be paid thereon.

"(B) In the case of any loan with respect to which there is a forfeiture of interest under subparagraph (A), the person who paid the interest may recover from a small business investment company making such loan an amount equal to twice the amount of the interest paid on such loan. Such interest may be recovered in a civil action commenced in a court of appropriate jurisdiction not later than 2 years after the most recent payment of interest.".

Sec. 205. (a) In order to prevent discrimination against any financial institution chartered pursuant to the statutes of the United States with respect to interest rates, if the applicable rate prescribed in this section exceeds the rate such federally chartered financial institution would be permitted to charge in the absence of this section, the federally chartered financial institution may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the federally chartered financial institution is located.

(b) If the rate prescribed in subsection (a) exceeds the rate such federally chartered financial institution would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate than is allowed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the loan carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of interest paid from the federally chartered financial institution taking or receiving such interest.

Sec. 206. If any provision of this title or the application of such provision to any person or circumstance shall be held invalid, the remainder of the title and the application of such provision to any person or circumstance other than that as to which it is held invalid shall not be affected thereby.

Sec. 207. The amendments made by sections 201 through 205 of this title and the provisions of sections 201 through 205 of this title shall apply only with respect to loans made in any State during the period beginning on the date of enactment of this Act and ending on the earliest of—

(1) in the case of a State statute, July 1, 1980;

(2) the date, after the date of the enactment of this Act, on which such State adopts a law stating in substance that such State does not want the amendments made by sections 201 through 205 of this title and the provisions of this title to apply with respect to loans made in such State; or

(3) the date on which such State certifies that the voters of such State, after the date of the enactment of this Act, have voted in favor of, or to retain, any law, provision

of the constitution of such State, or amendment to the constitution of such State which prohibits the charging of interest at the rates provided in the amendments made by sections 201 through 205 of this title and the provisions of this title.

Sec. 208. Section 19 of the Federal Reserve Act (12 U.S.C. 461 et seq.) is amended by inserting after subsection (j) the following new subsection:

"(k) No member bank or affiliate thereof, or any successor or assignee of such member bank or affiliate or any endorser, guarantor, or surety of such member bank or affiliate may plead, raise, or claim directly or by counter claim, setoff, or otherwise, with respect to any deposit or obligation of such member bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such member bank or affiliate or to any other person.".

Sec. 209. Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by inserting after subsection (j) the following new subsection:

"(k) No insured nonmember bank or affiliate thereof, or any successor or assignee of such bank or affiliate or any endorser, guarantor, or surety of such bank or affiliate may plead, raise, or claim, directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territroy of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such bank or affiliate or to any other person.".

Sec. 210. Section 5B of the Federal Home Loan Bank Act (12 U.S.C. 1425b) is amended by inserting after subsection (d) the following new subsection:

"(e) No member or nonmember association, institution, or bank or affiliate thereof, or any successor or assignee, or any endorser, guarantor, or surety thereof may plead, raise, or claim, directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such member or nonmember association, institution, bank, or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such member or nonmember association, institution, bank, or affiliate or to any other person.".

Sec. 211. The amendments made by sections 208, 209, and 210 of this title shall apply only with respect to deposits made or obligations issued in any State during the period beginning on the date of the enactment of this Act and ending on the earliest of—

(1) in the case of a State statute, July 1, 1980;

(2) the date, after the date of the enactment of this Act, on which such State adopts a law stating in substance that such State does not want the amendments made by sections 208, 209, and 210 of this title to apply with respect to such deposits and obligations; or

(3) the date on which such State certifies that the voters of such State, after the date of the enactment of this Act, have voted in favor of, or to retain, any law, provision of the constitution of such State, or amendment to the constitution of such State which limits the amount of interest which may be charged in connection with such deposits and obligations.

Sec. 212. Effective at the close of the day preceding the date of enactment of this title, the Act entitled "An Act to authorize on a temporary basis certain business and agricultural loans, notwithstanding interest limitations in State constitutions or statutes, and for other purposes" (Public Law 96–104), and the amendments made by such Act, are repealed, except that—

(1) the amendments made by title I of such Act and the provisions of such title shall apply to any loan made in any State on or after November 5, 1979, but prior to such repeal; and

(2) the amendments made by title II of such Act shall apply to any deposit made or obligation issued in any State on or after November 5, 1979, but prior to such repeal.

Sec. 213. Notwithstanding any other provision of this title, subject to section 207 (2) and (3) and 211 (2) and (3) of this Act and section 308 (h) (3) (B) and (C) of the Small Business Investment Act of 1958, the provisions of this title shall continue to apply until July 1, 1981, in the case of any State having a constitutional provision regarding maximum interest rates.

Resolved, That the Senate agree to the amendment of the House of Representatives to the amendment of the Senate to the title of the bill.

House amendment to Senate amendment to House amendments to Senate amendments: "strike section 106 of the Senate amendment."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

Mr. WYLIE. Mr. Speaker, reserving the right to object, I take this time merely so the gentleman from Rhode Island (Mr. St Germain) may explain what we are doing here.

Mr. ST GERMAIN. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Speaker, the House a couple of days ago sent to the Senate the 90-day extension on share drafts to take care of the court decision of the Circuit Court of Appeals of the District of Columbia. The Senate once again followed its ordinary tactics and traditions and decided to load a little more on.

The Senate has included a usury override. On business and commercial loans over $25,000 the override runs until July 1, 1980.

If the usury limitation is constitutional, the override runs until July 1, 1981. This coincides with the legislation previously passed in the House relating to the State of Arkansas' constitutional usury problem.

In the case of home mortgage loans the override would last for a period of 90 days. In addition, it would apply to commitments entered before March 31, 1980, and exercised up to 2 years thereafter. As to share drafts, automatic transfer accounts and remote service until the legislation suspends the court decision for a 90-day period.

One additional matter is the granting of NOW account authority to the State of New Jersey, whose legislature has just done that for State institutions. What we are doing in this instance is adding New Jersey to the New England States and New York which now have the NOW account provisions.

The section being stricken by the amendment is section 106 which would permit the President to create an interagency task force to study the difficulties of depository institutions which have sizable portfolios of low-yield mortgages.

The House, Mr. Speaker, has held no hearings on this matter, I doubt that the Senate has held hearings, and we are striking that section.

Mr. WYLIE. Mr. Speaker, further reserving the right to object, I might say that on Monday I spoke in favor of legislation legalizing automatic transfer services, remote service units, and share drafts to avoid the court order imposing the December 31, 1979, deadline, at which time these accounts will be illegal, unless Congress says otherwise.

I am not very happy with the inclusion of the State usury ceiling provision, but we must have this bill. We are at the deadline time.

Mr. Speaker, I compliment the gentleman from Rhode Island (Mr. St Germain) for his persistence and perspicacity in bringing this bill before the House today. We must act and now.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I do so to ask my colleagues, who will now attempt to make sure that the court decisions are overridden for the present time, at least 90 days, that we make sure again that we do not allow the Senate to reinsist on what we have just stricken.

As I understand it, the gentleman from Rhode Island (Mr. St Germain) has stricken from the Senate version the 45-day interagency task force study to determine difficulties faced by depository institutions which have sizable portfolios of low yield mortgages.

As the gentleman well knows, this is an attempt by the Senate to start a whole new process, and I hope that the conferees and/or any negotiations that we have between here and the other body will insist that this section remain out of the bill.

Mr. ST GERMAIN. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I am happy to yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Speaker, I would state to the gentleman that in this Member's opinion, that is nonnegotiable.

Mr. ROUSSELOT. Mr. Speaker, I appreciate that.

Mr. REUSS. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to my colleague, the gentleman from Wisconsin, the chairman of the committee.

Mr. REUSS. Mr. Speaker, I thank the gentleman for yielding further.

I join with the gentleman from Rhode Island (Mr. ST GERMAIN), the subcommittee chairman, in saying that thus far—and I go no further—we are not prepared to negotiate on that point.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman's comments.

Further reserving the right to object, Mr. Speaker, I want to compliment my colleagues for insisting, as I thought we would have to do originally a month ago, that the Senate not attach a substantial number of items to this type of bill, which the Members of the other body know relates to an emergency situation, and I am sure they knew we might not be able to act again before January.

Mr. Speaker, I compliment my colleagues on both sides of the aisle for insisting that this bill not be loaded up with nonrelated amendments.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

Mr. CAVANAUGH. Mr. Speaker, reserving the right to object, I wonder if the subcommittee chairman would answer some questions regarding the usury provisions?

Mr. ST GERMAIN. Certainly, Mr. Speaker, if the gentleman will yield.

Mr. CAVANAUGH. Mr. Speaker, my understanding now is that this proposal would contain or reaffirm the 2-year override of State constitutional usury limitations and, in addition to that, extend a 90-day override or an override until March 31 of 1980 for statutory usury restrictions.

Mr. ST GERMAIN. That is for home mortgages.

Mr. Speaker, if the gentleman will yield, there is an override until July 1, 1980, on statutory usury provisions on business and agricultural loans of $25,000. That override would run until July 1, 1981, if it involves a constitutional provision. On home mortgages it is 90 days, but it also includes commitments for 2 years thereafter if the commitment was made prior to March 31, 1980.

Mr. CAVANAUGH. Mr. Speaker, I thank the subcommittee chairman for reaffirming that.

After March 30 of this year, then home mortgages would revert to whatever the statutory usury limit of the State would be?

Mr. ST GERMAIN. That is correct.

Mr. CAVANAUGH. And any mortgage granted after that date would fall under the State usury laws under the statute?

Mr. ST GERMAIN. Unless the commitment were made prior to that March 31 date.

Mr. CAVANAUGH. Mr. Speaker, I think it is unfortunate that the Senate has imposed this restriction and has usurped this power from the States. I think it will serve to protract the high interest rates we are now suffering rather than continue the existent pressure to lower interest rates which State usury laws do create in the marketplace.

In addition to that, it is unfortunate to have the Congress usurping this prerogative which has throughout our history resided with the States.

Mr. Speaker, I commend the subcommittee chairman for giving away as little as he has under the circumstances. Unfortunately, I think we are stuck with this, but I think that it is a limitation. I appreciate the chairman's restricting the ambition of the Senate in terms of overriding State usury limits, and I hope the Congress will not go any further.

Mr. Speaker, I think the public should be aware of the erosion of these States' rights and powers that has taken place here. It is unfortunate that this has occurred.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

Mr. MINISH. Mr. Speaker, further reserving the right to object, I rise in support of H.R. 4998 as amended by the Senate.

I am pleased to note that the Senate has added a provision to this legislation to extend NOW account authority to New Jersey savings and loans and other institutions.

NOW accounts, as many of my colleagues are aware, are interest-bearing checking accounts. At present NOW account authority exists only in the six New England States plus the State of New York.

I want to commend the State senior Senator HARRISON A. WILLIAMS for his action in attaching this vital provision to the legislation and I want to thank also the members of the New Jersy House Delegation who have cosponsored this effort with me. They are: FRANK THOMPSON, JR., FRANK J. GUARINI, EDWIN B. FORSYTHE, JAMES J. FLORIO, MILLICENT FENWICK, HAROLD C. HOLLENBECK, JAMES J. HOWARD, WILLIAM J. HUGHES, ANDREW MAGUIRE, EDWARD J. PATTEN, ROBERT A. ROE, PETER W. RODINO, and MATTHEW J. RINALDO.

The intent of this provision of the pending legislation is to keep federally chartered savings and loans from being at a disadvantage with State-chartered S. & L.'s in the State of New Jersey. The New Jersey legislature recently gave final approval to checking account authority for State-chartered thrift institutions. The Governor is expected to sign this measure into law within the next 2 weeks. Unless the Congress acts now to assist the Federal thrift institutions, in my State, they will find themselves at a disadvantage with State institutions.

Lastly, Mr. Speaker, I want to commend my good friend and Banking Committee colleague from Rhode Island, Chairman FREDDIE ST GERMAIN of the Financial Institutions Subcommittee. He has worked hard to achieve this compromise and I am sure that he and his colleagues on the conference committee dealing with other financial institutions legislation will produce a quality bill early next year worthy of support by the House and Senate.

Mr. Speaker, I withdraw my reservation of objection.

● Mr. BARNARD. Mr. Speaker, this legislation, although only a temporary extension, is the response of Congress to an April 20, 1979, District of Columbia Court of Appeals ruling that credit union share drafts, commercial bank automatic transfer services, and savings and loan remote service units were illegal because the regulators in each case had exceeded their statutory authority in authorizing them.

The court delayed the effective date of its order until January 1, 1980, in order to give Congress time to declare its intent. With the passage of this legislation, that intent will be clear.

On September 11, 1979, this body passed H.R. 4986, which contained language specifically legalizing these services by a vote of 367 to 39, and the Senate passed its version on November 1, by a vote of 76 to 9.

The conference committee for H.R. 4986, of which I am a member, met on December 5, and while no final action was taken, we did agree on language authorizing the services described in the April 20 court case.

Therefore, while we may only be able to grant a 3-month extension at this time, the legality of these services is no longer in question as far as this Congress is concerned.●

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 3875, HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1979

Mr. ASHLEY. Mr. Speaker, I call up the conference report on the bill (H.R. 3875) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes.

☐ 1200

The Clerk read the title of the bill.

The SPEAKER pro tempore. Under the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of December 13, 1979.)

The SPEAKER pro tempore. The gentleman from Ohio (Mr. ASHLEY) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. STANTON) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I present the conference report on H.R. 3875, the Housing and Community Development Amendments of 1979, to the House for its consideration. We have been in conference on this housing authorization bill since July 20 of this year, when the Senate agreed to the House's request for a conference. It was only on December 13 that the conferees finally resolved the last outstanding item in disagreement.

Mr. Speaker, there were the usual numerous items in disagreement between the House and Senate that we always have as a matter of course when the House and Senate have acted on differing versions of bills, but this time we were faced with some rather unusual procedural circumstances in this conference. While I do not believe that the House floor is the proper forum for an airing of these unusual circumstances, I would like to take this opportunity to express my regrets to my colleagues over the untoward delay in completing our work on this conference report. The House conferees refused to concede on the last item in disagreement with the Senate because we felt, as a matter of principle, the House position had to be sustained, and, Mr. Speaker, we did sustain the House position on this one remaining item. I believe that we have resolved this conference in an equitable and fair way and in a way that reflects favorably upon the manner in which my committee and my colleagues on the House conference view our legislative responsibilities.

Mr. Speaker, I would like to commend each of the 16 other House conferees for their patience and support during this very difficult 5 months of constant negotiations with the Senate, particularly in the always able and strong support of my distinguished colleague from Ohio, the ranking minority member of the committee, BILL STANTON; and the chairman of the committee, our distinguished colleague from Wisconsin (Mr. REUSS). The cooperation of my House colleagues on this conference was an important factor in finally completing our consideration.

The most significant provisions in title I of this bill deal with the urban development action grant program. We have raised the authorization level for 1980 from $400 to $675 million. I believe that this act makes clear the Federal Government's commitment to the President's urban policy initiatives and our commitment to working in partnership with the private sector to rejuvenate the Nation's cities. We have also acted to permit less distressed cities which have areas within their boundaries which are in desperate need of assistance to utilize the UDAG program. The so-called pockets of poverty provision has been carefully crafted to assure that these areas will receive the entire benefits of the UDAG grant. I would like to express my appreciation to Senator TOWER for his assistance in resolving the concerns of the House with regard to the pockets of poverty provision.

With regard to the housing assistance programs to the Department of Housing and Urban Development, I am disappointed to say that the authorization level which we carried to the Senate, providing sufficient funding for an additional 300,000 units, could not be agreed to in conference. I am, however, realistic. The funding level contained in this conference report reflects not only the Senate's level but also the level appropriated in the housing and urban development independent agencies appropriations bill. While we did not prevail with regard to the funding level, it is heartening to note that we were able to assure that there would be no reduction in the eligibility for these essential programs. Because of the concern of many Members of both this body and of the Senate about the increasing costs or providing housing to lower income families, the conferees agreed within strict boundaries to permit the Secretary of the Department of Housing and Urban Development to increase the level of rental payments paid by such families. This provision could apply only to families who become tenants in section 8 and public housing after the first of the year and then only to those families whose incomes are above 50 percent of median. I wish to emphasize that the provision which we agreed to in conference is entirely discretionary with the Secretary. I would not expect that the provision would be invoked unless the secretary were to determine that without it the financial viability of the assisted housing programs was in jeopardy.

There was near unanimous concern among the conferees that in a period of retrenchment in regard to the assisted housing programs, we must assure that the existing assisted housing projects be preserved. The conferees took a number of steps based on this concern. We provided that public housing agencies would be able to continue to receive operating assistance even though their basic assistance contracts had lapsed. We assured that even after the period in which assistance was no longer made available to a public housing project that its tenants could continue to live within the project.

Probably the most significant action taken by the conferees was with regard to the rent supplement program. Our committee has been troubled by actions taken in recent years which will have the effect of placing these projects in jeopardy of financial failure. We, therefore, have developed a means to maintain the financial viability of these projects through mutually agreed upon changes in contract provisions and by permitting the Secretary to provide additional assistance consistent with sound program management to these rent supplement projects. It is my sincere belief that this approach is a sound and prudent one and that the department should take immediate steps, upon enactment, to institute these important provisions.

Without these provisions, it is inevitable that the important initiatives authorized last year with regard to troubled assisted housing projects will be undone. It is not my desire nor do I believe it to be the desire of any member of the conference that the troubled projects program be utilized as a rent supplement operating subsidy.

We have also taken steps to rejuvenate the section 235 homeownership assistance program. Though significant funds have remained available for the last several years of this program, very little activity has been seen. By permitting the program to be used for the purchase of existing housing, particularly in cases of condominium cooperative conversion and by raising the mortgage limits within areas of concentrated revitalization efforts, it is my belief that this program will once again become a significant contributor to meeting the housing needs of lower income families.

One of our major tasks in reauthorizing the programs of the Department of Housing and Urban Development is to review the Federal Housing Administration's insuring authorities. This year we once again carefully scrutinized each of these programs and provided extensions and increases in the mortgage insurance limits. I know that the Members of this body have been concerned by the lapse in these authorities due to our protracted conference. Perhaps the most important reason for pushing for agreement on this bill lies in the fact that for these insuring authorities to adequately serve the American people the mortgage limits had to be increased.

A simple extension of authorities as many suggested would have left the insuring authorities at their old levels—a result which could have major adverse affects. The bill also contains a new experimental program based upon our earlier experience with the graduated payment mortgage programs. The House conferees were concerned with this program because of its potential risk to the Federal Government, but we believe that it is a risk which we ought to examine through a tightly restricted and monitored demonstration program.

The conferees also made great efforts to examine the use of GNMA guarantees of securities collateralized by tax exempt obligations. The statute now provides that the Secretary may in his discretion provide such a combination between GNMA securities and tax exempt obligations. However, earlier this year the Secretary determined with regard to hospital financing that this was an inappropriate use of this discretionary authority. The provision contained in the conference report endorses the Secretary's determination. However, it was the feeling of many of us that there were special situations in which hospitals faced severe hardship in obtaining financing and refinancing and thus we accordingly provided that the department should allow certain of these hospitals to utilize this financing technique.

This year, for the first time since the Interstate Land Sales Full Disclosure Act was passed in 1968, the House of Representatives has had the opportunity to carefully review and improve this law. Title IV of the conference report contains extensive amendments to the law, and over 90 percent of those amendments were the House provisions. I am very pleased that we have been able to balance the need to relieve intrastate and small land developers from Federal registration and disclosure requirements with the need to provide consumers with stronger protections against fraud.

More specifically, the conference report contains several new exemptions from the registration and disclosure requirements of the act including the intrastate sale of land, sales of land located within an SMSA to residents of the SMSA, sales from subdivisions containing fewer than 100 lots and sales from larger subdivisions where fewer than 12 lots are sold in a year. Duplicative State and Federal registration and disclosure requirements are eliminated by having HUD certify States whose laws provide consumers with protection similar to the Federal law. The conference report also responds to consumer concerns by deleting the statutory exemptions for court ordered sales and for sales where each purchaser has made an on-site inspection of the land, by extending the penalties for fraud to most subdivisions that contain more than 25 lots, by extending from 3 to 7 days the cooling-off period when consumers can cancel their sales contract and by extending the statute of limitations period for fraudulent practices to 3 years from discovery of the violation.

I am very pleased with the efforts of the conference with regard to the Farmer's Home Administration program. For the first time these programs have been brought under full congressional scrutiny and consistent with the budget act direct authority has been given to the Appropriations Committee to make funding decisions. We have, also, as with our urban programs, taken steps to assure that the stock of assisted housing is preserved for use by lower-income families. This was the heart of the controversy over the so-called prepayment issue which tied up the conference for so long. The House took what I believe to be a highly principled view. The investment of Federal funds for housing must confer direct benefits on lower income families and not provide a windfall to developers. Clearly, Congress never intended that the direct Federal funds would be utilized for anything other than to house lower-income families.

In sum, Mr. Speaker, this bill reflects a major recommitment to the goals of assuring that lower income families will be decently housed, equitably treated, and provided with an environment in which they can become productive members of our society.

Mr. Speaker, I believe that the House can be proud of this bill and of its conferees. I trust that my colleagues will join me in supporting the conference report on H.R. 3875, the Housing and Community Development Amendments of 1979.

Mr. REUSS. Mr. Speaker, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Wisconsin (Mr. Reuss), the chairman of the Committee on Banking, Finance and Urban Affairs.

Mr. REUSS. Mr. Speaker, I want to commend the gentleman from Ohio (Mr. Ashley) and the ranking minority member, the gentleman also from Ohio (Mr. Stanton), and the others who have contributed their indefatigable efforts in producing a solid and substantial bill and an accordant conference report.

Mr. Speaker, I rise in support of the conference report to accompany the bill, H.R. 3875, the Housing and Community Development Amendments of 1979. The extensive provisions in this conference report improve the community development block grant program; authorize additional funds for the section 312 rehabilitation loan program; expand the urban development action grant program and reaffirm its principal intent to stimulate new investment in our distressed cities; amend and authorize funding for fiscal year 1980 for HUD housing assistance programs; extend FHA mortgage insurance programs; increase FHA maximum insurable mortgage amounts; expand the graduated mortgage payment program to assist new homeowners; amend registration and disclosure requirements in connection with interstate land sales; amend and extend the FmHA programs authorizations; and extend authorizations for Federal insurance administration programs.

A major item in controversy during the conference concerned the prepayment of mortgage loans under the Farmers Home Administration rural rental housing program. The conference agreement in this case—to allow prepayment of these loans so long as the housing needs of the rural poor continue to be met—is significant in its concordance with the original congressional intent that these programs are to benefit lower income persons.

Mr. Speaker, I urge adoption of the conference report.

Mr. MINISH. Mr. Speaker, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from New Jersey.

Mr. MINISH. Mr. Speaker, I want to congratulate the chairman of the subcommittee, the gentleman from Ohio (Mr. Ashley), for a superb job.

I rise in support of the conference report on this year's housing authorization bill, H.R. 3875. As many of my colleagues know, this was a long conference, one in which the conferees had to iron out some tough issues and differences of opinion between the House and the Senate. The final result is a fair and equitable settlement. I would like to commend the chairman, Mr. Ashley, on the excellent job he did in developing this bill.

I participated in these deliberations as a conferee on title IV of the bill, the amendments to the Interstate Land Sales Full Disclosure Act. The conference report makes some reasonable and long-overdue changes in the Federal law which protects people who buy subdivided land. The consumer protection provisions in the land sales amendments were contained in legislation which Congressman Ashley and I introduced early in 1979.

I am especially pleased to report that the land sales changes provide significant new protections for land buyers by prohibiting or discouraging many of the unfair marketing and financing practices which have arisen under the present law. Because the legislation focuses on specific abuses, it provides reform without appreciably adding to the paperwork which land developers must fill out. In fact, because of the new small business exemptions in the final legislation, compliance should be much easier under the new law.

Although I am happy to have assisted small businessmen, my main concern has always been consumers—our constituents who buy unimproved land for their vacations or their retirement. And we have certainly helped them.

Among the consumer reforms in this legislation are restrictions on installment contracts; a longer statute of limitations for civil suits by aggrieved purchasers; a 7-day cooling-off period during which buyers can reconsider their decisions; a requirement that developers be contractually liable for improvements they promise; increased criminal penalties for violators of the Land Sales Act; the elimination of some unnecessary and unfair exemptions; new civil remedies for buyers, including specific performances and the recovery of attorneys' fees; and the prohibition of advertising inconsistent with the statements developers make in their Federal disclosure reports.

All in all, I am very proud of the work we have done specifically on interstate land sales but also on the entire housing bill. We have come up with a fair and balanced approach and I hope my colleagues will support it.

Mr. KAZEN. Mr. Speaker, will the gentleman yield for a question?

Mr. ASHLEY. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Speaker, I have been getting quite a few inquiries from my district regarding Farmers Home, that everything has stopped since December 1, they cannot get any money whatsoever for housing. Is that situation taken care of in this conference report?

Mr. ASHLEY. It will be in just a matter of moments when we approve the conference report and it will be sent to the White House and signed into law by the end of the week. The situation about which the gentleman has heard complaints will then evaporate.

Mr. KAZEN. In other words, that provision is included, the provision is included in here for them to continue?

Mr. ASHLEY. Very much so.

Mr. KAZEN. This is what I want to know.

I thank the gentleman.

□ 1210

Mr. WYDLER. Mr. Speaker, will the gentleman yield to me?

Mr. ASHLEY. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Speaker, I just want to congratulate the gentleman on the conference report in general and say I support it, but I particularly want to compliment the gentleman for keeping intact the UDAG selection criteria provision that we passed here in the House in the final conference report.

I think the gentleman has managed not only to maintain the House position, but strengthen it with the language that is contained in the report.

I just want to make a matter of public record my own feeling that the gentleman and the other conferees did a good service not only for the House position, but for the country in maintaining this position.

Mr. ASHLEY. I appreciate very much the contribution of the gentleman in this regard. I feel that we have worked the matter out satisfactorily. I might say there was an item on which the conferees focused for some period of time. I think that the conference report which devotes nearly a page of explanation with regard to whether the amendment does satisfactorily explain the purpose of the amendment, the purpose of the gentleman from New York, too, and the objective of the conferees in this delicate area with respect to the UDAG program.

Mr. CAMPBELL. Mr. Speaker, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from South Carolina.

Mr. CAMPBELL. Mr. Speaker, if I could, I would like to ask the distinguished gentleman from Ohio, the Chairman of the Housing and Community Development Subcommittee, some questions as to how the various exemptions may interrelate.

Mr. ASHLEY. Certainly.

Mr. CAMPBELL. For example, the statement of managers mentions that some exemptions apply solely on a lot-by-lot basis so that each lot meeting the requirement is exempt regardless of the status of other lots in the subdivision. The exemptions under section 1403(a)(2), (a)(5) through (a)(8), and (b)(6) fall into this category. These would be exemptions such as lots on which a building is to be erected within 2 years, sales by the Government, cemetery lots, and some others including lots on which a mobile home is to be used. May these exemptions be used in combination with each other?

Mr. ASHLEY. Yes; they can. For instance, a single subdivision could contain some lots on which a home is to be built within 2 years, which is the 1403(a)(2) exemption and could also include other lots which meet the requirements of the mobile home site exemption under section 1403(b)(6).

Mr. CAMPBELL. And, a developer could claim an exemption for both of these categories? In other words, in one subdivision he might have 75 lots exempt under the homesite exemption and another 75 lots exempt under the mobile home site exemption.

Mr. ASHLEY. Absolutely.

Mr. CAMPBELL. What about the intrastate exemption? As the gentleman remembers, I am sure, we spent a considerable amount of time debating this provision. Must all the lots in a subdivision be sold to residents of the same State in order to have the subdivision qualify for this exemption.

Mr. ASHLEY. No. The intrastate exemption is a different animal. It permits the sale of individual lots, under other exemptions, even though these lots do not meet the so-called subdivision test, which, as you know, is the sale to residents of a particular state. In other words, the subdivision may qualify for the intrastate exemption and yet some lots can be sold to residents outside the State as long as they qualify for another exemption. These exemptions are all of those lot-by-lot exemptions under 1403(a), and 1403(b)(6) and 1403(b)(8). An example would be a developer selling some lots to out of State residents under the 1403(a)(2) exemption, which is the one for lots on which a structure is to be erected within 2 years. And, of course, the reason we allow the sale of these lots is because there are other protections to the consumer connected with that exemption.

Mr. CAMPBELL. One major change from the House passed version is the so-called SMSA exemption. The House had nothing in this regard and the Senate had a straight 100-mile exemption. Could the gentleman explain how he envisions the exemption working?

Mr. ASHLEY. I will be glad to. The SMSA exemption grew out of the 100-mile exemption. We simply narrowed the applicability of the Senate provision. Basically, I believe you can view the SMSA as an extension of the intrastate exemption. It is a bubble on the end of a balloon. Assuming other tests are met, under this exemption a developer could sell a lot to someone from outside the State only if the lot is located within the same standard metropolitan statistical area as the purchaser. If it is, then a developer, in say Virginia, can treat the purchaser who may be from Maryland, as though he were a resident of Virginia.

Mr. CAMPBELL. One exemption that was deleted was the onsite inspection exemption. Can my colleague explain why this exemption is being repealed?

Mr. ASHLEY. There have been some problems with this exemption. Retention of the onsite inspection exemption was thought unnecessary in light of the passage of additional exemptions to the act this year.

Mr. CAMPBELL. I note that we are not grandfathering previous exempt unsold lots now qualified under this exemption. I hope this does not mean we will be subjecting developers to unnecessary bureaucratic delays in obtaining these new exemptions. I am sure our intent it not to be punitive and take away from developers that which they have legitimately and legally earned under a law now being amended by the Congress.

Mr. ASHLEY. I am unsure of the extent of paperwork which will be required under the refiling process, but I assure you that the conference did not intend to hassle developers who are now meeting the requirements of the law. Also, I can assure you that our actions in repealing the exemption are not punitive. Rather, we are streamlining and updating a very technical law.

Mr. CAMPBELL. Then, will the distinguished chairman assure me that next year the committee will monitor the impact of today's actions in repealing the onsite inspection exemption?

Mr. ASHLEY. I assure you that the committee will monitor the impact of our actions today in this matter.

Mr. CAMPBELL. I thank the distinguished chairman. I congratulate him on the work that he has done.

Mr. MINISH. Mr. Speaker, will the gentleman yield?

Mr. ASHLEY. I would be happy to yield to the gentleman from New Jersey.

Mr. MINISH. Mr. Speaker, I think I can explain why the onsite inspection exemption is being deleted.

This exemption is being deleted from the Interstate Land Sales Act for very specific reasons. Studies of this exemption by a variety of people, including independent public interest groups and HUD, have shown that this was an ill-conceived exemption which lent itself to a great deal of abuses.

The theory behind this exemption, that a purchaser can find out most of what he needs to know by visiting his lot for a few minutes, is obviously false. There are numerous important things about a lot which absolutely cannot be determined through an onsite inspection.

I would like to cite just a few examples of problems a purchaser cannot discover through an onsite inspection. He cannot tell whether the water table under his lot is too high for building or for installation of a sewage disposal system. He cannot tell whether his lot is in an area subject to flooding. He cannot tell whether any amenities, such as water, sewage disposal, or electricity has been installed or whether they have been installed properly. He cannot tell anything about the financial stability of the developer. A developer about to go bankrupt could be exempt from disclosing anything about his precarious financial condition under the onsite inspection exemption.

There are plenty of other problems with the "no lien and encumbrances—onsite inspection exemption" but I think that it is obvious that we are getting rid of this for more serious reasons than simply administrative convenience for HUD.

□ 1220

Mrs. SPELLMAN. Mr. Speaker, will the gentleman yield?

Mr. ASHLEY. I yield to the gentlewoman from Maryland.

Mrs. SPELLMAN. Mr. Speaker, I would like to engage in a colloquy with the distinguished chairman of the subcommittee concerning two matters involving the interstate land sales provisions of title IV.

With regard to the changes that this bill has made in the regulated jurisdictions exemption, I would like to ask the gentleman from Ohio to comment on a particular concern that has been brought to my attention. In a subdivision that would be eligible for a regulated jurisdiction exemption, this conference report would provide that the lots must be situated on a paved street that: First, meets the standards of streets maintained by the applicable local government and is acceptable to such government; and second, is maintained by the local government or a homeowner's association. Where the homeowner's association is responsible. The purchaser or lessee prior to signing the contract is provided a good faith estimate of the cost of maintaining the cost of carrying out the road maintenance.

Mr. Speaker, I have in mind a situation where part of a subdivision with 5-acre plots is on paved roads maintained by the homeowner's association and has been acceptable to the local unit of government, would it be permitted under the provisions of this bill for this kind of street maintenance responsibility to be continued?

Mr. ASHLEY. I would point out to the gentlewoman that the conferees concluded that where the road maintenance is acceptable to the unit of local government following whatever practice the local government has currently in existence for approving new roads that would be the norm under which the regulated jurisdiction exemptions contained in this bill would be administered. It is not our intention to permit HUD to establish any new procedures for local governments to follow in this regard.

Mrs. SPELLMAN. One further question concerning the provision in the conference report that would bar the sales promotion efforts using the mails and telephones to offer trips, dinners, or other promotional techniques to induce prospective purchasers to buy lots. Would this provision bar a situation whereby a developer could invite prospective purchasers to a reception at a model plot in the subdivision to show the plans for the subdivision and the type of amenities which will be offered and would offer drinks and hors d'oeuvres. Is this type of situation barred under this sales practice?

Mr. ASHLEY. I would say to the gentlewoman that does not suggest itself as the type of expenditure or activity barred by the statute. Let me put it more generally, it is the intent of the conferees with respect to this provision to bar the offering of things of value that will induce prospective purchasers to buy lots. Things of value mean gifts, paid trips to lot sites, dinners, things of a more tangible nature. A reception where perhaps drinks and hors d'oeuvres would be served would not appear to be barred under this sales promotion prohibition.

Mrs. SPELLMAN. I thank the chairman very much.

Mr. DUNCAN of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN of Tennessee. I thank the chairman for yielding. If the chairman will recall, the House bill contained a provision that was overwhelmingly passed that provided increases in social security benefits would not be considered as income in determining eligibility for public housing units. It passed, I think, 300 and something to about 40 or 50. I am unable to find that mentioned in the report. I understand no effort was made really to carry out the wishes and the mandates of the House, the great majority of the House on this matter.

Mr. ASHLEY. I am not sure that would be an accurate characterization of what took place in the conference. It is my recollection that it was brought up on several occasions. It was not, frankly, as I believe in previous years when we really got down to discussing which of the other body's provisions and which of the House provisions were to be contained in the conference report, this provision was not included. The gentleman is quite right about that. I suspect part of the reason is that the chairman of the Senate Committee on Banking, Housing, and Urban Affairs expressed very strong opposition to it and appeared to be joined by his associates.

But I can say to the gentleman, knowing his commitment and devotion to this amendment over the years, I can well understand his disappointment. But I also want to tell the gentleman that this amendment was discussed in conference and has been over the years. It just has not made the cut yet.

Mr. DUNCAN of Tennessee. Would not the chairman think it at least should have been mentioned in the conference report, especially since it did pass by such a tremendous majority in the House?

I would like to correct myself. I understand that it is mentioned on the last page.

Mr. ASHLEY. I think it may be, and I think there is some mention of it.

But in all truth, the gentleman has served a good many years in this body and knows that it is not possible to mention every item in a conference report.

Mr. DUNCAN of Tennessee. I would think, though, with the tremendous majority we had, even though I was aware. of the fact that the chairman, certainly as is his right, was opposed to the proposition itself, which I understand to be the reason that there actually was not any effort made to sustain the House position on that provision.

Mr. ASHLEY. Let me say to this gentleman that I really try to do a reasonable job.

Mr. DUNCAN of Tennessee. I know the gentleman does.

Mr. ASHLEY. I try to do a good job in presenting what the House acted on to the other body and coming back with a fair share or more vis-a-vis the other body. This is a matter I can look the gentleman in the eye and tell him that we have been on the other side of this issue, and I will be honest with the gentleman, I find it more difficult to fight as strongly for matters that I personally think are not prudent than I do for things that I think are prudent. Maybe I am unusual in that regard. But I can look the gentleman in the eye and assure him and tell him that I do not take his amendment lightly, nor do other members of the conference.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, I want first of all to reinforce what the chairman is saying with regard to this provision. I happen to favor it and part company with the chairman in that regard.

Frankly, this conference was not one in which there was great enthusiasm for allocating more dollars for subsidized housing, and obviously in terms of looking at what the priorities were in terms of what we had to face up against, we tried to do the best job we could with the funds provided. Now, these programs and the type amendment the gentleman offered, while I agree with in philosophy, when it gets down to allocating the dollars, we just did not have the money to make that type of commitment. So, putting it in law would have just completely strapped existing commitments that we have in various programs. I think that is the context in which we looked at it, and reluctantly had to agree with the chairman of the subcommittee who led a valiant battle to fight for the provisions of the House bill. I want to commend him for that.

I want to point out if ever there was a doubt as to the importance of this particular bill I think the calls the last couple of weeks in terms of the home loan authority, the reinsurance program and so forth, have pointed up the importance of this particular conference. A lot of things I think we take for granted. But the basic thrust of housing programs in this Nation rests with the program that we have here in terms of insurance. I think we look at the tenant contribution as something we are all concerned about but, again, it is a dollars and cents problem that we face.

The provisions with regard to the Home Ownership Opportunity Act, the mortgage limitation changes which were accepted, and which I hail, we are going to do the best we can in terms of providing housing and other types of community development efforts based upon the existing dollars.

□ 1230

I wish to commend the chairman of the Subcommittee on Housing and Community Development, Mr. ASHLEY, for his tenacious efforts to maintain the integrity of the House position and for his leadership and assistance to all members of the conference committee. I also wish to complement the distinguished ranking minority member of the committee, Mr. STANTON, for his commitment to forge bipartisan agreement on the many difficult issues involved in this conference. Chairman REUSS, as chairman of the conference committee was impeccably fair and indispensible in our efforts to reach a consensus in a conference that was often acrimonious. Finally the staff of the subcommittee deserves praise for their help to all members of this conference.

H.R. 3875 is very important legislation. The bill authorizes $140 million for the section 312 rehabilitation loan program and $3.8 billion for the community development block grant program. It also increases the authorization for the urban development action grant program. This is one of the most successful and effective programs of the Federal Government. The bill provides an increase of $275 million for 1980. While this measure enlarges the numbers of cities eligible for UDAG money, it provides the necessary safeguards to insure that the money will be used properly.

HOUSING PROGRAMS

The Housing and Community Development Act of 1979 authorizes 1.14 billion for low-income assisted housing programs. It is estimated that this will provide more than 225,000 units in the housing pipeline this fiscal year. We were able to remove a very onerous Senate provision which sought to reduce the number of households eligible for section 8 assistance. In another crucial issue for low- and fixed-income households, we were able to modify the provision which sought to increase the tenant-rental contribution from 25 to 30 percent of income. The bill allows the Secretary of HUD at his discretion, after demonstrating the need, to increase rent contribution only on new and relatively higher income section 8 tenants.

While I am pleased that the conference was able to limit the number of persons that would be adversely affected by this action, I remain opposed to the basic principle of requiring more than 25 percent of income for rent. If the tenant contribution is raised, I fear that severe inequalities may result. We will have tenants living next door to each other who not only pay differing rents but who will also be paying differing percentages of their income for rent. This difference will be based not on any rational measure of their ability to pay, instead it will be based on the date that the Secretary may choose to institute this change.

The Senate version of the Housing bill contained a provision for greatly expanding the current graduated payment mortgage program. While the House bill did not expand this program, it quickly became obvious that some concession would have to be made to the Senate. In order to reach agreement the conferees accepted an amendment offered by Mr. Wylie and myself to limit the new GPM program to first time homeowners. It also provides for the safeguards for the purchaser by limiting the value of the mortgage to 113 percent of the original appraised value of the home. Further, it protects the integrity of the FHA insurance program by limiting the number of new GPM's to the larger of 50,000 homes or 10 percent of the total FHA insurance program. Because this is a new program and is fraught with potential dangers, we will have to monitor the implementation of this program very closely.

H.R. 3875 increases the mortgage limitation for FHA insurance of 1 to 4 unit dwellings. The limit for a single-family dwelling is increased from $60,000 to $67,500. Since the limits have not been raised in several years this provision merely reflects the effects of inflation on the housing industry.

The Interstate Lands Sale Full Disclosure Act is amended to provide greater consumer protection. Mr. Minish deserves considerable credit for his determination to increase the Government's activities in this important area.

On balance the Housing and Community Development Act Amendment of 1979 is an excellent bill. The conference committee met over a period of 5 months. This illustrates the wide differences between the House and the Senate. The House can be proud of its conferees for emerging with legislation that addresses the concerns and maintains the positions taken by this body.

So, I hope we can all look at it in that context rather than looking at the one point of detail that perhaps we could not win in terms of available dollars. I yield back to the chairman, and commend all the conferees that I worked with.

Mr. ASHLEY. I appreciate very much the contribution of the gentleman from Minnesota.

Mr. BONER of Tennessee. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore. The time of the gentleman from Ohio (Mr. Ashley) has expired.

Mr. STANTON. Mr. Speaker, I yield 2 minutes to the chairman of the subcommittee.

Mr. ASHLEY. I yield to the gentleman from Tennessee.

Mr. BONER of Tennessee. Mr. Speaker, once again, as I understand, as we determine the eligibility on these senior citizens who live in the housing, the limit was, up until this bill, 25 percent of all adjusted income. Has this bill increased that to 30 percent now?

Mr. ASHLEY. Well, for residents of public housing, starting January 1 it will be at the discretion of the Secretary of HUD to increase from 25 percent to 30 percent the income of the tenant where those tenants are earning more than 50 percent of median income in the area. But, that is completely discretionary with the Secretary, and as I indicated in my remarks, it would not be expected by me or by others that the Secretary would use that discretion unless the economic and financial viability of our housing programs absolutely required it.

Mr. BONER of Tennessee. I thank the gentleman.

Mr. Speaker, we have before us today the conference committee's report on H.R. 3875, the Housing and Community Developments Act of 1979. This legislation, as modified by the conference committee, does much to improve certain Federal laws relating to housing, community, and neighborbood development. However, I am concerned that the conference committee did not include an amendment to the House-passed version of this bill. This amendment would have helped many of our Nation's elderly citizens in their constant fight against the rising rate of inflation. On June 7, 1979, my good friend and colleague from Tennessee, John Duncan, offered an amendment to this bill which provided that any increases in social security benefits shall not be considered as income for purposes of determining the eligibility for or amount of assistance which any individual or family is provided under the U.S. Housing Act of 1937, the National Housing Act, the Housing Urban Development Act of 1965, or the Housing Act of 1949. I supported this amendment which passed the House with an overwhelming vote of 311 to 79. This vote by the House was in answer to the pleas made to Congress by the elderly to help them in their fight against inflation.

Each time a social security recipient, living in public housing, receives a cost-of-living increase in their benefit, they suffer an unjust penalty. Their rent goes up accordingly, and they thus lose a significant part of this increase. We are in fact, giving with one hand and taking with the other. This same amendment to the Housing Community Development Act of 1978, passed overwhelmingly in the 95th Congress, only to once again be rejected by the conference committee. I have toured the public housing facilities in Nashville, and the elderly tenants of these facilities always ask me the status of this legislation and particularly this amendment. It will be difficult to return to Nashville only to tell them that this amendment will not become law this year and Congress has once again turned its back on those people who have given this country so much.

Earlier in this session, I introduced legislation, H.R. 3784, which would have the same effect as this amendment. I request the chairman of the Housing Subcommittee, Mr. Ashley, to conduct hearings on this matter. I want to prove to the members of the subcommittee, that the social security increases that we give under the law to this Nation's elderly are designed to help them survive, to help pay for their food, clothing, transportation, and medical needs and not just automatically be used as money for increased rents for public housing.

As I mentioned earlier, I have toured and held public meetings at every senior citizen center in Davidson County. The single most frequent question I was asked was: "Why do you give a cost-of-living increase in social security on the one hand and then before we even get the real dollars into our pockets, automatically raise our rent so we can never get ahead?" What can I tell these people? I want to tell them that Congress cares about them. I want to tell them that help is in sight. I want to tell them that this matter will soon be addressed by Congress. I will be more than glad to work with the Housing Subcommittee on this matter in an effort to combat the rising menace of inflation.

Mr. STANTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge support of this conference report on H.R. 3875.

Over 6 months ago, the minority members of the Banking, Finance and Urban Affairs Committee submitted minority views on H.R. 3875. Those views concluded with the statement that, with some exceptions, this was not a revolutionary bill, but was a moderate one. In the ensuing 6 months, most of those exceptions have been eliminated. House floor action took care of many of our problems and indeed, in some cases, added provisions that strengthened our position. The only question that remained was whether or not the conference with the Senate would substantially change the House-passed bill. In my judgment it did not and therefore I rise in support of this conference report.

In some respects this is a better bill. In strictly housing and urban development related activities, the conference report is below the House-passed version of H.R. 3875 by slightly more than $170 million. These economics, so essential in our battle against inflation have, I believe, been achieved without jeopardizing any particular program or placing an undue burden on any group in our society.

The rural programs did experience a slight increase over the House authorizations. It is important to emphasize, however, that the House maintained its position of establishing authorization limits on the use of the rural housing insurance fund and subjecting the activities of this fund to the annual appropriations process. This precedent-setting step will enable us to place limits on a heretofore uncontrollable process. The net result will be greater congressional oversight that will greatly aid in our fight to assure fiscal integrity.

Mr. Speaker, I would now like to touch on some of the specifics of the conference report. I do not intend to repeat the recitation of agreements as outlined by our chairman, but I do believe I should highlight some of the provisions of particular interest to those Members on this side of the aisle.

In community development we were successful in maintaining an amendment that, in our view, simply reaffirmed the basic purpose of the urban development action grant program. The amendment requires the Secretary of HUD, before Federal funds are expended, to make a determination that these are not substitute expenditures for either local or private funds. The Federal funds must indeed be the crucial catalyst for unified action and not just a modified form of revenue sharing. This will enable the UDAG program to stretch its funds further by assuring the fact that only the most essential projects are funded.

At the same time we guaranteed that worthy projects, wherever they may be located, will be eligible for funding. The conference's report includes the so-called pockets-of-poverty amendment. It is carefully drawn to insure that relatively wealthy cities or counties will bear their share of the burden but it recognizes the inescapable fact that hard-pressed areas, no matter where they are, may need this Federal catalyst. At the heart of it is the recognition that the needy are the needy wherever they may live.

On the housing side, the conferees agreed to several measures, most of which, I am afraid, were a simple acknowledgment of the galloping inflation that has beset our country in the last 3 years. For example, we increased the FHA mortgage limits and authorized a tightly drawn but modified graduated payment mortgage program for first-time home buyers. This latter program, which is restricted to those that actually need it, will provide an opportunity for potential homeowners who, through no fault of their own, are presently precluded from enjoying the dream of owning their own home.

In assisted housing we move to shore up our deteriorating public housing stock in addition to adding to it. We were successful in setting aside $50 million for modernization of existing public housing units. This is in recognition that in many cases it is more cost effective to cure and conserve than to build anew. We also acknowledged that in computing a fair share of income to housing costs, the traditional 25-percent-of-income rule was not necessarily valid. Many, if not the majority, of nonassisted housing tenants pay far more. Therefore, for some new tenants in assisted housing, the percentage could exceed 25 percent but in no event could it exceed 30 percent.

There were two matters that dealt with congressional oversight of executive branch regulations. Both of these are important to minority Members because in both instances the minority was responsible for their adoption.

The first item concerned the institutional procedure for disapproving or overriding the regulations once they have been proposed. The Senate bill attempted to cut from 90 to 45 days the period proposed regulations could be delayed on the basis of committee action. It is during this period that Congress may act to legislate the invalidation of regulations. The conference wisely rejected the Senate proposal which would have placed an unrealistic time frame on possible legislative action.

In addition, the conference report clarifies the meaning of the term "reported out" as used in section 7(o) of last year's bill. Some of you may remember that this became one of the issues in a court case earlier this year. The report makes clear that "reported out" means the vote of either committee to report out a bill or resolution containing a disapproval provision, and it does not mean the filing of the committee report with the Clerk of the House. In other words, when the committee votes, that is it. The filing of the report is merely ministerial.

The second item was a case where the House had acted to disapprove thermal regulations that had been published by the Department last April. The Senate conferees accepted this amendment. This amendment started out as part of our new regulation review procedure and its adoption, together with HUD's recent modification of the section 8 new construction regulations, to avoid a pending disapproval resolution, is evidence that the new procedure is working.

As most of you will remember, the House spent considerable time debating the interstate land sales provisions. Much of that time was devoted toward the adoption of an intrastate exemption for those developers who sold land within the boundaries of their own State to purchasers from the same State. It was the overwhelming judgment of this body that those developers should not be subjected to the Interstate Land Sales Full Disclosure Act. The Senate had a less involved provision so we had to reconcile the two versions and incorporate the necessary protective measures for consumers in an unobtrusive fashion. I believe we did so in a way that protects the consumer and also sends an unmistakable message to the Office of Interstate Land Sales that the name of their Office and the title of their enabling legislation means exactly what it says and that they should not, under the guise of administrative regulation, extend that jurisdiction.

From the beginning of the legislative process, the minority had also raised the question as to whether or not the complete removal of lot limitations for fraud prosecution of developers did not amount to the establishment of a Federal fraud law. I am happy to say the conference report recognizes this concern and sets a limit of 25 lots or more before Federal jurisdiction may be invoked. This acknowledges that we are still a Federal system and that the individual States are fully capable of protecting the rights of their citizens. It also reaffirms one of the purposes of the Interstate Land Sales Act by maintaining a de minimus rule for Federal jurisdiction.

Finally, I must end on a bittersweet note. In the rural housing title we did make some progress. As I mentioned, the conference report does establish authorization limits on the use of Farmers Home Administration funds. In addition, we were able to more accurately delineate who is eligible for low-income assistance under the rural programs and to establish a more realistic interest rate for those who use the basic 502 loan program.

On the other hand, the conferees agreed to a proposal that, in the final analysis, says the Federal Government may retroactively change the terms of a contract they had once signed. There are many Members of this body that find this repugnant on its face and of questionable legality. It turned out to be, however, the one item that prevented the conferees from approving a conference report before additional FHA extensions were required. To resolve the issue, the conferees agreed to wording that exempted some developers from the retroactive application of the bill and reduced the number of years both existing and potential developers would be subject to the prohibition against prepayment of their loan. It is, I am afraid, a weak compromise and one that will only lead to litigation which could immobilize this needed program for years to come.

In concluding, Mr. Speaker, I would like to commend the chairman of our subcommittee for the excellent job he did in leading the House conferees. This leadership and Mr. ASHLEY's intimate knowledge of the subject matter made things easier for all of us even though this turned out to be an arduous and lengthy conference. As an illustration as to how long it was, do you realize, Mr. Speaker, that when we started the Redskins had not even played an exhibition game, motorists were still speculating as to when gasoline might reach $1 a gallon, and only two or three people were running for President?

And this brings up one final observation. Everyone assured me this was the year for an easy conference, but that next year's conference could very well be difficult. All I can say is that, if this was their idea of easy, I am intrigued by what next year's conference could be like.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. STANTON. I am happy to yield to the gentleman from Illinois.

Mr. DERWINSKI. May I have the attention of the other gentleman from Ohio (Mr. ASHLEY)? As I understand the situation, this was a very prolonged conference, and that on all technical points and on the bill in a very sweeping way, the House position was maintained. As I gather from the comments of the various Members on both sides of the aisle, primarily this was due to the unusual skill of the gentleman from Ohio (Mr. Ashley).

My question is, in light of the accolades that have been bestowed upon him this morning, will it be possible for the gentleman to retain his modesty?

Mr. STANTON. The gentleman wanted his attention?

Mr. DERWINSKI. You know him better than I do. Does the gentleman think that he will retain his modesty, or do you think that he will be difficult to live with from now on?

Mr. ASHLEY. Well, that is a constant problem. We all face it, but we are doing the best we can with that particular problem.

Mr. STANTON. Mr. Speaker, I yield 5 minutes to my colleague from Ohio (Mr. Wylie).

Mr. WYLIE. I rise in support of the conference report, Mr. Speaker. This is a good conference report, and represents a lot of outstanding, tedious, hard work on the part of the chairman of the Subcommittee on Housing, Mr. Ashley, and our able ranking Republican member of the Subcommittee on Housing, Mr. Stanton.

I support the report in its entirety, but I want to concentrate for just a minute in my remarks on the graduated payment mortgage provision which both the gentlemen, I would say—the gentleman from Ohio (Mr. Ashley), the chairman of the subcommittee, and the gentleman from Ohio (Mr. Stanton), the ranking minority member, were opposed to as proposed by the Senate. I have a particular interest in this section because it was a version of my compromise amendment that was finally adopted by the conferees, and I know how strongly the chairman of the subcommittee felt about this particular provision, as well as the ranking minority member.

I think it is to their credit that they worked with us in a spirit of willing compromise on what I think could be an excellent program, and I hope it will be an excellent program. It was clear that the conference was deadlocked on the Senate provision, and I believe that the GPM concept is too important a program to have die in conference.

What I tried to do, Mr. Speaker, was to fashion a compromise to meet the objections that had been raised to the Senate proposal, a proposal supported by Mr. AuCoin and myself, I might say. At the same time, I wanted to maintain the basic thrust of the modified GPM program, which I feel can be, as I say, a good program. I think that the provision which would have allowed anyone to take advantage of the GPM program probably went too far, so I think it was important that it was limited to first-time homeowners. Therefore, we restricted it to first time home buyers, the ones who cannot afford a large downpayment or large initial monthly payments. We also made it a requirement, however, that the Department make a determination that this problem exists and the mortgagors cannot reasonably afford to purchase the home by utilizing the existing GPM program or some other FHA program.

Next, it had been pointed out there was no control over the extent to which the loan balance could exceed the original appraised value of the house. Because the FHA will be insuring this loan, there is some potential liability to the Government. Therefore, we put in a restriction that the loan balance had a cap. As it turned out, the cap was established at 113 percent of the original appraised value.

Finally, there were questions as to how extensive this program should be, especially in the first few years. The Senate wanted the level set at 20 percent of all single family mortgages which are FHA insured that year. Because this was a pilot program, I suggested a lower amount. We finally agreed to 10 percent of the FHA 1-to-4 family mortgages insured in any fiscal year or, 50,000 mortgages, whichever is greater. Essentially, this establishes a floor of 50,000 units and should the program function as well as many of us hope and believe, this can be adjusted upward in later years.

All in all, Mr. Speaker, I think that what the conference did in the graduated payment mortgage area was proper, and I think the gentleman from Oregon who was, I would say, the lead horse as far as the House conferees were concerned on the GPM–FHA concept, will agree that we effected a reasonable compromise. I thank the gentleman from Ohio for yielding to me.

Mr. ASHLEY. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to my colleague from Ohio.

Mr. ASHLEY. I would like to say to my good friend from Ohio that if it were not for the modifications that were made in the Senate graduated mortgage payment provisions I do not think that this program would have been approved, because to start with, we had the votes in the House to resist it. It was only because of the tightening of the eligibility requirements in particular that some of us who were opposed to the program as it was originally advanced did agree on a demonstration basis to allow the program to go forward. So, I just want the record to be clear on that, and to say that the gentleman's contribution in this regard was absolutely decisive.

Mr. WYLIE. I thank the gentleman for that generous statement. As I said, I know he was opposed to the original GPM concept of the Senate bill, and I think rightfully so in retrospect. Also, again I say that I think great credit is due to the very able gentleman from Ohio (Mr. Ashley) and to the other gentleman from Ohio (Mr. Stanton) for their willingness to compromise on this issue, and to sense that there might be another side to this issue.

□ 1240

Mr. STANTON. Mr. Speaker, I yield 5 minutes to the gentleman from Oregon (Mr. AuCoin).

Mr. AuCOIN. I appreciate the gentleman's yielding.

Mr. Speaker, I support the conference report as well, and I want to take this time, at the risk of jeopardizing the well-known modesty of the subcommittee chairman, to compliment him for a masterful job in dealing with what had to be the toughest conference I have seen or have witnessed. We dealt with the problems of interstate land sales; we dealt with the problems of a graduated payment mortgage program, which has just been described; we dealt with the pockets of poverty under the UDAG program. And then there were the difficult problems in dealing with the Senate on the tenant eligibility issues in housing assistance. There were also the difficult Senate issue of tenant contributions in assisted housing.

Finally, Mr. Speaker, there was the issue that kept this conference at sword's points for so long, and that was the battle on the part of the House conferees to protect vital housing stock for low-income Americans who live in rural areas.

I think the Chairman knows that this particular provision was one that I cared deeply about, having advanced it in the subcommittee on the House side. The fact that we have such protection in this conference report today, the protection of housing stock under the Farmers Home Administration 514 and 515 programs, is due, in large part, to the insistence of the chairman to stand by the principles embodied in that program.

Mr. ASHLEY. Mr. Speaker, will the gentleman yield?

Mr. AuCOIN. I yield to the gentleman from Ohio.

Mr. ASHLEY. I thank the gentleman for yielding.

I think it is worthwhile to take just a moment to focus a little bit more and to explain a little bit more definitively what was involved in that issue, because, after all, over the years in the 514 program and the 515 program Congress has been saying that we should commit the taxpayers' money in a variety of ways to assure the availability of decent shelter for people of very, very modest means, people in deplorable financial conditions living in rural areas. What happened here was that, of course, when we started these programs we did not have any prepayment provision because we never thought the question of prepayment would arise. Of course, I think what has happened with housing becoming so scarce in rural areas, as well as in the cities, the sponsors of the 514 and 515 housing now more and more in ever larger numbers are presenting themselves for prepayment of these rental properties that were purchased under FmHA programs so that with prepayment they then will have the ability to throw out the tenants, the poor tenants who have been our concern over the years and instead make use of the facilities for the market rental or condominium conversion to people of more affluent means.

Mr. AuCOIN. The very people that the programs are designed to serve.

Mr. ASHLEY. Exactly, and that is the matter of principle on which we were hung up, as the gentleman from Oregon well states, for some 3 months, and we were not willing to get off that because we felt so keenly that that was the purpose, and it has been the purpose over the years. I am glad the gentleman brought that up because I think it is worth some explanation to our colleagues as to why we did run into a problem.

But I want to say to my friend, the gentleman from Oregon (Mr. AuCoin), that I really take my hat off to him on this issue, and to others, with whom I may not agree and have not in the past. He is an articulate and a committed spokesman for right as he sees it, and at least in this one instance he was right.

Mr. AuCOIN. I am glad to say the chairman in this instance was right as well.

This is a good conference report, and I think the Members deserve to give it a resounding vote of confidence.

Mr. STANTON. Mr. Speaker, hopefully to conclude debate on this conference report, I would yield 5 minutes to the distinguished gentleman from Missouri (Mr. Taylor).

Mr. TAYLOR. Mr. Speaker, I would like to express my hearty support for at least a part of the legislation before us today. The conferees have finalized a housing authorization bill worthy of commendation because it demonstrates, at least to one extent, that Congress has finally recognized the need to give the small businessman a break—not an edge in this case, Mr. Speaker—a break which he rightfully needs and deserves in order to make an honest, respectable living. Congress has finaly said to HUD that they must get out of the business of regulating intrastate and sales.

This bill is not being brought to the floor of this body without extensive debate on numerous problem areas. Problems in passing this legislation were never foreseen by most Members of Congress because there are no new programs created by this legislation. However, Mr. Speaker, several significant amendments to existing programs will be initiated with the passage of this legislation, and I am told that the two Houses of Congress have acted wisely and deliberately in settling most of the controversial issues.

Many of the concerns in regard to this housing bill have focused on the amendments to the Interstate Land Sales Full Disclosure Act. Of course, we should have anticipated much debate on this matter because Congress has failed, until this year, to enact any significant legislation to remedy the problems created since this act was passed in 1968. I am pleased that this legislation contains some solutions to the problems and costly burdens small developers are enduring because of the Interstate Land Sales Act of 1968.

One solution addressed by the legislation is a new exemption to the Interstate Land Sales Full Disclosure Act which I introduced as an amendment on the floor of the House several months ago. This exemption was intended to lessen the paperwork burdens of small land developers who sell lots to the residents of their same State and who comply with certain consumer safeguards.

In passing the original act, Congress did not intend that sales by intrastate—or in-State—developers were to be regulated by HUD because the true problem area which initiated the act dealt with nationwide mass mail and telephone solicitation of consumers far removed from the land offering by deceptive interstate land developers. The conference committee's report language from 1968 makes this point clear:

> . . . the Secretary has the discretion to exempt sales which . . . are intrastate or almost entirely intrastate in nature. An example would be where a few out-of-State purchasers buy lots only being offered for sale within the State of the land's location or in nearby communities.

However, Mr. Speaker, despite the fact that it was never the intent of Congress to punish those developers who offered land to the residents within their own area, HUD decided to ignore Congress and did not exempt intrastate land sales. Thus, all developers were and continue to be treated with the same contempt as those few fly-by-night operators who created the need for the interstate land sales legislation.

This year, I am proud to say, Congress has realized the need for a clear statutory exemption allowing developers to sell lots to residents of their own States or to those residing within the same marketing area of an adjacent State.

Mr. Speaker, I am satisfied with the statutory and report language covering in-State land sales as contained in this legislation. I am assured that after extensive debate, the report language covering this legislation directs the Secretary of HUD to exempt a few coincidental out-of-State lot sales as a result of section 1403(c) because of the small amount of lots involved or the limited nature of the public offering. This, in my opinion, is only reasonable. Without this allowance for a few, unsolicited coincidental sales, Mr. Speaker, you might well be denied the right and privilege to locate and purchase a lot in a State other than your own. Congress has also stated that the intrastate exemption must be put into effect immediately in order to provide justified relief to the smaller developers the exemption is intended to serve.

Mr. Speaker, as I have previously stated, the act was never intended to be applied as punishment—yet HUD's redtape and registration process has been a tremendous burden on the time and costs required of developers who operate fully within the confines of the law. For this reason, I am also concerned with the repeal of the so-called onsite inspection exemption which has been on the books since 1968. While I agree with the repeal of this exemption because of the addition of new exemptions to the act, I am concerned that these developers now exempt under the act will once again have to be subjected to HUD's redtape and bureaucratic delays. Since the repeal of this exemption was not because of consumer complaints or because of industry abuse, it is categorically unfair and unjustified to impose additional requirements on these businessmen who have previously gone through the HUD process and have legitimately earned an exemption within the confines of the law.

The regulatory interpretation of this exemption is all important, however, and the Department of Housing and Urban Development will probably be writing regulations in the near future to accompany the legislation. I call upon the Banking, Housing and Urban Affairs Committee to look carefully at the implementing regulations and insure that neither purchasers nor developers are once again penalized through HUD restrictions and HUD redtape.

Meanwhile, I fully endorse the efforts of the conference committee in restating and maintaining the true intent of Congress on this issue and urge my colleagues to vote in favor of this legislation.

I would just like to say in closing I would like to express my appreciation to the two gentlemen from Ohio, the chairman of the subcommittee (Mr. Ashley), and the ranking member of the subcommittee (Mr. Stanton) who held for the House position in the conference. I believe that their activities, along with the other conferees, have made a very meaningful contribution in rectifying a situation that had caused a lot of unnecessary trouble to small developers selling land within the States in which they lived.

Mr. HAMMERSCHMIDT. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR. I will be happy to yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. I thank the gentleman for yielding. I express my appreciation to the chairman of the subcommittee, the gentleman from Ohio (Mr. Ashley), as well as the ranking member of the full committee and the subcommittee, the gentleman from Ohio (Mr. Stanton), for the exemption on FHA insured housing loans from State knows so well, is uniquely affected. I wanted to express my thanks to them, as well as to my colleague, the gentleman from Arkansas (Mr. Bethune), who serves on the committee and was the leader in implementing this provision. I am delighted it was included in the conference report.

● Mr. FOUNTAIN. Mr. Speaker, in May of this year the Intergovernmental Relations and Human Resources Subcommittee, which I chair, held hearings on the role of the urban development action grant program in stimulating private investment in local commercial and industrial projects. The Subcommittee had asked the General Accounting Office to make an intensive study of this question because of the importance of private investment for regenerating an adequate tax base, as well as jobs, in the older declining urban areas of this country.

The evidence presented by the GAO showed very clearly that in a significant number of the UDAG grants awarded by the Department of Housing and Urban Development, the Federal money had been used simply as a substitute for local money that had previously been committed. This was strikingly evident in the case of Boston, Mass., where the Assistant Secretary of HUD confirmed in his testimony that Boston had entered into an agreement with the developer long before the UDAG application was submitted. The grant was made, he said, because "public money is public money" and Boston has a high tax rate.

This, of course, is wholly irrelevant to the purpose of the UDAG program, which is to act as the catalyst for stimulating private investment. This HUD interpretation, in effect, would transform UDAG into another general revenue sharing program where the money would flow to favored communities on a discretionary basis. Such an interpretation, I am sure, would be completely unacceptable to the Congress.

As a result of this evidence brought out in our hearings, I engaged in a colloquy with the distinguished chairman of the Housing Subcommittee (Mr. ASHLEY) to clarify that the purpose of the UDAG program is indeed to stimulate private investment in industrial and commercial projects, and that it is improper to award grants in situations where non-Federal money has already been committed for the purpose of securing the private investment. Following our colloquy, the gentleman from New York (Mr. WYDLER) offered an amendment to this same effect, and his amendment was accepted.

While the bill agreed to by the conferees does not contain the Wydler amendment, I am pleased to find that the conference report does confirm and make explicit the original purpose of the UDAG program to stimulate and initiate private investment. I am particularly pleased with language in the conference report specifying that—

> The conferees expect that the Secretary will employ this provision to assure that federal funds will serve as the driving force behind the initiation of local development projects and will not be used to substitute for either private funds or local public funds which are otherwise available to the project.

I believe that the conference explanation of the UDAG selection criteria with respect to private investment will serve to achieve the purposes which I and other Members had in mind in supporting enactment of the UDAG program. I am confident that the conference language will be a clear signal to HUD that it must discontinue its previous practice of awarding UDAG grants in situations where a UDAG grant is not essential for obtaining private investment in the development project.●

● Mr. WOLFF. Mr. Speaker, I rise at this time to add my strong support for the conference report on the Housing and Community Development Amendments of 1979. I would like to compliment the chairman of the subcommittee and the conferees on there diligent work on the legislation. I believe that this body can be proud of the way our colleagues were able to uphold key provisions of the House.

There are a number of important improvements that will be made when these amendments become a part of the law. We do have a good bill before us. I would just like to take a moment to briefly highlight two provisions which have been of great interest to me.

I would like to commend the conference committee and the efforts of Chairman ASHLEY and Senator WILLIAMS of New Jersey for developing legislation and reporting language that would enable hospitals to participate in a combination financing program. This would enable Long Island Jewish-Hillside Medical Center to save approximately $50 million and thus establish a major tertiary pediatric care center for serving the entire New York City area. This new facility will be the only free standing children's hospital in New York City.

Chairman ASHLEY has clearly demonstrated through his efforts that the health care needs of children will not be overlooked in legislative manuevering or in the Government bureaucracy. I was proud to have had the opportunity to bring this issue before the conference committee and I am pleased with the outcome of our efforts.

Mr. Speaker, I am also very pleased to see that the conferees have agreed to include "pockets of poverty" areas in the urban development action grant program (UDAG). The conference committee did an excellent job in developing fair and workable criteria for making these areas eligible under the program.

During the House debate on the bill, the distinguished gentleman from North Carolina, STEVE NEAL, and I engaged in a successful effort to include an amendment that would provide eligibility to these distressed areas. Under the present criteria, many needy areas are excluded from the benefits of this extremely effective program.

The conference report earmarks 20 percent of UDAG funds for communities that contain "pockets of poverty" areas, provided the represents a significant percentage of the entire city area. Furthermore, the distressed area must meet minimum standards of distress based on poverty, housing and employment.

I would again like to compliment my colleagues who served as conferees. I strongly support the work you have done and I hope that my colleagues will put the finishing touches on the bill by approving the conference report.●

GENERAL LEAVE

Mr. ASHLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report to accompany H.R. 3875.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. STANTON. Mr. Speaker, I yield back the remainder of my time.

Mr. ASHLEY. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ICHORD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 361, nays 29, not voting 43, as follows:

[Roll No. 748]

YEAS—361

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Anthony
Applegate
Archer
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Dellums
Derrick
Devine
Diggs
Dingell
Dodd
Donnelly
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Hawkins
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
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Kastenmeier
Kazen
Kildee
Kindness
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Lederer
Lee
Leland
Lent
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Lewis
Livingston
Lloyd
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks

Marlenee
Marriott
Martin
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Michel
Mikulski
Miller, Calif.
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Mitchell, N.Y.
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Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Shannon
Sharp
Shelby
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Tauke
Taylor
Thomas
Thompson
Traxler
Treen
Trible
Udall
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolpe
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

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Conable
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Heftel
Jeffries
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Edwards, Calif.
Ferraro
Flood
Florio
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Heckler
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McCloskey
Mitchell, Md.
Murphy, Ill.
Richmond
Runnels
Sebelius
Simon
Symms
Synar
Van Deerlin
White
Wilson, Bob
Wilson, C. H.
Wolff
Yates

□ 1300

The Clerk announced the following pairs:

Mr. Richmond with Mr. McClory.

Mr. Van Deerlin with Mr. Kemp.

Mr. Phillip Burton with Mr. Symms.

Mr. Edwards of California with Mr. Bob Wilson.

Ms. Ferraro with Mr. Sebelius.

Mr. Mitchell of Maryland with Mrs. Heckler.

Mr. Synar with Mr. Jeffords.

Mr. Beard of Rhode Island with Mrs. Holt.

Mr. Florio with Mr. McCloskey.

Ms. Holtzman with Mr. Dougherty.

Mr. Lehman with Mr. Dickinson.

Mr. White with Mr. Clausen.

Mr. Charles H. Wilson of California with Mr. Deckard.

Mr. Simon with Mr. Badham.

Mr. Murphy of Illinois with Mr. Andrews of North Dakota.

Mr. Wolff with Mr. Runnels.

Mr. Yates with Mr. Loeffler.

Mr. Ginn with Mr. Ford of Michigan.

Mr. Giaimo with Mr. Dixon.

Mr. Dicks with Mr. Philip M. Crane.

Mr. John L. Burton with Mr. Brooks.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MAKING IN ORDER ON TOMORROW OR ANY DAY THEREAFTER CONSIDERATION OF HOUSE JOINT RESOLUTION 467, CHRYSLER CORP. LOAN GUARANTEE PROGRAM APPROPRIATION, 1980.

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that it be in order tomorrow or any day thereafter to consider in the House as in the Committee of the Whole House Joint Resolution 467, making an urgent appropriation for administrative expenses of the Chrysler loan guarantee program and to provide financial assistance to the Chrysler Corp. for the fiscal year ending September 30, 1980.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

STUDY OF EFFECTS IN HUMANS OF DIOXINS

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce be discharged from the further consideration of the Senate bill (S. 2096) to provide for a study by the Secretary of Health, Education, and Welfare of the long-term health effects in humans of exposure to dioxins, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. CARTER. Mr. Speaker, reserving the right to object, I would like to ask the distinguished gentleman the content of this legislation.

Mr. STAGGERS. Mr. Speaker, if the gentleman will yield, this bill is a companion measure to a very important piece of legislation, H.R. 3892, which is designed to help protect the health of our Vietnam veterans who have been exposed to an herbicide, agent orange. Agent orange contains the toxic chemical dioxin. H.R. 3892, which passed the Senate and House, would direct the Veterans' Administration to perform an epidemiological study to determine the long-term adverse health effects of agent orange on Vietnam veterans who were exposed to it. S. 2096 would mandate an epidemiological study of the rest of the general population that may have come into contact with agent orange or the class of chemicals known as the dioxins.

Dioxin is an unavoidable byproduct of the manufacture of phenoxy herbicides and is one of the most potent, and toxic, substances known to man. A wide variety of human disorders, such as dermatological, internal, psychiatric, and neurological maladies has been associated with exposure to dioxin. These disorders include chloracne (a severe skin disorder) diseases of the liver (including cancer), cardiovascular and respiratory system, nerve impairment, and sensory impairment.

When introduced into the environment dioxin is readily incorporated into various ecosystems. It is stable in soil and water and is virtually impossible to remove from the environment. It can be absorbed through the skin or be ingested in food or water and it moves up the food chain through animal and plant life to man. It has been found in the fat of beef and in human mothers' milk.

This bill would direct the Secretary of HEW to develop and execute an epidemiological study of the general population, including those who may have had the most direct and prolonged exposure to dioxin: chemical workers, agricultural workers, Forest Service workers, and others. The bill would direct the Secretary to perform an analysis of current literature on the health effects of dioxin and to report to Congress the results of the literature study and the results of the epidemiological study. The Secretary also would be required to make appropriate recommendations concerning dioxin to interested Federal entities.

The bill would charge the Director of the Office of Technology Assessment with the responsibility for developing a protocol for the epidemiological study and for assuring its technical precision. The Director also would be required to report to Congress on the progress of the study.

Finally, the President would be required to assure the maximum degree of coordination among departments of the Federal Government involved in the subject study and in other existing or planned studies of dioxin.

Mr. Speaker, the time has come for us to take stock of certain of our actions and the effects of those actions on man and his environment. Many of our citizens, veterans, and nonveterans alike, have been exposed to dioxin and we have an obligation to them to determine the effect such exposure is having or will have on their health and on the health of their offspring. It is appropriate for Congress to require a consistent and coordinated Federal approach to protecting the health of our citizens. I might add that facets of the Federal response to this situation are already starting to fall into place.

Last week the President's Assistant for Domestic Affairs and Policy ordered the establishment of an interagency work group to study the possible long-term health effects of exposure to phenoxy herbicides and contaminants. In a related issue, EPA recently found that the risks of using the pesticide 2,4,5-T (which contains dioxin), even under certain limited conditions, do not appear to be justified by the social, economic, or environmental benefits of such use; therefore the Agency will hold hearings to determine whether to cancel all uses of the pesticide.

Mr. Speaker, we are all concerned about human exposure to dioxin and I urge that we act now to study the effect it has had on our people.

Mr. CARTER. Mr. Speaker, further reserving the right to object, and I shall not object, I heartily support this legislation, S. 2096, which provides for an epidemiological study to be conducted by the Department of Health, Education, and Welfare with the assistance of the Office of Technology Assessment—on the long-term effects of dioxins on human health.

As you may know dioxins are produced during the manufacture of various herbicides especially in defoliants such as agent orange. Dioxins are suspected of causing various adverse health effects such as miscarriages, skin disease and possibly cancer.

This legislation provides that the study will be prepared in coordination with other studies of dioxins' effects on human health which are being conducted by other Government agencies.

One of these other studies is the Veterans' Administration's investigation of the health effects of veterans' exposure to agent orange in Vietnam.

In contrast this study will focus on civilian populations including chemical workers, agricultural workers, and forest service workers.

Mr. Speaker, I am particularly concerned about the possible adverse health effects of dioxins because of a related situation in Kentucky which I have been monitoring since early October.

It concerns the possibility of a link between exposure to the chemical, pentachlorophenol, and subsequent development of cancer.

As you may know this chemical known as PCP is a commonly used wood preservative. Yet, when it is produced commercially dioxin contaminants are formed. And there are several types of dioxins in PCP.

Concern about possible health effects of PCP was brought to my attention this fall through newspaper reports of several cases of leukemia that had been diagnosed in men who had unloaded PCP treated wooden ammunition boxes at the Army depot near Richmond, Ky.

In fact, a Richmond physician has confirmed that at least five of the depot employees who handled PCP treated ammunition boxes have developed leukemia.

Moreover, since this situation has been brought to public attention, there have been many reports by residents of the area linking other health problems including respiratory disease and blood disorders to previous exposure to this PCP treated wood.

Unfortunately, a great deal of this treated wood has been distributed throughout the bluegrass area because it has been sold as surplus wood by the Army over the years.

Although public access to PCP treated wood has been discontinued by the Army that which was sold has been widely used to build porches, barns, chicken coops, and some houses, in areas surrounding the depot.

Because of my concern about the possible health risks of PCP and because of the lack of conclusive data on its carcinogenicity I contacted HEW's Center for Disease Control in Atlanta, Ga., and requested an epidemiological investigation of the population in this area.

This inquiry is now underway and I am confident that it will assist us in determining whether pentachlorophenol poses serious risks to human health.

For the benefit of my colleagues who may be interested in a fuller explanation of the situation in Kentucky I will include at the end of my statement an article from last Sunday's Star which provides a recent update on this matter.

And because dioxins are formed in the production of PCP as well as many other chemicals I strongly support this legislation to study dioxins. The results should be extremely helpful in answering our questions about the health effects of these chemicals on human health.

I urge adoption of this measure.

Mr. Speaker, I include an article from the Washington Star of December 16, 1979, as follows:

CHEMICAL ON OLD ARMY AMMO BOXES FEARED POISONING TOWN

(By Mary Thornton)

RICHMOND, KY.—Bessie Cain, a tiny scarecrow of a woman, wraps her faded blue cotton housecoat more tightly around her and shivers as she gazes outside into the cold afternoon drizzle. Since she moved to her small farmhouse on a Kentucky hilltop nearly 10 years ago, she says, things have been going wrong.

First, she noticed that her chickens were dying, then the hogs didn't seem to gain weight the way they should. "Don't care how much you feed them," she says, "it don't do any good. They just goes down."

Then several years ago Cain, who is now 65, began to lose weight herself and become weak. And finally, the man who helps her take care of the animals began to break out in a rash on his arms, legs and face.

"I felt real good when I moved here," she says, "but I just keep going down, just getting skinnier and skinnier. And I'm so weak now, I don't even go out any more. Doctors don't know what to make of it."

As time has gone by, other people in the Richmond area have begun to complain of other illnesses—leukemia and other cancers, brain diseases, respiratory problems, general blood disorders. In a town like Richmond, with a population of only 17,000, diseases like those don't go unnoticed for long, and people began to wonder what could be happening.

Although no one is sure, many now believe the illnesses are related in some way to the Lexington Blue Grass Army Depot just south of Richmond. For the most part, the people with problems either worked at the depot or bought surplus wooden ammunition cases there. Cain used that wood to heat her house and to build the chicken coop.

After several months of preliminary studies, a coalition of federal agencies, including the Environmental Protection Agency, the Center for Disease Control and the National Institute for Occupational Safety and Health, has decided that the complaints in the Richmond area warrant a major health study which will begin next month.

Prime focus of the investigation will be on the chemical pentachlorophenol, known as PCP, a common wood preservative which was used on all ammunition cases at the depot starting in 1968. The surplus wood was sold for $1 per truckload. And it can be found today all over the Richmond area.

The wood was used to build houses, porches, barns, chicken coops and pigpens. Many people burned it to heat their homes and in their tobacco beds for curing tobacco.

Scientists caution that there's no guarantee the health problems here were caused by the PCP.

"We're talking about an ammunition depot where they could have been exposed to nerve gas or other poisons," said Dr. Roy Ing of the Center for Disease Control in Atlanta, who is participating in the study.

Besides PCP itself, the researchers will have to take into account the oil the PCP was dissolved in before it was put onto the wood, whether it could have contained some cancer-causing substance. Also, they will have to look at the impurities produced in the PCP manufacturing process.

But if the PCP is shown to be dangerous, its effects will not be limited to the Richmond area. The chemical is commercially available over the counter in almost any hardware store and has a wide variety of uses—as a wood preservative, a weed killer, a general pesticide, and as an ingredient of certain paint and wood stains.

Independent of the Richmond complaints, EPA had already become concerned about the safety of PCP and issued a request in October 1978 for manufacturers and users of the substance to submit any available information on its risks and benefits.

EPA records indicate 240 manufacturers in the United States are selling more than 50 million pounds of PCP annually under 548 product names.

Hugh Sowers, who was the union steward at the depot, remembers the first day that the treated wood came into the depot loaded into 90 railroad cars.

It was a hot day in August 1968 and the depot was working three shifts a day, seven days a week to rush mortars and grenades to Vietnam. The Army had just begun to use the preservative on the wooden ammunition crates because the untreated crates had started to rot in the humid jungles of Southeast Asia.

"The stuff was so thick it stuck to everything, just like molasses," said Sowers, 60, who now has leukemia. "The railroad cars were so gooky, the fork-lifts would get stuck in them."

As the boxcars sat in the hot sun, Sowers said, the temperatures inside them went as high as 120 degrees, and the men began to gag and cough and pass out from the chemical fumes.

Although that first batch of cases was the worst, Sowers and other workers say that for the next three years the cases coming into the Bluegrass Depot were especially heavily treated. Since then the boxes have been drier, and the chemical odor has not been so overpowering.

Meanwhile, until 1973 the Army sold or gave away the wood as it became surplus. Good boxes were sold for 50 cents a carload, $1 a pickup load and $2 for a large truck full. The broken boards were given away free—for kindling.

It has been recognized for years that improper handling of PCP can be very dangerous. Manufacturers readily acknowledge that the substance can be fatal and products which contain PCP are stamped with a warning.

A typical warning on the front of a can of commercially available wood preservative cautions that it is "harmful or fatal if swallowed or absorbed through the skin." Small print on the back cautions that the product is toxic to fish and wildlife and should never be used inside a home unless it's going to be covered with paint or another sealing substance.

"The most risky situation would be for people to use PCP inside their homes," said Bernard Schwetz, a scientist at Dow Cemical Co.'s Midland, Mich., lab. "That would have the worst potential for injury."

Scientific studies in both the United States and Europe list numerous cases in which PCP was harmful to human beings:

Workers involved in the manufacture of PCP have become ill and even died after putting their hands in a solution of the substance.

Twenty babies in a small St. Louis hospital developed a strange illness after a laundry detergent containing PCP was used to wash their diapers and sheets. Nine of the babies became seriously ill, and two of them died.

A California woman became suspicious when she moved into a new home and all of her houseplants died. Eventually she became weak and started to lose weight. After a doctor found abnormal levels of PCP in her blood, it was discovered that the interior of her home had been coated with paint containing PCP.

Animal studies have shown that in large doses, PCP can cause miscarriages and birth defects. Schwetz said that his studies on rats had shown kidney and liver problems, but no cancer.

Researchers who plan to do the Richmond study say that if the substance is causing leukemia, the cases discovered so far would just be a small fraction of what could come later.

Most cancers take between 10 and 20 years from the time the victim is exposed to the chemical until he actually gets cancer. The exposure time in Richmond has been ony 11 years or less.

The first persons to become alarmed about the possible problems with the PCP were Lois Truett, a former Richmond resident, and William Grise, a local doctor.

It suddenly occurred to me that every time I got a letter from home," said Truett, who now lives in Florida, "it was either someone dying from cancer or finding out they had it."

Truett said that she and her sister put together a list of 200 friends and relatives with some form of cancer, and she then called the Center for Disease Control, asking for an investigation.

Meanwhile, Grise, who runs a storefront medical office just off Richmond's Main St., had been discovering unexpected diseases in his own patients and hearing rumors about others. And he began to put together a list of people with complaints which he considered unusual in a rural, unindustrialized farming area.

He began hearing about people like Fred Perkins, a farmer who used the treated wood in his barn, to make a porch, and to burn in his home and in his tobacco beds.

Perkins, who had never even been to a doctor until June of 1977, has spent most of the last two years in bed, lying on his left side, starting at the wall where 10 different kinds of pills are lined up in a long row. Besides leukemia, he has cancer of the spinal cord, and must take medication every three hours to dull the pain.

Then there was Sowers who, besides his leukemia, has had six operations for skin cancer.

And Elton Scrivner and Bill Foley, both confined to hospital mental wards with brain diseases that showed up after they worked with the PCP-treated boxes at the depot.

"They say there's no cure," said Mrs. Lucille Scrivner of her husband's condition. "He's only 54, but he's got no memory any more. His eyesight's going and he's lost about 65 pounds. He weighs barely 100 now. He's been in the hospital more than a year now, and I doubt he'll ever be home again."

Lester Jones, a ruddy faced man of 63 who worked at the depot for more than 30 years until his retirement three years ago, has been suffering for several years from a blood disorder, which may be a precursor of leukemia.

But in spite of his problems, Jones does not blame the depot. "Something happened to me, but I don't know what it was. But I won't say it come from the depot 'cause I just do not know."

Mohl conceded that the PCP-treated boxes were burned at the depot for a three-month period in 1977, but he said there has been no burning of the wood since.

Even if it is found that the PCP-treated wood does cause health problems, Mohl says there's no way the Army could have known.

"This is just a common wood preservative, and the Army uses just a small amount of it. It's all over the place now—practically every house built since 1970 has got some of it," he said. "There was no reason for us to think there was anything wrong with it."

Mohl added that as far as he knows, the treated wood was used at every army depot and was probably sold as surplus at other depots.

"Obviously, we're going to co-operate in the study," he said. "We've got nothing to hide. But this PCP is everywhere. If they find out that the army's got a problem, then the whole world has a problem."

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia (Mr. STAGGERS)?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2096

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) the Secretary of Health, Education, and Welfare shall provide for the design of a protocol for and the conduct of an epidemiological study of various populations, such as chemical workers, agricultural workers, Forest Service workers, and others, who were exposed to any of the class of chemicals known as "the dioxins" produced during the manufacture of the various phenoxy herbicides to determine if there may be long-term adverse health effects in such persons from such exposure. The Secretary shall also conduct a comprehensive review and scientific analysis of the literature covering other studies relating to whether there may be long-term adverse health effects in humans from exposure to such dioxins or other dioxins.

(2)(A)(i) The study conducted pursuant to paragraph (1) shall be conducted in accordance with a protocol approved by the Director of the Office of Technology Assessment.

(ii) The Director shall monitor the conduct of such study in order to assure compliance with such protocol.

(B)(i) Concurrent with the approval or disapproval of any protocol under subparagraph (A)(i), the Director of the Office of Technology Assessment shall submit to the appropriate committees of the Congress a report explaining the basis for the Director's action in approving or disapproving such protocol and providing the Director's conclusions regarding the scientific validity and objectivity of such protocol.

(iii) In the event that the Director has not approved such protocol during the one hundred and eighty days following the date of the enactment of this Act, the Director shall (I) submit to the appropriate committees of the Congress a report describing the reasons why the Director has not given such approval, and (II) submit an update report on such initial report each sixty days thereafter until such protocol is approved.

(C) The Director shall submit to the appropriate committees of the Congress, at each of the times specified in the second sentence of this subparagraph, a report on the Director's monitoring of the conduct of such study pursuant to subparagraph (A)(ii). A report under the preceding sentence shall be submitted before the end of the six-month period beginning on the date of the approval of such protocol by the Director, before the end of the twelve-month period beginning on such date, and annually thereafter until such study is completed or terminted.

(3) The study conducted pursuant to paragraph (1) shall be continued for as long after the submission of the report under subsection (b)(2) as the Secretary may determine reasonable in light of the possibility of developing through such study significant new information on the long-term adverse health effects of exposure to dioxins.

(b)(1) Not later than twelve months after the date of the enactment of this Act, the Secretary shall submit to the appropriate committees of the Congress a report containing (A) a description of the results thus far obtained under this study conducted pursuant to such subsection, and (B) such comments and recommendations as the Secretary and the heads of other departments, agencies, and instrumentalities of the Federal Government described in subsection (c) consider appropriate in light of such results.

(c) For the purpose of assuring that any study carried out by the Federal Government with respect to the adverse health effects in humans of exposure to dioxins is scientifically valid and is conducted with efficiency and objectivity, the President shall assure that—

(1) the study conducted pursuant to subsection (a) is fully coordinated with studies which are planned, are being conducted, or have been completed by other departments, agencies, and instrumentalities of the Federal Government and which pertain to the adverse health effects in humans of exposure to dioxins; and

(2) all appropriate coordination and consultation is accomplished between and among the Secretary and the heads of such departments, agencies, and instrumentalities that may be engaged, during the conduct of the study carried out pursuant to subsection (a), in the design, conduct, monitoring, or evaluation of such dioxin-exposure studies.

(d) There are authorized to be appropriated such sums as may be necessary for the conduct of the study required by subsection (a).

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1310

NATIONAL TRAFFIC AND MOTOR VEHICLE INFORMATION AND COST SAVINGS AUTHORIZATIONS ACT

Mr. SCHEUER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2585) to amend the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act to authorize appropriations for fiscal years 1980 and 1981.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. Scheuer).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2585, with Mr. Ertel in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from New York (Mr. Scheuer) will be recognized for 30 minutes, and the gentleman from North Carolina (Mr. Broyhill) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. Scheuer).

Mr. SCHEUER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 2585 is a 2-year bill which will amend the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act in order to authorize appropriations for fiscal years 1980 and 1981.

It has now been well over a year since the National Highway Traffic Safety Administration (NHTSA) was last authorized.

Thus the review of the Agency occasioned by this legislation has been both timely and extensive.

In administering these two acts, the Agency essentially wears two hats.

In carrying out the National Traffic and Motor Vehicle Safety Act, the Agency is responsible for the Nation's automobile safety—promulgating motor vehicle safety standards that will help stem the rising level of traffic fatalities.

In an effort to improve crash survivability, the Agency has been developing standards in the area of child restraints, side and frontal impact occupant protection, truck underride protection and pedestrian protection.

The act also gives the Agency authority to:

Enforce the Agency's tire safety standards;

Establish testing facilities for continued research and development in the critical auto safety area;

Order car recalls;

Require remedies of automotive defects; and

Deal with failures to comply with safety standards.

The Agency's other hat is consumer protection.

Under the Motor Vehicle Information and Cost Savings Act, the NHTSA is required to assist consumers in reducing unnecessary auto maintenance and repair expenses.

The act requires the Agency to promulgate bumper standards intended to minimize car repair costs stemming from low-speed collisions.

The Agency is also charged with gathering and disseminating to consumers data concerning auto maintenance and repair.

In addition, in order to enhance consumer auto maintenance, the NHTSA has been experimenting with diagnostic testing and inspection centers.

Finally, through both program administration and a policy of selective prosecution, NHTSA has been attempting to alleviate the very high costs to consumers of odometer tampering—that is, tampering with mileage indicators—a cost which has been estimated to run in excess of $1 billion a year.

The authorization levels for carrying out the National Traffic and Motor Vehicle Safety Act in fiscal 1980 and 1981 are below the $60 million authorization level last approved by Congress in fiscal 1978.

The current authorization levels—$48.5 million for 1980 and $52.5 million for 1981—have been lowered in order to narrow the gap between the Agency's appropriation and its authorization.

This bill also provides for an increase of $50,000 in fiscal year 1981 for carrying out the bumper standard title, which is title I of the Motor Vehicle Information and Cost Savings Act.

This raises the authorization for that title to $450,000 for fiscal year 1981 as compared with $400,000 for fiscal year 1980 and $395,000 for fiscal year 1978, the last authorized year.

On the other hand, the bill decreases dramatically the authorization levels in the remaining three titles of the act over the last authorized year, fiscal year 1978, by approximately $4,200,000 next year and approximately $3,200,000 in fiscal year 1981.

Mr. Chairman, H.R. 2585 is a well-crafted and carefully considered piece of legislation.

Although there were some minority comments on specific issues, the bill itself was unanimously supported by the Commerce Committee.

This legislation will allow the National Highway Traffic Safety Administration to carry out its lifesaving tasks in the vital area of automobile safety.

I urge my colleagues to consider this legislation favorably.

Mr. BROYHILL. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, H.R. 2585 amends the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act to authorize appropriations for fiscal years 1980 and 1981. As introduced, H.R. 2585 included an authorization for the National Traffic and Motor Vehicle Safety Act of $60,000,000 for fiscal year 1980 and $70,000,000 for fiscal year 1981. During the course of the Commerce Committee's consideration of this bill, we reduced these amounts to $48,500,000 for fiscal year 1980 and to $52,500,000 for fiscal year 1981. We were quite concerned that there was such a large gap between the authorization levels and the requested appropriation.

Specifically, the authorization for fiscal years 1977 and 1978 was $60,000,000, but the appropriation was $41,812,000 for fiscal year 1978 and $42,700,000 for fiscal year 1979. This gap would have widened under the provision in H.R. 2585 from an approximate difference of $18,000,000 to a difference of about $27,000,000. This seemed entirely unnecessary, particularly at a time when fiscal responsibility at all governmental levels is increasingly critical. We are confident that the funds authorized here will more than adequately enable the National Highway Traffic Safety Administration to carry out its activities under the National Traffic and Motor Vehicle Safety Act.

□ 1320

Mr. SCHEUER. Mr. Chairman, I yield 5 minutes to my distinguished colleague, the gentleman from Colorado (Mr. Kogovsek).

Mr. KOGOVSEK. Mr. Chairman, I rise in support of the bill.

Mr. Chairman, in a few years, cars are going to have to be built with automatic crash protection systems to reduce injuries and fatalities in serious frontal accidents. Most auto makers will probably choose to use either an automatic safety belt system or an airbag system to meet these requirements. A critical question is, "How much is this going to add to the price of my new car?"

The majority of new cars today carry a price tag of $5,000 to $10,000. Included in the price paid for the average new car is approximately $800 for optional equipment—automatic transmissions (more than $300), air conditioning (more than $500), trim packages ($50 to several hundred dollars), AM–FM stereo radios (around $200), power windows, seats, door locks, and antennae (most of which add more than $100 to the price of a car), and vinyl roofs (about $150). The only reason that more is not spent on optional equipment is that many cars carry these pieces of equipment as standard equipment, so that their cost is included in the base price of a car.

Initially, most manufacturers will install automatic belts as standard equipment on most of their car lines. These belts will, in most cases, add $50 to $150 to the price of a new car, although some more expensive belts may be offered if the manufacturer perceives that its customers want a fancier system. There is a great variety of designs for automatic belts that are being contemplated by the different manufac-

turers, and for the first time automobile and belt makers are in real competition to make the best and least expensive belts for the cars of the 1980's.

Airbags will initially be offered as optional equipment on larger cars, and standard equipment on a few luxury models. The prices charged for airbags will depend on a number of factors such as whether they are offered as a part of an options package, what volume of sales the auto company contemplates, and the cost of manufacture. A good indication of the prices that one manufacturer is planning to charge was provided in recent marketing study reports from General Motors that were released in December 1979. In these studies, GM used price figures of $300 to $360 for airbags (over the cost of present, manual safety belts) in determining people's reaction to various types of restraint systems. (Even at those prices, there were indications of a strong market demand for airbags.)

General Motors president, E. M. Estes, has estimated that the average increase in the prices of General Motors cars as a result of all new safety standards that will take effect by 1984 (including the automatic crash protection standard), will be $115 (in 1978 dollars). Thus, automatic restraints will not have a major impact on the price of new cars. However, for those people who are willing to pay extra for an airbag, they will be available on some cars beginning as early as the 1981 model year, and on more in the 1982 model year and later. When one compares the price of an airbag—$200 to $300—with the prices charged for many other comfort and convenience options such as power windows and automatic transmissions, which cost approximately the same amount, one can see that they are likely to be very popular. And, in addition, the airbags will provide an insurance saving estimated at $30 to $40 per year when most cars have automatic restraints, and substantial protection if one is unfortunate enough to be involved in an accident.

Several outrageous cost estimates have been given for airbags by the auto makers. These are based on the initial, small volume production without full automation, with disadvantageous supplier contracts (wherein the company will not guarantee any purchase volumes, but require that the suppliers have a certain production capacity), high dealer markups, and accelerated amortization of development and tooling costs. Typical automobile components cost about $2 per pound, with some components being somewhat more expensive. However, a complete airbag system weighs under 40 pounds, and even if it were to cost $5 per pound, the cost would be only $200 for the complete system.

Furthermore, in virtually all new products, the initial cost on introduction is substantially higher than is the cost after the item becomes common. An example is the electronic calculator, which cost several hundred dollars 10 or 15 years ago, now costs only about $10. Similarly, when automatic transmissions were first introduced in the 1940's, they were priced at a couple of hundred dollars. They have a sticker price today of a little more than $300 over the price of a manual transmission (which it replaces), but the manufacturing cost is less than half that amount. And an automatic transmission is a much more complex system than is an airbag.

Mr. BROYHILL. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from New Jersey (Mr. RINALDO), the ranking minority member on the subcommittee.

Mr. RINALDO. Mr. Chairman, H.R. 2585 amends the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act to authorize appropriations for fiscal years 1980 and 1981. At the time that this bill was considered by the Interstate and Foreign Commerce Committee, we reduced the authorizations for the National Traffic and Motor Vehicle Safety Act from $60 million to $48.5 million for fiscal year 1980 and to $52.5 million for fiscal year 1981. This change reflected our desire to narrow the gap between the authorization levels and the requested appropriation. We believe these levels should be sufficient to fund agency activities under these two acts.

Title II of the Motor Vehicle Information and Cost Savings Act requires the Secretary of Transportation to conduct a comprehensive study of the different car makes and models to determine their crashworthiness (how well cars protect their occupants), their damageability, and ease of diagnosis and repair. The Secretary was also directed to develop a methodology for disseminating this information to consumers when they are purchasing cars. There are two stated purposes for this legislation: First, to aid consumers in making informed purchase decisions; and second, and to encourage competition among automobile manufacturers with respect to the production of safer cars. Ms. Joan Claybrook, administrator of the National Highway Traffic Safety Administration, stated it it thus:

> Ideally a crashworthiness rating system would not only give the consumer more vital information about new cars in the marketplace, but also would generate competition among the manufacturers to produce cars which are safer, more resistant to damage and less costly to service and repair.

This legislation was enacted in 1972. No ratings are available to consumers as yet, with the exception of tires. While the intent of this legislation is laudatory and could be of great benefit to consumers, the agency delays in implementing it are not. In 1977, Ms Claybrook commented that the Department had not pursued this program "with sufficient diligence or enthusiasm."

NHTSA has recently undertaken a new car assessment program which includes the crash testing of 1979 model new cars and two 1980 models. I also note that this testing is considered to be part of an initial phase of the program which, as the agency puts it, "will help determine whether or not a continuing program of rating vehicles for crashworthiness should be instituted, based on higher levels of performance than those required by minimum safety standards." I hope that firm decisions can be arrived at soon with respect to this title. I am particularly concerned that the focus should be on the development of a rating system for new cars, as opposed to older cars. Some 10 million new cars are manufactured each year. The implementation of this title for new cars could serve as a strong incentive for the design of cars that are more crashworthy and easier to maintain. I look forward to prompt implementation of this title.

Mr. BROYHILL. Mr. Chairman, I have no further requests for time.

Mr. SCHEUER. Mr. Chairman, I yield such time as he may consume to the gentleman from West Virginia (Mr. STAGGERS), the distinguished chairman of the full committee.

□ 1330

Mr. STAGGERS. Thank you, Mr. Chairman.

I thank the subcommittee chairman, the gentleman from New York (Mr. SCHEUER).

I just rise in support of this bill, because I think that it is a bill that is necessary. So many people lose their lives on the highway. Anything that we can do to save one of them would certainly be helpful here. We hope to save not one, but many thousands. We are talking about 45,000 to 55,000 people losing their lives each year. Certainly this is a number on which we ought to be able to do something.

I would like to at this time congratulate and commend the gentleman from New York (Mr. SCHEUER), the subcommittee chairman, and the gentleman who sits next to him, the gentleman from North Carolina (Mr. PREYER); and on the minority side, I would like to commend the gentleman from North Carolina (Mr. BROYHILL), and our good friend the gentleman from New Jersey (Mr. RINALDO), who sits next to him.

They have certainly worked for what is the best interest of America, have joined together in a nonpartisan way to try to save the lives of people, lives that are needlessly lost in this country.

As long as we can do that in the Congress, we will do a good job. I think we ought to do it more often in other phases of our activities, join together. They certainly have worked together to make this a good bill.

I would just like to say that several days of hearings were held. It was very thorough, and this bill came out of the subcommittee unanimously and came out of the full committee unanimously, as I recollect.

It just is a renewal, and I urge that everybody vote for the bill.

I cannot understand why anybody would vote against this bill, because it does have the potential of saving lives in America.

I thank the Chairman, and I yield back the balance of my time.

Mr. SCHEUER. Mr. Chairman, I yield 5 minutes to my distinguished colleague, the gentleman from California (Mr. MINETA).

Mr. MINETA. Mr. Chairman, I would like to commend the gentleman from New York and members of the Committee on Interstate and Foreign Commerce in reporting out the bill and to express my strong support for the bill and my grave concern about any amendments that would have the effect of delaying implementation of the automatic restraint program.

The automatic restraint standard, promulgated by Secretary Brock Adams in 1977, has undergone extensive review in the Congress, the courts, and at the National Transportation Safety Board. Each time the standard has been reviewed, it has been reconfirmed.

I think it is important to emphasize the immediate need for such a standard. Deaths and injuries in automobile crashes constitute a major public health problem. The road death toll in 1978 rose to over 50,000 for the first time in 5 years and more than one-half million persons were seriously injured. The energy situation has lead to a great increase in the number of smaller automobiles on the Nation's roads and highways. I know from my own experience as an insurance broker that crashes which occur in these automobiles are resulting in more serious injuries than before, making the immediate need for automatic crash protection more critical than ever.

Motor vehicle accidents are the sixth leading cause of death in the United States and the leading cause of death in the population under age 44.

Automatic crash protection systems represent the single most effective way of protecting people from serious crash injuries and death because, while manual belts are equally effective when used, most people do not use manual belts. Only 14 percent of the American driving public wear manual seatbelts provided in today's cars, Automatic crash protection systems automatically insure that protection will be provided when needed.

Field experience with automatic belts and airbags reinforce estimates that the automatic restraint standard, requiring automatic restraint systems beginning with 1982 model year, will ultimately save at least 9,000 lives and countless serious injuries each year.

It is also important to emphasize that the automatic crash protection standard is a performance standard. It does not mandate use of any particular safety system. What it requires is that front seat passengers be automatically protected from serious injury or death in a 30-mile-per-hour crash into a solid barrier. The manufacturers can choose to use an airbag, automatic belt, or other system to meet the requirement.

The industry has responded positively by undertaking major programs to design automatic restraints for their new production cars for the 1980's and to test them extensively. General Motors Corp. last week announced an engineering breakthrough in the development of the controversial airbag and said it would offer the safety option in its large model 1982 models. GM car buyers will also have the option of automatic seatbelts on some 1981 models, a year ahead of the mandated date. Both Ford Motor Co. and the Chrysler Corp. have also reiterated that they will comply with the Federal standards. Volkswagen is currently producing as an option Rabbit models with automatic seatbelts. Reports indicate that the fatality rate in automatic belt Rabbits is significantly lower than in Rabbits with manual belts.

Twenty-three countries or jurisdictions around the world now have mandatory seatbelt use which has served to reduce deaths by 20 to 30 percent and injuries by 50 percent, saving billions of dollars. The state of Tennessee has recently enacted a mandatory child restraint law and is presently studying the life-saving effects of that mandate.

I suggest that in good conscience we can no longer be party to further delay in implementing these life-saving and injury minimizing devices. Our message to the industry should be a clear commitment to the requirement of automatic restraints beginning with 1982 models.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. I would like to associate myself with the excellent statement of the gentleman from California and congratulate the chairman of the subcommittee, the gentleman from New York (Mr. SCHEUER), and the chairman of the full committee on the work they have done on this very important bill.

I would hope that at this point in the history of our automobile industry that we could have unanimous agreement inside the industry and in the Congress and in the public that safety is of major concern, and now that we do have the techniques that enable us to build safer cars and to save literally the lives of thousands of Americans every year, that we should go forward aggressively with this program.

I thank the gentleman for his statement and for yielding to me.

Mr. Chairman, in addition, I would like to comment on the notion of a legislative veto because there may be an attempt to attach such a provision to this bill.

Supporters of legislative veto contend that this provision is the only way that Congress can exercise effective control over an overzealous agency which has gone beyond its legislative mandate and wrecked havoc with its regulations. Implicit in this argument, as it applies to the National Highway Traffic Safety Administration, is: First, that NHTSA has caused grave economic harm, that second, its "overzealousness" has evoked major concern on the part of industry and the public; and third, that Congress is unable to exercise control over NHTSA. But in fact, none of these propositions is valid.

NHTSA's regulations have not caused economic harm. In fact, its regulations are cost effective in of themselves and have great economic benefits. Let me deal with the costs and benefits of safety and fuel efficiency regulations.

From 1978 through 1985, it is estimated that the sum of the costs of safety, fuel economy, and emission control devices will add $1,235 per unit. Yet over the life of the vehicle which has these components, the safety features alone will save consumers $300 per unit in insurance cost reductions. If you calculate the cost of gasoline as only $1 per gallon the fuel efficiency standards will save the consumer $1,400 over the life of the car. Thus, the cost savings with these devices equals about $165. Now, we know that the price of gasoline alone, by 1985, will continue to go up and may well double. So the net savings will be far greater.

I would like to insert in the RECORD at this time, a complete explanation of the savings through safety and fuel-economy savings that these mandated standards produce.

Benefits and Costs of Auto Regulation

Net savings to consumers for auto regulations plus safety, reduced oil import and emission benefits; $465.

COSTS (THROUGH 1978)

Safety, $300/car price increase.
Emissions, $215/car price increase.

1978–1985

Safety, $100/vehicle price increase (average for automatic belts and air bags).
Fuel Economy, $400/vehicle price increase.
Emissions, $220/vehicle price increase.
Total costs, $1,235.

COST SAVINGS

Fuel Economy, $1,400 Savings/1985 Vehicle over 1978 vehicle (2,000 Gal/vehicle saved; $1.00/Gal; 10% Discount Rate; 56% improvement in fuel efficiency).
Safety, $300/car insurance cost reduction.
Total cost savings, $1,700.

OTHER BENEFITS (THROUGH 1978)

Safety, 55,000 lives saved through 1978 (GAO methodology).
Emissions, 85% reduction in pollutants.

AFTER 1978

Safety, 9,000 lives/year by early 1990's (automatic restraints) 65,000 injuries/year.

Fuel Economy, 15% reduction in imports of oil in 1985 and 20% in 1990 (5 million barrels by 1990).

Emissions, 95% reduction in pollutants.

Summary Information on the Price of Auto Safety Regulations

FROM THE PASSAGE OF THE SAFETY ACT IN 1966 TO THE PRESENT (1966–1979)

The price increase to consumers of all safety standards in a 1979 model automobile is estimated to be about $300, based on industry price figures supplied to the Bureau of Labor Statistics.

Price increases for safety features are a small part of overall retail automobile price increases. Over the last 5 years, safety features have accounted for only about 2.2 percent of overall price increases.

DOT's responsibility to improve safety is warranted by the annual loss of 50,000 lives and the millions of injuries in motor vehicle crashes.

The economic loss to society last year from auto accidents is estimated at $48 billion in 1978 dollars.

Automobile accidents are the sixth leading cause of death and are the leading cause of death in the population under the age of 44.

From 1966–1978, an average of 5 million vehicles have been recalled each year for correction of defects that pose a safety hazard. Thirteen million were recalled in 1977 and 9 million in 1978.

Based on GAO methodology, DOT estimates that auto safety standards have saved over 55,000 lives, from 1967 through 1978.

The number of lives saved by auto safety standards is increasing by nearly 10,000 per year as newer, safer vehicles replace older, less safe ones.

Through 1979, more than 50 safety standards have been issued, bringing changes in the following areas: Windshield penetration resistance, collapsible steering columns, interior padding, seat and shoulder belts, side marker lights, defroster and windshield wiper improvements, theft protection, headlamps and reflective devices, head restraints, location, identification and illumination of controls, reduced flammability of interior materials, side door strength, roof intrusion, improved brakes, leak resistant fuel systems, windshield zone intrusion and stronger bumpers, among others.

FROM THE PRESENT TO 1985

By 1985, fuel economy standards will save over 12.6 billion gallons of gasoline annually (i.e., 300 million barrels of oil). From 1978–1985, the fuel economy standards will have saved 40.9 billion gallons (i.e., 974 million barrels of oil).

By 1985, fuel economy standards will save an individual consumer a net of $1,300 over the life of an average vehicle, which will substantially offset the estimated $100 per vehicel cost of added auto safety features.

In the 1990's, when the entire U.S. passenger fleet is equipped with automatic restraints, annual safety benefits of 9,000 lives saved and tens of thousands of serious injuries avoided will be realized, producing an estimated savings of $150 to an individual consumer in auto insurance costs over the life of the vehicle.

Let me take a moment to deal with the question of overzealousness. On August 2, the New York Times ran an article which stated that General Motors intended to exceed the Government fuel-efficiency standards by 1985. The standards have provided an impetus for GM to innovate and to experiment with car weights, engineering and the like. GM and Ford, it was stated in the article, now feel that the standards are both feasible from the standpoint of engineering and cost-effective.

What is more, General Motors conducted a survey to test the public's reaction to the possible imposition of passive restraints. The overwhelming consensus on the part of the public was that even if the passive restraints cost $360 versus the $100 cost of seat belts, they would gladly pay the extra money for additional promise of safety.

This tells us that Congress has been too quick to claim that the public will not stand for what NHTSA has been doing in the area of safety and in the area of fuel-efficiency.

If we adopt this legislative veto provision, what are we saying? We are saying that regardless of the industry's reaction, regardless of the public's desire, we want the last say over what NHTSA does. What we are saying is that despite the fact that the press of legislative business has kept us for 2 months past the original date of adjournment for the first session of the 96th Congress, we want to add a new layer of bureaucracy to the process—a congressional veto of NHTSA's rules—because there is something wrong with the way the administration works. Well the public has voted and the industry has voted and the verdict is that the administration is working well.

Congress is eminently capable of overseeing this agency's efforts. The Subcommittee on Consumer Protection and Finance has oversight authority over NHTSA and is capable of authorizing reforms if needed. When they decided that savings and loans were adequately regulated by the Federal Home Loan Bank Board, Congressman RINALDO introduced a measure to remove the FTC's jurisdiction over savings and loans. The measure passed and was signed into law. This is oversight. It works. They had hearings. They had mark-up. Congress considered the bill and it is now law.

The oversight process is far more desirable for reigning in a recalcitrant body if the authorizing subcommittee sees fit. There is no reason to drop or to phase out this orderly process and opt instead for a 90-day legislative veto provision. At a time when everyone is talking about too much government, too many delays and too much redtape, the gentleman from Georgia (Mr. LEVITAS) is suggesting once again that a new layer be added. This is clearly the wrong time to be doing this. And, when you have an agency whose work has been lauded by consumers, proved cost-effective by the data and endorsed by industry, it is astonishing to me that we are told to employ a legislative veto. Why tinker with a process that is actually working well?

● Mr. CLEVELAND. Mr. Chairman, contemplation of the bill H.R. 2585, the National Traffic and Motor Vehicle Information and Cost Savings Authorizations Act, is a disheartening experience.

I say this because the Congress again appears to be going along with the National Highway Traffic Safety Administration in its continuing tendency toward excessive reliance on the airbag.

Unfortunately, this tendency toward single-minded preoccupation with single solutions is not unique to the field of safety. It has been reflected notably in Government's excessive emphasis on nuclear power in the past.

Even now, there are those who would rely excessively on conservation. Most, however, have come to recognize that any realistic hope of self-sufficiency will require nuclear power, conservation, new technologies, unconventional resources, and increased domestic production of conventional fuels.

This is equally true in the field of highway safety, in which the vehicle, the highway, and the driver all contribute to the problem.

With respect to airbags, I have no objection to their introduction as an option. Former Secretary Coleman made a great deal of sense when he advocated production of hundreds of thousands of airbag-equipped cars to provide solid information based on extensive, actual operating experience.

But no, his successor mandated airbags despite the fact that they provide protection only in frontal or near-frontal crashes; seat belts still will be needed for protection in lateral or broadside crashes, rear-enders, rollovers, and crashes involving multiple impacts.

The phase-in will not even begin until the early 1980's and, at current replacement rates, the entire fleet of cars in this country will not be equipped until the early 1990's.

For these reasons, and the fact that fatalities are again running in the range of 50,000 a year, we must do much more.

In this connection, I found a fair measure of commonsense in some of the minority and supplemental views on the report of the Committee on Interstate and Foreign Commerce accompanying H.R. 2585. I refer in particular to the minority views of the gentleman from Texas (Mr. COLLINS), recommending that NHTSA expand efforts to persuade States to place greater emphasis on combating drunk driving.

I also commend to my colleagues the observations contained in the supplemental views of eight members of the committee as follows:

> We must agree that the wiser and more sensible approach would be to reinstate the Coleman decision and enact such legislation with the necessary funding to carry out extensive, intense, and comprehensive programs to educate the American public as to the value of seat-belts and strongly encourage their use.

Members may be interested in noting that we have at least a piece of that approach on the books. I refer to a provision which I authored as part of the Surface Transportation Assistance Act of 1978 (Public Law 95–599), which requires the States to use at least 2 percent of their Federal highway safety program funds on measures to encourage seatbelt use.

This approach is intended to encourage the States to explore a broad range of measures, including financial incentives for the use of seatbelts and disincentives for failure to use them. In addition, the legislation called for a study, due early in 1980, by the Transportation Research Board to help identify promising measures which might usefully be carried out by the States.

Admittedly, it is too early to gage the results of this effort. The 1978 act passed late to have much influence on the shaping of State programs in fiscal year 1979, and fiscal year 1980 programs have only just been launched. Also, we do not yet have the results of the study by the TRB, an arm of the National Academy of Sciences.

Soon, however, we should have in hand a clearer picture of what we may have to work with; it is my hope, for example, that we will have at least enough of an indication to warrant considering an increase in seatbelt funding incentives when we take up the next surface transportation bill.

I urge all who share my views with respect to airbags—and those airbag supporters who also recognize the need for seatbelts—will support my efforts at the proper time.●

Mr. SCHEUER. Mr. Chairman, as my colleague has explained, the purpose of these amendments is exactly as the gentleman stated, to reduce the authorization levels for NHTSA contained in this bill for 1 year, fiscal 1980. Presently, as I mentioned before, it contains authorizations for fiscal 1980 and fiscal 1981.

I offer these amendments in no sense to be interpreted as a criticism of NHTSA, but only to enable the House to exercise its continued oversight over this regulatory Agency.

The amendment is intended to reflect the need of the House to scrutinize carefully the activities of all regulatory agencies, and it is simply offered in that spirit.

Mr. BROYHILL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do not object to these amendments.

I would urge the chairman of the subcommittee to take up consideration of this program early in next year, because I think it would help to have the House consider this in an expeditious way and not wait until the fiscal year has already started, as we have in this particular case.

As my colleagues know, this leaves us with an authorization in this bill of fiscal year 1980, and of course the fiscal year is already 3 months gone. If we are going to be authorizing for 1981 and beyond, it seems to me we should get that legislation considered and out of the way before at least the July 4th recess.

Would the gentleman tell the committee what plans he has for early, expeditious consideration of an authorization bill?

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from New York.

Mr. SCHEUER. I thank my colleague for his remarks. I certainly would want to consider this matter and the bill and the program at the earliest possible time it can be worked into the schedule next year.

☐ 1340

I have no disagreement with the gentleman.

Mr. BROYHILL. I would also note, Mr. Chairman, that the other body has passed a bill dealing with the same subject matter which contains 3 years of authorization. It could be that we could come back from conference with a multiyear authorization. Is that a possibility?

Mr. SCHEUER. Anything is possible once we get into the conference committee. But this House has expressed on repeated occasions a will and insistent demand to get these regulatory agencies under closer systematic continuing scrutiny. I offer this amendment in that spirit.

Mr. BROYHILL. Mr. Chairman, I appreciate very much the feeling of the chairman. As I say, I do not necessarily object to his amendment. I usually like about a 3- or 4-year authorization because this usually gives a fairly good cycle. It lets the agency at least have some measure of forward planning.

But in this particular case, of course, as the chairman well knows, the agency is well into some new programs and I am, of course, one who has been preaching, as much as anyone around here, about the need for more congressional oversight over the ways these agencies administer the programs and the authorities that this Congress has given them.

So, Mr. Chairman, with those remarks I will accept the amendment for this side.

Mr. SCHEUER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 2585

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Traffic and Motor Vehicle Information and Cost Savings Authorizations Act".

TITLE I—TRAFFIC AND MOTOR VEHICLE SAFETY

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Section 121 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1409) is amended to read as follows:

"SEC. 121. There are authorized to be appropriated for the purpose of carrying out this Act $60,000,000 for fiscal year 1980 and $70,000,000 for fiscal year 1981.".

TITLE II—MOTOR VEHICLE INFORMATION AND COST SAVINGS

BUMPER STANDARDS

SEC. 201. Section 111 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1921) is amended by adding at the end thereof the following new sentence: "There are authorized to be appropriated to carry out this title $400,000 for fiscal year 1980 and $450,000 for fiscal year 1981.".

AUTOMOBILE CONSUMER INFORMATION STUDY

SEC. 202. Section 209 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1949) is amended by adding at the end thereof the following new sentence: "There are authorized to be appropriated to carry out this title $2,400,000 for fiscal year 1980 and $3,000,000 for fiscal year 1981.".

DIAGNOSTIC INSPECTION DEMONSTRATION PROJECTS

SEC. 203. Section 321 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1964) is amended by inserting after the first sentence thereof the following new sentence: "There are authorized to be appropriated to carry out this title $1,400,000 for fiscal year 1980 and $1,800,000 for fiscal year 1981.".

ODOMETER REQUIREMENTS

SEC. 204. Section 417 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1990g) is amended by adding at the end thereof the following new sentence: "There are authorized to be appropriated to carry out this title $300,000 for fiscal year 1980 and $360,000 for fiscal year 1981.".

Mr. SCHEUER (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 12, strike out "$60,000,000" and insert in lieu thereof "$48,500,000".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 13, strike out "$70,000,000" and insert in lieu thereof "$52,500,000".

The committee amendment was agreed to.

The CHAIRMAN. Are there further amendments?

AMENDMENTS OFFERED BY MR. SCHEUER

Mr. SCHEUER. Mr. Chairman, I offer several amendments and ask that they be considered en bloc.

The Clerk read as follows:

Amendments offered by Mr. SCHEUER: Page 2, beginning on line 13, strike out "and" and all that follows through "1981" on line 14.

Page 2, beginning on line 22, strike out "and" and all that follows through "1981" on line 23.

Page 3, beginning on line 6, strike out "and" and all that follows through "1981" on line 7.

Page 3, beginning on line 13, strike out "and" and all that follows through "1981" on line 14.

Page 3, beginning on line 20, strike out "and" and all that follows through "1981" on line 21.

The CHAIRMAN. Is there objection to the request of the gentleman from from New York?

Mr. BROYHILL. Mr. Chairman, reserving the right to object, and I do not intend to object, but it is my understanding the effect of these amendments is to make it a 1-year authorization rather than a 2-year authorization bill.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from New York.

Mr. SCHEUER. That is absolutely correct. The purpose of these amendments is to reduce the authorization levels for the National Highway Traffic Safety Administration (NHTSA) contained in this bill to 1 year—fiscal year 1980. Presently, the bill contains authorizations for fiscal year 1980 and fiscal year 1981.

I am offering this amendment to enable the House to exercise continued oversight over this regulatory agency. This amendment should not be interpreted as a criticism of the National Highway Traffic Safety Administration, but rather this amendment is intended to reflect the need of this House to scrutinize carefully the activities of all regulatory agencies.

Mr. BROYHILL. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New York (Mr. SCHEUER)?

There was no objection.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New York (Mr. SCHEUER).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. STOCKMAN

Mr. STOCKMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. STOCKMAN: Page 2, after line 14, insert the following new section:
>
> OCCUPANT RESTRAINT SYSTEMS
>
> SEC. 102. None of the funds authorized to be appropriated under this Act for the purpose of carrying out the National Traffic and Motor Vehicle Safety Act of 1966 may be used by the Secretary of Transportation to enforce or otherwise administer any standard or regulation which requires any passenger car to be equipped with an occupant restraint system unless such standard or regulation also permits the purchaser of a passenger car to select any occupant restraint system which, if installed in the passenger car purchased by such purchaser, would comply with the requirements of Federal Motor Vehicle Safety Standard Number 208 (49 Code of Federal Regulations 571.208), relating to the installation of active seat belt systems, as in effect at the end of June 29, 1977. For the purposes of this section, the term "purchaser" includes a retail dealer purchasing a new passenger car for resale.

Mr. SCHEUER. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman is recognized on his point of order.

Mr. SCHEUER. Mr. Chairman, I would like the gentleman to explain his amendment.

Mr. BROYHILL. Mr. Chairman, that is not a point of order.

The CHAIRMAN. Does the gentleman reserve a point of order?

Mr. SCHEUER. I am reserving a point of order.

Mr. BROYHILL. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate the proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1350

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Does the gentleman from New York insist upon his point of order?

Mr. SCHEUER. No, I withdraw my point of order, Mr. Chairman.

The CHAIRMAN. The gentleman withdraws his point of order.

The gentleman from Michigan (Mr. STOCKMAN) will be recognized for 5 minutes in support of his amendment.

□ 1400

Mr. STOCKMAN. Mr. Chairman, the purpose of the amendment I am offering is to strike what seems to me to be a sensible compromise in the interminable debate that we have had about airbags for so many years now in the House. In essence what my amendment does is to mandate that every automobile manufacturer offer an occupant restraint system on each and every car it sells. But at the same time, it preserves the right of the consumer to choose either an active restraint system, which is the lap-shoulder belt that we have on cars today, or a passive restraint system, which in practice means the airbag for large cars, and the automatic seatbelt for small cars. It seems to me that this compromise gives to both sides of this debate that has raged so long a large part of what they have been trying to achieve.

The case for the current revised standard, which will take effect in the 1982 model year, assumes that the manufacturer is the source of the problem, not the consumer. The argument has been that people want safer cars, that they want a better restraint or injury-prevention system, but the manufacturers will not offer them for reasons good, bad, or in between.

According to Mr. Nader, the refusal of manufacturers to offer these systems is based on malevolence or greed. The more charitable view would be that the market is so limited or uncertain that manufacturers simply do not want to take the risk, and that as a result the consumer does not have the option to purchase an airbag, or other passive restraint system.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from New York.

Mr. SCHEUER. I thank the gentleman for yielding.

As I understand the amendment offered by my Michigan colleague, it will not have any direct impact on the lifesaving passive restraint standard. The standard is scheduled to go into effect beginning in 1982. This amendment, however, is an amendment to a 1-year bill authorizing the appropriations of funds for carrying out the National Traffic and Motor Vehicle Safety Act for fiscal year 1980 only. Further, the amendment continues to allow for the installation of airbags or passive seatbelts, while providing for an additional option—active seatbelts. This is an option which would have existed regardless of whether this 1-year amendment was adopted.

I accept this amendment because it is only a symbolic amendment with no real or direct legal impact on the Department of Transportation's passive restraint standard.

Mr. STOCKMAN. I appreciate the support of the chairman of the committee on this. As I tried to indicate before, this is a proposal we have not voted on previously. This is a compromise solution that is designed to mandate the introduction of these things into the market, mandate the offering of passive restraints on every car that is sold by any manufacturer in the U.S. market, but give the consumer the choice of which system he will actually choose to have on his car.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from Washington.

Mr. DICKS. I thank the gentleman for yielding.

I was just curious. The gentleman from Michigan (Mr. STOCKMAN) is very knowledgeable in this area, and I think his suggestion here is beneficial. Could he tell me, do the auto manufacturers approve of this kind of an approach? Are they willing to enter into this kind of endeavor?

Mr. STOCKMAN. I will tell the gentleman, first, that my principal concern is not what the auto manufacturers think.

Mr. DICKS. I am very concerned about it.

Mr. STOCKMAN. I am concerned about the consumer. Second, my impression and expectation would be that they may have some slight reservations because they are going to have an initial problem of not knowing precisely how many passive restraint cars to make, how many active restraint cars to make, and so forth. But it seems to me our primary concern ought to be the consumer; our primary concern ought to be safety.

Mr. DICKS. I agree with the gentleman.

Mr. STOCKMAN. By this kind of amendment we further safety. We reduce the level of fatalities, but at the same time we do not run roughshod over the consumer.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from North Carolina.

Mr. BROYHILL. I thank the gentleman for yielding. The chairman of the subcommittee has accepted it for the majority side. I have had an opportunity to discuss and study this amendment with the gentleman from Michigan and would accept it for this side of the aisle as well.

Mr. STOCKMAN. I appreciate the gentleman's support. I had more to say about this amendment, but, obviously, since it is attaining such overwhelming support, I will rest my case.

Mr. MILLER of Ohio. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from Ohio.

Mr. MILLER of Ohio. I thank the gentleman for yielding.

Only yesterday the House considered a bill approving a loan guarantee for Chrysler. It is my understanding that Chrysler has stated that three reasons for their problems were: First, the need to increase the rate of miles per gallon; second, the installation of costly environmental equipment; and, third, the requirement to redesign 1982 model cars to accept airbags. Is this amendment, then, also applicable to the other auto manufacturers, Ford, General Motors, and American Motors? Are we creating a situation whereby they will be here next year detailing the same problems now facing Chrysler? Chrysler has stated that they experienced a $167 million deficit due to Federal Government mandates and regulations.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. MILLER of Ohio, and by unanimous consent, Mr. STOCKMAN was allowed to proceed for 2 additional minutes.)

Mr. MILLER of Ohio. Will the gentleman yield further?

Mr. STOCKMAN. I will be happy to.

Mr. MILLER of Ohio. To continue: Do conditions now exist that would force other car manufacturers to absorb expenses which played a part in the financial difficulties hitting Chrysler? And, by putting other manufacturers in that position, will they, too, be asking the Government for assistance next year? Will this amendment help reduce costs to the manufacturer?

Mr. STOCKMAN. Let me respond in two ways to the gentleman. First of all, there is an enormous regulatory cost, but I would suggest to the gentleman that most of it involves complying with the fuel economy standards and emission standards. The safety feature, the third element, is far less in terms of cost.

I hope the gentleman understands there is now pending a standard which will require the offering of passive restraint systems on every car produced in 1982 and subsequent years. My amendment would mitigate and lessen that situation to some considerable degree by giving the consumer the right to choose, and my point is that many would choose the active system, which is the shoulder harness system, that is on the cars today. To that extent it would reduce some of the cost to Chrysler and to the other auto manufacturers.

Mr. MILLER of Ohio. I think it is a step in the right direction.

Mr. STOCKMAN. Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. STOCKMAN).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. BROYHILL. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. LEVITAS

Mr. LEVITAS. Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. LEVITAS: Page 3, after line 21, add the following new title:

TITLE III—CONGRESSIONAL VETO OF RULES

PROCEDURE FOR CONGRESSIONAL VETO

SEC. 301. (a) The Secretary of Transportation shall transmit to the Secretary of the Senate and the Clerk of the House of Representatives a copy of any rule promulgated with funds appropriated under this Act or relating to the use of funds appropriated under this Act.

(b) Any rule specified in subsection (a) shall not take effect, if—

(1) within the 90 calendar days of continuous session of the Congress which occur after the date of the promulgation of such rule, both Houses of the Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows (with the blank spaces appropriately filled): "That the Congress disapproves the rule promulgated by the Secretary of Transportation with respect to , such rule having been transmitted to the Congress on

."; or

(2) within the 60 calendar days of continuous session of the Congress which occur after the date of the promulgation of such rule, one House of the Congress adopts such concurrent resolution and transmits such resolution to the other House and such resolution is not disapproved by such other House within the 30 calendar days of continuous session of the Congress which occur after the date of such transmittal.

(c) If, within the 60 calendar days of continuous session of the Congress after the date of the promulgation of such rule, no committee of either House of the Congress has reported, or has been discharged from further consideration of, a concurrent resolution disapproving the rule involved, and neither House has adopted such resolution, the rule may take effect immediately. If, within such 60 calendar days, a committee has reported, or has been discharged from further consideration of, such resolution, or either House has adopted such resolution, the rule may not take effect before the end of the period of 90 calendar days of continuous session of the Congress after the date of the promulgation of such rule, unless such rule is disapproved under subsection (a).

(d) For purposes of this section—

(1) continuity of session is broken only by an adjournment of the Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the periods of continuous session of the Congress specified in subsection (b) and subsection (c).

(e) Congressional inaction on, or rejection of, a resolution of disapproval pursuant to this section shall not be deemed an expression of approval.

REPEALER

SEC. 302. The foregoing provisions of this title are repealed, effective at the end of fiscal year 1980.

Mr. LEVITAS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. LEVITAS. Mr. Chairman, first of all, I would like to commend the chairman of the subcommittee for bringing this legislation to the floor. I think that his statement earlier during the course of the debate, that his subcommittee will exercise close scrutiny and oversight of this and the other regulatory agencies under his jurisdiction, is very encouraging not only to the Members of this House but I think to the citizens and the consumers in the United States. The amendment which I offer, Mr. Chairman, provides that there should be a legislative veto of rules and regulations issued by the National Highway Traffic Safety Administration. There is already precedent for this. Two of the subject matters (seatbelts and schoolbuses) which the National Highway Traffic Safety Administration has jurisdiction over are already subject to congressional veto. This amendment would simply extend a congressional veto to the other rules and regulations which this Agency has the authority to issue. We do not have that authority now and, therefore, we cannot review the vast majority of rules covering all areas of passenger vehicle safety which NHSTA can promulgate.

NHSTA has broad rulemaking authorities under the two acts covered by this authorization. Almost anything relating to the safety of passenger vehicles can and has been the subject of NHSTA rulemaking action. For example, the agency has established regulatory standards for: hood latches, motor vehicle brake fluids, power operated window systems, head restraints, motorcycle helmets, child seating systems, side door strength, roof crush resistance, wheel nuts, discs and hub caps, windshield mounting, and door locks just to name a few. The list is long and the specific regulations about each item are quite detailed.

The question is not whether these regulations do or do not apply to traffic safety. They do. The question is whether these regulations are what the Congress intended when it gave NHTSA the authority to make them? I suggest that we cannot know unless Congress has the authority to review and, if necessary, veto these regulations before they become final. We should not leave such decisions to unelected bureaucrats any more than we allowed the seatbelt standards to be finalized without congressional review.

This amendment will make this Agency accountable through the Congress to the people. It is an amendment which would improve the credibility of the Agency, and I urge the adoption of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. LEVITAS).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill? If not, under the rule, the Committee rises.

☐ 1410

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BENNETT) having assumed the chair, Mr. ERTEL, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2585) to amend the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act to authorize appropriations for fiscal years 1980 and 1981, pursuant to House Resolution 320, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment adopted by the Committee of the Whole?

Mr. EDWARDS of Oklahoma. Mr. Speaker, I demand a separate vote on the so-called Stockman amendment.

The SPEAKER pro tempore. Is a separate vote demanded on any other amendment? If not, the Chair will put them en gross.

The amendments were agreed to.

The SPEAKER pro tempore. The Clerk will report the amendment upon which a separate vote has been demanded.

The Clerk read as follows:

Amendment: Page 2, after line 14, insert the following new section:

OCCUPANT RESTRAINT SYSTEMS

SEC. 102. None of the funds authorized to be appropriated under this Act for the purpose of carrying out the National Traffic and Motor Vehicle Safety Act of 1966 may be used by the Secretary of Transportation to enforce or otherwise administer any standard or regulation which requires any passenger car to be equipped with an occupant restraint system unless such standard or regulation also permits the purchaser of a passenger car to select any occupant restraint system which, if installed in the passenger car purchased by such purchaser would comply with the requirements of Federal Motor Vehicle Safety Standard Number 208 (49 Code of Federal Regulations 571.208), relating to the installation of active seat-belt systems, as in effect at the end of June 29, 1977. For the purpose of this section, the term "purchaser" includes a retail dealer purchasing a new passenger car for resale.

Mr. LEVITAS (during the reading). Mr. Speaker, I ask unanimous consent the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 320, nays 73, not voting 40, as follows:

[Roll No. 749]

YEAS—320

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Andrews, N.C.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Dornan
Dougherty
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gilman
Gingrich
Glickman
Goldwater
Goodling
Gradison
Gramm
Grassley
Gray
Grisham
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Hopkins
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
Jeffries
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Long, Md.
Lott
Lujan
Luken
Lundine
Lungren
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mica
Michel
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nowak
O'Brien
Oakar
Panetta
Pashayan
Patten
Patterson
Paul
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Rousselot
Royer
Rudd
Russo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stockman
Stokes
Stump
Swift
Tauke
Taylor
Thomas
Thompson
Traxler
Treen
Trible
Udall
Ullman
Vander Jagt
Vanik
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Tex.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Zablocki
Zeferetti

NAYS—73

Anderson, Calif.
AuCoin
Barnes
Bedell
Beilenson
Bingham
Bouquard
Burton, John
Clay
Corman
Danielson
Davis, S.C.
Dellums
Dicks
Donnelly
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Fascell
Foley
Garcia
Gibbons
Gonzalez
Gore
Green
Guarini
Hall, Ohio
Hanley
Harkin
Harris
Holland
Hollenbeck
Howard
Jenrette
Johnson, Calif.
Kastenmeier
Kildee
Long, La.
Lowry
McCormack
Maguire
Markey
Mazzoli
Mikulski
Miller, Calif.
Moffett
Mottl
Nelson
Nolan
Oberstar
Obey
Ottinger
Pease
Pepper
Rhodes
Rosenthal
Roybal
Sabo
Seiberling
Shannon
St Germain
Stark
Stewart
Stratton
Studds
Vento
Waxman
Weiss
Wirth
Wolpe
Young, Mo.

NOT VOTING—40

Anderson, Ill.
Andrews, N. Dak.
Beard, R.I.
Brooks
Burton, Phillip
Crane, Philip
Deckard
Dixon
Edwards, Calif.
Flood
Florio
Fowler
Giaimo
Ginn
Gudger
Heckler
Holt
Holtzman
Horton
Ichord
Jeffords
Lehman
Loeffler
McClory
McCloskey
Mitchell, Md.
Murphy, Ill.
Richmond
Runnels
Santini
Sebelius
Simon
Symms
Synar
Van Deerlin
White
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Yates

☐ 1420

The Clerk announced the following pairs:

Mr. Richmond with Mr. Anderson of Illinois.

Mr. Ginn with Mr. Gudger.

Mr. Santini with Mr. Sebelius.

Mr. Phillip Burton with Mr. Bob Wilson.

Mr. Edwards of California with Mr. Synar.

Mr. Florio with Mr. Horton.

Mr. Mitchell of Maryland with Mr. Andrews of North Dakota.

Mr. Murphy of Illinois with Mr. Philip M. Crane.

Mr. Van Deerlin with Mrs. Holt.

Mr. Yates with Mr. McClory.

Mr. Charles H. Wilson of California with Mr. Loeffler.

Mr. Lehman with Mrs. Heckler.

Mr. Brooks with Mr. Symms.

Mr. Beard of Rhode Island with Mr. Williams of Ohio.

Mr. Giaimo with Mr. Jeffords.

Mr. Fowler with Mr. McCloskey.

Ms. Holtzman with Mr. Deckard.

Mr. Ichord with Mr. Flood.

Mr. White with Mr. Runnels.

Mr. Dixon with Mr. Simon.

Messrs. LOWRY, DELLUMS, WOLPE, McCORMACK, GONZALEZ, HARKIN, BEDELL, YOUNG of Missouri, BEILENSON, DICKS, and Mrs. BOUQUARD changed their votes from "yea" to "nay."

Messrs. RODINO, LATTA, and GRAY changed their votes from "nay" to "yea."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

☐ 1430

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2585

Mr. SCHEUER. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 2585, the Clerk be authorized to correct section numbers, punctuation, and cross-references to reflect the action of the House just taken in amending the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. SCHEUER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1159) to authorize appropriations for the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. BROYHILL. Mr. Speaker, reserving the right to object to the request, I would just like to ask the gentleman from New York (Mr. Scheuer) what he is intending to do by taking up another bill which has different amendments in it. I am not sure what the action is.

Mr. SCHEUER. Mr. Speaker, if the gentleman will yield, the Senate has already passed a bill which is identical to ours except for the amendments, and I am simply asking that we accept the Senate bill and insert the amendments in it.

Mr. BROYHILL. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1159

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 121 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1409) is amended by (1) striking out "and" immediately after "1977,", and (2) inserting immediately after "1978" the following: ", $60,000,000 for the fiscal year ending September 30, 1980, $70,000,000 for the fiscal year ending September 30, 1981, and $70,000,000 for the fiscal year ending September 30, 1982".

(b) Section 111 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1921) is amended by adding the following at the end thereof: "There are authorized to be appropriated to carry out this title $400,000 for fiscal year 1980, $450,000 for fiscal year 1981, and $450,000 for fiscal year 1982.".

(c) Section 209 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1949) is amended by (1) striking out "and" immediately after "1977;", and (2) inserting "; $2,400,000 for the fiscal year ending September 30, 1980; $3,000,000 for the fiscal year ending September 30, 1981; and $3,000,000 for the fiscal year ending September 30, 1982" immediately after "1978".

(d) Section 417 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1990g) is amended by (1) striking out "and" immediately after "1977;", and (2) inserting "; $500,000 for the fiscal year ending September 30, 1980; $500,000 for the fiscal year ending September 30, 1981; and $500,000 for the fiscal year ending September 30, 1982" immediately after "1978".

BUMPER STANDARDS

Sec. 2. Section 102 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1912) is amended by adding at the end thereof the following new subsection:

"(f)(1) Notwithstanding any other provision of this Act, and except as provided in paragraph (2) of this subsection or by further Act of Congress, any impact test velocity specified in the bumper standard established in part 581 of title 49, Code of Federal Regulations, as in effect on the effective date of this subsection, shall be 2.5 miles per hour.

"(2) The Secretary shall not have any authority to establish any impact test velocity exceeding 2.5 miles per hour before September 1, 1984. The provisions of this section shall be effective on the date of enactment of this subsection.".

ANNUAL REPORT ON BUMPER STANDARDS

Sec. 3. (a) Section 112 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1922) is amended to read as follows:

"REPORTS

"Sec. 112. As a separate part of the comprehensive report submitted under section 120(a) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1408(a)), the Secretary shall submit to the President for transmittal to the Congress an annual report on the progress made during the reporting period on carrying out the purposes of this title. Such report shall include a statement of the cost savings that have resulted from the administration of this title, and such recommendations for further legislative or other action as the Secretary determines may be appropriate.".

(b) Section 120(a) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1408(a)) is amended by adding at the end thereof the following: "In addition, such comprehensive report shall include, as a separate part, the annual report required under section 112 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1922).".

ODOMETER EXEMPTIONS

Sec. 4. Section 408 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1988) is amended by adding the following at the end thereof:

"(d) In prescribing rules under this section, the Secretary may exempt those classes of motor vehicles for which the Secretary finds that odometer readings have no meaningful relation to value or performance. In making such an exemption, the Secretary shall publish, along with the rule containing the exemption, the findings of fact which support the exemption and a detailed analysis of the reasons for such exemption.".

TIRE REGISTRATION

Sec. 5. Section 158(b) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1418(b)) is amended by inserting the following new sentence immediately before the last sentence of such section: "The Secretary shall not establish any rule which requires a dealer or distributor to complete or compile such records or information, but the Secretary shall require any such dealer or distributor to furnish the first purchaser of a tire with a form (containing the tire identification number of such tire) which such purchaser may complete and return directly to the manufacturer of the tire which he has purchased.".

FIFTY-FIVE-MILE-PER-HOUR SPEED LIMIT

Sec. 6. Section 205(e) of Public Law 95–599 is amended by striking the words "all vehicles or".

MOTION OFFERED BY MR. SCHEUER

Mr. SCHEUER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Scheuer moves to strike out all after the enacting clause of the Senate bill, S. 1159, and to insert in lieu thereof the provisions of H.R. 2585, as passed, as follows:

SHORT TITLE

Section 1. This Act may be cited as the National Traffic and Motor Vehicle Information and Cost Saving Authorizations Act".

TITLE I—TRAFFIC AND MOTOR VEHICLE SAFETY

AUTHORIZATION OF APPROPRIATION

Sec. 101. Section 121 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1409) is amended to read as follows:

"Sec. 121. There are authorized to be appropriated for the purpose of carrying out this Act $48,500,000 for fiscal year 1980.".

OCCUPANT RESTRAINT SYSTEMS

Sec. 102. None of the funds authorized to be appropriated under this Act for the purpose of carrying out the National Traffic and Motor Vehicle Safety Act of 1966 may be used by the Secretary of Transportation to enforce or otherwise administer any standard or regulation which requires any passenger car to be equipped with an occupant restraint system unless such standard or regulation also permits the purchaser of a passenger car to select any occupant restraint system which, if installed in the passenger car purchased by such purchaser, would comply with the requirements of Federal Motor Vehicle Safety Standard Number 208 (49 Code of Federal Regulations 571.208), relating to the installation of active seat belt systems, as in effect at the end of June 29, 1977. For the purposes of this section, the term "purchaser" includes a retail dealer purchasing a new passenger car for resale.

TITLE II—MOTOR VEHICLE INFORMATION AND COST SAVINGS

BUMPER STANDARDS

Sec. 201. Section 111 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1921) is amended by adding at the end thereof the following new sentence: "There are authorized to be appropriated to carry out this title $400,000 for fiscal year 1980.".

AUTOMOBILE CONSUMER INFORMATION STUDY

Sec. 202. Section 209 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1949) is amended by adding at the end thereof the following new sentence: "There are authorized to be appropriated to carry out this title $2,400,000 for fiscal year 1980.".

DIAGNOSTIC INSPECTION DEMONSTRATION PROJECTS

Sec. 203. Section 321 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1964) is amended by inserting after the first sentence thereof the following new sentence: "There are authorized to be appropriated to carry out this title $1,400,000 for fiscal year 1980.".

ODOMETER REQUIREMENTS

Sec. 204. Section 417 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1990g) is amended by adding at the end thereof the following new sentence: "There are authorized to be appropriated to carry out this title $300,000 for fiscal year 1980.".

TITLE III—CONGRESSIONAL VETO OF RULES

PROCEDURE FOR CONGRESSIONAL VETO

Sec. 301. (a) The Secretary of Transportation shall transmit to the Secretary of the Senate and the Clerk of the House of Representatives a copy of any rule promulgated with funds appropriated under this Act or relating to the use of funds appropriated under this Act.

(b) Any rule specified in subsection (a) shall not take effect, if—

(1) within the 90 calendar days of continuous session of the Congress which occur after the date of the promulgation of such rule, both Houses of the Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows (with the blank spaces appropriately filled): "That the Congress disapproves the rule promulgated by the Secretary of Transportation with respect to ------------, such rule having been transmitted to the Congress on ------------."; or

(2) within the 60 calendar days of continuous session of the Congress which occur after the date of the promulgation of such rule, one House of the Congress adopts such concurrent resolution and transmits such resolution to the other House and such resolution is not disapproved by such other House within the 30 calendar days of continuous

session of the Congress which occur after the date of such transmittal.

(c) If, within the 60 calendar days of continuous session of the Congress after the date of the promulgation of such rule, no committee of either House of the Congress has reported, or has been discharged from further consideration of, a concurrent resolution disapproving the rule involved, and neither House has adopted such resolution, the rule may take effect immediately. If, within such 60 calendar days, a committee has reported, or has been discharged from further consideration of, such resolution, or either House has adopted such resolution, the rule may not take effect before the end of the period of 90 calendar days of continuous session of the Congress after the date of the promulgation of such rule, unless such rule is disapproved under subsection (a).

(d) For purposes of this section—

(1) continuity of session is broken only by an adjournment of the Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the periods of continuous session of the Congress specified in subsection (b) and subsection (c).

(e) Congressional inaction on, or rejection of, a resolution of disapproval pursuant to this section shall not be deemed an expression of approval.

REPEALER

SEC. 302. The foregoing provisions of this title are repealed, effective at the end of fiscal year 1980.

Amend the title so as to read: "An Act to amend the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act to authorize appropriations for fiscal year 1980.".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 2585) was laid on the table.

GENERAL LEAVE

Mr. SCHEUER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, H.R. 2585.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendments of the House with amendments to bills of the Senate of the following titles:

S. 440. An act to revise and extend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970; and

S. 525. An act to amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1442. An act to authorize the documentation of the vessel, *Sara*, as a vessel of the United States with coastwise privileges; and

S. 1850. An act to authorize the conveyance of lands in the city of Hot Springs, Ark.; and

S. 1863. An act to authorize the Secretary of Commerce to charter the nuclear ship *Savannah* to Patriots Point Development Authority, an agency of the State of South Carolina.

MEMBERS URGED TO SIGN CHRISTMAS CARD TO HOSTAGES

(Mr. RHODES asked and was given permission to address the House for 1 minute.)

Mr. RHODES. Mr. Speaker, some days ago a Christmas card to the hostages in Iran was prepared, and many of the Members of the House have already signed it; some have not.

The card was sent to the other body, and it is my understanding that all 100 Members of the other body have signed the card. The card is now in the Speaker's lobby.

It would certainly be my hope and, I am sure, the hope of the leadership on both sides of the aisle that any Member who has not signed the card would please sign the card as rapidly as possible so we may send it on its way to show our collective support for our fellow countrymen held hostage abroad.

CONFERENCE REPORT ON H.R. 2440, AIRPORT AND AIRWAY DEVELOPMENT ACT

Mr. ANDERSON of California submitted the following conference report and statement on the bill (H.R. 2440) to repeal the prohibition against the expenditure of certain discretionary funds under the Airport and Airway Development Act of 1970:

CONFERENCE REPORT (H. REPT. No. 96–715)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2440) to repeal the prohibition against the expenditure of certain discretionary funds under the Airport and Airway Development Act of 1970, to the text of the bill having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Aviation Safety and Noise Abatement Act of 1979".

TITLE I

SEC. 101. For purposes of this title—

(1) the term "airport" means any air carrier airport whose projects for airport development are eligible for terminal development costs under section 20(b) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1720(b));

(2) the term "airport operator" means any person holding a valid certificate issued pursuant to section 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1432) to operate an airport; and

(3) the term "Secretary" means the Secretary of Transportation.

SEC. 102. Not later than the last day of the twelfth month which begins after the date of enactment of this Act, the Secretary, after consultation with the Administrator of the Environmental Protection Agency and such other Federal, State, and interstate agencies as he deems appropriate, shall by regulation—

(1) establish a single system of measuring noise, for which there is a highly reliable relationship between projected noise exposure and surveyed reactions of people to noise, to be uniformly applied in measuring the noise at airports and the areas surrounding such airports;

(2) establish a single system for determining the exposure of individuals to noise which results from the operations of an airport and which includes, but is not limited to, noise intensity, duration, frequency, and time of occurrence; and

(3) identify land uses which are normally compatible with various exposures of individuals to noise.

SEC. 103. (a)(1) After the effective date of the regulations promulgated in accordance with section 102 of this title, any airport operator of an airport may submit to the Secretary a noise exposure map, prepared in consultation with any public agencies and planning agencies in the area surrounding such airport, which sets forth, in accordance with the regulations promulgated pursuant to section 102, the noncompatible uses in each area of the map, as of the date of submission of such map, a description of the projected aircraft operations at such airport during 1985, and the ways, if any, in which such operations will affect such map.

(2) If, after the submission to the Secretary of a noise exposure map under paragraph (1), any change in the operation of an airport would create any substantial new noncompatible use in any area surrounding such airport, the operator of such airport shall submit a revised noise exposure map showing such new noncompatible use.

(b)(1) Section 11 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1711) is amended by renumbering paragraphs (6) through (21), and all references thereto, as paragraphs (7) through (22), respectively, and by adding immediately after paragraph (5) the following new paragraph:

"(6) 'Airport noise compatibility planning' means the development for planning purposes of information necessary to prepare and submit (A) the noise exposure map and related information pursuant to section 103 of the Aviation Safety and Noise Abatement Act of 1979, including any cost associated with obtaining such information, or (B) a noise compatibility program for submission pursuant to section 104 of such Act.".

(2)(A) Section 13(a) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1713) is amended by—

(i) inserting "(1)" immediately before the first sentence thereof; and

(ii) adding at the end thereof the following new paragraph:

"(2) In order to promote the development of an effective noise compatibility program, for fiscal years beginning after September 30, 1979, the Secretary may make grants of funds for airport noise compatibility planning to sponsors of those air carrier airports whose projects for airport development are eligible for terminal development costs under section 20(b) of this title.".

(B) Section 13(b) of such Act is amended to read as follows:

"(b) AMOUNT AND LIMITATION OF GRANTS.—(1) The award of grants under subsection (a)(1) of this section is subject to the following limitations:

"(A) The total funds obligated for grants under subsection (a)(1) of this section may not exceed $150,000,000, and the amount obligated in any one fiscal year may not exceed $15,000,000.

"(B) The United States share of any airport master planning grant under this section shall be that per centum for which a project for airport development at that airport would be eligible under section 17 of this Act. In the case of any airport system planning grant under this section, the United States share shall be 75 percent.

"(C) No more than 10 percent of the funds made available under subsection (a)(1) of this section in any fiscal year may be allocated for projects within a single State, the Commonwealth of Puerto Rico, the Virgin Islands, America Samoa, the Trust Territory of the Pacific Islands, or Guam. Grants for projects encompassing an area located in two or more States shall be charged to each State in the proportion which the number of square miles the project encompasses in each State bears to the square miles encompassed by the entire project.

"(2)(A) The total funds obligated for grants under subsection (a)(2) of this section may not exceed $15,000,000.

"(B) The United States share of any airport noise compatibility planning grant under this section shall be that percent for which a project for airport development at that airport would be eligible under section 17 of this Act.".

Sec. 104. (a) Any airport operator who has submitted a noise exposure map and the related information pursuant to section 103 (a)(1) may, after consultation with the officials of any public agencies and planning agencies in the area surrounding such airport, the Federal officials having local responsibility for such airport, and any air carriers using such airport, submit a noise compatibility program to the Secretary. Such program shall set forth the measures which such operator has taken or proposes for the reduction of existing noncompatible uses and the prevention of the introduction of additional noncompatible uses within the area covered by the noise exposure map submitted by such operator. Such measures may include, but are not limited to—

(1) the implementation of any preferential runway system;

(2) the implementation of any restriction on the use of such airport by any type or class of aircraft based on the noise characteristics of such aircraft;

(3) the construction of barriers and acoustical shielding including the soundproofing of public buildings;

(4) the use of flight procedures to control the operation of aircraft to reduce exposure of individuals to noise in the area surrounding the airport; and

(5) acquisition of land and interests therein, including, but not limited to, air rights, easements, and development rights, so as to assure the use of property for purposes which are compatible with airport operations.

(b) The Secretary shall approve or disapprove any program submitted to him pursuant to subsection (a) (other than as such program relates to flight procedures referred to in subsection (a)(4) of this section) within one hundred and eighty days after it is received by him. The Secretary shall approve such program (other than as such program relates to flight procedures referred to in subsection (a)(4) of this section) (A) if the measures to be undertaken in carrying out such program (i) do not create an undue burden on interstate or foreign commerce, and (ii) are reasonably consistent with obtaining the goal of reducing existing noncompatible uses and preventing the introduction of additional noncompatible uses, and (B) if the program provides for its revision made necessary by any revised noise exposure map submitted under section 103(a)(2) of this title. Failure of the Secretary to approve or disapprove such program (other than as such program relates to flight procedures referred to in subsection (a)(4) of this section) within such time period shall be deemed to be an approval of such program. With respect to any part of such program which relates to such flight procedures, the Secretary shall provide such part of such program to the Administrator of the Federal Aviation Administration who shall either approve or disapprove such part of such program.

(c)(1) The Secretary is authorized to incur obligations to make grants under this Act from funds made available under subsection (e) of this section for any project to carry out a noise compatibility program or parts thereof not disapproved under subsection (b) of this section. Grants under this Act may be made to operators of airports submitting noise compatibility programs and to units of local government in the area surrounding such airports if the Secretary determines such units have the capability to carry out projects for which grant applications are made in accordance with such noise compatibility programs. Such airport operator may in turn agree to make the grant available to public agencies in the area surrounding such airports if the Secretary determines such agencies have the capability to carry out projects for which grant applications are made in accordance with such noise compatibility programs. The Federal share of any project for which a grant is made under this subsection shall be 80 percent of the cost of the project. All of the provisions of the Airport and Airway Development Act of 1970 applicable to grants made under that Act (except section 17 of those provisions relating to apportionment) shall be applicable to any grant made under this Act, unless the Secretary determines that any provision of such Act of 1970 is inconsistent with, or unnecessary to carry out the purposes of this Act.

(2) The Secretary, further, is authorized under this section to make grants to operators of airports and to units of local government referred to in paragraph (1) for any project to carry out a noise compatibility program developed prior to the enactment of this Act or the promulgation of its implementing regulations if the Secretary determines that such prior program is substantially consistent with the purposes of reducing existing uses and preventing the introduction of additional noncompatible uses and that the purposes of this Act be furthered by prompt implementation of such program.

(d) The United States shall not be liable for damages resulting from aviation noise by reason of any action taken by the Secretary or the Administrator of the Federal Aviation Administration under this section.

(e) The Secretary shall obligate from funds available for expenditure under section 14(a)(3) of the Airport and Airway Development Act of 1970, not less than $25,000,000, for the fiscal year ending September 30, 1980, for making grants under subsection (c) of this section.

Sec. 105. The Secretary, acting through the Administrator of the Federal Aviation Administration, after consultation with the officials of any public agencies or planning agencies in the area surrounding such airport, shall prepare and publish a noise exposure map and a noise compatibility program for the airport established by the Act of June 29, 1940 (54 Stat. 686), and the airport the construction of which was authorized by the Act of September 7, 1950 (64 Stat. 770). Such map and program shall be prepared and published in accordance with the requirements of this Act no later than 1 year after the effective date of the regulations promulgated in accordance with section 102 of this Act.

Sec. 106. No part of any noise exposure map or related information described in section 103(a) submitted to, or prepared by, the Secretary and no part of the list of land uses identified by the Secretary as land uses which are normally compatible with various exposures of individuals to noise shall be admitted as evidence, or used for any other purpose, in any suit or action seeking damages or other relief for the noise that results from the operation of an airport.

Sec. 107. (a) No person who acquires property or an interest therein after the date of enactment of this Act in an area surrounding an airport with respect to which a noise exposure map has been submitted under section 103 of this title shall be entitled to recover damages with respect to the noise attributable to such airport if such person had actual or constructive knowledge of the existence of such noise exposure map unless, in addition to any other elements for recovery of damages, such person can show that—

(1) a significant change in the type or frequency of aircraft operations at the airport; or

(2) a significant change in the airport layout; or

(3) a significant change in the flight patterns; or

(4) a significant increase in nighttime operations;

occurred after the date of the acquisition of such property or interest therein and that the damages for which recovery is sought have resulted from any such change or increase.

(b) For purposes of this section, constructive knowledge shall be imputed, at a minimum, to any person who acquires property or an interest therein in an area surrounding an airport after the date of enactment of this Act if—

(1) prior to the date of such acquisition, notice of the existence of a noise exposure map for such area was published at least three times in a newspaper of general circulation in the county in which such property is located; or

(2) a copy of such noise exposure map is furnished to such person at the time of such acquisition.

Sec. 108. The Secretary shall study (1) airport noise compatibility planning carried out with grants made under section 13 of the Airport and Airway Development Act of 1970, and (2) airport noise compatibility programs carried out with grants made under this title to determine to what extent such planning and programs are achieving the goals of reducing existing noncompatible uses of land around airports and preventing the introduction of new noncompatible uses around airports. Not later than January 1, 1981, the Secretary shall submit a report to Congress setting forth the determinations made pursuant to such studies together with legislative recommendations, if any, which the Secretary determines necessary.

TITLE II

Sec. 201. (a) Paragraph (3) of subsection (a) of section 14 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714) is amended by striking out "$525,000,000 for fiscal year 1980." and inserting in lieu thereof $569,000,000 for fiscal year 1980.".

(b) Paragraph (4) of subsection (a) of section 14 of the Airport and Airway Development Act of 1970 is amended by striking out $85,000,000 for fiscal year 1980." and inserting in lieu thereof $98,000,000 for fiscal year 1980.".

(c) The last sentence of paragraph (2) of subsection (b) of section 14 of the Airport and Airway Development Act of 1970 is hereby repealed.

(d) Subsection (e) of section 14 of the Airport and Airway Development Act of 1970 is amended by adding at the end thereof the following new sentence: "If in fiscal year 1980, or in any subsequent fiscal year, the total amount obligated under subsection (c) of this section in such fiscal year is less than the minimum amount made available for obligation under such subsection for such fiscal year, the amount available for obligation or expenditure as determined under the preceding sentence of this subsection shall be reduced by an amount equal to the difference between the amount made available under subsection (c) for such fiscal year and the total amount obligated under such subsection (c) for such fiscal year.".

(e) Subsections (a), (c), and (d) of section 14 of the Airport and Airway Development Act of 1970 are amended by inserting the phrase "or more than" immediately after the words "not less than" each time those words appear therein.

SEC. 202. (a) Paragraph (4) of subsection (a) of section 15 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1715(a)(4)) is amended by striking out "and minus $15,000,000 in the case of each of the fiscal years 1977 through 1980," and inserting in lieu thereof "and minus $15,000,000 in the case of fiscal years 1977 through 1979, and minus $20,000,000 in the case of fiscal year 1980,".

(b) Paragraph (4) of subsection (a) of section 15 of the Airport and Airway Development Act of 1970 is further amended by striking out "and $15,000,000 of the amount made available for each of the other fiscal years" and inserting in lieu thereof "$15,000,000 of the amount made available for each of the fiscal years 1977 through 1979, and $20,000,000 of the amount made available for fiscal year 1980".

SEC. 203. Paragraph (2)(A) of subsection (a) of section 17 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1717) is amended by striking out "1980," and inserting in lieu thereof "shall be 90 per centum of the allowable project costs in the case of grants from funds for fiscal year 1980,".

SEC. 204. Subparagraph (A) of section 208(f)(1) of the Airport and Airway Revenue Act of 1970, as amended (49 U.S.C. 1742(f)(1)(A)) is amended by striking out all after "1976" and inserting in lieu thereof "or of the Aviation Safety and Noise Abatement Act of 1979 (as such Acts were in effect on the date of enactment of the Aviation Safety and Noise Abatement Act of 1979);".

SEC. 205. Subsection (c) of section 16 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1716(c)) is amended by adding at the end thereof the following new paragraph:

"(5) Notwithstanding any other provision of law, the Secretary may approve an application for an airport development project (other than an airport development project to which subsection (d)(1) applies) at an existing airport without requiring the preparation of an environmental impact statement with respect to noise for such project if:

"(A) completion of the project would allow existing aircraft operations at the airport that involve aircraft that do not comply with the noise standards prescribed for 'stage 2' aircraft in 14 CFR 36.1 to be replaced by aircraft operations involving aircraft that do comply with such standards;

"(B) the project complies with all other statutory and administrative requirements imposed under this Act.".

SEC. 206. Part II of the Airport and Airway Development Act of 1970 (49 U.S.C. 1711 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 31. Notwithstanding any other provision of this title, no airport development project involving the construction or extension of any runway may be approved by the Secretary at any general aviation airport located astride a line separating two counties within a single State if, before the submission of such project to the Secretary, such project has not been approved by the governing body of any village incorporated under the laws of that State which is located entirely within five miles of the nearest boundary of such airport.".

TITLE III

DEFINITIONS

SEC. 301. For purposes of this title—

(1) the term "noncomplying aircraft" means any civil subsonic turbojet powered aircraft (A) which (i) has a maximum certificated takeoff weight of 75,000 pounds or more, and (ii) in the case of an aircraft registered in the United States, has a standard airworthiness certificate issued pursuant to section 603(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1423), and (B) which does not comply with the noise standards prescribed for new subsonic aircraft in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration (14 CFR part 36), as such regulations were in effect on January 1, 1977; and

(2) the term "Secretary" means the Secretary of Transportation.

COMPLIANCE FOR INTERNATIONAL CARRIERS

SEC. 302. (a) If, by January 1, 1980, the International Civil Aviation Organization (hereafter referred to as "ICAO") does not reach an agreement (1) which adopts the noise standards prescribed for new subsonic aircraft in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration (14 CFR part 36), as such regulations were in effect on January 1, 1977, or (2) on noise standards and an international schedule for compliance with ICAO Noise Standards (annex 16) which are substantially compatible with the standards set forth in such regulations issued by the Secretary (14 CFR parts 36 and 91), the Secretary, acting through the Administrator, shall commence a rulemaking to require all air carriers and foreign air carriers engaging in foreign air transportation to comply with the noise standards set forth in such regulations (14 CFR parts 36 and 91) or with ICAO Noise Standards (annex 16) which are substantially compatible with the standards set forth in such regulations issued by the Secretary (14 CFR parts 36 and 91) during the 5-year period thereafter, at a phased rate of compliance similar to that in effect for aircraft registered in the United States. The requirement applied to air carriers engaging in foreign air transportation shall not be more stringent than those applied to foreign air carriers. Such rulemaking shall be concluded within 120 days.

(b) If, prior to January 1, 1980, the International Civil Aviation Organization reaches an agreement on noise standards that complies with clause (a)(1) or (a)(2) of this section, the Secretary, acting through the Administrator of the Federal Aviation Administration, shall immediately commence a rulemaking to require all air carriers and foreign air carriers engaging in foreign air transportation to comply with the noise standards set forth in such agreement at a phased rate of compliance similar to that in effect for aircraft registered in the United States. The requirement applied to air carriers engaging in foreign air transportation shall not be more stringent than those applied to foreign air carriers. Such rulemaking shall be concluded within 120 days.

NEW TECHNOLOGY AIRCRAFT INCENTIVE

SEC. 303. (a) The Secretary shall provide an exemption from applicable noise standards to permit the operation of any noncomplying three-engine aircraft, but not beyond January 1, 1985, if (1) the operator of such aircraft has a plan for the replacement of such aircraft which has been approved by the Secretary, and (2) the operator of such aircraft has entered into a binding contract by January 1, 1983, for delivery prior to January 1, 1985, of a replacement aircraft which meets, at a minimum, the noise standards for new type certificated aircraft set forth in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration, on March 2, 1978 (F.R. Vol. 43, p. 8722, et seq.).

(b) The Secretary shall provide an exemption from applicable noise standards to permit the operation of any noncomplying two-engine aircraft, but not beyond January 1, 1986, if (1) the operator of such aircraft has a plan for the replacement of such aircraft which has been approved by the Secretary, and (2) the operator of such aircraft has entered into a binding contract by January 1, 1983, for delivery prior to January 1, 1986, of a replacement aircraft which meets, at a minimum, the noise standards for new type certificated aircraft set forth in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration, on March 2, 1978 (F.R. Vol. 43, p. 8722, et seq.).

SMALL COMMUNITY SERVICE EXEMPTION

SEC. 304. (a) The Secretary shall provide an exemption from applicable noise standards to any person operating a noncomplying two-engine aircraft to permit such person to operate such aircraft.

(b) Any exemption issued pursuant to this section shall terminate on whichever of the following dates first occurs:

(1) in the event such operator sells or otherwise disposes of such aircraft to another person on or after January 1, 1983, on the date such aircraft is delivered to such other person;

(2) in the case of an aircraft with a seating configuration of 100 passenger seats or less, on January 1, 1988; or

(3) in the case of an aircraft with a seating configuration of more than 100 passenger seats, on January 1, 1985.

(c) For the purposes of subsection (b) of this section, the seating configuration of an aircraft shall be the seating configuration that existed on such aircraft on December 1, 1979, or such earlier date as the Secretary may establish in individual cases.

TRADEOFF ALLOWANCE

SEC. 305. Notwithstanding any other provision of law or any rule, regulation, or order issued pursuant thereto, the tradeoff provisions contained in Appendix C of part 36 of title 14 of the Code of Federal Regulations shall apply in determining whether any aircraft complies with the provisions of subpart E of part 91 of title 14 of the Code of Federal Regulations.

TITLE IV

SEC. 401. Not later than 90 days after the date of enactment of this Act, and each January 31 thereafter, until implementation of collision avoidance systems in the national air traffic control system, the Secretary of Transportation shall submit to the Congress a report on the status of the development of such systems. Such reports shall set forth proposed timetables for the implementation of such systems. The Secretary of Transportation's report shall include proposals for any legislation needed to implement such systems.

SEC. 402. Section 1112 of the Federal Aviation Act of 1958 is amended to read as follows:

"STATE OR SUBDIVISION INCOME TAX ON COMPENSATION PAID TO INTERSTATE AIR CARRIER EMPLOYEES

"SEC. 1112. (a) No part of the compensation paid by an air carrier to an employee who performs his regularly assigned duties as such an employee on an aircraft in more than one State, shall be subject to the income tax laws of any State or subdivision thereof other than the State or subdivision thereof of such employee's residence and the State or subdivision thereof in which such employee earns more than 50 per centum of the compensation paid by the carrier to such employee.

"(b) For the purposes of subsection (a), an employee shall be deemed to have earned 50 per centum of his compensation in any State or subdivision in which his scheduled flight time in such State or subdivision is more than 50 per centum of his total scheduled flight time in the calendar year while so employed.

"(c) For the purposes of this section the term 'State' also means the District of Columbia and any of the possessions of the United States; and the term 'compensation' shall mean all moneys received for services rendered by the employee in the performance of his duties and shall include wages and salary.".

SEC. 403. That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the heading "TITLE XI—MISCELLANEOUS" is amended by striking the item designated as "Sec. 1112" and inserting in lieu thereof:

"Sec. 1112. State or subdivision income tax on compensation paid to interstate air carrier employees.".

TITLE V

SEC. 501. (a) The Administrator of the Federal Aviation Administration (hereinafter referred to as the "Administrator") shall, within 90 days after the date of enactment of this Act, promulgate regulations for airports operated by the Administration to regulate the access to public areas by individuals or by religious and nonprofit organizations (as defined in section 501(c)(3) of the Internal Revenue Code of 1954) for the purpose of soliciting funds or distributing materials.

(b) In promulgating regulations under this section the Administrator shall consider requiring any individual or organization described in subsection (a) to submit an application for a permit to engage in the soliciting of funds or the distribution of materials. In considering such an application the Administrator may require that—

(1) a responsible individual representative of the applicant shall be designated to represent the organization,

(2) each individual participating in any solicitation or distribution will display a proper identification approved by the Administrator,

(3) the number of individuals engaged in any solicitation or distribution at any one time shall not exceed a reasonable number, in keeping with the need for free movement in and operation of the airports as provided for by the permit,

(4) the solicitation or distribution be confined to limited areas and times, and

(5) no individual or organization which holds a permit under this section shall be permitted to—

(A) use sound amplification or display signs (other than signs approved by the Administrator);

(B) intentionally interfere with users of the airport;

(C) engage in the use of indecent or obscene remarks or conduct; or

(D) engage in the use of loud, threatening, or abusive language intended to coerce, intimidate or disturb the peace.

(c)(1) The Administrator shall consider requiring that a copy of a permit (if such is required) be conspicuously posted in the area in which any solicitation or distribution is permitted.

(2) The Administrator shall consider whether revocation of approval for any permit if required and approved under this section should occur for any violation of any rule or regulation promulgated hereunder.

(d) Regulations intended to be promulgated under this section shall be submitted to Congress within 30 days after the date of enactment of this Act.

SEC. 502. (a) Paragraph (1) of section 902(l) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(l)(1)) is amended to read as follows:

"(1) With respect to any aircraft in, or intended for operation in air transportation or intrastate air transportation, whoever—

"(A) while aboard, or while attempting to board such aircraft has on or about his person or his property a concealed deadly or dangerous weapon which is, or could be, accessible to such person in flight;

"(B) has placed, attempted to place, or attempted to have placed a loaded firearm aboard such aircraft in baggage or other property which is not accessible to passengers in flight; or

"(C) has on or about his person, or who placed, attempted to place, or attempted to have placed aboard such aircraft any bomb or similar explosive or incendiary device;

shall be fined not more than $1,000 or imprisoned not more than one year; or both.".

(b) Paragraph (3) of section 902(l) of the Federal Aviation Act of 1958 is amended—

(1) by striking out "This subsection" and by inserting in lieu thereof "Paragraph (1)(A) of this subsection";

(2) by inserting "officers or employees of" before "the Federal Government"; and

(3) by inserting "(other than loaded firearms)" after "persons transporting weapons".

(c) Section 902(l) of the Federal Aviation Act of 1958 is amended by adding at the end thereof the following new paragraph:

"(4) For purposes of this subsection—

"(A) the term 'firearm' means any starter gun and any weapon which is designed to or has been converted to expel any projectile by the action of an explosive; and

"(B) the term 'loaded firearm' means any firearm which has a cartridge, a detonator, or powder in the chamber, magazine, cylinder, or clip of such firearm.".

SEC. 503. (a) Except as provided in subsection (c), notwithstanding any other provision of law, neither the Secretary of Transportation, the Civil Aeronautics Board, nor any other officer or employee of the United States shall issue, reissue, amend, revise, or otherwise modify (either by action or inaction) any certificate or other authority to permit or otherwise authorize any person to provide the transportation of individuals, by air, as a common carrier for compensation or hire between Love Field, Texas, and one or more points outside the State of Texas, except (1) charter air transportation not to exceed ten flights per month, and (2) air transportation provided by commuter airlines operating aircraft with a passenger capacity of 56 passengers or less.

(b) Except as provided in subsections (a) and (c), notwithstanding any other provision of law, or any certificate or other authority heretofore or hereafter issued thereunder, no person shall provide or offer to provide the transportation of individuals, by air, for compensation or hire as a common carrier between Love Field, Texas, and one or more points outside the State of Texas, except that a person providing service to a point outside of Texas from Love Field on November 1, 1978, may continue to provide service to such a point.

(c) Subsections (a) and (b) shall not apply with respect to, and it is found consistent with the public convenience and necessity to authorize, transportation of individuals, by air, on a flight between Love Field, Texas, and one or more points within the States of Louisiana, Arkansas, Oklahoma, New Mexico, and Texas by an air carrier, if (1) such air carrier does not offer or provide any through service or ticketing with another air carrier or foreign air carrier, and (2) such air carrier does not offer for sale transportation to or from, and the flight or aircraft does not serve, any point which is outside any such State. Nothing in this subsection shall be construed to give authority not otherwise provided by law to the Secretary of Transportation, the Civil Aeronautics Board, any other officer or employee of the United States, or any other person.

(d) This section shall not take effect if enacted after the enactment of the International Air Transportation Competition Act of 1979.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment to the title of the bill insert the following: "An Act to provide assistance to airport operators to prepare and carry out noise compatibility programs, to provide assistance to assure continued safety in aviation, and for other purposes.".

And the Senate agree to the same.

HAROLD T. JOHNSON,
RAY ROBERTS,
GLENN M. ANDERSON,
ELLIOTT H. LEVITAS,
ROBERT A. YOUNG,
WM. HARSHA,
GENE SNYDER,
Managers on the Part of the House.

HOWARD W. CANNON,
RUSSELL B. LONG,
DANIEL K. INOUYE,
J. J. EXON,
BOB PACKWOOD,
NANCY L. KASSEBAUM,
BARRY GOLDWATER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2440) to repeal the prohibition against the expenditure of certain discretionary funds under the Airport and Airway Development Act of 1970, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SHORT TITLE

House bill

No comparable provision.

Senate amendment

The short title is the "Aviation Safety and Noise Abatement Act of 1979".

Conference substitute

Same as the Senate amendment.

DEFINITIONS

House bill

No comparable provision.

Senate amendment

Sets forth definitions used in title I of the Senate amendments.

Conference substitute

Same as the Senate amendment.

MEASUREMENT OF NOISE AND COMPATIBILITY

House bill

No comparable provision.

Senate amendment

The Secretary of Transportation is instructed to establish within 12 months from the date of enactment of this section single systems for measuring noise at airports and surrounding areas and for determining the impact of noise upon individuals. He is also required to identify land uses which are normally compatible with various impacts of noise on individuals.

Conference substitute

Same as the Senate amendment, except that the term "exposure" is used instead of "impact", the Secretary must consult with the Administrator of the Environmental Protection Agency before establishing the system, and the system must be one for which there is a highly reliable relationship between projected noise exposure and surveyed reactions of people to noise. Sections 102(1) and (2) of the Federal Aviation Act of 1958, as added by the substitute, refer to the same system of measurement.

NOISE ABATEMENT PLANNING

House bill

No comparable provision.

Senate amendment

This section establishes that airport operators may submit to the Secretary of Transportation noise impact maps setting forth the noncompatible land uses within the vicinity of the airport. It further provides that the Secertary may then make grants to sponsors of air carrier airports for the purpose of noise compatibility planning. The total funds obligated for such grants may not exceed $15 million. The percentage of Federal funds to be used in any one project is limited to the percent for which a project for airport development at that airport would be eligible under section 17 of the Airport and Airway Development Act.

Conference substitute

Same as the Senate amendment, except that the map is referred to as a "noise exposure map" and the map must be prepared in consultation with public agencies and planning agencies in the area surrounding the airport.

NOISE COMPATIBILITY PROGRAMS, GRANTS, AND LOANS

House bill

No comparable provision.

Senate amendment

Airport operators are authorized by this section to submit to the Secretary of Transportation noise compatibility programs. Such programs may include, among other things, the implementation of any preferential runway system, restrictions on the use of such airport by any type or class of aircraft, the construction of single family residences, condominiums, apartment buildings, and other barriers and acoustical shielding (including the soundproofing of buildings), the use of flight procedures to reduce noise impact, and the acquisition of land. The Secretary has 180 days after such programs are submitted to disapprove a program for certain specified reasons. Any program that is not disapproved during this 180-day period is deemed to be approved.

This section also authorizes the Secretary to make grants to airport operators to implement, in whole or in part, an approved airport noise compatibility program. The Federal share of these grants would be 80 percent, and the Secretary would issue regulations making such grants subject to certain provisions of the Airport and Airway Development Act of 1970, as amended. During fiscal year 1980, the Secretary is authorized to obligate up to $75 million from the Airport and Airway Trust Fund for such airport noise compatibility programs.

Under the terms of the section, an airport operator that receives a grant may in turn agree to make the grant available to public agencies in the area surrounding the airport if the Secretary of Transportation determines that such public agencies have the capability to carry out the project in accordance with the grant application. Finally, the section authorizes the Secretary to make grants to airport operators to implement noise compatibility programs that were developed prior to the promulgation of the implementing regulations of the Act if the Secretary determines that the prompt implementation of such programs would further the purposes of the Act.

Conference substitute

Same as Senate amendment, except that the construction measures which may be included in a program are limited to the construction of barriers and accoustical shielding (including the soundproofing of public buildings). The substitute also provides that the Secretary may approve or disapprove a program and that failure to act is deemed to be approval. Grants are authorized to be made directly to local governments. The substitute also provides that approval of a plan does not make the United States liable for damages from noise. Funding is changed to a minimum of $25 million in fiscal year 1980, to come out of funds available under section 14(a) (3) of the Airport and Airway Development Act.

PROGRAM FOR DULLES AND NATIONAL AIRPORTS

House bill

No comparable provision.

Senate amendment

The Secretary, in consultation with local government, is required to prepare and publish a noise impact map and a noise compatibility program for National and Dulles Airports in the Washington, D.C. vicinity, no later than 12 months after the effective date of the regulations promulgated in accordance with section 102.

Conference substitute

Same as the Senate amendment, except that the term "noise exposure map" is used.

PROHIBITION ON USE OF MAPS AND LAND USE LISTS

House bill

No comparable provision.

Senate amendment

This section provides that no part of any noise impact map or related information that is submitted to, or prepared by, the Secretary of Transportation and no part of the list of land uses identified by the Secretary as land uses that are normally compatible with various impacts of noise on individuals shall be admitted as evidence, or used for any other purposes, in any suit or action seeking damages or other relief for the noise that results from the operation of an airport.

Conference substitute

Same as the Senate amendment with the clarification that it is the related information described in section 103(a) which may not be admitted as evidence.

RECOVERY OF DAMAGES

House bill

No comparable provision.

Senate amendment

Under this section, no person who acquires property in an area surrounding an airport after a noise impact map for such airport has been submitted to the Secretary may recover damages with respect to the noise attributable to such airport if such person had actual or constructive knowledge of the existence of the noise impact map, unless that person can prove two facts in addition to any other elements necessary for the recovery of damages. These two additional facts are (1) that subsequent to the acquisition of the property there was a significant change in the type or frequency of aircraft operations at the airport, or a significant change in airport layout, or a significant change in flight patterns, or a significant increase in nighttime operations and (2) that the damages for which recovery is sought have resulted from such change or increase.

Conference substitute

Adopts the Senate amendment, and adds that any person acquiring property in an area surrounding an airport shall be imputed to have constructive knowledge if, at a minimum, notice of the existence of a noise exposure map for such area was published at least three times in a newspaper of general circulation in the county where such property is located or a copy of such map is furnished to such person at the time the property is acquired.

STUDY AND REPORT

House bill

No comparable provision.

Senate amendment

The Secretary is required to study both the planning carried out with grants made under section 13 of the Airport and Airway Development Act and the airport noise compatibility programs carried out with grants made under this title, to determine to what extent such planning and programs are achieving the goals of reducing existing noncompatible uses of land around airports and preventing the introduction of new noncompatible uses around airports. Such findings shall be submitted to the Congress no later than January 1, 1981.

Conference substitute

Same as the Senate amendment.

INCREASE IN ADAP FUNDS

House bill

The House bill makes available from the Airport and Airway Trust Fund an additional $13 million for general aviation airports for 1980. In addition, it ellimnates a prohibition against obligation or expenditures of discretionary funds in fiscal year 1980.

Senate amendment

Same as the House bill. In addition, the Senate amendment increases the amount of funds available from the Airport and Airway Trust Fund during fiscal year 1980 for the purpose of developing both air carrier and general aviation airports, and for operational and maintenance expenses. During fiscal 1980, an additional $87 million is made available for air carrier airports.

The Senate amendment also provides that if the minimum authorization for FAA facilities and equipment is not obligated in any fiscal year, the amount available for FAA operations and maintenance is reduced by an equivalent amount of money.

The Senate amendment preserves the authority of the Secretary to obligate by grant agreement in any fiscal year the unobligated balance of amounts which were apportioned in prior fiscal years and which remain available for approved airport development projects pursuant to paragraph (5) of section 15(a) of the Airport and Airway Development Act of 1970.

The Senate amendment also provides that $250 million of the unexpended balance in the Trust Fund may be used to finance operations and maintenance of the FAA.

The Senate amendment provides that

grants made by the Secretary under section 14 of the Airport and Airway Development Act of 1970 shall not be less than nor more than the amounts specified.

Conference substitute

Same as the Senate amendment, except that the provisions preserving the Secretary's authority to obligate certain unobligated balances and relating to the use of $250,000,000 for operations and maintenance of the FAA are deleted. An additional $44 million is available for air carrier airports during fiscal year 1980 rather than the additional $87 million in the Senate amendment. The conferees intend the $44 million additional funding can be met in part by the increased obligational ceiling level already approved in the fiscal year 1980 appropriation.

FUNDS FOR RELIEVER AIRPORTS

House bill

No comparable provision.

Senate amendment

Increases by $5 million the authorized funds in fiscal year 1980 for expenditure at reliever airports.

Conference substitute

Same as the Senate amendment.

FEDERAL MATCHING FORMULA

House bill

No comparable provision.

Senate amendment

Restores the Federal matching formula for smaller airports to a maximum of 90 percent. The Administrator acquires the discretion to vary the Federal share depending upon the priority of a type of eligible project.

Conference substitute

Same as the Senate amendment, except that the Federal matching formula for smaller airports is required to be 90 percent.

AUTHORIZATION FROM TRUST FUND

House bill

No comparable provision.

Senate amendment

Amends the Airport and Airway Revenue Act of 1970 to authorize expenditures from the Airport and Airway Trust Fund for programs under this Act.

Conference substitute

Same as the Senate amendment.

ENVIRONMENTAL IMPACT STATEMENTS

House bill

No comparable provision.

Senate amendment

Allows the Secretary of Transportation to approve an airport development project without requiring an environmental impact statement if the project would allow aircraft operations which do not comply with "stage 2" noise requirements to be replaced by operations which do comply with such standards.

Conference substitute

Same as the Senate amendment, except that the provision does not apply to projects under section 16(d)(1) of the Airport and Airway Development Act of 1970 (projects involving location of an airport, an airport runway, or a runway extension) and the provision only applies to environmental impact statements relating to noise.

CERTAIN RUNWAY PROJECTS

House bill

Provides that no airport development project involving the construction or extension of any runway may be approved by the Secretary at any general aviation airport located astride a line separating two counties within a single State if, before the submission of such project to the Secretary, such project has not been approved by the governing body of any village incorporated under the laws of that State which is located entirely within five miles of the nearest boundary of such airport.

Senate amendment

No comparable provision.

Conference substitute

Same as the House bill.

DEFINITIONS FOR TITLE III

House bill

No comparable provision.

Senate amendment

Sets forth definitions of certain terms used in title III, including the term "retrofit".

Conference substitute

Same as the Senate amendment, except for the deletion of the definition of "retrofit" which is not used in the conference substitute.

COMPLIANCE FOR INTERNATIONAL CARRIERS

House bill

No comparable provision.

Senate amendment

Authorizes the Secretary of Transportation, acting through the FAA Administrator, to promulgate noise regulations for foreign air carriers operating in the United States that are comparable to the noise regulations that have been promulgated for U.S. air carriers. If by January 1, 1980, the International Civil Aviation Organization does not reach an agreement on noise standards and an international schedule for compliance that is reasonably compatible with the noise standards and compliance schedule that has been promulgated for U.S. air carriers, the FAA is instructed to begin a rulemaking to require all U.S. and foreign air carriers engaging in foreign air transportation in the United States to comply with standards comparable to the U.S. standards. If the International Civil Aviation Organization does reach such an agreement, prior to January 1, 1980, the FAA is instructed to immediately begin a rulemaking to require all U.S. and foreign air carriers engaging in foreign air transportation in the United States to comply with such agreement at a phased rate of compliance similar to that in effect for U.S. aircraft. Both rulemakings are to be completed in 120 days and the requirements applied to U.S. air carriers may not be more stringent than the requirements applied to foreign air carriers.

Conference substitute

Same as the Senate amendment, except that the standard for the ICAO noise standards is substantial, rather than reasonable, compatibility.

WAIVER AUTHORITY

House bill

No comparable provision.

Senate amendment

Allows the Secretary of Transportation to permit noncomplying aircraft to be operated for a reasonable period beyond a noise compliance deadline for such aircraft if the Secretary determines that the operator of the noncomplying aircraft made a good faith effort to comply with the deadline and there is good cause for his failure to comply. "Good cause" includes those cases in which a supplier is unable to furnish the operator in a timely manner with necessary engine retrofit kits, replacement engines, or replacement aircraft.

Another provision of the Senate amendment requires the Secretary of Transportation to issue a waiver for noncomplying aircraft if (1) the aircraft operator has a plan for replacement of the noncomplying aircraft that has been approved by the Secretary under 14 CFR part 91, (2) the operator has entered into a binding contract for the replacement of the noncomplying aircraft with a "stage 3" aircraft, and (3) the Secretary determines that the replacement aircraft will be in service within a reasonable period of time after the operator enters into such binding contract. The operator must have entered into a binding contract by January 1, 1983 for the replacement of any two-or-three-engine noncomplying aircraft and by January 1, 1985 for replacement of any noncomplying four-engine aircraft.

The Senate amendment also provides that any aircraft exceeding the prescribed noise standards by no more than 5 effective perceived noise decibels at each of three measuring points shall be deemed to be in compliance with the applicable noise standards.

Conference substitute

Provides an exemption from applicable noise standards for the operation of any noncomplying three-engine aircraft (but not beyond January 1, 1985) if (1) the operator of such aircraft has a plan for the replacement of such aircraft which has been approved by the Secretary, and (2) the operator of such aircraft has entered into a binding contract by January 1, 1983, for delivery prior to January 1, 1985, of a replacement aircraft which meets stage 3 noise standards.

The conference substitute also provides an exemption from applicable noise standards for the operation of any noncomplying two-engine aircraft (but not beyond January 1, 1986) if (1) the operator of such aircraft has a plan for the replacement of such aircraft which has been approved by the Secretary, and (2) the operator of such aircraft has entered into a binding contract by January 1, 1983, for delivery prior to January 1, 1986, of a replacement aircraft which meets stage 3 noise standards.

An exemption is also provided from applicable noise standards for the operation of a noncomplying two-engine aircraft. This exemption terminates at the earliest of the following: (1) on sale or other disposition of the aircraft on or after January 1, 1983, (2) on January 1, 1988, in the case of an aircraft with a seating configuration of 100 passenger seats or less, or (3) on January 1, 1985, in the case of an aircraft with a seating configuration of more than 100 passenger seats. Seating configuration of an aircraft is that which existed on December 1, 1979, or on an earlier date as established by the Secretary in individual cases. Discretion is provided the Secretary to use a date prior to December 1, 1979, for the seating configuration of an individual carrier if the December 1 date results in an unreasonable hardship or advantage for a carrier's ability to utilize the small community waiver provision.

The substitute also provides that the tradeoff provisions contained in Appendix C of part 36 of title 14 of the Code of Federal Regulations shall be used in determining whether any aircraft complies with the provisions of subpart E of part 91.

In evaluating carrier compliance with the four-engine requirements of FAR 36, the FAA is urged to give consideration to hardship situations involving smaller carriers where the carrier is making a good faith compliance effort but needed technology is either delayed or unavailable and rigid adherence to compliance deadlines could work financial havoc and deprive the public of valuable airline service.

This legislation is intended to be the final resolution of this issue, except for extraordinary and unanticipated circumstances.

Nothing in this legislation is intended to prejudice legal proceeding with regard to airport's proprietary rights.

NOISE ABATEMENT CHARGES

House bill

No comparable provision.

Senate amendment

Permits the Civil Aeronautics Board to authorize or require any aircraft operator to impose a "noise abatement charge" for that portion of any transportation that is subject to the excise tax imposed by section 4261 (a) and (b) of the Internal Revenue Code of 1954. If such noise abatement charge is imposed, it may not exceed 2 percent of all other rates, fares or charges (excluding all Federal and State taxes) for such transportation.

Permits the Civil Aeronautics Board to authorize or require any aircraft operator engaging in foreign air transportation that begins in the United States to impose a "noise abatement charge". If such noise abatement charge is imposed, it may not exceed $2 for transportation of persons to Canada, Mexico, and the Caribbean or between the Continental United States and the States of Alaska and Hawaii, of $10 for the foreign air transportation of any person to any other foreign territory. In the case of foreign air transportation of property which begins in the United States, the noise abatement charge may not exceed a charge equal to the lessor of (1) 5 percent of all other rates or charges (excluding all Federal and State taxes) for such transportation or (2) a charge of $2.25 per 100 pounds of cargo.

Revenues received from noise abatement charges shall be used only to bring each operator's aircraft fleet into compliance with all applicable Federal noise abatement regulations as long as the fleet is not fully in compliance. When the operator's fleet is in compliance, there is no restriction on the operator's usage of the noise abatement charge revenues.

The Civil Aeronautics Board is authorized to increase, decrease, modify or eliminate any noise abatement charges under certain procedures. The Board may impose or increase a noise abatement charge only upon the request of an operator or on the recommendation of the Secretary of Transportation. Any recommendation from the Secretary of Transportation for a noise abatement charge action must include a report from the Secretary that, at a minimum, evaluates the financial condition of the operators, there is progress in bringing their fleets into compliance, the state of production of "stage 3" aircraft, and whether the requested noise abatement charges will produce excessive profits for the operators.

The CAB must observe the rulemaking requirements of 5 U.S.C. 553 during any proceeding to impose, increase, decrease, or terminate a noise abatement charge to the greatest extent possible consistent with completing such proceeding within 90 days. In making its determinations, CAB must consider, among other things, the need for the operators to raise sufficient capital to meet the requirements for compliance with all Federal noise abatement, regulations the desirability of encouraging the development and use of the most advanced technology available for reducing noise level, and, with respect to international noise abatement charges, the views of the Department of State. The final rule shall be submitted to both Houses of Congress and shall take effect within 60 days unless either House disapproves by simple majority vote the implementation of the rule within 30 legislative days from the date of submission to the Congress.

Any domestic noise abatement charge shall terminate on the last day of the 60th month that begins after the date of enactment of the Act and any international noise abatement charge shall terminate on the last day of the 120th month that begins after the date of enactment of the Act.

Conference substitute

Does not adopt the Senate amendment relating to noise abatement charges.

STATUS REPORTS ON COLLISION AVOIDANCE SYSTEMS

House bill

No comparable provision.

Senate amendment

Directs the Secretary of Transportation to submit status reports to the Congress on the development and implementation of collision avoidance systems, the first of which is due not later than 90 days after enactment of the Act. Thereafter, reports would be submitted not later than each January 31 until implementation of such system in the air traffic control system. The reports are required to set forth proposed timetables for implementation of such systems and any legislation needed to implement them.

Conference substitute

Same as the Senate amendment.

STATE OR SUBDIVISION INCOME TAX ON COMPENSATION PAID TO INTERSTATE AIR CARRIER EMPLOYEES

House bill

No comparable provision.

Senate amendment

Provides that an air carrier employee who performs his regular duties in more than one State shall only be subject to the income tax of the State, or subdivision of the State, in which he resides.

Conference substitute

Same as the Senate amendment, except that an air carrier employee may be subject to the income tax of the State (if any) in which more than 50 percent of his income is earned, as well as the income tax of the State of residence. The conferees intend this to mean that a State may not withhold or tax an air carrier employee unless the tests provided in this section are met.

REGULATION OF SOLICITATION OF FUNDS AND DISTRIBUTION OF MATERIALS AT DULLES AND NATIONAL AIRPORTS

House bill

No comparable provision.

Senate amendment

Requires the FAA Administrator to promulgate regulations relating to access to public areas at National and Dulles Airports by individuals and religious and nonprofit organizations who seek to solicit funds or distribute materials. The Administrator may require, among other things, displays of proper identification by individuals, limitations on the numbers of individuals engaged in solicitation or distribution at any one time, and limitations on the times, place, and manner of such activities.

Conference substitute

Same as the Senate amendment.

Section 308 of the Federal Aviation Act and 18(a) (8) of the Airport and Airway Development Act set forth the policy that there shall be no exclusive right for the use of any landing area or air navigation facility upon which Federal funds have been expended.

The conferees have been advised that in enforcing these provisions, the FAA has so vigorously encouraged the entry of new fixed base operators (FBOs) that in some instances it actually discriminated against the interests of established FBOs.

This discrimination has been reflected in an FAA policy which requires airport operators, as a condition for receiving Federal funds, to compel existing FBOs to lease part of their facilities to new businesses wishing to form competing companies—even when it would be unreasonably costly, burdensome or impractical for more than one FBO to provide such services.

In light of the inequities that exist as a result of this policy, the conferees believe that it may be necessary to protect the economic viability of established FBOs unless the FAA can provide a more balanced approach that would accommodate both competitive concerns and the legitimate concerns of established FBOs.

Since such a provision would be outside the scope of this conference, it has not been included as part of the substantive legislation. However, corrective legislation will be considered in the event the FAA continues to be unresponsive to these concerns.

PROHIBITION ON CERTAIN FIREARMS ABOARD AIRCRAFT

House bill

Prohibits the concealing of a deadly or dangerous weapon by a person while aboard or attempting to board an aircraft, and the placing, attempting to place, or attempting to have placed on board an aircraft a loaded firearm or bomb. The penalty imposed is a fine or not more than $1,000 or imprisonment of not more than a year, or both.

Senate amendment

No comparable provision.

Conference substitute

Same as the House bill.

PROHIBITION OF CERTAIN FLIGHTS INTO AND FROM LOVE FIELD, TEXAS

House bill

The House bill provides that notwithstanding any automatic market entry provision of the Airline Deregulation Act of 1978, or any other provision of law, no common carrier operating in interstate commerce may perform regularly scheduled commercial passenger flights in interstate commerce into or from a satellite airport lying within 20 miles of a major regional airport where the major airport is operated under the direction of a regional airport board and where the satellite airport is operated under the direction of a municipality and where the proprietors of such satellite airport and such regional airport board have determined that the public interest and aviation safety of the region are best served by closing said satellite airport to all commercial passenger interstate traffic. The foregoing prohibition does not apply to commuter airline operations.

Senate amendment

No comparable provision.

Conference substitute

Section 29 as approved by the conferees embodies a compromise which permits limited commercial passenger service in interstate transportation at Love Field. Perhaps the most important point about section 29 is that it provides a fair and equitable settlement for a dispute that has raged in the Dallas/Fort Worth area for many years. It has been agreed to by the representatives of Southwest Airlines, the City of Dallas, the City of Fort Worth, DFW Airport authority, and related constituent groups.

Subsection (a) provides that notwithstanding any other provision of law, including the Federal Aviation Act, the CAB, its successor agency or any other Federal body shall not authorize or permit interstate air transportation of passengers to or from Love Field. The conferees intend that this prohibition shall continue to apply even after the CAB's jurisdiction to control entry into domestic air transportation markets expires on December 31, 1981. The new law contains three exceptions to this total prohibition on interstate Love Field service. First, subsection (c) permits turnaround service between Love Field and points in the four contiguous

States. Subsection (a) itself contains two additional exceptions: (1) it permits the continued operation of a limited number of interstate charter flights each month to and from Love Field, and (2) interstate service provided by commuter airlines operating aircraft having a capacity of 56 passengers or less is authorized. Additionally, the Love Field provisions apply only to air transportation of passengers. The Love Field provisions do not affect cargo carriers such as Federal Express, or intrastate service in Texas.

Subsection (b) provides that except as provided in subsections (a) and (c), no airline can provide or offer to provide interstate air service to or from Love Field; this section also grandfathers Southwest Airlines' authority to operate Love Field-New Orleans nonstop service which the carrier was offering on November 1, 1979. Southwest received this certificate authority from the CAB in the Southwest Airlines Automatic Market Entry Investigation, Order 79-9-192.

Subsection (c) provides that the CAB, or its successor agency is empowered to authorize an airline to provide service only between Love Field and points in Louisiana, Arkansas, Oklahoma, and New Mexico on a turnaround basis. The section also contains a congressional finding that such service, and only Love Field service of this limited scope, is consistent with the public convenience and necessity. While specific route applications to provide this service will be passed on by the CAB, the conferees intend that the Board will consider only whether the applicant is fit, willing and able to perform the proposed transportation, and whether such transportation is within the scope of authority granted by this legislation. We anticipate that the Board will act expeditiously on any such applications.

The Act, however, imposes certain conditions on any airline certificated to operate interstate Love Field service. These conditions are to appear in any certificate authorizing such service. First, no air carrier that provides any through service or ticketing with another carrier or foreign air carrier may be authorized to operate interstate air service from Love Field. Second, no air carrier offering Love Field service to points in the four contiguous States may offer or hold out service to and from points beyond the four contiguous States. Third, the flight or aircraft operating to or from Love Field may not operate to points beyond the four contiguous States; only turnaround service is permitted. Such Love Field carriers may not hold out, offer or advertise Love Field service to or from points beyond the four contiguous States in any respect, including the publication of connecting flight schedules in airline guides, flight schedules or other similar media.

Thus, a carrier providing service from Love Field to a point in one of these States is not forbidden from providing service from that point to other points in other States beyond, but it could not do so on a continuation of the same flight to or from Love Field, or on the same aircraft coming from or going to Love Field, and it could not advertise or promote its service to points in States beyond. While it could not sell through tickets, publish through schedules or offer through fares between Love Field and points beyond the contiguous States, its usual ticketing, scheduling and ratemaking practices would not be otherwise affected.

The conferees desire to provide the CAB and its successor agency, if any, with a clear statement of congressional intent to aid the CAB's implementation of this section of law. The conferees intend that this provision supersedes any provision of the Federal Aviation Act that may otherwise be construed to authorize interstate service to Love Field. Provisions superseded include, among others, the automatic market entry section (§ 401(d)(7)), dormant route authority provision (§ 401(d)(5)), restriction removal and closed door restriction standards (§ 401(e)(7)), the liberalized public convenience and necessity standard (§ 401(e)(1), (9)) and the new declaration of policy (§ 102(a)), enacted by the Airline Deregulation Act. We expect the CAB to authorize interstate service only between Love Field and points in the four contiguous States, and all such awards should be subject to the conditions set forth in subsection (c). Pending proceedings in which applicant air carriers seek Love Field interstate authority to points beyond the four contiguous States should be denied in conformity with this law.

The conferees state that the preemption and proprietary rights provisions of the Federal Aviation Act, sections 105 (a) and (b), respectively, apply to the authority to serve Love Field on interstate flights authorized by the amendment.

Finally, the conferees recognize that the demand for the Love Field amendment which has led to this legislation arose out of a historical dispute in the Dallas/Fort Worth area which all regard as unique in the air transportation industry. Acceptance of this compromise should therefore not be taken as a harbinger of any similar proposals for any other airport or area.

HAROLD T. JOHNSON,
RAY ROBERTS,
GLENN M. ANDERSON,
ELLIOTT H. LEVITAS,
ROBERT A. YOUNG,
WM. HARSHA,
GENE SNYDER,
Managers on the Part of the House.

HOWARD W. CANNON,
RUSSELL B. LONG,
DANIEL K. INOUYE,
J. J. EXON,
BOB PACKWOOD,
NANCY L. KASSEBAUM,
BARRY GOLDWATER,
Managers on the Part of the Senate.

CONFERENCE REPORT ON S. 1300, INTERNATIONAL AIR TRANSPORTATION COMPETITION ACT OF 1979

Mr. ANDERSON of California submitted the following conference report and statement on the Senate bill (S. 1300) to amend the Federal Aviation Act of 1958 in order to promote competition in international air transportation, provide greater opportunities for U.S. air carriers, establish goals for developing U.S. international aviation negotiating policy, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 96-716)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1300) to amend the Federal Aviation Act of 1958 in order to promote competition in international air transportation, provide greater opportunities for United States air carriers, establish goals for developing United States international aviation negotiating policy, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "International Air Transportation Competition Act of 1979".

SEC. 2. Section 102(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1302(a)) is amended to read as follows:

"DECLARATION OF POLICY: THE BOARD

"FACTORS FOR INTERSTATE, OVERSEAS, AND FOREIGN AIR TRANSPORTATION

"SEC. 102. (a) In the exercise and performance of its powers and duties under this Act, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:

"(1) The assignment and maintenance of safety as the highest priority in air commerce, and prior to the authorization of new air transportation services, full evaluation of the recommendations of the Secretary of Transportation on the safety implications of such new services and full evaluation of any report or recommendation submitted under section 107 of this Act.

"(2) The prevention of any deterioration in established safety procedures recognizing the clear intent, encouragement, and dedication of the Congress to the furtherance of the highest degree of safety in air transportation and air commerce, and the maintenance of the safety vigilance that has evolved within air transportation and air commerce and has come to be expected by the traveling and shipping public.

"(3) The availability of a variety of adequate, economic, efficient, and low-price services by air carriers and foreign air carriers without unjust discriminations, undue preferences or advantages, or unfair or deceptive practices, the need to improve relations among, and coordinate transportation by, air carriers, and the need to encourage fair wages and equitable working conditions for air carriers.

"(4) The placement of maximum reliance on competitive market forces and on actual and potential competition (A) to provide the needed air transportation system, and (B) to encourage efficient and well-managed carriers to earn adequate profits and to attract capital, taking account, nevertheless, of material differences, if any, which may exist between interstate and overseas air transportation, on the one hand, and foreign air transportation, on the other.

"(5) The development and maintenance of a sound regulatory environment which is responsive to the needs of the public and in which decisions are reached promptly in order to facilitate adaption of the air transportation system to the present and future needs of the domestic and foreign commerce of the United States, the Postal Service, and the national defense.

"(6) The encouragement of air service at major urban areas in the United States through secondary or satellite airports, where consistent with regional airport plans of regional and local authorities, and when such encouragement is endorsed by appropriate State entities encouraging such service by air carriers whose sole responsibility in any specific market is to provide service exclusively at the secondary or satellite airport, and fostering an environment which reasonably enables such carriers to establish themselves and to develop their secondary or satellite airport services.

"(7) The prevention of unfair, deceptive, predatory, or anticompetitive practices in air transportation, and the avoidance of—

"(A) unreasonable industry concentration, excessive market domination, and monopoly power; and

"(B) other conditions;

that would tend to allow one or more air carriers or foreign air carriers unreasonably to increase prices, reduce services, or exclude competition in air transportation.

"(8) The maintenance of a comprehensive and convenient system of continuous scheduled interstate and overseas airline service

for small communities and for isolated areas in the United States, with direct Federal assistance where appropriate.

"(9) The encouragement, development, and maintenance of an air transportation system relying on actual and potential competition to provide efficiency, innovation, and low prices, and to determine the variety, quality, and price of air transportation services.

"(10) The encouragement of entry into air transportation markets by new air carriers, the encouragement of entry into additional air transportation markets by existing air carriers, and the continued strengthening of small air carriers so as to assure a more effective, competitive airline industry.

"(11) The promotion, encouragement, and development of civil aeronautics and a viable, privately owned United States air transport industry.

"(1) The strengthening of the competitive position of United States air carriers to at least assure equality with foreign air carriers, including the attainment of opportunities for United States air carriers to maintain and increase their profitability, in foreign air transportation."

SEC. 3. (a) Section 102(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1302(c)) is repealed.

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 102. Declaration of policy: The Board."

is amended by striking out

"(a) Factors for interstate and overseas air transportation.

"(b) Factors for all-cargo service.

"(c) Factors for foreign air transportation."

and inserting in lieu thereof

"(a) Factors for interstate, overseas, and foreign air transportation.

"(b) Factors for all-cargo service."

SEC. 4. Sections 401(d)(1) through 401(d)(3) of the Federal Aviation Act of 1958 (49 U.S.C. 1371 (d)(1) through (d)(3)) are amended to read as follows:

"ISSUANCE OF CERTIFICATE

"(d)(1) The Board shall issue a certificate authorizing the whole or any part of the transportation covered by the application, if it finds that the applicant is fit, willing, and able to perform such transportation properly and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder, and that such transportation is consistent with the public convenience and necessity; otherwise such application shall be denied.

"(2) In the case of an application for a certificate to engage in temporary air transportation, the Board may issue a certificate authorizing the whole or any part thereof for such limited periods as is consistent with the public convenience and necessity, if it finds that the applicant is fit, willing, and able properly to perform such transportation and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder.

"(3) In the case of an application for a certificate to engage in charter air transportation, the Board may issue a certificate to any applicant, not holding a certificate under paragraph (1) or (2) of this subsection on January 1, 1977, authorizing interstate air transportation of persons, which authorizes the whole or any part thereof for such periods, as is consistent with the public convenience and necessity, if it finds that the applicant is fit, willing, and able properly to perform the transportation covered by the application and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder.".

SEC. 5. The first sentence of section 401(e)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(e)(2)) is amended by striking out the words ", insofar as the operation is to take place without the United States,".

SEC. 6. Section 401(g) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(g)) is amended to read as follows:

"AUTHORITY TO MODIFY, SUSPEND, OR REVOKE

"(g)(1) The Board upon petition or complaint or upon its own initiative, after notice and hearings, or pursuant to the simplified procedures under subsection (p) of this section, may alter, amend, modify, or suspend any such certificate, in whole or in part, if the public convenience and necessity so require, or may revoke any such certificate, in whole or in part, for intentional failure to comply with any provision of this title or any order, rule, or regulation issued hereunder or any term, condition, or limitation of such certificate. No such certificate shall be revoked unless the holder thereof fails to comply, within a reasonable time to be fixed by the Board, with an order of the Board commanding obedience to the provision, or to the order (other than an order issued in accordance with this sentence), rule, regulation, term, condition, or limitation found by the Board to have been violated. No certificate to engage in foreign air transportation may be altered, amended, modified, suspended, or revoked pursuant to the simplified procedures of subsection (p) of this section if the holder of such certificate requests an oral evidentiary hearing or the Board finds that, under all the facts and circumstances, an oral evidentiary hearing is required in the public interest.

"(2) Any interested person may file with the Board a protest or memorandum in support of or in opposition to the alteration, amendment, modification, suspension, or revocation of a certificate pursuant to paragraph (1) of this subsection.

"(3) Notwithstanding the provisions of paragraph (1) of this subsection, the Board may suspend or revoke authority of an air carrier to serve any point in foreign air transportation authorized in a certificate issued under this section, upon notice and with a reasonable opportunity for the affected carrier to present its views, but without hearing, if the carrier has notified the Board in accordance with subsection (j) of this section or any regulation of the Board that it proposes to suspend all service provided by that carrier to such point, or, except at a point which is provided seasonal service comparable to that provided during the previous year, if the carrier has failed to provide any regularly scheduled service to the point for 90 days preceding the date of the Board's notice to the carrier of its proposed action.".

SEC. 7. Section 402(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1372(b)) is amended to read as follows:

"ISSUANCE OF PERMIT

"(b) The Board is empowered to issue such a permit if it finds (1) that the applicant is fit, willing, and able properly to perform such foreign air transportation and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder and (2) either that the applicant is qualified, and has been designated by its government, to perform such foreign air transportation under the terms of an agreement with the United States, or that such transportation will be in the public interest.".

SEC. 8. The third sentence of section 402(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1372(d)) is amended by striking out "Such application shall be set for public hearing and the" and inserting in lieu thereof "The".

SEC. 9. Section 402(f) of the Federal Aviation Act of 1958 (49 U.S.C. 1372(f)) is amended by inserting "(1)" immediately after "(f)" and by adding at the end thereof the following new paragraph:

"(2) Whenever the Board finds that the government, aeronautical authorities, or foreign air carriers of any foreign country have, over the objections of the Government of the United States, impaired, limited, or denied the operating rights of United States air carriers, or engaged in unfair, discriminatory, or restrictive practices with a substantial adverse competitive impact upon United States carriers, with respect to air transportation services to, from, through, or over the territory of such country, the Board may, without hearing but subject to the approval of the President of the United States, summarily suspend the permits of the foreign air carriers of such country, or alter, modify, amend, condition, or limit operations under such permits, if it finds such action to be in the public interest. The Board may also, without hearing but subject to Presidential approval, to the extent necessary to make the operation of this paragraph effective, restrict operations between such foreign country and the United States by any foreign air carrier of a third country.".

SEC. 10. Section 407(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1377(a)) is amended by inserting the phrase "or foreign air carrier" immediately after the words "air carrier" each time those words appear therein.

SEC. 11. Section 412 of the Federal Aviation Act of 1958 (49 U.S.C. 1382) is amended by—

(1) striking subsections (a) and (b) thereof;

(2) redesignating subsections (c), (d), and (e) as subsections (a), (b), and (c), respectively;

(3) striking the words ", affecting interstate or overseas air transportation and" in subsection (a)(1), as so redesignated by this section;

(4) inserting the words ", including international comity or foreign policy considerations," immediately after "public benefits" in paragraph (a)(2)(A)(i), as so redesignated by this section;

(5) inserting the words "affecting interstate or overseas air transportation," immediately after the word "agreement," in paragraph (a)(2)(A)(iii), as so redesignated by this section;

(6) inserting the words "or foreign air carrier" immediately after the words "air carrier" the first two times those words appear in subsection (a)(1), as so redesignated by this section; and

(7) striking out "or (c)", inserting ", the Secretary of State," after "shall provide to the Attorney General", and striking out "such Secretary" and inserting in lieu thereof "either Secretary", in subsection (b), as redesignated by this section.

SEC. 12. (a) The center heading for section 412(a) of the Federal Aviation Act of 1958, as redesignated by section 11 of this Act, is amended by striking out

"AFFECTING INTERSTATE OR OVERSEAS AIR TRANSPORTATION".

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 412. Pooling and other agreements."

is amended to read as follows:

"(a) Filing and approval of agreements.

"(b) Proceedings upon filing.

"(c) Mutual aid agreement.".

SEC. 13. Section 416(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1386) is amended by adding at the end thereof the following new paragraph:

"(7) The Board may by order, to the

extent it finds that such action is required in the public interest, exempt any foreign air carrier for a period not to exceed 30 days from the requirements or limitations of this Act, to the extent necessary to authorize the foreign air carrier to carry passengers, cargo, or mail in interstate or overseas air transportation in certain markets if the Board, after consultation with the Secretary of Transportation, finds that—

"(A) because of an emergency created by unusual circumstances not arising in the normal course of business, traffic in such markets cannot be accommodated by air carriers holding certificates under section 401 of this Act;

"(B) all possible efforts have been made to accommodate such traffic by utilizing the resources of such air carriers (including, for example, the use of foreign aircraft, or sections of foreign aircraft, that are under lease or charter to such air carriers, and the use of such air carriers' reservation systems to the extent practicable):

"(C) such authorization is necessary to avoid undue hardship for the traffic in such market that cannot be accommodated by air carriers holding certificates under section 401 of this Act; and

"(D) in any case where the inability to accommodate traffic in a market results from a labor dispute, the granting of such an exemption will not result in an undue advantage to any party to such dispute.

Whenever the Board grants such authority to a foreign air carrier under this paragraph, the Board shall—

"(i) assure that any air transportation provided by the foreign carrier under such authority is made available on fair and reasonable terms;

"(ii) continuously monitor the passenger load factor of air carriers in such market that hold certificates under section 401 of this Act; and

"(iii) review such authority no less frequently than once every 30 days to assure that the unusual circumstances that created the need for such authority still exist.

The Board may renew any exemption under this paragraph (including any renewal thereof) for a period not to exceed 30 days. In no event shall any authorization to a foreign air carrier under this paragraph remain in effect for more than 5 days after the unusual circumstances that created the need for such authorization have ceased."

SEC. 14. Section 1002(j)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(j)(1) is amended to read as follows:

"SUSPENSION AND REJECTION OF RATES IN FOREIGN AIR TRANSPORTATION

"(j)(1) Whenever any air carrier or foreign air carrier shall file with the Board a tariff stating a new individual or joint (between air carriers, between foreign air carriers, or between an air carrier or carriers and a foreign air carrier or carriers) rate, fare, or charge for foreign air transportation or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Board is empowered, upon complaint or upon its own initiative, at once, and, if it so orders, without answer or other formal pleading by the air carrier or foreign air carrier, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice; and pending such hearing and the decision thereon, or in the case of a tariff filed by a foreign air carrier if such action is in the public interest, the Board, by filing with such tariff, and delivering to the air carrier or foreign air carrier affected thereby, a statement in writing of its reasons for such suspension, may suspend the operation of such tariff and defer the use of such rate, fare, or charge, or such classification, rule, regulation, or practice, for a period or periods not exceeding 365 days in the aggregate beyond the time when such tariff would otherwise go into effect. If, after hearing, the Board shall be of the opinion that such rate, fare, or charge, or such classification, rule, regulation, or practice, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, or in the case of a tariff filed by a foreign air carrier if the Board concludes with or without hearing that such action is in the public interest, the Board may take action to reject or cancel such tariff and prevent the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. The Board may at any time rescind the suspension of such tariff and permit the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. If the proceeding has not been concluded and an order made within the period of suspension or suspensions, or if the Board shall otherwise so direct, the proposed rate, fare, charge, classification, rule, regulation, or practice shall go into effect subject, however, to being canceled when the proceeding is concluded. During the period of any suspension or suspensions, or following rejection or cancellation of a tariff, including tariffs which have gone into effect provisionally, the affected air carrier or foreign air carrier shall maintain in effect and use the rate, fare, or charge, or the classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of service thereunder which was in effect immediately prior to the filing of the new tariff or such other rate, fare or charge as may be provided for under an applicable intergovernmental agreement or understanding. If the suspension, rejection, or cancellation is of an initial tariff, the affected air carrier or foreign air carrier may file for purposes of operations pending effectiveness of a new tariff, a tariff embodying any rate, fare, or charge, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of service thereunder, that may be currently in effect (and not subject to a suspension order) for any air carrier engaged in the same foreign air transportation.".

SEC. 15. Section 1002(j)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(j)(2)) is amended to read as follows:

"(2) With respect to any existing tariff of an air carrier or foreign air carrier stating rates, fares, or charges for foreign air transportation, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Board is empowered, upon complaint or upon its own initiative, at once and, if it so orders, without answer or other formal pleading by the air carrier or foreign air carrier, but upon reasonable notice, to enter into a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice; and pending such hearing and the decision thereon, or in the case of a tariff filed by a foreign air carrier if such action is in the public interest, the Board upon reasonable notice, and by filing with such tariff, and delivering to the air carrier or foreign air carrier affected thereby, a statement in writing of its reasons for such suspension, and the effective date thereof, may suspend the operation of such tariff and defer the use of such rate, fare, or charge, or such classification, rule, regulation, or practice, following the effective date of such suspension, for a period or periods not exceeding 365 days in the aggregate from the effective date of such suspension. If, after hearing, the Board shall be of the opinion that such rate, fare, or charge, or such classification, rule, regulation, or practice, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, or in the case of a tariff filed by a foreign air carrier if the Board concludes with or without hearing that such action is in the public interest, the Board may take action to cancel such tariff and prevent the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. If the proceeding has not been concluded within the period of suspension or suspensions, the tariff shall again go into effect subject, however to being cancelled when the proceeding is concluded. For the purposes of operation during the period of such suspension, or the period following cancellation of an existing tariff pending effectiveness of a new tariff, the air carrier or foreign air carrier may file a tariff embodying any rate, fare, or charge, or the value of service thereunder, that may practice affecting such rate, fare, or charge, or the value of service thereunder, that may be currently in effect (and not subject to a suspension order) for any air carrier engaged in the same foreign air transportation.".

SEC. 16. Section 1002(j)(5) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(j)(5)) is amended by (1) striking the word "and" at the end of subparagraph (E) thereof, (2) striking the period at the end of subparagraph (F) and inserting in lieu thereof "; and", and (3) adding at the end thereof the following new subparagraph:

"(G) reasonably estimated or foreseeable future costs and revenues for such air carrier or foreign air carrier for a reasonably limited future period during which the rate at issue would be in effect.".

SEC. 17. Section 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1502) is amended by inserting "(a)" immediately after "SEC. 1102." and by adding at the end thereof the following new subsections:

"GOALS FOR INTERNATIONAL AVIATION POLICY

"(b) In formulating United States international air transportation policy, the Congress intends that the Secretary of State, the Secretary of Transportation, and the Civil Aeronautics Board shall develop a negotiating policy which emphasizes the greatest degree of competition that is compatible with a well-functioning international air transportation system. This includes, among other things:

"(1) the strengthening of the competitive position of United States air carriers to at least assure equality with foreign air carriers, including the attainment of opportunities for United States air carriers to maintain and increase their profitability, in foreign air transportation;

"(2) freedom of air carriers and foreign air carriers to offer fares and rates which correspond with consumer demands;

"(3) the fewest possible restrictions on charter air transportation;

"(4) the maximum degree of multiple and permissive international authority for United States air carriers so that they will be able to respond quickly to shifts in market demand;

"(5) the elimination of operational and marketing restrictions to the greatest extent possible;

"(6) the integration of domestic and international air transportation;

"(7) an increase in the number of nonstop United States gateway cities;

"(8) opportunities for carriers of foreign countries to increase their access to United States points if exchanged for benefits of similar magnitude for United States carriers or the traveling public with permanent linkage between rights granted and rights given away;

"(9) the elimination of discrimination and unfair competitive practices faced by United

States airlines in foreign air transportation, including excessive landing and user fees, unreasonable ground handling requirements, undue restrictions on operations, prohibitions against change of gauge, and similar restrictive practices; and

"(10) the promotion, encouragement, and development of civil aeronautics and a viable, privately owned United States air transport industry.

"CONSULTATION WITH AFFECTED GROUPS

"(c) To assist in developing and implementing such an international aviation negotiating policy, the Secretaries of State and Transportation and the Civil Aeronautics Board shall consult, to the maximum extent practicable, with the Secretary of Commerce, the Secretary of Defense, airport operators, scheduled air carriers, charter air carriers, airline labor, consumer interest groups, travel agents and tour organizers, and other groups, institutions, and government agencies affected by international aviation policy concerning both broad policy goals and individual negotiations.

"OBSERVER STATUS FOR CONGRESSIONAL REPRESENTATIVES

"(d) The President shall grant to at least one representative of each House of Congress the privilege to attend international aviation negotiations as an observer if such privilege is requested in advance in writing.".

Sec. 18. (a) The center heading for section 1102 of the Federal Aviation Act of 1958 is amended to read as follows:

"INTERNATIONAL AGREEMENTS

"ACTIONS OF THE BOARD AND SECRETARY OF TRANSPORTATION".

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the center heading

"TITLE XI–MISCELLANEOUS"

is amended by striking out

"Sec. 1102. International agreements."

and inserting in lieu thereof

"Sec. 1102. International agreements.

"(a) Actions of the Board and Secretary of Transportation.

"(b) Goals for international aviation policy.

"(c) Consultation with affected groups.

"(d) Observer status for Congressional representatives.".

Sec. 19. Section 1104 of the Federal Aviation Act of 1958 (49 U.S.C. 1504) is amended by striking the words "international negotiations and" and inserting in lieu thereof "international negotiations or".

Sec. 20. The third sentence of section 1108 (b) of the Federal Aviation Act of 1958 (49 U.S.C. 1508(b)) is amended by inserting immediately before the period at the end thereof the following: ", unless specifically authorized under section 416(b)(7) of this Act or under regulations prescribed by the Secretary authorizing United States air carriers to engage in otherwise authorized common carriage and carriage of mail with foreign registered aircraft under lease or charter to them without crew".

Sec. 21. Section 1117 of the Federal Aviation Act of 1958 (49 U.S.C. 1517) is amended to read as follows:

"TRANSPORTATION OF GOVERNMENT-FINANCED PASSENGERS AND PROPERTY

"TRANSPORTATION BETWEEN THE UNITED STATES AND A PLACE OUTSIDE THEREOF

"Sec. 1117. (a) Except as provided in subsection (c) of this section, whenever any executive department or other agency or instrumentality of the United States shall procure, contract for, or otherwise obtain for its own account or in furtherance of the purposes or pursuant to the terms of any contract, agreement, or other special arrangement made or entered into under which payment is made by the United States or payment is made from funds appropriated, owned, controlled, granted, or conditionally granted or utilized by or otherwise established for the account of the United States, or shall furnish to or for the account of any foreign nation, or any international agency, or other organization, of whatever nationality, without provisions for reimbursement, any transportation of persons (and their personal effects) or property by air between a place in the United States and a place outside thereof, the appropriate agency or agencies shall take such steps as may be necessary to assure that such transportation is provided by air carrier holding certificates under section 401 of this Act to the extent authorized by such certificates or by regulations or exemption of the Civil Aeronautics Board and to the extent service by such carriers is available.

"TRANSPORTATION BETWEEN TWO PLACES OUTSIDE THE UNITED STATES

"(b) Except as provided in subsection (c) of this section, whenever persons (and their personal effects) or property described in subsection (a) of this section are transported by air between two places both of which are outside the United States, the appropriate agency or agencies shall take such steps as may be necessary to assure that such transportation is provided by air carriers holding certificates under section 401 of this Act to the extent authorized by such certificates or by regulations or exemption of the Civil Aeronautics Board and to the extent service by such carriers is reasonably available.

"TRANSPORTATION PURSUANT TO BILATERAL AGREEMENT

"(c) Nothing in this section shall preclude the transportation of persons (and their personal effects) or property by foreign air carriers if such transportation is provided for under the terms of a bilateral or multilateral air transport agreement between the United States and a foreign government or governments and if such agreement (1) is consistent with the goals for international aviation policy set forth in section 1102(b) of this Act and (2) provides for the exchange of rights or benefits of similar magnitude.

"DISALLOWANCE OF IMPROPER EXPENDITURE BY COMPTROLLER GENERAL

"(d) The Comptroller General of the United States shall disallow any expenditure from appropriated funds for payment for personnel or cargo transportation in violation of this section in the absence of satisfactory proof of the necessity therefor. Nothing in this section shall prevent the application to such traffic of the antidiscrimination provisions of this Act.".

Sec. 22. That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the center heading

"TITLE XI—MISCELLANEOUS"

is amended by striking out

"Sec. 1117. Transportation of Government-financed passengers and property."

and inserting in lieu thereof

"Sec. 1117. Transportation of Government-financed passengers and property.

"(a) Transportation between the United States and a place outside thereof.

"(b) Transportation between two places outside the United States.

"(c) Transportation pursuant to bilateral agreement.

"(d) Disallowance of improper expenditure by Comptroller General.".

Sec. 23. Section 2 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 1159b) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and adding a new subsection (b) as follows:

"(b)(1) Whenever the Civil Aeronautics Board, upon complaint or upon its own initiative, determines that a foreign government or instrumentality, including a foreign air carrier (1) engages in unjustifiable or unreasonable discriminatory, predatory, or anticompetitive practices against a United States air carrier or (2) imposes unjustifiable or unreasonable restrictions on access of a United States air carrier to foreign markets, the Board may take such action as it deems to be in the public interest to eliminate such practices or restrictions. Such actions may include, but are not limited to, the denial, transfer, alteration, modification, amendment, cancellation, suspension, limitation, or revocation of any foreign air carrier permit or tariff pursuant to the powers of the Board under the Federal Aviation Act of 1958.

"(2) Any United States air carrier or any agency of the Government of the United States may file a complaint under this section with the Civil Aeronautics Board. The Board shall approve, deny, dismiss, set such complaint for hearing or investigation, or institute other proceedings proposing remedial action within 60 days after receipt of the complaint. The Board may extend the period for taking such action for an additional period or periods of up to 30 days each if the Board concludes that it is likely that the complaint can be satisfactorily resolved through negotiations with the foreign government or instrumentality during such additional period, but in no event may the aggregate period for taking action under this subsection exceed 180 days from receipt of the complaint. In considering any complaint, or in any proceedings under its own initiative, under this subsection the Board shall (A) solicit the views of the Department of State and the Department of Transportation and (B) provide any affected air carrier or foreign air carrier with reasonable notice and such opportunity to file written evidence and argument as is consistent with acting on the complaint within the time limits set forth in this subsection.

"(3) Any action proposed by the Board pursuant to this section shall be transmitted to the President pursuant to section 801 of the Federal Aviation Act of 1958 (49 U.S.C. 1461).".

Sec. 24. (a) Section 1002(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(j)) is amended by adding at the end thereof the following new paragraphs:

"(6) The Board shall not have authority to find any fare for foreign air transportation of persons to be unjust or unreasonable on the basis that such fare is too low or too high if—

"(A) with respect to any proposed increase filed with the Board on or after the date of enactment of this paragraph, and before the 180th day after such date of enactment, such proposed fare would not be more than the standard foreign fare level for the same or essentially similar class of service. No such fare shall be suspended, unless the Board determines that it may be unduly preferential, unduly prejudicial, or unjustly discriminatory or that suspension is in the public interest because of unreasonable regulatory actions by a foreign government with respect to fare proposals of an air carrier; or

"(B) with respect to any proposed increase filed with the Board after the 180th day after the date of enactment of this paragraph such proposed fare would not be more than 5 percent higher than the standard foreign fare level for the same or essentially similar class of service. No such fare shall be suspended, unless the Board determines that it may be unduly preferential, unduly prejudicial, or unjustly discriminatory or that suspension is in the public interest because of unreasonable regulatory actions by a foreign government with respect to fare proposals of an air carrier; or

"(C) with respect to any proposed decrease filed after the date of enactment of this paragraph, the fare would not be more than 50 percent lower than the standard foreign fare level for the same or essentially similar class of service, except that this provision shall not apply to any proposed decrease in any fare if the Board determines that such proposed fare may be predatory or discriminatory or that suspension of any such fare is required because of unreasonable regulatory actions by a foreign government with respect to fare proposals by an air carrier.

"(7) For purposes of this subsection, 'standard foreign fare level' means that fare level (as adjusted only in accordance with paragraph (9) of this subsection) filed for and permitted by the Civil Aeronautics Board to go into effect on or after October 1, 1979 and before the 180th day after the date of enactment of this paragraph (with seasonal fares adjusted by the percentage difference that prevailed between seasons in 1978), or the fare level established under paragraph (8), for each pair of points, for each class of fare existing on that date, and in effect on the effective date of the establishment of each additional class of fare established after October 1, 1979.

"(8)(A) The Board is authorized on the basis of oral evidentiary hearings before an administrative law judge, to determine that a fare between two points on October 1, 1979 is unjust or unreasonable. Such oral evidentiary hearing shall be completed within 180 days of enactment of this section, and the Board may establish such deadlines including the deadline for the judge's decision as the Board may deem necessary to meet such requirement. If the Board determines that such a fare is unjust or unreasonable, the Board shall, on the basis of such hearing record, establish the standard foreign fare level between such points.

"(B) Standard foreign fare levels shall not be established under this paragraph for points between which the passengers carried by U.S. carriers in foreign air transportation are, in the aggregate, more than 25 percent of the total passengers carried by United States air carriers in foreign air transportation during the most recent 12-month period for which data is available.

"(C) The establishment of a standard foreign fare level under this paragraph does not permit a reduction in fares.

"(D) No standard foreign fare level established under this paragraph shall take effect on or before the 180th day after the date of enactment of this paragraph.

"(E) The authority given the Board by subparagraph (A) of this paragraph shall expire on the 180th day after the date of enactment of this paragraph.

"(9) The Board shall, within 30 days after the date of enactment of this paragraph, and not less often than every 60 days thereafter with respect to fuel costs and not less often than every 180 days with respect to all other costs, adjust each standard foreign fare level for the particular foreign air transportation to which such standard foreign fare level applies by increasing or decreasing such standard foreign fare level, as the case may be, by the percentage change from the last previous period in the actual operating cost per available seatmile. In determining the standard foreign fare level, the Board shall make no adjustment to costs actually incurred. In establishing standard foreign fare levels and making the adjustments called for in this paragraph, the Board may use all relevant or appropriate information reasonably available to it.

"(10) The Board may by rule increase the percentage specified in paragraph (6)(C) of this subsection."

(b) Section 403(c)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1373(c)(1)) is amended by (1) inserting the words "or foreign air carrier" after the words "air carrier" each time those words appear therein and (2) inserting the words "or foreign air carrier's" after the words "air carrier's".

(c) Section 403(c)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1373(c)(2)) is amended to read as follows:

"(2) If the effect of any proposed tariff change would be to institute a fare that is outside of the applicable range of fares specified in subparagraphs (A) and (B) of section 1002(d)(4) or subparagraphs (A), (B), and (C) of section 1002(j)(6) of this Act, or specified by the Board under section 1002(d)(7) or section 1002(j)(9) of this Act, or would be to institute a fare to which such range of fares does not apply, then such proposed change shall not be implemented except after 60 days' notice filed in accordance with regulations prescribed by the Board.".

Sec. 25. Section 1002(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(c)) is amended by inserting the words ", subject to section 1102(a) of this Act," immediately before the words "issue an appropriate order".

Sec. 26. (a) Paragraph (1) of section 401(n) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(n)(1)) is amended to read as follows:

"(1) Notwithstanding any other provision of this title, no air carrier providing air transportation under a certificate issued under this section shall commingle, on the same flight, passengers being transported in interstate, overseas, or foreign charter air transportation with passengers being transported in scheduled interstate, overseas, or foreign air transportation, except that this subsection shall not apply to the carriage of passengers in air transportation under group fare tariffs.".

(b) Paragraph (1) of section 401(n) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(n)(1)) and the authority of the Civil Aeronautics Board with respect to such paragraph shall cease to be in effect on December 31, 1981.

Sec. 27. Section 414 of the Federal Aviation Act of 1958 (49 U.S.C. 1384) is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding sentence, on the basis of the findings required by subsection (a)(2)(A)(i) of section 412, the Board shall, as part of any order under such section which approves any contract, agreement, or request or any modification or cancellation thereof, exempt any person affected by such order from the operations of the 'anti-trust laws' set forth in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12) to the extent necessary to enable such person to proceed with the transaction specifically approved by the Board in such order and with those transactions necessarily contemplated by such order.".

Sec. 28. Section 45 of the Airline Deregulation Act of 1978 (49 U.S.C. 1341 note) is amended by inserting "(a)" after "Sec. 45." and by adding at the end thereof the following new subsections:

"(b) Nothing in this section shall prohibit the Secretary of Transportation or the Administrator of the Federal Aviation Administration from collecting a fee, charge, or price for any test, authorization, certificate, permit, or rating, administered or issued outside the United States, relating to any airman or repair station.

"(c) For purposes of this section, the term 'United States' shall have the meaning given such term in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301).".

Sec. 29. (a) Except as provided in subsection (c), notwithstanding any other provision of law, neither the Secretary of Transportation, the Civil Aeronautics Board, nor any other officer or employee of the United States shall issue, reissue, amend, revise, or otherwise modify (either by action or inaction) any certificate or other authority to permit or otherwise authorize any person to provide the transportation of individuals, by air, as a common carrier for compensation or hire between Love Field, Texas, and one or more points outside the State of Texas, except (1) charter air transportation not to exceed ten flights per month, and (2) air transportation provided by commuter airlines operating aircraft with a passenger capacity of 56 passengers or less.

(b) Except as provided in subsections (a) and (c), notwithstanding any other provision of law, or any certificate or other authority heretofore or hereafter issued thereunder, no person shall provide or offer to provide the transportation of individuals, by air, for compensation or hire as a common carrier between Love Field, Texas, and one or more points outside the State of Texas, except that a person providing service to a point outside of Texas from Love Field on November 1, 1979, may continue to provide service to such point.

(c) Subsections (a) and (b) shall not apply with respect to, and it is found consistent with the public convenience and necessity to authorize, transportation of individuals, by air, on a flight between Love Field, Texas, and one or more points within the States of Louisiana, Arkansas, Oklahoma, New Mexico, and Texas by an air carrier, if (1) such air carrier does not offer or provide any through service or ticketing with another air carrier or foreign air carrier, and (2) such air carrier does not offer for sale transportation to or from, and the flight or aircraft does not serve, any point which is outside any such State. Nothing in this subsection shall be construed to give authority not otherwise provided by law to the Secretary of Transportation, the Civil Aeronautics Board, any other officer or employee of the United States, or any other person.

(d) This section shall not take effect if enacted after the enactment of the Aviation Safety and Noise Abatement Act of 1979.

And the House agree to the same.

Harold T. Johnson,
Ray Roberts,
Glenn M. Anderson,
Elliott H. Levitas,
Robert A. Young,
Wm. Harsha,
Gene Snyder,
Managers on the Part of the House.

Howard W. Cannon,
Russell B. Long,
Daniel K. Inouye,
J. J. Exon,
Bob Packwood,
Nancy L. Kassebaum,
Barry Goldwater,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1300) to amend the Federal Aviation Act of 1958 in order to promote competition in international air transportation, provide greater opportunities for United States air carriers, establish goals for developing United States international aviation negotiating policy, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the

Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

DECLARATION OF POLICY ON UNITED STATES AND FOREIGN AIR CARRIERS

Senate bill

No comparable provision.

House amendment

In the proposed revision of the declaration of policy relating to the Civil Aeronautics Board in section 102 of the Federal Aviation Act of 1958, the House amendment states that one of the factors the Board must consider in the exercise of its functions and duties is the strengthening of the competitive position of United States air carriers, including the attaining of opportunities for United States air carriers to maintain and increase their market share in foreign air transportation.

Conference substitute

Provides that one of the factors the Board must consider is the strengthening of United States air carriers to at least assure equality with foreign air carriers, including the attainment of opportunities for United States air carriers to maintain and increase their profitability in foreign air transportation.

AUTHORITY TO MODIFY, SUSPEND, OR REVOKE CERTIFICATES

Senate bill

Section 6 of the Senate bill amends section 401(g) of the Federal Aviation Act of 1958 to allow the Board to suspend or revoke a certificated carrier's authority to serve a point (foreign or domestic) if the carrier notifies the Board that it proposes to suspend all service to the point, or if it fails to provide any significant service to the point for 90 days. Procedurally, the Board would be required to give the carrier notice and a reasonable opportunity to present its views, but a hearing would not be required.

House amendment

Section 6 of the House amendment revises all of section 401(g).

Paragraph (1) of the revision is the same as existing law except for the addition of the requirement that no certificate to engage in foreign air transportation may be altered, modified, suspended, or revoked pursuant to simplified procedures if the holder of the certificate requests an oral evidentiary hearing or the Board finds that such a hearing is required in the public interest.

Paragraph (2) is the same as existing law.

Paragraph (3) authorizes the Board to suspend or revoke a carrier's certificate authority to serve a point in foreign air transportation, after notice and a reasonable opportunity for the affected carrier to present its views, but without hearing, if the carrier has filed a notice under section 401(j) that it intends to suspend all service to the point, or if the carrier has failed to provide any service to the point for 90 days (this provision does not apply to a point which is provided service on a seasonal basis).

Conference substitute

Same as the House amendment, but changes test in section 401(g)(3) from failure to provide any service to failure to provide regularly scheduled service for 90 days. The conferees intend regularly scheduled service to consist of at least one flight a week, except in unusual circumstances.

POOLING AND OTHER AGREEMENTS

Senate bill

Section 412 of the Federal Aviation Act of 1958 is amended by inserting the requirement that the Board may not approve any agreement affecting foreign air transportation which reduces or eliminates competition unless it finds that the contract, agreement, or request is necessary, among other factors, to secure improved public benefits.

House amendment

Same as Senate bill, except that the factors to be considered include international comity or foreign policy considerations.

The House bill further amends such section to add the Secretary of State to those officers of the Government who are given written notice of contracts and agreements and certain other actions so he may comment on them and to request a hearing for the determination of whether such contract, agreement or action is consistent with the Federal Aviation Act of 1958.

Conference substitute

Same as the House amendment.

UNITED STATES AIR CARRIER LEASES OF FOREIGN AIRCRAFT AND EMERGENCY FOREIGN AIR CARRIER OPERATIONS IN INTERSTATE AND OVERSEAS AIR TRANSPORTATION

Senate bill

The Senate bill adds a new paragraph 7 to Section 416(b) of the Act ("Exemptions") which would permit the Board to authorize foreign air carriers to lease aircraft (with or without crew) to U.S. air carriers for use in interstate and overseas, as well as in foreign, air transportation. Section 20 of the bill makes a corresponding amendment to Section 1108(b) of the Act to permit such operations, if authorized, under this section.

The Senate bill also adds a new paragraph (8) under which the Board would be permitted to exempt foreign carriers from the provisions of the Act as necessary to enable them to carry traffic in interstate or overseas air transportation but only after consulting with the Secretary of Transportation and finding—

(1) the existence of unusual circumstances, such that U.S. carriers cannot accommodate the traffic in such markets;

(2) the necessity for the exemption to avoid undue hardship arising out of those circumstances; and

(3) the inability to otherwise accommodate the traffic.

Whenever the Board grants such authority—

(1) the authorization would be reviewed not less than every 30 days;

(2) load factors of U.S. carriers must be constantly monitored; and

(3) the authorization would, by its terms, be limited to a period not in excess of 5 days after those unusual circumstances have ceased.

House amendment

No comparable provision.

Conference substitute

The conference substitute does not adopt the proposed new paragraph (7) in the Senate bill which would permit the CAB to authorize foreign air carriers to lease aircraft to U.S. carriers for use in interstate and overseas air transportation. The conference substitute does adopt a provision contained in both the Senate bill and House amendment giving the Secretary of Transportation authority to permit foreign-registered aircraft to operate between points in the United States under a lease (without crew) to a United States carrier under special regulations prescribed by the Secretary.

The conference substitute adopts the provision in the Senate bill relating to the exemption of foreign air carriers from the provisions of the Act to enable them to carry traffic in interstate or overseas air transportation in certain circumstances, with the following modifications:

(1) the exemption may only be granted if the Secretary finds the existence of an emergency created by unusual circumstances not arising in the normal course of business;

(2) all possible efforts must have been made to accommodate the traffic on U.S. carriers;

(3) no exemption may be granted for more than 30 days but renewals of up to 30 days may be issued by the Board; and

(4) in any case where the inability to accommodate traffic in a market results from a labor dispute, an exemption may not be granted unless the Secretary determines that it will not result in an undue advantage to any party to such dispute. The conferees intend "any party" to refer to either labor or management. "Undue advantage" includes such actions as strikebreaking.

GOALS FOR INTERNATIONAL AVIATION POLICY ON UNITED STATES AND FOREIGN AIR CARRIERS

Senate bill

No comparable provision.

House amendment

The House bill adds to the considerations to be taken into account by the Secretary of State, the Secretary of Transportation, and the Civil Aeronautics Board in developing international air transportation policy, the strengthening of the competitive position of United States air carriers, including the attaining of opportunities for United States air carriers to maintain and increase their market share in foreign air transportation. The House bill also adds to such considerations the elimination of marketing restrictions to the greatest extent possible.

Conference substitute

Provides that the Secretary of State, the Secretary of Transportation, and the CAB must consider (1) the strengthening of the competitive position of United States air carriers to at least assure equality with foreign air carriers, including the attainment of opportunities for United States air carriers to maintain and increase their profitability in foreign air transportation, and (2) the elimination of marketing restrictions to the greatest extent possible.

TRANSPORTATION OF GOVERNMENT-FINANCED PASSENGERS AND PROPERTY PURSUANT TO BILATERAL AGREEMENTS

Senate bill

The Senate bill revises section 1117 of the Federal Aviation Act of 1958 (relating to the transportation of Government-financed passengers and property between the United States and any place outside the United States or between two places outside the United States) to include a subsection which provides that the transportation of persons or property by foreign air carriers is not precluded by the provision if that transportation is provided under the terms of an air transport agreement between the United States and a foreign government or governments and is consistent with the goals for international aviation policy set forth in the Federal Aviation Act of 1958 and provides for the exchange of rights or benefits of similar magnitude.

House amendment

No comparable provision.

Conference substitute

Same as the Senate bill.

FOREIGN RATEMAKING

Senate bill

The Senate bill denies the Board the authority to find a fare for foreign air transportation to be unjust or unreasonable on the basis that such fare is too high or too low if the proposed fare would not be more than 5 percent higher or more than 50 percent lower than a standard foreign fare level. This provision applies to proposed increases in fares filed with the Board on or after July 1, 1980, to become effective on or after September 1, 1980. The bill provides for the establishment of standard foreign fare levels which shall be the fare levels in effect on October 1, 1979, unless the Board concludes by rule that fares which were in effect on such date were unjust or unreasonable. On or before June 15, 1980, the Board shall by rule establish the standard foreign fare level in those cases in which it determines the fare in effect on October 1, 1979, was unjust or unreasonable.

House amendment

The House amendment is the same as the Senate provision except that it applies to proposed increases in fares filed with the Board on or after the date of enactment of this Act, and does not contain the exception which permits the Board by rule to conclude that fares in effect on October 1, 1979, are unjust or unreasonable.

Conference substitute

The conference substitute provides that the Board does not have authority to find a proposed fare unjust or unreasonable on the basis that it is too low or too high if (1) it is filed before the 180th day after the date of enactment and is not higher than the standard foreign fare level or more than 50 percent lower than the standard foreign fare level, or (2) the proposed fare is filed after the 180th day after enactment and is not more than 5 percent higher or more than 50 percent lower than the standard foreign fare level.

The conference substitute provides that the standard foreign fare level shall be the fare level filed for and permitted by the CAB to go into effect on or after October 1, 1979 (with seasonal adjustments) or the fare level determined by the Board in any case in which the Board determines the fare level in effect on October 1, 1979, was unjust or unreasonable, under procedures described below. For any new class of fare the standard foreign fare level is the fare in effect on the effective date of the establishment of such class.

The Board has authority to determine that a fare in effect on October 1, 1979, was unjust or unreasonable and to establish a standard foreign fare level, on the basis of oral evidentiary hearings before an administrative law judge. Any such determination and establishment of a fare level must be completed by the 180th day after the date of enactment of the Act. The Board does not have authority to establish standard foreign fare levels under this provision for points between which the passengers carried by U.S. carriers in foreign air transportation are, in the aggregate, more than 25 percent of the total passengers carried by U.S. air carriers in foreign air transportation. The Board is required to adjust standard foreign fare levels for cost changes 30 days after the date of enactment. Thereafter the Board shall adjust the fare level for changes in fuel costs not less than every 60 days and for all other costs not less than every 180 days. These adjustments to the standard foreign fare level are not required in cases where the Board has already adjusted the standard foreign fare level because of a fare increase based on the same changes in costs.

Section 1002(j) (8) permits the Board, on a one-time basis, to review the Standard Foreign Fare levels established in section 1002 (j) (7), determine whether some of those fare levels are too high or too low, and make appropriate adjustments. The Board's decision is to be based on the record developed in an oral evidentiary hearing before an Administrative Law Judge, and on the decision rendered by the Law Judge following the hearing. The hearing and the decision of the Board are to be completed within six months of enactment, and the Board is authorized to establish deadlines to insure this result. Review is limited to markets accounting for no more than 25 percent of U.S.-flag international passengers. Revised fare levels may not be made effective until 180 days or more following enactment, and the Board may not require any reduction of fares.

The conferees intend that the Board include the decision of the Seattle, Washington-Japan common fares investigation in the establishment of standard foreign fare levels.

ADDITIONAL POWERS AND DUTIES OF THE CIVIL AERONAUTICS BOARD WITH RESPECT TO CHARTER AIR CARRIERS

Senate bill

No comparable provision.

House amendment

Existing law prohibits the commingling of charter passengers with scheduled passengers in interstate or overseas air transportation. The prohibition does not apply to the carriage of passengers under group fare tariffs. The House amendment extends this prohibition against the carriage of what is commonly referred to as "part charters" to foreign air transportation. The prohibition will end on December 31, 1981, with respect to both foreign and interstate transportation.

Conference substitute

The conference substitute prohibits the Board from authorizing part charters by U.S. air carriers prior to December 31, 1981. The conferees intend that during this period the Board will not issue permits or exemptions authorizing foreign air carriers to operate part charters unless such authorizations are required to meet the obligations of the United States under existing agreements with the foreign countries. Nor should the U.S. Government enter into new agreements which permit part charters by foreign air-carriers during the pendency of the prohibition against such charters by U.S. carriers.

While the part charter prohibition does not expressly refer to the carriage of passengers under group fare tariffs, the Board must be vigilant in distinguishing proposals filed under the guise of group fare tariffs but which are tantamount to part charters, especially where marketing is by an indirect air carrier rather than by the air carrier directly or through an appointed agent.

ANTITRUST EXEMPTION

Senate bill

No comparable provision.

House amendment

The House amendment amends section 414 of the Federal Aviation Act of 1958 to provide that when the Civil Aeronautics Board approves an agreement under the modified Bank Merger Act test, the Board shall grant an exemption from the antitrust laws for actions necessary to carry out the approved agreement.

Conference substitute

The conferees expect the Board to apply the agreements test and the resulting immunity from U.S. antitrust laws, in a manner which does not discriminate between U.S. and foreign air carriers.

AUTHORITY OF THE PRESIDENT

Senate bill

No comparable provision.

House amendment

The House amendment amends existing law to provide that intercarrier agreements relating to foreign air transportation may be subject to Presidential review. The orders will be reviewed if the Secretary of State finds, within 2 days after reviewing a CAB order, that the order has important foreign policy consequences. The President must act to disapprove a CAB order within 10 days.

Conference substitute

The conference substitute does not adopt the House amendment.

COLLECTION OF FEES, CHARGES AND PRICES

Senate bill

No comparable provision.

House amendment

Section 45 of the Airline Deregulation Act of 1978 prohibits the FAA Administrator from increasing, without Congressional approval, user fees charged for granting approvals, authorizations, certificates, etc., above the fees in effect on January 1, 1973. The House amendment amends this prohibition to provide that it shall not prohibit the collection of fees for authorizations administered or issued outside the United States relating to any airman or repair station.

Conference substitute

Same as the House amendment.

PROHIBITION OF CERTAIN FLIGHTS INTO AND FROM LOVE FIELD, TEXAS

Senate bill

No comparable provision.

House amendment

The House amendment provides that notwithstanding any automatic market entry provision of the Airline Deregulation Act of 1978, or any other provision of law, no common carrier operating in interstate commerce may perform regularly scheduled commercial passenger flights in interstate commerce into or from a satellite airport lying within 20 miles of a major regional airport where the major airport is operated under the direction of a regional airport board and where the satellite airport is operated under the direction of a municipality and where the proprietors of such satellite airport and such regional airport board have determined that the public interest and aviation safety of the region are best served by closing said satellite airport to all commercial passenger interstate traffic. The foregoing prohibition does not apply to commuter airline operations.

Conference substitute

Section 29 as approved by the conferees embodies a compromise which permits limited commercial passenger service in interstate transportation at Love Field. Perhaps the most important point about section 29 is that it provides a fair and equitable settlement for a dispute that has raged in the Dallas/Fort Worth area for many years. It has been agreed to by the representatives of Southwest Airlines, the City of Dallas, the City of Fort Worth, DFW Airport authority, and related constituent groups.

Subsection (a) provides that notwithstanding any other provision of law, including the Federal Aviation Act, the CAB, its successor agency or any other Federal body shall not authorize or permit interstate air transportation of passengers to or from Love Field. The conferees intend that this prohibition shall continue to apply even after the CAB's jurisdiction to control entry into domestic air transportation markets expires on December 31, 1981. The new law contains three exceptions to this total prohibition on interstate Love Field service. First, subsection (c) permits turnaround service between Love Field and points in the four contiguous States. Subsection (a) itself contains two additional exceptions: (1) it permits the continued operation of a limited number of interstate charter flights each month to and from Love Field, and (2) interstate service provided by commuter airlines operating aircraft having a capacity of 56 passengers or less is authorized. Additionally, the Love Field provisions apply only to air transportation of passengers. The Love Field provisions do not affect cargo carriers such as Federal Express, or intrastate service in Texas.

Subsection (b) provides that except as provided in subsections (a) and (c), no airline can provide or offer to provide interstate air service to or from Love Field; this section also grandfathers Southwest Airlines' authority to operate Love Field-New Orleans nonstop service which the carrier was offering on November 1, 1979. Southwest received this certificate authority from the CAB in the Southwest Airlines Automatic Market Entry Investigation, Order 79–9–192.

Subsection (c) provides that the CAB, or its successor agency is empowered to authorize an airline to provide service only between Love Field and points in Louisiana, Arkansas, Oklahoma, and New Mexico on a turnaround basis. The section also contains a congressional finding that such service, and only Love Field service of this limited scope, is consistent with the public convenience and necessity. While specific route applications to provide this service will be passed on by the CAB, the conferees intend that the Board will consider only whether the applicant is fit, willing and able to perform the proposed transportation, and whether such transportation is within the scope of authority granted by this legislation. We anticipate that the Board will act expeditiously on any such applications.

The Act, however, imposes certain conditions on any airline certificated to operate interstate Love Field service. These conditions are to appear in any certificate authorizing such service. First, no air carrier that provides any through service or ticketing with another carrier or foreign air carrier may be authorized to operate interstate air service from Love Field. Second, no air carrier offering Love Field service to points in the four contiguous States may offer or hold out service to and from points beyond the four contiguous States. Third, the flight or aircraft operating to or from Love Field may not operate to points beyond the four contiguous States; only turnaround service is permitted. Such Love Field carriers may not hold out, offer or advertise Love Field service to or from points beyond the four contiguous States in any respect, including the publication of connecting flight schedules in airline guides, flight schedules or other similar media.

Thus, a carrier providing service from Love Field to a point in one of these States is not forbidden from providing service from that point to other points in other States beyond, but it could not do so on a continuation of the same flight to or from Love Field, or on the same aircraft coming from or going to Love Field, and it could not advertise or promote its service to points in States beyond. While it could not sell through tickets, publish through schedules or offer through fares between Love Field and points beyond the contiguous States, its usual ticketing, scheduling and ratemaking practices would not be otherwise affected.

The conferees desire to provide the CAB and its successor agency, if any, with a clear statement of congressional intent to aid the CAB's implementation of this section of law. The conferees intend that this provision supersedes any provision of the Federal Aviation Act that may otherwise be construed to authorize interstate service to Love Field. Provisions superseded include, among others, the automatic market entry section (§ 401(d)(7)), dormant route authority provision (§ 401(d)(5)), restriction removal and closed door restriction standards (§ 401(e)(7)), the liberalized public convenience and necessity standard (§ 401(e) (1), (9)) and the new declaration of policy (§ 102(a)), enacted by the Airline Deregulation Act. We expect the CAB to authorize interstate service only between Love Field and points in the four contiguous States, and all such awards should be subject to the conditions set forth in subsection (c). Pending proceedings in which applicant air carriers seek Love Field interstate authority to points beyond the four contiguous States should be denied in conformity with this law.

The conferees state that the preemption and proprietary rights provisions of the Federal Aviation Act, sections 105(a) and (b), respectively, apply to the authority to serve Love Field on interstate flights authorized by the amendment.

Finally, the conferees recognize that the demand for the Love Field amendment which has led to this legislation arose out of a historical dispute in the Dallas/Fort Worth area which all regard as unique in the air transportation industry. Acceptance of this compromise should therefore not be taken as a harbinger of any similar proposals for any other airport or area.

HAROLD T. JOHNSON,
RAY ROBERTS,
GLENN M. ANDERSON,
ELLIOTT H. LEVITAS,
ROBERT A. YOUNG,
WM. HARSHA,
GENE SNYDER,
Managers on the Part of the House.

HOWARD W. CANNON,
RUSSELL B. LONG,
DANIEL K. INOUYE,
J. J. EXON,
BOB PACKWOOD,
NANCY L. KASSEBAUM,
BARRY GOLDWATER,
Managers on the Part of the Senate.

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, earlier today I was in Jersey City, N.J., investigating a death in a postal facility there as part of my responsibilities as a member of the Committee on Post Office and Civil Service. Consequently, I missed rollcall No. 747. Rollcall No. 747 was on the adoption of the conference report on S. 673, the act to authorize the national security programs of the Department of Energy for fiscal years 1980 and 1981. Had I been present, I would have voted "yes".

REQUEST FOR CONSIDERATION OF CONFERENCE REPORT ON H.R. 2440, AIRPORT AND AIRWAY DEVELOPMENT ACT

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the bill (H.R. 2440) to repeal the prohibition against the expenditure of certain discretionary funds under the Airport and Airway Development Act of 1970.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. WYDLER. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

EXPERIENCED PILOTS ACT OF 1979

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 3948), to require a study of the desirability of mandatory age requirements for certain pilots, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, ment, as follows:

Page 3, strike out lines 1, 2, and 3, and insert:

SEC. 2. No funds are authorized to be appropriated for the fiscal year commencing October 1, 1979, in addition to funds otherwise available to carry out the study described in section 1 of this Act.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. SNYDER. Mr. Speaker, reserving the right to object, this is the age 60 study bill, and under my reservation of objection I will ask the gentleman to explain his request to us.

Mr. ANDERSON of California. Mr. Speaker, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from California.

☐ 1440

Mr. ANDERSON of California. Mr. Speaker, H.R. 3948, as amended by the Senate, is simply an acceptance of the amendment that was offered by my colleague, the gentleman from New Jersey, the Honorable JAMES J. HOWARD, and which was overwhelmingly accepted by this body.

That amendment provides for a 1-year study by the National Institutes of Health to examine a series of questions relating to the need for modifying present Federal Aviation Administration physical examination and retirement procedures for airline pilots. This study when completed will help us reach our ultimate goal to eliminate age discrimination against airline pilots.

The passage of this legislation with the study will help us achieve these objectives.

The one change the other body made in the amendment offered by Mr. HOWARD was the removal of the $600,000 authorization for fiscal year 1980 funds from the study. The research will thus be conducted by NIH pursuant to funds presently available for this kind of work.

I urge the passage of the House bill as amended.

Mr. SNYDER. Mr. Speaker, under my reservation, I yield to the gentleman from New York (Mr. WYDLER).

Mr. WYDLER. Mr. Speaker, I want to make sure there is nothing in this piece of legislation, the conference report, relating to aircraft noise.

Mr. ANDERSON of California. No, it has nothing to do with aircraft noise.

Mr. SNYDER. It has nothing to do with aircraft noise and, as a matter of fact, it is not a conference report. We are agreeing to the Senate amendment by unanimous consent, which is in effect the bill that we passed after the Howard amendment for the study. We had $600,000 in the bill. The only difference now is the Senate had problems with their Budget Committee and they do not have the $600,000 in their bill that was in ours. We have been assured by NIH that they have in-house funds they can use at least during the current fiscal year to go ahead with the study. It has nothing to do with aircraft noise.

Mr. WYDLER. I thank the gentleman.

Mr. SNYDER. Mr. Speaker, I want to rise in support of this legislation under my reservation. As I explained to my colleague, the gentleman from New York, this is the identical proposition we agreed to in the House except it does leave out the $600,000 authorization. That is what the Senate did.

Mr. Speaker, I rise in support of H.R. 3948 and the Senate amendment thereto and urge my colleagues to adopt this legislation with the Senate amendment.

As you all know, H.R. 3948 requires a study to be conducted by the National Institutes of Health—NIH—into the medical and performance-related implication of pilot aging and what effect changing the retirement age of 60 would have on safety. The bill as it passed the House contained a provision authorizing $600,000 for the NIH study.

In adopting H.R. 3948 however, the Senate struck the $600,000 authorization from the House-passed bill. It is my understanding that this action was taken to move the legislation through the Senate as quickly as possible and because NIH has indicated that it has had sufficient in-house funds to accomplish the study without an additional authorization. The substantive provisions of H.R. 3948 relative to the NIH study were adopted by the Senate without any modification.

As I have stated many times before, I am in favor of this study and hope it will provide the Congress with the information it needs to decide whether the age-60 rule should be retained, eliminated, or modified. Since the Senate amendment is only technical in nature and because it will not affect the actual conduct of the study, I urge my colleagues to adopt H.R. 3948 with the Senate amendment.

Mr. Speaker, I withdraw my reservation of objection.

● Mr. JOHNSON of California. Mr. Speaker, I support the passage of H.R. 3948 as amended by the Senate and as explained by the chairman of the Subcommittee on Aviation, the gentleman from California, the Honorable Glenn M. Anderson.

With the passage of the Howard amendment all objection to this legislation has disappeared. The study proposed by Mr. Howard will help us resolve the question of the age for pilots to fly and is a much needed and necessary work.

I urge its acceptance and the passage of H.R. 3948.●

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

NATIONAL VISITOR CENTER ACT

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 504 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 504

> *Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3927) to amend the National Visitor Center Facilities Act of 1963, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and all points of order against said amendment for failure to comply with the provisions of clause 5, rule XXI, are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from California (Mr. Beilenson) is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, I yield the customary 30 minutes for the purpose of debate only to the gentleman from Ohio (Mr. Latta), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 504 is a rule providing for the consideration of the bill, H.R. 3927, to amend the National Visitor Center Facilities Act of 1968 to provide for completion of facilities for visitors at the Union Station and for other purposes. It is an open rule, providing 1 hour of general debate, to be equally divided between the chairman and the ranking minority member of the Committee on Public Works and Transportation.

The rule further provides that the committee amendment in the nature of a substitute will be considered as the original text for the purposes of amendment under the 5-minute rule. All points of order are waived against the substitute for failure to comply with clause 5, rule XXI, which prohibits appropriations in a legislative bill. House Resolution 504 also provides one motion to recommit with or without instructions.

Mr. Speaker, this legislation increases the ceiling on authorization of appropriations to the Department of the Interior for visitor facilities at the Union Station from $21,580,000 to $60,580,000. This authorization will enable the urgently needed structural repairs to the historic building to be made and will facilitate the completion of the National Visitors Center and parking facilities under the direction of the Secretary of the Interior.

In addition, this bill is designed to promote the improvement of the rail passenger facilities at Union Station. The Secretary of the Interior is directed to sublet a portion of the station to the Department of Transportation for use as a rail passenger station and that area necessary for rail support operations adjacent to the tracks which are to be extended to the concourse to provide easier access to rail passengers.

The Secretary of Transportation is authorized to make alterations to the space in a manner he deems necessary for the benefit of the rail passengers.

Mr. Speaker, I support the idea of a National Visitors Center and welcome, especially the improvement of the rail passenger facilities at Union Station. This bill will provide for the completion of the conversion of the Union Station into the National Visitors Center first commissioned in 1968 and will provide for a viable train station for all rail passengers to and from the Nation's Capital.

Mr. Speaker, I know of no opposition to this rule. I urge the adoption of House Resolution 504 so that we may proceed to the consideration of this legislation.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, while there is no particular problem with regard to the parliamentary procedure proposed in this rule, the bill made in order by this rule is part of a legislative horror story.

For the benefit of those who were not Members of the House at the time, let me review some of the history that has resulted in today's bill.

The whole sad tale began in the 90th Congress. On November 27, 1967, the House considered H.R. 12603 the National Visitor Center Facilities Act of 1967. The manager of the bill was a former Member of this body from Illinois, Mr. Gray. He described the bill that was before the House in the following glowing terms.

> Therefore, we are pleased to announce to the House that the proposal we bring to you today will not require 1 cent of taxpayers' money in the renovation of Union Station, construction of parking, or the construction of a new railroad passenger station to replace Union Station as a train terminal.

Union Station was to be renovated and a 4,000-car garage was to be constructed by the railroads. As the bill was finally worked out, the railroads owning the station agreed to pay the $16 million cost, and the taxpayers would then lease the building, at a cost of $3.5 million annually for 25 years with an option to buy.

One gentleman, then a member of the House from Illinois, Mr. Kluczynski made the following point about the Visitors' Center.

> This needed and long-awaited Visitors' Center will come about without cost to the Federal Government and almost guarantees a continuing profit. What it can do for the local economy can hardly be calculated at this time.

While most Members in 1967 were strongly in favor of the bill, there were a few who spoke out against it. A gentleman from Iowa, Mr. H. R. Gross, spoke with great foresight when he said:

> I am under no illusion as to the fate of this legislation. The bill will pass and I predict it will haunt some of those who vote for it. Let the record show, should there not be a rollcall, that I am unalterably opposed to it.

Just as the gentleman had predicted, the bill did pass the House on November 27, 1967, by a vote of 317 to 34.

After a conference with the other body, the conference report was before the House on February 29, 1968. The manager of the report described the timetable as follows.

> I am sure the constitutents of all Members of the House and Senate will be pleased to learn about these facilities that should be available for public use within 18 to 24 months after the President's signature.

A little later in the same debate he also made the following observation.

> As you know the railroads will put up all the money for the construction of this facility and lease it to the Federal Government.

The conference report passed the House by a voice vote and the city awaited with great expectation the completion of the Visitor Center. And was the Visitor Center in fact ready in 18 to 24 months as promised? No.

In fact, in the 93d Congress, the proponents on this scheme, came back to the Congress for more money, not once, but twice in one Congress.

The first bill was H.R. 5857, to amend the National Visitors Center Facilities Act of 1968. This new bill was considered in the House on May 30, 1973. It authorized a further $8.6 million for construction and purchase of exhibits and furnishings, and authorized the Department of the Interior to provide bus service between the Visitors Center and other Federal areas within the District of Columbia.

The gentleman from Illinois, Mr. Gray, again managed the bill. He explained the need for the new bill as follows:

> Mr. Chairman, we tried to "poor boy" this project by asking the railroads to put up all of the money to build a parking facility and renovate the existing Union Station at a total cost of $16 million. Just at the time the plans were scheduled to be completed and the railroads were ready to go out for bids for construction, Penn Central who owned half of Union Station at that time went into bankruptcy, therefore, we have experienced a delay of at least 3 years."

Once again he promised that if the House would just vote for the bill the Visitors Center would be ready in plenty of time for the bicentennial.

> This bill will allow this center to be completed properly within 18 to 24 months and also authorizes public interpretive transportation services to the Capitol Building and other Government facilities.

And as he had in 1967, the gentleman from Iowa, Mr. Gross warned the House of the consequences. I quote:

> The gentleman is back with a request for $9 million more on this project, and this is just a foot in the door.
>
> I say to the Members of the House, Republicans and Democrats alike, that this is a foot in the door, and the gentleman from Illinois (Mr. Gray) will be back for more. He said he was not coming in for more money in 1967; yet he is here today asking for $9 million.

The House passed the bill by 288 to 75 on May 30, 1973.

And sure enough just as the gentleman from Iowa, Mr. Gross had predicted, there was a request for more money, and it came the very next year in the form of H.R. 17027. The manager of the bill was again the gentleman from Illinois, Mr. Gray. The new bill provided an additional $12.9 million. The manager of the bill assured the House that the least expensive course was to vote for the bill. Here was his reasoning:

> We have already spent almost $3 million which will be lost forever. The railroads have spent $5 million that will be lost forever. That is $8 million, and it will cost approximately $12 million to restore that historic landmark back to its original use, which means a total of $20 million.
>
> For $12.9 million, we can have a parking garage, a brand new train station, and a modern orientation center—for $12.9 million instead of the $20 million that it will cost to stop the project.

The gentleman from Iowa, Mr. Gross, with his usual foresight told the House the consequences of this bill. I quote:

> I assure you that if you vote to approve this additional $13 million it will be only another foot in the door. You will not be through with it.

The bill did pass on October 10, 1974, by a vote of 198 to 159. Note that the number of nays continued to increase.

The next money that went into this project, according to the committee report, was in 1975 when the Urban Mass Transportation Administration approved an $8.2 million grant for the transit deck of the parking structure.

So as we start to consider this bill, Mr. Speaker, there have already been substantial sums put into this project. The building owners put in $16 million. Then through various amendments to the original act, an additional $21.5 million has been put in. Finally, $8.2 million has come from the Urban Mass Transportation Administration.

Now on top of that this bill increases the authorization by $39 million. The committee report also notes that the Secretary of Transportation has committed his Department to an additional $23 million in funds appropriated for the Railroad Revitalization and Reform Act of 1976. Now this is the history of this legislation.

Mr. Speaker, it is time for the House to finally stand up and say "Enough!" and put a stop to this endless and increasing drain on the Treasury.

If the money that is comtemplated by this bill is actually put into the building we will have spent a total of $110 million to renovate an old building with most of it coming from the taxpayers.

The number of parking spaces is down from the 4,000 originally anticipated to only 1,400.

If this House in fact agrees to put additional millions into this bottomless pit, it will deserve the criticism it will receive.

□ 1450

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Maryland.

Mr. BAUMAN. I want to compliment the gentleman from Ohio (Mr. LATTA) for resurrecting the very recent history of this legislation. It is good to hear the words of our former colleague, H. R. Gross, which were so prophetic at the time of their utterance.

I had intended to make a similar speech, in fact, using some of the same quotes. I was going to call my speech "The Great Train Station Robbery." However, the gentleman from Ohio has stolen my thunder.

I think it is very well to use the rule for this discussion.

I would just add one other brief quote I found at the time of the gentleman from Ohio (Mr. HARSHA), who was a very prominent member on this committee, who in 1973, when we were doling out more millions on this project, said:

□ 1500

> There is to be no expenditure of Federal money on this particular piece of legislation. Quite to the contrary, the Federal Government is to realize revenue. The Department of the Interior and the administration sent the bill up here and they requested it, and it will cost the Federal Government nothing.

So, it was a bipartisan assurance. Since the gentleman from Ohio (Mr. HARSHA), is still with us, I am sure he will be willing to join with us and others in opposing this legislation today. I agree with the gentleman, the pit seems to be bottomless, and he has done an eloquent job of describing the hole Congress dug.

Mr. LATTA. I thank the gentleman.

I have no further requests for time and reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I too would like to congratulate the gentleman from Ohio for his eloquent words, which I would be happy to read back to him next year when the Chrysler Corp. comes back for some money in addition to the $1.5 billion which we guaranteed to them yesterday, which the gentleman from Ohio supported.

Mr. Speaker, at this time I yield such time as he may consume to the gentleman from Pennsylvania (Mr. MOORHEAD).

MAKING IN ORDER CONSIDERATION OF CONFERENCE REPORT ON H.R. 5860, CHRYSLER CORPORATION LOAN GUARANTEE ACT OF 1979, ON ANY DATE AFTER FILING

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I ask unanimous consent that it be in order on any time after the conference report is filed to take up the conference report on the bill (H.R. 5860) to authorize loan guarantees to the Chrysler Corp.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, can the gentleman from Pennsylvania tell us when he might expect that conference report would be filed?

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. The expectation is that the other body will act on the bill by 6 o'clock this evening. It would be my hope that the conferees, having been appointed, we could have a preliminary meeting tonight and a final meeting tomorrow. The figures the other body adopted are much different than the committee-reported bill, they are much closer to the House bill. Barring some really difficult technical problems, of which I am not aware, I would hope to have the conference report, with copies available for action by the House tomorrow so as not to delay the adjournment of the House.

Mr. BAUMAN. So it is conceivable we could conclude all action on that legislation tomorrow if the gentleman's request is granted?

Mr. O'NEILL. Mr. Speaker, will the gentleman yield to me?

Mr. BAUMAN. I yield to the distinguished Speaker.

Mr. O'NEILL. And I would hope for the week.

Mr. BAUMAN. For the week?

Mr. O'NEILL. I hope.

Mr. BAUMAN. I wonder if we could ask the distinguished Speaker, further reserving the right to object, does that mean that we would conclude our activity for the period through January the 22d?

Mr. O'NEILL. That I hope for, too.

Mr. BAUMAN. "That I hope for, too," is what the Speaker said, in case my colleagues did not hear, a welcome statement.

The CHAIRMAN. Does the gentleman from Maryland wish to yield back the balance of his time?

Mr. BAUMAN. I do not have any time. I am just reserving the right to object.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. BEILENSON. Mr. Speaker, I am not aware of any controversy on this rule.

I have no further requests for time and I move the previous question on the resolution.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the resolution.

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

NATIONAL VISITORS CENTER ACT

Mr. LEVITAS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3927) to amend the National Visitor Center Facilities Act of 1968, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. LEVITAS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3927, with Mr. GONZALEZ in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Georgia (Mr. LEVITAS) will be recognized for 30 minutes, and the gentleman from South Dakota (Mr. ABDNOR) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 3927, as reported by the House Committee on Public Works and Transportation, settles the critical issue of the long-term role of the Union Station facility in regard to visitor facility needs and rail transportation requirements. The bill provides that both a viable visitor center and rail passenger facility be located in the Union Station Building. The bill is a coordinated proposal that will meet the need of all potential users of the complex including tourists, commuters, and long-distance travelers. The $39 million in additional funds authorized in this legislation will provide for completion of near-term and long-term repairs necessary at the National Visitor Center and these funds will bring about the completion of a project authorized in 1968.

As you know, the history of the National Visitor Center to date is extremely complex. At this time it makes no sense to try to assess blame for the problems encountered: Such as, major work stoppages caused by lawsuits, lack of funding, major strikes, change orders and revisions in the scope of work. However, I might add that during consideration of this legislation in the committee I requested the Secretary of Interior to have the Inspector General of the Department review investigations of the National Visitor Center to date to determine whether or not additional investigations were required. The Inspector General's office advised the committee that three final contract audit reports have been conducted and that no substantive issues were uncovered.

To date, the Federal Government has spent approximately $30 million and the owners have spent approximately $16 million, totaling $46 million in expenditures. The Department of the Interior terminated its agreement with the contractor on November 15, 1976, leaving an unusable and deteriorating parking garage, an unfinished roadway circulation system, and an unfinished rail replacement station. The replacement rail station was being constructed by the owners of Union Station. Now, the Department of Transportation has proposed that the railroad station be relocated to the concourse area of Union Station, thus, enabling eight upper level tracks to be extended back to the Center.

The Department of Transportation contends that in 1968, when the National Visitor Center was planned, intercity rail passenger ridership was declining sharply and no major improvements in rail passenger was contemplated. However, with the initiation of the northeast corridor improvement project in 1976, circumstances have reversed dramatically. Washington's Union Station will serve as the southern terminus of the northeast corridor improvement project.

It is one of 15 stations along the corridor right-of-way between Washington and Boston to be expanded, rehabilitated or reconstructed on behalf of this improvement program. The projected patronage using Washington will approach almost 35 percent of the total patronage to be generated by this improvement project. Currently approximately 3.7 million rail passengers use the Union Station facility. It is anticipated that in 1982 as a result of improvements along the corridor, rail ridership at Union Station will reach 5.6 million passengers. Thus, the Department of Transportation contends the current rail facilities at Union Station are inadequate and should be relocated within the concourse of the Union Station building.

Accordingly, the Washington Terminal Co. is to cease any further construction in the area beneath and adjacent to the parking structure, and assign to the Secretary of Transportation all of the company's right and obligation to the rail passenger station. The Washington Terminal Co.'s operations, which include platforming trains, cleaning cars, switching maintenance and repairs, will continue. The bill does not affect any of the functions or the ownership of the property on which they are performed. It applies only to the station building itself.

Presently, there is no place for potential rail passengers or visitor center users to park—a further obstacle to increased use of the facility.

At this time, the National Visitor Center is open, but, being operated under a reduced visitor-service program. Prior to the reduction in visitor services, the center has been visited by over 2 million visitors since its opening on July 4, 1976. Moreover, it has served as the site of several inaugural activities in January 1977.

Mr. Chairman, H.R. 3927, as reported, provides that both a viable visitor center and rail passenger facility can be located in the Union Station building. The bill is a coordinated proposal that will meet the needs of all potential users of the complex. In my opinion, it is the best plan for all users. Importantly, it has the approval of all the departments involved and the Office of Management and Budget.

The main building of Union Station will serve as a National Visitor Center. Approximately, one-half of the concourse will provide appropriate visitor and rail concession facilities. The remaining half of the space will be altered to provide a rail passenger station.

The bill would leave responsibility for the lease with the Secretary of the Interior. The Secretary is directed to repair, redesign, and complete construction necessary at the National Visitor Center. The Secretary of the Interior is directed to sublet not to exceed 40,000 square feet of space in the concourse to the Department of Transportation for use as a rail passenger station and that area necessary for rail support operations adjacent to the tracks which are to be extended to the concourse. The Secretary of Transportation is directed to operate or cause to be operated in the concourse a rail passenger terminal and is authorized to make alterations to the space in a manner he deems necessary for the benefit of rail passengers. The Department of Transportation has committed approximately $23 million in Northeast Corridor improvement project funds for Union Station.

The legislation will enable the urgently needed structural repairs to the historic building to be made. Long-term repairs to the building would include a modernized electrical distribution and branch circuit system; a new roof and roof drainage system; a new heating system; and long-term structural system repairs. In addition, near-term repairs necessary to the parking structure, the southeast ramp, and the main building will be accomplished. These measures are needed immediately to comply with safety and structural codes and to arrest the deterioration which daily compounds the ultimate cost of completing construction.

The Secretary of Interior is directed to complete construction of the parking structure. This includes approaches and ramps for adequate traffic circulation. The main deck shall be used only for local, charter, and tour bus operations. The parking structure will provide space for 1,400 automobiles, of which 1,200 will be reserved for the automobiles of visitors. The allocation of parking spaces is designed to serve out-of-town visitors; not local commuters who have the opportunity to move in a variety of transportation modes.

The legislation mandates that every contract for construction, alteration, renovation, or repair of any facility shall be bid competitively on a fixed-price basis. This provision will serve as a mechanism to avoid cost overruns and to establish better control of construction. In addition, section 6 is designed to insure that the Congress has control over all future planning and construction at the facility. Any deviation from the suggested plan will require Congress review and approval.

The legislation authorizes the Secretary of Interior to use funds received from operations of the National Visitor Center, including revenues from the parking facility to pay cost of operating, maintaining and leasing the center. Funds received from operations of the center are to include the rent paid to the Department of Interior by the Secretary of Transportation and the sublet space to be utilized as a rail passenger station.

The Secretary of Transportation is authorized to use funds received through operation of the sublet space to pay the cost of operating, and maintaining the sublet space, including payments to the Secretary for occupancy of the sublet space. The Secretary of Transportation is further authorized to expend funds appropriated pursuant to section 704(a)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 to carry out rail passenger operations at Union Station without regard to the matching funds requirements of section 703(1)(B) of such act.

The Architect of the Capitol is authorized to enter into a contract or other agreement with the Secretary of Interior pursuant to which the Architect of the Capitol will furnish steam from the Capitol powerplant to the Union Station. The Secretary will pay for such steam at rates, not less than cost, and is directed to connect the Union Station with the Capitol powerplant steam lines without expenses to the Congress.

Lastly, there is authorized to be appropriated to the Secretary of the Interior $39 million in funds necessary to complete the Union Station National Visitor Center complex.

Mr. Chairman, I strongly urge my colleagues to support this bill. The measures encompassed within this legislation are feasible and will finally provide a facility that will benefit all potential users of the complex. The choice is clear—we either complete construction of a much needed facility or we can have a sign constructed stating "this is another Federal Government public works boondoggle." I strongly urge my colleagues to support enactment of this legislation for it is a proposal that has the support of all agencies involved as well as the Office of Management and Budget.

□ 1510

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I will be happy to yield to the gentleman from Illinois.

Mr. HYDE. Is it too late to turn this facility into a Senate office building?

Mr. LEVITAS. As the gentleman knows, I made the same suggestion when we had the Senate office building proposal before this House. Let me address the question that the gentleman raises, and I must say that it is with some amount of ill ease that I have a responsibility for bringing this bill to the House. But, I think it is a responsibility that needs to be discharged.

I listened with interest to the remarks of the gentleman from Ohio (Mr. LATTA), detailing the sad history of the National Visitor Center.

The CHAIRMAN. Will the gentleman suspend?

The Chair notes a disturbance in the visitors' gallery in contravention of the law and the rules of the House. The doormen and guards will remove from the gallery that person participating in such disturbance.

The gentleman may proceed.

Mr. LEVITAS. I heard the remarks of the gentleman from Ohio, and indeed could have recounted the same history with the same concerns that he did. I feel very much like the person who was brought before a magistrate, charged with being drunk and smoking in bed in violation of the ordinances of that particular municipality. He pleaded not guilty to being drunk or smoking in bed in the hotel. After the evidence was presented by the prosecution, the defendant said he wanted to change his plea. He pleaded to being guilty to the charge of drunkenness, but claimed that the bed was already on fire when he got in it. I feel very much in the same position today.

I am not suggesting, indeed, that Members who were here in 1968 made the right decisions. I think we do need a National Visitor Center in Washington. Indeed, we do need a railroad station in Washington. What I am suggesting to the Members is that we, as responsible Members of Congress today, have an obligation. We can let a very beautiful facility, the Union Station Building, collapse and deteriorate; and that is a decision for the Members of this body to make, or we can pass this legislation which has been very carefully considered by our committee. The committee built into the legislation safeguards which have never been in previous National Visitor Center Acts.

We are requiring a fixed-price, competitively-bid contract; not the original cost-plus contract. We are requiring that all plans and specifications proposed by the Department of the Interior and the Department of Transportation under this legislation must come back to the Congress for review. Further, no funds shall be obligated for construction or alteration of any facilities authorized by the National Visitor Center Facilities Act of 1968, including the amendments made by this bill, until final plans shall have been submitted and pending for 30 legislative days before the appropriate committees of the House and Senate, unless each committee approves or disapproves the plans prior to expiration of the 30 legislative days. I personally believe that, given the present circumstances, without engaging in this orgy of condemnation of what has happened before, that the only responsible course is for the House to pass this legislation and complete construction of the National Visitor Center and rail passenger terminal so that Americans all over the Nation can have an opportunity to visit their Nation's Capital and receive the information and services for which this bill will provide.

□ 1520

Mr. JONES of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from North Carolina.

Mr. JONES of North Carolina. I thank the gentleman for yielding. I think it would be very enlightening to the membership if the gentleman might explain what has been done with the millions that we have appropriated in the past.

Mr. LEVITAS. I will be happy again to state that what was done originally was the building of a National Visitors Center and commencing construction of the parking ramp, as well as a circulation system for traffic in that area. As a result of the problems which I have outlined previously, there were inadequate funds. There was mismanagement of the project and work is still uncompleted. As a result of the change in ridership of the railroad system, the reduced railroad facility which was to be located in the replacement facility is no longer adequate, and there is now a need to relocate that facility into Union Station. We have an incomplete facility, and either we are going to let the Union Station building collapse, or we are going to take those steps necessary under very tight restrictions in order to make certain that this project is ultimately and finally brought to fruition. That is where we are at the present time. We can either allow it to deteriorate—and that is the gentleman's decision to make—or we can finally, with some really tough controls in this legislation—which I might add that the Department of the Interior and the Department of Transportation and the administration object to because they are so tight—go ahead and complete this project.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding. I think he is certainly right in saying he did not start this mess but he has had to attempt to clean it up. The Federal taxpayers have already paid $41 million for this train station and $39 million more is pending in this bill.

If I read the report accurately, we had a train station which was used for a train station. We spent the money I just mentioned to convert it into a National Visitors Center. We have not quite converted it into a National Visitors Center, and now we propose to spend more money to convert it back into a train station, which is what we had to begin with. Even by Federal standards that seems to be a somewhat unnecessary trip. As the gentleman knows, with our energy policy soon there may not be any visitors anywhere, and we may not even need a center.

Mr. LEVITAS. The evidence to date is that particularly vistiors who come to Washington by car or by tour bus, which is an energy-efficient means of transportation, have manifested their desire to use the center. There has been significant use of the center.

As far as the railroad station was concerned, when the decline of railroad passenger transportation occurred during the early 1960's, the railroad operators themselves decided to abandon Union Station. They were prepared to let the matter just go down the drain at that point and build a small facility known as a replacement station that is behind Union Station. As a result of the energy problems this Nation has experienced, and as a result of increased ridership in the northeast corridor, there has been a substantial increase in the projected future use of rail transportation. Now, the Department of Transportation states that the replacement station is wholly inadequate. I think it is an energy-conserving measure to try to provide adequate railroad facilities for passengers using the trains.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding. I wish to commend him for doing a brilliant job in supporting this interesting bit of legislation. I wonder if the architectural structure is such that we could install a tower on the roof and make it a dirigible landing place, as well as for helicopters to come in.

Mr. LEVITAS. Helicopters have been suggested, I might say to the gentleman.

Let me conclude by saying this: We can engage in an orgy of condemnation and unending finger-pointing. I think the responsible thing for us to do is complete this project. The choice is very clear. We can either let the station and the building deteriorate, collapse, and be nothing more than a hole in the ground, or we can do something that I believe is important for the Nation's Capital. Namely, complete construction of the National Visitors Center and a major viable railroad facility to serve the passengers and the visitors to Washington.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield further?

Mr. LEVITAS. I will yield briefly.

Mr. BAUMAN. I appreciate the gentleman's yielding. He has been very kind to yield and indulge us this afternoon. But in his statement he referred to "Gross" mismanagement in the project. I am sure he was not in any way inferring that our former colleague, the gentleman from Iowa, had anything to do with this except to warn us against it. I know that this project is not as important as the National Aquarium, which is located in Baltimore, but I do think we might give consideration to an amendment that I believe the gentleman from Ohio may propose to name this the H. R. Gross Visitors Center.

Mr. LEVITAS. I thank the gentleman for his contribution. I was tempted to make some comments about the former member from Iowa. I have restrained myself in that regard, and I hope that equal restraint will be displayed by other Members during the course of this debate.

Mr. ABDNOR. Mr. Chairman, I want to commend my chairman, the gentleman from Georgia (Mr. LEVITAS) for the presentation he has made.

Mr. Chairman, I support H.R. 3927, amendments to the National Visitor Center Facilities Act of 1968.

Let me say at the outset, I have often expressed concern with the Visitor Center project. I say this before I am reminded by my colleagues that this has been my position in the past. I recognize that I am making no attempt to change the record regarding my position. However, I have served now for 1 year as the ranking minority member of Public Buildings and Grounds Subcommittee. In that capacity, I have discovered that there is certain responsibility to support legislation that I would otherwise find difficulty in supporting. This is one of those bills.

Since 1968, this project has been in various phases of planning, construction or delay. The original enabling legislation called for a visitor center at Union Station to be constructed in part by the Penn Central Railroad Co. at a cost of $16 million. Among the many difficulties besetting this project, Penn Central Railroad filed for bankruptcy before the project was initiated. Federal support was necessary to initiate the project which finally got underway in 1973 with the hope of completion by the Bicentennial celebration in 1976.

Twice Congress came to the rescue of the project; once in 1973, authorizing $8.6 million, and again in 1974, authorizing $12.9 million.

The interior portion of the Visitor Center was completed without the accompanying parking facility or access ramps. The Center ceased many of its functions in 1978. Last year, the committee attempted to revive the project with no results. At that time, the Department of Transportation expressed interest in reclaiming part of the old Union Station as a rail passenger terminal. The bill before you today provides for that and makes other changes to complete the garage and the ramp, makes structural changes in the old Union Station itself and accommodates the rail tracks to be extended into the part of the area occupied by the current rail station. The administration favors this provision, which will serve both the Department of Transportation needs for rail facility and the Department of the Interior needs for a visitor center.

H.R. 3927 mandates every contract for construction, alteration, renovation or repair of any facility authorized pursuant to this bill shall be bid competitively on fixed-price-basis. The original construction was performed on a cost-plus-basis In addition, section 6 specifies that no funds shall be obligated for construction or alteration until final plans or waivers shall be submitted to the Committee on Public Works and Transportation of the House and the Committees on Environment and Public Works, and Commerce, Science and Transportation of the Senate for 30 legislative days unless the committee shall approve or disapprove the plans. Any deviation from the suggested plans will require congressional approval as well.

Rail passenger ridership has increased enormously since 1975. The projected ridership through Union Station is 5.64 million passengers by 1982 and 10.2 million by 1990. The committee recognizes the need to change the scope of this project to accommodate more fully the needs of rail passengers. I believe this bill does that. I also believe the bill provides adequate funding and authority to complete the National Visitor Center and maintain the original integrity of that project. Congress can provide a Visitor Center and train station adequate to meet the needs of both by passing this bill. I urge enactment.

☐ 1530

Mr. LEVITAS. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. JOHNSON), the distinguished chairman of the Committee on Public Works and Transportation.

Mr. JOHNSON of California. Mr. Chairman, I would like to commend the gentleman from Georgia, the chairman of the Subcommittee on Public Buildings and Grounds, Mr. LEVITAS, and the distinguished ranking minority member of the subcommittee, the gentleman from South Dakota (Mr. ABDNOR), for their fine work in producing this legislation.

The Subcommittee on Public Buildings and Grounds held indepth hearings on the National Visitor Center/Union Station issue, and after thoroughly exploring all options proposed not only by the administration, but further by other interested parties, produced a piece of legislation which provides for final construction of a national visitor center as well as a rail passenger terminal in the Union Station building.

In reporting the bill, we recognized that this committee has already been to the floor asking authorization for this project three times in the last decade, and each time was to have been the last. And so we have attempted to produce a bill which can prevail and will be a success. I think we have reported such a bill which will provide for completion of the Union Station/National Visitor Center complex. The bill recognizes that since the original legislation was passed in 1968, major changes have taken place which require some modification in the original plan. H.R. 3927 retains and preserves the original Center concept of the 1968 act—a single complex accommodating several modes of transportation and a visitor center. The bill provides both a viable visitor center as well as a rail facility. This bill has the support of the Secretary of Transportation, the Secretary of the Interior, Amtrak, and the Office of Management and Budget.

Briefly, H.R. 3927, as reported, increases the ceiling on the authorization for the National Visitor Center from $21.58 to $60.58 million. The $39 million in additional funds authorized are required to complete the 1,400 automobile parking structure, the southeast ramp, onsite roadway improvements, and near-term repairs, such as fire protection improvements necessary for immediate code compliance. A substantial portion of the total funds are required to correct major structural, mechanical, and electrical problems in the 71-year-old Union Station building, which were never contemplated under previous authorizations.

The $39 million necessary to complete construction at the National Visitor Center complex has been verified by the National Park Service's professional engineers as well as two estimates which the Department of the Interior had contracted for several months ago at the committee's request.

The Secretary of the Interior is authorized to sublease space to the Secretary of Transportation in the concourse of the Union Station building for the purpose of constructing a replacement rail passenger station in the concourse. The Secretary of Transportation is authorized to construct the station and to operate it or to cause it to be operated. Funds for such construction have been committed from funds appropriated for the Rail Revitalization and Regulatory Reform Act of 1976 by the Secretary of Transportation. Upon relocation of the rail station, the rail tracks will be extended back to the concourse thereby providing easier access for rail passenger users.

The bill will permit the Department of Transportation to bring eight of the upper level tracks back into part of the area now occupied by the present rail station. The roof of the facility would remain and the floor of it would be retained as a platform and loading area. Partitions in roughly three-fourths of the present station area would be removed. Ticketing facilities and other station equipment would be relocated into the concourse.

The legislation sets forth that approximately half of the space in the concourse will be set aside for concessions to be jointly used by visitors and rail passengers alike. The Secretary of the Interior and the Secretary of Transportation are authorized to use operating revenues to pay costs of the National Visitor Center and the replacement station, including the $3.5 million annual lease payment to the railroad owners. I would like to point out that title to the Union Station property will vest in the U.S. Government in approximately 21 years.

Mr. Chairman, the National Visitor Center is a very important facility. The need for a visitor center has been recognized since 1968 and the proposal encompassed within this legislation goes beyond just a visitor center—it allows for a viable train station to be located once again within the Union Station building. Further, completion of the parking garage will provide the urgently needed parking at the facility for visitors and rail users, as well as provide space for local, charter, and tour bus operators.

Mr. Chairman, the reason which justified the passage of this legislation in 1968 becomes even more apparent in 1979. The number of visitors to Washington has increased year by year and rail traffic has increased substantially. If there was a need for this facility in 1967, that need has increased threefold in 1979.

The committee strongly believes in completion of the National Visitor Center in the manner I have stated. Therefore, I urge my colleagues to support this legislation.

☐ 1540

The Union Station is one of the most beautiful buildings in the District of Columbia. It is deteriorating. It should be completed, as stated in my remarks, as a transportation center and a visitors' center.

I know that this has been before the House before. I would urge my colleagues to support it once more, because this bill that was perfected is well tied down. I am sure we will see this to completion as intended and it will be let out in the regular advertising practices of the Government where we will get solid contracts for a completed project.

Mr. ABDNOR. Mr. Chairman, I have no further requests for time.

Mr. LEVITAS. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. MINETA).

Mr. MINETA. Mr. Chairman, I wish to first commend the gentleman from Georgia, the gentleman from South Dakota, and the distinguished chairman of the full Public Works and Transportation Committee.

Mr. Chairman, the record of the National Visitor Center has been a long one. We have, in the course of the last decade, spent roughly $45 million on this facility and for that, the taxpayer has so far received very little in usable facilities and a great deal of inconvenience.

An additional authorization of $39 million, in order to get a return for the taxpayer on the entire investment, is warranted under the circumstances. This bill, H.R. 3927, therefore, is one I support in general and represents an acceptable solution to an intolerable situation. Under this legislation, the necessary construction work will be performed to meet the needs of the public, including:

Completion of the parking structure and ramps;

Onsite roadway improvements and near term repairs such as fire protection necessary for code compliance; and

Correct major structural, mechanical and electrical problems in the building; and

Make improvements to the rail passenger terminal area.

These provisions are fundamental to solving the problems at Union Station and to allow the public to enjoy the returns on this major investment. I therefore support this bill.

The CHAIRMAN. There being no further requests for time, under the rule the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 3927

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 101 of the National Visitor Center Facilities Act of 1968 (40 U.S.C. 801) is amended by inserting "(a)" immediately after "SEC. 101," and by adding at the end thereof the following new subsections:

"(b) At the request of the Secretary of Transportation, the Secretary shall sublet to the Secretary of Transportation (1) not to exceed 40,000 square feet of Union Station Concourse and (2) that area necessary for track extension to the Concourse and related rail support facilities, leased by the Secretary pursuant to subsection (a) of this section. The limitation contained in clause (1) of the preceding sentence may be exceeded by the Secretary if he determines it necessary to carry out this Act. The portion of the facilities sublet under this subsection shall be used for ticket sales, baggage, and waiting rooms for rail passengers.

"(c) The Secretary, of Transportation shall operate, or cause to be operated, solely as a rail passenger terminal, that portion of the facilities sublet under subsection (b)(1) of this section. The Secretary of Transportation may make such alterations to that portion of the facilities so sublet and provide, or cause to be provided, such, services as the Secretary of Transportation deems necessary or desirable for the benefit of rail passengers using such terminal.".

Sec. 2. Section 102(a) of the National Visitor Center Facilities Act of 1968 (40 U.S.C. 802(a)) is amended—

(1) by amending paragraph (3) to read as follows:

"(3) The Secretary shall construct or cause to be constructed, a parking structure, including approaches and ramps for adequate circulation, in the air space northerly of and adjacent to the existing Union Station building, the main deck of which shall be used only for local, charter, and tour bus operations, which structure shall provide space for 1,400 automobiles (1,200 of which shall be only for the automobiles of visitors) and which structure shall provide space for such other transportation as is appropriate, and such structure shall continue to be leased to the United States as a part of the facilities to be leased to the United States pursuant to section 101(a) of this title, except that the requirement with respect to spaces for visitors' automobiles may be varied by the Secretary if he determines it necessary to carry out this Act;";

(2) by amending paragraph (4) to read as follows:

"(4) The Company shall cease construction of the new railroad passenger station in the area beneath and adjacent to the parking structure referred to in paragraph (3) of this subsection, and shall assign to the Secretary of Transportation all of the Company's rights and obligations (including without limitation, occupancy, operation, and maintenance) in, to, or concerning a rail passenger station at Union Station and, upon such assignment becoming effective, shall cease operation of a rail passenger station at Union Station;"

(3) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and" and by adding at the end thereof the following new paragraph:

"(9) The rental paid by the Secretary of Transportation under the sublease entered into pursuant to section 101(b)(1) of this title shall be a fair and equitable share of the cost of renting or purchasing and operating and maintaining Union Station, taking into account the respective fair market rental values and operating and maintenance costs of the space sublet to the Secretary of Transportation and of the remainder of Union Station.".

Sec. 3. Section 109 of the National Visitor Center Facilities Act of 1968 (40 U.S.C. 807) is amended by inserting "(a)" immediately after "Sec. 109." and by adding at the end thereof the following new subsections:

"(b) The Secretary is authorized to use funds received from operations of the National Visitor Center, including revenues from the parking facility, to pay costs of operating, maintaining, and leasing the National Visitor Center. Such funds shall be deposited to the special account for the National Park Service established by Public Law 92-347, and shall be available to pay costs of operating, maintaining, and leasing such Center in such amounts as are provided in appropriation Acts. The Secretary of Transportation is authorized (1) to use funds received through operation of the sublet space to pay costs of operating and maintaining the sublet space, including payments to the Secretary for occupancy of the sublet space, and (2) to expend funds appropriated pursuant to section 704(a)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)(2)) to carry out rail passenger operations under this title without regard to the matching funds requirement of section 703(1)(B) of such Act (45 U.S.C. 853(1)(B)). The Secretary of Transportation is further authorized to waive such statutory or contractual restrictions on the parking structure and associated ramps constructed under authority of section 102(a)(3) of this title as would otherwise be required or imposed because funds for such construction were or are provided under the Urban Mass Transportation Act.

"(c) Funds obligated under this title after the date of enactment of this subsection shall be expended subject to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5). Every contract for construction, alteration, renovation, or repair of any facility authorized by this title which is entered into under this title after the date of enactment of this subsection shall be bid competitively on a fixed-price basis.".

Sec. 4. The National Visitor Center Facilities Act of 1968 is amended by renumbering section 110 as section 111 and by adding immediately after section 109 the following new section:

"Sec. 110. (a) Notwithstanding any other provision of law, the Architect of the Capitol, under the direction of the House Office Building Commission, is authorized, subject to such conditions as the Architect of the Capitol may prescribe, to enter into a contract or other agreement with the Secretary pursuant to which the Architect of the Capitol will furnish steam from the Capitol Powerplant to the Union Station.

"(b) Any such contract or agreement shall include provisions pursuant to which the Secretary agrees (1) to pay for such steam at rates, not less than cost, determined by the Architect of the Capitol, with the approval of the House Office Building Commission, and (2) to connect the Union Station with the Capitol Powerplant steam lines without expense to the Congress, and in a manner satisfactory to the Architect of the Capitol and the House Office Building Commission.

"(c) The Secretary is authorized to design and construct steam lines and connections with the Capitol Powerplant steam lines in accordance with plans approved by the Architect of the Capitol and the House Office Building Commission, and to acquire interests in land, excepting the Capitol grounds, necessary for such purpose. The Secretary shall bear all expenses associated with providing the steam lines, including the expenses of steam line design, construction, and connection.".

Sec. 5. Subsection (c) of section 102 of the National Visitor Center Facilities Act of 1968 is amended by striking out "$21,580,000" and inserting in lieu thereof "$60,580,000".

Sec. 6. No funds shall be obligated for construction or alteration of any facilities authorized by the National Visitor Center Facilities Act of 1968, including the amendments made by this Act, until final plans for such construction or alteration and any planned waiver under section 101(b)(1) of such Act of 1968 and any planned variance under section 102(a)(3) of such Act of 1968 shall have been submitted to, and shall have been pending before the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate, and the Committee on Commerce, Science and Transportation of the Senate, for thirty legislative days unless each such Committee shall by resolution approve or disapprove plans prior to the expiration of such thirty legislative day period. If such plans are disapproved as provided herein, the funds authorized by the National Visitor Center Facilities Act of 1968 shall not be obligated, however the Secretary may resubmit any such plans from time to time in accordance with the provisions of this section.

Mr. LEVITAS (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. BAUMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I listened with interest to the statements of those supporting this legislation. I realize something has to be done with this building after all this money has been spent; but as I indicated, we seem to be going in circles. We had a train station which we converted into a Visitors' Center. Now we are converting the half-built Visitors' Center back into a train station.

I honestly believe that if the building is in need of repair, perhaps we should go ahead and fix the roof. I understand there is some immediate problem with leakage in the roof. Of course, this building is many years old. Unlike the Kennedy Center where the roof began leaking immediately after it was built, this building, I think, is entitled to leak. because of its venerable age.

Perhaps we could patch up the roof and then decide what it is we want to do with it.

Suggestions have been made today that it would serve as a fourth Senate Office Building, as suggested by the gentleman from Illinois (Mr. Hyde), a notion which immediately precipitated a crisis in the gallery.

I think that we ought to give more consideration to precisely where we do intend to go on this.

I would urge that we vote no on this legislation.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to my colleague, the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I want to thank my colleague for yielding, because I remember very well the problem we had with the Kennedy Center roof. Of course, in that case we were not even going to spend Federal money at the outset, but somehow or other we got into the roof and everything else.

Maybe, just maybe, this ought to be the place where we would have that monument to the taxpayers. You know, some of us mentioned that when the Senate Office Building deliberations were being conducted on the floor. They said, well, we could not leave something half done.

Well, maybe rather than get into that sticky paper argument where you get stuck and stuck and the stucker you get, the stucker you get; maybe just once we could let something set there and people could look at it and say, well, that was the waterline. That was where they stopped and from that point on they did not pour money into useless projects.

I thought the Senate Office Building was the ideal place to start; but having lost on that and retreating to this position, maybe this is the place to start and to not finish it, just let it set there as a monument to when we turned the corner and started realizing that we were in trouble.

Mr. BAUMAN. The gentleman makes a good point. I think a plaque probably would be far cheaper than the $39 million that we have here and it might serve as an historic reminder when in future centuries the entire capitol city is covered with layers of dust and archeologists dig down and find this huge cavernous building with nothing in it, as it is now. At least there would be a plaque, which might explain what the civilization that lived there had done wrong. Perhaps if we put the plaque up soon enough we may not be buried.

Mr. ASHBROOK. Mr. Chairman, if my colleague will yield further, I would go so far, and I do not make too many offers of this type, to say that if we could make that monument out of it, I think I could even arrange to have some taxpayers pay out of their own money for this. It kind of works both ways.

Mr. BAUMAN. The money they are permitted to keep.

Mr. ASHBROOK. And they would pay for the plaque that we would put up and say, "Here the taxpayers started getting a fair shake in the Congress."

We would not even have to put Federal funds into that plaque. That would be the nice thing about it.

Mr. BAUMAN. Well, as a railroad buff, I love a grand old train station, but this project has just gone a little too far. I think the gentleman's suggestion is worth consideration.

Mr. ASHBROOK. Mr. Chairman, I thank my colleague.

AMENDMENT OFFERED BY MR. JOHNSON OF CALIFORNIA

Mr. JOHNSON of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JOHNSON of California: Page 12, line 19, immediately after "transportation" insert the following: "and the Committee on Interstate and Foreign Commerce".

Mr. JOHNSON of California. Mr. Chairman, as per my agreement as chairman of the House Committee on Public Works and Transportation with the chairman of the Interstate and Foreign Commerce Committee, the gentleman from West Virginia (Mr. STAGGERS), I offer this amendment so that the House Interstate and Foreign Commerce Committee will have the opportunity, along with the House Committee on Public Works and Transportation, to review all plans for construction or alteration of the National Visitor Center authorized by this legislation, insofar as such plans affect the part of the National Visitor Center, namely, the rail passenger terminal, which is under the basic jurisdiction of the House Interstate and Foreign Commerce Committee.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. JOHNSON).

The amendment was agreed to.

Mr. JACOBS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the thing that bothers me most about this project is that every time I have been to the visitors' center/train station, I am about the only one there. It looks like last year's bird's nest.

I think I can explain that. In the first place, not very many people choose rail travel these days, relatively speaking.

In the second place, if you will just think back to when you were first a visitor in Washington and did not have a place to park, or a place to park yourself, for that matter, you may recall that you got pretty worn out walking around. While you were at it, you were not inclined to walk two or three blocks out of your way to stand in an empty barn. That is the problem that I have with this Visitors' Center legislation.

The last time I took some constituents over to catch a train there, the trains were running, perhaps not on time, but they were running.

□ 1550

I hear there is a leak in the roof some place. It happened to be raining that day, and I did not see any water splashing down.

As for making this a Visitor Center, against which I voted in 1968 when I cast my district's vote here, and then changing it back to a train station, I wonder if anybody remembers that old Broadway tune about politics. It goes like this:

> If you can, make a bold prediction, brand it merely fiction, scream to get it clear, and then deny you said it.

Mr. Chairman, the second part of that phrase is one I fully anticipate within the next 5 years. So I really think these Members who have suggested just the essential repairs and nothing more at this time have a very good point.

It has even been suggested that the rails themselves be extended into the building a little bit, to the point where they once were. I guess that will save a few steps. It will save what, 20, 30, 40, or 45 feet for people who are walking to the trains?

Can anybody on the committee tell me what that item would cost? What part of the $31 million covers redoing all of that so that we do not have to walk 40 feet?

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, the improvements to the Northeast Corridor project—that is the rail station—will cost $11.98 million.

Mr. JACOBS. Mr. Chairman, may I ask the gentleman how many steps that will save me if I want to catch a train?

Mr. LEVITAS. I do not have the specific number of feet, but there is a substantial change involved because of the extension of the tracks back to the Union Station concourse.

Mr. JACOBS. Do we know how far that extension is, simply how many feet of tracks it involves?

Mr. LEVITAS. This is an extension of eight of the upper level tracks plus the addition of a new railroad terminal in the concourse of the Union Station building to accommodate the passengers.

The gentleman referred to lack of utilization of the present rail station. In 1977, which is the last date for which we have final figures, 3.7 million passengers used that station, and it is projected by Amtrak that by 1982 approximately 5.6 million passengers will be using the Union Station train terminal.

Mr. JACOBS. Mr. Chairman, I will say to the gentleman that they may have used it, but they must have used it more or less one at a time, because I have been there several times and the place has never been crowded.

Can any member of the committee state for the record how many feet of rail this would comprise?

Mr. LEVITAS. Yes. Mr. Chairman, if the gentleman will yield, under this legislation the total walking distance from the front door to baggage check-in would be 700 feet.

Mr. JACOBS. That is the total length of all the individual rails, but I mean this: By what distance will the rails be extended?

I do not believe that 700 feet will leave one into the building any more. He would be out the other side of the building.

Mr. LEVITAS. Mr. Chairman, currently a normal traveler has to walk 1,900 feet to go from the front door to midpoint of long haul passenger service. This legislation will decrease the walking distance to 1,240 feet, a savings of 660 feet.

Mr. JACOBS. Mr. Chairman, may I ask, how deep is that building as one comes in from the street?

I carried a terribly heavy suitcase through there 3 weeks ago, and I do not believe I walked more than 300 feet.

Mr. LEVITAS. Mr. Chairman, the figure I have is 1,900 feet.

Mr. JACOBS. Nineteen hundred feet from the front door to the back door?

Mr. LEVITAS. From the front door to midpoint of the long-haul passenger service or the train boarding position.

Mr. JACOBS. True. But I am talking about the building itself. Nobody is alleging that it is 1,900 feet from the front door to the back door, I am sure.

Mr. LEVITAS. I assume that would be approximately half of that figure, or approximately 800 feet.

Mr. JACOBS. Halfway through the

building is 1,900 feet? Do I understand that is one thousand, nine hundred feet?

Mr. LEVITAS. No. The walking distance from the front door to the midpoint of the long-haul through-train boarding position is 1,900 feet at the present time.

Mr. JACOBS. Mr. Chairman, I hate to say it, but I find that incredible.

I used to throw the discus, and I was doing well to get 150 feet. Just coming in the front door of that building and looking through the door, I believe I can flip one at least twice and get it to the end.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. JACOBS) has expired.

Mr. LEVITAS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time in order to respond to some of the comments made by the gentleman from Indiana (Mr. JACOBS), for whom I have the greatest respect.

It would be easy, and perhaps for some of us enjoyable, to make the observations that we ought to let this beautiful building just deteriorate and collapse. The fact that the rain was not leaking through the roof when the gentleman was last there does not negate the fact that, according to three separate engineering reports, the roof of that station is deteriorating, and it is deteriorating rapidly.

There is no denying the fact that there is an incomplete parking ramp and an incomplete traffic circulation system at Union Station.

The question is: Are we going to act responsibly with legislation which has been carefully crafted to prevent the recurrence of the type of mismanagement that has occurred previously and do what needs to be done? I think that is what it boils down to, and I think it would be irresponsible for the Congress at this point simply to say that we are going to let Union Station collapse on top of itself, not that we are going to provide an adequate rail passenger facility, and that we are not going to accommodate the needs of visitors who come to their Nation's Capital.

For that reason, Mr. Chairman, as tempting as it might be to take some shots at a project which could have been shot down years ago, the question is: Acting responsibly, what do we do now? I think the answer is clear. We should pass this legislation.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BENNETT) having assumed the chair, Mr. GONZALEZ, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3927) to amend the National Visitor Center Facilities Act of 1968, and for other purposes, pursuant to House Resolution 504, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 139, nays 247, not voting 47, as follows:

[Roll No. 750]

YEAS—139

Abdnor
Addabbo
Albosta
Ambro
Anderson, Calif.
Annunzio
Ashley
Atkinson
Bailey
Baldus
Barnard
Barnes
Beilenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Boggs
Bolling
Boner
Bonior
Bouquard
Brademas
Brown, Calif.
Burlison
Carr
Cavanaugh
Chappell
Chisholm
Clausen
Clay
Clinger
Coelho
Collins, Ill.
Conte
Conyers
Corman
Danielson
Daschle
Davis, S.C.
Dellums
Derrick
Dingell
Donnelly
Dougherty
Eckhardt
Edgar
Fary
Fascell
Ferraro
Fisher
Foley
Ford, Mich.
Garcia
Gingrich
Gonzales
Gray
Hammerschmidt
Harkin
Harsha
Hawkins
Hefner
Hightower
Holland
Howard
Hutto
Jenrette
Johnson, Calif.
Kastenmeier
Kildee
Kostmayer
LaFalce
Lederer
Leland
Levitas
Lewis
Livingston
Long, La.
Lowry
Lundine
McCormack
McEwen
McHugh
McKinney
Maguire
Markey
Matsui
Mattox
Mikulski
Mineta
Moakley
Mollohan
Murphy, N.Y.
Myers, Pa.
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pepper
Pickle
Price
Rahall
Rangel
Reuss
Rhodes
Roberts
Rodino
Roe
Rosenthal
Roybal
Royer
Santini
Scheuer
Seiberling
Slack
Smith, Iowa
Solarz
St Germain
Stack
Staggers
Stewart
Studds
Thompson
Udall
Vanik
Waxman
Weiss
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Young, Mo.

NAYS—247

Akaka
Alexander
Andrews, N.C.
Anthony
Archer
Ashbrook
Aspin
AuCoin
Badham
Bafalis
Bauman
Beard, R.I.
Bedell
Bennett
Bereuter
Bethune
Boland
Bonker
Bowen
Breaux
Brinkley
Brodhead
Brown, Ohio
Broyhill
Buchanan
Burgener
Burton, John
Butler
Byron
Campbell
Carney
Carter
Cheney
Cleveland
Coleman
Collins, Tex.
Conable
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Derwinski
Devine
Dickinson
Dicks
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fithian
Flippo
Forsythe
Fountain
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gibbons
Gilman
Glickman
Goldwater
Goodling
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Hansen
Harris
Heftel
Hillis
Hinson
Hollenbeck
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kogovsek
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lent
Lloyd
Long, Md.
Lott
Lujan
Luken
Lungren
McDade
McDonald
McKay
Madigan
Marks
Marlenee
Marriott
Martin
Mathis
Mavroules
Mazzoli
Mica
Michel
Miller, Calif.
Miller, Ohio
Minish
Mitchell, N.Y.
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
O'Brien
Panetta
Pashayan
Paul
Pease
Perkins
Petri
Peyser
Preyer
Pursell
Quayle
Quillen
Railsback
Ratchford
Regula
Rinaldo
Ritter
Robinson
Rose
Rostenkowski
Roth
Rousselot
Rudd
Russo
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
Stangeland
Stanton
Stark
Steed
Stenholm
Stockman
Stratton
Stump
Swift
Tauke
Taylor
Thomas
Traxler
Trible
Ullman
Vander Jagt
Vento
Volkmer
Walker
Wampler
Watkins
Weaver
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Winn
Wolpe
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Zablocki

NOT VOTING—47

Anderson, Ill.
Andrews, N. Dak.
Applegate
Beard, Tenn.
Brooks
Broomfield
Burton, Phillip
Crane, Philip
Deckard
Diggs
Dixon
Edwards, Calif.
Fazio
Fenwick
Findley
Fish
Flood
Florio
Ford, Tenn.
Fowler
Giaimo
Ginn
Hagedorn
Heckler
Holt
Holtzman
Lehman
Loeffler
McClory
McCloskey
Mitchell, Md.
Murphy, Ill.
Pritchard
Richmond
Runnels
Sebelius
Simon
Stokes
Symms
Synar
Treen
Van Deerlin
Walgren
White
Wilson, Bob
Yates
Zeferetti

□ 1610

The Clerk announced the following pairs:

Mr. Zeferetti with Mr. Sebelius.

Mr. Giaimo with Mr. Broomfield.

Mr. Ginn with Mrs. Holt.

Mr. Stokes with Mr. Beard of Tennessee.

Mr. Brooks with Mr. Andrews of North Dakota.

Mr. Florio with Mr. Anderson of Illinois.

Mr. Diggs with Ms. Fenwick.

Mr. Applegate with Mr. Findley.

Mr. Phillip Burton with Mr. Fish.

Mr. Yates with Mr. Philip M. Crane.

Mr. Mitchell of Maryland with Mrs. Heckler.

Mr. Murphy of Illinois with Mr. Bob Wilson.

Mr. Edwards of California with Mr. Loeffler.

Mr. Fazio with Mr. McClory.

Mr. Richmond with Mr. Synar.

Mr. Simon with Mr. McCloskey.

Mr. Runnels with Mr. Symms.

Mr. Deckard with Mr. Pritchard.

Ms. Holtzman with Mr. Lehman.

Mr. Fowler with Mr. Hagedorn.

Mr. Ford of Tennessee with Mr. Flood.

Mr. Dixon with Mr. Walgren.

Mr. Van Deerlin with Mr. White.

Messrs. CARNEY, BUTLER, MOORHEAD of Pennsylvania, BREAUX, LLOYD, and TRAXLER changed their vote from "yea" to "nay."

Mr. DINGELL and Mr. YOUNG of Missouri changed their vote from "nay" to "yea."

So the bill was not passed.

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

DRUG ABUSE PREVENTION, TREATMENT, AND REHABILITATION ACT OF 1979

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 525), to amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes, with a Senate amendment to the House amendment, and concur in the Senate amendment to the House amendment.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendment as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment, insert:

SECTION 1. (a) This Act may be cited as the "Drug Abuse Prevention, Treatment, and Rehabilitation Amendments of 1979".

(b) Whenever in this Act (other than in sections 14 and 15) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Drug Abuse Office and Treatment Act of 1972.

SEC. 2. Section 101 (21 U.S.C. 1101) is amended by inserting at the end thereof the following new paragraphs:

"(11) Shifts in the usage of various drugs and in the Nation's demographic composition require a Federal strategy to adjust the focus of drug abuse programs to meet new needs and priorities on a cost-effective basis.

"(12) The growing extent of drug abuse indicates an urgent need for prevention and intervention programs designed to reach the general population and members of high risk populations such as youth, women, and the elderly.

"(13) Effective control of drug abuse requires high-level coordination of Federal international and domestic activities relating to both supply of, and demand for, commonly abused drugs.

"(14) Local governments with high concentrations of drug abuse should be actively involved in the planning and coordination of efforts to combat drug abuse.".

SEC. 3. Section 102 (21 U.S.C. 1102) is amended by adding at the end thereof the following: "To reach these goals, the Congress further declares that it is the policy of the United States and the purpose of this Act to meet the problems of drug abuse through—

"(1) comprehensive Federal, State, and local planning for, and effective use of, Federal assistance to States and to community-based programs to meet the urgent needs of special populations, in coordination with all other governmental and nongovernmental sources of assistance;

"(2) the development and support of community-based prevention programs;

"(3) the development and encouragement of effective occupational prevention and treatment programs within the Government and in cooperation with the private sector; and

"(4) increased Federal commitment to research into the behavioral and biomedical etiology of, the treatment of, and the mental and physical health and social and economic consequences of, drug abuse.".

SEC. 4. Title II (21 U.S.C. 1111–1133) is amended to read as follows:

"TITLE II—DRUG ABUSE POLICY COORDINATION

"Sec.
"201. Concentration of Federal effort.
"202. Designated drug representative.
"203. Officers and employees.
"204. Acceptance of uncompensated services.
"205. Notice relating to the control of dangerous drugs.
"206. Statutory authority unaffected.
"207. Annual report.

"§ 201. Concentration of Federal effort.

"(a) The President shall establish a system for developing recommendations with respect to policies for, objectives of, and establishment of priorities for, Federal drug abuse functions and shall coordinate the performance of such functions by Federal departments and agencies. Recommendations under this subsection shall include recommendations for changes in the organization, management, and personnel of Federal departments and agencies performing drug abuse functions in order to implement the policies, priorities, and objectives recommended under this subsection.

"(b) To carry out subsection (a), the President, shall—

"(1) review the regulations, guidelines, requirements, criteria, and procedures of Federal departments and agencies applicable to the performance of drug abuse functions;

"(2) conduct, or provide for, evaluations of (A) the performance of drug abuse functions by Federal departments and agencies, and (B) the results achieved by such departments and agencies in the performance of such functions; and

"(3) seek to assure that Federal departments and agencies, in the performance of drug abuse functions construe drug abuse as a health problem requiring treatment and rehabilitation through a broad range of community health and social services.

"(c) Federal departments and agencies engaged in drug abuse functions shall submit to the President such information and reports as may reasonably be required to carry out the purposes of this title.

§ 202. Designated drug representative.

"(a) The President shall designate a single officer or employee of the United States to direct the activities required by this title. The location of such designee in the Executive Office of the President or elsewhere shall not be construed as affecting access by the Congress or committees of either House (1) to information, documents, and studies in the possession of, or conducted by or at the direction of, such designee, or (2) to personnel involved in carrying out activities under this title.

"(b) The President may direct the officer or employee designated under subsection (a) of this section to represent the Government of the United States in discussions and negotiations relating to drug abuse functions.

"§ 203. Officers and employees.

"In carrying out this title, the President may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to perform the functions vested in him by this title.

"§ 204. Acceptanace of uncompensated services:

"In carrying out this title, the President is authorized to accept and employ in furtherance of the purpose of this title voluntary and uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

"§ 205. Notice relating to the control of dangerous drugs.

"Whenever the Attorney General determines that there is evidence that—

"(1) a drug or other substance, which is not a controlled substance (as defined in section 102(6) of the Controlled Substances Act), has a potential for abuse, or

"(2) a controlled substance should be transferrred or removed from a schedule under section 202 of such Act,

he shall, prior to initiating any proceeding under section 201(a) of such Act, give the President timely notice of such determination. Information forwarded to the Attorney General pursuant to section 201(f) of such Act shall also be forwarded by the Secretary of Health, Education, and Welfare to the President.

"§ 206. Statutory authority unaffected.

"Nothing in this title shall be construed to limit the authority of the Secretary of Defense with respect to the operation of the Armed Forces or the authority of the Administrator of Veterans Affairs with respect to the furnishing of health care and related services to veterans.

"§ 207. Annual report

"The President shall submit to the Congress, prior to March 1 of each year, a written report on the activities conducted under this title. The report shall specify the objectives, nature, and results of such activities, and shall contain an accounting of funds expended under this title.".

SEC. 5. (a) Section 302 (21 U.S.C. 1162) is amended by striking out "Director of the Office of Drug Abuse Policy" and inserting in lieu thereof "representative designated under section 202 of this Act".

(b) Section 302 is further amended by striking out "three members from outside the Federal Government." and inserting in lieu thereof "five members from outside the Federal Government. at least one of whom shall be a representative of State government who is responsible for dealing with drug abuse problems and one of whom shall be a representative of local government who is responsible for dealing with such problems.".

(c) Section 304 (21 U.S.C. 1164) is amended by striking out "Director of the Office of Drug

Abuse Policy" and inserting in lieu thereof "President".

Sec. 6. (a) The first sentence of section 409(a) (21 U.S.C. 1176(a)) is amended (1) by striking out "and" after "1978,", and (2) by inserting after "1979," the following: "September 30, 1980, and September 30, 1981,".

(b) Section 409(e) is amended—

(1) by inserting "(including women and the elderly)" after "population groups" in paragraph (3);

(2) by amending paragraph (4) to read as follows:

"(4) describe the drug abuse prevention functions to be carried out under the plan with assistance under this section, set forth in detail the changes in emphasis among such functions resulting from shifts in demographic and drug abuse patterns within the State, and describe all other drug abuse prevention functions to be carried out within the State with assistance under this Act;"

(3) by inserting ", by the elderly," after "by women" in clause (B) of paragraph (5), by striking out "and (B)" in paragraph (5) and inserting in lieu thereof "(B)", and by inserting before the semicolon at the end of paragraph (5) the following: "; and (C) provide assurances satisfactory to the Secretary that, insofar as practicable, the survey conducted pursuant to clause (A) is coordinated with and not duplicative of the alcohol abuse and alcoholism survey conducted pursuant to section 303 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970";

(4) by inserting "(A)" after "in the State" in paragraph (7) and by inserting before the semicolon in paragraph (7) the following: ", (B) to review and comment on the plan prior to its submission to the Secretary, and (C) to submit to the Secretary as an appendix to the plan such comments as such political subdivisions believe are relevant to approval of the plan under subsection (f)";

(5) by inserting "and to the extent feasible a survey of the extent to which other State programs and political subdivisions throughout the State are dealing effectively with the problems related to drug abuse and drug dependence," after "under the plan," in paragraph (10); and

(6) by striking out "and" at the end of paragraph (12), by redesignating paragraph (13) as paragraph (17), and by inserting after paragraph (12) the following new paragraphs:

"(13) contain, to the extent feasible, a complete inventory of all public and private resources available in the State for the purpose of drug abuse and drug dependence treatment, prevention, and rehabilitation, including programs funded under State and local laws, occupational programs, voluntary organizations, education programs, military and Veterans' Administration resources, and available public and private third-party payment plans;

"(14) provide assurance that the State agency will coordinate its planning with local drug abuse planning agencies, with State and local alcoholism and alcohol abuse planning agencies, and with other State and local health planning agencies;

"(15) provide assurance that the State agency—

"(A) will foster and encourage the development of drug abuse and drug dependence prevention, treatment, and rehabilitation programs and services in State and local governments and in private businesses and industry;

"(B) will make available to all business concerns and governmental entities within such State information and materials concerning such model programs suitable for replication on a cost-effective basis as are developed pursuant to section 413(b)(2) of this Act; and

"(C) will furnish technical assistance as feasible to such business concerns and governmental entities;

"(16) include a needs assessment of the severity of drug abuse problems within urban and nonurban areas of the State, an accounting of the existing and proposed allocation of resources among such areas, and a description of the role of units of general purpose local government in planning and coordinating the use of such resources; and".

Sec. 7. (a) Section 410(a) (21 U.S.C. 1177 (a)) is amended—

(1) by inserting the following after "development" in paragraph (1): ", demonstration, and evaluation";

(2) by inserting "and detoxification" before "techniques" in paragraph (5); and

(3) by inserting before the period in paragraph (6) the following: ", with particular emphasis on replicating effective prevention and treatment programs".

(b) Section 410(b) is amended by adding at the end the following: "For grants and contracts under paragraphs (3) and (6) of subsection (a) for drug abuse treatment programs there is authorized to be appropriated $149,000,000 for the fiscal year ending September 30, 1980, and $155,000,000 for the fiscal year ending September 30, 1981; and for grants and contracts under such subsection for other programs and activities there is authorized to be appropriated $20,000,000 for the fiscal year ending September 30, 1980, and $30,000,000 for the fiscal year ending September 30, 1981. Of the funds appropriated under the preceding sentence for the fiscal year ending September 30, 1980, at least 7 percent of the funds shall be obligated for grants and contracts for primary prevention and intervention programs designed to discourage individuals, particularly those in high risk populations, from abusing drugs; and of the funds appropriated under the preceding sentence for the next fiscal year, at least 10 percent of the funds shall be obligated for such grants and contracts.".

(c) Subsection (d) of section 410 is amended to read as follows:

"(d) The Secretary shall encourage the submission of and give special consideration to applications under this section for programs and projects—

"(1) for the prevention and treatment of drug abuse and drug dependence by women,

"(2) for the prevention and treatment of drug abuse and drug dependence by the elderly, and

"(3) for the prevention and treatment of drug abuse and drug dependence by individuals under the age of 18.".

(d) Section 410 is amended by adding at the end the following new subsection:

"(f) Projects and programs for which grants and contracts are made or entered into under this section shall, in the case of prevention and treatment services, seek to (1) be responsive to special requirements of handicapped individuals in receiving such services; (2) whenever possible, be community based, insure care of good quality in general community care facilities and under health insurance plans, and be integrated with, and provide for the active participation of, a wide range of public and nongovernmental agencies, organizations, institutions, and individuals; (3) where a substantial number of the individuals in the population served by the project or program are of limited English-speaking ability (A) utilize the services of outreach workers fluent in the language spoken by a predominant number of such individuals and develop a plan and make arrangements responsive to the needs of such population for providing services to the extent practicable in the language and cultural context most appropriate to such individuals, and (B) identify an individual who is fluent both in that language and English and whose responsibilities shall include providing guidance to the individuals of limited English-speaking ability and to appropriate staff members with respect to cultural sensitivities and bridging linguistic and cultural differences; and (4) where appropriate, utilize existing community resources (including community mental health centers)."

Sec. 8. (a) Section 413(a) (21 U.S.C. 1180 (a)) is amended—

(1) by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management";

(2) by striking out "Director" and inserting in lieu thereof "President, with the Secretary (acting through the National Institute on Drug Abuse),";

(3) by inserting "and in accordance with the provisions of subpart F of part III of title 5, United States Code," after "other Federal agencies and departments"; and

(4) by inserting "Such agencies and departments are encouraged to extend, to the extent feasible, these programs and services to the families of employees and to employees who have family members who are drug abusers." before the last sentence.

(b)(1) Section 413(b) is amended to read as follows:

"(b)(1) The Secretary, acting through the National Institute on Drug Abuse, shall be responsible for fostering and encouraging similar drug abuse prevention, treatment, and rehabilitation programs and services in State and local governments and in private industry.

"(2)(A) Consistent with such responsibility, the Secretary, acting through the National Institute on Drug Abuse, shall develop a variety of model programs suitable for replication on a cost-effective basis in different types of business concerns and State and local governmental entities.

"(B) The Secretary, acting through the Institute, shall disseminate information and materials relative to such model programs to single State agencies designated pursuant to section 409(e)(1) of this Act, and, shall to the extent feasible, provide technical assistance to such agencies as requested.

"(3) Model programs developed under paragraph (2) shall, in the case of business concerns and governmental entities which employ individuals represented by labor organizations, be designed for implementation through cooperative agreements between the concerns and entities and the organizations.

"(4) To the extent feasible, model programs developed under paragraph (2) shall be capable of coordination with model programs developed pursuant to section 201(b) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970.".

(2)(A) The heading for section 413 is amended by striking out "Federal civilian employees" and inserting in lieu thereof "government and other employees".

(B) The item in the table of sections for title IV relating to section 413 is amended by striking out "Federal civilian employees" and inserting in lieu thereof "government and other employees".

Sec. 9. (a) Title IV is amended by adding at the end the following new section:

"§ 414. Contract authority

"The authority of the Secretary to enter into contracts under this title and title V shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.".

(b) The table of sections of such title IV is amended by adding at the end the following new item:

"414. Contract authority."

Sec. 10. Section 501 (21 U.S.C. 1191) is amended by adding at the end thereof the following new subsection:

"(d)(1) The Director shall make special efforts to develop and coordinate prevention, treatment, research, and administrative policies and programs which focus on the needs of underserved populations.

"(2) The Secretary shall include in the annual report to the President and the Congress required by section 405(b) a description of the actions taken by the Director under paragraph (1).".

Sec. 11. Section 502 (21 U.S.C. 1192) is amended by inserting at the end thereof the following new subsection:

"(d) On the request of any State, the Secretary shall, to the extent feasible, make available technical assistance for the purposes of developing and improving systems for data collection; program management, accountability, and evaluation; certification, accreditation, or licensure of treatment facilities and personnel; monitoring compliance with the requirements of section 407 by hospitals and other facilities; and eliminating exclusions in health insurance coverage offered in the State which are based on drug abuse or drug dependence. Insofar as practicable, such technical assistance shall be provided in such a manner as to improve coordination between activities funded under this Act and under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970.".

Sec. 12. (a) Section 503(a) (21 U.S.C. 1193 (a)) is amended—

(1) by striking out "to create, develop, and test" and inserting in lieu thereof the following: ", investigations, experiments, demonstrations, and studies, into";

(2) by inserting "the creation, development, and testing of" after "(1)", "(2)", and "(3)", respectively; and

(3) by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and", and by inserting after paragraph (3) the following new paragraph:

"(4) the social, behavioral, and biomedical etiology, mental and physical health consequences, and social and economic consequences of drug abuse and drug dependence.".

(b) Section 503 is amended (1) by striking out "(a)", and (2) by striking out subsection (b).

Sec. 13. Within sixty days of the date of the enactment of this Act, the Director of the National Institute on Drug Abuse shall report to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate—

(1) the number of grants and contracts made or entered into by the Director before such date of enactment for research which was not completed before July 1, 1979,

(2) the identity of the persons who received such grants and contracts,

(3) the amount of funds authorized to be paid under each such grant and contract and the amount of funds expended by the recipient of each such grant and contract by such date of enactment,

(4) the purpose of the research project funded under each such grant and contract, and

(5) the progress made in each such research project by such date of enactment.

Sec. 14. Section 217(e)(1) of the Public Health Service Act (42 U.S.C. 218(e)(1) is amended —

(1) by inserting the following before the period in the third sentence: ", including officers or employees of State and local drug abuse agencies"; and

(2) by inserting at the end thereof the following new sentence: "Appointed members may serve after the expiration of their terms until their successors have taken office.".

Sec. 15. (a) Section 1 is amended by striking out Drug Abuse Office and Treatment Act of 1972" and inserting in lieu thereof Drug Abuse Prevention, Treatment, and Rehabilitation Act".

(b) Sections 1513(e)(1) and 1524(c)(6) of the Public Health Service Act (42 U.S.C. 3001–2(e)(1), 300m–3(c)(6)) and section 30 (a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3733(a)(18)) are each amended by striking out Drug Abuse Office and Treatment Act of 1972" and inserting in lieu thereof Drug Abuse Prevention, Treatment, and Rehabilitation Act". Whenever reference is made in any other Federal law, regulation, ruling, or order to the Drug Abuse Office and Treatment Act of 1972, the reference shall be considered to be made to the Drug Abuse Prevention, Treatment, and Rehabilitation Act.

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to the House amendment be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman explain to us what has happened regarding these two bills?

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from West Virginia.

Mr. STAGGERS. I would be happy to explain.

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Mr. Speaker, drug and alcohol abuse are among this Nation's greatest public health threats. The combined economic cost to our society is staggering. The cost in human misery and diminshed expectatons is incalcuable.

At the Federal level, leadership in these fields is vested with the National Institute on Drug Abuse (NIDA) and the National Institute on Alcohol Abuse and Alcoholism (NIAAA). The institutes administer vital prevention, treatment, rehabilitation and research programs designed to combat and better understand these complex problems. The alcohol and drug abuse initiatives of every State have benefited from these programs.

On October 16, 1979, the House adopted H.R. 3916, a bill extending Federal drug and alcohol abuse authorities. by the near unanimous vote of 396 to 8. Relevent sections of H.R. 3916 were substituted for provisions of two Senate passed bills, S. 525 (extension of drug abuse authorities) and S. 440, (extension of Federal alcohol abuse authorities). Due to the popularity of these programs, I am pleased to say the House and Senate have been able to bring their reauthorization bills into perfect conformity without going into conference.

The Senate amendments to S. 525 and S. 440 embody a compromise reached after extensive discussions between the Subcommittee on Alcoholism and Drug Abuse of the Senate Labor and Human Resources Committee and the Subcommittee on Health and the Environment of the House Interstate and Foreign Commerce Committee.

I would like to express my appreciation for the spirit of cooperation which prevailed during all our discussions with the Senate. The compromise agreements were reached in the spirit of conciliation and mutual commitment to battling a problem which threatens to undermine basic vitality of our society.

Two Members of Congress deserve special recognition for their tireless work in support of these important programs.

Mr. Waxman, chairman of the Subcommittee on Health and the Environment has been unequaled in the depth of his concern for our Nation's youth. The compromise reflects his input and strong concern that high risk populations—especially young people—be provided special attention in the development and administration of drug and alcohol abuse programs.

Dr. Tim Lee Carter, ranking minority member of the Health and the Environment Subcommittee deserves more than special praise and recognition. My good friend from Kentucky's contribution to the development of the legislation represents the highest tradition of bipartisanship. Since coming to Congress in 1964, Dr. Carter has been the champion of America's rural areas. While the problems of drug and alcohol abuse in our cities is significant, rural areas know well the corrosive effect of substance abuse upon our schools and families. Rural areas have unique needs for drug and alcohol abuse services and Dr. Carter has represented their interests with steadfast commitment.

The course chartered by the House in H.R. 3916 and now contained in the Senate amendments to S. 525 and S. 440 is sound. Levels of appropriations authorized reflect reasonable expectations and appropriate balance between prevention, treatment and research programs.

The Senate amendments to S. 525 and S. 440 provide for a 2-year authorization of appropriations for NIDA and NIAAA; $214 million is authorized for NIDA programs in fiscal year 1980 and $230 million in fiscal year 1981; $198.5 million is authorized for NIAAA programs in fiscal year 1980, and $217 million in fiscal year 1981.

The committee continues to maintain reservations about the effectiveness of some Institute programs, but believes a 2-year authorization will not restrict congressional oversight of Federal drug and alcohol abuse activities.

The Senate amendments reaffirm the House commitment that primary prevention and intervention programs be greatly expanded to reduce the incidence of drug and alcohol abuse. The amendments recognize that substance abuse treatment programs have had little effect on reducing the number of individuals who continue to abuse drugs and alcohol.

In fact, all our survey data indicated that young people are beginning to use alcohol and drugs at an increasing young age—many before the age of 14. Only a decade ago, drug use in our schools was the exception—today it seems the norm and in many instances threatens to undermine our educational system.

The Federal Government has made great strides in developing a network of facilities to treat the victims of drug and alcohol abuse. The time is ripe to begin a similar and no less vigorous effort in the area of prevention.

The House and Senate are in complete accord that NIAAA and NIDA must undertake greater efforts to encourage States and local communities to develop and maintain effective programs to identify high-risk individuals and deter those individuals from becoming drug and alcohol dependent.

Effective model programs are now available which with direct assistance from NIDA and NIAAA can be duplicated in communities throughout the country. Such programs emphasize activities which recognize the early manifestations of substance abuse and seek to prevent this behavior before the need for protracted and costly treatment becomes necessary.

The Senate amendments to S. 525 and S. 440 contain specific provisions which require that serious prevention efforts be undertaken at NIDA and NIAAA. The minimum restrictions contained in the amendments on the allocation of project grant and contract appropriations are, however, intended as a floor—not a ceiling—on funding of prevention programs. It is intended that the Institutes invest substantially greater resources in prevention programs, projects, and activities. In the development of these new initiatives, special consideration should be given to programs responsive to the needs of high-risk populations such as youth, women, and the elderly.

The Senate amendments also contain several important provisions which all reduce the likelihood of duplication between NIDA and NIAAA research programs and data collection functions, as well as enhance the participation of local governments in statewide drug and alcohol abuse planning.

Mr. Speaker, the serious social and health injuries associated with the abuse of drugs and alcohol are real. Increasingly we are aware that no economic, sex, age, or ethnic group in this country is immune from the threat of drug- or alcohol-related injury.

Mr. Speaker, I should like to insert in the RECORD at this point a detailed explanation of the proposed compromise for S. 525, extension of Federal drug abuse authorities.

EXPLANATION OF HOUSE-SENATE COMPROMISE AGREEMENT ON S. 525

The proposed compromise agreement on S. 525, the Drug Abuse Prevention, Treatment, and Rehabilitation Amendments of 1979, provides for a two-year reauthorization of programs and activities conducted by the National Institute on Drug Abuse (NIDA). The Senate had authorized a one-year renewal of these programs with an automatic extension for a second year unless Congress took action to prevent the extension. The House had authorized a one-year renewal.

FINDINGS AND PURPOSE

The compromise updates the findings and purpose of the Drug Abuse Office and Treatment Act of 1972 with reference to shifts in the usage of various drugs and in the Nation's demographic patterns, and the need for prevention and intervention programs aimed particularly at youth, women, and the elderly, and the need for coordination of drug abuse functions at all levels of government. The purpose of the Act is expanded to include the development and support of community-based prevention programs, of occupational prevention and treatment programs, and of research relating to drug abuse.

POLICY COORDINATION

To meet congressional concern with maintaining coordination of Federal drug abuse functions at the highest level of government following the abolishment of the Office of Drug Abuse Policy, the compromise amends the Act to transfer the responsibilities of the former Office to the President. During consideration of S. 525, the President issued Executive Order 12133 designating the Associate Director for Drug Policy of the Domestic Policy Staff to carry out these responsibilities.

Congressional access to information and personnel carrying out these functions is retained notwithstanding their location in the Executive Office of the President. The Strategy Council established under the Act is expanded to include a representative of State government responsible for dealing with drug abuse problems and a representative of local government responsible for dealing with such problems.

UNDERSERVED POPULATIONS

With respect to the administration of NIDA, the compromise places additional responsibility on the Director to make special efforts to develop and coordinate prevention, treatment, research, and administrative policies which focus on the needs of underserved populations. The Secretary should include actions taken under this provision in the annual report to Congress and the President required under section 405 of the Act. Policymaking functions, including those in the area of prevention, should be carried out and coordinated at the Institute level.

FORMULA GRANTS

Formula grants to States are authorized at $45 million for fiscal years 1980 and 1981, the level authorized under existing law and by both the Senate and House-passed bills.

SINGLE STATE AGENCIES

State advisory councils established under the Act are required to include as members women and the elderly, and the State plan is required to include an assessment of the needs of these groups and of the need for changes in emphasis resulting from shifts in demographic and drug use abuse patterns.

States are required to provide assurances that surveys of the need for drug abuse prevention and treatment services will be coordinated with surveys of need for alcoholism prevention and treatment services, that political subdivisions have the opportunity to review and comment on their State plans, and that the Single State Agency coordinates its activities with local drug abuse agencies, with State and local alcoholism agencies, and with other health planning agencies.

STATE PLANS

Single State Agencies should survey the extent to which other State programs and political subdivisions are dealing effectively with drug abuse. The Single State Agency, within the limits of its capability, should determine and describe the extent of drug abuse functions performed by other agencies and political subdivisions, and should include such information in reports already required by the Act.

The State should also include an inventory of public and private resources relating to drug abuse prevention, treatment, and rehabilitation, a description of both the needs and the allocation of resources within urban and nonurban areas of the State, and a description of the role of units of general purpose local government in planning and coordinating the use of such resources.

Single State Agencies are required to foster and encourage occupational programs and to make available model programs developed by NIDA. Such information may be made available pursuant to notice, by publication or otherwise, designed to notify local governments and business concerns of the existence of such materials, and by direct efforts of the Single State Agency to publicize and assist the development of such efforts.

PROJECT GRANTS

NIDA's authority for project grants is expanded to include demonstration and evalution along with development of occupational drug abuse prevention, treatment, and rehabilitation programs, and to emphasize replication of effective prevention programs.

Authorizations of appropriations for project grants and contracts are $149 million for treatment programs and $20 million for prevention and other programs in fiscal 1980, and $155 million for treatment and $30 million for prevention and other programs in fiscal 1981. At least 7 percent of funds appropriated for all project grants and contracts in fiscal 1980 and 10 percent of funds appropriated in fiscal 1981 are to be used for primary prevention and intervention programs designed to discourage individuals, particularly individuals among high risk populations, from abusing drugs. During fiscal 1980, this limitation shall apply for that portion of the fiscal year remaining upon enactment of S. 525, but NIDA is encouraged to significantly expand its prevention efforts beyond these minimum levels.

The House had authorized $137 million for treatment and $24 million for prevention and other programs in fiscal 1980, with a minimum ten percent for prevention. The Senate had authorized $158 million for treatment, $5 million for grants to local governments, and $27 million for prevention and other programs.

In carrying out its responsibilities for prevention programs, it is especially important that NIDA recognize that drug abuse prevention programs now exist throughout the country that have demonstrated their effectiveness. NIDA must begin to replicate these successful programs in other communities through the provision of technical assistance and financial support.

It is intended that increased emphasis upon drug abuse prevention by NIDA will encourage State and local governments to broaden and increase financial assistance for these important programs.

SPECIAL EMPHASIS

The Secretary is instructed to encourage the submission of and give special consideration to applications for prevention and treatment projects targeted to drug abuse and drug dependence among women, the elderly, and individuals under eighteen.

Projects and programs receiving NIDA support shall seek to be responsive to the special requirements of handicapped individuals; to assure good quality care in general community care facilities; to meet the special needs of individuals of limited English-speaking ability; and to utilize existing community resources, including community mental health centers.

OCCUPATIONAL PROGRAMS

The compromise also reconciles the Act with the Civil Service Reform Act of 1978 (P.L. 95–454) and encourages the extension of Federal occupational drug abuse programs to include families of Federal employees. NIDA is instructed to develop a variety of model occupational programs suitable for replication on a cost-effective basis by different types of business concerns and governmental entities.

In developing such occupational programs, the Institute should take into account the number of the firm's employees, the firm's geographical location, its proximity to other concerns and entities, and availability of existing drug abuse services from public agencies and private organizations. To the extent feasible, model programs developed pursuant to this provision shall be capable of coordination with model occupational programs developed by the National Institute on Alcohol Abuse and Alcoholism. With respect to small businesses, NIDA should consult with the Small Business Administration concerning development of these model programs.

Where business concerns and governmental entities employ workers represented by a labor organization, these model programs should be designed to be implemented only by joint agreement through collective bargaining or at the conference table, within the limits of the National Labor Relations Act and other applicable laws.

CONTRACT LIMITATIONS

In order to comply with the Congressional Budget and Impoundment Control Act of 1974 (P.L. 93–344), the compromise includes a provision specifying that the Secretary's authority to enter into contracts is effective only to the extent that funds are provided in advance by appropriations acts.

TECHNICAL ASSISTANCE

NIDA should provide technical assistance to States in: data collection; management and evaluation; certification, accreditation, and licensing; monitoring compliance with Federal prohibitions on discrimination against drug addicts and drug abusers in health facilities; and eliminating exclusions in health insurance coverage offered in the State which are based on drug abuse or drug dependence.

Such assistance should be designed to expand coverage of inpatient and outpatient care in licensed hospital treatment facilities, licensed detoxification facilities, licensed halfway houses or recovery homes, or licensed, certified, or State-approved residential treatment facilities. With respect to certification, accreditation, or licensing, such assistance should be designed to include appropriate recognition for nonmedical aspects of treatment and for previous experience of personnel.

The Secretary should fully enforce Section 407's prohibition on discrimination against drug addicts and drug abusers in health facilities, together with the prohibition on discrimination against alcoholics in any federally supported program covered by the Comprehensive Rehabilitation Services and Developmental Disabilities Amendments of 1978 (P.L. 95–602).

RESEARCH

NIDA's research authority is expanded to clarify the inclusion of social, behavioral, and biomedical etiology, mental and physical health consequences, and social and economic consequences of drug abuse and drug dependence as subjects of research.

The authorization for special research projects, which was $7 million under existing law and $8 million in the Senate-passed bill, is repealed. Funds to carry out these research programs have historically been obligated from appropriations available to the Institute under provisions of the Public Health Service Act. Existing levels of research authorizations are adequate to ensure effective implementation of propects authorized by this section.

RESEARCH REPORT

Within sixty days of enactment of this legislation, the Director of NIDA should submit a report to the House Committee on Interstate and Foreign Commerce and the Senate Committee on Labor and Human Resources containing a detailed description of all research grants and contracts sponsored by the Institute on July 1, 1979.

ADVISORY COUNCIL

The National Advisory Council on Drug Abuse is modified to include representatives of State and local drug abuse agencies. Because delays in appointing members to the Advisory Council have occasionally produced difficulty in reaching a quorum, appointed members are authorized to serve until their successors have taken office. The Secretary should make every effort to assure that such delays do not continue to occur.

NIDA and the Advisory Council may not permit the failure of a State to comment on a project application to prejudice in any way that application.

NAME OF ACT

Because the Office of Drug Abuse Policy has been abolished, the name of the Act is changed to the Drug Abuse Prevention, Treatment, and Rehabilitation Act.

Mr. Speaker, the need for Federal leadership in the field of drug abuse continues to be strong. I strongly urge support for the Senate amendment.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, are the combined bills now less than what passed the House in cost?

Mr. STAGGERS. Yes, that is correct for fiscal year 1980, the only fiscal year addressed by the House-passed measure.

Mr. ROUSSELOT. How much less?

Mr. STAGGERS. The House-passed bill, H.R. 3916, provided $206 million for fiscal year 1980 for extending Federal drug abuse authorities. The other body provided $235 million. Now we have compromised at $214 million; $8 million more than provided by the House bill.

But for the second year, fiscal year 1981, we have provided $230 million, which is $5 million less than that authorized by the other body.

In the alcohol bill we dropped the fiscal year 1980 authorization below what both the House and Senate had authorized: $22 million less than what was authorized in the bill when it passed this House.

Mr. ROUSSELOT. Further reserving the right to object, $22 million less than the alcohol provisions?

Mr. STAGGERS. That is right for fiscal year 1980. We also reduced the NIAAA authorization from the 3-year period contained in the bill adopted by the other body to a 2-year authorization.

Mr. ROUSSELOT. So the overall effect would be a total reduction?

Mr. STAGGERS. For fiscal year 1980, that is correct.

Mr. ROUSSELOT. $21 million less than the bill that passed the House?

Mr. STAGGERS. That is correct.

Mr. ROUSSELOT. Well, that certainly is progress.

Mr. STAGGERS. That is progress.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia to dispense with reading of the Senate amendment to the House amendment?

Mr. CARTER. Mr. Speaker, reserving the right to object, I want to commend the distinguished chairman for his work and also the committee chairman for his work on this legislation. It is very good and necessary. We have reached a good compromise and I urge support of this legislation.

Mr. Speaker, although great efforts have been made in combating the problem of drug abuse over the last several years, drug abuse continues to constitute a serious and extensive threat to the health and welfare of many of our citizens. I am, therefore, pleased to support the Senate amendments to S. 525—which provide a 2-year reauthorization for the National Institute on Drug Abuse.

Mr. Speaker, I believe that these amendments represent a reasonable compromise of the differing positions of the two Houses, and that this measure authorizes a reasonable level of expenditures. Under the agreement—$214 million would be authorized for fiscal year 1980 and $230 million for fiscal year 1981.

I am also pleased that this bill will require the National Institute of Drug Abuse to place a high priority on prevention efforts in the drug abuse field. I would submit that prevention is an effort which has been neglected far too often in the past, although it is clear that preventing the abuse of drugs is a more cost-effective use of resources than remedial treatment can ever be.

Mr. Speaker, I believe that there is a great deal left to be done in combating the problem of drug abuse. For this reason, I strongly support this 2-year authorization for our drug abuse programs. Nevertheless, I would submit that given the difficult nature of drug abuse as a health problem, we need to be concerned about the effectiveness of the management provided to the program. Although I strongly support the goals of the program, I believe that it deserves close scrutiny to insure that the program is doing the job which we expect of it. That is why I am pleased that the other body has agreed to a shorter authorization period and a lower authorization level for this program. This action underscores once again the commitment of our subcommittee to conduct the oversight needed in this area, and I would urge my colleagues to support our efforts.

Thank you, Mr. Speaker.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia to dispense with reading of the Senate amendment to the House amendment?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from West Virginia?

There was no objection.

A motion to reconsider was laid on the table.

ALCOHOL ABUSE EXTENSION

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill ((S. 440), to revise and extend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, with a Senate amendment to the House amendment, and concur in the Senate amendment to the House amendment.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendment, as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment, insert:

SECTION. 1. (a) This Act may be cited as the "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1979".

(b) Whenever in this Act (other than in section 13) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970.

SEC. 2. (a) Paragraphs (2) and (3) of section 2(a) (42 U.S.C. 4541(a) are amended to read as follows:

"(2) approximately ten million, or 7 percent, of the adults in the United States are alcoholics or problem drinkers;

"(3) it is estimated that alcoholism and other alcohol related problems cost the United States over $43,000,000,000 annually in lost production, medical and public assistance expenditures, police and court costs, and motor vehicle and other accidents;".

(b) Section 2(a) is further amended—

(1) by striking out "; and" at the end of paragraph (6) and inserting in lieu thereof "and contributes to domestic violence:";

(2) by redesignating paragraph (7) as paragraph (8) and amending it to read as follows:

"(8) alcoholism is an illness requiring treatment and rehabilitation through the assistance of a broad range of community health and social services and with the cooperation of law enforcement agencies, employers, employee associations, and associations of concerned individuals."; and

(3) by inserting after paragraph (6) the following paragraph:

"(7) alcohol abuse and alcoholism, together with abuse of other legal and illegal drugs, present a need for prevention and intervention programs designed to reach the general population and members of high risk populations such as youth, women, the elderly, and families of alcohol abusers and alcoholics; and".

(c) Section 2(b) is amended—

(1) by striking out "and" at the end of the paragraph (2);

(2) by redesignating paragraph (3) as paragraph (5); and

(3) by inserting after paragraph (2) the following new paragraphs:

"(3) the development and encouragement of prevention programs designed to combat the spread of alcoholism, alcohol abuse, and abuse of other legal and illegal drugs;

"(4) the development and encouragement of effective occupational prevention and treatment programs within government and in cooperation with the private sector; and".

SEC. 3. Section 101 (42 U.S.C. 4551) is amended by adding at the end thereof the following new subsection:

"(d)(1) The Director shall make special efforts to develop and coordinate prevention, treatment, research, and administrative policies and programs which focus on the needs of underserved populations.

"(2) The Secretary shall include in the annual report to the President and the Congress required by section 102(1) a description of the actions taken by the Director under paragraph (1).".

SEC. 4. (a) Section 102(1) (42 U.S.C. 4552(1)) is amended by inserting after "expenditures of funds," the following: "a description, prepared in consultation with the committee established under section 103, of the extent to which Federal programs and departments are concerned and dealing effectively with the problems of alcohol abuse and alcoholism,".

(b) Section 102 is amended—

(1) by inserting "and" at the end of paragraph (3),

(2) by striking out "; and" at the end of paragraph (4) and inserting in lieu thereof a period, and

(3) by striking out paragraph (5) and the last sentence.

SEC. 5. Section 103(b)(1) (42 U.S.C. 4553(b)(1)) is amended by inserting ", the Department of the Treasury, the Department of Labor, the Department of Education" after "the Department of Defense".

SEC. 6. (a) Section 201(a) (42 U.S.C. 4561(a)) is amended—

(1) by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management";

(2) by inserting "and in accordance with the provisions of subpart F of part III of title 5, United States Code," following "other Federal agencies and departments,"; and

(3) by inserting "Such agencies and departments are encouraged to extend, to the extent feasible, these programs and services to the families of alcoholic employees and to employees who have family members who are alcoholics." before the last sentence.

(b)(1) Section 201(b) is amended to read as follows:

"(b)(1) The Secretary, acting through the Institute, shall be responsible for fostering and encouraging similar alcohol abuse and alcoholism prevention, treatment, and rehabilitation programs and services in State and local governments and in private industry. To the extent feasible, such programs and services should be designed such that they apply to the families of employees and to employees who have family members who are alcoholics.

"(2)(A) Consistent with such responsibility, the Secretary, acting through the Institute, shall develop a variety of model programs suitable for replication on a cost-effective basis in different types of business concerns and State and local governmental entities.

"(B) The Secretary, acting through the Institute, shall disseminate information and materials relative to such model programs to single State agencies designated pursuant to section 303 of this Act, and shall, to the extent feasible, provide technical assistance to such agencies as requested.

"(3) Model programs developed under paragraph (2) shall, in the case of business concerns and governmental entities which employ individuals represented by labor organizations, be designed for implementation through cooperative agreements between the concerns and entities and the organizations.

"(4) To the extent feasible, model programs developed under paragraph (2) shall be capable of coordination with model programs developed pursuant to section 413(b) of the Drug Abuse Office and Treatment Act of 1972.".

(2)(A) The heading for title II is amended by striking out "FEDERAL CIVILIAN EMPLOYEES" and inserting in lieu thereof "GOVERNMENT AND OTHER EMPLOYEES".

(B) The heading for section 201 is amended by striking out "FEDERAL CIVILIAN EMPLOYEES" and inserting in lieu thereof "GOVERNMENT AND OTHER EMPLOYEES".

SEC. 7. Section 301 (42 U.S.C. 4571) is amended—

(1) by striking out "and" after "1978,", and

(2) by inserting after "1979," the following: "$60,000,000 for the fiscal year ending September 30, 1980, and $65,000,000 for the fiscal year ending September 30, 1981,".

SEC. 8. Section 302 (42 U.S.C. 4572) is amended by adding at the end the following new subsection:

"(e) On the request of any State, the Secretary shall, to the extent feasible, make available technical assistance for the purposes of developing and improving systems for data collection; program management, accountability, and evaluation; certification, accreditation, or licensure of treatment facilities and personnel; monitoring compliance with the requirements of section 321 by hospitals and other facilities; and eliminating exclusions in health insurance coverage offered in the State which are based on alcoholism or alcohol abuse. Insofar as practicable, such technical assistance shall be provided in such a manner as to improve coordination between activities funded under this Act and under the Drug Abuse Office and Treatment Act of 1972.".

SEC. 9. (a) Section 303(a) (42 U.S.C. 4573(a)) is amended—

(1) by inserting ", women, and the elderly" after "minority and poverty groups" in paragraph (3);

(2) by inserting ", by the elderly," after "by women" in paragraph (4)(B);

(3) by inserting before the semicolon at the end of paragraph (4) the following: ", and (C) provide assurances satisfactory to the Secretary that, insofar as practicable, the survey conducted pursuant to clause (A) is coordinated with and not duplicative of the drug abuse and dependence survey conducted pursuant to section 409 of the Drug Abuse Office and Treatment Act of 1972";

(4) by inserting ", with State and local drug abuse planning agencies," after "alcohol abuse planning agencies" in paragraph (12); and

(5) by striking out "and" at the end of paragraph (15), by redesignating paragraph (16) as paragraph (17), and by inserting after paragraph (15) the following new paragraph:

"(16) provide assurance that the State agency—

"(A) will foster and encourage the development of alcohol abuse and alcoholism prevention, treatment, and rehabilitation programs and services in State and local governments and in private businesses and industry;

"(B) will make available to all business concerns and governmental entities within such State information and materials concerning such model programs suitable for replication on a cost-effective basis as are developed pursuant to section 201(b) of this Act; and

"(C) will furnish technical assistance as feasible to such business concerns and governmental entities; and".

(b) Section 303(c) is amended by inserting after "implementation of its State plan" the following: "and a plan of action for the next three years. To the extent feasible the report shall include a survey of the extent to which other State programs and political subdivisions throughout the State are dealing effectively with the problems related to alcohol abuse and alcoholism.".

SEC. 10. Section 310(a) (42 U.S.C. 4576(a)) is amended by striking out "1979" and inserting in lieu thereof "1981".

SEC. 11. (a) Section 311(a) (42 U.S.C. 4577(a)) is amended—

(1) by redesignating paragraphs (1), (2), (3), and (4) as paragraph (2), (3), (4), and (5), respectively;

(2) by inserting before paragraph (2) (as so redesignated) the following new paragraph:

"(1) to conduct demonstration and evaluation projects, with a high priority on prevention and early intervention projects in occupational and educational settings and on modified community living and work-care arrangements such as halfway houses, recovery homes, and supervised home care,";

(3) by striking out "conduct demonstration and evaluation projects, including projects designed to develop" in paragraph (2) (as so redesignated) and inserting in lieu thereof "support projects of a demonstrable value in developing"; and

(4) by striking out "female alcoholics, and individuals in geographic areas where such services are not otherwise adequately available" in paragraph (3) (as so redesignated) and inserting in lieu thereof "the elderly, women, the handicapped, families of alcoholics, and victims of alcohol-related domestic violence".

(b) Section 311(b) is amended (1) by redesignating clauses (1), (2), and (3) as clauses (2), (3), and (4), respectively, and by inserting after "under this section shall" the following: "(1) be responsive to special requirements of handicapped individuals in receiving such services;", and (2) by inserting in clause (2) (as so redesignated) the following: "(in the case of prevention and treatment services)" after "seek".

(c) Paragraph (4) of section 311(c) is amended to read as follows:

"(4) The Secretary shall encourage the submission of and give special consideration to applications under this section for programs and projects—

"(A) for the prevention and treatment of alcohol abuse and alcoholism by women,

"(B) for the prevention and treatment of alcohol abuse and alcoholism by the elderly,

"(C) for the prevention and treatment of alcohol abuse and alcoholism by individuals under the age of eighteen.".

SEC. 12. Section 312 (42 U.S.C. 4578) is amended—

(1) by striking out "and" after "1978,", and

(2) by striking out the period and inserting in lieu thereof a comma and the following: "$102,500,000 for the fiscal year ending September 30, 1980, and $115,000,000 for the fiscal year ending September 30, 1981. Of the funds appropriated under this section for the fiscal year ending September 30, 1980, at least 8 percent of the funds shall be obligated for grants for projects, programs, and services to prevent (through outreach, intervention, and education) the occurrence of alcoholism and alcohol abuse; and of the funds appropriated under this section for the next fiscal year at least 10 percent of the funds shall be obligated for such grants.".

SEC. 13. Section 217(a) of the Public Health Service Act (42 U.S.C. 218(a)) is amended by inserting after the fourth sentence the following: "Appointed members may serve after the expiration of their terms until their successors have taken office.".

SEC. 14. (a) Section 501(a) (42 U.S.C. 4591(a)) is amended to read as follows:

"(a) The Secretary, acting through the Institute, shall carry out a program of research, investigations, experiments, demonstrations, and studies, directly and by grant or contract, into—

"(1) the social, behavioral, and biomedical etiology,

"(2) prevention,

"(3) treatment,

"(4) mental and physical health consequences,

"(5) social and economic consequences, and

"(6) the impact on families,

of alcohol abuse and alcoholism.".

(b) Section 501(b) is amended—

(1) in paragraph (3), by inserting before the semicolon the following: "and such Council shall give special consideration to projects relating to the relationship between alcohol and domestic violence, the effects of alcohol use during pregnancy, the relationship between the abuse of alcohol and other drugs, and the effect on the incidence of alcohol abuse and alcoholism of social pressures, legal requirements respecting the use of alcoholic beverages, the cost of such beverages, and the economic status and education of users of such beverages";

(2) in paragraph (5)—

(A) by inserting "the National Institute of Drug Abuse and by" following "similar programs conducted by"; and

(B) by inserting "departments," before agencies";

(3) in paragraph (6), by striking out "biomedical and behavioral" and inserting in lieu thereof "biomedical, behavioral, epidemiological, and social"; and

(4) in paragraph (8), by inserting "and other scientific research" following "statistical".

SEC. 15. Section 503 (42 U.S.C. 4587) is amended—

(1) by striking out "and" after "1978,", and

(2) by inserting before the period a comma and the following: "$28,000,000 for the fiscal year ending September 30, 1980, and $28,000,000 for the fiscal year ending September 30, 1981".

SEC. 16. (a) Section 504(a) (42 U.S.C. 4588(a)) is amended—

(1) by striking out "alcohol problems" in the first sentence and inserting in lieu thereof "biomedical, behavioral, and social issues related to alcoholism and alcohol abuse";

(2) in paragraph (1)(B), by striking out "laboratory facilities and reference services (including reference services that will afford access to scientific alcohol literature)" and inserting in lieu thereof "facilities (including laboratory, reference, and data analysis facilities) to carry out the research plan contained in the application";

(3) in paragraph (1)(D), by striking out "and" at the end thereof;

(4) in paragraph (1)(E), by striking out "medical and osteopathic students and physicians;" and inserting in lieu thereof "medical and osteopathic, nursing, social work, and"; and

(5) by inserting after paragraph (1)(E) the following:

"(F) the applicant has the capacity to conduct programs of continuing education in such medical, legal, and social service fields as the Secretary may require.".

(b) Section 504(b) is amended by striking out "$1,000,000" and inserting in lieu thereof "$1,500,000".

(c) Section 504(c) is amended by inserting before the period a comma and the following: "$8,000,000 for the fiscal year ending September 30, 1980, and $9,000,000 for the fiscal year ending September 30, 1981".

SEC. 17. Title VI is amended by adding at the end the following new section:

"SEC. 604. The authority of the Secretary to enter into contracts under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.".

SEC. 18. (a)(1) There is established a Commission to be known as the National Commission on Alcoholism and Other Alcohol-Related Problems (hereinafter in this section referred to as the "Commission"). The Commission shall be composed of—

(A) four Members of the Senate appointed by the President of the Senate upon the recommendation of the majority and minority leaders;

(B) four Members of the House of Representatives appointed by the Speaker of the House of Representatives upon the recommendation of the majority and minority leaders;

(C) nine public members appointed by the President; and

(D) not more than four nonvoting members appointed by the President from individuals employed in the administration of programs of the Federal Government which affect the prevention and treatment of alcoholism and the rehabilitation of alcoholics and alcohol abusers.

At no time shall more than two members appointed under subparagraph (A), more than two of the members appointed under subparagraph (B), or more than five of the members appointed under subparagraph (C) be members of the same political party.

(2)(A) The President shall designate one of the members of the Commission as Chairman, and one as Vice Chairman. Nine members of the Commission shall constitute a quorum, but a lesser number may conduct hearings. Members appointed under paragraph (1)(D) shall not be considered in determining a quorum of the Commission.

(B) Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of the duties vested in the Commission.

(C) The Commission shall meet at the call of the Chairman or at the call of the majority of the members thereof.

(3)(A) The Commission may appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, an executive secretary to assist the Commission in carrying out its functions.

(B) The Secretary shall provide the Commission with such additional professional and clerical staff, such information, and the services of such consultants as the Secretary determines necessary for the Commission to carry out effectively its functions.

(C) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission consistent with applicable laws and regulations with respect to the privacy of medical records.

(b) The Commission shall conduct a study of alcoholism and alcohol-related problems and shall include in the study—

(1) an assessment of unmet treatment and rehabilitation needs of alcoholics and their families;

(2) an assessment of personnel needs in the fields of research, treatment, rehabilitation, and prevention;

(3) an assessment of the integration and financing of alcoholism treatment and rehabilitation into health and social health care services within communities;

(4) a study of the relationship of alcohol use to aggressive behavior and crime;

(5) a study of the relationship of alcohol use to family violence;

(6) a study of the relationship of alcoholism to illnesses, particularly those illnesses with a high stress component, among family members of alcoholics;

(7) an evaluation of the effectiveness of prevention programs, including the relevance of alcohol control laws and regulations to alcoholism and alcohol-related problems;

(8) a survey of the unmet research needs in the area of alcoholism and alcohol-related problems;

(9) a survey of the prevalence of occupational alcoholism and alcohol abuse programs offered by Federal contractors; and

(10) an evaluation of the needs of special and underserved population groups, including American Indians, Alaskan Natives, youth, the elderly, women, and the handicapped and assess the adequacy of existing services to fulfill such needs.

(c) The Commission shall submit to the President and the Congress such interim reports as it deems advisable and shall within two years after the date on which funds first become available to carry out this section submit to the President and the Congress a final report which shall contain a detailed statement of its findings and conclusions and also such recommendations for legislation and administrative actions as it deems appropriate. The Commission shall cease to exist sixty days after the final report is submitted under this subsection.

(d) The Secretary of Health, Education, and Welfare shall be responsible for the coordination of the activities of the Commission.

(e) There are authorized to be appropriated for the purposes of this section $1,000,000 to remain available until the expiration of the Commission.

Sec. 19. Title III is amended by adding at the end the following:

"Part D—Report

"report

"Sec. 334. (a) Not later than June 1, 1980, the Secretary of Health, Education, and Welfare, acting through the Assistant Secretary for Health, and the Secretary of the Treasury, acting through the Assistant Secretary for Enforcement and Operations, shall jointly report to the President and the Congress—

"(1) the extent and nature of birth defects associated with alcohol consumption by pregnant women,

"(2) the extent and nature of other health hazards associated with alcoholic beverages, and

"(3) the actions which should be taken by the Federal Government under the Federal Alcohol Administration Act and the Federal Food, Drug, and Cosmetic Act with respect to informing the general public of such health hazards.

"(b) Subsection (a) shall not be construed to limit the authority of the Attorney General, the Secretary of the Treasury, or the Secretary of Health, Education, and Welfare under the Federal Alcohol Administration Act or the Federal Food, Drug, and Cosmetic Act.".

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to the House amendment be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia to dispense with the reading of the Senate amendment to the House amendment?

Mr. CARTER. Mr. Speaker, reserving the right to object, I strongly support this legislation.

Mr. Speaker, I am pleased to support the Senate amendments to S. 440 providing a 2-year reauthorization for the National Institute of Alcoholism and Alcohol Abuse. I am expecially pleased that we have finally been able to reach agreement about this important legislation with the other body.

Mr. Speaker, make no mistake about it, this legislation is extremely important to our efforts to improve the health of the citizens of this Nation. Let me point out that approximately 10 million individuals—7 percent of the adult population of the United States—are alcoholics or problem drinkers. It is estimated that alcoholism and other alcohol-related problems cost the United States nearly $43 billion annually in lost production, medical and public assistance expenditures, police and court costs, and motor vehicle and other accidents. In fact, 25,000 persons died in alcohol-related motor vehicle accidents last year.

Mr. Speaker, I submit that against this background, the authorization levels contained in this bill are modest indeed.

The agreement authorizes $199.5 million for fiscal year 1980, a decrease compared to present authorization levels, and $217 million for fiscal year 1981. I would also point out, Mr. Speaker, that we have agreed to provide a 2-year authorization, rather than the normal 3-year authorization, for a very important reason. Certainly the problem of alcohol abuse has shown little sign of abating in the short run, and clearly more effort and more funds could be beneficial in this regard. However, I believe that our first responsibility is to insure that the resources we are committing to this program are used as effectively as possible. For this reason, I am pleased that the other body has agreed to a shorter authorization period and a lower authorization level in order to underscore our commitment to giving this program the serious scrutiny which I believe is necessary. I submit that this is the proper course to take to insure that we are doing all that we can to deal with the problem of alcoholism and alcohol abuse—perhaps the single most important health problem facing our Nation today. I would urge my colleagues to support our efforts in this area.

Mr. STAGGERS. Mr. Speaker, if the gentleman will yield; alcoholism, alcohol abuse and alcohol-related injuries continue to threaten the health of our Nation. An estimated 9.3 to 10 million Americans are problem drinkers and the incidence of alcohol abuse among women and youth is increasing at an alarming rate.

The Senate amendment to S. 440 (extension of Fedral alcohol abuse authorities) embodies a compromise reached after extensive discussions between the Subcommittee on Alcoholism and Drug Abuse of the Senate Labor and Human Resources Committee and the Subcommittee on Health and the Environment of the House Interstate and Foreign Commerce Committee.

The authorization levels contained in the Senate amendment will provide much needed authority for the administration's long awaited alcoholism initiatives directed at the special needs of women and youth.

Mr. Speaker, alcoholism has long been considered a "man's disease." In the past few decades, however, the rate of increase in alcohol use among women has far surpassed that among men. Thus, new funds proposed in the President's 1980 budget for the National Institute on Alcohol Abuse and Alcoholism (NIAAA) will be used to increase efforts necessary to prevent alcoholism and alcohol abuse among women and to make referral and treatment services more effective and more available. These new funds would also be used to increase knowledge concerning the effect of alcohol consumption on pregnant women and unborn children and to reduce the occurrence of alcohol-related birth defects, including the fetal alcohol syndrome.

The proposed initiatives are also intended to address alcohol-related problems among our youth. As many as 3.3 million young people have problems with the use of alcohol. The proportion of high school students who report being intoxicated at least once a month rose from 10 to 19 percent between 1966 to 1975. As we know, early drinking behavior has been shown to influence later drinking patterns, the drinking practices of our young people are of serious and growing concern.

Funds proposed in the President's budget would be used to expand research, prevention, and treatment services directed at young people with alcohol problems: To increase their awareness of the risks associated with alcohol use; and to reduce the number of fatalities and injuries sustained by youth in alcohol-related automobile accidents.

The Senate amendment also creates a national commission on alcoholism and other alcohol-related problems to make recommendations to the Congress necessary to assist the development of more effective Federal policies and programs to combat this serious national health problem.

Mr. Speaker, at this time, I would like to insert in the Record a detailed explanation of the proposed Senate amendment to S. 440, extension of Federal alcoholism and alcohol abuse authorities:

Explanation of House-Senate Compromise Agreement on S. 440

The proposed compromise agreement on S. 440, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1979, provides for a two-year reauthorization of programs and activities conducted by the National Institute on Alcohol Abuse and Alcoholism (NIAAA). The Senate had authorized a three-year renewal. The House had authorized a one-year renewal.

FINDINGS AND PURPOSE

The compromise updates the findings and purpose of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 with respect to the number of alcoholics and the annual economic cost of alcoholism and alcohol abuse. It emphasizes the need for prevention programs aimed particularly at youth, the elderly, and families of alcoholics and alcohol abusers, and recognizes the close linkages between alcoholism and domestic violence. The purpose of the Act is expanded to include development and encouragement of occupational alcoholism and programs and of prevention programs designed to combat the abuse of alcohol and other drugs.

UNDERSERVED POPULATIONS

With respect to the administration of NIAAA, the compromise places additional responsibility on the Director to make special efforts to develop and coordinate prevention, treatment, research, and administrative policies which focus on the needs of underserved populations. The Secretary should include in the annual report to Congress and the President required under section 102 of the Act, actions taken under this provision. As the Secretary has authority to engage consultants for NIAAA under the Public Health Service Act, additional statutory language in the Senate bill is omitted. Policymaking functions, including those in the area of prevention, shall be carried out and coordinated at the Institute level.

INTERAGENCY COMMITTEE

To increase the effectiveness of the Interagency Committee on Alcohol Abuse and Alcoholism, representatives of the Departments of Labor, Treasury, and Education are included as members. The compromise also consolidates the report of the Interagency Committee with that required of the Secretary, and streamlines the clearance procedure. To more effectively implement the Federal Government's commitment to treatment and rehabilitation of its employees and their families, the President is urged to issue an Executive Order concerning employee alcoholism programs as recommended by the Interagency Committee.

OCCUPATIONAL PROGRAMS

The compromise also reconciles the Act with the Civil Service Reform Act of 1978 (Public Law 95–454) and encourages the extension of Federal occupational alcoholism programs to cover families of Federal employees. NIAAA is instructed to develop a variety of model occupational programs suitable for replication on a cost-effective basis by different types of business concerns and governmental entities.

In developing such occupational programs, the Institute should take into account the number of the firm's employees, the firm's geographical location, its proximity to other concerns and entities, and availability of existing alcoholism and alcohol abuse services among public agencies and private organizations. To the extent feasible, model programs developed pursuant to this provision should be capable of coordination with model occupational programs developed by the National Institute on Drug Abuse. With respect to small businesses, NIAAA should consult with the Small Business Administration concerning development of these model programs.

Where business concerns and governmental entities employ workers represented by a labor organization, these model programs should be designed to be implemented only by joint agreement through collective bargaining or at the conference table, within the limits of the National Labor Relations Act and other applicable laws.

FORMULA GRANTS

Formula grants to States are authorized at $60 million for fiscal year 1980 and $65 million for fiscal 1981, the levels authorized in the Senate bill. The House had authorized $85 million for fiscal 1980, the level in existing law.

TECHNICAL ASSISTANCE

NIAAA should provide technical assistance to States in:

Data collection;

Management and evaluation;

Certification, accreditation, and licensing;

Monitoring compliance with Federal prohibitions on discrimination against alcoholics and alcohol abusers in health facilities; and

Eliminating exclusions in health insurance coverage in the State which are based on alcoholism or alcohol abuse.

Such assistance should be designed to expand coverage of inpatient and outpatient care in licensed hospital treatment facilities, licensed detoxification facilities, licensed halfway houses or recovery homes, or licensed, certified, or State-approved residential treatment facilities. The Secretary should fully enforce Section 321's prohibition on discrimination against alcoholics and alcohol abusers in health facilities, together with the prohibition on discrimination against alcoholics in any federally supported program covered by the Comprehensive Rehabilitation Services and Developmental Disabilities Amendments of 1978 (Public Law 95–602).

SINGLE STATE AGENCIES

State advisory councils established under the Act are required to include as members women and the elderly. The State plan is required to include an assessment of the needs of these groups for alcoholism and alcohol abuse services.

States are required to provide assurances that surveys of need for alcoholism prevention and treatment are coordinated with surveys of drug abuse and dependence, and that the Single State Agency coordinates its activities with local alcoholism agencies, with State and local drug abuse agencies, and with other health planning agencies.

Single State Agencies are required to foster and encourage occupational programs and to make available model programs developed by NIAAA. Such information may be made available pursuant to notice, by publication or otherwise, designed to notify local governments and business concerns of the existence of such materials, and by direct efforts of the State agency to publicize and assist the development of such programs.

STATE PLANS

To continue to receive annual grants under the Act, the Single State Agency should submit a plan of action for the next three years and a survey of the extent to which other State programs and political subdivisions are dealing effectively with alcohol abuse and alcoholism. The Single State Agency, within the limits of its capability, should determine and describe the extent of alcoholism functions performed by other agencies and political subdivisions, and include such information in reports already required by the Act. States should submit amendments to their State plan, if any, each year; every third year, they should submit a progress report and a plan of action for the next three years.

UNIFORM ACT GRANTS

The program of State grants for implementation of the Uniform Alcoholism and Intoxication Treatment Act is extended through fiscal 1981.

PRIORITY PROJECTS

In the award of project grants and contracts, NIAAA should give the highest priority to prevention and early intervention projects. Such projects include those in occupational and educational settings, as well as modified community living and work-care arrangements.

SPECIAL EMPHASIS

Special emphasis should be given to assisting the elderly, women, the handicapped, and families of alcoholics, including victims of alcohol-related domestic violence. In providing treatment and prevention services to families of alcoholics and alcohol abusers, NIAAA should encourage the provision of special counseling and assistance needed by victims of alcohol-related domestic violence, as well as provide training to individuals who work with victims of domestic violence to enable them to understand and deal with the ramifications of alcoholism and alcohol abuse on all members of the family.

SPECIAL CONSIDERATION

The Secretary is instructed to encourage the submission of and give special consideration to applications for projects for prevention and treatment of alcoholism and alcohol abuse among women, the elderly, and individuals under eighteen.

PROJECT GRANT AND CONTRACT AUTHORIZATION

Authorization of appropriations for project grants and contracts are $102.5 million for fiscal year 1980 and $115 million for fiscal 1981. At least 8 percent of funds appropriated in fiscal 1980 and 10 percent of funds appropriated in fiscal 1981 are to be used for programs and projects to prevent (through outreach, intervention, and education) alcoholism and alcohol abuse. During fiscal 1980, this limitation shall apply for that portion of the fiscal year remaining upon enactment, but NIAAA is encouraged to significantly expand its prevention efforts beyond these minimum levels.

ADVISORY COUNCIL

Because delays in appointing members of the National Advisory Council on Alcohol Abuse and Alcoholism have occasionally produced difficulty in reaching a quorum, appointed members are authorized to serve until their successors have taken office. The Secretary should make every effort to assure that such delays do not continue to occur.

NIAAA and the Advisory Council may not permit the failure of a State to comment on a project application in timely fashion to prejudice in any way that application. The responsibilities of the Advisory Committee in approving project applications should entail a continuing responsibility to assess the results of projects.

RESEARCH AUTHORIZATIONS

The scope of research under the Act is expanded to clarify NIAAA's responsibilities to investigate social consequences of alcohol abuse, the relationship between alcoholism and domestic violence, the effects of alcohol use during pregnancy, and the effects on the incidence of alcohol abuse and alcoholism of social pressures, legal requirements respecting the use of alcoholic beverages, the cost of such beverages, and the economic status and education of users of such beverages.

Reearch authorizations are $28 million for fiscal 1980 and for fiscal 1981, the level authorized by the House. The Senate had authorized $22 million for fiscal 1980, $28 million for fiscal 1981, and $32 million for fiscal 1982.

NATIONAL ALCOHOL RESEARCH CENTERS

Authorizations of appropriations for the National Alcohol Research Centers are $8 million for fiscal 1980 and $9 million for fiscal 1981. The House had authorized $6 million for fiscal 1980; the Senate had authorized $9 million for fiscal 1980, $10 million for fiscal 1981, and $11 million for fiscal 1982.

The Secretary should not designate additional Centers (including consortia, which are eligible for designation as Centers under the Act) unless adequate funds are available for new Centers to be designated without preventing existing Centers from meeting their research plans as approved by the Secretary. The maximum annual grant to a Center is raised from $1.0 million to $1.5 million.

CONTRACT LIMITATIONS

In order to comply with the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344), the compromise includes a provision specifying that the Secretary's authority to enter into contracts is effective only to the extent that funds are provided in advance by appropriation acts.

NATIONAL COMMISSION

A National Commission on Alcoholism and Other Alcohol-Related Problems is established. The Commission consists of four members each of the House and Senate and nine public members appointed by the President, plus up to four non-voting members designated by the President. Within two years after funds are first made available, the Commission shall study and report to Congress and the President concerning:

Unmet research and treatment needs of alcoholics and their families;

Personnel needs of alcoholism and alcohol abuse programs;

The financing and integration of alcoholism prevention and treatment into health and social service systems;

The relationships between alcoholism and aggressive behavior and domestic violence;

The rates of illness among family members of alcoholics;

The need for prevention programs;

The prevalence of occupational alcoholism programs among Federal contractors; and

The needs of underserved populations, including American Indians, Alaskan Natives, youth, the elderly, women and the handicapped.

With respect to the needs of underserved populations, the Commission should rely heavily on the views and recommendations of members of such groups, possibly through liaison task forces set up to consider these topics. The authorization level is $1 million, compared with $2 million in the Senate-passed bill.

REPORT ON ALCOHOL-RELATED HEALTH RISKS

The Secretary of Health, Education, and Welfare, acting through the Assistant Secretary for Health, and the Secretary of the Treasury, acting through the Assistant Secretary for Enforcement and Operations, are required to report to Congress and the President, not later than June 1, 1980, concerning the extent and nature of birth defects associated with alcohol consumption by pregnant women, the nature of other health hazards associated with alcoholic beverages and the actions which should be taken by the Federal Government under the Federal Alcohol Administration Act and the Federal Food, Drug and Cosmetic Act with respect to informing the general public of such health hazards. In preparing their recommendations, the Secretaries should consult with representatives of the medical profession, the alcoholic beverage industry, the National Advisory Council on Alcohol Abuse and Alcoholism, and other groups and organizations concerned and knowledgeable about informing the general public of these health hazards. The Senate had required a health warning label on beverages containing more than 24 percent alcohol by volume.

Mr. Speaker, alcohol abuse continues to be a serious public health problem which requires a vigorous and unified effort on the part of the Federal Government. I strongly urge support for the Senate amendment to S. 440.

Mr. CARTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia to dispense with reading of the Senate amendment to the House amendment?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from West Virginia?

There was no objection.

A motion to reconsider was laid on the table.

EARNINGS TEST FOR SOCIAL SECURITY BENEFICIARIES

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 503 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 503

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5295) to amend title II of the Social Security Act to make the monthly earnings test available in limited circumstances in the case of certain beneficiaries, to amend the technical requirements for entitlement to medicare, and to provide that income attributable to services performed before an individual first becomes entitled to old-age insurance benefits shall not be taken into account (after 1977) in determining his or her gross income for purposes of the earnings test, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment under the five-minute rule. No amendments to the bill shall be in order except amendments recommended by the Committee on Ways and Means, which shall not be subject to amendment but shall be debatable by the offering of pro forma amendments. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. Long) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Tennessee (Mr. Quillen), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 503 is a modified closed rule which provides for the consideration of H.R. 5295, a bill to amend title II of the Social Security Act to make the monthly earnings test available in limited circumstances in the case of certain beneficiaries and for other purposes.

The rule dispenses with the first reading of the bill, and provides 1 hour of general debate. Following general debate, the bill shall be considered as having been read for amendment under the 5-minute rule. No amendments to the bill shall be in order except amendments recommended by the Committee on Ways and Means. The Ways and Means amendments shall not be subject to amendment, but shall be debatable by the offering of pro forma amendments. The rule provides for one motion to recommit.

Mr. Speaker, H.R. 5295 is remedial legislation to correct certain problems with the social security earnings limitation that have arisen since the enactment of the Social Security Amendments of 1977. The 1977 amendments eliminated the monthly earnings test and placed the earnings limitation on an annual dollar test, except for one "grace year." The purpose of the change was to simplify the test and make more even-handed the treatment of those who had similar amounts of annual earnings but differences in monthly work patterns. Several categories of beneficiaries have been experiencing unforeseen problems with the new annual earnings test, however, and have been disadvantaged by it. H.R. 5295 is designed to correct those inequities.

Let me point out that the House would have an opportunity for a separate vote on section 4, under this rule, because it is a committee amendment to the bill as introduced. The House may work its will on section 4.

Section 4 reverses the retroactive implementation of the elimination of the monthly earnings test. It permits all beneficiaries the use of the monthly earnings test for 1 year after 1977. This section is very important to teachers, many of whom lost benefits under the retrospective implementation of the annual test.

Section 4 is controversial because of the cost. But the major impact of the cost is a one-time expenditure for fiscal year 1980 of an estimated $232 million. After that, the cost greatly drops. In fiscal year 1981 the estimated cost of the provisions of section 4 would be $13 million and by fiscal year 1982, $2 million. I believe this cost is justified on a one-time basis in order to correct unfair consequences never intended by Congress in 1977.

I commend the gentleman from Texas, my friend Jake Pickle, who chairs the Social Security Subcommittee. He has worked tirelessly to correct the unintended prejudices of the 1977 act against certain classes of beneficiaries. In many cases, the very persons who need social security most have had their security jeopardized by these unintended consequences. I urge the adoption of the resolution so that we may proceed to the consideration of H.R. 5295.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge adoption of the resolution and the measure when it is before the full House.

The social security program has always had an earnings test to determine eligibility. The 1977 amendments contained a provision which changed this test both by liberalizing the amount a person could earn and by repealing the so-called monthly measure and substantial services test. This changes the 1977 provisions for some individuals.

It is an improvement to the social security program.

Mr. Speaker, I have no requests for time, but I reserve the balance of my time.

□ 1630

Mr. LONG of Louisiana. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. Pickle), the distinguished chairman of the subcommittee.

Mr. PICKLE. Mr. Speaker, the legislation which we bring before you today is an effort to correct some unintended effects of a legislative savings enacted as part of the major 1977 social security financing amendments, Public Law 95-216.

The social security program, from its inception, has included an earnings test used to determine if someone applying for or receiving benefits is actually retired. The 1977 act contained a provision which changed this earnings test both by liberalizing the amount a person could earn and retain full benefits and by repealing the so-called monthly measure of retirement and the accompanying substantial services test for the self-employed.

A monthly earnings test was kept available in the first year of retirement since a person might actually retire at any point in the year and would need a monthly test to prevent his earnings before entitlement from affecting his entitlement to benefits after retirement in that year. This change in the 1977 amendments was made to address the inequity that occured between one person who could arrange his or her earnings so that it was received in a few months out of the year and another individual who might have the same amount of earnings but have these earnings spread out over an entire year. The person whose earnings were clumped together in a few months could receive full social security benefits the rest of the year, while the person whose earnings were spread out over the entire year would lose part or all of his or her benefits.

In making this change, however, several categories of beneficiaries were adversely affected which fall outside the rationale for the change.

The bill, H.R. 5295, is composed of four sections, each of which deals with a different category of adversely affected beneficiaries.

These individuals all faced significantly changed rules on very short—or even retroactive—notice, and in each case the committee feels that these individuals were affected contrary to the intent of Congress.

The committee has asked for a modified closed rule on this measure. We do not do so lightly, but with the understanding that this limited measure must not be allowed to become a vehicle for open ended debate on the many issues facing the social security system. The committee also feels that the bill should move forward as a package, as affording relief to one group while ignoring others would be an arbitrary action.

Objection has been raised by the House Budget Committee to the expense of the fourth section of the bill. I recognize that the concerns of the Budget Committee are sincerely expressed. However, under this proposed rule, an opportunity for a separate vote will be held on section 4, which will be offered as a committee amendment. Opportunity is provided, therefore, for the House to work its will regarding this question.

So far as the committee is aware, that is the only issue outstanding regarding this measure, so that a closed rule would be well in order to prevent the bill from being weighted down with extraneous concerns.

Mr. LONG of Louisiana. Mr. Speaker, I have no further requests for time.

I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. PICKLE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5295) to amend title II of the Social Security Act to make the monthly earnings test available in limited circumstances in the case of certain beneficiaries, to amend the technical requirements for entitlement to medicare, and to provide that income attributable to services performed before an individual first becomes entitled to old age insurance benefits shall not be taken into account (after 1977) in determining his or her gross income for purposes of the earnings test.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. PICKLE).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5295, with Mr. EVANS of Indiana in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Texas (Mr. PICKLE) will be recognized for 30 minutes, and the gentleman from Texas (Mr. ARCHER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 5295 is a remedial bill. Its intent is to make certain corrections needed because of changes made in the social security earnings test during passage of the 1977 social security financing amendments, Public Law 95-216.

H.R. 5295 contains four sections. The first three sections are included in the bill itself and have raised little or no controversy. The fourth section of the bill also is intended to provide relief to persons who were injured unintentionally by the 1977 change. The fourth section does carry with it substantial 1-year costs, however, and concern has been expressed about this cost. The committee is aware of this concern and recognizes its sincerity. I point out, however, that the House will have an opportunity to vote on section 4 because it will be offered as a committee amendment to the bill.

Regardless of the decision of the House on section 4, we need to pass this legislation. Literally hundreds of thousands of individuals are being denied social security benefits Congress intended them to have, and the number will grow in the future.

We need to make these corrections now so that these people and others can maintain a conviction that the social security program delivers on what it has promised.

The social security program is a social insurance program designed to pay benefits when there has been a loss of earnings. With this in mind, the program has always had a test—called the earnings litigation—to determine whether or not there had indeed been a loss of earnings so that benefits could be paid.

Before 1977 there were really two earnings tests. There was an annual test, and a monthly test. When an individual earned more than the annual limit, then his or her benefits were reduced $1 for every $2 of excess earnings until all benefits were phased out. At the same time, however, for any month in which a person's earnings were less than one-twelfth of the annual amount, he or she could get a full benefit for that month, regardless of the total amount of annual earnings.

This gave an inequitable advantage to persons who were able to group their income into certain months of the year, collecting benefits in the other months. Other persons who might have the same earnings spread out over all 12 months would receive no benefits.

The 1977 amendments eliminated the monthly measure of retirement, leaving in place only the annual test. A monthly test was reserved only for the first year in which a person becomes entitled to benefits, since a person might retire at any time during the year and would need some sort of partial-year test to distinguish between earnings while he or she was still fully employed and earnings that may come after retirement in that first year.

However, some definite and unintended problems have come to light.

First, in removing the monthly measure, individuals who go off the rolls in mid-year were left with no way to distinguish between their status as beneficiaries and earnings after leaving the rolls. We are talking here about surviving children who reach their 18th birthday in midyear and subsequently go to work, students who graduate in midyear and go to work, or mothers—or fathers—receiving survivor benefits because they have young children.

Under current law, if these individuals leave the rolls and earn more than the annual limit in that year, then they, by law, will have to repay part or all of the benefits they received at the first of the year. Clearly this was not intended or foreseen by the enactment of the 1977 provision. Section one would eliminate this problem by providing these people a monthly measure in the year that they go off the rolls.

Second, most people, when they reach age 65, apply for medicare. Under current law, however, one cannot simply apply for medicare. One has to apply for the cash retirement benefits at the same time—even if there is no intention of retiring until some later year.

If at any time after that, however, an individual's income drops below one-twelfth of the annual earnings limit in any one month, a cash benefit is automatically awarded—and the individual's sole chance to use a monthly measure is used up.

When his person really does go to retire, then, he or she is ruled strictly by the annual limit and can be denied benefits from the time of retirement—which may be in May or July or October or some other time—until the end of that year.

This, too, was not intended or foreseen in enactment of the 1977 amendments. Section 2 of this bill would correct this problem by allowing persons to make a separate application for medicare, without raising the question of cash benefits at all until they are ready to retire.

The third section of this bill deals with self-employed individuals and is the section which most Members have heard the earliest and longest about. It affects self-employed insurance agents, farmers, partners, and the like.

The issue arose because in repealing the monthly measure, the 1977 act also repealed the substantial services test which had been used by self-employed individuals to determine if they were actually retired and eligible to receive full social security benefits. Many self-employed persons receive various types of deferred income which furnishes for them a retirement income since they would not receive an employee pension. Without the substantial services test, however, this deferred income, is counted as earnings subject to the annual earnings limit.

It is not the intent of the social security system to discourage provision for retirement income among either employees or the self-employed. And, again, this effect was not intended or foreseen in the enactment of the 1977 amendments.

Section 3 of this bill, therefore, would provide that income attributable to services performed before a person first became entitled to old-age insurance benefits would not be taken into account in determining his or her gross income for purposes of the earnings test.

Estimates by both the social security actuaries and by the Congressional Budget Office indicate that the first two sections of this bill will cost $20 million or less in the first year. The addition of section 3 brings the total for the first three sections to $79 million for fiscal 1980, by estimate of the Congressional Budget Office.

The committee consulted extensively with the House Budget Committee as soon as it was aware that action was likely on these measures this year, and we understand that this amount is something which the Budget Committee finds acceptable.

Every month additional people, through no fault of their own, are falling into the traps I have outlined. They are being denied social security benefits Congress intended for them to have. Already about 150,000 people have been affected that would receive equity under these three provisions. This number will grow in the future.

Therefore, I especially urge the House to pass these corrective measures.

Now, I want to turn to the committee amendment, or section 4 of the bill.

Section 4 of the bill was offered in subcommittee, was accepted there, and will come to the House floor as a committee amendment at the end of this debate. It, too, deals with an effect of the changes made in the earnings limitation not intended or foreseen by the Congress.

Its foundation is a strong one. Section 4 seeks to restore benefits to people who had the rules changed on them retroactively.

Some people may have taken a few months of benefits in 1977 or earlier even though they were not ready to retire. They could do this if they qualified under the monthly earnings test. For example, a teacher over age 62 who is paid only 9 or 10 months a year might take some benefits in the summer. So might someone over age 62 who had a period of illness or unemployment.

In the law passed in December of 1977, the right of these people to use the monthly measure more than once was removed. This change was applied to past actions as well. This means that when this teacher actually retires in May of 1978, or 1979, or sometime in the future, he or she has no monthly test available and may be denied any benefits at all for the rest of that year.

This was not intended by Congress and is just not right.

The Social Security Administration is allowing individuals caught in this retroactive trap to pay back those earlier benefits in order to receive full benefits when they actually retire. But they anticipate awarding only 12,000 such waivers; 256,000 people will be affected by section 4. Many people, whose incomes are being slashed at retirement anyway would have difficulty coming up with the money to repay these past benefits.

Section 4 simply guarantees that everyone will get 1 year to use the monthly measure after January 1, 1978.

The cost of this would be $232 million. This is a 1-year cost only, however. It is solely to repay benefits denied because the rules were changed retroactively. The second year cost is $13 million and it rapidly disappears after that.

Nothing in this bill alters the basic decision made in 1977 to go to a strictly annual test of retirement from here on out.

This bill seeks only to make that decision more equitable and more rational.

I again urge the House to pass H.R. 5295.

Mr. ARCHER. Mr. Chairman, I yield myself so much time as I may consume.

Mr. Chairman, H.R. 5295 was developed in order to alleviate problems arising from a provision of the 1977 Social Security Amendments.

In that legislation, which became Public Law 95-216, we repealed the monthly measure of the social security retirement test. Under old law, benefits could be paid for any month in which a beneficiary did not exceed the earnings limitation or, if self employed, did not engage in substantial services, which were defined in regulations as more than 45 hours of work. With repeal of the monthly measure, all beneficiaries became subject solely to a yearly test of earnings, with one exception. They could continue to use the monthly test in the first year that includes at least 1 month in which they were entitled to benefits and in which they neither exceeded the earnings limit nor, if self-employed, engaged in substantial services.

Repeal of the monthly measure had an adverse impact on diverse groups of retired persons. For example, there were farmers who had produced crops while they were still working, but who sold those crops after they retired. Under the law prior to the 1977 amendments, as long as they did not engage in substantial services in any month, they could receive money from the sale of those crops and not lose benefits for that month.

Even if the crop sale required them to engage in substantial services in a particular month, they still could receive full benefits for the other 11 months of the year.

But under current law, all proceeds from such crop sales are counted against the annual earnings test, and such farmers are, in many cases, losing benefits for the entire year.

Others with comparable deferred income, who were similarly and adversely affected by the 1977 amendments, are insurance agents receiving renewal commissions and retired partners of law or accounting firms receiving returns of capital they invested in the partnership.

H.R. 5295 would assist those groups by declaring that any income, attributable to services performed prior to entitlement to benefits, must be disregarded for purposes of the social security retirement test.

Additional groups of insured workers lost benefits because the change in the law caught them unawares. The 1977 amendments were signed into law December 20 of that year, and the new earnings test rules became effective on January 1, 1978. By the time Special Security district and branch offices had become conversant with the change, many persons had received benefits based on prior law. These benefits constituted overpayments and had to be repaid.

Some insured workers retired technically without realizing it, and thus were ineligible to use the monthly measure of the retirement test in any year after 1977. Thousands of teachers, for example, met the criteria for technical retirement by becoming entitled to benefits, and by neither working nor earning in excess of the limit, in 1 or more summer months.

Still others were caught in the web of change only because they wanted to be protected under medicare. In order to obtain medicare coverage after reaching age 65, an insured worker must become entitled to cash benefits, too. Therefore, many workers became retired, technically, even though they continued working, solely for medicare reasons.

H.R. 5295 helps both such groups by: First, giving every beneficiary at least 1 "grace" year after 1977 for use of the monthly measure; and second, permitting persons aged 65 or older to obtain medicare coverage without becoming entitled simultaneously to cash benefits.

The bill also assists survivors of insured workers. Persons receiving children's benefits and widows' or widowers' benefits often enter the work force and receive substantial earnings in the year in which their benefits end. Students receiving childrens' benefits, for example, will lose entitlement status upon completion of their schooling, usually in the spring of the year. If they work the rest of the year, they are likely to exceed the annual earnings limit and the benefits paid earlier in the year must be returned. Repayment in many cases has resulted in unforeseen hardships, and some affected beneficiaries have been discouraged from seeking employment.

H.R. 5295 would permit these beneficiaries to use the monthly measure of the retirement test in the year their benefits end.

All of the changes made by H.R. 5295 would be retroactively applied. The bill was developed in response to perceived inequities resulting from repeal of the monthly measure. The aim, therefore, was to "make whole" those beneficiaries who would not have lost benefits if the perceived inequities had not been enacted.

Mr. Chairman, when the Committee on Ways and Means' Subcommittee on Social Security was apprised of the adverse impact which repeal of the monthly measure had on these diverse groups, it made a conscious decision to provide relief in an evenhanded, nondiscriminatory way. That is why H.R. 5295 is broad in scope and retroactive in application.

As my remarks have indicated, the bill is laudable in purpose. In recognition of that fact, the subcommittee approved it unanimously and the full committee reported it by voice vote.

Unfortunately, we are now advised that the cost of the bill exceeds budgetary limitations. The expenditures anticipated for fiscal 1980 were not included in earlier calculations for legislative budget purposes.

It is true that we are talking about trust fund money, and not general revenues. But nevertheless there has to be a reconciliation of income and outgo under the unified budget concept.

Thus, we are faced with a dilemma. On the one hand, we have a meritorious piece of legislation. On the other, we have budget considerations, to which we must pay attention if we are serious about fiscal restraint. Because deletion of section 4 would be discriminatory, in that it would help some adversely affected beneficiaries and exclude others, and because the cost of section 4 would be virtually negligible, by comparison with costs of other sections, in future years, it seems reasonable to support the complete package.

□ 1650

That is the issue that will be before the Committee when we vote on section 4. The Committee of the Whole must make a decision in that regard. The bill has been worked out with support of the committee, both in subcommittee and in full committee and I am supportive of it.

The chairman of the Budget Committee has offered a compromise. He has found sections 1 through 3 of the bill acceptable, despite their cost factor, which amounts to an estimated $87 million in fiscal 1980.

By striking section 4 of the bill, we would be declining to give all beneficiaries at least 1 grace year after 1977 for use of the monthly measure of the retirement test. But we would, by this action, be able to salvage most of the bill and still remain within apparently acceptable budgetary limits.

Although I dislike having to give up any part of H.R. 5295, I would rather have three-quarters of the package than none at all.

Mr. CORMAN. Mr. Chairman, would the gentleman yield for a question?

Mr. ARCHER. I would be happy to yield to the gentleman from California.

Mr. CORMAN. The gentleman suggests that we should consider removing the earnings test altogether, changing the nature of the social security system. I wonder if the gentleman could indicate to us what we would have to do with the tax rate and/or base if we were to make that change or, conversely, how much we would have to reduce benefits to accommodate that suggestion.

Mr. ARCHER. Mr. Chairman, that is not involved in this bill but I would be happy to respond to the gentleman by saying that the Republican substitute alternative to solve the entire social security problem which was offered in the last Congress and which was turned down by that Congress would have provided an elimination of the earnings test without the massive tax increases that are already in the law and would have done so in balancing the system for the next 75 years.

Mr. CORMAN. At what age would one have retired under those circumstances?

Mr. ARCHER. I would refer the gentleman—because it would take a great deal of time at this point and I would be glad to do so—to the substantive alternative that the Republicans offered in the last Congress, to see how it can be done without these massive tax increases.

Mr. PICKLE. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana (Mr. JACOBS) whose original bill brought this matter so timely to our attention and who has given us leadership particularly with respect to section 3.

Mr. JACOBS. Mr. Chairman, I might say at the outset in response to the question posed by the gentleman from California, I believe that in the package the gentleman from Texas referred to, the retirement age would be moved back to 68, if I am not mistaken, and I believe that was a method by which, at least in part, the cost of repealing the retirement test would be paid.

Mr. ARCHER. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from Texas.

Mr. ARCHER. The gentleman is incorrect. There is not an increase in the retirement age in the motion to recommit. I was referring back to the record of the Congress.

Mr. JACOBS. Mr. Chairman, would the gentleman care to say further, though, just how he did pick up the $7 billion or $8 billion estimated to be involved if the retirement tests were repealed?

Mr. ARCHER. In the motion to recommit it was a transfer of the HI funds.

Mr. JACOBS. In other words, it took money away from medicare in order to pay for the additional cost?

Mr. ARCHER. That was not a part of the complete Republican alternative for the social security program.

Mr. JACOBS. I confess that I digress.

Mr. ARCHER. The major part of that program, as the gentleman may recall, was to move toward making social security universal. If we were going to mandate it on the private sector, then we should mandate it on Federal employees including Congressmen.

Mr. JACOBS. Mr. Chairman, I thank the gentleman for his comments. I have always thought, though, that ultimately if the retirement tests were repealed altogether somebody would have to pay for it and probably the retirement age eventually would be put back to 68. I have said in the past that it looked a little bit like Robin Hood in reverse to me. That is, the poor working longer in order that we who have professions could work longer and collect our social security benefits even though we were not retired. And that ushers in the point I would like to make in connection with that section of this bill to which the chairman of our subcommittee has just referred; namely, that section which covers the self-employed.

The issue boils down to this, Mr. Chairman: Take an independent insurance salesperson who sells insurance during his or her career and then retires. If those policies are renewed, which is at the complete option of the policyholder, after that person has retired, a certain commission, renewal commission, is paid to that individual even while he or she is in retirement. That word is key: "retirement." The person has retired, does receive money in consequence of the renewal of an insurance policy that he or she has sold earlier while that person was working, while the insurance person was working.

Query: Is that, then, earned income that defeats the principle of retirement or is it unearned income or is it income that indicates that the individual—and this is the language I believe in the regulation—is working at the time the individual is supposed to be retired?

The CHAIRMAN. The time of the gentleman has expired.

Mr. PICKLE. I yield 2 additional minutes to the gentleman from Indiana (Mr. JACOBS).

Mr. JACOBS. Clearly in both cases, the individual is actually retired. No matter how you want to look at what the renewal commission is, whether you want to characterize it as unearned income or earned income at an earlier time in that person's life. In either case that person is actually retired. That is really what the bill which I introduced originally boils down to, to correct that one problem: allow those retired people, not just insurance people but retired members of professional partnerships, retired farmers, and so forth, self-employed people, to have their rightful benefits paid to them.

Now beyond that, Mr. Chairman, I echo the story of Lincoln about the little boy who was tired of saying his prayers. He finally wrote them out and nailed them to the head of the bed. Each night he knelt down and pointed to them and said, "Lord, them's my sentiments."

Mr. Chairman, everything the gentleman from Texas (Mr. ARCHER) has said with respect to this bill and everything the gentleman from Texas (Mr. PICKLE) has said with respect to this bill I echo and say, "Them's my sentiments."

Mr. PICKLE. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. PANETTA).

☐ 1700

Mr. PANETTA. Mr. Chairman, I rise to present the Budget Committee's perspective with regard to H.R. 5295, and particularly that of myself as chairman of the Budget Committee's task force on legislative savings. This bill, as you know, corrects certain portions of the repeal of the monthly measure of retirement. It does involve the expenditure of $311 million; $79 million will go to implement the first three provisions. The fourth section involves a possible expenditure of $232 million. None of these figures were included in the Ways and Means Committee report to the Budget Committee and neither were included in either the first or second budget resolution.

Therefore, we are dealing with expenditures that are not included in the budget resolution as adopted by the Congress.

Two years ago, the Congress eliminated the monthly retirement test in the social security program. This was one of many legislative savings proposals included in the 1967 amendments to the Social Security Act. The monthly earnings test had represented a loophole in the earnings test which enabled persons with relatively large earnings in a year to avoid the full impact of the earnings limitation by compressing their earnings into a small portion of the year. Sections 1 through 3 of H.R. 5295 would correct some ongoing problems which elimination of the monthly retirement test has created for certain types of beneficiaries. The cost of these provisions in fiscal year 1980 will be $79 million. No funds were included for these provisions in the first budget resolution this year because the Committee on Ways and Means did not recommend inclusion of funds to cover either these provisions or the more modest changes proposed by the President for which $18 million was included in his budget. In the second budget resolution, the Budget Committee adopted a policy that the spending ceilings should reflect the legislative priorities included in the first budget resolution.

This policy notwithstanding, I would hope that within the binding ceilings imposed by the second budget resolution, we could absorb the cost of sections 1 through 3 of this bill. These sections correct some real problems created by the elimination of the monthly retirement test. As chairman of the Legislative Savings Task Force of the Budget Committee, I would not want our quest for real long-term savings to be jeopardized by a failure to rectify real equity problems which were not foreseen when the Congress enacted this legislative savings proposal back in 1977.

I wish to asssociate myself, however, with the opposition of the administration to the proposed amendment of the Committee on Ways and Means. This amendment on which there will be a separate vote would add section 4 to this bill. The amendment is unwise both because of its cost—$232 million in fiscal year 1980—and also because it has adverse procedural implications. Essentially, the amendment would give everyone who had utilized the monthly retirement test before 1978 1 more year in which to use the test. The Social Security Administration's actuary estimates that 90 to 95 percent of the total cost will be incurred in retroactive payments to people who lost benefits back in 1978. The Social Security Administration has already taken what steps it could to minimize the problems created by the elimination of the monthly retirement test.

In view of the fact that virtually all of the spending from this committee amendment will be retroactive payments to people who were affected back in 1978 by the elimination of the monthly retirement test, there is no reason for these funds to be approved today. I would prefer that this spending be considered in the context of the first budget resolution for fiscal year 1981. Soon after we come back next year, the Congress will begin work on the development of this resolution. If the proposal has merit, the Committee on Ways and Means should recommend funding for these retroactive payments in its annual report on spending priorities which is required under the Budget Act. To approve the committee amendment today would mean that the expenditure of more than $200 million in retroactive payments could well eliminate another program of higher priority and more immediacy for which funding was included in the second budget resolution on which we completed action just last month.

Therefore, I urge that you vote "no" to the Ways and Means amendment which would add section 4 at a cost of $232 million in fiscal year 1980 and then vote "aye" for final passage of the bill without this amendment.

Mr. ARCHER. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. GRADISON).

Mr. GRADISON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, H.R. 5295 is needed to correct unforeseen problems which resulted from the 1977 Social Security Act amendments. The 1977 law replaces the monthly measure of retirement with a strictly annual test. The purpose of this change was to remove an inequity created by the differing treatment of individuals with earnings spread evenly throughout the year and those with earnings received during only part of the year. However, this change resulted in unforeseen injury to a number of groups, such as self-employed insurance agents, teachers, farmers, and certain mothers and children. H.R. 5295 would rectify this problem by clarifying the language of the 1977 act and providing redress to individuals unfairly harmed by the law.

Passage of H.R. 5295 without section 4, however, would be extremely inequitable. Each of the bill's four sections addresses a different category of affected beneficiaries. Passage without section 4 would mean assisting all groups adversly affected by the 1977 law—except retired teachers. That is the long and the short about the argument over section 4.

This section, which I offered in the subcommittee, would directly assist over a quarter of a million individuals, most of them, as I have just said, retired teachers. It would redress to those who lost benefits as a result of the retrospective application of the 1977 "grace year" provision. Prior to 1977, under the monthly retirement test, teachers age 62 and over were eligible for social security benefits in the summer months of unemployment and, as was common practice, many received benefits during these periods. The 1977 amendments eliminated the monthly test except for the first year or retirement, the so called "grace year." The intent of the "grace year" is to allow individuals who retire in the middle of the year to receive full benefits for the remainder of that year. For example, a teacher who retires after completion of the school year in June would be permitted to collect retirement benefits for the remaining months of the year.

However, the retrospective application of the "grace year" nullified this intended result for many teachers. Those individuals who applied for benefits during the summer months of unemployment, before 1977, unknowingly—and I stress that word, unknowingly activated their grace year, which under the law did not even yet exist, and lost the opportunity to use it during the first year of retirement. To penalize these teachers for acting properly under the law is clearly unfair.

Opponents of section 4 base their position on the fact that the revenue loss for this provision was not included in the fiscal year 1980 budget resolution, and it was not included. However, the cost of the rest of the bill was not included, either; yet no objections have been raised to these sections. Acceptance of the first three sections of H.R. 5295, but rejection of the fourth, is based on purely arbitrary grounds, the principal grounds being that section 4 is the most expensive section of the bill.

The distinguished gentleman from California (Mr. PANETTA) indicated with regard to section 4 that he felt no urgency with regard to action on that particular provision. Let me suggest to the House that if we do not act now on section 4, there is no assurance that we will ever get around to providing equal treatment for teachers, that is, treatment equal to that which this bill in its other sections would provide for such groups as retired partners, insurance agents, and general agents, and farmers.

During the consideration of this matter, the social security subcommittee felt that once an effort had been initiated to rectify a specific problem area, there would be no justification for only helping some while leaving others stranded. In mark-up, the subcommittee was confronted with a number of bills which targeted assistance to individual groups. Believing that it would be inequitable and discriminatory to do otherwise, the subcommittee unanimously approved the comprehensive approach taken in H.R. 5295.

□ 1710

The full Committee on Ways and Means concurred with this decision by voice vote.

Mr. Chairman, CBO estimates that H.R. 5295 would cost $316 million in fiscal year 1980. Section 4 is projected to cost $229 million in that year, but I have been advised today that the actual figures may be half of the $229 million figure for fiscal year 1980. The cost figure, in any event, drops dramatically after the first year, and the estimate by CBO is $13 million for fiscal year 1981, $2 million for fiscal year 1982, and less than $500,000 thereafter.

Mr. Chairman, H.R. 5295 is entirely remedial in nature. It is a good bill, one which deserves the support of this House. However, in my judgment, passage of H.R. 5295 without section 4 would be highly inequitable since this would provide assistance arbitrarily to only some of those injured by the 1977 act while leaving out others.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. GRADISON. I am happy to yield to the distinguished subcommittee chairman.

Mr. PICKLE. Mr. Chairman, I am glad that the gentleman from Ohio (Mr. GRADISON) mentioned the fact that we were advised by the SSA actuaries that the estimated cost of section 4 might be much less than the report actually shows. On the basis of new data they have been attempting to revise their cost estimates, trying to ascertain as best they could what would be the number of people actually affected, who would apply, and for whom the benefits would have to be paid. They have come to the conclusion that the cost might be as low as one-half of what was shown when the committee reported the bill.

Mr. Chairman, that is good to know, because although the bill should be passed on its merits itself, it now appears that the cost of section 4 is less than the original figure and that should give us comfort, particularly if we are budget-conscious.

So, Mr. Chairman, I am glad the gentleman from Ohio (Mr. GRADISON) brought that point out.

Mr. GRADISON. Mr. Chairman, I thank the gentleman from Texas (Mr. PICKLE) very much for his extremely useful comment. There is no way for us with assurance to be sure what the cost would be, but I personally found it difficult to believe that in excess of 250,000 individuals might have been affected by section 4 alone. That is, frankly, a very staggering number.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. GRADISON) has expired.

Mr. PICKLE. Mr. Chairman, I yield 4 minutes to the gentleman from Michigan (Mr. BRODHEAD).

Mr. BRODHEAD. Mr. Chairman, I thank the subcommittee chairman for yielding this time to me.

First of all, let me correct a misapprehension here. I think it is possible for Members to conclude from the statement of my colleague, the gentleman from California (Mr. PANETTA), that the position of the Committee on the Budget is in opposition to section 4 of the bill.

That is, most emphatically, not the case. As a member of the Committee on the Budget, I can tell the House that this matter has not been discussed in the Committee on the Budget, and the committee has not taken any position on it.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. BRODHEAD. I am happy to yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, so there will be no misconception, the chairman of the Committee on the Budget, in a letter to his colleagues and also in testimony presented to the Committee on Rules, indicated that from his perspective as the chairman of the Committee on the Budget this would indeed be a violation of the Budget Act. I agree with the gentleman, though, that there was no formal vote taken by the Committee on the Budget.

Mr. BRODHEAD. Mr. Chairman, I recognize that that is the position of the chairman of the Committee on the Budget and also the position of the gentleman from California (Mr. PANETTA), but I did not want anyone to conclude that it was the position of the Committee on the Budget, because it is not, as the gentleman agrees, the position of that committee since the Committee on the Budget has not discussed it.

The provision in question, section 4, is simply meant to correct a basic inequity in the law, and that is this: Under the old law, the Social Security Act before it was amended, it was possible for people to draw social security benefits in months in which they were not employed, even though they might have been employed in other months of the year. They took advantage of the law, and again it was perfectly legal.

When the Congress changed the law in 1977, we decided that people should not be allowed to do that any more, and that we ought to have a yearly earnings test instead of a monthly earnings test. That was a change which I supported and which many of us supported, and it passed this House by an overwhelming majority.

The problem with that is that when we did change the law, we said that "if you have ever taken benefits on that basis, you can't do it again." We said, "if you have ever taken advantage of the one 'grace year,' although we have granted that right in the past, if you have ever taken advantage of it, you can't take advantage of it again."

What we overlooked was the fact that many teachers had taken advantage of this in full good faith and in compliance with the law. These teachers in particular frequently or almost always retire in May, June, or July. If we did not make this change in section 4, they would be cut out of benefits for the rest of the year through no fault of their own and acting in perfect good faith and in total compliance with the law.

They were not aware when they did draw these benefits that they might lose them in certain months. At the time they drew those benefits they had no idea that they might not be able to draw benefits down the road during several months of the year. They had no way of knowing that because we had not decided the question yet.

So this amounts to an unfair disadvantage, and it involves a fairly large group of citizens. Because of the way the teaching profession is structured, the benefits roll around at the time they retire, in May, June, or July, and without this change in the law they would be denied the benefits for the balance of the year.

Mr. Chairman, that is why section 4, even though it is somewhat costly during the first year, is, I think, entirely equitable, fair, and reasonable.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. BRODHEAD. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman. I think the gentleman from Michigan (Mr. BRODHEAD) makes a very valid point.

A great number of these people unknowingly took 1 or 2 months of benefits during the years, 1977 and 1978, and because they did that, then they are precluded from using a grace year since we changed the law from taking advantage of it later. We did not intend to do that, and this involves a large number of people.

This involves teachers, it involves someone who may have been ill, and it involves someone who might even have been unemployed and took benefits for a month or two.

Mr. Chairman, we should make this correction because we changed the law on them and disenfranchised them, so to speak, and we should not do that.

Mr. BRODHEAD. Mr. Chairman, the gentleman is right. Customarily, when we change the law around here, we grandfather a lot of people in, and we did not do that in this instance.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. BRODHEAD) has expired.

Mr. PICKLE. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri (Mr. GEPHARDT), a very distinguished member of our subcommittee.

Mr. GEPHARDT. Mr. Chairman, I rise to say that this is an excellent bill. I wish that the Gradison amendment, which was offered in committee and approved in committee and for which I voted, could fit within what the Committee on the Budget received originally from the Committee on Ways and Means.

However, I reluctantly rise to agree with the gentleman from California (Mr. PANETTA) when he says that we did not make provision in the budget for the cost of the Gradison amendment, whether the cost is $232 million or whether the cost is $130 million.

For that reason I join with my colleague, the gentleman from California (Mr. PANETTA), in opposing that amendment for the budgetary considerations that are involved.

I certainly agree with the substance of the amendment. It is fair, it is right, and it is the thing we should do. However, I am afraid, to be consistent with the Budget Act, we ought to do it in the next budget and come back and put it into a piece of legislation later.

Mr. Chairman, I reluctantly say that because I think it is the right thing to do, but the budgetary considerations are also important.

Mr. GRADISON. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Ohio.

Mr. GRADISON. Mr. Chairman, I appreciate the gentleman's yielding, and I would like to thank him for his statements with regard to the merits of the amendment.

The budgetary issue has been very thoroughly discussed, and I have nothing to add to it except a thought which I attribute to a former Member of this body, Brooks Hays of Arkansas, who used to say, "When in doubt, do right."

Mr. GEPHARDT. Mr. Chairman, I thank the gentleman for his contribution.

The CHAIRMAN. The time of the gentleman from Missouri (Mr. GEPHARDT) has expired.

Mr. PICKLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, on that note I think we can conclude the general debate. I want the Members to understand that this has not been a matter that we had considered only lately and quickly pushed upon the Committee on the Budget. It is true that we did not consider this in the first budget resolution.

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But if the Members will remember, when the President sent up his recommendations, they were sent to us about a month or so before the committee had to submit its recommendations on the first budget resolution. Obviously, we could not make final decisions on those kinds of changes and recommendations, and that is the reason why no provision was made for this matter in the first budget resolution.

This matter was brought to the chairman of the Committee on the Budget during the late summer months, and he was mindful of the problems we have, and I am sure he is mindful of the merits of the bill we have before us. It was not included in the second budget resolution because at the time, primarily, the budget resolution wanted to stay within the spending ceilings of the first budget resolution, but there has been an ongoing discussion of it.

I do not think anyone on the Committee on the Budget objects to what they call in their letter to us, which corrects ongoing problems, namely, sections 1, 2, and 3. They do have some reservation about section 4.

We could postpone this, but eventually we could have to face it. We could roll this over until, say, the budget a full year from now, and that may be what the other body may want to recommend back to us, I do not know. I do think it is important, though, that we act on this matter more and including section 4. It has been thoroughly discussed. I think the House ought to work its will because it is meritorious.

So I do not see that there is anything to be gained by postponing it. It seems to me that we ought to go ahead and advance section 4, and I hope that that is what the House will do.

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Indiana.

Mr. JACOBS. I thank the gentleman for yielding.

Mr. Chairman, I would just add to the gentleman's point that I think it is a well established principle of fairness in this country that justice delayed is justice denied. I do not think anybody today has suggested that this is not an injustice. I say we should correct it now.

Mr. PICKLE. I thank the gentleman for his comments.

Mr. Chairman, none of us on the subcommittee are going to be hardnosed about trying to insist on the full processing of this amendment. I think it ought to be advanced, and this is the time to do it.

● Mr. OTTINGER. Mr. Chairman, I strongly support H.R. 5295, a bill to correct some unforeseen problems arising from the 1977 amendments to the Social Security Act.

In June 1978, I wrote to Representative James Burke, then chairman of the Social Security Subcommittee, pointing out some of the adverse effects of the repeal of the monthly earnings test and urging the Social Security Subcommittee to consider remedial legislation. H.R. 5295 contains the provisions I had urged the subcommittee to adopt.

The 1977 amendments replaced the monthly earnings test with an annual earnings test. The purpose of the change was to simplify the test and to end the differential treatment of people who had similar amounts of annual earnings but differences in their monthly work patterns after retirement. As enacted, the law provided that a person would be entitled to use the monthly test only in a year in which the person first received social security benefits, generally the first year of retirement. The provision was effective for benefits payable after December 1977.

Unfortunately, the 1977 amendments did not make it clear that Congress intended this provision to be applied prospectively.

Soon after the repeal of the monthly earnings test went into effect in January 1978, I was contacted by constituents who were adversely affected by the Social Security Administration's retrospective interpretation of this provision. For example, an individual who had 1 or more months of benefits before January 1978 was deemed to have already used the monthly test year. This seriously hurt individuals who had drawn benefits sometime in the past but had not yet retired. Under the Social Security Administration's regulations, these individuals lost benefits in the year they actually retired as a consequence of having filed for benefits prior to 1978.

According to the NRTA/AARP, nearly a quarter of a million beneficiaries unexpectedly lost their "first year of retirement" protection and suffered severe financial hardships. This occurred because of perfectly legitimate actions taken by these beneficiaries in years prior to passage of the 1977 law. These actions were totally in accord with eligibility rules at that time and beneficiaries were actually encouraged by the Social Security Administration to take these actions.

H.R. 5295 makes it clear that all beneficiaries will have the use of the monthly earnings test in at least 1 year after 1977. I feel this provision is fair and deserves to be enacted immediately. This would insure that people who lost social security benefits under the retrospective implementation would have their benefits restored.●

● Mr. GRASSLEY. Mr. Chairman, I rise in enthusiastic support of H.R. 5295 which would correct a number of inequities brought about by Public Law 95–216 (Social Security Amendments of 1977) and its implementation by the Social Security Administration. The bill now before the House of Representatives would, among other things, restore the monthly earnings test in the year benefits end for certain classes of beneficiaries, exclude from the earnings test income attributable to services rendered before retirement, and allow all beneficiaries the use of the monthly earnings test in at least one year after 1977.

As I said, this bill is remedial legislation and is occasioned by the Social Security Amendments of 1977. Section 303 of that public law repealed the monthly earnings test for social security recipients. Prior to the 1977 amendments, an individual was able to get out from under the annual earnings limitation if, in a particular month, that person neither had substantial earned income nor performed more than 45 hours of work.

Public Law 95–216 was not signed into law until December 20, 1977. A question arose as to whether or not its provisions repealing the monthly earnings test would be made effective January 1, 1978. Social Security Administration field offices initially told citizens requesting information and guidance that it would not be fully implemented and effective until January 1, 1979. Thousands of Americans who were approaching or had reached retirement age relied upon what they had been told and made financial plans based upon an effective date of January 1, 1979. It was not until April 23, 1978, after contradictory opinions and advice from SSA headquarters, regional offices and field offices, that the Social Security Administration announced that Public Law 95–216 would be made retrospective in application to January 1, 1978.

Mr. Chairman, this decision worked a very real hardship on thousands of Americans who, in some cases, were forced to refund to the Government social security benefits that they had already received. Many Iowans contacted me in response to this inexplicable injustice and I introduced corrective legislation that sought to delay, for 1 year, the onerous provisions of Public Law 95–216. Many Members of Congress joined me in cosponsoring this and subsequent bills. Throughout 1978 I fought to bring this measure to the floor of the House of Representatives and we did enjoy some measure of success. The Senate did include corrective language in a bill that, unfortunately died in conference in the closing days of the 95th Congress.

It has been a long, hard fight to bring this legislation to the floor of the House of Representatives, and I submit that H.R. 5295 deserves the vote and support of every Member of the House. The more than 50,000 social security recipients who will receive payments under the provisions of this bill are not getting something they are not entitled to. They have paid into the system and, in many cases, relied on what they were told by their Government.

Mr. Chairman, I believe that our action in passing and sending on to the Senate this bill represents an affirmation of the principle that citizens of the United States should not be penalized or suffer financial hardship because they took the Government and its agents at their word.●

● Mr. ULLMAN. Mr. Chairman, this is a responsible piece of legislation and primarily corrects certain technical problems with the Social Security Amendments of 1977.

H.R. 5295 is in the nature of remedial legislation, designed to correct certain problems with the social security earnings limitation that have arisen since enactment of Public Law 95-216, the Social Security Amendments of 1977.

The 1977 amendments eliminated the monthly measure of retirement (which included substantial services test for the self-employed) and placed the earnings limitation on a strictly annual dollar test except for the first year of retirement.

Prior to enactment of Public Law 95-216 in December 1977, the earnings limitation was a dual test—an annual monetary limitation and an overriding monthly measure of retirement. A beneficiary would be entitled to cash payments in any month in which he or she earned less than one-twelfth the annual exempt month (or did not render substantial services in self-employment) even though the individual might have earnings on an annual basis that significantly exceed the monetary exempt amount. Repeal of the monthly test had been urged by both the Ford and Carter administrations and by the 1975 Social Security Advisory Council on the grounds that the monthly measure was susceptible to abuse, and its elimination would be a legitimate way of reducing the cost of the program. The repeal was made effective January 1, 1978.

It soon became evident that several categories of beneficiaries were experiencing problems with the new annual test. Certain beneficiaries, such as mother's and children's beneficiaries and workers entitled to medicare, ran into somewhat unintended difficulties with the new provision. For example, a student beneficiary would receive benefits through May, get a job, pass the earnings limitation and SSA has to recoup these benefits.

This bill would eliminate the inequities cited above. The bill's first-year cost is a result of the fact that the committee provides retroactive relief to the beneficiaries adversely affected by the 1977 amendments. This is done primarily in the name of equity and fairness, and the bill has relatively minor cost in 1981 and beyond.●

Mr. PICKLE. Mr. Chairman, I have no further requests for time, and I reserve the balance of my time.

The CHAIRMAN. The time of the gentleman from Texas (Mr. PICKLE) has expired.

Mr. ARCHER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the bill is considered as having been read for amendment. No amendments are in order except amendments recommended by the Committee on Ways and Means, which shall not be subject to amendment but shall be debatable by the offering of pro forma amendments.

The bill reads as follows:

H.R. 5295

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) section 203(f)(1) of the Social Security Act is amended—

(A) by striking out "or" immediately before clause (E), and

(B) by inserting before the period at the end thereof the following: ", or (F) in which such individual did not engage in self-employment and did not render services for wages (determined as provided in paragraph (5) of this subsection) of more than the applicable exempt amount as determined under paragraph (8), in the case of an individual entitled to benefits under section 202(b) (but only by reason of having a child in her care within the meaning of paragraph (1)(B) of that subsection) or under section 202 (d) or (g), if such month is in a year in which such entitlement ends."

(2) Section 203(f)(2) of such Act is amended by striking out "(D), and (E)" and inserting in lieu thereof "(D), (E), and (F)".

(b) The amendments made by subsection (a) shall apply with respect to monthly benefits payable for months after December 1977.

SEC. 2. (a) Section 226(a)(2) of the Social Security Act is amended by inserting after "section 202" the following: ", or would be entitled to those benefits except that he has not filed an application therefor (or application has not been made for a benefit the entitlement to which for any individual is a condition of entitlement therefor) and, in conformity with regulations of the Secretary, files an application for hospital insurance benefits under part A of title XVIII,".

(b) Section 1811(1) of such Act is amended by striking out "are entitled to" and inserting in lieu thereof "are eligible for".

(c) For purposes of section 226 of such Act as amended by subsection (a) of this section, an individual who filed an application for monthly insurance benefits under section 202 of such Act prior to the effective date of the amendment made by subsection (a) shall be deemed to have filed an application for hospital insurance benefits under part A of title XVIII of such Act, at the time he applied for such benefits under section 202 regardless of the continuing status or effect of the application for benefits under section 202, if he would have been entitled to benefits under that section had such application remained in effect.

(d) The amendments made by subsections (a) and (b) shall be effective after the second month beginning after the date on which this Act is enacted.

SEC. 3. (a) Section 203(f)(5)(D) of the Social Security Act is amended to read as follows:

"(D) In the case of—

"(i) an individual who has attained the age of 65 on or before the last day of the taxable year, and who shows to the satisfaction of the Secretary that he or she is receiving royalties attributable to a copyright or patent obtained before the taxable year in which he or she attained such age and that the property to which the copyright or patent relates was created by his or her own personal efforts, or

"(ii) an individual who has become entitled to old-age insurance benefits, and who shows to the satisfaction of the Secretary that he or she is receiveing any other income attributable to services performed before the month in which he or she initially became entitled to such benefits,

there shall be excluded from gross income any such royalties or other income.".

(b) The amendment made by subsection (a) shall apply with respect to months after December 1977.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 4, after line 22, insert the following new section:

SEC. 4. (a) Section 203(f)(1) of the Social Security Act is amended by striking out "the first month" in clause (E) and insert in lieu thereof "the first month after December 1977".

(b) The amendment made by subsection (a) shall apply with respect to monthly benefits payable for months after December 1977.

Mr. PICKLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the committee amendment has now been offered, and pursuant to the agreement we have, if any Member has any comments to make on it, I would welcome them. Otherwise, I would hope that we would go ahead and proceed with the vote on section 4.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from California.

Mr. PANETTA. I thank the gentleman for yielding.

Mr. Chairman, again, this is the section dealing with the expenditure of those funds, $232 million. It does not relate to the substance of the issue involved but it does relate to the budget process itself and the fact that those funds were not included in the budget resolution.

With that, Mr. Chairman, I am prepared to proceed with a vote on it.

Mr. PICKLE. Mr. Chairman, may I add one additional thing. I do not believe the gentleman was here earlier.

The social security actuaries have indicated to us today that they feel the cost on section 4 may be one-half of what was submitted, and if that is so, that would be very helpful for the furtherance of this bill both here and in the other body.

Mr. GRADISON. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Ohio.

Mr. GRADISON. I thank the gentleman for yielding.

Mr. Chairman, I merely rise to indicate the support of the members of the committee present on this side of the aisle for section 4.

The committee amendment was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BENNETT) having assumed the chair, Mr. EVANS of Indiana, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5295) to amend title II of the Social Security Act to make the monthly earnings test available in limited circumstances in the case of certain beneficiaries, to amend the technical requirements for entitlement to medicare, and to provide that income attributable to services performed before an individual first becomes entitled to old-age insurance benefits shall not be taken into account (after 1977) in determining his or her gross income for purposes of the earnings test, pursuant to House Resolution 503, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 383, nays 0, not voting 50, as follows:

[Roll No. 751]

YEAS—383

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burlison
Burton, John
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
Davis, S.C.
de la Garza
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Flippo
Foley
Ford, Mich.
Forsythe
Fountain
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Ottinger
Panetta
Pashayan
Patten
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stratton
Studds
Stump
Swift
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Vander Jagt
Vanik
Volkmer
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NAYS—0

NOT VOTING—50

Anderson, Ill.
Andrews, N. Dak.
Beard, Tenn.
Bonker
Brooks
Broomfield
Broyhill
Burton, Phillip
Crane, Philip
Daschle
Deckard
Dixon
Edwards, Calif.
Findley
Flood
Florio
Ford, Tenn.
Fowler
Giaimo
Ginn
Hansen
Holt
Jenrette
Kemp
Leach, La.
Lehman
Loeffler
McClory
McCloskey
Mathis
Murphy, Ill.
Obey
Patterson
Richmond
Runnels
Sebelius
Simon
Stokes
Symms
Synar
Treen
Van Deerlin
Vento
Walgren
White
Wilson, Bob
Wilson, Tex.
Wydler
Yates
Zeferetti

☐ 1740

The Clerk announced the following pairs:

Mr. Zeferetti with Mr. Anderson of Illinois.

Mr. Yates with Mr. Philip M. Crane.

Mr. Van Deerlin with Mr. Findley.

Mr. Vento with Mr. Hansen.

Mr. Charles Wilson of Texas with Mr. Loeffler.

Mr. Ginn with Mr. McClory.

Mr. Lehman with Mr. Symms.

Mr. Jenrette with Mr. Bob Wilson.

Mr. Patterson with Mr. Wydler.

Mr. Richmond with Mr. Sebelius.

Mr. Simon with Mr. McCloskey.

Mr. Synar with Mr. Kemp.

Mr. Murphy of Illinois with Mrs. Holt.

Mr. Brooks with Mr. Deckard.

Mr. Edwards of California with Mr. Broomfield.

Mr. Phillip Burton with Mr. Andrews of North Dakota.

Mr. Florio with Mr. Beard of Tennessee.

Mr. Giaimo with Mr. Broyhill.

Mr. Fowler with Mr. Dixon.

Mr. Daschle with Mr. Leach of Louisiana.

Mr. Ford of Tennessee with Mr. Stokes.

Mr. White with Mr. Runnels.

Mr. Mathis with Mr. Walgren.

Mr. Obey with Mr. Bonker.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PICKLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2440

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 96-717) on the resolution (H. Res. 511) waiving certain points of order against the conference report on the bill (H.R. 2440) to repeal the prohibition against the expenditure of certain discretionary funds under the Airport and Airway Development Act of 1970, which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT ON H.R. 3091 BUSINESS EXPENSES OF STATE LEGISLATORS

Mr. CORMAN submitted the following conference report and statement on the bill (H.R. 3091), to extend for 1 year the provisions of law related to the business expenses of State legislators:

CONFERENCE REPORT (H. REPT. No. 96–718)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3091) to extend for one year the provisions of law related to the business expenses of State legislators, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

CHILD SUPPORT ENFORCEMENT

SEC. 2. (a) Section 455(a) of the Social Security Act is amended—

(1) by striking out the semicolon at the end of paragraph (2) and inserting in lieu of such semicolon a period, and

(2) by striking out all that follows paragraph (2).

(b) This section shall become effective on the date of the enactment of this act, and shall apply with respect to services furnished during the period beginning October 1, 1978, and ending March 31, 1980.

WIN CREDIT

SEC. 3. (a) (1) Section 50B of the Internal Revenue Code of 1954 is amended by redesignating subsection (i) as subsection (j) and by adding after subsection (h) the following new subsection:

"(i) SPECIAL RULES WITH RESPECT TO EMPLOYMENT OF DAY CARE WORKERS.—

"(1) ELIGIBLE EMPLOYEE.—An individual who would be an 'eligible employee' (as that term is defined for purposes of this section) except for the fact that such individual's employment is not on a substantially full-time basis, shall be deemed to be an eligible employee as so defined, if such employee's employment consists of services performed in connection with a child day care program of the taxpayer, on either a full-time or part-time basis.

"(2) ALTERNATIVE LIMITATION WITH RESPECT TO CHILD DAY CARE SERVICES ELIGIBLE EMPLOYEES.—The amount of the credit allowed a taxpayer under the preceding provisions of this section with respect to work incentive program expenses paid or incurred by him with respect to an eligible employee whose services are performed in connection with a child day care services program conducted by the taxpayer shall, at the election of the taxpayer, be determined by including (in computing the amount of such expenses so paid or incurred by him) any amount with respect to such employee for which he was reimbursed from funds made available pursuant to section 3(c) of Public Law 94–401 or section 2007 of title XX of the Social Security Act, except that, if the total amount of such credit, as so computed, plus such amount reimbursed to him under such sections, exceeds the lesser of $6,000 or 100 percent of the total expenses paid or incurred by him with respect to such employee, the amount of such credit shall be reduced (but not below zero) so as to provide that such total does not exceed the lesser of $6,000 or 100 percent of the total expenses paid or incurred by him with respect to such employee.".

(2) The amendment made by paragraph (1) shall become effective on the date of the enactment of this Act, and shall apply with respect to taxable years beginning after December 31, 1978, and before January 1, 1980.

(3) Section 50B(a) (2) (B) of the Internal Revenue Code of 1954 as in effect prior to amendment by the Revenue Act of 1978 is amended, effective October 1, 1978, by striking out "October 1, 1978" and inserting in lieu thereof "January 1, 1979".

(b) Paragraphs (1) and (2) (A) of section 3(c) of Public Law 94–401 are each amended by striking out "(other than the fiscal year ending September 30, 1979)".

(c) Paragraphs (1) and (3) (B) of section 3(c) of Public Law 94–401 are each amended by striking out "Federal welfare recipient employment incentive expenses" each time it appears and inserting in lieu thereof in each instance "work incentive program expenses".

(d) Section 3(c) (3) (B) of Public Law 94–401 is amended—

(1) by striking out "Federal welfare recipient employment expenses" and inserting in lieu thereof "work incentive program expenses"; and

(2) by striking out "section 50B(a) (2)" and inserting in lieu thereof "section 50B(a) (1)".

(e) Section 3(c) (2) (B) of Public Law 94–401 is amended—

(1) by striking out "$5,000" and inserting in lieu thereof "$6,000"; and

(2) by striking out "$4,000" and inserting in lieu thereof "$5,000".

(f) (1) The amendments made by subsection (b) shall become effective on the date of the enactment of this Act, and shall apply with respect to grants made to qualified providers of child day care services on or after October 1, 1978.

(2) The amendments made by subsections (c), (d), and (e) shall become effective on the date of the enactment of this Act, and shall apply with respect to expenses paid or incurred after December 31, 1978.

CHILD DAY CARE SERVICES

SEC. 4. (a) Section 2002(a) (1) of the Social Security Act is amended by inserting "100 per centum of the expenditures during that quarter (which are not in excess of 2 per centum of the limitation applicable to that State under paragraph (2) (A) for the fiscal year in which such quarter occurs) for grants to qualified providers under section 2007," after "an amount equal to".

(b) Title XX of such Act is amended by redesignating section 2007 as section 2008 and inserting after section 2006 the following new section:

"CHILD DAY CARE SERVICES

SEC. 2007. (a) Subject to subsection (b), sums granted by a State to a qualified provider of child day care services (as defined in subsection (c)) to assist such provider in meeting its work incentive program expenses (as defined in subsection (c)) with respect to individuals employed in jobs related to the provision of child day care services in one or more child day care facilities of such provider, shall be deemed for purposes of section 2002 to constitute expenditures made by the State in accordance with the provisions of this title for the provision of child day care services.

"(b) The provisions of subsection (a) shall not be applicable with respect to any grant made to a particular qualified provider of child day care services to the extent that (as determined by the Secretary) such grant is or will be used to pay wages to any employee at an annual rate in excess of $6,000, in the case of a public or nonprofit private provider, or at an annual rate in excess of $5,000, or to pay more than 80 per centum of the wages of any employee, in the case of any other provider.

"(c) For purposes of this subsection—

"(1) the term 'qualified provider of child day care services', when used in reference to a recipient of a grant by a State, includes a provider of such services only if, of the total number of children receiving such services from such provider in the facility with respect to which the grant is made, at least 20 per centum thereof have some or all of the costs for the child day care services so furnished to them by such provider paid for under the State's services program conducted pursuant to this title; and

"(2) the term 'work incentive program expenses' means expenses of a qualified provider of child day care services which constitute work incentive program expenses as defined in section 50B(a) (1) of the Internal Revenue Code of 1954, or which would constitute work incentive program expenses as so defined if the provider were a taxpayer entitled to a credit (with respect to the wages involved) under section 40 of such Code.".

(c) Sections 2002(a) (4) (C), 2002(a) (4) (D), and 2002(a) (5) (A) of such Act are each amended by striking out "2007(1)" and inserting in lieu thereof "2008(1)".

(d) The amendments made by this section shall become effective on the date of the enactment of this Act, and shall apply with respect to grants made to qualified providers of child day care services during the period beginning October 1, 1979, and ending March 31, 1980.

EXTENSION OF PROVISIONS RELATING TO ALCOHOLICS AND DRUG ADDICTS

SEC. 5. (a) Section 4(c) of Public Law 94–120 is amended by striking out "only for the period" and all that follows and inserting in lieu thereof "from and after October 1, 1975.".

(b) The amendment made by subsection (a) shall become effective on the date of the enactment of this Act, and shall apply with respect to services provided during the period beginning October 1, 1978, and ending March 31, 1980.

AMENDMENTS RELATED TO SECTION 322 OF THE REVENUE ACT OF 1978

SEC. 6. (a) Paragraph (1) of section 322(e) of the Revenue Act of 1978 (relating to effective date) is amended by adding at the end thereof the following new sentence: "For purposes of applying section 50A(a) (2) of the Internal Revenue Code of 1954 with respect to a taxable year beginning before January 1, 1979, the rules of sections 50A (a) (4), 50A(a) (5), and 50B(e) (3) of such Code (as in effect on the day before the date of the enactment of this Act shall apply.".

(b) Subparagraph (B) of section 322(e) (2) of the Revenue Act of 1978 (relating to eligible employees hired after September 26, 1978) is amended—

(1) by striking out "September 27, 1978," and inserting in lieu thereof "September 26, 1978, for purposes of applying the amendments made by this section, "; and

(2) by striking out "January 1, 1979." and inserting in lieu thereof "January 1, 1979, and any wages paid or incurred after December 31, 1978, with respect to such individual shall be considered to be attributable to services rendered after that date.".

(c) (1) Subparagraph (C) of section 50A (a) (4) of the Internal Revenue Code of 1954 (relating to limitation with respect to nonbusiness eligible employees) is amended by striking out " '$6.000' and" and inserting in lieu thereof " '$6,000' for".

(2) Subparagraph (B) of section 50B(g) (2) of such Code is amended by striking out "giving to such credit" and inserting in lieu thereof "giving rise to such credit".

(3) Clause (i) of section 50B(h) (1) (A) of such Code is amended by striking out "9-day" and inserting in lieu thereof "90-day".

(4) The second subsection designated as subsection (d) of section 322 of the Revenue Act of 1978 is amended by striking out "our" in paragraph (1)(A) thereof and inserting in lieu thereof "out".

(d) Any amendment made by this section to the Revenue Act of 1978 shall take effect as if it had been included in the provision of the Revenue Act of 1978 to which such amendment relates.

And the Senate agree to the same.

Al Ullman,
Dan Rostenkowski,
James C. Corman,
Charles B. Rangel,
Barber Conable,
John H. Rousselot,
Managers on the Part of the House.

Russell B. Long,
H. E. Talmadge,
Daniel Patrick Moynihan,
David L. Boren,
Bob Dole,
Bob Packwood,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3091) to extend for one year the provisions of law relating to the business expenses of State legislators, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

1. BUSINESS EXPENSES OF STATE LEGISLATORS

Both the House and Senate versions contain a provision extending for one year the provisions of law relating to the business expenses of State legislators.

2. CHILD SUPPORT ENFORCEMENT FOR NON-AFDC FAMILIES

House bill.—No provision.

Senate amendment.—The Child Support Enforcement Program requires States to make available services to both AFDC and non-AFDC families to assist in establishing the paternity of children and in securing support from absent parents. The original legislation enacted in 1975 provided for 75 percent Federal matching of the costs incurred by the States in providing these services. In the case of AFDC families, the Federal matching provision was enacted in 1975 on a permanent basis while the matching for services to non-AFDC families was provided only through June 30, 1976. Congress subsequently extended the provision for Federal matching for services to non-AFDC families through fiscal year 1977, and fiscal year 1978.

The Senate amendment would make permanent the authority for 75 percent Federal matching of State costs in providing child support services to families not eligible for AFDC. This authority would be retroactive to October 1, 1978.

Conference Agreement.—The Conference agreement follows the Senate amendment, except the authority for Federal matching funds would be effective only for the period October 1, 1978 through March 31, 1980.

3. PROVISIONS RELATING TO AUTHORITY TO HIRE WELFARE RECIPIENTS AS CHILD CARE WORKERS

House bill.—No provision.

Senate amendment.—The amendment would restore the authority of the States to use social services funds under title XX to pay the costs of employing welfare recipients in child care jobs. This authority was available in fiscal years 1977 and 1978. The amendment would make this authority permanent, retroactive to October 1, 1978. It would also make certain changes to conform and better coordinate it with the provisions under which employers obtain a tax credit for hiring welfare recipients. Specifically, the amendment would:

1. extend the authority to use title XX funds to reimburse the costs of hiring welfare recipients in child care jobs;
2. incorporate this authority as a permanent part of the basic title XX statute;
3. increase the maximum per recipient annual combined tax credit and title XX reimbursement from $5,000 to $6,000—the same level of wages that is eligible for the new welfare recipient tax credit;
4. make the payment and credit available for part-time as well as full-time employment in child care jobs;
5. permit the credit to be computed on the basis of the full wages including the part reimbursed under title XX—subject to a maximum combined tax credit and title XX payment not to exceed 100 percent of the first $6,000 of wages; and
6. make the tax credit coverage applicable to the period between the date it previously expired (October 1, 1978) and the effective date of the new credit enacted last year (January 1, 1979).

Conference Agreement.—The Conference agreement follows the Senate amendment, except the authority to use title XX funds to make grants to qualified child day care providers would be effective only for the period October 1, 1978 through March 31, 1980, and the tax credit for hiring welfare recipients would apply only with respect to taxable years beginning after December 31, 1978 and before January 1, 1980.

4. TITLE XX SERVICES TO ALCOHOLICS AND DRUG ADDICTS

House bill.—No provision.

Senate amendment.—The Senate amendment reinstates and makes permanent, retroactive to October 1, 1978, temporary provisions of law relating to the use of title XX funds for certain services to alcoholics and drug addicts. These temporary provisions expired September 30, 1978. Title XX funds ordinarily may only be used to provide health services if the services are an integral, but subordinate, part of a social service. The law provides also that funds may not be used for services to persons in medical institutions. The amendment would make permanent those expired provisions of law which permitted consideration of the entire rehabilitative process in determining whether medical services provided to addicts and alcoholics are an integral but subordinate part of a social service. Also made permanent would be provisions allowing funding for up to 7 days of detoxification services provided to alcoholics and drug addicts in medical institutions, and provisions applying the privacy protections of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970.

Conference Agreement.—The Conference agreement follows the Senate amendment, except the authority for the title XX matching funds would be available only for the period October 1, 1978 through March 31, 1980.

Al Ullman,
Dan Rostenkowski,
James C. Corman,
Charles B. Rangel,
Barber Conable,
John H. Rousselot,
Managers on the Part of the House.

Russell B. Long,
H. E. Talmadge,
Daniel Patrick Moynihan,
David L. Boren,
Bob Dole,
Bob Packwood,
Managers on the Part of the Senate.

Mr. CORMAN. I ask unanimous consent that it may be in order to consider immediately the conference report on H.R. 3091, to extend for 1 year the provisions of law related to the business expenses of State legislators.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, would the gentleman explain what we are doing here?

Mr. CORMAN. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from California.

Mr. CORMAN. Mr. Speaker, the conference report extends for 1 additional year the effective date for the tax treatment of travel expenses incurred by State legislators while away from home to taxable years beginning before January 1, 1979. This is identical to the provision as passed by the House.

The Senate had added to H.R. 3091 three amendments which would reinstate provisions of law that expired on October 1, 1978. The first of these provisions relates to the child support enforcement program administered by States to assist non-AFDC families in establishing the paternity of children and in securing support from absent parents. The Senate amendment would have made permanent the authority for 75 percent Federal matching of State costs of providing child support services to families not eligible for AFDC. The Senate amendment makes this authority retroactive to October 1, 1978. The conference agreement follows the Senate amendment except the authority for Federal matching funds would be effective only for the period October 1, 1978, through March 31, 1980. On November 7, the House passed H.R. 4904, the Social Welfare Reform Amendments of 1979, which reinstates this authority effective October 1, 1979, and makes it permanent. H.R. 4904 is now pending before the Senate Finance Committee.

The Senate also included an amendment in H.R. 3091 to restore on a retroactive basis, to October 1, 1978, the authority for States to use social services funds under title XX to make grants to day care providers for employing welfare recipients in child care jobs. It would also make certain changes to conform and better coordinate such authority with the provisions under which employers obtain a tax credit for hiring welfare recipients. Specifically, the amendment would increase the maximum per recipient annual combined tax credit and title XX reimbursement from $5,000 to $6,000. It would also make the payment and credit available for part-time as well as full-time employment in child care jobs.

The amendment also permits the credit to be computed on the basis of the full wages, including the part reimbursed under title XX. The conference agreement follows the Senate amendment except the authority to use title XX funds to make grants to qualified day care providers would be effective only for the period October 1, 1978 through

March 31, 1980. In addition, the conference agreement provides that the change in the tax credit for hiring welfare recipients would apply only with respect to taxable years beginning after December 31, 1978 and before January 1, 1980. The continuation of this authority was dealt with in H.R. 3434, the Social Services and Child Welfare Amendments of 1979, which has passed both the House and Senate and is awaiting convening of a House and Senate conference. Thus, conferees on H.R. 3434 will have the opportunity to deal with this issue again as to its status after March 31, 1980, in the conference on H.R. 3434.

The Senate also included an amendment which reinstates and makes permanent retroactive to October 1, 1978, temporary provisions of law relating to the use of title XX funds for certain services to alcoholics and drug addicts. The conference agreement follows the Senate amendment except the authority for title XX matching funds for such services would be available only for the period October 1, 1978 through March 31, 1980. This issue will also be dealt with in the conference on H.R. 3434.

Mr. Speaker, I urge House approval of the conference report on H.R. 3091.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, the gentleman then can assure us that there are no new programs in this bill?

Mr. CORMAN. There are no new programs in this bill.

Mr. ROUSSELOT. And in several cases we have acted upon these in the House?

Mr. CORMAN. That is correct, and they were ongoing programs. The only one which has a cost is the child support enforcement provision.

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Mr. ROUSSELOT. And that is basically money distributed to the States?

Mr. CORMAN. That is correct.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the unanimous-consent request to consider the conference report?

Mr. LaFALCE. Mr. Speaker, reserving the right to object, I wonder if the gentleman from California could explain to me the provisions within the conference report applicable to the State legislators' business expenses.

Mr. CORMAN. Mr. Speaker, will the gentleman yield?

Mr. LaFALCE. Yes.

Mr. CORMAN. For the past 3 years, on an annual basis, we have provided that the per diem allowances paid to State legislators while in the State capital would be deductible for Federal income tax purposes. There was a U.S. tax court decision several years ago which held that, under certain circumstances, a State legislator's "tax home" was the State capital rather than his legislative district, and that per diem allowances paid to a State legislator while in the State capital would not be deductible for Federal income tax purposes. That was unfair among legislators, and ever since the Tax Reform Act of 1976, we have treated the legislative district of State legislators as their "tax home" and permitted them to deduct certain per diem allowances paid to them while on legislative business in the State capital. This tax treatment expired with the 1977 taxable year, and this conference report extends this tax treatment to State legislators for the 1978 taxable year.

I will tell the gentleman that earlier today we sent to the Senate H.R. 5224 which contains a 3-year extension of this same provision.

It is my understanding that the Senate will accept that bill as soon as we accept this conference report, if we do.

Mr. LaFALCE. Does the provision within this conference report apply only to those State legislators who get per diem, or does it also apply to the expenses that State legislators incur away from their home, regardless of whether they get a per diem for that or not?

Mr. CORMAN. Under the law that this conference report would extend for an additional year, a State legislator is treated as having expended for living expenses, and therefore could deduct an amount equal to the daily amount of per diem allowance multiplied by the number of days during the year that the State legislature was in session.

Mr. LaFALCE. Does this bill attempt to clarify that a State legislator can deduct those expenses he incurs on the job in a State capital? For example, even if he should spend more than one-half of a year on the business in that State capital away from his own residence?

Mr. CORMAN. It does, except that these limitations relate only to living expenses incurred in connection with his activities as a legislator.

It would not relate to any living expenses incurred by the legislator in connection with a trade or business other than that of being a legislator. As to any other trade or business, the "ordinary and necessary" test of present law continues to apply.

Mr. LaFALCE. What I am wondering is, I say to the chairman of the subcommittee of the Ways and Means Committee, every single year we seem to pay a great amount of time and attention to the equities involved for State legislators, and I am wondering when the Ways and Means Committee is going to address itself to a situation where some individuals within the Federal legislative body can deduct $3,000 for expenses whether or not they spend $3,000; and of course, on the other hand, some spend much more than $3,000 and cannot deduct more than $3,000. I am wondering when the Ways and Means Committee is going to address itself to this 1952 law as we have to the State legislators' situation every single year since I have been here.

Mr. CORMAN. I would call to the gentleman's attention the fact that last year the House legislated in that field. The Senate did not, and therefore it did not become law.

Mr. LaFALCE. That was the previous Congress?

Mr. CORMAN. Yes.

Mr. LaFALCE. What about this Congress?

Mr. CORMAN. There is pending before the Select Revenue Measures Subcommittee of the Ways and Means Committee several proposals relating to that issue, and I think we should deal with it. At one time we put it in with the State legislators' bill. The Senate stripped it out and we were unable to reach a final agreement.

Mr. LaFALCE. It seems to me that as a matter of equity we ought to deal with the issue of Federal or State legislators at one and the same time. I have been here 5 years, and we have not dealt with the issue.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to immediate consideration of the conference report?

There was no objection.

Mr. CORMAN. Mr. Speaker, I ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see prior proceedings of the House for today.)

Mr. CORMAN (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. CORMAN) is recognized for 30 minutes.

Mr. CORMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report extends for 1 additional year the effective date for the tax treatment of travel expenses incurred by State legislators while away from home to taxable years beginning before January 1, 1979. This is identical to the provisions as passed by the House.

The Senate had added to H.R. 3091, three amendments which would reinstate provisions of law which expired on October 1, 1978. The first of these provisions relates to the child support enforcement program administered by States to assist non-AFDC families in establishing the paternity of children and in securing support from absent parents. The Senate amendment would have made permanent the authority for 75 percent Federal matching of State costs of providing child support services to families not eligible for AFDC. The Senate amendment makes this authority retroactive to October 1, 1978. The conference agreement follows the Senate amendment except the authority for Federal matching funds would be effective only for the period October 1, 1978, through March 31, 1980. On November 7, the House passed H.R. 4904, the Social

Welfare Reform Amendments of 1979, which reinstates effective October 1, 1979, and makes permanent this authority. H.R. 4904 is now pending before the Senate Finance Committee.

The Senate also included an amendment in H.R. 3091 to restore on a retroactive basis to October 1, 1978, the authority for States to use social services funds under title XX to make grants to day care providers for employing welfare recipients in child care jobs. It would also make certain changes to conform and better coordinate such authority with the provisions under which employers obtain a tax credit for hiring welfare recipients.

Specifically, the amendment would increase the maximum per recipient annual combined tax credit and title XX reimbursement from $5,000 to $6,000. It would also make the payment and credit available for part-time as well as full-time employment in child care jobs.

The amendment also permits the credit to be computed on the basis of the full wages, including the part reimbursed under title XX. The conference agreement follows the Senate amendment except the authority to use title XX funds to make grants to qualified day care providers would be effective only for the period October 1, 1978, through March 31, 1980.

In addition, the conference agreement provides that the change in the tax credit for hiring welfare recipients would apply only with respect to taxable years beginning after December 31, 1978, and before January 1, 1980. The continuation of this authority was dealt with in H.R. 3434, the Social Services and Child Welfare Amendments of 1979, which has passed both the House and Senate and is awaiting convening of a House and Senate conference. Thus, conferees on H.R. 3434 will have the opportunity to deal with this issue again as to its status after March 31, 1980, in the conference on H.R. 3434.

The Senate also included an amendment which reinstates and makes permanent retroactive to October 1, 1978, temporary provisions of law relating to the use of title XX funds for certain services to alcoholics and drug addicts. The conference agreement follows the Senate amendment except the authority for title XX matching funds for such services would be available only for the period October 1, 1978, through March 31, 1980. This issue will also be dealt with in the conference on H.R. 3434.

Mr. Speaker, I urge House approval of the conference report on H.R. 3091.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CORMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERSONAL EXPLANATION FOR MISSED VOTES

Mr. KASTENMEIER. Mr. Speaker, since I was unable to be on the House floor on Friday, December 14, I missed several votes. I wish to state for the RECORD how I would have voted had I been present:

Rollcall No. 731, "yea."
Rollcall No. 732, "yea."
Rollcall No. 733, "yea."
Rollcall No. 734, "yea."
Rollcall No. 735, "yea."
Rollcall No. 738, "yea."
Rollcall No. 739, "nay."

REMOVAL OF NAME FROM LIST OF COSPONSORS OF HOUSE CONCURRENT RESOLUTION 129

Mr. LUNGREN. Mr. Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of House Concurrent Resolution 129.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CARIBBEAN UPDATE: UNITED STATES ROLLING OUT THE RED CARPET FOR ADVENTURISM

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Speaker, while the American people have been focusing their attention on the plight of the hostages in Iran it has been business as usual for the Communist aggressors in the Caribbean. Over the last month the Communists have begun to stack the deck for the future of Nicaragua and have pressed forward in making Cuba a major new submarine operations area for the Soviet Navy. This has continued with the State Department, as usual, just looking on. Regardless of how much Mr. Carter postures himself as pro-American on the Iranian issue, his minions at "Foggy Bottom" are still towing the appeasement line on other fronts.

Recently my colleague from Arizona (Mr. RUDD) reported to the House on his trip to Nicaragua. His insights provided a grim picture of the rise of a new Marxist regime in Central America. There is no doubt in my mind that we are only deluding ourselves if we think the current Nicaraguan regime has any potential of being pro-American. With such known anti-American Communists as Tomas Borge and Miguel d'Escoto heading major functions of the Government it is only a matter of timing before they assert their true allegiances.

In addition to the Marxist nature of the regime there is the influx of 1,200 Cuban teachers to take over local schools in Nicaragua. These teachers are only the first wave of Cubans who will replace the 5,000 teachers who were purged when they did not commit outright solidarity to the Marxists. Block committees similar to those formed under Castro to consolidate power and eliminate more dissidents have also been established throughout the country. The handwriting is clearly on the wall. We are watching a mainland Marxist state rise in the Caribbean.

The Carter reaction to this has been in keeping with his ongoing appeasement of Castro and company. He has pressed for $75 million in foreign aid for the Marxists. The Congress will soon be considering this issue as the House Foreign Affairs Committee has reported out the measure. We cannot buy alliances. If we wanted a friend in Nicaragua we could have prevented the fall of Somoza or settled for a moderate regime that many pleaded for in the face of Sandinista guns. Mr. Carter let Somoza fall and let the Marxists take control of the country. This was accomplished under the banner of human rights, but right now we have over 7,500 political prisoners facing trial under the new regime and free elections have been postponed for at least 3 years, if they ever occur at all.

The contradictory views of the current situation in Nicaragua go on and on. Recently Mr. Carter, in all his wisdom, overlooked the obvious ties of the new regime with the PLO and other terrorist groups in order to wine and dine Sandinista military brass at an Army base in Georgia. The revolutionary chief of staff and other Sandinista military leaders were given a grand tour of Fort Stewart to observe U.S. Army hardware and training methods. They also inspected Fort Benning and Fort Jackson. This fiasco was signed off on by both the State Department and the Department of Defense. Such actions only underscore the inability of the Carter administration to act on behalf of American interests in the world. Back in 1959 Castro laid low until he got aid. Today the Sandinistas are able to speak out against the United States in Havana, undermine other pro-U.S. Governments in Central America, and still can expect help from our State Department. They can do all this with the confidence that Mr. Carter will do anything to prop up the delusion of American security through 1980.

Nicaragua is not the only manifestation of the growing surrealism in the White House. In the Cienfuegoes naval base in Cuba there is a new series of docks being constructed. At a time when Secretary Vance is stating that current signs in Cuba are "not unpleasant" we have the prospect of a major violation of the 1962 accords that dwarf the Soviet brigade issue. According to ABC news one of the buildings in the new naval complex is a claristory building. "This building has only one function, to handle nuclear missiles from Soviet submarines," according to the broadcast. If this is true than the Carter administration may face a crisis even worse than Iran in the near future. Under any circumstance Mr. Carter should do all in his power to pursue all leads in order to discern whether the new construction at Cienfuegoes might provide this capability in the long run. The reaction of the State Department has been to down play all reports on the construction or to ignore it entirely. This is hardly a responsible stance, but it is in keeping with the usual rhetoric from the Carter appointees.

Iran has reawakened a patriotic fever in the American public. There is a renewed sense of nationhood and a growing realization that America has become weak and outflanked in the world. The Nation should remember, however, that it was under the current regime in the Oval Office that most of this decline occurred. The American people should also be ever vigilant of the State Department for as it becomes the foremost patriot in one corner of the globe it is still leading the pack toward appeasement elsewhere. The world is too small to enable the United States to divorce one action from the other. Our allies and enemies look at the entire picture and we should, too. If America is to ever prevent other Irans it needs to prevent other Nicaraguas and Cienfuegoes. Mr. Carter has been unable to prevent anything. When the Iranian crisis is history, hopefully his day of reckoning will come.

REGULATION OF OIL AND GAS WELLS

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, in my office is a chart of some Federal processes that must be gone through to get a permit to drill and operate an oil well. The chart is 7 feet long by 1 foot high and is very small print.

This chart shows the proposed consolidated permit regulations of the Environmental Protection Agency related to hazardous waste management, underground injection, and pollutant discharge.

The regulations come in three parts with 324 sections. At hearings in July 1979 witnesses referred repeatedly to the complexity of the regulations. They are arranged in a manner that confuses the industry. Nowhere can you begin and follow straight through to a conclusion about a particular permit. You have to jump back and forth repeatedly through 101 pages of the Federal Register for June 14, 1979.

The Environmental Protection Agency says "these regulations are long and complicated," as anyone who looks at these 101 pages must agree. EPA says that without consolidation the regulations would be 40 percent larger. However, EPA has consolidated them only for their own convenience. The industry says the "regulations have no user logic." They "heap confusion upon complexity so the user is rendered helpless to know how to secure the needed permits. Thus, the regulations represent bureaucratic simplification at its worst."

In order to make a logical sequence of the regulations, some industry leaders in the American Petroleum Institute and the Rocky Mountain Oil & Gas Association spent 10 days mapping out the steps taken for each permit. Then two draftsmen spent 2 weeks using computerized drafting techniques to construct this 7-foot chart.

There are 138 points on the chart where decisions must be obtained from Government bureaucrats. There are 88 points where the industry must prepare paperwork. Some of the paperwork, for example the plant line drawings and chemical analyses under the Resource Conservation and Recovery Act, costs as much as $50,000. Some of the maps required do not exist.

We call upon the industry to invest and drill for more domestic oil and gas but we write regulations that impose unproductive cost, genuine confusion, and who knows how many years of delay. Government is overloaded with regulations.

EPA excessive requirements helped put Chrysler in its dilemma. Let us have EPA in moderation with continued employment for working Americans.

EPA is trying to understand the overburdening legislation passed by Congress. Our country has more Government than we need, more Government than we want, and more taxes than we can afford to pay.

A STRONG VOICE FOR URBAN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. BRODHEAD) is recognized for 60 minutes.

● **Mr. BRODHEAD.** Mr. Speaker, it is unusual for the House of Representatives to hold a special order to honor one who was never a Member of the House. However, in the case of Jerome P. Cavanagh, it is entirely appropriate. Jerry Cavanagh was mayor of Detroit from 1962 to 1969. He had profound effects not only on Detroit and Michigan, but on the entire Nation. He was a leading architect of Federal urban policy and he is the only person to have served simultaneously as president of the National League of Cities and the U.S. Conference of Mayors.

Jerry Cavanagh succumbed to a heart attack on November 27. He is mourned by his large family and by a great many friends and admirers. I have requested this special order so that his family and friends will be aware of the high esteem in which he is held by Members of the House. Perhaps the strongest public acknowledgement of Jerry Cavanagh's remarkable career can be found in the editorial comments of Detroit's two major daily newspapers. On November 28, the Detroit Free Press said (in part):

> Jerry Cavanagh was the man who missed the ring on the merry-go-round by a fraction of an inch. But in reaching for it, he touched many of us deeply; he made his visions our visions. If some people suspected after a while that he worked some of his magic with mirrors, if Detroit never became all he intended to make it, still be helped many of us lift our eyes to what it could be.
>
> In the good times, in his buoyant ascent and boundless confidence, Jerry Cavanagh seemed to show us all things were possible. In the failures and the hard times, his grace and self-depreciating humor reminded us all things were endurable. For all the dizzying rise and fall of his career, Detroit was the richer for knowing him.

In its editorial of November 29, the Detroit News said (in part):

> From a distance of a decade or so, Jerome P. Cavanagh's hopes and dreams for Detroit make more sense than ever. The city's renaissance can be traced to the Cavanagh years, though there were dark days when the dreams seemed doomed by terrible events.
>
> Mr. Cavanagh wanted the right things for Detroit. He wanted an economic and cultural rebirth for the central city, and he lived long enough to witness the city's new start.
>
> Mr. Cavanagh's legacy to us is his dream of a greater, brighter Detroit. His death reminds us of that . . . and of the nice guy he was to have around.

Detroit News columnist Pete Waldmeir wrote that Jerome Cavanagh's friends "could be counted on the fingers of the Mormon Tabernacle Choir." That was certainly true, for Jerry Cavanagh earned the respect and affection of thousands. He was an extraordinarily handsome man, with a smile that could light up a room. He had a gentle, easy manner and when he spoke with you, it was as if no one else in the world mattered to him for that moment.

It was however, as a strong political leader that Jerry Cavanagh left a permanent mark in his city, his State and the entire Nation. He came to prominence with an upset victory over the incumbent mayor of Detroit in 1961. While few of the political cognoscenti took his campaign seriously, once he was mayor, it was clear that a major political figure was in our midst. He established, both in his campaign and in his years as mayor, lines of communication with the black community in Detroit. He was the first mayor to appoint black citizens to important jobs in the city administration. He realized that many of the major cities of the country were affected with substantially similar problems and began to forge alliances with other big-city mayors. In concert with these mayors, he approached the Congress and the Kennedy and Johnson administrations with numerous sound proposals for Federal programs to assist cities. Many of these proposals were enacted into law.

Jerry Cavanagh brought to the job of mayor a huge energy, a strong professionalism and a high sense of purpose. These qualities enabled him to attract to the service of the city of Detroit a whole new cadre of well-educated, dedicated people who modernized and improved the government of the city and set a new, higher standard of public service. Today, these men and women are in positions of leadership in government, business, academia, and the judiciary throughout the Detroit area.

When he left the mayor's office in 1969, he entered into the practice of law in Detroit. He continued, however, his involvement in civic affairs, exercising important leadership in a number of areas of the city's life, despite suffering illness and political reverses. When he died, Jerry Cavanagh was only 51, yet he lived a full life. His contributions to Detroit were major and will far outlive him. We cherish his memory because of his charm and wit, but more importantly, because he was an important leader, a strong voice and a compassionate, young man in a turbulent time for Detroit and other American cities.

At this time I would like to insert statements which I have received from Senators DONALD RIEGLE and CARL LEVIN and a letter from Representative ATKINSON:

Remarks by Senator Donald W. Riegle, Jr., in Tribute to Jerome P. Cavanagh

Jerry Cavanagh was a rare man who combined the two essential ingredients of brains and heart. He cared deeply about people and had the ability and drive to turn dreams into reality.

Jerry was a pioneer in the difficult task of urban redevelopment. Moreover he based his visionary plans on the highest human principles—he believed in and built citizen coalitions that included all the people. He was a true public servant—a man of the people—in the full sense.

Jerry's accomplishments have never received the full recognition they deserve. It was he who laid the basic foundation for the later renaissance of Detroit. The civil strife of the 1960's has tended to obscure the fact that Jerry Cavanagh was the initial architect of the new vision of Detroit—both physically and spiritually.

As a person he was warm, caring, encouraging and helpful. He was a sensitive man who could feel the pain of others, and be driven by a compulsion to help.

He had his share of setbacks along the way, but they never broke his spirit or diminished his best hopes for the future.

His love for his family—and them for him—was at the very center of his feelings and purposes. His loss is a source of heartache to all who knew him and our deepest feelings are with his family at this time.

There is in public service this mysterious exchange process where those of us who are participants learn from each other and are altered in various ways by our working contact at the personal level. In that sense particularly, Jerry Cavanagh is alive and well in the hearts and souls and actions of those men and women who shared his vision of how we might better work together for the common good.

Statement of Senator Carl Levin in Tribute to Jerome P. Cavanagh

Jerome P. Cavanagh was a perfect mayor for Detroit. He was young and energetic, and he presided over a city that was vibrant and alive.

Like John F. Kennedy, he was a symbol of America's hope. Like Lyndon Johnson, he made things happen. As an advisor to Presidents Kennedy and Johnson, he encouraged them to help where help was needed. He knew that if America was to stay great, it would have to keep its cities great.

Jerry Cavanagh wanted his city to be a Model City. From his idea sprang the Model Cities hopes of other cities. The idea did not succeed, but it got us going in the right direction.

Jerry Cavanagh saw his city burn in 1967, but he did not lose his hope. He helped to organize the nation's first major urban coalition, New Detroit, to try to close the wounds of the street wars and to try to solve the problems that caused them.

His career as a public official came to an end when the '60s ended, and perhaps that was because his time had passed. The boundless energy of the '60s seemed to wither in the '70s.

But Jerry Cavanagh never changed. As I said the day he died, he was one of those few people whose fresh ideas made him seem perpetually young.

As a member of the Detroit City Council, I entered the city government as he was leaving. And even as we on the council wrestled with the problems of the city, I was glad that Jerry Cavanagh had been there before me. As bad as the problems were, they would have been worse if Detroit had not had Jerry Cavanagh.

I was not always an ally of the former mayor even though we stood for many of the same things. In 1974, he campaigned against my brother, Sander, in the Democratic primary for governor in Michigan.

That was a hard-fought campaign, that my brother won. But no matter how bitter the struggle, I could not lose respect for what Jerry Cavanagh meant for Detroit.

DECEMBER 12, 1979.

Hon. WILLIAM BRODHEAD,
House Office Building,
Washington, D.C.

DEAR BILL: I appreciate your contacting me to join you in honoring the late Jerry Cavanagh, Mayor of Detroit who passed away last week.

I wasn't acquainted with the Mayor, but extend my sympathy to the world of friends he made and especially his family.

I know of his great record of government service from reading of his efforts throughout the years—a popular man who was involved.

Again, Bill, thanks for allowing me to join you in honoring this great man.

Sincerely,

EUGENE V. ATKINSON,
Member of Congress.●

● Mr. DINGELL. Mr. Speaker, I join my colleagues in mourning the untimely passing of a man whose political career was distinguished but all too brief.

Jerome Patrick Cavanagh, mayor of Detroit from 1962–70, symbolized a dream of urban America. Assuming office as a young and vibrant leader, he articulated community needs and the approaching urban crisis. As President of the U.S. Conference of Mayors and the National League of Cities, he summoned recognition that America is an urban Nation whose destiny is tied to the viability of its great cities. The national stature he rapidly achieved and his vision provided the underpinnings for a coordinated urban program of Federal, State, and local action.

Jerome Cavanagh was instinctively a man of strength and compassion. He worked tirelessly for the city he loved and was committed to helping those in need. His administration not only had impact on Detroit, but on the State and the Nation.

Jerome Cavanagh will be remembered for his accomplishments and his valued services to Detroit and its people who called him, Mr. Mayor.●

● Mr. NEDZI. Mr. Speaker, 3 weeks ago Jerry Cavanagh, the former mayor of Detroit, passed away unexpectedly. He died young, too young. Jerry was only 51.

He loved politics and seemed born for it. He was at ease in any political situation, whether it was in a roomful of citizens or a roomful of political pros. People seemed to look to him for leadership.

Jerry Cavanagh and I both won elective office for the first time in 1961. I had won an upset victory in a special congressional primary in the old First District of Michigan. It was then the most Democratic district in the United States, and a victory in the primary was tantamount to election. I recall that we were having a First District dinner a couple of weeks after that primary and Jerry Cavanagh, then a candidate for mayor and a definite underdog, came around to shake hands. We chatted amiably and I mentioned that I was trying to phase down my law practice preparatory to taking public office. "That's my problem, too," he said with a smile.

And we both laughed.

Not only did both of us have modest law practices at the time, but Jerry had run 4 to 1 behind the incumbent mayor in the mayoralty primary, and the labor business and newspaper establishment was supporting the incumbent Louis Miriani.

Indeed, there was a story heard in subsequent years that Jerry Cavanagh was running for mayor to make his name better known in preparation for a campaign for a judgeship. In the course of his candidacy for mayor, however, he discovered a softness in Louis Miriani's seemingly universal support. On election day he scored a dramatic and stunning upset.

His victory was impressive. But even more impressive to political insiders and to students of government was how he immediately and naturally took charge.

He did so with complete assurance and a sure political touch. He was no rookie in the game of politics. He stepped right into the big leagues as though it was absolutely predestined.

And he had a hell of a good time being mayor. He obviously enjoyed it and was good at it. And for a few years, the city of Detroit enjoyed it with him.

Life became more difficult for Jerry, however. Spectacular political and personal triumphs were followed by spectacular political and personal defeats which led him to describe himself half-jokingly as a "walking Irish tragedy."

There was the Detroit riot of 1967, one of the worst race riots in U.S. history. There were defeats in runs for the Senate and governorship in 1966 and 1974, family problems, an operation for a cancerous kidney and a serious heart bypass operation.

Jerry Cavanagh will be remembered as Detroit's classic Irish politician, a man who was taken seriously at the national level and at one time seemed to even have a chance of going all the way, a man who was great fun for the press to cover, and a man who lived life fully, leaving behind nine children and thousands of friends.

The political world has been made poorer by his departure; we all shall miss him.●

● Mr. CONYERS. Mr. Speaker, I was saddened to learn of the death of Jerome Cavanagh, the former mayor of the city of Detroit, whom I had the privilege to know and work with and befriend.

Jerry Cavanagh was one of the brightest and most energetic political leaders of his generation. His leadership in Detroit during the 1960's was remarkable for its vision and boldness, the efforts to recruit black citizens into all phases of public life, the building of a solid program of Federal, State, and local partnership in the revitalization of the city, and in the promise it held for all citizens of Detroit.

He played a principal role in building a national urban coalition, having been the first mayor to head simultaneously the Conference of Mayors and the National League of Cities. Working with the Kennedy and Johnson administrations, he paved the way for other cities to develop effective urban redevelopment programs such as Model Cities, the leading example of which was the city of Detroit's program. He worked tirelessly to deal with the complaints of black citizens and developed the first major program in the city for affirmative action and the integration of the police department. Remarkably, his energy and vision were accompanied by first-rate management of city government.

I particularly remember Jerry Cavanagh during the time of the Detroit riot of 1967. As has happened in history during periods of rapid social changes—in this instance the civil rights movement and the war on poverty—official actions and social reforms lagged behind the stated commitments of government and the understandably rising expectations of people for change. The mid-1960's was no exception. All across the Nation, aggrieved individuals and groups experienced tremendous frustration with the pace of the changes that all agreed were urgent and necessary. Most major American cities at the time were wracked by protest. When the riot took place in Detroit, Mayor Cavanagh attempted against great odds to exercise restraint and minimize injury.

Jerome Cavanagh was a very special leader during a pivotal period in American history. He not only exerted superb leadership in the city of Detroit, but he also demonstrated leadership and courage in his early opposition to the war in Vietnam and recognition of how that war was so debilitating to the effort at reform in the Nation and the rebuilding of America's cities.

To the Cavanagh family I extend my deepest condolences.●

● Mr. FORD of Michigan. Mr. Speaker, I am pleased to join our colleagues in a tribute to the late Jerome P. Cavanagh, and I commend Congressman William Brodhead for giving us this opportunity to do so.

Jerry Cavanagh was an exceptional human being whose influence on Detroit and the metropolitan area will be felt for many years.

The son of an Irish immigrant factory worker, Jerry was a true product of Detroit. A 1953 graduate of the University of Detroit's Law School, he practiced law quietly for 9 years, and then literally exploded onto the political scene.

He entered the mayoral race that year as an unknown young attorney, and surprised all the political "experts" by defeating incumbent Mayor Louis G. Miriani.

The next 10 years were truly the "Cavanagh Decade" of Detroit history. He proved to be an able and imaginative administrator who drastically changed his city's image. President Johnson made Detroit the prototype for his model cities program.

His influence and reputation spread far beyond Michigan's boundaries. He became the first mayor to serve simultaneously as head of both the U.S. Conference of Mayors and the National League of Cities.

Many of his ideas, and ideals, became reality only after he left the mayor's office in 1970. Many of the seeds he sowed are still waiting to sprout. But the things he accomplished, and the goals he set, remain as a mighty monument which we will never forget.●

● Mr. TRAXLER. Mr. Speaker, Jerome P. Cavanagh was a great mayor of Detroit and a national urban leader. He was also a man of great charm and wit. I would like to submit exerpts from a story by Remer Tyson and Billy Bowles in the Detroit Free Press of November 28, 1979. These stories illustrate his fine Irish humor:

> Stories about Jerry Cavanagh are legion. Some, legend. One of Cavanagh's charms was his ability to participate in a joke and to take one.
>
> "We started out together and had a lot in common," said Detroit Police Sgt. Bill Shine at a political roast with Cavanagh in 1974. "We were young Irish-Americans. Both fiercely ambitious. I wanted to be a police sergeant, and he wanted to be the Aga Khan."
>
> Bernie Klein, city controller while Cavanagh was mayor, is a political quipster who liked to tell stories ridiculing Wayne County Democratic Chairman Bruce Miller.
>
> Miller tired of Klein's barbs and called Klein to tell him so. Klein, who liked to provoke politicians but not fight them, telephoned the mayor to tell him that Miller had threatened "to kick my ass from one side of Detroit to the other" if Klein didn't stop telling "Bruce Miller jokes."
>
> Cavanagh exploded and said he was going to rush over and beat the hell out of Miller.
>
> "Jerry," Klein said to the mayor, "you're being as childish as Bruce."
>
> Cavanagh paused. "You're right, Bernie," the mayor said. "I'll send over a cop instead."
>
> Free Press reporter Ladd Neuman said Cavanagh once organized a touch football game that was supposed to pit the mayor's City Hall staffers against the reporters who covered them. What happened, Neuman said, was that Cavanagh brought in every ringer he could from the Police Department, ex-football players, some of the best in town. On that team were guys who could have tried out for the Lions and not been ashamed. The press had a lot of guys who weighed 125 pounds and drank a lot. Cavanagh quarterbacked the City Hall ringers, and Neuman said the mayor completed a lot of 40-yard passes.
>
> Cavanagh sometimes used innovative tactics against his political foes. Once Attorney General Frank J. Kelley, a boyhood buddy of Cavanagh's who grew up to be his political enemy, was speaking at a state Democratic convention at Cobo Hall. Cavanagh had his aides sabotage the speech by gradually tuning the hall speakers so that the louder Kelley talked, the fewer Democrats heard him. By the time Kelley finished his speech, Cavanagh's aides had tuned Kelley out. Kelley didn't get any applause because the audience didn't know he was finished speaking.
>
> Cavanagh had the grace to poke fun at himself. After his last campaign defeat in the 1974 governor's race, he went with a group of businessmen on a trade mission to Japan. He sent a postcard to his former City Hall aide Sandy McClure, now a Free Press reporter, that pictured a room in a cheap hotel with only a Japanese sleeping mat on the floor. He wrote on the card: "I always knew it would come to this."●

● Mr. BLANCHARD. Mr. Speaker, those of us who are concerned about the problems of the Nation's cities have lost a great friend with the death of former Detroit Mayor Jerome P. Cavanagh. He was one of the first of our leaders to recognize in the early 1960's that our older cities were in danger of collapse and he raised his eloquent voice in their behalf.

He realized that the problem went much deeper than the fact that revenues had become inadequate to meet rising costs of operation. Jerome Cavanagh understood that the terrible pressures of urban life, its harshness and its inequities could lead to chaos. That the riots of 1967 engulfed his own city of Detroit was no condemnation of his programs. It was the result of pressures that had been building for decades and it underlined the truth of the concerns he had so forcefully expressed.

His ability to identify the deep concerns of urban life and to fashion programs to answer them made him one of the Nation's leading urban spokesmen. He is the only person who ever served as president of both the U.S. Conference of Mayors and the National League of Cities at the same time. And he was a prominent adviser on urban problems to Presidents John F. Kennedy and Lyndon B. Johnson. It was Cavanagh's program for Detroit which served as the prototype for President Johnson's Model Cities program.

As we continue to grapple with the deep problems of the cities, we have discarded some of the early Federal programs and adopted new ones. But no matter what solution proves to be most effective, the groundwork will have been laid by pioneering leaders such as Jerome P. Cavanagh. It is therefore most appropriate that he be honored here today. He was a leader of courage, intelligence and foresight and the people of the Nation's cities will remember him with affection.●

● Mr. CARR. Mr. Speaker, when Jerry Cavanagh died on November 27, what people most recalled was that he never reached the pinnacle of success for which he seemed destined when, at age 33, he became mayor of Detroit. What people said and wrote about Jerry Cavanagh after his death was that his political career was meteoric—brillant and shortlived—and that he never fulfilled the promise so many saw in him as the young, bold, successful leader of one of America's most important and most troubled cities.

Perhaps, and then again, perhaps not. Compare the Detroit of 1961, the year Jerry Cavanagh became its mayor, with the Detroit of 1979. Recall the success of the young mayor in bringing—for the first time—Detroit's black leaders into city government. Recall the massive Federal financial support Cavanagh secured for Detroit as the keystone in President Johnson's Model Cities program. Recall the first tentative steps toward Detroit's present flowering: The hotel, the businesses that chose to locate downtown. Recall the expansion of the Detroit Institute of Arts.

The progress set in motion by Jerry Cavanagh was not without its setbacks, the victories not without defeats. But as Mayor Coleman Young, who lives every day with Jerry Cavanagh's legacy, said in his formal statement issued after Cavanagh's death, "he laid the foundation upon which the city's renaissance has been built."

Perhaps Jerry Cavanagh failed to fulfill his personal ambitions and personal promise. What he realized instead was the promise of Detroit.●

● Mr. BONIOR of Michigan. Mr. Speaker, it was with regret and a great sense of loss that I responded to news of the untimely death of Jerry Cavanagh. My personal remembrances of Jerry Cavanagh were bright and vivid, colored with the robustness of Irish wit and lively politics. They were the ever-present characteristics of Jerry and were reflected in his leadership during the early days of Detroit's renaissance.

As the Kennedy years seemed to take America out of the doldrums of the fifties and into the challenging sixties, the election of Jerry Cavanagh to the top position in Detroit politics insured that Detroit would be a leader among cities. He lived up to his expectations and led a national charge for the recognition of cities and their unique needs. As a result of this concern, Jerry Cavanagh led one of America's greatest cities through a decade which was to be remembered and known for its progressive beginnings and tumultuous finish. Jerry Cavanagh's decade was not to be without its triumphs nor disappointments.

The friendship my father and myself had with Jerry Cavanagh afforded the opportunity to witness the charm and simple political wisdom he combined to win friends and elections. He will always be remembered by the Bonior family.●

● Mr. KILDEE. Mr. Speaker, it is with a warm fondness that I recall my friendship with Jerry Cavanagh, the former mayor of Detroit who passed away on November 27.

Jerry Cavanagh was a dynamic and effective public leader whose appealing personal qualities enabled him to bring hope and exuberance to politics as well as to implement lasting and constructive changes to better the lives of other people.

His two terms as mayor of Detroit, from 1962 to 1970, were marked by his initiatives which began a renaissance of both spirit and mortar to his hometown that continues today, and of his bold and imaginative moves to enable the city and its citizens to recover from the devastating riot of 1967. His actions included providing the leadership which led to the creation of what was to become the Nation's first major urban coalition, New Detroit.

The examples of his humor are many, and so are the many stories of how he would take a sincere and personal interest in any person coming to him for help. One of his former campaign aides remembers how Jerry Cavanagh once canceled a major campaign appearance so that he could spend more time discussing a problem with one citizen he had encountered.

Whoever he was with received his full attention. He brought a sense of human concern to politics, and that, coupled with his sense of humor, gave him a rare and valuable perspective on the issues and problems of his day.

His career was marked by great triumphs, such as his election to two full terms as mayor of Detroit, and also by great disappointments, such as his defeats in the Democratic primaries of 1966 and 1974 for U.S. Senator and Governor. Yet through it all he retained an indefatigable spirit of determination that served as an example for officeholders who faced the same battles of injustice and inequality that he always labored against. He chose to become involved in politics because he saw public service as a way in which he could help others in a significant way.

A Detroit newspaper editor, Reese Cleghorn, wrote this posthumous tribute:

> Jerry Cavanaugh helped give Detroit a better feeling about itself and what it could do. He was stung by some serious failures, but he moved the city along, toward a better future. Those days should be remembered as a turning point, and decades from now the man who sat in the mayor's office during most of the 1960's will still be honored for that.●

● Mr. ALBOSTA. Mr. Speaker, it is with honor that I join my colleagues in paying recognition to one of Michigan's great leaders, Jerome Cavanagh. Jerry was born in Detroit, our largest city, and rose to become mayor of his hometown. He was a brilliant and dedicated public servant and brought hope to the people of our State.

Jerry became mayor of Detroit in the early 1960's as the Nation began its Camelot decade. A jovial Irishman, he put together a campaign of exciting new ideas and old-fashioned politicking. He was quickly recognized for his accomplishments by both the new President, John Kennedy and his Vice President, Lyndon Johnson. He worked closely with them over the early years of the 1960's and helped to make Detroit one of the model cities in the Nation.

The redevelopment which Jerry Cavanagh brought to Detroit began a renaissance in that city which is continuing today. Once blighted and decaying areas of the city soon began to sparkle as he came together with the Federal Government to assist in revitalizing the "Motor City." A man of Jerry Cavanagh's ability and drive are rare on the American scene, and it is a privilege for us in Michigan to have known and worked with him. Although having left office after having lost a Senate race to G. Mennen Williams in 1966, he continued to work on behalf of the people of the cities. His experience as head of the U.S. Conference of Mayors and the National League of Cities, served him well in continuing to work in behalf of the people in American urban areas.

His life has ended too soon, and we will certainly miss his wise counsel and expertise. My wife, Dorothy, and I extend to his family our deepest sympathy and encourage them by assuring them that his memory will serve as an inspiration to all of us who attempt to continue his work.●

● Mr. WOLPE. Mr. Speaker, I want to commend my colleague from Michigan (Mr. BRODHEAD) for taking today's special order to pay tribute to the life and accomplishments of a truly great American.

Jerry Cavanagh was a leader, not just for Detroit, the city he presided over as mayor for so many years, but for the entire Nation. While my personal contact with Mayor Cavanagh was, regrettably, very limited, I greatly admired and respected his leadership, particularly on two major fronts: As a young big city mayor, he helped change our national priorities in regard to dealing with the problems faced by our large, central cities; later, after touring Vietnam in 1966, he became one of the early opponents of continuing the war in Vietnam.

As mayor of Detroit, his vision of what the city could be and his affective working relationship with Presidents Kennedy and Johnson helped to begin the renaissance of the city. Serving as head of both the Conference of Mayors and the National League of Cities, Jerry Cavanagh was instrumental in formulating and putting into place innovative national policies to assist urban America in halting the pattern of decay that had been developing through the fifties. At a time when many were willing to write off our large cities, he helped create and project a new image of Detroit as a city of hope for the future. Indeed, Detroit became the prototype for President Johnson's model cities program.

With interests that were broader than just our central cities, however, he also was a key participant in the national debate over Vietnam. During his unsuccessful race for the U.S. Senate in 1966, he was one of the early opponents of the war in Vietnam. While it may have cost him an election, his courage in taking what was then an unpopular position helped to bring about our Nation's reevaluation of that tragic and costly involvement in Southeast Asia.

I am saddened by his death, but those of us from Michigan should be proud of the role that he played. Our country is a better place because of his visions and his courage and his leadership.●

● Mr. BROOMFIELD. Mr. Speaker, I join my colleagues in expressing our heartfelt sympathies to the family of Jerome P. Cavanagh, a former mayor of Detroit and an outstanding urban leader.

During his 8 years as mayor of Detroit, he set the foundation for what is now occurring—the revival of the city. He opened Detroit to a far greater degree of minority participation, brought in many new businesses, and helped give Detroit a better feeling about itself and what it could accomplish. However, his influence spread beyond Michigan for he helped the cities all across this country by focusing national attention and concern about their plight.

While I did not know Mayor Cavanagh very well on a personal level, our political paths often crossed as he led Detroit in the sixties. As I watched him work, I developed a deep respect for his leadership, vision, and sensitivity. The Nation as a whole, and the cities in particular, owe a deep debt of gratitude to this great urban leader.

Mr. Speaker, again my deepest sympathies go to his wife, Kathleen, and his family during this time of sorrow.●

● Mr. PURSELL. Mr. Speaker, I would like to join my colleagues who have paid tribute to the late Mayor Jerome P. Cavanagh of Detroit.

I know that I cannot say anything today which has not already been said by the many friends and admirers of Jerry Cavanagh. He was a good man, a great American, a great Michigander, and a great Detroiter, but I am proudest to say that I called Jerry Cavanagh my friend.

Mr. Speaker, we shall all miss Jerry Cavanagh, no matter what our political persuasion. He kept us all on our toes and his strong arguments for his point of view caused all of us who might have opposed him from time to time to question our own ideas and make certain that we had the facts to back up our arguments. This give and take improved the political process in Michigan.

There are very few men or women who have gained the respect and admiration of the people of the city of Detroit as Jerry Cavanagh did. He was truly deserving of this respect and admiration because history will record the lasting improvements he left with Detroit. Reese Cleghorn of the Detroit Free Press said it well when he wrote:

> Jerry Cavanagh helped give Detroit a better feeling about itself and what it could do. He was stung by some serious failures, but he moved the city along, toward a better future. Those days should be remembered as a turning point, and decades from now the man who sat in the mayor's office during most of the 1960's will still be honored for that.

I join with my colleagues in offering heartfelt sympathy to his wife, Kathleen, and children who reside in my congressional district.●

● Mr. CORMAN. Mr. Speaker, I was deeply saddened to learn of the death of Jerry Cavanagh, mayor of Detroit 1962–69.

While presiding over some of Detroit's darkest days, Jerry became known as a political star of the 1960's.

During Jerry Cavanagh's political career he became spokesman for urban liberals across the Nation. He was a prominent adviser to Presidents Kennedy and Johnson, and his concern for Detroit and the many problems faced by the Nation's cities focused our efforts to help develop some of the most significant Federal programs to meet the needs of its urban citizens.

I offer my deepest sympathy to Kathy, his wife, and his nine children who must bear the burdens of grief and sorrow. Jerry will be long remembered by his friends.●

IMPLEMENTATION OF REGULATIONS FOR ELDERLY SERVICES STALEMATED BY EXECUTIVE BRANCH RUNAROUND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. GRASSLEY) is recognized for 5 minutes.

● Mr. GRASSLEY. Mr. Speaker, on October 18, 1978, the President signed the Comprehensive Older Americans Act Amendments of 1978—Public Law 95–478. Today, 14 months later, the regulations for the implementation of this important legislation have yet to be finalized.

The particulars of the many questions raised by the proposed regulations since their issuance on July 31, 1979, are not at issue here; what is at issue is the administrative maze that has caused the needless, endless delays in bringing this legislation to the service of the elderly.

It is now more apparent than ever that the Administration on Aging must be rescued from the confines of outmoded HEW procedures. The intent of Congress regarding the Older Americans Act, so clearly outlined in October of 1978, has been completely obscured by a year of dissection and interpretation within the convolutions of the HEW chain of command.

The Commissioner of AOA, through the arcane organization of HEW, cannot control the progress of the Older Americans Act regulations as they pass for review from office to office, from Human Development Services and General Council of HEW, to the newly appointed Secretary of HEW and the coterie of HUD officials recently moved to HEW.

Meanwhile, 56 State aging units and 599 area agencies on aging, organized from the ground up, ready and available to serve, wonder how to proceed with a billion dollar program, mandated by Congress for the good of the 23 million older Americans, and wait for executive branch turf battles, reorganization, and vacation schedules to be resolved.

A first order of business for the 2d session of the 96th Congress must be to remove all obstructions to implementing the 1978 AOA regulations in accordance with the intent of Congress, and thus coordinate the tremendous potential of the entire aging network. This can easily be effected by securing the independence of the AOA. The Office of Commissioner on Aging must therefore be elevated to Assistant Secretary status.●

PRESIDENT CARTER AND NATIONAL SECURITY: AN AMERICAN TRAGEDY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. MICHEL) is recognized for 30 minutes.

Mr. MICHEL. Mr. Speaker, on December 12, 1979, President Jimmy Carter, in the East Room of the White House, addressed members of the Business Council.

It is generally agreed that the speech was among the most important made by the President. In it he presented his views on our defense needs, views which contradicted or ignored the defense policies of his administration up to this time.

Such an extraordinary turnabout cannot simply be accepted as evidence of some new insight on the part of the President. It must, instead, be measured against his entire record. Defense policies are not formed in one speech or with tough-sounding rhetoric. They are created out of long-held views and deeply rooted principles, combined with an understanding of defense needs. The President's East Room speech may well be a forerunner of a new vision of defense on his part. But it could also be an attempt on his part to belatedly adopt the rhetoric, if not the principles, of those who for 3 years have tried to convince him his defense policies are a threat to our national security.

How does the President's new rhetoric match his record?

In reporting the President's East Room speech, the Washington Post wrote:

> The President cited two major reasons for increasing defense spending. The first, he said, is that "for nearly 20 years the Soviet Union has been increasing its real defense spending by 3 or 4 percent each year" while U.S. military expenditures actually were declining because of inflation.

This is a truly extraordinary statement. The President is in effect for the first time admitting that his 1976 campaign call for a $7 billion cut was made either out of ignorance or irresponsibility. Either he did not know about Soviet arms spending increases when he called for a cut or else he did know and called for a cut with the hope it would win him votes. In either case he does not come out looking like a statesman or the kind of leader we need.

And it is incredible for the President to state that inflation is an important part of our national security problem without stating that the rate of inflation under his administration has tripled.

In his speech he stated:

> In the dangerous and uncertain world of today, the keystone of our national security is still military strength—strength that is clearly recognized by Americans, by our allies and by any potential adversary . . . our defense programs must be tailored to match our responsibilities.

The President's rhetoric was admirable. Who can deny the simple truths he stated? But, unfortunately, his words had nothing to do with his actions during the past 3 years.

The sad fact of the matter is that under the Carter administration, our military strength has decreased. This fact, whether the President knows it or not, is "clearly recognized by Americans, by our allies and by any potential adversary."

Our defense programs have not been tailored to match our responsibilities under the Carter administration. Rather, they have been tailored to meet the requirements of Carter's philosophy of national security.

This is how Richard Perle, foreign policy expert and aide to Democrat Senator HENRY JACKSON put it in the pages of the Washington Post, October 7, 1979:

> Having come to office with virtually no experience in foreign affairs, President-elect Carter drew around him a small circle of senior officials whose faith in the efficacy of arms control is exceeded only by their abhorrence of military power and their dread of confrontation with the Soviet Union.

In short, this military decline just did not happen. It is the inevitable result of deep-rooted beliefs of the President and high-level officials appointed by him. Ideas have consequences and Carter's ideas on defense have come back to haunt him and us. It now seems as if he belatedly realizes his mistakes. But is this really the case? Or is the President using new rhetoric of preparedness to disguise his old views? There is evidence in the text of the speech that suggests the President has learned nothing new.

In his East Room remarks, he said:

> SALT II will strengthen the military aspects of our national security.

The best that can be said for this statement is that it is misguided. If the President still believes this, he probably still believes his original defense policies were acceptable. Bipartisan analysis tell us SALT II will not, contrary to the propaganda of the administration, make us stronger.

Let me give but one example of what I mean. The Soviet Backfire bomber which has strategic nuclear capability, is not even included in the treaty. We have Soviet President Brezhnev's word that the Backfire will not be modified to be used in a strategic nuclear sense. But since it already has that capability, what have we received from the Soviet Union except words?

I have long been convinced that we are really faced with is not simply whether to ratify the SALT II treaty. What we have to do is reexamine our strength as a whole, nuclear and conventional. We have to know if we have not only the weapons but the will to carry out our defense plans.

In short, SALT II should be put on the shelf while we look at where we are after 3 years of Carter administration decisions.

Let us take a brief look at this complex, profoundly important area by comparing the Ford and Carter records. As former Secretary of Defense Don Rumsfeld points out:

> In January 1977 the U.S. defense effort included:
>
> Programs to procure 244 B-1 follow-on manned bombers scheduled to begin operational deployment this year;
>
> An accelerated MX with initial operational deployment scheduled for 1983;
>
> Cruise missile programs with land and sea deployment scheduled next year and deployment of air-launched cruise missiles on some 200 B-57's beginning in 1981;
>
> Expectations of one and a half Tridents each year, beginning this year; and,
>
> An open Minuteman II ICBM production line available to address the even-then real problem of the Soviets gaining a window of vulnerability on U.S. land-based ICBMs.
>
> The situation today is vastly different. Over the past 1,000 days, U.S. unilateral actions have included cancellation of the B-1 with no quid pro quo, a significant delay of the MX and some delays in cruise missiles to accommodate SALT, technical delays in the Trident II missile, and reductions in shipbuilding, to mention but a few of the more damaging actions.

Along with these failures to go ahead with vital weapons systems, the consensus among military experts in and out of Government is that our conventional forces are ill-equipped, ill-trained and ill-served by Carter policies.

In September 1979, the U.S. 7th Army was on maneuvers in West Germany. The New York Times military expert Drew Middleton reporting on those maneuvers, wrote:

> If this was the real thing, the United States Seventh Army would go into battle armed with helicopters designed in the 1940's, tanks designed in the 1950's and without an infantry-fighting vehicle that approaches the advanced Russian vehicle that has both a gun and a missile. . . . In addition, most of the American artillery pieces were designed for World War I and II.

While the President delivers comforting words to businessmen in the East Room, American fighting men in Europe are faced with a much more grim reality. This is the way Middleton describes it:

> (there are, among military commanders) deep doubts . . . about the effectiveness of American command and control systems in war . . . Gen. Bernard W. Rogers, NATO's Supreme Commander also said . . . "We are in very bad shape in respect to chemical warfare retaliatory capabilities . . . senior officers feel an extra $5 billion . . . will not improve the army's weapons . . ."

How can the President be so optimistic about our NATO strength when a decision to place intermediate range Pershing II and cruise missiles in NATO countries was greeted with dismay by at least two members of that organization. Yes, those missiles will be ultimately placed in three, possibly five NATO countries. But nothing can disguise the fact that the smaller NATO countries—Belgium and the Netherlands—are not willing to do what must be done to defend Europe. The strategic and political ramifications of these recent NATO decisions are too complex for me to discuss in this short time. In any event, the Carter administration cannot simply say we have had an unqualified success in this latest venture.

That verdict of history will be unmistakable: Under the Carter administration our national security forces have been weakened to a point where the very existence of our Nation as a strong, free, independent country is threatened.

The President now presents a new tough-guy image, as if his previous record never existed. Suddenly we see President Carter talking about his "decision" to go ahead with the MX missile—without telling us that he delayed that decision until it may well be too late.

He tells us he is "determined to keep our naval forces more powerful than any other nation."

What he does not tell us was reported in the pages of U.S. News & World Report, March 6, 1978. That magazine stated:

> The United States Navy is in the throes of what may prove to be one of the deepest crises in its 180 year history.

Admiral James L. Holloway III, Chief of Naval Operations was quoted in the same article. Listen to what he said:

> The Navy's ability to operate in the Eastern Mediterranean would be uncertain at best.

Some apologists for the Carter administration tell us that we should not be concerned with the undeniable fact that the Soviet Fleet is larger than ours. After all, they say, ours is of better quality. We have a technological advantage.

I remind you that this is precisely the argument that was made about Soviet missiles. We were told that they had the numbers, but we had the technological improvements. Well, the Soviets caught up to us technologically in missiles and they can in ships as well. They may be mean, but they are not stupid.

These facts were known almost 2 years ago. But nothing was done to act upon the warning implicit in them. And now, suddenly, we see a realization on Carter's part that our Navy is perhaps not as strong as it must be. It might be too late.

The President says, now:

> Each leg of our strategic Triad is being modernized.

What he does not tell us is the New York Times story of December 8, 1977:

> JANE'S EDITORS SAYS B-1 DECISION MAY DOOM THE WEST
>
> President Carter's decision to scrap the B-1 strategic bomber may help bring about a Western defeat if a general nuclear war breaks out, according to the editor of "Jane's All the World's Aircraft" in a preface to the 1977-78 edition.
>
> The editor, John W. R. Taylor, writes in the authoritative annual that rejection of the bomber, which Mr. Carter considered too costly, may endanger the military balance that has prevented war between the two major powers for a generation.

As we witness the predictable results of 3 years of weakness and disregard of national defense needs, of reliance on pious platitudes and good intentions instead of on an understanding of international realities, it is ironic to note that in the second Carter-Ford debate in 1976, Jimmy Carter said we were then in "the worst inflation since the Great Depression." What does he call his tripling of that inflation rate? He does not tell us.

In that debate he said:

> We still have no comprehensive energy policy in this country.

After 3 years of Carter, what do we have as an energy policy? He does not tell us.

In that debate he said that an American President must act in such a way that our Nation is "free of the threat of blackmail." What does he call what has happened to American Embassies since his inauguration? He does not tell us.

If you wonder why I doubt his current rhetoric about a strong national defense, I should remind you that in the debate with President Ford, Carter said:

> I would never give up complete control or partial control of the Panama Canal Zone.

Do you wonder why I am skeptical about his new found embrace of hardline military posture?

Three years after his inauguration, he suddenly reverses field once more and tells us how deeply he believes in strong defense. Tomorrow what will he say?

The day after tomorrow, what national security philosophy will dominate his administration? Who can tell?

The cold hard fact of the matter is that under the leadership of Jimmy Carter our Nation's strength, economic and military, has been grievously harmed.

For almost 10 years, many of Jimmy Carter's fellow party members in the Congress led the fight for defense cutbacks. As a candidate in 1976 he followed their line. He made it clear that he sided with those Democrat Congressmen who said we were spending too much on defense. When he came into office he acted on this philosophy. And now the results of this irresponsibility and intellectual confusion are apparent.

The Nation at last realizes what many did not know—or refused to admit—4 years ago. Jimmy Carter and those in Congress who support his defense policies do not understand the needs of our Nation in national security matters. That is an American tragedy. I pray that our children and their children won't have to pay the price of this disaster.

At a later time I want to address the specific proposals the President made in his speech. Briefly, I think they may be too little and too late. They may not provide the "quick fix" we need in order to get safely through that period known as the Soviet "window of opportunity" in the 1980's.

For the present, I simply wanted to place the President's record against his new rhetoric. It may well be that he has undergone a deep conversion in regard to defense policies. But his record suggests that we wait until we can see if this new-born approach is rooted in principle or in a mixture of politics and polls.

SOVIET REPRESSION OF THE PENTECOSTAL

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. BUCHANAN) is recognized for 5 minutes.

● Mr. BUCHANAN. Mr. Speaker, all of us have been moved by the plight of the Vaschenko and Chmykalov families who have been in the U.S. Embassy in Moscow for nearly a year and a half. We continue to be appalled by the refusal of the Soviet Government to permit this family to emigrate.

And yet, these denials, cruel as they are, do not represent the totality of that Government's actions against this family.

Pentecostals, such as the Vaschenkos and the Chmykalovs, have been subjected to particularly harsh treatment for merely attempting to express their religious beliefs.

In recent weeks, Alexander Vaschenko, the 20-year-old son whose parents languish in our Embassy, has been selected for additional punishment. Alexander has been in a Soviet forced labor camp for the last several years. He has been denied mail privileges at the camp and recently attempted to get a letter out to his parents.

For this "heinous" crime, he has been forced into isolation for at least 6 months. Conditions in Soviet forced labor camps are poor at best and those in isolation are appreciably worse.

The Soviet Government's actions against the Vaschenko family are cruel reminders during this holy season of the continued repression of religious rights and the continued actions against religious believers.

These actions violate numerous agreements which the Soviet Government has signed including the Helsinki Final Act, the Universal Declaration of Human Rights, the Covenant on Civil and Political Rights and even the Soviet Constitution itself.

I deeply regret this latest action which is, unfortunately, but another in a series of promises made to the Soviet people by their Government and then broken by that same Government.●

DAN DOBSON, DEFENSE LOGISTICS AGENCY, ASSISTANT FOR CONGRESSIONAL AFFAIRS, RETIRES

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. EDWARDS) is recognized for 5 minutes.

● Mr. EDWARDS of Alabama. Mr. Speaker, I would like to comment on the pending retirement on January 4, 1980, of Mr. Daniel M. Dobson who has been the special assistant for congressional affairs at the Defense Logistics Agency since July 1963. Mr. Dobson, a Navy veteran of World War II, has provided exceptional support to the needs of the Congress for the past 16 years. He has combined professional behavior with rare good humor and with marked candor, thereby earning the highest respect of those in the Congress with whom he has associated. Through his perseverance, displayed throughout his many years of service, Mr. Dobson has reflected great credit upon himself and the Department of Defense. Mr. Dobson will complete a long and honorable career of service to his country and we wish for him all the best in his retirement.●

HARRIS RESPONSE DOES NOT ANSWER THE QUESTION

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. TAUKE) is recognized for 5 minutes.

● Mr. TAUKE. Mr. Speaker, 4 months ago Secretary Harris issued a memo which has been interpreted as ordering all HEW employees to have no contact whatsoever with any Member of Congress unless it is first cleared through the watchdog Assistant Secretary for Legislation.

At that time, I charged that this unwarranted edict was a direct attempt by Secretary Harris to subvert the protection of the "whistle blower legislation" which Congress passed to afford protection to honest Government employees who come forward with evidence of corruption or mismanagement in the bureaucracy. In the past, such employees were often fired. It appeared that since Secretary Harris could no longer fire those who would root out dishonesty, favoritism, and inefficiency in her Department, she simply forbade all HEW employees to talk to Members of Congress without prior approval.

Her ploy had its intended effect. I had been talking with HEW employees concerned about corruption and conflict of interest in the administration of one of the education programs. They were providing me with concrete evidence of gross mismanagement and possible violations of law by HEW officials. Yet, once Secretary Harris issued her edict, they told me they could no longer talk to me. I asked her for an explanation and clarification.

Now—many months and several additional inquiries later—I have received the Secretary's response to my charge. I cannot help but question why it took so long to receive this bland response. Since there obviously were deep-seated fears raised among HEW employees because of her memo, it would have been appropriate for her to act more expeditiously to clear up misunderstandings—unless, of course, it served her purpose to leave the issue clouded and her employees confused about what they could discuss.

In any case, Secretary Harris' response evades the whole issue raised in my letter of October 22. The question is not whether HEW employees should be able to talk to Members of Congress about "legislation, authorization, appropriations, or policy development." The question is whether or not Secretary Harris forbids her employees to bring forward to Members of Congress evidence of graft, corruption, gross mismanagement, and violations of law by senior HEW employees and to discuss the day-to-day operations or programs administered by HEW. After 3 long months, Secretary Harris still has not answered that question.

Therefore, I am today restating the question in yet another letter to the Secretary. I insert immediately following my remarks both Patricia Harris' response to me, as well as my followup inquiry in the RECORD for the review of my colleagues:

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C. December 17, 1979.

Hon. THOMAS J. TAUKE,
House of Representatives,
Washington, D.C.

DEAR MR. TAUKE: This is in response to your letter which inquired about my memorandum issued to Department employees involving communications with the Congress.

I believe that the intent of my August 16 memorandum has been misconstrued. The memorandum states that matters involving the Congress which relate to "proposed or pending legislation, 1980 authorizations or appropriations, or policy development" are to be cleared with me through the Assistant Secretary for Legislation. The Assistant Secretary for Legislation is the individual designated to manage the Department's legislative program and relationships with Congress. This memorandum makes clear to everyone in the Department that there is a procedure for handling Congressional relations and it continues a policy followed by my predecessor.

There are thousands of people employed by the Department of HEW, and it seems only reasonable that we should know who speaks for the Department on matters of concern to the President and to Members of Congress. Members of Congress have a right to know and should expect that when someone represents the Department, that individual does, in fact, speak for it.

I would emphasize that this policy in no way interferes with the Constitutional rights of any Departmental employee to petition the Congress in their own behalf. I trust this explanation clarifies any misunderstanding which may exist.

Sincerely yours,

Patricia Roberts Harris.

December 19, 1979.

Hon. Patricia Harris,
Secretary of Health, Education, and Welfare,
Washington, D.C.

Dear Secretary Harris: I do appreciate your response to my letter of October 22, 1979 concerning the memorandum you issued to Department employees involving communications with Congress.

However, I cannot help but wonder why it took so long to respond to my inqury. Since there obviously were deep-seated fears raised among HEW employees by this memo, why was action not taken more expeditiously to clear up misunderstandings?

Further, I believe your response evades the main issue I was addressing. The question is not whether HEW employees should be able to talk to Members of Congress about "legislation . . . authorization or appropriations." The question is whether HEW employees are forbidden to bring forward to Members of Congress evidence of wrongdoing by other HEW employees and to discuss the day-to-day operations of programs administered by HEW.

Therefore, I am today restating the question and asking you to respond.

Thank you.

Sincerely,

Tom Tauke,
Member of Congress.●

NATIONAL VISITOR CENTER

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. Collins) is recognized for 10 minutes.

● Mr. COLLINS of Texas. Mr. Speaker, Congress waste of money has never been more exemplified more than in the National Visitors Center. This latest request will add up to $100 million of improvements going into this building. Let us go back and see the history from the time that the bill was first introduced in 1967 when Congressman Gray said that it would not cost us one dime:

> We are pleased to announce to the House that the proposal we bring to you today will not require 1 cent of taxpayers' money in the renovation of Union Station, construction of parking, or the construction of a new railroad passenger station to replace Union Station as a train terminal.

Mr. Cramer said:

> There will be no expenditure of any money by the United States until such time as the facilities of the Visitor Center are available for public use.

Mr. Clausen said:

> One of the most gratifying factors about this legislation proposal is that the private sector will finance the very substantial portion of the facilities required.

The Federal Government has already put in $21.6 million for this project; Urban Mass Transit Authority has invested $8.1 million; the Department of Transportation has committed $23 million out of their Northeast corridor improvement project funds; the D.C. government has put in $1.4 million, and the Washington Terminal Co. which owns this property has put in $16.4 million.

In the meantime, for the past 4 years, the Federal Government has paid rent of $3.3 million a year for a total of $13.2 million to the Washington Terminal Co. At this time, neither the construction of the garage nor the renovation of the building have been completed, and we are being asked to authorize another $39 million for the project.

In 1967 Mr. Gray said the facility needed 13,000 parking spaces. In 1974 he said it needed 4,000 spaces, and today we are talking about 1,400 parking spaces. This project was not supposed to cost the taxpayers one dime. Yet this is the third time Congress has asked the American taxpayers to finance the National Visitors Center. This bill will bring the total amount of money invested into the Center to $110 million. I urge my colleagues to vote "no." ●

SOVIET RESPONSE TO IRAN CRISIS IS REPREHENSIBLE

The **SPEAKER** pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. Holtzman) is recognized for 15 minutes.

● Ms. HOLTZMAN. Mr. Speaker, the Soviet reaction to the holding of American hostages in Iran is generally described, by administration officials and by the press, as "ambiguous." I see little ambiguity.

While paying mild lip service to the U.S. position, the Soviets have acted to turn the dilemma to their own advantage, and have thereby aggravated the crisis.

Soviet radio condoned the embassy seizure by calling it "a decisive response to the overt and covert conspiracies of U.S. imperialism and to the U.S. Government's hostile act of settling the deposed shah in the United States."

A Moscow broadcast reported as fact the Iranian militants' allegations that the U.S. Embassy in Tehran had been a center for spying and for plotting to overthrow the Ayatollah Khomeini.

Both the Soviet Army newspaper and Pravda carried warnings to the Arab world that the United States was preparing a military attack against Iran. Pravda called American diplomatic initiatives a mere cover for these military preparations—even though the Soviets voted with us in the UN Security Council.

Pravda charged, further, that the United States was using the crisis as a pretext for moving forces in to threaten the entire gulf area.

And radio broadcasts spoke of "a campaign hostile to all Islam being waged by U.S. propaganda."

Thus, the Soviets portray our difficulty in Iran as a confrontation with all Moslem peoples; they characterize us, in this moment of national tragedy, as pleased with the opportunity to move aggressively into the gulf area.

If there is any ambiguity in the Soviet reaction, it seems from their uncertainty about how to use the crisis to shore up their own image in this troubled area on their border. It reflects, too, their discomfort at the breach of diplomatic immunity, a principle which has to concern them just as it does us.

But the sum of the Soviet actions is clear—and it is clearly provocative and destructive. It has served to obfuscate the issues, to expand the crisis beyond the borders of Iran, and probably to prolong the detention of 50 Americans.

It calls for an equally unambiguous denunciation.●

CAPITOL POLICE—A PROFESSIONAL AND PRODUCTIVE FORCE

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Annunzio) is recognized for 10 minutes.

● Mr. ANNUNZIO. Mr. Speaker, on Friday, December 4, the Wall Street Journal carried an article by reporter Dennis Farney that contains a passage that, if read by someone not familiar with all of the facts, could easily be misunderstood.

As chairman of the House Subcommittee on Personnel and Police, I want to take this time to set the record straight. In all fairness to reporter Farney, I believe that in carrying the story from page 1 to page 33, the continuity of the story may have been destroyed.

The passage to which I refer read as follows:

> Meanwhile, a congressional work force swollen to 18,400 scurries about: aides, secretaries, waitresses, chefs, publicists distributing press releases. ("Dannemeyer irate over Iran," a freshman California Republican recently announced to the world.) The Capitol police force, 1,187 strong, is bigger than the army of Luxembourg. It costs $550 million a year to pay all these people, up from $150 million a decade ago."

It is understandable why some readers are misled. First, the paragraph describes an 18,400 congressional work force. Then, the paragraph quotes a quote by a Member about Iran. Next, the paragraph discusses the strength of the Capitol Police Force. And, finally the paragraph says the cost for all of these people is $550 million, up from $150 million in 1969.

Mr. Speaker, let me assure my colleagues and the public, it does not cost $550 million for the police force to secure this Capitol and the grounds surrounding it. The grand total budgeted for Capitol Police salaries and expenses in 1979 was $20,007,607.

In 1971, almost a decade ago, a bomb exploded in the Senate, which was of great concern to many of our constituents who were shocked that we were so vulnerable to such violence. As a result, and upon the advice of a team of law enforcement officers, including representatives of the Secret Service and Federal Bureau of Investigation, we took additional steps, which skewed our budget upward, to assure the unlikelihood of a similar occurrence.

Many Members are also aware that this Nation recently gave amnesty to a militant and nonrepresentative group of Puerto Ricans who in the 1950's opened fire on Members in session, wounding a number of them.

In the past half-decade, we have been conservative, perhaps more than we should be in an age of organized international terrorism, and our costs have reflected this. In 1974, we had 1,035 positions on the force at a cost of $11,632,022, up from $5,447,988 in 5 years.

Let me say that two decades from now, in the year 2000, I am sure the costs of a hamburger, or a gallon of heating oil, will be at least three times the cost today, and that the cost of police or other employee services will grow in comparison.

Currently, our protective police force is 1,182 strong. It provides coverage for some 550 fixed posts at entrances to the various Capitol Buildings, in the galleries of the House and Senate, in garages and parking lots, and so forth.

Because the force is on duty 24 hours a day, 7 days a week, the total figure of 1,182 must be divided into three parts to show the true number at hand on any of the three 8-hour shifts. This figure must further be divided by two-sevenths to arrive at the actual figure for any one shift. And, that figure does not take into consideration the further dilution in numbers resulting from officers on leave for holidays, annual vacations, sick leave, administrative leave for special training, and other miscellaneous reasons common to any work force.

The following are the actual figures on the number of police officers for each fiscal year 1969 through 1979. I would like to take credit for all of this development but my responsibility for the police did not begin until 1975 when the Committee on House Administration merged the Subcommittee on Police with the Subcommittee on Personnel.

U.S. CAPITOL POLICE

				Personnel		
Fiscal year	House	Senate	Total USCP	MPD	Police total	Reason for
1969	354	262	616	65	681	Provide coverage for sick and annual leave and to increase administrative personnel. (Converted to 5-day work week and leave system).
1970	354	262	616	66	682	
1971	354	267	621	44	665	Senate increase due to making 5 acting Sergeants permanent. MPD decrease caused by USCP taking assignments held by MPD.
1972	569	431	1,000	43	1,043	To provide increased security measures in wake of bombing.
1973	569	431	1,000	50	1,050	Increased use of MPD in House and Senate galleries.
1974	554	431	985	50	1,035	House authorization decreased to provide funds for pay adjustment of House officials.
1975	627	486	1,113	50	1,163	House and Senate increase due to Congress acquiring the following buildings: HOB Annex No. 1, HOB Annex No. 2, Senate Immigration Annex, Senate Carroll Arms Annex, Senate Plaza Annex, and Senate Courts Annex.
1976	627	513	1,140	50	1,190	Senate increase necessary to cover posts in the Senate Annex buildings.
1977	629	514	1,143	48	1,191	General Counsel to Chief and USCP Deputy Chief authorized under H. Res. 661, 95th Congress. 1st session. Senate authorizes USCP Deputy Chief under Public Law 95–26. MPD Deputy Chief positions reduced accordingly.
1978	629	514	1,143	40	1,183	MPD decrease due to USCP covering the assignments.
1979	629	523	1,152	30	1,182	Senate increase due to USCP covering assignments left open due to decrease in MPD personnel.

Mr. Speaker, I do not think it is enough to list these figures, regarding numbers of personnel and costs of operation, without also reporting on the results of these expenditures and efforts.

During calendar year 1978, which is the last full year for which we have complete statistics, the following major crimes were committed within a six block radius of the Capitol Grounds. There were 24 assaults with a deadly weapon, 3 sexual assaults, 1 murder, 3 kidnapings, 7 rapes, 59 robberies with force and violence used, 67 holdups where violence was not used, and there were 61 cases of breaking and entering.

In contrast, during this same period and within the Capitol Grounds, there were no assaults with deadly weapons, no sexual assaults, no homicides, no kidnapings, no rapes, two robberies with force and violence, four holdups without violence, and two cases of breaking and entering.

During calendar year 1978, a total of 15 arrests were made of persons attempting to enter the various Capitol Buildings, and/or the Galleries of the House and Senate, while in the possession of firearms. Of these 15 arrests, 12 were found guilty, 1 was released due to diplomatic immunity and 2 were dismissed by the U.S. attorney without prosecutions.

Major crimes are prevalent immediately outside the boundaries of our grounds, and would occur with greater frequency within our boundaries if the vigilance of the Capitol Police were lessened. The marked difference in the two sets of statistics is attributable to the aggressive, high-visibility type of patrol maintained by the Capitol Police.

In addition to regular day-to-day assignments during the last full calendar year, the Capitol Police protected our Hill during 46 group demonstrations, both militant and passive; they provided security for more than 80 foreign dignitaries on official trips to visit our Congress, and they provided 51,092 manhours of security for sensitive proceedings of certain House and Senate committees.

In addition to the fixed posts, the Capitol Police maintain various specialized units trained in the detection and handling of explosives, the control of mass gatherings and disturbances, electronic counter surveillance, and so forth.

The Capitol Police also maintain an intricate network of alarms and detection devices to monitor the physical integrity of the Capitol complex and to detect instrusions by unauthorized persons, and to provide rapid police response to situations in congressional offices.

During 1978, 1,468,050 tourists and constituents poured through our Capitol offices, halls and grounds. The latest figure for 1979 shows there have been 1,400,066 visitors to Capitol Hill so far this year. The Honorable Kenneth R. Harding, Sergeant-at-Arms of the House of Representatives, projects a tourist volume of approximately one and a half million for 1980. The Capitol Police have the responsibility for protecting a total population which is much larger than the population of Luxembourg.

Mr. Speaker, our Capitol Police force is charged with the protection of the Congress and all property under the jurisdiction of Congress. It has sole responsibility for the protection of the Nation's Capitol, those of us elected to represent the people, our staffs, and our constituents while they are on the Capitol Grounds.

In order to accomplish its tasks, our policemen and policewomen are often required to report for overtime duty. We are working hard, Mr. Speaker, at reducing these overtime requirements, so that the members of our force can spend more time with their families and lead more normal lives as citizens. It is not easy, in such a time of insecurity, but we are whittling away at it, with the cooperation of the Capitol Police Board. Savings will result, if we are successful.

Let me state the obvious, Mr. Speaker. We want to live in an open democratic society in which the right of a citizen to freely visit his tax-paid property continues to be inalienable. We can put up brick walls like they have at the Kremlin, or put up a high iron stake fence as we have done around the White House to protect our President. Or, we can return to the days of Congresses past by retrieving our own fence which now surrounds the Congressional Cemetery. We can electrify these fences, place searchlights at the corners, and set our police dogs to patrolling the environs. We can have our own Berlin Wall if we wish it.

We do have some choices and we will continue to study the alternatives. But, I for one, Mr. Speaker, am proud of our force as it is today. In a very short time we have made the transition from a patronage force to one of the most professional and efficient of police departments. Our officers now advance through the ranks only after the most rigorous training and merit examinations. I hope the Members will not be misled by articles such as the one that appeared last Friday in the Wall Street Journal.●

REPAIRING OUR ECONOMIC STRUCTURE: HOW THE FINANCIAL COMMUNITY CAN HELP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 10 minutes.

● Mr. REUSS. Mr. Speaker, there follows the text of my article in the December 1979, Institutional Investor magazine:

REDOING THE AMERICAN ECONOMY

Fiscal and monetary policies by themselves cannot cure inflation and recession. If you have a booming inflation, tight monetary and fiscal policies can end it—by causing recession. If you have a wrenching recession, tax cuts and easy money can end it—at the cost of renewed inflation. And an erratic economy generates perverse incentives for banks and other investors. Short-term interest rates rise and traditional sources of capital for productive investment dry up. Equities take a beating while real estate sharks, commodity speculators and international money market manipulators thrive. "Enterprise becomes the bubble on a whirlpool of speculation," as Keynes wrote.

Once the speculative genie is out of the bottle, there is no painless way that monetary authorities can get it back. Central bankers can admonish lending institutions to be conservative, prudent and even-handed in distributing credit to the small businessman, the needy farmer and the homebuyer, as Paul Volcker did recently in a letter to the 5,000 plus Federal Reserve member banks. But such advice runs right against the profit-making grain of every bank—and, worse, even penalizes those who comply to the benefit of those who don't. Practically, the onset of speculative fever signals that monetary policy has already failed. The cycle of boom and recession continues.

There is an alternative. What this country needs, now and for the 1980s, is a structuralist economic approach: a fundamental commitment to rebuild our economic base, our productive capacity, our cities which house that capacity and our transportation network that serves it. Only with a reformed structure can sensible fiscal and monetary policies hope to bring about full employment without inflation.

On both the unemployment side and the inflation side, structural reform is urgent. On the unemployment side, discrimination by age, sex and race, inadequate educational opportunities and jobs located too far from potential workers make it impossible to obtain full employment by macro-economic expansion alone.

On the inflation side, we have an increasingly obsolescent industrial plant. We concentrate on too many low-productivity industries, while leaving high-productivity subcompact autos, mopeds, consumer electronics, light rail passenger equipment and color TV production to foreign producers. Our railroads and mass transit systems are a mess. Our methods of delivering health care are costly and archaic. Our housing industry is threatened by exorbitant land costs and astronomic interest rates. We continue our disastrous drift to more imported oil. Our federal, state and local governments are overlapping, duplicative and inefficient.

THREE FRONTS

We must take three separate, equally important actions.

First, we must shift into those high-technology consumer and capital goods at the leading edge of the product cycle: goods that demand a skilled labor force and whose technological advantage permits the payment of high wages.

Second, we must rebuild the transportation networks, public utilities and urban services that will make our industrial centers efficient locations for those industries.

Third, we must shift out of those low-productivity industries which are hopelessly outclassed by cheaper labor and/or more favorable climates in the developing world. This can be done only if we first cope with the political strength these white elephant industries now possess. And the only remotely decent way to do that is to provide the affected workers with not merely "adjustment assistance" (too often a polite euphemism for welfare), but actual alternative jobs in their own cities, towns and Congressional districts.

American business has to take the lead in this reconstruction. American business has the resources, technological and financial. What seems to be lacking is the incentive to invest in physical plant and equipment in the locations where they are needed. The government's task should be to structure the alternatives facing business so that the immediate investment in areas needing industrial redevelopment is profitable.

But although American business must lead, the fact that in so many industries the technological initiative has been seized by aggressive German and Japanese enterprise should not be ignored: it both complicates and simplifies our own problem of adjustment. The existence of Volkswagen, Datsun, Toyota and Honda makes it very difficult for General Motors, Chrysler, American Motors and Ford to win markets for an indigenous high-performance, energy-efficient small car. The technological lead of the foreigners cannot readily be overcome. But alternatives exist. One is to attract foreign manufacturers to the U.S. with incentives such as those being used by Brazil and other developing nations. Volkswagen is now, after only a year or so in Pennsylvania, already the fourth largest American auto maker, with waiting lists of up to one year for its 41 miles-per-gallon-plus Rabbit diesel. A joining of Renault with American Motors is in the making, with plans just announced to start producing an American Le Car by 1982. RCA just transplanted Japanese techniques to the U.S. and opened a super high-productivity color television plant here. Why not make these marriages of foreign productivity with American labor the key to economic revival and recovery from chronic inflation?

PRODUCTION LIST

What should Americans be producing that we currently aren't? The list begins with the billions that last year we imported from Japan in excess of what we sold to the Japanese. In addition to automobiles and light trucks, there is steel, minicomputers, turntables, television sets, electric razors, quartz watches, tape recorders, motor bikes, cameras and a legion of other high-value consumer equipment yet undreamed of. Self-propelled light rail transit cars, if Budd Co. leaves the business (as it may), will be available only from Italy. Solar energy and wind generating equipment is not yet in mass production anywhere. Nor is gasohol, a potential national lifesaver that is slated to make up an eventual 20 per cent of the motor fuel supply in Brazil.

Who will be hired to man the newly established American manufacturing division of Mitsubishi, Datsun, Seiko, Honda, Sony, Fiat, Volkswagen and the solar, wind power and alcofuel corporations of America? How about some of our textile and shoe workers, for example, now trapped in industries that long ago lost out to Asia and Southern Europe? How about putting American sugar beets, suitably fermented, in our gas tanks, and allowing cheap cane sugar from the tropics back in our kitchens? How about letting Mexico send us vine-ripened winter tomatoes, instead of the artificially gassed specimens we now produce at high cost on dredged Florida swamp? With all of these changes, U.S. workers will get better jobs, U.S. consumers will get cheaper products, the U.S. trade balance will improve and foreign businesses will earn healthy profits in healthy American dollars.

Such a program would deeply involve the investment community. It would mean, perforce, the end of the adversary relationship that has too long troubled both business and government—brought on, no doubt, by perception by both that the other side is not acting in the best national interest. The way to clear this poisonous atmosphere is to get the financial community and the government working together on a program of national reconstruction, based on principles that both communities share: dedication to hard work and team spirit, belief in America's potential and a commitment to restore the preeminent position of American business in the world marketplace.

One possible institutional framework (there are many others) for such business-labor-government planning already exists in the twelve regional Federal Reserve banks. Today the regional banks are contributing little to cure our inflation-recession problem. But they are a great untapped resource: decentralized, well connected, deeply knowledgeable about the economy of their respective regions, staffed to the gills with economists and other technical experts. We could do worse than to use their independent and respected status for the great structural challenge confronting us.

NEW CRITERIA

Once sensible plans have been adopted and their outlines endorsed by business, labor and government leaders in each region, much of the rest will follow naturally. There may, however, need to be a modest new set of investment incentives as well. Traditionally, investment incentives have been in the form of tax credits, which tend to be effective only when the business climate is good and companies expect to have substantial profits on which taxes will be due. We should therefore be studying proposals for investment incentives designed to reduce the cost of borrowing for worthy projects. Unlike tax incentives, such incentives would work nearly as well in bad times as in good. They would therefore provide a powerful aid to macroeconomic stabilization as well as a tightly focused tool for economic reconstruction. And they could be administered, in great detail, with close bank-government coordination and efficient, decentralized decision-making. by the system of regional Federal Reserve banks.

A strengthened and structure-oriented Federal Reserve System could take a leaf from other central banks by guiding credit toward productive uses. Rather than the heavy-handed bureaucratic planning inherent in outright credit allocation such credit guidance would use a carrot-and-stick approach. The result of such a strategy can be dramatic, as the recent Japanese substitution of up-and-coming electronics for dying textiles has demonstrated.

The investment community holds the fate of this approach in its hands. It can supply the resources, absorb the risks and wait out the inevitable shakedown periods. It can help government to fund those parts of the strategy—transportation, housing and urban development—which contribute greatly to the success of private investment but which do not themselves generate much profit. It can help, politically, by getting behind the effort, looking a little less at the short-run balance sheet and a little more at ways to augment America's economic strength for the future.

If the financial community pitches in, the effort will succeed, as it has succeeded in

Japan and Germany. If the financial community chooses instead to ride the roller coaster of speculation, to obstruct rational investment planning and to continue the flight of American capital abroad, then the economic prospects for the 1980's will be grim indeed.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. NELSON) is recognized for 15 minutes.

● Mr. NELSON. Mr. Speaker, due to my absence on official business on Friday, December 14, I was not recorded on rollcalls No. 531 to 535 and 538 to 539. If I had been present I would have voted as follows: "Yes" on approval of the Journal; "yes" on the previous question on House Resolution 506, the rule for the consideration of H.R. 5980, the Antirecession Fiscal Assistance Act; "yes" on adoption of the rule; "yes" on the motion to table the motion to reconsider the vote adopting the rule; "yes" on resolving the House into the Committee of the Whole; "yes" on the committee's technical amendment to H.R. 5980, and "yes" on the amendment to reduce the authorization for the targeted fiscal assistance program from $250 million to $150 million.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. OTTINGER) is recognized for 5 minutes.

● Mr. OTTINGER. Mr. Speaker, on October 26 I was unable to be in Washington. Had I been present, I would have voted as follows:

On H.R. 2313, the Federal Trade Commission authorization, I would have voted "aye."

On H.R. 4167, the Milk Price Support Act, I would have voted "aye."

On the conference report accompanying H.R. 4387, Agriculture appropriations, I would have voted "aye."

On H.R. 1885, retirement preference for certain BIA employees, I would have voted "aye."

On Friday, December 14, I missed rollcall No. 739. The leadership had announced that the last vote of the day would occur at 2 p.m.—this vote was ordered later in the day and by that time I was already en route to New York to honor my commitments there.

This amendment reduced the targeted fiscal assistance authorization from $250 million to $150 million. Had I been present I would have voted "nay."●

MEDICAID COMMUNITY CARE ACT OF 1980

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. WAXMAN) is recognized for 10 minutes.

● Mr. WAXMAN. Mr. Speaker, it is indeed distressing to learn that a quarter of the current nursing home population is estimated not to need residential care. Thousands of elderly and chronically ill persons live in institutions, not for medical reasons, but because of the paucity of health and social services in their communities, and difficulties in reimbursement for such services as do exist.

Medicaid reimbursement policies encourage placement in institutions by providing full coverage for such care, while coverage for community-based care is often capricious, fragmented and inadequate. The Federal share of medicaid expenditures in 1978 totaled $8 billion, of which 40 percent went for nursing home care, while less than 2 percent, about $180 million, went to community care. Yet only 6 percent of our elderly reside in institutions; the rest, many with chronic medical conditions, reside in their communities, half with their families. These elderly want to remain at home; their families want to help them stay at home. Unfortunately, it is increasingly difficult to find and to pay for the services needed to make that choice a reality.

It is time to address the skewed allocation of long-term care funds, time to help those families who wish to care for their elderly at home, time to assist those elderly who can and wish to remain at home.

The Medicaid Community Care Act of 1980, which Mr. PEPPER and I have introduced, broadens medicaid's emphasis to encourage the development of more appropriate and available community programs, for the population of elderly and disabled at risk of institutionalization.

For those individuals at risk of institutionalization in a long-term care facility, the bill will increase the Federal contribution match for community-based services by 25 percent, under the following conditions:

First. The State provides a comprehensive medical and social assessment of each person who may require nursing home care. The assessment would encompass all factors relating to the person's ability to live in the community.

Second. The State provides an expanded range of home- and community-based services for those persons at risk who can and who choose to remain in the community.

Third. The State provides these services under financial limits established by the Secretary, at a rate not to exceed nursing home care in that State.

Fourth. The State coordinates community-based services for this population with similar services provided under medicare, title XX, the Older Americans Act, and other related programs.

States are free to choose to participate in this program. I believe, based on testimony and correspondence with State medicaid representatives in several States, that many would indeed choose to do so.

We regard this legislation as a much-needed beginning in changing the focus of medicaid reimbursement from nursing homes to peoples' homes.

I insert the text of the bill at this point in the RECORD:

H.R. 6194

A bill to amend title XIX of the Social Security Act to provide for comprehensive assessments and community based services under medicaid

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Medicaid Community Care Act of 1980".

SEC. 2. (a) Section 1905(b) of the Social Security Act is amended—

(1) by striking out "(b) The term" and inserting in lieu thereof "(b)(1) Except as provided in paragraph (2), the term"; and

(2) by adding at the end the following new paragraph:

"(2) In the case of a State which has a community care plan approved under section 1913, the term 'Federal medical assistance percentage' means, with respect to comprehensive assessments and services listed in section 1913(a)(2) furnished to individuals determined (pursuant to an assessment under section 1913(a)(1)) to be in need of long-term skilled nursing facility or intermediate care facility services, the lesser of—

"(A) the Federal medical assistance percentage otherwise determined under paragraph (1) plus 25 percentage points, or

"(B) 90 per centum.".

(b)(1) Title XIX of such Act is amended by adding at the end the following new section:

"STATE COMMUNITY CARE PLAN

"SEC. 1913. (a) A State with a plan approved under this title may apply to the Secretary to have Federal payments made with respect to home health care services and certain other services described in paragraph (2), furnished to certain individuals, at a higher rate (as provided in section 1905(b)(2)) than the rate for other care and services with respect to which medical assistance is provided under the State plan. The Secretary may not approve such an application unless it is accompanied by a plan for community care assessments and for the provision of medical assistance under this title with respect to care and services described in paragraph (2) and unless such plan provides as follows:

"(1)(A) The State will provide for a comprehensive assessment of each individual eligible or applying for assistance under the State plan (including any individual who, under the State's plan pursuant to section 1902(h), would be eligible for such assistance based on such an assessment) who is likely to be in need of long-term skilled nursing facility or intermediate care facility services under the plan.

"(B) Except in the case of individuals residing in medically underserved areas (as designated under section 1302(7) of the Public Health Service Act) and under such other special circumstances as the Secretary may establish, such an assessment may not be made by an entity which, directly or indirectly, provides or benefits from the provision of home health care, skilled nursing facility, or intermediate care facility services under this title.

"(C) Such assessment shall consist of a direct, personal assessment, by trained individuals, of all factors (which may include, among others, financial resources, medical, psychological, and social needs, architectural barriers and other environmental factors, family and community support, and ability to live independently with appropriate in-home services) relating to the likelihood of the individual's requiring long-term skilled nursing facility or intermediate care facility services, and such assessment shall determine whether or not the individual is in need of such services.

"(D) The individual shall be informed of such determination and, if determined to be in need of such long-term facility services, shall be informed of the feasible alternatives, available at the choice of the individual, to the provision of such services.

"(2) With respect to individuals determined pursuant to a comprehensive assessment under paragraph (1) to be in need of long-term facility services and for whom the furnishing of medical assistance with respect to the services described in this paragraph is a feasible alternative to such assistance with respect to long-term facility services, the State plan will provide for making medical assistance available with respect to—

"(A) nursing services on a part-time or intermittent basis,

"(B) home health aide services,

"(C) medical supplies, equipment, and appliances suitable for use in the home,

"(D) physical therapy, occupational therapy, and speech pathology and audiology services,

"(E) adult day health services,

"(F) respite care,

"(G) short-term full-time nursing care,

"(H) homemaker services, and

"(I) nutrition counseling,

furnished by providers who meet such standards (including State licensure, where applicable and appropriate) and enter into such participation agreement with the State as the State establishes (in accordance with regulations of the Secretary), without limitation as to amount, duration, or scope, except (at the option of the State) to the extent Federal payment for such medical assistance may not be provided because of section 1903(i)(5); and, the State plan establishes (in accordance with regulations of the Secretary) minimum and maximum reimbursement levels with respect to each of the types of care and services described in this paragraph.

"(3)(A) The State will provide for a plan for coordinating the provision of medical assistance under the State plan with respect to services described in paragraph (2) with furnishing of such and similar services under title XVIII, under the State's plan under title XX, under the Older Americans Act of 1965, and under other similar programs operating in the State.

"(B) The State will provide to the Secretary annually, in conjunction with reports provided under section 1902(a)(6), information on assistance provided under the community care plan under this section and on the plan's impact on the amount and type of medical assistance provided under the State plan with respect to skilled nursing facility and intermediate care facility services.

"(b) The Secretary shall annually report to the Congress, in conjunction with any other annual reports required to be made to the Congress with respect to the program under this title, on the plans approved under this section and on States which have elected the option provided under section 1902(h).".

(2) Section 1902(a)(10) of such Act is amended—

(A) by striking out "and" before "(III)", and

(B) by inserting before the semicolon at the end the following: ", and (IV) the making available of services described in section 1913(a)(2) to individuals pursuant to a State community care plan approved under such section shall not, by reason of this paragraph (10), require the making available of any such services, or the making available of such services of the same amount, duration, and scope, to any other individuals".

(3) Section 1903(i) of such Act is amended—

(A) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or", and

(B) by adding after paragraph (4) the following new paragraph:

"(5) with respect to amounts expended for care and services described in section 1913(a)(2) for an individual during a period to the extent that such amounts exceed a reasonable proportion, promulgated by the Secretary, of the amounts which would have been expended on skilled nursing facility services for such an individual during the period had the individual been institutionalized in such a facility during the period.".

(c) Section 1902 of such Act is amended by adding at the end the following new subsection:

"(h)(1) For purposes of this title, notwithstanding any other provision of this Act, in the case of a State plan which makes medical assistance available to medicaid institutionally eligible individuals (as defined in paragraph (2)(A)), the State may elect to have treated as such an individual any section 1913 eligible individual (as defined in paragraph (2)(B)) who meets the income and resource standards applicable to a medicaid institutionally eligible individual.

"(2) For purposes of this subsection:

"(A) The term 'medicaid institutionally eligible individual' means an individual who—

"(i) is in a skilled nursing facility or intermediate care facility,

"(ii) is deemed under the State plan, if the individual was not in such an institution or facility, to be eligible to have paid with respect to the individual a State supplementary payment, and

"(iii) is eligible for medical assistance under the plan in an amount, duration, and scope equal to that provided to individuals under section 1902(a)(10)(A).

"(B) The term 'section 1913 eligible individual' means an individual who—

"(i) has been determined (pursuant to a comprehensive assessment under section 1913(a)(1)) to be in need of long-term skilled nursing facility or intermediate care facility services,

"(ii) would be institutionalized in a skilled nursing facility or intermediate care facility but for the availability of medical assistance to the individual for services described in section 1913(a)(2), and

"(iii) if in such a facility, would be a medicaid institutionally eligible individual (as defined in subparagraph (A)).".

SEC. 3. The amendments made by this Act shall apply to medical assistance provided, under a State plan approved under title XIX of the Social Security Act, on or after October 1, 1980.●

MEDICAID COMMUNITY CARE ACT OF 1980

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 20 minutes.

● **Mr. PEPPER.** Mr. Speaker, together with the distinguished chairman of the Subcommittee on Health and the Environment, Mr. WAXMAN, I am today introducing the Medicaid Community Care Act of 1979. In my view, this legislation can do a great deal to move us away from the institutional bias which pervades the medicaid program.

As my colleagues are aware, the Select Committee on Aging and its Subcommittee on Health and Long-Term Care, both of which it is my privilege to chair, have strongly supported the expansion of home health benefits under medicare and medicaid as a cost-efficient alternative to institutionalization of the elderly. It is our view that home care is more appropriate for the vast majority of older citizens who do not need 24-hour care in a nursing home, and that this form of care may significantly reduce the rate of expected increases in long-term care costs for the older people of this country whose numbers are expected to more than double over the next 50 years and who, by the year 2030, will constitute some 18 percent of the population.

The over 75 and over 85 age groups are the fastest growing segments of our population today, Mr. Speaker. These persons are most likely to suffer from chronic illness and serious impairment requiring a higher level of care. Since enactment of the medicare and medicaid programs, where the principal emphasis is on institutional care, expenditures for nursing home care have risen dramatically from $2.1 billion in 1965 to $15.8 billion in 1978.

These expenditures reflect not only increasing reimbursement for these services and growing reliance on institutional care for impaired individuals, but also reflect social factors which make it difficult for many families to care for their relatives at home. While the General Accounting Office has reported that the lion's share of care for elderly persons is still provided by family or friends, we have observed an increase in care provided by public agencies. There is a growing interest in the Congress in measures designed to encourage and allow families to care for their elderly relatives at home, and I strongly support the goal of these provisions. On the other hand, in view of the increasing numbers of elderly persons in coming years, and the expanded longevity we happily expect, we cannot avoid the likelihood of expanded services which will be provided by agencies or institutions.

Neither should we contemplate continuation of existing policies which encourage the most expensive forms of care in hospitals or nursing homes and ignore community-based services, which can provide more appropriate and desirable care at lower costs.

The need to begin now to create a flexible system of long-term care is a matter of serious concern by officials in all branches of government at every level of government who deal with issues relating to the health needs of the elderly.

If for no other reason, we must examine our current long-term care policies with respect to the economic implications they present. The Congressional Budget Office has estimated that in fiscal year 1985, we will be spending, under current law, an estimated $42.4 billion for care provided in skilled nursing facilities and intermediate care facilities. This amount is greater than the cost of all health care services for all persons 65 and older paid by all sources in fiscal year 1977. And it is almost 3½ times the amount we spent for these nursing home services in fiscal year 1977.

It is clear that continued reliance on institutional care for the elderly will make it very difficult, if not impossible, to institute alternative services in the years to come. Moreover, lessons learned from the postwar baby boom era can be expected to resurface as this group reaches age 65 and above. While the elderly population will expand considerably over the next 50 years, it is not likely that they will remain as high a percentage of the population for a long period of time, because of changes in the birth rate. Were we to attempt to build a nursing home bed for the percentage of this expanded population which might require nursing home care, we might well be left after this peak period has passed with excess expensive beds which, as we have found from the hospital cost-containment debate, are costly to maintain even when empty. It would seem to make much more sense to promote noninstitutional services, which can more easily be dismantled if and when they become unnecessary.

The issues to be examined in the coming years are of enormous importance to the ability of our health care system to respond to the needs of older persons. But we need not look ahead to understand the need for changing our long-term care policies to reflect the current need for various ranges of services for the elderly. Nowhere is the institutional bias more apparent than in the medicaid program.

Current law allows the States to establish different levels of eligibility for nursing home care than for noninstitutional, community based care. A person with a low income may qualify for medicaid coverage if he or she requires nursing home care, but that same person may find that their income is too high to qualify for noninstitutional services. This statutory bias in favor of institutional care is of serious concern to health professionals and to many States which would be interested in establishing less expensive home-based care programs for those in the population who could be maintained at home with appropriate services.

Under current law, persons whose income is too high to qualify for medicaid eligibility in the community may qualify for medicaid only by entering a nursing home. States are required to provide nursing home care under medicaid, and since 1970, have been required to provide coverage for home health services, as well. But States are allowed to limit the amount, duration, or scope of the home health benefit, and many have placed severe restrictions on the availability of this service.

A primary reason for these restrictions is the degree of financial burden imposed on the States by nursing home care. Expenditures under the medicaid program for fiscal year 1977 exemplify this problem. Of the total amount, $16.3 billion, approximately 40 percent paid for care in skilled nursing facilities and intermediate care facilities, while only some 6 percent of medicaid beneficiaries reside in nursing homes. By contrast, 1.1 percent was paid for home health care. Of funds spent for care for the elderly, approximately 70 percent paid for nursing home care. In my own State of Florida, for example, in fiscal year 1976–77, 29.37 percent of funds spent for care for the elderly under medicaid paid for nursing homes, while 0.001 percent of medicaid expenditures for the aged was spent for home health care.

While we believe that the States could do more under current law to provide home care services, it is nevertheless clear that much of the reason for the low program expenditures for home health can be attributed to the requirement for coverage for nursing home care. We must not cease to provide coverage for nursing home care for that portion of the population who require 24-hour care in an institutional setting. Those persons must be assured of care that is of the highest quality and that is provided with integrity, and our committee will not relent in its efforts to insure that this is the case. Our comments are not meant to disparage nursing home care, but the fact remains that only some 5 percent of elderly persons now reside in nursing homes. And the Department of Health, Education, and Welfare has estimated that between 14 and 25 percent of those persons do not require this form of care.

The bill we introduce today could do a great deal to move us in the direction of home-based care for the vast majority of older persons who can be maintained at home. Some of its provisions reflect recommendations by the Department of HEW in the recently resubmitted home health report. It would give the States flexibility to put home care programs in place without jeopardizing their ability to pay for other required covered services.

Under our proposal, States would be allowed to receive a higher Federal match, 25 percentage points above the current match, to a maximum of 90 percent, for community-based health services provided to those who are likely to need nursing home care. In order to receive this higher Federal match, States would be required to put in place a State community care plan established by a new section 1913 of the medicaid law (title XIX of the Social Security Act).

Those States which choose to accept this plan would be required to provide for those who are eligible or applying for medicaid and who are likely to need nursing home care a comprehensive assessment of all factors which relate to their likelihood of entering a nursing home. With certain exceptions, such as in areas which are medically underserved, these assessments would not be carried out by agencies which would benefit, directly or indirectly, by the provision of home health or nursing home care.

Persons determined to be "at risk" of institutionalization would be informed of feasible alternatives and allowed to choose nursing home or home-based care.

For persons for whom community-based care is a feasible alternative, the State would be required to provide a broad range of services, at the higher Federal match. These services would be rendered by providers who meet State standards and enter into participation agreements with the State, under regulations established by the Secretary. Minimum and maximum reimbursement levels would be established by the State, under regulations by the Secretary. The States would be required to assure that these medicaid services are coordinated with medicare, social services, Older Americans Act programs, and others, to avoid duplication of services.

The care provided to this "preinstitutional" group of persons would be available without limits on amount, duration or scope, up to a percentage of nursing home costs specified by the Secretary. It is important to note this cost-saving feature of the bill, Mr. Speaker. Persons who could be diverted from long-term care facilities would save the States money, allowing care to be provided to more persons.

The bill includes reporting requirements by the States and by the Secretary of HEW regarding the implementation of this optional program.

Finally, Mr. Speaker, the bill includes another important provision which could address, to a large extent, the institutional emphasis of the medicaid law.

Under current law, States may establish the income eligibility requirements for medicaid at a less restrictive level for nursing home care than for community care. Many persons qualify for nursing home care only if they reside in a nursing home. If they choose not to enter a long-term care facility, they are not medicaid eligible. If they are able to and wish to leave a facility, they may lose their medicaid eligibility. Our bill would remedy this situation by allowing the States which adopt the section 1913 community care plan to treat the noninstitutionalized persons who meet the income and resource standards for nursing home residents the same as institutionalized persons for purposes of determining medicaid eligibility.

For example, in a State without a medically needy program, which has a higher income cap for nursing home care than home care, and which has no "spend down" program, a person determined by the assessment to be in need of nursing home care would be made medicaid eligible and eligible for community-based care.

A number of States have indicated their interest in pursuing this course, and a number of States have set about to develop alternative care programs, chiefly through medicaid waivers and demonstration grant funds. We believe that many States, not just those with categorical programs, would be interested in equalizing the treatment of persons who need care that can be provided by medicaid.

While I believe that this bill will be attractive to the States, we want to emphasize that its provisions are optional. Because of the voluntary nature of the bill, hard-and-fast cost estimates are difficult to achieve. But I believe that adoption by the States of the provisions we propose can help to bring about a reduction in the expected rate of increase in long-term care costs in our country. I am hopeful that my colleagues will give this bill the earliest consideration.●

ENHANCING TECHNOLOGICAL INNOVATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 10 minutes.

● Mr. LAFALCE. Mr. Speaker, the announcement that productivity continued to decline during the third quarter of 1979 should serve as an urgent reminder that strong action is necessary to boost productivity.

The declining rate of productivity makes a mockery out of any proposed battle against inflation and undermines the basic health and well-being of the economy. Without improvements in productivity, U.S. firms will be unable to compete either at home or abroad, as has been clearly demonstrated by our recent dismal export performance in nonagricultural goods and services.

During most of the post-World War Two period, this country was in the forefront of productivity growth; but that growth rate has slipped badly since the late 1960's, to the extent that it now trails every other industrialized country, including England. Although the automobile and steel industries are obvious examples, there is scarcely an industrial sector which is not confronted by vigorous competition from abroad.

That effective competition from abroad is based on many factors, but one which is indisputable is the rapidly advancing march of technological innovation in other countries. While the Japanese and Europeans forge ahead with new and highly advanced technologies, spending on research and development as a percentage of the gross national product is declining in this country. Although we have not lost our general technological leadership across the board, recent trends are certainly alarming. If innovation is not encouraged, stagflation will persist, even if the budget is balanced and the money supply tightened.

In April 1978 the President initiated a domestic policy review to identify appropriate Government actions in connection to industrial innovation; and that review has not been completed. Although the administration was strangely silent on the question of tax policy, which was very unfortunate and ill advised, its actual recommendations demonstrate that a solution to the problem of industrial innovation will have to include many elements. There can be no simple solution, but a fresh start must be made now.

Today, I am introducing the National Technology Innovation Act. This is not intended as a national, comprehensive solution, but it is a first step. It is also a necessary step, as illustrated by the administration's endorsement of the concept behind this bill.

The National Technology Innovation Act addresses the problem of industrial innovation in two ways. First, it would improve the ability of universities and industries to collaborate in producing new technological ideas, which could then reach the market. Cooperation between academia and industry is essential to technological breakthroughs, and that cooperation has been sadly lacking in recent years. Second, it would improve and enhance the ability of the Federal Government to identify and locate specific sectoral problems in the economy and possible opportunities to advance technologies which would have an important social and economic impact.

This bill would establish an Office of Industrial Innovation within the Department of Commerce. This Office would be responsible for coordinating all Federal efforts affecting industrial innovation. This would include detailed studies of the needs of individual industrial sectors, the flow of capital, and influx of foreign technology and recommendations for concrete Government measures to advance U.S. technological innovation and exploit foreign innovations.

The Office would also provide assistance for the creation of centers for industrial technology, which would be affiliated with universities, nonprofit institutions, and other qualified groups. The objective of the centers, which would be eligible for Federal grants, is to enhance technological innovation through a wide variety of methods, including research, education, and training. The Centers must be able to demonstrate the ability to make a potential contribution to productivity, employment, and the economic competitiveness of the United States.

Mr. Speaker, failure to act on the problem of declining productivity will doom us to decades of inflation and stagnation. Industrial innovation is one of the keys to higher productivity, and this bill will encourage a more rapid rate of industrial innovation, which will lead inevitably to higher productivity. I also want to commend the Senator from Illinois, Mr. STEVENSON, who has introduced this bill in the Senate and who has focused the attention of the Subcommittee on Science, Technology, and Space on this important problem.●

PISTOL PACKING SANTA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 5 minutes.

● Mr. BINGHAM. Mr. Speaker, yesterday I received one of the most tasteless greeting cards this or any holiday season has ever produced. It was sent by Mr. John Snyder of the Citizens Committee for the Right To Keep and Bear Arms. It depicts jolly old Saint Nick unloading his bag of goodies in a typical living room with a fireplace and Christmas tree. The startling difference between this picture and that on many other Christmas cards is that Santa is joyfully holding a handgun. One can almost imagine that if one of the children of the household should come into the living room, surprising Santa at his tasks, he might be greeted by a blast of gunfire and a bullet through the chest. Since Santa has his finger on the trigger of this handgun, any kind of quick or startling movement might cause him to react by firing it. Can you imagine the Christmas day headlines? "Santa Claus Held in Handgun Murder of 4-Year-Old Child."

What next, one wonders. After all, how does one follow a Christmas card picturing Santa Claus fondling a handgun? Perhaps next year it will be the Baby Jesus playing with a handgun in his manger.

I am certain that others of my colleagues have received this same card and are as outraged as I am. Maybe, however, this card will do more to further the cause of gun control than to stifle it. If an extremely vocal lobbying group such as the Citizens Committee for the Right To Keep and Bear Arms sends such violent and tasteless holiday greetings, especially during a religious holiday season which extolls peace, love, and brotherhood, then perhaps more Americans will be outraged and will join the fight to limit the easy accessibility of the handgun.●

STOCKMAN AIRBAG AMENDMENT IS INNOCUOUS AND AMBIGUOUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. ECKHARDT) is recognized for 15 minutes.

● Mr. ECKHARDT. Mr. Speaker, when Mr. STOCKMAN's amendment on consumer choice of automobile occupant restraint systems was offered to H.R. 2585 this afternoon, I studied it with care before voting on it. I must say that I could have voted either way, because it is innocuous—it has no effect on the agency. The amendment could only apply to the occupant restraint standard after that standard begins to require automatic as opposed to active restraint systems. But that is not until model year 1982, and this bill only applies to fiscal year 1980, long before that change occurs.

In the end, I decided to vote against this amendment as a matter of principle, even though it had been agreed to because of its innocuous nature. I just do not think the Congress should be in the business of writing automobile safety standards. We delegated such technical matters to the agency after telling them to improve the safety of our highways and of our cars. We should stay out of these technical engineering matters.

And the proof of the pudding is this amendment. Not only does it not do anything, but it is very ambiguous as to what it might do if it were applicable to the agency regulation. The gentleman from Michigan argues that the amendment was merely meant to assure that consumers would have a choice among competing restraint systems—to order an active seat belt system, for instance, if they use such belts and want them. But what the amendment actually does is something quite different. It says that a consumer could walk into a dealership and ask for (and be entitled to) more than one system. He could go in and be entitled to a car equipped with both airbags and an active lap and shoulder belt.

I do not believe that to have been the

gentleman's intent in offering this amendment, but it certainly is drafted in that manner.

I hope my colleagues will keep these ambiguities in mind when they consider legislating in technical areas such as automobile safety regulations.●

INFLATION SHOULD BE TOP PRIORITY OF CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. STACK) is recognized for 5 minutes.

● Mr. STACK. Mr. Speaker, the solution to the everincreasing problem of inflation should be the top priority of the Congress at this time. Unfortunately, instead of attempting to deal with the problem, we go our merry way, in effect, heaping fuel on the fire. At least Nero fiddled while Rome burned—we do nothing.

What is the magnitude of the problem? In 8 years of Nixon-Ford, the cumulative rate of inflation was 64 percent—in the first 3 years of the Carter administration, the average annual rate will be at least 10 percent—a cumulative total of 30 percent. Thus, since 1969, inflation has been 94 percent—or, the value of the dollar has depreciated to 50 cents, and we are looking at more of the same—the rate of inflation for 1980 is conservatively estimated at 12 percent.

In truth, we do not really know how fast it will accelerate since inflation is so closely tied to oil imports. It is estimated that the cost of importing oil adds 4 percent to the rate of inflation.

In 1970, we paid $3 billion for imported oil—this year it will cost $60 billion—up 20 fold—although the volume of imports increased only 2.5 times. For the first 9 months of this year the profits of the five leading oil companies was $7.9 billion, up 75 percent—cash flow—allowing for depreciation and depletion, soared to $19 billion.

For the 25 leading oil companies, the 9 month report reflects profits in the magnitude of $16 billion, and cash flow of $37 billion.

After the last OPEC price increase to $23.50 per barrel, the Saudis held the line and sold their prime light oil to U.S. companies at $18 per barrel, anticipating that the saving of $6 per barrel would be passed through to the U.S. consumer—instead, it went to line the pockets of the oil companies. Just a few days ago the Saudis announced an increase, in advance of the current Caracas meeting of OPEC, to $29.50 per barrel. In this announcement, they were joined by Qatar, the Emirates, and Venezuela.

How long will the American people allow themselves to be ripped off by the oil companies? Not very much longer, in my opinion.

Mandatory wage-price controls can be imposed to limit the oil companies to a reasonable profit.

Controls will work if they are left on for an indefinite period of time; in this case, until we achieve energy independence, and when they are removed, it should be done on a very tentative basis—prices should never be allowed to increase more than productivity. This must be our essential task as a nation—to increase productivity. Since World War II, we have turned over our industrial base—that is, our plant and equipment, only once in 30 years. Japan has turned over its industrial base every 10 years.

Labor can be productive and effective only if given the proper tools. Let us inaugurate a Marshall plan for U.S. industry. This Congress struck a blow for liberty yesterday in the Chrysler vote, which will give Chrysler the capital to retool and recapture the small-car market from foreign imports. Let us do the same for steel and other basic industries—a partnership between Government, management, and labor to increase productivity will eventually recapture our domestic and foreign markets from Japan, Inc., and West Germany.

In the interim, let us impose wage-price controls on the 2,000 largest companies which do 85 percent of the business in the United States. This will buy us the time to get our house in order—the alternative is to go the way of Germany under the Weimar Republic. Distasteful as it may be, let us screw our courage to the sticking point and save this country from economic disaster.

GENERAL LEAVE

Mr. MURPHY of Pennsylvania. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of the special order today by the gentleman from Michigan (Mr. BRODHEAD), and I make the same request for the gentleman from Florida (Mr. PEPPER).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. DECKARD (at the request of Mr. RHODES), for today, December 20, and the balance of the week, on account of dental surgery.

Mr. DIXON (at the request of Mr. WRIGHT), for December 19 and 20, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DANIEL B. CRANE) to revise and extend their remarks and include extraneous material:)

Mr. GOLDWATER, for 5 minutes, today.

Mr. MILLER of Ohio, for 10 minutes, today.

Mr. GRASSLEY, for 5 minutes, today.

Mr. MICHEL, for 30 minutes, today.

Mr. BUCHANAN, for 5 minutes, today.

Mr. EDWARDS of Alabama, for 5 minutes, today.

Mr. GINGRICH, for 1 hour, December 20, 1979.

Mr. TAUKE, for 5 minutes, today.

Mr. COLLINS of Texas, for 10 minutes, today.

Mr. DORNAN, for 15 minutes, December 20, 1979.

(The following Members (at the request of Mr. MURPHY of Pennsylvania) to revise and extend their remarks and include extraneous material:)

Ms. HOLTZMAN, for 15 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. ANNUNZIO, for 10 minutes, today.

Mr. REUSS, for 10 minutes, today.

Mr. NELSON, for 15 minutes, today.

Mr. OTTINGER, for 5 minutes, today.

Mr. PEPPER, for 20 minutes, today.

Mr. LAFALCE, for 10 minutes, today.

Mr. BINGHAM, for 5 minutes, today.

Mr. ECKHARDT, for 15 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MCCORMACK, to revise and extend his remarks immediately following the vote on the conference report on S. 673.

Mr. MINISH, immediately following the remarks of Mr. ASHLEY on the conference report on H.R. 3875.

Mr. FOUNTAIN, to insert his statement prior to final vote on conference report on H.R. 3875.

Mr. MAGUIRE, and to include extraneous matter, on H.R. 2585 in the Committee of the Whole today.

Mr. BEDELL, to revise and extend, during general debate on S. 918.

(The following Members (at the request of Mr. DANIEL B. CRANE) and to include extraneous matter:)

Mr. ASHBROOK in three instances.

Mr. BURGENER.

Mr. MCKINNEY.

Mr. MILLER of Ohio in four instances.

Mr. FINDLEY.

Mr. SHUMWAY.

Mr. HOLLENBECK in two instances.

Mr. DANIEL B. CRANE in two instances.

Mr. MARTIN.

Mr. HILLIS.

Mr. RITTER in two instances.

Mr. PAUL in five instances.

Mr. GOLDWATER.

(The following Members (at the request of Mr. MURPHY of Pennsylvania) and to include extraneous material:)

Mr. WAXMAN.

Mr. KILDEE.

Mr. MINETA.

Mr. HAMILTON in two instances.

Mr. SKELTON.

Mr. SWIFT.

Mr. LAFALCE.

Mr. NELSON.

Mr. ROE.

Mr. REUSS.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 328. An act for the relief of Mr. Oliver O. Ratajczek and his wife, Christine Diane Ratajczek; to the Committee on the Judiciary;

S. 1442. An act to authorize the documentation of the vessel, *Sara* as a vessel of the

United States with coastwise privileges; to the Committee on Merchant Marine and Fisheries;

S. 1850. An act to authorize the conveyance of lands in the city of Hot Springs, Arkansas; to the Committee on Interior and Insular Affairs; and

S. 1863. An act to authorize the Secretary of Commerce to charter the nuclear ship *Savannah* to Patriots Point Development Authority, an agency of the State of South Carolina; to the Committee on Merchant Marine and Fisheries.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 585. An act to authorize the Secretary of the Interior to engage in a feasibility study; and

S. 2145. An act to authorize the burial of Elizabeth Myers McNeil in the Veals Chapels Cemetery, Fort Jackson, S.C.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1283. An act for the relief of Pang Chong Ae;

H.R. 3343. An act to permit civil suits under section 1979 of the Revised Statutes (42 U.S.C. 1983) against any person acting under color of any law or custom of the District of Columbia who subjects any person within the jurisdiction of the District of Columbia to the deprivation of any right, privilege, or immunity secured by the Constitution and laws;

H.R. 3875. An act to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes;

H.R. 5645. An act to grant to the Little Sisters of the Poor all right, title, and interest of the United States in the land comprising certain alleys in the District of Columbia.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on December 18, 1979, present to the President, for his approval, bills of the House of the following titles:

H.R. 887. An act for the relief of Elizabeth Berwick and Alexander Berwick, her husband;

H.R. 2477. An act for the relief of Jesus Reveles y Rivera;

H.R. 2531. An act for the relief of Russell W. Allen; and

H.R. 4943. An act granting the consent of Congress to the compact between the States of New York and New Jersey providing for the coordination, facilitation, promotion, preservation, and protection of trade and commerce in and through the Port of New York District through the financing and effectuation of industrial development projects.

ADJOURNMENT

Mr. MURPHY of Pennsylvania. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 2 minutes p.m.), the House adjourned until tomorrow, Thursday, December 20, 1979, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the amended first, second, and third quarters of calendar year 1979 in connection with foreign travel pursuant to Public Law 95–384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE JUDICIARY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JANUARY AND MARCH 1979

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Hyde, M.C	1/2	1/5	Korea	72,600	$150.00		$74.76			72,600	$224.76
	1/5	1/10	Thailand	4/567.50	225.00		56.93			4/567.50	281.93
	1/6	1/8	Burma	975	150.00					975	150.00
	1/10	1/11	Malaysia	165	75.00		77.20			165.00	152.20
	1/11	1/13	Republic of China	8,088.80	225.00					8,088.80	225.00
Military transportation: Republic of China to Washington, D.C							811.75				811.75
Commercial airlines: Los Angeles to Korea, paid by Department of State.							950.00				950.00
Total					825.00		1,970.64				2,795.64
Hon. George Danielson, M.C	8/20	8/22	Spain	10,164	154.00					10,164	154.00
	8/22	8/24	Portugal	7,275	150.00					7,275	150.00
	8/24	8/28	Yugoslavia	5,730	300.00					5,730	300.00
	8/28	8/31	Austria	5,132.15	384.00					5,132.15	384.00
	8/31	9/3	Belgium	9,428	321.00					9,428	321.00
Military							948.16				948.16
Hon. Hamilton Fish, Jr., M.C	7/19	7/22	Switzerland	627.35	384.00		1,746.00			627.35	2,130.00
Hon. Elizabeth Holtzman, M.C	7/19	7/22	Switzerland	470	288.00		[3] 847.90			470	1,135.90
Hon. Carlos Moorhead, M.C	8/8	8/9	Hong Kong	800.76	156.00					800.75	156.00
	8/9	8/10	Thailand	3,063	150.00					3,063	150.00
	8/10	8/12	Vietnam		150.00						150.00
	8/12	8/15	Sri Lanka	3,488	225.00					3,488	225.00
	8/15	8/17	Pakistan	1,485	150.00					1,485	150.00
	8/17	8/24	U.S.S.R	145.59	225.00		(4)			145.59	225.00
Hon. Robert McClory, M.C	7/19	7/22	Switzerland	313.35	192.00		(4)			313.35	192.00
Garner J. Cline	7/19	7/22	Switzerland	627.35	384.00	226.55	1,884.77			853.90	2,268.77
Alexander B. Cook	7/19	7/22	Switzerland	313.35	192.00		(4)			313.35	192.00
Committee total					3,805.00		5,426.83				9,231.8

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military transportation 1 way.

[4] Military transportation.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, SPEAKER AUTHORIZED VISIT TO SWEDEN, U.S. HOUSE OF REPRESENTATIVES, EXPENDED MAY 28 1979

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S currency [1]
Hon. Lee H. Hamilton	5/28	5/28	Sweden	None			$84.00				
Hon. Frank Annunzio	5/28	5/28	Sweden	None			84.00				
Hon. Charles Rose	5/28	5/28	Sweden	None			84.00				
Hon. Paul Findley	5/28	5/28	Sweden	None			84.00				
Hon. John Paul Hammerschmidt	5/28	5/28	Sweden	None			84.00				
Hon. Norman Dicks	5/28	5/28	Sweden	None			84.00				
Mrs. Nancy Drake	5/28	5/28	Sweden	None			84.00				
Total							588.00				

[1] Per diem constitutes loading and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

Note: Pro rata share of cost of KC-135 military aircraft.

Dec. 5, 1979

LEE H. HAMILTON.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, SPEAKER AUTHORIZED VISIT TO POLAND, NETHERLANDS, AND SPAIN, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 28 AND JUNE 2, 1979

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Phillip Burton	5/28	5/31	Poland	8,542	$270.00		$321.80				
	5/31	6/1	Netherlands	161	80.00		200.00				
	6/1	6/2	Spain	4,950	75.00		125.50				
	6/2		United States				563.00				
Hon. Bob Wilson	5/28	5/31	Poland	8,542	270.00		295.32				
	5/31	6/1	Netherlands	161	80.00		200.00				
	6/1	6/2	Spain	4,950	75.00		125.50				
	6/2		United States				563.00				
Peter A. Abgruzzese	5/28	5/31	Poland	8,542	270.00		295.32				
	5/31	6/1	Netherlands	161	80.00		200.00				
	6/1	6/2	Spain	4,950	75.00		125.50				
	6/2		United States				563.00				
Total					1,275.00		3,576.14				

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

Note: Includes pro rata share of cost of military aircraft.

Dec. 5, 1979.

PHILLIP BURTON.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, OPENING SESSION, EUROPEAN PARLIAMENT IN STRASBOURG, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 16 AND 19, 1979

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Congressman Sam Gibbons (Represented Speaker at his request).	7/17	7/19	France	947.25	$225.00	7,603.26	$1,806.00			8,550.51	$2,031.00
		7/17	France			178.00	41.83			178.00	41.83
Hotel bill				1,515							
Total										8,728.51	2,072.83

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

Dec. 4, 1979.

SAM GIBBONS.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3048. A letter from the Secretary of Defense, transmitting a report on the B-52 aircraft modifications program, pursuant to section 102 of Public Law 96-107; to the Committee on Armed Services.

3049. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing, transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken by the Army Reserve, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

3050. A letter from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation to amend the mortgage amount, sales price and interest rate limitations under the Government National Mortgage Association emergency home purchase assistance authority, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

3051. A letter from the Comptroller General of the United States, transmitting a report evaluating the Intergovernmental Personnel Act of 1970 (FPCD-80-11, December 19, 1979); to the Committee on Government Operations.

3052. A letter from the Secretary of the Interior, transmitting the annual report of the U.S. Government Comptroller for Guam on the fiscal condition of the Government of Guam for the year ended June 30, 1978, pursuant to section 9-A(g) of the Organic Act of Guam, as amended; to the Committee on Interior and Insular Affairs.

3053. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend title V of the Motor Vehicle Information and Cost Savings Act, "Improving Automotive Efficiency," to exempt automobile manufacturers producing fewer than 10,000 vehicles per year from both the fuel economy standards and the semiannual reporting requirements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

3054. A letter from the Deputy Secretary of the Treasury, transmitting a draft of proposed legislation to amend chapter 40, title 18, United States Code, to eliminate the hazards to persons and property by authorizing the destruction of unsafe explosive materials subject to seizure and forfeiture; to the Committee on the Judiciary.

3055. A letter from the Secretary of Health, Education, and Welfare, transmitting a report on the investigation into alleged violations of laws, rules, regulations, mismanagement, and harassment in the West Los Angeles, Calif., Office of Hearings and Appeals, Social Security Administration, pursuant to 5 U.S.C. 1206(b) (5) (A); to the Committee on Post Office and Civil Service.

3056. A letter from the Chairman, President's Commission on the Holocaust, transmitting the report of the Commission; to the Committee on Post Office and Civil Service.

3057. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on the Manistique River Basin, Mich., pursuant to section 208 of the Flood Control Act of 1960; to the Committee on Public Works and Transportation.

3058. A letter from the Administrator of General Services, transmitting a prospectus proposing alterations of the Lakewood, Colo., Building 47, Denver Federal Center, pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

3059. A letter from the Chairman, President's Advisory Commission on Foreign Language and International Studies, transmitting the report of the Commission; jointly, to the Committees on Education and Labor, and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BOLLING: Committee on Rules. H. Res. 511. A resolution waiving certain points of order against the conference report on the bill (H.R. 2440) to repeal the prohibition against the expenditure of certain discretionary funds under the Airport and Airway Development Act of 1970 (Rept. No. 96-717). Referred to the House Calendar.

Mr. ANDERSON of California: Committee of conference. Conference report on H.R. 2440 (Rept. No. 96-715). Ordered to be printed.

Mr. ANDERSON of California: Committee of conference. Conference report on S. 1300 (Rept. No. 96-716). Ordered to be printed.

Mr. ULLMAN: Committee of conference. Conference report on H.R. 3091 (Rept. No. 96-718). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. ANDERSON of California (for himself, and Mr. Matsui):

H.R. 6180. A bill to amend title 5 of the United States Code to provide for an allowance of 4 cents per mile to Federal employees for the use of bicycles while engaged on official business, and for other purposes; to the Committee on Government Operations.

By Mr. DRINAN (for himself, Mr. Bingham, Mr. Carney, Mr. Corrada, Mr. Dellums, Mr. Erdahl, Mr. Flood, Mr. Guarini, Mr. Hughes, Mr. Lehman, Mr. Levitas, Mr. Markey, Mr. Mitchell of Maryland, Mr. Moorhead of Pennsylvania, Mr. Oberstar, Mr. Petri, Mr. Stokes, Mr. Studds, Mr. Vento, Mr. Weiss, Mr. Wolff, Mr. Yatron):

H.R. 6181. A bill to amend title 38, United States Code, to establish certain procedures for the adjudication of claims for benefits under laws administered by the Veterans' Administration; to apply the provisions of section 553 of title 5, United States Code, to rulemaking procedures of the Veterans' Administration; to provide for judicial review of certain final decisions of the Administrator of Veterans' Affairs; to provide for the payment of reasonable fees to attorneys for rendering legal representation to individuals claiming benefits under laws administered by the Veterans' Administration; and for other purposes; to the Committee on Veterans' Affairs.

By Mr. EDGAR:

H.R. 6182. A bill to amend the Revenue Act of 1978 to provide that the inclusion in gross income of certain amounts of unemployment compensation shall not apply to unemployment compensation which is payable by reason of a work stoppage in 1973 but which was not paid until 1979; to the Committee on Ways and Means.

By Mr. GUARINI:

H.R. 6183. A bill to establish a commission to study alternative means by which regulatory mechanisms, applicable under State or Federal law to certain public utilities, could be adapted or otherwise applied to the oil industry, and to measure the resulting costs and benefits of such application; to the Committee on Interstate and Foreign Commerce.

By Mr. HOLLENBECK:

H.R. 6184. A bill to amend title II of the Social Security Act to make it clear that social security benefits are and will continue to be exempt from all taxation, and to provide that automatic cost-of-living increases in such benefits shall be made on a semiannual basis (rather than only on an annual basis as at present); to the Committee on Ways and Means.

By Mr. HOWARD:

H.R. 6185. A bill to amend title II of the Social Security Act to increase to $7,200 in the case of an individual under age 65, and to $10,500 in the case of an individual age 65 or over, the amount of outside earnings which (subject to further increases under the automatic adjustment provisions) is permitted each year without any deductions from benefits thereunder; to the Committee on Ways and Means.

By Mr. LaFALCE:

H.R. 6186. A bill to promote U.S. technological innovation for the achievement of national economic, environmental, and social goals, and for other purposes; to the Committee on Science and Technology.

By Mr. LEACH of Iowa:

H.R. 6187. A bill to repeal special bulk third-class mail rates for political committees; to the Committee on Post Office and Civil Service.

By Mr. LEE:

H.R. 6188. A bill relating to Indian claims under the Trade and Intercourse Act of 1970 to land in the counties of Seneca and Cayuga in the State of New York; to the Committee on Interior and Insular Affairs.

By Mr. MARTIN:

H.R. 6189. A bill to remove the discrimination against fiscal year individuals with respect to the changes in the minimum tax on capital gains made by the Revenue Act of 1978; to the Committee on Ways and Means.

By Mr. MITCHELL of New York:

H.R. 6190. A bill to amend the Internal Revenue Code of 1954 to stimulate savings of income for retirement, and for other purposes; to the Committee on Ways and Means.

By Mr. NELSON:

H.R. 6191. A bill to amend the State and Local Fiscal Assistance Act of 1972 to terminate the State government share of funds allocated to the States beginning with fiscal year 1980; to the Committee on Government Operations.

H.R. 6192. A bill to amend title 18, United States Code, to make a crime the use, for fraudulent or other illegal purposes, of any computer owned or operated by the United States, certain financial institutions, and entities affecting interstate commerce; to the Committee on the Judiciary.

By Mr. NELSON (for himself, Mr. Duncan of Tennessee, Mr. Burgener, and Mr. Leach of Louisiana):

H.R. 6193. A bill to prohibit any increase in the publicly held debt of the United States during any fiscal year if, during the previous fiscal year, outlays by the United States exceeded receipts of the United States; to the Committee on Ways and Means.

By Mr. PEPPER (for himself and Mr. Waxman):

H.R. 6194. A bill to amend title XIX of the Social Security Act to provide for comprehensible assessments and community based services under medicaid; to the Committee on Interstate and Foreign Commerce.

By Mr. PETRI:

H.R. 6195. A bill to amend the Internal Revenue Code of 1954 to provide that the Internal Revenue Service shall send a notification of responsibility for Federal income taxes in lieu of tax return forms to individuals electing not to receive such forms; to the Committee on Ways and Means.

By Mr. SHUMWAY:

H.R. 6196. A bill to implement the recommendations for Federal action by the Interagency Task Force on Mono Lake, Calif.; to the Committee on Interior and Insular Affairs.

By Mr. WHITTEN:

H.J. Res. 467. Joint resolution making an urgent appropriation for administrative expenses of the Chrysler Corp. loan guarantee program, and to provide financial assistance to the Chrysler Corp. for the fiscal year ending September 30, 1980; to the Committee on Appropriations.

By Mr. WOLFF (for himself, Mr. Leach of Iowa, Mr. Bonker, Mr. Pritchard, Mr. Derwinski, Mr. Oberstar, Mr. Dodd, Mr. Beilenson, Mr. Stark, Mr. Whitehurst, Mr. Bedell, Mr. McDonald, Mr. Barnes, Mr. Bonior of Michigan, Mr. McCloskey, Mr. Scheuer, Mr. Hughes, Mr. Dougherty, Mr. Lagomarsino, Mr. AuCoin, Mr. Gilman, Mr. Neal, Mr. Whittaker, Mr. Edwards of Oklahoma, Mr. Pease, Mrs. Fenwick, Mr. McHugh, Mr. Mitchell of Maryland, Mr. Green, Mr. Dicks, Mr. Panetta, Mr. Tauke, Mr. Kramer, Mr. Thompson, Mr. Daschle, Mr. Frenzel, Mr. Albosta, Mr. Fazio, Mr. Bingham, Mr. Solarz, Mr. Pepper, Mr. Ottinger, Mr. Carney, Mr. Lowry, Mr. Aspin, Mr. Hall of Ohio, and Mr. Mica):

H. Res. 512: Resolution condemning the use of chemical agents in Indochina; to the Committee on Foreign Affairs.

DELETION OF SPONSORS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H. Con. Res. 129: Mr. Lungren.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 785: Mr. Myers of Pennsylvania, Mr. Wolpe, Mr. Maguire, and Mr. Harkin.

H.R. 789: Mr. Roybal.

H.R. 1785: Mr. Hamilton, Ms. Oakar, Mr. Kindness, Mr. Stack, and Mr. Lent.

H.R. 2074: Mr. Roybal and Mr. Howard.

H.R. 2421: Mr. Leland, Mr. Addabbo, Mr. Solarz, Mr. Stokes, Mr. Lowry, Mr. Edwards of California, Mr. Vento, Mr. Corrada, Ms. Mikulski, Mr. Gonzalez, and Mrs. Spellman.

H.R. 2422: Mr. Leland, Mr. Addabbo, Mr. Solarz, Mr. Stokes, Mr. Lowry, Mr. Edwards of California, Mr. Vento, Mr. Corrada, Ms. Mikulski, Mr. Gonzalez, and Mrs. Spellman.

H.R. 2423: Mr. Leland, Mr. Addabbo, Mr. Solarz, Mr. Stokes, Mr. Lowry, Mr. Edwards of California, Mr. Vento, Mr. Corrada, Ms. Mikulski, Mr. Gonzalez, and Mrs. Spellman.

H.R. 3245: Mr. Brown of Ohio, Mr. Rudd, Mr. Stump, and Mr. Williams of Montana.

H.R. 4253: Mr. Cavanaugh and Mr. Fazio.

H.R. 4448: Mr. Edgar.

H.R. 4834: Mr. Rosenthal, Mr. Mottl, Mr. Dellums, Mr. Solarz, Mr. Garcia, Mr. Seiberling, Mrs. Spellman, and Mr. Pepper.

H.R. 4854: Mrs. Spellman and Ms. Holtzman.

H.R. 5060: Mr. Shannon.

H.R. 5371: Mr. Mica and Mr. Bedell.

H.R. 5449: Mr. Dornan, Ms. Ferraro, Ms. Holtzman, Mr. Murphy of New York, Mr. Pepper, Mr. Rosenthal, Mr. Solarz, Mr. Weiss, and Mr. Zeferetti.

H.R. 5518: Mr. Oberstar, Ms. Oakar, Mr. Pepper, Mr. AuCoin, Mr. Bonior of Michigan, Mr. Stark, Mr. Mitchell of Maryland, Mr. Downey, Mr. Ottinger, Mr. Gray, Mr. Simon, Mr. Daschle, and Ms. Holtzman.

H.R. 5569: Mr. Howard and Mr. Bowen.

H.R. 5704: Ms. Mikulski, Mr. Hyde, Mr. Burgener, Mr. Carney, Mr. Hutto, Mr. Trible, Mr. Dellums, Mr. Goldwater, Mr. Evans of Georgia, Mr. Scheuer, Mr. Pepper, Mr. Matsui, and Mr. Bedell.

H.R. 5715: Mr. AuCoin.

H.R. 5809: Mr. Davis of South Carolina, Mr. Spence, Mr. Campbell, Mr. Holland, Mr. Jenrette, Mr. Corcoran, Mr. Goldwater, Mr. Gray, Mr. Mitchell of Maryland, Mr. Murphy of Pennsylvania, Mr. Pepper, and Mr. Rahall.

H.R. 5846: Mr. Gingrich.

H.R. 5914: Mr. Akaka, Mr. Fazio, Mr. Clinger, Mr. Pepper, Mr. Roe, Mr. Vento, Mr. Ertel, Mr. Tauke, Mr. Markey, Mr. Sabo, Mr. Heftel, Mr. Gray, Mr. Seiberling, Mr. Howard, Mr. Davis of Michigan, Mr. Dougherty, and Mr. Miller of California.

H.R. 5945: Mr. Stratton, Mr. Albosta, Mr. Lagomarsino, Mr. Rousselot, Mr. Robert W. Daniel, Jr., Mr. Lungren, Mr. Kindness, Mr. Rinaldo, and Mr. Roth.

H.R. 6066: Mr. Matsui, Mr. Mineta, and Mr. Vento.

H.R. 6070: Mr. Rhodes, Mr. Abdnor, Mr. Burgener, and Mr. Oberstar.

H.R. 6109: Mr. Howard, Mr. Erlenborn, Mr. Glickman, Mr. Anthony, Mr. Daschle, Mr. Hefner, and Mr. Rinaldo.

H.R. 6153: Mr. Abdnor and Mr. Hillis.

H.R. 6154: Mr. de la Garza.

H.J. Res. 374: Mr. Clausen, Mr. Traxler, Mr. Dougherty, Mr. Fazio, Mr. Matsui, Mr. Livingston, Mr. Paul, Mr. Won Pat, Mr. Bowen, Mr. Jenrette, Mr. Wolff, Mr. Guarini, Mr. Jacobs, Mr. Gilman, Mr. Jeffords, Mr. Young of Florida, and Mr. Fisher.

H.J. Res. 408: Mr. Moorhead of California, Mr. Hance, Mr. Winn, Mr. Erdahl, Mr. Jeffries, Mr. Ashbrook, Mr. Kramer, Mr. Edwards of Oklahoma, Mr. Lott, Mr. Trible, and Mr. Bauman.

H. Con. Res. 225: Mr. Nichols, Mr. Anthony, Mr. Charles Wilson of Texas, Mr. Zeferetti, Ms. Mikulski, Mr. Rosenthal, Mr. Harkin, Mr. Traxler, Mr. McHugh, Mr. Royer, Mr. Vento, Mr. Kastenmeier, Mr. Weiss, Mr. Watkins, Mr. Wolff, and Mr. Bonker.

PETITIONS, ETC.

Under clause 1 of rule XXII,

256. The SPEAKER presented a petition of the village council, McConnelsville, Ohio, relative to national unity during the crisis in Iran; to the Committee on the Judiciary.

SENATE—*Wednesday, December 19, 1979*

(Legislative day of Saturday, December 15, 1979)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. Bradley).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

O God of love, we give Thee thanks for all Thou hast given us, for health and strength, for love of family and of home, for joys of friendship, for work to do and colleagues with whom to do it. May our conscience be our master. May our only motive be to serve this Nation well and to love Thee with our whole mind and soul and strength.

We praise Thee for all Thy servants who, by their example and encouragement, have helped us on our way, and for every vision of Thyself which Thou hast ever given in sacrament or prayer. With all these, Thy gifts to us, may we serve Thee acceptably and finally hear Thee say, "Well Done, good and faithful servant, enter into the joy of the Lord." Amen.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized for not to exceed 5 minutes.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CHRYSLER—A PRACTICAL DECISION

Mr. ROBERT C. BYRD. Mr. President, when Chrysler Corp. approached the Treasury several months ago to request Federal assistance, my initial reaction was skeptical. Like most Members of this body, I questioned the wisdom of risking taxpayers' money to save a company which had failed to modernize to meet the demands of the market.

Rescuing the financiers and management of a failing company is contrary to the basic tenets of capitalism. Investors are supposed to be rewarded because they risk their capital. Selectively insulating certain financiers from risk distorts the flow within financial markets.

But in the intervening months since Chrysler first formulated its request, I have had the opportunity to weigh these considerations against the likely impact of inaction.

The hearings conducted by the Senate Banking Committee and the public debate in the press have convinced me that the costs of letting the company fail far outweigh the benefits which derive from strict adherence to an economic principle. I am persuaded that practical considerations compel Federal assistance for Chrysler.

On September 6, I addressed the Chrysler issue at some length. I recommended that, in order to avoid vesting the benefits of Federal aid with its financiers, any assistance should provide for a major issuance of equity to the work force.

I am pleased that the Banking Committee has included a $250 million employee stock option plan in its version of the bill. The committee saw the potential for increased productivity which should derive from making the Chrysler workers owners of their company. The sooner the shares are issued to the workers, the faster the effects on productivity can be realized. Fortunately, the Banking Committee bill contemplates the rapid creation and funding of an ESOP.

In that same September 6 speech, I outlined a series of issues which needed to be addressed before deciding on Federal assistance to Chrysler. I should like to restate those points and suggest the answers which have evolved over the last several months.

First. Has the company exhausted every conceivable form of self-help? Not only has the company made great strides in reducing inventory, liquidating assets, and forestalling creditors, but the terms of the legislation before us today require substantial contributions from non-Federal sources as a prerequisite to Federal assistance.

Second. What would be the impact of Chrysler's failure on employment, competition, credit and equity markets, and the general economy? One has a variety of sources, with vastly differing conclusions, to consult for an answer to this question. Some people say 100,000 jobs would be lost; others say 600,000 jobs. One thing is clear, however, Chrysler's failure will have a significant short-to-medium-term impact on certain sectors and regions of the economy.

One can argue persuasively that, in the long term, after bankruptcy, Chrysler's viable assets would be purchased by solvent companies. However, the problems occur in the short term. Suppliers will not get paid. Dealers will go out of business, destroying the company's marketing network. Businesses which depend on concentrations of Chrysler workers will experience a severe decline in sales as unemployed workers tighten their belts. Financial institutions will experience difficulties as their deposit base is drawn down by people dipping into their savings, and their loan portfolios will deteriorate with businesses and homeowners defaulting on loans.

No one wants to reward bad management or bailout financiers with the taxpayers' money. But much of the management which made mistaken decisions is now gone. Financiers will find new investments; they make provisions for bad investments. That is a cost of doing business.

But the Chrysler work force will not have an easy time finding new jobs. Are they to be punished for mismanagement in which they played no part? Is the city of Detroit to be punished because of its concentration of Chrysler plants?

Commonsense dictates that where we can avoid major economic dislocations we should do so—even if someone who should be "punished" might not be.

Third. What would bankruptcy cost the Federal Treasury in terms of lost tax revenue and increased social costs? What will bankruptcy cost the Pension Benefit Guarantee Corporation, which is a Government-owned corporation? While it is impossible to predict the exact Federal cost of Chrysler's failure, it will certainly approach or well exceed the $1.25 billion Federal guarantee contained in the Banking Committee version of the bill. Food stamps, unemployment insurance, lost tax revenue, aid to impacted State and local governments all represent inevitable direct drains on the Treasury.

The Pension Benefit Guarantee Corporation (PBGC) guarantees shortfalls between pension fund assets and the benefits accrued by the beneficiaries of the funds. The PBGC has estimated that it could lose between $950 million and $1.1 billion because of its liabilities for various Chrysler pension plans.

The PBGC is funded by charging fees to the companies which maintain guaranteed plans. The Corporation estimates that it would have to double or triple its fees in order to absorb the shock of Chrysler's terminating payments to its plans. These increased fees will be passed on to consumers through higher prices, or real wages to other workers would be reduced because employers consider the increased fee as part of a wage-benefit package.

Assuming the financing package is adequate, the Federal Government will not experience any costs as a result of a Federal guarantee. On the contrary, the Federal Government will receive a fee for its guarantee. While this legislation should not be viewed as a moneymaking venture, the collection of a fee for the guarantee should not be ignored.

The conclusion suggested by these questions is obvious: Practical reality requires that the Federal Government assist Chrysler in a fashion which offers maximum protection to the Government, maximum opportunity for the company's success, and maximum incentive to the employees to increase productivity.

Consumers, taxpayers, and the American economy will all benefit from such a prudent and practical course of action.

Mr. President, do I have any of my time remaining?

The ACTING PRESIDENT pro tempore. The leader's time has expired.

RECOGNITION OF ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the acting minority leader is recognized for not to exceed 5 minutes.

WHY HELP CHRYSLER?

Mr. STEVENS. Mr. President, I am pleased to have heard the comments of the majority leader concerning the Chrysler bill. One of the questions I have been asked, not only in Washington but at home in Alaska, is why should we aid Chrysler when we do not have similar programs to aid the small- or medium-sized businesses that are suffering a substantial level of bankruptcy? In my State of Alaska, for instance, there has been a 95-percent increase in the number of bankruptcies over the past 2 years. My answer to my constituents and others has been that, unfortunately, whether we like it or not, the system we have does not provide assistance to those who are affected by predictable high tides. We do have a system of assistance for those people who are victims of things such as earthquakes and tidal waves.

I remember so well when we had our great earthquake in Alaska; the tidal wave affected the whole west coast and the people in the Oregon area were assisted by our program for relief of those who suffered from the great Alaska earthquake.

This is the situation that I see as far as Chrysler is concerned. Should one of the Big Three of the automobile industry go into bankruptcy, the effect on the total national economy would be such that the cost to the taxpayers would be even greater than the assistance provided in this legislation.

From the very beginning, as I listened to the Senator from Indiana as he addressed the Republican policy luncheon concerning this matter, I was convinced he was on the right course in trying to secure a balanced program that was in the best interests of the taxpayers. I have supported him since that time. I intend to continue to support him. But I also intend to support this bill as a bill that is in the public interest and national interest.

I am pleased to join the majority leader. If I understood his words correctly, he intends to support this bill and vote to send it to conference.

I would make the same statement for myself and state that I have urged Members on our side to do similarly.

It is my hope we will get a bill that will reflect the sentiment of the Senate, and that sentiment supports the position, generally, of our committee.

I think Senator PROXMIRE and Senator LUGAR and others in the committee have spent a lot of time on this bill. We should listen to their advice as to the type of bill that should be sent to conference with Members of the House, following their action on passing their bill last evening.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business, not to extend beyond 5 minutes, and that Senators may speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. PERCY. Mr. President, if the Senator will yield, I would like to speak for about 5 minutes on the Chrysler matter, if it is possible to do so, at the time we take up the bill.

Mr. EAGLETON. I suggest the leader get on with the business and then yield to the Senator.

Mr. ROBERT C. BYRD. Yes. I just want to have morning business, bills, resolutions, and so forth, coming in.

The ACTING PRESIDENT pro tempore. Is there further morning business?

Mr. PROXMIRE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

SYMBOLISM OF THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, I would like to bring attention to the important place that symbols have in our world. We are surrounded by such signs and tokens, whose true meaning and value extend far beyond their actual substance.

We in this Chamber need only look around us and consider the flag, the great seal, and even the President's gavel. A superficial observation might lead us to believe that these constructions of cloth, plaster, and wood lack any true importance. But a more careful consideration indicates the very real meaning and power of these symbols as they influence the lives of men.

I ask my colleagues to consider the Genocide Convention in this light. This is not, I would emphasize, because of any lack of substantive importance in the treaty. Far from it; the merits to be derived from the practical applications of the treaty to international law are enough to warrant ratification on their weight alone. However, ratification of the Genocide Convention also carries a symbolic importance which should not be ignored.

This convention, signed now by over 80 nations, is a milestone in the international recognition of the concept of human rights. It represents the agreement of the community of civilized nations, across economic and ideological divisions, to irrefutably reject genocide as a legitimate act, whether committed by governments or individuals, in peacetime or in war. That an act so heinous, and yet so grimly common throughout human history, should be globally condemned as a crime is unquestionably a step forward in social development.

Ratification of this significant treaty would be an important indication of our national commitment to human rights. Our many years of inaction, on this and other human rights treaties, have left fundamental questions about our dedication to this principle. In the diplomatic community these doubts weaken our credibility and influence; at home they shake our faith in our Government's ties to the values that founded it. The Senate's advice and consent to this convention would do much to dispel these dangerous misunderstandings.

Let us then seize the opportunity and use this symbol to show people, in this country and around the world, that America is indeed a champion of human rights. Let us ratify the Genocide Convention.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

CHRYSLER CORPORATION LOAN GUARANTEE ACT OF 1979

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the pending business, S. 2094, which the clerk will state by title.

The legislative clerk read as follows:

> A bill (S. 2094) to authorize loan guarantees for the benefit of the Chrysler Corp.

The Senate resumed the consideration of the bill.

AMENDMENT NO. 1618

The ACTING PRESIDENT pro tempore. Under the previous order, the time between now and 11 a.m. shall be equally divided and controlled by the Senator from Missouri (Mr. EAGLETON) and the Senator from Indiana (Mr. LUGAR), with the vote thereon to follow at 11 a.m.

Mr. EAGLETON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

Who yields time?

Mr. EAGLETON. Mr. President, the Senator from Illinois (Mr. PERCY) has to introduce the Secretary designate of Commerce at a hearing. As an accommodation to him, I yield him 3 minutes at this time.

Mr. PERCY. Mr. President, I ask unanimous consent that my comments follow those of the authors of the amendment, Senators Roth and Eagleton.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(Pursuant to the above order, Mr. Percy's remarks are printed later in today's Record.)

Mr. EAGLETON. Mr. President, I yield 3 minutes to the Senator from Delaware (Mr. Roth).

Mr. ROTH. Mr. President, I am happy that my friend and colleague Senator Percy has joined me as a principal sponsor of the Roth-Eagleton-Biden amendment.

We must look at the issue of Chrysler loan guarantees from two separate directions—the cost to act, but above all, the cost not to act.

At this stage in our deliberations, the cost to act should be pretty clear to all of us. If all goes well, Chrysler will become a viable, successful competitor once again in a dynamic, fuel-efficient American auto industry, and the Federal Government should even earn a profit on its loan guarantees, as it did with the Lockheed guarantees.

But I do not think my colleagues have zeroed in enough yet on what it would cost not to act—the cost to our entire economy, already inflation-battered and recession-prone, the cost to our balance of trade, the cost in hundreds of thousands additional jobs lost, as well as the brutal cost to Chrysler communities across the country.

The economy of the United States is already in deep trouble. It is the opinion of many economists that the United States is on the verge of a serious and deepening recession. Even higher oil prices combined with oil shortages, double-digit inflation, and serious unemployment that CBO predicts will rise as high as 8.25 percent in 1980 make this indeed an ominous period.

The collapse of our 10th largest industrial corporation, the unemployment of an additional 400,000 or more employees, the out-of-pocket costs to our Federal and State governments through unemployment benefits, pension guarantees, and other programs, as well as the loss of billions of dollars of revenue—$13.6 billion in 1978 generated by the Chrysler sale of 1.2 million cars and 190,000 trucks—could have a devastating impact on our economy.

Let no one be mistaken, the Chrysler bankruptcy could trigger a massive recession in view of the delicate state of our economy.

All industry—steel, chemicals, textiles—would suffer a grievious blow through the loss of the American manufacture and sale of these cars. Foreign made cars would undoubtedly take up much of the slack caused by a Chrysler bankruptcy, thereby increasing our balance-of-payment problem. Does any one seriously believe that our foreign competitors, such as Japan and Germany, would permit a national asset, like Chrysler, to go under? The answer is clearly "No." Nor should the United States, with a viable competitive American automobile industry so essential to a healthy U.S. economy. There is ample precedent for action, both in preserving and strengthening our economy, but especially in alleviating human suffering and disaster that would otherwise prevail.

The issue on wage concessions is above all what level of worker contribution will work—not only what is fair.

The question is: How do we require over 100,000 Chrysler unionized workers and skilled tradesmen to make a contribution to Chrysler's recovery without making that contribution so punitive that they are driven away in droves from Chrysler to higher paying jobs?

These workers include 9,000 salaried skilled employees, such as tool and plant engineers, product designers, tool and die designers, cost estimators. These workers also include 14,000 hourly skilled tradesmen, such as tool and diemakers, electricians, skilled machinery operators, millwrights, and pipefitters. There is already a tremendous demand outside the auto industry for these workers.

Make no mistake about it, we are convinced if the $800 million wage freeze in the Lugar amendment is adopted, Chrysler will suffer a massive drain of skilled workers from which it may never recover.

Our amendment provides $400 million in wage concessions by Chrysler unionized employees. It does not change the Lugar Banking Committee bill in any other respect. This is identical to the wage concessions adopted by the House by 271 to 136 last night. In contrast, a move to require wage concessions of $900 million—similar to Senator Lugar's amendment—was rejected overwhelmingly by the House 296 to 107.

Sometimes we get mired in statistics and forget the human side. That figure again on lost jobs resulting from the failure of Chrysler—that figure is 400,000—400,000 working people, men, women, skilled and unskilled, blue collar and white collar—400,000 who would be thrown out of work. That, I submit, is the bottom-line cost of not acting.

The cost of not acting is massive to my home State of Delaware. Over 4,600 employees in the Newark assembly plant and thousands more working for Chrysler suppliers throughout Delaware would be affected by a Chrysler bankruptcy. The ripple effect of a Chrysler shutdown is estimated to put an additional 10,000 people out of work in Delaware. Delaware's total economic loss might well reach $1 billion—and that is in a State where the total State budget is only $500 million.

A Chrysler failure would have a brutal impact on jobs in my home State, an impact second to none. Chrysler employment represents 6.5 percent of total manufacturing employment in Delaware—that compares to 4.6 percent for the entire State of Michigan and 2 percent for Missouri—the next two most impacted States.

In short, when we talk about the cost of not acting for Chrysler communities, we are not talking recession—we are talking depression.

Gov. Pierre S. du Pont, of my home State, understands the bottom line on Chrysler and—the cost of not acting. In a letter on this subject, he writes:

> While 4,500 employees may seem small relative to the numbers Congress usually deals with, in a state with a little over 300,000 total taxpayers it is a great deal. . . . I want to express my strong support for federal loan guarantees for Chrysler and I would urge the U.S. Congress to pass legislation before the holiday recess.

Mr. President, I ask unanimous consent to have the entire statement of Governor du Pont printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Statement of Governor du Pont on Chrysler Loan Guarantee to Congress

I want to express my strong support for federal loan guarantees for Chrysler and I would urge the U.S. Congress to pass legislation before the holiday recess.

In Delaware, Chrysler workers represent 6.5% of our manufacturing employment. We can ill afford to have that large a segment of our labor force be displaced when a remedy is at hand. This would be particularly painful when we already face the prospect of a national recession. The U.S. DOT study indicates that total primary and secondary job losses in Delaware could exceed 13,000, or five percent of our total employment. Economic losses to Delaware have been estimated at $980 million a year. And Unemployment benefit payments to Chrysler workers would exceed $17,000,000.

So while 4,500 employees may seem small relative to the numbers Congress usually deals with, in a state with a little over 300,000 total taxpayers it is a great deal.

I sympathize with those members of the Congress who believe that all parties with an economic interest in Chrysler should be a part of the solution. While the impact that a small state such as Delaware can have on Chrysler's 3 billion dollar problem cannot be substantial, still I recognize the contribution that Chrysler and its employee's make to the Delaware economy. Consequently, when the State legislature convenes in January I will recommend state financial assistance for Chrysler contingent upon passage of federal loan guarantees.

Again, in the face of uncertain economic conditions and the growing prospect of higher unemployment, I urge your swift and affirmative action on Chrysler loan guarantee legislation.

Mr. ROTH. Mr. President, our amendment would require UAW to renegotiate its contract, which it has agreed to do if our amendment is adopted.

In short, Mr. President, we who are offering this amendment are a bipartisan coalition. We are offering a plan which we believe will work—a plan that can be supported by all parties involved and one that can be supported by a majority of Congress.

I urge my colleagues to vote "yea" on the Roth-Eagleton-Biden compromise amendment.

Mr. PERCY. Mr. President, I am pleased to speak as a cosponsor of the pending Roth-Eagleton amendment. But before doing so in detail, I first want to pay a personal tribute to the distinguished Senator from Indiana (Mr. Lugar) who, in a sense, saved New York City several years ago and who right now is doing everything possible, consistent with his own philosophy, to save the Chrysler Corp.

I happen to feel that, by offering his amendment yesterday, he has gone the last mile. He has offered to strike the section of the bill he worked so hard for in committee, on the wage freeze, and substitute a compromise proposal.

I believe he is convinced, as I am, that Chrysler must be given every chance to survive, but it must be done in a way that will discourage any other company from going the same route. We also must be certain, before voting such assistance, that every group involved with Chrysler has made the maximum contribution to this survival effort.

I have concluded that the wage freeze in the committee bill would be certain death for the Chrysler Corp. I believe it would be cause for the departure of too many skilled and creative people—engineers, tool and diemakers, and even middle management. Lee Iacocca has told me within just the last 15 to 20 minutes that they could not keep their middle management in the event of a wage freeze.

Because we do not know whether or not a new contract mandated by the wage freeze provision could be ratified by the UAW, and because it would create such uncertainty among dealers and manufacturers about the future of the company without such creative people, I believe that it would only aggravate Chrysler's problems.

Mr. President, I call the attention of my colleagues to the Wall Street Journal article of this morning on the Chrysler Corp., "A Deepening Mire."

As we look at this whole problem, I believe we should ask ourselves whether the Federal Republic of Germany would let Volkswagen or Mercedes-Benz fail if there were something the Government could do to help. And there is a conservative government over there.

Would the Government of Japan let Toyota or Datsun or Honda fail if there was anything that Government could do? They would not. They simply would not permit it to happen, and neither must we allow it to happen to one of our own.

Our job, I think, is to see that Federal guarantees are used only as the last resort and that every possible sacrifice has been made by management, the stockholders, the unions, the dealers, the banks, everyone with a stake in Chrysler's future.

The article this morning in the Wall Street Journal is pessimistic on Chrysler, and certainly none of us can guarantee Chrysler is going to make it. All we can guarantee is that we have asked Chrysler to do as much as it can, in return for some Federal involvement that can be effective.

We must act this year on this matter. We must not go home until it is finished. It is quite evident from this article that the loss this year which company officials anticipate will exceed $1 billion. Its cash is running out at an alarming rate.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. PERCY. I ask for 3 additional minutes.

Mr. EAGLETON. I cannot. I must say to my colleague that we have seven speakers and we have 22 minutes.

Mr. PERCY. Two additional minutes?

Mr. EAGLETON. One additional minute.

Mr. PERCY. I thank the Senator.

With cash draining that fast, we must act, and we must act now. I think what we are doing today is right and proper.

There is a lot of confusion about figures, but the question is whether the $800 million figure that the workers must come up with in the Lugar amendment is practical and doable. The figures I have heard concerning this amendment go as high as $8,000 per worker contribution over 3 years. Is that feasible? Is it practical? It seems extraordinarily difficult to me. The pending Roth-Eagleton amendment requiring a sacrifice of $4,000 per worker over 3 years, is doable. It can be done. I am happy to support it and commend Senators ROTH and EAGLETON for their diligence in this effort.

Mr. President, I now send a bill to the desk, for discussion at a subsequent date, which will provide a logical basis for the future consideration of credit guarantees on all matters. I believe the Chrysler situation underscores the need for an orderly approach to the overall question of the extent of Federal loan guarantees.

I also send to the desk some amendments to this bill on productivity, which I will discuss during further consideration of the bill.

Mr. EAGLETON. Mr. President, I yield 2 minutes to the Senator from Indiana (Mr. BAYH).

OBTAINING A WORKABLE PLAN FOR CHRYSLER

Mr. BAYH. Mr. President, we have had a lot of discussions about the large effect of a Chrysler bankruptcy on the Nation. There will be a large impact, and I hope that the Senate, in its wisdom, will join the House in passing a bill so that we can keep this from happening.

Over the next 2 or 3 days we will be considering an issue which tears into the economy of the State of Indiana more than any other which I can recall during my 17 years in the U.S. Senate. By now, you have heard the statistics about what is at stake cited many times. Yet what needs to be emphasized is the interdependence and complexity of a whole system of suppliers, plants, workers, dealers, employees, and the local businesses that depend on the viability of Chrysler Corp. as an on-going enterprise.

Chrysler is not just a producer of automobiles. It is an integrated network of communities, each of which contributes something toward producing over 10 percent of the automobiles sold in the U.S. market. The impact of a Chrysler failure would extend nationwide as Chrysler dealers in every State in the Union would fold. The impact would also be concentrated in certain communities with ripple effects throughout the economy. According to the Department of Transportation study of the effect of a Chrysler shutdown, "The most glaring conclusion of our analysis is that several major industrial communities will bear a very heavy burden in any Chrysler collapse."

In my own State of Indiana, New Castle and Kokomo would be the hardest hit of any cities in the Nation. In New Castle, where Chrysler has been operating for 54 years, a shutdown would cause the loss of 2,607 jobs and an annual payroll of $73 million. However, economists tell us that two other jobs in the community are dependent on the economic activity generated by the purchases of each employee employed in manufacturing. As a result, the economic impact of a shutdown of Chrysler would affect one out of three jobs in Henry County, Ind.—a county with 53,000 people.

In Kokomo, 6,764 people work in Chrysler plants. The economic impact there would affect 40 percent of the jobs in Howard and Tipton Counties—an area of 100,000 people. The people who would be affected are not just Chrysler workers and Chrysler dealers. They are the owners and employees of grocery stores, filling stations, hardware stores, banks, and small businesses which depend on Chrysler workers for their livelihood.

But New Castle and Kokomo are not the only cities affected in central Indiana. In Indianapolis over 4,000 employees work for Chrysler. Even assuming a downturn was not forecast for the economy as a whole, central Indiana would experience a severe recession caused by a Chrysler failure alone.

In my State, 32 of the 92 counties have Chrysler plants or suppliers each of which sell over a million a year to Chrysler. In the Fort Wayne area, 101 different suppliers provide $153 million worth of goods and services and employ approximately 4,726 workers fulfilling Chrysler orders. In countless other communities throughout the Nation, Chrysler suppliers and secondary suppliers are part of a vast network which produces Chrysler cars and trucks. In fact, the suppliers in my State provide more employment filling Chrysler orders than Chrysler does itself. It is estimated that 14,114 workers are employed filling $457 million in Chrysler contracts in Indiana alone.

If we include the $410 million in Chrysler payrolls, the $60 million in dealer payrolls, and the $457 million in supplier contracts, that is a direct contribution to the Indiana economy of some $927 million and approximately 32,000 jobs. If we add in the secondary employment created by these jobs in manufacturing, we are talking about nearly 100,000 jobs and $2½ to $3 billion in economic impact within the State of Indiana.

In pointing this out, I also want to point out that we are talking about a very complex system in which the stakes vary greatly from person to person. Some people have invested their lives in Chrysler. Others are only involved in a rather peripheral way. It is not always apparent who has the most at stake. Some workers are highly mobile. They can pull up their stakes, move, find another job at similar wages, and never look back once. Others have a mortgage, strong family ties in the area, and are deeply concerned about what happens to their communities. Some of those whose mortgage payments and financial security are on the line may not be employees of Chrysler at all, but people like the owner of a small diner near a Chrysler plant who relies on Chrysler customers to stay in business.

The point I am making is that finding the right degree of sacrifice from various interests involved in Chrysler is not easy. Chrysler is such an integral part of the economic system of whole areas, yet some have come to think of the Chrysler family in easily defined blocks which can be made to come up with such and such a share of the total pie needed to assist the company at this time. The situation is not so simple. That is precisely why the Federal Government has been called on to help in this instance. When the economic stakes involve large numbers of people, the concerns become national in scope. It is true that the very size of Chrysler itself—the 10th largest manufacturer not counting its countless suppliers—is a most compelling reason for national assistance.

I do have concern whenever one private company calls upon the Government for help. The free-enterprise system is extremely efficient in allocating resources. One hesitates to second guess this system which has led this country to economic prosperity. However, if a major part of this system fails, it is not just the stockholders who will be hurt, the economic tidal waves will not only effect Chrysler employees, but numerous other producers as well. This is particularly true of Chrysler which contracts with so many suppliers throughout the Nation to help build its automobiles.

The upheaval caused by massive shutdowns is revealed in the economic estimates of the impact of a Chrysler failure on the Federal Government. Treasury Secretary Miller says that $2¾ billion, would be lost in revenues and increased expenditures for unemployment compensation and public assistance plus another $1.1 billion would be needed to cover pension guarantees for Chrysler retirees either through increased pension guarantee premiums or direct Federal assistance.

However, in putting together a Federal package to give Chrysler another lease on life, I do want the taxpayer to be protected as much as possible. Adequate collateral and subrogation of the lenders' interests to the Federal Government are essential provisions along with a preferred position for the Government as a creditor.

It also seems to me that maximizing the private sector involvement is also desirable to provide as much capital as possible for the success of the company. However, we must remember that ours is a free enterprise system. The people who work for Chrysler are not serfs. They are not bound to work for Chrysler. They are free to leave for other jobs if they can find them. If Chrysler goes under, it will not be easy to find other jobs. However, if Chrysler is forced into paying wages substantially below other campanies in the industry, many of those workers will start looking elsewhere.

The ones most likely to leave are the most highly skilled and productive workers. These are the ones who might be hired across the street in Kokomo in the G.M. plant when times get a little better. Some skills are in high demand. These are the people Chrysler needs to keep. There is nothing in the contract that says they have to stay with Chrysler.

This is the problem with any provision in the bill which freezes the wages of Chrysler employees. For these reasons, I sponsored S. 1965 which was developed by the Treasury Department and which it seemed to me offered the greatest potential of success. That bill provided for $1.5 billion in loan guarantees and $1.5 billion in non-Federal assistance, but it did not require a wage freeze. However, it would count the $203 million in reduced wages already agreed to by the UAW in its contract.

However, now we are down to the wire in needing to get a bill passed before January. It seems to me that a balance needs to be struck. The Roth-Eagleton compromise before the Senate today is almost identical to the bill which passed the House by a 2 to 1 vote last night. The Roth-Eagleton compromise calls for doubling the sacrifice of the auto workers and reopening the contract and obtaining ratification. That is a very significant compromise and sacrifice which will not be easy for workers to accept.

However, it is far preferable to the 3-year wage freeze which came out of the Senate Banking Committee. That bill is very likely to cause failure because it guarantees that the company would lose its best workers. The additional funds provided in that bill come almost entirely from Chrysler employees.

I have always said that I thought it possible to improve upon the bill we initially introduced. I am willing to support ways of increasing the non-Federal contribution so long as the balance among the various interests at stake is kept. However, the wage freeze in the committee bills appears to me to be counterproductive and will only increase the risk of failure, not the hope of success.

Mr. President, the need of a workable solution to Chrysler's problems is important to many of our citizens, not just the workers in the Chrysler plants and its dealers. The economic impact of Chrysler failure would be devastating. The potential for the future of a Chrysler success is promising. I believe we need to make a good faith effort to save this company and the jobs it provides.

It is important to look at the total overall cost. As the Senator from Delaware pointed out, we are looking at a possible loss of $1.5 billion. We hope that, because this is a guarantee, if we keep Chrysler in business, there will not be any loss. The worst that could happen would be that we would lose $1.5 billion, and we hope that will not happen.

If we compare the loss that Secretary of the Treasury Miller talks about—$2.75 billion of lost revenues and increased expenditures for unemployment compensation and welfare and another $1.1 billion to cover pension guarantees—the loss from not acting is much greater than the loss from acting, in the worst case situation.

So I hope my colleagues will support the level of the Eagleton-Roth amendment. It seems to me that this is a level in which auto workers, management, shareholders, financial institutions, and the public generally are bearing a burden that can stand the test. This will prevent a situation in which we will have people leave Chrysler and go across the street to get a job at GM because they can make more money there. We do not want to lose the most skilled workers and the most proficient managers because of a great disparity in wages between work forces which are in close proximity to one another.

Mr. LUGAR. Mr. President, I yield 3 minutes to the Senator from California.

Mr. HAYAKAWA. I thank the distinguished Senator from Indiana.

Mr. President, some misunderstanding exists on this floor. It has been said to me twice this morning that Japan would not let Toyota and Honda and other great companies fail.

The interesting thing about the Japanese economy is that they let many, many companies fail. Toyota, Honda, Nisei, and Mitsubishi are those that have not failed, and the Government has left them alone. But the Government does not support losers, and that is a very important fact about the Japanese economy.

I am a member of the Small Business Committee, and I am very concerned with the fact that growth, innovation, and creativity arise from small businesses, not from the saving of enormous corporations. More than 300,000 small businesses, involving many millions of jobs, expire annually without notice.

You do not even see little bubbles rising to the surface of the oceans in which they have drowned.

As George Gilder says in an article called Prometheus Bound as found in the September 1978 issue of Harper's:

> The death throes of a corporate leviathan provide a drama that captivates the press. Boeing loses the contract for a supersonic transport, and the networks descend on Seattle to depict that thriving city in images of the Great Depression because a few thousand well-paid technicians with ample unemployment insurance may be out of work for a while. The halls of Congress begin to ring with a rhetoric of emergency programs and subsidies.

I wish to talk about these 300,000 small businesses that fail every year. No one comes to their rescue. There is not even a word in the financial pages about their failure.

If we go around rescuing large companies that should survive who is going to help little stores, businesses, dress shops, and shoe repair shops all over the country that are collapsing every day? And if we decide to help one of these great, great companies who is to worry about the little ones? Are we going to ask that they all be preserved also?

It worries me very much, Mr. President, and the small businesses I speak of the median income of the proprietors annually is less than that of a New York City garbage collector, but these are the small brave little businesses that continue to survive.

And I believe that by preserving a failing enterprise of this size we are simply standing in the way of the emergence of the new technologies, the new creativity arising from the thriving small businesses that will ultimately be big businesses themselves.

I thank the Chair, and I thank the distinguished Senator from Indiana.

Mr. LUGAR. Mr. President, I yield 5 minutes to the distinguished chairman of the Banking Committee.

Mr. PROXMIRE. Mr. President, in discussing the Eagleton-Roth amendment, I think we have to recognize what the Lugar amendment does. What the Lugar amendment does is to provide $277 million more for the employees than the Banking Committee bill does. It ends the wage freeze. It would provide for a required contribution by the employees of $800 million, and, as I say, this is $277 million less than the Banking Committee required contribution. This is certainly a big concession, especially when one recognizes that in addition to that the workers will receive $250 million worth of Chrysler stock at the present market price.

Mr. President, that brings me to my second point on this Eagleton-Roth amendment.

If this amendment is adopted, and it would be very similar to what the House of Representatives has done in this matter and we go into conference buttoned up, the problem will be that it will be an open invitation to raid the Treasury by unions everywhere. The unions would certainly support a bailout in all future circumstances.

Let me tell Senators why with this precedent the union has already negotiated a $203 million reduction in the pay increase. What the Eagleton-Roth amendment provides is, an added $197 million contribution, but the employees get $250 million in stock at today's depressed market. That is $50 million more than they give up.

So the Eagleton-Roth actually gives Chrysler workers $50 million more than the Treasury bill which 'everyone acknowledged required too little sacrifice. What an incentive to come to the Government for help, what an injustice for the future.

Mr. President, more important and what we should focus on really is the effect of the Eagleton amendment in reducing funds available to the Chrysler Corp. to survive.

The employee contribution to Chrysler is the most vital kind, and I stress "kind" of contribution. These hundreds of millions of dollars of reduced costs for Chrysler bear no interest burden, unlike other funds which Chrysler can get, and they do not have to be repaid by the corporation.

On the other hand, the Federal loan guarantee money will cost 12 percent every year in interest. Every month millions of dollars in additional interest will have to be repaid by this corporation that is already losing record amounts of money.

But the Lugar amendment permits the corporation to get money through wage concessions which do not bear interest, and, therefore, is far more useful.

Furthermore, Mr. President, every nickel of this money guaranteed by the Federal Government will have to be repaid to the banks that loaned the money and not many years from now. These are not long-term mortgage loans; these are about 10-year loans. That means on an amortization table they will have to pay over $200 million a year.

Mr. President, I think we have to recognize that the Eagleton amendment reduces the total financing package by $400 million.

The studies that we have, and the projections by Chrysler, the Treasury Department, and independent experts, all indicate it unlikely that Chrysler could survive unless they got more money than the $3 billion available, if we have the kind of market we expect, and that is the kind of competition which I think reasonable people would expect.

The independent analysts indicated it was unlikely, when they testified before our committee, that Chrysler would be able to get by with what they have requested, and indeed the original request of less than $3 billion obviously was not enough. The $3 billion that the Treasury provided probably is not enough and now we are cutting it from $3.7 billion, which the Lugar amendment will provide, down to $3.3 billion.

What that means is that the taxpayer will be in jeopardy and the jobs will be in jeopardy. The corporation will be far less able to survive if we pass the Eagleton-Roth amendment. They will be back here asking for more and maybe they will get it and maybe they will not. But if we are interested in saving those jobs we should go along with the amendment that has been offered by the Senator from Indiana, which already modifies; the Senate Banking Committee bill substantially by providing $277 million in additional wage increases for Chrysler workers above what they are getting at the present time.

The ACTING PRESIDENT pro tempore. The Senator's 5 minutes have expired.

Who yields time?

Mr. BIDEN. Mr. President, will the Senator yield me 3 minutes?

Mr. EAGLETON. We are running short of time. I yield 2 minutes to the Senator from Delaware.

Mr. BIDEN. I shall be very brief.

Mr. President, the issue in this amendment and the amendments to follow simply comes down to what will be the union's contribution, and that is the essence of it.

It seems to me that the speech just made by the Senator from Wisconsin (Mr. PROXMIRE) touched on the essence of the argument and that is what will be enough to assure that the company will have its best chance of continuing and what is that figure as it relates to union employees. It seems to me the Lugar amendment of $800 million as opposed to our amendment of $400 million gives the company less of a chance of surviving, the reason being that, as has been said time and again in the Chamber but should be reemphasized, the skilled employees who are needed to make any big company go are likely to do just that, go, go to other industries because the sacrifice we would be asking of them would be much too much.

I think our amendment is equitable and fair, and I think the amendment that we have offered should be supported by our colleagues.

I thank the Senator.

Mr. EAGLETON. Mr. President, the issue of aid to Chrysler already has provoked much heated discussion and news coverage. Undoubtedly, the coming debate will see new clouds of rhetorical smoke waft over the Capitol. But I hope that, as the debate unfolds, my colleagues will keep a few salient facts in mind.

Chrysler Corp. is not just its president. It is not just 12 people sitting on a board of directors. Chrysler is a network of manufacturing and dealer facilities employing more than 300,000 people across the country. Chrysler represents nearly $8 billion in purchases and additional hundreds of thousands of jobs for Chrysler suppliers. Chrysler means nearly $4 billion in payrolls invested in our Nation's banks and spent in our Nation's retail stores each year by Chrysler employees.

As these figures indicate, a Chrysler shutdown would have a devastating impact on all Americans. A study for the Congressional Budget Office predicts that a Chrysler failure would put as many as 600,000 people out of work and cause the loss of $19.3 billion in personal income through 1981. Many of these lost jobs would be permanently exported overseas.

In my own State of Missouri, where we have a truck and a car assembly plant and hundreds of dealers and suppliers, the economic consequences would be severe. The study by the Department of Transportation has estimated that direct secondary job losses in St. Louis alone would range from 21,360 to 26,700 and a decline in economic output of almost $2 billion.

These figures do not include dealers of which there are 135 in Missouri employing 1,650 persons. Nor does it fully account for the losses likely to be experienced by the 561 Chrysler suppliers throughout Missouri—mostly small firms—who collectively do about $100 million a year in Chrysler business.

Mr. President, in other cities, a shutdown or major reduction in Chrysler operations could have devastating employment and economic effects. According to the Department of Transportation study, the Detroit area could see its jobless rate increase from the current 8.7 percent to 16 or 19 percent. Direct taxes to the city of Detroit would be reduced by $34 million, severely limiting the city's capacity to meet increased unemployment and welfare payments. A very high percentage of Chrysler's Detroit workforce consists of minority workers.

Contrary to the assumption of some analysts, the Department of Transportation study concludes there are only limited opportunities for absorption of displaced Chrysler workers by other auto makers. The reasons are spelled out in the report, but the conclusion reached by DOT analysts is that the employment impact would be prolonged and, in some areas, permanent.

A similar conclusion is reached in the study about prospects of other auto companies either foreign or domestic acquiring Chrysler plants. Except for two facilities, most Chrysler plants would be unsuitable for other auto companies, according to the study. Their value, if any, would be limited to that of the property they occupy.

Another suggestion often heard is that Chrysler could be reorganized as a small company specializing in production of small fuel-efficient cars. The DOT analysis concludes "this is not possible under existing plant and capitalization structures," citing the obstacles of covering fixed costs on a limited product basis and the small profit margins that can be realized on small cars.

Government assistance to troubled industries is hardly unique in the world economy, and hardly precedent-setting in the American economy. One of the more notable examples of such aid was the loan guarantee provided to the Lockheed Corp. a number of years ago. That loan guarantee was not only succcessful, but also profitable. The corporation was restored to profitability within a very short period, and the government made a $31 million profit. Similar loan guarantees have been provided to other industries.

The steel industry already has received such aid. The Economic Development Administration recently provided more than $300 million in loan guarantees, and import restrictions on steel also have assisted the industry.

I agree that under our economic system punishment for failure is as essential as rewards for success. There can be no basis, however, for contending that aid to Chrysler will prevent that corporation from being penalized severely for any management mistakes that may have been made. I am certain the stockholders of Chrysler have no difficulty in concluding that Chrysler has been and indeed will continue to be severely penalized because of the failures that it has experienced in the marketplace, regardless of whether those failures are attributable primarily to Government regulations or management miscues.

In the end, the real question is not whether we should permit the marketplace to work its will on Chrysler in the hopes that this would bring about a return to a purer form of capitalism. Rather, we must determine whether it would be responsible to allow a major corporation to fail, in light of the massive human and economic costs that inevitably would flow from such a failure. The crucial question is not whether the government ever should intervene in the credit markets, but whether the benefits of intervention in this particular case outweigh the costs.

Mr. President, any Federal assistance to the Chrysler Corp. must protect the taxpayers' interest and provide that other parties of interest—workers, suppliers, dealers, stockholders and banks—share the risk in helping this company. I think the Treasury Department has been very hard-nosed in its insistence that both of these conditions be fulfilled before any Federal guarantees are forthcoming. Perhaps there is room to demand even greater contributions from some of these other parties.

But, Mr. President, the bill reported by the Senate Banking Committee so burdens the company with restrictions and conditions as to make it virtually impossible to qualify for loan guarantees. With friends like this, one wonders why Chrysler needs opponents.

Specifically, the requirement that Chrysler workers contribute the equivalent of a 3-year wage freeze or a 2-year freeze (which is what Senator LUGAR's $800 million equates to) would utterly destroy any possibility that a financial package could be worked out. It is highly unlikely that such a freeze would be ratified by Chrysler workers. Even if the freeze were ratified, the inevitable result would be a brain-drain at Chrysler, with its best employees seeking other work in other industries. These workers are the backbone of the Chrysler Corp. To force them out of the company by an impossible demand of a wage-freeze would be to assure the company's demise. I know that the sponsors of this provision are seeking to mitigate the risk of a loan guarantee to the taxpayers. But, I submit that the effect of the provision will be to insure that the company would collapse, taking the taxpayers' money with it.

It is essential Chrysler have compensation and benefit programs that permit it to retain and attract qualified personnel.

The UAW represents 9,000 Chrysler salaried employees. These employees have jobs ranging from clerks to engineers and designers. Over 4,000 of these salaried UAW-represented employees are in key positions and I will list a few of them:

> Tool engineer, process engineer, plant engineer, quality engineer, product designer, industrial sculptor, die model builder, wood model maker, mathematical analyst, experimental mechanic, scheduler, specifier, expediter, cost estimator, tool and die designers.

In addition, the UAW represents in excess of 14,000 hourly skilled trades workers. Among some of the classifications that are considered most critical are the following:

> Emission test equipment repair, machine repair, die maker, tool maker, electrician, steam engineer, gas and electric lift truck repair, skilled machinist, repairman-welder equipment, millwright, pipefitter.

In addition to such skilled jobs, there are thousands of employees represented by the UAW in hourly semi-skilled occupations such as but not limited to:

> Arc and gas welder, interplant truck driver, finished spray painter, metal finisher, repairman, job setter, torch solders, sewing machine operators.

Mr. President, if Chrysler is to regain its financial health and recapture a viable share of the U.S. auto market, it will need the finest skilled managers, engineers, designers, and craftsmen that it can get. But, if we restrict the company from paying competitive wages, then we will drive away the very people on whom the long-range success of the company depends. I do not think there is any doubt that these skilled and talented individuals will find opportunities in other companies and other industries.

Mr. President, the Chrysler employees have already come forth with reduced wage demands amounting to a $203 million contribution to the company's recovery. I am prepared to meet the argument of those who feel that the employees should do more by increasing the required union contributions to $400 million, double what the workers have already pledged. In addition, I am prepared to require the nonunion employees of Chrysler to contribute a $100 million. Together that amounts to a $500 million employee contribution, or roughly $4,000 per worker.

Mr. President, I believe that this represents the maximum worker contribution that we can hope to have accepted. This will not be easy by any means, but it at least has a chance of ratification, and it would leave the company in a position to retain quality employees and to attract new talent. It is a very substantial sacrifice on the part of the Chrysler work force, but if it is necessary to secure passage of this bill, then I am prepared to support the requirement.

Now, Mr. President, I would like to respond to a point made earlier by Senator HAYAKAWA.

With respect to how the Japanese accommodate or do not accommodate their industrial empires I quote from a speech given in the House the other day by Congressman WYLIE, Republican of Ohio. Senator RIEGLE referred to it yesterday in some of his remarks:

> Volkswagen lost $400 million. The West German Government gave, yes, they gave, they did not make it a loan guarantee, they actually gave Volkswagen $1 billion to keep them in business.
>
> Japan makes up Toyota's losses. Mazda has never made money and has received direct aid from the Japanese Government.

The factual record backs up those observations of Congressman WYLIE.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. LUGAR. Mr. President, I yield myself 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Indiana.

Mr. LUGAR. Mr. President, the issue at hand is the hard one, and that is the amount of the employee contribution which is to be made.

The pending amendment calls for $400 million to come from the organized workers of Chrysler. In the event that amendment is defeated, the pending business will be my amendment to call for a $800 million give-up from the benefits of the 3-year contract.

There is a very substantial difference between $400 million and $800 million, and it may, my colleagues, be the difference between the saving of Chrysler and the Chrysler failure.

It comes as no news, it seems to me, to any of us reading the daily papers that Chrysler not only is in jeopardy but, as the distinguished Senator from Illinois has already pointed out, the front page of the Wall Street Journal this morning has the headline, "Deepening Mire: As Chrysler Sinks More Recovery Plan Is Questioned." An objective person reading that analysis, plus the Washington Post editorials, would come to the conclusion that the salvation of this company is dubious. I would simply say after the action of the House of Representatives yesterday it is even more dubious.

We are talking today about whether there is going to be enough money for Chrysler to continue at all.

The argument has finally come down to whether the UAW will accept anything more than $400 million. That is the only argument that can be made in favor of $400 million, what is acceptable to the UAW.

The question in front of us ought to be: Can Chrysler be saved?

In my judgment, and we made this motion yesterday on an $800 million figure, not because it is magic but because it gives some fighting chance for salvation for Chrysler to occur.

The brain drain argument is specious from beginning to end. First of all, there is no freeze of the management salary, there has not been from the beginning of the Banking Committee's deliberations. There is a $243 million contribution, and those funds could be shifted back and forth within that pool of management, find the very best, pay them what needs to be paid, no freeze whatsoever—a total misrepresentation of the so-called brain drain argument. There is no wage freeze. That argument is over.

We are talking about $800 million to come in some way or other from the organized employees, $800 million. It can be a cash gift. It can come from any number of ways. There is no freeze, no freeze whatsoever in this bill.

Yet today people are giving speeches they prepared, I presume, 2 or 3 days ago which are still trying to deal with that question which long ago was overtaken.

What is clear now is that Chrysler's plan has not worked out. I cite the Wall Street Journal of this morning which states:

> Chrysler now estimates 1980 industrywide sales of only 9.25 million cars, down 13 percent this year, and below the original assumptions of 10.5 million.

That is what was in the Chrysler plan, that was the Treasury plan. It will not work; $3 billion will not work; $3.3 billion will not work. It is becoming dubious whether $3.7 billion or $3.8 billion, which is where the Lugar amendment will take you, will work, but it is for certain nothing less than that is going to work.

I, for one, become weary of those who are serving as champions of Chrysler and of the workers trying to diminish any potential success of this package. It has to be at least $800 million or, in my judgment, the plan will not work. That is why the $400 million has to be defeated at the outset. It must be knocked down or we have nothing in conference, and, in my judgment, we do not have much of a future for the company. It is a serious issue or I would not pose it that starkly.

But, my colleagues, that is what the vote is all about at 11 o'clock. A "no" vote on Eagleton-Roth, a "yes" vote on Lugar gives us at least something to work with for the rest of this day and, hopefully, in conference.

Mr. President, I yield the floor in the event anyone else wants the floor or else I shall yield to another colleague.

Mr. EAGLETON. Mr. President, how much time do I have left?

The ACTING PRESIDENT pro tempore. The Senator has 4 minutes.

Mr. EAGLETON. I yield 3 minutes to the Senator from Michigan.

Mr. RIEGLE. I thank the Senator. There are several points to be made quickly, and I will make one at the outset. I do not want to debate it. The chairman has asserted that financial experts coming before the Banking Committee said the plan would not work. That is not the fact. The people who examined this situation in detail, who spent thousands and thousands of hours examining it, Salomon Brothers and others, have placed their stamp of approval on the plan. They have recommended the plan to us, and I am here to say that the weight of the evidence of the people who worked on it is to the effect that the plan will work.

As to the UAW issue, Chrysler Corp., has said that if we insist on something on the order of $800 million that that, in effect, will kill this package. Why would they say that, if on the face of it, they would be the beneficiaries of the extra money if it is not paid out in the form of a wage contract?

Under the UAW contract, there are 14,000 hourly skilled trade workers who would be involved in making the proposed required sacrifices in the amount of $800 million. Because these are skilled workers, they are not going to stick around; they are going down the street or across the country and take another job. You will drain the most critical talent out of Chrysler at this time, and we might as well not pass the plan.

We can come in here and criticize the UAW, but the fact of the matter is they are the only party in interest that has already made a contribution, namely, $200 million. They are prepared to double that contribution; and if we go to conference, that figures out to $4,000 a worker. It is the equivalent of a 19-month wage freeze in the face of 14-percent inflation at the present time.

The fact is that you have a situation here where you have 600,000 jobs involved, and you are putting this burden on 100,000 out of the 600,000.

The point to be resolved is at what stage will mandated wage discussions sink Chrysler? I believe that a reasonable figure is $400 million. Yesterday, after a long debate in the House, nearly half the Republicans agreed to this provision as an outer limit. What we want in the end is a figure that is fair and will make this plan work.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. EAGLETON. Mr. President, I yield the Senator 1 additional minute.

Mr. RIEGLE. The plan is much more likely to work if the brains it takes to manage a company of this complexity are there and available. They will be, if we pass this $400 million figure. But if we go to $800 million, make no mistake, we are sabotaging this plan for assisting Chrysler. It is a killer amendment because it will drain away the very talent Chrysler needs, that would turn it around and get it back on a strong footing. Why do we want to pull this company down, when it represents our best chance to compete successfully with German and Japanese auto manufacturers.

It is important to remember that Chrysler will have the production of 800,000 units of small, fuel efficient cars available in 10 months. So I hope my colleagues will vote for the $400 million. If we do not, it is essential that we defeat the $800 million if Chrysler is to be preserved.

The ACTING PRESIDENT pro tempore. All time of the proponents has expired.

Mr. LUGAR. Mr. President, I yield myself 3 minutes.

It is simply inaccurate to suggest, at this point, that those of us who are attempting to put $800 million into a plan to save Chrysler are sabotaging the plan. The facts of life are that the plan presented by Chrysler and ratified by the Treasury is obsolete. It has been overtaken entirely by events. The automobile market has gone down to the point where even the worst case possibility does not suffice; $3.5 billion is not even in the ball park of the amount of money either Chrysler or the Treasury suggested was required. To suggest that those of us who want to put $800 million more capital in the company are sabotaging the company is ridiculous on the face of it.

Some of us are still trying to save Chrysler. We are not conditioned, in terms of our strong support, on what UAW will or will not take. That is the totality of the argument for the $400 million figure. That did not come out of the air; that is what the UAW said they will do, and no more.

The question for us is what the taxpayers will stand for. If we are going to put $1.25 billion into the Chrysler company, and it is all lost, there are a lot of people in this country earning much less than any workers in Chrysler who are going to contribute to that situation. We are going to have to think about the taxpayers at some point.

The suggestion is made that if Chrysler fails, the taxpayers are out $2.75 billion; but my colleagues have made the point that if Chrysler fails, we are going to be out $2.7 billion plus $1.25 billion, and we must give recognition to that.

Mr. President, it is time to call a point to rubbery figures. We are going to need all the money we can get into this plan if it has any hope of succeeding, and those who suggest putting less money into the plan at this point, it seems to me, have a very tough row to hoe.

Mr. President, I yield 2 minutes to the distinguished chairman of the committee (Mr. PROXMIRE).

Mr. PROXMIRE. Mr. President, I strongly support the distinguished Senator from Indiana. The important point to summarize, that he made so well, was that the situation has changed, and changed dramatically, over the last 6 months. Chrysler no longer can expect a market for 10.5 million cars; it is now down to 9.25 million. That means they will have a much greater need for funds. What it means, very clearly, on the basis of all projections, is that they will need at least the $3.7 billion which the Senator from Indiana would provide in his amendment.

Mr. President, it has been said that the workers are making the biggest sacrifice. They are making a sacrifice, and it is a painful sacrifice. We all recognize that. But the $400 million sacrifice they are making is one-third of the sacrifice the taxpayers will be asked to make. The taxpayers are being asked to put up $1.25 billion, not $400 million. Even if one agrees to the point that the workers are being imposed on, they do have the greatest stake. So I hope the Lugar amendment, a moderate amendment, will be sustained, and I hope the Eagleton-Roth amendment will be rejected. With the $250 million in ESOP stock being issued to the Chrysler workers, the Eagleton-Roth amendment will make Chrysler workers better off than when they made their contract. The Eagleton-Roth amendment imposes no additional sacrifices; instead it relieves Chrysler workers of sacrifices already made.

I think we all agree that the employees should make some additional sacrifice. I thank the Senator from Indiana, and I yield back the remainder of my time.

Mr. LUGAR. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 3 minutes and 35 seconds.

Mr. LUGAR. Mr. President, let me make this final argument with regard to the pending amendment. The pending question involves a contribution of $400 million by organized employees to the Chrysler plan. In the event that amendment fails, a vote will occur on the Lugar amendment that calls for $800 million.

I stress again, we are talking about a contribution in a freely negotiated collective bargaining agreement between the UAW and Chrysler. We are not talking about a freeze; we are talking about a sum of money which is required in order to have some hope for this plan. It is an extremely important decision.

At this juncture the case, I belive, has been made that whatever might be the assumptions of Chrysler as it came to the Treasury earlier on, those assumptions have been overtaken by events. The possibilities that Chrysler will go into bankruptcy are not only present, they are widely predicted.

We are not dealing in a time at which we can suggest to people that there is any easy way out. For the hourly employees, the salaried employees, the stockholders, the suppliers, and anyone else, we are dealing today on the basis of trying to pass a constructive bill and go to conference with the House, so that there may be at least a fighting chance for this company.

Even at this late date we are being told that the organized workers will not accept anything more than $400 million of sacrifice, even if the company depends upon it, even if their jobs go down the drain. That is the whole gist of the pending question, the $400 million argument. No one would argue that that is enough to save the company. Few would argue it is going to make very much difference. The whole point that is being made is that that is all that is acceptable, that is all the UAW will accept.

I would just say to my colleagues, there is going to have to be some harder analysis than that. or the company will fail. The UAW workers will be out of business. They will have no chance, under this current amendment.

The measure with $400 million was passed yesterday by the House. So this is it.

And so this is it. I would counsel a vote of no in the event that you have any hope that Chrysler can be saved and that this body can have constructive action.

In the event that you have come to the conclusion that Chrysler is doomed and you simply have constituents who need to be satisfied, conceivably you vote yes. An easy vote, a throwaway vote, with the assumption that you gave it the old college try and it did not work but, after all, you satisfied everybody.

Now, I am for the $800 million, because it is a tough course and it is the only course that will make any difference as a matter of fact, in the salvation of Chrysler.

I ask you to vote no on the pending business and vote aye on the Lugar amendment on the vote that will follow.

Mr. President, I yield back our time.

Mr. LEVIN addressed the Chair.

The ACTING PRESIDENT pro tempore. All time has expired.

Mr. LEVIN. Mr. President. I ask unanimous consent that I be allowed 2 minutes in addition.

Mr. GARN. Mr. President, reserving the right to object, and I hate to do it, but I will, each side was allowed exactly the same amount of time and to manage it as they saw fit.

I am very much opposed to the $400 million, but I have taken no time whatsoever. And if we start getting, with all due respect, 2 minutes on this side and 2 minutes on that side, I respectfully hate to do it, but I will object. Let us vote.

The ACTING PRESIDENT pro tempore. The objection is heard.

Mr. LEVIN. Mr. President, I ask unanimous consent that my statement be entered in the RECORD as though read.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

● Mr. LEVIN. Mr. President, this amendment raises the central issue in this debate. The disposition of this amendment will really determine if we are going to pass a bill which will work or merely pass a bill. If we are interested in fashioning a bill here which is both practical and equitable, then we need to adopt this amendment.

The question is: How much should the workers give up? What constitutes a sufficient sacrifice in terms of equality of sacrifice and in terms of contributing to a sufficient overall financing package?

The amendment before us represents our best answer to that question. The $400 million figure was not pulled out of the air. It was drawn from the very substance of the contract negotiated and ratified this fall. It was pulled from the history of negotiations over the past 10 years.

The UAW contract is made up of several key components: A COLA component, a productivity improvement component, a paid personal holiday component, and a pension component. In each of these critical areas, the UAW has already made significant concessions and sacrifices to the needs of Chrysler in the contract they negotiated and ratified earlier this year.

In that contract, Chrysler workers delayed the productivity wage increases they are entitled to—by both their contract and by a sense of justice—for a total of 12 months spread throughout the life of the contract. In terms of COLA, Chrysler workers delayed imposition of COLA benefits accumulated under the previous contract. In terms of paid personal holidays, the contract ratified by the membership called for an elimination of 6 paid personal holidays throughout the life of the contract. And, finally, in the pension component of the contract, the UAW membership agreed to delay certain improvements and forgo others until the very end of the contract.

The Eagleton amendment says that even this is not enough.

We are still asking the Union under this amended to make significant additional concessions. We are requiring a total of $400 million in forgone wages—doubling their present sacrifice. We are calling on each worker to give up another $2,000 in wages—again doubling their present level of sacrifice. That is a large dose to ask workers to swallow.

I would urge my colleagues to weigh these considerations as they make that decision: if we ask for a total or near total, freeze in order to get to the $4 billion we will have help assured that Chrysler will not be a going concern because Chrysler would lose its most skilled workers to other companies not under the freeze, and because the contract could not be ratified and the financing package will never be in place. The sacrifice is substantial in the amendment Eagleton-Roth. You can either require more funds in this bill and doom it in the real world or you can get less, still a substantial sacrifice, and give the bill a chance—a good chance—to succeed. I opt for the latter course and I urge my colleagues to do the same and adopt the Eagleton amendment.

The ACTING PRESIDENT pro tempore. Under a previous order, the hour of 11 o'clock having arrived, the question is on agreeing to the amendment of the Senator from Missouri (Mr. EAGLETON). The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The VICE PRESIDENT. The Senate will be in order. The well will be cleared.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. STEVENS. Regular order, Mr. President.

The VICE PRESIDENT. Regular order is called for.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. MATSUNAGA) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

The result was announced—yeas 54, nays 43, as follows:

[Rollcall Vote No. 497 Leg.]

YEAS—54

Baucus
Bayh
Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Cranston
Culver
Danforth
DeConcini
Durkin
Eagleton
Ford
Glenn
Gravel
Hart
Heflin
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Kennedy
Levin
Long
McGovern
Magnuson
Mathias
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Pell
Percy
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Stennis
Stevens
Stewart
Talmadge
Tsongas
Williams

NAYS—43

Armstrong
Bellmon
Boschwitz
Byrd,
Harry F., Jr.
Chafee
Chiles
Church
Cochran
Cohen
Dole
Domenici
Durenberger
Exon
Garn
Goldwater
Hatch
Hatfield
Hayakawa
Heinz
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
Leahy
Lugar
McClure
Packwood
Proxmire
Ribicoff
Schmitt
Schweiker
Simpson
Stafford
Stevenson
Stone
Thurmond
Tower
Wallop
Warner
Weicker
Young
Zorinsky

NOT VOTING—3

Baker
Matsunaga
Pressler

So Mr. EAGLETON's amendment (No. 1618) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote. I ask unanimous consent that there be a 10-minute time limitation on each side to discuss the motion to reconsider.

The VICE PRESIDENT. Is there objection?

Mr. RIEGLE. Reserving the right to object, I did not hear the request.

Mr. STEVENS. I asked for a 10-minute time limitation on each side to discuss the motion to reconsider.

Mr. RIEGLE. I have no objection.

The VICE PRESIDENT. Is there objection? The Chair hears none. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, it is apparent to me, as one Senator and as the acting minority leader, that if this amendment is agreed to, there is going to be substantial and prolonged debate concerning this bill. I have tried my best, over a period of the last week, to convince the proponents of the amendment, and I understand their position——

Mr. TSONGAS. Mr. President, may we have order?

The VICE PRESIDENT. The Senator is correct. The Senate will be in order.

Mr. STEVENS. I have tried, over the past week, to convince the proponents of this amendment that, in my opinion, the Senate has to send to conference a package with regard to the Chrysler plan that leaves substantial room for negotiation in the conference, not only on this item but on the total plan.

Our committee worked long and hard and devised some unique differences with the House for a solution to this problem, and this solution involves items beyond this figure. If we are going to have any negotiating room with the House in conference on the whole approach in the Senate, there must be a substantial difference on this figure, too. That has been the position I have expressed and I hope that we will reconsider.

I hope that Senators will give an opportunity to the managers of the bill, who devised the Senate approach, to go to conference armed with some negotiating room, not only on this figure, but on the whole bill, so that, before we recess here on Friday, we can get out of conference a compromise that will suit the committee's approach in the Senate and the approach as voted by the House last night.

I voted against the amendment because I would like an opportunity to vote on the Lugar amendment. If that fails, I should like an opportunity to vote on the Tsongas amendment.

It seems to me that, working our way through, we can make some sense in this bill if Members of the Senate will look to the problem of negotiating in conference on the approach as a whole.

Mr. DOLE. Will the Senator yield?

Mr. STEVENS. Yes, I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I should like to associate myself with the remarks of the distinguished Senator from Alaska. As one Republican Senator who would ultimately like to support some Chrysler package, it seems to this Senator that we are making a mistake, as pointed out by the distinguished Senator from Alaska. There are those of us who are prepared to discuss it at some length.

Mr. STEVENS. I yield the remainder of my time to the Senator from Massachusetts.

Mr. WEICKER. Mr. President, I wish to speak.

Mr. STEVENS. I yield 2 minutes to the Senator from Massachusetts.

Mr. WEICKER. I would like to have 2 minutes.

Mr. STEVENS. I yield 2 minutes to the Senator from Connecticut.

Mr. WEICKER. Mr. President, I just want to reaffirm what the distinguished minority whip——

Mr. RIEGLE. May we have order, Mr. President, so the Senator may be heard?

The ACTING PRESIDENT pro tempore (Mr. BRADLEY). Let us have order in the Senate.

Mr. WEICKER. I want to reaffirm what the distinguished minority whip stated. I see no possibility, under present circumstances, of any vote on the Chrysler bill in this body by Saturday at the earliest.

We now have the additional problem of an appropriation bill which is going to be required, and which bill has had no hearings.

All of these difficulties are those which naturally arise when something is shoved through at the last minute.

So I would hope again that the people consider very carefully what it is they have done here and realize they have several other options open.

But as I view the legislation now, and this is the first time I have had a chance to see it in what might be its final form, I assure Senators that I and many others on this side of the floor now feel it is the worst of all worlds by virtue of what just transpired on the floor.

I suspect there would be no great difficulty in assuring the fact that debate will be thorough, very thorough, with no possibility whatsoever of votes on the measure until Saturday, or until January 3, whatever the date is that the majority leader sets.

Mr. TSONGAS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, it is obvious to me, as someone involved with this issue for a while, that the auto industry does not know when to leave it alone.

There were a lot of negotiations here. Some of us have come off our prior positions, and it was not easy.

The scenario we were going to establish yesterday for this morning was to give each side a symbolic vote, and end up in a position that maximizes viability of the company and the concern over every corporation coming down the road.

Again, that was not good enough. The final package, after conference, was going to be $475 million, which is acceptable. But that was not good enough. We have to push and push and push, and now have the victory.

In 1975 they did the same thing with the Auto Efficiency Standards Act and are now paying the price because they cannot compete in the marketplace.

I, for one, having been down this road, would like to suggest I am going to change my vote on reconsideration. I hope others who are more concerned with the viability of Chrysler and the impact on our economy, and less for those lobbying, will join me in that effort.

Mr. BAYH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Indiana.

Mr. BAYH. Mr. President, I have not said a whole lot about this. But I must say that I wonder if my ears are accurate.

This has not been an easy vote for any of us here and, suddenly, the U.S. Senate, by a 54-to-43 vote, decides to go one way, and then we have the people on the 43 side saying, "No," we are not going to do that because they will blackmail us from getting anything at all.

I believe there should be compromise, if compromise is right. But I must say to my friend from Massachusetts, I do not think there is anything in any agreement this Senator took part in that suggests the level of $475 million is magic, if we can get a better one.

I frankly believe $400 million is better. It has a better chance of keeping the company in business, to keep those auto workers in Indianapolis, New Castle, or Kokomo, Ind., where we have plants, from going to work for Ford and General Motors.

I get tired of all this lobby business. This one Senator did not need to be lobbied, because he had a lot of constituents involved.

I do not care, I will be here on Christmas day if we have to, to try to keep this corporation in business, to try to keep this company from some of the most dramatic economic consequences we have had since the Great Depression.

I do not want to be dramatic about it, but there is nobody standing here saying this Senator is yielding to lobbyists.

In fact, I was for a lesser amount than the $400 million.

The bill introduced by both Senators from Michigan, the Senator from Missouri, and the Senator from Indiana, went along with the Treasury Department. What they said was right.

Suddenly, the amount is doubled. We have gone from $203 million to $400 million, and suddenly we are being told we did this now because of lobbying pressure.

If we talk about where we start with giving in, I suggest we start with the $200 million, not $400 million.

The side supporting keeping Chrysler in business has been willing to make a 100-percent increase in the amount of contribution from labor and management.

I hope my colleagues forgive me for getting a little passionate about this. When I think about those people carrying lunch buckets in my constituency, I do not intend to sit still and let them be put out of jobs.

I hope my colleagues will forgive me for getting a little bit passionate.

Mr. PROXMIRE. Will the Senator yield?

Mr. BAYH. I am glad to yield.

Mr. PROXMIRE. The fact is that because there is $250 million in addition to what the Treasury provided. $250 million to be given the employees in this bill in stock, at present market values, they are making a lesser sacrifice than the Treasury required, or the Senator from Indiana, the Senator from Wisconsin, and others, who introduced the bill. It is a lesser sacrifice, not greater. That is why it is outrageous.

Mr. BAYH. The Senator from Wisconsin knows that once we have divided the stock that way, what they get is not present market value. It is significantly depreciated and decreased.

Mr. PROXMIRE. The bill provides that stock with a value of $250 million must be given to employees regardless of the number of shares they might require.

Mr. SARBANES. Will the Senator yield?

Mr. BAYH. I am glad to yield.

Mr. SARBANES. The Senator from Wisconsin, the chairman, knows as well as anyone on this floor the purpose of the stock contribution is to even up the sacrifice made by stockholders.

This is a very difficult package to put together. But if we take the Senator's approach, we will not get a sacrifice out of the stockholders.

Mr. PROXMIRE. The Senator could not be more wrong.

Mr. BAYH. This is the ESOP proposition. It is compensation for the employees giving up their pay increase.

Mr. SARBANES. It is not. The Senator from Alabama who proposed the amendment made it very clear to every Member of the Senate, that was not the case.

Mr. PROXMIRE. The committee transcript and report clearly indicates that the ESOP stock was provided in compensation for the wage freeze.

Mr. SARBANES. I would like to yield to the author of the amendment.

Mr. BAYH. Could the Senator from Indiana make a brief statement and then yield the floor, because I do not want——

Mr. PROXMIRE. The majority leader would like to make a motion.

Mr. ROBERT C. BYRD. Go ahead.

Does the Senator from Alabama wish to speak?

Mr. BAYH. Let me make one other statement, I say to the leader, and then I will sit down.

I want my colleagues to know that there are some of us who have significant constituencies involved. They feel we have gone as far as we should go now, and too far. We feel that this $400 million level is an acceptable contribution on the part of the auto workers.

The stock option matter, the employee participation in ownership, is sort of a triple-barrel operation, it seems to me.

One, it is to require the stockholders to make a contribution. Two, it is to partially compensate the auto workers. And three, it is to give the work force incentive to increase productivity.

Mr. PROXMIRE. The Senator is saying exactly what I said, the purpose of the ESOP is to compensate the workers for the wage concessions, and it does, $250 million present market value in stock.

Mr. BAYH. Where we depart is how much it gives them, the value of the stock.

Mr. PROXMIRE. We said $250 million, that is what we have in the bill.

Mr. BAYH. I understand that.

I want to say in closing that when we talk about the impact this will have on the country, I hope we will put aside our plans and stay here long enough to do the job.

It is all well and good for us to get a salary increase every time the cost of living goes up. Now we are talking about people who are not going to have any salaries at all, if we do not stay here and hang tough and do what is right.

I believe that the compromise we just accepted, by the Senator from Missouri and the Senator from Delaware, is on the right track. The autoworkers, management, stockholders, financial institutions, and the taxpayers all share part of this burden, and they all have a great deal to gain or to lose, depending upon the outcome of this bill.

Mr. STEWART. Mr. President, with all due respect to my colleague, the chairman of the Banking Committee, the Senator from Wisconsin, he did not understand the employee stock option plan when we offered it in committee, and he does not understand it now. I say that with all due respect.

I should like to have an opportunity, at the appropriate time, to explain this amendment. It is not tied to the wage freeze. It was in his mind, and in part it was in the committee's mind, but it is not done on that basis. I should like to have an opportunity, at a later time, to explain the amendment and discuss it fully on the floor, as we did in our "dear colleague" letter.

Mr. DANFORTH. Mr. President, after careful consideration, I have concluded that it is in the best interests of the country to provide loan guarantees to Chrysler.

As a general rule, Government assistance to private corporations is neither desirable nor productive. Over the longrun, there is little doubt that the marketplace is the best arbiter of economic decisions—not the Government. However, in certain situations overriding public interest dictates that the Government intervene in the private marketplace. This is especially true when Government through legislation and regulation has previously intervened in the marketplace, disrupted the free enterprise system, and brought about economic dislocation and hardship.

The automobile industry has been the focus of a series of Government regulations dealing with fuel economy, pollution, emission and safety. Since their imposition in the mid-1960's, these regulations have become progressively more costly. All three forms of regulations establish rigid compliance schedules which must be met regardless of the state of the economy and normal market forces. It is estimated that between 1979 and 1985, the "Big Three" automakers will have to spend $80 billion to meet Federal standards. Chrysler will spend approximately $13.6 billion over this period, an average of $160 million every month. General Motors will spend approximately $38 billion and Ford $28.4 billion over the same period.

Chrysler estimates that this expenditure is double that which they ordinarily would spend on new plant, tools, and equipment. In addition, the burden of the regulations has not fallen equally on the major automakers. For example, Chrysler currently spends about $620 per car to meet Federal standards, while GM spends about $340. This obviously affects Chrysler's competitive position in the marketplace.

Federal safety, pollution, and economy standards have drained off capital which would otherwise be allocated for invention, innovation, and productivity growth. This capital depletion has come at a particularly bad time, coinciding with Chrysler's unusually heavy capital demands for retooling productive capacity to produce smaller, more fuel-efficient cars and trucks. Chrysler's inability to retool effectively and meet changing market demands has caused its share of the domestic car market to drop from 13.3 percent in 1976 to 10.2 percent in 1979.

Should Chrysler fail and be forced to liquidate, the cost to Government would be substantial. In the first year alone, it is estimated that the increase in unemployment insurance benefits would be $1 billion; pension benefits guaranteed by the Federal Government would total an additional $1 billion. Data Resources estimates that the total cost to the Nation's taxpayers—that is, costs to Federal, State, and local governments—would exceed $10 billion in the first year alone, and would total $16.5 billion by 1981. It is estimated that the effect on employment would be a short-term loss of 500,000 to 600,000 jobs, and a permanent loss of 200,000 to 300,000 jobs in the U.S. economy. In large part, the permanent loss in jobs would result from foreign automobile manufacturers capturing the 20-percent share of the domestic market currently held by Chrysler; in doing so, foreign manufacturers would acquire an additional 2 percent of the domestic car market. This development will have an additional adverse effect on our balance of trade.

Finally, Chrysler's problems appear to be primarily short-term cash flow problems caused by a combination of poor management decisions and Federal regulations. It does seem likely that if Chrysler can overcome its short term cash flow problems, it can return to profitability as early as 1981. Chrysler estimates that its cumulative funding needs will peak at $2.1 billion in 1982, and that pursuant to the conversion of its product line to smaller, more fuel-efficient vehicles, it will reach a positive cashflow in 1984 and 1985. Chrysler's estimates appear to be based on conservative assumptions, and appear to be reasonable.

RECESS UNTIL 12:15 P.M.

Mr. STEVENS. Mr. President, I yield to the majority leader to make a motion.

Mr. ROBERT C. BYRD. Mr. President, I have been asked by Senators to recess the Senate for a few minutes so that there can be some further discussions off the floor.

How much time remains on the motion to reconsider?

The ACTING PRESIDENT pro tempore. The Senator from Missouri has 1½ minutes; the other side has 4 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that no time on the motion to reconsider be charged against the time for the recess.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 12:15 p.m. today.

There being no objection, the Senate, at 11:42 a.m., recessed until 12:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. METZENBAUM).

EXTENSION OF RECESS UNTIL 12:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the recess be extended for 15 minutes.

There being no objection, the Senate, at 12:15 p.m., recessed until 12:30 p.m.; whereupon the Senate again reassembled when called to order by the Presiding Officer (Mr. METZENBAUM).

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, to avoid our recessing, there be a period for the transaction of routine morning business to extend for 30 minutes, and that Senators may speak therein. I ask unanimous consent that at 1 p.m. I then be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, Senators may speak during morning business. Rather than recess the Senate, Senators may have some statements to make. This will save time at the end of the day. I would like for the morning business period not to end until 1 p.m., at which time I will recognized. If we happen to be in a quorum at that time, I will ask that I be recognized when the quorum is called off.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CASE FOR SALT II

Mr. CHAFEE. Mr. President, today's Washington Post has an outstanding article by Mr. Lloyd N. Cutler, the counsel to the President. The article sets forth very succinctly and in very understandable fashion the case for SALT II.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE CASE FOR SALT II

(By Lloyd N. Cutler)

My model for brevity is a British solicitor who was my colleague on a panel of lawyers in London. When his turn came, he said his topic was to compare the antitrust laws of Britain, Germany and France. He said:

"I shall do it in three sentences:

"In Britain, anything that is not expressly forbidden is allowed.

"In Germany, anything that is not expressly allowed is forbidden.

"In France, everything is forbidden, but almost anything can be arranged."

I cannot present the case for SALT in three topic sentences, but I can do it in four. All of them are related to our national defense.

(1) If your principal concern is to maintain U.S. strategic equivalence, we have a better chance of doing so with SALT II than without it.

(2) If your principal concern is to maintain the combat efficiency and readiness of our non-nuclear forces, we have a better chance of doing so with SALT II than without it.

(3) If your principal concern is strengthening the resolve and the nuclear and conventional capability of the NATO alliance, we have a better chance of doing so with SALT II than without it.

(4) If your principal concern is to get on with deeper cuts in the nuclear arsenals of both sides than SALT II itself achieves, we have a better chance of doing so with SALT II than without it.

The secretary of defense, the Joint Chiefs of Staff and the commander of the Strategic Air Command believe we have a better chance to maintain strategic equivalence with SALT II than without it. They have three main reasons:

SALT II's limits (and those of the protocol) do not bar the United States from carrying out any strategic weapons program the Joint Chiefs now plan, within the time span they now plan.

SALT II's limits will restrain the Soviet Union. At their present rate of launcher construction and conversion, the Soviets could readily surpass the various launcher ceilings before 1985. At their present rate of missile development, they could readily deploy more than one new light missile type by 1985, and they could readily deploy MIRVed heavy missiles with more than 10 warheads each by 1985.

Without SALT II's provisions to assist verification, we would know much less about what the Soviets are actually doing than if SALT II were in effect. Most important, the Soviets could conceal their new developments in ways SALT II forbids—for example, by encrypting all the telemetry on each missile test.

For these three reasons, it will be more difficult to maintain strategic equivalence without SALT II than with it. Without it, the Soviets can add more to the power of their own forces, widen any advantage they may achieve in the early 1980s and conceal from us what they are doing. All this will lengthen the time and increase both the cost to us and the uncertainty of maintaining parity.

The strength and readiness of our non-nuclear forces are primarily a function of the size of the defense budget. Our nuclear forces are only 10 to 15 percent of that budget and, when the budget comes out too low, it is the conventional forces that suffer.

Part of this is due to the budget-balancing imperative that must motivate all presidents, but most of the responsibility lies on the floor of Congress. Over the past 10 years, Congress has cut defense appropriations some $40 billion below what presidents have requested.

Ratification of SALT will help upgrade our conventional force in two ways. First, achieving the required 67 votes depends on forging a new consensus in the Senate between those who will accept SALT II in order to win support for greater defense expenditures and those who will accept greater defense expenditures in order to win support for SALT II. This consensus is likely to shatter in the aftermath of a failure to ratify SALT II. Second, whatever the level of the defense budget, more of it would have to go into strategic nuclear weapons, if SALT II were not ratified, in order to keep up with the additional Soviet nuclear buildup that would then occur. Whatever the level of defense expenditures, approval of SALT II will free up more of the available defense resources for conventional forces.

If there is any issue that commands a consensus of the Senate, it is the support and strengthening of the NATO alliance and its military capability—nuclear and conventional. Failure to ratify SALT would have the general impact of weakening America's position of leadership in the alliance. As Helmut Schmidt said in his recent Economist interview, how can NATO depend on the leadership and the commitments of a nation that negotiates a major military treaty over a seven-year period under three administrations of both parties, and then cannot obtain the approval of its own legislature?

Failure to ratify would also have an adverse impact on NATO's actions to deploy in Europe modernized and longer-range U.S. nuclear weapons systems, so as to offset the threat of the Soviet SS20. For the NATO governments in Europe, a decision to deploy under American control nuclear weapons capable of reaching targets in the Soviet Union is a political decision of great internal and external consequence. For them, the decision to deploy the new weapons is justifiable on two parallel grounds: military needs, and as the first step in a plan to negotiate theater nuclear weapon limitations. These limitations would be in the context of SALT III, alongside the further intercontinental limitations that will also be part of SALT III. But such a plan depends upon the existence of SALT II. That is one reason the heads of so many European governments have publicly and privately urged the ratification of SALT II.

SALT II does not cut the existing strategic arsenals very deeply. But it does ban completely many systems now on the drawing boards, and it places substantial limits on MIRVing, new types and other avenues of breakout and proliferation.

Above all, it lays the basic groundwork for further cuts in SALT III. I would liken the SALT II treaty to a Wall Street bond indenture. It contains all the critical definitions, all the warranties and covenants, all the events of default, all the procedures for notice and consultation. Once this basic indenture is in place—whether for a $100 million bond issue or for launcher ceilings and sub-ceilings of 2,400, 1,320 and 1,200—it is a relatively simple matter to negotiate an increase in the size of the bond issue or a decrease in the level of the launcher ceilings.

But if we have no SALT II, no basic bond indenture, then the future negotiation of agreements on lower ceilings will be incomparably more difficult. As in SALT II, agreement on any one point will depend on agreement on all other points. All the definitions, all the counting and non-concealment rules will have to be traded out again. Without SALT II in place, an agreement on deeper cuts would probably take many more years to achieve.

GOLD CLAUSE TREASURY BONDS?

Mr. HELMS. Mr. President, it was in 1976 that I first offered a bill to make legally enforceable, financial obligations denominated in gold.

Since 1933, it had been illegal for Americans to write contracts saying, for example, that "I promise to pay 1 ounce of gold per month in exchange for consideration." Prior to that time it had been standard procedure for almost all financial obligations from the 1870's to contain a clause requiring payment in gold. The fear was that the Government would inflate the currency as it had during the Civil War and thus effectively break contracts.

Well, of course, that is precisely what the Government did, and is doing now. But, at least it is now possible if people so choose, to write contracts in gold.

Most recently Forbes Magazine published an editorial by Malcolm S. Forbes, Jr., entitled "A Golden Solution." In it, he proposes to put real credibility behind the so-called dollar support efforts. He proposes that the Treasury Department issue gold clause bonds.

If, as Mr. Forbes suggests, a $1,000 bond would be "backed" by 2 ounces of gold, the bondholder would at least have recourse to the gold if the $1.000 loan to the Government continued to depreciate. Forbes points out that the bond would probably be sold at a far lower rate of interest than now prevails. He is right, of course. A "real" rate of interest has traditionally been around 3 percent.

When the dollar was "as good as gold," Treasury bonds often sold for considerably less than 3 percent. But, because of Government dumping and a Quixotic antigold policy, the price of gold tends to jump around. Therefore, Mr. Forbes' prediction of a 5- or 6-percent rate might be more accurate.

I will wager, however, that a bond that was sold carrying commitment to honor the bond at the gold price on the day it was sold, would have an extremely low interest rate. A $1,000 bond which was sold last Friday, for example, when gold was $456 per ounce, would carry a gold clause stating that it was payable at the owner's demand at either $1,000 or at the dollar equivalent of the value of 2.19 ounces of gold (1,000:456). Obviously, if the Government continued to depreciate the currency, the gold/dollar ratio would continue to deteriorate and people would claim the gold value.

It is interesting, Mr. President, to see more and more individuals take an interest in the relationship of gold to money. I know from reading his editorials that Malcolm Forbes, Sr., has little tolerance for the "barbaric relic," but he may be wise to take a lesson from his son.

I ask unanimous consent that "A Golden Solution" be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A GOLDEN SOLUTION

(By M. S. Forbes, Jr.)

If the U.S wants to take advantage of the Arab gold-buying binge, we should consider issuing gold-backed Treasury bonds, something that no country has done in decades. For each $1,000 bond, we would promise to pay at maturity either greenies or, say, two ounces of gold. That would leave room for gold to rise and still give us a number of benefits.

Gold-backed bonds would carry significantly lower rates of interest, perhaps as little as 4 percent to 5 percent. Bond buyers demand high interest to help compensate for inflation. If inflation averages 7 percent over a ten-year period, a $1,000 bond would be worth, in real terms, only $485 at maturity. But since gold is supposed to stay well ahead of rising prices, buyers would suffer no loss of principal or income.

Not only would we save interest costs, but gold bonds would also sop up some of the billions of overseas dollars that are creating such chaos in the currency and commodity markets and thereby help restore some badly needed stability.

Of course, issuing this gold paper is no long-term solution to the world's financial problems but it would buy us time to put our house in order.

Some financial experts don't like the idea of anything that might give some sort of official legitimacy to that "barbaric relic." The markets, however, have already reduced the dollar's influence and sharply increased that of gold. Instead of wringing their hands at the silliness of it all, U.S. policymakers should be asking themselves how we can limit the damage this gold mania is doing to the currency markets. Golden bonds would seem to be an effective answer.

Others argue that with gold increasing in value, we should hold on to our hoard. If we rectify our ways, though, we'll be able to keep the stuff when the bonds mature. And if our financial house remains a mess, having a big pile of gold isn't going to do the economy much good anyway.

HUMILITY NEEDED

With his dollar-support moves, Federal Reserve Board Chairman Paul Volcker has begun to rid his institution of the illusion that it can fine-tune economic activity.

Interest Rates. The prevailing orthodoxy at the Fed was that manipulation of interest rates can control credit demand and thus control inflation. Fed technocrats forgot that, next to taxes, interest is the biggest expense in this economy. Raising rates by 1% eventually increases costs by about 1½%. Is that the way to relieve inflationary pressures?

The Fed would be better off if it left the free market to set rates rather than attempting to do it itself, and that, at last, is where it is now headed.

Money Supply. Here Mr. Volcker still needs some educating. As this column has pointed out (*Oct. 1*), there is a big problem today in defining what money is. Innovations such as repurchase agreements and NOW Accounts have made the Fed's traditional measures of money obsolete. Then, too, the monetarists ignore the $500 billion-dollar-plus pool of Eurodollars, as if these have no effect on money supply.

If you include Eurodollars, there are probably more than $1.5 trillion in the world today. The only direct control the Fed has is member-bank reserves, which number little more than $30 billion. You're not going to get much fine-tuning with a weapon like that.

Moreover, Mr. Volcker should realize that now is not the time to try tightening the money spigots even more. As savvy money-manager John Winthrop Wright of Wright Investors' Service points out: "A surge *in* loan demand after economic growth has turned down is not a sign that further restraint is needed, but instead confirms the increase in loans business needs to finance unsold inventories."

THE FARMERS HOME EMERGENCY LOAN PROGRAM NEEDS CHANGING

Mr. HELMS. Mr. President, in May of this year the Senate approved S. 985, to amend the Consolidated Farm and Rural Development Act. The legislation provides specific lending limits for loan programs administered by the Farmers Home Administration under the act for fiscal years 1980, 1981, and 1982.

This past Friday, December 14, the Committee on Agriculture, Nutrition, and Forestry and other interested Senators further modified S. 985, as amended and passed by the House, in order to limit abuse of the emergency loan program.

Currently, there is no statutory limit on actual loss disaster loans made by Farmers Home through the emergency loan program. The amendments set a maximum loan limit of $500,000 per disaster. This provision will equate the FmHA disaster loan limit for actual losses with a similar program administered by the Small Business Administration. Interest charged on these loans will be at 5 percent if the borrower cannot obtain credit elsewhere, and at a rate equal to the cost of borrowing by the U.S. Treasury, plus up to 1 percent for administrative expenses, if the borrower can obtain credit elsewhere.

Subsequent loans for annual operating or major adjustment expenses made to any eligible borrower cannot exceed an outstanding balance of $1.5 million, under the amendments. The loans may be guaranteed or insured by Farmers Home, at the discretion of the Secretary of Agriculture; insured loans will bear a rate of interest equal to prevailing private market rates, with the level of interest for guaranteed loans to be agreed upon between the borrower and lender, not to exceed a maximum rate established by the Secretary. Eligibility for subsequent annual loans will be reduced from the present five years to a 2-year period.

Additionally, Mr. President, the proposal adds a new section to the lawmaking clear that congressional intent is that Farmers Home emergency loans are provided for the preservation and protection of family operated farming enterprises; moreover the Secretary is charged with the responsibility of issuing necessary regulations to assure proper use of the emergency loan program.

I would add, Mr. President, that these amendments represent a compromise achieved among Senators representing not only the Committee on Agriculture, Nutrition, and Forestry, but members of the Committee on the Budget, the Agriculture and Related Agencies Subcommittee of the Committee on Appropriations, and the Select Committee on Small Business. While we all had somewhat different motivations, I feel that all Senators involved recognize the importance of continuing and supporting the efforts of the Farmers Home Administration in properly assisting the farmers of our Nation, which is its principal responsibility.

The purpose in considering these amendments at this time, and in this manner, is to enact statutory changes that will give FmHA some of the tools it needs to better administer the emergency loan program and grapple with abuse which has taken place. Many will recall the portion of the CBS "60 Minutes" program aired in early October, which disclosed that certain farmers were obtaining millions of dollars in assistance under this program. In fact, the most suspect loans totaled over $5 million and reached upwards of $15 to $16 million. The CBS program reported that many of these farmer-businessmen had large nonfarm assets, and could be considered as wealthy at the time they received the loan assistance and consequent taxpayer subsidies.

The real problem was that these individuals were within the law, in fact, Farmers Home was obliged to make the loans according to the law and the Agency's regulations. It borders on the astonishing that at no point during processing of these loans applications was there a mechanism to stop a potentially questionable loan for so large an amount. Naturally, under these conditions these persons sought out low interest loans for which they were eligible. It is to be hoped that our approval of these strengthening amendments will result in FmHA's using the taxpayers' funds more prudently.

As of August 1, 1979, over 95,000 emergency loans were outstanding, totaling over $6 billion. Of these loans, only 291 had outstanding balances over $1 million. Only four of those loans were held by farmers living in North Carolina, and those loans were made prior to fiscal year 1979—no new ones of that size were made in my State during the past fiscal year.

Mr. President, I believe we must take sight of the fact that about 98 percent of the outstanding emergency loan balances nationwide are under $500,000, and undoubtedly are held by smaller size farmers who needed assistance to recover from a natural disaster. The fact is, this particular program has been useful and can continue to be so. But it obviously must be more closely monitored by USDA and the Congress.

During formation of this compromise, I rejected an earlier proposal that would set the interest rate for subsequent annual loans insured by Farmers Home at just a little more than the cost of money to the Government. Our compromise now contains a requirement that these insured loans be made at a rate of interest equal to prevailing private market rates. I see no reason whatsoever to further subsidize individuals or corporations which may be legally but unnecessarily eligible for additional lending in order to recover from a disaster. They are already receiving up to $500,000 at 5-percent interest under this proposal—well below rates charged on funds available from any other source.

Even though my restriction was accepted, I still do not feel we have tightened this program as much as we can or should. Therefore, early next year I intend to propose that Congress modify the law to place a $250,000 ceiling on loans for actual disaster losses. According to FmHA figures, during the 22-month period ending August 1 of this year, only 490 farmers nationwide held actual loss loan outstanding balances in excess of $250,000. In North Carolina during this same time period, only 25 loans, out of more than 4,400 outstanding, had balances over $200,000. Only three-tenths of 1 percent of the 2,700 borrowers receiving emergency loans in fiscal year 1979 in North Carolina were approved for amounts exceeding $250,000. Thus, practically all farmers in need in my State—and I am sure the same is true in many other States—would be protected under this limitation. I feel this represents a fair limit on subsidized Government assistance and will enable those farmers least able to bounce back from a disaster to become productive once again.

I also believe we should closely examine the 5-percent interest rate charged for these loans. It is hard to believe that during our current "credit crunch" some individuals are able to obtain loans at such a low rate—presently one-third of the prime lending rate. I would prefer to see FmHA tie the interest rate for these disaster loans to the cost of money to the Government, or at current rates charged for the sale of Treasury bills. We must simply stop massive Government subsidization of credit if we are ever to return fiscal responsibility to the management of Government.

In addition, it concerns me that the legislation contains a provision to permit the actual loss loans to be made in the form of guaranteed or insured loans. I understand that this provision is considered desirable because farmers who are eligible for major adjustment loans in addition to actual loss loans can most practically receive the loans as one transaction.

Now, that may be best from the standpoint of the borrower and the lending institution, but I am far from persuaded that it is in the best interest of the taxpayers or the budget process. The Congress simply must monitor loan authorities more closely. I have the suspicion that this provision will make such activity harder to identify and remove the loan activity further from the budgetary and oversight process.

Mr. President, I am sorry to say that these concerns were not addressed during consideration of the various suggestions that grew into this compromise. However, I plan to address these matters next year, and will urge Congress to act. At that time, I would hope the Committee on Agriculture, Nutrition, and Forestry will not have to compromise but rather act only in the best interests of both the farmers and the taxpayers.

When we take subsequent action to improve further upon our decisions, I hope all Senators look to our committee under the leadership of its able chairman to propose solutions acceptable to a majority of the Senate and in the best interests of agriculture and the Nation.

A CONSTITUTIONAL AMENDMENT REQUIRING A BALANCED FEDERAL BUDGET (S.J. RES. 126)

Mr. HEFLIN. Mr. President, when I first joined the Senate in January of this year, the first piece of legislation I sponsored was a joint resolution calling for a constitutional amendment which would mandate a balanced Federal budget on an annual basis. In offering this legislation I was fulfilling a pledge I made to the people of Alabama who sent me to this body to represent them. The people of Alabama, like the people all over this country, realize that inflation is perhaps the number one problem facing this country today. No doubt there are other problems which we must face and overcome but, as these problems wax and wane the problem of inflation goes on and on and on. The people of this country are crying out for relief and it is the responsibility of this Congress to assume the leadership in trying to bring inflation under control and to provide the much needed relief for the average American worker and taxpayer.

In my first floor speech in this body, I urged the Senate and the House of Representatives to assume the leadership in this battle. I noted that a strong move was being made by the States to convene a constitutional convention in order to propose a balance the budget constitutional amendment. I felt then and I feel now that such a convention would be unwise and certainly would be unneeded if this body fulfills its own responsibilities for providing the leadership in this area.

I must admit, however, Mr. President, that at the start of this session the prospects for progress looked bleak indeed. There were many, many persons both in and out of the Congress who thought this movement would never get off the ground. Dozens of proposals for achieving a balanced budget were put forward and although each had its own constituency, no consensus could be seen for any particular approach to solving the problem.

Early in the year, however, a coalition of Senators who were interested in providing relief from inflation to the American taxpayers began to meet to seek ways of attacking this problem. This coalition of Senators and their staffs met frequently throughout the spring, summer, and fall trying to arrive at a consensus measure which could be supported by all the various factions and constituencies who were seeking the same end, although by a variety of means.

By early fall it was clear that a majority of the members of the Constitution Subcommittee were in agreement that some action should be taken this year, but again there was no consensus as to the particular approach which would be most appropriate. Several months of intensive work by the staffs of Senators DECONCINI, HATCH, SIMPSON, THURMOND, and myself, always in coordination with and in conjunction with the efforts of the Ad Hoc Balance the Budget Committee made up of Members from the Senate at large, worked diligently on trying to form some kind of coalition. Various approaches were taken, scrutinized by the subcommittee members and the Ad Hoc Committee and revised or rejected.

Finally, a few weeks ago a measure was forged which, in my judgment, takes a fresh approach to the problem and which combines the best features of the various competing approaches to the solution of the problem of balancing the budget and restraining Federal spending and Federal growth.

The proposed amendment has been scrutinized by many Senators and interest groups as well as the staffs of many in this body. It appears to be the consensus of those who examined this amendment that it is an amendment that we can live with, that the American public will rally behind and that has a realistic chance of being passed by this Congress and ratified by the several States. I think that we have obtained a major breakthrough which will lead to the unsnarling of the impasse that was caused by so many competing pieces of legislation.

Today this amendment was reported favorably by the Constitution Subcommittee of the Senate Judiciary Committee. I think this is an historic day because this is the first step in a long journey which will eventually see this amendment become a part of our organic law.

I think at this point it is important to note the characteristics of this amendment. It is not the intention of the drafters of that amendment to write economic policy in the Constitution. In our collective judgment, it is only incidentally an economic amendment; primarily it is an amendment of process. Section 1 of the amendment establishes a norm and that norm is that spending should not exceed revenues. If a government is going to spend money for whatever purpose, it should and must have the money in hand to pay for the goods or services required. This is a concept that is basic to sound fiscal policy both on an individual level and on the national level. It is a concept that all Americans understand. You cannot continue to spend more money than you take in year after year and be on sound economic footing. Section 1 can be waived by a majority vote in case of war or by a three-fifths vote of the Members of Congress.

Section 2 requires that revenues not grow at a rate which exceeds the growth of national income and thereby establishes a norm. This norm is that tax increases must be above board and affirmatively approved by a vote of the elected representatives. It does not try to control the level of Government spending per se. What it does is provide that if the Government is going to raise taxes, it must do it by majority vote in the open and not rely on hidden taxes such as inflation to drive up Federal revenues and thus finance increased Federal spending. The Congress can no longer hide behind inflation if this amendment is approved as I think it will be. It will then be put in the hard position of making decisions about whether to cut out spending or to raise taxes to cover the increased spending. Either decision will be difficult and this difficulty I think will inhibit the growth of a needless Federal program. Thus, in effect, the provision will be both a limitation on spending and a limitation on taxation which are major goals for any such amendment.

As mentioned, the amendment is a unique combination of the approaches which were competing for attention. First and foremost it is a balance the budget amendment. But, as mentioned above, it also has the characteristics of a spending limitation and a tax limitation amendment. It expressly mandates a balanced budget which can be waived by Congress only by a three-fifth vote. It is a tax limitation because it prohibits hidden inflationary tax increases and it is a spending limitation in that if there is no vote to raise taxes, spending will be held down by the section mandating a balanced budget.

Mr. President, I stated earlier that today is an historic day. I truly believe this and I think that the American people will rally behind this amendment once the details of the amendment are made known generally. I hope that all groups who have an interest in bringing fiscal restraint and economic sanity to this Government will rally behind this amendment and give it their support. It is very likely that the amendment will be reported by the full Senate Judiciary Committee by the middle of March 1980. It is thus very likely that this amendment can be debated on the floor of the Senate early next year. In my judgment, we have achieved a breakthrough in the war on inflation and now we must move boldly to exploit our successes. I call upon Americans all around this Nation to get involved in this movement. The time is ripe and if we act decisively perhaps before the end of this session of Congress we can present the American people the opportunity to ratify this much needed and sensible amendment to our Federal Constitution.

Again, I want to thank all of my colleagues on the Constitution Subcommittee and their staffs for the hard work that has gone in to putting us on the threshold of victory. I also want to thank each and every member of the Balance Budget Caucus and especially Senators ARMSTRONG, BOREN, EXON, LUGAR, HEINZ, MORGAN, McCLURE, STONE, STENNIS, and HARRY F. BYRD, JR., who provided the bipartisan leadership in bringing the Balance Budget Caucus together initially and providing the impetus which I think contributed much to the furthering of our common goal.

I urge each and every Member of this body to examine the merits of this amendment and to join us in cosponsoring what may prove to be the most significant amendment to the Federal Constitution since the adoption of the Bill of Rights.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ALCOHOLISM AND DRUG ABUSE PREVENTION

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 440.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 440) entitled "An Act to revise and extend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That (a) section 301 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4571) is amended by striking out "for the fiscal year ending September 30, 1979" and inserting in lieu thereof "for each of the fiscal years ending September 30, 1979, and September 30, 1980".

(b) Section 310(a) of such Act (42 U.S.C. 4574) is amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1980".

(c) Section 312 of such Act (42 U.S.C. 4578) is amended by striking out "for the fiscal year ending September 30, 1979" and inserting in lieu thereof "for each of the fiscal years ending September 30, 1979, and September 30, 1980".

(d) Section 503 of such Act (42 U.S.C. 4587) is amended by striking out "for the fiscal year ending September 30, 1979" and inserting in lieu thereof "for each of the fiscal years ending September 30, 1979, and September 30, 1980".

(e) Subsection (c) of section 504 of such Act (42 U.S.C. 4588(c)) is amended by striking out "two succeeding fiscal years" and inserting in lieu thereof "three succeeding fiscal years".

(f)(1) Section 303(a)(3) of such Act (42 U.S.C. 4573(a)(3)) is amended by inserting "and women and the elderly" after "minority and poverty groups".

(2) Section 303(a)(4)(B) of such Act is amended by inserting ", by the elderly," after "by women".

(3) Paragraph (4) of section 311(c)(4) of such Act (42 U.S.C. 4577(c)(4)) is amended to read as follows:

"(4) The Secretary shall encourage the submission of and give special consideration to applicants under this section for programs and projects for the prevention and treatment of—

"(A) alcohol abuse and alcoholism by women,

"(B) alcohol abuse and alcoholism by the elderly, and

"(C) alcohol abuse and alcoholism by individuals under the age of eighteen.".

(g) Title IV of such Act is amended by adding at the end the following new sections:

"Sec. 604. The authority of the Secretary to enter into contracts under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

"Sec. 605. No funds provided under this Act may be used to pay the compensation of any individual who admits under oath to the illegal use or possession of any controlled substance (as defined in section 102(6) of the Controlled Substances Act).".

Mr. THURMOND. Mr. President, I rise today in support of the compromise agreement reached between the Senate and the House on S. 440, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act Amendments of 1979.

One of the major provisions in the Senate version of S. 440 was a proposal I authored to label strong alcoholic beverages with a warning of the health hazards associated with consumption of such beverages. Frankly, I am disappointed that this amendment was not accepted by the House. Millions of Americans every year must face the serious and oftentimes disastrous consequences of excessive alcohol consumption. A warning label would have provided these people with information about the hazards associated with drinking so that they could use it to regulate and guide their own lives.

The compromise version of S. 440 is structured so as to permit and encourage Federal agency action that would bring about warning label regulation sometime in 1980. It is in the hope that this ultimate goal of labeling is achieved that I support this legislation. Basically, the compromise language requires that the Secretary of Health, Education, and Welfare and the Secretary of the Treasury report to Congress and the President by June 1, 1980, on the nature and extent of health hazards, particularly during pregnancy, associated with excessive consumption of alcohol, together with measures that can be taken by the Federal Government to warn the public of these dangers. The language of section 19 of S. 440 makes clear that the Federal Food, Drug and Cosmetic Act (FFDCA), applies to the labeling of alcoholic beverages. Further, it requires that the FFDCA and the Federal Alcohol Administration Act (FAAA) be read together with respect to their combined authority to inform the public of the health hazards associated with alcohol consumption. Finally, it requires that HEW and the Treasury Department work closely with each other in deciding the actions necessary to enforce these laws as mandated by Congress.

While it would be preferable, in my opinion, for Congress to explicitly require an appropriate warning label on strong alcoholic beverages, I remain hopeful that the Department of Health, Education, and Welfare and the Department of the Treasury, working together under the general authority of this legislation, the FFDCA and the FAAA, will soon accomplish by administrative action the objective of providing warning labels for alcoholic beverage bottles.

I would particularly like to thank Senators RIEGLE and HATCH for their work on this legislation. Their concern for the welfare of all American citizens and their dedication to informing the public of the hazards inherent in excessive drinking of alcohol are much appreciated.

● Mr. RIEGLE. Mr. President, the legislation before us, S. 440, renews and revises programs and policies of the National Institute on Alcohol Abuse and Alcoholism (NIAAA). The Senate passed this bill on May 7, well before the beginning of the current fiscal year, but delays since then have forced NIAAA onto a continuing resolution since October 1. In order to assure restored legislative authority for the Institute and to smooth the way for the supplemental fiscal 1980 appropriations request promised by the administration, we are offering a compromise agreed to by the House Subcommittee on Health and the Environment as a Senate amendment to the House amendment to S. 440.

Since the House passed this legislation on October 16, the staff of the Senate Subcommittee on Alcoholism and Drug Abuse, which I chair, and the staff of the House Subcommittee on Health and the Environment, chaired by Representative HENRY A. WAXMAN, have worked diligently to strike a compromise which would be acceptable to all members, in order to avoid the necessity for a long conference and clear this important legislation for the President's signature prior to the end of the 1st session of the 96th Congress.

The compromise agreement took many hours of negotiation, since the scope and breadth of the House and Senate bills contained such major differences.

For example, the House bill, with only minor amendments, would have provided a simple 1-year renewal of the authorizations for the National Institute on Alcohol Abuse and Alcoholism (NIAAA), at last year's level.

The Senate bill, approved on May 7, would have renewed these authorizations for 3 years and contained many important amendments, including a requirement for consumer health warning labels on distilled spirits.

The compromise agreement would renew the authorizations for a 2-year period, and would retain some—but by no means all—of the Senate amendments. The explanation of the House-Senate compromise agreement on S. 440, which I ask unanimous agreement to be printed following this statement, describes these compromises in detail. I would like to comment on just a few of them.

Mr. President, a continued and strengthened Federal effort to combat the physical, emotional, and social damage to millions of Americans who are affected by alcohol abuse and alcoholism is of urgent necessity. Some 10 million, or 7 percent, of the adults in our country are problem drinkers. More than 3 millions, or 19 percent, of the youths in the 14 to 19 age group have some problems related to the consumption of alcohol. Alcohol abuse is known to cost our economy close to $43 billion annually.

It is, therefore, urgent that these authorizations be enacted without delay.

Perhaps the most controversial and most difficult issue facing Congress in reaching a compromise agreement had to do with the Senate provision requiring consumer health warning labels on distilled spirits.

Mr. President, as the author of both S. 440 and the compromise amendment, I feel a special obligation to explain the background and legislative setting of the warning label issue.

In passing S. 440 on May 7, 1979, the Senate passed a warning label amendment offered by Senator THURMOND after first voting against tabling that amendment by a vote of 68 to 21. The House of Representatives has not voted on the issue.

As my colleagues will recall, I supported the Thurmond amendment in May, at which time I promised that the Subcommittee on Alcoholism and Drug Abuse would hold additional hearings on the subject, to supplement those held in January of 1978 under the chairmanship of former Senator William Hathaway.

On September 14 of this year, our subcommittee held that additional hearing. We received testimony in support of warning labels from the Department of Health, Education, and Welfare, the American Medical Association, the American Medical Society on Alcoholism, the American Business Men's Research Foundation, and other representatives of medical and alcoholism organizations. Testimony opposing warning labels was received from representatives of the Distilled Spirits Council of the United States, the Wine Institute, the U.S. Brewers Association, the Health Education Foundation, and other individuals with experience in the field.

As demonstrated by that hearing and the hundreds of other letters our subcommittee has received on this subject, there is an emerging consensus in the medical and alcoholism fields in support of warning labels. This consensus is not, of course, unanimous, but it is impressive nevertheless.

For example, in response to my request for comments on consumer health warnings for alcoholic beverages and related issues, the following organizations responded in support:

> The Department of Health, Education, and Welfare; the American Medical Association; the National Association of State Alcohol and Drug Abuse Directors; the Alcohol and Drug Problems Association of North America; Women for Sobriety; the American Business Men's Research Foundation; the Salvation Army; the Association of Halfway House Alcoholism Programs of North America; the National Association of Alcoholism Treatment Programs; the National Association of Alcoholism Counselors; the Christopher B. Smithers Foundation; the Psychiatric Institute; the Association of Labor-Management Administrators and Consultants on Alcoholism; and the American Medical Society on Alcoholism.
>
> Organizations writing in opposition to warning labels were: The Distilled Spirits Council of the United States; the Wine Institute; the U.S. Brewers Association; the Health Education Foundation; the National Licensed Beverage Association; the American Council on Alcoholism; Volunteers of America; and the North Conway Institute.

In response to my request for comments, the Subcommittee on Alcoholism and Drug Abuse received well over 250 letters. They favored health warning labels by better than 2 to 1.

The issue of warning labels in connection with the fetal alcohol syndrome was also considered by three consultants engaged by the Bureau of Alcohol, Tobacco, and Firearms in the Department of the Treasury. Of those consultants:

One declined to comment on whether labels should be required, but noted that relying on physicians would be inadequate to reach women of childbearing age and their partners and that the prudent course was to advise abstinence during pregnancy;

One endorsed warning labels; and

One expressed doubts about the appropriateness and effectiveness of warning labels alone but suggested that dedicated taxation efforts together with public posting of fetal alcohol warnings in liquor stores and prenatal clinics and other information efforts together with warning labels are likely to be more effective than any of these efforts individually.

Former Food and Drug Commissioner Donald Kennedy called for a fetal alcohol syndrome warning label as long ago as November 1976.

Thus the Senate's 3-to-1 vote against tabling the Thurmond warning label amendment in May was based on a firm medical and factual basis of extreme concern over the extent of birth defects and other health hazards associated with alcoholic beverages.

In attempting to reach a compromise agreement with the House of Representatives on this issue, we have found that only a very few Representatives have taken a public position either in support of or in opposition to warning labels. The House Subcommittee on Health and the Environment has not held hearings on this subject, nor even reported a bill to which a warning label amendment would be germane for quite a number of years.

Of those Representatives who have spoken out on the warning label issue, Representative GEORGE BROWN has been the acknowledged leader. Representative BROWN, together with nine cosponsors, has sponsored H.R. 4441, which would require a warning label similar to that originally proposed by Senator THURMOND.

Although the House Subcommittee on Health and the Environment has not agreed that Congress should order a warning label along the lines suggested by Senator THURMOND and overwhelmingly approved by the Senate, Members of that body have agreed that the thousands of birth defects and other health hazards associated with alcoholic beverages call for strenuous enforcement of existing laws relating to these beverages. This conclusion is reflected in the compromise agreement, which adds a new section 334 to the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970.

That new section reads:

> SEC. 334. (a) Not later than June 1, 1980, the Secretary of Health, Education, and Welfare, acting through the Assistant Secretary for Health, and the Secretary of the Treasury, acting through the Assistant Secretary for Enforcement and Operations, shall jointly report to the President and the Congress—
>
> (1) the extent and nature of birth defects associated with alcohol consumption by pregnant women,
>
> (2) the extent and nature of other health hazards associated with alcoholic beverages, and
>
> (3) the actions which should be taken by the Federal Government under the Federal Alcohol Administration Act and the Federal Food, Drug, and Cosmetic Act with respect to informing the general public of such health hazards.
>
> (b) Subsection (a) shall not be construed to limit the authority of the Attorney General, the Secretary of the Treasury, or the Secretary of Health, Education, and Welfare under the Federal Alcohol Administration Act or the Federal Food, Drug, or Cosmetic Act.

That compromise is clear. It requires a joint report from Treasury and HEW to Congress and the President concerning actions authorized by existing law which should be taken to inform the American people of health risks including birth defects from abuse of alcoholic beverages.

Despite what some representatives of the alcoholic beverage industry have said and may say again, Congress wants existing law enforced. That is the thrust of this amendment, and it reflects the reasoning of at least some House Members in their reluctance to vote on a bill singling out alcoholic beverages for a newly legislated warning label. There is adequate statutory authority under the Federal Alcohol Administration Act and the Federal Food, Drug, and Cosmetic Act to require a warning label for alcoholic beverages or, indeed, for other foods and beverages which may be shown to cause birth defects or other health problems.

In this respect, there has been confusion about the scope of coverage of these two laws. Representatives of one alcoholic beverage association, for example, have argued, first, that the Federal Food, Drug, and Cosmetic Act's authority to require warning labels does not apply to alcoholic beverages because of labeling authority also included in the Federal Alcohol Administration Act. They have then argued that the Federal Alcohol Administration Act does not grant authority to order warning labels, using the rationale that if the FAAA was designed to include such authority, it would read the way the Federal Food, Drug, and Cosmetic Act does.

Without going into the logical fallacies in that series of arguments, I would simply like to note that in proferring this compromise, the Congress is requiring that the Secretaries of Treasury and HEW consider the two laws together and report to Congress and the President concerning whether a warning label or other actions should be taken under one or both laws to inform the general public of these health hazards.

I personally believe that a warning label should be ordered for alcoholic beverages, and the 68-to-21 vote against tabling the Thurmond amendment indicates that a large majority of my colleagues agree.

Subsection (b) of this provision clearly states that this provision is not intended to limit the authority of the Attorney General, the Secretary of the Treasury, or the Secretary of HEW under the Federal Alcohol Administration Act or the Federal Food, Drug, and Cosmetic Act. This provision is included in the text of the compromise rather than in the legislative history because, in the area of the FFDCA's coverage of alcoholic beverages, clear legislative history has been ignored in the past.

I am referring, of course, to the case of *Brown-Forman Distillers Corp.* v. *Mathews*, 435 F. Supp. 5 (1976), in which a Federal district judge in Kentucky ruled that the word "food" in the Federal Food, Drug, and Cosmetic Act includes alcoholic beverages for purposes of what goes into the bottle but does not include alcohol for purposes of labels on the outside of the bottle. That decision totally misreads congressional intent in enacting these laws, and should be modified immediately.

I have had the staff of the Subcommittee on Alcoholism and Drug Abuse prepare an analysis of the Food and Drug Administration's jurisdiction over alcohol labeling, and I ask that it be printed in the RECORD at this point.

The analysis follows:

FDA JURISDICTION OVER ALCOHOL LABELING

On April 11, 1940, four months after the effective date of the Federal Food, Drug, and Cosmetic Act of 1938, the Food and Drug Administration published Trade Correspondence No. 224, which declared:

> While we have indicated that cordials, liquors, wine, and whiskey are subject to the Act, we will continue as in the past to leave the regulation of the labeling of these alcoholic beverages under the more specific Federal Alcohol Administration Act.

While beer is classed as food under the Act and would, therefore, be subject to the adulteration and misbranding provisions of that Act when shipped within its jurisdiction, we expect to continue our policy of not duplicating the work of the Federal Alcohol Administration with respect to the labeling of such products. That Administration, as you know, is charged with the enforcement of specific legislation dealing with alcoholic beverages.

Over the years, FDA, the Treasury Department, and at least one Federal court recognized the jurisdiction—albeit seldom invoked—of FDA over the adulteration and misbranding (labeling) of alcoholic beverages. Then, on August 31, 1976, Senior District Judge James F. Gordon of the Western District of Kentucky issued a memorandum opinion in the case of *Brown-Forman Distillers Corp.* v. *Mathews*, 435 F. Supp. 5, acknowledging FDA's jurisdiction over adulteration of alcoholic beverages but ruling that the agency had no authority over their labeling.

The case arose when, in response to a BATF decision to withdraw proposed ingredient labeling regulations which had been developed pursuant to a Memorandum of Understanding between the two agencies, the FDA issued a ruling indicating that it intended to assume enforcement of the ingredient labeling requirements of the Federal Food, Drug, and Cosmetic Act with regard to alcoholic beverages.

In reaching his decision that the term "food" as used in the FFDCA included alcoholic beverages for purposes of adulteration but not for purposes of misbranding, the District Judge acknowledged that the term appeared to reach these beverages:

We agree with the defendants that the "plain meaning" of the definition of food under the 1938 Act includes alcoholic beverages. Unfortunately, given the facts of this case the "plain meaning" of the word "food" contributes little to our understanding of whether Congress intended the BATF to have exclusive jurisdiction over the labeling of alcoholic beverages or whether Congress intended BATF and FDA to have concurrent jurisdiction in that area * * *. We also concede that Congress did not explicitly exempt alcoholic beverages from the purview of the 1938 Act, as it did "meat and meat products." 21 U.S.C. § 392(a). In addition we concur with the defendants that no provision in the 1938 Act limits the FDA's authority over alcoholic beverages to enforcing the adulteration and not the misbranding (labeling) sections of the Act. Notwithstanding our agreement with these statements we are fully convinced that it was Congress' intention to place exclusive jurisdiction to regulate the labeling of alcoholic beverages in BATF. We base this conclusion on the contention that Congress *impliedly* excepted alcoholic beverages from the *misbranding* provisions of the 1938 Act. The Court believes this determination is supported by (1) the legislative history of the 1935 and 1938 Act; (2) the statutes themselves; and (3) the actions of the FDA and BATF from 1938 to 1975.

The Judge's analysis of conflicts between the two acts follows:

Notwithstanding the defendants' argument to the contrary there is direct conflict between the 1935 [FAAA] and 1938 [FFDCA] Acts. This conflict is not likely to seem irreconcilable to the agency seeking to extend its largess into an area not previously regulated by it; however, the conflict appears irreconcilable to the Court and certainly to the plaintiffs, the parties being regulated.

The FDA attempts to demonstrate that these conflicts in the statutory mandate given to the two agencies as well as the conflicting regulations promulgated by FDA and BATF are not significant for the two agencies can work out a compromise by adopting a Memorandum of Understanding. Such a memorandum would state that, "except for the matter of ingredient labeling, FDA will accept labels approved by BATF as being in compliance with the FDC Act." . . . This argument is unpersuasive for several reasons. First, while the Court agrees that agencies should attempt to work out theoretical conflicts between themselves we do not believe that it is legally proper for an agency to ignore its statutory obligations, as construed in promulgated regulations. Thus, if we accepted Commissioner Schmidt's approach to this problem we would be authorizing the FDA to blind itself to the regulations it does not wish to see but to view squarely the regulation it wishes to enforce. Such is an untenable position. Second, such a memorandum as envisioned by Commissioner Schmidt would ostensibly be similar to the agreement, also termed a memorandum of understanding, signed by BATF and FDA on October 8, 1974, concerning ingredient labeling of alcoholic beverages. As such it would not be binding on either agency and could, therefore, be rescinded. We have already seen that FDA has a quick "trigger finger" when it comes to rescinding inter-agency agreements which no longer suits its purpose. See 40 Fed. Reg. 54455 (FDA rescission of the October 8, 1974, Memorandum of Understanding with BATF). Hence, such a Memorandum of Understanding, as proposed by Commissioner Schmidt, has little lasting value. Finally, the Commissioner's proposed agreement underlines the irreconcilable conflict that exists between BATF and FDA on the question of ingredient labeling. By excluding ingredient labeling from the scope of the proposed memorandum the Commissioner has conceded that the agencies cannot reconcile this difference.

It is patent, therefore, that the 1935 and 1938 Acts when coupled with the regulations promulgated thereunder do establish conflicting regulatory requirements concerning the labeling of alcoholic beverages.

Thus, it is our opinion that Congress intended the 1935 Act, which contains a specific and comprehensive provision dealing with labeling of alcoholic beverages, to govern the labeling of such products *to the exclusion of the misbranding provisions of the 1938 Act.*

In a brief prepared for an appeal of the *Brown-Forman* decision (which was never filed by the Department of Justice), the FDA discussed the question of conflict between the FAAA and the FFDCA:

The cornerstone of the District Court's opinion is its finding that there is direct conflict between the 1935 (AA) and the 1938 (FDC) Acts." . . . The District Court, relying on that finding, applied the rule of statutory interpretation recognized in *Morton* v. *Mancari*, 417 U.S. 535, 550–51 (1974), that "where there is no clear intention otherwise, a specific statute will not be controlled or modified by a general one." * * *

In the same case cited by the Court below, the Supreme Court emphasized the judiciary's duty not to strike down a statute because of an alleged conflict with another law if the two are capable" of being read in a manner that would not lead to conflict.

The courts are not at liberty to pick and choose between congressional enactments, and when two statutes are capable of coexistence, it is the duty of the courts absent a clearly expressed congressional intention to the contrary, to regard each as effective.

* * * * *

The FAA and FDC Acts are clearly "capable of co-existence." The requirement of the FDC Act sought to be imposed, that of ingredient labeling, is certainly not prohibited by the FAA Act, nor is it prohibited by regulations promulgated pursuant to the latter Act.

The District Court perceived a conflict between the FDC Act's requirement of ingredient labeling and 27 U.S.C. 205(e) (1) of the FAA Act, which requires the Secretary of the Treasury to prohibit *by regulation* certain statements on labels when those statements are "likely to mislead the consumer." A search of the CFR indicates that no regulation under this section has prohibited ingredient labeling as likely to mislead consumers. There is, therefore, no conflict between this section and the requirements of the FDC Act.

The District Court suggested, however, that there is a *potential* for conflict because BATF found that ingredient labeling could in certain cases be misleading. But if an instance of misleading ingredient labeling were identified, it would be prohibited by the promulgation of a regulation by BATF. By the same type of procedure, and for the same reasons, an exemption from the FDC Act's ingredient labeling requirement could easily be promulgated at the same time by the Commissioner of Food and Drugs on the ground that "compliance * * * results in deception * * *" 21 U.S.C. 343(i) (2). The two statutes are thus quite "capable of coexistence", and are *in accord* on the proposition that statements which, though true, are misleading should be prohibited on food

All of the other "statutory conflicts" found by the District Court . . . are simply situations where the FAA Act requires or prohibits certain labeling information with respect to which the FDC Act is silent. What the FAA Act requires, the FDC Act does not prohibit. What the FAA Act prohibits, the FDC Act does not require. Again it is clear that the statutes are "capable of coexistence".

In interpreting legislative history, the judge gave great weight to an occurrence during 1935 hearings on the food and drug bill:

Much dispute within the parties' able briefs has centered on the remarks of Congressman Virgil Chapman, a representative from the Commonwealth of Kentucky, during hearings on what eventually became the 1938 act. Congressman Chapman, the Chairman of the House Subcommittee which held hearings on the 1938 Act, addressed the following question to the State Health Commissioner of Kentucky:

Mr. CHAPMAN. Doctor, what would be your opinion, if I might ask, of an amendment which I expect to have, or attempt to have, written into this bill which would extend its provisions so as to include whisky and require adequate labeling that would disclose the various ingredients contained in a bottle that is labeled "whisky," so as to show what proportion of it is whisky and what proportion of it is water. * * *

Hearings on S. 5, H.R. 6906, 8805, and 8941 before Subcom. of House Committee on Interstate and Foreign Commerce, 74th Cong., 1st sess., at 106 1935).

During this discussion of the pending legislation Congressman Cole interjected the following comment:

Might I say we passed in the House a very drastic alcohol-control bill yesterday, and it strikes me that it is more properly the place for any subject dealing with whisky.

Congressman Chapman's remark focuses on another important aspect of the 1938 Act. From 1933 until 1938 Congress worked on several bills to amend the 1906 [Federal Food and Drugs] Act. During this time Mr. Chapman led several attempts to amend the proposed bills to include a "straight" whiskey amendment. The purpose of his "straight" whiskey amendment was to make it impossible for "blended" whiskey to be labeled and sold as whiskey. The "blended" whiskey interests, however, were very strong in the Senate and the outcome of Mr. Chapman's attempts to amend these bills was that they were not enacted into law.

Ironically, the language quoted by the District Judge in *Brown-Forman* was part of a colloquy between Dr. A. T. McCormack, State Health Commission of Kentucky, and Chairman Chapman concerning a controversial determination of the meaning of "whisky" by President Taft, who had cited both the 1906 Food and Drugs Act and the preprohibition counterpart of the FAAA in support of his authority to make such a decision:

> Mr. Chapman. Doctor, without interrupting you unnecessarily, would you briefly tell us what that decision was? What was involved in it?
>
> Dr. McCormack. Well, it decided—to make it brief—decided that anything that is half alcohol and half water and that is sufficiently colored to make it look like something that it is not—anything that is made with alcohol and water, straight spirits, that comes up to the 50 percent mark, is whiskey.
>
> That means all bootleg stuff. No rectifier makes any bootleg stuff.
>
> That decision was an abomination and an outrage of the law and destroyed the legal whisky trade.
>
> Mr. Chapman. Doctor, what would be your opinion, if I might ask, of an amendment which I expect to have, or attempt to have made, written into this bill which would extend its provisions so as to include whisky and require adequate labeling that would disclose the various ingredients contained in a bottle that is labeled as "whisky", so as to show what proportion of it is whisky and what proportion of it is water; what it is made of and what proportion is "first shots", as we call it in Kentucky, what part of it is raw, green, new whisky, and what part is grain alcohol?

This colloquy should not be read as suggesting that either Dr. McCormack or Chairman Chapman doubted that alcoholic beverages were covered by the proposed FFDCA under the same terms as other foods. Rather, Chapman was contemplating a more specific requirement that whisky, in addition to the labeling requirements imposed by the act on it along with all other foods, also reveal the quality of the particular spirits with which it was blended, if any. In this light, the subsequent colloquy between Chairman Chapman and Representative William P. Cole, Jr., suggests only that Cole felt that the FAAA was a more appropriate vehicle for such a specific amendment, not that either he or Chapman doubted the coverage of whisky and other alcohol under the FFDCA. Indeed, the beverage industry and the District Court both acknowledge FDA jurisdiction over adulteration of alcoholic beverages, a result inconsistent with the contention that these Members of Congress believed they were exempting these beverages from the scope of the act.

House and Senate hearings on the Federal Food, Drug, and Cosmetic Act periodically used examples from the alcoholic beverage industry to illustrate the need for and effects of the proposed bill. The most striking and authoritative illustration of the common understanding of witnesses and Members of Congress that the proposed bill covered labeling (misbranding) of alcohol beverages occurred during a July 24, 1935, hearing of the House Subcommittee of the Committee on Interstate and Foreign Commerce that had been set up to receive testimony on the FFCA. The following colloquy involved Walter G. Campbell, Chief of the Food and Drug Administration (who was testifying for the second day that week in support of the bill), and Subcommittee Chairman Chapman:

> Mr. Campbell. Referring to your illustration of whisky, Mr. Chairman, on the initial day of the hearing, a manufacturer could put out a water artificially colored and label it as the best 4-year-old or 10-year-old bourbon whisky, aged in wood, and dress it up in a bottle to look like that, and he could flood the market with it, and, unless the amendment I offered is accepted, he could get away with it. We could prosecute him if we could find him. We could get out an injunction, if we could locate him, to prevent him from doing it any more, but there is no protection involved in that to you or me or to any other purchaser who may be victimized by men of that type.
>
> Mr. Chapman. In other words, it would not be at all dangerous to health.
>
> Mr. Campbell. That is right.
>
> Mr. Chapman. It would be a gross deception.
>
> Mr. Campbell. That is right.

(The amendment suggested by FDA head Campbell was included in the FFDCA as enacted. Kentucky State Health Commissioner McCormack, who elicited the statement by Chairman Chapman relied upon by the *Brown-Forman* decision, also used an alcohol-beverage-industry example in support of the same amendment, which authorized multiple seizure of misbranded products.)

The major protest from witnesses concerned with alcohol during the FFDCA hearings seemed to be that it was not subject to the more stringent regulations applicable to drugs. For example, the following colloquy occurred on August 10, 1935, between Dr. Lyman F. Kebler, a consultant with considerable food and drug experience both in industry and government, and Representative Edward Kenney:

> Dr. Kelber. . . . Alcohol is omitted from the list of proscribed drugs. Why? That has been referred to a number of times, and let me say that in my judgment the title of this bill ought to have the word "liquor" in it. I overlooked at first, the idea entirely, that this bill covers liquors, but it does cover them rather feebly under the head of "drink." Yet someone, the other day, questioned the probability of the term "drink" covering liquors. I think it covers them, but in order to avoid any misunderstanding, I think it would be well to include in the title of the bill the word "liquor."
>
> Mr. Kenney. Did you say "liquor" or "liquid"?
>
> Dr. Kelber. Liquor, and include it wherever the phrase occurs, "to prevent the adulterating, misbranding, and false advertising of food, drugs, liquors, devices, and cosmetics," and there would be no question about it.
>
> I suppose the chairman full well knows that liquors have been one of the great bones of contention under the old food and drug law.

Dr. Kelber's fears of confusion were well founded.

The district judge in *Brown-Forman* inexplicably writes as though the Federal Alcohol Administration Act of 1935 and the Federal Food, Drug, and Cosmetic Act of 1938 were written on a blank slate—as though Congress had never before dealt legislatively with alcoholic beverages, as though Congress had never even intended to regulate the alcoholic beverage industry before 1935. In view of the overwhelming national Temperance-Prohibition-Repeal upheaval that was just reaching its conclusion with the enactment of the FAAA, this oversight seems astonishing.

To fully comprehend congressional intent with respect to regulation of alcoholic beverages in enacting these two laws, a stroll through old Committee reports is advisable. Contemporaneous Committee reports on proposed legislation reveal what was in the minds of members of the congressional Committees that produced these bills, and often constituted virtually the only information available to other Senators and Representatives who voted on the bills on the floors of their respective chambers. At least with respect to provisions passed into law unchanged after the reports were filed, they constitute the best evidence of congressional intent.

The House and Senate Committee reports of the 74th Congress on H.R. 8870, the bill that later became the Federal Alcohol Administration Act, clearly declared the Committees' intent to "supplement" existing Federal laws regulating the alcoholic beverage industries. These laws included the Federal Food and Drugs Act of 1906 (the predecessor of the Federal Food, Drug, and Cosmetic Act of 1938), which set forth the jurisdiction and responsibilities of the Food and Drug Administration (then located in the Department of Agriculture). Courts uniformly recognized FDA regulation of alcoholic beverages as "food" under the 1906 act, and President Taft cited the 1906 law in his controversial determination of the meaning of "whisky". The House Ways and Means Committee, in House Report No. 1542 filed on July 17, 1935, and the Senate Finance Committee, in Senate Report No. 1215 filed on July 29, 1935, in virtually identical language indicated their intent to supplement rather than supercede existing Federal laws, including the 1906 Food and Drugs Act. The following passage appears in both reports, except that the portion in italics appears only in the Ways and Means version and the portion in capitals appears only in the Finance version:

> This bill covers the industries engaged in the distilling, *brewing*, blending, rectifying, or other production of distilled spirits, AND wine, *and malt beverages*, or in the importing or wholesaling of such products, or in the bottling, or warehousing and bottling, of distilled spirits. The bill is designed to supplement the present Federal laws relating to such industries so as to provide for the further protection of the revenue derived therefrom, regulate interstate and foreign commerce in nonindustrial distilled spirits and wine *and in malt beverages*, enforce the postal laws with respect thereto, and, *incidentally*, enforce the twenty-first amendment.
>
> * * * * *
>
> The internal revenue, Federal trade, and food and drug laws are insufficient. . . . Protection of the consumer and the elimination of improper practices in this industry are imperative, and additional legislation to accomplish these purposes is necessary

The House Ways and Means and Senate Finance Committees, in developing the Federal Alcohol Administration Act of 1935, were thus fully aware that the Federal Food and Drugs Act of 1906 covered alcoholic beverages. In passing the FAAA, Congress intended to supplement, not supercede, the 1906 act.

Since the Federal Alcohol Administration Act of 1935 did not remove FDA's jurisdiction over alcoholic beverages, did the Congress intend to revoke this jurisdiction in passing the Federal Food, Drug, and Cosmetic Act of 1938? Senate report No. 152 of the 75th Congress, filed by the Senate Commerce Committee on March 8, 1937, described the general intent of Congress in replacing the 1906 act:

> This bill has been prepared with three basic principles in mind: First, it must not weaken the existing law; second, it must strengthen that law's protection of the consumer; and; third, it must impose on honest industrial enterprise no hardship which is unnecessary or unjustified in the public interest.

House report No. 2139, filed by the House Interstate and Foreign Commerce Committee on April 14, 1938, expressed a similar intent:

> This act seeks to set up effective provisions against abuses of consumer welfare growing out of inadequacies in the Food and Drugs Act of June 30, 1906, as amended.
>
> * * * * *
>
> While the old law has been of incalculable benefit to American consumers, it contains serious loopholes and is not sufficiently broad in its scope to meet the requirements of consumer protection under modern conditions.

The measure contains substantially all of the features of the old law that have proved valuable in promoting honesty and fair dealing. But it amplifies and strengthens the provisions designed to safeguard the public health and prevent deception, and it extends the scope of the law to include cosmetics, therapeutic devices, and certain drugs that now escape regulation. . . .

The definition of food is simply a clarification of the definition in the Food and Drugs Act of June 30, 1906.

The brief filed by the Justice Department and the Department of Health, Education, and Welfare in *Brown-Forman* traced the FFDCA from introduction to final passage:

S. 5, 75th Congress, was the bill ultimately enacted as the Federal Food, Drug, and Cosmetic Act on June 25, 1938. As introduced by Senator Sheppard (for Senator Copeland) and referred to the Committee on Commerce on January 6, 1937, the bill contained a definition of "food" which read as follows:

The term "food" includes all substances and preparations used for, or entering into the composition of, food, drink, confectionery, chewing gum, or condiment for man or other animals. (Sec. 2(g), S. 5, reprinted in Dunn, *Federal Food, Drug, and Cosmetic Act*, G. E. Stechert & Co., New York (1938) (hereafter "Dunn"), p. 638.)

Thereafter, S. 5 was reported, with amendments, by the Committee on Commerce (by Senator Copeland) on February 15, 1937. Dunn at 655 ff. The definition of "food" remained unchanged in the bill as reported. Dunn at 658. The bill report, dated February 15, 1937 (Dunn at 675), and an amended bill report dated March 8, 1937 (Dunn at 686), included no discussion of the definition of "food". However, it is clear that the definition of "food" was intended to encompass alcoholic beverages because the bill, as introduced in the Senate (Dunn at 651), as reported by the Senate Committee on Commerce (Dunn at 672), and as passed by the Senate on March 9, 1937 (Dunn at 695 ff) included the following provision:

For the purposes of enforcement of this Act, records kept by the Treasury Department in accordance with laws, and regulations thereunder, relating to alcoholic beverages and medicinal liquors, shall be open to inspection by an official of the Department of Agriculture [of which FDA was then a part] duly authorized by the Secretary of Agriculture to make such inspections. (Sec. 25(c).)

Obviously, Congress intended that FDA exercise authority over alcoholic beverages in addition to the authority exercised by the Department of the Treasury: otherwise there would have been no purpose in providing for FDA access to Treasury Department records concerning alcoholic beverages.

The bill, as passed by the Senate on March 9, 1937, was forwarded to the House of Representatives where it was referred to the Committee on Interstate and Foreign Commerce on March 10, 1937 (Dunn at 751). The bill was reported, with amendments, by the Committee on April 14, 1938 (Dunn at 774 ff; the text of the bill as approved by the Committee appears at 793–815). The Committee's amendments to the bill included technical amendments to the "food" definition and to the provision concerning access to "alcoholic beverage" records from the Treasury Department: (1) The definition of "food" was revised to read as follows:

The term "food" means (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article. (Sec. 201(f), Dunn at 794.)

(2) The provision concerning acquisition of records from the Treasury Department was consolidated with another provision concerning access to records from the Post Office Department to provide generally for access to records from "any" executive department:

For purposes of enforcement of this Act, records of any department or independent establishment in the executive branch of the Government shall be open to inspection by any official of the Department of Agriculture duly authorized by the Secretary to make such inspection. (Sec. 702(c), Dunn at 811–812.)

Both of these amendments were ultimately enacted, without further change, as part of the Federal Food, Drug, and Cosmetic Act, on June 25, 1938 (Dunn at 1, 19). See 21 U.S.C. 321(f), 372(c). Obviously, these were essentially technical amendments by the House Committee, and not intended to effect substantive change in the scope of the food definition so as suddenly to exempt alcoholic beverages from the legislation. (It would seem necessary to impute sly and devious character to the members of the Committee to argue that such revisions were intended to effect any substantive change in the scope of the "food" definition.) Fortunately, lest there be any doubt about the matter, the Committee's report included the following statement concerning the scope of the "food" definition:

The definition of food is simply a clarification of the definition in the Food and Drugs Act of June 30, 1906. (Committee on Interstate and Foreign Commerce, House of Representatives Report No. 2139, 75th Congress, 3rd Session, April 14, 1938 (Dunn at 815 ff., 817).)

This statement confirms the status of alcoholic beverages as "food" within the meaning of the FDC Act, for the case law had clearly established that alcoholic beverages were "food" within the meaning of the Federal Food and Drugs Act of 1906.

* * * * *

When Congress wanted to exempt a particular food from the requirements of the Federal Food, Drug, and Cosmetic Act because it was regulated under another act by another Federal agency, it specifically and unequivocally provided for such exemption. See Sec. 902(b) of the FDC Act, as ultimately passed by Congress and enacted on June 25, 1938, Dunn at 22 (now codified as 21 U.S.C. 392(a)), which provides:

Meats and meat food products shall be exempt from the provisions of this Act to the extent of the application or extension thereto of the Meat Inspection Act, approved March 4, 1907, as amended (U.S.C., 1934 ed., title 21, secs. 71–91; 34 Stat. 1260 et seq.)

Congress could easily have included a reference to labeling of alcoholic beverages in this exemption provision, had it intended to create such an exemption; it did not do so.

At least one court has expressly recognized that alcoholic beverages are subject *both* to requirements enforced by the Department of Treasury *and* to requirements enforced by the Food and Drug Administration under their respective Acts. See *United States* v. *1,800.2625 Wine Gallons of Distilled Spirits*, 121 F. Supp. 735 (W.D. Mo. 1954). In an analogous context, at least six courts have held that concurrent action by the FDA and the Federal Trade Commission involving the same or similar matters is proper and that the statutory remedies of the two agencies are cumulative and not mutually exclusive. . . . Of course, contrary to the implications in Plaintiffs' Complaint, the Supreme Court has long recognized that the same issues and parties may be proceeded against simultaneously by more than one agency. *FTC* v. *Cement Institute*, 333 U.S. 683, 689–695 (1948).

Even the Department of Treasury, the agency charged with the enforcement of the Federal Alcohol Administration Act, has advised the alcoholic beverage industry that alcoholic beverages are subject to the requirements of the FDC Act as well as the requirements imposed by the Department of Treasury under the Federal Alcohol Administration Act. In Industry Circular 62–33, dated October 26, 1962, the Alcohol and Tobacco Division of the Internal Revenue Services formally notified manufacturers that the possession of certificates of label approval pursuant to the Federal Alcohol Administration Act does *not* excuse them from complying with the laws and regulations administered by FDA. . . .

It should be noted here that the Food and Drug Administration is not unmindful of the concerns espoused by Plaintiffs; the Agency does *not* want to subject Plaintiffs to the need to have their labeling scrutinized by two government agencies if one agency can assure compliance with both laws. Indeed, it was precisely because of a desire to avoid wasteful duplication of regulation that for thirty-seven years the Food and Drug Administration generally deferred to the Department of the Treasury with regard to the labeling of alcoholic beverages—because the Bureau of Alcohol, Tobacco and Firearms (BATF) and its predecessors within the Department of the Treasury had avowed that they would require, under the Federal Alcohol Administration Act, substantially all of the labeling required under the Federal Food, Drug, and Cosmetic Act.

It was only after BATF announced in the Federal Register of November 11, 1976 (40 FR 52613) . . . that it had determined not to impose any requirements for the label declaration of ingredients in alcoholic beverages that the Food and Drug Administration determined it was legally obligated to take action with respect to the labeling of alcoholic beverages. Congress has declared in § 403(i)(2) of the FDC Act, 21 U.S.C. 343 (i)(2), that foods (for which standards of identity have not been promulgated by FDA pursuant to § 401 of the FDC Act, 21 U.S.C. 341) must bear a list of their ingredients on their labels, except that spices, flavorings, and colorings may be declared as such. When BATF determined not to impose any requirements for ingredient labeling, FDA was forced to take some action to execute its statutory responsibilities.

Prior to the unexpected ruling of the District Judge in *Brown-Forman*, the Senate, after extensive consideration of the views of the alcoholic beverage industry, passed a food safety and labeling bill that would have modified the authority of BATF and FDA. S. 641 of the 94th Congress, as passed by the Senate on March 18, 1976, would have delayed the imposition of any FDA ingredient labeling provisions for alcoholic beverages pending a joint study by the Secretary of Health, Education, and Welfare (through the Commissioner of FDA and the Director of the National Institute of Alcohol Abuse and Alcoholism) and the Secretary of the Treasury (through the Director of BATF) of the need for such labeling. FDA's regulations would take effect 6 months after they were submitted to Congress, with no provision for a congressional veto. This bill was never passed by the House of Representatives.

Files of the Subcommittee on Alcoholism and Drug Abuse indicate that, although the alcoholic beverage industry originally preferred an outright exemption from existing FDA jurisdiction, the compromise version eventually included in S. 641 was worked out in the Senate Commerce and Labor and Public Welfare Committees with its active involvement.

Senate passage of the Thurmond amendment on May 7, 1979, amending the Federal Food, Drug, and Cosmetic Act so as to require a health warning label on alcoholic beverages with more than 24 percent alcohol indicates that Congress still intends FDA to have concurrent labeling authority with BATF over alcoholic beverages.

Despite the misinterpretation of congressional intent in *Brown-Forman*, enforcement of the labeling (ingredient and other) requirements of the FFDCA may be sought by any U.S. Attorney in the country. The decision of the Justice Department not to appeal *Brown-Forman* has resulted in continued confusion surrounding the application of various aspects of the FFDCA to alcoholic beverages, and consumers still do not receive adequate label information concerning these beverages.

Mr. RIEGLE. Mr. President, the rationale for Brown-Forman—that the Federal Alcohol Administration Act and the Federal Food, Drug, and Cosmetic Act establish potentially conflicting regulatory systems with respect to labeling of alcoholic beverages—is destroyed by this compromise amendment. The Congress is hereby requiring the Secretaries of HEW and Treasury to report jointly on actions which should be taken under both acts to inform the general public of the fetal alcohol syndrome and other health hazards.

Indeed, I believe it is important to recognize that full enforcement of both these acts would not require the alcoholic beverage industry to have its license approved by two regulatory bodies. On the contrary, for the nearly 40 years between enactment of the FFDCA and FAAA and the issuance of the Brown-Forman decision, the Food and Drug Administration deferred direct enforcement of the acts to the Department of the Treasury. I would personally favor an instruction from the President to the Secretary of the Treasury, acting through the Bureau of Alcohol, Tobacco, and Firearms, to enforce the actions found advisable under this June 1 report through appropriate regulations. That is, whether a warning label is found advisable under the FFDCA or the FAAA or both, I believe it would be appropriate for BATF to enforce such a requirement to avoid subjecting the alcoholic beverage industry to unnecessary redtape and bureaucratic delays.

In addition to clarifying FDA jurisdiction over labeling of alcoholic beverages and requiring Treasury and HEW to read the two acts together, this compromise indicates that Congress wants existing law with respect to alcoholic beverages enforced. This indication is necessary because, in the past, some aspects of the Federal Alcohol Administration Act have not been enforced.

As one example, until 3 years ago, the Department of the Treasury permitted the use of artificial ingredients in "special natural wines." Such use was a clear violation of law, and has since been outlawed by the Department of the Treasury.

There are similar indications that, under Secretary Miller, the Department of the Treasury may be moving to assume its responsibility to enforce the FAAA in other areas as well. However, as recently as January 31, 1978, the then Director of the Bureau of Alcohol, Tobacco, and Firearms, Rex Davis (who is now president of the National Association of Alcoholic Beverage Importers), testified that, despite hearings held by the Subcommittee on Alcoholism and Drug Abuse under the chairmanship of former Senator William Hathaway, BATF had taken no actions with respect to the health aspects of misleading advertising. I commend to my colleagues' attention Senator Hathaway's hearings on "Media Images of Alcohol" on March 8 and 11, 1976, and on "Alcohol Labeling and Fetal Alcohol Syndrome," January 31, 1978.

In the areas of ingredient and health warning labels, enforcement by the Department of the Treasury has also been stalled too long, although there are recent indications of progress. For example, just last month, the Federal District Court for the District of Columbia ruled, in the case of Wawsziewicz against Department of the Treasury, that proposed ingredient labeling regulations dealing with wine were not adequate to meet the requirements of the Federal Alcohol Administration Act.

The court also ruled that—

> The statute . . . does not authorize the Secretary to substitute a public education program for accurate labeling requirements; nor does it make the prohibition of untruthful or deceptive labeling contingent on cost considerations.

This determination is, of course, relevant to the report required under this compromise. The Secretaries of Health, Education, and Welfare and of the Treasury are required to report on actions which should be taken under these two acts to inform the general public of birth defects and other health risks from alcohol abuse and alcohol consumption by pregnant women.

I would also like to point out that, in testimony before my subcommittee on September 14, 1979, Sam Chilcote, president of the Distilled Spirits Council, when asked about the cost of warning labels, acknowledged that "the cost is insignificant."

At the request of the junior member of the subcommittee (Mr. HUMPHREY), I would like to acknowledge that where the word "associated" is used in the compromise provision, it is used in its accepted scientific sense of "caused, in whole or in part." That is, in asking for a report on the extent and nature of various health hazards associated with alcoholic beverages, we do not intend to include accidental statistical associations, but rather simply the health hazards which are caused, in whole or in part, by use or abuse of alcoholic beverages. At the same time, we do not wish to exclude health hazards or birth defects which either are caused by alcohol in combination with other substances (including tobacco) or those for which causation cannot be scientifically established.

Mr. President, I hope that this compromise will clarify the application of the Federal Alcohol Administration Act and the Federal Food, Drug, and Cosmetic Act with respect to labeling of alcoholic beverages. I also hope that it makes extremely clear the congressional desire for both these laws to be fully enforced.

I would anticipate that, should the Secretaries of the Treasury and HEW find that a warning label should be required to inform the general public of health hazards associated with alcoholic beverages under one or both acts, the regulatory proceedings to require such a label would begin no later than June 1, when the report is submitted to Congress and the President. This compromise does not amend either the FFDCA or the FAAA, so the normal rulemaking procedures would apply.

Mr. President, I believe this compromise clarifies the joint jurisdiction of BATF and FDA over the labeling of alcoholic beverages, and does so without adding to the stigma which is sometimes associated with the disease of alcoholism. Indeed, by emphasizing that the labeling requirements applicable to all other foods under the FFDCA should also be applied to alcoholic beverages, I hope that we will move toward a more realistic approach to the prevention of alcoholism and other health hazards associated with alcoholic beverages through comprehensive educational, informational, and other aggressive Federal, State, and private actions, including such praiseworthy voluntary efforts as are promoted by the alcoholic beverage industry.

In renewing all of the authorizations of the Comprehensive Act for 2 years, the compromise agreement rejects the administration's proposal which would have consolidated State formula grants under this act with those under the Drug Abuse Office and Treatment Act of 1972 and under section 314(d) of the Public Health Service Act, into a mental health block grant to the States.

In rejecting this administration proposal, it is important that the administration understand congressional intent concerning the autonomy of NIAAA and its programs.

The Administrator of the Alcohol, Drug Abuse, and Mental Health Administration has on several occasions attempted to thwart the clear intent of Congress concerning the categorical emphasis which must be retained lest the unique aspects of alcohol abuse and alcoholism as social and health problems be submerged in a bureaucracy which might otherwise pursue other objects more vigorously.

Last year the Administrator advanced a tentative proposal which was totally inconsistent with his many assurances to Chairman WILLIAMS and other members of the Labor and Human Resources Committee that he planned no action which would in any way combine NIAAA or its programs with either of its sister institutes. His proposal went far beyond ADAMHA's statutory responsibilities and contravened existing law. That plan was to restructure the initial review of all discretionary grants and research contracts of the three institutes within the Office of the Administrator of ADAMHA. Only direct intervention by the chairman of the Labor and Human Resources Committee (Mr. WILLIAMS) and HEW Secretary Joseph Califano prevented this illegal shift.

The Administrator is now engaged in another plan which would conflict with the congressional intent that the institutes remain policymaking bodies through combining the prevention efforts of the three institutes within ADAMHA. While an attempt to reduce duplication and overlap is commendable, it does not necessarily follow that prevention efforts applicable to mental health would also apply to alcoholism or drug abuse. Nor should mental health experts be setting policy in areas of alcoholism or drug abuse, for which they are not the most qualified. Such a plan would risk a throwback to mental health domination of alcoholism programing and policymaking, with potentially disastrous results.

In order to prevent overlap and duplication, those prevention techniques common to all three institutes can be coordinated by agreements entered into by the institute directors. This approach is set forth in the explanation of the House-Senate compromise agreement on S. 440, which serves in lieu of a conference report. This document states:

> Policymaking functions, including those in the area of prevention, shall be carried out and coordinated at the Institute level.

Mr. President, when S. 440 was considered by the Senate on May 7, the distinguished Senator from Hawaii (Mr. Inouye), who has a distinguished record as advocate for minority populations, offered an amendment which would have created within NIAAA a position of "Associate Director for Underserved Populations." An amendment offered by the Senator from New Mexico (Mr. Domenici), long an advocate for measures to protect Native Americans, would have established a 2-year Center for American Indian-Alaskan Native Concerns within NIAAA.

I share the desire of these distinguished Senators to protect the interests of minority groups, and am deeply concerned about the heavy incidence of alcoholism among Native Americans. For that reason I was happy to accept these amendments.

However, since the National Commission on Alcoholism and Alcohol-Related Problems authorized by S. 440, is required to make an evaluation of the needs of this population, the compromise agreement, while avoiding statutory creation of new offices or associate directors within NIAAA, focuses additional responsibility on the Director to make special efforts to develop and coordinate prevention, treatment, research, and administrative policies which focus on the needs of underserved populations.

The Secretary is required to include actions taken under this provision in the annual report to Congress and the President required under the Comprehensive Act.

Mr. President, the provision requiring the National Commission on Alcoholism and Alcohol-Related Problems was suggested by the distinguished chairman of the Labor and Human Resources Committee (Mr. Williams) who for many years has shown outstanding leadership in efforts to reduce the incidents of alcoholism and other alcohol-related problems. This provision passed the Senate last year but was never acted on by the House of Representatives. First recommended by the liaison task force on alcohol-related problems of the President's Commission on Mental Health, the Commission would, within 2 years after funds are first made available, study and report to Congress and the President concerning a variety of issues related to consumption of alcohol in our society. With respect to various underserved populations, the Commission would rely heavily on the views and recommendations of members of such groups, possibly through liaison task forces set up to consider these topics; $1 million is authorized for start-up costs. It is anticipated that further funds as needed would be provided under existing authorities in the Public Health Service Act.

Mr. President, I wish to thank Chairman Williams, Senator Hatch, Senator Metzenbaum, Senator Humphrey, Senator Javits, Senator Thurmond, and the members of the staff for their cooperation and hard work in reaching what I consider an excellent compromise agreement.

I ask that the explanation of the House-Senate compromise agreement on S. 440, which serves in lieu of a conference report, be printed in the Record at this point.

There being no objection, the explanation was ordered to be printed in the Record, as follows:

Explanation of House-Senate Compromise Agreement on S. 440

The proposed compromise agreement on S. 440, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1979, provides for a two-year reauthorization of programs and activities conducted by the National Institute on Alcohol Abuse and Alcoholism (NIAAA). The Senate had authorized a three-year renewal. The House had authorized a one-year renewal.

FINDINGS AND PURPOSE

The compromise updates the findings and purpose of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 with respect to the number of alcoholics and the annual economic cost of alcoholism and alcohol abuse. It emphasizes the need for prevention programs aimed particularly at youth, the elderly, and families of alcoholics and alcohol abusers, and recognizes the close linkages between alcoholism and domestic violence. The purpose of the Act is expanded to include development and encouragement of occupational alcoholism programs and of prevention programs designed to combat the abuse of alcohol and other drugs.

UNDERSERVED POPULATIONS

With respect to the administration of NIAAA, the compromise places additional responsibility on the Director to make special efforts to develop and coordinate prevention, treatment, research, and administrative policies which focus on the needs of underserved populations. The Secretary should include, in the annual report to Congress and the President required under section 102 of the Act, actions taken under this provision. As the Secretary has authority to engage consultants for NIAAA under the Public Health Service Act, additional statutory language in the Senate bill is omitted. Policymaking functions, including those in the area of prevention, shall be carried out and coordinated at the Institute level.

INTERAGENCY COMMITTEE

To increase the effectiveness of the Interagency Committee on Alcohol Abuse and Alcoholism, representatives of the Departments of Labor, Treasury, and Education are included as members. The compromise also consolidates the report of the Interagency Committee with that required of the Secretary, and streamlines the clearance procedure. To more effectively implement the Federal Government's commitment to treatment and rehabilitation of its employees and their families, the President is urged to issue an Executive Order concerning employee alcoholism programs as recommended by the Interagency Committee.

OCCUPATIONAL PROGRAMS

The compromise also reconciles the Act with the Civil Service Reform Act of 1978 (P.L. 95–454) and encourages the extension of Federal occupational alcoholism programs to cover families of Federal employees. NIAAA is instructed to develop a variety of model occupational programs suitable for replication on a cost-effective basis by different types of business concerns and governmental entities.

In developing such occupational programs, the Institute should take into account the number of the firm's employees, the firm's geographical location, its proximity to other concerns and entities, and availability of existing alcoholism and alcohol abuse services among public agencies and private organizations. To the extent feasible, model programs developed pursuant to this provision should be capable of coordination with model occupational programs developed by the National Institute on Drug Abuse. With respect to small businesses, NIAAA should consult with the Small Business Administration concerning development of these model programs.

Where business concerns and governmental entities employ workers represented by a labor organization, these model programs should be designed to be implemented only by joint agreement through collective bargaining or at the conference table, within the limits of the National Labor Relations Act and other applicable laws.

FORMULA GRANTS

Formula grants to States are authorized at $60 million for fiscal year 1980 and $65 million for fiscal 1981, the levels authorized in the Senate bill. The House had authorized $85 million for fiscal 1980, the level in existing law.

TECHNICAL ASSISTANCE

NIAAA should provide technical assistance to States in: data collection; management and evaluation; certification, accreditation, and licensing; monitoring compliance with Federal prohibitions on discrimination against alcoholics and alcohol abusers in health facilities; and eliminating exclusions in health insurance coverage in the State which are based on alcoholism or alcohol abuse.

Such assistance should be designed to expand coverage of inpatient and outpatient care in licensed hospital treatment facilities, licensed detoxification facilities, licensed halfway houses or recovery homes, or licensed, certified, or State-approved residential treatment facilities. The Secretary should fully enforce Section 321's prohibition on discrimination against alcoholics and alcohol abusers in health facilities, together with the prohibition on discrimination against alcoholics in any federally supported program covered by the Comprehensive Rehabilitation Services and Development Disabilities Amendments of 1978 (P.L. 95–602).

SINGLE STATE AGENCIES

State advisory councils established under the Act are required to include as members women and the elderly. The State plan is required to include an assessment of the needs of these groups for alcoholism and alcohol abuse services.

States are required to provide assurances that surveys of need for alcoholism prevention and treatment are coordinated with surveys of drug abuse and dependence, and that the Single State Agency coordinates its activities with local alcoholism agencies, with State and local drug abuse agencies, and with other health planning agencies.

Single State Agencies are required to foster and encourage occupational programs and to make available model programs developed by NIAAA. Such information may be made available pursuant to notice, by publication or otherwise, designed to notify local governments and business concerns of the existence of such materials, and by direct efforts of the State agency to publicize and assist the development of such programs.

STATE PLANS

To continue to receive annual grants under the Act, the Single State Agency should submit a plan of action for the next three years and a survey of the extent to which other State programs and political subdivisions are dealing effectively with alcohol abuse and alcoholism. The Single State Agency, within the limits of its capability, should determine and describe the extent of alcoholism functions performed by other agencies and political subdivisions, and include such information in reports already required by the Act. States should submit amendments to their State plan, if any, each year; every third year they should submit a progress report and a plan of action for the next three years.

UNIFORM ACT GRANTS

The program of State grants for implementation of the Uniform Alcoholism and Intoxication Treatment Act is extended to fiscal 1981.

PRIORITY PROJECTS

In the award of project grants and contracts, NIAAA should give the highest priority to prevention and early intervention projects. Such projects include those in occupational and educational settings, as well as modified community living and work-care arrangements.

SPECIAL EMPHASIS

Special emphasis should be given to assisting the elderly, women, the handicapped, and families of alcoholics, including victims of alcohol-related domestic violence. In providing treatment and prevention services to families of alcoholics and alcohol abusers, NIAAA should encourage the provision of special counseling and assistance needed by victims of alcohol-related domestic violence, as well as provide training to individuals who work with victims of domestic violence to enable them to understand and deal with the ramifications of alcoholism and alcohol abuse on all members of the family.

SPECIAL CONSIDERATION

The Secretary is instructed to encourage the submission of and give special consideration to applications for projects for prevention and treatment of alcoholism and alcohol abuse among women, the elderly, and individuals under eighteen.

PROJECT GRANTS AND CONTRACTS AUTHORIZATIONS

Authorizations of appropriations for project grants and contracts are $102.5 million for fiscal year 1980 and $115 million for fiscal 1981. At least 8 percent of funds appropriated in fiscal 1980 and 10 percent of funds appropriated in fiscal 1981 are to be used for programs and projects to prevent (through outreach, intervention, and education) alcoholism and alcohol abuse. During fiscal 1980, this limitation shall apply for that portion of the fiscal year remaining upon enactment, but NIAAA is encouraged to significantly expand its prevention efforts beyond these minimum levels.

ADVISORY COUNCIL

Because delays in appointing members of the National Advisory Council on Alcohol Abuse and Alcoholism have occasionally produced difficulty in reaching a quorum, appointed members are authorized to serve until their successors have taken office. The Secretary should make every effort to assure that such delays do not continue to occur.

NIAAA and the Advisory Council may not permit the failure of a State to comment on a project application in timely fashion to prejudice in any way that application. The responsibilities of the Advisory Committee in approving project applications should entail a continuing responsibility to assess the results of projects.

RESEARCH AUTHORIZATIONS

The scope of research under the Act is expanded to clarify NIAAA's responsibilities to investigate social consequences of alcohol abuse, the relationship between alcoholism and domestic violence, the effects of alcohol use during pregnancy, and the effects on the incidence of alcohol abuse and alcoholism of social pressures, legal requirements respecing the use of alcoholic beverages, the cost of such beverages, and the economic status and education of users of such beverages.

Research authorizations are $28 million for fiscal 1980 and for fiscal 1981, the level authorized by the House. The Senate had authorized $22 million for fiscal 1980, $28 million for fiscal 1981, and $32 million for fiscal 1982.

NATIONAL ALCOHOL RESEARCH CENTERS

Authorizations of appropriations for the National Alcohol Research Centers are $8 million for fiscal 1980 and $9 million for fiscal 1981. The House had authorized $6 million for fiscal 1980; the Senate had authorized $9 million for fiscal 1980, $10 million for fiscal 1981, and $11 million for fiscal 1982.

The Secretary should not designate additional Centers (including consortia, which are eligible for designation as Centers under the Act) unless adequate funds are available for new Centers to be designated without preventing existing Centers from meeting their research plans as approved by the Secretary. The maximum annual grant to a Center is raised from $1.0 million to $1.5 million.

CONTRACT LIMITATIONS

In order to comply with the Congressional Budget and Impoundment Control Act of 1974 (P.L. 93-344), the compromise includes a provision specifying that the Secretary's authority to enter into contracts is effective only to the extent that funds are provided in advance by appropriation acts.

NATIONAL COMMISSION

A National Commission on Alcoholism and Other Alcohol-Related Problems is established. The Commission consists of four members each of the House and Senate and nine public members appointed by the President, plus up to four non-voting members designated by the President. Within two years after funds are first made available, the Commission shall study and report to Congress and the President concerning:

Unmet research and treatment needs of alcoholics and their families; personnel needs of alcoholism and alcohol abuse programs; the financing and integration of alcoholism prevention and treatment into health and social service systems; the relationships between alcoholism and aggressive behavior and domestic violence; the rates of illness among family members of alcoholics; the need for prevention programs; the prevalence of occupational alcoholism programs among Federal contractors; and the needs of underserved populations, including American Indians, Alaskan Natives, youth, the elderly, women and the handicapped.

With respect to the needs of underserved populations, the Commission should rely heavily on the views and recommendations of members of such groups, possibly through liaison task forces set up to consider these topics. The authorization level is $1 million, compared with $2 million in the Senate-passed bill.

REPORT ON ALCOHOL-RELATED HEALTH RISKS

The Secretary of Health, Education, and Welfare, acting through the Assistant Secretary for Health, and the Secretary of the Treasury, acting through the Assistant Secretary for Enforcement and Operations, are required to report to Congress and the President, not later than June 1, 1980, concerning the extent and nature of birth defects associated with alcohol consumption by pregnant women, the nature of other health hazards associated with alcoholic beverages and the actions which should be taken by the Federal Government under the Federal Alcohol Administration Act and the Federal Food, Drug and Cosmetic Act with respect to informing the general public of such health hazards. In preparing their recommendations, the Secretaries should consult with representatives of the medical profession, the alcoholic beverage industry, the National Advisory Council on Alcohol Abuse and Alcoholism, and other groups and organizations concerned and knowledgeable about informing the general public of these health hazards. The Senate had required a health warning label on beverages containing more than 24% alcohol by volume.●

● **Mr. HUDDLESTON.** Mr. President, no one would disagree that the authorizations contained in S. 440 must be passed. Indeed, I fully support those authorizations and the programs of alcoholism prevention and control that they allow. Therefore, I will support passage of S. 440.

However, contained in this version of S. 440 is language relative to health warning labels on alcoholic beverages. This language is deemed a compromise between the original version of S. 440, which provided for a warning label, and the House version of the bill that contained no mention of such a label. I would like to point out that this so-called compromise offers the potential danger of: First, expanding on present law without congressional action; second, allowing independent administrative action on matters heretofore presumed to be under congressional jurisdiction; and third, limiting what should be a full scale review of very serious problems to a mere 6-month updating of incomplete information already on hand.

With respect to point No. 1, as I understand it, subsection (b) of proposed part D is not intended to confer or imply any jurisdiction over the labeling of distilled spirits or wine in the Food and Drug Administration. The U.S. District Court in Louisville has held that the Bureau of Alcohol, Tobacco, and Firearms of the Treasury Department has exclusive jurisdiction over the labeling of such products and that the Food and Drug Administration does not have jurisdiction (*Brown-Forman et al.* v. *Matthews et al.* 435 F. Supp. 5). The decision was not appealed.

I believe that the decision in this case was correct and that it represents the current state of the law on this subject. I would not want my vote or that of any other Senator to be misinterpreted as a criticism of that decision or an expression of a belief that the law should be changed.

Insofar as whether the compromise allows the administrative agencies to proceed once the study is completed without further congressional input, I am greatly concerned. At the very least one must admit there is presently a lack of clear overall congressional direction as to the need for a warning label. The House of Representatives has certainly not in any way approved such a move. Therefore, I strongly believe we must have the opportunity to fully review the results of the study, hold hearings on it, and gain a consensus before administrative action proceeds. To do otherwise would be a severe blow to congressional prerogatives in matters of national interest.

Finally, I am hopeful that in the short 6-month time frame allotted for the study involved, those undertaking it are able to develop imaginative approaches to any problems that may be identified without being unduly constrained by time. Broader, more effective approaches than the warning label such as public educational programs have been tried and proved worthwhile. Simply put, we can demand no less than a full-scale review of all the alternatives.●

● Mr. HATCH. Mr. President, I am extremely pleased to support the compromise agreements made between the House and Senate on the NIAAA and NIDA renewal legislation. The spirit of compromise and the conciliatory efforts made by all parties to the discussions on the points of disagreement to both bills is in the public interest. The legislative products which have resulted can now go forward so that the authorizations can be enacted before the expiration of this session. Thus, the time frame with respect to the supplemental appropriations for NIAAA is preserved.

Senator RIEGLE, my chairman and colleague on the Alcoholism and Drug Abuse Subcommittee who must take a "lions-share" of the credit on this compromise, has with specificity outlined the fundamental elements of the compromise. I would only at this point direct my remarks to the most troublesome point of the negotiations on the NIAAA bill—health warning labels.

I strongly favored the inclusion of this Senate provision in any House-Senate agreement. In the discussions it became apparent that the House would not concede the issue and that both S. 440 and S. 525 would be jeopardized by a rigid insistence on maintaining the Senate provision. Therefore, it was the challenge of those who conferred on this issue to find a way to preserve the thrust of the Senate's amendment but in a manner acceptable to the House. I believe we have fashioned a solution which I commend to the attention and adoption of my colleagues.

The language of the compromise calls for statutory language requiring HEW and the Treasury Department to report "the actions which should be taken under the Federal Alcohol Administration Act (FAAA) and the Federal Food, Drug, and Cosmetic Act with respect to informing the general public of such hazards." In my judgment this should ultimately produce an acceptable warning label.

First, under the FAAA, the Treasury Department should not be able to advocate that a public awareness campaign is adequate, because the District Court for the District of Columbia ruled just last month that, with respect to ingredient labeling, "The statute, however, does not authorize the Secretary to substitute a public education program for accurate labeling requirements; nor does it make the prohibition of untruthful or deceptive legends contingent on cost considerations."

Under the Federal Alcohol Administration Act, the language that authorizes ordering warning labels is the instruction to the Secretary of the Treasury to write such regulations "as will prohibit deception of the consumer with respect to such products or the quantity thereof" and " as will provide the consumer with adequate information as to the identity and quality of the products." The Department of the Treasury has concluded that this language constitutes "adequate statutory authority for such a requirement," though, of course, they have not yet imposed one.

Under the Federal Food, Drug, and Cosmetic Act (FFDCA) the language dealing with warning labels reads, "If an article is alleged to be misbranded because the labeling or advertising is misleading, then in determining whether the labeling or advertising is misleading there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, or any combination thereof, but also the extent to which the labeling or advertising fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling or advertising relates under the conditions of use prescribed in the labeling or advertising or under such conditions of use as are customary or usual."

My colleagues should be aware that the FDA has desired to use this authority since November 1976 to order a warning label related to the fetal alcohol syndrome. It has been prevented from doing so because the Federal district court in Brown-Forman ruled that the FAAA and the FFDCA established potentially conflicting regulatory schemes with respect to labeling, so that Congress must have intended the FFDCA's labeling provisions not to apply.

In the first place, this ingredient-labeling reasoning would not apply to warning labels unless the FAAA covers authority relating to warnings. Second, a congressional command by adoption of this compromise language that the two Departments report to Congress and the President on what actions should be taken under the two acts reaffirms our belief that the FFDCA's labeling provisions apply to alcoholic beverages. Third, requiring the two Departments to report jointly avoids the potential of conflicting requirements, the basis of the court's decision in Brown-Forman.

Since FDA, NIAAA, and Secretaries Califano and Harris have supported warning labels whereas Treasury has simply postponed deciding the efficacy of this issue, I predict that report will be returned saying that warning labels should be ordered under one or both acts.

Mr. President, frankly the compromise does not go as far as I would prefer but I think the approach which I have briefly outlined is an acceptable method to break the logjam which would inevitably result on this controversial issue, tying up with it much-needed authorizing legislation. Hopefully, the proposed regulation implementing the reported findings of HEW and Treasury will be issued on or about June 1, 1980. I will be watching very carefully the developments over the next several months with anticipation that an appropriate alcohol health warning labeling requirement will be mandated under the terms of this compromise.●

● Mr. HUMPHREY. Mr. President, the question of the necessity of a health warning label for alcoholic beverages has been a controversial and tough issue for the Congress. In light of the lack of solid information on the efficacy of the warning label in combatting the unfortunate problem of alcoholism in this country, I support the provision of S. 440 which requires further study of the best method for informing the public of any potential health hazards in the abuse of alcohol.

The Federal Government must not impose onerous regulations in a vacuum of information. Too many times Congress and the Federal bureaucracy have acted with good intentions, but with harmful results. In the case of the health warning label on alcoholic beverage containers, the preponderance of evidence suggests that the warning label would have no effect in combatting the alcohol abuse problem. I wish to point out to Senators that at the September 14, 1979, hearing of the Alcoholism and Drug Abuse Subcommittee, in which I took part, not a single witness testified that the warning label would have any effect in altering an alcoholic's abuse of alcohol. Indeed, there is a total lack of evidence to substantiate the label proponents' weak and vague claim that the label would raise public awareness—whatever that ambiguous phrase may mean. Clearly, more study is required.

The proposal in S. 440 calls for a report from HEW and the Treasury Department to the Congress and the President on "the extent and nature of birth defects associated with alcohol consumption by pregnant women," the "extent and nature of other health hazards associated with alcoholic beverages," and this report shall recommend actions to inform the public of such health hazards. These agencies should note that the report should study the causal relationships between excessive and abusive use of alcohol and these potential health hazards. Coincidental, misleading, or scientifically inconclusive data is not helpful to Congress in making important decisions for informing the public. Any such misleading information could end up doing more harm than good.

In addition, I expect that the Congress, which represents the American people, would be called on to act to implement any recommendations made in the report. Too many regulations emanating from nonelected Federal bureaucrats are strangling this country. In the absence of compelling evidence indicating otherwise, the warning label proposal would be just one more in a long line of needless regulations; therefore, the Congress should have the final say in disapproving any such regulations which would result in more harm than good.●

Mr. FORD. Mr. President, in order to make possible funding during the current fiscal year of new initiatives by the National Institute on Alcohol Abuse and Alcoholism, we are acting with perhaps too little deliberation on a compromise authorization bill for that agency. I understand that S. 440 in the form it has now taken is regarded as a satisfactory resolution of the differences between the version of this legislation passed by the Senate on May 7 and the version passed by the House of Representatives on October 16. In general, it is so regarded by the principal Members of the two bodies who by their committee assignments are particularly concerned with a bill of this type.

When Congress acts in haste on compromise legislation thrust before it without a hearing or other record of some of its provisions, there is danger that the legislative intent will be subject to varying interpretations. In order to avoid misunderstanding of one of the provisions of this bill, I take the floor to comment briefly on it.

Part D of the bill entitled "Report" is the compromise reached in return for the Senate's receding from a provision requiring a health warning label on certain alcohol beverage containers. This is not the time to rehash the arguments for and against that Senate provision. The representatives of the House stood fast in opposition to this provision. The House position was wise and statesmanlike, in my opinion.

Part D mandates a study by the Assistant Secretary of Health of HEW jointly with the Assistant Secretary for Enforcement and Operations of health hazards of consumption of alcohol beverages and of means to inform the public about them. I hope this will be a serious, adequate, thorough, and objective study. If it is to be such, it seems to me that the deadline set in the bill—June 1, 1980—is much too tight.

The results of the study and the recommendations it produces are to be reported to the Congress and the President. I expect that no action on any of its recommendations will be undertaken by the executive branch until the appropriate committees of Congress have had reasonable time to study and react to them. An interval of 90 days would, in my opinion, be a reasonable time. As chairman of the Consumer Subcommittee of the Committee on Commerce, Science and Transportation, I shall be greatly interested in this study and its recommendations.

Finally, I want to comment on a puzzling provision of part D—subsection (b), which reads "Subsection (a) shall not be construed to limit the authority of the Attorney General, the Secretary of the Treasury, or the Secretary of Health, Education, and Welfare under the Federal Alcohol Administration Act or the Federal Food, Drug, and Cosmetic Act."

I am not sure that this means anything. But there are some things that the Senate does not intend by the passage of this provision.

It is not expressing an opinion on what matters existing legislation places within the jurisdiction of the two executive agencies which have been engaged in a long struggle with each other for bureaucratic turf.

It is not expressing an opinion on the judicial decision in the case of Brown-Forman against Matthews in which it was held that exclusive jurisdiction over labeling of alcohol beverages rests with the Bureau of Alcohol, Tobacco and Firearms.

It is not expressing a view that executive agencies should proceed to put health warning labels on alcohol beverage containers without express congressional direction.

I do not want anyone to regard this provision as a veiled directive from Congress to engage in any activities beyond current activities in dealing with the alcohol beverage industry.

UP AMENDMENT NO. 895

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate agree to the amendment of the House with an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. Robert C. Byrd) proposes an unprinted amendment numbered 895.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

Section 1. (a) This Act may be cited as the "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1979".

(b) Whenever in this Act (other than in section 13) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970.

Sec. 2. (a) Paragraphs (2) and (3) of section 2(a) (42 U.S.C. 4541(a)) are amended to read as follows:

"(2) approximately ten million, or 7 percent, of the adults in the United States are alcoholics or problem drinkers;

"(3) it is estimated that alcoholism and other alcohol related problems cost the United States over $43,000,000,000 annually in lost production, medical and public assistance expenditures, police and court costs, and motor vehicle and other accidents;".

(b) Section 2(a) is further amended—

(1) by striking out "; and" at the end of paragraph (6) and inserting in lieu thereof "and contributes to domestic violence;";

(2) by redesignating paragraph (7) as paragraph (8) and amending it to read as follows:

"(8) alcoholism is an illness requiring treatment and rehabilitation through the assistance of a broad range of community health and social services and with the cooperation of law enforcement agencies, employers, employee associations, and associations of concerned individuals."; and

(3) by inserting after paragraph (6) the following paragraph:

"(7) alcohol abuse and alcoholism, together with abuse of other legal and illegal drugs, present a need for prevention and intervention programs designed to reach the general population and members of high risk populations such as youth, women, the elderly, and families of alcohol abusers and alcoholics; and". (c) Section 2(b) is amended—

(1) by striking out "and" at the end of the paragraph (2);

(2) by redesignating paragraph (3) as paragraph (5); and

(3) by inserting after paragraph (2) the following new paragraphs:

"(3) the development and encouragement of prevention programs designed to combat the spread of alcoholism, alcohol abuse, and abuse of other legal and illegal drugs;

"(4) the development and encouragement of effective occupational prevention and treatment programs within government and in cooperation with the private sector; and".

Sec. 3. Section 101 (42 U.S.C. 4551) is amended by adding at the end thereof the following new subsection:

"(d)(1) The Director shall make special efforts to develop and coordinate prevention, treatment, research, and administrative policies and programs which focus on the needs of underserved populations.

"(2) The Secretary shall include in the annual report to the President and the Congress required by section 102(1) a description of the actions taken by the Director under paragraph (1).".

Sec. 4. (a) Section 102(1) (42 U.S.C. 4552 (1)) is amended by inserting after "expenditures of funds," the following: "a description, prepared in consultation with the committee established under section 103, of the extent to which Federal programs and departments are concerned and dealing effectively with the problems of alcohol abuse and alcoholism,".

(b) Section 102 is amended—

(1) by inserting "and" at the end of paragraph (3),

(2) by striking out "; and" at the end of paragraph (4) and inserting in lieu thereof a period, and

(3) by striking out paragraph (5) and the last sentence.

Sec. 5. Section 103(b)(1) (42 U.S.C. 4553 (b)(1)) is amended by inserting ", the Department of the Treasury, the Department of Labor, the Department of Education" after "the Department of Defense".

Sec. 6. (a) Section 201(a) (42 U.S.C. 4561 (a)) is amended—

(1) by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management";

(2) by inserting "and in accordance with the provisions of subpart F of part III of title 5, United States Code," following "other Federal agencies and departments,"; and

(3) by inserting "Such agencies and departments are encouraged to extend, to the extent feasible, these programs and services to the families of alcoholic employees and to employees who have family members who are alcoholics." before the last sentence.

(b)(1) Section 201(b) is amended to read as follows:

"(b)(1) The Secretary, acting through the Institute, shall be responsible for fostering and encouraging similar alcohol abuse and alcoholism prevention, treatment, and rehabilitation programs and services in State and local governments and in private industry. To the extent feasible, such programs and services should be designed such that they apply to the families of employees and to employees who have family members who are alcoholics.

"(2)(A) Consistent with such responsibility, the Secretary, acting through the Institute, shall develop a variety of model programs suitable for replication on a cost-effective basis in different types of business concerns and State and local governmental entities.

"(B) The Secretary, acting through the Institute, shall disseminate information and materials relative to such model programs to single State agencies designated pursuant to section 303 of this Act, and shall, to the extent feasible, provide technical assistance to such agencies as requested.

"(3) Model programs developed under paragraph (2) shall, in the case of business concerns and governmental entities which employ individuals represented by labor organizations, be designed for implementation through cooperative agreements between the concerns and entities and the organizations.

"(4) To the extent feasible, model programs developed under paragraph (2) shall be capable of coordination with model programs developed pursuant to section 413(b) of the Drug Abuse Office and Treatment Act of 1972.".

(2)(A) The heading for title II is amended by striking out "FEDERAL CIVILIAN EMPLOYEES" and inserting in lieu thereof "GOVERNMENT AND OTHER EMPLOYEES".

(B) The heading for section 201 is amended by striking out "FEDERAL CIVILIAN EMPLOYEES" and inserting in lieu thereof "GOVERNMENT AND OTHER EMPLOYEES".

SEC. 7. Section 301 (42 U.S.C. 4571) is amended—

(1) by striking out "and" after "1978,", and

(2) by inserting after "1979," the following: "$60,000,000 for the fiscal year ending September 30, 1980, and $65,000,000 for the fiscal year ending September 30, 1981,".

SEC. 8. Section 302 (42 U.S.C. 4572) is amended by adding at the end the following new subsection:

"(e) On the request of any State, the Secretary shall, to the extent feasible, make available technical assistance for the purposes of developing and improving systems for data collection; program management, accountability, and evaluation; certification, accreditation, or licensure of treatment facilities and personnel; monitoring compliance with the requirements of section 321 by hospitals and other facilities; and eliminating exclusions in health insurance coverage offered in the State which are based on alcoholism or alcohol abuse. Insofar as practicable, such technical assistance shall be provided in such a manner as to improve coordination between activities funded under this Act and under the Drug Abuse Office and Treatment Act of 1972.".

SEC. 9. (a) Section 303(a) (42 U.S.C. 4573(a)) is amended—

(1) by inserting ", women, and the elderly" after "minority and poverty groups" in paragraph (3);

(2) by inserting ", by the elderly," after "by women" in paragraph (4)(B);

(3) by inserting before the semicolon at the end of paragraph (4) the following: "; and (C) provide assurances satisfactory to the Secretary that, insofar as practicable, the survey conducted pursuant to clause (A) is coordinated with and not duplicative of the drug abuse and dependence survey conducted pursuant to section 409 of the Drug Abuse Office and Treatment Act of 1972";

(4) by inserting ", with State and local drug abuse planning agencies," after "alcoholism and alcohol abuse planning agencies" in paragraph (12); and

(5) by striking out "and" at the end of paragraph (15), by redesignating paragraph (16) as paragraph (17), and by inserting after paragraph (15) the following new paragraph:

"(16) provide assurance that the State agency—

"(A) will foster and encourage the development of alcohol abuse and alcoholism prevention, treatment, and rehabilitation programs and services in State and local governments and in private businesses and industry;

"(B) will make available to all business concerns and governmental entities within such State information and materials concerning such model programs suitable for replication on a cost-effective basis as are developed pursuant to section 201(b) of this Act; and

"(C) will furnish technical assistance as feasible to such business concerns and governmental entities; and".

(b) Section 303(c) is amended by inserting after "implementation of its State plan" the following: "and a plan of action for the next three years. To the extent feasible the report shall include a survey of the extent to which other State programs and political subdivisions throughout the State are dealing effectively with the problems related to alcohol abuse and alcoholism.".

SEC. 10. Section 310(a) (42 U.S.C. 4576(a)) is amended by striking out "1979" and inserting in lieu thereof "1981".

SEC. 11. (a) Section 311(a) (42 U.S.C. 4577(a)) is amended—

(1) by redesignating paragraphs (1), (2), (3), and (4) as paragraphs (2), (3), (4), and (5), respectively;

(2) by inserting before paragraph (2) (as so redesignated) the following new paragraph:

"(1) to conduct demonstration and evaluation projects, with a high priority on prevention and early intervention projects in occupational and educational settings and on modified community living and work-care arrangements such as halfway houses, recovery homes, and supervised home care,";

(3) by striking out "conduct demonstration and evaluation projects, including projects designed to develop" in paragraph (2) (as so redesignated) and inserting in lieu thereof "support projects of a demonstrable value in developing"; and

(4) by striking out "female alcoholics, and individuals in geographic areas where such services are not otherwise adequately available" in paragraph (3) (as so redesignated) and inserting in lieu thereof "the elderly, women, the handicapped, families of alcoholics, and victims of alcohol-related domestic violence".

(b) Section 311(b) is amended (1) by redesignating clauses (1), (2), and (3) as clauses (2), (3), and (4), respectively, and by inserting after "under this section shall" the following: "(1) be responsive to special requirements of handicapped individuals in receiving such services;", and (2) by inserting in clause (2) (as so redesignated) the following: "(in the case of prevention and treatment services)" after "seek".

(c) Paragraph (4) of section 311(c) is amended to read as follows:

"(4) The Secretary shall encourage the submission of and give special consideration to applications under this section for programs and projects—

"(A) for the prevention and treatment of alcohol abuse and alcoholism by women,

"(B) for the prevention and treatment of alcohol abuse and alcoholism by the elderly,

"(C) for the prevention and treatment of alcohol abuse and alcoholism by individuals under the age of eighteen.".

SEC. 12. Section 312 (42 U.S.C. 4578) is amended—

(1) by striking out "and" after "1978,", and

(2) by striking out the period and inserting in lieu thereof a comma and the following: "$102,500,000 for the fiscal year ending September 30, 1980, and $115,000,000 for the fiscal year ending September 30, 1981. Of the funds appropriated under this section for the fiscal year ending September 30, 1980, at least 8 percent of the funds shall be obligated for grants for projects, programs, and services to prevent (through outreach, intervention, and education) the occurrence of alcoholism and alcohol abuse; and of the funds appropriated under this section for the next fiscal year at least 10 percent of the funds shall be obligated for such grants.".

SEC. 13. Section 217(a) of the Public Health Service Act (42 U.S.C. 218(a)) is amended by inserting after the fourth sentence the following: "Appointed members may serve after the expiration of their terms until their successors have taken office.".

SEC. 14. (a) Section 501(a) (42 U.S.C. 4591(a)) is amended to read as follows:

"(a) The Secretary, acting through the Institute, shall carry out a program of research, investigations, experiments, demonstrations, and studies, directly and by grant or contract, into—

"(1) the social, behavioral, and biomedical etiology,

"(2) prevention,

"(3) treatment,

"(4) mental and physical health consequences,

"(5) social and economic consequences, and

"(6) the impact on families,

of alcohol abuse and alcoholism.".

(b) Section 501(b) is amended—

(1) in paragraph (3), by inserting before the semicolon the following: "and such Council shall give special consideration to projects relating to the relationship between alcohol abuse and domestic violence, the effects of alcohol use during pregnancy, the relationship between the abuse of alcohol and other drugs, and the effect on the incidence of alcohol abuse and alcoholism of social pressures, legal requirements respecting the use of alcoholic beverages, the cost of such beverages, and the economic status and education of users of such beverages";

(2) in paragraph (5)—

(A) by inserting "the National Institute of Drug Abuse and by" following "similar programs conducted by"; and

(B) by inserting "departments," before "agencies";

(3) in paragraph (6), by striking out "biomedical and behavioral" and inserting in lieu thereof "biomedical, behavioral, epidemiological, and social"; and

(4) in paragraph (8), by inserting "and other scientific research" following "statistical".

SEC. 15. Section 503 (42 U.S.C. 4587) is amended—

(1) by striking out "and" after "1978,", and

(2) by inserting before the period a comma and the following: "$28,000,000 for the fiscal year ending September 30, 1980, and $28,000,000 for the fiscal year ending September 30, 1981".

SEC. 16. (a) Section 504(a) (42 U.S.C. 4588(a)) is amended—

(1) by striking out "alcohol problems" in the first sentence and inserting in lieu thereof "biomedical, behavioral, and social issues related to alcoholism and alcohol abuse";

(2) in paragraph (1)(B), by striking out "laboratory facilities and reference services

(including reference services that will afford access to scientific alcohol literature)" and inserting in lieu thereof "facilities (including laboratory, reference, and data analysis facilities) to carry out the research plan contained in the application";

(3) in paragraph (1)(D), by striking out "and" at the end thereof;

(4) in paragraph (1)(E), by striking out "medical and osteopathic students and physcians;" and inserting in lieu thereof "medical and osteopathic, nursing, social work, and other specialized graduate students; and"; and

(5) by inserting after paragraph (1)(E) the following:

"(F) the applicant has the capacity to conduct programs of continuing education in such medical, legal, and social service fields as the Secretary may require.".

(b) Section 504(b) is amended by striking out "$1,000,000" and inserting in lieu thereof "$1,500,000".

(c) Section 504(c) is amended by inserting before the period a comma and the following: "$8,000,000 for the fiscal year ending September 30, 1980, and $9,000,000 for the fiscal year ending September 30, 1981".

SEC. 17. Title VI is amended by adding at the end the following new section:

"SEC. 604. The authority of the Secretary to enter into contracts under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.".

SEC. 18. (a)(1) There is established a Commission to be known as the National Commission on Alcoholism and Other Alcohol-Related Problems (hereinafter in this section referred to as the "Commission"). The Commission shall be composed of—

(A) four Members of the Senate appointed by the President of the Senate upon the recommendation of the majority and minority leaders;

(B) four Members of the House of Representatives appointed by the Speaker of the House of Representatives upon the recommendation of the majority and minority leaders;

(C) nine public members appointed by the President; and

(D) not more than four nonvoting members appointed by the President from individuals employed in the administration of programs of the Federal Government which affect the prevention and treatment of alcoholism and the rehabilitation of alcoholics and alcohol abusers.

At no time shall more than two members appointed under subparagraph (A), more than two of the members appointed under subparagraph (B), or more than five of the members appointed under subparagraph (C) be members of the same political party.

(2)(A) The President shall designate one of the members of the Commission as Chairman, and one as Vice Chairman. Nine members of the Commission shall constitute a quorum, but a lesser number may conduct hearings. Members appointed under paragraph (1)(D) shall not be considered in determining a quorum of the Commission.

(B) Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of the duties vested in the Commission.

(C) The Commission shall meet at the call of the Chairman or at the call of the majority of the members thereof.

(3)(A) The Commission may appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, an executive secretary to assist the Commission in carrying out its functions.

(B) The Secretary shall provide the Commission with such additional professional and clerical staff, such information, and the services of such consultants as the Secretary determines necessary for the Commission to carry out effectively its functions.

(C) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission consistent with applicable laws and regulations with respect to the privacy of medical records.

(b) The Commission shall conduct a study of alcoholism and alcohol-related problems and shall include in the study—

(1) an assessment of unmet treatment and rehabilitation needs of alcoholics and their families;

(2) an assessment of personnel needs in the fields of research, treatment, rehabilitation, and prevention;

(3) an assessment of the integration and financing of alcoholism treatment and rehabilitation into health and social health care services within communities;

(4) a study of the relationship of alcohol use to aggressive behavior and crime;

(5) a study of the relationship of alcohol use to family violence;

(6) a study of the relationship of alcoholism to illnesses, particularly those illnesses with a high stress component, among family members of alcoholics;

(7) an evaluation of the effectiveness of prevention programs, including the relevance of alcohol control laws and regulations to alcoholism and alcohol-related problems;

(8) a survey of the unmet research needs in the area of alcoholism and alcohol-related problems;

(9) a survey of the prevalence of occupational alcoholism and alcohol abuse programs offered by Federal contractors; and

(10) an evaluation of the needs of special and underserved population groups, including American Indians, Alaskan Natives, youth, the elderly, women, and the handicapped and assess the adequacy of existing services to fulfill such needs.

(c) The Commission shall submit to the President and the Congress such interim reports as it deems advisable and shall within two years after the date on which funds first become available to carry out this section submit to the President and the Congress a final report which shall contain a detailed statement of its findings and conclusions and also such recommendations for legislation and administrative actions as it deems appropriate. The Commission shall cease to exist sixty days after the final report is submitted under this subsection.

(d) The Secretary of Health, Education, and Welfare shall be responsible for the coordination of the activities of the Commission.

(e) There are authorized to be appropriated for the purposes of this section $1,000,000 to remain available until the expiration of the Commission.

SEC. 19. Title III is amended by adding at the end the following:

"PART D—REPORT

"REPORT

"SEC. 334. (a) Not later than June 1, 1980, the Secretary of Health, Education, and Welfare, acting through the Assistant Secretary for Health, and the Secretary of the Treasury, acting through the Assistant Secretary for Enforcement and Operations, shall jointly report to the President and the Congress—

"(1) the extent and nature of birth defects associated with alcohol consumption by pregnant women,

"(2) the extent and nature of other health hazards associated with alcoholic beverages, and

"(3) the actions which should be taken by the Federal Government under the Federal Alcohol Administration Act and the Federal Food, Drug, and Cosmetic Act with respect to informing the general public of such health hazards.

"(b) Subsection (a) shall not be construed to limit the authority of the Attorney General, the Secretary of the Treasury, or the Secretary of Health, Education, and Welfare under the Federal Alcohol Administration Act or the Federal Food, Drug, and Cosmetic Act.".

The PRESIDING OFFICER. Without objection, the motion to concur in the amendment of the House with an amendment is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ALCOHOLISM AND DRUG ABUSE PREVENTION

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 525.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 525) entitled "An Act to amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That (a) section 409(a) of the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1176(a)) is amended (1) by striking out "and" after "1978,", and (2) by inserting after "1979," the following: "and September 30, 1980,".

(b) Section 410(b) of such Act (21 U.S.C. 1177(b)) is amended by adding at the end the following: "For the fiscal year ending September 30, 1980, there is authorized to be appropriated $137,000,000 for grants and contracts under paragraphs (3) and (6) of subsection (a) for drug abuse treatment programs and $24,000,000 for grants and contracts under such subsection for other programs and activities. At least 10 per centum of the funds appropriated under the preceding sentence shall be obligated for grants and contracts for primary prevention programs.".

(c) Section 503 of such Act (21 U.S.C. 1193) is amended (1) by striking out "(a)", and (2) by striking out subsection (b).

(d)(1) Section 409(e)(3) of such Act is amended by inserting "(including women and the elderly)" after "population groups".

(2) Section 409(e)(5)(B) of such Act is amended by inserting ", by the elderly," after "by women".

(3) Subsection (d) of section 410 of such Act is amended to read as follows:

"(d) The Secretary shall encourage the submission of and give special consideration to applications under this section for programs and projects for the prevention and treatment of—

"(1) drug abuse and drug dependence by women,

"(2) drug abuse and drug dependence by the elderly, and

"(3) drug abuse and drug dependence by individuals under the age of eighteen.".

(e) Within sixty days of the date of the enactment of this Act the Director of the National Institute on Drug Abuse shall report to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate—

(1) the number of grants and contracts made or entered into by the Director before such date of enactment for research which was not completed before April 1, 1979,

(2) the identity of the persons who received such grants and contracts,

(3) the amount of funds authorized to be paid under each such grant and contract and the amount of funds expended by the recipient of each such grant and contract by such date of enactment,

(4) the purpose of the research project funded under each such grant and contract, and

(5) the progress made in each such research project by such date of enactment

(f) (1) Title IV of such Act is amended by adding at the end the following new sections:

"§ 414. Contract authority

"The authority of the Secretary to enter into contracts under this title and title V shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

"§ 415. Use of funds

"No funds provided under this title may be used to pay the compensation of any individual who admits under oath to the illegal use or possession of any control substance (as defined in section 102(6) of the Controlled Substances Act).".

(2) The table of sections of such title IV is amended by adding at the end the following new item:

"414. Contract authority.".

● Mr. RIEGLE. Mr. President, the legislation before us, S. 525, the Drug Abuse Prevention, Treatment, and Rehabilitation Amendments of 1979, was passed by the Senate on May 7. As with the alcoholism legislation just considered, delays since then have forced the National Institute on Drug Abuse to operate on a continuing resolution since October 1. In order to assure restored legislative authority for the Institute, we are offering a compromise agreed to by the House Subcommittee on Health and the Environment as a Senate amendment to the House amendment to S. 525.

Mr. President, the staff of the Subcommittee on Alcoholism and Drug Abuse, which I chair, together with the staff of the House Subcommittee on Health and the Environment, chaired by Representative HENRY WAXMAN, have spent many hours to arrive at a compromise agreement which would be acceptable to all Members, in order to avoid the necessity for a long conference and clear this important legislation for the President's signature prior to the end of the 1st session of the 96th Congress.

The many hours of negotiation were necessary, since the scope and breadth of the House and Senate bills contained major differences.

I commend all of the members of both subcommittees and their staffs for the excellent cooperation and hard work represented by this compromise agreement.

Mr. President, the compromise agreement is described in the explanation of the House-Senate compromise agreement which I shall ask unanimous consent to have printed in the RECORD following this statement. I would like merely to touch on a few of the agreements.

The compromise agreement provides for a 2-year reauthorization of the programs and activities conducted by the National Institute on Drug Abuse (NIDA).

The Drug Abuse Office and Treatment Act of 1972, which this bill amends, required an office to coordinate the Federal drug abuse functions within the Executive Office of the President. The President abolished that Office under the Reorganization Plan No. 1, transferring its responsibilities to the Domestic Policy Staff. To meet congressional concern with maintaining high-level coordination of the Federal drug abuse functions, the President issued an Executive order designating the Associate Director for Drug Policy to carry out these responsibilities. Congressional access to information and personnel was assured. The compromise agreement rewrites the 1972 act to transfer the responsibilities of the former Office to the President. The Strategy Council established under the 1972 Act is expanded to include a representative of State government and a representative of local government.

Mr. President, as in the alcoholism legislation just approved, this compromise agreement would renew all of the authorizations for the National Institute on Drug Abuse, including the authorization of formula grants to States, thereby rejecting the Administration proposal which would have consolidated State formula grants under this act with those under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, and under section 314(d) of the Public Health Service Act, into a mental health block grant to the States.

In rejecting this administration proposal, it is important that the administration understand congressional intent concerning the autonomy of NIDA and its programs.

The Administrator of the Alcohol, Drug Abuse and Mental Health Administration has on several occasions attempted to thwart the clear intent of Congress concerning the categorical emphasis which must be retained lest the unique aspects of drug abuse and addiction as social and health problems be submerged in a bureaucracy which might otherwise pursue other objects more vigorously.

I described this problem in some detail in connection with the alcoholism legislation, but it bears repeating here. Last year, the Administrator advanced a tentative proposal which was totally inconsistent with his many assurances to Chairman WILLIAMS and other members of the Labor and Human Resources Committee that he planned no action which would in any way combine NIAAA or its programs with either of its sister Institutes. His proposal went far beyond ADAMHA's statutory responsibilities and contravened existing law. That plan was to restructure the initial review of all discretionary grants and research contracts of the three Institutes within the Office of the Administrator of ADAMHA. Only direct intervention by the chairman of the Labor and Human Resources Committee (Mr. WILLIAMS) and HEW Secretary Joseph Califano prevented this illegal shift. I was not Chairman of the Subcommittee on Alcoholism and Drug Abuse at that time or I would have joined Chairman WILLIAMS in vehemently opposing this action.

The Administrator is now engaged in another plan which would conflict with the congressional intent that the Institutes remain policymaking bodies, through combining the prevention efforts of the three Institutes within ADAMHA. While an attempt to reduce duplication and overlap is commendable, it does not necessarily follow that prevention efforts applicable to mental health would also apply to addictions. Nor should mental health experts be setting policy in areas of alcoholism or drug abuse, for which they are not the most qualified. Such a plan would risk a throwback to mental health domination of alcoholism and drug abuse programing and policymaking, with potentially disastrous results.

In order to prevent overlap and duplication, those prevention techniques common to all three Institutes can be coordinated by agreements entered into by the Institute Directors. This approach is set forth in the explanation of the House-Senate Compromise Agreement, which serves in lieu of a conference report. This document states, "Policymaking functions, including those in the area of prevention, shall be carried out and coordinated at the Institute level."

Mr. President, when S. 525 was considered by the Senate on May 7, the distinguished Senator from Hawaii (Mr. INOUYE), who has a distinguished record as advocate for minority populations, offered an amendment which would have created in NIDA a position of "Associate Director for Underserved Populations." I share his desire to protect the interests of minority groups, and was happy to accept his amendment. The compromise agreement, while avoiding statutory creation of new associate directors within NIDA, focuses additional responsibility on the Director to make special efforts to develop and coordinate prevention, treatment, research, and administrative policies which focus on the needs of underserved populations. The Secretary is required to include actions taken under this provision in the report to Congress and the President required under current law.

Mr. President, again I commend Chairman WILLIAMS, Senator METZENBAUM, Senator HUMPHREY, and the members of the staff for their cooperation and hard work in reaching what I consider an excellent compromise agreement.

I ask that the Explanation of the House-Senate Compromise Agreement on S. 525, which serves in lieu of a conference report, be printed in the RECORD at this point.

The explanation follows:

EXPLANATION OF HOUSE-SENATE COMPROMISE AGREEMENT ON S. 525

The proposed compromise agreement on S. 525, the Drug Abuse Prevention, Treatment, and Rehabilitation Amendments of 1979, provides for a two-year reauthorization of programs and activities conducted by the National Institute on Drug Abuse (NIDA). The Senate had authorized a one-year renewal of these programs with an automatic extension for a second year unless Congress took action to prevent the extension. The House had authorized a one-year renewal.

FINDINGS AND PURPOSE

The compromise updates the findings and purpose of the Drug Abuse Office and Treatment Act of 1972 with reference to shifts in the usage of various drugs and in the Nation's demographic patterns, the need for prevention and intervention programs aimed particularly at youth, women, and the elderly, and the need for coordination of drug abuse functions at all levels of government. The purpose of the Act is expanded to include the development and support of community-based prevention programs, of occupational prevention and treatment programs, and of research relating to drug abuse.

POLICY COORDINATION

To meet congressional concern with maintaining coordination of Federal drug abuse functions at the highest level of government following abolishment of the Office of Drug Abuse Policy, the compromise amends the Act to transfer the responsibilities of the former Office to the President. During consideration of S. 525, the President issued Executive Order 12133 designating the Associate Director for Drug Policy of the Domestic Policy Staff to carry out these responsibilities.

Congressional access to information and personnel carrying out these functions is retained notwithstanding their location in the Executive Office of the President. The Strategy Council established under the Act is expanded to include a representative of State government responsible for dealing with drug abuse problems and a representative of local government responsible for dealing with such problems.

UNDERSERVED POPULATIONS

With respect to the administration of NIDA, the compromise places additional responsibility on the Director to make special efforts to develop and coordinate prevention, treatment, research, and administrative policies which focus on the needs of underserved populations. The Secretary should include actions taken under this provision in the annual report to Congress and the President required under section 405 of the Act. Policymaking functions, including those in the area of prevention, should be carried out and coordinated at the Institute level.

FORMULA GRANTS

Formula grants to States are authorized at $45 million for fiscal years 1980 and 1981, the level authorized under existing law and by both the Senate and House-passed bills.

SINGLE STATE AGENCIES

State advisory councils established under the Act are required to include as members women and the elderly, and the State plan is required to include an assessment of the needs of these groups and of the need for changes in emphasis resulting from shifts in demographic and drug abuse patterns.

States are required to provide assurances that surveys of the need for drug abuse prevention and treatment services will be coordinated with surveys of need for alcoholism prevention and treatment services, that political subdivisions have the opportunity to review and comment on their State plans, and that the Single State Agency coordinates its activities with local drug abuse agencies, with State and local alcoholism agencies, and with other health planning agencies.

STATE PLANS

Single State Agencies should survey the extent to which other State programs and political subdivisions are dealing effectively with drug abuse. The Single State Agency, within the limits of its capability, should determine and describe the extent of drug abuse functions performed by other agencies and political subdivisions, and should include such information in reports already required by the Act.

The State should also include an inventory of public and private resources relating to drug abuse prevention, treatment, and rehabilitation, a description of both the needs and the allocation of resources within urban and nonurban areas of the State, and a description of the role of units of general purpose local government in planning and coordinating the use of such resources.

Single State Agencies are required to foster and encourage occupational programs and to make available model programs developed by NIDA. Such information may be made available pursuant to notice, by publication or otherwise, designed to notify local governments and business concerns of the existence of such materials, and by direct efforts of the Single State Agency to publicize and assist the development of such efforts.

PROJECT GRANTS AND CONTRACTS

NIDA's authority for project grants and contracts is expanded to include demonstration and evaluation along with development of occupational drug abuse prevention, treatment, and rehabilitation programs, and to emphasize replication of effective prevention programs.

Authorizations of appropriations for project grants and contracts are $149 million for treatment programs and $20 million for prevention and other programs in fiscal 1980, and $155 million for treatment and $30 million for prevention and other programs in fiscal 1981. At least 7 percent of funds appropriated for all project grants and contracts in fiscal 1980 and 10 percent of funds appropriated in fiscal 1981 are to be used for primary prevention and intervention programs designed to discourage individuals, particularly individuals among high risk populations, from abusing drugs. During fiscal 1980, this limitation shall apply for that portion of the fiscal year remaining upon enactment of S. 525, but NIDA is encouraged to significantly expand its prevention efforts beyond these minimum levels.

The House had authorized $137 million for treatment and $24 million for prevention and other programs in fiscal 1980, with a minimum ten percent for prevention. The Senate had authorized $158 million for treatment, $5 million for grants to local governments, and $27 million for prevention and other programs.

In carrying out its responsibilities for prevention programs, it is especially important that NIDA recognize that drug abuse prevention programs now exist throughout the country that have demonstrated their effectiveness. NIDA must begin to replicate these successful programs in other communities through the provision of technical assistance and financial support.

It is intended that increased emphasis upon drug abuse prevention by NIDA will encourage State and local governments to broaden and increase financial assistance for these important programs.

SPECIAL EMPHASIS

The Secretary is instructed to encourage the submission of and give special consideration to applications for prevention and treatment projects targeted to drug abuse and drug dependence among women, the elderly, and individuals under eighteen.

Projects and programs receiving NIDA support shall seek to be responsive to the special requirements of handicapped individuals; to assure good quality care in general community care facilities; to meet the special needs of individuals of limited English-speaking ability; and to utilize existing community resources, including community mental health centers.

OCCUPATIONAL PROGRAMS

The compromise also reconciles the Act with the Civil Service Reform Act of 1978 (P.L. 95-454) and encourages the extension of Federal occupational drug abuse programs to include families of Federal employees. NIDA is instructed to develop a variety of model occupational programs suitable for replication on a cost-effective basis by different types of business concerns and governmental entities.

In developing such occupational programs, the Institute should take into account the number of the firm's employees, the firm's geographical location, its proximity to other concerns and entities, and availability of existing drug abuse services from public agencies and private organizations. To the extent feasible, model programs developed pursuant to this provision shall be capable of coordination with model occupational programs developed by the National Institute on Alcohol Abuse and Alcoholism. With respect to small businesses, NIDA should consult with the Small Business Administration concerning development of these model programs.

Where business concerns and governmental entities employ workers represented by a labor organization, these model programs should be designed to be implemented only by joint agreement through collective bargaining or at the conference table, within the limits of the National Labor Relations Act and other applicable laws.

CONTRACT LIMITATIONS

In order to comply with the Congressional Budget and Impoundment Control Act of 1974 (P.L. 93-344), the compromise includes a provision specifyng that the Secretary's authority to enter into contracts is effective only to the extent that funds are provided in advance by appropriations acts.

TECHNICAL ASSISTANCE

NIDA should provide technical assistance to States in: data collection; management and evaluation; certification, accreditation, and licensing; monitoring compliance with Federal prohibitions on discrimination against drug addicts and drug abusers in health facilities; and eliminating exclusions in health insurance coverage, offered in the State, which are based on drug abuse or drug dependence.

Such assistance should be designed to expand coverage of inpatient and outpatient care in licensed hospital treatment facilities, licensed detoxification facilities, licensed halfway houses or recovery homes, or licensed, certified, or State-approved residential treatment facilities. With respect to certification, accreditation, or licensing, such assistance should be designed to include appropriate recognition for non-medical aspects of treatment and for previous experience of personnel.

The Secretary should fully enforce Section 407's prohibition on discrimination health facilities, together with the prohibition on discrimination against drug addicts in any federally supported program covered by the Comprehensive Rehabilitation Services and Developmental Disabilities Amendments of 1978 (P.L. 95-602).

RESEARCH

NIDA's research authority is expanded to include social, behavioral, and biomedical etiology, mental and physical health consequences, and social and economic consequences of drug abuse and drug dependence.

The authorization for special research projects, which was $7 million under existing law and $8 million in the Senate-passed bill, is repealed. Funds to carry out these research programs have historically been obligated from appropriations available to the Institute under provisions of the Public

Health Service Act. Existing levels of research authorizations are adequate to ensure effective implementation of projects authorized by this section.

RESEARCH REPORT

Within sixty days of enactment of this legislation, the Director of NIDA should submit a report to the House Committee on Interstate and Foreign Commerce and the Senate Committee on Labor and Human Resources containing a detailed description of all research grants and contracts sponsored by the Institute on July 1, 1979.

ADVISORY COUNCIL

The National Advisory Council on Drug Abuse is modified to include representatives of State and local drug abuse agencies. Because delays in appointing members to the Advisory Council have occasionally produced difficulty in reaching a quorum, appointed members are authorized to serve until their successors have taken office. The Secretary should make every effort to assure that such delays do not continue to occur.

NIDA and the Advisory Council may not permit the failure of a State to comment on a project application to prejudice in any way that application.

NAME OF ACT

Because the Office of Drug Abuse Policy has been abolished, the name of the Act is changed to the Drug Abuse Prevention, Treatment and Rehabilitation Act.●

UP AMENDMENT NO. 896

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate agree to the amendment of the House with an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

Section 1. (a) This Act may be cited as the "Drug Abuse Prevention, Treatment, and Rehabilitation Amendments of 1979".

(b) Whenever in this Act (other than in sections 14 and 15) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Drug Abuse Office and Treatment Act of 1972.

Sec. 2. Section 101 (21 U.S.C. 1101) is amended by inserting at the end thereof the following new paragraphs:

"(11) Shifts in the usage of various drugs and in the Nation's demographic composition require a Federal strategy to adjust the focus of drug abuse programs to meet new needs and priorities on a cost-effective basis.

"(12) The growing extent of drug abuse indicates an urgent need for prevention and intervention programs designed to reach the general population and members of high risk populations such as youth, women, and the elderly.

"(13) Effective control of drug abuse requires high-level coordination of Federal international and domestic activities relating to both supply of, and demand, for, commonly abused drugs.

"(14) Local governments with high concentrations of drug abuse should be actively involved in the planning and coordination of efforts to combat drug abuse.".

Sec. 3. Section 102 (21 U.S.C. 1102) is amended by adding at the end thereof the following: "To reach these goals, the Congress further declares that it is the policy of the United States and the purpose of this Act to meet the problems of drug abuse through—

"(1) comprehensive Federal, State, and local planning for, and effective use of, Federal assistance to States and to community-based programs to meet the urgent needs of special populations, in coordination with all other governmental and nongovernmental sources of assistance;

"(2) the development and support of community-based prevention programs;

"(3) the development and encouragement of effective occupational prevention and treatment programs within the Government and in cooperation with the private sector; and

"(4) increased Federal commitment to research into the behavioral and biomedical etiology of, the treatment of, and the mental and physical health and social and economic consequences of, drug abuse.".

Sec. 4. Title II (21 U.S.C. 1111–1133) is amended to read as follows:

"TITLE II—DRUG ABUSE POLICY COORDINATION

"Sec.
"201. Concentration of Federal effort.
"202. Designated drug representative.
"203. Officers and employees.
"204. Acceptance of uncompensated services.
"205. Notice relating to the control of dangerous drugs.
"206. Statutory authority unaffected.
"207. Annual report.

"§ 201. Concentration of Federal effort.

"(a) The President shall establish a system for developing recommendations with respect to policies for, objectives of, and establishment of priorities for, Federal drug abuse functions and shall coordinate the performance of such functions by Federal departments and agencies. Recommendations under this subsection shall include recommendations for changes in the organization, management, and personnel of Federal departments and agencies performing drug abuse functions in order to implement the policies, priorities, and objectives recommended under this subsection.

"(b) To carry out subsection (a), the President, shall—

"(1) review the regulations, guidelines, requirements, criteria, and procedures of Federal departments and agencies applicable to the performance of drug abuse functions;

"(2) conduct, or provide for, evaluations of (A) the performance of drug abuse functions by Federal departments and agencies, and (B) the results achieved by such departments and agencies in the performance of such functions; and

"(3) seek to assure that Federal departments and agencies, in the performance of drug abuse functions, construe drug abuse as a health problem requiring treatment and rehabilitation through a broad range of community health and social services.

"(c) Federal departments and agencies engaged in drug abuse functions shall submit to the President such information and reports as may reasonably be required to carry out the purposes of this title.

"§ 202. Designated drug representative.

"(a) The President shall designate a single officer or employee of the United States to direct the activities required by this title. The location of such designee in the Executive Office of the President or elsewhere shall not be construed as affecting access by the Congress or committees of either House (1) to information, documents, and studies in the possession of, or conducted by or at the direction of, such designee, or (2) to personnel involved in carrying out activities under this title.

"(b) The President may direct the officer or employee designated under subsection (a) of this section to represent the Government of the United States in discussions and negotiations relating to drug abuse functions.

"§ 203. Officers and employees.

"In carrying out this title, the President may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to perform the functions vested in him by this title.

"§ 204. Acceptance of uncompensated services.

"In carrying out this title, the President is authorized to accept and employ in furtherance of the purpose of this title voluntary and uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

"§ 205. Notice relating to the control of dangerous drugs.

"Whenever the Attorney General determines that there is evidence that—

"(1) a drug or other substance, which is not a controlled substance (as defined in section 102(6) of the Controlled Substances Act), has a potential for abuse, or

"(2) a controlled substance should be transferred or removed from a schedule under section 202 of such Act,

he shall, prior to initiating any proceeding under section 201(a) of such Act, give the President timely notice of such determination. Information forwarded to the Attorney General pursuant to section 201(f) of such Act shall also be forwarded by the Secretary of Health, Education, and Welfare to the President.

"§ 206. Statutory authority unaffected.

"Nothing in this title shall be construed to limit the authority of the Secretary of Defense with respect to the operation of the Armed Forces or the authority of the Administrator of Veterans' Affairs with respect to the furnishing of health care and related services to veterans.

"§ 207. Annual report.

"The President shall submit to the Congress, prior to March 1 of each year, a written report on the activities conducted under this title. The report shall specify the objectives, nature, and results of such activities, and shall contain an accounting of funds expended under this title.".

Sec. 5. (a) Section 302 (21 U.S.C. 1162) is amended by striking out "Director of the Office of Drug Abuse Policy" and inserting in lieu thereof "representative designated under section 202 of this Act".

(b) Section 302 is further amended by striking out "three members from outside the Federal Government." and inserting in lieu thereof "five members from outside the Federal Government, at least one of whom shall be a representative of State government who is responsible for dealing with drug abuse problems and one of whom shall be a representative of local government who is responsible for dealing with such problems.".

(c) Section 304 (21 U.S.C. 1164) is amended by striking out "Director of the Office of Drug Abuse Policy" and inserting in lieu thereof "President".

Sec. 6. (a) The first sentence of section 409(a) (21 U.S.C. 1176(a)) is amended (1) by striking out "and" after "1978,", and (2) by inserting after "1979," the following: "September 30, 1980, and September 30, 1981,".

(b) Section 409(e) is amended—

(1) by inserting "(including women and the elderly)" after "population groups" in paragraph (3);

(2) by amending paragraph (4) to read as follows:

"(4) describe the drug abuse prevention functions to be carried out under the plan with assistance under this section, set forth in detail the changes in emphasis among such functions resulting from shifts in demographic and drug abuse patterns within the State, and describe all other drug abuse prevention functions to be carried out within the State with assistance under this Act;"

(3) by inserting ", by the elderly," after "by women" in clause (B) of paragraph (5), by striking out "and (B)" in paragraph (5)

and inserting in lieu thereof "(B)", and by inserting before the semicolon at the end of paragraph (5) the following: "; and (C) provide assurances satisfactory to the Secretary that, insofar as practicable, the survey conducted pursuant to clause (A) is coordinated with and not duplicative of the alcohol abuse and alcoholism survey conducted pursuant to section 303 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970";

(4) by inserting "(A)" after "in the State" in paragraph (7) and by inserting before the semicolon in paragraph (7) the following: ", (B) to review and comment on the plan prior to its submission to the Secretary, and (C) to submit to the Secretary as an appendix to the plan such comments as such political subdivisions believe are relevant to approval of the plan under subsection (f)";

(5) by inserting "and to the extent feasible a survey of the extent to which other State programs and political subdivisions throughout the State are dealing effectively with the problems related to drug abuse and drug dependence," after "under the plan," in paragraph (10); and

(6) by striking out "and" at the end of paragraph (12), by redesignating paragraph (13) as paragraph (17), and by inserting after paragraph (12) the following new paragraphs:

"(13) contain, to the extent feasible, a complete inventory of all public and private resources available in the State for the purpose of drug abuse and drug dependence treatment, prevention, and rehabilitation, including programs funded under State and local laws, occupational programs, voluntary organizations, education programs, military and Veterans' Administration resources, and available public and private third-party payment plans;

"(14) provide assurance that the State agency will coordinate its planning with local drug abuse planning agencies, with State and local alcoholism and alcohol abuse planning agencies, and with other State and local health planning agencies;

"(15) provide assurance that the State agency—

"(A) will foster and encourage the development of drug abuse and drug dependence prevention, treatment, and rehabilitation programs and services in State and local governments and in private businesses and industry;

"(B) will make available to all business concerns and governmental entities within such State information and materials concerning such model programs suitable for replication on a cost-effective basis as are developed pursuant to section 413(b)(2) of this Act; and

"(C) will furnish technical assistance as feasible to such business concerns and governmental entities;

"(16) include a needs assessment of the severity of drug abuse problems within urban and nonurban areas of the State, an accounting of the existing and proposed allocation of resources among such areas, and a description of the role of units of general purpose local government in planning and coordinating the use of such resources; and".

Sec. 7. (a) Section 410(a) (21 U.S.C. 1177 (a)) is amended—

(1) by inserting the following after "development" in paragraph (1): ", demonstration, and evaluation";

(2) by inserting "and detoxification" before "techniques" in paragraph (5); and

(3) by inserting before the period in paragraph (6) the following: ", with particular emphasis on replicating effective prevention and treatment programs".

(b) Section 410(b) is amended by adding at the end the following: "For grants and contracts under paragraphs (3) and (6) of subsection (a) for drug abuse treatment programs there is authorized to be appropriated $149,000,000 for the fiscal year ending September 30, 1980, and $155,000,000 for the fiscal year ending September 30, 1981; and for grants and contracts under such subsection for other programs and activities there is authorized to be appropriated $20,000,000 for the fiscal year ending September 30, 1980, and $30,000,000 for the fiscal year ending September 30, 1981. Of the funds appropriated under the preceding sentence for the fiscal year ending September 30, 1980, at least 7 percent of the funds shall be obligated for grants and contracts for primary prevention and intervention programs designed to discourage individuals, particularly those in high risk populations, from abusing drugs; and of the funds appropriated under the preceding sentence for the next fiscal year, at least 10 percent of the funds shall be obligated for such grants and contracts.".

(c) Subsection (d) of section 410 is amended to read as follows:

"(d) The Secretary shall encourage the submission of and give special consideration to applications under this section for programs and projects—

"(1) for the prevention and treatment of drug abuse and drug dependence by women,

"(2) for the prevention and treatment of drug abuse and drug dependence by the elderly, and

"(3) for the prevention and treatment of drug abuse and drug dependence by individuals under the age of 18.".

(d) Section 410 is amended by adding at the end the following new subsection:

"(f) Projects and programs for which grants and contracts are made or entered into under this section shall, in the case of prevention and treatment services, seek to (1) be responsive to special requirements of handicapped individuals in receiving such services; (2) whenever possible, be community based, insure care of good quality in general community care facilities and under health insurance plans, and be integrated with, and provide for the active participation of, a wide range of public and nongovernmental agencies, organizations, institutions, and individuals; (3) where a substantial number of the individuals in the population served by the project or program are of limited English-speaking ability (A) utilize the services of outreach workers fluent in the language spoken by a predominant number of such individuals and develop a plan and make arrangements responsive to the needs of such population for providing services to the extent practicable in the language and cultural context most appropriate to such individuals, and (B) identify an individual who is fluent both in that language and English and whose responsibilities shall include providing guidance to the individuals of limited English-speaking ability and to appropriate staff members with respect to cultural sensitivities and bridging linguistic and cultural differences; and (4) where appropriate, utilize existing community resources (including community mental health centers)."

Sec. 8. (a) Section 413(a) (21 U.S.C. 1180 (a)) is amended—

(1) by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management";

(2) by striking out "Director" and inserting in lieu thereof "President, with the Secretary (acting through the National Institute on Drug Abuse),";

(3) by inserting "and in accordance with the provisions of subpart F of part III of title 5, United States Code," after "other Federal agencies and departments"; and

(4) by inserting "Such agencies and departments are encouraged to extend, to the extent feasible, these programs and services to the families of employees and to employees who have family members who are drug abusers." before the last sentence.

(b)(1) Section 413(b) is amended to read as follows:

"(b)(1) The Secretary, acting through the National Institute on Drug Abuse, shall be responsible for fostering and encouraging similar drug abuse prevention, treatment, and rehabilitation programs and services in State and local governments and in private industry.

"(2)(A) Consistent with such responsibility, the Secretary, acting through the National Institute on Drug Abuse, shall develop a variety of model programs suitable for replication on a cost-effective basis in different types of business concerns and State and local governmental entities.

"(B) The Secretary, acting through the Institute, shall disseminate information and materials relative to such model programs to single State agencies designated pursuant to section 409(e)(1) of this Act, and, shall to the extent feasible, provide technical assistance to such agencies as requested.

"(3) Model programs developed under paragraph (2) shall, in the case of business concerns and governmental entities which employ individuals represented by labor organizations, be designed for implementation through cooperative agreements between the concerns and entities and the organizations.

"(4) To the extent feasible, model programs developed under paragraph (2) shall be capable of coordination with model programs developed pursuant to section 201(b) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970.".

(2)(A) The heading for section 413 is amended by striking out "Federal civilian employees" and inserting in lieu thereof "government and other employees".

(B) The item in the table of sections for title IV relating to section 413 is amended by striking out "Federal civilian employees" and inserting in lieu thereof "government and other employees".

Sec. 9. (a) Title IV is amended by adding at the end the following new section:

"§ 414. Contract authority

"The authority of the Secretary to enter into contracts under this title and title V shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.".

(b) The table of sections of such title IV is amended by adding at the end the following new item:

"414. Contract authority.".

Sec. 10. Section 501 (21 U.S.C. 1191) is amended by adding at the end thereof the following new subsection:

"(d)(1) The Director shall make special efforts to develop and coordinate prevention, treatment, research, and administrative policies and programs which focus on the needs of underserved populations.

"(2) The Secretary shall include in the annual report to the President and the Congress required by section 405(b) a description of the actions taken by the Director under paragraph (1).".

Sec. 11. Section 502 (21 U.S.C. 1192) is amended by inserting at the end thereof the following new subsection:

"(d) On the request of any State, the Secretary shall, to the extent feasible, make available technical assistance for the purposes of developing and improving systems for data collection; program management, accountability, and evaluation; certification, accreditation, or licensure of treatment facilities and personnel; monitoring compliance with the requirements of section 407 by hospitals and other facilities; and eliminating exclusions in health insurance coverage offered in the State which are based on drug abuse or drug dependence. Insofar as practicable, such technical assistance shall be provided in such a manner as to improve coordination between activities funded under this Act and under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970.".

Sec. 12. (a) Section 503(a) (21 U.S.C. 1193 (a)) is amended by—

(1) by striking out "to create, develop, and test" and inserting in lieu thereof the following: ", investigations, experiments, demonstrations, and studies, into";

(2) by inserting "the creation, development, and testing of" after "(1)", "(2)", and "(3)", respectively; and

(3) by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and ", and by inserting after paragraph (3) the following new paragraph:

"(4) the social, behavioral, and biomedical etiology, mental and physical health consequences, and social and economic consequences of drug abuse and drug dependence.".

(b) Section 503 is amended (1) by striking out "(a)", and (2) by striking out subsection (b).

Sec. 13. Within sixty days of the date of the enactment of this Act, the Director of the National Institute on Drug Abuse shall report to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate—

(1) the number of grants and contracts made or entered into by the Director before such date of enactment for research which was not completed before July 1, 1979,

(2) the identity of the persons who received such grants and contracts,

(3) the amount of funds authorized to be paid under each such grant and contract and the amount of funds expended by the recipient of each such grant and contract by such date of enactment,

(4) the purpose of the research project funded under each such grant and contract, and

(5) the progress made in each such research project by such date of enactment.

Sec. 14. Section 217(e)(1) of the Public Health Service Act (42 U.S.C. 218(e)(1)) is amended—

(1) by inserting the following before the period in the third sentence: ", including officers or employees of State and local drug abuse agencies"; and

(2) by inserting at the end thereof the following new sentence: "Appointed members may serve after the expiration of their terms until their successors have taken office.".

Sec. 15. (a) Section 1 is amended by striking out "Drug Abuse Office and Treatment Act of 1972" and inserting in lieu thereof "Drug Abuse Prevention, Treatment, and Rehabilitation Act".

(b) Sections 1513(e)(1) and 1524(c)(6) of the Public Health Service Act (42 U.S.C. 3001–2(e)(1), 300m–3(c)(6)) and section 303 (a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3733(a)(18)) are each amended by striking out "Drug Abuse Office and Treatment Act of 1972" and inserting in lieu thereof "Drug Abuse Prevention, Treatment, and Rehabilitation Act". Whenever reference is made in any other Federal law, regulation, ruling, or order to the Drug Abuse Office and Treatment Act of 1972, the reference shall be considered to be made to the Drug Abuse Prevention, Treatment, and Rehabilitation Act.

The **PRESIDING OFFICER**. The question is on agreeing to the motion to concur, with an amendment.

The motion was agreed to.

Mr. **ROBERT C. BYRD**. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. **GLENN**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WARNING BY ADMIRAL WEISNER ON SOVIET NAVAL BUILDUP

Mr. **THURMOND**. Mr. President, a significant warning of the dangers posed by the Soviet naval buildup in the Pacific and Indian Oceans was issued recently by retiring Pacific Naval Commander Adm. Maurice Weisner.

A news report on Admiral Weisner's remarks appeared in the December 9, 1979 issue of the Atlanta Journal and Constitution.

Mr. President, I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

SOVIET NAVY BUILDUP MENACES OIL LINES, ADMIRAL WARNS

(By Robert C. Miller)

Honolulu, Hawaii.—The retiring commander in chief of all U.S. Pacific defenses, blunt-spoken Adm. Maurice Weisner, warns that the Soviet Union's buildup in the Pacific and Indian oceans is the biggest external threat to U.S. security.

And he says America apparently fails to recognize it.

"I think the Soviets are clearly striving for a force in the Pacific and Indian Ocean areas that will put themselves in a posture that should they, for whatever reason, choose to challenge the United States, they intend to be able to challenge and win," Weisner, 62, a one-time Navy fighter pilot, said in an interview.

The Tennessee-born admiral who recently ended some 39 years of commissioned service repeated the phrase "put themselves in a posture" because he said he did not want to imply that he could read the Kremlin's intentions "because that's pretty damned hard."

From his big-windowed headquarters in the foothills of the Koolau Mountains overlooking Pearl Harbor, Weisner warned that if the United States and its friends and allies are going to maintain a posture of rough equality to the Soviets in the Pacific, "We've got to do one hell of a lot more for defense in increasing our armed force levels.

"What the Soviets are doing in the western part of the Indian Ocean is of concern and great interest to us because they don't take oil out of the Middle East. The only reason for the Soviets wanting to have a posture there, as I see it, would be to put themselves in a position to do something to those sea and air lines of communications should they decide to do it."

The admiral spread his fingers and his hands to emphasize again that he was not predicting or saying that the Russians would make such a move to threaten the umbilical cord that nurtures Asia and Western America with Middle East oil. But he did offer evidence of a Soviet buildup that could not possibly be aimed primarily at the People's Republic of China.

Weisner, who spent most of his command years in Asian waters—first in patrol bombers during the Pacific war, later as the commanding officer of Attack Carrier Division 5, and then as commander of the 7th Fleet—said the Russians have some 45 divisions now posted along the China-Russian border.

"This tension with the Chinese explains their buildup of ground forces, and to a certain extent their air force," he explained. "But I don't think their naval buildup is related to China. I think that's clearly pointed at the United States, its friends and its allies."

Using some of the information that pours into his headquarters from all over Asia, Weisner pointed out that equally as important as the Soviet buildup in ships, facilities and bodies was the improvement in Russian firepower and weaponry in the Pacific.

"The Soviets are continuing to modernize and put newer types of equipment into the Soviet Far East in the last three or four years than they have ever done before," Weisner said.

"Before, as the Russians got newer types of equipment it usually went to a great extent to the European side and was very slow in being introduced into the Soviet Far East. That has changed. There was not a single Soviet ballistic missile submarine in the Pacific when I came to Hawaii six years ago on this assignment. Nor were there any of the latest types of attack submarines; now there are a substantial number of every variety."

"So it looks to me," he said, "as if the Soviets perhaps are taking the lead in recognizing the changing importance of this part of the world."

There was one more warning from the man who had the job of managing Army, Navy, Marine Corps and Air Force operations across more than 100 million square miles. It was on nuclear warfare.

"The United States has got to pay attention to conventional forces and be sure that we don't put ourselves wholly in a position where our response has to be at the threshold of nuclear warfare. Nobody wants that," he said shaking his head and emphasizing the negative.

PRIVILEGE OF THE FLOOR—S. 2094

Mr. **WEICKER**. Mr. President, I ask unanimous consent that the following members of the Budget Committee staff be permitted access to the floor during the debate on S. 2094: Robert Boyd, Becky Davies, Gail Shelp, Susan Petrick, and Carol Cox.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

THE SENATE RESOLUTION COMMENDING THAILAND

Mr. **GLENN**. Mr. President, on the day before yesterday, I submitted to the Senate on behalf of the Foreign Relations Committee a resolution on behalf of Senator Stone and myself dealing with Thailand's response to the tragic situation in Kampuchea, better known to many people in this country as Cambodia. The resolution states that it is the sense of the Senate that Thailand be commended for its humanitarian efforts to assist the Indochinese refugees and victims of war. The resolution also states that the United States should continue its support of Thailand's assistance to the Khmer people and its efforts to bring a rapid end to the conditions causing dire suffering within Kampuchea.

Southeast Asia has been the scene of a series of tragic events during recent years. The murderous Pol Pot regime in Kampuchea caused the death of an estimated 2,000,000 of that country's 7,000,000 people between 1975 and 1979. Hanoi's repressive policies and mass expulsion of its own citizens have turned nearly a million Vietnamese—many of Chinese ethnic origin—into refugees forced to seek a new life in more hospitable nations. Vietnam's invasion of Kampuchea in late 1978, followed by China's military move against Vietnam early in 1979, led to further turmoil in an area sorely in need of peace and stability to deal with its many pressing problems.

The Vietnamese invasion of Kampuchea has led to a continuing civil war in that battered land. Today, nearly 200,000 Vietnamese troops are engaged in widespread military efforts designed to destroy the 30,000 guerrilla forces still operating under the control of Pol Pot, as well as to eliminate several thousand non-Communist guerrilla forces. The turmoil that has resulted from this conflict has led to such widespread disease and famine that tens of thousands have died.

More ominously, as many as 3,000,000 people are in danger of death from disease and starvation. Despite repeated appeals from many nations and from international relief agencies, the Vietnamese-installed puppet regime of Heng Samrin has demonstrated little willingness to let the outside world feed the Khmer people. Hanoi and its puppets apparently are willing to see countless numbers of innocent people die rather than take the slightest risk of letting international relief teams distribute food without regard to the political attitudes of starving people.

The international community has responded to the tragedy of Kampuchea by pledging over $300,000,000 of assistance to international relief agencies. Yet the authorities within Kampuchea have hampered the efforts of the relief agencies at every turn. Information now available shows that they insist that the relief organizations pay thousands of dollars in fees and tariffs when they bring food and medicine into the country by barge and aircraft.

As of late November, about 90 percent of the supplies reaching Phnom Penh and Kampong Som had been stockpiled in warehouses, with only miniscule amounts being distributed in the countryside where the needs are greatest—90 percent in warehouses. Nor are international relief agencies being permitted to monitor the distribution of supplies to assure that they reach those most in need.

Some confusion and inefficiency was inevitable given the conditions inside Kampuchea, but the large-scale stockpiling of supplies and the authorities constant changing of agreed-upon arrangements are having a devastating effect upon the relief program. It appears that Vietnam and its Kampuchean puppets will do the absolute minimum they consider necessary to avoid the condemnation of the world community.

If such obstruction continues, it will be clear that Vietnam and the Heng Samrin regime, rather than the Kampuchean people, are reaping the benefit of the international relief effort. A program of international assistance under such circumstances is impossible. Thus, the United States and other nations may soon be forced to decide whether to continue to send supplies into Kampuchea.

Mr. President, I do not want to minimize the crimes—and that is what they are, crimes against humanity—of Pol Pot, Heng Samrin, and the Vietnamese authorities, but it is clearly the Soviet Union which must also bear a very heavy responsibility for the monstrous crimes against humanity going on today in Kampuchea and Laos. Vietnam's repressive policies at home and cruel occupation of much of Kampuchea is financed by Moscow and must be condoned by Soviet advisers on the scene. The present extent of Soviet involvement in Vietnam's domination of Kampuchea and Laos, from all reports, may even far surpass their support for Hanoi any time during the 1960's.

I do not believe that Moscow directly dictates policy to Hanoi, but it must be obvious to even the most casual observer, that without Soviet aid and technical advice, Vietnam would be unable to maintain its aggressive, inhuman behavior for long.

Vietnam's economy has been badly damaged by the cost of its expansionist policies, and only an estimated $2 to $3 million a day of economic and military assistance from the Soviet Union enables Hanoi to continue its occupation of Kampuchea. Without Soviet aid, without Soviet support, Vietnam's genocide against its neighbor would soon grind to a merciful halt—so that the Soviet Union cannot escape a large portion of the blame for the looming specter of death being faced by 2 to 3 million people of Kampuchea.

A more detailed account of the Soviet role in support of Vietnam's invasion of Cambodia, and of Moscow's refusal to show the slightest concern for the people of Cambodia, has been reported by James Reston in the New York Times on December 12. It is a shocking story and one which demonstrates Soviet callousness toward human suffering. I ask unanimous consent to have this article printed in the Record at the end of this statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GLENN. Unfortunately, this callousness does not cover the full extent of Soviet responsibility for Vietnam's actions in Laos and Kampuchea. The evidence is accumulating that the Vietnamese used chemical warfare against the Hmong tribesmen in Laos between 1976 and mid-1979. Department of Defense medical officials who investigated this matter have reported that at least two types of poison gas were delivered by rockets fired from planes. We are now beginning to hear reports that poison gas is being used in Kampuchea. Does anyone believe that Vietnam has the capability of manufacturing chemical gases or rockets that can be fired from planes? Such items must be coming from the Soviet Union, and Moscow cannot wash its hands of guilt by false denials of the reports, or by claiming that since its military forces are not involved in combat in Southeast Asia it has no responsibility for what occurs there. Resorting to chemical warfare in World War I led to international revulsion against such inhuman weapons, and resorting to them now places those who use them beyond the pale of civilized behavior.

A recent column in the New York Times by Mr. William Safire titled "Yellow Rain" addressed the situation. I ask unanimous consent that the article be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. GLENN. Mr. President, the refusal of the Heng Samrin regime to allow distribution of more than a small part of the food and medicine available has led hundreds of thousands of people to flee to the Thai border, where they can receive assistance from relief agencies operating in Thailand. However, the conflict raging within Kampuchea threatens to drive these people into Thailand in search of safety and food.

These developments pose extremely serious problems for Thailand, which has already accepted over 200,000 refugees from Laos and Kampuchea. Under these circumstances, it would have been easy for the Thai Government to have closed its border, arguing that it had done all that could be expected of it. However, the Thai Government, under the farsighted and humanitarian leadership of Prime Minister Kriangsak, opened its borders to provide asylum and assistance to these victims of war, famine, and oppression. Thailand is cooperating fully with international relief agencies to care for these innocent people, and its response has undoubtedly saved hundreds of thousands of lives. Thailand also continues to work for a political settlement in Kampuchea that will allow its people to live in peace and dignity.

Thailand's actions warrant the gratitude and support of the entire civilized world. As chairman of the East Asian and Pacific Affairs Subcommittee of the Committee on Foreign Relations, I believe it is particularly important that the Senate express its appreciation and support for the courageous actions of the Government of Thailand. I, therefore, urge the adoption of this resolution commending Thailand for its wisdom and generosity, and pledging continued U.S. support for its assistance to the Khmer people.

Mr. President, I add that the 3-day rule will be over tomorrow. I anticipate we would probably have a vote on this tomorrow, or that may be a voice vote, I do not know yet.

In any event, I hope the Senate will overwhelmingly approve this commendation to the Thai Government and Prime Minister Kriangsak for the humanitarian actions that have been taken.

I yield the floor.

Exhibit 1

[From the New York Times, Dec. 12, 1979]

Is There No Pity?

(By James Reston)

Washington, December 11.—The relations between the United States and the Soviet Union are getting worse by the day, not only over the control of strategic weapons and the emplacement of new U.S. missiles in Western Europe but also over the desperate human tragedy in Cambodia.

The latest U.S. intelligence report to President Carter on the Soviet Union's role in Southeast Asia indicates that Moscow is not merely refusing to relieve the suffering of the Cambodian people but is actually blocking the distribution of food and medicine from other countries.

This intelligence report notes that large amounts of desperately needed supplies are reaching Cambodia but they are being diverted from the people who need them most and into the hands of pro-Soviet Vietnamese and the Heng Samrin military.

The report adds that taxes and tariffs are being collected on foreign relief supplies, and charges that in some regions the Vietnamese and Heng Samrin authorities have actually prevented the harvesting of grain.

President Carter is reported to be outraged by this intelligence and as a result authorized the unusual step of denouncing these activities in a formal White House statement, which, incidentally, was largely ignored by most United States newspapers.

"To counter this mounting tragedy," the White House statement said, "we call upon responsible leaders in both Hanoi and Moscow to recognize and act upon the compelling humanitarian requirements of the Cambodian people, which they thus far have not done. We call on them to cooperate fully with the international community in opening all routes for supplies to enter Cambodia, which they thus far have not done. We call on them to take the steps necessary to speed the distribution of humanitarian aid to starving people throughout all parts of that country, which they thus far have not done. We call on them not to feed the flames of war, but use aircraft and airfields to ferry food to feed the people of Kampuchea."

The intelligence reports to President Carter do not claim that the Soviet Union is intervening with its own troops in the Vietnam invasion of Cambodia. But they make some important points about Moscow's intentions in that part of the world, including the following:

The key Soviet role is in the supply and air delivery of food, fuel and ammunition to those forces which are fighting against the Pol Pot guerrilla troops.

The pace of Soviet shipping to Vietnam since the Chinese invasion in March has been intense: Between then and the end of November, over 200 Soviet general-cargo ships, 120 known arms carriers and about 70 tankers have been in Vietnamese ports.

The United States has little or no evidence about the types of equipment currently being used in the Kampuchea campaign, but at the outset of the operation it was clear that most of the weaponry being used was captured U.S. materiel—aircraft, trucks and guns, drawn from depots in the south of Vietnam.

We cannot determine, say the intelligence reports, what portion of the Soviet-supplied weapons which have entered Vietnam since March are earmarked for Cambodia and what has gone to shore up the Vietnamese border defenses against China. We suspect that most have been moved north or placed into reserve against the possibility of another Chinese attack.

In contrast to Ethiopia and Algeria, where Soviet advisers planned campaigns and engaged in combat, we have no direct evidence that the U.S.S.R. is maintaining military advisers with Vietnamese forces fighting in Cambodia. The Russians are more likely to be with the troops as observers than as advisers. A group of 200 is stationed in Ho Chi Minh City, from which half make daily flights.

There have been verified reports that chemical warfare is being used against both Pol Pot forces and Kampuchean civilians. Some indicate the use of riot-control gas, others the use of chemical agents similar to those used in Laos.

Naturally the U.S. intelligence services are more interested in the wider movements of Soviet power in this region. It is noted that the Soviets have taken a number of highly visible military actions in the area to serve several purposes: convey a signal to the Chinese; provide general support to Vietnam; further broad Soviet aims in Asia. For example, the intelligence reports note the movement of a Kievclass aircraft carrier (the Minsk) and several new guided missile cruisers to the Pacific; newly-gained access to ports and airfields in Vietnam that improve Soviet ability to conduct distant naval operations, including long-range reconnaissance; modernization of the Soviet Navy in the Pacific, now regarded in Washington as essentially on a par with the U.S. fleet in that area.

But despite these strategic and tactical moves by the Soviets, it is the inhumanity of Moscow's response to the tragedy of the Cambodian people that has troubled President Carter more than anything else.

He takes the maneuvers of power and position for granted—even Moscow's cunning manipulation of the crisis in Iran. But Cambodia, while part of the struggle between Moscow and Peking, is such an unnecessary human tragedy that Mr. Carter simply cannot understand what Moscow is doing and is reported to have said the other night: "Is there no pity?"

EXHIBIT 2

[From the New York Times, Dec. 13, 1979]

YELLOW RAIN

(By William Safire)

WASHINGTON, December 12.—The Laotians call it "the yellow rain." It struck four times during the month of February, 1978, killing and sickening hundreds of Hmong tribesmen near Xiangkhoang.

The yellow rain was probably mustard gas, the most loathsome weapon of World War I, its use condemned by 114 civilized nations—not including Laos or Vietnam.

Evidence has been gathered from refugees and through other intelligence to prove that poison gas is now part of the arsenal of Southeast Asian Communists. Mustard gas, and a second gas—either lung-destroying phosgene or chlorine, and in some reports, a nerve gas—has struck terror among the Hmong, or Meo, people who have been resisting Communist domination in their remote areas.

Months ago our State Department, in its restrained way, told Representative Jim Leach (R-Iowa) that it was sharing this evidence with "others whose influence with the Lao and Vietnamese exceeds our own." That means Russia, which provided the planes and rockets that caused the yellow rain to fall, and which has an extensive chemical-warfare program. "Evidence of a Soviet role," said State with a careful calibration of concern, "is circumstantial."

New information should shake up even the most unflappable diplomat. Here is an excerpt from a confidential summary:

"Four attacks using poison gas made on Hmong tribe members during February 1978 at the confluence of the Nam Theng and Nam Ka rivers in south central Laos. Delivered by rockets fired from single-engined propeller-driven reconnaissance-type aircraft."

Two gases were used, one colored yellow, the other red. "Both agents made the victims feel as if their bodies were going to blow up, severe coughing yielded blood. The throat felt hot and it hurt to swallow. These symptoms followed by eyes turning yellow as if the victim had jaundice, the vision becoming blurred, and the nose tingling as if hot pepper had been inhaled. Breathing caused a sharp pain, teeth felt loose and gums smelled rotten. . . . Five thousand people in the area of attack," the report continues, "two hundred known to be affected . . . Anyone whose bare skin was touched by a droplet suffered severe necrosis of the affected area, high fever, skin red turning bruise-dark. Took about two weeks to die."

Had enough? That's what poison gas does; the fear of retaliation kept aggressors from using it during World War II. Since then, many nations have developed the capacity to use chemical warfare; now it appears that the Soviet Union has been interested in running tests on human beings.

I am informed that a seven-man team of Soviet chemical warfare experts visited the Laotian cities of Pakse and Seno to inspect warehouses containing the same type of "chemical explosives" used in 1976 to suppress the anti-Communist tribesmen. These supplies include shells for artillery, as well as bombs and rockets containing the mustard and phosgene or chlorine gas. The same Soviet team was seen at three installations, and its presence was reported separately; the intelligence is hard.

We are beginning to get reports that poison gas is also being used by the Vietnamese in Cambodia. That evidence is not as solid as the confirmed Laotion reports, but a pattern is emerging: the Soviet-supported regimes in Vietnam and Laos need a terror weapon; the Soviets see an opportunity to test their chemical arsenal without using it themselves.

The result is the reintroduction of poison gas into the world's actively-used weaponry, with nothing but the most pipsqueak admonitions from low-level American diplomats, a ho-hum reaction from our allies, silence from the third world, and a cool denial from the Communist Pathet Lao.

Today, a House Foreign Affairs subcommittee held open hearings on the poison gas reports. The U.S. Army Medical Corps testified that two types of gas had been used, and that its investigators had heard of between 700 and 1,000 deaths in Laos. The Congressmen urged passage of H.R. 501, which calls on the United Nations disarmament commission to place chemical warfare on the U.N. agenda. A witness from our arms control agency clucked sympathetically but did not think placing the case on the agenda was such a good idea.

Why are we pussyfooting about this? We know an atrocity is taking place—poison gas is the poor nations' atomic bomb. We know that if we do not combine outspoken outrage with diplomatic pressures to stop the use of gas immediately, its use will spread.

Most of all, we know of some degree of Soviet involvement, probably in the production of lethal materials, demonstrably in the on-site examination of supplies, and certainly in the provision of the agents of delivery.

The way to stop the yellow rain is not to resolve to ask Mr. Carter to ask the U.N. to mail a protest postcard to Laos. The way to stop the torture and terror is to tell the Soviet Union, we find their secret testing intolerable.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

WAGE AND PRICE CONTROLS

Mr. WALLOP. Mr. President, I want to point out an inequity which I feel exists with the administration's wage and price guidelines. This is not a statement on the merits of wage and price controls, for, in a word, I do not feel that they serve the function for which they are intended. Nor do I believe that they are the best approach to curbing inflation. Nevertheless these points on the substance of the wage and price guidelines are not the subject of this speech.

Regardless of the merits of wage and price controls, an inequity exists in the administration of the guidelines. The Federal Government has established guidelines and then proceeded to exempt most Government agencies from complying with them. What arrogance on the part of the regulators. The Federal Government is in the untenable position of telling business to hold the line on price increases, telling labor unions to keep down wage demands, asking people to tighten their belts, and yet holds itself free to raise the costs of Government without restraint.

This increased cost of Government falls on those who having themselves shown restraint then have less money to pay for it. All nongovernment entities which are subject to the guidelines, even though they are voluntary, cannot but resent this Government arrogance. They are told to comply or face the wrath of the administration and be exposed as national miscreants. Heavy stones to cast for those living in glass houses.

The regulators will counter this charge by saying that the Government is subject to the guidelines. Indeed, section 705.47 of the wage and price regulations states that "government enterprises as defined in paragraph (b) of this section and private nonprofit enterprises should comply with the price standard."

The regulations then proceed in a positive direction defining government enterprise as "any unit of a Federal, State or local government for which data are available to determine compliance and that satisfies either of the following conditions." So far, so good. At this point, one might believe that most government units keep some type of data which would make compliance with the wage and price standards mandatory.

The regulations then proceed to enumerate "the following conditions." The U.S. Postal Service, a college or university, a toll facility, an alcoholic-beverage store, a commissary (retail outlet), a parking system, a port authority, an airport, an electric, gas, sewer, water, or other utility, a transportation service, a housing authority, or a health facility other than a hospital must all comply with the guidelines. Fair enough, but no where close to including all Government agencies.

The second condition provides the escape clause. Government enterprise is subject to the price standard only if its base-year operating revenue (that is, revenue from sales of goods and services) equals at least 50 percent of base-year operating expenses. How many Government enterprises make money?

The purpose of most Government agencies is not to raise money but to spend it. Therefore, agencies which do impose fees, and thereby increase the cost of Government to the consumer, are exempt from the price standard because their operating revenue falls short of equaling at least 50 percent of operating expenses.

Let me cite a specific example which concerns me in particular. Although the Forest Service was the only U.S. Government agency to voluntarily comply with the wage and price guidelines in 1979, early this year it announced a substantial increase in the 1980 fee schedule for recreation residence permits in Wyoming and elsewhere. Many cabin users wrote me, asking if the 1979 wage and price guidelines would be extended into 1980 and if the increase in cabin user fees would be limited by those guidelines. The U.S. Forest Service and the President's Council on Wage and Price Stability assured me that if 1980 wage and price guidelines were adopted, the Forest Service would comply with them.

User groups seemed reassured. Then, last week, I learned that the Forest Service had decided not to abide by the 1980 guidelines, and to raise its fees as originally announced. Apparently OMB was concerned that the Forest Service might lose some revenue by complying with the 1980 guidelines, in spite of prior commitments. It is truly distressing that OMB is not only apparently unwilling to let the Forest Service abide by its public commitment in this case, but that so many Federal charges and fees are apparently exempt from the 1980 wage and price guidelines.

Mr. President, to conclude, the Federal Government should be the leader in setting the example for compliance with wage and price guidelines. This means all units and enterprises of the Government, not just those whose revenues equal at least 50 percent of expenses, should be the first to try to keep prices down.

Government affects inflation in many ways. Government programs continue to grow and continue to cost more. We need to further explore the direct and indirect increased costs of Government, not just from the perspective of more programs, but also from the perspective of increased costs charged by the Federal Government. This form of direct cost increase should not be overlooked. Any place where we can ease the burden of inflation for the consumer should be explored. To set standards for others which do not apply to ourselves is immoral. It is government's responsibility to treat itself as it treats the governed—or have we lost sight of the fact that we govern by the consent of the governed?

Now, Mr. President, despite written promises to abide by the guidelines, from the Chief of the Forest Service, from OMB, and from Office of Wage and Price Stability, the administration has disgraced itself by going back on its word.

I learned of their decision today, though it was taken December 5 of this year. To add to the deceitful atmosphere, I talked on December 17 with Bowman Cutler, of OMB, who assured me that he would take my expressions of concern under advisement before making a decision. Obviously, I was mistaken to trust in the administration's word. The behavior is not honest and not necessary. When people cannot trust their government, will they long give their consent to be governed?

Mr. President, I yield the floor, and I thank the majority leader for his courtesy.

CHRYSLER CORPORATION LOAN GUARANTEE ACT OF 1979

The Senate continued with the consideration of S. 2094.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, under the consent order, I was to be recognized, but I have no need to be recognized.

Mr. HART. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. I retain the floor. I yield for a question.

Mr. HART. The majority leader knows that a conference report on the military stockpile question is pending. Senator THURMOND and I are on the floor, and I think we could dispose of the issue in a couple of minutes. I think the Senator from Idaho has an interest, also. I do not know what the regular order here would be.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, without any time running against the remaining time on the motion to reconsider, Mr. HART to be recognized to call up a message from the House; that there be a time limitation thereon, overall, of not to exceed 5 minutes.

Mr. McCLURE. It is going to take more than 5 minutes.

Mr. ROBERT C. BYRD. How much more?

Mr. McCLURE. The unanimous-consent agreement is 10 minutes, equally divided, and 10 minutes to the Senator from Idaho.

Mr. ROBERT C. BYRD. The Senator is correct. That would be 20 minutes.

I say to both distinguished Senators that there is pending a motion to reconsider on the previous rollcall vote on the Roth-Eagleton amendment. Senators would like to dispose of the issue—to wit, reconsideration—and if there is reconsideration, then the amendment, after which I ask unanimous consent that Mr. HART then be recognized under that time agreement, as it was ordered previously.

The PRESIDING OFFICER. Is there objection?

Mr. TSONGAS. Mr. President, reserving the right to object, in addition to the amendment, there was the agreement on a discussion on the bridge loan. Could we have that occur before the other?

Mr. ROBERT C. BYRD. Mr. President, I withdraw my request. If Mr. Hart will hold himself in readiness, let us assess the situation once the pending amendment is disposed of. It may be that we can then work out the matter.

Mr. HART. I am entirely flexible. I urge the Senators from Idaho and South Carolina to make themselves available.

Mr. ROBERT C. BYRD. Let us see what the situation is after this amendment is disposed of. It may be that we can work it out.

The PRESIDING OFFICER (Mr. LEAHY). Who yields time?

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Alaska has 2 minutes, and the Senator from West Virginia has 3 minutes and 35 seconds.

Mr. STEVENS. I say to the majority leader that it is my intention to yield back the time and ask that the vote on reconsideration be a voice vote, so that we would come to the Eagleton amendment again, to be voted on for the second time on reconsideration, if that would be agreeable. The yeas and nays are not requested. It is not mandated under the rule to have the yeas and nays on reconsideration itself.

But the yeas and nays would be mandated on the second vote on the Eagleton amendment, if the reconsideration vote carries.

Mr. WEICKER. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. WEICKER. Since the Senator has made that statement to the majority leader, I point out that the last three votes were yeas and nays.

Mr. STEVENS. It was my desire not to have the yeas and nays on the motion to reconsider. It was my understanding, and it is required by the rules, to have a yea and nay vote on the Eagleton amendment the second time, if it is reconsidered. The Senator from Connecticut says he wishes to vote on reconsideration to be a recorded vote, also, and he wishes to ask for the yeas and nays.

Mr. ROBERT C. BYRD. That is within the right of the Senator from Connecticut. I hope he will not ask for the yeas and nays on the motion to reconsider, because the vote on the amendment would be automatic, since the rollcall vote was ordered on it earlier. But it is his right to ask that, if he wishes. I will ask unanimous consent, hoping that the Senator will reconsider; but if he does not, it is within his right.

Mr. WEICKER. For reasons which I would just as soon not go into at this moment, I ask for the yeas and nays. It has nothing to do with trying to impede the majority leader.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, I yield back my time.

The PRESIDING OFFICER. Is all time yielded back?

The Senator from West Virginia still has 3 minutes and 35 seconds remaining.

Mr. ROBERT C. BYRD. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the motion. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

The PRESIDING OFFICER. Is there anyone in the Chamber who has not voted who wishes to vote? All Senators in the Chamber wishing to vote have voted.

The result was announced—yeas 94, nays 3, as follows:

[Rollcall Vote No. 498 Leg.]

YEAS—94

Armstrong
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—3

Bradley
Culver
Sarbanes

NOT VOTING—3

Baker
Inouye
Pressler

So the motion to reconsider was agreed to.

STRATEGIC AND CRITICAL MATERIALS TRANSACTION AUTHORIZATION ACT OF 1979

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. HART, I ask unanimous consent now that the Chair lay before the Senate a message from the House of Representatives on H.R. 595. I believe there is a time agreement.

The PRESIDING OFFICER. There is a time agreement. Without objection, it is so ordered.

Mr. STEVENS. Plus 10 minutes for the junior Senator from Idaho.

Resolved, that the House recede from its disagreement to the amendment of the Senate to the text of the bill (H.R. 595) entitled "An Act to authorize the Administrator of General Services to dispose of thirty-five thousand long tons of tin in the national and supplemental stockpiles, to provide for the deposit of moneys received from the sale of such tin, and for other purposes", and concur therein with the following amendment:

In lieu of the matter inserted by the aforesaid amendment, insert:

That this Act may be cited as the "Strategic and Critical Materials Transaction Authorization Act of 1979".

Sec. 2. There is authorized to be appropriated the sum of $237,000,000 for the acquisition of strategic and critical materials under section 6(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e). Before any acquisition using funds appropriated under the authorization of this section may be carried out, a list of the materials to be acquired shall be submitted to the Committees on Armed Services of the Senate and House of Representatives, and such acquisition may not then be carried out until the end of the 60-day period beginning on the date such list is received by such committees.

Sec. 3. The President is hereby authorized to dispose of materials determined to be excess to the current requirements of the National Defense Stockpile in the following quantities:

(1) 35,000 long tons of tin.

(2) 3,000,000 carats of industrial diamond stones.

Sec. 4. Any acquisition using funds appropriated under the authorization of section 2, and any disposal under the authority of section 3, shall be carried out in accordance with the provisions of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

Sec. 5. The President, on behalf of the United States, is authorized to contribute (from the amount of tin authorized to be disposed of under section 3(1)) up to 5,000 long tons of tin to the Tin Buffer Stock established under the Fifth International Tin Agreement. Upon the termination of such agreement in 1981, all proceeds generated from such contribution shall be remitted to the National Defense Stockpile Transaction Fund established by section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h).

Resolved, That the House recede from its disagreement to the amendment of the Senate to the title of the bill, and concur therein.

Mr. HART. Mr. President, there is not order in the Senate.

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order. Debate will not proceed until the Senate is in order. The Chair reminds Senators of the very short time limit of this debate. Debate will be in order so that the Senators' time will not be taken from them.

The Senate is now in order. The Senator from Colorado.

Mr. HART. Mr. President, H.R. 595, the so-called stockpile commodity bill, is the first effort of Congress to bring our strategic and critical stockpiles into balance under the newly enacted stockpile policy bill.

The bill that is before the Senate is a conference bill except that the House of Representatives has voted to strike the sale of 5 million troy ounces of silver, which was a conference compromise between the 15 million ounces approved by the Seate and the House version, which did not provide for the sale of any silver.

Mr. President, the prudent course of action at this point is to get the bill to the President so that the stockpile transactions can get underway.

Mr. President, there is not order in the Senate.

The PRESIDING OFFICER. The Senator from Colorado is right. The Senate will be in order. The Senate is not in order.

Mr. HART. Mr. President, there will be annual stockpile transaction bills in the future as excesses are sold and needed commodities are purchased to bring the National Defense Stockpile to an improved state of readiness.

The issue of the sale of excess silver will undoubtedly recur in future legislation, and I hope the House of Representatives, through its Armed Services Committee, will get into details on silver which they have not done up to now.

We do not need silver for the National Defense Stockpile. We will not use silver bullets in the next war. We should sell the silver and use the proceeds to buy critically needed materials, such as cobalt and titanium.

I urge my colleagues to support the bill, and I move that the Senate concur in the amendment of the House of Representatives to the amendment of the Senate to the text of the bill.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I concur in the action of the Conference Committee on the Strategic and Critical Materials Transaction Authority Act of 1979. This bill provides for the sale of tin and diamonds, not silver, as originally proposed. I opposed the sale of silver and I am pleased the House rejected the proposed sale. I urge the Senate to give prompt and favorable action in this report.

Mr. McCLURE. Mr. President, I am not going to oppose the report, nor ask for a rollcall vote with respect to it. I asked for this time only to make a couple of points that I think must be made.

The stockpile bill requires that national inventories be maintained of critical minerals, so that in the event of war we would have those critical materials available to us to meet our needs during the period of time when such a confrontation would interrupt foreign supplies.

Mr. President, I do not think anyone who is familiar with the actions of Congress in the experience with the stockpile program would seriously argue that the stockpile program and function has been more political than it has been strategic. I wish my friends from the Armed Services Committee would begin to take a look at a way to insulate the stockpile program from the political-economic pressures that are far too evident in every administration that I have seen deal with this question since I have been here. The effort is made to induce us to purchase, in the name of the security of the country, those minerals which are depressed on the market at a given time in our history, by those having the political clout to get the administration to agree to their purchase. At the same time, every administration I have seen has knuckled under to the desire to sell from the stockpile, or to get away with selling, in order to generate receipts to the Treasury to help fund other Federal obligations that the Congress has voted and the administration has supported.

Mr. President, there are two things in this bill that strike me as being wrong. One is the sale of silver. The Treasury Department consistently says that silver is no longer monetary, it is only a commodity used in industrial senses, and because of that, they want to dispose of all of the silver we have.

Mr. President, we sold 2 billion ounces of silver at $1.29 an ounce, and what is the price today? It is better than 10 times that, nearly 20 times that. And who is it that pays? The American taxpayer, who had an asset sold in order to satisfy the silver users, not the silver producers, of this country. They had the political clout to get it done—one of the greatest rapes of the Treasury I have ever seen in the history of this country, and it is swept under the rug. Mr. President, there is a big lump under that rug, and it will not go away.

Mr. President, just last month, late in the month, we passed in the Senate the central Idaho wilderness bill, or, as it is sometimes called, the River of No Return wilderness bill, in which we included within the wilderness, inaccessible for production, half of the known cobalt reserves in the United States that are commercially exploitable. Yet in this bill we are going to double the amount of stockpile reserves for cobalt. We are going out on the world market and buy from Zaire, if they ever get around to producing again, or Zambia, if they ever attain enough political stability to produce, or from the Soviet Union, enough to double the amount of cobalt in the Nation's stockpile reserve, at the very time we deny to ourselves the ability to provide it from U.S. sources.

Finally, Mr. President, I return to my original point: We have to find a way to insulate the stockpile from the political demands generated from time to time. I have introduced legislation on two or three occasions which I think would accomplish that by setting the goal in terms of national consumption and in terms of national production. If national consumption exceeds national production, there would be a stockpile reserve as a ratio of the difference between those two figures, and it becomes a mathematical formula under the control of Congress, rather than a political decision on a commodity-by-commodity basis.

Mr. President, I think it is time for us to reform the stockpile program, so that it is neither a rape of the taxpayers of this country nor a kind of political slush fund for Presidents.

Mr. HART. Mr. President, first of all with regard to the Senator's last point about reform, I wish to inform him that that reform has taken place. The National Defense Stockpile Policy Act, which has passed both Houses of Congress and been signed by the President, accomplishes exactly what the Senator says he wishes. It removes the stockpile from the kind of political and budgetary pressures to which it was subjected in the past. It was a bill that received a great deal of attention from the House and the Senate Armed Services Committees before being passed by the Congress.

Second, on the question of silver, the Senate looked into that very extensively, and it was the judgment of the Subcommittee on Stockpiles and the Armed Service Committee that the 15-million-troy-ounce sale of silver was not only in this country's financial interest, but also its military interest.

As to Congress looking into this, that has been done, and a judgment was rendered by the appropriate committee. It was not exactly what the Senator from Idaho wanted, but nevertheless it was a considered and thoughtful judgment.

Finally, I do not know why if the administration proposes something it is always political, whereas if Congress wants something it is not political, it is in the national interest.

This is a political body. Senators, who represent the States, are political representatives, and their positions are often very much colored by politics. So saying that we will get it out of the administration's hands, where it is inevitably political, where they cannot make judgments in the long-term interest of the country, and putting it back into the hands of Congress, where decisions are made without those political pressures, I think the Senator would agree, is nothing but nonsense.

Mr. McCLURE. Mr. President, let me say to my friend from Colorado, I understand that political pressures are exerted in this body from time to time. It is a political body, of course. But to suggest, as the Senator has, that this is not political because it is in the Senate seems to me to fly in the face of reality.

I did not say it was political only in the hands of the administration. It is certainly equally political in the hands of the committee and of Congress as a whole. If the Senator were to assure me, as a matter of fact, that the committee did very carefully look at this matter, and then were to make a calculated decision to dispose of silver from the stockpile, let me say that then I would have to question, not only the judgment of the administration, but, also, of the Senator from Colorado and his colleagues on the committee. Of course, they did not, and I do not.

Finally, Mr. President, the Stockpile Reform Act does not insulate the stockpile from political decisions. It changes the procedures by which political decisions are made, but it does not remove them from political consideration.

There is a way to reform the stockpile legislation in a way that it will be related to consumption and production, in a way that we would not be tempted to look at it from the viewpoint of political objectives.

Surely, we amended the statute, but surely we did not answer the question, and surely we have not solved the problem; and this bill is another evidence of that, so far as I am concerned.

Mr. HART. Mr. President, apparently the Senator from Idaho is not aware that this bill has no silver provision in it.

Mr. McCLURE. I support the objectives of the Senator from Colorado with respect to disposition of tin. I have talked to the tin producers as long as 2 years ago, and we should be disposing of what is admittedly surplus tin. That is a legitimate stockpile objective, to reduce the amount of tin in stockpile today, but it should not necessarily be coupled with a number of other considerations which I think are more political than based on a hardheaded analysis of strategic needs.

The Senator from Colorado, the Senator from South Carolina, and others that I have talked to in the past—I have talked to the administration figures that make the judgment as to how much is necessary for the national stockpile objectives—agree that any look at the stockpile objectives over the last several years would indicate that every one of the commodities has fluctuated wildly. The stockpile objectives go up and down according to the whim of the people that are involved at the time, with no objective judgment concerning the needs.

I do not think the fact that this bill is before us today is definitive of that question. I just urge that we do not assume that everything has been done that should have been done to reform the stockpile question.

Mr. HART. Once again, Mr. President, there is no disposition of silver authorized in this bill; at the behest of a handful of people in the House who feel strongly about this and whose judgments are at least as political as the rest of us, the House deleted the silver disposal.

The Senate Armed Services Committee, so long as I have had anything to do with it, has looked into these matters extremely seriously and with great diligence, and not from a political point of view. And just because our judgments, collectively and uniformly, differ from those of the Senator from Idaho does not mean that we are falling in line with the administration on its political objectives.

● Mr. RANDOLPH, Mr. President, the bill under consideration today, H.R. 595 Report 96–680, authorizes the disposal of 35,000 long tons of tin from the U.S. strategic materials stockpile.

On January 15, 1979, I introduced S. 27, which authorized the release of the tin. My colleague from West Virginia, Representative Robert Mollohan, introduced H.R. 595 on the same day.

The House approved H.R. 595 by a vote of 371 to 16 on April 13, and the Senate approved the disposal bill on October 16.

This bill meets the objectives of the Department of Defense and the administration.

I feel that the current oversupply of tin in the stockpile is an economic waste. I am also concerned with the fate of the domestic tin-plated steel industry in West Virginia. This industry provides jobs for more than 5,000 workers in West Virginia. The jobs of these West Virginians, as well as other Americans, are threatened by the artificially high price of tin imported into this country. These high prices are the result of action by commodity speculators in the world tin markets. The price of tin today is at an all-time high. The increase in the price of tin is adding to the woes of inflation. I believe that this release of tin would have a moderating effect on escalating tin prices. Failure to pass this conference report will push the price of tin even higher and will have an impact on the food prices throughout the United States.

I urge the Senate to agree to the bill. Enactment of this legislation will help us fight the war on inflation.

Mr. HART. Mr. President, I yield back the remainder of my time. I move that the Senate concur in the amendment of the House, to the amendment of the Senate.

The PRESIDING OFFICER. Does the Senator from Idaho yield back his time?

Mr. McCLURE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from South Carolina (Mr. Thurmond) yield back his time?

Mr. THURMOND. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the motion.

The motion was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HART. I move to lay that on the table.

The motion to lay on the table was agreed to.

Mr. HART. Mr. President, I suggest the absence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Baucus). Without objection, it is so ordered.

CHRYSLER CORPORATION LOAN GUARANTEE ACT OF 1979

The Senate continued with the consideration of the bill.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the order for the rollcall vote on the Eagleton amendment be vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. EAGLETON. I ask unanimous consent that the Eagleton amendment be withdrawn.

Mr. ROBERT C. BYRD. Reserving the right to object, only if, coupled with that request, the 30-minute time limit which was originally ordered on the amendment by Mr. Lugar stays in place.

Mr. EAGLETON. I amend my unanimous-consent request to so reflect.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment (No. 1618) was withdrawn.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR. Mr. President, I ask unanimous consent that the 30 minutes allocated to me on my amendment be allocated to me for a substitute amendment, sponsored by Senator Tsongas and myself and the distinguished majority leader and the distinguished acting minority leader.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 897

Mr. LUGAR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Indiana (Mr. Lugar), for himself, Mr. Tsongas, Mr. Robert C. Byrd, and Mr. Stevens proposes an unprinted amendment numbered 897.

Mr. LUGAR. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted by amendment No. 1617 insert the following:

SHORT TITLE

Section 1. This Act may be cited as the "Chrysler Corporation Loan Guarantee Act of 1979".

DEFINITIONS

Sec. 2. For purposes of this Act—

(1) the term "Board" means the Chrysler Corporation Loan Guarantee Board established by section 3;

(2) the term "borrower" means the Chrysler Corporation, any of its subsidiaries or affiliates, or any other entity the Board may designate from time to time which borrows funds for the benefit or use of the Corporation;

(3) the term "Corporation" means the Chrysler Corporation and its subsidiaries and affiliates;

(4) the term "financing plan" means a plan designed to meet the financing needs of the Corporation as reflected in the operating plan and indicating in accordance with the requirements of section 8 the amounts to be provided at dates specified (for each year of the plan) from internally generated sources (including earnings and cost reduction measures), from loans guaranteed under this Act, and from nonfederally guaranteed assistance as required pursuant to section 4(a)(3);

(5) the term "fiscal year" means the fiscal year of the Corporation;

(6) the term "going concern" means a corporation the net earnings of which, as projected in the plan required under section 4(a)(2), are determined to be sufficient to maintain long-term profitability after taking into account probable fluctuations in the automobile market, and which meets such other tests of viability as the Board shall prescribe;

(7) the term "labor organization" has the same meaning as in section 2 of the Labor-Management Relations Act, 1947;

(8) the term "operating plan" means a document detailing production, distribution, and sales plans of the Corporation, together with the expenditures needed to carry out those plans (including budget and cash flow projections), on an annual basis, and an energy efficiency plan setting forth steps to be taken by the Corporation to reduce United States dependence on petroleum, in accordance with section 4(a)(2);

(9) the term "persons with an existing economic stake in the health of the Corporation" means banks, financial institutions, and other creditors, suppliers, dealers, stockholders, labor unions, employees, management, State, local, and other governments, and others directly deriving benefit from the production, distribution, and sale of products of the Corporation; and

(10) the term "wages and benefits" means any direct or indirect compensation paid by the Corporation to employees of the Corporation and shall include, but is not limited to, amounts paid in accordance with wage scales, straight time hourly wage rates, base wage rates, base salary rates, salary scales, and periodic salary grades, overtime premiums, night shift premiums, vacation payments, holiday payments, relocation allowance, call-

in pay, bonuses, bereavement pay, jury duty pay, paid absence allowances, short-term military duty pay, paid leaves of absence, holiday pay including personal holidays, and medical, health, accident, sickness, disability, hospitalization, insurance, pension, educational, and supplemental unemployment benefits.

CHRYSLER CORPORATION LOAN GUARANTEE BOARD

SEC. 3. There is established a Chrysler Corporation Loan Guarantee Board which shall consist of the Secretary of the Treasury who shall be the Chairperson of the Board, the Chairman of the Board of Governors of the Federal Reserve System, and the Comptroller General of the United States.

AUTHORITY FOR COMMITMENTS FOR LOAN GUARANTEES

SEC. 4. (a) Subject to the provisions of this Act, the Board, on such terms and conditions as it deems appropriate, may make commitments to guarantee the payment of principal and interest on loans to a borrower only if at the time the commitment is issued, the Board determines that—

(1) the commitment is needed to enable the Corporation to continue to furnish goods or services, and failure to meet such need would adversely and seriously affect the economy or, or employment in, the United States or any region thereof;

(2) (A) the Corporation has submitted to the Board a satisfactory operating plan (including budget and cash flow projections) for the 1980 fiscal year and the next succeeding five fiscal years demonstrating the ability of the Corporation to continue operations as a going concern in the automobile business, and after December 31, 1983, to continue such operations as a going concern without additional guarantees or other Federal financing; and

(B) the Board has received such assurances as it shall require that the operating plan is realistic and feasible;

(3) the Corporation has submitted to the Board a satisfactory financing plan which meets the financing needs of the Corporation as reflected in the operating plan for the period covered by such plan, and which includes an aggregate amount of nonfederally guaranteed assistance of at least $1,430,000,000 as determined under subsection (b)—

(A) from financial commitments or concessions from persons with an existing economic stake in the health of the Corporation in excess of commitments or concessions outstanding as of October 17, 1979, or from other persons;

(B) from capital to be obtained through merger, sale of securities or otherwise after October 17, 1979; and

(C) from cash to be obtained from the disposition of assets of the Corporation after October 17, 1979;

(4) the Corporation has commitments for all financing contemplated by the financing plan and that such financing is adequate (taking into account the amount of guarantees to be made available and the amount of wages and benefits not to be paid as a result of section 6) to meet all the Corporation's projected financing needs during the period covered by the financing plan; and

(5) the Corporation's existing creditors have certified to the Board that they will waive their rights to recover under any prior credit commitment which may be in default unless the Board determines that the exercise of those rights would not adversely affect the operating plan submitted under paragraph (2) or the financing plan submitted under paragraph (3).

(b) (1) For the purpose of computing the aggregate amount of at least $1,430,000,000 in nonfederally guaranteed assistance required to be provided under subsection (a) (3)—

(A) the term "financial commitment" means a legally binding commitment to provide additional nonfederally guaranteed assistance to meet the financing needs of the Corporation in excess of any such commitments outstanding as of October 17, 1979;

(B) the term "concession" means a legally binding commitment (or in the case of a concession from a State, local, or other government, a concession for which the Board has received adequate assurances) which will result in a reduction in the financing needs of the Corporation by an amount which is more than the amount of any reduction accomplished by any concessions outstanding as of October 17, 1979, and, except for a loan or other credit, shall be nonrecoupable;

(C) the term "capital" means sales of equity securities, any other transactions involving non-interest-bearing investments in the Corporation, or subordinated loans on which payment of principal and interest is deferred until after all guaranteed loans are repaid; and

(D) the amount of "cash to be obtained from the disposition of assets of the Corporation" shall be determined by the Board based on a conservative estimate of the minimum value realizable in a sale, with reference to the potential circumstances surrounding such a sale.

(2) In computing the aggregate amount of at least $1,430,000,000 in nonfederally guaranteed assistance required to be provided under subsection (a) (3), there shall be excluded—

(A) the extent of any contribution, concession, or other element that does not actually and substantively contribute to meeting the Corporation's financing needs as defined in the financing plan required by this section; and

(B) deferral of any dividends on common or preferred stock outstanding as of October 17, 1979.

(c) The aggregate amount of nonfederally guaranteed assistance of at least $1,430,000,000 required to be provided under subsection (a) shall include—

(1) at least $500,000,000 from United States banks, financial institutions, and other creditors, of which—

(A) at least $400,000,000 shall be new loans or credits, in addition to the extension of the full principal amount of any loans committed to be made but not outstanding as of October 17, 1979; and

(B) at least $100,000,000 shall be concessions with respect to outstanding debt of the Corporation;

(2) at least $150,000,000 shall be from foreign banks, financial institutions, and other creditors in the form of new loans or credits, in addition to the extension of the full principal amount of any loans committed to be made but not outstanding as of October 17, 1979;

(3) at least $300,000,000 shall be from the disposition of assets of the Corporation;

(4) at least $250,000,000 shall be from State and local governments;

(5) at least $180,000,000 shall be from suppliers and dealers, of which at least $100,000,000 shall be in the form of capital as defined in subsection (b); and

(6) at least $50,000,000 shall be from the sale of additional equity securities.

The Board may, as necessary, modify the amounts of assistance required to be provided by any of the categories referred to in this subsection, so long as the aggregate amount of at least $1,430,000,000 in nonfederally guaranteed assistance is provided under subsection (a) (3).

REQUIREMENTS FOR LOAN GUARANTEES

SEC. 5. (a) A loan guarantee may be issued under this Act only pursuant to a commitment issued under section 4. The terms of any such commitment shall provide that a loan guarantee may be issued under this Act only if at the time the loan guarantee is issued, the Board determines that—

(1) credit is not otherwise available to the Corporation under reasonable terms or conditions sufficient to meet its financing needs as reflected in the financing plan;

(2) the prospective earning power of the Corporation, together with the character and value of the security pledged, furnish reasonable assurance of repayment of the loan to be guaranteed in accordance with its terms;

(3) the loan to be guaranteed bears interest at a rate determined by the Board to be reasonable which shall not be more than the current average yield on outstanding obligations guaranteed by the United States with remaining periods to maturity comparable to the average maturity of such loan;

(4) the operating plan and the financing plan of the Corporation continue to meet the requirements of section 4 and appropriate revisions to such plans (including extensions of such plans to cover the then current six-year period) have been submitted to the Board to meet such requirements;

(5) the Corporation is in compliance with such plans;

(6) the Board has received such assurances as it may require that such plans are realistic and feasible;

(7) the Corporation has agreed for as long as guarantees issued under this Act are outstanding—

(A) to have prepared and submitted on or before the thirtieth day preceding each fiscal year beginning after December 31, 1980, a revised operating plan and financial plan which cover the six-year period commencing with such fiscal year and which meet the requirements of section 4; and

(B) to prepare and deliver to the Board within one hundred and twenty days following the close of each fiscal year, an analysis reconciling the Corporation's actual performance for such fiscal year with the operating plan and the financial plan in effect at the start of such fiscal year; and

(8) the borrower is in compliance with the terms and conditions of the commitment to issue the guarantees required by the Board pursuant to section 9(b), except to the extent that such terms and conditions are modified, amended, or waived by the Board.

(b) Any determination by the Board that the conditions established by this Act have been met shall be conclusive, and such determination shall be evidenced by the issuance of the guarantee or commitment for which such determination is required. The Board shall transmit to the appropriate committees of the Congress a written report setting forth each such determination under this Act and the reasons therefor not less than fifteen days prior to the issuance of any guarantee. The validity of any guarantee when made by the Board under this Act shall be incontestable in the hands of a holder, except for fraud or material misrepresentation on the part of such holder. The Board is authorized to determine the form in which any guarantee made under this Act shall be issued.

(c) The Board shall prescribe and collect no less frequently than annually a guarantee fee in connection with each guarantee made under this Act. Such fee shall be sufficient to compensate the Government for all of the Government's administrative expense related to the guarantee, but in no case may such fee be less than 1 per centum per annum of the outstanding principal amount of loans guaranteed under this Act computed daily.

(d) To the maximum extent feasible, the Board shall insure that the Government is compensated for the risk assumed in making guarantees under this Act, and for such purpose the Board is authorized to—

(1) prescribe and collect a guarantee fee in addition to the fee required by subsection (c);

(2) enter into contracts under which the Government, contingent upon the financial success of the Corporation, would participate in gains of the Corporation or its security holders; or

(3) use other instruments deemed appropriate by the Board.

(e) All amounts collected by the Board pursuant to subsections (c) and (d) shall be deposited in the Treasury as miscellaneous receipts.

REQUIREMENTS APPLICABLE TO EMPLOYEES

SEC. 6. (a) No loan guarantee may be issued under this Act if at the time of issuance or the proposed issuance the Board determines that—

(1) collective bargaining agreements entered into by the Corporation after September 14, 1979, with labor organizations representing employees of the Corporation which govern the payment of wages and benefits to such employees from September 14, 1979, to September 14, 1982, have not been modified so that the cost to the Corporation of such wages and benefits, as determined by the Board, shall be reduced by a total amount of at least $525,000,000 for the 3-year period ending on September 14, 1982, below the cost of such wages and benefits which the Corporation would otherwise have been obligated to incur during such period, except that such dollar amount shall include $203,000,000 in wages and benefits to be forgone pursuant to the master collective bargaining agreement entered into on October 25, 1979, between the Corporation and the International Union, United Automobile Aerospace and Agricultural Implement Workers of America; or

(2) the corporation has not put into effect a plan for achieving at least $150,000,000 in concessions as defined in section 4(b)(1)(B) from employees not represented by a labor organization.

(b) The limitations set forth in subsection (a) of this section shall not apply to any increase in wages or benefits required by law.

(c) Any increase in the wages and benefits of a person employed by the Corporation resulting from reclassification or reevaluation of a job or a promotion effected in order to evade the provisions of this section shall be considered an indirect form of compensation.

To meet the requirements of this subsection, the Corporation shall not enter into a collective bargaining Agreement with a labor organization which—

(A) reduces the amounts and levels of wages and benefits provided by such a collective bargaining agreement beyond the labor organization's proportionate share, as determined by the Board; or

(B) reduces wages and benefits below the levels and amounts provided on September 13, 1979.

(2) For purposes of this subsection, the proportionate share of a labor organization shall be determined by multiplying the total reduction required by paragraph (1) by the quotient obtained by dividing the total number of the Corporation's employees represented by that labor organization whose proportionate share is to be determined by the total number of the Corporation's employees represented by labor organizations.

(e) The cost reduction realized by the Corporation under the terms of this subsection shall not be recoupable.

(f) If the Board determines that cash contributions from labor organizations or employees are legally committed so that the total contributions from employees and labor organizations during the period of September 13, 1979, through September 13, 1982, will exceed the total amount of wages and benefits not paid as a result of subsection (a), the Board may permit an increase in the levels and amounts of employee wages and benefits beyond the levels and amounts in effect on September 13, 1979, which would otherwise be prohibited by subsection (a), if (1) such increase will not impair the ability of the Corporation to continue as a going concern, or to meet such other tests of viability as the Board shall prescribe, and (2) the amount of such increase does not exceed the amount of the cash contributions committed.

EMPLOYEE STOCK OWNERSHIP

SEC. 7. (a) No guarantee or commitment to guarantee any loan may be made under this Act until the Corporation, in a written agreement with the Board which is satisfactory to the Board, agrees—

(1) to establish a trust which forms part of an employee stock ownership plan meeting the requirements of subsection (c);

(2) to make employer contributions to such trust in accordance with such plan; and

(3) to issue the additional shares of qualified common stock at such times as such shares are required to be contributed to such trust.

(b) No guarantee or commitment to guarantee any loan may be made under this Act after the close of the one hundred and eighty-day period beginning on the date of the enactment of this Act unless the Corporation has established a trust which forms part of an employee stock ownership plan meeting the requirements of subsection (c).

(c) An employee stock ownership plan meets the requirements of this subsection only if—

(1) such plan is maintained by the Chrysler Corporation;

(2) such plan satisfies the requirements of section 4975(e)(7) of the Internal Revenue Code of 1954 (determined without regard to subparagraph (A) of section 410(b)(2) of such Code); and

(3) such plan provides that—

(A) employer contributions to the trust may be made only in accordance with requirements of subsection (d),

(B) each participant in the plan has a nonforfeitable right to the participant's accrued benefit under the plan,

(C) each employer contribution to the trust shall be allocated in equal amounts to the accounts of all participants in the plan, and

(D) distributions from the trust under the plan will be made in accordance with the requirements of section 401(k)(2)(B) of the Internal Revenue Code of 1954.

(d)(1) Employer contributions meet the requirements of this subsection only if such contributions—

(A) will total not less than $175,000,000 before the close of the four-year period beginning not later than the one hundred and eightieth day after the date of the enactment of this Act,

(B) are made in such amounts and at such times that at no time during such four-year period will the amount of employer contributions to the trust be less than the amount such contributions would have been if made in installments of $43,750,000 made at the end of each year in such period, and

(C) are made in the additional qualified common stock which the Corporation issues by reason of subsection (a)(3).

(2)(A) In the case of a qualified loan to the trust for the purchase of qualified common stock—

(i) the amount of such stock purchased with the proceeds of such loan shall be treated for purposes of paragraph (1) as an employer contribution to the trust, and

(ii) subparagraph (C) of paragraph (1) shall not apply.

(B) For purposes of subparagraph (A), the term "qualified loan" means any loan—

(i) which may be repaid only in substantially equal installments,

(ii) which has a term of not more than ten years, and

(iii) the proceeds of which are used only to purchase an amount of the additional qualified common stock which the Chrysler Corporation issues by reason of subsection (a)(3).

(e) For purposes of this section, the term "qualified common stock" means stock of the class of common stock of the Corporation which is outstanding on October 17, 1979, and which is readily tradeable on an established securities market.

(f) An amount equal to $175,000,000 of the additional qualified common stock issued by the Corporation by reason of subsection (a)(3) shall not be treated for purposes of this Act as assistance received by the Corporation from other than the Federal Government pursuant to section 4(c).

LIMITATIONS ON GUARANTEE AUTHORITY

SEC. 8. The aggregate principal amount of loans guaranteed under this Act outstanding at any time shall not exceed the lesser of $1,500,000,000, or 87 per centum of the amount of nonfederally guaranteed assistance made available to the Corporation and taken into account for the purpose of section 4(a)(3)(A).

TERMS AND CONDITIONS OF LOAN GUARANTEES

SEC. 9. (a) Loans guaranteed under this Act shall be payable in full not later than December 31, 1990, and the terms and conditions of such loans shall provide that they cannot be amended, or any provision waived, without the Board's consent.

(b) Any commitment to issue guarantees entered into pursuant to this Act shall contain all the affirmative and negative covenants and other protective provisions that the Board determines are appropriate. The Board shall require security for the loans to be guaranteed under this Act at the time the commitment is made, subordination of existing loans to the Corporation to the loans to be guaranteed, and prohibition of the payment of dividends on any common or preferred stock issued by the Corporation while any guaranteed loan is outstanding. Under no circumstances shall any loan guaranteed under this Act be subordinated to any future loan to the Corporation.

INSPECTION OF DOCUMENTS; AUDIT BY THE GENERAL ACCOUNTING OFFICE

SEC. 10. (a) At any time a request for a loan guarantee under this Act is pending or a loan guaranteed under this Act is outstanding, the Board is authorized to inspect and copy all accounts, books, records, memoranda, correspondence, and other documents and transactions of the Corporation and any other borrower requesting a guarantee under this Act.

(b) The General Accounting Office may make such audits as may be deemed appropriate by the Comptroller General of the United State of all accounts, books, records, memoranda, correspondence, and other documents and transactions of the Corporation and any other borrower. No guarantee may be made under this Act unless and until the Corporation and any other borrower agree, in writing, to allow the General Accounting Office to make such audits. The General Accounting Office shall report the results of all such audits to the Congress.

PROTECTION OF GOVERNMENT'S INTEREST

SEC. 11. (a) The Board shall take such action as may be appropriate to enforce any right accruing to the United States or any officer or agency thereof as a result of the commitment or issuance of guarantees under this Act.

(b) If the Corporation undertakes a sale of any asset having a value in excess of $5,000,000, and if the Board determines such sale is likely to impair the ability and capacity of the Corporation to repay the guaranteed loans as scheduled, or to impair the ability of the Corporation to continue as a going concern or to meet such other tests of viability as the Board shall prescribe, the Board shall not issue any further guarantees for loans under this Act, and all guaranteed loans made prior to such determination shall be due and payable in full.

(c) If the Corporation enters into any contract, including but not limited to future wage and benefit settlements, having an aggregate value of $10,000,000 or more, the Board shall determine and certify that the performance of the obligations of the Corporation pursuant to such contract will not reduce the ability of the Corporation to repay the guaranteed loans as scheduled, will not conflict with the Corporation's operating plan or financing plan as required under this Act, and will not impair the ability of the Corporation to continue as a going concern or to meet such other tests of viability as the Board shall prescribe. If in any case such determination and certification cannot be made, the Board shall not issue any further guarantees for loans under this Act until such certification can be made, and all loans guaranteed under this Act shall be due and payable in full.

(d) The Board shall be entitled to recover from the borrower, or from any other person liable therefor, the amount of all payments made pursuant to any guarantee entered into under this Act, and upon making any such payment, the Board shall be subrogated to all the rights of the recipient thereof.

(e) The remedies provided in this Act shall be cumulative and not in limitation of or substitution for any other remedy available to the Board or the United States.

(f) The Board may bring action in any United States district court or any other appropriate court to enforce compliance with the provisions of the Act or any agreement related thereto and such court shall have jurisdiction to enforce such compliance and enter such orders as may be appropriate.

(g) A loan shall not be guaranteed under this Act if the income from such loan is excluded from gross income for purposes of chapter 1 of the Internal Revenue Code of 1954 or if the guarantee provides significant collateral or security to other obligations, the income from which is so excluded.

(h) If any provision of this Act is held to be invalid or the application of such provision to any person or circumstance is held to be invalid by a court of competent jurisdiction, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

LONG-TERM PLANNING STUDY

SEC. 12. (a) The Secretary of Transportation, after consultation with the Secretary of Energy, shall submit to the Board and to the Congress as soon as practicable, but not later than six months after the date of enactment of this Act, an assessment of the long-term viability of the Corporation's involvement in the automobile industry. The study shall assess the impact of likely energy trends and events on the automobile industry, including long-term capital requirements, rate of technological change, shifting market characteristics, the capability of the industry as a whole to respond to the requirements of the 1980's, and shall evaluate the adequacy of the industry's existing structure to make necessary technological and corporate adjustments. The study shall include an examination of the Corporation's capability to produce for sale an automobile similar to those vehicles developed under the research safety vehicle program of the National Highway Traffic Safety Administration. The study shall consider government procurement as one means of establishing a market for this automobile.

(b) The Secretary of Transportation shall prepare and transmit to the Congress annual comprehensive assessments of the state of the automobile industry and its interaction in an integrated economy. Each annual assessment shall include, but not be limited to, issues pertaining to personal mobility, capital and material requirements and availability, national and regional employment, trade and the balance of payments, the industry's competitive structure, and the effects of utilization of other modes of transportation.

(c) The Board shall take the results of the study and each annual assessment into account when examining and evaluating the Corporation's financing plan and operating plan.

FEDERAL RESERVE BANKS AS FISCAL AGENTS

SEC. 13. Any Federal Reserve bank which is requested to do so shall act as fiscal agent for the Board. Each such fiscal agent shall be reimbursed by the Board for all expenses and losses incurred by it in acting as agent on behalf of the Board.

REPORTS TO CONGRESS

SEC. 14. The Board shall submit to the Congress semi-annually a full report of its activities under this Act during fiscal years 1980 and 1981, and annually thereafter so long as any guaranteed loans are outstanding.

FEDERAL FINANCING BANK

SEC. 15. The Federal Financing Bank shall not acquire any obligation the payment of interest on or principal of which has at any time been guaranteed in whole or in part under this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 16. (a) There are authorized to be appropriated beginning October 1, 1979, and to remain available without Federal fiscal year limitation, such sums as may be necessary to carry out the provisions of this Act.

"(b) Notwithstanding any other provision of this Act, the authority of the Board or the Secretary of the Treasury to make any commitments to guarantee loans or any guarantee shall be limited to the extent such amounts are provided in advance in appropriation Act."

TERMINATION

SEC. 18. The authority of the Board to make commitments to guarantee or to issue guarantees under this Act expires on December 31, 1983.

Mr. LUGAR. Mr. President, the amendment that is now pending before this body is a very important compromise by many Senators who are deeply interested in the future of the Chrysler Co. and all that means. I simply want to pay tribute to a great number of Senators who have been involved, especially one of the cosponsors of this amendment, Senator PAUL TSONGAS, who has worked so hard in the Banking Committee throughout this debate and particularly in the last couple of hours; to Senator TOM EAGLETON, who has withdrawn an amendment that carried in consideration of what he felt and we all feel are better elements of a plan, a total plan; to Senator DON RIEGLE of Michigan and his colleague, Senator CARL LEVIN; to my own colleague, Senator BIRCH BAYH, who was part of that meeting; to Senator JAKE GARN, ranking minority member of the Banking, Committee; and, of course, to the chairman of the Senate Banking Committee (Mr. PROXMIRE), who was involved in that discussion. Senator CRANSTON was there, Senator STEVENS was there. We were hosted by the distinguished majority leader.

I hope I did not omit others who were part of that consideration, because they were all so important in trying to think through how we can do something at this point to bring several issues to a head.

In summary, Mr. President, there are four issues we have addressed. I ask the consideration of my colleagues of these solutions that we recommend.

First, we have had a debate this morning as to what the contribution should be by the organized employees. A motion by Senator EAGLETON and our colleague (Mr. ROTH) was also part of our consideration, and his colleague, Senator JOE BIDEN. That amendment passed by a vote of 54 to 43, for a $400 million contribution. That amendment has now been withdrawn and the amendment that we are now proposing calls for a $525 million organized labor contribution.

Accordingly, we have reached a new agreement on what the contribution by salaried workers and management ought to be. The figure is $150 million. We have considered the ESOP plan—employees' stock option plan—which was originally $250 millon in the Senate Banking bill we have been considering. The new recommendation we have submitted in the form of this amendment is $175 million—$250 million changed to $175 million.

The share that the Federal Government will have in the package now in the Senate bill is at the level of $1,250 million. It will now be $1,500 million, corresponding to the amount that was passed by the House of Representatives. In our judgment, Mr. President, these are amounts that men and women in this body of very different opinions have arrived at as a way of attempting to make certain this legislation is expedited.

Mr. President, others will speak for their own positions and very clearly, the conference that led to these recommendations was one in which the Members held their viewpoints strongly. Each one of us has a pretty good idea in our own mind of what we believe will be needed to turn this situation around and make it dynamic. I argued strenuously, Mr. President, earlier in the morning, that $800 million, the amount of the amendment that I would have been offering in this time frame, was surely required. In my judgment and the judgment, I think, of many of us, a very large package is going to be required. I do not think we have changed our minds at all with regard to that. I think each one of us knows at this particular point that if we are to have a bill, it is necessary for people of good will to think through what kind of a bill is doable and what can occur today, so we might go to conference and move along with the other body that has already reached a judgment.

Therefore, Mr. President, without hesitation, I commend to my colleagues these four agreements that now form one amendment. I am hopeful that they will have strong support on both sides of the aisle and that what could have been a very difficult debate and certain difficulty in reaching compromise beyond this might, as a package, come together and make sense.

To review very quickly once again, the concessions, I think, are clear. We were looking at a choice between $400 million and $800 million of employee contributions, and $525 million is the figure we have settled upon.

As concession on the ESOP plan, moving back from $250 million that would have gone to employees, it is now $175 million.

Management and salaried positions, estimated at $243 million in the Senate bill and $100 million as I understand the House legislation, is now $150 million in our bill.

The Federal share is now a billion and a half dollars, which is the amount recommended originally by the Treasury and passed by the House and, if this amendment is adopted, concurred in by the Senate.

Mr. President, I yield to whoever wishes to speak.

Mr. RIEGLE. Will the Senator yield very briefly?

Mr. LUGAR. I am happy to yield to the Senator from Michigan.

Mr. RIEGLE. I thank the Senator for yielding and I thank him for his comments. I want to join him in commending all the Senators who were involved in the discussion which has led to this compromise, which we are putting forward as a way of settling these major issues and to end this impasse.

I also want to make a personal comment about the Senator from Indiana and the Senator from Massachusetts.

The Senator from Indiana has given as much time and effort to this problem as anyone in the Senate. He was conscious about studying it in great detail and taking the leadership role, trying to find answers, and to work out differences in the most constructive way.

The Senator from Massachusetts (Mr. Tsongas) has given extraordinary effort, like Senator Lugar, to press ahead on this matter, to try to sort out the facts of the case, and to find some workable formulation that is both sound and fair.

I think the efforts over the last few minutes and hours, particularly by those two men, and other parties to this effort, have been extraordinary efforts. I commend them and thank them on behalf of the people of Michigan who care about this problem. I also want to acknowledge those efforts on a personal basis.

I thank the Senator for yielding.

Mr. EAGLETON. Will the Senator yield to me 30 seconds?

Mr. LUGAR. I am happy to.

Mr. President, I take this opportunity to thank the Senator from Michigan for his kind remarks and to reciprocate by saying that if anyone devoted more time than the Senator from Michigan, I do not know that person.

I yield to the Senator from Missouri.

Mr. EAGLETON. Very briefly, Mr. President, but in all sincerity, I join the sentiments expressed by my colleague from Michigan (Mr. Riegle).

Senator Lugar and Senator Tsongas, who were proponents of this compromise package, along with others of us in the Senate, have worked for many weeks, indeed months, I believe, on this matter.

I think all of the work is about to bear fruit in terms of the compromise package as set forth by the distinguished Senator from Indiana (Mr. Lugar) and the distinguished Senator from Massachusetts (Mr. Tsongas).

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR. I will yield to the Senator.

Mr. PROXMIRE. Mr. President, I understand I have 15 minutes in opposition to the amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. PROXMIRE. Mr. President, I was part of this discussion. I agree with everything that has been said by the distinguished Senator from Indiana and the other Senators who very constructively took part.

There was a real effort to try to reach a compromise. However, although I have great admiration, affection, and respect for the Senators, I do not like the compromise at all.

Instead of going off a cliff, which I think we were close to doing after we adopted this amendment this morning, and dropping 1,000 feet into the ocean, we are going off the cliff and dropping about 800 feet. But we are still going off a cliff. It is still, to me a fatal mistake.

Mr. President, what this does as compared with the original Senate bill is increase the taxpayer vulnerability from $1.25 billion to $1.5 billion and decrease expenses of those benefiting from this bailout by about $300 million to $400 million.

It shifts the responsibility here from the people who should come in and provide a credit to the general taxpayer.

I realize the Senator from Indiana wanted very much to have a bill far more protective, and I think what emerged from the Banking Committee did that and did it very well.

So I very much regret this unfortunate change in the bill which I do think makes the general taxpayer far more vulnerable.

I realize, Mr. President, that they have the votes, and the votes I think will be overwhelming on this.

But I think it is necessary to point out that this does worsen the bill considerably and does make the general taxpayer more vulnerable than he was before.

Mr. TSONGAS. Will the Senator yield?

Mr. PROXMIRE. I am happy to yield whatever time the Senator may require.

Mr. TSONGAS. I thank the chairman.

Mr. President, without going into detail, I would like to say the chairman who has been opposed to a bill from the beginning has been most fair to all of us.

Indeed, had he wanted to sabotage this in the beginning, with the power of his chairmanship, he could have done it. He did not.

I would like to thank him for his kindness.

I hope the very kind remarks by the Senator from Michigan are also his sentiments in his soul toward me at this point. I hope that is the case.

Let me not reiterate the details, but make three points.

Senator Lugar and I spent a lot of time on this. Where have we gotten ourselves?

One is that compared to the administration bill, which I still think was not a very good work product, we have raised $600 million for Chrysler, without adding any money on the part of the taxpayers. That $600 million is more of a cushion for Chrysler and, by definition, increases its viability.

That is in the interest of Chrysler. I might add it is in the interest of the UAW. If Chrysler does not survive, it does not do anybody any good to have gotten a pay raise.

Second, it provides the sacrifice necessary by the UAW commitment and by management to remove this avenue as a viable alternative to other companies, as an alternative on the part of management to good management, and an alternative on the part of unions in self-discipline, indeed, to do what is best for the company one works for.

In that respect, I think we provided a service and I hope in time that will be understood.

The third point I make is that of the monetary issues involved without discussing the bridge loan.

We have the Federal share, the UAW share, the ESOP, the non-Federal share, and the management share. Of those five issues, if this amendment we sponsored is adopted, two of the five are identical to the House side, and that is resolved. Three will have a difference between $50 million and $125 million, which is easily, again, resolvable in conference.

So I would urge adoption of the compromise to help Chrysler's viability, to provide a level of sacrifice necessary for all the other companies in the future, and to have a package that can be resolved with some speed in the conference process.

I thank the Senator from Indiana for his companionship during this long period of time and for the patience of those like Senator Eagleton and Senator Levin and Senator Riegle who clearly were anxious to get this passed, but were always very gracious in their comments and their attitudes.

I thank the chairman for his time.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR. Mr. President, I am prepared to yield back all time on our side.

Mr. PROXMIRE. I yield back the time in opposition.

Mr. RIEGLE. Before that, will the Senator yield for 30 seconds?

Mr. PROXMIRE. Yes.

Mr. RIEGLE. I say to the chairman of the committee that while he and I have had some disagreements on some points along the way, that he has pressed to move this matter ahead. He was accommodating to witnesses we wanted to have appear, and despite his opposition to the bill, which he stated clearly here on the floor, he has been courteous in every respect.

Mr. President, I appreciate that. I appreciate the role he has played.

Mr. PROXMIRE. Mr. President, I yield back all time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment (UP No. 897).

Mr. TSONGAS. Mr. President, a parliamentary inquiry. With respect to the vote which occurs now, has the compromise amendment been submitted? Is that the pending business?

The PRESIDING OFFICER. The Senator is correct—amendment No. 897.

Mr. EAGLETON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. MELCHER) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

The PRESIDING OFFICER. Is there any other Senator in the Chamber who wishes to vote?

The result was announced—yeas 69, nays 28, as follows:

[Rollcall Vote No. 499 Leg.]

YEAS—69

Baucus
Bayh
Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chiles
Church
Cochran
Cranston
Culver
Danforth
DeConcini
Dole
Durkin
Eagleton
Ford
Glenn
Gravel
Heflin
Hollings
Huddleston
Inouye
Jackson
Javits
Jepsen
Johnston
Kennedy
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stewart
Stone
Talmadge
Tower
Tsongas
Williams
Young
Zorinsky

NAYS—28

Armstrong
Bellmon
Boschwitz
Byrd,
  Harry F., Jr.
Chafee
Cohen
Domenici
Durenberger
Exon
Garn
Goldwater
Hart
Hatch
Hatfield
Hayakawa
Heinz
Helms
Humphrey
Kassebaum
Laxalt
McClure
Proxmire
Ribicoff
Stevenson
Thurmond
Wallop
Warner
Weicker

NOT VOTING—3

Baker
Melcher
Pressler

So Mr. LUGAR's amendment (No. UP 897) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1617

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Indiana in the first degree, as amended. The yeas and nays have been ordered.

Mr. LUGAR. Mr. President, I ask unanimous consent that the rollcall vote be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment in the first degree of the Senator from Indiana.

The amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 898

(Purpose: To provide loans and loan guarantees to small business automobile dealers through the Small Business Administration)

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) for Mr. MORGAN and Mr. RIEGLE proposes an unprinted amendment numbered 898.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following new section:

ASSISTANCE TO AUTOMOBILE DEALERS

SEC. 18. (a) The Congress finds that—

(1) automobile dealerships are, for the most part, small businesses, and

(2) current economic conditions have adversely affected automobile dealers to an unusual extent.

(b) The Administrator of the Small Business Administration (hereinafter in this section referred to as the "Administrator") shall investigate the financial problems faced by small business automobile dealers and determine what assistance through loans and loan guarantees may be needed and can be made available to alleviate such problems. The Administrator shall report the results of such investigation to the Senate and the House of Representatives not later than 60 days after the date of the enactment of this Act.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the author of the amendment be Senator MORGAN. Senator MORGAN was interested in having the amendment offered. He had to leave the Chamber. And I further ask unanimous consent that Senator RIEGLE of Michigan, be listed as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, this amendment I am offering in behalf of Senator MORGAN simply calls attention to the difficulties faced by many small business people in the country.

Mr. GARN. Mr. President, may we have order? The Senator is entitled to be heard.

The PRESIDING OFFICER. The Senator is correct.

The Senate will be in order. Will the Senator suspend until the Senate is in order?

Senators who wish to converse, please leave the Chamber. The Senate is not in order.

The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, this Morgan-Riegle amendment simply calls attention to the difficulties faced by many small business people in the country who run automobile dealerships, and it mandates the Small Business Administration to study these problems to determine what types and levels of assistance may be needed, and to report their findings back to the Congress within 60 days after enactment of the act.

As I understand it, this amendment was discussed with the chairman of the Small Business Committee, Senator NELSON. It has been discussed, as I understand it, with the distinguished Senator from Indiana, who is managing the bill on the minority side. It is a study. The cost would be minimal, and there is no mandate that any requirements be imposed on Chrysler or anyone else, but the information would obviously be very useful and helpful. I hope the Senate will accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment was agreed to.

Mr. PERCY and Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

UP AMENDMENT NO. 899

(Purpose: To require the long-term planning study to include an assessment of productivity)

Mr. PERCY. Mr. President, I have two amendments at the desk and I call those two amendments up and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

Mr. WEICKER. Mr. President, will the distinguished Senator from Illinois yield, not on this amendment, but I have a request——

Mr. PERCY. I would be happy to yield for a question.

The PRESIDING OFFICER. First, the clerk will report.

The second assistant legislative clerk read as follows:

The amendment is as follows:

The Senator from Illinois (Mr. PERCY) proposes an unprinted amendment numbered 899.

The amendment is as follows:

On page 27, line 3, after "Energy" insert "and the Secretary of Labor".

On page 27, line 10, before "rate" insert "productivity growth rate,".

On page 27, line 21, after "employment," insert "productivity growth rate,".

On page 3, line 11, immediately following "basis," insert "a productivity improvement plan setting forth steps to be taken by the Corporation and its workers to achieve a higher productivity growth rate,".

Mr. PERCY. Mr. President, I yield for a question without losing my right to the floor.

Mr. WEICKER. I understand.

I address my query to the distinguished Senator from Wisconsin. A short while ago we arrived at an agreement on a series of events which were to happen, the last part of which was that the item of a $500 million bridge loan was to be the item taken up after disposing of the amendment of the Senator from Massachusetts and the Senator from Indiana.

Mr. PROXMIRE. The Senator from Connecticut is absolutely correct, that was the informal understanding.

Mr. WEICKER. That was the understanding of all parties with respect to the bill.

Mr. PROXMIRE. May I say the reason we proceeded this way—and we should have discussed it with the Senator from Connecticut, but I did not think he would object—is because I understand Senator LEVIN, who is offering the so-called bridge loan, wanted to get a little more information from his staff and a little more time in preparation. So we thought we would go ahead with some amendments which were noncontroversial, which would take a very few minutes, so that we would not waste any time.

Mr. WEICKER. Is it the intention that after the Senator from Illinois disposes of his amendments, that we are going to the bridge loan?

Mr. PROXMIRE. Well, I guess the Senator from Michigan wants to proceed, it is his amendment, and I think it is up to him to decide when he wants to call it up.

Mr. WEICKER. The problem I might say to the Senator is that an agreement was arrived at here with the majority leader that the Senator from Michigan would proceed next.

Mr. PROXMIRE. It is fine with me.

Mr. WEICKER. If someone wants to get him here to the floor, he was the one who sat here and took the lead on this issue. I just feel if we are going to have any semblance of order and, I might add, faith in each other's word, then I would expect that we would follow the procedure agreed upon. I do not think anyone would deny it, on either side of the issue, that that was what was agreed upon.

Mr. PROXMIRE. The Senator is correct. The Senator understands that there was no unanimous-consent agreement, and no binding agreement.

Mr. WEICKER. I understand.

Mr. PROXMIRE. And the Senator knows very well that any Senator can get the floor anytime he wishes to offer an amendment, and there is no way we can very well block that. So it depends on whether other Senators want to cooperate fully in what was the understanding of the Senator from Connecticut.

Mr. JAVITS. Mr. President, will the Senator yield for a question?

Mr. PERCY. I would be happy to yield for the purposes of a question without losing my right to the floor.

Mr. JAVITS. I have a noncontroversial amendment, and others have, and I would be perfectly willing to stand aside for Senator WEICKER because I think it is wise and in the interest of the Senate and all concerned.

May I therefore suggest the following if Senator HEINZ would be willing, that we enter into a unanimous-consent agreement that—Senator LEVIN is here and he can speak for himself—if he is ready that that amendment follow the Percy amendments and that, perhaps, even Senator PERCY would himself cooperate further so that if a rollcall was necessary or his amendments got embroiled, he would temporarily set them aside.

I think the nature of the way we proceed dictates both courtesy and practicality so that we can approach the matter this way. So I would respectfully suggest to my colleagues unless they feel very strongly that we all stand aside if the amendments are going to be controversial. If the amendments are going to be accepted, the ones that Senator PERCY has, that is fine, and that we let Senator WEICKER proceed.

Mr. PERCY. In talking with the floor manager of the bill, I think there will be a few questions, but I do not feel it is necessary to have a rollcall vote. I believe the amendments will be acceptable. The Senator from Illinois had intended to bring up one further amendment immediately following this that I have discussed with the floor manager. I understand Senator MUSKIE wants to make a comment on that. I do not anticipate any rollcall on that or any extended delay. If there is a delay, I would certainly so indicate to the Senator from Connecticut and we could work something out.

Mr. WEICKER. I thank, first of all, the distinguished Senator from New York for his suggestion. I have no objection to the Senator from Illinois bringing up what he is bringing up. Clearly there was a purpose in mind to see that we follow through on what was "the compromise agreement," which compromise agreement included in it the $500 million bridge loan. But for what reason people wanted to separate it out, I do not know, but I do not want to separate it out in the mind's eye, if you will from the consideration of the compromise. I think it should stay together so that people understand this is the essence of the compromise reached between the administration, the advocates of the bill, the UAW, whomever. That is why as a matter of administration I do not want to separate out these two amendments, and I would hope at the conclusion of the amendments of the Senator from Illinois that Senator LEVIN would, as was agreed to here on the floor informally or whatever, bring up the amendment on the $500 million loan.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. PERCY. I would be happy to yield for a question without losing my right to the floor.

Mr. HEINZ. I am a little puzzled by exactly what it is the Senator from Connecticut wants to accomplish. I have an amendment I want to offer, and I am perfectly willing to agree to a time agreement on it. I am a little unclear as to why the Senator from Connecticut feels it is so important that Senator LEVIN offer his amendment right now. I would simply like to conduct my business in whatever is the appropriate order, and I really do not understand the Senator's feeling.

Mr. GARN. Mr. President, will the Senator from Illinois yield?

Mr. PERCY. I yield without losing my right to the floor.

Mr. GARN. I would be happy to answer that question if I could. There has been a lot of compromising made to reach this point, and I have been part of those.

Senator WEICKER is correct. It was not agreed to by unanimous consent, it certainly was informally agreed to, so whatever the reasoning is this is a matter of courtesy and credibility that we have here that we should remember, and we ought to move to that bridging amendment. That was what I understood would happen. So, from a matter of credibility of those who informally agreed—and a lot of us made compromises we did not like—I think we need to go forth with that at this time, and I ask unanimous consent—I do not have the floor, Senator PERCY has the floor.

Mr. ROBERT C. BYRD. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Illinois.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. PERCY. I would be happy to yield.

Mr. ROBERT C. BYRD. Mr. President, there was no order that Mr. LEVIN's amendment would come up first, but there was that understanding, as we stood around the desk here a little while ago, and Mr. WEICKER was asking questions and I was answering them, and others were answering them, and it was indicated by me that once the amendment by Mr. LUGAR, as amended, was disposed of, then the bridging amendment would come up, and I said yes.

That does not mean that something else could not come up. It does not mean there was an order to that effect. But Mr. WEICKER accepted that as the understanding, and I would hope that is the way we will go. I would hope that no other amendments would be called up until Mr. LEVIN's amendment is disposed of, without prejudice to other Senators, of course.

Mr. HEINZ. Mr. President, I would like to have an answer to my question about Mr. LEVIN's amendment. Is there a time agreement on that?

Mr. ROBERT C. BYRD. No, there is not.

Mr. HEINZ. Well, I must say that whoever made this arrangement, as a member of the committee I was not consulted about it, and I have been quite concerned about this matter.

I find myself in an unusual position,

in being more than willing to accede to whatever the nature of the progress may be, but unwilling to accede to an agreement which, as far as I am concerned, does not exist.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield further?

Mr. PERCY. I am happy to yield.

Mr. ROBERT C. BYRD. The Senator is correct; there is no agreement. Senator WEICKER and I simply discussed it. He simply asked me, "Once this is done, will the Levin amendment be called up?" And I said, "Yes."

Of course, any other Senator who gets recognition can call up an amendment and be within his rights. But Mr. WEICKER proceeded on that understanding, that the bridging amendment by Mr. LEVIN would be called up then; and I would hope, inasmuch as that was the understanding and it does not inconvenience anyone else or slow down the Senate in the final analysis, that Senators would let us proceed on that basis.

I thank the Senator for yielding.

Mr. PERCY. Mr. President, I raise the next two amendments, which will be considered en bloc, for the purpose of building into the pending legislation an emphasis on productivity improvements in a Chrysler recovery.

The first amendment would require the company to submit a productivity improvement plan to the Loan Guarantee Board as a part of the already required operating plan. The guarantees are contingent on submission of the operating plan.

The second amendment requires the Secretary of Labor to report on the company's productivity growth rate. This would supplement an already required Transportation Department report on the company.

Mr. President, I would just indicate the great potential that exists in this area for improving the cost structure of Chrysler and other automobile companies. I would like to refer to a report by the Comptroller General of the United States dated February 18, 1972, on the audit of payments from a special bank account to Lockheed Aircraft Corp. for the C–5A aircraft program during the quarter ended December 31, 1971. I think this ought to be of considerable interest to the floor managers of this bill. The report indicates that:

> During the quarter ended December 31, 1971, the Air Force paid Lockheed $15,437,620 for labor costs charged to the C–5A aircraft contract. We examined into the reasonableness of these costs by performing a work-sampling study of Lockheed's direct labor force assigned to the assembly operations.
>
> We selected for this examination the production assembly area because (1) it was a significant, concentrated segment of Lockheed's 7,000-man C–5A aircraft work force, (2) assembly activities were well suited to the application of industrial-engineering techniques, and (3) the Defense Contract Audit Agency had reported observing idle time in that area. Other major plant areas, such as the fabrication and flight-line operations areas, were not included in our review.

It is very interesting to see what a group of GAO auditors found when they came into a plant that has been subject to tremendous complications. Back in 1971, there was a question as to whether or not the company would even survive. So in this context it is interesting to see what auditors would have to say about what the problems involved with the C–5A. The Comptroller General said this:

> Our analysis showed, however, that about 8.6 percent of the production assembly employees were idle. By comparison, industry work standards do not provide for any idle time, and Lockheed officials told us that an allowance for idle time was not included in their procedures for establishing work standards. Lockheed officials told us also that they were unaware of any industry criteria for setting acceptable levels for idle time. Our analysis showed also that about 6.2 percent of the employees were absent from their work stations at the time of our observations, and we were unable to determine their whereabouts through discussions with supervisors or coworkers.

If you can imagine that they are unable to find, or account for the absence of 6 percent of the employees.

In concluding my extracts from this report, I would like to present the following evidence that the Comptroller General found:

> We presented the results of our study to Lockheed and Air Force officials and pointed out that management attention should be directed toward reducing the amount of time spent in the supporting activities necessary for the performance of craft work. We pointed out also that idle and unobserved time should be reduced to an absolute minimum. By reducing the time spent in these categories, we believe that Lockheed could increase its labor productivity.
>
> Lockheed officials stated that they found the results of our study to be both informative and, as a whole, largely representative of performance conditions in the C–5A aircraft assembly area. They also expressed concern over the incidence of idle and unobserved time and indicated that they would increase management emphasis in this problem area.

In pointing this out, I do not draw any direct comparison at all with Chrysler or with the automotive industry, which has been generally looked upon as one of our most productive. I would simply hope to show that even in the most efficient factory, it is always possible to have a program of productivity improvement by having labor and management work together in a program such as envisioned by our colleague from New York (Mr. JAVITS), who has always been ahead of us in this area. If you can sit labor and management down and give them a common goal, an objective, then all will benefit. Labor and management do have many common objectives; it is not fighting over who get which slice of the pie, but how to make the pie bigger, so that all will benefit: Management, labor, stockholders, workers, consumers, all benefit from this.

The matter of increasing productivity growth, over the years, has been a problem throughout industry. World War II absolutely revolutionized the approach we took, because we had a common goal that pulled us together, in that case a common enemy. In this case of Chrysler, it is the danger of extinction, the danger of bankruptcy and the humiliation, in a sense, of coming to Congress asking for help for a private company, possibly setting a precedent for the future.

It is for that reason that I have discussed the issue of productivity, and discussed it both with Chrysler management, Lee Iacocca, and with the UAW leadership.

The UAW has traditionally been in the forefront of productivity improvement. They have always had clauses in their contract that recognize the necessity of productivity. They have never stood in the way of labor-saving devices, even though in the short run they may cost jobs or require an adjustment in jobs. They have wisely always taken the position that it was necessary for progress, and that a firm becomes more efficient through new technology.

I ask unanimous consent to have printed in the RECORD, charts showing productivity growth rates in industry in general and in the automobile industry during the period 1958 to 1978. These charts point up the fact that the auto industry has surpassed general manufacturing in its productivity performance.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

PRIVATE BUSINESS SECTOR PRODUCTIVITY GROWTH RATE, 1958–78

[Percent change over previous year]

Year	Percent	Year	Percent
1958	2.5	1969	0.2
1959	3.2	1970	.7
1960	1.6	1971	3.4
1961	3.1	1972	3.2
1962	4.5	1973	1.9
1963	3.8	1974	−3.0
1964	4.0	1975	2.1
1965	3.8	1976	3.5
1966	3.2	1977	1.6
1967	2.0	1978	.4
1968	3.3		

Source: Bureau of Labor Statistics, Department of Labor.

AUTO INDUSTRY PRODUCTIVITY GROWTH RATE, 1958-78

[Percent change over previous year]

Year	Percent	Year	percent
1958	−2.8	1969	−1.9
1959	9.5	1970	−4.2
1960	8.6	1971	16.2
1961	1.3	1972	3.3
1962	9.7	1973	1.5
1963	3.9	1974	−4.1
1964	1.1	1975	7.0
1965	6.6	1976	7.0
1966	.5	1977	6.4
1967	.5	1978	−1.6
1968	8.3		

Source: Bureau of Labor Statistics, Department of Labor.

Mr. PERCY. The figures show that the automobile industry has gone ahead of industry generally. It was only last year that we began to see trouble. That was probably one of the lowest productivity years we have ever had in the American industrial sector, and the automobile industry. Instead of leading the rest of industry, auto productivity dropped by 1.6 percent.

This is a matter of deep concern, when we have considered the automotive industry one of the most efficient and effective the world has ever seen, to suddenly have a reversal of these trends.

It is for that reason that this amendment will draw attention to this particular factor, by requiring as a condition to the loan guarantee that the company submit a plan for bringing about productivity increases. I think this will demonstrate that the management, together with the labor force, will and can find ways to bring down their unit cost of production, stay productive, and stay competitive.

Increased productivity means lower unit costs for Chrysler and increased productivity will reduce the company's operating budget. It will in turn make Chrysler vehicles more attractive to consumers because they will be less expensive.

The Banking Committee report acknowledges the importance of productivity and states:

> The corporation, in its present financial crisis, requires productivity improvements merely to survive . . .

But the report with the wage freeze in it—now that has been taken out—makes the false assumption that these improvements will just happen when it continues that:

> (productivity) improvements must be achieved without an accompanying pay increase.

And this is simply totally contrary to human nature. If productivity increases, there is no reason why wages should not increase. The whole idea of a freeze would stagnate a company and cause it to lose its employees. We have thoroughly discussed this approach on the floor and have decided there is a better way of doing it than that. I would hate to see wages held down if a group of company employees in a department increase their productivity so that there is no additional—or even reduced—production cost.

They should get a reward. There should be an incentive for it. And I would like to see wage increases granted in those departments and for a company that increases its productivity.

My amendment points out that the crucial importance of productivity growth demands that the Board review the company's plans to increase its productivity through new investments and through better worker-management cooperation, such as reduced absenteeism.

Absenteeism is certainly one of those areas that wreaks havoc on a company. If, on an integrated assembly line, there are 10, 5, even 3 percent unemployment or absenteeism on a particular day, because of employees absent from work stations, company productivity will be undermined. It is extraordinarily difficult to make up for that. It adds to costs.

Scrap and rework adds tremendously to cost. If greater care can be taken in production—and that is in itself a means to increase productivity—that means that fewer cars at the finished assembly point and final inspection station have to be taken off the line and sent back for repair. That adds needless cost and buildup costs which all end up in the customer selling price and detracts from the competitive nature of the company.

The auto industry productivity growth has been above the national average, as I have indicated, for the past 20 years, averaging 3.5 percent during that time. This is a great tribute to the companies and a tribute to the UAW.

During the same period, manufacturing, as a whole, averaged only about 2.5 percent productivity growth.

Mr. PROXMIRE. Will the Senator yield?

Mr. PERCY. I am happy to yield.

Mr. PROXMIRE. The Senator from Illinois and the Senator from New York have been two of the outstanding leaders in the Senate and the country in productivity. The Senator from Illinois, I think, speaks with more authority than anybody in the Senate. He has been a brilliantly successful businessman, as we all know, and he understands how businesses operate and he understands the critical and simple importance of productivity.

What he has said so far about his amendment is attractive. But I would say that I think the Senator is being a little unfair to the committee and the committee's report. And I will tell you why.

The Senator said that the committee indicated that we favored productivity increases but did not do anything about it; we froze wages, and that would discourage productivity increases.

What the committee did was to provide $250 million in stock for the company which would be worth a great deal more if the company does better. So there was an incentive to perform.

Significantly, and far more importantly, the big increase for the workers would be in the third year. And in the third year, if the company is doing well, they would not have lost their wage increase. A wage increase could have been made available to them.

For example, if the company did not need the full $4 billion, one-half of the excess would be available for wage increases. So we provided a clear, specific, definite, tangible increase in pay, increase in compensation, if the company did better.

I think that is a little more effective than simply a report from the management of what is wrong with productivity.

I think the Senator's amendment is a good amendment and I can accept it. But my problem is: Why does not the company do it? Why do not they do it? After all, when you talk to Lee Iacocca, he says this is what we need. All you have to do is do it. He is chairman of the board. He can put into effect the productivity program. If there is any more important business of the head of Chrysler Corp. than that, I do not know what it is. We should not have to wet-nurse him on this. We should not have to come along and put it in the bill.

The other thing that bothers me is that the Senator knows that business executives tell us over and over again that they do not want to be dictated to by the Federal Government on making reports. Well, here is another example of how we are going to require the Chrysler Corp. to give us a plan for productivity increases, report to us on productivity increases, and so forth, something their competitors will not have to do. It is another reporting burden. And I am a little bit concerned about that, too.

Mr. PERCY. Well, the Senator from Illinois feels that the questions are very pertinent. Obviously, in answer to the first question, we wish we did not have to be in this at all. We wish Chrysler did not have to do anything for us.

But if they do ask us for a $1.5 billion guarantee, then I think we should be reasonably prudent. We are suddenly bankers. We now have the responsibility of laying down reasonable terms that we think will help achieve success and make this guarantee hopefully never called upon.

But, so far as the paperwork is concerned, I think this can be done. It is just a question as to whether or not we consider it and they consider it important enough to have a formalized plan. And I think it is. I think the company now agrees that it is highly desirable and the UAW has agreed that they think it is highly desirable.

Mr. PROXMIRE. Mr. President, I have no objection to the amendment.

Mr. PERCY. The company has to have a formalized plan. The Banking Committee has seen the importance of it. But we should formalize it in such a way that we can then start to measure company efforts. Today we act as a banker. Let us say that in the role of trying to work out a loan guarantee we should have this information. I have been unable to get productivity figures from Chrysler. They do not even give them to the UAW.

I think, therefore, as long as the Transportation and Energy Secretaries are required to make a report, we should see that the Secretary of Labor weighs in with these productivity increase figures. Then we can gage this factor as well as all others—sales figures, capital needs, energy trends, and so forth.

We ought to have a standard by which we can judge the company, as long as it is perfectly acceptable to the company and to labor and, as I understand it, to the floor managers of the bill. I very much appreciate it.

My comments, therefore, on this subject will be very brief.

The auto industry has in the past had a cooperative relationship with labor on productivity. The UAW has not opposed new technology that would mean an ultimate loss of jobs because the union has realized that they would be strengthened with new machines and higher productivity.

The Percy amendment would simply build on that kind of spirit, which I have alluded to on behalf of the UAW. I have seen it not only in the automotive industry, but also in the farm implement field, where we have led the world as a result of the cooperative attitudes between labor and management in that area.

The UAW—and the Federal Government—must rely on Bureau of Labor

Statistics data because the company has never given them the financial details that are necessary to compute the Chrysler productivity rate. The Percy amendment would require the company to compute it and give that information to the Board.

And though I did not discuss in detail with Lee Iacocca or the corporation the details of this amendment, I did discuss in general with them the principle of productivity growth and it is the principle that they support. I, therefore, would not feel that they would have difficulty in providing this information and working together with us on it. There are many of us in this body, including my distinguished colleague from New York, that feel it is extraordinarily important.

The PRESIDING OFFICER. The question is on agreeing to amendment of the Senator from Illinois (Mr. PERCY).

The amendment was agreed to.

Mr. JAVITS. Mr. President, I will not delay the Senate. I just wanted to commend Senator PERCY for reducing this question, which is quite proper, into the bill which we are having. I am glad it is being accepted.

I would just like to state to the Senate that, in due course, I will propose an amendment which would result in the establishment of labor-management committees.

We have a law on the books now for such committees, in terms of the Federal Mediation Service promoting and supporting them where it is proper. It would simply authorize that this may be done in this same connection in order to implement the very ideas which would be incorporated in Senator PERCY's amendment.

Mr. PERCY. Will the Senator yield?

Mr. JAVITS. Yes.

Mr. PERCY. I very much appreciate the comments of my distinguished colleague.

I again applaud and will support any labor-management councils that work together toward a common objective.

Mr. JAVITS. Mr. President, I could propose my proposition as an amendment to Senator PERCY's amendment, but I will not, in order to accommodate what all of us have promised to Senator WEICKER.

I do ask unanimous consent, Mr. President, that I may be shown as a cosponsor of Senator PERCY's amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. I ask unanimous consent that I be a cosponsor of Senator JAVITS' amendment.

UP AMENDMENT NO. 900

(Purpose: To amend the Congressional Budget Act of 1974 to establish procedures for setting targets and ceilings, in the congressional budget process, for loans and loan guarantees under Federal credit programs)

Mr. PERCY. Mr. President, I call up my second amendment at this time.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an unprinted amendment numbered 900.

Mr. PERCY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, between lines 2 and 3, insert "TITLE I—CHRYSLER LOAN GUARANTEES".

Redesignate sections 1 through 17 and any cross references thereto as sections 101 through 117.

Strike out "Act" each place it appears (except on page 1, line 5) and insert in lieu thereof "title".

At the end of the bill, add the following:

TITLE II—FEDERAL CREDIT PROGRAM CONTROL

SEC. 201. This title may be cited as the "Federal Credit Program Control Act of 1979".

SEC. 202. (a) The Congress finds and declares that—

(1) Federal loans and loan guarantees are becoming an increasingly important means of providing Government services with the total volume of direct loans and guaranteed obligations outstanding in 1990 being 58 percent and 53 percent higher, respectively, than in 1976;

(2) the total volume of credit in the economy is finite and limited by the supply of savings, level of interest rates, and Federal monetary policy:

(3) Federal credit programs are not costless to the economy, as they allocate credit to groups and individuals who would otherwise find credit difficult to obtain:

(4) while plans for direct and guaranteed loans under individual Federal credit programs are reviewed each year, there is no systemic mechanism in either the Congress or the Executive branch for reviewing the volume of total Federal credit activity, and therefor no systematic way of considering the resource allocation effects of Federal loans and loan guarantees or the reasonableness of the total volumes; and

(5) If the Federal Government is to allocate its credit resources efficiently and coordinate that allocation with its fiscal policy and direct expenditures, it must exercise control over Federal credit activities as it does over direct spending activities.

(b) It is therefore declared to be the policy of the Congress and the purpose of this title to provide a statutory basis for a Federal credit program control system by establishing procedures within the congressional budget process to set targets and ceilings for the gross amount of direct loans which the Federal Government may make, and the gross amount of loan guarantees which the Federal Government may enter into, during each fiscal year.

SEC. 203. (a) Section 202(a) of the Congressional Budget Act of 1974 is amended by striking out "and (3)" and inserting in lieu thereof "(3) information with respect to direct loans and guarantees of loan principal, and (4)".

(b) Section 202 (f) of such Act is amended by striking out "and (B)" and inserting in lieu thereof "(B) the levels of direct loans and guarantees of loan principal, and (C)".

SEC. 204. (a) Section 301(a) of the Congressional Budget Act of 1974 is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (8) and (9), respectively; and

(2) by inserting after paragraph (5) the following new paragraphs:

"(6) the appropriate level of total gross obligations for the principal amount of direct loans and the appropriate level of total commitments to guarantee loan principal;

"(7) an estimate of gross obligations for the principal amount of direct loans and an estimate of commitments to guarantee loan principal for each major functional category, based on allocations of the appropriate level of total gross obligations for the principal amount of direct loans and the appropriate level of total commitments to guarantee loan principal;".

(b) (1) Section 301(c) (2) of such Act is amended by striking out ", and budget outlays resulting therefrom," and inserting in lieu thereof "and budget outlays resulting therefrom, and of the total amounts of gross obligations for the principal amount of direct loans and commitments to guarantee loan principal,".

(2) Section 301(c) of such Act is further amended by inserting after "1946." the following new sentence: "The Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate shall each also submit to the Committee on the Budget of its House its recommendations as to the appropriate level of total gross obligations for the principal amount of direct loans and the appropriate level of total commitments to guarantee loan principal.".

SEC. 205. (a) Section 302(a) of the Congressional Budget Act of 1974 is amended—

(1) by inserting "and the appropriate levels of total gross obligations for the principal amount of direct loans and total commitments to guarantee loan principal" after "total new budget authority"; and

(2) by inserting "or authorizing such obligations and commitments" after "such new budget authority".

(b) Section 302(b) of such Act is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (1);

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) the Committee on Appropriations of each House shall also, after consulting with the Committee on Appropriations of the other House, subdivide among its subcommittees the allocation of gross obligations for the principal amount of direct loans and of commitments to guarantee loan principal allocated to it in the joint explanatory statement accompanying the conference report on such concurrent resolution; and".

SEC. 206. Section 307 of the Congressional Budget Act of 1974 is amended by inserting ", and the appropriate levels of total gross obligations for the principal amount of direct loans and of total commitments to guarantee loan principal," after "new budget authority."

SEC. 207. (a) Section 308(a) (1) of the Congressional Budget Act of 1974 is amended—

(1) by striking out "and" after the semicolon at the end of subparagraph (B); and

(2) by adding after subparagraph (C) the following new subparagraph:

"(D) how the limitations on gross obligations for the principal amount of direct loans and on commitments to guarantee loan principal provided in that bill or resolution compare with the gross obligations for the principal amount of direct loans and commitments to guarantee loan principal set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year and the reports submitted under section 302; and".

(b) Section 308(b) of such Act is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (4) the following new paragraph:

"(5) an up-to-date tabulation comparing the gross obligations for the principal amount of direct loans and the commitments to guarantee loan principal for such fiscal year in bills or resolutions on which the Congress has completed action to the gross obligations for the principal amount of direct loans and the commitments to guarantee loans set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year and the reports submitted under section 302.".

Sec. 208. (a) Section 309 of the Congressional Budget Act of 1974 is amended by inserting "or providing limitations on gross obligations for the principal amount of direct loans or on commitments to guarantee loan principal for such fiscal year," after "such year," where it first appears in paragraph (1).

(b) (1) The heading of section 309 of such Act is amended by striking out 'AND CERTAIN NEW SPENDING AUTHORITY and inserting in lieu thereof ', LIMITING DIRECT LOANS OR LOAN GUARANTEE COMMITMENTS, OR PROVIDING CERTAIN NEW SPENDING AUTHORITY".

(2) The table of contents for such Act is amended (in the item relating to section 309) by striking out "and certain new spending authority" and inserting in lieu thereof ", limiting direct loans or loan guarantee commitments, or providing certain new spending authority".

Sec. 209. Section 310(a) of the Congressional Budget Act of 1974 is amended—

(1) by striking out "or" after the semicolon at the end of paragraph (3);

(2) by redesignating paragraph (4) as paragraph (5) and (in such paragraph) striking out "and (3)" and inserting in lieu thereof "(3), and (4)"; and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) specify the total amount by which gross obligations for the principal amount of direct loans or commitments to guarantee loan principal are to be changed and direct the committees having jurisdiction to recommend such change; or".

Sec. 210. (a) Section 311(a) of the Congressional Budget Act of 1974 is amended—

(1) by inserting "increasing the limitations on total gross obligations for the principal amount of direct loans or on total commitments to guarantee loan principal for such fiscal year," after "effective during such fiscal year," in the matter preceding paragraph (1); and

(2) by inserting "would cause the appropriate level of gross obligations for the principal amount of direct loans or of commitments to guarantee loan principal set forth in such concurrent resolution to be exceeded," after "exceeded," in the matter following paragraph (3).

(b) (1) The heading of section 311 of such Act is amended by inserting ", LOAN AND LOAN GUARANTEE COMMITMENTS," after "SPENDING AUTHORITY".

(2) The table of contents for such Act is amended (in the item relating to section 311) by inserting ", loans and loan guarantee commitments," after "spending authority".

Sec. 211. (a) Title IV of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following new section:

"LEGISLATION PROVIDING AUTHORITY TO GUARANTEE THE REPAYMENT OF INDEBTEDNESS

"Sec. 405. It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which provides, extends, or enlarges authority to insure or guarantee the repayment of indebtedness incurred by another person or government (or any amendment which provides, extends, or enlarges such authority) unless that bill, resolution, or amendments also provides that such authority is to be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.".

(b) The table of contents for such Act is amended by adding at the end of the matter relating to title IV the following new item:

"Sec. 405. Legislation Providing Authority to Guarantee the Repayment of Indebtedness.".

Sec. 212. Section 402(a) of the Congressional Budget Act of 1974 is amended by inserting "or which authorizes the insurance or guarantee of the repayment of indebtedness incurred by another person or government for a fiscal year," after "for a fiscal year,".

Sec. 213. Section 2 of the Congressional Budget and Impoundment Control Act of 1974 is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (4);

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) to provide for the congressional determination each year of the appropriate level of gross obligations for the principal amount of direct loans and of commitments to guarantee loan principal; and".

Sec. 214. Section 3 of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end thereof the following new paragraph:

"(6) The term 'direct loan' means a disbursement of funds by the United States or any officer or agency thereof (not in exchange for goods or services) under a contract which requires the repayment of such funds with or without interest, and in addition includes—

"(A) direct participation in a loan made and held by another person or government;

"(B) the purchase (through secondary market operations) of a loan made by another person or government; and

"(C) the acquisition of a federally guaranteed loan made by another person or government, as collateral or in satisfaction of default or other guarantee claims.".

Sec. 215. Section 201(d) of the Budget and Accounting Act, 1921 (31 U.S.C. 11(d)), is amended by striking out "items enumerated in section 301(a) (1)–(5)" and inserting in lieu thereof "items enumerated in section 301(a) (1)–(7)".

Sec. 216. Section 201(a) of the Budget and Accounting Act, 1921 (31 U.S.C. 11(a)), is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (12);

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (13) the following new paragraph:

"(14) all essential facts regarding direct lending by the Government, and guarantees by the Government of the repayment of indebtedness incurred by another person or government.".

Sec. 217. The amendments made by this title shall be effective with respect to fiscal years beginning on and after October 1, 1980.

Mr. PERCY. This amendment, Mr. President, deals with credit program control, and I offer this as an amendment to the Chrysler loan guarantee. The amendment brings a systematic way of looking at loan guarantees to the budget process.

I do realize that there could be some question as to whether it should go on this particular bill as an amendment. I have also introduced it in bill form today. If it would be better to have it considered as a separate bill, as long as we can be assured of hearings on the measure, I would be perfectly willing to have it considered separately. I would like to state very briefly the reason why I bring it up at this time.

In the budget report for fiscal year 1980, OMB commented on ideas under the title "Better Management of the Federal Government." Better management of the Federal Government is after all one of the primary charges of the Governmental Affairs Committee. That is why we created the budget process in the Budget Reform Act of 1974. But there are certain loopholes. I have admired the way the chairman of the Budget Committee and the ranking minority member (Mr. Bellmon) have tried to find every way to plug those loopholes and tighten this process so that we really run the business of Government much more in accordance with well-established business principles.

The OMB report indicated this:

Control of Federal credit activities.—Federal lending and Federal guarantees of loans are a large and growing means of meeting the objectives of Federal programs. Direct loans and loan guarantees by the Federal agencies and Government-sponsored enterprises are estimated to be $61 billion in 1980, and total Federal loans and guaranteed loans outstanding are estimated to be $552 billion at the end of 1980—compared to $381 billion outstanding at the end of 1977. Of the $320 billion of credit advanced in U.S. credit markets in 1977, 11.5 percent was advanced under Federal auspices. Plans for direct and guaranteed lending under individual Federal credit programs are given some review during the annual budget process. There is, however, no established mechanism for regularly and closely reviewing total Federal credit activity. Consequently, there is currently no systematic way to consider the resource allocation implied by those plans or whether the share of credit transactions being made or guaranteed by the Federal Government is reasonable. In order for the Government to foster efficiency in the allocation of economic resources, in financial markets, and in the economy as a whole, it must exercise better and more systematic control over both guaranteed loans and direct loans—and over the ways in which credit activities are financed.

To achieve these ends, the administration proposes to establish a system of control over Federal credit programs. The control system will be based on annual limitations on gross loan activity for both direct lending and loan guarantee programs. These limitations would be established separately from but concurrently with budget authority in the course of the regular budget and appropriation process. Limitations would be proposed in the President's budget for each individual credit program, and for their aggregate total. Aggregate ceilings would be set in congressional budget resolutions. The legally binding limitations for each individual budget account would be set in regular annual appropriation acts. The administration will work with the Congress to develop appropriate legislation to put the credit control program into effect.

Data on credit programs will be monitored and published on a more frequent and timely basis than at present. They will be given more prominent display in a "credit program" section of the budget. Efforts will be made to improve the analysis of the economic and financial effects of the overall credit program.

The credit control system will integrate Federal credit programs more completely into the budget process. The budget is the chief instrument for allocating fiscal resources between public and private sectors and among different functions or needs; it also sets fiscal policy. Bringing credit programs more fully into the budget review process will thus help coordinate credit policy with fiscal policy, and help synchronize the allocative aspects of Federal credit activity with budget allocations.

Neither Congress nor the executive branch have an organized way to look at the needs of the economy for loans and loan guarantees. This approach offers us the chance to put some discipline into the Federal granting of credit, which has begun to grow like topsy, as the OMB report shows.

Mr. President, for the remaining few moments, I would like to discuss a summary of the credit program control amendment that I now offer.

First. It expresses congressional findings that a "systematic mechanism" is needed to oversee Federal credit programs.

Second. Adds a requirement that the budget resolution each year set forth the "appropriate" level of direct loans and loan guarantees. The budget is also required to reflect estimates of loan guarantees and direct loans organized by budget function.

Third. Just as committees must now submit spending plans to the Budget Committee each year by March 15, the amendment would require similar credit plans to be submitted by the same date.

Fourth. Banking Committees would submit to the Budget Committees their estimates and recommendations of the appropriate level of overall guarantees and loans for the next fiscal year.

Fifth. Bills or resolutions authorizing new loans or guarantees must be reported from their respective committees by May 15 or face a point of order, as all spending bills do now under the budget process.

Sixth. Requires Congressional Budget Office (CBO) to report annually to the Budget Committees on credit programs of the Federal Government.

Seventh. Permits a point of order to be raised, after the second budget resolution is passed, against loans or guarantees that exceed the totals in the budget.

Mr. PROXMIRE. As I understand, this would try to pull the credit program together and would require an overall oversight of the programs by both the Budget Committee and the Banking Committee.

Mr. PERCY. That is correct.

Mr. PROXMIRE. They both have jurisdictions of somewhat different kinds. I think this is an appropriate time to do it in view of the fact that we have a $1.5 billion guarantee that, in the judgment of many of us, may lead to maybe hundreds of billions of dollars of guarantees to private corporations in the future, plus cities and so forth. I think it is a timely proposal but I understand there are problems with respect to the Budget Committee and the Senator will not press the amendment.

Mr. PERCY. I have advised the chairman of the Budget Committee that I will be bringing this up and I invited him to comment on it.

I see the ranking minority member (Mr. Bellmon) is here and perhaps he can speak for the Budget Committee.

Mr. BELLMON. Mr. President, I would like to congratulate the distinguished Senator from Illinois for raising this extremely salient and important issue. The comments I want to make do not go to the point that the Senator from Wisconsin was talking to. The chairman will do that, if necessary.

Consideration of the impact of loans and loan guarantees is a major weakness in the budget process, as the Senator pointed out. There is a very real need to bring these Federal loan guarantees under the discipline of the budget process. As Senator Percy has said, the Chrysler aid bill illustrates dramatically how urgent this problem is becoming.

I might say to my friend from Illinois that the Budget Committee has long been highly concerned about this matter. Earlier this year the Congressional Budget Committee completed a major study on the subject at our request. We have pressed the administration to submit its own legislation proposal—which we expect to receive next month. Nevertheless, this is not the time nor is this the bill on which to provide for the needed budget procedures.

This whole matter is so important it needs a thorough and careful airing before we undertake to rewrite the law.

The Budget Committee will hold hearings on this question starting in late January.

We will be studying the proposal on budget control of loan guarantees we expect the administration to submit in January. We will also study the Giamo-Mineta proposal that has been introduced with considerable fan-fare in the House. We will, of course, consider the proposal our friend from Illinois has presented here this afternoon and any additions or recommendations he may have.

We recognize the long contribution Senator Percy has made to the budget process and this is another in line with his illustrious record in this field. I would like to assure him that the Senate will have the opportunity within the next few months to act on legislation aimed at bringing loan guarantees under the control of the budget process. I congratulate the Senator for bringing this matter to the attention of the Senate.

Mr. PERCY. I thank my distinguished colleague. The House has held hearings in this general area. I ask unanimous consent that excerpts from testimony given before the House Budget Committee be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

Excerpts From the Statement of the Honorable Roger C. Altman, Assistant Secretary of the Treasury (Domestic Finance), Before the Task Force on Budget Process of the House Budget Committee

Mr. Chairman and Members of the Committee: I welcome this opportunity to discuss the Administration's proposal for a system to control Federal credit programs, which President Carter proposed in his January Budget Message. The new system will improve legislative and executive controls over credit programs and will make more clear the overall financing requirements involved and their effects on credit markets.

The Administration proposes that annual limits on new lending under direct and guaranteed loan programs be established in the regular budget and appropriations process. An overall annual limit would be proposed in the President's budget as well as a limit on each program. Legally binding limitations for each individual budget account would be set in regular annual appropriation acts.

To implement this proposal, the Office of Management and Budget is requiring Federal credit program agencies to include in their fiscal year 1981 appropriation requests limits on new commitments for both direct and guaranteed loans. Pending legislative proposals, such as the bill sponsored by Chairman Mineta (H.R. 5683), would support these Administration efforts by requiring Congress to include targets and ceilings on direct and guaranteed loan programs in the Congressional budget resolutions.

The major impact of the new system will be on loan guarantee programs. Concerning direct loans, opportunity now exists for review and control of them in the regular budget and appropriations process, since most direct loan programs are included in the budget totals. Loan guarantee programs, however, largely escape the budget process because the loan guarantees do not result in budget outlays, except in cases of default or where explicit subsidy payments are provided.

The new control system would not apply to Government-sponsored enterprises such as the Federal National Mortgage Association, the Farm Credit System, and the Federal Home Loan Bank System. These agencies are entirely privately-owned and are largely self-supporting. Thus, they differ significantly from Federal loan guarantee programs which are administered by Federally-owned agencies and are effectively backed by the credit of the U.S. Treasury. However, even though the Government-sponsored enterprises would be excluded from the new control system, their activities should be taken into account in determining the overall Federal impact on total credit demands and on the allocation of credit to particular sectors of the economy.

Mr. Chairman, you have requested that I specifically address the following questions:

Is the total volume of credit in our national economy limited? If so, what kind of effects do Federal credit programs have?

Do Federal credit programs affect the cost of Federal borrowing?

What factors should the Congress consider in setting targets and ceilings on the aggregate levels of Federal credit programs?

The total volume of credit in our economy at any time is limited by a number of constraints, including the flow of savings and investment and the constraints of monetary policy and the level of interest rates. Federal credit programs change the allocation of this volume by increasing the availability or lowering the cost of credit to preferred borrowers. Indeed, that is their purpose. These programs reflect determinations by Congress that the credit markets in their normal functioning do not provide the right mix of credit since they do not supply adequate credit to the class of borrowers covered by the programs.

The limited supply of credit available in the economy means that the increased demands of Federal credit programs add to pressures on interest rates and tend to raise interest costs for all borrowers, including the Federal Government. It is difficult to measure their effects, but total Federal and Federally-assisted borrowings clearly have substantial impacts. As indicated in the attached table, Federal and Federally-assisted borrowing from the public is currently estimated at $81 billion in fiscal year 1980. Furthermore, the total of such debt outstanding at the end of fiscal 1980 is estimated at $1,067 billion.

NET INCREASE IN FEDERAL AND FEDERALLY ASSISTED BORROWING FROM THE PUBLIC

[Fiscal years; billions of dollars]

Year	Federal borrowing from the public				Federally assisted borrowing from the public				Total Federal and federally assisted borrowing from the public
	Budget deficit	Off-budget deficit [1]	Other means of financing [2]	Total [3] [4]	Guaranteed obligations	Sponsored agency obligations [5]	Deduct to avoid double counting [6]	Total	
1970	2.8		2.6	5.4	6.4	10.7	5.6	11.5	16.9
1971	23.0		−3.6	19.4	16.1	1.5	3.4	14.2	33.7
1972	23.4		−3.9	19.4	18.8	5.0	4.6	19.2	38.6
1973	14.8	.1	4.4	19.3	15.2	8.8	−.7	24.7	44.0
1974	4.7	1.4	−3.1	3.0	10.1	14.9	4.0	21.0	24.1
1975	45.2	8.1	−2.4	50.9	16.4	11.9	14.4	13.9	64.7
1976	66.4	7.3	9.2	82.9	16.2	5.3	6.5	15.0	97.9
Transition quarter	13.0	1.8	3.3	18.0	2.7	1.7	3.3	1.1	19.1
1977	45.0	8.7	−.1	53.5	20.5	7.0	2.0	25.5	78.9
1978	48.8	10.3	−.1	59.1	25.1	24.1	13.8	35.4	94.5
1979e	27.7	12.4	−6.5	33.6	32.8	13.3	12.7	33.4	67.0
1980e	29.4	11.6	−2.0	39.0	37.4	16.9	12.4	41.9	80.9
Net change 1970–80	344.2	61.7	−2.2	403.5	217.7	121.1	82.0	256.8	660.3
Outstanding Sept. 30, 1980				683.4	333.4	146.5	96.4	383.5	1,066.9

[1] Deficit of off-budget Federal entities. Consists largely of Federal financing bank borrowings to finance off-budget programs.

[2] Consists largely of changes in Treasury cash balances.

[3] Consists of borrowing by Treasury and minor amounts by other Federal agencies.

[4] 1976 figure excludes retroactive reclassification of $471,000,000 of Export-Import Bank assets sales to debt.

[5] Consists largely of Federal National Mortgage Association and the Federal Home Loan Bank and farm credit systems.

[6] Largely Federal and sponsored agency purchases of guaranteed obligations.

Source: Special analysis E of the fiscal year 1980 Budget: Fiscal year 1979 Final Monthly Treasury Statement of Receipts and Outlays.

This brings me to your third question—factors to be considered in setting targets and ceilings on the aggregate levels of Federal credit programs. We would suggest two guiding principles: First, in setting these targets and ceilings, Federal credit programs should not be considered in isolation, but must be viewed in the context of total Federal demands on financial markets, including direct Treasury borrowings and those of Federally-sponsored credit agencies. As you know, these borrowings vary substantially from year to year as economic conditions vary.

Second, we advise against adopting as a target or ceiling any fixed percentage of the supply of credit estimated to be available in the economy. On the one hand, during times of economic slack, the share of credit taken by Federal and Federally-assisted borrowings may rise without putting undue pressure on interest rates, as private demands for credit fall. Also, Federal borrowing may rise in these periods if budget deficits increase due to reduced tax receipts and increased unemployment-related expenditures. Also, some credit programs can be operated in a counter-cyclical fashion, and it may be appropriate to set higher targets for these programs during times of economic slack. On the other hand, during periods of high economic activity, Federal demands on the credit markets should be reduced, to avoid putting upward pressure on interest rates and to make room for higher private credit demands.

For a target to be effective, it should control the agency which deals with the public and should not concern itself with interagency lending. For example, the Treasury Department lends to several agencies to provide funds for direct loans to the public or to backstop guarantees of borrowings by private borrowers. Thus the Treasury is in a relatively passive role, as in its check-writing function, of providing funds which are actually controlled by other program agencies of the Government. Similarly, the Federal Financing Bank lends to other Federal agencies and purchases guaranteed obligations from them, but the FFB cannot provide funds for any purposes other than programs for which Congress has already authorized the required financing.

Also, in attempting to implement a system of control over guaranteed loans, it is essential at the outset to define guaranteed loans. In the Federal Financing Bank Act of 1973 the Congress defined "guarantee" to mean "any guarantee, insurance, or other pledge with respect to the payment of all or part of the principal or interest on any obligation . . ." In keeping with this definition, the FFB has purchased a wide variety of obligations guaranteed or insured by Federal agencies, including obligations secured by Federal agency lease payments and obligations acquired directly by Federal agencies and then sold to the FFB subject to an agreement that the selling agency will assure repayment to the FFB in the event of default by the non-Federal borrower. We also interpret the FFB Act definition of guaranteed obligations as including obligation supported by Federal agency commitments to make debt service grants, e.g., to support public housing authority bonds, or other commitments such as price support agreements or commitments by Federal agencies to make direct "take-out" loans in the event of default on a private obligation. The broad definition of guaranteed loans in the Federal Financing Bank Act of 1973 is also the approach taken in the tabulation and analysis of guaranteed loans in Special Analysis F of the President's Budget. Unless the definition of "guarantee" used in the credit program control system is sufficiently broad to encompass the wide variety of contractual arrangements which provide support equivalent to outright guarantees, there will be a budget incentive for outright guarantee programs to be replaced by equivalent programs in order to escape the control system.

GROWTH IN FEDERAL LOAN GUARANTEES

The sharp growth of loan guarantees in recent years has been the principal focus of the Congressional committees interested in credit program controls. The table attached to my statement shows an estimated $333 billion of guaranteed loans outstanding at the end of FY 1980, an increase of $37.4 billion over the 1979 level. Thus, the net demands on financial markets this year from Government loan guarantee programs will total $37.4 billion. These demands have increased rapidly in recent years, from $16.2 billion in FY 1976 to $20.5 billion in FY 1977, $25.1 billion in FY 1978, and an estimated $32.8 billion in FY 1979.

By comparison, the net demands on financial markets to finance the Federal budget deficits during this period have been declining. They fell from $66.4 billion in FY 1976, to $45.0 billion in FY 1977, $48.8 billion in FY 1978, $27.7 billion in FY 1979, and an estimated $29.4 billion in FY 1980. Thus, while budget deficit financing is expected to be cut by more than half in this 4-year period, the net off-budget financing required for loan guarantee programs will more than double.

A major reason for the proliferation of guarantees is the common misconception that they are cheaper and less risky to the Federal Government than direct loans. There is, however, no inherent difference, from the Federal viewpoint, between the costs and financial market effects of these two forms of credit.

The argument favoring guarantees relies primarily on experience with the largest and best known guarantee program—the FHA's single family mortgage insurance program. This successful program, enacted during the great depression of the 1930's, assured private lenders that they could safely make long term, low down payment mortgage loans at reasonable interest rates, thus filling an important credit gap. Today, the FHA program's objectives are being achieved increasingly by private financial institutions without the need for Government intervention.

Unfortunately, FHA insurance has been the exception. A review of the programs covered in Special Analysis F of the Budget belies the argument that most guaranteed loan programs pose minimal costs to the Federal Government. Indeed, most involve substantial subsidies to borrowers and direct costs to the Treasury and, ultimately, the taxpayer.

Excerpts From the Statement of Alice M. Rivlin, Director, Congressional Budget Office, Before the Task Force on the Budget Process, Committee on the Budget, U.S. House of Representatives

CONSEQUENCES OF THESE PATTERNS OF GROWTH

The extra-budgetary nature of loan guarantee and the ability of direct loan programs to shift their financing off-budget mean that most of the growth in federal credit programs is taking outside of any Congressional resource allocation process. This poses several problems. First, the year-to-year growth of most programs is largely uncontrolled. The programs are often authorized on an open-ended basis or have only a ceiling on total outstanding indebtedness set so high as to be no restraint at all on annual growth. As a result, the Congress does not set priorities among the competing needs of borrowers seeking loans or loan guarantees from the federal government. Consequently, the rapid expansion in the volume of loan guarantees to marginal borrowers and to discrete ventures in recent years has not been the result of a Congressionally determined plan. Nor was the rapid expansion of off-budget direct loans ever explicitly voted by the Congress for a fiscal year.

A second problem in that the Congress does not limit the total amount of credit it allocates to borrowers through direct loans and loan guarantees. In a period of restraints on the growth of the money supply, such as we are now facing, growth in the total amount of credit provided through federal programs may well mean that borrowers not eligible for these programs who seek credit in the private market may not be able to obtain it, or may have to pay more for it through higher interest rates. Our current knowledge of the interrelationships within our economy's credit system is limited; we cannot with any precision say when such "crowding out" may occur. Nor can we compare the relative economic gain of a federal loan or loan guarantee below the market interest rate to a small business or a steel company in need of plant modernization with a loan by a bank at the market interest rate to an electronics firm that makes semiconductors and microprocessors. The Congress will, however, have to begin addressing these questions if a credit squeeze develops. Thus, the lack of a process for allocating credit resources may hinder the Congress in its attempt to manage the federal credit program more effectively.

The Congress does not totally escape the consequences of unplanned credit growth. The deficit of the off-budget entities is financed by Treasury borrowing, which is, of course, subject to the debt limit.

Therefore, although each additional off-budget loan does not affect the budget deficit, it does increase the amount by which the ceiling on the public debt has to be raised.

A third problem presented by the lack of a resource allocation process for federal credit programs is the potential for making inappropriate decisions. Loan guarantees, in particular, are subject to being used inappropriately as a means of financing. Their great appeal stems from the perception among many people that they are a no-cost financing device. Inappropriate uses of loan guarantees pose a danger of program failure and of substantial losses by the government.

Modern financial theory has drawn relatively clear distinctions between equity financing and debt financing, and between entrepreneurial risk and other types of risks, mainly external. Loan guarantees, according to the theory supporting their use, assist borrowers in overcoming the artificial obstacles in their access to credit in the marketplace posed by a lack of protection for lenders from external risks. There exists the possibility today, however, that loan guarantees may be used to finance equity-type projects, or to protect lenders and borrowers against entrepreneurial risks as distinguished from external risks. Examples exist of inappropriate decisions that have led to program failures, and of recent proposals for loan guarantees that have failed to distinguish carefully between the different kinds of risks.

RECOMMENDATIONS BY CBO

Based on our review of federal credit programs in Loan Guarantees: Current Concerns and Alternatives for Control, I recommended to the Congress last August that it adopt a separate credit section in the concurrent budget resolutions to set targets and ceilings on annual federal credit activity. The bill you introduced, Mr. Chairman, embodies these recommendations and those of the President. I strongly recommend that the Congress take immediate steps to implement credit program controls of the type contemplated in H.R. 5683 for fiscal year 1981.

To talk of full implementation of the control procedures of H.R. 5683 for the next budget cycle is optimistic. Yet, I believe at the same time it is possible. The Congress could consider phasing in credit program controls, as it did for the procedures of the Congressional Budget Act for fiscal year 1976. I believe that the experience gained by the Congress in five years of operating under the new budget process, plus the ease with which the Congress has moved to multiyear targeting, argues that full implementation of credit program controls for the next budget is practical. The Congressional Budget Office would be pleased to assist the Committees on the Budget and the other committees of the Congress in achieving that goal.

Mr. PERCY. As I understand it, it would be possible for the Budget Committee to hold hearings some time in January. Is that right?

Mr. BELLMON. That is right. We have plans to hold hearings very promptly after we come back into session in January.

Mr. PERCY. With that assurance, I feel it would be a more orderly procedure for us to hold those hearings in the Senate and to investigate this area thoroughly. It may be that improvements can be found. If hearings are held on the bill, we will hope that all Senators who have worked in this area will devote their thought to it.

It is certainly possible that the bill can be improved and strengthened. I welcome that. Therefore, with that assurance and expressing deep appreciation to my colleagues—particularly for Senator BELLMON's comments and the comments of the floor manager (Mr. PROXMIRE)—I withdraw my amendment.

The amendment was withdrawn.

Mr. PROXMIRE. Mr. President, I understand that under the informal arrangement that was discussed with the Senator from Connecticut and the majority leader, the Senator from Michigan will now bring up his so-called bridge loan amendment. If he is ready, we are ready to move.

AMENDMENT NO. 1602

(Purpose: To authorize guarantees of bridge loans)

Mr. LEVIN. Mr. President, I call up printed amendment No. 1602 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN) proposes amendment numbered 1602.

Mr. LEVIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

BRIDGE LOAN GUARANTEES

SEC. . (a) Notwithstanding any other provision of this Act, if the Board determines that short-term loan guarantees are necessary to preserve the Corporation for the period required for the development and review by the Board of the operating plan and the financing plan provided for by section 4(a) (2) and (3), the Board may, immediately upon the date of enactment of this Act, issue commitments to guarantee and guarantee the payment of principal and interest on short-term loans to the Corporation in an amount not to exceed $500,000,000 in total principal amount outstanding.

(b) Any loan guaranteed under subsection (a) shall—

(1) be payable in full not later than May 31, 1980, or the date on which a guarantee under section 4 is first made, whichever is earlier, upon such terms and conditions as approved by the Board, and the terms and conditions of such loan cannot be amended or waived without the Board's consent; and

(2) be secured by sufficient property of the Corporation to fully collateralize the loan, and in the Board's discretion, the Board may require greater than full collateral for such loan.

In determining the amount of property which is needed to collateralize any such loan, the Board shall determine the value of such property based upon such property's value in the event that such property is sold in connection with the liquidation of such assets of the Corporation.

(c) Notwithstanding any other provision of law, whenever any person is indebted to the United States as a result of any loan guarantee issued under this section and such person is insolvent or a debtor in a case under title 11, United States Code, the debts due to the United States shall be satisfied first.

(d) (1) The determination by the Board that the conditions established by this section have been met shall be conclusive, and such determination shall be evidenced by the issuance of the guarantee or commitment for which such determination is required. The validity of any guarantee when made by the Board under this section shall be incontestable in the hands of a holder except for fraud or material misrepresentation on the part of such holder. The Board is authorized to determine the form in which any guarantee made under this section shall be issued.

(2) Commitments to issue guarantees shall contain all affirmative and negative covenants required by this section and such other protective provisions as the Board determines are appropriate.

(e) Sections 10, 11, 13, and 15 shall apply to any loan guarantee issued under this section.

Mr. LEVIN. Mr. President, I am offering this amendment in behalf of myself, Senator LUGAR, and others. This amendment is aimed at authorizing the Treasury to provide loan guarantees in the amount of $500 million for interim financing for Chrysler in the event, and only in the event, that it is necessary.

We are on the verge of voting for a loan package for Chrysler. Part of that package is $1.5 billion in Federal loan guarantees. The amount of authority which is provided in this amendment is not in addition to the $1.5 billion, it is part of the $1.5 billion but, in this case, the Treasury would be authorized to guarantee the loans on an interim basis.

It has been mentioned by the Senator from Connecticut and others that this was part of the so-called compromise that was worked out and, indeed, it is. I am not sure how it got accepted, I gather just for debate purposes. I was not here when it was accepted.

In an event, this so-called bridge loan amendment, this interim loan amendment is part of that compromise which has been discussed, a compromise which was participated in by many Senators who have already spoken, and other Senators as well.

Mr. President, we are on the verge of voting on a loan package for Chrysler. It looks as though we are going to decide to help Chrysler. It looks as though we are going to decide to help Chrysler and thereby, in my opinion, help the national economy from suffering the blow which would result to the economy and to every taxpayer in this country if we do not assist Chrysler and avoid a Chrysler failure. We may or may not pass this bill. Nobody knows for sure what that vote is going to be when we finally vote on it. If we do decide to help Chrysler and if we do decide to provide the $1.5 billion in Federal guarantees conditioned upon Chrysler being able to put together other commitments and conditioned upon the UAW coming up with their part of the bargain, it makes altogether commonsense that we give a no-risk safety valve in the way that is proposed by this amendment.

This amendment simply provides—it does not require, it provides—the Board with the authority to guarantee loans on an interim basis to Chrysler, which must be fully collateralized, which can be more than fully collateralized if the Board so requires it. It is purely a safety valve in the event that Chrysler is unable, in this interim period, to put together loan commitments on the private market.

As was discussed the other night by the Senator from Wisconsin and myself, everybody hopes, if this bill is passed, that Chrysler will be able to get this interim financing on the private market. I think most of us expect that they will be able, that there are some new elements in the picture now that were not here before. They have to negotiate a new contract with the UAW and the automobile market is not as solid as it was a few months ago. As we spoke the other night, the Senator from Wisconsin and myself, about the expectation that Chrysler could get this interim financing in the event that the Senate acted in the long-range guarantee area, I said then and I say now that I hope, I expect, I believe that Chrysler will be able to get over this interim period without the Treasury having to act but, in the name of commonsense, we should give the Treasury authority to grant these interim loans, providing there is no risk to the Federal Government during this interim period.

In the name of commonsense, if the Senate is going to decide and if Congress is going to decide we are going to help Chrysler and, in the opinion of most of us, help the economy by providing long-range guarantees to Chrysler, commonsense dictates that, providing we can do so at no risk to the Treasury, we give them a safety valve during this interim period, in the event they cannot get this financing elsewhere.

Let me emphasize that this is not in addition to the $1.5 billion in guarantees. It is part of the $1.5 billion Federal guarantee. Any interim loan which was authorized by the Treasury would have to be repaid by May 31. There could be no long-range guarantees unless the interim loans were repaid, so that we are not adding to the $1.5 billion in any sense.

The amendment is carefully drawn to make sure that we are not adding to the risk of the Treasury. It is carefully drawn to state that any such loan guarantee during this interim period be secured by sufficient property of the corporation to fully collateralize the loan and, in the Board's discretion, the Board may require greater than full collateral for such loan. So we have the assurance in the amendment that the loan is a no-risk loan guarantee and that whatever collateral the Treasury wants to require, it may do so.

Again, it does not require the Treasury to do anything. It is simply authority to the Treasury to do this if, in their opinion, such a short-term loan guarantee is necessary to save Chrysler.

I refer to the language in the amendment, because I think it is principal to the purpose of it.

The Board, under this amendment, would have to determine that the short-term loan guarantees are necessary to preserve the corporation for the period required for the development and review by the board of the operating plan and the financing plan.

In other words, it would only be if the Board decides that this is necessary to save the corporation, which, by this bill, we are trying to save, that they would have authority to enter into these bridge loan guarantees, these short-term loan guarantees.

It has been suggested that there may be other alternatives for Chrysler to raise money in the interim period. I think there are, too, which will, hopefully, pan out. I am hopeful that Chrysler will not have to come to the Treasury in this interim period or to the Board and ask for the short-term commitments. But we are not sure. I do not think anybody in this Chamber, I do not think anybody in this Congress, can be sure that while Chrysler is trying to renegotiate a package with the UAW, trying to put together all the other commitments that are necessary for its part of this bill, that it is going to be able to get money on the private market during this period. If we are not sure they can do so, commonsense tells me that we ought to give the Board the authority to provide these interim loans, again providing that there is no risk to the Treasury.

(Senator STEVENSON assumed the chair.)

Mr. LEVIN. There is one other thing that this amendment does. It takes the time pressure off the Board in terms of the long-term guarantees. The Board, under the bill, has to decide whether or not Chrysler has put together an adequate financing package. They are going to be under great time pressure to do so and Chrysler's survival or collapse may depend upon whether or not the Board decides in time that an adequate financing package has been put together. By allowing the Board to provide these short-term guarantees, we are taking off that tremendous time pressure.

In other words, what we are doing here by taking off this pressure is increasing the leverage. We are actually increasing the leverage of this Board, because they will not be acting under the gun that they would otherwise be acting under if these short-term loans are not successfully negotiated by Chrysler.

The hallmarks of the amendment are that it is a safety valve. It is not a mandate. It is authority. It is no money at risk.

I do not think anybody in this Chamber, whether they are for or against this bill on the merits, would want to do anything which would put Chrysler in worse shape than it otherwise might be.

I do not think we want to require them, for instance, to sell assets which might jeopardize the long-range viability of this company if at no risk we could provide the loan guarantee.

Mr. President, I hope we adopt this amendment. This amendment is part and parcel of the compromise which was fashioned, most of which has now been adopted by this Chamber.

This is another part of that compromise. It does have the broad support I indicated by others who supported that previous compromise.

Mr. President, I yield the floor.

Mr. PROXMIRE. Mr. President, I strongly oppose this amendment. I think it would be a tragic mistake to adopt it. I think in many ways this would be more serious than adopting the underlying $1.5 billion guarantee.

Mr. President, the amendment would provide interim financing from the Federal Government to the Chrysler Corp.—the purpose was well explained by the Senator from Michigan—to meet its needs in the event that it runs out of money as early as mid-January, which now appears to be a distinct possibility, unfortunately. The proposed interim financing would involve $500 million in Federal guarantees for short-term loans to be repaid by May 31. $.5 billion—one-third of what the whole basic loan guarantee bill would provide. They would get that.

This proposed interim financing would be yet another form of Federal financial assistance to the corporation, prior to the long-term Federal loan guarantees of $1.5 billion that would be authorized under the Senate and House bills.

The House did not want this bridge financing—they refused even to consider it, they kept it out of their bill. The administration did not ask for it.

As a matter of fact, when asked if they would at least write a letter, saying they would not object, Mr. Altman said they would not provide the letter.

I hope and pray, in view of the sentiment sweeping this body, that it is recognized that this is something the administration itself has not asked for and has refused to provide a letter supporting it.

Why did they refuse? For the very good reason that it would tie their hands in trying to negotiate the overall Chrysler financing plan.

But it would be very hard to resist using it. It would be hard because people could say, "Look, after all, you have half a billion dollars there, and you can use it directly to help the Chrysler Corp. They would not have to go to the banks. They could get this money that has been provided straight from the U.S. Treasury."

If the Treasury does provide this, it would put the Federal Government out front and out in the cold—in January, in February, in March, and maybe beyond. The Federal Government would have $500 million on the line when no one else had put up a penny—nothing.

The heart of this bill is that any Federal loan guarantees have to be matched by non-Federal financing. Originally, when the bill came out of committee, we had a matching requirement of about two to one—two private, one Federal. But now, with this amendment, we would be requiring no match at all; $500 million in Federal guarantees with no private money at all. Right out in the cold.

And if there were no later agreement on the overall package: if the labor contract were not renegotiated; if the banks refused to go along; if the dealers and suppliers could not come up with enough; then there would be no Chrysler financial plan, and the company could go bankrupt anyway—even with $1.5 billion in long-term Federal loan guarantees authorized and appropriated, and the taxpayers would be out $500 million there—exposed.

Still more important, this would mean that the pressure on the Board to work out some kind of overall financial plan—regardless of the makeup of that plan—would be tremendous, because it would be staring at that $500 million put at risk and coming due.

Mr. President, one of the most important parts of this bill, even as the administration proposed it, as the House passed it, and certainly as it came out of our committee, is the leverage it provides by requiring the private parties to put up funds before the Federal Government makes its commitment and issues guarantees.

We would be kissing that all goodbye, kicking it out the window, with the bridge loan.

This would remove any leverage the Board might have to negotiate a tough package. What we would probably see is a lot of "funny money"—the Board accepting as contributions from other parties things that were not really contributions.

An example of that is in the testimony of the Governor of Michigan, when he stated that part of the contribution of the State government would be that they would buy Chrysler cars to use as prizes in the State lottery. Of course, the price paid for the Chrysler car was intended to be the contribution. The State's buying the car might be a little helpful. But, obviously, the profit to the company would be very limited, and that would be the only contribution—not the value of the car at all.

This is the kind of funny money that might perhaps be accepted—the full value of the car—if the Board were under this type of pressure to get a financing agreement.

Furthermore, the Board would probably also have to give the other parties the most favorable terms, and let the Federal interest take a back seat.

We would have the Federal Government—which means the taxpayers—first in, last out, always on the line—and begging for crumbs from the other parties which are the ones who have the real stake in Chrysler's survival. All this because we put the Federal Government out front with this $500 million in bridge financing. I do not think we should do this.

Mr. President, I strongly oppose this bridge loan proposal, as chairman of the Banking Committee handling the legislation.

It violates a basic principle of the bill before us—a principle which the compromise does not overturn. This principle is that the major part of the risk of any Chrysler financing arrangements should be borne by the non-Federal parties with a stake in the corporation's financial future—the labor unions, banks, suppliers and dealers, and others—and that substantial amounts of non-Federal financing must be committed and advanced before any Federal loan guarantees are made available. Any proposed legislation to provide $500 million in guaranteed loans to the Chrysler Corp. on an interim basis, in advance of any commitments from other, non-Federal parties, would obviously violate both the letter and the intent of the committee bill. In my view, such legislation would be both undesirable and unnecessary.

Let me explain why it is unnecessary and undesirable.

First, why it is undesirable. As I said before, it would be undesirable because providing this bridge loan could well undermine the Federal Government's ability to negotiate a tough financial package for the corporation.

Now let me get into why it is unnecessary.

Once Congress has approved and the President signed legislation to provide $1.5 billion in long-term Federal loan guarantees to Chrysler, it is hard to believe the corporation would be unable to obtain interim financing from other sources pending completion of agreements on an overall financial package. Some say it would be hard. Maybe so. But I will indicate now why the corporation, under those circumstances, would be able to raise $500 million and more.

Let me explain it.

Mr. President, according to information provided Chrysler Corp., the Peugeot stock has a market value of about $125 million, free and clear, no encumbrances. That is the market value, $125 million. That can be sold or pledged as collateral. I am not proposing it be sold, but it can certainly be pledged as collateral without any effect on the basic soundness of the corporation. The New Process Gear Co. is worth about $350 million, and that is liquid. That can be sold. Therefor. it is available for collateral.

Chrysler Financial has a market value of at least $630 million. So the Chrysler Corp. could easily cover the $500 million in interim financing needed through pledging the $1 billion in assets which I have just listed: $125 million from Peugeot, $350 million from New Process Gear, and $630 million from Chrysler Financial. That is unencumbered. That would be available for collateral to obtain a bank loan.

The Senator from Michigan says, "That is fine; that can be collateral for the Federal Government." What is wrong with using the banking system? That is what they are in business for.

This is not a long-term loan. The banks are in business to make short-term loans. This would be less than a 6-month loan.

On the basis of the amendment, the loan would be paid back by May 31. The banks would be fully collateralized—doubly collateralized, more than doubly collateralized—and I have not even gone into some of the other assets that are also unencumbered and available for Chrysler to pledge if they need the money.

So there is no reason why Chrysler could not raise $500 million in the private market, fully collateralized, especially on a short-term basis of less than 6 months.

Mr. President, I have another important concern, which I mentioned the other night, and I am going to stress it again. Neither the Banking Committee, nor the Congress, nor perhaps even the administration, has been receiving adequate and accurate information on Chrysler's financial situation.

Just 3 weeks ago, I sent a letter to the Secretary of the Treasury requesting up-to-date information on Chrysler's projected end-of-year loss figures, and its financial outlook generally, in view of the substantial decline in automobile sales and in the Chrysler Corp.'s market share since the end of the third quarter.

The Secretary requested that the company respond directly to my inquiry, and I received a letter from Mr. G. Greenwald, executive vice president for finance, dated November 26, as I say only 3 weeks ago. Somewhat to my surprise, and I believe also to the surprise of certain other members of the committee, the reply was that first, Chrysler does not develop figures on operating losses on a week-to-week basis, and second, the fourth quarter operating results were essentially on track with the projections included in the October 17, 1979 submission to the Secretary of the Treasury. That particular submission adhered to figures previously contained in a submission to the Secretary dated September 15.

So they stated as of November 26 that there was no change.

Mr. President, I ask unanimous consent to have the Greenwald letter printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PROXMIRE. Now all of a sudden, on the eve of congressional action on the Chrysler loan guarantee legislation, we get this sudden news that loss figures are running at least $50 million ahead of projections and that the company will run out of money in mid-January and not in mid-February or late March, as previously anticipated.

This new-found information is then used as a justification for pursuing interim Federal loan guarantees of $500 million in addition to the long-term guarantees provided in the Senate and House bills. Whether the uncertainties surrounding the information on the company's financial condition arise within the Chrysler Corp., or between the corporation and the Federal Government and Congress, I find it disturbing that accurate information is not available at the time requested. This reinforces my opposition to putting any Federal money whatsoever on the line before comprehensive financing arrangements are worked out between the Chrysler Corp. and all of the non-Federal parties involved in the corporation's financial future.

EXHIBIT 1

NOVEMBER 26, 1979.

Hon. WILLIAM PROXMIRE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PROXMIRE: This is in response to certain parts of the letter dated November 21, 1979 that you sent to Secretary Miller. We were asked this morning by the U.S. Treasury people to send the information on these parts of the letter directly to you, with a copy to them, rather than to send it directly to Treasury.

1. Chrysler does not develop weekly figures on operating losses. We will be closing the books on October later this week. However, we can say that the fourth quarter operating results are essentially on track with the projections included in the October 17, 1979 submission to the Government. October was slightly better than forecast. The months of November and December are expected to be slightly worse than forecast. The actual results for the quarter will be dependent upon the number of vehicles shipped to our dealer network, which is dependent upon sales at the retail level. At the present time, Chrysler's retail sales are being impacted by the news media reports on the congressional hearings, and the overall automotive industry is being affected by the general economic situation, talk of potential fuel problems, and the Iranian problem.

We still believe that the financing needs are about the same as included in the October 17, 1979 submission to the Government.

2. Enclosed is a sampling of reports on Chrysler Corporation prepared over the last 15 years by various analysts and investment banking firms.

3. Enclosed are copies of the parts of the Chrysler Corporation 10-K Reports of the last 10 years that cover the Chrysler Thrift-Stock Ownership Program and the Chrysler Stock Option Plan, and description of these employee benefit plans.

4. Regarding the request for information on the composition of Chrysler's equity base, we are preparing this information and will deliver it to you as soon as possible, hopefully by Tuesday, November 27th.

Please let us know if there is some additional information that you would like on these points or on any other.

Sincerely,

G. GREENWALD.

Mr. PROXMIRE. Mr. President, if the Senator from Michigan (Mr. LEVIN) will yield, I ask him this question: As author of the amendment, why does he maintain it is necessary to have this so-called safety valve, as he puts it, when it is clearly possible for the Chrysler Corp. to borrow $500 million, with unencumbered assets that are worth well over $1 billion, which are reasonably liquid and available, and when this would be a short-term loan?

Mr. LEVIN. First, I hope it is not necessary.

It is a commonsense thing to do. In the bill, we decided to help Chrysler. It is a safety valve which does not hurt us, because there is no money at risk. There is no money at risk, because the amendment requires 100-percent collateralization.

Mr. PROXMIRE. The Senator says there is no money at risk. That is exactly why the banking system should provide the loan. What is at risk if we go this way is the leverage the Federal Government has, and that is why the Treasury has not been able to write the Senator from Michigan and tell him that they have no objection to his proposal.

If the Board is put in this position, where they have the authority available to make a bridge loan, great pressure will be on them to make the loan themselves, and not to leave it to the banking system. Then they will lose the leverage which they have in the bill under present circumstances without any interim financing authority.

Mr. LEVIN. I think this is going to help the leverage, not hurt it, because as it now stands under the bill, they have a gun pointed at their head. When Chrysler comes in with an interim package, the Board will have to decide whether that package meets the condition of this law. There is going to be a time gun at their head when they do it. There will be less of a time gun at their head if Chrysler is in for interim financing.

I hope they get it in the private market, but what happens if they cannot?

Mr. PROXMIRE. I do not understand how the Senator can argue that they cannot do it. If this is no risk, if there is collateral that provides 2-to-1 coverage, why would not a bank jump at it?

Mr. LEVIN. Take Peugeot's stock: Peugeot has a right to disapprove of the sale of the stock.

Mr. PROXMIRE. I am not talking about sale.

Mr. LEVIN. I understand. I heard the Senator. He is talking about using it as collateral. They may have the right to disapprove of it; I do not know. Perhaps the Senator knows the answer to that question.

The Senator from Wisconsin mentioned Peugeot stock, and there are some complications at least with the sale and perhaps using it as collateral.

The Senator also mentioned Chrysler Financial. My understanding is that 200 banks would have to give waivers before the Chrysler Financial could be used.

I happen to believe, as the Senator from Wisconsin does, that this will not be necessary. But again I emphasize that this amendment is drafted so that the Board, including the Secretary of the Treasury—including the same Secretary of the Treasury that the Senator from Wisconsin has mentioned—would have to approve this loan and, along with other members of the Board, could not approve this loan under this amendment unless they determine that short-term loan guarantees are necessary to preserve the corporation. That is what we are here for today—to preserve the corporation.

So I point out to the Senator from Wisconsin, who asked me this question, that it is the same Secretary of the Treasury who sits as a member of the Board who would have to approve this no-risk loan guarantee to which the Senator has referred in his comments. He could not approve this loan guarantee under this amendment, nor could other members of the Board, unless they first determined that short-term loan guarantees were necessary to save the company while they are trying to put together these other commitments.

Mr. PROXMIRE. If we approve this bridge loan authority and it is adopted by Congress and signed by the President, the Board will be under great pressure to go ahead and provide the financing this way. Under these circumstances, it would be hard for them to resist it. That is why Treasury has not approved this amendment. That is why they refuse to say that they do not object to it.

Furthermore, I point out to the Senator that I just listed a few of the assets that are available for collateral for a short-term loan. There is the general manufacturing division, $392 million; stamping and assembly division, $517 million; parts, $320 million; products, $26 million; international, $92 million; and so forth.

They have a great deal of unencumbered assets which they can pledge for a short-term loan. They are available for that purpose; and if they are not available, then the statement of the Senator from Michigan that there is no risk to the Federal Government does not stand up.

Mr. LEVIN. My statement that there is no risk to the Federal Government is built right into the amendment, because the amendment requires, by its very terms, any interim loan to be secured by sufficient property of the corporation to fully collateralize the loan. That makes it a no-risk loan.

It goes beyond that. It says that in the Board's discretion, including the Secretary of the Treasury, the Board may require greater than full collateral for this loan.

I hope this will not be necessary. But, for the life of me, I cannot see why we are unwilling to give a no-risk safety valve in these circumstances, where we know there is no risk, by the terms of this amendment, to the Government, where we hope it will not be necessary and believe it will not be.

Mr. PROXMIRE. Now we come to the point where the Senator from Wisconsin and the Senator from Michigan disagree, that it undermines the power of the Board to use this leverage to get the other parties to cooperate and to get the other parties to provide funds.

If the Federal Government is out in front, the Federal Government is exposed. It has made a commitment without any matching commitment by anyone else. It is out in front by 5 months. Under those circumstances the leverage which we have now is lost. Now the Federal Government can say, "Look, we will provide you loan guarantees, but only when and if the contributions are also made by the banks, by the suppliers, by the dealers, and so forth."

Mr. LEVIN. I am glad that our difference is reduced to this one issue.

Mr. PROXMIRE. That is not the only difference by any means. Another major difference is that it is not necessary.

Mr. LEVIN. Let me get back to the question of leverage because I think it is an important question. This amendment arms the Secretary of Treasury and that Board——

Mr. PROXMIRE. He does not want it.

Mr. LEVIN. No, I do not. This amendment arms the Secretary of the Treasury and Board with as much leverage as anyone can want. It prohibits them. It prohibits them by its terms. It prohibits them from giving out these guarantees unless they can find they are necessary to save the corporation during this period of time that they are coming up with the financing plan and unless they have full collateral for the loan.

I do not know how much more leverage we could arm that Board with than a law which prohibits them from doing the very thing that the Senator is afraid of.

Second, I think the leverage is enhanced by this amendment.

Mr. PROXMIRE. No. The leverage I am talking about is the leverage for the total $1.5 billion. That leverage is much greater if they say, "We will provide our funds, that $1.5 billion in loan guarantee authority is there, but you are not going to get any of it until you provide your share." Then the State governments come along, the city governments come along, the suppliers come along, the dealers come along, and the banks come along, and so forth. In order to get them to come in, you have to have maximum leverage here.

Mr. LEVIN. Let us talk about the $1.5 billion leverage. I think the amendment adds to the Board's leverage. It adds to it because it removes the time gun that is going to exist on that $1.5 billion. What it says is that if Chrysler needs this to survive the interim period and cannot get the loans elsewhere, that is built right in here and puts up 100 percent security or more, this Board can give it up to May 29 to repay a guaranteed loan. That removes the time gun from the Board.

Mr. PROXMIRE. May I say to the Senator the timeclock works both ways and runs both directions. The time clock really works on the Federal Government if they have $500 million at risk. Then the time clock works on the Federal Government.

Mr. LEVIN. It is not at risk. The very terms of this amendment, and I am going to read this section again because it is a critical section.

Mr. PROXMIRE. It is not at risk? If the Senator is so sure it is not at risk, then the amendment is completely unnecessary and the private sector will take care of the bridge loan. That is their business. That is what the banks are in business for, to make short-term loans that are fully collateralized.

Mr. LEVIN. My assurance is not worth nearly as much as what the amendment is in terms of the risk. I am happy to give an assurance but I think the amendment is much more eloquent than anything I can say.

Mr. PROXMIRE. No matter what the amendment says, the fact is what the Senator is saying is that the Chrysler Corp. has the ability, the assets, the capability of going to the commercial banking system and getting a bridge loan, privately, without the Federal Government losing the leverage it has if it insists all parties cooperate before the Federal Government goes ahead.

Mr. LEVIN. I hope that is true.

Mr. PROXMIRE. The other parties have the interest: They have the stake in Chrysler and the investment. At this point, the Federal Government does not. We should use the advantage we have at the present time to make sure that the other parties make their contributions.

Mr. LEVIN. I think we should use the advantage. I think we should enhance the advantage, and I think this amendment does it.

Going back for a moment, I hope the Senator from Wisconsin is right. I believe that this is not going to be necessary. But I am not sure it is not going to be necessary. If I can put in something here which might save this company during this interim period at no risk to the Federal Government, even if it is a 5-percent chance that it will ever be necessary, and if it is at no risk to the Federal Government, I say let us do it because the bill itself is the major decision. The bill itself, assuming it is passed, says we want to help Chrysler. Presumably most of us believe we would thereby be helping the economy of this country and the taxpayers of this country by avoiding a tax.

Mr. PROXMIRE. The Senator and I argued about this. His position is clear and I think my position is reasonably clear.

I think it is not even commonsense. The President wants this loan guarantee bill, and he has been very, very strong. He is a very strong supporter of providing these funds and has been from the beginning. He made it very clear that he thinks Chrysler should be assisted by the Federal Government with loan guarantees. The President has had the Secretary of Treasury handle this legislation. The Secretary of Treasury is a businessman—eminently successful in business. The Under Secretary, Mr. Carswell, is another highly successful man, and he is especially gifted and experienced in the field of finance. If this would strengthen their hands, they would agree to it. They would write a letter saying at least that they do not object to it.

But they have not asked for it. They will not write a letter saying they will not object to it. It is being forced on them, and under those circumstances, it would seem to me that if one has any faith in the judgment of the administration—and they have been on top of this, they want this very, very much—then one should oppose the amendment. It is a top priority for them. It is obviously of great political advantage for them to get the loan guarantee bill. For us to push this bridge financing amendment on them when they do not ask for it certainly makes it look as if we must think they are pretty bubble-headed, that they do not know what they are doing.

Mr. LEVIN. I disagree with the administration on a number of matters, but I do not think they are bubbleheaded or idiots. I disagree with them on a number of matters. This is one of them. It is an appearance question. All it is is an appearance question.

In this amendment is an absolute guarantee of no risk to the Federal Government. In this amendment the same Secretary of Treasury, along with other members of that Board, must certify that this is the only way during this interim period that Chrysler could be saved.

I am not afraid of that. I do not know why he is afraid of it.

I am not going to speculate as to why the Secretary of Treasury does not want something which makes so darn much commonsense and cannot cost the Treasury of this country one penny once we have decided to save that corporation. I do not know what is in his head.

Mr. PROXMIRE. I say to the Senator it can cost the Board $1.5 billion, because once we make this commitment—that is unmatched and all by itself—the taxpayers out there would have to put out $1.5 billion in loan guarantees regardless of what the other parties offer. The Board is going to have to find a way, one way or another, to reach a financing agreement however it is, funny money or whatever it is, the so-called matching funds. It puts the Board in a vulnerable position. The Treasury officials recognize that, and I think they are very wise and deserve credit. I think they are wrong about the weak bill they presented to us, but at least they are wise enough to not go so far as to ask for authority to provide a $500 million advance commitment, which is what this is, a half-billion dollars. This is twice as much as the loan guarantee for the entire Lockheed operation, and this is in advance of having any matching money.

We have insisted before that before the Federal Government provided any loan guarantees that we had matching money, we had it lined up, in some cases we even had commitments and had them signed.

Talk about a precedent now. What we are doing is saying we will advance $500 million to a corporation without any matching money, without any concessions on their part at all. It is a precedent that could really haunt this body for years to come.

Mr. LEVIN. I make this response. There is a good reason we do not require the match. There is no risk. We have the collateral.

Mr. RIEGLE. Mr. President, will the Senator yield?

Mr. LEVIN. I now do yield.

Mr. PROXMIRE. I have the floor.

The PRESIDING OFFICER. The Senator from Wisconsin is correct. He has the floor.

Mr. RIEGLE. Mr. President, will the Senator yield for a question?

Mr. PROXMIRE. I yield.

Mr. RIEGLE. Mr. President, as I understand it, the chairman made the suggestion earlier that Chrysler should go out and borrow the money from the banks and give the banks collateral. Was that the suggestion the chairman made?

Mr. PROXMIRE. My statement was that we have a situation where they want not a long-term loan, not the 10-year loan, we have in the bill, but a 6-month loan or less than 6-month loan to be paid back by May 31. It could be fully collateralized, in fact, collateralized 200 percent. Under those circumstances, there is every reason to expect the banks would make a fully collateralized 6-month loan.

Mr. RIEGLE. Here is the problem with that. As the Senator knows from our hearings, we have a whole consortium of banks that have extended credit to Chrysler whose loans are unsecured. They have a general claim in the case of a default of all the assets of the company, but there is no specific claim. So, if we were to now change that arrangement and we were suddenly to take and put a new bank in the picture and take assets away from the other banks, then it would seem to me that all the other banks would say: "Wait a minute. If you are going to take and make a special collateral arrangement with another bank, what about our situation?"

I think in this case the only way not to interrupt the current banking relationships is to let the Treasury, in effect, be the banker for this short period of time.

If you do it that way, you are actually going to put greater pressure on the outside banks. You are putting greater pressure on the banks to come forward and make the long-term arrangements because you have just subtracted out, in a sense, some of the equity in the business from the protection they now have on their existing loans, and you have used it as the protection for this very short-term bridge loan.

Mr. PROXMIRE. Let me tell the Senator from Michigan why I think he is wrong. It is clear to me that one of the reasons why the banks are going to come in is because they have a great deal at stake. They have loaned the Chrysler Corp., as the Senator says, a great deal of money without collateral at all, and they want to get that money back, they want to save the corporation.

Why cannot Chrysler's banks make this Loan? The National City Bank or Manufacturers Hanover, the banks that have dealt with Chrsyler before, can make this loan collateralized at 100 percent, 150 percent, or 200 percent, and there is every reason why they should do that. If it is sound, they are protecting their own money without any additional risk to themselves.

Mr. RIEGLE. This is the problem, as I understand it. Currently, there are over 300 banks that have made loans to Chrysler. All of those loans are unsecured, I am told. The covenants on all those loans provide that no bank will have priority over any other in the event of the failure of Chrysler.

Therefore, Chrysler cannot pledge assets as collateral to get bridge financing from private banks. And without that collateral, banks may very well be unable to provide bridge financing during this next few critical months.

There is an honest disagreement about whether such a problem would occur. The amendment of my distinguished colleague, Senator Levin, would allow the Board to respond if—and only if—the problem does occur.

It seems to me if you were that second bank, or if I were under those circumstances, I would say, "Collateralize me."

Then it seems to me you are going to have a lot of people flocking to the door all at once.

Mr. PROXMIRE. On a 6-month loan, a temporary loan, when there is $1.5 billion backing it up, and $1.5 billion is going to be put there; if the banks have any faith whatever, if there is any real possibility that it can survive, then it would be greatly to their interest to let this interim financing go forward; they are not going to let this money, the millions of dollars already loaned to Chrysler, go down the drain when they see by providing a fully collateralized loan or by letting another bank provide it they can help it survive, and it seems to me it is a very reasonable test that the taxpayers should be protected by.

Furthermore, this is an extraordinary precedent here to loan $500 million without any matching funds, without any contribution, to one corporation. I do not know how we could resist if any Wisconsin corporation in the future came in and came to this Senator or to his Congressman and said, "Look, you did it for Chrysler, and I want $500 million guaranteed, we are in trouble, and if we do not get it we are in trouble, we have thousands of people who would be out of work, it would be a disaster for our community and maybe for our State." Any business in difficulty or suffering a credit crunch, that is going to come in and ask for it, and I do not see how we can go down this way and refuse it under this bill, when we have provided previously for matching grants.

Now we are providing a loan without any matching, without any contribution, without any from the private sector, and the taxpayer has every reason to feel he has been had on this kind of a proposition.

Mr. RIEGLE. Mr. President, will the Senator yield further on that point? It seems to me that you have to look at this bridge loan in the context of the overall situation. You cannot take it all by itself and make much of a judgment about it.

You have to look at it in the context of the loan guarantee legislation that we have before us, and in terms of the immediacy of the cash flow crunch Chrysler is facing.

The chairman knows, that had we been able to handle this matter 2 or 3 months ago we would not be facing this question today. But now the problem is, can the machinery work quickly enough to resolve the problem?

It seems to me that the Senator from Michigan is not asking for any increase in the loan guarantees. He is taking part of the loan guarantees, he is not making it mandatory—it is strictly at the discretion of the Secretary——

Mr. PROXMIRE. But the pressure is very, very great once you put this provision in the bill. The pressure on the Secretary to use it will be great, and there will be every reason for the other parties to hang back. "What the dickens, you have got half a billion dollars there, $500 million there, available; the Congress gave it to you, why should we step up? You use it."

Once the Federal Government has used it, once the Federal Government is at risk that way, without any matching funds, then the leverage disappears and dissipates in a hurry.

Mr. RIEGLE. From everything I have seen of Mr. Miller so far, he is a real skinflint on matters of this kind. I doubt that the Treasury would want to exercise this authority unless they felt it was absolutely necessary. If they did, I might say——

Mr. PROXMIRE. I might say the Secretary—and the Senator voted for him and I voted against him—I think he is an outstanding businessman, and if he was Secretary of Commerce, I would have voted for him. He has good judgment in this area. But there is no evidence that he is a skinflint. All he would do is provide for $1.5 billion, and that is the kind of skinflint the Senator from Michigan should appreciate—$1.5 billion, that is six times as much as any corporation has ever had before.

Mr. LEVIN. Mr. President, will the Senator yield? I happen to agree with the Senator. He is a good businessman, and he will carry on according to the law. I know he is a good enough businessman to know that he cannot grant the interim loan to Chrysler unless the requirements of this amendment are met. One of these is that there is no other alternative.

Mr. PROXMIRE. What does the Secretary of Treasury do if he does not favor it? If he knows that much, he is against it?

Mr. RIEGLE. Then it just lays there, it has no effect.

Mr. PROXMIRE. No, it does not lay there. Once we appropriate that money, once that $.5 billion is there, the pressure to use it will be very, very great, and the reluctance of the other parties to come in will be clear.

The city of Detroit will say, "We do not have to do it. You have got half a billion dollars there, the Congress has given it to you. What are you fellows doing?"

Of course, it is a Presidential campaign year, and there are all kinds of reasons why we can expect that money is going to go out.

Mr. LEVIN. I think the Senator is mixing up the interim loan with the prime loan because the kind of commitment the Senator is talking about is long term and not short term.

Mr. PROXMIRE. No, no, I am not mixing them up at all. Once that half a billion dollars is out there, and the Federal Government is expected, without any matching funds to act, the Federal Government for the first time then is vulnerable, the Federal Government has the big risk, the Federal Government has all kinds of pressure on it then to make whatever terms the other parties want to force on it. The Federal Government's bargaining power is greatly reduced. That is why the Treasury, I would presume, is using good judgment in this particular case.

Mr. RIEGLE. Mr. President, will the chairman yield for another question?

Mr. PROXMIRE. Yes.

Mr. RIEGLE. As I read the amendment of Senator Levin, this bridge loan, if it were granted in some amount up to $.5 billion, would have to be repaid by May 31, 1980. Is that not right? It would have to be repaid in full by May 31. It cannot be extended a day beyond that as the amendment reads.

Mr. PROXMIRE. Yes. So?

Mr. RIEGLE. I got the feeling from the Senator's earlier comment that he thought this would drag on out into the year 1980, and somehow or other the politics of 1980 would affect it.

Mr. PROXMIRE. No, no.

Mr. RIEGLE. I think by putting this termination date in here—if any of this bridge loan authority was used—it would be paid off in full on a date certain, May 31, 1980.

Mr. PROXMIRE. This is true of any loan that is made. All loans must be repaid by a certain date. That doesn't mean that all loans are automatically safe or prudent simply because they have a repayment date.

The fact is that in the case of the bridge loan the Federal Government is at risk for half a billion dollars. We have broken all the precedents. We have never done it before. Now we say for the first time a corporation can come in without any matching funds, without any sacrifice of any kind, and we are going to hand them a 6-month loan for a half billion dollars. Is that not great? How would you like to get it if credit is so hard to get now, if they can get the right union and the dealers and others who could come down, do the lobbying down here, and get a half billion dollars if they are in any trouble? This is the bad precedent. At least there are some disciplines left in the Lugar-Tsongas bill. I do not think it is enough, but they did a great job to put together something here that can be of some utility in holding down the actions of the Board.

What we do here, however, is to say that we are going to provide a half billion dollar loan—for 5 months—that is what we provide; next time it will be a year. After that it will be 3 or 4 years. But we have begun the precedent. We always in the past have insisted that before the Federal Government provide money, we have people lined up and committed in writing to match that money.

Mr. LEVIN. Mr. President, if the Senator will yield, you have something better than that.

Mr. PROXMIRE. What is that?

Mr. LEVIN. You talk about sacrifices and contributions; you have something better than one to one.

Mr. PROXMIRE. Oh, you have collateral, sure; so what?

Mr. LEVIN. You have collateral in any amount which your good businessman, the Secretary of Treasury, wants them to put up and requires them to put up.

Mr. PROXMIRE. Now the situation is really different. Instead of having matching funds, we are going to say as long as they put up collateral, we will lend them the money. As long as they put up 50 percent collateral, we will give them half a billion dollars. And Ford will be up here, and in their case it might be $5 billion. I think you should be aware of the tremendous precedent we are setting here. We are going a long, long way in this bridge loan. It is quite different.

There were no hearings held on it. We have had no witnesses testify, and and we have no knowledge as to how complicated it is. We do not know what the views of the people in the financial community are, we do not know what the views of the people in the banks are; we only know about the Treasury, and they do not like it. The House rejected it. The Treasury Department has been studying it for months after months, and have indicated they do not want it.

Mr. LEVIN. Will the Senator yield on that point?

Mr. PROXMIRE. And until recently, maybe now the Chrysler Corp. has changed its position, but it was my understanding that as of yesterday or the day before they had not asked for it. Now we are told, in the spirit of generosity we see here—the vote this morning indicates that the Senate is overly generous to this corporation—now we are being told that we should provide half a billion dollars without any record, any hearings, any approval by the House or the administration, that we should give them half a billion dollars.

Mr. LEVIN. Mr. President, we are not mandating the Secretary of the Treasury to do anything. All we are doing is giving him a low-risk authority, perhaps.

Mr. PROXMIRE. For half a billion dollars, which is part of a figure picture. The whale which is being swallowed here, or being accepted here by the Senate, is the half billion dollars.

Mr. LEVIN. This is no whale; this is a small fish.

Mr. PROXMIRE. All right, let me read the small fish of $500 million.

Mr. LEVIN. I am not talking about the dollars, I am talking about the principles.

Mr. PROXMIRE. All right, let me read the Senator's own amendment. What does it say? It says:

> Notwithstanding any other provision of this Act, if the Board determines that short-term loan guarantees are necessary to preserve the Corporation for the period required for the development and review by the Board of the operating plan and the financing plan provided for by section 4(a) (2) and (3), the Board may, immediately upon the date of enactment of this Act, issue commitments to guarantee and guarantee the payment of principal and interest on short-term loans to the Corporation in an amount not to exceed $500,000,000 in total principal amount outstanding.

This says, not that the Board would have to determine that credit is not available elsewhere, though that is always put in legislation of this kind. Here it says that they can provide it even though the funds could be supplied by the banks.

Mr. LEVIN. I think it does require that credit is not available elsewhere. The language which the Senator read says:

> Notwithstanding any other provision of this Act, if the Board determines that short-term loan guarantees are necessary to preserve the Corporation.

They cannot make that determination if loans are available elsewhere.

Mr. PROXMIRE. That is not what the Senator says, though. The Senator does not say the Treasury has to determine that.

Mr. LEVIN. I said the Board.

Mr. PROXMIRE. All right. But in view of the fact that we have always put that in the statutes before, it would seem to me that the interpretation here would be that in this case the funds could be available elsewhere, but for some reason or other, they could still consider it necessary.

Mr. LEVIN. I would leave it up to the courts to determine this. I think it is clearly stated that the Board or the Secretary of the Treasury must determine that short term loan guarantees are necessary to preserve the corporation, and if credit is available elsewhere they could not make that determination.

However, if that additional language would make the amendment more acceptable, I will be happy to modify my amendment.

Mr. PROXMIRE. Mr. President, the distinguished Senator from Connecticut is waiting to speak, and I yield to him.

The PRESIDING OFFICER (Mr. FORD). Does the Senator yield the floor?

Mr. PROXMIRE. I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I think this, without a question, is the weakest part of the argument of the proponents of the Chrysler loan. I wonder, since it magnifies every sin that exists in the regular loan proposal and compromise agreement which has been arrived at—wherever the faults lay in it, they are magnified—whether or not we are talking about $500 million with no conditions, for all practical intents and purposes.

Has any thought been given on this matter on the other side? I think this clearly hurts your case. In a way I do not know whether I want to defeat it or see it in the bill. If it is in the bill, I think the bill will be defeated. As a matter of principle, the amendment should be defeated. I wonder whether or not the proponents have given any thought to getting it out of here. I probably should not give that gratuitous advice, but as I said, I hope either to see the amendment defeated, which I am sure will cause more than a few gas pains for the UAW and Chrysler, or I would like to see it in the bill, and thus give occasion to many Senators to vote against the whole package.

It seems to me, in the course of trying to be reasonable and trying to make sense of what is right now insanity, this possibility is something that the proponents of the Chrysler legislation should keep in mind. I also have no doubt that the results of this amendment will be extremely important in determining the final outcome in the U.S. Senate of any Chrysler legislation, because indeed anyone who is willing to vote for this will vote for anything. This is not a bail out; this is just a straight, total giveaway; a total handout. It really points up that this whole matter of Chrysler might be good politics, but it is not good business, and it is not good legislation.

Let me just review what has gone on in the past 24 hours, and why it has been difficult for anyone to adequately and intelligently express his disagreement with the Chrysler loan. Up until yesterday we had the general outlines of several possible approaches toward the Chrysler legislation, but no more than the outlines, and they were outlines that came to us after the matter was debated on the House side.

Yesterday we were informed on the floor of the Senate that a press conference was being held at which a new Chrysler plan was being drafted, evolved, or prepared. Yesterday the House passed their version of the Chrysler bill. At 11 o'clock this morning the proposals that were discussed yesterday were passed here on the floor of the Senate, even though the proponents of Eagleton-Roth-Biden had been told that what they were proposing would indeed weaken the support for Chrysler on this floor; but they did it, and they won, and in so doing they lost. That was well understood, to the point where everybody went back to the drawing boards and, at 2 p.m. this afternoon, we have the Lugar-Tsongas version of Chrysler.

I point out that we are not talking about $5,000 or $10,000, or such paltry figures that are normally of no concern to this Chamber or in this town, although they might be to the average family in the country. We are talking about $1.5 billion, and now an additional $500 million.

And then, at 3 o'clock this afternoon, we all of a sudden have before us an additional $500 million in the form of the Levin amendment.

And I have been asking, "Why is it not before the Senate Chamber?" The answer: "Because we are in the process of drafting it."

Mr. LEVIN. Will the Senator yield on that point?

Mr. WEICKER. Of course I will yield.

Mr. LEVIN. That information that you received was erroneous. This amendment was drafted many, many days ago. It has been printed. It is in this morning's CONGRESSIONAL RECORD and there have been no changes in it, as far as I know, except for one technical change.

Mr. WEICKER. That, I can assure you, comes as a relief. I surmised, really, as much, because I notice it was not on the back of plain brown wrapping paper. It was, indeed, printed and this would have had to have been done at some earlier date.

But I think the whole scenario within a period of 24 hours shows very clearly how ill-thought out this whole measure is, both in terms of substance and in terms of procedure.

Now we have one additional difficulty. Somebody all of a sudden had bells ring in their head and they said, "My goodness, if we go ahead and authorize this, don't you think we ought to do some appropriating?" Very smart. Very smart. That usually is the procedure around here. Whatever it is you authorize, you have to in tandem appropriate.

And so this afternoon, we have had some appropriations hearings going on in the House and tomorrow morning the full Appropriations Committee will meet. I agreed to 9 o'clock meetings of the Senate Subcommittee on State, Justice, and Commerce Appropriations, not wishing to interpose any delay in the process.

But, I mean, is this a deliberative process that is involved here or is it an attempt to rush this legislation through the Senate for reasons of bad substance?

And if, indeed, we pass the authorizations bill out here, what happens to the appropriations? The Senate rules require 3 calendar days before it can come up.

I predicted earlier, in response to queries from the press, that we would finalize this whole situation probably by mid-January. And not because of filibustering or delaying, but merely in order to have the case clearly and consistently and permanently set before the Congress as a matter of substance and merely trying to use the well-established practices of the Congress to assure that there are no mistakes.

I remember when the Chrysler loan started off. It was a matter of guarantees. It was a matter of conditions, and all these built-in safeguards. And in the heat of the moment—be it the heat of Chrysler rapidly fading from the scene, or the heat of Congress trying to get out on vacation, or the heat of the politicians well serving their constituencies and the voters—all of a sudden every safeguard and guarantee goes out the window.

Oh, you see, this is what happens. No longer any conditions at all. Unconditional. $500 million. Collateral? Only one thing wrong here. It is all Chrysler's collateral. And yet we are being asked to collateralize Chrysler with the taxes of my and my colleagues' constituents.

I hope that, regardless of the various positions in this Chamber on the matter of the loan, at least to this aspect of it, we say no.

I have not even had the opportunity—and I do not intend to do it now because, hopefully, we will be able to get to a point sometime when I can argue against a bill—and I still do not know what bill I am arguing against yet—and read my opening statement.

But I do know that whatever arguments are contained in it, they will all apply and they apply double to this proposal.

I remind my colleagues that this is not money belonging to us. It is not money belonging to the Carter administration. It is not money belonging to the UAW.

This is taxpayers' money. And you are asking the worker in Connecticut, Illinois, Ohio, and across the country to take risks with his hard-earned money that no bank, no investment house or any other financial institution would be willing to take with theirs.

That is not only unfair, it seems to me to clearly violate the fiduciary obligation that rests upon each one of us in the handling of our constituents' money. If we were a trustee for an individual, would we not be liable, as a trustee, if we advocated this investment? Clearly, the answer is yes. And the distinguished Senator from Michigan, as an attorney, knows that.

So what is it, when we become U.S. Senators, that changes that very basic obligation in the handling of other people's money? What is it, when we throw the robe of politics over our function, that makes it possible for us to act less on behalf of those whose money we are using?

I agree with the distinguished Senator from Wisconsin. If the collateral is all that great, do not get the taxpayers of the various States to loan their money on the basis of collateral, get those who are in the business of loaning money and that have money.

Of course, that will weaken the situation, insofar as the other aspect of the loan is concerned. If there are all these assets with such great value, then why not chapter 11? Why not, if not chapter 11, selling off those assets and concentrating the assets into the business in a smaller form? Why not any of these alternatives, rather than to ask the man on the street to participate in this risk?

I remember full well when the matter was first broached to the administration. I remember the horror of Secretary Miller and the President and everyone as to what was proposed, and that they were going to sit there and insist on a specific program of action, in terms of management decisions, in terms of condition collateral, and all the rest. All out the window this afternoon; $500 million; no conditions.

Is it that in the backroom, when this $525 million package was devised, that this was an integral part of it? Obviously, yes. If it is unimportant or an afterthought, why then part of that agreement?

Proponents of the legislation know as I do, as does the UAW, the administration, as does Chrysler, that clearly these moneys are to be used, and when they are used, the risk is established.

Somebody said to me, "Senator, why the appropriations process? After all, this is only a loan guarantee."

I will tell you why, because the U.S. Government in its bookkeeping assumes the worst case, and that is good bookkeeping. The worst case is that Chrysler is going to go under and the U.S. Government is going to have to ante up.

In other words, the taxpayer, the little man, is going to have to ante up. But this time, you have denuded him. He has no protection at all, none, not even the good judgment of 100 U.S. Senators, if the previous vote is any indication.

I noticed where even Secretary Miller made the statement, "A small amount of money for a short period of time, so long as it is fully secured."

"So long as it is fully secured."

The difficulties that confront the two Senators from Michigan are that the more they extoll the collateral of Chrysler for this $500 million bridge loan, the weaker their arguments for a $1.5 billion loan. That is a very tight rope to walk.

The alternative is to say it is not collateralized, which probably is closer to the truth.

Again, I would hope that serious consideration would be given by the author of this amendment, and those who are bargaining away our people's money, that this aspect of the Chrysler loan be withdrawn, I can assure you, Mr. President, I might be willing to abide by such a proposition of assistance where at least I feel that proposition is properly and totally secured for the taxpayers of this country, but I am not getting off this floor, not on Saturday, January 3, or January 4, with this proposition in the bill. This is strictly politics. If anybody wants to play politics, they can play it with their own money.

This is not an investment. It is a holdup. It is a ripoff. It is a picking of the pocket. Use any term you want to, but it certainly is not good business, and it certainly is not good government.

I have yet to hear one financial institution extoll the merits of the Chrysler loan before the $500 million bridge loan, not one financial institution, not one investment advisor, not one underwriter, not one economist, not one leading businessman, except those who form the management of Chrysler.

And yet with all that expertise confronting this body, we say we are going to make a political governmental decision and overrule that advice. Well, then, we ought to be liable. We ought to be liable if things go wrong. Maybe that will bring it closer to home as to whose money it is we are playing with for our own political benefits.

I would hope that my colleagues will look very carefully at what it is they are doing here, understanding that there are many small businesses in their constituencies which will try to make it through very tough times in the years ahead, which they could make if they had $5,000 or $10,000, but they will not get. As I go through the Naugatuck Valley and portions of eastern Connecticut and see the empty buildings, I wonder why they did not have their day in the Halls of Congress. They did not have the lobbyists who roam around out here, and high-priced lawyers. They did not have the political advantage of an alliance between the UAW and a President seeking reelection.

All these factors come into play. It is not good economics, it is not good business. All these extraneous factors which mean so much to us and so much to Chrysler, are totally unfair to the 99⅔ percent of the American people who do not fall into either of those categories.

Do you know where this kind of government and this kind of ill-conceived legislation leads, Mr. President? To more and more. We do not even have a Chrysler loan yet. We do not even have one yet, and we want more. It is an addiction.

The Wall Street Journal put it very, very well indeed, in their editorial of today, "Laetrile for Chrysler." I ask unanimous consent that the article be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

Laetrile for Chrysler

In the spirit of Christmas, we suppose, Congress is gearing up to throw bad money even before it throws the good. A few weeks ago all of Chrysler Corp.'s problems could be solved with a $1.5 billion bail-out. But before Congress could even get this proposal to the floor, Chrysler suddenly needs another $500 million, separate from the original $1.5 billion. And it needs the money by January, or otherwise it will self-destruct.

Well, we hope someone in Congress takes the time to think a moment on what bail-outs are all about. The reason for bailing out Chrysler is to avoid taking the actions, many of them painful, that might salvage it as a going concern. Indeed, since the fortunes of Ford are inextricably bound with those of Chrysler, the purpose of a bail-out would be to avoid the actions that would salvage a viable domestic automobile industry.

The way you salvage an endangered enterprise is to pare dead wood. You drop unprofitable product lines. You lay off workers. You cut through your management shucking bodies but trying to keep the best talent. You sell some valuable assets to raise cash to plough back into essential assets. These are precisely the things that allowed first Studebaker and then AMC to emerge from the pressure-cooker auto industry as healthy and on-going concerns, to the tremendous benefit of their workers, their shareholders and the American economy.

These are also precisely the things the Chrysler bail-out proposals are intended to forestall. Chrysler's management predicates its "recovery" plan on remaining a full-line auto maker. The United Auto Workers want to avoid any loss of jobs. As a political gesture, Chrysler's managers are asked to take salary reductions—a sure-fire formula for keeping the deadwood and losing the talent.

In all, this is a blueprint for a bottomless pit. Since the money goes to subsidize the practices and ambitions that create the problem, it can only grow worse. Chrysler's current plea that in addition to $1.5 billion in long-term loan guarantees it now needs another fix of $500 million in short-term guarantees perfectly fits the pattern we have seen time and again at home and abroad. As the sickness spreads untreated, the patient crawls back for bigger and bigger doses of subsidy. A federal bail-out would treat Chrysler's cancer with laetrile.

Not only is a bail-out an excuse for not taking the management steps necessary at Chrysler, it is also an excuse for not changing the government policies responsible for a lot of Chrysler's grief and threatening the entire domestic industry. The bail-out bill is rushed to the floor in both House and Senate, but proposals to give some relief to the front-loading of fleet mileage standards receive lip service at most. Again, the subsidy is paid but the problem is not corrected.

Which brings us to Ford. On its domestic operations it is losing a neat $1 billion this year, and this is the fourth best auto year in history. Given the U.S. regulatory burden, it is hard pressed to compete with the Japanese and General Motors, and if the bail-out passes it will be forced to compete as well against Chrysler backed by Uncle Sam.

The precedent will have been set, Ford's applications to the Treasury cannot be far behind, and it will fall into the same pit that now beckons Chrysler. Auto analyst Ronald Glantz of Paine Webber puts it nicely, "A decision to bail out Chrysler is a decision to bail out Ford three years from now, and a decision to create our own British Leyland."

Mr. Glantz makes a persuasive case that the only hope for a viable domestic competitor for GM would be to merge the viable parts of Chrysler into Ford. And as it happens, this would be the most likely outcome of allowing Chrysler to go into bankruptcy. Ford would be able to buy Chrysler's small-car facilities free of overhanging debt and unfunded pension obligations. The workers at those factories would get checks labeled Ford instead of Chrysler, consumers would feel better about buying cars from them, and Ford would have a shot at staying in the domestic auto business.

Bankruptcy is not a condign punishment, but a way of separating the viable from unviable parts of a beleaguered enterprise in order to keep the latter from destroying the former. Creditors will lose, but that is part of their business risk, especially for banks that have received premium interest rates. But the salvageable jobs and assets can be more easily salvaged now than later.

Bankruptcy is not a happy fate, but if Chrysler really cannot fend it off on its own for even a few more weeks, then clearly the time is past for less drastic treatment. Bankruptcy is painful surgery, but it is infinitely better than laetrile.

Mr. WEICKER. Mr. President, we have not even proved out the soundness of the first step and we are running for the second and the third. Of course, I suppose the theory is that once you have $1.5 billion invested, you have to go the next step, $500 million.

Then after that, you cannot take that loss on the chops. Another $500 million or another $1 billion, and so on, until we reach the point, as in British Leyland, where the investment reaches $1 billion even though the market share drops from 40 to 20 percent. The price goes up and the market share goes down. The cost to the taxpayer soars. But, most important, you have established the precedent to assure mediocrity in management, in product, and in governmental decision. With that comes a system far removed from the one which created a successful Chrysler in the first place and which guarantees that in the future, similar success stories will be written.

It is my understanding that the distinguished Senator from Oklahoma desires to be heard on the subject.

Mr. BELLMON. I believe Senator Proxmire wanted to proceed.

Mr. PROXMIRE. Will the Senator permit me to call up a message from the House very briefly? I apologize to the Senator from Oklahoma, who I understand wants to speak.

FEDERAL OPEN MARKET COMMITTEE MEETING MINUTES

Mr. PROXMIRE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 4998.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the amendment of the House to the amendment of the Senate to the text of the bill (H.R. 4998) entitled "An Act to amend the Federal Reserve Act to require that detailed minutes of Federal Open Market Committee meetings shall be published on a deferred basis", with the following amendments:

(1) Page 5, strike out lines 15 through 31, inclusive.

(2) Page 5, line 32, strike out "Sec. 107.", and insert: Sec. 106.

Mr. PROXMIRE. Mr. President, yesterday, the Senate passed and sent to the House legislation which would authorize ATS, RSU, and share drafts for credit unions for 90 days. The Senate also provided for temporary preemption of State usury lending limits for an administration study of depository institutions' low-yielding loan portfolios.

Today, the House has passed and sent back to the Senate the bill the Senate passed yesterday but deleting the provision for a study.

I hope the Senate will pass this legislation now so that it may be sent to the President for signature. If we delay, financial institutions will have to comply with a court order closing down their ATS, RSU, and share draft services on January 1.

The mortgage usury preemption provided is also crucial. Housing starts are down 14 percent. The chairman of the FHLBB testified that 85,000 housing units will not be built next year if the existing usury limits remain in place. These 85,000 housing units mean 175,000 jobs.

Both the Senate and the House agree on all these provisions. I hope that House deletion of the study provision will not prevent us from going forward on this bill. The House Banking Committee intends in any event to conduct a review of depository institutions and regulation Q in February. Passage of this legislation will allow the process to proceed and allow the conferees to resolve differences on H.R. 4986 by March 31, 1980.

Mr. President, this is urgent legislation. It is mandated for us by the court case. We have to act on it or face a very severe and unnecessary problem for our financial institutions. I hope the Senate will pass the bill and send it to the President.

As I say, we passed it in all forms, except it did not have a study in it, just the other day. This is a very modest change.

Mr. BELLMON. Mr. President, I understand that the bill has been cleared and there is no opposition on the minority side.

Mr. PROXMIRE. I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

CHRYSLER CORPORATION LOAN GUARANTEE ACT OF 1979

The Senate continued with consideration of the bill.

Mr. BELLMON. Mr. President, I strongly oppose the amendment by Senator Levin. This amendment rips away the safeguards built into the committee bill.

Mr. President, I approach the question of a loan guarantee for Chrysler with mixed feelings. I have decided to oppose this legislation but have done so only after a thorough and careful review of the historical record of the Chrysler Corp. and of the Federal legislative actions which have contributed to the company's present economic crisis.

I might also say that representatives of the company were kind enough to come to my office and we had a lengthy discussion of this whole matter. I am sympathetic to the problem they face, but my concern is that the problem is so serious and time has run so against the company that even with this loan, the company's opportunity to survive is extremely limited. I do not see that the Levin amendment helps very much.

Mr. President, I might say parenthetically that I am a lifelong user of Chrysler products. We have had excellent service from these automobiles going clear back to the new Plymouth my wife and I bought soon after we were married in 1947. Since then, I have bought one Chrysler product after another, including a LeBaron less than 2 years ago.

So I count myself as a friend of the company. I also count myself as a free enterpriser who believes that in our system, economic entities must compete to survive that those who are not able to compete should not come to the Federal Government and ask us to bail them out.

We have had something like 45,000 entities in this country go bankrupt each year for several years. If we start the process of saying no one in this country is going to go bankrupt, we shall have set the stage for a total erosion of our economic system and introduce great inefficiencies into our economy.

It is not any more viable to say that only the small companies can go broke and the big ones will be preserved because the big ones obviously have a greater impact on our economy.

My attitude about Chrysler is moderated by the knowledge that the Chrysler Corp. has been seriously wounded by Federal laws dealing with auto emissions and mileage requirements which have placed major economic burdens on the company, which was not in a strong financial condition in the beginning. So to me, this has been a different decision.

On the one hand, I feel very sympathetic toward Chrysler and very sorry for the plight the company is in. On the other hand, I am concerned at the precedent that we might set. I am also concerned that this loan will only be the first step into other loan requirements that will ultimately put the U.S. Government in control of Chrysler and that we will not really have solved the situation by the action that this legislation requires.

Mr. President, the issue here is not the amount of loans the Federal Government should guarantee. The issue is not a wage freeze. The issue is not an employee stock ownership plan requirement. The real issue is—or should be—whether the Federal Government should step in to rescue a private corporation on the verge of collapse.

Mr. President, the question of Federal assistance to Chrysler should go first to the question of the appropriate role of the Federal Government. Is there a clear national interest to be served by passing this legislation? Should we intervene to save businesses on the brink of bankruptcy; and, if so, under what conditions?

What criteria determine whether the Federal Government should intervene on behalf of a private corporation? The Chrysler bill in section 4(a)(1) states that the board established under this bill shall make assistance available to Chrysler only if the board determines that "the commitment is needed to enable the corporation to continue to furnish goods or services, and failure to meet such need would adversely and seriously affect the economy of, or employment in the United States or any region thereof."

Mr. President, these words do not make useful criteria for deciding whether or not the Government should intervene.

That criterion is broad enough that if it were applied uniformly nationwide, there would be hundreds, perhaps thousands, of otherwise bankrupt corporations that would soon be beating a path to our door. There are many bankruptcies that affect the economy of or employment in a region of this country and clearly, we cannot afford to go in that direction.

No one questions that Chrysler needs assistance if they are to "continue to furnish goods or services" and we could clearly argue whether the failure to furnish those goods and services would "adversely and seriously" affect the economy of or employment in the country. The issue is much more complex. There is no question that Chrysler will collapse next week, or next month, or certainly very shortly if we do not provide assistance. I believe that there is strong evidence that Chrysler will collapse even if we provide assistance in this bill.

Thus, I am certainly not convinced that the fact that Chrysler might not survive without Federal assistance constitutes a case for massive Federal intervention on behalf of Chrysler. We should be giving much more serious consideration to the basic question of the appropriateness of Federal aid in any situation and the criteria for Federal intervention.

Mr. President, I have asked the minority staff of the Senate Budget Committee to make an analysis of what I believe are the four critical questions involved in the Chrysler request. That staff has prepared a 12-page summary of their analysis which has been distributed, and I hope the Senators and their staffs will have an opportunity to review it because I think it will prove enlightening to all Senators. This analysis is a professional and thoughtful piece of work, and I ask unanimous consent that it be printed in full in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BELLMON. The four key questions are these, in my opinion:

First. Is Chrysler viable as a full-line automotive company with Federal assistance, or will such assistance only lead to more cost and more pain to all parties when the inevitable bankruptcy occurs at some point in the future?

Second. What is the potential magnitude of financial need which might be required of the Federal Government?

Third. What are the benefits or costs which may be derived from the investment by the Federal Government?

Fourth. What is the risk that a Federal investment will be viewed as a precedent, and what is the potential future impact of that precedent?

As to the first point, is Chrysler viable, let us consider these facts:

First. The company lost $700 million during the longest boom period in postwar history.

Mr. President, let us not forget this. This company's record is one of having lost $700 million during the recent boom, when the economy of this country was in good shape and when the company, if it were viable, should have been making money, as were most other major American corporations.

Second. There is significantly greater stress and competition ahead for the automotive industry.

The years ahead for the industry are not going to be particularly good years.

Therefore, a company that was in trouble in the past, when conditions were favorable, is very likely to be in extremely serious straits in the years ahead, when there will be greater stress and more competition ahead for the industry.

Third. According to GAO, foreign producers can still manufacture an automobile for $500 less than domestic manufacturers.

Fourth. Chrysler will likely lose approximately $2 billion for the period 1979–80.

Mr. President, that is a loss of $2 billion in the period between 1979 and 1980.

Two years coming to $2 billion.

Fifth. The company's financial resources are severely limited—its working capital has been cut by 65 percent in 9 months. Its debt-to-equity ratio is almost twice as bad as Ford, and three times worse than General Motors. Its 55 years' worth of retained earnings has been cut in half in 9 months.

Sixth. The company has lost over 300 dealers, and the financial stability of some of the remaining dealers is not questionable.

Seventh. The company's market share has declined to an all-time low, and recapturing the market will be extraordinarily difficult.

Mr. President, to me, that is a very telling point.

I feel a potential automobile purchaser in this country must now realize that Chrysler is in a very shaky financial condition. The question will stay raised in every purchaser's mind, that if they buy a Chrysler product, perhaps by the time it needs service, in a few months or a few years, there will be no company available to service it and no new parts available to repair it.

So the fact that they are going to have a very difficult time recapturing the market is something that will weigh heavily on my decision to oppose the bill.

Eighth. The company's cost structure now shows that it will not break even unless its market share rises to about 14½ or 15½ percent, which is substantially higher than Chrysler's own plan of 12 percent.

Ninth. The company's projected mix of products (small cars versus large cars) and the profitability of those products indicates that Chrysler will likely fall far short of its profitability forecasts.

What is the magnitude of financial need? Please note these points:

First. The company has a history of making optimistic projections about its profitability and cost-saving efforts. Rosy projections made by Chrysler now lack credibility.

Second. Total capital needs for its modernization program has fluctuated. It was thought to be about $7.5 billion for the next 5 years based on a statement last year. Now the need is projected at $13.6 billion, and there is reason to feel even that projection is conservative.

Third. If one projects auto sales at a more realistic level of 10 million units per year for 4 years, then Chrysler may need $1 billion more than shown in the Banking Committee analysis.

Fourth. The truck projections are very optimistic, and more realistic projections could indicate a second $1 billion increase over levels shown in the Banking Committee analysis.

Thus, the Federal Government share of total need appears to significantly exceed the $1.25 billion or $1.5 billion mentioned in the various programs and might total as much as $3–$5 billion or more.

What we are getting into here is a plan to rescue a company that is going to likely require not $1.5 billion, but three times that, or perhaps even more.

Mr. President, the analysis goes on to detail the costs and benefits involved in a Government guarantee. In summary, I believe the employment effects of a Chrysler bankruptcy have been overstated, and the Federal costs badly understated.

Finally, let me discuss the precedent we might be setting in a Chrysler bailout, and the implications of that precedent. For reasons indicated in the staff analysis, I do not believe Lockheed, or any other case we have had, is comparable, although I was not in favor of the Lockheed loan at the time. The New York City and Amtrak experiences have showed that any initial projections of need are always greatly understated.

The British Government bailout of an automobile company, namely British Leyland, has proven a costly experience, and the company may not survive despite what might ultimately exceed a $4 billion aid package from the Government.

Mr. President, we are fooling ourselves to think that the Federal Government will step out of the picture if the level of assistance contemplated here proves inadequate. Experience proves otherwise.

Our experience with Amtrak has not been good. In October 1970, the Rail Passenger Service Act (45 U.S.C. 501) was enacted to revive the failing intercity passenger train industry and retain for the Nation a realistic network of high quality rail passenger service. Under that legislation, Amtrak was established as a "for profit corporation." The premise was that the new National Rail Corporation could and would turn a profit, given interim, emergency Federal assistance.

Under the original Amtrak legislation, there were authorized to be appropriated $40 million in fiscal year 1971, and in subsequent years a total of $225 million.

Mr. President, keep that in mind. We authorized $40 million in 1971. That was supposed to take care of the job. Then in other years we authorized $225 million by appropriations for Amtrak—in just 1 year, fiscal 1980, over $800 million.

So we started into this thing with one $40 million appropriation supposed to do the job, and in 1 year, fiscal 1980, we appropriated $800 million.

Appropriations for Amtrak in fiscal 1980 are over $800 million, and there is every indication that they will continue to rise in the future. The cost to the Federal Government in 1 year is now three times greater than the total amount originally contemplated to enable Amtrak to stand on its own feet.

Mr. President, this, to me, is a major reason for concern. We get in these things with all kinds of good intentions. We make the commitments. Having gotten ourselves tied to a proposition that is not viable, we cannot back away from it. We keep pouring more and more money after bad until finally we have ourselves in the kind of deficit and inflation that we now see plaguing our Nation.

I urge Members to be very careful and not jump into something where we think we are doing a company a service when, in fact, we are doing an enormous disservice to the American taxpayer.

This kind of congressional interference with the corporate decisionmaking process is inevitable, given the large Federal subsidies involved. On the other hand, corporate decisionmaking which must take into account political reality is often inconsistent with the streamlining and belt-tightening necessary to make a serious effort to move toward profitable status.

What I am saying, Mr. President, is that if we put Federal money in this thing, it will be increasingly likely there will be political involvement and interference with the corporate decisions that will have to be made.

So, in my judgment, we are tying their hands so they cannot close the plants that need to be closed if the company is ever to get on its feet, which is certainly unlikely.

This is exactly the situation we will be getting into if we approve Federal aid to Chrysler. Not only will we not be able to get out once we get in—not only do we have a questionable record as far as turning enterprises around by "emergency, interim" Federal help—not only will we continue to subsidize Chrysler—but there is danger we will inject politics into the corporate decisionmaking process.

We may even wind up weakening rather than helping the company.

Once we approve Federal loan guarantee assistance to Chrysler, I cannot foresee a situation where Chrysler's operating and financing plans will not be reworked to enable the board to approve the extension of those loan guarantees. Once we have required the establishment of an employee stock ownership plan, and specified that nonfederal contributions be made, I cannot see the Federal Government pulling out when its investment proves unwise. I cannot see the Federal Government pulling out and leaving the very employees it required to take stock rather than higher wages in the lurch nor can I see the Federal Government forsaking the new creditors it required to make investments in Chrysler rather than some more productive enterprise.

So we are going to be committed here because we forced the employees to take a piece of the action, and we also are going to be committed for future loans because we forced nongovernment lenders to make funds available that they otherwise probably would have invested in other enterprises that are more sound.

The impact of a Chrysler bankruptcy

will increase—not decrease—under this legislation. We could make the so-called "worse case projections" of today look like the "best case projections" of tomorrow.

Mr. President, my conclusion is that the proposed loan will not make Chrysler into a viable full-line automobile company. Also, I am convinced that even without the federal air quality and mileage requirements, the Chrysler Corp. would probably not have survived.

I am further concerned that the $1.5 billion involved in the bill is only the first installment in what could be an extremely costly and ultimately unsuccessful effort to keep the Chrysler Corp. alive. There is also a real danger that going further down the path of bailing out large companies which run into problems will result in the erosion of the competitive forces which long made the United States industrial community the envy of the world. The Levin amendment is contrary to the competitive principle.

It is for this latter reason more than any other that I have decided to oppose the amendment and S. 2094, and I urge my colleagues to do the same.

EXHIBIT 1

CHRYSLER CORPORATION LOAN GUARANTEE: SUMMARY OF ANALYSIS

The Senate will soon be considering the Chrysler Corporation Loan Guarantee legislation. It should be noted that Chrysler's financial predicament is deteriorating rapidly and the company now says an immediate "interim" investment is needed from the Federal Government. Chrysler now can no longer comply with the Administration's approach, which would require that the company first obtain additional investments from other vested interests (bankers, suppliers, employees, and other groups) prior to receiving the Administration's proposed loan guarantees. Because such hasty action is being requested of the Senate, this summary of analysis was prepared to help focus discussion on four key questions:

A. Is Chrysler viable as a full-line automotive company with Federal assistance, or will such assistance only lead to more cost and more pain to all parties when the inevitable bankruptcy occurs at some point in the future?

B. What is the potential magnitude of financial need which might be required of the Federal Government?

C. What are the benefits or costs which may be derived from the investment by the Federal Government?

D. What is the risk that a Federal investment will be viewed as a precedent, and what is the potential future impact of that precedent?

A. Is Chrysler viable?

1. Lost Money During Boom Years: For the years 1976–1979, the U.S. economy and the auto industry have both been through the longest boom in post-war history—yet for these four years, Chrysler will lose over $700 million.

2. Greater Stress and Competition Ahead: It appears that the immediate future will be marked by (a) a general economic slowdown worldwide; (b) continued high levels of interest rates; and (c) potential gasoline shortages. These recessionary conditions will create general stress for many industries, but the long-run outlook for the automotive industry is particularly clouded by uncertain sales, especially of the lower mileage autos, and by the prospect of greater price and product competition as the overall unit sales in the industry, which has already slowed, slows further. This will be especially true as foreign manufacturers of high mileage autos seek greater U.S. sales to offset lower sales in other markets.

3. Foreign Cost and Price Advantages: According to a GAO study produced in the summer of 1979, foreign auto producer costs and prices presently compare favorably with U.S. manufacturers as these producers can manufacture and ship an automobile to the U.S. for approximately $500 less than domestic manufacturers can make the product (lower foreign wage rates—$9.00 per hour versus $15.00 per hour; higher foreign productivity). As a result of this cost advantage, foreign producers have limited price increases on 1980 models to less than 3 percent, while U.S. producers have raised list prices on similar models an average of 15 percent and still lost money in this segment of the market.

4. Chrysler Losses: Chrysler lost $300 million in the last economic downturn (1974–1975) and has already lost a record-breaking $700 million in the last six months. Even with the Federal guarantee, the company is expected to lose approximately $2 billion or more for the years 1979–1980. The company is less able to withstand economic and competitive pressures than at any time in its history as it has fewer financial resources, a continually decreasing number of dealers, and a declining market share.

5. Limited Financial Resources: At September 30, 1979, Chrysler's financial condition had deteriorated to the extent that it was in default under borrowing agreements with lenders. Such default involves primarily violations of the terms of various borrowing agreements concerning working capital, ratio of current assets to current liabilities, and debt/equity ratios. (a) Working Capital: In recent years, the company has had available working capital (current assets in excess of current liabilities) totaling over $1 billion ($1.08 billion at December 31, 1978). By September 30, 1979, working capital had been cut by 65 percent to the level of only $355 million, below the $600 million limit in its agreements. Companies use working capital to finance new capital expenditures and to provide supplier credit. The further reduction in working capital in coming months as a result of Chrysler's losses will add to Chrysler's financing needs. (b) Debt/Equity: The company now has over $2.25 of debt for every $1.00 of equity, a figure 60 percent higher than the level nine months ago. By December 31, this ratio will be substantially higher as the fourth quarter loss further cuts the equity level. By comparison, at September 30, 1979, the same time that Chrysler had a debt/equity ratio of 2.25, Ford showed only $1.32 of debt for every $1.00 of equity and General Motors had $0.76 of debt per $1.00 of equity. (c) Retained Earnings: In its fifty-five-year history, Chrysler built up retained earnings (earnings not paid out as dividends but retained for future investment and other corporate needs) totaling $1.6 billion by December 31, 1979. Yet nine months later, those retained earnings had been cut almost in half to only $873 million. It is likely the corporation will lose another $400 million in the fourth quarter, further eroding the company's financial condition. Chrysler's losses and corresponding reduction in internally generated funds come at a time when its capital spending needs are greatest. Its ability to endure these losses, even with government aid, and emerge as a viable company depend more than ever before on its future profitability.

6. Lost Dealers: In recent years, the company has shown a dealership network which numbered 4,800 or more in each of the preceding four years. By October 31, 1979, the company had lost 300 of those dealers. The financial stability of the remaining dealers is not known.

7. Declining Market Share: Although Chrysler has had a generally declining market share for ten years (in 1970 it had 14.6 percent of total sales including imports, or 19.0 percent excluding imports), the company reached a low point during the previous recession in 1975. That low point was 12.3 percent of the total market. Today that number has dipped to well below 9 percent. Recapturing this lost market share, even back to 9 percent or 10 percent, will be extraordinarily difficult because of industry competition, Chrysler's limited financial, production and engineering resources, its lost dealer network, and its eroded consumer confidence. Chrysler would argue that the regained market share will come at the expense of foreign importers, due to the company's increased production of small cars.

8. Required Market Share For Profitability: Not only has Chrysler's share of market declined sharply, but since 1978 its units costs have risen and its pretax unit profits have declined. Lower per unit profits have caused the production level required for the company to make a profit, known as "the break-even point," to increase to a level that is presently greater than the company's production capacity. Moreover, according to a study by the New York investment firm of Drexel Burnham, with the company's present cost structure, it requires between 14½ and 15½ percent of market share to break even, which is substantially higher than even the 12 percent market share projected in Chrysler's own plan. Further, these calculations do not include the effect on overhead of the interest costs of the proposed "bailout." Even if Chrysler were to return to the pretax margin that existed between 1974 and 1978, the company requires a 12½ percent share of the auto and truck market to be profitable, which is still higher than Chrysler's own market share projections through 1985.

9. Product Mix For Profitability: Product mix is very important to the overall profitability of domestic automoble producers because the profit margins (profit per unit) on large cars are substantial, while U.S. companies tend to lose money on compact and subcompact cars. The shift in consumer preferences to small, low-margin cars will limit the profitability of all domestic producers and will place the greatest burden on those producers with sales concentrated in the small car market. Through August, 1979, 69 percent of Chrysler's sales were low margin compact or subcompact cars, as compared with 52 percent for Ford and 32 percent for General Motors. While Chrysler's plan indicates they expect to make a profit in the small car market, Chrysler's costs are higher than its competitors (10 percent higher than General Motors, according to the Boston Consulting Group) and, as a result, the company has a distinct pricing and profitability disadvantage.

A sample financial plan contained in Chrysler's September 15 proposal projects that by 1982 only 65 percent of its sales will come from small cars, which would result in a loss of $42 million for those sales, while 35 percent will be from sales of family-size cars. It is this large car segment that is expected to contribute 86 percent of its profits in that year. Yet, industry analysts universally believe that large cars are expected to decline as a proportion of total industry sales between now and 1982. For Chrysler to achieve its sales growth in this market, it would have to increase market share from its present 7.8 percent to 12.7 percent. This market share gain must be achieved in the face of 1 million units of surplus industrywide capacity for these models. Because it appears likely that Chrysler will fall short of its goal, and because the bulk of Chrysler's profits is expected from this segment, Chrysler's profit is likely to fall short of its forecast.

B. What is the potential magnitude of financial need which might be required of the Federal Government?

1. History of Questionable Projections: Following 1979 losses estimated at $1.1–$1.2 billion, Wall Street automotive analysts now project Chrysler losses for 1980 at $800 million. This number is significantly higher than the October 17 plan by Chrysler ($482 million) or the Treasury Department adjusted analysis ($659 million) or even the losses under most of the alternatives looked at by the Senate Banking Committee. Similar doubts are raised by Wall Street analysts regarding Chrysler's optimistic projection of its market share over the next four years.

The numbers above illustrate a problem which has distressed many automotive analysts, commercial bankers, and underwriters; namely, that the company has consistently made exceedingly optimistic projections about its future profitability and cost-saving efforts. Two examples are cited below.

a. In 1978, for example, when the company sold $250 million in preferred stock, Chrysler was forecasting $1.7 billion in earnings between 1978 and 1982. One year later, analysts now expect the company to *lose* over $1.1 billion in 1979 alone, plus *lose* $800 million in 1980.

b. As another example, in 1975 the company reported cost saving capabilities which would enable Chrysler to be profitable in a 6.0 million unit sales year. These cost-cutting measures were clearly overstated, and there is some question as to whether or not the company today is profitable at 9.0 million domestic units.

2. Uncertain Total Capital Needs: In June, 1978, the company filed a legal document as part of a preferred stock sale, and this document stated that Chrysler's expected capital expenditure program for the next five years to modernize plants and develop and bring new products to market was about $7.5 billion. This Chrysler document went on to say, "These requirements for funds present risks as they may cause cash flow problems and will place a considerable strain on Chrysler's capital resources . . . The timing, size and availability of outside financing are not certain . . . and an inability to obtain additional financing would result in competitive disadvantages relative to its major competitors." The $7.5 billion capital expenditure plan was to cover the five years 1979–1984. Now Chrysler says that its capital spending needs have grown to a total of $13.6 billion for the years 1980–1985. Although the five-year periods are not identical, increasing the five-year capital budget by 80 percent only one year later seems extraordinary. Funds for the five-year budget must come from depreciation and amortization, any future earnings retained, outside financings, or the possible sale of properties or subsidiaries. Given that many properties and subsidiaries have already been sold, and given the unlikely prospect of near-term profits, clearly most of the capital spending program will have to be financed by outside sources. To the extent that funds from outside sources will be necessary just to provide day-to-day working capital, more and more of the burden for capital funds will fall on the Federal Government to the extent that the projected level of the capital budget is maintained.

3. Auto Sales Projections: Even if we assume the total U.S. auto sales average 10 million units for each of the next four years, it is difficult to project that Chrysler's share of that market will rise substantially beyond its present 8–9 percent. General Motors has beaten Chrysler to the market with a front-wheel drive compact car, with Ford's Erika not far behind, and General Motors will be three years ahead of Chrysler in a new downsized intermediate car. Further, competition is expected from foreign manufacturers. Based on a lower market share, the Banking Committee analysis indicates Chrysler's real net financial needs over the next four years may be closer to $5 billion than the $4 billion projected.

4. Truck Projections: Even the higher $5 billion need mentioned above includes an assumed rise in market share for Chrysler trucks. The truck market is one key to Chrysler's profitability as Chrysler has stated that one-third of its profits come from its truck sales. In light of new Ford and General Motors products, and in light of new truck production capacity (for example a new General Motors plant opening in 1980 in Shreveport), Wall Street analysts believe Chrysler will find it difficult to hold market share, much less increase its share of this market. If Chrysler only remains constant in this market, the company would lose an additional $1 billion over four years and its capital needs would rise to a total of $6 billion for these four years.

5. Summary of Financial Need: No specific conclusions are reached to pinpoint the total amount of funds the Federal Government might ultimately spend should it get involved in the Chrysler bailout. Clearly all the risks point to a significantly higher level, not lower level, than that projected by either the company, the Administration, or even the Senate Banking Committee. It would appear that the need to be financed by the Federal Government alone might well exceed several billion dollars if the Chrysler capital spending budget is pursued and if more realistic industry and market share projections are used.

C. What are the benefits and costs from a Government guarantee for Chrysler?

1. Effect on Domestic Employment in the Auto Industry: The auto industry already has laid off 115,000 workers. By January, this number is expected to grow to 190,000, bringing total layoffs to 25 percent of the industry's workforce. This is a result of declining unit sales not specific financial stress in any one company. The auto industry is expected to lay off an additional 200,000 workers in 1980—again due to the projected impact of recession on industry sales. This will occur with or without Chrysler.

2. Effect on the Distribution of Employment in the Auto Industry Among Major Domestic Producers: Of the total 115,000 layoffs to date, 46,000 were General Motors workers, 36,000 were Ford workers, and 30,000 were Chrysler workers. While the Chrysler layoffs account for a relatively larger proportion of the company's total hourly workforce (27 percent), compared to 18 percent for Ford, and 10 percent for General Motors, both General Motors and Ford have idled larger numbers of workers.

Because of the nature of Chrysler's market—which is not import-oriented—it is clear that any lost Chrysler sales due to bankruptcy would be picked up by General Motors and Ford, rather than by imports. Of Chrysler's 885,000 cars sold to date in 1979, 600,000 (or about 70 percent) are large cars or the compact Aspen and Volare with which imports do not compete. The remaining sales are Omnis and Horizons, which are likely to continue in production in the event of bankruptcy. The elimination of Chrysler as a competitive force in the industry would permit Ford, General Motors, and American Motors Corporation to share the domestic auto sales among themselves, reducing the need for layoffs at these companies.

In other words, in the event of a Chrysler bankruptcy, a disproportionate share of Chrysler's workers will be at least temporarily unemployed, while more Ford and General Motors workers will keep their jobs. In fact, because the industry already has 1,000,000 units of excess capacity in the large and intermediate car market, it is conceivable that a shift in production to Ford and General Motors would help reduce unit costs for these companies, enabling them to accelerate price competition, and possibly increasing sales beyond the levels now projected for the industry through 1981. This may further reduce the need for layoffs at General Motors and Ford.

3. Overall Employment Effect of Chrysler Bankruptcy: Several studies have attempted to estimate the effect on national unemployment of a Chrysler bankruptcy. These numbers range from a worst case high of 500,000 jobs by Data Resources, Inc., to an estimate of 75,000 to 100,000 by the Department of the Treasury. The Treasury study further reduces its estimate to 45,000 to 60,000 should the bulk of Chrysler's production be absorbed by other domestic producers. Because of the structure of Chrysler's market, and the over-capacity conditions in the auto industry in general, this lower Treasury estimate appears to be the most likely.

In terms of overall economic impact, the 45,000 to 100,000 jobs lost as a result of Chrysler should be compared to the number of jobs that result from the approximate 35,000 bankruptcies that occur each year. If each of these businesses have only three employees, the job loss due to the bankruptcies is equal to a Chrysler bankruptcy. Moreover, in an environment of severe credit restraint, a government guarantee to Chrysler will prevent other firms from obtaining financing, forcing them to discontinue their operations and the number of bankruptcies will increase. This will tend to add to other unemployment.

This analysis is further supported by a Townsend-Greenspan study which concludes that, ". . . the macroeconomic effects on the U. S. economy as a whole would be more of a temporarily disruptive type, rather than a significant longer-term displacement of the economic actiivty to foreign producers . . . It strikes us that the feared secondary consequences of a Chrysler failure are likely to be quite minor."

4. Federal Cost: To the extent that the Chrysler is not viable, future loan guarantee commitments will be required to sustain the company's operations. In the event of the ultimate Chrysler bankruptcy, which some believe to be the most likely outcome, Federal loan guarantees to Chrysler will result in several billions of dollars of Federal outlays which will hit the Budget in the next few years. Any Federal guarantee is an entitlement and is, in effect, an uncontrollable Budget item.

Another aspect of cost involves existing Federal benefit programs. Assuming that the prospective unemployment effects of a Chrysler bankruptcy in the future are not greater than the possible 100,000 or less unemployed now projected, Federal outlays for unemployment compensation and other unemployment-related programs would rise by $1.5 billion. Further, Federal revenues would decline by $1.25 billion, for a total increase in the deficit of $2.75 billion. These estimates are consistent with those made by the Treasury Department and Chase Econometrics. However, the automobile industry presently has excess capacity and other producers can more easily increase their work force (reduce planned layoffs) than if the industry were producing at peak capacity at the time of a Chrysler bankruptcy. At high utilization rates, other producers would have less flexibility to add shifts, and the unemployment effects might be greater.

In the event that Federally-assisted financing succeeds in easing the company through a difficult period and no bankruptcy results, then the government will save the $1.5 billion it would have spent on unemployment-related programs; revenues will be a $1.25 billion higher, for a total benefit of $2.75 billion. This compares to a total Federal cost of about $4.0–$4.75 billion in the event of bankruptcy at some point after the initial Federal investment. This $4.0-$4.75 billion includes both the initial Federal investment and the ultimate bankruptcy cost.

D. What percent and what implications for the future are involved here?

1. Lockheed No Precedent: The Chrysler situation is totally unlike the 1971 Lockheed loan guarantees—unlike in size, risk, and kind, Lockheed was basically a financially sound company with secure markets at home and significant export opportunities abroad. Moreover, the Federal Government was a major buyer of Lockheed's products. By some estimates, the government bought 95 percent of Lockheed's products, and as such, had a degree of control over Lockheed's prices, revenues and many of its costs. Lockheed had a one-shot, localized problem, the L1011 Tri Star, a wide bodied commercial jet which needed inventory financing while the company sought additional orders and sales. Chrysler's problems do not involve a temporary one-shot need, nor are its markets at home secure and growing, nor its export opportunities significant. Further, bankers rolled over existing Lockheed commitments while Chrysler's bankers have been hesitant to make any additional commitments. Clearly, Lockheed is not a precedent for Chrysler.

2. New York City/Amtrak Experience: Our experience with New York City and Amtrak has proven initial projections of need to be significantly understated, and has demonstrated the inability of the Federal Government to cut off the flow of funds once a commitment has been made.

In late 1975, the Congress intervened to prevent New York City from going bankrupt, providing short-term loans of up to $2.3 billion annually to cover seasonal short-falls in revenues. It was understood at the time that this was to be a one-time piece of Federal assistance. When the June 30, 1978 expiration of the Seasonal Financing Act was approaching, New York City was still unable to meet its own financing needs and requested additional Federal assistance. This time government aid was in the form of long-term loan guarantee assistance totaling $1.65 billion. A third New York City aid request may be forthcoming in the immediate future. Many see New York's prospects for fully reentering the public credit markets by Fiscal Year 1982 to be very dim.

Our experience with Amtrak has not been any better. Under the original Amtrak legislation, there were authorized to be appropriated $40 million in Fiscal Year 1971, and in subsequent years ,a total of $225 million. The premise behind this legislation was that Amtrak could, and would, turn a profit, given interim emergency Federal assistance. Appropriations for Amtrak in Fiscal Year 1980 alone are over $800 million, and there is every indication that they will continue to rise in the future. The cost to the Federal Government in one year is now three times greater than the total amount of Federal aid originally contemplated.

3. British Leyland, Government Aid to an Automotive Company: Six years ago, British Leyland Motors found itself in straits similar to Chrysler's today. The company was unable to produce cars at competitive prices, had dwindling financial resources, as well as inefficient facilities, vehicle design and worker productivity problems. The British government stepped in with a $2 billion one-time aid package to get the company on its feet. Despite this assistance, the company has continued to decline and has lost half of its market share in the last five years. The British government now faces a request for an additional 1 billion pounds sterling (about $2.2 billion) in government assistance.

4. Absence of Criteria for Federal Aid: Concern has been expressed that because no criteria has been identified in the Chrysler aid request which would establish when Federal assistance would be granted or denied that we are setting a precedent for many other potentially bankrupt situations. In 1978, over 30,000 bankruptcies were declared in the United States. It is estimated that hundreds of thousands of employees were involved. If we aid Chrysler, how does the Federal Government decide which companies survive and which do not, which jobs are protected and which are not protected? Is the cumulative effect of 30,000 bankruptcies any less than predicted to result from a Chrysler failure?

5. Precedent for Other Corporate Problems: Should aid be given Chrysler, it would appear that Federal aid would be requested in the next few years by several other major U.S. corporations. Among these corporations would be Ford Motor Company, and the giants in the fast-deteriorating steel industry. Ford is losing significant money in U.S. operations and as said in the Economist magazine, "The best news for Ford these days would be a decision to allow Chrysler to go bankrupt. Provided it could elbow Volkswagen out of the way, Ford might then get Chrysler's small-car making capability at knockdown prices. But, with a presidential election looming next year, the government is anxious to bail out Chrysler, despite Senate opposition. If Chrysler is saved, life will be that much tougher for Ford." As for the steel companies, their financial statements are not unlike Chrysler's of a few years ago. If Chrysler aid is provided by the Federal Government, choosing among future requesters will be extraordinarily difficult.

The PRESIDING OFFICER. Who yields time?

Mr. WEICKER. Mr. President, I hope we will get to a vote on this matter fairly soon.

I also hope the advocates of the legislation might consider this an appropriate time to contemplate the advisability of withdrawing the amendment and taking this matter of the bridge loan out of the agreement.

It also should be pointed out at this time—the Senator from Wisconsin will perhaps do this a little more at length—that this aspect of the deal is not subject to appropriations. This was brought to my attention by the distinguished Senator from Wisconsin. The amendment is so drafted as to put it beyond the appropriations process. I do not know if that was intended by the Senator from Michigan, but it is the case, as compared to the other portions of the loan, which are subject to the appropriations process.

I also think it is necessary to point this out because I think it dramatizes the haste with which this body and the body across the way is moving, totally in disregard of the facts as to what happened on the floor this afternoon. I am talking about the $500 million bridge loan. Because of that amendment and the way it was drafted, what we are now dealing with on the floor of the Senate is a $2.75 billion Federal bailout of Chrysler.

The amendment offered by Senators LUGAR and TSONGAS amended only section 6 of the bill, providing for a $1.5 billion Federal loan guarantee. That amendment did not affect section 4 of the Banking Committee's bill, which provided for a $2.5 billion Federal loan guarantee.

Thus, the bill now provides for $2.5 billion on section 4 and $1.5 billion under section 6. I am told that this is going to be stripped from the bill and put into the form in which we all understood the matter we are passing upon. Does that impress upon people the haste and the imprecision of what we are doing?

Now, along with this amendment, comes the news that the $500 million bridge loan is not subject to the appropriation process. It is an authorization and an appropriation rolled into one amendment.

I think there are some constitutional problems so far as the Senate rules are concerned relative to that type of legislating. The Senate is not in the position to appropriate funds. That must originate in the House of Representatives.

These little matters do not seem to bother anybody, but they are of enormous importance in the sense of principle—never mind the billions of dollars involved.

Most importantly, I hope that now my colleagues will turn their attention to this particular amendment—deficient in procedure, deficient in constitutionality, deficient in substance—and reject it. I hope we can get to a resolution of this matter at the earliest possible time.

I have nothing further to say that is going to add to my views of this matter. The Senator from Oklahoma has spoken eloquently. The Senator from Wisconsin possibly has a few more words. But beyond that, let us go at it. I do not want any statements or accusations of delay.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, while we are waiting for the junior Senator from Michigan to return—he is having a very important conference with reference to the bill—I will discuss one of the best and most interesting analyses of the Chrysler situation I have seen. It is by the minority staff of the Senate Budget Committee, and I think it should be must reading for everybody with respect to this bill. I am convinced that if they do read it and read the careful documentation that went into it, there will be a different attitude on the part of the Senate.

The first question they ask is this:

> Is Chrysler viable as a full-time automotive company with Federal assistance, or will such assistance only lead to more costs and more pain to all parties when the inevitable bankruptcy occurs at some point in the future?

The analysis points out that Chrysler lost money in boom years. For the years 1976 to 1979, the U.S. economy and the auto industry have been through the longest boom in postwar history; yet, for these 4 years, Chrysler will lose more than $700 million.

It points out that there is greater stress and competition ahead, that we cannot look forward to a more prosperous situation for the automobile industry. Almost all observers agree that it is going to be hard. It appears that the immediate future will be marked by a general economic slowdown worldwide, continued high interest rates, and potential gasoline shortages, all of which will cause problems.

There are foreign cost and price advantages. According to a General Accounting Office study produced in the summer of 1979, foreign auto producer costs and prices presently compare favorably with U.S. manufacturers and are likely to continue to do that for some time. Their labor costs and other costs are substantially less.

Also, Chrysler appears to be a loser, because they lost $300 million in the last economic downturn. They already have lost $700 million in the last 6 months alone. Even with the Federal guarantee, the company is expected to lose approximately $2 billion or more for the years 1979-80.

So far as the future is concerned, with respect to their financial resources, their working capital in recent years, the company has had available working capital totaling $1 billion. By September 30, 1979, it had been cut by 65 percent, to only $355 million.

Furthermore, Mr. President, with respect to equity, the company now has more than $2.25 of debt for every $1 of equity; $2 of debt for every dollar of stock. That is 60 percent higher than the level of 9 months ago. By December 31, this ratio will be substantially higher as the fourth quarter loss further cuts the equity level. By comparison, at September 30, 1979, the same time that Chrysler had a debt/equity ratio of $2.25, Ford showed only $1.32 of debt for every $1 of equity, and General Motors showed 76 cents.

The retained earnings of Chrysler are now very low because of those losses. What is perhaps most important of all, Chrysler has had a generally declining market share of the automobile market over the past several years. In 1970, it had 14.6 percent of total sales, including imports; 19 percent excluding imports. The company reached a low point during the previous recession in 1975. That low point was 12.3 percent of the total market.

Today that number has dipped to well below 9 percent. So recapturing this lost market share even back to 9 percent or 10 percent will be extraordinarily difficult.

I know the Senator from New York is waiting. I shall be brief. I shall only take 2 or 3 additional minutes. I wish to complete this part of the analysis and continue a little later perhaps.

But, according to a study by the New York investment firm of Drexel Burnham, the company's current cost structure requires 14½ and 15 percent of the market share to break even. They have 9 percent of the market share now. They hope to go to 12 percent. To break even they have to go to 14½ to 15 percent.

So the prospects for Chrysler are very, very dim indeed. Even if Chrysler were to return to the pretax margin that existed between 1974 and 1978, the company requires a 12½ percent share of the auto and truck market to be profitable.

At the present time they need 15 percent which is obviously out of reach.

Furthermore, product mix is very important to the overall profitability of domestic automobile producers because the profit margins—profit per unit—on large cars are substantial, while U.S. companies tend to lose money on compact and subcompact cars.

This goes to the chart we had in the back of the Chamber earlier where it showed Chrysler produced more smaller cars than the competitors. The problem is Chrysler loses money and all automobile companies in this country lose money on the small cars and only make money on the big cars, so to the extent Chrysler is going to produce smaller cars in the future, that is great and fine in the national interest but it means they are going to be a loser because they do not make money on small cars and because of the cost situation it is very unlikely they will be able to.

Finally, in this part of the analysis, a sample financial plan contained in Chrysler's September 15 proposal projects that by 1982 only 65 percent of its sales will come from small cars, which would result in a loss of $42 million for those sales, while 25 percent will be from sales of family-size cars. It is this large car segment that is expected to contribute 86 percent of its profits in that year. Yet, industry analysts universally believe that large cars are expected to decline as a proportion of total industry sales between now and 1982.

In addition to the problem Chrysler has in getting a bigger share of the market is the problem that the only items that they sell that are profitable in automobiles are going to decline overall. So that makes the prospects that they can break even even dimmer. The likelihood they can get 15 percent of the market is virtually nil. The likelihood that they can sell more large cars on which they can make a profit is very low. So, Mr. President, if ever there were a likely loser, it seems to be the Chrysler Corp.

I have more detail here. I know the Senator from New York is waiting patiently.

I yield the floor.

Mr. MOYNIHAN. I thank the distinguished chairman for allowing me the opportunity to discuss this subject in a somewhat different perspective from that we have heard so far today.

Mr. President, as we approach a decade in which the performance of American industry will become an ever more troubled and politicized question, a Senator soon to vote in favor of the Chrysler Corporation Loan Guarantee Act of 1979 may appropriately burden his colleagues and his constituents with a more than perfunctory explanation.

There are few of us in this Chamber who are not uneasy about the decision we are about to make. Here we are with what seems a raging case of "British disease," in the economy at large, about to provide a massive subsidy to the least efficient producer in one of the oldest of our industries in the face of mounting evidence that the industry itself is even less competitive in the world market.

Let me make the best of it; and then perhaps to make amends offer some thoughts as to what will be required to prevent our setting a pattern of response today which will prove devastating over the decade to come. For let no one assume that Chrysler will be the last firm, or automobiles the last industry that will be crowding our lobbies outside this Chamber in the years immediately ahead, as the leadership of the Chrysler Corp. and the United Automobile Workers are doing today.

First then, I am supporting the loan guarantee because to a considerable extent the difficulties of this corporation have been brought on by policies of the Federal Government. Not the Federal policies you hear about from Chrysler management, I hasten to say, but Federal policies withal.

These are policies concerning the use of the automobile. For the whole of the postwar generation a succession of Federal decisions transformed us into a society and an economy abnormally and excessively dependent on the wide use of large automobiles. First the Federal Government through mortgage guarantees financed a residential pattern of single family, suburban houses, heavily dependent on automobile transportation. Second, a massive Federal highway program extended the range of suburbanization quite beyond the capacity of the previous road system, making automobile dependence yet greater. Finally, Federal tax policies kept gasoline much cheaper than it ever should have been culminating in the madness of the 1970's when the Federal Government, faced with the extent to which it had created a nation dependent on the automobile, began the massive subsidy of automobile transportation by keeping the price of gasoline below the world price and what might legitimately be called the true value. This was begun, incidentally, by a Republican administration and at the cost of setting the prices at which American oil producers could sell their product well below the world market, a near confiscation of property that one does not always associate with the party, any more than today's "bailing out" of "Big Business" is a practice much associated with Democrats.

These policies could not last, and of course have not. The price of gasoline is going up and will go up still further. The diseconomies of the spread city grow ever more evident. My own disparaged city of New York turns out to be efficient in energy consumption if nothing else, and soon there may be little else, which is to say little else that matters. All of a sudden the demand for automobiles has dropped; for large automobiles it has dropped still further, Chrysler has come crashing down. There was in a sense no proper notice of these events.

Chrysler, in this regard, is a victim of national policies, and there follows from this a measure of national obligation. And so I support the bill.

Now, however, to the next and more

important question, for the Chrysler Corp., is hardly innocent of all wrong doing. To the contrary, I fear, it is to my mind an example which must be raised if American business is to learn anything from this experience and if American business does not, then we are in for more trouble indeed.

I turn to the question of the safety of the automobiles that Chrysler manufactures not simply because of the inherent importance of the subject but also to address the management, by this question the management, of the Chrysler Corp. The thought to do this came to me in the course of talking this matter over with William Baumol, the eminent Princeton economist.

"You know the joke," he said, referring to the automobile industry generally, and I quote:

> When air pollution standards were set by Government, the next day the Japanese manufacturers sat down with their engineers, and the American manufacturers sat down with their lawyers.

The remark took me back a long time. It happens—I will not over much trouble the Senate with details—that as a young man I became much involved in the subject of traffic safety. In the middle to late 1950's it would not be inaccurate to state that William Haddon, Jr., then of the New York State Department of Health—I was a member of the staff of the Governor of New York—achieved a number of theoretical and programmatic insights into this question that then as now was one of the principal public health problems the American people must deal with. I do not wish to exaggerate our contributions, and will insist on our great debt to pioneers such as the late Ross A. McFarland of the Harvard School of Public Health.

Still our significance arose from timing. We came up with answers to a tough question facing an industry at a time when somebody was going to do something about these questions. The issue, Mr. President, was whether it would be the industry itself or it would be the Government.

By the end of the 1950's, the problem of traffic safety had pretty much been "solved." I use the term "solved" in a special way to indicate that we had to find what kind of problem this was and what might be done about it. The rest, in all truth, was engineering.

The essence of the "solution" was to minimize energy transfers from automobile to automobile occupants by manipulating the internal and external environment of the vehicle. Collisions, we established, were in a sense normal events. The calculations we made at the time, and first announced at Syracuse University in 1959, estimated that 1 automobile in 4 ended up "with blood on it," as we put it. A Canadian team of researchers, as I understand, has since raised this proportion to 1 in 3. The crucial question then was, first, to prevent collisions and thereafter to minimize the injuries that follow from such collisions and the severity of those injuries.

Armed with these insights, Dr. Haddon and I descended on the defenseless city of Detroit with the good news, as we thought, that we had solved a problem which we assumed engrossed the executives of the automobile industry. How wrong we were.

We found an industry almost wholly uninterested in our solutions. There had been a flicker of concern at Ford a bit earlier in the decade, but it had died out. Perhaps "uninterested" is not the correct word. Management in the automobile industry had also "solved" the problem of traffic safety to their satisfaction. It was the "nut behind the wheel" as the phrase then went, which caused, and again I quote "accidents." This was an unshakable, if convenient, prejudice.

Haddon and I tried, for example, to suggest that the word "accident" was prescientific, that a certain range of collisions was a normal property of the system. We would suggest that having designed a transportation system that required more than half the adult population to operate a deceptively simple seeming machine, and to do so with almost no training, we could depend very little on high-level operator skills.

But we got nowhere. We all but got thrown out of town—not quite literally, but as near as makes no matter. We were greeted with incomprehension or hostility or both.

I would remind the Senate at this time that Congressman Kenneth Roberts of Alabama had already begun his seminal hearings on highway safety. It was as certain as anything could be that the Federal Government was going to act if the industry did not, and the industry did not.

So we began to publish. By 1961 I had come to the conclusion that the industry was hopeless. We had specifically and repeatedly tried to explain to Detroit, if I may use that term, that unless it took up the cause of vehicle safety on its own it would end up with vehicles designed and regulated by the Federal Government. I used to plead that surely they did not want that to happen. I would try to relate the story of railroad regulation in which management resisted the safety devices, which played a much greater role than is now remembered. I would state that a man might go into the Interstate Commerce Commission in the morning and come out a year older at the end of the day.

I was pleading with management not to let itself get regulated. All management could hear was that we wanted them to be regulated. In time I did. The public had rights, too.

At a research conference at West Point in 1961, I set forth what it seemed to me would have to be done in a paper entitled "The Legal Regulation of Automobile Design." The West Point conference, for example, was jointly sponsored by the Consumers Union and the Association for the Aid of Crippled Children. This latter organization, founded in the slums of New York at a time when polio crippled so many of the poor, had by then discovered that automobiles were the principal source of crippled children in the present age.

I joined the Kennedy administration. This was an idea whose time had come; and by 1966 the law was in place. Thanks to the incomparable ABRAHAM RIBICOFF.

This is the law about which we have heard so much in terms of the Chrysler Corp. and the relative economies of scale which give an advantage to General Motors and Ford in devising and implementing safety features. All true enough.

Would you not suppose, however, that management generally in Detroit would have learned something from this experience? Well, they did not learn much at Chrysler. Recently I talked about this matter with Dr. Haddon, who had become the first director of the National Highway Traffic Safety Administration, and who is now director of the Insurance Institute for Highway Safety. Chrysler, he said, had been the most virulent opponent of reasonable automobile safety standards from the time the Federal Government began to set them.

The PRESIDING OFFICER (Mr. TSONGAS). The Senate will be in order.

Mr. MOYNIHAN. I thank the Chair.

Haddon, a medical doctor and a scientist, is not one to use the word "virulent" casually.

But this is the record. By the early 1970's the Department of Transportation was prepared to require passive, which is to say automatic, restraints in all 1974 model year cars. (This has been caricatured as the "airbag" standard, which need not at all be the case. All manner of engineering solutions are available.)

But in 1971 Chrysler sued the Federal Government to block the standards. The sixth circuit held for the plaintiffs, on the narrow, but fatal ground that the test dummies used by the Department of Transportation were not described in enough detail—a technicality, perhaps, but sufficient for the purpose.

Some years later, in 1976, the then-Secretary of Transportation, the distinguished public servant William T. Coleman, had an exchange with Mr. S. L. Terry, vice president of Chrysler, if you will believe it, for "Public Responsibility and Consumer Affairs."

If the Department's dummys were not good enough, Coleman pleaded, why did not the automobile industry come up with a better dummy? The Chrysler man bobbed and weaved. I cite the exchange:

> Mr. TERRY. Well, the basis of the dummy was a minor point.
>
> Secretary COLEMAN. That's what you won the case on.

And then, if the Senate will permit, I spell out the word: D-I-M-M-I-T:

> Mr. DIMMIT. That was the major point.
>
> Mr. TERRY. It was still only one part out of about 10.
>
> Secretary COLEMAN. Yes, but you lost on everything else, other than the dummy. I admire your lawyers, but I really——

And there the conversation breaks off.

As a result of the Chrysler case, the implementation of the passive restraint standard has been put off until the car models, 1982, and will not be fully in effect until the 1984 models appear.

Now, what does this mean? I have here a statement from the Insurance Institute for Highway Safety dated December 18, 1979:

> Over their lifetime, the cars that would have had passive restraints, if the Chrysler challenge had not succeeded, will, by the time they are junked, have produced more than 70,000 fatalities that would not have occurred if the standard had applied to 1974 and subsequent models.

All this, Mr. President, because of that dummy. And this is the point: The people who then ran Chrysler—and I should say that this was well before Mr. Iacocca's arrival—were supposed to be people who liked to build things. But did they decide to build a better dummy?

No, they did not. They decided instead to go to court and argue that somebody else's dummy was not good enough.

Is there any wonder then, that the Chrysler Corp. stands out there in the lobby on the verge of bankruptcy, pleading for Federal help? Theirs has been the mindset of managers who go bankrupt; of generals who lose wars; of leaders who lose their way.

I shall vote for the Chrysler Corp. loan guarantee. But I will consider myself duped for having done so if American business and especially the leaders of the automobile industry—and the trade union leaders now at their side—do not use this episode as an opportunity to examine the mindset that has brought Chrysler to this point of near extinction.

If they do not, then surely Chrysler will be back next year.

But more certainly, if we learn nothing from this, what will become of the automobile industry generally? It surely has been one of the least inventive, least creative industry one could turn to in a national energy crisis. Can they not shape up? There have been some reassuring signs.

Not long ago Thomas A. Murphy, president of General Motors, told a meeting of GM dealers:

> It may be that we were late in recognizing the extent of the public's individual and collective dissatisfaction with our combined performance. We were so engrossed—as we need to be—in daily competition for business that we may have let ourselves grow out of touch with the customer's need for satisfaction in a time of heightened expectations and society's concern for environmental improvement and energy conservation.

Which is fair enough. That is an attitude that can succeed. But it will not succeed absent a more general understanding in Detroit as to the need for the industry itself to take initiatives that will make it unnecessary for Government to do so. The single greatest menace that has arisen from the protracted energy crisis that the OPEC cartel has plunged us into has little to do with energy itself, but everything to do with politicization. In the aftermath of OPEC more and more decisions of the private economy are coming under political scrutiny and Government regulation. This will bring fundamental damage to our social and political system, compared with which $100 oil is merely an argument over price. It is time for industry and Government both to see this danger, and not least for industry to do its best to minimize it.

In the name of God, build a better dummy.

Mr. LUGAR. Mr. President, I ask unanimous consent that the Lugar amendment No. 1617 to S. 2094 be considered as a substitute for the bill and be treated as original text for the purposes of further amendment; that all other amendments to S. 2094 that have been heretofore agreed to be incorporated at the appropriate place in the Lugar substitute as though agreed to.

The PRESIDING OFFICER. Is there objection?

Mr. EAGLETON. Mr. President, reserving the right to object, will the Chair indulge me for 30 seconds?

Reserving the right to object, Mr. President, if this unanimous-consent request is granted, would it, for example, permit us to go to a vote on the so-called bridge loan?

Mr. WEICKER. Reserving the right to object, Mr. President, who is delaying the vote on the bridge loan? No one that I know of.

Mr. EAGLETON. We are discussing off the floor the consequences of the bridge loan and we wanted a little more time for those discussions. I did not want to agree to this unanimous-consent request and find, after I came back on the floor, that we would be foreclosed from proceeding with the instant amendment, the so-called bridge loan.

Mr. WEICKER. Mr. President, reserving the right to object, I certainly would not object. I am delighted to have the proponents of the Chrysler loan come out here and show everybody how rushed we are in our drafting procedures, to the point where we are actually at twice the amount contemplated by even the most ardent proponents, to come in here in good will and full volume and admit to small errors of $1.4 billion or $1.5 billion. Believe me, it makes a far better point when it comes from the proponents than from those who are opposed to it. I certainly have no objection.

Mr. EAGLETON. Mr. President, may I ask the Senator from Indiana to withhold his unanimous-consent request? I think it will be worked out very expeditiously.

Mr. LUGAR. Mr. President, I am happy to withhold my request.

Mr. EAGLETON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LUGAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1617 CONSIDERED AS SUBSTITUTE FOR S. 2094

Mr. LUGAR. Mr. President, I ask unanimous consent that the Lugar amendment No. 1617 to S. 2094 be considered as a substitute for the bill and be treated as original text for purposes of further amendment; that all other amendments to S. 2094 that have been heretofore or hereinafter agreed to be incorporated at the appropriate place in the Lugar substitute as though agreed to.

The PRESIDING OFFICER. Is there objection?

Mr. WEICKER. Mr. President, reserving the right to object, will the distinguished Senator from Indiana please tell us what it is that he is doing here?

Mr. LUGAR. Mr. President, I am happy to respond to the Senator from Connecticut.

The purpose of this unanimous-consent request is to eliminate the predicament of a bill within a bill. In short, at the time that the Lugar amendment was adopted it became more than an amendment to section 6. It touched upon other parts of the bill and, therefore, it created redundancies that the Senator from Connecticut has correctly pointed out.

This is an attempt to bring us back to ground zero again and have a bill which can be amended by others as they wish to debate; and all other motions, including the amendment that we have been discussing, the bridge financing amendment, are not jeopardized by this procedure.

Mr. WEICKER. So the distinguished Senator from Indiana does not see the parliamentary situation being changed at all, except insofar as the substance of his amendment now being the matter on the floor?

Mr. LUGAR. That is correct. The amendment that was offered by the Senator from Indiana encompassed the total bill and led to duplication in places. This removes the duplications and leaves us with a bill that does not have these redundancies.

The PRESIDING OFFICER. Is there objection?

Mr. EAGLETON. Mr. President, reserving the right to object, and I will not object, after the distinguished Senator from Indiana initially proposed this item, we took a brief recess, conferred with the Parliamentarian, and it is now clear to me that both the bridge loan amendment under instant consideration and a future amendment that I am interested in relating to preferred stock would be in order.

Having learned that very clearly from the Parliamentarian, I do not object to the unanimous-consent request.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the Levin bridge loan amendment be temporarily set aside and that I be permitted to take up, and hopefully dispose of, my amendment with respect to preferred stock.

Mr. PROXMIRE. Reserving the right to object, will the Senator permit a brief discussion of a very significant point on that bridge loan amendment?

Mr. EAGLETON. Yes; I just tried to use the time to advantage. I withdraw my request.

Mr. WEICKER. Reserving the right to object, what is the parliamentary situation?

Mr. PROXMIRE. I have reserved the right to object.

Mr. President, the fact is that this bridge loan comes up with $500 million, with no hearings in the Senate, no hearings in the House, the House has not accepted it, the Treasury Department will not support it, and, of course, it provides $500 million without any matching funds, and in addition to those points I could go on. The fact is that this bridge loan would proceed without any appropriations. It would skip the appropriations process.

A lot of people may think that is just a procedure and it is not important. It is very important to the Appropriations Committee because the only way we can keep control of the money we spend is to have it go through the appropriations process. For several years we have insisted on that. The chairman of the Appropriations Committee (Mr. Magnuson) and the ranking Republican (Mr. Young) have been very diligent in knowing how much money we are spending, how much we are obligating. It is very important.

The House Appropriations Committee has already acted on the $1.5 billion. In fact, I think they passed it and sent it over. At least, it is on its way.

Now, Mr. President, we have this bridge loan of $500 million to go forward without an appropriation. I have discussed this with the author of the amendment and with his supporters. They have indicated, at least today and they can correct me if I am wrong, that they do not intend to provide in the amendment for appropriations.

I think members of the Appropriations Committee should be aware of that. All other Senators should be aware of that. This amendment provides, and I will read part of it, "Notwithstanding any other provision of this act," and it goes on to say, "the Board may immediately upon the date of enactment of this act, issue commitments to guarantee and guarantee the payment of principal and interest on short-term loans to the Corporation in an amount not to exceed $500,000,000 in total principal amount outstanding."

There are only four sections excepted, sections 10, 11, 13 and 15. They say they shall apply to any loan guarantee issued under this section.

The appropriation section of the overall bill is section 16. It is very clear that if this passes there will be no appropriation, once we act on this part of it. That $500 million which the Treasury says they cannot approve will be made available. The Appropriations Committee will not have an opportunity to exercise their judgment; will not have an opportunity to maintain a precedent that they have established now for several years. That will be fractured, broken. I hope that Members of the Senate for that reason, among many others, will vote against this amendment.

Mr. GOLDWATER. Will the Senator yield for a question?

Mr. PROXMIRE. I am happy to yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I have not heard any discussion about the interest rate that will be paid on this $500 million. Can the Senator give me any idea?

Mr. PROXMIRE. As I understand it, the interest rate would be calculated on the same principle as on the bill as a whole, that is on the $1.5 billion guarantee, but the principle would apply somewhat differently because that $1.5 billion guarantee would be a 10-year loan and it would therefore be comparable with the money borrowed by the Treasury for a 10-year period, which would be a low rate of interest. This would be for only 6 months and, therefore, would be at a higher rate of interest. It would be at the rate of the cost of money to the Government plus, I believe, 1 percent. There would be a 1-percent guarantee fee.

Mr. GOLDWATER. Will the Senator yield so I might make a very brief statement?

Mr. PROXMIRE. I yield.

Mr. GOLDWATER. Mr. President, in all probability I will not be here tomorrow when passage occurs. I want to be registered against the passage of this bill.

Mr. President, I think this is probably the biggest mistake that the Congress has ever made in its history. I think future historians will register this action as a beginning of the end of the free market system in America. I say that because if we can be forced to loan to a company going bankrupt, a company the size of Chrysler, we will have to make the same conditions to every company in this country that has financial trouble.

The other automobile companies are in trouble. General Motors is doing 60 percent of the business. They are not making a lot of money, if any. Ford is not making money. The other companies are in a similar condition.

Mr. President, I do not like to say this, but I have been a businessman all my life and I know how to read the handwriting on the wall. I do not think Chrysler can live a year-and-a-half at the most regardless of how much money we appropriate. I want to be on record as saying that.

The company has been badly run. $1 billion, $2 billion, or $3 billion will not cause that company to be run in a proper manner overnight. In fact, I am really surprised that we have an automobile industry in this country by the refusal of most of our companies to recognize that what Americans want are good automobiles and small automobiles. There have only been one or two companies that recognized this and they recognized it very late.

I hope and pray that I am wrong, but I believe we are taking actions here today that our children will regret, that our grandchildren will regret, because they will not be able to live under the free market economy that has made this country so great.

I will close by saying one of the privileges of being a businessman in this country is making money or losing money, and it is no place for the Federal Government to bail anybody out. I thank my friend from Wisconsin for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. EAGLETON. Mr. President, I will make a unanimous-consent request, since the Senator from Connecticut is here.

Mr. President, while discussions are going on, I ask unanimous consent that we temporarily set aside the Levin amendment which is before us so we can take up and hopefully dispose of my preferred stock amendment, and then immediately go back to the Levin amendment.

Hopefully, these discussions will end sometime very promptly, I hope.

I ask unanimous consent that we set aside the instant matter relating to the bridge loan and I will then call up my preferred stock amendment.

The PRESIDING OFFICER. Is there objection?

Mr. WEICKER. Mr. President, reserving the right to object, I am afraid I will have to object. The fact remains that the amendment of the distinguished Senator from Missouri is just as bad in its import as the amendment of the distinguished Senator from Michigan. This would permit Chrysler to pay dividends on preferred stock that it issues. In other words, the taxpayers' money for the loan is to be used so they can pay dividends. This almost reaches into the same classic category as the Wheeling-Pittsburgh Steel loan of $150 million and Wheeling-Pittsburgh Steel declaring a $1 special dividend 2 weeks ago with that taxpayer's money.

I want to say this is a terribly important amendment by the distinguished Senator from Missouri. It deserves full attention and full discussion.

I see both of my good friends, Senator Eagleton and Senator Levin, on the floor. I object at this time.

The PRESIDING OFFICER. Objection is heard.

Mr. WEICKER. I would ask my distinguished friend and Senator Eagleton, can we vote on the Levin amendment? "Negotiations" to me indicates there might be a little back and forth. Since I made my suggestion I have not talked to anybody but Bill Hildenbrand, or someone in the Republican cloakroom. They are not in a position to determine the outcome of things here this evening. Is there anything to prevent us from having a vote on the Levin amendment right now?

Mr. LEVIN. Not that I know of.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WEICKER. Mr. President, barring any comment from anybody on my side of the aisle and going ahead and moving to a vote, again I repeat, I hope that we will reject this amendment. It is $500 million without any conditions, without any guarantees. It is naked. It is out there for all to see. It is $500 million to the Chrysler Corp.

After all the promises that the taxpayers' money is to be safeguarded by the administration, by the Secretary of the Treasury, by the Senate committee, by the House committee, now we come down to the barebones issue here which is whether or not we are going to give them, whatever they need, safeguard or no safeguard.

I think this is probably the most important amendment to this bill, because it will probably signal the eventual outcome of the bill, in the sense that anybody who votes for it will, in essence, have voted for the bill. There is nothing that will come before us that will be less restrictive than this particular amendment. I am sorry it has not been withdrawn.

It is my understanding that the Chrysler Corp. or the UAW or whatever, finds it unacceptable. Well, come on now, let us stand up and use our good judgment on this matter, not what other people are trying to tell us about what is acceptable. If they had listened to advice, they would not have been in the predicament where they have to come to us for our help. We do not ask medical advice from a dying man.

We are the ones who have to prescribe here. We are the ones who have to go ahead and use what is sound, healthy judgment. Are we going to make an unrestricted loan to a group that is before us in a near state of bankruptcy?

Come on. It is not your money, it is not my money. It belongs to the taxpayers of this country. We have a fiduciary obligation. It is just as important to my friends on the Appropriations Committee. They ought to know what this takes away from the appropriations process. If we wrap it up in this bill, there will be no appropriations process. It wraps it up in the bill so that the Appropriations Committee is totally excluded from the process.

I hope we reject it. I am ready to vote.

Mr. YOUNG. Will the Senator yield?

Mr. WEICKER. I yield to my friend from North Dakota.

Mr. YOUNG. Mr. President, I associate myself with the position taken by the Senator from Connecticut. I am for this Chrysler bill. This is setting a horrible precedent however of bypassing the appropriations process and sending it directly to the calendar and voting appropriation in this manner. I shall have to oppose it, even though I am for the Chrysler bill.

I am sorry we have to wind up this way, bypassing the regular procedures.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, the Senator from Connecticut has indicated that this is an unrestricted loan, a loan without conditions. This amendment requires the Board, including the Secretary of the Treasury, to be certain that this loan is secured, 100-percent collateralized at a minimum, and any collateral that they wish to impose. They can attach any conditions they want, they do not have to grant any loan guarantee at all. This gives them authority and not a mandate.

Over and over again, we have heard that this is unconditional, it is an unrestricted grant of $500 million. All you have to do is read the amendment which imposes the restrictions on the Board to see that that is not true.

If we are going to help Chrysler, as this bill purports to do, with some long-term loans in the amount of $1.5 billion, I cannot see any commonsense reason for the Senate to reject a no-cost, no-risk safety value, which is collateralized at a minimum of 100 percent and to any degree which the Secretary of the Treasury wants. I cannot see any reason to reject this amendment. It seems to me to be the most commonsense sort of safety valve which we ought to authorize.

I am ready to vote. I understood the Senator from Connecticut to indicate that he is ready to vote, and I think we ought to get on with it.

Mr. PROXMIRE. Mr. President, I shall be ready to vote in just a minute. In the first place, this amendment is wholly unnecessary. It is wholly unnecessary. If the Chrysler Corp. needs $500 million, they have the collateral, as the Senator from Michigan pointed out, to present to the banks so they can provide 2-to-1 coverage. It is only a 5-month loan, not a long-term loan.

This is what banks are in business for. If the banks will not lend money under those circumstances, there is something wrong with it and it does not have the kind of protection for the taxpayer which the Senator from Michigan indicated.

In the second place, this is unwanted. The Treasury Department has refused to support this. They have refused to say even that they will not object to it. They will not write such a letter. They refuse to sign off on it.

In the third place, Mr. President, and very important, this amendment provides $500 million, for the first time, unmatched. It does not require any private funds at all, none. The $500 million would be entirely provided by the Federal Government.

Finally, Mr. President, the crux of this amendment, the reason why it is so bad, is that it would mean that the Federal Government would give up the leverage which is essential in order for the Federal Government to exercise the strongest possible force to persuade the other parties, the private parties, the banks and the dealers and the suppliers to come in.

If the Federal Government is out in front, if the Federal Government has made this kind of commitment, that is the ball game.

Mr. President, I am happy to vote, too.

Mr. LEVIN. Mr. President, I ask unanimous consent that, in addition to Senator LUGAR, who cosponsored this amendment with me, Senators DANFORTH, EAGLETON, BAYH, RIEGLE, and TSONGAS be listed as cosponsors of this amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Are there other Senators who wish to speak to the issue? If not, the vote recurs on the amendment offered by the Senator from Michigan. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mr. HEFLIN) and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

The PRESIDING OFFICER. Are there other Senators who wish to vote?

The result was announced—yeas 33, nays 64, as follows:

[Rollcall Vote No. 500 Leg.]

YEAS—33

Bayh
Biden
Boren
Bradley
Byrd, Robert C.
Culver
Danforth
Durkin
Eagleton
Ford
Glenn
Huddleston
Jackson
Javits
Kennedy
Levin
Long
Lugar
Mathias
McGovern
Metzenbaum
Morgan
Moynihan
Nelson
Percy
Randolph
Riegle
Roth
Sarbanes
Stevens
Talmadge
Tsongas
Williams

NAYS—64

Armstrong
Baucus
Bellmon
Bentsen
Boschwitz
Bumpers
Burdick
Byrd, Harry F., Jr.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
DeConcini
Dole
Domenici
Durenberger
Exon
Garn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heinz
Helms
Humphrey
Inouye
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
McClure
Magnuson
Matsunaga
Melcher
Muskie
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Ribicoff
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevenson
Stewart
Stone
Thurmond
Tower
Wallop
Warner
Weicker
Young
Zorinsky

NOT VOTING—3

Baker
Heflin
Hollings

So the amendment (No. 1602) was rejected.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

The Senate will be in order.

Mr. HEINZ. Mr. President, I yield to the Senator from New York for a unanimous-consent request, without losing my right to the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, I have an amendment which I understand will not be objected to. It is not a big matter, but it is something I would like taken care of.

Mr. PERCY. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate is not going to proceed until there is order in the Chamber. Senators in the rear of the Chamber who wish to converse will retire to the cloakroom.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may proceed for 5 minutes to present an amendment. It is my intention, if it is not dealt with, to yield the floor back to the Senator.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. JAVITS. Mr. President, I thank my colleague.

Mr. RANDOLPH. Mr. President, the Senator from New York is articulate, he is able, and whatever he presents should be heard by his colleagues.

The PRESIDING OFFICER. The Senator is correct. The Senator will suspend. The hour is late, and we are not going to leave until we finish, so when we have order, we will proceed. May we have order?

AMENDMENT NO. 1615 (AS MODIFIED)

Mr. JAVITS. Mr. President, I call up my amendment 1615. It has been modified.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes an amendment numbered 1615, as modified.

Mr. JAVITS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

SEC. . (a) It is the purpose of this section—

(1) to improve communication between the employees and management of the Corporation;

(2) to provide the Corporation's workers and managers with opportunities to study and explore new and innovative joint approaches to achieving organizational effectiveness;

(3) to assist workers and managers of the Corporation in solving problems of mutual concern not susceptible to resolution within the traditional collective bargaining process;

(4) to expand the means of finding methods of eliminating barriers to economic recovery of the Corporation and increasing its competitiveness in domestic and international markets;

(5) to enhance the involvement of the Corporation's workers in making decisions that affect the quality of their working lives;

(6) to expand and improve working relationships between the Corporation's workers and managers; and

(7) to encourage free collective bargaining by establishing continuing mechanisms for communication between the Corporation's managers and employees through Federal assistance to the formation and operation of joint labor-management committees.

(b) In order to carry out the purposes of this section, the Federal Mediation and Conciliation Service is authorized and directed to encourage and support the establishment and operation of joint labor-management activities conducted by plant committees located at plants of the Corporation and by a committee established at the headquarters level of the Corporation comprised of representatives of management of the Corporation and of labor organizations representing employees of the Corporation.

(c) No grant may be made, and no contract may be entered into and no other assistance may be provided under this section to a plant labor-management committee unless the employees in that plant are represented by a labor organization and there is in effect at that plant a collective-bargaining agreement. No grant may be made under the provisions of this section to any labor-management committee which the Service finds to have as one of its purposes the discouragement of the exercise of rights contained in section 7 of the National Labor Relations Act (29 U.S.C. 157), or the interference with collective bargaining.

(d) Nothing in this section shall affect the terms and conditions of any collective-bargaining agreement whether in effect prior to or entered into after the date of enactment of this section.

(e) There are authorized to be appropriated to the Federal Mediation and Conciliation Service to carry out the provisions of this section such sums as may be necessary for the fiscal years 1980, 1981, and 1982.

Mr. JAVITS. Mr. President, the amendment, in which I am joined by Senator PERCY, seeks to authorize the Federal Mediation and Conciliation Service to help in the establishment of labor-management committees in such plants of the Chrysler Corp. as seem appropriate to it, as well as at the headquarters of the Chrysler Corp., for the purpose of dealing with those matters which are outside the usual collective bargaining process.

The employees of the Chrysler Corp., the majority of whom are represented by the United Automobile Workers Union, have been required by the legislation before us to make a contribution in the form of lower wages and fringe benefits in order to save their jobs. They have reluctantly agreed to give up significant amounts and I commend their able President, Douglas Fraser, for his cooperative and innovative approach to pulling Chrysler through this sharp business downturn.

My only argument with debate over what is called the "labor contribution" so far is that it has just looked at what workers are giving up, as if the men and women who produce automobiles for the Nation are just another kind of financial resource, instead of looking at what they themselves can contribute to the future success of the corporation. The thousands of workers involved in the fate of the corporation can have a great deal to do with the recovery of Chrysler, which I earnestly hope will be the case. And there is more that we can do to encourage this result by promoting the direct involvement of the workers themselves in the recovery process through joint cooperation with Chrysler management.

What I propose through this amendment is that the Congress establish an opportunity for Chrysler management and the employees at every level, right down to the shop floor, to adopt cooperative joint arrangements for addressing issues of concern both to workers and to management which are ordinarily not dealt with or resolved within the traditional collective bargaining process. Specifically, I propose that we authorize the Federal Mediation and Conciliation Service, a highly respected and neutral agency with longstanding expertise in labor-management relations, to assist labor and management in the formation of joint labor-management committees. The agenda of these committees will be open ended with respect to work-related issues, just as it has been with the many successful labor-management committees that already have a proven track record: safety; absenteeism; health, energy conservation, recreation and family life, alcoholism and drug abuse rehabilitation on the job; the organization of production in the plant, and the whole quality of working life.

These committees could do much to stabilize the labor relations climate at Chrysler and improve worker morale in the continuing crisis period, particularly in giving Chrysler workers the opportunity to participate collaboratively with management in the making of decisions affecting their jobs. It will do little good to pour money into the bank accounts of Chrysler if the employees themselves are not made a part of the rebuilding process.

Chrysler's work force, in cooperation within an enlightened management effort, has more potential for determining this company's future than all the financial institutions combined. In this legislation the Federal Government has an opportunity, which it should not miss, to assist both labor and management in finding new forms of cooperation so that the productive capacities of workers are fully utilized. Our underutilization of the skills, talents, enthusiasm, and ingenuity of working men and women probably constitutes a greater waste of U.S. resources than our misuse of energy from fossil fuels.

Labor-management committees have already demonstrated their effectiveness as a sound and workable framework for labor-management cooperation. They can operate in many forms: national, industrywide, on an areawide basis, and at the plant level. Indeed, one of the most impressive recent experiences has taken place at the plant level within the automobile industry itself. This is a General Motors plant in New York State, and there is no reason why the Chrysler Corp. cannot benefit from this experience.

Six years ago the United Auto Workers and General Motors, for the first time in any major collective-bargaining agreement, included a top-level mechanism for improving the quality of working life. At that time, the old Tarrytown plant was seriously threatened by the inefficiency and high cost, excessive absenteeism and job turnover, and thousands of grievances reflecting the deep mistrust between labor and management.

The turnaround began when the decision was made to involve the workers themselves in the process of reorganizing the assembly operation. A third party was brought in as a professional consultant to both the UAW and management to set up a new process for solving mutual problems. Over a 2-year period, and many ups and downs, more and more workers became involved and eventually the quality of work-life program became established on a plantwide basis involving nearly 4,000 workers and supervisors. The result so far has been to demonstrate that workers can have a great deal to contribute to the production process, that their working lives can be made far more meaningful, that a negative labor-relations climate can be made far more meaningful, that a negative labor-relations climate can be turned around, and that impressive production improvements can result from this process.

Mr. President, I ask unanimous consent that a Harvard Business Review article describing the Tarrytown experience be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. JAVITS. I would like to point out that there already is precedent for Federal assistance in forming and operating labor-management committees. This is the Labor-Management Cooperation Act of 1978, which I offered. This legislation was adopted by the Labor and Human Resources Committee and by the Senate, and was included in last year's amendments to the Comprehensive Employment and Training Act.

Mr. President, I ask that the text of the Act also be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JAVITS. In brief, the act authorizes the Federal Mediation and Conciliation Service (FMCS), as a major adjunct to its preventive mediation work, to assist in the establishment and operation of labor-management committees on an entirely voluntary basis. One of the important lessons we have learned is that successful labor-management committees cannot be imposed; they must eminate from the desire and commitment of the parties themselves. It is often critical, however, that the concepts and opportunities be presented by neutral experts and that small grants of financial assistance be available. That is precisely what the FMCS is authorized and directed to carry out.

My advocacy of labor-management committees, both generally and in the specific case of the ailing Chrysler Corp. stems from my firm belief that it is the most promising means of overcoming the often excessively rigid and adversary nature of traditional collective bargaining which I believe is necessary if the term "industrial democracy" is to have real meaning to our emerging work force. The essence of the phrase "quality of working life" is in finding the means of bringing about far greater involvement and participation for workers in their jobs. This is partly a matter of new and changing values among workers, partly a matter of significant increases in levels of educational attainment and training, and partly a matter of greater expectations of the institutions which affect their working lives. The quality of working life, and with it a major benefit in productivity improvement, can come about through labor-management committees, particularly at the local plant level.

The beginnings are likely to be difficult, often requiring the parties to overcome years of conflict and lack of mutual trust, and the desire of workers themselves to take part. The first steps may be modest, such as organizing carpools or forming an alcoholism program, but the basic objective is more ambitious. It is to bring new meaning to industrial democracy through which each worker is enabled to participate in the decisions affecting the quality of his or her working life. Repetitive and unchallenging jobs can and have been transformed through the commitment of labor and management to afford workers themselves greater participation in the way the production process is designed. We know when workers have more to say about their jobs that not only is their own job satisfaction likely to increase dramatically but we also find enormous corollary benefits in reduced grievances, lower job turnover and absenteeism, improved quality control, and higher productivity.

Real changes are not going to occur overnight. This is not a gimmick. It involves a willingness to innovate, to take risks, and to overcome uncertainties inherent in altering the established order. It also cannot be imposed by some rigid, theoretical formula. The beginnings will almost always have to be on a small scale with labor and management constantly seeking to adapt their approach in order to achieve pragmatic solutions. That the Chrysler losses are going to bring about the first seat for a labor leader on a U.S. Board of Directors is evidence that even the long-standing sharp division between labor and traditional management decisions may be changing in the future. In the meantime, the parties themselves can find much to accomplish in managing the job without having to be concerned about managing the enterprise.

I am pleased that the UAW supports this amendment and, moreover, has expressed its commitment to identifying local unions and plant locations where labor-management committees can begin.

At the suggestion of the Republican manager I have eliminated any requirement for transferring loan fee funds in respect of this amendment. It really does not need that. But it does need the Federal Mediation Service to help with putting these committees together.

I think it will be very helpful in giving a good labor climate to Chrysler, and it certainly needs that if it is going to have any chance at all.

I urge my colleagues to support this amendment to the Chrysler legislation, which presents an opportunity to demonstrate the enormous value of involving the workers themselves, in cooperation with management, in the process of rescuing this business enterprise and to lead the way for others to follow.

Exhibit 1

Labor Management Cooperation Act of 1978

Sec. 6. (a) This section may be cited as the "Labor Management Cooperation Act of 1978".

(b) It is the purpose of this section—

(1) to improve communication between representatives of labor and management;

(2) to provide workers and employers with opportunities to study and explore new and innovative joint approaches to achieving organizational effectiveness;

(3) to assist workers and employers in solving problems of mutual concern not susceptible to resolution within the collective bargaining process;

(4) to study and explore ways of eliminating potential problems which reduce the competitiveness and inhibit the economic development of the plant, area or industry;

(5) to enhance the involvement of workers in making decisions that affect their working relationships between workers and managers; and

(7) to encourage free collective bargaining by establishing continuing mechanisms for communication between employers and their employees through Federal assistance to the formation and operation of labor management committees.

(c)(1) Section 203 of the Labor-Management Relations Act, 1947, is amended by adding at the end thereof the following new subsection:

"(e) The Service is authorized and directed to encourage and support the establishment and operation of joint labor management activities conducted by plant, area, and industrywide committees designed to improve labor management relationships, job security and organizational effectiveness, in accordance with the provisions of section 205A."

(2) Title II of the Labor-Management Relations Act, 1947, is amended by adding after section 205 the following new section:

"Sec. 205A. (a)(1) The Service is authorized and directed to provide assistance in the establishment and operation of plant, area and industrywide labor management committees which—

"(A) have been organized jointly by employers and labor organizations representing employees in that plant, area, or industry; and

"(B) are established for the purpose of improving labor management relationships, job security, organizational effectiveness, enhancing economic development or involving workers in decisions affecting their jobs including improving communication with respect to subjects of mutual interest and concern.

"(2) The Service is authorized and directed to enter into contracts and to make grants, where necessary or appropriate, to fulfill its responsibilities under this section.

"(b)(1) No grant may be made, no contract may be entered into and no other assistance may be provided under the provisions of this section to a plant labor management committee unless the employees in that plant are represented by a labor organization and there is in effect at that plant a collective bargaining agreement.

"(2) No grant may be made, no contract may be entered into and no other assistance may be provided under the provisions of this section to an area or industrywide labor management committee unless its participants include any labor organizations certified or recognized as the representative of the employees of an employer participating in such committee. Nothing in this clause shall prohibit participation in an area or industrywide committee by an employer whose employees are not represented by a labor organization.

"(3) No grant may be made under the provisions of this section to any labor management committee which the Service finds to have as one of its purposes the discouragement of the exercise of rights contained in section 7 of the National Labor Relations Act (29 U.S.C. 157), or the interference with collective bargaining in any plant, or industry.

"(c) The Service shall carry out the provisions of this section through an office established for that purpose.

"(d) There are authorized to be appropriated to carry out the provisions of this section $10,000,000 for the fiscal year 1978, and such sums as may be necessary thereafter.".

(d) Section 302(c) of the Labor Management Relations Act, 1947, is amended by striking the word "or" after the semicolon at the end of subparagraph (7) thereof and by inserting the following before the period at the end thereof: "; or (9) with respect to money or other things of value paid by an employer to a plant, area or industrywide labor management committee established for one or more of the purposes set forth in section 5(b) of the Labor Management Cooperation Act of 1978."

(e) Nothing in this section or the amendments made by this section shall affect the terms and conditions of any collective bargaining agreement whether in effect prior to or entered into after the date of enactment of this section.

EXHIBIT 2

QUALITY OF WORK LIFE—LEARNING FROM TARRYTOWN

(By Robert H. Guest)

Imagine that an executive of one of our largest corporations is told that one of his plant managers wants to spend over $1.6 million on a program that has no guarantee of any return in greater efficiency, higher productivity, or lower costs. Then imagine how he would react if he were told that the union is in on the program up to its ears and that the purpose of the program is referred to as "improving the quality of work life."

If the reader imagines that the average top corporate manager would say the plant manager had lost his senses and ought to be fired, the reader is probably in the majority. The striking fact, however, is that one particular executive, the head of what is probably the largest division of any manufacturing company in the world (18 plants and almost 100,000 employees) knew just what was going on and approved the idea enthusiastically.

This is the story of the General Motors car assembly plant at Tarrytown, New York. In 1970, the plant was known as having one of the poorest labor relations and production records in GM. In seven years, the plant turned around to become one of the company's better run sites.

Born out of frustration and desperation, but with a mutual commitment by management and the union to change old ways of dealing with the workers on the shop floor, a quality of work life (QWL) program developed at Tarrytown. "Quality of work life" is a generic phrase that covers a person's feelings about every dimension of work including economic rewards and benefits, security, working conditions, organizational and interpersonal relationships, and its intrinsic meaning in a person's life.

For the moment, I will define QWL more specifically as a process by which an organization attempts to unlock the creative potential of its people by involving them in decisions affecting their work lives. A distinguishing characteristic of the process is that its goals are not simply extrinsic, focusing on the improvement of productivity and efficiency per se; they are also intrinsic, regarding what the worker sees as self-fulfilling and self-enhancing ends in themselves.

In recent years, the QWL movement has generated wide-scale interest. Just since 1975, more than 450 articles and books have been written on the subject, and there are at least four national and international study and research centers focusing on quality of work life as such. Scores of industrial enterprises throughout the United States are conducting experiments, usually on a small scale; and in an eight-month world study tour a few years back of more than 50 industrial plants in Japan, Australia, and Europe, I found great interest in "industrial democracy."

So what is special about the Tarrytown story? First, it has the earmarks of success. Second, it illustrates some underlying principles of successful organizational change that can be applied in a variety of work environments. Third, although a number of promising experiments are going on in many General Motors plants and in other companies, this QWL program has involved more human beings—more than 3,800—than any other I know of. Finally, and this is speculative, I believe that Tarrytown represents in microcosm the beginnings of what may become commonplace in the future—a new collaborative approach on the part of management, unions, and workers to improve the quality of life at work in its broadest sense.

TARRYTOWN—THE BAD OLD DAYS

In the late 1960s and early 1970s, the Tarrytown plant suffered from much absenteeism and labor turnover. Operating costs were high. Frustration, fear, and mistrust characterized the relationship between management and labor. At certain times, as many as 2,000 labor grievances were on the docket. As one manager puts it, "Management was always in a defensive posture. We were instructed to go by the book, and we played by the book. The way we solved problems was to use our authority and impose discipline." The plant general superintendent acknowledges in retrospect, "For reasons we thought valid, we were very secretive in letting the union and the workers know about changes to be introduced or new programs coming down the pike."

Union officers and committeemen battled constantly with management. As one union officer describes it, "We were always trying to solve yesterday's problems. There was no trust and everybody was putting out fires. The company's attitude was to employ a stupid robot with hands and no face." The union committee chairman describes the situation the way he saw it: "When I walked in each morning I was out to get the personnel director, the committeeman was shooting for the foreman, and the zone committeeman was shooting for the general foreman. Every time a foreman notified a worker that there would be a job change, it resulted in an instant '78 (work standards grievance). It was not unusual to have a hundred '78s hanging fire, more than 300 discipline cases, and many others."

Another communication adds, "My job was purely political. It was to respond instantly to any complaint or grievance regardless of the merits, and just fight the company. I was expected to jump up and down and scream. Every time a grievance came up, it lit a spark, and the spark brought instant combustion."

Workers were mad at everyone. They disliked the job itself and the inexorable movement of the high-speed line—56 cars per hour, a minute and a half per operation per defined space. One worker remembers it well, "Finish one job, and you always had another stare you in the face." Conditions were dirty, crowded, and often noisy. Employees saw their foremen as insensitive dictators, whose operating principle was "If you can't do the job like I tell you, get out."

Warnings, disciplinary layoffs, and firings were commonplace. Not only did the workers view the company as an impersonal bureaucratic machine, "They number the parts and they number you," but also they saw the union itself as a source of frustration, "The committeeman often wrote up a grievance, but, because he was so busy putting out fires, he didn't tell the worker how or whether the grievance was settled. In his frustration, the worker would take it out on the foreman, the committeeman, and the job itself."

In the words of both union and management representatives, during this period "Tarrytown was a mess."

BEGINNINGS OF CHANGE

What turned Tarrytown around? How did it start?

Who started it and why?

Because of the high labor turnover, the plan was hiring a large number of young people. The late 1960s was the time of the youth counterculture revolution. It was a time when respect for authority was being questioned. According to the plant manager, "It was during this time that the young people in the plant were demanding some kind of change. They didn't want to work in this kind of environment. The union didn't have much control over them, and they certainly were not interested in taking orders from a dictatorial management."

In April 1971, Tarrytown faced a serious threat. The plant manager saw the need for change, and also an opportunity. He approached some of the key union officers who, though traditionally suspicious of management overtures, listened to him. The union officers remember liking what they heard, "This manager indicated that he wanted to create a philosophy of management different from what had gone on before. He felt there was a better way of doing things."

The plant manager suggested that if the union was willing to do its part, he would put pressure on his own management people to change their ways. The tough chairman of the grievance committee observed later that "this guy showed right off he had a quality of work life attitude—we didn't call it that at that time—inside him. He was determined that this attitude should carry right down to the foremen, and allow the men on the line to be men."

The company decided to stop assembling trucks at Tarrytown and to shuffle the entire layout around. Two departments, Hard Trim and Soft Trim, were to be moved to a renovated area of the former truck line.

At first, the changes were introduced in the usual way. Manufacturing and industrial engineers and technical specialists designed the new layout, developed the charts and blueprints, and planned every move. They then presented their proposals to the supervisors. Two of the production supervisors in Hard Trim, sensing that top plant management was looking for new approaches, asked a question that was to have a profound effect on events to follows: "Why not ask the workers themselves to get involved in the move? They are experts in their own right. They know as much about trim operations as anyone else."

The consensus of the Hard Trim management group was that they would involve the workers. The Soft Trim Department followed suit. The union was brought in on the planning and told that management wanted to ask the workers' advice. Old timers in the unions report "wondering about management's motives. We could remember the times management came up with programs only to find there was an ulterior motive and that in the long run the men could get screwed." Many supervisors in other departments also doubted the wisdom of fully disclosing the plans.

Nevertheless, the supervisors of the two trim departments insisted not only that plans not be hidden from the workers but also that the latter would have a say in the setup of jobs. Charts and diagrams of the facilities, conveyors, benches, and materials storage areas were drawn up for the workers to look at. Lists were made of the work stations and the personnel to man them. The supervisors were impressed by the outpouring of ideas: "We found they did know a lot about their own operations. They made hundreds of suggestions and we adopted many of them."

Here was a new concept. The training director observes, "Although it affected only one area of the plant, this was the first time management was communicating with the union and the workers on a challenge for solving future problems and not the usual situation of doing something, waiting for a reaction, then putting out the fires later." The union echoes the same point: "This demonstrated how important it is to solve problems before they explode. If not solved, then you get the men riled up against everything and everybody."

Moving the two departments was carried out successfully with remarkably few grievances. The plant easily made its production schedule deadlines. The next year saw the involvement of employees in the complete rearrangement of another major area of the plant, the Chassis Department. The following year a new car model was introduced at Tarrytown.

LABOR-MANAGEMENT AGREEMENT

In 1972, Irving Bluestone, the vice president for the General Motors Department of the United Automobile Workers Union (UAW), made what many consider to be the kick-off speech for the future of the quality of work life movement. Repeated later in different forms, he declared:

"Traditionally management has called upon labor to cooperate in increasing productivity and improving the quality of the product. My view of the other side of the coin is more appropriate; namely, that management should cooperate with the worker to find ways to enhance the dignity of labor and to tap the creative resources in each human being in developing a more satisfying work life, with emphasis on worker participation in the decision-making process."[1]

In 1973, the UAW and GM negotiated a national agreement. In the contract was a brief "letter of agreement" signed by Bluestone and George Morris, head of industrial relations for GM. Both parties committed themselves to establishing formal mechanisms, at least at top levels, for exploring new ways of dealing with the quality of work life. This was the first time QWL was explicitly addressed in any major U.S. labor-management contract.

The Tarrytown union and management were aware of this new agreement. They had previously established close connections with William Horner of Bluestone's staff and with James Rae, the top corporate representative in the Organization Development Department. It was only natural that Tarrytown extend its ongoing efforts within the framework of the new agreement. Furthermore, Charles Katko, vice president and general manager of the GM Assembly Division, gave his enthusiastic endorsement to these efforts.

Local issues and grievances, however, faced both parties. In the past, it had not been uncommon for strike action to be taken during contract negotiations. The manager and the union representatives asked themselves, "Isn't there a better way to do this, to open up some two-way communication, gain some trust?" The union president was quick to recognize "that it was no good to have a 'love-in' at the top between the union and management, especially the Personnel Department. We had to stick with our job as union officers. But things were so bad we figured 'what the hell, we have nothing to lose.'"

The union president's observation about that period is extremely significant in explaining the process of change that followed:

"We as a union knew that our primary job was to protect the worker and improve his economic life. But times had changed and we began to realize we had a broader obligation, which was to help the workers become more involved in decisions affecting their own jobs, to get their ideas, and to help them to improve the whole quality of life at work beyond the paycheck."

The negotiations were carried out in the background of another effort on management's part. Delmar Landon, director of organizational research and development at General Motors, had been independently promoting an organizational development effort for a number of years. These efforts were being carried out in many plants. Professionally trained communication facilitators had been meeting with supervisors and even some work groups to solve problems of interpersonal communication.

What General Motors was attempting to do was like the OD programs that were being started up in many industries and businesses in the United States. But, as with many such programs, there was virtually no union involvement. As the training director put it, "Under the influence of our plant manager, the OD program was having some influence among our managers and supervisors, but still this OD stuff was looked upon by many as a gimmick. It was called the 'happy people' program by those who did not understand it." And, of course, because it was not involved, the union was suspicious.

Nevertheless, a new atmosphere of trust between the union and the plant manager was beginning to emerge. Local negotiations were settled without a strike. There was at least a spark of hope that the Tarrytown mess could be cleaned up. Thus the informal efforts at Tarrytown to improve union-management relations and to seek greater involvement of workers in problem solving became "legitimatized" through the national agreement and top level support. Other plants would follow.

THE TESTING PERIOD

In April 1974, a professional consultant was brought in to involve supervisors and workers in joint training programs for problem solving. Management paid his fees. He talked at length with most of the union officers and committeemen, who report that "we were skeptical at first but we came to trust him. We realized that if we were going to break through the communications barrier on a large scale, we needed a third party."

The local union officials were somewhat suspicious about "another management trick." But after talking with Solidarity House (UAW's headquarters), they agreed to go along. Both parties at the local level discussed what should be done. Both knew it would be a critical test of the previous year's preliminary attempts to communicate with one another on a different plane. Also, as one union person says, "We came to realize the experiment would not happen overnight."

Management and the union each selected a coordinator to work with the consultant and with the supervisors, the union, and the workers. The consultant, with the union and the management coordinators, proposed a series of problem-solving training sessions to be held on Saturdays, for eight hours each day. Two supervisors and the committeemen in the Soft Trim Department talked it over with the workers, of whom 34 from two shifts volunteered for the training sessions that were to begin in late September 1974. Management agreed to pay for six hours of the training, and the men volunteered their own time for the remaining two hours.

Top management was very impressed by the ideas being generated from the sessions and by the cooperation from the union. The regular repairmen were especially helpful. Not long after the program began, the workers began developing solutions to problems of water leaks, glass breakage, and molding damage.

LAYOFF CRISIS

In November 1974, at the height of the OPEC oil crisis, disaster struck. General Motors shut down Tarrytown's second shift, and laid off half the work force—2,000 workers. Men on the second shift with high seniority "bumped" hundreds of workers on the first shift. To accommodate the new schedule, management had to rearrange jobs and work loads the entire length of the two miles of main conveyors, feeder conveyors, and work stations. A shock wave reverberated throughout the plant, not just among workers but supervisors as well. Some feared the convulsion would bring on an avalanche of 78's—work standards grievances—and all feared that the cutback was an early signal that Tarrytown was being targeted for permanent shutdown. After all, it was one of the oldest plants in General Motors and its past record of performance was not good.

However, the newly developing trust between management and the union had its effects. As the union president puts it, "Everyone got a decent transfer and there were surprisingly few grievances. We didn't get behind. We didn't have to catch up on a huge backlog."

What did suffer was the modest and fragile quality of work life experiment. It was all but abandoned. Many workers who had been part of it were laid off, and new workers, "bumping in" had not been exposed to it. Also, a number of persons in the plant were not too disappointed to see it go. Some supervisors, seeing worker participation as a threat to their authority, made wisecracks such as "All they are doing is turning these jobs over to the union." Some committeemen felt threatened because the workers were going outside the regular political system and joining with representatives of management in solving problems.

In spite of the disruption of plant operations, the quality of work life team, the plant manager, and the union officials were determined not to give up. Reduced to a small group of 12 people during 1975, the team continued to work on water leaks and glass breakage problems. This group's success as well as that of some others convinced both parties that quality of work life had to continue despite a September 1975 deadline, after which management would no longer foot the bill on overtime.

During this period all parties had time to reflect on past successes as well as failures. The coordinators (one from the union and one from management) had learned a lesson. They had expected too much too soon: "We were frustrated at not seeing things move fast enough. We got in the trap of expecting 'instant QWL.' We thought that all you had to do was design a package and sell it as you would sell a product."

Also, during this period, the grapevine was carrying a powerful message around the plant that something unusual was going on. The idea of involving workers in decisions spread and by midyear the molding groups were redesigning and setting up their own jobs. Other departments followed later.

At this time everyone agreed that if this program were to be expanded on a larger scale, it would require more careful planning. In 1975, a policy group made up of the plant manager, the production manager, the personnel manager, the union's top officers, and the two QWL coordinators was formed. The program was structured so that both the union and management could have an advisory group to administer the system and to evaluate the ideas coming up from the problem-solving teams. Everyone agreed that participation was to be entirely voluntary. No one was to be ordered or assigned to any group. Coordinators and others talked with all of the workers in the two departments.

A survey of interest was taken among the 600 workers in the two volunteering departments; 95 percent of these workers said they wanted in. Because of the large number that wanted to attend, pairs of volunteers from the ranks of the union and management had to be trained as trainers. Toward the middle of the year, a modified program was set up involving 27 off-time hours of instructional work for the 570 people. Four trainers were selected and trained to conduct this program, two from the union and two from management.

A second crisis occurred when the production schedule was increased to a line speed of 60 cars per hour. Total daily output would not be enough to require a second shift to bring back all the laid-off workers. Instead, the company asked that 300 laid-off workers be brought in and that the plant operate on an overtime schedule. Ordinarily the union would object strongly to working overtime when there were still well over 1,000 members out on the street. "But," as the union president puts it, "we sold the membership on the idea of agreeing to overtime and the criticism was minimal. We told them the survival of the plant was at stake."

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[1] Irving Bluestone, "A Changing View of Union-Management Relationships," Vital Speeches, December 11, 1976.

FULL CAPACITY

Despite the upheavals at the plant, it seemed that the quality of work life program would survive. Then, a third blow was delivered. Just as 60 workers were completing their sessions, the company announced that Tarrytown was to return to a two-shift operation. For hundreds of those recalled to work, this was good news. Internally, however, it meant the line would have to go through the same musical chair game it had experienced 14 months earlier when the second shift was dropped.

Workers were shuffled around according to seniority and job classification. Shift preferences were granted according to length of service. With a faster line speed than before, the average worker had fewer operations to perform but those he did perform he had to do at a faster pace. In short, because of possible inequities in work loads, conditions were ripe for another wave of work standards grievances. Happily, the union and management were able to work out the work-load problems with a minimum of formal grievances.

But again the small, partially, developed QWL program had to be put on ice. The number of recalled workers and newly hired employees was too great, and turnover was too high among the latter for the program to continue as it had been. Capitalizing on the mutual trust that had been slowly building up between them, management and the union agreed to set up an orientation program for newly hired employees—and there were hundreds of them. Such a program was seen as an opportunity to expose new workers to some of the information about plant operations, management functions, the union's role, and so forth. At one point, the union even suggested that the orientation be done at the union hall, but the idea was dropped.

The orientation program was successful. Some reduction in the ratio of "quits" among the "new hires" was observed. The union president did feel that "we had set a new tone for the new employee and created a better atmosphere in the plant."

BRAVE NEW WORLD

Early next year, 1977, Tarrytown made the "big commitment." The QWL effort was to be launched on a plant-wide scale involving approximately 3,800 workers and supervisors. Charles Katko, vice president for the division and UAW's top official, Irving Bluestone, gave strong signals of support. The plant manager retired in April and was replaced by the production manager. The transition was an easy one because the new manager not only knew every dimension of the program but also had become convinced of its importance.

The policy committee and the quality of work life coordinators went to work. In the spring of 1977, all the top staff personnel, department heads, and production superintendents went through a series of orientation sessions with the coordinators. By June, all middle managers, and first-line supervisors (general foreman and foremen) were involved. Thus by the summer of 1977 more than 300 members of Tarrytown management knew about the QWL approach and about the plans for including 3,500 hourly employees. All union committeemen also went through the orientation sessions.

Also, during mid-1977, plans were underway to select and train those people who would eventually conduct the training sessions for the hourly employees. More than 250 workers expressed an interest in becoming trainers. After careful screening and interviewing, 11 were chosen. A similar process was carried out for supervisors, 11 of whom were subsequently selected as trainers, mostly from among foremen.

The 2 coordinators brought the 22 designated trainers together and exposed them to a variety of materials they would use in the training itself. The trainers conducted mock practice sessions which were videotaped so they could discuss their performance. The trainers also shared ideas on how to present information to the workers and on how to get workers to open up with their own ideas for changing their work environment. The latter is at the heart of the quality of work life concept.

The trainers themselves found excitement and challenge in the experience. People from the shop floor worked side by side with members of supervision as equals. At the end of the sessions, the trainers were brought together in the executive dining room for a wrap-up session. The coordinators report that "they were so charged up they were ready to conquer the world!"

PLANT-WIDE PROGRAM

On September 13, 1977 the program was launched. Each week, 25 different workers (or 50 in all from both shifts) reported to the training rooms on Tuesdays, Wednesdays, and Thursdays, for nine hours a day. Those taking the sessions had to be replaced at their work stations by substitutes. Given an average hourly wage rate of more than $7 per attendee and per replacement (for over 3,000 persons), one can begin to get an idea of the magnitude of the costs. Also, for the extra hour above eight hours, the trainees were paid overtime wages.

What was the substance of the sessions themselves? The trainee's time was allocated to learning three things: first, about the concept of QWL; second, about the plant and the functions of management and the union; third, about problem-solving skills important in effective involvement.

At the outset, the trainers made it clear that the employees were not to use the sessions to solve grievances or to take up labor-management issues covered by the contract itself. The work groups were given a general statement of what quality of work life was all about. The union trainer presented materials illustrating UAW Vice President Bluestone's famous speech, and the management trainer presented a speech by GM's Landen stressing that hourly workers were the experts about their own jobs and had much to contribute.

The trainers used printed materials, diagrams, charts, and slides to describe products and model changes, how the plant was laid out, how the production system worked, and what the organizational structures of management and the union are. Time was spent covering safety matters, methods used to measure quality performance, efficiency, and so forth. The work groups were shown how and where they could get any information they wanted about their plant. Special films showed all parts of the plant with a particular worker "conducting the tour" for his part of the operation.

To develop effective problem-solving skills, the trainers presented simulated problems and then asked employees to go through a variety of some experiential exercises. The training content enabled the workers to diagnose themselves, their own behavior, how they appeared in competitive situations, how they handled two-way communications, and how they solved problems. By the final day "the groups themselves are carrying the ball," as the trainers put it, "with a minimum of guidance and direction from the two trainers."

Trainers took notes on the ideas generated in the sessions and at the end handed out a questionnaire to each participant. The notes and questionnaires were systematically fed back to the union and management coordinators, who in turn brought the recommendations to the policy committee. The primary mode of feedback to their foremen and fellow workers was by the workers themselves out on the shop floor.

CONTINUING EFFORT

Seven weeks after the program began in September 1977, just over 350 workers (or 10% of the work force) had been through the training sessions. The program continued through 1978, and by mid-December more than 3,300 workers had taken part.

When all the employees had completed their sessions, the union and management immediately agreed to keep the system on a continuing basis. From late December 1978 through early February 1979, production operations at Tarrytown were closed down to prepare for the introduction of the all-new 1980X model. During the shutdown, a large number of workers were kept on to continue the process.

In preparation for the shift, managers and hourly personnel together evaluated hundreds of anticipated assembly processes. Workers made use of the enthusiasm and skills developed in the earlier problem sessions and talked directly with supervisors and technical people about the best ways of setting up various jobs on the line. What had been stimulated through a formal organized system of training and communication (for workers and supervisors alike) was now being "folded in" to the ongoing planning and implementation process on the floor itself.

In evaluating the formal program, the trainers repeatedly emphasized the difficulties they faced as well as the rewards. Many of the men and women from the shop floor were highly suspicious at the start of the sessions. Some old-timers harbored grudges against management going back for years. Young workers were skeptical. Some of the participants were confused at seeing a union trainer in front of the class with someone from management.

In the early period, the trainers were also nervous in their new roles. Few of them had ever had such an experience before. Many agreed that their impulse was to throw a lot of information at the worker trainee. The trainers found, however, that once the participants opened up, they "threw a lot at us." Although they understood intellectually that participation is the basic purpose of the QWL program, the trainers had to experience directly the outpouring of ideas, perceptions, and feelings of the participants to comprehend emotionally the dynamics of the involvement process.

But the trainers felt rewarded too. They describe example after example of the workers' reactions once they let down their guard. One skeptical worker, for example, burst after the second day, "Jesus Christ! You mean all this information about what's going on in the plant was available to us? Well, I'm going to use it." Another worker who had been scrapping with his foreman for years went directly to him after the sessions and said, "Listen, you and I have been butting our heads together for a long time. From now on I just want to be able to talk to you and have you talk to me." Another worker used his free relief time to drop in on new class sessions.

Other regular activities to keep management and the union informed about new developments parallel the training sessions. Currently, following the plant manager's regular staff meetings, the personnel director passes on critical information to the shop committee. The safety director meets weekly with each zone committeeman. Top union officials have monthly "rap sessions" with top management staff to discuss future developments, facility alterations, schedule changes, model changes, and other matters requiring advance planning. The chairman of Local 664 and his zone committeemen check in with the personnel director each morning at 7:00 a.m. and go over current or anticipated problems.

AFTER THE DUST SETTLES

What are the measurable results of quality of work life at Tarrytown? Neither the managers nor union representatives want to say much. They argue that to focus on production records or grievance counts "gets to be a numbers game" and is contrary to the original purpose or philosophy of the quality of work life efforts. After all, in launching the program, the Tarrytown plant made no firm promises of "bottom line" results to division executives or anyone else. Getting the process of worker involvement going was a primary goal with its own intrinsic rewards. The organizational benefits followed.

There are, however, some substantial results from the $1.6 million QWL program. The production manager says, for example, "From a strictly production point of view—efficiency and costs—this entire experience has been absolutely positive, and we can't begin to measure the savings that have taken place because of the hundreds of small problems that were solved on the shop floor before they accumulated into big problems."

Although not confirmed by management, the union claims that Tarrytown went from one of the poorest plants in its quality performance (inspection counts or dealer complaints) to one of the best among the 18 plants in the division. It reports that absenteeism went from 7¼% to between 2% and 3%. In December 1978, at the end of the training sessions, there were only 32 grievances on the docket. Seven years earlier there had been upward of 2,000 grievances filed. Such substantial changes can hardly be explained by chance.

Does this report on Tarrytown sound unreal or euphoric? Here are the comments of the most powerful union officer in the plant, the chairman of Local 664:

> "I'm still skeptical of the whole thing but at least I no longer believe that what's going on is a 'love-in' at Tarrytown. It's not a fancy gimmick to make people happy. And even though we have barely scratched the surface, I'm absolutely convinced we are on to something. We have a real and very different future. Those guys in the plant are beginning to participate and I mean really participate!"

By May 1979 the Tarrytown plant, with the production of a radically new line of cars, had come through one of the most difficult times in its history. Considering all the complex technical difficulties, the changeover was successful. Production was up to projected line speed. The relationship among management, union, and the workers remained positive in spite of unusual stress conditions generated by such a change.

As the production manager puts it, "Under these conditions, we used to fight the union, the worker, and the car itself. Now we've all joined together to fight the car." Not only were the hourly employees substantially involved in working out thousands of "bugs" in the operations, but plans were already under way to start up QWL orientation sessions with more than 400 new workers hired to meet increased production requirements.

Tarrytown, in short, has proved to itself at least that QWL works.

LEARNING FROM TARRYTOWN

Although the Tarrytown story is, of course, unique, persons responsible for bringing about change in an organization might derive some useful generalizations and important messages from it. (See the ruled insert on page 86 for a list of general observations on quality of work life.)

Bringing about change—any kind of change—is extraordinarily difficult in our modern organizations. It is challenge enough to introduce new machines, computers, management information systems, new organizational structures, and all the bureaucratic paraphernalia required to support our complex production systems. It is even more difficult to organize and stimulate people to accept innovations directed at greater efficiency. Perhaps most difficult of all, as one looks at the quality of work life process and Tarrytown as an example, is for managers, union officials, and even workers themselves to adjust to the idea that certain kinds of changes should be directed toward making life at work more meaningful and not necessarily toward some immediate objective measures of results.

Even when people become committed to this idea, starting the process is not easy. Witness, for example, how long it took to turn the Tarrytown ship around. Look at the roadblocks its people had to overcome; deep-seated antagonisms between management and labor and the impact of changes beyond the control of the organization itself—new facilities, new products, and personnel changes at all levels, especially among hourly workers. Just when the quality of work life efforts gained some momentum, an unanticipated event intervened and the program was stopped dead in its tracks—almost. Indeed, one gets the impression that the only constant was change itself.

Some observations are in order. Developing this climate for change takes extraordinary patience. It takes time. It calls for sustained commitment at all levels. In most of the efforts to change human behavior that I have observed directly, these characteristics are lacking. Managers and leaders are under pressure to change things overnight. They draw up a program, package it, press the authority button, set dealines, then move. It all sounds so easy, so efficient, so American.

In changing the way Americans work, we have, as the chairman of Local 664 said, "barely scratched the surface." What went on at Tarrytown was only a beginning. The intrinsic nature of repetitive conveyor-paced jobs has not substantially changed. The commitment to quality of work life is strong at the local level and among some people at division and corporate levels, but it is not universal. Changes in management or new crises could threaten further developments. Nevertheless, a new atmosphere about change and the worker's role in it is clearly emerging. People feel they have some "say," some control over their work environment now and in the future.

The Tarrytown story may, however, reflect something important about quality of work life efforts springing up in many other places in the United States. Studies are showing that workers in our large, rationalized industries and businesses are seeking more control over and involvement in the forces affecting their work lives. Due in part to the rising levels of education, changing aspirations, and shifts in values, especially among young people, I believe we are witnessing a quiet revolution in what people expect from work, an expectation that goes beyond the economic and job security issues that led to labor unrest in an earlier day.[2]

In parts of Europe, the response to this quiet revolution is manifest in broad-scale political efforts on the part of labor and government to gain greater control over the management of the enterprise itself. In the United States, the response is different.[3] Workers or their unions have given no indications that they wish to take over basic management prerogatives. As the Tarrytown story illustrates, what they want is more pragmatic, more immediate, more localized—but no less important.

The challenge to those in positions of power is to become aware of the quiet revolution at the workplace and to find the means to respond intelligently to these forces for change. What management did at Tarrytown is but one example of the beginnings of an intelligent response.

QUALITY OF WORK LIFE—THINGS TO CONSIDER

What generalizations or principles might one derive from the Tarrytown story? The list below combines those of the participants themselves with my own observations about quality of work life experiments here and abroad. The list is not exhaustive. The first six are limited in general to organizations with collective bargaining agreements. The others have more universal applications.

1. For quality of work life to succeed, management must be wholly competent in running the business as a profit-making enterprise. When management lacks organizational competence and adequate technical expertise, no amount of good intentions to improve worker-union-management communication will succeed. Workers will not be willing to become involved knowing management lacks the competence to do anything about their ideas.

2. The union must be strong. The members must trust their leadership, and this trust must exist within the framework of a democratic "political" process.

3. In most instances, management has to be the first party to initiate change, to "hold out the olive branch."

4. Quality of work life should never be used by either party to circumvent the labor-management agreement. The rights, privileges, and obligations of both parties should remain inviolate. Dealing with grievances and disputes can be made easier through quality of work life efforts, but at no time should maangement give up its right to manage nor the union its right to protect its members on matters related to wages, hours, benefits, and general conditions of employment.

5. Top management and top union officials must make an explicit commitment to support quality of work life.

6. Even with agreement at high levels and a demonstrated concern on the part of rank-and-file employees, it is essential that middle management and front-line supervisors (and shop stewards) not only know what is taking place but also feel they have a say in the change process. Supervisors naturally feel threatened by any moves to give subordinates greater power in determining how work is to be performed. Union representatives can perceive unilateral work participation as a threat to their political position.

7. A quality of work life program is unlikely to succeed if management's intention is to increase productivity by speeding up the individual worker's work pace or, if it uses the program as such, to reduce the work force through layoffs. Workers will quickly see such actions as unfair exploitation. This is not to say that cost savings from better quality performance, lower absenteeism and turnover, and better production methods should not be an expected consequence of the effort.

8. A program should be voluntary for the participants.

9. Quality of work life should not be initiated with a detailed master plan. It should start on a limited scale focused on the solution of specific problems, however small.

10. At each step in developing a program, all small bottlenecks or misunderstandings must be talked out and solved on the spot. If set aside simply to get on with the "important" plans, the little misunder-

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[2] For recent confirmation based on survey data over a period of 25 years, see M. R. Cooper, B. S. Morgan, P. M. Foley, and L. B. Kaplan, "Changing Employee Values: Deepening Discontent," HBR January–February 1979, p. 117.

[3] For a fuller discussion of the differences between American and European responses to labor today, see Ted Mills's "Europe's Industrial Democracy: An American Response," HBR November–December 1978, p. 143.

standings can later explode with enough force to destroy the entire program.

11. It is not enough to expose employees to the principles of effective interpersonal communication and problem-solving skills. There must be immediate opportunities available for them to use these skills in practical ways right in the job situation itself. Further follow-up action of some kind is necessary to serve as positive reenforcement to the employees.

12. Quality of work life efforts should not be thought of as a "program" with a finite ending. There must be a built-in momentum that is dynamic, on-going, and that can continue regardless of changes in the personnel in the organization. Once employees come to believe that they can participate and do in fact become involved in solving problems, the process gains a momentum of its own.

There is an implied warning here. Management may have the formal power to drop quality of work life efforts summarily. Union officers may have the political power to scuttle such effort. Both would be acting at their peril for, under quality of work life, the workers will have gained a unique power to influence substantially the quality of their own lives at work. To them there is no turning back.

Mr. PROXMIRE. Mr. President, I ask the distinguished Senator. This amendment sounds extremely attractive and, of course, the Senator from New York is always very thoughtful in his proposals. Does this amendment have any substantial cost?

Mr. JAVITS. No.

Mr. PROXMIRE. Not for the corporation or to the Government?

Mr. JAVITS. No, neither. It might cost $50,000 or some such amount per plant to carry it on, in addition to internal administrative costs for the FMCS.

The only reason I provided for the service to be able to contribute financially, and that depends on the appropriations, was because our experience in New York is that sometimes it is good to have a little support to oil the wheels and make this work better. The committees must basically be supported by the parties themselves.

Mr. PROXMIRE. Is this the proposal that Congressman LUNDINE up in Jamestown when he was a mayor pushed so hard and was so enthusiastic about and it worked so well?

Mr. JAVITS. That is right, and he made Congressman.

Mr. PROXMIRE. I think it is an excellent proposal. Since there is at least no substantial cost or burden to the corporation or to the Government, it seems to me it is very helpful.

Mr. JAVITS. I thank my colleague.

Mr. PROXMIRE. It is very helpful particularly in the automobile industry which has severe problems that the Senator indicates.

Mr. JAVITS. As a matter of fact, the UAW is one of the unions that likes the idea of labor-management cooperation in improving the quality of working life.

Mr. LUGAR. Mr. President, will the Senator yield?

Mr. JAVITS. I yield to Senator LUGAR.

Mr. LUGAR. Mr. President, on our side of the aisle we accept the amendment. We commend the Senator from New York for an original and appropriate suggestion. He has, as has been mentioned, eliminated any budget impact that might have been interpreted in earlier drafts of this, and I appreciate that accommodation and support the amendment.

Mr. JAVITS. I thank my colleague very much.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. JAVITS. I yield to Senator PERCY.

Mr. PERCY. Mr. President, I appreciate very much having the opportunity to cosponsor this amendment. I wish to address my brief comment as much to the workers and the management of Chrysler Corp. as to my own colleagues.

During World War II, as I mentioned earlier today, something happened in this country in its productivity. Absolute miracles were performed because we got together as a nation and we decided we were going to do something. We had a common enemy, and we were going to fight that common enemy. Labor-management councils were created all over the country in every plant. Productivity was higher in those plants, absenteeism less, scrap, and rework lower. We really as a country united.

Chrysler Corp. has to do the same thing. We can bury them in dollars. If there is no change in their spirit and attitude, dollars simply will not do this. All Congress is saying today and the Senate is saying today is let us get together, labor and management. Now you are in partnership with us. If this bill passes, we are partners and let us work together in the spirit of cooperation.

There is one common enemy, and that is failure, that is liquidation, that is bankruptcy. And this economy cannot stand and Chrysler cannot stand.

I commend my distinguished colleague for providing the framework that will encourage that great company to come forward to the period of greatness that we really need now. They can have success. They can have the kind of prosperity, once again, that they have had in the past and bring, I think, great credit to this economy if they will work together to find those ways to reduce costs and find a way to improve the quality of that product and gain consumers and good will as a result.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JAVITS. May we have a vote?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GOLDWATER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. I thank the managers and thank Senator HEINZ.

The PRESIDING OFFICER. The Senator from Pennsylvania is again recognized.

UP AMENDMENT NO. 901

(Purpose: To require, before Federal loan guarantees can be committed to Chrysler Corp., that the corporation issue additional shares of common stock to a Board of Trust)

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) for himself and Mr. PROXMIRE proposes an unprinted amendment numbered 901.

Mr. HEINZ. Mr. President, I ask that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

ISSUANCE OF STOCK TO BOARD OF TRUST

SEC. . (a) No guarantee or commitment to guarantee any loan may be issued under this Act until the Corporation issues 1.04 shares of common stock for each share outstanding on October 17, 1979, to the Board of Trust established under subsection (b). The consideration for such stock shall be the issuance of the Federal guarantees.

(b)(1) There is established a Chrysler Board of Trust which shall consist of the Chrysler Corporation Loan Guarantee Board, whose Chairman shall also serve as Chairman of the Board of Trust, and four additional members from the private sector. The four private sector members shall include individuals with experience in corporate activities such as manufacturing, marketing, or financial affairs; banking; accounting; management; investment banking; and business reorganizations. The private sector members shall be appointed and serve on an interim basis by the Chrysler Corporation Loan Guarantee Board before the stock is issued to the Board of Trust as required by subsection (a) until their successors are appointed by the President. Within 90 days after stock is issued to the Board of Trust, the President shall appoint permanent members of the Board of Trust from the private sector, by and with the advice and consent of the Senate.

(2) Members of the Board of Trust from the private sector shall be entitled to be compensated at a rate equivalent to the daily rate for level III of the Executive Schedule under section 5314 of title 5, United States Code, for each day that the Board of Trust convenes and to be reimbursed for travel and other necessary expenses. The guarantee fee provided for in section 5(c) shall be established at a level sufficient to cover such compensation and reimbursement of members of the Board of Trust and any administrative costs of the Board of Trust. Any costs associated with the disposition or attempted disposition of stock shall be charged to the Corporation, as provided in subsections (f) and (g).

(3) Members of the Board of Trust from the private sector shall be deemed to be special Government employees for the purpose of section 207 of title 18, United States Code, and shall not be subject to any liability under the Securities Act of 1933 or the Securities Exchange Act of 1934.

(4) The Board of Trust shall be dissolved at the close of December 31, 1990, at which time any residual assets held by the Board of Trust shall be transferred to the Corporation.

(c) The Board of Trust shall hold shares issued to it pursuant to subsection (a) and any other shares or securities for which the Corporation's stock may be exchanged.

(d) When the Board of Trust holds shares issued pursuant to this section, it shall vote such shares in the same ratio as the shares held by the public are voted with respect to any matter on which holders of such stock are entitled to vote. The Board of Trust shall have no control over the decisionmaking of the Corporation.

(e) Whenever the Board of Trust in its sole discretion determines such action to be feasible, it shall sell shares held by it at such times and in such amounts as it is in its sole discretion determines to be appropriate.

(f) While loans guaranteed under this Act are outstanding, the Board of Trust shall accumulate funds from the proceeds of the sales of stock. These funds shall be transferred to the Corporation and shall be used by the Corporation within 15 days after any such transfer takes place to repay loans guaranteed under this Act as scheduled or sooner. The amount of funds transferred to the Corporation shall be reduced to the extent necessary to reimburse the Board of Trust for expenses related to the disposition or attempted disposition of stock.

(g) After all the loans guaranteed under this Act are repaid, the Board of Trust shall accumulate funds from the proceeds of sales of stock and from any dividends paid or otherwise distributed with respect to stock held by the Board of Trust, and transfer them to the Corporation. The amount of funds transferred to the Corporation shall be reduced to the extent necessary to cover administrative costs of the Board of Trust, compensation and reimbursement for members of the Board of Trust, and expenses incurred by the Board of Trust related to the disposition or attempted disposition of stock.

(h) The Board of Trust, including its franchise, capital, reserves, surplus, mortgages. or other security holdings, and income, shall be exempt from all taxation now or hereafter imposed by the United States or any State, territory, possession, Commonwealth, or dependency of the United States, or by the District of Columbia, or by any county, municipality, or local taxing authority, except that any real property of the Board of Trust shall be subject to State, territorial, county, municipal, or local taxation to the same extent as other real property is taxed.

Mr. HEINZ. Mr. President, I rise today to offer an amendment to the Chrysler Loan Guarantee Act, S. 2094. I fear that without additional modification the Chrysler loan guarantee bill sets a dangerous precedent that can only invite similar requests on the part of the thousands of companies that fail every year.

Although the Chrysler bill requires contributions from the American taxpayer, and from the various members of the Chrysler "family," it leaves out the most important group. This group has the most to gain if this Chrysler loan guarantee package is successful. And this same group will lose everything if Congress fails to pass this legislation soon.

This group consists of the owners of Chrysler Corp., its shareholders. Unless we want the Federal Government to serve as banker to every faltering business in America, we must make the owners of Chrysler Corp. a part of the solution to the company's problems. And in addition, we must make sure that Federal loan guarantees are not just a "Bandaid," but that we also address the fundamental cause of Chrysler's problems. We must make sure that Chrysler Corp.—which is here before Congress because it cannot get enough equity capital—eventually gets that equity capital.

My amendment, Mr. President, addresses these concerns I have just outlined. Before I explain to my colleagues just how I propose to deal with these problems, I would like to take a few minutes to explain how this amendment developed.

Mr. President, when the Banking Committee began its hearings on the Chrysler Loan Guarantee Act November 14, I asked Treasury Secretary Miller an important question. The question was: what amount of equity financing was projected under the Treasury proposal to aid Chrysler? What contribution was expected of the company's owners, its shareholder's

Secretary Miller replied that clearly it was in the long term best interests of the company to raise additional equity capital so as not to overburden the company massive debt service charges. He further replied that because of the Treasury's tight deadline for submitting a Chrysler aid proposal to Congress, it was not possible to spell out at that time what unguaranteed private financing commitments would be required of the various members of the Chrysler constituency. And Secretary Miller stated his personal opinion that a substantial equity offering could not be underwritten at this time—a statement with which I have found a number of investment bankers agree.

Mr. President, I have waited anxiously to see what sort of long term equity financing plan for Chrysler the Treasury Department might produce. And I have yet to see such a plan. Have any of my colleagues on the Banking Committee seen such a plan? The answer, Mr. President, is no.

So, Mr. President, I have spent a considerable amount of time since the Banking Committee hearings ended trying to devise an equity financing plan for this company. I have consulted with Wall Street lawyers and investment bankers. I have asked the advice of the Securities and Exchange Commission. The Treasury Department has been asked to offer constructive criticism, and a number of their suggestions have been incorporated in my amendment in its final form. And Chrysler Corp. itself has provided information on debt-to-equity ratios which make the need for additional equity financing all the more apparent.

In drafting this amendment, I have sought to address a number of concerns.

The first of these concerns is to minimize the length of time that taxpayer dollars are at risk in this company. In the final analysis, there really is not much difference between a Federal loan and a loan guarantee. And as long as the Federal Government is Chrysler's primary creditor, the possibility of Federal ownership of this company looms on the horizon. Mr. President, in the last several weeks my colleagues and I have already become more involved in the operations of this private company than any public official ever should be. Five years down the road, or 6, or 7, I do not want to see the Banking Committee holding hearings on what options Chrysler should offer on its new model lines.

This goal of getting the Government out of Chrysler Corp. as scheduled in the aid plan—or, better yet, sooner—can best be met, I believe, by providing a mechanism for insuring that the guaranteed loans are in fact paid off. This can best be accomplished, I believe, by the sale of common stock as the company returns to profitability, assuming that it can do so.

An added advantage of such an approach—requiring the company to sell stock as it returns to viability—is that Chrysler's massive burden of debt would be replaced with equity investment in the form of common stock held by members of the general public. We must remember what motivated Chrysler's request in the first place: Its inability to raise sufficient equity, the usual source of risk capital. And we must look at what the Chrysler Loan Guarantee Act will do to the company's already alarmingly high debt to equity ratio.

Currently the corporation has outstanding over 66 million shares of common stock selling for slightly over $6 per share, for an aggregate market value of over $408 million. A just released report of the minority staff of the Senate Budget Committee revealed the following: Chrysler Corp. now has over $2.25 of debt for every $1 of equity, a figure 60% higher than the level 9 months ago. And according to this same report, by December 31, 1979 this ratio will be subsantially higher as the fourth quarter losses further reduce the equity level. By contrast, the average American manufacturing firm had only 41 cents of debt for every $1 of equity during the second quarter of 1979. This means Chrysler has nearly six times as much debt to equity as the average American manufacturing firm.

This debt to equity situation can only worsen as a result of the Chrysler Loan Guarantee Act. Already, the corporation has outstanding loans of over $1.8 billion. Add to this the $1.25 billion in guaranteed loans provided in S. 2094. And of the $1.43 billion in unguaranteed private financing required in S. 2094, only $250 million must be equity in the form of an ESOP. Add it all up—and what you get is a mortgage—with no down payment—and on a house of cards to boot.

Clearly, Mr. President, this company desperately needs more equity just as soon as market conditions permit. But unfortunately, new stock offerings are seldom approved by the stockholders. Current stockholders perceive that new equity offerings dilute the value of their holdings, and usually vote against them. That is why I feel it is absolutely essential—to the protection of the taxpayers interest, and to the long term viability of the company—to require as a condition of Federal loan guarantees that substantial equity offerings be made just as soon as market conditions permit. And the judgment as to whether market conditions permit such an offering to be made needs to be made by an independent body.

And finally, Mr. President, I must return to a point which I made last night during my opening remarks on the Chrysler loan guarantee proposal. As I said last night, the committee bill requires that a huge contribution to this company come from the American taxpayer. It also requires a contribution from most of those with a direct stake in Chrysler's survival. Management and workers are being asked to give up part of the wage and benefit increase that they otherwise would have gotten. The banks and the insurance companies that have lent money to Chrysler are being asked to give up their rights under existing loans. Dealers and suppliers are asked to kick in as well.

But most of those with a stake in this case is not all. This is one group of which nothing is asked and to which all is given. Who are those with everything to gain if this loan guarantee package is successful and nothing more to lose if Chrysler fails? I am, of course, talking about the owners of Chrysler Corp., its stockholders.

I am deeply concerned that the committee bill does not go far enough to make the terms of aid to Chrysler stringent enough to discourage similar requests on the part of the shareholders of companies and boards of directors across America. Should Congress pass this aid package in its present form, I fear that I would see the shareholders and Board of Directors of Chrysler Corp. congratulating each other.

And why should they not do so? In this bill Chrysler Corp., its shareholders, and its board of directors have gotten the Federal Government to handle its labor negotiations for the next few years. They have gotten the Treasury Department and the U.S. Congress to reschedule debt. They have secured credit from the Nation's largest bank—the U.S. Treasury. They have even gotten the Government to hire management and financial consultants.

And what are we requiring in return for all these services? What are we requiring of the stockholders, who would lose their shirts in a bankruptcy proceeding, and instead can only see the value of their investment maintained and enhanced as Federal guarantees help restore this company to viability?

The answer is, for all practical purposes, nothing.

Mr. President, unless we do require something, a tangible commitment from the stockholders, unless we insist upon a significant contribution from the owners of Chrysler, just as we have asked the workers, the management, the creditors, the dealers, the suppliers, and the American taxpayer to contribute, we set the most dangerous precedent of all. What we would be doing is to send a invitation, in the name of 100 Members of the Senate, to stockholders meetings and board meetings across America. The message on this invitation is this: The best way for management to avoid making tough decisions—the tough decisions often necessary for survival in the competitive marketplace—the best way is to come to Washington for a Federal bailout where the owners have nothing to lose and everything to gain, all at taxpayers' expense.

I do not wish to send such an invitation, Mr. President. And accordingly, I have drafted an amendment which makes the intent of Congress with respect to any future bailouts very clear, and addresses the other concerns I outlined earlier as well.

This amendment would require the following: Before any Federal guarantees could be committed or granted, Chrysler would have to issue to a special board of trust roughly one share of common stock, 1.04 to be exact, for every share outstanding as of October 17, 1979.

The choice of this ratio is not arbitrary, Mr. President. The principle it embodies is simply this: That the owners of Chrysler must give up control—51 percent—of the corporation as the price of coming to the Federal Government for a bailout.

Now, Mr. President, let me take a moment to explain what the board of trust is and how it would work.

This board of trust would consist of the Chrysler loan guarantee board—to ensure that actions of the board of trust did not conflict with the corporation's financial and operating plans—and four members of the private sector—to supply professional advice drawing upon their experience in the world of finance, investment banking, and other corporate matters. This board of trust would have no control over management or stockholder decisions.

The board of trust would have one function and one function only: To hold and eventually sell shares of common stock in Chrysler Corp. just as soon as market conditions permitted. As long as any guaranteed loans were outstanding, these funds—less any expenses incurred during the underwriting and selling process—would be transferred to Chrysler Corp. These funds would be transferred to Chrysler with one stipulation: That they be used to pay off any federally backed loans outstanding, as scheduled or hopefully even sooner. Once the Federal Government was out of the automobile business and its guaranteed loans were paid off, any proceeds from the sale of stock and any dividends paid on stock held by the board of trust would be transferred to Chrysler. The company would then be free to use these funds for capital investment, for debt retirement, or for whatever uses it deemed appropriate. At the end of 1990, this board of trust would be dissolved, and any residual shares held by it would be transferred back to the corporation.

Issuing this new stock to the board of trust would, of course, have a one-time and temporary diluting effect on current shareholders. The current shareholders may or may not like it. But any subsequent purchases of Chrysler stock—by employees under an ESOP provision, by dealers, by suppliers, by members of the general public—would not represent any further dilution. In fact, these new purchasers of Chrysler stock would be adding to the worth of the corporation by providing additional capital. As the board of trust was able to sell off its holdings, the value of existing stock would be maintained and enhanced.

Even more important from the standpoint of the American taxpayer, the sale of stock by the trustees would provide a mechanism for insuring that federally guaranteed loans are paid off as scheduled, if not sooner. Under favorable circumstances, the sale of stock held by the trust could result in loans backed by the Federal Government being paid off and replaced with publicly held common stock ahead of the timetable provided for by S. 2094. And the taxpayers' investment would be further protected because the massive amounts of new equity capital vital to the long-term survival of this company could be provided.

In closing, Mr. President, I ask my distinguished colleagues to weigh carefully the benefits which can be realized by improving this legislation as I have proposed. Unless we address these questions—and make sure that we are making this company viable over the longer term, that we are requiring a substantive contribution from the owners of this company, that we are not inviting similar bailout requests—I fear that we are abdicating our responsibilities as legislators.

Mr. President, this amendment has a long history and a very serious purpose. The history is that for a number of days indeed witnesses came before the Banking Committee and indicated that it was absolutely essential that there be additional equity put into the Chrysler Corp. if it were ever going to succeed.

We also had witness after witness who came before the committee and said that there is no way at the present time that any significant amount of equity, that is to say common stock, could be sold.

The purpose of the amendment is to require as a condition of receiving a Federal loan guarantee that a financing plan, in effect, be adopted, and that plan is a requirement that the Chrysler Corp. issue roughly one share of stock for every share of stock now outstanding and held by the owners—the exact ratio is 1.04 to 1—to a board of trust that would sell that stock when the market conditions permitted.

Why have we done this? For several reasons. First, as a reason of practicality it is about the only way we can get the company committed to an equity offering at this time without making it difficult to renegotiate any of the things that are being negotiated and without making it difficult for the Treasury to negotiate with the banks and insurance companies. We have, in other words, provided a great deal of flexibility to this board of trust to sell these shares at a time when they can be sold when it will be convenient.

This is anticipated, obviously, as being a time when it would be feasible to do so on the open market.

The second reason and a very important one is that under the terms of the amendment the proceeds from these sales will be used for an extremely useful purpose. That purpose is to get the Federal guaranteed loans paid off and to the extent that there is any additional money raised by selling of the stock in the trust the money would then go to the Chrysler Corp. to improve its financial position.

In fact, we are headed toward a roughly $1.5 billion loan guarantee and we are talking about roughly 64 million shares of stock. If the price of the stock were to rise to $25 a share 2 years from now it would just about equal the amount of Federal loan guarantees that would then be outstanding.

There is still a more important reason for this amendment, and that reason is this: What in effect has happened in the last month or two is that a huge American corporation has come hat in hand to the Federal Government, and it has said the following:

> Give us $1.25 billion. In addition to that, sit down with our creditors and tell them not only not to collect the loans, the money we owe them, but also renegotiate those loans on more favorable terms to us, Chrysler, and get those same creditors to put up more money.

The owners of Chrysler Corp. have also come to us not only for those two considerations but they have said, "Help us," in effect, "renegotiate our labor agreement. We did not do a good enough job." The work we have done today has, in fact, renegotiated, to the benefit of the stockholders, the owners of Chrysler, that labor agreement.

Chrysler, its owners, its board of directors, who are their nominees, have come to us and they have said, "Get other people, such as the independent dealers, to come up with $150 million of other money."

As the bill stands now that is exactly what this body has done. We have done everything that the owners of the Chrysler Corp. could ever want the good fairy, the tooth fairy, to do, including taking a large bite out of the posterior of the taxpayer. That is what we have achieved.

If that is what we have achieved, Mr. President, exactly what is the condition of the Chrysler owners? They have gotten every consideration. What have they put up? In a word, the answer is "Nothing." The owners have put up nothing, and they are getting everything from this bill.

Think about that for a moment. Quite apart from the question of whether that is fair or whether that is right or whether that makes any sense, let us think about the messages sent to other owners and other boards of directors and other shareholders of other companies. I will tell you what I think it says, Mr. President. I think it says:

> If you have got a company that has got some problems, some financial problems, some labor problems, some problems with bankers, problems with insurance companies, problems with the Federal regulators, problems with imports, come right down to the U.S. Senate and the House of Representatives, and you, the owners of that company, are going to get off scot-free. We do not ask anything of you. We will just give you something for nothing.

Well, that is an interesting invitation, because I have heard practically every single one of my colleagues at one time or another say they are concerned about the precedent set by this legislation.

This legislation sets a precedent all right. As it stands now, notwithstanding what people think or say or believe—very mistakenly in my judgment—that this is some kind of an onerous difficult bill, the fact is that if we pass this bill without this amendment, what we are doing is to send an invitation to every company and business enterprise with a problem in the United States, which invitation says, "Come right on down to Washington, D.C.," and that invitation, if this amendment is not adopted, will be signed by 100 U.S. Senators.

I do not think that is at all what my colleagues have in mind. I have worked very hard with the members of the Banking Committee, with its staff, with the Secretary of the Treasury, with investment bankers for the last 2½ weeks to fashion this amendment so that it works, so that it really will achieve the purposes that I have just set forth.

I think it is fair to say that those people who are expert and who have looked at the amendment—and I include all those just mentioned—have, thanks to the work they have done with us, been unable to find any flaw in the amendment. It will do what we say it will do. It will not be mischievous, it will achieve its goal, it will get the taxpayers out faster from Chrysler.

The last thing I want to happen is to wake in 3 or 4 years and find that our debate on Chrysler has shifted to what model line the U.S. Senate will be offering the taxpayers next year. That is a very real risk.

The amendment will achieve the goal of getting more equity, which Chrysler really needs, and it will achieve the goal of canceling any invitations that people might otherwise receive.

Mr. President, I will not at this point take any more of my colleagues' time. I hope I have adequately explained the amendment to my colleagues.

I will just say one other word. I had originally drafted this amendment to require two shares for every share of existing stock outstanding. I decided to modify that before I sent the amendment to the desk largely because whether it is two shares or whether it is one and a fraction shares the important principle that has to be observed is simply this: That the owners of Chrysler, the present stockholders, must give up control, which is 51 percent of the corporation. They must give it up, in my judgment, as the price of coming to the Federal Government for a bailout.

I hope, Mr. President, that we will not only adopt this amendment but that, if adopted by the Senate, it will be a part of any conference report. Otherwise, this Senator would be extremely concerned about the precedent he has just described.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. HEINZ. I would be happy to yield to my good friend from Wisconsin.

Mr. PROXMIRE. I want to warmly commend, enthusiastically commend, the distinguished Senator from Pennsylvania. He did an excellent job in the committee in cross-examining witnesses who appeared, and in pointing out over and over again that the one way that the Chrysler Corp. can raise the most useful capital is to raise equity capital, common stock, capital that does not require interest to be paid, does not require repayment, does not require the enormous burden that a corporation in this state would suffer very greatly.

The Senator has pointed out that this also achieves the very useful purpose of helping to discourage other applicants from coming to Congress and saying, "Look, you have bailed out the Chrysler Corp., you helped the stockholders there greatly. Bail us out, too."

Because what the Senator does, as I understand, is to dilute the shares of stock; he in effect puts something of a cap on the price of that stock, and we had better do that, or there is going to be a terrific windfall even without the ESOP shares added. If Chairman Iacocca's figures are correct, this stock now sells at $6 a share. The earnings per share will be more than $6 a share in 1983, and $9 a share in 1985, and, because of the bailout, there will be a colossal windfall for common stockholders.

I like to see people make money, but they should not make money out of the taxpayer who puts up all this money.

But the most important contribution the Senator makes is, he provides a cushion for the taxpayer. This means even if Chrysler lost money for some time, the corporation will not go under and, in the second place, the Senator provides interest free capital, so there woud not be as much of a burden on the corporation.

So I think the Senator has done an excellent job. He did a fine job in committee, and I think this amendment is most useful. I know of no opposition to it.

Mr. LUGAR. Mr. President, I associate myself with the remarks of the Senator from Wisconsin, and simply reiterate that throughout the Chrysler debate we have tried to think of how more money could come into the company, especially interest-free money. I think there has been a conflict as to who would purchase the additional shares of stock and how many shares should be floated, but clearly the Senator from Pennsylvania has proposed a constructive amendment, because additional shares are going to be made available. When equity capital can be raised, that is going to happen, and clearly one of the major principles of the committee has been followed; namely, that those who want to form a line behind Chrysler seeking aid from the Federal Government will surely be deterred by this amendment as well as a number of other guidelines in the legislation.

For all these reasons, I commend the Senator from Pennsylvania and support his amendment.

Mr. HEINZ. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I would like to address a question on this proposal to the Senator from Pennsylvania. I am interested, as he is, in finding ways to secure equity capital, but this is a very complex proposal and I am reluctant to see us accept something as complex as this at this particular point in the debate, when we have not had a chance to examine or discuss it.

So let me ask this question of the Senator from Pennsylvania: Have you had a chance to take into account the dilution of common shares that will take effect as a result of the ESOP requirement which we approved earlier in the day, and, taking account of that dilution, what does your proposal do in the way of additional dilution?

In other words, if we were to take it to conference with the ESOP, what would be the residual value, in percentage terms, of the holdings of shareholders of standing today? What part of the company would they keep?

Mr. HEINZ. Well, first of all, with respect to the way the amendment operates on ESOP, it does not have any effect on the ESOP proposal. The ESOP proposal, if stated in dollars—$175 million is my understanding of what was agreed to on the last amendment; is that not correct?

Mr. RIEGLE. That was the dollar figure.

Mr. HEINZ. The dollar figure. Well, since the ESOP is couched in a dollar figure, whatever this amendment achieves has no effect on the ESOP. We have carefully worked with the Treasury Department, I might say we have worked with the Senator's staff and the majority leader's staff, and Senator LUGAR's and Senator TSONGAS' staffs, to make sure that is so.

Let me respond, if I may, to the statement that the amendment is extremely complex and this is the first time that it has seen the light of day. I sent a "Dear Colleague" letter out to everybody 2 days ago, with a very extensive explanation of the amendment, with a factsheet, with every single one of the points in the amendment on the factsheet, laid out and explained.

I thin spoke last night at length on this amendment, and my reasons why, and of course put appropriate material into the RECORD. The amendment has been available for the last 2 days for anyone who was interested.

The Senator from Michigan knows I have been working on this thing for about 2 or 3 weeks, and I would hope that there had been in fact just as ample a study of the amendment as I believe most people have made of it. I would not want to misrepresent the work that the committee staff or the Treasury Department or the many outside financial experts have put into this. I hope that is responsive to the Senator's question.

Mr. RIEGLE. I do not mean to suggest that the Senator has not been hard at work on this for some time. I know he has. He certainly raised this issue a long time ago in the hearings; I recall it vividly. I accept responsibility for the fact that I may not be as familiar with it as he is. There have been a lot of matters to attend to on this bill during the last several days, and I have not had a chance to focus in detail on the specific plan you are offering.

My question has to do with the fact that an employee stock ownership plan has a dilution effect on the equity, as does your proposal. I am saying those two things taken together have to have a combined effect, and I am just wondering what that might be.

Mr. HEINZ. Let me say to the Senator, yes, I have carefully analyzed the effect of the ESOP, and here is the effect of the ESOP: The $175 million of stock that is accounted for by ESOP is being given by the management to the employees of Chrysler for a consideration. That consideration is a reduction in their real wages. It is a reduction in their compensation package. It is in consideration for an amount that, in total, is a $525 million package for organized labor.

So if you ask me, the shareholders have gotten a heck of a good deal for $175 million. They have gotten a $525 million wage concession just from the unionized workers; so they have come out $25 million ahead. If I were a shareholder, I would find that a great deal.

Mr. RIEGLE. Well, I do not think it is correct to imply that the entire wage sacrifice that we have approved here today is in exchange for the ESOP.

Mr. HEINZ. But does the Senator——

Mr. RIEGLE. No one has stated that before.

Mr. HEINZ. Does the Senator contend that there would have been a $525 million concession without the $175 million ESOP?

Mr. RIEGLE. Perhaps not $525 million, but the suggestion that otherwise it would be zero, I think, makes no sense at all.

Mr. HEINZ. No, I did not suggest it would be zero. I would suggest it would be about $175 million lower.

Mr. RIEGLE. Well, that might be the Senator's view. It is not mine.

Mr. HEINZ. It was $175 million lower as a result of the Eagleton amendment.

Mr. RIEGLE. Maybe I can inquire if the Senator from Alabama is available for a question.

I am just wondering, in light of the fact that the Senator from Alabama agreed to the scaling down of his ESOP proposal—a considerable scaling down in an effort to strike a compromise, came down from 250 to 175, and he did it reluctantly—if the Senator from Alabama has a concern about the possibility of an additional impact in terms of an additional dilution that could take place here?

As I understand the amendment of the Senator from Pennslyvania, that would obviously have an impact on the value of the shares that would go into the ESOP and eventually to the employees of the company.

Mr. HEINZ. Will the Senator yield?

Mr. RIEGLE. I have asked the question of the Senator from Alabama. After I have had a chance to hear him respond, I will be happy to yield to the Senator from Pennsylvania.

Mr. STEWART. In response to the question of the Senator from Michigan, I am having this particular amendment analyzed to see exactly what it does do.

I think the Senator from Pennsylvania has adequately characterized what happened to the employees in the union sector of Chrysler today with regard to the employee stock option plan. I think they gave up about the $525 million under the Senate plan for a $175 million package. And that is exactly what the Senate did to them today. I think he has characterized it well.

The ESOP was intended originally—of course, I know there were some statements in the transcript with regard to what we intended as far as deferring wages is concerned. But this Senator offered it as an incentive to the employees to increase their productivity.

We are giving, according to the chairman and others, about $1.5 billion in equity capital to the stockholders. And I thought that the workers who were giving up a little bit ought to have a shot at that. That is the reason we offered the amendment, gave up, and scaled down our ESOP, because I felt as though it would move a compromise ahead.

But I am amazed, frankly, that the Senate of the United States would say that the access to capital should be made available only to those stockholders who, very frankly, were receiving dividends up through 1977, elected the management of this company, and got it into the difficulty that it is in today. That just seems to me to be a rather ridiculous situation. That is where we find ourselves.

I am not pleased with that situation. I am going to say to the chairman of the committee, and to the ranking member over there who is managing the bill, that if this amendment, based on our analysis, affects that at all, in any way, shape, form, or fashion, you can just get ready to be here tonight for as long as I can speak, for as long as I can talk, because I do not intend to see anything happen to that. I might have an amendment to offer of my own. But I want to make doggone sure that this does not do that.

I would say to the Senator from Michigan that I intend to wait here and see exactly, based on our analysis of the situation, what it does.

Mr. HEINZ. Will the Senator yield?

Mr. STEWART. You can satisfy me very quickly by telling me that it does not affect this particular vehicle which I feel very strongly about. And, as I say, I think the Senator from Pennsylvania has characterized it well. And I think the UAW and the workers who are organized with this particular company are going to begin to understand, after a while, exactly what happened to them here today. I just wish I had been a stronger proponent for them.

But we are going to be a proponent here now with regard to this particular amendment. We do not want anything to affect that ESOP. I do not want anything to affect it at all, not scaling it down any more.

Mr. HEINZ. Will the Senator from Michigan allow me some time to respond?

Mr. RIEGLE. I will yield briefly to the Senator to respond.

Mr. HEINZ. Surely.

I just want to say to the Senator from Alabama that, first of all, he has my word that if there is anything in this amendment that in any way causes a problem with the ESOP, that I will do anything I have to do to mitigate that, including, along with the Senator, if necessary, to move to reconsider it if we find it out at midnight tonight.

It is not this Senator's intention to in any way have an effect on the ESOP. And I have been assured by a lot of experts that it does not. I just wanted to make that point.

I thank the Senator from Michigan for yielding.

Mr. RIEGLE. Let us pursue that, because I think I see a direct risk to the ESOP and to other existing or new shareholders, if new shareholders are the employees.

Let me say to my friend from Pennsylvania that I know he has worked on this a long time. My recollection may be faulty, but I thought the idea that we were originally exploring in the committee was to force Chrysler to raise equity funds in the market.

I am sympathetic to that concern.

But this proposal is quite different than that. As I read it, this proposal would provide that for every outstanding share of stock today we would create two new shares.

Mr. HEINZ. The Senator is looking at an old version of the amendment. The amendment requires roughly the creation of one share for every share outstanding. The exact ratio was 1.04.

Mr. RIEGLE. Then I am working from an old one.

Mr. HEINZ. That is the only change.

Mr. RIEGLE. I want to use the correct ratio. So it is essentially one new share for every existing share that is presently outstanding. We are simply dividing the stock and creating twice as many shares.

I can see an immediate relationship to the ESOP, because now the employees are going to get some stock.

And the question is: What is it going to be worth? What is going to be the value of it, or what is going to be the value of the shares to the current shareholders? I would say that is very hard to know, because you are going to have an overhang of a whole number of shares sitting out there that could come on the market at any time under any circumstances.

Mr. HEINZ. I believe I can answer the Senator's questions.

What is the value of Chrysler stock today?

Mr. METZENBAUM. Seven dollars.

Mr. RIEGLE. $7 a share. It sounds to me like the shareholders—the ones who got in early when the price was high—paid a very substantial penalty. They have had the value of their assets, their stock value, dwindle substantially.

If we are going to come in now and basically cut it in half and then, in turn, bring in the ESOP there has to be an impact.

It seems to me that there is going to have to be an effect both in dilution and also in terms of future prospects for new issues.

I am all for making the shareholders do their part. I do not want anybody off the hook. We socked it to labor today to the tune of $525 million. I have no more sympathy for excusing one class or party in interest; namely, shareholders, than I do any other. But it seems to me that this goes very, very far.

If the Senator, for example, instead of a 1-for-1 creation of new shares, was going to talk in terms of 10 percent or 15 percent, or something like that, taking into account the ESOP situation arising, then I would be more sympathetic to his amendment.

But while I want to see equity money coming into the company, I am not convinced on the face of it that the proposed amendment of the Senator from Pennsylvania is the best, the fastest, or the most efficient way to accomplish that purpose.

Mr. METZENBAUM. Will the Senator yield for a question?

Mr. RIEGLE. Yes.

Mr. METZENBAUM. Would the Senator mind if we went to a vote?

I do not think anybody will be changed by the statements of the Senator from Pennsylvania or the Senator from Michigan. I suggest we go to a vote.

Mr. HEINZ. I think that is an excellent suggestion.

Mr. RIEGLE. I am prepared to vote.

Mr. STEWART. Can I ask the Senator from Pennsylvania one question? Would the Senator say this particular proposal would not have any impact on the stock issued to the employees under the employees' stock ownership plan? What would cause that stock that they will receive to be bidded up or increase in value if we have hanging over that stock some 63 million shares in a trust? If the Senator can explain that to me to my satisfaction I am willing to vote on the amendment, too.

I also want to say if there is some adverse effect on the employees' stock, as I understand it the Senator is willing to modify his amendment in conference; is that correct?

Mr. HEINZ. That is correct.

Mr. STEWART. Will the Senator please answer the first question for me?

Mr. HEINZ. I appreciate the Senator asking the question. I want to make this as plain and as clear as I can.

The effect of this amendment is really exactly what the Senator from Michigan described. It is an immediate dilution, upon the adoption of the bill, of the equity of Chrysler. In effect, it requires that there be the creation for every one share existing of two shares, one of which, roughly, goes to this trust. That transaction precedes the placing of stock in the ESOP.

If, for example, at $6 a share, without this amendment, the $175 million in ESOP would give the employees roughly 29 million shares at $6 which would go into ESOP. With this amendment, if it goes all the way through, and I hope it does, what in effect will happen is that there will not be 29 million shares going to ESOP but there will be twice that and it will still be worth $175 million for that reason. That is how that will work.

Mr. STEWART. I thank the Senator. He has satisfied my curiosity.

Mr. HEINZ. The only other thing I would add is that there really is no uncertainty. The market understands dilution and also takes it into account the moment that shares are in fact authorized and issued. The reason that that does happen is in fact the shares become issued to the board of trust. They are out from the corporation. They are not held as treasury stock. The Senator from Michigan would be quite correct, if they were held as treasury stock, there would be uncertainty as to whether or not they would ever be issued and they would constitute an overhang. But by their going to the board of trust as issued stock, they constitute a stock issue. They constitute a stock that is no longer treasury stock. They constitute an issue and must be counted in the stocks which are outstanding.

Mr. RIEGLE. Mr. President, if no one else seeks to speak, I will say one final word to the Senator from Pennsylvania. My mind is open to the concept. I think the dilution that he proposes, the 50-percent dilution, is too much. Therefore, I will oppose the amendment on that basis. But at the same time, I would say that my mind is not closed on the concept. If we are ready, let us vote.

The PRESIDING OFFICER (Mr. Exon). The question is on agreeing to the amendment of the Senator from Pennsylvania. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Carolina (Mr. Hollings), the Senator from Massachusetts (Mr. Kennedy), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker) and the Senator from New Mexico (Mr. Schmitt) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 50, nays 45, as follows:

[Rollcall Vote No. 501 Leg.]

YEAS—50

Armstrong
Bellmon
Boschwitz
Burdick
Byrd,
 Harry F., Jr.
Chafee
Church
Cochran
Cohen
Dole
Domenici
Durenberger
Garn
Gravel
Hatch
Hatfield
Hayakawa
Heinz
Helms
Humphrey
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Lugar
Mathias
McClure
Moynihan
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Randolph
Schweiker
Simpson
Stevens
Stevenson
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Young
Zorinsky

NAYS—45

Baucus
Bayh
Bentsen
Biden
Boren
Bradley
Bumpers
Byrd, Robert C.
Cannon
Chiles
Cranston
Culver
Danforth
DeConcini
Durkin
Eagleton
Exon
Ford
Glenn
Goldwater
Hart
Heflin
Huddleston
Inouye
Jackson
Leahy
Levin
Long
McGovern
Magnuson
Matsunaga
Melcher
Metzenbaum
Morgan
Muskie
Nelson
Pryor
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Stafford
Stewart
Williams

NOT VOTING—5

Baker
Hollings
Kennedy
Schmitt
Stennis

So Mr. HEINZ' amendment (No. 901) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 902

Mr. STEVENSON. Mr. President, I have an amendment at the desk which I ask be stated. It is for myself and Senator CRANSTON.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) for himself and Senator CRANSTON, proposes an unprinted amendment numbered 902.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 29, line 7, insert the following:

SEC. 18(a) No appropriated funds shall be used by the President or any Department or agency to submit to Congress any request for Federal loans, grants, loan guarantees or any other assistance to an individual company or business in excess of $250 million until such time as a thorough evaluation has been performed by the Secretary of Commerce and reported to the Congress. Such evaluation shall—

(1) Compare the economic benefits to be derived from such assistance with benefits from alternative uses of the resources by government and market allocations of such resources;

(2) Compare the economic benefits to be derived from such assistance with economic costs of a failure to provide such assistance;

(3) Analyze the long-term viability of the firm and industry in question;

(4) Consider technological advances and production trends affecting the firm and industry in question;

(5) Analyze foreign competition affecting the industry in question;

(6) Analyze general economic trends which affect the firm and industry in question;

(7) Consider the long-term prospects for improving the productivity and potential for innovation of the industry in question.

Sec. 18(b) (1) At any time a request for the assistance subject to the required evaluation under this section is pending or such assistance has been provided the Secretary of Commerce is authorized to inspect and copy all accounts, books, records, memoranda, correspondence, and other documents and transactions of the applicant and any other borrower requesting assistance under this title.

(2) The General Accounting Office may make such audits as may be deemed appropriate by the Comptroller General of the United States of all accounts, books, records, memoranda, correspondence, and other documents and transactions of the applicant and any other borrower.

Sec. 18(c) This Section is not subject to the termination provisions of Section 17.

The PRESIDING OFFICER. Will the Senate please be in order so that we may hear the Senator from Illinois?

The Chair asks those who wish to carry on conversations to please remove themselves from the floor so that we may proceed with the business of the Senate.

The Chair has recognized the Senator from Illinois and, with apologies of the Chair, he is again recognized.

Mr. STEVENSON. Mr. President, this amendment simply requires that in the case of any future requests to the Federal Government for financial assistance such as this, that they be accompanied by studies and reports on all the economic implications, including alternative uses of the funds.

Mr. President, the Congress is going through with an expensive, futile bailout for a failing corporation. I have proposed before the Banking Committee, and on the floor, that we consider alternatives to this action, which grants a temporary reprieve to Chrysler at huge expense to American taxpayers, and the American economy.

I have proposed that, rather than playing with arbitrary price tags of $3 billion or $4 billion or $3.8 billion, we devote our energies to responsible policies of economic adjustment. If Congress has a responsibility in this case, it is not to finance Mr. Iacocca's dreams of a full-line company, but to ease the transition of Chrysler's workers out of a marginal firm in an industry plagued by excess capacity, and into careers with some promise of long-term viability.

If Congress has a responsibility in this case, it is to review and improve existing programs of adjustment assistance. It is to smooth the process of a Chrysler reorganization. And ultimately, it is to affirm a basic commitment to support for research, innovation, and investment in the enterprises of the future.

This bailout is full of politics and devoid of policy. We pretend that Chrysler is an anomaly, and that irresponsible action today is a one-time phenomenon.

But it will not be a one-time phenomenon. It establishes a precedent. And that precedent is the waste of Federal resources and, the misallocation of private credit to the politically powerful instead of the economically viable.

Such comparisons have not been made. This bailout has been presented on an ad hoc basis, and we have not stopped to consider alternative uses for this money. We have not stopped to consider the fact that the entire pool of venture capital in this counrty invested in new, high-technology, and other, enterprises this year was between $200–$300 million—less than 10 percent of what we propose to invest in Chrysler. Yet these enterprises of the future will generate more growth and employment than Chrysler. We have not stopped to consider the true costs of this bailout, which include all the wealth and employment $3 billion could generate if invested in dynamic and profitable enterprises.

The amendment I now propose would force us to make such comparisons. It would require the President to subject any industries requesting Federal assistance in excess of $250 million to a thorough evaluation by the Secretary of Commerce. Such an evaluation would:

Analyze the broad economic impacts of allocating credit to the industry in question;

Identify alternative uses of such resources to support more innovative and productive enterprises;

Analyze long-term viability of the industry or firm in question;

Analyze technological advances and production trends;

Analyze foreign competition and the prospects for increased exports; and

Analyze support for the industry in question in the context of broader industrial policy.

This amendment would make it more difficult for the President to come to the Congress with bailout proposals. It would provide Congress with information, and a fuller sense of the economic implications of subsidies for industries whose long-term prospects cannot be defended.

Finally, this amendment would draw and build upon the capacities for informed and coherent industrial policymaking being developed in the Commerce Department. The Department has responsibility for innovation, productivity, science and technology, and industry sectoral analysis. These responsibilities make it, not the Treasury Department, the logical agency for assistance to industry and implementation of industrial strategy. Under the present ad hoc approach, each case is treated as an anomaly requiring nothing more than money from the Federal Treasury. The underlying structural weaknesses in the economy are neglected. We follow the British pattern of subsidies for the geriatrics.

Productivity gains stem from the flow of resources out of inefficient sectors and into high-productivity, high-wage, high-export industries. Our strongest competitors, Germany and Japan, have grasped this.

This is not economic abstraction. There is nothing abstract about the million pounds per day (over $2 million) the British Government spends—and has spent for the past 18 months—to support British steel. There is nothing abstract about the alternative way the West Germans have transformed an aging textile industry into a thriving sector exporting textile-production machinery worldwide.

We will not stumble upon the latter course. It may not demand the comprehensive government planning offered by Japan's MITI, but it does require responsible government choices and some fortitude for the long haul. This amendment would require that we be made aware of these choices and confront them before we allocate scarce resources to the politically powerful instead of the economically viable. The Chryslers, the steel companies, the textile and shoemaking firms should compete for Federal and private resources against innovative firms. Technological advances, foreign competition and long-term economic projections should provide the basis for assessing the viability of firms, as well as identifying industrial alternatives for depressed areas.

I oppose the granting of assistance to Chrysler, simply because these analyses have not been performed, and the limited evidence we do have suggests overwhelmingly that Chrysler has no long-term prospects of viability or success. We were presented with an ad hoc, slanted case, based on the company's own optimistic projections, and an unrealistic alternative scenario of financial collapse and total shutdown.

I deplore the way in which Congress has been swept into financial haggling over elements of the loan package, while ignoring the broader issues. We have done nothing to address the very serious adjustment problems facing a number of our basic industries. We have done nothing to address our need for policies and programs to facilitate adjustment and smooth the movement of labor and capital away from declining sectors, and into the future.

This amendment does not offer the alternative to the bailout I would have liked. But it may, if adopted, prevent us from repeating the mistake we are poised to make with Chrysler—bailing out a failing firm without confronting the implications.

Mr. President, I urge the Senate to approve this amendment.

I have discussed it with Senator PROXMIRE, the manager on this side, and also with the distinguished manager of the bill on the other side of the aisle. I am hopeful that he will accept the amendment. I am prepared to do so for Senator PROXMIRE.

The PRESIDING OFFICER. The Chair is having difficulty maintaining who should be recognized because the Chair cannot hear when one of the Senators completes his remarks.

I inquire whether the Senator from Illinois has finished his remarks?

Mr. STEVENSON. Yes, I have.

The PRESIDING OFFICER. Then the Chair recognizes the Senator from North Carolina.

Mr. HELMS. Mr. President, the amendment is acceptable.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, this amendment will help insure that if and when we get another request for a loan guarantee, we will have more balanced assessment at our disposal.

Mr. President, I am very pleased to join with the Senator from Illinois (Mr. STEVENSON) in offering this amendment.

Senator STEVENSON, with Senator PROXMIRE, was the leading voice on the Banking Committee urging that we look ahead to the potential for recurring requests for bailouts from troubled American companies.

The amendment we are offering promises to strengthen the review given by the executive branch to requests of assistance similar to that provided the Lockheed Corp. and now being sought on behalf of the Chrysler Corp.

The amendment spells out several key findings which must be made by the Secretary of Commerce before a bailout request is sent to Congress by the administration. The list attempts to cover the major points raised during debate in the committee and on the floor of the Senate.

I strongly feel that these points should be answered fully before Congress is asked again to provide assistance to a troubled company.

Second, the amendment authorizes the Secretary and the Comptroller General to have full access to all records of the company in question.

This provision is designed to overcome the lack of full disclosure of facts at the outset of any company's request for financial assistance. I know the chairman of the committee will agree that the lack of necessary information at the start of our consideration of the administration's request for loan-guarantee assistance for Chrysler delayed our efforts and caused considerable frustration among interested Members.

Congress cannot do its job without facts.

Our amendment helps to assure that facts will be forthcoming simultaneously with a request for assistance in the future.

The provision also will cause a company to think twice before subjecting itself to an experience best described by Mayor Koch of New York as "spilling your guts."

I hope it is clear that our amendment is not intended to encourage requests for Federal assistance. Our interest is in overcoming limited, ad hoc consideration given to "bail-out" requests. It is to help the appropriate committees and the full Senate to fully and adequately consider any future bail-out proposal.

As Senator STEVENSON has made plain, American heavy industry faces a time of massive transitions. Not all companies will survive. Congress inevitably will face requests similar to that of Chrysler. We have no policy for meeting such requests. Our amendment is one effort to help establish a sensible procedural approach to the problem and to outline the issues we would like to have answered even considering a similar request in the future.

Mr. President, I strongly urge the adoption of the amendment.

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois (UP No. 902).

The amendment (UP No. 902) was agreed to.

Mr. STEVENSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I am opposed to a Federal loan guarantee for Chrysler Corp. I am opposed to this aid on the basic principle that the Federal Government should not interfere with the operation of the marketplace by rescuing a single business from failure.

Our economy is correctly based on a free enterprise system. The essence of entrepreneurial venture is innovation and risk; some companies grow, some fail, others enter the marketplace. Every year 6,000 to 8,000 businesses go bankrupt. We do not come to their rescue. Why should Chrysler be treated differently? Because it is so large and its lobbying efforts so great? To protect Chrysler Corp. employees who presently earn much more than the average industrial worker? If Chrysler is "bailed out," there will be no end to corporations lining up outside our doors demanding similar treatment.

Many Senators here have stated that they have reservations about aiding Chrysler. They have stated that they generally are opposed to Government intervention in the economy. Yet these Senators say that we must, in this case, grant loan guarantees, because of the costs, because of unemployment, because Government regulation contributed to Chrysler's financial situation.

I, too, am concerned about unemployment and its costs, and about excessive Government regulations that may have added to Chrysler's difficulties. But Federal aid will not cure overtaxation, overregulation, and increasing inflation that are adversely affecting all American businesses. In the long run, a decision to grant this loan guarantee to Chrysler will only worsen our Nation's economic situation, not improve it. Government intervention in the marketplace, which is part of the cause of Chrysler's difficulties, cannot be the solution.

The American taxpayers are having their own difficulties in surviving financially. How can we justify risking their hard-earned dollars? Any trustee of such funds would certainly be in violation of law for investing money entrusted to him or her in a corporation on the verge of bankruptcy.

Based on past performance and recent developments, how can we rely on Chrysler's projections for profitability—on their determination that this aid package will be enough. Already Chrysler is asking for more dollars. On Friday the corporation announced that without immediate interim help its cash reserves would be depleted sometime in January rather than late February or March as it had previously predicted. In addition, U.S. automobile sales are declining. How can we possibly justify overriding the American purchasers' decisions with our own? If we pass this Senate bill to "bail out" Chrysler, we will be misdirecting $4 billion of public and private capital to a less productive firm at the expense of more efficient ones. We are removing the threat of loss and with it part of the incentive that makes the free market operate effectively. It is the consumer, the purchaser, who should determine the success and failure of business. In this manner, investment capital and labor will be available for new businesses and technology and for expanding existing efficient enterprises.

I am keenly aware, Mr. President, that the greatest costs, should Chrysler fail, will be human costs—lost jobs and family hardship for Chrysler's employees. There will be many innocent victims as well, most of whom will be small businessmen, such as the Chrysler dealers in my State. I have personally listened to these innocent victims, and their case is compelling. They do not deserve to be dragged down by a Chrysler failure. Yet Senators have an obligation to represent all the people. I cannot put at risk the assets of all taxpayers. If the banks will not lend money to Chrysler, how can we ask the American people to cosign a loan to Chrysler?

This is a very difficult vote for every Senator. Each of us, in casting our vote, will bitterly disappoint some and please others. I hope the Senate acts wisely.

Mr. MUSKIE. Mr. President, last Friday the Senate adopted Senate Resolution 303 to waive section 402(a) of the Budget Act with respect to consideration of S. 2094, the Chrysler Corporation Loan Guarantee Act of 1979. This 402(a) waiver, which had been favorably reported by the Budget Committee, was required because the bill provides fiscal year 1980 authorizations to carry out a loan guarantee program for the Chrysler Corp., but was reported after the May 15, 1979 deadline for such authorizations.

In favorably reporting the waiver, the Budget Committee did not address the substantive merits of this legislation, nor did the favorable recommendation reflect any particular committee view on the issue of Federal aid for Chrysler or the provisions in S. 2094. Rather, it reflected our understanding that the reporting committee could not have met the May 15, 1979 deadline because of the timing of the Chrysler situation and the administration request. The Budget Committee's recommendation reflects our concern that the Senate be given the opportunity to consider the issue of Chrysler aid in time to provide timely help to the corporation if the Congress decides to approve it.

I, like each of the other members of the committee, have my own views on the legislation. But I want to speak at this time as chairman of the Budget Committee to point out the potential budgetary impact of a Chrysler loan guarantee program.

The costs of a Chrysler loan guarantee program would fall in function 370, Commerce and Housing Credit. If the program is fully successful, no payments under the loan guarantee need be made, and the administrative costs of the program will fit within the second budget resolution approved by Congress on November 28. That budget, however, does not contemplate any funding to cover the cost of any significant default by Chrysler under the guarantee program.

Mr. President, this bill, S. 2094, authorizes the appropriation, beginning October 1, 1979, of "such sums as may be necessary" to carry out the provisions of the loan guarantee.

The administration has transmitted to the Congress an appropriation request based on its version of the legislation, S. 1965. The administration's appropriation request would appropriate $1.5 million in fiscal year 1980 for adminstration of the program and "such sums as may be necessary" to pay principal and interest in the event of default on any loan guarantee made under the program.

Should the Congress enact such an appropriation, the effect on the fiscal year 1980 budget would be as follows:

First, budget authority and outlays would be increased $1.5 million to administer the program.

Second, budget authority would be increased by an amount equal to the total guarantee ceiling stated in the appropriation plus an estimate of defaulted interest. No outlays would occur unless a default actually occurred during fiscal year 1980.

Budget authority to cover potential defaults would be created at the outset under any appropriation which provides advance authority to pay off possible defaults without any further action by Congress.

If the Congress does not enact an appropriation at the outset to pay off potential defaults, but merely limits the level of the guarantees, thus requiring further Congressional appropriation action at a later date if and when a default occurs, budget authority for that purpose would be created at that later point in time rather than now.

Therefore, Mr. President, the budget impact in fiscal year 1980 could still be as little as $1.5 million in budget authority and outlays to administer the program. But, the budget authority total could rise to between $1 and $2 billion if the administration were given full authority to pay off any defaults without further action by Congress.

And outlays up to the total budget authority provided could occur in the event of a default.

If the guarantee program proves a success and all loans carrying the Federal guarantee are repaid in full, the Government could receive around $9 million in guarantee-fee receipts in fiscal year 1980 and $125 million in receipts over the 1980 to 1985 period, while outlaying only approximately $7 million in administrative costs during that time.

Mr. President, leaving aside the Chrysler program, the budget for fiscal year 1980 is already oversubscribed.

Presently, taking into account action to date and foreseeable supplemental requirements, the second budget resolution budget authority ceiling could be reached by as much as $1.3 billion and the outlay ceiling by as much as $2.4 billion.

Of course, these amounts may change as Congress completes action on the remaining regulation appropriation bills and the supplemental next spring, especially if further legislative savings are enacted.

I hope that all Senators will continue to search for possible budget savings.

I hope that legislative actions by the Congress will keep us within the budget totals.

But there is no avoiding the fact that the fiscal year 1980 Congressional Budget is tight as a drum.

While an appropriation to administer the Chrysler program is small and would not add significantly to the budget problem, an appropriation now or during 1980 to pay off potential loan defaults would increase the potential overage in budget authority to a level of $2.5 to $3 billion.

While actual appropriations action is not a part of the bill before us, we need to assess carefully the administration's request for an appropriation now to pay off potential defaults.

Is it really needed to make the program work? If not, we should not enact it.

If it is enacted, we will have to determine where savings can be made in other programs in order to stay within the second budget resolution budget authority ceiling for fiscal year 1980.

I cannot project the outcome of the Chrysler situation if loan guarantees are provided to support the company. But the Senate must be aware that appropriations to pay off a Chrysler loan default would breach the budget.

Each Senator must make a careful and thorough analysis of the factors involved in the Chrysler issue. The budget issue is one key factor which must be fully understood.

Mr. President, many laws now on the books provide financial assistance in various forms to rescue failing businesses. The Federal Government annually provides loans, grants, loan guarantees, tax credits, tax obligation rollovers and a variety of other mechanisms to reduce the likelihood that individual businesses will fail.

All these national policies are premised on the assumption that a business failure is more than just the loss of investment of a family or a few stockholders.

We assume that people suffer, communities suffer, the regional and often the national economy suffer from precipitous business closure.

We recognize that public policies or the absence of public policies can exacerbate business problems. We have molded national policy to provide what we all perceive as a legitimate service of Government.

The Federal Government already has loan guarantees totaling $240 billion to businesses large and small. Loans are guaranteed not only by the economic development, small business, Federal Housing and Farmers Home Administration, but also by EPA, NASA, the Maritime Administration, and the Export-Import Bank. We guarantee loans for railroads, subways, airplanes and satellites; homes, jobs, and community services.

Federal loan guarantees are in fact

an accepted approach to the formation of risk capital. There is nothing inherent in the Chrysler plan which makes this approach unacceptable. Judged by the magnitude of outstanding guarantees, a $1.4 billion guarantee does not constitute a massive new risk. And if there were no risk, there would be no need for Federal assistance.

Yet we are asked to deny assistance to Chrysler.

As Senators know, I have been concerned for some time about the increased use of loan guarantees and off-budget financing. It may well be time for serious reconsideration of our approach to federally supported financing. Perhaps Government ought to withdraw altogether from capital markets, or scale down its loan and guarantee programs. Senators who wish to debate these questions separately will find me a willing participant.

But that is not the question before us. The question is, given our traditional use of loan guarantees, and given the emergency which Chrysler faces, should the Federal Government participate in a program of assistance, in partnership with others?

I believe the answer is yes.

The bill before us does set some other precedents concerning the participation of other entities in the assistance plan. These precedents should not be a fundamental concern. The bill is admittedly an experiment. If it succeeds, we may conclude we set a wise precedent. If it fails, at least some imaginative approaches would have been tried.

What would happen if we say no? In the first place, the 10th largest manufacturing corporation in the world would certainly go bankrupt. There is nothing inherently unacceptable in that course. Businesses go bankrupt every day, often despite Federal assistance. No company is absolutely immune from failure, just as no company is barred from success.

But the implications of a failure in this case go far beyond the future of the company itself. The state of our economy; the demands on our budget; our energy problems; the stability of our currency on world markets; and the fundamental mandate of our Government to act with compassion and sensitivity to the needs of people, are all involved.

Chrysler is not just a $30 billion company. It is 113,000 workers, many of them in inner cities. It is 4,500 independent suppliers, who employ an estimated 250,000 people just on Chrysler contracts. It is a corporation which directly or indirectly affects people in literally thousands of communities in this country. So this is truly an issue of national policy and one from which none of us is insulated.

It is also an issue on which the potential for a purely political judgment is very real. The issue could be made a partisan one by those who see an opportunity to place the burden of rescue on the majority party and therefore feel free to take an ideological position. But this is not the time for a political judgment. It is the time for some cold-blooded analysis.

Let us look at the figures. If this corporation, under the most likely outcome, fails, the cost to the Federal Treasury will be at least $2.75 billion in 1980 and 1981 alone in lost taxes and increased unemployment-related costs.

The cost to State and local governments will be another $307 million in corporate property and payroll taxes in the first year alone. In addition, State income taxes and sales tax revenues are certain to decline. In 1978, Chrysler's State and local income tax withholding totaled $126 million. Unemployment trust funds, many of them still heavily in debt to the Federal Treasury, would be burdened with substantial new payments. One "ballpark" estimate put the total at $520 million.

Beyond these estimates there is the question of $1.1 billion in unfunded pension benefits for Chrysler employees, which the Federal Government almost certainly would be asked to finance. Those are real dollars, and they are compared to the potential risk to the Federal Treasury in this legislation of $1.5 billion.

These are the cold, hard economic facts. If the only result of this legislation is to keep this corporation alive for 1 year, the benefits at least equal the cost, in cold, hard, budgetary terms.

Mr. President, a recession in our economy is widely predicted next year. By most accounts, the recession will be a mild one. But another round of oil price increases, global instability, even an especially severe winter, or another cause now unforeseen could well tip a mild recession into a deeper trough. In my judgment, the collapse of Chrysler next year could well provoke unmanageable pressure on the economy. The auto industry is already in decline. Denying aid to Chrysler would allow the situation to go from bad to much worse.

This is one risk on the other side of the Chrysler question. We must choose which risk to accept.

There are those who say that Chrysler is so financially weak that collapse is inevitable. But even if we only buy 1 year, the impact of Chrysler's reorganization would not be felt until the economy was back on its way to health.

That year would buy us a degree of economic stability, and it would buy Chrysler time to at least make it a more attractive merger or purchase candidate at year's end.

If we allow Chrysler to fail, we risk serious international repercussions as well as serious problems at home. World money markets, which run as much on hints and innuendo as on economic evidence, would surely react to the collapse of this American giant. Added to that would be an increase in our balance of payments deficit as foreign auto manufacturers rush to fill the void in auto markets. Just how great this might be is a matter of speculation. If foreign automakers took only half of the small car market now occupied by Chrysler, it would amount to perhaps $800 million next year. Left undocumented by this figure is the extent of foreign participation in U.S. auto markets. In an uncertain world, is it healthy for 1 new car in 4 in America to be provided by a foreign manufacturer? It is a question I leave to your judgment. For myself, I prefer an American car.

It is true that U.S. auto companies were slow to understand the dramatic shift in public demand for a smaller automobile, despite early and frequent encouragement from the Government to make the shift. Chrysler is paying today for that mistake. It plans a massive $13.5 billion investment program to modernize its facilities and improve its ability to make small cars.

As a Congress we have mandated improved gasoline mileage. As a Congress we have mandated an environmentally clean auto. Smaller, more efficient automobiles can meet both mandates more easily than larger, heavier vehicles.

As a Congress we now have an opportunity to participate directly in a relatively minor but extremely important way to the accomplishment of both clean air and fuel economy goals. In that sense, a loan guarantee for Chrysler is not so different from a loan guarantee for a gasohol plant or a guaranteed bond to finance pollution cleanup. In both cases, despite inherent risks, the public policy goal is more important. The investment will improve our chances of reaching the goal.

So there are persuasive budgetary, economic, and social policy arguments in favor of the loan guarantee program. There is a powerful human argument as well.

Chase Econometric Associates was asked recently to determine what the most likely result might be of our failure to approve the Chrysler legislation. The study was released last month and is conservative by the standards of other analyses. It anticipates that by 1982 a smaller company could recapture 10 percent of the small car market, and 7 percent of light trucks. Even this analysis contemplates 176,000 layoffs next year at Chrysler facilities and among suppliers.

By early 1982, 2 years from now, an estimated 90,000 workers would remain unemployed. About half the current Chrysler share of the small car market—160,000 units—would be taken up by foreign imports.

At the national level, governmental revenues would be down, the gross national product would be down, business fixed investment would be down, consumer spending would decline, the cost to other businesses wishing to raise money through bonds would be a little higher next year.

These are the macroeconomic estimates. They tell us that Chrysler's failure will be felt not only by Chrysler employees, dealers and suppliers, but by thousands of businesses and hundreds of thousands of families nationwide.

The implications on the smaller scale are much more serious. Chrysler employs 9 percent of all manufacturing workers in the city of Detroit, nearly 7 percent in Huntsville, Ala., and more than 7 percent in Newark, Del. Chrysler employs 5.5 percent of all manufacturing workers in Syracuse, N.Y., and more than 9 percent in Belvidere, Ill. These communities would be injured by a Chrysler collapse. They would be crippled.

Michigan, Delaware, Illinois and New York still owe nearly $2 billion borrowed from the Treasury to pay earlier unemployment compensation claims. Either the Federal Government or other businesses in the State would be asked to make a substantial new contribution to these trust funds.

Mr. President, in my State alone, there are 800 employees of Chrysler dealerships. They will be the first to feel the impact of bankruptcy. There will be no cars to sell. Those which are financially viable may be able to quickly switch to another franchise. Few are.

Particularly in more rural areas, the result will more likely be simply to close the doors on the business. Particularly in rural areas, there will be no new business, and no new jobs to take their place. In the first place, the initial cost of a new franchise can be enormous. Chrysler Corp. estimates that the average net worth of its dealers is $220,000. That includes the value of property and equipment. Even if a dealer could avoid a forced sale, financing a new venture would be difficult at best in many cases. In California, auto franchise territories are actually set in law, perhaps precluding some Chrysler dealers from reentering the auto business.

For these family businesses which do not survive, for the workers they employ, for the families of the 90,000 people who will spend as much as 2 years out of work, this is not a debate about macroeconomics. It is not a debate about international economics, or a debate about the state of Federal loan guarantee programs. For them it is a debate about success or failure, hope or hopelessness, work or welfare, a promising future or no future at all.

We can argue, if we wish, that Chrysler might fail anyway. We can discuss the macroeconomic effects of failure in 1982. The concern of the black worker in Detroit, or the auto mechanic in rural Maine is about tomorrow, and next month.

A company can reorganize its business much more easily than a family can reorganize its life.

If Chrysler succeeds, there will actually be a net profit to the Federal Treasury. If it fails despite our help, at least what will be left will be much more attractive to other, better managed, more stable corporations. And the impact of reorganization should be much less severe. Perhaps with this year of warning, those who depend so heavily on Chrysler will diversify so that the next time around, if there is one, and I hope there is not, the potential shock will not be so severe.

Our choice should thus be an easy one. We can help Chrysler to success, and earn a tidy profit for the Government. Or we can delay collapse and buy time for a more hopeful reorganization.

I choose to vote in favor of the Chrysler guarantees.

Mr. HAYAKAWA. Mr. President, I would like to quote a short excerpt from the New York Times of Saturday, December 15, because among the things that bother me most about the so-called bailout of the Chrysler Corp. is the total failure of the United Automobile Workers, that great trade union, to make any contribution toward the salvation of that corporation.

I believe that it has been agreed that they will "contribute" $500 million toward the salvation of Chrysler, but that is not being paid in cash, Mr. President. It is being paid in the form of forgoing raises in pay until they add up to $550 million.

Mr. Howard G. Pastor, legislative director of the United Auto Workers, was asked why they could not put up some real upfront money at the time we were talking about $400 million, and he said:

> I don't know how we could give any short-term financing.

He said that the only large reservoir of funds that the union had was the company strike fund, and that the union's constitution would not permit its use for that purpose.

I would like to know, Mr. President, what in hell is the use of a strike fund if you have got no company to strike against?

That is exactly the situation we are in. They will not put in their strike fund to help their company. There is no cash outlay, then, on the part of UAW, and what we have been doing on this floor, Mr. President, is cave in to the UAW on every demand they are making; and that is how to save Chrysler Corp.

Dealers are buying far more automobiles than they can sell. They are paying interest on the money they had to borrow to buy them. They are paying storage to put those cars somewhere around town until they can be sold. Dealers are making a sacrifice. Executives are making a sacrifice. White-collar workers are making a sacrifice. But the United Auto Workers are not making one single sacrifice to keep Chrysler going.

Five years ago, Pan American Airways was faced with real disaster. In return for job guarantees, the Pan American employees decided to accept, of their own free will, wage freezes until the crisis was over.

The union placed full-page ads in the larger newspapers of the United States to say why it is that Chrysler Corp. should survive, and why it is good for America as well as for themselves. Fortunately, Pan American survived. But one of the reasons why Pan American survived, Mr. President, is that it gave the general public a picture of employees loyal to the company and willing to do something to keep the company going.

We see none of that spirit in United Auto Workers.

Mr. President, I am old enough to remember the early days of United Auto Workers, and the sit-downs in the General Motors plant at Waterloo. My heart was full of sympathy for that great endeavor on their part to organize the auto workers, because they needed to be organized. But it makes me very sad to realize that in their old age they are a reactionary, selfish, self-contained group that does not care what the hell happens to Chrysler so long as they hang on to their membership and their prerogatives.

One more thing that I would like to say—I am going to say about six more things. One of the things that I would like to say about this Chrysler bailout that bothers me: Why are we paying so much attention to the Chrysler failure, or the threat of failure? Three hundred thousand small businesses go out of business every year. Those businesses, as they fail, involve many hundreds of jobs. They expire without notice. Nevertheless, the death throes of a colossal Leviathan like Chrysler attract the attention of the media, whereas all the little tiny companies that expire without even bubbles rising to the surface to show where they were are ignored by the newspapers, by television, and by radio. They just disappear.

I can name instances in the recent history of San Francisco where companies have expired and there has not even been a newspaper notice to say they have expired, and they were companies that were important to us in one way or another.

Let me quote from George Gilder's article in Harper's Magazine (1978), wherein he points out that although these 300,000 small companies disappear every year, the death of a corporate Leviathan provides a drama that captivates the press. Boeing loses its contract for a supersonic transport, and the networks descend on Seattle to depict that thriving city in the image of the Great Depression, because a few thousand well-employed technicians with ample unemployment compensation may be out of work for a few weeks; and the Halls of Congress begin to ring with the rhetoric of emergency programs and subsidies.

That is exactly what is happening all over again in the case of the Chrysler Corp.

Mr. President, I have agonized over my decision about the piece of legislation before us. I have read and thought. I realize the impact of the collapse of Chrysler upon the city of Detroit—and Chrysler has done more for the city of Detroit than the other great companies. Nevertheless, I am not happy about what we are trying to do here today, because the fundamenal problem of our times, it seems to me, is not, as George Gilder says, a split between the capitalist and the workers, between the technocrats and the humanists, between Government and business, between liberals and conservatives. The basic conflict of our time is the struggle between past and future, between the existing configurations of industry and the future configurations of industry that will some day replace those which now exist.

As George Gilder says, that is the problem; it is the continuing conflict between the past and the future.

We in the Republican Party are called conservatives, and I think that is rubbish. Who is trying to conserve the dying institutions of the old order? Essentially big business, big Government, and big unions. They want the status quo. We would like to see the future emerge.

What does the future consist of? As George Gilder says, there are ventures that today may not even exist, that today may flicker only as ideas in inventors' heads, or tiny companies, or obscure research projects, or fierce but penniless ambitions, that today are unidentifiable and incalculable from above, but must rise up if growth is to occur. In fact, long-range growth in a capitalist society may be defined as the replacement of current industries and techniques and products by better and more efficient ones.

If you want to understand, in a kind of personal sense, what this struggle between the past and future is, imagine yourself to be back in 1913 and you have a $10,000 nest egg and someone says: "How would you like to invest in the flying machine?" And you say, "Do you think I'm crazy?"

But the flying machine was the instrument of the future and if you would have gotten into the aircraft industry in 1915, you would be a very, very rich man now. No, in 1915, you would have invested in railroads, like the Pennsylvania Railroad. And where would you be now?

We have to permit the future to come into being. And in trying to maintain Chrysler, we are stopping the future from coming into being. We are prohibiting, we are trying to prevent the creation of that new world which, in 1915, we could not predict as the world of Pan American, TWA, American Airlines, and British Airways, covering the world in our jet planes.

But, in 1915, you would have been crazy to invest your $10,000 nest egg in those silly flying machines. But the future always destroys that which now exists, and is standing for free enterprise principles right now and trying to argue for the future.

I do not want to conserve the old unionism, the old capitalism, the old bureaucracy, and the old big Government. I want to see something emerge, shining and bright, out of the future which very few of us can imagine.

George Gilber further said:

> Progress absolutely depends on the willingness of the future to prevail.
>
> Bureaucracies enlist more and more on the side of the established order, and thus on the side of stagnation as opposed to growth. A legislator usually supports the most powerful businesses in his district. Labor unions are deeply influential in politics, and they normally back the interests of the big companies that they have already organized. Even when governments choose to help business, they often act through investment credits, tariffs, quotas, and tax incentives that favor existing industries.

I mentioned a little earlier that 300,000 small businesses disappear year by year. The mean income of the heads of those businesses is less than the annual salary of a New York garbageman. Still, these are the brave people who are trying to create the business world of tomorrow in which our children and our grandchildren will live.

The greatest thrust of so-called liberals and people with so-called social consciences is to keep this decaying structure in place instead of, as Gilder says, "Letting the future prevail."

To again quote George Gilder:

> Governments everywhere are torn between the clamor of troubled obsolescence and the claims of unmet opportunity; between the sufferers from aging pains and the sufferers from growing pains; between enterprises shrinking from competition or asking subsidies for their errors—

Exactly as the Chrysler Corp. is asking now—

> and companies seeking human and capital resources to meet new demands.

And probably in new and undreamed of ways.

And what happens in this system? As Gilder says in this article which I shall put into the RECORD, "The threatened industries of the past always turn to politics to protect them from change. Failure demands finance."

And we are asking to provide that finance for them so they will go on to further failures. Two years from now, 3 years from now, we will be asked to bail them out all over again to maintain an obsolete management structure, obsolete engineering, and an obsolete conception of transportation, manufacturing, and everything else.

Mr. RANDOLPH. Mr. President, will my colleague yield?

Mr. HAYAKAWA. Mr. President, I am very happy to yield to my distinguished colleague from West Virginia.

Mr. RANDOLPH. Mr. President, the Senator from California addresses this subject in a very scholarly manner. I want my question not to be misunderstood. But in his State of California is Burbank, and Burbank is the headquarters of Lockheed Aircraft.

Mr. HAYAKAWA. That is right.

Mr. RANDOLPH. Lockheed Aircraft has 66,000 workers at the present time, not only in California but approximately 150 in Clarksburg, W. Va. They have plants all over the country.

I remember when Lockheed came to this Senate asking for assistance and the Senate and the House gave assistance to Lockheed. And there were dire expressions made in the course of debate that we were just putting money down a rat hole, as one of my colleagues said. I listened to him. I wondered if that would happen. It did not happen and Lockheed has repaid to the Federal Government the amounts of money that were forthcoming from the Congress.

Now, in saying this I am not critical of the Senator as he makes this address. I am only asking him: Did we do something differently in meeting the Lockheed crisis than what we are being asked in now meeting the Chrysler crisis? Is there a difference? Because, there were those against the Lockheed program and there are those, of course, who are against the Chrysler program.

Are we talking about bailing out the company? Are we talking tonight about providing continuing employment for people, including those who distribute the products of Chrysler? Are we talking about the responsibility that comes from time to time when the small or a smaller or a big or a bigger company comes to make a request from the Congress? And through the Congress that means the taxpayers of the country as a whole are called upon to back up what we do.

And so, in a rather roundabout way, but I think in a rather straightforward way, I am trying to ask the Senator what is the situation as he sees it now in Chrysler that is analogous with Lockheed? Or are they very different? And are the reasons for one coming here valid and the other not coming here with, let us say, a good grace?

Mr. HAYAKAWA. I thank the distinguished Senator from West Virginia for raising this question which will help me clarify my position. I am very grateful to the Senator.

I do believe the situation is quite different. The Chrysler situation is unlike the 1971 Lockheed loan guarantee. They are different in size, they are different in risk and different in kind.

Lockheed was basically a financially sound company, with secure markets at home, enormous Government contracts, and significant export opportunities, also.

Furthermore, the Federal Government was the major buyer of Lockheed products. Acording to some estimates, the Government was buying almost 95 percent of what Lockheed produced and, as such, had control over Lockheed's prices, revenues, and costs.

But Lockheed at that time had a one shot, unique problem, and that is a problem of cash flow. No shortage of products, nothing wrong with their product, and nothing wrong with the orders they had on hand to fill. But there was a cash flow problem.

It was a localized problem and it was temporary. The fact that it was temporary was clearly established by the fact that once the bailout loans were offered under a Government guarantee, they were paid back with the result that the Government did not lose a cent from the Lockheed loan guarantees.

Chrysler's problems do not involve a temporary one-shot need, nor are its markets at home secure and growing, nor are its export opportunities significant.

I refer my very distinguished colleague from West Virginia to an article in the November 26 Washington Post, entitled "No Lockheed Parallel."

Mr. President, I ask unanimous consent that this article from the Washington Post be printed in the RECORD for all my colleagues to see.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NO LOCKHEED PARALLEL

Advocates of a Chrysler bailout like to cite the Lockheed precedent to show how federal loan guarantees can help turn around a company at no cost to taxpayers.

The giant aerospace company was on the verge of bankruptcy in 1971, when Congress voted narrowly to guarantee $250 million in new lendings. Over the course of the guarantee, Lockheed had to borrow up to $245 million of this credit, and it was nearly three years late in meeting its initial repayment schedule. But by 1977, the company was able to repay all its guaranteed loans, including interest payments at market rates. Today, despite a huge writeoff in this year's third quarter, Lockheed is financially alive and kicking.

> Washington never had to put up a penny in the whole affair. After deducting administrative expenses, Uncle Sam actually netted $31 million, mostly from guarantee fees Lockheed paid to compensate for the government's risk.
>
> It's improper, however, to infer that Chrysler's experience will be comparable. For Lockheed's problems in 1971 were vastly different from Chrysler's plight today.
>
> Lockheed had run into liquidity trouble because of unexpectedly high development and production costs, and unexpectedly few orders, for its L–1011 TriStar, a wide-bodied commercial jet. Already reeling from gigantic cost overruns on its C–5A troop transport contract, for which the company eventually had to take a loss of $200 million, Lockheed found it harder and harder to finance its TriStar inventory costs as it waited for orders to come in.
>
> The crunch came in early 1971 when Rolls-Royce, engine supplier for the plane, went into receivership, and Lockheed's bankers announced that without federal guarantees they would be unwilling to put up more than the $400 million they were already lending.
>
> But in most of Lockheed's operations, Lockheed was a healthy company, with secure markets at home and export opportunities abroad. Lockheed in 1971 was the nation's leading defense contractor. It had long been the technological leader and dominant force in four major military markets: airlift aircraft, antisubmarine planes, submarine-launched ballistic missiles and spy planes. During the guarantee period, Lockheed could count on lucrative defense contracts for the C–130 cargo transport, the P–3 and S–3 patrol planes and the Poseidon missile program. Work was getting under way on the new Trident missiles.
>
> For many of its weapons, moreover, Lockheed had excellent opportunities selling to America's allies. Indeed aggressive export promotion—sometimes a little too aggressive, in view of later bribery revelations—was instrumental in restoring the company's financial stability.
>
> Chrysler, by contrast, is suffering from more than a temporary squeeze on cash flow. Its main lines of business are in trouble: even in America the company can't sell enough cars, vans and trucks, and export opportunities are limited. As a full-line producer, Chrysler may not have sufficient market share to survive in an industry where economies of scale are enormous, and ferocious international competition puts strong pressure on prices. And government regulations, such as fleetwide mileage requirements, restrict the company's ability to specialize.
>
> The capital markets are asking whether Chrysler can survive under these circumstances. Unlike the Lockheed case, where bankers were willing to roll over existing commitments, Chrysler's bankers have refused to extend more than $500 million of their earlier credit lines.
>
> We didn't support a Lockheed bailout, and still don't in retrospect. Since so many of its operations were profitable, the company could have been restructured under bankruptcy without much pain. The TriStar program, which is still losing millions, might have cut its losses much earlier. But whatever the merits of loan guarantees for Lockheed, the company's recovery is not an appropriate guide for assessing Chrysler's prospects. The Chrysler guarantees should be rejected on their own merits.

Mr. HAYAKAWA. So I thank Senator RANDOLPH for his question. I do believe there is a great deal of difference.

If I may continue, ultimately we are confronted with a psychological problem, essentially a problem of pictures inside one's head. What does a social planner or a Government planner do? If he is a city planner, he plans with models of existing cities inside his head—Tokyo, London, New York, Kansas City. Those models are distinct.

The planning of social planners, city planners, and so on, are almost inevitably based upon the past. Government programs can be seen as a far-reaching and resourceful defense of the status quo, an attempt to revise the patterns of the past in order to make them work in the future. Sometimes such activity is successful, but more often, with the changing technologies of the 20th century and even more in the 21st century, thinking in terms of the past makes no sense at all.

What does make sense? What makes sense is to liberate those 300,000 small businesses every year with new ideas and crazy ideas, to let them have their way, but let the old die because they have come to a dead end.

Our taxation and subsidy systems cushion failure. They do not reward the creativity of inventors and manufacturers, or even a fast food chain. Essentially, our whole setup rewards the creativity of lawyers, accountants, and bureaucrats, who wait hungrily in ambush for all unsuspecting and thus unsheltered business successes.

I would like to sum up my remarks, Mr. President, by trying to imagine oneself for a moment back in the first half of the 18th century, and you live in a prosperous little town in New England. Your oldest son, 21 years old, says he wants to go to California. You say to that son, "You have good connections here, you have good colleges and universities, you have a chance for a future right here in New England. Why on earth do you want to go out to that desert of California, when you have the world at your fingertips right here in New England?

"What is California? It is a desert. It is totally unproductive. You are far away from civilization. Nobody knows what can happen to you, except you will probably be murdered, not by Indians but by drunken goldminers."

So you would have said, if you were a prudent parent in 1851, "Do not go out to California, do not be absurd."

What did happen to California? What did happen in the rest of the West, the great barren fields, of prairies, which were very lonely and uninviting, with Indians around who might kill you? California was indeed a desert. This was long before the whole concept of irrigating California had come into being.

Central Valley was a desert; Imperial Valley was a desert. It was just a hopeless place to go to.

But California became the richest State in all of America. It has been rich in culture, it has been rich in human contributions to our civilization, it has been rich in thousands of ways. But looking at California from the point of view of 1851, you would have simply said, "You are crazy to try to go out there."

What are we doing in Government? This is a question I want to ask. Are we trying to preserve that which is out of date, that which is obsolete, that which is clearly shown to be unproductive? Or are we trying to open a road to the future which is undreamed of now?

They call us conservatives in the Republican Party, Mr. President. But my hope, as a Republican, my basic dream, is in the 21st century there will be a gleaming and golden United States of America, whose limitations we cannot even imagine at the present, whose technologies we have not yet dreamed of, whose productivity will be fantastic, whose position in the world will be great.

But that depends upon the liberation of our energy, Mr. President. Not by trying to restore that which is dying or dead, but by liberating the free spirit of a creative people.

Why is it that countries like Taiwan and the Ivory Coast constantly surprise us with their creativity? It is a very simple matter. They are so-called underdeveloped countries, but there is freedom for the expression of the human spirit there, freedom for new enterprise, and freedom to explore new ways of creating wealth. So decade by decade both Taiwan and the Ivory Coast become better places to live. But if they do, it will be because they copy much of what is already American history.

Mr. President, may I have order?

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from California is addressing the Senate.

The Senate will be in order.

Mr. HAYAKAWA. I thank the Chair.

Mr. President, I should like to close these remarks by quoting again from George Gilder, when he sums up his ideas which are very much like my own:

> It is said—

He writes—

> we must abandon economic freedom because our frontier is closed: because our resources are running out, because our technology is perverse, because our population is dense, because our horizons are closing in.
>
> We have reached the end of the open road; we are beating against the gates of an occluded frontier. We must tax and regulate and plan, redistribute our wealth and ration our consumption, because we have reached the end of openness.

This is called the liberal philosophy. Actually, we are not at the end of any road. Actually, we are not at the end of our potentiality. These problems which we confront today, as Gilder says, these problems and crises are, themselves, a new frontier. They are themselves the mandate for individual and corporate competition and creativity. They are themselves the reason why we cannot afford the consolations of planning and stasis:

> The old frontier of the American West also appeared closed at first. Only in retrospect could the achievements of the past be seen as easy or inevitable.
>
> Only in retrospect were the barrens of Texas and Oklahoma an energy cornucopia, the flat prairies a breadbasket for the world.

In our future no less than in our past, we are going to have our Henry Fords, our Thomas Edisons, our Charles Lindberghs. The future is forever incalculable, and in order to step into that future, Mr. President, we must abandon what is lost and hopeless of the past.

EXHIBIT 1

RIGGING THE ODDS AGAINST AMERICA

(By George Gilder)

(Enterprise only pretends to itself to be mainly actuated by the statements in its own prospectus, however candid and sincere. Only a little more than an expedition to the South Pole is it based on an exact calculation of benefits to come. Thus, if the animal spirits are dimmed and the spontaneous optimism falters, leaving us to depend on nothing but a mathematical expectation, enterprise will falter and die.—JOHN MAYNARD KEYNES, The General Theory of Employment, Interest and Money.)

To many people, the past seems inevitable and the future impossible. History is seen to have arisen not from unpredictable flows of genius and heroism, but more or less inevitably, from preordained patterns of natural resources and population. For those who doubt the decisive role of genius, courage, and chance in history, the future always appears impossible; they can see no way for free nations to escape a fate of decline, decay, and coercion, as their growing populations press against a closing frontier.

These attitudes lead to distortions of vision and policy. Strangely enough, the man who sees a future blighted by coercion and scarcity also tends to believe that the present can be made as free of risk and uncertainty as the past, receding reassuringly in the reliable lenses of hindsight. He calls upon government to create an orderly and predictable economy, with known energy reserves always equaling prospective needs; with jobs always assured in current geographic and demographic patterns; with monetary demand always expanding to absorb expected output of current corporate goods; with disorderly foreign intruders banished from the marketplace or burdened by tariffs and quotas; with invention and creativity summoned by bureaucrats for forced marches of research and development; with inflation insurance in every contract and unemployment insurance in every job; with all windfall wealth briskly taxed away and unseemly poverty removed by income guarantees. In this view, risk and uncertainty are seen to be the problem and government the solution in the fail-safe quest for a managed economy of steady and predictable long-term growth.

These follies of false security and rationality are the characteristic delusion of the modern age. Abstractions everywhere are confused with things. But despite a pretense of scientific objectivity, the vision of a comfortably calculable world has been almost completely abandoned by serious thinkers in the hard sciences. While modern physicists begin to concede freedom to microscopic particles, social scientists still begrudge it to human beings. While chemists and mathematicians accept chance and uncertainty, politicians and sociologists cling to the determinist dream of an orderly, predictable, and risk-free world.

Most of our ideological debates revolve around the attempt to banish danger and uncertainty from human affairs. A vivid current example is the dispute over tax policy. Early this spring, Washington underwent a small legislative upheaval on the issue of how much to tax the profits of speculative investment.

A young Republican Congressman on the House Ways and Means Committee sought to reverse the high levies imposed by the Nixon Administration, only to meet with the fierce hostility and resistance of the present Administration. Joining President Carter against the Congressman's idea were the Chairman of Ways and Means Committee, the House Democratic leadership, the united forces of organized labor, the Business Roundtable—speaking for the executives of some 190 major corporations—and the editorial boards of both the *New York Times* and the *Washington Post*. It has been some time since the works of Richard Nixon have enjoyed so fervent and prestigious a defense.

One might assume that the fight was over before it began. Rising in support of the young Republican from Wisconsin, however, were powers nearly as impressive: a majority of the Ways and Means Committee; more than sixty U.S. Senators; and an interesting motley of others, including Rep. Ron Dellums of Berkeley, California, and other young Democrats, the editorial board of the *Wall Street Journal*, and virtually every American organization of small businessmen and venture capitalists.

The Wisconsin Congressman was William Steiger, and the proposal that created this strange but illuminating cleavage was reversal of Nixon's tax reform on capital gains. Capital gains are profits derived from the sale of assets or equity, such as real estate or corporate securities. In order to protect incentives for risky but possibly productive investment, many countries, like Germany and Japan, refrain from taxing capital gains at all, and even socialist Sweden taxes them at less than half the American level. As part of a tax reform signed by Nixon in 1969, however, the statutory top rate, as later impacted by minimum tax provisions, was lifted from 25 to 49 percent in the United States. Even this high nominal rate sometimes understated the effective rates. Not only are capital gains also taxed by some states, but during an inflationary period, the apparent increase in the value of an asset may well be illusory. Thus the government may be taxing ostensible gains in companies that have declined in actual value. Partly because of this interplay of inflation and taxes, new stock issues by smaller firms plummeted in the early 1970s from several hundred annually to exactly four in 1975. Yet in 1978, President Carter proposed to raise the tax again, to a top rate of 52 percent, in order to prevent "windfalls for the rich."

The businessmen who were willing to accept such drastic taxation of rapid growth were all from mature and established companies. They preferred to cling to the Carter program of corporate and personal income tax reductions, an expanded investment tax credit, and accelerated depreciation.

This conflict appears minor: a technical choice among ways of lowering taxes and promoting enterprise. But the choice is anything but minor and technical. It embodies what Jane Jacobs has called the central conflict in every economy. This is not the split between capitalists and workers, technocrats and humanists, government and business, liberals and conservatives, rich and poor. It is the struggle between past and future, between the existing configuration of industries and the industries that someday will replace them. It is the conflict between the risk takers and the risk averters, established factories, technologies, formations of capital, and ventures that today may not even exist, that today may flicker only as ideas, or tiny companies, or obscure research projects, or fierce but penniless ambitions, that today are unidentifiable and incalculable from above, but which, in time, in a progressing economy, must rise up if growth is to occur. In fact, long-range growth may be defined as the replacement of current industries and techniques and products by better or more efficient ones.

Sir Henry Bessemer, the creator of the Bessemer method of large-scale steel production, vividly described such a nineteenth-century moment of discovery and displacement. After his first breakthrough in tests for making steel he wrote: "I could now see in my mind's eye, at a glance, the great iron industry of the world crumbling away under the irresistible forces of the facts so recently elicited." As economist Joseph Schumpeter wrote in *Capitalism, Socialism, and Democracy:*

"Creative destruction is the essential fact about capitalism . . . ; it is by nature a form or method of economic change, and not only never is, but never can be stationary. . . . The fundamental impulse that sets and keeps the capitalist engine in motion comes from the new consumers' goods, the new methods of production or transportation, the new markets, the new forms of industrial organization that capitalist enterprise creates."

Progress absolutely depends on the willingness of government to allow the future to prevail.

As capitalist governments weave their tentacles ever more deeply into the economic fabric, however, their bureaus enlist more and more on the side of the established order, and thus on the side of stagnation as opposed to growth. A legislator usually supports the most powerful businesses in his district. Labor unions are deeply influential in politics, and they normally back the interests of the big companies that they have already organized. Bureaucracies often are closely allied with the industries they regulate or patronize, and in any case the regulations tend to favor the old ways of doing things. Even when governments choose to help business, they often act through investment credits, tariffs, quotas, and tax incentives that favor existing industries.

These government tendencies are reinforced by the media. While more than 300,000 small businesses involving many millions of jobs expire annually without notice, the death throes of a corporate leviathan provide a drama that captivates the press. Boeing loses the contract for a supersonic transport, and the networks descend on Seattle to depict that thriving city in images of the Great Depression because a few thousand well-paid technicians with ample unemployment insurance may be out of work for a while. The halls of Congress begin to ring with a rhetoric of emergency programs and subsidies.

Governments everywhere are torn between the clamor of troubled obsolescence and the claims of unmet opportunity; between the sufferers of aging pains and the sufferers of growing pains; between enterprises shrinking from competition or asking subsidies for their errors, and companies seeking human and capital resources to meet new demands.

The threatened industries of the past always turn to politics to protect them from change. Failure demands finance. A government preoccupied with the statistics of crisis will often find itself subsidizing problems, shoring up essentially moribund patterns of economic and social activity, creating incentives for unemployment, inflation, family breakdown, housing decay, and municipal deficits, making problems worse by making them profitable.

Throughout Washington today, behind the inevitable rhetoric of innovation and progress, the facades of futurity, these forces of obstruction are gathering: an energy department exalting counterproductive new taxes and price controls; a department of housing promoting rent control; even a National Center for Productivity forced to celebrate the least productive of all unions—both the steelworkers and the American Federation of State, County, and Municipal Employees.

Despite his best intentions, the government planner will tend to live in the past, for only the past is sure and calculable. In response to the inevitable crises of scarcity, he will prescribe, as progress, a series of faintly disguised anachronisms: a revival of canals and windmills, or a renaissance of consumer cooperatives, or a return to small-lot farming.

Current government programs, in fact, can be seen as a far-reaching and resourceful defense of the status quo against all emerging competitors. Economic policy focuses on stimulating aggregate demand for existing products rather than on promoting the supply of new ones. Investment credits and rapid depreciation allowances favor the re-creation of current capital stock rather than the creation of new forms of capital and modes of production. Antitrust activity is directed chiefly against successful competitors (IBM) rather than against industries that refuse to compete (the steel industry). Government regulatory policy rewards the company that follows prescriptions, rather than the company that avoids them with new techniques and products. Our floating exchange rates deal with U.S. lapses in international trade by depreciating the dollar rather than by forcing a competitive response of greater productivity or new products. Our taxation and subsidy systems artfully cushion failure (of businesses, individuals, and municipalities), reward the creativity and resourcefulness chiefly of corporate lawyers and accountants, and wait hungrily in ambush for all unexpected and thus unsheltered business success.

There is a similar bias in our social and employment programs. The civil service joins with affirmative-action rules to grant jobs and promotions on the basis of nearly immutable credentials like test scores, diplomas, race, and sex, rather than on competitive performance of work. The nation's employment policies are increasingly based on new forms of tenure and entitlement rather than on expanding opportunities and new kinds of jobs.

Most of these policies are designed to protect businesses and individuals from risk and competition, inflation and unemployment. But the effort to escape inflation by indexing the incomes of favored groups and to fight unemployment by subsidizing outmoded jobs merely makes these problems worse, and foists them onto the unorganized majority: onto small businesses, onto non-union workers, and onto the public at large in a stagnant economy. As Burton Klein has shown in his brilliant new book, *Dynamic Economics,* the effect of the government's efforts to shield itself and its clients from uncertainty and risk is to place the entire system in peril. It becomes at once too rigid and too soft to react resourcefully to the new shocks and sudden challenges that are inevitable in a dangerous world.

Supporting the future is technically easy for government to do. It can perform economic miracles merely by enforcing the laws equally, by fighting monopoly, by removing barriers to trade, and by lifting the dead hand of taxation and bureaucracy. Only slightly more difficulty is imposing a sensible structure of penalties and incentives on industries that pollute or defile the environment, protecting patents and property rights, promoting educational excellence—above all in science, and technology—and maintaining a reasonable balance in its own accounts (in relation to the level of economic activity and employment). That is, government best supports the future by refraining as much as possible from attempting to shape it, for in a democracy the shape of government policy nearly always conforms with the current incidence of political power, which derives from the configuration of existing capital and labor: with an overlay of rhetoric and bureaucratic expansion in its name.

This is why the current debate over tax policy is so crucial and revealing. The distinctions are relatively simple. Cuts in the tax on capital gains chiefly benefit companies that expect to grow fast, i.e., new and innovating companies. The few that succeed will indeed "hit the jackpot," win "obscene windfall riches," if that rhetoric appeals. Cuts in corporate income taxes and enlargements in the investment tax credit, on the other hand, are less likely to bring such untoward results. The chief benefits will go to companies that are established and profitable, and subject to union pressures. The money will tend to be spent for higher wages and for the repair and reduplication of current capital formations rather than for the development of new ones—for inflation rather than innovation. Expansion will come through homogeneous growth or through mergers. In recent years, in fact, the stock market has been largely preoccupied not with anticipating innovations and growth but with speculating on takeover attempts, as big companies give up on generating progress and try to avoid risk by diversification. When big companies avoid risk, however, they become reactionary, because all important progress and innovation is dependent on accepting risk and entering the realms of the unknown.

THE "HIDING HAND"

The damage of fail-safe policies is most vivid in the small and struggling economies of the Third World. With a passionate devotion to the ideals of welfare and central control and an undeniable need for public works and investments, the developing countries provide continuing lessons in the perplexities of planning. Economist Albert O. Hirschman has discovered in the trials and errors—and occasional successes—of these countries, a crucial principle of economic progress.

In an article in *The Public Interest* (winter, 1967), Hirschman recounted the story of a hydroelectric station that was built to stimulate industrial development in rural Uganda. No boom occurred, and five years later the project seemed a complete fiasco, until transmission lines were built to deliver the power first to neighboring Kenya and later to smaller towns elsewhere in Uganda. The station thus thrived, and when Hirschman studied it, enlargement was underway. The hydroelectric station was a success, despite the fact that few of its expected effects or intended purposes were fulfilled.

Another case was the Karnaphuli pulp-and-paper mill in East Pakistan (now Bangladesh). Built in 1953 to exploit the vast bamboo forests along the upper reaches of the Karnaphuli River, the mill had been in fitful operation for several years and had passed into private hands, when the bamboo unexpectedly burst into flower—as bamboo does every sixty summers or so—and became useless. It turned out that many years would elapse before the seeds would grow into usable timber. The catastrophe was apparently total. But, instead, the network of East Pakistan's rivers and canals was used to transport random pulpwood from throughout the country. Not only was this approach a success for the mill, it also provided profitable activity in towns all over East Pakistan. In his article Hirschman offered similar examples from other Third World countries—successful results that totally failed to correspond to the plans and intentions that gave them birth—and proposed as a theory "the principle of the hiding hand." Leaders in less developed countries seem able to muster in themselves and their followers the confidence and willpower to commence a major undertaking only if its dangers and difficulties are obscured. This "hiding hand" takes the form of a vast overestimation of benefits and underestimation of difficulties. There is usually a pretense of planning and expertise that suggests that all problems have been anticipated and the solutions are known.

Such a "hiding hand" seems to have been active in the industrial development of the United States during the first half of the nineteenth century. Economic historian John Sawyer has observed that "miscalculation or sheer ignorance" of costs and difficulties was important in the launching of a number of great and ultimately successful businesses, from canals and railroads to mining and manufacture. Hirschman writes in his article:

> "Creativity always comes as a surprise to us, therefore we can never count on it and we dare not believe in it until it has happened. . . . Since we necessarily underestimate our creativity, it is desirable that we underestimate to a roughly similar extent the difficulties. . . ."

Then we will undertake tasks

> "which we can, but otherwise would not dare tackle. . . . The Hiding Hand is essentially a mechanism which makes a risk averter take risks and turns him into less of a risk averter in the process."

Of course, the entrepreneurs themselves will not see it this way. They will not imagine that they may have stumbled into their greatest achievements. As Hirschman puts it, in a linguistic apercu: "We fall into error, but do not usually speak of falling into truth."

Hirschman has fallen into some of the most vital truths of human society, but does not quite dare to extend them beyond the less developed world. Things are different, he seems to assume, in modern economies, with their panoply of computers and econometric models, their coolly Galbraithian managers and entrepreneurs, their increasingly routinized research and development techniques, their new methods of market analysis and manipulation, their populations of "risk-taking, achievement-motivated men."

Hirschman implies (though he surely knows better) that in modern societies planning is successful: costs are correctly estimated and benefits clearly foreseen. Yet it seems obvious that if Hirschman had directed his attentions to contemporary modern societies, he would have discovered the same pattern that he found in nineteenth-century America and in the Third World: Planning sometimes succeeds in manipulating markets or governments, but rarely in generating new enterprise or substantial growth. From France to the Philippines, plans are propounded, given lip service, and flouted. Countries like Taiwan and the Ivory Coast, which leave room for uncontrolled private ventures, grow faster than their more centralized neighbors.

Governments and businesses must have some concept of goals and directions. Detailed blueprints can be useful in seeking gains through imitation. Nonetheless, the developing countries are littered with projects undertaken in the false assurance that any random river valley is a site for "another TVA" and that steel and auto industries can be copied by bureaucrats mobilized in military array. Progress and creativity cannot be forced or prescribed, except at costs far beyond the reach of any Third World country or of any competitive firm anywhere. There is no way to escape for long the necessity of openness and risk.

This truth is anathema to those who seek a risk-free scheme of development and growth, whether unlettered leftist generals assuming control of small nations or smooth-talking corporate leaders in the U.S. The rule of risk applies alike to national planning and private business, to advanced technical industries and even to the movies. John Gregory Dunne's extraordinary book *The Studio* tells of the foibles of planning during a year of high expectations under new leadership at Twentieth Century Fox. In preparation—and preoccuying the executives—were several colossal "sure things," including *Doctor Doolittle* with Rex Harrison, *Star!* with Julie Andrews (coming off her *Sound of Music* bonanza), and *Hello Dolly* with Barbara Streisand. The sure-thing superhits, however, would have brought the company near bankruptcy, if it had not been for an afterthought cheapie (several times nearly canceled in the interests of economy) named *Planet of the Apes. Star Wars* was later to perform a similar miracle for the studio.

The unpredictability that Hirschman took to be a malady of underdevelopment is, in fact, the incalculable condition of all economic progress. To deal with uncertainty, one must have enough faith in the future to take risks. Faith moves mountains, evokes commitments, and lowers interest rates; risk propels adventure and innovation.

To a great extent, plans are the mythology of a secular rationalist world; they are designed, paradoxically, to get the planners out of the way, to appease the bureaucrats and financiers, so work and faith and ingenuity can proceed. As clothing executive Richard Salomon told the *Wall Street Journal*, "Everybody praises carefully tested methods and long-range planning. Yet the most successful moves are often on-the-spot responses to completely unexpected situations, taking a company to places it never before imagined." When the planning is taken too seriously, as in totalitarian states, stagnation results and most creativity has to be imported in the form of goods from abroad.

RISK, FAITH, AND THE FRONTIER

The attempt of the welfare state to deny, suppress, and plan away the dangers and uncertainties of our lives—to domesticate the inevitable unknown—affronts human nature. Even the most primitive of men tend to invent forms of gambling (dice in most societies preceded the wheel) as well as religions (faith always precedes works). The government devoted to suppressing uncertainty finds itself forever having to channel or suppress the human will to risk.

In this country, the impulse to gamble and risk is often from the economy, from serious life, into fantasy and frivolity—games and wagers—or diverted from productive activity into courtroom assaults against the productive. One of the best remaining ways to strike it rich—the best remaining scene for gambling, with the odds against the productive stacked ever higher by government—is the civil suit; malpractice, product liability, discrimination, antitrust, libel, pollution, whatever, the government has created a vast new sweepstakes open to the man willing to play for high stakes and to the law firms that join in the new champetry. In a good many cases the victim is a man of courage and faith who dares risk his own money to bring a new product or service to the public. *Caveat productor* is the new rule.

For citizens without the means or litigious bent to sue for a living, the state is widely setting up simpler lotteries of its own, opening on every block a storefront for the gambling impulse, advertising on billboards the government games. And everywhere it tells the incredible lie that its lottery affords a better deal ("where no one has a better chance than you"), a fairer opportunity than the real and continuing lotteries of lower-class life; that it is more promising to place your wagers on "The New York Bets" than in the U.S. economy. The effect is to trivialize and stultify the will to risk and work that is the only real hope of the poor. It is to deprive our economy of the new businesses and activities that the poor otherwise would engender by their hard work and enterprise.

A society that immobilizes its poor by excessive welfare and trival games—government bread and circuses—removes a major source of economic growth and change. The economic history of America is largely the saga of successive generations of the poor, toughened by hardship, who overcame all odds to move up: launching new businesses and spurring the middle class into greater efforts and accomplishments. By pampering and demoralizing the poor, government impoverishes the whole society.

Similarly with the rich, the government makes the dubious claim that it can use wealth more productively than a free capitalist. So its tax policy raises the always adverse odds of enterprise to the point that they no longer invite the investor. While the poor man swings between welfare and the state lottery, the rich man alternates between personal gambling and municipal bonds. The stochastic margin of progress—the frontier of the economy—is being closed off by obtuse taxation and bureauarcy.

Most redistributive activity is based on serious misunderstandings of the nature and sources of wealth and innovation. Seeing the high levels of chance involved in each particular business success, many officials and intellectuals conclude that most large capital gains are in a sense both unearned and unanticipated, and no factor in either personal motivation or efficient allocation of resources. Two of the nation's leading thinkers on the Left, Lester C. Thurow and Christopher Jencks ended their ambitious studies of inequality with the conclusion that crucial in most fortunes, great and small, is luck. The beneficiary, like a raffle winner, was at the right place at the right time, and in a rational system should not be permitted to convert his luck into real economic power, any more than the myriad losers should suffer more than limited liability for their losses.

Indeed, risk and faith do produce much more waste and inefficiency than any well-trained planner could tolerate or defend. Some 300,000 new businesses start every year in America, two-thirds fail within five years, and the median small businessman earns less than a New York City garbage collector. Of the thousands of plausible inventions, only scores are tested by business, and only a handful of these are an economic success. Perhaps 90 percent of trade hardcover books lose money for the publisher, and a still higher proportion represent a net loss for the author; an even greater number, comprising untold months or years of labor, are never published at all. But such waste and irrationality is the secret of economic growth. Because no one knows which venture will succeed, which number will win the lottery, a society ruled by faith and risk rather than by rational calculus, a society open to the future rather than planning it, will call forth an endless stream of invention, enterprise, and art. The greatest irony of modern economics is that the kind of "economic man" at its center, the rational optimizer of wealth, could rarely create wealth, or dare invest in the frontier enterprises of growth.

The issue goes far beyond economics. Charles Peirce, perhaps America's greatest philosopher and leading theoretician of probability, has shown that chance not only is at the center of human reality, but also is the deepest source of reason and morality. "The idea that chance begets order is the cornerstone of modern physics," and, he might have added, of biology as well.

The movement of chance and probability toward order and truth, however, is not assured in any one lifetime. The odds are against each individual in the serial lotteries of his own life, which inevitably end, after all, in decline and death. Risk cannot be shown to work except in the long run of trial and error; in fact, a rational calculation of personal gain would impel an individual above all to avoid risk and seek security. In our world of fortuity, one would conclude, the invisible hand of self-interest would lead to an ever-enlarging welfare state—to stasis and sterility. This is the root of our crisis today.

The acceptance of risk implies a commitment to values that go beyond rational self-interest to embrace family and future. Progress springs ultimately from morality and faith, from beliefs, usually religous, that transcend the individual life and reach into the future of the race.

The narrow economic and sociological perspective engenders a despairing pessimism about our prospects as a free people. Economist Robert Heilbroner and anthropologist Marvin Harris speak for a consensus of security-minded intellectuals in arguing that the future cannot be mastered in freedom—that without authoritarian controls the race is doomed to a grim decline, as rising populations press against a wasting earth.

What they fail to comprehend is that the visibly possible achievements, the clearly available resources, are always limited. All plans based on the calculable present, on the existing statistics, necessarily presume a declining field of choice, a contraction of possibilities, an exhaustion of resources, a diminishing of returns—entropy and decay. The only unlimited resource, the one that can release us from all the others, is the imagination and creativity of free men.

The most dire and fatal hubris for any leader is to cut his people off from providence, from the miraculous prodigality of chance, by substituting a closed system of human planning. Innovation is always unpredictable, and thus an effect of faith and freedom.

In the United States today we are facing the usual calculus of impossibility, recited by the familiar aspirants to a master plan. It is said we must abandon economic freedom because our frontier is closed: because our biosphere is strained, because our resources are running out, because our technology is perverse, because our population is dense, because our horizons are closing in. We walk, it is said, in a shadow of death, depleted air, poisoned earth and water, a fallout of explosive growth showering from the clouds of our future in a quiet carcinogenic rain. In this extremity, we cannot afford the luxuries of competition and waste and freedom. We have reached the end of the open road; we are beating against the gates of an occluded frontier. We must tax and regulate and plan, redistribute our wealth and ration our consumption, because we have reached the end of openness.

But quite to the contrary, these problems and crises are in themselves the new frontier, are themselves the mandate for individual and corporate competition and creativity, are themselves the reason why we cannot afford the consolations of planning and stasis. The old frontier of the American West also appeared closed at first. Only in retrospect could the achievements of the past be seen as easy or inevitable. America became an open reservoir of wealth only in retrospect, because the pioneers dared to risk their lives and families in the quest for riches, looking for gold (of which there was relatively little in the U.S.) and eventually finding oil. Only in retrospect were the barrens of Texas and Oklahoma an energy cornucopia, the flat prairies a breadbasket for the world, or Thomas Edison a catalytic genius and Henry Ford the salvation of capitalism in the grips of an earlier closing circle. The future is forever incalculable. Its challenges can be mastered only by those who are willing and permitted to enter the unknown.

Mr. MELCHER. Mr. President, the remarks of the Senator from California are noteworthy. The Senator's statement is profound, thought-provoking and it deserves our attention.

The Senator pronounces a philosophical argument that may not sway the judgment of those of us who support loan guarantees for Chrysler but, nevertheless, poses the question, historically accurate and proper as Congress makes its collective judgment on the bill before us to aid Chrysler at this time.

I disagree with the Senator from California on singling out the United Auto Workers to assert a greater liability and sacrifice than is judged to be the responsibility of Chrysler management and stockholders.

To debate the degree of responsibility of labor, management, and ownership is not only proper, as posed by the Senator from California but it is, indeed, our responsibility on behalf of the public interest. The bill divides that sacrifice and responsibility proportionately among labor, the job holders, the management, and the owners of Chrysler. Risk of a job, a livelihood, is part of the risk in the bill. Risk of bankruptcy affects the workers, too, as it also affects management and stockholders of Chrysler.

The bill protects the public interest through the stringent requirements on all of these. The question posed by the bill is a question of Federal loan guarantees. I believe the loans can and will be repaid.

Thus, I believe the public interest is protected and the bill is justified.

UP AMENDMENT NO. 903

(Purpose: To amend S. 2094 by adding a new section to amend the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 and further purposes)

Mr. McCLURE. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 903.

Mr. McCLURE. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

S. 2094 is amended by adding at the appropriate place in the bill the following new section:

SEC. Section 13(c) of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2512 (c)) is amended by adding the following new subparagraphs:

"(1) The Secretary of Energy in consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency is authorized and directed to conduct a seven-year evaluation program of the inclusion of electric vehicles, as defined in section 512(b)(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2012(b)(2)), in the calculation of average fuel economy pursuant to section 503(a)(1) and (2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(a)(1) and (2)) to determine the value and implications of such inclusion as an incentive for the early initiation of industrial engineering development and initial commercialization of electric vehicles in the United States. The evaluation program shall be conducted in parallel with the research and development activities of section 6 and demonstration activities of section 7 (15 U.S.C. 2505 and 2506) to provide all necessary information no later than January 1, 1987, for the private sector and Federal, State and local officials to make required decisions for the full commercialization of electric vehicles in the United States.

"(2) The Administrator of the Environmental Protection Agency, in consultation with the Secretary of Energy and the Secretary of Transportation, shall implement immediately the evaluation program by promulgating, within 60 days of enactment of the DOE Authorization Act for Fiscal Year 1980, regulations to include electric vehicles in average fuel economy calculations under section 503(a)(1) and (2) of the Motor Vehicle Information and Cost Savings Act. The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003), as amended, is further amended by adding a new section 503(a)(3) (15 U.S.C. 2003(a)(3)), which reads as follows:

"(3) In the event that a manufacturer manufactures electric vehicles, as defined in section 512(b)(2) (15 U.S.C. 2012(b)(2)), the average fuel economy will be calculated under 503(a)(1) and (2) to include equivalent petroleum based fuel economy values for various classes of electric vehicles in the following manner:

"(A) The Secretary of Energy will determine equivalent petroleum based fuel economy values for various classes of electric vehicles. Determination of these fuel economy values will take into account the following parameters:

"'(i) the approximate electrical energy efficiency of the vehicles considering the vehicle type, mission, and weight;

"'(ii) the national average electricity generation and transmission efficiencies;

"'(iii) the need of the Nation to conserve all forms of energy, and the relative scarcity and value to the Nation of all fuel used to generate electricity;

"'(iv) the specific driving patterns of electric vehicles as compared with those of petroleum fueled vehicles.

"'(B) The Secretary of Energy will propose equivalent petroleum based fuel economy values within four months of enactment of the Act. Final promulgation of the values is required no later than six months after the proposal of the values.

"'(C) The Secretary of Energy will review these values on an annual basis and will propose revisions, if necessary.'

"(3) The Secretary of Energy, in consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall include a full discussion of this evaluation program in the annual report required by section 14 (15 U.S.C. 2513) in each year after promulgation of the regulations under paragraph (2). The Secretary of Energy, in consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall submit to the Congress on January 1, 1987, a final report on the results of the evaluation program and any recommendations regarding the continued inclusion of electric vehicles in the average fuel economy calculations under the Motor Vehicle Information and Cost Savings Act."

Mr. McCLURE. Mr. President, this is an amendment which I have discussed with the sponsors of the legislation, with the ranking majority member and the ranking minority member, the chairman of the committee and the minority manager. It deals with a study by the Department of Transportation to determine whether or not they can meld electric vehicles into the fleet average mileage standard in order to allow the companies a little broader marketing opportunity. I think it might be of some assistance to Chrysler. I understand the managers of the bill are willing to accept the amendment at this stage. If they are, I have no further comment.

Mr. PROXMIRE. Will the Senator yield?

Mr. McCLURE. I am happy to yield.

Mr. PROXMIRE. As I understand it, what this amendment would do would be to provide a study over a period of years to see if the inclusion of electric vehicles would help the automobile companies, including Chrysler, and help our energy situation because the electric vehicles would use less oil and less energy generally.

That study, it seems to me, is very constructive, very relevant to this bill. I shall be happy to support it.

Mr. McCLURE. I thank the Senator.

Mr. LUGAR. Mr. President, on our side of the aisle, we shall be pleased to support the amendment. It is a constructive attempt to assist Chrysler in terms of its product line; likewise with regard to the energy situation in this country.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho.

The amendment was agreed to.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 904

(Purpose: To broaden the types of governments which may assist the corporation)

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 904.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Mr. PROXMIRE. Mr. President, the bill requires a contribution of $250 million from State and local governments. The amendment would make that "State, local, and other governments." That is along the lines provided in the original administration bill. It would permit a contribution from foreign governments, including the Canadian Government. We think that is constructive. The administration provided it. It would certainly be in the interest of Chrysler Corp. It would help us raise more money. I hope the amendment will be accepted. As far as I know, it is not controversial.

Mr. LUGAR. Mr. President, on our side, we are pleased to support the chairman's amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PROXMIRE. May I ask, Mr. President, does the Senator from Michigan want to be recognized?

UP AMENDMENT NO. 905

(Purpose: To broaden the study required by section 12 (a) and (b))

Mr. LEVIN. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN) proposes an unprinted amendment numbered 905.

Mr. LEVIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows :

On page 28, between lines 2 and 3, insert the following:

"(d) In the study and assessments required by subsections (a) and (b), the Secretary in consultation with appropriate agencies and departments shall identify any adverse effects on the economy of or on employment in the United States or any region thereof and shall make recommendations for dealing with the adverse economic and employment trends identified in such study and for proposed programs or structural or modifications of existing programs, as well as funding requirements, in such areas as economic development, community development, job retraining, and worker relocation. In addition, the Secretary may make any additional recommendations he deems appropriate to address the long term national and regional impact of reduced activity of the Corporation or of the automobile industry."

Mr. LEVIN. Mr. President, this amendment broadens the objectives of the long-term planning study required by section 12. The amendment would require the Secretary of Transportation in consultation with appropriate agencies and departments to identify adverse employment and economic trends within the automobile industry. The Secretary will make recommendations for appropriate Federal measures to deal with those adverse economic and employment trends identified in the long-term planning study. Recommendations will include but not be limited to such areas as economic development, community development, job retraining, and worker relocation.

Mr. President, this long-term study will hopefully initiate a new era of cooperation between the auto industry and the Federal Government. Adversary relations which have marked past relations are not healthy for the company, the workers, nor the Federal Government. This study will examine the conditions and needs of the auto industry and, with my amendment, will recommend ways the Federal Government can address the adverse economic and employment consequences. My amendment, together with the planning study begins the long process of developing a programmatic approach to the problems and needs of the auto industry within a spirit of mutual concern.

Chrysler is not an isolated case. I am afraid it is symptomatic of a larger problem, which, in its simplest form, is an established industrial sector adapting to changing market conditions. I hope we may be better prepared to prevent this type of quick-fix Federal assistance in the future. My amendment is a step in the right direction.

Mr. President, I understand that the amendment is acceptable to the managers of the bill.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. LEVIN. I yield the floor.

Mr. PROXMIRE. Mr. President, I support the amendment. The amendment, as I understand it, would provide, in the first place a study and, on the basis of that study, recommendations by the Secretary to address, as the amendment puts it, the long-term national and regional impact of the reduced activity of the corporation and the automobile industry. I think that is most constructive and useful.

Mr. LUGAR. Mr. President, we support the amendment of the Senator from Michigan. It is a constructive attempt to take a look at the ramifications of what is occurring to the Chrysler Corp. and in the automobile industry in general and to make recommendations as to what national policies might be appropriate. We commend the Senator for his amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, I thank the managers of the bill for their support.

Mr. DOLE. Mr. President, this has been a difficult issue for those of us who believe in the free market and a private economy. We have had to balance our desire to keep the Federal Government out of big business with the realization that this Federal aid can save thousands of jobs and ultimately millions of Government dollars at little cost to the Federal Treasury.

COSTLY AND BURDENSOME REGULATIONS

Like most of my colleagues, I believe that the Government should leave successful businesses unfettered and let failing businesses die. Free competition and economic Darwinism insures that the American consumer will receive the products best fitting his needs.

But the Federal Government has not permitted free competition. We have imposed costly regulations and guidelines on all automakers, the smallest of which find them difficult to afford. We have recognized this burden by exempting American Motors from the expensive requirements, but have forced Chrysler to spend the bulk of its research and development money in meeting governmental edicts. While this may not be the only cause of Chrysler's financial woes, it is an important factor. We should not fetter the Chrysler Corp., and then let it die in the name of free enterprise.

SAVES TREASURY BILLIONS

This aid to our third largest automaker is also in the public interest. For the sum of $1.5 million in administrative fees for the loan guarantees, we can prevent a multibillion dollar drain on the Treasury. It is estimated that a Chrysler failure would cost the Government $2.75 billion in lost revenues, welfare costs, unemployment payments, and the like.

MERELY A MECHANISM

Far from bailing Chrysler out at the taxpayer's expense, the bill merely provides a mechanism allowing Chrysler to bail itself out. It must procure its own loans and make severe sacrifices of its own. We will merely guarantee those loans. They will be paid back when Chrysler's new, economy cars increase Chrysler revenues. We have authorized Federal loan guarantees for dozens of other purposes, including aiding ailing businesses. We should do it now.

COMMENDABLE COMPROMISE

I would like to commend the Senators that have worked so hard in reaching this compromise. It is not perfect. Nobody is completely pleased. Everyone has had to compromise demands and soften stances. Chrysler labor and management will be forced to make greater sacrifices than they would like. But these sacrifices are important to show the American people that American business cannot get painless relief from the Congress. It is crucial to discourage other corporations from coming to Uncle Sam for help in the future. Finally, Chrysler sacrifice is necessary to establish good faith on the part of those who will benefit most from this aid.

In summary, this bill is a workable compromise. It recognizes the needs of Chrysler employees, the Federal Treasury, and the American taxpayer in providing needed aid while safeguarding the Government's interests.

Mr. THURMOND. Mr. President, after consideration of amendments to S. 2094, the Chrysler Corp. aid bill, adopted earlier by the Senate, I have concluded that I cannot support passage of this legislation.

When the issue of Federal Government assistance to Chrysler first arose several months ago, I informed persons who contacted me regarding it that I intended to keep an open mind on the subject. As a matter of general principle, I am opposed to te Federal Government stepping in to rescue every failing private business. A dynamic, workable free enterprise system requires that poorly managed, inefficient, and unprofitable businesses face the consequences of bankruptcy, in order that resources can be reallocated among efficient firms. However, I do believe there are times when the public interest is best served by a limited form of governmental assistance, and I had become convinced that Chrysler Corp. might fit within this narrowly limited exception, for a number of reasons.

The impact on the national economy of a Chrysler bankruptcy would be extremely severe. The cost to the taxpayers of unemployment compensation, and other assistance to those thrown out of work, would probably be far greater if there were no Federal aid. The continued viability of the division of Chrysler that manufactures tanks for the U.S. Army is important to our national security. The anticompetitive effect of increased concentration in the auto industry if Chrysler went bankrupt would be undesirable.

For these and other reasons, I would have been willing to support a balanced aid package, in which all affected parties shared and showed a willingness to sacrifice.

I could have supported the Senate Banking Committee version of this legislation, which required contributions by Chrysler management, stockholders, and employees. That version required the employee union, the United Auto Workers of America, to forego wage increases in at least 2 or the next 3 years and make other reasonable sacrifices, in order to save approximately $1.07 billion. I could have supported the compromise drafted by Senator LUGAR, which lowered the total union contribution to $800 million. However, the UAW has refused to make a reasonable sacrifice, and the majority of Senators have voted to let the UAW "off the hook" with a much lower, $525 million, contribution, while the taxpayers are required to risk $1.5 billion, nearly three times that amount. The House has voted to require even less in the way of employee sacrifices, so that the final figure may be lower than what the Senate earlier voted.

Mr. President, I simply do not believe it is right to ask the taxpayers to save a company when the employees of that firm, who are dependent on the viability of the company for their livelihoods, are not willing to make a fair, proportionate sacrifice. Chrysler workers already average about $9 an hour, or $18,700 per year, for a 40-hour week, with no overtime. Under the recently negotiated contract between the Chrysler and the UAW, even with the "sacrifices" made by the union in comparison with the contracts with General Motors and Ford, wage rates would rise to at least $24,000 annually. Nontaxable fringe benefits would also jump by about one-third over the life of the contract, so that the total labor cost per worker would be some $40,000 annually. Among fringe benefits provided are a total of 63 paid holidays in addition to regular paid vacation, during the 3 years of the contract.

Mr. President, the average worker and taxpayer in this country does not make anywhere near what the typical Chrysler UAW member now receives in wages and fringe benefits. To ask the taxpayers of this Nation to risk $1.5 billion of their money without a substantial sacrifice by those who ought to be most concerned with saving this company and their jobs is simply not fair, not responsible, and an extremely bad precedent.

As I indicated earlier, I am sympathetic to the need for some form of Federal assistance, but I cannot vote for a measure that fails to balance taxpayer aid with a comparable contribution from the employee union whose members benefit most from that assistance.

Accordingly, I intend to vote against this legislation.

● Mr. LAXALT. Mr. President, I am opposed to S. 2094, the Chrysler Loan Guarantee Act. In general, I think it flawed in concept and impractical in application. As a fiscal conservative, who strongly believes in the free market system, I cannot support Federal assistance for failing private corporations. And even if I could I am afraid that, despite the best efforts of a number of my distinguished colleagues in the Banking Committee, S. 2094 as reported is simply unworkable.

THE CONCEPT

From a philosophical viewpoint, S. 2094 undermines the very foundations of our free enterprise system. Because it would remove the necessary discipline which fear of failure provides, taxpayer assistance effectively contravenes many of the most basic notions of our capitalist economy.

To us, the other side of the coin that success and ingenuity are to be rewarded inescapably is that mismanagement and failure must be left to face their own perils. As Prof. Milton Friedman has pointed out, our economic system is not merely a "profit" system; it is more accurately characterized as a system of "profit and loss."

This is more than textbook rhetoric. As our British friends have taught us, to eliminate the fear of failure is to penalize the strong at the expense of the weak, weaken productivity, and encourage inflation.

Another legitimate concern associated with the Chrysler bailout is the ominous precedent it will set for other failing businesses. Such a precedent, despite the best efforts of the Banking Committee, will surely open the floodgates to other ailing companies in need of a financial boost. As Senators GARN and TOWER noted in their minority views to this legislation, once we have begun the process of substituting political for economic criteria in making basic marketplace judgements, we have indeed embarked on a slippery slope. It is true that the Banking Committee has sought to discourage such efforts. But as I see it, the very act of providing concessions to Chrysler will encourage other companies to come up here hoping to do better.

Incentive would be another victim of assistance to Chrysler. It is no wonder that ours is known as the free enterprise system. Should governmental assistance become readily available to all struggling entities, incentive and reward for enterprise would necessarily be reduced, for failure would only activate a governmental safety valve rather spell financial collapse. Where mismanagement becomes a stepping stone to governmental rescue, it is easy to imagine how ingenuity and industry would stagnate.

An additional aspect of the unfavorable precedent likely to be set by this bill is the problem of deciding which among the many thousands of firms which fail each year are to be saved. Who is to say Chrysler is more worthy than any of the 6,000 American businesses of various types and sizes which went through bankruptcy proceedings last year? To be sure, there are social costs attached to denying assistance to Chrysler. But on what basis is the Federal Government to decide how such assistance is to be allocated? After all, governmental intervention could have saved hundreds of thousands of jobs last year alone on other firms, not to mention the loss of millions of dollars by banks and other credit institutions. But the fact remains the Government did not step in to prevent these disasters. How is Chrysler any different?

Finally, as Senator PROXMIRE has suggested, an additional problem resulting from a Chrysler bailout would be the further mass production of goods and services which the American consumer has demonstrated he does not want or need. Conversely, of course, resources are diverted away from products which consumers both need and want.

In my view, that seems inconsistent with established principles of supply and demand, to say nothing of equity. In the most simple terms, what we would create by the passage of this act is a situation where the American taxpayer is forced to carry a business which has failed to meet the needs of those now being asked to foot the bill.

What happens if, as appears likely, turns out to be insufficient to guarantee the commercial viability of Chrysler after Deecmber 31, 1983? Loan guarantees are not costly for the taxpayers, providing only that the corporation itself stays afloat. If the proposed package proves insufficient, will not there then be a strong incentive to provide additional assistance just to save the initial investment? Are we being asked here, despite the Banking Committee's best efforts, to create a permanent Federal pensioner out of our Nation's 10th largest corporation?

We should not blind ourselves to the realities of an analogous situation in Great Britain. While British Leyland's operating costs have required more and more government assistance—now over 1 billion pounds sterling—the company's domestic market share has been cut in half.

During the years 1976–78, Great Britain's National Enterprise Board increased its service from 13 to 46 companies. In the Banking Committee hearing, former Commerce Secretary Peter Peterson compared the bailouts in the United Kingdom with the symptoms of drug addiction—they may be pleasant for the initial dose but they lead gradually to great expense, addiction and perhaps fatality. I have no wish to see our economy move in that direction.

NOT WORKABLE

Mr. President, not only is the idea of bailing out Chrysler bad in theory but the specific plan before us will quite simply not work. Although Senator LUGAR and his colleagues on the Banking Committee deserve the highest praise both for making a valiant effort and placing the focus in the proper place, S. 2094 as reported still demands sacrifices from those quite unwilling to make them and provides insufficient funding even if the total package before us is fully adhered to. The consequence of both of these shortcomings is that the Banking Committee bill cannot guarantee to the taxpayers of this Nation that within a year or two Chrysler will not be back up here requesting additional taxpayers' dollars.

FOCUS

That being said, I would still like to extend my congratulations to Senator LUGAR for a job well done. He has taken an administration suggested measure which was totally unacceptable and improved it greatly. I agree totally with his major areas of focus. He has argued that taxpayers must be protected, that greater sacrifice should be expected from those who stand to benefit by Chrysler's continuing existence, and that funding should be sufficient to insure that we will not be asked to repeat this exercise a year or two down the road.

Senator LUGAR's concern for protecting the taxpayers' interest in this matter is most commendable. S. 2094, as reported from the Banking Committee, mandates that no loan guarantees will be forthcoming until such time as the proposed Board possesses legally binding commitments of support from all of those interests associated with the corporation; these include, the banks, the unions, the stockholders, and State and local governments. An additional protection for the taxpayer is found in section (5) of the bill which requires that the Board make certain determinations prior to the issuance of any loan guarantee. These determinations focus on the question of continued viability of the Chrysler Corp. and the likelihood of repayment in a way which greatly strengthens the similar provisions which were set up by the administration.

But as necessary as these safeguards are they call into question the practicality of the entire package for two reasons. First, the sacrifices envisioned to protect the taxpayer are almost certain not to be made in their entirety. And second, without those sacrifices the funding level will almost certainly prove inadequate, calling into question any guarantee of the continued viability of Chrysler.

SACRIFICE

A cornerstone of S. 2094, is the very legitimate premise that sacrifice should be demanded from those who stand to benefit from the continuing operations of Chrysler. Unfortunately, the banks, the unions, the State and local governments, and the management of the corporation have all made it clear that they are not disposed to sacrifice, at least not to the degree required in the bill.

The banks, as they have a tendency to do in situations such as this, argue that they have obligations to their stockholders to not throw good money after bad. As John McGillicudy, the chairman of Manufacturers Hanover, the lead bank in the Chrysler situation, put it:

> We don't expect to loan money in circumstances in which we don't expect to be repaid and that's where the Chrysler corporation is.

As is well know, many of the Chrysler banks are up to their house limit on loans to a single company and many have reached absolute legal limits. While it is true that the banks could convert their current loans into nondividend bearing preferred stock and continue to loan Chrysler more money, and the situation would brighten considerably after the infusion of $1.5 billion in taxpayer financed loan guarantees, the banks are still likely to face stockholder suits in the event the corporation goes under. Thus, the requirements in S. 2094 of $400 million in new credit and $100 million break in existing credit from domestic banks will be difficult to attain, particularly in the event that the union wage freeze is watered down.

On the subject of the unions, they have made it quite clear that they are unwilling to go beyond Mr. Frazier's statement of November 19, in which he argued that Chrysler had received a $203 million savings in a recent UAW negotiations and that this was sufficient. But otherwise, Chrysler workers will receive somewhat less than one-third of wage increase over 3 years granted in the recently negotiated UAW pact with Ford and GM and they are not disposed to sacrifice further. An article in the December 17, 1979, issue of Business Week entitled "Can Chrysler Squeeze More From the UAW" quotes a top UAW official as saying the results of a Chrysler bargaining council meeting in Washington on December 3 indicated that "almost to a man they said that they would rather shut down the shop than take a 3-year freeze."

Although a number of efforts have been made to compromise on this floor it is quite clear that the union is unwilling to accept what I see as its fair share of the burden.

Finally, Mr. President, as my colleagues are well aware, section 4(c)(4) requires at least $250 million in concessions from the State and local governments also to be provided prior to the issuance of the Federal loan guarantees. The States of both Indiana and Michigan have made it clear that they are not disposed to make such concessions absent hard collateral for any funds that might be advanced.

INSUFFICIENT FUNDS

It is probably impossible to formulate a precise estimate of just how much money Chrysler will need. But it is clear that they will need quite a lot, and also that the Treasury estimate of $3 billion is inadequate. The Treasury assumptions underlying this conclusion make that fact readily apparent. For example, as Senator LUGAR stated in a "Dear Colleague" circulated on December 7:

> Substantially more than $3 billion is needed due to faulty economic assumptions, overly optimistic market assumptions, and reliance on unreliable market assumptions, and reliance on unreliable market analysis.

The Treasury proposal assumes that the economy will bottom out in the second quarter of next year. It further assumes that gasoline prices will increase at a rate of solely 15 percent and that there will be ample supply. Finally, and perhaps most shakily it assumes that inflation rate by 1981 of only 6½ percent.

I certainly hope that these assumptions do prove to be fact. I doubt very much that they will. And the consequences for Chrysler and the taxpayers if they do not are quite obvious.

I believe that Senator LUGAR and his colleagues with the best of intentions have done a fine job in a very difficult area. They have approached the subject properly with a view toward protecting the taxpayer, providing an adequate degree of private sacrifice, and securing sufficient funding so that the corporation could be viable as a going concern after 1981.

Unfortunately, the effort was doomed from the start. The massive needs of the company combined with the clearly stated reluctance of those associated with it to make the necessary sacrifice efforts have rendered the whole effort a sure failure. As much as I would like to support my distinguished colleague from Indiana, and as much as I admire him for his repeated efforts to find a solution to this problem, I am afraid that after paying close attention to the debate and reflecting on this matter, I find this is a precedent I do not wish to set and a bill which I must strongly oppose.●

● Mr. BAUCUS. Mr. President, once again we are debating a question that unfortunately has become far too common in recent years: Federal loan guarantees for a failing corporation.

There is no question that Chrysler is in grave financial trouble. Just last year this giant corporation was not only the third-largest automaker but also the 10th ranked industry in the United States, 21st in total assets.

Yet, by this October, the situation had changed drastically. Chrysler reported the largest quarterly loss in U.S. history—over $460 million. Losses this year will total more than $720 million.

Chrysler says it may not be able to operate in January unless we take action this week.

The scenario is becoming all too familiar. It seems to occur every few years. First Lockheed, then Penn Central, and now Chrysler—all mismanaged their finances, all made poor management decisions and all came to Congress for help.

The days of the truly free marketplace seem to be long gone. Gone, too, are the days when a company prospered and expanded, or failed depending on the quality of its product and the wisdom of its management decisions.

I must admit I am not too sympathetic to the plight of the Chrysler Corp. Chrysler's executives made some shortsighted and foolish decisions. They are responsible for today's crisis.

But the fact of the matter is that Chrysler—with over $7 billion in total assets and a payroll of nearly $4 billion—is just too big to ignore.

Unless Chrysler receives Federal loan guarantees it will go out of business; and the effect of that could be devastating for this Nation.

I do not want to see a bankrupt Chrysler Corp. purchased by foreign interests. I believe we must adopt policies that encourage American manufacturers to be more productive, not force Americans out of business.

I want to see a Chrysler Corp. that produces cars that are fuel efficient, that lead the auto industry in miles per gallon; and that takes advantage of innovative technology to produce clean-running, safe cars. We do not want Chrysler to become the Hudson or Packard of the future.

Finally, this debate should not be just focused on the economics of Chrysler. This is more than an impersonal tally of dollars and cents presented on a ledger sheet. This is a human issue as well. For the 140,000 people who depend directly on a Chrysler paycheck this is a crucial matter. If this were a perfect world, we would not be faced with this decision. But we are not in that kind of world and today we must decide whether or not to aid another struggling corporation.

In my judgment, we have no choice but to support this program of loan guarantees. I have made my decision not because of the economics of this situation. In my judgment, we must vote for this package because of the people affected.

Still, I cannot stress enough the importance of requiring Chrysler to pursue sound fiscal and management policies. The American people are being asked to risk $1.5 billion. They have a right to expect that Chrysler will regain its position as a viable competitor in the U.S. economy.

I have studied this compromise aid package thoroughly and I am convinced that it is not a give away—it is tough on all participants. All responsible parties will have to make sacrifices. Most importantly, the aid package is stringent enough to serve notice to other foundering corporations that such Government assistance is not an easy way out of corporate mismanagement.

There is a role for a compassionate government. It is important for Government to help those people who would be harmed for no fault of their own. And, for that reason, I will support this plan.●

● Mr. HART. Mr. President, after long and very careful consideration, I have decided to oppose legislation providing Federal financial assistance to the Chrysler Corp.

As I have often said: If you want to get the Government off your back, you have to get your hands out of its pockets. If Chrysler—or any other business—puts its hands in the Government's pockets, the Government will be on its back.

This legislation contradicts the basic tenets of free enterprise that once characterized our Nation's economy. More important, though, this legislation represents bad economics and poor public policy both for the present and the future.

This was an extremely difficult decision. Estimates regarding immediate unemployment and the ripple effects to the rest of the economy if aid to Chrysler is not approved vary, but there is no denying the national economic implications of the Chrysler case. On the other hand, there are so many compelling public policy arguments against the type of aid proposed that support for this package would be inconsistent with the principles of competitive free enterprise and reduced Government interference in the marketplace I have tried to promote during my term in the Senate.

Although the Senate Banking Committee bill is a much sounder and more responsible piece of legislation than the original proposal of the administration, it still contains the basic premise that the Federal Government cannot assume responsibility to prevent the failure of individual firms, however large. If we are to be true to the spirit of free enterprise, that is a premise we cannot accept.

Mr. President, the Chrysler legislation fails to recognize one of the major lessons of the 1970's: That the American people want less Government interference in the marketplace and economy—not more. In the long run, congressional approval of this aid package will not serve business, labor, or the consumer very well.

I would like to take a moment to outline some of the more compelling arguments which led me to oppose this measure.

First, if the free enterprise system is to have any meaning, we must let it mean the freedom to fail, as well as the fredom to profit. Last year, more than 6,000 American businesses of every size and variety went bankrupt. Federal loan guarantees would have putoff bankruptcy for most of them. We must ask, if we approve aid to Chrysler, where we draw the line. If it is necessary to help Chrysler because of the effects its collapse would have on our economy, what about a company three-fourths its size, or half its size, and so on. Surely, none of us believe Chrysler is the only company that could succeessfully use loan guarantees to stave off bankruptcy. The essence of free enterprise and innovative capitalism, though, is that some companies thrive, and others fail.

Second, inadequate consideration has been given to Chrysler's ability to do on its own what other troubled businesses do—cutback operations, eliminate unprofitable lines—to become more viable in the marketplace. Complete shutdown is not the only option open to Chrysler if this legislation is rejected. Instead, it could reorganize under the newly revised Bankruptcy Act and emerge as a leaner, more effective, competitor.

Third, Chrysler failed to make a convincing case that Federal aid would insure its return to profitability as a full line manufacturer in a few years. The record established before the Senate Banking Committee is mixed, and there was considerable evidence that this type of aid would merely postpone an inevitable collapse.

Fourth, there are many hidden costs in a Chrysler bailout. We have seen many statistics about the cost of a Chrysler bankruptcy in terms of lost jobs, lost production, lost tax revenues, and welfare and unemployment benefits. But there are also costs of lost benefits to the rest of the economy from such a large amount of credit resources being diverted to one failing firm. Under this legislation, the Federal Government would divert up to $1.25 billion to Chrysler in credit that could be lent to more productive enterprises in the economy. Any proper measure of costs and benefits should include the jobs not created elsewhere in the economy as a result of diverting scarce credit resources to Chrysler instead of other firms.

Fifth, aid to Chrysler would set a dangerous public policy precedent. Once we set the precedent that large firms cannot be permitted to fail, we eliminate one incentive for managerial efficiency and encourage other firms to avoid the tough decisions needed to maintain their financial strength. The effects on our overall economy could be devastating. The Wall Street Journal discussed this in an early editorial opposing special Federal tax credits for Chrysler:

> As England and any number of other countries have learned, government subsidies to sick corporations become a never-ending business, eventually applying a crushing burden on taxpayers and economic efficiency. To maintain a healthy economy, government must simply let companies adapt to their changing fortunes, cutting losses before they become unmanageable.

Mr. President, many of Chrysler's problems, such as managerial misjudgments, aging plants, and inadequate technological innovation and creativity are not unique, but rather symptomatic of our reliance on more efficient foreign industrial suppliers and the transformation of our industrial economy into a service economy. Former Secretary of Treasury Brock Adams discussed the choice facing Congress in these terms when he said:

> I believe it is the kind of choice which will recur time and again during the next decade. For while Chrysler's problems are unique in some respects, they are also common to a whole range of "maturing" American industries that will march on Washington for financial relief, the bonus army of the 1980's. Chrysler is merely the advance guard.

The Economist discussed the same point, using the steel industry as an example:

> As for the steel companies, their financial statements are not unlike Chrysler's of a few years ago. If Chrysler aid is provided by the Federal government, choosing among future requesters will be extraordinarily difficult.

Mr. President, there is no turning away from the fact that there are national economic considerations in the Chrysler case. There are no easy or painless answers, whichever way we go. I believe, however, that this issue presents a clear-cut test of our Nation's commitment to competitive free enterprise. That commitment should be a firm one, whether we like the results or not. For this reason I oppose the Chrysler legislation.●

● Mr. GRAVEL. Mr. President, the Chrysler Corporation Loan Guarantee Act of 1979, if enacted into law, would deliver a painful blow to the underpinnings of our present economic system. This legislation far exceeds the proper jurisdiction of the Federal Government, which should be, at most, to ease the adjustment process to the normal vicissitudes of the marketplace when unavoidable dislocations occur. In the Chrysler case, the market has left one of its members behind; it should not be the role of the Government to interfere with the market's decision by offering Federal financing assistance.

In a similar instance, we recently sent a bill to conference committee which would tax the market-led increase in the profits of Exxon and other petroleum companies; now we are proposing to intervene in the marketplace with a major Government remedy for the market-caused losses of the Chrysler Corp. The two bills are dangerously similar in intent—Government intervention on a large scale to redistribute money flows in the market. Philosophically, this is certainly antiethetical to the principle of a free market. Additionally, it is contrary to the private free enterprise system, the economic doctrine which our country has upheld for more than 200 years.

Proponents of the Senate version of this bill have tried to distribute the burden of assisting the corporation by supporting a provision to freeze the wages of Chrysler employees for 3 years. Such a proposal only points out the fact that, ultimately, the factors of production will bear the burden of propping up an unprofitable commercial operation.

Government intervention has also been justified on the basis that it will preserve the competitiveness of the automobile industry. True competition, however, lies in the alternations of success and failure in the marketplace. If the assets of the Chrysler Corp. can be profitably used to produce a competitive new line of small automobiles and trucks, there will be a private market solution, perhaps in the formation of several new small-vehicle companies. Or, if these assets can be allocated more efficiently and productively toward other projects needed in the economy, this should be given a chance to happen.

The fact is that Chrysler is slipping more deeply into financial morass than anyone has envisaged until now, endangering its ability to carry out its responsibility in putting the company back on its feet. Chrysler's losses this year will far exceed the official $1 billion estimate. Its losses in the second quarter of 1979 alone amounted to $207 million. Furthermore, its cash supply is being depleted at the alarming rate of $6 to $8 million a day. Such losses do not bode well for Chrysler's ever becoming a going concern again.

Yet this bill would attempt to make it the Government's ultimate task to revitalize the corporation. Most of us recoil from the thought of creating a "corporate state," but that seems to be what we are in fact creating with proposals such as the Chrysler bail-out and the windfall profit tax.

FINANCIAL RISKS

Another of my concerns with this bill is the risk the Congress proposes to take with taxpayers' dollars. The matching of federally guaranteed loans with an equal amount of non-Federal money is deceptive. If the risk had seemed viable, non-Federal sources would have made funds available from the beginning. As it stands, most other potential sources of help have been stalling until Congress goes first. Even then, there are no guarantees that non-Federal lending institutions will ever contribute: So far, private banks have refused to commit themselves to providing such matching funds. These commercial institutions, which have undoubtedly made a thorough investigation of Chrysler's financial situation, have come up with the conclusion that the corporation is not creditworthy. Yet Congress chooses to ignore the good judgment of the best qualified financial experts in the private sector.

Furthermore, as a rule, Federal loan guarantees such as the ones being offered to Chrysler are usually issued for overseas foreign investment projects which are in possible danger of being nationalized. The risk is taken by the Government in order to increase the country's export-led growth. This is far different from issuing over $1 billion in Federal loan guarantees in order to prop up an unhealthy business concernt for which there may be no long-term cure.

In actuality, the capital being extended in loans to the Chrysler Corp.—about $2.6 billion—is being diverted from other businesses and individuals who might use these funds more productively. Our economy needs equity growth and innovation in order to raise the productivity of capital investments. The Chrysler bail-out nevertheless replaces equity from the sale of stock with what are in effect Federal subsidies. These loan guarantees will substantially worsen Chrysler's debt to equity ratio, which is already high. Chrysler presently has $1.8 billion in outstanding debt, and this is increasing daily.

To address the equity question, the bill calls for the issuance of $150 million in employee stock ownership plan (ESOP) common stock. It goes on, however, to prohibit the paying out of dividends on any Chrysler stock while guaranteed loans are still outstanding. Such a plan only deceives those employees who invest in the ESOP program, and runs the risk of losing their money as well as the Government's. For this reason, I feel that the plan to include small investors in the fate of Chrysler is ill conceived. Such stock would be worthless while guaranteed loans were outstanding, possibly for many years.

Another financial argument which has been advanced on behalf of the bail-out is that bankruptcy would cost the country almost $2.8 billion in tax losses. This is almost equal to the $2.6 billion in risky loans which would be issued to an uncreditworthy organization under the bill. Furthermore, this calculation does not take into account the increased tax revenue which would eventually accrue if more productive use were made of these funds.

ECONOMIC CONSEQUENCES OF BANKRUPTCY

According to Business Week, Chrysler's share of the automobile market in this country was 10.7 percent in October, but the Wall Street Journal states this share is falling daily. Sales have been worse than expected, and since October 1, Chrysler's share of the market has declined to 8.1 percent. The argument that we would be saving an important share of the market is therefore also defective.

Chrysler's market share loss is the unavoidable consequence of a failure to judge the market correctly or to withstand the inevitable competition from abroad in the automobile industry. Chrysler was late in foreseeing the need for a shift to smaller, more fuel-efficient cars and trucks. It relied on importing Volkswagen engines for its automobiles, and those engines have been insufficient in supply in recent years. This misjudgment, together with the normal fall in auto sales during a recession and increased costs of meeting Government regulations for automobile safety and emission requirements, led to the plummeting of Chrysler's fortunes in the marketplace.

Those who claim that Government regulations can be largely blamed for Chrysler's losses fail to mention that Chrysler's costs for carrying out regulations have been far higher than those of any other automobile corporation. Chrysler's costs have been higher because it was less efficient in implementing the regulations for its large cars and trucks. In all events, it is clearly not Government regulations which are stopping the American public from buying Chrysler's gas-guzzling vehicles, but the attempt to cut down in fuel costs.

Aside from the question of Chrysler's mistakes, supporters of a Government rescue typically cite five areas in which they say the country could not tolerate the economic consequences of a declaration of bankruptcy by Chrysler: First, losses to dealers; second, loss of jobs; third, the impact on certain urban areas; fourth, losses to suppliers; and fifth, increased foreign trade deficits as a result of rising foreign auto imports. Answers to these are as follows.

First, dealers are more mobile in relocating and shifting into new lines than are the staff and personnel of Chrysler's manufacturing facilities. Second, loss of jobs, which would be the most serious short- and medium-term consequence of bankruptcy, can be offset by plans for the relocation of workers to more efficient industries. Third, although employees in this industry are less mobile than in some others, the long-term effects of bankruptcy could well be to force those urban areas which suffer the most to make efforts to attract new industries and services into their local economies. Such renewal efforts will be the inevitable consequences of the recession we are now in, and would probably be necessary in some cases whether Chrysler were bailed out or not. Fourth, arguments which hold that the impact on suppliers would be serious, make no reference to the possibility that suppliers can make a number of adjustments such as substitution of their parts and materials for other industries, sales abroad, or shifts to supplying Chrysler's competitors, who will take up the slack demand if Chrysler is forced to go out of business.

Fifth and last, although foreign imports of motor vehicles account for $7 billion of our present trade deficit, this fact is partly attributable to the growing interdependence of countries in the world market. The United States has known for several years that competition from abroad would be increasing, and that U.S. corporations must shift into producing the technologies and services in which they maintain a lead. The need for on-going adjustments to the increasing competitiveness of other countries is not going to change.

There may even be certain economic advantages to allowing a corporation such as Chrysler to struggle by itself vis-a-vis market forces. Resources and labor will be able to shift from inefficient to efficient uses in the economy. Capital could be shifted from areas with relatively low growth potential to more productive sectors of the economy. Waste of capital and materials resources would be reduced. Such constructive adjustments would rely on price indicators and individual initiative—qualities on which this country must again learn to rely.

RELATIONSHIP TO LEGISLATION ON ALASKA

My economic judgments on the Chrysler issue have come from longstanding conviction and an independent assessment of the argument for and against the issuing of Federal financial assistance. Nevertheless, I cannot help noticing a direct correllation between the position several of my colleagues in the Senate have taken on the bail-out, and the position they have seen fit to support on legislation currently pending in the Senate on Alaska lands, which would be economically crippling to Alaska.

In the case of the Alaska lands bill many of my colleagues could not accept my economic judgment on the long-term national impact of the legislation on the mineral, oil, and timber requirements of the United States. The Alaska lands issue is one with which I have been intimate for over 15 years; I am firmly convinced that Alaska's fate is important to this country's welfare.

Therefore, when I am asked to accept the economic judgment of those same colleagues on the national impact of the Chrysler issue, I find it difficult to completely accept the point of view expressed in their arguments for nationwide consequences if Chrysler is not given assistance.

This is an issue to which several of my distinguished colleagues have been far closer than I, and to whom I might have been more willing to defer in moderating my views, had I not seen the inconsistency between their support of Government assistance to the Chrysler Corp., for the national good, and their reluctance to unlock the resources of Alaska for the national good. The economic judgment in both cases rests on difficult-to-define perceptions of when it is necessary to take action which may entail making an exception to convictions—whether those convictions involve conservationist principles, or the free enterprise market philosophy.

Therefore, Mr. President, because I have been unable to find my colleagues totally persuasive in their economic judgments on this issue, and for the economic and financial reasons I have listed, I intend to vote against this bill.●

● Mr. PELL. Mr. President, I am opposed to the proposal for Federal Government assistance to the Chrysler Corp.

I am opposed for two basic reasons:

First, I believe it is a serious mistake for the Federal Government to pledge the taxpayer's dollars in an effort to shore up a private corporation which is in competition with other businesses in our free enterprise system.

Once we set such a precedent, we must be prepared to move in to rescue other large corporations that run into financial difficulties because of their inability to compete effectively.

It is far better, I believe, for businesses that have failed to meet the competitive tests of our economy to take the steps necessary to survive or to go into bankruptcy, no matter how painful or inconvenient. Otherwise we will find increasing segments of our economy cluttered with noncompetitive businesses propped up and sheltered by the Federal Government. The loser in such a situation will be the taxpayers and consumers.

As I have said, it is far better that such businesses and corporations reorganize, merge, or change their operations whatever way may be necessary.

My second reason for opposing this aid proposal is that I have grave doubts that it will succeed in saving the Chrysler Corp. The automobile industry is in the midst of a dramatic transformation throughout the world, a transformation forced primarily by the new era of scarce and costly energy supplies. It is a new era of intense worldwide competition.

At a time when even the largest and most prosperous of the automobile companies faces difficulties in adjusting to these new realities, I believe there is little hope that Chrysler Corp. can be restored by a Federal loan guarantee to to a competitive, full-line automobile producer.

If this assistance bill is approved, I believe there is a very good chance that Chrysler Corp. will be forced at some time in the future to return to the Government to request additional assistance, and the Government and the taxpayers will then find themselves unwilling partner in a failing business enterprise.

I wish it were otherwise. I am particularly concerned over the potential impact on the Chrysler Corp. dealers and their employees in the State of Rhode Island. I have talked with the Rhode Island dealers, and I know how concerned they are over the fate of the dealerships which they have devoted years of effort to develop and nuture. It is no fault of these dealers and their employees that Chrysler Corp, is in financial and competitive difficulties.

Should the worse happen, and the Chrysler Corp. should fail, I will make every effort to assure that our dealers receive appropriate small business assistance, as provided under existing law, to cushion their adjustments that they and their employees would have to make.●

● Mr. WALLOP. Mr. President, with the American economy in deep trouble today no one likes to see a company go out of business. The lives of people directly and indirectly involved with a business failure will be affected greatly. There is no question that due to the size of the Chrysler Corp. the livelihood of thousands will be affected if the company fails. Nonetheless, Congress has the duty to weigh the social benefits of a loan guarantee to Chrysler for the country as a whole.

The foundation of our free enterprise system is the freedom for business firms to succeed or fail. Six thousand business firms went bankrupt last year. Although I am sympathetic to those who became unemployed because of those failures, it should be noted that all 6,000 firms did not run to Washington seeking the Federal Government to provide some form of relief. The bottom line of Government action ought to stimulate the free enterprise system, not stifle it. A bailout of the scope that Chrysler is seeking transcends support, forces Chrysler into dependence on the Federal Government, and permits too great a governmental interference in the marketplace.

If Congress goes to the aid of Chrysler, we open the door to all large companies to come to Washington and stand in the business welfare line. The United Kingdom is just now trying to get out from underneath the untenable position of holding equity control of business operations. Prime Minister Thatcher's Government is trying to divest itself of business operations which have been acquired over the years. One such example is the United Kingdom's inability to make sure British Leyland stayed economically sound despite Government control and subsidies.

Can we learn from their experience? Government guarantees are unrelated to market demand. Once we have set a precedent that large firms can not be allowed to fail, the Nation is injecting a great amount of Government interference in business and encouraging firms to prolong or avoid some of the tough decisions needed to remain financially sound.

Proponents of granting a loan guarantee to Chrysler are quick to point out precedents for Government intervention in the free enterprise system and cite Lockheed and New York City as examples. Lockheed and New York City were very different indeed. National defense issues were at stake in the Lockheed guarantee of funds for loan repayment.

With New York City, general tax revenues provide some guarantee of funds for loan repayment.

With Chrysler, a company which is failing in the consumer market, there is no guarantee of income to be available for debt service, nor is it in the security interests of the United States to keep Chrysler afloat. This leaves us with the question of whether Congress should provide credit to a firm which has failed to compete in the marketplace it depends upon to repay its loan.

A Federal loan guarantee to Chrysler is nothing less than a form of credit allocation. If Congress grants the required loan guarantees to Chrysler, in essence we are drawing a line around them and suspending the rules of fair competition for credit. In a capital market which is highly competitive, a Federal loan guarantee will divert funds from the marketplace to Chrysler which in the absence of the guarantee would have been loaned to more productive enterprises in the economy. The United States already has one of the lowest productivity growth rates of the industrialized nations. By propping up a weak firm, we are penalizing stronger, more efficient firms. This, in turn, causes our long-term productivity capacity to decline even further.

Finally, Mr. President, the Chrysler financial revival is based on such faulty assumptions, assumptions that I would not want my business to be dependent upon, that we cannot obligate a Federal loan guarantee. One of the key assumptions is that Chrysler will increase its share of the auto market by 2 percent by 1984. Former chairman of the Council of Economic Adviser, Alan Greenspan, called such an increase in market share "rare."

A second assumption is that the Nation's economy will not suffer any unexpected shocks during the next few years. We all know automobiles are a consumer item whose sales are tied to the health of the economy. With a deeper recession and another oil embargo, lower car sales will undoubtedly result. How can Congress commit the Federal Government to a loan guarantee that is based on an economic assumption that is wishful thinking and that no sound businessman would trust.

As I have stated there will be hardships to be shouldered by those directly and indirectly involved with Chrysler. We have an obligation to try to help these people. But I feel the other costs to be shouldered by the whole Nation are many times greater than the short term benefits that may result from a bailout. If Chrysler cannot compete in the free market system that has prevailed in this country without a Federal loan guarantee, I believe it is best to let such a business fail and face those consequences. If the committee report is to be believed, the chances of Chrysler's survival, even with the guarantees, are at best slim. If the company fails even after the guaranteed loans are in place then, sadly, the dire financial consequences forecast by the proponents will be borne by the public, but so as well will the loan guarantees provided by that same public will be forfeit.●

Mr. MATSUNAGA. Mr. President, I rise in support of S. 2094, the Chrysler Corporation Loan Guarantee Act of 1979.

At the outset I must commend the leadership of the Senate. I doubt very much that without the majority leader's diplomacy and tact, the bill would ever have come before the full Senate this year.

The evidence is clear that assistance is vital for the Chrysler Corp. for it to survive, and the corporation's bankruptcy could have a devastating effect on the economy and the welfare of several hundred thousand workers.

Admittedly, past mistakes by both management and employees have brought the company to the brink of bankruptcy. Federal regulations have also contributed. However, a new management team is now directing the company in promising ways; the company's workers have also pledged cooperation; moreover, the company will soon produce saleable fuel-saving vehicles which will be able to compete favorably on the open market, and which will meet Federal standards and even help to achieve our energy conservation goals.

Chrysler now supplies 9 percent of the American auto market. It is estimated that foreign carmakers would fill a large portion of the market share if Chrysler stopped production. Such imports would increase our trade deficit by $3 billion. In failing to support a domestic company we would be exporting jobs abroad in the amount of $3 billion.

Furthermore, it is estimated that Chrysler's failure would mean a loss to State and local governments of $266 million in revenues. The Pension Benefits Guarantee Corporation would incur $1.1 billion of Chrysler's unfunded pension liabilities. The Federal Treasury estimates an increase of the budget deficit by $2.75 billion upon Chrysler's demise. There is no denying, Mr. President, that the entire country has a direct monetary state in Chrysler's continued operations.

Also, the livelihood of thousands is at stake. Over 500,000 people would be affected by Chrysler's failure. Chrysler employs 140,000 workers. Chrysler's dealers employ another 150,000 workers. And Chrysler's suppliers employ 250,000 workers. These workers and their families would suffer most from Chrysler's bankruptcy.

The Federal assistance needed by the company, is not a handout. Federal aid in the form of loan guarantees is necessary to finance immediate operations. The loan guarantee package imposes various conditions to safeguard the Federal Government's concerns. This aid would cost the Government less than Chrysler's failure would in unemployment and welfare benefits.

This legislation is needed and I urge Senate passage.

Mr. PROXMIRE. Third reading, Mr. President.

The PRESIDING OFFICER. Are there further amendments?

If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 5860.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5860) to authorize loan guarantees to the Chrysler Corporation.

The PRESIDING OFFICER. Without objection, the Senate will proceed immediately to the consideration of the bill.

Mr. PROXMIRE. Mr. President, I move to strike all after the enacting clause of H.R. 5860 and to substitute therefor the text of S. 2094, as reported and as amended by the Senate.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wisconsin.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a vote on final passage occur no later than 9 p.m. with paragraph 3, rule XII waived.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. PROXMIRE addressed the Chair.

Mr. ROBERT C. BYRD. I yield to the Senator.

UP AMENDMENT NO. 906

(Purpose: Conforming amendment to set the limit of guarantee authority at $1.5 billion but no more than 90 percent of the non-Federal assistance and concessions)

Mr. PROXMIRE. Mr. President, it has been called to my attention there is a very important technical amendment we had every intention, on the part of the managers, to have included. It is offered by Senator RIEGLE. I would like to read the amendment and ask unanimous consent we may rescind third reading long enough to have this included.

The amendment provides:

The authority of the Board to guarantee loans under this Act shall not at any time exceed the lesser of $1,500,000,000 in the aggregate principal amount outstanding or 90 per centum of the sum of the amount of nonfederally guaranteed assistance under section 4(e) and the amount of concessions under section 6.

Mr. President, I ask unanimous consent that we may very briefly rescind the third reading so we can accept the amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) for Mr. RIEGLE, proposes an unprinted amendment numbered 906, as read.

The amendment is as follows:

Delete section 8 and substitute therefor the following:

SEC. 8. The authority of the Board to guarantee loans under this Act shall not at any time exceed the lesser of $1,500,000,000 in the aggregate principal amount outstanding or 90 per centum of the sum of the amount of nonfederally guaranteed assistance under section 4(a) and the amount of concessions under section 6.

The PRESIDING OFFICER. The question is agreeing to the amendment.

The amendment (UP No. 906) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. PROXMIRE. Mr. President, may we have third reading again?

The PRESIDING OFFICER. Are there further amendments? If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, is the Senate now on the House bill?

The PRESIDING OFFICER. The Senate is on the House bill, as amended.

Mr. ROBERT C. BYRD. And the final vote on the House bill, as amended, will begin no later than 9 o'clock p.m.?

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. And the yeas and nays have been ordered?

The PRESIDING OFFICER. Yes.

Mr. ROBERT C. BYRD. Mr. President, I have called the Secretary of the Treasury Miller to tell him at the time I talked with him it was highly likely the Senate would pass the bill tonight and that the prospects for winding up all action on the bill and the conference report by tomorrow evening, including the appropriation, were excellent.

I asked this particular question, I asked if the Secretary would be in a position, knowing the contents of the bill, to state that based on this Senate bill, with the help of the administration, that in his opinion Chrysler could obtain the necessary interim financing to remain viable while the long-term financing is being arranged, and Secretary Miller stated that he was confident that with the help of the administration, Chrysler can obtain the necessary interim financing to remain viable while the long-term financing is being arranged.

He made that statement based on his knowledge of what the Senate bill would do.

I had with me in that discussion Senator BIDEN, Senator RIEGLE, and Senator EAGLETON, and I would like for them to comment on that discussion, if they will at this point, so Senators may have a clear understanding of Mr. Miller's reaction to the Senate bill.

Mr. STEVENS. Will the Senator reserve 2 minutes of that time before 9 for me, please?

Mr. ROBERT C. BYRD. Yes.

I yield to Mr. EAGLETON.

Mr. EAGLETON. I will take 30 seconds.

The leader is precisely correct. Secretary Miller said he thought the House bill and the Senate bill, both, were good bills, and stated, the precise language, I made notes, that he, Secretary Miller, was confident that with the help of the administration, and that help would be forthcoming, Chrysler can obtain the necessary interim financing to remain viable while the long-term financing is arranged.

Mr. ROBERT C. BYRD. I yield to Mr. RIEGLE.

Mr. RIEGLE. I want to support what has been said both by the majority leader and Senator EAGLETON.

I would only add that the Treasury Secretary felt the legislation was a solid package. He was encouraged by the fact that the bill would be completed within a matter of a day or two, and that——

Mr. ROBERT C. BYRD. Within a matter of 1 day.

Mr. RIEGLE. Yes, within a matter of 1 day.

He said he would move to ensure that the necessary steps would be taken so that interim financing will be assembled, until such time as the longer-term package could be worked out.

Without going on in great detail, he outlined some ways he thought this could be done.

He was absolutely clear on his intention to see it done. In fact, he intended to get started on that immediately.

Mr. ROBERT C. BYRD. I yield to Mr. BIDEN.

Mr. BIDEN. In 30 seconds, I would like to add two points.

One is that he literally was going to do it immediately. He said he would begin tonight by contacting some very critical parties.

Second, the four of us explained to him on the telephone the details of the Senate bill. So he is fully aware of the critical compromise and changes that had been made in the bill we, hopefully, are about to pass.

Mr. ROBERT C. BYRD. And the Secretary is fully aware the bridge loans are not included in the bill, am I correct?

Mr. BIDEN. That is correct.

Mr. ROBERT C. BYRD. I yield to Mr. LEVIN.

Mr. LEVIN. The later conversation with the Secretary, I did have a conversation with him earlier about it, and while he is aware I strongly believe the safety valve should have been provided, he gave me the same assurance that he gave to the Senator and the others that have spoken, that with the help of this administration, interim financing can be obtained once we pass this Chrysler bill.

Mr. ROBERT C. BYRD. I yield to the Senator from Virginia (Mr. HARRY F. BYRD, JR.).

THE CHRYSLER LOAN GUARANTEE

Mr. HARRY F. BYRD, JR. Mr. President, in the second quarter of the current year, Chrysler Corp. sustained a loss of $207 million. In the third quarter, the loss for this firm soared to $460 million.

The total loss for Chrysler during 1979 apparently will approximate $1 billion, an all-time record for any American corporation.

On July 31 of this year, as the second-quarter loss for Chrysler was announced, the then chairman of the corporation, Mr. John J. Riccardo, said that the company would ask the Federal Government for assistance in the form of a $1 billion tax deferral and relief from certain Federal regulatory requirements with regard to mileage, emission, and safety standards.

This request was turned down by the Government, whereupon Chrysler presented a second proposal for Federal aid, this time $1.2 billion in loan guarantees. This too was rejected.

Then Chrysler developed a modified proposal requesting $750 million in Federal loan guarantees. This was taken under advisement by the administration.

Suddenly on November 1, Treasury Secretary Miller announced that the administration would support and urge the Congress to approve loan guarantees for Chrysler totaling $1.5 billion—double the last amount which Chrysler had requested, and $300 million larger than an earlier Chrysler request which had been rejected.

When this proposal came before the Senate Committee on Banking, Housing and Urban Affairs, extensive hearings were held and lengthy debate was conducted concerning the merits and form of Federal assistance to Chrysler.

On December 6, the committee reported a bill to the Senate. It calls for a total of $4 billion in assistance to Chrysler, including $1.25 billion in federally guaranteed loans; $1.43 billion in commitments and concessions from creditors, suppliers, dealers, and others with a stake in Chrysler's future; and $1.32 billion in foregone pay increases for Chrysler employees, both union and management.

The bill reported by the committee was in many important respects superior to the proposal submitted by the administration. It reduced the amount of federally guaranteed loans and it made Federal assistance contingent upon sacrifices and contributions by those with the most to lose should Chrysler fail.

Now the bill has been amended. The Federal loan guarantee has been raised back to $1.5 billion. The amount of wage increases which union Chrysler employees will be asked to forego as a contribution to the salvaging of the corporation has been reduced from about $1 billion to $525 million.

In the course of the debate on the sacrifice to be made by the workers, two interesting arguments have been propounded by Chrysler aid proponents who wish to reduce the amount of the contribution by employees.

One argument is that if Chrysler goes under, the employees will not be able to find jobs, and the unemployment rate will soar.

The other argument is that if Chrysler workers are not allowed to keep most of their recently bargained wage increase, they will quit and get jobs elsewhere, because their skills are in demand.

Commonsense tells us that both these statements cannot be true.

In any event, no amendment to the pending legislation can remove this Senators' central objection to the bill: it is my conviction that it is bad public policy for the Federal Government to bail out corporations which get into financial trouble.

Let me say that I am sympathetic to the plight of those whose livelihood and savings are involved with the fate of Chrysler, the employees and stockholders of this huge manufacturer.

But I must add that I do not believe it is fair to the taxpayers of the United States to ask them to guarantee a substantial portion of the wage increase recently negotiated between Chrysler and the United Auto Workers, as this pending bill would do.

It would be my sincere hope that financial arrangements could be made, through private institutions, to preserve Chrysler; or, failing that, that a reorganization could be carried out which would keep intact and productive as many as possible of Chrysler's facilities.

Admittedly, at the present time, Chrysler has found it impossible to obtain further funds from its usual creditors. Indeed, the Treasury Department has indicated that it may be necessary, if Federal loan guarantees are granted, for the Government to yield seniority in claims upon the corporation's assets in the event that it should fail. In other words, should there be a liquidation, it would be banks first, taxpayers second.

That certainly indicates that in the experienced eyes of the bankers, the risk of extending further credit to Chrysler is a heavy one. It follows, I would think, that the risk involved in any Federal guarantee of loans is likewise considerable.

The sum of money involved is large. The proposed $1.5 billion in loan guarantees is 6 times as large as the biggest previous guarantee of loans to a corporation, namely a $250 million guarantee for Lockheed Aircraft Corp. in 1972.

I opposed that guarantee to Lockheed. I also opposed the guarantee of loans for Penn Central and New York City. I took those positions as a matter of principle, a matter of basic public policy.

I think it is simply wrong for the Government to put at risk large sums of the taxpayers' money to rescue businesses in danger of failure.

The Senator from Wisconsin, Mr. Proxmire, the distinguished chairman of the Banking Committee, put the matter eloquently in his additional views to the committee report on the pending measure. Here is what he said:

> We have a free enterprise economy and free enterprise means the freedom to fail as well as the freedom to profit. Last year, over 6,000 firms went bankrupt and no one rushed to Washington with a bill to prevent their failure. If we bail out Chrysler, where do we draw the line, On what basis do we say that some firms but not others are worthy of a federal bailout?

That is the core of the problem. Where, indeed, do we draw the line?

How do we in Congress sit in godlike judgment upon the merits of each troubled company's appeal for Federal assistance?

For if we bail out Chrysler, we may be sure it will not be the last firm which the Government will bail out.

It is true, of course, that the bailout of Lockheed ended successfully. But that is no assurance that the Chrysler rescue plan, or similar plans in the future, will end so happily.

For many reasons which I detailed for the Senate in a speech on November 8, I do not believe the Lockheed bailout is a valid precedent for the Chrysler proposal—notably, there is no element of national security in the Chrysler case.

So I think the Chrysler bill breaks new ground.

But in any event, whether the precedent be a new one or an expansion of an old one, it is a bad precedent.

Let us not go down this road.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished acting Republican leader.

Mr. STEVENS. Mr. President, the Senator from Connecticut wants 30 seconds.

Mr. ROBERT C. BYRD. I yield to Mr. Weicker first.

Mr. WEICKER. Mr. President, in an article entitled "Prometheus Bound," George Gilder wrote that:

> As capitalist governments weave their tentacles ever more deeply into the economic fabric . . . their bureaus enlist more and more on the side of the established order, and thus on the side of stagnation as opposed to growth. A legislator usually supports the most powerful businesses in his district. Labor unions are deeply influential in politics, and they normally back the interests of the big companies that they have already organized. Bureaucracies often are closely allied with the industries they regulate or patronize, and in any case the regulations tend to favor the old ways of doing things. Even when governments choose to help business, they often act through investment credits, tariffs, quotas, and tax incentives that favor existing industries.
>
> These government tendencies are reinforced by the media. While more than 300,000 small businesses involving many millions of jobs expire annually without notice, the death throes of a corporate leviathan provide a drama that captivates the press. Boeing loses the contract for a supersonic transport, and the networks descend on Seattle to depict that thriving city in images of the Great Depression because a few thousand well-paid technicans with ample unemployment insurance may be out of work for a while. The halls of Congress begin to ring with a rhetoric of emergency programs and subsidies.

These words, written nearly a year and a half ago, were prophetic of the Federal Government's reaction to Chrysler's pleas for a bailout. In an attempt to win the support of labor for a renomination and reelection, the administration gladly agreed to use the Government as a standby banker. Chrysler's reward is not for its management capabilities or product lines. Indeed, the private sector passed judgment on Chrysler's judgment and goods when consumers stopped buying Chrysler vehicles and financial institutions stopped lending funds.

No, Chrysler is being rewarded because it is big. It is big enough to hire high-priced lobbyists and lawyers. It is big enough to have a large, influential labor union interested in its continuation. Simply put, it is big enough to receive special treatment.

Unfortunately, the Nation's small businesses cannot afford to hire the high-priced lobbyists needed to get them special attention, so they go out of business by the thousands without the Government lifting a finger to help them. What makes this situation even worse is the fact that, unlike Chrysler, not all of these businesses are mismanaged. Instead, their failures are symptoms of the tight credit conditions of our economy—which, I might add, will be exacerbated by this diversion of massive credit resources from healthy sectors of our economy to this inept leviathon, Chrysler.

Mr. President, I am unequivocally opposed to Federal aid, in any form, to Chrysler. My opposition is philosophical in nature in that I do not believe that the Federal Government should stay in the business of government and should not get involved in the business of business. In addition to my philosophical disagreement with this legislation, I oppose the bill because it does not make sense on economic grounds. A careful examination of Chrysler's financial records shows that it will not survive—with or without Federal loan guarantees, with or without the creation of an employee stock ownership plan, with or without a wage freeze. In short, an investment in Chrysler is a poor investment for the taxpayers' dollar.

The notion of the Federal Government providing financial assistance to rescue a private company is inconsistent with the free enterprise system. This system, which underlies the American economic philosophy, is based not only on rewarding good judgment and hard work with success, but also on the principle that failure is a consequence of bad judgment and poor products. The day our Nation reaches the point when businesses are not concerned with the possibility of failure because the Federal Government will be there to save them is the day America concedes the eventual failure of every enterprise and resigns itself to the gradual nationalization of all industry.

Mr. President, proponents of aid to Chrysler cited the Federal assistance given to Lockheed Corp. and to the Wheeling-Pittsburgh Steel Corp. as precedents for a Federal bailout of Chrysler. I think that it would be appropriate to review my statements on those bills.

Eight years ago on this floor, when we were debating the Lockheed loan, I said that:

> We get back to the point made earlier that the whole basis of the free enterprise system is wrapped up in the concept not only of success as the reward for good judgment and hard work and quality product, but it also includes failure as the consequence for bad judgment and bad products.
>
> This nation is strong enough to absorb such losses. But what it cannot withstand for its future economic health is the acceptance of Lockheed's way of doing business. It cannot accept Lockheed's way of doing business as the national standard. That is what the American people are being asked to underwrite. That is what the bankers were asked to underwrite, but shied away from, and well they should have.
>
> I would hope that the Senate also would reject that method as the basis for reward. Should the day come when industry feels that it can fail either managerially or productwise because government will make up the deficit, then the nation has conceded the failure of every enterprise and has resigned itself to the nationalization of its industries.

Again, in this Chrysler bailout legislation, the American people are being asked to underwrite bad business judgment and bad products.

I also observed on July 21, 1971, that:

> The problem with this measure is that it does not adhere to the principles of our free enterprise system, nor is it nationalization, but it is something in between. The result that would be achieved would be something in between, something very mediocre.
>
> In effect, this nation is being asked to conduct business as Lockheed conducts business; and when the nation conducts it in that fashion, we end up in the same straits in which that corporation finds itself today.

Again we are being asked to conduct our Nation's business as Chrysler has conducted its—which is poorly.

There is no question that the Lockheed loan may be cited by proponents of aid to Chrysler as a precedent for a Government bailout. I agree—although, the Lockheed loan certainly does not serve as a guide for assuring that the Federal Government will be repaid. The loan also serves as a precedent for rewarding mismanagement which, in the long run, will undermine our Nation's economy. As I observed in 1971, the Lockheed loan guarantee has implications, which, if allowed to take hold, will drastically alter the standards of competition and excellence upon which this Nation was built. The free enterprise system operates not only upon the achieving of success, but also, always in the background, upon the possibility of failure. Take away the possibility of failure and everything is on one level, and that level usually is one of mediocrity. Certainly, the proposal before the Senate today is not designed to further the qualities of excellence, and the proposal today does not simply underwrite Lockheed. It underwrites, in the broadest sense, national ineptitude.

The Lockheed loan guarantee has indeed altered the standards of competition and excellence upon which this Nation was built. The standard has become one of bigness. Under the free enterprise system, failure was a consequence of bad management, just as success is the reward for good management and good products. Now, if a company is a big business, failure will not be the consequence of bad management. Instead, the consequence of bad management of a big business is a Government handout.

Those who advocate a bailout for Chrysler justify the aid on the alleged employment and economic consequences of the company's failure. I will return to discuss the accuracy of these figures, which, to be frank, overlook the industry wide situation. But at this time I will repeat what I said on June 25 of this year in connection with the bailout of the Wheeling-Pittsburgh Steel Corp. At that time, I stated:

> Mr. President, we will hear much today about how 15,000 jobs are to be saved. I am not against saving jobs, but the bigger question is what is the price that must be paid. A benign government that is so concerned about jobs that it will bail out a company for bad management, must also live with the consequences of mediocrity. Once this happens, excellence becomes a forgotten standard. A bailout for bad management means a reward for the unproductive. It means higher prices and wages with less productivity. With such action by this government, why do we wonder why we are plagued with inflation.
>
> Support for Wheeling-Pittsburgh today will mean layoffs for all domestic producers in the future. We will be strengthening the hand of foreign producers. Foreign producers will be assisted with federal tax dollars at the expense of weakening the position of all domestic producers. This proposed loan guarantee violates the law, public policy, and Congressional intent. It is a bailout for bad management and a payoff for stockholders. It is not a proper use for taxpayers' money.

Nor is a Federal bailout of Chrysler a proper use of the taxpayers' dollar. Although Chrysler would have one believe that its financial problems stem from excess and unfair Government regulations, the fact of the matter is that it is Chrysler's management, and not the American Government, that has placed the firm in its precarious position. As former Treasury Secretary W. Michael Blumenthal has observed:

> Strategic mistakes were made in not moving to smaller cars more quickly. Chrysler probably has not had the necessary quality of management.

A New York Times article succinctly stated the root of Chrysler's problems:

> Chrysler has . . . been severely damaged by corporate mismanagement and miscalculation, by grandiose expansion plans that fizzled and by repeated bursts of optimism alternating with lingering bouts of pessimism. Auto industry people generally agree that such corporate schizophrenia eventually diluted employee enthusiasm, sapped employee morale and obscured fundamental management problems.

Indeed, Chrysler's history of mismanagement is well documented. In 1941, it possessed a quarter of the U.S. passenger car market and had a reputation for engineering excellence. However, in the years after World War II, the company paid overly generous dividends of $3.50 per share while failing to modernize its factories or develop new ideas for car designs. Instead of leading the industry, it copied the successful designs of its competitors. To Chrysler, research and development leading to innovation was an expendable item.

For example, rather than introduce new models in the 1940's, as GM and Ford did, Chrysler decided to merely update its 1942 models until the 1953 model year. Then, when Chrysler prepared to introduce the Valiant in the late 1950's, its marketing people convinced the management to build 75 percent of them at the lowest price possible and only 25 percent with expensive trim and ornamentation. However, when orders came back from the dealers it was clear that customers wanted the higher-priced models. By the time Chrysler was able to turn its manufacturing ratio around, it was a new model year.

Then, when in the late 1960's the public discovered smaller cars, Chrysler could offer only its restyled Plymouth Fury and Dodge Polara. Although management announced that it would build a minicar to compete with the Ford Pinto and Chevrolet Vega, it eventually abandoned the idea. This was a costly miscalculation, as imported cars have increased their market share by 70 percent since 1968, Chrysler's market share has declined almost 40 percent, GM has gained and Ford has remained the same.

For the 1971 model year, Chrysler introduced restyled intermediate autos. This was the time that demand was swinging back to full-sized cars. Then, after expending huge sums for restyling and retooling, it introduced new full-size cars in 1974, when the public was crying for smaller cars.

Chrysler was the last automaker to produce the small, gas-saving cars the public is demanding. To this day they insist on producing family-size cars, as evidenced by Mr. Iacocca's insistence on maintaining a full-product line. The result of this strategy is clear. The consumer is simply not buying Chrysler products. Compare the 15-percent decline in Chrysler sales during the third quarter of this year with the 14-percent increase in new car sales in early December registered by AMC, which has concentrated its efforts on smaller, economical passenger cars, and the 70-percent increase in the sale of Volkswagen of America's American-built Rabbits.

Even with its smaller car line, Chrysler has been a day late and a dollar short. For example, it is counting heavily on the success of its splashy front-wheel-drive compact cars to be introduced next fall to replace the Dodge Aspen and Plymouth Volare. But Ford will also unveil a new front-wheel-drive car next year, and GM had tremendous success in introducing a front-wheel-drive compact this past spring.

Chrysler's problems have been exacerbated by its failure to get new cars into the showrooms on a timely basis, thereby negating the impact of its costly advertising. For example, it was 6 months late in introducing the Omni and Horizon subcompacts in 1977.

The Omni and Horizon provide another example of the shortsightedness of management. To save money, Chrysler decided to buy the 300,000 four-cylinder engines for these cars from Volkswagen to delay construction of its own engine plant. At a time when the consumer is demanding a small, fuel-efficient car, Chrysler could sell at least 100,000 more Horizons and Omnis. However, Chrysler's four-cylinder engine plant is at least 1 year away from completion.

Chrysler's mismanagement has created a vicious cycle. Due to bad business judgments and poor products, Chrysler has been forced to cut back on expenses. Yet, it has cut back in the wrong places, thereby furthering the financial problems of the company. Chrysler makes fewer of the parts for its cars than its rivals, thereby diminishing its profit per car. Chrysler suppliers take 68 cents of every revenue dollar, while suppliers only take 61 cents from Ford and 51 cents from GM.

Under pressure to trim operating costs, Chrysler has used a meat axe rather than a scalpel to trim expenses. From 1961 to 1975, Chrysler cut its capital spending programs by several hundred million dollars. In 1961, it dropped 31,000 employees, including 4,000 salaried employees. Another 6,000 white-collar workers were laid off in 1969, while 30 percent of its work force, and 80 percent of its engineering staff, was laid off during the 1974–75 season. Each of these cutbacks reduced Chrysler's flexibility and handcuffed its ability to react and predict the market changes.

These misjudgments had a particularly harmful affect on the engineering aspect of Chrysler, which was the basis for the company's reputation. This damage to Chrysler's engineering effort has doomed the company to failure. Yet, as Prof. Ralph K. Cowan, a former financial analyst at Chrysler who now teaches management at the University of Windsor in Canada, has noted:

> I was part of a think tank at Chrysler that no longer exists. And it doesn't exist because

> of management shortsightedness—the kind that makes you look better on profit-and-loss statements but does great harm over the long haul. I brought in top-rate people, first-class econometricians, but they became frustrated that nobody paid any attention to them. One of Chrysler's major shortcomings was its failure to attract and retain good people, and the sweeping cutbacks are the reason why.

A prime cause of Chrysler's cash shortage is that it has been the only one of the "Big Three" automakers to build factory units without having dealer orders. The cost has been about $5 million per month in interest and $100 million in expenses to rid itself of excess inventory. The sales bank, which stood at 44,000 units when Mr. Iacocca became president of Chrysler in the fall of 1978, rose under his leadership to 110,000 in early June. Chrysler has resorted to offering a $2,000 per car rebate to clear out this inventory.

Despite continued losses and mounting inventories, Chrysler paid common stock dividends until the third quarter of this year and did not discontinue preferred stock dividends in October. This has hastened Chrysler's financial collapse by drawing out capital which could have been used to maintain and upgrade buildings and equipment.

To compound this, Chrysler attempted to become an international conglomerate by expanding in Europe, Asia, South America, and Latin America. While Chrysler has been forced to retrench, it has not abandoned its global operations. In October, Chrysler announced construction of a $110 million plant in Mexico to manufacture engines. The Mexican Government indicated they would not fund any of this construction, so Federal bailout money will be funneled abroad to finance this. The money will also be used to finance the 150,000 Japanese built Mitsubishi cars and pickup trucks which Chrysler plans to import in 1980.

Federal aid is not going to help Chrysler make the right decisions. All we will be guaranteeing is that this same company, as well as others, will be back in a few years asking for more Federal assistance. It will not be any easier to say no at that time.

The background of Chrysler's plea for Federal aid should put us on notice as to what to expect in the future. Since World War II, Chrysler has been in trouble. It has experienced weakening car sales, followed by soaring inventories, big production cuts and worker layoffs, heavy losses and a financial squeeze. Plan after plan to set things right for once and for all are promulgated. Yet none succeed. So what does Chrysler do?

Did Chrysler turn to a major reorganization of its operations, either under an informal plan or under chapter 11 of the bankruptcy laws? After all, Chrysler's cash registers, have racked up sales of $65 billion since 1974, yet it has suffered a cumulative net loss of $665 million. In 1979, it will lose nearly $700 on every vehicle it sells. This would seem to suggest that major surgery is necessary, such as dropping some product lines, closing inefficient plants, or development of a new, more selective competitive strategy.

Reorganization is not bankruptcy. Reorganization does not contemplate liquidation of the company. The law provides for continued operations of a company undergoing reorganization and rearrangements of debt. Indeed, in an article in the most recent isue of Business Week it was stated that even at this late date "many bankruptcy experts and auto industry observers insist that a bid to reorganize Chrysler would not inevitably lead the company into liquidation."

Reorganization would not, as Chrysler claims, cause its financial structure to collapse:

First. It has not been the experience of reorganizations that consumers will go elsewhere. This undercuts Chrysler's claim that consumers would cease buying Chrysler's products, due to a fear that it "might not be around to provide service and parts for it." Indeed, customers would have already gone elsewhere as it has been no secret that Chrysler has been in financial difficulty for some time.

Second. Reorganization would greatly enhance Chrysler's chances of obtaining new credit from institutional lenders and suppliers. This is because they will have senior priority for credit after the petition for reorganization has been filed.

Third. Based on the experience of other reorganizations, Chrysler would not lose its best management employees to other automobile companies. Chrysler management employees have substantial investments in Chrysler retirement plans.

Advantages to reorganization include:

First. Current management could continue operation of the business.

Second. An "examiner" could be appointed to conduct an investigation of Chrysler's affairs and management. Thus, a thorough examination of the feasibility of Chrysler's maintaining a full line of products, instead of scaling down operations as AMC did, could be undertaken.

Third. Chrysler could reject any disadvantageous executory contracts, thereby giving it leverage to renegotiate such contracts on more favorable terms.

In an article entitled "Business Reorganizations Under Chapter 11 of the New Bankruptcy Code" in the Business Lawyer (April 1979), J. Ronald Trost, a bankruptcy expert now employed as a consultant to Chrysler Corp., concluded:

> The new chapter 11 business reorganization law creates an environment for the reorganization of any company that is truly viable. The parties to the reorganization process are free to achieve financial accommodations apart from artificial restraints imposed by the courts or the regulators. Informed consent is substituted for externally perceived guarantees of fairness. Not all issues are resolved; nor could they be. However, those who practice in the reorganization law field, and those who for the first time venture into it, will find chapter 11 accommodates a common sense approach to the reorganization of financially troubled businesses.

I might observe that our discussion of a Federal guarantee of loans to Chrysler at this time is premature. The guarantee should, in fact, not have even been considered until Chrysler has filed a petition for reorganization. I would like my colleagues to know what Prof. Vern Countryman of Harvard Law School concluded in his testimony before the Banking Committee:

> The choice is not between a government guarantee now or a chapter 11 reorganization. It will be soon enough to consider a government guarantee, as was done in the case of the Penn Central reorganization, if, after the reorganization petition is filed, it becomes apparent that the debtor is unable to raise new and necessary post-petition credit from other sources. Since that is so, any consideration of a government guarantee at this point is premature.

Did Chrysler take the steps that, under a law passed by Congress last October, every other company in financial trouble must take? No. Chrysler instead turned to the Federal Government. Mr. John J. Riccardo, who was chairman of Chrysler when it made its first entreaties to the Government, stated in August that:

> We're operating on the assumption the government will do something. I think that to consider any other alternative doesn't make sense, and I frankly will not speculate on the likelihood of any other alternative.

Thus, unlike the thousands of businesses which fail daily, Chrysler decided to ask the Federal Government to finance its survival as a full-time manufacturer, competing in every niche of the automotive market from RV's through light trucks, subcompacts, and luxury passenger cars. It has asked Congress to play "banker of last resort," not merely to keep Chrysler in business in some form, but to assure the continuation of nearly every product line and production facility in the entire company.

Eschewing the drastic steps that other financially troubled companies are forced to undertake everyday, on September 15, Chrysler submitted a proposal for $1.2 billion in Federal assistance to Treasury Secretary Miller. Mr. Miller asked Lehman Bros., Kuhn Loeb to analyze the Chrysler proposal. The Lehman Bros. analysis is quite revealing:

> The material presented in the proposal, the assumptions underlying the projections and the documented conclusions do not persuade us that the proposal is viable or comprehensive. On one hand, they do not definitively show that Chrysler must necessarily receive government financial assistance in order to achieve profitability. On the other they do not foreclose the danger that the proposed plan, if adopted, could lead by its insufficiencies to a much larger, if not open-ended, drain on the United States Treasury; they do not conclusively demonstrate that Chrysler could return to profitability even with a massive infusion of new funds.
>
> Finally, by not exploring all the reasonable non-government alternatives, this plan does not meet the test of demonstrating that Chrysler must now request government support as a truly last resort. In fairness, we do not know the entire context in which this plan was presented. However, you asked us for our reactions to this plan, and we must tell you it does not meet the strict burden of proof test that would seem to us to be implied in a case that involves such large issues, both of policy and public resources.

What was the administration's reaction to a plan that did "not meet the test of demonstrating that Chrysler must now request Government support as a truly last resort?" The administration gave Chrysler $1.5 billion instead.

I would also like to bring to my colleague's attention other aspects of the Chrysler proposal which were questioned by Lehman Bros. First, they discussed the refusal of Chrysler to isolate a viable segment of the market as its prime production target:

> Chrysler's plan rejects the feasibility of anything less than a full-line product strategy, but the supporting analysis seems to us insufficient. Because the cost structure, resources and market position of each company in this industry is unique, any analogy is imperfect. Still, the experience of American Motors in the early 1970's, which led its management to decide not to offer a full line of passenger cars, but rather to focus on specific market niches, cannot be ignored—particularly in the context of American Motors' net profits, for example, in the 1979 fiscal year are estimated to be about $70 million. Though we would not at this point rule out the logic of a full product line strategy, its necessity has, in our view, not been adequately proved; we would think, for example, that the case for a more limited product line needs to be fully and fairly ventilated.

The analysis also exposed the questionable nature of the basis for Chrysler's projections:

> Fairness requires us to say that Chrysler's profit history may not be a solid basis for predicting the future. Major actions have been taken to reduce both the level of costs and their structure. However, given this history, we believe the company should assume the burden of demonstrating what the future effects on profits are likely to be—in the context of a changed cost structure—of more conservative volume and mix contingencies.
>
> Furthermore, as Lehman Brother's noted: Basic to the Chrysler proposal is the assumption that it will be able to reverse the steady declines in market share suffered by the company during the past decade. In 1968, Chrysler's domestic market share was 16.2 percent. Today it is 10.3 percent and the plan anticipates a return to 12.3 percent by 1985. The basis for that assumption may rest on an implied vote of confidence in the superior—but as yet undemonstrated—skill and vigor of the new management.
>
> There is no evidence that Chrysler is planning to introduce any revolutionary changes in its products or, indeed, to make product changes materially different from General Motors or Ford. Nor is there reason to believe that those two companies or foreign competitors will be any less aggressive or effective than they have in the past.
>
> It may be that even were it to achieve its objective of increasing its market share to 12.3 percent, Chrysler would still have difficulty remaining viable. In other words, given the current massive costs of retooling to keep pace with market requirements and of meeting the standards of increasingly stringent government regulations in a relatively short period of time, it is possible that there is a critical volume somewhere above 12.3 percent which must be reached if a full-line motor vehicle producer is to survive. In fact, even with a market share of 20 percent to 25 percent, some believe that Ford may have difficulty maintaining profitability in its domestic automobile business. But even putting aside such larger questions, a projected increase in market share seems indubitably essential to the success of Chrysler's plan.

A basic flaw in Chrysler's operating plan is its assumption that there will be a steady, uninterrupted growth in vehicle sales over the next 5 years. This is simply not going to be the case. The domestic auto industry sold 23.5 percent fewer cars between December 1 and December 10 of this year than they did the year before. For the year, sales by the domestic auto industry are down 10.9 percent.

Furthermore, as has historically been the case with Chrysler, its plan did not take into account the probability of fluctuations in the market: One clear omission of the plan is the failure to take account of the possibility—indeed, the probability—of adverse political or economic developments in a world environment that has become increasingly precarious. This omission is particularly unrealistic since our energy supplies now heavily depend on the cooperation—and even the survival—of oil producing nations that are increasingly less stable. That lesson should have been brought home to us by our experience of the past few years with several unpredicted occurrences—such as OPEC's price action in 1973 and the Iranian Revolution at the beginning of this year.

The Lehman Bros. analysis also points out the basic problem with Chrysler's management—it refused to recognize that small, fuel-efficient automobiles are here to stay. The simple fact is that consumers are demanding fuel-efficient cars. As the analysis noted:

> We would suggest a review of Chrysler's assumption that the small car portion of the market will increase from about 54% today to only 56% in 1985. That may be an overly optimistic profit assumption * * * In recent history, at least, the small car portion of the market has shifted much more dramatically. For example, the small car segment increased from about 42% in 1977 to about 54% in 1979. Moreover, it appears that the trend toward increasingly stringent mileage standards could well extend beyond 1985.

Chrysler, in its proposals to the Government, has continually stressed that if it can get by the next few months, it will prosper. Chrysler has a history of saying "wait till next year." As noted in the Lehman Bros. analysis:

> Added credibility would also be gained by an understanding of the financial control process within Chrysler. Any plan is a statement of probabilities about the future and it is more likely to be achieved, and more credible, if the numbers have been put together with great care and with great knowledge of detail. The federal government, or a potential investor, could not ignore the recent and not reassuring history of Chrysler's financial forecasts. One wonders whether the underlying facts could have changed so much, or whether Chrysler's understanding of these facts and their financial implications changed significantly.

The Lehman Bros. analysis, to be blunt, blew enough holes in Chrysler's operating plan to drive a truck through. In addition, the analysis raised serious questions of whether Chrysler deserved Federal assistance in the first place. It noted that Chrysler should further divest itself of assets and should give serious consideration to downscaling its operations.

> We believe that there exists a large enough "family" of potential investors with sufficient economic interests in the future of Chrysler to support substantial additional funding—perhaps even without the assurance suggested in the Chrysler plan that the U.S. government will guarantee additional needs of at least $500 million. As in similar situations involving requests for federal assistance, we believe that the concept of burden-sharing is fundamental; the potential contributions of those most directly concerned (the Chrysler "family") must be a part of an overall and enlarged funding package. We would question whether federal assistance should be extended that simply insulates the direct beneficiaries of Chrysler's ongoing operation from the dilution of liquidation of their interests that might result from a de facto or de jure reorganization of the company were its future left to the private sector.

Mr. President, the Lehman Bros. analysis raises the question of whether the rosy picture of new management, new products, and blossoming confidence painted by the Chrysler advocates is in fact a guarantee of the company's long-term survivability even with Federal assistance. If the prospects for success are so high, why is it that the Company cannot persuade the private financial markets to invest? We know only what the company's own consultants have told them: that if its optimistic assumptions about total auto sales and Chrysler's market share do not hold up, the company's outside financing needs can rapidly double or triple.

Indeed, it is doubtful that Chrysler will survive—with or without Federal loan guarantee, with or without the creation of an employee stock ownership plan, with or without the wage concessions voted on here today. The Banking Committee, in its report on S. 2094 admitted as much when they stated that:

> Should the Corporation succeed in returning to financial health under the financing arrangements provided in this Act.

Should. That is not a real strong peg on which to hang 1.5 billion of the taxpayers' money.

I urge my colleagues to keep these following points in mind when deciding whether they want to invest $1.5 billion in a failing, mismanaged company.

> For the years 1976–1979, the U.S. economy and the auto industry have both been through the longest boom in post-war history—yet for these four years, Chrysler *lost* an incredible $700 million.
>
> Chrysler lost a record-breaking $300 million in the last economic downturn (1974–1975). The company is less able to withstand economic and competitive pressures than at that time as they have fewer financial resources, a continually decreasing number of dealers, and a declining market share.
>
> An analysis of Chrysler's financial statements shows that the company is today in technical default under conditions of its bank loans. In recent years, the company has had available working capital (current assets in excess of current liabilities) totaling over $1 billion ($1.08 billion at December 3, 1978). According to the last financial statement at September 30, 1979, working capital had been reduced to only $355 million.
>
> Further, the company now has over $2.2 of debt for every $1.00 of equity, a figure 60 percent higher than the level nine months ago. In its fifty-five year history, Chrysler built up retained earnings (retained in the corporation) totaling $1.6 billion by December 31, 1978. Yet nine months later, those retained earnings had been cut almost in half to only $873 million. It is likely the cor-

poration will lose another $400 million in the fourth quarter.

Although Chrysler has had a generally declining market share for ten years (in 1970 it had 14.6 percent of total sales, including imports, or 19.0 percent excluding imports), the company reached a low point during the previous recession in 1975. That low point was 12.3 percent of the total market. Today that number has dipped to below 9 percent.

Wall Street automotive analysts now project Chrysler losses for 1980 at $800 million. This number is significantly worse than the October 17 plan by Chrysler ($482 million) or the Treasury Department adjusted analysis ($659 million), or even the losses under most of the alternatives looked at by the Senate Banking Committee. Similar doubts are raised by Wall Street analysts regarding the optimistic level of industry sales projected for four years, and Chrysler's market share.

Even if we assume the total U.S. auto sales average 10 million units for each of the next four years, it is difficult to project that Chrysler's share of that market will rise substantially beyond its present 8–9 percent. Both Ford and General Motors will beat Chrysler to the market with a front-wheel drive compact car, and General Motors will be three years ahead of Chrysler in a new downsized intermediate car.

Further, competition is expected from foreign manufacturers. Based on a lower market share, the Banking Committee analysis indicates Chrysler's real financial needs over the next four years may be closer to $5 billion than $4 billion.

Even the higher $5 billion need mentioned above includes an assumed rise in market share for Chrysler trucks. The truck market is one key to Chrysler's profitability as Chrysler has stated that one-third of its profits come from its truck sales. In light of new Ford and General Motors products and truck production capacity, Chrysler will find it difficult to hold market share, much less increase its share of this market. If Chrysler only remains constant in this market, the company would lose an additional $1 billion over four years and its capital needs would rise to a total of $6 billion for these four years.

Mr. President, I urge my colleagues to give serious attention to the possibility—if not the probability—that by aiding Chrysler we will be throwing the taxpayers' good money into a lost cause.

I also urge my colleagues to give serious consideration to the impact that a Federal guarantee of loans to Chrysler will have on the Nation's capital markets. A Federal loan guarantee will, under the Senate bill, divert $4 billion in credit resources from healthy sectors of the economy to Chrysler in order to preserve a collapsing production chain of foundries, assembly plants, dealerships and work forces that are no longer generating products consumers want to buy, at prices that will return a profit. In short, such a guarantee will distort capital markets, imposing costs on other borrowers and inefficiency on the whole economy.

Who will be hurt by this massive diversion of credit resources? It will be our Nation's small and medium-sized businesses and home buyers who will be harmed through the reduction of available credit. I will offer to my colleagues the fact that, in fact, more jobs will be lost by diverting credit from small businesses to Chrysler than would be saved by bailing out Chrysler.

Small businesses account for more than 90 percent of the new jobs in the economy in the last decade; 55 percent of all jobs in the private sector; about half of U.S. innovations and inventions of the 20th century; 48 percent of business output (gross domestic product); and 43 percent of the gross national product.

Our economy relies on small business for competition, stability, and growth. The competitiveness of small firms combats inflation by keeping prices down and finding lower cost substitutes.

The Nation depends on small business for economic growth. The experts say 40 to 50 percent of all economic growth comes from innovation, and half of all innovation comes from small business.

Small businesses are the job creators in the economy, developing 6 million new jobs between 1969 and 1976, while the thousand largest firms provided no employment increase.

People who pay taxes to the Federal Government and to every city and town have a tremendous stake in a healthy small business climate. Testimony on capital formation before the Senate Small Business Committee last year showed that for each $100 of equity capital invested there is a return of $35 per year in Federal, State and local taxes.

Small businesses are faced with double-barrelled capital requirements. At present, the prime interest rate is about 15 percent. Small firms in many parts of the country are paying 3 or 4 points above the prime rate for the money they need. At the same time, they must finance sales credits. They are being squeezed at both ends, as suppliers are tightening payment terms at the same time that customers are having a greater difficulty in paying on time. By diverting credit away from small businesses toward Chrysler, we will be sounding the deathknell for hundreds of thousands of deserving small businesses.

I might point out that in fiscal year 1979, a total of $2.6 billion in loan guarantees were made to all the small businesses in America. That means that the more than 13 million small businesses in this country that account for 55 percent of all private employment, 48 percent of the business output and 43 percent of our GNP, had to compete for $2.6 billion in loan guarantees. And these guarantees, which were not 100 percent, by law had to go for loans which were "of such sound value or so secured as reasonably to assure repayment." Here today we are talking about a $1.5 billion loan guarantee to one business, and we are told by Treasury Secretary Miller that this aid will not guarantee that Chrysler will succeed in the long run.

What is the justification for this? Proponents for aid to Chrysler talk about the effects its collapse would have on the economy. I am certainly concerned about saving jobs, but concentration on that aspect obfuscates the bigger question of the overall price that must be paid. A benign Government that is so concerned about jobs that it will bail out a company for bad management must also live with the consequences of mediocrity. Excellence becomes a forgotten standard. A bailout for bad management means a reward for the unproductivity. With such action by Government, should we wonder why we are plagued with inflation?

Actually, history has shown that the failure of a large company will not cause the collapse of the economy. We survived the 1971 bankruptcy of W. T. Grant and its 1,100 stores, 70,000 workers and $2 billion in sales; we survived the failure of the Franklin National Bank of New York, the largest bank to fail.

It is the skill and energy of the Chrysler employees, and not the fact they work for Chrysler, that will enable them to survive. This was made clear when Youngstown Sheet and Tube's huge Ohio plant closed 2 years ago. Today unemployment in that community is lower and local prosperity is greater.

In the long run, more jobs will be lost if the Federal Government hands out money to every Lockheed, Wheeling-Pittsburgh Steel Corp. or Chrysler that comes along. Such assistance would place those businesses at a tremendous advantage over those who are operating on their own. Within the auto industry itself, aid to Chrysler would put its competition at a disadvantage. Industry analysts estimate that Ford suffered nearly $900 million in operating losses on its North American operation last quarter. GM suffered an operating loss of $100 million.

The auto industry already has laid off 110,000 workers of which GM, Ford, and Chrysler have each laid off about 37,000. This is a result of declining unit sales and not specific financial stress.

The auto industry is expected to lay off an additional 200,000 workers in 1980—again due to normal economic events. This will occur with or without Chrysler.

Because of the nature of Chrysler's market—which is not import-oriented—it is clear that any lost Chrysler sales would be picked up by GM and Ford which would reduce the need for layoffs at these auto companies.

In other words, in the event of a Chrysler bankruptcy, a disproportionate share of Chrysler's workers will be unemployed while more Ford and GM workers will keep their jobs than would otherwise be the case. In no case will the auto industry have more jobs as a result of a Chrysler bailout.

On the basis of equity, I think it is difficult for the Government to discriminate in favor of Chrysler to the detriment of other workers in the industry.

In short, the funds the Federal Government spends to save jobs at Chrysler will help to lay off workers at Ford and GM.

As a final justification for aid to Chrysler, proponents cite the precedent of the Lockheed loan guarantee, on which the Federal Government earned $31.2 million in interest. However, Government success in the Lockheed bailout was assured due to the large number of defense contracts that were awarded to the company. Over the period from 1971 to 1977 when the loan guarantees were outstanding, the Lockheed sales to the Federal Government amounted to $14.7 billion, or 70 percent of its total sales. In short, the Government raised Lockheed by its bootstraps, serving as both the financier for the company and as the prime purchaser. The Government will not be able to save Chrysler by purchasing its products as, according to Chrysler's 1978 annual report, its defense contracts account for less than 5 percent of its total dollar sales.

Mr. President, I ask unanimous consent that a point-by-point rebuttal of arguments made by proponents of Federal aid to Chrysler, a copy of the report of the minority staff of the Senate Budget Committee showing that Chrysler is not a viable entity and that the potential magnitude of financial aid required by Chrysler will be greater than that we have approved today, and an analysis by the Boston consulting group be published at this point in the RECORD.

Mr. President, it is unfortunate commentary on our times that the larger the size of the business and the greater its wealth, the better able it is to make its voice heard, in the halls of Government. It is a crime when justice is meted out according to who has the most expensive lawyer. It is a sin when clout goes to those with the largest lobbying and advertising budgets.

The words on the Supreme Court building say "Equal Justice for All." Should not there be equal treatment for all in the Halls of Congress?

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REBUTTAL OF ARGUMENTS MADE BY PROPONENTS OF AID TO CHRYSLER

I. Private Sector's Rejection of Chrysler:

The federal government is being asked to intercede to save a company whose product has been rejected by the consuming public and to which credit has been denied by commercial banks.

Chrysler's share of the domestic auto market for the first nine months of 1979 fell to 10.7 percent from 11.2 percent a year earlier. The company's share of the domestic market plunged to 8.2 percent in late November. Its share of the truck market declined from 12.1 percent to 10.2 percent.

Third quarter sales fell 15 percent, leading to a $460.6 million third quarter loss. Only Bethlehem Steel Corp's $477 million loss in the 1977 third quarter was larger.

For the first nine months of 1979, Chrysler rolled up a net loss of $721.5 million. Its loss for the year is expected to exceed $1 billion. Chrysler has already surpassed the full year corporate loss record of $451.8 million, which was set by Singer Co. in 1975.

John F. McGillicuddy, Chairman of the Manufacturers Hanover Trust Company, Chrysler's lead banker, said that further loans to Chrysler were "not feasible" under present circumstances. Thus, the private sector has perceived Chrysler to be a bad investment.

Banks have serious doubts about Chrysler's financial plans, projections and long-term viability. Objections by Citibank, and others, to Chrysler's credit arrangement delayed the recent extension and modification of Chrysler's Financial's revolving credit agreement.

Gerald Greenwald, Chrysler's executive vice president for finance, was recently quoted by the Wall Street Journal as saying that some of Chrysler's major U.S. banks "haven't yet made the threshold decision" of agreeing to maintain existing credit arrangements even if the government agrees to guarantee bank loans. Why should the federal government invest in such a bad risk?

II. Employment Argument:

Proponents of aid to Chrysler cite studies conducted by Data Resources, Inc. and DOT that show a Chrysler bankruptcy would result in 75,000 to 100,000 lost jobs over the next two years.

This argument is self-serving and the impact of a Chrysler failure has been overplayed.

The Data Resources and DOT studies were worst-case scenarios which assumed that Chrysler, having been denied assistance, would close down or sell off plants one by one until nothing remained. In fact, Chrysler could reorganize under the new Federal Bankruptcy Act which provides for continued operations of a company undergoing a rearrangement of debt.

As of December 17, the number of auto industry workers on indefinite layoff totaled 185,000 or 24 percent of the work force. At least another 12,000 indefinite layoffs are scheduled for January. These layoffs at GM, Ford and Chrysler are a result of declining unit sales and not specific financial stress.

Industry analysts expect that 200,000 additional workers will be laid off in 1980 due to normal economic events. The number of employees laid off in the industry will be the same regardless of whether or not Chrysler remains in business.

Because Chrysler's market is not import oriented, only lost Chrysler sales would be picked up by GM and Ford, which would reduce the need for layoffs at these plants.

In no case will the auto industry have more jobs as a result of a Chrysler bailout. If Chrysler fails a disproportionate share of Chrysler workers will be unemployed while more Ford and GM workers will keep their jobs.

Thus, if Chrysler jobs are saved by a bailout, GM, Ford and AMC employees would be laid off instead. Thus, a Chrysler bailout would amount to government discrimination in favor of Chrysler to the detriment of other workers in the industry.

The potential impact on the industry of federal aid to Chrysler is underscored by the problems facing Ford Motor Company. As noted in the December 24th issue of Business Week:

"With the fate of Chrysler Corp. hanging by a thread, Administration aides are worried that they may have to add Ford Motor Co. to the critical list. The No. 2 auto company suffered a worldwide $83 million operating loss in the third quarter, and is likely to run in the red in the current quarter. Ford executives expect the company to lose about $1 billion in its North American operations next year. An expected offset from profits on foreign operations may evaporate if economic and energy conditions hurt sales worldwide. So far, Administration concern for Ford is limited to informal monitoring of its fortunes by the Treasury and Transportation Depts., but there is a fear that a bad year for Ford in 1980 could trigger another Chrysler-type crisis."

Those Chrysler employees who are laid off as a result of its failure would not be left out in the cold. Under the Trade Act of 1974, special aid can be given to American workers who, in the opinion of the Department of Labor, have become unemployed or whose employment has been interrupted due to imports. These workers are eligible for numerous benefits, including payment of 95 percent of their after tax take-home pay for one year, free job training and 80 percent of their relocation costs. Nearly 50,000 Detroit area workers who have been laid off by Chrysler have already been certified eligible for federal aid under the Trade Act. Thousands of workers in Chrysler plants in five other states have also been declared eligible.

III. Business Failures:

A bailout of Chrysler would discriminate against the thousands of businesses which fail annually, causing hundreds of thousands of employees to be laid off.

According to the Administrative Office of the United States Courts, which tabulate unincorporated and incorporated business failures, there were: over 30,000 business failures in 1975; more than 35,000 in 1976; 32,000 in 1977; and 30,000 in 1978. Where was the federal government when these businesses needed help?

Number of business bankruptcies, 1968–78, according to U.S. courts

(Number of business bankruptcies)

Fiscal year:	
1966	16,430
1967	16,600
1968	16,545
1969	15,430
1970	16,197
1971	19,103
1972	18,132
1973	17,490
1974	20,746
1975	30,130
1976	35,201
1977	32,189
1978	30,528

Corporate failures 'according to Dun & Bradstreet, Inc. 1950–78

(Number of business failures)

Year:	
1950	9,162
1951	8,058
1952	7,611
1953	8,862
1954	11,086
1955	10,969
1956	12,686
1957	13,739
1958	14,964
1959	14,053
1960	15,445
1961	17,075
1962	15,782
1963	14,374
1964	13,501
1965	13,514
1966	13,061
1967	12,364
1968	9,636
1969	9,154
1970	10,748
1971	10,326
1972	9,566
1973	9,345
1974	9,915
1975	11,432
1976	9,628
1977	7,919
1978	6,619

IV. Impact on Small Business:

A federal loan guarantee for Chrysler would divert credit resources from healthy elements of the economy. It would distort the nation's capital markets, imposing costs on other borrowers and inefficiency on the entire economy. Those who would be the most adversely affected would be small and medium sized businesses and homebuyers through a reduction of available credit.

The small business community accounts for: more than 90 percent of the new jobs in the economy in the last decade; 55 percent of all jobs in the private sector; about half of U.S. innovations and inventions of the 20th century; 48 percent of business output (gross domestic product); and 43 percent of the gross national product.

The nation depends on small business for economic growth. The experts say 40–50 percent of all economic growth comes from innovation, and half of all innovation comes from small business.

Testimony before the Senate Select Committee on Small Business last year showed that for each $100 of equity capital invested there is a return of $35 per year in federal, state and local taxes.

Employment at small businesses helped by the SBA increased three times as much as overall employment in the country in 1979. SBA assisted firms showed a 9.88 percent increase in employment, while the nation's overall employment in the period increased only 3.2 percent. These small firms boosted employment of women by 11.22 percent and employment of minorities by 16.05 percent, whereas the national increase was only 4.7 percent. The 21,000 firms surveyed by the SBA employed an average of 797,005 employees in FY '78 and 875,723 in FY '79. Yet, the nation's 13 million small businesses had to compete for only $2.6 billion in federal loan guarantees. Chrysler would get $1.25 billion under S. 2094, $1.5 billion under the House bill.

V. Response to Fears About Increased Foreign Imports:

Only 300,000 of Chrysler's cars (the Omni and Horizon) fall into the category in which foreign imports might make additional inroads. The remainder are larger vehicles and trucks whose market would be absorbed by GM and Ford, resulting in creation of more jobs at those companies. (Kidder, Peabody & Co. analysis of Chrysler, dated August 22, 1979). It is estimated that Ford, AMC, GM and Volkswagen's American plant would absorb 50 to 60 percent of Chrysler's domestic production of small cars, and even more eventually.

Nearly 20 percent of the Chrysler network's activities take place after the vehicle leaves the factory. Regardless of whether Chrysler vehicles are replaced by American or foreign cars, they will still be shipped, sold and serviced by American workers and firms.

Approximately 15 percent of Chrysler's 1978 U.S. sales were imports. A Chrysler collapse wouldn't affect American production or employment in this area.

About 55 percent of Chrysler's 1978 domestic production consisted of trucks, recreation vehicles, vans and medium to luxury sized cars, which comprise a market sector where there is minimal import competition.

It is estimated that not more than 20 percent of the Chrysler network's domestic output would be captured by foreign products even in the initial period.

VI. Competition Question:

Treasury Secretary Miller has expressed concern about the effect that a Chrysler bankruptcy would have on competition in the auto industry. A bailout to Chrysler to maintain competition is a contradiction to terms.

There is no competition, in reality, if inefficient businesses are not allowed to fail. This is like giving a losing football team enough points to be the winning team in order to continue the game.

A loan guarantee would be unfair to other businesses which, because they have no guarantees, can't borrow capital or must pay higher rates. Chrysler's competitors would be placed at a competitive disadvantage.

VII. Regulation:

Chrysler maintains that it has been harmed by excessive government regulation. Included in the list of regulatory culprits that have harmed Chrysler are the fuel-economy rules. Kenneth Clarkson, coauthor of a Chrysler-sponsored study done by H. D. Wainwright & Co. and professor of economics at the University of Miami, estimates that 65 percent of the cost of complying with government regulations go toward improving fuel economy.

Thus, Chrysler's overregulation argument ignores the fact that fuel economy is the most marketable feature a new car can offer. Indeed, Chrysler's failure to recognize this fact accounts for their precipitous decline.

By 1985, the law will require each manufacturer to achieve an average of 27.5 miles per gallon for the entire fleet of cars it produces. As Elliott M. Estes, President of GM, observed, "The customers are ready. They want 1985 fuel economy now." GM is increasing its capital spending by $5 billion between 1980 and 1985 in order to do even better than the standard requires.

Maryann Keller, auto industry analyst for Kidder, Peabody & Co., in testimony before the Senate Banking Committee, capsulized the flaw in Chrysler's overregulation argument:

"There is some validity to the contention that Chrysler is unfairly burdened by pollution control and safety regulations. However, the costs of these programs pale when compared with the cost of redesigning each vehicle line to improve fuel economy. . . . It might even be argued that without government . . . pressure for fuel economy . . . imports would have had an even greater opportunity to penetrate the U.S. auto market. Now that the consumer, rather than the government, is dictating fuel economy . . . *the cost of compliance has become a simple necessity of staying in business.*"

In addition, Chrysler's argument proves too much. All businesses are regulated. Chrysler claims that it is put at a competitive disadvantage because it is smaller than GM and Ford and thus the regulatory cost is more per car. Chrysler claims that its costs in meeting all government regulations is $620 per car, as compared with $340 per car for GM. Yet, 65 percent of this goes toward improving fuel economy, which really is an expenditure mandated by the marketplace rather than the government. Removing this portion from the total leaves a regulatory cost of $217 per car for Chrysler and $119 for GM. Multiplying this $98 difference per car by Chrysler's estimated sales of 1.4 million for 1979, one sees that the total competitive disadvantage amounts to $137 million. This does not by any stretch of the imagination, explain Chrysler's projected annual loss of more than $1 billion.

In addition, it is truly the small businesses which are adversely affected by the regulatory burdens imposed by government. As noted in the 1978 Annual Report of the Senate Select Committee on Small Business, "regulations are drawn by large government bureaucracies in ways that are primarily suited to the needs and capabilities of large businesses. The independent, small entrepreneur is the victim of this process." Chrysler, the nation's tenth largest company, certainly does not qualify as a "small entrepreneur." If anything, Chrysler's claim justifies increased federal aid to small businesses.

VIII. The British Experience:

When Chrysler U.K. Ltd. received a $330 million British government bailout in 1975, Chairman John J. Riccardo said it would turn the company around. In the first half of 1979, the company, now owned by Peugeot-Citroen, lost $38 million. Second half losses are expected to be larger.

In 1975, the British government bailed out BL Ltd., formerly British Leyland. The company recently submitted a plan to the government which called for 1 billion pounds Sterling on top of the nearly 2 billion its already received. Under the plan, 13 plants employing 25,000 people will be closed. BL's domestic market share has slid from 31 percent four years ago to 17 percent.

The British experience with the nationalization of industry provides a good lesson. As Peter G. Peterson, Chairman of the Board of Lehman Brothers Kuhn Loeb Incorporated testified before the Banking Committee:

There is clearly a grave danger here that the ultimate costs of government assistance may escalate far beyond the initial projections and that, even then, the problem will not have been resolved. This is the danger we have observed in Great Britain where, in the case of British Leyland, for example, the government's aid commitment—in a vastly smaller economy, less than a sixth the size of ours—has escalated over the past five years to 1 billion pounds Sterling, while the company's U.K. market share has dropped from 40 percent to less than 20 percent.

The British situation also brings out another potential danger of this process, a kind of economic metastasis. Once the system is deflected in order to aid one ailing company, the circumstances that lead to that company's ills are transferred to other companies in that industry and then from one industry to another. To cite the record of the National Enterprises Board, Great Britain's government entity for aiding ailing enterprises, in the two-year period, 1976–78; the number of ailing companies controlled by the government more than tripled from 13 to 46. In light of these results, Denis Healy made the melancholy point the other day in New York that aid for failing companies inevitably helps the weak at the expense of the strong. The U.K. bailouts have been likened to drugs—perhaps pleasant for the first dose, but increasingly expensive, addictive, and fatal in the end.

As Louis M. Kohlmeier observed in the December 1979 issue of *Financier*, "Government promotion, whatever its form, does not necessarily guarantee success, as Britain's loans to BL already demonstrate and as U.S. loan guarantees to Chrysler almost certainly will. Moreover, success or failure is not easily defined. It will depend upon how much more Britain is willing to invest in BL and the U.S. is willing to pour into Chrysler."

IX. Differences between Chrysler and Lockheed:

In 1971, Lockheed asked for government assistance after losing $484 million due to cost overruns on the Air Force C–5A plane and three other defense contracts. Congress approved $250 million in loan guarantees which were terminated in 1977. Treasury earned $31.2 million in interest on the agreement, and Lockheed is expected to make a $40 million profit this year.

Lockheed, like Penn Central and New York City, provides services or products so nearly unique that their absence would leave a void not easily filled. This is not true of Chrysler, which accounts for only 10 percent of the auto market.

Government success in the Lockheed bailout was assured due to the large number of defense contracts that were awarded to the company (see following table). In short, the government raised Lockheed by its bootstraps, serving as both the financier for the company and as the prime purchaser. The government will not be able to save Chrysler by purchasing its products as, according to Chrysler's 1978 Annual Report, its defense contracts account for less than 5 percent of its total dollar sales.

LOCKHEED SALES

[During period of Government guarantee]

Year	Total (billions)	Percent Government	Government sales (billions)
1971	$2.85	93	$2.65
1972	2.47	74	1.83
1973	2.76	60	1.65
1974	3.28	62	2.04
1975	3.39	65	2.21
1976	3.20	70	2.24
1977	3.37	62	2.08
Total (1971–77)	21.32	69	14.70

Chrysler Corporation Loan Guarantee

(Summary of analysis, minority staff, Senate Budget Committee, December 17, 1979)

The Senate will soon be considering the Chrysler Corporation Loan Guarantee legislation. It should be noted that Chrysler's financial predicament is deteriorating rapidly and the company now says an immediate "interim" investment is needed from the Federal Government. Chrysler now can no longer comply with the Administration's approach, which would require that the company first obtain additional investments from other vested interests (bankers, suppliers, employees, and other groups) prior to receiving the Administration's proposed loan guarantees. Because such hasty action is being requested of the Senate, this summary of analysis was prepared to help focus discussion on four key questions:

A. Is Chrysler viable as a full-line automotive company with Federal assistance, or will such assistance only lead to more cost and more pain to all parties when the inevitable bankruptcy occurs at some point in the future?

B. What is the potential magnitude of financial need which might be required of the Federal Government?

C. What are the benefits or costs which may be derived from the investment by the Federal Government?

D. What is the risk that a Federal investment will be viewed as a precedent, and what is the potential future impact of that precedent?

A. Is Chrysler viable?

1. Lost Money During Boom Years: For the years 1976–1979, the U.S. economy and the auto industry have both been through the longest boom in post-war history—yet for these four years, Chrysler will lose over $700 million.

2. Greater Stress and Competition Ahead: It appears that the immediate future will be marked by (a) a general economic slowdown worldwide; (b) continued high levels of interest rates; and (c) potential gasoline shortages. These recessionary conditions will create general stress for many industries, but the long-run outlook for the automotive industry is particularly clouded by uncertain sales, especially of the lower mileage autos, and by the prospect of greater price and product competition as the overall unit sales in the industry, which has already slowed, slows further. This will be especially true as foreign manufacturers of high mileage autos seek greater U.S. sales to offset lower sales in other markets.

3. Foreign Cost and Price Advantages: According to a GAO study produced in the summer of 1979, foreign auto producer costs and prices presently compare favorably with U.S. manufacturers as these producers can manufacture and ship an automobile to the U.S. for approximately $500 less than domestic manufacturers can make the product (lower foreign wage rates—$9.00 per hour versus $15.00 per hour; higher foreign productivity). As a result of this cost advantage, foreign producers have limited price increases on 1980 models to less than 3 percent, while U.S. producers have raised list prices on similar models an average of 15 percent and still lost money in this segment of the market.

4. Chrysler Losses: Chrysler lost $300 million in the last economic downturn (1974–1975) and has already lost a record-breaking $700 million in the last six months. Even with the Federal guarantee, the company is expected to lose approximately $2 billion or more for the years 1979–1980. The company is less able to withstand economic and competitive pressures than at any time in its history as it has fewer financial resources, a continually decreasing number of dealers, and a declining market share.

5. Limited Financial Resources: At September 30, 1979, Chrysler's financial condition had deteriorated to the extent that it was in default under borrowing agreements with lenders. Such default involves primarily violations of the terms of various borrowing agreements concerning working capital, ratio of current assets to current liabilities, and debt/equity ratios.

(a) Working Capital: In recent years, the company has had available working capital (current assets in excess of current liabilities) totaling over $1 billion ($1.08 billion at December 31, 1978). By September 30, 1979, working capital had been cut by 65 percent to the level of only $355 million, below the $600 million limit in its agreements. Companies use working capital to finance new capital expenditures and to provide supplier credit. The further reduction in working capital in coming months as a result of Chrysler's losses will add to Chrysler's financing needs.

(b) Debt/Equity: The company now has over $2.25 of debt for every $1.00 of equity, a figure 60 percent higher than the level nine months ago. By December 31, this ratio will be substantially higher as the fourth quarter loss further cuts the equity level. By comparison, at September 30, 1979, the same time that Chrysler had a debt/equity ratio of 2.25, Ford showed only $1.32 of debt for every $1.00 of equity, and General Motors had $0.76 of debt per $1.00 of equity.

(c) Retained Earnings: In its fifty-five-year history, Chrysler built up retained earnings (earnings not paid out as dividends but retained for future investment and other corporate needs) totaling $1.6 billion by December 31, 1978. Yet nine months later, those retained earnings had been cut almost in half to only $873 million. It is likely the corporation will lose another $400 million in the fourth quarter, further eroding the company's financial condition. Chrysler's losses and corresponding reduction in internally generated funds come at a time when its capital spending needs are greatest. Its ability to endure these losses, even with government aid, and emerge as a viable company depend more than ever before on its future profitability.

6. Lost Dealers: In recent years, the company has shown a dealership network which numbered 4,800 or more in each of the preceding four years. By October 31, 1979, the company had lost 300 of those dealers. The financial stability of the remaining dealers is not known.

7. Declining Market Share: Although Chrysler has had a generally declining market share for ten years (in 1970 it had 14.6 percent of total sales including imports, or 19.0 percent excluding imports), the company reached a low point during the previous recession in 1975. That low point was 12.3 percent of the total market. Today that number has dipped to well below 9 percent. Recapturing this lost market share, even back to 9 percent or 10 percent, will be extraordinarily difficult because of industry competition, Chrysler's limited financial, production and engineering resources, its lost dealer network, and its eroded consumer confidence. Chrysler would argue that the regained market share will come at the expense of foreign importers, due to the company's increased production of small cars.

8. Required Market Share for Profitability: Not only has Chrysler's share of market declined sharply, but since 1978 its unit costs have risen and its pretax unit profits have declined. Lower per unit profits have caused the production level required for the company to make a profit, known as "the break-even point," to increase to a level that is presently greater than the company's production capacity. Moreover, according to a study by the New York investment firm of Drexel Burnham, with the company's present cost structure, it requires between 14½ and 15½ percent of market share to break even, which is substantially higher than even the 12 percent market share projected in Chrysler's own plan. Further, these calculations do not include the effect on overhead of the interest costs of the proposed "bailout." Even if Chrysler were to return to the pretax margin that existed between 1974 and 1978, the company requires a 12½ percent share of the auto and truck market to be profitable, which is still higher than Chrysler's own market share projections through 1985.

9. Product Mix for Profitability: Product mix is very important to the overall profitability of domestic automobile producers because the profit margins (profit per unit) on large cars are substantial, while U.S. companies tend to lose money on compact and subcompact cars. The shift in consumer preferences to small, low-margin cars will limit the profitability of all domestic producers and will place the greatest burden on those producers with sales concentrated in the small car market. Through August, 1979, 69 percent of Chrysler's sales were low margin compact or subcompact cars, as compared with 52 percent for Ford and 32 percent for General Motors. While Chrysler's plan indicates they expect to make a profit in the small car market, Chrysler's costs are higher than its competitors (10 percent higher than General Motors, according to the Boston Consulting Group) and, as a result, the company has a distinct pricing and profitability disadvantage.

A sample financial plan contained in Chrysler's September 15 proposal projects that by 1982 only 65 percent of its sales will come from small cars, which would result in a loss of $42 million for those sales, while 35 percent will be from sales of family-sized cars. It is this large car segment that is expected to contribute 86 percent of its profits in that year. Yet, industry analysts universally believe that large cars are expected to decline as a proportion of total industry sales between now and 1982. For Chrysler to achieve its sales growth in this market, it would have to increase market share from its present 7.8 percent to 12.7 percent. This market share gain must be achieved in the face of 1 million units of surplus industry-wide capacity for these models. Because it appears likely that Chrysler will fall short of its goal, and because the bulk of Chrysler profits is expected from this segment, Chrysler's profit is likely to fall short of its forecast.

B. What is the potential magnitude of financial need which might be required of the Federal Government?

1. History of Questionable Projections: Following 1979 losses estimated at $1.1–$1.2 billion, Wall Street automotive analysts now project Chrysler losses for 1980 at $800 million. This number is significantly higher than the October 17 plan by Chrysler ($482 million) or the Treasury Department adjusted analysis ($659 million) or even the losses under most of the alternatives looked at by the Senate Banking Committee. Similar doubts are raised by Wall Street analysts regarding Chrysler's optimistic projection of its market share over the next four years.

The numbers above illustrate a problem which has distressed many automotive analysts, commercial bankers, and underwriters; namely, that the company has consistently made exceedingly optimistic projections about its future profitability and cost-saving efforts. Two examples are cited below.

a. In 1978, for example, when the company sold $250 million in preferred stock, Chrysler was forecasting $1.7 billion in earnings between 1978 and 1982. One year later, analysts now expect the company to lose over $1.1 billion in 1979 alone, plus lose $800 million in 1980.

b. As another example, in 1975 the company reported cost saving capabilities which would enable Chrysler to be profitable in a 6.0 million unit sales year. These cost-cutting measures were clearly overstated, and there is some question as to whether or not the company today is profitable at 9.0 million domestic units.

2. Uncertain Total Capital Needs: In June

1978, the company filed a legal document as part of a preferred stock sale, and this document stated that Chrysler's expected capital expenditure program for the next five years to modernize plants and develop and bring new products to market was about $7.5 billion. This Chrysler document went on to say, "These requirements for funds present risks as they may cause cash flow problems and will place a considerable strain on Chrysler's capital resources. . . The timing, size and availability of outside financings are not certain . . . and an inability to obtain additional financing would result in competitive disadvantages relative to its major competitors." The $7.5 billion capital expenditure plan was to cover the five years 1979–1984. Now Chrysler says that its capital spending needs have grown to a total of $13.6 billion for the years 1980–1985. Although the five-year periods are not identical, increasing the five-year capital budget by 80 percent only one year later seems extraordinary. Funds for the five-year budget must come from depreciation and amortization, any future earnings retained, outside financings, or the possible sale of properties or subsidiaries. Given that many properties and subsidiaries have already been sold, and given the unlikely prospect of near-term profits, clearly most of the capital spending program will have to be financed by outside sources. To the extent that funds from outside sources will be necessary just to provide day-to-day working capital, more and more of the burden for capital funds will fall on the Federal Government to the extent that the projected level of the capital budget is maintained.

3. Auto Sales Projections: Even if we assume the total U.S. auto sales average 10 million units for each of the next four years, it is difficult to project that Chrysler's share of that market will rise substantially beyond its present 8–9 percent. General Motors has beaten Chrysler to the market with a front-wheel drive compact car, with Ford's Erika not far behind, and General Motors will be three years ahead of Chrysler in a new downsized intermediate car. Further, competition is expected from foreign manufacturers. Based on a lower market share, the Banking Committee analysis indicates Chrysler's real net financial needs over the next four years may be closer to $5 billion than the $4 billion projected.

4. Truck Projections: Even the higher $5 billion need mentioned above includes an assumed rise in market share for Chrysler trucks. The truck market is one key to Chrysler's profitability as Chrysler has stated that one-third of its profits come from its truck sales. In light of new Ford and General Motors products, and in light of new truck production capacity (for example a new General Motors plant opening in 1980 in Shreveport), Wall Street analysts believe Chrysler will find it difficult to hold market share, much less increase its share of this market. If Chrysler only remains constant in this market, the company would lose an additional $1 billion over four years and its capital needs would rise to a total of $6 billion for these four years.

5. Summary of Financial Need: No specific conclusions are reached to pinpoint the total amount of funds the Federal Government might ultimately spend should it get involved in the Chrysler bailout. Clearly all the risks point to a significant higher level, not lower level, than that projected by either the company, the Administration, or even the Senate Banking Committee. It would appear that the need to be financed by the Federal Government alone might well exceed several billion dollars if the Chrysler capital spending budget is pursued and if more realistic industry and market share projections are used.

c. What are the benefits and costs from a government guarantee for Chrysler?

1. Effect on Domestic Employment in the Auto Industry: The auto industry already has laid off 115,000 workers. By January, this number is expected to grow to 190,000, bringing total layoffs to 25 percent of the industry's workforce. This is a result of declining unit sales not specific financial stress in any one company. The auto industry is expected to lay off an additional 200,000 workers in 1980—again due to the projected impact of recession on industry sales. This will occur with or without Chrysler.

2. Effect on the Distribution of Employment in the Auto Industry Among Major Domestic Producers: Of the total 115,000 layoffs to date, 46,000 were General Motors workers, 36,000 were Ford workers, and 30,000 were Chrysler workers. While the Chrysler layoffs account for a relatively larger proportion of the company's total hourly workforce (27 percent), compared to 18 percent for Ford, and 10 percent for General Motors, both General Motors and Ford have idled larger numbers of workers.

Because of the nature of Chrysler's market—which is not import-oriented—it is clear that any lost Chrysler sales due to bankruptcy would be picked up by General Motors and Ford, rather than by imports. Of Chrysler's 885,000 cars sold to date in 1979, 600,000 (or about 70 percent) are large cars or the compact Aspen and Volare with which imports do not compete. The remaining sales are Omnis and Horizons, which are likely to continue in production in the event of bankruptcy. The elimination of Chrysler as a competitive force in the industry would permit Ford, General Motors, and American Motors Corporation to share the domestic auto sales among themselves, reducing the need for layoffs at these companies.

In other words, in the event of a Chrysler bankruptcy, a disproportionate share of Chrysler's workers will be at least temporarily unemployed, while more Ford and General Motors workers will keep their jobs. In fact, because the industry already has 1,000,000 units of excess capacity in the large and intermediate car market, it is conceivable that a shift in production to Ford and General Motors would help reduce unit costs for these companies, enabling them to accelerate price competition, and possibly increasing sales beyond the levels now projected for the industry through 1981. This may further reduce the need for layoffs at General Motors and Ford.

3. Overall Employment Effect of Chrysler Bankruptcy: Several studies have attempted to estimate the effect on national unemployment of a Chrysler bankruptcy. These numbers range from a worst case high of 500,000 jobs by Data Resources, Inc., to an estimate of 75,000 to 100,000 by the Department of the Treasury. The Treasury study further reduces its estimate to 45,000 to 60,000 should the bulk of Chrysler's production be absorbed by other domestic producers. Because of the structure of Chrysler's market, and the overcapacity conditions in the auto industry in general, this lower Treasury estimate appears to be the most likely.

In terms of overall economic impact, the 45,000 to 100,000 jobs lost as a result of Chrysler should be compared to the number of jobs that result from the approximate 35,000 bankruptcies that occur each year. If each of these businesses have only three employees, the job loss due to the bankruptcies is equal to a Chrysler bankruptcy. Moreover, in an environment of severe credit restraint, a government guarantee to Chrysler will prevent other firms from obtaining financing, forcing them to discontinue their operations and the number of bankruptcies will increase. This will tend to add to other unemployment.

This analysis is further supported by a Townsend-Greenspan study which concludes that, ". . . the macroeconomic effects on the U.S. economy as a whole would be more of a temporarily disruptive type, rather than a significant longer-term displacement of the economic activity to foreign producers . . . It strikes us that the feared secondary consequences of a Chrysler failure are likely to be quite minor."

4. Federal Cost: To the extent that the Chrysler is not viable, future loan guarantee commitments will be required to sustain the company's operations. In the event of the ultimate Chrysler bankruptcy, which some believe to be the most likely outcome, Federal loan guarantees to Chrysler will result in several billions of dollars of Federal outlays which will hit the Budget in the next few years. Any Federal guarantee is an entitlement and is, in effect, an uncontrollable Budget item.

Another aspect of cost involves existing Federal benefit programs. Assuming that the prospective unemployment effects of a Chrysler bankruptcy in the future are not greater than the possible 100,000 or less unemployed now projected, Federal outlays for unemployment compensation and other unemployment-related programs would rise by $1.5 billion. Further, Federal revenues would decline by $1.25 billion, for a total increase in the deficit of $2.75 billion. These estimates are consistent with those made by the Treasury Department and Chase Econometrics. However, the automobile industry presently has excess capacity and other producers can more easily increase their work force (reduce planned layoffs) than if the industry were producing at peak capacity at the time of a Chrysler bankruptcy. At high utilization rates, other producers would have less flexibility to add shifts, and the unemployment effects might be greater.

In the event that Federally-assisted financing succeeds in easing the company through a difficult period and no bankruptcy results, then the government will save the $1.5 billion it would have spent on unemployment-related programs; revenues will be $1.25 billion higher, for a total benefit of $2.75 billion. This compares to a total Federal cost of about $4.0–$4.75 billion in the event of bankruptcy at some point after the initial Federal investment. This $4.0–$4.75 billion includes both the initial Federal investment and the ultimate bankruptcy cost.

D. What precedent and what implications for the future are involved here?

1. Lockheed No Precedent: The Chrysler situation is totally unlike the 1971 Lockheed loan guarantee—unlike in size, risk, and kind. Lockheed was basically a financially sound company with secure markets at home and significant export opportunities abroad. Moreover, the Federal Government was a major buyer of Lockheed's products. By some estimates, the government bought 95 percent of Lockheed's products, and as such, had a degree of control over Lockheed's prices, revenues and many of its costs. Lockheed had a one-shot, localized problem, the L1011 Tri Star, a wide bodied commercial jet which needed inventory financing while the company sought additional orders and sales. Chrysler's problems do not involve a temporary one-shot need, nor are its markets at home secure and growing, nor its export opportunities significant. Further, bankers rolled over existing Lockheed commitments while Chrysler's bankers have been hesitant to make any additional commitments. Clearly, Lockheed is not a precedent for Chrysler.

2. New York City/Amtrak Experience: Our experience with New York City and Amtrak has proven initial projections of need to be significantly understated, and has demonstrated the inability of the Federal Government to cut off the flow of funds once a commitment has been made.

In late 1975, the Congress intervened to prevent New York City from going bankrupt, providing short-term loans of up to $2.3 billion annually to cover seasonal shortfalls in revenues. It was understood at that time that this was to be a one-time piece of Federal assistance. When the June 30, 1978 expiration of the Seasonal Financing Act was approaching, New York City was still unable to meet its own financing needs and requested additional Federal assistance. This time government aid was in the form of long-term loan guarantee assistance totaling $1.65 billion. A third New York City aid request may be forthcoming in the immediate future. Many see New York's prospects for fully reentering the public credit markets by Fiscal Year 1982 to be very dim.

Our experience with Amtrak has not been any better. Under the original Amtrak legislation, there were authorized to be appropriated $40 million in Fiscal Year 1971, and in subsequent years a total of $225 million. The premise behind this legislation was that Amtrak could, and would, turn a profit, given interim emergency Federal assistance. Appropriations for Amtrak in Fiscal Year 1980 alone are over $800 million, and there is every indication that they will continue to rise in the future. The cost to the Federal Government in one year is now three times greater than the total amount of Federal aid originally contemplated.

3. British Leyland, Government Aid to an Automotive Company: Six years ago, British Leyland Motors found itself in straits similar to Chrysler's today. The company was unable to produce cars at competitive prices, had dwindling financial resources, as well as inefficient facilities, vehicle design and worker productivity problems. The British government stepped in with a $2 billion one-time aid package to get the company on its feet. Despite this assistance, the company has continued to decline and has lost half of its market share in the last five years. The British government now faces a request for an additional 1 billion pounds sterling (about $2.2 billion) in government assistance.

4. Absence of Criteria for Federal Aid: Concern has been expressed that because no criteria has been identified in the Chrysler aid request which would establish when Federal assistance would be granted or denied that we are setting a precedent for many other potentially bankrupt situations. In 1978, over 30,000 bankruptcies declared in the United States. It is estimated that hundreds of thousands of employees were involved. If we aid Chrysler, how does the Federal Government decide which companies survive and which do not, which jobs are protected and which are not protected? Is the cumulative effect of 30,000 bankruptcies any less than predicted to result from a Chrysler failure?

5. Precedent for Other Corporate Problems: Should aid be given Chrysler, it would appear that Federal aid would be requested in the next few years by several other major U.S. corporations. Among these corporations would be Ford Motor Company, and the giants in the fast-deteriorating steel industry. Ford is losing significant money in U.S. operations and as said in the Economist magazine, "The best news for Ford these days would be a decision to allow Chrysler to go bankrupt. Provided it could elbow Volkswagen out of the way, Ford might then get Chrysler's small-car making capability at knockdown prices. But, with a presidential election looming next year, the government is anxious to bail out Chrsyler, despite Senate opposition. If Chrysler is saved, life will be that much tougher for Ford." As for the steel companies, their financial statements are not unlike Chrysler's of a few years ago. If Chrysler aid is provided by the Federal Government, choosing among future requesters will be extraordinarily difficult.

Lessons From Chrysler (1979)

Chrysler is in financial difficulty in spite of sales of more than $1 billion a month. There are lessons here.

To survive, any company, regardless of size, must be different on one of two dimensions. It must have lower costs than its direct head-to-head competitors. Or, it must have unique values for which its particular customers will pay more. Competitive distinctiveness is essential to survival.

Profits must finance inflation and more, or the company must physically shrink.

Chrysler makes fine cars which are very similar to those of General Motors and Ford. They are too similar. They appeal to the same customers with the same product. Yet Chrysler does not have the scale effects or market share to provide an equivalent cost. Chrysler's costs are inherently higher no matter how well Chrysler is managed.

Chrysler's costs are approximately 10 percent higher than GM's. Any price for those products which would finance Chrysler's survival will also provide GM about 10 percent more as added margin. Why should Chrysler survive if it has higher costs and there is nothing unique in the value provided either in product characteristics or customers served?

Foreign competitors who have invaded the USA market have offered cars which are unmistakably different from domestic products. Even an untrained eye can easily identify the different appearance and characteristics of the successful imports.

They provide different values and appeal to a different market category where no American manufacturer has yet been very successful, and least of all Chrysler. Enough of these customers have been willing to pay a premium for those differences to finance any handicap of costs compared to a functionally equivalent car. The products themselves have ranged from the super luxury sedan to the midget sports car. In every case they appealed to a limited customer group.

There is every reason to believe that their manufacturers would have been at a substantial cost disadvantage if they had attempted to duplicate the American car models. They did not directly compete with General Motors and Ford. In a real sense each manufacturer dominated his own market and competed with others only at the margin. Chrysler never identified a customer group or product area where it could provide more perceived value at lower cost.

American Motors is one-fifth the size of Chrysler and one twenty-fifth the size of General Motors. Yet American Motors' profit margin is still better than Chrysler's. Apparently more than 100 percent of AMC profit comes from front wheel drive vehicles which are distinctively different in design and application from the mainstream of their competitors. Survival and prosperity depend upon competitive uniqueness.

During the 1970–78 period, Chrysler's profit was less than one-half of one percent on sales. General Motors' was 5.5 percent. That 5 percent differential in profit represents about $5 billion in added taxes that General Motors would have paid compared to Chrysler if they had supplied Chrysler's customers during this period. GM would also have simultaneously generated about $5 billion additional capital on the incremental equivalent of Chrysler's volume.

During the 1970–78 period, the USA GNP almost exactly doubled even though the real GNP grew only 30 percent. Chrysler's revenue went from $7 billion to nearly $14 billion, almost doubling too, even though two-thirds of the growth was inflation. Chrysler's assets employed necessarily had to about double too unless the company shrank in market share and physical capacity.

With essentially no profit, there is no way that Chrysler could finance the growth of its assets by 100 percent. Each time the assets are turned over they must be replaced at higher cost even if they are identical. Money for the assets on the balance sheet must come from the liability side of the balance sheet either as debt or retained earnings. Chrysler is earning less than the amount required to pay the interest on its current debt. A company must earn more on its net assets after taxes than the inflation rate just to stay the same physical size. Growth in parallel with the real GNP takes proportionately more profit. Chrysler's financial squeeze was inevitable in the absence of uniqueness of value or superior costs. Some profit is not enough profit.

Government intervention will be no solution. Nothing the government can do will change Chrysler's inherent competitive ability. Government cannot improve a company's productivity or the value in the market of its output.

There is no similarity between Chrysler and the Lockheed incident. The government was the buyer of 95 percent of Lockheed's output. In that role it controlled Lockheed's prices, revenues and most of its costs. Lockheed was a government induced financial crisis. Indirectly Chrysler is the victim of government actions. The wave of government regulations on pollution, car design, gasoline mileage, OSHA, EEO, etc., has produced enormous needs for added capital just to do the same things as before in terms of product production. This did not change Chrysler's relative positions. But as the marginal competitor, this regulation was the financial straw that broke the camel's back.

Almost inevitably government intervention in nearly any form leads to reduced productivity, higher ultimate cost to the customer and increased inflation. It does not matter whether it is regulation, antitrust, design criteria, financial aid or nationalization. Such intervention raises prices or reduces taxes paid, increases costs, prevents an efficient market or increases overhead.

The damage of government intervention is least when all competitors are equally affected. Under those conditions the marginal competitor is weakened the most. If this shifts his output and concentrates it in a more cost effective competitor, then the cost of government intervention can be partially offset by the resulting improvement in productivity. The damage is greatest when the weakest competitor is protected or subsidized enough to force the customer to pay for the financial needs of the least productive.

Government can prevent much harm but do little positive good. The sickness of almost all nationalized industries worldwide is living proof. They are almost always losers unless they are monopolies in which case they are super tax collectors.

These are the object lessons from Chrysler's experience:

Respect profits. They are proof of a superior contribution to the national welfare, of capital creation, of superior productivity, of higher tax contribution, of more value to the customer.

Profits are the derivative of lower costs for equivalent value rendered or uniquely superior values. Those who cannot be low cost must provide different values or serve different customers where they can be uniquely attractive.

Accounting profits are almost meaningless except to the tax collector. Real profits are the payments to the source of capital after that capital has been fully returned. There is no real profit until after the capital needs of the company have been met and the residue withdrawn and paid out. Chrysler has had a major negative net cash flow for years. There is no reason to believe it can change this to a positive cash flow without steady liquidation.

Inflation requires higher "reported profits" in proportion to inflation just to maintain capacity. But that is not enough. Profits must also be more than inflation to provide growth with the economy and maintain market share. Inability to do this inevitably results in the eventual decrease of competitive ability which can lead only to inability to compete at all. Some profit is far from sufficient profit for survival.

Darwinian natural selection of competitors is the mechanism that leads to rising standards of living, increased productivity and a better society. Government should not prevent the extinction of any competitor who cannot be the most cost effective supplier to a significant proportion of the market served.

Mr. WEICKER. Mr. President, the American economic philosophy is predicated on a free-market system in which all businesses, large or small, can compete on an equal footing. Our free-enterprise system gives everyone the right to succeed or fail on one's own merits. Yes, failure is as much a part of the free enterprise system as is success. When the element of failure is removed, the system is destroyed.

Mr. President, I am vehemently opposed to this bail-out.

Mr. STEVENS. Now, the Senator from Iowa.

Mr. ROBERT C. BYRD. I yield to the Senator from Iowa.

Mr. JEPSEN. Mr. President, I cannot help but note the irony in the Senate's actions this week. On Monday we voted to impose a $178 billion tax on the oil industry for the "sin" of having made profits, while today we are in the midst of giving the Chrysler Corp. $1.25 billion in Federal loan guarantees for the "virtue" of having lost a billion dollars this year. Our actions this week are sending an unmistakable message to the American people and the world: We are telling them that profits are bad and losses are good. We are telling businessmen everywhere not to make investments which may reap them profits or we will tax them away. It is better for them to make bad investments which cause them to lose money, for then we will come to their aid.

I think these actions are wrong. They show an incredible misunderstanding of the nature of profit and loss in our economic system. When individuals make profits we all prosper, because this means that someone has found a better way to satisfy our needs, to supply us with necessary goods and services, and to make efficient use of scarce resources. It is the prospect of profit that gives people the incentive to find better methods of production, better products, which can be sold for lower prices. And it is only the prospect of making profits which encourage people to make risky investments in new technologies, to look for new supplies of scarce natural resources in unexplored areas, and to make large capital investments which may not pay off for many years.

On the other hand, losses hurt everyone. Because this means that capital has been misallocated, that scarce resources have not been put to their best use, that someone has made an error by producing goods the public did not want, or at prices the public would not pay. Losses indicate that errors have been made.

I understand as well as anyone that many people make profits that are undeserved in any objective sense, and that many people suffer from undeserved losses. It is human nature to want to see profits go to those who are deserving, rather than those who may be merely lucky. It is human nature to want losses to be suffered by those who offend us by the nature of their business or because we dislike their products. Unfortunately, this is just not the way things are. People often pay high prices for things which are not good for them at all, while refusing to spend their money on things which would be good for them.

It seems obvious to me that regardless of our personal feelings about the oil industry or the Chrysler Corp. we ought not to disregard the fact that oil companies are making profits while Chrysler is making losses, and then to tamper with the system and try to turn it around so that the oil industry is hurt while Chrysler is aided.

The market is telling us that profits are to be made in producing oil and that little or no profit is to be made by Chrysler's automotive division continuing to operate as it has in the past. This means that people will be encouraged to find and produce more energy, by the prospect of profit, while Chrysler must change its operation to produce and market the kind of cars that the public in fact wants and will buy at a price that will produce a profit for the company.

I am not making any value judgments here. It so happens I own and drive a 1979 Chrysler automobile. It is a New Yorker that I am very satisfied with, and as a matter of personal preference I would like to see Chrysler prosper so I can buy more of their cars in the future. But evidently not enough people today feel as I do because if they did they would buy more Chrysler products and the company would not be before Congress asking for financial assistance.

I am told that Chrysler is on the road to profitability, that all we need to do is help them over a temporary hump until its new cars come out in the fall and until its new management can turn things around. Well I think that is fine and, personally, I am convinced that Chrysler has good management and that their new models will sell, but I do not consider that justification for Federal aid. If Chrysler's new cars are as good as we are told, if its management is as good as we are told, then why do not banks and private investors give Chrysler the money it needs to get over its current difficulties? This is the crux of the matter.

I think there is a feeling among some people that this Chrysler bill is really costless, because we are really only committing loan guarantees, rather than actual outlays from the Treasury. We are told that Chrysler will pay the money back with interest and that the bailout will cost the taxpayer nothing. Unfortunately, I cannot agree. We are imposing a real cost on the taxpayer, even if Chrysler makes good its loans. We are imposing risk upon the taxpayer, and if Chrysler folds they will have taken that risk for nothing. If a private investor makes a risky investment it is because of the prospect of large profits. What will the taxpayer get? Nothing, really.

There is another cost involved here also, and that is the misallocation of resources. We are going to redirect private funds away from other investments into Chrysler. $1.25 billion may not seem like much, but it comes on top of Government borrowing to finance budget deficits which we vote for year after year, it comes on top of enormous taxes which we impose on individuals and businesses, and it comes on top of hundreds of billions of dollars of existing loan guarantees for housing, education, overseas investments, et cetera. As a result, there is very little capital available in the market today. This is the main reason why productivity is falling to pieces. Any further drain of capital from the market will certainly not be without consequences. Interest rates will rise and other borrowers will be crowded out.

The way I see it, Chrysler's problems are endemic of the auto industry and industry as a whole. They are caused by excessive taxation, inflation, Government regulation, and Government expropriation of capital through budget deficits and loan programs. Unless we reverse ourselves and adopt some capital formation policies, reduce taxes and regulations, and seriously concern ourselves with America's declining productivity and industrial base, then Chrysler will just be the tip of the iceberg. Next thing we know we will have U.S. Steel on our doorstep asking for aid, then we will have Ford, and after that, who knows.

I think we would do a lot more good for Chrysler by passing the Capital Cost Recovery Act, cutting tax rates across the board, and declaring a moratorium on any new Government regulations.

Some people will probably reply that everything I have said is well and good but unfortunately we are faced with an immediate problem which cannot wait for more fundamental solutions to the problems of American industry. We must be concerned not only with the efficient allocation of capital but with the human factor as well: Chrysler's workers, dealers, suppliers, and others who are directly or indirectly dependent on its future.

I am concerned about those who will suffer if Chrysler collapses. But I am also concerned for the future of our economic system. I am concerned for the taxpayer. I am concerned that the collective effort of Chrysler and all of its business associations should look to and lobby Government for what ordinarily is resolved in financial circles within the private sector. If I was convinced that big brother Government should bail out Chrysler it would certainly make life easier for me. But, if it is the wrong thing to do, then who are we really helping? We are just putting off the day of reckoning. I think this is a time for statesmanship.

I have many personal friends who own Chrysler dealerships that have been in their family for two and three generations. I would do anything I could to help them, and would hope the most they ever wished for would be the least they ever get.

But what we are being asked to do is put money into a declining company in a declining industry. Just the other day Saudi Arabia raised its price for oil by $6 per barrel. This alone will add 10 cents or 15 cents to the price of a gallon of gasoline. Earlier this week we voted to impose a windfall profit tax on the oil industry which will reduce domestic oil production. And decontrol will raise the price of domestic oil to the world level within 3 years. With the prospect of greatly increasing gasoline prices in future years and the liklihood of new increases in gasoline taxes or mandatory rationing, what makes anyone believe that the auto industry is going to continue to expand as it did when gasoline was 25 cents per gallon? Furthermore, we are in the midst of a recession which is expected to have a substantial impact on economic growth next year.

Mr. President, I have just found out that this will be the 502d vote the U.S. Senate has cast this year. Because of my close personal relationship with many Chrysler automobile dealers throughout Iowa it is with considerable regret that I must cast my vote in opposition to this measure. It is my belief that it is a correct one for the overwhelming majority of Iowa taxpayers.

Mr. ROBERT C. BYRD. I yield to the distinguished acting Republican leader.

Mr. STEVENS. Mr. President, I want to state for the record that we have examined the House bill and there is no bridge loan in the House bill. There will be no bridge loan in the Senate bill. I voted for it, but I want to make certain the record shows it is our understanding that if the bridge loan should, by any chance, be raised in conference and brought back, which I doubt it can be, it would be subject to a point of order.

I agreed with the Senator from Connecticut that I would make that a matter of record, that this is our understanding at this point as we pass this bill, that there can be no bridge loan brought out of conference that would not be subject to a point of order.

We do have an assurance we would move forward tomorrow with the appropriation process, and with the conference report, when it is reported, and I think the majority leader would agree, and he has already stated, it is our fervent hope that this bill and the appropriation bill will be completed by the close of business tomorrow.

Mr. ROBERT C. BYRD. I fervently hope so.

Mr. President, I have a minute or two remaining. I hope Senators will indulge me while I thank, as I think they are entitled to thanks, Mr. Proxmire, Mr. Lugar, the distinguished acting Republican leader, Mr. Weicker, Mr. Garn, Mr. Levin, Mr. Riegle, Mr. Eagleton, Mr. Biden, Mr. Tsongas, Mr. Bayh, Mr. Roth, Mr. Danforth, and Mr. Cranston, all of whom participated in the discussion.

Mr. STEVENS. Will this be the last vote this evening?

Mr. ROBERT C. BYRD. Yes. But let me finish my thanks. I hope I have not by inadvertence overlooked anyone in the discussions who made possible final action on this bill tonight.

Mr. President, this will be the last rollcall vote today.

I thank all Senators.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Carolina (Mr. Hollings) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker) and the Senator from Arizona (Mr. Goldwater) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. Goldwater) would vote "nay."

The PRESIDING OFFICER (Mr. Exon). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 53, nays 44, as follows:

[Rollcall Vote No. 502 Leg.]

YEAS—53

Baucus
Bayh
Bentsen
Biden
Bradley
Byrd, Robert C.
Cannon
Chiles
Church
Cranston
Culver
Danforth
Dole
Durkin
Eagleton
Ford
Glenn
Heflin
Huddleston
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Percy
Randolph
Riegle
Roth
Sarbanes
Sasser
Schmitt
Stafford
Stevens
Stewart
Stone
Talmadge
Tower
Tsongas
Williams
Young

NAYS—44

Armstrong
Bellmon
Boren
Boschwitz
Bumpers
Burdick
Byrd, Harry F., Jr.
Chafee
Cochran
Cohen
DeConcini
Domenici
Durenberger
Exon
Garn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heinz
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
McClure
Morgan
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Ribicoff
Schweiker
Simpson
Stennis
Stevenson
Thurmond
Wallop
Warner
Weicker
Zorinsky

NOT VOTING—3

Baker
Goldwater
Hollings

So the bill (H.R. 5860) was passed, as follows:

H.R. 5860

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Chrysler Corporation Loan Guarantee Act of 1979".

DEFINITIONS

Sec. 2. For purposes of this Act—

(1) the term "Board" means the Chrysler Corporation Loan Guarantee Board established by section 3;

(2) the term "borrower" means the Chrysler Corporation, any of its subsidiaries or affiliates, or any other entity the Board may designate from time to time which borrows funds for the benefit or use of the Corporation;

(3) the term "Corporation" means the Chrysler Corporation and its subsidiaries and affiliates;

(4) the term "financing plan" means a plan designed to meet the financing needs of the Corporation as reflected in the operating plan and indicating in accordance with the requirements of section 8 the amounts to be provided at dates specified (for each year of the plan) from internally generated sources (including earnings and cost reduction measures), from loans guaranteed under this Act, and from nonfederally guaranteed assistance as required pursuant to section 4(a)(3);

(5) the term "fiscal year" means the fiscal year of the Corporation;

(6) the term "going concern" means a corporation the net earnings of which, as projected in the plan required under section 4(a)(2), are determined to be sufficient to maintain long-term profitability after taking into account probable fluctuations in the automobile market, and which meets such other tests of viability as the Board shall prescribe;

(7) the term "labor organization" has the same meaning as in section 2 of the Labor-Management Relations Act, 1947;

(8) the term "operating plan" means a document detailing production, distribution, and sales plans of the Corporation, together with the expenditures needed to carry out those plans (including budget and cash flow projections), on an annual basis, a productivity improvement plan setting forth steps to be taken by the Corporation and its workers to achieve a higher productivity growth rate, and an energy efficiency plan setting forth steps to be taken by the Corporation to reduce United States dependence on petroleum, in accordance with section 4(a)(2);

(9) the term "persons with an existing economic stake in the health of the Corporation" means banks, financial institutions, and other creditors, suppliers, dealers, stockholders, labor unions, employees, management, State, local, and other governments, and others directly deriving benefit from the production, distribution, and sale of products of the Corporation; and

(10) the term "wages and benefits" means any direct or indirect compensation paid by the Corporation to employees of the Corporation and shall include, but is not limited to, amounts paid in accordance with wage scales, straight time hourly wage rates, base wage rates, base salary rates, salary scales, and periodic salary grades, overtime premiums, night shift premiums, vacation payments, holiday payments, relocation allowance, call-in pay, bonuses, bereavement pay, jury duty pay, paid absence allowances, short-term military duty pay, paid leaves of absence, holiday pay including personal holidays, and medical, health, accident, sickness, disability, hospitalization, insurance, pension, educational, and supplemental unemployment benefits.

CHRYSLER CORPORATION LOAN GUARANTEE BOARD

Sec. 3. There is established a Chrysler Corporation Loan Guarantee Board which shall consist of the Secretary of the Treasury who shall be the Chairperson of the Board, the Chairman of the Board of Governors of the Federal Reserve System, and the Comptroller General of the United States.

AUTHORITY FOR COMMITMENTS FOR LOAN GUARANTEES

Sec. 4. (a) Subject to the provisions of this Act, the Board, on such terms and conditions as it deems appropriate, may make commitments to guarantee the payment of principal and interest on loans to a borrower only if at the time the commitment is issued, the Board determines that—

(1) the commitment is needed to enable the Corporation to continue to furnish goods or services, and failure to meet such need would adversely and seriously affect the economy of, or employment in, the United States or any region thereof;

(2)(A) the Corporation has submitted to the Board a satisfactory operating plan (including budget and cash flow projections) for the 1980 fiscal year and the next succeeding five fiscal years demonstrating the ability of the Corporation to continue operations as a going concern in the automobile business, and after December 31, 1983, to continue such operations as a going concern without additional guarantees or other Federal financing; and

(B) the Board has received such assurances as it shall require that the operating plan is realistic and feasible;

(3) the Corporation has submitted to the Board a satisfactory financing plan which meets the financing needs of the Corporation as reflected in the operating plan for the period covered by such plan, and which includes an aggregate amount of nonfederally guaranteed assistance of at least $1,430,000,000 as determined under subsection (b)—

(A) from financial commitments or concessions from persons with an existing economic stake in the health of the Corporation in excess of commitments or concessions outstanding as of October 17, 1979, or from other persons;

(B) from capital to be obtained through merger, sale of securities or otherwise after October 17, 1979; and

(C) from cash to be obtained from the disposition of assets of the Corporation after October 17, 1979;

(4) the Corporation has commitments for all financing contemplated by the financing plan and that such financing is adequate (taking into account the amount of guarantees to be made available and the amount of wages and benefits not to be paid as a result of section 6) to meet all the Corporation's projected financing needs during the period covered by the financing plan; and

(5) the Corporation's existing creditors have certified to the Board that they will waive their rights to recover under any prior credit commitment which may be in default unless the Board determines that the exercise of those rights would not adversely affect the operating plan submitted under paragraph (2) or the financing plan submitted under paragraph (3).

(b)(1) For the purpose of computing the aggregate amount of at least $1,430,000,000 in nonfederally guaranteed assistance required to be provided under subsection (a)(3)—

(A) the term "financial commitment" means a legally binding commitment to provide additional nonfederally guaranteed assistance to meet the financing needs of the Corporation in excess of any such commitments outstanding as of October 17, 1979;

(B) the term "concession" means a legally binding commitment (or in the case of a concession from a State, local, or other government, a concession for which the Board has received adequate assurances) which will result in a reduction in the financing needs of the Corporation by an amount which is more than the amount of any reduction accomplished by any concessions outstanding as of October 17, 1979, and, except for a loan or other credit, shall be nonrecoupable;

(C) the term "capital" means sales of equity securities, any other transactions involving non-interest-bearing investments in the Corporation, or subordinated loans on which payment of principal and interest is deferred until after all guaranteed loans are repaid; and

(D) the amount of "cash to be obtained from the disposition of assets of the Corporation" shall be determined by the Board based on a conservative estimate of the minimum value realizable in a sale, with reference to the potential circumstances surrounding such a sale.

(2) In computing the aggregate amount of at least $1,430,000,000 in nonfederally guaranteed assistance required to be provided under subsection (a)(3), there shall be excluded—

(A) the extent of any contribution, concession, or other element that does not actually and substantively contribute to meeting the Corporation's financing needs as defined in the financing plan required by this section; and

(B) deferral of any dividends on common or preferred stock outstanding as of October 17, 1979.

(c) The aggregate amount of nonfederally guaranteed assistance of at least $1,430,000,000 required to be provided under subsection (a) shall include—

(1) at least $500,000,000 from United States banks, financial institutions, and other creditors, of which—

(A) at least $400,000,000 shall be new loans or credits, in addition to the extension of the full principal amount of any loans committed to be made but not outstanding as of October 17, 1979; and

(B) at least $100,000,000 shall be concessions with respect to outstanding debt of the Corporation;

(2) at least $150,000,000 shall be from foreign banks, financial institutions, and other creditors in the form of new loans or credits, in addition to the extension of the full principal amount of any loans committed to be made but not outstanding as of October 17, 1979;

(3) at least $300,000,000 shall be from the disposition of assets of the Corporation;

(4) at least $250,000,000 shall be from State, local and other governments;

(5) at least $180,000,000 shall be from suppliers and dealers, of which at least $100,000,000 shall be in the form of capital as defined in subsection (b); and

(6) at least $50,000,000 shall be from the sale of additional equity securities.

The Board may, as necessary, modify the amounts of assistance required to be provided by any of the categories referred to in this subsection, so long as the aggregate amount of at least $1,430,000,000 in nonfederally guaranteed assistance is provided under subsection (a)(3).

REQUIREMENTS FOR LOAN GUARANTEES

SEC. 5. (a) A loan guarantee may be issued under this Act only pursuant to a commitment issued under section 4. The terms of any such commitment shall provide that a loan guarantee may be issued under this Act only if at the time the loan guarantee is issued, the Board determines that—

(1) credit is not otherwise available to the Corporation under reasonable terms or conditions sufficient to meet its financing needs as reflected in the financing plan;

(2) the prospective earning power of the Corporation, together with the character and value of the security pledged, furnish reasonable assurance of repayment of the loan to be guaranteed in accordance with its terms;

(3) the loan to be guaranteed bears interest at a rate determined by the Board to be reasonable which shall not be more than the current average yield on outstanding obligations guaranteed by the United States with remaining periods to maturity comparable to the average maturity of such loan;

(4) the operating plan and the financing plan of the Corporation continue to meet the requirements of section 4 and appropriate revisions to such plans (including extensions of such plans to cover the then current six-year period) have been submitted to the Board to meet such requirements;

(5) the Corporation is in compliance with such plans;

(6) the Board has received such assurances as it may require that such plans are realistic and feasible;

(7) the Corporation has agreed for as long as guarantees issued under this Act are outstanding—

(A) to have prepared and submitted on or before the thirtieth day preceding each fiscal year beginning after December 31, 1980, a revised operating plan and financial plan which cover the six-year period commencing with such fiscal year and which meet the requirements of section 4; and

(B) to prepare and deliver to the Board within one hundred and twenty days following the close of each fiscal year, an analysis reconciling the Corporation's actual performance for such fiscal year with the operating plan and the financial plan in effect at the start of such fiscal year; and (8) the borrower is in compliance with the terms and conditions of the commitment to issue the guarantees required by the Board pursuant to section 9(b), except to the extent that such terms and conditions are modified, amended, or waived by the Board.

(b) Any determination by the Board that the conditions established by this Act have been met shall be conclusive, and such determination shall be evidenced by the issuance of the guarantee or commitment for which such determination is required. The Board shall transmit to the appropriate committees of the Congress a written report setting forth each such determination under this Act and the reasons therefor not less than fifteen days prior to the issuance of any guarantee. The validity of any guarantee when made by the Board under this Act shall be incontestable in the hands of a holder, except for fraud or material misrepresentation on the part of such holder. The Board is authorized to determine the form in which any guarantee made under this Act shall be issued.

(c) The Board shall prescribe and collect no less frequently than annually a guarantee fee in connection with each guarantee made under this Act. Such fee shall be sufficient to compensate the Government for all of the Government's administrative expense related to the guarantee, but in no case may such fee be less than 1 per centum per annum of the outstanding principal amount of loans guaranteed under this Act computed daily.

(d) To the maximum extent feasible, the Board shall ensure that the Government is compensated for the risk assumed in making guarantees under this Act, and for such purpose the Board is authorized to—

(1) prescribe and collect a guarantee fee in addition to the fee required by subsection (c);

(2) enter into contracts under which the Government, contingent upon the financial success of the Corporation, would participate in gains of the Corporation or its security holders; or

(3) use other instruments deemed appropriate by the Board.

(e) All amounts collected by the Board pursuant to subsections (c) and (d) shall be deposited in the Treasury as miscellaneous receipts.

REQUIREMENTS APPLICABLE TO EMPLOYEES

SEC. 6. (a) No loan guarantee may be issued under this Act if at the time of issuance or the proposed issuance the Board determines that—

(1) collective bargaining agreements entered into by the Corporation after September 14, 1979, with labor organizations representing employees of the Corporation which govern the payments of wages and benefits to such employees from September 14, 1979, to September 14, 1982, have not been modified so that the cost to the Corporation of such wages and benefits, as determined by the Board, shall be reduced by a total amount of at least $525,000,000 for the 3-year period ending on September 14, 1982, below the cost of such wages and benefits which the Corporation would otherwise have been obligated to incur during such period, except that such dollar amount shall include $203,000,000 in wages and benefits to be forgone pursuant to the master collective bargaining

agreement entered into on October 25, 1979, between the Corporation and the International Union, United Automobile Aerospace and Agricultural Implement Workers of America; or

(2) the corporation has not put into effect a plan for achieving at least $150,000,000 in concessions as defined in section 4(b)(1)(B) from employees not represented by a labor organization.

(b) The limitations set forth in subsection (a) of this section shall not apply to any increase in wages or benefits required by law.

(c) Any increase in the wages and benefits of a person employed by the Corporation resulting from reclassification or reevaluation of a job or a promotion effected in order to evade the provisions of this section shall be considered an indirect form of compensation.

(d)(1) To meet the requirements of this subsection, the corporation shall not enter into a collective bargaining agreement with a labor organization which—

(A) reduces the amounts and levels of wages and benefits provided by such a collective bargaining agreement beyond the labor organization's proportionate share, as determined by the Board; or

(B) reduces wages and benefits below the levels and amounts provided on September 13, 1979.

(2) For purposes of this subsection, the proportionate share of a labor organization shall be determined by multiplying the total reduction required by paragraph (1) by the quotient obtained by dividing the total number of the Corporation's employees represented by that labor organization whose proportionate share is to be determined by the total number of the Corporation's employees represented by labor organizations.

(e) The cost reduction realized by the Corporation under the terms of this subsection shall not be recoupable.

(f) If the Board determines that cash contributions from labor organizations or employees are legally committed so that the total contributions from employees and labor organizations during the period of September 13, 1979, through September 13, 1982, will exceed the total amount of wages and benefits not paid as a result of subsection (a), the Board may permit an increase in the levels and amounts of employee wages and benefits beyond the levels and amounts in effect on September 13, 1979, which would otherwise be prohibited by subsection (a), if (1) such increase will not impair the ability of the Corporation to continue as a going concern, or to meet such other tests of viability as the Board shall prescribe, and (2) the amount of such increase does not exceed the amount of the cash contributions committed.

EMPLOYEE STOCK OWNERSHIP

Sec. 7. (a) No guarantee or commitment to guarantee any loan may be made under this act until the Corporation, in a written agreement with the Board which is satisfactory to the Board, agrees—

(1) to establish a trust which forms part of an employee stock ownership plan meeting the requirements of subsection (c);

(2) to make employer contributions to such trust in accordance with such plan; and

(3) to issue the additional shares of qualified common stock at such times as such shares are required to be contributed to such trust.

(b) No guarantee or commitment to guarantee any loan may be made under this act after the close of the one hundred and eighty-day period beginning on the date of the enactment of this act unless the Corporation has established a trust which forms part of an employee stock ownership plan meeting the requirements of subsection (c).

(c) An employee stock ownership plan meets the requirements of this subsection only if—

(1) such plan is maintained by the Chrysler Corporation;

(2) such plan satisfies the requirements of section 4975(e)(7) of the Internal Revenue Code of 1954 (determined without regard to subparagraph (A) of section 410(b)(2) of such Code); and

(3) such plan provides that—

(A) employer contributions to the trust may be made only in accordance with requirements of subsection (d),

(B) each participant in the plan has a nonforfeitable right to the participant's accrued benefit under the plan,

(C) each employer contribution to the trust shall be allocated in equal amounts to the accounts of all participants in the plan, and

(D) distributions from the trust under the plan will be made in accordance with the requirements of section 401(k)(2)(B) of the Internal Revenue Code of 1954.

(d)(1) Employer contributions meet the requirements of this subsection only if such contributions—

(A) will total not less than $175,000,000 before the close of the four-year period beginning not later than the one hundred and eightieth day after the date of the enactment of this act,

(B) are made in such amounts and at such times that at no time during such four-year period will the amount of employer contributions to the trust be less than the amount such contributions would have been if made in installments of $43,750,000 made at the end of each year in such period, and

(C) are made in the additional qualified common stock which the Corporation issues by reason of subsection (a)(3).

(2)(A) In the case of a qualified loan to the trust for the purchase of qualified common stock—

(i) the amount of such stock purchased with the proceeds of such loan shall be treated for purposes of paragraph (1) as an employer contribution to the trust, and

(ii) subparagraph (C) of paragraph (1) shall not apply.

(B) For purposes of subparagraph (A), the term "qualified loan" means any loan—

(i) which may be repaid only in substantially equal installments,

(ii) which has a term of not more than ten years, and

(iii) the proceeds of which are used only to purchase an amount of the additional qualified common stock which the Chrysler Corporation issues by reason of subsection (a)(3).

(e) For purposes of this section, the term "qualified common stock" means stock of the class of common stock of the Corporation which is outstanding on October 17, 1979, and which is readily tradeable on an established securities market.

(f) An amount equal to $175,000,000 of the additional qualified common stock issued by the Corporation by reason of subsection (a)(3) shall not be treated for purposes of this Act as assistance received by the Corporation from other than the Federal Government pursuant to section 4(c).

LIMITATIONS ON GUARANTEE LOANS

Sec. 8. The authority of the Board to guarantee loans under this Act shall not at any time exceed the lesser of $1,500,000,000 in the aggregate principal amount outstanding or 90 per centum of the sum of the amount of nonfederally guaranteed assistance under section 4(a) and the amount of concessions under section 6.

TERMS AND CONDITIONS OF LOAN GUARANTEES

Sec. 9. (a) Loans guaranteed under this Act shall be payable in full not later than December 31, 1990, and the terms and conditions of such loans shall provide that they cannot be amended, or any provision waived, without the Board's consent.

(b) Any commitment to issue guarantees entered into pursuant to this Act shall contain all the affirmative and negative covenants and other protective provisions that the Board determines are appropriate. The Board shall require security for the loans to be guaranteed under this Act at the time the commitment is made, subordination of existing loans to the Corporation to the loans to be guaranteed, and prohibition of the payment of dividends on any common or preferred stock issued by the Corporation while any guaranteed loan is outstanding. Under no circumstances shall any loan guaranteed under this Act be subordinated to any future loan to the Corporation.

INSPECTION OF DOCUMENTS; AUDIT BY THE GENERAL ACCOUNTING OFFICE

Sec. 10. (a) At any time a request for a loan guarantee under this Act is pending or a loan guaranteed under this Act is outstanding, the Board is authorized to inspect and copy all accounts, books, records, memoranda, correspondence, and other documents and transactions of the Corporation and any other borrower requesting a guarantee under this Act.

(b) The General Accounting Office may make such audits as may be deemed appropriate by the Comptroller General of the United States of all accounts, books, records, memoranda, correspondence, and other documents and transactions of the Corporation and any other borrower. No guarantee may be made under this Act unless and until the Corporation and any other borrower agree, in writing, to allow the General Accounting Office to make such audits. The General Accounting Office shall report the results of all such audits to the Congress.

PROTECTION OF GOVERNMENT'S INTEREST

Sec. 11. (a) The Board shall take such action as may be appropriate to enforce any right accruing to the United States or any officer or agency thereof as a result of the commitment or issuance of guarantees under this Act.

(b) If the Corporation undertakes a sale of any asset having a value in excess of $5,000,000, and if the Board determines such sale is likely to impair the ability and capacity of the Corporation to repay the guaranteed loans as scheduled, or to impair the ability of the Corporation to continue as a going concern or to meet such other tests of viability as the Board shall prescribe, the Board shall not issue any further guarantees for loans under this Act, and all guaranteed loans made prior to such determination shall be due and payable in full.

(c) If the Corporation enters into any contract, including but not limited to future wage and benefit settlements, having an aggregate value of $10,000,000 or more, the Board shall determine and certify that the performance of the obligations of the Corporation pursuant to such contract will not reduce the ability of the Corporation to repay the guaranteed loans as scheduled, will not conflict with the Corporation's operating plan or financial plan as required under this Act, and will not impair the ability of the Corporation to continue as a going concern or to meet such other tests of viability as the Board shall prescribe. If in any case such determination and certification cannot be made, the Board shall not issue any further guarantees for loans under this Act until such certification can be made, and all loans guaranteed under this Act shall be due and payable in full.

(d) The Board shall be entitled to recover from the borrower, or from any other person liable therefor, the amount of all payments made pursuant to any guarantee entered into under this Act, and upon making any such payment, the Board shall be subrogated to all the rights of the recipient thereof.

(e) The remedies provided in this Act shall be cumulative and not in limitation of or substitution for any other remedy available to the Board or the United States.

(f) The Board may bring action in any United States district court or any other appropriate court to enforce compliance with the provisions of the Act or any agreement related thereto and such court shall have jurisdiction to enforce such compliance and enter such orders as may be appropriate.

(g) A loan shall not be guaranteed under this Act if the income from such loan is excluded from gross income for purposes of chapter 1 of the Internal Revenue Code of 1954 or if the guarantee provides significant collateral or security to other obligations, the income from which is so excluded.

(h) If any provision of this Act is held to be invalid or the application of such provision to any person or circumstance is held to be invalid by a court of competent jurisdiction, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

LONG-TERM PLANNING STUDY

SEC. 12. (a) The Secretary of Transportation after consultation with the Secretary of Energy and the Secretary of Labor, shall submit to the Board and to the Congress as soon as practicable, but not later than six months after the date of enactment of this Act, an assessment of the long-term viability of the Corporation's involvement in the automobile industry. The study shall assess the impact of likely energy trends and events on the automobile industry, including long-term capital requirements, productivity growth rate, rate of technological change, shifting market characteristics, the capability of the industry as a whole to respond to the requirements of the 1980's, and shall evaluate the adequacy of the industry's existing structure to make necessary technological and corporate adjustments. The study shall include an examination of the Corporation's capability to produce for sale an automobile similar to those vehicles developed under the research safety vehicle program of the National Highway Traffic Safety Administration. The study shall consider government procurement as one means of establishing a market for this automobile.

(b) The Secretary of Transportation shall prepare and transmit to the Congress annual comprehensive assessments of the state of the automobile industry and its interaction in an integrated economy. Each annual assessment shall include, but not be limited to, issues pertaining to personal mobility, capital and material requirements and availability, national and regional employment, productivity growth rate, trade and the balance of payments. the industry's competitive structure, and the effects of utilization of other modes of transportation.

(c) The Board shall take the results of the study and each annual assessment into account when examining and evaluating the Corporation's financing plan and operating plan.

(d) In the study and assessments required by subsection (a) and (b), the Secretary in consultation with appropriate agencies and departments shall identify any adverse effects on the economy of or on employment in the United States or any region thereof and shall make recommendations for dealing with the adverse economic and employment trends identified in such study and for proposed programs or structural or modifications of existing programs, as well as funding requirements, in such areas as economic development, community development, job retraining, and worker relocation. In addition, the Secretary may make any additional recommendations he deems appropriate to address the long term national and regional impact of reduced activity of the Corporation or of the automobile industry.

FEDERAL RESERVE BANKS AS FISCAL AGENTS

SEC. 13. Any Federal Reserve bank which is requested to do so shall act as fiscal agent for the Board. Each such fiscal agent shall be reimbursed by the Board for all expenses and losses incurred by it in acting as agent on behalf of the Board.

REPORTS TO CONGRESS

SEC. 14. The Board shall submit to the Congress semiannually a full report of its activities under this Act during fiscal years 1980 and 1981, and annually thereafter so long as any guaranteed loans are outstanding.

FEDERAL FINANCING BANK

SEC. 15. The Federal Financing Bank shall not acquire any obligation the payment of interest on or principal of which has at any time been guaranteed in whole or in part under this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 16. (a) There are authorized to be appropriated beginning October 1, 1979, and to remain available without Federal fiscal year limitation, such sums as may be necessary to carry out the provisions of this Act.

(b) Notwithstanding any other provision of this Act, the authority of the Board or the Secretary of the Treasury to make any commitments to guarantee loans or any guarantee shall be limited to the extent such amounts are provided in advance in the appropriation Acts.

TERMINATION

SEC. 17. The authority of the Board to make commitments to guarantee or to issue guarantees under this Act expires on December 31, 1983.

ASSISTANCE TO AUTOMOBILE DEALERS

SEC. 18. (a) The Congress finds that—

(1) automobile dealerships are, for the most part, small businesses, and

(2) current economic conditions have adversely affected automobile dealers to an unusual extent.

(b) The Administrator of the Small Business Administration (hereinafter in this section referred to as the "Administrator") shall investigate the financial problems faced by small business automobile dealers and determine what assistance through loans and loan guarantees may be needed and can be made available to alleviate such problems. The Administrator shall report the results of such investigation to the Senate and the House of Representatives not later than 60 days after the date of enactment of this Act.

FEDERAL MEDIATION AND CONCILIATION SERVICE AUTHORITIES

SEC. 19. (a) It is the purpose of this section—

(1) to improve communication between the employees and management of the Corporation;

(2) to provide the Corporation's workers and managers with opportunities to study and explore new and innovative joint approaches to achieving organizational effectiveness;

(3) to assist workers and managers of the Corporation in solving problems of mutual concern not susceptible to resolution within the traditional collective bargaining process;

(4) to expand the means of finding methods of eliminating barriers to economic recovery of the Corporation and increasing its competitiveness in domestic and international markets;

(5) to enhance the involvement of the Corporation's workers in making decisions that affect the quality of their working lives;

(6) to expand and improve working relationships between the Corporation's workers and managers; and

(7) to encourage free collective bargaining by establishing continuing mechanisms for communication between the Corporation's managers and employees through Federal assistance to the formation and operation of joint labor-management committees.

(b) In order to carry out the purposes of this section, the Federal Mediation and Conciliation Service is authorized and directed to encourage and support the establishment and operation of joint labor-management activities conducted by plant committees located at plants of the Corporation and by a committee established at the headquarters level of the Corporation comprised of representatives of management of the Corporation and of labor organizations representing employees of the Corporation.

(c) No grant may be made, and no contract may be entered into and no other assistance may be provided under this section to a plant labor management committee unless the employees in that plant are represented by a labor organization and there is in effect at that plant a collective-bargaining agreement. No grant may be made under the provisions of this section to any labor-management committee which the Service finds to have as one of its purposes the discouragement of the exercise rights contained in section 7 of the National Labor Relations Act (29 U.S.C. 157), or the interference with collective bargaining.

(d) Nothing in this section shall affect the terms and conditions of any collective-bargaining agreement whether in effect prior to or entered into after the date of enactment of this section.

(e) There are authorized to be appropriated to the Federal Mediation and Conciliation Service to carry out the provision of this section such sums as may be necessary for the fiscal years 1980, 1981, and 1982.

ISSUANCE OF STOCK TO BOARD OF TRUST

SEC. 20. (a) No guarantee or commitment to guarantee any loan may be issued under this Act until the Corporation issues 1.04 shares of common stock for each share outstanding on October 17, 1979, to the Board of Trust established under subsection (b). The consideration for such stock shall be the issuance of the Federal guarantees.

(b)(1) There is established a Chrysler Board of Trust which shall consist of the Chrysler Corporation Loan Guarantee Board, whose Chairman shall also serve as Chairman of the Board of Trust, and four additional members from the private sector. The four private sector members shall include individuals with experience in corporate activities such as manufacturing, marketing, or financial affairs; banking; accounting; management; investment banking; and business reorganizations. The private sector members shall be appointed and serve on an interim basis by the Chrysler Corporation Loan Guarantee Board before the stock is issued to the Board of Trust as required by subsection (a) until their successors are appointed by the President. Within 90 days after stock is issued to the Board of Trust, the President shall appoint permanent members of the Board of Trust from the private sector, by and with the advice and consent of the Senate.

(2) Members of the Board of Trust from the private sector shall be entitled to be compensated at a rate equivalent to the daily rate for level III of the Executive Schedule under section 5314 of title 5, United States Code, for each day that the Board of Trust convenes and to be reimbursed for travel and other necessary expenses. The guarantee fee provided for in section 5(c) shall be established at a level sufficient to cover such compensation and reimbursement of members of the Board of Trust and any administrative costs of the Board of Trust.

Any costs associated with the disposition or attempted disposition of stock shall be charged to the Corporation, as provided in subsections (f) and (g).

(3) Members of the Board of Trust from the private sector shall be deemed to be special government employees for the purpose of section 207 of title 18, United States Code, and shall not be subject to any liability under the Securities Act of 1933 or the Securities Exchange Act of 1934.

(4) The Board of Trust shall be dissolved at the close of December 31, 1990, at which time any residual assets held by the Board of Trust shall be transferred to the Corporation.

(c) The Board of Trust shall hold shares issued to it pursuant to subsection (a) and any other shares or securities for which the Corporation's stock may be exchanged.

(d) When the Board of Trust holds shares issued pursuant to this section, it shall vote such shares in the same ratio as the shares held by the public are voted with respect to any matter on which holders of such stock are entitled to vote. The Board of Trust shall have no control over the decisionmaking of the Corporation.

(e) Whenever the Board of Trust in its sole discretion determines such action to be feasible, it shall sell shares held by it at such times and in such amounts as it in its sole discretion determines to be appropriate.

(f) While loans guaranteed under this Act are outstanding, the Board of Trust shall accumulate funds from the proceeds of the sales of stock. These funds shall be transferred to the Corporation and shall be used by the Corporation within 15 days after any such transfer takes place to repay loans guaranteed under this Act as scheduled or sooner. The amount of funds transferred to the Corporation shall be reduced to the extent necessary to reimburse the Board of Trust for expenses related to the disposition or attempted disposition of stock.

(g) After all the loans guaranteed under this Act are repaid, the Board of Trust shall accumulate funds from the proceeds of sales of stock and from any dividends paid or otherwise distributed with respect to stock held by the Board of Trust, and transfer them to the Corporation. The amount of funds transferred to the Corporation shall be reduced to the extent necessary to cover administrative costs of the Board of Trust, compensation and reimbursement for members of the Board of Trust, and expenses incurred by the Board of Trust related to the disposition or attempted disposition of stock.

(h) The Board of Trust, including its franchise, capital, reserves, surplus, mortgages, or other security holdings, and income, shall be exempt from all taxation now or hereafter imposed by the United States or any State, territory, possession, commonwealth, or dependency of the United States, or by the District of Columbia, or by any county, municipality, or local taxing authority, except that any real property of the Board of Trust shall be subject to State, territorial, county, municipal, or local taxation to the same extent as other real property is taxed.

EVALUATION REPORT

Sec. 2. (a) No appropriated funds shall be used by the President or any department or agency to submit to Congress any request for Federal loans, grants, loan guarantees or any other assistance to an individual company or business in excess of $250,000,000 until such time as a thorough evaluation has been performed by the Secretary of Commerce and reported to the Congress. Such evaluation shall—

(1) compare the economic benefits to be derived from such assistance with benefits from alternative uses of the resources by government and market allocations of such resources;

(2) compare the economic benefits to be derived from such assistance with economic costs of a failure to provide such assistance;

(3) analyze the long-term viability of the firm and industry in question;

(4) consider technological advances and production trends affecting the firm and industry in question;

(5) analyze foreign competition affecting the industry in question;

(6) analyze general economic trends which affect the firm and industry in question;

(7) consider the long-term prospects for improving the productivity and potential for innovation of the industry in question.

(b) (1) At any time a request for the assistance subject to the required evaluation under this section is pending or such assistance has been provided, the Secretary of Commerce is authorized to inspect and copy all accounts, books, records, memoranda, correspondence, and other documents and transactions of the applicant and any other borrower requesting assistance under this section.

(2) The General Accounting Office may make such audits as may be deemed appropriate by the Comptroller General of the United States of all accounts, books, records, memoranda, correspondence, and other documents and transactions of the applicant and any other borrower.

(c) This section is not subject to the termination provisions of section 17.

ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT AMENDMENTS

Sec. 22. Section 13(c) of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2512 (c)) is amended by adding the following new subparagraphs:

"(1) The Secretary of Energy in consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency is authorized and directed to conduct a seven-year evaluation program of the inclusion of electric vehicles, as defined in section 512(b)(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2012(b)(2)), in the calculation of average fuel economy pursuant to section 503(a) (1) and (2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(a) (1) and (2)) to determine the value and implications of such inclusion as an incentive for the early initiation of industrial engineering development and initial commercialization of electric vehicles in the United States. The evaluation program shall be conducted in parallel with the research and development activities of section 6 and demonstration activities of section 7 (15 U.S.C. 2505 and 2506) to provide all necessary information no later than January 1, 1987, for the private sector and Federal, State and local officials to make required decisions for the full commercialization of electric vehicles in the United States.

"(2) The Administrator of the Environmental Protection Agency, in consultation with the Secretary of Energy and the Secretary of Transportation, shall implement immediately the evaluation program by promulgating, within sixty days of enactment of the Act, regulations to include electric vehicles in average fuel economy calculations under section 503(a) (1) and (2) of the Motor Vehicle Information and Cost Savings Act. The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003), as amended, is further amended by adding a new section 503(a)(3) (15 U.S.C. 2003(a) (3)), which reads as follows:

" '(3) In the event that a manufacturer manufactures electric vehicles, as defined in section 512(b)(2) (15 U.S.C. 2012(b)(2)), the average fuel economy will be calculated under 503(a) (1) and (2) to include equivalent petroleum based fuel economy values for various classes of electric vehicles in the following manner:

" '(A) The Secretary of Energy will determine equivalent petroleum based fuel economy values for various classes of electric vehicles. Determination of these fuel economy values will take into account the following parameters:

" '(i) the approximate electrical energy efficiency of the vehicles considering the vehicle type, mission, and weight;

" '(ii) the national average electricity generation and transmission efficiencies;

" '(iii) the need of the Nation to conserve all forms of energy, and the relative scarcity and value to the Nation of all fuel used to generate electricity;

" '(iv) the specific driving patterns of electric vehicles as compared with those of petroleum fueled vehicles.

" '(B) The Secretary of Energy will propose equivalent petroleum based fuel economy values within four months of enactment of the Act. Final promulgation of the values is required no later than six months after the proposal of the values.

" '(C) The Secretary of Energy will review these values on an annual basis and will propose revisions, if necessary.'.

"(3) The Secretary of Energy, in consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall include a full discussion of this evaluation program in the annual report required by section 14 (15 U.S.C. 2513) in each year after promulgation of the regulations under paragraph (2). The Secretary of Energy, in consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall submit to the Congress on January 1, 1987, a final report on the results of the evaluation program and any recommendations regarding the continued inclusion of electric vehicles in the average fuel economy calculations under the Motor Vehicle Information and Cost Savings Act.".

Mr. ROBERT C. BYRD. Mr. President. I move to reconsider the vote by which the bill was passed.

Mr. PROXMIRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the text of the Senate amendment to H.R. 5860 be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I move that the Senate insist upon its amendments to H.R. 5860 and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. Heflin) appointed Mr. Proxmire, Mr. Stevenson, Mr. Riegle, Mr. Tsongas, Mr. Garn, Mrs. Kassebaum, and Mr. Lugar conferees on the part of the Senate.

The PRESIDING OFFICER. Did the Senator ask unanimous consent that S. 2094 be indefinitely postponed?

Mr. PROXMIRE. The Chair has spoken far better than the Senator from Wisconsin could. I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business not to extend beyond 15 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan.

Mr. RIEGLE. Mr. President, I thank the Chair, and I shall be very brief. I know a number of my colleagues are waiting to speak.

CHRYSLER

Mr. RIEGLE. Mr. President, I want to take a minute to pay some tribute to people who were centrally responsible for the success of the legislation which was just passed. I have acknowledged earlier my colleagues for their leadership, and so I will not do that again at this time, although I do want to pay special recognition to the majority leader whose leadership on this issue was just absolutely superb, in my judgment. I think without his guiding influence on this matter we would not have been able to follow it through successfully to a conclusion.

I thank him for what I think is really an extraordinary leadership performance. I am in his debt and my respect for him could not be higher.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. RIEGLE. I would like further to say to the acting minority leader, Senator STEVENS, that his attitude of wanting to facilitate and cooperate and find answers to difficult situations was superb. I feel a very great debt to him and appreciate the opportunity to have worked with him. I want to acknowledge what I think was splendid leadership on his part.

Then, finally, I want to pay a vote of thanks to my own staff who worked countless hours over a period of weeks and months to help us try to work through this problem, understand it, and be ready to help in debate on the floor, and to think and talk with colleagues about it. Very particularly Mr. Don Campbell of my staff, Mr. Steve Harris, Doug Dibbert, Jim Arbury, Mike Russell, Tom Durnberg, Carl Blake, John Graykowski, Mary McGrath, Katherine Alexander, and Fran Miller, among others. They worked endless hours to try to understand and to find a workable solution to a very large and complex issue.

I want to conclude by saying in addition to that that it is a great honor to serve in this body. I think the experience of the last few days as it relates to this matter, the chance to work with colleagues across the aisle to try to resolve very significant differences of opinion, to try to do it in a way that was fair and equitable, and that took account of everyone's differing sense, has been a priceless experience. I treasure the fact that I have the opportunity to serve here with people of the caliber of my colleagues.

Mr. PROXMIRE. Mr. President, I would agree wholeheartedly with the distinguished Senator from Michigan that a number of Senators deserve great praise, particularly the Senator from Indiana, who did a magnificent job, and the Senator from Massachusetts who combined in working so hard to put together a bill which, I think, I voted against because any bailout was a mistake, but was certainly an enormous improvement over the bill that came to us.

Senator RIEGLE, of course, did a fine job in working for the bill. Without his diligent effort the bill probably would not have passed. A number of other Members of Congress on both sides worked very hard.

I would like to make one principal point, however. In passing this bill, this, I think, can be extremely important for this country. I hope and pray that it does not become a precedent for every big company that is in trouble or for every small company, for that matter, and that is the danger, and we had better recognize that danger.

Mr. President, the answer for anyone looking for the reasons for the success of this Chrysler bailout is simple. Two major forces won for Chrysler: First, the Chrysler dealers swarmed all over the Hill. The Associated Press reported a couple of weeks ago that the House leadership had actually postponed action on the Chrysler matter. You know why? Here is why, so that Chrysler dealers would have an opportunity to lobby their Congressmen and, of course, they lobbied their Senators, as I found out, too, and they came to my office. We do not have any Chrysler production facilities in our State, but we have over 4,500 people who work for Chrysler dealers and suppliers and, of course, they spoke with great force. They felt very deeply about it, and they had, I am sure, a very considerable effect.

Mr. President, there was one other force that was of great importance, and that was the United Automobile Workers. I do not think there is a cleaner, better union in the country. They are responsible, they are honest, they work in the public interest. They have a superb record, and I think all of us recognize that, so when they made this their top priority, when they went to bat, as they did, on this it gave it an enormous advantage. Incidentally, Mr. President, the UAW had opposed the Lockheed bailout. they opposed it. The leader of the UAW at that time, Leonard Woodcock, said it would be the end of the free enterprise system if we bailed out corporations. On this one, they switched, they changed, and it made a difference.

Mr. President, I might also say our mail was overwhelming. I had piles of mail on Chrysler that high. People knew where I stood because I never made any bones about it, but the mail was about 10 to 1 in favor of the Chrysler bailout.

It was organized, it was beautifully done and, of course, that is the reason, in my judgment, why it passed the House by 2 to 1, and why it squeezed by rather closely here in the Senate.

So, Mr. President, I do hope in the future we recognize what kind of a precedent this is. We could be in great trouble if we decide to bail out every failing corporation not only because of the cost to the taxpayers but, far more important, the cost to a free enterprise system that relies on confidence, that relies on judgment, that relies on companies that can produce products that can be bought and for which there is a demand.

Mr. LUGAR. Mr. President, I want to say once again what a pleasure it has been to work with the chairman of the Banking Committee, Senator PROXMIRE, and to say once again how much I appreciate the leadership that was given by my colleague, PAUL TSONGAS, in working within the Banking Committee, and especially Senator DON RIEGLE, Senator CARL LEVIN, of the State of Michigan, on the floor, and Senator EAGLETON, who was instrumental this morning after we had an amendment to reverse, at least from my point of view, who graciously helped convene, along with the Delaware delegation, Senator JOE BIDEN and Senator BILL ROTH, and JOHN DANFORTH from Missouri, a meeting in which we could come to some agreement.

I have supported this legislation for reasons pointed out earlier in the debate, but which I would reiterate tonight, that I think the Chrysler Corporation is in trouble, I think it needs to be reorganized. The basic issue is, can that reorganization occur while the company is on its feet and while people are employed to the greatest extent possible, and while assets are employed and while cities in our country that are affected remain viable?

It seems to me it is an experiment that is worthwhile, with safeguards that have been imposed, and the safeguards are there, Mr. President.

The Federal moneys cannot be made available without the private sources in place. With the union agreement, the agreements with the bankers, with the State and local governments, with the suppliers, the taxpayers are as secure as they will ever be in such an arrangement.

What is not yet clear is whether Chrysler can make it, and I think all of us have a responsibility, all of us who have been involved in this legislation, to work with the executive branch, to work with the leadership, such as Doug Fraser, of the UAW, Lee Iacocca in Chrysler, the Treasury people who have been advocates. It is not our responsibility to work in behalf of the private firm, but rather to see whether a concept such as the one we have fashioned this evening, and which hopefully we can come to agreement in conference with the House tomorrow, can succeed.

In my judgment, it can. This was the reason I supported the legislation and worked with people of good will on both sides of the aisle to make certain that so far as possible it came to pass.

I am grateful to my staff, and especially David Gogol, who has done so much work in fashioning the actual language of the bill we have passed today; Bob Kabel, my legislative assistant; Mitch Daniels, my administrative assistant; Mark Lubbers of my staff. Each of these individuals has been intimately involved with the legislation for several weeks, and to them I am grateful, and to all others who have supported us in this effort.

WE ARE LOSING JOBS

Mr. McCLURE. Mr. President, the United States continues to lose jobs in the overseas market and here at home.

A little over a year ago the Senate passed the Foreign Earned Income Act of 1978. I was not satisfied with it then; I am less satisfied with it now. It simply is not doing the job that needs to be done.

It is in our Nation's vital interests that more American citizens be encouraged to work for American business overseas. The value is—or should be—obvious. Americans at work overseas create new markets for American goods and services overseas, and help maintain and expand old ones. They direct business back to our domestic economy. That means new jobs here at home.

But in recent years we have seen an alarming trend. In growing numbers Americans have been forced to return home. They are being replaced in critical overseas markets by citizens from competing industry nations who direct business away from the United States, diverting it to their own home economies.

That is one of the reasons why, over the past 3 years, we have accumulated record trade deficits approaching $100 billion. At a time when we should be adopting national trade policies designed to help us recapture the vast sums that we must pay for energy from foreign sources, we are actually imposing new restrictions and disincentives that discourage our Nation's export activities.

The recent history of our Nation's tax treatment of foreign earned income is a classic example. The United States is the only industrial nation that taxes income earned by its citizens overseas. In 1976 Congress actually increased the tax burden on overseas Americans. In fact, that year many Americans living in very high cost-of-living areas of the world became liable for the payment of more in taxes than they received in real income. Such was the absurdity of shifting U.S. tax policies.

Fortunately, we were able to delay application of the 1976 revisions in the tax codes bearing on foreign earned income until we could get a new law to replace it in 1978.

The Foreign Earned Income Act of 1978 is generally an improvement over the improvident 1976 revisions. But the act still subjects overseas Americans to often exorbitant taxes, the effect of which is to knock them out of competition and to force them to return home.

To make matters even worse, after more than a year the IRS has yet to release its regulations governing the tax treatment of Americans at work overseas. That inexcusable delay has added greatly to the uncertainties already confronting Americans attempting to do business overseas.

Small wonder that the U.S. share of overseas markets has been shrinking in recent years. Small wonder that U.S. companies, increasingly, elect not to attempt to do business overseas—and are actually withdrawing from established overseas markets.

I would like to introduce into the Record today an excellent article that appeared in the November 29 issue of the Engineering News-Record entitled "U.S. 'Arrogance' Costs Firms Billions in Lost Jobs." The article shows what has happened in 3 years to just one market sector—the U.S. engineering and construction industry overseas.

The article notes that the U.S. engineering and construction industry now ranks 12th in the race for new construction business in the Middle East, which is the "largest export market on Earth." By contrast, 3 years ago the U.S. engineering and construction industry ranked first in the same market.

Data of that sort are of particular concern to me because they strike very close to home. One of the Nation's largest engineering and construction firms is based in my home State. Morrison-Knudsen Co., Inc. of Boise, Idaho has done extensive business overseas in recent years. And, like so many others, Morrison-Knudsen is now reducing its overseas activities because the U.S. Government, in an array of shortsighted policies—of which the tax problem is but one, albeit, significant example—has greatly added to the problems and risks of doing business overseas to the point that the disincentives far outweigh the incentives.

I hope you will read the ENR article and heed its clear message. We have to roll up or sleeves and reverse the trends.

Our Nation's security depends on it.

Mr. President, I ask unanimous consent that the article be placed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

U.S. "Arrogance" Costs Firms Billions in Lost Jobs

The U.S. construction industry, once the most competitive force in the international arena, has seen its edge dulled in recent years by a debilitating paper storm of federal regulations, tax policies and export restrictions. At the same time, governments and contractors in Europe, Japan and elsewhere have sharpened their attack in the third world. Nowhere are the results of this shift more apparent than in the Middle East, the largest export market on earth, where Americans now rank 12th in the race for new construction business.

As U.S. oil imports and trade deficits have grown, destabilizing and inflating the dollar, so has the share of Mideast construction contracts awarded to American companies fallen, a dichotomy that would worry most governments. Washington is worried, but mostly about who will be filling the seats of power next year. Few congressmen and Carter administration officials are even aware of the dismal decline in U.S. construction exports.

"We're losing drastically here, and we're going to continue to lose drastically," says the manager of a U.S. construction company in Riyadh. "Give us some incentive," he says. "If Congress and the President don't change their minds, and if they don't understand what we're losing here, there's no hope."

SEVEN NEW U.S. JOBS

An ENR analysis of 220 construction contracts awarded in 14 Middle East countries during the 13 months ending June, 1979, shows U.S. firms with only seven new jobs worth $346 million. That's 1.6 percent of the total $21.8 billion worth of new construction counted in that period. An earlier analysis of 542 major construction projects started in the same Mideast countries between June, 1975, and April, 1978, showed U.S. companies had signed up 10.3 percent, or $8.9 billion, of the $86.3-billion total volume.

These figures are derived from reports in ENR's International Construction Week newsletter, the U.S. Army Corps of Engineers' Mideast contracts listing and projects reported by the U.S. Agency for International Development. While they do not represent the full market, the $108 billion worth of construction in 762 contracts counted are a valid cross-section of how business is being distributed.

Also, contracts analyzed do not include those for design, construction management or supervision, plant startup or other types of service work. U.S. firms, notably the Bechtel Group of Companies, San Francisco; The Ralph M. Parsons Co., Pasadena, Calif.; and Morrison-Knudson Co., Inc., Boise, have signed up considerable amounts of this kind of business in addition to construction in the Mideast. But beyond drawing heavily on engineering manpower, design and management work has little direct beneficial effect on the U.S. economy. And that's the critical element in any argument for construction exports, that domestic orders for materials, installed machinery and construction equipment will follow.

SHARP U.S. DROP

The construction contract numbers point to a glaring decline in what was already a poor Mideast market share for U.S. companies. In the most recent figures, for the 13 months ending in June 1979, American firms were eclipsed by those from 11 other countries, including Yugoslavia, the Soviet Union, India, Taiwan and Brazil.

South Korean contractors, trained by the Corps of Engineers during the 1950s and invited to Saudi Arabia in 1972 to bid on Corps-managed military construction work there, have all but cornered the labor-intensive heavy construction market and are now seeking more sophisticated work. Licensed, supported and controlled by their government, some of the 66 Korean contractors chasing contracts in Saudi Arabia signed 21 new projects worth more than $3.3 billion in the most recent period analyzed. Of the 16 contracts awarded by the Corps from May 1978, to July 1979, Koreans signed 12. Elsewhere in the Mideast, Koreans were awarded $1.3 billion in new work. The total puts them at the front of the pack in the new business race.

By comparison, U.S. contractors signed four new Saudi jobs. ABA Electromechanical Systems, Inc., Pinnellas Park, Fla., was the only U.S. firm awarded a Corps job, a $14.9-million contract for work at a weapons training range near Riyadh.

Italian contractors are second in the new business ranking. Snam Progetti, part of Italy's state-owned oil complex, took contracts in Iraq for an oil refinery and a gas gathering and liquefaction job, worth roughly $2 billion, to put them there. Philipp Holzmann AG, Frankfurt, West Germany, won a Saudi housing contract worth $1.1 billion, the largest of 18 Mideast awards totaling $3.3 billion that went to West German contractors in the 1978–79 period and put them third in the market share rating. Japanese contractors signed up 33 new jobs and French companies six to put them in the fourth and fifth spots, respectively.

Further down the list, below contractors from the United Kingdom, communist countries and those from developing nations, are the U.S. firms.

REASONS WHY

Why have American contractors fallen so far so fast in the Mideast? Up front, because it's far away, much of the material and most of the labor has to be imported for any project, contractual conditions are onerous, competition is very stiff and the long-sizzling revolution in Iran closed the door to Americans on what had been the best U.S. market in the Mideast. Unless they need technology only U.S. firms can offer, Libya, Iraq and Syria won't have much to do with Americans either.

Even high technology projects, once the bastion of only a few American firms, have been lost to a growing list of competitors. "We're rapidly losing the technical advantage we had about five years ago," says a Bechtel manager in the Mideast. Currently, about 20 companies around the world can do that kind of work, he says. "They're learning the business out here in the Mideast and now the competition is awesome wherever you go for highly sophisticated work."

One result of the intense competition says an American architect with long experience in the Mideast, is that companies like Bechtel and Fluor Corp. can't compete if they buy U.S. products. "The state of the art is not American," he says.

Statements like that lead to the conclusion that there must be other reasons for the decline, beyond geography, competition and difficult working conditions. U.S. contractors are accustomed to working in inhospital areas. They've been shot at in Zaire, delivered millions of tons of equipment and materials into the jungles of South America, trained thousands of laborers in the Philippines and seen their assets expropriated in Peru, China and elsewhere.

The real answer is American arrogance in assuming U.S. political and economic influence is sufficient to sway contract decisions and that U.S. products and technical know-how are superior.

The arrogance begins with the U.S. government for ignoring the importance of reclaiming petrodollars by exploiting the $400-billion-to-$500-billion Mideast construction market; for unilaterally legislating the export of U.S. business ethnics, human rights policies, environmental regulations and tax philosophies; and for assuming that the American public will tighten its belt another notch while the Japanese, Europeans and South Koreans are busy tooling up for more and more Mideast exports.

(Japan has a 300% freight rate advantage over U.S. firms on export shipments. Likewise, organized foreign exporter representatives in Europe and in the Far East use cartel-like power to keep rates down. In the U.S., official government cargo often crowds out private export goods on U.S. flag carriers, allowing them to exact premium rates for what space remains.)

It's arrogance on the part of U.S. manufacturers for allowing their technology, their physical plant and their attitudes about exports to remain old; for clinging to the church-state separation of business and government so desperately that few even know how to get help from Washington; and for not reacting as their products fall from grace in the international marketplace.

(An internal study done by Fluor Corp., Irvine, Calif., ranks U.S. manufacturers fifth in the world in terms of reliability of supply, getting what you pay for. On the other side of the coin, according to Kaiser Engineers, Oakland, Calif., fully 64% of the cement plants under construction in the U.S. today use Japanese technology for a major component.)

And finally, it's arrogance on the part of the U.S. construction industry for failing to develop the kind of salesmanship, market analysis techniques and work ethic required to be successful in a truly competitive international marketplace.

(According to George B. Gray, former head of the Corps' Saudi operation and now in joint venture with a Saudi contractor bidding highway work, most American contractors seeking Mideast contracts don't send top decision-makers to negotiate terms, they don't collect and analyze competitors' bids, they don't move quickly enough among the Saudi ministries to know what's coming up for bid and they overestimate Mideast construction costs. "The executives don't want to give it a real go over there and that's fine," he says, "but then they shouldn't come home and bitch."

On another level, says a U.S. architect, "American contractors know how to get to the bottom line with a Texan, but their ethnocentrism or prejudice makes them unable to deal effectively with an Arab.")

There are exceptions, of course, and many reasons—all of them good—for each of these failings. The causes are tied in the complex knots of worldwide political, industrial and economic history. Yet the overriding fact remains that until American attitudes change, the U.S. will continue to see oil and other import bills far larger than export earnings. No country can suffer that imbalance long without succumbing to the sickness of inflation and recession.

GUNS VERSUS MORTAR

Beyond the effects on the domestic economy, the failure of the U.S. to secure a significant portion of the Mideast construction market has had another less apparent, but possibly more dangerous effect. U.S. arms exports to the volatile Mideast have picked up considerably in the past two years, even after the cancellation of $12 billion in Iranian arms and orders and the evacuation of most of the 10,000 technicians employed as advisers on Iranian weapons projects.

Well-organized pressure from the defense lobby and from the Treasury and Commerce departments, seeking to reclaim petrodollars through arms exports, forced President Carter to renege on his campaign promise and, upon entering the White House, his policy of arms restraint. The pressures to balance the oil import drain were too great. The result has been the signing this year of a $3.7-billion arms package for Israel and Egypt, more than $4 billion for the Saudis, and the addition of three new arms customers, Oman, North Yemen and Sudan.

Had U.S. contractors been able to sign up a share of the Mideast construction market on a par with their capabilities—say 25% of the total—and if that share could be maintained throughout the 1980s, by promoting construction exports, for example, Carter could have counted on some $12 billion in Mideast trade in steel and concrete. In its absence, he had little choice but to go with F–16s.

Carter inherited the Mideast arms buildup from his predecessors. He also inherited a bureaucracy with an almost absentminded indifference to construction exports and a system of laws and regulations that have the effect of discouraging many contractors from even seeking foreign work. By comparison, the rest of the industrialized world and some less developed countries have formed what in effect are government-contractor teams to promote exports. "We're really competing against foreign governments out there," says H. Neal Spencer, head of Morrison-Knudsen, Inc.'s international division.

NO EXPORT GROWTH

U.S. export growth for all goods and services has been negligible since 1974. Compared to the 13.5 percent average increase in imports over the past five years, exports have grown at 7 percent a year, not enough for any real gain in sales. In addition to the Mideast, the total U.S. export market share has dropped since 1977 in Japan, Italy, the Netherlands, several Latin American countries, India and Korea.

The U.S. government spends less each year to promote manufactured exports than do the governments of Japan, the United Kingdom, Italy and France. For each $1 million of manufactured exports France and Japan spend about $600; Italy spends about $1,400; and the British spend $2,500. The U.S. spends $340.

One key to the success of the Europeans and the Japanese in the Middle East and elsewhere is their governments' liberal export financing packages.

In the first six months of 1977, for example, official French government support for exports totaled $18.6 billion. Washington offered $2.7 billion. The gap narrowed somewhat during the same period in 1978, $11.7 billion for the French vs. $4.1 billion for the U.S., but the use of unofficial "predatory" financing by Paris stepped up considerably during that time.

Six loans involving mixed credits, the combining of official export financing and foreign aid into concessionary loans tied to procurement, were offered by the French in the first six months of 1978 and resulted in $605 million worth of French contracts in the Mideast, South America and Africa. The British have set aside 5 percent of their foreign aid for mixed credits. By comparison, the Export-Import Bank, the U.S. agency charged with export financing, has offered two such concessionary low-interest, long-term loans, to Cyprus and Tunisia, that resulted in $104.5 million in contracts tied to exports.

EX-IM EFFORTS THWARTED

Ex-Im is working to increase its lending authority and the scope of the kinds of credits and terms it can offer. Yet its hands are tied by Congress, which decides the agency's annual appropriation. In its March, 1979, report to Congress on export credit competition. Ex-Im concluded that from the standpoint of the U.S. commitment to exports and from the point of view of the exporter, the U.S. is "not only uncompetitive with the principal foreign export credit agencies, but also is making little progress to narrow the gap." The reason—"Like many other U.S. government programs, Eximbank is subject to an extraordinary number of legal and statutory controls."

Ex-Im's 1980 appropriation is $4.2 billion, and $500 million of that is already committed for a nuclear power loan to Korea made earlier this year. Says Ex-Im director Donald E. Stingel, "Unless we get more money, you're going to see U.S. contractors losing out more and more on export business."

Another federal bureaucracy with some responsibility for promoting exports, the Agency for International Development (AID), is working tenuously under the assumption that Congress will continue funding it. AID's 1980 appropriation has been held up in a House-Senate conference committee for months and the prospects for a decision soon are considered remote.

In addition, the agency is directed by Congress to allow contractors from certain lesser developed countries to bid on AID-financed projects. The result, according to AGC, is that the U.S. is financing some $25 million a year of Mideast projects that are being built by Koreans.

"We're trying to set a good example for the rest of the world again, and again it doesn't work," says an AID engineer in Washington.

Beyond limited export financing incentives, the key disincentives thrust on American contractors seeking foreign work are federal taxation of expatriate workers and antibribery statutes.

The U.S. is the only major exporter in the world that taxes its expatriate worker's foreign income. The Philippines for example, adopted much of the U.S. tax system after

World War II, but as soon as its contractors began seeking work outside the country, the taxation of workers' foreign income was dropped. Contractors found they couldn't compete otherwise.

Because of the tax burden, U.S. contractors working in the Mideast have increasingly been forced to hire engineers and managers from Great Britain and other countries instead of Americans in order to stay competitive there. According to Johnie H. Jones, executive vice president of J. A. Jones Construction Co., Charlotte, N.C., a U.S. contractor would have to pay a middle-management American employee $62,500 for that person to take home $27,480. By a comparison, a West German contractor would have to pay its manager $36,700 and that would net him a $29,244 income.

NO HELP FROM WASHINGTON

Any relief from Washington is a long shot. "Senator Proxmire is very, very reluctant to support what he considers a loophole—rich Americans living abroad getting richer," says Robert W. Russell, a staff member in the Senate Banking, Housing and Urban Affairs Committee chaired by Proxmire. "Some cleaning up of the statute is under way but I don't think the people working in the Mideast are going to get much help," he says.

Proxmire has also played a part in assuring that American businessmen are limited to some minor palm-greasing and paying only certain kinds of agent's fees when they work abroad. And contractor executives who argue that they're losing jobs because the rest of the world does business a different way end up in a Catch-22 situation. "If you start citing instances, the people like Proxmire have got you. If you say you've lost business due to bribes, he says you're advocating bribery," says Jack Richards, a Pullman, Inc. vice president based in Washington, D.C.

"In the rest of the world you don't pay commissions to the seller, it goes to the buyer. It's a different morality and that's the way it is," says Richards. Limited discussions are under way in the United Nations and among countries belonging to the Organization for Economic Cooperation and Development to eliminate bribery as a way of doing business throughout the world. In the meantime, says Richards, "Our foreign competitors are getting the work."

INSURANCE, BANK GUARANTEES

Besides taxes and antibribery statutes, U.S. contractors find themselves at a competitive disadvantage on other fronts as well. Securing political risk insurance, bank guarantees for bids, performance bonds and advance payment bonds are all made more difficult for U.S. contractors than their competitors.

"We haven't been able to get political risk insurance for any country in the Mideast," says Morrison-Knudsen's Spencer, adding, "None of our U.S. competitors have it either." And, whereas U.S. contractors' competitors in the Mideast can secure bonding and bank guarantees almost at request from their governments or from export trade organizations, U.S. firms must follow an arduous bureaucratic process that, for many, rules out even trying.

"Unless we can get the same coverage our European and Asian competitors get, we have to add the risks to our contingencies and that rules out serious competition from U.S. contractors," says Spencer.

Basically, what it all comes down to is that for a host of reasons most U.S. contractors are not competitive in the Mideast. The long-term effect is likely to be the building up of a formidable force of very competitive European, Japanese, South Korean and other Asian contractors now learning their trade in the Mideast. For the moment, most are content to satisfy their government's thirst for foreign exchange by taking on projects there. But what about the future?

"When the work in the Mideast dries up, where are they going to come next?" asks George Stockton, head of AGC's international division. "To the fairest, largest, most open construction market in the world, the U.S."

Last June, Ohbayashi-Gumi, Ltd., Tokyo, underbid America's top tunnelers to take $22.6 million worth of work on two San Francisco sewer jobs.

Mr. McCLURE. Mr. President, I think while we are discussing now a bill that will inject the Federal Government and the Federal taxpayer deeply into the economic activities in this country to save a few jobs—there are thousands of them—we have taken diametrically opposite action with respect to jobs overseas, and it is costing this country billions of dollars in foreign exchange and thousands upon thousands of domestic jobs.

It is not just the jobs that are lost overseas. It is the jobs related to that activity which we are losing here. I might just mention that I visited the construction site in Saudi Arabia in which the housing for the workers was constructed under contract to a Canadian contractor. The management contract happens to be that of a U.S. contractor, but the construction contract for the housing was that of a Canadian contractor.

Every stick of lumber, every piece of building material that went into the housing, every picture on the wall, every carpet on the floor, every appliance in that housing complex was manufactured in Canada.

Had it been an American contractor every stick of lumber, every carpet on the floor, every picture on the wall, every appliance installed would have been manufactured in the United States. It is jobs in our economy that are at stake because of the short-sighted foolish policies.

While we debate endlessly here today and negotiate endlessly with respect to a bailout of Chrysler, we do nothing, virtually nothing, to rescue the domestic economy which is based upon overseas operations by U.S. contractors, engineering firms, and business enterprises.

Mr. President, I think it is time for us to take a close look at that practice, which is long overdue.

I yield the floor.

Mr. CHAFEE. I would like to commend the Senator from Idaho for those very thoughtful and pertinent remarks. I join with him in his concern.

As the Senator from Idaho pointed out so ably, there are a whole series of measures that have developed in this country during the past several years that have actually acted as disincentives to this country's effort to achieve greater exports and greater earnings abroad. He has touched on one of them, the section dealing with the unfair taxation of American citizens working abroad.

Another area that I might mention is the Foreign Corrupt Practices Act. We are all against bribery overseas, but we have enacted laws that are so detailed and so disturbing to our companies that U.S. firms shy away from operating abroad for fear that they will be charged with criminal wrong doings under these provisions. The Foreign Corrupt Practices Act is responsible for billions of dollars in lost business every year for this reason.

The United States is a tremendous market, and there is a great temptation for our companies to eschew operating abroad, feeling that the efforts, the tasks, and the difficulties are too great. So, they adopt an attitude that it is not worth the effort and they concentrate just on the great U.S. market.

But if this country is going to shore up the dollar, if we are going to do something about imbalances in our trade, we must encourage foreign trade. The problem is not all due to imported oil, Mr. President. It is due to a whole series of factors. I might point out that 1978 was the first time in the history of the Nation that we had a deficit in our manufactured goods; in other words, the great industrial Nation of the United States was importing more manufactured goods than we were exporting.

Due to a great deal of interest in the Senate—and I see the distinguished Senator from Illinois here, who along with the senior Senator from Delaware—has led this effort by establishing the Senate Export Caucus—hopefully in 1980 we can concentrate on these issues and can work to encourage greater exports by the United States, and have incentives for trade instead of disincentives on our companies.

I noted just a few days ago that one of the largest construction projects in the world is soon going to take place; namely, the construction of a causeway from Saudi Arabia to Bahrain. This is one of the last billion dollar projects in the world up for bid.

In 1976 the United States had the largest amount of construction contracts abroad. In 1977 the United States dropped to third place. In 1978 the United States dropped to fifth, behind the Koreans, behind the West Germans, behind the Italians, and behind Japan.

Mr. McCLURE. Mr. President, will the Senator yield at that point?

Mr. CHAFEE. Yes.

Mr. McCLURE. The latest evidence is that we are now 12th and we are now behind such countries as Yugoslavia, Taiwan, and the U.S.S.R., in addition to those the Senator has mentioned.

Mr. CHAFEE. Well, I can just say that is terribly discouraging, and I will be watching this construction contract for that mammoth causeway from Saudi Arabia to Bahrain.

Formerly the U.S. contractors would have had a wonderful chance at obtaining that project. Famous contractors, like M-K from the distinguished Senator from Idaho's own State, have done magnificent work all over the world. We have all seen such examples. I just hope they get that contract. Whether they will or not I do not know, but if they do, I am sure it will not be like the old days. They will not have innumerable Americans working on the job. They just cannot afford to pay the salaries plus the taxes that have to go on top of that in order to take care of this taxation-of-Americans-abroad provision.

I look forward to working with the Senator from Idaho and the Senate Export Caucus on legislation to do away with disincentives, like taxation of Americans working abroad and the Foreign Corrupt Practices Act, during the next session of Congress.

I thank the Chair.

Mr. McCLURE. Mr. President, I thank the Senator for his remarks. I, of course, wholeheartedly concur in them. Even if a U.S. contractor or engineering firm gets the contract, management or construction, we are then faced with the difficulty they have that they cannot afford to hire American engineers. An engineer from almost any other country in the world will cost a fraction to maintain on the job as it will to maintain a U.S. engineer on the job simply because of our internal tax policies in this country. That is ridiculous. We are killing ourselves and we are killing ourselves on the basis of some kind of an egalitarian notion that everybody, no matter what the circumstances, no matter what the competitive situation may be, must pay on the basis of a tax structure that is precisely the same as if they worked in this country.

Mr. President, that is just unreal. The result is that even where they are successful in getting the contract they are not able to use U.S. construction workers, engineers, on those jobs. The result is, as I said, we have gone from first in the Middle East to 12th in the Middle East in just a little less than 3 years.

It took some pretty concentrated effort on the part of the Congress of the United States to achieve that horrendous result, and that, in magnitude, is many times over the impact of the Chrysler bankruptcy, if indeed Chrysler should become bankrupt. Here we are appropriating or talking about billion dollar measures to rescue Chrysler while, at the same time, we take no action with respect to the domestic jobs relations of overseas activities.

I thank the Senator for his comments.

COURT STANDING FOR OLD GOLD CLAUSE INSTRUMENTS

Mr. HELMS. Mr. President, in 1977, the Congress approved legislation which repealed a 1933 law that declared gold clause obligations "against public policy." As a result, such clauses became nonenforceable in the courts.

This 1933 law effectively voided a clause contained in most long term financial obligations issued in the United States which called for payment in gold coin of standard weight and fineness.

When those contracts were written, gold was officially priced at approximately $20 per ounce. The Nation subsequently devalued gold to $35 per ounce, and the 1933 resolution was adopted in order to prevent a "windfall" to payees if the gold clause in those obligations was enforced.

Now it is clear that such action to void contracts and devalue the dollar was, in effect, a flat transfer of wealth from the people who bought bonds or who leased property to the bond sellers and leasees.

Over the years most of the bonds and securities have been traded at their face value—the dollar value. The issuing organizations have carried the bonds on their books at the market or dollar value and have made no provisions to pay off the obligations in gold.

There may be cases, however, in which financial obligations containing these pre-1933 gold clauses, are still in force; and because of the massive depreciation of the dollar, the holders of these obligations are still losing resources.

Now the 1977 act allows individuals the freedom to again enter into enforceable gold clause obligations, but it does not affect the old obligations. When I introduced the bill, which subsequently became law, I drafted it specifically so that it would not be applicable to the old obligation. There was a court case pending at the time which was directly related to this issue.

But more importantly, I do not believe that a law could be drafted which would provide an equitable solution to this problem. I do not think it would be fair to treat all of these old obligations as if they were identical.

If, for example, an individual purchased an old security at the present market value—the value that reflects the face value of the security and not the gold value of the now voided gold clause—and Congress passed a law that said the gold clause was now enforceable, then Congress would be enacting a flat transfer of wealth as unjust as the initial 1933 act.

On the other hand, it would also seem unjust to dismiss the real question of equity that may be present in certain cases. For example, it seems to me that old, 99-year leases which were entered into before 1933 should be reviewable. Leases containing gold clauses were signed with the view that even if the dollar depreciated, at least the gold clause would insure a constant real return on the lease. Congress violated that contract and it seems that real questions of equity remain.

This is a logical issue to be taken up in the courts. Unfortunately, those bound by these old obligations have no standing in the courts. Tomorrow, I shall propose legislation which would grant standing in Federal district courts for individuals who feel that they are unjustly bound by existing obligations.

I have had correspondence on this subject with a number of attorneys and with the Departments of Justice and Treasury. I had hoped to be able to obtain the services of these Departments in order to draft a bill that would have their approval and thus require minimal congressional time. Unfortunately, I have not been able to obtain either approval of the language I drafted or any alternative language. I have, however, received a letter which indicates willingness on the part of the Department of Treasury to participate in hearings. I am encouraged by this response, although I would suspect that any testimony the Department might provide would either contain suggestions for change in the law or a recommendation that the law not be changed.

The bill I shall offer tomorrow is the language on which I originally asked Treasury and Justice to comment. It may be the best solution possible. At the very least, it will provide a proposal on which hearings can be held. I hope they can be held soon so that this issue can be settled.

Mr. President, I ask unanimous consent that correspondence on this subject be printed in the RECORD at the conclusion of my remarks.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE TREASURY,
Washington, D.C., September 12, 1979.

DEAR SENATOR HELMS: This is in reply to your letter to Secretary Miller concerning possible legislation to provide equitable relief, through the federal courts, to individuals who are parties to contracts, entered into before 1933, containing gold clauses that were made unenforceable by the Gold Clause Joint Resolution of 1933. You have asked for any specific language which would not be objectionable to the Treasury Department, and suggested a draft bill to provide some relief to individuals who are still suffering financial losses as a result of the Resolution.

This is a highly complex issue. Your draft bill reflects an understanding of the difficulties of providing, in a single bill, relief to individuals that are parties, in a wide range of possible circumstances, to contracts the substance of which may be vastly different. Hearings would be extremely valuable in determining the kinds, number and value of the contracts involved, the various circumstances of the individuals affected, and the impact that a relief measure might have on these individuals and on particularly-affected sectors of the economy. Only after a careful examination of this kind, would it be possible to determine the extent to which a legislative remedy is required and the most appropriate form that legislation might take. In holding these hearings, the advice of legal scholars in formulating any statutory relief measures also would be very useful.

Should such hearings be held, the Department would follow these hearings with great interest and would be glad to provide, to the Congress, both Treasury's expertise, as needed, as well as any policy views that we might have concerning particular legislative proposals that might result.

Sincerely yours,

GENE E. GODLEY,
Assistant Secretary,
(*Legislative Affairs*).

DEPARTMENT OF THE TREASURY,
Washington, D.C., December 19, 1977.

DEAR SENATOR TOWER: I am writing in response to your request for information from the Department of the Treasury on which to base a reply to letters from Mr. Richard W. Owen of Dallas, Texas, who wrote to you on a client's behalf.

Mr. Owens' client owns property in Indiana that is leased for a term of 99 years. The lease, entered into in 1910, contained a gold clause as a basis for adjustments in the rent over the period of the lease. On June 5, 1933, Congress enacted the Joint Gold Clause Resolution declaring such clauses to be contrary to public policy and making them unenforceable in U.S. courts.

Recently, Congress enacted P.L. 95–147, which would allow U.S. courts to enforce gold clauses in contracts entered into after the enactment of the legislation. In his letter to you. Mr. Owen objects to the fact that P.L. 95–147 applies only prospectively. He urges that Congress now pass legislation restoring the enforceability of gold clauses in real estate contracts entered into prior to 1933.

Treasury Department's view is that P.L.

95–147 properly applies only to contracts entered into after the date of enactment. The legislative history of the Joint Resolution of 1933 clearly indicates that one purpose of the Resolution was to relieve debtors on contracts containing gold clauses from the "intolerable burdens" that would result from the approximately 60 percent official devaluation of the dollar in 1933. Reinstating the rights of creditors on those contracts today would nullify the protection of debtors Congress thought was necessary and appropriate in connection with the 1933 devaluation.

Moreover, reinstating the enforceability of gold clauses in contracts agreed to prior to 1933 would subject debtors on those contracts to obligations different than those they assumed at the time the contracts were entered into. Before 1933, the U.S. was on a gold exchange standard and the U.S. Government maintained the value of the dollar in terms of gold. The parties to contracts containing a gold clause thus had agreed that the debtor's liability would change only to the extent official U.S. Government action changed the gold value of the dollar.

Today, the U.S. and international monetary systems are quite different. The value of the dollar no longer is maintained in terms of gold and the market price of gold in fact is several times its last U.S. official price of $42.22 per ounce. Thus, if Congress repealed the Joint Resolution with retroactive effect, it would subject debtors in gold clause contracts to obligations totally unlike those they entered into prior to 1933, and correspondingly would provide the creditors in those contracts with rights unlike those they had intended to obtain by their contracts.

In sum, the Joint Resolution did result in economic disadvantage to creditors on contracts containing gold clauses. However, any attempt to correct possible inequities of that earlier Congressional action itself would lead to inequitable results. Accordingly, the Treasury Department is of the view that the repeal of the Joint Resolution properly applies only to contracts entered into after the enactment of the repeal.

I hope this information and analysis is useful to you in responding to Mr. Owen's letter.

Sincerely yours,

GENE E. GODLEY,
Assistant Secretary,
(Legislative Affairs).

GAINES, STERN, SCHWARZWALD & ROBINER CO., ATTORNEYS AND COUNSELORS AT LAW,
Cleveland, Ohio, September 2, 1977.

Re Gold Clause Remedial Legislation.

Mr. HOWARD SEGERMARK,
Special Assistant to U.S. Senator Jesse Helms, U.S. Senate, Washington, D.C.

DEAR MR. SEGERMARK: Our recent telephone conversation was very worthwhile and I appreciate you taking the time to discuss this situation with me. It is apparent that you recognize the injustice suffered by my clients as well as others similarly situated. At the same time you have made me aware of the broader problems and difficulties that could arise in the event there was an explicit revivor of Gold Clauses still in effect on and after December 31, 1974.

You requested I put some language together that might possibly serve as the basis for remedial legislation to afford the Federal District Courts jurisdiction to consider some equitable remedies where the facts of a particular case warrant. In response to that I respectfully submit the following thoughts:

The U.S. District Courts shall have jurisdiction to consider actions commenced by or on behalf of obligees under instruments meeting the following criteria:

i. They were executed and/or issued on or before June 5, 1933, and were in full force and effect on December 31, 1974;

ii. Contains provisions for payment in gold or its equivalent in U.S. currency;

iii. Were, at least until December 31, 1974, subject to Congressional Joint Resolution effective June 5, 1933, codified in § 463 of Title 31, of U.S.C. declaring such provisions as against public policy and unenforceable.

Such actions may be brought by obligees meeting the aforesaid criteria to have the court consider modification and/or adjustment of the payment provisions of said obligations, were warranted, in order to balance the equities between the obligor and the obligee. In determining and exercising such jurisdiction, the District Courts shall take into consideration:

i. The present fair market value of the object or use which is the subject of the obligation and the changes in said fair market value from 1933 to the present;

ii. The detriment and/or advantage to either or both of the parties during the period from June 5, 1933, through December 31, 1974, by reason of the adoption of the Joint Congressional Resolution codified in § 463;

iii. Any changes in position by either party or their predecessors in interest in reliance upon the provisions of § 463;

iv. Any changes in the identity of the obligee and the obligor between June 5, 1933, and December 31, 1974, and the circumstances and consideration paid therefore;

v. And such other appropriate factors as the interests of justice may require.

Where the Court determines that it is warranted, based upon a consideration of the foregoing factors, it shall modify and adjust the obligation accruing from and after December 31, 1974, in such manner as to accomplish equity, avoid undue economic hardship, avoid economic windfalls and unjust enrichment, and balance the equities recognizing that prior to June 5, 1933, provisions providing for payment of obligations in gold or its equivalent value in U.S. currency were commonly accepted legal devices utilized by many persons, firms and corporations in drafting contracts or longterm agreements, which were intended to provide some measure of protection for the parties against economic uncertainty during the term of the agreement.

In suits brought under this section, the District Courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties.

In all other respects the action authorized by this section shall be treated as other civil actions under the District Courts general jurisdiction.

It is my belief that something along those lines would go a long way toward restoring some balance to the situation and perhaps avoid economic hardship in some instances. However, as a practical matter in addition to the objections of the Treasury Department, we may also be confronted with the objection of the Justice Department and the Administrative Office of the U.S. Courts, who will be eager to avoid having the courts take on any additional burden, if they can help it.

If you need anything further from me or if I can help in any way please don't hesitate to call on me.

Very truly yours,

DONALD M. ROBINER, J.D.

CONSTITUTION SUBCOMMITTEE REPORTS SENATE JOINT RESOLUTION 126, A CONSTITUTIONAL AMENDMENT TO PROMOTE FISCAL RESPONSIBILITY IN THE FEDERAL GOVERNMENT

Mr. SIMPSON. Mr. President, earlier today, the Judiciary Committee's Constitution Subcommittee took a historic step. For the first time in history, the subcommittee reported to the full committee a proposed amendment to the U.S. Constitution which would reform the procedures by which the Federal Government establishes tax and spending policy.

This action had a long incubation period, given the clearly expressed demand of the American people for some kind of constitutional restraints on the fiscal behavior of the Federal Government.

The amendment, Senate Joint Resolution 126, would insure for the first time that the American people would be able to determine which politicians really act in accordance with the popular expression of thought and opinion in these areas of public policy and fiscal responsibility and which politicians do not.

I. INTRODUCTION

Senate Joint Resolution 126 would correct a serious flaw in our political process, which today is biased toward ever increasing levels of spending and taxation, and thus toward the problems which such increases bring, including the problems of inflation and of the increasing influence of the Federal Government in our lives and a correspondingly decreasing power of individuals over their own destinies.

I will not attempt today to amplify my remarks on the existence and significance of these problems. I trust that most of my colleagues already appreciate this reality. Furthermore, there will be ample opportunity later for the presentation of statistics and other evidence which will even more dramatically show the size of the hole into which we have fallen.

II. INFLATION AND EXCESSIVE GOVERNMENT POWER ARE CAUSED IN LARGE PART BY EXCESSIVE GOVERNMENT SPENDING

Mr. President, it is our view that both of these problems—both inflation and excessive Government power—exist in large part because of excessive spending by the Federal Government.

The relationship between Government spending and Government power is obvious. The relationship between spending and inflation is perhaps less so. For this reason, Mr. President I would wish to say a very few words about inflation—inflation in terms of both its immediate and fundamental causes. The immediate cause of a true inflation, a general rise in prices, is the Federal Reserve Board's action in increasing the money supply faster than the American people increase their production of goods and services—in other words "too many dollars chasing too few goods." This occurs when "the FED," instead of seeking the monetary goal of maintaining stable prices (that is, avoiding both inflation and deflation), pursues economic goals—lower interest rates, higher investment and productivity, lower unemployment, and the like—through increasing the money supply, not only faster than the production of goods and services, but faster even than what is expected by those making the economic decisions. This greater rate is necessary to the achievement of these goals since what is being attempted is in effect to dazzle people into thinking that the resources which Government uses are still available for private investment.

Therefore, although the immediate cause of inflation is the action taken by the Federal Reserve Board, the fundamental cause is related to the economic problems which the Federal Reserve's actions are intended to solve. Thus, that fundamental cause is really excessive Government spending—the allocation to Government of so much of the Nation's resources than an insufficient amount is left for private capital investment. Whether such spending is financed by debt or by taxes, the economic problems associated with high interest rates and reduced capital investment will tend to result, thus causing pressure on the Federal Reserve Board to inflate the money supply.

III. EXCESSIVE GOVERNMENT SPENDING IS CAUSED BY BIASES IN THE POLITICAL PROCESS

Why have massive increases in Federal spending occurred? To some extent, of course, such increases result from a genuine shift in the will of the people—in the kind of services and control the American people want from their Government. There is another reason, however, which is not quite so noble and democratic in character. In fact it is quite undemocratic. Putting it simply, our political process is defective. It is tilted toward ever-increasing levels of spending because of the political advantage which can be gained from the creation of additional spending programs, and the lack of political advantage—indeed the significant disadvantage—gained by opposing or repealing such programs. This situation results from the fact that the awareness and interests of special interest groups which benefit from a particular spending program are very great and so is their lobbying pressure and the credibility of their implicit threats to withhold political support.

On the other hand the potential opponents of such programs—those that generally bear the cost—are the taxpayers at large, who are unlikely to be more upset by one unnecessary Federal program than another and who do not have the time and energy to be aware and vocal about all of them. Consequently, lobbying pressure against such bills is usually much less focused and intense and the risk of loss of significant political support as a result of a vote for the program is likely to be small.

In the absence of additional balancing factors, greater political advantage is usually perceived to lie in supporting a spending program than in opposing it.

Because of the availability of deficit spending and the automatic increases in tax revenue that occur as a result of individuals being pushed into higher tax brackets through inflation or real growth in income, politicians seldom need to take the politically disadvantageous step of actually voting for a tax increase. Thus the political advantage of voting for spending programs is generally not offset by the political disadvantage of voting for a tax increase to pay for them.

IV. ELIMINATION OF THE BIAS TOWARD SPENDING REQUIRES THE CREATION OF CONSTITUTIONALLY MANDATED POLITICAL OBSTACLES TO BOTH DEFICIT SPENDING AND AUTOMATIC TAX INCREASES

Eliminating only one of these sources of bias—easy availability of deficit spending or automatic tax increases—would not be enough to restore a more desirable balance to our political process. We must take care of them both. Even if deficit spending were totally prohibited, spending could still increase because of automatic tax increases.

No politically disadvantageous vote for a tax increase would be necessary. If automatic tax increases were eliminated, but deficit spending could be easily obtained through simple majority vote, then spending could increase without significantly greater obstacles than those that exist today.

Furthermore, we must correct these biases by constitutional amendment. We have seen how unsuccessful the statutory approach is. For example, Senator HARRY F. BYRD, JR.'s statutory balanced budget requirement has had no apparent effect.

V. SENATE JOINT RESOLUTION 26 REDUCES THE SPENDING BIASES WHICH ARE INHERENT IN OUR PRESENT POLITICAL PROCESS

Senate Joint Resolution 126 makes it more difficult for politicians to support spending increases without the genuine support of the people as a whole. Under its terms. If a simple majority of Members of Congress wished to increase spending for one program, they would have to reduce or oppose other programs—placing interest groups in competition with each other for a fixed spending amount rather than with the taxpayer—or they would have to place themselves on record as voting for a tax increase.

Section 1 of the amendment requires that Congress adopt a budget every year, which would set forth the total receipts and expenditures of the Federal Government—including expenditures now treated as "off-budget." Such budget could not be in deficit unless three-fifth's of each House of Congress have so approved. The amendment thus establishes a norm, which can be avoided only if a consensus greater than simple majority exists. As already indicated, if the requirement were merely for a simple majority, no more control would exist than at present. We believe that a three-fifth's majority would be a sufficient obstacle to deficit budgets without removing totally the flexibility which many persons desire to retain in case of economic difficulty such as serious recession. It should be noted here that the environment for such a vote would be quite different than that surrounding the vote on the debt limit. A vote on a deficit budget would occur at the planning stage when defeat of the proposal would still permit adjustments to be made so that the Government would still be able to function in the spending year, although not at as high a level than if the deficit budget had been accepted. In contrast a vote on increasing the debt limit is frequently taken in a crisis atmosphere when rejection would shut down the Government.

Section 1 also provides that the Congress shall not pass, and the President shall not sign, any appropriation bill which would cause total expenditures for any year to exceed the expenditures in the budget for such year. In practice this would require the use of estimates. If the expenditures authorized in a specific appropriation bill, when added to sum of estimated expenditures under permanent appropriations and the expenditures in the appropriations bills already passed for the year, would cause the level of expenditures in the budget to be exceeded, then such bill could not be approved by Congress or the President. No waiver would be available. The bill could only be approved if an increase were adopted in the total budget, which would require a three-fifth's vote if a deficit would result, and a tax increase otherwise.

Since all spending from the Treasury must be authorized by appropriation, such a restriction on appropriation bills would restrict Federal spending to the level set forth in the budget.

Section 2 of the amendment prohibits increases in the share of national income going to the Government unless a majority of Congress plus the President—or two-thirds of Congress in the face of a Presidential veto—are willing to vote "on the record" for a specific increase in that share. If a majority of the people as a whole truly support an increase, a simple majority of their elected representatives, along with their President, should be able to accomplish such an increase. Unlike the norm of keeping expenditures no higher than receipts, which should require a simple majority to violate, there is no norm with respect to the taxes and other receipts which should go to Government. Furthermore, increases in taxes and other types of Federal receipts are usually politically unpopular. The majority vote requirement by itself would offset the political advantages to increased spending.

Section 3 of the amendment would allow waiver of the balanced budget requirement during wartime since it would be anomalous to require a super majority to finance a war when only a majority is necessary to declare it.

Section 4 places in the Constitution the traditional rule of construction that terms are to be construed in accordance with the intention of those who drafted them. This is particularly important with respect to our amendment. Since changes in the definition of terms such as "budget," "receipts," "expenditures," and "national income" could greatly weaken the amendment.

Since section 4 explicitly refers to the meaning of terms on the date on which the amendment is submitted to the States for ratification, the meaning of all terms can be made clear in legislative history. It is our intention to do that. For example, it will be made clear that the budget which is required must include all expenditures, including what are now known as off-budget items, and that the meaning of the term "receipts" does not include the proceeds of Federal borrowing.

VI. THE PROCEDURAL REFORM CONTAINED IN SENATE JOINT RESOLUTION 126 IS PREFERABLE TO AN EXPLICIT SPENDING LIMITATION

Mr. President, I am certain that some of my colleagues will wonder why we did not simply limit Federal spending directly. Let me briefly explain. We do not believe it desirable to limit spending to any particular arbitrary fraction of the

GNP or other similar measure, nor do we believe that requiring supermajorities for spending increases is justified.

First, it could be deemed "antidemocratic" to lock any particular economic theory or policy into the Constitution. If a majority of the people truly want increased spending, we are not aware of any principle which would justify our saying to them that they may not have it. We are simply attempting to correct a political process which allows increases to occur even when the people do not want them.

Second, such theories and policies may well be mistaken. Consequently, complex and detailed formulations are especially inappropriate.

Third, much of the concern which the public feels about Government spending exists because it is perceived as leading to increased taxes. The amendment which insures that politicians will be more accountable to the public for tax increases is a direct response to that major concern.

Finally—and this is related to our concern that democratic principles not be violated—such an explicit spending limit may not be as constitutionally appropriate. Provisions of the Constitution, including all amendments except the 18th amendment, either, first, establish the structure of Government and basic details of the political process used to establish the will of the national majority, or, second, restrict majority rule in order to protect individual rights or the rights of the States.

To prohibit a majority from spending more than some arbitrary amount does not seem to fall within either category.

We have attempted to draft an amendment that primarily accomplishes a procedural reform, that perfects our political process so that we may rely on it to accurately reflect the actual will of the majority.

Thus, the amendment is intended to make politicians accountable for their support of higher spending through its requirement—in the absence of three-fifths support for deficit spending—that politically advantageous spending programs be balanced by politically disadvantageous tax increases, not automatic tax increase but tax increases resulting from recorded votes.

We have not sought to insure any particular level of spending, even though as individuals we have, of course, our own preferences. We have attempted to eliminate the biases toward spending that exist in our political process without replacing them with new biases.

Given public opinion today, we believe that sections 1 and 2 of our amendment would together act as the effective spending limitation which many Senators seek. At the same time a different result is possible in the future if the will of the people reflects different concerns and different priorities.

Mr. HATCH. Mr. President, following many months of deliberation, the Senate Judiciary Subcommittee on the Constitution this morning approved Senate Joint Resolution 126, a proposed constitutional amendment to require the adoption of new budget-making processes by the Federal Government. During this time, five subcommittee members including Senator DECONCINI, Senator HEFLIN, Senator THURMOND, Senator SIMPSON, and myself have consulted with our colleagues outside the subcommittee, economists, political scientists, constitutional scholars, and other interested individuals and organizations.

The amendment represents a response to the nearly three dozen separate amendments that have been introduced by our colleagues this year and referred to the Constitutional Subcommittee. It is also a response to the 30 States that have applied for a constitutional convention on this subject, as well as to the estimated 80 percent of the public who favor a balanced budget requirement for the Federal Government.

NEED FOR A CONSTITUTIONAL AMENDMENT

While a great deal of emphasis has been placed upon the new mood of budgetary restraint supposedly operating in Washington since the adoption of proposition 13 in California in June of 1978, it is clear to me that this mood is more apparent than real. The budget for fiscal year 1980, billed by its proponents as "lean and austere" would permit spending of $548 billion, an increase of approximately 11 percent over fiscal year 1979. This is a growth rate that exceeds the growth rate in a majority of the budgets that have been approved during the past, none-too-frugal, decade. Total budget authority would increase by more than 14 percent to $638 billion.

In addition, the deficit in the fiscal year 1980 budget is projected at nearly $30 billion, not including an additional $13 billion in new "off-budget" outlays. This total deficit has been exceeded only five times in the history of our country during peacetime. The fiscal years 1975–80 have seen the six largest peacetime deficits in the history of our Nation. Since fiscal year 1970 alone, our national Government has incurred nearly $450 billion in new deficits, more than one-half the total national debt incurred in the history of our republic.

What have been the results of these policies? Have they "stimulated" or "stabilized" our economy in the way that the economists assure us they will? The results, in my opinion, are as follows:

Our Nation is suffering from the highest level of inflation in modern times;

Unemployment, which the economists have taught us is inversely related to inflation, has also remained high. Growing levels of inflation have not "stimulated" demand so that the economy operates at a fuller capacity;

The dollar is at an all-time low among international currencies. There is growing flight from the dollar as a means for transacting business in international markets;

Our national balance-of-payments debit is near a record high. There is growing domestic sentiment for protectionist policies which, in the long run, are inevitably damaging;

Our Nation's productivity ranks last among developed, industrial nations. We save less and we invest less than virtually any other Western nation; and

Taxes continue to grow as a burden upon the American people. Taxes consume nearly 40 percent of the average worker's income.

Perhaps most importantly, the standard of living for the average American has remained stagnant during the past decade. There has been virtually no real growth in median income during this decade, with a majority of American families having less real after-tax spending power at the end of the decade than at its outset.

PREMISES OF THE AMENDMENT

A constitutional amendment is critically necessary at this time to effect a permanent measure of fiscal responsibility by Congress. It is necessary because our root problem is not simply the fact that there are too many Members of this body who do not understand the relationship between their actions and the state of the American economy. While this number remains high, just as critical is the fact that all of our legislators operate in an institutional environment which encourages deficits, which encourages high levels of spending, and which encourages high levels of taxation. Our amendment is aimed at altering this institutional environment.

Senate Joint Resolution 126 is not primarily an economic amendment; it is primarily an amendment that affects the political and institutional processes by which our Government determines economic policy. It avoids dictating or specifying particular economic results or outcomes.

The major premises of the amendment are two-fold: First, it rests upon the assumption that the political and legislative processes ought to be entrusted to make specific economic and fiscal decisions. Second, it rests upon the assumption that the political and legislative processes cannot presently be entrusted to make these decisions in a fair manner because of political biases that exist within our system that favor higher levels of spending and higher levels of taxation.

Senate Joint Resolution 126 seeks to eliminate these biases and establish a more neutral budget-making environment. It does not seek to establish alternative biases—biases that I would personally favor—in behalf of reduced levels of spending and taxes. It is simply the objective of the amendment that the outcome of the budget process—and no specific budget process is written into the Constitution—will more fairly reflect public sentiment on spending and taxing. If, as I believe, public sentiment presently favors lower levels of spending and taxes, that is likely to result under this amendment. It is not likely to result, and has not resulted, under the present system largely because of the structural biases that exist within the present system.

What are these biases to which I refer and to which the amendment is addressed? There are three major ones that I would identify.

First, there is an inherent bias in our present economic system in behalf of higher levels of taxation. This results from the interplay of our progressive tax system with either inflation or real economic growth. Because of the phenomenon of "tax bracket creep," the Federal Government is insured an ever growing proportion of the National income. In the absence of any congressional action, revenues grow, from year to year, as a percentage of the economy. The public sector grows increasingly large, while the private sector is correspondingly diminished. Congress must take affirmative action if revenues are not to increase as a share of the national income.

Second, there is an inherent bias in our present economic system in behalf of higher levels of spending. This results from the simple fact that there are no limitations upon resort to deficit spending by Congress. A Senator or Member of Congress, therefore, who seeks to undertake a political cost-benefit analysis on any single spending bill is confronted by the following equation: In return for reaping the benefits of creating $1 worth of happiness for a beneficiary of that spending, he must incur only the cost of imposing a perceived 80 cents or 90 cents of taxes upon those paying for the program. The difference, of course, must be made up at some point, but this point is invariably at some future time, quite possibly after the next election.

In addition, the difference, either in the form of future interest costs or future inflation, represents a form of taxation that is much less easily identifiable with the Senator or Congressman than the 80 cents or 90 cents in direct taxes. The Senator or Congressman, for all practical political purposes, has spent 10 cents or 20 cents to earn political gratitude without having to burden himself with the political ingratitude of some other party. Blame for that share of the spending program can easily be diverted to businesses, banks, labor, middlemen, or consumers themselves.

Third, there is a related bias in behalf of higher levels of spending that results from the quality of forces that compete on spending bills for the attention of Senators and Congressmen in addition to the quantity of those forces. Spending interests are intense and direct and passionate in focusing their attentions upon an individual spending bill that is likely to accrue to their benefit. These groups are visible, articulate, and able to reward or punish legislators with their support or nonsupport in congressional elections. It is only natural that the legislator should be sensitive and responsive to their concerns.

There is normally no similar constituency in opposition to such spending programs. Those who would logically be most concerned about such expenditures—the taxpayers—are diffuse, unorganized, and politically inarticulate.

Even if they are able to perceive the nature of their self-interest on a given piece of legislation, it is impossible for them to focus on any given program with the same intensity and passion of a beneficiary spending group. While such group may stand to gain millions or even billions of dollars for their relatively narrow constituencies, the taxpayer stands to lose nothing more than a few cents or a few dollars apiece on any single program. It is only when these programs are aggregated that the taxpayer begins to feel the impact of such spending.

PROVISIONS OF THE AMENDMENT

How does the proposed contitutional amendment seek to dilute these biases? Let me briefly analyze the amendment section by section.

Section 1 of the amendment would establish, as a constitutional norm, that the Government not spend more dollars than it has. By requiring that Congress adopt a balanced Federal budget at the planning stage of the budget process, it seeks to reestablish the traditional linkage between revenues and expenditures, what professors Buchanan and Wagner have referred to as our "unwritten constitution." Spending dollars would have to be matched by tax dollars. The political cost-benefit equation that is biased toward spending, when deficits are the norm, would no longer prevail.

Under section 1, however, Congress could choose to incur deficits, for whatever reason it chooses, upon a vote of three-fifths of the Members of each House. If such a supermajority is convinced that Congress must run deficit budgets in order to meet emergencies or respond to changing economic circumstances, they may deviate from the balanced budget norm that is established by the section. Such a deficit budget, however (and the precise deficit level must be specified), must be adopted by a clear rollcall vote on a resolution that is directed solely to that subject; it cannot be obscured by placing the balanced budget waiver in a popular pork barrel bill of some sort.

The fact also that the waiver vote, if it is to provide for a substantial deficit level, will occur at the planning stage of the budget process insures that it will not be considered in the "emergency" circumstances that normally characterize votes on waiving the statutory budget ceiling. The vote will assume more or an unambiguous character with those inclined toward large deficits supporting the waiver and those not so inclined opposing it; there will be no overhanging threat of Government shutdown or collapse upon the defeat of a given level of deficit.

Upon the establishment of a balanced budget for some fiscal year, Congress would be prohibited from passing and the President would be prohibited from signing appropriation bills which would cause the total expenditures for any year to exceed the expenditures specified in the budget for such year. Once an appropriation bill were considered that threatened, in cumulation with earlier appropriation bills, to exceed the expenditure ceiling, Congress would be required to reject the appropriation or approve (by a three-fifths vote) a revised budget.

Section 2 of the amendment states that receipts, as a proportion of the national income" (and any aggregate index could be substituted so long as it remained reasonably related to national economic performance), are not to increase from year to year in the absence of specific votes to that effect by a simple majority of each House of Congress, and Presidential approval. Absolute levels of revenues could, of course, continue to rise with levels of inflation or real economic growth, but revenues as a proportion of the economy would be restrained.

The bias in our system in behalf of higher taxes would be eliminated. Congress could no longer acquiesce to a tax increase by the simple act of doing nothing. They could no longer reap the political effects of, and dissipate popular tax reduction sentiment, by occasionally approving tax reductions that did nothing but partially compensate for the hidden, automatic, and silent tax increases of tax bracket creep. The burden would be upon Congress to approve, by an express vote, tax increases, rather than upon them to disapprove tax increases. A more neutral decisionmaking process would be established. Nothing would prevent Congress from approving tax increases, but they would have to be done above-board.

It is important to recognize the necessary relationship between sections 1 and 2. Section 1 establishes the general balanced budget norm, while section 2 establishes that the budget will not be established at levels that consume ever higher proportions of the national product in the absence of clear congressional expression. The conjunction of these two sections also establishes what is in effect a spending limitation. In the absence of a congressional decision to increase taxes as a proportion of the national income, the balanced budget requirement of section 1 would operate to insure that spending would similarly remain stable as a proportion of the national income.

This spending ceiling—indeed any spending ceiling—would have the immensely desirable effect of altering the so-called "concentrated benefit-dispersed cost" bias in behalf of higher levels of spending that was earlier referred to. The entire psychology of the congressional spending process would be altered. Under the present system, each of the spending interests competes with the taxpayer to raise the total ante in the Federal Treasury. As a result of the concentrated benefit phenomenon, the spending interests normally prevail. Under a system, however, in which an initial spending ceiling is established, these same spending interests would suddenly be competing with each other in order to insure themselves a certain proportion of a fixed ante in the Federal Treasury. The spending interests would not only have to convince Congress that their pet program merits funding at a certain level, but, for the first time, would have to establish, in addition, the priority of their program. A fixed spending ceiling would require that Congress think in terms of budget priorities; an element of competition among the spenders would be introduced into the budgetary process.

Section 3 of the amendment would allow Congress, by a simple majority vote, to waive the provisions of section

1 with respect to any single year in which a declaration of war was in effect. This is to eliminate the anomaly by which a simple majority could declare war but might find themselves with insufficient funds to pursue the war for want of a three-fifths majority.

Section 4 requires that the terms used in the amendment—particularly the economic oriented ones such as "national income" and "appropriations" be defined in accordance with their meanings at the time on which the amendment is submitted to the States for ratification. The objective here is to prevent the sort of "flexible" or "maturing" or "evolving" interpretations of these terms that could easily insure the circumvention of the purposes of the amendment. While any of these terms might be redefined by Congress at any time to serve any purpose that Congress desires to be served, for purposes of the act there must be consistency and stability of definition.

Finally, section 5 specifies the effective date of the amendment: The first day of January of the second calendar year beginning after its ratification.

SUMMARY

Thus, the proposed amendment is a combination balanced budget- tax limitation-spending limitation. It is a balanced budget amendment through the express provisions of section 1. It is a tax limitation amendment through section 2 which prohibits increases in revenues as a proportion of national income without a vote; it is also a tax limitation amendment in the sense that it eliminates the "indirect tax" of deficit spending, a tax that is reflected either in future inflation or future interest costs. Finally, it is a spending limitation as a result of the conjunction of sections 1 and 2.

Yet this is all achieved through an amendment that strikes me as being more in the "nature" of a constitutional amendment than many of the more explicit spending and tax reduction proposals. The amendment is succinct, relatively easy to understand, free of essentially arbitrary numbers, and relatively free of arcane economic jargon. Most importantly, its purpose is that of a constitutional amendment—it seeks to perfect our legislative process so that the democratic will will be more accurately reflected in an area (budget decisionmaking) where this criterion has traditionally been considered paramount. It seeks to do this by ridding the process of opportunities for illusion and dishonesty, both of which promote a process that is less responsive. Section 1 addresses the illusion that there is such a thing as free lunch, that Congress can spend dollars that it does not have without cost. Section 2 addresses the dishonesty of increasing the tax burden upon the citizenry covertly, and through inaction.

I would like to say just a few words about a criticism that has commonly been made against constitutional amendments to promote fiscal responsibility.

It is often suggested that such amendments can be relatively easily circumvented if desired. This results, we are told, from the fact that no amendment in this area can hope to fully contemplate the variety of fiscal arrangements that can be entered into by the legislative branch. No amendment can be precise enough to define economic terms with sufficient precision to preclude opportunities at circumventing the spirit of an amendment in this area.

In response, I would suggest that most amendments or statutes of human contrivance can also be undermined or distorted by human contrivance. Some of us might suggest that this has already occurred with respect to earlier amendments that were probably considered airtight by their drafters. If there is a will to ignore even a constitutional amendment, I have little doubt that an ingenious Congress or administration can probably do this. The value of a constitutional amendment, despite this fact, is that it elevates to constitutional status a broad principle of government—that of fiscal responsibility. It thereby serves as a permanent beacon by which Congress and the President can—and must—judge their programs and policies.

Congress, it seems to me, is expected always to act in accordance with both the terms of the Constitution and the spirit of the Constitution. While it is not always easy to enforce this responsibility against either Congress or the President, it nevertheless remains our responsibility. It is not simply the judicial branch that has responsibility for interpreting the Constitution; the legislative branch has a concurrent responsibility to do this.

I am frankly uncomfortable with the attitude that we ought not to propose a constitutional amendment because it is capable of circumvention. I am confident that the public will be capable of identifying those Members of the Congress and the Senate who will perpetually be seeking ways to circumvent. If circumvented, it will certainly not be the first constitutional amendment to be circumvented; if circumvented, it will still be justified as an exercise in placing in the organic law of our land an enduring and permanent principle of sound and honest economic policy.

Mr. President, more than 175 years ago, our third President, Thomas Jefferson remarked that, "of all the perils facing the Nation, public debt is the greatest of the dangers to be feared." I believe that time has proven him to be correct. The experience of civilization since Jefferson's day has also confirmed the direct and intimate relationship between economic stability and political stability. As this Nation approaches the bicentennial of its Constitution, it is critical that that Constitution recognize the growing and fundamental nature of our Nation's economic dilemma.

Mr. THURMOND. Mr. President, I rise today to speak in behalf of Senate Joint Resolution 126. This resolution, which is cosponsored by Senators DECONCINI, HATCH, HEFLIN, SIMPSON, and myself, represents what we believe is a very positive step in restoring fiscal responsibility to the Federal Government.

Over the last several months the members of the Judiciary Committee's Subcommittee on the Constitution have been wrestling with the issue of balancing the Federal budget and restraining Federal spending. We had many hearings where we received testimony from individuals and groups which had an interest in this issue. We met with experts in many different fields to hear opinions on the Federal budget. We also sought the advice and counsel of our colleagues who have also expressed a concern over the fiscal policies of the Federal Government. We then followed up on all of this with extensive cooperative effort in drafting this amendment.

Mr. President, the issue we are addressing in Senate Joint Resolution 126 is an issue which is important to everyone in our Nation. Polls indicate that 80 percent of all Americans favor fiscal restraint by the Federal Government. With that many people seeking more restraint in Federal spending and budgeting, it is no surprise that there have been many different solutions proposed. In the Senate alone, almost fifty amendments have been introduced. Each of the cosponsors of this amendment has previously introduced his own approach. For years, I have advocated more fiscal responsibility by the Federal Government and in this Congress I introduced my own amendment to balance the budget. However, after much study, I have decided to support Senate Joint Resolution 126 because I believe it represents the best way to achieve the objective we all desire.

Mr. President, in the next several months we will have many opportunities to discuss Senate Joint Resolution 126. Hopefully, the full Senate will have the chance to review this proposal very soon. While I look forward to this full debate, I would like to take a few moments to briefly explain this amendment. It is important that we all understand what this amendment would do and what it would not do. Fundamentally, this amendment is a procedural amendment. It is not an economic amendment. It requires that Congress responsibly address its fiscal policies, but it does not predetermine what these policies must be. However, Senate Joint Resolution 126 does remove two biases which exist in our current budgetary practices.

First, it does away with the current bias toward increased spending by reestablishing the relationship between Government receipts and expenditures. Without setting an absolute limit on the amount that Congress can spend, the amendment simply requires that for each dollar spent, there is one dollar raised. This would eliminate the current bias toward deficit spending.

As the system now works, on each appropriation bill there is concentrated support by those most likely to benefit from the expenditure and a generalized opposition composed of taxpayers who will have to shoulder the final burden of appropriation. Senate Joint Resolution 126 would not prevent appropriation bills aimed at concentrated beneficiaries, but it would change the rules of the game. No longer would these special interest groups compete against the general tax-paying public, but these groups would be forced to compete against one another. The net result will be a more efficient use of Federal moneys which are available.

The second bias which this amendment would remove is the bias toward ever-increasing tax revenues. Because of our progressive tax structure, Congress reaps the benefits of tax bracket creep regardless of whether that higher marginal rate is caused by inflation or real growth. This is a real problem which few people fully realize. Presently, even if there were no real growth in our economy, the funds available for Federal spending represent an increasingly larger share of our national wealth. Senate Joint Resolution 126 removes this automatic increase in the Federal share by requiring that Congress must consciously decide that it wants the Federal sector to increase in size in relation to the private sector of our economy. Congress can still allow the Federal sector to consume a larger share of our wealth, but it must specifically vote for that increase.

Mr. President, those are the major principles of Senate Joint Resolution 126. As one studies this amendment it becomes obvious that it would not write specific economic policy into the Constitution. It merely establishes the norm of a balanced budget, a norm desired by 80 percent of the American people, and then it allows the system to function in a responsible, accountable manner. Senate Joint Resolution 126 does not limit Congress prerogatives, but it insures that Congress will make these decisions consciously and in the open. In this manner, we will insure that Congress is responsive to the wishes of the American people.

This amendment is the product of a bipartisan effort. It represents what we think is the best solution to a pressing problem. I encourage all of my colleagues to study this amendment, and I hope that they will join with us as cosponsors in this important step to restore fiscal responsibility to our Government.

Mr. DeCONCINI. Mr. President, Senate Joint Resolution 126, the fiscal responsibility constitutional amendment, introduced by me and Senators Thurmond, Heflin, Hatch, and Simpson, is an amendment of process rather than policy. It is true that the process established by the amendment has a policy bias, as do all processes. This bias is in favor of a balanced budget and a stabilized governmental share of the national economy.

However, as is proper and appropriate for an amendment to our Constitution, the fiscal responsibility amendment establishes a procedure under which the Congress will retain control of Federal fiscal policy. Under this amendment, Congress, and more importantly individual Senators and Congressmen, will be held accountable for specific decisions on these issues.

This is the true force of the amendment. It establishes a procedural starting point for a balanced budget and a maximum level of Federal revenues. A deviation from this starting point can be accomplished only through rollcall votes on those specific questions: passing a deficit budget, or increasing the Government's share of the national income. To increase revenues, a majority of the Members of Congress would have to tell their constituents, "Yes, I voted to increase your taxes." Three-fifths of the Members of Congress would have to go on record as specifically approving a budget deficit, rather than letting hundreds of special interest groups make that decision through political pressure on hundreds of specific appropriations votes.

The fiscal responsibility amendment will return to the average American voter political power to oppose increased taxes and Government spending. It will balance the political incentives to spend against the political disadvantages of doing so publicly. No longer will we, as individual Congressmen, be able to blame "the system." We are the system, and we should be accountable for our decisions to run the Government on credit and tax through inflation.

AFFIRMATIVE ACTION VERSUS EQUAL PROTECTION—VII

Mr. HATCH. Mr. President, one of the few heartening things about "affirmative action"—the drive to impose quotas on America—is that some of the people with long and honorable associations with the civil rights movement are courageous enough to say that this new development is in conflict with their original goals.

Prof. William Van Alstyne is in this category. Dr. Van Alstyne is William R. Perkins, professor of law at Duke University. He is a lawyer of the first distinction. He was once an attorney concerned with civil rights in the Justice Department. He has been involved with the American Civil Liberties Union for many years, both as a member and as a member of its national board of directors. He has discussed affirmative action in the University of Chicago Law Review. He concludes that quotas will perpetuate racial division in this country and that it obviates the work of three decades to remove racial discrimination from our laws and from our society.

I commend his article to my colleagues, and ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Rites of Passage: Race, the Supreme Court, and the Constitution

(By William Van Alstyne)

From 1619 [1] to 1979, the regulation and allocation of rights according to race has been among the most troubling uses of government in the United States. Entrenched in the Constitution of 1787 [2] and sustained by the Supreme Court in 1857,[3] the original uses of race proved to be nationally intolerable and were overthrown by the Civil War. The enormous alterations resulting from that War were partly memorialized in three amendments to the Constitution, between 1866 and 1870. These effectively overrode the still extant provisions from the "accommodations" of 1787. They also provided the new text, which, from that time to this time, has fixed the ground of controversy respecting regulation by race. They are, of course, the thirteenth, the fourteenth, and the fifteenth amendments.

The first of these amendments prohibits all forms of involuntary servitude and allows Congress an ample power to police that ban through federal law.[4] The fourteenth amendment is far more lengthy than the thirteenth, but in its most essential parts it establishes a constitutional definition of citizenship and forbids the states to abridge the incidents of national citizenship. It also forbids the states to deny equal protection to any person or to deprive any person of life, liberty, or property "without due process of law," and it vests in Congress an ample power to enforce these protections.[5] The last—the fifteenth amendment—is more limited: it more explicitly protects the right to vote from abridgment "on account of race, color, or previous condition of servitude," again concluding with a section vesting in Congress ample power to vindicate that protection.[6] The extent to which these three amendments enacted a colorblind restriction on the recurring temptation of government to regulate or allocate by race, however, was a question plainly not settled between 1866 and 1870. It remains unsettled even now.

At one level, the sheer stamina of the question, despite the passage of a century's opportunity for its resolution, is not surprising. The text of these amendments are sufficiently unspectific that, even in the aggregate with their obvious connections with one another and with the Civil War, they compel no single answer. Similarly, the welter of accompanying legislative history is amenable to more than one reasonable perspective. That people should disagree, and that mutually earnest scholars do disagree, is, therefore, rather to be expected even at this very late date.[7] The materials of enlightened constitutional intepretation permit us, I think, to treat the Constitution as repudiating the propriety of regulating people by race or of allocating among people by race, but they do not compel that conclusion. It is oddly a matter of what we might wish to make of it. It has always been this way.

What is less explicable, at least to nonlawyers, is that after a century of periodic judicial review there is still no formal resolution to the question. And this seems very odd. Laws regulating on the basis of race were in existence before the Civil War amendments were adopted; many were judicially examined in litigation prompted by the passage of those amendments. Other laws regulating on the basis of race were enacted after ratification of all three amendments, and still others are tenaciously put forward today; many of these have similarly been tested in the Supreme Court.[8] One would surely suppose that, for judicial purposes at least, so old and so obvious an issue would long ago have been settled to provide us with some steady impression of the extent to which government may regulate or allocate by race. But it is not so.

Rather, the Supreme Court has itself gone through two quite distinct rites of passage. Now—in the "minority contractors" case,[9] before the Court this fall—it is considering still another. And what many had misled themselves into supposing had been the clear, best resolution of this matter during the last generation, is on the edge of turning over once again.

In the past, the consequence of admitting race-based laws as a proper constitutional foundation for regulating and for allocating have been overwhelmingly dismal. Race-based laws have so generally tended to yield byproducts and side effects so vastly more divisive and wretched than the benefits that were supposed to be forthcoming, moreover, that a Court originally not predisposed to veto racial experiments subsequently reversed itself—desipte the popular anger and resentment that were certain to follow. Now,

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Footnotes at end of article.

however, having virtually captured the public morality after twenty-five years of leadership on this question, the Supreme Court is being importuned to let loose of it once again.

On the confident assurance that there are still important uses for race-based laws in the more perfect ordering of this society, the Court is invited into yet another rite of passage. The suggestion, which is not new but which was always a feature of even the oldest race-based laws, is that it is not the regulating or allocating by race that is wrong or too risky *per se*; it is, rather, who is thus regulated, what is thus allocated, what motivates the arrangement, and what time frame should be followed.

My own view of the matter is that the Court is being asked to permit not racial rectification (in reviving the licitness of race as an explicit device of government) but racial repetition.[10] I think it likely, moreover, that if the Court yields once again to the Lorelei, racism, racial spoils systems, racial competition, and racial odium will be fixtures of government in the United States even into the twenty-first century. My reasons for feeling this way are not original. Generally, moreover, they are not shared by the majority of constitutional law professors who have written on this subject.[11] Even so, the sense of anxiety that what is now adrift before the Supreme Court deserves some added thought before it passes into history provides the occasion for these notes.

I. EARLIER RITES OF PASSAGE

The lesson of the great decisions of the Supreme Court and the lesson of contemporary history have been the same for at least a generation: discrimination on the basis of race is illegal, immoral, unconstitutional, inherently wrong, and destructive of democratic society.[12]

This has been the lesson of "the great decisions" and of contemporary history. It is not the "holding" of a particular case; it is, as Alexander Bickel said, the *lesson* of the great decisions, a lesson it required nearly eighty years of temporizing for the Supreme Court itself to absorb.

A. The original interpretation

The first passage for the Court came with the immediate adjudication of race-related cases on the heels of the Civil War amendments. With the exception of a few notable cases striking down the most egregious race regulations,[13] the Supreme Court adopted a wholly tolerant and deferential rendering of all three amendments, imputing to them only the most modest consequences.[14] Federal statutes flatly forbidding racial discrimination by commercial enterprises were held to be excessive, as acts of an unwarranted colorblind zeal. The thirteenth amendment would not sustain them, because mere commercial refusals to deal with people on racial grounds were regarded by the Court as too far removed from involuntary servitude. The fourteenth amendment provided no basis for such legislation, moreover, because that amendment reached only the government's own denials of equal protection, not those of private, commercial parties. The fifteenth amendment was not useful, of course, as it dealt solely with voting. The cases so disposing of this matter, decided by the Supreme Court in 1883, were ironically entitled *The Civil Rights Cases*.[15]

When regulation by race was the government's own, rather than the practice of private parties, the Court's decisions were nearly as tolerant of legislative discretion as they had been of commercial discrimination in *The Civil Rights Cases*. Allocation by race was not *per se* forbidden by the Constitution, the Court held, as the consideration of race might be thought by many reasonable persons as sometimes germane to a variety of important social concerns. Thus, the question was not whether political bodies regulated on the basis of race; it was the different question whether the particular regulation by race was constitutionally "reasonable."

The Court's view—that the laws would be sustained if "reasonable"—genuflected to the wisdom of legislative bodies to sort out good from bad uses of race; the Court quite readily acquiesced in disclaimers that the fourteenth amendment meant no across-the-board foreclosure of such experiments. Regulation by race was not condemnable or censurable as such; only unfair, onesided, or unevenhanded race regulation or allocation was forbidden. If individuals could be equally protected, albeit racially regulated, then nothing in the command or ethos of the fourteenth amendment was deemed to deny the use of racial classification to the body of American politics.

This view of the matter steadily developed between 1873 and the twilight of the 19th century. It was cemented in 1896 in the "separate-but-equal" decision of *Plessy* v. *Ferguson*.[16] The decision upheld a state law requiring separate passenger cars for white and for black riders: [17] neither was worse off than the other in the quality of accommodations to be furnished to each; neither was more or less protected than the other (rather, each was equally protected) by the racial regulation a legislative body deemed reasonable in the public interest.

There was but one dissent that took a less measured view and would have imposed upon the fourteenth amendment a more categorical imperative. Less flexible than others on the Supreme Court at the time, Justice Harlan was prepared to read into the Civil War amendments what was, to be sure, neither explicitly provided by their terms nor compelled by their compromised legislative history. Proceeding from a more basic premise than that either of these considerations necessarily controlled the matter, Harlan put his finger on the lessons of his own contemporary history. Prior to the Civil War amendments, race was the basis on which status had been determined, worth assigned, entitlements settled, and legal rights measured. It had been iniquitous from the very beginning, and it subsequently proved to be a disaster for the entire country. He believed the enactment of the Civil War amendments should therefore be construed by the Court as altogether disallowing it. Government could not determine worth, assign entitlements, or measure legal rights by race *at all:*

> The law regards man as man, and takes *no* account of his surroundings or of his color when his civil rights as guaranteed by the supreme law of the land are involved.
>
> . . . The destinies of the two races, in this country, are indissolubly linked together, and the interests of both require that the common government of all shall not permit the seeds of race hate to be planted under the sanction of law.
>
> The sure guarantee of the peace and security of each race is the clear, distinct, unconditional recognition by our governments, National and State, of every right that inheres in civil freedom, and of the equality before the law of all citizens of the United States *without regard* to race.[18]

The point of emphasis here is fundamental. It is not that when race is used, all persons identified to each race must be as well regarded as all persons identified to some other race.[19] The thing condemned it not that members of each race must be "equally" protected under laws distinguishing them by their race nor the assignment of unequal entitlements by race. The thing condemned, rather, is the assignment of entitlements by race. It is the impropriety of the *basis* of assignment, not the modicum thus assigned, that constitutes the government's offense:

> These notable additions to the fundamental law [the thirteenth, fourteenth, and fifteenth amendments] were welcomed by the friends of liberty throughout the world. *They removed the race line from our governmental systems.*[20]

The Harlan opinion passed into history at the time, an artifact of mere dissent, discredited by the dominant view that the fourteenth amendment had not withdrawn from legislative bodies a political license to regulate by race. The outcome of the case was taken quite seriously, moreover, as legislatures enacted an ever-enlarging sprawl of race-based laws.[21] Indeed, a half-century later, the dominant legislative response to *Brown v. Board of Education*[22] was one of fury, precisely on this account. For however the Court might phrase the apologetics of that decision,[23] the message as it appeared from the outside was that what was not previously understood to be unconstitutional was now accused of being unconstitutional after all: the use of race to allocate—albeit equally—those facilities deemed most appropriate for persons of that race.

B. The second rite of passage

In the swift consecutive series of *per curiam* decisions issued by the Supreme Court during the two years following *Brown*, the Court made no further use whatever—indeed, it made no inquiry—of whether the particular race regulation disadvantaged some more than others. Neither did it ask whether the law stigmatized some more than others, or whether the law was enacted by whites and opposed by blacks, enacted by consent of some of each and opposed by many of each, or whatever.[24] Rather, that line of *per curiam* decisions appeared more completely to enact Harlan's view that the Civil War amendments altogether "removed the race line from our governmental systems."

Between 1955 and 1976, moreover, virtually every other race-related decision by the Supreme Court appeared to convey this same message. To the reasonably discerning, this appeared true even in instances involving highly controversial judicial decrees that paired racially-identifiable schools, redrafted attendance lines, or mandated busing. In each instance, the fulcrum of judicial leverage was an *existing governmental* race line, which the particular judicial order sought to remove.[25] The objective was thus to disestablish particular, existing uses of race, not to establish new ones. Indeed, decrees that would subsequently presume to require race-conscious decisions for any other purpose, for example, to maintain "proportions" or "balances" by race designation, were swiftly reversed.[26]

This second rite of passage was accompanied by consistent developments in the 1960s in the Supreme Court and then, encouragingly, in Congress and the Executive Branch as well. For the Court's part, long dormant Reconstruction statutes were revived and given a reinvigorated and uniformly race-blind application. An early Act of Congress had provided that all citizens shall have "the same" right as white citizens to acquire and to hold real and personal property.[27] It was applied to disallow race-based refusals to deal in real estate, even in the private sector.[28] A related Reconstruction Act provided that all persons shall have "the same" right as white citizens to make contracts.[29] It was applied identically as the other, and applied identically for all.[30] In 1976, when a commercial employer treated an employee worse than another because of his race (this time the less favored employee was white and the more favored black), the Court held to the same view: "[T]he Act was meant, by its broad terms, to proscribe discrimination in the making or enforcement of contracts against, or in favor of, *any* race." [31]

Footnotes at end of article.

Similarly, in adopting the omnibus Civil Rights Act of 1964, Congress appeared to regard the matter likewise: the race line was to be removed altogether. Title VI of that Act, applicable to all programs receiving federal financial assistance, states: "*No* person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, denied the benefits of or be subjected to discrimination under any program or activity receiving Federal financial assistance." [32] And Title VII, applicable to all large scale employers, provides:

> It shall be an unlawful employment practice for an employer—
>
> (1) to fail or refuse to hire or to discharge *any* individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment. because of such individual's race, color, religion, sex, or national origin . . .[33]

Addressing the meaning of this provision in 1971, in the first case to come before it for review, the Court, in a unanimous opinion by Chief Justice Burger, said that "[D]iscriminatory preference for *any* group, minority or majority, is precisely and only what Congress has proscribed." [34]

Conformably, the Executive Branch of the national government appeared to understand matters in precisely the same fashion. For in cutting and revising an Executive Order that regulated enterprises doing business with the federal government, the President framed the Order itself precisely and exclusively in terms of strict nondiscrimination. Federal contractors were advised to review their practices to determine whether, if even by neglect, racial discrimination figured in their businesses; if it did, the contractors would have to take affirmative action—to *eliminate* that racial discrimination and to insure that *no* racial favoritism was built into their operations. Thus, the recised Executive Order required the insertion of the following provision in most government contracts:

> The contractor will not discriminate against any employee or applicant for employment because of race, color, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment *without regard to their race,* color, or national origin.[35]

In light of these several developments, it should have come as no surprise that in 1974, in the first case that came before the Supreme Court involving race lines deliberately drawn to place a racial disadvantage on white applicants—drawn out of fear that if no such disadvantage was imposed upon them, then fewer nonwhite individuals might be admitted than the faculty of a state university preferred to have—the one Justice of the Supreme Court who addressed the merits of the case had said this:

> A DeFunis who is white is entitled to no advantage by reason of that fact; nor is he subject to any disability, no matter what his race or color.
>
> . . . The Equal Protection Clause commands the elimination of racial barriers, theory as to how society ought to be organized.
>
> . . . So far as race is concerned, *any* state-sponsored preference to one race over another . . . is in my view "invidious" and violative of the Equal Protection Clause.[36]

Justice Douglas then directly addressed the law school's contention that the race-preferential admission of some students would be a salutary way of producing a larger complement of such racially-identifiable professionals more likely to practice in racially-identifiable communities; he rejected the propriety of the very idea underlying that contention: "The purpose of the University of Washington cannot be to produce black lawyers for blacks, Polish lawyers for Poles, Jewish lawyers for Jews, Irish lawyers for Irish . . . That is the point at the heart of all our school desegregation cases." [37] And neither was Justice Douglas persuaded that the deliberate selection of students by race, to produce a given cohort of racially-identified students known to have been admitted with less excellent qualifications than the balance of the students, was by any means the gesture of generosity it purported to be. A segregated admissions process that seeks certain minimum proportions of racial cohorts, he said, "create suggestions of stigma and caste no less than a segregated classroom, and in the end it may produce that result despite its contrary intentions." [38]

The refusal to permit rationing of opportunity according to the fortuity of racial proportion was not a novelty invented by Justice Douglas. In 1949, the Supreme Court had reviewed a case arising in California where public policy had already forbidden racial discrimination in private employment.[39] A racial group nonetheless brought economic pressure to bear upon an employer to disregard that policy and to hire employees "not on fitness for the work nor on an equal right of all, regardless of race, to compete in the open market, but rather, on membership in a particular race.[40] The state supreme court granted an injunction to forbid picketing meant to induce racial hiring in proportion to the racial identification of customers. The state supreme court had observed: "If petitioners were upheld in their demand then other races, white, yellow, brown and red, would have equal rights to demand discriminatory hiring on a racial basis." [41] But "it was just such a situation—an arbitrary discrimination upon the basis of race and color alone, rather than a choice based solely upon individual qualification for the work to be done—which we condemned," [42] said the state supreme court, in having disallowed racial discrimination by employers in the first place. The Supreme Court unanimously affirmed the state-court decision.[43]

Even when the sole use of race by government was to suggest that race is at least an important political datum—the government itself not presuming to say of what kind of significance—the Supreme Court dissallowed the mere encouragement to be "race conscious." A case expressing that view as well as any other was *Anderson v. Martin,*[44] decided succinctly and unanimously in 1964.[45] The case involved a state statute that facilitated voter information respecting the racial identification of each candidate for local public office—by designating each candidate's race on each ballot, accurately and truthfully. Voters who might think that datum germane (as a white person to vote white, a black to vote black, a white to vote black, a black to vote white—as each might see a different, but steadfast significance in the idea) could hardly be kept from using it even in the absence of such specific ballot information. As the ballot designation by state law was nonetheless thought objectionable, it could not have been because any candidate was exempt from it, since all were equally subject to it. It must have been, rather, that each was being individually disadvantaged insofar as the state thought it appropriate to encourage voters to attribute at least some significance to every candidate's race—and that the morality of the Civil War amendments was opposed to the very idea of such encouragement. And this, indeed, was the foundation of the decision in *Anderson v. Martin:* not that a balck candidate in particular might be victimized insofar as the state's "truth in candidacy" statute would gratuitously stimulate white bloc votes, but that the state could not thus encourage such racial disadvantaging of anyone, white or black:

> [B]y placing a racial label on a candidate at the most crucial stage in the electoral process—the instant before the vote is cast—the State furnishes a vehicle by which racial prejudice may be so aroused as to operate against one group because of race and for another. This is true because by directing the citizen's attention to the single consideration of race or color, the State indicates that a candidate's race or color is an important—perhaps paramount—consideration in the citizen's choice, which may decisively influence the citizen to cast his ballot along racial lines. Hence in a State or voting district where Negroes predominate, that race is likely to be favored by a racial designation on the ballot, while in those communities where other races are in the majority, they may be preferred. The vice lies not in the resulting injury but in the placing of the power of the State behind a racial classification that induces racial prejudice at the polls. . . . We see *no relevance* in the State's pointing up the race of the candidiate as bearing upon his qualifications for office.[46]

Race has "no relevance"? That could not have been the Court's literal understanding, as the Court knew that vast numbers of people regarded the race of political candidates as being not merely "relevant" but conclusive. Rather, its meaning was that race has "no proper relevance" for the state. The connection with the original Harlan dissent in *Plessy v. Ferguson* seems self-evident: "[T]he Constitution of the United States," he had declared, "does not, I think, permit *any* public authority to *know* the race of those entitled to be protected in the enjoyment [of civil rights, common to all citizens]." [47] The state may neither use race in its own business nor may it encourage others to take it into account. Both are equally divisive and equally wrong.

Following almost at once on *Anderson v. Martin*, moreover, the Supreme Court had cemented its judgment that the fourteenth amendment foreclosed government from encouraging—much less compelling—individuals to treat some better than they treated others because of their race. It did so in *Reitman v. Mulkey.*[48] In that case, the court struck down a provision in a state constitution establishing the absolute right of each real property owner to sell or lease his property as he might personally, "in his own absolute discretion," [49] choose. As thus enshrined in the California constitution, the personal right to consider the race of others was equally as available to a developer preferentially selling or leasing to blacks as to a developer preferentially selling or leasing to whites. It was equally available as well to one desiring to use race to develop and to maintain an integrated racial balance in a given group of apartments. It was also available to black owners who wished not to deal with whites at all but who were reolved to reserve disposition of their property for persons of other races whom they might think to be more deserving—as it was available for every other imaginable permutation of racial dealing. But the strict indifference of the state constitutional privilege—its perfect governmental "neutrality" toward all racially-predisposed private landowners—failed to save it under the fourteenth amendment. Rather, the California and United States Supreme Courts bth held it to be a constitutional wrong for a state to encourage persons to act on racial grounds at all:

> The right to discriminate is now one of the basic policies of the State. The California Supreme Court believes that the section [of the state constitution guaranteeing that right] will significantly encourage and involve the State in private discriminations.

Footnotes at end of article.

We have been presented with no persuasive considerations indicating that these judgments should be overturned.[50]

In this twenty-year pattern of development, from 1954 to 1974, the Supreme Court's unambiguous "lesson" thus seemed to be that race was indeed constitutionally withdrawn from the incorrigible temptations of governmental use. The commitment was sufficiently strong, moreover, that the Court departed from its usual practice and struck down even surreptitious attempts by government to regulate or to allocate by race—though of course only when it was within the capacity of the judiciary to detect the matter.[51] The resolve to do so, despite the obvious difficulties, was a very old one. Even prior to *Plessy* v. *Ferguson*, furtive efforts by government to employ race impermissibly had been overturned by the Supreme Court.[52] The Court had readily recognized that any "irrebutable presumption" of legislative good faith in these matters would be a disaster: the proclivity for race favortism is so persistent that, unless the Court examined outside evidence that that proclivity did in fact account for the government's actions, the government would be encouraged to pursue its racial preferences in simple disguise. Thus, the Civil War amendments were held to nullify "sophisticated as well as simple-minded modes of discrimination.[53] As a consequence, if the metes and bounds of a municipal boundary were modified to enact the legislature's racial preference, they would not stand.[54] And if ostensibly appropriate government employment standards could be shown to have been adopted because their application across-the-board would screen out larger numbers of racially-identifiable persons than the law-makers desired to have from that race in their work force, the employment standard would be expunged.[55]

Thus the lesson of the great decisions is, as Bickel said, not merely that regulation and allocation by race are wrong. Rather, the message is commendably even stronger. Laws that divide and index people to measure their civil rights by race are unconstitutional. Laws that encourage others to do so are similarly invalid. And legislation attempting to advance either policy even in disguise will likewise be struck down whenever it is within the capacity of conscientious courts to see beneath their cellophane wrappers.[56]

II. OF TELEOLOGY AND DEONTOLOGY IN CONSTITUTIONAL LAW: FLIMFLAMMING THE SUPREME COURT

Now this is to be unlearned and we are told that this is not a matter of fundamental principle but only a matter of whose ox is gored. Those for whom racial equality was demanded are to be more equal than others. Having found support in the Constitution for equality, they now claim support for inequality under the same Constitution.[57]

If discrimination based on race is constitutionally permissible when those who hold the reins can come up with "compelling" reasons to justify it, then constitutional guarantees acquire an accordionlike quality.[58]

It seems trite but necessary to say that . . . our Constitution was designed to avoid these ends by avoiding these beginnings.[59]

At the time of *Plessy v. Ferguson*, the question before the Supreme Court in school segregation cases was whether state statutes requiring racially separate schools were constitutionally impermissible. For Justice Harlan, as we have seen, the question was easily answered. He insisted that the Civil War amendments had removed the race line as a basis of government action, and as the arrangement at issue—segregation—indubitably rested on the race line, it was constitutionally condemned. For the other Justices, however, as we have also seen, the question was by no means as readily answered. They did not suppose that the Civil War amendments had removed the race line as a predicate for governmental regulation or allocation; they asked, rather, whether the particular use of the race line was "reasonable." And, as we know, they concluded that it was.

Others, troubled by the frequency with which "race lines" were used deleteriously, have thought that the proper perspective is somewhere in between.[60] They would construe the Civil War amendments as evincing at least a rebuttable constitutional skepticism about the use of racial classifications. Thus, it has been suggested that the appropriate judicial attitude is one similar to that assumed with respect to prior restraints on speech.[61] Laws utilizing the race line should be subject to a rebuttable presumption of unconstitutionality and nothing less than a compelling, or at least a very substantial, articulated public purpose, should suffice to sustain them.[62] Despite Alexander Bickel's own notions respecting the lessons of the "great decisions," most who work with this subject think that, in fact, this is a more accurate description of the Supreme Court's current position.[63]

Suppose, however, we were to assume that this very formulation had itself been established and popularized prior to the date of *Plessy v. Ferguson*.[64] In that event, given the formulation of the question presented above, what would the Court's decision have been in our hypothetical *Plessy v. Ferguson* school case? Two approaches are possible. The first would interpret the Civil War amendments as requiring that laws using race lines not only be well connected to substantial (or even "compelling") public purposes, but that such purposes themselves be "articulated" on the face of the law in question.[65] Unless the legislature providing for racially separate schools declared such a purpose, then, the law must, a fortiori, be held invalid. But if, on the other hand, an articulated purpose is not required, then we are not yet in a position to determine whether the law using a race line overcomes the rebuttable presumption of unconstitutionality. Assuming that such a law must indeed be well connected to some very substantial public purpose, albeit the purpose need not be stated on the face of the law, it remains to be seen whether those called upon to explain the law will carry their burden of justification in court. If, but only if, the particular race line can be shown by them to be well connected with a very substantial public purpose is it to be sustained.

Under either view—that the law must on its face articulate the compelling public good it serves, or that those with the burden of justifying it must demonstrate its well-fitted connection with such an imperative public good—we may suspect that we already know the outcome of *Plessy* v. *Ferguson:* namely, that the law will most certainly be held invalid. But his conclusion may be incorrect; we must have supposed that no compelling public good *can* be well connected with such a law. Alternatively, we must have supposed that even if such a public purpose could (as an exercise in theory or imagination) be so connected, nevertheless it was not *in fact* connected with *that* law. Neither is necessarily correct. To act categorically on such suppositions is not to abide by the constitutional standard hypothetically formulated and popularized. Rather, it is to act on a flat, *per se* rule, albeit of a rather limited kind, that "no law requiring racially separate schools is constitutional." But this, of course, our more sensitive, less dogmatic, and more judicious standard of constitutional review forbids—although, in fact, it is exactly what the Supreme Court did in virtually all of the post-*Brown* per curiam decisions invalidating "separate-but-equal" laws. Our commitment to the flexible standard requires that we consider the matter further.

If the standard required that a very substantial public purpose appear on the face of the law itself, we concluded in the first instance that this law would have failed because the statute in question contained no such recitation. Yet, if that standard of judicial review were already well established and popularized at the time, we may expect that legislatures, advised of it, would explicitly state their purpose. Suppose, then, that this had been done. Is the law now constitutional, or is it unconstitutional? The question cannot be answered, of course, until we turn to see what the legislature said.

Suppose, then, that the statute had required racially separated schools and had further provided that this requirement was enacted "in order to perpetuate white supremacy and to degrade black people,"—the purpose many declare was, in fact, at the root of all such laws.[66] In that event, of course the law will fail. Indeed, the Justices in the majority in *Plessy* v. *Ferguson* declared that had such a purpose been established in that case, that law too would have failed: "every exercise of the police power must be reasonable, and extend only to such laws as are enacted in good faith for the promotion for the public good, *and not for the annoyance or oppression* of a particular class." [67] And it rejected the attack on the law in question as being insufficient because it rested on "the *assumption* that the enforced separation of the two races stamps the colored race with a badge of inferiority," rather than in proof that such a stigma was intended.[68]

But given the established and popularized constitutional "standard" such legislation must meet—a well-connected substantial public good articulated on the face of the law—it is unrealistic to suppose that the legislature enacting this law would have so declared itself, regardless of its actual motives. At least it is safe to suppose that no other legislature, observing the fate of this legislature's bill, would repeat the original error. Suppose then, the face of the law articulated the very different purpose that fully equal but racially separated schools were to be established "in order to assure a historically disadvantaged racial minority an equal opportunity to develop educational curricula and programs more responsive to their needs, free from domination in schools in which their children might otherwise be overwhelmed by a racial majority." The "public good" is surely impressive, the expression of social contrition is moving, and the linkage between the compelling purpose of this law and the means chosen to advance it seems suitably tight. Is the law now to be upheld? Presumably it is, unless one suspects that the recitation is a fraud—that the *recitation* is for the benefit of anchoring its constitutionality, while the law is actually meant to perpetuate white supremacy.

One may suppose that if there is fraud here, it will easily be penetrated. But that assumption is remarkably cavalier. The Supreme Court has utilized "purpose" as one prop in its "test" in its administration of the religious establishment clause of the first amendment [69]—and since the inauguration of the test virtually *no* law has been held invalid for failure to meet the "purpose" part of the Court's own chosen test.[70] Even when few have doubted that the legislation in question was the product of sectarian self-interest, which the reigning "test" declares to be an improper purpose under the first amendment, recitations emphasizing other effects—"permitted" effects—have been taken as virtually conclusive in meeting the ostensible constitutional command that such laws have secular objectives as well as primary nonreligious effects.

Footnotes at end of article.

There is no reason to expect a different result here.

In the previous section of this article, we noted that under the constitutional standard that seems to have emerged during the past quarter century,[71] a law will not be sustained under any of the following three circumstances:

(a) if it overtly utilizes race as an index for determining civil rights;

(b) if it expressly encourages others to do so; or

(c) if it tends to produce either of these effects and if the expectation of that tendency can be shown to account for the law's enactment even when the law, on its face, says nothing whatever about race.

This judicial resolve to remove the race line from our public life has been the most credible and admirable position for the Court steadfastly to maintain, so far as we are under a Constitution and so far as that Constitution is what the judges say it is. But under the more flexible "test"—which allows allocation by race when certain criteria are met—to strike down a statute it is not enough to show that the law itself explicitly treats the rights of one person differently from those of any other by making race itself a sufficient reason for that difference. Rather, one must also "decide," even in every case arising in each of the above categories two additional matters:

(1) what kinds of public purposes are sufficiently compelling to justify explicitly treating some people less well than others on racial grounds; and

(2) who is to say (and on what basis) that a law, which on its face is nominally very well connected with a sufficient public purpose as to make its purposive racial discrimination "justifiable" under (1) was indeed enacted solely to promote that objective rather than to enact some baser interest with which it is equally well connected?

This is not, I think, a constitutional standard at all. It is, rather, a sieve—a sieve that encourages renewed race-based laws, racial discrimination, racial competition, racial spoils systems, and mere judicial sport. It is *Plessy* v. *Ferguson* all over again, in new and modish dress. In the revised *Plessy* case we have just been considering—facially rationalizing racially-segregated schools for contrite, moral, and "minority-favoring" purposes—we have not yet noticed anything about the geographic, demographic, or political context in which the law appeared. Are such considerations germane, or are they to be ignored? Most plainly they must be treated as highly germane,[72] for otherwise our "test" becomes a farce and some atrocious uses of the race line will be sustained by our courts—as I suppose we would agree would be the case if the school-segregation statute, with its pious accompanying recitation, were the product of an all-white southern state legislature circa 1908. But as a different possibility, suppose that the law were not one from a state legislature at all, but rather one promulgated by a city Board of Education—in a predominantly black school district with a majority of the school board members themselves black? Is this, too, to make some difference? What difference shall it be? [73]

If it could be shown that the purpose was not as declared, but was rather to "degrade" black people, the statute must fall. Suppose, however, that it was a product of some of each purpose, so that some members of the state legislature supported it in fact and in good faith on the very grounds recited in the law, while others were pleased to go along because they simply wanted to separate black children from white children. Finally, suppose that the "purpose" was nothing more sublime than the preoccupation of each legislator to retain his own eletced position by voting for whatever measure seems most pleasing to the largest or most influential bloc of his constituents some of whom, both black and white, favor this law (albeit not necessarily for identical reasons), some of whom oppose it (albeit for differing reasons as well).

All of these questions will recur, of course, even if it is not constitutionally required that "substantial" or "compelling" public interest allegedly served by such race-line laws recited on the fact of the laws themselves. Indeed, assuming no such additional requirement, we may expect such recitations to appear anyway, insofar as they may be regarded by the Court as *prima facie* evidence of the law's actual purpose.[74] All this, and much more, awaits the Supreme Court once it leaves the lesson of the "great decisions" of the past twenty years and, indeed, the lesson not just of "contemporary" history, but of our whole history.

I have used in this particular exercise of flimflamming the Supreme Court variations on *Plessy* v. *Ferguson*. It is not necessary, however, to be so wholly hypothetical. An actual example was well provided last year in *Regents of The University of California* v. *Bakke*.[75] The Supreme Court brief for the Regents treated the case as though the use of race itself to establish separate and unequal admission standards at the Davis medical school were really not the issue. Rather, the issue was better to be seen as a revised, updated version of *Plessy* v. *Ferguson*: that it is not the use of race as a means of assigning students to different schools that is at issue, but the reason for making such assignments that counts. Thus, the question as set forth in the Regents' Brief in *Bakke* was framed in the following self-congratulating and self-validating fashion:

> When only a small fraction of thousands of applicants can be admitted, does the Equal Protection Clause forbid a state university professional school from voluntarily seeking to counteract effects of generations of pervasive discrimination against discrete and insular minorities by establishing a limited special admissions program that increases opportunities for well-qualified members of such racial and ethnic minorities? [76]

There was no impropriety in this framing of the question given the fact that even long after Plessy and notwithstanding Brown, dicta in Supreme Court decisions continued to encourage racial discrimination by government—that which might overcome a merely rebuttable presumption of unconstitutionality by being well connected with "compelling" public purpose.[77] Indeed, the joint opinion by Justice Brennan (writing for himself and for Justices White, Marshall and Blackmun) fulfilled those dicta in its treatment of the Bakke case itself.

After acknowledging that the effect of the equal protection clause is at least to reverse the usual presumption of constitutionality in instances where government presumed to regulate or to allocate by race, that joint opinion then went forward to explain how such actions might nonetheless be sustained. First, "An important and articulated purpose for its use must be shown." "In addition," the opinion continued, "any statute must be stricken that stigmatizes any group [78] of that singles out those least well represented in the political process to bear the brunt of a benign program." [79] If both of these "standards" are met—as they were met according to these four Justices in *Bakke*—then even separate and unequal ways of treating people by race are wholly constitution. Given this kind of invitation to "accentuate the positive" benefits of racial discrimination, the Regents' attorneys would have been professionally derelict not to have rushed right in.

Yet there are obvious difficulties with the revised proposed "test." If a 16% additional [80] racial set-aside can be provided because it "counteracts" effects of "discrimination" by increasing "opportunities" for "well-qualified members of racial and ethnic minorities," there is no reason to think that the good to be accomplished is less impressive or that the connection with the plan would be less snug though the additional set aside were 20%, 50% 60%, or whatever; neither should it make any difference whether it were keyed to California population statistics, local population statistics, national population statistics, or world population statistics.

If the ends are sufficient and the means well connected, moreover, surely it ought make no difference that the plan was adopted by a predominantly black city council—approving a self-favoring race-based additional set aside for municipal employees—rather than adopted by a predominantly white medical faculty at a state university.[81] Insofar as the racial complexion of the government unit is seen as furnishing some probative evidence as to the "real" purpose of the plan, surely it would be objected that it is the worst sort of racism to suppose that the same plan inaugurated by a predominantly black elected body is more suspect than an identical plan inaugurated by a predominantly white one. Indeed, as we have already seen, there is no reason in any case to suppose that whatever the "recited" purpose of the plan may be, that such purpose bears any necessary correspondence at all with the dominant political factors actually accounting for its adoption. The *Bakke* case is itself quite sufficient to display all of these difficulties, with no need to do much more than to notice the facts and match them against the "requirements" of the joint opinion's test pursuant to which separate and unequal standards are constitutionally approved for persons identified by race.

The plan involved in the *Bakke* case was approved by a predominantly white faculty. The "brunt" of the plan was borne by individuals like Allan Bakke—white applicants with reasonably good application portfolios, but not among the very best portfolios. White applicants with the very best portfolios would of course be unaffected by the plan, as the faculty perfectly well knew.[82] Were persons in Allan Bakke's position thus well represented in "the political process" that singled them out to bear the brunt of the program? Four Justices evidently believed they were, as their opinion says that that kind of representation must be present in order for such a plan to be upheld, even when the plan otherwise meets their proposed constitutional standards. But on what conceivable basis could such an assumption be made? Just because Bakke was white—as were the majority of the medical school faculty? But the majority of the medical school faculty were themselves not likely to have been "representatives" of the Allan Bakkes, that is, reasonably good, but not among the best medical school applicants. If we should assume anything about that faculty—as the four Justices acted wholly upon unexamined assumptions of political and sociological stereotypes—we might more safely assume that the faculty "represented" not persons in Bakke's position at all but only outstanding students, persons who do especially well in academic life, who do equally well through medical school, and who are thus sufficiently outstanding to have been granted academic appointments in a great university. We might also assume that their concerns are not likely to place them in natural empathy with an Allan Bakke in any other sense either—that their interest, in a highly civil-rights sensitive university campus and atmosphere, is to be counted as being "racially sensitive" people.

Given these very troubling facts, then those who bore the "brunt" of the Davis program was not only well represented in the political process that singled them out for its burdens—they were, rather, among 'those least

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Footnotes at end of article.

well represented." Yet this, the opinion of the four Justices declared, would be sufficient reason, entirely by itself, to regard the plan as constitutionally defective. Still, they failed to do so.

The plain point of all this will not, one trusts, be mistaken as an attack on the Davis medical school faculty. The point, rather, is that even as applied by those members of the Court most beguiled by the Lorelei of "right" racial uses by government, their own proposed standards of judicial supervision are not applied[83] and, in any serious fashion, are manifestly incapable of any useful applications. These "standards" will, rather, quickly reduce themselves to empty recitations that serve only to put the Supreme Court's own endorsement on new racial systems—many of which will doubtless be the spoils systems of pure racial politics—inviting persons again to "think racially," to "vote racially," and to band together in racial blocs as much from necessity as from any choice of their own.

In brief, this is the "accordionlike quality" of a Constitution construed to permit racial discrimination "when those who hold the reins can come up with 'compelling' reasons to justify it," anticipated and rejected by Justice Douglas.[84] Most certainly there is no feasible way of forestalling such consequences under the porous "standard" now beckoning the Supreme Court to its third rite of passage. Rather, as Justice Jackson declared in another context, "[i]t seems trite but necessary to say that . . . our Constitution was designed to avoid these ends by avoiding these beginings."[85] And the only secure way to do that is to abide by the "lesson of the great decisions of the Supreme Court and the lesson of contemporary history; discrimination on the basis of race is illegal, immoral, unconstitutional, inherently wrong, and destructive of democratic society."[86]

III. THE NEXT TERM OF COURT

When Alexander Bickel expressed his point, insisting on what he described as the lesson of the great decisions, it was a most uncharacteristic utterance. To be sure, Bickel had clerked on the Court during *Brown* v. *Board of Education* and had published an extremely compelling article in defense of that decision.[87] Yet, Alexander Bickel was far better known as a scholarly exponent of judicial restraint, an advocate of judicial conservation. Not for him were there many "fundamental" truths that the Supreme Court should apply. Rather "balancing" was the usual best course for the Court and the Court ought not lightly overturn the action of a legislature."[88]

As this was so, a fair question is raised about Bickel's seeming inflexibility in the particular instance of explicitly racial laws. Quite plainly he did not think that to get "beyond" racism, it is useful or helpful first to undertake a new generation of racially discriminatory laws.[89] But apparently others believe that it is, and surely their beliefs are entitled to some weight. When their view is reflected in an act of government, moreover, ought it not be counted heavily in some "balance," deferred to unless manifestly irrational—or unless, though rational, somehow simply not relevant to the constitutionality of the practice? There is no obvious accounting for the exceptional rigor of Bickel's commitment to a firm, unwavering, single constitutional standard on this subject. There is, however, an obvious practical reason why the usual virtues of judicial conservatism could be extremely ill-served by anything other than a very consistent, very firm position that leaves nothing to further misunderstanding.

We have had three hundred years of national experience to notice that whenever race has been an admissible criterion of governmental action, its licitness left people in public office without shelter against the organized efforts of those who would demand that they have a duty to act on that licitness: that they carry the alleged "merits" of race into appropriate legislation. We are also not without example of the inevitable necessity, the instant such regulation or allocation by race has been understood to be acceptable to the Supreme Court, for the Court ultimately to have to decide several other things as well. Among the more obvious issues, as additional groups, people, agencies, and parties are inevitably drawn in are these: which races, how much to each race, by what test is each of us to be assigned "our" race? When these things were proper—as they were before Brown v. Board of Education—it was enough to be the government-designated member of a given "race" by being one-eighth of that "race." That, as the Supreme Court itself will recall, was the manner of imputing "race" to Mr. Plessy for the Plessy v. Ferguson experiments in racial designation and racial allocation.[90] The odiousness of these issues will be no less should the Court now reopen this governmental license than it was some years ago.

Should the government be upheld in its first unqualified efforts to revive its powers of regulation and allocation by race, in Fullilove v. Kreps,[91] before the Court for its consideration this fall, moreover, we may expect to be afflicted with this way of life for the balance of the century. Most certainly, once the Court admits the government's basic practice, it will be without any defensible ground to halt that practice or roll it back within our own lifetime. Neither can it, I think, find any way whatever to police the inevitable cynicism and race politics explicit in our common future once the basic issue is decided, as evidently it shall be within a year.

By a very casually adopted amendment added to a bill, "Congress" has provided for a 10% strictly racial set-aside for certain kinds of federal contracts, exempting firms with appropriate racial "certification" from competing with other firms, and guaranteeing the certified firms that they need only compete among themselves for this share of the national business. The constitutional wisdom of sustaining this statute has been discussed almost entirely at an abstract level of compensatory jurisprudence. It has virtually left all out of account the more pedestrian realities. Once these inevitable realities are considered, it may not be in our common interest to urge the Supreme Court once more to pontiusly pilot its way through proposed heaps of federal, state, and local racial spoils systems, conferring the noblesse oblige of racial shares on the wretchedly shakey foundations of racial politics—deferring to "good faith" efforts, differing as they will (and as they already do) as to how big a share (10%, 20%, 50%), what groups to qualify for their "share" (blacks, hispanics, women, Indians, orientals, Aleuts), who comes within each group (all "hispanics" or merely those from certain places, all blacks, or merely those from families of less than $15,000 annual income). There is not the slightest disrespect in confronting these matters in these terms, moreover, as they are the government's own way of confronting them, its choice of ways of governing. I find it very difficult to accept that serious students of constitutional law and of American history would truly desire the Supreme Court to approve these structures of government. I think Bickel understood all of this perfectly well and that that may be why, on this subject, for once he went to fundamentals and to absolutes.

The *Washington Post* of May 22, 1979, carries the following earnest report on the manner in which these matters run even now:

> A highly unusual and controversial proposal under consideration by a city agency would eliminate a large number of local ethnic groups from eligibility for lucrative minority contracts with the District of Columbia government.
>
> The proposal, by the staff of the Minority Business Opportunity Commission, would eliminate from minority status all Hispanics born in Europe and South and Central America, leaving only those Hispanics born in Mexico or Puerto Rico eligible for the contracts.
>
> The proposal also would eliminate from minority status persons born in Vietnam, India, China, Korea and Africa.
>
> Four major local Hispanic-owned companies have won a total of more than $20 million worth of the city's minority contracts in the last year. This represents 40 percent of the entire minority share of the local market.
>
> The recommendation requires the approval of the commission and Mayor Marion Barry. One commission member, Peter Taylor, said he supports the change.
>
> "Lots of people here are coming in with bags of money from Vietnam and other places and buying up corporations," Taylor said. "They are . . . killing the little guy."
>
> A commission staff member said the proposed shift in guidelines is part of an effort by the commission to increase the number of city contracts going to blacks and "disadvantaged minorities."
>
> "We just want to make sure that [blacks] who were supposed to benefit get their fair share," the staff member said.
>
> A staff member who helped draft the proposed guidelines said individual companies owned by minority applicants will be considered on their merits "whether or not [the company] was historically disadvantaged in the United States" before a final decision on certification is made.
>
> The proposed change is not without precedent in federal minority programs. Congress recently dropped Asian Americans from the federal Small Business Administration program for minority contracting.
>
> "Oh, my God," one influential Hispanic leader with ties to the Barry administration said when informed of the staff proposal. "If Marion agrees to do something like that, then it's really going to be a political war between Hispanics and blacks, and that would be terrible."
>
> Carlos Rosario, acting director of the Office of Latino Affairs for the District, said he was not familiar with the proposal. But, he said, "I don't see why if they have Spanish heritage why they should lose their [eligibility for minority contracts]. If they are born minorities, they should have the same breaks as others . . ."
>
> "I've been working in the District of Columbia for 20 years," said Jose Rodrigues, who was born in Argentina and is co-owner of a major Hispanic company that does minority business with the District. "To be Rodrigues or black is the same thing. If there is [a minority program] in this country for blacks, it should be for Spanish people."
>
> Rodrigues and his brother Francisco own Fort Myer Construction Corp. in Arlington, which he said does more than $3 million in minority business with the city. He said his business also does another $1.5 million in the regular competitive market.
>
> Angel Roubin, who was born in Spain, said: "It appears to me that if the city take that position, they are trying to discriminate against other minorities."
>
> In support of the proposed change, Col. Milton Carey, president of Associated Minority Contractors of America, a District-based national organization representing primarily black contractors, said: "There are Spanish who have culturally lived as white persons all their lives, and in recent years found it profitable to consider themselves minority to

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take advantage of business in the minority community.

"They are bringing in superior resources to bear so they are more competitive in the sheltered market."

The key question, Carey said, is "Have you been culturally disadvantaged in the United States? Have you been forced to live in a cultural bag? If the answer is yes, I say welcome."

The original guidelines are spelled out in a 1976 D.C. law that entitles local minorities to 25 percent of the city's contracting dollars. The law stipulates that minorities must be certified as such by the commission. Once certified, minorities only compete with minority firms when bidding on District contracts.

Commission staff members said the proposed changes in guidelines followed complaints by black contractors that many of those who were originally certified by the commission came from aristocratic classes of foreign countries.

Another staff member said, "We were being besieged by applicants from all over the world and we had to do something about it."[92]

The fecundity of administrative regulation and of invidious choices, once race itself is reintroduced as an additional index of governmental action, are all present here in microcosm. The concrete example is the use of racially separate and racially unequal standards in the award of government contracts. It might just as well be racially separate and racially unequal employment standards, racially separate and racially unequal educational admissions standards, racially separate and racially unequal voting rights, tax credits, or some other: each contingent on race, racial authenticity to be ascertained and certified by government, with entirely earnest sorts of good faith controversy as to what one counts.

And so what, in all good faith, shall we say about these matters? Should it indeed be enough that one was born (distinguishably) into a "minoity" race, or must one's race also have been "historically disadvantaged" as well? Is it insufficient that one be born of that race, however, unless people of that race were historically disadvantaged "in the United States" rather than merely in other places? If one qualifies by these standards, is he nonetheless to be disqualified from the reserved advantage of additional, racially-designated shares if he is "Asian-American," Vietnamese, Indian, Chinese, or Korean? Must one not merely be a certifiable member of one of the remaining "races," but also born in the United States itself (so that being born in Africa, being born in Latin America, or being born in Spain will not count)? Yet, though not born in the United States, if one is "Hispanic" and is also born either in Mexico or in Puerto Rico (but not otherwise), may one compete not only with "Anglos" but, aside from one's business derived from that competition, have access to a special racial set-aside? In each instance, moreover, is the "appropriate" test of a company the determination of ownership of a majority of voting shares of the stock, or is it rather something else or something in addition (suppose the company is 51% "black" owned, yet the executives and majority of the employees are "white")? The necessity to make and to police fine distinctions is clear enough. The necessary consequences of encouraging racial competition and racial resentments are all quite manifest ("Oh, my God, if the mayor agrees to that, then its really going to be a political war between Hispanics and blacks").

CONCLUSION

Nearly all who have urged the Supreme Court to readmit the legitimacy or race as an explicit basis of government regulation or allocation have done so with some reserve, some measure of diffidence, hedged about that, in any event, it should only be for a time.[93] But no means whatever have been forthcoming from this permissive jurisprudence to enable the Court, once it unlearns its own lesson of history, to avoid the resulting dilemma: either to attempt thereafter to superintend the products of the new learning with the considerable risk of being overwhelmed by the need to make distinctions so numerous and so rank as to find itself discredited, or to pronounce a benediction on the presumed rectitude of executive or administrative bodies, and the presumed superior capacity of legislative bodies to determine these matters, and retire from the field for another generation.

It has been very tritely observed that the Constitution is a "living" document. The observation is nearly always offered as a prelude for urging the Supreme Court to manipulate or disregard some rather unequivocal part of that document. In this instance, however, there is nothing in the Constitution that licenses the national government to establish racial shares, to legitimate measuring the worth of people by their race, or to tender entitlements by race. Keeping faith with the lesson of the great decisions of the Supreme Court during the past three decades, moreover, requires no new, manipulative use of any provision whatever. Quite the opposite is true: the novelty is in the explication of arguments to relicense government discrimination. The basic question before the Court is whether the Constitution shall again be "adjusted" to accommodate a new generation of racial spoils.

There is, even as the District of Columbia program illustrates, very little agreement in measuring racial eligibility for those spoils. There being no serious prospect for such agreement, and the Constitution itself providing no articulate basis for the Court simply to "declare" the proper eligibility, the natural expectation is that that racial eligibility will simply be the product of racial competition in the political process.[94] Incentives to make out cases of racial "mine" and "thine" are thus supplied, and doctrine is to be arranged in a fashion most calculated to stimulate race politics.

Ironically, the basic suggestion to relicense racial discrimination by government is put forward not despite its intrinsic tendency to set race against race, but as a good, benign, and thoughtful way to get beyond racism. But '"getting beyond" racism in this fashion, we have reason to believe, is as little likely to succeed as the now discredited idea that in order to "get beyond" organized government it is first indispensable to organize a virtual dictatorship that, once it extirpates the evils that made organized government necessary, will itself just naturally wither away. We have not seen governments wither by the paradox of assigning them even greater power. We shall not now see racism disappear by employing its own way of classifying people and of measuring their rights.

Rather, one gets beyond racism by getting beyond it now: by a complete, resolute, and credible commitment *never* to tolerate in one's own life—or in the life or practice of one's government—the differential treatment of other human beings by race. Indeed, that is the great lesson for government itself to teach: in all we do in life, whatever we do in life, to treat any person less well than another or to favor any more than another for being black or white or brown or red, is wrong. Let that be our fundamental law and we shall have a Constitution universally worth expounding.

FOOTNOTES

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[1] 1619 is a late, inaccurate date, symbolically selected more because it marks the original landing of slaves at Jamestown, Virginia, than because it marks the first uses of race in America.

[2] The framers carefully avoided using terms such as "slavery" and "race." Nonetheless, several provisions in the original Constitution manifestly grant recognition to the legal existence of slavery. *E.g.*, U.S. Const. art. I, § 2, cl. 3 (defining of state populations, for purposes of apportionment of Representatives and direct taxes, as the sum of "the whole number of free Persons" and three-fifths of "all other Persons") *id.* art. I, § 9, cl. 1 (forbidding Congress to prohibit "Importation of such Persons" as states choose to admit before 1808); *id.* art. IV, § 2, cl. 3 (forbidding state law from altering the statutes of any escaping "Person held to Service or Labour" in another state, and requiring delivery of such persons on demand); *id.* art. V (forbidding amendment, before 1808, of the representation formula or the importation-of-persons clause).

[3] *Dred Scott* v. *Sandford*, 60 U.S. (19 How.) 393 (1857).

[4] Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.
U.S. Const. amend. XIII.

[5] Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction, thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.
Id. amend. XIV.

[6] Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

Id. amend XV.

[7] *See, e.g.*, R. Berger, Government by Judiciary (1977); 2 W. Crosskey, Politics and the Constitution in the History of the United States 1083–1118 (1935); H. Flack, The Adoption of the Fourteenth Amendment (1908); W. Gilette, The Right To Vote (1965); R. Harris, The Quest for Equality (1960); J. James, The Framing of the Fourteenth Amendment (1956); J. Mathews, Legislative and Judicial History of the Fifteenth Amendment (1909); H. Meyer The History and Meaning of the Fourteenth Amendment (1977); J. TenBroek, Equal Under Law (1965) (originally published as The Antislavery Origins of the Fourteenth Amendment (1951)); Avins, *The Equal "Protection" of the Laws. The Original Understanding*, 12 N.Y.L.F. 385 (1956); Bickel, *The Original Understanding and the Segregation Decision*, 69 Harv. L. Rev. 1 (1955); Frank & Munro, *The Original Understanding of "Equal Protection of the Laws,"* 50 Colum. L. Rev. 153 (1950); Graham, *The Early Anti-Slavery Backgrounds of the Fourteenth, Amendment*, 1950 Wis. L. Rev. 479 (1951); Graham, *Our "Declaratory" Fourteenth Amendment*, 7 Stan. L. Rev. 3 (1954); Van Alstyne. *The Fourteenth Amendment. The "Right" to Vote, and the Understanding of the Thirty-Ninth Congress*, 1965 Sup. Ct. Rev. 33 (1965).

[8] For racially regulatory laws considered by the Supreme Court in the generation after the Civil War, see, for example, Plessy v. Fer-

guson 163 U.S. 537 (1896), Pace v. Alabama, 106 U.S. 583 (1883), Strauder v. West Virginia, 100 U.S. 303 (1880). For a modern example of a law dictating race-based allocation, see Fullilove v. Kreps, 584 F. 2d 600 (2d Cir. 1978), *cert granted,* 99 S. Ct. 2403 (1979).

[9] Fullilove v. Kreps, 584 F.2d 600 (2d Cir. 1978), *cert. granted,* 99 S. Ct. 2403 (1979). It involves an equal protection challenge to section 1031(f)(2) of the Public Works Employment Act of 1977, 42 U.S.C. § 6705(f)(2) (1976). This casually added provision—that is, added and hardly discussed on the floor of the House, and not even considered in committee debates—provides that at least 10% of federal public works grants under the Act be expended for "minority business enterprises." Such enterprises are defined as businesses owned principally by "Negroes, Spanish-speaking, Oriental, Indians. Eskimos, and Aleut." For further discussion of this type of plan, see text at note 91 *infra.*

The constitutional question should not be influenced by the Court's recent decision misconstruing Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e to 2000e-17 (1976), as not prohibiting a one-for-one minority quota for admissions to an on-the-job training program. United Steelworkers v. Weber, 99 S. Ct. 2721 (1979). Indeed, Justice Brennan declared for the Court: "We emphasize at the outset the narrowness of our inquiry. . . . [T]his case does not present an alleged violation of the Equal Protection Clause of the Constitution. . . . The only question before us is the narrow statutory issue . . . ." 99 S. Ct. at 2726.

Weber will, however, revive and challenge the four-one-four division of the Court in its review of a 16% racial minority minimum set-aside program at a state university medical school, under racially separate and unequal standards of admissions. Regents of the Univ. of Cal. v. Bakke, 438 U.S. 265 (1978). There, four justices found the plan compatible with the fourteenth amendment, four declined to reach the question (finding the plan prohibited by 42 U.S.C. § 2000d (1976); the ninth Justice (Powell) concluded that the particular plan was not compatible with the fourteenth amendment. For discussions of the uncertainties arising from this case, *see A Symposium:* Regents of the University of California v. Bakke, 67 Calif. L. Rev. 1 (1979); Tribe, *Perspectives on* Bakke: *Equal Protection, Procedural Fairness, or Structural Justice,* 92 Harv. L. Rev. 864 (1979); Van Alstyne, *A Preliminary Report on the* Bakke *Case,* 64 A.A.U.P. Bull. 286 (1978); *Controversy, More on the* Bakke *Decision,* 65 Academe 49 (1979).

[10] The point in using the term racial "repetition" is to stress that once the use of race becomes legitimate again, we shall repeal all of the problems that divided us before solidarity collapses, consensus repecting the impropriety of measuring by race dissolves, race becomes important once more, and all are diminished by the experience.

[11] The body of literature in this area is extensive. *See, e.g.,* B. Bittker, The Case for Black Reparations (1973); R. Dworkin, *Reverse Discrimination,* in Taking Rights Seriously 223 (1977); N. Glazer, Affirmative Discrimination (1975); Reverse Discrimination (B. Gross ed. 1977); R. O'Neil, Discriminating Against Discrimination (1975); Baldwin & Nagan, Board of Regents v. Bakke: *An American Dilemma Revisited,* 30 U. Fla. L. Rev. 843 (1978); Bell, Bakke, *Minority Admissions, and the Usual Price of Racial Remedies,* 67 Calif. L. Rev. 21 (1979); Brest, *The Supreme Court, 1975 Term—Forword In Defense of the Antidiscrimination Principle,* 90 Harv. L. Rev. 1, 16–22 (1976); Dixon, Bakke: *A Constitutional Analysis,* 67 Calif. L. Rev. 69 (1979); *Ely. The Constitutionality of Reverse Racial Discrimination,* 41 U. Chi. L. Rev. 723 (1974); Fiss, *Groups and the Equal Protection Clause.* 5 Philosophy & Pub. Aff. 107 (1976); Greenawalt, *Judicial Scrutiny of "Benign" Racial Preference in Law School Admissions,* 75 Colum. L. Rev. 559 (1975), Greenawalt, *The Unresolved Problems of Reverse Discrimination,* 67 Calif. L. Rev. 87 (1979); Hastie, *Affirmative Action in Vindicating Civil Rights,* 1975 U. Ill. L.F. 502 (1975); Karst, *The Supreme Court, 1976 Term—Forword: Equal Citizenship Under the Fourteenth Amendment,* 91 Harv. L. Rev. 1 (1977); Karst & Horowitz, *Affirmative Action and Equal Protection,* 60 Va. L. Rev. 955 (1974); Kaplan, *Equal Justice in an Unequal World Equality for the Negro,* 61 Nw. U. L. Rev. 363 (1966); Morris, *Equal Protection, Affirmative Action and Racial Preferences in Law Admissions:* DeFunis v. Odegard, 49 Wash. L. Rev. 1 (1973); Nagel, *Equal Treatment and Contemporary Discrimination,* 2 Philosophy & Bur. Aff. 348 (1973); O'Neil, Bakke *in balance: Some Preliminary Thoughts,* 67 Calif. L. Rev. 143 (1979); O'Neil, *Preferential Admissions: Equalizing the Access of Minority Groups to Higher Education,* 80 Yale L.J. 699 (1974); O'Neil, *Racial Preference and Higher Education: The Larger Context,* 60 Va. L. Rev. 925 (1974); Posner, *The* Bakke *Case and the Future of Affirmative Action,* 67 Calif. L. Rev. 171 (1979); Posner, *The* DeFunis *Case and the Constitutionality of Preferential Treatment of Racial Minorities,* 1974 Sup. Ct. Rev. 1; Ravenell, DeFunis and Bakke . . . *The Voice Not Heard,* 21 How. L.J. 128 (1978); Sandalow, *Racial Preference in Higher Education Political Responsibility and the Judicial Role,* 42 U. Chi. L. Rev. 653 (1975); Sedler, *Racial Preference, Reality and the Constitution,* Bakke v. Regents of the University of California. 17 Santa Clara L. Rev. 329 (1977); Seeburgar, *A. Heuristic Argument Against Preferential Admissions,* 39 U. Pitt. L. Rev. 285 (1977), Tribe, *supra* note 9.

[12] A. Bickel. The Morality of Consent 133 (1975).

[13] *E.g.,* Strauder v. West Virginia, 100 U.S. 303 (1880) (exclusion of Negros from juries unconstitutional); *cf* Virginia v. Rives, 100 U.S. 313, 319 (1880) ("denial of [equal protection] right, or an inability to enforce them, resulting from the Constitution or laws of the State" allows removal of case from state to federal court) (dictum); *Ex parte* Virginia, 100 U.S. 330 (1880) (denying writ of habeas corpus to judge who was under indictment and in custody for excluding blacks from juries).

[14] *E.g.,* The Slaughter-House Cases, 83 U.S. (16 Wall.) 36 (1873) (fourteenth amendment privileges and immunities clause reduced to a constitutional redundante).

[15] 109 U.S. 3 (1883). *See also* United States v. Harris, 106 U.S. 629 (1883) (section 5 of the fourteenth amendment, creating enforcement powers of Congress, very narrowly construed); United States v. Cruikshank, 92 U.S. 542 (1876) (same).

[16] 163 U.S. 537 (1896).

[17] In Louisville, N.O. & T. Ry v. Mississippi, 133 U.S. 587 (1890), a similar statute survived an attack under the commerce clause, U.S. Const. art. I, § 8, cl. 3, the Court made no reference to the equal protection clause.

[18] Plessy v. Ferguson, 163 U.S. 537, 559–60 (1896) (Harlan, J., dissenting). Harlan had similarly dissented in The Civil Rights Cases, 109 U.S. 3, 24–62 (1883) (Harlan, J., dissenting). *See also* Berea College v. Kentucky, 211 U.S. 45, 67–69 (1908) (Harlan, J. dissenting). *Bue see* Cumming v. Richmond County Bd. of Educ., 175 U.S. 528 (1899) (Harlan, J.). *See generally* Westlin, *John Marshall Harlan and the Constitutional Rights of Negroes: The transformation of a Southerner,* 66 Yale L.J. 637 (1957).

[19] *See* O'Fallon, *Adjudication and Contested Concepts: The Case of Equal Protection,* 54 N.Y.U.L. Rev. 19 34–38 (1979).

[20] Plessy v. Ferguson, 163 U.S. at 555 (1896).

[21] *See generally* C. Woodward, The Strange Career of Jim Crow (3d ed. 1974). See also Westin, *supra* note 18, at 706 & n.13.

[22] 347 U.S. 483 (1954).

[23] *See* D. Bell, Race, Racism and American Law 452 (1973), *Wechsler, Toward Neutral Principles of Constitutional Law,* 73 Harv. L. Rev. 1, 31–33 (1959).

[24] The particular case overruling *Plessy* (sub silentio) was itself without an explanatory opinion, Gayle v. Browder, 352 U.S. 903 (1956), *aff'g per curiam* 142 F. Supp. 707 (M.D. Ala. 1956). One district court interpreted certain dicta in *Brown* as not disallowing per se governmentally-directed, racially separated schools, Stell v. Savannah-Chathan County Bd. of Educ., 220 F. Supp. 667, 677–78 (S.D. Ga. 1963), but was speedily rebutted on appeal, 333 F.2d 55, 64 (5th Cir.), *cert. denied* 379 U.S. 933 (1964). Alternative interpretations of *Brown* are, of course, numerous. For but one listing, see H. Horowitz & K. Karst, Law. Lawyers and Social Change 203 (1969). For additional post-*Brown* decisions summarily dispatching other segregation laws, see. for example, State Athletic Comm'n v. Dorsey, 359 U.S. 533 (1959), *aff'g per curiam* 168 F. Supp. 149 (E.D. La. 1958) (athletic contests), Holmes v. City of Atlanta, 350 U.S. 879, *vacating per curiam* 223 F.2d 93 (5th Cir. 1955) (municipal golf courses). Mayor and City Council of Baltimore City v. Dawson, 350 U.S. 877 (mem.), *aff'g per curiam* 220 F.2d 386 (4th Cir. 1955) (public beaches and bathouses), cases cited in W. Lockhart, Y. Kamisar, & J. Choper, Constitutional Rights and Liberties 840 (3d ed. 1970).

[25] *See, e.g.,* Dayton Bd. of Educ. v. Brinkman, 99 S. Ct. 2971 (1979); Columbus Bd. of Educ. v. Penick, 99 S. Ct. 2941 (1979); Swann v. Charlotte-Mecklenburg Bd. of Educ., 402 U.S. 1 (1971).

[26] *E.g.,* Pasadena City Bd. of Educ. v. Spangler, 427 U.S. 424 (1976). See also Dayton Bd. of Educ. v. Brinkman, 433 U.S. 406 (1977); Milliken v. Bradley, 418 U.S. 717 (1974); Keyes v. School Dist. No. 1, 413 U.S. 189 (1973).

[27] Act of Apr. 9, 1866, ch. 31, § 1, 14 Stat. 27 (current version at 42 U.S.C. § 1982 (1976).

[28] Jones v. Alfred H. Mayer Co., 392 U.S. 409 (1968).

[29] Act of May 31, 1870, ch. 114, § 16, 16 Stat. 144 (current version at 42 U.S.C. § 1981 (1976)).

[30] Runyon v. McCrary, 427 U.S. 160 (1976); Johnson v. Railway Express Agency, 421 U.S. 454, 459–60 (1975) (dictum).

[31] McDonald v. Santa Fe Trail Transp. Co., 427 U.S. 273, 295 (1976) *but of id.* at 821 n.8 ("Santa Fe disclaims that the actions challenged here were any part of an affirmative action program . . . and we emphasize that we do not consider here the permissibility of such a program, whether judicially required or otherwise prompted.".

[32] Title VI of the Civil Rights Act of 1964, § 601, 42 U.S.C. § 2000d (1976). Compare the several differing interpretations provided in Regents of the Univ. of Cal. v. Bakke, 438 U.S. 265 (1978).

[33] Title VII of the Civil Rights Act of 1964, § 703(a)(1), 42 U.S.C. § 2000e–2(a)(1) (1976). This, of course, is simply what Congress said. *Compare* United Steelworkers v. Weber, 99 S. Ct. 2721, 2724–30 (1979) (Brennan, J., opinion of the Court) *with id.* at 2734–35 (Burger, C. J. dissenting) *and id.* at 2736–53 (Rehnquist, J., dissenting).

[34] Griggs v. Duke Power Co., 401 U.S. 424, 429 (1971). And reiterating that view in 1976, the Court declared: "We . . . hold today that Title VII prohibits racial discrimination against the white petitioners in this case upon the *same* standards as would be applicable were they Negroes. "McDonald v. Santa

Fe Trail Transp. Co., 427 U.S. 273, 280 (1976). *But see* United Steelworkers v. Weber, 99 S. Ct. 2721 (1979).

[35] Exec. Order No. 11246, § 202, 3 C.F.R. 339, 340–41 (1964–1965 Compilation), *as amended by* Exec. Order No. 11375, 3 C.F.R. 684, 685–86 (1966–1970 Compilation), *reprinted in* 42 U.S.C. § 2000e, at 1232, 1233 (1976) (emphasis added). This, too, is simply what the President said. *Compare id. with* 42 Op. Att'y Gen. 405 (1969).

[36] DeFunis v. Odegaard, 416 U.S. 312, 337, 342, 343–44 (1974) (Douglas, J., dissenting).

[37] Id. at 342–43 (Douglas, J., dissenting).

[38] *Id.* at 343. *See also* Regents of the Univ. of Calif. v. Bakke, 438 U.S. 265, 298 (1978) (Powell, J.): "[P]referential programs may only reinforce common stereotypes holding that certain groups are unable to achieve success without special protection based on a factor having no relationship to individual worth."

Not all race-specific "preferential" government-utilized plans involve separate and lower standards of selection. Some (as illustrated by the *Bakke* case itself) plainly do. And these plans unquestionably impose a racial stigma on those who benefit by them, for reasons that cannot be avoided by the beneficiaries. This may be a cost that others would regard as utterly trivial when weighed against the benefits and overall good of such arrangements. Others may also say that this is a matter they do not wish to judge—that whether there is a stigmatizing effect and whether it renders such a plan undesirable is emphatically not for them to say. Such persons might feel that it is, rather, a matter to be determined by those eligible for the plan—and that these persons will show, by their participation, that they overwhelmingly regard the very material benefits with whatever stigma may attach, to be vastly superior to the *status quo ante*. But the stigma is spread to others identified only by race, who are helpless to avoid it. Indeed, it will have been the government itself that fastened the stigma upon them, a new badge of implied inferiority, assigned as an incident of governmental *noblesse oblige*.

Explicit in state, local, or federal plans using separate and *lower* standards by race is a statement by government that certain persons identified by race are in fact being placed in positions they may be presumed not likely to hold but for their race (because they are presumed to be unable to meet standards the government itself otherwise requires to be met). The message from government is written very large when these plans proliferate: a double (and softer) standard for admission, 2 double (and softer) standard for hiring, a double (and softer) standard for promotion, double (and softer) standard for competitive bidding, and so on. Without question, there is here a systematic racial tagging by government—a communication to others that the race of the individual they deal with bespeaks a race-related probability, created solely by the government itself, of lesser qualification than others holding equivalent positions.

With respect to some such persons, the supposition will be true, *according to the government's own usual standards of "qualifications."* With respect to others of the same race, the proposition will be false, but others dealing with them will not know it is false unless "affirmative action" beneficiaries are specially to be labelled as such—surely an unthinkable practice—and will, *solely because of the government's own practice*, be encouraged to subject them to a racial stereotype. In brief, the government's entrenched practices impose a label of inferior excellence that the government itself declares to be true of some persons, simultaneously, the government fastens a racial stereotype on all other persons of the same race holding similar positions, irrespective of their actual excellence. Whether this is unconstitutional remains to be seen. That it is not "stigmatizing" seems implausible.

[39] Hughes v. Superior Court, 339 U.S. 460 (1950). The earlier California case establishing the policy of nondiscrimination was James v. Marinship Corp., 25 Cal 2d 771, 155 P.2d 329 (1944), recently extended and applied in Gay Law Students Assn' v. Pacific Tel. & Tel. Co., 00 Cal 3d 000, 595 P.2d 592, 606–09; 156 Cal. Rptr. 14, 28–31 (1979).

[40] Hughes v. Superior Court, 32 Cal. 2d 850, 856, 198 P.2d 885, 889 (1948).

[41] *Id.*

[42] *Id.*

[43] Hughes v. Superior Court, 339 U.S. 460 (1950).

[44] 375 U.S. 399 (1964).

[45] *Compare id. with* United Jewish Orgs. v. Carey, 430 U.S. 144 (1977) (redistricting to favor Hispanics held permissible).

[46] 375 U.S. 399, 402 403 (1964).

[47] Plessy v. Ferguson 163 U.S. 537, 554 (1896).

[48] 387 U.S. 369 (1967).

[49] Cal. Const. art I, § 6 (adopted 1964).

[50] 387 U.S. at 381.

[51] The awkwardness of this judicial superintendence is plainly very great. *See Ely Legislatives and Administrative Motivation in Constitutional Law*, 79 Yale L.J. 1205 019700. The ascertainability of racial purpose in legislative proceedings is much more elusive than in adjudicative proceedings. An employer or administrative agent may be closely examined in court with some realistic hope of determining whether a decision that has facially nothing to do with race was made because it was expected (and desired) to produce differential effects by race. But members of Congress are shielded by the speech and debate clause, U.S. Const. art. I § 6. cl. 2, from any such examination, and ordinarily it is impractical to attempt to secure confrontation in court of other legislators. For the most recent case illustrating the protective scope of the clause, see United States v. Helstoski, 99 S. Ct. 2432 (1979). Indeed, for one brief moment the Court appeared to despair of permitting evidence to be admitted for the purpose of establishing that a legislative decision, nonracial on its face, was nontheless taken precisely because it would produce racially differential effects. *See* Palmer v. Thompson, 403 U.S. 217, 224–26 (1971). *See also* United States v. O'Brien, 391 U.S. 367, 382–86 (1968).

[52] *E.g.*, Yick Wo v. Hopkins, 118 U.S. 356 (1886).

[53] *E.g.*, Lane v. Wilson, 307 U.S. 268, 275 (1939).

[54] Gomillion v. Lightfoot, 364 U.S. 339 (1960).

[55] Washington v. Davis, 426 U.S. 229, 239-44 (1976). Ct. Village of Arlington Heights v. Metropolitan Hous. Dev. Corp., 429 U.S. 252, 264-68 (1977) (zoning for the purpose of discriminating against blacks forbidden).

[56] The phrase is derived from the uncharacteristically aggressive dissent by Justice Frankfurter in United States v. Kahriger, 345 U.S. 22, 38 (1953) (Frankfurter, J., dissenting)

[57] A Bickel, *supra* note 12, at 133.

[58] DeFums v. Odegaard, 416 U.S. 343 (1974) (Douglas, J., dissenting).

[59] West Virginia State Bd. of Educ. v. Barnette, 319 U.S. 624, 641 (1943). While *Barnette*, was a freedom of expression case, the principle enunciated by Justice Jackson seems applicable in this context as well. *See id.* at 638:

> The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts.
>
> [T]hey depend on the outcome of no elections.

[60] There is, however, very considerable disagreement respecting the proper perspective on "in between." *See* authorities cited in note 11 *supra*.

[61] *E.g.*, Bantam Books, Inc. v. Sullivan, 372 U.S. 58, 70 (1963) ("Any system of prior restraints of expression comes to this Court bearing a heavy presumption against its constitutional validity."). The utility of the comparison is reviewed in O'Fallon, *Adjudication and Contested Concepts. The Case of Equal Protection*. 54 N.Y.U.L. Rev. 19, 44–46 (1979).

[62] *See* authorities cited in note 11 *supra*. The "test" dates from Korematsu v. United States, 323 U.S. 214, 216 (1944). It is full of irony. The Court, having erected this "protective" test, proceeded to apply it to the facts of the case and concluded that it was satisfied: in other words, the govenment met its burden of extraordinary justification. It turned out, however, that the government was pathetically mistaken in what it did. *See* E. Rostow, *The Japanese American Cases—A Disaster*, in The Sovereign Prerogative 193 (1962). *Korematsu* is significant additionally; it is the last case to sustain an explicit governmental race regulation as applied to the facts. It is now thirty-five years later and the "test" has not appreciated in value by the passage of time.

[63] *See* authorities in note 11 *supra*. *See also* Regents of the Univ. of Calif. v. Bakke. 438 U.S. 265, 269–320 (1978) (Powell, J.); *id.* at 324–79 (Brennan, White, Marshall & Blackmun, J. P. Posner. *The Bakke Case and the Future of "Affirmative Action."* 67 Calif. L. Rev. 171, 173–74 (1979).

[64] The discussion in this section is a more developed statement of views touched on in Van Alstyne, *A Preliminary Report on the* Bakke *Case*. 64 A.A.U.P. Bull. 286, 292–94 (1978). and *Controversy More on the* Bakke *Decision*. 65 Academe 49, 57–59 (1979).

[65] It is not quite clear from some suggesting this test whether the suitably justifying purpose(s) must be "articulated" on the face of the law or whether a subsequent, credible "articulation" in court will do; for the moment, it is evidently the latter. *See, e.g.*, Regents of the Univ. of Cal. v. Bakke, 438 U.S. 265, 361–62 (1978) (Brennan, White, Marshall, & Blackmun, JJ.) Hampton v. Mow Sun Wong, 426 U.S. 88, 103 (1976) ("When the Federal Government asserts an overriding national interest as justification for a discriminatory rule which would violate the Equal Protection Clause if adopted by a State, due process requires that there be a legitimate basis for presuming that the rule was actually intended to serve that interest."). *See also* Califano v. Goldfarb, 430 U.S. 199, 223 n.9 (1977) (Stevens, J., concurring in judgment); Craig v. Boren, 429 U.S. 190, 199 n.7 (1976). For a discussion of why this should influence the standard of judicial review see Christie, *A Model of Judicial Review of Legislation*, 48 S. Cal. L. Rev. 1306 (1975).

[66] E.g. Black, The Lawfulness of the Segregation Decision, 69 Yale L.J. 421 (1960).

[67] Plessy v. Ferguson, 163 U.S. 537, 550 (1896).

[68] *Id.* at 551 (emphasis added). *See also* Black, *supra* note 65; Cahn, *Jurisprudence*, 31 N.Y.U.L. Rev. 182 (1956); Cahn, *Jurisprudence, 1954 Annual Survey of American Law*, 30 N.Y.U.L. Rev. 150, 153–54, 157–68 (1955); Pollak, *Racial Discrimination and Judicial Integrity. A Reply to Professor Wechsler*, 108 U. Pa. L. Rev. 1, 24–31 (1959).

[69] The "test" was enunciated in School Dist. v. Schempp, 374 U.S. 203, 222 (1963) ("[W]hat are the purpose and primary effect of the enactment? If *either* is the enhancement or inhibition of religion then the enactment exceeds the scope of legislative power as circumscribed by the Constitution.") (emphasis added). For an illustrative "application," see Board of Educ. v. Allen,

392 U.S. 236 (1968) *See also id* at 254–66 (Douglas, J., dissenting), Note, *Sectarian Books, the Supreme Court and the Establishment Clause*, 79 YALE L.J. 111 (1969). Note also how the "purpose" part of the test was not applied in Lemon v. Kurtzman, 403 U.S. 602 (1971), and how mere legislative declaration of "purpose" effectively insulated statutes from meaningful review as to this part of the test in Tilton v. Richardson, 403 U.S. 672 (1971); Committee for Public Education and Religious Liberty v. Nyquist, 413 U.S. 756 (1973); Roemer v. Board of Pub. Works, 426 U.S. 736 (1976); Wolman v. Walter, 433 U.S. 229 (1977). *See generally* P. KURLAND, RELIGION AND THE LAW OF CHURCH AND STATE AND THE SUPREME COURT (1962).

[70] *See* discussion and cases cited in note 69 *supra*.

[71] See text and notes at notes 24-56 *supra*.

[72] Cf. Ely, *supra* note 11, at 723 (arguing that majority discrimination against itself is *per se* legitimate). *But see* Posner, *The DeFunis Case and the Constitutionality of Preferential Treatment of Racial Minorities*, *supra* note 11, at 19-26.

[73] For one view, see Bell, *Waiting on the Promise of Brown*, 39 L. & CONTEMP. PROB. 341, 360-63 (1975).

[74] Exactly as did happen once this type of test was publicized for the first amendment's establishment clause. *See* cases cited in note 69 *supra*.

[75] 438 U.S. 265 (1978).

[76] Brief for Petitioner at 2. Four members of the Court found it unnecessary to consider this question. It was plain to them that the use of racially separate and unequal admissions standards was forbidden by Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (1976), *see* note 32 *supra*, they therefore applied Title VI as forbidding any kind of racial discrimination and voted to affirm the California Supreme Court, which had held for Bakke on constitutional grounds. Insofar as granting relief to Bakke was concerned, their votes were joined by that of Justice Powell.

[77] For a discussion of how the presumption of unconstitutionality works in the analogous first amendment context, see text at note 61 *supra*.

[78] As tc whether the Davis plan may have imposed such a stigma, see note 38 *supra*.

[79] 438 U.S. at 361 (Brennan, White, Marshall, & Blackmun, J.)

[80] Fourteen percent of the regular admittees during the two years in which Bakke was rejected were of the minority groups favored *additionally* by the 16% racial set aside.

[81] *See also* Craig v. Alabama State Univ. 451 F. Supp. 1207 (M.D. Ala. 1978), Detroit Police Officers Ass'n v. Young, 446 F. Supp. 979 (E.D. Mich. 1978). Ely, *supra* note 11. But *see* text at note 72 *supra*.

[82] Insofar as the faculty withdrew sixteen seats from the original freshman class totaled 100 (reducing the number of openings to be filled by the regular admissions process to 84 and restricting eligibility for the 16 seats exclusively to disadvantaged nonwhites), the faculty certainly understood that applicants who would otherwise have been admitted pursuant to the regular admissions process but who would now be displaced would be white applicants with good—but not the best—portfolios. The "best" white applicants would be unaffected, as they would still be among the 84 best applicants within the regular admissions process.

[83] For a recent case extending *Bakke's* rationale to sustain discriminatory race and sex standards in the hiring, promotion, transfer, training, and work assignments of public employees, see Minnick v. California Dept. of Corrections. 157 Cal Rptr. 260 (1979).

[84] DeFunis v. Odegaard, 416 U.S. 312, 343 (1974).

[85] West Virginia State Bd. of Educ. v. Barnette, 319 U.S. 624, 641 (1943).

[86] A. Bickel, *supra* note 12, at 133.

[87] Bickel, *supra* note 7.

[88] *See, e.g.*, A BICKEL, THE SUPREME COURT AND THE IDEA OF PROGRESS, (1970); A. BICKEL, THE LEAST DANGEROUS BRANCH (1962); Bickel, *The Supreme Court, 1960 Term—Forword, The Passive Virtues*, 75 HARV. L. REV. 40 (1961).

[89] For the contrary view, see Regents of the Univ. of Cal. v. Bakke, 438 U.S. 265, 407 (1978) (Blackmun, J.).

[90] Plessy was deemed to be "colored" (in the words of the state statute) for purposes of assigning him to a given car, although he was "of seven eighths Caucasian and one eighth African blood; [and] the mixture of colored blood was not discernible in him. . . . 163 U.S. at 538. The majority of the Court, once accepting the constitutionality of using the race line as a permissible way for legislatures to regulate and allocate, also recognized the sorts of decisions implicit in that determination: "The power to assign to a particular coach obviously implies the power to determine to which race the passenger belongs, as well as the power to determine who, under the laws of the particular State, is to be deemed a white, and who a colored person." *Id.* at 549. *See also Posner, The Defunis Case and the Constitutionality of Preferential Treatment of Racial Minorities, supra* note 11, at 12–14.

[91] 584 F.2d 600 (2d Cir. 1978), *cert. granted*, 99 S. Ct. 2403 (1979), briefly described in note 9 *supra*.

[92] Thompson, *City Agency Weighs Restricting Some Ethnic Minority Status*, Wash. Post, May 22, 1979, § A, nt 1, col. 1 (insertions in original).

[93] Er. Regents of the Univ. of Cal. v. Bakke, 438 U.S. 265, 403 (1978) (Blackmun I.).

[94] *See* note 90 *supra*. *See* also the conclusions reached on the same subject in B. Bittker, *supra* note 11, at 104.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal, which were referred to the appropriate committees.

(The nominations and withdrawal received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that on December 16, 1979, he had approved and signed the following acts:

S. 901. An act to amend the Clean Water Act of 1977 to extend the moratorium on industrial cost recovery; and

S. 1788. An act to amend the National Consumer Cooperative Bank Act to provide for a small business representative on the Bank's Board.

MESSAGES FROM THE HOUSE

At 10:37 a.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 2145. An act to authorize the burial of Elizabeth Myers McNeil in the Veals Chapels Cemetery, Fort Jackson, South Carolina.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 1283. An act for the relief of Pang Chong Ae; and

H.R. 5645. An act to grant to the Little Sisters of the Poor all right, title, and interest of the United States in the land comprising certain alleys in the District of Columbia.

The enrolled bills were subsequently signed by the Vice President.

At 12:16 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 918) to amend the Small Business Act and Small Business Investment Act of 1958, and for other purposes.

The message also announced that the House disagrees to the amendment of the Senate to the amendment of the House to the bill (S. 985) to amend the Consolidated Farm and Rural Development Act, and agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. FOLEY, Mr. JONES of Tennessee, Mr. HARKIN, Mr. HUCKABY, Mr. GLICKMAN, Mr. HANCE, Mr. BROWN of California, Mr. RICHMOND, Mr. BALDUS, Mr. BEDELL, Mr. ENGLISH, Mr. PANETTA, Mr. DASCHLE, Mr. MADIDGAN, Mr. JEFFORDS, Mr. KELLY, Mr. COLEMAN, Mr. MARLENEE, Mr. HOPKINS, and Mr. THOMAS were appointed as managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5269) to authorize appropriations for the fiscal year beginning October 1, 1979, for the maintenance and operation of the Panama Canal, and for other purposes, requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. MURPHY of New York, Mr. DINGELL, Mr. BOWEN, Mr. HUBBARD, Mr. BONIOR of Michigan, Mr. WYATT, Mr. MCCLOSKEY, Mr. BAUMAN, and Mr. CARNEY were appointed as managers of the conference on the part of the House.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1143) to extend the authorization for appropriations for the Endangered Species Act of 1973, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 5224) to continue through May 31, 1981, the existing prohibition on the issuance of fringe benefit regulations, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5860. An act to authorize loan guarantees to the Chrysler Corporation.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 231. A concurrent resolution directing the Secretary of the Senate to correct an error in the enrollment of S. 918.

At 1:49 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 673) to authorize appropriations for the Department of Energy for national security programs for fiscal year 1980.

The message also announced that the House insists upon its amendment to the bill (S. 561) to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. UDALL, Mr. BINGHAM, Mr. SHARP, Mr. WEAVER, Mr. MARKEY, Mr. VENTO, Mr. STAGGERS, Mr. DINGELL, Mr. SYMMS, Mr. LUJAN, Mr. BROWN of Ohio, and Mr. CORCORAN were appointed as managers of the conference on the part of the House.

The message further announced that the House agrees to the amendment of the Senate to the amendment of the House to the amendment of the Senate to the text of the bill (H.R. 4998) to amend the Federal Reserve Act to require that detailed minutes of Federal Open Market Committee meetings shall be published on a deferred basis, with amendment in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 891. An act for the relief of Barbara Laws Smith;

H.R. 1559. An act for the relief of Nelia Ruiz Hedlund;

H.R. 1829. An act for the relief of Loraine Smart and Robert Clarke;

H.R. 2148. An act for the relief of Colonel (doctor) Paul A. Kelly;

H.R. 2318. An act for the relief of Casimir Jan Kray; and

H.R. 3139. An act for the relief of Pedro Gauyan Nelson.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 221. Concurrent resolution to insure appropriate financial recognition for the hostages in Tehran.

At 3:01 p.m., a message from the House of Representatives by Mr. Gregory announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3875) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes.

The message also announced that the House has passed the following bill, without amendment:

S. 2096. An act to provide for a study by the Secretary of Health, Education, and Welfare of the long-term health effects in humans of exposure to dioxins.

At 5:13 p.m., a message from the House of Representatives delivered by Mr. Berry announced that the House agrees to the amendment of the Senate to the bill (H.R. 3948) to require a study of the desirability of mandatory age retirement for certain pilots, and for other purposes.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 585. An act to authorize the Secretary of the Interior to engage in a feasibility study;

S. 2145. An act to authorize the burial of Elizabeth Myers McNeil in the Veals Chapels Cemetery, Fort Jackson, S.C.;

H.R. 3343. An act to permit civil suits under section 2979 of the Revised Statutes (42 U.S.C. 1983) against any person acting under color of any law or custom of the Disteict of Columbia who subjects any person within the jurisdiction of the District of Columbia to the deprivation of any right, privilege, or immunity secured by the Constitution and laws; and

H.R. 3875. An act to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. MAGNUSON).

At 5:47 p.m., a message from the House of Representatives, by Mr. Berry, announced that the House agrees to the amendment of the Senate to the amendment of the House to the bill (S. 525) to amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the amendment of the House to the bill (S. 440) to revise and extend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970.

At 6:30 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3901) to extend for 1 year the provisions of law relating to the business expenses of State legislators.

HOUSE BILLS AND CONCURRENT RESOLUTION REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 891. An act for the relief of Barbara Laws Smith; to the Committee on the Judiciary.

H.R. 1559. An act for the relief of Nelia Ruiz Hedlund; to the Committee on the Judiciary.

H.R. 1829. An act for the relief of Loraine Smart and Robert Clarke; to the Committee on the Judiciary.

H.R. 2148. An act for the relief of Colonel (doctor) Paul A. Kelly; to the Committee on the Judiciary.

H.R. 2318. An act for the relief of Casimir Jan Kray; to the Committee on the Judiciary.

H.R. 3139. An act for the relief of Pedro Gauyan Nelson; to the Committee on the Judiciary.

The following concurrent resolution was read by its title and referred as indicated:

H. Con. Res. 221. Concurrent resolution to ensure appropriate financial recognition for the hostages in Tehran; to the Committee on Foreign Relations.

HOUSE CONCURRENT RESOLUTION HELD AT DESK

The following concurrent resolution was read by title and ordered held at the desk, by unanimous consent:

H. Con. Res. 231. Concurrent resolution directing the Secretary of the Senate to correct an error in the enrollment of S. 918.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2648. A communication from the Acting General Counsel of the Department of Defense, transmitting a draft of proposed legislation to give authority to the Army and Air Force to appoint physicians with four years of service credit as reserve officers in the initial pay grade of O-3; to the Committee on Armed Services.

EC-2649. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The World Wide Military Command and Control System—Major Changes Needed in Its Automated Data Processing Management and Direction"; to the Committee on Armed Services.

EC-2650. A communication from the Chairman of the Federal Communications Commission, transmitting, pursuant to law, a report on the study of public maritime coast station services with particular emphasis on high seas telecommunications; to the Committee on Commerce, Science, and Transportation.

EC-2651. A communication from the Secretary of the Interior, transmitting, pursuant to law, the annual progress report on plans for management, use, development, and protection of public lands within the California Desert Conservation Area; to the Committee on Energy and Natural Resources.

EC-2652. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, an amendment to a previously approved 11(b) Report which proposes the acquisition by lease of space in a building to be constructed in Milwaukee, Wisconsin; to the Committee on Environment and Public Works.

EC-2653. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a prospectus proposing the acquisition of space by lease in San Francisco, California; to the Committee on Environment and Public Works.

EC-2654. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into within the past sixty days; to the Committee on Foreign Relations.

EC-2655. A communication from the Executive Secretary of the Defense Privacy

Board, transmitting, pursuant to law, copies of certain records programs subject to the Privacy Act; to the Committee on Governmental Affairs.

EC-2656. A communication from the Deputy Secretary of the Treasury, transmitting a draft of proposed legislation authorizing the destruction of unsafe explosive materials subject to seizure and forfeiture; to the Committee on the Judiciary.

EC-2657. A communication from the Acting Commissioner of the Immigration and Naturalization Service, transmitting, pursuant to law, 1405 reports on third and sixth preference visa petitions; to the Committee on the Judiciary.

EC-2658. A communication from the Secretary of the Interior, transmitting a draft of proposed legislation to provide for the conservation and enhancement of the salmon and steelhead resources of Washington State, assistance to the treaty and nontreaty harvesters of those resources, and for other purposes; to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works, jointly, by unanimous consent.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication transmitted by the Secretary of the Interior, providing for conservation and enhancement of the salmon and steelhead resources of Washington, be referred jointly to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-518. A resolution adopted by the Senate of the State of Pennsylvania; to the Committee on the Judiciary:

"RESOLUTION

"Whereas, Various departments, administrators, bureaus, and other agencies of the Federal Government, among them the Bureau of Alcohol, Tobacco and Firearms (BATF) of the Department of the Treasury, the Law Enforcement Assistance Administration (LEAA) of the Department of Justice, the Occupational Safety and Health Administration (OSHA) of the Department of Labor, and the independent Environmental Protection Agency (EPA), have adopted a pattern of regulations and operating procedures which invade the privacy of the individual and violate the constitutional and statutory rights of every law-abiding citizen, millions of whom are legitimate firearms owners and hunters; and

"Whereas, Such agency regulations and procedures are in direct conflict with the unalienable rights of law-abiding citizens; and

"Whereas, These agency regulations, conduct, activities and procedures exceed the congressional mandate and authority of these Federal agencies, and constitute unauthorized and improper legislative and executive functions usurped by these agencies in contravention of the intent of Congress, and require unnecessary substantial increases in the size and cost of the Federal Bureaucracy, all in violation of the fundamental law, the constitutional system of checks and balances, and the wishes of the American people; and

"Whereas, Such pattern of practices and activities by these agencies constitutes flagrant excesses and abuses of governmental power against which our founding fathers sought to protect the individual law-abiding citizen by the adoption of the United States Constitution and its Bill of Rights, specifically including the Second Amendment which protects the use and possession of arms; and

"Whereas, Such unauthorized anti-firearms-owner practices and activities constitute a continuing mass harassment of millions of law-abiding American citizens by self-styled bureaucratic "protectors" acting under the guise of moving against the unlawful acts of a small fraction of the population, which alone should be the focus of law enforcement efforts, and who should be punished on an individual basis for their crimes of violence; and

"Whereas, One such Federal agency, the Law Enforcement Assistance Administration (LEAA) of the Department of Justice, is promoting the adoption of recommendations contained in a publication entitled A National Strategy to Reduce Crime, published by the National Advisory Commission on Criminal Justice Standards and Goals, which the LEAA itself funded and sponsored, calling for enactment of uniform state laws for the elimination of private ownership and possession of all handguns, for the imposition of still other and further gun controls on the people of this Nation, and for the institution of a national network of record-keeping on firearms and surveillance on citizens, particularly firearms owners; and

"Whereas, Another Federal agency, the Bureau of Alcohol, Tobacco and Firearms (BATF) of the Department of Treasury, sought to circumvent the decisive rejection by Congress of multiple firearms registration proposals by issuing regulations having the same effect, costing in excess of $100,000,000 to implement, having no effect on armed crime, and ushering in the type of massive system of dossiers on innocent citizens which have proven so detrimental to civil liberties: Therefore be it

"*Resolved*, That the Senate of Pennsylvania expresses its unalterable opposition to any and all such practices, and calls upon the appropriate and relevant agencies, departments, administrations, bureaus, and other units or subunits of the Federal Government, under admonition of vigorous legal challenge, to cease and desist all such ultra vires policies, activities, regulations and practices which exceed their congressional mandate and authority, or which isolate the rights of the individual under the Constitution and Bill of Rights, especially the Second Amendment of the Constitution of the United States; and be it further

"*Resolved*, That the Senate of Pennsylvania condemns any and all such policies, activities, purported rule-making and practices by Federal agencies levied against the unalienable, natural, common-law and Constitutional rights of firearms possession, ownership and use for lawful purposes, including self-preservation and defense, sporting and hunting, and be it further

"*Resolved*, That the Secretary of the Senate of Pennsylvania forward copies of this resolution to the President, the Vice President, members of the President's Cabinet, heads of the agencies involved and to members of the United States Congress from Pennsylvania."

POM-519. A concurrent resolution adopted by the Legislature of the State of Indiana; to the Committee on Foreign Relations:

"CONCURRENT RESOLUTION

"Whereas, The exiled Shah of Iran, Mohammed Reza Pahlavi, is in a New York hospital for cancer and gall bladder treatment; and

"Whereas, Certain Iranians, including Iran's current revolutionary ruler Ayatollah Ruhollah Khomeini demand that the exiled Shah be returned to Iran for execution; and

"Whereas, Contrary to international law, Iranian nationals, supported by Khomeini invaded the American Embassy in Tehran, seized it, captured the Americans within and now hold them hostage for the return of the exiled Shah; and

"Whereas, Such actions are totally repugnant to a civilized society:

"Therefore, be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:

"Section 1. That the General Assembly of the State of Indiana denounces the State of Iran and its leaders who debase humankind by supporting the uncivilized acts of terrorists who, motivated by hatred and a lust for vengence, hold innocent persons hostage.

"Section 2. That the prayers of the people of Indiana rise to Almighty God as one petition that He be with our fellow countrymen who are hostage and with their families and that He comfort them.

"Section 3. That the citizens of Indiana, regardless of political affiliation, support our President in his efforts to secure the safety and release of these American citizens.

"Section 4. That we urge President Carter to use the powers properly belonging to the Chief Executive to make certain that all economic support presently being given the government of Iran be terminated and to take such other steps as may be appropriate, keeping the personal safety of the hostages always our principal concern.

"Section 5. That as members of a civilized society we carefully refrain from inflicting violence or abuse on those Iranians who are living peacefully among us realizing that they are not responsible for the cruel and illegal conduct of the Iranian government and that taking vengence on innocent people is not the American way.

"Section 6. That the Secretary of the Senate is instructed to transmit copies of this resolution to the President of the United States, to the leaders of each party in both Houses of Congress and to the Indiana delegation to Congress."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

Mr. CANNON, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1300) to amend the Federal Aviation Act of 1958 in order to promote competition in international air transportation, provide greater opportunities for United States air carriers, establish goals for developing United States international aviation negotiating policy, and for other purposes (Rept. No. 96-531).

By Mr. LONG, from the Committee on Finance, with an amendment and an amendment to the title:

H.R. 1212. An act for the relief of the University of Florida, Gainesville, Florida (Rept. No. 96-532).

By Mr. EAGLETON, from the Committee on Governmental Affairs, without amendment:

S. Con. Res. 63. A concurrent resolution to disapprove the Location of Chanceries Amendment Act of 1979 passed by the City Council of the District of Columbia (Rept. No. 96-533).

By Mr. CHURCH, from the Committee on Energy and Natural Resources, without amendment:

S. 1828. A bill to exempt the Milner Dam from certain requirements of the Federal Power Act (16 U.S.C. 807), and for other purposes (Rept. No. 96-534).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

George W. Cunningham, of Tennessee, to be an Assistatnt Secretary of Energy (Nuclear Energy).

Edward Allan Frieman, of New Jersey, to be Director of the Office of Energy Research.

George Fumich, Jr., of Virginia, to be an Assistant Secretary of Energy (Fossil Energy).

Leslie J. Goldman, of Illinois, to be an Assistant Secretary of Energy (International Affairs).

Hazel Reid Rollins, of the District of Columbia, to be Administrator of the Economic Regulatory Administration.

Thomas Eugene Stelson, of Georgia, to be an Assistant Secretary of Energy (Conservation and Solar Applications).

(The above nominations from the Committee on Energy and Natural Resources were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. JACKSON. Mr. President, today the Senate Committee on Energy and Natural Resources ordered favorably reported the nominations of the following for positions in the Department of Energy:

Dr. George W. Cunningham to be Assistant Secretary for Nuclear Energy;

Dr. Edward A. Frieman to be Director of Energy Research;

Mr. George Fumich, Jr., to be Assistant Secretary for Fossil Energy;

Mr. Leslie J. Goldman to be Assistant Secretary for International Affairs;

Ms. Hazel R. Rollins to be Administrator of the Economic Regulatory Administration; and

Dr. Thomas E. Stelson to be Assistant Secretary for Conservation and Solar Applications.

I ask unanimous consent that the biographies of these six nominees be printed in the RECORD.

There being no objection, the biographies were ordered to be printed in the RECORD, as follows:

DR. GEORGE W. CUNNINGHAM

EDUCATION

PhD (Metallurgical Engineering), Ohio State University, 1960 Battelle Memorial Institute Fellowship.

M.S. (Metallurgy), University of Tennessee, 1955 Naval Research Laboratory Grant.

B.S. (Chemical Engineering), University of Tennessee, 1954 Cooperative Engineering Program, Oak Ridge National Laboratory.

Diploma, Union City High School, Union City, Tenn., 1948.

EMPLOYMENT

Current Position, Counselor for Atomic Energy Matters and Deputy Chief of Mission at the U.S. Mission to the International Atomic Energy, Vienna, Austria, U.S. Department of State.

Serves at Deputy to the US Resident Representative—carrying out management functions related to the operation of the Mission Office as well as supporting or reoresenting the Resident Representative in discussions and negotiating sessions with reoresentatives of the IAEA and other governments.

Observes and reports on IAEA activities and recommends courses of action which the US might take with respect to various IAEA activities.

Maintains liaison with counterparts at the IAEA and Missions and Embassies of other countries on a broad range of technical and policy questions relating to the IAEA's nuclear programs and to US support of these programs.

Serves as the only U.S. Co-Chairman (WG-8) in the International Fuel Cycle Evaluation (INFCE) and coordinates the Mission's efforts in support of the US participation in INFCE.

Previous Position, Program Director for Nuclear Energy, Department of Energy, 10/77–10/78.

Provided program direction and administrative guidance in areas of nuclear fission power generation (including breeders), treatment, packaging, storage and isolation of radioactive nuclear waste materials, evaluation of alternative reactor fuel cycle concepts and nonproliferation aspects, production and reprocessing of nuclear fuels and special nuclear materials (non-weapon), nuclear generator systems for space applications at annual expenditures in excess of $1 Billion.

Implemented US-foreign exchange agreements in reactor technology with USSR, UK, Japan, France, Italy and Germany.

Prepared testimony and as required testified before Congressional committees and answered Congressional inquiries.

Supervised 400 employees including senior professional specialists in areas of Physics, Chemistry, Mechanical Engineering, Electrical Engineering, Metallurgical Engineering, Nuclear Engineering and Chemical Engineering.

PAST EXPERIENCE

Acting Deputy Assistant Administrator for Nuclear Energy, Energy Research and Development Administration and Director, Waste Management Division.

Served as Deputy to the Assistant Administrator for the all nuclear research and development program, including uranium enrichment, waste management, fuel cycle, reactor development, space nuclear systems and advanced technologies.

Deputy Director for Technology—Reactor Research & Development Division, 3/76–12/76.

Directed and administered LMFBR research, development and safety programs and activities concerned with (1) development of improved LMFBR and other advanced reactor systems, (2) development of associated equipment, processes, materials related to advanced reactor systems for programs in excess of $150,000,000/yr. Prepared and defended budget for areas of responsibility. Supervised 100 professional and 25 non-professional.

Assistant Director, Engineering and Technology, Reactor Research and Development Division, 11/73–3/75.

Developed long range engineering technology objectives in advanced reactor systems development and assisted in developing and recommending comprehensive program plans designed to accomplish these objectives. Assisted the Director, RRD, in preparing and defending the overall division budget.

Provided program direction in the areas of Physics, Nuclear Fuels, Materials, Development, Reliability and Quality Assurance, Engineering Codes and Standards.

Chief, Liquid Metal Projects Branch, Reactor Research and Development Division, 7/70–11/73.

Responsible for project management of ongoing base technology programs for the fast breeder, demonstration plant and Liquid Metal Engineering Center.

Metallurgical Engineer, Fuels and Materials Branch, Reactor Development and Technology Division, 4/66–7/70.

Coordinated materials research and development efforts within the Division of Reactor Development and Technology to insure that proper amounts of effort and funding are allocated to solution of fuel element and nonnuclear materials problems. Program included extensive efforts to develop materials for special applications, e.g., stainless steels, graphite, high strength ceramic fibers, refractory alloys, special coatings, etc.

Chief, Materials Thermodynamics Division, Battelle Memorial Institute, 1964–1966.

Responsible for all administration and technical functions of division including selection of personnel, approving salaries, travel, etc., and technical quality of R&D work performed.

Research Associate, 1962–1964.

Investigations of thermochemical properties of carbides, ceramic materials with special properties, explosive compaction of powders, and fabrication techniques for superconducting wires were among the research programs coordinated.

Assistant Division Consultant, 1960–1964.

Basic studies were conducted on cermet structures, hot pressing theory, solid phase and solid-gas phase reactions of high temperature materials, chemical diffusion studies, and thermal diffusion studies.

Project Leader, 1958–1960.

Duties involved direction of fabrication studies for Army GCRE and SM-2 reactor fuel elements, participation in irradiation studies, and evaluation of fuel materials. Basic studies were made on cermet structures and the mechanism of pressure bonding. Powder metallurgy investigations of metals such as niobium, berylium, Nichrome, molybdenum, and tungsten were conducted.

Principal Metallurgical Engineer, 1955–1958.

Duties involved development of nuclear fuel elements and control materials by powder metallurgy techniques, dispersions of UO_2, UN, UC, U_2Ti, U_6Ni, in zircaloy and stainless steel, and dispersion of boron, boron carbide, and borides in titanium and zirconium.

AGENCY RECOGNITION

Special Achievement Award 1977.

Special Achievement Award 1976.

High Quality Performance Award 1969.

High Quality Performance Award 1967.

Harvard University Senior Managers in Government Course 1976.

REPORTS AND PUBLIC ADDRESSES

Author or co-author of more than fifty published papers in powder metallurgy, thermodynamics, high temperature chemistry and subjects related to the fabrication of ceramic materials and metals.

Invited speeches, colloquia and seminars have been given before diverse audiences ranging from International Technical Societies (European Nuclear Conference 1979—"INFCE-A U.S. Viewpoint") to local groups such as the Wyoming Association of Petroleum Landmen and ranging from keynote addresses to informal question and answer sessions.

PERSONAL

DOB—December 3, 1930, Union City, Tennessee.

Married—December 31, 1954 to Patricia Pate.

Children—John, born July 29, 1958; Ann, born August 23, 1961.

Present address—Potzleindorfer Hohe 41/3/7, Vienna, Austria A1180.

GEORGE FUMICH, JR.

George Fumich, Jr., is the Acting Assistant Secretary for Fossil Energy, a newly created office within the Department of Energy (DOE). Prior to his present appointment, he served as the Department's Program Director for Fossil Energy, Office of Energy Technology, assuming that position upon the establishment of the DOE in October 1977.

From 1975 until October 1977, Mr. Fumich was the Acting Director, Senior Staff, Division of Fossil Energy, within the Energy Research and Development Administration (ERDA), a predecessor agency of the DOE. From 1963 to 1975, he served as the Associate Director and Director of the Office of Coal Research (which was merged into ERDA as the Division of Fossil Energy). During the period 1961 to 1963, he was Director of the Office of Minerals Exploration within the Department of the Interior.

Prior to his appointment to the Office of Minerals Exploration, Mr. Fumich was an attorney for the Christopher Coal Company in Osage, West Virginia, joining that organization in 1948. He has an extensive background in coal and comes from a coal mining family.

Mr. Fumich was born on December 8, 1917, in Calamady, Pennsylvania, moving with his parents to Pursglove, West Virginia, at an early age. He received an A.B. degree from West Virginia University in 1941 and a J.D. degree from West Virginia University College of Law in 1948. He was president of the student body in 1946. During World War II, he received both the Bronze and Silver stars for Gallantry in Action while serving with the Fifth Army in Italy.

He is married and has three children.

LESLIE J. GOLDMAN

Leslie J. Goldman is currently Principal Deputy Assistant Secretary for International Affairs, Department of Energy.

Prior to serving in his current position in the Department, Mr. Goldman served as Principal Deputy Assistant Secretary for Policy and Evaluation. In that capacity, Mr. Goldman was responsible for the development of a broad range of DOE policy and legislative initiatives, including the National Energy Act of 1978. His responsibilities also included international policy matters, and in that role he represented the Department in negotiations involving oil and natural gas sales with both Canada and Mexico.

Prior to the creation of DOE in October 1977, Mr. Goldman served as Assistant Administrator for Energy Resource Development of the Federal Energy Administration, one of DOE's predecessor agencies. He was appointed to that position by President Carter in April of 1977. Earlier in the same year, Mr. Goldman also served in the White House Office of Energy Policy and Planning as a member of the team that helped formulate the first National Energy Plan introduced in April of 1977. During this period, Mr. Goldman also headed the U.S. team that negotiated the Agreement on Principles with Canada for the construction of the Alaska Natural Gas Transportation System.

Before joining the Administration in February of 1977, Mr. Goldman served as Special Counsel to United States Senator Adlai E. Stevenson from 1970 until January 1977, and as Special Counsel to the Subcommittee on Oil and Natural Gas Production and Distribution of the Senate Commerce Committee. In that role he participated in the development of the first major pieces of energy legislation following the oil crisis of 1973–74. From 1970 until 1973, he served as the director of Senator Stevenson's State Projects Office.

Mr. Goldman was born in Chicago, Illinois, in 1945. He graduated from the University of Michigan in 1967 with a degree in Honors English and from the University of Michigan Law School in 1970. He currently resides in Chevy Chase, Maryland, with his wife Sue.

HAZEL R. ROLLINS

(Administrator, Economic Regulatory Administration)

Type of appointment: Presidential.

Grade: Executive Level IV.

Education: B.A. cum laude in History and government Fisk University; LL.B. Rutgers University.

Experience: Hazel R. Rollins has been nominated by President Carter as Administrator of the Economic Regulatory Administration.

Ms. Rollins will head the DOE's Economic Regulatory Administration which has broad responsibilities for petroleum pricing and allocation programs, enforcement programs, utility programs and fuels conversion programs. Ms. Rollins served as Principal Deputy Administrator of the Economic Regulatory Administration from October 1, 1977 through May 4, 1979. Ms. Rollins was an Administrator of the Federal Energy Administration's Office of Conservation, which had broad responsibilities for developing and implementing energy conservation programs to reduce the rate of growth in energy demand consistent with national economic and social goals.

Ms. Rollins served as General Counsel of the Community Services Administration, and was responsible for providing legal advice to the Director and other senior agency officials and for supervision of the CSA legal, investigative and audit staff.

Prior to joining CSA in June 1976, Ms. Rollins served as Director of the Office of Consumer Affairs for the Federal Energy Administration for 2 years. In that post, she was FEA's chief evaluator of national energy policy as it affects consumers, including low-income, handicapped and elderly Americans. She was responsible for analyzing the impact of energy policies on consumers and minority groups and presenting their views to the FEA Administrator.

Ms. Rollins has also served as Director of the Public Sector Division of the Cost of Living Council (CLC), where she determined whether wage increases granted by State and local governments were in compliance with the law. She previously served as Deputy Director and Director of CLC's Self-Administered Industries Division.

An attorney, Ms. Rollins previously served as an Assistant County Prosecutor in Essex County; Coordinator of the Community Action Workshop in Newark; and Deputy Attorney General for the State of New Jersey.

Ms. Rollins is returning to the Department of Energy after six months as a Principal in the International Accounting Firm of Coopers and Lybrand.

Membership: National Bar Asssociation; New Jersey Bar and Executive Women in Government.

Awards: Director's Distinguished Service Award Cost of Living Council—1973 and 1974; Director's Distinguished Service Award Community Services Administration—1977; Secretary's Special Achievement Award Department of Energy—1979.

EDWARD ALLAN FRIEMAN

Dr. Edward Allan Frieman is Deputy Director of the Princeton University Plasma Physics Laboratory and also Professor of Astrophysical Sciences at Princeton University.

He graduated from Columbia University with a B.S. in Engineering and earned both his M.S. and Ph. D. in Physics at the Polytechnic Institute of Brooklyn.

During World War II, Dr. Frieman served with the U.S. Navy and participated in the Bikini A-Bomb tests. After the war, he taught at the Polytechnic Institute of Brooklyn. In 1952 he joined Princeton University's controlled thermonuclear research project, which was then known by the code name "Project Matterhorn". That project was later declassified and is now known as the Princeton University Plasma Physics Laboratory.

A year after joining the project, Dr. Frieman was appointed the Head of the Laboratory's Theoretical Division. In 1964 he was awarded a National Science Foundation Senior Postdoctoral Fellowship. That same year he assumed the position of Associate Director of the Plasma Physics Laboratory. In 1970 Dr. Frieman received a John Simon Guggenheim Fellowship.

Dr. Frieman is a member of the Board of Editors of the American Physical Society as well as being a Fellow of the Society. He has contributed many articles to scientific journals, particularly in the areas of MHD theory, statistical mechanics, plasma transport theory and plasma stability.

Dr. Frieman was a member of the Board of Directors of Aeronautical Research Associates of Princeton, has served as a member of the Board of Trustees of Jersey City State College, has served on the Princeton University Committee on Continuing Education as well as having served as its first chairman, and is currently a member of the Visiting Committee for the Department of Nuclear Energy at Brookhaven National Laboratory.

As a science advisor to the government, Dr. Frieman has worked in the areas of nuclear weapons and weapons effects, antisubmarine warfare, over-the-horizon radar detection, charged particle beam weapons, a number of intelligence-related activities and energy-related problems. He is a member of JASON and has served as its chairman. He has served on the National Aeronautics and Space Administration's Nuclear Processes Research Advisory Committee, on the National Science Foundation's Physics Advisory Panel, on the National Academy's BISE Review Panel on US/USSR Science & Technology Agreement, on the Defense Science Board Panel on SSBN Security, and on the DOD Panel on the Defense Science & Engineering Program. For the Department of the Navy, Dr. Frieman serves on the Naval Research Advisory Committee, is chairman of the Planning and Steering Advisory Group of the Navy's Advanced Technology Panel, serves on the Advanced Technology Panel and chairs the NRAC Technology Base Study Panel. He is a consultant to the Department of Energy's Laser Fusion Division, served on the DOE Technology Study Panel for the Inexhaustible Energy Resource Study, on the AEC 1974 Research Program Review Committee, and the AEC Review Panel for the Texas Turbulent Torus.

THOMAS EUGENE STELSON

Educational administrator, civil engineer; born Iowa City, August 24, 1928; s. Hugh E. and Ada (Woolley) S.; B.S., Carnegie Institute of Technology, 1949, M.S., 1950, D.Sc., 1952; m. Constance Anne Semon, March 24, 1951; children—Kim Adair, Thomas Semon, Arthur Wesley, Rebecca Anne.

Asst. prof. civil engineering Carnegie-Mellon University, Pittsburgh, 1952–58, asso. prof., 1958–60, acting head dept., 1957–59, head dept. civil engineering, 1959–71, professor, 1960–61, Alcoa professor, 1961–71; dean, professor civil engineering Georgia Institute of Technology Coll. Engineering, Atlanta, 1971–74, assistant vice president for academic affairs, 1971–74, vice president for research, 1974 to present; vis. asso. civil engineering California Institute of Technology, 1962–63; vice president, chairman of the board of directors Systems Planning Corporation, 1968–71.

Co-director Transportation Research Institute, 1966–71; director of projects Pennsylvania Governor's Commission for Transportation, 1967–70; member of Governor's Science Advisory Council, 1971–74; member of executive commission Skidaway Institute Oceanography, 1971 to present; member research advisory council Asso. General Contractors, 1974 to present; mem. council Engrs. Council for Profl. Devel. 1974 to present.

Fellow ASCE; mem. Am. Soc. for Engineering Edn., Nat., Ga. socs. profl. engrs., Am. Geophys. Union, Am. Concrete Inst., Internat. Assn. Hydraulic Research, Sigma Xi, Tau Beta Pi, Pi Mu Epilson, Phi Kappa Phi. Republican. Methodist. Author: Introduction to Systems Engineering, 1969. Contbr articles to profl. jours. Home: 5500 Arundel Dr., N.W., Atlanta, GA 30327.

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

Victor Marrero, of New York, to be Under Secretary of Housing and Urban Development.

Michael E. Witt, of Colorado, to be Assayer of the Mint of the United States.

(The above nominations from the Committee on Banking, Housing, and Urban Affairs were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation:

Richard J. Green, of New Jersey, to be an Associate Director of the Federal Emergency Management Agency.

William B. Johnston, of Virginia, to be an Assistant Secretary of Transportation.

William J. Beckham, Jr., of Michigan, to be Deputy Secretary of Transportation.

Susan J. Williams, of Virginia, to be an Assistant Secretary of Transportation.

(The above nominations from the Committee on Commerce, Science, and Transportation were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PERCY:

S. 2151. A bill to amend the Congressional Budget Act of 1974 to establish procedures for setting targets and ceilings, in the congressional budget process, for loans and loan guarantees under Federal credit programs; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to order of August 4, 1977.

By Mr. NELSON (for himself, Mr. Baucus, Mr. Boren, Mr. Culver, Mr. Huddleston, Mr. Matsunaga, Mr. Pell, and Mr. Stewart):

S. 2152. A bill to amend the Internal Revenue Code of 1954 to provide a doubling of investment tax credit for used section 38 property by raising the $100,000 limitation on such property to $200,000; to the Committee on Finance.

By Mr. SCHWEIKER (for himself, Mr. Williams, Mr. Church, Mr. Cranston, Mr. Hatch, and Mr. Nelson):

S. 2153. A bill to amend the Occupational Safety and Health Act of 1970 to concentrate enforcement activities on hazardous workplaces and encourage self-initiative in improving occupational safety and health, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. METZENBAUM (for himself, Mr. Williams, and Mr. Javits):

S. 2154. A bill to amend title XVIII of the Social Security Act to provide medicare coverage for influenza and pneumonia vaccines; to the Committee on Finance.

By Mr. BELLMON (for himself and Mr. Boren):

S. 2155. A bill to provide for the use and distribution of Delaware Indian judgment funds in Dockets 289, 27–A and 241, 27–B and 338, 27–E and 202, and 27, before the Indian Claims Commission, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. CANNON (for himself and Mr. Pell) (by request):

S. 2156. A bill to amend the Railroad Revitalization and Regulatory Reform Act of 1976 to authorize additional appropriations for the Northeast Corridor Improvement Project, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LONG:

S. 2157. A bill to amend the investment credit provisions of the Internal Revenue Code of 1954 to accelerate the time for applying the 90 percent limit based on tax liability and then provide for refundability of currently earned investment credits after the close of the year in which earned and for refundability of any previously earned but unused investment credit after the close of the last year to which the unused credit may be carried; to the Committee on Finance.

By Mr. MATSUNAGA:

S. 2158. A bill to authorize certain withholding of seamen's wages on a voluntary basis; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NELSON (for himself, Mr. Baucus, Mr. Boren, Mr. Culver, Mr. Huddleston, Mr. Matsunaga, Mr. Pell, and Mr. Stewart):

S. 2152. A bill to amend the Internal Revenue Code of 1954 to provide a doubling of investment tax credit for used section 38 property by raising the $100,000 limitation on such property to $200,000; to the Committee on Finance.

USED MACHINERY INVESTMENT CREDIT ADJUSTMENT ACT OF 1979

Mr. NELSON. Mr. President, on behalf of myself and Senators Baucus, Boren, Culver, Huddleston, Matsunaga, Pell, and Stewart, I am introducing today a bill to adjust for inflation and to expand the limitation in the Internal Revenue Code on the eligibility of used property for the investment credit. The bill would raise the ceiling from $100,000 to $200,000, beginning in 1980, in an effort to improve the productivity of American enterprise.

WHAT THIS BILL WOULD DO

This is a simple proposal. It would amend the Internal Revenue Code to double, from $100,000 to $200,000, the amount of used machinery upon which the 10 percent investment credit can be claimed in any year.

In comparison, the amount of new machinery eligible for investment credit is unlimited. This increase would adjust the used-machinery allowance for inflation of nearly 40 percent (39.11 percent) in capital equipment since the existing allowance was enacted in 1975. It is also intended to provide a certain amount of latitude to anticipate future inflation; to cover buyers of more expensive larger, newer and specialty machinery; and to help new businesses which are faced with buying several machines in a single year.

BACKGROUND

The investment tax credit was first enacted in 1964. At that time the amount of used machinery eligible for the credit was limited to $50,000.

There was some dispute at that time about whether there should be any limitation. Many businesses started, and hopefully many more will in the future, by buying one or two used machines. New and small firms just do not have the cash or credit to afford sophisticated new and higher-priced equipment. Despite these considerations, the $50,000 limitation was imposed.

In early 1975, the Senate Small Business Committee conducted public hearings on the emergency tax stimulation proposals of that year, and this limitation was brought to my attention. As a result, the emergency tax reduction bill we put forward following those hearings (S. 1119) recommended that the limitation be eliminated. We reasoned that used machinery should be placed on the same footing as new machinery.

However, when this matter was debated in the Finance Committee, the Treasury Department argued that resales of certain larger-size items such as ships, airplanes and railroad cars cause problems of revenue losses and open avenues of possible abuse. The Finance Committee accommodated these contentions by voting to double the limitation from $50,000 to $100,000, but not going beyond that point. In that form, the legislation progressed through Congress and was enacted into law.

LEGISLATION SHOULD BE BROUGHT UP TO DATE

It is now nearly five years later, and it is time for the Congress to act again to readjust this figure.

Inflation alone would require this. According to the monthly American Machinist Price Index (based on Bureau of Labor Statistics data) cost increases for machinery from 1975 to October 1979 totaled 39.11 percent. That figure exceeds the rise in consumer prices, 38.6 percent; producer prices, 36.7 percent; and capital goods generally, which have risen 36.2 percent.

Thus, adjusting for inflation to the end of 1979 would justify a 40 percent increase.

SURVEY OF USED EQUIPMENT PURCHASES

The Small Business Committee has also learned more about small business and used machinery since 1975. For many years, those familiar with the small business community have been saying that "used machinery is 'a way of life' with small business." Now we have statistics of the extent to which smaller firms purchase older machinery and equipment. The American Institute of Corrugated Converters has just completed a survey of its membership on the question of what percentages of new and used equipment were purchased in the past 3 years. The "converters" are manufacturers of sturdy paper containers. They are important to small business because their packaging allows products to be individualized. In addition, many of the converters are themselves independent businesses. We are pleased to make the following results of the survey available to the Senate and the public at this time, which I ask unanimous consent to have printed in the RECORD.

There being no objection, the survey was ordered to be printed in the RECORD, as follows:

Percentage of used equipment purchases by container manufacturers during years 1977–79

Total equipment purchases and percent which is used machinery:

	Percent
$100,000 to $200,000	56.67
$200,000 to $500,000	30.33
$500,000 to $1 million	19.33

Mr. NELSON. Mr. President, in my view, this is excellent evidence of two things: First, the smaller the business, the more dependent it is upon used machinery and equipment; and, second, this dependence may be very substantial.

Turning to another industry which is vital to the economy—metalworking—we are informed by the National Tool, Die, & Precision Machinery Association that the average size of a machine shop in their branches of industry is 22 persons. Most people would say these are very small businesses.

The best experts in the country, the people who spend full time watching machinery markets, have observed that the inflation in capital goods has been hitting the smaller machine shop particularly hard. The editor of American Machinist magazine, Anderson Ashburn, editorialized in February and March of this year that the average business was "trading down" rather than "trading up" in its equipment purchases of the past several years. In other words, the cash-strapped business owner is losing ground, slipping even further behind, in his efforts to obtain the most modern tools of production. The magazine stated:

> Our studies have convinced us that the average manufacturer . . . is reacting to inflation much the same way the average housewife is . . . Faced with growing needs for machine tools and prices that seem on an escalator, the average manufacturing manager is passing up extra capacity the company may need later on . . . or extra features that prove useful, in order to get as much immediate production as possible with the shrinking dollars available. This is unquestionably good shortrun strategy but it may be preparing the way for serious difficulties later.

NEWER AND SPECIALTY EQUIPMENT MORE EXPENSIVE

Let us next examine another critical area, specialty equipment. The last decade has seen a revolution in computer-controlled machine tools. We are told that some manufacturers are turning out "machining centers," which may cost as much as $600,000 or $700,000. As the earlier single-purpose computer-controlled, or numerically controlled machines reach the used equipment marketplace, prices may be in the neighborhood of $100,000 per machine.

Recent hearings before the House Small Business Committee considered another aspect of this problem: Entry into business. Testimony of Mr. William E. Hardman, executive vice president, National Tool Die & Precision Machining Association, established that anyone wishing to start a small machine shop would be hardpressed to survive with $100,000 or $125,000 of used equipment. (Transcript, September 12, 1979, p. 19.) Mr. Frank Bacon, president of the Machinery Dealers National Association, stated his belief that these figures were very conservative. (Transcript, pp. 50–52.)

FIXED-DOLLAR LIMITATIONS ARE VULNERABLE TO INFLATION

Another consideration in updating this statute is that the fixed-dollar limitations in the Internal Revenue Code such as this, receive attention in Congress only periodically. It may be several years before similar legislation is considered again. By that time, any ceiling based on a 1979 inflation adjustment would be hopelessly out of date. Delay in making the needed adjustment would harm the vulnerable new and small firm most.

All of these factors suggest that the limitations should be enacted now should be slightly in excess of the inflation increase of the past 5 years.

PRODUCTIVITY BENEFITS FROM SMALL BUSINESS MODERNIZATION

Why is it important to help smaller business purchase improved equipment? During the past two decades, the United States has undergone a "productivity recession." We are still ahead of other industrialized countries in overall real output per employee. But, over the past two decades, we have compiled the slowest growth in productivity of any of the 12 major industrial countries, as shown in the following table, which I ask unanimous consent to have printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

OUTPUT PER HOUR IN MANUFACTURING, 1960–76 AVERAGE ANNUAL PERCENT CHANGE

Country	1960–76	1960–66	1976–76	1970–76
United States	2.9	4.0	2.2	2.6
Canada	3.8	4.3	3.5	3.0
Japan	8.9	8.8	8.9	5.8
Belgium [1]	6.8	5.0	8.1	7.8
Denmark	7.0	5.4	8.0	7.2
France	5.7	5.5	5.8	5.4
Germany	5.9	6.0	5.8	6.0
Italy	5.8	6.7	5.3	5.4
Netherlands [1]	6.7	5.6	7.4	5.8
Sweden	5.7	6.5	5.2	3.5
Switzerland	4.3	2.9	5.1	3.8
United Kingdom	3.3	3.7	3.1	2.9

[1] 1975 instead of 1976.

Note: Data for 1976 are preliminary estimates, percent changes are compound rates of change.

Source: U.S. Department of Labor, Bureau of Labor Statistics.

Mr. NELSON. Mr. President, between 1968 and 1978, the U.S. ranking as to real investment in manufacturing was fourth among nations in 1 year, second in 6 years, and first in only 3 years. Productivity in the United States actually declined in each of the first three quarters of 1979, and is now a minus 1.5 percent for the year. For 1978, productivity grew at the rate of only one-half of 1 percent.

These are dismal statistics. They mean we have lost our lead in efficiency in some areas, and it is fast eroding in others. This has had serious consequences for our competitive position in the world. It has weakened the dollar, and injured our trade balance because imports now cost more dollars. So lagging productivity comes home to roost in the form of aggravated inflation and lower, real standard of living for our citizens.

MODERN MACHINERY IS THE KEY TO IMPROVED PRODUCTIVITY

We must attack the basic causes of of this problem.

The 1979 report of the Congressional Joint Economic Committee stated:

> One factor cited in virtually all studies of the productivity slow down—as a major or as a paramount cause—is the low capital stock (resulting from) the recent inadequate levels of investment. If the . . . ratio (of equipment to labor) is to rise, that investment . . . must be sufficiently large so that the capital stock grows more rapidly than the labor force. This was the case until 1974, when the capital stock (per worker) peaked at $10,604 . . . since then, investment has been inadequate relative to the rapid labor force growth and the ratio has fallen by nearly 3 percent. This will adversely affect economic growth for several years in the future." (Senate Report 96–44, pages 130–131).

There is probably no more sensitive lever for affecting the productivity and efficiency of our economy than the quality of the machinery and equipment used by American industry.

Yet, an inventory of the machinery in U.S. plants, appearing in the 1977 edition of the American Machinist magazine, showed that the majority of machine tools in the United States today are over 20 years old. Less than 11 percent are less than 5 years old. This is a dangerously high proportion of over-age machinery and equipment compared to those nations with which we compete.

We have previously noted that businesses buying machinery now are "cutting corners" to fit tightened financial situations. But, these decisions are sacrificing future productivity, not only for the individual firms, but, for our entire economy. If we do not reverse this trend, we guarantee more problems for economy later on. Mr. President, I ask unanimous consent that two articles from American Machinists to which I have referred be printed in the Record following my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. NELSON. Thus, in my view, it is urgent for our economy to encourage small business to upgrade and renew their stock of machinery and equipment.

A lively market in used machinery can set up a chain reaction which will in turn stimulate demand for more new, improved machinery. We would be making efficiency and productivity more profitable. These are precisely the things we should be doing to have a real impact on productivity and on the economy.

COOPERATION WITH HOUSE SMALL BUSINESS COMMITTEE

Testimony by the Machinery Dealers National Association, a trade group composed of 400 machinery dealers throughout the country, pinpoints the problems faced by the small-business community in upgrading their plant and equipment to seek productivity improvements:

> Capital Stock Formation among small business has been impeded by high interest rates (the prime rate approximately 15½ percent) restricted availability of credit, regulatory burdens imposed by government and tax laws which discriminate against small business. (Testimony of Frank Bacon, Machinery Sales Company, Ward, Michigan, Sept. 12, 1979, to a subcommittee of the House Small Business Committee chaired by Representative Nowak).

This testimony supports an adjustment in the used machinery allowance as a matter of the highest priority.

It, therefore, seems reasonable that the legislation should not just raise the allowance for past inflation, but we should leave some room at the top for growth, and at the bottom for the entry of new businesses that can bring the economy innovative products, novel ideas and price competition.

We appreciate the collaboration with the House Committee in this matter and we understand that Representative Nowak will be introducing an identical companion bill today in the other body.

We also acknowledge the valuable assistance of experts from the private sector in such organizations as the American Institute of Corrugated Converters, the Machinery Dealers National Association, the National Tool Die and Precision Machinery Association, and the National Small Business Association, in developing this proposal.

TECHNICAL MATTERS

As a technical matter, this bill would amend section 48 of the Internal Revenue Code which sets the conditions for eligibility for taking whatever investment credit is in the law. Last year the credit was made permanent at 10 percent in the Revenue Act of 1978.

The adjustment proposed in the bill would raise the credit from $100,000 to $200,000 for used equipment and machinery acquired beginning January 1, 1980.

A related matter which is not covered in the bill, but should also be considered as part of the legislative process on the bill, is whether or not investment credit on used equipment should be allowed the same carryover as new equipment. I hope that we will use this as an opportunity to take up such possibilities.

We have consulted the Congressional Joint Tax Committee and the Treasury Department to determine the possible first-order revenue impact of this proposal. A computer study, done by the Treasury, indicates that the revenue cost would probably be about $100 million annually for the first few years' enactment.

This is a very modest initial revenue impact. It would almost certainly be offset by the increases in industrial activity, efficiency, and productivity which would result from the upgrading of machinery and equipment all along the line by small-, medium-, and large-sized businesses.

SUMMARY

Recent trends in American productivity have been discouraging. One of the universally accepted causes of this disappointment has been the decline in machinery and equipment relative to the labor force. Small businesses which are predominant in many areas of machine and equipment use could play a major part in revival of productivity if the Government policy encourages them to upgrade their stock of capital equipment. Under current conditions and policies, the trends are in the wrong direction.

This bill could be a major step by removing an arbitrary and artificial limitation to such purchases. It should be accompanied by massive simplification and reform of the entire depreciation system as we have proposed in S. 110 and S. 1435.

In my view, this used machinery legislation is an important part of the picture. It is timely and has overwhelming merit. I would hope that it could be considered early in 1980 and enacted before the end of this 96th Congress.

Exhibit 1

New Push for Productivity

Last August, President Carter, sounding unconcerned, said that "our country is going through an inevitable historical period when the rate of productivity increase is low."

His attitude seems to be changing. Now he says, "If we ignore the realities of slower productivity growth—if government continues to press forward with unabated claims on resources and private citizens continue to demand large gains in money incomes—our inflationary problem will worsen." That statement, which accompanied the bad news that the rate of productivity gain in 1978 sank to a new low of only 0.8 percent, still seems to indicate that there is not much we can do about slower productivity growth except to lower our individual and national goals to reflect the decline.

The Council of Economic Advisers is now predicting that the rate of growth in productivity in the next five years will average only 1.5 percent, slightly less than the average 1.6 percent of the past decade and far below the 3.7 percent of the years just before that. As a result, the council reduced its estimate of the country's economic growth from a 3.5 percent annual rate to a 3 percent annual rate.

One thing that has been growing at a rapid rate lately is discussion of the "productivity problem" in magazines and newspapers. The President's new concern may reflect the political realities of the greater public attention drawn to lagging productivity growth, but his attention also fuels the media fires and guarantees the subject increased attention. Most of the popular discussion deal with productivity as a single national figure—that 0.8 percent growth in 1978, for example—and overlook the many variations from one occupation or industry to another.

Productivity gains in metalworking, for example, and in some other forms of manufacturing have been much higher than the average. For the past decade, annual increases in worker output per hour have averaged 3.8 percent in the auto industry, 3.4 percent in radio and TV manufacture, and 4.5 percent for major appliances. By contrast, service industries like restaurants, hotels, and laundries have had productivity gains averaging less than 1 percent for the past decade. The unquestioned shift from manufacturing toward services, then, has resulted in a slower rate of productivity growth.

One way to change the trend would be to isolate and change those conditions producing that shift. A lot of business people and a lot of editors think that they have found the villain and that it resides in Washington, but they have not made much headway in convincing this Administration (or previous ones) that this is the case.

The President now says that environmental, health, and safety standards have cut an average 0.3 percent per year from the rate of productivity growth since 1973. That may not sound like much, but, at the low rates of gain in recent years, it means that productivity's annual increase has been 16 percent less than it would otherwise have been. Some environmental, health, and safety standards are effective in accomplishing at least part of their purposes, and one can always work to have the ineffective ones repealed. Other factors, such as tax policies that penalize investment or regulations that inhibit innovation, may have a greater effect, though harder to measure.

Although it is still higher than in other industries, the rate of productivity growth has also been declining in metalworking. The average annual gain in the auto industry may have been an impressive 3.8 percent in the past decade, but it had been a more impressive 4.5 percent in the decade before. Likewise with major appliances: 4.5 percent in the past decade, 6.4 percent in the one before.

Wait a moment, we can hear managers in these and other manufacturing industries say: despite all the invidious comparisons, the real rate of productivity in US manufacturing is the highest in the world, and, at these heights, further gains become difficult.

True on both counts. But further gains,

even though hard, can be made, and failure to make those gains is more a failure of will than anything else. If the average output per Japanese civilian today is only 62 percent of what it is in the US, remember that, back in 1960, it was only 25 percent of US output then—and, in some manufacturing industries today, it is higher in Japan than anywhere.

Last month, we pointed to evidence we had found that the average manufacturing manager is, when buying new machine tools, passing up extra capacity the company might need later or extra features that might prove useful, in order to get as much immediate production as possible with the shrinking dollars available.

This is unquestionably good short-run strategy, but it may be preparing the way for serious difficulties later. Sometimes the best way to make real gains in productivity is with investments in research, in development, and in equipment that may ultimately make big gains.

It takes both money and nerve to make the kind of billion-dollar investment that Caterpillar Tractor has made in new designs, new plants, and new manufacturing approaches to building diesel engines. If that company is successful in its market-development plans, however, it will have a productivity edge that, according to one Caterpillar executive, will put the company five years ahead of its competition.

The prospects for productivity gains in high-speed machining are exciting. But there must be companies with the money and nerve to make investments (not in billions necessarily, but in substantial amounts) to develop the equipment needed to realize those gains.

A new push for productivity is fine, and some of that push can properly be directed at Washington. But a lot of it had better be directed at ourselves. Make your own company more productive, and you can afford to be relaxed about the failures of others.

Analyst in Blunderland

Three different factors influence the comparisons from one year to another in the annual survey this publication makes of world machine-tool production and trade.

The first of these is the real change in the volume of production, the amount of export and import, and the volume of machine-tool consumption within each country. In the 15 years that this survey has been conducted, the number of countries covered has increased, and the quality of the basic information collected from most of the countries has improved.

The second factor is the differing rates of inflation on the various countries. Inflation puts an apparently higher value on the same volumes each year but does so at a different rate in each country. In Brazil, for example, the value of the cruzeiro is "indexed" more than once a month to adjust for inflation—14–16 times in each of the last three years. A rapid rate of inflation can make it appear that real volume is increasing faster than it actually is or can even make it appear to be increasing when it is really declining. Although, for many countries, there are indexes that measure the rate of inflation with reasonable accuracy, there is still the complication of separating the price change from the real-volume change for each country.

The third factor comes when the data for the different countries is converted into a single currency for comparison between countries. Exchange rates were once a simple and reliable thing as far as the industrial nations of the West were concerned.

In recent years, however, exchange rates have become a slippery and uncharted slope, across which analysts blunder at their peril. Exchange rates once seemed to reflect (and to correct for) differences in the rate of inflation between two countries, but now they also reflect people's perceptions of such elements as the prudence of government policies and the present and probable future course of international trade.

When you have all three of these factors operating at once, and in different combinations in each country, it becomes necessary to move very carefully in drawing any conclusions about what is happening. Of course, the relationship between all the countries with freely convertible currencies remains exactly the same no matter what currency is used to state them, but the level of change from year to year is quite different when it is stated in different currencies.

For example, the total world production of machine tools as reported by the current survey went up 23 percent from 1977 to 1978, measured in US dollars. Analysis suggests to us that this might represent about 6 percent real growth, about 6 percent inflation, and about 11 percent the bedraggled condition of the dollar in world markets. If the total figures are looked at in various currencies, we find that world production apparently went up 12 percent in pounds sterling, went up 7 percent in Deutsche marks, declined 4 percent in yen, and declined 8 percent in Swiss francs. Slippery slopes, indeed!

Even so, we are prepared to venture a few conclusions: most important is that the United States, where consumption of machine tools rose more than 2.3 percent in real terms in 1978 to the highest real level since 1968, is once again the leading nation in terms of real investment in manufacturing. This comes after six consecutive years when the US was in second place and one year when it was in fourth place.

Also remarkable is the increase in investment in the Federal Republic of Germany. Germany has been the leading producer of machine tools for several years without actually using very many of them itself. Last year saw a real increase of more than 50 percent in machine-tool consumption in the FRG, raising that country to third place behind the US and the Soviet Union.

The most contradictory information we have encountered, however, relates to the prices being paid for machine tools in the United States. The prices charged for particular machines have gone up sharply in recent years, reflecting the high material and labor content of machine tools. As measured by the Labor Dept.'s Producers Price Index, the prices of metalcutting machine tools went up more than 30 percent from 1975 to 1978, and the prices of metalforming machine tools went up more than 36 percent.

But, in the same three-year period, the average price paid for all types of machine tools, according to the Census Bureau, went up only 3 percent. Is this possible? Certainly it is possible if customers buy smaller, lighter, and less expensive models. In fact, for the same three-year period, the average price of metalcutting machines selling for more than $1000 went up only 8 percent, and the price of the average metalforming machine selling for more than $1000 actually *declined* by 8 percent. (It was the sharp decline in average metalforming prices that caused the slight reduction in average price per machine from 1976 to 1977 reported in the survey.)

We had thought, and perhaps you had thought, that today people are buying bigger, more complicated, more expensive machine tools. Some people, no doubt, are doing this, but our studies have convinced us that the average manufacturing manager in the US today is reacting to inflation much the way the average housewife is. Faced with a sharp rise in the price of beef, she may switch to a cheaper cut.

Faced with growing needs for new machine tools and prices that seem to be on an escalator, the average manufacturing manager is passing up extra capacity the company might need later or extra features that would be nice to have and is buying more production per dollar of investment than most of us had thought possible.

By Mr. SCHWEIKER (for himself, Mr. Williams, Mr. Church, Mr. Cranston, and Mr. Hatch):

S. 2153. A bill to amend the Occupational Safety and Health Act of 1970, to concentrate enforcement activities on hazardous workplaces and encourage self-initiative in improving occupational safety and health, and for other purposes; to the Committee on Labor and Human Resources.

OCCUPATIONAL SAFETY AND HEALTH IMPROVEMENTS ACT OF 1980

Mr. SCHWEIKER. Mr. President, 9 years ago, I strongly supported passage of an historic piece of legislation, the Occupational Safety and Health Act of 1970.

Today, I join with Senators Williams, Church, Cranston, Hatch, and Nelson to introduce legislation to improve that historic act by redirecting its enforcement activities where most needed, and by creating incentives for self-initiative by employers and employees to make their workplaces more safe and healthful.

Nine years ago, we made a promise in the law "to assure so far as possible every working man and woman in the Nation safe and healthful working conditions."

Today, we can find little evidence that the act has directly improved workplace safety. From 1972 through 1978, the years for which reliable data are available, the overall injury/illness rate has declined from 10.5 to 9.4 per 100 employees, a modest 10-percent decrease. But during the same time period, injuries and illnesses resulting in lost workdays, the more serious cases, increased 28 percent, from 3.2 to 4.1 per 100 workers. These data are not conclusive in assessing the act's effectiveness since they also reflect the impact of recession (which generally lowers injury rates), workers' compensation increases (which may inflate lost workday cases), and other extraneous factors. But what is clear 9 years after enactment is that the success of the act in delivering on its promise has been substantially less than overwhelming.

Not only has the act failed to produce demonstrable benefits in workers' safety, it has created extraordinary public controversy. Nine years ago, the proposed act passed the Senate by a vote of 83 to 3. Not long after that, however, the Occupational Safety and Health Administration, the Agency created to administer the law, had become probably the most despised Federal Agency in existence. In recent years, the erosion of public and political support has been evidenced by several Senate votes in favor of blanket exemptions for broad classes of employers. In a free society, no law can be effective if its administration and enforcement are widely viewed as illegitimate and nonproductive.

Mr. President, the bottom line is this: After 9 years under the act's present safety regulatory scheme, we are left with no demonstrable record that it works and with a bad taste all around from the experience. I believe the primary reason for this is the structure Congress established for accomplishment of our ambitious goal. Nine years ago, we cast the Government in a policeman's role in a system of crime and punishment for over 4 million workplaces in the United States. Although there is a valid policeman's role for the Government in very hazardous workplaces, the Government must develop other approaches, particularly for the vast majority of workplaces which are not hazardous. In short, I believe there is a better way for the Federal Government to meaningfully participate in improving the occupational safety and health of America's workers.

The better way is for the Government to redirect its policeman's role to situations where it is really needed to deter and correct grave occupational hazards, and to adopt a new posture of stimulating employer and employee cooperative self-initiative to improve workplace safety and health. The legislation I propose today would adopt this fundamental shift in emphasis in the act's legal framework.

Mr. President, the recent final report of President Carter's Interagency Task Force on Workplace Safety and Health came to many of the same conclusions I have. With respect to the inherent limitations of the act's present enforcement approach, the report stated:

> The task force found that perhaps 25 percent of injuries are preventable by enforcement of present OSHA standards. About three-quarters can probably not be prevented by present enforcement, either because their causes are not covered by standards or because they involve transient conditions that are difficult to detect during inspections.

Moreover, several of the key final recommendations of the task force were:

Making OSHA's direct regulation more cost-effective by prioritizing inspections on detectable serious violations and high injury rate firms.

Focusing on results rather than enforcement and compliance procedures, recognizing low injury rate employers through reduced inspections.

Encouraging the private sector to do the job before Government intervention through cooperation programs.

It is also noteworthy, Mr. President, that Congress has itself already taken significant steps in the direction I propose today, including adoption of an amendment I offered in Jury to the fiscal year 1980 Labor-HEW Appropriations bill. That amendment dealt with small businesses of 10 or fewer employees and established the firm general rule that OSHA should leave nonhazardous small businesses alone, but preserved essential OSHA authority where really needed. This amendment was agreed to by a vote of 61 to 31, and was subsequently accepted by the Senate-House conference committee and on the House floor. This was the first time such a far-reaching mandate has been written into law.

The bill I offer today seeks to incorporate permanently into the Occupational Safety and Health Act this same positive and responsible approach, but now for businesses of all sizes. Moreover, I propose that Congress write into the law, for the first time, nonpunitive incentives for improving safety and health in the workplace.

More specifically, Mr. President, my bill would offer a partial exemption from OSHA regulation for workplaces with good safety records. The exemption would be from most safety inspections, including all routine inspections and inspections triggered by employee complaints in the majority of cases where the complaint can be resolved without an inspection.

This exemption operates as the targeting mechanism to insure the limited enforcement resources of OSHA are targeted to firms where they are most needed and also provides the incentive for self-initiative activities in the workplace to improve employee safety and health.

Development of a workplace specific targeting mechanism, such as the one I propose, was a major recommendation of President Carter's Interagency Task Force on Occupational Safety and Health to supplement the limited industry-based targeting OSHA now utilizes, and to enable OSHA to redirect inspection resources to high-hazard workplaces.

To qualify for the inspection exemption, a workplace must have had a good safety record during the preceding year, including no employee deaths caused by occupational injury and very few occupational injuries which resulted in one or more lost workdays. The Bureau of Labor Statistics data indicate that approximately 90 percent of all workplaces would qualify under this test.

To facilitate the administrative mechanism for distinguishing those workplaces which have good safety records from those which do not, the bill proposes to utilize data from workers' compensation reports already filed by an employer with the State workers' compensation agency. The State workers' compensation agency will compile a list of employers in the State who reported one or more occupational injuries. Those employers with no injuries reported will automatically qualify for the exemption, without the need for any paperwork from the employer. The Bureau of Labor Statistics estimates that approximately 85 percent of all workplaces would qualify under this method.

Those workplaces not identified as safe through the workers' compensation data, but which meet the safety record test, based on having no deaths and a low-lost-workday-injury rate, will claim their inspection exemption by filing an affidavit with OSHA.

This system of combining limited use of workers' compensation data with the affidavit process effectively identifies safe workplaces with a minimal amount of paperwork for employers, OSHA, and State workers' compensation agencies. To assist these State agencies to make any needed modifications in data tabulation procedures, the bill directs the Labor Department to provide financial and technical assistance to the State agencies.

In addition to establishing an inspection exemption as an incentive for self-initiative to improve safety and health, the bill encourages two specific programs which have been effective in addressing safety and health programs, advisory safety committees and advisory consultation programs. The incentive to initiate and maintain these two programs is an exemption from or reduction in most civil penalties for violations of OSHA safety standards or duties. Workplaces with a good safety record will be exempt from these penalties if these programs are maintained. Those workplaces which cannot meet the good safety record test, but which have an advisory safety committee and advisory consultation program, will have penalties reduced to not more than $700 for serious violations or $300 for other than serious violations. The penalty exemption and reduction does not apply to willful violations, failure to correct a violation, or to criminal penalties.

Advisory safety committees are now in operation in many plants, and have often been very valuable in developing and implementing cooperative efforts to improve workplace safety and health. This has been recognized by the AFL–CIO, many employers, OSHA, and President Carter's Interagency Task Force on Workplace Safety. The final report of the task force stated:

> Since many accident-related factors are difficult for direct regulation to impact, we concluded that injury prevention must be the shared responsibility of management, workers and unions, as well as the Federal government. (Our recommendations) are designed to sponsor cooperative prevention programs among all these groups by * * * encouraging joint labor/management efforts at both the industry and plant levels, and placing reliance on the ability of employers who have performed well in the past to monitor their own performance.

Because the precise functions and activities of the safety committee can appropriately be shaped at the workplace, the bill proposes only basic structural requirements to insure meaningful employee participation and input on safety and health matters. The committee may be composed of employer and employee members or just employee members. The employer's duty is to consult with the committee and respond to its recommendations.

The bill also encourages utilization of consultation programs. Congress, OSHA, and State occupational safety and health programs have recognized the value in providing consultation services to employers. Almost every State now offers consultations, with 90-percent Federal funding, to employers. In addition, workers' compensation insurance companies provide very extensive consultation services. My bill would tap all these expert resources, with quality control checks, to expand competent consultation services available to employers.

These requirements of having a consultation program and a safety committee in order to qualify for the penalty exemption do not apply to small employers (10 or fewer employees) with good safety records. These programs are not as relevant to these employers, and would not likely produce results corresponding to the administrative and paperwork burdens involved.

Mr. President, having explained what this bill would do, let me now mention what it would not do. Most importantly, my bill does not restrict OSHA authority to deal with occupational health hazards. Such hazards are not revealed by reference to safety performance records (due to long latency periods,) and the effectiveness of safety committees and consultation programs in dealing with health hazards is not well established at the present time. However, I am hopeful that experience developed under this legislation would provide a firm basis for expanding the utilization of the self-initiative methods established here.

In addition, this bill specifically preserves essential OSHA authority to deal with other hazards which cannot be identified by reference to safety performance records. Our recent experience with grain elevator explosions proves that some special safety hazards are not forewarned by either industry or individual establishment safety performance records. Therefore, OSHA would retain full authority and responsibility to deal with very special cases of this kind. The bill also preserves full OSHA authority to investigate serious accidents, deal with imminent dangers, and to protect employees against discrimination based on exercising rights under the law.

Mr. President, before concluding, I would like to express my appreciation to my distinguished cosponsors for joining with me in this effort to improve the OSHA program. In the past, there has regrettably been polarization over this issue. Therefore, I am particularly pleased to have strong bipartisan cosponsorship, including Senators Williams, Church, Cranston, Hatch, and Nelson.

I would particularly like to acknowledge the assistance and support of Senator Williams, the chairman of the Labor and Human Resources Committee, in this legislation. Not only was he the principle author of the Occupational Safety and Health Act of 1970, he has demonstrated since then an unwaivering commitment to make the program effective. His cosponsorship of this legislation reiterates this strong commitment and his continued leadership in the area of occupational safety and health.

Mr. President, in conclusion, I believe the legislation I introduce today represents a responsible, positive approach to improving the worker safety and health program of the Government. I hope my colleagues and all interested parties will give it careful attention. I also hope the broad support shown for the OSHA amendment I sponsored in July to the Labor-HEW bill will coalesce around the legislation I offer today.

Mr. President, 9 years ago, we adopted a firm national policy of improving the occupational safety and health of American workers. Today, I urge my colleagues to meaningfully improve the program designed to carry out that historic commitment.

Mr. President, I ask unanimous consent that the text of my bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2153

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Occupational Safety and Health Improvements Act of 1980".

Sec. 2. The Occupational Safety and Health Act of 1970 is amended by inserting after section 4 the following new section:

"APPLICATION OF THIS ACT TO EMPLOYERS WITH A RECORD OF EFFECTIVE SELF-INITIATIVE ON OCCUPATIONAL SAFETY AND HEALTH

"Sec. 4A. (a) (1) Any employer who maintains a workplace which qualifies under the provisions of subsection (b) or (c) shall be exempt from all safety inspections and investigations with respect to such workplace carried out under section 8, other than inspections or investigations conducted for the purpose of—

"(A) determining the causes of a serious workplace accident which resulted in the death of one or more employees or hospitalization of more than one employee;

"(B) determining the existence of an imminent danger or other hazard so serious in nature that it warrants the expeditious attention of the Secretary without the Secretary first providing the notice and seeking the assurances required by subparagraph (c) of this paragraph, in response to information which gives the Secretary reasonable grounds to believe such a danger or hazard exists;

"(C) determining whether a violation exists in response to information which gives the Secretary reasonable grounds to believe a violation exists if the employer has first received notice from the Secretary of such information and has failed to provide to the Secretary satisfactory assurances that appropriate action, if any, has been taken to correct the violation; or

"(D) determining whether proper abatement of a violation previously cited during a permitted inspection or investigation has taken place.

"(2) Nothing in this subsection shall limit the authority and responsibility of the Secretary to take all actions authorized by this Act with respect to occupational health hazards, and with respect to any serious safety hazards which cannot be effectively identified by reference to occupational injury data as provided for in this section.

"(3) The scope of an inspection or investigation conducted pursuant to paragraph (1) or (2) shall be limited to the purpose of such inspection or investigation, but the Secretary may issue a citation and assess a penalty with respect to any other safety violation found during the normal course of conducting the inspection or investigation within such scope.

"(4) As used in this section, the term 'workplace' means a single physical location where business is conducted or where services or industrial operations are performed, except that for employers engaged in activities which are physically dispersed, the term 'workplace' includes all locations at which such services are performed by employees of the employer engaged in such activities. Where distinctly separate activities are performed at a single physical location, each activity shall be treated as a separate workplace.

"(b) For the purpose of identifying workplaces which qualify for the exemption provided in subsection (a), the Secretary shall enter into agreements with State workers' compensation or other appropriate State agencies under which the State agency will prepare and submit to the Secretary annually a listing of all employers (including any other necessary identifying information) within such State who during the preceding year had one or more occupational injuries as reported to such agency. Each such report shall include, at least, all occupational injuries which result in two or more lost workdays. Any workplace of an employer covered by the State workers' compensation law and the reporting requirements of the State workers' compensation law but not included in the listing submitted under this subsection qualifies for the exemption provided in subsection (a).

"(c) (1) Any workplace not qualifying for the exemption set forth in subsection (a) under subsection (b) qualifies for such exemption if during the preceding calendar year the workplace had no employee deaths caused by occupational injury and had a number of lost workday injuries which was less than or equal to the number specified in the following table:

Number of employees of the workplace, and number of lost workdays injuries:

1–25	0
26–49	1
50–99	2
100–149	3
150–249	5
250–349	7
350–449	9
450–649	13
650–999	20
1000 and over, two injuries per every 100 employees.	

For purposes of this paragraph, a lost workday injury shall be any occupational injury which results in one or more lost workdays, and the number of employees of the workplace shall be the average number of full-time employees (or their equivalent) during the preceding year. No sooner than three years after the effective date of this section, and at three year intervals thereafter, the Secretary shall have the authority to revise the above table, within comparable standards, based on changes in the national average occupational injury lost workday case rate, as published by the Secretary.

"(2) Each employer wishing to claim qualification for the exemption provided in subsection (a) pursuant to this subsection shall file with the Secretary an affidavit under oath or affirmation stating that during the preceding year there were no employee deaths caused by occupational injury, the average number of full-time employees (or their equivalent) employed in the workplace, the number of occupational injuries which resulted in one or more lost workdays, and the maximum number of such lost workday injury cases under which workplaces of the size category of the workplace for which the affidavit is filed would be eligible, as provided by paragraph (1) of this subsection, for the exemption. The employer shall post a copy of this affidavit in a prominent place in the workplace.

"(d) The following provisions shall apply to penalties for serious and other than serious violations of a safety standard or duty:

"(1) No employer who maintains a workplace which qualifies for the exemption set forth in subsection (a) shall be assessed a penalty under section 17(b) or 17(c) for such a violation found in such workplace if—

"(A) the employer maintains at such workplace an advisory safety committee as described in subsection (f)(2) and a regular consultation program as described in subsection (g) to advise and consult with the employer on occupational safety and health matters; or

"(B) the employer at all times during the preceding calendar year employed not more than 10 employees (in which case the period during which no penalties shall be assessed pursuant to this paragraph shall be from April 1 of the year following the calendar year for which the requirements for the exemption provided by subsection (a) have been met, until the following March 31).

"(2) No employer of a workplace which does not qualify for the exemption provided in subsection (a) but at which there is maintained an advisory safety committee as described in subsection (f)(2) and a regular consultation program as described in subsection (g) shall be assessed a civil penalty under section 17(b) which exceeds $700 or a civil penalty under section 17(c) which exceeds $300 for each such violation found in such workplace.

"(e) Except as provided in subsection (d)(1)(B), the exemption provided by this section shall be effective from April 1 of the year following the calendar year for which the applicable requirements are met until the following March 31, except that an affidavit filed pursuant to subsection (c) after such April 1 shall be effective five days after filing and until the following March 31.

"(f)(1) Any employer may consult with a workplace advisory safety committee for the purpose of increasing employee involvement in workplace safety and health matters and improving workplace safety and health conditions.

"(2) An advisory safety committee qualifies an employer for the penalty limitations provided by subsection (d) if—

"(A) the employer regularly consults with the committee and responds to the recommendations and advice of the committee;

"(B) the committee meets in accordance with a regular schedule established by the committee;

"(C) the committee has no more members selected by the employer, if any, than the number of employee members, except if otherwise provided in an applicable collective bargaining agreement;

"(D) employee members are selected each year by the labor organization representing the employees, or if there is no such organization, by a selection process which gives all interested employees an opportunity to participate on the committee or in the selection of employee members of the committee; and

"(E) at the time of selecting employee members as prescribed under clause (D) of this paragraph, the labor organization, or if there is none, interested employees, have the right to choose not to participate on the committee, in which case the employer shall no longer qualify for the penalty limitations provided by subsection (d).

"(g) A consultation program qualifies an employer for the penalty limitations provided by subsection (d) if such consultation program—

"(1) is provided by—

"(A) approved State agencies pursuant to section 7 (c) (1), section 18, or section 21 (c),

"(B) private business concerns under contract with the Secretary for the purpose of this paragraph,

"(C) one or more employees of the workers' compensation insurance carrier of the employer, or of a private business concern, who are, with respect to safety matters, certified as safety professionals by the Board of Certified Safety Professionals, or licensed as professional engineers with a safety specialty by any State, or, with respect to health matters, certified as industrial hygienists by the American Board of Industrial Hygiene,

"(D) any other individual or private business concern meeting such competency requirements as the Secretary shall establish for the purpose of carrying out this subsection, or

"(E) any combination of methods prescribed by subclauses (A) through (D) of this clause;

"(2) includes a review of all conditions in the workplace significantly relating to occupational safety or health during the year of qualification, or during such other time period as the advisory safety committee described in subsection (f)(2) may specify; and

"(3) includes written reports to the employer of the findings made as a result of consultations, together with such recommendations as may be appropriate, and provide for the furnishing of such reports to the advisory safety committee described in subsection (f)(2).

"(h)(1) Every employer claiming qualification for the provisions of subsection (a) or (d) shall maintain records in an orderly manner to assure verification. The Secretary shall have access to such records. Such records may consist of injury records maintained pursuant to section 8(c), appropriate workers' compensation records, documentation with respect to the number of employees at such establishment, minutes of meetings of the advisory safety committee, evidence of the procedure used to select employee members of the advisory safety committee, verification of transmittal of written reports of the consultant, and other necessary and proper information maintained in the normal course of business.

"(2) If the Secretary finds a workplace for which the provisions of subsection (a) or (d) are claimed does not qualify, the Secretary shall rule the workplace not qualified and shall notify the employer of such ruling. Such a ruling may be reviewed only by the Occupational Safety and Health Review Commission and a court of appeals of the United States in accordance with the provisions of sections 10 and 11, and only in conjunction with the contesting of a citation, abatement order, or proposed penalty.

"(3) No report or recommendation of a consultant or advisory safety committee provided pursuant to this section, or assurance by the employer pursuant to subsection (a)(1)(B), shall be considered as evidence that a violation of this Act was willful within the meaning of section 17 (a) or (e) if the employer had a reasonable, good faith belief that the condition involved in such report, recommendation, or assurance, subsequently determined by the Secretary to be a violation, was not a violation of this Act.

"(4) Notwithstanding any other provision of law, no claim of liability for an occupational illness or injury may be asserted against any advisory safety committee or provider of consultation services or against any member or employee of such committee or consultant based on any activity, relationship, or breach of duty within the scope of functions of such committee, consultant, or individual required or authorized pursuant to this section.

"(i) In order to carry out the purpose of this section, the Secretary shall—

"(1) provide financial, technical, and administrative assistance to appropriate State workers' compensation agencies or other appropriate State agencies to assist such agencies in making necessary modifications to procedures in order to carry out the purpose of subsection (b);

"(2) report to Congress before July 1, 1982, on the participation of States under subsection (b), together with an explanation of any difficulties in obtaining the participation of all States and recommendations for eliminating any such difficulties;

"(3) advise employers and employees of the provisions of this section, including current information on the qualifications for the exemption provided by subsection (a) and the penalty limitations provided by subsection (d), and on inspection activities in which the Secretary may engage pursuant to paragraph (2) of subsection (a), through general information programs, individual notice during onsite inspections, investigations, and consultations, and other practicable means;

"(4) require inclusion of the provisions of this section, or of similar provisions at least as effective in accomplishing the purposes of this section, for approval of a State plan submitted pursuant to section 18(b);

"(5) develop, with the cooperation of State workers' compensation or other appropriate State agencies, other appropriate means to identify workplaces which qualify for the exemption set forth in subsection (a) by increasing utilization of State workers' compensation data, and shall have the authority to implement such means, within standards comparable to those set forth in subsection (c)(1), as an alternative to the affidavit process set forth in subsection (c)(2); and

"(6) explore other appropriate means to encourage voluntary self-initiative in workplaces to improve safety and health conditions, utilizing advisory safety committees, consultation programs, and other methods, including a voluntary program of self-certification of compliance with safety and health standards and duties, and shall include in the Secretary's annual report required by section 26 a report on activities carried out pursuant to this clause.".

SEC. 3. Section 23 of the Occupational Safety and Health Act of 1970 is amended by adding at the end thereof the following new subsection:

"(i) The Secretary is authorized to make grants to the workers' compensation agency or other appropriate State agency of any State which is participating or preparing to participate under section 4A(b) for the purpose of assisting such State agency to improve its program of administration of the State workers' compensation program, particularly with reference to utilization of mechanized claims processing and information retrieval systems and in connection with activities under Section 4A(i)(5). There is authorized to be appropriated for the purpose of this subsection for each fiscal year until the end of fiscal year 1985 the sum of $5,000,000.".

SEC. 4. The amendments made by section 2 and section 3 of this Act shall take effect January 1, 1981.

Mr. WILLIAMS. Mr. President, when the Occupational Safety and Health Act became law, it did so with the overwhelming support of the Senate. And, I believe that a majority of the Senate, today, still strongly supports the laudable objectives of this law.

We all know that we have a duty to insure that America's workers are employed in safe and healthful workplaces, and that the products and services which we consume are not made available at the expense of the health or safety of the workers who make them.

Regrettably, our OSHA program got off to a bad start, it was entrusted to an administration which was not wholly committed to its objectives—an administration which did not devote its best efforts to making the OSHA program work effectively and efficiently. During that period, the workplace safety and health program suffered from indifference and lack of direction. OSHA seemed to concentrate on trivia, and major policy initiatives were bogged down in bureaucratic wrangling.

However, under the stewardship of Secretary of Labor Marshall and Assistant Secretary Bingham, OSHA has, in the past 3 years, made great strides toward more effective and efficient implementation of the law. There has been an increased pace in promulgating comprehensive and valuable workplace health standards. In addition, under this administration, OSHA has made great efforts to eliminate those standards, rules and regulations which contribute little, if anything, toward workplace safety.

During this administration, OSHA has also vastly improved the amount and quality of consultation provided to employers, especially small employers, to help them understand their obligations under the Occupational Safety and Health Act. And, OSHA has dramatically increased programs for the training and education of workers, of employers and of trade union officials.

Despite these laudable achievements, there are still some areas where we are encountering extraordinary difficulty in overcoming the years of maladministration and public misunderstanding and suspicion. Among these areas is the manner in which the act is enforced.

OSHA has not yet been able to effectively marshal and target its enforcement resources. This inability has resulted in growing resentment on the part of both workers and employers, and growing frustration on the part of the Congress. And, it has led to a growing public belief that our workplace safety and health program is not operating effectively.

I, for one, do not subscribe to that point of view. I believe that in the nearly 9 years of its history, OSHA has contributed significantly to the safety and health of our Nation's workers. And, I further believe that with the admirable achievements of this administration, OSHA stands on the threshold of even more dramatic improvements in the workplace environment.

But, I also believe that it is necessary for OSHA to come to grips with the enforcement problem. OSHA's responsibilities are broad and its resources are limited. I believe that OSHA must learn to effectively target these limited enforcement resources so that it concentrates on the most unsafe workplaces, and so that it does not expend its personnel in enforcing the act at workplaces which are relatively safe or at workplaces where employers comply with relevant standards and pay attention to the safety of their employees.

I believe that the Congress must provide OSHA with the statutory authority and direction necessary to achieve this result.

For this reason, I am pleased to join with the distinguished ranking minority member of the Committee on Labor and Human Resources, the Senator from Pennsylvania (Mr. SCHWEIKER) in introducing this proposed legislation.

Mr. President, this legislation would provide a mechanism by which OSHA can identify those workplaces which may be unsafe, and which warrant increased enforcement attention. And it makes it possible for that Agency to direct its limited enforcement resources at unsafe workplaces. At the same time, this bill enables OSHA to identify those workplaces which are relatively safe, and upon which OSHA enforcement resources would probably not be well spent.

One of the most important features of this proposal is to separate safe workplaces from unsafe workplaces on the basis of the specific safety record of individual workplaces. Unlike previous attempts to target OSHA enforcement, this bill does not exempt employers from the safety requirements of the act on the arbitrary basis of their size, or the industry they are in, or on the basis of some inexact statistical extrapolation. Under this bill, the specific performance of the workplace itself would be the sole criteria for exemption.

Furthermore, this bill provides a number of safeguards for employees, even those employees in workplaces which may be exempt from safety inspections. Employers must still comply with all safety and health standards, and OSHA is free to conduct health inspections. In addition, OSHA may investigate accidents, and may respond to employee complaints.

Mr. President, more important, the introduction of this bill gives the Committee on Labor and Human Resources, and the Senate as a whole, the opportunity to address the problem of effective OSHA enforcement in the context of a legislative proposal which contains specific establishment exemption criteria.

However, the approach taken by this proposed legislation is not the only way to effectively target OSHA's enforcement resources, but it presents one method which is worthy of exploration.

This bill will give to us a starting point from which to work. And, it provides to the Department of Labor and to the administration, the opportunity to examine the question of how OSHA can effectively use its enforcement resources.

Today's proposal could well be the spur for the formulation of other legislative efforts by which unsafe workplaces can be identified, and receive the attention of the Occupational Safety and Health Administration. By taking such an approach, I am confident that we can arrive at a solution which will best serve those who still find themselves needlessly imperiled on the job.

And we must not forget that any scheme to improve the OSHA program must be centered on the objective of improving workplace conditions.

Mr. President, I am as firmly committed to the OSHA workplace safety and health program as I have ever been. I believe that no civilized society can tolerate widespread industrial carnage and disease. I believe that we should never accept as a price for our goods and services, the health, the limbs and the very lives of the workers who produce them.

On November 16, 1970, when the Senate debated the legislation which was to become the Occupational Safety and Health Act, I said:

> The legislation now before us comes many years too late. We surely owe it to the millions of working men and women whose health and lives are unnecessarily jeopardized by hazards of the workplace to pass the most effective measure we can devise.

And now, 9 years later, we still owe that duty to our Nation's workers. We have passed a strong occupational safety and health law, and we must now insure that it is not weakened, that it is not stripped of meaningful sanctions, and that its commitment is not lessened. But rather, just as we passed the most effective measure possible in 1970, we must now insure that the law is administered in the most efficient and most effective manner possible.

That duty which we owe to millions of America's workers is still with us, and we must strive to insure that promise which we made in 1970, when we enacted OSHA, is fulfilled. •

● Mr. CHURCH. Mr. President, I am pleased to join today in introducing legislation to amend the Occupational Safety and Health Act (OSHA). The sponsors include Senator RICHARD SCHWEIKER, the ranking minority member of the Senate Labor and Human Resources Committee and the Appropriations Subcommittee for OSHA; Senator HARRISON WILLIAMS, the chairman of the Labor and Human Resources Committee; and Senators ORRIN HATCH, GAYLORD NELSON, and ALAN CRANSTON, members of that committee. This sponsorship reflects all shades of opinion regarding OSHA, and it is a heartening development for those of us who have fought so long to amend the OSHA law.

The bill we introduce today would exempt the vast majority of American workplaces from most OSHA safety inspections. To minimize paperwork, the bill would use workmen's compensation reports already filed by employers with State workmen's compensation agencies.

Employers with no injuries reported to the State agencies would qualify for exemption. Roughly 85 percent of all workplaces would qualify through this method, without additional paperwork for employers. In addition, governmental agencies, including those in Idaho, would not need to undertake any new or substantial efforts.

Workplaces which do not qualify for exemption under this standard could still be exempted if they file a statement that the workplace had no occupational deaths and few injuries resulting in lost workdays. It is anticipated that 9 percent of all workplaces would qualify in this way, bringing the total exempted to 94 percent of all business establishments.

I have long felt, Mr. President, that the most serious defect in OSHA was the attempt to regulate every American business, regardless of type, size or the absence of hazards. For this reason, I have sought to exempt nonhazardous small businesses and family farms from OSHA.

This bill is a most significant step toward that goal, but it still falls short of the mark. In particular, it does not contain the family farm exemption, which has been inserted in OSHA appropriations bills for a number of years.

I strongly believe, Mr. President, that the family farm appropriations exemption should be codified—as my own bill, S. 1486, would do—in any undertaking to amend the OSHA law.

I understand that the Senate Labor and Human Resources Committee will hold hearings on the bill introduced today, together with my bill, S. 1486. At these hearings, I would hope that the committee will consider codification of the family farm exemption, since it would not involve any change in current law.

I wish to emphashize, too, Mr. President, that this bill is not the total exemption for nonhazardous small businesses that I would prefer. It is important to note, however, that it does have the endorsement of the small business community, including organizations like the National Federation of Independent Business, which estimates that virtually all businesses with 20 or fewer employees would be exempted under the bill.

This bill follows on my efforts, earlier this year, to totally exempt nonhazardous small businesses from OSHA, an amendment adopted in the Senate by a wide majority, 54 to 38. That amendment was enacted into law, in modified form, as part of the OSHA appropriations bill.

I believe that these new limitations in this year's OSHA appropriations bill finally made it apparent that the time has come to amend the generic OSHA Act.

The Senate has been waiting for a long, long time to make corrections in the basic law, and Senators Schweiker and Williams, in their positions of leadership on the Senate committee responsible for OSHA oversight, are to be commended for introducing this bill, and I am happy to join with them as a cosponsor.●

By Mr. METZENBAUM (for himself, Mr. Williams, and Mr. Javits):

S. 2154. A bill to amend title XVIII of the Social Security Act to provide medicare coverage for influenza and pneumonia vaccines; to the Committee on Finance.

IMMUNIZATION FOR THE ELDERLY AND DISABLED

● Mr. METZENBAUM. Mr. President, Senators Williams and Javits join me today in introducing a bill to provide coverage for influenza and pneumococcal pneumonia vaccines under medicare—important preventive health services that are not available under current medicare law. This initiative has been endorsed by the American College of Preventive Medicine and the American Association of Retired Persons.

Influenza and pneumonia are serious threats to life to the elderly, the disabled and the chronically ill. Together, influenza and pneumonia constitute the fourth leading cause of death among the elderly following heart disease, cancer, and stroke. These two preventable infectious diseases can cut short the lives of otherwise healthy individuals.

The risk of dying from influenza alone increases significantly with age. Persons aged 75 and above are 10 times more likely to die of flu as persons aged 55 to 64. In addition, chronic conditions that are common among the aged—heart, lung, and kidney disease, diabetes, severe anemia, and cancer—increase susceptibility to infection and decrease the body's ability to fight the infection.

Pneumonia is also a serious problem among the elderly. In this group alone there are 54,000 deaths each year attributable to pneumococcal strains of pneumonia.

The death rate from this disease is 2.5 times higher for those aged 65 to 74 and 10 times higher for those aged 75 to 84 than for the general population. These are staggering numbers when a relatively effective vaccine exists to prevent the disease and many unnecessary deaths.

As with any other drug or vaccine, there are some side effects associated with influenza and pneumococcal pneumonia immunizations. However, these reactions have been confined to local reactions at the injection site and occasional fevers. In all of the clinical experience with the new pneumococcal pneumonia vaccine there has not been one reported death or major serious illness associated with the vaccine and improved manufacturing procedures have reduced significantly the problems previously associated with influenza vaccines. Experts in the area of gerontology agree that the significant benefits of immunization for the elderly far outweigh the risks of rare side effects.

In his report, "Healthy People," the Surgeon General recommends that all high-risk individuals—the elderly, disabled, and chronically ill—receive annual vaccination against influenza. In addition, the Surgeon General states that the newly developed pneumococcal pneumonia vaccine will be an effective preventive measure, especially for the elderly confined to institutions where the spread of pneumonia is common and rapid.

However, the major source of health care coverage for the elderly—medicare—will not reimburse for immunizations. Thus, a senior citizen in our country who lives on a fixed income and is already burdened with deductibles and coinsurance under medicare law, must pay not only the costs of the actual flu and pneumonia vaccine, but also pay for the visit to the physician. As a result, few elderly Americans avail themselves of a simple, relatively safe procedure that the Office of Technology Assessment claims will add years to their productive lives. Such a policy is an outrage.

It makes little sense to me to reimburse patients for treatment of a disease and not for prevention. It makes little sense to me for the Government of the United States to assume the costs of hospitalization and drugs to treat these diseases and not pay the estimated cost of $11 for a pneumonia vaccine. And it makes little sense to me that the elderly of this country suffer from a serious disease and risk death when the condition is preventable in the first place.

Mr. President, this adjustment in the law is an important step forward for the elderly and disabled in our country. But it will cost money. I have asked the Congressional Budget Office to estimate how much in benefits will be paid to patients and also how much can be expected to be saved. When you consider the fact that with each episode of flu and pneumonia a senior citizen must enter the hospital. The cost savings of this bill could be great.

Mr. President, it is true that a policy reimbursing the elderly for immunizations could save us money. That would be an extra added side benefit. But I believe that the most important point to be made is that prevention of pneumonia and influenza would save unnecessary suffering and death. And that is the major aim of health policy in the United States.

Mr. President, I ask unanimous consent that the text of the bill and the letter of endorsement from the American College of Preventive Medicine be printed in the Record.

There being no objection, the bill and letter were ordered to be printed in the Record, as follows:

S. 2154

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1861(s) of the Social Security Act is amended—

(1) by redesignating paragraphs (10) through (13) as paragraphs (11) through (14) respectively:

(2) by striking out "and" at the end of paragraph (8);

(3) by striking out the period at the end of paragraph (9) and inserting "; and"; and

(4) by inserting after paragraph (9) the following new paragraph:

"(10) influenza and pneumonia immunizations.".

(b) Section 1862 (a)(7) of such Act is amended by inserting "(except as otherwise allowed under section 1861(s)(10))," after "immunizations".

(c) Section 1864(a) of such Act is amended by striking out "paragraphs (10) and (11) of section 1861(s)" and inserting in lieu thereof "paragraphs (11) and (12) of section 1861 (s)".

AMERICAN COLLEGE OF
PREVENTIVE MEDICINE,
Washington, D.C., December 19, 1979.
Hon. HOWARD M. METZENBAUM,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR METZENBAUM: On behalf of the American College of Preventive Medicine I am writing to express our support for legislation which would provide coverage under Medicare for pneumococcal and influenza vaccinations. The ACPM is a medical specialty society composed of some 1800 physicians engaged in the specialty practice of preventive medicine. The College has recently assumed, as one of its major interests, the development of prevention policy at the federal level.

While relatively little research commitment has been made to prevention, some studies have shown that prevention, as opposed to treatment, can make the largest difference in health status and cost containment. If we really want to effect the incidence of diseases which are clearly preventable, we must look beyond our disease treatment orientation, which has proven its limitations. The government, as the largest underwriter of health care costs, should be at the forefront of change in this regard.

It is, therefore, unfortunate that preventive health care services which are potentially cost effective have not found their way into our reimbursement system, while extremely costly treatment modalities, which have never been subjected to rigorous examination, have been integrated into our Medicare and Medicaid systems seemingly without question. In this regard, the recently released Office of Technology Assessment Report on Federal Vaccine and Immunization Policies examines the cost effectiveness data relating to pneumococcal vaccinations for the elderly and presents strong support for amendment of the Medicare law to permit reimbursement for preventive vaccinations.

The figures which support coverage for pneumococcal vaccinations are compelling. While the cost of the pneumococcal vaccination is $11.47, the cost of treatment averages $1,000. In 1978 alone cost of treatment for this disease was estimated at $135 million, although even with treatment the residual death rate from pneumonia is from 5 to 30 percent. Paradoxically, the U.S. Government spent $6.5 million for development and testing of a pneumococcal vaccine and will reimburse under Medicare for all of the cost of treatment of this disease, yet the Medicare law specifically excludes payments for vaccinations. This obviously bespeaks misplaced priorities in our reimbursement policies.

For these and other reasons we would, therefore, welcome the introduction of legislation which would provide for reimbursement under Medicare for preventive vaccinations.

As a resource of scientific expertise in the area of disease prevention, the College would be pleased to provide whatever input that may be appropriate to such an effort.

Sincerely,
O. BRUCE DICKERSON, M.D.,
President.●

By Mr. BELLMON (for himself and Mr. BOREN):

S. 2155. A bill to provide for the use and distribution of Delaware Indian judgment funds in Dockets 289, 27–A and 241, 27–B and 338, 27–E and 202, and 27, before the Indian Claims Commission, and for other purposes; to the Select Committee on Indian Affairs.

● Mr. BELLMON. Mr. President, I am today introducing legislation, with my colleague from Oklahoma, Senator BOREN, to provide for the use and distribution of certain Delaware Indian judgment funds.

The Delaware Tribe of western Oklahoma and the Delaware Tribe of Indians are the two federally recognized tribes who are the sole successor tribal entities to the historically aggrieved Delaware Nation. These two tribes have agreed upon the division to be made of the funds resulting from claims judged in their favor.

It is time that final dispensation of this just debt be paid by the U.S. Government.●

By Mr. CANNON (for himself and Mr. PELL) (by request):

S. 2156. A bill to amend the Railroad Revitalization and Regulatory Reform Act of 1976 to authorize additional appropriations for the Northeast corridor improvement project, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NORTHEAST CORRIDOR COMPLETION ACT

● Mr. CANNON. Mr. President, with Senator PELL, I am today introducing at the request of the administration a bill transmitted to the Congress by the Department of Transportation to authorize additional appropriations for the Northeast corridor improvement project. I ask unanimous consent that the transmittal letter and the accompanying section-by-section analysis be printed in the RECORD.

In 1976, the Railroad Revitalization and Regulatory Reform Act established the Northeast corridor improvement project, which is intended to provide improved train service between Boston, New York, and Washington. It is now clear that the project cannot be completed by 1981 and cannot be completed for the amount of money originally authorized. This bill would extend the program and increase the authorization by $750 million. Because the project has run so far behind schedule and because of the large cost increases, the Senate Committee on Commerce, Science, and Transportation intends to give close scrutiny to this program during the next session of Congress.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2156

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Northeast Corridor Completion Act of 1979".

SEC. 2. Section 703 of the Railroad Revitalization and Regulatory Reform Act of 1976 (455 U.S.C. 853) is amended—

(1) in paragraph (1)(A)(1) thereof, by striking "this Act" and inserting in lieu thereof "the Northeast Corridor Completion Act of 1979"; and

(2) in the fourth sentence of paragraph (1)(E) thereof, by striking "6" and inserting in lieu thereof "9".

SEC. 3. Section 704 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854) is amended—

(1) by striking paragraph (a)(1) thereof and inserting in lieu thereof the following paragraph:

"(1) $2,350,000,000 to remain available until expended in order to effectuate the goals of section 703(1)(A)(i)";

(2) by adding at the end thereof the following new subsections:

"(h) ACQUISITION OF REAL PROPERTY.—The Secretary is authorized to acquire for the United States, by lease, purchase, condemnation, or otherwise, title to any interest in real property, including, without limitation, lands, easements, and rights-of-way, and any other property interests, including, without limitation, contract rights, which the Secretary deems necessary to effectuate the goals of section 703 of this title.

"(i) REIMBURSABLE AGREEMENTS.—Where a portion of the costs of improvements authorized under section 703 of this title are to be borne by State or local governmental entities or other responsible parties, the Secretary is authorized to enter into agreements with such cost-sharing parties providing for the Secretary to carry out such improvements with funds appropriated pursuant to this section and requiring reimbursement to the Secretary by the cost-sharing parties of their portion of the costs of such improvements. Where the Secretary has entered into such reimbursable agreements, the Secretary is further authorized to incur obligations for contracts to carry out such improvements in anticipation of such reimbursement to such extent or in such amounts as may be contained in appropriation Acts. Funds reimbursed to the Secretary shall be credited to the appropriation originally charged for the costs of such improvements to be available for further obligation.

"(j) EXCESS EQUIPMENT AND OTHER PROPERTY.—Notwithstanding the provisions of section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483) or of any other law, the Secretary may transfer to the National Railroad Passenger Corporation, in accordance with procedures which the Secretary shall establish, excess real or personal property from the Northeast Corridor Improvement Project. As consideration to the United States for such transfer, property so transferred shall be made subject to the mortgage entered into pursuant to subsection (e) of this section. For purposes of this subsection, the term "excess real or personal property" means any items of personalty, such as equipment, acquired with funds authorized under this section, or any rights in property acquired under the authority of subsection (h) of this section, which are determined by the Secretary to be (1) usable by the National Railroad Passenger Corporation, and (2) no longer required by the Government in order to implement the Northeast Corridor Improvement Project.

SEC. 4. Section 701 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851) is amended by adding at the end thereof the following new subsection:

"(d) MANAGEMENT GOAL.—It shall be a goal of the National Railroad Passenger Corporation to manage its operating costs, pricing policies, and other factors so that, beginning not later than 5 years after completion of the Northeast Corridor Improvement Project authorized by this title and continuing thereafter, annual revenues derived from the operation of intercity rail passenger service over the Northeast Corridor spine between Washington, District of Columbia, and Boston, Massachusetts, shall equal or exceed the annual operating costs of providing such service. Within 5 years after the date of completion of the Northeast Corridor Improvement Project, the National Railroad Passenger Corporation shall submit to the President for transmission to the Congress a report on the success of the National Railroad Passenger Corporation in meeting this goal.".

SEC. 5. Section 9 of the Department of Transportation Act (49 U.S.C. 1657) is amended by adding at the end thereof the following new subsection:

"(r)(1) The Secretary is authorized to establish a working capital fund for financing the activities of the Transportation Systems Center. Such fund will be effective on October 1, 1979, and shall be available without fiscal year limitation. The Transportation Systems Center is authorized to perform research, development, test, evaluation, analysis, and other related activities as the Secretary may direct for the Department and other government agencies and, when approved by the Secretary or his designee, for State and local governments, other public authorities, private sources, and foreign countries.

"(2) The capital of the fund shall consist of—

"(A) the net assets of the Transportation Systems Center as of October 1, 1979, including any unexpended advances made to the Center for which valid obligations are incurred as of September 30, 1979;

"(B) any appropriations to the fund, which are hereby authorized to be made; and

"(C) the fair and reasonable value of property or other assets transferred to the fund after September 30, 1979 by the Department and other agencies of the government less the related liabilities and unpaid obligations, and the fair and reasonable value of property or other assets donated to the fund from other sources.

"(3) The fund shall be reimbursed or credited with advance payments from applicable funds or appropriations of the Department, other Federal agencies, and with advance payments from other sources, as authorized by the Secretary or his designee, for services provided at rates that will recover the expense of operation, including accrual of annual leave and overhead, and for acquisition of property and equipment in accordance with regulations to be issued by the Secretary. The fund shall also be credited with receipts from the sale or exchange of property or in payment for loss or damage of property held by the fund.

"(4) At the close of each fiscal year, there shall be transferred into the Treasury as miscellaneous receipts any funds accumulated which the Secretary determines to be surplus to the needs of the working capital fund."

OFFICE OF THE SECRETARY
OF TRANSPORTATION,
Washington, D.C.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.
Hon. THOMAS P. O'NEILL,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. PRESIDENT: Transmitted herewith is a bill "To amend the Railroad Revitalization and Regulatory Reform Act of 1976 to authorize additional appropriations for the Northeast Corridor Improvement Project and for other purposes."

This bill would make several amendments to Title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (the "4R Act") relating to the Northeast Corridor Improvement Project ("NECIP").

In early 1978, President Carter and former Secretary Adams called for a major reassessment of the NECIP. The resulting Redirection Study was issued by the Federal Railroad Administration (FRA) on January 15, 1979. It finds that, based on actual experience with the NECIP and the continuing inflation of construction costs, the original goal of a fast, dependable, safe, and attractive intercity rail passenger system compatible with other rail service in the Northeast Corridor could not be achieved within the original basic budget of $1.75 billion.

The Redirection Study recommended that $654 million be added to the original budget. Because inflation has exceeded the rate used to determine that recommendation, further refinement of design has shown the need to increase the estimated cost of some elements of the railroad system and since some errors in calculation were discovered, we are now recommending the addition of $750 million to the original $1.75 billion authorization, instead of the $654 million proposed in our Redirection Study.

The Redirection Study also concludes that the Project cannot be completed by the original target date of February 5, 1981 (five years after enactment of the 4R Act) without causing severe disruption of existing intercity passenger operations, commuter rail operations, and freight service in the Corridor. The report recommends that the construction period be extended at least through 1983 to reach a reasonable accommodation between the scheduling of construction and operations.

In addition, the Massachusetts Bay Transportation Authority's Southwest Corridor Project, which includes an integral part of the NECIP as a cooperative effort among federal, state, and local agencies, is not now expected to be completed until 1984. Therefore, this bill would extend the target date to five years after enactment of the bill, which, if the bill is promptly acted upon by Congress, would be some time in late 1984 or early 1985.

It is recommended that FRA should cease to play an active role in the project after completion of the $2.5 billion program that we are asking the Congress to authorize. The responsibility for completing any aspect of the project which is unfinished at that time should be placed with Amtrak.

With the additional Federal investment of time and money in the Northeast Corridor rail system, we believe that Amtrak would be able to attract enough riders so that, within five years after completion of the NECIP, its annual revenues from operations over the Washington-Boston mainline should cover its annual operating costs for that service. This goal has been expressly included in the bill, along with the requirement that Amtrak report to the President and Congress by the same date on its success in achieving the goal.

The bill would also eliminate the requirement that $27 million be spent to modify commuter rail equipment to enable that equipment to operate on the changed electrification system on the south end of the Corridor. Because the electrification system on the south end of the Corridor will not now be changed as part of the NECIP, it is no longer necessary to modify any commuter equipment.

The bill also contains an amendment to the 4R Act that is intended to make cost-sharing work better. It would authorize the Secretary to enter into agreements with local cost-sharing parties to enable FRA to carry out agreed-upon improvements and be reimbursed by the local party for the local funding share. Without such authority FRA cannot, under current law, obligate itself to cost-shared procurements until the local party has paid its share in advance. This requirement has proven an onerous, if not prohibitive, burden on the cash-flow of local agencies, and appears to be an impediment to cost-shared improvement projects that was neither foreseen nor intended by Congress.

The bill contains an amendment designed to clarify the authority of the Secretary to acquire, by purchase or condemnation, title to any property interest that may be deemed necessary to accomplish the NECIP. Although in our opinion the 4R Act confers an implied power of eminent domain on the Secretary, this amendment would moot any potential controversy over the issue.

The bill would also establish a working capital fund for the Transportation Systems Center in place of the present consolidated working fund method of funding. The new capital fund will provide a funding process similar to that used by other such activities elsewhere in government. This is especially desirable because the consolidated fund was only intended to be an interim measure.

In addition, the bill would authorize the Secretary to transfer to Amtrak, without reimbursement, equipment or other property purchased for the NECIP when it is determined to be no longer needed for the Project itself. Any such donated property would be made subject to the mortgage FRA now holds on other Amtrak property to protect the federal investment.

Finally, no legislative proposal relating to state and local taxation of the federal investment in the Northeast Corridor is being proposed at this time. In the Amtrak Reorganization Act of 1979, the Congress mandated a study of the taxes that Amtrak pays to state and local governments, and that study is currently in progress with recommendations to be submitted to the Congress on or before January 1, 1980. Thus, further action on this issue will await the completion of this study.

The proposed legislation will not have an adverse impact on the environment.

The Office of Management and Budget has advised that the submission of this proposed legislation to the Congress is in accord with the Administration's program.

Sincerely,

NEIL GOLDSCHMIDT.

SECTION-BY-SECTION ANALYSIS OF THE NORTHEAST CORRIDOR COMPLETION ACT OF 1979

Section 2(1). This section would extend the target completion date for the basic Northeast Corridor Improvement Project (NECIP) from the present five years after enactment of the 4R Act (February 5, 1981) to a date (expected to be some time in 1984) five years after enactment of this bill. This extension of time reflects the recommendations contained in the Redirection Study issued by the Federal Railroad Administration (FRA) in January 1979.

Section 2(2). This section would amend section 703(1)(E) of the 4R Act, which, among other things, requires a 6-year report to Congress on the results of the NECIP and the need for future federal investment in the Northeast Corridor. This amendment would make the 6-year report a 9-year report, in conformity with the three-year extension of the NECIP target completion date called for by this bill.

Section 3(1). The basic NECIP funding authorization set out in section 704(a)(1) of the 4R Act would be increased from the present $1.6 billion to $2.35 billion. This new authorization level was developed in the Redirection Study. Together with the separate authorization for cost-shared station-related improvements, this increment would bring the total of Northeast Corridor program authorizations to $2.5 billion. The Administration is firmly committed to this figure as a ceiling on direct Federal investment in the Northeast Corridor intercity rail passenger system. The requirement that not less than $27 million be spent to finance the modification of commuter rail equipment to accommodate the conversion of the electrification system in the sound end of the Corridor is repealed because it is no longer necessary. FRA no longer plans to change the electrification on the south of the Corridor as part of the NECIP and thus it would serve no purpose to convert the commuter equipment.

Section 3(2). This section of the bill would add three new subsections to section 704 of the 4R Act.

New subsection (h) would clarify the authority of the Secretary to acquire, by purchase or condemnation, title to any property interest which is deemed necessary to accomplish the NECIP.

New subsection (i) would authorize the Secretary to enter into agreements with local cost-sharing parties to enable the FRA to make improvements itself and be subsequently reimbursed by the local party for the local funding share. Without such authority the FRA cannot obligate itself to cost-shared construction contracts until the local party has paid its fifty percent share in advance into an escrow or suspense account.

New subsection (j) would authorize the Secretary to transfer to Amtrak, without reimbursement, equipment or real property purchased by the FRA for use in the NECIP when they are no longer needed for project purposes but can be used by Amtrak after completion of the NECIP. Any such donated property would be made subject to the mortgage the FRA now holds on other Amtrak property to protect the federal investment.

Section 4. This section of the bill would add to the 4R Act a new management goal for Amtrak: Beginning 5 years after completion of the NECIP, Amtrak's annual revenues from operations over the Washington-Boston mainline should cover its annual operating costs for that service. By the same date (expected to be some time in 1989) Amtrak would be required to submit a report to the President for transmission to Congress on its success in meeting this management goal.

Section 5. This section of the bill would establish a working capital fund for the Department's Transportation Systems Center (TSC) in place of the present consolidated working fund method of funding. The consolidated fund was intended to be an interim measure. The new capital fund will provide a funding process similar to that used by other such activities elsewhere in Government.●

By Mr. MATSUNAGA:

S. 2158. A bill to authorize certain withholding of seamen's wages on a voluntary basis; to the Committee on Finance.

Mr. MATSUNAGA. Mr. President, I have today introduced a bill to permit the voluntary withholding of State income tax from seamen's wages.

Section 601 of title 46 of the United States Code, forbids an employer from withholding State income tax from seamen's wages. This provision seeks to prevent seamen from being victimized when several States attempt to tax and have the tax withheld from seamen's wages. This statute forbids the employer from withholding State tax even when the seamen would voluntarily want withhholding. The Internal Revenue Code permits the employer to withhold Federal taxes, but the employer cannot withhold State income tax.

This provision makes no sense where the seamen work on ships that ply between ports in the same State and voluntary request the employer to withhold State tax. In Hawaii, barges transport pineapples from plantations on the outer islands to the canneries in Honolulu. These barge seamen sail only between Hawaiian ports. They are in no danger of being subjected to the taxes of two or more States, since they only enter Hawaiian ports. They have asked their employer to withhold Hawaii State tax, but the barge companies are barred by the statute from withholding.

My bill seeks to permit a seaman employed in trade between ports in the same State to voluntarily and revocably have the employer withhold State income tax.

Several barge companies in Hawaii support this legislation and I am informed that the labor unions involved support the measure also. I believe the legislation will prove of benefit to all concerned and deserves favorable consideration by the Congress.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2158

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 12 of the Act of March 4, 1915 (38 Stat. 1169; 46 U.S.C. 601), is amended by inserting before the period at the end thereof a comma and the following: "but nothing in this section shall prohibit any such withholding of the wages of any such seaman, who is employed in the coastwise trade between ports in the same State, pursuant to a voluntary agreement between such seaman and his employer".

ADDITIONAL COSPONSORS

S. 1957

At the request of Mr. Eagleton, the Senator from New York (Mr. Moynihan) was added as a cosponsor of S. 1957, to provide a national boating safety and facilities improvement program.

S. 2064

At the request of Mr. Williams, the Senator from Washington (Mr. Magnuson) and the name of the Senator from South Dakota (Mr. McGovern) were added as cosponsors of S. 2064, a bill to amend section 103 of the Internal Revenue Code of 1954 to provide that the interest on certain mortgage revenue bonds will not be exempt from Federal income tax.

SENATE JOINT RESOLUTION 126

At the request of Mr. DeConcini, the Senator from Utah (Mr. Garn), and the Senator from North Carolina (Mr. Helms) were added as cosponsors of Senate Joint Resolution 126, a joint resolution proposing an amendment to the Constitution to promote fiscal responsibility.

SENATE CONCURRENT RESOLUTION 54

At the request of Mr. Baker, the Senator from North Dakota (Mr. Young), the Senator from Utah (Mr. Garn), the Senator from Ohio (Mr. Glenn), and the Senator from Ohio (Mr. Metzenbaum) were added as cosponsors of Senate Concurrent Resolution 54, expressing the sense of the Congress with respect to the Baltic States and with respect to Soviet claims of citizenship over certain U.S. citizens.

AMENDMENT NO. 689

At the request of Mr. Pressler, the Senator from Michigan (Mr. Riegle) was added as a cosponsor of amendment No. 689 intended to be proposed to S. 870, the GI Bill Amendments Act of 1979.

AMENDMENTS SUBMITTED FOR PRINTING

SOCIAL SECURITY DISABILITY—H.R. 3236

AMENDMENTS NOS. 1623 AND 1624

(Ordered to be printed and to lie on the table.)

Mr. THURMOND submitted two amendments intended to be proposed by him to H.R. 3236, an act to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes.

Mr. THURMOND. Mr. President, I am today submitting two amendments to section 507 of H.R. 3236, the social security disability bill, which the Senate began to consider on December 5, 1979.

This provision of H.R. 3236 is somewhat obscure, but its potential impact on employers is such that Senators should study the issue very carefully before endorsing the recommendation of the Finance Committee. Technically, what section 507 does is to enlarge the definition of "wages" for social security (FICA) tax purposes to include any portion of the employee FICA tax liability paid for the employee by his employer. The practical effect of this provision, however, is quite drastic and deserving of much more careful scrutiny by Congress than has heretofore occurred.

Section 507 changes a portion of the Social Security Act that has been in effect since the inception of social security 40 years ago. Since the original Social Security Act of 1939, employers have had the option of paying both portions of the FICA tax, which otherwise is equally apportioned on employer and employee portion of the FICA tax paid ployer opts to assume the full FICA tax liability, the wage on which the FICA tax is computed does not include the employee portion of the FICA tax paid by the employer. Under Section 507, as now proposed, wages will be "grossed-up," by encompassing any employee FICA tax paid by the employer.

The impact of this proposed change will be quite severe on all employers who have been electing to pay FICA tax for their workers. For these persons, section 507 will result in an additional social security tax increase of 6 to 7 percent. Some small employers, especially farmers, have traditionally paid all FICA tax on their employees mainly as a matter of convenience, rather than for any payroll cost savings. These small employers will be especially hard hit by section 507, which exempts employers of domestic labor in a private home, but does not help them. Also severely impacted by this change will be many local governments, charitable institutions, and other employers who have recently adopted a method of paying the employee share of the FICA tax in return for a commensurate reduction in the employee wage base—which usually nets out to a small increase in employee take-home pay.

This is simply not the type of drastic change in social security tax law that Congress should adopt without the benefit of thorough hearings and careful consideration of preferable alternatives. The Finance Committee has held no such hearings, and neither has the impact of this suggested change in the law been thoroughly explored in the House.

Mr. President, on Thursday last (December 13), the distinguished senior Senator from North Carolina (Mr. HELMS) filed three amendments to section 507 of H.R. 3236, any of which I could fully support and all of which I urge other Senators to carefully review.

Today, I am submitting an additional two amendments to this section, which would modify it as follows:

First. Amendment No. 1623 would modify section 507 by providing that small business employers (defined as employers who have fewer than 25 employees on a regular basis), State governments, and any political subdivision of a State government, would continue to have the option, as under present law, of paying FICA tax for their employees without such payments increasing the wage base of the employees. I simply do not believe there is a compelling need, whether because of slightly decreased tax receipts going into the social security trust fund or other reason, deprive these categories of employers of the cost-savings and other benefits of this option. The amendment also provides an additional year, until the beginning of 1982, for other employers to adjust to the changes mandated by section 507.

Second. Amendment No. 1624 would modify section 507 by providing that small business employers defined as above) would continue to have the option of paying both employer and employee shares of the FICA tax without any increase in the wage base. The amendment also provides an additional year, until the beginning of 1982, for other employers to adjust to the changes mandated by section 507.

The purpose of this amendment obviously is to help small, labor-intensive employers, for whom payroll taxes already are the most expensive type of tax obligation. Faced with current double-digit inflation rates and additional social security tax increases presently scheduled under current law, the last thing small business needs is another social security tax hike. Beyond this, the intent of this amendment is to recognize that there are employer-employee relationships, other than domestics performing household duties in private homes, in which employers have traditionally assumed the entire FICA tax obligation.

I urge my colleagues to carefully study the merits of these amendments, as well as those submitted on December 13 by Senator HELMS.

AMENDMENTS NOS. 1625 THROUGH 1627

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted three amendments intended to be proposed by him to H.R. 3236, an act to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold a markup session on the Energy Impact Assistance Act and other pending calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ADMINISTRATIVE PRACTICE AND PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Administrative Practice and Procedure of the Committee on the Judiciary be authorized to meet during the session of the Senate today—beginning at 10:30 a.m.—to mark up regulatory reform legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate tomorrow—beginning at 2 p.m.—to hold a hearing on nominees and to meet in executive session with administration officials on U.S. arms sales to Saudi Arabia.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

STATEMENT ON RHODESIA

● Mr. CHURCH. Mr. President, for the first time in nearly 13 years, Rhodesia is open for trade with the United States. On Sunday, the President lifted Executive orders which have imposed a broad range of economic sanctions against that southern African country.

The timeliness of the President's action became all the more clear on Monday, when the British Government announced that all parties have now agreed to a cease-fire in Rhodesia's war. With the completion of this final set of negotiations, the London Conference on Rhodesia closes on a note of resounding success.

Mr. President, as everyone here today knows, the approach to peace and full democracy for Rhodesia has not been easy. First the Rhodesian people themselves, then the colonial power Great Britain, and finally the entire international community have had to come to grips with the problems of bringing a minority-governed colony into independence as a majority-ruled state where the rights of all are guaranteed. As private conferences and public negotiations failed to arrive at any solution, a long and bloody struggle has broken out, tearing apart much of southern Africa and claiming more than 20,000 lives. The problems of Rhodesia's independence have become enveloped in the need to bring an end to Rhodesia's war.

Now, many actors have succeeded in bringing Rhodesia to the threshold of peace. With remarkable skill, speed, and sensitivity, Great Britain convened a conference of all parties in the Rhodesian conflict. At that conference, Britain has forged agreement to a new constitution, secured arrangements for a transition government, and gained a final accord by all parties to a cease-fire. The architects of this settlement, Prime Minister Thatcher and Foreign Secretary Lord Carrington, have come to the United States and deserve our heartfelt congratulations for their stunning diplomatic achievement.

Other members of the world community have also played a pivotal role in the settlement process, including President Julius Nyerere of Tanzania and President Kenneth Kaunda of Zambia. These men, along with the leaders of the other frontline African states, have exerted steady and constructive pressure upon the patriotic front forces to reach a negotiated settlement on all issues.

At home, while there has not always been agreement over specific policy decisions, there has been overall acceptance of the need to work toward a fair and lasting peace for an independent

Rhodesia. In the Senate, after many hours of debate, we have reached virtual unanimity on a policy which coordinates U.S. actions on Rhodesian sanctions with the policies of Great Britain and other nations. This Senate action was a factor in the President's decision to respond to the success of the London Conference by lifting sanctions immediately.

Many Senators have contributed to the constructive debate on Rhodesia, but several have played particularly significant parts. Senator McGovern, as chairman of the Africa Subcommittee of the Foreign Relations Committee, has set the framework for discussion through hearings, legislative initiatives, and articulate presentations in committee and on the floor. All of us are also deeply indebted to Senator Javits, who has so often prevented sharp divisions on this issue through wise and sensible compromises. Senator Helms has played a vigorous role in insuring that Congress was included as a full partner with the President in working out a policy on Rhodesian sanctions. Senator Hayakawa has given unstinting attention to Rhodesia and has already begun to focus the Senate's attention upon the broader role which the United States can play in helping to advance the cause of economic and political unity in Southern Africa. Also, Senator Tsongas has aided the Senate in its deliberations by drawing upon his considerable experience in African issues.

Today, as we look back over the long years of the Rhodesian conflict, we see how far we have come. This is a time for congratulations. It is a time for hope. It is also a time for renewed dedication to seeing Rhodesia through the difficult months to come—past a delicate transition period and into a new era of majority rule and full political participation. While much has been achieved, no one should doubt that the challenges ahead are significant. In Congress, we must continue to do what we can and encourage others to do all they can to insure that the people of Rhodesia—and the people of the world—will mark the start of a new decade with a lasting settlement in Southern Africa.●

RAILROAD POLICY ACT

● Mr. McGOVERN. Mr. President, when the Senate reconvenes after Christmas, it is my understanding that one of the first issues we will consider will be the Railroad Policy Act of 1979. This legislation, which has been reported favorably, by the Senate Commerce Committee is designed to lessen the regulatory burdens faced by our declining national rail industry, and to allow this important industry some of the additional economic freedom they need in order to maintain and improve rail service in our country.

I would like to take this opportunity to commend the distinguished chairman, Senator Cannon, as well as Senator Long, for improvements they made in this bill regarding small shippers. Their sensitivity to the captive shipper issue in general has, I believe resulted in a much improved bill.

Mr. President, I am deeply concerned, however, about an amendment that may be offered on this measure regarding rail coal rates. Presently, the vast majority of coal produced in this country is moved to utilities and other plants by rail. The cost of this transportation, along with coal severence taxes, has become an increasingly heated issue in light of our national policy objectives which call for a reduction in the use of foreign fuels through coal conversion.

Many of my colleagues and I have voiced concern that these ever increasing rates will stall the critical need to rely on coal as a major energy source. As my distinguished colleague from Louisiana has pointed out, further sizable rate increases could result in a serious conflict with our national policy objectives.

In attempt to address this complex issue, my colleague from Louisiana plans to offer an amendment which would direct the Interstate Commerce Commission to establish standards for determining a revenue to variable cost ratio that would be a presumptive cap of maximum rate reasonableness.

Mr. President, while I share the Senator's concern on this issue, I cannot accept his rationale for this amendment which he hopes would have the effect of fixing the coal shippers' contribution to the subsidization of less profitable commodities and routes where there are not captive markets. I cannot accept the premise that railroads are using their coal rates to subsidize other traffic.

In point of fact, I recently participated in a Joint Economic Committee hearing in which the Interstate Commerce Commission presented testimony indicating that other commodities, may in fact be subsidizing coal.

Mr. President, I ask that a table provided by the Commission showing representative commodity groups with a large percentage of the traffic in excess of 180 percent of variable cost, be printed in the Record at the conclusion of my remarks.

(See exhibit 1.)

I believe a convincing case can be made that perhaps the coal rates which were initially charged when coal demand increased a few years ago, may have been too low. The Chairman of the Interstate Commerce Commission has already testified that prior to passage of the Railroad Revitalization and Regulatory Reform Act of 1976 that coal rates were artificially low. At that same hearing the president of the Burlington Northern testified that the lower coal rates of the Milwaukee Railroad contributed to its present bankruptcy problems.

Mr. President, I share the Senator from Louisiana's concern over the high price of coal transportation. I also believe that something should be accomplished to minimize the impact of these increased rates to the consumer. I am fearful, however, that the Senator's amendment will not cure the problem. Our railroads must obtain adequate capital to rebuild and maintain their physical plant particularly for hauling coal. I am also fearful that if the Senator's amendment is adopted we will continue to see the movement of coal being subsidized through rate increases on other commodities, like wheat, where the rate is already 35 percent in excess of 180 percent of variable cost.

I firmly believe that we need to address the coal transportation problem, but I believe that this amendment will only result in the shifting of the cost burden to other commodities.

Mr. President, in closing, I would just like to say that I am not at all opposed to the distinguished Senator's objective. I believe this problem must be resolved and resolved quickly. The evidence, however, does not support the premise of the draft amendment, which states that rail coal rates as a whole cross-subsidize other operations. The evidence presented by the Commission would indicate that the opposite may be true.

The table follows:

Exhibit 1

Representative SPC commodity groups with a large percentage of the traffic (carloads) in excess of 180 percent of variable cost [1]

SPSC No. and descriptive name:		*Percentage in excess of 180 percent variable cost*
2	Wheat	35.21
15	Iron ore	40.64
36	Wet corn milling products	22.19
57	Newsprint paper	61.44
68	Barium calcium compounds	41.09
70	Soda ash	45.10
77	Plastic materials	59.11
91	Glass containers	21.00
98	Pig iron	39.81
100	Manufactured iron or steel	42.27
101	Iron/steel pipe, tubing/fitting	32.32
104	Primary copper products	56.00
106	Primary aluminum products	56.34
111	Heavy machinery	51.29
117	Locomotive/railway car parts	55.17

[1] Based on A. T. Kearney analysis of 1977 1 percent waybill file. Source: Exhibit V-6 Interim Report II dated Apr. 10, 1979—"A Study to Perform an In-Depth Analysis of Market Dominance and its Relationship to Other Provisions of the 4-R Act."●

FEDERAL TRADE COMMISSION NO. 5: SYLVIA PORTER DEFENDS THE FEDERAL TRADE COMMISSION

● Mr. METZENBAUM. Mr. President, I know of few other persons who have done more to help consumers and their pocketbooks than Sylvia Porter. In a thoughtful and concise newspaper column, Ms. Porter argues strongly in support of the Federal Trade Commission and against congressional efforts to undetermine the agency's existing authority

I hope that my colleagues will pay close attention to the arguments put forth by one of our Nation's most well respected consumer advocates. I ask that the newspaper column which appeared in the New York Daily News on October 8, be printed in the Record in its entirety.

The article follows:

CONSUMER PROTECTION ACTIVITIES ARE THREATENED

(By Sylvia Porter)

Do you think that:

Before you buy a used car you should be told that it has been involved in a serious accident?

Before you spend the $2,500 a traditional funeral and burial service often costs you should know the immediate cremation or burial would run less than half as much?

Before you spend the money to install insulation in your home to help curb your winter fuel bill you should be able to compare the efficiency of various types of insulation products?

Before you risk spoiling your drapes, carpets and other home furnishings by improper cleaning you should have the same sort of care-instruction labels now attached to most clothing?

If your answers to any of these questions is "Yes," you are at odds with many members of Congress, particularly a House subcommittee that oversees the Federal Trade Commission's funding.

In a harsh and unusual move, a House appropriations subcommittee, chaired by Rep. John M. Slack (D-W.Va.) has directed the FTC to stop most of its major consumer protection moves.

The subcommittee is seeking to cut off the funds the agency needs to issue rules policing the funeral industry, used car dealers and makers of mobile homes, home insulation products, over-the-counter drugs, protein supplements—to give you merely a sampling.

The reasons industry complaints about the FTC's "over-regulation" and the public's general distaste for government interference. The result: The House subcommittee became a target for intense lobbying by industries which felt their profits were being threatened.

Trade regulation rules are in many ways similar to traffic laws. The trade rules set standards for acceptable behavior for everyone within an industry and define practices which are unfair or deceptive. As with traffic laws, not every violation can be caught, but enforcement and even the existence of the rule will be enough to discourage gross and repeated violations.

The proposed funeral home rule, for instance, would among other things require funeral home directors to disclose prices over the phone and prohibit them from misleading customers into believing such services as embalming or such items as vaults are necessary when they are not.

It was only after a five-year exhaustive investigation of the industry and widespread hearings that the FTC concluded such basic rules of conduct were essential to assure consumers a fair deal.

The funeral industry furiously insists "not so!" It wants the FTC's rule-making authority more tightly controlled.

So do many other powerful, well-organized business groups.

An irony here is that most of the trade regulations now causing such controversy were set in motion four years ago, when the FTC was dominated by Republican appointees, reports my associate, Brooke Shearer. Now the full Democratic-controlled House has endorsed the main points of the subcommittee's vote—although the ultimate fate of the FTC is still to be decided.

The House has given the FTC funds to continue operating only until November. By that time, the various committees that supervise the agency must decide formally how much the FTC can spend over the next several years.

The FTC has been without such an authorization for the past three years, largely because Congress has not been able to come up with a clear definition of the commission's mission.

Meanwhile, businesses in a wide variety of fields, both large and small, well-organized and determined to force a curtailment in the FTC's independence will be pushing Congress to grant itself the right to veto any FTC rule.

A veto power of that nature almost certainly would cripple the agency's consumer protection efforts.

You don't need to stretch your imagination much to reach the conclusion that heavily-financed organizations of, say, used car dealers and funeral home directors have far more clout with Congress than you, as an individual consumer, or member of a consumer group. And certainly they have more ways to "persuade" Congress than an agency such as the FTC.

Thus, every attempt by the FTC to promote a new regulation for your protection would touch off a new—and most likely, successful—lobbying effort by the industry or industries directly affected to convince Congress to exercise its veto power.●

AIRLINE PILOTS STUDY

● Mr. CHILES. Mr. President, I wish to indicate my support for the recently passed House bill (H.R. 3948), the Experienced Pilots Act of 1979. This bill, as amended, calls for the Director of the National Institutes of Health (NIH) to conduct a study to determine whether an age limitation for commercial airline pilots is medically warranted. The study will also determine the latest medical evidence concerning the effect of aging on the ability of persons to perform as pilots with the highest degree of safety.

As chairman of the Special Committee on Aging, I have a particular interest in seeing that this study go forward. For some time our committee has maintained a strong interest in the question of mandatory retirement. Current Federal Aviation Administration (FAA) rules require pilots to retire at age 60. When Congress raised the mandatory retirement age from 65 to 70 (Public Law 95–256), airline pilots were specifically excluded. The "age 60 rule" of the FAA is now 20 years old; yet since the adoption of this rule in 1959, medical science has made great progress in developing tests and other methods for measuring physical and mental capabilities. While I would emphasize the need for caution and careful deliberation in an area that so directly affects public safety, I firmly believe it is appropriate and timely for Congress to ask NIH to tell us what the current state of the medical art is with respect to airline pilots and the effects of aging.

Senator KASSEBAUM, who is a member of our Committee on Aging, has taken a leadership role on this issue in her position as ranking member of the Aviation Subcommittee, and I want to express my support and appreciation for her efforts.

In addition, I would like to support the chairman of the Commerce, Science, and Transportation Committee, Senator CANNON, and the ranking minority member, Senator PACKWOOD, for their efforts to consider this bill in the Senate, and I strongly endorse their efforts to move the bill along expeditiously. I am hopeful that the Senate may take action on this study soon so that it could begin early next year.●

SUPPLY AND DEMAND CAN BE BETTER BALANCED IN THE CATTLE INDUSTRY

● Mr. HELMS. Mr. President, when the Senate on Tuesday approved H.R. 2727 as reported by the Senate Finance Committee, it was a step in the right direction.

A few months ago in the National Journal, Robert J. Samuelson made a perceptive observation. He pointed out that "there is lost in today's inflation anxiety an understanding that not all price increases are bad; often price increases tell producers to produce more or consumers to consume less." Our market economy needs these signals to make the necessary adjustments.

This is particularly true, Mr. President, in the beef industry where prices are very sensitive to fluctuations in supply and demand. Over the last 7 or 8 years, producers have responded to market conditions. Sensing a rise in consumer demand in the early 1970's, cattlemen sharply increased the size of the Nation's cattleherd. As ranchers held back their cows and calves for herd-building purposes, less beef went to market and higher consumer prices resulted.

The high grain prices of the mid-1970's brought about by worldwide scarcity and the ballooning price of petroleum products wiped out profit margins on beef cattle. Producers liquidated their herds by record numbers, beef flooded the market, and retail prices stabilized and even retreated.

The price increases of recent months confirm reports that the herd liquidation stage of the cycle is over and that producers, encouraged by a more favorable cost-price picture, are now starting to rebuild their herds and to recoup some of the losses they suffered during the last 3 to 4 years of rock-bottom prices. This trend points to higher beef prices in the supermarket for the next 2 years—the time it takes from breeding to slaughter.

With all our technological genius, we have not yet reached the point where we can coax a cow into giving birth to a 500-pound steer fattened and ready for market. Cattle production is not like turning a spigot on and off to obtain immediate results. One simply must endure the periods of scarcity and wait for them to run their course.

Unfortunately, the quota system under the Meat Import Act of 1964 exacerbates the inherently cyclical nature of the cattle industry. The law permits U.S. production and imports to move up and down together—the result being that high prices for domestic meat are forced higher by decreases in imported meat and conversely low prices for domestic meat are forced lower by increases in imported meat. Thus, the Meat Import Act succeeds only in accentuating the boom-bust nature of the cattle business.

H.R. 2727 deals with this problem by revising the formula that determines the level of meat imports. The revisions included in this bill establish a countercyclical quota formula that would restrict meat imports during the herd reduction phase of the cattle cycle (when beef prices are low) and increase meat imports during the herd accumulation phase of the cattle cycle (when prices are high). In short, the bill stipulates that the quota level for imported meat be set in inverse relationship to domestic production in order to stabilize beef supplies and prices.

Such added stability in the cattle sector will provide an economic climate that encourages investment in cost-reducing technology, improvements in productivity, better breeding stock, pasture improvements, and better machinery and equipment. The stability would also redound to the benefit of the consumer by providing him with higher quality beef at a reasonable price.

We are all aware that certain concessions to the President had to be made by cattlemen in order to assure that there would be no veto of this piece of legislation, as there was last year. Cattlemen had to settle for a fixed annual meat import quota floor of 1.25 billion pounds rather than the 1.2-billion-pound floor that they favored. In addition, cattle producers had to accept slightly more presidential discretion to suspend or increase meat import quotas than they would have preferred.

In return, however, cattlemen obtained the countercyclical formula, which they believe is so important to stability in their industry, and received an expansion of coverage of the quotas to include processed beef and veal.

Mr. President, I believe that H.R. 2727 represents a sensible solution to some of the problems facing domestic producers. I commend the cattlemen of this Nation as well as my colleagues on the Finance Committee for their cooperative efforts to resolve the issues which have been holding this bill up for more than a year.●

PEACE IN ZIMBABWE

● Mr. KENNEDY. Mr. President, during her visit to the United States, Prime Minister Margaret Thatcher announced what is probably the only piece of good news we have received about foreign affairs in the recent past—all parties have agreed to a ceasefire and a peace plan for bringing Zimbabwe to full majority rule through free elections. It is ironic that within the first 7 months in office, a conservative British Government achieved in 14 weeks what several governments—including many in the United Kingdom, the United States and Africa—could not achieve in 14 years. This is a diplomatic triumph for which Prime Minister Thatcher and Foreign Minister Carrington can justly feel proud.

This success offers us an opportunity for reflection on where we stand now in our African policy. But, first a brief glance backward.

The question that naturally comes to mind in looking at this accord on Zimbabwe as why it did not happen sooner. President Carter set this as one of his highest foreign policy goals. Indeed, the so-called "Anglo-American Plan" was primarily an American initiative, nurtured, pushed, revamped, sold, and resold, with few concrete results.

In the end, Nigeria—one of our key partners in this project—finally dropped out of the exercise in frustration. The five frontline states—whose support is necessary for the success of any Zimbabwe plan—were confused and suspicious. The Patriotic Front concluded that we were trying to split their organization; and the internal government of Bishop Muzorewa claimed we were biased in favor of the guerrillas—a charge echoed in Congress through a dramatic series of legislative actions over the last year that eroded the administration's policy, inch by inch. We succeeded only in alienating everyone and influencing no one.

What we must do now is decide on the direction of our policy in Africa for the next decade. The first thing to note from the Zimbabwe success is that it vindicates those who argued all along for diplomatic solutions to the problem of southern Africa.

This may seem obvious to some. To others, delay was giving way to despair, moving many to conclude that the only solution was on the battlefield and the only role the West could play was to make sure the eventual victor was on our side. To have followed this course of action would have aborted the success at Lancaster House which we are applauding today.

Along with some of us in the Senate, President Carter supported a diplomatic solution and staunchly resisted efforts to lift sanctions in Congress. Were it not for those who fought hard against the premature ending of sanctions, today's peace would never have seen the light of day. Through the U.S. Congress, the internal Government would have achieved what it failed to gain through bogus internal change and heavy international lobbying.

But in resisting the drive to lift economic sanctions against the minority government, the administration lost sight of the larger issues in the region. Retaining sanctions became the centerpiece of our Africa policy—to such an extent that when conditions changed, we were unprepared to act in ways that did not damage our interests.

One example serves to illustrate this point: It occurred during the last days of the London talks. With 80 percent of the negotiations over, with Lord Soames, the British Governor, installed in Salisbury, with British sanctions ended, and with a legislative compromise passing through Congress which gave the administration more time, it became necessary for our United Nations Ambassador, Don McHenry, to advise that U.S. sanctions should be lifted in a way which would not damage our status in the United Nations.

Yet, the Carter administration was unprepared. It was not as if they did not know that a peaceful solution was possible; talks had been going on for 14 weeks and the possibility of a successful outcome was clear since the Organization of African Unity meeting last July. So, even to the last day, the question of lifting sanctions was embroiled in controversy, much of it self-inflicted.

Sanctions also became the centerpiece of our African policy in a more fundamental way. During this period, the goals and objectives of our Africa policy disappeared from public view and private diplomacy, blinding us to other issues on the continent.

Three years ago, the Carter administration set out with good intentions. We would no longer look at Africa, said high administration officials, through cold war eyes. "We would be neither right nor effective," said Secretary Vance in 1977, "if we treat Africa simply as an arena for East-West competition." A second plank in President Carter's policy was a harder stand against white minority rule, including apartheid South Africa.

What have we accomplished? Britain fulfilled our ambitions for us in Zimbabwe. In Namibia, we are still plodding along with the other Western States in the "contact group" to try to persuade pretoria to accept a plan already adopted by SWAPO. In South Africa itself, we have drifted far from the days when Vice President MONDALE informed former Prime Minister Vorster that our relations would deteriorate if there was not steady progress toward full political participation by all its peoples. And, East-West rivalry still dominates our thinking about Africa.

Now that sanctions against Zimbabwe are no longer an issue, we must look beyond the narrow focus it placed on our vision. We must relate to the issues that Africans care about—racial justice, economic development, and political security free from great power rivalries.

Peace in Zimbabwe could mark a watershed not only for that country, but for that region, and for the continent. More importantly for us, it frees our foreign policy from paralysis and permits us to look to the other challenges that face us in Africa.

As we look to the years ahead, we must recognize that Zimbabwe is but one act in an historical drama of Africans taking control of their own destiny—a drama that began in 1957 with the independence of Ghana and will one day end—peacefully I hope—with a new political structure based on universal principles of human rights in South Africa, the last bastion of white minority rule. Zimbabwe is a beacon of hope in the long road to racial justice in Africa. It is incumbent upon us, as Americans, to join in that journey.●

SENATE CONSIDERS FATE OF 250,000 CAREERS

● Mr. PRESSLER. Mr. President, I ask that an article entitled "Senate Considers Fate of 250,000 Careers" that was printed in the December 13, 1979, issue of the Stars and Stripes, be printed in the RECORD. This very thoughtful article details the background of the Career Development Amendment that I will be calling up during the Senate debate of S. 870, the GI Bill Amendments Act of 1979.

The article follows:

[From the Stars and Stripes, Dec. 13, 1979]

SENATE CONSIDERS FATE OF 250,000 CAREERS

(By Forrest Lindley, Jr.)

Within the next week, the Senate will consider the most important and innovative veterans' legislation program since the enactment of the original G.I. Bill in 1944. The legislation is the "Veterans' Career Development, Advancement and Training Amendment being offered to S. 870, the G.I. Bill Amendments of 1979.

The amendment, authored by Senators Larry Pressler (R-SD) and John Heinz (R-PA), would enable needy, unemployed and underemployed disabled and Vietnam era veterans to use their earned readjustment entitlement to provide direct financial incentives to employers to facilitate the veterans acquiring new careers, advancement and training opportunities.

The average Vietnam veteran is 34 years old, has a wife and two children and has some college training. Most combat veterans are no longer entitled to G.I. Bill benefits because of their 10-year delimiting date. Institutional training under the G.I. Bill for many still entitled veterans is highly uncertain as far as their future job prospects are concerned. Federal employment programs are welfare oriented and offer menial public service jobs at an average $7800 per year entry level, far below the veterans' abilities and the requirements of his family.

Both the Congress and the veteran's organizations have recognized that the urgent readjustment and rehabilitation priority of disabled and Vietnam veterans is not more schooling under the G.I. Bill but full career and on-the-job training opportunities that will ensure the veteran a productive and secure place in the labor market that is reasonably commensurate with the career he would have acquired had he not served in the Armed Forces.

President Carter acknowledged this when he stated:

"I know that our veterans seek above all, the opportunity to contribute to our nation through productive employment. They seek an honorable and worthwhile place in our society as productive citizens on an equal basis with their contemporaries who stayed home and moved ahead with career and education while the veteran was in the service."

On May 15 of this year, Dorothy Starbuck, Chief Benefits Director of the VA, stated to the Veterans Affairs Committee:

"The Veterans Administration has long recognized job training as an especially beneficial, effective means of readjustment. Under VA job training, the veteran achieves immediate employment, in which the majority of cases continue after training is completed. Furthermore, the veteran obtains job skills which serve him now and in the future.

"Despite the effectiveness and advantages of job training, participation in this part of the readjustment program has always been disappointingly low. Only 6.5 percent of all G.I. Bill trainees.

"There are a number of factors accounting for the low participation in job training. One of the most important factors has been the growing emphasis on college training and the importance which society attaches to the college degree. Most people tend to view the possession of a college degree as a ticket to economic success in the market place. Another factor has been the disproportion that exists regarding the assistance rates for job trainees compared to school trainees. As a result, many veterans elect to receive education assistance for evening school attendance, even though they are actually employed in a trainee type position.

"Another very significant factor in the low usage rates for job training programs has been employer resistance. The typical employer, when asked to participate in the VA's job training program is inclined to ask "What's in it for me?" Although our outreach personnel can point out the advantages to the employer, such as the maturity and reliability of the veterans, the lack of tangible benefits to the employer has been a major deterrent to greater use of the job training program.

"To counteract this tendency on the part of employers, we recommend that in the case of vocational rehabilitation trainees, consideration be given to providing a direct financial incentive in individual instances to the employer-trainer in the form of a subsidy. This subsidy would help cover the cost of training.

"In addition, Public Law 95–600, which contains the latest amendments to the tax code, provides for a tax credit to employers who hire, among other groups, those veterans who are currently in training under chapter 31 (Vocational Rehabilitation), or who have completed their training under chapter 31. It also includes tax credits to employers who hire Vietnam era veterans who are under age 35 and who are economically disadvantaged. This category could include G.I. Bill (chapter 34) trainees."

The VA's witness, Andrew Thornton, Director of Education and Rehabilitation, went on to tell the Veterans Affairs Committee:

"We have found in our program that job training is probably one of the most successful and most effective of all of the programs under the G.I. Bill.

"The highest completion rate is in the job training program. According to a survey we made, about 80 percent of the persons who enter job training complete the program. Of those who complete the program, at least 95 percent of them use the skill that they learn in the program in an occupation following completion of the program. And of the full time trainees under the G.I. Bill, the wages upon employment following training for those trainees under the job training program are higher than any other type of training that we have."

During the Committee hearings, the Subcommittee Chairman W. G. (Bill) Hefner (D-NC), expressed concern that many college trainees and graduates were unable to acquire suitable employment:

"You mentioned the fact that real emphasis seemed to be on getting a college education. Do you feel that the colleges are doing a good job counseling these veterans on courses to take that will make them better able to get a job? Do you feel that the colleges are doing a good job equipping the veteran to get a job? I know that it does not do the veteran much good to get through college if he can't get a job. We are having problems with people finishing college and still not being equipped to hold a job."

Thus the House Veterans Affairs Committee was presented with the challenge: Develop a program that would facilitate significant employee utilization of the highly effective VA on-the-job training program, and address the employment needs of the many Vietnam era veterans who had used their readjustment benefits, some even completing college, but were unable to secure meaningful employment.

Committee and half-hearted Administration efforts to meet these challenges had begun in 1977. During testimony again opposing comprehensive readjustment legislation, the VA held out the promise of providing employer incentives to its on-the-job training programs. In 1978 in an interview in U.S. News and World Report, VA Administrator Cleland stated that the VA would be improving its employment programs by "sweeting the employer's pot."

Several legislative proposals were drafted by VA and DoL staff. These proposals were stopped by OMB under White House instructions to oppose any new spending initiatives.

A concerted effort was also made at that time to restructure the failing HIRE program (a private sector OJT program run by DoL) by developing HIRE II as an effective veterans employment program which would provide direct financial subsidies to employers to cover their costs in training veterans on the job.

The HIRE II regulations strongly emphasized linkages with the 60,000 existing VA approved OJT and Apprenticeship programs. In this manner, the objectives of providing a tangible benefit to an employer approved for a VA OJT program would be achieved through the utilization of the HIRE program to pay the employer's training costs.

Optimistic about the prospects for success of this important new initiative, Rep. Lester Wolff (D-NY) and Rep. Margaret Heckler (R-Mass.) (the ranking minority and majority members of the House Veterans Affairs Committee) introduced legislation to sustain and expand the initiative.

Mr. Wolff's "Appropriate Steps" amendment adopted as part of the CETA extension of 1978 mandated the maintenance and expansion of private sector employment and training initiatives. The Congressman specifically mentioned the HIRE II program in his floor statement establishing legislative intent.

Mrs. Heckler, concerned about the many Vietnam combat veterans that were being denied an opportunity to participate in a meaningful readjustment and employment program by the 10-year delimiting date, introduced legislation to extend the delimiting period for veterans enrolled in approved VA OJT and apprenticeship programs.

The Vietnam Veterans in Congress and Sen. Alan Cranston (D-Calif.) supported an amendment adopted as part of the Tax Amendment of November 1978 to provide a tax incentive to employers who would train disabled and disadvantaged veterans in approved VA OJT and Apprenticeship programs.

Despite the great promise that these initiatives offered the unemployed and the underemployed, the VA and the DoL undermined and almost totally destroyed their potential by refusing to establish the necessary linkages between the VA OJT and Apprenticeship programs and the HIRE II program and the Targeted Tax Credit program. Less than 400 linkages out of a potential 40,000 were made in the HIRE II program.

Labor and the VA refused to provide the critically needed technical assistance and training to CETA prime sponsors and the Veterans Employment Service Field to effectively implement the HIRE VA OJT linkages.

Having sabotaged the HIRE II program, the DoL deliberately omitted the training and support and the provisions in the Forms Handbook Technical Assistance Manual necessary to continue HIRE II type initiatives under CETA as mandated by Congressman Wolff's "Appropriate Steps" amendment.

Today, less than 2,000 veterans out of a projected 40,000 have participated in the Targeted Tax Credit program.

The reason for these failures was described by President Carter in September 1976 at the American Legion Convention:

"We must recognize that in far too many cases, the Vietnam veteran has been the victim of governmental insensitivity and neglect. Large bureaucracies of the Federal Government have often been incompetent, inefficient, and unresponsive in their fulfillment of responsibilities to Vietnam veterans. The poor record of the government bureaucracy has been especially bad in programs intended to help veterans find jobs in the private sector. Job training slots go unfilled largely due to inadequate administrative procedures."

"The reason for this dismal failure is clear: It is a failure of leadership."

The situation at the DoL and at the VA with regard to veterans employment has substantially worsened since Carter first made those remarks.

Thus in the May 1979 hearing on employment, the Veterans Affairs Committee and the traditional veterans organizations concerns for effective leadership in the VA and the DoL was greater than ever. DAV Employment Director Ron Drach stated, "I am disappointed the oversight hearings with the DoL have become an annual ritual. We keep asking the same questions and hearing basically the same answers over the last several years that I have been working on employment."

In the summer of 1979, concerned members of the House Veterans Affairs Committee, the veterans organizations and the veterans themselves, were comforted by broken promises and failures to act on the part of leaders that they had not expected. The VA had not submitted the employer incentive legislation for its OJT program that Cleland had promised, the VA and the DoL had not made even a reasonable effort to implement the HIRE II program, the veterans provisions of CETA and the Targeted Tax Credit.

Rep. Heckler and Rep. Tom Daschle, the only Vietnam veteran on the Committee, began working with the Vietnam Veterans in Congress to develop the Career Development, Advancement, and Training Act. The act was modeled after a voucher program that had been in the Vietnam Veterans in Congress' comprehensive legislation package for two years and in Sen. Cranston's tax credit incentive.

The sponsors went to extraordinary lengths to ensure that the legislation was carefully and thoroughly re-drafted to be the most effective, fiscally responsible and workable program possible. They incorporated successful existing programs and approval mechanisms to avoid duplication and the need for new bureaus and delivery systems. In drafting the legislation, they consulted with and received substantial contributions from officials in the VA responsible for the VA's proposed employer incentive legislation which was killed by OMB, persons in Labor responsible for the development of the HIRE II program's veterans provisions and VA OJT linkages, the persons responsible for Rep. Wolff's "Appropriate Steps" amendment, and Rep. Heckler's OJT delimiting date extension which ensures target effectiveness to many Vietnam combat veterans no longer eligible for G.I. Bill benefits.

Initial drafts of the legislation were made available to the General Counsels of the Veterans Affairs Committee of both the House and the Senate and the VA in early June. Copies were also made available to the DAV and Vietnam veterans employment programs for their comments and recommendations.

It was carefully reviewed by the staffs of Sen. Heinz and Sen. Pressler.

Sen. Heinz and Rep. Heckler waited nearly six weeks before introducing the legislation in order to ensure that the best possible bill would be presented.

It remains now for Senate action on the amendment. Such action is expected in the very near future and will determine whether 250,000 of the most needy and deserving unemployed, underemployed, and disabled veterans will have a last opportunity to secure training, employment and advancement opportunities.●

REGENERATION

● Mr. GLENN. Mr. President, I have addressed my colleagues in the past about a research area which I find fascinating, and which may someday have far-reaching effects. It involves experiments on central nervous system and limb regeneration.

Recently an article, "Regeneration—new hope for amputees?", appeared in the OSU Quest, published by the Ohio State University Office of Public Affairs. The author, Mr. Earle Holland, told of the research being done at OSU by Dr. Roy Tassava, professor of zoology and developmental biology, along with Dr. John Harder and Mike Fleming, to discover why regeneration takes place in some animals and not in others, and to duplicate the results of a previous research project in which a newborn opossum's leg was regenerated.

There are already numerous reports of human regeneration, mostly fingertips, and Dr. Tassava says that for human amputees, growing a new arm or leg is "just a matter of time". I cite this research as an example of experiments which may sound ridiculous or far out, but which grow into exciting, new scientific advances when put together with other bits of knowledge accumulated by basic scientific research, often over lengthy periods of time.

I wish to submit the following article on "Regeneration" for printing in the RECORD.

REGENERATION: IF SOME ANIMALS CAN GROW BACK MISSING LIMBS, WHY CAN'T MAN?

(By Earle Holland)

Chop off a salamander's leg . . . it will grow back.

Chop off an opossum's leg . . . it might grow back.

Chop off a man's leg. . . .

That's the harsh reality of being at the top of the zoological tree. Many simpler animals can grow a new limb after losing one. This ability, called regeneration, exists only with lower animals such as crabs growing new claws and lizards new tails.

But what if the regeneration trait lies untapped in all animals, even mammals like man.

For the more than 50,000 Americans who each year lose an arm or leg, hand or foot, this would be the answer to the lost dream of once again "being whole."

GROWING LIMBS A MATTER OF TIME?

Dr. Roy Tassava, professor of zoology and developmental biology, is trying to discover why regeneration takes place in some animals and not in others.

Tassava says that a human growing new limbs isn't nearly as outlandish as it sounds. In fact, it happens now. A story published in a 1974 issue of the Journal of Pediatric Surgery keeps coming back to haunt him.

An English researcher documented cases where childrens' fingertips grew back after they had been amputated. The reason seemed to revolve around the surgical procedure used in these cases.

The conventional technique is to place whole skin over the amputation wound and to sew it shut. But the English report showed that if a gauze bandage replaced the skin and the wound was allowed to heal normally, the fingertip grew back nail and all.

Since reading that report, Tassava has gotten numerous reports of human regeneration, mostly fingertips, including a few from adults. Tassava believes he knows why this happens.

SKIN GROWTH PLAYS A ROLE

Skin is basically two layers—an active outer layer called the epidermis and a layer of inactive connective tissues called the dermis. Apparently only the epidermis plays a role in growing new limbs, a process called regeneration.

"When a limb is amputated, only the epidermis migrates back over the wound surface naturally. The dermis doesn't," he says. "The amputation wound is covered quickly by this outer layer forming a wound epidermis.

"That wound epidermis is critical for regeneration. A limb won't grow back without it," he says. To prove this, he tested the salamander's innate ability to grow new limbs. He covered their amputation wounds with whole skin, as is done for humans, and the amphibians did not grow new limbs.

How this attempt to protect the wound halts regeneration lies with the individual cells. Around the amputation area, all of the cells are specialized, forming bone or muscle, cartilage or connective tissue. Each cell type has a specific job.

"But once the amputation occurs, the cells lose their special roles and take on a more active one. They begin making DNA, RNA, and synthetic proteins. Cells are getting geared up to undergo a period of divisions which resemble embryonic development." Tassava suggests that the wound epidermis causes this.

The cells divide again and again, increasing in number to replace those lost through amputation. The new cells then differentiate and form the required types needed to grow a new limb. Limbs with skin grafts don't show this extensive cell division for new growth.

ABUNDANCE OF NERVES MUST BE PRESENT

But the wound epidermis is only one of three requirements Tassava has learned are needed for regeneration. To regenerate, there must be an abundance of nerves present.

"There's quite a bit of evidence that all nerves secrete some chemical substance, probably a protein, at the nerve endings which will stimulate regeneration," he says. Unfortunately, the amputation removes many nerves from the wound area.

"Attempts to purify this protein haven't met with much success. The amount of protein present in nerve tissue is very small and it quickly loses its activity. Identifying this protein would be a big breakthrough."

The third requirement for regeneration is an injury, usually the amputation itself. "We're looking at the cellular and biochemical events which an injury initiates and nerves and the wound epidermis sustain," he says.

The ability to regenerate limbs rests on the lower branches of the zoological tree. While most mammals can regenerate some specific organs like the liver or endocrine glands, they cannot grow new limbs. Amphibians such as salamanders are the highest animals capable of this.

But there may be an exception to this rule. A 1968 research project reported a case of leg regeneration in a newborn opossum after additional nerve tissue was added to the amputation area. Although the work was widely accepted, it hasn't been repeated.

CAN AN OPOSSUM GROW BACK A SEVERED LEG?

Tassava, along with Dr. John Harder and Mike Fleming of the same department are trying to duplicate the results of the earlier work with an opossum colony on campus.

There may be several reasons why regeneration doesn't work in mammals, he says. The amputation injury may not initiate the process. "We haven't defined the cellular effect of injury sufficiently to know."

Sufficient nerves might not be present, or the wound epidermis might play a different role in mammals than it does with Tassava's test animals. Either of these might be the key. But the English study on children's fingertips showed that regeneration is possible if the amputation wound isn't covered in the conventional procedure.

"There's no question that the potential is there. In other words, during embryonic development and cell differentiation, all of the evidence shows that cells do not lose any genetic capabilities," Tassava says.

The question is how to get them to realize this potential and to begin cell division and later redifferentiation. I think we'll be able to do that eventually.

"We will, in fact, be able to define the conditions of regeneration sufficiently to be able to duplicate them in mammals," he says.

The public is just beginning to accept the complex technique of surgically reattaching a severed limb. Perhaps one day, we'll simply grow a new one instead.●

QUOTAS ON IMPORTATION OF MEAT

● Mr. PRESSLER. Mr. President, on January 15 of this year, I introduced S. 32, legislation to modify the method of establishing quotas on the importance of certain meat. I am therefore pleased that H.R. 2727, which is similar to my bill, passed the Senate yesterday. Although I would have preferred legislation identical to that which passed during the 95th Congress and was pocket vetoed by the President. However, H.R. 2727 is a tremendous improvement over present law and I hope that the President will sign it into law.

It is time that we take action and change the Meat Import Act of 1964. The bill requires the President to impose restrictions on imports of fresh, chilled, or frozen meats when imports for the year are estimated by the Secretary of Agriculture to exceed by 10 percent an annually adjusted base quantity. This adjusted base quantity is determined from a formula in which a base import level of the average annual imports from 1959 to 1963 is adjusted at the same rate as domestic commercial production of these meats during the same time span. In the past, this formula has operated to keep imports of meat at approximately 7 percent of domestic production. Here is the catch, however: import quotas are the highest when domestic production is high and supplies are plentiful, and they are the lowest when domestic production is low and supplies are tight.

H.R. 2727 would change that situation. It encompasses a countercyclical formula for determining import levels. Under this formula, the limitations on imports would vary inversely with U.S. production of beef and veal so that as U.S. production decreases import limitations will also decrease. This formula would stabilize meat prices for the farmer and consumer alike.

It is time that the farmers and ranchers of our Nation receive the same treatment that our industrial importers and exporters now enjoy.

Mr. President, there is a feeling in rural America that many of the Federal Government's programs with regard to agriculture do not reach the rural areas. We seem to have national programs to move people into our large cities, and Congress has adopted programs and policies that encourage concentration in our society.

It is time that we show the farmers and ranchers of our Nation that the Federal Government is supporting them. It is time that we show them that our aim is to help them, not to hurt them. It is time that we finally put programs for rural America on the front burner.

The Senate took a major step forward yesterday by passing compromise legislation. It is my hope that the President will accept the provisions encompassed in H.R. 2727. In addition to making the import laws more equitable for farmers and consumers, we will be showing the farmers and ranchers of our Nation that Congress and the President are behind them in their efforts to stay on the farm.●

THE WINDFALL PROFIT TAX BILL

● Mr. TOWER. Mr. President, we have now completed about a month and a half of debate on the so-called windfall profit tax bill, during which time we saw the tax swell from an enormous $138 billion, the level approved by the Finance Committee, to an unconscionable sum of $178 billion, making it by far the largest tax levy of any kind in U.S. history.

One of the recurring themes made by oil industry critics throughout the debate was that the stiffest possible tax was appropriate because the allegedly opportunistic oil companies, if left to their own devices, would invest their earnings frivolously in nonproductive investments, rather than provide for our national energy needs.

Many Senators, though unfortunately not a majority, recognized this demagoguery for what it was. The correctness of our views has now been confirmed by the recent disclosure of a previously suppressed report by the Department of Energy which clearly shows that domestic oil companies have not invested irresponsibly, but have in fact applied their profits into investments that will provide additional oil production.

Mr. President, the ink is barely dry on the Senate-passed version of the windfall profit tax bill, and already we are hearing rumblings that this tax is too weak, and that it must be bolstered substantially next year. To me, such rhetoric is itself irresponsible and simply overlooks the true facts of the oil industry's pattern of reinvestment in productive capacity. To those who are convinced of the domestic oil industry's irresponsibility, I would recommend the article appearing on the front page of the December 16, 1979, issue of the New York Times, which refutes some of the points made repeatedly by proponents of this year's windfall profit tax. The content of this article should serve as a useful reminder to those who would be inclined to argue that another round of punitive taxation is justified on one of this country's most vital, and most responsible, industries.

Mr. President, I ask that the following article be printed in the RECORD.

The article follows:

OIL COMPANIES PUT DOMESTIC NEED AHEAD OF DEALS, U.S. OFFICIALS SAY

(By Richard D. Lyons)

WASHINGTON, December 15.—A secret Federal review of international petroleum traffic has concluded that major American oil corporations have acted responsibly in meeting national energy needs, but not necessarily in the total interest of either smaller companies or domestic consumers.

The conclusion has been reached by Department of Energy officials who analyzed data from a new reporting system on oil transfers. A departmental group was ordered this spring to find out if American companies had been truthful about their international dealings. Details of the new reporting system were made available to The New York Times on the condition that the confidentiality guaranteed by the department to the companies involved was not violated.

According to Federal officials who have monitored the data supplied by the companies, the major American oil companies have met their domestic refining needs before selling relatively cheap contractual crude for much higher prices overseas, although the opportunity to do so was constantly present. Oil bought under contracts of six months or more is significantly cheaper than oil bought on the spot market, where the oil available is sold to the highest bidder.

"We have found some examples in which American companies have been involved in selling foreign crude in back-to-back transactions on the same day and thus made handsome profits, but such cases have been few," said an Energy Department official who has had access to the data.

There have been allegations in recent years that the major oil companies have been buying Arab oil at relatively cheap prices, then selling it on the European and Japanese markets at huge markups rather than bringing it into the United States. Of the Energy Department officials interviewed, the one who set up the reporting operation and the one who was the most willing to discuss its details both said that, with a few rare exceptions, these allegations have not proved to be the case.

"More to the point," the official added, "we have found virtually no examples of this having been done by the American members of the 'Seven Sisters,'" a reference to the seven major multinational oil companies. The American members are the Exxon Corporation, the Mobil Corporation, Texaco, Inc., the Gulf Oil Corporation and the Standard Oil Company of California.

The official continued, "This is not to say that such companies have not acted in their own self-interest," adding that once domestic refinery demands were met, some of the surplus oil was then transferred to foreign markets, primarily in Western Europe, and sold at substantially higher prices.

TWO EFFECTS ON U.S. MARKET

After noting that there was nothing illegal about an American company's diverting crude stocks to other countries, the energy official noted that this produced two effects in the United States.

First, it reduced the amount of relatively cheap oil available to medium-size and small American companies such as Ashland Oil Inc., the Sun Company, the Union Oil Company of California and the Cities Service Company. Second, these companies were forced to bid for higher-priced foreign crude on the spot market, driving up the price and making their products more expensive than those of major multinationals.

On April 1 we created a totally new and quiet system requiring each company to report once a week the loadings of all cargoes of oil in an effort to gain an advance look at what is coming into the United States," an official explained. The reports include such specific information as the buyer, the seller, the amount and type of crude, the country of origin, the landing site and the prices paid.

Once the system was in place, the official said, it had the side benefit "of putting to rest the rather cynical notion that the American multinationals were acting in their self-interest and only in their self-interest."

"There is no doubt that they have acted in the best interests of their shareholders, but they have also displayed a sense of responsibility for national interests as well," he added.

Recent criticisms by Saudi officials of the business practices of the Aramco partners is spurious, the official went on, because the Saudis own 60 percent of the company "and nothing about it happens without their knowledge and, indeed, full approval."

> The reference was to reports from Saudi Arabia that Government officials there had expressed anger that Exxon, Mobil, Texaco and Standard Oil of California, the four American companies that are partners with the Saudis in Aramco, had bought oil in Saudi Arabia at $18 a barrel and sold it at almost double that in Western Europe.
>
> "The share of Saudi oil that the Aramco partners have been selling in Western Europe has remained the same for the last three or four years until the last quarter of this year, when it rose," the Energy Department official said.
>
> ### SAUDI INCREASE WENT ELSEWHERE
>
> This came about, he went on, because the Saudis increased exports from 8.5 million barrels a day to 9.5 million barrels a day on July 4 as part of the so-called Independence Day gift from King Khalid to President Carter. The increased output came after the gas lines of late spring, when there was great uncertainty over oil supplies.
>
> "But the extra oil didn't come here," the official insisted. "It went to markets elsewhere to help stabilize both supply and price."
>
> In general, the major multinational oil companies with access to contractual crude have brought it into the United States at its relatively low prices, rather than either selling it on the spot market or diverting unusually large amounts to foreign refining operations.
>
> "Yet the Federal allocation system may break down when the multinationals decide not to sell all their foreign crude to their smaller competitors in the United States," he added.
>
> In recent months, several lawsuits have been filed by medium-sized American companies against larger companies with better access to moderately priced oil. Some of the suits have been spurred by overt cutoffs of contractual supplies, such as those from Iran, or by partial reductions of supplies, such as those from the United Arab Emirates.
>
> "Selling crude in West Germany at a high price may not be good for the smaller American company, which would pay lower prices, but it is certainly good for the stockholders of the major companies," the official added.
>
> A Department of Energy official offered another reason, one other than patriotism, that inhibited the biggest companies from selling oil overseas at "opportunistic prices."
>
> "If this were a regular pattern," he said, "and it were discovered, it would only lead to the companies' being nationalized, so it is in their interest to see that the national interest is taken care of." ●

THE MYTH OF CORPORATE FARMING IN THE IMPERIAL VALLEY

● Mr. CRANSTON. Mr. President, on September 14, the Senate approved S. 14 which included my amendment to exempt the Imperial Valley from the provisions of Federal reclamation law. For more than 30 years, the farmers of this valley had been assured by their Government and their courts that they were not covered by the Reclamation Act.

As was mentioned repeatedly in the debate during the consideration of S. 14, the vast majority of the Imperial Valley farms are owned and operated by family farmers who generally live in the valley; 94.5 percent of the farms are operated by farm families, and this represents 93 percent of the acreage supplied water by the Imperial irrigation district. 76.5 percent of these landowners are residents of Imperial County.

This month the U.S. Supreme Court agreed to review a 1977 appellate court decision which ruled that the Imperial Valley farmers of California were under the restrictions of the 1902 Reclamation Act.

The Imperial Valley family farmers were understandably disturbed when they read the press coverage of the Supreme Court's decision to review their case. While they were pleased that the Court had decided to review the 9th circuit decision, they were dismayed to read that they had been described as "big corporate landowners."

The Wall Street Journal, in its otherwise excellent article stated:

> If the limit is upheld, large corporate farms in the Valley might have to sell off land to obtain water. Big landowners in the Valley include United Fruit, a unit of United Brands Co.; Purex Corporation; Tenneco Inc.; and Southern Pacific Co.

The New York Times, in its extensive coverage stated:

> Among the owners of the largest Imperial Valley farms are some of the country's biggest corporations: The United Brands Company, the Purex Corporation, Tenneco, Southern Pacific, the Standard Oil Company of California and the Irvine Co., among others.

This is not the first time that the Imperial Valley farmers had been painted with the brush of corporate farming. They decided once and for all to set the record straight. They had a complete title search made of the land within the Imperial irrigation district by Safeco Title Insurance Co. of El Centro, Calif. They also researched the county tax assessors records. To double-check their findings, the companies referred to in the newspaper articles were called concerning their ownership of farmlands in the valley.

Mr. President, I would like to state for the record the findings on large corporate land ownership in the Imperial Valley.

Standard Oil of California owns 8 acres which are used for its 10 service stations. Its farm subsidiary neither owns nor leases farmland in the Imperial Valley.

Purex does not own land in the Imperial Valley.

Tenneco does not own land in the Imperial Valley.

Southern Pacific owns 4,441 acres of land in the Imperial Valley. Only 450 acres of that land is used for farming, and that farmland is leased to a local Imperial Valley family farmer. The balance of the land is used in relation to nonfarm or railway operations.

The Irvine Co. owns 4,163 acres of irrigated farmland. Irvine has been in the process of selling off its landholdings—having sold off 4,250 acres since 1970. The most recent sale of 1,888 acres was last year.

United Brands and its subsidiary, Sun Harvest, and its division known as United Fruit do not own any land. They do lease about 3,500 acres of land for the short lettuce-growing season operations in the valley.

These are the alleged "big corporate landholders" in the Imperial Valley. As you can see, their ownership is minimal.●

EARTH RESOURCES OBSERVATION SYSTEM DATA CENTER

● Mr. PRESSLER. Mr. President, near the city of Sioux Falls in my home State of South Dakota is the Earth Resources Observation System Data Center, one of the most advanced achievements of modern technology. It has proven to be of practical value in assessing rangeland potential, mapping snowfall in the watersheds, and surveying agricultural development. The geological information it is providing to scientists may help us to find solutions to our energy problems. The $37 million facility and its 400 highly skilled employees are a valuable asset to our State.

Recently I have learned of proposals to reorganize the administrative structure which directs the operation of the center. It is possible that the center could be transferred to the Department of Commerce from its present position at the Department of the Interior. It is possible that different functions of the center could become the responsibility of different departments.

While I welcome any changes that improve the effectiveness of Government services, I am concerned that EROS not be divided between the two departments. I am of the opinion that administrative agreements can be worked out that will allow all agencies concerned to make full use of the facility. Geographical relocation of any of the functions of the center could only work to the detriment of this very complex, scientifically sophisticated operation.●

PARDEE SELECTED AP'S COACH OF THE YEAR

● Mr. CULVER. Mr. President, many of us who come from other parts of the country and are domiciled here only at the pleasure of the voters, nonetheless shared the disappointments suffered by the Redskins and their Washington fans last Sunday.

But today we also share in the pleasure and satisfaction that the Redskins coach, Jack Pardee, has been voted the Associated Press NFL Coach of the Year. That the cataclysmic ending of the Dallas game did not cast a shadow in this selection gives added testimony to the superb performance of Coach Pardee and his staff throughout this year—from the opening of training camp to the conclusion of the regular season.

This was a year that was not lacking in good coaching or in teams which exceeded the expectations held for them. Philadelphia, Houston, and San Diego are three examples of teams now in the playoffs. But the outstanding showing of these teams and their coaches did not quite equal the spirit, professionalism, and quiet leadership provided by Jack Pardee. Last summer Jack Pardee was the object of commiseration. It was commonly felt that this was a turnaround year in which there could be a recasting and a rebuilding of the team, preparing for a future renaissance. Instead, Coach Pardee, with the backing and help of a daring and resourceful general manager, decided that there was no need for a transitional year and that there was a real opportunity for a winning season with what he had.

With a united team and a careful blending of the best in his players, coaching staff and front office, he performed a near miracle as well as setting the stage for even greater future success. "The main thing we did this year was to learn how to win, the joy of winning," Pardee has said. "Dedication was our 12th man."

Jack Pardee has set standards of judgment, perserverance and leadership which have silenced the doubters and given a lift to this city. He has fully earned the Coach of the Year honor, and it is heartening that the qualities we have prized here during the past weeks have found an echo in many parts of the Nation, including, I might add in closing, Exira, Iowa, which Jack Pardee once called home.

Mr. President, I submit for the RECORD a column by Morris Siegel in today's Washington Star.

The column follows:

[From the Washington Star, Dec. 19, 1979]

PARDEE GETS A PRIZE: AP'S COACH OF THE YEAR

(By Morris Siegel)

There were times in this town when coach of the year, as it related to the Redskins of George Preston Marshall's era, was not an honor. It was the length of the poor's guy contract.

There have been considerable changes in the Redskins since the days of their founding father. The halftime entertainment is not as good as it used to be, but the teams are better, much better.

There also is greater stability in the coaching ranks. Marshall had the fastest gun in the NFL when it came to firing. Once he fired a man (Dick Todd) at halftime of the first exhibition game. He exceeded this high mark of impatience several years later when the Redskins had three head coaches within 24 hours.

Marshall's legacy was not lost on his successor (once removed) as president, Edward Bennett Williams. Bill McPeak, Otto Graham, Bill Austin and George Allen made Fast Eddie's hit list before Jack Pardee's arrival.

Considering that Williams entered the NFL with no previous experience at determining the fate of coaches, his record is impressive.

There is not likely to be any major Redskin coaching change soon, in spite of Don Shula, who is constantly reported to be next in line for Washington when his Dolphin commitment ends next year. The incumbent, Jack Pardee, took care of that this season, the second of his three-year term at the helm.

Pardee today was named Associated Press NFL coach of the year. Nobody except Pardee has a quarrel with the selection. He says it should have gone to Tom Landry of the Cowboys, Don Coryell of San Diego, Chuck Noll of Pittsburgh, Dick Vermeil of Philadelphia or Bum Phillips of Houston.

"Their teams all won more games than the Redskins," he said. "The bottom line in the NFL is winning. They are all in the playoffs; we are not.

"I would rather have had somebody give us two more points," he added.

The selection of Pardee over runnerup Vermeil was no surprise and should require no explanation. The Redskin record, which was 11–5 with only 39 seconds left in Dallas Sunday but which ended up at 10–6 at the devastating end, bespeaks Pardee's eligibility.

The Redskins, who closed out 1978 staggering to a break-even 8–8 finish, were not supposed to be troublemakers this season and definitely did not figure to be fighting for the NFC East championship by the time Game 16 rolled around.

But they did all of this on top of a wholesale restructuring of team personnel, attitude and—the main point—their won-lost record. When Pardee and staff assembled the troops in Carlisle, Pa., last July, there was absolutely no speculation where they would finish. Everybody not connected with the Redskins, not intimately tuned in to their thinking and their goals, knew where it would be—in Dallas Dec. 16.

It turned out to be sadly true, but the Redskins fooled everybody except themselves and Pardee along the way.

"The main thing we did this year was learn how to win, the joy of winning," the new coach of the year said. "I hate to be trite, but dedication was our 12th man."

The word "team" meant something to this year's Redskins. Pardee was understandably proud of the unity the squad displayed, of its confidence in its ability, in spite of public and media opinion to the contrary.

"When we left for Dallas Saturday, I didn't see any of the players' cars packed for a fast getaway," Pardee said. "We knew we were going to win. Yesterday we had a meeting and it could be the first time in NFL history that a team, which had been eliminated stuck around for a meeting 48 hours after their season had ended."

Williams, the man who hired him almost immediately after declaring Allen a free agent, was exuberant over the choice of Pardee. "Great, great, fantastic!" he said as if the Redskins had just won the Super Bowl in overtime.

When Williams turned the team over to Pardee, the assumption was that the choice of a successor to Allen was dictated by the personnel the new man would inherit. This gave Pardee the edge. He not only knew many of the players, but he had been a charter member of the Over the Hill Gang and several were still Redskins when he became their new chief.

"That did not enter into my consideration," Williams said. "I knew and got to respect Jack when he played and later when he coached. Had anything happened to the head coach while Jack was with the Redskins, I would have appointed Jack then.

"When he left us to become a head coach in that WFL, it was a major manpower loss, like the loss of Vince Lombardi. Jack is a first-class guy who has surrounded himself with first-class people."

The toughest part of Pardee's residency here was to terminate the Redskin careers of people he had played with such as Billy Kilmer, Chris Hanburger and Ron McDole. "But he never backed away from it, he knew it had to be done," Williams said.

Coach of the year honors are nice, but they become just another addition to the recipient's scrap book. Pardee was not ungrateful when he said he would have preferred to have received two more points to be applied to Sunday's misadventure in Cowboy country.

A Bum Phillips story also illustrates the point. For three straight years, the Texas Sportswriters Association, which bestows an award on the man it deems the best professional coach or manager in the Lone Star State, had honored him.

Last December, Phillips made the annual trek to Dallas for his big night. Rigged out in a tuxedo and a new pair of black alligator boots for the occasion, Bum said: "I appreciate this very much, honest I do, but I sure wish you folks would elect Tom Landry and let me go to the Super Bowl."

Jack Pardee will buy that.●

TAXING OF SOCIAL SECURITY BENEFITS

● Mr. PRESSLER. Mr. President, social security recipients face a new battle. The 1979 Advisory Council on Social Security submitted its report to Congress and recommended that one-half of social security benefits be taxed.

There is some fine analysis in this report, but a proposal to tax benefits would be detrimental to senior citizens. Those paying into the system since its inception have been operating under the assumption that the benefits are not taxable. They have a contractual agreement with the Federal Government. To change the rules at this point in time would be unfair to today's retirees.

The Council reasoned that future recipients will receive more in benefits than they paid in contributions. However, inflation has shriveled the value of those first contributions to the system: a 1978 dollar had 21 percent of the purchasing power of a 1940 dollar according to Bureau of Labor Statistics. The Government would be better advised to bring inflation under control, instead of taxing the same dollars twice.

Mr. President, there are other ways to keep the social security system solvent. For instance, the prospective future of the system would be greatly improved if we limited it to a system of individual retirement. The Social Security Administration has never had the facilities nor the trained manpower to deal with a welfare program such as the supplemental security income program. As a result, the the percentage of fraudulent payments is high. As a Member of Congress, I suggest that options like this should be given careful consideration before any further thought is given to taxing the retirement benefits of the Nation's elderly.●

COST ESTIMATE ON H.R. 3892 AS PASSED ON DECEMBER 6

Mr. CRANSTON. Mr. President, I have today received from the Congressional Budget Office a cost estimate regarding H.R. 3892, the "Veterans Health Program Extension and Improvement Act of 1979," which passed both Houses December 6 and is pending Presidential action.

Mr. President, in my statement on that measure at the time of passage, I made reference to this cost estimate. I now ask unanimous consent that this estimate be printed in tonight's RECORD and in the permanent RECORD for December 6, at the point at which I made reference to it.

There being no objection, the cost estimate was ordered to be printed in the RECORD, as follows:

REVISED COST ESTIMATE

1. Bill number: H.R. 3892.

2. Bill title: Veterans Administration Health Programs Extension and Health Care Improvement Act of 1979.

3. Bill status: As passed by the House and the Senate on December 6, 1979.

4. Bill purpose: H.R. 3892 would extend the authorization for certain expiring veterans' health care programs and would modify certain veterans' health care and related benefits. The bill would take effect on January 1, 1980.

5. Cost estimate:

[By fiscal years, in millions of dollars]

	1980	1981	1982	1983	1984
Actual or estimated authorization level	97.4	103.4	103.4	49.5	45.9
Estimated outlays	66.8	86.6	97.2	93.9	54.1

The cost of this bill falls within budget function 700.

6. Basis for estimate:

Section 101a: would extend the authorization for VA's program of federal-state matching fund grants to states for the construction, expansion or alteration of state veterans homes. CBO assumes full appropriation of the stated authorization levels in fiscal year 1980 and assumes appropriation of the same amount in fiscal year 1981 and 1982. The estimated outlays reflect the historical spending pattern of this program.

[By fiscal years, in millions of dollars]

	1980	1981	1982	1983	1984
Authorization level	15.0	15.0	15	0	0
Estimated outlay	.9	8.3	14	14.1	6.7

Section 101(b): would provide a 15 percent increase in per diem payments to state veterans homes. In fiscal year 1980 this provision would apply only to such extent and for such amount as may be specifically appropriated. CBO assumes appropriation of the full amount required for a 15 percent increase in fiscal year 1980. The additional cost of this increase was estimated by applying the new per diem rates to the caseload in state veterans homes as estimated by VA in the fiscal year 1980 budget.

[By fiscal years, in millions of dollars]

	1980	1981	1982	1983	1984
Estimated authorization/estimated outlays	4.3	5.7	5.7	5.7	5.7

Section 102: would extend the VA's exchange of medical information (EMI) program through fiscal year 1982. CBO assumes full appropriation of the stated authorization levels. The estimated outlays reflect the historical spending pattern of this program.

[By fiscal years, in millions of dollars]

	1980	1981	1982	1983	1984
Authorization level	4.0	4	4	0	0
Estimated outlays	3.1	4	4	.9	0

Section 103: would extend the authorization for the assistance to health manpower training institutions through fiscal year 1982. CBO assumes full appropriaion of the stated authorization levels. The estimated outlays reflect the historical spending pattern of this program.

[By fiscal years, in millions cf dollars]

	1980	1981	1982	1983	1984
Authorization level	15.0	25.0	30.0	0	0
Estimated outlays	.2	14.3	24.6	29.4	1.5

Section 201: repeals a provision of existing law that requires certain non-service-disabled veterans claiming travel reimbursement to make an annual declaration of inability to defray such costs. The provision would instead require the Administrator to establish through regulation a scheme for evaluating the ability of needy, non-service-disabled veterans to defray the cost of travel to VA facilities. Since the details of the new scheme have not yet been decided upon, it is not possible to estimate the savings that would result from this provision.

Section 202: would authorize the Veterans Administration to contract for private health care to veterans when such health care is authorized by a Veterans Administration physician as necessary for the treatment of a medical emergency. CBO estimates that this provision would add no new significant costs to the federal budget. Although a day of care in a community hospital would add approximately $150 to the cost of VA care to the affected veteran, CBO estimates that few such emergencies would arise in a remote VA outpatient facility that would require immediate hospitalization at the nearest community hospital.

Section 203: would require review (by a VA dentist or on a fee basis when no VA dentist is available) of fee dental treatment estimated to exceed $500 in any twelve month period. CBO estimates that this provision would be unlikely to result in significant savings, because there is no evidence of widespread provision of needless care in the VA fee basis dental program. CBO assumes that the added cost of VA staff time to review these cases would offset any savings from disapproved treatment.

Section 204: would authorize outpatient care for veterans of World War I and the Mexican border period on the same basis as veterans who are housebound or in need of aid and attendance. The VA estimates that 295,000 World War I veterans would utilize the new benefits. The assumption made by VA that 84 percent of such veterans would receive outpatient care in VA facilities and the remainder on a fee basis from private physicians was also accepted.

It was further assumed that a veteran using a VA facility would require 4.5 visits per year and that a veteran seeing a private physician would make 8 visits per year. This assumption was based on the Health Interviews Survey (conducted by the National Center for Health Statistics in 1975) which showed an average of 6.5 physician visits per year for all males aged 75 or older. The number of visits to private physicians was raised somewhat to reflect increased utilization of health services since 1975 and the more advanced age of World War I veterans (average age=83). The assumption of 4.5 visits per year to VA facilities is based on VA information.

A cost per visit of $43 (includes beneficiary travel cost) for a private physician and $51 (includes beneficiary travel and prescription costs) for VA facility was used for this estimate. These assumptions were based on the VA Summary of Medical Programs Report for October 1977. The cost per visit figures were inflated by the Consumer Price Index for medical services.

[By fiscal years, in millions of dollars]

	1980	1981	1982	1983	1984
Estimated authorization/estimated outlays	55.9	51.3	46.2	41.2	37.5

Section 205(a)(2): would authorize the VA to furnish home health services to housebound veterans or those in need of aid and attendance. The VA indicates that this provision would not change current practices, but would only clarify VA's authority for providing such services to this particular group of veterans. CBO, therefore, estimates no budgetary impact to result from this provision.

Section 206: would remove certain anomalies between CHAMPVA and CHAMPUS benefits through extensions of CHAMPVA eligibility.

According to the VA, 588,000 persons have been killed or died in service since World War II. CBO assumes an average of 0.5 dependents per service death and, based on Census data for females aged 14 to 44, estimates that 40 percent of the widowed spouses have lost CHAMPUS eligibility through remarriage. Information published in the 1977 VA Annual Report suggests that another 8 percent are no longer eligible for CHAMPVA because of medicare eligibility.

CBO assumes that 20 percent of these remarriages have ended due to death of the second spouse, divorce, or annulment. CBO further assumes that 50 percent of those eligible will apply for CHAMPVA benefits, based on participation rates in the current program. According to information contained in the VA budget justification document, the average cost per beneficiary is expected to be about $200 in fiscal year 1980.

The outyear estimates reflect CBO's assumptions about inflation in the general economy, and a 4 percent decline in the eligible population due to aging.

The costs of extending CHAMPVA benefits to disabled students are estimated to be insignificant.

[By fiscal years, in millions of dollars]

	1980	1981	1982	1983	1984
Estimated authorization/estimated outlays	2.2	2.4	2.5	2.6	2.7

Section 301: requires the Director of OMB to provide the VA with the personnel ceiling for VA health-care staffing for which appropriations are made. This provision would have no impact in fiscal year 1980, because the staffing levels assumed in fiscal year 1980 appropriation have been released to VA by OMB. It is not possible to determine the budgetary effect in the out-years without knowledge of future appropriation levels and of the actions that would have been taken by OMB in the absence of the provision.

Sections 302-306: make certain procedural and technical changes that are not expected to involve significant costs or savings.

Section 307: directs the Administrator of VA, to conduct a study of the possible long-term health effects resulting from exposure of military personnel in Vietnam to the class chemicals known as "the dioxins."

The estimate of the cost of this study is based loosely on the cost of a study currently being performed by the National Institute of Occupational Safety and Health (NIOSH). The NIOSH study is examining the rate and causes of death among a sample group of 1,000 to 2,000 workers exposed to dioxins at some time over the last 35 years. This study, which will take two years to complete, is budgeted at approximately $300 thousand.

Since the exposure of Vietnam era veterans to dioxin is relatively recent, it is unlikely that they would have died of such exposure in significant numbers. This estimate, therefore, assumes that the current medical condition of the veterans selected for the study would have to be evaluated.

[By fiscal years, in millions of dollars]

	1980	1981	1982	1983	1984
Estimated authorization	1.0	0	0	0	0
Estimated outlays	.2	.6	.2	0	0

7. Estimate comparison: None.

8. Previous CBO estimate: The following estimate of H.R. 3892, as ordered reported by the House Committee on Veterans Affairs, was prepared on May 16, 1979. The estimate differs from that shown above because of changes in provisions.

[By fiscal years, in millions of dollars]

	1980	1981	1982	1983	1984
Authorization level	95.0	95.0	95	95	95
Estimated outlays	30.7	85.8	94	95	95

9. Estimate prepared by: K. W. Shepherd (225-7766).

10. Estimate approved by: C. G. Nuchols, for James L. Blum, Assistant Director for Budget Analysis.

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on December 17, 1979.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, Room S–116 in the Capitol.

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., December 17, 1979.

Dr. HANS BINNENDIJK,
Committee on Foreign Relations,
Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Director.●

ENDANGERED SPECIES ACT AMENDMENTS—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I submit a report of the committee of conference on S. 1143 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. EXON). The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1143) to extend the authorization for appropriations for the Endangered Species Act of 1973, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 11, 1979.)

● Mr. CULVER. Mr. President, just a little more than a year ago, after careful scrutiny, the Senate reauthorized the Endangered Species Act. However, because the reauthorization was for 18 months, Congress was required to consider the act again this year. After additional hearings, review, and extended debate, the House and Senate have approved legislation and the conferees have agreed to a bill to again extend and amend the Endangered Species Act of 1973. The conference report on S. 1143, the Endangered Species Act Amendments of 1979, represents, in my opinion, a good effort by all interested Members at resolving the differences in the House and Senate bills, and I urge my colleagues to adopt it.

The principal issue to be resolved by the conferees was the different provisions regarding the Endangered Species Scientific Authority (ESSA). The Senate did not amend section 8(e) of the act which implements the Convention on International Trade in Endangered Species. The House amended that section by establishing the Secretary of the Interior as the Scientific Authority under the convention and establishing the existing authority as an advisory unit within the U.S. Fish and Wildlife Service.

The conference report designates the Secretary of the Interior as the scientific authority. However, in order to assure the consideration by the Secretary of unbiased scientific advice from a multidisciplined group, the advisory unit, or International Convention Advisory Commission, has been made as independent as possible. The Commission, which consists of representatives from the Departments of the Interior, Agriculture, and Commerce, the National Science Foundation, the Council on Environmental Quality, the Smithsonian Institution, and a representative from the State Fish and Wildlife agencies, has been removed from the Fish and Wildlife Service. In addition, its chairman will be elected by its members. If the Secretary of the Interior, acting as the Scientific Authority, does not accept the recommendations of the Commission he must provide it with a written explanation of his reasons and, along with his other decisions or findings required by the Convention, publish them in the Federal Register.

Under existing practice, at the discretion of the Secretary, the Wildlife Permit Office of the Fish and Wildlife Service has carried out the International Convention's Management Authority responsibilities under the supervision of the Director of the Fish and Wildlife Service. The conference report requires the Secretary to establish a similar arrangement within the Fish and Wildlife Service for his Scientific Authority responsibilities. However, the Secretary of the Interior would still retain the ultimate responsibility to make those decisions required by the Scientific Authority and the Management Authority by the International Convention.

Consultation on proposed species: The conference report requires Federal agencies to confer with the Secretary on actions that are likely to jeopardize species which have been proposed for listing.

Emergency listing time period: The emergency listing time period is extended to 240 days. In addition, plants have been included in the emergency listing provision.

Section 7 standard: The conference report, which would require all Federal agencies to assure that their actions are not likely to jeopardize an endangered species or adversely modify its critical habitat, brings the language of the Endangered Species Act into conformity with existing agency practice and judicial decisions. The amendment does not alter or diminish an agency's obligation under section 7(a)(2) of the act.

Plants: Plants are added to the coverage of section 8 of the act, which authorizes the Secretary to encourage foreign nations to develop fish and wildlife conservation programs.

Scrimshaw exemption: The report extends the present "scrimshaw" exemption for 3 years.

Authorization: $23 million, $25 million, and $27 million for fiscal years 1980, 1981, and 1982, respectively, are authorized for the Department of the Interior. $2.5 million, $3.0 million, and $3.5 million for fiscal years 1980, 1981, and 1982, respectively, are authorized for the Department of Commerce.

In addition, funds are authorized to the Department of Agriculture to carry out its functions under the Endangered Species Act and the Convention on International Trade regarding the importation and exportation of plants.

Again, Mr. President, I urge the Senate to adopt the conference report on the Endangered Species Act Amendments of 1979. As I stated earlier, this act has undergone careful review over the last few years. The proposed report addresses and resolves remaining problems and difficulties with the act while continuing to provide support and protection for endangered and threatened species of plants and wildlife.●

Mr. CHAFEE. Mr. President, this conference report was agreed to. It was a case of our side not being completely content with the result; nonetheless, it was agreed upon. The House gave and we gave some, so I think the overall results are satisfactory, and I would move the approval of the report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar orders Nos. 516, 530, 531, 561, and 567.

The PRESIDING OFFICER. Without objection, it is so ordered.

PAIUTE INDIAN TRIBE OF UTAH RESTORATION ACT

The Senate proceeded to consider the bill (S. 1273) to restore the Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah as a federally recognized sovereign Indian tribe, to restore to the Cedar City, Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah and its members those Federal services and benefits furnished to federally recognized American Indian tribes and their members, and for other purposes, which had been reported from the Select Committee on Indian Affairs with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Paiute Indian Tribe of Utah Restoration Act".

SEC. 2. For the purposes of this Act—

(1) the term "tribe" means the Cedar City, Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah;

(2) the term "Secretary" means the Secretary of the Interior or his authorized representative;

(3) the term "Interim Council" means the council elected pursuant to section 5;

(4) the term "member", when used with respect to the tribe, means a person enrolled on the membership roll of the tribe, as provided in section 4 of this Act; and

(5) the term "final membership roll" means the final membership roll of the tribe published on April 15, 1955, on pages 2499 through 2503 of volume 20 of the Federal Register and on April 14, 1956, on pages 2453 through 2456 of volume 21 of the Federal Register.

SEC. 3. (a) The Federal trust relationship is restored to the Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah and restored or confirmed with respect to the Cedar City Band of Paiute Indians of Utah. The provisions of the Act of June 18, 1934 (48 Stat. 984) as amended, except as inconsistent with specific provisions of this Act, are made applicable to the tribe and the members of the tribe. The tribe and the members of the tribe shall be eligible for all Federal services and benefits furnished to federally recognized Indian tribes. Notwithstanding any provision to the contrary in any law establishing such services or benefits, eligibility of the tribe and its members for such Federal services and benefits shall become effective upon enactment of this Act without regard to the existence of a reservation for the tribe or the residence of members of the tribe on a reservation. For the purpose of providing for Federal services and benefits, the service area shall be Iron, Millard, Sevier, and Washington Counties, Utah, except that should lands in any other county be added to the reservation pursuant to section 7(c), the service area shall also include the area on or near the additions to the reservation.

(b) Except as provided in section (c), all rights and privileges of the tribe and of members of the tribe under any Federal treaty, Executive order agreement, or statute, or under any other authority, which were diminished or lost under the Act of September 1, 1954 (68 Stat. 1099), are hereby restored, and such Act shall be inapplicable to the tribe and to members of the tribe after the date of enactment of this Act.

(c) This Act shall not grant or restore any hunting, fishing, or trapping right of any nature, including any indirect or procedural right or advantage, to the tribe or any member of the tribe.

(d) Except as specifically provided in this Act, nothing in this Act shall alter any property right or obligation, any contractual right or obligation, or any obligation for taxes already levied.

SEC. 4. (a) The final membership roll is declared open. The Secretary, the Interim Council, and tribal officials under the tribal constitution and bylaws shall take such measures as will insure the continuing accuracy of the membership roll.

(b)(1) Until after the initial election of tribal officers under the tribal constitution and bylaws, a person shall be a member of the tribe and his name shall be placed on the membership roll if he is living and if—

(A) his name is listed on the final membership roll;

(B) he was entitled on September 1, 1954, to be on the final membership roll but his name was not listed on that roll;

(C) he is a descendant of a person specified in subparagraph (A) or (B) and possesses at least one-fourth degree of blood of members of the tribe or their Paiute Indian ancestors;

(D) his name is listed on the roll established pursuant to the Act of October 17, 1968 (82 Stat. 1147), for the disposition of judgment funds, as a member of the Cedar City Band of Paiute Indians;

(E) he was entitled on October 17, 1968, to be on the judgment distribution roll as a member of the Cedar City Band as specified in subparagraph (D) but his name was not listed on that roll; or

(F) he is a descendant of a person specified in subparagraph (D) or (E) and possesses at least one-fourth degree of blood of members of the tribe or their Paiute Indian ancestors.

(2) After the initial election of tribal officials under the tribal constitution and bylaws, the provisions of the tribal constitution and bylaws govern membership in the tribe.

(c)(1) Before election of the Interim Council, verification of descendancy, age, and blood shall be made upon oath before the Secretary and his determination thereon shall be final.

(2) After election of the Interim Council and before the initial election of the tribal officials, verification of descendancy, age, and blood shall be made upon oath before the Interim Council, or its authorized representative. A member of the tribe, with respect to the inclusion of any name, and any person, with respect to the exclusion of his name, may appeal to the Secretary, who shall make a final determination of each such appeal within ninety days after an appeal has been filed with him. The determination of the Secretary with respect to an appeal under this paragraph shall be final.

(3) After the initial election of tribal officials, the provisions of the tribal constitution and bylaws shall govern the verification of any requirements for membership in the tribe, and the Secretary and the Interim Council shall deliver their records and files, and other material relating to enrollment matters, to the tribal governing body.

(d) For purposes of sections 5 and 6, a member who is eighteen years of age or older is entitled and eligible to be given notice of, attend, participate in, and vote at, general council meetings and to nominate candidates for, to run for any office in, and to vote in, elections of members to the Interim Council and to other tribal councils.

SEC. 5. (a) Within forty-five days after the date of the enactment of this Act, the Secretary shall announce the date of a general council meeting of the tribe to nominate candidates for election to the Interim Council. Such general council meeting shall be held within sixty days after the date of the enactment of this Act. Within forty-five days after such general council meeting the Secretary shall hold an election by secret ballot, absentee balloting to be permitted, to elect six members of the tribe to the Interim Council from among the nominees submitted to him from such general council meeting. The Secretary shall assure that notice of the time, place, and purpose of such meeting and election shall be provided to members described in section 4(d) at least fifteen days before such general meeting and election. The ballot shall provide for write-in votes. The Secretary shall approve the Interim Council elected pursuant to this section if he is satisfied that the requirements of this section relating to the nominating and election process have been met. If he is not so satisfied, he shall hold another election under this section, with the general council meeting to nominate candidates for election to the Interim Council to be held within sixty days after such election.

(b) The Interim Council shall represent the tribe and its members in the implementation of this Act and shall be the acting tribal governing body until tribal officials are elected pursuant to section 6(c) and shall have no powers other than those given to it in accordance with this Act. The Interim Council shall have full authority and capacity to receive grants from and to make contracts with the Secretary and the Secretary of Health, Education, and Welfare with respect to Federal services and benefits for the tribe and its members: *Provided*, That no auhtority to enter into contracts or to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts. The Interim Council shall have the authority to bind the tribal governing body as the successor in interest to the Interim Council for a period extending not more than six months after the date on which the tribal governing body takes office. Except as provided in the preceding sentence, the Interim Council shall have no power or authority after the time when the duly-elected tribal governing body takes office.

(c) Within thirty days after receiving notice of a vacancy on the Interim Council, the Interim Council shall hold a general council meeting for the purpose of electing a person to fill such vacancy. The Interim Council shall provide notice of the time, place, and purpose of such meeting and election to members described in section 4(d) at least ten days before such general meeting and election. The person nominated to fill such vacancy at the general council meeting who received the highest number of votes in the election shall fill such vacancy.

SEC. 6. (a) Upon the written request of the Interim Council, the Secretary shall conduct an election by secret ballot, pursuant to the provisions of section 16 of the Act of June 18, 1934 (48 Stat. 987), for the purpose of adopting a constitution and bylaws for the tribe. The election shall be held within sixty days after the Secretary has—

(1) reviewed and updated the final membership roll for accuracy, in accordance with sections 4(a), 4(b)(1), and 4(c)(1),

(2) made a final determination of all appeals filed under section 4(c)(2), and

(3) published in the Federal Register a certified copy of the membership roll of the tribe.

(b) The Interim Council shall draft and distribute to each member described in section 4(d), no later than thirty days before the election under subsection (a), a copy of the proposed constitution and bylaws of the tribe, as drafted by the Interim Council, along with a brief and impartial description of the proposed constitution and bylaws. The members of the Interim Council may freely consult with Members of the tribe concerning the text and description of the constitution and bylaws, except that such consultation may not be carried on within fifty feet of the polling places on the date of the election.

(c) In any election held pursuant to subsection (a), a vote of a majority of those actually voting shall be necessry and sufficient for a adoption of a tribal constitution and bylaws.

(d) Not later than one hundred and twenty days after the tribe adopts a constitution and bylaws, the Interim Council shall conduct an election by secret ballot for the purpose of electing the individuals who will serve as tribal officials as provided in the tribal constitution and bylaws. For the purpose of this election and notwithstanding any provision in the tribal constitution and bylaws to the contrary, absentee balloting shall be permitted.

SEC. 7. (a) The Secretary, within one year following the date of the enactment of this Act, shall accept the real property of members of the tribe or bands if conveyed or otherwise transferred to him, and real property held for the benefit of members of the tribe or bands if conveyed or otherwise transferred to him by the owner or owners of such land held for the benefit of the bands. Such property shall be subject to all valid existing rights including, but not limited to, liens, outstanding taxes (local and State), and mortgages. The land transferred to the Secretary pursuant to this subsection shall be subject to foreclosure or sale pursuant to the terms of any valid existing obligation in accordance with the laws of the State of Utah. Subject to the conditions imposed by this subsection, the land transferred shall be taken in the name of the United States in trust for the tribe or bands to be held as Indian lands are held, and shall be part of their reservation. The transfer of real property authorized by this section shall be exempt from all local, State, and Federal taxation. All real property transferred under this section shall, as of the date of transfer, be exempt from all local, State, and Federal taxation.

(b) The State of Utah shall exercise civil and criminal jurisdiction with respect to the reservation and persons on the reservation as if it had assumed jurisdiction pursuant to the Act of August 15, 1953 (67 Stat. 588), as amended by the Act of April 11, 1968 (82 Stat. 79), and pursuant to sections 63–36–9 through 63–36–21 of the Utah State Code.

(c) Inasmuch as the Kanosh, Koosharem and Indian Peaks Bands of Paiute Indians lost land which had been their former reservations and the Cedar City Band of Paiute Indians had never had a reservation, the Secretary shall negotiate with the tribe or bands, or with representatives of the tribe chosen by the tribe or bands, concerning the enlargement of the reservation for the tribe established pursuant to subsection (a) and shall within two years after the date of enactment of this Act, develop a plan for the enlargement of the reservation for the tribe. Upon approval of such plan by the tribal officials elected under the tribal constitution and bylaws adopted pursuant to section 6, the Secretary shall submit such plan to the Congress. The plan shall include acquisition of not to exceed a total of 15,000 acres of land to be selected from available public, State, or private lands within Beaver, Iron, Millard, Sevier, or Washington Counties, Utah. The plan prepared by the Secretary shall become effective, and he shall take immediate action to implement the plan through purchase or other acquisition of such lands at the end of the one-hundred-and-twenty-day period (excluding days on which the House of Representatives or the Senate is not in session because of adjournment of more than three calendar days to a day certain) beginning on the day such plan is submitted to the Congress, unless during such period either House adopts a resolution disapproving such plan. Within thirty calendar days after the date of adoption of a resolution disapproving the plan, the Secretary shall submit to the Congress proposed legislation, together with a report thereon, authorizing acquisition of certain lands to enlarge the reservation of the Paiute Indian Tribe of Utah.

(d) To assure that legitimate State and local interests are not prejudiced by the enlargement of the reservation for the tribe, the Secretary, in developing the plan under subsection (c) for the enlargement of the reservation for the tribe, shall notify and consult with all appropriate officials of the State of Utah, all appropriate local government officials in the affected five county area in the State of Utah and any other interested parties. Such consultation shall include the following subjects:

(1) the size and location of the additions to the reservation;

(2) the effect the enlargement of the reservation would have on State and local tax revenues;

(3) the criminal and civil jurisdiction of the State of Utah with respect to the reservation and persons on the reservation;

(4) hunting, fishing, and trapping rights of the tribe, and members of the tribe, on the reservation;

(5) the provision of State and local services to the reservation and to the tribe and members of the tribe on the reservation; and

(6) the provsion of Federal services to the reservation and to the tribe and members of the tribe and the provision of services by the tribe to members of the tribe.

(e) Any plan developed under this section for the enlargement of the reservation for the tribe shall provide that—

(1) the enlargement of the reservation will not grant or restore to the tribe or any member of the tribe any hunting, fishing, or trapping right of any nature, including any indirect or procedural right or advantage, on such addition to the reservation;

(2) the Secretary shall not accept any real property in trust for the benefit of the tribe or bands unless such real property is located either within Beaver, Iron, Millard, Sevier, or Washnigton Counties, State of Utah;

(3) the transfer of any real property to the Secretary in trust for the benefit of the tribe or bands as an addition to the reservation shall be exempt from all Federal, State, and local taxation, and all such real property shall, as of the date of such transfer, be exempt from Federal, State, and local taxation; and

(4) the State of Utah shall exercise civil and criminal jurisdiction with respect to the addition to the reservation and persons on such lands as if it had assumed jurisdiction pursuant to the Act of August 15, 1953 (67 Stat. 588), as amended by the Act of April 11, 1968 (82 Stat. 79), and pursuant to sections 63–36–9 through 63–36–21 of the Utah State Code.

(f) The Secretary shall append to the plan a detailed statement describing the manner in which the notification and consultation prescribed by subsection (d) was carried out and shall include any written comments with respect to the enlargement of the reservation for the tribe submitted to the Secretary by State and local officials and other interested parties in the course of such consultation.

SEC. 8. Any legal claims for lands owned by the Shivwits, Kanosh, Koosharem, or Indian Peaks Bands of Paiute Indians of Utah and lost through tax sales or any other sales to individuals, corporations, or the State of Utah since September 1, 1954, are hereby barred.

SEC. 9. The Secretary may make such rules and regulations as are necessary to carry out the purposes of the Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill to restore to the Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah, and with respect to the Cedar City Band of Paiute Indians of Utah, to restore or confirm, the Federal trust relationship, to restore to members of such Bands those Federal services and benefits furnished to American Indian tribes by reason of such trust relationship, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REVISION OF SENATE COMMITTEE FUNDING PROCEDURE

The Senate proceeded to consider the resolution (S. Res. 281) relating to expenditures and staffs of committees of the Senate.

Mr. ROBERT C. BYRD. Mr. President, I withdraw the request as to that measure for the time being.

The PRESIDING OFFICER. Without objection, the resolution will be passed over.

HEW CHECK TO DETERMINE SENATE EMPLOYEE INDEBTEDNESS FOR DEFAULTED STUDENT LOANS

The Senate proceeded to consider the resolution (S. Res. 297) authorizing a check by the Department of Health, Education, and Welfare to determine if any Senate employees are indebted to the United States for defaulted student loans, which had been reported from the Committee on Rules and Administration with amendments as follows:

On page 3, beginning with line 5, strike through and including line 22, and insert in lieu thereof the following:

SEC. 3. (a) Upon receipt of the report under section 2(b), the Committee on Rules and Administration shall inform each Senate employee listed in such report that, according to the records of the Department of Health, Education, and Welfare, he is indebted to the United States and the amount of such indebtedness.

(b) Unless the Committee on Rules and Administration is notified by the Department of Health, Education, and Welfare, within thirty days after a Senate employee has been given the information under subsection (a), that such employee has made arrangements for the repayment of such indebtedness, or has been excused from such repayment, the committee shall notify the Senator, committee chairman, or officer of the Senate in whose office such employee is employed that, according to the records of the Department of Health, Education, and Welfare, such employee is indebted to the United States and the amount of such indebtedness. Such Senator, committee chairman, or officer shall endeavor to have such employee make arrangements for the repayment of such indebtedness or be excused from such repayment. If, at the end of sixty days after receipt of the notice under this subsection, such employee has not made arrangements to repay such indebtedness and has not been excused from such repayment, or if such employee leaves the employment of the Senate within such sixty-day period without having made such arrangements or having been so excused, such Senator, committee chairman, or officer shall so notify the Committee on Rules and Administration.

On page 5, line 7, strike "3(a)" and insert "2(b)";

So as to make the resolution read:

Resolved, That if the Secretary of Health, Education, and Welfare agrees to carry out the provisions of section 2 according to the terms and conditions prescribed therein and such other terms and conditions as the Committee on Rules and Administration may prescribe, the Secretary of the Senate is authorized to furnish to the Secretary of Health, Education, and Welfare a computer tape containing the name, social security number, and address of each Senate employee. For purposes of this resolution, the term "Senate employee" means an individual whose compensation is disbursed by the Secretary of the Senate.

SEC. 2. (a) Upon receipt of the computer tape described in the first section, the Secretary of Health, Education, and Welfare shall conduct a computer check to determine whether any Senate employees are indebted to the United States by reason of default on a student loan guaranteed and paid by the United States. No other use may be made of such computer tape by any officer or employee of the Department of Health, Education, and Welfare and it shall be returned to the Secretary of the Senate upon completion of such check.

(b) If the computer check conducted pursuant to subsection (a) reveals that any Senate employees are so indebted to the United States, the Secretary of Health, Education, and Welfare shall report to the Committee on Rules and Administration the name of each such employee together with the principal amount and total amount of his present indebtedness to the United States. No other use may be made of the results of such computer check by any officer or employee of the Department of Health, Education, and Welfare and no disclosure of the results of such check shall be made by any such officer or employee except to the Committee on Rules and Administration.

SEC. 3 (a) Upon receipt of the report under section 2(b), the Committee on Rules and Administration shall inform each Senate employee listed in such report that, according to the records of the Department of Health, Education, and Welfare, he is indebted to the United States and the amount of such indebtedness.

(b) Unless the Committee on Rules and Administration is notified by the Department of Health, Education, and Welfare, within thirty days after a Senate employee has been given the information under subsection (a), that such employee has made arrangements for the repayment of such indebtedness, or has been excused from such repayment, the committee shall notify the Senator, committee chairman, or officer of the Senate in whose office such employee is employed that, according to the record of the Department of Health, Education, and Welfare, such employee is indebted to the United States and the amount of such indebtedness. Such Senator, committee chairman, or officer shall endeavor to have such employee make arrangements for the repayment of such indebtedness or be excused from such repayment. If, at the end of sixty days after receipt of the notice under this subsection, such employee has not made arrangements to repay such indebtedness and has not been excused from such repayment, or if such employee leaves the employment of the Senate within such sixty-day period without having made such arrangements or having been so excused, such Senator, committee chairman, or officer shall so notify the Committee on Rules and Administration. The committee shall, thereupon, identify such employee, together with his social security number and address, to the Secretary of Health, Education, and Welfare for the purpose of initiating procedures to collect such indebtedness.

SEC. 4. The Committee on Rules and Administration may make public disclosure of a digest of the report received under section 2(b) but may not publicly disclose the identity of any Senate employee listed in such report or the office in which he is employed.

The amendments were agreed to.

The resolution, as amended, was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INTERNATIONAL CONFERENCE ON CAMBODIA

The concurrent resolution (H. Con. Res. 219), calling for an international conference on Cambodia, was announced as next in order.

● Mr. McGOVERN. Mr. President, the Congress and the whole international community have recognized Cambodia as a terrible human tragedy. A serious humanitarian response is being organized. However, a diplomatic solution is also necessary because:

First. Continued fighting generates new refugees and new suffering. Open hostilities are a basic feature of the famine problem.

Second. The civil war in the field and the big power maneuvering are preventing humanitarian aid from reaching the victims. Aid reaching Cambodia cannot be distributed quickly enough because of on-going hostilities.

Third. The region could explode into new rounds of warfare involving the great powers and threatening not only the peace of the region but also world peace.

Therefore, a diplomatic effort to work out a political settlement in Cambodia should have the highest priority along with our humanitarian efforts.

This resolution—introduced by Senator KENNEDY and cosponsored by the same bipartisan coalition which has implemented humanitarian aid legislation, including Senators DANFORTH, DOLE, BAUCUS and myself—calls on the President to work with the Secretary General of the U.N. to convene an international conference bringing together all the Cambodia factions and the nations which have an interest in the outcome.

The purpose of the conference would be to work for a political solution which would:

First, end the fighting;

Second, lead to the withdrawal of all foreign troops from Cambodia;

Third, work for internationally-supervised elections;

Fourth, devise means for improving humanitarian and reconstruction aid.

This resolution is the next step after Senator JAVITS' resolution which passed a few weeks ago calling on the great powers to influence the Cambodian factions to avert a tragedy. The resolution now before us proposes a concrete strategy to find a diplomatic solution. The role of the Soviet Union in supporting Vietnam and the role of China in supporting Pol Pot cannot be ignored in any conference.

The U.N. General Assembly passed a resolution proposed by our ASEAN allies urging the Secretary General to explore the possibility of a conference.

The State Department has no objection. And the House passed this resolution unanimously yesterday.

Mr. President, I recently made a statement on the diplomatic aspects of the situation in Cambodia which an international conference should consider. I ask to insert this statement at the end of my remarks on this resolution.

The statement follows:

A NEW AMERICAN DIPLOMACY FOR SOUTHEAST ASIA

Mr. MCGOVERN. Mr. President, the international community is finally making available the resources necessary to avert a horrible crisis of human suffering in Cambodia. The outcome of the United Nations pledging Conference this week, the congressional action last week on the Danforth and McGovern amendments to the refugee assistance bill and other actions of private agencies all are grounds for encouragement. The response of America has been moral and nonpartisan.

However, we must match our humanitarian efforts with diplomatic initiatives. We need parallel humanitarian and diplomatic strategies for several reasons. First, effective diplomacy can insure that humanitarian efforts are implemented more swiftly and effectively. Whether food is distributed by air lift, land bridge, or river transport is not primarily a logistical issue—it is a diplomatic question. Drawing the Cambodian authorities into an effective distribution scheme may require diplomatic answers.

Second, diplomacy is needed to lessen the basic regional tensions which seem to cause perpetual crises in Southeast Asia. The people of this region recently have experienced not only starvation, but invasion, genocide, and a refugee crisis. Unless we address ourselves to the fundamental issues we may be able only to ameliorate the present crisis while standing by helplessly waiting for the next crisis.

Finally, diplomacy is needed because the United States alone among the great powers has the capacity to influence the shifting power relationships in the region. We can contribute not only our food and medicines and airlift. We can also use our diplomatic leverage. All the countries of the region want better relations with us. All of them seek our participation. It is time to put our influence to work constructively. The United States has not caused these crises or been directly involved in the struggles between Asian Communist powers. But we are uniquely well positioned to help find solutions to the conflicts.

Looking beyond the immediate humanitarian situation to the broader diplomatic context is difficult because the region has become an extremely complex geopolitical puzzle. But it is clear that the basic cause of the crises in Southeast Asia is the dramatic new political realinements which have emerged in the region in the past decade. The primary conflict is not between East and West, between Communist and anti-Communist. The primary conflict is between

China and Vietnam, two Communist powers, who are fighting Asia's new cold war.

The recent events in the region are a consequence to one degree or another of this primary conflict. Unless this primary conflict can be resolved or reduced, there can be no stability, no peace, and no progress toward a more humane living standard in the region. There will be instead a series of military conflicts, human disasters, and international crises.

Our diplomacy must evolve in response to this long-term regional conflict. I believe the United States can affect the primary conflict through a combination of positive incentives and negative pressures. Our good offices should be made available to facilitate compromises on the major issues, including Cambodia.

China has viewed Vietnam as a threat both to its regional influence in Asia and to its anti-Soviet policy. It supported the Pol Pot regime's aggressive border policy to increase tensions between Vietnam and Cambodia while, at the same time, it attempted to destabilize the Vietnamese regime by recalling Chinese technicians, cutting off aid, and encouraging ethnic Chinese in northern Vietnam to leave. Last year China invaded Vietnam to punish it for the Cambodian invasion. All of these Chinese moves have been directed against Vietnam as a Soviet proxy. Rightly or wrongly, China is obsessed with the Soviet Union as a geopolitical competitor.

China apparently still seeks a military solution in Cambodia by its support for the Pol Pot guerrilla warfare in Cambodia. And it is reserving the right to invade Vietnam again, perhaps this time to overturn the regime in Hanoi by imposing a military defeat.

Vietnam has reacted to Chinese pressure with intense fear and irrationality. Obsessed with the threat of a Chinese invasion from the north, the Vietnamese began to expell ethnic Chinese much as ethnic Japanese nam to leave. Last year China invaded Vietnamese invasion of Cambodia followed after negotiations on the border disputes failed. At the same time, Vietnam began to abandon its traditional policy of remaining equidistant from the great powers by intensifying its formal military and economic ties with the Soviet Union as a deterrent against a Chinese invasion.

The result is a vicious cycle of fear and reaction, insecurity and counter-reaction in the area. China pressures Vietnam as part of its anti-Soviet policy. Fearing an alliance between China, Pol Pot, Thailand, and the United States, Vietnam responds to protect its security by taking measures which compound human tragedy, force refugees to leave, and exacerbate the food problem. China responds with more pressure to back Vietnam into a corner which reduces Vietnam's incentives to be flexible on humanitarian relief measures.

Thus, the starvation crisis, the refugee crisis, and the boat people crisis are being generated by this exploding chain reaction of geopolitical realinements.

And it is the Cambodian people who suffer as a result. For China views Cambodia's future as an instrument of its anti-Soviet and anti-Vietnam policy while Vietnam views Cambodia's fate as an instrument of its anti-Chinese fears and insecurities.

The role of the United States should be to induce China and Vietnam to moderate their basic conflict. We have the diplomatic leverage to induce this moderation because both China and Vietnam seek normalization of relations with the United States. China seeks U.S. support to modernize its economy and armed forces, to prevent U.S. military withdrawals from Asia which would create a power vacuum for the Soviets to enter, and to join in an anti-Soviet front with Japan, Western Europe, and China. Since early 1978, Vietnam has sought normal diplomatic and trade relations with the United States to maintain a balance in its relations with the three superpowers, to reduce its dependence on the Soviet Union and to have access to our technology, trade, and oil exploration.

For almost 2 years, the United States has had a unique diplomatic opportunity to stabilize the region and enhance the prospects for peace. An American policy of even-handed relations in the area would have given Vietnam an alternative to a dependency relationship with the Soviet Union while lessening Chinese fears of Soviet encirclement. As a result, different alternatives could have opened up for Cambodia.

But instead of playing a balanced role to stabilize the area and to increase our influence in Southeast Asia, the United States has tilted visibly toward China. This basic orientation has been evident through a series of moves, including Dr. Brzezinski's confirmation in China in 1978 that the United States and China would engage in "parallel pursuit of our similar objectives," the mild U.S. reaction to the Chinese invasion of Vietnam. American support for Pol Pot's genocidal regime in the United Nations, and most recently Vice President MONDALE's assertion in Peking of mutual security interests. All of these events indicate a pro-China tilt in American policy.

As a result of trying to "play the China card," against the Soviet Union globally, the United States indirectly has contributed to the geopolitical tensions in Southeast Asia which are the backdrop of the human tragedies we see today.

The pro-China tilt to American policy has encouraged China to feel it has a free hand to use its diplomatic and military power recklessly in the region whatever the political or human consequences. As a result, the Chinese may have become more aggressive toward Vietnam—and thus made Vietnam more irrational and inhumane in defending its security—than it would have if the United States had taken an even-handed stance in the Sino-Vietnamese conflict.

Unfortunately, the United States is now in the uncomfortable position of tactically encouraging irresponsible Chinese policies by offering what amounts to unconditional political, economic and diplomatic support for China. This will be the message to China and Vietnam if Congress approves unconditionally China's request for most-favored-nation status. Export-Import Bank credits, and Overseas Private Investment Corporation guarantees.

On the other hand, the United States has not held out serious incentives to the Vietnamese to moderate or change its behavior toward Cambodia, either before the invasion or afterward. Once the Vietnamese believe that American policy is alined with China against it, there is little influence or credibility we can have. In addition, the Vietnamese response to the absence of any American gestures concerning lifting the trade embargo or normalizing relations has been to increase its reliance on the Soviet Union—a move which, in turn, feeds Chinese paranoia about Vietnam acting as a pawn of the Soviets.

The consequences of "playing the China card" in Southeast Asia have been damaging as well to regional stability and to American interests. First, the instability caused by the refugees from Indochina has generated concern and resentment among ASEAN nations. Second, the apparent detente between Vietnam and the ASEAN nations evident last summer has fallen apart, thus delaying regional stability. Third, it has made the Vietnamese more dependent on the Soviet Union, thus raising fears of our ASEAN allies. Fourth, it has put the United States in the embarrassing position of acquiescing in Chinese actions—such as the invasion of Vietnam—which are detrimental to our objectives in Asia and which raise doubts in the minds of our European allies about the future of United States-Soviet relations. Fifth, economic deterioration in Vietnam caused by constant military mobilization will exacerbate the human rights problems there. Sixth, and perhaps most importantly, a renewed Chinese invasion would raise the serious danger of Soviet intervention in order to protect the Vietnamese Government—and the risk of Soviet preemptive military action against China's northern border. The United States would be drawn into this great power conflict. The risk of nuclear war in this area is greater than in any other area of the world today.

There is an important additional danger to mention. Thailand is being subjected to enormous pressures from all sides which threaten to break the Thai Government apart and directly involve the United States in another war in Asia. The vast numbers of Cambodian refugees now in Thai camps which are close to the border with Cambodia are a source of friction. China continues to pressure Thailand to funnel arms to the Pol Pot guerrilla forces in Cambodia or in Thai camps. Getting the Thais to fight against Vietnam even covertly will increase Thailand's political and military dependence on China. To the extent that Thailand becomes a party to the Chinese effort in Cambodia, the Vietnamese will come to regard Thailand as a potential enemy.

These external pressures are having serious political repercussions within Thailand. There is a group of rightists generals in Thailand who favor stronger attacks against Vietnam and who are encouraged by the Chinese. A coup is considered a possibility in Bangkok. If a coup were to take place, or if Chinese support to Pol Pot continued through Thailand, it is not inconceivable that Vietnam would lash out against Thailand to wipe out the Pol Pot camps or to try to bloody Thailand's nose. This in turn raises the issue of U.S. guarantees under the Manila Pact for Thai security and the specter of new American military intervention. These are some of the major waves spreading out from the Sino-Vietnamese conflict.

This is but a brief background to some of the geopolitical issues involved. The shifting alliances, historical animosities and ethnic rivalries are too complex to summarize in such a brief statement.

In my view, a new American diplomatic role in the region is necessary. There are reasonable policy alternatives available to the United States which can improve the prospects for a mediated settlement in Cambodia, for an end to the direct military Sino-Vietnamese confrontation and faster progress on humanitarian aid implementation.

First, the United States must return to a balanced view of great power alinements in Southeast Asia. We should be neither pro-China or pro-Vietnam in the region. The China card—which has amounted to American accommodation to the Chinese interests in the region—should be returned to the deck. Tilting toward China has had many costs and few gains. The region cannot escape turmoil as long as we remain the silent partners of the Chinese. We need to make clear that we will pursue a balanced relationship between the Soviet Union and China. In Southeast Asia, such a policy means moving to strengthen stability and to secure U.S. interests in a way clearly independent of China. No other step will have such a profound affect on our ability to work effectively for short-term humanitarian relief or for long-term stability in the region.

Second, we must work for a solution to the Sino-Vietnamese security problem and to their direct military confrontation.

This problem cannot be solved without the United States. The State Department should seek a nonintervention or a nonaggression pledge by China. Solutions to all other problems await this resolution. In addition, agreement should include a cease-fire and troop pullback from the border areas. It is important that the United States make clear to China that the United States-China relationship will depend on greater restraint and responsibility on China's part than has been shown in the first 9 months of normal relations. The extension of these new economic benefits without assurance of moderation of China's policies would signify the abandonment of U.S. interests in stability and peace in Southeast Asia in pursuit of the global "China card."

Third, we must offer Vietnam positive incentives to moderate its behavior in the region, to provide an alternative to its dependence on the Soviet Union and to accept a political solution in Cambodia. It is in the region's interest, in our interest, and in the Vietnamese interest to establish normal diplomatic and trade relations between Vietnam and the United States. The President should consider making an opening gesture by resuming normalization negotiations with Vietnam by an offer of diplomatic relations and a lifting of the trade embargo. We need an embassy in Hanoi to serve as a listening post and as an improved channel of communications in a crisis like Cambodia. If we can have proper diplomatic relations with the big communist powers of the Soviet Union and China, there is no reason we cannot have them with smaller powers like Vietnam.

Fourth, we must press for a diplomatic solution to restore Cambodia's independence and neutrality. The Chinese still envision a military solution to Cambodia. As long as China is committed militarily to Pol Pot, it seems unlikely that Vietnam will make the compromises necessary to negotiate a solution. Thus, we must begin to conceptualize an independent American alternative to the Chinese approach for the purpose of creating the conditions necessary for a long-term solution. The steps I have recommended already should facilitate this new alternative. Additional elements would include:

We need to make clear the United States is opposed to all forms of military or intervention in Cambodia. The Vietnamese must withdraw their forces and permit the Cambodians to determine their own destiny. The Chinese must stop shipping arms to Pol Pot through Thailand.

We should support an international conference to arrange for demilitarization of Cambodia and free elections under international supervision. A compromise solution would involve a coalition beginning with the Sihanouk Forces and the Phnom Penh authorities. Observers believe that later on it could include individuals from the Pol Pot regime. The narrow Phnom Penh regime has recently been broadened somewhat with individuals associated with Sihanouk. This should be encouraged. The United States should pressure China to accept this move while the Soviet Union would be approached to encourage Vietnamese acceptance; and

The Vietnamese last summer sent diplomatic signals that they might be willing to be flexible on Cambodia's future government if a shift occurred in U.S. Asian diplomacy. The respected Far Eastern Economic Review journalist Nayan Chandra reported in July that Vietnam would be willing to settle for a compromise on Cambodia if the United States were to make a gesture toward Vietnam, such as lifting the trade embargo. He quotes a source close to Hanoi as saying:

> Vietnam wants to see evidence that the United States is not tied to China in a "holy alliance" against Vietnam before accepting a compromise over Kampuchea (Hanoi's Peace Feeler to Washington, FEER, July 6, 1979).

It is difficult to know how much weight should be given to this report. The response from Vietnam may not be immediate. But we have to create the conditions from which a neutral Cambodia, which is neither anti-Chinese nor anti-Vietnamese, will emerge. A more independent American posture will lay the groundwork for Vietnamese perceptions of alternatives.

We would make it clear that our goodwill gesture toward normalization should be accompanied by reciprocal gestures by Vietnam on Cambodia's future.

Fifth, Thailand's stability and security must be assured. Here again there are several elements:

American sales of military equipment to Thailand should occur on a reasonable and prudent basis with a minimum of direct U.S. military personnel present. The goal should not be to turn Thailand into a major military power. Our diplomacy can do more to insure Thailand's security than can big new arms shipments.

China's political pressure on the Thai Government should be moderated to permit the Thais to evolve their own policy of balancing relations between Vietnam and China. Thailand need not be pressured into carrying out China's support for Pol Pot;

Thailand should reconsider whether it is in its best interest to serve as an arms and supply conduit for Pol Pot's forces in Cambodia.

Humanitarian relief to the refugees in Thai camps should be stepped up pending a political solution to Cambodia's future.

These are the essential elements of a new positive diplomatic role for the United States. It involves a reconsideration of our policy toward China and toward Vietnam. These steps will be difficult and will involve political leadership and courage at home. But if these steps will help remove obstacles to both short-term humanitarian relief and to long-term diplomatic resolution of the causes of conflict—they should be taken to make a critical breakthrough.

A recent editorial from the Washington Post sums up this new outlook very well. It concludes:

> It is all too likely, however, that little can be done for the Cambodians while China and Vietnam, the generators of the conflict, remain in a state of undeclared war. That is all the more reason for the United States to unhook itself from a policy that makes it a backdoor partner of Pol Pot, a proven mass butcher; it should float free. And it is all the more reason to reconsider a policy so fixed upon enhancing geopolitical accommodation with China that it makes the United States an arm of Chinese policy in Southeast Asia."

I have been deeply impressed by the humanitarian response of the American people and Members of Congress to the Cambodian famine. Overwhelming votes have been taken to send food and medicines. Proposals have been sincerely put forward for a land bridge, an air drop, and other distribution arrangements. International pressure is being put on the Soviet Union and on Vietnam to agree to support and facilitate the accomplishment of a major international relief effort. I strongly support these efforts. All of them can and should be done.

But if the threat of starvation is severe, if the survival of the Khmer race is at stake, how can we refuse to reconsider our policies toward China or overcome our animosities toward normalizing relations with Vietnam if these steps would help prevent a monumental tragedy of human suffering.

Humanitarian relief programs are essential. They must be pressed with full financial and political backing. But at the same time we should place these efforts in a larger context and try to moderate or resolve the contending regional forces which erupt to produce major human crises.●

● Mr. KENNEDY. Mr. President, I am pleased that the Foreign Relations Committee has acted expeditiously in reporting out this concurrent resolution calling for an international conference to deal with the continuing political and human tragedy in Cambodia.

I joined Congressman Stephen Solarz in introducing this resolution 2 weeks ago, in order to renew our attention on the tragedy in Cambodia. Joining in cosponsoring this resolution are Senators Baucus and Danforth, who recently returned from a visit to the field, and Senators McGovern, Dole, and Lugar.

Although our attention has understandably shifted to the crisis in Iran, and the fate of the American hostages, the world still stands on the precipice of what threatens to be one of the worst human disasters of this century—mass starvation in Cambodia.

Hundreds of thousands of refugees are still fleeing civil warfare and famine conditions. We are seeing a repetition of some of the most tragic events of the past—of desperate, homeless refugees in a vain search for food—of countless thousands languishing in squalid camps without adequate food or medicine—and millions more facing certain famine.

Unless something more is done, and done now, to deal with the root causes behind the Cambodian tragedy, not only will millions of men, women, and children perish, but perhaps the Cambodian nation as well.

It is for this reason, Mr. President, that I have for many months called for an international conference on Cambodia.

Nine months ago, when the warning signs were already completely clear, I first urged the United States, together with Japan and the ASEAN countries, to jointly support an international conference to help Cambodia, before conditions deteriorated beyond recall, and an overwhelming refugee crisis developed. Other countries joined in similar calls, especially Prime Minister Thatcher of Great Britain. But the voice of the United States was notable by its silence.

In June, I met with Secretary General Waldheim at the United Nations to express my sense of urgency about the crisis. And on June 18, I called again for an international effort to deal with the mounting refugee problem, and the growing threat of famine inside Cambodia.

In July, in Geneva, an international conference was convened, under Secretary General Waldheim's auspices, but the question of Cambodia was dropped from the agenda. The meeting responded to the plight of the "boat people," but left Cambodia out.

We must rectify that omission. It is still not too late to marshal international action to deal with both the political and human crisis in Cambodia.

Even the international relief effort is now hampered by the lack of concerted international pressure on the authorities in Phnom Penh. Recent reports indicate that international relief supplies are piling up in warehouses, unused, while millions go hungry. The international committee of the Red Cross has expressed its concern that insufficient priority is being given to distributing relief supplies, and has urged that additional international personnel be admitted into the country to assist in the distribution of medicine and food.

Mr. President, I would like to insert in the Record an editorial from the New York Times which underscores the seriousness of this problem, and the need for urgent diplomatic action by all nations to help break this humanitarian impasse:

We Cannot Operate in Cambodia

The international groups supplying food to Cambodia have gone out of their way not to antagonize the regime in Phnom Penh, the Vietnamese supporting that regime and the Soviet Union, which supports Vietnam. When the rest of the world condemned all three for not allowing enough food into Cambodia, the relief agencies remained quiet enough to get some supplies in. It was a wise gamble; more than 50,000 tons of food and other supplies have reached Cambodia. More is arriving daily.

But the frustration of these groups has become difficult to deny. An official of the International Committee of the Red Cross, for instance, now admits that little aid has left Cambodia's docks and warehouses. An American intelligence report says some of the aid is being taken to feed Vietnamese and Cambodian soldiers. None of the officials are willing to give up the aid effort. But at least one of them now says that the time could come when they "would have to say strongly and publicly, 'We cannot operate,' and diminish shipments down to nothing."

Such words make the heart drop.

Phnom Penh and its friends keep saying the hunger isn't disastrous. Cambodia's refugees in Thailand say it is, and their bodies show plain evidence. Whatever one calls it, the lack of food has killed many people, food remains in short supply and Phnom Penh and Hanoi refuse to give full support to those most able to help. Their motive, presumably, is to bar witnesses to the deprivation who might wish to negotiate an end to Cambodia's civil war. The result is more suffering and death among a dwindling Khmer population.

Most of all, Phnom Penh and Hanoi are holding out for recognition of the new Cambodian regime that replaced the murderous Pol Pot, still fighting a rear-guard resistance. But these tactics can only reduce their chances. It is sad that these questions of legitimacy have colored the entire world's view of Cambodia. But is this to become merely a battle for sovereignty in a wasteland? There must be healthy people worth capturing before the assorted meddlings can continue.

Thailand so wants to avoid a larger war in the area that it has taken steps to keep Cambodian guerrillas from using its territory as a safe base. Other nations, too, may one day be interested in arranging political compromises. But Phnom Penh, Hanoi and Moscow are making any civilized arrangement more difficult with their cynical tolerance of starvation when there is food at hand. They must be doing something very, very wrong when they drive professional feeders of the hungry to start talking about withholding food.

Mr. President, it is time that all concerned nations do for Cambodia what last July's Geneva conference did for the "boat people"—to catalyze international action, and to prevent vast new deaths from starvation, disease, and the bayonets of conflicting forces.

We should use every possible diplomatic means to achieve a military ceasefire in Cambodia. We should seek peace, neutrality, and independence for Cambodia, with effective international guarantees. Without a political solution of this kind, the unending flow of refugees will go on.

No one can minimize the difficulty of this kind, the unending flow of refugees highest priority of American diplomacy, and it should involve the highest leaders of this Nation.

That is what the concurrent resolution we are considering today calls for: a sense of priority and concern for the continuing tragedy called Cambodia.

The gaunt faces of famished children have gone from the front pages of our newspapers—replaced by problems and crises elsewhere. But the death toll continues, as does our need to act.

As my distinguished colleague, Senator Sasser, testified before a hearing I chaired some days ago—after returning from his visit to the field—he said he found a terrible silence in the Cambodian refugee camps. A silence caused by weakened, starving people, unable to move, much less speak out.

It is our job to speak out for them—to cry out for help and for urgent action.

We must be able to tell our children that we did not look the other way to the Cambodian holocaust, as we did to another holocaust a generation ago. We must be able to say that our diplomats did everything humanly possible to avert mass starvation. ●

● Mr. **DOLE**. Mr. President. The American people, along with international relief agencies, are to be commended for their unanimous response in providing funds to help alleviate the tragedy of the Cambodian people. If our efforts had been directed toward eradicating the results of an earthquake, a flood, or some other natural disaster, that would suffice. Unfortunately, such is not the case.

The problems at hand cannot be solved through international compassion, generosity and good will alone. The source of the tragedy is political. Thus, once the prime attention has been focused long enough on the innocent victims of the conflict, so that help was dispatched in terms of food, medicines and supplies, it is time to turn to an indepth examination of the situation and to seek permanent solutions to ensure the survival of the Khmer people.

It has been a year since Vietnamese troops occupied Cambodia, turning it into a battlefield and making the threat of genocide more real every day. In the back of the conflict looms Peking who concluded a military alliance with the Pol Pot Government who, in turn, was responsible for attacks against the Vietnamese, leading to the present situation The role of "Victor" in their war against the Cambodian Government of Pol Pot has proven to be more a burden than a feast for the Vietnamese who installed Heng Samrin in Phnom Penh.

Whether the Vietnamese harbor thoughts to annex Cambodia permanently, or whether they would prefer to withdraw and leave Heng Samrin in charge of the home fires is open to speculation. What is clear, however, is that the Vietnamese cannot afford to leave Cambodia at this time. In the present societal disarray of a shattered civilization, and military vulnerability, the existing chaos would turn a Cambodia "led" by Heng Samrin into an easy target for the return of the Pol Pot regime. At the top of the pyramid comprising Cambodia, Vietnam and Peking, stands Moscow and its own enigmatic grand design over the future of Indochina, adding complexity to an already difficult riddle.

The only conceivable road to take, in order to bring fundamental changes to this tragic situation, is through the offices of an international conference, formed in cooperation with the Secretary General of the United Nations. I am pleased to join my colleagues in the House and in the Senate in a concurrent resolution, asking the President to work accordingly with Mr. Kurt Waldheim, so that ways can be found to put an end to the fighting, as well as to the occupation of Cambodia by all foreign troops. Discussions would also center on arranging for internationally supervised elections and the promotion of a neutral nonalined Cambodia.

My concern in the Cambodia situation is of long standing. It is my hope that the President will respond favorably to congressional opinion.●

The concurrent resolution was considered and agreed to.

The preamble was agreed to.

Mr. **ROBERT C. BYRD**. I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. **STEVENS**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. **ROBERT C. BYRD**. I ask unanimous consent that Calendar Order No. 541 Senate Concurrent Resolution 59, dealing with the same subject, be indefinitely postponed.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

EXTRA LONG STAPLE COTTON

The bill (H.R. 5523) to establish an improved program for extra long staple cotton, was announced as next in order.

● Mr. **TALMADGE**. Mr. President, H.R. 5523 is the companion bill to S. 1978, which I introduced on November 5, 1979, at the request of the administration. The bill will make needed changes in the extra long staple cotton program and remove the need for price support payments to be made to extra long staple cotton producers in the near future.

American pima is the only type of extra long staple cotton currently produced in the United States, although the extra long staple cotton program also applies to Sea Island and Sealand cotton, which have been grown in Florida and Georgia.

H.R. 5523 is the product of the efforts of the Department of Agriculture working closely with the Supima Association, the extra-long cotton producer organization. These producers are to be commended for being instrumental in the formation of legislation that will improve the program and save the Treasury over $30 million over the next 4 years.

I would be remiss if I did not take the opportunity to express my appreciation to the Department of Agriculture for working with these producers to formulate an improved program for extra long staple cotton.

I urge my colleagues to join me in supporting H.R. 5523.

Mr. President, I ask that a section-by-section analysis of H.R. 5523 be printed in the RECORD.

The analysis follows:

SECTION-BY-SECTION ANALYSIS

SECTION 1. EXTRA LONG STAPLE COTTON LOAN AND SUPPORT LEVELS

Section 1 amends section 101(f) of the Agricultural Act of 1949, effective with respect to the 1980 and subsequent crops of extra long staple cotton.

Section 1(2) increases the minimum extra long staple cotton loan level from 150 to 185 percent of the upland cotton loan level.

Section 1(3) increases the maximum extra long staple cotton loan level from 200 to 235 percent of the upland cotton loan level.

Section 1(4) reduces the minimum required support level for extra long staple cotton from 65 to 55 percent of parity.●

● **Mr. HUDDLESTON.** Mr. President, H.R. 5523 will substantially improve the operation of the extra long staple cotton program. Extra long staple cotton is a specialty type cotton, used mostly in thread. The extra long staple cotton program, a loan and payment program, is generally applicable if marketing quotas are approved by not less than two-thirds of the extra long staple cotton farmers voting in a referendum.

I

H.R. 5523 would, beginning with the 1980 crop—

First. Increase the minimum and maximum extra long staple cotton loan levels from 150 and 200 percent to 185 and 235 percent, respectively, of the upland cotton loan level; and

Second. Reduce the minimum required support level for extra long staple cotton from 65 to 55 percent of parity.

II

Current extra long staple price support legislation, enacted in 1968, provides for a loan and payment program with a minimum support level of 65 percent of parity and a maximum support level of 90 percent of parity. The Secretary of Agriculture has discretionary authority to set the loan level anywhere between 150 and 200 percent of the upland cotton loan level—which are the minimum and maximum allowable levels. The 1979 loan level is 92.95 cents per pound, or approximately 185 percent of the 1979 upland loan level. Payments are required if the loan level does not equal the minimum total support level. Although no payments have been made during the past 3 years, beginning next year they can be expected in substantial amounts unless legislative action is taken.

Current estimates project a lower upland cotton loan level for 1980 and a sharp increase in the parity price for extra long staple cotton. Due to these anticipated movements, the Department of Agriculture estimates a minimum 1980 payment rate of about 11 to 12 cents per pound. The total payments for the 1980 crop year would approximate $4.7 million. Under current law, the Department estimates payments totaling $34.3 million over the next 4 crop years.

Neither the Department nor the majority of extra long staple cotton producers want to return to a payment situation. The lower support level and higher minimum and maximum loan levels contained in H.R. 5523 should preclude any payments during the next several years. These changes will give the Department the flexibility to set the extra long staple cotton loan level at an appropriate rate, within the statutory range, which will insure the marketability of the commodity in foreign markets and at the same time, to the extent possible, avoid the necessity of making price support payments to producers.

The decrease in the minimum total support level, with the correspondnig increase in loan levels, will narrow or extinguish the margin of difference between the loan level and minimum support level, which is currently increasing due to lower upland loan levels, thereby enabling the Secretary to avoid the presently anticipated payments for the 1980 crop year.

H.R. 5523 will reduce Government outlays by over $30 million over the next crop years.

III

H.R. 5523 was developed by the Department of Agriculture working closely with the Extra Long Staple Cotton Producer Association, the Supima Association. The bill will improve the extra long staple cotton program and save the Federal Government money. I urge my colleagues to join me in supporting H.R. 5523.●

The bill (H.R. 5523) was ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. I ask unanimous consent that Calendar order No. 478, S. 1978, dealing with the same subject, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 11 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the Calendar beginning on page 2, under New Reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations confirmed en bloc are as follows:

DEPARTMENT OF STATE

Deane R. Hinton, of Illinois, a Foreign Service officer of the class of Career Minister, to be an Assistant Secretary of State.

Sidney Anders Rand, of Minnesota, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Norway.

Victor H. Palmieri, of California, to be Ambassador at Large and U.S. Coordinator for Refugee Affairs.

THE JUDICIARY

Dorothy Wright Nelson, of California, to be a U.S. circuit judge for the 9th circuit.

Terry J. Hatter, Jr., of California, to be U.S. district judge for the central district of California.

Edward Dean Price, of California, to be a U.S. district judge for the eastern district of California.

DEPARTMENT OF JUSTICE

Ira M. Schwartz, of Washington, to be Associate Administrator of Law Enforcement Assistance.

FEDERAL EMERGENCY MANAGEMENT AGENCY

William H. Wilcox, of Pennsylvania, to be an Associate Director of the Federal Emergency Management Agency.

APPALACHIAN REGIONAL COMMISSION

Albert P. Smith, of Kentucky, to be Federal cochairman of the Appalachian Regional Commission.

Mr. ROBERT C. BYRD. I move to reconsider, en bloc, the votes by which the nominations were agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

Mr. STEVENS. There is no objection, Mr. President. I might state that it is my understanding there will be a rollcall vote on the nomination of Mr. Linowitz.

Mr. ROBERT C. BYRD. That is correct, yes. I thank the acting minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate resume the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE CONCURRENT RESOLUTION 63—DISAPPROVING THE LOCATION OF CHANCERIES AMENDMENT ACT OF 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Concurrent Resolution 63.

The PRESIDING OFFICER. The concurrent resolution will be stated.

The assistant legislative clerk read as follows:

> A concurrent resolution (S. Con. Res. 63), to disapprove the Location of Chanceries Amendment Act of 1979 passed by the City Council of the District of Columbia.

The concurrent resolution was considered and agreed to, as follows:

> *Resolved by the Senate (the House of Representatives concurring)*, That the Congress disapproves of the action of the District of Columbia Council, described as follows: The Location of Chanceries Amendment Act of 1979, act 3–120, passed by the Council of the District of Columbia on October 9, 1979, signed by the Mayor on November 9, 1979, and transmitted to the Congress pursuant to section 602(c) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, on November 19, 1979.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. STEVENS. I move to lay that on the table.

The motion to lay on the table was agreed to.

ORDER THAT HOUSE RESOLUTION 467 BE HELD AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a message from the House on House Resolution 467 be held at the desk pending further disposition.

Mr. STEVENS. Mr. President, that is our understanding.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT HOUSE CONCURRENT RESOLUTION 231 BE HELD AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a message from the House on House Concurrent Resolution 231 be held at the desk, pending further disposition on tomorrow.

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF SOL M. LINOWITZ TO BE AMBASSADOR

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that on tomorrow, at such time as the majority leader calls it up, there be a time limitation for debate on the nomination of Mr. Linowitz as follows: 30 minutes under the control of Mr. CHURCH, 30 minutes under the control of Mr. JAVITS, and 30 minutes under the control of Mr. HELMS.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS CRANSTON, HEFLIN, ROBERT C. BYRD, AND STEVENS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow morning, after the two leaders or their designees recognized under the standing order—I understand there is an order already entered for the recognition of Mr. TSONGAS; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair. I ask unanimous consent that orders be entered for the recognition of Mr. CRANSTON and Mr. HEFLIN, each for not to exceed 15 minutes, to follow in the wake of the order recognizing Mr. TSONGAS.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senator from West Virginia (Mr. ROBERT C. BYRD) may have 15 minutes following the other orders.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. And that Mr STEVENS also have 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 11 A.M. TOMORROW

Mr. MATSUNAGA. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 11 o'clock tomorrow morning.

The motion was agreed to; and at 9:42 p.m., the Senate recessed until Thursday, December 20, 1979, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate December 19, 1979:

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

Colbert I. King, of Maryand, to be U.S. Executive Director of the International Bank for Reconstruction and Development for a term of 2 years, vice Edward R. Fried, resigned.

David S. King, of Maryland, to be U.S. Alternate Executive Director of the International Bank for Reconstruction and Development for a term of 2 years, vice William P. Dixon, resigned.

THE JUDICIARY

G. Wix Unthank, of Kentucky, to be U.S. district judge for the eastern district of Kentucky, vice a new position created by Public Law 95-486, approved October 20, 1978.

Hipolito Frank Garcia, of Texas, to be U.S. district judge for the western district of Texas, vice a new position created by Public Law 95–486, approved October 20, 1978.

Clyde Frederick Shannon, Jr., of Texas, to be U.S. district judge for the western district of Texas, vice Dorwin W. Suttle, retired.

Richard S. Arnold, of Arkansas, to be U.S. circuit judge for the eighth circuit, vice a new position created by Public Law 95–486, approved October 20, 1978.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 19, 1979:

DEPARTMENT OF STATE

Deane R. Hinton, of Illinois, a Foreign Service officer of the class of Career Minister, to be an Assistant Secretary of State.

Sidney Anders Rand, of Minnesota, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Norway.

Victor H. Palmieri, of California, to be Ambassador at Large and U.S. Coordinator for Refugee Affairs.

DEPARTMENT OF JUSTICE

Ira M. Schwartz, of Washington, to be Associate Administrator of Law Enforcement Assistance.

FEDERAL EMERGENCY MANAGEMENT AGENCY

William H. Wilcox, of Pennsylvania, to be an Associate Director of the Federal Emergency Management Agency.

APPALACHIAN REGIONAL COMMISSION

Albert P. Smith, of Kentucky, to be Federal Cochairman of the Appalachian Regional Commission.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Dorothy Wright Nelson, of California, to be U.S. circuit judge for the ninth circuit.

Terry J. Hatter, Jr., of California, to be U.S. district judge for the central district of California.

Edward Dean Price, of California, to be U.S. district judge for the eastern district of California.

WITHDRAWAL

Executive nomination withdrawn from the Senate December 19, 1979:

THE JUDICIARY

Richard W. Arnold, of Arkansas, to be U.S. circuit judge for the eighth circuit, vice a new position created by Public Law 95–486, approved October 20, 1978, which was sent to the Senate on December 14, 1979.

EXTENSIONS OF REMARKS

THE HUNGARIAN REVOLUTION: LEST WE FORGET

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. DORNAN. Mr. Speaker, the Hungarian Revolution was not the first time the brave Hungarian people rose up against a brutal Communist dictatorship. In 1918, Soviet-backed Communists of the Bela Kun regime were overthrown.

How tragic for those courageous people that the revolution did not toll the bell for communism in Hungary. But the Communists never gave up. In the closing days of World War II, on October 6, 1944, the Soviet Army marched into Hungary; and, once again, the "Iron Curtain" was brutally imposed upon the Hungarian people.

Under the guise of a constitution proclaiming a so-called People's Republic of Hungary, the people of that nation were forced to pay $200 million in reparations to their Soviet masters. In the words of Walter Dushnyck, the Soviets imposed

> * * * an iron rule characterized by various forms of oppression and discrimination; by arrests and trials and of severe sentences meted out to all real and imagined opponents of the Communist regime; persecution of the Church and intellectuals. . . .

Because of a natural human desire for freedom, and 12 years to the month after those Soviet Armies invaded Hungary, the Hungarian people erupted in a fury of revolution born of years of pent-up frustration against a vicious Communist tyranny for which they had never voted or given consent to rule.

Tragically, their revolution failed, and the Soviets, in retribution, sent 63,000 Hungarians to Siberia (the equivalent of 1,260,000 Americans). As recently as 1965, 463 who had participated in the rebellion were still imprisoned in the Central Prison, Budapest.

I would like to introduce into the RECORD a speech delivered by Istvan B. Gereben, Copresident of the Hungarian Freedom Fighters' Federation, on the occasion of the 23d anniversary of the revolution. I was honored to be present at his speech, which served as a grim reminder that not all enjoy our freedoms and that we cannot ever forget the memory of that tragic event. But the brave resistance of the Hungarian people is a grim tribute to mankind's never-ending quest for liberty.

SPEECH DELIVERED BY ISTVAN B. GEREBEN. CO-PRESIDENT OF THE HUNGARIAN FREEDOM FIGHTERS' FEDERATION

Reverend Members of the Clergy, Congressman Dornan, Representatives of the Captive Nations, Distinguished Guests, Ladies and Gentlemen:

One could put a whole dictionary from those cliches and commonplace expressions whereby the international press tries to convey to its readers the impression, that, contrary to its neighboring countries, in Hungary it is not impossible for progressive democratic transformation to take place.

The facts contradict the assertions of the Western promoters of the Hungarian regime put in power in 1956 by Soviet tanks.

Hungary is not free.

It is misleadingly optimistic and specifically wrong to assert that Hungary has made gains in the area of human rights. The regime refused to engage in open trials wherein known intellectuals would be accused. But this does not mean that it would fail to persecute unknown workers, students and others of the lower ranks with the same unchanged rigidity, should they practice their freedom of speech.

There are about 200 cases of political offenses tried yearly in Hungary.

Freedom of movement is strongly controlled. Hungarian regulations concerning passports are less liberal than their Polish counterparts. The laws eliminating the right of assembly have not changed at all since 1948.

Freedom of religion continues to be curbed. The use of sophisticated methods for the elimination of religious belief in Hungary continues. The oppression, control and exploitation of the Churches by the ruling regime is just as evident as it was in the 1950's. The sophisticated methods of intimidation only mask, not change the true nature of the atheistic dictatorship.

The government in Hungary with all its air of liberalism demonstrates only what the other Communist authoritarian regimes demonstrate with the air of terrorism namely that there are no institutional guarantees of freedom.

A controlled individual is just as much at the mercy of a liberal dictatorship as he was at the mercy of a terroristic state.

The position of the individual vis a vis the state did not change in Hungary since 1956.

The Hungarian regime apparently reached a point where it is no longer necessary to maintain control by shooting or jailing people by the thousands. It developed a well functioning system of social control in which dissent and opposition are not punished by death but are effectively treated, "cured" by using the unlimited power of state. Rather than giving people free choice, independent political parties, freedom, it is apparently able to keep people quiet by increasing their dependence.

This highly efficient and sophisticated control seemingly works. Everyone is occupied and apparently content.

The only tangible evidence to the contrary are the few hundred who are tried and jailed each year and the physical existence of the most blatant symbol of oppression: the Iron Curtain.

We hear Party Secretary Kadar's often invoked slogan: "He who is not against us is for us."

We must be against him, because we cannot be for him. He and his regime betrayed the trust of the Hungarian people. He has the blood of his nation on his hands.

We cannot forget, we must not forgive!

The Hungarian Uprising of 1956 was a new phenomenon, perhaps no less meaningful than the French or Russian Revolution. It means the beginning of the end of Communism—wrote Milovan Djilas, the distinguished Communist author, scholar and the former Vice President of Tito's Yugoslavia.

By some simple, very gloriously simple miracle a nation declared its boundless and free spirit. The world was stunned. Hungary suddenly became free. A heroic intoxication took over a nation which bare handedly wrestled its newly gained liberty from the tanks of Khrushchev. The spirit of self-sacrifice, courage and determination had overcome unsurmountable odds.

We the participants of this unbelievable miracle happily and enthusiastically enjoyed freedom that had not been ours for long years.

We commemorate those joyful days today.

Then came the hordes of tyranny and pierced the heart of nation with iron spears. With every fallen hero the hopes of remaining free diminished. The betrayal of the new neutral and free Hungary by our western brothers had a fatal effect.

We commemorate the heroes and remind our brothers today.

We pay tribute to the heroes who believed that all nations have the right to self-determination.

We remind our brothers that no man is free until all men are free.

These are the themes for today when the spirit of Chamberlain gains footholds again.

In the mighty struggle for liberty and justice each of us has a part. Stand up and be counted.

If you become discouraged, as you certainly will, do what we do, remember the words of Edward Everett Hale, when he said:

"I am only one, but I am one,
I can't do everything, but I can do something,
What I can do I ought to do,
And what I ought to do,
By the grace of God, I shall do!"

Let's rededicate ourselves today on the 23rd Anniversary of the 1956 Hungarian Revolution with the words of John F. Kennedy who said in his Inaugural Address:

"We shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe to assure the survival and the success of liberty."●

PERSONAL EXPLANATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. MAZZOLI. Mr. Speaker, I was unavoidably absent from the House on Friday, December 14, 1979. Had I been present, I would have voted: "aye" on rollcall No. 731, to approve the Journal of Thursday, December 13, 1979; "aye" on rollcall No. 732, to order the previous question on House Resolution 506, the rule for H.R. 5980, antirecession fiscal assistance; "aye" on rollcall No. 733, agreement to the rule; "aye" on rollcall No. 734, agreement to table a motion to reconsider; "aye" on rollcall No. 735, for the House to resolve into the Committee of the Whole; "aye" on rollcall No. 738, on a division of the question on five technical amendments to H.R. 5980, the antirecession fiscal assistance; "no" on rollcall No.

● **This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.**

739, an amendment to reduce the authorization for H.R. 5980 from $250 million to $150 million.●

CHRYSLER LOAN GUARANTEES

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. TAUKE. Mr. Speaker, I would like to include in the RECORD, for the perusal of my colleagues, a brief report generated by the Small Business Subcommittee on Antitrust. It provides an excellent analysis of the relationship between the Chrysler loan guarantees and small business investment.

CHRYSLER LOAN GUARANTEES

BACKGROUND

On November 30 you requested that the staff of the Small Business Subcommittee on Antitrust prepare a report on "the effect of $1.5 billion worth of Chrysler loan guarantees on small business." Further, you asked for an evaluation of "whether the investment of such funds in other parts of the economy would be productive."

The following report seeks to respond to your questions. The primary sources of information are hearings conducted by the Antitrust Subcommittee in the 95th Congress, plus recent statements from the public record.

This study was written on short notice; a substantial portion of the research was done by members of the majority staff.

LOAN GUARANTEES IN GENERAL

Loan guarantees have been used by the nation's small business community when that sector has been artificially restricted from the capital markets. Small business does not have the same access to debt and equity markets enjoyed by large corporations. In hearings before the Small Business Subcommittee on Equity Capital during the 96th Congress, Federal Trade Commission statistics were quoted as demonstrating that small businesses are more dependent upon bank loans to meet their financing needs than are large corporations. Federal guarantees serve as an insurance pool for small businesses and their banks. The government's risk is spread among a large number of borrowers.

The Small Business Administration stated in their 1978 Annual Report that they issued $2.65 billion of regular business loan guarantees in FY. 1978. These funds reached over 22,000 small businesses and had an average size of $125,000. $1.5 billion in new loan guarantees, the amount that is proposed for the Chrysler Corporation, would serve over 12,000 small businesses if distributed through the SBA's regular small business loan program.

THE SMALL BUSINESS SECTOR

The small business sector is by far and away the most productive element in the nation's economy. Small business is the job creator in the economy.

In the 95th Congress the Small Business Administration testified before the House Small Business Subcommittee on Antitrust's hearings on Job Creation. An SBA study, entitled "It's Better to Lend Than Spend", showed that for every $10,000 lent to small business, one new job is created and three existing jobs are maintained. Professor David Birch, of the Massachusetts Institute of Technology and a job creation expert, testified at the Antitrust Subcommittee's hearings that 80% of all new jobs created in establishments 4 years old or younger. The National Alliance of Businessmen testified in August 1978 before the Senate Finance Committee that 70% of all new private sector jobs may be attributed to firms with fewer than 100 employees.

The SBA report, "It's Better to Lend Than Spend", notes that 98.8% of SBA's business loans went to firms with fewer than 100 employees. The SBA's regular business loans serve women and minorities; in FY 1978 it made 53,000 direct loans and guarantees to women and minorities, totalling over $1 billion. The SBA also make loans to riskier ventures that are concerned with high technology and have the potential for rapid growth and job creation tendencies. Hearing on Small Business and Innovation held by the Antitrust Subcommittee in 1978 documented the important contributions small business makes in the vital area of technological innovation.

SBA loans to small businesses are a direct investment into the economy; the average SBA loan filters into the economic mainstream in approximately three months. One reason for this is the viable, active secondary market for SBA loan guarantees. Seventy percent of SBA's guaranteed loans are repurchases in the secondary market, making SBA guarantees more liquid than a similar federal guarantee to a large borrower.

GUARANTEE TO CHRYSLER

The largest failures of federal loan guarantees, according to the Congressional Budget Office. have occurred among the class of large borrowers. Failures occur when federal loan guarantees are used to finance projects that should be equity financed. Ventures that are judged too risky by the marketplace should not be funded with federal guarantees. Loan guarantees to Amtrak and Washington, D.C.'s METRO transit system have cost the American people hundreds of millions of dollars.

The most significant effect a federal loan guarantee to Chrysler would have on the nation's small business community is the markets. Chrysler's current high risk predicament makes the availability of private sector funds for their use scarce. The cost of new private sector loans would be very high for the company. A government guarantee not only makes those funds available, but it also artificially drives down their cost. Thus the government would be diverting the orderly flow of funds in the marketplace from the productive sectors to the Chrysler Corporation. Such interference with the flow of capital, especially in a recessionary economy, is harmful and makes the cost of capital to the more productive sectors of the economy. (including small business), higher and those funds more difficult to obtain.

It is difficult to assess how many jobs federal loans to Chrysler would save. In a recent Wall Street Journal article (12-3-79), Chrysler Chairman Lee Iacocca stated that "there are as many as 600,000 jobs at stake." However, a Chrysler document dated 10-5-79, sent to congressional offices states that in the long term 200,000 to 300,000 jobs are at stake. Treasury Secretary G. William Miller told the Senate Banking Committee on November 7, 1979, that the net loss of jobs by 1981 would be 75,000 to 100,000 (14,000 of those jobs would be among the white collar corporate staff).

Using the SBA estimate of each $10,000 in loans to the small business sector creating one new job, an additional $1.5 billion of federal loan guarantees to small business would create 150,000 new jobs. The indirect effects of those loans to small businesses-technological innovation and the strengthening of community and economic bases—are difficult to quantify. It is doubtful that a massive loan to a single borrower could achieve comparable beneficial effects.

RISK TO THE ECONOMY

A federal guarantee to the Chrysler Corporation could seriously limit the availability of bank funds to the small business sector. As noted earlier, banks serve as the primary lending source for small enterprises. A total of $3 billion pulled out of the economy for Chrysler's use could further exacerbate the credit crunch now being experienced by the nation's small business community, endangering growth in the nation's most productive sector.

A BILL TO ENCOURAGE SMALL BUSINESS CAPITAL FORMATION: THE USED MACHINERY INVESTMENT CREDIT ADJUSTMENT ACT OF 1979

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. NOWAK. Mr. Speaker, the House Small Business Subcommittee on Access to Equity Capital and Business Opportunities which I chair, held hearings September 12 and 13, on the capital formation problems of small business. One of the major problems we found was the inability of small capital intensive firms to quickly recover their capital costs. To help lessen the capital formation burdens of small business, I am introducing H.R. 6171, the Used Machinery Investment Credit Adjustment Act of 1979. A companion bill is being introduced today by Senator GAYLORD NELSON, chairman of the Senate Select Committee on Small Business and senior members of the Senate Finance Committee.

Internal cash generation is critical to the success of any small enterprise. Small businesses tend to have a high ratio of debt equity and are dependent to a great degree on bank financing. They also require more frequent refinancing than larger firms. Capital cost recovery can be accomplished in two ways: through depreciation reform and modification of the investment tax credit. A simple, limited, and targeted depreciation reform bill would help small capital intensive businesses. Ideally, this measure should be limited in order to avoid significant revenue loss and resource misallocation.

It should be targeted to those sectors of the economy which produce jobs and promote innovation. Above all, any depreciation reform bill should be simple; it should avoid complicated transitional rules, which inevitably result in additional regulations and more paperwork.

The second way to facilitate capital recovery is to revise the investment tax credit. The investment tax credit offers capital intensive small firms an important benefit in that it immediately helps cash flow. It is direct, simple and provides more cash flow than do present methods of accelerated depreciation. The credit could be modified to help small business by making it refundable up to a dollar amount and by raising the amount of used machinery eligible for the investment tax credit.

Small capital intensive firms utilize

the investment tax credit when they expand productive capacity. However, small businesses generally rely on used machinery.[1] These firms often cannot economically justify the large investment required to purchase new machinery.

In addition, when a small businessman needs to increase productive capacity immediately due to changed market conditions, he cannot wait out delivery schedules which can be as long as 2 years for new machinery.

On the other hand, a large business can afford to hire capital acquisition specialists to time their purchases to meet changing market needs. Small firms in most cases do not require up-to-date, high output equipment if the firm serves a small but highly profitable market segment. This profitable market niche may require a unique low volume product, as opposed to a low margin, high volume product.

Thus, a small concern using older equipment can successfully compete with a larger company which is using new machinery. Once established in a small but growing market, the small competitor may eventually trade up to newer machinery and can expand into the low margin, high volume market. Thus, investment in used machinery contributes to productivity, competition, and overall growth of the economy.

Many studies have shown the important contribution small businesses make to the overall growth in the economy. Proportionately, they create more jobs, are more productive, and more innovative than their larger counterparts.[2] For many of these small, capital intensive firms, used machinery is a way of life, yet, present tax law discriminates between used and new machinery. Although there is no limit on the amount of new machinery which qualifies for the investment tax credit, used machinery investment can only qualify up to $100,000.

For example, if a company purchases a used machine for $150,000, one-third of the purchase does not qualify for the investment tax credit. In contrast, if the company bought new machinery for the same price, it could claim an investment tax credit based on the full purchase price. Inflation has made this limit unrealistic.

Since 1975, the last time this limit was raised, the cost of typical used machinery has increased by over 50 percent. In addition, the cost of machinery in general has escalated dramatically over the past 10 years. The cost of starting a small, capital intensive company such as a 10-man tool and die shop, has become prohibitive. A survey of machinery dealers throughout the country indicates that it would cost between $350,000 to $450,000 to open a 10-man machine shop which would generate in the neighborhood of $1 million in sales. If new machinery were used, the investment would be in the neighborhood of $600,000 to $1 million.

Coupled with concern for the special needs of small business are the overall concerns arising from declining rates of inflation. The Joint Economic Committee recently focused on the declining rate of productivity, and recommended a substantial increase in the rate of capital formation. The need is clear. Productivity in the United States declined in each of the first three quarters of this year and is now almost minus 1.5 percent for the year. This decline has been chronic: Productivity grew at a rate of only one-half of 1 percent in the United States, which has had the slowest rate of productivity growth of any of the 12 major industrialized nations.

For these important and compelling reasons, I urge my colleagues to support legislation to raise the amount of used equipment on which the 10 percent investment tax credit can be taken, from the present $100,000 to $200,000. The modest proposal is the first step in assuring that small capital-intensive companies receive adequate incentive for investment. The net result will be a stronger, more productive small business sector and a healthy national economy.

The bill as introduced follows:

H.R. 6171

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TITLE.—This Act may be cited as the "Used Machinery Investment Credit Adjustment Act of 1979".

SEC. 2. AMOUNT OF USED PROPERTY ELIGIBLE FOR INVESTMENT TAX CREDIT INCREASED TO $200,000.—

(a) IN GENERAL.—Paragraph (2) of section 48(c) of the Internal Revenue Code of 1954 (relating to dollar limitation on used section 38 property) is amended by striking out "$100,000" each place it appears and inserting in lieu thereof "$200,000".

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 48(c)(2) of such Code (relating to application of dollar limitation to married individuals) is amended by striking out "$50,000" and inserting in lieu thereof "$100,000".

SEC. 3. EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1979.●

PERSONAL STATEMENT

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. FRENZEL. Mr. Speaker, due to a commitment in my congressional district, I was not able to be present for the vote on the domestic violence bill, H.R. 2977. Had I been present, I would have voted "aye." ●

BILL SIDELL—GENERAL PRESIDENT, UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. ANDERSON of California. Mr. Speaker, I would like to take a few moments to say something about an old friend and an outstanding man—Bill Sidell.

Bill will retire as the president of the Carpenter's Union this December 31 after more than 15 years in Washington, D.C. He is one of 33 members of the General Executive Council of the AFL–CIO.

Bill Sidell first came to Washington, D.C., in 1962 when he was elected to the general executive board of the national union, as a representative for district eight, which includes California. In August of 1964 he was appointed second-general vice president of this international union. Then in April of 1970, he moved to the position of first general vice president.

With the vacancy of the presidency in March of 1972, he assumed the position, was reelected in 1974 and again in 1978.

Bill began his career with organized labor many years ago. His first elected office was that of warden of the 4,500-member Local 721. In 1957 he was elected secretary-treasurer of the Los Angeles District Council of Carpenters. Bill has given his time willingly to numerous west coast interests. These include the California Governor's Advisory Commission on Housing Problems, the Los Angeles Mayor's Labor-Management Committee, the executive board of both the California and the Los Angeles Committee on Political Education and the Organized Voters Registration Service. The National Housing Conference honored Bill Sidell by hosting a dinner in Washington earlier this year to pay him tribute.

During his time in the Nation's Capital, Bill has initiated many programs—he began a series of regional conferences bringing together local and district officials. Promoting periodic training for business representatives was another of his ideas. Bill has helped expand relations with trade associations and employer groups, and he has also helped strengthen organizations in the field of restoration in a program with Housing and Urban Development which has been responsible for renovating buildings in the larger urban areas throughout the United States.

During the 33rd General Convention, due to his efforts, an industrial group was established to help organize workers within industrial plants.

Bill was born in Chicago and moved with his family to California at age 5. When he leaves Washington at the end of the year, he will return to California with his wife, Frankie, to Poway, near San Diego.

It has been my pleasure and privilege to know Bill Sidell for more than 25 years. In every dealing I have witnessed I have known him to be a fighter but always, always fair. I am personally aware of his outstanding contributions to the labor movement, a career that began locally and is ending internationally.

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[1] The Association of Independent Corrigator Converters (makers of heavy paper containers) recently polled their members as to the extent of used equipment purchases between 1977 and 1979. Of those firms purchasing less than $200,000 of equipment a year, more than 60 percent (average yearly percentage for the three year period) of their purchases were used equipment. In contrast, of those firms with equipment purchases of more than $1 million, less than 35 percent (average percentage) of their purchases were used machinery.

[2] See hearings before the Subcommittee on Antitrust, Consumers and Employment and Senate Select Committee on Small Business, *Small Business and Innovation*, August 9–10, 1978. Also see David Birch, *The Job Generation Process*, MIT Program on Neighborhood Regional Change, Cambridge, Massachusetts, 1979.

My wife, Lee, joins me in wishing our friend, Bill Sidell, his wife, Frankie, and their children, Barton, Gary, and Suzann great happiness in the future. Those of us who know Bill either professionally or personally shall miss him here in Washington. We would like to thank Bill for his many years of dedication and hard work on behalf of the American worker.●

TRIBUTE TO DONNA O'BRIEN SWINK

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. DORNAN. Mr. Speaker, on December 7 I was privileged to attend the 59th installation of officers of the Santa Monica Board of Realtors. Each year the board presents its Citizen of the Year Award for outstanding service to the community. Nominations are made by service clubs, churches, and other organizations in the community. They are then voted upon by past recipients of the award, business people and heads of civic organizations in Santa Monica.

This year's award was presented by last year's winner, Louise Gabriel. I believe her words in tribute to Donna O'Brien Swink are worthy of repeating here:

> Last year, it was a real thrill and honor for me to receive the Citizen of the Year Award, from the Santa Monica Board of Realtors, an organization for which I have the highest regard. Tonight it's equally thrilling for me to have the privilege of presenting the 1979 Citizen of the Year Award to a most deserving and highly respected person in our community.
>
> This year's recipient is of Scandinavian and Irish descent, but the Irish seems to have blossomed out more. She was born in North Dakota, came to California at the age of 6 months with her family and has lived here ever since. She has a very devoted husband, Al, who readily admits she easily does the work of five women. They have two grown children Gail, age 23; and Brian, 18.
>
> The Honoree has many fine attributes which can be described by her many friends in numerous ways: among them is integrity, honesty and fairness in dealing with people. She has a great sense of humor. She enjoys singing with groups and I understand she is a powerful whistler and can stop a taxi 3 blocks away if she needs one. She would much rather give than receive.
>
> She has been with Santa Monica Bank for 33 years, having worked her way up from chief clerk to Senior Vice President of the Bank. I understand from her colleagues that she is considered one of the outstanding escrow officers on the west coast and has been for the past 15 years. She excels in leadership, and has a great capacity for administration and yet, with all of her business-like qualities, she is still sensitive to people and their needs. Besides her full time position with the Bank, she has managed to give generously of her valuable time to social, service, and civic organizations.
>
> This year's winner served on the Santa Monica City Council from 1973 to 1979, as a member, mayor pro-tem and Mayor from 1977 to 1979. She recently displayed her courage and determination for what she thought was right for our city, when although in great pain, she delayed her resignation from the city council to cast a much needed vote. She resigned on August 31, 1979 due to health, but remains active in the community.
>
> Among the recipient's other credits are service with the YWCA, Soroptimist of Santa Monica—the only president to serve two terms consecutively—the Westside Volunteer Bureau as a member of the Board of Directors, the National Conference of Christians and Jews as member of the Board of Directors, the Red Cross and the Community Chest. She has served as past president and life member of the Los Angeles Escrow Association, served on the Escrow Advisory Board of the Santa Monica College, and is past treasurer of the California Escrow Association. In 1970 she received the Santa Monica Bay District Board of Realtors "Affiliate of the Year Award" and the PFC Allan H. Katz Post 118 of the Jewish War Veterans presented her with the Citizen of the Year Award in 1978.
>
> With all these activities, she has still found time to respond to her many friends and participate in and support numerous other groups and worthy causes in the community.
>
> On behalf of the Santa Monica Board of Realtors I am happy to announce this year's recipient of the Citizen of the Year Award is Donna O'Brien Swink. Donna we love you.

And Mr. Speaker, the citizens of Santa Monica do love Donna O'Brien Swink. We are all very, very, very proud of her.●

IRAN

HON. EARL HUTTO

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. HUTTO. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

IRAN

> The takeover of the American embassy by Iranian students has left most Americans with a sense of outrage, and rightly so. The belligerence of the Ayatollah Khomeini, along with the aggressive behavior of Iranian students, is reprehensible and counter-action, at the proper time, should be taken. Our first concern, though, must be with the lives of the American hostages and I concur with the actions taken by the President. As the leader of this country, it is his duty to reason, coax, bargain, and eventually disarm the Iranian government much like a police officer would dissuade a suicidal person from jumping off a building. In this regard, I think President Carter deserves our patience and support.
>
> I think it is also important that we reassert our overall world superiority once our people are free from harm. Although I do believe in a strong defense and have consistently supported efforts to keep America strong, I am not necessarily talking about military intervention. Instead I am speaking of an economic and spiritual reassertion which will show that we are still the strongest nation in the world.
>
> It is no secret that it was our technology which built Iran, it was our universities that educated most Iranian leaders, and it was our military that supplied and trained the Iranian army. Iran's only true source of stability is its oil which makes up only 4% of our consumption, and we certainly have the backbone to conserve 4% of energy rather than bow to a fanatical zealot.
>
> I was therefore, particularly pleased by our decision to cut off all oil imports from Iran, tighten our visa requirements for Iranian students, and freeze Iranian assets in this country.
>
> Despite all this, I think the most important result from this incident is the patriotism displayed by our own people. This is the first time since World War II that I have seen such affection for this land and I think it is about time. We are the greatest country in the world, despite efforts to erode our superiority from within and without, and I think we will continue to be strong as long as we believe in ourselves and our ingenuity. As a result, I am confident that we will overcome this incident and will emerge even stronger.●

AMERICAN STUDENTS SHOW THEY SUPPORT THE U.S. HOSTAGES IN IRAN

HON. MILLICENT FENWICK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mrs. FENWICK. Mr. Speaker, one of the few bright spots in this grim struggle with the Iranians who captured the embassy and seized American hostages has been the way the citizens of this country have rallied to show support for their fellow countrymen.

The display of flags today, which has been declared National Unity Day, and the heavy flow of Christmas cards to our hostages has been most heartening.

Most of the publicity has focused on the so-called students who took over the U.S. Embasy compound in a well-organized operation. I am pleased to note that recently, at least some of the media is calling these people what they are: militants and terrorists.

There is another group of young people who are also speaking up in this dispute, however, and they are doing it in a legal, peaceful manner. I refer in particular to the American students who have been sending Christmas cards to the hostages, letters to Iranian officials and collecting signatures on petitions.

Yesterday, while in my district, students from the West Windsor-Plainsboro High School presented me with a petition signed by more than 1,300 young men and women. I wish the CONGRESSIONAL RECORD could actually reproduce the petition to show the care with which the large document was prepared and hand lettered, and there was space here to list all of the signers. But it is the message which is important and, therefore, I am placing the text in this public record as a proud demonstration that American students, in their own words, "support the return of the American hostages from Iran." The original petition itself is on the doorway to my office, at 1212 Longworth House Office Building in Washington, and I plan to keep it on display there until the hostages are freed.

The text of the petition follows:

PETITION FROM THE WEST WINDSOR-PLAINSBORO, N.J., HIGH SCHOOL

We, the undersigned, support the return of the American hostages from Iran. We feel International Law must be preserved. We urge a peaceful resolution of the crisis between Iran and the United States of America.

The signatures below express our concern for World Peace and Security.

Presented by West Windsor-Plainsboro High School, December 19, 1979.

(Signed by more than 1,300 students.) ●

CONGRESSIONAL SUPPORT FOR THE INTELLIGENCE COMMUNITY URGED BY REPRESENTATIVE McCLORY

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. MICHEL. Mr. Speaker, our colleague from Illinois, Congressman BOB MCCLORY, addressed the annual Pearl Harbor Day luncheon meeting of the Association of Former Intelligence Officers on Friday December 7 at the Fort Meyer Officers Club.

Mr. MCCLORY's remarks presented to this prestigious group, numbering some of our most honored and courageous citizens, represents a framework for strengthening and improving our intelligence capabilities through the services of the Central Intelligence Agency and the other elements of our intelligence community upon which our country's national security depends.

Mr. Speaker, I am pleased to attach hereto, for inclusion in the CONGRESSIONAL RECORD, a copy of Congressman MCCLORY's speech:

REMARKS OF THE HONORABLE ROBERT MCCLORY BEFORE THE ASSOCIATION OF FORMER INTELLIGENCE OFFICERS, FRIDAY, DECEMBER 7, 1979

I would like to thank you for inviting me to speak here before you. Of course, today marks the 38th anniversary of the most catastrophic intelligence failure in our nation's history—the failure to communicate information of the intended Japanese attack on Pearl Harbor. At the war's end, the call for "No more Pearl Harbors" eventually led to a reorganization of intelligence operations and the creation of the Central Intelligence Agency—designed as the center for national intelligence production.

While today, some may question the political decisions which have influenced our strategic position in the world, the United States intelligence community continues to produce, for top policymakers, accurate and timely intelligence without which the term "national security" would be an empty, meaningless phrase.

I want to emphasize, at the outset, the importance of distinguishing between intelligence production and the policy-making—political—process. The intelligence community provides information, the politicians draw conclusions. Should the politicians inject themselves into the production of intelligence seeking support for a policy position—as has been alleged—or if the intelligence community chooses to draw its own conclusions and take action independent of political control—as has also been alleged—then the system would become dangerously misaligned and confused, and the security of our nation and the rights of our people could be undermined.

Let me cite an example of the system working in proper harmony. Putting aside the ultimate question on the SALT II Treaty, I believe that the role Admiral Turner has played in the debate is the appropriate one for the Director of Central Intelligence. Despite pressure from within the administration to pronounce the treaty as verifiable, he has insisted on a precise presentation of our capabilities to observe Soviet activities, leaving the political question of "verification" to the politicians. Our country's intelligence professionals must refrain from entering the political sphere—or even the appearance of such a move—lest all the information they provide be suspect as politically tainted.

While Admiral Turner has correctly stayed away from the political arena, unfortunately some of my colleagues have resorted to products of intelligence, not just to complain about how every little thing is going, but to give detailed public reports and views on how things ought to be done. In my view, the recent exposure by my colleague in the other body, the Senior Senator from Idaho, has been both mischievous and damaging—and is tainted with elements of political opportunism.

There is only one politician who has the mandate—under the Constitution—to manage our intelligence apparatus, and that is the President. If a member of Congress wants to be a manager, he should run for President. If he runs and loses, he should accept defeat, forget managing—even if he is a committee chairman—and get back to the broad policymaking role he was elected to—at least as long as he is in office.

In any event, efforts to change one's political colors by use of intelligence reports is unbecoming and damaging to the intelligence community.

Having served as the senior Republican Member on the Pike Intelligence Committee, and through my service now on the House Permanent Select Committee on Intelligence, I am confident that Congress does have an important and appropriate, though restricted role to play in intelligence matters. Some might suggest that, having carried out a prolonged inquisition of the intelligence community, it is time to leave the community alone so that it can get back to work. But that is simply not a sufficient response. The true task lies in a renewed strengthening of the role, capability and morale of the intelligence community, a role in which Congress can and should now be playing an important part.

Many people blame Congress for much of the damage that has been inflicted on the intelligence community, and for the disrespect which has been accorded it. But this ignores the fact that certain improprieties did take place. There has been an excess of rhetoric and retribution, but if Congress is to be blamed for anything, it is that we failed to carry out meaningful oversight between 1947 and 1975 which might have avoided the abuses and the extreme debilitating exposures which the community was put through.

What is needed will not be easy, especially for a body such as the U.S. Congress, whose very lifeblood is partisan differences and politics. But those are exactly the traits which Congress must submerge if it is going to strengthen the agencies that produce intelligence.

We have done it before on matters of urgency to our national security. Today, we are witnessing it in the reactions to the hostage taking in Iran.

Congress, in carrying out its constitutional oversight function, can help assure that intelligence activities meet our needs and are performed within broad policy guidelines. In addition, the Congress must see to it that intelligence does not become unduly subject to pressure by policymakers. Instead, it must also strive to be independent of the people it serves if it is to have maximum value.

History tells us that it was once the custom for kings to kill messengers who brought them bad tidings. Happily, we have moved beyond that practice—I think. But intelligence always remains subject to pressures, both internal and external, to provide that which will buttress preferred choices and policies, or that which will not indicate mistakes, flaws or undesirable situations. Congress, if it carries out its new oversight role as an "honest Broker", can be of great assistance in maintaining necessary objectivity.

Beyond this general role of safeguarding the integrity of intelligence production, Congress can also be of help in strengthening intelligence efforts and public confidence in the intelligence agencies.

Our first priority must be to continue producing intelligence concerning those forces which pose direct threats to the United States. The activities and capabilities of the Soviet Union will undoubtedly continue to consume the bulk of our time and resources. But the ability of the intelligence community to carry out this paramount task is now suspect. Estimates of Soviet defense spending have varied widely and have become political footballs. Actual "verification" of SALT II remains questionable. The pro-Soviet coup in Afghanistan was reportedly a surprise to our top officials.

What can Congress do? In the case of Soviet military spending, and in related issues, it is not enough to yell at one another with conflicting sets of statistics. Something more fundamental must be done. We must first ask why this research is of value, why there are so many different ways of calculating it, and what the strengths and weaknesses are of each method. Moreover, where possible, it might be a good idea to explain this to the public at large, and above all, to explain that there are no correct answers, but only a range of estimates. Congress has a role to play in this public education, and at the least should make sure that the President levels with the American people.

Similarly, in the case of verification, it is not enough for the Congress to merely accept or attack the statements of the Administration. But, when the Administration admits that we have lost a portion of our capability because of events in Iran, and then avers that verification remains "adequate," the public will be confused. Our abilities will remain suspect unless we in the Congress speak up on the situation as revealed by our intelligence agencies.

The role of Congress must be as objective and as non-partisan as is humanly possible. Congress can offer a dispassionate analysis of our capabilities—without adding such detail as to divulge material which should be kept secret. Indeed, if your elected representatives feel that our technology is adequate to the verification demands of SALT II, we should say so. If on the contrary we feel that the tools are inadequate to do the job, we should make this known as well—especially to Executive Branch and intelligence officials.

The many facets of our relationship with the Soviet Union is perhaps an easy area to address given its high degree of visibility. Far more difficult, although no less important, are those issues which are more subtle, whose very existence is difficult to discern.

Some would argue that our economic situation, particularly our continued dependence on foreign sources of energy, poses at least as great a threat as the plans and policies of the Soviet Union.

As the President stated at his press conference recently:

> We must recognize now, as we never have before, that it is our entire nation which is vulnerable because of our overwhelming and excessive dependence on oil from foreign countries. We have got to accept the fact that this dependence is a direct physical threat to our national security.

To a large extent, the 1973 oil embargo caught us by surprise. Are sufficient amounts of technology, time and personnel being devoted to this issue, and to similar ones? Do we have any idea about other necessary resources which may soon be in short supply, or subject to control by cartels? Are we doing anything to plan against such eventualities? Are estimates of supplies and demands being kept up to date? These are some of the sorts of questions which Congress is asking, and which the intelligence community is striving to answer honestly and forthrightly. In the end, the process here benefits us all.

Similarly, how good are our warning capabilities? We know, for example, that President Carter sent a memorandum complaining about the quality of the political intelligence he had been receiving.

Beyond its oversight role, the Congress is in a position—as the law-making body—to address and correct areas which we see as having problems.

Until recently, the only legislative initiatives being discussed were those having an almost retributive character, designed to further straight jacket the agencies under the guise of preventing abuse. Of course, a straight jacket provides a sure way of keeping the agencies from committing sins, but the restraint becomes a greater sin when it leaves us vulnerable to the aggressions of foreign powers.

Such a law was the ill-conceived, American Civil Liberties Union backed, Foreign Intelligence Surveillance Act which last year, with AFIO's help, I was able to dilute—but not destroy. Now, by statute, a special court of federal judges has the power to deny the President his decision to electronically surveil a foreign spy—or even a foreign embassy—under the banner of protecting the civil rights of American citizens. This truly bothers me.

This same sentiment was expressed in a letter to the editor, from a banker near my congressional district in Illinois, which appeared earlier this year in the Wall Street Journal under the heading "Call in the ACLU":

> Like many of your readers, I was more than slightly startled to find in Mr. Kenneth H. Bacon's March 1 article (entitled) "Pentagon Studies How Boeing Got Secret Information," that Soviet agents routinely monitor telephone lines.
>
> The FBI may not, the CIA may not without court orders. What are we to do? Shall we ask the American Civil Liberties Union to sue spies, since the Justice Department doesn't seem able to stop them?

Equipped with only bold beliefs and few warriors, to do battle against the Congressional leadership supported by the personal efforts of the Director of Central Intelligence, the Attorney General, and the President, we came within a handful of votes of replacing the wiretap bill's most obnoxious features.

In noting my opposition to the electronic surveillance legislation, I want to emphasize that I acted with a complete and deeply held appreciation of the individual rights involved as guaranteed by the Constitution. I did not simply register my objections and sit down, but offered an alternative which—rather than imposing judicial control on an Executive Branch function—would have provided a framework for record responsibility in keeping with the constitutional delegation of commander-in-chief powers to the President. Indeed, by avoiding a mechanism for buck-passing to the courts—where an irresponsible executive judgment could be immunized by the rubber stamp of a patsy judge—my approach fixed responsibility for a political, foreign policy decision with the political office of the President.

Perhaps, the administration's victory was truly pyrrhic, for S. 2525, the legislation of the last Congress that masqueraded as an intelligence charter—cast by the same ACLU backed coalition which had supported the wiretap bill—has yet to make its perpetually foretold, surgically altered reappearance.

The liberals in the Senate and the liberals in the White House can't even get together enough to agree to disagree and introduce a bill. Speaking of abuse, imagine the reaction to the bill if and when the rest of us get a chance to look at this liberal production.

Any bill which had its genesis in S. 2525 necesarily lacks a foundation in reality. For, while we must not cast aside the concerns of civil liberties, we must appreciate the nature of the targets of our intelligence activities and the types of hostile actions of foreign intelligence services from which we are trying to protect ourselves.

In seeking to directly address the issues raised by proposed charter legislation, I have met with a great deal of resistance from the Administration. I suppose that I shouldn't be surprised, in light of the fight that I gave them on the wiretap bill. After all, the wiretap bill, when incorporated into S. 2525, was only one part of one title of an eight-titled bill. If it took 10 months to get a one-issue intelligence bill—restricting only electronic surveillance—through one house of the Congress, does forever sound too long to get a multi-issue intelligence bill—drafted from a similar viewpoint and hamstringing most other legitimate intelligence activities—through both houses and enacted into law?

Charter legislation is dead, certainly for this Congress. But this is not to say that the concept of intelligence charter legislation is inherently flawed. To the extent that it avoids the laundry-list-of-proscriptions approach, it could be helpful. Certainly, the National Security Agency, which only exists by Presidential Directive, could benefit from a statutory foundation. Likewise, it has been suggested that the Defense Intelligence Agency and the State Department's Bureau of Intelligence and research be studied for inclusion in a charter which would establish a basic mission for the intelligence community.

In any event, I feel strongly that, for now, we should wait on any intelligence charter legislation. Let a bit of time go by, then we can completely clean the slate and start over from scratch.

Events of today and the recent past have begun to change the public perception of the value of a vital intelligence community. The fall of the Shah in Iran and the takeover of our embassy in Teheran; the aggressive wanderings of Vietnam and China's response; the Soviet brigade stationed in Cuba and Cuban soldiers fighting as Soviet proxies in Africa; the revolution in Nicaragua and the coups in Bolivia and Afganistan; and what of the mysterious "double flash" over the South Indian Ocean about which we have too little information of substance to nourish the public's hunger for knowledge? All of these events affect our national interests, but without adequate resources and a sufficient delegation of authority, our intelligence community cannot protect these interests as the needs arise.

Fortunately, many members of Congress are escaping their harsh, antagonistic attitudes of the intelligence agencies developed 4 and 5 years ago as they reassess the need for a strong intelligence apparatus. Many now appreciate the importance, for instance, of a covert action capability, and the way it is hampered by a statutory obligation to broadly disseminate sensitive operational information—with its concommitant increased risk to necessary secrecy.

Rather than restoring responsibility to the use of a valuable foreign policy tool, the Hughes-Ryan Amendment has, in fact, undermined the ability of the United States to effectively conduct foreign policy when extraordinary circumstances present the need for affirmative, clandestine action.

Hughes-Ryan also injures our relations with our allies. This was noted by Admiral Turner, when he spoke last year before the National Press Club:

> "One (Allied intelligence service) recently withdrew a proposal for a joint covert action which would have been beneficial to both nations. It did so when reminded that I must notify eight committees of the Congress of every covert action. They could not imagine that the plan would not leak."

The otherwise maligned Pike and Church Intelligence Committees made one good recommendation when they each suggested centralization within Congress for reporting on sensitive intelligence matters. While a Joint Committee on Intelligence was not established, separate intelligence committees have been created in both bodies. I believe that it is entirely appropriate—and urgently necessary—that the Congress amend the law so that, with the existence of an intelligence committee in each House, covert action reporting need only be made to these two committees.

I have solicited support for a change in the Hughes-Ryan Amendment. The responses I have received from the Chairmen and Ranking Minority Members of the affected House Committees have been unanimous in their support for trimming the reporting requirement. While, under the current committee structure, it is proposed that reports would be made only to the House and Senate intelligence committees, Congressman William Broomfield, the Ranking Minority Member on the Foreign Affairs Committee, wrote that he would prefer—as would I—to consolidate reporting to one, joint House-Senate Committee.

Indeed, as part of its overall study of the committee system—and in response to my suggestion—the House Committee on Committees, with the aid of George Cary, is studying the Hughes-Ryan Amendment and the advisability of a unified Congressional Committee.

Other areas impacting on intelligence operations and in need of remedial action are beginning to receive significant congressional attention: (a) The threat of disclosure of classified information at trial—so-called "graymail"; (b) proposed death gratuities for the survivors of CIA employees killed overseas by terrorist action or while engaging in an inherently dangerous task; (c) the Freedom of Information Act; and (d) leaks of classified information—including the names of clandestine officers and agents working overseas.

Let me speak briefly on these last two areas of legislative interest.

The Freedom of Information Act—or FOIA—in its present form has taken a significant toll on the ability of our law enforcement and intelligence agencies to perform their functions. Sources and potential sources of valuable information have refused to cooperate with the CIA and FBI because of fear that their confidentiality cannot be protected from forced disclosure under the FOIA.

These fears are not hard to understand in light of the fact that more than 16 percent of all FOIA requests received by the FBI are from convicted felons, many of whom are looking to identify the people who aided in their arrest and conviction. Indeed, testimony before a Senate subcommittee by an organized crime "hit man" outlined how the FOIA was used to find a DEA informant—and presumably kill him.

The flow of foreign intelligence information is also being disrupted by the FOIA. The chief of one foreign intelligence service has flatly told the CIA that he will not fully cooperate as long as the CIA is subject to the FOIA.

Reporting from our own State Department personnel overseas has also been adversely affected. The staff report of the Foreign Affairs Committee on the assassination of Congressman Leo Ryan has faulted the FOIA as inhibiting the Embassy in Guyana from "candidly and accurately" reporting on Jonestown.

The critical amendments to the FOIA made in 1974 were adopted at a time when questions were being raised about secret, personal information gathered and retained by agencies of our federal government.

However, since 1974, new laws have been enacted and Executive Orders and regulations have been issued to assure the propriety of the activities of our law enforcement and intelligence agencies.

Most importantly, Congressional oversight of sensitive agency programs has evolved, especially with the formation of House and Senate Intelligence Committees. As the Deputy Director of the CIA, Frank Carlucci, told the House Intelligence Committee:

"You, (the Congress), not 20,000 FOIA requesters, foreign and American, are the proper people to conduct oversight."

I, as well as others, asked the directors of the FBI, CIA, and the National Security Agency what changes in the FOIA are necessary to the effective functioning of their agencies. Having received their responses, I endeavored to reflect their views in a piece of legislation. To refine the scope of the FOIA and remove the destructive burden it has created, in August I introduced this bill—the "Foreign Intelligence and Law Enforcement Act of 1979". I might add that this title shortens to the "FILE Enhancement Act."

I am offering this proposal—now cosponsored by 23 of my colleagues from both sides of the aisle– to serve as the starting point for debate in the Congress.

Another subject receiving significant notice is the unauthorized disclosure of classified information—be it through espionage or the increasingly common and increasingly bothersome leak. Without question, such activity undermines the important missions of the departments and agencies of our government engaged in both foreign intelligence and counterintelligence efforts. It destroys secrecy, and, as a result, destroys morale.

My experience on the House Intelligence Committee has taught me many things about our government's intelligence operations. They are sensitive; they are fragile; and, of course, they must be carried out under the protection of utmost secrecy.

Secrecy is important as a matter of both diplomacy and effectiveness. And beyond that—and this is most important—when the element of secrecy is lost, lives can be put in danger.

The present state of the law allows those who steal or leak classified information to believe that their crime cannot be prosecuted. Unfortunately, in most cases this is the all too real, sad truth because the law requires that sensitive intelligence information—in addition to that which the defendant is charged with disclosing—be disclosed in open court in order to prove that the stolen information was properly classified.

When Seymour Hersh states that he would print troop ship movements information even during wartime, and Jack Anderson quotes from classified documents in his column on an almost daily basis, clearly legislative action becomes imperative.

Therefore, in January of this year, I introduced H.R. 1068, the "Foreign Intelligence Information Protection Act". Thirty of my colleagues have joined me in support of this bill.

H.R. 1068 is the only bill introduced in this Congress which would simplify the prosecution of those who commit espionage. No longer would sensitive national security information have to be publicly disclosed in order to bring a foreign spy to justice.

H.R. 1068 is the only bill introduced in this Congress specifically designed to protect sensitive "sources and methods" information.

H.R. 1068 is the only bill introduced in this Congress which would specifically criminalize leaks of classified information to the press. With a clear leaks law on the books, it is hoped that the FBI would finally begin to investigate leaks and the Department of Justice would prosecute them.

I might parenthetically note that while all but Justice Department representatives, from Morton Halperin to Bill Colby, have spoken in favor of revising the espionage laws, the leadership of the Intelligence Committee has, to date, scheduled no action on my bill or any other similar measure.

Finally H.R. 1068 was among the first bills—of what now totals nine measures introduced in this Congress—which would criminalize the thoroughly disgusting and dangerous disclosure of the identities of clandestine intelligence officers and agents working overseas.

Indeed, in October the entire membership of the House Permanent Select Committee on Intelligence—both Republicans and Democrats—joined in cosponsoring a so-called "names of agents" bill. This bill represents the first time that an apparent bipartisan consensus has been reached on the issue of making criminal the release of the name of an agent—even if the name was obtained from open sources.

This legislation is desperately needed. We must provide all appropriate protection for the brave men and women who serve our vital national interests by working for our country undercover in foreign lands—often at their own personal peril.

Of course, when thinking of this issue, the exploits of Philip Agee immediately come to mind.

Ever since Agee decided a few years ago to work for the destruction of his former employer, the CIA, in some circles it has become a sort of perverse vogue to blow the covers of U.S. Intelligence personnel working secretly overseas. Indeed, publications such as Counterspy—which was involved in the violent death of the CIA station chief in Athens, Richard Welch, in 1974—and Covert Action Information Bulletin came into existence with the sole purpose of destroying, through exposure, all foreign intelligence operations conducted by the United States.

The Director of Central Intelligence, Admiral Turner, hit the mark dead center when he described as "traitors" those who are exposing the identities of our intelligence officers and agents. If these individuals were truly seeking to end all involvement of countries in the affairs of others, why are they only exposing U.S. operations and not those of the Soviet KGB or the Cuban DGI intelligence services. Is Philip Agee really anything other than a traitor?

One last item with regard to espionage. I would like to read to you a small piece which appeared in the March 21 edition of the Wall Street Journal entitled "Sci-Fi Security":

> We read that a California businessman was convicted and sentenced to two years probation last summer for stealing blueprints of the bridge of the Starship Enterprise from the set of the new "Star Trek" movie. The man was charged with violating trade secrets after an investigation involving the FBI. In an age when manuals for our most highly classified satellites seem to walk away from CIA headquarters, we suppose we should be glad that someone, somewhere, is concerned about protecting military secrets.

Now that I've had my turn to express my own views on intelligence, I would like to encourage you to take an active role in reshaping the Congressional and public perception of our intelligence agencies and the absolutely necessary role that they play.

One manner in which to accomplish this is to act as an organizational unit in presenting a legitimate alternative to the lobbying groups of the left as poignantly described by Frank McNamara at your annual convention in October. I might note that AFIO's statement on S. 2525, as presented by General Stilwell, was very well received by the Senate Intelligence Committee and went a long way to pointing out the bill's fatally flawed design.

I would also endorse the comments made at your last meeting by John Marsh—recommending contact with officials in the Executive Branch, Members of Congress, and members of like-minded, more broadly focused groups such as the VFW and the U.S. Chamber of Commerce.

Also extremely helpful are articles in the press such as those I have read by Ray Cline, Cord Meyer and Jack Maury. I should add that Jack's piece in the Washington Post last December helped provide the inspiration for my introducing the espionage legislation I have mentioned.

There are those Members of Congress who have developed a special sensitivity to the needs of the intelligence community. I count myself in that group.

At the other end of the spectrum are those Members who might never appreciate the important job to be done. However, I should mention the surprising "alliance" I formed with Congressman Drinan last year, who—from a totally different perspective—reached some of the same conclusions I had and decided to oppose the wiretap bill.

And, finally, there is the middle group which, while not yet sold, provides a fertile market for the presentation of well-reasoned arguments from seasoned professionals such as yourselves.

AFIO is the only organization with the sheer depth of brainpower to snatch the Congress from the ever-clacking jaws of the ACLU. The ACLU is well financed and is constantly bombarding the Congress with position papers, letters, and personal visits. Candidly, to compete you will need money to hire staff and pay the other expenses necessary to wage a counter-lobbying campaign. Unless you—as former intelligence professional—take your views to the Hill, the Congress may be listening all too attentively to the ACLU.

In closing, I would like to relate to you the following passage from Ray Cline's book, Secrets, Spies, and Scholars:

> The world around us is a disorderly and violent one and we should prepare ourselves both intellectually and institutionally to cope with it. We must recognize that many nations are firmly persuaded that our free political and economic society will perish. Some employ extremely large and ambitious secret intelligence organizations to collect information on our political and social weaknesses and exploit such weaknesses to hasten the process of political disintegration.
>
> To preserve our internal security, maintain our mutual defense alliances, and insure adoption of wise defense and foreign policies, we need the most sophisticated, experienced intelligence community of closely

coordinated agencies possible. Second best is not nearly good enough in this field.

Let us all have this observation in mind, for no matter how well run, our intelligence mechanisms are extremely fragile. They can only thrive with the full support of the Congress, and—ultimately—the American public. Your personal and collective knowledge, your perspective must be brought to the attention of all of us. Your years of experience should not be ignored. The efforts you expend are in the interests of our entire nation.

In coming here today, I do so in honor and in deep respect for all of you. You are prominently among the unsung heroes of our nation. I feel honored myself that you have invited me here today—and I look forward to working increasingly close with you on all of these legislative subjects in which we have a common interest.●

LIBERAL STEREOTYPE OF PRO-LIFE MOVEMENT IS AN INSULT TO NON-CATHOLICS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. ASHBROOK. Mr. Speaker, as a pro-life representative of an overwhelmingly Protestant district, I am deeply offended by the practice of pro-abortionist propagandists which stereotypes the pro-life movement as a purely Catholic phenomenon. The purpose of this propaganda, of course, is to give the impression that pro-life sentiment is limited to a portion of the one-quarter of the American population which adheres to the Catholic faith, and to imply from this that the overwhelming majority of the rest of America favors abortion-on-demand. This is pure religious bigotry. It is insulting to Americans of every faith.

Anyone who bothers to look at the areas which have rejected proposals to liberalize abortion will find that they include States which are overwhelmingly Protestant as well as States which are heavily Catholic. As a matter of fact, one of the most gladdening things to me about the pro-life movement is its ecumenical nature. Thousands of Catholics and thousands of fundamental evangelical Christians are marching and working together in a common concern for life. Jewish leaders, and not only Orthodox Jewish leaders, have thrown themselves into this battle, as have many leaders of the Orthodox Christian faith. All the age-old theological differences have been ignored in a common bond of devotion to the preservation of human life.

There is a clear anti-Catholic tinge to pro-abortion propaganda, and people of that faith have every right to be insulted by its bigoted nature. But Protestants, Orthodox Christians, and Jews have an equal right to feel deeply insulted by this repeated assertion that the concern for human life is limited to members of one faith, and one faith only. Every part of the American people has joined in the battle for human life, and it is time the pro-abortionists faced up to this fact.●

FREEDOM FOR SOVIET JEWS: THREE CASES

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. UDALL. Mr. Speaker, on nine separate occasions this year I have made statements in the CONGRESSIONAL RECORD concerning the sad plight of Soviet Jewish families being held against their will in the U.S.S.R. The Fradkins of Leningrad, the Rosenteins of Moscow, and the Paritskys of Kharkov are just three of the thousands of families who have applied for emigration visas but who have been denied repeatedly. I am glad to say that there has been some progress in one of these cases.

ROSENTEIN

I am very pleased to report that Misha Rosenstein, the 18-year-old son of Gregory and Natasha Rosentein, has been granted an exit visa, and that he will be moving to Israel. On November 28, one of my constituents, Rabbi Morton Levine, who has been working for the Rosenteins for some time, received a telegram from Mr. Rosentein stating:

> We were informed yesterday by officials that Misha has permission to leave for Israel. If they do not change mind it can be realized according to modern procedures in three months. It seems you are one of principals of success, my deepest feelings and thanks to you, Senator (sic) UDALL and to all of mutual friends who save one life. In the same time we were told by Deputy Minister Schumlin that to Natasha, Efraim and me permission can be given on end of 1981 year. Only it means complitely (sic) unpredictable future.

Needless to say, all of us who have been pressing the Soviet authorities for some flexibility in this case are very happy that Misha Rosentein will be moving to Israel. And since Misha is 18 years old, it is even more important that he has been granted this visa now, for according to the new citizenship law, in effect from June 1, 1979, young people may be denied permission to emigrate if they are approaching army age (18) and have not yet done any military service. Military service can be avoided for medical reasons, but even if a person enters and graduates from a university he cannot emigrate until he has paid the state back for his education.

Misha Rosentein was caught in this trap, for he could not gain a medical exemption for military service, and if he had been drafted, he would have to serve the normal 3-year term and would have automatically been refused permission to emigrate for an additional 5-year term after his discharge.

It is encouraging that Misha will be allowed to leave, because it means that the other many hundreds of Soviet Jews in the same situation may also be dealt within a humanitarian manner. This is apparently the first time that a young person has been allowed to leave before going into the army, or without having some physical disability. The Soviet law is written to allow the authorities discretion in this type of situation, and I am glad to see that discretion was applied here.

We also have some more information as to why Gregory Rosenstein has had so much trouble obtaining his own emigration permit. In a meeting with a commission of five officials from the Science Research Institute for Instrument Automatization, where Gregory worked from 1962–73, he was told that neither the research work he completed after submitting his Ph. D. thesis, nor the thesis itself, are considered "secret" and therefore have not been used to turn down his visa request.

However, the officials claim that in preparing his thesis back in 1965, Gregory had access to, and utilized, a scientific paper that is secret, and that because of this access he cannot be allowed to leave the country. Unfortunately, the Soviet bureaucracy has taken over and the title as well as the contents are classified, so Gregory cannot effectively appeal this decision. Although he does not remember such a report, he agrees it is possible that he might have had reference to it. Gregory claims, and I agree with him, that if this thesis is obsolete, then the material it was based on is probably obsolete as well.

This meeting was held earlier this year, and it is unclear to me whether the recent action on Misha Rosenstein's exit visa and the statement by Deputy Minister Schumilin's reflect an official reversal of this decision. I understand an appeal was made to Minister of Radio Industry Pleshakov, so perhaps we will see an official relaxation in this case.

FRADKIN

The Fradkin's case is probably the most frustrating of the three with which I am now involved, for there has been absolutely no sign of any progress. I first began to work for the Fradkins back in May of 1978. Mr. Fradkin has been refused permission to leave for the usual reason: that he had access to "secret" material back in 1963. Mr. Fradkin claims that he was only marginally involved in some theoretical mathematical problems, but any attempt to prove that these "secrets" are no longer important run into a catch–22: Access is usually restricted because of their secret status and anyone wishing to prove they are not "secrets" do not have necessary security clearance.

Mr. Fradkin may also have aroused the ire of Soviet officials by his constant and continual advocacy of his Jewish heritage, and his work in supporting the continued use of the Hebrew language. It is a deliberate policy of the U.S.S.R. to discourage the use of Hebrew, to make instruction in the Jewish religion difficult and dangerous, to destroy as far as possible the access of Jews to both their heritage and to their future as a people. Some Jews, like the Fradkins, refuse to back down.

The Fradkins have been waiting 7 years for exit visas. Their spirits are reportedly low, but they intend to continue their efforts, and I intend to continue trying to help.

PARITSKY

There has been some action in the efforts of the Paritsky family to leave Kharkow, but it has come in the form of harassment.

Workers where Alexander is employed have stepped up their activity, which has previously been limited to ostracism, by demanding that he be stripped of his doctorate because of his support for other refuseniks. As I reported to my colleagues back on September 25, Alexander had been forcibly removed from a phone booth where he was talking to a Soviet Jewry worker in Boston, accused of passing secret information to the American, and of being a spy. Now a "Comrades Court" has tried Paritsky in absentia for passing classified information to the anti-Soviet agents, which is the outcome of the incident in the phone booth, and recommended to legal authorities that he be summarily imprisoned for 14 days.

Apparently he has been sent into a temporary legal exile. In addition, the local press has focused in on the Paritskys on both Alex and his wife Polly 5 times in the last 7 months. They have acccused Mrs. Paritsky of being a prostitute, Alex of being a smuggler and an anti-Soviet agent.

Two of my constituents, Barbara and Stuart Holtzman, have been corresponding with the Paritskys and have received a letter which I am including here:

DEAR BARBARA AND STUART: Thank you very much for your efforts, for your help.

It is very difficult time for me and family now, and without your help it was much more difficult for is. This summer was terrible. I sent my family to the country and I planned to go there in July too. But our officials decided to spoil my plan and made a new provocation against me.

June 10 when I was talking in the post office with my friends from Boston through phone they began their attack. Three men and a militiaman took part in it. One of the men was a correspondent of a local newspaper—his name is Steinberg—Jew who some years ago went to Vienna and was in (illegible) and I think he was there with the same task as he was June 10 in the post office.

Well, during my conversation three of them began to cry that I am a spy and that I was telling my American bosses spy information, that I had sold myself for 30 silver coins, and so on. They wanted to stop my conversation with friends. But I did not and continued it, but I changed the subject. (Illegible) They got very angry and tried to snatch me out of the telephone booth without success. Then one of them burst out of the box and tried catch the telephone receiver out of my hand without success too.

After that they call for militiaman and he stop my conversation and began to make an official paper-protocol. I understood they planned to send me to prison during 15 days as a hooligan. They had known that I was to go for my holiday soon, and decided to change the vacation to 15 days prison. But I decided to change their plans too.

As they didn't arrest me (illegible) I went on my holiday some days earlier than I plan, from 18th June, and went to the country to my family. Officials couldn't find me there and became very angry with me.

After I had returned from the vacation back to Kharkov, I know that they has asked our neighbors about the place where my family live in the country. But they couldn't arrest me after my returning back to Kharkov because it was more than a month after the event. They organized a "Comrades Court" with new blamings me as a hooligan. They published two more articles about us. July 1: the big article about our girls; August 21: a big one about the post office event.

In the whole during seven months they published 5 articles about me in local newspapers. After the July articles our daughters became afraid to go for a walk in the street. But you must know that all their efforts are useless, because we are firm in our decision to continue our struggle for visas. We are sure through our persistence and your help we'll conquer.

With love and hope,

ALEXANDER PARITSKY.

P.S. Now, after the "Comrades Court" which took place a month ago, they sent me to a legal exile to Vorshivlovograd, far from Kharkov, from my family and my friend, from the letters and telephone calls from my abroad friends. But will it help them? I'm not sure. They can't stop my activity.

Mr. Speaker, after reading about these people and coming to know about the harassment and persecution they have to live with, it is difficult not to be impressed with them and with their determination. And it cannot be said that men like Daniel Fradkin did not know what they were getting themselves into, that Gregory Rosenstein does not understand the price he personally may have to pay for getting his son to Israel, or that Alexander Paritsky does not realize that he may be sent into permanent exile if he continues his activities. Soviet conduct in this area is well known—you will either be treated badly, or very badly—and there is no doubt that these people and the others like them are paying a high price in their struggles for freedom.

That makes it all the more important that they not be forgotten and that we continue to press for a continued relaxation of emigration rules for all those who wish to leave the U.S.S.R. There has been a substantial increase in the number of Jews who are allowed out this year, maybe as many as 50,000. That is true progress and we can be grateful for it, but it looks as though that hard core of refuseniks, those who have waited longest and have agitated the most, are being held in the Soviet Union as examples to intimidate others who may want to leave. These people should also be allowed out and we must continue to press for Soviet concessions in that area.

As we get close to the beginning of the 1980 Summer Olympics, which are to be held in Moscow, it would be a welcome gesture if the Soviet leadership were to adopt some policy changes in the matter of Jewish emigration. I know there are probably pressures on the leadership in the Kremlin to respond to pressure for increased emigration by bearing down in the refuseniks and by increasing repression. I think that would be a mistake. It could cause increased tension between the United States and the U.S.S.R. at a time when those tensions are already high enough. I hope that all athletes from all nations will be able to participate in the games without harassment or discrimination, that journalists will be allowed complete freedom, that tickets will be distributed without discrimination and most importantly, that there be no harassment, detention, intimidatiton, or transportation of Soviet Jews either before or during the Olympics.

Ultimately, our goal must be to obtain free and open emigration for all peoples from all nations. The Soviet Union and the other countries of Eastern Europe right now have one of the worst records in this area in spite of their signing international agreements such as the Helsinki Accords which clearly allow the freedom to move across borders. We must continue to press them to improve that record. I will continue to do so, and I urge my colleagues to help whenever possible.●

BUSINESS INNOVATION

HON. JIM LLOYD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. LLOYD. Mr. Speaker, I am grateful to my colleagues, Messrs. AuCOIN, BROWN, MOORE, and AMBRO, for providing this opportunity to discuss a topic of particular interest to me—innovation—and how Government may spark its rebirth in the private sector. The part that innovation plays in the economic health of this Nation has been studied extensively, but only recently, when it appears that the economy has run out of steam, has the subject achieved any popularity. Now my colleagues have provided a forum to discuss our work on innovation, and I appreciate it.

American ingenuity is hard to measure, except in terms of the demand for it by foreign customers and by the amounts of protection it needs from imitators, the labor one is willing to expend on it, and the financial encouragement of Government. These measurements—foreign trade, U.S. patents, productivity rates, and Federal expenditures for R. & D.—all indicate an innovation slump. Since the results of innovation are new and improved products, processes, and services—that is, progress—a lag directly affects the Nation's economic health and standard of living.

All the above is described in numerous studies, including the administration's Domestic Policy Review on Industrial Innovation, but what caught my attention in particular was the relationship between innovation and small business. For instance, small business produced 24 times as many innovations per R. & D. dollar as large firms. Yet small firms receive only 3.5 percent of Federal R. & D. expenditures. Again, firms with 20 or fewer employees created 66 percent of all new jobs in the private sector between 1969 and 1976; 80 percent of new jobs came from businesses in their first 4 years of existence. Yet current tax policy discourages investment and makes risk capital scarce, hitting hardest that very sector of the economy which is most innovative and the greatest source of jobs, small business.

I come from a district of shopowners, and I am a member of the House Science and Technology Committee. These affiliations are not as far afield as some may think, since the committee has been involved for some time in small business innovation research. On November 1 of this year, my Subcommittee on Investigations and Oversight organized joint hearings of the House and Senate Small Business Committees and the House Science and Technology Committee to hear testimony on the start-up, growth and survival of small, new technology firms. The participants were educators, small businessmen, and officials from the National Science Foundation, NASA, and the Small Business Administration. They formed panels on four topics: Government incentives to innovative firms, experiences of small firms, venture capital, and the NSF and NASA interaction with small, new technology firms.

The panelists made numerous recommendations, which I would be happy to share with anyone interested. In general, they described an adversary relationship with the Government, rather than a partnership, and encountered more disincentives to innovation than encouragement, particularly in our tax and patent policies and in the procurement and regulatory processes. Our tax system encourages consumption rather than savings and capital investment. Federal procurement policies exclude small innovative firms from effective participation through complicated proposal and reporting procedures, "stretch-out" payments, and restrictions on unsolicited proposals. Regulations which treat large and small firms alike place an intolerable burden on small business.

The patent system, in particular, needs an overhaul. The present system is much too expensive and time-consuming for small business to participate effectively, and innovation is discouraged. Some of the panel suggestions were:

First. Establish a uniform Federal policy concerning inventor's rights when the invention results from Federal R. & D. funding. At present, there are at least 21 different agency policies. Small business suggests that title to an invention resulting from federally sponsored R. & D. be given to small business with residual rights in the Government if the invention is not commercialized within a reasonable period of time;

Second. Improve the reliability of patents by improving the patent issuing procedure; and

Third. Improve the Patent Court system by having judges who deal exclusively with patent cases. Also, there should be reasonable time limits for each phase of the legal process.

Another area of concern is technology transfer. It was pointed out that many small businesses are not aware of existing Federal programs to assist small businesses or of Federal procurement and R. & D. needs. Communication from the Federal level to the State and local level must be improved. One possibility would be to use an extension service at the local level similar to the agriculture extension offices currently used to distribute agriculture information and assist farmers. Also, assistance must be provided to the small business in translating the invention into a usable product. The Experimental Center for the Advancement of Invention and Innovation at the University of Oregon and the University of Wisconsin small business centers are examples of excellent programs designed to assist small business during this product-development process.

The President's Domestic Policy Review on Industrial Innovation called for, among other things, the expansion of NSF's small business innovation program and the establishment of similar programs at other agencies. The President called for approximately $150 million annual funding to expand these programs to other agencies. This should be done as soon as possible so that the larger awards for the phase II principal research project can be awarded during fiscal year 1981. By way of explanation, small businesses submit research proposals with 1 of 13 engineering and science topic areas. From these proposals, meritorious proposals are awarded $25,000 phase I awards to conduct experimental or theoretical research to test the feasibility of the idea. Phase I awardees compete for phase II follow-on awards to allow them to complete the principal research project. Not all the phase I award winners will receive phase II awards and phase II award winners are encouraged to seek private funding commitments to pursue commercialization of the proposal. The NSF program is highly competitive and most conducive to innovative ideas, and I urge its expansion.

The November hearings were so productive that the subcommittee has begun field hearings across the country. The last hearing will be in my district and is tentatively scheduled for late March or early April. I welcome your participation.

I alluded briefly to the problems innovative small business suffers with the lack of financial backing from both Federal and private sources. Right now, the returns on capital investment and savings are so minimal that it is no surprise that R. & D. funding is down and Americans save less money than any other citizen of the developed world. Innovation needs seed money, so, as part of my work on the Select Committee on Aging, I have sponsored a bill to exclude from the gross income of individuals who have attained the age of 62, $3,000 of interest received during any taxable year. Obviously, passage of this bill would help our senior citizens living on fixed incomes. At the same time, such an incentive to saving would make money available for loans to small business, the source of most innovation. Right now I have 34 cosponsors to H.R. 541, and, once again, I welcome your participation.

I thank my colleagues for this chance to describe my work on innovation and to hear about theirs.●

THE PASSIVE RESTRAINT STANDARD

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. SCHEUER. Mr. Speaker, the National Highway Traffic Safety Administration's (NHTSA) authorization bill, H.R. 2585, will be considered on the House floor tomorrow. One issue which may arise during floor consideration is the NHTSA's passive restraint standard. This standard requires that all new cars be equipped with passive restraints, such as automatic seatbelts or air bags, by model year 1984.

The support for the passive restraint standard is overwhelming. In past issues of the RECORD, I and my colleagues have included letters of support from 12 nationwide consumer groups, Nationwide Insurance Co., Allstate Co., United Auto Workers, and the International Association of Chiefs of Police. In addition, editorials from the New York Times and the Washington Post endorsing the passive restraint standard have been inserted. The more recent Washington Post editorial noted that there is no need to consider this issue further because General Motors has announced that it has resolved all technical difficulties.

I enclose the following letter from groups representing over 1,820 insurance companies and 34,000 insurance agents supporting the passive restraint standard:

DECEMBER 4, 1979.

Re H.R. 2585, "The National Traffic and Motor Vehicle Cost Savings Authorization Act."

Hon. JAMES H. SCHEUER,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN SCHEUER: We are seeking your help to protect an automobile safety standard that will reduce the suffering and waste resulting from automobile accidents and thereby cut the cost of auto insurance.

Economic loss attributable to automobile accidents amounted to $52.6 billion in 1978. It is also a fact that 51,500 people died in motor vehicle crashes last year and 5,798,000 were injured. The insurance industry is all too familiar with these alarming statistics. We know these numbers are inextricably linked with the cost of automobile insurance. If claims costs associated with these kinds of human losses can be contained or reduced, the resultant savings would be passed on to our policyholders.

It is this concern which has led the insurance industry to support federal efforts to improve automobile safety. We believe it is a worthwhile and cost beneficial objective. In particular, we have worked to promote the concept of automatic crash protection, such as the air bag and the passive belt. As you know, the Department of Transportation has promulgated a regulation (FMVSS 208) to make automatic crash protection standard equipment on all new cars by the mid-1980's.

Within the next few days, the House will consider H.R. 2585, "The National Traffic and Motor Vehicle Cost Savings Authorization Act." We understand that Congressman Dingell intends to offer an amendment to require yet another study of air bags and perhaps to limit the re-authorization to 1 year. The insurance industry urges you to oppose this type of amendment which could result in crippling DOT's automatic restraint program.

The air bag has been intensively tested in both laboratory and real-life situations. Air bag equipped cars have traveled nearly 700 million miles and have amassed an impressive safety record. These devices have already demonstrated their remarkable lifesaving and injury-preventing capability.

Additional air bag studies, beyond those which have already been done over the past ten years and those which are now planned by NHTSA, would be duplicative and wasteful. They may also require delays which would prove to be disruptive and possibly fatal to the mass production of these systems.

We strongly believe the Dingell amendment, which threatens to indefinitely keep this lifesaving technology in the political arena rather than in our cars where it belongs, is a serious road block to auto safety. We urge you to defeat it.

Very respectfully,

Andre Maisonpierre, Vice President, Alliance of American Insurers, representing over 120 companies; William W. Suttle, Vice President, American Insurance Association, representing over 150 companies; Darrell Coover, Vice President, National Association of Independent Insurers, representing over 450 companies; Jerome P. McGranaghan, Washington, Counsel, National Association of Mutual Insurance Companies, representing over 1,100 companies; Duward Sumner, Vice President, Professional Insurance Agents, representing over 34,000 agents.●

PATRIOTISM IN HAYWOOD COUNTY HIGH SCHOOL

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. JONES of Tennessee. Mr. Speaker, I rise today to recognize and share with my colleagues a magnificent display of patriotism and American unity carried out by a group of high school students at Haywood County High School in Brownsville, Tenn.

Members of the Haywood County student body, led by Mrs. Shirley Curry, wanted to do something to express their support of our President and their moral support of our 50 countrymen being held hostage in Iran. Consequently, they decided to obtain signatures on petitions demanding the immediate release of those hostages. Those petitions have subsequently been delivered to me for delivery to the Iranian Embassy.

What makes this particular undertaking more significant is that the students worked 3 days and obtained 10,000 signatures on the petitions. To further demonstrate the thoroughness with which they covered their own locality, the entire Haywood County population is approximately 19,000. These young people have demonstrated not only a strong sense of patriotism but also a strong determination to support their fellow countrymen who are being held against their will in this international act of blackmail and terrorism.

I know that there are many other events taking place all over our Nation to demonstrate American solidarity in this crisis. But I wanted to share with my colleagues a very touching activity carried out by a group of young people who maintain a strong sense of loyalty to their country and the principles for which it stands.

Today's designation as "National Unity Day" has special significance for the young people of Haywood County High School. Their efforts to demonstrate the solidarity of their locality is to be commended, and I want to express my personal gratitude and pride in what they have been able to accomplish.●

VILLAGES WANT STRONG INDICATIONS OF HEALTH HAZARD BEFORE SPENDING MILLIONS TO TREAT WATER

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. McCLORY. Mr. Speaker, the dilemma in which local officials from a number of communities in my congressional district find themselves is described in the attached article from the Wauconda Leader of November 15. This news article describes the threat posed by the Federal EPA in demanding compliance with a standard for barium in the community water supplies of 1 part per million—notwithstanding that scientific research and epidemiological data have not established a health hazard for barium at higher levels in drinking water supplies.

The barium, which appears naturally at various low levels in the community water supplies of a number of communities in my 13th Congressional District, has been present since time immemorial with no apparent record of adverse health effects on my constituents.

Mr. Speaker, it is my hope that the Federal EPA will exercise reason and equity by delaying for at least 2 years the establishment of any standard for barium in community water supplies, pending possible congressional authorization of the National Institutes of Health or some other Federal agency to conduct intensive research and to initiate an epidemiological study upon which an appropriate standard may be established.

Mr. Speaker, it is also significant that the Federal EPA is recommending that an acceptable method for eliminating barium ions from community water supplies is by substituting sodium for barium. This is a most paradoxical recommendation in light of the fact that sodium is known to pose a health hazard, whereas the presence of barium at the various low levels in which it appears in some of the community water supplies represents no verifiable health hazard.

Mr. Speaker, the Wauconda Leader article is attached for the benefit of my colleagues, many of whom serve on the committees which have jurisdiction over the Federal EPA and the funding programs for their activities and related research:

The article follows:

McCLORY, VILLAGES FIGHT FOR REALISTIC BARIUM COUNT

Northern Illinois, led into battle by Congressman Robert McClory (R–Lake Bluff), brought out its heavy artillery in an effort to overturn what they call unfair federal standards for barium in drinking water.

Local officials and engineers, as well as officials from the Illinois Environmental Protection Agency (IEPA) and professional witnesses stood their ground against representatives from the U.S. EPA in a public hearing Nov. 5.

"Everyone testified, including the IEPA, that the standards are unnecessary and unwarranted," said George Heck of Baxter and Woodman, engineers for Wauconda as well as several other villages involved in the barium controversy.

Heck said that those testifying asked for a moratorium on enforcement until a reasonable standard can be determined and more facts are known.

Heck explained that the federal standards are actually directed at barium carbonate and barium chloride which could form if there was no sulfate in the water.

Barium in the drinking water of Wauconda and other communities, is in the form of barium sulphate which, in that form, barium will pass right through the body and can't react with any other compound.

Heck said that witnesses from the U.S. EPA wouldn't agree with the testimony, arguing that if there is any possible risk involved, strict standards should be imposed.

"McClory did a superb job of cross examination," said Heck. "They came on a little strong and tried to belittle previous witnesses and McClory brought them to task for that attitude."

Heck explained that the subcommittee must still hold further hearings on other minerals and that it will probably be at least another year until action is taken in Washington, so the village will still have to live with the present barium standards.

McClory really did his homework and put the boys from the EPA on the spot," said Wauconda Mayor John Kuester who also attended the hearing. "This is the way it should be. A few people have caused millions of dollars to be spent on this (barium treatment)."

"They (representatives from the U.S. EPA) were egotistical and I take my hat off to Bob McClory for the way he fought."

"The U.S. EPA was on its hind feet defending something they adopted although they know it's wrong," said Kuester.

Heck explained that the present standard is based on the minimum amount of barium that a one-year-old child should take in, drinking one gallon of water a day. That figure has been set at four milligrams per liter.

"The U.S. EPA added an additional safety factor of four," Heck explained, thus reaching the accepted mark of one milligram per liter. "It's all based on size and weight. But we tried to point out they're talking about barium chloride and our drinking water contains barium sulphate."

Heck also reported that the Illinois Pollution Control Board has dismissed an application by the village of Wauconda which would allow the village to use Well Number Four, the well which contains above-standard levels of barium, in an emergency situation.

The village had asked for permission in advance to use Well Number Four in case an emergency condition or catastrophy should call for a large demand of water.

The Pollution Control Board ruled that a variance cannot be granted in anticipation of the existance of an emergency condition.

In case the well must be used to fight a large fire or in case of a large water main break or some similar emergency, the village will now use Well Number Four. If the EPA takes action against the village for using the well, they must then prove that an emergency occurred.

"If you notify them that you used the well and why you used it, I doubt that they (Pollution Control Board) would do anything to you," said Heck.●

AMERICAN DEATHS IN CAMBODIA

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. DORNAN. Mr. Speaker, in a nation, Cambodia, whose name has become svnonymous with the second holocaust (a bloodletting that has resulted in the death of approximately one half of its population), the death of six human beings must seem a minor statistic. But the tragic circumstances under which six of our fellow Americans perished in Cambodia last winter is worth remembering. According to AP reports, our fellow Americans, after being falsely charged with spying, were subjected to the most degrading treatment and torture before they were executed. One case described in the Associated Press report was especially galling: A "foreigner," presumably an American, was painfully dragged, by his beard, naked across a prison courtvard by Cambodian guards. Will these daily degrading stories ever end?

Mr. Speaker, I mention this incident in its graphic details so that we will not forget the abject humiliation that our fellow citizens, including our POW's, have suffered at the hands of barbaric Asian Communist regimes. I mention this because we may some day have cause to directly address our future relations with Cambodia on the floor of this House. This country has been subjected to the most galling debasement by an embittered old fanatic in Tehran since the taking by Communists of the U.S.S. *Pueblo;* this recent news merely compounds our disgust and lengthens our memory. I ask my colleagues to read this tragic latest press report out of Southeast Asia.

The report follows:

SIX AMERICANS REPORTED KILLED AS ALLEGED SPIES

BANGKOK, THAILAND.—Six Americans captured by Cambodians in 1978 were tortured and killed by the Pol Pot regime as alleged spies, according to records seen by an American television reporter in the Cambodian capital of Phnom Penh.

The records from a Cambodian "extermination camp" indicate that the men lived under barbaric conditions and wrote long statements about spying for the United States before they were slain.

Cambodian authorities in Phnom Penh have said three French citizens and two Australians also were among the thousands imprisoned and executed at Tuol Slaeng prison, now an "atrocities museum" in the heart of the Cambodian capital.

The Pol Pot regime was toppled in January by Vietnamese troops, who installed the current government of Heng Samrin.

Sketchy records of the foreigners' experiences at Tuol Slaeng were recently shown to television correspondent Jim Laurie of the American Broadcasting Co., who is visiting Cambodia. Reports about a month ago indicated such records existed, but the victims' identities were not immediately available at that time.

Laurie's report, sent to The Associated Press, said all six Americans apparently were captured off the coast of Cambodia in 1978 while on yachting excursions and that all were accused of being agents of the U.S. Central Intelligence Agency.

Museum director Ung Pech, described as one of only four former prisoners to have escaped execution, told Laurie that in late December of 1978 he saw one "foreigner" being dragged by his beard across the prison courtyard to an interrogation cell. He recalled the man was naked except for a scarf across his waist and was crying out in pain.

Pech said he later overheard prison guards, say, "Those Americans brought here will be executed after interrogation."

Members of the present Cambodian government say Pol Pot had more than 20,000 persons executed at the camp.

The records, according to Laurie's report, revealed the following about the fates of the foreigners:

Americans James William Clark and Lance McNamara were admitteed to Tuol Slaeng April 23, 1978, and Clark signed a rambling, confused 20-page confession a month later in which he described how they came from California and Mexico to Southeast Asia and were picked up while sailing in the Gulf of Thailand in April 1978.

Clark said he was a resident of Sepulveda, Calif., and was born in Minneapolis April 5, 1943. Little information was given about McNamara except his age, 33.

Americans Christopher Edward Delance, born 1949, and Michael Scott Deed, born 1949, were listed in prison entry records for Nov. 26, 1978, and apparently were captured near the Cambodian port of Kompong Som.

Delance's confession was dated Jan. 5, 1979, just two days before Vietnamese forces captured Phnom Penh.

The records give hometowns for the Americans variously as Hawaii and Long Beach, Calif., and say Delance had a "CIA number" of "570–80–677," probably a reference to his Social Security identification number.

Australians David Lloyd Scott, born 1946 in Western Australia, and Ronald Keith Dean, born 1943 in New South Wales, were listed as being captured the same day as Delance and Deed. Scott wrote in a confession dated Dec. 12 that the group had set sail Oct. 23, 1968, from Brunei, the sultanate on the island of Borneo, bound for Thailand.

Americans Kerry George Hamill and John Dalson Henk (spelling romanized from the Cambodian) apparently were captured in a small boat Oct. 13, 1978.

The three Frenchmen, some of mixed Vietnamese and French parentage, apparently had remained in Phnom Penh after the communist takeover of the Cambodian capital in 1975.

Andre Gaston is described as a "French spy" and a secretary of the French Embassy in Phnom Penh.

The brothers Harard and Rovin Bernard were taken to Tuol Slaeng in April 1976 and told to prepare to return to France. But they and Gaston were taken to "Takhamau" on April 29, 1976. Cambodian survivors explained that Takhamau was the execution center for the prison.●

HUMAN HEALTH EFFECTS OF DIOXINS

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. CARTER. Mr. Speaker, I would like to alert my colleagues to the fact that a bill will soon be considered by the House calling for the Department of Health, Education, and Welfare to conduct an epidemiological study on the long-term human health effects of dioxins, which are acutely toxic contaminants.

I am particularly concerned about the possible adverse health effects of dioxins, because of a related situation in my district in Kentucky, which I have been watching since early October. An unusual number of severe health problems, including leukemia, have shown up in the vicinity of an Army depot, which had, over a number of years, received shipments of goods in crates treated with pentachlorophenol. Pentachlorophenol is a commonly used wood preservative, and several types of dioxins are produced during its manufacture.

The following article from the December 16 edition of the Washington Star describes this alarming situation.

The article follows:

CHEMICAL ON OLD ARMY AMMO BOXES FEARED POISONING TOWN

(By Mary Thornton)

RICHMOND, KY.—Bessie Cain, a tiny scarecrow of a woman, wraps her faded blue cotton housecoat more tightly around her and shivers as she gazes outside into the cold afternoon drizzle. Since she moved to her small farmhouse on a Kentucky hilltop nearly 10 years ago, she says, things have been going wrong.

First, she noticed that her chickens were dying, then the hogs didn't seem to gain weight the way they should "Don't care how much you feed them," she says, "it don't do any good. They just goes down."

Then several years ago Cain, who is now 65, began to lose weight herself and become weak. And finally, the man who helps her take care of the animals began to break out in a rash on his arms, legs and face.

"I felt read good when I moved here," she says, "but I just kept going down, just getting skinnier. And I'm so weak now, I don't even go out any more. Doctors don't know what to make of it."

As time has gone by, other people in the Richmond area have begun to complain of other illnesses—leukemia and other cancers, brain diseases, respiratory problems, general blood disorders. In a town like Richmond, with a population of only 17,000, diseases like those don't go unnoticed for long, and people began to wonder what could be happening.

Although no one is sure, many now believe the illnesses are related in some way to the Lexington Blue Grass Army Depot just south of Richmond. For the most part, the people with problems either worked at the depot or bought surplus wooden ammunition cases there. Cain used that wood to heat her house and to build the chicken coop.

After several months of preliminary studies, a coalition of federal agencies, including the Environmental Protection Agency, the Center for Disease Control and the National Institute for Occupational Safety and Health, has decided that the complaints in the Richmond area warrant a major health study which will begin next month.

Prime focus of the investigation will be on the chemical pentachlorophenol. known as PCP, a common wood preservative which was used on all ammunition cases at the depot starting in 1968. The surplus wood was sold for $1 per truckload. And it can be found today all over the Richmond area.

The wood was used to build houses, porches, barns, chickencoops and pigpens. Many people burned it to heat their homes and in their tobacco beds for curing tobacco.

Scientists caution that there's no guarantee the health problems here were caused by the PCP.

"We're talking about an ammunition depot where they could have been exposed to nerve gas or other poisons," said Dr. Roy Ing of the Center for Disease Control in Atlanta who is participating in the study.

Besides PCP itself, the researchers will have to take into account the oil the PCP was dissolved in before it was put onto the wood, whether it could have contained some cancer-causing substance. Also, they will have to look at the impurities produced in the PCP manufacturing process.

But if the PCP is shown to be dangerous, its effects will not be limited to the Richmond area. The chemical is commercially available over the counter in almost any hardware store and has a wide variety of uses—as a wood preservative, a weed killer, a general pesticide, and as an ingredient of certain paint and wood stains.

Independent of the Richmond complaints, EPA had already become concerned about the safety of PCP and issued a requst in October 1978 for manufacturers and users of the substance to submit any available information on its risks and benefits.

EPA records indicate 240 manufacturers in the United States are selling more than 50 million pounds of PCP annually under 548 product names.

Hugh Sowers, who was the union steward at the depot, remembers the first day that food came into the depot loaded into 90 railroad cars.

It was a hot day in August 1968 and the depot was working three shifts a day, seven days a week to rush mortars and grenades to Vietnam. The Army had just begun to use the preservative on the wooden ammunition crates because the untreated crates had started to rot in the humid jungles of Southeast Asia.

"The stuff was so thick it stuck to everything, just like molasses," said Sowers, 60, who now has leukemia. "The railroad cars were so gooky, the forklifts would get stuck in them."

As the boxcars sat in the hot sun, Sowers said, the temperatures inside them went as high as 120 degrees, and the men began to gag and cough and pass out from the chemical fumes.

Although that first batch of cases was the worst, Sowers and other workers say that for the next three years the cases coming into the Bluegrass Depot were especially heavily treated. Since then the boxes have been drier, and the chemical odor has not been so overpowering.

Meanwhile, until 1973 the Army sold or gave away the wood as it became surplus. Good boxes were sold for 50 cents a carload, $1 a pickup load and $2 for a large truck full. The broken boards were given away free—for kindling.

It has been recognized for years that improper handling of PCP can be very dangerous. Manufacturers readily acknowledge that the substance can be fatal and products which contain PCP are stamped with a warning.

A typical warning on the front of a can of commercially available wood preservative cautions that it is "harmful or fatal if swallowed or absorbed through the skin." Small print on the back cautions that the product is toxic to fish and wildlife and should never be used inside a home unless it's going to be covered with paint or another sealing substance.

"The most risky situation would be for people to use PCP inside their homes," said Bernard Schwetz, a scientist at Dow Chemical Co.'s Midland, Mich., lab. "That would have the worst potential for injury."

Scientific studies in both the United States and Europe list numerous cases in which PCP was harmful to human beings:

Workers involved in the manufacture of PCP have become ill and even died after putting their hands in a solution of the substance.

Twenty babies in a small St. Louis hospital developed a strange illness after a laundry detergent containing PCP was used to wash their diapers and sheets. Nine of the babies became seriously ill, and two of them died.

A California woman became suspicious when she moved into a new home and all of her houseplants died. Eventually she became weak and started to lose weight. After a doctor found abnormal levels of PCP in her blood, it was discovered that the interior of her home had been coated with paint containing PCP.

Animal studies have shown that in large doses, PCP can cause miscarriages and birth defects. Schwetz said that his studies on rats had shown kidney and liver problems, but no cancer.

Researchers who plan to do the Richmond study say that if the substance is causing leukemia, the cases discovered so far would just be a small fraction of what could come later.

Most cancers take between 10 and 20 years from the time the victim is exposed to the chemical until he actually gets cancer. The exposure time in Richmond has been only 11 years or less.

The first persons to become alarmed about the possible problems with the PCP were Lola Truett, a former Richmond resident, and William Grise, a local doctor.

"It suddenly occurred to me that every time I got a letter from home," said Truett, who now lives in Florida, "it was either someone dying from cancer or finding out they had it."

Truett said that she and her sister put together a list of 200 friends and relatives with some form of cancer, and she then called the Center for Disease Control, asking for an investigation.

Meanwhile, Grise, who runs a storefront medical office just off Richmond's Main St., had been discovering unexpected diseases in his own patients and hearing rumors about others. And he began to put together a list of people with complaints which he considered unusual in a rural, unindustrialized farming area.

He began hearing about people like Fred Perkins, a farmer who used the treated wood in his barn, to make a porch, and to burn in his home and in his tobacco beds.

Perkins, who had never even been to a doctor until June of 1977, has spent most of the last two years in bed, lying on his left side, staring at the wall where 10 different kinds of pills are lined up in a long row. Besides leukemia, he has cancer of the spinal cord, and must take medication every three hours to dull the pain.

Then there was Sowers who, besides his leukemia, has had six operations for skin cancer.

And Elton Scrivner and Bill Foley, both confined to hospital mental wards with brain diseases that showed up after they worked with the PCP-treated boxes at the depot.

"They say there's no cure," said Mrs. Lucille Scrivner of her husband's condition. "He's only 54, but he's got no memory any more. His eyesight's going and he's lost about 65 pounds. He weighs barely 100 now. He's been in the hospital more than a year now, and I doubt he'll ever be home again."

Lester Jones, a ruddy-faced man of 63 who worked at the depot for more than 30 years until his retirement three years ago, has been suffering for several years from a blood disorder, which may be a precursor of leukemia.

But in spite of his problems, Jones does not blame the depot. "Something happened to me, but I don't know what it was. But I won't say it come from the depot 'cause I just do not know."

Mohl conceded that the PCP-treated boxes were burned at the depot for a three-month period in 1977, but he said there has been no burning of the wood since.

Even if it is found that the PCP-treated wood does cause health problems, Mohl says there's no way the Army could have known.

"This is just a common wood preservative, and the Army uses just a small amount of it. It's all over the place now—practically every house built since 1970 has got some of it," he said. "There was no reason for us to think there was anything wrong with it."

Mohl added that as far as he knows, the treated wood was used at every Army depot and was probably sold as surplus at other depots.

"Obviously, we're going to cooperate in the study," he said. "We've got nothing to hide. But this PCP is everywhere. If they find out that the Army's got a problem, then the whole world has a problem." ●

COMMERCE CLAUSE

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. PAUL. Mr. Speaker, it is vitally important the meaning of the "Interstate Commerce Clause" of the Constitution be understood if we ever expect to reduce Government regulation of the economy. The Commerce clause is the single most important clause in the Constitution as far as its being used as justification for the Federal Government's most extensive powers. Price and wages controls, EPA, TVA, antitrust, the Interstate Commerce Commission, and so on have been justified by this clause. At one time there was a distinction made between interstate and intrastate commerce, but the Federal courts have destroyed any such distinction. The clause is now used to justify virtually all Federal interference in the economy.

That has not always been the case, however. Originally the clause meant something quite different, and if one accepts the principle of legal interpretation (and of all interpretation) that the meaning of a law is the intent of its authors, then the clause does not mean what the interventionists say it means. For example, Edward S. Corwin, professor of jurisprudence at Princeton for almost 30 years, points out:

> (The clause) is the most important basis for judicial review in limitation of State power. The . . . restrictive operation of the clause was, in fact, long the more important one from the point of view of Constitutional Law. Of the approximately 1400 cases which reached the Supreme Court under the clause prior to 1900, the overwhelming proportion stemmed from State legislation. It resulted that . . . the guiding lines in construction of the clause were initially laid down by the (Supreme) Court from the point of view of its operation as a curb on State power, rather than of its operation as a source of national power. . . .
>
> Unquestionably, one of the great advantages anticipated from the grant to Congress of power over commerce was that State

> interference with trade, which had become a source of sharp discontent under the Articles on Confederation, would be thereby brought to an end. As (Daniel) Webster stated, . . . "The prevailing motive was to regulate commerce; to rescue it from the embarrassing and destructive consequences, resulting from the legislation of so many different states, and to place it under the protection of a uniform law.

That the intent of the authors was to free trade, not grant more power to interfere with it, may be seen from the following quotations:

> James Madison:
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> Power was granted to the Congress over interstate commerce as "a negative and preventive provision against injustice among the States."
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> The Federalist:
>
> No. 42: "The powers included in the third class are those which provide for the harmony and proper intercourse among the States. Under this head might be included the particular restraints imposed on the authority of States . . . to wit; to regulate commerce among the several States and the Indian tribes; . . . A very material object of this power was the relief of the States which import and export through other States from the improper contributions levied on them by the latter. Were these at liberty to regulate the trade between State and State, it must be foreseen that ways would be found out to load the articles of import and export, during the passage through their jurisdiction, with duties which would fall on the makers of the latter and the consumers of the former. . . .
>
> "The necessity of a superintending authority over the reciprocal trade of confederated States has been illustrated by other examples as well as our own. In Switzerland, . . . each Canton is obliged to allow to merchandise a passage through its jurisdiction to other Cantons, without an augmentation of the tolls. . . ." (The Paper goes on to cite Germany and the Netherlands also.)
>
> Alpheus T. Mason, Professor of jurisprudence at Princeton:
>
> Removal of obstructions on commercial relations imposed by the "sovereign" states was a moving cause of the Philadelphia Convention. For protection against these burdens and restrictions, Madison, as a Member of the Continental Congress, has advocated general authority over commerce. . . . There seems to be no doubt that the commerce clause was inserted in the Constitution primarily to prevent states from interfering with the freedom of commercial intercourse.
>
> James Madison:
>
> "I always foresaw that difficulties might be started in relation to this power which could not be fully explained without recurring to views of it, which, however just, might give birth to specious though unsound objections. . . . Yet it is very certain that it grew out of the abuse of the power of the importing state in taxing the non-importing, and was intended as a negative and preventive provision against injustice among the States themselves, rather than as a power to be used for the positive purposes of the General Government."

The meaning of the Commerce clause is clear, based upon the quotations from Madison and the Federalist. It was to remove obstructions from commerce, not impose them. One interesting thing that should be pointed out is that the only "regulation" contemplated by the authors is taxation. The clause was designed to end taxation of commerce by the States; even interpreting, or misinterpreting, the clause, then, as giving positive powers to the Federal Government, the only positive power given would be that of taxation.●

WHO CAUSED IRAN?

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. ASHBROOK. Mr. Speaker, we have seen a major phenomenon in the United States. A sitting President has doubled his popularity by letting American hostages languish for over 44 days in a foreign nation. The headlong tilt toward considering Mr. Carter as a major leader of patriotic sentiment in America is one of the many stories to be written about the Iranian crisis. I welcome a rebirth of patriotism in the United States, but I think it is currently being misdirected into support for one of the major reasons we have this crisis in the first place.

Already people are beginning to wonder how American hostages could have been taken by an angry mob, how America could be held at bay for these many days, and now how come our own allies have hesitated to rally to our cause. Like the many other historic questions, the issue of "Who Caused Iran?" will burn brightly in the public view, and then in academic circles for years to come. I would like to offer my own assessment of this matter.

Iran, like Taiwan, Nicaragua, and SALT II, came about through an abandonment of U.S. commitments to the friendships and moral principles we have built this Nation upon. During the last 3 years the Carter administration has bested Neville Chamberlain for the 20th Century honor of having given the most ground for the least amount of return in the face of the enemy. Our allies and foes alike have watched this dismal track record with equal astonishment. Our friends have seen a once strong Nation give way to short-sighted goals and squander major diplomatic chips. Our friends have questioned our sincerity toward their well-being as they watched us undermine Somoza, abandon Taiwan, and cave in on SALT. Our foes looked on in wonderment at how an American President could foresake so much for so little without major outcries from the U.S. citizenry.

Part of the reason why Mr. Carter has gotten away with so much is the fact that America has had its attention turned to domestic issues. Energy and inflation asserted their burden on the American public and became one and two on all lists of major issue concerns. This left the Carter regime a free hand to work its will on foreign policy knowing full well their efforts were watched by few in America. All went along well for Mr. Carter in his efforts to be buddies with the Kremlin and Peking until reality came back into the picture in the guise of angry mobs in the streets of Tehran.

Iran was in a volatile state as 1978 drew to a close. The mobs in the streets wanted reforms, but they were torn between an acceleration of Western style freedom or some sort of drastic regression into the Islamic dark ages. For years the Shah had walked the thin line in between these two major elements of Iranian society. His efforts even won him accolades among liberal academicians like Nathan Pusey at Yale, who awarded the Shah an honorary doctorate. Many times before the Shah had been able to escape the mobs and continue his path toward 20th century. In 1979 his luck ran out. Yet the surprise was not as much the downfall of the Shah as his replacement with a wildly anti-American demagog, the Ayatollah Ruhollah Khomeini.

In these last grim weeks of this year Americans wonder how a nation that was so close to the United States could erupt into a major threat within months of a change in government. Out of bewilderment over events, and solidarity over the plight of fellow Americans, the people of the United States have banded together in the tightest bond since World War II. This resurgence of patriotism has strengthened America's hand in dealing with the Iranian crisis, but it has also thrust President Carter into a position of domestic strength that is totally undeserved. As President of a Nation in crisis, he needs support; as a major factor in causing the crisis, he should not be in this position. Two recent articles outline the surprising collapse of the Shah. Both tell the tale of how the United States aided and abetted the Shah's downfall at the direction of Mr. Carter and the State Department. Had Iran spun off into the anti-American orbit peacefully, we would have had only another example of incompetent appeasement. This time, however, the mobs decided to take fifty Americans along with them, and thus we have a major crisis.

The questions still need to be asked as to why Mr. Carter wanted to end the Shah's rule, and why he allowed the American Embassy to stand with guards armed with only tear gas after it had been taken over once before.

In the interim we should at least heed the words of the following articles, and start the process of realizing who got those fifty Americans into their present dire predicament:

WHO TOPPLED THE SHAH?

(By Rowland Evans and Robert Novak)

Shortly after the second seizure of the U.S. Embassy in Tehran on Nov. 4, Gen. Alexander Haig, in private talks with politicians and businessmen, accused the Carter administration of assigning his NATO deputy to hasten the shah's fall as Iran's ruler a year ago.

That was given by Haig as a major reason for his resignation in July as NATO supreme commander and his retirement from the Army. Never before, has undermining the shah been listed as a purpose of the shadowy mission to Tehran early last January by Air Force Maj. Gen. Robert E. Huyser, Haig's deputy.

Haig, who is eyeing a long-shot bid for the Republican presidential nomination, has not gone public with his sensational charge. When asked by Washington newsmen over breakfast Nov. 21 why he had left NATO and the Army, Haig never mentioned the Huyser mission. Nevertheless, his private chats have fired the opening round of a battle with profound political implications: "Who lost Iran?"

Whether or not Haig's interpretation of President Carter's motives is accepted, he is supplying previously unknown information about upper-level Washington intrigue as the shah toppled. Here began the administration's policy of making common cause with revolutionary impulses at the expense of old allies.

The policy took effect with a transatlantic telephone call early last January from Gen. David Jones, chairman of the Joint Chiefs of Staff, to Haig at NATO headquarters in Mons, Belgium. Haig learned for the first time that the Carter administration planned to dispatch Huyser, who had exceptional contacts with the Iranian military and the royal palace, to Tehran.

Huyser's mission, as explained by Jones to Haig, was "to keep the Iranian military united and effective." That meant urging the Iranian generals not to attempt a coup against the shaky new civilian regime of Shahpour Bakhtiar—the description of the mission given the press.

Haig regarded this as a smoke screen. Secretary of State Cyrus Vance, in ascendance over national security adviser Zbigniew Brzezinski, wanted the shah quickly removed from power. To Haig, the Huyser mission promoted this plan. He informed Jones on the telephone that night that he did not want himself, his deputy or the U.S. military involved in what he viewed as a specious undertaking.

The next morning, word came to Mons from Washington that Haig would have to live with it, like it or not. Deputy Secretary of Defense Charles Duncan, acting secretary during Harold Brown's temporary absence, overruled Haig. Direct orders were transmitted from Duncan to Haig's deputy; Haig was odd man out.

Those secret orders are described as "ambiguous" by those who have seen them. The widely respected Huyser is reported by colleagues to have been unhappy with his task. But as a good soldier, he did not complain then or now (he is currently on active duty at Scott Air Force Base, Ill.).

Haig's theory that Huyser was an instrument of U.S. pressure to drop the shah is strengthened by this fact: his mission coincided with leaked reports out of Washington that U.S. policy-makers finally had concluded the shah must go. U.S. policy at this time was that Bakhtiar could gain influence over the military and win over the Moslem radicals only if the shah were out of the picture.

Whether or not because of Huyser's carrying out his orders, there was no military coup. That did not save Bakhtiar's short-lived regime from being supplanted by Ayatollah Ruhollah Khomeini. Nor did the Carter policy achieve its stated purpose of keeping Iran's officer corps intact. While many officers were executed by Islamic revolutionaries, the chief of staff contacted by Huyser—Gen. Abbas Gherabaghi—is believed to have cooperated with the mullahs running the revolution.

Nobody knows whether a military coup would have brought Iran stability. There are senior U.S. Army officers who believe that, had it not been for the mission imposed on Huyser, the Iranian military would have seized power, exiled the shah (perhaps letting him return as a ceremonial monarch) and established a moderate, pro-Western regime. That theory may well understate the volcanic fury of Khomeini's followers.

The point of Haig's revelations is that the administration's plea that it could do nothing to save the shah is not the whole truth. As with Anastasio Somoza in Nicaragua, the United States contributed to the demise of a repressive authoritarian who had been a longtime ally of this country in hopes of winning favor with his successors. It is that policy, rather than the president's day-to-day conduct of the current crisis, that is most vulnerable to future investigation.

SHAH CLAIMS CARTER BETRAYED HIM—BLAMES U.S. PRESSURE TO RELAX HIS GRIP ON IRAN FOR DOWNFALL

(By Jack Anderson)

WASHINGTON.—In memoirs that may never be published, the deposed Shah of Iran blames Jimmy Carter for pressuring him to make concessions that cost his throne and brought Ayatollah Ruhollah Khomeini's triumph, the shah charges bitterly, by blocking the Iranian armed forces from seizing control of the country.

Highlights from the suppressed memoirs have been confided to us by family members who said the shah, as a form of therapy, had poured his frustrations into writing about the events that had caused his downfall. They identified ex-Secretary of State Henry Kissinger as the one who had persuaded the shah not to publish his memoirs.

Here, nevertheless, is the shah's version of the cataclysmic events in Iran:

In the last year of his reign, the shah was under constant pressure from Washington to relax his grip on the country. The U.S. Embassy persuaded him that, as a prerequisite for better relations with President Carter, he should dismiss his SAVAK chief, Gen. Nematollah Nassiri. The head of the dreaded secret police, accordingly, was fired on June 6, 1978.

Under continuing U.S. pressure, the shah also released hundreds of political prisoners and eased press censorship. Instead of mollifying his enemies, he contends, these moves convinced them that he was weakening. They were encouraged to heighten their opposition with massive strikes.

The shah ordered a crackdown which led to a bloodbath in early September. He received a personal telephone call from Carter deploring the loss of life and urging him to resume his political liberalization program. The shah was too heavily dependent on the United States to ignore the request.

He complains in his memoirs that U.S. restraints prevented him from smashing his enemies who took advantage of his impotence. He repeatedly called upon the U.S. Embassy for advice and support, but Carter took a hands-off attitude.

As the situation deteriorated, the president started to send a naval task force, led by the nuclear carrier Constellation, into the Persian Gulf. But he had a change of heart and canceled the order. Instead, he pressured the shah to vacate his throne.

As the shah tells it, he acted on the American advice and agreed to leave Iran. But he was led by Carter to believe it would be a temporary absence—just long enough to permit the military to stabilize the country and block Khomeini from returning.

The shah recalls that he was offered refuge in the United States until the way was paved for his return. He turned down the invitation and remained in the Middle East so he would be more accessible to his generals.

Then without warning, he alleges, Carter pulled the rug out from under him. According to the shah's view, his generals were notified that if they tried to seize control and bring back the shah, the United States would cut off all supplies and assistance.

This warning allegedly was delivered to the Iranian military by Gen. Robert E. Huyser, who was then second in command of U.S. forces in Europe. Pentagon sources confirm that Huyser, acting on orders, asked the Iranian generals not to attempt a military coup. Huyser told us he could not comment, under the circumstances.

Huyser's superior of the time, recently retired NATO Commander Gen. Alexander Haig, disapproved of the shadowy mission, fearing that the "practical consequences would be to bleed the Iranian military to death."

Haig explained to us that he was "profoundly opposed" to the Carter administration's orders. He described the orders as "ambiguous," and while praising his subordinate as "outstanding," stressed his feeling that Huyser's mission was ill-advised because "it wasn't helpful to send a military man to do a diplomat's work."

The shah has another bitter complaint against Carter. The president once praised him in language that was almost obsequious. In a New Year's Eve toast at the dawning of the shah's final year, Carter declared: "Iran, because of the great leadership of the shah, is an island of stability. . . . This is a great tribute to you, Your Majesty, and to the respect and the admiration and the love which your people give you."

A year later, Carter not only dumped the shah but cut off all contact. Family sources say the shah is bitter because he hasn't even received a get-well card from the Carters since he arrived at a New York hospital for cancer treatment.●

IRVING KRISTOL ON THE WORST CASE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. DORNAN. Mr. Speaker, domestic prosperity and tranquillity will become increasingly dependent upon the stability of the global balance of power. But that stability has been eroded in recent years by the ominous emergence of two distinct variables in the world power equation: The unprecedented growth of Soviet military power and the increasing dependence of the United States and its Western Allies on the raw materials in the less industrialized nations of the world.

Consider the current crisis and its implications in the Persian Gulf region. Oil now provides 55 percent of the world's energy requirements. Western Europe imports approximately 80 percent of its oil from Middle Eastern sources. Japan imports over 90 percent from the Middle Eastern oil-producing countries. And the United States addiction to imported oil has risen sharply in the past few years, accounting for approximately 50 percent of U.S. petroleum usage at a cost of approximately $70 billion annually. The United States, Western Europe, and Japan, the vast industrial complexes of the globe, are utterly dependent on imported oil and raw materials for economic survival. By sheer volume, more than 95 percent of the world's commerce is carried by sea. Control of the sea is tantamount to economic control; and control of a nation's economy is tantamount to controlling a nation's ability to wage war in defense of its vital interest.

Since the British withdrawal east of Suez in 1968, the Soviet presence in the region and along the vital sea lanes of the Indian Ocean, even around the Cape of Good Hope, has increased dramatically. Russian influence is strongly present in Syria, Iraq, Yemen, and Afghanistan. With Cuban assistance, Russian influence in Ethiopia and the Horn of Africa has been consolidated. The real objective is to control the oil routes and establish dominion over access to the mineral wealth of the sub-Saharan African continent.

The Wall Street Journal recently carried a brilliant article by Prof. Irving Kristol of New York University elaborating upon the dangers that confront this Nation in the years ahead. There have been a number of excellent articles on America's foreign policy appearing in a variety of academic journals and publications of high repute, but Mr. Kristol's piece stands alone in its cold and foreboding scenario; that the decline of American power will signal the collapse of the democratic political order in the West. He rightly supports the wisdom of political theorists who view democracy as a delicate flower, needing constant nourishment, constant civic attention, and a proper atmosphere for economic growth and prosperity. The ancient Greek experiences in democratic government were unhappy episodes, marked by popular expropriations of limited resources, a breakdown of social cohesion and violent bloody civil wars. The rich would oppress the poor; and the poor would seize state power and plunder the rich. Politics would collapse into violent factional contests between the urban lower classes and wealthy landowners.

But the sinews of democratic government in the West were strengthened in the 19th century by an expanding economy; expropriation was no longer perceived a social necessity by the poorer and more numerous classes blessed with the bountiful opportunities of an expanding free-market economy. But now the economy of the United States and the Western World has become increasingly dependent on raw materials from the less developed states of Africa, Asia, and the Middle East. We are more dependent now on external resources than ever before in our history. And that dependence will continue to grow. The price of energy will continue to rise, as orchestrated by the princes of OPEC, even as the world's supplies of oil continue to shrink. My greatest fear is that the classical critics of democratic government will once again be vindicated even from the silence of the grave; the yellowed pages of old books will achieve a new relevance.

Americans hard pressed by rising energy prices and the unrelenting pressure of foreign influences, we will discern each and every day, month after month, year after year that our standard of living, is declining and our opportunities for our children and our grandchildren are being closed by the vast impersonal forces of a bewildering historical change. Are we for the first time in our short and abundant history, a people blessed with political and economic institutions enabling citizens to achieve a degree of personal liberty unparalleled in human history, finally to reenact the age-old death scenes of Graeco-Roman republics, a bitter struggle for larger pieces of an ever shrinking pie? Prof. John McKetta, a leading energy expert and an instructor in chemical engineering at the University of Texas, predicted such a social upheaval over the cost and availability of energy in the 1980's at the 72d annual convention of the American Institute of Chemical Engineers in November of 1979. Said Professor McKetta: "They (the people) are going to rise up and say they don't want to freeze in the dark in a clean environment."

Recent events in Iran, as Mr. Kristol has observed, mark the beginning of a tense decade of confrontation between America and its adversaries. Our people will be asked to meet unprecedented challenges in the years ahead. It is a time for dynamic and imaginative leadership of a caliber rare in our history, in any history.

There are broad policy options available to us; but we are in a race against time. First, we must make dramatic efforts to accelerate the production of domestic energy resources through deregulation of oil and natural gas, and the extension of accelerated depreciation and liberal tax credits for the private sector in order to encourage the development and commercial use of alternative forms of energy.

Second, we must undertake dramatic diplomatic initiatives toward both Mexico and Canada in order to foster mutual cooperation in trade relations, particularly as they apply to energy and natural resources generally. Third, we must encourage the productivity of our own economy through an encouragement of savings and capital investment. It is only through the availability of risk capital that we will spur the technological innovations that will increase domestic productivity, curb the rate of domestic inflation and make American goods increasingly competitive on international markets. Finally, we must do everything humanly possible to restore the balance of power, particularly naval power, in order to protect our shipping lanes and secure our freedom of trade and commerce. America is, and was meant to be, a great maritime nation.

[From the Wall Street Journal, Nov. 26, 1979]

THE WORST IS YET TO COME

(By Irving Kristol)

The 1980s have already begun. They began with the takeover of the American embassy in Tehran earlier this month and with the subsequent confrontation between the United States and a virulently anti-Western Iranian regime. This episode is, as it were, the shocking prologue to an equally tense drama that stands poised to unfold in the decade ahead. It promises to be an absolutely ghastly period.

These past years have been dominated by problems of domestic economic policy—of maintaining economic growth in the face of inflation, stagflation, high rates of taxation, government overregulation of business, etc. Even OPEC has been regarded as primarily a phenomenon within the economists' universe of discourse, and the arguments have centered around the kind of economic policy that would be most appropriately responsive to the new level of energy costs.

On the whole, and from this same economic perspective, we have managed these problems rather badly. The cast of mind shaped in the 1960s—one which perceived the United States as an "affluent society" whose major challenges were achieving a better "quality of life" and a "fairer" (i.e., more equal) distribution of entitlements to wealth, income, and opportunity—was quite unfit to cope with the bleaker realities of the 1970s, and we were very slow getting on a new learning curve.

THE ROLE OF FOREIGN POLICY

More recently, however, there have been hopeful signs of progressive adaptation to these realities, in increasing recognition of the need for an economic policy to spur economic growth instead of being indifferent or hostile to it. But one senses it no longer matters quite so much. For it seems clear that in the 1980s it will be foreign policy, not domestic economic policy, that will be decisive for economic growth, and for our destiny in general.

If the 1970s were dominated by considerations of domestic economic policy, the 1980s are going to be dominated by considerations of foreign and military policy. The two are not unrelated, of course—and, indeed, in the case of oil they are most intimately related. But a whole new set of priorities will have to be established, as we come to grips with the fact that the American economy does not exist in isolation from world politics.

Take, for instance, the issue of inflation which President Carter now says is the most important economic problem facing the nation, a proposition that is heartily assented to by conservative economists and Republican politicians. They are almost surely wrong. Two years ago they would have been right, but not now. Today it is military rearmament that is the first priority, economic as well as political. And if there are going to have to be massive increases in military spending, then we shall have to put up with more inflation, for a longer time, than any of us would like. Should the rate of inflation in the 1980s stabilize at, say, 8 percent, that would represent a not inconsiderable achievement.

The truly important problems of the American economy in the years to come will result from what economists so chastely call "exogenous shocks"—i.e., things that happen elsewhere in the world, things that will profoundly affect us and to which we shall have to respond. None of these things is likely to be pleasant, for the world order—such as it is, which isn't saying much to begin with—is in the process of going through a whole series of convulsions.

The Middle East is the most obvious source of trouble. Even if the Arab-Israeli conflict were not a constant irritant, the chances for stability in that area seem slight. Intra-Moslem religious tensions are on the rise and anti-Western paranoia is endemic. Egypt under Sadat is indeed a remarkable exception, but one can properly doubt whether Egypt after Sadat will remain so. Iran will surely be hostile to American interests, whatever kind of regime is eventually established there. The days—at best, the years—of Saudi Arabia's anachronistic feudal oligarchy are numbered, to be succeeded by Lord only knows what. Iraq is likely to go to war against Iran, or against Syria, or against itself. Syria could easily go the way of Afghanistan and end up as a Russian puppet. Oil at $50–$75 a barrel is not too far down the road, and chaos in that region might well result in no oil being available at any price.

All this would seem to suggest the likelihood of some American military involvement in the Middle East to protect our interests, both economic and strategic. Unfortunately, we shall there encounter another presence: the Soviet Union.

The U.S.S.R. is today our superior in effective military power of a kind that is relevant to a situation such as the Middle

East's—i.e., conventional military power. Even if we were now to undertake a serious and sustained effort to improve our military capabilities in this respect, it would probably take a good part of the decade to accomplish it. Moreover, a new Soviet leadership is on the verge of coming to office, and all the evidence points to its being very self-confident, highly nationalistic, and likely to be more boldly assertive than its predecessors. And, perhaps most important, the Soviets are going to be needing foreign sources of oil by 1981, and the Middle East is not only the logical place for them to turn to, it is the only place. So an era of confrontation with the Soviet Union seems to be in the cards.

And as the post-World War II international order falls apart—not only in the Middle East but probably in Latin America as well—all thinking about American foreign policy derived from that era assumes an air of irrelevance. SALT becomes irrelevant. The United Nations becomes irrelevant. Foreign aid becomes irrelevant. Sermons on human rights becomes irrelevant. NATO itself may soon become irrelevant, as our European allies decide that, in the face of American weakness, *sauve qui peut* is the sensible flag to fly. What will be relevant is an American foreign policy in which power, and the readiness to use it boldly, will play a far more central role than has ever before been the case in our history.

Nor will the United States really have any alternative but to use such power to recreate a world order it can live with—a world in which there is relatively free trade and relatively free access to the world's resources. Though there is much we can, should, and in the end probably will do to set our own economic house in order—including the more abundant use of coal and nuclear power, despite any hazards they might create—it is an inescapable fact that the American economy is a vital organ of a larger world economy. The one cannot survive, and certainly cannot prosper, without the other. The wealth of nations today is indivisible. Our economic growth will henceforth be as dependent on our foreign policy as on our economic policy. And if we fail to establish the conditions for such growth, our democracy will itself unravel, as economic pressures give rise to political polarization, at home and abroad.

There is far too much easy and glib talk these days about the need for Americans to tighten their belts, accept a reduction in their living standards, even resign themselves to an economic philosophy of no-growth, It is dangerous and irresponsible talk. Yes, of course, the American democracy can cope with a *temporary* cessation of economic growth, as it has done in wartime. But only if it is perceived to be temporary. What few seem to realize is that a prospect of economic growth is crucial precondition for the survival of any modern democracy, the American included.

For over two thousand years, the consensus among political philosophers was that democracy—the rule of the majority—was an inherently unstable and therefore undesirable form of government. The reason they came to this conclusion was not because they were snobs or disliked the common people, or because ordinary people then were inferior to the people of today. It was because they believed, on the basis of experience (in the ancient Greek city-states especially), that in a democracy the majority, being poor, would always use its power to expropriate the wealth of the more affluent minority, and that this would lead (as it always had) to economic chaos, followed by political chaos, followed by the restoration of order by a dictator.

What changed the attitude of political philosophers was the emergence of modern capitalism, with its promise of economic growth—of an economic system in which everyone could improve his condition without having to do so at someone else's expense. It is because this promise of economic growth has been kept that democratic politics has survived in the United States, in Western Europe, more recently in Japan. And it is only so long as economic growth remains a credible reality that democracy will remain an actuality. It is the expectation of tomorrow's bigger pie, from which everyone will receive a larger slice, that prevents people from fighting to the bitter end over the division of today's pie.

WHAT THE UNITED STATES SHOULD DO

The 1980s will see a distintegrating international order in which economic growth is going to be extraordinarily difficult to achieve, and in which event economic stability will be hard to maintain. It will therefore have to be an overriding goal of American foreign policy to help shape this world so that the growth of the world economy can continue. This will require many sacrifices, but so long as the goal is visibly there, the sacrifices are tolerable. If the goal is not there, our situation will gradually deteriorate until we end up divided among ourselves and destroying our institutions in a frenzy of recriminations.

For the very survival of this nation, our foreign policy is going to have to be oriented quite explicitly toward such a goal. Where will such a foreign policy come from? Who will articulate it? Who will be able to sustain it? Those are the questions that ought to be dominating the 1980 elections. But no one, so far as I can see, is asking them.●

AIRCRAFT NOISE BURDEN INCREASES

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1979

● Mr. ANDERSON of California. Mr. Speaker, at an alarming rate the pressure is mounting on our Nation's cities to do something about excessive jet noise from municipal airports. I point to action taken by the California Supreme Court this past Friday as evidence that this problem is nationwide in scope.

As reported by a Los Angeles Times article, by a unanimous and unprecedented decision, the State high court ruled that cities may be sued for the "emotional and mental distress" residents suffer from the jet aircraft noise coming from municipal airports.

The repercussions of this ruling will be felt across the country. More frequent and more serious will be the attacks on city halls through court action.

As this ruling addresses an important matter currently pending before the Congress, for my colleague's benefit I am inserting in the RECORD the Los Angeles Times article of December 15, 1979, entitled "Cities Liable for Jet Noise, High Court Rules."

The article follows:

CITIES LIABLE FOR JET NOISE, HIGH COURT RULES

(By Philip Hager)

SAN FRANCISCO.—Cities may be sued for the "emotional and mental distress" residents suffer from jet aircraft noise from municipal airports, the California Supreme Court ruled unanimously Friday.

The court upheld an unprecedented award of $86,800 in damages to a group of Westchester residents who had brought suit against the City of Los Angeles, complaining that noise from Los Angeles International Airport had interfered with their ability to sleep, watch television and enjoy sexual relations.

The justices conceded their decision would likely result in more airport noise suits for more money.

But they said they were compelled to reject the city's contentions that the homeowner's claims must be denied. The city had argued that the federal government had preempted the field of noise control and that the law prohibited such suits against lawfully sanctioned aircraft operations.

Both sides in the dispute agreed the decision had far-reaching implications.

"This is important to literally hundreds of thousands of people affected by airport noise," said Jerrold Fadem, one of the attorneys representing the Westchester homeowners. "They are now protected against abuse by noise . . . and they can sue afresh every day for emotional distress."

City Atty. Burt Pines called the ruling a "disappointment" and pledged he would seek review from the U.S. Supreme Court.

"This decision makes a city liable for acts over which it has very little control," he said. "It has national significance. Potentially, it can have an impact on airports throughout the country and the nation's entire transportation system."

Pines noted that the city had taken several steps to try to minimize noise from the airport—among other things, requiring airlines to phase out older, noisier aircraft and limiting flights after 11 p.m.

The court's decision came on an issue that has divided other courts in the country.

The justices, in an opinion written by Justice Frank K. Richardson, noted that there were a number of steps the city could have taken to "deflect and diminish" noise at LAX—the nation's third largest commerical aviation facility.

"The city cannot fairly argue that federal law has rendered (it) powerless to prevent or reduce the damages of which (the homeowners) complain," Richardson wrote.

In deciding the question, the justices were attempting to resolve a conflict between competing interests, Richardson explained.

"On the one hand, by ancient law, the owners and occupants of land are entitled to the peaceful use, possession and enjoyment of their property," he wrote. "On the other, the general public has a strong interest in the transportation and related services furnished by commercial aviation."

The case began in 1968, when owners and occupants of homes near the airport's two north runways sued the city for both property damages and personal injuries allegedly resulting from noise, smoke and vibrations from aircraft using the airport.

The homeowners—most of whom have moved from the area—contended that jet noise made their homes vibrate, broke windows, blew shingles off roofs and covered the neighborhood with "jet scum."

After winning property damage awards, the plaintiffs went to court again on the personal injuries claim. They charged that the noise from the airport constituted a "nuisance," disrupting their lives to the extent they could not hear the radio, speak on the telephone or go outside to use their lawns or patios.

The homeowners won their case in trial court in 1976. Earlier this year a state Court of Appeal upheld the damage award they received for injuries sustained from 1967 to 1975. The city took the case to the state Supreme Court.

City attorneys argued that the noise at issue came from aircraft over which the federal government retained exclusive control. Secondly, they said, the operation of aircraft was sanctioned legally and under state law the resulting noise emissions could not constitute a "nuisance."

In a 27-page opinion, the court turned down both contentions. While the federal government may preempt state action, in this instance the city was not precluded from acting on its own against noise from the municipally operated airport, it said.

Further, the justices pointed out, the U.S. Supreme Court, while upholding federal authority over "aircraft in flight," had carefully refrained from preventing airport operators from exercising "reasonable, non-discriminatory proprietary control" over land-use planning, runway design and other airport activities.

The city, the justice noted, had decided to build and expand the airport near a residential area and had approved its use by jet aircraft "with the full and prior knowledge of the potential noise impact."

The court went on to observe that just as citizens enjoy certain property rights, in some instances they may also assert personal rights as property owners or occupants. "While it is true that the probable number of claimants will increase and the nature of the claims enlarge, we discern no basis for any reasoned distinction between claims for property damage and personal injury arising from the same activity and cause," Richardson wrote.

Rejecting the city's second contention, the court said its analysis showed the law provided no immunity from a suit charging that airport noise constituted a "nuisance."●

AIRBAGS—ADVANTAGES FOR ELDERLY

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. PEPPER. Mr. Speaker, as people get older, they are somewhat less likely to be involved in a serious automobile crash, but if they do have an accident, they are about twice as likely to be injured. As we get older, our bones become more brittle, our muscle tone is not as good, and we heal more slowly.

One reason that older people often buy large cars, even though they may not need the room of a large car, is that they believe that they will be safer in a large car. Although that is partly true, they, like everybody else, need to be restrained in their car in order to reduce the risk of serious injury in a car crash. Unfortunately, older people use belts even less than young ones, and that is at least in part, because belts are difficult for older people to put on. Young people can twist and reach around to find a hard-to-reach belt to put it on. But we are a little less flexible as we age.

And even if older people wear a belt, in a serious crash, the belt can cause injury while it is protecting them from more serious injuries because it concentrates the forces of the crashes on two thin fabric straps. For older people, this can mean injuries to the ribs, clavicle, or hip. Airbags, on the other hand, distribute the forces over the whole torso, and substantially reduce the likelihood of broken bones, with the consequent extended period of convalescence.

Airbags may not be the choice for everybody, but they have many advantages for our elderly who use cars. I think that the Department of Transportation's standard, which will make airbags available to those that want to purchase them for the first time in 5 years, is an important advance for the health and safety of all citizens, but particularly for our senior citizens.●

SAVE THE SEMICONDUCTOR INDUSTRY

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. MINETA. Mr. Speaker, I want to join my colleagues in a recent special order on industrial innovation and productivity by discussing an industry which has made a large contribution in recent years, and will continue to contribute in coming years, to improving the Nation's productivity. The industry is the semiconductor industry, makers of the "computer-on-a-chip" or integrated circuit.

Since the semiconductor industry is vital to improving our productivity and sustaining innovation in our economy, I want to alert my colleagues to problems which the industry is concerned about. Problems which Congress should be concerned about, and prepared to act on.

Before discussing the industry's concerns, let me point out exactly how the semiconductor industry contributes to our economy. The most visible impact of the industry in recent years has been in consumer goods. Stores cannot stock enough electronic toys; wrist watches can also be calculators and stop watches in one; and calculators cost but a fraction of what they cost just 5 years ago.

The gains in productivity in the workplace due to integrated circuits represent a less visible but vitally important function of the seminal semiconductor industry. Examples abound. Scientists now use microscopes which do more in less time; modern medicine has only begun to use the integrated circuit in medical instruments and devices; integrated circuits in computers are the basis for a whole new generation of cheaper and more powerful computers such as the new IBM mainframe computers; and factory controls are undergoing a revolution of sorts in terms of flexibility and reliability. All of these applications of the low-cost integrated circuit will make workers more efficient and more productive. And, the semiconductor industry is one of the few growth manufacturing industries in our otherwise maturing economy.

Yet, the industry is faced with a serious problem. Foreign manufacturers, particularly the Japanese, have made ominous advances in the United States and world integrated circuit markets. U.S. firms are fiercely independent and competitive while foreign competitors are diversified giants. Japanese firms are strongly tied to big business, the banks, and the government in Japan. Our market is oper. to all who want to sell in the United States. Japan's market is protected through restrictive trade practices. These and other factors threaten the health of our domestic semiconductor industry in the future.

I urge my collegaues to take note of these problems as early alarms of serious problems in this vital industry. Problems which caused the decline and loss of domestic production of CB radios, televisions, and steel.

The International Trade Commission recently completed a 1-year examination of the world market for integrated circuits, and has issued a report entitled, "Competitive Factors Influencing World Trade in Integrated Circuits." Further, the Ways and Means Subcommittee on Trade recently held hearings on this problem in San Jose, Calif., the heart of the U.S. semiconductor industry. The Senate has scheduled hearings on the ITC report in January 1980. I urge my colleagues to pay attention to the findings of the activities for the domestic semiconductor industry is vital to the improvement of our very serious innovation and productivity problems.

Finally, I want to thank the gentleman from Oregon (Mr. AuCoin) for his fine work and deep interest in the problems of U.S. industrial innovation and productivity.●

CONGRESSMAN WILLIAM CARNEY REPORTS TO HIS CONSTITUENTS ON THE FIRST SESSION OF THE 96TH CONGRESS

HON. WILLIAM CARNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. CARNEY. Mr. Speaker, it is an established custom for the Representatives from the First Congressional District of New York to submit an annual "Report to the People" on the activities of their Representative in Congress. As the 1st session of the 96th Congress comes to a close, I would like to take this opportunity to make such a report.

The voting summary printed below represents my position on some of the more important of over 600 recorded votes taken by the House since January, 1979. Very few easy issues are presented to the Congress of the United States. I have always tried to keep the interests of the citizens of the First Congressional District of New York foremost in mind as the Congress considers legislation which will affect all Americans. I have strongly opposed laws and Federal regulations that adversely affected Long Islanders. For example, the Department of Energy's gas allocation program unquestionably harmed the tourist industry in Suffolk County during the summer of 1979, in addition to causing inconvenience and hardship to motorists throughout Long Island. Regulations promulgated by regional fisheries councils have unfairly discriminated against Long Island fisherman. Federal programs that add to the Government bureaucracy without any benefit to the people add an unnecessary burden to the tax load shouldered by Long Islanders, as well as all other Americans.

The Constitution gives the "power of the purse" to Congress. Unless the Congress both authorizes programs and then appropriates the money to pay for them, Federal funds may not be spent. Before casting my vote on such legislation, several questions came to mind. First, how much did the proposed legislation cost? Second, what benefits were to be derived from the program? And finally, were the benefits worth the costs, and were those costs as low as possible?

A good example of this process occurred in April of this year. By an 11 vote margin, the House passed an amendment to the State Department Authorizations Act, requiring a 10 percent across-the-board cut in the various programs authorized by that legislation. After intense lobbying, that same amendment was reconsidered and rejected by a four vote margin. When the entire bill was finally voted on, it passed by a vote of 256 to 146. I voted "No"; not because the State Department did not deserve any money for its operations, but because it was clear that there was simply too much "fat" in that account.

Similarly, when the House considered legislation to appropriate funds for its own operation and for the entire legislative branch, I supported amendments to cut back on the proposed expenditures. The Congress, along with the executive branch, must learn to tighten its own belt and live within a reasonable spending limit.

I have, for instance, consistently opposed foreign aid measures which grant broad and unrestricted discretionary spending powers to the executive branch. Congress is the guardian of the public treasury, and it must act in a responsible fashion in determining how public moneys are spent.

When a clearcut need exists for assistance abroad, Congress responds with traditional American generosity, as do our citizens. Such an example is provided by our aid for the tragic displacement and starvation of the Cambodian people. Even programs which spend worthy funds such as these must not be created to allow unrestricted powers by the bureaucracy of the executive branch, which is not elected by—and is thus not directly accountable to—the people.

Energy and inflation were the two most important issues considered by the House of Representatives during 1979. In at least one respect, the issues are interconnected. Our inflation rate will never drop by any large percentage while we continue to spend $50 billion a year for foreign oil. That money goes overseas, and into foreign treasuries, rather than being recirculated in the American economy to provide support for our own monetary system. If our economy is to improve, and if our goal is to maintain an independent foreign policy, unrestricted by energy considerations, then we must develop our own domestic energy resources.

As a member of the Science and Technology Committee, it has been my privilege to help shape the programs necessary for the continued development of our Nation's energy viability.

The Subcommittee on Energy Development and Applications completed lengthy and complex hearings which resulted in the authorization of funding for the Department of Energy's fossil, solar, and conservation research and development programs for fiscal year 1980. The Wind Energy Systems Research Development and Demonstration Act of 1979, also resulted from the subcommittee's hearings. This legislation provides for a comprehensive approach to develop commercially viable wind energy systems. It is possible that by the 21st century such systems will provide portions of the United States with a clean, inexpensive, and reliable source of energy. Wind experimentation on Block Island in Long Island Sound, for instance, and at other Long Island locations, is in the forefront of these efforts.

The Subcommittee on Investigations and Oversight has held hearings on a wide variety of scientific matters. Transfer of technology and energy related issues with Mexico and China were the topic of hearings that will help improve our foreign trade structure with those countries. Accidents involving the DC-10 airplane prompted hearings on the design of all wide-body aircraft, the subcommittee also has investigated the role that small business firms play in technological innovation and productivity, and in contributing to our national economy. The subcommittee has tentatively scheduled hearings to be held on Long Island on January 1980, to investigate the allocation of Federal research funds to small technology firms, and to analyze Federal policies pertaining to innovation.

The Committee on Merchant Marine and Fisheries is of critical importance to Suffolk County. Because of our geographic location, the Atlantic Ocean and Long Island Sound provide all Long Islanders with commercial, recreational and esthetic opportunities and benefits.

The Subcommittee on Oceanography authored the Ocean Dumping Act, which will provide standards for the issuance of permits for ocean dumping. The legislation will authorize studies of the long-term effects of marine pollution, and provide a mechanism for designating certain areas as marine sanctuaries.

The subcommittee also developed deep seabed mining legislation. This bill specifies the procedure for the issuance of permits for the commercial recovery of minerals from the seabed in areas beyond the national jurisdiction of the United States.

In 1980, the subcommittee will continue its oversight of the coastal zone management program, and will consider a proposal to authorize utilization of the ocean to provide an additional source of energy. Ocean thermal energy conversion (OTEC) would take advantage of the natural temperature differential of the ocean to generate electricity.

The Subcommittee on Fisheries, Wildlife Conservation, and the Environment held extensive oversight hearings on the Fisheries Conservation and Management Act of 1976. We reviewed the role of the regional fishery councils, and tried to clarify the manner in which their activities were to be conducted. The committee investigated, very specifically, the requirement that fishermen keep logbooks to provide data to the Federal Government. While logbooks may provide an effective means of collecting information to be used in fisheries management, these books should not be used for enforcement data collection. Virtually every fisheries council reported that it had deep concerns regarding the logbook requirement. The subcommittee also began hearings on fisheries development and the possibilities of increasing the American fishing industry's catch of underutilized species. In addition, the subcommittee continued hearings on the Endangered Species Act, to determine the need for possible refinement of that legislation in 1980.

The Panama Canal Subcommittee had one basic task during the 96th Congress—to construct legislation necessary to implement the Panama Canal Treaties of 1977. The original proposal submitted by the administration would have imposed approximately $4 billion in treaty related costs on the taxpayer. Although the committee cut those costs by 75 percent, I voted against the implementing legislation because the potential benefits to be derived by America were not worth the costs now imposed on the American taxpayer and consumer.

I have tried to represent your interests to the best of my ability. The Congressional Office of New York's First District exists to serve you. I welcome your advice. accept your criticism, and look forward to working together with you in the second session of the 96th Congress.

SELECTED LEGISLATION SPONSORED AND CO-SPONSORED BY CONGRESSMAN WILLIAM CARNEY

H.R. 5525: Federal Property and Administrative Services Act Amendments—to provide for economical and efficient procedures for for federal purchasing and end waste in government's buying power.

H. Res. 106: A resolution to urge the government of the Federal Republic of Germany to abolish the statute of limitations governing prosecution of Nazi war crimes.

H.R. 13: A bill to repeal the 'carryover basis' provisions, which will restore the prior law which based tax consequences on appreciation of property in relation to its market value at the time of death, thus relieving inheritors of the burden of justifying and recording each property value of the related estate.

H.R. 85: Comprehensive Oil Pollution Liability and Compensation Act.

H.R. 365: Tax Indexing—To prevent inflation from creating a higher individual tax burden by adjusting individual income tax rates.

H.R. 1600: The Small Business Tax Relief Act of 1979.

H.R. 1776: The Administrative Rule-Making Reform Act—to provide for Congressional veto of bureaucratic regulatory decisions.

H.R. 1850: A bill to require the Federal Communications Commission to ensure that communities, regardless of size, are provided with maximum local fulltime radio broadcasting service.

H.R. 2493: A bill to exclude from gross income the interest earned on U.S. Savings Bonds received by citizens who have reached the age of 65.

H.R. 2519: Marine Protection, Research and Sanctuaries Amendments to research means of ending the dumping into ocean waters of material harmful to the environment, and promote the coordination of public and private research into related areas.

H.R. 2520: National Ocean Pollution and Development and Monitoring Planning Act Amendments.

H.R. 3558: Wind Energy Systems Research, Development, and Demonstration Act of 1979.

H.R. 4310: Recreational Boating Fund Act of 1979—to establish recreational boating safety and facilities improvement programs.

H.R. 4646: The Capital Cost Recovery Act of 1979—to amend the Tax Code to encourage growth, modernization, and productivity through increased capital investment and expanded employment opportunities.

H.R. 4986: The Depository Institutions Deregulation Act of 1979—to simplify financial regulations, allow credit union share draft programs and NOW accounts.

H.R. 5071: The Small Savers Act of 1979—to provide for a phase out of the federally imposed ceiling on interest rates on passbook savings accounts.

H.R. 5169: The Department of Energy Reorganization Act of 1979—to ensure that solar energy, renewable resources and energy conservation receive the highest national priority.

H.R. 5243: The National Fishery Development Act—to provide for a national program of fisheries research and development.

H.R. 5786: A bill to provide tax relief for residential users of home heating oil and refined petroleum products.

H.R. 6012: A bill to forbid taxation of social security benefits.

H.J. Res. 2: Balanced Budget Amendment—to amend the Constitution to provide a balanced budget except in times of declared war or national emergency.

H.J. Res. 395: Federal Spending Limitation Amendment—to protect American taxpayers against excessive government fiscal and monetary policies by limiting total fiscal outlays.

H. Con. Res. 15: A concurrent resolution to create a Congressional Senior Citizens Intern Program.

H. Con. Res. 201: A resolution to publicly condemn Vietnam, and to request the United Nations to consider imposing sanctions against Vietnam for violating the fundamental human rights of the people of Vietnam, Cambodia, and Laos.

Date	Legislative issue	Carney vote
1979		
Mar. 15	Increase the public debt limit through Sept. 30, 1979 up to $830 billion. (Approved, 212–195.)	No
Mar. 21	Establish a Select Committee on Narcotics Abuse and Control. (Approved, 383–75.)	Yes
Mar. 22	Authorize $19.3 million for the operations of the Arms Control and Disarmament Agency in fiscal 1980. (Approved 296–100.)	No
Mar. 28	Authorize $185 million for NASA's Space Shuttle Program. (Approved 354–39.)	Yes
Mar. 28	Authorize $4.8 billion for National Aeronautics and Space Administration in fiscal 1980. (Approved, 323–57.)	Yes
Mar. 29	Delete $2.5 million in foreign military aid to stop financing of arms sales to Panama. (Approved, 272–117.)	Yes
Apr. 2	Increase public debt limit to $830 billion through Sept. 30, 1979. (Approved, 209–165.)	No
Apr. 4	Amendment to prohibit appropriated foreign development aid to OPEC nations. (Rejected, 175–222.)	Yes
Apr. 24	Allow export of lottery materials and tickets by U.S. manufacturers to countries where lotteries are permitted. (Approved, 269–121.)	Yes
Apr. 24	Amendment to require a 10-percent across-the-board cut in State Department authorizations bill. (Approved, 207–196.)	Yes
Apr. 24	Second vote on previously adopted amendment for 10-percent across-the-board cut in State Department authorizations. (Rejected, 199–203.)	Yes
Apr. 24	Authorize $4.4 billion for State Department and related agencies through fiscal 1981. (Approved, 256–146.)	No
Apr. 25	Adopt conference report to reauthorize Council on Wage and Price Stability through Sept. 30, 1980 and to increase authorization to $8.5 million. (Approved, 240–168.)	No
Apr. 25	Authorize $85.2 million for conservation, exploration, development and use of Naval petroleum and oil shale reserves. (Approved, 394–12.)	Yes
May 2	Increase budget authority and outlays by $25 million and $20 million for disaster loans, and similarly increase by $200 million for targeted fiscal (Approved, 224–197.)	Yes
May 3	Reduce budget authority and outlays by $1.1 billion, representing cuts in Government travel, paperwork, and overtime. (Approved, 403–3.)	Yes
May 3	Amendment to balance the federal budget with revenues and outlays of $515 billion. (Rejected, 186–214)	Yes
May 7	Authorize the Treasury, for 5 years, to borrow securities from Federal Reserve Banks and sell them on the open market, and to obtain cash by selling securities to Federal Reserve only in unusual circumstances. (Rejected, 175–195.)	No
May 7	Cut categorical grant programs by $2.5 billion, and include $2.3 billion for general revenue sharing for the States. (Rejected, 147–237.)	Yes
May 7	Restore $2.3 billion in budget authority and outlays for general revenue sharing to State governments. (Rejected, 190–195.)	Yes
May 8	Increase budget authority by $83 million and outlays by $73 million for AMTRAK funding. (Rejected, 196–227,)	No
May 8	Reduce budget authority by $495 million and outlays by $95 million by 4 year phase out of Law Enforcement Assistance Administration (LEAA). (Rejected, 104–316.)	Yes
May 8	Transfer $2.3 billion to general revenue sharing for the States from foreign assistance programs. (Rejected, 199–214.)	Yes
May 9	Resolution urging Federal Republic of Germany to abolish, or extend beyond Dec. 31, 1979, the Statute of Limitations on the Prosecution of Nazi War Crimes, so that prosecution of these criminals may continue. (Approved unanimously, 401–0.)	Yes
May 9	Restore approximately one-half of the budget authority and outlays for general revenue sharing for State governments. (Rejected, 203–216.)	Yes
May 9	Amendment to reduce 1980 budget deficit by $65 billion to $18.7 billion. (Rejected, 198–218.)	Yes
May 10	Amendment to reduce 1980 budget revenues by $7.8 million and reduce 1979 budget authority and outlays by $1.4 billion. (Rejected, 182–229.)	Yes
May 10	Resolutions for gasoline rationing plan requiring use of ration coupons in an emergency (Rejected, 159–246.)	No
May 14	Allow waivers of disclosure requirements for part-time Federal employees and consultants, and technical modifications in the 1978 Ethics in Government Act. (Approved, 338–49.)	Yes
May 14	Authorize $550,000 in fiscal 1980 for the National Advisory Committee on Oceans and Atmosphere which provides independent advice on marine and atmosphere programs. (Approved, 340–36.)	Yes
May 22	Amendment to lower interest rates on homeowner disaster loans to 1 percent on first $10,000 borrowed and 3 percent on amounts between $10,000 and $55,000. (Rejected, 174–232.)	Yes
May 22	Authorize $5.3 billion for Small Business Administration programs for fiscal 1980–82. (Approved, 398–5.)	Yes
May 23	Remove authorization ceiling for funding the District of Columbia share of construction costs for area subway system. (Approved, 357–49.)	No
1979		
May 30	Adopt conference report to establish new programs, readjust assistance, and require Congressional approval prior to major new construction or leasing appropriations for the Veterans Administration. (Approved unanimously, 342–0.)	Yes
May 30	Authorize $4.8 billion in special assistance to aid Egypt and Israel in implementing the Middle East Peace Treaty. (Approved, 347–28.)	Yes
May 31	Amendment to prohibit development of the M–X missile and basing system. (Rejected, 89–311.)	No
June 5	Establish within the Veterans Administration, centers of geriatric research, education and clinical operations. (Approved unanimously, 406–0.)	Yes
June 6	Provide incentives to encourage disabled recipients of Supplemental Security Income (SSI) benefits to return to work. (Approved. 374–3.)	Yes
June 7	Amendment to reduce paperwork by consolidating and simplifying forms used in Federal housing programs. (Approved, 366–16.)	Yes
June 7	Exclude Social Security cost-of-living increases when calculating income to determine rent in assisted housing. (Approved, 311–79.)	Yes
June 8	Authorize $14 million for U.S. Civil Rights Commission for fiscal 1980. (Approved, 276–14.)	Yes
June 11	Establish as one of purposes of proposed Department of Education, to permit daily opportunities for voluntary prayer and meditation in public schools. (Approved, 255–122.)	Yes
June 11	Limit future budget authority of proposed Department of Education to the existing funding programs transferred into it, with allowances for cost increases. (Rejected, 184–187.)	Yes
June 11	Prohibit authorization for proposed Department of Education to require forced busing to achieve racial balance as condition for Federal assistance. (Approved, 227–135.)	Yes
June 12	Add to purpose of proposed Department of Education, the goal of insuring that no one be denied access to education opportunities because of racial or sexual ratios or quotas. (Approved, 277–126.)	Yes
June 13	Lower to 5.5 percent, fiscal 1980 salary increases for Federal cr District of Columbia employees whose salary is over $47,500. (Approved, 396–15.)	Yes
June 13	Reduce fiscal 1980 appropriations for House Member's official expenses by $2 million. (Rejected, 204–213.)	Yes
June 13	Appropriation of $952,878,400 for legislative branch in fiscal 1980. (Rejected, 186–232.)	No
June 13	Provide rule for House consideration of authorizations of $10.7 billion for energy and water development programs (Approved, 386–34.)	Yes
June 15	Special resolution of inquiry to direct the President to provide House with information on crude oil and refined petroleum supplies. (Approved, 340–4.)	Yes
June 18	Resolution expressing sense of the House that the President should urge the United Nations to take measures to aid refugees fleeing from Indochina. (Approved, unanimously, 336–0.)	Yes
June 18	Appropriate $5 million to Nuclear Regulatory Commission (NRC) for onsite inspectors at nuclear powerplants. (Approved, 350–10.)	Yes
June 21	Amendment to charge to Panama the $75 million military costs incurred as a result of implementing the treaty. (Rejected, 210–213.)	Yes
June 21	Implement the Panama Canal Treaties by creating a Panama Canal Commission, requiring Congressional approval of all spending by Commission. (Approved, 224–202.)	No
June 22	Provide $4 million for groundwater contamination research and $6 million for research into methods of controlling hazardous substances to Environmental Protection Agency. (Rejected, 129–237.)	Yes
June 22	Provide EPA with $10 million for research into and $10 million for emergency measures to control hazardous wastes (Rejected, 136–219)	Yes
June 26	Allow elderly to exclude certain expenses for medical and shelter purposes in computing food stamp benefits. (Approved, 405–8.)	Yes
June 26	Encourage synthetic fuels production, at oil equivalent of 2 million barrels per day by 1990, through contracts, loans, and loan guarantees. (Approved, 368–25.)	Yes
June 27	Amendment to allow exceptions in the prohibition on use of funds to pay for abortions. (Rejected, 180–241.)	No
June 27	Amendment to prohibit Occupational Safety and Health Administration (OSHA) inspectors from visiting a work-site within 6 months of inspection by State Safety and Health Agency, with exceptions for substantial cases. (Approved, 236–176.)	Yes
June 28	Providing for a 60-percent rate for a "windfall profits tax," with discontinuation of the tax at the end of 1990. (Approved, 236–183.)	Yes
July 11	Resolution to disapprove reorganization of most foreign aid programs with creation of new agency, the International Development Cooperation Agency. (Rejected, 156–256.)	Yes
July 12	Reduce appropriations for the State Department by 5 percent. (Approved, 210–199.)	Yes
July 12	Appropriate $7,562,450,550 in fiscal 1980 for the operations of the Departments of State, Justice, and Commerce, and related agencies. (Approved, 299–93)	No

Date	Legislative issue	Carney vote
1979		
July 13	Prohibit use of Treasury appropriations to collect any tax imposed by Internal Revenue Service unless IRS employees' conduct complied with Fair Debt Collection Practices Act. (Approved, 299–69.)	Yes
July 13	Prohibit use of appropriated funds to effectuate rules or policies which would cause the loss of tax-exempt status of any private or religious school unless rule was in effect prior to Aug. 22, 1978. (Approved 297–63.)	Yes
July 16	Provide for cost-of-living increase in compensation rates for disabled veterans and their survivors. (Approved unanimously, 350–0.)	Yes
July 16	Require that unused portion of Presidential expense account of $50,000 shall revert to the Treasury, and prohibit use for any other purpose. (Approved, 294–90.)	Yes
July 17	Insist, in conference with Senate, on amendment to make a purpose of the proposed Department of Education the goal of ensuring that no one is denied access to education on account of racial or sexual quotas. (Approved, 214–202.)	Yes
July 18	Reduce by $144.9 million, the appropriations to the International Board for Reconstruction and Development (of the World Bank.) (Approved, 219–196.)	Yes
July 18	Cut an additional $1,000,000 from appropriations to the International Development Association (IDA), an arm of the World Bank. (Approved, 242–177.)	Yes
July 18	Prohibit use of funds by IDA for assistance on reparations to Vietnam. (Approved, 291–122.)	Yes
July 20	Reduce reserve requirements for members of Federal Reserve System and establish system of mandatory universal reserve requirements for dropping checking account deposits. (Approved, 340–20.)	Yes
July 24	Prohibit compelling students to attend a school, other than the one nearest their home, to achieve racial desegregation. (A proposed Constitutional Amendment). (Rejected, 209–216.)	Yes
July 24	Extend moratorium on the Food and Drug Administration ban on saccharine through June 30, 1981, and require warnings on product labels. (Approved, 394–22.)	Yes
July 25	Authorize $1.1 billion for fiscal 1980, $40.5 million for fiscal 1981, and $958.5 million for fiscal 1982 for retaining AMTRAK passenger trains. (Approved, 397–18.)	Yes
July 25	Require President to submit a standby gasoline rationing plan to Congress within 180 days of enactment, and then giving Congress 60 days to approve plan. (Rejected, 185–234.)	Yes
July 25	Amendment to give either House or Senate 30 days to veto any standby rationing plan submitted by the President. (Approved, 232–187.)	Yes
July 25	Delete exemptions through Jan. 1, 1982 for employers from paying Federal unemployment insurance tax for certain temporary alien farm workers. (Rejected, 85–325.)	No
July 27	Prohibit use of construction differential subsidies for vessels manned by crews that number greater than 50 percent of minimum, determined necessary for safe operation by Coast Guard. (Approved, 196–183.)	Yes
July 27	Authorize $103 million for construction and other aid for nurse training schools. (Approved, 344–6.)	Yes
July 30	Insist on House provisions in conference with Senate regarding legislation to implement the Panama Canal Treaties. (Approved, 308–98.)	Yes
July 31	Censure of Representative Charles Diggs (D. Michigan), and order Diggs to repay the Treasury $40,031.60 and require certification of proper payment of employees to House Committee on Standards of Official Conduct. (Approved unanimously, 414–0.)	Yes
July 31	Delete requirement that a 20-percent shortage of petroleum exist before gasoline rationing may be imposed. (Rejected, 63–356.)	No
Aug. 1	Prohibit a Federal conservation plan from restricting the operating hours of a business. (Rejected, 190–224.)	Yes
Aug. 1	Prohibit a Federal conservation plan from regulating the operation of any energy production, exploration, processing or transportation facility unless the facility were first given a chance to save energy through other measures. (Rejected, 203–209.)	Yes
Aug. 1	Exempt health care facilities from Federal conservation measures. (Approved, 244–170.)	Yes
Aug. 1	Require President to set aside middle distillate oil in order to provide supplies for agricultural production (upon finding of supply shortage.) (Approved, 229–191.)	Yes
Aug. 1	Require President to set aside heating oil to provide supplies to homeowners (upon finding of supply shortage.) (Approved, 233–187.)	Yes
Aug. 2	Increase spending ceiling for the Food Stamp Program for fiscal 1979, and provide elderly and disabled recipients increased deductions for medical and shelter costs. (Approved, 336–72.)	Yes
Aug. 2	Authorize $1.98 billion in fiscal 1980 for foreign economic aid programs and the Peace Corps. (Approved, 223–181.)	No
Aug. 2	Amend Social Security Act to raise to $3.1 billion the permanent ceiling on Federal matching expenditures for State Social Service and child welfare programs. (Approved, 401–2)	Yes
Sept. 5	Reduce appropriations for the United Nations Development Program to fiscal 1979 level of $126,050,000. (Approved, 234–119.)	Yes
Sept. 5	Prohibit use of foreign assistance appropriations for indirect aid as well as direct aid to Angola, the Central African Empire, Cambodia, Laos, and Vietnam. (Approved, 281–117.)	Yes
Sept. 6	Amend substitute foreign aid bill to provide that appropriations for Israel, Egypt, disaster relief, refugee assistance and nutrition programs be exempt from reduction. (Approved, 395–12.)	Yes
Sept. 6	Provide incentive assistance for disabled workers who attempt to return to work and place cap on future benefits to disabled workers. (Approved, 235–162.)	Yes
Sept. 11	Authorize all depository institutions to provide interest-bearing checking on share-draft accounts (including N.O.W. accounts). (Approved, 367–39.)	Yes
Sept. 18	Strengthen Federal safety regulation of pipeline transportation and storage of liquified natural gas, liquified petroleum gas and natural gas. (Approved, 357–20.)	Yes
Sept. 18	Add $6 million of Department of Transportation appropriations for bicycle projects. (Rejected, 111–296.)	No
Sept. 18	Prohibit use of fiscal 1980 transportation funds to enforce regulations requiring air bags in passenger motor vehicles. (Approved, 228–185.)	Yes
Sept. 18	Appropriate $9.8 billion for the Transportation Department for fiscal 1980, including funds for AMTRAK passenger trains and other mass transit. (Approved, 335–71.)	Yes
Sept. 19	Raise by 7 percent the salaries of Members of Congress, Federal judges, and other top-level Federal employees, and provide continuing appropriations for existing Federal programs through Dec. 31, 1979. (Rejected, 191–219.)	No
1979		
Sept. 20	(Same as previous vote on Sept. 19, 1979) (Rejected, 196–212.)	No
Sept. 20	Increase public debt limit through July 31, 1980 to $885 billion. (Rejected, 200–215.)	No
Sept. 20	Adopt conference report to implement the Panama Canal Treaties by establishing Commission and providing for operation and maintenance through 1999. (Rejected, 192–203.)	No
Sept. 21	Provide for House floor consideration of bill to authorize $231 million for grants for emergency medical services and related activities for fiscal 1980–82. (Approved, 345–1.)	Yes
Sept. 25	Raise by 5.5 percent salaries of Members of Congress, Federal judges, and other top-level Federal employees, and provide continuing appropriations for existing Federal programs for the first quarter of fiscal 1980. (Approved, 208–203)	No
Sept. 26	Adopt conference report on bill to implement Panama Canal Treaties thus clearing the bill for the President's signature. (Approved, 232–188.)	No
Sept. 26	Increase the public debt limit through May 31, 1980 to $879 billion. (Approved, 219–198.)	No
Sept. 27	Create a new Cabinet-level Department of Education. (Approved, 215–201.)	No
Sept. 28	Appropriate $129.9 billion for programs of the Department of Defense in fiscal 1980. (Approved, 305–49.)	Yes
Sept. 28	Expand authority of Federal magistrates to handle jury and nonjury civil trials and criminal misdemeanors if the parties consent. (Approved, 273–38.)	Yes
Oct. 9	Require tire manufacturers in certain circumstances to provide public notice of tire defects. (Approved, 380–9.)	Yes
Oct. 11	Prohibit use of appropriated funds for expenditures relating to lifting price regulations on certain types of domestic crude oil. (Rejected, 135–257.)	No
Oct. 12	Prohibit the use of Energy Department funds to allocate, or regulate the price of, gasoline. (Approved, 191–188.)	Yes
Oct. 12	Authorize the President to reimpose gasoline allocation system and price regulations in an emergency. (Rejected, 182–191.)	No
Oct. 16	Revise the vocational rehabilitation program for disabled veterans and also revise the administration of GI bill educational benefits. (Approved, 386–24.)	Yes
Oct. 16	Authorize $1.95 billion in fiscal 1980 for Justice Department and related agency programs. (Approved, 386–24.)	Yes
Oct. 16	Authorize $221.5 million for alcohol abuse programs and $206 million for drug abuse programs in fiscal 1980. (Approved, 396–8.)	Yes
Oct. 18	Require the Energy Department, in its selection of nuclear waste disposal sites, give top priority to sites in States where existing disposal sites or nuclear test sites were located. (Approved 208–197.)	Yes
Oct. 18	Require that 12 percent of research and development contracts of the Energy Department go to small businesses, unless the Secretary determined meeting the goal to be impractical. (Approved, 220–168.)	Yes
Oct. 19	Authorize closed sessions of the House-Senate conference in regard to classified information concerning the strategic materials stockpile. (Approved unanimously, 358–0.)	Yes
Oct. 19	Provide for floor consideration of bill to authorize fiscal 1980–82 funds to implement provisions of Endangered Species Act. (Approved, 320–9.)	Yes
Oct. 31	Grant consent of Congress, as provided by the Constitution, of the New York-New Jersey Port Authority Pact. (Approved unanimously, 412–0)	Yes
Oct. 23	Grant States primary responsibility for energy conservation and provide reduced Congressional role in approval of a standby gasoline rationing plan. (Approved, 301–112.)	Yes
Oct. 24	Prohibit the use of appropriated funds to allocate, or regulate the price of gasoline, (Rejected, 189–225.)	Yes
Oct. 24	Authorize guaranteed farm loans at negotiated interest rates under certain conditions, including requiring evidence that an applicant had been unable to obtain private credit elsewhere. (Approved, 326–84.)	Yes
Oct. 24	Establish specific annual lending levels for the Farmers Home Administration and Rural Development loan programs in 1980–82. (Approved, 393–14.)	Yes
Oct. 25	Provide for House floor consideration of supplemental funds of $1.35 billion in low-income emergency fuel assistance, (Approved, 355–47.)	Yes
Oct. 25	Amendment to allow payments of emergency fuel assistance to renters whose heat is supplied by electricity. (Approved, 381–17.)	Yes
Oct. 25	Amendment to distribute the entire $1.35 billion of emergency fuel assistance in the form of block grants to States, allowing them to set up own fuel assistance programs. (Rejected, 183–207.)	Yes
Oct. 25	Appropriate $1.35 billion for fiscal 1980 for emergency low-income fuel assistance. (Approved, 290–105.)	Yes
Oct. 25	Authorize $207.3 million in fiscal 1980 and $203.6 million in fiscal 1981 for assistance to refugees, and $30 million for emergency starvation relief aid to Cambodia. (Approved, 301–69.)	Yes
Oct. 26	Authorize an active duty military force of 2,051,700 and $41.4 billion for Defense Department procurement programs. (Approved, 300–26.)	Yes
Nov. 1	Establish an Energy Mobilization Board to expedite construction of priority energy projects. (Approved, 299–107.)	Yes
Nov. 7	Allow States to ask the Agriculture Department to provide cash, in lieu of food stamps, to households containing only persons 65 or older who were not eligible for Supplemental Security Income payments. (Approved, 406–2.)	Yes
Nov. 7	Establish a national minimum welfare benefit, require States to provide coverage to unemployed two-parent families with children, and make certain administrative changes. (Approved, 222–184.)	No
Nov. 8	Extend milk price supports of at least 80% parity through September, 1981. (Approved, 310–64.)	No
Nov. 9	Agree to Senate amendment to specify a formula weighted toward colder States to be used in distributing $1.35 billion in emergency fuel assistance. (Approved, 192–103.)	Yes
Nov. 14	Delete sections of Public Works and Economic Development Bill relating to the regional development planning process, federal coordination of regional programs, and technical assistance to regional commissions. (Rejected, 137–262.)	No
Nov. 14	Authorize regional development commissions, extend public works and development funding to economically depressed areas through fiscal 1981, and establish a standby local program to be activated in periods of high unemployment. (Approved, 301–99.)	Yes
Nov. 15	Establish a national study commission on hospital costs, and authorize $10 million in fiscal 1980 for State programs of hospital cost control. (Approved, 321–75.)	Yes
Dec. 4	Authorize $100 million for research, development and demonstration of wind energy systems. (Approved, 383–23.)	Yes
Dec. 4	Develop a national policy to promote research and development programs to provide adequate and stable supply of strategic and industrial minerals. (Approved, 398–8.)	Yes

THE RHODESIAN SETTLEMENT: NO CHEERS FOR JIMMY

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. ASHBROOK. Mr. Speaker, Mrs. Thatcher is now in America, and it is time to look at her record on foreign policy. The centerpiece to her first year as British Prime Minister is the settlement in Rhodesia. This gamble by her government has so far paid off with the moderate forces within the existing Muzorewa government being listened to more than the terrorists in the bush. The arrival of Lord Soames as Colonial Governor for the transition phase of the settlement received a unanimous vote of confidence from the Rhodesian Parliament as it voted 90 to 0 to dissolve in favor of the transition government. These developments in Rhodesia are a reassuring example that hardnosed diplomacy can and does work in the face of terrorist aggression.

The months of negotiation by Lord Carrington with the various factions of Rhodesia brought about a tentatively successful resolution of the growing conflict in southern Africa. If the settlement holds up it will stem the tide of disarray that has been fostered by Cuba and the Soviets. An independent and peaceful Rhodesia will serve to break the rhetorical backs of those who find only violence to be the answer in achieving solutions in Africa. England and its Conservative Government should be commended for its resolve to stay with this issue to the end and its perseverance in assuring the radical elements did not prevail.

The so far shining record of the Thatcher administration's handling of Rhodesia contrasts with the shabby and bungled efforts by the Carter administration. Throughout the Rhodesia talks Mr. Carter refused to offer any hope to the Muzorewa government in Salisbury. The U.S. sanctions on Rhodesia were kept up in spite of congressional pressure to lift the bans and the fact that the British lifted trade restrictions in early November as a good-faith effort. Only this last week did Jimmy Carter finally lift the sanctions on Rhodesia.

Mr. Carter was lucky this time. Had Rhodesia gone under because of lack of goods or had their military folded because of lack of allies Jimmy would have had one more anti-American nation to contend with. Thankfully the British saw fit to step into the situation and bolster the voices of moderation while seeking a peaceful settlement. At least in London there is no need to listen to such voices of disarray as Andy Young and Donald McHenry, who are still opposed to the sanctions being lifted.

The contrasts between the British and American moves in Rhodesia show the overall weakness in Mr. Carter's foreign policy. He has become so accustomed to capitulating at the drop of a hat he cannot understand the concept of peaceful settlements where the pro-West forces actually survive. This is a lesson that should not be lost on the American public. As we enter the 1980's this Nation must decide early what path it plans to follow in the coming decade. We can continue with the Carterite policy of appeasement that would have lost Rhodesia like it lost Nicaragua and Iran, or we can follow the lead of our mother nation and begin to once again stand up for principle and forcefully employ morality to assure a peaceful world.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, December 20, 1979, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

DECEMBER 21

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the enforcement of fair mortgage lending laws and regulations.
5302 Dirksen Building

Joint Economic
To resume hearings on the Consumer Price Index figures and inflationary trends.
2128 Rayburn Building

JANUARY 14

10:00 a.m.
Select on Indian Affairs
To hold hearings on S. 1466, to provide for the payment of Indian Claims Commission judgments in favor of the Delaware Tribe of Indians and the absentee Delaware Tribe of Western Oklahoma.
5110 Dirksen Building

JANUARY 15

10:00 a.m.
Banking, Housing, and Urban Affairs.
International Finance Subcommittee
To hold hearings to examine U.S. trade and technological competitiveness with other industrialized countries, focusing on a report by the International Trade Commission on international trade in integrated circuits relating to the electronics industry.
5302 Dirksen Building

JANUARY 21

10:00 a.m.
Select on Indian Affairs
To hold hearings on H.R. 3979, to modify and ease certain Federal laws restricting commercial transactions between Indians and Federal employees.
5110 Dirksen Building

JANUARY 29

10:00 a.m.
Select on Indian Affairs
To hold hearings on S. 1507, to provide for the purchase of certain facilities, lands, and water rights in and around the San Luis Rey River, San Diego, California, to be held in trust for, and operated and maintained by certain boards of Mission Indians.
5110 Dirksen Building

JANUARY 30

10:00 a.m.
Finance
Taxation and Debt Management Generally Subcommittee
To hold hearings on S. 219, to provide a Federal income tax deduction to taxpayers who make a charitable deduction whether or not they itemize their other deductions.
2221 Dirksen Building

Select on Indian Affairs
To hold hearings on S. 2055, to establish a reservation for the confederated tribes of Siletz Indians of Oregon.
5110 Dirksen Building

JANUARY 31

10:30 a.m.
Finance
Taxation and Debt Management Generally Subcommittee
To continue hearings on S. 219, to provide a Federal income tax deduction to taxpayers who make a charitable deduction whether or not they itemize their other deductions.
1318 Dirksen Building

FEBRUARY 5

10:00 a.m.
Select on Indian Affairs
To hold hearings on S. 1998, to provide for certain public lands to be held in trust by the United States for the Tule River Indian Tribe.
5110 Dirksen Building

HOUSE OF REPRESENTATIVES—*Thursday, December 20, 1979*

The House met at 10 a.m.

The Reverend Gabriel Duffy, St. Ambrose Catholic Church, Cheverly, Md., offered the following prayer:

Blessed heavenly Father, You are our good and wonderful God. Hear us as we call upon You at the beginning of this session of the House of Representatives of the United States of America. Fill this assembly with the presence of Your holy spirit and give this House that same mind which You have, Father, toward

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☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

all Your creatures. May its Members love and do good toward others as You yourself love and do good toward them.

Guide this assembly to work for that justice which brings peace. Help them to understand, in these troubled times, that vengeance and anger are Yours alone, Lord, so that all their work will reflect their conviction that only love and peace will bring an end to division, hatred, and violence. Make our Nation mighty in goodness, Father. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and a joint resolution of the House of the following titles:

On December 14, 1979:

H.R. 3407. An act to waive the time limitation on the award of certain military decorations to members of the Intelligence and Reconnaissance Platoon of the 394th Infantry Division, for acts of valor performed during the Battle of the Bulge; and

H.R. 4732. An act to fix the annual rates of pay for the Architect of the Capitol and the Assistant Architect of the Capitol.

On December 16, 1979:

H.J. Res. 458. Joint resolution to authorize and request the President to issue a proclamation designating December 18, 1979, "National Unity Day."

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill and concurrent resolution of the House of the following titles:

H.R. 5523. An act to establish an improved program for extra long staple cotton; and

H. Con. Res. 219. Concurrent resolution calling for an international conference on Cambodia.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1143) entitled "An act to extend the authorization for appropriations for the Endangered Species Act of 1973, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate to a bill of the House of the following title:

H.R. 595. An act to authorize the Administrator of General Services to dispose of 35,000 long tons of tin in the national and supplemental stockpiles, to provide for the deposit of moneys received from the sale of such tin, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate to the amendments of the House to a bill of the House of the following title:

H.R. 4998. An act to amend the Federal Reserve Act to require that detailed minutes of Federal Open Market Committee meetings shall be published on a deferred basis.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5010. An act to amend the Federal Election Campaign Act of 1971 to make certain changes in the reporting and disclosure requirements of such act, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5860. An act to authorize loan guarantees to the Chrysler Corp.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5860) entitled "An act to authorize loan guarantees to the Chrysler Corp." requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PROXMIRE, Mr. STEVENSON, Mr. RIEGLE, Mr. TSONGAS, Mr. GARN, Mrs. KASSEBAUM, and Mr. LUGAR to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 63. Concurrent resolution to disapprove the Location of Chanceries Amendment Act of 1979, passed by the city Council of the District of Columbia.

APPOINTMENT OF CONFEREES ON H.R. 5860, LOAN GUARANTEE ACT OF 1979

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5860) to authorize loan guarantees to the Chrysler Corp., with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. BAUMAN. Reserving the right to object, may I ask the gentleman from Pennsylvania if we conclude action on the conference today, might we be able to adjourn sine die later today?

The SPEAKER. The Chair will answer the question.

It is the intent of the leadership that the House adopt a concurrent resolution returning January 22, 1980, to conduct business. The House would remain in pro forma sessions at which no business would be considered. In light of the situation in Iran it is felt the House could more easily be called back under that procedure.

It is the hope of the Chair that upon the completion of the conference report on the Chrysler matter by both Houses there would be no further business until January 22, 1980.

Mr. BAUMAN. I thank the Chair. I also assume there would be a session on January 3, 1980, for organizational purposes.

The SPEAKER. The House would meet on January 3 as required by the Constitution but not for organizational or legislative business. A quorum would not be required until January 22, 1980, or unless called back earlier by the leadership to conduct business.

Mr. BAUMAN. I thank the Chair and want to wish everyone a Merry Christmas based on that statement.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania? The Chair hears none, and appoints the following conferees: Messrs. REUSS, MOORHEAD of Pennsylvania, BLANCHARD, LUNDINE, STANTON, and McKINNEY.

DISCONTINUATION OF MAILING OF INCOME TAX FORMS NOT NEEDED BY TAXPAYERS

(Mr. PETRI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETRI. Mr. Speaker, this week I introduced legislation modeled after a provision that has been used successfully in California.

The bill would give people the option of requesting that no tax forms be sent to them. Individuals would have the option of checking a box indicating they do not wish to have their returns sent to them in future years.

Instead of receiving the complete form packet, these taxpayers would receive a postcard with their computer label on it. They could take the card to their tax preparation service who would then prepare the form and place the label on the tax return.

Many people do not prepare their own tax returns. Figures indicate that over 40 percent of tax forms are prepared by tax services of one kind or another. In most cases, these services do not use the forms that are mailed to the individuals. As a result, many of the forms sent out by the Federal Government are wasted.

In California, about 10 percent of the people indicate that they do not want the full packet of forms sent to them. This saves the State of California about $600,000 each year in postage and paper. On a nationwide basis, this 10 percent would save the taxpayers over $1.5 million.

We talk in Congress about excessive paperwork in Government. This bill is one small step toward cutting waste and paperwork.

□ 1010

DEPARTMENT OF ENERGY PLANS BACKDOOR INCREASE IN GASOLINE TAX OF UP TO 30 CENTS PER GALLON

(Mr. STOCKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STOCKMAN. Mr. Speaker, I was disturbed to read in the morning paper that the Department of Energy is formulating plans to impose a backdoor increase in the gasoline tax of up to 30 cents per gallon.

I consider the proposed strategem, a $5 crude oil import fee and an entitlement payment scheme designed to load the entire fee onto the pump price of gasoline to be a serious abuse of Presidential authority under the trade Expansion Act.

If there is to be any change in the Federal gasoline tax, it should be considered, debated and voted upon by the Congress. And it should be posted on the pump so that consumers wil know it is the Government reaching into their pockets still deeper.

Disguising a massive increase in the gas tax in hundreds of pages of entitlement regulations is a new low in bureaucratic deceit and an insult to Congress and the American people.

Every Member remains ready to cooperate on meaningful measures to increase our domestic supply, encourage effective conservation and reduce our dependence upon imported oil. But the Congress has gone on record repeatedly against the notion that a drastic increase in gasoline or other petroleum taxes is a productive, effective, and fair way to solve our national energy problem.

During a year in which gasoline prices have already risen by 65 percent and the American people have responded with a significant reduction in gasoline use, this judgment is more valid than ever before. We will not tolerate efforts to transform the Nation's serious energy problem into an excuse for increasing still further the stiffing tax burden on the American people.

PRESIDENT SHOULD NOT PROCEED WITH JANUARY DECONTROL UNTIL CONGRESS PRESENTS HIM WITH WINDFALL TAX BILL HE CAN SIGN

(Mr. VANIK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VANIK. Mr. Speaker, I have today urged President Carter to suspend or delay the further decontrol of oil scheduled in January until the Congress determines its policy on windfall taxes.

If the President proceeds with the decontrol scheduled for January—

First. Tier I oil continues to decline but at a faster rate of 3 percent;

Second. Tier II oil begins to phase out at the rate of 4.6 percent per month; and

Third. Remaining 20 percent of marginal property is decontrolled (80 percent previously decontrolled).

The President should not proceed with January decontrol until Congress presents him with a windfall tax bill he can sign.

ETZION AND EITAM ISRAELI BASES

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, Etzion and Eitam, these two names are not familiar to most Americans. They should be. They are the names of the two key Israeli air bases in the Sinai Desert that our Nation urged, rather I should say insisted that the Israelis give to the Egyptians. These are the two most sophisticated, hardened and modern air bases in the entire world. If we look at the total situation now in this current Middle Eastern crisis, we must realize trouble is here to stay for decades. Fifty Americans are bound like animals in an American Embassy, three more foreign service officers under house arrest at the Iranian foreign ministry and several hundred more Americans spread out across Iran, some of them too inexperienced to have gotten out, some of them too frightened to get out then or now, hiding in their apartments. If we look at the amount of domestic oil we depend on from foreign sources, 43 percent, I repeat 43 percent, that is an astounding 8½ million barrels of oil each and every day, then the United States of America should consider our lack of strategic weakness in the Middle East. We should ask our friends, the Egyptians, to let us lease these two critical air bases, Etzion and Eitam, to give the United States a credible basing for a dependable air bridge over to the Middle East, a credible "air cap" over all of our allied naval refueling sources, a precious few, a credible air cap over our sea lift capability, those sea lanes that are so vital to the very survival of our American free enterprise system.

I said yesterday that we should give extensive reflection to our entire strategic posture in this most historic and sensitive of all the world's geographic pressure points. As far as our loyal ally, Israel, is concerned, we need them as much as they need us. The beginning of that realistic appraisal of our healthy long-standing and mutually beneficial friendship should begin anew with a hard look at these two magnificient air bases, Etzion and Eitam in the Sinai Desert. Here is the ideal place to locate our Middle Eastern "homeplate", from which American eagles can be sent forth to protect our life-sustaining sealanes and keep the peace.

NOAA CORPS STATUS EQUALIZATION LEGISLATION

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 1454) to amend the act of August 10, 1956, as amended; section 716 of title 10, United States Code; section 1006 of title 37, United States Code; and sections 8501(1)(B) and 8521(a)(1) of title 5, United States Code.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. SNYDER. Mr. Speaker, reserving the right to object, I do so to yield to the chairman so the gentleman can explain what is going on here.

Mr. MURPHY of New York. Mr. Speaker, I thank my distinguished colleague from Kentucky.

Mr. Speaker, we are all familiar with the scientific endeavors of the National Oceanic and Atmospheric Administration, more commonly known as NOAA. Behind this program are the NOAA Commissioned Officers Corps who "man" the 24 vessels of the NOAA fleet. NOAA Corps is an essential part of every oceanographic study completed by NOAA.

Therefore, this legislation would permit the permanent voluntary transfer of commissioned officers of the Armed Forces and NOAA when authorized by the Secretaries concerned.

As you know, such interservice transfers are presently authorized between the military services and between the Coast Guard. This legislation would expand the existing authority to include the Commissioned Officers Corps of NOAA.

In conjunction with U.S. efforts in marine and atmospheric sciences and engineering, there is a continuing need for expertise in the NOAA Commissioned Officer Corps. This legislation will serve to accommodate the varying needs of the services as well as afford individual officers an opportunity to continue a uniformed service career when their original organization can no longer effectively utilize their skills.

This legislation would also amend existing laws to bring the Commissioned Officer Corps of NOAA into closer parity with the officers of the Armed Forces for purposes of unemployment compensation and advance payment of pay and allowances.

S. 1454 was jointly referred to the Committees on Armed Services, Merchant Marine and Fisheries, and Ways and Means.

The Ways and Means Committee reported S. 1454 with a technical amendment on October 19, 1979. The Merchant Marine and Fisheries Committee has jurisdiction over the Commissioned Officers Corps of NOAA and reported S. 1454 without amendment.

The Armed Services Committee reported the bill on December 11 with a technical amendment and a provision to amend the title. The committees are in agreement with the amendments offered.

In conclusion, Mr. Speaker, in light of the benefits afforded the NOAA Corps, enactment of this legislation would require no additional appropriations and would benefit both the Government and the individual by making available the option of transferring between NOAA and the Armed Services.

Mr. SNYDER. Mr. Speaker, I thank the gentleman for his explanation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1454

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(a) of the Act of August 10, 1956, as amended (70A Stat. 619) (33 U.S.C. 857a(a)), is amended by adding at the end thereof the following new paragraph:

"(13) Section 716, Commissioned officers: transfers between armed forces.".

SEC. 2. Section 716 of title 10, United States Code, is amended—

(1) by inserting the words "or the Commissioned Corps of the National Oceanic and Atmospheric Administration" after the term "armed force" wherever it appears in the first sentence;

(2) in the second sentence, by striking out the word "and" after the word "Defense" and inserting in place thereof a comma, and by inserting after the word "operating" the words ", and the Secretary of Commerce"; and

(3) inserting the following sentence at the end thereof: "An officer transferred under this section shall be credited for retirement and pay purposes with the same years of service with which he had been credited on the day before his transfer.".

SEC. 3. Section 1006 of title 37, United States Code, is amended by inserting the following sentence at the end of subsection (a): "For the purpose of this section the term 'armed force' includes the Commissioned Corps of the National Oceanic and Atmospheric Administration."

SEC. 4. Title 5, United States Code, is amended as follows:

(1) Clause (1)(B) of section 8501 is amended to read "(B) as a member of the armed forces or the Commissioned Corps of the National Oceanic and Atmospheric Administration;" and

(2) Clause (a)(1) of section 8521 is amended by inserting the phrase "or the Commissioned Corps of the National Oceanic and Atmospheric Administration" after the phrase "armed forces".

WAYS AND MEANS COMMITTEE AMENDMENT

The SPEAKER. The Clerk will report the Ways and Means Committee amendment.

The Clerk read as follows:

Page 5, strike out line 19 and all that follows down through line 4 on page 6, and insert the following:

SEC. 4. (a) Subparagraph (B) of section 8501(1). of title 5, United States Code, is amended to read as follows:

"(B) as a member of the armed forces or the Commissioned Corps of the National Oceanic and Atmospheric Administration;".

(b) Paragraph (1) of section 8521(a) of title 5, United States Code, is amended by inserting "or the Commissioned Corps of the National Oceanic and Atmospheric Administration" after "armed forces".

(c) The amendments made by this section shall apply with respect to assignments of services and wages pursuant to any first claim (for a benefit year) which is filed after the date of the enactment of this Act.

Mr. MURPHY of New York (during the reading). Mr. Speaker, I ask unanimous consent that all the committee amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

ARMED SERVICES COMMITTEE AMENDMENT

The Armed Services Committee amendment is as follows:

Page 2, strike out line 3 and all that follows down through line 5 on page 3 and insert in lieu thereof the following:

That section 3(a) of the Act of August 10, 1956 (70A Stat. 619; 33 U.S.C. 857a(a)), is amended by adding at the end thereof the following new clause:

(13) Section 716, Commissioned officers: transfers between armed forces and to and from National Oceanic and Atmospheric Administration.

SEC. 2. (a) Section 716 of title 10, United States Code, is amended to read as follows:

"§ 716. Commissioned officers: transfers between armed forces and to and from National Oceanic and Atmospheric Administration

"(a) Notwithstanding any other provision of law, the President may, within authorized strengths, transfer any commissioned officer with his consent from his armed force or from the National Oceanic and Atmospheric Administration to, and appoint him in, any other armed force or the National Oceanic and Atmospheric Administration. The Secretary of Defense, the Secretary of the department in which the Coast Guard is operating, and the Secretary of Commerce shall jointly establish, by regulations approved by the President, policies, and procedures for such transfers and appointments.

"(b) An officer transferred under this section—

"(1) may not be assigned precedence or relative rank higher than that which he held on the day before his transfer; and

"(2) shall be credited for retirement and pay purposes with the same years of service with which he had been credited on the day before his transfer."

(b) The item relating to such section in the table of sections at the beginning of chapter 41 of such title is amended to read as follows:

716. Commissioned officers: transfers between armed forces and to and from National Oceanic and Atmospheric Administration.

SEC. 3. Section 1006 of title 37, United States Code, is amended—

(1) by striking out "an armed force or of the Public Health Service" in subsections (a), (b), and (c) and inserting in lieu thereof "a uniformed service";

(2) by striking out "members of the armed forces or of the Public Health Service" in subsection (c) and inserting in lieu thereof "members of the uniformed services";

(3) by striking out "from his armed force or from the Public Health Service" in subsection (d) and inserting in lieu thereof "a uniformed service".

(4) by striking out "armed forces and the Public Health Service" in subsection (e) and inserting in lieu thereof "uniformed services"; and

(5) by striking out "an armed force or of the Public Health Service" in subsection (h) and inserting in lieu thereof "a uniformed service".

The SPEAKER. The question is on the committee amendments.

The committee amendments were agreed to.

● Mr. STUDDS. Mr. Speaker, I rise in support of S. 1454, one of the least controversial bills this body has had an opportunity to vote on this Congress. Essentially, S. 1454 as amended would enable officers of the Commissioned Officer Corps of the National Oceanic and Atmospheric Administration (NOAA) to transfer laterally and voluntarily to a branch of the Armed Forces. Officers in the Armed Forces would likewise be able to transfer to the NOAA Corps. In addition, advance payments and unemployment benefits currently available to officers in the armed services would also be extended to NOAA Corps officers through enactment of this legislation.

The primary mission of the NOAA Corps is the operation of NOAA's research ships and aircraft, and NOAA Corps officers can be transferred from the Department of Commerce to the Department of Defense in time of war. However, NOAA Corps officers do not enjoy all of the benefits available to officers in the Armed Services. Currently, if an officer of the Armed Forces desires to transfer to the NOAA Corps he or she must first resign that commission and then seek a new one in NOAA. Since NOAA's statutory authority limits appointments to the lowest three officer grades, anyone above the rank of lieutenant would probably be dissuaded from such a transfer. Statutory authority for appointments to the Armed Forces poses similar barriers to NOAA Corps officers. In any case, high ranking officers from either service are discouraged under law from staying within the service of the Government—which loses highly trained personnel.

In summary, S. 1454 would simply amend several laws pertaining to the NOAA Corps in order to bring these officers into closer parity with officers in the Armed Forces. I urge that S. 1454 be passed with the technical amendments and returned to the other body.●

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "An act to authorize the voluntary interservice transfer of officers between the commissioned corps of the National Oceanic and Atmospheric Administration and the Armed Forces, to authorize advance payments of pay and allowances to officers of such corps under the same conditions that apply to advance payments to members of the Armed Forces, and to provide officers of such corps the same unemployment compensation benefits that apply to members of the Armed Forces."

A motion to reconsider was laid on the table.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1979

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5010) to amend the Federal Election Campaign Act of 1971 to make certain changes in the reporting and disclosure requirements of such act, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Federal Election Campaign Act Amendments of 1979".

TITLE I—AMENDMENTS TO FEDERAL ELECTION CAMPAIGN ACT OF 1971

DEFINITIONS

SEC. 101. Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431), hereinafter in this Act referred to as the "Act", is amended to read as follows:

"DEFINITIONS

"SEC. 301. When used in this Act:

"(1) The term 'election' means—

"(A) a general, special, primary, or runoff election;

"(B) a convention or caucus of a political party which has authority to nominate a candidate;

"(C) a primary election held for the selection of delegates to a national nominating convention of a political party; and

"(D) a primary election held for the expression of a preference for the nomination of individuals for election to the office of President.

"(2) The term 'candidate' means an individual who seeks nomination for election, or election, to Federal office, and for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election—

"(A) if such individual has received contributions aggregating in excess of $5,000 or has made expenditures aggregating in excess of $5,000; or

"(B) if such individual has given his or her consent to another person to receive contributions or make expenditures on behalf of such individual and if such person has received such contributions aggregating in excess of $5,000 or has made such expenditures aggregating in excess of $5,000.

"(3) The term 'Federal office' means the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress.

"(4) The term 'political committee' means—

"(A) any committee, club, association, or other group of persons which receives contributions aggregating in excess of $1,000 during a calendar year or which makes expenditures aggregating in excess of $1,000 during a calendar year; or

"(B) any separate segregated fund established under the provisions of section 316 (b); or

"(C) any local committee of a political party which receives contributions aggregating in excess of $5,000 during a calendar year, or makes payments exempted from the definition of contribution or expenditure as defined in section 301 (8) and (9) aggregating in excess of $5,000 during a calendar year, or makes contributions aggregating in excess of $1,000 during a calendar year or makes expenditures aggregating in excess of $1,000 during a calendar year.

"(5) The term 'principal campaign committee' means a political committee designated and authorized by a candidate under section 302(e)(1).

"(6) The term 'authorized committee' means the principal campaign committee or any other political committee authorized by a candidate under section 302(e)(1) to receive contributions or make expenditures on behalf of such candidate.

"(7) The term 'connected organization' means any organization which is not a political committee but which directly or indirectly establishes, administers, or financially supports a political committee.

"(8)(A) The term 'contribution' includes—

"(i) any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office; or

"(ii) the payment by any person of compensation for the personal services of another person which are rendered to a political committee without charge for any purpose.

"(B) The term 'contribution' does not include—

"(i) the value of services provided without compensation by any individual who volunteers on behalf of a candidate or political committee;

"(ii) the use of real or personal property, including a church or community room used on a regular basis by members of a community for noncommercial purposes, and the cost of invitations, food, and beverages, voluntarily provided by an individual to any candidate or any political committee of a political party in rendering voluntary personal services on the individual's residential premises or in the church or community room for candidate-related or political party-related activities, to the extent that the cumulative value of such invitations, food, and beverages provided by such individual on behalf of any single candidate does not exceed $1,000 with respect to any single election, and on behalf of all political committees of a political party does not exceed $2,000 in any calendar year;

"(iii) the sale of any food or beverage by a vendor for use in any candidate's campaign or for use by or on behalf of any political committee of a political party at a charge less than the normal comparable charge, if such charge is at least equal to the cost of such food or beverage to the vendor, to the extent that the cumulative value of such activity by such vendor on behalf of any single candidate does not exceed $1,000 with respect to any single election, and on behalf of all political committees of a political party does not exceed $2,000 in any calendar year;

"(iv) any unreimbursed payment for travel expenses made by any individual on behalf of any candidate or any political committee of a political party, to the extent that the cumulative value of such activity by such individual on behalf of any single candidate does not exceed $1,000 with respect to any single election, and on behalf of all political committees of a political party does not exceed $2,000 in any calendar year;

"(v) the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of 3 or more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply to any cost incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines, or similar types of general public political advertising;

"(vi) any payment made or obligation incurred by a corporation or a labor organization which, under section 316(b), would not constitute an expenditure by such corporation or labor organization;

"(vii) any loan of money by a State bank, a federally chartered depository institution, or a depository institution the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration, other than any overdraft made with respect to a checking or savings account, made in accordance with applicable law and in the ordinary course of business, but such loan—

"(I) shall be considered a loan by each endorser or guarantor, in that proportion of the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors;

"(II) shall be made on a basis which assures repayment, evidenced by a written instrument, and subject to a due date or amortization schedule; and

"(III) shall bear the usual and customary interest rate of the lending institution;

"(viii) any gift, subscription, loan, advance, or deposit of money or anything of value to a national or a State committee of a political party specifically designated to defray any cost for construction or purchase of any office facility not acquired for the purpose of influencing the election of any candidate in any particular election for Federal office;

"(ix) any legal or accounting services rendered to or on behalf of—

"(I) any political committee of a political party if the person paying for such services is the regular employer of the person rendering such services and if such services are not attributable to activities which directly further the election of any designated candidate to Federal office; or

"(II) an authorized committee of a candidate or any other political committee, if the person paying for such services is the regular employer of the individual rendering such services and if such services are solely for the purpose of ensuring compliance with this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954,

but amounts paid or incurred by the regular employer for such legal or accounting services shall be reported in accordance with section 304(b) by the committee receiving such services;

"(x) the payment by a State or local committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids, and yard signs) used by such committee in connection with volunteer activities on behalf of nominees of such party: *Provided*, That—

"(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

"(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

"(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or particular candidates;

"(xi) the payment by a candidate, for nomination or election to any public office (including State or local office), or authorized committee of a candidate, of the costs of campaign materials which include information on or reference to any other candidate and which are used in connection with volunteer activities (including pins, bumper stickers, handbills, brochures, posters, and yard signs, but not including the use of broadcasting, newspapers, magazines, billboards, direct mail, or similar types of general public communication or political advertising): *Provided*, That such payments are made from contributions subject to the limitations and prohibitions of this Act;

"(xii) the payment by a State or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by such committee on behalf of nominees of such party for President and Vice President: *Provided*, That—

"(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail or similar type of general public communication or political advertising;

"(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

"(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or candidates;

"(xiii) payments made by a candidate or the authorized committee of a candidate as a condition of ballot access and payments received by any political party committee as a condition of ballot access; and

"(xiv) any honorarium (within the meaning of section 323 of this Act).

"(9) (A) The term 'expenditure' includes—

"(i) any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office; and

"(ii) a written contract, promise, or agreement to make an expenditure.

"(B) The term 'expenditure' does not include—

"(i) any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate;

"(ii) nonpartisan activity designed to encourage individuals to vote or to register to vote;

"(iii) any communication by any membership organization or corporation to its members, stockholders, or executive or administrative personnel, if such membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any individual to Federal office, except that the costs incurred by a membership organization (including a labor organization) or by a corporation directly attributable to a communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the express advocacy of the election or defeat of a clearly identified candidate), shall, if such costs exceed $2,000 for any election, be reported to the Commission in accordance with section 304(a)(4)(A)(i), and in accordance with section 304(a)(4)(A)(ii) with respect to any general election;

"(iv) the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of 3 or more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply to costs incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines, or similar types of general public political advertising;

"(v) any payment made or obligation incurred by a corporation or a labor organization which, under section 316(b), would not constitute an expenditure by such corporation or labor organization;

"(vi) any costs incurred by an authorized committee or candidate in connection with the solicitation of contributions on behalf of such candidate, except that this clause shall not apply with respect to costs incurred by an authorized committee of a candidate in excess of an amount equal to 20 percent of the expenditure limitation applicable to such candidate under section 315(b), but all such costs shall be reported in accordance with section 304(b);

"(vii) the payment of compensation for legal or accounting services—

"(I) rendered to or on behalf of any political committee of a political party if the person paying for such services is the regular employer of the individual rendering such services, and if such services are not attributable to activities which directly further the election of any designated candidate to Federal office; or

"(II) rendered to or on behalf of a candidate or political committee if the person paying for such services is the regular employer of the individual rendering such services, and if such services are solely for the purpose of ensuring compliance with this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954,

but amounts paid or incurred by the regular employer for such legal or accounting services shall be reported in accordance with section 304(b) by the committee receiving such services;

"(viii) the payment by a State or local committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids, and yard signs) used by such committee in connection with volunteer activities on behalf of nominees of such party: *Provided*, That—

"(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail or similar type of general public communication or political advertising;

"(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

"(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or particular candidates;

"(ix) the payment by a State or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by such committee on behalf of nominees of such party for President and Vice President: *Provided*, That—

"(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail or similar type of general public communication or political advertising;

"(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

"(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or candidates; and

"(x) payments received by a political party committee as a condition of ballot access which are transferred to another political party committee or the appropriate State official.

"(10) The term 'Commission' means the Federal Election Commission.

"(11) The term 'person' includes an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons, but such term does not include the Federal Government or any authority of the Federal Government.

"(12) The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

"(13) The term 'identification' means—

"(A) in the case of any individual, the name, the mailing address, and the occupation of such individual, as well as the name of his or her employer; and

"(B) in the case of any other person, the full name and address of such person.

"(14) The term 'national committee' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level, as determined by the Commission.

"(15) The term 'State committee' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level, as determined by the Commission.

"(16) The term 'political party' means an association, committee, or organization which nominates a candidate for election to any Federal office whose name appears on the election ballot as the candidate of such association, committee, or organization.

"(17) The term 'independent expenditure' means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate.

"(18) The term 'clearly identified' means that—

"(A) the name of the candidate involved appears;

"(B) a photograph or drawing of the candidate appears; or

"(C) the identity of the candidate is apparent by unambiguous reference.

"(19) The term 'Act' means the Federal Election Campaign Act of 1971 as amended.".

ORGANIZATION OF POLITICAL COMMITTEES

Sec. 102. Section 302 of the Act (2 U.S.C. 432) is amended to read as follows:

"ORGANIZATION OF POLITICAL COMMITTEES

"Sec. 302. (a) Every political committee shall have a treasurer. No contribution or expenditure shall be accepted or made by or on behalf of a political committee during any period in which the office of treasurer is vacant. No expenditure shall be made for or on behalf of a political committee without the authorization of the treasurer or his or her designated agent.

"(b)(1) Every person who receives a contribution for an authorized political committee shall, no later than 10 days after receiving such contribution, forward to the treasurer such contribution, and if the amount of the contribution is in excess of $50 the name and address of the person making the contribution and the date of receipt.

"(2) Every person who receives a contribution for a political committee which is not an authorized committee shall—

"(A) if the amount of the contribution is $50 or less, forward to the treasurer such contribution no later than 30 days after receiving the contribution; and

"(B) if the amount of the contribution is in excess of $50, forward to the treasurer such contribution, the name and address of the person making the contribution, and the date of receipt of the contribution, no later than 10 days after receiving the contribution.

"(3) All funds of a political committee shall be segregated from, and may not be commingled with, the personal funds of any individual.

"(c) The treasurer of a political committee shall keep an account of—

"(1) all contributions received by or on behalf of such political committee;

"(2) the name and address of any person who makes any contribution in excess of $50, together with the date and amount of such contribution by any person;

"(3) the identification of any person who makes a contribution or contributions aggregating more than $200 during a calendar year, together with the date and amount of any such contribution;

"(4) the identification of any political committee which makes a contribution, together with the date and amount of any such contribution; and

"(5) the name and address of every person to whom any disbursement is made, the date, amount, and purpose of the disbursement, and the name of the candidate and the office sought by the candidate, if any, for whom the disbursement was made, including a receipt, invoice, or canceled check for each disbursement in excess of $200.

"(d) The treasurer shall preserve all records required to be kept by this section and copies of all reports required to be filed by this title for 3 years after the report is filed.

"(e)(1) Each candidate for Federal office (other than the nominee for the office of Vice President) shall designate in writing a political committee in accordance with paragraph (3) to serve as the principal campaign committee of such candidate. Such designation shall be made no later than 15 days after becoming a candidate. A candidate may designate additional political committees in accordance with paragraph (3) to serve as authorized committees of such candidate. Such designation shall be in writing and filed with the principal campaign committee of such candidate in accordance with subsection (f)(1).

"(2) Any candidate described in paragraph (1) who receives a contribution, or any loan for use in connection with the campaign of such candidate for election, or makes a disbursement in connection with such campaign, shall be considered, for purposes of this Act, as having received the contribution or loan, or as having made the disbursement, as the case may be, as an agent of the authorized committee or committees of such candidate.

"(3)(A) No political committee which supports or has supported more than one candidate may be designated as an authorized committee, except that—

"(i) the candidate for the office of President nominated by a political party may designate the national committee of such political party as a principal campaign committee, but only if that national committee maintains separate books of account with respect to its function as a principal campaign committee; and

"(ii) candidates may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee.

"(B) As used in this section, the term 'support' does not include a contribution by any authorized committee in amounts of $1,000 or less to an authorized committee of any other candidate.

"(4) The name of each authorized committee shall include the name of the candidate who authorized such committee under paragraph (1). In the case of any political committee which is not an authorized committee, such political committee shall not include the name of any candidate in its name.

"(5) The name of any separate segregated fund established pursuant to section 316(b) shall include the name of its connected organization.

"(f)(1) Notwithstanding any other provision of this Act, each designation, statement, or report of receipts or disbursements made by an authorized committee of a candidate shall be filed with the candidate's principal campaign committee.

"(2) Each principal campaign committee shall receive all designations, statements, and reports required to be filed with it under paragraph (1) and shall compile and file such designations, statements, and reports in accordance with this Act.

"(g)(1) Designations, statements, and reports required to be filled under this Act by a candidate or by an authorized committee of a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, and by the principal campaign committee of such a candidate, shall be filed with the Clerk of the House of Representatives, who shall receive such designations, statements, and reports as custodian for the Commission.

"(2) Designations, statements, and reports required to be filed under this Act by a candidate for the office of Senator, and by the principal campaign committee of such candidate, shall be filed with the Secretary of the Senate, who shall receive such designations, statements, and reports, as custodian for the Commission.

"(3) The Clerk of the House of Representatives and the Secretary of the Senate shall forward a copy of any designation, statement, or report filed with them under this subsection to the Commission as soon as possible (but no later than 2 working days) after receiving such designation, statement, or report.

"(4) All designations, statements, and reports required to be filed under this Act, except designations, statements, and reports filed in accordance with paragraphs (1) and (2), shall be filed with the Commission.

"(5) The Clerk of the House of Representatives and the Secretary of the Senate shall make the designations, statements, and reports received under this subsection available for public inspection and copying in the same manner as the Commission under section 311(a)(4), and shall preserve such designations, statements, and reports in the same manner as the Commission under section 311(a)(5).

"(h)(1) Each political committee shall designate one or more State banks, federally chartered depository institutions, or depository institutions the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration, as its campaign depository or depositories. Each political committee shall maintain at least one checking account and such other accounts as the committee determines at a depository designated by such committee. All receipts received by such committee shall be deposited in such accounts. No disbursements may be made (other than petty cash disbursements under paragraph (2)) by such committee except by check drawn on such accounts in accordance with this section.

"(2) A political committee may maintain a petty cash fund for disbursements not in excess of $100 to any person in connection with a single purchase or transaction. A record of all petty cash disbursements shall be maintained in accordance with subsection (c)(5).

"(i) When the treasurer of a political committee shows that best efforts have been used to obtain, maintain, and submit the information required by this Act for the political committee, any report or any records of such committee shall be considered in compliance with this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954.".

REGISTRATION OF POLITICAL COMMITTEES; STATEMENTS

SEC. 103. Section 303 of the Act (2 U.S.C. 433) is amended to read as follows:

"REGISTRATION OF POLITICAL COMMITTEES; STATEMENTS

"SEC. 303. (a) Each authorized campaign committee shall file a statement of organization no later than 10 days after designation pursuant to section 302(e)(1). Each separate segregated fund established under the provisions of section 316(b) shall file a statement of organization no later than 10 days after establishment. All other committees shall file a statement of organization within 10 days after becoming a political committee within the meaning of section 301(4).

"(b) The statement of organization of a political committee shall include—

"(1) the name, address, and type of committee;

"(2) the name, address, relationship, and type of any connected organization or affiliated committee;

"(3) the name, address, and position of the custodian of books and accounts of the committee;

"(4) the name and address of the treasurer of the committee;

"(5) if the committee is authorized by a candidate, the name, address, office sought, and party affiliation of the candidate; and

"(6) a listing of all banks, safety deposit boxes, or other depositories used by the committee.

"(c) Any change in information previously submitted in a statement of organization shall be reported in accordance with section 302(g) no later than 10 days after the date of the change.

"(d)(1) A political committee may terminate only when such a committee files a written statement, in accordance with section 302(g), that it will no longer receive any contributions or make any disbursements and that such committee has no outstanding debts or obligations.

"(2) Nothing contained in this subsection may be construed to eliminate or limit the authority of the Commission to establish procedures for—

"(A) the determination of insolvency with respect to any political committee;

"(B) the orderly liquidation of an insolvent political committee, and the orderly application of its assets for the reduction of outstanding debts; and

"(C) the termination of an insolvent political committee after such liquidation and application of assets.".

REPORTS

SEC. 104. Section 304 of the Act (2 U.S.C. 434) is amended to read as follows:

"REPORTS

"SEC. 304. (a)(1) Each treasurer of a political committee shall file reports of receipts and disbursements in accordance with the provisions of this subsection. The treasurer shall sign each such report.

"(2) If the political committee is the principal campaign committee of a candidate for the House of Representatives or for the Senate—

"(A) in any calendar year during which there is regularly scheduled election for which such candidate is seeking election, or nomination for election, the treasurer shall file the following reports:

"(i) a pre-election report, which shall be filed no later than the 12th day before (or posted by registered or certified mail no later than the 15th day before) any election in which such candidate is seeking election, or nomination for election, and which shall be complete as of the 20th day before such election;

"(ii) a post-general election report, which shall be filed no later than the 30th day after any general election in which such candidate has sought election, and which shall be complete as of the 20th day after such general election; and

"(iii) additional quarterly reports, which shall be filed no later than the 15th day after the last day of each calendar quarter, and which shall be complete as of the last day of each calendar quarter; except that the report for the quarter ending December 31 shall be filed no later than January 31 of the following calendar year; and

"(B) in any other calendar year the following reports shall be filed:

"(i) a report covering the period beginning January 1 and ending June 30, which shall be filed no later than July 31; and

"(ii) a report covering the period beginning July 1 and ending December 31, which shall be filed no later than January 31 of the following calendar year.

"(3) If the committee is the principal campaign committee of a candidate for the office of President—

"(A) in any calendar year during which a general election is held to fill such office—

"(i) the treasurer shall file monthly reports if such committee has on January 1 of such year, received contributions aggregating $100,000 or made expenditures aggregating $100,000 or anticipates receiving contributions aggregating $100,000 or more or making expenditures aggregating $100,000 or more during such year: such monthly reports shall be filed no later than the 20th day after the last day of each month and shall be complete as of the last day of the month, except that, in lieu of filing the report otherwise due in November and December, a pre-general election report shall be filed in accordance with paragraph (2)(A)(i), a post-general election report shall be filed in accordance with paragraph (2)(A)(ii), and a year end report shall be filed no later than January 31 of the following calendar year;

"(ii) the treasurer of the other principal campaign committees of a candidate for the office of President shall file a pre-election report or reports in accordance with paragraph (2)(A)(i), a post-general election report in accordance with paragraph (2)(A)(ii), and quarterly reports in accordance with paragraph (2)(A)(iii); and

"(iii) if at any time during the election year a committee filing under paragraph (3)(A)(ii) receives contributions in excess of $100.000 or makes expenditures in excess of $100.000, the treasurer shall begin filing monthly reports under paragraph (3)(A)(i) at the next reporting period; and

"(B) in any other calendar year, the treasurer shall file either—

"(i) monthly reports, which shall be filed no later than the 20th day after the last day of each month and shall be complete as of the last day of the month; or

"(ii) quarterly reports, which shall be filed no later than the 20th day after the last day of each calendar quarter and which shall be complete as of the last day of each calendar quarter.

"(4) All political committees other than authorized committees of a candidate shall file either—

"(A)(i) quarterly reports, in a calendar year in which a regularly scheduled general election is held, which shall be filed no later than the 15th day after the last day of each calendar quarter: except that the report for the quarter ending on December 31 of such calendar year shall be filed no later than January 31 of the following calendar year;

"(ii) a pre-election report, which shall be filed no later than the 12th day before (or posted by registered or certified mail no later than the 15th day before) any election in which the committee makes a contribution to or expenditure on behalf of a candidate in such election, and which shall be complete as of the 20th day before the election;

"(iii) a post-general election report, which shall be filed no later than the 30th day after the general election and which shall be complete as of the 20th day after such general election; and

"(iv) in any other calendar year, a report covering the period beginning January 1 and ending June 30, which shall be filed no later than July 31 and a report covering the period beginning July 1 and ending December 31, which shall be filed no later than January 31 of the following calendar year; or

"(3) monthly reports in all calendar years which shall be filed no later than the 20th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pre-general election report shall be filed in accordance with paragraph (2)(A)(i), a post-general election report shall be filed in accordance with paragraph (2)(A)(ii), and a year end report shall be filed no later than January 31 of the following calendar year.

"(5) If a designation, report, or statement filed pursuant to this Act (other than under paragraph (2)(A)(i) or (4)(A)(ii)) is sent by registered or certified mail, the United States postmark shall be considered the date of filing of the designation, report, or statement.

"(6)(A) The principal campaign committee of a candidate shall notify the Clerk, the Secretary, or the Commission, and the Secretary of State, as appropriate, in writing, of any contribution of $1,000 or more received by any authorized committee of such candidate after the 20th day, but more than 48 hours before, any election. This notification shall be made within 48 hours after the receipt of such contribution and shall include the name of the candidate and the office sought by the candidate, the identification of the contributor, and the date of receipt and amount of the contribution.

"(B) The notification required under this paragraph shall be in addition to all other reporting requirements under this Act.

"(7) The reports required to be filed by this subsection shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during such year, only the amount need be carried forward.

"(8) The requirement for a political committee to file a quarterly report under paragraph (2)(A)(iii) or paragraph (4)(A)(i) shall be waived if such committee is required to file a pre-election report under paragraph (2)(A)(i), or paragraph (4)(A)(ii) during the period beginning on the 5th day after the close of the calendar quarter and ending on the 15th day after the close of the calendar quarter.

"(9) The Commission shall set filing dates for reports to be filed by principal campaign committees of candidates seeking election, or nomination for election, in special elections and political committees filing under paragraph (4)(A) which make contributions to or expenditures on behalf of a candidate or candidates in special elections. The Commission shall require no more than one pre-election report for each election and one post-election report for the election which fills the vacancy. The Commission may waive any reporting obligation of committees required to file for special elections if any report required by paragraph (2) or (4) is required to be filed within 10 days of a report required under this subsection. The Commission shall establish the reporting dates within 5 days of the setting of such election and shall publish such dates and notify the principal campaign committees of all candidates in such election of the reporting dates.

"(10) The treasurer of a committee supporting a candidate for the office of Vice President (other than the nominee of a political party) shall file reports in accordance with paragraph (3).

"(b) Each report under this section shall disclose—

"(1) the amount of cash on hand at the beginning of the reporting period;

"(2) for the reporting period and the calendar year, the total amount of all receipts, and the total amount of all receipts in the following categories:

"(A) contributions from persons other than political committees;

"(B) for an authorized committee, contributions from the candidate;

"(C) contributions from political party committees;

"(D) contributions from other political committees;

"(E) for an authorized committee, transfers from other authorized committees of the same candidate;

"(F) transfers from affiliated committees, and, where the reporting committee is a political party committee, transfers from other political party committees, regardless of whether such committees are affiliated;

"(G) for an authorized committee, loans made by or guaranteed by the candidate;

"(H) all other loans;

"(I) rebates, refunds, and other offsets to operating expenditures;

"(J) dividends, interest, and other forms of receipts; and

"(K) for an authorized committee of a candidate for the office of President, Federal funds received under chapter 95 and chapter 96 of the Internal Revenue Code of 1954;

"(3) the identification of each—

"(A) person (other than a political committee) who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions have an aggregate amount or value in excess of $200 within the calendar year, or in any lesser amount if the reporting committee should so elect, together with the date and amount of any such contribution;

"(B) political committee which makes a contribution to the reporting committee during the reporting period, together with the date and amount of any such contribution;

"(C) authorized committee which makes a transfer to the reporting committee;

"(D) affiliated committee which makes a transfer to the reporting committee during the reporting period and, where the reporting committee is a political party committee, each transfer of funds to the reporting committee from another political party committee, regardless of whether such committees are affiliated, together with the date and amount of such transfer;

"(E) person who makes a loan to the reporting committee during the reporting period, together with the identification of any endorser or guarantor of such loan, and the date and amount or value of such loan;

"(F) person who provides a rebate, refund or other offset to operating expenditures to the reporting committee in an aggregate amount or value in excess of $200 within the calendar year, together with the date and amount of such receipt; and

"(G) person who provides any dividend, interest, or other receipt to the reporting committee in an aggregate value or amount in excess of $200 within the calendar year, together with the date and amount of any such receipt;

"(4) for the reporting period and the calendar year, the total amount of all disbursements, and all disbursements in the following categories:

"(A) expenditures made to meet candidate or committee operating expenses;

"(B) for authorized committees, transfers to other committees authorized by the same candidate;

"(C) transfers to affiliated committees and, where the reporting committee is a political party committee, transfers to other political party committees, regardless of whether they are affiliated;

"(D) for an authorized committee, repayment of loans made by or guaranteed by the candidate;

"(E) repayment of all other loans;

"(F) contribution refunds and other offsets to contributions;

"(G) for an authorized committee, any other disbursements;

"(H) for any political committee other than an authorized committee—

"(i) contributions made to other political committees;

"(ii) loans made by the reporting committees;

"(iii) independent expenditures;

"(iv) expenditures made under section 315(d) of this Act; and

"(v) any other disbursements; and

"(I) for an authorized committee of a candidate for the office of President, disbursements not subject to the limitation of section 315(b);

"(5) the name and address of each—

"(A) person to whom an expenditure in an aggregate amount or value in excess of $200 within the calendar year is made by the reporting committee to meet a candidate or committee operating expense, together with the date, amount, and purpose of such operating expenditure;

"(B) authorized committee to which a transfer is made by the reporting committee;

"(C) affiliated committee to which a transfer is made by the reporting committee during the reporting period and, where the reporting committee is a political party committee, each transfer of funds by the reporting committee to another political party committee, regardless of whether such committees are affiliated, together with the date and amount of such transfers;

"(D) person who receives a loan repayment from the reporting committee during the reporting period together with the date and amount of such loan repayment; and

"(E) person who receives a contribution refund or other offset to contributions from the reporting committee where such contribution was reported under paragraph (3)(A) of this subsection, together with the date and amount of such disbursement;

"(6)(A) for an authorized committee, the name and address of each person who has received any disbursement not disclosed under paragraph (5) in an aggregate amount or value in excess of $200 within the calendar year, together with the date and amount of any such disbursement;

"(B) for any other political committee, the name and address of each—

"(i) political committee which has received a contribution from the reporting committee during the reporting period, together with the date and amount of any such contribution;

"(ii) person who has received a loan from the reporting committee during the reporting period, together with the date and amount of such loan;

"(iii) person who receives any disbursement during the reporting period in an aggregate amount or value in excess of $200 within the calendar year in connection with an independent expenditure by the reporting committee, together with the date, amount, and purpose of any such independent expenditure and a statement which indicates whether such independent expenditure is in support of, or in opposition to, a candidate, as well as the name and office sought by such candidate, and a certification, under penalty of perjury, whether such independent expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such committee;

"(iv) person who receives any expenditure from the reporting committee during the reporting period in connection with an expenditure under section 315(d) in the Act, together with the date, amount, and purpose of any such expenditure as well as the name of, and office sought by, the candidate on whose behalf the expenditure is made; and

"(v) person who has received any disbursement not otherwise disclosed in this paragraph or paragraph (5) in an aggregate amount or value in excess of $200 within the calendar year from the reporting committee within the reporting period, together with the date, amount, and purpose of any such disbursement;

"(7) the total sum of all contributions to such political committee, together with the total contributions less offsets to contributions and the total sum of all operating expenditures made by such political committee, together with total operating expenditure less offsets to operating expenditures, for both the reporting period and the calendar year; and

"(8) the amount and nature of outstanding debts and obligations owed by or to such political committee; and where such debts and obligations are settled for less than their reported amount or value, a statement as to the circumstances and conditions under which such debts or obligations were extinguished and the consideration therefor.

"(c)(1) Every person (other than a political committee) who makes independent expenditures in an aggregate amount or value in excess of $250 during a calendar year shall file a statement containing the information required under subsection (b)(3)(A) for all contributions received by such person.

"(2) Statements required to be filed by this subsection shall be filed in accordance with subsection (a)(2), and shall include—

"(A) the information required by subsection (b)(6)(B)(iii), indicating whether the independent expenditure is in support of, or in opposition to, the candidate involved;

"(B) under penalty of perjury, a certification whether or not such independent expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and

"(C) the identification of each person who made a contribution in excess of $200 to the person filing such statement which was made for the purpose of furthering an independent expenditure.

Any independent expenditure (including those described in subsection (b)(6)(B)(iii)) aggregating $1,000 or more made after the 20th day, but more than 24 hours, before any election shall be reported within 24 hours after such independent expenditure is made. Such statement shall be filed with the Clerk, the Secretary, or the Commission and the Secretary of State and shall contain the information required by subsection (b)(6)(B)(iii) indicating whether the independent expenditure is in support of, or in opposition to, the candidate involved.

"(3) The Commission shall be responsible for expeditiously preparing indices which set forth, on a candidate-by-candidate basis, all independent expenditures separately, including those reported under subsection (b)(6)(B)(iii), made by or for each candidate, as reported under this subsection, and for periodically publishing such indices on a timely pre-election basis.".

FEDERAL ELECTION COMMISSION

SEC. 105. Title III of the Act (2 U.S.C. 431 et seq.) is amended—

(1) by striking out sections 305, 306, 308, 311, 318, and 329;

(2) by redesignating section 307 as section 305;

(3) by redesignating sections 309 and 310 as sections 306 and 307, respectively;

(4) by redesignating sections 312 through 317 as sections 308 through 313, respectively;

(5) by redesignating sections 319 through 328 as sections 314 through 323, respectively; and

(6) by amending section 306, as so redesignated by section 105(a)(3), to read as follows:

"FEDERAL ELECTION COMMISSION

"SEC. 306. (a)(1) There is established a commission to be known as the Federal Election Commission. The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives or their designees, ex officio and without the right to vote, and 6 members appointed by the President, by and with the advice and consent of the Senate. No more than 3 members of the Commission appointed under this paragraph may be affiliated with the same political party.

"(2)(A) Members of the Commission shall serve for terms of 6 years, except that of the members first appointed—

"(i) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1977;

"(ii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1979; and

"(iii) two of the membeis, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1981.

"(B) A member of the Commission may serve on the Commission after the expiration of his or her term until his or her successor has taken office as a member of the Commission.

"(C) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he or she succeeds.

"(D) Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.

"(3) Members shall be chosen on the basis of their experience, integrity, impartiality and good judgment and members (other than the Secretary of the Senate and the Clerk of the House of Representatives) shall be individuals who, at the time appointed to the Commission, are not elected or appointed officers or employees in the executive, legislative, or judicial branch of the Federal Government. Such members of the Commission shall not engage in any other business, vocation, or employment. Any individual who is engaging in any other business, vocation, or employment at the time or his or her appointment to the Commission shall terminate or liquidate such activity no later than 90 days after such appointment.

"(4) Members of the Commission (other than the Secretary of the Senate and the Clerk of the House of Representatives) shall receive compensation equivalent to the compensation paid at level IV of the Executive Schedule (5 U.S.C. 5315).

"(5) The Commission shall elect a chairman and a vice chairman from among its members (other than the Secretary of the Senate and the Clerk of the House of Representatives) for a term of one year. A member may serve as chairman only once during any term of office to which such member is appointed. The chairman and the vice chairman shall not be affiliated with the same political party. The vice chairman shall act as chairman in the absence or disability of the chairman or in the event of a vacancy in such office.

"(b)(1) The Commission shall administer, seek to obtain compliance with, and formulate policy with respect to, this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954. The Commission shall have exclusive jurisdiction with respect to the civil enforcement of such provisions.

"(2) Nothing in this Act shall be construed to limit, restrict, or diminish any investigatory, informational, oversight, supervisory, or disciplinary authority or function of the Congress or any committee of the Congress with respect to elections for Federal office.

"(c) All decisions of the Commission with respect to the exercise of its duties and powers under the provisions of this Act shall be made by a majority vote of the members of the Commission. A member of the Commission may not delegate to any person his or her vote or any decisionmaking authority or duty vested in the Commission by the provisions of this Act, except that the affirmative vote of 4 members of the Commission shall be required in order for the Commission to take any action in accordance with paragraph (6), (7), (8), or (9) of section 307(a) of this Act or with chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

"(d) The Commission shall meet at least once each month and also at the call of any member.

"(e) The Commission shall prepare written rules for the conduct of its activities, shall have an official seal which shall be judicially noticed, and shall have its principal office in or near the District of Columbia (but it may meet or exercise any of its powers anywhere in the United States).

"(f)(1) The Commission shall have a staff director and a general counsel who shall be appointed by the Commission. The staff director shall be paid at a rate not to exceed the rate of basic pay in effect for level IV of the Executive Schedule (5 U.S.C. 5315). The general counsel shall be paid at a rate not to exceed the rate of basic pay in effect for level V of the Executive Schedule (5 U.S.C. 5316). With the approval of the Commission, the staff director may appoint and fix the pay of such additional personnel as he or she considers desirable without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

"(2) With the approval of the Commission, the staff director may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS–15 of the General Schedule (5 U.S.C. 5332).

"(3) In carrying out its responsibilities under this Act, the Commission shall, to the fullest extent practicable, avail itself of the assistance, including personnel and facilities of other agencies and departments of the United States. The heads of such agencies and departments may make available to the Commission such personnel, facilities, and other assistance, with or without reimbursement, as the Commission may request.

"(4) Notwithstanding the provisions of paragraph (2), the Commission is authorized to appear in and defend against any action instituted under this Act, either (A) by attorneys employed in its office, or (B) by counsel whom it may appoint, on a temporary basis as may be necessary for such purpose, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title. The compensation of counsel so appointed on a temporary basis shall be paid out of any funds otherwise available to pay the compensation of employees of the Commission.".

POWERS OF THE COMMISSION

SEC. 106. Section 307, as so redesignated in section 105(a)(3), is amended to read as follows:

"POWERS OF THE COMMISSION

"SEC. 307. (a) The Commission has the power—

"(1) to require by special or general orders, any person to submit, under oath, such written reports and answers to questions as the Commission may prescribe;

"(2) to administer oaths or affirmations;

"(3) to require by subpena, signed by the chairman or the vice chairman, the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

"(4) in any proceeding or investigation, to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (3);

"(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States;

"(6) to initiate (through civil actions for injunctive, declaratory, or other appropriate relief), defend (in the case of any civil action brought under section 309(a)(8) of this Act) or appeal any civil action in the name of the Commission to enforce the provisions of this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954, through its general counsel;

"(7) to render advisory opinions under section 308 of this Act;

"(8) to develop such prescribed forms and to make, amend, and repeal such rules, pursuant to the provisions of chapter 5 of title 5, United States Code, as are necessary to carry out the provisions of this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954; and

"(9) to conduct investigations and hearings expeditiously, to encourage voluntary compliance, and to report apparent violations to the appropriate law enforcement authorities.

"(b) Upon petition by the Commission, any United States district court within the jurisdiction of which any inquiry is being carried on may, in case of refusal to obey a subpena or order of the Commission issued under subsection (a), issue an order requiring compliance. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(c) No person shall be subject to civil liability to any person (other than the Commission or the United States) for disclosing information at the request of the Commission.

"(d)(1) Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of such estimate or request to the Congress.

"(2) Whenever the Commission submits any legislative recommendation, or testimony, or comments on legislation, requested by the Congress or by any Member of the Congress, to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress or to the Member requesting the same. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, testimony, or comments on legislation, to any office or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

"(e) Except as provided in section 309(a)(8) of this Act, the power of the Commission to initiate civil actions under subsection (a)(6) of this section shall be the exclusive civil remedy for the enforcement of the provisions of this Act.".

ADVISORY OPINIONS

SEC. 107. (a) Section 308 of the Act, as so redesignated in section 105(a)(4), is amended to read as follows:

"ADVISORY OPINIONS

"SEC. 308. (a)(1) Not later than 60 days after the Commission receives from a person a complete written request concerning the application of this Act, chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or a rule or regulation prescribed by the Commission, with respect to a specific transaction or activity by the person, the Commission shall render a written advisory opinion relating to such transaction or activity to the person.

"(2) If an advisory opinion is requested by a candidate, or any authorized committee of such candidate, during the 60-day period before any election for Federal office involving the requesting party, the Commission shall render a written advisory opinion relating to such request no later than 20 days after the Commission receives a complete written request.

"(b) Any rule of law which is not stated in this Act or in chapter 95 or chapter 96 of the Internal Revenue Code of 1954 may be initially proposed by the Commission only as a rule or regulation pursuant to procedures established in section 311(d). No opinion of an advisory nature may be issued by the Commission or any of its employees except in accordance with the provisions of this section.

"(c)(1) Any advisory opinion rendered by the Commission under subsection (a) may be relied upon by—

"(A) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered; and

"(B) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.

"(2) Notwithstanding any other provisions of law, any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of paragraph (1) and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction provided by this Act or by chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

"(d) The Commission shall make public any request made under subsection (a) for an advisory opinion. Before rendering an advisory opinion, the Commission shall accept written comments submitted by any interested party within the 10-day period following the date the request is made public."

ENFORCEMENT

SEC. 108. Section 309 of the Act, as so redesignated in section 105(a)(4), is amended to read as follows:

"ENFORCEMENT

"SEC. 309. (a)(1) Any person who believes a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has occurred, may file a complaint with the Commission. Such complaint shall be in writing, signed and sworn to by the person filing such complaint, shall be notarized, and shall be made under penalty of perjury and subject to the provisions of section 1001 of title 18, United States Code. Within 5 days after receipt of a complaint, the Commission shall notify, in writing, any person alleged in the complaint to have committed such violation. Before the Commission conducts any vote on the complaint, other than a vote to dismiss, any person so notified shall have the opportunity to demonstrate, in writing, to the Commission within 15 days after notification that no action should be taken against such person on the basis of the complaint. The Commission may not conduct any investigation or take any other action under this section solely on the basis of a complaint of a person whose identity is not disclosed to the Commission.

"(2) If the Commission, upon receiving a complaint under paragraph (1) or on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities, determines, by an affirmative vote of 4 of its members, that it has reason to believe that a person has committed, or is about to commit, a violation of this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission shall, through its chairman or vice chairman, notify the person of the alleged violation. Such notification shall set forth the factual basis for such alleged violation. The Commission shall make an investigation of such alleged violation, which may include a field investigation or audit, in accordance with the provisions of this section.

"(3) The general counsel of the Commission shall notify the respondent of any recommendation to the Commission by the general counsel to proceed to a vote on probable cause pursuant to paragraph (4)(A)(i). With such notification, the general counsel shall include a brief stating the position of the general counsel on the legal and factual issues of the case. Within 15 days of receipt of such brief, respondent may submit a brief stating the position of such respondent on the legal and factual issues of the case, and replying to the brief of general counsel. Such briefs shall be filed with the Secretary of the Commission and shall be considered by the Commission before proceeding under paragraph (4).

"(4)(A)(i) Except as provided in clause (ii), if the Commission determines, by an affirmative vote of 4 of its members, that there is probable cause to believe that any person has committed, or is about to commit, a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission shall attempt, for a period of at least 30 days, to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with any person involved. Such attempt by the Commission to correct or prevent such violation may continue for a period of not more than 90 days. The Commission may not enter into a conciliation agreement under this clause except pursuant to an affirmative vote of 4 of its members. A conciliation agreement, unless violated, is a complete bar to any further action by the Commission, including the bringing of a civil proceeding under paragraph (6)(A).

"(ii) If any determination of the Commission under clause (i) occurs during the 45-day period immediately preceding any election, then the Commission shall attempt, for a period of at least 15 days, to correct or prevent the violation involved by the methods specified in clause (i).

"(B)(i) No action by the Commission or any person, and no information derived, in connection with any conciliation attempt by the Commission under subparagraph (A) may be made public by the Commission without the written consent of the respondent and the Commission.

"(ii) If a conciliation agreement is agreed upon by the Commission and the respondent, the Commission shall make public any conciliation agreement signed by both the Commission and the respondent. If the Commission makes a determination that a person has not violated this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission shall make public such determination.

"(5)(A) If the Commission believes that a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has been committed, a conciliation agreement entered into by the Commission under paragraph (4)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of $5,000 or an amount equal to any contribution or expenditure involved in such violation.

"(B) If the Commission believes that a knowing and willful violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has been committed, a conciliation agreement entered into by the Commission under paragraph (4)(A) may require that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation.

"(C) If the Commission by an affirmative vote of 4 of its members, determines that there is probable cause to believe that a knowing and willful violation of this Act which is subject to subsection (d), or a knowing and willful violation of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has occurred or is about to occur, it may refer such apparent violation to the Attorney General of the United States without regard to any limitations set forth in paragraph (4)(A).

"(D) In any case in which a person has entered into a conciliation agreement with the Commission under paragraph (4)(A), the Commission may institute a civil action for relief under paragraph (6)(A) if it believes that the person has violated any provision of such conciliation agreement. For the Commission to obtain relief in any civil action, the Commission need only establish that the person has violated, in whole or in part, any requirement of such conciliation agreement.

"(6)(A) If the Commission is unable to correct or prevent any violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, by the methods specified in paragraph (4)(A), the Commission may, upon an affirmative vote of 4 of its members, institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order (including an order for a civil penalty which does not exceed the greater of $5,000 or an amount equal to any contribution or expenditure involved in such violation) in the district court of the United States for the district in which the person against whom such action is brought is found, resides, or transacts business.

"(B) In any civil action instituted by the Commission under subparagraph (A), the court may grant a permanent or temporary injunction, restraining order, or other order, including a civil penalty which does not exceed the greater of $5,000 or an amount equal to any contribution or expenditure involved in such violation, upon a proper showing that the person involved has committed, or is about to commit (if the relief sought is a permanent or temporary injunction or a restraining order), a violation of this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

"(c) In any civil action for relief instituted by the commission under subparagraph (A), if the court determines that the Commission has established that the person involved in such civil action has committed a knowing and willful violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the court may impose a civil penalty which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation.

"(7) In any action brought under paragraph (5) or (6), subpenas for witnesses who are required to attend a United States district court may run into any other district.

"(8)(A) Any party aggrieved by an order of the Commission dismissing a complaint filed by such party under paragraph (1), or by a failure of the Commission to act on such complaint during the 120-day period beginning on the date the complaint is filed, may file a petition with the United States District Court for the District of Columbia.

"(B) Any petition under subparagraph (A) shall be filed, in the case of a dismissal of a complaint by the Commission, within 60 days after the date of the dismissal.

"(C) In any proceeding under this paragraph the court may declare that the dismissal of the complaint or the failure to act is contrary to law, and may direct the Commission to conform with such declaration within 30 days, failing which the complainant may bring, in the name of such complainant, a civil action to remedy the violation involved in the original complaint.

"(9) Any judgment of a district court under this subsection may be appealed to the court of appeals, and the judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(10) Any action brought under this subsection shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than other actions brought under this subsection or under section 310 of this Act).

"(11) If the Commission determines after an investigation that any person has violated an order of the court entered in a proceeding brought under paragraph (6), it may petition the court for an order to hold such person in civil contempt, but if it believes the violation to be knowing and willful it may petition the court for an order to hold such person in criminal contempt.

"(12(A) Any notification or investigation made under this section shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

"(B) Any member or employee of the Commission, or any other person, who violates the provisions of subparagraph (A) shall be fined not more than $2,000. Any such member, employee, or other person who knowingly and willfully violates the provisions of subparagraph (A) shall be fined not more than $5,000.

"(b) Before taking any action under subsection (a) against any person who has failed to file a report required under section 304(a)(2)(A)(iii) for the calendar quarter immediately preceding the election involved, or in accordance with section 304(a)(2)(A)(i), the Commission shall notify the person of such failure to file the required reports. If a satisfactory response is not received within 4 business days after the date of notification, the Commission shall, pursuant to section 311(a)(7), publish before the election the name of the person and the report or reports such person has failed to file.

"(c) Whenever the Commission refers an apparent violation to the Attorney General, the Attorney General shall report to the Commission any action taken by the Attorney General regarding the apparent violation. Each report shall be transmitted within 60 days after the date the Commission refers an apparent violation, and every 30 days thereafter until the final disposition of the apparent violation.

"(d)(1)(A) Any person who knowingly and willfully commits a violation of any provision of this Act which involves the making, receiving, or reporting of any contribution or expenditure aggregating $2,000 or more during a calendar year shall be fined, or imprisoned for not more than one year, or both. The amount of this fine shall not exceed the greater of $25,000 or 300 percent of any contribution or expenditure involved in such violation.

"(B) In the case of a knowing and willful violation of section 316(b)(3), the penalties set forth in this subsection shall apply to a violation involving an amount aggregating $250 or more during a calendar year. Such violation of section 316(b)(3) may incorporate a violation of section 317(b), 320, or 321.

"(C) In the case of a knowing and willful violation of section 322, the penalties set forth in this subsection shall apply without regard to whether the making, receiving, or reporting of a contribution or expenditure of $1,000 or more is involved.

"(2) In any criminal action brought for a violation of any provision of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, any defendant may evidence their lack of knowledge or intent to commit the alleged violation by introducing as evidence a conciliation agreement entered into between the defendant and the Commission under subsection (a)(4)(A) which specifically deals with the act or failure to act constituting such violation and which is still in effect.

"(3) In any criminal action brought for a violation of any provision of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the court before which such action is brought shall take into account, in weighing the seriousness of the violation and in considering the appropriateness of the penalty to be imposed if the defendant is found guilty, whether—

"(A) the specific act or failure to act which constitutes the violation for which the action was brought is the subject of a conciliation agreement entered into between the defendant and the Commission under subparagraph (a)(4)(A);

"(B) the conciliation agreement is in effect; and

"(C) the defendant is, with respect to the violation involved, in compliance with the conciliation agreement.".

ADMINISTRATIVE PROVISIONS

SEC. 109. Section 311 of the Act, as so redesignated in section 105(a)(4), is amended to read as follows:

"ADMINISTRATIVE PROVISIONS

"SEC. 311. (a) The Commission shall—

"(1) prescribe forms necessary to implement this Act;

"(2) prepare, publish, and furnish to all persons required to file reports and statements under this Act a manual recommending uniform methods of bookkeeping and reporting;

"(3) develop a filing, coding, and cross-indexing system consistent with the purposes of this Act;

"(4) within 48 hours after the time of the receipt by the Commission of reports and statements filed with it, make them available for public inspection, and copying, at the expense of the person requesting such copying, except that any information copied from such reports or statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee. A political committee may submit 10 pseudonyms on each report filed in order to protect against the illegal use of names and addresses of contributors, provided such committee attaches a list of such pseudonyms to the appropriate report. The Clerk, Secretary, or the Commission shall exclude these lists from the public record;

"(5) keep such designations, reports, and statements for a period of 10 years from the date of receipt, except that designations, reports, and statements that relate solely to candidates for the House of Representatives shall be kept for 5 years from the date of their receipt;

"(6)(A) compile and maintain a cumulative index of designations, reports, and statements filed under this Act, which index shall be published at regular intervals and made available for purchase directly or by mail;

"(B) compile, maintain, and revise a separate cumulative index of reports and statements filed by multi-candidate committees, including in such index a list of multi-candidate committees; and

"(C) compile and maintain a list of multicandidate committees, which shall be revised and made available monthly;

"(7) prepare and publish periodically lists of authorized committees which fail to file reports as required by this Act;

"(8) prescribe rules, regulations, and forms to carry out the provisions of this Act, in accordance with the provisions of subsection (d);

"(9) transmit to the President and to each House of the Congress no later than June 1 of each year, a report which states in detail the activities of the Commission in carrying out its duties under this Act, and any recommendations for any legislative or other action the Commission considers appropriate; and

"(10) serve as a national clearinghouse for the compilation of information and review of procedures with respect to the administration of Federal elections. The Commission may enter into contracts for the purpose of conducting studies under this paragraph. Reports or studies made under this paragraph shall be available to the public upon the payment of the cost thereof, except that copies shall be made available without cost, upon request, to agencies and branches of the Federal Government.

"(b) The Commission may conduct audits and filed investigations of any political committee required to file a report under section 304 of this Act. All audits and field investigations concerning the verification for, and receipt and use of, any payments received by a candidate or committee under chapter 95 or chapter 96 of the Internal Revenue Code of 1954 shall be given priority. Prior to conducting any audit under this subsection, the Commission shall perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act. Such thresholds for compliance shall be established by the Commission. The Commission may, upon an affirmative vote of four of its members, conduct an audit and field investigation of any committee which does not meet the threshold requirements established by the Commission. Such audit shall be commenced within 30 days of such vote, except than any audit of an authorized committee of a candidate, under the provisions of this subsection, shall be commenced within 6 months of the election for which such committee is authorized.

"(c) Any forms prescribed by the Commission under subsection (a)(1), and any information-gathering activities of the Commission under this Act, shall not be subject to the provisions of section 3512 of title 44, United States Code.

"(d)(1) Before prescribing any rule, regulation, or form under this section or any other provision of this Act, the Commission shall transmit a statement with respect to such rule, regulation, or form to the Senate and the House of Representatives, in accordance with this subsection. Such statement shall set forth the proposed rule, regulation, or form, and shall contain a detailed explanation and justification of it.

"(2) If either House of the Congress does not disapprove by resolution any proposed rule or regulation submitted by the Commission under this section within 30 legislative days after the date of the receipt of such proposed rule or regulation or within 10 legislative days after the date of receipt of such proposed form, the Commission may prescribe such rule, regulation, or form.

"(3) For purposes of this subsection, the term 'legislative day' means, with respect to statements transmitted to the Senate, any calendar day on which the Senate is in session, and with respect to statements transmitted to the House of Representatives, any calendar day on which the House of Representatives is in session.

"(4) For purposes of this subsection, the terms 'rule' and 'regulation' mean a provision or series of interrelated provisions stating a single, separable rule of law.

"(5)(A) A motion to discharge a committee of the Senate from the consideration of a resolution relating to any such rule, regulation, or form or a motion to proceed to the consideration of such a resolution, is highly privileged and shall be decided without debate.

"(B) Whenever a committee of the House of Representatives reports any resolution relating to any such form, rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and is not in order to move to reconsider the vote by which the motion is agreed to or disagreed with.

"(e) Notwithstanding any other provision of law, any person who relies upon any rule or regulation prescribed by the Commission in accordance with the provisions of this section and who acts in good faith in accordance with such rule or regulation shall not, as a result of such act, be subject to any sanction provided by this Act or by chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

"(f) In prescribing such rules, regulations, and forms under this section, the Commission and the Internal Revenue Service shall consult and work together to promulgate rules, regulations and forms which are mutually consistent. The Commission shall report to the Congress annually on the steps it has taken to comply with this subsection.".

STATEMENTS FILED WITH STATE OFFICERS

SEC. 110. Section 312 of the Act, as so redesignated in section 105(a)(4), is amended to read as follows:

"STATEMENTS FILED WITH STATE OFFICERS

"SEC. 312. (a)(1) A copy of each report and statement required to be filed by any person under this Act shall be filed by such person with the Secretary of State (or equivalent State officer) of the appropriate State, or, if different, the officer of such State who is charged by State law with maintaining State election campaign reports. The chief executive officer of such State shall designate any such officer and notify the Commission of any such designation.

"(2) For purposes of this subsection, the term 'appropriate State' means—

"(A) for statements and reports in connection with the campaign for nomination for election of a candidate to the office of President or Vice President, each State in which an expenditure is made on behalf of the candidate; and

"(B) for statements and reports in connection with the campaign for nomination for election, or election, of a candidate to the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, the State in which the candidate seeks election; except that political committees other than authorized committees are only required to file, and Secretaries of State required to keep, that portion of the report applicable to candidates seeking election in that State.

"(b) The Secretary of State (or equivalent State officer), or the officer designated under subsection (a)(1), shall—

"(1) receive and maintain in an orderly manner all reports and statements required by this Act to be filed therewith;

"(2) keep such reports and statements (either in original filed form or in facsimile copy by microfilm or otherwise) for 2 years after their date of receipt;

"(3) make each report and statement filed therewith available as soon as practicable (but within 48 hours of receipt) for public inspection and copying during regular business hours, and permit copying of any such report or statement by hand or by duplicating machine at the request of any person, except that such copying shall be at the expense of the person making the request; and

"(4) compile and maintain a current list of all reports and statements pertaining to each candidate.".

PUBLICATION AND DISTRIBUTION OF STATEMENTS AND SOLICITATIONS

SEC. 111. Section 318 of the Act, as so redesignated in section 105(a)(5), is amended to read as follows:

"PUBLICATION AND DISTRIBUTION OF STATEMENTS AND SOLICITATIONS

"SEC. 318. (a) Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public advertising, such communication—

"(1) if paid for and authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication has been paid for by such authorized political committee, or

"(2) if paid for by other persons but authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication is paid for by such other persons and authorized political committee;

"(3) if not authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee.

"(b) No person who sells space in a newspaper or magazine to a candidate or to the agent of a candidate, for use in connection with such candidate's campaign, may charge any amount for such space which exceeds the amount charged for comparable use of such space for other purposes.".

TECHNICAL AMENDMENTS

SEC. 112. (a) Section 305 of the Act, as so redesignated in section 105(a)(2), is amended—

(1) by striking out "sixty" and inserting in lieu thereof "60";

(2) by striking out "twenty" and inserting in lieu thereof "20"; and

(3) by striking out "Federal Election".

(b) Section 306(c) of the Act, as so redesignated in section 105(a)(3), is amended by striking out "section 310(a)" and inserting in lieu thereof "section 307(a)".

(c) Section 310(a) of the Act, as so redesignated in section 105(a)(4), is amended by striking out "of the United States" the first place it appears therein.

(d) The first sentence of section 316(b)(4)(B) of the Act, as so redesignated in section 105(a)(5), is amended by striking out "it" and inserting in lieu thereof "It".

(e)(1) Section 403(a) of the Domestic Volunteer Service Act of 1973 is amended—

(A) by striking out "section 301(a)" and inserting in lieu thereof "section 301(1)"; and

(B) by striking out "section 301(c)" and inserting in lieu thereof "section 301(3)".

(2) Section 6 of the Department of State Appropriations Authorization Act of 1973 is amended by striking out "section 301(e)" and inserting in lieu thereof "section 301(8)".

USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES

SEC. 113. Section 313 of the Act (as redesignated by section 105(4)) is amended to read as follows:

"USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES

"SEC. 313. Amounts received by a candidate as contributions that are in excess of any amount necessary to defray his expenditures, and any other amounts contributed to an individual for the purpose of supporting his or her activities as a holder of Federal office, may be used by such candidate or individual, as the case may be, to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office, may be contributed to any organization described in section 170(c) of the Internal Revenue Code of 1954, or may be used for any other lawful purpose, including transfers without limitation to any national, State, or local committee of any political party; except that, with respect to any individual who is not a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress on the date of the enactment of the Federal Election Campaign Act Amendments of 1979, no such amounts may be converted by any person to any personal use, other than to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office.".

TITLE II—AMENDMENTS TO OTHER LAWS

MISCELLANEOUS AMENDMENTS TO TITLE 18, UNITED STATES CODE

SEC. 201. (a)(1) Chapter 29 of title 18, United States Code, is amended by striking out section 591.

(2) The table of sections for chapter 29 of title 18, United States Code, is amended by striking out the item relating to section 591,

(3) Section 602 of such title is amended to read as follows:

"SOLICITATION OF POLITICAL CONTRIBUTIONS

"SEC. 602. It shall be unlawful for—

"(1) a candidate for the Congress;

"(2) an individual elected to or serving in the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

"(3) an officer or employee of the United States or any department or agency thereof; or

"(4) a person receiving any salary or compensation for services from money derived from the Treasury of the United States.

to knowingly solicit, any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 from any other such officer, employee, or person. Any person who violates this section shall be fined not more than $5,000 or imprisoned not more than three years, or both.".

(4) Section 603 of such title is amended to read as follows:

"MAKING POLITICAL CONTRIBUTIONS

"SEC. 603. (a) It shall be unlawful for an officer or employee of the United States or any department or agency thereof, or a person receiving any salary or compensation for services from money derived from the Treasury of the United States, to make any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 to any other such officer, employee or person or to any Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, if the person receiving such contribution is the employer or employing authority of the person making the contribution. Any person who violates this section shall be fined not more than $5,000 or imprisoned not more than three years, or both.

"(b) For purposes of this section, a contribution to an authorized committee as defined in section 302(e)(1) of the Federal Election Campaign Act of 1971 shall be considered a contribution to the individual who has authorized such committee.".

(5) Section 607 of such title is amended to read as follows:

"PLACE OF SOLICITATION

"SEC. 607. (a) It shall be unlawful for any person to solicit or receive any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 in any room or building occupied in the discharge of official duties by any person mentioned in section 603, or in any navy yard, fort, or arsenal. Any person who violates this section shall be fined not more than $5,000 or imprisoned not more than three years, or both.

"(b) The prohibition in subsection (a) shall not apply to the receipt of contributions by persons on the staff of a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, provided that such contributions have not been solicited in any manner which directs the contributor to mail or deliver a contribution to any room, building, or other facility referred to in subsection (a), and provided that such contributions are transferred within seven days of receipt to a political committee within the meaning of section 302(e) of the Federal Election Campaign Act of 1971.".

MISCELLANEOUS AMENDMENT TO THE INTERNAL REVENUE CODE OF 1954

SEC. 202. Section 9008(b) of the Internal Revenue Code of 1954 is amended by striking out at the end thereof the figure "$2,000,000" and inserting in lieu thereof "$3,000,000".

MISCELLANEOUS AMENDMENT TO TITLE 5, UNITED STATES CODE

SEC. 203. Section 3132(a)(1) of title 5, United States Code, is amended—

(1) by adding "or" after the semicolon at the end of subparagraph (B); and

(2) by adding the following new subparagraph at the end thereof:

"(C) the Federal Election Commission;".

TITLE III—GENERAL PROVISIONS

EFFECTIVE DATES

SEC. 301. (a) Except as provided in subsection (b), the amendments made by this Act are effective upon enactment.

(b) For authorized committees of candidates for President and Vice President, section 304(b) of the Federal Election Campaign Act of 1971 shall be effective for elections occurring after January 1, 1981.

VOTING SYSTEM STUDY

SEC. 302. The Federal Election Commission, with the cooperation and assistance of the National Bureau of Standards, shall conduct a preliminary study with respect to the future development of voluntary engineering and procedural performance standards for voting systems used in the United States. The Commission shall report to the Congress the results of the study, and such report shall include recommendations, if any, for the implementation of a program of such standards (including estimates of the costs and time requirements of implementing such a program). The cost of the study shall be paid out of any funds otherwise available to defray the expenses of the Commission.

TRANSITION PROVISIONS

SEC. 303. (a) The Federal Election Commission shall transmit to the Congress proposed rules and regulations necessary for the purpose of implementing the provisions of this Act, and the amendments made by this Act, prior to February 29, 1980.

(b) The provisions of section 311(d) of the Federal Election Campaign Act of 1971 allowing disapproval of rules and regulations by either House of Congress within 30 legislative days after receipt shall, with respect to rules and regulations required to be proposed under subsection (a) of this section, be deemed to allow such disapproval within 15 legislative days after receipt.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. FRENZEL. Mr. Speaker, reserving the right to object. I do not intend to object. I reserve the right to object only so that I may ask some questions of the chairman, and give the gentleman a chance to explain the consensus election bill which the House passed without objection.

Further reserving the right to object, Mr. Speaker, I would like to ask the distinguished gentleman from New Jersey several questions. First, there is the question of the FEC's clearinghouse operation. It is my understanding that the language of the House and the Senate bill has the result of restricting the clearinghouse's activity to Federal elections only, and that it also requires that all of its reports be available to the public only upon the payment of their costs.

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Mr. THOMPSON. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Speaker, the gentleman is precisely correct. Only the Federal Government is exempt from paying the cost of the reports.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I will say to the committee chairman that there is the question of the effect of the bill on the registration and reporting requirements of State and local separate segregated funds.

In making the change in the law, was it the intent of the committee that a State or local separate segregated fund which does not make contributions or expenditures under the act would be required to register and report under the act?

Mr. THOMPSON. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Speaker, it was not the committees' intent that a separate segregated fund established for the purpose of financing political activity in connection with State or local elections should have to register under the act.

Mr. FRENZEL. Mr. Speaker, I thank the committee chairman.

Further reserving the right to object, Mr. Speaker, I assume that the committee recognized that under existing law these State and local separate segregated funds could transfer up to $1,000 to an affiliate without incurring a registration or reporting requirement.

Was it the intent of the committee to change that situation?

Mr. THOMPSON. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Speaker, I will say to my distinguished friend, the gentleman from Minnesota (Mr. FRENZEL), that the committee did not intend to change that situation, except that now, of course, the minimum figure on contributions or expenditures by a separate segregated fund is basically $1; but a transfer from such a fund to a registered separate segregated fund that is affiliated is not considered a contribution or expenditure, and as such would not require a separate account, and as I read the remarks of the senior Senator from Rhode Island, Senator PELL, on the passage of H.R. 5010, neither did the Senate, as reflected in the CONGRESSIONAL RECORD of December 18, 1979, at page 36754.

The act's purposes would not be served by requiring the local union or corporate subsidiary to register or to report.

Further, I would like to point out that the committee recognizes that there is a reporting obligation on the part of a Federal separate segregated fund which receives transfers from or engages in joint fund-raising activities with a State or local affiliate. These committees must report all transfers from a State or local committee regardless of the amount.

Mr. FRENZEL. Mr. Speaker, I thank the distinguished committee chairman.

Further reserving the right to object, Mr. Speaker, I would like now to yield to the committee chairman so that he can explain the Senate amendment, which, I believe, does no harm to the House bill and in fact substantially enhances it. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Speaker, I thank the gentleman for yielding.

I would be delighted to explain the Senate amendment, but first let me say that this essential legislation would not be before the House today if it were not for the unstinting efforts of my friend and colleague, the gentleman from Minnesota (Mr. FRENZEL). His efforts, and those of his staff, have been heroic.

Mr. Speaker, the Senate amendment consists of a small number of substantive amendments to H.R. 5010, which passed the House unanimously on September 10, 1979.

Mr. Speaker, I will briefly summarize the Senate amendments.

First, in the spirit of continuing to simplify reporting requirements, one of the Senate amendments would raise the reporting threshold for contributions from $100 to $200.

Second, the Senate added an amendment to extend from 10 to 30 days the time in which a person receiving a contribution of $50 or less must forward the contribution to the treasurer of his or her political committee. This recognizes existing difficulty in the handling and transmittal of smaller contributions.

Third, the Senate adopted an amendment which makes clear that the Federal Election Commission should have a personnel policy free of involvement by the executive branch. This amendment specifically exempts the Federal Election Commission from the senior executive service program.

Fourth, the Senate amends the bill to comport with existing House rules on the conversion excess campaign funds. Presently, under House rules Members may not convert such excess campaign funds to their personal use. The Senate amendment would apply that policy to all the Federal candidates, except that current Members of Congress would be subject only to the rules of the House or Senate. With regard to the prohibition on personal use of campaign funds, it is our intent to allow the full repayment of campaign loans made by a candidate to his or her authorized committees and not to classify these repayments as a personal use.

A final major change is a provision to expedite the promulgation of regulations by the Federal Election Commission necessary to implement H.R. 5010. The legislative veto provisions have been shortened in this case only, from 30 days to 15 days.

Mr. Speaker, there are other substantive and technical changes, but this highlights the provisions of the Senate amendment.

Finally, several general comments:

We have abolished random audits and substituted clear procedures for the commission to follow before instituting any audit. The Commission will be only able to audit a candidate's committee when its reports fail to satisfy specific threshold requirements for substantial compliance, and then only after the Commission has voted by an affirmative vote of four members to proceed. Additionally, any audit must begin within 30 days of a vote to audit and the audit of a candidate's committee must begin within 6 months following the election.

It is the hope of the House that the Commission in setting the threshold requirements for auditing noncandidate political action committees will set those requirements sufficiently low as to enable the Commission to continue its vigorous, thorough, and needed review of these committees.

Although the legislation requires a disclaimer for political advertising and solicitation, it is not our intention to require that this disclaimer appear on the front face or page of such material. However, the disclaimer must be presented in a manner to give the reader or observer adequate notice.

The Commission should interpret the new disclaimer requirements in a reasonable manner. There should be a period of transition whereby the disclaimer required under current law would suffice.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman for that explanation, and I do concur in his description and in the answers he gave to my questions.

Mr. Speaker, further reserving the right to object, on behalf of the minority, particularly the ranking minority member of the committee, the gentleman from Alabama (Mr. DICKINSON), and on behalf of all our Members, I would like to congratulate the distinguished gentleman from New Jersey (Mr. THOMPSON) and both Senators PELL and HATFIELD for the work they have done on this bill. It was a consensus bill. The committees of both the House and Senate decided to lay aside the difficult issues on which we enjoy going to war, and instead to pass the items in this bill which will simplify and make life easier for candidates, for the parties, for volunteers, and for everybody. We all knew that these changes had to be made, and now they are being made.

I would particularly, Mr. Speaker, pay tribute to the distinguished committee chairman, the gentleman from New Jersey (Mr. THOMPSON).

In an environment which had previously been filled with rancor, the gentleman has now brought us an era of cooperation and respect, and sometimes, affection. I congratulate the gentleman for his work.

Mr. THOMPSON. Mr. Speaker, will the gentleman yield further?

Mr. FRENZEL. Further reserving the right to object, I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Speaker, I certainly do appreciate, more than I can say, the gentleman's kindness. I am rather overwhelmed today because the gentleman from Maryland (Mr. BAUMAN) did not exclude me from his "Merry Christmas greetings, everyone." I would like to reciprocate to him and reciprocate to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, this is a bill changing Federal election law; is that correct?

Mr. THOMPSON. Mr. Speaker, if the gentleman will yield, let me say that the gentleman is correct.

Mr. BAUMAN. Mr. Speaker, let me ask, has the gentleman from New Jersey cleared this with Common Cause?

Mr. THOMPSON. The gentleman from New Jersey has not.

Mr. BAUMAN. That certainly recommends the legislation to me.

Are there any increases in equipment allowances or in staff for Members included in this bill?

Mr. THOMPSON. No. We will do that as soon as we can in January, especially 1 day on which the gentleman is not present.

Mr. BAUMAN. Mr. Speaker, that makes this a very unusual bill, if those items are not in it.

Mr. Speaker, I did want specifically to include the gentleman from New Jersey in my Christmas greetings. In fact, I hardly recognized the gentleman from the description that we just received a moment ago. I say, "Merry Christmas" to the gentleman.

Mr. THOMPSON. Mr. Speaker, I thank the gentleman.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just adopted.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

APPOINTMENT AS MEMBERS OF THE CONGRESSIONAL AWARD BOARD ON BEHALF OF THE MAJORITY

The SPEAKER. Pursuant to section 4(a) of Public Law 96-114 the Chair appoints as members of the Congressional Award Board:

Mr. Patrick L. O'Malley, of Chicago, Ill.;

Ms. Dinah Shore, of Beverly Hills, Calif.;

Mr. Christopher R. O'Neill, of Washington, D.C.; and

Mr. Frank Arlinghaus, Jr., of Rumson, N.J.

APPOINTMENT AS MEMBERS OF THE CONGRESSIONAL AWARD BOARD ON BEHALF OF THE MINORITY

Mr. RHODES. Mr. Speaker, pursuant to section 4(a) of Public Law 96-114, I have today appointed as members of the Congressional Award Board:

Mr. W. Clement Stone, of Chicago, Ill.;

Mr. William Bricker, of New York, N.Y.; and

Ms. Roberta Vander Vort, of Kansas City, Mo.

APPOINTMENT AS MEMBER OF SELECT COMMITTEE ON THE OUTER CONTINENTAL SHELF

The SPEAKER. Pursuant to the provisions of House Resolution 53, 96th Congress, the Chair appoints the gentleman from Michigan, Mr. ALBOSTA, to the Select Committee on the Outer Continental Shelf to fill the existing vacancy thereon.

ANNUAL REPORT OF THE NATIONAL ENDOWMENT FOR THE ARTS AND THE NATIONAL COUNCIL ON THE ARTS, FISCAL YEAR 1977—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Education and Labor.

To the Congress of the United States:

It is with great pleasure that I transmit to you the Annual Report of the National Endowment for the Arts and the National Council on the Arts for the Fiscal Year ended September 30, 1977.

JIMMY CARTER.

THE WHITE HOUSE, *December 20, 1979.*

NINETEENTH QUARTERLY REPORT OF THE COUNCIL ON WAGE AND PRICE STABILITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read, and together with the accompanying papers, referred to the Committee on Banking, Finance and Urban Affairs:

To the Congress of the United States:

In accordance with Section 5 of the Council on Wage and Price Stability Act, as amended, I hereby transmit to the Congress the nineteenth quarterly report of the Council on Wage and Price Stability. The report contains a description of the Council's activities during the second quarter of 1979 in monitoring both prices and wages in the private sector and various Federal Government activities that may lead to higher costs and prices without creating commensurate benefits. It discusses Council reports, analyses, and filings before Federal regulatory agencies. It also describes the Council's activities of monitoring wages and prices as part of the anti-inflation program.

The Council on Wage and Price Stability will continue to play an important role in supplementing fiscal and monetary policies by calling public attention to wage and price developments or actions by the Government that could be of concern to American consumers.

JIMMY CARTER.

THE WHITE HOUSE, *December 20, 1979.*

REFUGEE ACT OF 1979

Ms. HOLTZMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2816) to amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentlewoman from New York (Ms. HOLTZMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2816, with Mr. MOAKLEY, Chairman pro tempore in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee rose on Thursday, December 13, 1979, all time for general debate on the bill had expired.

Pursuant to the rule, the committee amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the reported bill shall be considered by titles as an original bill for the purpose of amendment, and each title shall be considered as having been read.

The Clerk will designate title I.

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Title I reads as follows:

That this Act may be cited as the "Refugee Act of 1979".

TITLE I—PURPOSE

SEC. 101. The Congress declares that it is the historic policy of the United States to respond to the urgent needs of persons subject to persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. The purposes of this Act are to provide a permanent and systematic procedure for the admission of refugees to the United States and to provide comprehensive and uniform provisions for the effective resettlement and absorption of those refugees who are admitted.

The CHAIRMAN pro tempore. Are there any amendments to title I? If there are no amendments to title I, the Clerk will designate title II.

Title II reads as follows:

TITLE II—ADMISSION OF REFUGEES

SEC. 201. (a) Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101 (a)) is amended by adding after paragraph (41) the following new paragraph:

"(42) The term 'refugee' means (A) any person who is outside any country of such person's nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, or (B) any person who is within the country of such person's nationality or, in the case of a person having no nationality, within the country in which such person is habitually residing, and who is persecuted or who has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. The term 'refugee' does not include any person who ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion.".

(b) Chapter 1 of title II of such Act is amended by adding at the end thereof the following new sections:

"ANNUAL ADMISSION OF REFUGEES AND ADMISSION OF EMERGENCY SITUATION REFUGEES

"SEC. 207. (a) Except as provided in subsection (b), the number of refugees who may be admitted under this section in any fiscal year may not exceed fifty thousand, unless the President determines, before the beginning of the fiscal year and after appropriate consultation (as defined in subsection (e)), that admission of a specific number of refugees in excess of fifty thousand is justified by humanitarian concerns. Admissions under this subsection shall be allocated among refugees of special humanitarian concern to the United States in accordance with a determination made by the President after appropriate consultation.

"(b) If the President determines, after appropriate consultation, that (1) an unforeseen emergency refugee situation exists, (2) the admission of certain refugees in response to the emergency refugee situation is justified by grave humanitarian concerns, and (3) the admission to the United States of these refugees cannot be accomplished under subsection (a), the President may fix a number of refugees to be admitted to the United States during the succeeding period (not to exceed twelve months) in response to the emergency refugee situation and such admissions shall be allocated among refugees of special humanitarian concern to the United States in accordance with a determination made by the President after the appropriate consultation provided under this subsection.

"(c)(1) Subject to the numerical limitations established pursuant to subsections (a) and (b), the Attorney General may, in the Attorney General's discretion and pursuant to such regulations as the Attorney General may prescribe, admit any refugee who is not firmly resettled in any foreign country, is determined to be of special humanitarian concern to the United States, and is admissible (except as otherwise provided under paragraph (3)) as an immigrant under this Act.

"(2) A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E)) of any refugee who qualifies for admission under paragraph (1) shall, if not otherwise entitled to admission under such paragraph, be entitled to the same admission status as such refugee if accompanying, or following to join, such refugee and if the spouse or child is admissible (except as otherwise provided under paragraph (3)) as an immigrant under this Act. Upon the spouse's or child's admission to the United States, such admission shall be charged against the numerical limitation established in accordance with the appropriate subsection under which the refugee's admission is charged.

"(3) The provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) shall not be applicable to any alien seeking admission to the United States under this subsection. and the Attorney General may waive any other provision of such section (other than paragraph (27), (29), or (33) and other than so much of paragraph (23) as relates to trafficking in narcotics) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Any such waiver by the Attorney General shall be in writing and shall be granted only on an individual basis following an investigation.

"(4) The refugee status of any alien (and of the spouse or child of the alien) may be terminated by the Attorney General pursuant to such regulations as the Attorney General may prescribe if the Attorney General determines that the alien was not in fact a refugee within the meaning of section 101 (a)(42) at the time of the alien's admission.

"(d)(1) Before the start of each fiscal year the President shall report to the Committees on the Judiciary of the House of Representatives and of the Senate regarding the foreseeable number of refugees who will be in need of resettlement during the fiscal year and the anticipated allocation of refugee admissions during the fiscal year. The President shall provide for periodic discussions between designated representatives of the President and members of such committees regarding changes in the worldwide refugee situation, the progress of refugee admissions, and the possible need for adjustments in the allocation of admission among refugees.

"(2) As soon as possible after representatives of the President initiate appropriate consultation with respect to an increase in the number of refugee admissions under subsection (a) or with respect to the admission of refugees in response to an emergency refugee situation under subsection (b), the Committees on the Judiciary of the House of Representatives and of the Senate shall cause to have printed in the Congressional Record the substance of such consultation.

"(e) For purposes of this section, the term 'appropriate consultation' means, with respect to the admission and allocation of refugees, discussions in persons by designated Cabinet-level representatives of the President with members of the Committees on the Judiciary of the Senate and of the House of Representatives to review the refugee situation or emergency refugee situation, to project the extent of possible participation of the United States therein, to discuss the reasons for believing that the proposed admission of refugees is justified by humanitarian concerns, and to provide such members with the following information:

"(1) A description of the nature of the refugee situation.

"(2) A description of the number and allocation of the refugees to be admitted.

"(3) A description of the proposed plans for their movement and resettlement and the estimated cost of their movement and resettlement.

"(4) An analysis of the anticipated social, economic, and demographic impact of their admission to the United States.

"(5) Such additional information as may be appropriate or requested by such members.

To the extent possible, information described in this subsection shall be provided at least two weeks in advance of discussions in persons by designated representatives of the President with such members.

"ASYLUM PROCEDURE

"SEC. 208. (a) The Attorney General shall establish a procedure for an alien physically present in the United States or at a land border or port of entry, irrespective of such alien's status, to apply for asylum, and the alien may be granted asylum in the discretion of the Attorney General if the Attorney General determines that such alien is a refugee within the meaning of section 101(a) (42)(A).

"(b) Asylum granted under subsection (a) may be terminated if the Attorney General, pursuant to such regulations as the Attorney General may prescribe, determines that the alien is no longer a refugee within the meaning of section 101(a)(42)(A) owing to a change in circumstances in the alien's country of nationality or. in the case of an alien having no nationality, in the country in which the alien last habitually resided.

"(c) A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E)) of an alien who is granted asylum under subsection (a) shall, if not otherwise eligible for asylum under such subsection, be entitled to the same status as the alien.

"ADJUSTMENT OF STATUS OF REFUGEES

"SEC. 209. (a)(1) Any alien who has been admitted to the United States under section 207—

"(A) whose admission has not been terminated by the Attorney General pursuant to such regulations as the Attorney General may prescribe,

"(B) who has been physically present in the United States for at least two years, and

"(C) who has not acquired permanent resident status,

shall, at the end of such two years, return or be returned to the custody of the Service for inspection and examination for admission to the United States as an immigrant in accordance with the provisions of sections 235, 236, and 237.

"(2) Any alien who is found upon inspection and examination by an immigration officer pursuant to paragraph (1) or after a hearing before a special inquiry officer to be admissible (except as otherwise provided under subsection (c)) as an immigrant under this Act at the time of the alien's inspection and examination shall, notwithstanding any numerical limitation specified in this Act, be regarded as lawfully admitted to the United States for permanent residence as of the date of such alien's arrival into the United States.

"(b) Not more than five thousand of the refugee admissions authorized under section 207(a) in any fiscal year may be made available by the Attorney General, in the Attorney General's discretion and under such regulations as the Attorney General may prescribe, to adjust to the status of an alien lawfully admitted for permanent residence the status of any alien granted asylum who—

"(1) applies for such adjustment,

"(2) has been physically present in the United States for at least two years after being granted asylum,

"(3) continues to be a refugee within the meaning of section 101(a)(42)(A) or a spouse or child of such a refugee,

"(4) is not firmly resettled in any foreign country, and

"(5) is admissible (except as otherwise provided under subsection (c)) as an immigrant under this Act at the time of examination for adjustment of such alien.

Upon approval of an application under this subsection, the Attorney General shall establish a record of the alien's admission for lawful permanent residence as of the date two years before the date of the approval of the application.".

"(c) The provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) shall not be applicable to any alien seeking adjustment of status under this section, and the Attorney General may waive any other provision of such section (other than paragraph (27), (29), or (33) and other than so much of paragraph (23) as relates to trafficking in narcotics) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.".

(c) The table of contents of such Act is amended by inserting after the item relating to section 206 the following new items:

"Sec. 207. Annual admission of refugees and admission of emergency situation refugees.
"Sec. 208. Asylum procedure.
"Sec. 209. Adjustment of status of refugees.".

SEC. 202. Section 211 of the Immigration and Nationality Act (8 U.S.C. 1181) is amended—

(1) by inserting "and subsection (c)" in subsection (a) after "Except as provided in subsection (b)"; and

(2) by adding at the end thereof the following new subsection:

"(c) The provisions of subsection (a) shall not apply to an alien whom the Attorney General admits to the United States under section 207.".

SEC. 203. (a) Subsection (a) of section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended to read as follows:

"(a) Exclusive of special immigrants defined in section 101(a)(27), immediate relatives specified in subsection (b) of this section, and aliens who are admitted or granted asylum under section 207 or 208, the number of aliens born in any foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence, shall not in any of the first three quarters of any fiscal year exceed a total of seventy-two thousand and shall not in any fiscal year exceed two hundred and seventy thousand.".

(b) Section 202 of such Act (8 U.S.C. 1152) is amended—

(1) by striking out "and the number of conditional entries" in subsection (a);

(2) by striking out "(8)" in subsection (a) and inserting in lieu thereof "(7)";

(3) by striking out "or conditional entries" and "and conditional entries" in subsection (e);

(4) by striking out "20 per centum" in subsection (e)(2) and inserting in lieu thereof "26 per centum";

(5) by striking out paragraph (7) of subsection (e);

(6) by striking out "(7)" in paragraph (8) of subsection (e) and inserting in lieu thereof "(6)"; and

(7) by redesignating paragraph (8) of subsection (e) as paragraph (7).

(c) Section 203 of such Act (8 U.S.C. 1153) is amended—

(1) by striking out "or their conditional entry authorized, as the case may be," in subsection (a);

(2) by striking out "20 per centum" in subsection (a)(2) and inserting in lieu thereof "26 per centum";

(3) by striking out paragraph (7) of subsection (a);

(4) by striking out "and less the number of conditional entries and visas available pursuant to paragraph (7)" in subsection (a)(8);

(5) by striking out "or to conditional entry under paragraphs (1) through (8)" in subsection (a)(9) and inserting in lieu thereof "under paragraphs (1) through (7)";

(6) by redesignating paragraphs (8) and (9) of subsection (a) as paragraphs (7) and (8), respectively;

(7) by striking out "(7)" in subsection (d) and inserting in lieu thereof "(6)"; and

(8) by striking out subsections (f), (g), and (h).

(d) Sections 212(a)(14), 212(a)(32), and 244(d) of such Act (8 U.S.C. 1182(a)(14), 1182(a)(32), 1254(d)) are each amended by striking out "section 203(a)(8)" and inserting in lieu thereof "section 203(a)(7)".

(e) Subsection (h) of section 243 of such Act (8 U.S.C. 1153) is amended to read as follows:

"(h)(1) The Attorney General shall not deport or return any alien (other than an alien described in section 241(a)(19)) to a country if the Attorney General determines that such alien's life or freedom would be threatened in such country on account of race, religion, nationality, membership in a particular social group, or political opinion.

"(2) Paragraph (1) shall not apply to any alien if the Attorney General determines that—

"(A) the alien ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

"(B) the alien, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the United States;

"(C) there are serious reasons for considering that the alien has committed a serious nonpolitical crime outside the United States prior to the arrival of the alien in the United States; or

"(D) there are reasonable grounds for regarding the alien as a danger to the security of the United States."

(f) Section 212(d)(5) of such Act (8 U.S.C. 1182(d)(5)) is amended—

(1) by inserting "(A)" after "(5)";

(2) by inserting ", except as provided in subparagraph (B)," after "Attorney General may"; and

(3) by adding at the end thereof the following new subparagraph:

"(B) The Attorney General may not parole into the United States an alien who is a refugee unless the Attorney General determines that compelling reasons in the public interest with respect to that particular alien require that the alien be paroled into the United States rather than be admitted as a refugee under section 207.".

(g) Section 5 of Public Law 95–412 (8 U.S.C. 1182 note) is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1979".

(h) Any reference in any law (other than the Immigration and Nationality Act or this Act) in effect on the effective date of the amendment made by section 203(c)(3) to section 203(a)(7) of the Immigration and Nationality Act shall be deemed to be a reference to such section as in effect before such date and to sections 207 and 208 of the Immigration and Nationality Act.

SEC. 204. (a) Except as provided in subsection (b), this title and the amendments made by this title shall take effect on October 1, 1979, and shall apply to fiscal years beginning on or after such date.

(b)(1) The repeal of subsections (g) and (h) of section 203 of the Immigration and Nationality Act, made by section 203(c)(8) of this title, shall not apply with respect to any individual who before the effective date of such repeal, was granted a conditional entry under section 203(a)(7) of the Immigration and Nationality Act (and under section 202(e)(7) of such Act, if applicable), as in effect immediately before such date, and it shall not apply to any alien paroled into the United States before the effective date of this title who is eligible for the benefits of section 5 of Public Law 95–412.

(2) An alien who, before October 1, 1979, established a date of registration at an immigration office in a foreign country on the basis of entitlement to a conditional entrant status under section 203(a)(7) of the Immigration and Nationality Act (as in effect before such date), shall be deemed to be entitled to a refugee status under section 207 of such Act (as added by section 201(b) of this title) and shall be accorded the date of registration previously established by him. Nothing in this paragraph shall be construed to preclude the acquisition by such an alien of a preference status under section 203(a) of such Act.

(c)(1) Notwithstanding section 207(a) of the Immigration and Nationality Act (as added by section 201(b) of this title), the President may make the determination described in the first sentence of such section not later than forty-five days after the date of the enactment of this Act for fiscal year 1980.

(2) The Attorney General shall establish the asylum procedure referred to in section 208(a) of the Immigration and Nationality Act (as added by section 201(b) of this title) not later than sixty days after the date of the enactment of this Act.

The CHAIRMAN pro tempore. Are there any amendments to title II?

AMENDMENT OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FASCELL: Page 17, line 19, insert the following immediately after "(B)":

"in such special circumstances as the President after appropriate consultation (as defined in section 207(e) of this Act) may specify,"

Mr. FASCELL. Mr. Chairman, this amendment merely refines the proposed definition of "refugee" in section 201 as offered on behalf of the Committee on Foreign Affairs.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. I thank the gentleman for yielding.

Mr. Chairman, I have reviewed the amendment, and I have no objection to it. We accept the amendment.

Mr. FASCELL. I thank the gentlewoman.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I think this is sufficiently important, and I would like to have the gentleman explain the amendment. I know there has been concern over part (B) of the definition of "refugee" and I think it would be in order to explain it.

Mr. FASCELL. Mr. Chairman, this amendment merely refines the proposed definition of "refugee" in section 201 of H.R. 2816. While I applaud the inclusion of the internationally accepted definition of "refugee" in section 201(a), the provision goes farther than the definition accepted by the international community and threatens to create serious time and resource problems at our embassies and posts abroad.

The core of the internationally accepted definition, which is expressed in the 1951 U.N. Convention Relating to the Status of Refugees, to which the United States is party, requires that an individual have crossed an international boundary before he or she can be considered for refugee status. It was felt by the international community that an individual who was in such fear of persecution as to be willing to leave his country of nationality, had gone a long way toward proving his case for refugee status, for people do not generally flee their home countries, often without documentation, absent strong reasons.

However, part (B) of the Judiciary Committee definition dispenses with that requirement and creates the potential for long lines of refugee applicants at U.S. posts abroad who are not really refugees. Examples are people who have been accused of crimes in their own country or who are potential defectors. While the applications of such people for refugee status would eventually be found to lack merit by our consular people abroad, it is the desire of the Foreign Affairs Committee to preclude such a burden being placed on already-strained State Department resources. In certain countries, the possibility exists that we might have long "refugee" lines similar to the long visa lines we have currently.

Therefore, my amendment would leave to the discretion of the President the decision whether circumstances warrant the determination that certain individuals are refugees, notwithstanding the fact that they have not left their country of residence. It is my understanding that the intent of this section was to permit the inclusion in the recognized refugee population of individuals such as the Vietnamese, who often have not left Vietnam and therefore do not technically come within the criteria of the internationally accepted definition. My amendment allows such a determination to be made by the President, but does not go further toward opening the doors to groundless applications for refugee status.

I understand that the gentlewoman from New York approves this amendment. I urge my colleagues to join us in support.

Mr. FISH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just want to thank the gentleman for his explanation, and the minority is happy to accept the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida (Mr. FASCELL).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments to title II?

AMENDMENT OFFERED BY MR. BUTLER

Mr. BUTLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUTLER: Page 18 line 11, strike out "in any fiscal year may not exceed fifty thousand" and insert in lieu thereof "in fiscal years 1980, 1981, or 1982, may not exceed 50,000 or in any fiscal year thereafter may not exceed 17,400".

Page 18, line 15, strike out "fifty thousand" and insert in lieu thereof "such number".

Mr. BUTLER. Mr. Chairman, I rise in support of the amendment. This amendment would sunset the President's authority to admit 50,000 refugees after fiscal year 1982, and return at that time to the present level of refugees authorized to be admitted—that is, 17,400 normal flow refugees, annually, without consultation with the Congress.

Mr. Chairman, the refugee population of the world today is staggering—some estimate that there are 13 million potential refugees in the world today—that is, persons fleeing from their home country based on a well-founded fear of persecution because of race, religion, or political opinion.

The United States continues to pay the price for our involvement in Indochina during the 1960's and 1970's by accepting 168,000 refugees from that area during fiscal year 1980, in addition to the 200,000-plus we have accepted since the end of the war in May 1975. We have dealt with that refugee crisis on a somewhat ad hoc basis. We will be able to deal with refugee admissions on a more orderly basis after enactment of this legislation.

However, as to the question of the numbers of refugees to be admitted, we should not be panicked into significant and permanent increases in the number of refugees which we agree to admit. During the last Congress, we enacted Public Law 95–412, establishing a Select Commission on Immigration and Refugee Policy to make legislative recommendations dealing with our overall immigration policy. One of the basic elements of this policy is one of numbers: How many immigrants, including refugees, can our country absorb?

It would be folly to legislate a permanent change in the number of refugees to be admitted at a time when the Select Commission is just beginning its task.

This amendment would acknowledge the present situation by authorizing a higher number of normal flow refugees—50,000 annually which represents an almost 300-percent increase over the present number authorized—17,400 annually. This large increase would be in effect only until the end of fiscal year 1982. At that time, the number would revert back to the present 17,400.

Two critical facts need to be considered. First, even after October 1982, the bill would allow for increases in the normal flow of refugees authorized, if the President so determines and the Congress is consulted. Second, by that time, the report of the Select Commission will have been filed for over 1 year and its legislative recommendations will have been submitted to the Congress. The Commission's report should be comprehensive—dealing with all aspects of immigration policy. It will include specific recommendations regarding the numbers of immigrants which our country can successfully admit, including the number of refugees that we may wish to admit. After the Commission's report is the proper time to enact permanent changes in our immigration laws.

This amendment, while allowing higher numbers of refugees to be admitted during the short run, would allow the Congress to reevaluate this decision as part of our overall immigration reform. Now is not the proper time to enact permanent changes in such a significant area of immigration law. My amendment would allow the Congress to reexamine the question of the number of refugees as part of the overall immigration reforms.

I urge the adoption of this amendment.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I want to indicate that I am prepared to accept the amendment. I have no objection to it.

Mr. BUTLER. I thank the gentlewoman for her cooperation.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I am happy to accept the gentleman's amendment.

Mr. BUTLER. I thank the gentleman.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I would like to thank the gentleman from Virginia for yielding, and I associate myself with his remarks.

The primary criticism of this bill, in my opinion, has been twofold. First, the refugee policy set forth in this bill was not coordinated with our legal immigration policy of nonrefugee immigrants, and also that it is not coordinated with the illegal alien problem which all of us recognize exists in the United States.

The amendment offered by the gentleman from Virginia is a start at making this kind of coordination and, thus, is a step in the right direction.

The second major criticism against this legislation, as I see it, is the fact that the legislation is being passed prior to the report of the Commission on Immigration and Refugee Policy, which is due to come in in 1981.

□ 1040

By sunsetting the increased flow of refugees at the end of fiscal year 1982, it will give the Congress an opportunity to review the report of that commission and its recommendations and hopefully enact a permanent policy relating to both refugees and non refugee immigrants.

I am glad the gentleman has offered the amendment. I hope it is adopted.

Mr. BUTLER. I thank the gentleman.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Virginia (Mr. Butler).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HYDE

Mr. HYDE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Hyde: Page 18, at the end of line 19, add the following: "A determination of the President under this subsection shall not take effect unless the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate each have approved a resolution approving such determination.".

Mr. HYDE. Mr. Chairman, I rise in support of this amendment which I am offering for my colleague from Illinois (Mr. McClory). This amendment recognizes the need for further Participation by other Members of Congress in the procedure of admission of refugees above the number specifically authorized by statute.

As one of the four Members presently involved in the so-called consultation process, Mr. McClory senses a heavy responsibility for the decisions he is asked to make. In the past, he and Mr. Rodino have met, sometimes on relatively short notice, to hear from the Attorney General and the Immigration Service and sometimes from the State Department regarding a decision that has often already been made by the executive branch. In fact, I know of no situation when they have not concurred in the request made by the executive branch to parole the number of refugees suggested.

This amendment would require a favorable vote by a majority of each Judiciary Committee in both the House and the Senate regarding the number of refugees to be admitted beyond the statutorily authorized normal flow.

It is argued that Congress has control over the numbers of refugees admitted through its appropriation process. I reject that argument, and suggest that it is virtually impossible for the Congress to reduce the number of refugees admitted by failing to fund programs for persons often already in this country or whom the President has promised to adjust as he did in the summer of 1979 regarding 168,000 Indochinese refugees which he stated would come to the United States during fiscal year 1980. We must regain some congressional input in the initial decision to admit refugees.

I urge my colleagues to retain this authority and not abandon congressional responsibility regarding such a significant question of the immigration policy.

Ms. HOLTZMAN. Mr. Chairman, I rise in strong opposition to this amendment, although I understand the concern of the gentleman from Illinois (Mr. Hyde) who proposed the amendment and the concern of the gentleman from Illinois (Mr. McClory) who authorized the amendment.

The Subcommittee on Immigration, Refugees, and International Law was deeply concerned to have the maximum amount of consultation with the executive branch on the issue of refugees to be admitted to this country.

The present procedures with regard to parole and the role of Congress in those decisions, I think, are not adequate to permit full scrutiny and full congressional input.

This bill strengthens the role of Congress in the consultative process with regard to the admission of refugees. The bill sets out explicit procedures which the executive branch must follow. There are procedures with regard to the timing of the consultation. There are procedures with regard to the kind of information that has to be provided. There are explicit procedures with regard to the ability of Members of Congress to request additional information.

In addition, I understand the gentleman from Illinois (Mr. Hyde), is going to be offering another amendment which will require a specific hearing by the Committees on the Judiciary of both this body and the other body, and that will further strengthen the role of the Congress. I want to assure the gentleman from Illinois that I intend to accept that amendment. I think that is a very constructive addition to the bill.

This amendment. on the other hand, is not a constructive addition to the bill and it is unnecessary.

I think, in addition, that it is inappropriate to give to a committee of the Congress, a committee of the House or committee of the other body, the power in terms of approval of a resolution that it does not have at this time. This is not a procedure that has been adopted in the past with regard to other legislation. I do not think it is necessary. I hope the amendment is defeated.

Mr. FISH. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, I will be very brief.

I hope that my colleague from Illinois (Mr. Hyde) will not press this amendment. There is a further amendment that will be accepted, as the chairwoman has just recently expressed, concerning the enlarged process of consultation; and I think that amendment, when coupled with the sunset on the 50,000 normal flow, the amendment of the gentleman from Virginia, which is accepted, and the amendment that will be offered by the gentleman from California on the one-House veto, together, give the House the protection that I think is important in this legislation.

Mr. RODINO. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I believe that the amendment is unwise, in that it would defeat the very purpose of this legislation, which is to move quickly. The legislation has been designed to establish a policy so that we would not have to react each and every time we are confronted with a serious refugee situation.

I think that in order that we move expeditiously, we have framed a formula that will address all situations.

I would urge that this amendment be defeated. As the gentleman from New York, the ranking minority member on the subcommittee, has so aptly stated, a compromise amendment, which will be offered by the gentleman from Illinois (Mr. Hyde) will serve the purpose of providing the necessary consultation with the committees that have the expertise in this area.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Illinois (Mr. Hyde).

The amendment was rejected.

AMENDMENT OFFERED BY MR. HYDE

Mr. HYDE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Hyde: Page 21, insert after line 15 the following new paragraph:

"(3)(A) After the President initiates appropriate consultation prior to making a determination, under subsection (a), that the number of refugee admissions under such subsection in a fiscal year should exceed fifty thousand, a hearing to review the proposal to increase refugee admissions shall be held unless public disclosure of the details of the proposal would jeopardize the lives or safety of individuals.

"(B) After the President initiates appropriate consultation prior to making a determination, under subsection (b), that the number of refugee admissions should be increased because of an unforseen emergency refugee situation, to the extent that time and the nature of the emergency refugee situation permit, a hearing to review the proposal to increase refugee admissions shall be held unless public disclosures of the details of the proposal would jeopardize the lives or safety of individuals.

Mr. HYDE. Mr. Chairman, this amendment simply says that after the President initiates appropriate consultation prior to making his determination, under subsection (A), that the number of refugee admissions in a given fiscal year should exceed 50,000, there should be a hearing, and this hearing should be held by the appropriate subcommittee of the Committees on the Judiciary in the House and in the other body. The hearings are to review the President's proposal to increase refugee admissions and that this hearing should be held unless public disclosure of the details of the proposal would jeopardize the lives or safety of individuals.

Next the amendment also provides that after the President has initiated consultation prior to making a determination to admit additional refugees under subsection (B) of this proposed legislation, then to the extent that the time and the nature of the emergency refugee situation permits, this hearing should be held by the appropriate subcommittee of the Committees of the Judiciary of the House and the Senate; and this should occur unless, as I say, the public disclosures of the details of the proposal would jeopardize the lives or safety of individuals.

□ 1050

The purpose of the amendment is to involve the Judiciary Committees of the House and Senate in the decisionmaking process insofar as circumstances will permit so there would be some congressional input.

Also I would hope that while I am not a member of the Subcommittee on Immigration, Refugees, and International Law of the House Judiciary Committee, that when these meetings are held notice would be given to all Members who would be invited to attend and, again, with the courtesy of the chairwoman, permitted to participate.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentlewoman.

Ms. HOLTZMAN. Mr. Chairman, I appreciate the gentleman's yielding. I want to compliment him on this amendment. I think it is an extremely constructive addition to the bill.

I think there is no substitute for public scrutiny, public disclosure, public debate on an issue of such importance, as the admission of refugees to the United States. It will protect us in terms of insuring that the administration thinks through its proposal more carefully. It also will help to engender public support by making it clear what it is the Congress intends to do.

With regard to the issue of notice, I want to assure the gentleman that it is my understanding that under this amendment notice of such hearings would be given to all members of the Judiciary Committee and, if it is a subcommittee that holds the hearings, then, in accordance with the generally-established practice, members of the committee would be entitled to sit with the subcommittee.

Mr. HYDE. I thank the gentlewoman. I wish to commend her for her understanding and cooperation in this very important area of this very important legislation.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I am pleased to yield to you.

Mr. FISH. Mr. Chairman, just very briefly I am happy that this issue was worked out. I think the enlarged consultative process will be of great benefit.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Illinois (Mr. HYDE).

The amendment was agreed to.

Mr. BUTLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, at this point I had earlier concluded that I would offer two amendments dealing with the question of Iranian students and related factors which have developed in recent times, quite recently. I am informally advised by the Parliamentarian's office that they would not be in order.

But I would like to take a moment for the record to clarify what these amendments would cover and why I consider them relevant. Then I would ask the gentlewoman from New York (Ms. HOLTZMAN), Chairman of the Subcommittee on Immigration, Refugees, and International Law, if she would have hearings on the question.

The first amendment which I would have offered would state "The Attorney General may deport an alien who is a citizen or national of a particular country and who is admitted to the United States as a nonimmigrant (or within a classification of nonimmigrants), if the President determines that a national emergency exists with respect to the relations between the United States and that country and the alien fails to comply with the conditions of the alien's admittance or such additional conditions as the Attorney General considers necessary to impose on such an alien on account of the emergency.".

As we all know, on November 13, 1979, the Attorney General issued regulations requiring all Iranian students in the United States to register with the Immigration and Naturalization Service and to prove that they were entitled to continuation of their student nonimmigrant status. A suit was filed in the U.S. District Court for the District of Columbia challenging the validity of that action, and on December 11, 1979, Judge Joyce Green issued an order enjoining further implementation of this regulation and further enjoining the Immigration Service from deporting any Iranian students found to be out of status based on information they obtained pursuant to such regulations. That case is on appeal, and arguments are scheduled in the Circuit Court of Appeals for today. The court found no statutory basis for the discriminatory classification established by such regulation. Since the regulations were designed to deal with only one nationality of students, such national origin classification without a finding of specific congressional action allowing such action was found to be beyond the scope of the Executive's authority.

The purpose of this amendment is to grant such specific authority to the executive branch in limited circumstances. My amendment would require the President in his conduct of foreign policy to declare that a national emergency exists with respect to our relationship with a specific country before any action could be taken dealing with citizens or nationals of that country who are in the United States. If the President makes such a finding, he could then direct the Attorney General to verify the status of individuals here from that particular country. Such action would not be illegal because of its nature as a classification based on national origin.

We should remember that it is clear that the Congress has sole authority under the Constitution to regulate immigration. If we have not granted the President the authority to take action similar to that which was taken last month directed toward Iranians in this country, we now have an opportunity to do so.

This country can be proud of its tradition of freedom of speech and freedom of political opinion. However, at a time of national emergency when some are suggesting military response to an international situation, the executive branch should be given maximum flexibility to take appropriate actions to deal with citizens and nationals of such a country who are present in the United States at our suffrance. I urge the House to adopt this amendment.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I am happy to yield.

Ms. HOLTZMAN. The gentleman does have the assurance from the chair of the subcommittee. Let me add that as the gentleman well knows we have been deeply concerned about the situation of foreign students in general and deeply concerned about the situation of the Iranian students in particular. We have held closed briefing sessions on this subject. The gentleman has my assurance that we will continue to follow this matter with great care and with great concern.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I will be glad to yield to my chairman.

Mr. RODINO. Mr. Chairman, while the gentleman raises a question that deals with a subject matter that gives many of us concern, I hope that all of us in the House recognize the sensitivity of this issue and recognize, also, that at this time when all of us are concerned with the safety of the American hostages, we do not want to complicate the issues and the negotiations that are going on. At this point, Mr. Chairman, I would like to submit a letter I received from the Acting Secretary of State:

DEPARTMENT OF STATE,
Washington, D.C. December 11, 1979.

PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CHAIRMAN: H.R. 2816, the Refugee Act of 1979, is an important piece of legislation which we have supported throughout its careful and serious consideration by your Committee. I am writing to express my concern, however, at certain proposed amendments to this legislation, which could complicate the President's efforts to secure the release of our hostages in Tehran.

While frustration and anger at the continued holding of the hostages is certainly understandable—and is obviously shared by us—this legislation should not become a vehicle for the expression of those emotions. In order not to make more difficult the President's task of securing the hostages' release, I would respectfully urge that Iran-related amendments not be added to the Refugee Bill during its consideration on the House floor.

Expressing in advance my deep appreciation for your cooperation.

Sincerely,
WARREN CHRISTOPHER,
Acting Secretary.

I assure the gentleman that, as chairman of the Judiciary Committee, and as the gentlewoman from New York has stated, at the appropriate time we will hold hearings. The question of students who overstay their admissions and who violate the terms of their admissions will be examined. I assure the gentleman that these matters will be dealt with at the appropriate time.

Mr. BUTLER. I thank the gentleman. I appreciate the assurance the gentleman gives.

I hope the gentleman will recognize that we are not going to satisfy the membership or the American people if we do not have an opportunity to consider these matters in a hearing before the committee, and that the closed hearings and the assurances we are looking into are not going to resolve the problems. I think there are very simple, intelligent, legislative responses to these questions and I hope that we will have committee hearings on that question as soon as we can get them in order.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I am happy to yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, let me tell the gentleman from Virginia (Mr. BUTLER) that I wish to associate myself with his remarks.

The CHAIRMAN pro tempore. The time of the gentleman from Virginia has expired.

(At the request of Mr. KAZEN and by unanimous consent, Mr. BUTLER was allowed to proceed for 2 additional minutes.)

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman.

Mr. KAZEN. Also, in accordance with the statement which was just made by the gentleman from New Jersey, chairman of the full committee, I would agree that this would probably not be the time to be discussing specific nationalities of students because of the hostage situation. But I do want to emphasize the fact that every Member of this House is very vitally interested in this question, and it probably took something like this to bring it to a head. But certainly we ought not to let it lie there.

As soon as this emergency is over we should pursue this matter and I want to commend the gentlewoman from New York (Ms. HOLTZMAN) for her statement about holding hearings, and then make sure that anyone who enters this country under a visa for a specific purpose retains that status only so long as that purpose is being fulfilled. But when they, students, who come in here legally under a visa, when they vacate the classroom and occupy the streets of this country, then there should be no impediment to the Attorney General to remove their status and expel them from the United States. I think that this country is blessed with the fact that the entire world knows of its hospitality, but certainly we should not allow anybody to overstep the bounds of that hospitality, and that the means to expel those specific individuals who do not live up to the conditions of their entrance into this country, should be given the Attorney General.

Mr. BUTLER. I thank the gentleman very much for his contribution and I yield back the balance of my time.

☐ 1100

AMENDMENT OFFERED BY MR. MOORHEAD OF CALIFORNIA

Mr. MOORHEAD of California. Mr. Chairman. I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MOORHEAD of California: Page 18, line 12, insert "(1)" after "President".

Page 18, line 16, insert before the period the following: ", (2) transmits such determination to both Houses of Congress, and (3) a resolution not favoring the determination has not been approved by either House of Congress under subsection (f)".

Page 22, insert after line 18 the following new subsection:

"(f)(1) If both Houses of Congress are not in session on the day a determination under subsection (a) (hereinafter in this subsection referred to as the 'determination') is received by the appropriate officers of each House, for purposes of this subsection, the determination shall be deemed to have been transmitted on the first succeeding day on which both Houses are in session.

"(2) If a determination is transmitted to the Houses of Congress, the determination shall take effect unless, between the date of such transmittal and the end of the first period of 15 calendar days of continuous session of Congress after such date, either House passes a resolution stating in substance that such House does not favor such determination.

"(3) For purposes of paragraph (2)—

"(A) continuity of session is broken only by an adjournment of Congress sine die, and

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 15-calendar-day period.

"(4)(A) This paragraph is enacted by Congress—

"(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subparagraph (B), and it supersedes other rules only to the extent that it is inconsistent therewith; and

"(ii) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

"(B) For purposes of this paragraph, the term 'resolution' means only a resolution of either House of Congress the matter after the resolving clause of which is as follows: 'That the   does not favor the determination of the President transmitted to the Congress, under section 207(a) of the Immigration and Nationality Act, on   , 19 .', the first bank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled.

"(C) A resolution once introduced with respect to a determination shall immediately be referred to the Committee on Judiciary by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

"(D)(i) If the Committee on the Judiciary has not reported a resolution referred to it at the end of 5 calendar days after its referral, it shall be in order to move to discharge the committee from further consideration of such resolution.

"(ii) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may be made after the committee has reported a resolution with respect to the same determination), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(iii) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same determination.

"(E)(i) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(ii) Debate on the resolution referred to in clause (i) shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

"(F)(i) Motions to postpone, made with respect to the discharge from a committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

"(ii) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate."

Mr. MOORHEAD of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MOORHEAD of California. Mr. Chairman this amendment insures that the Congress has a proper and substantive role in the determination of the immigration policy of the Nation. Under the bill, we place a 50,000 per fiscal year limit on refugees entering this country unless the President decides to bring in additional refugees. The bill does provide for consultation on the additional refuges but should a majority in the Congress feel that the President is taking an unwise or unreasonable step, the Congress, under the bill as presently written, has no opportunity to make a correction. The consultation language is really illusory. The bill, as reported, lets a few members of one committee determine policies that will have a profound effect on all of our districts.

My amendment permits either House of Congress the opportunity to disapprove a Presidential determination to bring in more refugees than 50,000 per fiscal year. The veto would not apply to an emergency determination set forth in section 207(b).

This amendment applies only to a foreseeable influx of refugees. In this case, I believe it is entirely proper for the Congress to ultimately approve or disapprove an influx of refugees in excess of 50,000 per fiscal year because of serious foreign and domestic policy implications.

The issue here is whether the Congress will have a substantive role in immigration policy or whether we will delegate this responsibility to the executive branch. We in the Congress will have to deal with the socioeconomic impacts of this bill. We will have to deal with overloaded school systems and medical clinics, scarce housing facilities, and rising welfare expenditures in our local communities. Consequently, I believe the Congress should have a major role in determining how many people will enter this country under the provisions of this bill.

Make no mistake about it. I support a humane refugee policy and I think the American people, as generous as they are, will strongly support a policy giving aid and comfort to oppressed and displaced people. However, I do think that we in the Congress, have every right to have a major role in determining U.S. immigration policy. We really have nothing to fear from congressional oversight. I ask an aye vote.

Mr. PEYSER. Mr. Chairman, will the gentleman yield for a question?

Mr. MOORHEAD of California. I yield to the gentleman from New York.

Mr. PEYSER. Mr. Chairman, I want to be sure I understand the thrust of the gentleman's amendment. He stated that this would not affect the President's emergency powers to bring in refugees.

Mr. MOORHEAD of California. Where their lives are in danger, under 207(b) or there is an immediate emergency.

Mr. PEYSER. Would the gentleman give me an example of what type of thing this would affect? In other words, the boat people, would that be considered an emergency or would that come under what the gentleman is speaking of?

Mr. MOORHEAD of California. The President makes the determination that their lives are in immediate danger or there is a present emergency. The refugees could then be admitted under section 207(b).

Mr. PEYSER. Can the gentleman give me a situation currently existing where he would think his amendment would apply? What type of situation would that be?

Mr. MOORHEAD of California. Basically, what my amendment applies to is the initial determination by the President that during a fiscal year, instead of bringing in 50,000 refugees, he is going to bring in 150,000 or 200,000 or whatever figure he might select.

Mr. PEYSER. If the gentleman would yield further, is this the type of thing that has been happening, as the gentleman sees the practical matter? I am trying to find out where the situation would exist that this legislation would be applicable to.

The CHAIRMAN. The time of the gentleman from California has expired.

(At the request of Mr. Peyser and by unanimous consent, Mr. Moorhead of California was allowed to proceed for 2 additional minutes.)

Mr. MOORHEAD of California. It would not apply in any immediate disaster that happens anyplace in the world where lives are in danger, where we get a new hot spot where people are going to lose their lives or suffer serious bodily harm unless the President makes that determination.

□ 1110

He will be able to make the determination. What this applies to is the year long policy that the administration will have on accepting immigrants into the country under this refugee bill, and, if he makes the determination that during the year he is going to raise that 50,000 limit to 200,000, it gives the Congress a 15-day period to reject this number.

Mr. PEYSER. I guess my question is in recent years have there been examples of what we are trying to protect against? Has there been anything the gentleman can think of where this would have been applicable?

Mr. MOORHEAD of California. We have been actually taking in more refugees each year than the limits that have been set. I would suppose that perhaps the total number of Vietnam refugees that we take in from staging camps—that decision of how many might be something that would be affected as it is made the first of the year, but if you get any hot spot that arises where refugees lives are actually in danger at the moment, it would not apply.

Mr. PEYSER. I thank the gentleman.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of California. I yield to the gentleman from New Jersey.

Mr. RODINO. I thank the gentleman for yielding. Will the gentleman tell me whether it is contemplated with his amendment that either House of Congress would have authority to approve or disapprove?

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Rodino, and by unanimous consent, Mr. Moorhead of California was allowed to proceed for 2 additional minutes.)

Mr. RODINO. If the gentleman will yield further, would either House have the authority or the power to increase the number of refugees if it considered that it was in the national interest to increase the number?

Mr. MOORHEAD of California. It is the President who has the power to increase. Say, the President would set the limit at 300,000 and the Congress would say that is too many. I am sure our committee would discuss the matter and come up with some recommended figure, and it would be communicated to the White House. They can come back with another figure that would be below 300,000, and the same rule applies.

Mr. RODINO. Will the gentleman yield again?

Mr. MOORHEAD of California. Yes; I will be happy to.

Mr. RODINO. If the House were given this power and authority to make a determination within a 15-day period that the number of refugees to be admitted was too high and that the United States could not absorb that number, for one reason or another, then why should the House not have the same opportunity within that same period to make a determination whether or not it could increase the number?

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of California. I will be happy to yield to the gentleman from Virginia.

Mr. BUTLER. I thank the gentleman for yielding. If I understand the gentleman's question correctly, it seems to me that the failure to respond in the veto as contemplated by this amendment would be an affirmative statement that the President has made an appropriate determination of the necessity.

Mr. MOORHEAD of California. Or the failure to respond. It would be fixed. I imagine in 90 percent of the cases the figure that is set by the President will be accepted by the Congress. There will be no action within the 15-day period and it will be effective. All that is retained is the power in the Congress if they make the determination that it is excessive to say no, and the President can come back with another figure that is below that level.

Ms. HOLTZMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, although I understand the intention of this amendment which is to get congressional involvement, I think it is an ill-conceived amendment. I think it could disrupt the orderly influx of refugees. I think it could totally disrupt the process by which we are absorbing boat people right now.

The President has made a determination to take in 14,000 Indochinese refugees a month. That is a total of 168,000 a year. What this amendment would do would be to subject all numbers of boat people over 50,000 a year to a congressional veto, despite the fact that the President has made an international commitment and a commitment to those people on behalf of the United States. I do not think that it would be the intention of Congress to see a wholesale disruption of the program under which we are admitting refugees from Southeast Asia, especially at this time. I would say that this is extremely ill advised.

The test of which situations the congressional veto will cover, by the way, is not what the gentleman from California (Mr. Moorhead) suggested, those where refugees lives are in danger. The veto would cover situations where the President could foresee prior to the beginning of the fiscal year that humanitarian concerns justified the admission of over 50,000 refugees. This amendment could preclude the President's action through a congressional veto in cases where anyone could foresee the need to admit more refugees, including situations where refugee lives are in danger. In other words, if we know that, and we do know that, hundreds of thousands of people would continue to flee to save their lives in Southeast Asia, the fact that we could foresee it means that we would have to impose this very disruptive process on our efforts to save those people. Lives could be lost. I think this amendment is ill conceived for that reason.

Let me just make two other points. The gentleman in his comments said that without this amendment we will have totally given up congressional authority over the process of the admission of refugees. That statement is not accurate in terms of what the bill does. Let me explain what the bill does. First, there is an explicit requirement for consultation with the Congress. The President has to come up with this proposal.

He has to submit certain information to the committees of both the House and the Senate as to the number of refugees to be admitted, how they are to be resettled, what the conditions were that gave rise to these refugees, and so forth. Second, as a result of the amendment offered by the gentleman from Illinois, there must be a public hearing on this proposal. Third, the members of the committees can ask for substantial additional information, documentation, and support from the administration. Fourth, a person consulting with the committees of Congress has to be a Cabinet-level person, not some low-level person who does not speak for the administration. So we do have important and, I think, significant and enhanced congressional input into the decisionmaking process on the admission of refugees.

Finally, the admissions process is not one that is going to impede rational resettlement practices. The whole point of title III of this bill is to develop a rational program, a systematic program, for the resettlement of refugees, one that would improve the present system and I think prevent some of the concerns that the gentleman from California (Mr. MOORHEAD) has about how refugees are going to be absorbed.

I think it would be unfortunate at this time to adopt this amendment. I think it would send a bad signal to Southeast Asia and the people there who are now fleeing for their lives. It would imply that Congress is going to impede the orderly acceptance of these people, the orderly absorption of these people, and is going to start putting bureaucratic obstacles in their way. I hope the amendment is defeated.

Mr. RODINO. Mr. Chairman, I move to strike the requisite numbers of words, and I rise in opposition to the amendment.

Mr. Chairman, I shall not take the 5 minutes. I merely want to point out that while I consider that the gentleman from California (Mr. MOORHEAD) offered this amendment with all good intentions, I am afraid that we would tie the President's hand at a time when he would have to deal with emergency situations. We have tried to establish in this legislation a national refugee policy. This is why we have attempted to establish a cap and attempted to set up conditions under which the President may exceed the cap to accommodate foreseeable refugee situations and emergency situations. I think to do otherwise, to tie the hands of the President with a one-House veto or with a congressional veto, would be inappropriate and would not be taking into account the nature of refugee situations.

I know that those of us who have dealt with crisis situations in the Hungarian situation, where we had to deal with emergency situations, would find that our hands would have been tied if we had had to deal with a one-House veto. I would hope that this amendment, while it may have some appeal, is voted down.

Mr. FISH. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

☐ 1120

Mr. Chairman, I think it would be well to point out just exactly how narrow the scope of this amendment is. The bill sets up a new mechanism whereby prior to the beginning of the fiscal year, which could mean several months before the beginning of the fiscal year, the President would make a determination if he wishes to ask for the admission of refugees in addition to the 50,000 normal flow. That is where the one-House veto comes into play. It affects no other part of the admissions process or, I might add, of the allocation process, which is also subject to consultation with the Committee on the Judiciary.

What will happen now, if this amendment prevails, is that in addition to the consultation with the committee, the expanded consultation amendment that we have accepted, that there will be an opportunity for the House itself to review the argument reached by the committee and by the President's Cabinet-level designee.

Mr. Chairman, I think when we read this amendment together with the sunset amendment that has been accepted today and the enlarged consultation amendment, that we are restoring control over admission of aliens to the Congress, the branch of Government that is given sole control over immigration by the Constitution. The one-House veto has been the method of assuring congressional concurrence with executive branch action and I believe it is appropriate with respect to their request for admission of refugees beyond those specifically authorized by this statute.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. MOORHEAD).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SENSENBRENNER: Page 26, strike out lines 21 through 23 and insert in lieu thereof the following: dence—

"(1) shall not in any of the first three quarters of any fiscal year exceed a total of 26½ percent of the number determined under paragraph (2), and

"(2) shall not in any fiscal year—

"(A) before fiscal year 1982, exceed 270,000, and

"(B) after fiscal year 1981, exceed 270,000, less one-half of the number (if any) by which the number of refugee admissions under section 207 in the previous fiscal year exceeded 50,000.".

Page 28, after line 9, insert the following new paragraph:

(7) by striking out "section 201(a)" in subsection (a) and inserting in lieu thereof "section 201(a)(2)" each place it appears.

Page 28, line 10, strike out "(7)" and insert in lieu thereof "(8)".

Page 28, line 12, strike out "(8)" and insert in lieu thereof "(9)".

Page 30, line 21, strike out "203(c)(8)" and insert in lieu thereof "203(c)(9)".

Mr. SENSENBRENNER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

Mr. FISH. Mr. Chairman, since I was not prepared for this amendment, I would like to hear it read.

The CHAIRMAN. Objection is heard.

The Clerk concluded the reading of the amendment.

Ms. HOLTZMAN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. DODD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2816) to amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes, had come to no resolution thereon.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair announces the House will proceed with consideration of House Joint Resolution 467, following which the House will consider the Aviation Safety rule and conference report. The House will then return to the consideration of the Refugee Act of 1979 and the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

CHRYSLER CORP. LOAN GUARANTEE PROGRAM APPROPRIATION, 1980

Mr. WHITTEN. Mr. Speaker, pursuant to the order of the House of yesterday I call up the joint resolution (H.J. Res. 467) making an urgent appropriation for administrative expenses of the Chrysler Corp. loan guarantee program, and to provide financial assistance to the Chrysler Corp. for fiscal year ending September 30, 1980, and ask that the joint resolution be considered in the House as in the Committee of the Whole.

The Clerk read the title of the joint resolution.

The Clerk read the joint resolution, as follows:

H.J. RES. 467

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1980:

DEPARTMENT OF THE TREASURY

BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

CHRYSLER CORPORATION LOAN GUARANTEE PROGRAM

For necessary administrative expenses as authorized by the Chrysler Corporation Loan Guarantee Act of 1979, $1,518,000. During fiscal year 1980, total commitments to guarantee loans may be extended in the amount of $1,500,000,000 of contingent liability for loan principal.

COMMITTEE AMENDMENT

The SPEAKER. The Clerk will report the committee amendment.

The Clerk read as follows:

> Committee amendment: Page 2, line 6, strike the sentence beginning on line 6, and insert: Total loan commitments and loan guarantees may be extended in the amount of $1,500,000,000 of contingent liability for loan principal and for such additional sums as may be necessary for interest payments, and commitment is hereby made to make such appropriations as may become necessary to carry out such loan guarantees.

The SPEAKER. The question is on the committee amendment.

The committee amendment was agreed to.

Mr. WHITTEN. Mr. Speaker, the funding resolution we are recommending is a holding action. It consists, aside from a relatively small amount for administrative expenses, of loan guarantees while the company gets its house in order.

I realize that Chrysler problems we are facing today is a symbol of what I believe is happening throughout our economy. While a loan guarantee will obviously help Chrysler and hopefully stave off its bankruptcy, it will also give us time to strike down some of the underlying problems which Chrysler and other segments of American industry face as a result of the action of our own country.

I raised a number of matters in this regard when I addressed my colleagues Tuesday, during consideration of the authorizing legislation. These remarks appear on page 36778 of the Record of December 18.

I am pleased the Appropriations Committee was able to move promptly to consider this matter. These loan guarantees are essential to bridge the gap and see the company through its period of cash shortage. It would be irresponsible to assume that Chrysler, without this help, could survive its period of difficulty. These loan guarantees will be secured by collateral, upon which the Federal Government will have first call. Without this legislation, the public confidence in Chrysler's major consumer products would be lost, and the corporation would have little chance to regain its financial well-being.

Mr. Speaker, I have become convinced that Chrysler's problems are symptomatic of a much broader and more serious national economic problem. Congress must address this matter now and take such other actions, perhaps the creation of a special finance corporation, as may be necessary to keep the Congress from having to deal with each of these matters on an individual basis.

This urgent appropriation bill provides the necessary authority for the Secretary of the Treasury to enter into guaranteed loan agreements in an amount not to exceed $1.5 billion for the loan principal. This amount, as well as the administrative expenses discussed below, have been requested by the administration as proposed in House Document 96–235.

Since the authorization for these loan guarantees requires full collateral, the liability of the Government appears to be totally protected. The authorization language is as follows:

> Sec. 9. (b)(2) Each loan guaranteed under this Act shall be secured by sufficient property of the borrower to fully collaterize the loan involved. In determining the amount of property which is needed to fully collateralize any such loan, the Board shall determine the value of such property based upon such property's value in the event that such property is sold in connection with the liquidation of the assets of such borrower.

In addition, $1,518,000 is provided for the operating expenses that will be incurred in administering the Chrysler loan guarantee program. These expenses will be fully recovered by a fee which will be charged on each loan guarantee. It is possible that these fees will exceed the actual expenses involved in administering the program.

The committee realizes that to some extent the wide spread publicity concerning the Chrysler situation has aggravated its problems, resulting in lower car and truck sales than might otherwise have occurred. By approving the full amount of the loan guarantee, the committee is hopeful that confidence in Chrysler will be restored and that continuity of production will be assured.

The committee notes that an improved Chrysler operation should result from the loan guarantee inasmuch as the authorizing legislation requires that Chrysler submit to the Government a satisfactory operating plan for the 1980 fiscal year. The language is as follows:

> Sec. 4. (a)(3)(A) the Corporation has submitted to the Board a satisfactory operating plan (including budget and cash flow projections) for the 1980 fiscal year and the next succeeding three fiscal years demonstrating the ability of the Corporation to continue operations as a going concern in the automobile business and, after December 31, 1983, to continue such operations as a going concern without additional loan guarantees or other Federal financing; and

The Appropriations Committee, in making these recommendations, is concurring with the actions taken by the House on Tuesday, December 18, when it passed H.R. 5860 authorizing loan guarantees to the Chrysler Corp.

☐ 1130

Mr. CONTE. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I support House Joint Resolution 467, which provides an appropriation of $1.5 million for administrative expenses as authorized by the Chrysler Loan Guarantee Act of 1979, and contains language, as required by the authorization, which would limit loan guarantees to $1.5 billion.

An authorization bill has passed both the House and the Senate.

Failure of the Chrysler Corp. would have a devastating impact on our national economy, the Federal budget and hundreds of thousands of American citizens. In the long run, providing loan guarantees to Chrysler will be far less expensive to the taxpayer than allowing Chrysler to fall into bankruptcy. The Treasury Department has estimated that the direct impact of a Chrysler failure on the Federal budget would be an increase in the deficit of $2.75 billion in calendar years 1980 and 1981. This would result from both higher outlays and reduced revenues.

Also, the Pension Benefit Guaranty Corporation would be liable for $1.1 billion of Chrysler's unfunded pension liabilities.

The loss in revenue to State and local governments has been estimated at $266 million. Thus, both the Federal Government and the American taxpayer stand to lose a great deal if Chrysler goes bankrupt.

The collapse of the country's 10th largest corporation would be felt throughout the economy. There would be substantial increase in the national unemployment rate, and an appreciable reduction in the gross national product. The Nation's balance of payments would suffer by at least $3 billion a year. Experts estimate that foreign automakers would take at least 25 percent of the market now filled by Chrysler products. Chrysler's failure would also seriously undermine the competitive structure of the Nation's automobile industry—leaving only two major domestic producers.

The bankruptcy alternative is not a viable one. The American consumer who purchases a car wants to be assured that parts will be available in the future when needed, and that there will be a trade-in market for the car when time comes to get a new one. Bankruptcy would erode public confidence, and would send a negative signal to private investors who must be and will be involved in the solution to Chrysler's financial problems once we pass this joint resolution.

I urge you to vote in favor of House Joint Resolution 467. It is far better to guarantee that thousands of Americans have jobs, and that thousands of children can grow up in working families, than to sentence thousands to unemployment and to welfare, then pay out these billions in welfare.

Mr. SLACK. Mr. Speaker, I move to strike the last word.

Mr. Speaker, the appropriation measure (H.J. Res. 467) pending before the House today provides the funds and authority to carry out the Chrysler Corp. loan guarantee program in accordance with H.R. 5860 which passed the House on Tuesday of this week.

Earlier today the Committee on Appropriations reported House Joint Resolution 467 with a committee amendment which makes certain technical changes in the resolution as introduced. These changes are necessary in order to carry out the program as the House authorizing bill contemplates.

As reported from the committee, the resolution would appropriate $1,518,000 for administrative expenses of carrying out the program and would provide authority for commitments and loan guarantees up to $1.5 billion in loan principal and for such sums as may be necessary for interest payments.

In addition, the bill provides a commitment to make such appropriations as may be necessary to carry out such loan guarantees, including both principal and interest. Such appropriations would be used to pay creditors in case of default on the part of the Chrysler Corp. While this provision may not be entirely necessary, it may well result in a lower interest charged for the loans and this further protects the position of the Government.

Mr. Speaker, the House has overwhelmingly approved authorizing legislation for this program. I would now ask that the House approve the appropriation legislation necessary to implement the program.

Mr. MICHEL. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I voted against the authorizing legislation for Chrysler assistance. Normally, regardless of my position, I have to take into consideration the will of the House when the measure comes before the Appropriations Committee for funding.

I think it is normally accepted that we should be conscious of the margin of votes that this measure passed by in both the House and the Senate. We are normally obliged in our Appropriations Committee to report out the necessary funds consistent with that which we have authorized.

With any other piece of legislation, often in our Appropriations Committee we agree on a figure less than that which is authorized. I made the statement in the committee this morning that I do not think that it would be possible in this case where the private sector is expected to contribute a considerable sum to make this whole package go and their decision obviously would be predicated fully upon the Government acting responsibly and anteing up whatever we authorize.

□ 1140

I do have a reservation and a problem, however, because during the course of the discussion in our committee this morning it was disclosed that the Government may be obligated beyond the billion-and-a-half dollars this House voted for. I think 95 percent of the membership of this House thought that was a cap on the Government's obligation, but what we have here is really not a cap at a billion-and-a-half dollars level if we take into account the fact that there will be interest paid which would be over and above the billion-and-a-half dollars

Our good friend, the gentleman from Ohio (Mr. REGULA), a member of the Committee on the Budget and of the Committee on Appropriations, in a 1-minute presentation told us that countercyclical assistance bill of $1,200 million with compound interest over 30 years would amount to over $16 billion over the life of that program. That is a program that had been authorized at a level of $1,200 million.

I think that we have got to take that interest factor into account when we make a judgment on any piece of legislation, because the question has to be asked: "How much will it ultimately cost?"

Who knows? How high will the rates be? We do not know the answer. Who negotiates the interest charged? We do not have all the answers.

There are an awful lot of unanswered questions that may come back someday to haunt us. This deals with only one automobile company and I think we have a legitimate right in asking this question. It is a very serious question, when interest rates are now at 13, 14, and 15 percent.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I did not see the committee amendment until just a few moments ago. I was told the bill was coming up yesterday before permission was granted.

As I read the language in the bill before us, it clearly places a maximum cap on not only loan commitments and guarantees but as well on such additional sums as may be necessary for interest payments on the $1.5 billion. The language to me is very, very clear that the Federal Government cannot spend or cannot guarantee more than the $1.5 billion for both loan principal and interest payments.

I was concerned when I first read this, as the gentleman was, that there might be a great deal more money being obligated here than was authorized in the legislation passed yesterday. But it seems to me that this is a definite cap.

Mr. Speaker, would the gentleman respond to that?

Mr. MICHEL. Mr. Speaker, as I understand it, we adopted a committee amendment that will adjust the language to account for what the gentleman is talking about, because our committee felt the original language of the resolution would have put a cap on both principal and interest. What the committee amendment was intended to do was to give the flexibility to provide for interest over and above the billion-and-a-half-dollar cap.

Mr. BAUMAN. Mr. Speaker, if the gentleman will yield, I suggest that the gentleman from Illinois might want to reread the committee amendment which has already been adopted, because as I read it, it says:

> Total loan commitments and loan guarantees may be extended in the amount of $1,500,000,000 of contingent liability for loan principal and for such additional sums as may be necessary for interest payments.

Mr. Speaker, I take that to be a cap on both principal and interest, and I think that is a good idea.

Mr. MICHEL. Mr. Speaker, let me just say that there was a considerable discussion of semantics and the language. There were several proposals being offered by different Members during the consideration of this resolution in our full committee, and I think it would probably be best for us to have some legislative history on this question. I would hope that either the chairman of the subcommittee or the chairman of the committee would clearly define and elucidate here for the Members what this language specifically does and whether there is really this billion-and-a-half-dollar cap.

Mr. BAUMAN. Mr. Speaker, if the gentleman will yield, if I were a New York bond counsel, I would certainly read this as a cap.

The SPEAKER. The time of the gentleman from Illinois (Mr. MICHEL) has expired.

Mr. BAUMAN. Mr. Speaker, I move to strike the last word.

Mr. Speaker, could we have an answer from the committee chairman or the subcommittee chairman as to their interpretation of the language in the committee amendment?

Mr. SLACK. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from West Virginia.

Mr. SLACK. Mr. Speaker, I can only cite to the gentleman section 8(a) of the authorizing legislation, which reads as follows:

> The authority of the Board to extend loan guarantees under this act shall not at any time exceed $1,500,000,000 in the aggregate principal amount outstanding.

That means that the interest is on top of it, in accordance with the authorizing legislation.

Mr. BAUMAN. I disagree Mr. Speaker. The authorizing bill does not control this appropriation before us. The correct interpretation of the committee amendment already adopted by the House is clearly that this bill, places a cap on principal and such additional sums as may be necessary for interest payments for a total of $1.5 billion. In view of the deveolping situation at Chrysler, I think that limit is a very prudent step.

Mr. SLACK. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from West Virginia.

Mr. SLACK. Mr. Speaker, the intent of the amendment was to place a cap of $1.5 billion on the loan principal.

Mr. BAUMAN. That may have been the intent, but that is not what it says.

Mr. SLACK. Mr. Speaker, I do not interpret it the way the gentleman does.

Mr. BAUMAN. Mr. Speaker, I would also just like to ask a question about the last line of the committee amendment, which reads:

> * * * and commitment is hereby made to make such appropriations as may become necessary to carry out such loan guarantees.

Are we here appropriating an open-ended amount of money to pay whatever obligations may ensue from the Chrysler situation?

Mr. SLACK. Mr. Speaker, if the gentleman will yield, no, I do not interpret it that way. It is not open-ended.

Mr. BAUMAN. Mr. Speaker, it says, such sums "as may become necessary to carry out such loan guarantee."

That is a very unusual phrase in an appropriation bill.

Mr. SLACK. Mr. Speaker, it is simply a commitment to make an appropriation, if necessary, in case of default.

Mr. BAUMAN. So the gentleman is saying that future action will be required of Congress in order to carry out this wish if additional sums are necessary?

Mr. SLACK. If there is a default, but only if there is a default.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for his response.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I thank my colleague for yielding.

Do I understand now that the interpretation of the chairman of the subcommittee is that in the present bill before us it is in fact open-ended as it relates to interest charges? Is that correct?

Mr. SLACK. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from West Virginia.

Mr. SLACK. Mr. Speaker, that is a fair statement, I would say. There is no way for us to determine what the interet rates are going to be.

Mr. ROUSSELOT. Mr. Speaker, I appreciate that, but if the interest rates continue going up as they have been going up, we would in effect by this legislation be guaranteeing potentially very substantial amounts of money.

Did the committee consider any ways of putting some kind of constraint on the interest charges?

Mr. WHITTEN. Mr. Speaker, will the gentleman yield to me at this point?

Mr. BAUMAN. Mr. Speaker, I will yield to the gentleman, but first let me say this:

I emphatically disagree with the interpretation of the gentleman from West Virginia (Mr. SLACK) of this language Plain English makes it clear that if we pass this bill we have set a limit of $1.5 billion on the amount of the Federal liability for loan principal and for such additional sums as may be necessary for interest. Those are the gentleman's words. All the exhortations of lawyers to the contrary notwithstanding, I think any court is going to have to decide it that way. I think that is what the limit is.

Mr. SLACK. Mr. Speaker, if the gentleman will yield, I believe he left out the words, "additional sums." The gentleman does see the word, "additional," in the committee amendment, does he not?

Mr. BAUMAN. I did see that. It is penciled in rather artfully.

Mr. SLACK. Mr. Speaker, it says, "for such additional sums as may be necessary for interest payments."

Mr. BAUMAN. Yes, but the limit placed in the sentence is for a "total" amount here of loan commitments and loan guarantees. This problem is no worse than the rest of the Chrysler muddle, so the courts will just have to figure it out as best they can.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the chairman of the committee.

Mr. WHITTEN. Mr. Speaker, in answer to the question asked by the gentleman from California (Mr. ROUSSELOT), may I say that involved in this is an effort in the national interest to try to help this corporation get its financial affairs straightened out, because we are concerned about the effect this would have not only on the employees of the corporation but on stockholders and on the people in the Nation as a whole.

In doing that, the corporation would be seeking loans from financial institutions, using as security the guarantee of the Federal Government.

Mr. ROUSSELOT. That is right. We understand that.

Mr. WHITTEN. The interest would have to be agreed on. The corporation would have to put up its security, as the gentleman can see from reading the legislation, so they would have an interest in keeping the interest rate low.

But for us to go this far and then cause it to fail by putting a ceiling on the amount of interest would not be in the Nation's best interest in my opinion.

I am telling the Members why we did this. I say to my colleague, the gentleman from Maryland (Mr. BAUMAN), that the language that the gentleman read about a commitment to make the appropriation is surplussage in my book, because we do feel that the full faith and credit of the United States should be sufficient.

□ 1150

But in case some private lending institutions raise the point that a guarantee had to follow through certain steps, this language was added to give reassurance.

The SPEAKER. The time of the gentleman from Maryland (Mr. BAUMAN) has expired.

(By unanimous consent, Mr. BAUMAN was allowed to proceed for 1 additional minute.)

Mr. BAUMAN. Mr. Speaker, I appreciate the assurance of the gentleman from Mississippi regarding the additional language which, as he interprets it now, is really only surplussage and an attempt to give some expression of faith.

Mr. WHITTEN. It could mean a reassurance to lenders.

Mr. BAUMAN. I understand. But so far as the interpretation of this sentence, which is drafted in the conjunctive, I am afraid that somebody in drafting has created a limit, as I have described it, and if that is not the case, I think someone should tell the House what the additional sums of interest might approach, given a 14- to 15-percent prime rate. I am told interest alone could cost in excess of $4 billion.

Mr. WHITTEN. That is not the interpretation placed on it by the committee, and I say that for the RECORD.

Mr. CONTE. If the gentleman will yield, so that we have some legislative history, I agree with the gentleman from Maryland. My interpretation is that this language is in the conjunctive. The $1.5 billion is a cap. It limits the interest payments and the principal. So it is definitely a cap of $1.5 billion. No doubt about it. JACK EDWARDS of Alabama had an amendment in full committee to strike out the word "for," and it was defeated. So I definitely feel and my interpretation, strong interpretation, is that it is a $1.5 billion cap for principal and for interest that cannot be exceeded.

Mr. BAUMAN. Once again I find myself in agreement with the gentleman from Massachusetts.

Mr. CONTE. Just about 100 percent.

Mr. ROUSSELOT. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I would like to redirect a question to my colleague, the gentleman from Mississippi, to make sure I understand. This language that my colleague, the gentleman from Maryland, has read, I am still not convinced, on the basis of what our subcommittee chairman said, that the language is clear as it relates to interest.

Does the gentleman agree with the subcommittee chairman?

Mr. WHITTEN. I do. He reflected the conclusions of the full committee and the basis on which the full committee has acted.

Mr. ROUSSELOT. And that is that the interest charges are an open-ended thing; they are not capped under the cap that is set?

Mr. WHITTEN. The interest rates are not fixed because we all know that they fluctuate and it would be difficult if not impossible to set outside limits on interests costs. We are trying to enable Chrsyler to get private loans with this Government guarantee, and for us to put a ceiling on interest costs might result in the rejections of the loan package because the interest rates were not equal to the prevailing rate.

Of course, it is in the interest of Chrysler to see that the rates are as low as possible but it is impossible to predict what these interest rates will be at this stage.

Mr. ROUSSELOT. So that, still, in the gentleman's interpretation, means that this bill does not put a limit on interest under the $1.5 billion cap?

Mr. WHITTEN. It does not, and I think if we were to do so, we would jeopardize the ability of Chrysler to obtain the necessary loans. We do not want to provide the necessary commitment authority and then jeopardize it by putting an unrealistic ceiling on the interest rates which vary from day to day, month to month, and institution to institution.

Mr. ROUSSELOT. The problem that I have with that is, when you say "unrealistic," would the gentleman say that 15 percent would be unrealistic?

Mr. WHITTEN. It would be if you could get the loan for 12 percent. It would be if you could get the loan for 10 percent.

Mr. ROUSSELOT. But I am talking about a ceiling. Why could not the committee have something written?

Mr. WHITTEN. Because the ceiling that the gentleman might place on the interest rates would be the reason why you could not secure the loan due to the need for flexibility because of the constant fluctuation of interest rates. Such a ceiling would serve a destructive purpose.

Mr. ROUSSELOT. But a ceiling would protect the Treasury. I do not see what is so damaging about having some kind of a ceiling.

Mr. WHITTEN. I do not know whether the gentleman appeared before the legislative committee or not to express these concerns, but the matter was not addressed in the legislation and, while the committee could have recommended a ceiling, to me it would have been highly dangerous for them to have done so. We followed the authorizing legislation verbatim because we want this legislation to work.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to my colleague, the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

Mr. Speaker, I think we are arguing what the language means and we are arguing what we wish it would mean. I would suggest to the chairman of the committee that if we added the letter "(a)" after "may be extended (a) in the amount of $1,500,000,000 in contingent liability for loan principal," and add the letter "(b) for such additional sums as may be necessary for interest payments," it would be eminently clear. We are talking about two items here. We are talking about principal, which is fixed; and we are talking about interest, which is not fixed. And at least we would know what we are voting on. I would like to make that suggestion.

Mr. WHITTEN. May I say to my friend that I would like for him to be satisfied, but to us, the language as drafted meets the situation and I feel it is not necessary to further amend it at this time.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to my colleague, the gentleman from Illinois.

Mr. MICHEL. I thank the gentleman for yielding.

Mr. Speaker, I look at this from two vantage points. No. 1, if we take into account the consideration of just the Members of the House or the Congress that I think, frankly, got the distinct impression that they were capping this Government obligation at $1.5 billion, that is one thing to say that. But I wonder if the private sector out there, putting myself now in the shoes of the lender in the private sector, if they got the impression that there was going to be a $1.5 billion guarantee for principal, limited to principal, it is an awful lot different if I am making the judgment on that loan, not knowing whether it is going to be 3 years, 5 years or 10 years, and at today's interest rates the interest could more than eat up the amount of $1.5 billion, and you are secured with no guarantee on the principal at all.

So we have to, it seems to me, make a judgment. We can make a judgment as to what we would like to see happen as a cap, but I am not sure, in those negotiations with Treasury and all of the other people involved in this thing, that they thought enough down the road to get the kind of commitment from the privae sector that would satisfy them that this language is compatible with what they are going to have to come up to to match the Federal contribution.

Mr. ROUSSELOT. I thank the gentleman for his comment, and I appreciate as a member of the committee the gentleman making that statement.

Mr. HUGHES. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I would like to ask the distinguished chairman a question, just to follow up on this, because it gives me some concern.

I understood we were placing a cap on the guarantee of $1.5 billion. Now, I recognize that we cannot at this point foretell what the interest rate is going to be, when the prime rate is moving around like it is; but it seems that we ought to make it very clear, as I think our colleague, the gentleman from Illinois, just indicated, just what is our intent.

Those of us who supported the authorizing legislation were of the impression that we were placing a cap on the guarantee of $1.5 billion. If we are not placing a cap on our guarantee with regard to interest rates, I think we ought to make it clear.

Mr. WHITTEN. Mr. Speaker, if the gentleman will yield, may I say that the gentleman raises a point that certainly was considered by the legislative committee. Our Committee on Appropriations, of course, is restricted to the authorizing legislation that was passed. The legislation which was passed puts a cap of $1.5 billion on the principal. Our interpretation is that, of course, if that is the principal of the debt, that interest would be additional, and we have explained our interpretation before. The gentleman might have the legislative committee to clarify that point further, but the authorizing language was read and it is our interpretation that that was on the principal and that interest is on top of that.

I would think the gentleman would follow me in saying that for us to go as far as we have, then have it to fail because we put an unrealistic interest rate limit here would be very shortsighted, because quite clearly it would be in the interest of Chrysler as a borrower, where they would be putting up their own assets to pay the debt and where the Government would be a preferred creditor.

Mr. HUGHES. I understand.

Mr. WHITTEN. And it would be in their interest to get it as low as possible. But at this stage I could not even tell you what interest rates would be for private loans any more than you could tell me. And there again, we followed the legislative committee, and we have followed it verbatim. So much of the discussion here really should have been directed to the authorizing committee. I do not know if any change would have been necessary, but that is where this should have been considered.

Mr. HUGHES. If I could just say, in response, I quite agree that perhaps we should have directed more colloquy to that issue. But we are not talking about fixing the interest rate, because it is understandable that we cannot determine what interest rate will be negotiated. It will vary, I am sure, from time to time, and I am not suggesting that we should or could do that. But what I am trying to find out is, with regard to the Government obligation, or commitment, are we placing a cap on our responsibility in the event of a default, for instance, under the priority, under the collateral, and under the waiver sections of the authorizing legislation? In essence are we placing a cap of $1.5 billion on the Government's exposure in the event of a default?

Mr. WHITTEN. Let me say to the gentleman that as chairman of the Appropriations Committee—and I can speak as the chairman only—I know lawyers differ and judges differ as to the meaning of the language. But when I read that the limit on the outstanding principal is $1.5 billion, I would presume that they understood that the interest would be in addition thereto. Now, the gentleman could have a different understanding, but that is my understanding from practicing law, and otherwise, that that is what was meant.

□ 1200

Mr. HUGHES. What the gentleman is saying in essence is that the Government exposure could be in excess of $1.5 billion, which would include interest.

Mr. WHITTEN. In case they defaulted on the loan, it might be, but there again, the authorization as passed provides for securing the Government by sufficient assets to hold safe the Government and keep it whole from assets of the corporation. We would be preferred creditors.

So while the outstanding obligation might be in excess, it might be that your losses would not exist.

Mr. HUGHES. I just want to say that was not my understanding of the legislation. I understood that we were placing a $1.5 billion cap on the loan guarantees. I am extremely concerned that this legislation is going to expose the U.S. Government to sums much in excess of that. Unless this point is clarified, I will be compelled to vote against this particular appropriation even though I support the effort to provide some relief to Chrysler.

Mr. O'BRIEN. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Illinois.

Mr. O'BRIEN. It seems to me our intent in the committee was somewhat different, depending on who was offering certain language. I think that the chairman is correct that it was our conclusion that there was to be $1.5 billion for principal, and the interest was supposed to be taken care of when it could be determined. The problem I think that is here right now is that there is very little agreement as to what the words mean.

The SPEAKER. The time of the gentleman from New Jersey (Mr. HUGHES) has expired.

Mr. O'BRIEN. Mr. Speaker, I move to strike the last word.

For purposes of clarity we must accept the suggested amendment of the gentleman from Illinois (Mr. HYDE) and whether one favors the interest guarantee or not, the legislative intent should not be blurred. I believe his amendment makes clear what the Congress intends to do.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. O'BRIEN. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

I ask the chairman of the committee if he would not accept this amendment which simply splits up——

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. O'BRIEN. I yield to the gentleman from Mississippi.

Mr. WHITTEN. I am afraid of the gentleman's amendments. I start off that way, may I say jokingly.

Mr. HYDE. I understand that. I have quite a burden to overcome.

Mr. WHITTEN. I am very, very fond of the gentleman.

Mr. HYDE. I do suggest there is ambiguity here, as illustrated by the debate. If we place an "A" in front of the one clause and a "B" in front of the other, it would clarify the matter, and at least we would know exactly what the issue is, and what we are voting on.

Mr. WHITTEN. If the gentleman will yield further, I have to confer with my colleagues.

I see no objection to the amendment.

Mr. HYDE. Will the gentleman from West Virginia (Mr. SLACK) accept the amendment?

Mr. SLACK. Mr. Speaker, will the gentleman yield?

Mr. O'BRIEN. I yield to the gentleman from West Virginia.

Mr. SLACK. I would accept the amendment of the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, I ask unanimous consent to offer a modification to the committee amendment.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. BAUMAN. Mr. Speaker, I reserve the right to object.

The SPEAKER. The gentleman from Maryland (Mr. BAUMAN) reserves the right to object.

The Clerk will report the modification:

The Clerk read as follows:

> In the amendment offered by the Committee, on line 2 of the Committee amendment, at the beginning of line 2 of the amendment, insert (A), and in line 3, insert (B) after the word "and."

Mr. BAUMAN. Mr. Speaker, if there was any correct interpretation given by those who felt this was a cap, it seems to me it is clear that the amendment of the gentleman from Illinois (Mr. HYDE) does precisely what he intends and allows not only $1.5 billion for principle, but such additional sums for interest. That could be billions more. In fact I am informed interest alone could cost more than $4 billion.

As the gentleman from New Jersey pointed out, I do not think that is what the House voted for yesterday in the belief $1.4 billion would be the limit.

I object, Mr. Speaker.

The SPEAKER. Objection is heard.

Mr. WHITTEN. Mr. Speaker, I move the previous question on the joint resolution and the amendment thereto to final passage.

The previous question was ordered.

The SPEAKER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the joint resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 252, nays 141, answered "present" 2, not voting 38, as follows:

[Roll No. 752]

YEAS—252

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Applegate
Ashley
Aspin
Atkinson
Bailey
Baldus
Benjamin
Bereuter
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Buchanan
Burlison
Burton, John
Byron
Carney
Carr
Carter
Chappell
Clausen
Clay
Coelho
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Danielson
Davis, Mich.
Davis, S.C.
Dellums
Derrick
Derwinski
Dicks
Diggs
Dingell
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fish
Fithian
Florio
Foley
Ford, Mich.
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gilman
Gonzalez
Goodling
Gore
Grassley
Gray
Guarini
Gudger
Guyer
Hall, Ohio
Hamilton
Hanley
Harsha
Hawkins
Heckler
Hightower
Hillis
Holland
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Huckaby
Hutto
Hyde
Ireland
Jacobs
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Latta
Leach, Iowa
Leach, La.
Lederer
Lee
Leland
Lent
Lloyd
Lowry
Luken
Lundine
McCormack
McDade
McHugh
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Markey
Marks
Marlenee
Marriott
McKay
McKinney
Madigan
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Nedzi
Nelson
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Perkins
Peyser
Pickle
Preyer
Price
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Reuss
Rinaldo
Roberts
Rodino
Roe
Rosenthal
Rostenkowski
Roybal
Royer
Russo
Sabo
Sawyer
Scheuer
Seiberling
Shannon
Sharp
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Steed
Stangeland
Stenholm
Stewart
Stratton
Studds
Thompson
Traxler
Udall
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Waxman
Weiss
Whitehurst
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wolpe
Wright
Wyatt
Wylie
Yatron
Young, Alaska
Young, Mo.
Zablocki

NAYS—141

Abdnor
Archer
Ashbrook
AuCoin
Badham
Bafalis
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Beilenson
Bennett
Bethune
Bevill
Bowen
Broyhill
Burgener
Butler
Campbell
Cavanaugh
Cheney
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
de la Garza
Devine
Dickinson
Dornan
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Fenwick
Findley
Fisher
Flippo
Forsythe
Fountain
Frenzel
Gibbons
Gingrich
Glickman
Goldwater
Gramm
Green
Grisham
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harkin
Harris
Hefner
Heftel
Hopkins
Hughes
Ichord
Jeffords
Jeffries
Jones, Okla.
Kelly
Kindness
Lagomarsino
Leath, Tex.
Levitas
Lewis
Livingston
Loeffler
Long, Md.
Lott
Lujan
Lungren
McDonald
McEwen
Maguire
Martin
Mica
Michel
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Neal
Nichols
Panetta
Pashayan
Paul
Petri
Pritchard
Regula
Rhodes
Ritter
Robinson
Rose
Roth
Rousselot
Rudd
Santini
Satterfield
Schroeder
Schulze
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stark
Stockman
Stump
Swift
Symms
Tauke
Thomas
Treen
Trible
Walker
Watkins
Weaver
Whittaker
Wirth
Young, Fla.

ANSWERED "PRESENT"—2

Gradison
Mottl

NOT VOTING—38

Anderson, Ill.
Andrews, N. Dak.
Anthony
Bedell
Brooks
Brown, Ohio
Burton, Phillip
Chisholm
Daschle
Deckard
Dixon
Edwards, Calif.
Flood
Ford, Tenn.
Giaimo
Ginn
Hinson
Holt
Kemp
Lehman
Long, La.
McClory
McCloskey
Murphy, Ill.
Pepper
Richmond
Runnels
Sebelius
Stanton
Stokes
Synar
Taylor
Van Deerlin
White
Wilson, Bob
Wydler
Yates
Zeferetti

☐ 1220

The Clerk announced the following pairs:

On this vote:

Mr. Ginn for, with Mr. Hinson against.

Mr. Wydler for, with Mrs. Holt against.

Mr. Pepper for, with Mr. McClory against.

Until further notice:

Mr. Phillip Burton with Mr. Anderson of Illinois.

Mr. Brooks with Mr. Ford of Tennessee.

Mr. Stokes with Mr. Sebelius.

Mr. Van Deerlin with Mr. Taylor.

Mr. Zeferetti with Mr. Daschle.

Mr. Yates with Mr. Bob Wilson.

Mrs. Chisholm with Mr. Synar.

Mr. Dixon with Mr. Runnels.

Mr. Lehman with Mr. McCloskey.

Mr. Long of Louisiana with Mr. Deckard.

Mr. Murphy of Illinois with Mr. Brown of Ohio.

Mr. Anthony with Mr. Kemp.

Mr. Bedell with Mr. White.

Mr. Giaimo with Mr. Flood.

Mr. ROSE, Mr. D'AMOURS, Mrs. FENWICK, and Mr. FORSYTHE changed their votes from "yea" to "nay."

Messrs. BEREUTER, KRAMER, and STENHOLM changed their votes from "nay" to "yea."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Joint Resolution 467 just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4788, WATER RESOURCES DEVELOPMENT ACT OF 1979

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 96-721) on the resolution (H. Res. 513) providing for the consideration of the bill (H.R. 4788) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2471, TRADE COMMISSION AND CUSTOMS SERVICE AUTHORIZATIONS, FISCAL YEAR 1980

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 96-722) on the resolution (H. Res. 514) providing for the consideration of the bill (H.R. 2471) to authorize appropriations for the U.S. International Trade Commission and the U.S. Customs Service for fiscal year 1980, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3051, AUTHORIZING APPROPRIATIONS FOR KENNEDY CENTER FOR PERFORMING ARTS, NONPERFORMING ARTS FUNCTIONS

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 96-723) on the resolution (H. Res. 516) providing for the consideration of the bill (H.R. 3051) authorizing appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes, which was referred to the House Calendar and ordered to be printed.

WAIVING CERTAIN POINTS OF ORDER AGAINST THE CONFERENCE REPORT ON H.R. 2440, AVIATION SAFETY AND NOISE ABATEMENT ACT OF 1979

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 511 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 511

Resolved, That upon the adoption of this resolution it shall be in order, clause 2 of rule XXVIII to the contrary notwithstanding, to consider the conference report on the bill (H.R. 2440) to repeal the prohibition against the expenditure of certain discretionary funds under the Airport and Airway Development Act of 1970, and said conference report shall be considered as having been read when called up for consideration.

The SPEAKER. The gentleman from Missouri (Mr. Bolling) is recognized for 1 hour.

☐ 1230

The SPEAKER. The Chair recognizes the gentleman from Missouri (Mr. Bolling) for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. Quillen). Pending that I yield myself such time as I may consume.

Mr. Speaker, this rule waives the 3-day rule so that the House may consider the conference report, the urgency of which is related to the use by the Secretary of Transportation of discretionary funds which I understand go to airports. The urgency is that they have not been able to be used since the beginning of the fiscal year, and if this resolution is not passed, they will not be able to use them until we pass it later on, obviously beyond the 22d of January. So I submit that this matter should be dealt with promptly. The rule is unexceptional, in my judgment.

Mr. Speaker, I reserve the remainder of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may use.

Mr. Speaker, the able gentleman from Missouri (Mr. Bolling) has explained the provisions of the resolution. I would like to say to the Members this is an effort of the conferees to bring to the floor of the House a measure which will be acceptable, and I urge the adoption of the resolution.

Mr. Speaker, I reserve the remainder of my time.

Mr. BOLLING. Mr. Speaker, I yield 8 minutes to the gentleman from California (Mr. John L. Burton).

Mr. JOHN L. BURTON. Mr. Chairman, one thing everybody seemed to leave out of the discussion of the rule is that in the conference report is a weakening of the noise standards as far as they affect airplanes in the United States. Our subcommittee held hearings down in Burbank, Calif., where the people there are going out of their minds because of the noise levels at the airport. With deregulation the CAB is letting more and more air carriers come into airports and the noise level increases. So this is not a simple bill that waives some rule as far as discretionary funds are concerned. I am kind of shocked that the chairman of the Rules Committee did not mention that the urgency in this is the fact that the other body is ramming down our throats and down the ears of our constituents quite a bit of noise, even more noise than is taking place over to the right of me.

Mr. GOLDWATER. Mr. Speaker, will the gentleman yield?

Mr. JOHN L. BURTON. I would be happy to yield to my friend, the gentleman from California.

Mr. GOLDWATER. I thank the gentleman for yielding. I would concur with his observations and would join him in pointing out to the House that this conference report, albeit a compromise, still relaxes the current pending law on noise standards. In essence a vote for the noise bill is a vote for more noise.

I would point out to my colleagues that a recent State of California Supreme Court decision ruled in favor of homeowners to the tune of some $86,000, not a great amount of money, but obviously in their ruling they observed that this is opening up the door for further lawsuits. I understand there are some almost $2 billion in lawsuits pending just in the Los Angeles area.

I think that this Congress should come down stronger in favor of regulations that will address the concerns of many millions of citizens who live in and around airports. I think the gentleman is making a very significant point that perhaps would go unnoticed if we hurried through this rulemaking procedure.

Mr. BADHAM. Mr. Speaker, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to my friend, the gentleman from California.

Mr. BADHAM. I thank the gentleman for yielding. I would like to associate myself with the remarks of both of the previous speakers, the gentlemen from California. I would like to say as one who has an airport that covers about 2 million residents in my district that we have a situation here where California has moved ahead in great strides, as has this country, in quieting down aircraft and encouraging airline companies to move ahead with progress, and quieter airplanes, and start well on the road to handling the problem. A vote for this particular conference report is a vote for noise, and it simply puts us in a position of advocating noisier aircraft, eliminating progress, and going back down the same disastrous road that, as the gentleman from California, Mr. Goldwater, says, will open the way to many lawsuits. It is not very often that I encourage the President to veto legislation, but as was reported this morning, the President may well veto this bill if it passes in its present form, which would be a disaster for those who are trying to preserve some sort of residential sanity.

So I commend the gentleman for bringing this matter up as to what should properly happen.

Mr. SNYDER. Mr. Speaker, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from Kentucky.

Mr. SNYDER. I thank the gentleman for yielding.

I would like to respond somewhat to the several observations that have been made. There is no reduction in noise standards. I think that has been made by two or three of those who have spoken. Actually there is a toughening of noise standards. Under current FAA 36 regulations, the aircraft have to comply with what they call stage 2 requirements. What we did was make a trade. We gave them a little more time to comply, but the trade off on that was that if they took the additional time, then they could not go to stage 2 aircraft, they had to go to stage 3, which is a quieter, higher bypass, more fuel-efficient engine than the stage 2. So there would be a little more noise for awhile but less noise in the final analysis.

Mr. JOHN L. BURTON. I do not think it is an unfair statement, to say that there will be more noise; and, that during the discussion of the rule it was acted like that was not even part of the bill, and that is in fact a big part of the bill—the lessening of noise standards.

Mr. SNYDER. The gentleman is correct on that. That is a good portion of the bill. However, the emergency aspect is not the noise, and I think that is what the gentleman from Missouri was attempting to point out, that the discretionary funds have not been able to be allocated or obligated so long as the first occurs.

Mr. JOHN L. BURTON. So that is why the industry came in and had this tacked onto something that had some urgency to it?

Mr. SNYDER. The gentleman could be well correct in that observation.

Mr. DORNAN. Mr. Speaker, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from California.

Mr. DORNAN. I thank the gentleman for yielding. I would like to associate myself with the remarks of the gentleman from California (Mr. BADHAM). Residential sanity has an excellent ring to it. The Los Angeles Airport is in my district. When comedians on late night talk shows are talking about selling their homes around the Los Angeles Airport only to couples who have lost their hearing, it is kind of a sick joke. That is how desperate we have become.

Any kind of a rollback at all is wrong, and I would recommend that people again read the "Dear Colleague" letter that was circulated the day before yesterday by the gentleman from Florida, Mr. FUQUA, the gentleman from Ohio, Mr. HARKIN, the gentleman from New York, Mr. WYDLER, the gentleman from California, Mr. GOLDWATER, the gentleman from California, Mr. ROYER, and myself. We cannot reduce the noise standards that we have established after so many hard fought years in this House.

I thank the gentleman.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague for yielding. I would like to associate myself with the remarks of the gentlemen from California. There is an airport in my district in a residential area. I have received over 100 letters of complaint. We cannot relax noise control provisions. Noise is another form of pollution, and we ought to recognize it as such.

☐ 1240

Mr. JOHN L. BURTON. I would just say to my colleagues who are concerned about this that many of our brothers and sisters will be unaware that this provision is in this bill and I think it is important that we work the floor, that we work the doors and that we defeat this ignominious piece of legislation.

I thank the gentleman for yielding. I am not so sure about voting for the rule, either.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. LUNGREN).

Mr. LUNGREN. Mr. Speaker, it seems to me we have already talked about some of the procedural difficulties about bringing this matter up under this rule. That is, we have not been given the opportunity for proper consideration of the question at hand. This does not really come before this full House for full debate. This is an extremely important question to people in a number of different States. Those of us who have airports in our districts have been confronted by some who say, "Well, those people moved into those airport areas sometime ago, they knew the airports existed so they should take their lumps."

It is awfully easy to say that, Mr. Speaker, when you do not have to live in those areas and if you have not been living through the increase in noise which has taken place. There is a tremendous debate taking place in my own home community now as to whether or not they should even continue the airport. We happen to have commercial aircraft of the variety that have 2 engines with 100 seats or less and those are the ones that cause the biggest problem. They cause far more noise than the DC–10's or the 747's. Those are the things that are causing tremendous problems with the people's lives, with children attempting to go to school.

Mr. Speaker, if we did not have a commercially available aircraft that will meet existing standards and if we did not have some airlines that were not already committed to this, that would be one thing, but at least one manufacturer does and will have that available by this summer and there have been a number of commitments made by airlines around this country and internationally to comply with these rules.

I suppose you could even characterize this as the Boeing bailout bill because Boeing is a little late in getting their aircraft fleets on line and will not have them available for several years, which coincides with the delay of these noise standards. I do not think we ought to be doing that sort of thing. The problem is, some airlines and some aircraft manufacturers have made commitments in good faith to follow the standards set down by this Congress in prior years, and now when we are on the eve of their achieving what we told them to achieve we say, "Well, it is too bad, you may have wasted money, you may have in good faith attempted to be good neighbors to those people around those airports but we are going to give a little push off to others who have not been so conscientious."

Mr. Speaker, it seems to me that is the worst type of thing we can possibly do. How can we have any respect from the people at home if once we set standards and many in the industry go ahead to meet those standards, we then come here and withdraw those standards?

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

Mr. Speaker, I will address myself to the subject of the conference report in just a moment but the gentleman made the statement there is a replacement aircraft available, a stage-3 aircraft available, already under design or in production. I am not aware of any stage-3 aircraft available for replacement of the 2-engine DC–9 or BAC–111. If there is one, I would appreciate knowing about it.

The SPEAKER pro tempore (Mrs. SCHROEDER). The time of the gentleman has expired.

Mr. QUILLEN. I yield the gentleman 1 additional minute.

Mr. LUNGREN. The DC–9 Super 80 which had its roll out a month and a half ago and will be in production by this summer.

Mr. LEVITAS. Will the gentleman yield, Madam Speaker?

Mr. LUNGREN. I yield to the gentleman from Georgia.

Mr. LEVITAS. Is not the DC–9 a much larger aircraft than the smaller configuration needed to serve small communities?

Mr. LUNGREN. That is not true because, for instance, Pacific Southwest Airlines, which now brings into Long Beach Municipal Airport, for instance the smaller DC–9 model of its Boeing equivalent which has 100 persons or less is, I think, committed to either 12 or 16 of the new DC–9's to be used on these same routes.

In my area the airline could service more people. There is the demand of more people to travel but they cannot because the people in the community do not want the continued noise from the aircraft that they have today. The new DC–9's utilized for the very same purpose. It not only is the quietest but also the most fuel-efficient aircraft. It will be possible to utilize the plane in those airports and on those routes now utilizing the even smaller jets that we have the 2-engine aircraft with 100 seats or less.

Mr. BOLLING. Madam Speaker, I yield 2 minutes to the gentleman from New York (Mr. AMBRO).

Mr. AMBRO. Madam Speaker, I think the substance of the ball can be debated during the later portion of this if we pass the rule. It seems to me the central question here is, is the rule one that we should adopt. It seems to me, as was pointed out earlier, that the major part of the bill, which is the noise component, was never debated on the floor of this House.

We sent over from this House a simple ADAP discretionary funding bill. The Senate, because of their ability to attach nongermane amendments in conferences, did attach a monumental noise bill or, as some of our people say, noisy bill. The bill came back unrecognizable from the original bill the House originally passed and sent to conference. This legislation has devastating features about it. However, it seems to me what we are talking about is whether or not we should adopt the rule and the answer quite simply is, if we do not adopt the rule we will not have to, at this late stage, develop arguments against the noise bill, which many of us on the Aviation Subcommittee have dealt with for years, which will keep us here for hour upon hour, but it seems to me as well that the central question now is the rule.

The rule should be defeated. I think we should send this back and at a later date and in a calm, deliberative environment come back sometime next year and get into the noise features of this bill. I think that which we have before us today is an horrendous bill. Our subcommittee developed its own bill. Our bill is not the same bill that is coming back to us. A conference report implies that we have sent over to the other body after debate, after deliberations, and amendment on this House floor, a bill that we had the power to revise as a House. Then, in conjunction with the other body and at the conclusion of a conference bring it back. That was not the case. The rule, I think, should be defeated because at this eleventh hour, with but a few minutes today to review the conference report, those of us who believe noise is a major issue feel that we have been sandbagged by the conferees and by the Rules Committee.

Beyond this, to hold the International Air Transportation Competition Act of 1979 hostage to passage of this bill is a further outrage. The ADAP bill as passed by this House and returned by the conference and the ATCA referred to earlier should both be passed as separate entities but this rule on this mess should be defeated and I urge you to vote against this rule.

Mr. BOLLING. Madam Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Madam Speaker, I do not think the debate here should be whether we want more noise at airports. Obviously we want less noise at airports and around airports and we also want to have less noisy aircraft. It seems to me that the discussion that I have heard so far has not addressed what this conference report has achieved. The conference report is not the Senate bill, it is not the House committee bill, both of which I strongly oppose. In my judgment what we have here is a bill which will bring us to a less noisy situation in a shorter period of time because it will afford the opportunity of bringing on stream the least noisy of all aircraft, the stage-3 aircraft, to replace the 2-engine noisy aircraft which are today operating.

Madam Speaker, I would hope that the persons in this Chamber who are opposing this rule would take a look at what this conference report does and not tilt at the windmill of the original Senate bill or the House committee bill. This legislation in my judgment will, in a very short period of time, bring about a significantly greater reduction of noise than we would have if we went to a total retrofit program for the two-engine aircraft. For that reason I would hope the rule would be adopted and that we can discuss in greater detail what this conference report does and not some other evil that was lurking in the shadows of the Capitol for the last few months.

Mr. AMBRO. Madam Speaker, will the gentleman yield to me?

Mr. LEVITAS. I yield to the gentleman from New York.

Mr. AMBRO. Madam Speaker, I think it might be acceptable to all if one had the opportunity to read the conference report, digest it, understand it, and develop whatever amendments we have to it. However, the conference report was just printed today and the amendment process is not available.

In fact, the reason why we are engaging in debate on this rule which precedes a conference report is that we must waive the 3-day requirement for reports to be laid upon the table. There was, and is in fact, no time for those of us interested in the problem of aircraft noises to study the substance of the report much less the ramification of this bill. To vote for this rule would be to vote for little time and limited information on a bill the major portion of which, the noise section, this House never debated and has no opportunity to amend.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BOLLING. Madam Speaker, I yield 2 additional minutes to the gentleman from Georgia (Mr. LEVITAS).

□ 1250

Mr. LEVITAS. Madam Speaker, I would simply say this. We understand the gentleman's concern. That is one I think has to address itself to the judgment of each Member.

The conference report is available. The gentleman is a very active member of the Committee on Public Works and Transportation and is quite familiar with the issues and the data involved and I am sure will be able to make a judgment about it.

My only request and my only plea is that we address the merits of this legislation. I think it would be tragic if we condemned this conference report, which may be more beneficial in reducing noise, simply because there were some bad bills lurking around earlier.

I think that an analysis of this conference report and what it poses has a potential for significant noise reduction is something that ought to be considered on its merits.

I would urge that we not condemn this report on the basis of some other bills that were hanging around previously.

Mr. AMBRO. Madam Speaker, if the gentleman will yield further, may I ask, did the gentleman sign the conference report?

Mr. LEVITAS. The gentleman from Georgia was a member of the conference when the original conference completed its business. The gentleman from Georgia refused to sign the conference report. The gentleman from Georgia subsequently met with the Secretary of Transportation, the domestic adviser to the President, the director of OMB and other Members of the House and as a result of that, Senator CANNON reconvened the conference committee and made substantial changes in anything that had ever been put forward previously and I think has accomplished perhaps even better than we had proposed originally the result.

All I am suggesting is that vote as you will on final passage, but let us discuss the merits of this conference report, not the noisy bill, as we called it, that had originally been passed by the Senate.

This is a noise abatement bill. The Senate bill originally was a noisier bill. I think we really ought to talk about this legislation.

Mr. AMBRO. Madam Speaker, would the gentleman yield just one more time?

Mr. LEVITAS. I would be happy to yield.

Mr. AMBRO. Did the gentleman sign the final report?

Mr. LEVITAS. The gentleman from Georgia signed the final report, as did the gentleman from California, the chairman of the subcommittee.

Mr. BOLLING. Madam Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. FLORIO).

Mr. FLORIO. Madam Speaker, as the only conferee not to sign the conference report under consideration today, I feel compelled to explain why this agreement is still unacceptable.

While it is true that the conference report is an improvement over the original Senate amendments, the overall result is still a major step backward in the Government's program to reduce aircraft noise.

The major air carriers have been on notice since 1968 that by 1983 or 1985, depending on the type of aircraft, their fleet would have to meet noise standards promulgated by FAA. These standards were based on years of comprehensive study and analysis and the entire program was phased in over a period of years to allow plenty of time for carriers to comply.

Responsible carriers took steps to insure that their fleets would be in compliance with Federal laws. But some carriers, rather than attempting to comply, have spent their energies year after year lobbying to gut the noise regulations.

By passing this bill, and allowing noisy airplanes to fly 1 day beyond the deadlines, we are in effect rewarding those who are refusing to comply with the law and punishing those responsible carriers who respect the law of the land.

This conference report would allow two engine airplanes to fly 2 years beyond the present deadline for compliance. This involves over 500 aircraft and over 10,000 operations a day which people on the ground will continue to be subjected to noisy aircraft operations.

The millions of people who live in areas surrounding our major airports have relied upon the fact that these regulations would go into effect on time and bring them some relief from this daily, constant, unrelenting noise. I cannot vote for a conference report which would break faith with the promises made to these citizens in 1968.

Mr. QUILLEN. Madam Speaker, I have no requests for time, but I would like to say to the Members that the testimony before the Committee on Rules from both sides of the aisle indicated that a healthy compromise had been worked out to do the job.

I believe it is a good approach to the matter and I urge adoption of the rule and the resolution.

Madam Speaker, I have no further requests for time, but I reserve the balance of my time.

Mr. BOLLING. Madam Speaker, I yield 6 minutes to the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Madam Speaker, I rise in support of the rule and in support of the passage of the bill. It is true, that this is a very complicated bill. However, it is a very important bill. I was one of those opposed to the original conference report a week or so ago; but I think we have now worked out a compromise that will be a real plus.

One of the previous gentlemen said that the conference report would be a major step backward. I think it is just the opposite. If we do not pass this bill and if we do not change the Federal Aviation Regulations, it means that the airlines can replace their present noncomplying two engine aircraft with stage 2 aircraft by 1985. Under the conference report, the airlines are given an additional year to replace most two-engine aircraft, but the replacement aircraft must comply with stage 3 standards. Stage 3 is much, much quieter than stage 2.

One of the previous speakers mentioned the brand new DC-9 Super 80 that was just flown a couple of weeks ago. The DC-9-80 will replace today's noncomplying two- and three-engine aircraft. The DC-9-80 has not been fully tested yet, but it will, we are told, reach the requirements for a stage 3 aircraft.

Other replacement aircraft, the Boeing 757 and 767 are about 2 years away. These aircraft will have to meet stage 3 requirements.

If we pass this conference report, today's noisy airplanes will be replaced by stage 3 planes which are much quieter than stage 2; so when somebody says the conference report is a step backward, I question that. I think it is just the opposite.

Another speaker mentioned this was a rather unusual procedure: that we passed only a simple ADAP bill, a discretionary bill that would have provided $207 million for the fiscal year which started October 1. It was pointed out that the amendment passed on the Senate side added a noise program to our bill. This is nothing new. Many times we send bills to the Senate and they come back with additional provisions.

I want to emphasize that the conference bill we are recommending today is a much better bill as far as the environmentalists are concerned than the bill currently pending before the House Committee on Rules. Because I think the conference bill is a much better bill. I do not agree with the previous suggestion that we defeat the conference bill and bring the Public Works Committee bill to the floor of the House. I would like to describe the main features of the conference bill.

First, in title I we require FAA to establish a single system of measuring noise. We encourage airports to prepare noise exposure maps and noise abatement plans. We provide funding for planning and noise abatement programs. Under this bill, for the first time we have developed a comprehensive approach for planning and implementing programs to reduce noncompatible land use around airports. In title II we come up with a total of $279 million for airport safety and capacity projects. This was the original purpose of the bill, and the funding is badly needed by airports throughout the country.

☐ 1300

Madam Speaker, title III covers the question of noise standards for air carrier aircraft. I have just talked about these provisions. I think if we give the airlines and the manufacturers a little more time they will be able to develop quieter stage 3 aircraft to replace the noisy aircraft now in use.

Title IV and title V deal with other problems. There is a provision prohibiting checking baggage with loaded firearms. Another provision resolves the Love Field problem, and there is a provision regulating solicitation of funds at federally managed airports. These matters have all been worked out without any problems.

Madam Speaker, this is a good bill, and I urge that the rule be adopted.

Mr. BOLLING. Madam Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mrs. SCHROEDER). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BADHAM. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 195, nays 192, not voting 46, as follows:

[Roll No. 753]

YEAS—195

Abdnor
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Anthony
Archer
Ashley
Atkinson
Bailey
Baldus
Barnard
Beard, Tenn.
Bennett
Bereuter
Bethune
Bevill
Boggs
Bolling
Boner
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brown, Calif.
Broyhill
Burlison
Campbell
Carr
Carter
Clausen
Clay
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conyers
Corcoran
Cotter
Danielson
de la Garza
Derrick
Dicks
Dingell
Dodd
Duncan, Oreg.
Duncan, Tenn
Edwards, Ala.
English
Ertel
Evans, Ind.
Fary
Fascell
Findley
Fithian
Flippo
Foley
Fountain
Frost
Gaydos
Gephardt
Gibbons
Glickman
Gonzalez
Goodling
Gore
Gramm
Gray
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hammerschmidt
Hance
Hanley
Harsha
Hawkins
Hefner
Hightower
Hillis
Hinson
Holland
Horton
Howard
Hubbard
Huckaby
Ichord
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
LaFalce
Leach, La.
Leath, Tex.
Lee
Leland
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Marlenee
Marriott
Martin
Mathis
Mattox
Miller, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mollohan
Moorhead, Pa.
Murphy, N.Y.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
Oberstar
Perkins
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Rhodes
Ritter
Roberts
Roe
Rose
Rostenkowski
Rudd
Satterfield
Schulze
Sharp
Shelby
Shuster
Simon
Skelton
Smith, Nebr.
Snyder
Solomon
Spence
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stokes
Stratton
Swift
Traxler
Ullman
Volkmer
Wampler
Watkins
Whitten
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wright
Wyatt
Yatron
Young, Alaska
Young, Mo.
Zablocki

NAYS—192

Addabbo
Ambro
Annunzio
Aspin
AuCoin
Badham
Bafalis
Barnes
Bauman
Beard, R.I.
Bedell
Beilenson
Benjamin
Biaggi
Bingham
Blanchard
Boland
Bonior
Brademas
Brodhead
Broomfield
Buchanan
Burgener
Burton, John
Butler
Byron
Carney
Cavanaugh
Cheney
Collins, Ill.
Conte
Corman
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Davis, S.C.

Derwinski
Devine
Dickinson
Donnelly
Dornan
Dougherty
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Okla.
Emery
Erdahl
Erlenborn
Evans, Del.
Fazio
Fenwick
Ferraro
Fish
Fisher
Florio
Ford, Mich.
Forsythe
Fowler
Frenzel
Garcia
Gilman
Gingrich
Goldwater
Gradison
Grassley
Green
Grisham
Guarini
Hamilton
Hansen
Harkin
Harris
Heckler
Heftel
Hollenbeck
Holtzman
Hopkins
Hughes
Hutto
Hyde
Ireland
Jacobs
Jeffords
Kastenmeier
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Lent
Lungren
McDonald
Maguire
Markey
Marks
Matsui
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Mineta
Minish
Moakley
Moffett
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Nolan
O'Brien
Oakar
Obey
Ottinger
Panetta
Pashayan
Patten
Paul
Pease
Petri
Peyser
Quayle
Railsback
Rangel
Ratchford
Regula
Reuss
Rinaldo
Robinson
Rodino
Rosenthal
Roth
Rousselot
Roybal
Royer
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Seiberling
Sensenbrenner
Shannon
Shumway
Smith, Iowa
Snowe
Solarz
Spellman
St Germain
Stack
Stark
Stockman
Studds
Stump
Symms
Tauke
Thomas
Thompson
Trible
Udall
Vander Jagt
Vanik
Vento
Walgren
Walker
Waxman
Weaver
Weiss
Whitehurst
Whitley
Whittaker
Williams, Mont
Wolff
Wolpe
Wylie
Young, Fla.

NOT VOTING—46

Anderson, Ill.
Andrews, N. Dak.
Applegate
Ashbrook
Brooks
Brown, Ohio
Burton, Phillip
Chappell
Chisholm
Cleveland
Daschle
Deckard
Dellums
Diggs
Dixon
Edwards, Calif.
Evans, Ga.
Flood
Ford, Tenn.
Fuqua
Giaimo
Ginn
Holt
Lederer
Lehman
McClory
McCloskey
Montgomery
Murphy, Ill.
Myers, Pa.
Patterson
Pepper
Richmond
Runnels
Sebelius
Slack
Synar
Taylor
Treen
Van Deerlin
White
Wilson, Bob
Wilson, C. H.
Wydler
Yates
Zeferetti

☐ 1310

The Clerk announced the following pairs:

On this vote:

Mr. Deckard for, with Mr. Zeferetti against.

Mr. McClory for, with Mrs. Chisholm against.

Mr. Sebelius for, with Mrs. Holt against.

Mr. Taylor for, with Mr. Wydler against.

Until further notice:

Mr. Lederer with Mr. Evans of Georgia.

Mr. Van Deerlin with Mr. Giaimo.

Mr. Richmond with Mr. Runnels.

Mr. Montgomery with Mr. Brown of Ohio.

Mr. Myers of Pennsylvania with Mr. Ashbrook.

Mr. Pepper with Mr. McCloskey.

Mr. Charles H. Wilson of California with Mr. Andrews of North Dakota.

Mr. Brooks with Mr. Anderson of Illinois.

Mr. Applegate with Mr. Cleveland.

Mr. Chappell with Mr. Dashle.

Mr. Dellums with Mr. Diggs.

Mr. Edwards of California with Mr. Ford of Tennessee.

Mr. Lehman with Mr. Bob Wilson.

Mr. Stack with Mr. Dixon.

Mr. White with Mr. Patterson.

Mr. Yates with Mr. Murphy of Illinois.

Mr. Ginn with Mr. Giaimo.

Mr. Fuqua with Mr. Phillip Burton.

Messrs. ANNUNZIO, STACK, DOUGHERTY, and OTTINGER, Mrs. COLLINS of Illinois, and Mr. SEIBERLING changed their votes from "yea" to "nay."

Messrs. SIMON, WINN, and BEARD of Tennessee changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

EXPRESSING THE SENSE OF CONGRESS CONCERNING THE WHITE HOUSE PRESERVATION FUND

Mr. LEVITAS. Madam Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the joint resolution (H.J. Res. 462) expressing the sense of Congress concerning the White House Preservation Fund, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

☐ 1320

Mr. HARSHA. Madam Speaker, I reserve the right to object. Madam Speaker, I would inquire of my distinguished colleague from Georgia (Mr. Levitas) if he would explain what he is endeavoring to do here.

Mr. LEVITAS. Madam Speaker, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

Madam Speaker, I would like to point out that since the White House was first occupied during the Presidency of John Adams, the House has been renovated, maintained and restored by appropriation from the Congress. For the most part, however, the furniture, paintings, decorative objects and furnishings have been available only on loan or through private donation. The refurbishing of public rooms and preservation of historic items has also been accommodated by public-spirited individuals. During the past 28 years, a concentrated effort has been made to restore the White House and its public rooms to fitting elegance and historic charm and to establish a permanent collection of antique and representative craftsmanship of the highest quality and of the most important historical significance. Despite earnest efforts of numerous individuals, the establishment of a complete permanent collection has not yet been achieved.

To assist in achieving this goal, in May 1979, a new private, nonprofit organization, the White House Preservation Fund, was chartered in the District of Columbia to work with the White House Historical Association and the Committee for the Preservation of the White House in providing a perpetual endowment for the benefit of the historic White House. The purpose of the White House Preservation Fund is to further public identification with and enjoyment of the White House, and to preserve and perpetuate it as an enduring legacy shared by all citizens. The intent of the fund program is to create a clear and lasting public perception of the White House as a cultural heritage and as a living symbol of the institution of American democracy.

The preservation fund is the most ambitious effort ever undertaken to guarantee a future permanent White House collection, thus, it is worthy of the broadest possible national support. House Joint Resolution 462 seeks to assist in achieving that goal.

The purpose of this sense of Congress resolution is to give support to the efforts of the White House Preservation Fund and urge the encouragement and support of the American people and its nonpartisan program to raise an endowment to insure the permanent collection of and perpetual care for furniture, paintings, decorative art, and representative craftsmanship.

Mr. HARSHA. I would ask my distinguished colleague from Georgia, this measure in no way preserves and perpetuates the present occupant of the White House in the White House, does it?

Mr. LEVITAS. I would hope and expect that President Carter will be there to enjoy this for 5 more years. But it will be there for whomever may occupy it.

I might say there are no public funds and no authorizations or appropriations required in connection with this.

Mr. BAUMAN. Madam Speaker, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Maryland.

Mr. BAUMAN. What was the gentleman's answer to the question as to whether this resolution preserved the present occupant of the White House?

Mr. LEVITAS. It would be the gentleman's hope that would be the case, and President Carter will enjoy it for another 5 years, but it would of course be available to whomever should succeed him in 1 or 5 years.

Mr. PEYSER. Madam Speaker, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from New York.

Mr. PEYSER. I thank the gentleman for yielding.

I would simply like to say that I do think this is a very worthy resolution and one that Members can acquaint their own people, select people in their own districts who I have found, since this announcement, have come out most interested in reaching the White House Preservation Fund to see if they can either contribute in dollars or in works of art that I think would be most appreciative.

I think this is a very worthy situation.

Mr. HARSHA. Madam Speaker, as the distinguished gentleman from Georgia (Mr. Levitas) has pointed out, this is simply a joint resolution expressing the sense of Congress concerning the White House Preservation Fund.

I certainly have no objection.

I urge the adoption of the resolution.

Madam Speaker, I withdraw my reservation of objection.

● Mr. JOHNSON of California. Madam Speaker, I would like to associate myself with the remarks of the distinguished chairman of the Subcommittee on Public Buildings and Grounds, the gentleman from Georgia (Mr. LEVITAS). As a cosponsor of this joint resolution, I would like to point out that this residence of our Chief of State represents a cultural heritage, replete with vivid reminders of our progress as a people, a society and a nation. We own it, we visit it; we admire it as a symbol of our national character; we respect its tradition; we take pride in extending its hospitality to the world as a mark of open generosity toward the family of nations.

More than one and a half million visitors go through the White House every year, making it perhaps the most frequently toured home in the world. The White House is a museum of American history.

The purpose of the White House Preservation Fund is to further public identification with and enjoyment of the White House, and to preserve and perpetuate it as an enduring legacy shared by all citizens. Toward this end, the Fund is now engaged in a program to raise a $25 million endowment which may assure a permanent collection of and perpetual care for furniture, paintings, decorative art, and representative craftsmanship of the highest quality and of the most important historical significance.

The unique purpose and significant goal of this endowment program warrants recognition. It offers a unique opportunity for individuals and organizations of good will to support a singularly representative and lasting reflection of America's art and craftsmanship. Further, it will help guarantee that these symbols of our Nation's past will be proudly displayed for generations to come. I urge passage of the joint resolution.●

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 462

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the White House Preservation Fund, a private nonprofit organization having for its primary purpose assisting in the preservation and enhancement of the historic and museum character of the White House and the cultural and historic traditions which the White House represents, is deserving of the encouragement and support of the American people in its nonpartisan program to raise an endowment to assure a permanent collection of, and perpetual care for, furniture, paintings, decorative art, and representative craftsmanship at the highest quality and of the most historical significance.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LEVITAS. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5741, MORTGAGE SUBSIDY BOND AND INTEREST EXCLUSION TAX ACT OF 1979

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 96–724) on the resolution (H. Res. 517) providing for consideration of the bill (H.R. 5741) to amend section 103 of the Internal Revenue Code of 1954 to provide that the interest on mortgage subsidy bonds will not be exempt from Federal income tax, and to exempt interest on certain savings from Federal income tax, which was referred to the House Calendar and ordered to be printed.

CONDEMNING THE USE OF CHEMICAL AGENTS IN INDOCHINA

Mr. ZABLOCKI. Madam Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the resolution (H. Res. 512) condemning the use of chemical agents in Indochina.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. PRITCHARD. Madam Speaker, reserving the right to object, I will not object; however, I would like to take this opportunity to ask the gentleman from New York (Mr. WOLFF) to explain the purpose of this resolution.

Mr. WOLFF. Madam Speaker, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from New York.

Mr. WOLFF. Madam Speaker, today, I rise to ask unanimous consent that the House give its approval to a resolution offered by the Subcommittee on Asian and Pacific Affairs on behalf of our colleagues Mr. LEACH of Iowa, Mr. BONKER, chairman of the Subcommittee on International Organizations, Mr. PRITCHARD and our other cosponsors, calling on the United States and the Soviet Union to join at the United Nations in an attempt to stop the use of lethal chemical agents—poison gas—in warfare.

Last week, the Subcommittee on Asian and Pacific Affairs held a hearing on the issue of the use of chemical agents in Southeast Asia since the Vietnam war. We heard testimony from Mr. LEACH and Mr. PRITCHARD, from medical experts such as Col. Charles W. Lewis, U.S. Army Medical Corps, and others from the State Department and the Department of Defense.

In particular, we heard graphic eyewitness testimony from a victim of poison gas attacks in Laos.

Our conclusion was as follows: that the H'Mong hill tribes of Laos have been the victims of the concerted use of lethal chemical agents during a period covering 1976 to at least May of this year.

We concluded further that the Vietnamese, having in effect "tested" poison gas on the H'Mong, are now using similar chemical agents in Cambodia and on the Thai border.

Our colleague, Mr. LEACH, presented strong circumstantial evidence that the Soviet Union is aware of this activity, although the inability of our intelligence services to document a sample of chemical agent residue has, for the time being, made it impossible to state with scientific certainty that Soviet-made chemical agents were used in Laos, or are being used in Cambodia.

It is this larger issue—the role of the Soviet Union—which we wish to address today through the vehicle of House Resolution 512, which we now present for your approval. And, I would like to congratulate Mr. LEACH and Mr. PRITCHARD for their authorship of this legislation.

Madam Speaker, it is well known that the Soviet Union presently maintains massive stockpiles of chemical agents, particularly nerve gas, in Europe. It is a clear tenet of Soviet strategy to employ chemical agents in the event of an attack on Western Europe, although the Soviets, and the United States and our NATO allies have, on paper, eschewed the "first strike" option on chemical agents.

Be that as it may, the need for a comprehensive agreement with the Soviet Union on the production and stockpiling of chemical agents—in addition to the use of such agents—is now more urgent than ever before.

The horrible facts which we have documented in our hearing on Laos and Cambodia simply illustrate what should already have been very clear from World War I, or the use of Soviet mustard gas in the Yemen 10 years ago—chemical agents must be banned from production and use in war.

Because of the massive Soviet stockpiles already existing, this is obviously a difficult issue in the often confusing field of arms control. However, good beginnings have been made, starting with the 1899 Hague Convention, the 1925 Geneva Convention, and the 1972 convention.

The United States and Soviet delegations to the United Nations are currently attempting to negotiate the final step in the process which began in 1899, which our resolution characterizes as "an agreement intended to form the basis for achieving the general, complete, and verifiable prohibition of chemical weapons."

Speaking personally, and not for the subcommittee or any of my colleagues, I would note that the Pentagon is reported to be requesting for fiscal year 1981 $20 million of an eventual $150 million facility to produce new stocks of nerve gas weapons. While it is true that no new chemical warfare weapon has been added to the U.S. arsenal since 1969, I must question the wisdom of proceeding with new weapons at the very time we are attempting to negotiate their general ban.

Rather, I would think we should be concentrating our efforts in the negotiations at the United Nations, which this resolution urges. Granted that the verification problem exists for chemical agents, as in other arms control negotiations, it would at the very least seem more prudent to hold off on the development of new chemical weapons until Soviet intentions—and good faith—are more clearly tested in the present negotiations.

In conclusion, I would note that our hearing addressed the touchy issue of the United States use of chemical agents—specifically, the defoliant, "agent orange"—during the Vietnam war.

First, let me report that we were assured by witnesses from the Defense Intelligence Agency that the lethal chemical agents used in Laos and Cambodia were not captured U.S. stocks, because no such weapons were used during the war.

Second, let me emphasize that the Subcommittee on Asian and Pacific Affairs rejected the contention that because of our use of the defoliant agent orange during the war we have no right to attempt to halt the use of overtly deadly chemical agents at this time.

Again, speaking personally, I do think that as Congressmen, we must help our Government accept the responsibility which use of agent orange implies regarding the American military personnel exposed to it. Thus, I welcome the determination by the administration to study this situation, and the Veterans' Affairs Committee hearings on the issue.

In conclusion, I would emphasize that at no time did the United States use nerve gas, or other lethal chemical agents in Southeast Asia. However, as our hearings have documented, the evidence is now conclusive that the Vietnamese carried out a deliberate campaign in Laos, and are now doing so in Cambodia.

Our ability to influence Vietnam through world public opinion, while limited, has been demonstrated at the Geneva Conference on Refugees. I hope that this resolution, which clearly places the responsibility on the Soviet Union for joining with the United States in acting to halt the use of chemical weapons in warfare, will thus have a dual effect, given Moscow's role as Hanoi's chief international protector and sponsor.

I thus urge the House to approve House Resolution 512, condemning the use of chemical agents in Indochina, and urging the negotiation of a worldwide ban on the production and use of such agents in the future. I would like to present for the Record a copy of this legislation:

H. Res. 512

Whereas there is substantial reliable evidence that lethal chemical agents have been used against the Hmong tribespeople in Laos;

Whereas there are indications that thousands have died in these attacks;

Whereas reports now indicate the use of chemical agents in Kampuchea (Cambodia);

Whereas the Hague Convention of 1899 prohibits the use of poison or poisoned arms in warfare;

Whereas the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare (signed at Geneva on June 17, 1925) prohibits "the use in war of asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices";

Whereas in the Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxic Weapons and Their Destruction (signed on April 10, 1972) each signatory "affirms the recognized objective of effective prohibition of chemical weapons and, to this end, undertakes to continue negotiations"; and

Whereas the United States and Soviet Union delegations to the United Nations Committee on Disarmament are currently negotiating an agreement intended to form the basis for achieving the general, complete, and verifiable prohibition of chemical weapons: Now, therefore, be it

Resolved, That (a) the House of Representatives condemns the use of lethal chemical agents against Hmong tribespeople in Laos and any such use in Kampuchea (Cambodia), as violating the spirit of international law and morality.

(b) It is the sense of the House of Representatives that the President should take urgent diplomatic action to bring about the immediate cessation of chemical agent use in Indochina.

(c) It is the sense of the House of Representatives that the President should direct the United States delegation to the United Nations Committee on Disarmament to express strong concern over the use of chemical agents in Indochina.

(d) It is the sense of the House of Representatives that the President should direct the United States delegation to the United Nations Committee on Disarmament to intensify its efforts to reach agreement with the delegation of the Soviet Union on a general, complete, and verifiable prohibition of chemical warfare.

(e) It is the sense of the House of Representatives that the President should report to the Congress, within six months after the date of adoption of this resolution, on steps the United States has taken in pursuit of the foregoing objectives.

Mr. PRITCHARD. I thank the gentleman.

Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the resolution, as follows:

H. Res. 512

Whereas there is substantial, reliable evidence that lethal chemical agents have been used against the Hmong tribespeople in Laos;

Whereas there are indications that thousands have died in these attacks;

Whereas reports now indicate the use of chemical agents in Kampuchea (Cambodia);

Whereas the Hague Convention of 1899 prohibits the use of poison or poisoned arms in warfare;

Whereas the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare (signed at Geneva on June 17, 1925) prohibits "the use in war of asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices";

Whereas in the Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxic Weapons and Their Destruction (signed on April 10, 1972) each signatory "affirms the recognized objective of effective prohibition of chemical weapons and, to this end, undertakes to continue negotiations"; and

Whereas the United States and Soviet Union delegations to the United Nations Committee on Disarmament are currently negotiating an agreement intended to form the basis for achieving the general, complete, and verifiable prohibition of chemical weapons: Now, therefore, be it

Resolved, That (a) the House of Representatives condemns the use of lethal chemical agents against the Hmong tribespeople in Laos and any such use in Kampuchea (Cambodia), as violating the spirit of international law and morality.

(b) It is the sense of the House of Representatives that the President should take urgent diplomatic action to bring about the immediate cessation of chemical agent use in Indochina.

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(d) It is the sense of the House of Representatives that the President should direct the United States delegation to the United Nations Committee on Disarmament to intensify its efforts to reach agreement with the delegation of the Soviet Union on a general, complete, and verifiable prohibition of chemical warfare.

(e) It is the sense of the House of Representatives that the President should report to the Congress, within six months after the date of adoption of this resolution, on steps the United States has taken in pursuit of the foregoing objectives.

☐ 1330

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. Zablocki) is recognized for 1 hour.

GENERAL LEAVE

Mr. ZABLOCKI. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. ZABLOCKI. Madan Speaker, I yield myself such time as I may consume.

I rise in support of House Resolution 512 condemning the use of chemical agents in Indochina.

At the outset I want to commend the principal sponsor of the resolution, our colleague from Iowa (Mr. Leach), and the distinguished chairman of the Subcommittee on Asian and Pacific Affairs, Mr. Wolff, and Mr. Pritchard for their efforts to bring this timely resolution to the floor.

It has become increasingly evident that since 1976 the Hmong hill tribes of Laos have been the victims of the use of lethal chemical agents. There are revelations that thousands have died from this abhorrent practice.

House Resolution 512 condemns the use of lethal chemical agents in Indochina. It also expresses the sense of the House that the President should direct the U.S. delegation to the U.N. Commission on Disarmament to express strong concern over this situation.

Madam Speaker, I urge the adoption of this resolution.

Madam Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. GUYER) for purposes of debate only.

Mr. GUYER. Madam Speaker, House Resolution 512 is an appeal for international attention to, and action aginst a heinous practice which has been employed by the Governments of Vietnam and Laos, that of attacking helpless Hmong and possibly Cambodian villagers with poison chemicals.

There are several International Conventions against this practice. We all know the terrible legacy of gas warfare from World War One. Use of such chemical agents has been banned by civilized nations for years.

When the Socialist Republic of Vietnam was admitted to the United Nations, it adhered to the U.N. Charter and several conventions against chemical warfare. We ought to remind the governments in Indochina that there are such commitments.

The Refugee Conference in July of this year, which focused international attention on the refugee problem, and brought world public opinion against Hanoi, did achieve some results. The refugee outflow slowed down appreciably. It is hoped that an outraged public opinion will again help.

In any event, Indochina is already a scene of too much tragedy without the added horror of gas attacks.

This resolution at least goes on record against this practice and could well serve to enlist an enlarged joining of other nations' hands against this inhumane practice. I support this resolution wholeheartedly and urge my colleagues to do likewise.

Mr. ZABLOCKI. Madam Speaker, I yield 2 minutes to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Madam Speaker, I rise in strong support of this resolution, condemning the use of chemical agents in Indochina.

During the hearing it was learned not only that poison gas has been used against the Hmong tribesmen in Laos and most probably against Cambodians but that the U.S. State Department has had knowledge of such use concerning Laos for over a year, and rather conclusive evidence for the last 6 months.

That knowledge was not made public; it was not even made known to the chairman of the subcommittee on Asian Affairs or the chairman of the full Foreign Affairs Committee.

All that the State Department did, apparently was to—using their words—send "demarches" to Laos, Vietnam, and the Soviet Union. All three no surprise, denied any culpability.

When I asked why the State Department had not notified the committee, much less the public, the reply was that they thought quiet diplomacy was the way to go.

It was not "quiet" diplomacy that brought the attention of the world to bear on the tragedy of the boat people or starvation in Cambodia.

And, it was congress you will recall, that first raised the alarm on the murderous regime of the Pol Pot, not the State Department.

Madam Speaker, I submit, only partly facetiously that what we really need is an American desk in the State Department.

Mr. ZABLOCKI. Madam Speaker, I yield 2 minutes to the gentleman from California (Mr. DORNAN).

Mr. DORNAN. Madam Speaker, I also want to join my colleagues in commending this committee and the subcommittee, Chairman ZABLOCKI, the distinguished gentleman from New York, Mr. WOLFF, and all of the members that took the time to extensively go into the testimony we received. With only a few more votes today before we begin our beautiful holiday season, I note that we will be leaving during the conclusion of the Year of the Child, 1979. And yet children are suffering and dying around the world. The refugee totals have doubled in Pakistan. Those poor souls fleeing from a Sovietized Afghanistan increased from 150,000 to 300,000 in just a few weeks. Thousands of Asian refugees are still dying on the high seas. Most of them are children. It has been estimated that as many as 25 million children around the world are going to die of famine. With those problems and the plight of our American hostages held in Iran, we now have the spectre of poison gas haunting us from World War I. That this problem should again arise on the world scene is an absolutely amazing and frightening development.

My dad won two Purple Hearts in World War I. He was awarded two for being "wounded" with poison gas. If we are reconsidering the use of agent orange, the material used as a defoliant in the Vietnam conflict. I would ask every Member of this House who has a rule against voting for resolutions—there are always three or four who vote "present" and one or two who want to swim like a salmon upstream—let us try in this body, in this blessed holiday season, to make this a unanimous vote.

I would remind my colleagues that if this had been used by someone in the free world, and had this been 1974 instead of 1979, during that emotional debate period, this discussion would have been interminable.

The people with whom I have discussed this matter, including Mr. WOLFF in Thailand, are convinced that the hard evidence is there. This is the poison gassing of women and children. If we cannot get a unanimous vote on this, we will simply make ourselves look foolish. Please, I ask we have a unanimous vote.

Mr. ZABLOCKI. Madam Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. Madam Speaker, I wish to concur in the statements that have been made. I would state to the distinguished chairman of the committee, if I may have his attention, that the use of chemical warfare is a very repulsive subject which shocks the civilized mind. However, I would state that use in Cambodia is the sixth time, is it not, that chemical warfare has been used in this century, and each time it has been used it has been used against a people that do not have the ability to retaliate.

I observe that the amendment has language directed toward getting an agreement with the Soviet Union, and I cannot, I will not question the language, except I rather doubt if we will be able to get what this body would consider a verifiable prohibition of chemical warfare from the Soviet Union. I would point out to my colleagues that the Soviet Union now has better than 100,000 troops actively engaged in training in chemical warfare in a very realistic environment.

I feel very strongly that with what is happening in the United States, if we do not build up at least a retaliatory capability to deter the Soviet Union from possibly using chemical warfare against us, we would be making a mistake.

□ 1340

The SPEAKER pro tempore. The time of the gentleman from Missouri has expired.

Mr. ZABLOCKI. Madam Speaker, I yield 1 additional minute for debate purposes only to the gentleman from Missouri.

Mr. ICHORD. Madam Speaker, my concern is that our horror against chemical warfare should not deter us from building up a defensive and offensive capability in the chemical warfare field in order to deter it. The only other alternative is to answer possible chemical attacks with nuclear warfare. This lowers the threshold of nuclear warfare.

Mr. WOLFF. Madam Speaker, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from New York.

Mr. WOLFF. The objective of this resolution is to draw world attention to the use of this type of toxic agent against not only the Hmong people of Laos, but as well against the defenseless people who are refugees and who are trying to escape the problems of Cambodia. The reference to the Soviet Union occurs because Vietnam itself does not possess the capability of producing a chemical weapon of the type that is being used, and must get it from another source. And, that source is said to be the Soviet Union.

Mr. ZABLOCKI. Madam Speaker, I

yield 1 minute to the gentleman from Maryland (Mr. BAUMAN) for debate purposes only.

Mr. BAUMAN. Madam Speaker, I just wanted to ask a question. I read this resolution just now. I certainly concur with everything that has been said, but nowhere in the resolution does it say who is perpetrating this inhumane outrage. The reference of the gentleman from New York is the first I have heard referring to Vietnam. Is this the same Vietnam Communist Government backed by the Soviet Union that we were told a few years ago should be permitted to take over Vietnam because it would bring a better day, a humanitarian day?

Why do we not condemn communism for causing this mass slaughter? Why do we not mention that in the resolution? Does communism not exist any more? Are not Soviet and Vietnamese Communists responsible for this mass killing? Why not put the blame where it belongs?

Mr. ZABLOCKI. Madam Speaker, I will respond to the gentleman. The only thing we are absolutely sure of is that there were thousands and thousands of innocent people who lost their lives because of the use of chemical warfare agents in Laos and in Cambodia. Who did it, what type of chemical agent was used, was not known.

Mr. BAUMAN. The gentleman is saying that he does not know whether the Communists there are responsible?

Mr. ZABLOCKI. I did not imply that at all.

Madam Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. LEACH), a principal sponsor of the resolution, for purposes of debate only.

Mr. LEACH of Iowa. Madam Speaker, I would like to comment very briefly on the representations of the gentleman from Maryland. The testimony brought out very, very clearly that what we are talking about is the use of weapons by the Vietnamese Communist forces, almost certainly supplied by the Soviet Union. There is no doubt whatsoever about that, and I think the record ought to be clear. It was clear in the testimony presented, and if it is not clear within this resolution then, as one of the architects of it, I apologize for that. It is certainly implicit.

Mr. BAUMAN. Madam Speaker, will the gentleman yield?

Mr. LEACH of Iowa. I yield to the gentleman from Maryland.

Mr. BAUMAN. I appreciate the gentleman from Iowa making that point, but it seems to me that if the Congress is repeatedly called upon to pass resolutions from this committee condemning various actions, we ought to condemn the people and nations performing the actions and say who they are. Maybe the bad judgment of some in this House will not allow them to refer to communism as an evil. It seems to me the American people should know who and what is responsible for the actions this resolution condemns. Such inhumanity to one's fellow man is inherent in Communist philosophy and history is filled with similar mass brutality on the part of the Communists.

Mr. WOLFF. Madam Speaker, will the gentleman yield for a comment?

Mr. LEACH of Iowa. I yield to the gentleman from New York.

Mr. WOLFF. Madam Speaker, as for the nomenclature that is involved, certainly when we classify this as Vietnam we do not call it the Democratic Government of Vietnam, which is their actual designation. We do that specifically and on purpose because there is no democracy there. Similarly, that has been left out of the resolution, but the inference is there very clearly. There is only one government that exists there, and even if there is a second government, they are both Communists.

Mr. LEACH of Iowa. Madam Speaker, to recapture my time, let me just stress that in the debate this afternoon it was our intention to very strongly point out who is responsible for this chemical weapon usage, and to emphasize that it is the Soviet Union that has the world's largest stockpile of chemical weapons. Very importantly, we are seeing a new strategic use for these weapons for the first time.

The SPEAKER pro tempore. The time of the gentleman from Iowa has expired.

Mr. ZABLOCKI. Madam Speaker, I yield 1 additional minute to the gentleman from Iowa.

Mr. LEACH of Iowa. I thank the gentleman from Wisconsin for yielding and for his and the gentleman from New York's cooperation and assistance in bringing before the Congress and the public the extremely important issue of the use of lethal chemical weapons in Indochina. The gentlemen are properly respected for their expertise in Asian affairs and for calling attention to the many unfortunate human tragedies occurring today in Southeast Asia.

Madam Speaker, among the many inhumanities being inflicted upon the peoples of Indochina today is one which has until recently received little attention. The use of lethal chemical weapons against the Hmong minority group in Laos over the past 3 years and the more recent reports that similar poison gas warfare is taking place in Cambodia are extremely disturbing. Their employment in remote areas of these countries, far removed from international scrutiny, represents a considerable danger to the world community, which has universally condemned this type of warfare for many decades.

Vietnam is using lethal chemicals to suppress opposition to its domination of Indochina. Gas weapons offer certain military advantages over conventional warfare to the Vietnamese against scattered populations in inaccessible areas. The terrifying nature of these weapons also has a significant psychological effect upon the populace they are employed against.

The Soviet Union, as the principal military and political supporter of Vietnam, is almost certainly the source of the chemical weapons being used today in Indochina. The Soviet Union possesses the world's largest stockpile of chemical weapons and Soviet military doctrine heavily emphasizes chemical warfare. For Moscow, Indochina represents a unique, remote Third World battlefield where sophisticated chemical weapons can be tested for effectiveness against human targets.

Our country has placed the highest priority on negotiating limitations with the Soviet Union on strategic nuclear forces. There is no reason why we cannot do the same with chemical weapons. Fortunately, neither nuclear nor atomic weapons have been used in warfare since Hiroshima and Nagasaki. We cannot say the same of chemical warfare, and if we do not successfully negotiate an agreement to permanently ban these weapons from the arsenals of man we can expect to see them used elsewhere in the future as they are being used in Indochina today.

House Resolution 512 which we have before us today condemns the use of lethal chemical agents against the Hmong tribespeople in Laos and any such use in Cambodia as violating the spirit of international law and morality. The resolution expresses the sense of the House that the President should take urgent diplomatic action to bring about the immediate cessation of their use in Indochina. It further calls on the President to express our Government's strong concern to the United Nations and to intensify our efforts to reach agreement with the Soviet Union on a general, complete, and verifiable prohibition of chemical warfare.

The chemical weapons used in Indochina today make no distinction between civilians and combatants, between men and women or between children and adults. They have been used indiscriminately against villages and farms, killing civilians and resistance fighters alike, as well as animals such as dogs, chickens, pigs, cattle, and buffalo.

They call it "medicine from the sky." It comes down as a yellow or red or white rain, and it causes convulsions, nausea, bleeding from the nose and mouth, and death.

The perversion of science involved in the exploitation of chemical weapons by modern armies represents one of the tragedies of the 20th century. Fortunately, since their widespread utilization in World War I, the documented instances of the use in combat of lethal chemicals have been few. Mussolini's forces sprayed poisonous gas from airplanes against Ethiopian troops in 1935. Imperial Japanese troops sporadically used chemical warfare in China between 1937 and 1945. Egypt under President Nasser dropped poison gas bombs, probably of Soviet origin, in the civil war in Yemen between 1963 and 1967.

The renewed use of these reprehensible weapons underlines the immorality of Vietnam's efforts to exterminate opposition to its control of Indochina and sets as well a dangerous precedent.

If the civilized world's injunctions against the use of chemical weapons are flagrantly ignored in Southeast Asia, the legal, moral, and political sanctions against their employment elsewhere will almost certainly be weakened.

With these concerns in mind, last January I visited Nong Khai, a refugee camp in northern Thailand. After personally interviewing Hmong who witnessed chemical weapons attacks, I became convinced of the validity of refugee claims and requested that the State Department launch a thorough investigation of the problem and raise the chemical weapons issue as a high priority item in appropriate international bodies.

Unfortunately, the administration displayed surprising reluctance to confirm this past spring and summer that chemical weapons were indeed being used by the Vietnamese and Laotian Communist forces, despite the widespread refugee reports and the corroboratory intelligence information available at the time.

The reluctance of our Government to confirm the irrefutable is reminiscent of the refusal of Western democratic governments in the late 1930's and early 1940's to accept the growing body of evidence that pointed to Nazi concentration camp gassing of Europe's Jewish population.

Tragically, this reluctance to confirm the usage of these terrifying weapons in Laos may have contributed to their further legitimatization and thus to their recent probable use in Cambodia.

Having spent 2 years working on arms control issues within the State Department, I am convinced that far too low a priority has been given to the issue of chemical weapons. Massive public attention has been accorded SALT and the control of nuclear weapons, but chemical weapons can be just as lethal and unlike nuclear weapons are being used today. It is therefore incumbent on the entire civilized world to condemn the use of these weapons in Indochina and to make negotiation of an international convention restricting the development of chemical weapons a matter of highest priority.

It is particularly incumbent on the U.S. Government to forthrightly confront this issue and give it priority attention. The record of this administration, as well as the previous several, in this connection is open to serious criticism.

From our experience in the Vietnam war using virulent herbicides like agent orange, our Government also has special responsibility to insure that chemicals causing long-lasting physical damage to individuals and their offspring, even though not specifically designed as antipersonnel weapons, should be outlawed from the arsenals of man.

There is grave danger that chemical warfare may become the poor man's weapon of mass destruction. Nuclear weapons are beyond the financial and technical capabilities of most nations and bacteriological warfare is generally regarded as too dangerous and uncontrollable. Many countries, however, can produce or obtain some types of lethal chemicals which lend themselves to military or internal police purposes.

If Vietnam and its principal weapons supplier—the Soviet Union—can use lethal chemicals in Indochina with impunity, the list of other states which may use poison gas will almost certainly grow. And it is not too farfetched to imagine a Soviet surrogate such as Cuba being trained and equipped with this capability.

More importantly, from the perspective of NATO, it is estimated that Soviet forces include 90,000 officers and men trained extensively in chemical weaponry. The United States, by contrast, has perhaps 2,000, and a military doctrine reflecting a substantially lower tolerance for chemical weapons usage.

It is thus of vital significance that as a country we recognize that for the Soviet Union, Indochina represents a remote Third World battlefield where sophisticated chemical weapons are being tested for effectiveness.

Who are the Soviet military's human guinea pigs? In Laos they have largely been a hilltribe people called the Hmong—15,000 of whom are now living in the United States.

Once numbering more than 300,000, the Hmong have a long history of opposition to Lao and Vietnamese Communist authority. Hmong forces fought with the French against the Viet Minh; and then, for 13 years, aided the United States during the Vietnam war. Suffering an estimated 30,000 casualties, Hmong troops helped deny large areas of Laos to the North Vietnamese. Had it not been for the Hmong, Hanoi could have thrown additional divisions into the war in South Vietnam. American soldiers are alive today because the Hmong stood with us.

Today the Hmong culture could be at the point of extinction. The resistance of the Hmong to Vietnamese authority and their flight from Laos are symbolic of those in Indochina who disapprove of Hanoi's totalitarian policies.

Similarly, the use of poison gas by Vietnam against the Hmong is symbolic of the lengths to which Hanoi will go to suppress opposition to its domination of Indochina. Ethnic Chinese drowned in the South China Sea, Cambodians starved to death, Hmong lethally gassed—all reflect a willingness by Vietnam to use military and other means to impose its rule, even to the point of genocide.

The plight of these people and the inhumanity of man's genius to develop and use indiscriminate weapons of mass destruction cannot be ignored.

Hopefully, focusing international attention on these events in Southeast Asia will bring a halt to the use of poison gas by the Vietnamese and give renewed momentum to negotiation of a new international convention to prohibit the development and stockpiling of chemical weapons.

If such constructive initiatives are not soon forthcoming, new impetus to the arms race will almost certainly result.

Mr. ZABLOCKI. Madam Speaker, I yield 1 minute to the gentleman from New York (Mr. Wolff) for debate purposes only.

Mr. WOLFF. Madam Speaker, I thank the chairman for yielding. I should like the House to know, that in addition to the question of gas, I have today received some indications that we have serious reason for concern regarding the territorial integrity of our friend and ally, Thailand.

Reports are now coming in which indicate that the forces of Vietnam presently in Cambodia may be planning to cross the border into Thailand—perhaps as early as this weekend.

These raids, or, perhaps, this invasion of our friend and ally under the Manila Pact would be of the gravest consequences for peace and stability in Asia.

No one can predict what the consequences of a Vietnamese attack would be on the future of the Government of Thailand.

No one can predict what the consequences of such an attack would be on the fate of the nearly 1 million Cambodian refugees presently being sustained by Western relief agencies along the Thai-Cambodian border.

No one can predict how the People's Republic of China will react—perhaps with a "second lesson" to Vietnam.

Finally, no one can predict what the superpower consequences would be in the event of destabilization in Southeast Asia.

In short, Madam Speaker, the consequences of a possible Vietnamese invasion of Thailand—however limited in scope it might be—are incalculable at this time.

But it can be said with certainty that the United States must do all it can, through the Soviet Union and through the world community, including our friends and allies in Asia, to head off any such Vietnamese attack on Thailand.

I call on the President to immediately inform us of what steps we will take to try and prevent a new and grave crisis from enveloping our friend and ally, Thailand, and to help preserve the already fragile stability of Southeast Asia.

Mr. ZABLOCKI. Madam Speaker, I yield 2 minutes to the gentleman from Washington (Mr. Pritchard).

Mr. PRITCHARD. Madam Speaker, I thank the committee chairman for yielding to me. I would only like to say this, that this resolution came about because of the work of the subcommittee chairman, Chairman Wolff, and also came about because of trips that were made by Members of Congress out to Southeast Asia. This matter came up while several of us were out talking to people in the camps who had witnessed and been casualties and had been the victims of gassing.

I think it points up once again the value of Members of Congress going out in the field where these actions are taking place and getting around the world, and not just waiting here for reports to come in from members of the State Department and from the Defense Department. Let us be very clear on what is happening here. The people who are being gassed, that we have the absolute facts on, are the Hmong who live in Laos. This is not the Laotian Government that is affecting these people. This is a policy of Vietnam.

These planes, in most cases, are being flown by at least Vietnamese pilots, and we know that Vietnam does not have the capacity to produce this kind of sophisticated gas.

Let us be very clear that when somebody steps up and says, "Well, maybe they are using gas that the Americans left when we were out in that war in Vietnam," that the agents that make up this gas are in no way connected with Agent Orange, which is a defoliant. Nothing that we had in Southeast Asia could be transformed into the gas that is being used in Laos and is now starting to be reported to be used in Cambodia.

□ 1350

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. ZABLOCKI. I yield 2 additional minutes to the gentleman from Washington.

Mr. PRITCHARD. I thank the gentleman. So it is essential that we be very sure that we know. Vietnam has such a terrible record, who was willing to push these people, the boat people, out, who today in Cambodia I think are following a policy of food denial which is causing mass starvation, and at this point they are, as far as we know, the one nation in the world that is willing to experiment and participate in the use of lethal gas. It is terribly important that we expose this so that if other agents and satellites of Russia get involved in activities, they know they cannot do it without being exposed. I think we are about a year late in exposing this action. I ask this House to promptly pass this resolution.

Mr. ASHBROOK. Madam Speaker, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding. He indicated the gentleman was about a year late in exposing this. I wonder if my chairman, the gentleman from Wisconsin (Mr. Zablocki), or my colleague, the gentleman from Washington (Mr. Pritchard), could tell me what those great sentinels of international moral values have been doing at the United Nations during this year? They do not mind making denouncements of the United States, such as charges of imperialism in Puerto Rico. Have they done anything on this?

Mr. PRITCHARD. I think there has been a tragic silence. It is very hard to get firm evidence out of the mountains in Laos, and we had to go on just reports of refugees. We had a medical team out there where we got what I consider actual evidence that would stand up, so there was some case that could be made on hearsay and just taking the reports from refugees coming out.

Mr. ASHBROOK. I thank my colleague for that response.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. ZABLOCKI. Madam Speaker, I yield 1 minute to the gentlewoman from New Jersey (Mrs. Fenwick).

Mrs. FENWICK. I thank the Chairman. I interviewed a man from the village of Prybia, a Hmong tribesman from Laos, where there are now 50,000 Vietnamese Army troops, and where Mig planes are dropping canisters of gas, yellow, red, and white. As described to be by this mountain tribesman, who was the head of a group of 56 still resisting in the mountains, when a canister is dropped, those within range start vomiting; a terrible hemorrhaging follows, and death comes very quickly afterwards. Nobody really knows what kind of gas this is. It is a hemorrhagic gas, something new. The other is a yellow nerve gas, and nobody knows quite what that composition is either. Our teams have been able to determine that it is not a defoliant. When dropped on leaves, it does make a hole, but that is all. It does not wither the leaves as defoliant gases do. We are witnessing something very terrible here. The world ought to pay attention.

● Mr. KASTENMEIER. Madam Speaker, I am constrained to vote against House Resolution 512. In doing so, I want to emphasize that I have the highest regard for my friend and colleague from Wisconsin, Clem Zablocki, chairman of the House Foreign Affairs Committee, and Congressmen Jim Leach of Iowa, and Joel Pritchard, of Washington, the principal sponsors of this resolution. Indeed, I share their objective, namely, hopefully to prevent the further use of chemical and biological weapons in Southeast Asia and elsewhere.

My objections to the resolution are on procedural, and more importantly, on historical grounds. As far as I am concerned this resolution comes some 15 or more years too late. It is impossible to separate what Vietnam is doing in Southeast Asia today from our own deployment of chemical warfare agents in South Vietnam during the years of our long involvement in the Vietnamese conflict. As we know, many of our Vietnam veterans are victims of agent orange, and if the number of such veterans who are affected by this chemical agent is any measure, then there must be many, many more thousands of Vietnamese women and children who also are suffering and who must continue to live in this environment.

This fact simply cannot be isolated from the present Vietnamese practice. Indeed, the Vietnamese may be using chemical agents from the vast storehouse of such weapons we were forced to abondon by necessity in 1975. Also, while the United States did not use lethal antipersonnel chemicals, we did direct various tactical chemicals and gas against individuals on a substantial scale, there has not been any accounting for this action. This resolution may not ignore these grim facts.

I have opposed the use of chemical and biological agents since my first days in the Congress, and it is hypocrisy to condemn selectively the Vietnamese while remaining silent on our own terrible legacy in that part of the world.●

Mr. ZABLOCKI. Madam Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WYLIE. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 378, nays 1, not voting 54, as follows:

[Roll No. 754]

YEAS—378

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Buchanan
Burgener
Burlison
Burton, John
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
Davis, S.C.
de la Garza
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Donnelly
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Forsythe
Fountain
Frenzel
Frost
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holtzman
Hopkins
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Leland
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio

Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Paul
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Tauke
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Waxman
Weaver
Weiss
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NAYS—1

Kastenmeier

NOT VOTING—54

Anderson, Ill.
Andrews, N. Dak.
Brooks
Brown, Ohio
Broyhill
Burton, Phillip
Daschle
Deckard
Diggs
Dixon
Dodd
Dougherty
Edwards, Calif.
Flood
Ford, Tenn.
Fowler
Fuqua
Giaimo
Ginn
Harsha
Holt
Horton
Jenkins
Lederer
Lehman
Lent
McClory
McCloskey
Mathis
Mavroules
Mazzoli
Montgomery
Murphy, Ill.
Myers, Pa.
Nichols
Patterson
Pepper
Richmond
Rosenthal
Runnels
Santini
Sebelius
Shannon
Synar
Taylor
Treen
Van Deerlin
Watkins
White
Wilson, Bob
Wilson, C. H.
Wydler
Yates
Zeferetti

☐ 1410

The Clerk announced the following pairs:

Mr. Richmond with Mr. Harsha.

Mr. Brooks with Mrs. Holt.

Mr. Lederer with Mr. Sebelius.

Mr. Santini with Mr. Lent.

Mr. Zeferetti with Mr. Deckard.

Mr. Phillip Burton with Mr. Broyhill.

Mr. Dodd with Mr. Anderson of Illinois.

Mr. Edwards of California with Mr. Shannon.

Mr. Fuqua with Mr. Taylor.

Mr. Ginn with Mr. McClory.

Mr. Lehman with Mr. McCloskey.

Mr. Mavroules with Mr. Bob Wilson.

Mr. Mazzoli with Mr. Watkins.

Mr. Murphy of Illinois with Mr. Wydler.

Mr. Myers of Pennsylvania with Mr. Horton.

Mr. Nichols with Mr. Andrews of North Dakota.

Mr. Rosenthal with Mr. Brown of Ohio.

Mr. Van Deerlin with Mr. Daschle.

Mr. Pepper with Mr. Dougherty.

Mr. Diggs with Mr. Synar.

Mr. Patterson with Mr. Ford of Tennessee.

Mr. Dixon with Mr. Jenkins.

Mr. Giaimo with Mr. Mathis.

Mr. Montgomery with Mr. Yates.

Mr. White with Mr. Runnels.

Mr. Charles H. Wilson of California with Mr. Fowler.

Mr. KASTENMEIER changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

THE REFUGEE ACT OF 1979

Ms. HOLTZMAN. Madam Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2816) to amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from New York.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2816, with Mr. MOAKLEY, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, title II was open to amendment at any point.

Pending was an amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

☐ 1420

Ms. HOLTZMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is simply a backhanded method of saying that we are not going to admit more than 50,000 refugees in any year. That is in essence the thrust of this amendment.

This amendment would set a limit on the number of refugees who would be admitted to this country regardless of the circumstances around the world, because it says that we will pit any additional refugees that we take against the reunification of families. In short it says that if we want to let more refugees in, we must prevent immigrants from coming into the United States. Eighty percent of the immigrants coming into this country are coming in for the reunification of families.

This country signed a treaty at Helsinki to facilitate the reunification of families. What this amendment says is that we will dishonor our obligations under Helsinki in order to take refugees, or, if we want to honor our obligations under Helsinki, we will cut down on the number of refugees we can take.

What kind of absurd dilemma is this to put the United States in at this time? We certainly have room to allow normal immigration to the United States. We certainly have room to admit refugees under the procedures established by this bill. We should not set up any kind of system by which we pit the entry of refugees against the reunification of families.

Mr. Chairman, I think this is a very undesirable approach, and I certainly urge the rejection of this amendment.

Mr. RODINO. Mr. Chairman, I must oppose the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

This amendment, in effect, would undo all the work that has been done by this Congress and by previous Congresses. At a time when we were stigmatized by the McCarran-Walter Act, which set up a national origins quota system, which discriminated against people and was really unworthy of the United States. The Congress of the United States labored long, and finally we were able in 1965 to come up with an immigration policy which I believe showed the world that this country of ours recognizes freedom of movement of people, and that we would admit people who were qualified, regardless of what country they came from.

I think that this was really a time when the Congress could hold its head high and say that it had accomplished the kind of objectives that we, as Americans, are proud.

The gentleman from Wisconsin (Mr. SENSENBRENNER) begins to treat apples with oranges.

It would disrupt the orderly, regularized, established formulas that we worked up over the years that set up preferences for immigrants and allowed a normal flow of refugees into the United States.

I believe that the gentleman's formula is absolutely unsound. I regret that he presents it here, because he makes us choose between people who would be coming to the United States to join relatives, and refugees who are in crises situations.

For this reason, Mr. Chairman, I would urge that the House reject this amendment. We should not be discriminating between one type of person and another type. If we are going to admit people as refugees, then let us do it. If the gentleman wants to say that he is opposed to the admission of refugees, let him say so, but let it not come from this kind of a backdoor approach.

Mr. HYDE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I do oppose this amendment because I think it seeks to artificially restrict the number of refugees to be admitted to this country and, moreover, to penalize legitimate immigrants to this country because of a feeling that there are too many refugees coming here. I just do not think that is fair.

However, this amendment and the remarks that have been made give me an opportunity to discuss what the distinguished chairman of the committee just said about fairness. A Filipino who has a brother and a sister in this country and is, therefore, a fifth-preference applicant for admission waits 10 years to get into this country. That is the current time lapse from the time he applies to the time when he can get in—10 years.

The distinguished committee chairman said that we should not discriminate between one person and another person. Now, it is a fact that the Soviet refugees—and there are thousands of them—can get into this country in 3½ months. I take that back; maybe it is 4½ to 5 months. But it takes 3½ months to get an exit visa from the Soviet Union, depending on the mood of the commissars of the Soviet Union, whether they want to make an extra effort to win the goodwill of this country and get most-favored-nation treatment or to get Jackson-Vanik removed. If they do, they will open the floodgates and permit the thousands of Soviet refugees of Jewish faith to leave.

Many of these people, 60 percent of them, want to come to the United States; the rest will go to Israel. Many of them come here, and God bless them. Who would want to live in the Soviet Union when one has an opportunity to come to the United States?

But we have a problem with Filipinos and other nationals who must wait 10 years to get in here. I think at some point we have to look at this problem and decide whether we are doing Israel any favor by facilitating two-thirds of the Soviet refugees to come here and only one-third to go to Israel when Israel desperately needs these people and wants them.

I have interviewed these families. I have seen some of these families in Rome, and I have talked to our immigration people in Vienna and elsewhere. It is a problem. I do not have any answers. But when we talk about fairness, we should recognize that some people are immigrants and not refugees, and we are labeling everybody as refugees.

Mr. Chairman, having said that—and I certainly do not, I repeat, have any easy answers—I would point out that I think it is a problem we will have to face at some time, but I do not think we should penalize the immigrants because of an aberrational—and I hope it is only aberrational—situation in the world at a time when we have so many refugees.

Mr. SAWYER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I do support this amendment. I do not buy the "apples and oranges" argument. I think it is a question of our capacity, a question of how many newcomers to the United States we can handle each year.

It is a question of doing an adequate job and coping with the situation financially while coping with our many domestic problems—and we are not doing all that good a job on those either.

Let us bear in mind that this bill as couched raises our normal flow of refugees from 17,400 to 50,000 people a year. We have the most generous immigration policy in the world. Nobody has anything to compare with it. We are allowing in 270,000 immigrants.

This amendment only becomes operative when we exceed 270,000, plus 50,000 refugees, in other words, 320,000 people a year. That is over a quarter of a million newcomers every year. We have to cope with this problem both economically and socially, and we have to absorb these people adequately and do a good job for them.

It just seems to me that there is a limit on our capacity, just as we learned there was a limit to our capacity to be a "world policeman." At some point in time we have to control it. This bill only becomes operative if we go over 50,000 refugees, and we could go to 200,000, 300,000, or 400,000 refugees under a given circumstance in a given year, subject to the control of the President.

□ 1430

I think we have to recognize not that we will keep out the refugees. Goodness knows, we take them in. And this amendment does not propose that we do limit. But we do recognize, with this amendment, some limitation in our capacity. And as we go over the 50,000 refugees, we reduce one immigrant for every two additional refugees. This is not apples and oranges. It is recognizing that we have not an infinite capacity. It provides some ability to at least keep the capacity within something we can handle and still address, as many of us constantly want to, all of our domestic and social problems that, when you look around, we are not doing all that fine a job for our old people, our poor people, our inner cities, our urban ghettos, and all of the other myriad problems that we cope with here.

I think there is nothing wrong in confessing that our capacity is not infinite, just as we ultimately confessed with respect to our ability to play world policeman.

We are a maturing country. We are no longer a frontier. This merely provides some kind of a limitation on our capacity as to how many new Americans or potentially new Americans we can let in each year. It imposes no limit on refugees, but if the refugees go over 50,000, we begin to reduce for the next year that 270,000 additional immigrants we are permitting in. It seems to me that is infinitely reasonable.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

Mr. Chairman, I understand the purpose, and it certainly has a point. But why restrict immigrants who are mostly family reunification cases because of the flood of refugees? Why do we not try to find some place for the refugees to go without making somebody wait 20 years to get into this country to be reunited with his family? Are we not doing it the wrong way?

Mr. SAWYER. I am sympathetic that it is a problem, that while I think all of this is fine, we have to recognize we have some limitation on how many people we can take into this country every year and still meet our obligations that we assume toward them and that we still are not doing too good a job domestically.

It seems to me that a refugee is in a critical position. We cannot very well say, "Stay out in the boat and drown." No matter how many, we have to find some way to make room for them, and we have done that. But it seems to me that you have to simultaneously recognize our capacity, and in order to get more capacity to accommodate that many refugees in a year, the only way to debit the newcomers into the United States, people who perhaps speak different languages and need assimilation and support, I think, is with this amendment.

Mr. EVANS of Georgia. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do most sincerely oppose this amendment offered by my colleague, the gentleman from Wisconsin. I think, to pass these types of amendments to this bill, which has been carefully worked out with a number of different agencies and countries, would be to condemn to death hundreds of thousands of refugees.

While I realize that what it does is to reduce the number of immigrants that we have, one for every two refugees we bring in over a certain amount, I think it is totally unfair to use these people, one set of people against another. I strongly oppose that approach.

Mr. Chairman, I have been in just about every refugee camp in Thailand and have observed the situation of these people at close hand. I do not think there is anyone who would not exchange their place, I say to my colleague from Michigan, with any slum in America, because it is not only the deprivation of food, the deprivation of every human comfort, it is the deprivation of freedom, the deprivation of being able to just live that we are talking about.

When you talk about the United States doing so much—and I agree that we have done a great deal—I call your attention to the fact that those countries of first asylum, Thailand and Malaysia, have a great deal of pressure on them not to even allow these people, many of whom are traditional enemies, into their country.

It is only the insistence of the United States which has saved the lives of so many of these people. But these countries and the leaders in Thailand and Malaysia, who have to depend upon their people to be elected and who have to look to the United States for assistance, and to other countries which have begun to assist, if we do not have a program which tells them what we can do and assures them that we will do this, we are going to see these two countries, primarily Malaysia and Thailand, start turning these people back at the borders, which means certain death.

I talked to a man at one of the camps in Thailand, and he started crying while I was talking to him, a grown man, tough. I said, "What is wrong?" He said, "So many people are coming across that they started turning them back, and I heard the guns on the other side of the river." We were on one side and the people were on the other, in Laos. And he said, "They are killing them as they are turned back into Laos." This is true also in Cambodia.

Can you imagine turning the Vietnamese away from the shores of Thailand and Malaysia on the flimsy boats? No, Mr. Chairman, I cannot sanction this amendment or any other amendment to this well-thought-out bill which provides a guarantee to the other countries throughout the world that the United States will do its part in this very humane endeavor.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Georgia. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I just want to commend the gentleman for the time he has spent on this effort and I just wish more Members of the House had been present to listen to his statement. I wish to commend the gentleman for his statement, and I would like to commend him and also to join with him in his statement on behalf of these people.

I would just like to make one little observation, and I know it may not be completely accurate so far as the idea of apples and oranges. But we here in this country—and I have heard it in my own district—hear people saying that we are letting too many refugees in. Then I look at how much people in this country spend just to take care of their pets.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. EVANS) has expired.

(By unanimous consent, Mr. EVANS of Georgia was allowed to proceed for 2 additional minutes.)

Mr. VOLKMER. I look at the millions upon millions of dollars that people will spend for those things. Yet some of those people will decry taking care of another human being.

Mr. Chairman, I wish to thank the gentleman.

Mr. EVANS of Georgia. Mr. Chairman, I might say that just this morning I left one of the young refugee girls about 14 years old that I met while I was at one of the camps in Thailand. Her parents and her family had sacrificed everything they had to buy her way out of Vietnam. She went on a boat and was finally brought in to Songkla. She is now in the United States. She is now being furnished a home by a couple out in Chantilly, close to Dulles Airport. The happiness and the change in that young lady, with the hope that she might be able to bring her family over, I just wish that some of the Members who are trying to change this bill could see that.

Mr. BAILEY. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Georgia. I yield to the gentleman from Pennsylvania.

Mr. BAILEY. Mr. Chairman, I would like to thank the gentleman and associate myself with his remarks. I appreciate very much the sentiments and the feelings that the gentleman has expressed here.

Mr. FISH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I hesitate to take the well of the House after my good friend and colleague, the gentleman from Georgia, who just spoke to us so eloquently. It seems to be my misfortune to always follow the orators in this body, but I certainly want to endorse everything my colleague has said.

Mr. Chairman, I rise in opposition to this amendment. It was carefully considered by the full Committee on the Judiciary and it was rejected. If we adopt this amendment, we will be saying to U.S. citizens that their close relatives must wait to emigrate to this country because we have responded to a refugee crisis. It would be saying to a U.S. citizen that his son from China, who must now wait over 4 years for a visa, will have to wait longer yet because we have accepted a refugee.

Persons who will suffer if this amendment is adopted are U.S. citizens who are seeking to be reunited with their families, the basic objective of our immigration law. And, of course, as the gentlewoman pointed out, this would not occur, and what we have instead is a backhanded way of putting a ceiling of 50,000 on the number of refugees.

We are told that this amendment would encourage other countries to accept more refugees, and I am at a loss to see how that would work. The only countries in the world today who are not current in the majority of the preferences under which immigrants come to the United States are China, India, Korea, Mexico, and the Philippines.

□ 1440

So that the entire Western Europe and the entire South America places that are currently receiving refugees or places that we would like to encourage to do more could not possibly be pressured by us, because they are undersubscribed in their preferences today, and anybody in their country qualified under our immigation law can receive a visa.

Furthermore, it is highly questionable whether a native of France or Germany who is now a U.S. citizen could lobby effectively the government of their native land to make visa numbers available to immigrants under our present system.

I think also we have already adopted sufficient guarantees of congressional control over numbers. We have the congressional veto, which ultimately is the weapon that will control the excess admissions over the 50,000 normal flow.

I want to take a few more minutes, Mr. Chairman, at this time, because I think this brings us to another related issue that is in the mind of many, many Members, and that is that there are reports that worldwide there are some 14 million refugees.

I am sure that many of our colleagues fear the pressures on the United States as a major receiving country from these millions. I believe this fear is at the root of the amendment now before us for consideration. I take this time to discuss who are these 14 million refugees and how their problems are being addressed today.

The largest part of the world's refugees are the upward of 8 million in Africa, most of whom are not candidates for resettlement; 3 to 4 million Palestinians. There are also refugees in Bangladesh, Pakistan, and in Latin America.

For most of these refugees, repatriation or local resettlement in a neighboring country rather than resettlement abroad in receiving countries like the United States are the best solutions and the solutions most desired by the refugees themselves.

Because of political and military upheavals in Africa, the refugees there in many cases have received asylum in adjoining countries. Some countries have responded generously and with the help of the UNHCR and voluntary agencies, particularly the Lutherans, many refugees have been resettled successfully in this local or adjoining country resettlement.

Model examples of this process are Zambia and Tanzania which have accepted and made land available for refugees from Burundi and Rowanda.

As for repatriation, Zaire has taken back those displaced after the Congo upheaval. As many as 600,000 Ethiopians are in Somalia and Sudan awaiting the return to their country when the situation is stable.

In Bangladesh there are several hundred thousand Burmese awaiting repatriation.

The CHAIRMAN. The time of the gentleman from New York (Mr. FISH) has expired.

(By unanimous consent, Mr. FISH was allowed to proceed for 2 additional minutes.)

Mr. FISH. There are 300,000 to 400,000 Afghans in Pakistan awaiting return to Afghanistan.

Resettlement in most cases is the appropriate response to the expulsion of refugees from Indochina as a result of military hostilities and persecution.

No one suggests that the Vietnamese refugees who have fled from Vietnam can be repatriated back to that country. This is by and large true of Laotians and Hmong refugees presently in Thailand who were involved either with the U.S. military or with the Royal Laotian Army.

On the other hand, in the case of many of the Cambodian refugees along the Thai border, repatriation is a distinct possibility after the war in that country is over.

I have taken this time, Mr. Chairman, to try to lay aside any fears my colleagues and the public may have that the United States is threatened by these 14 million refugees. I hopefully have made the case that the overwhelming majority of them are either candidates for repatriation or for local resettlement locally.

The situation in the Soviet Union and in the countries of first asylum in Southeast Asia is unique. There, resettlement is the only option. This simply is not true elsewhere.

Mr. Chairman, if this amendment passes, the wrong people will pay the price. Adoption of this amendment could put our country in the impossible position of choosing whether to admit persons seeking to be reunited with their families, the goal of our immigration laws, or to admit refugees fleeing persecution.

I think the bill as amended by us today will give the Congress sufficient control so that the number of refugees admitted will not be unreasonable.

I strongly urge my colleagues to vote against this amendment.

Mr. COLLINS of Texas. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, there are 14 million refugees in the world today. Our country is compassionate, but the United States, alone, cannot solve the refugee problem. In our desire to solve the refugee problem, we are turning our back on immigrants who desire and deserve to come into our country. The most difficult Federal matter that we have in our office at home is processing visas and citizenship applications. It is most difficult and practically impossible to qualify deserving people to enter the United States and establish permanent residence. In our plans for refugees, we discriminate against legal immigrants. The United States limits deserving requests. Let us develop a balanced program.

Let us call on the other countries of the world to take their fair share. Why should Brazil take only 100 when they could develop a stronger country by accepting all of the refugees just within their own undeveloped areas. There are many countries who could take more. But check the record and you will find only 8 countries of the world who have accepted or will accept as many as 4,000. And this includes no country in Africa, where the great undeveloped areas of this Earth exist.

We should all participate in the foreign mission programs of our own churches. The U.S. Government cannot handle the affairs of the world. This is a matter of charity—this is a matter of heart—and it is an action that Jesus Christ would look to all of us to individually participate. I look to my Bible for guidance. Nowhere does the Bible say it is the responsibility of the Government to solve the refugee problem. But it says it is our personal duty and privilege to do our share. We as individuals must participate—not keep borrowing money and expect the Government to do all things for all people. Let us follow the spirit of Jesus Christ and take foreign charity as an individual responsibility.

The quota ceiling for legal immigration into the United States is now 290,000 per year, yet this figure is approaching a half million a year. This bill increases the quota ceiling of refugees entering the United States from 17,400 to 50,000. However, the President will have the authority to admit an unlimited number of refugees into this country.

From April 1975 through June 1979, we have spent more than $1 billion on Indochinese refugee assistance programs. It has been estimated that 6 to 7 million aliens are now living in the United States, and $13 to $16 billion is spent on welfare, compensation payments, and displacement of workers in U.S. jobs because of illegal aliens.

This bill merely puts into law the confused practices we have been following on our immigration program. The Attorney General has consistently used his parole authority to substantially exceed the conditional 17,400 refugee entry ceiling.

From April 1975 to June 30, 1980, the United States will have taken in 378,000 Indochinese refugees. Let us compare this to the amount other countries have taken and plan to take by June 1980, including those countries who have taken over 4,000.

Australia	36, 759
Belgium	3, 398
Brazil	100
Denmark	1, 370
Japan	551
Malaysia	2, 737
Spain	1, 001
Greece	200
Switzerland	2, 677
Sweden	2, 263
Argentina	4, 500
Canada	51, 076
France	73, 237
Federal Republic of Germany	15, 735
Iran	47
Philippines	127
People's Republic of China	240, 000
United Kingdom	12, 841

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I would like to commend the gentleman from Texas for his statement in support of this amendment. Those who are opposed to this amendment seem to wish to portray the supporters of the amendment as cold and hardhearted and those who wish to turn their backs on refugees.

I do not think the gentleman from Texas and I know this gentleman from Wisconsin, do not fit into that stereotype. But the fact of the matter remains that the Committee on the Judiciary has not attempted to coordinate our refugee policy with our immigration policy.

Both refugees and immigrants are guests who are leaving their own countries, and are coming here for permanent resettlement.

This country cannot afford to put up with the dreamworld that the refugee policy is over in one section of the statute book and the immigration policy over in the other section of the statute book and ne'er the twain shall meet.

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At a time when our unemployment rate is going up, when we are spending about $1 billion per year for refugee resettlement costs, the people of the United States are warm, they are hospitable, but there also is a limit to how much we can afford at a time of rampant inflation and deficit budgets.

Now, I have not heard any of my friends who have opposed this amendment come up with any kind of a way to mesh the immigration policies; there has not been one proposal during consideration of this bill, except this one, to have any kind of a meshing of the refugee policy with the policy relating to nonrefugee immigrants. I am attempting to do that.

The CHAIRMAN pro tempore. The time of the gentleman from Texas has expired.

(At the request of Mr. SENSENBRENNER and by unanimous consent, Mr. COLLINS of Texas was allowed to proceed for 1 additional minute.)

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman.

Mr. SENSENBRENNER. I am subject to better ideas, but let us hear the better ideas.

Mr. COLLINS of Texas. I thank the gentleman from Wisconsin. I am glad that he put it on a basis that it is not compassion, it is not charity, because, as he spoke, I was reminded that the Lord Jesus was born while he was subject to being persecuted, his family was being persecuted from high taxes. Never did Jesus ever speak of the government solving the problem. It is a personal responsibility, and this country must learn somewhere, sometime, we have personal responsibilities. Everything cannot be done by the Government.

Mr. BUCHANAN. Mr. Chairman, I move to strike the requisite number of words and rise in opposition to the amendment.

Mr. Chairman, I stand in fulfillment of my personal responsibilities as a Member of the Congress and a Baptist Christian, like my friend who has just spoken. But my own personal responsibilities led me to the conclusion that my Catholic Christian friend, Mr. HYDE, my Catholic Christian friend, Mr. RODINO, and my Jewish friend, Ms. HOLTZMAN, and my Episcopal friend, Mr. FISH, are right in this matter and the author of the amendment and my friend from Texas are wrong. Certainly we as individuals are responsbile for the actions we take, but this Government is responsible for the law that controls refugees and immigrants into this country .

I would remind my colleagues this day that this is a Nation of immigrants. Read the names as the lights go up on the wall of this Chamber if you do not understand that this is a Nation built by immigrants, composed of immigrants, a Nation that is not only a melting pot, but a rich mosaic of all of the world's cultures and peoples, and a Nation that has been built by many becoming one Nation. This is a Nation which has had into its culture to flow the wealth of the world in terms of the peoples and the ethnic groups and cultures of our world.

I simply would like to say that if ever there comes a time when the United States shall say no to people in desperate need on some mechanical formula, it will be a time of shame for the United States.

I would like to echo for this Chamber the words that are emblazoned on the statue of the great lady in the harbor of the gentlewoman from New York City, the words which say, and which speak, I believe, for Americans of every generation: "Give me your tired, your poor, your huddled masses yearning to breathe free, the wretched refuse of your teeming shore, send these, the homeless tempest tossed to me: I lift my lamp beside the golden door."

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. BUCHANAN. Certainly I will yield to the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Chairman, I want to join with the gentleman in opposition to this amendment and say that the fear which has been expressed by the proponents of the amendment seems to me to have been more than adequately addressed by the Judiciary Committee. Present law now has a limitation for the orderly flow of immigration, and by not disturbing that we fulfill our commitments under Helsinki.

If we adopt the amendment pending, we throw our commitments in disarray under Helsinki, and it makes a tremendous problem for us as we go to the conference in Madrid in 1980 on this question; and it turns back the clock on our own policy.

The committee has also addressed the policy of refugees in this particular bill and, therefore, they have dealt with our policy concerning refugees and immigration. That is what this bill is all about. By placing a limitation on orderly flow, they have also added the protection that if there is some emergency, the President must come back to the Congress and explain it.

What the amendment would do is to write into concrete a policy which is discriminatory and violates our international commitments, and places a straitjacket on the Congress and the President.

Mr. BUCHANAN. I thank the gentleman and would point out that he himself is the Chairman of the Helsinki Commission, on which it is my privilege to serve. I would associate myself with his remarks as chairman of the subcommittee which has jurisdiction in the area of refugees and has a deep concern there; I also would agree with him and with the Committee on the Judiciary on this matter.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The question was taken; and on a division (demanded by Mr. SENSENBRENNER) there were—ayes 7, noes 26.

So the amendment was rejected.

Mr. HYDE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have taken this time in order to raise a question with the gentlewoman from New York on a subject that has been of deep concern to me. It comes to my attention that some Indochinese refugees have accepted resettlement efforts in Europe and then have applied for admission to the United States as refugees within a few weeks after their arrival there. I am wondering if the gentlewoman could advise me, under current Immigration and Naturalization Service policies and procedures, if such individuals are accepted for resettlement in the United States?

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I am pleased to yield.

Ms. HOLTZMAN. I thank the gentleman for yielding.

I want to say that I share the gentleman's concern. I am advised by the Immigration and Naturalization Service that a refugee in such circumstances would not, with limited exceptions, be granted consideration under the Indochinese parole program. I assure the gentleman that the subcommittee will monitor this situation closely.

Mr. HYDE. I thank the gentlewoman.

Would the gentleman from New York (Mr. FISH) care to comment?

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I am happy to yield to the gentleman.

Mr. FISH. I appreciate my colleague bringing up this question. It is a relatively new phenomena that, of course, does not reflect U.S. policy. At present, if a refugee is offered a resettlement opportunity, it is our policy not to resettle that family.

What I imagine has happened is that the number of receiving countries has grown so since the Geneva meeting last summer that the coordination between all of the agents in the countries of first asylum has broken down. I think this can be rectified very properly by a hearing bringing all of the interested parties together.

I would also point out to the gentleman what is happening in these limited circumstances. In countries like England and Ireland, Indochinese refugees are going to the American Embassy and saying because of their association with the United States, they would like to come in as conditional entrants. This bill abolishes the provision of conditional entry into the United States so effectively it would thwart this channel once this bill becomes law.

Mr. HYDE. I thank the gentleman for his contribution.

The previous amendment which was offered and defeated nevertheless raises a point of legitimate concern, and that is there are some limits, and other countries of the world, I regret to say, have not done what I think is their fair share. When refugees do find shelters and haven in free countries it just seems to me that they ought not to have a continuing or persistent status as refugees. If they do not like England, or Belgium, or Ireland, they should not then be admitted into our country as refugees. They may well be immigrants and wait in line, but their refugee status ought to terminate at some point.

I appreciate the assurances that the subcommittee of the gentleman from New York and chaired by the gentlewoman from New York will look into this matter and monitor the situation.

The CHAIRMAN pro tempore. Are there further amendments to title II?

If not, the Clerk will designate title III.

Title III reads as follows:

TITLE III—ASSISTANCE FOR EFFECTIVE RESETTLEMENT OF REFUGEES IN THE UNITED STATES

SEC. 301. (a) Title IV of the Immigration and Nationality Act is amended—

(1) by striking out the title heading and inserting in lieu thereof the following:

"TITLE IV—MISCELLANEOUS AND REFUGEE ASSISTANCE

"CHAPTER 1—MISCELLANEOUS";

(2) and by adding at the end thereof the following new chapter:

"CHAPTER 2—REFUGEE ASSISTANCE

"OFFICE OF REFUGEE RESETTLEMENT

"SEC. 411. (a) There is established, within the Department of Health, Education, and Welfare, an office to be known as the Office of Refugee Resettlement (hereinafter in this chapter referred to as the 'Office'). The head of the Office shall be a Director (hereinafter in this chapter referred to as the 'Director'), to be appointed by the Secretary of Health, Education, and Welfare (hereinafter in this chapter referred to as the 'Secretary'), who shall report directly to the Secretary.

"(b) The function of the Office and its Director is to fund and administer (directly or through arrangements with other Federal agencies) programs of the Federal Government under this chapter which are designed to provide domestic assistance to refugees including—

"(1) initial resettlement (including initial reception and placement with sponsors) of refugees in the United States;

"(2) services to refugees and overall planning for their effective resettlement;

"(3) assistance or reimbursement to State and local governmental agencies to adjust to admissions of refugees; and

"(4) any other Federal grants, agreements, payments, or contracts with public or private agencies for the provision of any of the services described in paragraph (1), (2), or (3).

"AUTHORIZATION FOR PROGRAMS FOR DOMESTIC RESETTLEMENT OF AND ASSISTANCE TO REFUGEES

"SEC. 412. (a) CONDITIONS AND CONSIDERATIONS.—(1) In providing assistance under this section, the Director shall, to the extent of available appropriations, (A) make available sufficient resources for employment training and placement in order to achieve economic self-sufficiency among refugees as quickly as possible, (B) provide refugees with the opportunity to acquire sufficient English language training to enable them to become effectively resettled as quickly as possible, (C) insure that cash assistance is made available to refugees in such a manner as not to discourage their economic self-sufficiency, in accordance with subsection (e)(2), and (D) insure that women have the same opportunities as men to participate in training and instruction.

"(2) The Director shall consult regularly with State and local governments and private nonprofit voluntary agencies concerning the development and implementation of criteria relating to the sponsorship process and the intended distribution of refugees among the States and localities.

"(3) In the provision of domestic assistance under this section, the Director shall make a periodic assessment, based on refugee population and other relevant factors, of the relative needs of refugees for assistance and services under this chapter in each of the States and the resources available to meet such needs. In allocating resources, the Director shall avoid duplication of services and provide for maximum coordination between agencies providing related services.

"(4) No grant or contract may be awarded under this section unless an appropriate proposal and application (including a description of the agency's ability to perform the services specified in the proposal) are submitted to, and approved by, the Director. The Director shall make grants and contracts to those public or private agencies which the Director determines can best perform the services. Payments may be made under grants and contracts under this chapter in advance or by way of reimbursement.

"(5) Assistance and services funded under this section shall be provided to refugees without regard to race, religion, nationality, sex, or political opinion.

"(6) As a condition for receiving assistance under this section, a State must—

"(A) submit to the Director a plan which provides—

"(i) a description of how the State intends to encourage effective refugee resettlement and to promote economic self-sufficiency as quickly as possible.

"(ii) a description of how the State will insure that language training and employment services are made available to refugees receiving cash assistance,

"(iii) a description of how the State will provide for State-wide coordination of services to refugees in the State,

"(iv) for the designation of an individual, employed by the State, who will be responsible for such coordination,

"(v) for the care and supervision of and legal responsibility for unaccompanied refugee children in the State, and

"(vi) for the identification of refugees who at the time of resettlement in the State are determined to have medical conditions requiring, or medical histories indicating a need for, treatment or observation and such monitoring of such treatment or observation as may be necessary;

"(B) meet standards, developed by the Director, which assure the effective resettlement of refugees and which promote their economic self-sufficiency as quickly as possible and the efficient provision of services; and

"(C) submit to the Director, within a reasonable period of time after the end of each fiscal year, a report on the uses of funds provided under this chapter which the State is responsible for administering, including in such report—

"(i) a list of grants and contracts made, with funds provided under this section, by or through the State or local government agencies to public or private agencies within the State during the year.

"(ii) the total amount of funds available to the State under each program under this section for the year, and

"(iii) a report on the number of individuals served by programs, projects, or activities assisted with such Federal funds.

"(7) The Secretary shall develop a system of monitoring the assistance provided under this section. This system shall include—

"(A) evaluations of the effectiveness of the programs funded under this section and the performance of States, grantees, and contractors;

"(B) financial auditing and other appropriate monitoring to detect any fraud, abuse, or mismanagement in the operation of such programs; and

"(C) data collection on the services provided and the results achieved.

"(8) The Attorney General shall provide the Director with the information supplied by refugees in conjunction with their applications to the Attorney General for adjustment of status, and the Director shall compile, summarize, and evaluate such information.

"(9) For purposes of this chapter, the term 'refugee' includes any alien described in section 207(c)(2).

"(b) PROGRAM OF INITIAL RESETTLEMENT.—(1) For—

"(A) fiscal year 1980 only, the Secretary of State is authorized, and

"(B) fiscal year 1981 and succeeding fiscal years, the Director is authorized,

to make grants to, and contracts with, public or private nonprofit agencies for initial resettlement (including initial reception and placement with sponsors) of refugees in the United States. In making such grants to, or contracts with, private nonprofit voluntary agencies the Secretary of State (for fiscal year 1980) and the Director (for succeeding fiscal years) shall, consistent with the objectives of this chapter, take into account the different resettlement approaches and practices of such agencies. During fiscal year 1980, the Secretary of State shall provide for the coordination of the provision of resettlement assistance under this paragraph in coordination with the provision of other assistance provided for by the Director under this chapter. The Secretary of State and the Director shall jointly monitor the assistance provided during fiscal year 1980 under this paragraph.

"(2) The Director shall develop programs and make arrangements, where appropriate, for such orientation, instruction in English, and job training for refugees, and such other education and training of refugees, during any period when the refugees are awaiting entry into the United States, as facilitates their resettlement in the United States.

"(3) The Director is authorized to make arrangements (including cooperative arrangements within the Department of Health, Education, and Welfare, and with other Federal agencies) for the temporary care of refugees in the United States in emergency circumstances, including the establishment of processing centers, if necessary.

"(4) The Director shall—

"(A) assure that an adequate number of trained staff are available at the location at which the refugees enter the United States to assure that all necessary medical records are available and in proper order;

"(B) provide for the identification of refugees who, at the time of arrival, are determined to have medical conditions requiring treatment;

"(C) assure that State or local health officials at the resettlement destination within the United States of each refugee are promptly notified of the refugee's arrival and provided with all applicable medical records not later than the time of the refugee's arrival in the United States; and

"(D) provide for such monitoring of refugees identified under subparagraph (B) as will insure that they receive appropriate and timely treatment.

The Director shall develop and implement methods for monitoring and assessing the quality of medical screening and related health services provided to refugees awaiting resettlement in the United States.

"(c) PROJECT GRANTS AND CONTRACTS FOR SERVICES FOR REFUGEES.—Director is authorized to make grants to, or enter into contracts with, public or private nonprofit agencies for projects specifically designed—

"(1) to assist refugees in obtaining the skills which are necessary for economic self-sufficiency, including projects for job training, employment services, day care, professional refresher training, and other recertification services;

"(2) to provide training in English where necessary (regardless of whether the refugees are employed or receiving cash or other assistance); and

"(3) to provide health (including mental health) services, social services, educational and other services, where specific needs have been shown and recognized by the Director.

"(d) ASSISTANCE FOR REFUGEE CHILDREN.—(1) The Director is authorized to make grants, and enter into contracts, for payments to State and local agencies for projects to provide special educational services (including English language training) to refugee children in elementary and secondary schools where a demonstrated need has been shown.

"(2)(A) The Director is authorized to provide assistance, reimbursement to States, and grants to and contracts with private nonprofit agencies, for the provision of child welfare services, including foster care maintenance payments and services and health care, furnished to refugee children (except as provided in subparagraph (B)) during the forty-eight month period beginning with the first month in which the refugee children are in the United States.

"(B)(i) In the case of a refugee child who is unaccompanied by a parent or other close adult relative (as defined by the Director), the services described in subparagraph (A) may be furnished until the month after the child attains eighteen years of age (or such higher age as the State's child welfare services plan under part B of title IV of the Social Security Act prescribes for the availability of such services to any other child in that State).

"(ii) The Director shall attempt to arrange for the placement under the laws of the States of such unaccompanied refugee children, who have been accepted for admission to the United States, before (or as soon as possible after) their arrival in the United States. During any interim period while such a child is in the United States or in transit to the United States but before the child is so placed, the Director shall assume legal responsibility (including financial responsibility) for the child, if necessary, and is authorized to make necessary decisions to provide for the child's immediate care.

"(iii) In carrying out the Director's responsibilities under clause (ii), the Director is authorized to contract with appropriate public or private nonprofit agencies under such conditions as the Director determines to be appropriate.

"(iv) The Director shall prepare and maintain a list of (I) all such unaccompanied children who have entered the United States after April 1, 1975, (II) the names and last known residences of their parents (if living) at the time of arrival, and (III) the children's location, status, and progress.

"(e) CASH ASSISTANCE AND MEDICAL ASSISTANCE TO REFUGEES.—(1) The Director is authorized to provide assistance, reimbursement to States, and grants to, and contracts with, public or private nonprofit agencies for up to 100 per centum of the cash assistance and medical assistance provided to refugees during the forty-eight month period beginning with the first month in which the refugees have entered the United States and for the identifiable and reasonable administrative costs of providing this assistance.

"(2) Cash assistance provided under this subsection to an employable refugee is conditioned, except for good cause shown—

"(A) on the refugee's registration with an appropriate agency providing employment services described in subsection (c)(1), or, if there is no such agency available, with an appropriate State or local employment service, and

"(B) on the refugee's acceptance of appropriate offers of employment,

except that subparagraph (A) does not apply during the first sixty days after the date of the refugee's entry.

"(3) The Director shall develop plans to provide English training and other appropriate services and training to refugees receiving cash assistance.

"(4) If a refugee is eligible for aid or assistance under a State plan, approved under part A of title IV or under title XIX of the Social Security Act, or for supplemental security income benefits (including State supplementary payments) under the program established under XVI of that Act, funds authorized under this subsection shall only be used for the non-Federal share of such aid or assistance, or for such supplemental payments with respect to cash and medical assistance provided with respect to such refugee under this paragraph.

"(5) The Director is authorized to allow for the provision of medical assistance under paragraph (1) to any refugee, during the one-year period after entry, who does not qualify for assistance under a State plan approved under title XIX of the Social Security Act on account of any resources or income requirement of such plan, but only if the Director determines that—

"(A) this will (i) encourage economic self-sufficiency, or (ii) avoid a significant burden on State and local governments, and

"(B) the refugee meets such alternative financial resources and income requirements as the Director shall establish.

"CONGRESSIONAL REPORTS

"SEC. 413. (a)(1) The Director shall submit a report on activities of the Office under this chapter to each member of the Committees on the Judiciary of the House of Representatives and of the Senate not later than December 31, 1979, for the fiscal year ending on September 30, 1979, not later than each May 31 thereafter, for the six-month fiscal period ending on the preceding March 31, and not later than each November 30 thereafter, for the fiscal year ending on the preceding September 30.

"(2) Each such report shall contain—

"(A) an updated profile of the employment and labor force statistics for refugees admitted under the Immigration and Nationality Act since May 1975, as well as a description of the extent to which refugees received the forms of assistance or services under this chapter during that period;

"(B) a description of the geographic location of refugees;

"(C) a summary of the results of the monitoring and evaluation conducted under section 412(a)(7) during the period for which the report is submitted;

"(D) a description of (i) the activities, expenditures, and policies of the Office under this chapter and of the activities of States, voluntary agencies, and sponsors, and (ii) the Director's plans for improvement of refugee resettlement;

"(E) evaluations of the extent to which (i) the services provided under this chapter are assisting refugees in achieving economic self-sufficiency, achieving ability in English, and achieving employment commensurate with their skills and abilities, and (ii) any fraud, abuse, or mismanagement has been reported in the provisions of services or assistance;

"(F) a description of any assistance provided by the Director pursuant to section 412(e)(5);

"(G) a summary of the location and status of unaccompanied refugee children admitted to the United States;

"(H) a summary of the information compiled and evaluation made under section 412(a)(8); and

"(I) a summary of the number of waivers granted by the Attorney General under section 207(c)(3) to refugees during the period for which such report is required and a summary of the reasons for granting such waivers.

"(b) The Secretary shall conduct and report to Congress, not later than one year after the date of the enactment of this chapter, an analysis of—

"(1) resettlement systems used by other countries and their applicability to the United States,

"(2) the desirability of using a system other than the current welfare system for the provision of cash assistance, medical assistance, or both, to refugees, and

"(3) alternative resettlement strategies.

"(c) The Director shall keep the Committees on the Judiciary of the House of Representatives and of the Senate appropriately informed of important developments affecting the use of funds and exercise of functions authorized by this chapter.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 414. (a)(1) There are hereby authorized to be appropriated for the two-year fiscal period ending September 30, 1981, such sums as may be necessary for the purpose of providing initial resettlement assistance, cash and medical assistance, and child welfare services under subsections (b)(1), (b)(3), (b)(4), (d)(2), and (e) of section 412.

"(2) There are hereby authorized to be appropriated $200,000,000 for the two-fiscal-year period ending September 30, 1981, for the purpose of carrying out the provisions (other than those described in paragraph (1)) of this chapter.

"(b) The authority to enter into contracts under this chapter shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.".

SEC. 302. (a) The table of contents of the Immigration and Nationality Act is amended—

(1) by inserting after the item relating to title IV the following:

"CHAPTER 1—MISCELLANEOUS";

(2) and by adding at the end the following new items:

"CHAPTER 2—REFUGEE ASSISTANCE

"Sec. 411. Office of Refugee Resettlement.
"Sec. 412. Authorization for programs for domestic resettlement of and assistance to refugees.
"Sec. 413. Congressional reports.
"Sec. 414. Authorization of appropriations.".

(b)(1) Subsection (b) of section 2 of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601) is amended—

(A) by inserting "and" at the end of paragraph (1);

(B) by inserting "who are outside the United States" in paragraph (2) after "on behalf of refugees";

(C) by striking out the semicolon at the end of paragraph (2) and inserting in lieu thereof a period; and

(D) by striking out paragraphs (3) through (6).

(2) Subsection (e)(1) of such section is amended by inserting "with respect to individuals who are outside the United States" after "urgent refugee and migration needs".

SEC. 303. (a) The amendments made by this title shall apply to fiscal years beginning on or after October 1, 1979.

(b) The limitations contained in sections 412(d)(2)(A) and 412(e)(1) of the Immigration and Nationality Act on the duration of the period of which child welfare services and cash and medical assistance may be provided to particular refugees shall not apply to such services and assistance provided before October 1, 1980.

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AMENDMENT OFFERED BY MR. DANIELSON

Mr. DANIELSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DANIELSON: Page 48, line 19, strike out "1980" and insert in lieu thereof "1981".

Mr. DANIELSON. Mr. Chairman, the amendment which I offer is a simple one; the added cost is nothing; it is plain equity, fairness. The amendment that I offer does not bring about a new program. I can understand that there are many Members who do not want any new programs authorized by this Congress. This does not bring about a new program. The amendment which I offer does not incur any new costs. The costs are in being; they are here. Somebody has to pay them.

What this amendment does is to call for plain equity in deciding who should pay those costs. We have heard a lot today about refugees, and most or all of it is true. Today, we are faced with a most unusual flow of refugees into the United States, particularly from Southeast Asia. Not long ago, our administration announced a policy, which we are now following. It is in being, the policy of receiving approximately 14,000 refugees per month from Southeast Asia. Fourteen thousand refugees per month is an awful lot. That is 470 every day of the year. That is 168,000 every year, without regard to the other immigrants or refugees who come to our shores.

As of November 15, 1979, just 1 month ago, the figures which are the most recent that I have been able to obtain show that we then—a month ago—had 267,102 refugees in the United States who have come in from Vietnam and Southeast Asia. If we add another 14,000 to that, because that is the formula under which they arrive, we now have 281,000 Southeast Asian refugees in the United States.

Now comes the matter of plain equity. Somebody has to pay the cost of assimilating these refugees. Bear in mind that these refugees, most of them, are illiterate in their own language. They are unskilled and unemployed in their own economy. They are in large part uncultured in their own culture, and without a place in their own society. Obviously, the job of assimilating these refugees into our modern American culture, our modern American society, and our modern American economy, is a massive job.

Think of the cost. What job do you have to offer to someone whose highest degree of technology has been to follow a water buffalo through a rice paddy during 35 or 40 years of his life? What kind of a job are you going to offer someone who has followed the sacred cattle and patted the dung into little lumps for use as fuel?

What kind of a job do you have in your economy for that kind of person?

I do not state that these people are

not entitled to a place in the world. They are entitled to a job; they are entitled to some training, but it costs money to provide them with that training. Who should pay for it? I respectfully submit that, inasmuch as these unfortunate people are here as the guests of the Government of the United States, as a part of our compassionate refugee policy, then the Government of the United States should pay the costs of assimilating, training, and caring for these people.

Mr. LOWRY. Mr. Chairman will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Washington.

Mr. LOWRY. Mr. Chairman, I compliment the gentleman on his amendment. In my home State of Washington we are receiving 500 to 600 Indochinese refugees a month. We are very proud of the job we are doing in handling these people, but the strain on our educational system and our health systems, our housing problems where we have less than 1 percent vacancy rate, means that we desperately need the gentleman's amendment.

I compliment him for the amendment, and urge its adoption.

Mr. DANIELSON. I thank the gentleman for his contribution. He does have a problem in Washington. Approximately 50 percent of the Indochinese refugees in the State of Washington are receiving public assistance. Again, I want to point out that I am not against these people receiving public assistance. I am not trying to bring more refugees into the United States.

The CHAIRMAN pro tempore. The time of the gentleman from California has expired.

(By unanimous consent Mr. DANIELSON was allowed to proceed for 5 additional minutes.)

Mr. DANIELSON. I am not asking for more refugees; I am not asking for less refugees. I am not trying to tinker with the immigration laws or any other law. All I am trying to say is, who ought to pay the costs of taking care of these unfortunates once they reach our golden shores?

Mr. Chairman, I smiled as I heard today our distinguished pastor, BUCKY BUCHANAN from Alabama, whose heart is as big as he is. These are unfortunates, and we do have to take care of them; and God bless them, we are going to take care of them, but let us place the burden of caring for them upon the person who invited them to the United States, namely, the U.S. Government.

Now, Mr. Chairman, I would like to point out something. My amendment is not, as I say, a very radical amendment.

It happens to be supported by the National League of Cities, by the National Association of Counties, by the National Governors Association, and I am proud to say by all right-minded Members of the Congress. So, I am going to hope that we get a very overwhelming vote.

I want to point out that in my State of California alone, we now have, as of November 15, something like 123,000 of the refugees from Indochina. Why? I will tell you why. When the first group came over in 1975, many of them were received at Camp Pendleton, from which they were sent out to other parts of the country. But, inasmuch as they landed at Camp Pendleton, many of the local church groups and charitable groups found jobs for them and took them under their shelter and kept their children.

There was an effort made to distribute these refugees throughout the United States. An effort was made, but something strange happened. They did not all stay put. You know, you send a Vietnamese refugee who came from a rice paddy up into the reaches of New Hampshire, and cold weather comes along, and somehow or another he has a change of heart—and there are no rice paddies up there or any similar place in which he can work—so he comes out to California or he goes to Texas.

I will tell the Members some of the States where they have problems. After California, Texas has the second largest number. Texas also has a very beneficent climate, particularly down along the coast and down along the Rio Grande. Pennsylvania had 10,996. The State of Washington has 10,221. Illinois has a good number, as has Louisiana. Minnesota, strangely enough, took in quite a few, 6,854. But, they also had 80-percent unemployment with them in Minnesota.

Mr. Chairman, the point I am trying to make is this: My amendment simply provides that for the Indochinese refugees, all refugees, the cost of child care, the cost of cash and medical payments, shall be the burden of the Federal Government until September 30, 1981. After that, a formula would apply under which for immigrants, for refugees, the welfare costs would be a Federal charge for a period of 4 years after the time they arrive in the United States. I submit that it is unfair to expect the local cities, the local counties and States, to pick up the cost of assimilating, training, and educating these refugees who are invited here as guests of the U.S. Government, until at least a few years have gone by and it is possible to find some way to work them into the economy.

I have talked to some of my school people. One can imagine the burden on an education system to bring in some little kids who cannot even speak Vietnamese properly and try to teach them arithmetic in English; and just try to find some qualified bilingual teachers, if you will.

□ 1510

And try to run into some diseases that you are not familiar with, teach them to eat some food that they have never seen before. There is nothing wrong with these people, but they have got to be brought up from scratch, and I respectfully submit that that burden belongs to the U.S. Government.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding. I want to associate myself with the remarks of the gentleman and to commend him and to commend the gentleman from California (Mr. LUNGREN) for offering this amendment. I support it. I think the gentleman has hit right on the point. I was listening to the debate earlier by the gentleman from Georgia (Mr. EVANS) and the terms of having an open policy. I want to commend him for that.

Hopefully, the committee will support the Danielson amendment to H.R. 2816 which provides 100 percent Federal reimbursement for refugee services through fiscal year 1981. The cost of integrating the Indochinese is a national responsibility and should be shared by all Americans. Without this amendment, the burden for the welfare and medical costs for some refugees will fall unfairly on States and communities where large numbers of refugees have settled.

This problem of concentration is demonstrated by the fact that 69 percent of the refugees admitted live in only 11 States. My State of Minnesota, especially the city of St. Paul has one of the largest concentration of refugees per capita in the Nation. The potential impact on the budget of local governments is easily recognized. Fully 65 to 70 percent of the refugees living in our area receive public assistance.

Certainly part of the reason for the abnormally large amount of the refugees receiving assistance is a result of the large percentage of Hmong in our St. Paul refugee population. Our Nation has a special responsibility to the Hmong, who originate from the mountainous area of Laos and Vietnam. Because of their cooperation with our military and intelligence forces during the Vietnam conflict, these people have been subjected to extreme persecution by the current Southeast Asian regimes.

Because the Hmong homelands are very rural and remote, their adjustment to our post industrial society is more difficult than most. Although the Hmong have a very sophisticated culture, their language was not translated to an alphabet until this decade. As a result, most of the adult refugees have little literary skills. In addition the Hmong as a population have had an extremely long wait in Southeast Asian camps until final resettlement in this country. Indeed, some of the Hmong have been in the Thai camps since 1976.

The squalid conditions of the camps have contributed to severe health problems among the refugees. In many cases their physical ailments are chronic conditions requiring long-term treatment or the result of tropical diseases, the diagnosis and treatment of which can be a major problem for a physician in a cold weather State.

St. Paul and the other communities of Ramsey County are committed to provide comprehensive services to the refugees. The local governments, voluntary agencies and individual citizens have opened their hearts and homes to facilitate this difficult transition and I know that this will continue.

This legislation would terminate the full Federal funding and place a 4-year limitation on reimbursement. The effect of this provision would be to place the financial burden of the services to the first wave of refugees on the already strained budgets of those communities where the refugees have settled. If the refugees were dispersed evenly throughout the country the adverse impact upon specific communities would be minimal. The reality of the situation is that the Indochinese have migrated to a small number of cities and States. This is a natural and normal phenomena which bring the refugees in close contacts with their friends and relatives. Just as with other immigrant groups, this concentration is beneficial to the refugee community, because it provides the needed support and reenforcement mechanisms to expedite the adjustment to our society.

Mr. Speaker, I ask my colleagues to support this amendment, which helps to alleviate the unevenly distributed burden on State and local governments assisting current refugees. Your vote for this amendment will help to retain the proper national focus on assimilating the refugees in States and cities that have in the past accepted the responsibility and who continue to respond to the needs of the refugee population. Certainly this action that we may take today is a predicate of a positive future response from these communities to our national commitment.

The real genesis of the problem here is some of the reaction we get especially back home. We are getting conflicts in our home communities. There is a limited amount for bilingual education. There is a limited amount for housing assistance and other problems. If we want to address those problems, we should not take the money away from the neediest of Americans and distribute it to the refugees who come to this country. I think we ought to provide for them, but we ought to deliberate very carefully on the modest suggestion being made by my colleague, the gentleman from California (Mr. Danielson), in terms of providing needed refugee assistance.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Butler, and by unanimous consent, Mr. Danielson was allowed to proceed for 2 additional minutes.)

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Virginia.

Mr. BUTLER. I appreciate the gentleman's yielding. I am trying to clarify exactly what this amendment does. It seems to me that I recall we had a bill from the administration which provided for 2 years of Federal benefits.

Mr. DANIELSON. I believe that is correct. Maybe it was 3 years, but it was something like that.

Mr. BUTLER. I believe it was 2 years, and the subcommittee added another year; did it not?

Mr. DANIELSON. My recollection is it was 3 and we added 1, making it 4.

Mr. BUTLER. Who requested that?

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield just to clarify this debate?

Mr. DANIELSON. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. I thank the gentleman for yielding. I would hate to have anybody have the wrong impression. The administration submitted a bill calling for only 2 years of full Federal funding. The subcommittee doubled that and made it 4 years, and that is the amount that is in the bill, plus a year for grandfathering all programs presently in existence, so there is substantial Federal support for refugees in this legislation.

Mr. BUTLER. I thank the gentlewoman. Will the gentleman from California yield further?

Mr. DANIELSON. Surely.

Mr. BUTLER. I am trying to recall at whose request the subcommittee increased the amount of 2 years to 4 years. Does the gentleman recall?

Mr. DANIELSON. Yes, I recall very well. It was myself.

Mr. BUTLER. It was yourself. So yourself has to date already gone from 2 years to 4 years, and now yourself wants to go from 2 to 5 years.

Mr. DANIELSON. Myself does, and I am happy to say that many other selves around here do, also. It is a matter of equity as to who ought to pay when somebody invites someone to dinner.

Mr. HALL of Texas. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Texas.

Mr. HALL of Texas. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of this amendment and state that California and Texas I believe after that November 15th date had approximately 27,000 of these people.

Mr. DANIELSON. That is correct.

Mr. HALL of Texas. And it is a problem that I certainly think should be the burden of the Federal Government. It is a national problem. I certainly join in with the gentleman from California (Mr. Danielson) on his amendment, and the gentleman from California (Mr. Lungren) who is a joint sponsor.

Mr. DANIELSON. I bring to the attention of the Members some statistical data relating to the current state of the refugee situation, as of November 15, 1979:

National Refugee Population: 267,102.

Number of Refugees in California: 123,000 (This figure represents the State of California's best estimate of its current refugee population, including scondary migration refugees. The official HEW estimate for California, 87,325, does not include the secondary migration refugees.)

Projected Number of Refugees in California:

Fiscal year 1980, 197,000.

Fiscal year 1981, 277,500.

Number on aid nationwide: 45 percent*.

Number on aid in California: 48,200, or 39 percent of total refugee population.

Percent of California caseload in the country more than 48 months currently receiving cash or medical assistance: 15 percent.

California's refugee program is characterized by several problems not found in other states. These are:

1. Large population;
2. Family reunification;
3. A reputation for job opportunities; and
4. Heavy urban concentration.

1. Large Population:

A very large number of the first wave of refugees in 1975 was placed in Southern California, at Camp Pendleton, while community sponsorships were being arranged. Many of the first refugees were resettled in California bcause many sponsorships developed here. The generosity of Californians and their willingness to help refugees is evidenced by the fact that about 30 percent of all subsequent refugee arrivals are now in California.

2. Family Reunification:

These first arrivals established a core of refugee residents and the roots of an active refugee community which was looked upon for leadership by new refugees. This, together with the cosmopolitan nature of our population, has provided a more comfortable environment for refugees. In addition, as more refugees are admitted to the U.S. and refugees are permitted to sponsor other refugees, California becomes the focal point of family reunification.

3. California's Reputation for Job Opportunities:

We believe that many refugees unable to find work in other states migrate to California because of our state's reputation for employment opportunities. Survey data indicate that in December 1978 fully one-half of out-of-state refugees receiving aid in California were on aid in their prior state. Of greater importance is the fact that of those secondary migrants applying for aid one-half were unaided in former states of residence. This means that they willingly abandoned sources of income elsewhere to come to California.

4. Heavy Urban Concentration:

About 70 percent of our refugee population has chosen to settle in Southern California. This area is well known for a temperate climate which more closely approximates that of Southeast Asia than other areas of the nation. As a result, upwards of 80,000 refugees reside in Los Angeles, Orange, and San Diego areas alone making job placement and assimilation extremely difficult in this limited geographic area. By contrast New York State has only 7,000 refugees, who presumably are dispersed throughout the state.

Mr. Chairman, I rise in support of the Danielson-Lungren amendment to the Refugee Act of 1979 to make the act consistent with Public Law 96–110 (the Cambodian relief bill) by extending 100 percent Federal funding for domestic refugee costs to September 30, 1981.

I urge my colleagues to support this amendment because the cost of integrating Southeast Asian refugees is a national responsibility that ought to be shared by all Americans. Congress has confirmed this concept in the original Indochina Refugee Migration and Assistance Act of 1975 and recently by enacting a 2-year continuation of Federal funding in the Cambodian Relief Act (Public Law 96–110). Without immediate passage of this amendment, the burden for health and welfare costs of refugees will fall unfairly on local governments in States where large groups of refugees are settling. The problem is clearly seen in my home State of Texas. The most recent figures available indicate that Texas has the second largest number of refugees in the United States with 26,015 out of approximately 260,000. Of those refugees in Texas, approximately 25 percent are receiving some form of cash assistance and medicaid. Unless the Federal Government fully funds the resettlement of these refugees, the cost will be passed on to State and local government.

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* From Congressional Budget Office, cost estimate, House of Representatives Committee Report No. 96–608, p. 35.

The Southeast Asian refugee situation continues to be unstable and many refugees in the United States are not moving quickly off of welfare rolls into the economy. The refugees arriving in this country in the last 18 months are not able to become self-supporting immediately due to cultural differences, health factors and a low level of employment skills. Texas is not the only State where refugee resettlement is a problem. It exists as a significant problem in California, Pennsylvania, Louisiana, Illinois, Washington, New York, and Minnesota.

Mr. Chairman, I ask my colleagues to support this amendment to avoid the unevenly distributed tax burden on local government in absence of Federal reimbursement, a burden which would be the result of a refugee admission policy established at the national level without State or local authority or involvement. A vote for the Danielson-Lungren amendments is a vote to retain the national focus on assimilating refugees into American life.

Mr. DANIELSON. I thank the gentleman.

Ms. HOLTZMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it is painful to argue against the gentleman from California (Mr. DANIELSON) who argued so eloquently for his cause and who has contributed so much to making this an important and effective bill. But I think it is verv important to understand what the bill does already and the generosity of the bill to the States and to the refugees. The bill basically accepts the notion that because the Federal Government has decided to permit refugees to come into this country, it is the Federal Government who should pay for the initial costs of resettlement. Consequently, as I mentioned before, this bill is much more generous than the proposal offered by the administration and much more generous than the bill adopted by the other body.

We provide for 4 years of full Federal financing for costs of welfare and medicaid for refugees in this country, for 4 years after their arrival.

Second, there is a grandfather clause providing full Federal funding for refugee programs for 1 year.

Third, there is no limit at all in terms of time for federally financed programs of a special character—bilingual programs, mental hygiene programs, physical hygiene programs, social service programs, job retraining programs. These special programs have no time limit in this bill. They are programs based on need. The gentleman's amendment would cost an additional $100 million. I think it is unnecessary. The administration opposes it; I oppose it.

I want to add one other point with regard to the amendment and the reason I think it is unnecessary. Up to the present time we have had a program of refugee resettlement that has been in some instances haphazard and in some instances ineffective. We have not received the full benefit of the taxpayers' dollars with regard to refugee resettlement. We have not done as good a job as we can. This bill for the first time sets up a systematic and carefully thought-through proposal for effective resettlement to try to help the refugees get on their feet. This bill insists, for example, on immediate language training so that refugees can become productive members of our society. That has not been an organized and consistent part of our refugee resettlement effort. It authorizes programs for immediate job training which will help refugees become self-sufficient and avoid their becoming a burden on society. That is why I say to the gentleman I appreciate his concern. I do think the Federal Government has the responsibility. I think this bill discharges that responsibility, and I would urge defeat of the amendment.

Mr. LUNGREN. Mr. Chairman, I rise to speak in support of the amendment.

Mr. Chairman, I would like to speak on behalf of the amendment that the gentleman from California (Mr. DANIELSON) and I have offered to the Refugee Act of 1979. As many of the Members may know, I do not often take this well to ask for increased expenditures on the part of the Federal Government, and I vote against many bills which appear to increase Federal spending. I even voted against the funding resolution to give the Committee on the Judiciary, my own committee, an increased budget this year. But today what I am doing is asking for more money for a program for one reason. I believe this is one of the cases where the expenses involved are truly a national and not a local responsibility. It is a national commitment, and a correct national commitment rather than a local one, to take in the refugees from Indochina. There is a national responsibility to pay for the resettlement, wherever it may be.

What has occurred in the resettlement process over the past few years is that rather than being dispersed throughout the country on an equal basis, a per capita basis, with the citizens of this country, there has been a tendency for refugees to settle in some areas far more than in others. The best estimate we have at the present time, for instance, is that in California, where we have 10 percent of the population of the United States, we have 40 percent of the refugees from Southeast Asia. There is nothing wrong with that. We do not begrudge the country that. We are attempting to be as hospitable as possible, but a problem arises at the point at which the people in the local community are asked to bear the financial burden for that. If you have 10 percent of the population but 40 percent of those who are coming in, that results in an unfair financial burden.

What this amendment talks to is the question of those refugees who came in the first wave of refugees—in 1975 and 1976—after the fall of Saigon the older refugees in terms of their time of settlement here. These are the ones who came in during a period of time in which we did not have a well coordinated refugee program. The reason it was not well coordinated is not mysterious nor should it be criticized now.

But, in the after effects of the fall of Saigon, it was very necessary for us to act rapidly because time was truly of the essence; and we did act with whatever resources we had available at that time. But no one can say it was not a disjointed effort and an effort that really in retrospect, had we had more time, could not have been better accomplished. The intention of this bill is to make future resettlement more effective than our premium efforts. But in the meantime in those states that have a large number of refugees who have been here for a long period of time, the question remains if they have not been successfully assimilated into that society, who should pay the cost of the support services that are absolutely necessary? That is what this amendment is about.

Some talk has been made of the fact that the original bill that came to us from the administration asked for 2 years of funding, and we increased it to four years. That is correct, but I should point out that the administration had no basis in fact whatsoever that they could articulate to us during our hearings as to why they would support a 2-year rather than a 4-year period. Basically, what the Secretary of HEW, Mr. Califano, said to us was they had to set the limit somewhere.

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There was no basis in fact that people could make the transition easily during the originally-envisioned period of time.

As a matter of fact, one-quarter of those people in refugee status who have resettled in southern California who are now receiving welfare payments have been here since 1975. So, recognizing the fact that some had already been here and that when this bill would go into effect allowing for a 4-year support by the Federal Government of services for these people, that those who already have been here for 4 years would be taken out of that consideration, the bill originally had a 1-year grandfather clause. What this amendment does is to give a 2-year grandfather clause so that those of us in this country, in those areas which have a large number of refugees who came over on the first wave that have not made a successful assimilation into the surrounding society, will have an opportunity of 2 years in which to set up our program, to allow the people to get off cash assistance, to allow the people to get off welfare and medical assistance and allow them to start with the same benefits as those who are coming here now.

Mr. Chairman, there are those who question the fact that in some States refugees seem to get off welfare rolls more quickly than in other areas. The fact of the matter is, in California, Texas, and any other number of States, we have what is called secondary migration. This means you have refugees from Southeast Asia who initially came to resettle in this country in other States.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. LUNGREN

was allowed to proceed for 5 additional minutes.)

Mr. LUNGREN. When for some reason they are unsuccessful in resettling in those particular areas of the country, they have gone to other areas of the country, chiefly California, Texas, Pennsylvania, Washington, Illinois, New York, even in some areas of Minnesota. Why? Well for one reason in some cases, climate. For another reason, they have gravitated to those areas where large numbers of people who share the same cultural values and cultural experiences have already resided.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from Minnesota.

Mr. VENTO. I wanted to point out, when the gentleman says they came to Minnesota because of the climate, that is not the only factor. One of the reasons they came to Minnesota is, we do have a great climate, but the main factor is the group of Hmongs who were mountain people who fought with our troops in Vietnam and were gun carriers, they tend to congregate in communities, much as other ethnic groups have done throughout our history. That is why we wound up with a large population in our area of Minnesota.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from Illinois.

Mr. HYDE. I wonder if the gentleman from Minnesota might not consider that these very primitive people go up in the boundary waters canoe area because of the legislation the gentleman has sponsored to keep it one of the most primitive areas in the world.

Mr. VENTO. If the gentleman would yield, I am sure they enjoy that resource just like all Americans do. I hope it will always be as it is.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, as a Californian and a strong supporter of this bill and our country's efforts to resettle Indochinese refugees, I am very interested in the success of this amendment which has been so ably offered by my colleagues DANIELSON and LUNGREN. But the success of this amendment should not be solely attributable to Californians who do not want the responsibility of supporting the majority of the refugees in the United States. It should be passed as an affirmation of the willingness of the whole country to accept responsibility for the 260,000 refugees who have accepted our invitation to resettle in the United States. It is a national responsbility—the United States is a magnet to all who seek freedom. That is why they are coming here.

As I am sure most of you are aware by now, California has been chosen as a final haven by nearly half of our refugee population. Their wish to join other family and village members, together with a desire for a warm climate and favorable economic conditions, has led to this reality.

In fairness to both the population of California and the refugees, the Danielson-Lungren amendment is needed. In order to head off a shift of millions of dollars in relief funds from the U.S. Government to California taxpayers and bring this bill in line with the Cambodian relief bill which was just signed into law, this proposal must be adopted. If such a shift did occur, it could result in anger and resentment toward the refugees. Unfortunately, there is some of this resentment already.

Since the refugees will be needing our support for some time, we must not shirk this responsibility. I urge my colleagues to join me in voting for the Danielson-Lungren amendment.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I will be happy to yield.

Mr. PANETTA. I thank the gentleman for yielding and I want to join with him and the gentleman from California (Mr. DANIELSON) in the amendment that has been offered.

Again, it is a basic problem of State and local jurisdictions having some kind of commitment that they are going to be protected in terms of dealing with the refugee problem. This is a real problem for these local communities and local jurisdictions. And to extend it a year just gives them that much more time to lay the groundwork so that we can more properly deal with the challenges provided by having these refugees in their communities.

Mr. Chairman, the other point I would make is that this is not a regional issue. We talk about California, we talk about the other States that are impacted and there are these particular States that are impacted but this is a national issue. We are talking about a national commitment that has been made here to the refugees. Regardless of where they settle it is the responsibility of this institution to respond to those needs and to respond to the basic justice that is involved here. I commend the gentleman.

Mr. LUNGREN. Mr. Chairman, I would like to point out that mention was made of the price tag for this amendment of $100 million. At one point in our subcommittee, however, we received testimony that it would be $53 million. But whether it is $53 million or $100 million, the fact is that those are the costs that are going to be involved and either they are going to be borne by local government or they are going to be borne by the Federal Government and to the extent that we have had an impact that is not fairly distributed, if you want to use that terminology, around the country, certain local communities and States are going to be unfairly impacted.

Mr. Chairman, the second thing I would stress is secondary migration.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(At the request of Mr. JOHN L. BURTON, and by unanimous consent, Mr. LUNGREN was allowed to proceed for 3 additional minutes.)

Mr. LUNGREN. The latest figure we have is that in California, for instance—I am sure this is true in many of the other States that are so affected—one-third of those refugees now receiving welfare assistance are the products of secondary migration. So it is a truly unique phenomenon in some areas of the country and all we are saying is that these costs do and will exist. The question is "How can they be most equitably borne?"

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I will be happy to yield to the gentleman from California.

Mr. JOHN L. BURTON. Mr. Chairman, I thank my colleague for yielding. I would like to rise in support of the amendment and associate myself with the remarks of the gentleman in the well, except as they apply to funding the Committee on the Judiciary, and the remarks of our good friend, the gentleman from California (Mr. DANIELSON), and I am pleased to have back-to-back issues where the gentleman and I are joined in the righteous cause.

Mr. FISH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is not an easy subject to discuss. To review the facts as they were very ably stated by the chair, the bill we brought to the floor provides for 4 years of full funding after fiscal year 1980.

The amendment would add an additional transition year before the beginning of the 4, that is fiscal year 1981 as well as fiscal year 1980.

Mr. Chairman, what we are therefore talking about is a refugee coming into the United States during the next year will have 5 years of full funding. I think the question that has not yet been addressed by any of the speakers on this issue is, what should our refugee policy be, what is our concept of what you want to happen to this individual to become a sustaining member of our society?

Mr. Chairman, this gets you away from the issue of who is responsible for paying it, to what should your program be.

I suggest that the goal of resettlement policy should be to get a refugee out of a temporarily unemployed situation as quickly as possible.

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Therefore, it becomes the responsibility of the State in which the refugee finds himself to try to move him from the temporarily unemployed situation, which is how I categorize his arrival in the United States, to that of a self-supporting contributing member of society.

Now, there are certain responsibilities that we do have as a government to meet the needs of these people. It so happens that health needs are of vital importance and a matter of great concern to refugees.

In most cases the language barrier is an obstacle that must be overcome.

Furthermore, I think we have an obligation to develop their skills.

Contrary to what has been said on this floor, they do come here with skills. In fact, the unemployment rate among refugees coming the the United States is lower than that of the national average. The skills that they had in the countries that they came from have to be developed to be applicable to our society.

Now, this involves the Federal Government. It involves education. It involves job training. It involves language training, but I think we can honestly say that it should be a job that is done in 4 years. It does not need 5 years.

I think that is the basic issue, that it would be far more harmful to the United States if we allowed a refugee class of welfare recipients to develop. I think it is very serious that the particular needs of these people, particularly those coming from a war ravaged background after years of indolence in stinking camps in countries of first asylum, are met and dealt with. I have specified these as health, as education, language training, and job skills development. These needs have to be handled quickly if these people are not to fall and never, I submit, never be able to rise up again and become what we want them to become full self-supporting members of our society.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. FISH. I would be glad to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I appreciate the gentleman yielding.

I think the impression left is that somehow we are expanding the total program, that the Danielson amendment would expand it for 5 years. I do not think that is the intent; that is, for new refugees that it would continue to be 4 years.

What we are really dealing with is the refugees that came in 1976 and 1977. The justification for adding on the extra year, I guess in this instance, would be that it is true that there was kind of a stop-gap program. It was not a certain program. It did not have a foundation that the Committee on the Judiciary under the gentlewoman from New York (Ms. Holtzman) and the leadership of the gentleman from New York (Mr. Fish) put together. I want to commend the gentleman. I think the gentleman has done a good job.

I think that we just perceive things a little differently. When many of these refugees came to this country they were the victims of various tropical diseases. There were many infections with which we were not familiar, that were not diagnosed. Today, for instance, the incidence of TB among those refugees is very high.

I think, for instance, in my State it has been pointed out there has been a high degree of employment. Many of these people are working, but they are not working at the type of skilled jobs and so forth that might characterize the balance of our society. As a matter of fact, they are the minimum wage type of jobs. They are not the type of jobs that I think most of us would want.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. Fish) has again expired.

(At the request of Mr. Vento, and by unanimous consent, Mr. Fish was allowed to proceed for 2 additional minutes.)

Mr. VENTO. Mr. Chairman, will the gentleman yield further?

Mr. FISH. I yield to the gentleman.

Mr. VENTO. Mr. Chairman, I just want to conclude by pointing out what I think we are talking about is how we treat these early refugees that came to this country. Many of them were coming from a certain environment. They were given special preference to come here because of their efforts to assist us in the Vietnam conflict, such as the Hmong people that have settled, for instance, in the district and the area of Minnesota that I am privileged to represent.

I want to point out to the gentleman that they had, for instance, in the case of these people, no written language and very difficult problems. When the gentlewoman from New York, the chairman of the subcommittee points out the additional training and other programs, we do not have the appropriations, the authorization is in this particular legislation; so what we are really talking about is the child welfare benefits, the entitlement medical programs.

I would just appeal to the Members of the House and to the gentleman from New York, as well as the gentlewoman from New York, the chairman of the subcommittee, to take this into consideration as we vote on this particular amendment offered by my good friend and colleague, the gentleman from California.

Mr. FISH. Mr. Chairman, in a minute I will yield to the gentlewoman from New York, the chairman, because I know the gentlewoman wants to respond to certain statements that the gentleman from Minnesota made, I think the accuracy of which can be questioned.

Let me put one thing in perspective when we are talking about 1 year. This coming spring of 1980 will mark 5 years since the fall of Saigon. The large bulk of about 130,000 Indochinese refugees were resettled in the United States by Christmas of that year. If we are talking about a burden on the States of the refugees who came in 1976 and 1977, we are talking about a total flow in 1 year of about 11,000 from Indochina; the second year about 17,000.

It was not in those 2 years that we had the tremendous buildups. It is subsequent to that period, just in the last year plus; so I just do not think that is the problem.

I still get back to this issue that if we do not save these people within 4 years and give them job training and language training that they need, if we do not do it in 4 years, we cannot do it.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. Fish) has again expired.

(At the request of Ms. Holtzman and by unanimous consent, Mr. Fish was allowed to proceed for 4 additional minutes.)

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I thank the gentleman for yielding. I think the gentleman has made a very good point as to what time limit there should be on complete Federal support for welfare and for medicaid payments and what our policy should be with regard to absorption.

I think it is very important to point out some misconceptions that people seem to have about this bill. This bill does have money in it for special education programs, for job training programs, for orientation programs. This bill does have money in it to pay for health programs not connected to welfare. We have divorced the medicaid and welfare requirements, so that to get health benefits a refugee no longer has to go on welfare. This bill authorizes funds and programs to give refugees the kinds of skills which will enable them to become self-sufficient.

I do not think it would be useful to the refugees or good for the country to have in essence what amounts to an open-ended support for refugees on welfare.

I think our primary objective ought to be to give them language training, to give them job training and make them self-sufficient as quickly as possible. I think we can do that. I think this bill provides a framework for it and I think the amendment would take us down the road toward an endless Federal dole and an endless kind of welfare dependence by refugees, I think that would be wrong.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. FISH. I would be happy to yield to the gentleman from California.

Mr. LUNGREN. Mr. Chairman, just to reinforce what was said by the gentleman from Minnesota (Mr. Vento) a moment ago, this grandfather clause will not in any way affect those new refugees now coming in. It goes to the last page of the bill which speaks to cutting off services, not the definition or defining the period of time in which they are there for 4 years. All it says is that if they fall under that classification, that cutoff is not operative until 1981; so it affects those people who have been here since 1975, 1976, the ones who came from the fall of Saigon and so forth.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. Fish) has again expired.

(At the request of Mr. Lungren and by unanimous consent, Mr. Fish was allowed to proceed for 2 additional minutes.)

Mr. LUNGREN. Mr. Chairman, if the gentleman will yield further, I would just underscore, it is not that these particular States have failed to have adequate programs for these people during that period of time. A large bulk of those individuals are ones who went elsewhere first and then came to those States; so it is not the failure of the States. It is not the failure of the localities they are now in.

The last point is that we are talking about general cash assistance programs and medical assistance. That is what we are talking about, the welfare program and medical assistance to these people.

It is all well and good that they would have the training programs. It is all well and good they may have a physical hygiene program that is not affected, but if you have a family like I do in my district that has 11 children, the woman is illiterate in her own language and was taken out of a culture totally alien to that of southern California and was placed there, it does her no good for me to tell her that she is going to have the continuation of a job training program now when she will not be able to utilize it, since she has her children home and the children will not be able to receive the benefit of medical assistance unless that is picked up by State and local government.

I think we ought to be very clear about what this limitation goes to.

Mr. Chairman, I thank the gentleman for yielding.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. Mr. Chairman, I want to reiterate what my friends, the gentleman from California (Mr. LUNGREN) and the gentleman from Minnesota (Mr. VENTO) just stated, because the issue seems to have otherwise been cast into an incorrect light.

The amendment which I offer does not change the basic period of eligibility for benefits financed by the Federal Government. The bill itself provides that the limitation for the provision of child welfare services shall be 48 months, beginning with the first month in which the refugee children are in the United States.

☐ 1540

Then again the bill provides that eligibility for cash assistance and medical assistance programs provided to refugees—that is, other than child welfare—shall be 48 months beginning with the first month in which they arrived in the United States.

The only effect of the amendment which I and the gentleman from California (Mr. LUNGREN) have offered is that these limitations do not begin until October 1, 1981. The reason for that is self-explanatory. These people arrived on our shores in 1975, 1976, and 1977 with no skills, unequipped to fit into our society, and we simply did not have programs in being or programs in line which were designed and efficient for helping these people become assimilated.

This first group needs the additional time. Thereafter refugees will be limited to 48 months. This is not a permanent 5 years for everyone. It is a 48-month eligibility, and the 48-month limitation will not become effective until 1981 under this amendment.

Mr. Chairman, I submit that this is a very reasonable, respectable amendment. Since these people are here as guests of the Federal Government, then the Federal Government should pay for these welfare and cash and medical assistance costs.

Mr. Chairman, I thank the gentleman for yielding.

Mr. LAGOMARSINO. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. DANIELSON).

The question was taken; and on a division (demanded by Ms. HOLTZMAN) there were—ayes 9, noes 3.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. FISH

Mr. FISH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FISH: On page 35, strike lines 20 through 22 and renumber succeeding subsections accordingly.

On page 36, line 18, after "administering", change the comma to a period and strike all that follows through line 6 on page 37.

On page 37, insert after line 22 the following new paragraph:

"(9) The Secretary of Labor and the Secretary of Education shall provide each member of the Committees on the Judiciary of the House of Representatives and of the Senate, and the Director with annual reports describing the efforts of their respective departments to increase refugee access to programs within their jurisdiction.".

On page 37, line 23, strike out "(9)" and insert in lieu thereof "(10)".

Mr. FISH. Mr. Chairman, first, my amendment strikes part of the mandatory requirements in a State's resettlement program as a condition for receiving Federal assistance.

As this section now stands, it is too rigid and inflexible. I would strike some of the detailed requirements set forth which have been criticized as akin to regulations, rather than language appropriate to include in a statute.

This bill establishes a new office within the Department of HEW. While legislation putting restrictions on what a Government agency can do, often receives wide support, it is unusual to give such specific directions as to how an agency should carry out its responsibilities. Judgments will have to be made based on experience. Congressional oversight is the proper method of assuring ourselves that the office in question is in fact carrying out the responsibilities given to it by this legislation.

Mr. Chairman, the goal of resettlement policy should be to get the refugee out of a temporarily unemployed situation, meet their health needs in an environment where they can overcome language barriers and develop their skills to become self-supporting, contributing members of society. If this goal is accepted, language training and skill developments are fundamental to successful resettlement. I, therefore, believe that the cooperation of the Department of Education and the Department of Labor are important.

The second part of my amendment, therefore, contains an affirmative requirement that the Secretary of Education and the Secretary of Labor make yearly reports as to the efforts of their respective departments to increase refugees access to programs within their jurisdiction. Involvement of these departments was strongly urged in an excellent analysis of refugee resettlement in the United States prepared last summer by the New Transcentury Foundation.

This additional language fortifies the interdepartment cooperation intended by other language in this title.

I want to make it clear that by offering this amendment, I do not object to the functions described in the language that is being stricken. The amendment retains the Office of Refugee Resettlement reporting directly to the Secretary of HEW. I am sure that as this office is established, our committee will be aware of the steps it takes to perform its duties and make our ideas known in that regard.

I feel this amendment simplifies title III without reducing the authority granted to implement a viable refugee resettlement policy. I urge my colleagues to support this amendment.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. FISH. I am happy to yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I am pleased to say that I believe the gentleman's amendment is a constructive one, and I support it.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. FISH).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HYDE

Mr. HYDE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HYDE: Page 32, strike out line 3 and all that follows through page 48, line 19 and insert in lieu thereof the following:

TITLE III—TEMPORARY AND TRANSITIONAL ASSISTANCE TO REFUGEES

SEC. 301. (a) Section 2(b) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(b)) is amended to read as follows:

"(b)(1) There are hereby authorized to be appropriated for fiscal years 1980 and 1981 such amounts as may be necessary from time to time—

"(A) for contributions to the activities of the United Nations High Commissioner for Refugees for assistance to refugees under his mandate or persons in behalf of whom he is exercising his good offices; for contributions to the Intergovernmental Committee for European Migration; the International Committee of the Red Cross; and to other relevant international organizations;

"(B) for assistance to or in behalf of refugees designated by the President (by class, group, or designation of their respective countries of origin or areas of residence) when the President determines that such assistance will contribute to the foreign policy interests of the United States;

"(C) for payments to appropriate public or nonprofit private agencies to aid in the placement, resettlement, and care of refugees;

"(D) for projects and programs to assist adult refugees in gaining skills and education necessary to become employed or otherwise self-reliant, including facility in

English, vocational and technical training, professional refresher training and other recertification services, and social and employment services;

"(E) for payments to State and local agencies for projects to provide special educational services (including facility in English) to refugee children in elementary and secondary schools;

"(F) for child welfare services, including foster care maintenance payments and services and health care, furnished in any of the first twenty-four months during any part of which the refugee is in the United States or, in the case of a child who enters the United States unaccompanied by a parent or other close adult relative (as defined by the President), until the month after such child attains age eighteen (or such higher age as the State's child-welfare services plan prescribes for the availability of such services to any other child in that State), if later; and.

"(G) for interim support assistance during the period of initial adjustment, and for income maintenance and medical assistance, except that if a refugee receives aid or assistance under a State plan approved under part A of title IV or under title XIX of the Social Security Act, or for supplementary security income benefits (including State supplementary payments) under the program established under title XVI of that Act, funds authorized under this subsection shall only be used for the non-Federal share of such aid or assistance, or for such supplementary payments.

"(2)(A) Subject to the provisions of subparagraph (B) of this paragraph, no payment shall be made under subparagraph (C) or (G) of paragraph (1) with respect to aid or services, furnished directly or through a project or program, to a refugee who entered the United States more than twenty-four months prior to receiving such aid or services.

"(B) The period beginning on the date of enactment of this Act and ending September 30, 1980, shall not be counted for purposes of computing the twenty-four month limitation period specified in subparagraph (A) of this paragraph.

"(3) For special projects and programs authorized in subparagraph (D) of paragraph (1), there are authorized to be appropriated each fiscal year $40,000,000, to remain available until expended, to be administered primarily by private, nonprofit agencies participating in refugee resettlement programs, or by State or local public agencies, to assist refugees in resettling and become self-reliant.

"(4) As used in this section, the term 'refugee' has the same meaning as that prescribed by paragraph (42) of section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(42)).".

(b) Subsection (a) of this section shall not be considered a law enacted on or after February 7, 1972, for purposes of section 15 (a)(1)(A) of the Act of August 1, 1956 (22 U.S.C. 2680(a)(1)(A)).

SEC. 302. The Comptroller General of the United States shall evaluate Federal and federally assisted programs to refugees resettling within the United States to determine their effectiveness and efficiency.

SEC. 303. This title, and the amendments made by this title, shall become effective on October 1, 1979.

Mr. HYDE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. HYDE. Mr. Chairman, this amendment, which I am offering on behalf of Mr. McClory would strike title III from the bill and substitute language very similar to that already approved by the other body and similar to that requested by the administration in its executive communication dealing with this matter.

This amendment does not involve the creation of any new bureaucracy within the Department of HEW or elsewhere but merely authorizes the expenditure of funds for job training, language training, and cash and welfare assistance. It is, in other words, a continuation of programs now existing for Indochinese refugees but applicable to all refugees entering the United States.

The present assistance to refugees to facilitate their resettlement in the United States is fragmented and enacted on an ad hoc basis.

The purpose of this bill is to establish one program to assist all refugees. However, we do not need to establish yet another bureaucracy to accomplish this purpose.

In submitting a refugee bill to the Congress, the administration saw no need for an additional statutory office to administer domestic resettlement aid. By letter of March 7, 1979, which is found on page 33 of the committee report, the Secretary of State describes the administration's proposal, and this is what he says:

> Title III makes few substantive changes from current administrative practice under the Act. Instead, it clarifies the purposes for which assistance will be furnished, reflecting experience gained in the administration of refugee assistance since 1962.

Mr. Chairman, right now there is no "E" in HEW." Half of the programs are in Education, and half of them are in Labor. We do not need a new bureaucracy in HEW.

All of the good things that this coordination and consolidation is supposed to accomplish by creating this new office in HEW can be done administratively. The State Department has a coordinator for refugees with ambassadorial rank created by Presidential order.

I might point out that there are private voluntary agencies that want to continue to work with the State Department, with whom they have a good working relationship, and under this proposal they would not have to deal with HEW or its successor agency.

This amendment provides for the same programs we have now, the basic resettlement programs, but conforms them to the new definitions of "refugee" in the bill. We just do not need a new bureaucracy. We would rather use the money for the refugees and not for bureaucrats.

Mr. Chairman, I might also point out that later on in the bill the distinguished subcommittee chairwoman has a provision to create an Office of Refugee Policy in the White House, and that certainly ought to suffice.

□ 1550

Ms. HOLTZMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this amendment goes to the heart of this bill and in effect guts it entirely. It erodes the main purpose of the bill, which is to a systematic and effective method of refugee resettlement in this country.

Title III, as proposed by the administration and adpoted by the other body, is in essence a blank check to the executive branch which says, "Resettle refugees in any way you like." Well, I think if we look at the arguments on the last amendment, we can see that there is a lot to be desired with respect to how refugees are resettled in this country.

Let me just describe what title III does and why title III must be retained in its present form.

Let us start with the refugees before they come to the United States. Anyone from the Congress who has been abroad to visit refugee centers knows how much time is wasted as the result of the failure to provide refugees coming to this country with orientation or language training while in camp.

Members have debated the fact that many refugees are not familiar with our life style, our culture and our mores. Why cannot these refugees receive some basic orientation to life in this country, as they wait months and years in refugee camps before coming to the United States.

This bill requires such orientation and language training in refugee camps abroad for people coming to the United States. The gentleman's amendment would wipe that provision out.

Second, let us focus on the distribution of refugees in the United States. The Representatives from California have argued eloquently about the number of refugees who have settled in California. Up to now, the States have played no role, and the Federal Government has played no role in the question of where refugees are resettled in this country. On the other hand, title III explicitly allows for participation by the States and the Federal Government in the crucial decision of where refugees would be settled in this country. The gentleman's amendment would wipe that provision out and leave the entire decisionmaking process to private organizations.

This bill sets up careful and explicit requirements regarding medical screening. There was a question on the floor about exotic and tropical diseases that refugees might have. We have no system now for following up with refugees who come here with medical problems. This bill will set up such a system. The amendment would strike that provision out.

CHILDREN

How many times have we heard about the plight of unaccompanied minors or orphans waiting in refugee camps for years, with no place to go? While unaccompanied minors and orphans have top priority for coming to the United States, they are not brought here because of unbelievable redtape and bureaucracy. Title III sets up a procedure for bringing in orphans and unaccompanied minors to this country and it establishes standards for their acceptance and reception in this country. The gentleman's amendment would wipe that provision out and put us back in the disgraceful position where we are now, where we cannot deal effectively and expeditiously with these unaccompanied children.

What about the issue of language training? Everybody knows that teaching refugees English quickly is the best way to enable them to become productive members of this society. Title III of this bill makes that need explicit and repeats it time and time again. The gentleman's amendment would wipe out this provision and the current ad hoc and haphazard approach to language training.

What about the issue of forcing people to go on welfare in order to get health benefits? We were told that one significant reason refugees go on welfare is to receive medicaid. In this bill we divorce medicaid from welfare. We say that for 1 year a person will be entitled to medicaid without going on welfare. We do not want refugees to be on welfare. This is an innovative and important part of the bill, and it may save the taxpayers millions of dollars. This provision is wiped out by the gentleman's amendment.

The CHAIRMAN pro tempore. The time of the gentlewoman from New York (Ms. HOLTZMAN) has expired.

(By unanimous consent, Ms. HOLTZMAN was allowed to proceed for 1 additional minute.)

Ms. HOLTZMAN. The gentleman's amendment would wipe out measures in this bill requiring monitoring and evaluation of all federally financed refugee programs. We do not now have requirements for monitoring and evaluation. We must have them in order to improve the resettlement program and to try to assure that there is proper accountability.

In addition, the Office of Refugee Resettlement, which is supported by the U.S. Conference of Mayors and indeed by the American Council of Voluntary Agencies for Foreign Services, Inc., would be wiped out.

I think one of the most serious problems we have with regard to refugee resettlements is the lack of appropriate coordination.

I would very much urge that the gentleman's amendment be defeated and that the thrust of title III, which is to create an effective, systematic program for the absorption of refugees, be retained.

AMENDMENT OFFERED BY MR. DANIELSON TO THE AMENDMENT OFFERED BY MR. HYDE

Mr. DANIELSON. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. DANIELSON to the amendment offered by Mr. HYDE: Strike out "twenty-four" each place it appears in the amendment and insert in lieu thereof "forty-eight"; and on the third page of the amendment, in proposed subparagraph (B), strike out "1980" and insert in lieu thereof "1981".

Mr. DANIELSON. Mr. Chairman, I take no side in the issue presently being debated as to the Hyde amendment. The purpose of my amendment is simply to bring into the Hyde amendment the effect of the amendment which was most recently adopted by the committee, namely, the Danielson-Lungren amendment, so that in the event the Hyde amendment should be adopted, that portion would not be stricken from the bill. That is the whole purpose.

I would hope that the gentleman from Illinois might even accept this amendment.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, since we have just debated the gentleman's amendment in extenso, as you lawyers say, I will accept the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. DANIELSON) to the amendment offered by the gentleman from Illinois (Mr. HYDE).

The amendment to the amendment was agreed to.

Mr. FISH. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

It would strike title III from the bill as it was reported and substitute language similar to that originally proposed by the administration for domestic assistance to refugees.

I have had difficulty, I confess, in previous months, as we worked our way through this legislation, in perfecting it to the point that it was brought to the House floor.

Title III does set up this new department, this new office, in the Department of Health, Education, and Welfare, to administer the refugee programs. However, in recent weeks, I have consulted with those very persons most knowledgeable about the problems involved on the domestic side of this program, the people whose opinions I greatly respect. And they indicate support today for the creation of this office in the Department of HEW. The private, voluntary agencies and the U.S. Conference of Mayors support the establishment of this office today in HEW. I will grant to the sponsor of the amendment that that is a change of position on some of their parts in recent weeks.

So I point out that these are the very people who are directly involved in the resettlement problems and programs, and I believe their opinions should be carefully considered. So I think it is appropriate to create such an office in HEW, reporting to the Secretary, to insure that the refugee resettlement programs will receive the attention they deserve and not be diffused within the Department or shuttled off to an obscure corner on an organization chart.

Since this is a new office, since our bill contains only a 2-year authorization for this office, I trust that our Subcommittee on Immigration, Refugees and International Law will conduct continuing oversight into the operations of this office to determine that it is accomplishing what we desire.

This office created in the bill as reported does appear to be the proper response at present to insure resettlement programs will be effectively managed.

I want to allay one further fear, and that is that this office is going to in any way take over the present authority of the Refugee Coordinator. Quite the contrary. It is an office in HEW concerned with resettlement programs. The director of this office will administer the welfare and the training programs applicable to refugees. But under an amendment that will be offered later, Mr. Chairman, the present Refugee Coordinator will become director of an Office of Refugee Policy in the executive branch of the President, and I quote:

> He will be responsible for the development of overall United States refugee admission and resettlement policy and, second, the coordination of all United States domestic and international refugee admission and resettlement programs in a manner that assures the policy objectives are met in a timely fashion.

So I see the new director of the Office of Refugee Policy as being superior to those other efforts, whether they be in the health field, the welfare field, or over in the Office of Education or in the Department of Labor. So I support title III as written, and I urge a no vote on the pending amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Illinois (Mr. HYDE), as amended.

The amendment, as amended, was rejected.

☐ 1600

The CHAIRMAN pro tempore. Are there any additional amendments to title III?

AMENDMENT OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FASCELL: Page 38, line 3, strike out "fiscal year 1980" and insert in lieu thereof "fiscal years 1980 and 1981"; line 5, strike out "fiscal year 1981" and insert in lieu thereof "fiscal year 1982"; line 12, strike out "fiscal year 1980" and insert in lieu thereof "fiscal years 1980 and 1981"; line 15, strike out "fiscal year 1980" and insert in lieu thereof "fiscal years 1980 and 1981"; line 21, strike out "fiscal year 1980" and insert in lieu thereof "fiscal years 1980 and 1981"; and strike out line 22 and all that follows through line 2 on page 39 and insert in lieu thereof the following:

"(2) The Director is authorized to develop programs for such orientation, instruction in English, and job training for refugees, and such other education and training of refugees, as facilitates their resettlement in the United States. The Director is authorized to implement such programs, in accordance with the provisions of this section, with respect to refugees in the United States. The Secretary of State is authorized to implement such programs with respect to refugees awaiting entry into the United States.

Mr. FASCELL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FASCELL. Mr. Chairman, this amendment merely clarifies the authority of the Secretary of State over the U.S. refugee program overseas. Specifically, it grants authority to the Director of the Office of Refugee Resettlement to develop domestic programs for refugee resettlement, while leaving to the Secretary of State the conduct of our refugee activities overseas. It makes no change in the authority of the Office of U.S. Coordinator for Refugee Affairs, whose job it is to coordinate U.S. foreign and domestic refugee activities, while leaving to HEW or its successor the day-to-day conduct of domestic resettlement programs.

If left as currently worded, H.R. 2816 would permit negotiations with foreign governments on refugee matters by agencies other than the Department of State. This is purely a foreign policy matter and must remain with the department duly constituted for that purpose.

I understand the Judiciary Committee favors this amendment and I urge the support of my colleagues.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. I thank the gentleman for yielding.

I think this is a constructive amendment. I accept it.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida (Mr. FASCELL).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FASCELL: Page 48, immediately after line 11, insert the following:

(3) Subsection (c)(2) of such section is amended by striking out "$25,000,000" and inserting in lieu thereof "$50,000,000".

Mr. FASCELL. Mr. Chairman, this amendment would increase the authorization for the existing emergency migration and refugee assistance fund to $50 million from the current $25 million. This fund provides a reservoir of money for the Department of State to use in emergency situations when regular funds are insufficient to meet the need.

These funds are necessary so that the Department of State can finance the emergency group admissions set forth in section 207 of H.R. 2816. Since emergency situations do not permit the luxury of waiting for the regular appropriations process to be completed, and often occur after budget bills have been enacted, it is desirable to maintain a fund which can be drawn upon in emergencies. The foreign aid appropriation for fiscal year 1980 contains $40 million for the fund, contingent on this authorization. This is the estimate made by the administration of their fiscal year 1980 needs.

I understand the Judiciary Committee is amenable to this amendment and I urge the support of my colleagues.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. I thank the gentleman for yielding.

I am pleased to accept the amendment. I think it is a constructive addition.

Mr. FASCELL. I might add that $40 million is already in the bill.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida (Mr. FASCELL).

The amendment was agreed to.

AMENDMENT OFFERED BY MS. HOLTZMAN

Ms. HOLTZMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. HOLTZMAN: Page 48, insert before line 12 the following new subsection:

(c) The Act of May 23, 1975 (Public Law 94–23), as amended, is repealed.

Ms. HOLTZMAN. Mr. Chairman, this is a technical amendment, and of a clarifying nature solely. What this does is to consolidate domestic assistance programs into one basic statute. It repeals the recently extended IRAP legislation which was intended to be superceded by this statute. Once this statute comes into existence, the IRAP program ought to be repealed.

Mr. FISH. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from New York.

Mr. FISH. I think this amendment the gentlewoman is offering is a wise step, and I will be glad to accept it.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from New York (Ms. HOLTZMAN).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there additional amendments to title III?

Are there additional amendments to the bill?

AMENDMENT OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FASCELL: Page 48, after line 19, add the following new title:

TITLE IV—SOCIAL SERVICES FOR CERTAIN APPLICANTS FOR ASYLUM

SEC. 401. (a) The Director of the Office of Refugee Resettlement is authorized to use funds appropriated under paragraphs (1) and (2) of section 414(a) of the Immigration and Nationality Act to reimburse State and local public agencies for expenses which those agencies incurred, at any time before or after the enactment of this Act, in providing aliens described in subsection (c) of this section with social services of the types for which reimbursements were made with respect to refugees under paragraphs (3) through (6) of section 2(b) of the Migration and Refugee Assistance Act of 1962 (as in effect prior to the enactment of this Act) or under any other Federal law.

(b) The Attorney General is authorized to grant to an alien described in subsection (c) of this section permission to engage in employment in the United States and to provide to that alien an "employment authorized" endorsement or other appropriate work permit.

(c) This section applies with respect to any alien in the United States (1) who had applied before November 1, 1979, for asylum in the United States, (2) who has not been granted asylum, and (3) with respect to whom a final nonappealable, and legally enforceable order of deportation has not been entered.

Mr. FASCELL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FASCELL. Mr. Chairman, I am offering this amendment to remedy a gross inequity and to fill a gap in our refugee laws which will still be left following passage of this bill. I am referring to the burden placed on our local and State communities to support aliens who have lawfully applied for political asylum, but whose cases have not been adjudicated.

Briefly, my amendment applies only to those who have applied for political asylum before November 1, 1979. Thus it is not open-ended and does not include any undocumented aliens who have fled to the United States for economic, rather than political reasons. The amendment provides authority for the Attorney General to issue work permits, consistent with present practice. Finally, it provides for negotiated Federal reimbursement to local communities for social services they have provided or will provide to these asylum applicants, but only until their status is adjudicated.

Over the past 8 years, over 14,000 Haitian and other Caribbean aliens have landed on the Florida shores. Approximately 8,000 of these people, mostly Haitians, have applied for political asylum, alleging persecution in Haiti. I am certain that Members have read the horrible stories in the newspapers, so that I need not discuss the hardships and suffering these people have undergone to reach the United States. Suffice it to say that the single greatest problem facing these people in Florida is starvation.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentlewoman from New York.

Due to alleged violations by INS of the constitutional rights of about 5,000 of these asylum applicants, their status has been under review by a Federal district court in Miami since last May. The same judge has also stayed INS proceedings involving approximately 3,000 additional Haitian asylum applicants. This case has been pending since 1974. Before and during these judicial proceedings, the care and maintenance of these people has fallen on the State and local communities in Florida. A similar situation exists in New York, though not as many asylum applicants are involved.

The problem of Haitian asylum applicants has been with us in Dade County and in Florida generally for the past 7 years. Normally, the average annual number of political asylum applicants throughout the Nation as a whole is about 5,000. That number is now reflected in one county alone—and therein lies the problem. If the flow of applicants were normal, the local communities could absorb the costs. But this is not the case and, as a result, INS is severely backlogged in handling these cases.

Since immigration policy is a Federal

matter, it is right that the Federal Government assume the responsibility for the laws passed by Congress. It is not the fault of local communities that INS has either handled these cases badly or has not had the resources to expedite the legal procedures. The States should not be forced to pay the price for Federal failures.

Therefore, my amendment provides for Federal reimbursement by the relevant Cabinet department for expenses incurred in providing social services to asylum applicants who made application prior to November 1, 1979. This program requires the local communities to document their expenses to the Federal Government, but does not guarantee any particular level of reimbursement. It is thus patterned after the practice in the Cuban refugee program, which has worked so well.

This reimbursement applies only to those who have actually applied for political asylum prior to November 1, 1979 and extends only until their status is finally adjudicated. Thus, it is not open-ended, but it will provide some relief from a financial burden which has amounted to approximately $2 million per year in Dade County, Fla., for the past 5 years.

To lessen further the financial burden on the Government, my amendment also authorizes the Attorney General in his discretion to provide work authorizations for asylum applicants. This is not only consistent with past INS practice, but also acknowledges the existence of a court order by a Federal district court in Miami which directs INS to provide work permits for approximately 4,500 asylum applicants involved in this third Federal court lawsuit. In the spring of 1978, INS unilaterally revoked work permits issued for these people. By allowing these asylum applicants to work, we will lessen the burden on the Government by creating a new group of taxpayers. The State of Florida and Dade County support this move enthusiastically, because there will be no effect on citizen employment levels, since these aliens take low level, unskilled jobs unattractive to Americans.

Mr. Chairman, I urge my colleagues to support this much needed amendment. It makes no statement concerning the merit of these asylum applicants. It does relieve a great deal of human suffering. Surely this Congress is as ready to assist the needy on our own shores as we are to assist the Cambodians in their hour of need.

Finally, I hope that this amendment will prove to be but an interim measure. In my judgment, the only moral and practical solution to the plight of the Haitian boat people is for the Attorney General to exercise his discretionary authority and grant refugee status—political asylum—to the approximately 8,000 Haitians currently seeking asylum in the United States.

In this, I join a variety of political, religious, and labor organizations which have urged the administration to grant asylum to this small number of Haitians who have for too long languished on our shores. Such a resolution of this serious human problem would demonstrate that U.S. refugee policy is administered in an evenhanded way on a humanitarian basis. It would also reduce Federal, State, and local expenditures that will be needed to assist this small group of people as long as their legal status remains in doubt.

I thus urge approval of the amendment I offer today and express my hope that the administration will soon decide to grant refugee status to these Haitian boat people.

Ms. HOLTZMAN. I thank the gentleman for yielding.

I would commend the gentleman for offering this amendment, and I am happy to agree with it. I think it is a constructive addition to this bill. I think that persons in the process of seeking asylum are to some extent a Federal responsibility, and I think this amendment addresses that issue constructively.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from New York.

Mr. FISH. I am going to accept the amendment, as the gentleman knows. But I think it might be worthwhile to take a minute to say a little bit more about it, because I had the good fortune a week ago Monday to be in Miami at an all-day hearing conducted by the Select Commission on Immigration and Refugees.

Mr. FASCELL. I want to thank the gentleman for being there, and the select commission, to take the time to go to Miami and deal with this problem.

Mr. FISH. As the gentleman might know, we heard on the issue of the Haitians in southern Florida from at least a dozen witnesses. I was particularly impressed by the testimony of Dewey W. Knight, Jr., assistant county manager of Metropolitan Dade County, because he was explaining to us just what the burden was on communities of southeast Florida from what he called the status of confused classification, which now is where the Haitians are who are in that part of the country.

I think that it does not really matter today whether we think that the Haitians in Florida are economic refugees or political refugees. That is not the issue before us.

This is an issue that is before the court, that is before the Immigration and Naturalization Service. I think it is an issue that our subcommittee should get very much involved in and help bring to a determination.

But while the matters of processing and either asylum or deportation are in limbo as they are, through action by the Federal Government, then I think it is incumbent upon us to give financial support to the community that suddenly finds itself burdened because of the Federal action. That is my reason for supporting the gentleman's amendment.

Mr. FASCELL. I thank the gentleman from New York. He is quite right. I appreciate the interest of the subcommittee on this matter. I agree with him thoroughly. It is a matter which the subcommittee should address.

To this extent I think this is a big step forward. I understand that the subcommittee intends to review the matter more in detail next year sometime when it has time to go into the whole policy question, because it is an issue which the courts are now dealing with regardless of what the gentleman thinks the classification might be of that particular individual.

It does raise the policy question.

It seems to me at least for those who are already admitted that perhaps the only thing we can do properly is to go on and grant them the political asylum by whatever directive is necessary, either Presidential or the Department of Justice, and at the same time while they are in this process, not only reimburse local governments but give these people an opportunity to go to work.

So the amendment would address both those points.

I thank the gentleman for his comments.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida (Mr. FASCELL).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there additional amendments to the bill?

AMENDMENT OFFERED BY MS. HOLTZMAN

Ms. HOLTZMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. HOLTZMAN: Page 48, add after line 19 the following new title:

TITLE V—OFFICE OF REFUGEE POLICY

SEC. 501. (a) (1) There is established in the Executive Office of the President an office to be known as the Office of Refugee Policy (hereinafter in this title referred to as the "Office"). The establishment of the Office in the Executive Office of the President shall not be construed as affecting access by the Congress, or committees of either House, (A) to information, documents, and studies in the possession of, or conducted by, the Office or (B) to personnel of the Office.

(2) The Office shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be compensated at the rate then payable under section 5314 of title 5 of the United States Code for level III of the Executive Schedule.

(b) The Director shall, under the direction of the President, be responsible for—

(1) the development of overall United States refugee admission and resettlement policy;

(2) the coordination of all United States domestic and international refugee admission and resettlement programs in a manner that assures that policy objectives are met in a timely fashion;

(3) the design of an overall budget strategy to provide individual agencies with policy guidance on refugee matters in the preparation of their budget requests, and to provide the Office of Management and Budget with an overview of all refugee-related budget requests;

(4) the presentation to the Congress of the Administration's overall refugee policy and the relationships of individual agency refugee budgets to that overall policy;

(5) advising the President, Secretary of State, Attorney General, and the Secretary of Health and Human Services on the relationship of overall United States refugee policy to the admission of refugees to, and the resettlement of refugees in, the United States;

(6) development of an effective and responsive liaison between the Federal Government and voluntary organizations, gov-

ernors and mayors, and others involved in refugee relief and resettlement work to reflect overall United States government policy;

(7) making recommendations at least annually to the President and to the Congress with respect to policies for, objectives of, and establishment of priorities for, Federal functions relating to refugee admission and resettlement in the United States; and

(8) reviewing the regulations, guidelines, requirements, criteria, and procedures of Federal departments and agencies applicable to the performance of functions relating to refugee admission and resettlement in the United States.

Ms. HOLTZMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. HOLTZMAN. This amendment simply takes the Office of Coordinator of Refugee Affairs out of the Department of State where it is now and places it in the Executive Office of the President, in other words, in the White House.

The purpose of this amendment is simple. One of the major problems with regard to refugee policy is the need to coordinate the activities of a variety of agencies. There is an urgent need to coordinate foreign policy considerations with domestic considerations and a need to make sure that we are not proceeding in a haphazard manner.

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It may be of interest to the Members of this Committee to know that plans are underway to have the Coordinator work out of the Executive Office Building. That is the best indication to me of the administration's recognition that the Office of Refugee Policy does not belong in the State Department and belongs instead in the White House where it can coordinate Government-wide the kinds of programs that are needed and provide proper program guidance and policy direction.

We have created in HEW an office with operational responsibility for domestic programs. The Director of that Office is required to consult with the Secretary of Labor and to consult with the Secretary of Education. In short, we have a variety of programs that will require close interdepartmental participation and cooperation. In order for effective coordination to take place, the U.S. Coordinator ought not to be located in any particular agency, but ought to be located in the White House. I think, in addition, it will elevate the importance of our refugee program because all policymaking will be done at the White House level.

Let me say there is a precedent for a White House Refugee Office. President Eisenhower appointed Mr. Raab to this position, and he was responsible for administering the Refugee Relief Act of 1953.

The President has been assigned direct responsibility under the bill for refugee admission decisions, and this amendment would be a clear indication that Congress intends to elevate refugee decisionmaking to the White House level.

There is currently fragmentation on the issue in the White House with the National Security Council involved in overseas aspects of the refugee problems and the domestic policy staff involved in the domestic aspects. The establishment of a separate White House office to handle all refugee matters would eliminate this problem and help again to coordinate, consolidate and make our refugee program more effective.

Mr. FISH. Mr. Chairman, I move to strike the requisite number of words just for a moment to say, as I indicated in my comments on an earlier amendment, I knew this amendment was coming and I was totally supportive. I think it is very important we give greater visibility and authority, as this amendment does, to the Director, and I am glad to support it.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from New York (Ms. HOLTZMAN).

The amendment was agreed to.

● Mr. DERWINSKI. Mr. Chairman, there is absolutely no justification or basis for the amendment by the gentle lady from New York establishing an Office of Refugee Policy in the White House to coordinate refugee admissions and resettlement. It flies in the face of an existing Executive order and the Civil Service Reform Act of 1978.

Despite the fact the 1978 act places a ceiling on the number of executive level and executive-type positions—an issue of primary concern to the Post Office and Civil Service Committee—the amendment proposes to create a new Executive level III position in the White House. This is a throwback to the chaos which existed prior to civil service reform when various committees, almost at will, created executive-level positions which are the top-level positions in Government. The Reform Act took dead aim at this problem by putting a ceiling on the number of positions. No creditable arguments have been advanced for ignoring that limitation. The need for such a ceiling remains.

Aside from the fact it runs counter to the Reform Act, the amendment will have a disruptive effect on the refugee problem. Under Executive order the Ambassador-at-large is the U.S. coordinator for refugee affairs. He is charged with coordination of all foreign and domestic programs.

Under this amendment, a new bureaucracy would be brought into existence at the very time the refugee problem is at its most critical stage.

In the interest of preserving the sensible approach of the Civil Service Reform Act and respecting the jurisdiction of the Post Office and Civil Service Committee this amendment should be overwhelmingly rejected.●

● Mr. DERWINSKI. Mr. Chairman, while this bill is being processed under the abnormal pressures of world refugee complications caused by the Communist atrocities in Cambodia and the tragic situation of the Vietnamese boat people, at the same time we have people fleeing harsh government rule in Haiti and Jamaica, the continued flow of people from Eastern Europe and an overall increase in world refugee problems.

In addition, we face a monumental problem in the United States of illegal immigrants.

I believe that this bill, even with its controversial provisions, is an improvement on the hodgepodge combination of laws, regulations, and administrative parole decisions that have been the pattern over the years. While I do not think this bill is the solution to many of the long-term problems, I believe overall it is a step in the right direction.●

● Mr. TAUKE. Mr. Chairman, the need for an effective refugee admissions policy is clear. In the past, the approach of Congress to refugee problems has been piecemeal. Furthermore, there has been a lack of coordination between refugee resettlement programs and admissions policies. The upshot of our policies is that the United States has not been able to respond quickly or effectively to emergency dislocations like those that occurred in Vietnam and Cambodia. The next time that a crisis does occur we must be better prepared to handle the refugee problems that arise.

The Refugee Act of 1979 attempts to correct inadequacies in our current policies. First, by combining admissions and resettlement programs, the proposed legislation would bring order and efficiency to our policies. Second, by redefining the term "refugee," this legislation would expand our programs to cover refugees all over the world, rather than just those fleeing Communist countries or nations in the Middle East. Third, by increasing the number of refugees that may be admitted to this country from 17,400 to 50,000 and also by allowing the President to exceed that figure if he deems it necessary, this bill would enable us to respond to the mass exoduses that have occurred from places like Indochina.

Despite the worthy goals of the committee, particularly its focus on the development of more permanent and comprehensive refugee legislation, the bill needs to be improved. I, therefore, urge support for the following changes:

First. Efforts to provide a tightening of the consultation process between Congress and the executive branch regarding refugee admissions. As proposed in this legislation, the President would consult with the chairman and the ranking member of the House and Senate Judiciary Committees if he determines that the proposed 50,000 person ceiling should be exceeded. This procedure, however, is not adequate. Congressional input into the refugee admissions process should be expanded. Full Judiciary Committee hearings would provide a forum for increased and necessary congressional participation.

Second. The establishment of a sunset provision which would, in effect, return the normal flow of refugees to 17,400 after September 1982. The purpose of the sunset measure is to insure that the Select Commission on Immigration and Refugee Policy is not preempted from completing its report and making recommendations regarding the number of immigrants and refugees that the United States should admit.

Third. Efforts to relate refugee policy to immigration policy. The proposed legislation does not address the implications of unlimited increases in immigration, although it potentially expands immigration without limits.

Refugee assistance is a humanitarian program that we as a nation must support. However, refugee assistance should be part of a comprehensive immigration policy. The United States cannot afford to accept all of the world's refugees. Nevertheless, we, along with others, should do our fair share. The above changes, in conjunction with the recommendations that will be made by the Select Committee on Immigration and Refugee Policy in 1982, will hopefully point our future immigration and refugee policies in the right direction.●

Mr. WEISS. Mr. Chairman, I express my full support of the Refugee Act of 1979, a bill which will unify and expand the existing and fragmented domestic programs for refugees coming into the United States.

This bill recognizes the complexity and often the tragedy of the refugee issue. It also acknowledges the myriad problems which confront refugees and the organizations and government agencies which aid them.

Our current refugee program is a hodgepodge of legislative and administrative authorizations. Indeed, it is not a program at all but many disparate provisions which were established to accommodate different refugee groups as crises occurred. The bill under consideration will unify these many efforts. It will revise U.S. immigration laws to provide more systematic Government procedures to admit and resettle refugees under both normal and emergency conditions. Combining and streamlining these programs will greatly ease the plight of refugees who, upon fleeing their homelands, begin the difficult, often anguishing, process of reestablishing themselves and their families in a new country.

Our recent experience with the Southeast Asian "boat people" exemplified our inability to deal quickly, effectively, and systematically with a refugee crisis.

The bill under consideration establishes a comprehensive settlement program in a newly formed Office of Refugee Resettlement. The Office will be required to develop programs and services to help refugees. These will include: orientation, job training, language training, and educational programs. These are in addition to medical assistance, child welfare services, and special programs for unaccompanied children.

In addition to providing these services, the bill redefines the term "refugee." In its current usage, refugee status is only applied to those who are fleeing Communist or Middle Eastern countries. In a significant humanitarian gesture, the new bill defines refugee as a person from any nation who cannot live at home because of actual persecution or a well-founded fear of persecution due to race, religion, nationality, membership in a particular social group, or political opinion. There may be those who contend that the proposed definition is too broad. I believe the current definition is far too narrow and that it prevents far too many desperate people from receiving asylum in our country.

The proposed bill also increases the entire immigration quota from 290,000 to 320,000 annually, of which up to 50,000 may be admitted as refugees. Currently, 17,400 refugees may be admitted annually. The increase from 17,400 to 50,000 has been criticized by those who feel it is too large an increase and that somehow this increase will unleash unlimited immigration into the United States. Increasing a quota is not eliminating a quota. I believe this increase is a gesture we as a nation can well afford to make. The 32,600 additional people who may be aided by our passing this legislation well deserve our attention.

The Refugee Act of 1979 is a significant step toward our recognizing the overwhelming complexities of worldwide immigration and of beginning to deal with them humanely and reasonably.

I urge my colleagues to support this legislation.

● Mr. BOB WILSON. Mr. Chairman, I would like to indicate my strong support for the amendment that was offered by my two colleagues from California (Mr. DANIELSON and Mr. LUNGREN).

The opening of our doors and our hearts to the thousands fleeing Communist aggression in Southeast Asia exemplifies the principles upon which this Nation was founded. Unfortunately, we must also talk about the price tag attached to this magnanimous gesture. The acceptance of the refugees was a commitment made by the Nation as a whole and, in all fairness, the financial burden should not be borne by the taxpayers of only a few areas where large concentrations of refugees have settled.

Despite efforts to see that no locale received a disproportionate share, large numbers of refugees were located in California originally and many more have abandoned their initial points of settlement and migrated to California in the intervening years. Currently, California, which represents only about 10 percent of the national population, has received more than 50 percent of the total refugee population. I submit, Mr. Chairman, that the costs of the services needed to make the refugees self-supporting and to integrate them into the mainstream of American society should not fall solely on the taxpayers of California. The Federal Government has an obligation to assist financially.

I would like to emphasize to my House colleagues the size of the job we face. The initial wave of refugees has made remarkable progress considering the short period of time involved. Unfortunately, many still remain on welfare. The task involved with the new entries—the boat people—is far more staggering. The first immigrants were often skilled or professional people, who were literate at least in their own language, and sometimes in several others. We are admitting a very different group now. Many of the boat people are illiterate peasants who have lived their entire lives in poverty and on the verge of starvation. The culture shock is far more than simply the vast gap between Indochina and California. We are talking about two totally different worlds and two very disparate ways of life. Not only is it necessary for them to achieve some degree of literacy but they must also be taught what we consider the most simple of skills. I am not talking about programable microwave ovens, I am speaking of things such as very basic sanitation. The purpose of this illustration is not to denigrate the boat people, but simply to indicate the enormity of the task involved. We, as a nation, opened our hearts to the boat people, and we, as a nation, and not simply as Californians, have an obligation to pay for the social services required.

I urge a yea vote for the Danielson-Lungren motion.●

The CHAIRMAN pro tempore. Are there further amendments to the bill?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BENNETT) having assumed the chair, Mr. MOAKLEY, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2816), to amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes, pursuant to House Resolution 499, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 328, nays 47, not voting 58, as follows:

[Roll No. 755]

YEAS—328

Akaka
Alexander
Ambro
Anderson, Calif.
Annunzio
Anthony
Applegate
Aspin
Atkinson
AuCoin
Badham
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burlison
Burton, John
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Coelho
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Philip
D'Amours
Danielson
Dannemeyer
Davis, Mich.
Davis, S.C.
de la Garza
Dellums
Derrick
Dicks
Diggs
Dingell
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Forsythe
Fowler
Frenzel
Frost
Garcia
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Lederer
Leland
Levitas
Lewis
Livingston
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
Lungren
McCormack
McDade
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, N.Y.
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Petri
Peyser
Pickle
Preyer
Pritchard
Pursell
Quayle
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rostenkowski
Rousselot
Roybal
Royer
Russo
Sabo
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Shannon
Sharp
Shelby
Shumway
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Tauke
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
Whitehurst
Whitley
Whittaker
Williams, Mont.
Wilson, C. H.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yatron
Young, Mo.
Zablocki

NAYS—47

Abdnor
Andrews, N.C.
Archer
Ashbrook
Bafalis
Bauman
Boner
Bouquard
Collins, Tex.
Crane, Daniel
Daniel, Dan
Damiel, R. W.
Devine
Dickinson
Fountain
Grisham
Hansen
Harsha
Ichord
Jeffries
Jones, Tenn.
Kelly
Lee
Loeffler
Lott
Lujan
McDonald
McEwen
Miller, Ohio
Montgomery
Mottl
Paul
Quillen
Roberts
Roth
Rudd
Satterfield
Sensenbrenner
Shuster
Snyder
Solomon
Steed
Stenholm
Stump
Symms
Young, Alaska
Young, Fla.

NOT VOTING—58

Addabbo
Albosta
Anderson, Ill.
Andrews, N. Dak.
Ashley
Beard, Tenn.
Brooks
Brown, Ohio
Burgener
Burton, Phillip
Clinger
Daschle
Deckard
Derwinski
Dixon
Dodd
Edwards, Calif.
Ferraro
Flood
Ford, Mich.
Ford, Tenn.
Fuqua
Gaydos
Giaimo
Ginn
Hinson
Holland
Holt
Leath, Tex.
Lehman
Lent
McClory
McCloskey
Murphy, Ill.
Murphy, Pa.
Murtha
Nichols
Pepper
Perkins
Price
Rahall
Richmond
Rosenthal
Runnels
Santini
Sebelius
Synar
Taylor
Treen
Van Deerlin
White
Whitten
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wydler
Yates
Zeferetti

☐ 1630

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Anderson of Illinois.

Mr. Ashley with Mr. Hinson.

Mr. Zeferetti with Mr. Beard of Tennessee.

Mr. Ginn with Mr. Andrews of North Dakota.

Mr. Murtha with Mr. Brown of Ohio.

Mr. Price with Mrs. Holt.

Mr. Richmond with Mr. Leath of Texas.

Mr. Van Deerlin with Mr. Burgener.

Mr. Santini with Mr. Clinger.

Mr. Whitten with Mr. McCloskey.

Mr. Yates with Mr. Lent.

Mr. Phillip Burton with Mr. Daschle.

Mr. Brooks with Mr. Deckard.

Ms. Ferraro with Mr. McClory.

Mr. Edwards of California with Mr. Derwinski.

Mr. Dodd with Mr. Sebelius.

Mr. Fuqua with Mr. Bob Wilson.

Mr. Lehman with Mr. Williams.

Mr. Nichols with Mr. Synar.

Mr. Murphy of Pennsylvania with Mr. Taylor.

Mr. Pepper with Mr. Wydler.

Mr. Giaimo with Mr. Albosta.

Mr. Ford of Michigan with Mr. Dixon.

Mr. White with Mr. Holland.

Mr. Charles Wilson of Texas with Mr. Rosenthal.

Mr. Gaydos with Mr. Runnels.

Mr. Murphy of Illinois with Mr. Perkins.

Mr. Rahall with Mr. Ford of Tennessee.

Mr. **MILLER** of Ohio changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to the provisions of House Resolution 499, the Committee on the Judiciary is discharged from further consideration of the Senate bill (S. 643) to amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MS. HOLTZMAN

Ms. **HOLTZMAN**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Ms. HOLTZMAN moves to strike out all after the enacting clause of the Senate bill S. 643, and to insert in lieu thereof the provisions of H.R. 2816 as passed, as follows:

That this Act may be cited as the "Refugee Act of 1979".

TITLE I—PURPOSE

SEC. 101. The Congress declares that it is the historic policy of the United States to respond to the urgent needs of persons subject to persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. The purposes of this Act are to provide a permanent and systematic procedure for the admission of refugees to the United States and to provide comprehensive and uniform provisions for the effective resettlement and absorption of those refugees who are admitted.

TITLE II—ADMISSION OF REFUGEES

SEC. 201. (a) Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101 (a)) is amended by adding after paragraph (41) the following new paragraph:

"(42) The term 'refugee' means (A) any person who is outside any country of such person's nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, or (B) in such special circumstances as the President after appropriate consultation (as defined in section 207(e) of this Act) may specify, any person who is within the country of such person's nationality or, in the case of a person having no nationality, within the country in which such person is habitually residing, and who is persecuted or who has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. The term 'refugee' does not include any person who ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion.".

(b) Chapter 1 of title II of such Act is amended by adding at the end thereof the following new sections:

"ANNUAL ADMISSION OF REFUGEES AND ADMISSION OF EMERGENCY SITUATION REFUGEES

"SEC. 207 (a) Except as provided in subsection (b), the number of refugees who may be admitted under this section not exceed fifty thousand" and insert in lieu thereof "in fiscal years 1980, 1981, or 1982, may not exceed fifty thousand or in any fiscal year thereafter may not exceed seventeen thousand four hundred, unless the President (1) determines, before the beginning of the fiscal year and after appropriate consultation (as defined in subsection (e)), that admission of a specific number of refugees in excess of such number is justified by humanitarian concerns following, (2) transmits such determination to both Houses of Congress, and (3) a resolution not favoring the determination has not been approved by either House of Congress under subsection (f). Admissions under this subsection shall be allocated among refugees of special humanitarian concern to the United States in accordance with a determination made by the President after appropriate consultation.

"(b) If the President determines, after appropriate consultation, that (1) an unforseen emergency refugee situation exists, (2) the admission of certain refugees in response to the emergency refugee situation is justified by grave humanitarian concerns, and (3) the admission to the United States of these refugees cannot be accomplished under subsection (a), the President may fix a number of refugees to be admitted to the United States during the succeeding period (not to exceed twelve months) in response to the emergency refugee situation and such admissions shall be allocated among refugees of special humanitarian concern to the United States in accordance with a determination made by the President after the appropriate consultation provided under this subsection.

"(c)(1) Subject to the numerical limitations established pursuant to subsections (a) and (b), the Attorney General may, in the Attorney General's discretion and pursuant to such regulations as the Attorney General may prescribe, admit any refugee who is not firmly resettled in any foreign country, is determined to be of special humanitarian concern to the United States, and is admissible (except as otherwise provided under paragraph (3)) as an immigrant under this Act.

"(2) A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E)) of any refugee who qualifies for admission under paragraph (1) shall, if not otherwise entitled to admission under such paragraph, be entitled to the same admission status as such refugee if accompanying, or following to join, such refugee and if the spouse or child is admissible (except as otherwise provided under paragraph (3)) as an immigrant under this Act. Upon the spouse's or child's admission to the United States, such admission shall be charged against the numerical limitation established in accordance with the appropriate subsection under which the refugee's admission is charged.

"(3) The provisions of paragraph (14), (15), (20), (21), (25), and (32) of section 212(a) shall not be applicable to any alien seeking admission to the United States under this subsection, and the Attorney General may waive any other provision of such section (other than paragraph (27), (29), or (33) and other than so much of paragraph (23) as relates to trafficking in narcotics) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Any such waiver by the Attorney General shall be in writing and shall be granted only on an individual basis following an investigation.

"(4) The refugee status of any alien (and of the spouse or child of the alien) may be terminated by the Attorney General pursuant to such regulations as the Attorney General may prescribe if the Attorney General determines that the alien was not in fact a refugee within the meaning of section 101(a)(42) at the time of the alien's admission.

"(d)(1) Before the start of each fiscal year the President shall report to the Committees on the Judiciary of the House of Representatives and of the Senate regarding the foreseeable number of refugees who will be in need of resettlement during the fiscal year and the anticipated allocation of refugee admissions during the fiscal year. The President shall provide for periodic discussions between designated representatives of the President and members of such committees regarding changes in the worldwide refugee situation, the progress of refugee admissions, and the possible need for adjustments in the allocation of admissions among refugees.

"(2) As soon as possible after representatives of the President initiate appropriate consultation with respect to an increase in the number of refugee admissions under subsection (a) or with respect to the admission of refugees in response to an emergency refugee situation under subsection (b), the Committees on the Judiciary of the House of Representatives and of the Senate shall cause to have printed in the Congressional Record the substance of such consultation.

"(3)(A) After the President initiates appropriate consultation prior to making a determination, under subsection (a), that the number of refugee admissions under such subsection in a fiscal year should exceed fifty thousand, a hearing to review the proposal to increase refugee admissions shall be held unless public disclosure of the details of the proposal would jeopardize the lives or safety of individuals.

"(B) After the President initiates appropriate consultation prior to making a determination, under subsection (b), that the number of refugee admissions should be increased because of an unforeseen emergency refugee situation, to the extent that time and the nature of the emergency refugee situation permit, a hearing to review the proposal to increase refugee admissions shall be held unless public disclosures of the details of the proposal would jeopardize the lives or safety of individuals.

"(e) For purposes of this section, the term 'appropriate consultation' means, with respect to the admission and allocation of refugees, discussions in person by designated Cabinet-level representatives of the President with members of the Committees on the Judiciary of the Senate and of the House of Representatives to review the refugee situation or emergency refugee situation, to project the extent of possible participation of the United States therein, to discuss the reasons for believing that the proposed admission of refugees is justified by humanitarian concerns, and to provide such members with the following information:

"(1) A description of the nature of the refugee situation.

"(2) A description of the number and allocation of the refugees to be admitted.

"(3) A description of the proposed plans for their movement and resettlement and the estimated cost of their movement and resettlement.

"(4) An analysis of the anticipated social, economic, and demographic impact of their admission to the United States.

"(5) Such additional information as may be appropriate or requested by such members.

To the extent possible, information described in this subsection shall be provided at least two weeks in advance of discussions in person by designated representatives of the President with such members.

"(f)(1) If both Houses of Congress are not in session on the day a determination under subsection (a) (hereinafter in this subsection referred to as the 'determination') is received by the appropriate officers of each House, for purposes of this subsection, the determination shall be deemed to have been transmitted on the first succeeding day on which both Houses are in session.

"(2) If a determination is transmitted to the Houses of Congress, the determination shall take effect unless, between the date of such transmittal and the end of the first period of fifteen calendar days of continuous session of Congress after such date, either House passes a resolution stating in substance that such House does not favor such determination.

"(3) For purposes of paragraph (2)—

"(A) continuity of session is broken only by an adjournment of Congress sine die, and

"(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the fifteen-calendar-day period.

"(4)(A) This paragraph is enacted by Congress—

"(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subparagraph (B), and it supersedes other rules only to the extent that it is inconsistent therewith; and

"(ii) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House

"(B) For purposes of this paragraph, the term 'resolution' means only a resolution of either House of Congress the matter after the resolving clause of which is as follows: 'That the   does not favor the determination of the President transmitted to the Congress, under section 207(a) of the Immigration and Nationality Act, on   , 19   .', the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropirately filled.

"(C) A resolution once introduced with respect to a determination shall immediately be referred to the Committee on the Judiciary by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

"(D)(i) If the Committee on the Judiciary has not reported a resolution referred to it at the end of five calendar days after its referral, it shall be in order to move to discharge the committee from further consideration of such resolution.

"(ii) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same determination), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(iii) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same determination.

"(E)(i) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(ii) Debate on the resolution referred to in clause (i) shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

"(F) (i) Motions to postpone, made with respect to the discharge from a committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

"(ii) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

"ASYLUM PROCEDURE

"SEC. 208. (a) The Attorney General shall establish a procedure for an alien physically present in the United States or at a land border or port of entry, irrespective of such alien's status, to apply for asylum, and the alien may be granted asylum in the discretion of the Attorney General if the Attorney General determines that such alien is a refugee within the meaning of section 101(a) (42) (A).

"(b) Asylum granted under subsection (a) may be terminated if the Attorney General, pursuant to such regulations as the Attorney General may prescribe, determines that the alien is no longer a refugee within the meaning of section 101(a) (42) (A) owing to a change in circumstances in the alien's country of nationality or, in the case of an alien having no nationality, in the country in which the alien last habitually resided.

"(c) A spouse or child (as defined in section 101(b) (1) (A), (B), (C), (D), or (E)) of an alien who is granted asylum under subsection (a) shall, if not otherwise eligible for asylum under such subsection, be entitled to the same status as the alien.

"ADJUSTMENT OF STATUS OF REFUGEES

"SEC. 209. (a) (1) Any alien who has been admitted to the United States under section 207—

"(A) whose admission has not been terminated by the Attorney General pursuant to such regulations as the Attorney General may prescribe,

"(B) who has been physically present in the United States for at least two years, and

"(C) who has not acquired permanent resident status,

shall, at the end of such two years, return or be returned to the custody of the Service for inspection and examination for admission to the United States as an immigrant in accordance with the provisions of sections 235, 236, and 237.

"(2) Any alien who is found upon inspection and examination by an immigration officer pursuant to paragraph (1) or after a hearing before a special inquiry officer to be admissible (except as otherwise provided under subsection (c)) as an immigrant under this Act at the time of the alien's inspection and examination shall, notwithstanding any numerical limitation specified in this Act, be regarded as lawfully admitted to the United States for permanent residence as of the date of such alien's arrival into the United States.

"(b) Not more than five thousand of the refugee admissions authorized under section 207(a) in any fiscal year may be made available by the Attorney General, in the Attorney General's discretion and under such regulations as the Attorney General may prescribe, to adjust to the status of an alien lawfully admitted for permanent residence the status of any alien granted asylum who—

"(1) applies for such adjustment,

"(2) has been physically present in the United States for at least two years after being granted asylum,

"(3) continues to be a refugee within the meaning of section 101(a) (42) (A) or a spouse or child of such a refugee,

"(4) is not firmly resettled in any foreign country, and

"(5) is admissible (except as otherwise provided under subsection (c)) as an immigrant under this Act at the time of examination for adjustment of such alien.

Upon approval of an application under this subsection, the Attorney General shall establish a record of the alien's admission for lawful permanent residence as of the date two years before the date of the approval of the application.".

"(c) The provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) shall not be applicable to any alien seeking adjustment of status under this section, and the Attorney General may waive any other provision of such section (other than paragraph (27), (29), or (33) and other than so much of paragraph (23) as relates to trafficking in narcotics) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.".

(c) The table of contents of such Act is amended by inserting after the item relating to section 206 the following new items:

"Sec. 207. Annual admission of refugees admission of emergency situation refugees.
"Sec. 208. Asylum procedure.
"Sec. 209. Adjustment of status of refugees.".

SEC. 202. Section 211 of the Immigration and Nationality Act (8 U.S.C. 1181) is amended—

(1) by inserting "and subsection (c)" in subsection (a) after "Except as provided in subsection (b)"; and

(2) by adding at the end thereof the following new subsection:

"(c) The provisions of subsection (a) shall not apply to an alien whom the Attorney General admits to the United States under section 207.".

SEC. 203. (a) Subsection (a) of section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended to read as follows:

"(a) Exclusive of special immigrants defined in section 101(a) (27), immediate relatives specified in subsection (b) of this section, and aliens who are admitted or granted asylum under section 207 or 208, the number of aliens born in any foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence, shall not in any of the first three quarters of any fiscal year exceed a total of seventy-two thousand and shall not in any fiscal year exceed two hundred and seventy thousand.".

(b) Section 202 of such Act (8 U.S.C. 1152) is amended—

(1) by striking out "and the number of conditional entries" in subsection (a);

(2) by striking out "(8)" in subsection (a) and inserting in lieu thereof "(7)";

(3) by striking out "or conditional entries" and "and conditional entries" in subsection (e);

(4) by striking out "20 per centum" in subsection (e) (2) and inserting in lieu thereof "26 per centum";

(5) by striking out paragraph (7) of subsection (e);

(6) by striking out "(7)" in paragraph (8) of subsection (e) and inserting in lieu thereof "(6)"; and

(7) by redesignating paragraph (8) of subsection (e) as paragraph (7).

(c) Section 203 of such Act (8 U.S.C. 1153) is amended—

(1) by striking out "or their conditional

(2) by striking out "20 per centum" in subsection (a);

(2) by striking out "20 per centum" in subsection (a) (2) and inserting in lieu thereof "26 per centum";

(3) by striking out paragraph (7) of subsection (a);

(4) by striking out "and less the number of conditional entries and visas available pursuant to paragraph (7)" in subsection (a) (8);

(5) by striking out "or to conditional entry under paragraphs (1) through (8)" in subsection (a) (9) and inserting in lieu thereof "under paragraphs (1) through (7)";

(6) by redesignating paragraphs (8) and (9) of subsection (a) as paragraphs (7) and (8), respectively;

(7) by striking out "(7)" in subsection (d) and inserting in lieu thereof "(6)"; and

(8) by striking out subsections (f), (g), and (h).

(d) Sections 212(a) (14), 212(a) (32), and 244(d) of such Act (8 U.S.C. 1182(a) (14), 1182(a) (32), 1254(d)) are each amended by striking out "section 203(a) (8)" and inserting in lieu thereof "section 203(a) (7)".

(e) Subsection (h) of section 243 of such Act (8 U.S.C. 1153) is amended to read as follows:

"(h) (1) The Attorney General shall not deport or return any alien (other than an alien described in section 241(a) (19)) to a country if the Attorney General determines that such alien's life or freedom would be threatened in such country on account of race, religion, nationality, membership in a particular social group, or political opinion.

"(2) Paragraph (1) shall not apply to any alien if the Attorney General determines that—

"(A) the alien ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

"(B) the alien, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the United States;

"(C) there are serious reasons for considering that the alien has committed a serious nonpolitical crime outside the United States prior to the arrival of the alien in the United States; or

"(D) there are reasonable grounds for regarding the alien as a danger to the security of the United States."

(f) Section 212(d) (5) of such Act (8 U.S.C. 1182(d) (5)) is amended—

(1) by inserting "(A) after "(5)";

(2) by inserting ", except as provided in subparagraph (B)," after "Attorney General may"; and

(3) by adding at the end thereof the following new subparagraph:

"(B) The Attorney General may not parole into the United States an alien who is a refugee unless the Attorney General determines that compelling reasons in the public interest with respect to that particular alien require that the alien be paroled into the United States rather than be admitted as a refugee under section 207.".

(g) Section 5 of Public Law 95–412 (8 U.S.C. 1182 note) is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1979".

(h) Any reference in any law (other than the Immigration and Nationality Act or this Act) in effect on the effective date of the amendment made by section 203(c) (3) to section 203(a) (7) of the Immigration and Nationality Act shall be deemed to be a reference to such section as in effect before such date and to sections 207 and 208 of the Immigration and Nationality Act.

SEC. 204. (a) Except as provided in subsection (b), this title and the amendments made by this title shall take effect on October 1, 1979, and shall apply to fiscal years beginning on or after such date.

(b)(1) The repeal of subsections (g) and (h) of section 203 of the Immigration and Nationality Act, made by section 203(c)(8) of this title, shall not apply with respect to any individual who before the effective date of such repeal, was granted a conditional entry under section 203(a)(7) of the Immigration and Nationality Act (and under section 202(e)(7) of such Act, if applicable), as in effect immediately before such date, and it shall not apply to any alien paroled into the United States before the effective date of this title who is eligible for the benefits of section 5 of Public Law 95–412.

(2) An alien who, before October 1, 1979, established a date of registration at an immigration office in a foreign country on the basis of entitlement to a conditional entrant status under section 203(a)(7) of the Immigration and Nationality Act (as in effect before such date), shall be deemed to be entitled to a refugee status under section 207 of such Act (as added by section 201(b) of this title) and shall be accorded the date of registration previously established by him. Nothing in this paragraph shall be construed to preclude the acquisition by such an alien of a preference status under section 203(a) of such Act.

(c)(1) Notwithstanding section 207(a) of the Immigration and Nationality Act (as added by section 201(b) of this title), the President may make the determination described in the first sentence of such section not later than forty-five days after the date of the enactment of this Act for fiscal year 1980.

(2) The Attorney General shall establish the asylum procedure referred to in section 208(a) of the Immigration and Nationality Act (as added by section 201(b) of this title) not later than sixty days after the date of the enactment of this Act.

TITLE III—ASSISTANCE FOR EFFECTIVE RESETTLEMENT OF REFUGEES IN THE UNITED STATES

SEC. 301. (a) Title IV of the Immigration and Nationality Act is amended—

(1) by striking out the title heading and inserting in lieu thereof the following:

"TITLE IV—MISCELLANEOUS AND REFUGEE ASSISTANCE

"CHAPTER 1—MISCELLANEOUS";

(2) and by adding at the end thereof the following new chapter:

"CHAPTER 2—REFUGEE ASSISTANCE

"OFFICE OF REFUGEE RESETTLEMENT

"SEC. 411. (a) There is established, within the Department of House, Education, and Welfare, an office to be known as the Office of Refugee Resettlement (hereinafter in this chapter referred to as the 'Office'). The head of the Office shall be a Director (hereinafter in this chapter referred to as the 'Director'), to be appointed by the Secretary of Health, Education, and Welfare (hereinafter in this chapter referred to as the 'Secretary'), who shall report directly to the Secretary.

"(b) The function of the Office and its Director is to fund and administer (directly or through arrangements with other Federal agencies) programs of the Federal Government under this chapter which are designed to provide domestic assistance to refugees including—

"(1) initial resettlement (including initial reception and placement with sponsors) of refugees in the United States;

"(2) services to refugees and overall planning for their effective resettlement;

"(3) assistance or reimbursement to State and local governmental agencies to adjust to admissions of refugees; and

"(4) any other Federal grants, agreements, payments, or contracts with public or private agencies for the provision of any of the services described in paragraph (1), (2), or (3).

"AUTHORIZATION FOR PROGRAMS FOR DOMESTIC RESETTLEMENT OF AND ASSISTANCE TO REFUGEES

"SEC. 142. (a) CONDITIONS AND CONSIDERATIONS.—(1) In providing assistance under this section, the Director shall, to the extent of available appropriations, (A) make available sufficient resources for employment training and placement in order to achieve economic self-sufficiency among refugees as quickly as possible, (B) provide refugees with the opportunity to acquire sufficient English language training to enable them to become effectively resettled as quickly as possible, (C) insure that cash assistance is made available to refugees in such a manner as not to discourage their economic self-sufficiency, in accordance with subsection (e)(2), and (D) insure that women have the training and instruction.

"(2) The Director shall consult regularly with State and local governments and private nonprofit voluntary agencies concerning the development and implementation of criteria relating to the sponsorship process and the intended distribution of refugees among the States and localities.

"(3) In the provision of domestic assistance under this section, the Director shall make a periodic assessment, based on refugee population and other relevant factors, of the relative needs of refugees for assistance and services under this chapter in each of the States and the resources available to meet such needs. In allocating resources, the Director shall avoid duplication of services and provide for maximum coordination between agencies providing related services.

"(4) No grant or contract may be awarded under this section unless an appropriate proposal and application (including a description of the agency's ability to perform the services specified in the proposal) are submitted to, and approved by, the Director. The Director shall make grants and contracts to those public or private agencies which the Director determines can best perform the services. Payments may be made under grants and contracts under this chapter in advance or by way of reimbursement.

"(5) Assistance and services funded under this section shall be provided to refugees without regard to race, religion, nationality, sex, or political opinion.

"(6) As a condition for receiving assistance under this section, a State must—

"(A) submit to the Director a plan which provides—

"(i) a description of how the State intends to encourage effective refugee resettlement and to promote economic self-sufficiency as quickly as possible,

"(ii) a description of how the State will insure that language training and employment services are made available to refugees receiving cash assistance,

"(iii) for the designation of an individual, employed by the State, who will be responsible for such coordination,

"(iv) for the care and supervision of and legal responsibility for unaccompanied refugee children in the State, and

"(v) for the identification of refugees who at the time of resettlement in the State are determined to have medical conditions requiring, or medical histories indicating a need for, treatment or observation and such monitoring of such treatment or observation as may be necessary;

"(B) meet standards, developed by the Director, which assure the effective resettlement of refugees and which promote their economic self-sufficiency as quickly as possible and the efficient provision of services; and

"(C) submit to the Director, within a reasonable period of time after the end of each fiscal year, a report on the uses of funds provided under this chapter which the State is responsible for administering.

"(7) The Secretary shall develop a system of monitoring the assistance provided under this section. This system shall include—

"(A) evaluations of the effectiveness of the programs funded under this section and the performance of States, grantees, and contractors;

"(B) financial auditing and other appropriate monitoring to detect any fraud, abuse, or mismanagement in the operation of such programs; and

"(C) data collection on the services provided and the results achieved.

"(8) The Attorney General shall provide the Director with the information supplied by refugees in conjunction with their applications to the Attorney General for adjustment of status, and the Director shall compile, summarize, and evaluate such information.

"(9) The Secretary of Labor and the Secretary of Education shall provide each member of the Committees on the Judiciary of the House of Representatives and of the Senate, and the Director with annual reports describing the efforts of their respective departments to increase refugee access to programs within their jurisdiction.

"(10) For purposes of this chapter, the term 'refugee' includes any alien described in section 207(c)(2).

"(b) PROGRAM OF INITIAL RESETTLEMENT.—(1) For—

"(A) fiscal years 1980 and 1981 only, the Secretary of State is authorized, and

"(B) fiscal year 1982 and succeeding fiscal years, the Director is authorized,

to make grants to, and contracts with, public or private nonprofit agencies for initial resettlement (including initial reception and placement with sponsors) of refugees in the United States. In making such grants to, or contracts with, private nonprofit voluntary agencies the Secretary of State (fiscal years 1980 and 1981) and the Director (for succeeding fiscal years) shall, consistent with the objectives of this chapter, take into account the different resettlement approaches and practices of such agencies. During fiscal years 1980 and 1981, the Secretary of State shall provide for the coordination of the provision of resettlement assistance under this paragraph in coordination with the provision of other assistance provided for by the Director under this chapter. The Secretary of State and the Director shall jointly monitor the assistance provided during fiscal years 1980 and 1981 under this paragraph.

"(2) The Director is authorized to develop programs for such orientation, instruction in English, and job training for refugees, and such other education and training of refugees, as facilitates their resettlement in the United States. The Director is authorized to implement such programs, in accordance with the provisions of this section, with respect to refugees in the United States. The Secretary of State is authorized to implement such programs with respect to refugees awaiting entry into the United States.

"(3) The Director is authorized to make arrangements (including cooperative arrangements within the Department of Health, Education, and Welfare, and with other Federal agencies) for the temporary care of refugees in the United States in emergency circumstances, including the establishment of processing centers, if necessary.

"(4) The Director shall—

"(A) assure that an adequate number of trained staff are available at the location at which the refugees enter the United States to assure that all necessary medical records are available and in proper order;

"(B) provide for the identification of refugees who, at the time of arrival, are determined to have medical conditions requiring treatment;

"(C) assure that State or local health officials at the resettlement destination within the United States of each refugee are promptly notified of the refugee's arrival and provided with all applicable medical records not later than the time of the refugee's arrival in the United States; and

"(D) provide for such monitoring of refugees identified under subparagraph (B) as will insure that they receive appropriate and timely treatment.

The Director shall develop and implement methods for monitoring and assessing the quality of medical screening and related health services provided to refugees awaiting resettlement in the United States.

"(c) PROJECT GRANTS AND CONTRACTS FOR SERVICES FOR REFUGEES.—Director is authorized to make grants to, or enter into contracts with, public or private nonprofit agencies for projects specifically designed—

"(1) to assist refugees in obtaining the skills which are necessary for economic self-sufficiency, including projects for job training, employment services, day care, professional refresher training, and other recertification services;

"(2) to provide training in English where necessary (regardless of whether the refugees are employed or receiving cash or other assistance); and

"(3) to provide health (including mental health) services, social services, educational and other services, where specific needs have been shown and recognized by the Director.

"(d) ASSISTANCE FOR REFUGEE CHILDREN.—(1) The Director is authorized to make grants, and enter into contracts, for payments to State and local agencies for projects to provide special educational services (including English language training) to refugee children in elementary and secondary schools where a demonstrated need has been shown.

"(2)(A) The Director is authorized to provide assistance, reimbursement to States, and grants to and contracts with private nonprofit agencies, for the provision of child welfare services, including foster care maintenance payments and services and health care, furnished to refugee children (except as provided in subparagraph (B)) during the forty-eight month period beginning with the first month in which the refugee children are in the United States.

"(B)(i) In the case of a refugee child who is unaccompanied by a parent or other close adult relative (as defined by the Director), the services described in subparagraph (A) may be furnished until the month after the child attains eighteen years of age (or such higher age as the State's child welfare services plan under part B of title IV of the Social Security Act prescribes for the availability of such services to any other child in that State).

"(ii) The Director shall attempt to arrange for the placement under the laws of the States of such unaccompanied refugee children, who have been accepted for admission to the United States, before (or as soon as possible after) their arrival in the United States. During any interim period while such a child is in the United States or in transit to the United States but before the child is so placed, the Director shall assume legal responsibility (including financial responsibility) for the child, if necessary, and is authorized to make necessary decisions to provide for the child's immediate care.

"(iii) In carrying out the Director's responsibilities under clause (ii), the Director is authorized to contract with appropriate public or private nonprofit agencies under such conditions as the Director determines to be appropriate.

"(iv) The Director shall prepare and maintain a list of (I) all such unaccompanied children who have entered the United States after April 1, 1975, (II) the names and last known residences of their parents (if living) at the time of arrival, and (III)) the children's location, status, and progress.

"(e) CASH ASSISTANCE AND MEDICAL ASSISTANCE TO REFUGEES.—(1) The Director is authorized to provide assistance, reimbursement to States, and grants to, and contracts with, public or private nonprofit agencies for up to 100 per centum of the cash assistance and medical assistance provided to refugees during the forty-eight month period beginning with the first month in which the refugees have entered the United States and for the identifiable and reasonable administrative costs of providing this assistance.

"(2) Cash assistance provided under this subsection to an employable refugee is conditioned, except for good cause shown—

"(A) on the refugee's registration with an appropriate agency providing employment services described in subsection (c)(1), or, if there is no such agency available, with an apropriate State or local employment service, and

"(B) on the refugee's acceptance of appropriate offers of employment,

except that subparagraph (A) does not apply during the first sixty days after the date of the refugee's entry.

"(3) The Director shall develop plans to provide English training and other appropriate services and training to refugees receiving cash assistance.

"(4) If a refugee is eligible for aid or assistance under a State plan approved under part A of title IV or under title XIX of the Social Security Act, or for supplemental security income benefits (including State supplementary payments) under the program established under title XVI of that Act, funds authorized under this subsection shall only be used for the non-Federal share of such aid or assistance, or for such supplemental payments with respect to cash and medical assistance provided with respect to such refugee under this paragraph.

"(5) The Director is authorized to allow for the provision of medical assistance under paragraph (1) to any refugee, during the one-year period after entry, who does not qualify for assistance under a State plan approved under title XIX of the Social Security Act on account of any resources or income requirement of such plan, but only if the Director determines that—

"(A) this will (i) encourage economic self-sufficiency, or (ii) avoid a significant burden on State and local governments, and

"(B) the refugee meets such alternative financial resources and income requirements as the Director shall establish.

"CONGRESSIONAL REPORTS

"SEC. 413. (a)(1) The Director shall submit a report on activities of the Office under this chapter to each member of the Committees on the Judiciary of the House of Representatives and of the Senate not later than December 31, 1979, for the fiscal year ending on September 30, 1979, not later than each May 31 thereafter, for the six-month fiscal period ending on the preceding March 31, and not later than each November 30 thereafter, for the fiscal year ending on the preceding September 30.

"(2) Each such report shall contain—

"(A) an updated profile of the employment and labor force statistics for refugees admitted under the Immigration and Nationality Act since May 1975, as well as a description of the extent to which refugees received the forms of assistance or services under this chapter during that period;

"(B) a description of the geographic location of refugees;

"(C) a summary of the results of the monitoring and evaluation conducted under section 412(a)(7) during the period for which the report is submitted;

"(D) a description of (i) the activities, expenditures, and policies of the Office under this chapter and of the activities of States, voluntary agencies, and sponsors, and (ii) the Director's plans for improvement of refugee resettlement;

"(E) evaluations of the extent to which (i) the services provided under this chapter are assisting refugees in achieving economic self-sufficiency, achieving ability in English, and achieving employment commensurate with their skills and abilities, and (ii) any fraud, abuse, or mismanagement has been reported in the provisions of services or assistance;

"(F) a description of any assistance provided by the Director pursuant to section 412(e)(5);

"(G) a summary of the location and status of unaccompanied refugee children admitted to the United States;

"(H) a summary of the information compiled and evaluation made under section 412(a)(8); and

"(I) a summary of the number of waivers granted by the Attorney General under section 207(c)(3) to refugees during the period for which such report is required and a summary of the reasons for granting such waivers.

"(b) The Secretary shall conduct and report to Congress, not later than one year after the date of the enactment of this chapter, an analysis of—

"(1) resettlement systems used by other countries and their applicability to the United States,

"(2) the desirability of using a system other than the current welfare system for the provision of cash assistance, medical assistance, or both, to refugees, and

"(3) alternative resettlement strategies.

"(c) The Director shall keep the Committees on the Judiciary of the House of Representatives and of the Senate appropriately informed of important developments affecting the use of funds and exercise of functions authorized by this chapter.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 414. (a)(1) There are hereby authorized to be appropriated for the two-year fiscal period ending September 30, 1981, such sums as may be necessary for the purpose of providing initial resettlement assistance, cash and medical assistance, and child welfare services under subsections (b)(1), (b)(3), (b)(4), (d)(2), and (e) of section 412.

"(2) There are hereby authorized to be appropriated $200,000,000 for the two-fiscal-year period ending September 30, 1981, for the purpose of carrying out the provisions (other than those described in paragraph (1)) of this chapter.

"(b) The authority to enter into contracts under this chapter shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.".

SEC. 302. (a) The table of contents of the Immigration and Nationality Act is amended—

(1) by inserting after the item relating to title IV the following:

"CHAPTER 1—MISCELLANEOUS";

(2) and by adding at the end the following new items:

"CHAPTER 2—REFUGEE ASSISTANCE

"Sec. 411. Office of Refugee Resettlement.
"Sec. 412. Authorization for programs for domestic resettlement of and assistance to refugees.
"Sec. 413. Congressional reports.
"Sec. 414. Authorization of appropriations.".

(b)(1) Subsection (b) of section 2 of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601) is amended—

(A) by inserting "and" at the end of paragraph (1);

(B) by inserting "who are outside the United States" in paragraph (2) after "on behalf of refugees";

(C) by striking out the semicolon at the end of paragraph (2) and inserting in lieu thereof a period; and

(D) by striking out paragraphs (3) through (6).

(2) Subsection (c)(1) of such section is amended by inserting "with respect to individuals who are outside the United States" after "urgent refugee and migration needs".

(3) Subsection (c)(2) of such section is amended by striking out "$25,000,000" and inserting in lieu thereof "$50,000,000".

(c) The Act of May 23, 1975 (Public Law 94–23), as amended, is repealed.

Sec. 303. (a) The amendments made by this title shall apply to fiscal years beginning on or after October 1, 1979.

(b) The limitations contained in sections 412(d)(2)(A) and 412(e)(1) of the Immigration and Nationality Act on the duration of the period for which child welfare services and cash and medical assistance may be provided to particular refugees shall not apply to such services and assistance provided before October 1, 1981.

TITLE IV—SOCIAL SERVICES FOR CERTAIN APPLICANTS FOR ASYLUM

Sec. 401. (a) The Director of the Office of Refugee Resettlement is authorized to use funds appropriated under paragraphs (1) and (2) of section 414(a) of the Immigration and Nationality Act to reimburse State and local public agencies for expenses which those agencies incurred, at any time before or after the enactment of this Act, in providing aliens described in subsection (c) of this section with social services of the types for which reimbursements were made with respect to refugees under paragraphs (3) through (6) of section 2(b) of the Migration and Refugee Assistance Act of 1962 (as in effect prior to the enactment of this Act) or under any other Federal law.

(b) The Attorney General is authorized to grant to an alien described in subsection (c) of this section permission to engage in employment in the United States and to provide to that alien an "employment authorized" endorsement or other appropriate work permit.

(c) This section applies with respect to any alien in the United States (1) who had applied before November 1, 1979, for asylum in the United States, (2) who has not been granted asylum, and (3) with respect to whom a final, nonappealable, and legally enforceable order of deportation has not been entered.

TITLE V—OFFICE OF REFUGEE POLICY

Sec. 501. (a)(1) There is established in the Executive Office of the President an office to be known as the Office of Refugee Policy (hereinafter in this title referred to as the "Office"). The establishment of the Office in the Executive Office of the President shall not be construed as affecting access by the Congress, or committees of either House, (A) to information, documents, and studies in the possession of, or conducted by, the Office or (B) to personnel of the Office.

(2) The Office shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be compensated at the rate then payable under section 5314 of title 5 of the United States Code for level III of the Executive Schedule.

(b) The Director shall, under the direction of the President, be responsible for—

(1) the development of overall United States refugee admission and resettlement policy;

(2) the coordination of all United States domestic and international refugee admission and resettlement programs in a manner that assures that policy objectives are met in a timely fashion;

(3) the design of an overall budget strategy to provide individual agencies with policy guidance on refugee matters in the preparation of their budget requests, and to provide the Office of Management and Budget with an overview of all refugee-related budget requests;

(4) the presentation to the Congress of the administration's overall refugee policy and the relationships of individual agency refugee budgets to that overall policy;

(5) advising the President, Secretary of State, Attorney General, and the Secretary of Health and Human Services on the relationship of overall United States refugee policy to the admission of refugees to, and the resettlement of refugees in, the United States;

(6) development of an effective and responsive liaison between the Federal Government and voluntary organizations, Governors and mayors, and others involved in refugee relief and resettlement work to reflect overall United States Government policy;

(7) making recommendations at least annually to the President and to the Congress with respect to policies for, objectives of, and establishment of priorities for, Federal functions relating to refugee admission and resettlement in the United States; and

(8) reviewing the regulations, guidelines, requirements, criteria, and procedures of Federal departments and agencies applicable to refugee admission and resettlement in the United States.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 2816) was laid on the table.

APPOINTMENT OF CONFEREES

Ms. HOLTZMAN. Mr. Speaker, I ask unanimous consent that the House insist upon its amendment to the Senate bill, S. 643, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York? The Chair hears none and, without objection, appoints the following conferees: Mr. RODINO, Ms. HOLTZMAN, and Messrs. DANIELSON, HALL of Texas, HARRIS, BARNES, ZABLOCKI, FASCELL, FISH, BUTLER, HYDE, and BUCHANAN.

There was no objection.

GENERAL LEAVE

Ms. HOLTZMAN. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill just passed.

The SPEAKER. Is there objection to the request of the gentlewoman from New York?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title.

H. Con. Res. 200. Concurrent resolution expressing the sense of the Congress with respect to the Baltic States and with respect to Soviet claims of citizenship over certain United States citizens.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5079) entitled "An act to provide for participation of the United States in the International Energy Exposition to be held in Knoxville, Tenn., in 1982, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate to a bill of the House of the following title:

H.R. 5224. An act to continue through May 31, 1981, the existing prohibition on the issuance of fringe benefit regulations, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2043. An act to amend the Water Bank Act for the purposes of authorizing the Secretary of Agriculture to adjust payment rates with respect to initial conservation agreements and to designate certain areas as wetlands, and for other purposes;

H.R. 2584. An act to amend the provisions of chapters 83 and 89 of title 5, United States Code, which relate to survivor benefits for certain dependent children;

H.R. 3398. An act to amend the Food and Agriculture Act of 1977 relating to increases in the target prices for the 1979 crop of wheat, corn, and other commodities under certain circumstances, and for other purposes; and

H.R. 3951. An act to amend the National Capital Transportation Act of 1969 to authorize additional Federal contributions for the cost of construction of the rapid transit system of the National Capital Region, to provide an orderly method for the retirement of bonds issued by the Washington Metropolitan Area Transit Authority, to authorize a Federal contribution to such Authority to provide assistance in meeting expenses of operation and maintenance of such system in order to reflect the special Federal relationship to such system, and for other purposes.

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1273. An act to restore to the Shivwits, Kanosh, Koosharem, and Indian Peaks Banks of Paiute Indians of Utah, and with respect to the Cedar City Band of Paiute Indians of Utah, to restore or confirm, the Federal trust relationship, to restore to members of such Bands those Federal services and benefits furnished to American Indian tribes by reason of such trust relationship, and for other purposes;

S. 1654. An act to improve the Federal judicial machinery by clarifying and revising certain provisions of title 28, United States Code, relating to the judiciary and judicial review of international trade matters, and for other purposes; and

S. Con. Res. 56. Concurrent resolution authorizing the reprinting of the committee print entitled "Synthetic Fuels."

(By unanimous consent, Mr. WRIGHT was allowed to speak out of order.)

FURTHER LEGISLATIVE PROGRAM

Mr. WRIGHT. Mr. Speaker, I take this time to share with the Members the plans of the Speaker and of the leadership. After recognizing the gentleman from New York (Mr. Murphy) who has a unanimous-consent request, the Speaker intends, and he has asked me to explain, that we should recess subject to the call of the Chair. There appears to be a good chance that the conference committee on the Chrysler authorization bill can conclude its labors and reach an agreement that could be brought back to the House sometime between 7 and 9 o'clock this evening. If it were ready before that, the Chair would call us back before that time. That being the case, and any additional votes being only counterproductive in that they would disrupt the meetings of that conference, it seemed plausible that unless there are unanimous-consent requests that can be attended now, it would be wise for us to recess subject to the call of the Chair. Following the request by the gentleman from New York (Mr. Murphy), if there be no others, it would be my purpose to move that we recess subject to the call of the Chair.

Mr. RHODES. Mr. Speaker, would the majority leader yield?

Mr. WRIGHT. I yield to the distinguished minority leader.

Mr. RHODES. I thank the majority leader for yielding. I assume from what the majority leader said that the matter of the appropriation of the Chrysler bill has actually been taken care of and there is no problem anticipated as far as that is concerned.

Mr. WRIGHT. We anticipate no problem. The soundings we get encourage us to believe that there will not be any problem. We, unfortunately, cannot make that an ironclad promise, but when those two bills have been passed finally, the authorization for Chrysler and the appropriation bill to carry out that authorization, it would be our purpose that we would go into recess until for practical purposes the 22d of January.

Mr. RHODES. If the gentleman would yield further, may I inquire as to whether or not there would be any other business other than the usual resolutions which are necessary to go over for 4 days, and, if not, when those resolutions might be brought up?

Mr. WRIGHT. In response to the gentleman, I think it would be our purpose when we reconvene to offer such unanimous-consent requests and other necessary resolutions as would make it possible for the House to go into a series of pro forma sessions, meeting at third-day intervals without any rollcall votes, in order that it would be possible for us to summon ourselves back in the event of any need, unforeseen at this time, or any contingency that would require our action. We thought that infinitely better than to adjourn and require that the President of the United States should call us back into session, which could cause undue concern and panic among the American people.

Mr. RHODES. As the gentleman knows, I thoroughly agree with him and the Speaker on the course that they are taking. My inquiry was just as to the time which we might expect those resolutions to be presented to the House this evening.

Mr. WRIGHT. I should think any necessary resolution to permit the conduct of the business of the House during the recess between now and our reconvening for business in January would be presented when we reconvene subject to the call of the Chair.

Mr. RHODES. After the Chrysler matter.

The SPEAKER. After we have adopted the conferees' report.

Mr. RHODES. After the conference report has been adopted. I thank the Speaker.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair would like to make the following announcement for those who have special orders that before the House goes into recess it could be very well that special orders could be disposed of. There are two or three special orders for 60 minutes and some requests for 15 minutes of special orders. It would be well that between now and 7 o'clock or until such time as the conferees report, the House could use that time on special orders.

AMENDING THE WATER BANK ACT AUTHORIZING THE ADJUSTMENT OF PAYMENT RATES RESPECTING INITIAL CONSERVATION AGREEMENTS AND DESIGNATING WETLANDS

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2043) to amend the Water Bank Act for the purpose of authorizing the Secretary of Agriculture to adjust payment rates with respect to initial conservation agreements and to designate certain areas as wetlands, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That the third sentence of section 3 of the Water Bank Act (16 U.S.C. 1302) is amended to read as follows: "The Secretary shall, beginning in 1980, reexamine the payment rates at the beginning of the fifth year of any such ten-year initial or renewal period and before the beginning of any renewal period, in the light of the then current land and crop values, and make needed adjustments in rates for any such initial or renewal period as provided in section 5 of this Act. In addition, the Secretary shall, beginning in 1980, reexamine the payment rates in any agreement that has been in effect for five years or more in the light of current land and crop values and make any needed adjustments in rates.".

Sec. 2. The fourth sentence of section 3 of the Water Bank Act (16 U.S.C. 1302) is amended to read as follows: "As used in this Act, the term 'wetlands' means (1) the inland fresh areas described as types 1 through 7 in Circular 39, Wetlands of the United States, published by the United States Department of the Interior (or the inland fresh areas corresponding to such types in any successor wetland classification system developed by the Department of the Interior), (2) artificially developed inland fresh areas that meet the description of the inland fresh areas described in clause (1) of this sentence, and (3) such other wetland types as the Secretary may designate.".

Sec. 3. Section 5 of the Water Bank Act (16 U.S.C. 1304) is amended by adding at the end thereof a new sentence as follows: "The rates of annual payment shall be adjusted, to the extent provided for in advance by appropriation Acts, in accordance with section 3 of the Act.".

Sec. 4. Section 11 of the Water Bank Act (16 U.S.C. 1310) is amended by—

(1) inserting after "program," in the second sentence the following: "in each fiscal year through the fiscal year ending September 30, 1980,"; and

(2) adding at the end thereof two new sentences as follows: "In carrying out the program, in each fiscal year after the fiscal year ending September 30, 1980, the Secretary shall not enter into agreements with owners and operators which would require payments to owners or operators in any calendar year under such agreements in excess of $30,000,000. Not more than 15 percent of the funds authorized to be appropriated in any fiscal year after the fiscal year ending September 30, 1980, may be used for agreements entered into with owners or operators in any one State."

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Mr. MURPHY of New York (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. FORSYTHE. Mr. Speaker, I reserve the right to object.

The SPEAKER. The gentleman from New Jersey reserves the right to object.

Mr. FORSYTHE. Mr. Speaker, I reserve the right to object to offer my chairman the opportunity to explain the Senate amendment on the bill which passed the House earlier. I think they are good amendments but I think the House should know what we are doing.

Mr. MURPHY of New York. Mr. Speaker, will the gentleman yield?

Mr. FORSYTHE. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Speaker, the Water Bank Act was enacted in 1970, to assist in the conservation of wetlands, identified as valuable migratory water fowl habitat. The act authorized the Secretary of Agriculture to enter into 10-year agreements with owners of wetlands types 1 through 5—consisting primarily of inland fresh meadows, marshes, and open water—with a view toward preserving these lands for migratory waterfowl purposes. The act authorized the Secretary to make annual payments not in excess of $10 million per year to owners of wetlands included in agreements.

H.R. 2043 passed the House on July 9, 1979, by voice vote under suspension of the rules. As it passed the House, it would expand the program to include types 6 and 7 wetlands—primarily shrub and wooded swamps—and coastal wetlands; it would require an adjustment in payment rates every 5 years instead of every 10 years as provided by present law; and it would increase the amount authorized to be expended under the act in any one year from $10 million to $30 million beginning with fiscal year 1980.

Mr. Speaker, the Senate passed H.R. 2043, with an amendment, on Tuesday of this week. As it passed the Senate, other than making technical changes it would make the provisions of the bill effective with fiscal year 1981 instead of 1980, and it would limit the amount of funds that could be expended in any one State in any calendar year to 15 percent of the funds authorized to be appropriated in any fiscal year.

Mr. Speaker, based on past experience, it appears that no State would be adversely affected by the 15-percent limitation, and I strongly support the Senate amendment in its entirety.

Mr. FORSYTHE. Mr. Speaker, I withdraw my reservation of objection and urge adoption of the amendment and the bill.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

A motion to reconsider was laid on the table.

SURVIVOR BENEFITS FOR CERTAIN DEPENDENT CHILDREN

Mrs. SPELLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2584) to amend the provisions of chapters 83 and 89 of title 5, United States Code, which relate to survivor benefits for certain dependent children, with the Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Page 2, line 10, strike out "and".

Page 2, strike out lines 11, 12, and 13, and insert:

(B) striking out "or recognized natural child who" in subparagraph (A)(ii) and inserting in lieu thereof "but only if the step child"; and

(C) by inserting "a recognized natural child, and (iv)" after "(iii)".

Page 2, strike out lines 19 to 21, inclusive, and insert:

(B) by inserting "or recognized natural child" after "child" in subparagraph (A); and

(C) by striking out ", foster child, or recognized natural child who" in subparagraph (B) and inserting in lieu thereof "or foster child but only if the child;".

Page 3, after line 7, insert:

SEC. 3. Section 8902(m)(2)(A) of title 5, United States Code, is amended by striking out all after "contract" the third place it appears and inserting in lieu thereof the following: "in a State where 25 percent or more of the population is located in primary medical care manpower shortage areas designated pursuant to section 332 of the Public Health Service Act (42 U.S.C. 254e)."

Page 3, after line 7, insert:

SEC. 4. Section 8344(c) of title 5, United States Code, is amended by inserting "or is elected as a Member," after "subchapter,".

Page 3, line 8, strike out "3." and insert "5. (a)".

Page 3, line 8, after "by" insert "the first section and section 2 of".

Page 3, after line 12, insert:

(b) The amendments made by section 3 shall apply to services provided after December 31, 1979, and before January 1, 1985, under any contract entered into or renewed after December 31, 1979.

Amend the title so as to read: "An act to amend the provisions of chapters 83 and 89 of title 5, United States Code, which relate to survivor benefits for certain dependent children, and for other purposes.".

Mrs. SPELLMAN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentlewoman from Maryland?

Mr. RHODES. Mr. Speaker, reserving the right to object, can the gentlewoman from Maryland assure us the Senate amendments have been cleared with the minority?

Mrs. SPELLMAN. The gentleman has that assurance.

Mr. RHODES. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

A motion to reconsider was laid on the table.

PERMISSION FOR SPEAKER TO DECLARE RECESSES

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to declare recesses and to call the membership back at the conclusion thereof.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. EDWARDS of Oklahoma. Reserving the right to object, Mr. Speaker, I wonder if the majority leader could tell us if there is some sort of a time limit that the Speaker and the majority leader may have in mind beyond which we will not wait if it appears the conference committee will not finish its business this evening.

The SPEAKER. If the gentleman will yield, the Chair will state we have no time limit set. The Chair having spoken personally with members of the conference committee and staff members understands they expect to have a conference agreement by 6 o'clock, following which 2 hours of staff work will be needed before it can come to the floor of the House.

The Chair would hope that would be by 8 o'clock or 9 o'clock at the latest.

This will be the last item of business following which we will adjourn the House. The Chair wishes he could be more definite.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

FURTHER LEGISLATIVE PROGRAM

(Mr. STARK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STARK. Mr. Speaker, the Committee on the District of Columbia has just voted out a resolution of disapproval which should be coming to the Speaker's desk shortly from the committee. It is my understanding it is a privileged resolution and would have to be called up. If it was not called up today, the time for disapproval would expire.

It is quite likely that when we came back into session this gentleman would request that it be called up.

The SPEAKER. It is the understanding of the Chair that the chairman of the committee has been in conference with the Mayor and the City Council and they were trying to arrive at a compromise so that the matter would not have to come back. The Chair informed the chairman that he would recognize no one until such time as discussions were concluded.

Mr. STARK. Mr. Speaker, I believe, if the time sequence is right, that that has passed, that the City Council was able to do nothing. The committee just finished meeting before our last rollcall and did vote out the resolution of disapproval.

The SPEAKER. Apparently the measure is not controversial and would come up when there would be a full complement of Members on the floor.

Mr. STARK. I thank the Speaker.

THE RECORD OF THE 96TH CONGRESS: FIRST SESSION OVERVIEW

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, the report card for the 1st session of the 96th Congress would show high marks for the three R's: in this case the three R's representing restraint in budgetary and fiscal matters, restructuring of Government programs and processes, and responsiveness both to a broad range of domestic concerns and to rapidly changing developments in the international arena. These were the major themes of the 1979 legislative year as the House of Representatives moved to deal with the major problems of energy, economy, and efficiency in Government.

As the first branch of Government, composed of the people's elected representatives, Congress holds the Nation's purse strings. The 96th Congress acted consistently this session to tighten those strings and restrain the momentum of Federal spending. The second budget resolution, in which Congress sets binding figures for Government revenue and outlays in the coming fiscal year, contained the lowest deficit in real terms in 6 years, clearly an important step on the road to a balanced budget.

In line with this budgetary restraint, Congress placed less emphasis on initiating major new spending programs and more emphasis on improving the operation of programs already in place. The goal is to make Government more efficient, cost-effective, and responsive to original policy mandates. This Congress has decided the way to reach that goal is not to invest more money in programs that do not work, but rather to invest the time and energy into making sure programs do work. The results of this approach were seen throughout the year in action on important governmental reorganization plans in foreign affairs, trade and education, and in increased congressional oversight.

The 96th Congress by its record so far has shown it is not only responsible with the taxpayers' money, but responsive to their wishes. Legislators have combined a deliberateness in fiscal matters with a quickness to react in the face of emergencies or in response to strong public sentiment for change. Such timeliness has meant that millions of the poor and elderly will be protected this winter from the cold, that hundreds of thousands of Chrysler workers will retain their jobs, that the uprooted peoples of Indochina will begin to receive food and shelter.

ENERGY

The recent events in Iran have underscored, as no column of statistics or graphs could, how important it is for the United States to begin moving toward energy self-sufficiency in the coming years. Over the course of the last year the U.S. Congress has provided the Nation with a needed forum within which to explore, debate and pass judgment on a broad array of strategies for coping with the energy crisis: synthetic fuels, solar energy, fast-track procedures, conservation incentives, windfall profits tax.

Congress has already completed action on two measures that deal with the most immediate energy-related problems facing the country: low-income fuel assistance and gas rationing authority. Congress has provided $1.35 billion—added to $250 million already available—to help the poor and elderly pay their home heating bills this winter. Congress also acted this year to give the President the authority to develop a standby plan for gas rationing in the event of a severe supply shortage. Pursuant to the requirements of that bill, the administration this week outlined its proposals for such a plan and assigned voluntary gasoline reduction targets to each of the States. When implemented, these cutbacks are estimated to reduced 1980 gas consumption by as much as 5 percent compared with 1978.

The energy issue presents a unique challenge to Congress and the American people. It is an issue about which people feel a sense of urgency, but around which it is difficult to build a consensus. A concern in Congress has been to balance the desire for quick solutions with the need for reasoned approaches. If one is allowed to override the other, we will be left with only grand sounding programs that are impractical or dangerous or unsupported by the American people. Congress will continue throughout the second session to put in place the policies and programs needed to lead us to energy independence.

ECONOMY

The economy has been sending out mixed signals over the last few months: some economic indicators show signs of continued strength while others point to a weakening in the near future. Generally, economic activity has been stronger than the forecasts originally led us to expect, and this is particularly true in regard to employment. Under the policies of a Democratic President and a Democratic Congress working together, the country has witnessed a dramatic fall in the unemployment rate—from 8.3 percent on the day Jimmy Carter took office to the latest November figure of 5.8 percent. For over a year unemployment has remained low—in the 5.6- to 6-percent range. Last month the Bureau of Labor Statistics reported that more than 110 million persons age 16 and over were employed at some time during 1978—3.2 million more people at work than the year before.

The autumn of 1979 also saw record-high interest rates and dramatic action by the Federal Reserve Board to change monetary policy to curb inflation and strengthen the dollar. The full effects of the changes have not yet been felt. Consumer prices continue to rise about 1 percent a month—a yearly pace of 13 percent—largely resulting from ever-higher energy prices; people are saving less and buying more; industrial productivity is down. These developments have insured that the economy—and inflation—remain in the forefront of legislative dialog.

In the area where Congress can most directly apply pressure against inflation—the Federal budget—this Congress has followed the path of fiscal restraint. The restraint can be measured in a number of ways:

One measure is the size of the budget deficit. The figure contained in the second budget resolution of $29.8 billion is nearly $3 billion lower than the administration's adjusted budget, lower than the deficit approved for fiscal 1979, and less than one-half the size of the recession-high $66.5-billion figure during the last year of the Ford administration.

Another measure of restraint evidenced by this year's congressional budget is the rate of growth in total outlays. The second resolution set a $547.6 billion ceiling on spending—a real growth rate of only 1.7 percent over fiscal 1979. This compares with an average rate of 3.4 percent over the past 5 years. And what growth there is, is not due to increases for new spending programs, but primarily reflects increased demands for funds for income security, defense and energy.

A third measure of restraint is seen in the ratio of outlays to the gross national product. Under the fiscal 1980 budget, outlays are estimated to be about 21.9 percent of GNP. This is a decline from the average ratio of 22.4 percent of the last 4 years. Since each percentage point is currently worth about $25 billion, this decline is significant.

When the 1980 legislative session begins the House is expected to take under consideration proposals to limit Federal spending to specified percentages of GNP. The goal will be to find ways to bring spending under control and at the same time preserve the necessary flexibility to respond to changing economic conditions. Also in the second session, Congress will be looking at a variety of proposals involving changes in banking regulations and tax laws to encourage investment by businesses and saving by consumers as a way to ease pressure on prices and spur productivity.

Given the uncertain economic climate, Congress has been careful to avoid drastic shifts in policy that, in an attempt to meet yet undefined economic problems, actually work to hasten their arrival. Instead Democratic leaders and Members are working to make sure that they have in place the necessary programs to enable the Federal Government to move quickly to cushion most of the Nation from the full impact of a recession if and when it arrives. Specifically, the House has begun work on a major antirecession bill to provide targeted fiscal assistance and countercyclical aid to help State and local governments hit by the high joblessness and declining economic growth a recession brings. In addition the House has already approved a $2 billion standby local public works program to be triggered if unemployment reaches 6.5 percent nationwide.

This past week both the House and Senate have been at work in fashioning a fair and workable aid-to-Chrysler bill to assist the financially troubled corporation, with the help of Federal loan guarantees, in raising approximately $3.3 billion from public and private sources to avoid bankruptcy and enable it to retool to produce smaller cars. Bankruptcy of this company—the 10th largest in the Nation—would have devastating economic consequences both in the major auto industrial centers and throughout the Nation as Chrysler dealers and suppliers are affected. Unemployment could increase during 1980–81 by as much as 75,000–100,000. It is to avoid such a dangerous situation that could either trigger or worsen a recessionary period that Congress is taking action to help Chrysler.

GOVERNMENT

In the face of Government inefficiency or mismanagement, it is often easier to simply move onto a new project, rather than to correct the deficiencies in the existing one. This Congress has taken the more difficult path and applied itself, in consideration of authorizing and appropriating legislation, in committee hearings and in review of executive branch operations, to the task of making Government work—and making it work better than before.

THE BUDGET PROCESS

Approval last month of the second budget resolution for fiscal 1980 marked the fifth anniversary of the congressional budget process at work. This year, not only the numbers, but the process itself, came under scrutiny. In the spring Congress added new requirements that the Budget Committees report to both Houses on the best way to achieve a balanced budget in the next 2 years; and that the committees and the President must in the future submit balanced versions of the budget if their original proposals call for a budget not in balance. In this way Congress acted to insure that it has before it all the information necessary to systematically and accurately assess the likely benefits and drawbacks of a balanced budget in the years ahead.

The House this year also approved a new procedure for consideration of the debt ceiling by linking it to the congressional budget process. This will allow for a more orderly method of acting on the issue on an annual or semiannual basis, and in the context of the Nation's fiscal priorities. By removing the debt limit issue from the politicized and often demagogic atmosphere of the past, Congress can prevent those repeated delays in passing debt legislation that threatened this country's financial reputation and stability.

DEPARTMENT OF EDUCATION

The House and Senate gave final approval to the creation of a new Department of Education to consolidate management and centralize responsibility for over 150 Federal education-related programs now scattered throughout the Federal bureaucracy. A single Cabinet-level department is expected to bring about more efficient management and eliminate duplication of effort among the various agencies. The administration estimates that the resulting speeding up of decisionmaking alone could save $100 million a year or more. Judge Shirley Hufstedler was sworn in December 6 as the Nation's first Secretary of Education, and under the law, now has 6 months to gear up her Department for business.

WELFARE REFORM

The House this session passed legislation constituting one of the major reform initiatives of the past few years: A revamping of the national welfare program. As passed by the House the bill would: simplify and standardize formulas, establish a nationwide benefit level for the first time to make sure that the poorest in every State receive some help, change eligibility rules to require coverage for needy two-parent families, increase the Federal share of welfare costs, increase the earned income credit and tighten program administration. Each of these provisions arose in response to, and is meant to correct, a specific program deficiency, such as: regional disparities in benefit levels, disruption of family stability, disincentives to work, lack of program coordination and undue administrative complexity. The resultant bill was a carefully crafted approach to program reform—one that preserves the Congress commitment to aid the most needy in society by insuring that tax dollars are spent wisely.

REORGANIZATION

The Congress gave its approval to two important reorganization plans this session: One to lend direction and coherence to national efforts in the field of foreign aid, the other to improve the U.S. ability to sell its products abroad.

The foreign aid reorganization brings all such programs under one umbrella organization, the International Development Cooperation Agency, which is to be the focal point for setting and coordinating development assistance policy and take over most of the functions now performed by the Agency for International Development (AID) in the State Department.

Under the trade reorganization, overall policy responsibility for international trade will be vested in a strengthened Office of the Special Trade Representative. The Department of Commerce will take over the day-to-day implementation of trade matters, including enforcement of antidumping laws. These structural changes are meant to complement and implement the precedent-setting multilateral trade negotiations agreement approved this spring under which nations agreed to reduce trade restrictions and improve trade conditions. A continuing trade deficit, dependence on foreign oil and a weakening dollar are all developments that highlight the need for new government machinery to improve U.S. trade performance.

CONGRESSIONAL OVERSIGHT

The Congressional Research Service reported this month that during the first session of the 96th Congress formal oversight activity of congressional committees and subcommittees increased by approximately 25 percent over such activity in the 95th Congress and by more than 50 percent over the 94th Congress. In a number of actions in this first session Congress has shown its determination to retain sole authority and responsibility for making the Nation's laws. Through selective use of legislative veto and sunset provisions, the House has moved to insure the accountability of Federal programs and reduce unnecessary or burdensome regulations. Pursuant to a Democratic Caucus directive, the Rules Committee has had under consideration various proposals that call for periodic review of Federal programs according to specified timetables, with possible termination of funding for those that have outlived or overrun their mandates. Action on these and regulatory reform proposals are expected next session.

In a related move the House approved a bill to strengthen its investigative arm—the General Accounting Office—that conducts oversight of executive branch programs and expenditures. Under the bill, GAO would be empowered to take a Federal agency to court if it did not furnish requested information, to audit unvouchered expenditures of executive branch agencies and to subpena records of Federal contractors. Also, Congress would be given a role in appointing GAO's head.

These are all examples of a congressional desire to exert more control over the direction and cost of Federal programs. Such fine-tuning of the machinery of Government is not often glamorous work, but it is the only way to insure that Government remains rational and accessible to the citizens in whose name it operates.

THE CONGRESS RESPONDS

Congress has shown its responsiveness along two dimensions: First, in its ability to act quickly to forestall or alleviate potential crises at home and abroad; and second, in its ability to perceive and respond to public sentiment along the range of issues that affect the day-to-day lives of millions of Americans.

ITEM: FOREIGN AFFAIRS

In a series of dramatic actions in the realm of foreign affairs Congress acted to shape and respond to new patterns of relationships among the nations of the world, and to meet the needs of people caught up in political upheaval or natural disaster.

TAIWAN

In the spring Congress approved a bill laying a new basis for the future conduct of U.S. relations with that island in light of the establishment of formal diplomatic ties with mainland China. In this act Congress also clearly set forth U.S. policy intentions and security interests with respect to Taiwan.

PANAMA

Congress this session also gave final approval to the Panama Canal Act, thereby clearing the way for the treaties to go into effect in October and marking the first step in the gradual turnover of the operation of the canal to Panama by the year 2000. As finally crafted by the House, and agreed to by the President, the law provides for the operation of the canal on a self-sustaining basis with maximum protection of U.S. Government property and control of expenditures by Congress. With this implementing legislation the U.S. signals both a commitment to its word and the intention to be a forceful partner in the canal's operation over the next 20 years.

THE MIDDLE EAST

The fiscal 1980 military foreign aid bill, approved by Congress in October, provides Israel with $1 billion in military sales credits—with payment of one-half forgiven—and contains a $1.9 billion economic support fund, most of it earmarked for the Middle East peace effort. This was in addition to a law passed earlier providing almost $1.5 billion in fiscal 1979 supplemental funds—to support a program level of $4.8 billion—to implement the peace treaty between Egypt and Israel.

In this same bill Congress also provided for increased aid to both Greece and Turkey, the two countries involved in the ongoing dispute over the Republic of Cyprus. Greece will receive $200 million, Turkey $450 million, and $15 million is provided for Cypriot refugees.

REFUGEE RELIEF

Congress cleared November 9 and the President signed into law 4 days later a bill providing almost $100 million in emergency relief aid for starving Cambodians. The law also authorizes over $400 million in additional aid over the next 2 years for the overall U.S. program for Indochinese refugees, such as the "boat people," and extends through fiscal 1981 authority for all domestic aid programs for resettlement and absorption of refugees admitted to this country.

CARIBBEAN HURRICANE AID

A new law provides $25 million for special disaster relief and reconstruction efforts in the Caribbean after the devastation following the wake of Hurricane David in August of this year.

UGANDA

After the overthrow of Idi Amin as dictator of this African nation, Congress moved to repeal a trade embargo and ban on economic aid that had been in effect during his reign of terror. The President signed the bill.

ZIMBABWE-RHODESIA

During the summer Congress passed a measure containing a requirement that the President lift economic sanctions against this country by November 15, 1979, unless he determined it would not be in the national interest. President Carter decided not to remove sanctions at that time on the grounds that to do so might have jeopardized the Rhodesian peace negotiations then still going on in London. This past Sunday, after the arrival of a British Governor to preside over elections to lead the country to black majority rule, the Carter administration announced it was ending 12 years of U.S. trade sanctions against Rhodesia.

CENTRAL AMERICA

House and Senate committees have approved a bill providing $75 million in emergency economic assistance to Nicaraqua to help alleviate the suffering caused there by the recent civil war and to help that nation's recovery proceed within the framework of democratic and peaceful processes.

TRADE

Congress gave final approval during the summer to the largest single trade agreement in U.S. history—one that will expand markets for U.S. products abroad and thus help create American jobs, improve our balance of trade, bolster the dollar and ease inflation. The pact, signed in the spring by the United States and 22 other nations after years of intensive multilateral negotiations, would reduce tariffs by about one-third over 8 years and make substantial reforms in those restrictive nontariff barriers that hamper the free flow of goods among nations.

In keeping with our changing relationship with the People's Republic of China, the House Ways and Means Committee last week approved an administration request to extend most-favored-nation trading status to China. Such status would mean reduced tariffs on Chinese imports and expanded trade opportunities. If the action is approved the Commerce Department reports that trade between the two nations could reach $5 billion a year by 1985.

ITEM: LOW-INCOME FUEL ASSISTANCE

In matters closer to home, Congress acted swiftly as winter approached and heating oil prices rose, to make available an overall $1.6 billion in assistance to help the poor and elderly pay their home heating bills.

ITEM: CAMPAIGN FINANCES

Amid growing public concern over the amounts and sources of funds spent by candidates for office, and with the firm support and direction of the Democratic leadership, the House took an important step to limit the influence of special interest money in House elections. The growth of interest-group political action committees (PAC's) over the last few years has been both phenomenal and disquieting. Their numbers have almost quadrupled since 1972, and the share of campaign funds they provide in House elections has almost doubled. The bill passed by the House would reduce the maximum allowable contribution from any PAC to a House candidate from $10,000 to $6,000, and impose, for the first time, a ceiling of $70,000 on the amount any candidate may accept from all PAC sources.

Earlier the House approved a bill to make a number of significant changes in current campaign finance law that would simplify reporting and recordkeeping for candidates and party committees, encourage voluntary and grassroots involvement by State and local parties in Presidential campaigns, and increase the Federal subsidy for the national party conventions.

ITEM: PUBLIC SAFETY

In the first major review of the pipeline safety program since its inception a decade ago, Congress cleared and the President signed into law, a bill providing for explicit and strengthened Federal authority to devise and enforce standards for the safe transportation of highly explosive liquid natural gas and petroleum through the Nation's 1.7 million-mile pipeline system.

The House this week acted to help in the detection and control of hazardous asbestos material in schools. The House-passed bill provides $30 million in grants over 3 years for school districts to inspect schools for the possible presence of asbestos, and provides $300 million in loans to remove the materials once found. Asbestos was commonly used in schools built between 1946 and 1972 and medical evidence now suggests a relationship between exposure to asbestos fibers and serious disease such as cancer.

In a funding bill for the Nuclear Regulatory Commission, the House included provisions to lift the current ceilings on fines that can be assessed against reactor operators for safety violations, to require NRC to report on which of the Nation's 70 operating reactors are not complying with current safety standards, to require the NRC to assess and report on emergency evacuation plans for areas around reactors, to add over $50 million to the authorization to carry out lessons learned from Three Mile Island, and to strengthen safeguards and penalties for acts of sabotage at nuclear facilities.

In a reauthorization bill for the safe drinking water program, now signed into law, Congress earmarked $24 million for cleanup of hazardous waste spills in public drinking water supplies.

ITEM: RAILROADS

Congress acted to provide timely aid to continue current operations of two failing railroads that serve the shipping needs of the Midwest and West. The action was taken to insure that growers of those areas served could get their goods—primarily grain—shipped to market and prevent severe economic disruption of that area's economy and higher prices for the consumer. In the case of the Milwaukee Railroad a new law provides loan guarantees to continue service on the line until the shippers and employees can attempt to put together a feasible plan for taking over the operation. In the other case, that of the Rock Island Railroad, Congress provided in the transportation appropriations bill for other railroads to implement "directed service" on the lines of that railroad.

Congress also authorized $2.2 billion over 3 years for the continued operation of Amtrak, including subsidies for passenger service and a commitment to aid Amtrak purchase new equipment to modernize its trains. In an effort to preserve trains with high ridership during an energy crisis, Congress voted to restore about half the route cuts proposed by the administration. The bill also required Amtrak to offer low-fare programs for the elderly and handicapped.

ITEM: SOCIAL SERVICE NEEDS

In a major redirection of the child welfare assistance program, the House voted to provide Federal adoption assistance for the first time to encourage States to find permanent homes for children of low-income parents who, for various reasons, cannot live at home—and not let them get caught up in the revolving door of temporary foster care homes. The adoption aid provision was part of a larger child welfare bill that also raised the ceiling for the State social services grant program and increased aid for abused, neglected and homeless children.

In recognition of the growing national problem of domestic violence, the House passed a bill authorizing a total $65 million in Federal support over the next 3 years to help States prevent domestic violence and treat its victims. The type of projects eligible for funding would make available to victims such services as child care, medical attention, emergency shelter, counseling, job training, and legal aid.

Earlier in the year Congress approved an additional $620 million for the food stamp program to avoid benefit cuts for recipients during the last fiscal year. That law also allowed the elderly, blind and disabled to deduct medical and shelter expenses in computing their eligibility for food stamps.

ITEM: CONSUMER INTERESTS

In other actions reflective of Congress moving to address important needs, the House last week passed a bill to offer seed grants to encourage State and local governments to experiment in developing new forums for the resolution of minor disputes that are not worth taking to court, such as those between neighbors, or a landlord and tenants, or consumer complaints.

In the area of consumer banking the House and Senate agreed to allow banks, savings and loans, and credit unions to temporarily continue offering certain services that, in effect, offer interest on checking-type accounts. An omnibus banking bill, now in conference, would make the authorization for such services permanent, and would extend authority nationwide for NOW accounts. Conferees also have under consideration Senate proposals regarding the phaseout of interest rate ceilings on savings accounts and the lowering of the minimum denomination of money market certificates.

A LOOK AHEAD

Restraint, restructuring and responsiveness will continue to mark the approach of this Congress toward its legislative work in the second session. For some of the measures due to come up next year the groundwork has already been laid this session in committee, including a lobby reform bill, reported out by the Judiciary Committee last week, that sets out more stringent reporting and financial disclosure requirements for lobbyists; and a criminal code revision measure, the subject of Judiciary Committee hearings throughout the session.

The Senate has begun work on court reform legislation designed to ease the backlog of court cases and speed the administration of justice. Revision of the charters for the intelligence agencies has received committee attention in the first session and will likely be under consideration in the second.

Other revision plans scheduled to receive congressional attention include deregulation of the communications and trucking and railroad industries; reform of the drug laws to allow promising new drugs to be marketed earlier and dangerous drugs recalled promptly; and changes in the Food Safety Act to allow Federal regulators to consider both the risks and benefits of certain additives.

Congress might also take under consideration proposals for the stricter enforcement of antitrust laws such as restrictions on corporate mergers, and permission for retail purchasers to bring class action suits against manufacturers for price fixing.

The House this session passed the largest single conservation bill in history setting aside over 120 million acres in Alaska as parks, preserves, forests, and wilderness areas. If the Senate completes action on the measure, conferees next session will attempt to reconcile differences and forge legislation, that adequately preserves some of this Nation's most spectacular and precious resources, without endangering Alaska's economic health.

And, of course, continuing to fashion a comprehensive energy package and monitoring the economy's performance in the new year will continue to be dominant concerns of the 96th Congress.

CHARLES DELAURENTI, RETIRING MAYOR, RENTON, WASH.

(Mr. LOWRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOWRY. Mr. Speaker, I rise today to commend Charles Delaurenti, an outstanding public servant from the Seventh District of Washington State. This commendation for Mr. Delaurenti, retiring mayor of the city of Renton, is made also on behalf of speaker of the house, Washington State, John Bagnariol, State Senator Bud Shinpoch and State Representative Avery Garrett.

Charles J. Delaurenti began his 38 years of public service to the city of Renton when he was elected to the city council in 1942. He was reelected to the council for each succeeding term until 1975, when he ran for, and was elected to, the office of mayor. During this lengthy term of service to his community, Charles Delaurenti has always been an effective and dedicated public servant and a warm and gracious host for the city of Renton. His genuine love for his fellowmen will be long cherished by all who have worked with him. Upon his retirement, we wish him happiness and hope that Charlie's" example of unselfish service to our community will be followed by others in the future.

ESTABLISHMENT OF CHILD CARE CENTER ON CAPITOL HILL

(Mr. THOMPSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMPSON. Mr. Speaker, I am today introducing a resolution which would provide for the establishment of a child care center here on Capitol Hill to serve children of congressional employees and Members of Congress. Thirty-eight of my colleagues, including 13 from the Republican side of the aisle, have joined me in sponsoring this resolution. In the Senate, a similar resolution is being introduced by the Senator from South Dakota, the Honorable GEORGE MCGOVERN.

There are several reasons to move promptly on the establishment of a Congressional Child Care Center under congressional sponsorship. The most obvious and pressing is the fact that it is a service sorely needed by a substantial number of employees. A survey conducted last year determined that nearly 300 Hill parents, with 371 children under the age of 6, were potentially interested in enrolling their children in such a facility. Since then many new parents have joined their ranks.

Furthermore, Mr. Speaker, it is important for the Congress, as an employer of over 10,000 workers, to set an example for other public and private employers. We should respond to the burdens of the working parent, as inflation and other factors force more and more persons into the category. The working parent is fast becoming the predominate pattern either because of economic necessity, career commitment or both. For a great many one- and two-parent families, a full-time homemaker is no longer an option. Therefore, as a matter of public policy, employers should be encouraged to be sensitive and responsive to this growing social need.

Our children are national resources for the future. I believe the House can provide quality care to children, while setting an important example for public and private sector employers, because without initial financial support, it is almost impossible for a group of employees to do it on their own.

Assisting working parents in arranging for the care of their children is a legitimate concern of all employers. By establishing a Congressional Child Care Center, the legislative branch would be setting not only an important example for other employers, but would be making a major improvement in the ability of its own employees to fully respond to the needs of the Congress, their families and children.

There is considerable historical precedent for Federal involvement in the establishment and maintenance of child care centers. The roots go back to the Works Progress Administration of 1933 where day care was authorized to help families during the economic crisis. During wartime, as women were drawn into the labor force in record numbers, the Government—under the Lanham Act of 1942—appropriated $51 million to establish 3,100 centers to support the needs of working mothers. This wartime effort was renewed during the Korean conflict.

Recent new directions in civil rights and equal employment practices provide the strongest case for Federal involvement in child care for its own employees. The authority is derived from the Equal Employment Opportunity Act of 1972 and Executive Order 11478. The Civil Service Commisison was charged with implementing these mandates as they relate to Federal employment.

The clearest indicator of both the need for, and the appropriateness of child care centers is the fact that Federal employers have already established nine centers in the Washington area. While there is general agreement that ongoing operating costs to sustain a center should be the responsibility of the parents of the children served, Federal cooperation has included provisions for space, renovations, and in some cases support for initial staff and other start-up expenses. Thus, there appears to be substantial need for establishing and maintaining day care services under the auspices of the Federal Government. This authority is based not only on historical precedent and the EEO, but more specifically on recent authorizations given to both HUD and HEW.

A number of support services currently are available to Members and employees. Such services are generally available in any large institution or corporation. Without leaving the Hill, one can find cafeterias, carry-outs, vending machines, credit unions, and so forth. Most of these facilities are available, not out of a sense of altruism, but because the availability of such services helps employees to perform better and to spend more time on the job. This argument is even stronger in the case of child care.

Having a child care center located near the Hill offices would allow immediate access to one's children in the event of sickness or emergency. And with on-site care, there is an opportunity for parents to eat lunch with their children, and to share more time. This "breaks up" the time the child is away from the parent. The added time with one's child would of course be available to working fathers, thus strengthening the opportunities for fathering in our society. And all parents would share additional time with their children in traveling together between home and the workplace. Travel time is a good time for conversation and closeness between parent and child. And a Hill-based center would offer extended hours to cover the inevitable occasions when the work day runs past 5:30 p.m.

Finally, parents would be freed from the anxieties, tardiness and absenteeism associated with unreliable babysitting arrangements, or nonparticipatory or commercial child care. They would save energy by abandoning the exhausting, twice-daily and frequently long-distance triangular commuting patterns between home, child care and work. In short, quality child care services located near the Hill would permit working parents peace of mind regarding their children's welfare, and allow them to focus their attention and energies on their office work.

The resolution would establish the Child Care Center under a revolving fund arrangement similar to the restaurant system, and "all operating expenses of the Center would be recovered through fees charged for child care services." Thus, the operation would be self-supporting.

An Advisory Board would be appointed, composed of Members of Congress, parents of children enrolled in the Center, and other individuals with expertise in child care or interest in the Center. The Board would make recommendations regarding the operation of the Center, including such matters as its management, curriculum and program of activities, personnel selection and management, fee structure, finance and budget, admissions policy, nutrition and health services and facilities and equipment. It is vital that parents have more direct input into the care of their children, and this Board insures them the means for expressing their views to the committee. As an additional safeguard, this Advisory Board would be required to conduct semiannual reviews of the operations of the Center, and to submit written reports which would be available for public inspection.

Although the operation of the Center, once it is established, is intended to be self-supporting, the revolving fund would finance the startup costs associated with the launching of such a service—renovation of a suitable facility, acquisition of equipment and material, and salaries for staff prior to the opening of the center.

We recommend the establishment of a revolving fund as a means of starting and operating the Center, because it involves less of a commitment of Federal funds than the approaches used by the other Federal agencies. More importantly, it can serve as a model which could be readily adapted by private employers. After expenditure for the initial startup costs, the fund would be repaid through fees collected from those using the Center.

Thus, the establishment of a child care center for congressional employees is a goal which is both economically and administratively feasible.

Finding a location for a child care facility is always an obstacle in establishing a new center. A hard-working group of Hill employees from the House and Senate have been meeting regularly in an attempt to deal with this and the other problems. They have identified a number of possible locations for the Center. The most promising is a facility recently vacated by another day care center, which is immediately available, and already suitable for child care. However, the space is sufficient to serve only 35 or so children, so it would suffice only as a temporary location, or as a supplemental facility. Using it would permit the Center to get started while continuing the search for more suitable space.

The planning committee has already progressed through a considerable mountain of paperwork, budgeting, planning, and preparation for a center. I plan to ask the Members of the House Administration Committee to consider this resolution early in the second session. I am optimistic that, with the prompt passage of this resolution and the continuing involvement of this group of parents and employees, we can have a center functioning by mid 1980.

Following is a list of the cosponsors and the complete text of the resolution:

H. RES. —

Resolution establishing the Congressional Child Care Center

Resolved, That (a) there is established in the House of Representatives and under the direction of the Committee on House Administration a Congressional Child Care Center (hereinafter in this resolution referred to as the "Center") to provide child care services for children of Senators, Representatives, and congressional employees.

(b) All operating expenses of the Center shall be recovered through fees charged for child care services provided by the Center.

SEC. 2. (a) The Chairman of the Committee on House Administration shall appoint a nonpartisan Advisory Board to carry out the functions described in subsections (c) and (d).

(b) The Advisory Board shall be composed of a minimum of 11 individuals (including a Chairman, so designated at the time of appointment) who—

(1) shall be chosen from among Senators, Repesentatives, parents of children enrolled in the Center, and other individuals with expertise in child care or interest in the Center; and

(2) shall serve during the Congress in which they are appointed, except that members may continue to serve after the expiration of their term until a successor is appointed.

(c) The Advisory Board shall make recommendations to the Committee on House Administration with respect to matters relating to the Center, including—

(1) management and operation;
(2) curriculum and program of activities;
(3) personnel selection and management;
(4) fee structure, finance, and budget;
(5) admissions policy;
(6) nutrition and health; and
(7) facilities and equipment.

(d) The Advisory Board shall conduct semi-annual reviews of the operations of the Center and shall submit a written report of each such review to the Chairman of the Committee on House Administration, who shall make such report available for inspection by the public.

SEC. 3. There is established in the Treasury a revolving fund within the contingent fund of the House of Representatives to be known as the Congressional Child Care Center Revolving Fund. Any amount received under subsection (b) of the first section in payment for child care services shall be transmitted to the Clerk of the House of Representatives for deposit in the revolving fund and shall be available for disbursement by the Clerk to offset operating expenses of the Center.

SEC. 4. The Committee on House Administration is authorized to acquire such facilities as may be necessary for the operation of the Center.

SEC. 5. Until otherwise provided by law, the contingent fund of the House of Representatives shall be available to carry out this resolution.

SEC. 6. As used in this resolution, the term "Representative" means a Representative in, and a Delegate or Resident Commissioner to, the Congress.

COSPONSORS OF RESOLUTION TO ESTABLISH CONGRESSIONAL CHILD CARE CENTER

Mr. Brooks, Texas; Mr. Buchanan, Alabama; Mr. J. Burton, California; Mr. Carr, Michigan; Mr. Conable, New York; Mr. Conyers, Michigan; Mr. Coughlin, Pennsylvania; Mr. de la Garza, Texas; Mr. Dixon, California; and Mr. Edwards, of Oklahoma.

Mr. Fazio, California; Mr. Fisher, Virginia; Mr. Ford, Michigan; Mr. Green, New York; Mr. Hawkins, California; Mrs. Heckler, Massachusetts; Ms. Holtzman, New York, Mr. Jeffords, Vermont; Mr. Jones, Tennessee; and Mr. Lewis, California.

Mr. Long, Louisiana; Mr. Lott, Mississippi; Mr. Markey, Massachusetts; Mr. Michel, Illinois; Ms. Mikulski, Maryland; Mr. Murphy, New York; Ms. Oakar, Ohio; and Mr. Pursell, Michigan.

Mr. Quayle, Indiana; Mr. Ratchford, Connecticut; Mr. Rose, North Carolina; Mr. Roybal, California; Mrs. Schroeder, Colorado; Mrs. Spellman, Maryland; Mr. Stark, California; Mr. Swift, Washington; Mr. Vander Jagt, Michigan; and Mr. Wirth, Colorado.

THE ANTIFAMILY MOVEMENT'S "7 PERCENT" DISTORTION

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Speaker, almost every editorial or propaganda piece by a militant feminist or other antifamily activist declares that "the traditional family now includes only 7 percent of total families." From this, it is concluded that the family is dying, and "new alternatives"—antifamily alternatives—to the traditional family are needed.

The 7 percent these people are referring to are described in Janet L. Norwood's July 1977 article, "New Approaches to Statistics on the Family" in the Monthly Labor Review. Needless to say, it is distorted out of any relation to what she is discussing.

Miss Norwood said:

> For illustrative purposes. (T)his typical family frequently is defined as consisting of a husband who works, a wife who is not in the labor force, and two children.

By torturing this definition, by saying that the "traditional family," one which has two children, a mother who is not working and a father who works, the antifamily movement has concluded that the family is dying out, since only 7 percent of them in America have exactly those characteristics.

It is true that only 7 percent of American families consist of exactly two children, a working father and a non-working mother. I doubt seriously whether, in all of our history as a nation, much more than 7 percent of our families had exactly those characteristics. According to this warped view, the family was dying out in the 19th century, when families had an average of four or five or even more children, because they had to have exactly two to be "traditional."

Married couples who want, but cannot

have, children still constitute a family. Widows and widowers with children constitute a traditional family life in the aftermath of the Civil War, but no one concluded that, for that reason, the institution of the family was dying out. But, using the antifamily argument, widows or widowers or childless couples or parents with one or three children are not "traditional" families. This is rank absurdity, but is an absurdity which reveals how desperate these groups are to find anything to justify their claim that the family is doomed.

According to the actual facts of the matter, as presented by Norwood so totally distorted for propaganda, the family is in very healthy shape. Of 56,245,000 total families in this country, 47,308,000 consist of husband and wife. This means that about 85 percent of our families fall into the only really traditional framework: a married couple, living together. The rest of the statistics do not tell us how many of the "Other families," those "headed by men" or "headed by women," consist of a widow or widower and his or her children—which is also a very traditional family, and what part of that 15 percent where husband and wife are not living together represent divorces, desertions, or all the other problems which the antifamily groups imply dominate our society.

But the point here is not to cite statistics, but to expose a contemptible distortion of the facts. To say that 7 percent of the population lives in a traditional family environment represents the most conscienceless kind of distortion, and completely discredits those who would stoop to such distortions.

INVESTIGATION OF COMBINED FEDERAL CAMPAIGN

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Mrs. SCHROEDER. Mr. Speaker, as many Members know, my Subcommittee on Civil Service has been conducting a thorough investigation of the Combined Federal Campaign. We held 4 lengthy days of hearings, heard from 80 witnesses, received comments from over a thousand more, and negotiated with the interested parties. As a result of this effort, we are today sending a letter to the Office of Personnel Management recommending certain changes in the way CFC is run. I ask that a copy of the letter be included in the Record in full.

Our recommendations center around six propositions: First, we suggest that rank and file Federal employees should be intimately involved in running the campaign and that the Office of Personnel Management should reduce its involvement especially since after civil service reform they have much more authority over promotions. Second, we propose that more information be available to Federal employees who are asked to contribute. Third, we urge strong new protections against coercion in fundraising in the Federal workplace. Fourth, we recommend that many legitimate charities which have been excluded up to now be allowed to participate in CFC. Fifth, we identify the need for a change in the distribution of undesignated funds to allow would-be contributors to know what is going to happen to their donations. Sixth, we ask for better safeguards on the fiscal integrity of the program.

Openness, employee involvement and information, and volunteerism: these are the guiding lights of our proposals. They do not sound controversial; yet, the subcommittee has been subject to the most intensive lobbying campaign imagineable on this issue. The United Way of America, in particular, has unleashed a furious assault. I feel this is unfair because the recommendations were carefully crafted to protect the central role of United Ways in local CFCs. The cooler heads within United Way, with whom we compromised to meet their objections, were, evidently, overruled by paranoid zealots who rejected any change whatsoever in the Combined Federal Campaign.

It would have been easier to leave well enough alone and not recommend any changes. That course would have been irresponsible in light of what came out during our hearings. There are very serious problems in the Federal fundraising campaign and they must be corrected if the campaign is not to lose its base of support.

The letters follow:

U.S. House of Representatives,
Washington, D.C., December 20, 1979.

Dr. Alan K. Campbell,
Director, Office of Personnel Management,
Washington, D.C.

Dear Director Campbell: The Subcommittee on Civil Service of the Committee on Post Office and Civil Service of the House of Representatives held four days of hearings on the Combined Federal Campaign (CFC) during October, 1979. While the hearings convinced the Subcommittee that CFC is a highly efficient fund-raising operation which provides needed support to many legitimate charities on the local, national and international levels, the hearings also alerted the Subcommittee to serious problems existant in CFC. The major problems include the exclusion of many deserving charities, including some serving minority communities from the campaign; the use of an arcane and potentially misleading formula to distribute undesignated contributions; and the fact that coercion is neither isolated nor aberrant in CFC. The Subcommittee found that many charities and Federal workers are losing confidence in the Combined Federal Campaign.

The Subcommittee strongly endorses efforts by the Federal government, as an employer, to facilitate voluntary, charitable giving by civil servants. We are concerned that the deficiencies we found in CFC could weaken and jeopardize the program in the years ahead. For this reason, we request that you amend the Manual on Fund-Raising Within the Federal Service to achieve the general principles set forth below. Please report to the Subcommittee, by March 15, 1980, on what actions you have taken in response to this request.

Principle No. 1: There is no intrinsic reason that the central personnel management agency of government should co-ordinate the employee fund-raising effort. Because the Office of Personnel Management (OPM) has many more pressing duties, we recommend that OPM operate CFC in a manner designed to reduce its commitment of resources. OPM's responsibilities should be transferred, as far as practicable, to one national CFC committee and numerous local committees, made up exclusively of Federal employees. These committees should be broadly reflective of the workforce. Rank and file employees should be selected to these committees through procedures which provide for participation by all interested employees. These committees should make all the basic decisions about CFC operations, including some, which have a significant impact on civil servants, which are now made by the participating charities, such as determining the content of the brochure.

Principle No. 2: The Subcommittee believes that the more Federal employees know about the participating charities, the more likely they are to contribute. Participating agencies should, therefore, be permitted and encouraged to provide information to potential donors about themselves. Further, the brochure should be expanded to provide more information about each charity and grouping, including information about their program and finances.

Principle No. 3: The Subcommittee is most seriously concerned about the level of pressure placed on Federal employees during the campaign. We ask OPM to promulgate a clear definition of prohibited fund-raising conduct, based on the current decree filed in *Riddles* v. *Army* on March 19, 1979. This definition would constitute a regulation implementing merit system principles and would include: a prohibition on supervisors soliciting from their employees; full disclosure of the options for confidential giving or non-participation in CFC; provision for confidential giving directly to the payroll office; safeguards to assure that supervisors never see contributor lists; a ban on setting participation or dollar goals below the installation level; a ban on 100% participation goals; and publication of the names of officials to whom complaints of coercion should be directed. Although top management officials should be able to endorse the campaign, they should be prohibited from doing so in a coercive way. The Subcommittee has written the Special Counsel of the Merit Systems Protection Board and the Director, Office of Management and Budget, asking for assistance in stopping coercion. (Copies attached.) OPM should conduct research into other methods of coercion prevention, including mandatory confidential giving, to assess their impact on employee morale, perceptions of coercion, and participation. Finally, the practice of extending the length of campaigns or of holding supplementary campaigns is inherently coercive. The length of each campaign should, therefore, be strictly limited and only one campaign should be permitted in a year.

Principle No. 4: The Subcommittee found that numerous legitimate charities have been excluded from participation either by narrow regulations or by restrictive interpretations of them. OPM should modify the regulations on national entry to permit participation by groups which: address the needs of any deprived segment of society; focus on the problems of minority communities and, thus, do not have chapters in all parts of the country; have higher than usual overhead costs which could be reduced to a reasonable level after a few years in CFC. Moreover, the primary route of entry should be shifted to the local level. Local CFC committees should be empowered to admit local groups which demonstrate a moderate level of Federal employee support, probably through a petition procedure, and which meet certain minimum standards set by OPM. These minimum standards should require financial integrity, mandate broad disclosure, and ban illegal discrimination. To husband the time of local committee members, the minimum standards should be able to be applied without extensive investigation.

Principle No. 5: The problem of distributing undesignated contributions is one of balancing competing interests in meeting community, national, and international needs, disclosing adequate information to donors, and responding to the will of contributors. The current formula has two deficiencies: First, it may mislead donors into thinking that, for each dollar they designate to a specific charity, that charity's total receipts will increase by a like amount. Second, it poses a dilemma for those who find one charity morally reprehensive, since even if they designate to another group, they will be forcing more undesignated funds to the offensive charity. One solution is to treat undesignated funds separately from designated funds, so that the amount of designations will in no way alter the percentage of undesignated money each group receives. Employees should know, at the time they contribute, the exact percentage of undesignated dollars that will go to each group, so they can make an informed judgment as to whether to designate. Whatever new formula is devised should permit all eligible groups, including those newly admitted, to share in the undesignated funds. The formula should also provide participating charities with sufficient information to plan their activities.

Principle No. 6: Questions have been raised about the adequacy of fiscal controls on the route that contributed money travels from the donor's pocket to the recipient charity. The Subcommittee has asked the General Accounting Office to determine if greater safeguards are needed. Pending that, the Subcommittee believes that only independent, disinterested parties should serve as fiduciaries for local CFCs.

The Subcommittee supports strengthening the Combined Federal Campaign. Strengthening the campaign does not necessarily mean collecting more money. Rather, a strong campaign is one in which civil servants contribute because they want to help the less fortunate. A strong campaign is one that can raise funds without coercion, one that is open to all legitimate charities, and one that distributes its receipts in an open and comprehensive mannner. A strong campaign is one that serves the interests of Federal employees, their communities, their nation, and their world.

Sincerely,

Patricia Schroeder,
Chairwoman.
Jim Leach,
Morris K. Udall,
William Clay,
James A. Courter,
Members of Congress.

U.S. House of Representatives,
Washington, D.C., December 20, 1979.
Mr. H. Patrick Swygert,
Office of the Special Counsel, Merit Systems Protection Board, Washington, D.C.

Dear Mr. Swygert: The Subcommittee on Civil Service of the Committee on Post Office and Civil Service of the House of Representatives has recently completed an investigation of the Combined Federal Campaign (CFC). The Subcommittee received, during the course of the investigation, dozens of complaints from Federal employees alleging that they are subject to undue pressure during the campaign. Somewhat surprisingly, the Office of Personnel Management, which coordinates the campaign, claims to receive virtually no complaints about the way the campaign is operated.

One problem is that no clear definition of what is unduly coercive has been published. While there are certain activities which are universally repudiated, there are others—such as establishing participation and dollar goals—which subject civil servants to severe pressure but are widely condoned in the world of fund-raising. By means of a letter of December 20, 1979 (copy attached), to the Director of the Office of Personnel Management, the Subcommittee has requested that OPM promulgate a definition of coercion, following the guidelines established in the consent decree in *Riddles* v. *Army*. We expect this definition to be published by March 15, 1980.

Another problem is that there has been no mechanism to solicit, investigate, and take corrective action from complaints of coercion. The Subcommittee believes that undue pressure exerted on Federal employees for the purposes of fund-raising is a prohibited personnel practice within the definition of 5 U.S.C. 2302. We, therefore, request that you establish procedures to handle complaints emanating from the Combined Federal Campaign. Please inform the Subcommittee of what actions you take in response to this request.

Thank you for your assistance in this matter.

Sincerely,

Patricia Schroeder,
Chairwoman.

U.S. House of Representatives,
Washington, D.C., December 20, 1979.
Mr. James T. McIntyre, Jr.,
Director, Office of Management and Budget, Washington, D.C.

Dear Director McIntyre: The Subcommittee on Civil Service of the Committee on Post Office and Civil Service of the House of Representatives has just completed an investigation of the Combined Federal Campaign (CFC). The Subcommittee received, during the course of this investigation, dozens of complaints from Federal employees that they are subject to undue pressure during the course of the campaign.

One problem is that no clear definition of what is unduly coercive has yet been promulgated. In a letter of December 20, 1979 (copy attached) to the Director of the Office of Personnel Management, the Subcommittee has requested that such a definition be formulated and published by March 15, 1980.

Another problem is that there is no mechanism to protect against coercion. The Office of Personnel Management investigates actual charges of coercion, but receives very few since employees do not regard OPM as sympathetic to their interest. Furthermore, merely responding to complaints does not identify systemic problems.

For this reason, the Subcommittee requests that you request each Inspector General or similar agency official to inspect Combined Federal Campaigns within their agencies for undue or unfair pressure. In making this inspection, the Inspectors General should be guided by the forthcoming OPM definition of coercion, which should closely parallel the consent decree in the case of *Riddles* v. *Army*. The Subcommittee requests that an annual summary of the reports of these inspections be submitted to the Office of Personnel Management and this Subcommittee for review.

Thank you for your assistance in this matter.

Sincerely,

Patricia Schroeder,
Chairwoman.

U.S. House of Representatives,
Washington, D.C., December 20, 1979.
Hon. Elmer B. Staats,
Comptroller General of the United States, General Accounting Office, Washington, D.C.

Dear Mr. Comptroller General: The Subcommittee on Civil Service of the Committee on Post Office and Civil Service of the House of Representatives has recently completed an investigation into the Combined Federal Campaign (CFC). Four days of hearings during October of 1979 served as the centerpiece of this investigation. The record of this hearing should be available within a week.

One annoying charge that surfaced during these hearings related to the fiscal integrity of the Combined Federal Campaign. The pledging and payroll deduction system, coupled with the distribution formula, results in a two-track accounting system, whereby the payroll office deducts contributions and sends them to a central receipt office which distributes the money to the participating charities. Obviously, this central receipt office serves a key fiduciary role. Nevertheless, the Subcommittee learned that one of the interested charities often serves as the fiscal agent. This dual role presents the appearance of a conflict of interest. For this reason, the Subcommittee has asked the Office of Personnel Management to require that independent, disinterested fiscal agents be used exclusively. (Please see attached letter of December 20, 1979 to OPM.)

On behalf of the Subcommittee, I request that the General Accounting Office study the fiscal controls on the Combined Federal Campaign to see if greater safeguards are needed. The Subcommittee has asked the Office of Personnel Management to implement your recommendations in this area. I think you will agree with me that it is vitally important that Federal workers have confidence that their contributions to the Combined Federal Campaign are protected.

Thank you for your assistance in this matter.

Sincerely,

Patricia Schroeder,
Chairwoman.

PHASEOUT OF REGULATION Q

(Mr. BARNARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARNARD. Mr. Speaker, today I am introducing the Thrift Equality and Deregulation Act of 1980. The main purpose of this legislation is to phase out regulation Q, which governs interest ceilings on bank deposits, and to grant thrifts expanded powers to meet the changes in their markets caused by changing economic conditions and the elimination of a one-quarter of 1 percent differential in the interest they can offer for deposits accounts.

This bill is necessary for a variety of reasons, but the most important is the widespread shifting of funds from deposits covered by regulation Q, and limited sharply in the amount of interest that they can offer, to accounts and savings instruments that approach the market rate of interest. This disintermediation is resulting in high increases in costs to financial institutions, and a real loss to the small saver, who cannot afford savings instruments that offer close to market rate of interest because of high minimum deposit requirements.

In addition, my bill grants savings and loans, mutual savings banks, and credit unions some additional powers, including NOW accounts, to enable them to meet a changing marketplace. For several years now, it has been the aim of financial institution legislation to eliminate the artificial advantages—and disadvantages—that have appeared in the past because of peculiarities in the market that no longer exist or are no longer needed. My bill will allow the thrift institutions adequate leeway to determine what their market will be in the coming decades, and to adjust their operating policies to meet their goals.

In the past several months, there has been much discussion about the "ratcheting up" plan to eliminate regulation Q. This approach would gradually raise the interest ceilings by one-half of 1 percent a year for 10 years, with the idea that before the end of the decade, the interest ceiling will be above market interest, and irrelevant. However, there are two major problems with this approach. The first is that the most widely mentioned version would place a 2-year freeze on the interest ceiling, subject to action by Federal regulators, and thus will not help the small saver during that time. In addition, during a time when the earnings of financial institutions are already being squeezed by a threatening economy, it would raise their costs primarily for the shortest term deposits, which are the most expensive to maintain.

My approach combines this method, which is fair in that it is gradual and predictable, and adds to it the phased elimination of all interest ceilings on deposits starting with those with the longest initial maturities. Using this approach, the small saver will get some relief in his savings account, but also will have the incentive to shift some funds to longer term deposits, which will offer him a higher return sooner.

This approach will aid him, and also reduce the cost of the elimination of the interest ceiling for financial institutions, as these accounts are less expensive to maintain. An added advantage of this approach is that it reduces the long-time problem of thrifts, which have had to back very long-term investments with volatile, short-term deposits.

However, it is not sufficient to simply eliminate the regulation Q ceilings and leave it at that. For the last 13 years, one of the ways funds have been attracted into the housing market has been the one-quarter of 1 percent advantage that thrift institutions have had in the interest that they could offer for deposits. Eliminating interest ceilings, and allowing the market rate of interest to be offered in all cases, necessarily eliminates this differential.

It will be replaced in my bill by expanding the powers of thrift institutions, which will now have to compete directly with commercial banks for funds. These powers, which include the ability to make up to a certain proportion of consumer loans, the ability to invest in commercial paper and open-ended investment funds, and the ability to engage in trust activities, will give them the added flexibility that savings and loans will need in the future to adjust to changes in their markets.

Mutual savings banks will also get some added powers, as they will be able to make a certain proportion of their loans and investments without the present restrictions, and will be able to accept desposits from any source.

Credit unions will have the usury ceiling on their loans, which in current economic conditions is making it unprofitable to make loans, replaced with a more flexible cap that ties it to the rate for 5-year obligations of the Treasury. In addition, they will have more flexibility in dealing with their central liquidity facility.

Finally, all financial institutions will be able to offer NOW accounts, which pay interest on certain demand deposits; a step that has been endorsed by votes in both Houses of Congress.

Some of these grants of powers, and specifically the elimination of interest ceilings are not without certain safeguards, which will allow the regulators to reimpose or control certain elements in the event that economic conditions or the viability of depository institutions demands it.

Mr. Speaker, this bill is not the last word in this effort, but is offered with the hope that the ideas it contains will be debated and considered in the context of a complete examination of all options. I believe it is a sound, workable approach to this problem, and look forward to discussing it with my colleagues.

H.R.—

A bill to amend the Federal Reserve Act to eliminate the ceiling rates on deposits maintained at federally insured depository institutions, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Thrift Equality and Deregulation Act of 1980."

TITLE I—ELIMINATION OF INTEREST CEILINGS

Sec. 101. As used in this Act the term—

(a) "depository institution" means—

(1) any insured bank as defined in section 3 of the Federal Deposit Insurance Act;

(2) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act;

(3) any savings bank as defined in section 3 of the Federal Deposit Insurance Act;

(4) Any member bank as defined in section 1 of the Federal Reserve Act;

(5) any insured institution as defined in Section 408 of the National Housing Act; and

(6) any insured credit union as defined in Section 101(7) of the Federal Credit Union Act.

(b) "negotiable order of withdrawal account" means an account on which payment of interest or dividends is made on a deposit and the depositor is allowed to make withdrawal by negotiable or transferable instrument for the purpose of making payments to third parties as authorized by Section 2 of Public Law 93–100, as amended.

(c) "share draft account" means an account on which payment of interest may be made on a deposit maintained with an insured credit union as defined in Section 101(7) of the Federal Credit Union Act with respect to which the credit union may require the depositor to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, and the depositor is allowed to make withdrawals by negotiable or transferable instrument for the purpose of making payments to third parties. Such account shall consist solely of funds in which the entire beneficial interest is held by one or more individuals, or by an organization operated primarily for religious, philanthropic, charitable, educational, or other similar purpose and not for profit.

(d) "individual retirement account" shall have the same meaning as such terms are defined in Section 408(a) of the Internal Revenue Code of 1954, as amended.

(e) "qualified retirement plan" means any trust forming part of a stock bonus, pension or profit-sharing plan of an employer for the exclusive benefit of employees or their beneficiaries created in accordance with Section 401 of the Internal Revenue Code of 1954, as amended.

Sec. 102. The limitations on the maximum rates of interest or dividends for each category of deposits (including time and savings deposits, deposits made by qualified retirement plans and individual retirement accounts) share draft accounts or negotiable order of withdrawal accounts maintained in a depository institution which were established pursuant to the provisions of law which are referred to in Section 7 of Public Law 89–597, shall remain in effect and be governed exclusively in accordance with the provisions of this Act.

Sec. 103. (a) Except as provided in Section 5, the limitations on the maximum rates of interest or dividends referred to in Section 102 shall be increased by at least one-half of one percentage point on July 1, 1980, and on each succeeding July 1 through July 1, 1985, subject to Section 102 of Public Law 94–200.

(b) If the Board of Governors of the Federal Reserve System, in consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board and the National Credit Union Administration Board, determines that economic conditions warrant or that such action is necessary to avoid a threat to the economic viability of depository institutions it may postpone or reduce an increase required in this section. When the Board of Governors of the Federal Reserve System makes such a determination and postpones or reduces an increase, it shall immediately report the reasons for such action to the Congress.

(c) Whenever the Board of Governors of the Federal Reserve System, in consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board and the National Credit Union Administration Board, determines that it is economically feasible or desirable to accelerate the increases in the maxmum rates of interest or dividends as provided in this section, the Board of Governors of the Federal Reserve System shall immediately report such determination to the Congress.

(d) During the period commencing July 1, 1980 and terminating on July 1, 1985, no new category of deposits or accounts may be approved by the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board or the National Credit Union Administration Board if the maximum rate of interest or dividends payable thereon is not at least equal to the maximum rate applicable to deposits or accounts of comparable maturities then in effect.

Sec. 104. (a) The limitations on the maximum rates of interest or dividends referred to in Section 102, payable on (i) all time deposits having initial maturities of six years or more, (ii) all individual retirement accounts and (iii) all accounts maintained by or on behalf of qualified pension plans be eliminated on or before July 1, 1980.

(b) The limitations on the maximum rates of interest or dividends referred to in Section 102, payable on all time deposits having initial maturities of four years or more shall be eliminated on or before July 1, 1981.

(c) The limitations on the maximum rates of interest or dividends referred to in Section 102, payable on all time deposits having initial maturities of two and one-half years or more shall be eliminated on or before July 1, 1982.

(d) The limitations on the maximum rates of interest or dividends referred to in Section 102, payable on all time deposits having initial maturities of 1 year or more shall be eliminated on or before July 1, 1983.

(e) The limitations on the maximum rates of interest or dividends referred to in Section 102, payable on all time deposits having initial maturities of ninety days or more shall be eliminated on or before July 1, 1984.

(f) The limitations on the maximum rates of interest or dividends referred to in Section 102, payable on all savings accounts, negotiable orders of withdrawal accounts and share draft accounts shall be eliminated on or before July 1, 1985.

SEC. 105. On or after July 1, 1985, the Board of Governors of the Federal Reserve System, in consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration Board, may prescribe limitations on the maximum rates of interest or dividends on deposits or accounts which may be paid by depository institutions only upon a finding that an extreme economic emergency exists and such action is necessary to maintain the economic viability of depository institutions. Any such finding shall be described in detail in a prompt report to the Congress. In no case shall any limitation prescribed under this section remain in effect for more than one year.

SEC. 106. The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board shall reduce all minimum denomination requirements of all time deposits within five years after the date of enactment of this Act, except that if the Board of Governors of the Federal Reserve System, in consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration Board, determines that economic conditions warrant or that such action is necessary to avoid a threat to the economic viability of depository institutions, it may postpone the reduction required by this section but in no event later than July 1, 1990. When the Board makes such determination and postpones a reduction, it shall promptly report to the Congress the reasons for such action.

SEC. 107. (a) Effective July 1, 1985, Section 19(j) of the Federal Reserve Act, Section 18(g) (except the first sentence) of the Federal Deposit Insurance Act, and Section 5B(a) of the Federal Home Loan Bank Act are repealed.

(b) Effective July 1, 1985, Section 102 of Public Law 94-200 is repealed.

(c) Effective July 1, 1985, the prohibition on the payment of interest on demand deposits contained in Section 19(j) of the Federal Reserve Act and Section 18(g) of the Federal Deposit Insurance Act are repealed.

(d) Section 7 of Public Law 89-597 is repealed.

TITLE II—NEGOTIABLE ORDERS OF WITHDRAWAL ACCOUNTS

SEC. 201. (a) Section 19(i) of the Federal Reserve Act is amended by striking out the matter in the first sentence before the first proviso and inserting in lieu thereof the following: "No member bank shall, directly or indirectly, by any device whatsoever, pay any interest on any deposit which is payable on demand, and a demand deposit shall not include a negotiable order of withdrawal account:'.

(b) the first sentence of Section 19(j) of the Federal Reserve Act is amended to read as follows: "The Board may from time to time, after consulting with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration Board, prescribe rules governing the payment and advertisement of interest on deposits, including limitations on the rates of interest which may be paid by member banks on time and savings deposits.".

(c) The first section of the Federal Reserve Act (12 U.S.C. 221) is amended by adding at the end thereof the following new paragraphs:

"The term 'depository institution' means—

"(1) any insured bank as defined in section 3 of the Federal Deposit Insurance Act;

"(2) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(3) any savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(4) any insured credit union as defined in section 101 of the Federal Credit Union Act;

"(5) any member as defined in section 2 of the Federal Home Loan Bank Act; and

"(6) any insured institution as defined in section 408 of the National Housing Act.

"The term 'negotiable order of withdrawal account' means an account on which payment of interest may be made on a deposit with respect to which the depository institution may require the depositor to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the depositor is allowed to make withdrawal by negotiable or transferable instrument for the purpose of making payments to third persons or otherwise. Such account shall consist solely of funds in which the entire beneficial interest is held by one or more individuals, or by an organization operated primarily for religious, philanthropic, charitable, educational, or other similar purpose and not for profit.

"The term 'share draft account' means an account on which payment of interest may be made on a deposit with respect to which the credit union may require the member to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the member is allowed to make withdrawals by negotiable or transferable instrument for the purpose of making payments to third persons or otherwise. Such account shall consist solely of funds in which the entire beneficial interest is held by one or more individuals, or by an organization operated primarily for religious, philanthropic, charitable, educational, or similar purpose and not for profit.".

SEC. 202. (a) Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended by adding at the end thereof the following new subsections:

"(r) The term 'depository institution' means—

"(1) any insured bank as defined in this section;

"(2) any mutual savings bank as defined in this section;

"(3) any savings bank as defined in this section;

"(4) any member as defined in section 2 of the Federal Home Loan Bank Act; and

"(5) any insured institution as defined in section 408 of the National Housing Act.

"(s) The term 'negotiable order of withdrawal account' means an account on which payment of interest may be made on a deposit with respect to which the depository institution may require the depositor to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the depositor is allowed to make withdrawals by negotiable or transferable instrument for the purpose of making payments to third persons or otherwise. Such deposit or account shall consist solely of funds in which the entire beneficial interest is held by one or more individuals, or by an organization operated primarily for religious, philanthropic, charitable, educational, of other similar purpose and not for profit.".

(b) The first sentence of section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended to read as follows: "The Board of Directors shall by regulation prohibit the payment of interest or dividends on demand deposits in insured nonmember banks (including insured mutual savings banks) and for such purpose it may define the term 'demand deposit', except that the term as so defined shall not include negotiable order of withdrawal accounts; but such exceptions from this prohibition shall be made as are now or may hereafter be prescribed with respect to deposits payable on demand in member banks by section 19 of the Federal Reserve Act, or by regulation of the Board of Governors of the Federal Reserve System.".

(c) The second sentence of section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended to read as follows: "The Board of Directors may from time to time, after consulting with the Board of Governors of the Federal Reserve System, the Federal Home Loan Bank Board, and the National Credit Union Administration Board, prescribe rules governing the payment and advertisement of interest on deposits, including limitations on the rates of interest or dividends that may be paid by insured nonmember banks (including insured mutual savings banks) on time and savings deposits.".

SEC. 203. Section 5B(a) of the Federal Home Loan Bank Act (12 U.S.C. 1425b(a)) is amended by striking out the first sentence and inserting in lieu thereof the following: "The Board may from time to time, after consulting with the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board, prescribe rules governing the payment and advertisement of interest or dividends on deposits, shares, or withdrawable accounts, including limitations on the rates of interest or dividends on deposits or shares that may be paid by members, other than those the deposits of which are insured in accordance with the provisions of the Federal Deposit Insurance Act, by institutions which are insured institutions as defined in section 408 of the National Housing Act, and by nonmember building and loan, savings and loan, and homestead associations, and cooperative banks.".

SEC. 204(a) Section 2 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1462) is amended by adding at the end thereof the following new subsections:

"(e) The term 'depository institution' means—

"(1) any insured bank as defined in section 3 of the Federal Deposit Insurance Act;

"(2) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(3) any savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(4) any member as defined in this section; and

"(5) any insured institution as defined in section 408 of the National Housing Act.

"(f) The term 'negotiable order of withdrawal account' means an account on which payment of interest may be made on a deposit with respect to which the depository institution may require the depositor to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the depositor is allowed to make withdrawal by negotiable or transferable instrument for the purpose of making payments to third persons or otherwise. Such deposit or account shall consist solely of funds in which the entire beneficial interest is held by one or more individuals, or by an organization operated primarily for religious, philanthropic, charitable, educational, or other similar purpose and not for profit.".

(b) Section 5(b)(1) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)(1)) is amended by adding at the end thereof the following: "The preceding sentence does not apply to negotiable order of withdrawal accounts.".

TITLE III—SAVINGS AND LOAN ASSOCIATION AMENDMENTS

Sec. 301. Section 5(c)(4) of the Home Owners' Loan Act of 1933 is amended by adding at the end thereof the following:

"(E) Consumer loans and certain securities.—An association may make unsecured loans for personal, family, or household purposes, and may invest in, sell, or hold commercial paper, corporate debt securities, and bankers acceptances, as defined and approved by the Board, but the aggregate amount of such loans and investments at any time may not exceed 10 per centum of the assets of the association.".

Sec. 302. Section 5(c) of the Home Owners' Loan Act (12 U.S.C. 1464) is amended by inserting the following new paragraph after paragraph (5) and renumbering subsequent paragraphs accordingly:

"(6) Real Estate Loans Made by National Banks.—Notwithstanding any of the foregoing provisions of this section, an association shall be permitted to invest in, sell, or otherwise deal in loans or investments secured by liens on residential real estate to the same extent and in the same manner and amounts without limitation as national banks pursuant to the provisions of section 24 of the Federal Reserve Act.".

Sec. 303. Section 5(b) of the Home Owners' Loan Act of 1933 is amended by adding at the end thereof the following:

"(3) An association may, if permitted by the Board and subject to such regulations as the Board may prescribe, act as a trustee, executor, administrator, guardian, or in any other fiduciary capacity.".

Sec. 304. Section 5 of the Home Owners' Loan Act of 1933 is amended by adding at the end thereof the following:

"(n) Trust Powers.—

"(1) Authority of board.—The Board is authorized and empowered to grant by special permit to an association applying therefor, when not in contravention of State or local law, the right to act as trustee, executor, administrator, guardian, or in any other fiduciary capacity in which State banks, trust companies, or other corporations which come into competition with associations are permitted to act under the laws of the State in which the association is located.

"(2) Grant and exercise of powers deemed not in contravention of state or local law.—Whenever the laws of such State authorize or permit the exercise of any or all of the foregoing powers by State banks, trust companies, or other corporations which compete with associations, the granting to and the exercise of such powers by associations shall not be deemed to be in contravention of State or local law within the meaning of this section.

"(3) Segregation of fiduciary and general assets: separate books and records; access of state banking authorities to reports of examinations, books, records, and assets.—Associations exercising any or all of the powers enumerated in this section shall segregate all assets held in any fiduciary capacity from the general assets of the association and shall keep a separate set of books and records showing in proper detail all transactions engaged in under authority of this section. The State banking authorities may have access to reports of examination made by the Board insofar as such reports relate to the trust department of such association but nothing in this section shall be construed as authorizing the State banking authorities to examine the books, records, and assets of such associations.

"(4) Prohibited operations: separate investment accounts; collateral for certain funds used in conduct of business.—No association shall receive in its trust department deposits of current funds subject to check or the deposit of checks, drafts, bills of exchange, or other items for collection or exchange purposes. Funds deposited or held in trust by the association awaiting investment shall be carried in a separate account and shall not be used by the association in the conduct of its business unless it shall first set aside in the trust department United States bonds or other securities approved by the Board.

"(5) Lien and claim upon bank failure.—In the event of the failure of such association the owners of the funds held in trust for investment shall have a lien on the bonds or other securities so set apart in addition to their claim against the estate of the association.

"(6) Deposits of securities for protection of private or court trusts; execution of and exemption from bond.—Whenever the laws of a State require corporations acting in a fiduciary capacity to deposit securities with the State authorities for the protection of private or court trusts, associations so acting shall be required to make similar deposits and securities so deposited shall be held for the protection of private or court trusts, as provided by the State law. Associations in such cases shall not be required to execute the bond usually required of individuals if State corporations under similar circumstances are exempt from this requirement. Associations shall have power to execute such bond when so required by the laws of the State.

"(7) Officials' oath or affidavit.—In any case in which the laws of a State require that a corporation acting as trustee, executor, administrator, or in any capacity specified in this section, shall take an oath or make an affidavit, the president, vice president, cashier, or trust officer of such association may take the necessary oath or execute the necessary affidavit.

"(8) Loans of trust funds to officers and employees prohibited; penalties.—It shall be unlawful for any association to lend any officer, director, or employee any funds held in trust under the powers conferred by this section. Any officer, director, or employee making such loan, or to whom such loan is made, may be fined not more than $5,000, or imprisoned not more than five years, or may be both fined and imprisoned, in the discretion of the court.

"(9) Considerations determinative of grant or denial of applications; minimum capital and surplus for issuance of permit.—In passing upon applications for permission to exercise the powers enumerated in this section, the Board may take into consideration the amount of capital and surplus of the applying association, whether or not such capital and surplus is sufficient under the circumstances of the case, the needs of the community to be served, and any other facts and circumstances that seem to it proper, and may grant or refuse the application accordingly: Provided, That no permit shall be issued to any association having a capital and surplus less than the capital and surplus required by State law of State banks, trust companies, and corporations exercising such powers.

"(10) Surrender of authorization; board resolution; board certification; activities affected; regulations.—Any association desiring to surrender its right to exercise the powers granted under this section, in order to relieve itself of the necessity of complying with the requirements of this section, or to have returned to it any securities which it may have deposited with the State authorities for the protection of private or court trusts, or for any other purpose, may file with the Board a certified copy of a resolution of its board of directors signifying such desire. Upon receipt of such resolution, the Board, after satisfying itself that such association has been relieved in accordance with State law of all duties as trustee, executor, administrator, guardian or other fiduciary, under court, private or other appointments previously accepted under authority of this section, may in its discretion, issue to such association a certificate certifying that such association is no longer authorized to exercise the powers granted by this section. Upon the issuance of such a certificate by the Board, such association (A) shall no longer be subject to the provisions of this section or the regulations of the Board made pursuant thereto, (B) shall be entitled to have returned to it any securities which it may have deposited with the State authorities for the protection of private or court trusts, and (C) shall not exercise thereafter any of the powers granted by this section without first applying for and obtaining a new permit to exercise such powers pursuant to the provisions of this section. The Board is authorized and empowered to promulgate such regulations as it may deem necessary to enforce compliance with the provisions of this subsection and the proper exercise of the trust powers granted by this section.".

Sec. 305. Section 5(i) of the Home Owners' Loan Act of 1933 is amended in the first paragraph by inserting after the words "Federal Savings and Loan Association" the following: "and any State stock savings and loan type institution may transfer its charter to a Federal stock charter provided it has never existed in mutual form".

Sec. 306. Section 5A(b) of the Federal Home Loan Bank Act, as amended, is amended to read as follows:

"(b) Any institution which is a member or which is an insured institution as defined in section 401(a) of the National Housing Act shall maintain the aggregate amount of its assets of the following types at not less than such amount as, in the opinion of the Board, is appropriate: (1) cash, (2) to such extent as the Board may approve for the purposes of this section, time and savings deposits in Federal Home Loan Banks and commercial banks, (3) to such extent as the Board may so approve, such obligations, including such special obligations, of the United States, a State, any territory or possession of the United States, or a political subdivision, agency or instrumentality of any one or more of the foregoing, and bankers' acceptances, as the Board may approve, and (4) to such extent as the Board may so approve, shares or certificates of any open-end management investment company which is registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and the portfolio of which is restricted by such investment company's investment policy, changeable only if authorized by shareholder vote, solely to any of the obligations or other investments enumerated in the preceding clauses (1) through (3) of this subsection. The requirement prescribed by the Board pursuant to this subsection (hereinafter in this section referred to as the "liquidity requirement") may not be less than 4 per centum or more than 10 per centum of the obligation of the institution on withdrawable accounts and borrowings payable on demand or with unexpired maturities of one year or less, or in the case of institutions which are insurance companies, such other base or bases as the Board may determine to be comparable. The Board shall prescribe rules and regulations to implement the provisions of this subsection.".

Sec. 307. (a) Section 5(b) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464 (b)) is amended by adding at the end thereof the following:

"(4) In accordance with rules and regulations issued by the Board, mutual capital certificates may be issued and sold directly to subscribers or through underwriters, and such certificates shall constitute part of the general reserve and net worth of the issuing association. The Board, in its rules and regulations relating to the issuance and sale of mutual capital certificates, shall provide that such certificates—

"(A) shall be subordinate to all savings accounts, savings certificates, and debt obligations;

"(B) shall constitute a claim in liquidation on the general reserves, surplus, and undivided profits of the association remaining after the payment in full of all savings accounts, savings certificates, and debt obligations;

"(C) shall be entitled to the payment of interest prior to the allocation of income to reserve and net worth accounts; and

"(D) may have a fixed or variable rate of interest.

The Board shall provide in its rules and regulations for charging losses to the mutual capital certificate, reserves, and other net worth accounts.".

(b) Section 403(b) of the National Housing Act (12 U.S.C. 1726(b)), is amended by adding at the end thereof the following: "Mutual capital certificates, subordinate to the rights of holders of savings accounts, savings certificates, and the Corporation, shall be deemed to be reserves for the purposes of this subsection in accordance with rules and regulations prescribed by the Corporation. The Corporation shall provide in its rules and regulations for charging losses to the mutual capital certificate, reserves and other net worth accounts. In the event an insured institution fails to maintain the reserves required by this title, no payment of interest on such certificates shall be made except with the approval of the Corporation.".

TITLE IV—MUTUAL SAVINGS BANK AMENDMENTS

Sec. 401. (a)(1) Section 5(a) of the Home Owners' Loan Act of 1933 is amended by adding at the end thereof the following: "A Federal mutual savings bank may make loans and investments without regard to any other limitation under Federal or State law, except that—

"(A) not more than 20 per centum of the assets of such a bank may be so loaned or invested; and

"(B) 65 per centum of such loans and investments must be made within the State where the bank is located or within 50 miles of such State.".

(2) Notwithstanding the amendment made by subsection (a), the Federal Home Loan Bank Board shall limit the percentage of assets which a Federal mutual savings bank may loan or invest pursuant to the provisions of such amendment to 5 per centum during the first two years following the date of enactment of this Act, to 10 per centum for the next succeeding two years, to 15 per centum for the next succeeding two years, and to 20 per centum upon the expiration of eight years after such date of enactment, except that the Board may lengthen or shorten any such two-year period where necessary or appropriate in the event of a more rapid phase-out of interest rate controls or to avoid economic dislocation.

(b)(1) Section 5(a) of the Home Owners' Loan Act of 1933 is amended by adding at the end thereof the following: "A Federal mutual savings bank may accept demand deposits from any source.".

(2) Notwithstanding the amendment made by subsection (a) of this section, the Federal Home Loan Bank Board shall (A) provide by regulation for a smooth and orderly transition with respect to the implementation of demand account authority; (B) provide for a phase-in of such demand accounts if, in the judgment of the Federal Home Loan Bank Board, after consultation with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board, such a phase-in is necessary in order to assure the stability and soundness of all depository institutions, provided that by January 1, 1990, or at such earlier time when in the judgment of the Federal Home Loan Bank Board Federal interest rate limitations have been effectively eliminated, such phase-in must be completed; and (C) delay the implementation of such demand account authority, but not later than January 1, 1990 or such earlier time when in the judgment of the Federal Home Loan Bank Board Federal interest rate limitations have been effectively eliminated, if the Federal Home Loan Bank Board, after consultation with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board, determines that the granting of such authority would result in a serious impairment of the financial soundness and stability of depository institutions in general. In such event, the Board shall report to the Congress on the reasons for such delay within 30 days of its determination.

(c) This section takes effect upon the enactment of section 107 of this Act.

TITLE V—FEDERAL CREDIT UNION AMENDMENTS

Sec. 501. Section 107(5)(A)(vi) of the Federal Credit Union Act is amended by striking out subsection 5(A)(vi) in its entirety and inserting in lieu thereof the following new subsection:

"(vi) the rate of interest, inclusive of service charges as defined by the Board, shall not exceed the greater of either 12 per centum per annum or 5 per centum per annum in excess of the average constant maturity yield for the previous month paid on five year obligations of the United States Treasury.".

Sec. 502. The Federal Credit Union Act is amended—

(1) in section 107(5)(A)(1)—

(A) by inserting ", including a cooperative," immediately following the word "dwelling"; and

(B) by inserting immediately after the word "Board" the following: ", except that a loan on an individual cooperative unit shall be adequately secured as defined by the Board";

(2) in section 304(b)(2) by striking out "those" and inserting in lieu thereof "participating";

(3) by striking out section 305(b)(3) and inserting in lieu thereof the following:

"(3) shall share in dividend distributions at rates determined by the Board. However, rates on the required capital stock shall be without preference; and";

(4) in section 307(15) by striking out the words ", to the extent or in such amounts as are provided in advance in appropriation Acts"; and

(5) in title III by striking out the word "Administrator" each place it appears and inserting in lieu thereof "Board".

(6) in section 107(5)(A)(vi) of the Federal Credit Union Act, (12 U.S.C. 1757), is amended to read as follows: "(vi) the rate of interest (except as may be authorized by the Board for Agent members of the Central Liquidity Facility in carrying out the provisions of title III) not exceed 1 per centum per month on the unpaid balance inclusive of all service charges".

TITLE VI—FEDERAL DEPOSIT INSURANCE AMENDMENTS

Sec. 601 (a)(1) The following provisions of the Federal Deposit Insurance Act are amended by striking out "$40,000" each place it appears therein and inserting in lieu thereof "$50,000":

(A) The first sentence of section 3(m) (12 U.S.C. 1813(m)).

(B) The first sentence of section 7(1) (12 U.S.C. 1817(i)).

(C) The last sentence of section 11(a) (12 U.S.C. 1821(a)).

(D) The fifth sentence of section 11(i) (12 U.S.C. 1821(i)).

(2) The amendments made by this section are not applicable to any claim arising out of the closing of a bank prior to the effective date of this section.

(d)(1) The following provisions of title IV of the National Housing Act are amended by striking out "$40,000" each place it appears therein and inserting in lieu thereof "$50,000":

(A) Section 401(b) (12 U.S.C 1724(b)).

(B) Section 405(a) (12 U.S.C. 1728(a)).

(2) The amendments made by this section are not applicable to any claim arising out of a default, as defined in section 401(d) of the National Housing Act, where the appointment of a conservator, receiver, or other legal custodian as set forth in that section becomes effective prior to the effective date of this section.

(c)(1) The second sentence of section 207(c) of the Federal Credit Union Act (12 U.S.C. 1787(c)) is amended by striking out "$40,000" and inserting in lieu thereof "$50,000".

(2) The amendment made by this section is not applicable to any claim arising out of the closing of a credit union for liquidation on account of bankruptcy or insolvency pursuant to section 207 of the Federal Credit Union Act (12 U.S.C. 1787) prior to the effective date of this section.

(d) The amendments made by this section shall take effect on the thirtieth day beginning after the date of enactment of this Act.

PERSONAL EXPLANATION

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, I was unable to be present in the House on December 11 and 12 and was granted official leave for this time period under a unanimous-consent request of the House.

The following explains how I would have voted on the rollcall votes which I missed during my absence:

Rollcall No. 716, December 11, a vote on an amendment to the Dispute Resolution Act (S. 423) which sought to delete language that provides for the establishment of the Dispute Resolution Advisory Board in the Justice Department. The Dispute Resolution Act creates a 4-year grant program to assist localities in establishing dispute resolution systems to settle criminal and civil disagreements that generally do not require an actual court proceeding. The Dispute Resolution Advisory Board would play a fundamental role in advising the Attorney General on the types of dispute resolution projects which should receive grants. The amendment failed to pass by a vote of 170 to 208. Had I been present I would have voted against the amendment.

Rollcall No. 717, December 12, a vote on a motion to delete language in the conference report on Strategic and Critical Materials Transaction Authorization Act (H.R. 595) that allows the sale of 5 million troy ounces of silver from the national and supplemental stockpile.

Silver in the stockpile is in surplus and release of it will help meet the demand that currently is in excess of the existing supply—without adversely affecting our defense needs. The motion was agreed to by a vote of 272 to 122.

I was paired generally on this vote and had I been present I would have voted against the motion.

Rollcall No. 719, a vote on an amendment that reduced the annual authorization for the Dispute Resolution Resource Center and Dispute Resolution Advisory Board under S. 423 from $3 million to $1 million. The Dispute Resource Center would be a key participant in assisting localities set up dispute resolution systems. The amendment passed by a vote of 238 to 156. If I had been present, I would have voted against this amendment.

Rollcall No. 720, a vote on a motion to recommit S. 423 with the instructions that the annual authorization level for grants be reduced from $15 to $10 million. The motion was agreed to by a vote of 203 to 197. I was paired generally and had I been present I would have voted against the motion.

Rollcall No. 721, a vote on final passage of S. 423. S. 423 passed by a vote of 207 to 195. I was paired generally on this vote and would have voted in favor of final passage had I been present.

Rollcall No. 723, a vote on an amendment in the nature of a substitute to the Domestic Violence Prevention and Services Act (H.R. 2977) which sought to rewrite the entire proposed legislation reducing the domestic violence programs contained in H.R. 2977 into a single block grant program and cutting the amount of money available for helping to reduce instances of family and other domestic violence. The substitute failed by a vote of 148 to 247. If I had been present I would have voted against the substitute.

Rollcall No. 724, a vote on an amendment to H.R. 2977 which sought to give State legislatures veto power over any grant funds approved by the Secretary of HEW for domestic violence programs under a State authored plan. The amendment was not agreed to by a vote of 142 to 251. If I had been present I would have voted "no" on this amendment.

Rollcall No. 725, a vote on final passage of H.R. 2977, which passed 292 to 106. I was paired generally on this vote and had I been present, I would have voted in favor of final passage.

Mr. Speaker, I was unable to be present in the House on December 13 and 14 and was granted official leave for this time period under a unanimous-consent request of the House.

The following explains how I would have voted on the rollcall votes which I missed during my absence:

Rollcall No. 726, December 13, a vote on the rule (H. Res. 505) to allow the House to consider the Chrysler Corporation Loan Guarantee Act of 1979 (H.R. 5860) under a proceeding allowing all amendments to be offered and providing for 2 hours of general debate. House Resolution 505 passed by a vote of 391 to 5. I was paired generally on this vote and had I been present would have voted in favor of the rule.

Rollcall No. 728, a vote on an amendment in the nature of a substitute to the Asbestos School Hazard Detection and Control Act of 1979 (H.R. 3282) which sought to eliminate the grant program established under the bill and replace it with a program permitting States to use up to 1 percent of their Federal elementary and secondary education funds for projects to locate and attempt to remedy asbestos related health hazards in schools. This substitute is contrary to the intent of legislation in this important area, because it relies on an existing program which was not created to deal with asbestos hazards in schools. The substitute failed by a vote of 133 to 262. Had I been present I would have voted against this substitute.

Rollcall No. 729, a vote on the final passage of H.R. 3282. H.R. 3282 passed by a vote of 336 to 63. I was paired generally on this vote and had I been present I would have voted in favor of final passage.

Rollcall No. 730, a vote on the final passage of the conference report version of the Law Enforcement and Assistance Administration Authorization (S. 241). The conference report version passed by a vote of 304 to 83. I was paired generally on this vote and had I been present I would have voted in favor of final passage.

Rollcall No. 731, December 14, a vote on approving the Journal of the House proceedings of the previous day. This vote is a procedural vote and merely involves the approval of the House that the record of the proceedings was made without an error. The Speaker of the House had approved the Journal, and a recorded vote was requested routinely by the Republicans. The Journal was approved by a vote of 255 to 14 with 14 voting "present." I would have voted in favor of approving the Journal if I had been present.

Rollcall No. 732, a vote on a motion to order the previous question on the rule (H. Res. 506) to allow the House to consider the State and Local Fiscal Assistance Act amendments (H.R. 5980) under a proceeding allowing all amendments to be offered and providing for 1 hour of general debate. A vote on the previous question is a vote on ending debate. If the vote is against ordering the previous question the rule could be open for amendment. Generally a motion on the previous question is made when the rule prohibits amendments. This motion was a tactic launched by opponents of H.R. 5980 to delay its consideration. The motion passed by a vote of 271 to 83 with one voting "present." I would have voted in favor of the motion had I been present.

Rollcall No. 733, a vote on passage of House Resolution 506. This resolution passed by a vote of 240 to 115. I was paired generally on this vote and if I had been present I would have voted in favor of passage of the resolution.

Rollcall No. 734, a vote on a motion to table a motion to reconsider House Resolution 506. A motion had been offered to reconsider House Resolution 506 which passed under rollcall No. 733. Again, a recorded vote was requested on a motion that is primarily routine by opponents of H.R. 5980. The motion to table, if agreed to, stops an effort to delay the approval of House Resolution 506 and thus facilitates the consideration of H.R. 5980. The motion to table was approved by a vote of 242 to 107. If I had been present I would have voted in favor of the motion to table.

Rollcall No. 735, a vote on a motion for the House to resolve itself into the Committee of the Whole House (the form in which the House routinely considers most legislation). The motion passed by a vote of 272 to 79. If I had been present I would have voted in favor of this motion.

Rollcall No. 738, a vote on a technical amendment offered by the House Government Operations Committee to H.R. 5980. The amendment allows the use of the time periods 1975 through 1978 (calendar years) in place of the time periods fiscal years 1976 through 1979 as the basis for determining the excess unemployment factor under title V of H.R. 5980. The amendment was approved by a 245-to-97 vote. I would have voted in favor of the amendment if I had been present.

Rollcall No. 739, a vote on an amendment that lowers the targeted fiscal assistance authorization contained in H.R. 5980 from $250 to $150 million. The amendment was adopted by a vote of 184 to 153. I was paired against this amendment and had I been present I would have voted "no."

INNOVATIVE PROGRAM PROVIDES MEALS FOR NEEDY SENIOR CITIZENS

(Ms. HOLTZMAN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

● Ms. HOLTZMAN. Mr. Speaker, in New York City, an estimated 330,000 senior citizens are not getting enough to eat. They are representative of elderly Americans throughout the country who are going without food because their fixed incomes cannot match the costs of soaring inflation.

This is an important problem—in a time when many important problems vie for solution and few dollars are available. It calls for innovative programs in which limited funds are stretched as far as possible.

We had such a program in New York City last summer. In a small pilot project I suggested, 150 senior citizens had a hot lunch every day for a month at a total cost of less than $4,000.

It had been clear that part of the problem was a lack of senior citizen food programs. Every senior center serving free meals in my district is filled to capacity; some have waiting lists of 3 years. And many elderly persons are far from any center.

We needed to offer them free food, in accessible places, at little cost to the taxpayer. The answer: Piggyback the project onto the existing summer feeding program for needy youngsters.

The approach was a model of cost effectiveness and good sense: The schools were already open to feed youngsters and had the necessary facilities and equipment. The city's human resources administration (HRA) and board of education, who ran the program, had the trained staff and systems of inspecting cleanliness and quality of food and service.

It was a model of accessibility: Schools are found all over the city.

And it was a great success. An HRA evaluation showed that the program attracted those who wanted and needed it most: All participants were over 60, two-thirds had no spouse, almost half lived alone.

Sixty percent had never been to a senior center, mainly because none was nearby. The importance of easy access was clear: 92 percent walked to lunch sites.

And the value of this hot, freshly prepared meal was emphasized by the many who said that they would not otherwise have eaten lunch at all and that this was their only nutritious meal all day.

There were heartwarming spinoffs. Some elderly participants delivered lunches to homebound senior citizens. Others came to lunch with grandchildren enrolled in the program for needy youngsters. The children welcomed their elderly lunchmates; some brought flowers to them.

I visited the schools in East Harlem, Bedford Stuyvesant, and East Flatbush where the pilot project took place. I spoke with the elderly, with the school staffs, and with city officials. And I saw that this small project was a success for everyone involved.

The senior citizens gave the food high ratings. Many pleaded with me personally to have the program operate year round. A full 95 percent favored its continuation, a position shared by the HRA and the board of education.

I think the program should be expanded in the summertime to all schools serving lunches to needy youngsters. I think it should be extended throughout the school year, by piggybacking it onto regular school lunch programs.

And I believe it can serve as a model for others attempting to meet an important need with limited resources.●

THE HAITIAN REFUGEE PROBLEM

The SPEAKER pro tempore (Mr. Kazen). Under a previous order of the House, the gentleman from Texas (Mr. Leland) is recognized for 60 minutes.

Mr. LELAND. Mr. Speaker, I would like to ask unanimous consent to allow the gentleman from Texas (Mr. Gonzalez) to make a statement, and subsequent to that I would proceed with my special order.

The SPEAKER pro tempore. The gentleman has the floor for 60 minutes. The gentleman may yield to the gentleman from Texas.

Mr. LELAND. Mr. Speaker, I yield to the gentleman from Texas (Mr. Gonzalez).

KING CRIME

Mr. GONZALEZ. Mr. Speaker, I wish to state that for weeks now I have been commenting on the unresolved case of the murder of Federal District Judge John W. Wood, the attempted murder of assistant district attorney for the western district, James Kerr.

I am happy to report that I have had a direct communication from the Director of the FBI, Mr. Webster, and I wish to elaborate on that.

Mr. LELAND. Mr. Speaker, the House today considered and passed H.R. 2816, the Refugee Act of 1979, a bill that will significantly improve our efforts to deal with the important problem of political refugees from all over the world. As a member of the Congressional Black Caucus Task Force on Haitian Refugees, I am particularly concerned with the plight of Haitian refugees who have been arriving in great numbers. Most come in rickety, unseaworthy boats analogous to their more famous brethren from Indochina. Only the welcome for the Haitians is far less generous that we have extended to the Indochinese.

The Statue of Liberty, perhaps the most famous monument in America, contains the inscription:

> Give me your tired, your poor
> Your huddled masses yearning to breathe free
> The wretched refuse of your teeming shore
> Send these, the homeless, tempest-tossed to me . . .

I feel that we have forgotten those inspiring words. The Haitians whom we have turned away from our shores are receiving precisely the opposite message—the land of liberty does not want this particular huddled mass yearning to breathe free, these homeless, tempest-tossed refugees fleeing repression in search of liberty.

Our colleagues have gathered today out of a deep concern for the inequitable treatment we have so far extended Haitian refugees. Each Member who joins us in the colloquium today will doubtless focus on his or her areas of concern. For my part, I would like to address the general issue of U.S. foreign policy in the Caribbean and the role it plays in producing and maintaining repressive political regimes.

Mr. Speaker, at this time I would be delighted and happy to yield to Members participating with us today.

Mr. Speaker, I yield to the gentleman from Texas (Mr. Gonzalez).

Mr. GONZALEZ. Mr. Speaker, I take this opportunity to compliment my colleague, the gentleman from Houston, Tex. I think the gentleman touches on a very little noted situation which has implications down the line for the United States. Unfortunately, this has been the history of our experience in our country.

Haiti looms on the horizon of most of us as at one time perhaps Vietnam and other exotic names that unfortunately in the course of years of blood and sweat and tears have become household words to us.

The nature of the immigration that the distinguished gentleman from Texas refers to may be one reason why, as I understand it, this is predominantly a colored nation and a colored immigration; whereas say the Cuban has a different type of demographic aspect and the Cuban experience has been unique with the United States. No people I know who have come to the United States as the gentleman described so poignantly, the Haitians, has cause to develop a very precise and appropriate foreign program, such as in the case of the Cuban refugee, where our country has really gone to very great lengths to provide a systematic rather costly program that is still on an ongoing basis.

Haiti, like Santo Domingo, remains relatively unnoticed, like the other smaller nations in this area, Puerto Rico, for example—now, we are not paying too much attention to Puerto Rico, yet it is boiling. The murder of naval personnel should have been a firebell in the night to every one of us.

The subject matter that the gentleman touches upon, I think, is of great concern. It is pregnant with the possibility of explosive development where we could have an intervention on the part of Cuba. This happening on the eve of all the other things that are happening in all parts of the world I think would complicate everything. It is well that this subject matter be brought up and that we concentrate on it.

I want to again thank the gentleman from Texas for doing it.

Mr. LELAND. Mr. Speaker, I want to thank the gentleman from Texas for bringing out the meaning of the breadth of what this issue represents.

Mr. COELHO. Mr. Speaker, will the gentleman yield?

Mr. LELAND. I would be glad to yield to my colleague, the gentleman from California (Mr. Coelho).

Mr. COELHO. Mr. Speaker, I want to commend the gentleman from Texas for bringing this issue to the attention of our colleagues. A lot of times we ignore some of these situations because the U.S. Government does not necessarily identify this as an anti-Communistic situation, so we have a tendency to overlook some of these problems.

Mr. Speaker, today we have undertaken a major revision of our immigration law in order to better respond to the needs of world refugees. While I firmly believe that we must recognize that there are limits as to what we, as one country, can do to help the 14 million refugees in the world today or the potential 117.5 million refugees of tomorrow in terms of resettlement in this country, I believe that once we have determined how many people we can realistically accept, we must screen all applicants in a fair and even handed manner. Our decisions should be dictated by the oppressive conditions existing in a particular country, not by political considerations, foreign policy concerns, special interest pressures, or press and other media coverage.

I am pleased, therefore, that we have fashioned a definition of refugee that is broader, more inclusive, more international in outlook and more impartial than the definition in our present immigration law. I trust that upon passage of this legislation the Department of State and Immigration and Naturalization Service will clearly understand the intent of Congress and handle claims for stays of deportation and claims for refugee status in a uniform manner.

I join with several of my colleagues today in saying that we believe this new definition of refugee makes it possible and, indeed, imperative to take another look at the status of Haitian refugees. The Refugee Act of 1979 defines refugees as those inside or outside of their country of nationality who are subject to "persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion."

Under this definition, the status of Haitians as refugees is not a question of opinion or a question of the popularity or political power of Haitians in the United States; it is a question of fact.

The same holds true for persons who have fled from Iran—members of the Bahai faith, Jews, Assyrian Christians, and those people associated with the Shah. Iran is covered under the Middle East definition of refugee in present law, but for political reasons the State Department until the taking of hostages in early November, was very concerned about repairing our relations with the Khomeini regime, and was reluctant to render a determination that the Government there persecuted people. I am aware of one case wherein a very close asssociate of the former Shah—a man near the top of the list of the individuals the revolutionary government in Iran wants killed wherever they might be—has been waiting since May for the Immigration and Naturalization Service to look at his application for political asylum. His life is clearly in danger, but INS insists that the case will be given no priority. On the other hand, the Soviet danseur in New York was given asylum within hours after he requested it. Where is the equity in such a policy?

Haitians come here across a dangerous sea fleeing the oppression of a tyrant. But while we recognize that there is a repressive regime of authoritarian nature in Haiti, because it also has a so-called free enterprise system and is not socialist, the Immigration and Naturalization Service and the Department of State have decided to examine the motives of the people to see whether they are fleeing because of poverty or for political reasons. This discrete analysis is not made for the Cubans, the Vietnamese, or the Soviets. Certainly all of the people who fled from Cuba did not do so because of oppression of the Government. Many fled because they wanted a more prosperous life in the United States. Did the Soviet danseur flee because of a desire for political expression or artistic expression and/or economic reward? Are all of the Vietnamese fleeing because of political oppression or primarily for economic reasons because their urban lifestyle has been transformed to a rural one?

The plight of Haitians and other refugees in the United States is real, and cannot be ignored. The Refugee Act of 1979 is a tool by which we can move to adjust their status, and we should move toward that speedily. With the passage of this act, there is no longer any excuse for delay or double standard.

☐ 1700

Mr. LELAND. Mr. Speaker, I thank the gentleman from California (Mr. COELHO) for his contribution. The gentleman has brought a very meaningful and interesting breadth to this whole question, as did the gentleman from Texas (Mr. GONZALEZ). The importance of this question is not prominent in the minds of the American people, and especially of this body. I would hope that these words would go forth to add to the understanding of our people.

Mrs. CHISHOLM. Mr. Speaker, will the gentleman yield?

Mr. LELAND. I am glad to yield to the gentlewoman from New York (Mrs. CHISHOLM).

Mrs. CHISHOLM. Mr. Speaker, the Congressional Black Caucus recognizes that the plight of Haitian refugees has indeed reached a critical stage. As chairperson of the Congressional Black Caucus Task Force on Haitian Refugees, I along with my four colleagues have been working toward obtaining political asylum for 8,000 to 10,000 Haitians who are seeking political asylum in the United States.

Hundreds of our Haitian brothers and sisters have fled a repressive society only to encounter a sense of injustice and a double standard under the administration of law in the United States. The discriminatory processing of asylum applications by Haitian nationals has resulted in the denial of minimum due process protections. INS officials have consistently violated the due process rights of these people as well as the requirements of applicable U.S. regulations and statutes and the United Nations Protocol relating to the status of refugees.

For example, last year, asylum interviews and deportation hearings involving Haitian refugees were conducted at a rate as high as 150 per day while the normal rate of hearings is only 10 per day. Consequently, many attorneys were not able to even attend proceedings involving their Haitian clients.

This mass scheduling of hearings for Haitian nationals denied their attorneys any reasonable opportunity to document and prepare the asylum applications. Despite the discriminatory fashion in which information was gathered in these proceedings, INS used this information in evidentiary hearings, which also have been mass scheduled. The result of these hearings determines whether a person will receive refugee status, that is, political asylum. Clearly the use of "tainted" information in these asylum proceedings is a violation of American legal principles. The continuation of practices which violate the due process rights of Haitian nationals is merely an attempt to get rid of the Haitian problem as soon as possible. This action is clearly evidenced by INS' attempt to have overturned on an expedited basis a court order barring deportation until a lawsuit on behalf of the Haitians is resolved.

This lawsuit, brought by the National Council of Churches against the Department of Justice, challenges the mistreatment of Haitian refugees as violations of minimum due process protections and the U.N. protocol. The National Council of Churches has also filed a complaint with the Organization of American States charging the United States with human rights violations in their treatment of Haitian refugees. I ask that a copy of their complaint be inserted in the RECORD.

Two other practices against Haitians seeking political asylum are of special concern to the task force. We are appalled by the policy of "voluntary return" which has resulted in over 600 Haitians being involuntarily returned to Haiti without being accorded even a minimal opportunity to assert their claim for political asylum. Recent evidence shows that these returnees have been singled out for imprisonment, and in some cases, execution in Fort Dimenche upon their return to Haiti. Also, the denial of work permits has caused extreme human hardship and suffering. In fact, Dade County officials testified on December 4 before Attorney General Civiletti that the major health problem in the Haitian refugee community in Florida is starvation. Ineligible for Federal assistance, many Haitian refugees have been forced to seek locally provided social services, which has imposed a severe fiscal burden on Dade County in the Miami, Fla., area.

One of the major obstacles in gaining political asylum for these people is the belief by many people in this administration that Haitians are "economic refugees and not "political" refugees. Let me say that the caucus sees these people as political refugees entitled to the same protections as refugees from other areas in the world. Further, the recent events in Haiti indicate that political repression is a fact of life for every Haitian. A new press law, which prohibits any criticism of the President, his family, foreign governments which are doing business in Haiti or the popular culture of Haiti, has been condemned by the Inter-American Press Association. Also, the beating and imprisonment of opposition leader, Silvio Claude, the breakup of a human rights meeting and the ensuing attack on an American Embassy official are all signs that political repression has never really ended in Haiti. In fact, these events suggest that political repression will intensify in the coming years. I ask that a November 27, 1979, New York Times article on these recent events be included in the RECORD.

The task force has had numerous meetings with State Department officials, White House staff, and INS officials regarding the treatment of Haitian refugees. Continual frustration with the resolution of this issue has brought the caucus to the conclusion that granting refugee status, that is, political asylum, is the only practical, just, and humanitarian way to resolve the plight of these 8,000 to 10,000 black "boat people."

These feelings have been communicated to the President, and we have asked for meetings with Chairman Zbigniew Brzezinski of the National Security Council. We also joined with hundreds of other individuals and organizations in making a presentation to the Select Commission on Immigration and Refugee Policy on December 4 of this year in Miami. A recent editorial in the Miami News, which I ask to have included in the RECORD forcefully summarizes our position, and the outrage of many black Americans and others regarding the treatment of Haitian refugees. Indeed, I would also like to submit for the RECORD two letters to President Carter from the CBC and approximately 125 black leaders in Florida calling for equal treatment for these black "boat people."

I want to thank the gentleman from Texas for these special orders on Haitian refugees. I wish to assure my colleagues that the Congressional Black Caucus will continue its efforts toward obtaining political asylum for our Haitian brothers and sisters.

The articles follow:

[From the New York Times, Nov. 27, 1979]

HAITIAN DISSIDENTS FEAR HARSHER LINE—ATTACK ON RALLY RAISES QUESTIONS OVER DUVALIER'S COMMITMENT TO LIBERALIZATION POLICY

(By Jo Thomas)

PORT-AU-PRINCE, HAITI, November 25.—After protests by the United States and other countries whose diplomats were slapped or beaten along with hundreds of other people at a recent human rights rally, Haiti's Government said this week that it would set up a human rights section in its Department of Foreign Affairs.

But the Government has announced no investigation into the disruption of the Nov. 9 rally by about 60 men armed with clubs.

According to journalists, intellectuals and diplomats here, the incident and the Haitian Government's limited response to it are two of many recent signs that President Jean-Claude Duvalier is having second thoughts about liberalizing political life.

"Spring is over," said a journalist who had hoped Mr. Duvalier's policy of "liberalization," which spawned two political parties and for a while allowed greater freedom of the press, might be the first step toward democracy. Instead, the Government now has in place the machinery for a crackdown, although it has not been used.

"BULLWHIP THEORY" OF GOVERNMENT

This machinery includes a potentially repressive press law and a closer alliance between the President and the Volunteers for National Security, which is an outgrowth of the Tenton Maccute, the personal militia of the President's father, Francois Duvalier, who died in 1971. The President has also named two powerful hard-liners to his Cabinet.

"It's the bullwhip theory of government," said a diplomat. "You hang the bullwhip on the wall, and you hope that you don't have to use it."

Mr. Duvalier, according to sources here, appears apprehensive that more freedom of expression in a country that has had no political parties until recently might allow such an outpouring of pent-up grievances that his Government would be threatened.

He also may be worried about the possibility of a military coup; in a speech on Nov. 18, Haitian Armed Forces Day, he surprised his listeners by emphasizing that the army should not be political.

THEY FEAR FOR THEIR LIVES

Although there is still far more freedom than there was even five years ago, some who have been active recently in politics or journalism say they now fear for their lives. Sylvio Claude, founder of the Haitian Christian Democratic Party, has not been seen or heard from since his arrest Aug. 20, although he is believed to be alive. On Nov. 8 Gregoire Eugene opened an office for his Haitian Christian Democratic Party of June 27, a different group to that of Mr. Claude's but closed it the next day because those around him feared for his safety.

"We're waiting a little for conditions to improve," Mr. Eugene said in an interview yesterday. "Everyone is waiting to see what will happen, but no one can say."

According to people who attended the Nov. 9 meeting, the disruptions began just after Gerard Gorgue, president of the Haitian Human Rights League, began the opening speech. The 60 or so attackers, many of them middle-aged, began shouting "Jean-Claude Duvalier!" and then started beating members of the audience. Some who reached their cars were dragged out and beaten some more.

AMERICAN IS BEATEN

Ints M. Silins, an American political officer who had gone to observe the rally but was unable to enter because the auditorium was packed with about 3,000 people, stood outside with diplomats from Canada, West Germany and France. Mr. Silins said he entered the auditorium after a young woman begged him to do so. He said he then saw Mr. Gorgue being beaten.

"I went up, and he grabbed my wrist, and I tried to pull him out," Mr. Silins said. "Now the thugs were breaking up the furniture and knocking down loudspeakers."

Mr. Silins said Mr. Gorgue pointed to his wife, who was lying on her back being beaten with the metal legs of chairs. "There was blood on her dress," he said. "We helped her stand, and the girl who had come to get me helped her walk off."

Mr. Silins and Mr. Gorgue walked toward the exit, with Mr. Gorgue still holding on to Mr. Silins' wrist. Mr. Silins was then hit on the shoulder and slapped on the head, and Mr. Gorgue was beaten more. Mr. Gorgue's daughter received a deep puncture wound in her arm.

ANONYMOUS COMMANDOS

In a letter to a newspaper, Jacques Mesidor, the Superior of the Silesian Fathers, in whose auditorium the rally was held, called the attackers "anonymous commandos," and no one here seemed certain who they were or who sent them. The Haitian Government has expressed its regrets that the incident occurred and last week announced that its new human rights section would be responsible for its human rights on both a national and international level. No details were given.

Despite a new press law making it a crime to publish anything provocative, the Haitian press has reported the Nov. 9 incident in detail. The press law, criticized by the Inter-American Press Association, has not yet been put in force.

The significance of the Cabinet appointments of Gen. Claude Raymond, chief of the Presidential Guard under Francois Duvalier and later Army Chief of Staff, and Herve Boyer, Ambassador to Rome under Francois Duvalier, have yet to be seen. There is some feeling that their appointments present the possibility of a more authoritarian government.

At the moment, those who had hoped to see President Duvalier's policy of liberalization continued are simply waiting to see what happens, and they are waiting with some apprehension. "We have to watch the situation step by step," said one. "We are walking with death."

NATIONAL COUNCIL OF
THE CHURCHES OF CHRIST,
New York, N.Y., June 22, 1979.

The CHAIRMAN,
Inter-American Commission on Human Rights, Organization of American States, Washington, D.C.

DEAR MR. CHAIRMAN: The National Council of Churches has been actively involved in the past several years with the situation of Haitian refugees seeking political asylum in the United States. What we have witnessed in the United States' treatment of the Haitians is a gross denial of justice and fair treatment which contravenes constitutional principles and abrogates domestic statutes and international obligations to which the U.S. Government must adhere.

The National Council of Churches' attempts to secure redress for these grievances through domestic remedies thus far have met with no success. We now submit the attached complaint to the competence of the Inter-American Commission on Human Rights setting forth actions taken by the U.S. government which violate its commitment under international law, specifically the American Declaration of the Rights and Duties of Man.

Sincerely,

WILLIAM L. WIPFLER.

COMPLAINT ALLEGING A VIOLATION OF HUMAN RIGHTS IN THE UNITED STATES OF AMERICA

Chairman, Inter-American Commission on Human Rights, Organization of American States, Washington, D.C. 20006. United States of America.

The Undersigned: The International Human Rights Law Group, United States Citizens, 1700 K Street, N.W., Suite 801, Washington, D.C. 20006, U.S.A. on behalf of National Council of Churches, United States Citizens, 110 Maryland Avenue, N.E., Washington, D.C. 20002, wish to communicate to the Inter-American Commission on Human Rights, for the purposes established in its Statute and Regulation the following:

This complaint is being filed against the government of the United States of America on behalf of approximately 8,000 Haitian nationals who currently are seeking refuge within the United States. The procedures employed by the United States in handling the claims of these Haitian refugees violate regional and international commitments which the U.S. has undertaken. The United States of America is subject to the jurisdiction of the Inter-American Commission on Human Rights by virtue of the fact that the United States is a member of the Organization of American States (OAS). As a member of the OAS, the United States is obligated to guarantee those rights which are enumerated in the American Declaration of the Rights and Duties of Man (adopted at the Ninth International Conference of American States in 1948). The United States is also a signatory to the American Convention on Human Rights, which entered into force on July 18, 1978, and which may be considered to give more precise expression to many of the rights set forth in the Declaration.

Pursuant to Article XXVII of the American Declaration of the Rights and Duties of Man, the United States is bound not only to act in accordance with its domestic laws in granting asylum to those seeking it, but must also act in accordance with international agreements. The U.S. is therefore obligated under the Declaration to act in accordance with the Protocol Relating to the Status of Refugees (Appendix 1), which entered into force with respect to the U.S. on November 1, 1968, and which incorporates

Article 2 through 35 of the United Nations Convention Relating to the Status of Refugees (Appendix 2).

FACTUAL BACKGROUND

The human rights situation in Haiti has been the subject of almost constant attention by the Commission, including a report in 1963 (Doc. 5–8), investigations specifically concerning the treatment of Haitian nationals returned to Haiti from the Dominican Republic in the late 1960's (see the Reports of the work accomplished by the Commission at its 14th through 21st sessions, and especially Doc. 2–16, Rev.), under consideration by the Commission as a result of its visit to Haiti in August 1978.

With respect to Haitians deported or excluded from the United States and returned to Haiti, Amnesty International has issued two statements in recent months expressing serious concern for the safety of these persons. In August 1978, Amnesty International requested "the United States Government not to deport any of these persons to Haiti without fully assuring itself that they will not face imprisonment or persecution on their return." (Appendix 3)

The Amnesty statement based its concern on a number of factors. It stated:

> There has been no reduction in numbers nor reorganization of the notorious security militia and other military personnel who have been responsible for illegal arrest, maltreatment and other breaches of constitutional guarantees. In the past year Amnesty International has received reports that arrests have been carried out without due legal safeguards. Furthermore, the "loi Anti-Communiste", adopted on 28th April 1969, is still in force, and provides that persons found to have made "any declaration of belief in communism, verbal or written, public or private," or propagated "communist or anarchist doctrines by conference, speeches, conversations . . . by leaflets, posters, newspapers . . ." will be charged with crimes against the state, tried in military court, and, if convicted, mandatorily punished by death penalty.

After further investigation, a subsequent Amnesty International statement in December 1978 concluded that "many Haitian returnees and their relatives may be liable to arrest, detention, and persecution in Haiti," and it specifically rejected representations by the Haitian government that no one returned from the U.S. had been arrested (Appendix 4).

Significantly, a visit to Haiti in April 1979 by an American journalist to trace the fate of eleven Haitians who had been returned by the INS to Haiti many months before disclosed that families of the returnees had never heard from them and still believed that they were in the United States. (see Appendix 6, statement of Michelle Bogre) Given the very close family ties that characterize Haitian culture, the fact that the returnees had not contacted their families during an extensive interval can only raise grave questions as to their whereabouts and safety and affirms Amnesty's December statement.

Between December 1972 and November 1977, an estimated 3,500 Haitians arrived in the United States, many of whom applied for political asylum because they feared persecution if they returned to Haiti. Since that time, the number of Haitians arriving in the U.S. has increased substantially. This increase is due partly to the fact that, in June 1978, the government of the Bahamas announced its intention to begin deporting Haitians; a substantial number of the Haitians expelled from the Bahamas subsequently came by boat to Florida.

Another major factor responsible for the increase in known Haitian refugees is the recent emergence of a number of Haitians who have been long-time undocumented residents of Florida. Many of these people came into the Immigration and Naturalization Service's office in Florida to obtain work authorizations as a result of an agreement made with the National Council of Churches by INS General Counsel David Crosland on November 8, 1977, which stated in part: "INS will provide written authorization to work on request to all Haitians presently in Florida, whether detained or not, who have previously sought political asylum and have asylum claims pending." In the next few months, as many as 3,000 undocumented Haitian refugees requested authorization to work in response to this new policy. In contravention of this commitment the INS began in August 1978 to institute deportation proceedings in almost all of these cases, using records of names and addresses obtained from those who had sought work authorization. There are presently over 8,000 exclusion and deportation cases involving Haitians pending before the INS in Southern Florida.

CURRENT SITUATION

Immediate refoulement

The most serious violation of the rights of the Haitian boat people (whether they are fleeing Haiti directly or as a result of the threat of expulsion from the Bahamas) has been the practice of INS officials to threaten those Haitians detained while attempting to enter the U.S. In numerous instances, INS officials have intimidated them into accepting so called "voluntary departure" and immediate return to Haiti.

Coercive interrogations, misleading advice and threats of reprisals in Haiti if political asylum is claimed in the U.S. have been used by the INS to effectively deny the Haitians the opportunity to claim asylum and refugee status. For example, one Haitian refugee relates the following experience:

> One of the Immigration employees-translator . . . said that Immigration had decided to deport all of us, right away. He said that those who return voluntarily will have no problem with the government in Haiti, because they would be accompanied by United States representatives. If we would not return voluntarily, we would have no protection upon arrival in Haiti. That is, no U.S. representative would be sent with us. But, no matter what, we would be deported. He said that we already know what would happen to us if we did not return to Haiti voluntarily. That is, that we knew what the Haitian government would do to us if we arrived without U.S. protection. Tony said that not even God could help us to stay in the United States.

(See appendix 6, statement of Acceus Serrant; see also statement of and supporting materials relating to Lucien Calixte, Enel Mogene and Camelien Ceide). The extremely poor prison conditions in which the Haitians are often placed contributes to the constant pressures placed upon them to "voluntarily" return to Haiti, despite the U.S. obligation not to return any person to a country where he or she faces persecution.

The use by the INS of at least one Haitian interpreter, identified as "Tony Heider," who has been recognized by Haitian refugees as a personal friend of President Duvalier's, understandably has intimidated the Haitians and prevented them from openly expressing the political motives for their flight from Haiti because of fears of reprisals directed either against themselves cr against relatives living in Haiti. (See Appendix 6, statement of Lucien Calixte.)

Violations of due process rights

By August 1978, the INS significantly increased the rate of proceedings against Haitian refugees in the Miami area in response to that increased number of Haitian cases that were initiated using information derived from the work authorization applications and those that resulted from the departures from the Bahamas. The number of hearings was accelerated from an average of 5 to 15 per day during the first half of 1978 to an average of 60 per day in August. By mid-September, the daily average was over 100 and occasionally exceeded 150 hearings per day, although these figures have decreased since that time. Many of these cases have involved applicants seeking political asylum within the United States.

This escalated rate of hearings, as well as the procedural irregularities in the hearings and other INS proceedings, has served to undermine severely minimal due process protections for the Haitians. Those Haitians who have valid claims for political asylum are being denied the opportunity to have a fair hearing and full consideration of the merit of their claim. (For example see Appendix 6, statements of and supporting materials relating to Prospar Bayard, Theodore Cadet.)

As documented in the attached report on "The Haitians in Miami: Current Immigration Practices in the United States," Appendix 5, presented in December 1978 by the Lawyers Committee for International Human Rights, the International Human Rights Law Group, and the Alien Rights Law Project of the Washington Lawyers Committee for Civil Rights Under Law, lawyers in the Miami area are faced with severe problems in adequately representing their clients. (See Appendix 6, statements of attorneys Ira Kruzban, Frank Murray.) The simultaneous scheduling of numerous deportation hearings and asylum interviews frequently resulted in individual attorneys having to represent as many as fifteen or even twenty clients in many different places all at one time. The problem is further compounded by the fact that the asylum interviews are neither recorded nor fully transcribed. Rather, a summary of each answer given by the person is first translated then typed out, providing an entirely inadequate and often misleading record which forms the evidentiary basis for future hearings and proceedings. Several refugees who have protested these procedures or have invoked their right to remain silent during court hearings have been imprisoned. (See Appendix 6, statement of and supporting materials relating to Augustin Sennecharles.)

These actions taken by the INS, involving the application process for political asylum and the timing and procedures in deportation and exclusion cases, have impaired substantially the rights of Haitians seeking political asylum in the United States and violate the international human rights obligations undertaken by the United States.

SPECIFIC ALLEGATIONS

Examples representative of the general situation which is the subject of this complaint are set forth in Appendix 6. While there are variations in the specific cases of each individual case, there is a common pattern in the circumstances of all of those individuals on whose behalf this complaint is brought.

The United States, through its agent the Immigration and Naturalization Service, has engaged in the following activities:

1. In violation of the basic humanitarian principles underlying the prohibition against "refoulement" contained in an Article of the Convention relating to the Status of Refugees, arbitrarily returned Haitian nationals to Haiti under the guise of "voluntary departure" by means of threat, intimidation, and the employment of Haitian translators believed to be informers for the Haitian Government.

2. Employed a procedural scheme which a) arbitrarily dismissed an overwhelming percentage of asylum applications as clearly lacking in substance, stating that the applicant has failed to identify "any dates, places, or occurrences that can be independently identified by the Service" and b) hampered or discouraged any realistic effort to substantiate the facts alleged.

3. Denied Haitian refugees the effective assistance of counsels by denying lawyers the right to ask clarifying questions at interviews, to challenge the typed record of the proceedings, or otherwise to participate actively in the interviews; by simultaneously scheduling interviews and hearings in buildings which are several blocks apart; and by increasing the frequency of hearings so as to severely limit the time available to counsel for adequate and effective representation.

4. Harassed attorneys and others who represent Haitians, thereby undermining their work and impeding their ability to provide effective representation. (see Appendix 6, statements of Stephen D. Levine, Rulx Jean-Bart)

5. Arbitrarily arrested and imprisoned, without reasonable or sufficient basis for such imprisonment, Haitians seeking refugees in the United States.

VIOLATIONS

The discriminatory acts complained of in paragraphs 1 through 6 above and set forth in greater detail in the statements collected in Appendix 6 deprive Haitian nationals seeking asylum in the United States of their rights to equal protection and to life and liberty, in violation of Articles I and II of the American Declaration of the Rights and Duties of Man and Article 22(8) and 24 of the American Convention on Human Rights.

The acts complained of herein deprive these Haitian refugees of their right to due process, in violation of Articles XVII and XXV of the American Declaration of the Rights and Duties of Man and Articles 7 (2) and (3), 8(1), and 25 of the American Convention on Human Rights.

Acts complained of herein violate the Convention relating to the Status of Refugees, which is incorporated by reference in Article XXVII of the American Declaration of the Rights and Duties of Man, as follows: discrimination against these Haitian nationals, the basis of their country of origin, in violation of Article 3 of the Convention; denial of effective access to U.S. courts, due to harassment and other actions which interfere with legal representation, in violation of Article 16; return of Haitian refugees to Haiti, where their lives or freedom are threatened on the basis of political opinion, in violation of Article 33; and failure to facilitate the assimilation and naturalization of Haitian refugees in violation of Article 34.

EXHAUSTION OF DOMESTIC REMEDIES

Under the provisions of Article 9(bis)(d) of the Statute of the Inter-American Commission and Article 54 of the Commission's Regulations, the Commission may examine certain denunciations alleging violations of human rights only after internal legal procedures and remedies have been exhausted. Article 46(1)(a) of the American Convention on Human Rights provides more specifically that such remedies must be exhausted "in accordance with generally recognized principles of international law."

However, the present complaint concerns a "general" rather than an "individual" case of alleged violations, insofar as it raises a broad policy and factual questions concerning the administration of the statutes and regulations of the United States with respect to all Haitian refugees. In light of the Commission's consistent practice with respect to "general" cases (see Case No. 1684, reported in the Annual Report of the Commission of 1972 (Twenty-eighth Session), pp. 16–20), the applicants hereby request that the Commission waive the requirement in Article 9 (bis)(d) of its Statute relative to the exhaustion of domestic remedies.

Further, it is a well-established tenet of international law, that, in order for the rule of exhaustion of domestic remedies to apply, purported remedies must be both adequate and effective to redress the alleged grievance, i.e., a complainant is not required to pursue remedies which are in fact futile. Neither the laws of the United States nor the regulations promulgated by the INS, as applied, offer the possibility for effective redress of the complaints of the Haitian national on whose behalf this communication is being made.

Further, Haitians who have been coerced to "voluntarily" return to Haiti clearly have no domestic U.S. remedies to pursue. Accordingly, the exhaustion requirement has been met with respect to those already deported or returned to Haiti.

Due to the de facto denial of due process and the right to counsel, as well as the discriminatory manner in which Haitian deportation and exclusion cases are presently being handled, no effective administrative or judicial remedies are available to prevent the imminent deportation or exclusion of Haitian nationals who may have legitimate claims to political asylum or refugee status under either U.S. or international law. In any event, once domestic remedies have been exhausted, the Haitian refugee seeking political asylum in the U.S. is subject to immediate deportation and is placed in imminent peril of violations to his personal security and safety upon refoulement to Haiti. Thus, the right and opportunity to seek redress from the Commission would be forever precluded. Awaiting exhaustion of judicial proceedings in this particular case cannot reasonably be required.

A recent stay of deportation hearings expired on April 16, 1979, and the authors of this communication request that the Commission take immediate interim action to ensure that Haitian nationals presently within the U.S. and seeking asylum are not returned to Haiti and thereby be subjected to serious danger to their liberty and their lives.

Insofar as the human rights violations and prospective violations alleged herein include violations of Article I, II, and XXV of the American Declaration of the Rights and Duties of Man, it is requested (1) that this communication be considered by the Commission in accordance with the provisions of Article 53 through 57 of the Commission's Regulations and Article 9(bis) of the Commission's Statute and that (2) the Commission undertake an on-site investigation to study the violations alleged herein.

The names of the authors of this complaint need not remain confidential; however, we do request that, for the present, names appearing in Appendix 6 of the complaint remain confidential.

AMY YOUNG-ANAWATY,
Esquire, Executive Director, International Human Rights Law Group.

WILLIAM WIPFLER,
Director, Human Rights Office, National Council of Churches.

AN URGENT PLEA FOR HUMANE AND EQUAL TREATMENT FOR HAITIAN REFUGEES—THE INVISIBLE BOAT PEOPLE

DEAR PRESIDENT CARTER: We consistently supported your express commitment to the protection of human rights throughout the world. We share your belief that the protection of these rights must be a cornerstone of our country's foreign policy. We have been encouraged by your efforts and actions to provide refuge to those fleeing political persecution—including Soviet Jewry and Cuban, East European and Indochinese refugees. We believe that the United States must continue to provide leadership to the international community in seeking to resolve the plight of the homeless.

In view of your commitment to human rights, we are gravely concerned by our government's continued failure to accord equal treatment to Haitian Refugees now seeking asylum in the United States.

Since 1972, approximately 8,000 Haitian Refugees have fled their homeland in search of freedom from persecution. They have risked their lives in flimsy sailboats traversing hundreds of miles of dangerous ocean. Many have drowned. All have suffered greatly.

For many years, Amnesty International has reported on the widespread violation of human rights in Haiti.

"For the overall period of the Duvalier dynasty—since 1959—the Federation Haitienne des Syndicats Chretiens, in Caracas, Venezuala, estimated that there were more than 3,000 people executed and tortured to death." (Amnesty 1975–76)

"AIUSA's (Amnesty, USA) findings are consistent with the observations of Haitian emigrants, journalists, and others in recent months that the apparatus of repression established under Francois Duvalier remains in place under Jean-Claude Duvalier." (Amnesty, 18 December 1978)

In our view these Haitian Refugees are "Boat People." Like the Vietnamese, whether black or any other color, they should be treated equally. The Haitians are, it seems, the invisible boat people, languishing on our shores, uncertain of their fate, in desperate fear of forced return to Haiti.

We must assume, for now, that the plight of these Haitian Boat People has not fully been brought to your attention.

It is with hope and determination that we call upon you now to carefully review the treatment which these people have received by officers of the Immigration and Naturalization Service. We trust, we fervently hope, that you will lead this nation to respond to their cries as it has responded to the cries of the Vietnamese Boat People and refugees from other lands. We embrace the words and deeds of Pope John Paul II and join his call for an end to the subordination of human rights to the abstract political interests of nations.

We thus call upon you to demonstrate your capacity for leadership, and this nation's commitment to the dignity of all mankind, regardless of race, religion, class or the ideology of their homeland, and to direct the Attorney General to grant political refugee status—political asylum—to those 8,000 Haitian Refugees who have fled to the United States on or before June 30, 1979, and seek political asylum.

In this, we join a diversity of religious, civil rights, labor, and political organizations—including the National Council of Churches, the Archdiocese of Miami, the Haitian Fathers of Brooklyn, the Congressional Black Caucus, the National Urban League, the National Alliance of Postal and Federal Employees, the United Food and Commercial Workers International Union, and the Platform Committee of the Florida Democratic Party—which have called for equal treatment for the Haitian Boat People.

Please hear the pleas, see the despair and honor the dignity of these people. Please offer them justice. Thank you.

DECEMBER 3, 1979.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Recent events in Haiti have heightened the concern of the Congressional Black Caucus Task Force on Haitian Refugees for the safety and well-being of Haitian Refugees deported by the United States.

We are shocked by testimony given in federal court proceedings by former members of the Haitian Military Apparatus, which established the Haitian refugees have been summarily executed upon their return to Haiti.

In short, we are outraged that this group of "Black Boat People" has been denied the humane and equitable treatment accorded others fleeing political persecution. Our refugee policy must not be tainted by racial, ideological, or class prejudices.

We therefore call upon you to fulfill the promise of your laudable human rights campaign and direct the Attorney General to exercise his parole authority to adjust the status of the over 8,000 Haitian refugees now located in south Florida.

Thank you for your attention and past courtesies.

Sincerely,

Shirley Chisholm,
Member of Congress.

☐ 1710

Mr. LELAND. Mr. Speaker, I thank the distinguished gentlewoman from New York for participating in this colloquy today.

Mr. FAUNTROY. Mr. Speaker, will the gentleman yield?

Mr. LELAND. I yield to my esteemed colleague, the gentleman from the District of Columbia (Mr. Fauntroy).

Mr. FAUNTROY. I thank the gentleman very much for yielding.

Mr. Speaker, I would like to thank the distinguished gentlelady from New York with whom I have the honor of working on the Congressional Black Caucus Task Force on Haitian Refugees.

My colleague from New York, who is the chairperson of our Task Force on Haitian Refugees, has told the truth in love about our country's deplorable and disparate treatment of Haitian refugees fleeing from a regime which by any standard is in violation of the most basic political, social, and economic rights.

Our distinguished chairperson is facing this reality with courage for she has brought this shameful situation to the attention of our highest officials, including the President of the United States.

What needs to be done now is for our Nation to correct itself and receive Haitian refugees with the same open arms that we receive those fleeing from oppression all over the world, by granting the Haitians asylum.

In recent months, we have seen—as we should—a growing concern on the part of our Government for the plight of Indochinese refugees. This concern has led President Carter to double the quota for this classification of refugees. The Congress most recently, in response to the administration's request for additional refugee assistance, appropriated $207.3 million for additional assistance to Indochinese refugees.

Remarkably, both the authorizing and appropriation bills passed the appropriate committees in less than a week's time. Soon after, the House passed these bills by voice vote.

This alacrity is not only missing in regard to Haitian refugees who are black, but is also absent when it comes to meeting the needs of America's poorest citizens.

We, on the Task Force on Haitian Refugees, are very serious and will be working to build a coalition of conscience that focuses upon the callous, inhumane, and frankly racist treatment afforded Haitian refugees by the U.S. Department of State and the Immigration and Naturalization Service.

It is interesting to note that both of these departments are still largely segregated. For example, a statistical report completed in 1974 showed that blacks comprised only 2.5 percent of the Foreign Service Corps. This low percentage is particularly evident in policymaking positions. More important than skin color has been the insensitivity and cavalier attitudes that are all too often found among Government officials who deal with countries such as Haiti.

The State Department, with the forced resignation of Ambassador Young, faces a crisis of credibility within our country, particularly among those of us who supported Ambassador Young's foreign policy initiatives which were reflective of a concern for the poor and oppressed.

In May of 1979, the U.S. State Department sent an all-white team to Haiti to investigate the fate of Haitian refugees forcibly returned by our Government. Their report has been labeled a "whitewash" by many groups familiar with the human rights picture in Haiti. Perhaps even more disturbing was the methodological basis for the report. In Federal court proceedings in Miami, a former director of Research for Amnesty International testified that the report was methodologically flawed and provided no basis for sound policy determination.

The sample of returned refugees interviewed was unrepresentative: Those interviewed were only those willing to come forward voluntarily; no attempt was made to visit prisons; the mission was conducted with the full knowledge and permission of the Haitian Government; many interviews were conducted openly and lasted only 15 minutes. Therefore, it is safe to say these environmental conditions rendered it extremely problematic that candid responses could be illicited.

The report has a schizophrenic quality in its assertions. For example, while the report appears to picture Haiti as safe for returnees, the report also states that Haitian Government officials explicitly acknowledge that certain returnees could be subject to persecution on political grounds.

I find it outrageous that the U.S. Department of State and the U.S. Immigration and Naturalization Service would utilize such a flawed report in attempting to justify a callous government policy of deportation for Haitian political refugees.

The Immigration and Naturalization Service is also known for its exclusion of minorities from policymaking positions and indeed the resignation of Commissioner Leonel Castillo confronts the Service with the same crisis of credibility that is faced by the State Department.

The present capability of the Immigration and Naturalization Service to administer our laws fairly when it comes to people of color from the Third World is suspect. The treatment of Haitian refugees is a case in point. The Congressional Black Caucus Task Force on Haitian refugees is now publicly reinforcing Chairperson Chisholm's letter of July 24, 1979, to President Carter in which she requested the President to intervene to bring about due process and humane treatment for the Haitian refugees.

The Congressional Black Caucus Task Force will be continuing to work on this issue with others such as the Haitian refugee project, the Haitian Fathers of Brooklyn, the American Committee for the Protection of the Foreign Born, the National Council of Churches, the National Alliance of Postal and Federal Employees, the National Urban League, the Archdiocese of Miami, the American Civil Liberties Union and the A. Philip Randolph Institute.

We join Senator Dick Stone of Florida and our distinguished colleague and man of conscience, Congressman William Lehman, in calling for parole and asylum for those Haitian refugees here in our country. We will be insisting and monitoring our Government's conduct to insure due process for these Haitian refugees, who may flee to our shores in the future and we are committed to a new refugee act which will allow us to have a human rights policy which is free of ideological, racial, or class bias. Our Nation's honor and its interests demands no less.

Mr. LELAND. Mr. Speaker, I certainly thank my colleague from the District of Columbia.

Mr. Speaker, I would like to thank my distinguished colleagues for the timely and telling remarks they have made concerning the deplorable plight of Haitian refugees both in this country and upon their return to Haiti.

I would like to address the more general issue of U.S. foreign policy toward Haiti and the Caribbean basin. In spite of good intentions and financial support promoting development programs, I believe that our policies have exacerbated the Haitian refugee problem and actually contribute to economic and political instability throughout the region.

Beyond our immediate concern for Haitian refugees and the reprehensible, political and economic conditions within Haiti, the United States has ample reason for being concerned with the present and future of the entire Caribbean basin including Central America. Many of us are aware of the importance of the Caribbean as a major transshipment point for oil from the Middle East, and as a producer of agricultural goods and raw materials such as sugar, coffee, and bauxite. Of course, we need not mention its obvious tourist attractions.

Politically the region is also important. Twenty years ago only three independent nations existed in the area, but today there are 13 and the number will most likely approach 20 in the next few years. Most of these nations have been run for years by self-perpetuating political machines whose leaders have used a thin veneer of constitutionality to mask widespread corruption and repression. The people of those newly, or soon to be, independent nations have suffered for centuries under the yoke of colonialism, which has maintained them as permanently underdeveloped colonies. The principle economic function of the region has been to provide cheap raw materials and labor to the developed world and as a playground for the affluent. For centuries the Caribbean has produced much for the world economy but, they have progressed little because of it.

In the Caribbean the United States is viewed by many as an accomplice in this process, more interested in maintaining underdevelopment than overcoming it.

While our vast material accomplishments may be coveted, many Caribbeans simultaneously feel that their cheap resources and labor have subsidized our high standard of living. From their alienated perspective, our military assistance has been primarily used to install and prop up regimes that promote and maintain these same conditions. President Carter's response to the Soviet brigade in Cuba last September is simply another step in this direction. The creation of a Caribbean task force concerned with security is viewed in the Caribbean as another use of the "big stick" without even the compensation of a carrot.

However, the times are changing. The Caribbean nations are no longer passive colonies. Many in the region are rising up and demanding a new course toward autonomous development. Jamaica has recently adopted an independent posture trying to tightrope between socialism and capitalism. Guyana is similarly following suit, while Grenada witnessed a coup earlier this year and has become noted for similar rhetoric. Who knows what direction the other mininations of the Caribbean will assume?

Central America has been in the news recently because of the Sandinista-organized overthrow of the Somoza regime. El Salvador remains on the brink of revolution; and Guatemala's stability is based on its extraordinary repression.

All the countries in the Caribbean basin are dramatically underdeveloped. The masses struggle daily to make a living, unable to be concerned with politics and confrontations between communism and free enterprise. Their principal concerns are simply making it from one season to the next, eking out a subsistence and hoping that life will improve for their children.

Fortunately, there are some countertendencies in our foreign policy to which we can all proudly point. We have finally approved a Panama Canal Treaty that will eventually return control of the canal to the Panamanians. The House is now considering $75 million in aid for the new Nicaraguan Government. More generally, the present administration's human rights policy has undoubtedly improved life for many people throughout Latin America and the Caribbean. And recently, the State Department has helped establish a Caribbean group of 30 countries and 15 international organizations to expand and coordinate the flow of aid to the region.

I applaud these efforts, but I say more must be done. In general, our policy in the Caribbean basin may be characterized as two-faced—a sometime concern for genuine long-term development and promotion of human rights, counterbalanced by narrow-minded security concerns promoting highly repressive, dictatorial political regimes.

The case of Haiti indicates that provision of foreign aid is simply insufficient. We have been pouring money into Haiti, with few apparent results. The country remains the poorest in the Western Hemisphere. In this one instance, I agree with the conservative adage that problems cannot be solved simply by throwing money at them hoping that repressive and corrupt governments will put it to constructive use. And indeed, frequently the money has been spent for good causes such as building infrastructures like roads and dams, without which further development would be impossible.

But I would go beyond this simple-minded statement that money cannot solve social problems and add that we must examine the nature of the problem; that is, the nature of economic underdevelopment in Haiti and its relationship to the United States. For it is even more evident that simply ignoring problems, or assigning the solution to your neighbor, is less likely to resolve them. In particular, all too often our foreign assistance money goes toward military spending and other means of reenforcing the respressive machines and control of elites who helped create and maintain the conditions of inequality and denial of human rights.

We must come to realize the intimate and inextricable connections between economics and politics. Haitian refugees, indeed all refugees, are both economic and political refugees. Many are individually persecuted by the infamous political police, the Tonton Macoutes. But all Haitians are affected by a corrupt, violent regime that maintains and magnifies economic inequalities by political means. Our foreign policy toward underdevelopment and refugees from the Third World must recognize this connection and positively link economic development to the universal extension of human rights.

I am firmly convinced that a foreign policy toward the Caribbean, and the Third World in general, that ties human rights to economic development is in the best long-term strategic and economic interests of the United States and to world peace in general.

We need to immediately address the humanitarian needs of the Haitian refugees in the United States and treat them with the same profound concern we have so freely extended to the Indochinese and other refugee groups.

But our concern cannot stop there. We must develop a positive and effective foreign policy toward the Caribbean that will strike at the joint roots of economic underdevelopment and political repression; one that will extend political and economic rights universally.

TESTIMONY OF IRA J. KURZBAN

For the past seven years, since the first group of Haitian boat people arrived in this country in search of political freedom and human dignity, several myths have surrounded their plight. Pernicious in their nature and purpose, these myths have been used to distort the refugees' dilemma and to encourage opposition to their quest for political asylum. More importantly, these myths have formed the theoretical basis for our government's improper treatment and unfavorable characterization of Haitian refugees. The four major myths which I wish to address and dispel are:

1. That Haitians seeking asylum in the United States are "economic refugees," and not "political refugees;"

2. That Haitians are immigrating to the United States in large numbers and any grant of asylum to Haitian refugees who are presently here would encourage mass migration to the United States from Haiti;

3. That Haitian refugees who are presently in the United States are taking jobs away from United States citizens and permanent residents; and

4. That Haitian refugees pose a novel legal problem for the Immigration Service.

I. HAITIANS ARE POLITICAL REFUGEES

Any analysis as to whether or not Haitian refugees can remain in the United States because they are "political" and not "economic" refugees cannot proceed only upon a factual presentation of the conditions in Haiti and the fate of refguees who are deported to Haiti, but also requires an understanding of how the terms—economic and political—are defined in law. The use of the terms "economic and political" are largely misleading, particularly when considered in light of the applicable immigration laws and judicial precedents.

The Courts, for example, recognized long ago that economic deprivation alone provides a sufficient basis for granting refugee status. See *Dunat* v. *Hurney*, 297 F.2d 744 (3rd Cir. 1962), *Kovack* v. *INS*, 401 F.2d 102 (9th Cir. 1969). In *Dunat*, the Court granted political asylum under Section 243(h) to a Yugoslav citizen who was deprived of his right to a livelihood. In doing so the Court found that:

> "Economic proscription so severe as to deprive a person of all means of earning a livelihood may account for . . . persecution." *Dunat*, 297 F.2d at 753.

Likewise, the Courts have recognized that "illegal departure" from the country of origin or "the seeking of asylum" are sufficient grounds for granting political asylum. See *Sovich* v. *Esperdy*, 319 F.2d 21 (2nd Cir. 1963), *In the Matter of Janus and Janek*, I.D. No. 1900 (July, 1968).

Thus, the juxtaposition of "economic" and "political" refugees may have to do with Weberian ideals or political * * *.

More importantly, the actual conditions of Haitian refugees in fleeing Haiti and the fate of those refugees who have been forceably returned to Haiti after seeking asylum in this country, establish unequivocally a compelling legal and moral justification for granting the Haitians refugee status. Included with this paper are thousands of pages of documents, newspapers, articles and testimony transcripts as to the political conditions in Haiti and the fate of those Haitians who have been forceably deported or otherwise returned to Haiti from the United States.

This testimony and documentations establishes that:

1. All Haitians who are deported or returned from the United States are placed in the Casserne Dessaline and other political prisons in Haiti (testimony of Ray Joseph and testimony of Sept. 23rd, pp. 70–100).

2. Returning refugees are arrested by and on the order of the Haitian secret police and the Duvalier family (testimony of September 23rd, pp. 25–49, pp. 70–100).

3. Some of the persons arrested solely for the "crime" of fleeing Haiti or claiming political asylum abroad, have died in these political prisons (testimony of Marc Romulus, and Patrick Lemoine).

4. Many of the refugees who were returned have disappeared (Affidavit of Michele Bogre, page 48 supplementary documents).

5. As recently as February, 1979, there were Haitian refugees in the National Penitentiary in Haiti, whose only crime was their flight to the United States and thier deportation back to Haiti (testimony and transcript at pp. 70–100).

6. The Duvaliers have instituted new restrictions on the press in the past two months which were denounced by the Inter-American Press Association as making "freedom of the press impossible in Haiti," (Article from Haiti observateur at page 153 of documentary supplement).

7. Haiti's new censorship law makes it a crime to "insult" Jean-Claude Duvalier, his mother or other Haitian authorities (N.Y. Times 12/12/79). The attempt to seek

asylum in the United States by Haitians can be considered an "insult" to the Duvaliers under this law.

8. Less than one month ago, on November 9th, 1979, a peaceful human rights demonstration was violently broken up by members of the Haitian secret police and an American diplomat was beaten up (Washington Post, article of 11–11–79 at page 150 of documentary supplement).

9. On November 13th, 1979, Duvalier fired eight of his fourteen cabinet ministers and replaced them with military personnel and old line loyalists of his father, Francors Duvalier. This is the first time that military personnel were placed in the cabinet. (Washington Post, article of 11–15–79 at page 151 of documentary supplement).

Finally, careful analysis of the claims of Haitians seeking political asylum in the United States reveals that the vast majority have fled Haiti not because of poverty but rather because of political repression. Two recent cases are revealing.

On October 11, 1979, Edouard Franck an accountant for HASCO—the major Haitian sugar company—fled Haiti. He fled because he was a member of the Christian Democratic Party—a party now outlawed by the Duvalier family. Franck was arrested by the S.D. (secret police), mistakenly released, and then sought again by the S.D. He managed to leave the country before being recaptured. Other members of the party were not as fortunate. Sylvio Claude, the president of the party was arrested on August 29, 1979. His whereabouts or whether or not he is presently alive is unknown.

A second case is that of Hubert Lubin, a school teacher in Haiti. Lubin fled Haiti in March, 1978 not because of his economic status—which by prevailing standards in Haiti was comfortable—but rather because he was beaten in front of his students by members of the Ton-Tons Macoutes when he made certain statements which were critical of the Duvalier family.

II. THE NUMBER OF HAITIAN REFUGEES SEEKING ASYLUM IN THE UNITED STATES IS INSIGNIFICANT IN COMPARISON TO OTHER REFUGEE GROUPS

Any assertion that Haitian refugees have sought asylum in the United States in significant numbers is clearly contradicted by the number of refugees in proceedings before the INS. There are approximately nine thousand refugees presently seeking asylum in proceedings before the INS. Although these numbers may not directly reflect the actual number of Haitian refugees in this community they can be assumed to closely approximate the Haitian refugee population, because of the INS' previous policy of issuing work permits. From December, 1972 to January, 1978, approximately three thousand refugees fled Haiti and arrived in South Florida. By the end of June, 1978, another fifteen hundred refugees had arrived in the United States as a result of their forced expulsion from the Bahamas. When the forced expulsion ended the Haitians' mass migration from the Bahamas ended.

Further, between November, 1977 and August, 1978, the INS instituted a policy of issuing work authorizations to any Haitian who appeared at the INS offices. This resulted in the number of Haitians known to INS increasing from approximately forty-five hundred to eighty-five hundred by October/November, 1978. As the numbers changed dramatically during this short period, and as the issuance of the work authorizations was understood by the refugee community to mean they could stay in the United States, it can be assumed that most, if not all, the Haitians who were not known to INS came forward at that time. Thus, the nine thousand figure may accurately approximate the actual number of Haitian refugees in South Florida.

However, even the highest approximation of Haitian refugees in South Florida—over twenty-five thousand—is still insignificant in comparison to all other refugees who have been admitted to this country. For example, from 1972 until the present—the time frame during which Haitian refugees have fled to the United States—approximately two hundred and thirty thousand Indochinese refugees have been admitted into the United States and given a full panoply of social services. Moreover, over six hundred thousand Cuban refugees have been given lawful status in the United States.

Further, in one month of this year, July, 1979, approximately six thousand Nicaraguan refugees arrived in South Florida and it is estimated that well over thirty thousand Nicaraguan refugees are presently in the United States.

However, the spectre of the "open floodgates" has been raised against Haitians by the Immigration Service. It is assumed by many that South Florida will be flooded by a new wave of Haitian refugees if those who are presently here are granted political asylum. This assumption, though, rests upon the mistaken belief that flight from Haiti is determined by U.S. immigration policy. This clearly ignores the physical and financial limitations which Haitians must overcome to get to the United States. The journey is over eight hundred miles in rough seas under difficult weather conditions.

In addition, there are political barriers which prevent Haitians from immigration to the United States in great numbers. It is a crime, for example, to leave Haiti without the proper documentation. Further, our own country gives substantial military assistance to Haiti in the form of naval and electronic equipment for border patrol purposes. In 1976, we provided military assistance to Haiti for equipment which could be utilized for border patrol purposes. See Institute for Policy Studies Report. (Vol. II Documents—part VI "X")

We too often forget that the large numbers of Cuban and Indochinese refugees in the United States were attained not simply by the flight of refugees from those countries, but rather by the active assistance, through airlift operations, of our government.

Without airlifts, and with the presence of physical, economic and political barriers to migration, the granting of political asylum to those refugees who are presently in the United States will not increase the flow of Haitian refugees to this country.

III. HAITIANS DO NOT TAKE THE JOBS FROM AMERICAN CITIZENS

Without belaboring this point, I would simply point to the conclusion of Dade County's Task Force report on Haitian Refugees, wherein the Task Force concluded:

"Allowing [Haitians] immigrants to seek work . . . does not appear to displace residents in the employment market."

Rather, a policy of permitting Haitian refugees to work would result in:

"Menial, needed work, performed at minimum cost to local employers; a net addition to overall community productivity and an improved quality of community life; residents substantially not prevented from finding acceptable employment; and a significant group of relatively unemployable persons who successfully avoid being public charges."

This position was recently confirmed in a law suit brought in federal court in this district. In *National Council of Churches v. Egan*, the court found:

"The employment of Haitians will not have a negative impact on the employment opportunities for American citizens or permanent resident aliens."

The court, in ordering the INS to return work permits to Haitian refugees found that the government's revocation of the work permits has caused Haitian refugees in South Florida:

"To suffer malnutrition, substantial and overcrowded housing, mental and physical illness and the breakdown of the family unit."

Thus, it appears that the issuance of work permits to Haitian refugees does not have an adverse effect on American workers. Rather, it has an overall positive impact because it provides workers for jobs that American citizens would not fill and simultaneously permits those who are unemployed or underemployed to avoid becoming public charges.

IV. HAITIAN REFUGEES DO NOT POSE A UNIQUE LEGAL PROBLEM

Haitian refugees seeking political asylum in the United States do not pose a unique legal problem for the Immigration and Naturalization Service. The statement by immigration authorities that there is no mechanism within the Immigration and Nationality Act for paroling or granting political asylum to Haitian refugees as a group because Congress has not passed any special act for Haitians, as they have for Cuban and Indochinese refugees, is both misleading and incorrect. Between 1959 and 1961, for example, prior to the Cuban Adjustment Act, over twenty thousand Cuban refugees were admitted into the United States without the benefit of a Congressional Act. More recently, the INS, through the Attorney General, has maintained Chilean and Argentine Parole Programs, through which persons fleeing these noncommunist countries have obtained refugee status without any special Congressional legislation.

It has also been incorrectly asserted that Haitians are not admissible because the Immigration Act only provides for admissibility of refugees from communist countries. Although the INS under § 203(a)(7) does provide for conditional entry to persons fleeing from a communist or communist dominated country or a country in the Middle East, other sections of the Act, principally § 212(d)(5) and § 243(h) give the Attorney General the express authority to parole or grant asylum to persons irrespective of their country of origin. Further, there exists no limitation in the Act itself under these sections as to the number of refugees that the Attorney General may parole or grant asylum to, or whether or not he can parole or grant asylum to large numbers of persons simultaneously or individually. Thus, the legal mechanism clearly exists for granting asylum or parole as a group to Haitian refugees in this community.

In conclusion, we are calling upon the Commission to issue an interim report recommending to the President that parole and asylum be granted to all Haitian refugees presently in the United States who seek asylum in this country.

The myths that surround the problems of Haitian refugees must be dispelled. The rule of law must prevail. The only practical solution to the fate of the approximately nine thousand Haitian refugees presently in Immigration proceedings, many of whom have been here as long as five or more years, is to grant them political asylum.

● **Mr. CONYERS.** Mr. Speaker, the Haitian people have experienced a great deal of suffering and tragedy as a nation. The world's first black republic, Haiti was subjected to repressive rule, massive poverty and the absence of development programs, and exploitation by the more powerful nations surrounding it.

From 1957 until 1971 the regime of Francois "Papa Doc" Duvalier wielded power by means of terrorism and violence. The assumption of power by his son, Jean-Claude Duvalier, in 1971 meant the virtual continuation of the regime of terror. During this whole period, the United States ignored the conditions in Haiti.

Since 1972 some 8,000 Haitian refugees have come to the United States seeking political asylum. There can be little doubt about their legitimate claims in seeking such status. Yet the U.S. Government, through the Immigration and Naturalization Service (INS), has consistently denied them recognition of their claims. Over 600 Haitian refugees already have been sent back under the so-called policy of voluntary return, a policy that effectively coerced them to return.

The others have been subjected to harassment and the denial of the most basic protections of due process. Just as the United States for so many years ignored the conditions existing in Haiti, the Government today refuses the Haitian refugees the equality of treatment accorded to other groups of refugees.

In the past year INS has stepped up its campaign to deport the Haitian refugees. Many have not been told of their rights to legal counsel and the availability of free counsel. Mass deportations hearings involving hundreds of refugees at a time have been held. Attorneys for the refugees, too few in number to represent adequately their clients, have also been intimidated by INS, including obstruction of their role in counseling their clients during the deportation proceedings.

The discriminatory treatment of Haitian refugees has to stop. The Attorney General, who has the authority to grant the Haitians political asylum, at a minimum should move to stay all proceedings against the refugees until the situation is thoroughly reviewed and the pending lawsuit challenging existing proceedings is disposed of in the courts. In the meantime, the Attorney General should instruct INS to provide the refugees with all legal protections, including facilitating their communication with the Haitian Refugee Center in Miami.

To do anything less under the circumstances and given the tragic history of the Haitian people would be utterly contrary to our professed commitment to human rights in the world.●

● Mr. LEHMAN. Mr. Speaker, I am pleased to be able to participate in this special order on Haitian refugees. Their problems with U.S. Government authorities first came to my attention in 1975. Slowly but surely, progress has been made in presenting their case to the American people.

Five years ago, few Americans were aware of their plight or interested in seeing to it that the Haitians received just treatment in our country. Today, numerous religious, civil rights, and labor organizations have expressed their support for granting political asylum to the Haitians who have come to the United States and applied for political asylum before June 30, 1979.

In the Miami area, many individuals and organizations have spoken out on behalf of the refugees. The Archbishop of Miami, the Most Reverend Edward A. McCarthy, testified earlier this month before the U.S. Select Commission on Immigration and Refugee Policy. He pointed out the blatant discrimination contained in our laws, and observed, "It is only natural that this experience should spawn well-founded suspicions that the treatment received by the Haitians is the result of institutional racism." The archbishop then urged the United States to grant political asylum to those Haitians who have applications pending.

Metropolitan Dade County officials have also voiced their concern for the Haitians. The county, of course, faces a heavy financial burden because there are no Federal funds available to provide essential human services to the Haitians. The Federal Government has prevented most Haitians from working and thus force them to rely on the mercy of private voluntary organizations and local government for assistance in obtaining food, shelter, and health care.

It is not simply self-interest, however, that has led county and State political leaders to call for allowing the Haitians to remain. For many, it may not be a particularly popular political decision. It is, however, the right decision. It is humane and just. Among these persons are Dade County commissioners, State representatives, and Democratic Party chairman for the State and the county. Local labor leaders have also endorsed this move for equal justice.

I would also like to take note of the editorial positions of our local media. While most have not yet gone so far as to call for asylum, they have expressed their outrage at the manner in which the Haitians have been treated and demanded that decisive action be taken. WPLG television has called the delay in clarifying the status of Haitians "inhuman." The Miami News called the situation "inhumane." The Palm Beach Post described the U.S. policy on the Haitian refugees as a "foolish policy which ought to be changed," and the Miami Times has supported asylum for the refugees. Recent developments within Haiti caused the Miami Herald to express its doubts about whether President Duvalier has indeed moved away from the despotism for which his father was known.

As a member of the House Subcommittee on Foreign Operations, I have a responsibility to see that our foreign aid money is spent to improve the lives of the poor people of the world and not to prop up a dictatorial and abusive regime. Haiti is greatly in need of assistance. It is one of the poorest nations in the world and I am reluctant to take any steps which would inflict greater suffering on the Haitian people. I intend, however, to look most carefully at the recent developments in Haiti which seem to indicate a return to the repressive era of Papa Doc.●

● Mrs. COLLINS of Illinois. Mr. Speaker, it is only recently that the Nation has been provided with information regarding the situation of Haitian refugees in this country. The tragedy of these brave people who have faced a hostile sea, potential political reprisals against themselves and their families is really just emerging.

As my colleague, Congresswoman Shirley Chisholm, who heads the Congressional Black Caucus Task Force on Haitian Refugees has pointed out, these refugees face even greater hazards and hardships when they arrive at our shores. Many are poor and uneducated; they are fleeing a regime which violates their human rights; yet they arrive here to be imprisoned, denied due process, denied the opportunity to work and, finally, denied the status of a political refugee in most cases.

The Haitian boat people must be treated with dignity and justice. They must not be discriminated against because they are black and poor. They must be given asylum and the opportunity to work even as their asylum claims are being heard.

The process under which asylum claims have been heard are a shame and a sham. Where once 10 asylum claims were heard each day, now about 150 are heard in a day. There is no reasonable opportunity to present a refugees' case, even where a lawyer is present. Asylum hearings and deportation proceedings are conducted simultaneously and lawyers are neither permitted to ask clarifying questions or contest the summary of the interviews; 99 percent of Haitian refugees are denied asylum.

Why does this Nation distinguish between the oppression of Eastern European nations and the oppression of right-wing regimes? Why can we suddenly find a means to admit thousands of Vietnamese refugees, but keep passing the buck between legislative and executive branches on the Haitian refugees?

Mr. Speaker, the United States must again be the beacon of hope for the immigrants fleeing oppression in Haiti as it has been the beacon of hope for those fleeing oppression around the world in the past. I urge, the Congressional Black Caucus urges, that the Congress and the President, immigration officials and the courts, act to protect and preserve the rights and the lives of the courageous Haitian boat people.●

□ 1720

GENERAL LEAVE

Mr. LELAND. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore (Mrs. Chisholm). Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 1730

BEGINNING OF A NEW AGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. Gingrich) is recognized for 60 minutes.

Mr. RUDD. Madam Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Arizona.

Mr. RUDD. Madam Speaker, last week the President broke all precedent by announcing prior to January his planned defense budget for fiscal year 1981 and the next 5 years.

Defense Secretary Harold Brown testified this month before the Senate Armed Services Committee that the President will propose a 5.6-percent real increase in the defense budget for 1981, and an average 4.85 percent real growth in defense spending over each of the next 5 years.

The President's rationale for this increased effort to modernize our defense forces is certainly accurate.

Secretary Brown stated it this way in his Senate testimony—

> Both the magnitude of the FY 1981 defense budget and the FY 1981–85 defense program and the nature of their elements have been established through analysis of our genuine defense needs in light of the Soviet Union's steady and substantial buildup of its forces. . . .
>
> Implicit within [this program] is a long-term commitment to steady, sustained (and sustainable) increases in the defense program and the funding needed to support it. The underlying need for such increases is exemplified by two facts. The amount that the United States is spending now on national defense is smaller in real terms than what we were spending in 1963. Real Soviet spending for defense, however has nearly doubled in that time. . . . [W]e cannot allow the trend to continue without risking military inferiority. . . .
>
> Not only has the military balance between us deteriorated, but the Soviets have now built a war machine far beyond any reasonable requirements for their own defense and security. . . .
>
> Our problem is not the product of some sudden and massive effort on the part of the Soviet Union. . . . [T]he problem is the result of more than a decade of steady, resolute, and comprehensive growth on the part of the Soviet Union that we simply have not matched. Just as the effects of this disparity have taken years to accumulate, so they will take years to eliminate.

In his public unclassified statement before the Senate, Secretary Brown talked about the United States having "approximate equality of military power" with the Soviet Union. But in his classified statement accompanying his testimony, he presented a somewhat different, more pessimistic picture.

In his classified statement, the Secretary admitted that the United States has already slipped into a position of relative inferiority to the Soviet Union in the areas of strategic nuclear forces and theater nuclear forces.

I and others have stated this fact, based upon the available evidence, many times. But to my knowledge this is the first time that any U.S. Government official has made such an admission.

Secretary Brown stated in his classified presentation that, even with a 5 percent real growth in defense spending over the next 5 years, the United States will not regain equality with the Soviets in strategic forces until 1982–86, depending upon the future alert status of U.S. Forces, and that we will not regain equality with the Soviets in theater nuclear forces until 1990.

This U.S. military inferiority to the Soviet Union in nuclear forces is compounded dramatically by the almost universal agreement expressed to me in a recent official visit to NATO that our conventional forces—at least in Europe—are also unable to match Soviet and Warsaw Pact Forces.

Madam Speaker, this assessment of Secretary Brown is certainly a very accurate summary of our current compelling defense needs.

As the Secretary noted, this shift to Soviet military superiority is not something that just happened suddenly. It is a situation that has developed steadily and openly over the past 10 years or more through massive Soviet military buildup while U.S. Forces were being cut back.

The question that immediately arises, in light of the President's rationale for his belated emphasis on addressing our vital defense needs, is why did the administration actively oppose just such efforts of myself and others over the course of the past year to provide 5-percent real growth in the defense budget?

Why has the administration repeatedly taken actions to stop and cut back modernization and buildup in our own U.S. military forces, in order to counter the Soviet military threat which Secretary Brown has now so accurately described?

The President's elimination of the B–1 bomber, his sharp cutbacks over the past 3 years in U.S. shipbuilding and combat aircraft replacement, his decision to stop production of the neutron antitank weapon, his slowdown on development of the MX missile, and other similar actions have all contributed to placing the United States in a militarily inferior position vis-a-vis the Soviet Union.

Where was the President and his administration when help was needed not only to increase defense spending for fiscal year 1980 to provide for 5-percent real growth, but just to maintain defense spending at the almost static pace recommended by the President's own budget?

When the House Budget Committee took up the fiscal year 1980 defense budget last spring, a proposal was immediately made to cut $5 billion from the President's own supplemental fiscal year 1979 defense request and his proposed fiscal year 1980 defense budget.

These cuts were justified on the grounds that the Iranian revolution had altered some U.S. military sales agreements made with the previous government—meaning that several ships that were being built for Iran would now have to go into the U.S. fleet instead—and on grounds that U.S. aircraft procurement was allegedly insufficient to warrant the administration's proposed new aircraft carrier.

Those of us who tried unsuccessfully to stop these House Budget Committee defense cuts received absolutely no support from the administration in defending the President's own fiscal year 1979 and fiscal year 1980 defense requests.

Where was the President when we needed him to corroborate our documentation that planned U.S. shipbuilding over the next 20 years was woefully insufficient, and that more funds were needed to build naval vessels to replace worn out equipment?

Where was the President when we argued that if aircraft procurement was insufficient to justify a new carrier, the money should be added or reprogramed to buy the necessary combat aircraft to go on the carrier rather than cutting the carrier money from the fiscal year 1980 budget altogether?

The administration openly opposed our efforts to provide 5-percent real growth in the defense budget over the course of the past year's work on the 1980 Federal budget.

The President and his administration officials now say that we actually need such a 5-percent real growth in defense spending, after action on the 1980 defense budget has been completed.

The administration stood by silently while many of us in Congress fought unsuccessfully to prevent cuts in the President's 1980 defense budget.

Now the President wants to rectify that action by adding defense funds that his administration previously stated were unneeded and unwanted.

This brings into serious question the motivation and timing of the administration in presenting its 5-year defense plan at this time, before official presentation of the fiscal year 1981 budget in January.

No reasonable, knowledgeable person denies that our defense posture is in serious trouble, and that immediate attention must be given to modernizing and increasing our military capabilities around the world.

But why has this administration, only now, jumped on the bandwagon to improve our declining military situation?

Is this action motivated only by a desire to gain passage of the questionable SALT treaty, which is in trouble in the U.S. Senate?

Is the President's call for greater defense spending in response to the public mood following events in Iran, and in the face of his own reelection effort which is about to get underway?

This administration's record on defense is clear.

The President has consistently stopped or cut back needed new weapons programs and defense modernization efforts, in order to channel budget dollars into other areas.

He has thus contributed measurably to the military inferiority that Secretary Brown has now acknowledged.

The motivation and the timing of the President's call now for greater attention to U.S. defense needs is therefore apparently political.

The real national interest demanded such attention and efforts to improve our defense situation long before now.

But the President's budget priorities were directed to expanding domestic Federal programs and starting new programs, in order to satisfy various interest groups that were important to him politically.

Now that the Nation's attention has been dramatically focused on our Government's inability to quickly resolve international crisis, brought on by lack of respect for U.S. strength and resolve, and our own diminished military capabilities, the President's political antennae have signaled a need to emphasize our defense needs.

The President's action to correct our military deficiencies during his term in office, and to provide the kind of leadership needed to safeguard our national security, will be judged by the American people in the coming months.

I personally welcome the President's new-found concern over the vital defense needs of the United States and the American people. My only disappointment is that this concern on the part of the President was lacking when action was needed over the past 3 years to correct the problems now acknowledged by the President himself and Defense Secretary Brown.

The President has my unqualified support in his stated desire to rebuild our forces for defense.

Mr. CORCORAN. Madam Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Illinois (Mr. CORCORAN).

Mr. CORCORAN. Madam Speaker, people all over this country are becoming more and more painfully aware that America has an energy problem of most serious proportions. Nuclear waste management is one of the particular parts of that problem which caused me to seek membership on the Interstate and Foreign Commerce Committee during my second term in the House of Representatives. Although the United States has been engaged in the military and commercial use of nuclear power for more than 30 years, we do not have a comprehensive national policy for storing nuclear wastes.

I will not go into the reasons for our deficiencies in this respect now, because my views have already been expressed in previous debate on the subject here in the House. However, I rise to comment on this problem because it relates to an inspection tour I am taking to Western Europe between the first and second sessions of this Congress. Through the cooperation of the Atomic Industrial Forum and European officials at various nuclear waste facilities in Europe, I will be visiting several nuclear power and waste facilities in England, Scotland, France, and Germany—January 2 to 16, 1980. My purpose in joining this inspection tour is to learn why these countries appear to be so far ahead of the United States in providing for interim and permanent storage of their nuclear wastes. I intend to learn, from the onsite inspections and discussions with government and industry officials, why these people appear to be technologically advanced in this regard.

Since the Energy and Power Subcommittee, on which I serve, is currently considering urgently needed legislation submitted to Congress by the Carter administration on nuclear waste management, I would hope that my findings on the European experience with nuclear wastes could help me be successful in participating in the resolution of the outstanding policy questions presented to the Congress by the problems associated with nuclear waste storage.

Like everything else, there is a cost involved in this trip, probably $2,000, but I think it is an investment worth making. This expense has been authorized by the Committee on Interstate and Foreign Commerce, and it will be funded by the Department of State.

Madam Speaker, I will report to the House on my findings about European programs for nuclear waste management and their application to the United States when the second session of Congress convenes.

Mr. TAUKE. Madam Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Iowa (Mr. TAUKE).

Mr. TAUKE. Madam Speaker, if the Department of Energy has its way, Archie Bunker will soon become a Government spokesman, the current disco dance craze will be turned into bureaucratic propaganda and the emotion-ridden forum of TV game shows will be exploited for Government gain.

I was appalled recently to learn that DOE officials told State energy personnel that the DOE is considering the idea of launching a multimillion-dollar campaign to promote energy conservation. The intent behind the proposal is good—to dramatically bring to the attention of Americans the very real need to conserve energy. However, the modus operandi is somewhat misdirected, ill-advised, and impractical.

The proposal lacks even the smallest modicum of dignity—calling upon taxpayers to foot the cost for an episode of "Archie Bunker's Place," in which the plot would center around the hilarious adventures of the main characters placing a solar collector on the roof of Archie's tavern; the recording and distribution of what is hoped to be a "Top 10" disco hit extolling the virtues of energy conservation and solar energy; and finally, providing solar collectors as prizes to excited game show contestants.

What is equally troubling and even more appalling is that Congress has never authorized funds for such a project. Not 1 cent has been earmarked by Congress for these proposed activities.

It is not surprising that Energy Department officials are somewhat reluctant to discuss the details of the proposal. However, they will state that the effort is two-pronged with phase 1 consisting of traditional Government-sponsored and paid public affairs advertising, an effort which would cost about $50 million and be paid through the agency's general operating budget.

Phase 2 would incorporate the successes of commercial television and disco music—at a cost of $7 million to $10 million. DOE representatives will not state where it will obtain funds to finance this portion of the plan. They only say that "reprogramed money" will be used—funds originally targeted for one project, but now rechanneled into a major media blitz.

Rather than spending tax dollars on commercialized gimmicks, would it not be wiser for the DOE to channel those funds to help State energy officials meet the energy conservation goals outlined in the emergency energy conservation and gas rationing plan recently signed into law by the President?

Bolstering State efforts through Federal initiatives would accomplish more in the long run than throwing tax dollars away on glamorized, high-powered, Hollywood-style ideas.

Mr. GINGRICH. Madam Speaker, we have in this session faced a number of symptoms of economic decay, the problem of Chrysler, of inflation, the energy crisis, the recession which has been oft predicted. Yet each of these problems in and of themselves are only symptoms of a much deeper underlying disease which is ravaging this country and this economy.

Today, as we end a quarter century of Democratic Party domination of this Congress, it seems particularly appropriate to take stock of the problems we face, of the situation we find ourselves in, and of this country's economic future. With the Iranian situation as it has developed, it is particularly appropriate that we look at our ability to survive as a country, our ability to resolve our own problems, and our ability to regenerate opportunity and economic strength rather than to continue to decay into such weakness that we are further buffeted by the winds of change throughout the world.

Despite the problems, despite the inflation, despite the unemployment, despite the great crisis which has struck our 10th largest manufacturing corporation, I think we are, in fact, at the beginning of a new age. I think the sign for the future is not one of despair, of decay, of collapse, but rather one of real hope, real optimism, of real change. I would suggest as we end this quarter century of domination by the Democratic Party that we are at the beginning of a real cultural, intellectual, and political struggle over the future of this country.

On the one hand, the philosophy which currently dominates of defeatism, of sharing the pain of decay, of a guaranteed running out of resources and then sharing the scarcity, this philosophy perhaps best is epitomized this week by an effort to punish people into changing their behavior by imposing a 50-cents-a-gallon gasoline tax on top of already increasing prices, an effort to punish the American people into behaving the way that some political philosophers, some senior officials believe is appropriate. It is the ultimate dead end of a philosophy increasingly alienated from the American dream and the American public. Dead end is intellectually symbolized by the Phillips' Curve, a fancy economic structure which suggests you can only stop inflation if you are willing to put people out of work, and you can only have employment if you are willing to inflate your money.

☐ 1740

It is a curve that by its very nature suggests that there is no way out of the trap, that pain is inevitable, that work is a chimera. Yet, we know in a negative way that the Phillips' Curve does not work, because in 1974 and 1975 we managed to have both inflation and unemployment. We know in regard to history that the Phillips' Curve does not work because there have been periods when we had full employment without inflation. In fact, we have had some occasions of full employment with deflation, declining real cost.

I would suggest that what we are seeing the beginnings of, what we are seeing growing and emerging across the country, in colleges and academic journals, in the business community and among people who just apply commonsense and their understanding of American history to our current situation, is an increase of hope, a belief that, far from running out of resources, the most important resource in this country, in any country, is the human spirit, the willingness to invest, the willingness to accept challenges. We have an emerging philosophy which says that it is possible by fundamental reform to recreate an atmosphere in which people want to invest money to build factories, to employ people, to create jobs, and by building those factories and employing those people we can produce goods and resources. We can solve the energy crisis through more energy, through new systems of production, through more efficient techniques in using it; and in the process of solving the energy crisis we create new jobs, and through those new jobs we can improve our quality of life and the standard of living.

Now, we know that is not happening now. The Tax Foundation reports that between 1978 and 1979 the typical American family making the median income lost ground to the tune of $317. That is in 1969 constant dollars—$317 less in 1979 than in 1978. In today's dollars, they lost $631 from higher taxes and higher inflation. Their pocketbook was squeezed from two different angles—squeezed first by inflation, which meant that each dollar was worth less; and second, by higher taxes which took a bigger bite as the income went up to try to keep pace with higher prices. So, an average family looking around a year later, in 1979, had 631 fewer dollars to spend.

That meant that if we funded new systems of energy or new systems of conservation, the typical American family would have had fewer dollars to invest in them. If we had better health care, they had 631 fewer dollars to buy it. If there was a better place to go, a more decent environment, a better national park, they had less money and less resources to go there.

The monthly economic report of the Budget Committee reports that during the last congressional budget period, from October 1978 to October 1979, real spendable earnings were down 5.1 percent. That is, the real money available to the average working American family dropped 5 percent. We just recently adopted a new budget. If that continues, another drop of 5.1 percent, a typical family earning the median income last year would then see their standard of living drop an additional $964. This is cumulative. As we get sick, we get more vulnerable, we get more disease, and we get weaker, so that last year's loss of $631, added to the projected next year's loss of an additional $964, becomes $1,595 in lost real income in 2 years.

Now, our colleagues who run this Congress, the Democratic leadership, who have been in control for a quarter century, would have us believe that that was necessary, that it was inevitable, that we live in hard times, that Chrysler just happened, that American jobs are being lost overseas for reasons beyond our control; that we should not blame the incumbents. It is not the Speaker's fault, or the majority leader, or the chairman of the Budget Committee, or the chairman of the Ways and Means Committee; the taxes just occur, that none of this is anyone's fault. That is a position which is anti-Democratic, against the American system, against the Federalist Papers, against the Constitution. It is making a mockery of voting, which suggests that our behavior up here is of no meaning.

The truth is that the economic sickness which dominates America, which is squeezing jobs out of our cities, which is destroying the hopes of our minorities, which is crippling our young, that economic disease is a direct result of the policies adopted in the last quarter century; and that it is not the Ayatollah Khomeini to blame for our problems, or the Saudi Government. It may be the Ayatollah O'Neill or the Ayatolla Wright. It is the leadership which has run this Congress for a quarter century, the people who pass the laws, create the jobs, and run up the deficits.

We offer, and will pursue in 1980 with increasing energy, a program which we believe must recharge a program of cutting taxes, of cutting spending, of cutting the deficit, of increasing our take-home pay, of creating a new spirit, of changing the regulatory and tax system so that companies can again employ people; so that they can take people off of unemployment and give American workers factory jobs, factory equipment at least as good as the Germans and the Japanese. We want the steelworkers of Youngstown; we want the glass workers of upstate New York; we want the automobile worker in Detroit, to have a chance to have a job that pays well, that has safe equipment, and that has factories as modern as any in the world, and that requires the kind of changes we will be offering.

Mr. KEMP. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to my colleague from New York.

Mr. KEMP. Mr. Speaker, I appreciate my colleague yielding. He mentioned steelworkers and factory workers throughout the country, and the proposals that the gentleman and others are suggesting within the Republican Party to advance ideas of restoring high levels of employment with price stability. I share that goal and the belief that it is both possible in terms of the economics and it is also palatable in our democracy.

The vast majority of the American people want this Congress, want the parties, to pursue policies that would advance these ideas, because it would restore the type of hope, the sense of mobility, the sense of buoyancy again that once was the characteristic of America and its economy. I think it does tie into the democracy, because certainly democracy literally cannot survive if it does not have the type of growth in its economy that is necessary to fulfill people's needs, their wants, their abilities, to survive economically in terms of jobs and bread and butter and some of the things the gentleman mentioned such as hope and upward mobility.

Mr. Speaker, I would ask the gentleman if he is going to pursue his special order to its conclusion, or might I address the House for a few moments?

Mr. GINGRICH. I would be glad to yield to the gentleman.

Mr. KEMP. I would like to take the well, and would be happy to yield back after I finish a short comment on the gentleman's special order.

Mr. GINGRICH. Certainly.

Mr. KEMP. Mr. Speaker, I appreciate my friend from Georgia yielding, and particularly appreciate his leadership on behalf of bringing to the attention, not only of our colleagues in the House but the American people, that there are ideas that we can pursue.

Mr. Speaker, as my friend from Georgia, has eloquently pointed out the Republican Party has a major disagreement with the current administration and with the Democratic Party majority in Congress. We believe that with proper economic policy we can have full employment without inflation; they do not. I am pleased to join my colleagues in this special order to explain that the Republican Party is offering policy alternatives which can increase productivity and employment, and reduce inflation, at the same time.

The economic policies of the administration and this Congress have clearly failed. Inflation has raged above 13 percent during the first 11 months of this year. Productivity has dropped. Employment is slowing. Chrysler has come to us for a bailout, and others will follow. The housing industry, steel industry, thousands of large and small businesses across the country are teetering on the brink of collapse. Others have already gone under.

It is hard to find anyone in Washington today who will admit anymore to believing that unemployment and recession are the answer to inflation. But all of our policies are still based on that assumption. The budget recommended by the administration and adopted by this Congress over the united objection of the Republican Party can be summarized in one sentence: In order to get inflation back down to 10.6 percent next year, Federal policy will be to throw more than 1 million Americans out of work.

The idea that higher tax rates, unemployment and wage-price controls are necessary to stop inflation is based on the notion that spending is what causes production, employment and growth—Federal spending, private spending, deficit spending—but that it also unfortunately causes inflation. So the answer to inflation is to restrain Federal spending, and private spending (through higher taxes and wage-price controls) and slow down the economy.

But across the Potomac, a couple of hundred million Americans are under the impression that economic growth is what happens when hard work, thrift and ingenuity are rewarded, and none of these virtues ever caused inflation. We believe that Americans understand the nature of inflation and growth better than our economic policymakers.

Inflation means too much money is being created by the Government, and too few goods and services are being produced by Americans. To stop inflation, we must hold down the administration's creation of money, which is occasioned by Congress' excessive spending. But that is only half the story. We need higher production, more growth and more jobs—not less. Efforts to control wages and prices and to raise tax rates on Americans are literally counterproductive—they are disincentives to production and inflationary in themselves. Congress and the administration are not doing their job of stopping inflation; Americans are ready and willing to produce, if only the Government will let them.

This is how the Republican Party views the economic situation, and this is the nature of our recommendations:

First, we need across-the-board reduction in all income tax rates, which are a tax on all individual productivity: work, saving, investment, enterprise. We must also make it the law to index or adjust the income tax brackets every year for inflation to stop inflation from pushing everyone into higher tax brackets and index capital gains tax or abolish it.

Second, we need to stop our outdated tax law from forcing businesses to overstate profits and pay too much in taxes, by understating the true cost of depreciation and inventory replacement. We must adopt measures to adjust each of these for inflation, by accelerating asset depreciation and permitting replacement cost accounting.

Third, we need to restore some sanity to the field of Federal regulation. Although the Government consistently fails to regulate what it ought to—a constant value for the dollar—it is overregulating everything else in sight. There is no excuse for any control on wages, prices, interest on saving, energy, or anything else. When such controls are binding, they cause shortages—shortages of gasoline, shortages of U.S. crude oil, shortages of saving—and when they are not binding, they cause surpluses of aggravation and inefficiency. In the field of health and safety regulation, Congress should rewrite the laws and demand that regulatory agencies base their policies on cost-benefit analysis; and Congress should limit the cost of compliance with Federal regulations through some sort of annual regulatory budget.

Finally, we need to get the money supply under control, by making it clear to the Federal Reserve that it has only one task—stabilizing prices, both the price of domestic goods and services, and the price in dollars of other strong currencies. The Fed should ignore interest rates and measure its success by two criteria—appreciation of the dollar against the German mark and Swiss franc, and the slowing of the U.S. producer price index. The Federal Reserve will be materially helped in doing its job of stopping inflation if the Congress does its job of limiting spending and restoring incentives for production, employment, and productivity.

This is the Republican economic program—measures to restrain the creation of money, and ease up on tax and regulatory policies to encourage production. With this formula we believe we can once again have full employment without inflation. We challenge the Democratic Party to outline the reasons it believes we cannot have a strong economy and a strong dollar, and to outline the policies which flow from that belief. Then let us put them both to a vote on this floor, and before the American people in November.

In reality, this is not a Republican idea, it is the American idea, but we propose to offer it to the American people in 1980.

Mr. GINGRICH. Mr. Speaker, I thank my colleague for his eloquent speech.

Mr. Speaker, I yield to my colleague, the gentleman from California (Mr. DORNAN).

Mr. DORNAN. Mr. Speaker, I thank my distinguished colleague, the gentleman from Georgia.

I am most appreciative for myself, my family, and all of the constituents in my California district for the dissertation of the distinguished gentleman from New York, and for the gentleman from Georgia affording him that opportunity and for the scholarship that the gentleman from Georgia has brought to this House in his very first term.

I would expect brilliance like this to come out of the gentleman from New York (Mr. KEMP), who has been here what, 10 or 20 years, but for a new Member to bring such focus to a difficult issue, because it is not a glamorous issue, it is not an issue until you do some homework, that you find any enjoyment sinking your teeth into; and I say in all sincerity that I hope my party, now a minority party, has the wisdom to consider the distinguished gentleman from New York as a national standard bearer on either slot, or whatever we put up for chief executive office of this country in the next year.

I would like to add my words to the distinguished efforts of the two gentlemen here tonight. It is not anything that they have not said over and over again, but obviously a decent and honest approach to crushing inflation, which robs so viciously from the last defensible citizens of our Nation, the elderly and the poor, deserves being said over and over again.

In a 1919 book, entitled "The Economic Consequences of the Peace," the gentleman from New York (Mr. KEMP) has regaled me with passages from this book over and over again in my 3 years here. The famed British economist, some think ill-famed, John Maynard Keynes, observed:

> By a continuing process of inflation, governments can confiscate, secretly and unobserved, an important part of the wealth of their citizens. There is no subtler, no surer means of overturning the existing basis of society than to debauch the currency.

Mr. Speaker, as much regard as I have for a distinguished Member of the U.S. Congress from New Hampshire, the great Daniel Webster, I do not think he himself would mind us taking down his beautiful words emblazoned in gold over the Speaker's head, retire them to the Speaker's lobby for a period of maybe a decade and put up instead this clear, clarion warning by Keynes that we are destroying our country in an immoral way when we debauch its currency.

Policymakers in the Carter administration concede, as both gentlemen have pointed out, that inflation is America's public enemy No. 1; but their general approach to the problem is jawboning business and labor. They imply that the American worker is somehow responsible for the intolerable levels of this inflation of ours. This is horribly misleading.

The chief domestic culprit is the Federal Government. Values of goods are not rising; the value of the dollar is being eroded. America's currency is being debased through massive Federal spending, financed by printing more and more money. This printing press currency is backed by nothing but Government credit. The sad thing here is that every Member of this House is aware of this now, but they have not come to grips with it.

Those that came here when most of our votes were by voice vote only, when we did not have to record our votes and see our names go up in lights and answer back to rating services that are delivered into our districts as to how we are unable to synch up our rhetoric of responsibility, with everybody generously for all of the best motives trying to fund every good and hairbrained and necessary and unnecessary and maybe not the proper money to accomplish some good scheme that comes down the pike.

The truth is that inflation is a monetary problem, principally caused by an expansion in the supply of money without a corresponding increase in the volume of production. With more and more money chasing fewer and fewer goods, the private sector, business, labor, farmers, and consumers, bid up the prices of products and services throughout the economy.

I have heard the gentleman from New York (Mr. KEMP) say this, I think, 20 times in the well now in 3 years, and probably the only thing wrong with that is that the gentleman did not say it 60 times or 660 times.

We in the Congress must limit the growth of the spending-printing syndrome. This body's failure to exercise budgetary restraint is inexcusable, in spite of the quarterly follies that we go through here with our budgetary debates.

I am hopeful, though, that soon a majority of my colleagues, with leadership like the distinguished gentleman from Georgia, from both sides of the aisle, particularly some of the new tigers from the Texas delegation on the other side of the aisle; that all of us will come to realize that we are not doing the voters a favor by spending any more of their money. These voting cards that we have, and there have been some abuses of those, I guess, are credit cards given to us by our voters to draw on the Treasury of the United States. We should treat them with the same respect that we treat our own Master Charge, Visa, Diner's Club cards and Carte Blanche cards when we go out to take our family to dinner.

So again I thank these distinguished gentleman for bringing this issue before the House one more time.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to congratulate the gentleman on taking up this special order, because I think the gentleman has touched on aspects which are going to be vital to the future of this country.

Mr. Speaker, in the last few months and in the last couple of years that I have served here in the Congress, I have made it a practice to make a regular report to the people of my district, the First Congressional District of Louisiana. I try to bring them up to date on what is happening here in Washington and around the country. I would like to give them good news, but more often than not, though, the news that I do bring them is bad.

I would like to report to them frequently that the economy is stable, that business is prospering, that there is no unemployment and that Americans are doing better than anyone else in the world. That would be very nice for me, and certainly nice for my constituents.

Unfortunately, I cannot bring them that news. The truth is that with the prime interest rate approaching 16 percent, inflation soaring at about 14 percent per year, unemployment still approaching 7 percent and accelerating, the price of gold going out of sight, approaching $500 an ounce I think today, and confidence in the American dollar declining around the world to new lows, this country is in very dire and severe economic trouble. Our problems are not insoluble, but unless we change our ways, unless we change the attitude, the approach, the policies that we maintain here in this body, here in this Congress, thousands and perhaps millions of people could be thrown out of work in this country in the coming months.

I believe, Mr. Speaker, that this is an intolerable state of affairs. Every one of these problems can be directly attributed to faulty economic practices of the U.S. Government, and most specifically of the U.S. Congress, which I might add has consistently been under the dominion and control of the Democrat Party for at least the last 25 years, and going beyond that intermittently for the last 48 years.

For years we have been told that we could borrow against the future a little bit longer for one program or another. We always knew that some day we would have to pay the Piper, but, of course, as long as we could prolong that day and keep it from coming, the problem would not hit us, times would not become hard, times would not become tight; but the Piper has come for payment, Mr. Speaker. Over 30 years of deficit spending has created an era of stagflation, rising unemployment and inflation. It is not any longer a matter of choosing between one evil over the other, choosing unemployment or choosing inflation. Today we must deal with them both.

☐ 1820

There are no easy answers to cure this stagflation, but one thing is very clear: We are going to have to face the fact that Government can no longer provide a panacea for all the evils that befall our people. We are going to have to guide our economy in an effort to eliminate the Federal deficit. This may mean restrained Federal spending.

Mr. Speaker, let me rephrase that. It is going to mean restrained Government spending. It must mean restrained Government spending, and it means that we may also have to tighten the belt on a lot of worthy causes that come before this body.

That is not a popular thing for Congressmen to go back to their constituents and say, that we have to cut down in this area or that, but it is something that we collectively or individually must face if we are to cure this country of its ills and its problems.

It also means we are going to have to reduce the tax load on the American citizen. Tax cuts such as those described by my worthy colleagues who have appeared here before me, the gentleman from New York (Mr. KEMP) and the gentleman from Georgia (Mr. GINGRICH), tax cuts that have been espoused by them time and time again, are going to have to be implemented, and they are going to be absolutely necessary if we are going to stimulate demand, promote business expansion, and increase the number of private jobs in this Nation.

The American people are a resilient lot, and the incentive to find their own solutions to problems can be preserved rather than strangled by Government if only Government will foster that environment. I do not think that we have done that, we in this Congress. I think that unless we do, unless we create an environment where people will be entitled to and able to find their own solutions, unless we create an environment where people will stimulate investment and will go out and create new jobs to put more people to work throughout this Nation, then the future will indeed be bleak.

But in view of the dismal record accumulated and compiled under the majority party, the Democratic Party, over the last 25-odd years, it becomes incumbent upon us to change our policies through a change in that leadership.

Mr. Speaker, that is why I am particularly pleased that the gentleman from Georgia (Mr. GINGRICH) has brought this special order to us. I think the American people are going to have to realize that we have continued down the same road year after year after year, and it has brought us to this state of rising unemployment and rising inflation. We have done that under the leadership of the Democratic Party.

We can only change that road, we can only change that direction, and we can only brighten the future of this country if we change the leadership of Congress. We can only do that if the American people will start to understand that they must go to the polls in 1980 and elect a majority of Republicans throughout the House of Representatives and the Senate.

Again I compliment my colleague, the gentleman from Georgia (Mr. GINGRICH), for taking time out of his busy schedule to engage in this colloquy.

Mr. Speaker, I hope that the American people will stop to read, to listen, and to understand the gentleman's point. It is so vitally important. The future of this country depends upon it.

Mr. Speaker, I thank my colleague for yielding.

Mr. GINGRICH. Mr. Speaker, I thank the gentleman from Louisiana (Mr. LIVINGSTON) for his eloquent statement.

Mr. Speaker, I think it is appropriate in closing to note that we are at the end of an era, because with this particular session of Congress ending, we will have spent a quarter of a century under the rule of one party, and that is the longest period in American history that we have remained under one party. The Democratic Party has run the Congress for a quarter of a century.

As 1980 begins, Mr. Speaker, we do have a chance to look down the road we are traveling, with rising inflation, increasing energy costs, rising unemployment, and higher prices, and decide whether in the spirit of American pragmatism it is time to get off that road and try something new or whether we really have to continue down that same path.

● Mr. CONABLE. Mr. Speaker, as we move to the close of this session of Congress, this is an appropriate time to look at the 3 years of the Carter Presidency which have now passed. Its economic and fiscal policies are of particular interest to the people in our districts, as inflation and its effects remain the overwhelming problem for a majority of Americans. As a result, I would like to share with my colleagues some of the Nation's vital economic statistics which give unflattering form to what have been inadequate economic policies of the Carter administration. The following chart reveals the facts:

	1976	1979
Inflation rate (percent)	4.8	[1] 12.2
Total unemployment (percent)	7.7	[2] 5.8
Prime interest rate charged by banks (percent)	[3] 6.5	[3] 15.5
Budget deficit (billions)	[4] $45	[5] $28
National debt (billions)	[6] $631.9	[7] $826
Federal revenues as a percent of GNP	18.5	[8] 19.9
Total petroleum imports average BB/day (millions)	7.313	[8] 8.00

December to October.
11 mo.
Nov. 30.
Fiscal year 1977 budget.
Estimate. Fiscal year 1979 budget.
Sept. 30.
Sept. 24.
[8] Estimate.

These statistics reveal how economic conditions have deteriorated in the 3 years since Gerald Ford left the White House. Double-digit inflation is running 2½ times higher than 3 years ago. The prime interest rate for borrowing is almost 2¼ times as high as it was. The national debt has increased by almost $200 billion and the rate at which we pay taxes, that is, Federal tax revenues as percentage of gross national product, has climbed from 18.5 percent to almost 20 percent.

In the area of energy, our daily average imports of high-priced foreign petroleum and petroleum products have increased by more than 885,000 barrels a day, giving even higher rewards to the OPEC nations.

There has been improvement in the unemployment rate which has dropped 1.9

percentage points lower than it was 3 years ago. Much of this improvement is the result of developments unattributable to administration policies, but it is nevertheless a welcome change. Budget deficits have been somewhat reduced, also, but not to the extent promised.

Finally, I would like to note how Mr. and Mrs. Average Citizen are faring economically under the Carter administration. The median family income in 1976 was $14,985, with a net aftertax income of $12,535. The median family income today in the Nation is close to $19,000. After taxes, the median family income is $15,785, or a nominal gain of $3,249 in 3 years. However, as a result of inflation, aftertax income today would have to be $16,572 for Mr. and Mrs. Average Citizen to be on financial par with 3 years ago. So, the average family has suffered a real loss of income in the Carter administration, as clearly demonstrated on the following chart:

	1976	1979
Median family income	$14,958.00	$19,000.00
Income tax	1,547.00	2,050.00
Social security tax	875.04	1,164.70
After-tax income	12,535.96	15,785.30
1976 purchasing power in real dollars		16,572.47
Real economic loss		787.17

I offer this information to my colleagues and the people of the country for consideration as we enter this quadrennial election year. An informed electorate is essential to our system of government and I hope this information will contribute to the national understanding of the level of recent economic achievement.●

● Mr. McKINNEY. Mr. Speaker, I have bad news for those who believe that the Chrysler Corp.'s problem is an isolated phenomenon, a unique or temporary collision between regulatory burdens and changing demand. On the contrary, Chrysler suffers all the acute symptoms of a disease that plagues the entire industrial base of this Nation. Our once mighty economy is now a tired, inefficient machine badly in need of modernization and replacement. However, inflation and excessive taxes stifle the investment needed to put American industry back on a competitive footing in world markets. I, for one, do not intend to let the lessons of Chrysler go unheeded until the next corporate giant falls sick and gasping on the congressional doorstep. I believe we must abandon the knee jerk, albeit politically popular, demand stimulation which has characterized congressional economic policy in the 1970's and look instead to the policies which will reindustrialize this Nation. My Republican colleagues and I are here today because we believe that jobs—productive, private sector jobs—are the key to a revitalized U.S. economy in the 1980's. We intend to make job creation policies our top priority in the next session and we invite the support of Republicans and Democrats alike in those efforts.

As the economy teeters on the edge of recession, the case for a tax cut in the next session grows more persuasive. However, any tax bill in 1980 will be a crucial test of our willingness to look beyond the mere symptoms of our economic malaise and deal with our fundamental economic maladies—inflation, declining productivity, inadequate capital investment, and eroding markets. The temptation toward a quick-fix, individual tax cut will grow with each passing day unless we act early to adopt a rational tax bill that protects more than just today's wages, but guarantees tomorrow's as well. The Capital Cost Recovery Act will do that.

However, while more than a majority of House Members have cosponsored H.R. 4646, it remains only one among many possible components of the still uncertain 1980 tax bill. So, in order to focus the attention of the leadership on the growing clamor for a reinvigorated investment climate, I moved on December 4 to discharge the Ways and Means Committee and bring the Capital Cost Recovery Act before the House. One way or another, I expect that bill to be considered by this House next year.

Recently, a noted research economist discussed the Capital Cost Recovery Act and observed the following:

> Tax policy for the 1980's should be concerned with promoting capital formation and increasing productivity to help lessen the severe inflation that is plaguing the U.S. economy. This means tax measures favoring saving and business investment spending are preferable to more typical aggregate demand policy stimuli, such as across-the-board cuts in personal income taxes. A measure such as the Capital Cost Recovery Act of 1979 should be seriously considered for implementation, since both capital formation and business saving would be enhanced by its enactment.
>
> In the current environment of near full employment and high inflation, public policy should be concerned with measures to restrain growth in demand while at the same time promoting a more rapid rise in potential supply. In this way, the inflation potential for the U.S. economy in the 1980s can be limited. The U.S. economy of the late 70s is vastly different from the early 60s, when aggressive measures to stimulate aggregate demand were needed. Now, a policy mix of restraint in government spending combined with tax policies that simultaneously enhance investment demand, potential supply, and the flow of savings would be preferable.
>
> The Capital Cost Recovery Act of 1979, also known as the "10–5–3" program, would provide a strong stimulus to business fixed investment, real economic growth, productivity, and employment at almost no cost in additional inflation. Analysis with the DRI model of the U.S. economy shows that the Conable-Jones proposal would raise real business fixed investment by $10 billion per annum between 1980 and 1984, raise the growth in real GNP by 0.3% per year, and increase productivity growth by 0.7 percentage points compared to a situation with existing tax laws. Employment gains would range between 100,000 and 500,000 persons over the next five years. No significant rise of inflation would result.
>
> The net cost of the Capital Cost Recovery Act as simulated in the DRI model would be $11.3 billion per year over 1980 to 1984, ranging between $4.2 billion in 1980 and $16.1 billion during 1984. The simulated program assumes: 1) a phase-in of new structures lifetimes over a 10 year period toward a 10 year lifetime; 2) a phase-in of new equipment lifetimes, except for autos and light trucks, over a five year period toward a five year lifetime; and 3) a 10% tax credit on all equipment except autos and light trucks, which receive a 6% credit. These figures are gross of all Federal tax receipts after taking account of the stimulus to the economy generated by the measure. Given the tax structure, the higher GNP that would result from the Capital Cost Recovery Act will induce additional Federal tax revenues that offset the static revenue loss obtained when considering the program in isolation from its effects on the economy.
>
> The Capital Cost Recovery Act is self-financing to a degree, both for the Federal Government and for corporations. Because of the stimulus provided to the economy, induced personal income and corporate profits tax receipts should offset $7.8 billion per annum of the expected tax loss, a return of $0.41 per dollar per year of the ex-ante or static revenue loss. In addition, the huge cash flow generated by the reduced lifetimes will provide much of the financing necessary to carry out a higher rate of capital expenditures. The ratio of cash flow to the capital outlays of nonfinancial corporations rises 5 to 6 percentage points higher than in the baseline case, indicating a much stronger financial position for the nonfinancial corporate sector as a result of the measure.
>
> The "bang for a buck" from the Capital Cost Recovery Act, defined as the rise in real business fixed investment per dollar of revenue loss, would be $0.53 per year between 1980 and 1985, before economy feedback is considered. This is a significantly greater impact than would occur from equivalent reductions in corporate profits taxes. When allowance is made for the full feedback effects of the economy stimulus on tax receipts, the bang for a buck of the accelerated capital recovery measure is even greater.
>
> Of the various tax incentives to capital formation most often considered, the impacts from the accelerated capital recovery rank near the top in terms of instrument effectiveness. Only the investment tax credit would produce on equivalent or greater bang-for-a-buck. In addition, there are side benefits to productivity and the financial markets from the improved corporate liquidity that would result. There is also essentially no rise in inflation from the highly stimulative measure, given the rises in productivity and potential output that occur.

Mr. Speaker, no problem will so challenge this Congress and this Nation as the retooling of the American economy for the work of the 1980's. In the tax, regulatory, energy, and public works programs that will constitute our reindustrialization agenda will lie the jobs and incomes for millions of citizens. We can no longer afford to waste our time treating mere symptoms, it is time to admit the disease and begin treatment.

A national commentator of no less stature than Joseph Kraft has recently begun to sound the call for such basic reinvestment strategies as we advocate here today. I think his views add a persuasive voice to the national movement for a second industrial revolution, and I hope my colleagues of both parties and all political leanings will consider his views.

THE CHRYSLER PORTENT

(By Joseph Kraft)

The plight of the Chrysler Corporation defines a gaping hole in the American system. Washington has no direct means for promoting that high national priority, the reindustrialization of America.

The United States shapes industrial policy case by case or, rather, firm by firm. So only the very largest companies receive attention—usually when it is too late.

Until recently, to be sure, this country did not need an explicit industrial policy. Business preferred to take the risk of failure the better to heighten the profits of success. Labor and most local communities also wanted it that way. Federal authorities were supposed to step in only when general conditions—a war, a depression or monopoly power—clobbered the economy as a whole.

But recovery from World War II brought in train a genuinely international economy. The big players are the multinational firms, and just how they play depends in large measure on the rules of the game in their home countries.

In that respect, Japan has been, as Ezra Vogel of Harvard pointed out in a recent book, number one. Through its Ministry of Trade and Industry and its control over the banking system, the Japanese government has nursed fledgling companies into giants in steel, chemicals, automobiles and electronics. Through subsidies it has weaned labor and capital away from declining industries.

West Germany, France, Holland and the Scandinavian countries have done nearly as well in pushing their major firms. Even in Britain and Italy, government regularly steps in to prevent industrial failures.

Not only has the United States not developed an instrument for framing industrial policy, but Americans less interested in the output of goods than in the quality of life—the group I have called Little America—have taken over many command posts in society and government. They have used their influence to impose upon industry new standards for safety, environmental quality and fair-employment practices.

So Big America—the part of the country most interested in producing goods—has recently experienced acute difficulties. Railroads, highways and ports have been allowed to run down. Basic industries—steel, shipbuilding, autos, chemicals, rubber and textiles—have lost their competitive edge or been forced to change locations in ways that leave behind industrial wastelands.

Numerous firms within these industries have gone bust, or close to it: Penn Central in the railroad field, for example, or Youngstown-Lykes in steel. Chrysler represents the auto industry's entry into the bankruptcy sweepstakes.

The company has always lagged behind General Motors and Ford, and it slipped further behind in the '60s because of bad management. Though it led the other two American manufacturers in the development of small cars after the oil embargo of 1973, Chrysler lacked the resources to finance what amounts to a total conversion of plant. So all this year it has been losing money and market share.

Hundreds of thousands of jobs are now in jeopardy. Most of them are in the city of Detroit, and a large fraction are held by blacks. GM and Ford cannot take up the slack. Unlike Chrysler, which has 23 plants in Detroit, GM and Ford have long since moved out of town and toward other parts of the country. Ford does not have a single one of its 28 recent or pending plants in Detroit. GM has only one of its 33 recent or pending plants in the city.

Perhaps the ideal way to save the jobs would be an arranged bankruptcy—with the management going down but some flush foreign firm stepping in quickly to take over and operate what is left behind. But there is no facility for such an arrangement, and an unmanaged bankruptcy would take years, and force suppliers and dealers to the wall.

So the Carter administration has stepped in with a plan to save Chrysler. It calls for government guarantees of $1.5 billion in bank loans—far more than originally stipulated by Secretary of the Treasury G. William Miller. An equal amount of money will be raised elsewhere—mainly from pension funds and local state governments. The deal smells of a political favor done by a weak president for a powerful constituent. Still it will probably not be enough to save the company in the long pull.

The lesson is that this country needs to develop an industrial policy with an agency responsible for its application. Otherwise, there will be more and more Chryslers, and less and less chance of achieving the reindustrialization of America.

THE CHRYSLER WARNING

(By Joseph Kraft)

Bad management undoubtedly played a part in making the Chrysler Corp. a basket case. But items of public policy—Iran and inflation as well as government regulation—also did their bit.

So the Chrysler case carries a general warning. Public policies need to be reshaped in ways that minimize the danger of more Chryslers—ways that promote the reindustrialization of America.

Several bad decisions by the high command at Chrysler are readily identifiable. For most of this decade the company has maintained a product mix that put heavy emphasis on trucks, vans and intermediate cars. Chrysler was thus especially vulnerable to the switch toward more fuel-efficient cars prompted by the oil embargo of 1974 and the gasoline shortages of early 1979.

In the third quarter of 1974 and the fourth quarter of 1978, moreover, Chrysler built up paper profits by pushing cars out to dealers even though sales lagged. Each time the dealers accumulated huge inventories. To stay above water, Chrysler has had to cut back production in this country and sell off profitable foreign subsidiaries.

In consequence, Chrysler's share of the American market has dropped from 16 percent in 1974 to under 10 percent now. Dealers have dropped out. Resale values have declined. Servicing has become harder. There has been generated a vortex of forces pulling Chrysler down toward bankruptcy.

Saving the company in these conditions is very hard. Contributions from the banks, the auto workers, the dealers and the government will all be required.

Some government officials estimate the federal contribution will have to be closer to $2 billion than the $1 billion the company and the union are asking. Other officials believe it would be better to let the company go bust, and then allow private interests—presumably German or Japanese auto makers—to pick up the pieces.

But if saving Chrysler, at this stage, is difficult, preventing future Chryslers is not. For the elements of public policy involved in the Chrysler debacle are easy to identify. Government regulation is an obvious factor. The feds impose the same standards for safety, emissions and fuel economy on all the auto makers. But because of economies of scale, the cost of the changes per car is more expensive for Chrysler than for Ford, and much more expensive for Chrysler than for General Motors.

Reequipment and retooling is forced upon the auto makers partly by new government regulations and partly by the consumer preference for cars that eat less gasoline. But inflation has driven the costs out of sight. Total investment in new plant and equipment for the Big Three auto companies jumped from $1.8 billion in 1976 to $4.6 billion in 1978 and an estimated $5.3 billion this year. General Motors has been able to foot the bills. Ford has kept apace, thanks largely to earnings abroad.

But Chrysler has lagged further and further behind. In 1965 it spent 22 percent of what GM spent on new plant and equipment. Last year only 12 percent.

The gasoline shortage of the past few months has perhaps dealt Chrysler its death blow. The company is way behind GM and Ford in moving toward a new front-wheel compact. But as John Ricardo, the chairman of Chrysler, asked in a recent interview with me, "Why should we be blamed for not predicting the fall of the shah?"

The point of this is not to undo manifestly desirable government regulations. Nor to build sympathy for a bailout of poor, little Chrysler.

But the fact is that the general climate for all American industry has changed for the worse. Government regulations do affect competitive conditions. Inflation diminishes the incentive for investment. Foreign competition—often from firms subsidized in one way or another—is heavy. The basic American infrastructure, particularly in railroads but also in highways, has been run down.

So public policies need to be adjusted accordingly. Faster tax write-offs are required to stimulate investment in productivity. Antitrust laws ought not to complicate compliance with other government regulations. The highway and railroad systems should be built up again. Institutional means should be developed to save companies in trouble before they become basket cases.

For the United States cannot afford to become a pure service economy. On the contrary, if this country is to maintain industrial jobs, save its major cities and sustain its traditional role in high technology and international security, it needs to formulate over the next few years an explicit policy for the reindustrialization of America.

STEELING AMERICA

(Joseph Kraft)

The need to reindustrialize America finds overwhelming support in the massive shutdowns announced by U.S. Steel the other day. For steel is a basic business—a business the United States cannot abandon without changing the internal tone of the country and adversely affecting national security.

Reviving the steel industry, however, involves massive changes in the tax system. To be effective, those changes need to be set in the context of a comprehensive industrial policy.

By itself, the news from Big Steel is bad enough. The company will close 16 plants and drop 13,000 workers by 1981. The closings will be particularly hard on towns with large minority populations that are already in bad straits—for example, Youngstown, Ohio.

In moving to close down plants, U.S. Steel is only following a well-worn path. Bethlehem and Jones & Laughlin have already shut down major installations on a grand scale. Efficient producers of specialty steel such as ARMCO and Inland are diversifying into other fields. Kaiser has been trying—in vain, so far—to lay off its relatively new works at Fontana, Calif., on Japanese management.

Total American steel production has been nearly level for a couple of decades. Foreign competitors—notably the Japanese and the Germans—are beating American firms in sales here and abroad. If the trends continue, the American steel industry will liquidate itself.

Some people assume it would be okay for this country to go out of the steel industry as long as arrangements were made for unemployed workers. But a huge number of jobs—at least half a million for the industry as a whole—are involved.

The jobs aren't just anywhere, either. They are mainly located in declining parts of the country—notably around the Great Lakes and the Mahoning Valley in southern Ohio and Pennsylvania—with large minority populations. Moreover, steel is critical to such basic industries as autos and construction, and it is a condition of military power—an indispensable element in the country's national security.

So one way or another, the United States is going to stay in the steel business. The question is how, and the beginning of an answer lies in identifying the industry's troubles.

High labor costs are a big part of the problem. Though labor costs in Japan and Germany have been rising rapidly and though the effect is magnified on international markets by changes in currency rates, the cost of labor in this country still outruns the cost in Japan by far and in Germany by at least a little. The reason seems to be a contract between American producers and steelworkers that regularly yields wage increases that outrun gains in output per man-hour.

Output per man-hour, or productivity in the United States runs about 20 percent behind Japan and a little behind Germany. A main reason is that the Japanese and the Germans have relatively new plants that are built along waterways with access to the seas and that therefore benefit from reduced transport costs. A large part of the American industry, especially that located in the Mahoning Valley, is centered on old-fashioned plants built near the source of coal.

Then there is the environmental factor. The standards for clean air and water seem not to figure directly in most of the recent plant closings. But undoubtedly the need to make large investments in environmental equipment is a factor causing management to scrutinize old plants more rigorously and to pull back from building new plants.

The remedy, in these conditions, has to center around incentives to invest in new plants and equipment. Even if such incentives were desirable in themselves, which they are not, tariff measures and a suspension of environmental rules could not do the trick. The only good spur to modernization arises from tax write-offs.

But Congress will not, and should not, give steel a break on taxes unless assured of performance in other matters. Wage increases have to be held to a figure that does not spur inflation. At least some of the benefits ought to go to retrain workers for other, more rapidly growing industries. New plants need to be directed toward regions that serve the national interest with respect to pollution of air and water and concentration of population.

Decisions about wages, worker retraining and plant location, however, cannot be made out of the blue. Somebody has to develop notions about which industries are winners and which are losers, about which regions are ripe for expansion and which in need of contraction. Though nobody likes to say so, that amounts to a comprehensive policy—a long-term strategy for the reindustrialization of America.●

GENERAL LEAVE

Mr. GINGRICH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

LET MY PEOPLE GO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DORNAN) is recognized for 15 minutes.

Mr. DORNAN. Mr. Speaker, Julius Caesar, before taking power as the Emperor of Rome, had written a very vivid account of his military experiences in Gaul, popularly known as the "Gallic Wars," which I hope is still required reading in the original Latin in some high schools. It was in mine.

There is one passage where Caesar discusses the frantic preparations of a barbaric tribe called the Veneti who feared the coming of Caesar and his Army. He writes:

> The Veneti and likewise the other Gallic states learned of Caesar's coming and at the same time realized the gravity of their offense: they had arrested and thrown into chains ambassadors, a title which has always been sacred and inviolable among all peoples. Their preparations for war accordingly matched the magnitude of their peril, and in particular they began to look to their naval preparations, and with higher hope because they trusted to the advantages of the locale.

That is two millennia ago that civilized people understood that you do not touch the foreign servants of another nation. Nations have gone to war frequently for the abuse or imprisonment of their citizens overseas.

I know that we all share in this body the anger and anxiety of every American citizen over the degrading treatment of our fellow countrymen, bound like animals there in the captured American Embassy in Tehran. I want to say again that, in spite of the simmering anger I feel over this outrage, and the intense frustration over the passage of 46 days, this Congressman fully supports the President of the United States in the manner in which he has handled this delicate problem. I am especially supportive of his policy of gradually applying the pressure, tightening the diplomatic and economic screws on the Khomeini regime, and pursuing every available avenue in order to secure the release of our fellow Americans short of counterproductive direct military strikes.

I sincerely hope, as we all do, that by Christmas we will have achieved a breakthrough. I would hate to think that while we are all sitting in the comfort of our homes with family and friends, our fellow Americans in Iran will continue to be cut off from their world and their loved ones and held in violation of every rule of civilized conduct and every canon of diplomatic behavior. We have not suffered such national humiliation since North Korean barbarians seized the U.S.S. *Pueblo* in January of 1968.

God forbid that our people in Iran would have to stay with such a crew, subjected to torture and other indignities and abuses, for almost an entire year. Those who were on the *Pueblo* were released in December of 1968.

Mr. Speaker, I have a suggestion. I have here the names and the home States of at least half of the military people and foreign service officers who are currently being held in Tehran. I am asking all the Congressmen from those States, both here and in the other body, to make these hostages from their home States their own personal concern. I would like each of the 50 States to adopt one hostage and for the Governors to proclaim a day every week to support the President in his appeal to his fellow Americans not to let this issue be moved from the front pages of our newspapers and allow this incident to lapse into some sort of diplomatic status quo.

If these hostages are not returned by the time we get back here for full, regular congressional sessions, at the opening of the second session of the 96th Congress on January 22 next year, I will initiate a program that I initiated during the Vietnam war of wearing bracelets, symbolic shackles, with the names of those hostages. Where the name was available for these bracelets during that humanitarian campaign of the Vietnam war, over 5 million Americans wore these metal bracelets with the names of their fellow citizens, signifying to their North Vietnamese captors that we would simply not forget them.

I can remember the pride many of us felt when young naval and Air Force aviators and Army men fighting in the jungle were captured wearing these bracelets; they had to convince their Communist captors that the name on the bracelet was, in fact, not their own name, but that they were remembering someone else who had been captured years before they had ever come to Vietnam themselves.

Many, many Americans and many Members of the Congress have not forgotten that bracelet program. God forbid that when we come back in 32 days, we would have to start up something like that—a symbolic program from Vietnam—but we must simply tell the Iranians in every way we can how we feel. I applaud the President for seeing fit to not light the American Christmas tree, leaving it dark during these holidays and putting out 50 trees, one symbolic Christmas tree for each of the hostages.

We must let the Iranians know we will not forget, and that we are saying to them, each one of us individually in this great Nation of ours, "Let my people go."

Mr. Speaker, I am enclosing for the RECORD the list of names I have been able to glean out of newspapers, with the yeoman assistance of the Congressional Research Service, along with the States of hostage military personnel overseas. The State Department would not release the names. I find myself in disagreement with the State Department here, and I want to defend my action of putting these names into the RECORD.

The State Department takes the position that somehow or other we are subjecting the families of the hostages to some sort of undefined harassment if we make known a hometown or a State. So I am not going to release the names of hometowns, but I will release the names of the States.

☐ 1830

I will point out respectfully to Secretary of State Vance and his Under Secretary, Mr. Christopher, that the State Department does not have a proud or enviable record in the way they or the Defense Department, in the early days of the Vietnam conflict, handled the families of American prisoners of war. In the early days of the Vietnam war we did not even call our men prisoners. We referred to them as "in a state of being detained by a hostile power." I remember Ambassador Averell Harriman telling a journalist once, "Don't worry about those men; I have their problem right here in my hip pocket"; and he patted the back pocket of his trousers. Well, it was during that period of State Department quiescence burying the issue, that our POW's were tortured, some of them to death.

We have all been made aware, most of us this week, of the ghastly Associated Press story of 6 young Americans captured in Cambodia in the last year or year and several months. They were finally tortured, horrible rambling confessions extracted from them, and then murdered in Phnom Penh in Cambodia in the year 1979. If the families of these young Americans, two of them 33 years of age on a small sloop out of the district of my colleague, the gentleman from California, DAN LUNGREN; two others from the east coast, doing what every one of us wish we would have done in our late twenties or early thirties, sailing around the world in a tiny ketch. If these young men had as their last port of call Singapore or Jakarta, and tried to make it to the open port of Bangkok before they were forcibly taken off of the high seas, did their families go to the State Department? Did they say, "My son has disappeared on the high seas somewhere near the port of Kompong Cham"? And did the State Department say, "Don't worry, we will handle this issue quietly."

If we had announced to the world that possibly the Cambodian Communists under Pol Pot had these men as captives, if we had gone to our new "friends" in the People's Republic of China and asked them to use their good office to intervene, could some of these people have been saved? My feeling is, after working 13 years on the missing in action and the prisoner of war problem, that the best friend of these families is publicity. That policy was decided upon by Defense Secretary Melvin Laird on July 10, 1969; that openness, public awareness, was the best way to protect Americans in captivity anywhere in the world. It is wise to inform as many people as we possibly can. Even if it means brief, little, ugly moments of harassment for the families, the families will appreciate getting their sons' names out or, in the case of Ann Swift, or Kathryn Koob, their daughter's name out to the world, so that we can all focus in on personal names and not just keep reading the abstract expression, "50 hostages held, 50 hostages held."

So I look at the list of 27 names that I have, 24 in the Embassy—and we are not so sure they are all in the Embassy—3 held under house arrest in the Foreign Ministry of the nation of Iran; that is 27 out of 53 names; and we are not even sure that that is a hard figure.

I have 18 States for the 27 names that I have. And for my colleagues, I will read the names of the States that I have to this point: Colorado, Wisconsin, Arkansas, Illinois, Arizona, Texas, Nevada, Delaware, Missouri. All of those States have a marine that they can adopt and that their Governor can talk to the people in his State about daily.

Georgia has Col. Charles Scott; Ohio has WO1 Joseph Hall; Pennsylvania M. Sgt. Regis Ragan; California has Specialist Donald Hohman; Michigan has an Army S. Sgt. Joe Subic, Jr.; Virginia has Col. Leland Holland. He, along with Victor Tomseth and Bruce Laingen, is over in the Foreign Ministry of Iran. Ann Swift is from New York. I do not know where Kathryn Koob is from. Jerry Plotkin is from California. I do not have a State for Tom Ahern or John Limbert or Malcolm Kalp or Bill Daugherty. The last two particularly need our help. I noticed that the father of David Cooke of Maryland, right here in our own area, did an interview on television last night. Mr. Cooke, Sr., understands that the most important thing he can do is to get his son's name out before the public so that among ourselves here in the Congress, and in the other body, and across the great open news services of this country, we can talk about these people by name. It is my hope that young Americans in high schools and grade schools, very similar to the way they wore POW bracelets, can say, as they kneel down to say their prayers next to their bed at night, "I am praying for Sgt. Gregory Persinger here in my State of Delaware." And his whole State is going to begin to have parades for him, try to get him home, to let these Iranians know that they are going to have to let our people go. I think the most beautiful moment I saw in my years as a Congressman was when the halls of our congressional office buildings, the Rayburn, the Longworth, and the Cannon Building came alive in the hallways with all of the flags that set behind our congressional desks, a symbol that we have, sworn to uphold the Constitution of the United States. It made me swell up with pride to walk through the halls the last few days and know that every one of us was trying to help the President keep before us the vivid image of these 50 Americans at the Embassy and 3 Americans at the Foreign Ministry and hundreds of others, maybe, across Iran—hiding in apartments, afraid to seek safe conduct to the airport, just as our No. 2 man in the Embassy, Bruce Laingen, could not get himself safely conducted to the airport.

So I submit this list of names, and I hope that all of the Congressmen in this great House and our brothers in the other body will begin to talk about these men and these two women by name and not just keep referring to the 50 or the 53 hostages and, God willing, this special order of mine will all be a forgotten page in history because we will be able to celebrate a fantastic Christmas or a great New Year and know that all of these people are back with their families. I will look forward to some of the beautiful television coverage that we saw on Lincoln's Birthday in 1973 when our American POW's came home from a decade of cruel imprisonment in Indochina. And I look forward to a thrilling return, letting the tears flow freely as we see American families joined together all over this country. And then we will begin the tough analysis of how we got ourselves into this position and how will we prevent it from happening again.

But I repeat: If 32 days pass and we come back and these hostages are still imprisoned, I hope the first order of business in the Congress of the United States on January 22 will not be loans for Chrysler, as important as that is, or appropriations, as overridingly important as that is, but it will be these 53 people in Iran—fine Americans serving their country well—and I hope each one of us will have a specific name on his or her list. I hope we care about an imprisoned American, just as we would a brother or a sister.

ROLLCALLS—ROLLCALLS—ROLLCALLS

(Mr. DANIELSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DANIELSON. Mr. Speaker, last year I made an analysis of rollcall votes in the House of Representatives, pointing up the fact that we were wasting a great deal of valuable time on unnecessary votes.

At the beginning of the 96th Congress certain rules changes were adopted, designed to help prevent some of the more blatantly unnecessary votes and to speed up the voting process in other cases. We have made substantial progress but still can do better.

I have now completed an analysis of rollcalls for this year, covering floor action for the 1st session of the 96th Congress through October 31, 1979.

Our efforts of last year appear to have had some positive effects. In the 96th Congress, through October 31, 1979, there were 141 legislative days. In that time, we have had a total of 620 rollcalls—consisting of 66 quorum calls and 554 votes on questions. In 1977, the 1st session of the 95th Congress, we had 639 rollcalls through the first 141 legislative days (through October 6), and in 1978 we had 859 rollcalls through the 141st legislative day (October 3). So it appears that we had 239 less rollcalls during the first 141 legislative days of the 96th Congress than during the first 141 legislative days of the 1978 session.

Another interesting fact is that in the full year of 1978, 309 out of the 834 recorded votes carried by 90 percent or more. That is 37 percent of all votes on which 10 percent of the Members, or less, voted "nay." So far this year, only 148—or 27 percent—of the 554 recorded votes have carried by 90 percent or more. There has obviously been a significant reduction in recorded votes where there is no substantial difference of opinion.

Last year I used an estimated 20 minutes per rollcall to determine the amount of time that we spent on rollcall votes. Because of the rules changes, we have had more clustered votes taking only 5 minutes but the bulk still use up about 20 minutes. Using a modest estimated average time of 15 minutes, the 620 rollcalls through October 31, 1978, took about 155 hours of our time. That is 19.5 percent of the 794 hours and 1 minute that we were in session through that date. This is a striking improvement over the 314 hours spent on rollcalls in 1978 out of the 1,015 hours and 57 minutes in session, which was 30.9 percent of our time.

Put another way, if we were operating in the same way and at the same rate this year as we did last year, we would have spent an additional 90 hours on rollcalls to accomplish the same amount of work. That would be fifteen 6-hour floor sessions, so we would be 3 weeks further behind than we are. Many of these rollcalls are necessary, I submit that many are not and are simply a waste of time. Just what these rollcalls cost, in dollars as well as interference with other legislative business, I do not know. Maybe someone with the time and a flair for figures can work it out.

The tables below will give the Members a complete picture of rollcall votes through October 31, 1979; it is interesting to note that some Members are more fond of rollcalls than others:

Type of rollcall	Jan. 15 through Oct. 31, 1979	Percent of total rollcalls
Agreeing to conference report	18	2.9
Agreeing to the amendment	239	38.5
Agreeing to the amendments	21	3.4
Agreeing to the resolution	70	11.3
Agreeing to the resolutions	1	.2
Approving the Journal	17	2.7
Call of the States	1	.2
Closing portions of conference	1	.2
Election of Speaker	1	.2
Hour of meeting	1	.2
Motion for a closed conference	2	.3
Motion that committee rise	1	.2
Motion to discharge	1	.2
Motion to end debate	1	.2
Motion to instruct conferees	4	.6
Motion to limit debate	5	.8
Motion to reconsider	1	.2
Motion to table	2	.3
Ordering the previous question	9	1.5
Passage	73	11.8
Previous question on recommit conference report	1	.2
Previous question on recommit	1	.2
Quorum	65	10.5
R. & C. with amendment in Senate amendment	1	.2
Reading transcript of trial	1	.2
Recede and concur in Senate amendment	4	.6
Recede from disagreement Senate amendment	1	.2
Recommit with instructions	7	1.1
Refer to Standards Committee	1	.2
Requesting a conference	1	.2
Resolving into committee	35	5.6
Strike enacting clause	3	.5
Suspend rules and pass	29	4.7
Table motion to consider	1	.2
Total	620	100.0

ROLLCALL VOTES (JAN. 15, 1979 THROUGH OCT. 31, 1979) LISTED ALPHABETICALLY—BY MEMBER REQUESTING THE ROLLCALL

Roll	Date (1979)	Type of vote	Requester	Bill	Yea	Nay	Pres	Percent Yea	Percent Nay	Day
401	7/30	Agreeing to the resolution	(Automatic)	H. Con. Res. 168	338	70		83.0	17.0	Monday.
585	10/19	Closing portions of conference	do	H.R. 595	358	0		100.0	0	Friday.
224	6/13	Motion for a closed conference	do	S. 429	397	16	1	96.0	4.0	Wednesday.
474	9/18	do	do	S. 428	389	0	1	100.0	0	Tuesday.
521	9/28	Agreeing to the amendment	Addabbo	H.R. 5359	174	187		48.0	52.0	Friday.
275	6/22	do	Ambro	H.R. 4394	129	237		35.0	65.0	Do.
475	9/18	do	Anderson (California)	H.R. 4440	111	296		27.0	73.0	Tuesday.
597	10/24	Passage	Annunzio	H.R. 3947	381	26		94.0	6.0	Wednesday.
454	9/11	Suspend rules and pass	do	H.R. 4986	367	39	5	90.0	10.0	Tuesday.
431	8/02	Agreeing to conference report	Ashbrook	H.R. 4392	291	106		73.0	27.0	Thursday.
523	9/28	do	do	S. 737	321	19		94.0	6.0	Friday.
30	3/13	Agreeing to the amendment	do	H.R. 2479	171	239		42.0	58.0	Tuesday.
37	3/13	do	do	H.R. 2479	226	174		57.0	43.0	Wednesday.
59	3/27	do	do	H.R. 2729	219	174		56.0	44.0	Tuesday.
60	3/27	do	do	H.R. 2729	175	219		44.0	56.0	Do.
89	4/10	do	do	H.R. 3324	259	135		66.0	34.0	Do.
90	4/10	do	do	H.R. 3324	318	77		81.0	19.0	Do.
96	4/24	do	do	H.R. 3363	207	196		51.0	49.0	Do.
130	5/08	do	do	H. Con. Res. 107	199	214		48.0	52.0	Do.
218	6/12	do	do	H.R. 2444	65	342		16.0	84.0	Do.
291	6/27	do	do	H.R. 4389	191	222		46.0	54.0	Wednesday.
313	7/11	do	do	H.R. 2444	257	149	2	63.0	37.0	Do.
319	7/11	do	do	H.R. 4057	98	314		24.0	76.0	Do.
324	7/12	do	do	H.R. 4392	210	199		51.0	49.0	Thursday.
333	7/13	do	do	H.R. 4393	297	63		83.0	17.0	Friday.
336	7/16	do	do	H.R. 3951	127	260		33.0	67.0	Monday.
545	10/10	do	do	H.R. 2061	237	169		58.0	42.0	Wednesday.
205	6/11	Agreeing to the amendments	do	H.R. 2444	227	135		63.0	37.0	Monday.
155	5/16	Agreeing to the resolution	do	H. Res. 273	411	1		100.0	0	Wednesday.
193	6/08	do	do	H. Res. 272	279	0		100.0	0	Friday.
448	9/07	do	do	H. Res. 386	343	2		99.0	1.0	Do.
555	10/12	do	do	H. Res. 307	350	6		98.0	2.0	Do.
608	10/26	do	do	H. Res. 385	327	3		99.0	1.0	Do.
199	6/11	Approving the Journal	do		305	8	2	97.0	3.0	Monday.
243	6/15	do	do		298	8	1	97.0	3.0	Friday.
371	7/24	do	do		369	6	1	98.0	2.0	Tuesday.
546	10/11	do	do		358	6	5	98.0	2.0	Thursday.
592	10/24	do	do		354	19	1	95.0	5.0	Wednesday.
612	10/30	do	do	H.R. 1885	370	10	2	97.0	3.0	Monday.
33	3/13	Motion to limit debate	do	H.R. 2479	204	193		51.0	49.0	Tuesday.
38	3/13	Passage	do	H.R. 2479	345	55	2	86.0	14.0	Wednesday.
99	4/24	do	do	H.R. 3363	256	146		64.0	36.0	Tuesday.
101	4/25	do	do	H.R. 3354	394	12		97.0	3.0	Wednesday.
166	5/23	do	do	H.R. 3914	357	48		88.0	12.0	Do.
197	6/8	do	do	H.R. 2374	243	41		86.0	14.0	Friday.
320	7/11	do	do	H.R. 4057	335	81		81.0	19.0	Wednesday.
380	7/25	do	do	H.R. 3996	397	18		96.0	4.0	Do.
452	9/7	do	do	H.R. 79	350	14		96.0	4.0	Friday.
541	10/10	do	do	H.R. 2859	307	106		74.0	26.0	Wednesday.
570	10/16	do	do	H.R. 3303	386	24		94.0	6.0	Tuesday.
596	10/24	do	do	H.R. 3000	263	150		64.0	36.0	Wednesday.
104	4/30	Quorum	do				283			Monday.
312	7/11	do	do				388			Wednesday.
318	7/11	do	do				398			Do.
323	7/12	do	do				395			Thursday.
544	10/10	do	do				385			Wednesday.
559	10/12	do	do				312			Friday.
289	6/27	Recommit with instructions	do	H.R. 4394	170	243		41.0	59.0	Wednesday.
349	7/18	Resolving into committee	do	H.R. 4473	362	6	5	98.0	2.0	Do.
459	9/12	do	do	H.R. 4040	363	2		99.0	1.0	Do.
493	9/20	do	do	H.R. 5229	330	54	1	86.0	14.0	Thursday.
34	3/13	Strike enacting clause	do	H.R. 2479	110	295		27.0	73.0	Wednesday.
500	9/25	Suspend rules and pass	do	H.R. 5163	379	25		94.0	6.0	Tuesday.
532	10/9	do	do	H.R. 5224	347	14	27	96.0	4.0	Do.
533	10/9	do	do	H.R. 3777	319	68		82.0	18.0	Do.
181	6/5	Agreeing to the amendment	Ashley	H.R. 3875	312	102		75.0	25.0	Do.
265	6/20	do	Aucoin	H.R. 111	194	227		46.0	54.0	Wednesday.
381	7/25	Agreeing to the resolution	Badham	H. Res. 384	326	85		79.0	21.0	Do.
402	7/30	Passage	do	H.R. 4930	344	42		89.0	11.0	Monday.
341	7/17	Agreeing to conference report	Bauman	H.R. 4289	284	132		68.0	32.0	Tuesday.
430	8/2	do	do	H.R. 3324	223	181		55.0	45.0	Thursday.
453	9/7	do	do	S. 1019	280	69		80.0	20.0	Friday.
496	9/20	do	do	S. 544	362	45		89.0	11.0	Thursday.
497	9/20	do	do	H.R. 111	192	203		49.0	51.0	Do.

Roll	Date (1979)	Type of vote	Requester	Bill	Yea	Nay	Pres	Percent Yea	Percent Nay	Day
609	10/26	Agreeing to conference report	Bauman	H.R. 4387	304	25		92.0	8.0	Friday.
66	3/29	Agreeing to the amendment	do	H.R. 3173	272	117		53	47	Thursday.
78	4/05	do	do	H.R. 3324	246	150		62	38	Do.
83	4/09	do	do	H.R. 3324	233	146		61.0	39.0	Monday.
84	4/09	do	do	H.R. 3324	191	184		50.9	49.1	Do.
85	4/09	do	do	H.R. 3324	180	190		40.0	51.0	Do.
86	4/09	do	do	H.R. 3324	136	236		37.0	63.0	Do.
97	4/24	do	do	H.R. 3363	199	203		49.5	50.5	Tuesday.
322	7/12	do	do	H.R. 4392	216	190		53.0	47.0	Do.
329	7/12	do	do	H.R. 4392	198	197		53.0	47.0	Thursday.
445	9/06	do	do	H.R. 4473	189	221		46.0	54.0	Do.
499	4/21	do	do	H.R. 4034	318	29		92	8	Friday.
558	10/12	do	do	H.R. 2061	127	203		38	62	Do.
601	10/25	do	do	H.J.Res. 430	381	17		96	4	Thursday.
574	10/17	Agreeing to the resolution	do	H.Res. 414	228	182		56	44	Wednesday.
607	10/26	do	do	H.Res. 456	273	61		82	18	Friday.
141	5/10	do	do	H.Res. 212	159	246		39	61	Thursday.
206	6/11	Hour of meeting	do		234	67		78	22	Monday.
385	7/25	Motion that committee rise	do	S. 1030	249	162		61	39	Wednesday.
316	7/11	Motion to instruct conferees	do	H.R. 3363	168	248		40	60	Do.
400	7/30	do	do	H.Res. 390	308	98		76	24	Monday.
280	6/26	Motion to limit debate	do	H.R. 3920	209	183	1	53	47	Tuesday.
581	10/18	do	do	H.R. 3000	252	133	1	65	35	Thursday.
583	10/18	do	do	H.R. 3000	267	107	1	71	29	Do.
16	2/28	Ordering the previous question	do	H.R. 133	222	197		53	47	Wednesday.
233	6/13	do	do	H.Res. 312	126	292		30	70	Do.
512	8/27	do	do	H.Res. 427	289	119		71	29	Thursday.
47	3/21	Passage	do	H.R. 2283	242	175	1	58	42	Wednesday.
91	4/10	do	do	H.R. 3324	220	173		56	44	Tuesday.
165	5/23	do	do	H.R. 10	342	62		85	15	Wednesday.
272	6/21	do	do	H.R. 111	224	202		53	47	Thursday.
309	7/11	do	do	H.R. 4537	395	7		98	2	Wednesday.
330	7/12	do	do	H.R. 4392	299	93		76	24	Thursday.
340	7/16	do	do	H.R. 4393	344	49		88	12	Monday.
362	7/19	do	do	H.R. 3917	374	45		89	11	Thursday.
374	7/24	do	do	H.J.Res. 74	209	216		49	51	Tuesday.
482	9/19	do	do	H.J.Res. 399	191	219		47.0	53.0	Wednesday.
571	10/16	do	do	H.R. 3916	396	8		98.0	2.0	Tuesday.
29	3/13	Quorum	do				374			Do.
76	4/5	do	do				367			Thursday.
119	5/4	do	do				241			Friday.
169	5/24	do					359			Thursday.
391	7/27	do	do				362			Friday.
557	10/12	do	do				327			Do.
19	3/1	Reading transcript of trial	do	H. Res. 142	353	53		87.0	13.0	Thursday.
426	8/1	Recede and concur in Senate amendment	do	H.R. 4388	173	236		42.0	58.0	Wednesday
427	8/1	Recede from disagreement Senate amendment	do	H.R. 4388	214	184		54.0	46.0	Do.
271	6/21	Recommit with instructions	do	H.R. 111	210	216		49.0	51.0	Thursday.
441	9/6	Resolving into committee	do	H.R. 4473	360	11		97.0	3.0	Do.
579	10/18	do	do	H.R. 3000	391	3	1	99.0	1.0	Do.
460	9/12	Agreeing to the amendment	Beard (Tennessee)	H.R. 4040	144	268		35.0	65.0	Wednesday.
240	6/14	Resolving into committee	do	H.R. 4388	385	1	3	100.0	0.0	Thursday.
177	5/31	Agreeing to the amendment	Bedell	H.R. 2575	100	291		26.0	74.0	Do.
144	5/14	do	Bennett	H. Con. Res. 107	188	209		47.0	55.0	Monday.
150	5/16	Approving the Journal	Bereuter		328	5	1	98.0	2.0	Wednesday.
263	6/20	Strike enacting clause	Bethune	H.R. 111	97	315		24.0	76.0	Do.
393	7/27	Agreeing to the amendment	Biaggi	H.R. 2462	196	183		52.0	48.0	Friday.
447	9/6	Passage	do	H.R. 3236	235	162		59.0	41.0	Thursday.
455	9/11	Agreeing to the amendment	Bingham	H.R. 4034	273	145		65.0	35.0	Tuesday.
321	7/12	Quorum	do				384			Thursday.
98	4/24	Previous question on recommitment	Bolling	H.R. 3363	265	138		66.0	34.0	Tuesday.
68	3/29	Quorum	do				322			Thursday.
71	4/2	do	do				344			Monday.
182	6/5	Agreeing to the amendment	Boner	H.R. 3875	48	357		12.0	88.0	Tuesday.
508	9/26	Quorum	Bowen				374			Wednesday.
15	2/28	do	Brademas				383			Do.
102	4/26	do	do				361			Thursday.
425	8/1	Recede and concur in Senate amendment	Breaux	H.R. 4388	156	258		38.0	62.0	Wednesday.
238	6/13	Agreeing to the amendment	Brooks	H.R. 2444	179	230		44.0	56.0	Do.
305	6/28	do	Broomfield	H.R. 4439	147	242		38.0	62.0	Thursday.
530	9/28	Agreeing to the resolution	do	H. Res. 393	216	12	1	95.0	5.0	Friday.
248	6/15	Agreeing to the amendment	Brown (California)	H.R. 4388	34	253	1	12.0	88.0	Do.
416	8/1	do	Brown (Ohio)	S. 1030	107	306		26.0	74.0	Wednesday.
417	8/1	do	do	S. 1030	190	244		46.0	54.0	Do.
419	08/01	do	do	S. 1030	244	170		59.0	41.0	Do.
617	10/31	Quorum	do	H.R. 4985			379			Tuesday.
258	6/19	Resolving into committee	do	H.R. 2444	352	53		87.0	13.0	Do.
383	7/25	Agreeing to the amendment	Broyhill	S. 1030	185	234		44.0	56.0	Wednesday.
134	5/9	do	Burton, J.	H. Con. Res. 107	45	371	1	11.0	89.0	Do.
167	5/23	Agreeing to the resolution	do	H. Res. 275	377	13		97.0	3.0	Do.
190	6/7	Agreeing to the amendment	Cambell	H.R. 3875	245	145		63.0	37.0	Thursday
306	6/28	Passage	do	H.R. 4439	350	37		90.0	10.0	Do.
578	10/17	Recommit with instructions	do	S. 832	189	222		46.0	54.0	Wednesday.
262	6/20	Resolving into committee	Carney	H.R. 111	299	7	2	98.0	2.0	Do.
369	7/23	do	do	H.R. 4440	214	4		98.0	2.0	Monday.
370	7/23	do	do	H.R. 4034	217	5		98.0	2.0	Do.
247	6/15	Agreeing to the amendment	Cavanaugh	H.R. 4388	106	210	1	34.0	66.0	Friday.
58	3/27	Previous question on recommit conference report	do	H.R. 2439	225	177		56.0	44.0	Tuesday.
307	7/10	Suspend rules and pass	Clay	H.R. 827	306	94		77.0	23.0	Do.
1	1/15	Call of the States	Clerk of House				414			Monday.
2	1/15	Election of Speaker	do		268	152	2	64.0	36.0	Do.
133	5/9	Agreeing to the amendment	Coleman	H. Con. Res. 107	147	276		35.0	65.0	Wednesday.
328	7/12	do	Collins (Texas)	H.R. 4392	209	190		52.0	48.0	Thursday.
124	5/7	do	Conable	H. Con. Res. 107	190	195		49.4	50.6	Monday.
302	6/28	do	do	H.R. 3919	236	183	1	56.0	44.0	Thursday.
301	6/28	Agreeing to the amendments	do	H.R. 3919	230	185	1	55.0	45.0	Do.
17	2/28	Passage	do	H.R. 1894	194	222		47.0	53.0	Wednesday.
41	3/15	do	do	H.R. 2534	212	195		52.0	48.0	Thursday.
183	6/6	do	do	H.R. 3464	374	3		99.0	1.0	Wednesday.
495	9/20	do	do	H.R. 5229	200	215		48.0	52.0	Thursday.
511	9/26	do	do	H.R. 5369	219	198		53.0	47.0	Wednesday.
304	6/28	Recommit with instructions	do	H.R. 3919	186	229	1	45.0	55.0	Thursday.
125	5/8	Resolving into committee	do	H. Con. Res. 107	396	5	1	99.0	1.0	Tuesday.
22	3/6	Agreeing to the amendment	Conte	H.R. 2439	290	114		72.0	28.0	Do.
481	9/19	do	do	H.J. Res. 399	371	31	1	92.0	8.0	Wednesday.
245	6/15	Agreeing to the resolution	do	H. Res. 291	340	4		99.0	1.0	Friday.
244	6/15	Motion to table	do	H. Res. 291	4	338		1.0	99.0	Do.
345	7/17	Passage	do	H.R. 4580	272	147		65.0	35.0	Tuesday.
619	10/31	Agreeing to the amendment	Corcoran	H.R. 4985	56	357		14.0	86.0	Do.
486	9/19	do	Coughlin	H. Con. Res. 186	221	176		56.0	44.0	Wednesday.
451	9/7	do	Courter	H.R. 79	125	242		34.0	66.0	Friday.

Table continued on next page.

ROLLCALL VOTES (JAN. 15, 1979 THROUGH OCT. 31, 1979) LISTED ALPHABETICALLY—BY MEMBER REQUESTING THE ROLLCALL—Continued

Roll	Date (1979)	Type of vote	Requester	Bill	Yea	Nay	Pres	Percent		Day
								Yea	Nay	
551	10/12	Agreeing to the amendment	Courter	H.R. 3000	191	188		50.4	49.6	Friday.
595	10/24	do	do	H.R. 3000	189	225		46.0	54.0	Wednesday.
450	9/7	Quorum	do				350			Friday.
270	6/21	Agreeing to the amendment	Crane, P	H.R. 111	177	248		42.0	58.0	Thursday.
327	7/12	do	do	H.R. 4392	122	280		30.0	70.0	Do.
489	9/20	Approving the Journal	Danielson		361	18	1	95.0	5.0	Do.
397	7/30	Quorum	do				372			Monday.
142	5/14	Suspend rules and pass	do	H.R. 2805	338	49		87.0	13.0	Do.
35	3/13	Agreeing to the amendment	Dannemeyer	H.R. 2479	182	221		45	55	Wednesday.
395	7/27	do	do	H.R. 3633	12	341		3	97	Friday.
506	9/25	do	do	H.R. 4034	61	340		15	85	Tuesday.
4	2/26	Agreeing to the resolution	do	H.R. 35	267	100		73	27	Monday.
5	2/26	do	do	H.R. 45	266	94		74	26	Do.
6	2/26	do	do	H.R. 60	256	103		71	29	Do.
7	2/26	do	do	H.R. 85	249	121		67	33	Do.
8	2/26	do	do	H.R. 87	253	119		68	32	Do.
9	2/26	do	do	H.R. 88	242	122		66	34	Do.
10	2/26	do	do	H.R. 91	267	98		73	27	Do.
11	2/26	do	do	H.R. 92	201	171		54	46	Do.
12	2/26	do	do	H.R. 96	272	101		73	27	Do.
13	2/26	do	do	H.R. 98	239	135		64	36	Do.
23	3/7	do	do	H. Res. 111	353	53		87	13	Wednesday.
25	3/7	do	do	H. Res. 112	222	187		54	46	Do.
39	3/14	do	do	H. Res. 114	336	73		82	18	Do.
43	3/20	do	do	H. Res. 118	208	200		51	49	Tuesday.
52	3/22	do	do	H. Res. 86	285	100		74	26	Thursday.
53	3/22	do	do	H. Res. 134	285	109		72	28	Do.
54	3/22	do	do	H. Res. 139	257	138		65	35	Do.
55	3/22	do	do	H. Res. 140	268	127		68.0	32.0	Do.
394	7/27	Quorum	do				351			Friday.
577	10/17	Agreeing to the amendment	Davis (South Carolina)	S. 832	217	198		52.0	48.0	Wednesday.
176	5/31	do	Dellums	H.R. 2575	89	311		22.0	78.0	Thursday.
466	9/13	do	do	H. R. 4040	112	286		28.0	72.0	Do.
467	9/13	do	do	H.R. 4040	86	305		22.0	78.0	Do.
337	7/16	Passage	do	H.R. 3951	261	125		68.0	32.0	Monday.
611	10/26	do	Derwinski	H.R. 1885	175	120		59.0	41.0	Friday.
24	3/7	Agreeing to the resolution	Devine	H. Res. 130	249	163		60.0	40.0	Wednesday.
235	6/13	Agreeing to the amendments	Dickinson	H.R. 2444	173	225		44.0	56.0	Do.
367	7/20	Agreeing to the resolution	do	H. Res. 359	214	120		64.0	36.0	Friday.
536	10/9	Agreeing to the amendment	Dicks	H. Res. 413	162	234		41.0	59.0	Tuesday.
151	5/16	do	Dingell	H.R. 39	416	0		100.0	0	Wednesday.
242	6/14	do	do	H.R. 4388	136	271		33.0	67.0	Thursday.
279	do		do	H.R. 3930	69	351	1	16.0	34.0	Tuesday.
282	6/26	do	do	H.R. 3930	94	291	1	24.0	76.0	Do.
418	8/1	do	do	S. 1030	203	209		49.0	51.0	Wednesday.
476	9/18	do	do	H.R. 4440	228	185	1	55.0	45.0	Tuesday.
553	10/12	do	do	H.R. 3000	182	191		49.0	51.0	Friday.
618	10/31	do	do	H.R. 4985	415	1		100.0	0	Tuesday.
384	7/25	Agreeing to the amendments	do	S. 1030	232	187		55.0	45.0	Wednesday.
281	6/26	Quorum	do				385			Tuesday.
552	10/12	do	do				346			Friday.
88	4/10	Agreeing to the amendment	Dodd	H.R. 3324	276	116	1	70.0	30.0	Tuesday.
145	5/14	do	do	H. Con. Res. 107	179	222		45.0	55.0	Monday.
241	6/14	do	do	H.R. 4388	257	156		62.0	38.0	Thursday.
297	6/27	do	do	H.R. 4389	300	112		73.0	27.0	Wednesday.
48	3/21	Agreeing to the resolution	do	H. Res. 13	338	75		82.0	18.0	Do.
49	3/21	do	do	H. Res. 38	187	214		47.0	53.0	Do.
610	10/26	Agreeing to conference report	Dornan	S. 428	300	26		92.0	8	Friday.
343	7/17	Agreeing to the amendment	do	H.R. 4580	309	112		73.0	27.0	Tuesday.
458	9/11	do	do	H.R. 4034	109	296		27.0	73.0	Do.
342	7/17	Quorum	do				408			Do.
614	10/30	Recede and concur in Senate amendment	do	H.R. 4389	187	219		46.0	54.0	Monday.
175	5/30	Passage	Downey	H.R. 4035	347	28	1	93.0	7	Wednesday.
187	6/07	Resolving into committee	do	H.R. 3875	356	5	3	99.0	1	Thursday.
189	6/7	Agreeing to the amendment	Duncan (Tennessee)	H.R. 3875	311	79		80.0	20.0	Do.
295	6/27	Agreeing to the amendments	Early	H.R. 4389	178	228		44.0	56.0	Wednesday.
172	5/24	Agreeing to the amendment	Eckhardt	S. 869	88	29		23.0	77.0	Thursday.
111	5/2	do	Edwards (Alabama)	H. Con. Res. 107	141	269		34.0	66.0	Wednesday.
518	9/27	Agreeing the to amendments	do	H.R. 5359	131	244		35.0	65.0	Thursday.
522	9/28	Passage	do	H.R. 5359	305	49		86.0	14.0	Friday.
195	6/8	Agreeing to the amendment	Edwards (California)	H.R. 2641	130	168		44.0	56.0	Do.
31	3/13	do	Edwards (Oklahoma)	H.R. 2479	146	256		36.0	64.0	Tuesday.
36	3/13	do	do	H.R. 2479	141	264		35.0	65.0	Wednesday.
537	10/9	do	do	H.R 2859	177	209		46.0	54.0	Tuesday.
528	9/28	Agreeing to the resolution	do	H. Res. 367	236	15		94.0	6.0	Friday.
529	9/28	Resolving into committee	do	H.R. 2859	214	28		88.0	12.0	Do.
515	9/27	Agreeing to conference report	Erlenborn	S. 210	215	201		52.0	48.0	Thursday.
213	6/12	Agreeing to the amendment	do	H.R. 2444	396	22		95.0	5.0	Tuesday.
214	6/12	do	do	H.R. 2444	290	124		70.0	30.0	Do.
220	6/12	do	do	H.R. 2444	149	243		38.0	62.0	Do.
226	6/13	do	do	H.R. 4390	204	213	1	49.0	51.0	Wednesday.
260	6/19	do	do	H.R. 2444	362	36		91.0	9.0	Tuesday.
201	6/11	Agreeing to the amendments	do	H.R. 2444	52	310		14.0	86.0	Monday.
211	6/12	do	do	H.R. 2444	178	230		44.0	56.0	Tuesday.
208	6/12	Agreeing to the resolution	do	H. Res. 198	378	0		100.0	0	Do.
527	9/28	Ordering the previous question	do	H. Res. 367	16	235		6.0	94.0	Friday.
212	6/12	Quorum	do				363			Tuesday.
219	6/12	do	do				368			Do.
259	6/19	do	do				389			Do.
346	7/17	Requesting a conference	do	S. 210	263	156		63.0	37.0	Do.
479	9/18	Agreeing to the amendment	Ertel	H.R. 4034	186	218	2	46.0	54.0	Do.
465	9/13	do	Fazio	H.R. 4040	96	309		24.0	76.0	Thursday.
56	3/22	Agreeing to the resolution	Fenwick	H.Res. 123	249	147		63.0	37.0	Do.
184	6/6	Agreeing to the amendment	Fish	H.R. 4289	127	270		32.0	68.0	Wednesday.
146	5/14	do	Fisher	H. Con. Res. 107	255	144		64.0	36.0	Monday.
590	10/23	do	Frenzel	H.R. 2172	200	212	1	49.0	51.0	Tuesday.
300	6/28	Agreeing to the resolution	do	H. Res. 336	292	118		71.0	29.0	Thursday.
432	8/2	do	do	H. Res. 365	251	154		62.0	38.0	Do.
434	8/2	Passage	do	H.R. 3434	401	2		99.0	1.0	Do.
591	10/23	do	do	H.R. 2172	158	249		39.0	61.0	Tuesday.
575	10/17	Quorum	do				375			Wednesday.
390	7/26	Agreeing to the amendment	Fuqua	H.R. 3000	182	237		43.0	57.0	Thursday.
127	5/8	do	Gephardt	H. Con. Res. 107	104	316		25.0	75.0	Tuesday.
494	9/20	do	do	H.R. 5229	408	1		100.0	0	Thursday.
108	5/2	do	Giaimo	H. Con. Res. 107	224	197		53.0	47.0	Wednesday.
115	5/2	do	do	H. Con. Res. 107	402	3	2	93.0	1.0	Thursday.

Roll	Date (1979)	Type of vote	Requester	Bill	Yea	Nay	Pres	Percent Yea	Percent Nay	Day
117	5/3	Agreeing to the amendment	Giaimo	H. Con. Res. 107	186	214	1	46.0	54.0	Thursday.
118	5/3	do	do	H. Con. Res. 107	2	376	2	99.0	1.0	Do.
126	5/8	do	do	H. Con. Res. 107	196	227		46.0	54.0	Tuesday.
170	5/24	Agreeing to the resolution	do	H. Con. Res. 107	202	196		50.8	49.2	Thursday.
138	5/10	Motion to end debate	do	H. Con. Res. 107	197	208		49.0	51.0	Do.
423	8/1	Recommit with instructions	Gilman	S. 1030	177	246		42.0	58.0	Wednesday.
20	3/1	Refer to Standards Committee	Gingrich	H. Res. 142	322	77	5	81.0	19.0	Thursday.
377	7/25	Resolving into committee	Glickman	H.R. 3996	387	5	1	99.0	1.0	Wednesday.
376	7/24	Agreeing to the amendment	Gore	H.R. 3996	197	214	1	48.0	52 0	Tuesday.
554	10/12	do	Gramm	H.R. 3000	257	119		68.0	32.0	Friday.
406	7/31	Suspend rules and pass	Gudger	S. 961	416	1		99.0	1.0	Tuesday.
584	10/19	Approving the Journal	Guyer		309	8	4	97.0	3.0	Friday.
379	7/25	Agreeing to the amendment	Hagedorn	H.R. 3996	168	250		40.0	60.0	Wednesday.
378	7/25	Quorum	do				414			Do.
174	5/30	Agreeing to conference report	Hammerschmidt	S. 7	342	0		100.0	0	Do.
267	6/20	Agreeing to the amendment	do	H.R. 111	255	162		61.0	39.0	Do.
568	10/16	Suspend rules and pass	do	H.R. 5288	405	1	1	100.0	0	Tuesday.
509	9/26	Agreeing to conference report	Hansen	H.R. 111	232	188		55.0	45.0	Wednesday.
186	6/5	Agreeing to the amendment	do	H.R. 3875	155	244		39.0	61.0	Do.
266	6/20	do	do	H.R. 111	220	200		52.0	48.0	Do.
269	6/21	do	do	H.R. 111	210	213		49.6	50.4	Thursday.
477	9/18	Passage	do	H.R. 4440	335	71		83.0	17.0	Tuesday.
449	9/7	Resolving into committee	do	H.R. 79	341	3	2	99.0	1.0	Friday.
599	10/24	Passage	Harkin	H.R. 3683	393	14		97.0	3.0	Wednesday.
587	10/19	Resolving into committee	do	H.R. 3683	298	3		99.0	1.0	Friday.
278	6/26	Suspend rules and pass	do	H.R. 4303	405	8		98.0	2.0	Tuesday.
264	6/20	Agreeing to the amendments	Harris	H.R. 111	277	142	1	66.0	34.0	Wednesday.
75	4/4	Agreeing to the amendment	Harsha	H.R. 3324	175	222		44.0	56.0	Do.
162	5/22	do	Hinson	H.R. 4011	174	232		43.0	57.0	Tuesday.
136	5/9	do	Holt	H. Con. Res. 107	198	218		48.0	52.0	Wednesday.
114	5/2	do	Holtzman	H. Con. Res. 107	79	317		20.0	80.0	Do.
129	5/8	do	do	H. Con. Res. 107	355	66		84.0	16.0	Tuesday.
339	7/16	do	do	H.R. 4393	156	232	1	40.0	60.0	Monday.
131	5/9	Agreeing to the resolution	do	H. Res. 106	401	0	2	100.0	0	Wednesday.
234	6/13	Agreeing to the amendment	Horton	H.R. 2444	165	240		41.0	59.0	Do.
311	7/11	do	do	H.R. 2444	263	143		65.0	35.0	Do.
314	7/11	Passage	do	H.R. 2444	210	206		50.5	49.5	Do.
310	7/11	Quorum	do				391			Do.
498	9/21	Agreeing to the resolution	Howard	H. Res. 331	345	1		100.0	0	Friday.
507	9/26	Quorum	Hughes				362			Wednesday.
456	9/11	Agreeing to the amendment	Ichord	H.R. 4034	201	206		49.4	50.6	Tuesday.
233	6/13	do	Jeffords	H.R. 2444	145	265		35.0	65.0	Wednesday
232	6/13	Quorum	do							Do.
122	5/7	Agreeing to the amendment	Jones (Oklahoma)	H. Con. Res. 107	140	244	399	36.0	64.0	Monday.
277	6/26	Suspend rules and pass	Kastenmeier	H.R. 1046	374	42		90.0	10.0	Tuesday.
139	5/10	Agreeing to the amendment	Kemp	H. Con. Res. 107	182	229		44.0	56.0	Thursday.
51	3/22	Passage	Kindness	H.R. 2774	296	100		75.0	25.0	Do.
156	5/16	Quorum	do				349			Wednesday.
549	10/11	Agreeing to the amendment	Kostmayer	H.R. 3000	124	243		34.0	66.0	Thursday.
582	10/18	do	do	H.R. 3000	220	168		57.0	43.0	Do
26	3/8	do	Kramer	H.R. 2479	149	221		40.0	60.0	Do.
268	6/21	do	do	H.R. 111	142	274		34.0	66.0	Do.
412	7/31	do	do	S. 1030	162	250		39.0	61.0	Tuesday.
540	10/10	do	do	H.R. 2859	229	178		56.0	44.0	Wednesday.
204	6/11	Agreeing to the amendments	do	H.R. 2444	184	187		49.6	50.4	Monday.
159	5/21	Approving the Journal	do		243	7		97.0	3.0	Do.
491	9/20	Passage	do	H.J. Res. 399	196	212		48.0	52.0	Thursday.
411	7/31	Quorum	do				402			Tuesday.
539	10/10	do	do				360			Wednesday.
620	10/31	do	do	H.R. 4985			387			Tuesday.
473	9/18	Suspend rules and pass	do	H.R. 51	357	20		95.0	5.0	Do.
180	6/05	Agreeing to the amendment	LaFalce	H.R. 3875	159	263		38.0	62.0	Do.
276	6/22	Agreeing to the amendments	do	H.R. 4394	136	219		38.0	62.0	Friday.
27	3/8	Agreeing to the amendment	Lagomarsino	H.R. 2479	169	197		46.0	54.0	Thursday.
478	9/18	do	do	H.R. 4034	238	165		59.0	41.0	Tuesday.
135	5/9	do	Latta	H. Con. Res. 107	191	228		46.0	54.0	Wednesday.
147	5/14	do	do	H. Con. Res. 107	272	128	1	68.0	32.0	Monday.
483	9/19	do	do	H. Con. Res. 186	187	230		45.0	55.0	Wednesday.
73	4/2	Agreeing to the resolution	do	H. Res. 183	209	165		56.0	44.0	Monday.
148	5/14	do	do	H. Con. Res. 107	220	184		54.0	46.0	Do.
194	6/ 8	do	do	H. Res. 284	287	3		99.0	1.0	Friday.
488	9/19	do	do	H. Con. Res. 186	192	213		47.0	53.0	Wednesday.
492	9/20	do	do	H. Res. 411	258	151		63.0	37.0	Thursday.
40	3/15	Ordering the previous question	do	H. Res. 157	201	199		52.0	48.0	Do
72	4/2	do	do	H. Res. 183	216	160		57.0	43.0	Monday.
517	9/27	Quorum	Lee				353			Thursday.
228	6/13	Agreeing to the resolution	Levitas	H. Res. 311	386	34		92.0	8.0	Wednesday.
572	10/17	Quorum	Livingston				343			Do.
408	7/31	Agreeing to the amendment	Loeffler	S. 1030	192	232		45.0	55.0	Tuesday.
409	7/31	do	do	S. 1030	234	189		55.0	45.0	Do.
413	7/31	do	do	S. 1030	267	152		64.0	36.0	Do.
157	5/17	Approving the Journal	do		351	11	2	97.0	3.0	Thursday.
420	8/1	Motion to limit debate	do	S. 1030	247	164		60.0	40.0	Wednesday.
414	8/1	Resolving into committee	do	S. 1030	390	4		99.0	1.0	Do.
357	7/18	Agreeing to the amendment	Long (Maryland)	H.R. 4473	244	164		60.0	40.0	Do.
436	9/5	do	do	H.R. 4473	243	139		64.0	36.0	Do.
438	9/5	do	do	H.R. 4473	166	234		42.0	58.0	Do.
437	9/5	do	do	H.R. 4473	247	128		66.0	34.0	Do.
351	7/18	do	Lott	H.R. 4473	219	196		53.0	47.0	Do.
140	5/10	Agreeing to the resolution	do	H. Res 262	227	190		54.0	46.0	Thursday.
600	10/25	do	do	H. Res. 464	355	47		88.0	12.0	Do.
580	10/18	Agreeing to the amendment	Lujan	H.R. 3000	208	197		51.0	49.0	Do.
399	7/30	Table motion to consider	Lungren	H. Res. 391	205	197		51.0	49.0	Monday.
200	6/11	Resolving into committee	Mathis	H.R. 2444	308	28		92.0	8.0	Do.
106	5/1	Agreeing to the amendment	Mattox	H. Con. Res. 107	212	198		52.0	48.0	Tuesday.
485	9/19	do	do	H. Con. Res. 186	183	220	1	45.0	55.0	Wednesday.
237	6/13	do	McClory	H.R. 2444	128	275		32.0	68.0	Do.
196	6/8	Passage	do	H.R. 2641	276	14		95.0	50.0	Friday.
326	7/12	Agreeing to the amendment	McCloskey	H.R. 4392	135	272		33.0	67.0	Thursday.
392	7/27	do	do	H.R. 2462	139	246		36.0	64.0	Friday.
202	6/11	Agreeing to the amendments	do	H.R. 2444	114	257		31.0	69.0	Monday.
325	7/12	Quorum	do				384			Thursday.
250	6/18	Agreeing to the amendment	McCormack	H.R. 4388	350	10		97.0	3.0	Monday.
251	6/18	do	do	H.R. 4388	350	12		97.0	3.0	Do.
254	6/18	Passage	McEwen	H.R. 4391	366	21		95.0	5.0	Do.
439	9/5	Agreeing to the amendment	McHugh	H.R. 4473	153	244		39.0	61.0	Wednesday.
100	4/25	Agreeing to conference report	McKinney	H.R. 2283	240	168		59.0	41.0	Do.
296	6/27	Agreeing to the amendment	Michel	H.R. 4389	263	152		63.0	37.0	Do.
602	10/25	do	do	H.J. Res. 430	183	207		46.0	54.0	Thursday.

Table continued on next page.

ROLLCALL VOTES (JAN. 15, 1979 THROUGH OCT. 31, 1979) LISTED ALPHABETICALLY—BY MEMBER REQUESTING THE ROLLCALL—Continued

Roll	Date (1979)	Type of vote	Requester	Bill	Yea	Nay	Pres	Percent		Day
								Yea	Nay	
299	6/27	Passage	Michael	H.R. 4389	327	84		80.0	20.0	Wednesday.
81	4/9	Quorum	do				316			Monday.
613	10/30	do	do				368			Do.
433	8/2	Recommit with instructions	do	H.R. 3434	204	199		51.0	49.0	Thursday.
216	6/12	Agreeing to the amendments	Miller (California)	H.R. 2444	148	265		36.0	64.0	Tuesday.
442	9/6	do	Miller (Ohio)	H.R. 4473	178	228		44.0	56.0	Thursday.
444	9/6	do	do	H.R. 4473	254	144		64.0	36.0	Do.
457	9/11	do	do	H.R. 4034	271	138		66.0	34.0	Tuesday.
227	6/13	Passage	do	H.R. 4390	186	232		45.0	55.0	Wednesday.
253	6/18	do	do	H.R. 4388	359	29		93.0	7.0	Monday.
256	6/19	do	do	H.R. 4387	391	30		93.0	7.0	Tuesday.
284	6/26	do	do	H.R. 3930	368	25	1	94.0	6.0	Do.
290	6/27	do	do	H.R. 4394	359	53		87.0	13.0	Wednesday.
137	5/10	Agreeing to the amendment	Mitchell (Maryland)	H. Con. Res. 107	130	277		32.0	68.0	Thursday.
158	5/17	Agreeing to the resolution	Moakley	H. Res. 274	200	198		50.3	49.7	Do.
589	10/23	Agreeing to conference report	Moffett	S. 1030	301	112		73.0	27.0	Tuesday.
415	8/1	Agreeing to the amendment	do	S. 1030	413	3		99.0	1.0	Wednesday.
422	8/1	do	do	S. 1030	233	187		56.0	44.0	Do.
548	10/11	do	do	H.R. 3000	135	257		34.0	66.0	Thursday.
424	8/1	Passage	do	S. 1030	263	159		62.0	38.0	Wednesday.
603	10/25	do	do	H.J. Res. 430	290	105		72.0	28.0	Thursday.
461	9/12	Agreeing to the amendment	Montgomery	H.R. 4040	163	252		39.0	61.0	Wednesday.
334	7/16	Suspend rules and pass	do	H.R. 2282	350	0	1	100.0	0.0	Monday.
42	3/20	do	Moorhead (California)	H.R. 1301	270	140		66.0	34.0	Tuesday.
46	3/20	Agreeing to the amendments	Moorhead (Pennsylvania)	H.R. 2283	252	159		61.0	39.0	Do.
585	10/19	Agreeing to the resolution	Mottl	H. Res. 417	320	9		97.0	3.0	Friday.
372	7/24	Motion to discharge	do	H.J. Res. 74	227	183		55.0	45.0	Tuesday.
143	5/14	Suspend rules and pass	do	H.R. 3577	340	36		90.0	10.0	Monday.
69	3/29	Agreeing to the resolution	Murphy (New York)	H. Res. 53	194	172		53.0	47.0	Thursday.
480	9/19	Approving the Journal	Murtha		388	10	3	97.0	3.0	Wednesday.
503	9/25	Quorum	do				374			Tuesday.
520	9/28	Resolving into committee	do	H.R. 5359	337	2	1	99.0	1.0	Friday.
298	6/27	Agreeing to the amendment	Natcher	H.R. 4389	306	101		75.0	25.0	Wednesday.
566	10/12	do	Neal	H.R. 2061	180	154		54.0	46.0	Friday.
565	10/12	Quorum	do				270			Do.
471	9/14	Agreeing to the amendment	Nedzi	H.R. 4040	189	149		56.0	44.0	Do.
405	7/31	Suspend rules and pass	do	H. Con. Res. 80	408	11		97.0	3.0	Tuesday.
287	6/27	Agreeing to the amendment	Nelson	H.R. 4394	102	302		25.0	75.0	Wednesday.
286	6/27	Quorum	do				396			Do.
293	6/27	Agreeing to the amendment	Obey	H.R. 4389	180	241		43.0	57.0	Do.
294	6/27	do	do	H.R. 4389	236	176		57.0	43.0	Do.
350	7/18	do	do	H.R. 4473	413	4		99.0	1.0	Do.
354	7/18	do	do	H.R. 4473	402	13		97.0	3.0	Do.
443	9/6	do	do	H.R. 4473	395	12		97.0	3.0	Thursday.
388	7/25	Agreeing to the resolution	Schulze	H. Res. 317	126	271		32.0	68. p	Do.
285	6/27	Resolving into committee	Sebelius	H.R. 4394	384	3	2	99.0	1.	Wednesday.
524	9/28	Agreeing to conference report	Sensenbrenner	S. 237	273	38		88.0	12.0	Friday.
562	10/12	Agreeing to the amendment	do	H.R. 2061	85	197		30.0	70.0	Do.
564	10/12	do	do	H.R. 2061	40	246		14	86.0	Do.
80	4/5	Agreeing to the resolution	do	H. Res. 195	210	110		66.0	34.0	Thursday.
120	5/4	do	do	H. Res. 243	236	18		93.0	7.0	Friday.
171	5/24	do	do	H.Res. 281	375	18		95.0	5.0	Thursday.
616	10/30	do	do	H. Res. 439	373	33	1	92.0	8.0	Monday.
149	5/15	Approving the Journal	do		362	9	1	97.0	3.0	Tuesday.
207	6/12	do	do	H. Res. 198	352	8	1	98.0	2.0	Do.
403	7/31	do	do		389	9		98.0	2.0	Do.
561	10/12	Quorum	do				279			Friday.
563	10/12	do	do				277			Do.
303	6/28	Agreeing to the amendment	Shannon	H.R. 3919	172	241	1	42.0	58.0	Thursday.
132	5/9	do	Shuster	H. Con. Res. 107	203	216		48.0	52.0	Wednesday.
61	3/28	Quoru	Slack				371			Do.
161	5/22	Agreeing to the amendments	Smith (Iowa)	H.R. 4011	192	216		47.0	53.0	Tuesday.
163	5/22	Passage	do	H.R. 4011	398	5		99.0	1.0	Do.
364	7/19	Agreeing to the amendment	Smith (Nebraska)	H.R. 4473	148	262		36.0	64.0	Thursday.
123	5/7	do	Snowe	H. Con. Res. 107	147	237		38.0	62.0	Monday.
249	6/18	Agreeing to the resolution	Snyder	H. Res. 321	336	0		100.0	0.	Do.
79	4/5	Agreeing to the amendment	Solarz	H.R. 3324	101	246		29.0	71.0	Thursday.
116	5/3	do	do	H. Con. Res. 107	134	275		33.0	67.0	Do.
62	3/28	Agreeing to conference report	Solomon	H.R. 2479	339	50	5	87.0	13.0	Wednesday.
32	3/13	Agreeing to the amendment	do	H.R. 2479	179	225		44.0	56.0	Tuesday.
505	9/25	Passage	do	H.J. Res. 404	208	203		50.6	49.4	Do.
222	7/13	Quorum	do				344			Wednesday.
404	7/31	Agreeing to the resolution	Spence	H. Res. 378	414	0	4	100.0	0	Tuesday.
14	2/27	Suspend rules and pass	St Germain	S. 37	362	5	3	99.0	1.0	Do.
21	3/6	Agreeing to the amendment	Staggers	H.R. 2439	262	139		65.0	35.0	Do.
315	7/11	Agreeing to the resolution	Stangeland	H. Res. 231	156	256		38.0	62.0	Wednesday.
229	6/13	Resolving into committee	do	H.R. 2444	356	50		88.0	12.0	Do.
74	4/3	Passage	Stanton	H.R. 595	371	16		96.0	4.0	Tuesday.
168	5/23	do	do	H.R. 3404	316	75		81.0	19.0	Wednesday.
191	6/7	do	do	H.R. 3875	355	36		91.0	9.0	Thursday.
387	7/25	Agreeing to the amendment	Stark	H.R. 3920	85	325		21.0	79.0	Wednesday.
164	5/23	R. & C. with amendment in Senate amendment	do	H. Con. Res. 107	144	260		36.0	64.0	Wednesday.
239	6/13	Strike enacting clause	Obey	H.R. 2444	146	266		35.0	65.0	Do.
225	6/13	Agreeing to the amendment	O'Brien	H.R. 4390	396	15	7	96.0	4.0	Do.
382	7/25	do	Ottinger	S. 1030	93	329		22.0	78.0	Do.
188	6/7	do	Panetta	H.R. 3875	366	16		96.0	4.0	Thursday.
103	4/26	Agreeing to the resolution	Paul	H. Res. 234	212	180		54.0	46.0	Do.
198	6/8	Passage	do	H.R. 3347	179	96		65.0	35.0	Friday.
361	7/19	Recommit with instructions	do	H.R. 3917	55	364		13.0	87.0	Thursday.
594	10/24	Agreeing to the amendment	Peyser	H.R. 3000	264	143		65.0	35.0	Wednesday.
593	10/24	Quorum	do	H.R. 3000			399			Do.
178	5/31	Passage	Price	H.R. 2575	314	72		81.0	19.0	Thursday.
472	9/14	do	do	H.R. 4040	282	46		86.0	14.0	Friday.
28	3/13	Agreeing to the amendments	Quayle	H.R. 2479	172	181		49.0	51.0	Thursday.
221	6/12	do	do	H.R. 2444	170	220		44.0	56.0	Tuesday.
366	7/20	Passage	Reuss	H.R. 7	340	20	5	94.0	6.0	Friday.
490	9/20	Motion to reconsider	Rhodes	H.J. Res. 399	214	196		52.0	48.0	Thursday.
3	1/15	Ordering the previous question	do	H. Res. 5	241	156		61.0	39.0	Monday.
504	9/25	do	do	H.J. Res. 404	202	200		51.0	49.0	Tuesday.
317	7/11	Quorum	Richmond				354			Wednesday.
95	4/24	Agreeing to the amendment	Rousselot	H.R. 3363	187	214		47.0	53.0	Tuesday.
487	9/19	do	do	H. Con. Res. 186	181	224	2	45.0	55.0	Wednesday.
510	9/26	do	do	H.R. 5369	132	283		32.0	68.0	Do.
513	9/27	do	do	S. Con. Res. 36	212	206		50.7	49.3	Thursday.
92	4/10	Agreeing to the resolution	do	H. Res. 217	360	8		98.0	2.0	Tuesday
428	8/2	Approving the Journal	do		306	9		97.0	3.0	Thursday.

Roll	Date (1979)	Type of vote	Requester	Bill	Yea	Nay	Pres	Percent		Day
								Yea	Nay	
525	9/28	Passage	Rousselot	H.R. 2795	239	48		83.0	17.0	Friday.
93	4/10	Resolving into committee	do	H.R. 3363	334	15	1	95.0	5.0	Tuesday.
185	6/6	do	do	H.R. 3875	390	2		99.0	1.0	Wednesday.
363	7/19	do	do	H.R. 4473	391	13		97.0	3.0	Thursday.
463	9/13	do	do	H.R. 4040	370	2		99.0	1.0	Do.
501	9/25	Suspend rules and pass	do	H.R. 5218	370	27		93.0	7.0	Tuesday.
502	9/25	do	do	H. Con. Res. 167	401	0		100.0	0	Do.
615	10/30	do	do	H.R. 4572	405	0		100.0	0	Monday.
273	6/21	Motion to instruct conferees	Russo	H.R. 3173	303	107		74.0	26.0	Thursday.
468	9/13	Agreeing to the amendment	Santini	H.R. 4040	84	289		23.0	77.0	Do.
179.	6/5	Suspend rules and pass	Satterfield	H.R. 4015	406	0		100.0	0	Tuesday.
462	9/12	Agreeing to the amendment	Schroeder	H.R. 4040	259	155		63.0	37.0	Wednesday.
386	7/25	Quorum	do				399			Do.
338	7/16	Agreeing to the amendment	Steed	H.R. 4393	294	90		77.0	23.0	Monday.
373	7/24	Ordering the previous question	Stokes	H.J. Res. 74	172	251		41.0	59.0	Tuesday.
516	9/27	Recede and concur in Senate amendment	do	H.R. 4394	128	278		32.0	68.0	Thursday.
484	9/19	Agreeing to the amendment	Stratton	H. Con. Res. 186	191	221		46.0	54.0	Wednesday.
464	9/13	Quorum	do				369			Thursday.
469	9/14	do	do				306			Friday.
429	8/2	Agreeing to conference report	Symms	H.R. 4057	336	72		82.0	18.0	Thursday.
109	5/2	Agreeing to the amendment	do	H. Con. Res. 107	146	276		35.0	65.0	Wednesday.
112	5/2	do	do	H. Con. Res. 107	235	177		43.0	57.0	Do.
292	6/27	do	do	H.R. 4389	177	240		42.0	58.0	Do.
332	7/13	do	do	H.R. 4393	299	69	3	81.0	19.0	Friday.
598	10/24	do	do	H.R. 3683	326	84		80.0	20.0	Wednesday.
44	3/20	Agreeing to the resolution	do	H. Res. 156	305	102		75.0	25.0	Tuesday.
154	5/16	do	do	H. Res. 241	398	4		99.0	1.0	Wednesday.
331	7/13	Quorum	do				364			Friday.
107	5/2	Resolving into committee	do	H. Con. Res. 107	392	5	8	99.0	1.0	Wednesday.
547	10/11	do	do	H.R. 3000	376	4		99.0	1.0	Thursday.
534	10/9	Suspend rules and pass	do	H.R. 3949	380	9		98.0	2.0	Tuesday.
535	10/9	do	do	H.R. 5048	349	39		90.0	10.0	Do.
421	8/1	Agreeing to the amendment	Tauke	S. 1030	229	191		55.0	45.0	Wednesday.
576	10/17	do	Thompson	S. 832	298	114		72.0	28.0	Do.
573	10/17	Quorum	do				380			Do.
152	5/16	Agreeing to the amendment	Udall	H.R. 39	268	157		63.0	37.0	Do.
283	6/26	do	do	H.R. 3930	127	263	1	33.0	67.0	Tuesday.
348	7/17	Motion to table	do	H. Res. 369	303	105		74.0	26.0	Do.
153	5/16	Passage	do	H.R. 39	360	65		85.0	15.0	Wednesday.
70	4/2	Suspend rules and pass	do	H.J. Res. 199	336	0		100.0	0.0	Monday.
45	3/20	Agreeing to the amendment	Vento	H.R. 2283	128	282		31.0	69.0	Tuesday.
375	7/24	Suspend rules and pass	do	H.R. 4453	334	22		95.0	5.0	Do.
110	5/2	Agreeing to the amendment	Volkmer	H. Con. Res. 107	88	325		21.0	79.0	Wednesday.
543	10/10	do	do	H.R. 2061	181	224		45.0	55.0	Do.
560	10/12	do	do	H.R. 2061	149	174		46.0	54.0	Friday.
173	5/24	Passage	do	S. 869	88	292		23.0	77.0	Thursday.
567	10/12	do	do	H.R. 2061	220	54		80.0	20.0	Friday.
407	7/31	Quorum	do				368			Tuesday.
542	10/10	do	do				392			Wednesday
556	10/12	Resolving into committee	do		320	15		96.0	4.0	Friday.
210	6/12	Agreeing to the amendment	Walker	H.R. 2444	277	126		69.0	31.0	Tuesday.
215	6/12	do	do	H.R. 2444	403	3		99.0	1.0	Do.
217	6/12	do	do	H.R. 2444	28	374		7.0	93.0	Do.
236	6/13	do	do	H.R. 2444	235	170		58.0	42.0	Wednesday
261	6/19	do	do	H.R. 2444	159	243	1	40.0	60.0	Tuesday.
410	7/31	do	do	S. 1030	63	356		15.0	85.0	Do.
605	10/25	do	do	H.R. 4955	362	10		97.0	3.0	Thursday.
203	6/11	Agreeing to the amendments	do	H.R. 2444	255	122		68.0	32.0	Monday.
257	6/19	Agreeing to the resolution	do	H. Res. 239	409	3		99.0	1.0	Tuesday.
347	7/17	Motion to instruct conference	do	S. 210	214	202		51.0	49.0	Do.
606	10/25	Passage	do	H.R. 4955	301	69		81.0	19.0	Thursday.
209	6/12	Resolving into committee	do	H.R. 2444	362	19		95.0	5.0	Tuesday.
604	10/25	do	do	H.R. 4955	342	8		98.0	2.0	Thursday.
231	6/13	Agreeing to the amendment	Waxman	H.R. 2444	243	169		59.0	41.0	Wednesday.
359	7/19	do	do	H.R. 3917	203	211		49.0	51.0	Thursday.
360	7/19	Agreeing to the amendments	do	H.R. 3917	135	274		33.0	67.0	Do.
526	9/28	Passage	do	H.R. 3642	245	12		95.0	5.0	Friday.
230	6/13	Quorum	do				390			Wednesday.
335	7/16	Suspend rules and pass	do	H.R. 3641	317	35		90.0	10.0	Monday.
398	7/30	do	do	H.R. 3509	319	76		81.0	19.0	Do.
252	6/18	Agreeing to the amendment	Weaver	H.R. 4388	147	235		39.0	61.0	Do.
64	3/28	do	Weiss	H.R. 1786	137	246		36.0	64.0	Wednesday.
128	5/8	do	do	H. Con. Res. 107	92	321		22.0	78.0	Tuesday.
288	6/27	do	do	H.R. 4394	113	292		28.0	72.0	Wednesday.
308	7/10	do	do	H.R. 3821	79	321	1	20.0	80.0	Tuesday.
63	3/28	Passage	do	H.R. 1787	354	39		90.0	10.0	Wednesday.
65	3/28	do	do	H.R. 1786	323	57		85.0	15.0	Do.
519	9/27	Agreeing to the amendment	White	H.R. 5359	217	147		60.0	40.0	Thursday.
365	7/19	Agreeing to the resolution	White	H. Res. 368	219	158		58.0	42.0	Do.
569	10/16	Agreeing to conference report	Wilson, C. (California)	H.R. 3173	256	147		64.0	36.0	Tuesday.
105	5/1	Agreeing to the amendment	do	H. Con. Res. 107	183	229		44.0	56.0	Do.
113	5/2	do	do	H. Con. Res. 107	188	209		47.0	53.0	Wednesday.
358	7/19	do	do	H. Res. 305	395	10		98.0	2.0	Thursday.
470	9/14	do	do	H.R. 4040	112	247		30.0	70.0	Friday.
160	5/22	Agreeing to the resolution	do	H. Res. 278	380	7		98.0	2.0	Tuesday.
192	6/7	do	do	H. Res. 299	293	73		80.0	20.0	Thursday.
94	4/24	Passage	Wilson, C. (California)	H.R. 1301	269	121		69.0	31.0	Tuesday.
531	10/9	Quorum	do				337			Do.
435	9/5	Resolving into committee	do	H.R. 4473	362	6		98.0	2.0	Wednesday.
588	10/23	Suspend rules and pass	do	H.R. 4943	412	0	1	100.0	0	Tuesday.
344	7/17	Agreeing to the amendment	Wilson, C. (Texas)	H.R. 4580	200	217	1	48.0	52.0	Do.
550	10/12	Approving the Journal	Wright		321	8	3	98.0	2.0	Friday.
18	3/1	Quorum	do				380			Thursday.
50	3/22	do	do				362			Do.
368	7/23	do	do				219			Monday.
514	9/27	do	do				384			Thursday.
538	10/10	do	do				362			Wednesday.
389	7/26	Agreeing to the resolution	Wydler	H. Res. 379	404	6		99.0	1.0	Thursday.
396	7/27	Passage	do	H.R. 3633	344	6		98.0	2.0	Friday.
246	6/15	Resolving into committee	do	H.R. 4388	319	2		99.0	1.0	Do.
255	6/19	do	do	H.R. 4387	398	3		99.0	1.0	Tuesday
274	6/22	do	do	H.R. 4394	350	6	1	98.0	2.0	Friday.
57	3/27	Suspend rules and pass	do	H.R. 3091	364	4	22	99.0	1.0	Tuesday.
121	5/7	do	Wylie	H.R. 3404	175	195		47.0	53.0	Monday.
352	7/18	Agreeing to the amendment	Young (Florida)	H.R. 4473	242	177		58.0	42.0	Wednesday.
353	7/18	do	do	H.R. 4473	207	210		49.6	50.4	Do.
355	7/18	do	do	H.R. 4473	194	219		47.0	53.0	Do.
356	7/18	do	do	H.R. 4473	291	122	1	71.0	29.0	Do.

Table continued on next page.

ROLLCALL VOTES (JAN. 15, 1979 THROUGH OCT. 31, 1979) LISTED ALPHABETICALLY—BY MEMBER REQUESTING THE ROLLCALL—Continued

								Percent		
Roll	Date (1979)	Type of vote	Requester	Bill	Yea	Nay	Pres	Yea	Nay	Day
440	9/5	Agreeing to the amendment	Young (Florida)	H.R. 4473	281	117		71.0	29.0	Wednesday.
446	9/6	Passage	do	H.R. 4473	224	183		55.0	45.0	Thursday.
77	4/5	Agreeing to the amendment	Zablocki	H.R. 3324	239	157		60.0	40.0	Do.
82	4/9	do	do	H.R. 3324	193	177		52.0	48.0	Monday.
67	3/29	Agreeing to the amendments	do	H.R. 3173	201	179		53.0	47.0	Thursday.
87	4/10	Resolving into committee	do	H.R. 3324	367	1	2	100.0	0	Tuesday.

☐ 1840

LEGISLATION TO RESOLVE YOUTH UNEMPLOYMENT

The SPEAKER pro tempore (Mr. FROST). Under a previous order of the House, the gentleman from Vermont (Mr. JEFFORDS) is recognized for 15 minutes.

Mr. JEFFORDS. Mr. Speaker, today, I am introducing legislation which I believe will lay the groundwork for a long term resolution of our youth unemployment problems. Those of us who serve on the Education and Labor Committee have become increasingly aware that neither our educational programs nor our remedial job efforts are doing much to reduce the Nation's chronically high levels of youth unemployment which this past month reached 15.9 percent for teenagers and 33.1 percent for black teenagers.

Especially distressing is the fact that youth unemployment hardly seems to exist in Western Europe. Even in those countries where the overall rate of unemployment differs little from ours, youth fared no worse than adults. Yet, in this country, despite billions of dollars and a bewildering variety of education and remedial job programs, we have barely begun to reduce the almost 5 to 1 ratio of youth to adult unemployment.

The reasons are varied, but they must be resolved. Historically, this Nation has viewed education and work as two different entities. Congress has established education and work programs that are almost mutually exclusive. Even within the areas of education and work, Congress has initiated separate and distinct programs such as Headstart, Vocational Education, Higher Education, Career Education, CETA, and many, many others. And these laws that bear little relationship to one another fail to prepare our young people for obtaining and holding a job.

By dividing our programs, we have established a history of institutional jealousy, turf fights, and suspicion. Without cooperation and coordination we will never deal with youth unemployment successfully. It particularly affects our ability to deal with one of our persistent problems—the school dropout. In the United States a school dropout is a forgotten person. Forgotten by the schools, often forgotten by their parents, and generally ignored by employers. Dropout youth are left to fend for themselves. We pay the price in billions of dollars in welfare and other social programs. And in my view, it stems from our failure to look at youth policy in a holistic manner. We must begin now. For although today there appears to be too few jobs for too many youth, it will not be long before there are too few youth to fill the jobs necessary to maintain our standard of living, and sustain our increasing ongoing projects. We need to train our youth for the future, and make sure that every available youth is trained. I believe my bill will at least force us to think about these issues and initiate a comprehensive youth employment policy.

There are three basic premises of my bill: First, it is conditional, that is for youth to obtain benefits, they must earn them. The benefits are real and provide for a bonus upon successful completion of the program. Second, everyone, not just youth, who participates will obtain real institutional and career rewards. Third, success shall depend on cooperation and community involvement.

For participating and eligible youth, my proposal would provide various levels of paid work or other activities for those who agree to return to school and make satisfactory efforts toward completing their high school education or securing a diploma equivalent. These opportunities would be available to all youths age 15 to 19, both in school and out, who live within certain selected school attendance centers in the Nation's poverty areas. Youth are covered as follows: those who are in school and progressing satisfactorily; in school but not progressing adequately; and dropouts. Students doing well could choose from a wide variety of options to improve either their education or future employment opportunities and get paid for exploring these options. Included would be actual work experience, vocational education, skill training, or other kinds of educational instruction or experience which would help the student understand the field of work or his or her talents. Students would receive up to 20 hours a week of compensatory pay during the school year and 40 hours during the summer, out of a total of 2,000 hours allotted during their entire high school career.

For students not succeeding adequately in school, the options would be more limited, involving only 15 hours of compensable activity per week during the school year, and restricted to the basic remedial education necessary to enable the student to make satisfactory progress. However, skill training and vocational education, where determined appropriate, could also be an option. Finally, students who have been out of school at least 12 months could participate on a full-time basis in a combined education-work program. Both in-school and out-of-school students would have an education and work counselor who would not only monitor the students' progress and help them determine what is best for their careers and educational needs, but would enforce the conditions placed on the students for participation. These counselors, who would be selected under arrangements between the school and the prime sponsor, will determine whether the students are making satisfactory efforts in both their schoolwork and in their compensated paid job or employment activity.

Unlike other proposals, success in this program reaps not only its own rewards, but an educational bonus. Each student who succeeds in attaining a high school diploma, or its equivalency, would receive an additional 300 hours of paid compensation which could be applied either to future subsidized work in the private or public sector, or to the cost of postsecondary education, vocational education, or additional technical training.

The proposal provides that:

Participating educators would become fellows in a national academy established to discuss the education and work problems of disadvantaged young people.

In addition, in-service workshops and 1-to-1 teacher skill improvement opportunities would be offered.

School principals and school board members will have the opportunity to participate in leadership forums.

State education agencies consider amending certification procedures so that educators who participate in these programs are eligible for special endorsements on their certificates.

Incentives similar to those for teachers be provided to participating CETA prime sponsors, labor unions, employment service offices, and local businesses. Unions must also be involved in the hopes that they will recognize the importance of our mission and allow for advancement and seniority rights for participants.

Money for the educational services and training to be channeled through the schools, while that for wages would go through CETA prime sponsors according to a paper on the bill.

Private sector training and other programs operated under title VII of CETA be coordinated with this program.

Any employer who employs for 2,000 hours, or about 1 year, a young person who has graduated from this program, will receive up to 300 hours times the compensable wage. In addition, for the first 180 days of such employment, the employer will be free of social security and unemployment tax obligations. Finally, the employer will be allowed to pay a subminimum wage of 85 percent of the ongoing minimum wage for the first 6 months of a young person's employment.

A special incentive for the vocational education community. An additional 5 percent of the funds made available for this program will go to the States to improve or upgrade their vocational education programs to serve the students in this program.

There is one ingredient that is new. The bill will be a joint effort between the Departments of Education and Labor with no established method for distribution of funds. The bill hinges on cooperation and coordination. In my view this requires an agreement between the selected school and the CETA prime sponsor as to how the funds will be allocated.

There are numerous other factors to this proposal which I will detail as time goes on. I intend this bill to be a starting point for discussion of its principles and its intent. I am open for all comment and criticism, but I believe this bill can serve as a basic framework for bringing the education and labor communities together on behalf of America's young people.

We estimate that one quarter million youth will participate at a cost of slightly less than $1 billion. The bill specifications are as follows:

Mr. JEFFORDS. Madam Speaker, since I am inroducing this bill at this time primarily for discussion purposes, I will now set forth the bill in full:

H.R. 6208

A bill to improve education and work opportunities for youth

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the purpose of this Act to improve education and work opportunities for youth.

SECTION 1. This Act may be cited as the "Youth Education and Work Act."

TITLE I—AMENDMENTS TO TITLE IV OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

SEC. 101. Title IV of the Comprehensive Employment and Training Act, hereinafter in this title referred to as "the Act," is amended by adding at the end thereof the following:

"PART D—YOUTH EDUCATION AND WORK ENTITLEMENT

STATEMENT OF PURPOSE

SEC. 491. It is the purpose of this part to guarantee employment and supplemental educational opportunities to eligible youth in poverty areas.

DEFINITIONS

SEC. 492. As used in this part

(1) the term "eligible youth" means a person between the ages of fifteen and nineteen, inclusive, who has not acquired a high school diploma or its equivalent and is either attending a qualified high school or who is a resident of a poverty area and has not attended school within the previous 12 months.

(2) the term "qualifying school" means any high school (as defined under applicable State law) a majority of whose students are residents of poverty areas and any high school which serves all the residents of a poverty area.

(3) the term "poverty area" means any Bureau of the Census geographical division in which, on the basis of the most recent satisfactory data available to the Secretary, 20 percent or more of the residents are at or below the poverty level as established by the Director of the Office of Management and Budget.

ADMINISTRATION

SEC. 493. The Secretary of Labor and the Secretary of Education hereinafter called "the Secretaries" shall jointly administer the programs authorized under this part, issue any necessary regulations, approve all grants, and take action on applications for assistance. Joint administration may be by joint approval of actions by persons acting for each Secretary or by the Secretaries' delegating their several responsibilities to a single designated person.

APPLICATION FOR ASSISTANCE

SEC. 494. (a) Applications for financial assistance to administer youth entitlement programs under this part shall be submitted jointly by any local education authority having jurisdiction over a qualifying school and the prime sponsor with jurisdiction over the poverty area from which such school draws its students. Such application shall be submitted no less than 6 months nor more than one year before the beginning of the school year in which the program is to operate. Such application shall contain such information as may be prescribed by the Secretaries and shall contain assurances that such entitlement program will meet the requirements of section 6.

(b) No application to administer an entitlement program shall be approved unless it contains

(1) satisfactory demonstration that the local education authority and the prime sponsor will have the administrative capacity to operate the program;

(2) an agreement concerning the allocation of reimbursable administrative costs between the prime sponsor and the local education authority;

(3) arrangements to coordinate the entitlement program with the operations of the private industry council established under title VII;

(4) an agreement between the local education authority and the prime sponsor concerning procedures for designating and qualifying counsellors;

(5) assurances that compensated activities will not include activities normally performed as part of the youth's regular curriculum;

(6) agreed upon procedures for developing an education and employability plan for each youth;

(7) an agreement concerning the administration and content of remedial and alternative education programs for youths whose needs are not met by the standard curriculum;

(8) procedures to enable a youth to secure a change of counsellor for cause or (but not more than once in any school year) on grounds of personal incompatibility;

(9) procedures under which counsellors will apply standards of bona fide participation in the program and provide for designated periods of suspension from the program when such standards are not met; and

(10) procedures, which may include supplemental payments, designed to make service in qualifying schools attractive to specially qualified and motivated teachers, counsellors, and other personnel.

(c) The Secretaries shall by regulations ensure that opportunity to comment on the application is given to appropriate parties, including the State Board of Education.

ENTITLEMENT PROGRAMS

SEC. 495. (a) For every youth in a qualifying school who is making satisfactory progress under objective criteria prescribed by the local education authority or the State Board of Education, the entitlement program shall consist of not more than 20 hours per week of appropriate compensated activity during the school year and 40 hours in the summer. Appropriate compensated activity for each such youth shall be determined by a qualified counsellor and may consist of work, work experience, vocational education, community service or additional vocational or general education outside the regular course of study, or any combination thereof. Compensated activity shall be designed so as to maximize the employability potential of each youth.

(b) For every youth in the school who is not making satisfactory progress under such objective criteria, the entitlement program shall consist of no more than 15 hours per week of appropriate compensated activity during the school year and 40 hours in the summer. Appropriate compensated activity for such youth shall be determined by the counsellor and may consist of any remedial education, counselling, or other activity determined by the counsellor to be appropriate in order to assist the youth to make satisfactory progress and, in the summer, may include work experience.

(c) For every other eligible youth, the entitlement program shall consist of not more than 40 hours per week of appropriate compensated activity subject to the limit in section 497(b). Appropriate compensated activity for each youth shall be determined by a qualified counsellor and may consist of work, work experience, alternative or remedial education, skill training, or any combination thereof.

COMPLETION BONUS

SEC. 496. Every youth who acquires a high school diploma or its equivalent while a participant in the program shall receive a completion bonus. The completion bonus shall have a value equal to 300 times the hourly wage specified in section 6(a) of the Fair Labor Standards Act and shall be issued in the form of a certificate by the prime sponsor to the qualifying youth. The bonus may be redeemed within two years after the date of issuances as follows: by an employer who has employed the youth for 2,000 hours after the certificate is issued and before it expires; by an institution of post-secondary education at which the youth has pursued a substantial full-time course of study but not for an amount exceeding the costs of attending such institution and, if the amount payable to an institution of post-secondary education is not equivalent to the full amount of the bonus, the balance shall be payable to any employer who has employed the youth at the rate of 1 hour of bonus for every two hours of employment supplied.

GENERAL CONDITIONS

SEC. 497. (a) All compensated activity shall be compensated at a wage rate not less than eighty-five percentum of the otherwise applicable wage rate in effect under section 6 of the Fair Labor Standards Act of 1938, as amended.

(b) No youth shall be compensated under this Part for more than 2,000 hours in total and in the case of youths attending school, for more than 1,000 hours in any one year. Such totals shall be reduced by the number of hours that the youth failed to attend the program without good cause.

(c) The wages of any youth employed by any employer under this program may be paid in full by the prime sponsor.

(d) The provisions of section 121(1) and 131(c) shall not be applicable to programs under this part.

SUPPLEMENTAL VOCATIONAL EDUCATION ASSISTANCE

SEC. 498. (a) From the funds available to them for this section, the Secretaries shall make grants to Governors to provide financial assistance, through State vocational education boards, to provide needed vocational education services to eligible youth in accordance with an agreement between the State vocational education board and the prime sponsor.

(b) The State vocational education board, prior to making any agreement with a prime sponsor as provided in subsection (a), shall consult with and obtain the advice and comments of the designated representatives of the State agencies and councils which are required to be involved in the formulation of the five-year State plan for vocational education pursuant to section 107(a)(1) of the Vocational Education Act of 1963.

AUTHORIZATION OF APPROPRIATIONS

SEC. 499. (a) There are authorized to be appropriated such sums as may be necessary to carry out the programs authorized by this part.

(b) Each prime sponsor and local education authority administering a program under this part shall be reimbursed by the Secretaries for the costs of administering the program authorized by this part; provided that total reimbursements shall not exceed 115% of the compensation paid to eligible youths. The Secretaries may make advance payments on the basis of quarterly estimates submitted by the local education authority and the prime sponsors.

(c) There are authorized to be appropriated 2 per cent of the amounts reimbursed under subsection (b) to make payments to local education authorities incurring additional costs under section 494(b)(10).

(d) There are authorized to be appropriated 5 per cent of the amounts reimbursed under subsection (a) to make grants under section 498. Sums available under this subsection shall be available to each Governor in the same proportion as the sums reimbursed to programs within that State under subsection (a).

SEC. 102. Section 402(b) and Subpart 1 of Part A of Title IV of the Act are repealed.

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE

EXCLUSION FROM PAYROLL TAXES

SEC. 201. Section 3121(a) of the Internal Revenue Code is amended by striking the period at the end thereof, inserting "; or" in lieu thereof, and adding the following new paragraph:

"(18) remuneration paid to any youth who is enrolled in the Youth Entitlement Program established by Part D of Title IV of the Comprehensive Employment and Training Act and any remuneration paid to a youth within one calendar year after his completion of such program. The Secretary of Labor shall provide for the issuance of certificates to youths to evidence their status."

Section 3306(b) of the Internal Revenue Code is amended by striking the period at the end thereof, inserting "; or" in lieu thereof, and adding the following new paragraph:

"(13) remuneration paid to any youth who is enrolled in the Youth Entitlement Program established by Part D of Title IV of the Comprehensive Employment and Training Act and any remuneration paid to a youth within one calendar year after his completion of such program. The Secretary of Labor shall provide for the issuance of certificates to youths to evidence their status."

TITLE III—ESTABLISHMENT OF THE ACADEMY OF EDUCATION AND WORK

SEC. 301. There is hereby established the Academy of Education and Work, hereinafter referred to as "the Academy," a nonprofit organization to be organized under the laws of the District of Columbia.

INTERIM ORGANIZATION

SEC. 302. (a) The Secretary of Education and the Secretary of Labor shall each appoint ten persons to be the interim Board of Governors of the Academy. The appointments made by the Secretaries shall be representative of persons and organizations involved in the administration and operation of programs authorized under title IV-C of the Comprehensive Employment and Training Act, hereinafter called "the entitlement program," and shall include persons representative of teachers, counsellors, educational administrators, school boards, and prime sponsors.

(b) The Interim Board shall organize the Academy and promulgate bylaws for the Academy which shall include provisions—

(1) limiting membership to persons actively involved in the administration or operation of entitlement programs;

(2) for designating certain members as fellows of the Academy, based upon distinguished performance;

(3) for regional membership meetings and an annual meeting of the fellows;

(4) prescribing procedures for the regular election of a regular Board of Governors within two years after organization of the Academy with staggered terms of office not to exceed five years; and

(5) prescribing a schedule of membership dues.

PURPOSES OF THE ACADEMY

SEC. 303. (a) It shall be the purpose of the Academy to promote improved and alternative methods of instruction that will enhance the educational attainment and employability potential of youth who have dropped out of the education system or are otherwise not being adequately prepared for further education or employment by providing a professional association of persons concerned in programs with that objective.

(b) In order to achieve its purposes, the Academy is authorized to—

(1) hold regional meetings of its members and national meetings of its Fellows to promote professional improvement and the interchange of ideas;

(2) to conduct training institutes for its members;

(3) to provide for professional recognition for those who have made significant contributions to the implementation of entitlement programs;

(4) to recommend changes in certification and credentialing procedures where such changes will advance the objectives of the Academy; and

(5) to disseminate information on successful programs using the channels of the Departments of Education and Labor, wherever feasible.

SEC. 304. There are authorized to be appropriated to carry out the purposes of this title $1 million for fiscal year 1981 and $1 million for fiscal year 1982 to pay the initial organizational expenses of the Academy, including the costs of travel and subsistence of fellows attending national meetings. All expenses of the Academy after fiscal year 1982 shall be paid for by membership dues and contributions.

TITLE IV—AMENDMENTS TO THE FAIR LABOR STANDARDS ACT

YOUTH OPPORTUNITY WAGES

SEC. 401. Section 14(b) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 214(b)), is amended to read as follows:

"(b)(1) To encourage youth opportunity, an employer may employ any youth who has not attained the age of 19 for a period of 180 days, without prior or special certification by the Secretary of Labor, at a wage rate not less than 85 per centum of the otherwise applicable wage rate in effect under Section 6 (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(e), at a wage rate not less than 85 per centum of the otherwise applicable wage rate in effect under section 6(c)) in compliance with applicable child labor laws. *Provided, however,* That this paragraph shall not apply to any youth employee who has been employed by the same employer for a period of at least six months or is currently employed by an employer at a rate of at least the minimum wage."

(2)(A) To encourage youth opportunity, an employer or institution of higher education may employ any full-time student (regardless of age but in compliance with applicable child labor laws) at a wage rate not less than 85 per centum of the otherwise applicable wage rate in effect under section 6 (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(c), at a wage rate not less than 85 per centum of the wage rate in effect under section 6(c)).

(B) Any full-time student so employed under this paragraph by an institution of higher education or an employer other than an institution of higher education shall prior to such employment present to the employer a letter from the institution at which the student is enrolled certifying that such student is a full-time student enrolled at that institution.

(C) Any full-time student employed pursuant to this paragraph shall be employed on a part-time basis and not in excess of 20 hours in any work week, except during vacation periods.

(3) While no prior certification shall be required by the Secretary for purposes of paragraphs (1) and (2), the Secretary shall have general authority under this Act to ensure that the provisions of paragraphs (1) and (2) of this subsection are not being violated. Should the Secretary discover that an employer is employing youth at a wage rate lower than that allowable under this section or for a period of time longer than that specified by this section, or is engaged in a pattern and practice of—

(A) substituting younger workers employed at less than the minimum wage for older workers employed at or above the minimum wage, or

(B) terminating the employment of youth employees after a period of 180 days and employing other youth employees for periods of 180 days in order to gain continual advantage of the youth opportunity wage, the provisions of section 6 of this Act shall be considered to have been violated, and the liability of the employer for unpaid wages and overtime compensation shall be determined on the basis of otherwise applicable minimum wage and overtime rates pursuant to sections 6 and 7 of this Act."

(b) Section 13(a)(7) (29 U.S.C. 213(a)(7)) is amended to read as follows:

"(7) Any employee to the extent that such employee is exempted by regulations, order, certificate of the Secretary or in accordance with the provisions of section 14; or".

HEW'S TITLE IX INTERCOLLEGIATE SPORTS REGULATIONS ILLEGAL—IGNORE FEDERAL COURT DECISIONS LIMITING AUTHORITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 30 minutes.

● Mr. ASHBROOK. Mr. Speaker, on November 26 the U.S. Supreme Court denied the petitions of the Department

of Health, Education, and Welfare for writs of certiorari to review decisions of U.S. courts of appeal for the first, sixth, and eighth circuit holding that the Department had exceeded its authority under title IX of the Education Amendments of 1972, relating to discrimination on the basis of sex, in attempting to regulate personnel practices of schools and colleges receiving Federal financial assistance.

The fundamental holding in all three decisions—which has been the view also of at least 10 U.S. district courts which heard these and similar cases—is that the scope of HEW's regulatory authority under title IX is limited to "any education program or activity receiving Federal financial assistance" and does not extend to other activities of schools and colleges having federally assisted programs.

That is the law, and now beyond further appeal in 15 States and Puerto Rico. But on December 4, a week and a day after the refusal of the U.S. Supreme Court to hear appeals from these decisions, HEW's Secretary Patricia Harris approvingly announced the publication of a sweeping title IX "Policy Interpretation" by her Office for Civil Rights which would bring every aspect of intercollegiate athletics under the control of HEW. Yet not a single aspect of intercollegiate athletics is an "education program or activity receiving Federal financial assistance."

Incredibly, the new "policy interpretation" would deal with employment practices in the hiring and compensation of coaches, even though regulation of employment practices under title IX had been specifically rejected by the Federal courts. This contempt for law would astonish only those who are not familiar with HEW's administration of title IX under three Presidents, two of whom were Republicans. HEW's Office of Civil Rights has twisted the law so grotesquely, ignored it so flagrantly, and followed a wrong course so consistently, that by now it probably has led most people to believe the law permits and even requires Federal regulation of educational policy which clearly and on the face of the statute was never contemplated.

Indeed, HEW's interpretation of title IX as extending to all the activities of schools and colleges receiving any type of Federal aid was specifically rejected by the 92d Congress when it refused to adopt language suggested by the Nixon administration, and incorporated in legislation introduced by Senator BAYH and others, in favor of the more restrictive operative language of title IX.

It is the actual language of title IX, as opposed to the perverse interpretation of HEW's civil rights bureaucrats, to which the Federal courts have turned in no uncertain terms. I have presented a fairly detailed analysis of this legal history in statements in the CONGRESSIONAL RECORD on June 14, 1978, and July 18, 1979. The leading case is *Romeo Community Schools* v. *HEW*, 438 F. Supp. 1021 (1977). The trial judge, Judge Fiekens of the U.S. District Court for the Eastern District of Michigan, after a thorough review of the legislative history, flatly declared:

> HEW cannot regulate the practices of an educational institution [under title IX] unless those practices result in sex discrimination against the beneficiaries of some federally assisted program operated by the institution. The focus of section 1681—elimination of sex discrimination in federally funded education programs—must be the focus of HEW's regulations as well. To this extent, HEW's regulatory power is also "program specific".

This viewpoint was emphatically upheld by the U.S. Court of Appeals for the Sixth Circuit in a decision handed down on June 20 of this year. That court set forth its position as follows:

> We find HEW's construction of title IX to be strained. It seeks a reading of Section 1681, "no person shall be discriminated against, on the basis of sex in the operation of any educational institution receiving federal financial assistance." However, as actually written, the statute is not nearly so broad. The words "no person" are modified by later language which clearly limits their meaning. The concern of this particular statute is not with all discrimination against persons in any way connected with educational institutions which receive federal funding. Rather, it reaches only those types of disparate treatment which manifest themselves in exclusion from, denial of benefits of, or otherwise result in discrimination on the basis of sex "under any education program or activity receiving Federal financial assistance . . ." *Unless the discrimination relates to a program or activity which receives federal funding, it is not prohibited by Section 1681.* [Emphasis added].

This is the interpretation of title IX by the Federal district and appellate courts which the Supreme Court has refused to review. Except in those instances in which they may be a part of a federally funded program, athletic programs are not federally funded. Intercollegiate athletics in no case receive Federal funds. Intercollegiate sports clearly are not subject to regulation under title IX until such time as they might become federally funded—hopefully never. Why then, with dozens of supposedly competent lawyers at its disposal, does HEW persist in this interpretation?

If one believes the official explanations—and I do not—it is because of a helpful little congressional blooper popularly called the Javits amendment. Senator JAVITS' authorship came from his efforts in conference to find agreeable language for a Senate floor amendment by Senator TOWER designed to exempt revenue-producing intercollegiate sports, to which he accepted an amendment by then Senator MONDALE to require HEW finally to publish title IX regulations for comment. None of the principals expressed the view that HEW had authority to regulate sports, and Senator TOWER stated expressly that the amendment was not to be interpreted as enlarging HEW's authority.

Fortunately, for the sake of consistency in legislative history and intent—to say nothing of the independence of American higher education from complete regulation by HEW bureaucrats—this was not even an amendment to title IX, but a section (844) of the Education Amendments of 1974 (Public Law 93-380) which stands alone. Section 844 of Public Law 93-380 directs the Secretary of HEW to publish proposed regulations implementing title IX "which shall include with respect to intercollegiate athletic activities reasonable provisions considering the nature of the particular sports." This was a well-intentioned reaction against HEW proposals considered to be completely unreasonable and which did not take into consideration any of the complexity of intercollegiate sports as varied as football and fencing.

This did not amend title IX nor change the scope of the operative language of the title. Obviously, the authority to issue any regulations under title IX is derived only from that title, as amended. Accordingly, since title IX, reasonably interpreted as the courts have done, never did reach intercollegiate athletics in the absence of Federal financial assistance for that activity, "reasonable provisions" could only have been contingent on such assistance. But it is on this weak reed—plus the continued misreading of the basic statute—which HEW must lean for support of its position. I do not think it will hold up in court.

But this intrusion of Federal regulators in the administration of American higher education must first be challanged in the courts. There is an understandable, albeit inexcusable, reluctance on the part of colleges and universities, as well as their professional organizations, to challenge HEW on a "civil rights" or "women's rights" issue. Arrayed against those who would offer the challenge are politically powerful and enormously vocal organizations which for anything perceived as an advantage will attack the motives of those who oppose them. College and university officials and their representatives know that they will be publicly attacked as enemies of all of the legitimate aspirations of women if they suggest that title IX does not authorize this type of intervention.

It is nevertheless the plain duty of educators to challenge any Federal intervention in their affairs which goes beyond the law. Two principles of overriding importance are at stake. The first quite simply is adherence to the law as it is written and intended to be applied. If Federal bureaucrats representing the interests of certain groups are permitted to twist and mangle the law in those interests because the ends sought are viewed by some as desirable, eventually we can forget about the rule of law. One of the aggrieved parties in this instance is the Congress itself, but except in rare instances the Congress in recent years has taken a supine attitude toward those who legislate by regulation. Still, the indifference of Congress to what should be its profound institutional and constitutional concerns is no excuse for the resignation of others, particularly when their own interests are on the line. Adherence to the rule of law is essential to the protection of everything educators and education values, including freedom of inquiry.

The second principle is that the control of education ought to remain in State, local, and private hands. We are perilously close to Federal domination of educational decisionmaking at every level, and the title IX regulations go a long way beyond that into dictation of administrative detail, reducing school and college officials to mere puppets of HEW bureaucrats. Already, Secretary Harris has reopened the issue of title IX control of school dress codes and hair-length rules, as though parents and local school boards were incapable of dealing with such issues independently of HEW—which again asserts an authority it does not have under title IX. The time to stop this dangerous nonsense is right now and the place is the nearest U.S. district court.

A defense of these principles should in no sense be viewed as an attack on the rights of women. On the contrary, as citizens we all have a vested interest in government by law and in the freedom of our educational institutions from Federal domination. Moreover, the transgressions of HEW against the deliberately limited scope of title IX have for the most part resulted in obscuring in controversy and ridicule the real goal of equal educational opportunity for women. In any event, HEW ought not be permitted to run wild for whatever purpose.

I think there is a deeper lesson to be learned from our experience with title IX—and that is that when we turn to the Federal Government to combat every evil, to solve every problem, to grant every desire, we do so at the peril of our liberty. A government cannot do all these things anyway, but if it could, or even if permitted to try, it could do so only by use of the most extraordinary powers to make all our decisions for us. At every juncture of the legislative process we ought to be asking ourselves not only what ends we are seeking, but what kinds of authority it will require to gain them, how it will likely be exercised, and how much freedom will be lost in the process.

As the father of three daughters, I am not uninterested in or opposed to equal opportunity for women in education, employment, and citizenship. I just do not see Federal regulation of intercollegiate sports as a contribution to that end, even if the Congress had conferred that authority. I see it as further movement toward a society in which opportunity is neither won nor shared, but strictly regulated. I doubt that many of our daughters really want that.●

RESOLUTION TO PROCLAIM JUNE 27, 1980, AS "HELEN KELLER DAY"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. Flippo) is recognized for 5 minutes.

● Mr. FLIPPO. Mr. Speaker, I am very honored to have the opportunity to introduce today a resolution which would proclaim June 27, 1980, as "Helen Keller Day." That date marks the 100th anniversary of the birth of a remarkable woman who has best symbolized the spirit of hope to us all. Helen Keller has been called our Nation's first lady of courage, a title which is most fitting. She was a symbol for all in the world of the triumph over multiple handicaps and dim hopes.

Helen Keller was much loved and admired in the world. One major reason was because she did not suffer the handicaps of blindness to the aspirations of her fellow man, or deafness to the voices of suffering, and she was never mute in her ability to articulate the hope for a better life for all mankind. She was a person of merit who accepted others for their worth as human beings, not seeing or hearing the irrelevant or judging the surface or superficial.

Helen Keller could see into the souls of the people she touched. She searched for peace in the world as she found peace in her own soul. She eloquently wrote these words which I would like to share with my colleagues in the House:

They took away what should have been my
  eyes,
(But I remembered Milton's Paradise).
They took away what should have been my
  ears,
(Beethoven came and wiped away my
  tears).
They took away what should have been my
  tongue,
(But I had talked with God when I was
  young).
He would not let them take away my soul.
Possessing that, I still possess the whole.

Helen Keller is remembered throughout the world as a woman of great strength and courage. Her life serves as an example to all of us of the triumph of personal character over great adversity.

Helen Keller was born a normal child in Tuscumbia, Ala., in my congressional district. At the age of 19 months, illness took away her ability to see and hear. This was a century ago when education for hearing or visually impaired children was infrequent and inadequate. Helen's future looked dim and a wasted life was expected even by those who loved her.

She spent the next 5 years literally in the dark, without any real way to communicate or learn. Helen could not be controlled and could not communicate. That is the way it may have remained except for the arrival in Tuscumbia of a strong-willed and intelligent 21-year-old woman named Anne Sullivan. Miss Sullivan, herself nearly blind for most of her life, would become Helen's teacher.

The story of Helen and teacher is best known today as "The Miracle Worker." This play is performed every summer at Helen's birthplace, "Ivy Green" in Tuscumbia. The story has endured from its presentation as a Broadway play and as a major motion picture. This popular work is still performed around the world and is enjoyed by new audiences in person and by millions who have seen it on television.

Anne Sullivan was able to open Helen's world, first through sign language, and later through Braille, and other specialized techniques. The child without hope went on to become an honors graduate at Radcliffe College in Cambridge, Mass., an author, and, after learning to speak, a much respected lecturer.

Helen Keller and Anne Sullivan created a partnership that inspired a generation of Americans. They worked together to break the barrier of silence, and strove to never again become silent. With interpretational help from Miss Sullivan, Helen Keller traveled the world, seeking aid and understanding of blindness, and offering her own outspoken views, her unique insights, on world issues.

She was often controversial in her campaigns for such things as women's suffrage, help for the blind in impoverished nations, mandatory preventive eye care for newborns, and world peace. Her handicaps did not immunize her from her opponents on given issues. However, she was able to transcend the boundaries of prejudice which afflict most of mankind. The fact that she could speak out gave courage to the entire world.

Helen Keller's life demonstrates not that miracles can happen. It shows that good, meaningful life can come from darkness, but only with dogged determination. And it comes with partnership, for she could not have achieved greatness without the stern love of Anne Sullivan.

Her story, moreover, is not simply one of overcoming physical handicaps, though she did so remarkably. It is a reminder to all of us that with imagination, persistence, and courage, we can overcome obstacles, and we can excel. Let us commemorate with joy this excellent woman.

Helen Keller's contributions are inestimable. She was more than a great humanitarian, she was a warm human being. I hope that this Congress and all Americans will join in the commoration of the centanary of the birth of Helen Keller, a native daughter of Alabama and a friend to the world.●

DON BONKER: WHAT SHOULD WE DO ABOUT IRAN?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. Nelson) is recognized for 5 minutes.

● Mr. NELSON. Mr. Speaker, I would like to call to the attention of the House an excellent analysis of the Iranian crisis by our distinguished colleague Don Bonker of the Third District of Washington. In an article in the Vancouver Columbian on December 13, he looks beyond the immediate outrage of the American hostages to discuss what the Iranian crisis portends for the interests of the United States in the Middle East. I commend this preceptive analysis to all who read this Record:

What Should We Do About Iran?

(By Don Bonker)

What is happening in Iran may be a prelude to more ominous things to come. To be sure Iran is not typical, but there are enough threads to see a Persian fabric that does not bode well for U.S. interests in the region.

Thread one. The Muslim uprising in Iran could well spread to surrounding states, many of them oil-producing, with anti-American overtones, which may serve to unify disparate radical Arab states and intensify their political demands on the United States.

Thread two. The Middle East continues to be the most tense and potentially explosive region in the world. Animosities run deep despite the president's efforts to bring together Egypt and Israel in the recent peace accord.

Thread three. Our critical dependence on oil from Persian Gulf countries threatens the energy and economic security of western countries and in particular subjects the United States to political blackmail from a variety of Arab states.

How we got into this unfortunate mess is best left to the historians, how we get out of it represents an extraordinary challenge for today's leaders.

Judging events in the present context denies us consideration of prior circumstances. Iran is an example. The American government, through successive administrations, has affirmed its close ties with the shah who, in past days, served our national interests in the Persian Gulf. To mention the obvious, he proved a reliable and moderating voice who supported U.S. peace overtures in the Middle East, allowed a generous flow of oil to match U.S. consumption and openly promoted U.S. security and strategic interests in that hostile area.

To be sure, the shah engaged in political repression and allowed the accumulation of wealth and power that precipitated his downfall, but this has been the norm of authoritarian regimes for decades and only in recent times have human rights become an issue.

As a member of the Foreign Affairs Committee, I attended Department of State and CIA briefings on Iran, but not once did we see a hint of the enormous problems ahead. We read about the Iranian student demonstrations in Houston and when the shah was in Washington, D.C., but no one took these seriously.

With sporadic Muslim uprisings occurring in Islamic countries, no one can accurately predict the outcome or the eventual consequences of mounting pressure on the U.S. to retaliate. But what would be the cost should the U.S. take military action? Since one-third of all our imported oil comes from Arab (Muslim) states, we could reasonably expect another oil embargo comparable to what the United States experienced in 1973, following outbreak of the Middle East war.

Such action would precipitate not only dramatic petroleum shortfalls but certain economic repercussions for the U.S. and other western countries. While the president and Congress are developing a comprehensive energy program that will liberate us from this frightening dependence on foreign oil, it will not bring relief for some years to come.

Secondly, the Islamic revival in Iran is notable in that it could quickly spread throughout the Middle East, uniting Arab states in a more fanatical anti-American stance, bringing almost certain doom to the peace process now under way in that region.

Most disturbing is Iran's proximity to the Russian border. At first the Soviets were surprisingly quiet, if not supportive, of the U.S. on Iran's bizarre action but that changed when the president dispatched our naval armada to the Persian Gulf. Never reluctant to exploit a situation, Moscow would not hesitate to offer political, perhaps even military, support of Iran, using a mechanized division manned by crack Farsi-speaking soldiers. During such times we risk the potential of a tense, irreversible confrontation with the Russians, raising the terrifying specter of nuclear war. But for the time being it appears the two superpowers are content to exchange messages, not missiles.

At this writing there is no way to reasonably predict the outcome of this latest crisis.

For the United States it has been a time of sober reflection and restraint. But it is also a test of our resolve and how we will respond to similar crises in the future. On the positive side this could be a blessing in disguise for it has given us a momentary sense of unity and patriotism that was sorely needed. It also has caused the government to examine closely its policies for dealing with a new generation of global problems. At some point, U.S. resolve is sure to be tested and Iran may be the best time and place for that to happen.

For the present, Iran is in a state of euphoria, but it cannot be maintained indefinitely. The country is beset with economic and political problems that are multiplying daily. The country is in a state of transition from a contemporary monarchy to a 12th Century theocracy—a shift from one form of authoritarian rule to another.

With discipline breaking down, the economy and infrastructure near collapse, regional and religious hostilities becoming more intense, and arms flowing into the fanatical hands of a rebellious society, the country is headed towards certain anarchy. Iran will be in for a long period of bloodshed and violence long after this ordeal with the U.S. has passed.

Meanwhile the U.S. must deal with an unorthodox diplomatic situation. How we respond to it may prove more important than the crisis itself.●

JUDGE WEBSTER AND JUDGE WOOD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. Gonzalez) is recognized for 15 minutes.

● Mr. GONZALEZ. Mr. Speaker, Judge William Webster, Director of the Federal Bureau of Investigation, is a man who has profound respect for the law. He realizes that the murder of Judge John Wood in San Antonio, just 7 months ago, was an intolerable assault on the very fabric of law, and the whole basis of civilized society.

On November 29, Judge Webster visited San Antonio to review the progress of the investigation into the Wood assassination. He held a press conference to discuss the matter, and though prudence required him to be cautious in his statements, Judge Webster made it clear that there is no investigation that has a higher priority than this, and that the case will be solved, no matter how long it takes. That is commendable, and I hope that the FBI will soon be able to seek indictments against those responsible for the murder of Judge Wood and the assault upon U.S. Assistant District Attorney James Kerr.

Judge Webster told the press in his San Antonio press conference that at the outset, 50 agents were assigned to investigate the murder of Judge Wood. He also revealed that 17 agents are still assigned to the case on a full time basis, and made clear that more would be assigned if developments warranted it. No less than 3,000 interviews have been conducted, and countless leads investigated in one degree or another. Something on the order of 118,000 different records have been placed in computers, which are in the process of sorting out the data and testing information against one theory or another.

All of this, I have to hope, will lead to a solution of the Wood murder and the assault on James Kerr.

I am heartened that Judge Webster understands the importance of these matters. These are his words:

> The assault on Federal Officers closely associated with the administration of justice cannot be tolerated in a free society . . . those who have the responsibility for protecting the system of justice under which we operate (must have) a relentless commitment . . .

The task of the FBI in the Wood and Kerr cases is not easy; it is monumental. Judge Webster does not know when the cases will be resolved, but he is confident they will be.

It is important to realize that the murder of Judge Wood was not, in Webster's view, any casual event nor was it a crime of passion. It was, and these are his exact words a planned assassination. And the forces involved were not small. A reward of a hundred thousand dollars is available to anyone who will come forward with information that will resolve the Wood case. Not only that, additional sums are available to anyone who comes forward with information that is useful in the investigation of this case. But, as Judge Webster observes—

> . . . many (persons) associated with some of the activities here are not too impressed with what otherwise would be a very substantial sum of money.

In short, as the year comes to a close, both the Wood and Kerr cases remain open. But we can say this about them:

First, they were carefully planned attacks, not casual assaults nor crimes of passion or vengeance.

Second, they were perpetrated by persons active in crime of an organized nature, and specifically persons in the drug business.

Third, the persons involved are powerful enough not to be tempted or impressed by the offer of large sums of reward money.

Fourth, these crimes are well understood by the Director of the FBI to be of the greatest importance to the whole future of law enforcement, and he has assigned high priority to them accordingly.

Fifth, the Director of the FBI has vowed to see these cases solved.

I appreciate the dedication of Judge

Webster. I appreciate the work that has been done by his agents and those who are cooperating with them. And I hope that by this time next year these cases will have been laid to rest, and our country thus reassured that no one can attack with impunity the Federal prosecutors and judges who are entrusted with the vitality of American law and justice.●

INTRODUCTION OF A FLEXIBLE QUOTA BILL FOR OIL IMPORTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 10 minutes.

● Mr. VANIK. Mr. Speaker, today I am introducing legislation which aims at reducing the quantity of imported petroleum and petroleum products with a minimum of dislocation and disruption to our economy. At this point, the deadly drain of high-priced energy imports to our Nation and the vulnerability of our present situation with regard to energy hardly needs to be reiterated.

This legislation provides Congress with an alternative to the President's mandatory quota ceiling for petroleum and petroleum products of 8.5 mbd, the target level agreed upon at the Tokyo Summit for 1985. I support the President's goals in setting up a quota, but I quarrel with his methods. Thus, rather than simply striking out at his authority contained in the Trade Act of 1974, section 232, I would like to see Congress take some positive, constructive action.

Since the President's July announcement of his intention to hold the United States to its Tokyo Summit commitment in the intervening years, 1980–85, there has been considerable debate, not only in numerous Senate, House, and Department of Energy hearings, but also throughout the entire country, about the advisability of establishing hard and fast quotas.

Generally, industry analysts have concurred with the Library of Congress projections that the quota will "bite" by 1982 at a considerable cost—both to our economy in terms of inflation, unemployment and GNP reductions, and to the American consumer in higher prices paid for petroleum products.

In a December 4, 1979, Library of Congress study on the "Economic Effects of Oil Import Quota Proposals," estimates for the supplementary price jumps a quota on oil imports would entail in a single year, range from $5.5 billion for 100,000 bpd saved in 1982 to $72.5 billion for 700,000 bpd saved in 1985. Regardless of how such sums accrue to the U.S. Treasury and/or the oil industry, the numbers in the forecasts spell out no small problems for our economy, and plain common sense says the public will not accept such burdens.

Aside from the economic impact of such a quota, the administrative problems of allocating scarce supplies among users clamouring for their fair share put an extreme and unfair political pressure on the President. I feel strongly that Congress should share the responsibility by legislating petroleum and petroleum product import goals.

My bill would write our Tokyo Summit commitment of 8.5 mbd in 1985 into the law and provide for a more flexible means of restraining imports in the intervening years. Each year the President would submit estimates to Congress, detailed by energy type, of yearly domestic demand and production, taking into account new sources and projected conservation. The yearly quota for imports of petroleum and petroleum products would be set at the difference between domestic supply and demand, not including additions to the strategic petroleum reserve or unconventional sources of petroleum from the Western Hemisphere. Congress would have the opportunity to reject the plan—under the procedures set forth in section 152 of the Trade Act of 1974—requiring the President to establish a new plan.

Should Congress accept the plan, the President would then have the responsibility of administrating the quota by regulation, taking care to—among other stated objectives—maximize efficient utilization of domestic refinery capacity. The President would also have the power to modify the quantitative restrictions should an emergency occur. In the event of an import shortfall, the President has two options: First to borrow against future quota years, but never more than fourteen/three hundred sixty-fifths of the following year's aggregate quota quantity, or second, to allocate short supplies by imposing import fees or instituting a public auction by sealed bid of rights to import petroleum and petroleum products, with a separate auction for small refiners and independent marketers. Any significant differences between estimates for supply and demand and actual supply and demand for a given quota year would require the President to submit a detailed explanation to Congress.

Finally, this bill provides for the ITC to take on a long-overdue, exhaustive study, with continuous monitoring, of the domestic refining industry.

With this legislation, I would hope to ensure that progress in curbing our appetite for energy will result in fewer imports rather than lessened pressure for domestic production of energy. Further, yearly formation of quota plans and continuous monitoring of our imports should focus national attention and debate on our progress toward a more energy-efficient, energy-secure society.

Early in 1980, I hope that the Subcommittee on Trade of the Committee on Ways and Means, which I chair, will have the opportunity in the near future to hold hearings on this legislative proposal.●

A TIME FOR REVIEW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. MATHIS) is recognized for 60 minutes.

● Mr. MATHIS. Mr. Speaker, a series of events, both here and abroad, have brought home to me that this is a most appropriate time for the Members of the House of Representatives to review our defense policies and our overall military posture. I say that despite the fact that I am not a member of the Armed Services or Appropriations Committees. I am sure you anticipate as I do that our constituents will be asking many questions of us during the Christmas holidays and making very positive recommendations to us about defense and foreign affairs.

The most important activity in the national security area at the present is the debate in the Foreign Relations and Armed Services Committees of the Senate on the proposed Strategic Arms Limitation Treaty. It is obvious that a consensus on SALT II has not developed in the Senate.

It has been particularly interesting to me that the debate has not focused tightly on the terms of the treaty, but rather has extended to broader considerations relative to our national defense policies and the overall status of our Armed Forces. The Members of the Senate have obviously felt that they could not make a wise judgment on SALT II without considering the treaty in the widest possible defense context.

A considerable amount of the Senate debate has dealt with the relative merits of a 3-percent increase in the Defense budget versus a 5-percent increase. A number of Senators, however, have found this too simplistic an approach, and they have insisted that the Senate should know in some detail how the administration intends to allocate future Defense dollars.

In response to their request for detailed information, the administration has submitted, quite prematurely, a proposed Department of Defense budget for fiscal year 1981, along with a generalized 5-year Defense projection.

It is clear to me that the increases proposed in next year's Defense budget by the administration reflect much more than the Senate's concern about SALT II. They indicate a growing awareness nationwide that there are inadequacies in our defense posture.

Without reference to that proposed Defense budget but in light of the possibility that this administration might not succeed itself, 19 Senators from both parties, led by Senator SAM NUNN of Georgia, recently sent a letter to President Carter urging that he postpone the vote on SALT II in the Senate until after the 1980 election. These 19 Senators were bearing in mind the fact that incoming administrations seldom follow the plans of outgoing administrations. And they were taking the position that the Senate's judgment on SALT II should be based on the intentions and commitments of an administration with a full 4-year mandate in front of it, a mandate that would extend into the critical early years of the next decade.

One may be sure that the President did not welcome the letter, but I have to feel that our colleagues in the Senate had a well taken point.

An additional factor that has undoubtedly contributed to the caution being displayed in the Senate—and that is behind my recommendation that we anticipate the need to review our defense policies and posture—is that there have been two major international crises during this fall period. The first, of course, was in Cuba; and the second, the current one in Iran.

The implications of these two crises extend well beyond SALT and our strategic forces to our overall military capabilities. Both have served to illustrate that the options available to the President in resolving crises relate to the strength of all our Armed Forces and to the particular ability of certain specialized military units.

Many persons reflecting on these crises have also wondered, as I have, whether the United States would have been challenged in the first place if Soviet and Iranian leaders had not perceived an inadequacy in our military posture along with an overreluctance on the part of the United States to use its military strength to resolve international disputes.

In his recent testimony before the Senate Foreign Relations Committee, Dr. Henry Kissinger addressed these two issues in noting:

> The turmoil caused by radical forces and terrorist organizations, sponsored by Moscow's friends, mark ours as a time of upheaval. . . . If present trends continue, we face the chilling prospect of a world sliding gradually out of control, with our relative military power declining, with our economic lifeline vulnerable to blackmail, with hostile forces growing more rapidly than our ability to deal with them, and with fewer and fewer nations friendly to us surviving.

One would have wished that Dr. Kissinger had held this perspective on international affairs when he was in office and when he had the opportunity to prevent some of the problems from arising that now perplex us. There were many of us in this body who sought to recommend to Dr. Kissinger somewhat less optimism about the policy of détente than he was prone to exhibit when he was Secretary of State.

The crisis in Iran brings to mind a warning that the former Secretary of the Air Force, Thomas Reed, has been sounding in a speech he has delivered before audiences around the country during the past year or so. He entitles his speech, "The Last Great SALT Debate." Interestingly enough, he deals very little with SALT in his remarks, but rather warns his audiences of a possible energy crisis involving both the United States and the Soviet Union that could reach its peak about 1985—which, coincidentally, is the year when the proposed SALT II treaty would expire.

Reed cites two studies, one by MIT and the other by the CIA, both of which agree that the Soviet Union will face a severe energy crisis in the early 1980's. The reason is that the need for energy in the Communist bloc is going up while their supplies of oil are going down. The population of the Soviet Union and of its Eastern European allies is growing, and the bloc countries are using increasing quantities of energy as their economies shift from agriculture to manufacturing.

At the same time, however, the Communist states cannot sell their shoddy goods to the West or to the OPEC countries. So the Communist bloc faces a currency problem that compounds its energy problem.

The former Secretary of the Air Force reasons that the Soviets will not stand by idly and let the Communist bloc economies suffer for lack of energy when the Middle East is at its doorstep.

Reed reminds his audiences that in 1975 Secretary General Brezhnev told Communist officials in Prague that, "By 1985, we will be able to exert our will wherever we need to."

Despite the dramatic quality of the Iranian crisis and its implications for the Nation's supply of energy, I have found myself growing increasingly concerned about the SALT treaty. I noted with interest the earlier report by the Panel on the strategic arms limitation talks and the Comprehensive Test Ban Treaty of the House Armed Services Committee, entitled "SALT II, An Interim Assessment," released December 23, 1978. I commend the Panel for this report.

It anticipated the debate that has taken place in the Senate. It also reflected a recognition by Chairman PRICE and the members of his committee that the House would play a very important role in considering those future Department of Defense budgets that would serve to implement the SALT treaty, if ratified, or to establish a new defense policy for the Nation, if rejected.

The panel declared that it found—

> * * * nothing in the agreement, as it is now structured, which would diminish the requirement for prudent U.S. strategic initiatives. Conversely, there is much about SALT II which causes uneasiness and requires a very close examination.

Then harking back to the Jackson amendment to SALT I, the panel went on to declare:

> The crucial question to be asked of the Carter Administration by the Congress and of the Congress by the people is: "Is the present administration prepared to propose and support programs which will assure that the United States will, in fact, maintain levels of strategic forces not inferior to those of the Soviet Union, and is the Congress prepared to support those programs?"

I would hope that the Armed Services Committee will give us the benefit of an updated evaluation of the SALT treaty before the House has to consider the defense budget next year.

My position at the moment is that I have gone beyond the stage of "uneasiness" about the treaty, expressed by the panel, to downright opposition to it. I am particularly disturbed by the unilateral grant to the U.S.S.R. of the right to have heavy ICBM's, without any compensating right to the United States. I also find no justification for the provisions in article IV of the treaty which permit extensive modernization of ICBM's. We all know that the United States has no plans between now and 1985 to modernize its entire force of ICBM's. We will be placing a new warhead on some of our Minuteman III's, but that is the extent of our plans. In contrast, the Soviet Union has an entirely new generation of ICBM's ready to be tested and introduced into its inventory. Within the terms of article IV, that "fifth generation" of Soviet ICBM's can be deployed between now and 1985. Finally, I am appalled that U.S. negotiators would have allowed the Soviet Union to have both an intercontinental strategic bomber, the Backfire, and an intermediate range ballistic missile, the SS-20, which can easily be converted into an ICBM, outside the numerical limitations in the treaty.

There can be no question that the treaty will grant to the Soviet Union a massive advantage in strategic power, and the treaty fails entirely to reach its goal of mutual arms limitation.

I share the feeling, recently expressed by the majority of the members of the Senate Armed Services Committee, that the treaty "is not in the national interest of the United States." I also believe the treaty will complicate future diplomatic efforts by the United States to resolve international crises and to encourage political stability in the world.

Whether the Senate ratifies or rejects the SALT treaty, I believe the Congress must insure that steps be taken to reestablish the credibility or our strategic deterrent and to make clear to the Soviet Union and to the rest of the world that we will not tolerate a position of strategic inferiority.

The problem facing the Congress is not simply what steps must be taken in strengthening our strategic forces, but what is the proper order for those steps. I have confidence that the House Armed Services Committee will in due time recommend a detailed agenda for our strategic systems. I find myself in accord with those who have already recommended the following approach; namely, that the United States give priority to those programs most likely to degrade the confidence the Soviets appear to be developing in the ability of their strategic weapons to carry out a first strike against us.

I note that the recent arrangements with our NATO allies have stressed a similar need for a rapid adjustment of the dangerous imbalance in European theater nuclear forces.

As in the case of NATO, cruise missiles are favored by many as the priority systems we should deploy because they can be produced in a hurry and at a low unit cost. The constraints on those weapons contained in the protocol to SALT II are burdensome, to say the least. These weapons can carry out a powerful strategic retaliation if deployed in sufficient numbers, but they would not pose a provocative threat to the Soviet Union. That is, the Soviet air defense system would find it exceedingly difficult to defend against a large and diverse force of U.S. cruise missiles, but the Soviets would not view our subsonic cruise missiles as threatening the U.S.S.R. with a first strike.

The deployment of cruise missiles would, of course, be only the first of a series of steps we must take. Over a longer timeframe, we must consider means to insure the survivability of our land-based ICBM's. In that regard, I would like to recommend that it would be appropriate for the Congress to review what the latest in technology may be able to contribute to an active defense system against ballistic missiles.

The Congress rejected the Safeguard ABM system in the fall of 1975—in an act of questionable wisdom. But I understand that ABM technology has come a long way. And it would be wise, in my judgment, to review carefully a balanced formula of an active defense system along with a racetrack-style of deployment for the MX.

My deepest concern about SALT II is that if the Senate ratifies the treaty, there will follow in the wake of that action a nationwide euphoria which will make it all but impossible for the administration and the Congress to take the necessary steps to strengthen our strategic forces. The argument will be presented, as it was after SALT I, that the purpose of the SALT agreements is to limit arms, not to serve as a justification for developing more.

As concerned as I am about SALT II and our strategic forces, I am at least as concerned about our land-based conventional forces and our Navy. The renewed interest by this administration in the condition of our ground forces in NATO is commendable. But one has to question whether a 3 percent increase in our commitment to NATO is anywhere near enough.

The recent Nifty Nugget exercise confirmed the earlier Nunn-Bartlett report on NATO and demonstrated both the inadequacies in the equipment of our ground forces and our means of providing logistical support. As an outgrowth of that exercise, the Joint Chiefs of Staff have recommended that we expand the fleet of merchant ships and commercial aircraft that can be converted to augment our military cargo ships and planes. The JCS is also recommending that we accelerate the development of an entirely new CX cargo aircraft to enhance our airlift capabilities.

In that regard I noted recently that Vice Adm. Kent Carrol, director of Logistics for the Joint Chiefs, testified that we do not have enough cargo ships to transport 2⅓ Army divisions to the Persian Gulf, if that should become necessary, let alone the ability to transport 4 divisions, called for in the Carter administration's contingency plans.

Along the same line, Adm. Elmo Zumwalt, former Chief of Naval Operations, recently stated:

> Our Navy has reached the point where it no longer can, with certainty, guarantee free use of the ocean lifelines to the U.S. and allied forces in the face of a new, powerful, and growing Soviet fleet.

He continued:

> The U.S., being a world island, dependent upon the seas for 69 of the 72 resources which our Department of Defense calls "critical" . . . must be able to use the seas.

It is very discouraging for me as a Member of this body and an American citizen to read statements like that, to see the United States blackmailed by other nations, and to think that we have allowed ourselves to become the No. 2 nation in strategic power. Again, Henry Kissinger was frank to admit that many of our military difficulties are the result of our unilateral actions—and hence, to use his word, they were "avoidable."

We must engage in more than the usual annual assessment of our defense needs. I believe we need the kind of appraisal that has often been described as "agonizing." When this body reconvenes next January, I hope we will all participate within the appropriate committees, and when we are convened as a Committee of the Whole, in a thorough reappraisal of our national defense policies and posture. Individually, we should all begin that process now.●

THE MARRIAGE TAX PENALTY MUST BE ENDED

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 15 minutes.

● Mr. LAFALCE. Mr. Speaker, when Congress enacted the Tax Reform Act of 1969—which set up a new, lower rate schedule for single wage earners—it unfortunately ignored the effect this would have when two wage earners were married. As a result, a husband and wife who both work now generally pay more tax than they would if they were single and living together.

The purpose of the new singles' schedule was to reduce somewhat the taxes a single person paid, which was sometimes as much as 42 percent more than a married one-earner couple filing a joint return with the same taxable income. However, by benefitting singles, two-earner married couples were left in a precarious position. They were left with the choice of using the high rates for married individuals filing separately, or combining their incomes and having the second wage earner's income being taxed at higher rates than the first.

It is the tax rates faced by the second wage earner that causes the marriage penalty because the joint return provision requires that the income of the two spouses be added to determine the tax liability. No distinction is made for the allocation of income earned between the two spouses since only the total income is necessary to determine tax liability. Because the tax rates are progressive, the aggregation of income of both spouses increases the marginal tax rate to be paid on the total income of the married taxpayers.

The following example will serve to illustrate the marriage tax penalty: If a single man and woman were to earn $15,000 each in 1979, and filed single returns, each would pay $2,345 in Federal income taxes—assuming the standard deduction was taken. This would result in a combined tax liability of $4,690. If the two were to marry, the tax on a $30,000 income on a joint return would be $5,593, or a marriage penalty of $903. As income increased, and as the two incomes became more equal, the marriage tax would also increase.

The impact of the tax is staggering given the increased incidence of two-earner families in recent years. It has been estimated that over 15 million couples will be affected by a tax which would have been lower if they were single individuals living together. Hence, the current structure of our income tax code makes it more attractive and lucrative to get divorced and live together.

Marriage used to be a simple, romantic decision. However, it now entails a variety of tax consequences which are adverse to the married couple, and the American family.

The only way we can ensure that this injustice is rectified is to tax every individual's income on the same rate schedule, regardless of whether the income is earned by a single person or a two-earner married couple. Hence, I have today introduced a bill to eliminate the marriage penalty by providing that all individuals use the income tax rates applicable to joint returns and that a husband and wife could file separately if this was to their advantage.

This proposal will eliminate an unjust tax that is based on nothing more than the decision of two people to get married.

The text of the bill follows:

H.R. 6209

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (a) of section 1 of the Internal Revenue Code of 1954 (relating to tax imposed with respect to married individuals filing joint returns and surviving spouses) is amended by striking out so much of such subsection as precedes the table and inserting in lieu thereof the following:

"(a) INDIVIDUALS.—There is hereby imposed on the taxable income of every individual a tax determined in accordance with the following table:".

(b) Section 1 of such Code is amended by striking out subsections (b), (c), and (d) and by redesignating subsection (e) as subsection (b).

SEC. 2. Section 1 of the Internal Revenue Code of 1954, as amended by the first section of this Act, is amended by adding after subsection (b) the following new subsection:

"(c) COMMUNITY PROPERTY LAWS DISREGARDED.—For purposes of this chapter, taxable income shall be computed without regard to community property laws."

SEC. 3. The Secretary of the Treasury or his delegate shall, as soon as practicable but in any event not later than 90 days after the date of enactment of this Act, submit to the Committee on Ways and Means of the House of Representatives a draft of any technical and conforming changes in the Internal Revenue Code of 1954 which are necessary to reflect throughout such Code the changes in the substantive provisions of law made by this Act.

SEC. 4. The amendments made by this Act shall apply to taxable years beginning after December 31, 1979.●

INTERPARLIAMENTARY UNION ACTION ON BEHALF OF AMERICAN HOSTAGES IN IRAN

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

● Mr. PREYER. Mr. Speaker, for a month and a half now, all of us have followed with deep concern the plight of Americans held hostage in the American Embassy in Tehran. Their continued detention, in violation of international law and basic standards of human decency, has been widely condemned, and many efforts are underway to obtain their release.

Both the United Nations Security Council resolution, unanimously adopted, and more recently the World Court decision have made even more insistent the absolute and unconditional international demand for the release of the American hostages.

As part of the effort to press for international cooperation and assistance to obtain the release of the American hostages, the U.S. Group of the Interparliamentary Union recently transmitted a request to all other IPU national groups with which the United States has diplomatic relations that they consider an immediate declaration reaffirming the U.N. Security Council resolution and calling for the immediate release of the hostages for humanitarian reasons and to uphold international law. Our plea also urged consideration by other national groups of a call on Iranian authorities to permit regular visits to all hostages by outside observers.

This message, signed by myself as President of the U.S. Group and by Senator ROBERT T. STAFFORD and Representative EDWARD J. DERWINSKI, the two members of the Interparliamentary Council, was sent to 77 nations on Friday, December 7.

It is heartening to report that several groups we contacted took immediate action both to make public their parliament's support for the United States and to communicate their views either to Iranian officials in their countries or directly to the ayatollah in Tehran. Our West German colleagues, for example, sent a cable, endorsed by the entire Bundestag, to the ayatollah immediately after learning of our concern. Similarly the British raised a motion in the House of Commons concerning the American hostages and conveyed a copy of that motion to the Iranian chargé in London.

Additional positive support and action has already come from the IPU national groups of Austria, Denmark, Ecuador, Ireland, and the Netherlands. Further responses to our request are anticipated.

The strong support we received from our parliamentary colleagues abroad will hopefully increase pressure on the authorities in Tehran to release our American hostages. We should be grateful for this positive proof of the friendship we have developed through our long association with the IPU.●

SHARE DRAFTS, AUTOMATIC TRANSFERS INTERTWINED WITH CONTROVERSIAL LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. EVANS) is recognized for 5 minutes.

● Mr. EVANS of Indiana. Mr. Speaker, share drafts for credit unions, automatic transfers for commercial banks and remote service units for savings and loans have been intertwined with complicated and sometimes controversial legislation during much of this year. That is unfortunate because millions of consumers have had to use these three services under a cloud of doubt since the Appeals Court of the District of Columbia on April 20, 1979, ordered these services terminated as of December 31, 1979.

Congress is overwhelmingly disposed to the continuation of these services as evidenced by House and Senate action on H.R. 4986 which clearly authorizes these programs. In the Senate, 76 of 85 Members voting on these services voted to approve them. In this body, when 406 House Members voted on this issue, I and 366 of my colleagues chose to give these services a clear legal status.

I know that share drafts, automatic transfers and remote service units have become part of the larger financial institutions reform issue which is complex and needs extensive study. That fact must not be allowed to hinder a clear understanding of the intent of this body with regard to share drafts, automatic transfers and remote service units, however.

It must be adamantly clear by our action today that Congress fully intends to permit these prorgams to continue as perfectly legal services which may be used by the consumers to whom they are offered.

The March 31 termination of this authority is part of our approval only because we have been unable to reach a conclusion on the other issues which are being considered as part of the overall financial reform, and this authority ends in 90 days only because the two bodies of Congress are unable to agree on the substance of the larger and more inclusive legislation.

It should be clear that we are committed to a speedy resolution of our differences to assure that these programs are not terminated on March 31, 1980.●

CALL OF THE HOUSE

Mr. ZABLOCKI. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 756]

Abdnor
Akaka
Alexander
Ambro
Anderson, Calif.
Annunzio
Anthony
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Broyhill
Buchanan
Burlison
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Cheney
Clausen
Clay
Clinger
Coelho
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Courter
Crane, Philip
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
Derrick
Dickinson
Dicks
Dixon
Donnelly
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ind.
Fascell
Fazio
Fenwick
Fish
Fisher
Fithian
Flippo
Florio
Forsythe
Fountain
Fowler
Frenzel
Frost
Garcia
Gaydos
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Hubbard
Hughes
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Lederer
Lee
Leland
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McCormack
McDonald
McEwen
McHugh
McKay
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mavroules
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pursell
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roth
Roybal
Royer
Rudd
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Stangeland
Stark
Steed
Stenholm
Stewart
Stokes
Stratton
Stump
Swift
Symms
Tauke
Thomas
Traxler
Trible
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weiss
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

□ 1900

The SPEAKER pro tempore (Mr. DANIELSON). On this rollcall, 307 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

LEGISLATIVE PROGRAM

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, I think Members are entitled to know why we are here and what we expect to do.

I have no real, earth-shattering announcements at the moment, save and except for the fact that the Chrysler bill has been signed by the conferees, but they need until about 9 p.m. to be ready to come to the House floor. It is a very tedious and difficult and tidy task they must perform. I know we are all patient and want them to do it right, without mistake.

Here is what we are getting ready to do right now: We are going to take up Senate amendments to the Metro bill—"Metro" means the D.C. rail system. Following that, we will take up approval of Senate Concurrent Resolution 63, the chancery disapproval resolution.

We will also take up H.R. 5079, the Energy-Expo conference report, after which we will recess and stand in readiness to come back about 9 o'clock and finish our work for the year.

That is the best I can do. Further notice will be given at a later moment.

□ 1910

ENERGY-EXPO 1982

Mr. ZABLOCKI. Mr. Speaker, I call up the conference report on the bill (H.R. 5079) to provide for participation of the United States in the International Energy Exposition to be held in Knoxville, Tenn., in 1982, and for other purposes, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. LAGOMARSINO. Reserving the right to object, Mr. Speaker, I do so in order to inquire of the distinguished chairman of the Committee on Foreign Affairs, the gentleman from Wisconsin (Mr. Zablocki), if he would explain the conference report for the House.

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman.

Mr. ZABLOCKI. I thank the gentleman from California for yielding.

Mr. Speaker, as the gentleman knows the differences were resolved by:

First. Accepting the House provisions subjecting the authorities to "the availability of appropriations";

Second. Dropping the Senate provision waiving title 5 of the United States Code regarding the hiring of employees, as the Executive already has the necessary hiring flexibility;

Third. Accepting the Senate narrowing of the scope of the several exemptions from Government procurement laws; and

Fourth. Adopting the Senate provision—with minor modification—designating the salary level for the Commissioner-General as level IV.

Mr. LAGOMARSINO. Further reserving the right to object, Mr. Speaker, I yield to the distinguished gentleman from Tennessee (Mr. Duncan) the author of the bill.

Mr. DUNCAN of Tennessee. Mr. Speaker, I appreciate the opportunity to appear before you today and speak on the matter of Energy Exposition 1982 to be held in the city of Knoxville, Tenn.

As you may know, since 1976, citizens in Knoxville and the surrounding communities have been discussing the feasibility of conducting an exposition that would have as its main theme—Energy. The idea was to have an expo patterned to an extent after the one held in Spokane, Wash., in 1974, but in addition to the goals of encouraging international trade, and tourism, it would also serve to heighten the consciousness of Americans about our energy problems and the various options available to us for dealing with the crisis.

It was determined in 1976, after a feasibility study, that Knoxville would be an ideal location for such an exposition. In the immediate area is the headquarters of the Tennessee Valley Authority, the Oak Ridge National Laboratories, and the teaching and research facilities at the University of Tennessee. Also, as a regional center for transportation, industry, and tourism, the city of Knoxville can provide the support necessary for a successful exposition. Millions of dollars have already been spent on the exposition.

The exposition site, lying in a valley between downtown Knoxville and the campus of the University of Tennessee, provides an excellent location for a fair of this type. The site's residual use would do much to enhance the appearance of the city and revitalize it, and will also provide structures that will be of use to the community for many years to come.

I urge the adoption of the conference report.

The bill you are considering, H.R. 5079, will authorize funds for a Federal pavilion, which will be the centerpiece of the entire exposition.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding. The gentleman from Maryland has received intelligence through the grapevine on one of the bills that will be before us in the waning hours of this glorious session. I have received some intelligence that one of the bills that we will consider tonight may contain a surprise subsidy for the Milwaukee Railroad of $250 million, or some such thing, the product of one of the Members of the other body who is notorious for this late hour, last-minute activity. This is not the bill to which the Milwaukee Railroad is appended, is it?

Mr. ZABLOCKI. Mr. Speaker, will the gentleman from California (Mr. Lagomarsino) yield to the gentleman from Wisconsin so he can intelligently respond to the distinguished gentleman from Maryland (Mr. Bauman)?

Mr. LAGOMARSINO. I yield to the gentleman from Wisconsin so he can dispose of this.

Mr. ZABLOCKI. I thank the gentleman for yielding. The gentleman's intelligence is better than mine.

Mr. BAUMAN. If the gentleman will yield, there is some question about that, I assure him.

Mr. ZABLOCKI. I am not questioning the gentleman.

Mr. BAUMAN. I appreciate that.

Mr. ZABLOCKI. I can assure the gentleman the bill he has reference to—I believe it is the District of Columbia Metro bill—is not the bill before the Members at this time.

Mr. BAUMAN. What the gentleman is saying is that this bill will have to stand on its own lack of merit? I appreciate the gentleman's yielding.

Mr. ZABLOCKI. If the gentleman from California will yield, the conference on the bill H.R. 5079 is an eminently qualified bill that will stand on its own merit.

Mr. LAGOMARSINO. Mr. Speaker, I support the conference report and withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin for immediate consideration of the conference report?

There was no objection.

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the statement of the managers be read in lieu of the report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the statement.

(For conference report and statement see proceedings of the House of December 18, 1979.)

Mr. ZABLOCKI (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with, as I have already explained the provisions in the conference report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. Zablocki) is recognized for 30 minutes.

Mr. ZABLOCKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House has before it the conference report on H.R. 5079, authorizing U.S. participation in an International Energy Exposition to be held in Knoxville, Tenn., in 1982.

The purpose of Energy-Expo 82 is to offer to the world a greater understanding of the effective uses of energy, of the necessity to conserve energy resources, and of the need for creativity in the development of new and alternative energy sources.

There were no substantive differences between the House and the Senate versions of the bill, only technical differences. The differences were of interest to three other House committees—Budget, Government Operations, and Post Office and Civil Service—and the conference report is fully satisfactory with all three of these committees.

Mr. Speaker, I urge the adoption of this conference report.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. ZABLOCKI. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

NATIONAL CAPITAL TRANSPORTATION AMENDMENTS OF 1979

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3951) to amend the National Capital Transportation Act of 1969 to authorize additional Federal contributions for the cost of construction of the rapid transit system of the National Capital region, to provide an orderly method for the retirement of bonds issued by the Washington Metropolitan Area Transit Authority, to authorize a Federal contribution to such authority to provide assistance in meeting expenses of operation and maintenance of such system in order to reflect the special Federal relationship to such system, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The clerk read the title of the bill.

The clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "National Capital Transportation Amendments of 1979".

AUTHORIZATION OF ADDITIONAL FEDERAL CONTRIBUTIONS FOR CONSTRUCTION OF THE ADOPTED REGIONAL SYSTEM AND OTHER PURPOSES

SEC. 2. The National Capital Transportation Act of 1969 (83 Stat. 320, 86 464–466, 1004), as amended (D.C. Code, sec. 1–1441 et seq.) is amended by adding at the end thereof the following new sections:

"AUTHORIZATION OF ADDITIONAL FEDERAL CONTRIBUTIONS FOR CONSTRUCTION

"SEC. 14. (a) The Secretary of Transportation is authorized to make grants to the Transit Authority, in addition to the contributions authorized by section 3 of this Act, for the purpose of financing in part the cost of construction of the Adopted Regional System.

"(b) Federal grants under subsection (a) for the Adopted Regional System shall be subject to section 16 and to the following limitations and conditions:

"(1) The work for which such grants are authorized shall be subject to the provisions of the Compact and shall be for projects included in the Adopted Regional System.

"(2) The aggregate amount of such Federal grants made during any fiscal year shall be matched by the local participating governments by payment of capital contributions for such year in a total amount that is not less than 25 per centum of the amount of such Federal grants and shall be provided in cash from sources other than Federal funds or revenues from the operation of public mass transportation systems. Any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or revenues available in cash, or new capital.

"(3) Such grants shall be subject to terms and conditions that the Secretary may deem appropriate for constructing the Adopted Regional System in a cost-effective manner.

"(c) There is authorized to be appropriated to the Secretary of Transportation for the purpose of making grants under subsection (a) an aggregate amount not to exceed $1,700,000,000, except that no appropriation pursuant to this authorization shall be enacted for any fiscal year prior to fiscal year 1982.

"(d) Amounts appropriated pursuant to the authorization under subsection (c)—

"(1) shall remain available until expended, if so provided in appropriation Acts; and

"(2) shall be in addition to, and not in lieu of, amounts available to the Transit Authority under the Urban Mass Transportation Act of 1964, as amended, and section 103(e)(4) of title 23, United States Code.

"PAYMENT OF BONDS

"SEC. 15. (a)(1) The Transit Authority shall maintain a sinking fund to be used for the accumulation of assets for payment of principal on bonds issued by the Transit Authority and guaranteed by the Secretary as provided in section 9. The fund shall be administered in accordance with the provisions of the Compact providing for funds established by the Transit Authority, and moneys in the fund may be invested by the Transit Authority in accordance with the Compact and with the Agreement.

"(2) The Transit Authority shall use assets of the fund to pay the principal paid or to be paid after October 1, 1979, on bonds issued by the Transit Authority.

"(3)(A) Subject to the conditions of the Agreement, the Secretary of Transportation is authorized to make contributions to the Transit Authority, or its fiscal agent, in amounts sufficient to provide for the payment of two-thirds of the principal paid or to be paid after June 30, 1979, on bonds issued by the Transit Authority which are guaranteed by the Secretary as provided in section 9.

"(B) There are authorized to be appropriated beginning in fiscal year 1981 such sums as are necessary to carry out the requirements of subparagraph (A) of this paragraph.

"(4) Subject to the conditions of the Agreement, the local participating governments shall make payments to the Transit Authority in amounts sufficient to allow the Transit Authority to make contributions to the fund established pursuant to subsection (a)(1) in amounts sufficient to provide for the payment of one-third of the principal paid or to be paid after June 30, 1979, on bonds issued by the Transit Authority which are guaranteed by the Secretary as provided in section 9.

"(b)(1) The Transit Authority shall maintain a Bond Interest Fund to be used for the accumulation of assets for the timely payment of interest on bonds issued by the Transit Authority and guaranteed by the Secretary as provided in section 9. The fund shall be administered in accordance with the provisions of the Compact providing for funds established by the Transit Authority, and moneys in the fund may be invested by the Transit Authority in accordance with the Compact and with the Agreement.

"(2)(A) Subject to the conditions of the Agreement, the Secretary of Transportation is authorized to make contributions to the Transit Authority or its fiscal agent, in amounts sufficient to provide for the payment of two-thirds of the total amount of interest paid or to be paid after June 30, 1979, on bonds issued by the Transit Authority which are guaranteed by the Secretary as provided in section 9.

"(B) There are authorized to be appropriated beginning in fiscal year 1981 such sums as are necessary to carry out the provisions of subparagraph (A) of this paragraph.

"(3) With respect to interest payments due prior to July 3, 1983, the Secretary of Transportation, if requested by the Transit Authority, may make accelerated interest payments in amounts sufficient to provide for the payment, as any payment becomes due, of not more than an additional 18½ per centum of the interest due on such bonds at the time of such payment, so long as the total amount of contributions by the Secretary under this subsection does not exceed the amount specified in paragraph (2). Unless otherwise provided in amendments to the Agreement, any accelerated payments made shall bear interest from the date of accelerated payment until liquidation at a rate to be determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding United States marketable obligations which have maturities comparable to the period of time between the time of accelerated payment and the time of liquidation.

"(4) Subject to the conditions of the Agreement, the local participating governments shall make payments to the Transit Authority in amounts sufficient to allow the Transit Authority to make contributions to the fund established pursuant to subsection (b)(1) in amounts sufficient to provide for the payment of one-third of the interest paid or to be paid after June 30, 1979, on bonds issued by the Transit Authority which are guaranteed by the Secretary as provided in section 9.

"(5) If as a result of the retirement of the principal of such bonds (or of any portion of such principal) before maturity the total amount of contributions by the Secretary of Transportation after June 30, 1979, for payment of interest on such bonds is at any time in excess of two-thirds of the net present value of the total amount of interest paid or to be paid on such bonds after such date, the Transit Authority shall pay to the Secretary the difference between the total amount contributed by the Secretary and two-thirds of the net present value of the total amount of interest paid or to be paid on such bonds after such date.

"REQUIREMENT THAT LOCAL PARTICIPATING GOVERNMENTS HAVE A STABLE AND RELIABLE SOURCE OF REVENUE FOR CONTRIBUTIONS FOR BOND EXPENSES AND FOR OPERATING EXPENSES

"SEC. 16. (a) The Secretary of Transportation shall not make any grant under section 14(a) for the cost of construction of the Adopted Regional System, until the Secretary has determined that the local participating governments, or signatories (as defined in subparagraph (d) of paragraph 1 of article I of title III of the Washington Metropolitan Area Transit Authority Compact (80 Stat. 1324; D.C. Code, sec. 1–14431)) to the Compact, have provided a stable and reliable source of revenue sufficient to meet both (1) their payments to the Transit Authority under subsections (a)(4) and (b)(4) of section 15, relating to payment of the principal and interest on bonds issued by the Transit Authority, and (2) that part of the cost of operating and maintaining the Adopted Regional System that is in excess of revenues received by the Transit Authority from the operation of the system and any amount to be contributed for operating expenses by the Secretary of Transportation under any other provision of law.

"(b) The Transit Authority, in consultation with each governmental entity that is a local participating government or signatory to the Compact as referred to in subsection (a) of this section, for the purposes of this Act, shall submit a program to the Secretary of Transportation on or before September 30, 1980, showing how each such governmental entity will have in place on or before August 15, 1982, a stable and reliable source of revenue to provide for its contributions (1) for payments to the Washington Metropolitan Area Transit Authority for the payment of principal and interest on bonds issued by the Transit Authority, and (2) for the cost of operating and maintaining the Adopted Regional System of the Washington Metropolitan Area Transit Authority.".

SEC. 3. (a) Section 2 of the National Capital Transportation Act of 1969 (83 Stat. 320), as amended (D.C. Code, sec. 1–1441), is amended by adding at the end thereof the following:

"(4) The term 'Agreement' means the Initial Bond Repayment Participation Agreement executed by the Transit Authority and the United States Department of Transportation on September 18, 1979, and amendments thereto, including the Supplemental Agreement described in section 302 of the Initial Bond Repayment Participation Agreement.

"(5) The term 'local participating governments' means those governments which comprise the Washington Metropolitan Transit Zone, as defined by paragraph 3 of article III of title III of the Washington Metropolitan Area Transit Authority Compact (80 Stat. 1324; D.C. Code, sec. 1–1431).".

(b) Section 9(d) of the National Capital Transportation Act of 1969 (83 Stat. 320, 86 Stat. 464, 465), as amended (D.C. Code, sec. 1–1446), is amended by deleting "issued after the date of the enactment of this section" and inserting in lieu thereof "guaranteed by the Secretary under the provisions of this section".

(c) Section 10 of the National Capital Transportation Act of 1969 (83 Stat. 320, 86 Stat. 464, 465), as amended (D.C. Code, sec. 1–1447), is repealed. Such repeal shall not be construed as affecting in any manner any payment, commitment, or other action taken pursuant to and in accordance with such section prior to the date of its repeal by this Act.

(d) Subsections (a) and (b) of section 11 of the National Capital Transportation Act of 1969 (83 Stat. 320, 86 Stat. 465, 466), as amended (D.C. Code, sec. 1–1448), are each amended by deleting "section 10" each place it appears in such subsections and inserting in lieu thereof "section 15".

Amend the title so as to read: "An Act to amend the National Capital Transportation Act of 1969 to authorize additional Federal contributions for the cost of construction of the rapid transit system of the National Capital Region, to provide an orderly method for the retirement of bonds issued by the Washington Metropolitan Area Transit Authority, and for other purposes.".

Mr. DELLUMS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendments be dispensed with and that they be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. LATTA. Mr. Speaker, I reserve the right to object. I make this reservation to seek information on this bill. Information is not available at the desk. I understand it is going to be another taxpayer contribution of some sizable amount, and we ought to know something about it.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I will be happy to yield to the gentleman.

Mr. DELLUMS. I thank my colleague for yielding.

As the gentleman knows, the House passed a bill, H.R. 3951 to finance the Metro transit system in the District. The Senate passed the identical bill with an exception. They struck the operating subsidies, so to that extent the Senate passed a version of the bill that is more economical than the version that the House passed. In every other respect the version of the bill is identically the same with the exception of the fact that the House in the first instance passed the Metro finance bill with operating subsidies; the Senate passed it without operating subsidies.

The gentleman from California has checked with the ranking minority member, my distinguished colleagues from Virginia and Maryland, who all concur in the proposition that is before the House now, and that is the unanimous consent request to concur in the Senate amendments.

Mr. LATTA. Further reserving the right to object, Mr. Speaker, I would like to know how much the taxpayers are contributing in this bill for the further construction of the Metro system.

Mr. HARRIS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to my distinguished colleague, the gentleman from Virginia.

Mr. HARRIS. I thank the gentleman for yielding. Let me say that the contribution covered by this bill does not start for 2 years, and that the cumulative contribution over the succeeding 7 years comes to approximately $1.7 billion. It has no budgetary impact, though, until 1982.

Mr. LATTA. Did the gentleman say $1.7 billion or $1.7 million?

Mr. HARRIS. Exactly the same figure in the House bill that was passed by 2 to 1 about 2 months ago, if I may say to the gentleman.

Mr. LATTA. we are talking about $200 million more in this bill for Metro than we were talking about for Chrysler.

Mr. DELLUMS. If the gentleman will yield, if the gentleman takes 1.5 and subtracts it from 1.7, he has got it.

Mr. LATTA. Mr. Speaker, further reserving the right to object, I can remember some time back that the gentleman from Kentucky (Mr. NATCHER) made the statement that the Metro was going to cost the taxpayers something like $6 billion, and there were a lot of people in this House at that time who said, "Oh, no, it couldn't happen."

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I would like to ask under my reservation of objection how close is the gentleman's estimate of a $6 billion taxpayer contribution for the Metro System?

Mr. DELLUMS. Mr. Speaker, I yield to my colleague from Virginia.

Mr. HARRIS. Mr. Speaker, the figure we are using now is based on the financial reanalysis that was conducted this past year. It is as close and as tight a figure I think as the human mind can come up with. I think it is right on the button myself and I think we can come in under it.

Mr. Speaker, I would say to my colleague in all sincerity this is an authorizing figure. It will be subject each year to the discipline of the appropriation process. I know that my colleague will be very careful each year with respect to this. It simply means that we can say to our local legislatures: this is the deal, if you come up with the local share in a steady and reliable source we can commit ourselves to this deal.

That is it, no more and no less.

Mr. LATTA. Mr. Speaker, further reserving the right to object, how much is in this conference report as an operating subsidy for the system? I am now speaking of an operating subsidy only.

Mr. HARRIS. Will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from Virginia.

Mr. HARRIS. The Senate has struck all the special operating subsidy that was in this bill. It will be a reduction in the cost of this bill of approximately $200 million. The bill that you are voting on now is approximately $200 million less than the cost estimates that existed when we first voted on the bill.

Mr. DUNCAN of Oregon. Mr. Speaker, would the gentleman yield?

Mr. LATTA. I would be happy to yield.

Mr. DUNCAN of Oregon. I wonder if it would not be more accurate to say that the bill that is coming before us has stricken the special $20 million a year in operating subsidy that was to be made available to Metro and no other system in the country and Metro would still be able to participate in the operating subsidies provided to all mass transit systems in the country on a competitive basis the same as Columbus, Ohio, San Francisco, or New York. Is that not correct?

Mr. HARRIS. Will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Virginia.

Mr. HARRIS. May I respond to the gentleman by saying as usual he is precisely correct. This bill contains no special operating subsidy for Metro.

Mr. DUNCAN of Oregon. Metro would be able to participate in the subsidies that any other mass transit system would be able to participate in?

Mr. HARRIS. If they qualify.

Mr. DUNCAN of Oregon. If the gentleman will yield further, am I correct you are providing in this bill an impetus to the local units of government to come up with a steady and assured source of income for those sources of contribution to both capital and operating expenses?

Mr. HARRIS. If my colleague will yield further, may I say that is precisely the purpose of this bill. In order to put it strongly to the general assemblies we say, "This is the deal, you have to come up with a steady and reliable source."

Mr. DUNCAN of Oregon. If the gentleman will yield once more, I opposed the bill when it was here before, I voted against it because of the special operating assistance of $20 million. With that removed I am prepared to support it.

Mr. LATTA. Mr. Speaker, further reserving the right to object, information has come over to this table that there is a slight difference in the amount the taxpayers will have put into the subway system, something like $1 billion. I think the gentleman from Virginia indicated $6 billion would be the figure after this payment and the figure that came over here was about $7 billion. Which figure is correct? It is $1 billion off.

Mr. HARRIS. Will the gentleman yield?

Mr. LATTA. I am pleased to yield to my colleague from Virginia.

Mr. HARRIS. The only figure with regard to construction in this bill is the $1.7 billion figure and there is no extra on that at all.

Mr. LATTA. May I say to my friend from Virginia we understand that. We are talking about the total figure the taxpayers have put into the Metro System to date if this payment is authorized? What is that amount of money? Is the gentleman prepared to give us that figure? Whatever it is, it is too high and I am glad I did not support it.

Mr. HARRIS. Let me say if, in fact, all past and previous contributions to the Metro System are added together you will come to a total system cost of approximately $7.2 billion.

Mr. LATTA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California (Mr. DELLUMS) that the Senate amendments be considered as read?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from California (Mr. DELLUMS)?

There was no objection.

A motion to reconsider was laid on the table.

TO DISAPPROVE THE LOCATION OF CHANCERIES AMENDMENT ACT OF 1979 PASSED BY THE CITY COUNCIL OF THE DISTRICT OF COLUMBIA

Mr. STARK. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 63) to disapprove the Location of Chanceries Amendment Act of 1979 passed by the City Council of the District of Columbia, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, as I understand it, under the statute granting home rule the Congress has the right to veto certain actions of the District of Columbia City Council. Could the gentleman from California explain to us what this legislation proposes to veto, what is the substance of the legislation?

Mr. STARK. Will the gentleman yield, Mr. Speaker?

Mr. BAUMAN. Of course.

Mr. STARK. When the home rule bill was written, and I had the privilege to help with many of us here to write that, it was understood that there could conceivably be times when the Federal interests and the interests of the residents of the District of Columbia would come into conflict and one of those areas was, for instance, the location of Government buildings and/or embassies and other types of activities in which the Federal interest might differ from the interests of the residents.

In the area zoning and in locating of the buildings, a system was set up where we had a National Capital Planning Commission much like the planning commissions in the cities of the gentleman's own district. However, this planning commission is somewhat different in that it includes representatives of the legislative body, representatives of the Executive and representatives of the District. They are appointed by the elected officials in the District. Then there is indeed a zoning board of the District of Columbia appointed by the elected officials of the District of Columbia, appointed to enact into zoning law the planning commission recommendations.

In the particular instance which we are disapproving, the process started many years ago, I believe in 1974, to outline the areas and the terms and conditions under which chanceries and embassies could be located in areas which were otherwise residential.

The National Capital Planning Commission found certain areas where this would be acceptable. The zoning board laid down zoning laws. Several times at the behest of residents of a particular area in the District, the City Council has tried to override. In the recent legislation they were successful in doing this and there is some debate as to whether this was a legal means or was not a legal means.

Mr. Speaker, we have really two choices. In the Federal interest, representing the Executive and the decisions arrived at through the procedures prescribed in the home rule bill, the disapproval would be correct.

The alternative would be to allow the bill of the council to go through and propose new legislation. The alternative would mean we would then be directly legislating a zoning law for the District which this gentleman from California happens to feel would be more of an interference with home rule than the present disapproval resolution. The Senate has passed the disapproval resolution. I bring it, with a great deal of reluctance. There is a time constraint as the gentleman from Maryland well knows, which means that our chances to disapprove would expire during the recess.

In the course of the hearings we tried to see if the City Council could find a way to withhold and negotiate and come back. Unfortunately, we cannot. As many of us have said, reluctantly, this seems to be the lesser of several evils and that is why it is here tonight.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, I appreciate the gentleman's detailed explanation but if I understand correctly his assessment of the situation, Congress gave the District of Columbia the power under home rule to zone areas, as would any State or municipality. It also gave the City Council the power apparently in certain instances to waive that zoning, as is the privilege of other governments.

Mr. STARK. Mr. Speaker, if the gentlemen would yield, that is exactly what is in dispute. There is a 3-tier process, the planning commission participates, the legislative participates as does the executive. There is a zoning process which would favor our resolution of disapproval and there is indeed the City Council.

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The fine line of disagreement is whether or not the Council has that authority under the home rule bill. There is no way to decide that in the time limit. I think the majority opinion is that they do not.

The gentleman has touched precisely on the disagreement.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, the problem that this presents to me is that the gentleman from California (Mr. STARK) has been one of the strong proponents of home rule. It seems to me that the gentleman has given the District of Columbia home rule powers, the gentleman now disputes those powers and the gentleman is asking the Congress to overrule the gentleman's own principle of home rule. That does not seem consistent to me.

Mr. STARK. Mr. Speaker, if the gentleman will yield further, as the gentleman knows, as an observer of the passage of the home rule bill——

Mr. BAUMAN. Close observer.

Mr. STARK (continuing). Which I worked on, there was this particular reservation for us to disapprove. The District has now been governing its own affairs for 5 years. I think it is a tribute to the responsibility and the effectiveness of the Council of the District of Columbia that this is the first time in 5 years that it has been necessary to deal with the Federal interests in a conflict which I think has been without acrimony and is a question that perhaps lawyers might settle in a different form, but because of the time constraints cannot. I think this is precisely why we have this in the home rule bill.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, can the gentleman tell us specifically, I understand and we all understand acutely the obligations of host governments to foreign embassies in recent months, but precisely what embassy is the problem? Is there some country that cannot wait until February to decide where to place their chancery?

Mr. STARK. Mr. Speaker, if the gentleman will yield further, this gentleman knows of no particular embassy application. The issue is broader and relates to the issue of the location of embassies and chanceries in general. The question of waiting changes the structure. The question there is one of philosophy and personal choice. We held hearings yesterday and six of the eight representatives of the District government suggested that the resolution of disapproval would be preferable. If we waited until February we would have to introduce a bill. That means we would be directly legislating District laws. This gentleman feels that that is less desirable. As I said earlier, it is the lesser of two evils. I would rather disapprove, let them come back with a different law. I think that is less interference in home government than it is for us to come in. Our only alternative, if we were to carry out the wishes of the Executive and protect the Federal interest, as I think is our job on the District Committee, is that we would have to, in effect, write the zoning laws of the District. I would rather disapprove and let them come back.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, I say to the gentleman from California (Mr. STARK) that I recall very vividly the reluctance of the gentleman's committee on the District of Columbia to address itself to the need of vetoing the District gun control law, which many of us thought was an overstepping of home rule. I do not recall the gentleman speeding to the floor with a resolution of disapproval in that instance against the possibility of legislation that might be illegal.

Ultimatley in that case the decision was not to disturb the home rule powers. I am not sure that the place for these chanceries is any more important or less important than that issue.

Mr. STARK. Mr. Speaker, if the gentleman will yield further, in the case of the gun control question, we received no recommendations from the Justice Department, the Department of Defense or the CIA or from any other body that the Federal interest was in danger.

In this case we have received word from the White House and the State Department, the Committee on Foreign Affairs of the House, that there was a Federal interest.

I would not take unto myself to decide where the Federal interest is more important. That is for the gentleman from Maryland and this gentleman from California each to decide in our own way; except that we were called on by these members of the executive to look after the Federal interest in this instance and we were not in the instance of gun control.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, what was the vote of the District of Columbia Committee on this issue today?

Mr. STARK. As I recall, it was 8 in favor and 6 opposed.

Mr. BAUMAN. So it hardly has any unanimity behind it.

Mr. STARK. The gentleman is quite correct.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. Of course, I yield to the distinguished chairman of the Committee on the District of Columbia.

Mr. DELLUMS. Mr. Speaker, I thank my distinguished colleague for yielding to me.

The reason why I was not prepared to handle this resolution of disapproval is because I did not choose to be associated with it.

First of all, we are a legislative body. In the course of conducting our business as legislators, we enacted several pieces of legislation dealing with the lives of the people of the District of Columbia. One of those instruments was the Home Rule Act. In that Home Rule Act, we established a provision that said that if Members of Congress felt that the acts of the city council threatened, compromised, or otherwise confused the Federal interest, the Congress had 30 legislative days within which to exercise a legislative veto.

I think all of us will agree here that veto is an extraordinary procedure. It is my assertion that a veto should only be used—should only be used as a last resort.

I think that this matter can be worked out. I tried diligently to work out an agreement with my distinguished colleague from California that the gentleman chose to back away from, which was simply to say this, that the days are running with respect to the amount of time that Congress has to act. If the Speaker of the House chose to adjourn the first session of this Congress sine die, we would then have enough days to come back to intelligently discuss and debate this matter.

We could hold hearings. We could question witnesses. We could try to resolve this matter in an intelligent and in a cogent fashion. It was the opinion of the Chair that we could not do that by today or tomorrow. So I suggested that if the House is to adjourn sine die, we would then have enough time to come back at the end of January and intelligently look at this question. If the Speaker chose not to adjourn sine die and the days ran, my commitment was that as a legislative body, let us then come back to the organic legislation, either under the Fulbright Act which deals with zoning regarding Embassies and chanceries, or the Home Rule Act itself and see whether or not there is any ambiguity in those two organic pieces of legislation that we as a legislative body could more perfectly refine.

It is clear that the city council thought that they had a prerogative here. So at best it is a debatable question. If the Congress did not want to see any confusion in what it perceived to be the Federal interest and the local interest, then it seems to me we should go back to that organic legislation and study and peruse it carefully and then come back with a recommendation on how to make that Federal interest more perfect.

If we thought that we were covering the chanceries and the Embassies, and so forth, in our original piece of legislation, whether it was under the Home Rule Act or the Fulbright Act, then it would seem to me that we have no problem here; but if there is ambiguity, my suggestion was let us in the spirit of intelligence and time sit down as legislators and make our policy instrument more perfect, so that we could move away from this level of conflict.

Eight of my colleagues chose not to go that way. The question is obviously, why? The State Department suggests that there are paramount issues here. I would suggest that between now and the latter part of January, the first part of February, America's foreign policy is not going to collapse. The State Department is not going to collapse. Our role in the world is not going to deteriorate in any fashion. To believe that is an insult to one's intelligence, to one's politics and to one's person.

It seems to me that 30 days is not going to collapse our role in the world. Therefore, reasonably and intelligently, we have time to work this matter out.

Today I went over to the City Council to meet with a number of them to try to persuade them to enact an emergency piece of legislation that would move back the date of enactment of this legislation for 90 days, then giving the City Council and the State Department an opportunity to try to resolve their differences. We were not able to do that.

My colleague, the gentleman from California, chose to address this issue in the committee and received eight votes. Six of us opposed it. I was one of the people who opposed it.

I think that this is an extraordinary measure. I think we open up floodgates here.

When we voted the Home Rule Act, we were saying to the residents of the District of Columbia, "To the best of our ability, we are going to remove ourselves from your lives."

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Mr. Speaker, any time we inject ourselves into their lives it would seem to me there ought to be a timely and overriding and compelling reason to do so. I do not see that overriding and compelling reason to do so, and that is why I am totally and unalterably opposed to the action that is before this body today, this resolution of disapproval. That is a horrible precedent to set. I think every Member of this House who really understands this issue knows that there ought to be another way to do it.

I talked with the chairman of the Committee on Foreign Affairs, the gentleman from Wisconsin (Mr. ZABLOCKI), and a number of other Members, and they have all stated clearly that "we would like to do it differently." There is a way to do it differently. We do not have to jam this resolution down the City Council's throat. I think we can provide the necessary forum.

I agree with my colleague, that I find it almost incredible that a number of my colleagues who find themselves in strong support of freedom and justice and self-determination for the residents of the District of Columbia could find themselves on this floor advocating a resolution of disapproval.

The question here is one of principle. I do not suggest that there is not an issue here. I believe there is an issue, but the overriding question is the principle of home rule. I do not believe we should tamper with home rule unless there is some extraordinary reason to do so. I do not see that extraordinary reason, and I think if my colleague and a number of my other colleagues would listen to this deeply, we would soundly defeat this resolution.

I am not going to ask for a record vote on this because I do not want to see it go down that way at all. In fact, I would not like to even see it voted on, but I would hope a number of my colleagues would come to my support with a strong voice vote against this proposition.

We should stay out of the business of the District of Columbia. We should go back and look at the organic legislation, and if we failed to make the legislation clear, if the language is ambiguous, then it is within our prerogative to make that instrument more perfect and really define the roles. I think that giving us the 30 or 45 days is not asking too much.

Mr. Speaker, I think the State Department has been guilty of distortion, and I believe its lobbying efforts have been absolutely incredible regarding this one item.

Mr. Speaker, let me make one final comment. I raise a question on two points. No. 1, yesterday the gentleman from California (Mr. STARK) held oversight hearings on this matter. Residents of the District of Columbia who are citizens of the various neighborhoods did not have an opportunity to come before that committee to express their views.

To that extent I challenge the validity of those hearings. They were not full-fledged hearings, they were not well-balanced hearings where all parties to this situation had an opportunity to freely express themselves.

There are chanceries in San Francisco, in New York, and other places, and those city councils have an opportunity to zone wherever they want.

If we have a problem, let us not come down on Washington, D.C. The home rule bill was an effort to try to remove the District of Columbia from this unique posture. If we have a problem nationally, then let the Committee on Foreign Affairs adopt a piece of legislation that develops national standards for the treatment of any embassy or any chancery anywhere in the country, but let us not come down on the residents of the District of Columbia. That flies in the face of the principle of home rule and self-determination.

We have the capacity to intelligently and reasonably, within appropriate time constraints, deal with this matter.

Mr. Speaker, I thank my colleague for yielding to me. I feel very strongly and very emotional about this because I think we do not want to open this floodgate. Heaven knows when we will be able to close it.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, let me point out that the request that was made was for immediate consideration, and I point out further to the gentleman from California (Mr. DELLUMS) that one objection would prevent that consideration. So if that objection were made, there might not be a need for a vote on this issue.

The gentleman has offered a persuasive argument that there is an alternative legislative route. Frankly, the gentleman has posed a real problem for the gentleman from Maryland, having to choose between the District of Columbia City Council and the State Department, I must confess.

Mr. Speaker, with that comment, I yield to my respected colleague, the gentleman from Virginia (Mr. ROBERT W. DANIEL, JR.)

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, I thank the gentleman from Maryland for yielding.

I would just provide briefly my perspective as the ranking minority member present from the Committee on the District of Columbia.

First, I might point out that the vote in the subcommittee in favor of this resolution was unanimous. If we look at the history of home rule, with its successes and failures, I think that the record will fairly well balance out on this question of prerogative or on the question of home rule against the Federal interest over the past 5 years.

However, if we look at the Home Rule Act, we find that the Council has no authority to engage in zoning matters or matters affecting the Federal interest, and it has clearly exercised such authority which they lack.

So we are the only referee on the field, and the other body has expressed itself on this matter. The subcommittee unanimously expressed itself, and the full committee this afternoon did the same. It is our duty, I believe, to pass this resolution of disapproval, clearly and simply because the legitimate bounds of the jurisdiction of the Council have been exceeded.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, I am very pleased to get the judgment of my colleague, whose judgment I respect on this matter.

Mr. GREEN. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from New York.

Mr. GREEN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I have to express my sympathy with the citizens and the government of the District of Columbia, because in New York, as the home of the United Nations, we face many of the same problems the District does.

But the problems that we face in housing foreign missions are not unique. Many of the cities of this country, such as Chicago, Houston, Los Angeles, Miami, New Orleans, and San Francisco, have very significant numbers of foreign missions. We find, however, unlike the situation in the District of Columbia, where the U.S. Secret Service Uniformed Division provides a very significant degree of help to the District in terms of protecting these missions, we are generally forced to provide the security for these missions on our own.

In New York City we spend approximately $8 million a year in providing daily police protection to foreign nations' consulates, residences, and private property, as well as intercity travel coverage for visting foreign dignitaries.

In 1975 we thought our problem was solved when the Foreign Mission Protection Act of 1975 was passed. Alas, we discovered that in the fine print of that bill it provided that the reimbursement we were to get was only to be for "extraordinary" protective functions. While our city administration thought that "extraordinary" protective functions would cover anything other than the routine patrol car or the policeman on the beat going around the neighborhood, in fact the Treasury Department has taken a very narrow attitude as to what constitutes "extraordinary" protective functions. As a result, we are getting very little reimbursement for the very significant amounts of money we are spending and the very significant diversion of our police from their normal routine of protecting the citizens of the City of New York.

Mr. Speaker, I cannot let the opportunity of this resolution slip by without pointing out that I have introduced a bill, H.R. 5459, which is languishing in the Committee on Foreign Affairs and which would give us more generous reimbursement for performing what is, under international law, an obligation of the national government.

Mr. BAUMAN. Mr. Speaker, if I may reclaim my time, I am sure that I am in sympathy with home rule for New York City, but I do seem to remember that the Congress addressed itself to the need for Federal assistance to the gentlemans' city at great length and in great amount only in the last few years, and perhaps you could divert a few of the billions of dollars you borrowed on credit for that purpose.

Mr. GREEN. Mr. Speaker, if the gentleman will again yield, the gentleman will remember that that assistance applied only to capital budget funds and did not apply to expense budget funds such as police operations. So the assistance which the Congress noted in the form of loan guarantees does not cover these mission security problems, and I point this out especially since the gentleman did not vote for that New York City loan guarantee bill.

Mr. Speaker, in conclusion I point out that we do have a problem here. I think all of us have had very forcefully brought to our attention, as a result of the unhappy events in Iran and the attacks on other U.S. Government missions around the world, the fact that it is the obligation of the host country to see that there is adequate security for the foreign missions. In New York City, within the past few months we have had two bombings of the Cuban mission and a bombing of the Soviet mission.

Mr. Speaker, I would hope that the Members of this House would recognize that as we call on other countries to fulfill their obligations to protect our missions, we have an obligation to fulfill the reciprocal duty to protect foreign missions in New York City, and in other cities of the Nation, and that this is an obligation we cannot, without adequate recompense first on those municipalities.

Mr. STARK. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from California.

Mr. STARK. Mr. Speaker, I would like to read to the gentleman a part of the

Home Rule Act. In title VI, under "Reservation of Congressional Authority," the limitations on the Council are very simple. This is what it says:

> The Council shall have no authority to pass any act contrary to the provisions of this Act except as specifically provided in this Act, or to . . . or enact any act to amend or repeal any Act of Congress, which concerns the functions or property of the United States. . . .

That really basically is what the law says.

Mr. BAUMAN. The gentleman contends that the location of chanceries within the District of Columbia is a function of the United States?

□ 1950

Mr. STARK. Very definitely. It is a relationship to treaties that we have signed with other nations, and it is a function of the Executive.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, I yield to my colleague, the gentleman from Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. I thank the gentleman for yielding.

Mr. Speaker, on that very point, I was not at the meeting that the gentleman from California chaired yesterday, but I did read each statement which had been filed yesterday and I talked to people who had been there. The statements that were filed and the testimony given at the hearing yesterday indicated that the current Corporation Counsel for the District of Columbia did testify that in her judgment there was indeed authority on the part of the District of Columbia City Council to enact the ordinance which they enacted dealing with the zoning for the implanting or the emplacement of chanceries. So that let not the unanimous verdict at the subcommittee level or statements made turn away from the fact that the current Corporation Counsel stated that in her judgment there was indeed authority. So that what the gentleman from Maryland has asked of the gentleman from California is valid. There may not be—and in the opinion of an eminent legal scholar, there is not—the kind of Federal interest or U.S. interest which would make what was done by the D.C. City Council be bankrupt or be without force of judgment.

Mr. BARNES. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. Further reserving the right to object, I yield to my colleague, the gentleman from Maryland (Mr. BARNES).

Mr. BARNES. I thank the gentleman for yielding.

Mr. Speaker, on this point of whether or not there is a Federal interest, I think the interest is very clear. I have the privilege of serving on both the District of Columbia Committee and the Foreign Affairs Committee, and it has become clear to many of us on the Foreign Affairs Committee, from discussions with our colleagues and from discussions with those in the White House and the State Department that not only is there a national interest for the United States with respect to this question, there is an international issue at stake.

The gentleman asked earlier whether or not there is any one embassy or any one chancery that is seeking at this point to have a new location within the District of Columbia that would be affected by this legislation. I was told today by the State Department that there are between 20 and 30 countries that have underway plans for the placement of chanceries within the District of Columbia.

It is an issue of substantial importance to our foreign policy, to our relations with countries all over the world, and it is clearly the kind of national, indeed international, interest that was envisioned when Congress retained in the home rule law the authority to review actions of the city government and to have a 30-day period in which to nullify those actions if they went against the interests of our national and international programs and policies. I think that is precisely what we have before us, an action of the District of Columbia government that is inconsistent with the international interest of the United States.

On that basis, in the committee I was one of the members who voted in the majority to support the resolution of disapproval with some reluctance. I do not think the Federal Government should interfere in the operations of the District of Columbia unless there is some overriding interest. This is clearly an instance in which I came to the conclusion that the case justified that action.

Mr. BAUMAN. Further reserving the right to object, Mr. Speaker, I would say to the gentleman that I recall, for instance, in the case of the Soviet Union, we had to negotiate with them at great length before we got the permission to expand our Embassy in Moscow. Most governments dictate to foreign Embassies precisely what restrictions will be imposed. I have no great confidence that the residents of the District would be particularly protected by the State Department in the placement of foreign buildings if indeed their typical foreign policy decisions carry over into their zoning decisions.

I can understand the argument for a Federal presence in such decisions, but the gentleman from California (Mr. DELLUMS) has presented an alternate method of dealing with this problem next month.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. Further reserving the right to object, Mr. Speaker, I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I do not think that we can take the Soviet Union as a model for our behavior.

Mr. BAUMAN. I certainly hope not.

Mrs. FENWICK. And I really think that whether or not they treat our Embassy with the courtesy which in every civilized country, as a rule, our Embassy and other Embassies receive should not be an overriding consideration here. I attended all of the hearings on this matter and listened to every witness. The Planning Commission and the Zoning Commission were both absolutely opposed to the action of the council.

Maybe they are not important, but we set them up, they are supposed to consider these things, and they were both opposed. They are the bodies which are charged with the proper handling of the affairs of the city in relation to the Federal presence. The Federal presence does bring problems, and everybody knows it. It takes property off of the tax rolls. The Capitol in which we sit here has been considered a detriment to the people of Washington because we pay no taxes. So there is a problem. But in every civilized country the State Department handles these problems for the nations. And all of those new nations who have come now to nationhood will certainly not understand how it is that things are done properly and well in other countries but when you come to the United States you cannot get any answers in a civil and prompt way.

On the matter of planning the Zoning Commission, I think 4 out of 5 of them—and one of them was unanimous, one of these bodies—when we come to the question of whether to do the veto, or the resolution of disapproval, or the new law, prefer the resolution of disapproval. To them it is less binding and humiliating. They are not particularly interested in having the law opened up all over again.

Dr. Walter Lewis has vehemently spoken. He said, "I have been a resident of Washington all of my life, I have always been in favor of home rule, but I think we must have a veto disapproval."

He is on the Zoning Board, so, of course, he feels very strongly against the action of the Council.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. Further reserving my right to object, I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman.

Mr. Speaker, I do not want to prolong this too much, but I would remind the Members, in amplification of what the gentleman said, about how wonderful and congenial the Russians are as hosts to the Americans in Moscow. They only direct all of those microwave beams on our personnel. So they are not really what I would call paragons to be compared to. I fully think the District of Columbia should have a right to ordain and designate how chanceries and embassies are to be held.

One more point, and I will conclude. I think it is important—to me, at least—that where there is any shadow of a doubt, any scintilla of evidence that the District of Columbia has the authority to enact in this case zoning matters with regard to the implanting and emplacement of embassies and chanceries, it seems to me that the Congress ought not to quickly veto or override that power. If the District of Columbia were flouting a direct mandate of the Congress, if they were defying the Congress in a clear statement, then I think there would be no question that they should be chastised, they should be vetoed. But that is not the situation here.

So I would again say to those who would have a feeling for the District of Columbia that in this case I think they have authority. Their own Corporation Counsel thinks they have authority. I believe that in that situation the resolution of disapproval ought not be voted up.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Speaker, I have been sitting here for the last 35 minutes listening to the debate under the reservation of objection of the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. The gentleman has been very patient.

Mr. KAZEN. I have been listening to the debate very patiently. But I think that this debate has really got to be terminated at some point.

Mr. ASHBROOK. Mr. Speaker, I will just object, then.

The SPEAKER pro tempore. Is there objection to the original request?

Mr. ASHBROOK. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. STARK. Mr. Speaker, would the gentleman withhold his objection? Would the gentleman withhold his objection for a question?

Mr. ASHBROOK. Yes, I would reserve it.

The SPEAKER pro tempore. Does the gentleman from Ohio (Mr. ASHBROOK) reserve the right to object?

Mr. ASHBROOK. I reserve the right to object, Mr. Speaker.

Mr. STARK. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I have requested this procedure because the alternate procedure is a privileged motion which is at the desk which allows up to 10 hours of debate, which is the identical motion, and it would take the House some more time.

I would be glad to yield to any Member under the other debate procedure and allow every Member time for debate. I would hope to save the House time, and I would urge the gentleman to allow us to call up the Senate resolution.

Mr. ASHBROOK. Mr. Speaker, I will still object.

The SPEAKER pro tempore. Objection is heard.

TO DISAPPROVE THE LOCATION OF CHANCERIES AMENDMENT ACT OF 1979, PASSED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA

Mr. STARK. Mr. Speaker, under the home rule statute (Public Law 93-198, sec. 604(g)), I move to proceed to the immediate consideration of House Concurrent Resolution 228 as a privileged resolution and ask unanimous consent that general debate thereon be limited to one-half hour, to be equally divided between the gentleman from Virginia and myself.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on consideration of the concurrent resolution.

The motion to consider the House concurrent resolution was agreed to.

☐ 2000

The SPEAKER pro tempore. Is there objection to the request offered by the gentleman from California (Mr. STARK) to limite debate to one-half hour?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, we have already had the debate. I do not know why the gentleman needs a half hour, frankly.

Mr. STARK. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from California.

Mr. STARK. Mr. Speaker, it is to accommodate anybody who has not had an opportunity to speak on the issue.

Mr. BAUMAN. I think 10 hours is worth it on this.

I object.

The SPEAKER pro tempore. Objection is heard.

Mr. STARK. Mr. Speaker, I ask unanimous consent that general debate be limited to 20 minutes, to be divided between myself and the gentleman from Virginia.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. MAZZOLI. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

MOTION OFFERED BY MR. STARK

Mr. STARK. Mr. Speaker, I move that debate on the concurrent resolution be limited to 20 minutes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California.

The question was taken and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MAZZOLI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 190, nays 144, not voting 99, as follows:

[Roll No. 757]

YEAS—190

Abdnor
Akaka
Alexander
Andrews, N.C.
Annunzio
Anthony
Applegate
Aspin
Atkinson
AuCoin
Baldus
Barnard
Barnes
Beard, R.I.
Bennett
Bevill
Biaggi
Boland
Bolling
Boner
Bonker
Bouquard
Bowen
Brademas
Brinkley
Broomfield
Broyhill
Butler
Campbell
Chappell
Clay
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Cotter
D'Amours
Daniel, R. W.
Danielson
Davis, Mich.
Davis, S.C.
de la Garza
Derrick
Dickinson
Dicks
Diggs
Dingell
Dougherty
Drinan
Edwards, Ala.
English
Erlenborn
Evans, Ind.
Fary
Fascell
Fenwick
Fisher
Fithian
Flippo
Florio
Foley
Fowler
Frost
Gaydos
Gingrich
Gonzales
Gore
Gramm
Guarini
Gudger
Guyer
Hamilton
Hance
Harris
Heckler
Hefner
Heftel
Hightower
Hillis
Horton
Howard
Hutto
Ichord
Ireland
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
LaFalce
Levitas
Livingston
Lloyd
Long, La.
Long, Md.
Lott
Lujan
Luken
McCormack
McHugh
McKay
Madigan
Marlenee
Martin
Mattox
Mica
Mikulski
Minish
Mollohan
Montgomery
Moorhead, Pa.
Murphy, N.Y.
Murtha
Neal
Nedzi
Nelson
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Pashayan
Patten
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pursell
Ratchford
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Roth
Russo
Sabo
Satterfield
Sawyer
Schroeder
Shannon
Sharp
Shelby
Shuster
Skelton
Slack
Smith, Iowa
Snyder
Spellman
St Germain
Staggers
Stangeland
Stark
Stenholm
Stanton
Stump
Swift
Traxler
Trible
Udall
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Weaver
Whitehurst
Whitley
Whitten
Wilson, Tex.
Wirth
Wolff
Wright
Wyatt
Wylie
Yatron
Young, Alaska
Young, Mo.
Zablocki

NAYS—144

Ambro
Anderson, Calif.
Archer
Ashbrook
Badham
Bafalis
Bailey
Bauman
Bedell
Beilenson
Benjamin
Bereuter
Bethune
Boggs
Bonior
Breaux
Brodhead
Buchanan
Burlison
Burton, John
Carney
Carr
Carter
Cavanaugh
Cheney
Clausen
Collins, Ill.
Conyers
Corman
Coughlin
Courter
Crane, Philip
Dannemeyer
Dellums
Donnelly
Dornan
Downey
Duncan, Tenn.
Early
Edgar
Edwards, Okla.
Emery
Erdahl
Evans, Del.
Fazio
Fish
Frenzel
Garcia
Gilman
Glickman
Goodling
Gradison
Grassley
Gray
Green
Grisham
Hall, Tex.
Hammerschmidt
Hansen
Harkin
Hawkins
Hinson
Holtzman
Hopkins
Hubbard
Huckaby
Hughes
Hyde
Jacobs
Jeffords
Jeffries
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Lederer
Lee
Leland
Lewis
Loeffler
Lowry
Lungren
McDonald
McEwen
Maguire
Marks
Marriott
Matsui
Mavroules
Mazzoli
Miller, Calif.
Miller, Ohio
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moore
Moorhead, Calif.
Murphy, Pa.
Myers, Ind.
Natcher
Nolan
Panetta
Rahall
Rangel
Regula
Reuss
Rhodes
Rinaldo
Rousselot
Roybal
Royer
Rudd
Scheuer
Seiberling
Sensenbrenner
Shumway
Smith, Nebr.
Snowe
Solarz
Solomon
Spence
Stack
Stanton
Stewart
Stokes
Studds
Symms
Tauke
Thomas
Thompson
Walker
Waxman
Weiss
Whittaker
Williams, Mont.
Wolpe
Young, Fla.

NOT VOTING—99

Addabbo
Albosta
Anderson, Ill.
Andrews, N. Dak.
Ashley
Beard, Tenn.
Bingham
Blanchard
Brooks
Brown, Calif.
Brown, Ohio
Burgener
Burton, Phillip
Byron
Chisholm
Cleveland
Coelho
Crane, Daniel
Daniel, Dan
Daschle
Deckard
Derwinski
Devine

Dixon
Dodd
Duncan, Oreg.
Eckhardt
Edwards, Calif.
Ertel
Evans, Ga.
Ferraro
Findley
Flood
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fuqua
Gephardt
Giaimo
Gibbons
Ginn
Goldwater
Hagedorn
Hall, Ohio
Hanley
Harsha
Holland
Hollenbeck
Holt
Jenkins
Johnson, Colo.
Leath, Tex.
Lehman
Lent
Lundine
McClory
McCloskey
McDade
McKinney
Markey
Mathis
Michel
Moffett
Mottl
Murphy, Ill.
Myers, Pa.
Nichols
Patterson
Paul
Pepper
Pritchard
Quayle
Quillen
Railsback
Richmond
Rosenthal
Rostenkowski
Runnels
Santini
Schulze
Sebelius
Simon
Steed
Stockman
Synar
Taylor
Treen
Ullman
Van Deerlin
Vander Jagt
White
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Winn
Wydler
Yates
Zeferetti

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Messrs. MARRIOTT, JACOBS, NOLAN, MATSUI, and BEILENSON changed their votes from "yea" to "nay."

So the motion was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. Under the motion, there are 20 minutes for debate. The gentleman from California (Mr. STARK) will be recognized for 10 minutes, and the gentleman from Virginia (ROBERT W. DANIEL, JR.) will be recognized for 10 minutes.

The Chair recognizes the gentleman from California (Mr. STARK).

Mr. STARK. Mr. Speaker, I had hoped that we would not have to extend the debate which we debated under reservations of objections, but as so many Members have consented to come here, I would like to explain further why this resolution of disapproval is necessary and why I ask the Members' support in its adoption.

The Home Rule Act did not simply cede authority from the Congress to the D.C. City Council. Rather, it also spelled out an elaborate process to insure protection of both Federal and local interests. That process assigned certain responsibilities and powers to the Mayor, the City Council, the National Capital Planning Commission and the Zoning Commission.

The basic issue in this matter is this: Do the City Council and the Mayor have the authority, under the Home Rule Act, to legislate in the area of international projects and developments, or is planning for international concerns fully reserved for the National Capital Planning Commission for implementation by the Zoning Commission?

The committee finds that in enacting the Location of Chanceries Amendment Act the City Council and the Mayor have exceeded their authority under the Home Rule Act. A review of the Home Rule Act leaves no doubt about Congress basic intention. The District government has the authority and chief responsibility for "essentially local" matters and interests, but the decisionmaking authority for Federal issues, including the placement of international chanceries and embassies, rests with the National Capital Planning Commission.

Prior to the effective date of home rule, the National Capital Planning Commission served as the central planning agency for both the Federal and District governments in the Capital, and exercised sole responsibility for the preparation and adoption of the Comprehensive Plan for the National Capital.

When Congress enacted the Home Rule Act, however, it divided the responsibility in the planning area. The NCPC was charged with preparing and adopting the Federal elements of the comprehensive plan for the Capital. The Mayor was assigned the function of serving as the central planning agency for the District government and preparing District elements of the comprehensive plan. The Council was given responsibility for adopting such District elements.

Congress elaborated on this basic division with several other statutory provisions that make it absolutely clear that the NCPC is preeminent in the planning area and that the District government has no authority over the location of chanceries.

First. The NCPC shall review the District elements of the comprehensive plan, prepared by the Mayor and adopted by the Council, to determine whether such District elements have a "negative impact on the interests or functions of the Federal establishment in the National Capitol." Any District element of the plan found by the NCPC to have such negative impact "shall not be implemented."

Second. The Home Rule Act provides that "nothing in (the act shall be construed as vesting in the District government any greater authority over the NCPC * * * than was vested in the Commissioner" (the pre-home rule Mayor)—which basically means the District government has no authority at all to override NCPC determinations.

Third. If these provisions left any doubt about the NCPS's responsibility for placement of the chanceries and embassies in the District, the Home Rule Act also provides that the Mayor's "planning responsibility shall not extend to Federal or international projects and developments in the District, as determined by the NCPC."

Fourth. The Home Rule Act specifically states that the Zoning Commission shall "exercise all the powers and perform all the duties with respect to zoning in the District as provided by law."

The District of Columbia Council passed a law, I think 24 days ago, which would have overridden these provisions. We had asked that they withhold. The Mayor signed the bill. There is a clear distinction as to whether the Federal interest will prevail or whether the District Council will determine what is clearly the Federal interest, the executive authority dealing with foreign governments.

For myself, Mr. CHARLES WILSON of Texas, Mr. ZABLOCKI, Mr. BROOMFIELD, Mr. FASCELL, Mr. BROOKS, Mrs. FENWICK, I submitted a concurrent resolution of disapproval. At the time I did so, I did so reluctantly because, as one of the drafters of the home rule bill, it has been 5 years since that was enacted and this has not been necessary.

There is an alternative. We could let the time expire and then legislate, but we would then have this House in the posture of drafting zoning regulations for the District of Columbia. I suggest that is more of an interference than the present procedure. This has been an issue for several years. The State Department, myself, my staff, have tried to negotiate this as late as yesterday. The city council was unwilling to rescind, and we were willing to withdraw this legislation to give additional time.

I regret that we are here to debate this resolution and vote on it. The Senate has passed it, and we would urge its adoption and hope that we would not again need to come to this body with a resolution of disapproval, and that in the future we can negotiate these matters between those with the interest of the Federal Government and the interest of the District of Columbia without the acrimony that has been necessitated by this resolution.

Mr. FASCELL. Mr. Speaker, will the gentleman yield for a question?

Mr. STARK. I am delighted to yield to the distinguished ranking member of the Committee on Foreign Affairs, the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Speaker, I reluctantly joined in the cosponsorship of this disapproval resolution because I did not see any other way out of the dilemma which we face, but do I understand correctly that the Home Rule Act provided for the National Capital Planning Commission to promulgate and adopt a Federal plan?

Mr. STARK. That is correct.

Mr. FASCELL. Am I correct in understanding that once the Federal plan was adopted by the Commission, on which the District of Columbia was represented——

Mr. STARK. The Mayor was a member.

Mr. FASCELL (continuing). It was adopted unanimously?

Mr. STARK. That is right.

Mr. FASCELL. The plan then went to the Zoning Commission of the District of Columbia for implementation representations?

Mr. STARK. That is correct.

Mr. FASCELL. And those regulations were then issued, am I correct?

Mr. STARK. That is correct.

Mr. FASCELL. Pursuant to that plan then, the Federal Government went ahead with assuring the ministries and other representatives of foreign governments that they could go ahead with their plans pursuant to that capital plan having been approved. It was a year later, just about, that the Council, then in the exercise of their alleged zoning powers, decided to change the capital plan dealing with ministries and limit the location of ministries only to office buildings and certain other small areas, contrary to the arrangements that had been agreed upon between the National Capital Planning Commission, for which zoning regulations had been issued by the District of Columbia, is that correct?

Mr. STARK. The gentleman states the case exactly.

Mr. Speaker, I yield 1 minute to the gentleman from the District of Columbia (Mr. FAUNTROY).

Mr. FAUNTROY. Mr. Speaker, I rise, obviously, in opposition to this resolution of disapproval. I do so not only because I am loath to see the Congress, for the first time in the 5-year history of our limited form of government, home rule in the District of Columbia, pass a resolution of disapproval, but also because I believe that with a bit more restraint on the part of all the parties involved we could have resolved this whole question without the necessity for this extreme action.

Admittedly, this is the first time that an act passed by the Council has had, or could remotely be considered as, a Federal interest involved. In that sense, while I know we do not have the time to recommend the kind of accommodation which I think ultimately will have to be worked out, I do want to point out several things to the Members as they prepare to vote.

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The first is that this should not, therefore, be viewed as a precedent-setting action, which would be the occasion for Members bringing to the attention of the committee disapproval resolutions on every act passed by the Congress. I personally just do not feel that the alleged adverse impact of this action by the Council and the Federal interest is as substantial as the Department of State would have us believe. Some question has been raised as to whether or not the Council in fact has the authority to do this. This is something that certainly should be settled by the courts.

The SPEAKER. The time of the gentleman has expired.

Mr. STARK. I reserve the remainder of my time, Mr. Speaker.

Mr. ROBERT W. DANIEL, JR. I yield myself so much time as I may consume.

Mr. Speaker, I would just say that there has been some obfuscation of the real issues here this evening because I think that the question was abundantly developed before the call of the House and was very clearly explained by the gentleman from California afterward. In fact, if I were not overcome with the spirit of Christmas amity, I would say that a red herring had been dragged across the path of truth here, and this red herring would be that this is somehow a judgment on home rule itself. This is not so.

The fact is that the Council has no authority to engage in zoning matters relating to the Federal interest or national issues. The other body considered this matter and so voted. The subcommittee having jurisdiction voted unanimously to this effect. The full District of Columbia Committee this afternoon similarly voted that the District of Columbia City Council had engaged in an improper activity where it did not have jurisdiction. I would hope that very shortly the House would vote accordingly.

I see no apparent requests for time on this side, so I would reserve the remainder of my time.

Mr. MAZZOLI. Mr. Speaker, would the gentleman from Virginia yield to the gentleman from Kentucky 2 minutes out of the generosity of his heart at Christmastime?

Mr. ROBERT. W. DANIEL, JR. In the Christmas spirit I will yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman from Virginia for yielding, who is a true gentleman from the University of Virginia in heart and in spirit.

I would like to take the 2 minutes the gentleman yields to be sure that the House labors under no misapprehension that the only gentleman in the House who stands against this motion of disapproval is the gentleman who represents the District, Mr. FAUNTROY, because the gentleman from Kentucky is against the motion of disapproval, as I voted accordingly at our meeting this afternoon.

I think, Mr. Speaker, when you scrape away all of the words and all of the legal niceties and all of the syllogisms and all of the sophistry, you come down to a really very hard, cold fact, and that is, should the elected representatives of 750,000 people in this District have anything whatsoever to say about the quality of life, or the lifestyle of their community? The gentleman from Kentucky, having heard the evidence and having read the statements, came to the conclusion this afternoon that, indeed, the District of Columbia does have the authority to do what it did, and that the gentleman's opinion is shared and amplified and reinforced by the opinion of the Corporation Counsel of the District of Columbia who testified yesterday at the hearing that, indeed, she felt that the District of Columbia had this power.

I would conclude, Mr. Speaker, by saying that any time there is any shadow of evidence, any scintilla as those of us who went to law school would say, that there is the authority on the part of the elected body to take action, I believe this House ought to be loathe, very loathe to do anything which would veto that power, which would roll that power over, or which would, in a sense, assert ourselves where we should not be involved. So accordingly, I would urge my friends in the House to take this opportunity to think it out and to vote against the motion of disapproval which has been put forward by my friend, the gentleman from California (Mr. STARK).

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, I will have to regain my time at this point.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. ROBERT W. DANIEL, JR. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding. I would like to point out that, yes, the corporation counsel said there was a way, although totally illegal for the mayor, which was felt to be perhaps legal for the council; but three other counsels said it was not—the counsel for the Planning Commission, the counsel for the Zoning Board, and another counsel said it was not. So if one is going to weigh the views of counsels, one out of four said it might be appropriate three did not. That it was illegal for the mayor, was declared by all.

Mr. MAZZOLI. If the gentleman from Virginia would yield for one final statement on my part, there is only one corporation counsel, and that corporation counsel said there was authority. There are other counsels, but the corporation counsel who said that was resident in the District of Columbia.

Mrs. FENWICK. If the gentleman from Virginia would yield further, the prior corporation counsel said three times it was illegal. This is the first time it has been said to be legal, and it was one, not three, who said it was legal. Three said it was not.

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, I yield back the remainder of my time.

Mr. STARK. Mr. Speaker, I move the previous question on the concurrent resolution.

The previous question was ordered.

The SPEAKER. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. STARK. Mr. Speaker, I call up from the Speaker's table the Senate concurrent resolution (S. Con. Res. 63) to disapprove the Location of Chanceries Amendment Act of 1979 passed by the city council of the District of Columbia, an identical concurrent resolution, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Reserving the right to object, do we have to pass this?

Mr. STARK. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman.

Mr. STARK. I thank the gentleman for yielding. If we could gain the concurrence of the House to Senate Concurrent Resolution 63, it would save the Parliamentarian the trouble of running a resolution we have just passed over to the Senate where Mr. EAGLETON would pass it tonight.

Mr. BAUMAN. The other body has already acted on this?

Mr. STARK. Yes, it has.

Mr. BAUMAN. It is identical?

Mr. STARK. It is an identical resolution.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 63

Resolved by the Senate (the House of Representatives concurring), That the Congress disapproves of the action of the District of Columbia Council, described as follows: The Location of Chanceries Amendment Act of 1979, act 3–120, passed by the Council of the District of Columbia on October 9, 1979, signed by the Mayor on November 9, 1979, and transmitted to the Congress pursuant to section 602(c) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, on November 19, 1979.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STARK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate Concurrent Resolution 63 just concurred in.

The SPEAKER. Is there odbjection to the request of the gentleman from California?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. RHODES. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. RHODES. Would the Chair tell the House what the next order of business is?

The SPEAKER. The Chair is going to recognize the gentleman from Washington (Mr. FOLEY) for a joint resolution.

Mr. RHODES. I am pleased about that, but I would like to be recognized at some time.

The SPEAKER. The Chair will advise the minority leader, that the conferees are about 10 minutes away from bringing the Chrysler bill back from conference. It was about 2 hours ago that the managers signed the report, and the staff people informed us at 8 o'clock that they should be here in a half hour. That has already gone by. The Chair said earlier that he would give the House notification of 15 minutes. So for that reason we would like to see if we can continue along without going into a recess.

The Chair now recognizes the gentleman from Washington (Mr. FOLEY).

☐ 2040

EXTENDING DATE FOR SUBMISSION OF PRESIDENT'S BUDGET AND ECONOMIC REPORT

Mr. FOLEY. Mr. Speaker, I send to the desk a joint resolution (H.J. Res. 468), extending the date for submission of the President's Budget and Economic Report, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 468

Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled, That (a) notwithstanding the provisions of section 201 of the Act of June 10, 1922, as amended (31 U.S.C. 11), the President shall transmit to Congress not later than January 28, 1980, the budget for the fiscal year 1981, and (b) notwithstanding the provisions of section of the Act of February 20, 1946, as amended (15 U.S.C. 1022), the President shall transmit to the Congress not later than January 30, 1980, the Economic Report.

The joint resolution was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

RECESS

The SPEAKER. The House will stand in recess until the hour of 8:50 p.m.

Accordingly (at 8 o'clock and 42 minutes p.m.), the House stood in recess until 9:02 p.m.

☐ 2100

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 9 o'clock and 2 minutes p.m.

CONFERENCE REPORT ON H.R. 5860, CHRYSLER CORPORATION LOAN GUARANTEE ACT OF 1979

Mr. REUSS submitted the following conference report and statement on the bill (H.R. 5860) to authorize loan guarantees to the Chrysler Corp.:

CONFERENCE REPORT (H. REPT. No. 96–730)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5860) to authorize loan guarantees to the Chrysler Corporation, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Chrysler Corporation Loan Guarantee Act of 1979".

DEFINITIONS

SEC. 2. For purposes of this Act—

(1) the term "Board" means the Chrysler Corporation Loan Guarantee Board established by section 3;

(2) the term "borrower" means the Chrysler Corporation, any of its subsidiaries or affiliates, or any other entity the Board may designate from time to time which borrows funds for the benefit or use of the Corporation;

(3) the term "Corporation" means the Chrysler Corporation and its subsidiaries and affiliates;

(4) the term "financing plan" means a plan designed to meet the financing needs of the Corporation as reflected in the operating plan and indicating in accordance with the requirements of section 8 the amounts to be provided at dates specified (for each year of the plan) from internally generated sources (including earnings and cost reduction measures), from loans guaranteed under this Act, and from nonfederally guaranteed assistance as required pursuant to section 4(a)(4);

(5) the term "fiscal year" means the fiscal year of the Corporation;

(6) the term "going concern" means a corporation the net earnings of which, as projected in the plan required under section 4(a)(3), are determined to be sufficient to maintain long-term profitability after taking into account probable fluctuations in the automobile market, and which meets such other tests of viability as the Board shall prescribe;

(7) the term "labor organization" has the same meaning as in section 2 of the National Labor Relations Act;

(8) the term "operating plan" means a document detailing production, distribution, and sales plans of the Corporation, together with the expenditures needed to carry out those plans (including budget and cash flow projections), on an annual basis, a productivity improvement plan setting forth steps to be taken by the Corporation and its workers to achieve a higher productivity growth rate, and an energy efficiency plan setting forth steps to be taken by the Corporation to reduce United States dependence on petroleum, in accordance with section 4(a)(3);

(9) the term "persons with an existing economic stake in the health of the Corporation" means banks, financial institutions, and other creditors, suppliers, dealers, stockholders, labor unions, employees, management, State, local, and other governments, and others directly deriving benefit from the production, distribution, or sale of products of the Corporation; and

(10) the term "wages and benefits" means any direct or indirect compensation paid by the Corporation to employees of the Corporation and shall include, but is not limited to, amounts paid in accordance with wage scales, straight time hourly wage rates, base wage rates, base salary rates, salary scales, and periodic salary grades, overtime premiums, night shift premiums, vacation payments, holiday payments, relocation allowance, call-in pay, bonuses, bereavement pay, jury duty pay, paid absence allowances, short-term military duty pay, paid leaves of absence, holiday pay including personal holidays, and medical, health, accident, sickness, disability, hospitalization, insurance, pension, educational, and supplemental unemployment benefits.

CHRYSLER CORPORATION LOAN GUARANTEE BOARD

SEC. 3. There is established a Chrysler Corporation Loan Guarantee Board which shall consist of the Secretary of the Treasury who shall be the Chairperson of the Board, the Chairman of the Board of Governors of the Federal Reserve System, and the Comptroller General of the United States. The Secretary of Labor and the Secretary of Transportation shall be ex officio nonvoting members of the Board.

AUTHORITY FOR COMMITMENTS FOR LOAN GUARANTEES

SEC. 4. (a) Subject to the provisions of this Act, the Board, on such terms and conditions as it deems appropriate, may make commitments to guarantee the payment of principal and interest on loans to a borrower only if at the time the commitment is issued, the Board determines that—

(1) there exists an energy-savings plan which—

(A) is satisfactory to the Board;

(B) is developed in consultation with other appropriate Federal agencies;

(C) focuses on the national need to lessen United States dependence on petroleum; and

(D) can be carried out by the borrowers;

(2) the commitment is needed to enable the Corporation to continue to furnish goods or services, and failure to meet such need would adversely and seriously affect the economy of, or employment in, the United States or any region thereof;

(3)(A) the Corporation has submitted to the Board a satisfactory operating plan (including budget and cash flow projections) for the 1980 fiscal year and the next succeeding three fiscal years demonstrating the ability of the Corporation to continue operations as a going concern in the automobile business, and after December 31, 1983, to continue such operations as a going concern without additional guarantees or other Federal financing; and

(B) the Board has received such assurances as it shall require that the operating plan is realistic and feasible;

(4) the Corporation has submitted to the Board a satisfactory financing plan which meets the financing needs of the Corporation as reflected in the operating plan for the period covered by such plan, and which includes an aggregate amount of nonfederally guaranteed assistance of at least $1,430,000,000 as determined under subsection (b)—

(A) from financial commitments or concessions from persons with an existing economic stake in the health of the Corporation in excess of commitments or concessions outstanding as of October 17, 1979, or from other persons;

(B) from capital to be obtained through merger, sale of securities or otherwise after October 17, 1979;

(C) from cash to be obtained from the disposition of assets of the Corporation after October 17, 1979; and

(D) from the issuance of $100,000,000 of common stock of the Corporation which shall be made available by the Corporation to its employees and labor organizations which are parties to collective bargaining agreements with the Corporation;

(5) the Board has received adequate assurances regarding the availability of all financing contemplated by the financing plan and that such financing is adequate (taking into account the amount of guarantees to be made available and the amount of wages and benefits not to be paid as a result of section 6) to meet all the Corporation's projected financing needs during the period covered by the financing plan;

(6) the Corporation's existing creditors have certified to the Board that they will waive their rights to recover under any prior credit commitment which may be in default unless the Board determines that the exercise of those rights would not adversely affect the operating plan submitted under paragraph (3) or the financing plan submitted under paragraph (4);

(7) no credit extended or committed on a nonguaranteed basis prior to October 17, 1979, is being converted to a guaranteed basis pursuant to this Act; and

(8) the financing plan submitted under paragraph (4) provides that expenditures under such financing plan will contribute to the domestic economic viability of the Corporation.

(b)(1) For the purpose of computing the aggregate amount of at least $1,430,000,000 in nonfederally guaranteed assistance required to be provided under subsection (a)(4)—

(A) the term "financial commitment" means a legally binding commitment to provide additional nonfederally guaranteed assistance to meet the financing needs of the Corporation in excess of any such commitments outstanding as of October 17, 1979;

(B) the term "concession" means a legally binding commitment (or in the case of a concession from a State, local, or other government, a concession for which the Board has received adequate assurances) which will result in a reduction in the financing needs of the Corporation by an amount which is more than the amount of any reduction accomplished by any concessions outstanding as of October 17, 1979, and, except for a loan or other credit, shall be nonrecoupable;

(C) the term "capital" means sales of equity securities, any other transactions involving non-interest-bearing investments in the Corporation, or subordinated loans on which payment of principal and interest is deferred until after all guaranteed loans are repaid; and

(D) the amount of "cash to be obtained from the disposition of assets of the Corporation" shall be determined by the Board based on a conservative estimate of the minimum value realizable in a sale, with reference to the potential circumstances surrounding such a sale.

(2) In computing the aggregate amount of at least $1,430,000,000 in nonfederally guaranteed assistance required to be provided under subsection (a)(4), there shall be excluded—

(A) the extent of any contribution, concession, or other element that does not actually and substantively contribute to meeting the Corporation's financing needs as defined in the financing plan required by this section; and

(B) deferral of any dividends on common or preferred stock outstanding as of October 17, 1979.

(c) The aggregate amount of nonfederally guaranteed assistance of at least $1,430,000,000 required to be provided under subsection (a) shall include—

(1) at least $500,000,000 from United States banks, financial institutions, and other creditors, of which—

(A) at least $400,000,000 shall be new loans or credits, in addition to the extension of the full principal amount of any loans committed to be made but not outstanding as of October 17, 1979; and

(B) at least $100,000,000 shall be concessions with respect to outstanding debt of the Corporation;

(2) at least $150,000,000 shall be from foreign banks, financial institutions, and other creditors in the form of new loans or credits, in addition to the extension of the full principal amount of any loans committed to be made but not outstanding as of October 17, 1979;

(3) at least $300,000,000 shall be from the disposition of assets of the Corporation;

(4) at least $250,000,000 shall be from State, local, and other governments;

(5) at least $180,000,000 shall be from suppliers and dealers, of which at least $50,000,000 shall be in the form of capital as defined in subsection (b); and

(6) at least $50,000,000 shall be from the sale of additional equity securities.

The Board may, as necessary, modify the amounts of assistance required to be provided by any of the categories referred to in this subsection, so long as the aggregate amount of at least $1,430,000,000 in nonfederally guaranteed assistance is provided under subsection (a)(4).

REQUIREMENTS FOR LOAN GUARANTEES

SEC. 5. (a) A loan guarantee may be issued under this Act only pursuant to a commitment issued under section 4. The terms of any such commitment shall provide that a loan guarantee may be issued under this Act only if at the time the loan guarantee is issued, the Board determines that—

(1) credit is not otherwise available to the Corporation under reasonable terms or conditions sufficient to meet its financing needs as reflected in the financing plan;

(2) the prospective earning power of the Corporation, together with the character and value of the security pledged, furnish reasonable assurance of repayment of the loan to be guaranteed in accordance with its terms;

(3) the loan to be guaranteed bears interest at a rate determined by the Board to be reasonable taking into account the current average yield on outstanding obligations of the United States with remaining periods to maturity comparable to the maturity of such loan;

(4) the operating plan and the financing plan of the Corporation continue to meet the requirements of section 4 and appropriate revisions to such plans (including extensions of such plans to cover the then current four-year period) have been submitted to the Board to meet such requirements;

(5) the Corporation is in compliance with such plans;

(6) the Board has received such assurances as it may require that such plans are realistic and feasible;

(7) the Corporation has agreed for as long as guarantees issued under this Act are outstanding—

(A) to have prepared and submitted on or before the thirtieth day preceding each fiscal year beginning after December 31, 1980, a revised operating plan and financial plan which cover the four-year period commencing with such fiscal year and which meet the requirements of section 4; and

(B) to prepare and deliver to the Board within one hundred and twenty days following the close of each fiscal year, an analysis reconciling the Corporation's actual performance for such fiscal year with the operating plan and the financial plan in effect at the start of such fiscal year;

(8) there is no substantial likelihood that Chrysler Corporation will be absorbed by or merged with any foreign entity; and

(9) the borrower is in compliance with the terms and conditions of the commitment to issue the guarantees required by the Board pursuant to section 9(b), except to the extent that such terms and conditions are modified, amended, or waived by the Board.

(b) Any determination by the Board that the conditions established by this Act have been met shall be conclusive, and such determination shall be evidenced by the issuance of the guarantee or commitment for which such determination is required. The Board shall transmit to the appropriate committees of the Congress a written report setting forth each such determination under this Act and the reasons therefor not less than fifteen days prior to the issuance of any guarantee. The validity of any guarantee when made by the Board under this Act shall be incontestable in the hands of a holder, except for fraud or material misrepresentation on the part of such holder. The Board is authorized to determine the form in which any guarantee made under this Act shall be issued.

(c) The Board shall prescribe and collect no less frequently than annually a guarantee fee in connection with each guarantee made under this Act. Such fee shall be sufficient to compensate the Government for all of the Government's administrative expense related to the guarantee, but in no case may such fee be less than one-half of 1 per centum per annum of the outstanding principal amount of loans guaranteed under this Act computed daily.

(d) To the maximum extent feasible, the Board shall ensure that the Government is compensated for the risk assumed in making guarantees under this Act, and for such purpose the Board is authorized to—

(1) prescribe and collect a guarantee fee in addition to the fee required by subsection (c);

(2) enter into contracts under which the Government, contingent upon the financial success of the Corporation, would participate in gains of the Corporation or its security holders; or

(3) use other instruments deemed appropriate by the Board.

(e) All amounts collected by the Board pursuant to subsections (c) and (d) shall be deposited in the Treasury as miscellaneous receipts.

(f) Nothing in this Act shall be interpreted to mean that any loan guarantee of the Federal Government under this Act is in any way an asset of the Corporation which can be sold or assigned by the Chrysler Corporation to any foreign entity.

REQUIREMENTS APPLICABLE TO EMPLOYEES

Sec. 6. (a) No loan guarantee may be issued under this Act if at the time of issuance or the proposed issuance the Board determines that—

(1) collective bargaining agreements entered into by the Corporation after September 14, 1979, with labor organizations representing employees of the Corporation which govern the payment of wages and benefits to such employees from September 14, 1979, to September 14, 1982, have not been modified so that the cost to the Corporation of such wages and benefits, as determined by the Board, shall be reduced by a total amount of at least $462,500,000 for the three-year period ending on September 14, 1982, below the cost of such wages and benefits which the Corporation would otherwise have been obligated to incur during such period, except that such dollar amount shall include $203,000,000 in wages and benefits to be forgone pursuant to the master collective bargaining agreement entered into on October 25, 1979, between the Corporation and the International Union, United Automobile Aerospace and Agricultural Implement Workers of America; or

(2) the Corporation has not put into effect a plan for achieving at least $125,000,000 in concessions as defined in section 4(b)(1)(B) from employees not represented by a labor organization.

(b) The limitations set forth in subsection (a) of this section shall not apply to any increase in wages or benefits required by law.

(c) Any increase in the wages and benefits of a person employed by the Corporation resulting from reclassification or reevaluation of a job or a promotion effected in order to evade the provisions of this section shall be considered an indirect form of compensation.

(d)(1) To meet the requirements of this section, the Corporation shall not enter into a collective bargaining agreement with a labor organization which—

(A) reduces the amounts and levels of wages and benefits provided by such a collective bargaining agreement beyond the labor organization's proportionate share, as determined by the Board; or

(B) reduces wages and benefits below the levels and amounts provided on September 13, 1979.

(2) For purposes of this subsection, the proportionate share of a labor organization shall be determined by multiplying the total reduction required by paragraph (1) by the quotient obtained by dividing the total number of the Corporation's employees represented by that labor organization whose proportionate share is to be determined by the total number of the Corporation's employees represented by labor organizations.

(e) The cost reduction realized by the Corporation under the terms of this subsection shall not be recoupable.

(f) If the Board determines that cash contributions from labor organizations or employees are legally committed so that the total contributions from employees and labor organizations during the period of September 13, 1979, through September 13, 1982, will exceed the total amount of wages and benefits not paid as a result of subsection (a), the Board may permit an increase in the levels and amounts of employee wages and benefits beyond the levels and amounts in effect on September 13, 1979, which would otherwise be prohibited by subsection (a), if (1) such increase will not impair the ability of the Corporation to continue as a going concern, or to meet such other tests of viability as the Board shall prescribe, and (2) the amount of such increase does not exceed the amount of the cash contributions committed.

EMPLOYEE STOCK OWNERSHIP PLAN

Sec. 7. (a) No guarantee or commitment to guarantee any loan may be made under this Act until the Chrysler Corporation, in a written agreement with the Board which is satisfactory to the Board, agrees—

(1) to establish a trust which forms part of an employee stock ownership plan meeting the requirements of subsection (c);

(2) to make employer contributions to such trust in accordance with such plan; and

(3) to issue additional shares of qualified common stock at such times as such shares are required to be contributed to such trust.

(b) No guarantee or commitment to guarantee any loan may be made under this Act after the close of the one hundred and eighty day period beginning on the date of the enactment of this Act unless the Chrysler Corporation has established a trust which forms part of an employee stock ownership plan meeting the requirements of subsection (c).

(c) An employee stock ownership plan meets the requirements of this subsection only if—

(1) such plan is maintained by the Chrysler Corporation;

(2) such plan satisfies the requirements of section 4975(e)(7) of the Internal Revenue Code of 1954 (determined without regard to subparagraph (A) of section 410(b)(2) of such Code);

(3) such plan provides that—

(A) employer contributions to the trust may be made only in accordance with requirements of subsection (d);

(B) each participant in the plan has a nonforfeitable right to the participant's accrued benefit under the plan;

(C) each employer contribution to the trust shall be allocated in equal amounts (to the extent not inconsistent with the requirements of section 415(c) of such Code) to the accounts of all participants in the plan; and

(D) distributions from the trust under the plan will be made in accordance with the requirements of section 401(k)(2)(B) of the Internal Revenue Code of 1954; and

(4) such plan benefits 90 percent or more of all employees of the Corporation, excluding the employees who have not satisfied the minimum wage and service requirements, if any, prescribed by the plan as a condition of participation.

(d)(1) Employer contributions meet the requirements of this subsection only if such contributions—

(A) will total not less than $162,500,000 before the close of the four-year period beginning not later than the one hundred and eightieth day after the date of the enactment of this Act;

(B) are made in such amounts and at such times that no time during such four-year period will the amount of employer contributions to the trust be less than the amount such contributions would have been if made in installments of $40,625,000 made at the end of each year in such period; and

(C) are made in the additional qualified common stock which the Chrysler Corporation issues by reason of subsection (a)(3).

(2)(A) In the case of a qualified loan to the trust for the purchase of qualified common stock the amount of such stock purchased with the proceeds of such loan shall be treated for purposes of paragraph (1) as an employer contribution to the trust made on the date such stock is so purchased.

(B) For purposes of subparagraph (A), the term "qualified loan" means any loan—

(i) which may be repaid only in substantially equal installments;

(ii) which has a term of not more than ten years; and

(iii) the proceeds of which are used only to purchase an amount of the additional qualified common stock which the Chrysler Corporation issues by reason of subsection (a)(3).

(e) For purposes of this section, the term "qualified common stock" means stock of the class of common stock of the Chrysler Corporation which is outstanding on October 17, 1979, and which is readily tradeable on an established securities market.

(f) An amount equal to $162,500,000 of the additional qualified common stock issued by the Corporation by reason of subsection (a)(3) shall not be treated for purposes of this Act as assistance received by the Chrysler Corporation from other than the Federal Government pursuant to section 4(c).

LIMITATIONS ON GUARANTEE AUTHORITY

Sec. 8. (a) The authority of the Board to extend loan guarantees under this Act shall not at any time exceed $1,500,000,000 in the aggregate principal amount outstanding.

(b) Subject to subsection (a), the total principal amount of loans which are guaranteed under this Act and which are outstanding at any time shall not exceed the amount of nonfederally guaranteed assistance under section 4(a) and the amount of concessions and contributions under section 6 which have accrued to the Corporation.

TERMS AND CONDITIONS OF LOAN GUARANTEES

Sec. 9. (a) Loans guaranteed under this Act shall be payable in full not later than December 31, 1990, and the terms and conditions of such loans shall provide that they cannot be amended, or any provision waived, without the Board's consent.

(b)(1) Any commitment to issue guarantees entered into pursuant to this Act shall contain all the affirmative and negative covenants and other protective provisions that the Board determines are appropriate. The Board shall require security for the loans to be guaranteed under this Act at the time the commitment is made.

INSPECTION OF DOCUMENTS; AUDIT BY THE GENERAL ACCOUNTING OFFICE

Sec. 10. (a) At any time a request for a loan guarantee under this Act is pending or a loan guaranteed under this Act is outstanding, the Board is authorized to inspect and copy all accounts, books, records, memoranda, correspondence, and other documents and transactions of the Corporation and any other borrower requesting a guarantee under this Act.

(b) The General Accounting Office may make such audits as may be deemed appropriate by the Comptroller General of the United States of all accounts, books, records, memoranda, correspondence, and other documents and transactions of the Corporation and any other borrower. No guarantee may be made under this Act unless and until the Corporation and any other borrower agree, in writing, to allow the General Accounting Office to make such audits. The General Accounting Office shall report the results of all such audits to the Congress.

(c) The Board is empowered to investigate and shall investigate any allegations of fraud, dishonesty, incompetence, misconduct, or irregularity in the management of the affairs of the Corporation which are material to the Corporation's ability to repay the loans guaranteed under this Act.

PROTECTION OF GOVERNMENT'S INTEREST

Sec. 11. (a) The Board shall take such action as may be appropriate to enforce any right accuring to the United States or any officer or agency thereof as a result of the commitment or issuance of guarantees under this Act.

(b) If the Corporation undertakes a sale of any asset having a value in excess of $5,000,000, and if the Board determines such sale is likely to impair the ability and capacity of the Corporation to repay the guaranteed loans as scheduled, or to impair the ability of the Corporation to continue as a going concern or to meet such other tests of viability as the Board shall prescribe, the Board shall not issue any further guarantees for loans under this Act, and all guaranteed loans made prior to such determination shall be due and payable in full.

(c) If the Corporation enters into any contract, including but not limited to future wage and benefit settlements, having an aggregate value of $10,000,000 or more, the Board shall determine and certify that the performance of the obligations of the Corporation pursuant to such contract will not reduce the ability of the Corporation to repay the guaranteed loans as scheduled, will not conflict with the Corporation's operating plan or financing plan as a request under this Act, and will not impair the ability of the Corporation to continue as a going concern or to meet such other tests of viability as the Board shall prescribe. If in any case such determination and certification cannot be made, the Board shall not issue any further guarantees for loans under this Act until such certification can be made, and all loans guaranteed under this Act shall be due and payable in full.

(d) The Board shall be entitled to recover from the borrower, or from any other person liable therefor, the amount of all payments made pursuant to any guarantee entered into under this Act, and upon making any such payment, the Board shall be subrogated to all the rights of the recipient thereof.

(e) The remedies provided in this Act shall be cumulative and not in limitation of or substitution for any other remedy available to the Board or the United States.

(f) The Board may bring action in any United States district court or any other appropriate court to enforce compliance with the provisions of the Act or any agreement related thereto and such court shall have jurisdiction to enforce such compliance and enter such orders as may be appropriate.

(g) A loan shall not be guaranteed under this Act if the income from such loan is excluded from gross income for purposes of chapter 1 of the Internal Revenue Code of 1954 or if the guarantee provides significant collateral or security to other obligations, the income from which is so excluded.

(h) If any provision of this Act is held to be invalid or the application of such provision to any person or circumstance is held to be invalid by a court of competent jurisdiction, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

(1) (2) Notwithstanding any other provision of law and subject to paragraphs (2), (3), and (4), whenever any person is indebted to the United States as a result of any loan guarantee issued under this Act and such person is insolvent or is a debtor in a case under title 11, United States Code, the debts due to the United States shall be satisfied first.

(2) Subject to paragraphs (3) and (4), the Board may waive the priority established in paragraph (1) if—

(A) the Board determines that the waiver of such priority is necessary to facilitate the ability of the Corporation or any borrower to obtain financing; and

(B) the Board determines that, despite such waiver, there is a reasonable prospect of repayment of the loans guaranteed under this Act.

(3) Subject to paragraph (4), waivers under paragraph (2) may only be issued—

(A) with respect to any State or local government:

(B) with respect to a supplier of the Corporation except that no supplier of the Corporation may receive waivers under paragraph (2) with respect to claims of such supplier in an amount of more than $100,000; and

(C) with respect to loans made after October 17, 1979 by any creditor of the Corporation up to a total of $400,000,000.

(4) A waiver under paragraph (2) with respect to a supplier of the Corporation or any creditor of the Corporation under paragraph (3)(C) may not by its terms subordinate the claims of the United States under this Act to those of any other creditor of the Corporation or of any borrower.

(j) The Corporation may not pay any dividend on its common or preferred stock during the period beginning on the date of the enactment of this Act and ending on the date on which loan guarantees issued under this Act are no longer outstanding.

LONG-TERM PLANNING STUDY

Sec. 12. (a) The Secretary of Transportation, after consultation with the Secretary of Energy and the Secretary of Labor, shall submit to the Board and to the Congress as soon as practicable, but not later than six months after the date of enactment of this Act, an assessment of the long-term viability of the Corporation's involvement in the automobile industry. The study shall assess the impact of likely energy trends and events on the automobile industry, including long-term capital requirements, productivity growth rate, rate of technological change, shifting market characteristics, the capability of the industry as a whole to respond to the requirements of the 1980's, and shall evaluate the adequacy of the industry's existing structure to make necessary technological and corporate adjustments. The study shall include an examination of the Corporation's capability to produce for sale an automobile similar to those vehicles developed under the research safety vehicle program of the National Highway Traffic Safety Administration. The study shall consider government procurement as one means of establishing a market for this automobile.

(b) The Secretary of Transportation shall prepare and transmit to the Congress annual comprehensive assessments of the state of the automobile industry and its interaction in an integrated economy. Each annual assessment shall include, but not be limited to, issues pertaining to personal mobility, capital and material requirements and availability, national and regional employment, productivity growth rate, trade and the balance of payments, the industry's competitive structure, and the effects of utilization of other modes of transportation.

(c) The Board shall take the results of the study and each annual assessment into account when examining and evaluating the Corporation's financing plan and operating plan.

(d) In the study and assessments required by subsection (a) and (b), the Secretary in consultation with appropriate agencies and departments shall identify any adverse effects on the economy of or on employment in the United States or any region thereof and shall make recommendations for dealing with the adverse economic and employment trends identified in such study and for proposed programs or structural or modifications of existing programs, as well as funding requirements, in such areas as economic development, community development, job retraining, and worker relocation. In addition, the Secretary may make any additional recommendations he deems appropriate to address the long term national and regional impact of reduced activity of the Corporation or of the automobile industry.

PROHIBITION ON USE OF THE FEDERAL FINANCING BANK

Sec. 13. Notwithstanding the provisions of section 6 of the Federal Financing Bank Act of 1973 (12 U.S.C. 2285) or any other provision of law, none of the loans guaranteed or committed to be guaranteed under this Act shall be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank or any other Federal agency or department or entity owned in whole or in part by the United States.

REPORTS TO CONGRESS

Sec. 14. (a) The Board shall submit to the Congress semiannually a full report of its activities under this Act during fiscal years 1980 and 1981, and annually thereafter so long as any loan guaranteed under this Act is outstanding. The final report for 1981 shall include an evaluation of the long-term economic implications of the Chrysler loan guarantee program, with findings, conclusions, and recommendations for legislative and administrative actions considered appropriate to future Federal loan guarantee programs. The study shall also consider for inclusion in any guidelines covering future assistance to corporations the following factors:

(1) the prospective economic environment at the time the assistance would have its intended effect, and the impact that either the granting or denial of assistance will have on the environment,

(2) the importance, in terms of size and in terms of goods and services rendered, of the corporation or business entity to the national economy,

(3) the appropriateness of aggregate limits for such Federal assistance per fiscal year,

(4) the order of preference for specific types of assistance, and

(5) the degree to which assisted corporations or business entities should be required to adhere to other governmental policies as a condition for the assistance.

(b) Not less than 15 days before the issuance of any loan guarantee under this Act, the Board shall transmit to the appropriate committees of the Congress a written report containing—

(1) the details of such loan guarantee;

(2) the specific assurances received by the Board under the provisions of sections 4 and 5; and

(3) the specific determinations made by the Board under the provisions of sections 4 and 5.

(c) The Board shall have the power to require the Secretary of Transportation to complete, within six months of such request, an assessment of the economic impact on the automobile industry of Federal regulatory requirements and the necessity thereof

AUTHORIZATION OF APPROPRIATIONS

Sec. 15. (a) There are authorized to be appropriated beginning October 1, 1979, and to remain available without fiscal year limitation, such sums as may be necessary to carry out the provisions of this Act.

(b) Notwithstanding any other provision of this Act, the authority of the Board to make any loan guarantee under this Act shall be limited to the extent such amounts are provided in advance in appropriation Acts.

TERMINATION

Sec. 16. The authority of the Board to make commitments to guarantee or to issue guarantees under this Act expires on December 31, 1983.

ASSISTANCE TO AUTOMOBILE DEALERS

Sec. 17. (a) The Congress finds that—

(1) automobile dealerships are, for the most part, small businesses, and

(2) current economic conditions have adversely affected automobile dealers to an unusual extent.

(b) The Administrator of the Small Business Administration (hereinafter in this section referred to as the "Administrator") shall investigate the financial problems faced by small business automobile dealers and determine what assistance through loans and loan guarantees may be needed and can be made available to alleviate such problems. The Administrator shall report the results of such investigation to the Senate and the House of Representatives not later than 60 days after the date of the enactment of this Act.

ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT AMENDMENTS

SEC. 18. Section 13(c) of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2512 (c)) is amended by adding the following new subparagraphs:

"(1) The Secretary of Energy in consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency is authorized and directed to conduct a seven-year evaluation program of the inclusion of electric vehicles, as defined in section 512(b)(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2012(b)(2)), in the calculation of average fuel economy pursuant to section 503(a) (1) and (2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(a) (1) and (2)) to determine the value and implications of such inclusion as an incentive for the early initiation of industrial engineering development and initial commercialization of electric vehicles in the United States. The evaluation program shall be conducted in parallel with the research and development activities of section 6 and demonstration activities of section 7 (15 U.S.C. 2505 and 2506) to provide all necessary information no later than January 1, 1987, for the private sector and Federal, State and local officials to make required decisions for the full commercialization of electric vehicles in the United States.

"(2) The Administrator of the Environmental Protection Agency, in consultation with the Secretary of Energy and the Secretary of Transportation, shall implement immediately the evaluation program by promulgating, within sixty days of enactment of the Act, regulations to include electric vehicles in average fuel economy calculations under section 503(a) (1) and (2) of the Motor Vehicle Information and Cost Savings Act. The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003), as amended, is further amended by adding a new section 503(a)(3) (15 U.S.C. 2003(a) (3)), which reads as follows:

"(3) In the event that a manufacturer manufactures electric vehicles, as defined in section 512(b) (2) (15 U.S.C. 2012(b) (2)), the average fuel economy will be calculated under 503(a) (1) and (2) to include equivalent petroleum based fuel economy values for various classes of electric vehicles in the following manner:

" '(A) The Secretary of Energy will determine equivalent petroleum based fuel economy values for various classes of electric vehicles. Determination of these fuel economy values will take into account the following parameters:

" '(i) the approximate electrical energy efficiency of the vehicles considering the vehicle type, mission, and weight;

" '(ii) the national average electricity generation and transmission efficiencies;

" '(iii) the need of the Nation to conserve all forms of energy, and the relative scarcity and value to the Nation of all fuel used to generate electricity;

" '(iv) the specific driving patterns of electric vehicles as compared with those of petroleum fueled vehicles.

" '(B) The Secretary of Energy will proposed equivalent petroleum based fuel economy values within four months of enactment of the Act. Final promulgation of the values is required no later than six months after the proposals of the values.

" '(C) The Secretary of Energy will review these values on an annual basis and will propose revisions, if necessary.'.

"(3) The Secretary of Energy, in consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall include a full discussion of this evacuation program in the annual report required by section 14 (15 U.S.C. 2513) in each year after promulgation of the regulations under paragraph (2). The Secretary of Energy, in consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall submit to the Congress on January 1, 1987, a final report on the results of the evaluation program and any recommendations regarding the continued inclusion of electric vehicles in the average fuel economy calculations under the Motor Vehicle Information and Cost Savings Act.".

And the Senate agree to the same.

Henry Reuss,
William Moorhead,
James J. Blanchard,
Stanley N. Lundine,
J. W. Stanton,
Stewart B. McKinney.
Managers on the Part of the House.

William Proxmire,
Dan Riegle,
Paul Tsongas,
Jake Garn,
Nancy Landon Kassebaum,
Richard G. Lugar.
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5860) to authorize loan guarantees to the Chrysler Corporation, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

1. On the issue of the contributions to be made by those with a stake in the economic health of the Corporation, the bills were identical except with respect to the contributions by the company's union and non-union employees. The conference reported bill is exactly between the Senate and House versions. The contribution of employees represented by a union must be $462,500,000 and that of the non-union employees $125 million.

2. On the issue of the Board that will administer the program, the conference reported bill accepts the Senate provision with the voting Members of the Board to be the Secretary of the Treasury as Chairman, Chairman of the Board of Governors of the Federal Reserve System, and the Comptroller General. The Secretaries of Transportation and Labor would be non-voting ex-officio Members of the Board.

3. On the issue of security of the guaranteed loans and federal priority as a creditor in case of insolvency or bankruptcy, the conference reported bill reflects a compromise. The guaranteed loans must be secured, but there is not a requirement that they be fully collateralized. The Federal Government will have full priority as a creditor with respect to existing loans to the Corporation.

It can waive priority with respect to claims of state and local governments and can accept equal position with respect to dealer claims of up to $100 thousand and with respect to up to $400 million of new loans to the Corporation. This later provision is intended to permit the Board to waive its priority with respect to up to $400 million in aggregate principal amount outstanding at any one time. The provision is intended to permit the Board to place the guaranteed loans on a parity with these new loans both as to security and as to priority.

4. On the issue of the requirements for an employee stock ownership plan, the bills were essentially identical except for the value of the stock to be issued to the plan by the Corporation. The conference reported bill is exactly between the two versions, with a required stock issuance of $162,500,000. House provisions were adopted on two largely technical differences.

5. On the issue of the binding nature of the concessions or assistance that must be guaranteed by non-federal contributors prior to loan guarantees, the conference reported bill adopts essentially the House provision. The Board must have adequate "assurances" of the required total value of the non-federal contribution before issuing commitments to guarantees. Before issuing guarantees themselves, there must be at least $1 of such non-federal contribution actually in place for each dollar of guarantee. This compromise is not intended to authorize the Board to provide short-term bridge loan financing to the Corporation.

6. It is the view of the conferees that the President should not submit to Congress any future request for Federal loans, grants, loan guarantees or any other assistance to an individual company or business in excess of $250,000,000 until such time as a thorough evaluation has been performed by the Executive and reported to the Congress. Such evaluation shall—

(1) compare the economic benefits to be derived from such assistance with benefits from alternative uses of the resources by government and market allocations of such resources;

(2) compare the economic benefits to be derived from such assistance with economic costs of a failure to provide such assistance;

(3) analyze the long-term viability of the firm and industry in question;

(4) consider technological advances and production trends affecting the firm and industry in question;

(5) analyze foreign competition affecting the industry in question;

(6) analyze general economic trends which affect the firm and industry in question;

(7) consider the long-term prospects for improving the productivity and potential for innovation of the industry in question;

7. Inclusion in the conference reported bill of language concerning acquisition of the Corporation by a foreign entity does not preclude acquisition of the Corporation by a domestic Corporation owned in whole or in part by a foreign entity.

Henry S. Reuss,
William S. Moorhead,
James J. Blanchard,
Stanley N. Lundine,
J. W. Stanton,
Stewart B. McKinney,
Managers on the Part of the House.

William Proxmire,
Don Riegle,
Paul Tsongas,
Jake Garn,
Nancy Landon Kassebaum,
Richard G. Lugar,
Managers on the Part of the Senate.

PARLIAMENTARY INQUIRY

Mr. BADHAM. Mr. Speaker, I have a parliamentary inquiry.

The **SPEAKER.** The gentleman will state his parliamentary.

Mr. BADHAM. The parliamentary inquiry is this, Mr. Speaker:

According to the so-called Burton rule, would a point of order not lie in that the Members have not had this report for a 2-hour period, even though the other rules have been waived?

The **SPEAKER.** The Chair will state that the gentleman from Pennsylvania (Mr. Moorhead) made a unanimous-consent request yesterday to bring the conference report up at this particular time, and that waives the Burton rule providing a 2-hour filing requirement.

Mr. BADHAM. Then, Mr. Speaker, as a further parliamentary inquiry, do I understand the Burton rule has been waived?

The **SPEAKER.** The Chair will state that it was waived yesterday by the approval of the unanimous-consent request of the gentleman from Pennsylvania (Mr. Moorhead).

The Chair recognizes the gentleman from Wisconsin (Mr. Reuss).

Mr. REUSS. Mr. Speaker, I call up the conference report on the bill (H.R. 5860) to authorize loan guarantees to the Chrysler Corp., and ask unanimous consent that the statement of the managers be read in lieu of the report.

The **SPEAKER.** Is there objection to the request of the gentleman from Wisconsin?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, the gentleman from Maryland seems to recall that yesterday when the gentleman from Pennsylvania (Mr. Moorhead) made his request, I inquired as to whether printed copies would be available, and the gentleman assured us that they would.

Mr. Speaker, I will ask the Chair, are any printed copies of this conference report available?

The **SPEAKER.** The Chair will state that there are Xerox copies of the statement on the floor.

Mr. BAUMAN. Where are they, Mr. Speaker?

The **SPEAKER.** Well, the Chair will state that he does not have them with him, but the Chair can assure the gentleman that they are on the floor.

Mr. McKINNEY. Mr. Speaker, will the gentleman from Maryland yield?

Mr. BAUMAN. Mr. Speaker, I would rather get an explanation from the Chair, from the distinguished Speaker, the gentleman from Massachusetts (Mr. O'Neill).

The **SPEAKER.** The Chair will assure the gentleman from Maryland that we were anticipating a statement of the type made by the gentleman from Maryland, and the Chair is sure, in view of that anticipation, that Xerox copies are ready and available. The Chair has been informed they are available.

The Chair will ask, would some Member be kind enough to place a copy in the hands of the gentleman from Maryland?

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, the only reason I have reserved the right to object at this time is that, if there are no copies available, it might behoove the House to have the statement read to the Members so they would know for once what they are voting on.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, if the gentleman will yield, I believe the chairman of the full committee has handed a copy to the distinguished gentleman from Maryland. There are other copies available, but they are not printed.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, this is only a statement of the managers. Is there a copy of the conference report here?

Mr McKINNEY. Mr. Speaker, will the gentleman from Maryland yield?

Mr. BAUMAN. Further reserving the right to object, Mr. Speaker, yes, I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Speaker, without boring the House, I will try somehow or other to deliver to the gentleman from Maryland a full copy. In fact, I see Dr. Nelson right here now. We will give the gentleman a full copy, and we will try to explain it and answer any questions the gentleman may have.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, I assume that what I hold in my hand, as they used to say, is a copy of the conference report, and it appears to be the only one.

Further reserving the right to object, Mr. Speaker, I would like to say that if any of the other Members wish to see this conference report, they may come to see me.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER.** Is there objection to the request of the gentleman from Wisconsin?

Mr. BADHAM. Mr. Speaker, reserving the right to object, I grant to the Speaker the fact that the gentleman from Maryland has been provided a copy of the conference report and of the statement of the managers. But as far as I am able to determine, Mr. Speaker, and reserving my right to object, no other Member on this side of the aisle has been provided a printed copy of the conference report or of the statement of the managers or anything else that pertains to this conference report.

It would be my question, Mr. Speaker, under my reservation of a right to object, whether or not the House intends to go ahead with this exercise without any of the Members on this side of the aisle save the gentleman from Maryland knowing what is going on.

Mr. McKINNEY. Mr. Speaker, will the gentleman yield?

Mr. BADHAM. I would be delighted to yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Speaker, I suggest to the gentleman that the gentleman from Ohio (Mr. Stanton), who took a posture against the bill during its consideration on the floor, is here, and he was at the conference and was aware of what went into the conference report. The gentleman from Connecticut (Mr. McKinney), who took a posture for the bill, was also at the conference. I might say that that was one of the most harrowing experiences I have had, Mr. Speaker, in my years in this House.

We would be delighted to answer any questions the gentleman from California (Mr. Badham) has. As soon as the best ability of America's copy machines is brought to bear to crank them out, we will get the gentleman a copy and we will get a copy for any other Member who wants one. But we are straining the capacity of that great American technology and of the ingenious machine called the duplicator to its extreme at the moment.

Mr. BADHAM. Further reserving the right to object, Mr. Speaker, could we then call this one a "quickie"?

Mr. McKINNEY. Mr. Speaker, if the gentleman will yield to me for another moment, I would suggest to the gentleman, despite what he might have read in the paper and despite what he might have heard here on the floor, this has taken 3 months out of this gentleman's life, and it was no "quickie."

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. BADHAM. I yield to the gentleman from Pennsylvania under my reservation of objection.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I am informed that both the statement of the managers and the conference report were delivered to the minority side 20 minutes ago, so we are doing the best we can. We are not trying to keep this in the dark; we are trying to get it out in the light.

Mr. BADHAM. Mr. Speaker, I thank the gentleman.

Further reserving the right to object, Mr. Speaker, and I will not object, I just wanted it to be clear in the Record what we are doing here.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER.** Is there objection to the request of the gentleman from Wisconsin?

Mr. SEIBERLING. Mr. Speaker, reserving the right to object, I would like to inquire of the gentleman from Pennsylvania (Mr. Moorhead) whether there are any extraneous or nongermane matters which have nothing to do with the Chrysler bill attached to this bill by the Senate.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, the answer is no.

Mr. SEIBERLING. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The **SPEAKER.** Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

□ 2110

The Clerk read the statement.

Mr. MOORHEAD of Pennsylvania (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement of the managers be dispensed with and that I be permitted to explain it and answer questions.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER. The gentleman from Pennsylvania (Mr. MOORHEAD) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. STANTON) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. MOORHEAD).

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to be able to bring back to the House a conference report on H.R. 5860, the Chrysler financial assistance bill, that resolves all the outstanding questions between the House and Senate bills in a fashion that is workable and equitable.

Let me summarize some of the key items in the conference report.

As Members will appreciate, one of the most important issues was the contribution that must be made by the company's employees, both union and nonunion. The conference report exactly splits the difference between the two bills. The union workers' contribution must be $462,500,000, which includes the $203 million in concessions already made to Chrysler, and that of the nonunion workers must be $125 million.

An excellent compromise, I think, was reached on the twin issues of security behind the guaranteed loans and Federal priority as a creditor in case the company becomes insolvent or bankrupt. What we sought was the greatest possible protection for the taxpayers without making the entire bill unworkable. Under the conference report, the guaranteed loans must be secured. The Federal Government will have first priority as a creditor with respect to all existing loans. It can waive that priority with respect to claims of State and local governments, as in the House bill, and it can take an equal position—not subordinate but equal—with respect to small supplier claims of up to $100,000 and also with respect to new, nonguaranteed loans to the corporation of up to $400 million. This is crucial to enable the company's lenders to provide new credit in addition to the guaranteed loans.

The House conferees, faced with unyielding resistance from the Senate, agreed to go along with the Senate provision for a three-member Board to administer the Chrysler loan program, with the Secretary of the Treasury as Chairman and the other members the Chairman of the Federal Reserve Board and the Comptroller General. The Secretaries of Labor and Transportation will be nonvoting, ex officio members of the Board.

The House prevailed in its insistence on some flexibility in putting together the package of non-Federal assistance for Chrysler. The Board may issue commitments to guarantee once it has assurances that the non-Federal concessions and contributions will be forthcoming. It need not have legally binding commitments at that stage. Then, in order actually to issue guarantees, a dollar of hard cash must be in hand from non-Federal sources for each dollar of loan guarantees issued.

On the employee stockownership plan provision, the two bills were essentially identical except for the dollar amount. Again the conferees split the difference, with the amount of stock required to be issued the employee stockownership plan put at $162,500,000.

Mr. Speaker, I have no hesitation whatever in recommending this conference report to the House. The basic approach of the two bills was similar to begin with, and where they differed I believe that reasonable compromises have been reached in those instances where the House position did not prevail in its entirety.

Mr. STANTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am only going to take a couple of minutes to give the Members my own personal viewpoint of the conference.

Relatively speaking, probably if you voted against this legislation on Tuesday, you will vote against it today. And, for sure, if you voted for it on Tuesday, you will vote for it today. To those who voted against it, I would say that, from our point of view, it is a better bill. It is a better bill on two very important principles.

This bill will be passed and, hopefully, it will be passed within a couple of hours in the other body, and the President of the United States will sign it and it becomes the law of the land. It leaves our hands forever. The people who will monitor the Chrysler Corp. are now a Board, consisting of the Secretary of the Treasury, the Comptroller, and the Chairman of the Federal Reserve Board. When I say the "Comptroller," I mean the Chairman of the GAO. They are as nonpartisan a body as we could provide. It is a vast improvement, in my mind, from the House-passed version in which there was a five-man Board, three members of the President's Cabinet. I do not have any reflection on the present members of the Cabinet, but this loan guarantee goes on for 10 years and, obviously, there will be other administrations, other political parties, and so forth. But I think we assure the American people, as best we can, that, with the Chairman of the Federal Reserve Board and the head of the GAO, we bring an independence that what the intent of Congress is will be carried out to the best of their ability without political interference, and this we owe to the American taxpayers.

The second reason, I say to those who voted against it, was on the subject of sacrifice to those who are involved in which we would want more sacrifice, hopefully, under the premise that more sacrifice given locally, the less inclined someone else would be to follow shortly along. In this regard, as the chairman has so eloquently pointed out, we have split the difference in the amount of money, and since we were the lowest figures, the $400 million for the union contribution is now $462,500,000, and up from $100 million to $125 million for the white-collar workers. Hopefully, this contribution will deter maybe in the future other companies from coming along.

Mr. Speaker, that is fundamentally it. As we leave for home and we face our constituents next Tuesday, as I said the other night, let me in the next couple of minutes reflect on the problem that will be ours.

I sincerely expect that this conference report will pass.

Maybe to the city of Detroit, when we came out of that conference and all of the cameras were around from television stations from Detroit, I am sure that they will interpret this tomorrow morning in the city of Detroit and the surrounding areas in Michigan that Santa Claus came 5 days early. And rightfully so. We all understand that sentiment and we all welcome the help, some job or the other, that we could give to them.

We will be returning on the 22d of January, the bills will be paid come February or March, and then the totals will be added up. Then we have a strong responsibility to the citizens of our congressional districts to try to put into focus the path that we have started on with our vote on Tuesday.

□ 2120

I wrote to the 136 who voted "no," truthfully, the other day, and signed the letters today. Maybe 15 years from now people will look back, and unless we change the course on which we have started to travel, we will look back on last Tuesday as a turning point in our country in which there was no turning back, if we started on the path to Great Britain and to its path to complete socialism and the separation of government interference into every facet of our daily lives and into the control of businesses and the way in which we live.

Hopefully, sentiment will prevail, and we will come back; and we will tackle this problem, because the vote was most interesting from the liberals and the conservatives. It was a vote in which pressures were given, and the greatest pressures that I have known in 15 years, and hopefully, they will succeed.

Hopefully, the fact that the 243 Chrysler dealers who are not in business today, who were in business a year ago, will save by their efforts, of the details who are there, jobs in the future. We hope that.

On the other hand, while you have had your Chrysler dealers, in the last year of 242 lost businesses, maybe the others, and some of us have not lost sight of the fact that 195 Ford and General Motors dealers went out of business within the last year.

So in the overall picture, as I leave my colleagues tonight with an honest opinion, this is a better conference and a better bill than what we had before. I hope that our combined efforts in a nonpartisan basis will look to the problem and help to solve what is obviously down the road, and somebody from New York City, the transit workers up there, can come back within 2 years and say, "You did not have a freeze on those. We are going to leave our freeze, and you did not do this. You did not do that. You did it for Chrysler. We want to do it for Ford."

The problems are so overwhelming ahead. Maybe, in conclusion, ladies and gentlemen, we would say to ourselves, let Chrysler, let the city of Detroit, enjoy their Christmases. Maybe when the bills come in, it is up to us to solve, and by the combined efforts and of the great and tremendous talent that is in this body, I know we are equal to the challenge. If we put our heads and shoulders to the job, I am sure we will solve them.

Mr. LATTA. Mr. Speaker, will the gentleman yield?

Mr. STANTON. I yield to the gentleman from Ohio.

Mr. LATTA. I wish to commend my colleague from Ohio for all the hard work that he has put in on this piece of legislation and for the assurances he has given the House here tonight. I have only one question, and that deals with the matter of the position of the Federal Government in case of insolvency or bankruptcy.

Is this legislation now before us identical with what it was when it left the House, or what change has been made?

Mr. STANTON. The answer to that question, no, it is not identical. The language that was in the House version which we passed the other day, came from our colleague from Iowa (Mr. LEACH), who fundamentally went on the principle of the first-in, first-out protection for the taxpayers' dollar.

What was reached was an agreement far better. We had adopted the Leach language. The other body had taken the opposite point in which there was fundamentally no protection, as the gentleman from Michigan will agree with me, of this first-in, first-out protection.

We had the gentleman from Iowa come over to the conference.

The Secretary of the Treasury had difficulty with this problem, and by his cooperation and working out with the minority, the majority of the Members came to a conclusion that I think was satisfactory personally. I would be glad if the gentleman from Iowa would explain it, because it is a very important point to a lot of people.

Mr. LEACH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. STANTON. I yield to the gentleman from Iowa.

Mr. LEACH of Iowa. What has occurred in that particular issue is that the Government of the United States will be first protected with several exceptions. One exception is State and local government. One exception will be small suppliers, which will have an equal position but not a preferential position to the Government.

The third exception, which is the new provision, is that for new money put in by banks and by insurance companies, approximately half of the new money will be given an equal position to the Government.

The prior amendment, as it passed the House, gave the U.S. Government the prior position both with respect to old and new money. This language today will give it old money plus approximately half of the new cash that is expected from the banks.

I am not enormously pleased with this compromise, but I appreciate the difficulties that the Treasury is under. I accepted it, and I would urge my colleagues to support this bill as it is currently drafted.

Mr. LATTA. Mr. Speaker, will the gentleman yield?

Mr. STANTON. I yield to the gentleman from Ohio.

Mr. LATTA. Let me say I am a little bit disturbed by the third provision that was put in, which the gentleman indicated was new, because it actually has the position of the Federal Government, the taxpayer position, on new money, so if we have got a $1.5 billion input by the Federal Government of the taxpayers and then on the new money put in by outsiders, it still shared 50 to 50. So it actually halves the position of the taxpayers as the $1.5 billion.

Mr. LEACH of Iowa. If the gentleman will yield further, that is almost correct.

Mr. LATTA. The only other exception would be one and two, dealing with the rights of the State and local government and suppliers of small business below $100,000.

Mr. LEACH of Iowa. That is correct, except that instead of halving the position, it really quarters the position, because approximately half of the new money the Treasury will have in equal position, and so in effect, that will mean that the new advantage to the new inputs of capital will be quarterized rather than divided by two.

Mr. LATTA. If the gentleman will yield further, let me call the attention to the gentleman in the well and perhaps get further elucidation of the gentleman from Iowa.

I notice a $400 million on new loans provision that is added to this section. Would the gentleman from Iowa care to explain that?

Mr. LEACH of Iowa. The expectation is that the Treasury will be achieving approximatelv $800 million in new loans, and so $400 million represents approximately half of that. That is the reason for the $400 million.

Mr. LATTA. Would that be a limitation $400 million?

Mr. LEACH of Iowa. Yes, that is correct. It should be stressed that the old money is frozen with the taxpayer having an advantage over it, depending on what set of figures one uses in inclusiveness, that comes to approximately $2 billion.

Mr. LATTA. I thank the gentleman.

Mr. REGULA. Mr. Speaker, will the gentleman yield?

Mr. STANTON. I yield to the gentleman from Ohio.

Mr. REGULA. We had some controversy this morning about whether the guarantee was $1.5 billion plus accrued interest or whether the $1.5 billion was the cap on the entire obligation of the Government. Now is this clarified?

Mr. STANTON. Well, it was clarified to the degree that the limitation is still $1.5 billion, and the accrued interest would be the same way as it was considered with New York City. It would be in addition.

Mr. REGULA. Does the U.S. Government guarantee to the principle plus the interest that might have accrued at the time of the default?

Mr. STANTON. Yes, that would be true, in case of default. You would guarantee the interest and the principle.

Mr. REGULA. So in effect you have an open end on the interest, because the principle guarantee is $1.5 billion, plus whatever might have accrued in interest up until the time of the default? Is that correct?

Mr. STANTON. That is correct. It would be up to the Board to figure out what amount would be outstanding at any one time, and the going interest rate, we get a 1 percent up, one-half of 1 percent cap of 1 percent on the fee that we would add on it.

Mr. REGULA. I understand, but in the event of a default, the obligation would be the principal plus whatever interest would have accrued until that point.

Mr. STANTON. That is correct.

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Mr. REGULA. A second question. Who makes the determination that there is a default since this is an underwriting or guarantee by the United States Government and the principal lender will be an outside body; will the determination on a default be made by the Government, or will it be made by the outside lender? I guess what I am saying is could the outside lender that has guaranteed both principal and interest allow this thing to slide when it should, in fact, be placed in default?

Mr. STANTON. Well, I would say if it is an outside interest, and people had bought these obligations, they would be the first, but then it would be backed by the Board and, there again, those are the type of decisions I felt were so extremely important and fought for, as long as we have the determination of the Federal Reserve Board.

Mr. REGULA. If the gentleman will yield further, can the Board make the decision that there is, in fact, a default?

Mr. STANTON. Well, that is a technical question that did not come up. But, if in the bond market there were a default, then I would say the Board would have no choice.

Mr. McKINNEY. Mr. Speaker, will the gentleman yield?

Mr. STANTON. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Speaker, I would suggest that the Senate language does not express who will declare a default. But the Board is responsible for requiring that Chrysler live up to its financial plan. The financial plan will require payment schedules and everything else. The Board also is composed of people who will classify loans.

So the way I think it is rather clearly interpreted in the other body's language, which is what we finally ended up working off of, is that the Board would declare, and the Board would have enough control, I feel, so that if one, I think what the gentleman is saying, what about if one of those guaranteed lenders should suddenly say well, they are in default, I would think that the Board would have the right to reject that claim rather out of hand if it were not a reasonable claim. In other words, it seems to me that the control—though the default issue was not directly addressed—is clearly in the Board with the people who both classify loans, determine loans, and run the financial system. I cannot imagine anyone better qualified to decide whether or not, in fact, the corporation is in default.

Mr. REGULA. Will the gentleman yield further?

Mr. STANTON. I yield to the gentleman.

Mr. REGULA. My concern is, and maybe the gentleman from Connecticut (Mr. McKINNEY) could answer this, my concern is that if there is not a de facto fault, but the private lender lets it slide because that group knows that they are guaranteed both the principal and the interest, they may let it slide in the interest of protecting some other loan that they have in this package.

Mr. McKINNEY. Following right along with what the gentleman is saying, I would suggest just the opposite, that the Board is charged with protecting the Federal interests, and the Federal Government has the priority interest in this conference and report that we are voting on. I think that the Board will turn around, and if it sees a sliding, it would have a right to declare and move in and get the Federal Government's priority interests.

Mr. REGULA. If the gentleman will yield further, for the legislative history then, the gentleman is saying then categorically that this Board does have the right to make the decision as to when there is a default?

Mr. McKINNEY. It is my clear impression that they do. But I would also suggest, I am going to say that it is my clear impression they do. That is why STEWART McKINNEY voted for it, and that is what I thought we were talking about. I just wish the gentleman would not use the word "categorical" when discussing the Government.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. STANTON. I yield to the gentleman from Minnesota.

Mr. VENTO. I appreciate the gentleman yielding. I think the difficulty arises as to the limit. The limit is $1.5 billion, and I think, of course, there would be an endorsement of that particular guarantee paper to the individual that would purchase it. If they chose to let the loan go into arrears, that does not mean we go back and endorse whatever element of interest would build up and accrue under those circumstances. We certainly would not. The only thing that I understand is being endorsed is the actual Board itself, and I understand exactly, I think, what the gentleman from Ohio's concern is. I think that the endorsement flows only to the Board itself.

Mr. REGULA. Will the gentleman yield further?

Mr. STANTON. I yield to the gentleman from Ohio.

Mr. REGULA. I do not believe that is quite the interpretation that was placed on this in answer to my earlier question, at least as I understood it. I understood the guarantee goes to the principal of the loan plus the accrued interest. I think it is a very important element. We discussed it this morning in the issue of the appropriation which was, at least, intended to be, and there was dispute on the language, and it was intended to be open ended as it passed through the Committee and the floor.

Mr. STANTON. All I can say is we went over this in great detail at the time of the loans to New York City, and there is no way out; you cannot get out of the fact of guaranteeing not only the principal but the interest if the interest is outstanding on the principal.

Mr. McKINNEY. Will the gentleman yield?

Mr. STANTON. I yield to the gentleman.

Mr. McKINNEY. If I could attempt to answer the gentleman's question, I would express to the gentleman just two simple points. This is a nebulous, philosophical point, and I am the guy who put the McKinney amendment on the New York bill which clarified this, and everybody said why did you do it? Still, in all, the House passed an appropriation bill which limits the appropriation to $1.5 billion. I would suggest that the floor record fairly clearly shows that this House and this Government cannot pay out what has not been appropriated. I do not care what the argument was up to that point. This House, which holds the purse strings of the United States of America, appropriated only $1.5 billion in set-aside loan guarantee authority. I am sure they are far better experts in the appropriations process here than I am, but I do not see how we can pay out past that.

Now, we might end up in Federal court, the Supreme Court, or the Court of Appeals, and everything else, but I would suggest to the gentleman that the limit is $1.5 billion, because I have never seen this Government recently, since we have started to pay attention, pay out what we have not appropriated to pay out, because that is a violation of the Constitution. That did not bother some Presidents at certain times, but we have gotten a little bit more classy about that.

Mr. REGULA. Will the gentleman in the well yield further?

Mr. STANTON. I yield to the gentleman.

Mr. REGULA. As I listened to the chairman of the Appropriations Committee this morning, I do not believe that this was explained as being limited to $1.5 billion. I think it was his interpretation that it is $1.5 billion plus whatever interest is accrued. I think that was the gentleman in the well's response to me as to what this language provides.

Mr. STANTON. That was my original response about 15 minutes ago, and I stand by it right to the moment because it is different than it was in New York City where the gentleman from Connecticut had an amendment limiting, at that time, I think it was to $1.52 billion, including principal and interest. So when we got up to a point they had to back off and, in reality, the $1.5 billion, let us say, to New York City, was really $1.1 to $1.2 billion with accrued interest.

Mr. VENTO. Will the gentleman yield further?

Mr. STANTON. I yield to the gentleman from Minnesota.

Mr. VENTO. I think that point is worth noting. If the gentleman says they are going to guarantee the interest, I think that is a different matter. But they are still under that aegis, in other words, they have to put an endorsement on the guaranteeing of the payment of that interest in order for it to occur, which then runs up against the ceiling of $1.5 billion. As the gentleman from Connecticut has said, we cannot exceed that, and if they do not place an endorsement on it, then there is no guarantee. So I do not think we can work it greater than the $1.5 billion guaranteed loan authorization under the bill.

Mr. REGULA. Will the gentleman in the well yield?

Mr. STANTON. I yield to the gentleman.

Mr. REGULA. I think if we read the appropriations, at least the intent, the legislative history will demonstrate that, as explained by the chairman this morning, it was not intended to be limited to $1.5 billion. That is the point I am trying to clarify in this whole colloquy.

Mr. STANTON. Let me say one final word to my friend from Ohio as we move on here quickly. I am glad to have his interest in this particular subject. I hope in three or four years when this problem arises that he will be here. I know I will not, and I am very pleased to know that he will be around.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. STANTON. I yield to the gentleman.

Mr. McKINNEY. For the last time, I want to correct a statement. I apologize to my friend from Ohio. When I asked unanimous consent to strike my words out on the appropriation bill, and let us be honest, it very definitely says "as passed by the House today and for such sums as it may be necessary for interest payments." So we have the $1.5 billion plus such sums as may be appropriate.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. STANTON. I am most pleased to yield.

Mr. BAUMAN. Mr. Chairman, the gentleman from Connecticut perhaps did not have the benefit of listening to the debate on the appropriations. There was a direct conflict in the interpretation of the members of the Appropriations Committee and the ranking minority member, Mr. CONTE, disagreed with the gentleman's interpretation. The interpretation of the gentleman from Mississippi (Mr. WHITTEN), myself and others, said that the $1.5 billion was a limit. It was never resolved. I do not know whether this legislation resolved it, but I still interpret it as being a $1.5 billion limit, as the gentleman just stated.

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Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, a sentence was inadvertently omitted from the statement of the managers on the issue of Federal priority and security of the loans. The sentence would have come at the end of point 3. It would have read, and I quote:

> While security is required for the guaranteed loans as in the Senate bill, such security (at such level as the Board approves) may be shared with the $400,000,000 of new loans as to which priority may be waived and with such other new loans as the Board may approve.

That conforms with the statement made by the gentleman from Iowa (Mr. LEACH).

Mr. Speaker, I have no further requests for time at this time.

Mr. STANTON. Mr. Speaker, I have a request for time. I yield 5 minutes to the gentleman from Florida (Mr. KELLY).

Mr. KELLY. Mr. Speaker, I want to tell my colleagues that I really appreciate the ovation. I have not really been a strong proponent of this legislation, and one of the reasons for that is because I think that this legislation is very dangerous to the free enterprise system. Several of the proponents of the Chrysler bailout have argued that the Government should acquire an equity interest in Chrysler and as part owner control the items to be produced. The bill before us gives much control of the company to Government as it was passed by the House. And the whole exercise brings us to the threshold of an industry controlled by Government.

The strangest thing happened during the course of the time that this House and this Congress has been considering the Chrysler legislation. The strange thing is that the free enterprise system and the proponents of that system——

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. KELLY. I will be happy to yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I would like to ask one simple question. Are we or are we not limited to $1.5 billion for principal and interest, so that there will be no other charges to which we are committed?

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, if the gentleman will yield——

Mr. KELLY. What I would like to do is simply regain my time and finish my statement. The gentleman has plenty of time, and he can answer that at a later time. I think the gentlewoman certainly is entitled to that answer; I doubt that she will ever get it.

But, you know, it was an enormously funny thing because the proponents of the free enterprise in this country depended on this Congress to defend the free enterprise system, and I think that is the funniest choice of defenders for the free enterprise system because I do not think the Members of Congress constitute a good defender.

I think that the conduct of the business of this Nation by this Congress has practically killed the free enterprise system. This Congress has overregulated it, damaged it with inflation, starved it of capital, tilted the situation in favor of the unions and distorted the economy with inconsistent policy. It was also a strange thing that this legislation that was so overwhelmingly lobbied by the proponents of the bill, and yet there was a total absence of any kind of lobbying effort on behalf of the free enterprise system.

I just wanted to take the well to call attention and make historic note of the fact that at a time of great jeopardy for the free enterprise system, and this legislation constitutes such jeopardy, that the proponents and champions of free enterprise never came forward and were never heard to defend it. I am not talking about Members of the House. I am talking about this great horde of lobbyists, the many organizations, and the captains of industry that are out there and would normally be expected to be responsible for defending the free enterprise system. They were conspicuous by their absence, and I think this Nation is probably going to suffer for this failure, because if we do not protect our freedom we are going to lose it.

We have failed to protect it in this case, and I think we have suffered a great damage to occur to the free enterprise system and we as a nation will probably pay bitterly for this failure.

Free enterprise as a system of economics has served us well.

The people of no nation on earth have the opportunity for individual financial improvement enjoyed by every citizen of this country.

The free enterprise system has been and is the most productive system in the world. With it we produce more as a single nation than all of the communist nations on earth.

The damage we do to our freedom here tonight is classic, we squander our hope for prosperity and security in the cause of short-term political advantage.

We have done nothing to cure the cause of Chrysler's weakness, and for no long-range purpose to have damaged the free enterprise system more by Government interference and distortion.

One more time the free enterprise system has failed to fight the battle in a war that is being lost and it is the people that will lose the most.

● Mr. CORCORAN. Mr. Speaker, I rise to express my strong support for one particular section of the Chrysler legislation. This section provides that the Secretary of Energy in consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency shall conduct a 7-year evaluation program which would study the effects of the inclusion of electric vehicles in the calculation of corporate average fuel economy standards (CAFE standards). The implementation of this program is to begin with the promulgation within 60 days of regulations to include electric vehicles in average fuel economy calculations.

The language of this section closely parallels the language of H.R. 3718, the Electric Vehicle Act of 1979, which I introduced on April 25. H.R. 3718 is the companion bill to S. 624, introduced March 12 by Senator JAMES MCCLURE.

This language, with only a very insignificant administrative cost to the Department of Energy, will provide the incentive to auto manufacturers to do what they should be doing—developing alternative, marketable vehicles which do not rely on gasoline for fuel. This is significant because over 40 percent of the petroleum used in the United States today is utilized for surface transportation. In addition to decreasing our dependence on foreign oil, the encouragement of electric vehicles is desirable because EV's are far superior to internal combustion engine powered vehicles in terms of noise and emissions.

Mr. Speaker, it is indeed gratifying that the House has approved this particular section of the Chrysler legislation.●

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. STANTON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 241, noes 124, answered "present" 1, not voting 67, as follows:

[Roll No. 758]

AYES—241

Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Applegate
Ashley
Aspin
Atkinson
Bailey
Baldus
Bedell
Benjamin
Biaggi
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Buchanan
Burlison
Burton, John
Byron
Carney
Carr
Carter
Chappell
Chisholm
Clausen
Clay
Coelho
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Danielson
Davis, Mich.
Davis, S.C.
Dellums
Derrick
Dicks
Diggs
Dingell
Dixon
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fish
Fithian
Flippo
Florio
Foley
Ford, Mich.
Fowler
Frost
Garcia
Gaydos
Gilman
Gonzalez
Goodling
Gore
Grassley
Gray
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Hansen
Hawkins
Heckler
Heftel
Hightower
Hillis
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Huckaby
Hutto
Hyde
Ireland
Jacobs
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
Kramer
Latta
Leach, Iowa
Leach, La.
Lederer
Lee
Leland
Lloyd
Long, La.
Luken
Lundine
McCormack
McDade
McHugh
McKay
McKinney
Madigan
Markey
Marks

Marlenee
Marriott
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Nedzi
Nelson
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Pashayan
Patten
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pursell
Rahall
Railsback
Rangel
Ratchford
Reuss
Rinaldo
Roberts
Rodino
Roe
Roybal
Royer
Russo
Sabo
Sawyer
Scheuer
Seiberling
Shannon
Sharp
Skelton
Slack
Smith, Iowa
Solarz
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Thompson
Traxler
Udall
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Waxman
Weiss
Whitehurst
Whitley
Whitten
Wilson, C. H.
Wilson, Tex.
Wolff
Wolpe
Wright
Wyatt
Wylie
Yatron
Young, Alaska
Young, Mo.
Zablocki

NOES—124

Abdnor
Anthony
Archer
Ashbrook
AuCoin
Badham
Bafalis
Barnard
Barnes
Bauman
Beard, R.I.
Beilenson
Bennett
Bereuter
Bethune
Bevill
Bowen
Brooks
Broyhill
Butler
Campbell
Cavanaugh
Cheney
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Courter
Crane, Philip
Daniel, R. W.
Dannemeyer
de la Garza
Dickinson
Dornan
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Fenwick
Findley
Fisher
Forsythe
Fountain
Frenzel
Gibbons
Gingrich
Glickman
Goldwater
Gramm
Green
Grisham
Hagedorn
Hammerschmidt
Harkin
Harris
Hefner
Hinson
Hopkins
Hughes
Ichord
Jeffords
Jeffries
Jones, Okla.
Kelly
Kemp
Kindness
Lagomarsino
Lewis
Livingston
Loeffler
Long, Md.
Lott
Lowry
Lujan
Lungren
McDonald
McEwen
Maguire
Martin
Mica
Michel
Miller, Ohio
Montgomery
Moore
Neal
Panetta
Petri
Pritchard
Regula
Rhodes
Ritter
Robinson
Rose
Roth
Rousselot
Rudd
Satterfield
Schroeder
Schulze
Sensenbrenner
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Stanton
Stark
Stump
Swift
Symms
Tauke
Thomas
Trible
Walker
Watkins
Weaver
Whittaker
Wirth
Young, Fla.

ANSWERED "PRESENT"—1

Gradison

NOT VOTING—67

Addabbo
Albosta
Anderson, Ill.
Andrews, N. Dak.
Beard, Tenn.
Bingham
Brown, Ohio
Burgener
Burton, Phillip
Cleveland
Crane, Daniel
D'Amours
Daniel, Dan
Daschle
Deckard
Derwinski
Devine
Dodd
Edwards, Calif.
Ertel
Ferraro
Flood
Ford, Tenn.
Fuqua
Gephardt
Giaimo
Ginn
Harsha
Holland
Holt
LaFalce
Leath, Tex.
Lehman
Lent
Levitas
McClory
McCloskey
Mottl
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nichols
Patterson
Paul
Quayle
Quillen
Richmond
Rosenthal
Rostenkowski
Runnels
Santini
Sebelius
Shelby
Simon
Stockman
Synar
Taylor
Treen
Van Deerlin
White
Williams, Mont.
Williams, Ohio
Wilson, Bob
Winn
Wydler
Yates
Zeferetti

☐ 2000

The Clerk announced the following pairs:

On this vote:

Mr. Addabbo for, with Mr. Stockman against.

Mr. Mottl for, with Mr. Sebelius against.

Mr. Quillen for, with Mr. Paul against.

Mr. Lent for, with Mr. Burgener against.

Mr. Quayle for, with Mr. Daniel B. Crane against.

Mr. McClory for, with Mrs. Holt against.

Mr. Deckard for, with Mr. Devine against.

Mr. Winn for, with Mr. Brown of Ohio against.

Mr. Williams of Ohio for, with Mr. Beard of Tennessee against.

Mr. Derwinski for, with Mr. Wydler against.

Mr. Ginn for, with Mr. McCloskey against.

Mr. LaFalce for, with Mr. Cleveland against.

Until further notice:

Mr. Phillip Burton with Mr. Taylor.

Mr. Bingham with Mr. Bob Wilson.

Mr. Dodd with Mr. Anderson of Illinois.

Mr. Ford of Tennessee with Mr. Andrews of North Dakota.

Mr. Gephardt with Mr. Harsha.

Mr. Levitas with Mr. Nichols.

Mr. Murphy of New York with Mr. Myers of Pennsylvania.

Mr. Patterson with Mr. Murphy of Illinois.

Mr. Lehman with Mr. Holland.

Mr. Rostenkowski with Mr. Simon.

Mr. White with Mr. Van Deerlin.

Mr. Zeferetti with Mr. Yates.

Mr. Synar with Mr. Williams of Montana.

Mr. Rosenthal with Mr. Santini.

Mr. Runnels with Mr. Shelby.

Mr. Giaimo with Mr. Leath of Texas.

Ms. Ferraro with Mr. Fuqua.

Mr. D'Amours with Mr. Dan Daniel.

Mr. Albosta with Mr. Daschle.

Mr. FLIPPO changed his vote from "no" to "aye."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

A FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills and a concurrent resolution of the House of the following titles:

H.R. 600. An act to incorporate United Service Organizations, Inc.;

H.R. 2771. An act to change the name of the Palmetto Bend Reservoir on the Navidad River in Texas to Lake Texana;

H.R. 5015. An act to amend title 5, United States Code, to extend the Federal Physicians Comparability Allowance Act of 1978, and for other purposes;

H.R. 5025. An act to amend title 10, United States Code, to provide that any person eligible for medical care under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) who is a veteran with a service-connected disability may not be denied care and treatment for such disability under CHAMPUS solely because such person is eligible for care and treatment for such disability in Veterans' Administration facilities;

H.R. 5537. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia; and

H. Con. Res. 202. Concurrent resolution urging the Soviet Union to allow Ida Nudel to emigrate to Israel, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3091) entitled "An act to extend for 1 year the provisions of law relating to the business expenses of State legislators."

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3398) entitled "An act to amend the Food and Agriculture Act of 1977 relating to increases in the target prices for the 1979 crop of wheat, corn, and other commodities under certain circumstances, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. NUNN, Mr. HARRY F. BYRD, JR., Mr. CULVER, Mr. MORGAN, Mr. EXON, Mr. JEPSEN, Mr. WARNER, and Mr. COHEN to be the conferees on the part of the Senate.

APPOINTMENT OF CONFEREES ON H.R. 3398, AGRICULTURE ADJUSTMENT ACT OF 1979

Mr. FOLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3398) to amend the Food and Agriculture Act of 1977 relating to increases in the target prices for the 1979 crop of wheat, corn, and other commodities under certain circumstances, and for other purposes, with Senate amendments thereto, disagree with the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Washington? The Chair hears none, and appoints the following conferees: Messrs. FOLEY, DE LA GARZA, JONES of Tennessee, MATHIS, BOWEN, ROSE, NOLAN, BALDUS, BEDELL, ENGLISH, FITHIAN, SKELTON, DASCHLE, HANCE, STENHOLM, WAMPLER, SEBELIUS, FINDLEY, SYMMS, JOHNSON of Colorado, HAGEDORN, COLEMAN, and MARLENEE.

RESIGNATION FROM SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL, AND COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

The SPEAKER laid before the House the following resignation from the House Select Committee on Narcotics Abuse and Control, and the Committee on Standards of Official Conduct:

DECEMBER 19, 1979.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: As you know, I have recently been released from Mercy Hospital in Chicago where I have been confined as a result of a recurrent and serious medical problem. This problem and its attendant effect upon my family and legislative career has caused me, with deep sadness and reluctance, to announce that I would not stand for reelection to the House of Representatives after the expiration of the 96th Session. In light of this serious health problem and my convalescence period mandated by my physicians, I am not certain, at this point, whether I will be able in good conscience to attend to both my House duties once I recuperate and, at the same time, keep up with the substantial commitments which I have made to the House Select Committee on Narcotics Abuse and Control and the Committee on Standards of Official Conduct.

As you know, I have been a loyal member of both Committees and it would be unfair for me to continue my membership on both these Committees without giving them the time and commitment they rightfully deserve. Consequently, with sadness and great reluctance, I respectfully request that you relieve me of my duties on both these Committees and appoint two other members to each Committee to serve in my stead.

Respectfully,

MORGAN F. MURPHY,
Member of Congress.

The SPEAKER. Without objection, the resignation will be accepted.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Following a resolution to be offered by the majority leader, the House will stand in recess subject to such time as we hear from the Senate that they have adopted the resolution that we have sent to them.

HOUR OF MEETING DECEMBER 24, 1979, DECEMBER 27, 1979, MONDAY, DECEMBER 31, 1979, AND JANUARY 3, 1980

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 a.m. on Monday, December 24, 1979; that when the House adjourns on that day it adjourn to meet at 10 a.m. on Thursday, December 27, 1979; that when the House adjourns on that day it adjourn to meet at 10 a.m., on Monday, December 31, 1979; that when the House adjourns on that day it adjourn to meet at 11:55 a.m. on Thursday, January 3, 1980.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no ojection.

PROVIDING FOR ADJOURNMENT SINE DIE AFTER COMPLETION OF BUSINESS OF FIRST SESSION OF 96TH CONGRESS AND SETTING FORTH SCHEDULE FOR CERTAIN DATES DURING JANUARY 1980 OF SECOND SESSION

Mr. WRIGHT. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 232) and ask unanimous consent for its immediate consideration.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 232

Resolved by the House of Representatives (the Senate concurring), That when the Senate completes action on the conference report on the Act providing loan guarantees for the benefit of the Chrysler Corporation, and any other matter the majority leader (after consultation with the minority leader) deems necessary, on Thursday, December 20, 1979, or Friday, December 21, 1979, or Saturday, December 22, 1979, or Thursday, December 27, 1979, or Friday, December 28, 1979, or Saturday, December 29, 1979, or Monday, December 31, 1979, or Wednesday, January 2, 1980, it stand in adjournment sine die.

SEC. 2. That when the Congress convenes on January 3, 1980, for the second session of the 96th Congress, neither the House nor the Senate shall conduct organizational or legislative business until Tuesday, January 22, 1980, except as provided in section 4 of this resolution.

SEC. 3. That when the House adjourns on January 3, 1980, it shall meet at 12 meridian only on Thursdays and Mondays, and that when the Senate recesses on January 3, 1980, it stand in recess until 12 meridian on January 10, 1980, followed by a recess until 12 meridian on Thursday, January 17, 1980, and that when the House adjourns on January 17, 1980 and when the Senate recesses on that date, they stand in adjournment and recess, respectively, until 12 meridian on January 22, 1980.

SEC. 4. Notwithstanding any other provision of this resolution, on any day before January 22, 1980, the two Houses, or either of them, shall convene upon 24 hours' notice to the Members of the Senate and the House, respectively, by the majority leader of the Senate (acting after consultation with the minority leader of the Senate), and by the Speaker of the House (acting after consultation with the minority leader of the House).

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING COMMITTEES TO FILE REPORTS WITH THE CLERK FOLLOWING SINE DIE ADJOURNMENT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that committees authorized by the House to conduct investigations may file reports with the Clerk following the sine die adjournment and that such reports be printed by the Clerk as reports of the 96th Congress.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 2210

AUTHORIZING THE CLERK TO RECEIVE MESSAGES FROM THE SENATE AND THE SPEAKER AND SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS, NOTWITHSTANDING ADJOURNMENT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment including the sine die adjournment of the first session of the House, the Clerk be authorized to receive messages from the Senate and that the Speaker and Speaker pro tempore be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING SPEAKER TO ACCEPT RESIGNATIONS AND TO APPOINT COMMISSIONS, BOARDS, AND COMMITTEES AUTHORIZED BY LAW OR BY THE HOUSE, NOTWITHSTANDING ADJOURNMENT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment including the sine die adjournment of the 1st session of the 96th Congress, the Speaker be authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR ALL MEMBERS TO REVISE AND EXTEND THEIR REMARKS AND TO INCLUDE SHORT QUOTATIONS ON ALL DAYS THAT HOUSE MEETS IN PRO FORMA SESSION

Mr. WRIGHT. I ask unanimous consent that notwithstanding the fact that the House will be meeting in pro forma sessions until January 22, 1980, that all Members of the House shall have the privilege of extending and revising their own remarks in the CONGRESSIONAL RECORD on more than one subject, if they so desire, and may also include therein such short quotations as may be necessary to explain or complete such extensions of remarks. This will apply to all days that the House meets in a pro forma session. Remarks will be accepted until 4:30 p.m. at room H–132, Official Reporters of Debates, and signed by the Member submitting.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

ELECTION OF THE HONORABLE JOE MOAKLEY AS SPEAKER PRO TEMPORE DURING THE ABSENCE OF THE SPEAKER

Mr. WRIGHT. Mr. Speaker, I offer a privileged resolution (H. Res. 519) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 519

Resolved, That Honorable JOE MOAKLEY, a Representative from the State of Massachusetts, be, and he is hereby, elected Speaker pro tempore during any absence of the Speaker, such authority to continue not later than January 22, 1980.

Resolved, That the President and the Senate be notified by the Clerk of the election of

the Honorable Joe Moakley as Speaker pro tempore during the absence of the Speaker.

The resolution was agreed to.

A motion to reconsider was laid on the table.

SWEARING IN OF HON. JOE MOAKLEY AS SPEAKER PRO TEMPORE DURING ABSENCE OF THE SPEAKER

The SPEAKER. The Chair will administer the oath of office to the gentleman from Massachusetts (Mr. Moakley) as Speaker pro tempore.

Mr. MOAKLEY assumed the chair and took the oath of office administered to him by the Speaker.

CONGRATULATIONS TO SPEAKER PRO TEMPORE MOAKLEY AND BEST WISHES TO THE SPEAKER, MEMBERS, AND STAFF FOR THE HOLIDAY SEASON

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, the first thing I would like to do is congratulate the gentleman from Massachusetts (Mr. Moakley) on being the Speaker pro tempore.

The next thing I would like to do is to wish the Speaker, my good friend Tip, and the majority leader, my good friend Jim, and all the Members of the House the very happiest that anybody could possibly have in the way of a Merry Christmas and a Happy New Year, a good vacation, and when we all come back here I am sure that we will tackle the work of the second session of this Congress newly rejuvenated in body and spirit and do the things that are necessary for the salvation of the country.

Mr. Speaker, I have spoken.

Mr. O'NEILL. Will the gentleman yield?

Mr. RHODES. I yield to my friend, the Speaker.

Mr. O'NEILL. I know and have great admiration and respect for the minority leader, my colleague of 27 years in the Congress of the United States. I know we share equally great affection for this institution. Both of us have the utmost respect for our fellow colleagues and for all the help of the staff that goes with the Congress of the United States.

I join the minority leader in saying thanks for this great institution that we so proudly represent.

To you, our fellow colleagues who are always understanding, even though our positions of leadership at times can be times of trial, and to the staff who have been so marvelous and courteous and respectful, to all of you, Merry Christmas and a Happy New Year to everybody.

APPOINTMENT OF COMMITTEE OF TWO MEMBERS TO INFORM THE PRESIDENT THAT THE TWO HOUSES HAVE COMPLETED THEIR BUSINESS OF THE SESSION

Mr. WRIGHT. Mr. Speaker, I offer a privileged resolution (H. Res. 518) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 518

Resolved, That a committee of two Members be appointed by the House to join a similar committee appointed by the Senate, to wait upon the President of the United States and inform him that the two Houses have completed their business of the session unless the President has some other communication to make to them.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Chair appoints as members of the committee on the part of the House to join a committee on the part of the Senate to notify the President that the two Houses have completed their business of the session unless the President has some other communication to make to them, the gentleman from Texas (Mr. Wright) and the gentleman from Arizona (Mr. Rhodes).

REPORT OF COMMITTEE TO THE PRESIDENT

Mr. WRIGHT. Mr. Speaker, your committee appointed to join a committee of the Senate to inform the President that the Congress is ready to adjourn, and to ask him if he has any further communications to make to the Congress, has performed that duty. The President has directed us to say that he has no further communication to make to the Congress.

□ 2220

GEORGE F. WILL'S PUNGENT COMMENTS ON THE LONGER RANGE IMPLICATIONS OF THE CURRENT IRANIAN CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Stratton) is recognized for 5 minutes.

● Mr. STRATTON. Mr. Speaker, many Members of Congress are already familiar with the direct, frank, and perceptive comments on issues facing both the Congress and the American people offered regularly in the columns of Newsweek and the Washington Post by George F. Will.

This week's Newsweek magazine contains an especially perceptive and pungent analysis of the longer range implications of the present crisis in Iran and our current response to that crisis.

Most of all Mr. Will makes some points that many Americans, I fear, have been hesitant to face up to in this crisis, but which could lead to very damaging developments in the years ahead unless we recognize them and take them into account as we shape our day-to-day policy in dealing with the crisis.

In our natural concern for the safety of the hostages in Iran, Mr. Will reminds us, we must not overlook the impact of our actions—or inactions—on the future of America and the American people, something that is, whether we in Congress like it or not, also our responsibility too, since we have sworn to defend our country "against all enemies foreign or domestic."

Under leave to extend my remarks I include the text of Mr. Will's column from Newsweek for the week of December 24 ,1979:

HOW TO DEAL WITH IRAN

(By George F. Will)

Russia certainly is ungrateful, supporting Iran's seizure of the U.S. Embassy. In August, when Soviet agents hustled a ballerina aboard a Soviet plane on U.S. soil, the U.S. treated the plane as an embassy, inviolable. Instead of kicking off the agents and freeing the ballerina to think in peace about her future, U.S. policy condemned the hostage—that's what she was—to the uninterrupted custody of the agents. Today, as then, the U.S. has chosen "restraint" rather than other, better options. Even if the crisis ends tomorrow, "favorably" in that the hostages are safe, the U.S. will have hurt itself by advertising its reluctance to act unilaterally.

The U.S. should immediately have jammed radio and television transmissions in Iran, and from Iran. Khomeini, a seventh-century man dependent on twentieth-century technology, fought for power with telephone calls and tapes from Paris. Jamming broadcasts (and perhaps sabotaging the telephone system) would sever the ligaments of his regime, and would make impossible what otherwise is impossible to stop: Iranian manipulation of the international media.

An immediate blockade of Iran, keeping food out and oil in, would have had the secondary benefit of discomfiting our allies. They should be reminded with pain, not rhetoric, that our fates are linked. The U.S. could have bombed the dam that supplies much of Teheran's electricity. If Iranians want the Dark Ages, we can provide the dark. The Abadan kerosene refinery could have been put out of commission. Iran has cold winters. Shivering in the dark would concentrate Iranian minds on the cost of Khomeini. Iran is mountainous. Railroads can be cut easily by bombing tunnels and bridges. And don't forget the pipeline that sends natural gas to the Soviet Union.

MANY CHOICES

The U.S. should seek to lease the Sinai air bases, and the former British base on Oman's island of Masirah. The U.S. could occupy the three islands off Iran's coast that the Shah seized in order to settle a sovereignty dispute. The U.S. should ready the island of Diego Garcia in the Indian Ocean for B–52s, aircraft carriers and missile-carrying submarines.

From the start, many Americans felt a vague relief that "there is nothing we can do." In fact, there are many choices the U.S. chose not to make. Instead, it spent weeks emitting chaotic signals about avoiding bloodshed, force, even pressure. Carter waited 39 days before even expelling most Iranian diplomats. If the U.S. had wanted this crisis prolonged, would it have acted otherwise? Washington is not wholly unhappy when immersed in a crisis that enlivens conversation without actually compelling hard actions. I detect something like enjoyment of this crisis, with its vigils, public praying and telegenic gestures.

But while Washington is dimming the national Christmas tree, the Soviet Union is forging an iron ring around the Middle East—in South Yemen, Ethiopia, Afghanistan, Libya, and with its Mediterranean fleet. Soviet radio spreads instability, as in Iran. Soviet military maneuvers are honing a quick-reaction capability to exploit instability. Within the closing ring, Arab leaders are not reassured by U.S. "restraint."

At the U.N., U.S. "restraint" was rewarded with a resolution of awful "evenhandedness." It did not condemn Iran; instead it asked the aggressor and the aggressed-against equally for "restraint." The U.S. should have replied: "You won't condemn Iran, we won't subsidize this travesty. Henceforth, we pay 1/151, not a fourth, of the U.N.'s budget." Instead, the U.S. hailed the U.N. resolution as a victory. As John Jay Chapman said, "One need not mind stealing, but one must cry out at people whose minds are so befuddled that they do not know theft when they see it." The U.N. "victory" was a call for the criminal and the victim "to resolve peacefully" the "issues between them." Issues, shmissues, they've stolen our citizens. That's not an "issue," that is an act of war.

The U.N. debacle, the effort at the World Court and Secretary Vance's travels in search of supportive allies were attempts to cultivate world opinion. But what the world needs is a demonstration that, at times, the U.S. doesn't give a damn about "opinion." There is, as Jefferson wrote, such a thing as "decent respect for the opinion of mankind." But he wrote that in a declaration of independence. The U.S. needs a declaration of independence from the ideal of restraint in the face of government-sponsored terrorism.

When Pravda supported Iran, many staff members at the U.S. Embassy in Moscow complained that the U.S. was too mild in dealing with the Soviets. Only the State Department could contrive to find Soviet policy on Iran ambiguous. Vance called Pravda "deplorable" (is deplorabe worse than "unacceptable," as in the "unacceptable status quo" in Cuba?). Earlier, in Moscow, some Soviet officials were disinvited from an embassy screening of "Goodbye Girl." Thus did the American eagle show its talons.

VIETNAM COMPLEX

Last week, the Wall Street Journal noted that when, last August, Aleksandr Godunov defected, "a contingent of burly Soviets" flew in from Moscow. Then "a carload of husky Soviet 'tourists' paid a sudden visit to the Tolstoy Foundation estate in Valley Cottage, N.Y., a frequent stopping place for Russian refugees. The 'tourists' clumsily but effectively searched the premises, in the apparent hope of finding the defected star before he received asylum." Have you heard the eagle scream about that? Or about Soviet violations of the Atmospheric Test Ban Treaty? Or of the Threshold Test Ban Treaty? Or of the SALT I ABM treaty?

The Administration is decorous with the Soviets, in part because of its paralyzing obsession with SALT II ratification. Last week, Carter yielded to Senate pressure and endorsed increased defense spending. An aide said this marked the end of "the Vietnam complex." Nonsense. Carter wants the increases because he wants SALT II, which embodies a complacent world view that is part of "the Vietnam complex." Were SALT II ratified, Carter probably would no longer want the increases. He has a record of watching quietly as Congressional allies trim his paper proposals.

Three months ago he opposed what he now proposes. And three months from now? If his sudden, Saint Paul-like conversion is real, he is too plastic for comfort. But his rebirth as a realist is too convenient for comfort, coinciding as it does with the imperatives of the SALT debate and the mood of the moment, both of which will end.

Soviet troops have entered the Afghan civil war; another Soviet inhibition is being shed. When told that the Soviet Union is helping starve Cambodians, impeding the delivery of relief and diverting supplies to its proxy soldiers, Carter exclaimed, "Is there no pity?" No, Virginia, there is no Santa Claus, no pity and no one listening to White House appeals to "the responsible leaders in both Hanoi and Moscow." ●

WHERE "NOW" HAS A POINT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 15 minutes.

● Ms. HOLTZMAN. Mr. Speaker, Last year Congress voted to extend the deadline for ratification of the equal rights amendment. The States of Idaho and Arizona and four legislators are now challenging that extension in a Federal court in Idaho. The case is being heard by Judge Marion Callister, a regional representative in the Mormon Church. As a regional representative, Judge Callister is near the top of the church hierarchy (much like an archbishop in the Catholic Church) and admits to communicating church policy to members of the church. Part of that policy is opposition to both the equal rights amendment and the extension. Members of the church have been urged to work actively for the rejection of the amendment.

For this reason, the Justice Department filed a motion asking Judge Callister to disqualify himself from consideration of the case under a statue requiring that a judge "shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned." The statute reflects the principle basic to our judical system that the appearance of justice, as well as its reality, must be evident in all judicial proceedings. It is inconsistent with that principle to allow a judge to rule on the equal rights amendment and the extension of the deadline for its ratification when he is a prominent leader in a church that has formally and clearly opposed the passage of the amendment.

Nevertheless, Judge Callister refused to disqualify himself. His opinion raises serious questions about his refusal. First, he did not apply the correct legal standard, disregarding the question of the appearance of impartiality. And nowhere in his opinion did he deny that he had taken a position against the equal rights amendment (a singularly curious omission). Indeed, the tenor of his opinion suggests that he may have made private statements against it. For these reasons, I believe it would be wrong for the Justice Department to acquiesce in Judge Callister's refusal to disqualify himself. Unfortunately, the Justice Department has so far declined to appeal the judge's decision.

The Department's refusal to appeal the decision is even more troubling in light of the Mormon Church's recent excommunication of Sonia Johnson, a devout Mormon who supports the equal rights amendment. If a woman who is merely a member of the Church is excommunicated for her support of the amendment, the pressure on a high-ranking church official to do everything in his power to undermine the amendment will be enormous.

Further, it is unrealistic to suggest that any decision by the judge could appear to be unbiased. If the judge upholds the extension, it will be alleged that he was not ruling on the merits but rather was bending over backwards to appear fair. If, on the other hand, he rules against the extension, it will appear that he is acting on the basis of church doctrine and policy rather than constitutional principles.

I therefore urge the Justice Department to reconsider its position, and I commend to my colleagues' attention two recent editorials on the subject. The first appeared in the New York Times on December 19, 1979. The second was in the December 5, 1979 edition of the Boston Globe.

The texts follow:

WHERE NOW HAS A POINT

The National Organization for Women and other groups have raised a more persuasive complaint against a Federal judge in Boise, Idaho, who is hearing a court challenge that could kill the Equal Rights Amendment. The judge, Marion Callister, also holds a high position in the Mormon Church, one of the most energetic opponents of the amendment.

Nobody argues that Judge Callister is unfit to try the suit merely because of his religion. Catholic judges are not and should not be disqualified from abortion cases; Quaker jurists are not barred from disputes over military service. But Judge Callister holds the lay Mormon post of Regional Representative. He is one of about 100 men who supervise congregations and keep local churches in touch with the national church about policies and programs, including some political objectives. It seems entirely reasonable for supporters of the amendment to be concerned that the judge's high church rank and duties might influence his judgment on a matter of such importance to the Mormon high command.

The suit before Judge Callister was brought by Arizona and Idaho. They seek to invalidate Congress's extension of the time in which the amendment may be ratified by the states. They also ask for a judicial declaration that states are free to withdraw previous ratification. The Justice Department, defending what Congress has done, contends the suit is premature.

Moreover, the department shares the concerns of the women's groups and asked the judge to remove himself from the case. He refused, with a memorandum that glosses over the demands of the Federal law on disqualification and fails to allay the doubts about his impartiality. Solicitor General McCree decided not to appeal the ruling, saying it would delay the case, including appeal of this point.

The women's groups have asked the Attorney General Civiletti to press again for Judge Callister's withdrawal. They fear that an adverse judgment, even if ultimately overturned, would cripple their political drive for ratification in legislatures early next year. Whatever the legal and political merits of all these tactics, the bid for a more clearly impartial judge is in no sense frivolous. Indeed, Congress made clear in 1974, when it changed the rules of disqualification, that the appearance of justice has a lot to do with the reality of it.

Mr. Civiletti can address that problem immediately, as we think he should, or later, as the course of the case might justify. NOW has raised a serious question that the courts, sooner or later, will have to face.

A CONFLICT OF INTEREST

Sonia Johnson is a Mormon who supports the Equal Rights Amendment. The description is simple enough and yet it presents an elementary, if painfully clear, conflict of interest for the 43-year old Virginia woman and others like her.

On Saturday night Johnson stood trial before a three-man church tribunal on charges that she had spread false doctrine by making pro-ERA speeches in Utah, Nevada, Arizona and Florida, states where Mormons have orchestrated successful anti-ERA lobbying efforts. Mormons say they aren't opposed to equal rights for women; they are simply opposed to the amendment that would guarantee them. Johnson doesn't buy this distinction and she may be excommunicated as a result.

Her dilemma dramatizes one that many men and women have lived in recent years as they've been pushed to weigh their own beliefs against the sometimes contradictory tenets of their religions. But, while the tribunal's verdict, expected any day now, is strictly church business, there's something at stake for all of us in a less private conflict of interest case that has surfaced in conjunction with the Sonia Johnson story.

Last August the Justice Department asked Marion Callister, a federal judge in the U.S. District Court in Boise, Idaho, to disqualify himself from hearing a suit that challenges the constitutionality of Congress' extension of the deadline for ERA ratification. The case also involves the question of whether states that have already voted to ratify the amendment can vote again to rescind ratification. Callister, a member of the Mormon hierarchy, refused to disqualify himself in October despite the church's well delineated position on both questions. And the issue was dropped.

The Justice Department could have asked the circuit court of appeals to order that Judge Callister be removed from the proceedings. In fact it still can. That would certainly make more sense than having the National Organization for Women do the government's legal work. NOW announced on Monday that it will file an appeal with the 9th U.S. Circuit Court of Appeals in San Francisco because the Administration has been lax in pursuing the question.

Even if Judge Callister were capable of separating his personal beliefs from the legal questions before him, his presence in the courtroom would certainly color, and possibly distort, the proceedings. And supposing Callister found in favor of the ERA? Would he then find himself in the same untenable position as Sonia Johnson? Would he face a reprimand or punishment from his church? For justice's sake and his sake, the Justice Department should move quickly to see that Judge Callister is disqualified.●

AIRPORT LEGISLATION SEEN AS WEAKENING AIRCRAFT NOISE RULES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. CORMAN), is recognized for 5 minutes.

● Mr. CORMAN. Mr. Speaker, earlier today, I voted against taking up the conference report to accompany H.R. 2440, the Airport and Airway Development Act. My objection to this legislation is that it seriously weakens the Federal Aviation Administration fleet noise rules that all aircraft were required to meet by certain dates. Families living near Burbank Airport which borders my congressional district have been subjected to almost unbearable noise emanating from aircraft traffic. Several of my colleagues and I have fought long and hard for these FAA standards and it is terribly frustrating to see so much of our work undone.

H.R. 2440 was conceived as a noncontroversial measure to provide discretionary funds for airport and airway development, but was amended in the Senate to roll back noise standards. I regret the House did accept the rule for consideration of the conference report by a slim margin of 195 to 192. I hope more of my colleagues can be persuaded to change their minds before the final vote is taken. We must stand firm on these standards which are the only means we have of relieving all of those Americans who must live close to airports.●

RECESS

The SPEAKER pro tempore. Pursuant to the order of the House agreed to earlier today, the House will stand in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 20 minutes p.m.), the House stood in recess subject to the call of the Chair.

☐ 2230

AFTER RECESS

The recess having expired, at 11 o'clock and 32 minutes p.m., the House was called to order by the Speaker pro tempore.

HOW CONGRESSIONAL ENERGY INITIATIVES ARE WORKING

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent to insert in the RECORD a statement prepared by the Office of the House majority whip entitled, "How Congressional Energy Initiatives Are Working."

The report, dated December 19, 1979, follows:

HOW CONGRESSIONAL ENERGY INITIATIVES ARE WORKING

Over the past six years since the Arab oil embargo, Congress has enacted many new laws and programs to help alleviate the nation's energy problems. These laws include measures to help increase the efficiency with which America uses energy and to help increase the supplies of domestic energy resources.

Hopefully, these programs will greatly reduce U.S. dependence on oil imports, and make energy shortages much less likely in the future. However, the congressional initiatives take time to work, and U.S. energy problems have worsened faster than prospective solutions have had time to take effect.

For example, although it now takes 8 percent less energy to produce a given unit of GNP than it took in 1972, domestic oil production has also fallen, and thus U.S. oil imports have risen sharply over 1972 levels. Therefore, Congress has also enacted programs to better prepare the nation to cope with energy shortages when they occur. These include the Strategic Oil Reserve, and the formulation of standby contingency plans.

This report was prepared for Speaker O'Neill's Energy Task Force to summarize some of the programs that Congress has enacted to help alleviate America's energy problems.

I. ENERGY CONSERVATION

Congress has enacted a number of different programs to encourage the more efficient use of our energy resources including:

Automobile Fuel Efficiency Standards.—Model year 1980 cars will be almost 50 percent more fuel efficient than those in 1974. The Energy Policy and Conservation Act (enacted 12/75) requires auto companies to double the average fuel efficiency of their fleets between 1974 and 1985; fuel efficiencies are to increase from an actual 14 miles per gallon in 1974, to 20 mpg in 1980 and 27.5 mpg in 1985.

Energy Conservation Tax Credit.—Conservation investments in homes (only principal residences) are eligible for a tax credit equal to 15 percent of what homeowners spend, up to $2000 expended, for a maximum credit of $300. This credit applies to spending on insulation, weatherstripping, caulking, storm doors and windows, as well as to furnace efficiency improvements.

Low Income Weatherization Program.—Low income renters and owners (up to 125 percent of the poverty level, about $8,700 a year) are eligible to receive grants under this program which will install energy conserving improvements in these families' homes at no cost. Although there have been implementation problems, over $500 million has been made available to this project since 1977, and Congress is working to improve administration of this program.

Residential Energy Conservation Service.—The National Energy Conservation Policy Act requires gas and electric utilities to offer energy audits to all residential customers and to provide information about the availability of contractors and sources of credit. In November, the Department of Energy issued final regulations implementing this program, mandating that it be made available to most Americans within one year.

Schools and Hospitals Grant Program.—The National Energy Act enacted in November 1978 created a program to provide matching grants to schools and hospitals that wish to weatherize their buildings, for which approximately $250 million has been provided so far.

Federal Buildings Program.—The Federal government is committed to weatherizing all of its buildings within a 10 year period.

Building Energy Performance Standards.—The federal government has proposed a set of building energy performance standards, with national applicability, to encourage local construction codes which would require new energy efficient commercial and residential buildings.

Energy Extension Service.—Congress created the Energy Extension Service to work through the states to encourage all energy consumers to adopt energy efficient practices. This program will be available throughout the country in 1980.

Other Conservation Programs.—There are many other conservation programs including those to encourage the states to adopt energy efficient practices, to enforce the 55 mile per hour standard, and to require that energy efficiency data on appliances and industrial equipment be made available to energy consumers. Various research and development programs throughout the government are exploring new ways to use energy resources more efficiently. Also, the federal government has been directed to run its activities so as to save energy, for example, in deciding what cars to purchase and how to use them.

II. SOLAR ENERGY

Congress has moved vigorously to encourage the development and use of solar energy as a major energy resource for the United States, with a goal of providing 20 percent of our nation's energy requirements from all forms of solar energy by the year 2000. Federal support, including tax credits, has increased from $15 million in fiscal 1974 to over $1 billion in fiscal 1980. These programs include:

Solar Tax Credits.—Last year, Congress made available major tax credits, now in effect, to encourage solar energy use, providing tax credits for 30 percent of the first $2,000 spent and 20 percent of the following $8,000 spent, for a maximum credit of $2,200.

Solar Research, Development, and Demonstration Funding.—These programs provide for the continued development and demonstration of solar energy for applications such as: residential and commercial heating and cooling; the conversion of sunlight to electricity through photovoltaic systems and through thermal electric power plants; use of wind energy and ocean thermal gradients; small scale hydroelectric dams; and biomass conversion processes, including alcohol fuels.

III. FOSSIL ENERGY PROGRAMS

Congress has enacted a variety of research and development, tax credit and regulatory programs to increase the use of domestic coal resources, and to increase and make better use of limited U.S. oil resources. These include:

Fossil Energy R&D Programs.—These programs have grown from $60 million in 1973 to over $840 million in 1980. They are designed to assist technologies which would help produce clean liquid or gaseous fuels from coal, as well as for improving the burning of coal directly. In 1980 two coal liquefaction pilot plants will begin producing coal liquids in Catlettsburg, Kentucky and at Baytown, Texas, for processing 500 tons of Eastern coal a day.

This year, as a result of congressional initiatives, DOE will contract to build at least one demonstration plant to produce gas from coal. Two large demonstration plants, costing approximately $1 billion each, will be built to produce clean liquid and solid fuels from ordinary coal. These are the "solvent refined coal" plants.

Also, DOE funded the development of the so-called "fluidized bed" technology to burn high sulfur coal cleanly without scrubbers. The first industrial-size commercial-scale unit in the United States, started in 1976, was dedicated at Georgetown University this past November 15.

The federal government will also spend almost $100 million in 1980 to help develop new sources of domestic oil and gas, including better techniques for recovering existing oil and shale oil reserves, and techniques for making use of geopressured gas reserves.

Tax Credit Programs.—Last year, Congress enacted a variety of additional tax inducements to make the production of coal, and its use, more attractive; and to increase the attractiveness of geopressured gas and shale oil.

Regulatory Programs.—Last year Congress enacted a "coal conversion act" to ensure that coal, rather than oil or gas, was used by electric utilities and industry whenever possible. Also, the Environmental Protection Agency has been streamlining some of its requirements to make it easier for utilities and industries to convert toward using coal, rather than oil and gas, while still protecting the quality of the air we breathe.

IV. GASOHOL PRODUCTION

Congress has enacted a series of programs to encourage the increased use of gasohol to power our country's automobiles. Gasohol is a blend of ethyl alcohol, made from agricultural products and wastes. The usual blend contains 10 percent alcohol and 90 percent gasoline. Congress has funded several major research grants and large pilot plants.

Tax Incentives.—In 1978 Congress enacted important new tax incentives for the production of gasohol including: a speical 10 percent investment tax credit, in addition to the regular 10 percent investment tax credit, for equipment designed to help produce gasohol, as well as an important exemption of gasohol from the 4-cent federal gasoline excise tax. This latter inducement is the equivalent of a $16.80 a barrel subsidy for the production of ethyl alcohol which is used for making gasohol. In addition, many states have adopted still more generous tax exemptions for gasohol. Consequently, gasohol supplies are growing extremely rapidly even though there is a long way to go before they supply a significant percentage of the 7.0 million barrels a day of gasoline consumed in the U.S.

Grants and Loans.—In November the Administration announced a new program to provide $11 million in grants and loans to 100 small-scale gasohol plants.

V. NATURAL GAS POLICY ACT

In 1978, the Congress enacted the controversial Natural Gas Policy Act which eliminated the artificial regulatory distinction between gas sold within a producing state's boundaries, and that sold in a consuming state. The result is that this winter there is virtually no chance of a natural gas shortage. Since its enactment, large additional quantities of gas have been flowing from the producing to the consuming states. In fact, many gas companies have started connecting new customers for the first time in five years. Even though prices of natural gas are higher than in past years, there is no argument that more gas supplies are now available to the interstate gas market, at prices below those of oil.

VI. NUCLEAR ENERGY

At present, there are about 70 nuclear power plants in operation, generating approximately 13 percent of the nation's electric output. Another 90 nuclear plants are in various stages of design and construction.

A typical large (1100 megawatt) nuclear power plant produces about the same amount of electricity as would be obtained from the burning of about 10 million barrels of oil per year, and does so at an average cost of approximately 1.5 cents per kilowatt-hour. This compares to about 2.3 cents per kilowatt-hour for coal and 4 cents for oil.

It is these two features, oil displacement and low generating costs, that make nuclear power, to some, an attractive energy option. On the other hand, nuclear energy is seen by others as presenting unacceptable risks due to problems, real or perceived, in reactor safety, waste management, weapons proliferation, and other areas.

The March 28, 1979 accident at Three Mile Island, while not resulting in any deaths, heightened concern over reactor safety and raised significant questions about the adequacy of federal regulations. The President's Commission on Three Mile Island made a number of recommendations for implementing the lessons learned from the accident, and the President adopted most of them. The Congress has funded a requirement that each nuclear plant have a federal inspector.

In late November the House of Representatives defeated an amendment to the NDC authorization bill that would have imposed a temporary moratorium on the issue of construction permits for new nuclear plants. Recent actions by the Nuclear Regulatory Commission, however, have the effect of imposing an interim halt on both construction permits and operating licenses. While the debate continues, a vigorous program of research, development, and demonstration of improved generation of nuclear power is under way. Congress will continue to debate these nuclear safety issues, as well as issues relating to radioactive waste management and the need for the breeder reactor, among others.

VII. STRATEGIC PETROLEUM RESERVE

The Congress has enacted and funded the development of a strategic oil reserve that would ultimately contain at least 500 million barrels of oil, and provide valuable protection to the United States in case of an oil embargo or other international oil incident. At present, the Reserve contains 90 million barrels of oil and has the capability to pump out at a one million barrel-a-day rate. If this country were to lose 2 million barrels a day of our oil imports (roughly 25 percent of the amount imported), with a full reserve the United States could offset this loss with reserve oil for a period of over 8 months.

VIII. EFFORTS TO RESTRAIN OPEC OIL IMPORTS

The Administration is engaged in an effort to convince the major oil importing nations of the world that it is in their collective interest to jointly reduce their imports of foreign oil supplies. The Administration argued its case at a December Paris meeting of the International Energy Agency, and got initial agreement on a plan to moderately reduce consuming country oil imports. The President has announced that he will impose a quota on U.S. oil imports for next year at levels below 8.5 million barrels a day. Oil consumption in 1980 is expected to be low enough that oil imports will be below that level.

IX. ELECTRIC UTILITY RATE REFORM

In 1978, the Congress enacted a comprehensive law requiring that state public utility commissions review the rates they allow their electric utilities to charge so as to ensure that they are cost justified, and provide proper incentives for consumers to save energy and thus ultimately reduce their electric power bills.

X. RESEARCH AND DEVELOPMENT

Congress continues to fund a large-scale energy research and development program to help create new energy resources and improve old ones. The program is currently funded at levels exceeding $4 billion a year as Congress works to move the nation towards greater energy independence.●

AN ENERGY ASSESSMENT FROM THE SPEAKER'S TASK FORCE

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● **Mr. BRADEMAS.** Mr. Speaker, I ask unanimous consent to insert in the RECORD a document, prepared by the office of the House majority whip, entitled, "An Energy Assessment for the Speaker's Task Force."

The report, dated December 19, 1979, follows:

AN ENERGY ASSESSMENT FROM THE SPEAKER'S TASK FORCE

Speaker O'Neill's Energy Task Force, composed of members of the House leadership and committees with energy jurisdictions, has had prepared an assessment of the national petroleum situation, based on the most recent data available. The assessment is the first of periodic reports planned on energy outlooks and related legislation.

Short Term Assessment.—Current indications are that the United States will be able to get through this winter without a major, widespread oil shortage, if Iranian and other world production continues at current levels, even without direct U.S. importation of Iranian oil. However, there is some chance of sporadic gasoline lines possibly early this winter or perhaps by spring. World market uncertainties make more definitive predictions impossible. U.S. oil companies already have started raising prices in response to this weeks OPEC pricing conference.

Longer-run Assessment.—Furture developments depend on the continued availability of oil production, including Iranian oil, to the world market at current levels. There is great uncertainty about Iran's willingness and capability to maintain current production. Several other producers have announced cutbacks next year. The world demand picture is clouded by indications foreign economies are slowing down. Thus, this country could experience recession, but possibly not an oil shortage. The full impact of the new OPEC rate increases, plus the gradual decontrol of U.S. oil, will continue driving up prices here.

Current U.S. Supply and Demand Factors.—The picture includes:

United States Imports.—While this country was depending on foreign sources for nearly half its oil last year, in recent weeks the figure has been closer to 42 percent, still much too high, but improved because of decreased demand. Net imports currently are 7.7 to 7.8 million barrels a day. In the past month, imports were 5.4 percent below the comparable figure in 1978.

Home Heating Oil and Diesel Fuel (Distillates).—Stocks are reported in reasonable shape and the nation should not experience more than special localized problems. Some $1.6 billion in low income fuel assistance is in place. Although distillate stocks fell slightly the past two weeks, this is normal for this time of year. Stocks still are about 4 percent above last year's levels at 238 million barrels. This winter's stocks should remain sufficient unless there is a severe interruption of oil supplies to the world market.

Distillate Prices.—Heating oil retail prices average 83 to 86 cents a gallon (considerably higher in some areas), and diesel fuel prices average 99 cents a gallon—prices more than 60 percent higher than last year's. Predictions are that OPEC price increases may push up distillate prices another 10 to 13 cents by the end of the year, and that the gradual decontrol of U.S. oil may add another 5 to 6 cents a gallon.

Gasoline Stocks.—Although U.S. demand in recent weeks has been 5 to 10 percent below last year at this time, refiners' stocks are so low that there is at least a potential for a return of sporadic gasoline lines. Stocks last week were at 221 million barrels, 2 percent less than the low level at this time last year. Although stock growth had been anticipated, gasoline stocks fell slightly last week. Unless more gasoline is produced, and demand stays down, gasoline lines remain a real possibility. The situation is so fluid, however, two week's news could change the outlook.

Gasoline Prices.—Gasoline prices are averaging $1.01 to $1.11 per gallon, depending on the grade. OPEC price increases are expected to result in 10 to 13 cents per gallon increases in gasoline prices, with the gradual decontrol of U.S. oil adding another 5 or 6 cents over the next year.

Crude Oil Stocks.—Currently, U.S. refiners are keeping very high levels of crude oil stocks, about 9.4 percent above the 1978 comparable period. Some analysts believe refiners have been reluctant to process these stocks because of the shaky world market situation. Others contend refiners may be withholding production to boost prices in tandem with OPEC increases. Crude oil stocks last week were about 349 million barrels or 30 million barrels above the 1978 level—a possible temporary insurance against a sharp world supply shortfall.

Refinery Use.—The refiners' decision to maintain high levels of crude oil stocks, and the general lower level of demand for gasoline, dovetail with recent lower levels of refinery utilization. Usage has averaged 86 percent of capacity the past three weeks, significantly under the 90 percent at this time last year. If there are no new international oil shortages, refiners would be expected to step up gasoline production rapidly and reduce the possibility of a return to sporadic gasoline lines. But the situation remains highly uncertain.

ENERGY LEGISLATION IN THE 96TH CONGRESS

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent to insert in the Record a brief summary of the status of key energy legislation in the 96th Congress prepared for Speaker O'Neill's Energy Task Force.

The summary follows:

Synthetic Fuels Development Program (H.R. 3930; S. 932): Now in conference. Congress is expected to enact a new program to help create a new industry in the United States, capable of producing 2 million barrels a day of synthetic fuels by 1992. These syntheic fuels will come from abundant domestic resources such as synthetic oil from coal and oil shale, alcohol from coal and urban wastes, and synthetic gas from coal. Public Law 96–126, The Interior Appropriations Act, already includes $2.2 billion to begin funding this program.

Energy Mobilization Board (H.R. 4985; S. 1308): Now in conference. Congress is expected to create an Energy Mobilization Board to help expedite—that is "fast track"—the construction of energy projects of critical importance to the nation. Such projects might include synthetic fuel projects, oil pipelines and new or expanded refineries.

Windfall Profits Tax on Domestic Oil Companies (H.R. 3919): Now in conference. Congress is expected to enact a substantial tax on additional oil company revenues created by the gradual decontrol of domestic oil prices now under way and by OPEC price increases. The House version would bring in $277 billion in additional taxes from the additional revenues created by gradual decontrol, while the Senate version would collect $178 billion, over the next decade. In April, the President decided to gradually decontrol oil prices through September, 1981 when price control authorities expire, and recommended passage of a windfall profits tax. The tax receipts could be available to finance new energy development, mass transit and low income assistance programs, or other programs.

Energy Conservation Incentives (H.R. 605; S. 932): Now in conference. Congress is expected to enact a new Energy Conservation Bank which will make subsidized loans available to families making less than 120 percent of median income, approximately $20,000 a year, for such purposes as home insulation in existing buildings. The subsidies on the loans would be substantial, allowing up to a 30 percent reduction of the amount owed, up to $3,333, for a maximum subsidy of $1,000. There would be a variety of additional energy conservation incentive programs as well.

Solar Incentives (H.R. 605; S. 932): Now in conference. Congress is expected to enact a new Solar Bank which would make heavily subsidized loans (of up to 40 percent of the amount borrowed) available to all families for the installation of solar equipment in new or existing buildings. Also, Congress is expected to enact a bill to create incentives for wind power development.

Low Income Fuel Assistance (P.L. 96–126): Congress enacted a substantial $1.6 billion program to help lower income families better cope with the burden of substantially higher energy prices this winter. This program is much larger than last year's $200 million funding.

Emergency Energy Conservation Act of 1979 (S. 1030; P.L. 96–102): Provides for federal conservation targets and state emergency conservation plans to meet those targets. It also creates a new procedure for adopting, and then implementing a standby gasoline rationing plan. A standby Federal Conservation Plan is to be published by February 4, 1980. It could only be implemented if a state plan were found to be ineffective. Proposed conservation targets, a proposed standby gasoline rationing plan, have been published for comment.

Gasohol (H.R. 3905, S. 932): Now in conference. Congress is expected to enact a new program to encourage the production of gasohol from agricultural products and wastes. This will be done by offering a combination of loans, and loan and price guarantees to producers who undertake these projects.

Mass transit: The President proposed, and the Congress is now considering, a 10 year, $13 billion program to increase the capabilities of mass transit systems across the country. The Congressional Budget Resolution for 1980 contains $1.3 billion in budget authority for these programs to meet the first year request. The 1980 DOT Appropriations bill already includes substantial increases in urban mass transit program funding.●

MOTHER TERESA

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. HANLEY. Mr. Speaker, there is a certain comfort in bad news—a bit of identification and association with the setbacks of every day life we all endure. There is an appeal and an inevitability about it that piques our curiosity. A half-hour of television news or any daily paper will evidence this.

What a remarkable contrast then, when a story such as that of Mother Teresa makes headlines around the world. Like a vibrant rush of fresh air, the facts about this woman open our eyes and our minds to true goodness * * * and to the true capacity of the human spirit.

Mother Teresa of Calcutta, a 69-year-old Roman Catholic nun who has cared for the poor and sick in India for more than 30 years, has been named the 1979 winner of the Nobel Peace Prize.

In naming her, the Nobel Committee said:

> This year the world has turned its attention to the plight of children and refugees and these are precisely the categories for whom Mother Teresa has worked so selflessly for many years.

When we stop to think of what that brief sanitized sentence really means—"the plight of children and refugees—Mother Teresa has worked so selflessly"—we get some idea of the lady's greatness.

Working up to 18 hours a day in the world's most sickening slums, Mother Teresa and her "Missionaries of Charity" have managed to provide a measure of consolation for every kind of tragedy. Time magazine reports:

> They collected abandoned babies from gutters and garbage heaps and tried to nurse them back to health. They brought in the dying so that they might die under care and among friends. The deepest consolation offered goes beyond physical care. "For me each one is an individual", Mother Teresa explained. "I can give my whole heart to that person for that moment in an exchange of love. It is not social work."

Indeed, it is not. It is the work of Almighty God. It is the carrying out to perfection of the Second Commandment. "Thou shalt love thy neighbor as thyself for the love of me."

Mother Teresa was born in 1910 in Albania, and became a teaching nun at a genteel girl's school in India by her early twenties. In 1946, during a train ride, she explains, she felt the touch of a divine command to leave her cloistered existence and work with the "poorest of the poor" in the slums of Calcutta. She did that and founded her "Missionaries of Charity," now a worldwide order of 1,800 nuns, 250 brothers and thousands of lay coworkers who serve the sick, the dying and the lonely in 30 countries.

Mr. Speaker, President Carter has said that Mother Teresa's work "has been a great inspiration for many years to those of us who cherish human rights. Mankind is in her debt." We are certainly in her debt, particularly those who will be moved to give of themselves by her saintly example.●

CONSUMER PROTECTION

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. HANLEY. Mr. Speaker, not too long ago this House registered its lack of confidence in the Federal Trade Commission and its seeming overzealous approach to consumer protection issues. Certainly there has been demonstrated that the staff studies and recommendations in some areas of the business world have been preemptive and ill-directed, having little more basis for complaint than the predilection of the staff itself.

However, I do have a deep concern that one aspect of the FTC mandate to protect the public may be overcast by such more visual and controversial proceedings; that is, the FTC's antitrust mission may be harmed in the general complaint against overextended regulatory harassment.

As a member of the House Subcommittee on Antitrust and Restraint of Trade Activities Affecting Small Business, I have shared with my colleagues a concern that big business often operates at the expense of small businesses—sometimes in the twilight region of antitrust law violation and abridgement of the Robinson-Patman Act.

I am pleased to see that our colleague, Congressman Berkley Bedell, has filed a written comment with the Senate Consumer Subcommittee chaired by Senator Wendell Ford objecting to the Heflin amendment. As a prudent statement by the chairman of our Antitrust Subcommittee, the testimony which I bring to the attention of the House fairly states the case. Careful not to throw the baby out with the bath water, we must resist an overzealous impulse to deregulate the business world by stripping away needed defenses for small enterprises.

I would also like to commend to our colleagues a news story related to this issue and the implications of going overboard in a fit of deregulation overkill.

Thank you.

Committee on Small Business,
Subcommittee on Antitrust and
Restraint of Trade Activities
Affecting Small Business,
Washington, D.C., November 29, 1979.

Hon. Wendell H. Ford,
Chairman, Consumer Subcommittee, Senate Committee on Commerce, Science and Transportation.

Dear Mr. Chairman: In the House of Representatives I serve as the chairman of the Subcommittee on Antitrust and Restraint of Trade Activities Affecting Small Business. Consequently, it is with considerable interest that I have followed the debate over the actions and policies of the Federal Trade Commission.

I regret that a long-standing commitment to meet with constituents in my home district on November 30 prevents me from appearing in person at your hearing on proposed changes in the FTC's antitrust enforcement authority. Instead, I am submitting this statement for the record.

To get right to the point, I believe it would be a serious mistake for the Congress to adopt the Heflin Amendment or any similar proposal that would create a blanket prohibition on the FTC ordering divestiture, patent licensing or similar remedies for antitrust violation. In the long run, such legislation would be very harmful to the interests of small business.

I do not come to you as a knee-jerk defender of the Commission. In fact, I have voted in the House to overturn the FTC's actions in the funeral industry and the agricultural cooperatives cases, the only two that have come before us for a vote.

There is a widespread public feeling that we are plagued by too many over-eager young lawyers who have created a web of needless nit-picking government regulation. I think this is a valid sentiment, and I especially agree that the FTC in particular has wasted to much time and effort—both its own and the business community's—on trivial matters in the consumer area. So, I do support efforts to curb the bureaucratic excess we have witnessed.

But the Heflin Amendment is something else entirely. It attacks the very essence of the Federal Trade Commission and its antitrust enforcement mechanisms. This I cannot accept.

Mr. Chairman, the FTC has the potential of being the single most important government agency as far as the small business community is concerned. It is the Federal Trade Commission that was established to see that there is true and fair competition in industry, to try to control monopoly practices. It is to the FTC that small business people look for protection and relief from unfair practices by big businesses.

Up to now the debate mostly has been over the FTC's actions to regulate relations between businessmen and consumers; for its recent actions in this area the Commission has earned the criticism it is receiving. But when we take up the issue of antitrust enforcement, we are getting into the policing of competition between big business and small business; this latter activity is the reason why the FTC was created and the reason why it may be the small business community's last best hope.

The FTC does need oversight and some of its actions in the consumer protection area clearly do need to be changed. But let us be careful to avoid overreacting. There still is a serious problem in our economy, a tendency toward monopoly and concentration of ownership. And the FTC's must be left with the tools to deal with that problem.

As the chairman of the House Small Business Subcommittee on Antitrust, and as a businessman myself, I can tell you that civil action by the small business victim of anticompetitive activity is not a practical remedy. The typical small businessman cannot afford the time or expense involved in taking that route.

It is to the FTC, with its promise of administrative remedies, that the small businessman looks.

Moreover, it is of little help to our economy if remedies such as divestiture and patent licensing are no longer available. Why should we bother to outlaw monopolistic and anticompetitive actions if we then make it impossible to correct the consequences of such activity?

Most entrepreneurs, in businesses of any size, want a chance to compete fairly and equitably. It is the government's job to act as a referee, protecting them from those who seek to compete unfairly.

The Federal Trade Commission must be allowed to retain its enforcement powers to assure true competition in the marketplace. That is why I urge you and your colleagues to reject the Heflin Amendment and any similar proposals.

Sincerely,

Berkley Bedell,
Chairman; House Small Business Subcommittee on Antitrust.

Shenefield Warns About Gutting Power of FTC

(By Merrill Brown and Larry Kramer)

A proposal to bar the Federal Trade Commission from ordering divestiture in antitrust cases could debilitate the federal government's power to combat monopoly practices, the administration's chief antitrust enforcer charged yesterday.

John Shenefield, assistant attorney general for antitrust matters, made the statements in a letter to Sen. Howard Cannon (D-Nev.), Chairman of the Senate Commerce Committee, which is to consider the proposal today.

"The proposal may interfere, to a substantial degree, with effective allocation of the relatively limited enforcement resources available to the government to combat monopolistic or other anticompetitive practices," Shenefield wrote.

The proposal, submitted by Sen. Howell Heflin (D-Ala.) would curtain dramatically the FTC's antitrust powers. Consideration of the Howell amendment to an FTC funding bill comes at a time when the commission's powers are being wiped away by other proposals already approved by the full House of Representatives and by the Senate Commerce Committee.

A staff memo stating the case for the Heflin amendment was taken verbatim, in parts, from a brief submitted to the FTC by attorneys representing General Mills, Inc., the target of a major FTC divestiture action. The so-called cereal case is among FTC actions that would effectively be killed if the Heflin amendment became law.

In testimony prepared for delivery today, Jack Blum, an attorney representing the Independent Gasoline Marketers Council, urges Heflin to investigate the preparation of the memo.

Charging that the amendment "represents a radical change in antitrust law" and appears to be an "attempt by a major industry to end-run" pending cases, Blum calls on the Senate committee to block the Heflin plan.

Blum also points out that the Heflin staff memo was prepared by the Washington law firm of Howrey & Simon, which also represents Exxon Corp. and Shell Oil Co., the targets of a separate FTC antitrust action.

Heflin's amendment to the FTC authorization bill would include prohibiting any FTC orders involving "divestiture or other similar relief" in investigations of competitive practices.

The amendment would effectively kill five major antitrust proceedings pending at the FTC, all of which have divestiture as a proposed result:

Exxon. The FTC alleges that the eight major petroleum companies combined, or agreed to monopolize, refining operations in the east, Gulf Coast and parts of the midwest.

Kellogg. Here the FTC staff alleges that three manufacturers have monopolized the ready-to-eat cereal market through widespread advertising, brand proliferation and attempts to restrict shelf space at supermarkets to only their products.

ITT-Continental Baking. In this complaint, the FTC claims ITT's Continental Baking subsidiary illegally has monopolized the wholesale bread baking industry through predatory pricing and other anticompetitive tactics.

DuPont. This controversial FTC probe seeks to break up DuPont's hold on the titanium dioxide (a paint whitener) market.

Brunswick. In this case the FTC only yesterday ruled that a joint venture arrangement between two outboard motor manufacturers was illegal because it gave one of the manufacturers an unfair domination of that market in the United States.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. EDWARDS of Oklahoma) to revise and extend their remarks and include extraneous material:)

Mr. JEFFORDS, for 15 minutes, today.

Mr. MILLER of Ohio, for 15 minutes, today.

Mr. RUDD, for 15 minutes, today.

Mr. ASHBROOK, for 30 minutes, today.

Mr. TAUKE, for 10 minutes, today.

Mr. CORCORAN, for 5 minutes, today.

Mr. LEACH of Iowa, for 15 minutes, today.

(The following Members (at the request of Mr. LOWRY) to revise and extend their remarks and include extraneous material:)

Mr. FLIPPO, for 5 minutes, today.

Mr. NELSON, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. VANIK, for 10 minutes, today.

Mr. MATHIS, for 60 minutes, today.

Mr. LAFALCE, for 15 minutes, today.

Mr. PREYER, for 5 minutes, today.

Mr. BINGHAM, for 5 minutes, today.

Mr. EVANS of Indiana, for 5 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. STRATTON, for 5 minutes, today.

Mr. CORMAN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. WOLFF.

Mr. BARNARD, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $1.544.

Mr. DANIELSON. Notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $2,509.

(The following Members (at the request of Mr. EDWARDS of Oklahoma) and to include extraneous matter:)

Mr. CONTE.

Mr. WALKER.

Mr. FINDLEY.

Mr. BADHAM.

Mr. LEWIS.

Mr. MICHEL in four instances.

Mr. LEACH of Iowa in two instances.

Mr. GILMAN in three instances.

Mr. WYDLER.

Mr. FISH.

Mr. TAUKE.

Mr. SHUSTER.

Mr. LENT.

Mr. JOHNSON of Colorado.

Mr. DANIEL B. CRANE.

Mr. GREEN.

Mr. DERWINSKI.

Mr. RHODES in two instances.

Mrs. HECKLER.

Mr. PHILIP M. CRANE.

Mr. MILLER of Ohio

Mr. WAMPLER.

Mr. LAGOMARSINO.

Mr. YOUNG of Alaska.

Mr. VANDER JAGT.

Mr. CORCORAN.

Mr. GOODLING.

Mr. HORTON.

Mr. KEMP in two instances.

(The following Members (at the request of Mr. EDWARDS of Oklahoma) and to include extraneous matter:)

Mr. GILMAN.

Mr. BEREUTER.

Mr. BAFALIS.

Mr. CARTER in three instances.

Mr. MILLER of Ohio in two instances.

Mr. PETRI.

Mr. REGULA.

Mr. DORNAN in three instances.

Mr. LEACH of Iowa in three instances.

Mr. SHUSTER.

Mr. KEMP.

Mr. CORCORAN.

Mr. COLEMAN.

Mr. KELLY.

Mr. HANSEN in seven instances.

(The following Members (at the request of Mr. LOWRY) and to include extraneous matter:)

Mr. ROE.

Mr. RODINO.

Mr. MAZZOLI.

Mr. GAYDOS in two instances.

Mr. PATTERSON.

Mr. DODD.

Mr. GUARINI in two instances.

Mr. GUDGER.

Mr. VANIK in six instances.

Mr. MCDONALD in five instances.

Mr. LONG of Maryland.

Mr. LAFALCE in six instances.

Mr. BENJAMIN.

Mr. SWIFT.

Ms. MIKULSKI in two instances.

Mr. BIAGGI.

Mr. EDGAR in two instances.

Ms. HOLTZMAN in two instances.

Mr. MINISH.

Mr. OTTINGER.

Mr. HOWARD.

Mr. WEISS in 10 instances.

Mr. MAGUIRE.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. SCHEUER in two instances.

Mr. KOSTMAYER in two instances.

Mr. AMBRO.

Mr. EARLY in two instances.

Mr. RUSSO.

Mr. SKELTON.

Mr. LAFALCE.

SENATE BILL AND CONCURRENT RESOLUTION REFERRED

A bill and concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1654. An act to improve the Federal judicial machinery by clarifying and revising certain provisions of title 28, United States Code, relating to the judiciary and judicial review of international trade matters, and for other purposes; to the Committee on the Judiciary; and

S. Con. Res. 56. Concurrent resolution authorizing the reprinting of the committee print entitled "Synthetic Fuels"; to the Committee on House Administration.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate on the noted dates of the following titles:

On December 19, 1979:

S. 673. An act to authorize appropriations for the Department of Energy for national security programs for fiscal year 1980, and for other purposes.

On December 20, 1979:

S. 1143. An act to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1980, 1981, and 1982, and for other purposes; and

S. 2096. An act to provide for a study by the Secretary of Health, Education, and Welfare of the long-term health effects in humans of exposure to dioxins.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 595. An act to authorize certain transactions involving the acquisition and disposal of strategic and critical materials for the National Defense Stockpile;

H.R. 2727. An act to modify the method of establishing quotas on the importation of certain meat, to include within such quotas certain meat products, and for other purposes; and

H.R. 3948. An act to require a study of the desirability of mandatory age retirement for certain pilots, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on December 20, 1979, present to the President, for his approval, bills of the House of the following titles:

H.R. 1283. An act for the relief of Pang Chong Ae;

H.R. 3343. An act to permit civil suits under section 1979 of the Revised Statutes (42 U.S.C. 1983) against any person acting under color of any law or custom of the District of Columbia who subjects any person within the jurisdiction of the District of Columbia to the deprivation of any right, privilege, or immunity secured by the Constitution and laws;

H.R. 3875. An act to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes; and

H.R. 5645. An act to grant to the Little Sisters of the Poor all right, title, and interest of the United States in the land comprising certain alleys in the District of Columbia.

ADJOURNMENT

Mr. HALL of Texas. Mr. Speaker, I move the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 33 minutes p.m.), under its previous order, the House adjourned until Monday, December 24, 1979, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3060. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction with Instituto Mobiliare Italiano exceeding $60 million, pursuant to section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

3061. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction with SABENA Belgian World Airlines exceeding $60 million, pursuant to section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

3062. A letter from the Secretaries of Labor, Agriculture and Interior, transmitting the second joint annual report on the Young Adult Conservation Corps, pursuant to section 807 of the Comprehensive Employment and Training Act of 1973 as amended (92 Stat. 2017); to the Committee on Education and Labor.

3063. A letter from the Secretary of Health, Education, and Welfare, transmitting the annual report on poverty-related research and demonstration projects for fiscal year 1978, pursuant to section 232(b) of the Economic Opportunity Act; to the Committee on Education and Labor.

3064. A letter from the Assistant Secretary of Health, Education, and Welfare for Education, transmitting a letter requesting an extension of 5 months for submission of the report to Congress required by section 453 of Public Law 92-318 analyzing the definition of "Indian" for purposes of the Indian education program; to the Committee on Education and Labor.

3065. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b (a); to the Committee on Foreign Affairs.

3066. A letter from the Director, Office of Administrative Services, Department of Commerce, transmitting a report on the Department's disposal of foreign excess property during fiscal year 1979, pursuant to section 404(d) of the Federal Property and Administrative Services Act of 1949, as amended; to the Committee on Government Operations.

3067. A letter from the Administrator of General Services, transmitting a prospectus proposing the acquisition of space by lease in San Francisco, Calif., pursuant to section 7 of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

3068. A letter from the Comptroller General of the United States, transmitting a report on the financial influence of the Organization of Petroleum Exporting Countries (OPEC) in the United States (EMD-80-23, Dec. 19, 1979); jointly, to the Committees on Government Operations, Foreign Affairs, and Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. WHITTEN: Committee on Appropriations. H.J. Res. 467. Joint resolution making an urgent appropriation for administrative expenses of the Chrysler Corporation loan guarantee program, and to provide financial assistance to the Chrysler Corporation for the fiscal year ending September 30, 1980; with an amendment (Rept. No. 96-719). Referred to the Committee of the Whole House on the State of the Union.

Mr. ZABLOCKI: Committee on Foreign Affairs. Report on allocation of budget totals under the second concurrent resolution on the budget for fiscal year 1980 (Rept. No. 96-720). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLLING. Committee on Rules. H. Res. 513, a resolution providing for the consideration of H.R. 4788. A bill authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes. (Rept. No. 96-721). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. H.R. 514, a resolution providing for the consideration of H.R. 2471. A bill to authorize appropriations for the United States International Trade Commission and the United States Customs Service for fiscal year 1980, and for other purposes. (Rept. No. 96-722). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. H. Res. 516, a resolution providing for the consideration of H.R. 3051. A bill authorizing appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes. (Rept. No. 96-723). Referred to the House Calendar.

Mr. FROST: Committee on Rules. H. Res. 517, a resolution providing for the consideration of H.R. 5741. A bill to amend section 103 of the Internal Revenue Code of 1954 to provide that the interest on mortgage subsidy bonds will not be exempt from Federal income tax, and to exempt interest on certain savings from Federal income tax. (Rept. No. 96-724). Referred to the House Calendar.

Mr. ULLMAN: Committee on Ways and Means. H.R. 6029. A bill providing for the implementation of the International Sugar Agreement, 1977, and for other purposes; with amendments (Rept. No. 96-725, pt. 1). Ordered to be printed.

Mrs. SCHROEDER: Committee on Post Office and Civil Service. H.R. 1262. A bill to amend title 5, United States Code, to provide that civilian air traffic controllers of the Department of Defense shall be treated the same as air traffic controllers of the Department of Transportation for purposes of retirement, and for other purposes. (Rept. No. 96-726, pt. 1). Reported, and referred to the Committee on Appropriations for a period not to exceed fifteen legislative days with instructions to report back to the House as provided in section 401(b) of Public Law 93-344.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 5726. A bill to permit utilities to finance or provide capital investment payments for the installation of energy conservation measures, to establish an Energy Conservation Bank to provide financial assistance to purchasers of energy conserving improvements, to provide new secondary financing authority for the purchase of loans made with respect to energy conserving improvements, to improve the weatherization grant program for low-income persons, and for other purposes; with an amendment (Rept. No. 96-727, pt. 1). Ordered to be printed.

Mr. DELLUMS: Committee on the District of Columbia. H. Con. Res. 228. Concurrent Resolution to disapprove the Location of Chanceries Amendment Act of 1979, passed by the Council of the District of Columbia. (Rept. No. 96-728). Referred to the House Calendar.

Mr. HARRIS: Committee on Post Office and Civil Service. H.R. 4717. A bill to amend title 5, United States Code, to provide for adjustments to Federal personnel ceilings based upon the extent that Federal functions are contracted out, to provide that performance in administering personnel ceilings and contracting-out requirements are taken into account in evaluating the performance of Federal executive and managers, and for other purposes, reported with amendment (Rept. No. 96-729, pt. 1). Referred to the Committee on Government Operations for a period ending not later than May 15, 1980, for consideration of section 3 of the bill and of the amendment. And ordered to be printed.

Mr. REUSS: Committee of conference. Conference Report on H.R. 5866 (Rept. No. 96-730). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. ASHLEY (for himself and Mr. Reuss) (by request):

H.R. 6197. A bill to amend the mortgage amount, sales price, and interest rate limitations under the Government National Mortgage Association emergency home purchase assistance authority, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BARNARD:

H.R. 6198. A bill to amend the Federal Reserve Act to eliminate the ceiling rates on deposits maintained at federally insured depository institutions, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. CLAY:

H.R. 6199. A bill to establish the "Municipal Arts Program"; to the Committee on Education and Labor.

By Mr. DEVINE (for himself, Mr. Gramm, Mr. Lee, and Mr. Luken):

H.R. 6200. A bill to amend the Safe Drinking Water Act; to the Committee on Interstate and Foreign Commerce.

By Mr. FINDLEY:

H.R. 6201. A bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Simon Wiesenthal; to the Committee on Banking, Finance and Urban Affairs.

By Mr. FISHER:

H.R. 6202. A bill to amend the Internal Revenue Code of 1954 to allow individuals renting their principal residences a deduction for a portion of the rent; to the Committee on Ways and Means.

H.R. 6203. A bill to amend the Internal Revenue Code of 1954 to reduce the tax effect known as the marriage penalty by permitting the deduction, without regard to whether deductions are itemized, of 10 percent of the earned income of the spouse whose earned income is lower than that of the other spouse; to the Committee on Ways and Means.

By Mr. GIBBONS:

H.R. 6204. A bill to amend title 5, United States Code, to provide that certain federal holidays occur on Sundays, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. HALL of Texas:

H.R. 6205. A bill to amend title 10, United States Code, to provide that members of the uniformed services on active duty and their dependents are entitled to free preventive dental care; to the Committee on Armed Services.

By Mr. HANCE (for himself, Mr Loeffler, Mr. Albosta, Mr. Alexander, Mr. Anderson of California, Mr. Andrews of North Dakota, Mr. Anthony, Mr. Archer, Mr. Ashbrook, Mr. Badham, Mr. Bailey, Mr. Barnard, Mr. Bauman, Mr. Beard of Tennessee, Mr. Bereuter, Mr. Bethune, Mr. Blanchard, Mrs. Boggs, Mrs. Bouquard, Mr. Bowen, Mr. Breaux, Mr. Brooks, Mr. Brown of Ohio, Mr. Burgener, Mr. Campbell, Mr. Cheney, Mr. Clausen, Mr. Clinger, Mr. Coelho, Mr. Collins of Texas, Mr. Corcoran, Mr. Courter, Mr. Daniel B. Crane, Mr. Philip M. Crane, Mr. Dan Daniel, Mr. Dannemeyer, Mr. Davis of Michigan, Mr. de la Garza, Mr. Deckard, Mr. Derwinski, Mr. Dickinson, Mr. Dornan, Mr. Duncan of Tennessee, Mr. Duncan of Oregon, Mr. Edwards of Alabama, Mr. Edwards of Oklahoma, Mr. Emery, Mr. English, Mr. Erdahl, Mr. Erlenborn, Mr. Fazio, Mr. Forsythe, Mr. Frenzel, Mr. Frost, Mr. Gingrich, Mr. Glickman, Mr. Goldwater, Mr. Goodling, Mr. Gramm, Mr. Grisham, Mr. Gudger, Mr. Guyer, Mr. Hall of Texas, Mr. Hammerschmidt, Mr. Hansen, Mr. Harkin, Mr. Hightower, Mr. Hillis, Mr. Hinson, Mr. Holland, Mrs. Holt, Mr. Hopkins, Mr. Horton, Mr. Hubbard, Mr. Huckaby, Mr. Hyde, Mr. Ichord, Mr. Ireland, Mr. Jeffries, Mr. Jenkins, Mr. Johnson of California, Mr. Jones of Oklahoma, Mr. Jones of North Carolina, Mr. Kazen, Mr. Kelly, Mr. Kemp, Mr. Kindness, Mr. Kogovsek, Mr. Kramer, Mr. Lagomarsino, Mr. Leach of Louisiana, Mr. Leath of Texas, Mr. Lee, Mr. Lewis, Mr. Livingston, Mr. Lloyd, Mr. Long of Louisiana, Mr. Lott, Mr. Lujan, Mr. Lungren, Mr. Madigan, Mr. Marlenee, Mr. Marriott, Mr. Martin, Mr. Mattox, Mr. Mazzoli, Mr. McClory, Mr. McDonald, Mr. McEwen, Mr. McKay, Mr. Michel, Mr. Miller of Ohio, Mr. Miller of California, Mr. Montgomery, Mr. Moore, Mr. Moorhead of California, Mr. Myers of Indiana, Mr. Natcher, Mr. Pashayan, Mr. Patterson, Mr. Paul, Mr. Perkins, Mr. Pickle, Mr. Pursell, Mr. Quayle, Mr. Quillen, Mr. Railsback, Mr. Ritter, Mr. Roberts, Mr. Rose, Mr. Rousselot, Mr. Royer, Mr. Rudd, Mr. Runnels, Mr. Sawyer, Mrs. Schroeder, Mr. Sebelius, Mr. Sensenbrenner, Mr. Shumway, Mr. Shuster, Mr. Smith of Iowa, Mrs. Smith of Nebraska, Mr. Solomon, Mr. Spence, Mr. Stangeland, Mr. Steed, Mr. Stenholm, Mr. Stockman, Mr. Stump, Mr. Symms, Mr. Synar, Mr. Tauke, Mr. Taylor, Mr. Thomas, Mr. Treen, Mr. Trible, Mr. Vander Jagt, Mr. Wampler, Mr. Watkins, Mr. White, Mr. Whitehurst, Mr. Whittaker, Mr. Williams of Ohio, Mr. Williams of Montana, Mr. Bob Wilson, Mr. Charles Wilson of Texas, Mr. Winn, Mr. Wirth, Mr. Wright, and Mr. Wyatt):

H.R. 6206. A bill to exempt limited amounts of oil production by independent producers from the windfall profits tax and for other purposes; to the Committee on Ways and Means.

By Mr. HOWARD (for himself, Mr. Harsha, Mr. Johnson of California, Mr. Shuster, Mr. Anderson of California, Mr. Clausen, Mr. Bonior of Michigan, Mr. Edgar, Mr. Evans of Georgia, Mr. Hutto, Mr. Nowak, Mr. Roe, Mr. Young of Missouri, Mr. Hagedorn, Mr. Fowler, Mr. Brinkley, Mr. Cleveland, Mr. Downey, Mr. Rangel, Ms. Ferraro, Mr. Rahall, Mr. Heftel, Mr. Royer, Mr. Ertel, Mr. Clinger, Mr. Hammerschmidt, Mr. Lederer, Mr. Brodhead, Mr. Bafalis, Mr. Chappell, Mr. Dougherty, Mr. Rinaldo, Mr. Shannon, and Mr. Boner of Tennessee):

H.R. 6207. A bill to establish a trust fund for public mass transportation projects, to amend title 23, United States Code, to provide for transportation systems management, and for other purposes; jointly to the Committees on Public Works and Transportation, and Ways and Means.

By Mr. JEFFORDS:

H.R. 6208. A bill to improve education and work opportunities for youth; jointly, to the Committees on Education and Labor and Ways and Means.

By Mr. LaFALCE:

H.R. 6209. A bill to amend the Internal Revenue Code of 1954 to eliminate the marriage penalty by providing that all individuals shall use the income tax rates applicable to joint returns and that community property laws shall not apply for Federal income tax purposes; to the Committee on Ways and Means.

By Mr. LOWRY (for himself and Mr. Pritchard):

H.R. 6210. A bill to permit certain vessels formerly in the reserve fleet to be converted for use, and operate, in the fisheries of the United States to the Committee on Merchant Marine and Fisheries.

By Mr. LUJAN:

H.R. 6211. A bill to authorize the Secretary of the Interior to issue certain patents under the Color of Title Act; to the Committee on Interior and Insular Affairs.

H.R. 6212. A bill to amend the Atomic Energy Act of 1954 to require each State to provide for the disposal of low-level radioactive waste generated within that State, to authorize States to enter into agreements or compacts with other States for the establishment of regional disposal sites for low-level radioactive waste, and to provide financial assistance to the States in which such sites are located, and for other purposes; jointly to the Committees on Interior and Insular Affairs, and Interstate and Foreign Commerce.

By Mr. MOORE:

H.R. 6213. A bill to amend the Internal Revenue Code of 1954 to provide that members of the uniformed services assigned to duty outside the United States shall be eligible for the earned income credit; to the Committee on Ways and Means.

By Mr. MOTTL:

H.R. 6214. A bill to amend the Gold Reserve Act of 1934 to impose certain restrictions on the purchase and sale of gold by the United States; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MURPHY of Pennsylvania (for himself, Mr. Myers of Pennsylvania, Mr. Bailey, Mr. Ashbrook, Mr. Edwards of Oklahoma, and Mr. Buchanan):

H.R. 6215. A bill to amend section 3 of the Federal Mine Safety and Health Act of 1977 to exempt from the requirements of the act independent construction contractors who are engaged in certain activities conducted on the surface area of any coal or other mines, and for other purposes; to the Committee on Education and Labor.

By Mr. PATTERSON:

H.R. 6216. A bill to encourage certain financial regulatory agencies to authorize increases in the rate of interest which is payable on passbook savings accounts, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. PAUL:

H.R. 6217. A bill to prohibit the sale of gold bullion by any agency of the United States unless specifically authorized by law; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SHANNON:

H.R. 6218. A bill to provide for changes in the boundary of the Florida Keys Wilderness; to the Committee on Interior and Insular Affairs.

By Mr. VANIK:

H.R. 6219. A bill to reduce the quantity of petroleum and petroleum products imported into the United States through 1985; to the Committee on Ways and Means.

By Mr. CARTER:

H.R. 6220. A bill to amend the Public Health Service Act to revise and extend the programs of the National Institute of Arthritis, Metabolism, and Digestive Diseases with respect to diabetes, to revise and extend the authorizations for the National Diabetes Advisory Board, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Ms. HOLTZMAN, (for herself, and Mr. Howard):

H.R. 6221. A bill to amend the Urban Mass Transportation Act of 1964 to require recipients of assistance under such act to establish plans for crime prevention for public mass transportation systems; to the Committee on Public Works and Transportation.

By Mr. KELLY:

H.R. 6222. A bill to prohibit the importation into the United States of certain agricultural products of Cuba, to include citrus, winter vegetables, and tropical fruits until after 1989; to the Committee on Ways and Means.

By Mr. LEVITAS (for himself, Mr. Johnson of California, Mr. Abdnor, Mr. Harsha, Mr. Roberts, Mr. Clausen, Mr. Howard, Mr. Nowak, Mr. Goldwater, Mr. Edgar, Mr. Livingston, Mr. Young of Missouri, Mr. Stangeland, Mr. Flippo, Mr. Clinger, Mr. Donnelly, Mr. Solomon, Mr. Hutto, Mr. Albosta, Mr. Leath of Texas, and Mr. Boner of Tennessee):

H.R. 6223. A bill to repeal a provision of law relating to the naming of a certain public facility in Baltimore; jointly, to the Committees on Merchant Marine and Fisheries and Public Works and Transportation.

By Mr. MATSUI:

H.R. 6224. A bill to forbid the Federal courts from requiring (during, or in preparation for, a defamation action) the disclosure by journalists and communication entities of information relating to the editorial process, unless the defamation is established; to the Committee on the Judiciary.

By Mr. MURPHY of New York (for himself and Mr. Breaux) (by request):

H.R. 6225. A bill to provide for the conservation and enhancement of the salmon and steelhead resources of Washington State, assistance to the Treaty and non-Treaty harvesters of those resources, and for other purposes; jointly to the Committees on Merchant Marine and Fisheries, and Interior and Insular Affairs.

By Mr. St GERMAIN:

H.R. 6226. A bill to amend title 38, United States Code, to provide hospital and medical care to certain members of the Canadian Armed Forces; to the Committee on Veterans' Affairs.

By Mr. SATTERFIELD:

H.R. 6227. A bill to repeal the Federal requirement of incremental pricing under the Natural Gas Policy Act of 1978; to the Committee on Interstate and Foreign Commerce.

By Mr. SWIFT (for himself, Mr. Luken, Mr. Mottl, Mr. Broyhill, Mr. Collins of Texas, and Mr. Loeffler):

H.R. 6228. A bill to amend the Communications Act of 1934 to provide that the Federal Communications Commission, in considering applications for the renewal of broadcasting station licenses, shall not take into account any ownership interests of the applicant in other broadcasting stations or in other communications media, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. CONABLE (for himself, Mr. Corman, Mr. Coughlin, Mr. Edwards of Alabama, Mr. Rudd, and Mr. Bob Wilson):

H.J. Res. 469. Joint resolution designating February 19, 1980, as "Iwo Jima Commemoration Day"; to the Committee on Post Office and Civil Service.

By Mr. FLIPPO:

H.J. Res. 470. Joint resolution to authorize and request the President to issue a proclamation designating June 27, 1980 as "Helen Keller Day"; to the Committee on Post Office and Civil Service.

By Mr. LUKEN:

H.J. Res. 471. Joint resolution designating the week beginning June 1, 1980, as "National Garden Week"; to the Committee on Post Office and Civil Service.

By Mr. TRIBLE:

H.J. Res. 472. Joint resolution designating October 19, 1981, as a Day of National Observance of the Two Hundredth Anniversary of the Surrender of Lord Cornwallis to General George Washington at Yorktown, Va.; to the Committee on Post Office and Civil Service.

By Mr. DERWINSKI:

H. Con. Res. 233. Concurrent resolution to authorize the printing as a House document an anthology of Captive Nations Week proclamations, addresses, and other relevant material; to the Committee on House Administration.

By Mr. FINDLEY (for himself, Mr. Broomfield, Mr. Bob Wilson, Mr. Spence, Mr. Regula, Mr. Winn, Mr. Charles H. Wilson of California, Mr. Sensenbrenner, Mr. Corcoran, Mr. Carter, Mr. Whitehurst, Mr. Lagomarsino, Mr. Bauman, Mr. Stangeland, and Mr. Badham):

H. Con. Res. 234. Concurrent resolution calling upon the President to consult with certain friendly nations in order to devise a Sealane Security System whose purpose would be to insure safe, secure, and free passage through international sealanes adjacent to East and Southeast Asia; to the Committee on Foreign Affairs.

By Mr. REGULA (for himself, Mr. Bowen, Mr. Michel, Mr. LaFalce, Mr. Roe, Mr. Marriott, Mr. Winn, Mr. Nichols, Mr. Forsythe, Mr. Horton, Mr. Scheuer, Ms. Fenwick, Mr. Jones of Oklahoma, Mr. Kramer, Mr. Whitehurst, Mr. Carter, Mr. Pursell, Mr. Mazzoli, Mr. Cleveland, Mr. Lagomarsino, and Mr. Oberstar):

H. Con. Res. 235. Concurrent resolution expressing the sense of the Congress that the people of the United States should observe December 23, 1979, as a national day of prayer and meditation for the hostages in Iran; to the Committee on Post Office and Civil Service.

By Mr. SOLOMON (for himself, Mr. Corcoran, Mr. Daschle, Mrs. Fenwick, Mrs. Heckler, Mr. Kramer, Mr. Lagomarsino, Mr. Lungren, Mr. Mavroules, Mr. Roth, Mrs. Schroeder, Mr. Waxman, Mr. Whitehurst, and Mr. Simon):

H. Con. Res. 236. Concurrent resolution calling upon the Union of Soviet Socialist Republics to cooperate with efforts to resolve the Cambodian crisis; to the Committee on Foreign Affairs.

By Mr. THOMPSON (for himself, Mr. Brooks, Mr. Buchanan, Mr. John L. Burton, Mr. Carr, Mr. Conable, Mr. Conyers, Mr. Coughlin, Mr. de la Garza, Mr. Dixon, Mr. Edwards of Oklahoma, Mr. Fazio, Mr. Fisher, Mr. Ford of Michigan, Mr. Green, Mr. Hawkins, Mrs. Heckler, Ms. Holtzman, Mr. Jeffords, Mr. Jones of Tennessee, Mr. Lewis, Mr. Long of Louisiana, Mr. Lott, Mr. Markey, Mr. Michel, Ms. Mikulski, Mr. Murphy of New York, Ms. Oakar, Mr. Pursell, Mr. Quayle, Mr. Ratchford, Mr. Rose, Mr. Roybal, Mrs. Schroeder, Mrs. Spellman, Mr. Stark, Mr. Swift, Mr. Vander Jagt, and Mr. Wirth):

H. Res. 515. Resolution establishing the Congressional Child Care Center; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. FOWLER:

H.R. 6229. A bill for the relief of Ohaness Stefan Kabbenjian; to the Committee on the Judiciary.

By Mr. LATTA:

H.R. 6230. A bill for the relief of Patricia Krassow and Jake and Gladys Watts; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 506: Mr. Beard of Rhode Island.

H.R. 1473: Mr. Atkinson.

H.R. 1642: Mr. Montgomery, Mr. Whitehurst, Mr. Hyde, Mr. Badham, Mr. Charles Wilson of Texas, Mr. Collins of Texas, Mr. Butler, Mr. Walker, Mr. Frenzel, Mr. Bowen, and Mr. Panetta.

H.R. 2139: Mr. Drinan, Mr. Pepper, Mr. Moakley, Mr. Mottl, Mr. Evans of the Virgin Islands, Mr. Downey, Mr. Bonior of Michigan, Mr. Ottinger, Mr. Neal, Mr. Dougherty, Mr. Roe, Mr. Mineta, Mr. Vento, Mr. Blanchard, Mr. Gudger, Mr. Rahall, Mr. Ford of Tennessee, Mr. Gray, Mr. Weiss, and Mr. Oberstar.

H.R. 3357: Mr. Beard of Rhode Island.

H.R. 3402: Mr. Beard of Rhode Island.

H.R. 3431: Mr. Beard of Rhode Island.

H.R. 3432: Mr. Beard of Rhode Island.

H.R. 3574: Mr. Courter, Mr. Downey, and Mr. Thomas.

H.R. 3627: Mr. Johnson of California, Mr. Charles H. Wilson of California, Mr. Thomas, Mr. Burgener, and Mr. Lungren.

H.R. 3720: Mr. Spence, Mr. Kastenmeier, Mr. Whitley, Mr. LaFalce, Mr. Sebelius, Mr. Dickinson, Mr. Barnard, Mr. Gray, Mr. Murphy of Pennsylvania, and Mr. Bedell.

H.R. 3932: Mr. Kindness.

H.R. 4045: Mr. Annunzio, Mr. Edwards of Oklahoma, Mr. Goldwater, Mr. Ichord, Mr. Lagomarsino, Mr. Mitchell of New York, Mr. Rinaldo, Mr. Roe, and Mr. Stump.

H.R. 4146: Mr. Downey, Mr. Florio, Mr. Giaimo, Mr. Gray, Mr. Hughes, Mr. Hutto, Mr. Lederer, Mr. McDonald, Mr. Oberstar, Mr. Ottinger, Mr. Patten, Mr. Pepper, Mr. Richmond, Mr. Roe, Mr. Scheuer, Mr. Vento, and Mr. Wolff.

H.R. 4237: Mr. Rinaldo, Mr. Mollohan, Mr. Jacobs, Mr. Kogovsek, Mr. Ritter, Mr. Lloyd, and Mrs. Spellman.

H.R. 4345: Mr. Beard of Rhode Island.

H.R. 4379: Mr. Green, Mr. Hughes, Mr. Mineta, Mrs. Spellman, and Mr. Weaver.

H.R. 4574: Mr. Panetta.

H.R. 4631: Mrs. Heckler and Mr. Biaggi.

H.R. 4646: Mr. Santini.

H.R. 4665: Mr. Davis of South Carolina and Mr. Won Pat.

H.R. 4717: Mr. Benjamin and Mr. Udall.

H.R. 4885: Mr. Donnelly.

H.R. 5033: Mr. Anderson of California.

H.R. 5119: Mr. Bedell, Mr. Downey, Mr. Jenrette, Mr. Kastenmeier, and Mr. Patten.

H.R. 5225: Mr. Edwards of Oklahoma and Mr. Winn.

H.R. 5351: Mr. McClory.

H.R. 5409: Mrs. Heckler.

H.R. 5433: Mr. Dixon and Mr. Ottinger.

H.R. 5510: Mr. Baldus, Mr. Carr, Mr. Coelho, Mr. Downey, Mr. Drinan, Mr. Erdahl, Mr. Fazio, Mr. Florio, Mr. Gray, Mr. Harris, Mr. Heftel, Ms. Mikulski, Mr. Mitchell of Maryland, Ms. Oakar, Mr. Pepper, Mr. Rahall, Mr. Roe, Mr. Rosenthal, Mrs. Spellman, and Mr. Stokes.

H.R. 5648: Mr. Blanchard, Mr. Pursell, Mr. Roe, and Mrs. Spellman.

H.R. 5663: Mr. Dougherty, Mr. Nolan, Mr. Mitchell of New York, and Mr. Cavanaugh.

H.R. 5720: Mr. Bedell, Mr. Campbell, Mr. Courter, and Mr. Gingrich.

H.R. 5721: Mr. Nolan.

H.R. 5722: Mr. Nolan.

H.R. 5742: Mr. Murphy of Pennsylvania, Mr. Hughes, Mr. Anthony, Mr. Vento, and Mr. Roe.

H.R. 5858: Mr. Gray, Mr. Gudger, Mr. Harris, Mrs. Heckler, Mr. Heftel, Mr. Hopkins, Mr. LaFalce, Ms. Mikulski, and Mr. Mitchell of New York.

H.R. 5945: Mrs. Heckler.

H.R. 5961: Mr. Annunzio, Mr. Bonior of Michigan, Mr. Cavanaugh, Mr. Coelho, Mr. D'Amours, Mr. Derwinski, Mr. Florio, Mr. Forsythe, Mr. Hanley, Mr. Hughes, Mr. Neal, Ms. Oakar, Mr. Oberstar, Mr. Pepper, Mr. Rangel, Mr. Williams of Montana, Mr. Fascell, and Mr. Benjamin.

H.R. 5965: Mr. Fazio, Mr. Lagomarsino, Mr. Sebelius, Mr. Burgener, Mr. Marriott, Mr. Udall, Mr. Coleho, Mr. Thomas, Mr. Goldwater, Mr. Watkins, Mr. Pashayan, Mr. Clausen, and Mr. McCloskey.

H.R. 5982: Mr. Forsythe, Mr. Devine, Mr. Albosta, Mr. Hughes, Mr. Ichord, Mr. Lungren, Mr. Mottl, and Mr. Dickinson.

H.R. 6008: Mrs. Heckler.

H.R. 6012: Mr. McKinney, Mr. Lloyd, Mr. Carney, Mr. Barnard, Mr. Wolpe, Mr. Dodd, Mr. Edwards of Oklahoma, Mrs. Schroeder, Mr. Leach of Iowa, and Mr. Lee.

H.R. 6021: Mr. Cleveland, Mrs. Bouquard, Mr. Fuqua, Mr. Neal, Mr. Fowler, Mr. Barnard, Mr. Anthony, Mr. Bedell, and Mr. Jeffords.

H.R. 6070: Mr. Jones of Tennessee, Mr. Kramer, Mr. Swift, Mr. Symms, and Mr. Coelho.

H.R. 6083: Mr. Montgomery, Mr. Mollohan, Mr. Charles Wilson of Texas, and Mr. Forsythe.

H.R. 6109: Mr. Hughes, Mr. Sawyer, Mr. Simon, Mr. Weiss, Mrs. Bouquard, Mr. Beard of Rhode Island, Mr. Cavanaugh, Mr. D'Amours, Mr. Chappell, Mr. Cleveland, Mr. Danielson, Mr. Mineta, Mr. Biaggi, Mr. Fazio, Mr. Broomfield, Mr. Collins of Texas, Mr. Fary, Mr. Loeffler, Mr. Kogovsek, Mr. Hutto, Mrs. Heckler, and Mr. Grassley.

H.J. Res. 59: Mr. Marriott.

H.J. Res. 69: Mr. Alexander and Mr. Bedell.

H.J. Res. 321: Mr. Shumway.

H.J. Res. 389: Mr. Dicks, Mrs. Spellman, Mr. Barnes, Mr. Montgomery, and Mr. Fuqua.

H.J. Res. 417: Mr. Sharp, Mr. Mitchell of New York, Mr. Brodhead, Mrs. Heckler, Mr. Pithian, Mr. Lehman, and Mr. Evans of Delaware.

H.J. Res. 421: Mr. Addabbo, Mr. Bailey, Mr. Barnes, Mr. Bedell, Mr. Benjamin, Mr. Brown of California, Mr. Buchanan, Mr. Carter, Mr. Cavanaugh, Mr. Coelho, Mr. Erdahl, Mr. Fazio, Mr. Florio, Mr. Gilman, Mr. Gray, Mr. Guyer, Mr. Hawkins, Mr. Horton, Mr. Howard, Mr. Hyde, Mr. LaFalce, Mr. Lungren, Mr. Markey, Mr. Matsui, Mr. Mattox, Mr. McHugh, Ms. Mikulski, Mr. Murphy of Pennsylvania, Mr. Murphy of Illinois, Mr. Nolan, Ms. Oakar, Mr. Oberstar, Mr. Panetta, Mr. Pepper, Mr. Rahall, Mr. Richmond, Mr. Roe, Mr. Russo, Mr. Scheuer, and Mr. Simon. Mrs. Spellman, Mr. Steed, Mr. Stokes, Mr. Vento, Mr. Whittaker, Mr. Wolpe, Mr. Winn, and Mr. Young of Alaska.

H.J. Res. 465: Mr. Winn, Mr. Duncan of Tennessee, Mr. Young of Florida, Mr. Devine, Mr. Bauman, Mr. Lee, and Mr. Stangeland.

H. Res 495: Mr. Lagomarsino.

H. Res. 496: Mr. Lagomarsino.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5741

By Mr. GLICKMAN:

—Insert after page 73, line 22, the following:

"(m) State Legislation Was Pending on April 1, 1979, and Enacted on April 26, 1979, Where Locality Had Taken Action To Undertake a Study of Local Mortgage Market.—

"(A) In general.—If—

"(i) on April 1, 1979, legislation was pending in a State legislature limiting the authority of local governments within such State to issue tax-exempt obligations for owner-occupied residence under existing home rule authority, and such legislation was enacted on April 26, 1979,

"(ii) there is written evidence (which was in existence before April 25, 1979) that not earlier than June 1, 1978, but before April 25, 1979, the governing body of a local government in such State had taken action authorizing the undertaking of a demographic or related study of the local mortgage market, which study was intended to serve as a basis for issuance of tax exempt obligations for owner occupied residences,

"(iii) on December 20 1979, an amount was specified by or for the local government as the range of obligations which it expected to issue with respect to the area under any transitional authority provided by the Act, and

"(iv) a majority of the members of the governing body of the local government certify that the city or county was waiting enactment of the legislation described in clause (i) prior to determining to proceed towards the issuance of tax-exempt obligations for owner-occupied residences.

then the amendments made by section 2 shall not apply to obligations issued by such city or county.

"(B) Dollar limits.—The aggregate amount of obligations which may be issued with respect to any area by reason of subparagraph may not exceed the maximum amount referred to in subparagraph (A) (iii) which was specified on December 20, 1979, by or for such local government.

"(C) Time limits.—

"Paragraph (A) shall not apply with respect to any issue unless substantially all of the proceeds of such issue (exclusive of issuance costs and a reasonably required reserve) are committed by firm commitment letters (similar to those used in owner-financing not provided by tax-exempt bonds) to owner-financing before January 1, 1981.

SENATE—*Thursday, December 20, 1979*

(Legislative day of Saturday, December 15, 1979)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by Hon. Howell Heflin, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal God, we thank Thee for every revelation of Thyself, in the world about us, in our work, in our friends, in the events of history and especially in Thy word written and Thy word in the person of Jesus. Spare us from missing the glory of Thy coming at Christmas.

In these hard and dangerous days we seek Thy peace amid the storm. Be near to those who are sick or suffering in any way. Show us once more that the greatest contribution we can make to our age is a good life, clean, strong, trustworthy, wise, and serviceable. Wilt Thou receive the gift of ourselves and use us to the glory of Thy name.

Watch over us in our going out and our coming in until we are all safely gathered in one fold with one shepherd.

In the Redeemer's name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Magnuson).

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., December 20, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Howell Heflin, a Senator from the State of Alabama, to perform the duties of the Chair.

Warren G. Magnuson,
President pro tempore.

Mr. HEFLIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE MIDDLE EAST

Mr. ROBERT C. BYRD. Mr. President, just over a year ago, I returned from a trip to the Middle East, where I had traveled in the dual capacity of Senate majority leader and as the special emissary of President Carter.

Upon my return, I reported that there were great difficulties remaining, but that, in my view, the Camp David Accords of September 1978, had established a potential framework for progress toward peace in the region.

Today, the Middle East remains a troubled region. There is turmoil and unrest at a number of points on the belt of instability that encircles the Middle East—from the Horn of Africa to Pakistan, Afghanistan, Iran, and Turkey.

Serious obstacles remain in the effort to achieve a comprehensive peace in the region. Yet there can be no gainsaying the tremendous advances that have been made. The Egyptian-Israeli Peace Treaty, signed at the White House on March 26 of this year, constitutes one of the most remarkable and significant accomplishments of this era.

Subsequently, to aid in the implementation of this agreement, the Congress approved the $4.8 billion special assistance package for Egypt and Israel, most in the form of loans and credits. The Senate passed the special aid measure (S. 1007) by a 73 to 11 vote on May 14. The conference report was approved by the Senate on June 21.

Included in the bill were $800 million for the construction of two new Israeli airbases in the Negev and $2.2 billion in military sales loans and credits for Egypt, $200 million in economic aid, and a $100 million economic aid loan.

This special assistance is an important part of the continuing effort to bring peace to a war-torn region, where war has cost the United States and other countries billions of dollars and great human loss over the years.

Both Egypt and Israel have serious internal economic problems, and we want to be as helpful as possible in making it possible for these two nations to strengthen their economies. Clearly, however, there is a limit to the aid that can be provided by the United States, particularly in view of our own economic difficulties.

Our efforts continue to be directed at the achievement of a comprehensive peace in the region, which will enable Israel and Egypt to pay less attention to military matters and focus instead on important domestic needs. Israel and Egypt have already cooperated in several important areas, including the disposition of oil from the Sinai fields.

The next major step to be taken following the Egyptian-Israeli Treaty involves reaching agreement on the question of Palestinian autonomy. There was never any doubt that this would be a difficult issue.

Making progress on the Palestinian question is essential to progress toward a broader peace. Currently, efforts are aimed at establishing a procedure for the election of self-governing authorities for the Palestinians living on the West Bank and the Gaza Strip. Agreement on such issues as the authority of the proposed Palestinian autonomous council and the status of East Jerusalem is essential.

I am hopeful that the coming weeks will see a breakthrough on the question of autonomy. President Carter's special envoy to the Middle East, Sol Linowitz said, after recent talks in Israel and Egypt, that he is optimistic that common ground can be found and that the final result will be attractive enough to draw

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Palestinians into participation. Palestinian participation is extremely important if we are to see real advancement in the peace process.

In this respect, I was encouraged by the recent decision of the Israeli Government to rescind the order which would have deported Bassam Shaka, the elected mayor of Nablus. The threat to deport the mayor was a misguided move on the part of Israel. It further united the West Bank Palestinians, and resulted in the resignation of all of the West Bank mayors. The mayor of Bethlehem, Elia Freij, with whom I met last year, said the proposed deportation was a step backward on the road to peace and that it created an adverse impact in the occupied territories. Mayor Freij recently informed me, "We still have great expectations of the U.S. role to find a just and comprehensive peace settlement."

Wisely, the Israeli Government did not proceed with the deportation. I fully understand Israel's concern about terrorist incidents, and certainly recognize that precautions must be taken. But incidents such as the Bassam Shaka controversy, and the determination of certain Israeli groups to proceed with still more West Bank settlements, serve to harden attitudes on the West Bank and undercut the prospects for long-term peace. These developments also make President Sadat's position in the Arab world, where he is already relatively isolated, all the more difficult.

This is a period of considerable uncertainty among the Arab nations, heightened by the tumultuous events in Iran and Ayatollah Khomeini's so-called Islamic revolution.

There are other potentially serious trouble spots in the region, including North and South Yemen, and, further east, in Afghanistan, where the Soviet Union has been increasingly active.

As I have noted before, it would be ironic and tragic if the crisis in Iran resulted in the assumption that all Islamic and Arab countries are hostile to the United States. In fact, we retain strong relations with a number of such nations, Egypt being a particularly notable example. We have had a variety of complications in our relationship with Saudi Arabia, yet I continue to favor efforts to solidify that relationship. Currently, a U.S. delegation is exploring greater cooperation with the Saudis.

We should be exploring the strengthening of other ties in the region as well, while acknowledging that our relations with some of those nations are likely to be—and probably should be—very limited. An interesting and potentially significant development of recent weeks has been the indication that Iraq is increasingly looking to the West for trade and technology, much to Moscow's displeasure. Iraq, of course, remains a "hardliner" on Arab-Israeli issues, and there are sharp differences between our nations. Nonetheless, we should not be unmindful of the possibilities for change.

Congress is in the process of enacting legislation which will have the ultimate effect of making the United States less reliant on petroleum imports, which are ever escalating in cost. I have repeatedly emphasized the absolutely imperative nature of this movement away from dependency on foreign oil. But in the short term we cannot ignore the reality of our reliance on Middle Eastern oil and the even greater reliance on that oil by many of our allies and friends, both rich and poor nations.

The Middle East remains a volatile and troubling region. Efforts to broaden the peace process must not abate. Egypt and Israel have shown great courage in joining with the United States to follow through on the Camp David initiative. The treaty which was concluded earlier this year was a momentous development. I hope that the process will continue in 1980 and that all interested parties will join in this effort.

FLOURISHING AGAINST THE TIDE

Mr. ROBERT C. BYRD. Mr. President, a distinctive feature of the American heritage has been the private liberal arts college. Throughout our history private institutions of higher education have served as dedicated centers of culture and value, often pioneering in education, science, and the arts and helping to enrich our society in many ways that public colleges and universities are sometimes not able to do. Harvard, Yale, Princeton, and many other great universities in the United States began as private liberal arts colleges, and the high ideals that initially animated the faculties and students of those institutions continue to serve as salient and guiding principles in their philosophies and operations even today.

In recent years inflation, escalating costs, and a declining student-age population have taken their tolls of private liberal arts colleges. In the early 1970's more than four score 2-year and 4-year private colleges were forced to close, and the outlook is bleak for many others.

But one private liberal arts school in West Virginia is flourishing and growing in spite of these pessimistic trends, largely as a result of the superb leadership of its president. Wheeling College, under the presidency of Father Charles Currie, S.J., has increased its enrollment by 80 percent in the past 7 years, combining classical liberal arts discipline with creative innovation and laudable administrative excellence. A column by Colman McCarthy outlining the accomplishments of Wheeling College and Father Currie appeared in the Washington Post this morning.

Mr. President, I ask unanimous consent that that column be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SMALL COLLEGE COMEBACK

(By Colman McCarthy)

WHEELING, W.Va.—Among the many things that made me love him, my father put a golf club in my hands the day I could walk, provided a home library where I could read and, when he believed I was ready to think, sent me off to a quiet college in rural Alabama.

I am still reading the greens and the books. In the thinking department, I'm convinced, as my father was, that the kind of college I went to—small, private and liberal arts—is a national treasure.

One of the more sparkling is Wheeling College, one of seven private liberal arts colleges in West Virginia and one of about 700 nationally. I try to visit as many of these schools as I can, often merely to make sure they are still there.

In the early 1970s, a large number of them appeared ready to go under. Wheeling itself was hurting from the three not enoughs: not enough students, not enough money and not enough prospects that the first two would soon be flowing in.

When an eastern newspaper sent its education reporter to write about the college in 1973, his story could have run next to the obituary page: "The situation is so serious that Wheeling, like so many small private colleges across America, may be forced out of business."

It didn't happen here. An impressive revival has occurred, with the new buoyancy of Wheeling College as important a story in the late 1970s as was the one on its troubled times when the decade began. The ideas and forces that kept this particular school alive are ones that might save others.

Last year, the General Accounting Office reported that following the Golden Era in Education in the 1960s—swelling enrollments, expansive building programs and a surge of federal grants and loans—another reality set in. Many small, private, liberal arts schools, said the GAO, became extensive deficit operations, were forced to borrow substantially to cover those deficits and were delinquent in debt service payments to the government.

In the first half of the '70s, about 90 four-year and two-year colleges closed. They had been borrowing on the future, except that when the future came it wasn't paying back in the currency the schools most needed: students. They had been attracted to the low-tuition policies of the old-line public universities or the new local community colleges.

The turnaround at Wheeling began when Fr. Charles Currie, S.J., arrived in 1972 from Georgetown University to serve as president. At first, he took on the usual problems that curse any depressed school: turf protection among the faculty, poor financial management in the front office and a lack of vision from everyone. He also hit the road, specifically the mountain roads of West Virginia, to spread the word locally about the college. Reluctantly, he learned the art of fundraising, the grubbiest task for all college presidents.

In seven years, the results of hard work and hard thinking are in. Total enrollment at Wheeling has grown from 670 to 1,200, an increase of 80 percent. The percentage of students from West Virginia is up from 22 percent to 47 percent. Money from private sources has risen from $260,000 to $985,000. Turf still keeps the faculty juices flowing—Aristotle as president of the college couldn't change that—but Fr. Currie led the teachers to a more miraculous decision: to forgo salary raises until the financial squeeze passed.

This created a sense of we're-all-in-this-together. It also led to the idea that if keeping Wheeling College going was a valuable goal, then stressing values like social justice and personal integrity in the core curriculum was a necessity. College presidents are forever babbling about their schools' "dedication to excellence," but at Wheeling the dedication has taken the form of nudging the students into several areas of social concern: helping the flood victims of central Appalachia, volunteering to tutor in the state prison, working with local kids from broken homes, raising money for the world's hungry.

Fr. Currie says his goal is to turn out graduates who have "compassion with competence. The challenge for small private colleges is not survival. Most of us can probably limp along somehow. The real challenge is to be and remain the quality education community we profess to be."

That thinking won't pay the heat bills, but it keeps warm a style of value-oriented education that seems to thrive best at the small colleges.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is recognized.

THANKS FOR FRIENDSHIP THROUGH HARD TIMES

Mr. STEVENS. Mr. President, first, let me note that, yesterday, we had our 502d rollcall vote, on December 19. It has been a long year and a hard year, one in which we have dealt with very controversial issues. In my 11 years here, I cannot remember a session that has had more controversy and longer hours. Yet I think the Senate has performed well and I am indebted to the majority leader for his continued friendship. I commend all Members of the Senate for being able to come through very trying times such as the times we have had on the Chrysler Corp. issue and still maintain not only the traditions of the Senate but the inherent friendship that is so essential to the continued operation of the Senate consistent with our traditions.

SENATOR LUGAR'S LEADERSHIP

Mr. STEVENS. Mr. President, speaking directly to the Chrysler issue, I call to the attention of the conferees who will be going to conference at 1 o'clock this afternoon the person whom I consider to hold the key to the resolution of this matter as it goes through the rest of the legislative process. Senator LUGAR approached our policy luncheon some time ago and expressed his point of view concerning the Chrysler issue. He stated that he intended to attempt to work out a solution which was in the best interests of the people who work for Chrysler, the management, and the taxpayers as a whole. Many of us, after listening to him, determined that he did, in fact, have the correct approach and we, without any delegation of authority or giving of our proxy, indicated to him that we believed he was on the right track and that we intended to support him.

If one compares the vote on the Eagleton amendment yesterday with the vote on final passage, he will discover something very interesting. There were 12 on our side of the aisle who voted for final passage of the Chrysler bill. Seven of those who opposed the Eagleton amendment. One of those was Senator LUGAR, who opposed the Eagleton amendment but voted for final passage. If he had not voted for passage, I personally would not have voted for passage, and I believe the other five Republicans would similarly have opposed the bill.

My message to the conferees is that I certainly hope they recognize the leadership Senator LUGAR has provided and the fact that he may still hold the key to the solution of the Chrysler financing controversy. For myself, I stated to the press, this morning and I shall state it again here on the RECORD, that I think we are not yet through with this Chrysler issue and might not be today if the House maintains its position in conference and insists on the level of commitment that was reflected in the Eagleton amendment.

I am confident that the conferees will consider all points of view on this matter and I urge them to consider particularly the point of view of the Senator from Indiana (Mr. LUGAR), whom I personally credit, with all regard to the distinguished occupant of the Chair, with finding the path toward the solution of the Chrysler controversy. It is my personal opinion that the Chrysler bill would not have passed last evening without Senator LUGAR's support.

It is my hope that he will find again a way to exert his leadership in conference and bring us back a bill today that we can support today, because I think it is in the national interest to do just that.

It is also in the national interest to assure the balance that Senator LUGAR has sought throughout this issue and I commend him for his leadership in that regard.

Mr. President, I yield back the remainder of my time.

RECOGNITION OF SENATOR TSONGAS

The PRESIDING OFFICER (Mr. LEVIN). Under the previous order, the Senator from Massachusetts is recognized for not to exceed 15 minutes.

PRIVILEGE OF THE FLOOR

Mr. TSONGAS. Mr. President, I ask unanimous consent that Laury Payne of my staff be granted the privilege of the floor through the remarks of the Senator from California.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. If the Senator will yield, does he need the additional time of the leadership?

Mr. TSONGAS. No, Mr. President, I thank the Senator.

THE LOWELL NATIONAL PARK

Mr. TSONGAS. Mr. President, I am here to introduce the Presidential Commission on National Service Act. Before I do that, I want to make a couple of comments.

Today, in Boston, there is a last-minute attempt to put together an understanding relative to the Lowell National Park. The Senate may remember that it passed last year the Lowell National Historical Park. That is ongoing. There is a great deal of enthusiasm and private-sector commitment to that park. There is, however, a major structure in the middle of the park called the Lowell Manufacturing Building, which was burned to some extent last year and, in my opinion, is in danger of being destroyed.

We have worked out a program for elderly housing with National Park Service involvement, the Lowell Park Commission involvement, and so forth, and with commercial involvements as well. The problem we have, however, is negotiation between the Department of the Interior and GSA on what kind of lease could be arrived at.

It is a very unique situation because you do not often have a national park in the middle of the city. There is some hesitation on the part of some that this kind of innovative package may be looked upon askance by some in the future. I just want to point out in advance that that is what we are trying to do. I call upon those players who are meeting today in Boston to be less bureaucratic and more innovative, because what we are talking about is, in fact, the fate of a $40 million congressional initiative, the Lowell National Park.

CHRYSLER CORP.

Mr. TSONGAS. Mr. President, on the Chrysler situation, I believe history will show what Senator LUGAR and I did will be worthwhile. Let me describe the parameters of that.

If Chrysler needs between zero and $3 billion, which was the administration request, what Senator LUGAR and I did, basically, is irrelevant.

If Chrysler needs between $3 billion and $3.5 billion which is where the conference is most likely to come out, in fact, what we did would have been the major difference in Chrysler survival and viability.

If Chrysler ends up needing between $3.5 billion and $4 billion, which was where the original Lugar-Tsongas proposal was, and since we do not provide if it should go under, Chrysler would have gone under because the Senate was not prepared to listen to the advice of the original Senate Banking version.

Of course, if Chrysler ends up needing more than $4 billion, we are probably going to own Ford and GM at some point, and it is all academic after that.

But I hope in retrospect that people understand what we tried to do was keep Chrysler viable which, after all, is what we tried to do all along.

S. 2159—PRESIDENTIAL COMMISSION ON NATIONAL SERVICE ACT

Mr. TSONGAS. Mr. President, I rise to introduce legislation for a Presidential Commission to study the idea of national service for young Americans. National service is an old idea that has never been more timely or more practical.

National service has the potential to meet many human needs at home and overseas. In addition, I believe that a national program of service by Americans can help make ours a more cohesive, caring society. Today I will share with my colleagues some personal feeling about service. Then I will discuss the unresolved problems surounding the issue of national service. Without answers to hard questions, we cannot achieve the consensus necessary for a program of national service to succeed. This is why a Presidential Commission is vital.

SERVICE AS LEARNING

The benefits of service to others are shared between the recipient and the provider. This fundamental aspect of the service experience has been proven to me—and to thousands upon thousands of volunteers—powerfully and personally. My 2 years as a Peace Corps volunteer in a small Ethiopian town were a learning experience that surpassed any formal study before or after it. There I lived and learned with students whose lives had been vastly different from my own. I was a Peace Corps teacher, but I hope my Ethiopian friends know how much they taught me.

We had a very personal sense of depending on each other, so it was natural for us to know that nations also must depend on each other. Nothing before or after that time has shaped my view of the world so deeply.

The experience of service puts us in touch with problems on a human scale. Too often public policy is made in a bureaucratic dreamworld. The real impact on people's lives is lost. But living in and learning about another's culture—whether in Ethiopia or in Appalachia other parts of the country—brings understanding and an approach which embrace the human element. Volunteers do not forget their experiences with Vista or the Peace Corps. They carry the experience with them into future careers.

National service would help young Americans understand the complexity of chronic problems. A new, national commitment to service could be the right medicine for our ailing national spirit. It might help turn our society away from the extremes of the "me generation" of the 1970's when many young Americans have grown up to be fashion conscious, but unconscious—apparently unaware—that other Americans are struggling for basic needs.

It is an astonishing irony that, while many young people feel their lives lack meaning, many unmet social needs are crying for help. Day care centers go unstaffed. Elderly citizens are shuffled away to inadequate homes because there is no one to care for them. Local communities have many projects—energy conservation and neighborhood cleanups—which desperately need manpower.

The list of human needs could go on. But in analyzing how participants in a national service program might be apportioned among potential recipients, we must look at both the benefit to the so-called recipient and the benefit to the person who serves. In service, all the participants gain. The education that the service provider gets is a fundamental reason why I support a program of national service for America's youth.

SERVICE'S POTENTIAL AND PROBLEMS

It is clear that the idea of national service has tremendous potential for the United States in the 1980's and beyond. Despite limited opportunities for full-time volunteer service at present, young people participate effectively in public and private programs.

With the potential for greatly expanding the opportunities for services so impressive, we owe it to ourselves and future generations to confront the unanswered questions that surround national service:

What types of service would be most beneficial?

What should be the duration of service?

What incentives for participation should be used?

How can involvement of youth from all ethnic, economic, and regional backgrounds be assured?

How much would it cost?

How could existing programs be used to offset the costs of national service?

How would coordination among different levels of government and with the private sector be managed?

Should national service be limited to youth?

Two of the most fundamental issues are voluntary service vs. mandatory service, and the service program's relationship to military service.

I personally favor a volunteer service plan. I feel that the benefits derived from the national service experience would be seriously compromised by compulsory service, whether civilian or military. The idealism of Peace Corps volunteers, for example, has a major bearing on the quality of their work. The wonderful learning, sharing process that providers of service to others experience cannot be expected for an unwilling worker in national service.

Regarding the military aspect, there is much confusion and much dissent. I oppose mandatory service, and so I oppose the draft. A system of national service should not be used as a "back door" method of filling the ranks of the All Volunteer Armed Forces. Fear that a service program will be compulsory has caused strong popular opposition. At the present time, I believe that a program of voluntary national service is more practical and is based on a better principle.

Many facets of national service deserve thorough analysis and debate. Whatever our opinions on specific features, it would be senseless to establish a Presidential Commission with preconceived conclusions. The Commission's mandate should be an open-minded, comprehensive inquiry into the range of national service possibilities.

SEARCHING FOR CONSENSUS

This legislation would establish a 25-member Presidential Commission to study this issue and report its findings within 2 years. At least seven of its members would be young people between the ages of 17 and 25. Young people have been seriously under-represented in past consideration of national service.

This legislative approach is preferable to introducing legislation for a full-scale national service program at this time. If national service is to be successful, it must be well received by the intended participants, and by Federal, State, and local officials and members of private agencies, who run the programs with volunteers. I fear that to go full steam ahead with a national service program could alienate many of these same people. They might see the program as an infringement of their territory, rather than as the provider of expanded programs and services that it really is. A Presidential Commission will make contact with these people during the study and involve them in the evolution of the idea.

Excellent groundwork has been laid for a Presidential Commission by the Committee for the Study of National Service. Earlier this year the committee issued its report—"Youth and the Needs of the Nation." It is a valuable contribution to the debate. But it has raised more questions than it has answered.

Another factor arguing for a Presidential Commission is the tremendous interest among young Americans. The Gallup Youth Survey on National Service has found that an overwhelming majority of 13 to 18 year olds—71 percent—favor a voluntary service system of national service. When asked whether they would be interested in participating in such a program, 22 percent said they definitely would, and another 32 percent said they might.

The idea of national service has widespread support among young Americans now—nearly 70 years after William James first wrote in favor of it. James predicted that young Americans would get "the childness knocked out of them, and would come back * * * with healthier sympathies and soberer ideas." As a new decade begins, our situation cries out for the values inherent in national service.

I am delighted to be joined today by Senators Cranston, Pell, Bradley, Randolph, Jackson, Morgan, Levin, Stone, Weicker, and Nelson in sponsoring this new initiative for a renewed society in the 1980s.

Mr. President, I ask unanimous consent that the text of (S. 2159), the Presidential Commission of National Service Act, be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2159

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Domestic Volunteer Service Act of 1973 is amended by adding at the end thereof the following new title:

"TITLE VII—PRESIDENTIAL COMMISSION ON NATIONAL SERVICE

"ESTABLISHMENT OF COMMISSION

"Sec. 701. (a) There is hereby established a Presidential Commission on National Service (hereinafter referred to as the 'Commission'). The Commission shall be composed of not more than 25 members appointed by the President. A Chairperson of the Commission shall be appointed by the President not later than 60 days after the date of enactment of this title.

"(b) Members of the Commission shall include individuals who are broadly representative of private volunteer organizations, higher education, business, organized labor, organizations and groups with a primary interest in service opportunities for youth and older Americans, social services organizations, minority group and ethnic organizations, and Federal (including the military), State, and local governments. No less than 7 members of the Commission shall be between the ages of 17 and 25 at the time of their appointments.

"(c) Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner provided in this section for the original appointment.

"(d) Thirteen members shall constitute a quorum, but a lesser number may conduct such hearings as may be authorized by the total membership of the Commission.

"FUNCTIONS OF THE COMMISSION

"SEC. 702. (a) The Commission shall examine the need for and the desirability and feasibility of establishing a comprehensive national service program to meet a broad range of national and local needs.

"(b) The Commission shall submit to the President and to the Congress such interim reports as it deems advisable. Not later than 18 months after the first meeting of the Commission or 24 months after the date of the enactment of this act, whichever date occurs earlier, the Commission shall submit to the President and to the Congress a final report of its examination, together with such recommendations, including recommendations for legislation, as the Commission deems advisable.

"(c) The first meeting of the Commission shall be held not later than 60 days following the appointment of a majority of its members. The Commission shall meet regularly, but not less often than quarterly.

"(d) To the extent feasible, the Commission in carrying out its duties under subsection (a) of this section shall conduct meetings, hearings, or conferences in various regions and localities of the United States and actively seek out the opinions of young people and those groups which would be most affected by a program of national service.

COMMISSION POWERS AND ADMINISTRATIVE PROVISIONS

"SEC. 703. (a) The Commission may, in carrying out the provisions of this title, sit and act at such times and places, hold such hearings, take such testimony, request the attendance of such witnesses and the production of such books, papers, and documents and have such printing and binding done, as the Commission deems advisable.

"(b) The Commission may acquire directly from the head of any department, agency, instrumentality, or other authority of the executive branch of the Federal Government available information which the Commission determines useful in the discharge of its functions. Each department, agency, instrumentality, or other authority of the executive branch of the Federal Government shall cooperate with the Commission and, to the extent permitted by law, furnish all information requested by the Commission.

"(c) Subject to such rules and regulations as may be adopted by the Commission, the Chairman is authorized to—

"(1) appoint and fix the compensation of an executive director and such additional staff personnel as may be necessary, without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title;

"(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of such title, but at rates not to exceed the comparable daily rate for a GS-18 under section 5332 of such title;

"(3) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem as authorized by subchapter I of chapter 57 of such title;

"(4) receive money and other property donated, bequeathed, or devised, without condition or restriction other than that it will be used for the purpose of carrying out the functions of the Commission under this title, and to use, sell, and otherwise dispose of such property for such purpose;

"(5) enter into agreements with the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from the funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator of General Services; and

"(6) enter into contracts with Federal, State, and local public agencies, private business concerns, institutions, and other organizations for the conduct of research, surveys, the preparation of reports, and any other activity which the Commission determines to be necessary.

"(d)(1) Members of the Commission who are otherwise employed by the Federal Government shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses, at rates provided for in subchapter I of chapter 57 of title 5, United States Code, incurred by them in carrying out their duties as members of the Commission.

"(2) Members of the Commission not otherwise employed by the Federal Government shall receive compensation at the daily rate prescribed for GS-18 under section 5332 of such title, including travel time, for each day they are engaged in the performance of their duties as members of the Commission; and, they shall be entitled to reimbursement for travel, subsistence, and other necessary expenses, at rates provided for in subchapter 57 of such title, incurred by them in carrying out their duties as members of the Commission.

FOLLOWUP ON COMMISSION FINAL REPORT

"SEC. 704. (a) Upon submission of the Commission's final report under section 702(b), the President or the head of the department or agency designated by him shall take steps to ascertain the views of each affected department or agency of the executive branch of the Federal Government on such report and, not later than 180 days after the date of such submission, shall submit an interim report to the Congress on—

(1) the desirability, feasibility, and cost of implementing each of the Commission's recommendations, and the actions taken or planned with respect to their implementation; and

(2) recommendations with respect to any legislation proposed by the Commission and the need for any alternative or additional legislation to implement the Commission's recommendations.

Not later than 12 months after the date of the submission of such interim report, the President or such designee shall submit a final report to the Congress detailing the actions taken by the executive branch of the Federal Government with respect to the recommendations of the Commission, together with any further recommendations deemed appropriate.

"(b) The Commission shall terminate 180 days after the submission of its final report under section 702(b). During this 180-day period, the Commission may develop and submit recommendations for programs designed to implement its findings.

Mr. TSONGAS. Mr. President, I thank Senator CRANSTON for his commitment to hold hearings on this idea early in the next calendar year.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I applaud the leadership of the Senator from Massachusetts, a former Peace Corps volunteer, in presenting this proposal to the Senate.

Mr. President, I am pleased to join my colleague from Massachusetts (Mr. TSONGAS) and my colleagues from Rhode Island (Mr. PELL), New Jersey (Mr. BRADLEY), West Virginia (Mr. RANDOLPH), Washington (Mr. JACKSON), North Carolina (Mr. MORGAN), Michigan (Mr. LEVIN), Florida (Mr. STONE), and Connecticut (Mr. WEICKER) in introducing this bill to establish a Presidential Commission to study the feasibility of establishing a comprehensive national service program to meet a broad range of local and national needs. The junior Senator from Massachusetts, a former Peace Corps volunteer, is deeply committed to the concept of a national service program, and I am delighted to be able to work with him on this legislation.

As chairman of the Child and Human Development Subcommittee of the Labor and Human Resources Committee, and as the author of the Domestic Volunteer Service Act of 1973, I have long been interested in programs which provide opportunities for Americans to contribute their time and energies to helping one another. The domestic volunteer programs carried out by the ACTION agency and the Peace Corps programs overseas are examples of volunteer programs which provide opportunities for individuals to contribute to the needs and goals of our country. But, these programs provide these opportunities for only a very small portion of our society.

The legislation we are introducing today will establish a Presidential Commission to examine the feasibility of establishing a much broader volunteer program. Such a program could draw upon the resources of many, many more Americans. I believe the time is ripe for a close examination, by a Presidential Commission, of such a program.

A SUBSTITUTE FOR CRISIS PATRIOTISM

Mr. President, during this period of national crisis over the situation in Iran, an unusual sense of national unity has arisen throughout the country. Americans of all walks of life have been drawn together in a common sense of concern and purpose. Yet, as we know from the past, once the moment of crisis passes, we tend to return to our individual pursuits and seem to lose that sense of unity we share in the face of adversity.

Must it take a national crisis to stir our sense of unity and public purpose? Why should that not be an ongoing, permanent part of our lives—a permanent motivation in our lives? Perhaps what we lack is the proper vehicle. Wide-spread acceptance of and involvement in a national service program could help to foster among all Americans just such a permanent and long-lasting atmosphere of national pride and desire to serve a common cause.

NATIONAL SERVICE: GENESIS OF THE CONCEPT

Mr. President, while the concept of a national service program was first proposed by William James in 1910, there has not been until recently a comprehensive examination of the issues and questions involved. Earlier this year, the Potomac Institute released a report entitled "Youth and the Needs of the Nation." The report examined many of the possibilities of such a program. It provides a useful beginning for a national dialog on the desirability of creating a national service program.

My own interest arises from several basic concerns. I believe that there exist in this country tremendous human and social needs which go unmet because of a lack of resources. I also believe there are far too few opportunities for volunteers to be of service to the less fortunate among us and to make significant contributions to our society. I believe there is a great need to stress and to strengthen the concept of volunteerism and to help give young people a greater sense of purpose in their lives. Finally, I believe that the establishment of a program of national volunteer service can be of great potential value in maintaining and strengthening our voluntary military force and in meeting the manpower needs of our defense establishment.

UNMET SOCIAL AND HUMAN NEEDS

Mr. President, I think we all agree that tremendous areas of social need exist in America today—and that there is a lack of budgetary resources to meet those needs. Our communities are filled with isolated and loney elderly individuals. An estimated 2 million schoolchildren are left alone every day without adult supervision between the close of school and the time when their parents return from work. The needs of very old and very young, the needs of handicapped and impoverished Americans, the fight against pollution and to save energy in innercities and rural communities.

All are increasingly threatened by cutbacks in funding and by the devastating impact of inflation on existing services.

In many of these areas, more dollars are not the real answer. Public welfare bureaucracies, though capable of providing sustenance and basic economic support, are often not equipped to provide the human compassion that is so desperately needed.

Mr. President, though numerous social commentators have castigated the American public for the development of a "me-first" mentality, I believe that there is within this Nation a natural reservoir of energy and compassion—of people-to-people assistance—which is not being fully utilized. Part of the problem may simply be that Americans have not been called upon in recent years to make a contribution to their Nation. Too many young people in America have been brought up with a dim view of their role in our society. They see little opportunity for service and are oriented toward consumption—rather than toward service to others or to the needs of society. A Peace Corps volunteer in the early sixties wrote:

> I'd never done anything political, patriotic or unselfish because nobody asked.

The Peace Corps asked then. It is time that our Nation ask again, now, on a grander scale.

Americans are a caring, compassionate people. This quality has been demonstrated time after time in the past when the call for service has been made. A national service program might well provide both the stimulus and the opportunity that Americans need to demonstrate, once again, the compassion and the generosity that have contributed to our Nation's greatness. It could create anew that sense of unity and purpose which has bound our diverse population together in years past and which seems to be missing today except in times of immediate crisis.

SPECIAL NEEDS OF YOUNG PEOPLE

Mr. President, the Commission that would be established under this proposal should examine the feasibility of providing volunteer opportunities for Americans of all ages. But a special focus upon young people might well be justified. It could provide them with opportunities for service that would help them make the critical transition from the education system to the mainstream of adult life—a transition that has become more and more difficult as our society has become more technologically advanced. A national service program could serve as a bridge between youth and adulthood—a kind of internship or apprenticeship for a life of productive and meaningful work.

Mr. President, youth unemployment rates in many communities are staggering. In New York City, for example, the rate of unemployment is 21.9 percent for young people between the ages of 16 and 20—and 31 percent for minority youths. The effects of this unemployment show up in crime statistics and the growing list of lifelong recipients of welfare. The price we pay for this waste of human lives cannot be calculated. Although a year or two of participation in a national service program would not in itself solve the problems of youth unemployment in our inner cities, it would provide a far better beginning to adult life than millions of young people now face. Such a program could provide many young Americans an avenue out of despair and hopelessness.

Mr. President, the voting age has been lowered, but little has been asked of young people which would stress the fact that they are needed and can make a contribution to society. A national service program could provide the challenge that young people need.

THE ALL-VOLUNTEER FORCE

Mr. President, I believe a program of national service is justified on its own merits. But the favorable impact of such a program on maintaining an all-volunteer force (AVF) should also be considered. The Committee for the Study of National Service has argued that a widespread voluntary national service program, with both military and nonmilitary service opportunities, could help meet our military personnel needs. While there are differing views on the impact that establishment of a broad-based voluntary national service program would have on military recruitment, I believe that by fostering an atmosphere of volunteerism through a carefully constructed national service program, we might well be able to meet our military, as well as nonmilitary, needs.

A Gallup youth survey published last August of 1,000 boys and girls between the ages of 13 and 18 found that 71 percent of those surveyed favored a voluntary national service program in which young people—both men and women—would be given opportunities, after high school or college, to serve for 1 year, either in the military or in nonmilitary work here or abroad; 22 percent of the teenagers said they would definitely be interested in volunteering and another 30 percent said they might be interested. One-fourth of the teenagers who said they were interested in some form of volunteer service said they would choose military over nonmilitary service.

There are those who feel that the All-Volunteer Force is not working. There are those, among them the Secretary of the Army, who believe it is working. If creation of a voluntary national service program can—by raising the status and social disirability of volunteerism—assist in meeting military manpower needs, it could help insure the success of the All-Volunteer Force and put an end to the rising demand for reinstitution of the draft. A great purpose would thus be served.

The potential linkage between the national service concept and military service is underscored by the fiscal year 1980 Department of Defense Authorization Act, Public Law 96–107, which includes provisions for the President to prepare and transmit to the Congress by February 9, 1980, a plan for fair and equitable reform of the law covering military registration and induction. That plan must include recommendations on the desirability, in the interest of preserving discipline and morale in the Armed Forces, of establishing a national youth service program permitting volunteer work, for either public or private public service agencies. That legislation, however, does does not provide for the type of indepth, comprehensive examination of the national service concept which is needed and is called for under our legislation.

Mr. President, we need to reestablish service to one's country as an important value among our citizenry—especially our younger citizens. Stressing the concept of volunteer service in our civilian people-to-people community efforts can result in a broader acceptance of volunteerism that I believe, in turn can greatly benefit our military recruitment programs.

MANDATORY VERSUS VOLUNTARY SERVICE

Mr. President, some people have advocated a mandatory national service program. I believe that the concept of "volunteerism" is an integral part of any meaningful program. I find the concept of mandatory service to be inconsistent with the basic principles of individual rights upon which this country is founded and upon which a democratic society rests. Indeed, there is substantial doubt whether a mandatory program of service—outside of military service—would be constitutional. Moreover, I believe a mandatory program would undermine the goals of a national service effort. Rather than stimulate a spirit of service to the Nation, it could kindle resentment and divisiveness. Although I do not believe that the Commission should be foreclosed from examining the issue of a mandatory versus voluntary program, I believe that only a voluntary program would be acceptable to the Congress and to the American people. And I doubt that there are any circumstances under which I personally would support a mandatory program. In a free society we should be supporting volunteerism, not compulsion.

OUTLINE OF LEGISLATION

Mr. President, the Presidential Commission on National Service that this bill would establish would be composed of individuals who are "broadly representative of" private volunteer organizations, higher education, business, organized labor, organizations with a primary interest in service opportunities for youth and older Americans' social services organizations, minority group and ethnic organizations, and Federal, State, and local governments, including representatives of the military. The bill also provides that not less than seven members of the Commission shall be between the ages of 17 and 25 at the time of their appointments. This is designed to assure that the young, who will be most affected, will have a strong voice on the Commission.

The Commission would be charged with examining the need for, and the feasibility of, establishing a comprehensive national service program. It would be encouraged to conduct its activities throughout the various regions and localities of the Nation. It would be directed to seek the opinions of young people and other groups that would be most affected by the creation of a national service program. The Commission would examine many complicated and difficult questions such as the potential cost and administrative structure for a national service program. I hope that it would fully explore ways to limit costs and decentralize structure and to work in partnership with the private sector. The Commission should examine closely all available options and alternatives.

Upon completion of its task, the Commission would submit to the President and the Congress, not later than 24 months after enactment of the legislation, a final report with such recommendations, including recommendations for legislation, as it deems advisable. In carrying out its functions, the Commission would play a critical role in stimulating a healthy and urgently needed national debate on this vital issue.

SUBCOMMITTEE HEARING ON COMMISSION

Mr. President, I will schedule hearings of the Child and Human Development Subcommittee early next year on this proposal. We will solicit the views of interested organizations. We hope to have a full and fair exploration of this entire issue.

Earlier this year, the Senate approved, an amendment sponsored by the Senator from Minnesota (Mr. DURENBERGER) to S. 239, a bill to extend the authorization of appropriations for certain domestic volunteer programs, to establish a Commission to study various issues relating to volunteerism. I offered an amendment to the Senator from Minnesota's amendment to have the Commission focus on the feasibility of a comprehensive youth service program.

The Durenberger amendment as so modified was accepted here, but was dropped in our conference with the House because of concern that interested groups and organizations had not had an opportunity to voice their views on this matter through the normal legislative hearing and committee process. Certainly, congressional hearings and the committee process are important in laying the groundwork for the establishment of a Commission charged with such important responsibilities, and our forthcoming hearing will seek to solicit the views of all concerned.

CONCLUSION

Mr. President, in establishing a Presidential Commission to examine the concept of a national service program, we would be taking an important step forward in exploring ways to rekindle in the people of this great Nation the spirit to work for the betterment of our society. We need to reinstill in our people the virtues of volunteerism as a form of patriotism. We need to join together to help those who are poor, or handicapped, or spiritually impoverished.

Above all, I believe that it is time for America to challenge its people, especially its young people, to service, to draw out the best that is in them, and to ask them to do their best for their country. I believe that they are waiting to be asked.

I note in closing that the Presiding Officer of the Senate at this time, the Senator from Michigan (Mr. LEVIN), is one of the cosponsors of this legislation. I am delighted that that is the case. I am delighted that he is joining in asking for this opportunity for young Americans and for all Americans to have a greater chance to volunteer their services to our Nation and to its people who need help in one way or another.

The PRESIDING OFFICER. The Chair, speaking as a Senator from Michigan, thanks the Senator from California.

Mr. CRANSTON. I thank the Senator.

● Mr. PELL. Mr. President, I am pleased to join Senator TSONGAS and my other distinguished colleagues, in introducing legislation to create a 25-member Presidential Commission to study the idea of national service.

A high level study of this idea is long overdue, and I believe that the Presidential Commission created by this bill will serve to focus national attention and debate on a concept which I think is highly relevant to America's needs in the 1980's. The Commission will also bring together the variety of models for national service which have been proposed into a single blueprint which the Congress and the people can seriously consider.

The idea of national service is not new; in fact it was tried successfully in this country during the Depression in the form of the Civilian Conservation Corps (an experiment which was unfortunately ended by World War II). Over the last 20 years, a number of study groups and prominent individuals have endorsed the idea in various forms.

Now, a series of national problems are converging in a way that compels us to give serious consideration to national service. Youth unemployment, especially black youth unemployment, has eluded our best corrective efforts and continues to be an enormous problem. The social and economic costs of youth unemployment are staggering, in terms of welfare and jobs training programs, and in terms of the alcoholism, drug addiction, and crime which are associated with involuntary idleness among young people.

Recognizing the unmet social needs which exist in every community in our country, we should look to national service as an opportunity to involve large numbers of young people in public service. That greater civic commitment among young people is needed hardly needs restating. The high percentage of young people who have not registered to vote reflects the need to encourage the expectation that every young person will spend a year or more in service to the nonmilitary or military needs of the country.

The social benefits of bringing together, for public purposes, young people from different economic, social and geographic backgrounds would be considerable, particularly in contrast to the experience of the All-Volunteer Armed Forces. One of the greatest disappointments of the volunteer army, but one which I am afraid was predictable, has been its failure to attract a representative cross sample of American young people.

The volunteer army has also failed to attract sufficient numbers of qualified recruits to meet the national security needs of the Nation. Before we even consider a return to induction, I believe we should seriously analyze whether national service is a possible way of meeting military manpower needs.

Clearly, there is a need for a comprehensive national study of the costs and practicality, as well as the social benefits, of this idea. For example, there should be careful study of the argument that only mandatory national service could achieve representative participation and sufficient manpower to meet military manpower requirements. The impact of national service on higher education, Federal job programs, and the private sector are all complex considerations that require extensive analysis and public comment.

The Presidential Commission created by this bill will have a mandate to conduct the needed analysis, and survey the views of unions, business groups, the education community, and other groups. The work of the Commission will stimulate needed public discussion of the advantages and disadvantages of national service. Only after extensive study and public debate can Congress and the American people decide if national service should be implemented.

Mr. President, I strongly urge my colleagues to support the establishment of a Presidential Commission to study national service. In my view, national service could be a powerful force in meeting the military and nonmilitary needs of the Nation, as well as strengthening the "sense of service" which, historically, has been so instrumental to our success as a society.

The Commission is a necessary first step before the Congress can be in a position to go forward with, or lay to rest, the national service concept.●

RECOGNITION OF SENATOR HEFLIN

The PRESIDING OFFICER. Under the previous order, the Senator from Alabama (Mr. Heflin) is recognized for not to exceed 15 minutes.

SENATE JOINT RESOLUTION 127—HELEN KELLER DAY

Mr. HEFLIN. Mr. President, I am today introducing a joint resolution to authorize the President of the United States to designate June 27, 1980, as "Helen Keller Day" in commemoration of the 100th anniversary of the birth of Helen Keller.

It is a very special privilege for me to introduce the resolution honoring this remarkable lady because she was born on June 27, 1880, in my hometown of Tuscumbia, Ala. For a time, during my legal career in Tuscumbia, I served as Miss Keller's attorney.

Helen Adams Keller is an outstanding example of how courage, faith, and determination can be used to conquer physical handicaps. At the age of 19 months, a serious illness destroyed her sight and hearing, rendering her unable to speak and entirely shut off from the world, imprisoned in what she described as "no world." Her life took a new course at the age of 7, however, when her devoted teacher Anne Sullivan arrived from the Perkins Institute for the Blind in Boston, Mass.

Through her own patience and understanding, Anne Sullivan was able to make contact with Helen's mind through the sense of touch. She worked out an alphabet by which she spelled out words on Helen's hand. Gradually, the child was able to connect words with objects. Once she understood, however, her progress was dramatic. She became fluent in the use of the sign language and soon mastered the Braille alphabet. She was not satisfied with this, however, and so through miraculous efforts, she learned to speak.

By the time she was 16 she could speak well enough to enter school. She attended the Horace Mann School for the Deaf in Boston, and later entered the Perkins Institute for the Blind. Once her preparatory education was completed she entered Radcliffe in Cambridge, Mass., where she graduated cum laude in 1904.

It was at Radcliffe where Helen Keller wrote her first book, "The Story of My Life." The book became standard reading in schools throughout the country. Before her writing career was over, Miss Keller wrote 11 books which have been translated into more than 50 languages.

After her personal victory over darkness and despair Helen Keller turned her life and ambitions to the service of others. With limitless stamina and energy she dedicated her life to bettering the conditions of the blind and deaf, striving to fulfill her dream that "every child have an opportunity to receive an education—and every blind adult a chance for training and useful employment." She became active on the staffs of the American Federation of the Blind and the American Foundation for Overseas Blind and initiated the Helen Keller Endowment Fund of $2 million. Through the Helen Keller World Crusade for the Blind she learned to speak seven languages and lectured in 35 countries on all 5 continents. During World War II, she worked with soldiers who had been blinded by the war. Through these and other activities she guided programs to advance the economic, cultural, and social opportunities of deaf and blind persons around the world.

Wherever she went, Helen Keller was met with an outpouring of love and affection, bringing new courage and inspiration to millions of blind people. She was honored by heads of state with awards of great distinction. The motion picture "Helen Keller In Her Story," portrayed the story of her life, and the play and motion picture "The Miracle Worker" told how Anne Sullivan made contact with the young Helen Keller through the sense of touch. On the 100th anniversary of her birth the U.S. Postal Service will honor both Helen Keller and Anne Sullivan with a commemorative postage stamp.

In conclusion, I would like to repeat the words of one of the greatest Senators who served in this body, former Senator Lister Hill of Alabama, who, more eloquently than anyone else, described the achievements and character of Helen Keller on the occasion of her death in 1968:

> Helen Keller has truly "lighted a candle of understanding in our hearts which shall not be put out." She will live on, one of the few, the immortal names not born to die. Her spirit will endure as long as man can read and stories can be told of the woman who showed the world that there are no boundaries to courage and faith. . . .
>
> Although she was denied the light of day, Helen Keller cast more radiance of heaven than any person on this Earth. Within this radiance and the light and example of her life, may we carry on in our troubled world, worthy of her deeds, her hope and her faith—a faith of which the Lord spoke in His words, "Then the eyes of the blind shall be opened and the ears of the deaf shall be unstopped."

Mr. President, I sincerely hope that my colleagues in the Senate will join me in honoring this very special person. I ask unanimous consent that the entire text of the joint resolution be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 127

Whereas, Helen Keller was left incurably blind and deaf at the age of nineteen months;

Whereas, through her own determination and faith, and through the patience and understanding of her devoted teacher, Anne Sullivan, Helen Keller won a magnificent victory over darkeness and defeat, emerging from hopeless childhood into remarkable womanhood by becoming fluent in the use of sign language, mastering the Braille alphabet, and, miraculously, learning to speak:

Whereas, after her personal victory over darkness and despair, Helen Keller turned her life and ambitions to the services of others;

Whereas, for more than a half century, Helen Keller has been a symbol of courage and faith serving to encourage and benefit millions of her fellow handicapped in America and throughout the world;

Whereas, with limitless stamina and energy, Helen Keller dedicated her life to others, giving unceasingly—speaking, writing, traveling and working constantly to improve the conditions of deaf and blind people;

Whereas, as counselor to the American Federation of the blind she guided programs to advance economic, cultural and societal opportunities of deaf and blind persons throughout the United States and was instrumental in launching a new era of work to advance these opportunities;

Whereas, through the Helen Keller World Crusade for the blind, Helen Keller inspired programs for the education and rehabilitation of blind persons around the globe and became the primary force which led to increased awareness of the problems faced by the handicapped;

Whereas, wherever she went Helen Keller was received with a massive outpouring of love and admiration, being honored by heads of state, and being acclaimed by all;

Whereas, Helen Keller's spirit will endure as long as man can read and stories can be told of the woman who showed the world that there are no boundaries to courage and faith; and

Whereas, June 27, 1980, marks the one hundredth anniversary of Helen Keller's birth in Tuscumbia, Alabama: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating June 27, 1980, as "Helen Keller Day" and encouraging appropriate Government agencies to foster the recognition of the significance of Helen Keller's achievements on that day with appropriate ceremonies, programs and activities.

Mr. HEFLIN. Mr. President, I ask unanimous consent to add the names of Senator Tsongas, Senator Weicker, and Senator Levin as cosponsors at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. DURKIN. I object.

Mr. STEVENS. I have a special order.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENS. I have a special order, and I am going to yield time to the Senator from Illinois.

Mr. DURKIN. All right.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR STEVENS

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, from the time on my special order I ask unanimous consent to yield to the Senator from Illinois such time as he may desire.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois is recognized.

Mr. STEVENSON. Mr. President, I thank my good friend from Alaska.

A RETURN TO EXCELLENCE

Mr. STEVENSON. Mr. President, 30 years ago the United States was the dominant power in the world. It virtually controlled the world's capital and technology. Its military might was unchallenged. It was leading the postwar reconstruction of the West and building the institutions of trade, money, and development which gave the world a measure of prosperity and freedom. All that has changed.

Ten years ago Iran was our staunch ally. Its government was transforming ancient Persia into a modern nation. Today it is governed by a regime which harks back to an ancient theocratic order.

Iran is a portent of change. Iran foreshadows the challenges of the 1980's—energy demands, hunger, economic stagnation, the embittered revolution of rising expectations, terrorism as an accepted form of political action, and through it all large questions about our ability to decide what to do and to do it.

Since 1973 the prices of wheat, oil, and gold have increased manifold. International liquidity increased in the 1970's at five times the annual rate of the 1960's. The monetary system forged at Bretton Woods vanished. The dollar sank like a barometer of world confidence in our ability to discipline ourselves and compete. And by no coincidence the Nation suffered double digit inflation and recession.

This phenomenon of simultaneous inflation and stagnation is a system of economic interdependence, to which nations cannot adjust without a framework for international cooperation and a capacity for competition.

Nations, dependent on each other for capital and technology, for markets and supplies, struggle for fuels, raw materials, markets, and strategic advantage with the ferocity of wars for religion and empire. They struggle to increase their production of raw materials and manufactured goods and sell them in the world.

Other nations, not so rigidified by habit and the vested powers of a middle-aged economic order, are adapting to the realities of this new, highly competitive, interdependent world. The French and Germans are bringing order to Europe's monetary affairs. Lesser developed countries are coming on stream with high technology, low labor and resource costs and aggressive marketing. China, 1 billion strong, is getting organized. The developed countries push ahead to leave the United States with little to sell that is unique or of superior quality, except arms. The United States and Great Britain, their dominions gone, have the lowest rates of productivity growth of all the industrialized nations.

Some nations, more dependent on imported food and oil than the United States, run trade surpluses and maintain higher levels of employment and lower levels of inflation. The United States runs a large trade deficit. We seek to cool off a tepid economy. We debate inflation as if the problem were to adjust minor malfunctions. In fact, we face fundamental challenges to our economic and political structures.

National security, social justice, the stability of the world economy, the unifying confidence of the American people—everything hinges on the American economy. And in terms of sound growth, productivity, and innovation, the economy is stagnant

Our policies are reactions to symptoms. They rarely address the phenomena which gave rise to them. High interest rates may strengthen the dollar temporarily, but they retard modernization and investment in the most productive sectors. They increase the Federal budget deficit by reducing revenues and increasing debt service. Interest on the Federal debt will exceed $70 billion in fiscal 1980. They increase the cost of housing, food, fuel, and other goods and services, and cause more inflation and stagnation or worse, to be followed by more budget deficits, more trade deficits, more inflation, declining growth rates the world over, a weaker dollar and more national insecurity.

Unlike familiar business cycles, this inflation and stagnation will not be altered by policies based on 18th century abstractions about the behavior of markets.

It is not caused by excessive demand or overheating. Inflation can now be caused by decreased demand as companies increase prices to maintain profits on smaller volumes of sales or, as they say, to cover increased costs. As labor productivity goes down, the wages of organized labor go up. Unit labor costs have risen this year at an annual rate of about 12 percent. Inflation is caused by distortions in the marketplace and inefficiencies and higher producer costs, of which food and energy costs are only examples. It is caused by the insufficient capacity of some industries and Government policies which inhibit productivity gains, investment, and exports. It is caused by a psychology which anticipates more inflation. It is caused by money, including a trillion dollars in xenocurrencies which slosh around the world in mysterious and sometimes destabilizing ways. And it will not be cured by economic orthodoxies.

Our policies, including indiscriminate budget cuts for everything except the military, divert money to fixed income obligations and away from equity financing for high risk ventures capable of producing innovation. They postpone needed investments in human welfare and growth, like housing, energy, and food production and transportation systems which could over time stabilize prices. Ultimately they dismay the investors abroad and at home they were intended to appease. With low rates of productivity growth and more inflation, they seek tangible, speculative, often unproductive, investments such as gold. And the wheel takes another turn.

According to the theorists, the trade deficit was to be righted by floating exchange rates, the magic of the price mechanism, and higher growth rates in Europe and Japan. But the nations of this era do not respect the laws of supply and demand. Price is only one factor. World supplies and demands are creatures of forces set loose by Mohammed and Marx, cartels and governments. Other nations go all out to produce and sell, to create jobs and exports and pay the oil bill. They move to supply the world's demand. We move to reduce it. We pretend to rely on the invisible hand of Adam Smith. We rely on policies from the last depression to guard against the next. We do not shape policy to the structural causes of chronic inflation and stagnation in an interdependent world lacking such basics as food, fuel, credit and even a dependable unit of exchange.

A preoccupation with the abuses of Government implies that there are automatic, self-adjusting mechanisms which can make all the right decisions with no discomfort for anyone and least of all the politicians. Thus, we have sunset and sunshine laws, a Department of Education, a Humphrey-Hawkins law, ethics and foreign corruption laws, a bill to make all Government regulations presumptively invalid. We have proposition 13 and proposition 4 and constitutional amendments. We have mobilization boards, Presidential councils on regulation, paperwork commissions. We have regulations of the regulations and bureaucracies to oversee the bureaucracies. We have an Energy Department, but no comprehensive energy policy. This preoccupation with method and the easy answer is an excuse for doing nothing. Never has nothing been done so systematically as nothing has been done in the seventies.

Comon action is the way to deal with common problems. Energy, inflation, the price and availability of credit, employment—everything is rooted in a world lacking common action and direction.

The United States should lead a global effort to increase the production of fossil fuels and nuclear energy. It should lead an effort to establish a global monetary system with a dependable unit of value and freely convertible currencies.

It should lead an interantional effort to increase the resources of official facilities for the financing of payments deficits, and for development, and a cooperative effort to stabilize interest rates.

Competition is shifting from import protection to export subsidization. The United States should lead an effort to implement the last round of trade negotiations and begin the next.

Science and technology should be brought to bear upon the plight of the poorest nations.

A global space program for peacekeeping, as well as communications and monitoring food production and weather and exploring for the world's minerals and fuels awaits American leadership.

The United States could pick up where it left off 30 years ago, but not pick up the whole tab. Japan and Germany owe more of the cost for collective security and development.

We are not responding to challenge this time—and are in danger of continuing on the British route, subsidizing geriatric industries, sheltering agriculture and the powerful in labor and industry from natural adjustments, penalizing small, efficient entrepreneurs. Only about $300 million was raised for venture capital in the United States last year; Chrysler will get $4 billion. About 90 percent of newly created employment in the United States is in service industries, many relatively nonproductive and with nothing to sell in world markets. Economists shrug this phenomenon off as an expression of market preference. But this market assigns the highest price earnings ratios to gambling houses. It neglects the imperatives of competition in a resource hungry world. It indulges extravagant products, planned obsolescence, excessive advertising and, with generous help from the Government, layers of legal and accounting and other transactional costs.

Priorities are needed which squeeze waste from the system, enlarge investments in human knowledge and real wealth, and enhance the quality of life. Those priorities will not be set by zero base budgets, no growth postulates, indiscriminate tax incentives and the nostrums which ultimately require everybody to subsidize everybody else through the clumsy offices of the government.

The United States must make some choices. It needs a strong Government that gets in where it is needed, out of the economy where it is not—and with a resolve that gives business, consumers, everyone, some confidence in the stability and continuity of its policies. We need tax incentives and Government expenditures which mobilize our strengths, including a capacity for the production of food and technology—and incentives to conservation, including increased taxes on gasoline.

With some priorities, growth and high employment might be associated with stable prices. After the Civil War, money created to finance it was soaked up by reconstruction, industrialization, and the development of the West. In the early 1960's high levels of investment, associated research and development, and high rates of productivity growth helped sustain high levels of demand and sharply rising wages without inflation.

The production of energy, housing, health services, food and other goods, research and technology, job training, the exploration of the universe and the oceans are today altogether more promising means of controlling inflation than indiscriminate attempts to decrease the demand for goods and the capital for their production.

Some things must be done—even if by the Government. Other nations understand that. They have national fuel and transportation companies. Their industrial and tax policies support industry. The Japanese Government organizes industry to take the lead in computers while back in the United States the Justice Department is trying to break up IBM.

We deregulated the airlines industry—and should go farther. The transportation and financial industries are ripe for deregulation. But everybody wants to deregulate the other fellow. The Government not only fails to deregulate the economy to the extent it should be, it seeks to condition U.S. participation in world commerce upon the extraterritorial reach of U.S. laws and social priorities. Whatever its theological justification, this purification by self-denial has little political or economic justification. A more productive and ultimately more humane basis from which to proceed is to assume that our economic, political. and moral purposes coincide. They all depend upon the competitiveness of the United States in a highly competitive environment and the authority with which to pursue all our objectives in the world.

Trading companies could market for small companies, as well as large, represent competing product lines in all parts of the globe, spot the market opportunities, put the packages together, meet the price competition, finance the export transactions.

The United States could market food, as do other nations, through a Government agency to give the United States political authority, as well as economic advantage. Oil could be bought abroad in concert with other consuming nations, through a national agency with power and an incentive to bring the price down.

We leave transactions with foreign governments in food and oil to companies, most of them subject to foreign control, which have no power, and little incentive, to decrease the price of oil or to negotiate for maximum advantage the sale of food.

The United States has no trade strategy. It has no industrial policy. It has no food policy.

This year the United States will pay farmers $500 million not to produce food as we preach human rights to a hungry world. We subsidize food prices at artificial levels, and deplore inflation. Like most policies, farm policy is a reaction to the past, to last year's surplus, instead of next year's global shortage. We could save our eroding land and do something about inflation with a food policy.

With cheap labor, cheap fuels, cheap money, and cheap raw materials gone and fierce competition from abroad, the most promising sources of growth, real wealth and enhanced productivity are through technology and a capacity for industrial innovation. But the national investment in research and development is flagging in comparison to other countries. In the 1960's hundreds of small technology-oriented, high-risk companies were created every year. No longer. The United States is investing in product improvements for the short term instead of innovation for the long term.

Contrary to the popular notions about the omnipotence of free enterprise and the irrelevance of Government, the most innovative and competitive industries are those which have benefited the most from Government support for technology—including American agriculture and the computer and aerospace industries. If by inadvertence the Government stimulates an aerospace industry that dominates world markets, imagine what it might do by calculation.

At least two-thirds of all R. & D. takes place abroad now. Other governments soak up our technology; we should soak up theirs. The space program should be pushed ahead with the Space Shuttle to begin the routine utilization of space for the benefit of Earth—and with more technology spun off to industry. Research and development should be stimulated by tax incentives; patent policy overhauled; innovation centers established to involve Government, universities and industry in a new cooperative effort to develop and commercialize technology, including advanced manufacturing procedures.

A sound industrial policy would help businesses adjust to change and meet Government subsidized competition from abroad. Our policy is ad hoc; it resists change. Instead of subsidizing increased capacity for the production of automobiles and steel, a new policy could aid an adjustment that produced railroad or mass transit equipment, or new materials to replace the old.

The challenges are in the marketplace, in the laboratories, in East Asia and the Persian Gulf. They involve ideas, as well as markets and national aspirations, ideas from the Old Testament, Mohammed, and Marx. We have the capital, the technology, the arms, the human and natural resources. We should put them to work.

The old American ideas about excellence in Government, individual freedom, entrepreneurship, Yankee ingenuity, are in line with our needs. We had better put those old ideas back to work, too.

Mr. President, these are not cheerful observations, but with some attention to them the Congress would serve the people better in the New Year.

I thank the Senator from Alaska.

Mr. STEVENS. Mr. President, I reserve the remainder of my time and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Riegle). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, what is the order for the moment?

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia (Mr. Robert C. Byrd) was to be recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Kentucky (Mr. Ford).

THE ONE AND ONE-HALF HOUSE VETO

Mr. FORD. I thank the distinguished majority leader.

Mr. President, The Federal Trade Commission Act of 1979 is not a measure designed to take away or even cut back the fundamental powers and responsibilities of the Federal Trade Commission. The Commissions basic role is unaltered: to protect American consumers and business from unfair methods of competition and unfair or deceptive acts or practices. Nor does the legislation remove any of the basic tools at the Commission's disposal in carrying out this role.

Mr. President, numerous amendments to S. 1991 have been submitted by our colleagues. I would like to discuss one floor amendment to this bill which should be rejected, the so-called one and a half house legislative veto proposal. The primary rationale for the legislative veto provision is that only through this procedure can the Congress effectively control the unelected bureaucrats that are unresponsive to the will of the Congress and the public.

S. 1991 disproves this thesis. This legislation shows that the Congress and its committees can exercise authority in an appropriate manner in order to assure that agencies act in a responsive and responsible manner.

S. 1991 has demonstrated that when the Federal Trade Commission undertakes a rulemaking that strays beyond the confines of its legal authority or congressional intent that such rules can be abrogated without resort to the legislative veto. S. 1991 demonstrates that where the organic law that authorizes an agency's activities or its procedures are either misinterpreted, misused, or prove to be inadequately structured, Congress can alter such law or procedures without the need for a legislative veto provision.

S. 1991, however, provides far greater protection by assuring that there will be continuing oversight by the Senate Commerce, Science, and Transportation Committee and the Congress of the FTC's activities. S. 1991 requires that the Senate Committee carry out an oversight review of the Federal Trade Commission every 6 months.

In fact, hearings have already been announced to further examine the concept of "unfairness" in the FTC's legislative mandate. This legislation also requires that the FTC must notify the Congress and then wait 30 days before issuing a notice of proposed rulemaking.

Thus Congress will have no opportunity to conduct oversight, and act to pass a law, if necessary. S. 1991 further requires the FTC in promulgating a rule must provide a regulatory analysis which will enable the Congress to act with rapid statutory action if it believes the FTC has acted inappropriately.

Mr. President, those who propose the so-called legislative veto are saying that this would curtail the actions of the commissions and agencies, created by Congress, that have regulatory authority.

Mr. President, we have had the ability to correct or change the direction of any agency or any commission by passing legislation. We also have the ability of oversight, which has not been exercised in the past.

By holding oversight hearings every 5 months the committee will have the ability to correct, and I think appropriately and timely, any direction that the FTC might be headed that is not within the agency's statutory authority or congressional intent.

Mr. President, I would hope that, during the recess, that my colleagues will give a great deal of thought to this legislation and, I hope they will see that S. 1991 is on the right track, by requiring mandatory oversight instead of legislative acts.

Mr. President, I hope, in the consideration of S. 1991, that this particular proposal will be rejected.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. **ROBERT C. BYRD**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. **ROBERT C. BYRD**. Mr. President, I ask unanimous consent that there now be a period for transaction of routine morning business for not to exceed 1 hour and that Senators may speak therein up to 5 minutes each.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

SALT II

Mr. **PERCY**. Mr. President, in the Washington Post of December 19, 1979, there appeared a very perceptive and compelling article by Lloyd N. Cutler, Counsel to the President, entitled "The Case for SALT II." I concur with the views expresed. Because of the clarity and cogency of Mr. Cutler's arguments, I ask unanimous consent that it be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Case for SALT II

(By Lloyd N. Cutler)

My model for brevity is a British solicitor who was my colleague on a panel of lawyers in London. When his turn came, he said his topic was to compare the antitrust laws of Britain, Germany and France. He said:

"I shall do it in three sentences:

"In Britain, anything that is not expressly forbidden is allowed.

"In Germany, anything that is not expressly allowed is forbidden.

"In France, everything is forbidden, but almost anything can be arranged."

I cannot present the case for SALT in three topic sentences, but I can do it in four. All of them are related to our national defense.

(1) If your principal concern is to maintain U.S. strategic equivalence, we have a better chance of doing so with SALT II than without it.

(2) If your principal concern is to maintain the combat efficiency and readiness of our non-nuclear forces, we have a better chance of doing so with SALT II than without it.

(3) If your principal concern is strengthening the resolve and the nuclear and conventional capability of the NATO alliance, we have a better chance of doing so with SALT II than without it.

(4) If your principal concern is to get on with deeper cuts in the nuclear arsenals of both sides than SALT II itself achieves, we have a better chance of doing so with SALT II than without it.

The secretary of defense, the Joint Chiefs of Staff and the commander of the Strategic Air Command believe we have a better chance to maintain strategic equivalence with SALT II than without it. They have three main reasons:

SALT II's limits (and those of the protocol) do not bar the United States from carrying out any strategic weapons program the Joint Chiefs now plan, within the time span they now plan.

SALT II's limits will restrain the Soviet Union. At their present rate of launcher construction and conversion, the Soviets could readily surpass the various launcher ceilings before 1985. At their present rate of missile development, they could readily deploy more than one new light missile type by 1985, and they could readily deploy MIRVed heavy missiles with more than 10 warheads each by 1985.

Without SALT II's provisions to assist verification, we would know much less about what the Soviets are actually doing than if SALT II were in effect. Most important, the Soviets could conceal their new developments in ways SALT II forbids—for example, by encrypting all the telemetry on each missile test.

For these three reasons, it will be more difficult to maintain strategic equivalence without SALT II than with it. Without it, the Soviets can add more to the power of their own forces, widen any advantage they may achieve in the early 1980s and conceal from us what they are doing. All this will lengthen the time and increase both the cost to us and the uncertainty of maintenance parity.

The strength and readiness of our non-nuclear forces are primarily a function of the size of the defense budget. Our nuclear forces are only 10 to 15 percent of that budget, and when the budget comes out too low, it is the conventional forces that suffer.

Part of this is due to the budget-balancing imperative that must motivate all presidents, but most of the responsibility lies on the floor of the Congress. Over the past 10 years, Congress has cut defense appropriations some $40 billion below what presidents have requested.

Ratification of SALT will help ungrade our conventional forces in two ways. First, achieving the required 67 votes depends on forging a new consensus in the Senate between those who will accept SALT II in order to win support for greater defense expenditures and those who will accept greater defense expenditures in order to win support for SALT II. This consensus is likely to shatter in the aftermath of a failure to ratify SALT II. Second, whatever the level of the defense budget, more of it would have to go into strategic nuclear weapons, if SALT II were not ratified, in order to keep up with the additional Soviet nuclear buildup that would then occur. Whatever the level of defense expenditures, approval of SALT II will free up more of the available defense resources for conventional forces.

If there is any issue that commands a consensus of the Senate, it is the support and strengthening of the NATO alliance and its military capability—unclear and conventional. Failure to ratify SALT II would have the general impact of weakening America's position of leadership in the alliance. As Helmut Schmidt said in his recent Economist interview, how can NATO depend on the leadership and the commitments of a nation that negotiates a major military treaty over a seven-year period under three administrations of both parties, and then cannot obtain the approval of its own legislature?

Failure to ratify would also have an adverse impact on NATO's action to deploy in Europe modernized and longer-range U.S. nuclear weapons systems, so as to offset the threat of the Soviet SS20. For the NATO governments in Europe, a decision to deploy under American control nuclear weapons capable of reaching targets in the Soviet Union is a political decision of great internal and external consequence. For them, the decision to deploy the new weapons is justifiable on two parallel grounds: military needs, and as the first step in a plan to negotiate theater nuclear weapon limitations. These limitations would be in the context of SALT III, alongside the further intercontinental limitations that will also be part of SALT III. But such a plan depends upon the existence of SALT II. That is one reason the heads of so many European governments have publicly and privately urged the ratification of SALT II.

SALT II does not cut the existing strategic arsenals very deeply. But it does ban completely many systems now on the drawing boards, and it places substantial limits on MIRVing, new types and other avenues of breakout and proliferation.

Above all, it lays the basic groundwork for further cuts in SALT III. It would liken the SALT II treaty to a Wall Street bond indenture. It contains all the critical definitions all the warranties and covenants, all the events of default, all the procedures for notice and consultation. Once this basic indenture is in place—whether for a $100 million bond issue or for launcher ceilings and subceilings of 2,400, 1,320 and 1,200—it is a relatively simple matter to negotiate an increase in the size of the bond issue or a decrease in the level of the launcher ceilings.

But if we have no SALT II, no basic bond indenture, then the future negotiation of agreements on lower ceilings will be incomparably more difficult. As in SALT II, agreement on any one point will depend on agreement on all other points. All the definitions, all the counting and non-concealment rules will have to be traded out again. Without SALT II in place, an agreement on deeper cuts would probably take many more years to achieve.

JOHN ANDERSON'S COURAGEOUS PROPOSAL FOR A GAS TAX

Mr. PERCY. Mr. President, there is only one mechanism, apart from rationing, which will immediately begin to lessen our dependence on foreign oil. That is a stringent gas tax. I would like to point out that only one Presidential candidate, my colleague from Illinois, JOHN B. ANDERSON, has had the courage to recognize this fact and make it a part of his campaign.

All of our colleagues acknowledge the important role conservation must play in our Nation's energy policies. I question whether the magnitude of the problem is fully understood, however. Our weekly oil bill has increased from $800 million at the end of 1978 to about $1.5 billion today. This figure will rise to $2 billion a week by early next year.

We are left with a country hideously vulnerable to international blackmail. As the New York Times said in a recent editorial:

> Without an urgent plan to reduce oil imports, there can be no foreign policy worthy of the name, no defense policy more sophisticated than minimal nuclear deterrence and no economic policy to protect our wealth and stability.

The Government must act to encourage individuals to see the energy conservation effort as one which meets their self-interest as well as national interest. One-half of our oil is coming from abroad; almost half of the oil consumed in this country is used as gasoline. It is clear that gasoline is the best target for conservation strategies.

Rationing is simply not a desirable option. The complexities associated with attempting to implement an equitable rationing program across a large, diverse country such as ours would be immense. A huge, new bureaucracy would have to be formed to operate such a plan, and a system able to cover all our regional differences is unlikely to be developed.

Simply stated, Do we tax ourselves and keep the money in the country, or do we let OPEC levy its own tax? The Chicago Tribune puts it this way:

> Increased price is the most effective—and fairest—way of reducing consumption. In the case of gasoline, a stiff new federal tax at the pump—some have suggested 50 cents to a dollar—would do wonders. It would be justified by accepted economic theory because the market in these circumstances cannot reflect the full cost that our cruel consumption has imposed on our national interests. Through reductions in other taxes—such as payroll taxes and savings-inhibiting income tax provisions—the money lost at the gasoline pump could be returned to the pocketbook.

Mr. President, JOHN ANDERSON has taken the lead among the Presidential candidates in identifying where progress can be made in the energy area. The courage of that unpopular step should be commended and the proposal itself should be put into law.

Mr. President, I ask unanimous consent that the following articles outlining Congressman ANDERSON's suggestions, and the supporting statements from across the political spectrum, be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Aug. 28, 1979]

FOR A TAX OF 50 CENTS ON GAS

(By JOHN B. ANDERSON)

WASHINGTON.—The energy crisis is real. For the first week of August, primary stocks of heating oil and diesel fuel in the Middle West fell 10 million barrels—17 percent—below last year's level. This means that the Middle West may well experience a serious shortage of home heating oil this winter. A survey of secondary stocks of fuel in New England points to an equally serious shortage there. Meanwhile, many energy experts are predicting that gas lines could reappear at any time.

So, despite President Carter's recent pledge that the "generation-long dependence on foreign oil will be stopped dead in its tracks right now," our demand for foreign oil continues to grow, and with it our vulnerability to uncertain events abroad. And nothing in Mr. Carter's latest energy message is likely to alter that trend for the next few years. His ambitious synthetic-fuels plan would not make alternative supplies available until 1985 at the earliest. But we cannot wait until 1985. If we are to avert yet another energy crunch, we need to act not next month or next year, but now.

Perhaps now is the time to consider a higher gasoline tax. A 50-cent-a-gallon "energy-conservation tax" on all motor fuels could reduce our gasoline consumption by 5 percent to 10 percent, saving us 365,000 to 730,000 barrels of fuel per day for more critical uses like home heating oil, and reducing our dependence on foreign supplies.

But let us beware: A 50-cent-a-gallon gasoline tax would be a heavy tax. Indeed, we ought not even consider such a tax unless we can readily return its proceeds—an estimated $50 billion $60 billion a year—to the taxpayer.

Such a means does exist. Revenues from an "energy-conservation tax" could be earmarked for the Social Security trust funds. The proceeds of the tax would then enable us to make major cutbacks in the existing payroll tax and its scheduled increases. For instance, the employee's contribution could be cut from 6.13 percent to 3 percent, boosting take-home pay for the average worker by 3 percent. A more modest reduction could be made in the employer's contribution (for example, from 6.13 percent to 5 percent).

A reduction in the employer's tax would lower labor costs and ultimately lower consumer prices on most goods. Even with these reductions, projections show that there would still be revenue left over to shore up the dwindling reserves of the Social Security trust funds—enough perhaps to stave off some of the revenue shortfalls projected for the mid-1980's.

Some safeguards, however, would have to accompany any hike in the gasoline tax. Special provision would have to be made for business use of motor fuels. This could be done by providing a special income-tax credit such use. The impact on the elderly could be softened by using some of the gas-tax revenues to finance an increase in Social Security retirement benefits. Also, some form of income relief for those state and Federal workers not currently contributing to Social Security would be needed.

Consider some advantages of a higher gasoline tax. It would reduce our dependence on foreign oil today, not tomorrow. It would free some refinery capacity so that we could provide more heating oil and at a lower price than otherwise expected. If it were combined with the deregulation of gasoline prices, we could eliminate the threat of gas lines. We also might ease the burden of the automobile on the environment and on highways.

When these benefits are coupled with the benefits to be derived from a payroll-tax reduction, the case for a higher Federal gasoline tax appears to be strong. But what about the trade-offs for the average American? Under the proposal outlined here, an employee earning $15,000 would save $450 on payroll taxes each year. If he or she used less than 900 gallons of gas per year, the worker would be richer, not poorer.

There would, of course, be some gas-consuming Americans who would not profit from a tax. Consider, however, the alternatives: longer gas lines, uncertain fuel supplies, less heating oil and higher prices, ever-rising payroll taxes, more pollution, more traffic congestion, and greater dependence on foreign oil.

A higher Federal gasoline tax deserves serious consideration. Do we have the moral and political courage to face the issue?

[From the New York Times, Oct. 7, 1979]

NATIONAL SECURITY STARTS AT THE PUMP

It is good to have the President of the United States safely back from a phony confrontation over Cuba. It would be better still to get on with ratifying SALT, which at least bears directly on national defense. The palpable threat to the country, however, lies elsewhere altogether, and no President or Congress can pretend to be providing for national security until it is addressed more obsessively even than Cuba.

The overriding danger is, as it has been for six years now, America's dependence on foreign oil.

Without an urgent plan to reduce oil imports, there can be no foreign policy worthy of the name, no defense policy more sophisticated than minimal nuclear deterrence and no economic policy to protect our wealth and stability.

While senators flew into a tizzy about a Soviet brigade, America remained an abject beggar for oil from unstable societies directly in the path of Soviet power and influence. While cold warriors spun horror stories about losing Africa to Cubans, the United States was losing the support of supine Western allies who must bid against us for Middle East oil. While Americans are straining to buy and earn the friendship of struggling poor nations, we daily dash their hopes for development by bidding up the price they, too, must pay for oil. And while America drifts toward wild inflation that jeopardizes domestic order and global markets, it goes on tolerating oil imports that guarantee even more inflation.

Are these dangers really so hard to recognize? Are they so remote that, among a dozen Presidential aspirants, only the unknown John Anderson risks advocating a shift of taxes to discourage driving? Does Jimmy Carter believe he has met the problem by preaching self-confidence, berating Big Oil and promising synthetic fuels by 1990?

No. American politicians are saying they dare not impose higher prices for oil because the public does not or will not understand the need for them. The public does not know that it is burning up more energy than America is able to produce—or can foreseeably hope to produce. So it sees only a price-gouging plot by greedy oil companies or sinister Arabs. But even if there were a plot, it could succeed only so long as Americans keep guzzling more oil than the plotters have to sell. Plot or no plot, the answer is the same: We need to save oil by charging more for it, the sooner the better. The only choice is whether we pay more to ourselves or to others.

Once that reality sinks in, a second follows. The inevitably higher costs of energy simply cannot be constantly shifted to someone else. They are real costs that reduce the wealth of most Americans. To keep pushing the burden toward someone else is to make the inflation ever more virulent. The cycle can be broken only by a policy that distributes the costs sensibly—a policy that only courageous leaders can design.

For the moment, the American political system is saying it prefers an accelerating transfer of wealth to Saudi Arabia to domestic payments and taxes that could reduce oil consumption; that way Arabs rather than Americans are seen to be the villains. The American political system is saying it prefers accelerating inflation to serious conservation; that way no one has to vote to take oil away from anyone identifiable. These responses are craven. Worse, they are futile.

Even assuming an all-out effort to increase domestic energy production, the United States cannot feel safe or securely prosperous in this century until it cuts down on oil imports. The place to save the most is in the automobile. Nearly half our oil is coming from abroad and nearly half our oil goes into gasoline. To gain some influence over a price that others determine, Americans need to drive somewhat less, and in cars that use a great deal less gas. The best way to get such cars built, sold and sparingly used is to raise the price of gas at the pump, which, unforgivably, remains less than half the price paid in other oil-short industrial nations.

To some last year, it seemed impossible to charge Americans the true cost of gasoline without making inflation even worse. But the price of imported oil has since risen by 80 percent. The inflation price has been paid—to OPEC—without buying less dependence. We will keep paying it until we learn that charging ourselves more so as to use oil less would be a stroke against the endless inflation. A good place to start is with a heavy tax on gasoline, the pain of which could be diminished by reducing sales or income taxes.

Ah, but will Jimmy Carter dare to be the sponsor of the $2 gallon? Will Edward Kennedy, John Connally, Howard Baker and Ronald Reagan? This should be the essential question for 1980, the real test of courage. Until Americans decide to use less oil, they will either pay even higher prices to others or produce fewer goods to sell them. Either way, our standard of living will decline, in step with declining American security. Those who preside over such decline will be remembered for that, no matter how much they beat up on Cuba.

[From the Washington Post, Nov. 11, 1979]

Sen. Edward Kennedy's energy policy invites attention. He's in favor of a moratorium on building more nuclear reactors (cheers from the audience). He's in favor of reducing American dependence on foreign oil (scattered applause). He's in favor of continued controls on oil prices (loud cheering). But how do you fit those various positions together? (Silence.)

Any prolonged nuclear moratorium is going to drive up oil imports. One way to hold them down—the only way that has actually and demonstrably worked—is to let prices rise. But the purpose of controls is to keep prices down.

Sen. Kennedy would probably answer by citing the legislation that he introduced last July for federal grants and loans to encourage conservation. That's on the right track. But here we come to an uncomfortable fact. Conservation doesn't produce much until prices start upward.

The experience with automobile fuel efficiency is a good example. The efficiency of American cars has been rising steadily to meet the standards that Congress wisely imposed in 1975. But when gasoline prices remain constant, more efficient cars only make it cheaper to drive—and people react by driving more.

Over the past decade there have been two times, and only two, when the consumption of gasoline in this country dropped. The first was in 1974, when the price shot upward in the oil crisis. For the next four years the price rose slowly. In real terms—adjusted for inflation—it actually declined a little. Then came the second oil crisis and another big jump in the price. Although there are now several million more cars on the road than a year ago, driving and gasoline consumption are both significantly below last year's levels.

Consumption responds to price, not to automobile efficiency. The purpose of pushing up efficiency is to keep people from being hurt as gasoline gets more expensive. If you were driving the typical American car in 1973, getting about 13 miles to the gallon, you went a mile on three cents' worth of gas. If you're getting the same mileage today, you're paying more than seven cents a mile. But if you're driving a typical new American car (and driving it carefully), you're getting along for about a nickel a mile. And if you switched to a subcompact that can go 35 miles on a gallon, you are paying the same three cents that you did in 1973.

Greater efficiency—that is, conservation—holds down the cost of driving despite a rising price of fuel. That also holds down the amount of gasoline that the country uses, in turn holding down imports. But the past six years' experience demonstrates forcefully that it works only as prices rise.

Sen. Kennedy is altogether right in saying that the country has to cut its dependence on foreign oil. The best and fairest way to do it is to impose a stiff tax on gasoline and use the revenues to cut other taxes. That returns the money to Americans rather than sending it off to people like, for example, the present Iranian government. But the only presidential candidate with the courage to suggest such a thing is a Republican, Rep. John B. Anderson of Illinois.

[From the Chicago Tribune, Dec. 4, 1979]

Getting Out of the Gutter

That bit of hyperbole President Carter borrowed from William James about the energy problem being "the moral equivalent of war" has begun to look like an understatement. At the root of the national frustration about our tightly limited options in dealing with the Iranian crisis is this country's pathetic dependence on imported oil.

Every move we make in the Mideast has to be tempered by fears that it will disturb the serenity of this sheik or that; every statement measured by the arcane special sensitivities that throb throughout the region.

Not that we could bully our way through the difficulties even if we weren't having to cope with an oil shortage. We would still have to be cautious. And a certain amount of self-restraint becomes a great power. But at least we would not be in the position of being pushed around by any principality with a few oil pumps.

The Iranian crisis has brought home the very real national cost of oil gluttony, and the cost is not reflected simply in the high market price of petroleum. This broader cost is not set by the rules of supply and demand. It does not show up in the arbitrary price the foreign oil cartel places on crude. And all the individual purchasers of gasoline in this country cannot be expected voluntarily to take this added social cost into account when deciding how much to drive the family car. Individual forbearance always breaks down because not everyone heeds the call. And that leads even the willing ones to feel they are being played the fool, sacrificing while others take advantage.

Increased price is the most effective—and fairest—way of reducing consumption. In the case of gasoline, a stiff new federal tax at the pump—some have suggested 50 cents to a dollar—would do wonders. It would be justified by accepted economic theory because the market in these circumstances cannot reflect the full cost that our fuel consumption has imposed on our national interests. Through reductions in other taxes—such as payroll taxes and savings-inhibiting income tax provisions—the money lost at the gasoline pump could be returned to the pocketbook.

Wouldn't that nullify the deterrent effect of the tax? Not at all. A steep gasoline tax would cause the price of gasoline to rise as compared with other goods and services. The amount of money rebated to an individual would have nothing to do with the amount of gasoline he buys. He would then have a new incentive to spend his money elsewhere, or to save it.

Other countries impose far higher taxes on gasoline than we. In most of western Europe and in Israel and Japan gasoline already costs more than $2 for a U.S. gallon. In some countries taxes make up two-thirds of this price [$1.78 a gallon in Denmark and $1.62 a gallon in Italy].

No wonder the Europeans accuse us of softness in coping with the energy crisis. They have disciplined themselves with heavy taxes even without the national humiliation that this country is experiencing because of its dependence on imported oil. The United States has been acting like the drunk who keeps waking up in the gutter and wondering why nobody helps bring him in out of the cold. At some point, he has to decide it's time to dry out.

The only problem here at home is political. Who wants to be the guy who doubles the price of gasoline? Well, a little more of this bums' rush treatment in the Mideast and the man who pushes for a gasoline tax could become a hero. Presidential candidate Rep. John Anderson, [R. Ill] has already taken the risk. It is time for President Carter to do likewise.

The law imposing the new tax should be quite clear about its purpose. Call it the Ayatollah Avoidance Act of 1980.

[From the Washington Star, Sept. 17, 1979]

MR. ANDERSON'S IDEA

There seems, unfortunately, to be a sort of inverse relationship between the "seriousness" of a presidential candidacy—at least, as conventionally measured—and the seriousness of the candidate's ideas.

By almost everyone, for instance, Rep. John B. Anderson of Illinois, one of the truly creative figures in Congress, is thought of as a very long shot indeed for the Republican nomination next year.

But this assessment, accurate or not, frees Mr. Anderson, who is far from being a crank, to think daringly about the energy problem. It frees him, that is, to propose an idea that supposedly "serious" candidates won't be found touching with a barge pole—the idea of a stiff federal tax on gasoline and other motor fuels. Fifty cents a gallon is Mr. Anderson's working figure.

A lot of obvious political things can be said about this notion, including the possibility that it is suicidal for a candidate to propose it. Most American motorists, not to speak of such parties to the energy debate as independent truckers, think motor fuels are already too expensive. They think so notwithstanding that, even with the recent increases, Americans pay far less to drive than most of the industrial world.

All that can be said in favor of the 50 cent tax is that unlike perhaps 90 per cent of the energy-saving nostrums now in circulation it would actually work, and work immediately. Such a tax, the congressman suggests in a recent New York Times op-edit piece, "could reduce our gasoline consumption by 5 per cent to 10 per cent, saving us 365,000 to 730,000 barrels of fuel per day for more critical uses like home-heating oil."

The incidental advantages he claims for the tax—reducing our dependency on imported oil, freeing refineries to produce more heating oil at lower prices, the elimination of the lingering threat of gas lines, the easing of environmental insult from carbon monoxide—are unassailably attractive. So is the prospect that the tax would generate an estimated $50 to $60 billion a year in new revenues—revenues to be applied, the congressman suggests, against the large and growing Social Security deficit.

Another possible use, of course, is to finance that 4 or 5 per cent "real growth" in defense outlays to which both the steady growth of Soviet armament and the politics of the SALT treaty now point.

Indeed, the idea of a heavy federal tax on motor fuels, which sounds so startling at first glance, needs fitting into a larger picture. The question, observes Robert J. Samuelson of The National Journal, is "How do we tax ourselves?

"Do we tax labor via higher Social Security taxes (already scheduled to rise sharply) and higher marginal income tax rates? Do we tax capital and investment by keeping those rates high? Do we tax ourselves via inflation by running large deficits, which tend to spur higher money growth and more inflation,, Or do we ease these tax burdens by imposing a tax on a critical commodity whose supply is scarce and, far more important, uncertain,,"

It can't be said too often: The so-called "energy problem," at least as it relates to crude oil and its by-products, is basically a gasoline problem. And the gasoline problem is basically the reflection of a generation of wasteful habits spawned by the artificial cheapness of petroleum products—a cheapness now being drastically offset by social costs (inflation, foreign dependency, time-wasting gas lines) that could soon become prohibitive.

A self-disciplined nation, psychologically prepared to identify its energy problems accurately and to do something decisive about them, would take Mr. Anderson's proposal seriously indeed. Are we, in fact, such a nation?

[From the National Journal, Sept. 8, 1979]

POLITICS AND A GASOLINE TAX

(By Robert J. Samuelson)

Rep. John B. Anderson, R-Ill., one of the hordes of Republicans seeking his party's presidential nomination, did something the other day that makes him stand out in this crowd. He suggested a 50 cent per gallon tax on gasoline. If there were a handbook for candidates, one chapter would surely begin, "Don't propose a gasoline tax." But Anderson's very obscurity and the lengthy odds against his success give him some extra liberty to violate the rules, even, perhaps, to the point of saying something he believes.

There is, of course, virtually no chance that a gasoline tax will be passed anytime soon, which is unfortunate. By now, we ought to have realized that many of the arguments used against such a tax are a sham. The poor (in whose name a tax is always protested) don't drive much, simply because they can't afford to. As for regions that depend most heavily on automobiles—and, therefore, might feel the tax most—they actually have the greatest interest in reducing over-all gasoline demand, because, in the event of scarcity, they will be hurt the most.

No matter. We choose to leave ourselves at the mercy of an unstable world oil market—which ultimately enacts the tax for us—rather than acknowledge that the essence of our oil problem (as opposed to the "energy problem") is largely the automobile and that coping with it involves pushing people toward more efficient vehicles and traveling habits. The best government can do is create a climate in which individuals acting in their own self-interest also act in the national interest.

This is a political failure. The most worn cliche about politics is that it is the art of the possible, but that is not an explanation so much as an excuse. The artistry of politics—aside from winning elections—is packaging and promotion: matching problems with remedies that seem both practical and palatable.

At its worst, this is a demeaning, deceptive process, but, at its best, it draws together different strands of national experience and combines them in a way that makes contemporary problems seem understandable and manageable. If the current generation of politicians wonders why it is held in such low public esteem, one reason is its inability to perform this vital function.

As Anderson's proposal suggests, the job ought not always be as difficult as it's portrayed. No one, of course, likes to pay higher prices, and politicians are loathe to raise the price of anything, especially something as conspicuous as gasoline.

But the untold part of this story is that a gasoline tax is a stupendous money raiser, and—other things being equal—a higher gasoline tax allows you to lower something else. Even if a 50 cent per gallon tax reduced consumption 6 or 7 percent (which is about 500,000 barrels a day, or 10 per cent of Japan's total oil consumption), it would still raise about $50 billion annually. That's about 10 per cent of total federal receipts projected for next year.

The government needs that money. One of the nasty little facts that no one in Washington is mentioning very loudly—to the public, at any rate—is that it will be very difficult, maybe impossible, for the federal government to cut over-all levels of taxes in the 1980s.

The reasons for this squeeze are plain enough and probably won't be much altered by the 1980 election, no matter who wins. A large part of the federal budget (nearly 56 per cent) goes for two purposes: defense and the elderly. And both of these will probably be increasing strongly in the 1980s.

On the one hand, the over-65 population will be rising significantly faster than the over-all population: it will be up 25 per cent between 1979 and 1990, against a projected 10 per cent over-all increase. Unless benefits are reduced—which is unlikely—this means higher social security and health spending.

At the same time, there is little or no prospect of substantial defense cutbacks. Between 1955 and 1978, defense spending declined from about 10 per cent of national output to 5 per cent. There now seems to be a consensus that it shouldn't drop any further, and indeed, the argument is between those who think it ought to rise 3 per cent annually in "real" terms (after inflation) and those who argue for 5 per cent.

Based on such considerations, Rudolph G. Penner, former chief economist for the Office of Management and Budget, has estimated that to achieve a balanced budget by 1990 would require that all other (non-defense, non-elderly) programs would have to decline 0.5 per cent a year in "real" terms. Even so, taxes would equal 20 per cent of gross national product, which would be slightly higher than in all years but two (1969 and 1970) since 1958. And Penner's analysis deliberately includes a number of optimistic assumptions: a growing economy, revived productivity and only a 3 per cent increase in real defense spending.

Against this background, the question for the 1980s is simple: how do we tax ourselves?

Do we tax labor via higher social security taxes (already scheduled to rise sharply) and higher marginal income tax rates? Do we tax capital and investment by keeping those rates high? Do we tax ourselves via inflation by running large deficits, which tend to spur higher money growth and more inflation?

Or do we ease these tax burdens by taxing a critical commodity whose supply is scarce and, far more important, uncertain?

The answer seems obvious enough. We need to create a margin of safety between domestic oil demand (two-fifths of which is gasoline) and worldwide oil availability so that will be less vulnerable to interruptions. President Carter's solution of creating a synthetic fuel industry would—even if it worked, which is questionable—yield results only in the mid-1980s. His "windfall profits" tax wouldn't affect the basic revenue balance, because the annual sums are small and much of the money would be refunneled into synthetics.

Perhaps there are better ways of doing it than a gasoline tax: a heavy tax, for example, on imported oil. But the main point is that the political system is not posing the choices. For six years, a Democratic Congress has created a hopeless confusion and paralysis on energy issues. Republicans talk of lower taxes and higher defense spending in one breath, as if there were no conflict. Theirs is a poverty of imagination.

[From the U.S. News & World Report, Nov. 5, 1979]

$2 A GALLON FOR GAS? WHY NOT?

(By Marvin Stone)

Ahmed Yamani, the canny Saudi Oil Minister, warns that if we keep guzzling Arab oil, the price will keep soaring. Furthermore, he says, he can't do much to help unless we curb our thirst before the meeting of the OPEC cartel in December, when another increase threatens.

Yamani's statement is elementary economics. He has been saying these things for years, but hardly anybody has paid attention.

It's obviously more convenient to ignore warnings and call on the Saudis, in behalf of traditional friendship—which gives signs of wearing thin—to pump a little harder. Examination shows that when we get pinched, people groan and congressmen scurry around promoting ill-coordinated proposals to deal with shortage. Then Saudi Arabia yields to our frantic pleadings to float us a little longer.

At that point, remedial action slows down or stops. Congress relaxes, and motorists clog the roads again. We are no better prepared for the next crisis than for the last.

Don't blame Presidents. The last three have presented comprehensive plans to make America independent. These plans were torn apart in Congress, and when anything did come forth, the pieces didn't fit together. Conservation measures have had rough sledding. Even standby rationing of gasoline is emerging as a ludicrous charade.

Is there a built-in weakness of democratic government that it cannot plan beyond sundown? As practiced, it invites that diagnosis. Members of Congress fear to sponsor strong measures cutting the use of energy. They take the attitude that they are there to do the will of their constituents—some of whom have stronger wills and better fortified voices than others. A congressman's first duty, apologists sometimes assert, is to get reelected.

But the disability originates much deeper in the popular psyche. Individual freedom, America's proudest possession, can do us all in if we as individuals lack the collective determination to save ourselves. It is too much to expect that individual motorists will deny themselves gasoline. One motorist, in a letter to the Washington Post some months ago, aptly summed up Americans' visceral reaction to voluntary conservation:

"I could reduce my own gas consumption by 30 to 50 percent right now, by car pooling or bike riding. But why should I bother when the gas I save will only go to someone who can spare the time to wait in line for 2 hours: Teenagers, housewives, government employees on long lunch hours? . . . Under a rationing system, whether I'm entitled to 10 gallons or 100 gallons, at least I can plan ahead."

That driver isn't going to get rationing in the foreseeable future. What we are talking about here is another need: Some action to reduce consumption ahead of time and stall off a new shortage and (or) a continuing stream of price boosts by OPEC.

Without rationing, what on earth can we do? One possibility is the suggestion by Representative John B. Anderson that the U.S. consider now a 50-cents-a-gallon federal tax. The New York Times, is espousing the proposal, ups the tariff to $1, suggesting that a tax this large would cut gas consumption by 10 percent.

This indeed would boost the price to the user, but with a difference: We would be paying the increase to ourselves instead of to OPEC.

Cost to the public would be balanced by comparable cuts in other of our present taxes. All the additional gas tax would go back to the public, not to the oil companies or the government. That point bears emphasizing.

Like anything else that could be done about gasoline consumption, this plan has rough edges. Some poor or old people, for instance, would have to be compensated in different ways. But that could be worked out.

A heftier federal tax is the most promising idea now on the horizon to hold down gas guzzling. If a driver figures to save $2 instead of today's $1, by not buying a gallon of gas, he or she will have a substantial stimulus to conserve. It's worth a look.

[From the Chicago Sun-Times, Nov. 18, 1979]

NO IRANIAN OIL? NO SWEAT, IF . . .

Americans frustrated by Iran's outrages can do more than fume helplessly or vent their anger on innocent Iranian visitors. They can conserve fuel. More than that, as President Carter told Gov. Thompson and other governors Friday, they *must* do it.

First, there's the need to offset losses caused by Carter's ban on Iranian oil imports. The ban, while altogether right, involves about 4 per cent of this country's total oil use. The only quick way to cover that shortage is to consume 4 per cent less.

Second, Americans need to end their vulnerability to energy blackmail by reducing their dependence on risky foreign supplies.

Carter wants the governors' help in taking voluntary actions to curb fuel use, from car pooling to obeying the gasoline-saving 55-mile-per-hour speed limit. Those moves can help and they deserve support.

Additional steps are needed, too.

Congress, which tore apart Carter's energy conservation plans in 1977, should get in step now. Oh, the Senate reacted to the Iranian lesson with heavy support for a synthetic fuels program that will eventually cost $68 billion. And the House voted Friday for $25 million in research on a satellite to gather solar energy and beam it to Earth.

But synfuels and solar satellites are years away. Conservation "produces" fuel now.

Sen. Charles H. Percy (R-Ill.) has it right. He said Friday the first priority for a windfall tax on oil profits should be tax credits for fuel conservation by homeowners and others. The Senate, which may finish the windfall tax plan next month, has time to expand home insulation credits and others—like those for solar water heaters—that promote energy savings. A House bill on energy-saving incentives can be expanded, too, in conference committees this month.

If Rep. John B. Anderson (R-Ill.) is right, a 50-cent-a-gallon gas tax would cut use enough to offset most of the loss from the Iranian oil cutoff—and produce revenue that could avert the massive, inflationary Social Security tax increase due in 1981. His idea should at least get a rehearing.

No doubt America can do without Iran's oil, with relatively little hardship. First, though, it must do more to use a lot less.

[From the Philadelphia (Pa.) Bulletin, Oct. 22, 1979]

A TAX AGAINST GAS-GUZZLING?

Events keep outrunning the ability of the Carter Administration and Congress to zero in on what's needed to protect the nation's economy, and its security, in terms of our oil supplies. The latest 6 to 13 percent oil price hikes posted by OPEC nations like Iran, Iraq, Kuwait and Lybia are bringing home the fact that, even with recession conditions in the U.S., our thirst for oil remains so strong that OPEC countries can keep charging what they choose.

Refiners have been bidding up prices on the "spot" oil market to twice the OPEC benchmark price of $20 a barrel. This makes it difficult for a "moderate" OPEC member like Saudi Arabia to stick with the cartel's "official" prices.

Demand is high because oil consumption, though easing somewhat, isn't dropping enough. U.S. refiners don't want to be caught without sufficient crude to satisfy the demand for both heating oil and gasoline this winter. Virtually unrestrained consumption continues to be our problem.

Even at $1-plus a gallon, our gasoline prices are still only about half those charged in other industrial nations. The phased decontrol of domestic oil has been boosting U.S. prices, but not to the levels imposed by the OPEC nations.

OPEC is the main beneficiary of our insistence on relatively inexpensive gasoline. We're keeping OPEC's market strong, while our own economy is being knocked out of kilter by our payments to the cartel.

Suppose we added a 50-cents per gallon federal tax to gasoline to discourage consumption, but rebated it to ourselves by reducing Social Security payroll taxes accordingly. That's the gist of a proposal by Representative John B. Anderson (R–Ill.) He figures that the 50-cent gasoline tax would yield $60 billion, enough to reduce the 6.13 percent Social Security tax to 3 percent for employees and 5 percent for employers. He also thinks the gasoline tax might reduce U.S. gasoline consumption by as much as 10 percent—enough to make OPEC take notice.

Congress wasn't at all receptive to a "standby" gasoline tax that President Carter requested in 1977, and hasn't yet paid much attention to Representative Anderson's proposed, anti-OPEC tax.

Yet, the more we see our economy being "taxed" for OPEC's benefit, the more we may realize that taxing ourselves to cut the demand for gasoline and restrain the cartel is not such a bad idea. Congressman Anderson's proposal deserves at least as much attention as Congress has been giving to other aspects of our perilous energy situation.

AN OUTSTANDING PUBLIC SERVANT

Mr. MAGNUSON. Mr. President, it is my honor to call to the attention of my colleagues in the Senate a truly outstanding public servant from the State of Washington, Charles De Laurenti. This commendation for Mr. De Laurenti, retired mayor of the city of Renton, is made also on behalf of Senator HENRY M. JACKSON, the Speaker of the House of Washington State, John Bagnariol; State Senator Bud Shinpoch; and State Representative Avery Garrett.

Charles J. DeLaurenti began his 38 years of public service to the city of Renton when he was elected to the city council in 1942. He was reelected to the council for each succeeding term until 1975 when he ran for and was elected to the office of mayor. During this lengthy term of service to his community, Charles De Laurenti has always been an effective and dedicated public servant and a warm and gracious host for the city of Renton. His genuine love for his fellow man will be long cherished by all who have worked with him. Upon his retirement we wish him happiness and hope that Charlie's example of unselfish service to our community will be followed by others in the future.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to consideration of Calendar Order Nos. 523, 524, 526, 528, and 539.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPRINTING OF PRINT "SYNTHETIC FUELS"

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 523.

The PRESIDING OFFICER. The concurrent resolution will be stated.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 56) authorizing the reprinting of the committee print entitled "Synthetic Fuels."

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 56) was agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That there will be reprinted for the use of the Senate Committee on the Budget three thousand five hundred copies of its committee print of the Ninety-sixth Congress, first session, entitled "Synthetic Fuels", a report to the full committee by the Subcommittee on Synthetic Fuels.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-488), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Concurrent Resolution 56 would authorize the reprinting for the use of the Senate Committee on the Budget of 3,500 copies of its committee print of the 96th Congress, first session, entitled "Synthetic Fuels," a report to the full committee by the Subcommittee on Synthetic Fuels.

The printing-cost estimate, supplied by the Public Printer, is as follows:

Printing-cost estimate

Back to press, first 1,000 copies	$8,063.84
2,500 additional copies, at $2,288.31 per thousand	5,720.77
Total estimated cost, S. Con. Res. 56	$13,784.61

INCREASED EXPENDITURE LIMITATION BY THE COMMITTEE ON FINANCE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 524.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 293) increasing the limitation on expenditures by the Committee on Finance for the procurement of consultants.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 293) was agreed to, as follows:

Resolved, That section 2 of S. Res. 52, Ninety-sixth Congress, agreed to March 7, 1979, is amended by striking out "$200,000" and inserting in lieu thereof "$265,000".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-489), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 293 would amend section 2 of the Senate Resolution 52, 96th Congress, agreed to March 7, 1979 (the annual expenditure-authorization resolution of the Committee on Finance), by increasing by $65,000 that portion of the funds already authorized for the committee which it could expend for the procurement of consultants. No increase in the committee's present authorization of funds would result from this action.

PAYMENT OF WITNESS FEES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 526.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 310) relating to the payment of witness fees.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 310) was agreed to, as follows:

Resolved, That witnesses summoned to appear before the Senate or any of its committees shall be entitled to a witness fee rated at not to exceed $50 for each full day spent in traveling to and from the place of examination and for each full day in attendance. A witness shall also be entitled to reimbursement of the actual and necessary transportation expenses incurred by him in traveling to and from the place of examination.

SEC. 2. S. Res. 178, Ninety-sixth Congress, agreed to June 20, 1979, is repealed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-491), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 310 would allow a more realistic method of payment of travel expenses incurred by a witness appearing before the Senate or any of its committees by removing the present limitation of 20 cents and 35 cents per mile for distances necessarily traveled to and from the place of hearing. The increase in air travel costs over the past year of over 45 percent has caused the limitations now applied to render it impossible for committees, in some instances, to be able to repay a witness for his actual and necessary expenses of travel. This creates an undesirable constraint on the freedom of a committee to call upon essential witnesses for legislative or investigative purposes. Adoption of this resolution would remove this obstacle to obtaining information.

BERNICE S. ZAHN

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 528.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 312) to pay a gratuity to Bernice S. Zahn.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 312) was agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Bernice S. Zahn, widow of Nathan R. Zahn, an employee of the Senate at the time of his death, a sum equal to two months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

STATUS OF CERTAIN DEPENDENTS FOR FEDERAL EMPLOYEES SURVIVAL BENEFITS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 539.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 2584) to amend the provisions of chapters 83 and 89 of title V, United States Code, which relate to survival benefits for certain dependent children.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs with amendments as follows:

On page 2, beginning with line 15, strike through and including line 17 and insert in lieu thereof the following:

(B) striking out "or recognized natural child who" in subparagraph (A)(ii) and inserting in lieu thereof "but only if the stepchild"; and

(C) by inserting "a recognized natural child, and (iv)" after "(iii)".

On page 3, beginning with line 3 strike through and including line 5, and insert in lieu thereof the following:

(B) by inserting "or recognized natural child" after "child" in subparagraph (A); and

(C) by striking out ", foster child, or recognized natural child who" in subparagraph (B) and inserting in lieu thereof "or foster child but only if the child;".

On page 3, beginning with line 23, insert the following:

SEC. 3. Section 8902(m)(2)(A) of title 5, United States Code, is amended by striking out all after "contract" the third place it appears and inserting in lieu thereof the following: "in a State where 25 percent or more of the population is located in primary medical care manpower shortage areas designated pursuant to section 332 of the Public Health Service Act (42 U.S.C. 254e)."

On page 4, line 5, strike "3." and insert "4. (a)";

On page 4, beginning with line 11, insert the following:

(b) The amendments made by section 3 shall apply to services provided after December 31, 1979, and before January 1, 1985, under any contract entered into or renewed after December 31, 1979.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. STEVENS. Mr. President, last year we passed H.R. 2931 which on September 17, 1978, became Public Law 95-368. The law was intended to establish uniformity in the Federal employees health benefits program by preempting State and local laws which are inconsistent with the contracts negotiated between the Office of Personnel Management and various health centers.

During the bill's consideration, the Senate Governmental Affairs Committee accepted an amendment of mine which qualified the preemption of certain State and local laws. We then struck a compromise over the amendment with the House. The amendment as compromised provided that where a Federal insurance contract covers a certain health benefit, the insurance carrier must pay for any health practitioner who is licensed by a State to provide that benefit.

This provision was restricted to medically underserved areas with a limited duration of 5 years. Its purpose was to assure that in medically underserved areas, Federal employees would have ready access to health care, since in some areas of the country medical services may be hard to locate. The provision was also designed to allow the States to retain the control over who is and who is not qualified to provide health care.

However, problems arose over the implementation of the medically underserved area provision. Hence, upon the administration's request we have added a provision to H.R. 2584 which amends Public Law 95-368 and changes the definition of medically underserved areas. In effect, the new definition of a medically underserved area comprises 11 States, those being Alabama, Alaska, Mississippi, Missouri, Nevada, North Dakota, Oklahoma, South Carolina, South Dakota, West Virginia, and Wyoming.

Therefore, upon enactment of H.R. 2584, a Federal employee living within one of the above States will have more access to various forms of health care.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 907

(Purpose: To amend section 8344 of title 5, United States Code, relating to Civil Service Retirement)

Mr. STEVENS. Mr. President, I send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 907:

On page 4, between lines 4 and 5, insert the following new section:

SEC. 4. Section 8344(c) of title 5, United States Code, is amended by inserting "or is elected as a Member," after "subchapter,".

On page 4, line 5, strike out "4" and insert "5".

Mr. STEVENS. Mr. President, the effect of this amendment is as follows: When a Federal annuitant is reemployed in the civil service he continues to receive his annuity but his salary is reduced by the amount of the annuity. During his period of reemployment he does not participate in the retirement program. However, if he is reemployed for 5 years, he may pay into the retirement system 5 years' worth of deductions and then have his annuity recomputed on that basis. The purpose of the 5-year freeze, so to speak, is to dissuade retirees from popping back into the service for short periods to cash in on retirement liberalizations.

Congress changed the law so that a Federal annuitant could be appointed by the President to a high executive position and be allowed to credit his time as a Presidential appointee toward his annuity.

This amendment does the same thing for an annuitant who is elected to Congress. Instead of continuing to receive his annuity with a reduced salary, upon enactment of this provision his annuity would immediately terminate; his salary would be restored to its normal level; and his time in Congress would be credited toward his retirement along with his other Federal service.

The PRESIDING OFFICER. The question is on agreeing to the ar ment of the Senator from Alaska.

The amendment was agreed to.

UP AMENDMENT NO. 908

Mr. ROBERT C. BYRD. Mr. President, I send a technical amendment to the desk on behalf of Mr. PRYOR and ask for its immediate consideration.

THE PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), on behalf of Mr. PRYOR, proposes an unprinted amendment numbered 908:

On Page 4, Line 6, strike out "section 3" and insert in lieu thereof "section 2".

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The bill is open to further amendment. If there be no further amendments to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 2584) was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

An Act to amend the provisions of chapter 83 and 89 of title 5, United States Code, which relate to survivor benefits for certain dependent children, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-503), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

PURPOSE

The purpose of H.R. 2884, as amended, is to amend the survivor annuity provisions of the civil service retirement law so that the statutory provisions relating to the payment of benefits to recognized natural children will conform to existing practice which has been mandated by judicial decisions. H.R. 2584, as amended, also amends the Federal Employees Health Benefits Program to clarify the definition of medically underserved areas as it is to be applied in the implementation of Public Law 95-368.

BACKGROUND

H.R. 2584 was introduced in the House of Representatives on March 1, 1979, at the request of the Administration. On July 24, 1979, the House Subcommittee on Compensation and Employee Benefits held hearings on H.R. 2584. Favorable testimony was received from the Director of the Compensation Division, Office of Personnel Management. H.R. 2584 was passed by the House of Representatives on October 22, 1979, under suspension of the rules, and referred in the

Senate to the Committee on Governmental Affairs.

The bill was ordered favorably reported by the Senate Governmental Affairs Committee with amendments on December 11, 1979, after being polled by the Subcommittee on Civil Service and General Services.

ISSUANCE OF FRINGE BENEFIT REGULATIONS

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Long, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 5224.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 5224) entitled "An Act to continue through May 31, 1981, the existing prohibition on the issuance of fringe benefit regulations, and for other purposes", with the following amendment:

In lieu of the matter proposed by the amendment of the Senate, insert:

Sec. 3. State Legislators' Travel Expenses Away From Home.

(a) General Rule.—Subsection (a) of section 604 of the Tax Reform Act of 1976 (relating to State legislators' travel expenses away from home) is amended—

(1) by striking out "who elects the application" and inserting in lieu thereof "who, for the taxable year, elects the application", and

(2) by striking out "January 1, 1978" and inserting in lieu thereof "January 1, 1981".

(b) Technical Amendment.—Effective for taxable years beginning after December 31, 1977, subsection (d) of section 604 of the Tax Reform Act of 1976 is amended by striking out the last sentence.

Sec. 4. Payment of Interest Where Levy Has Been Wrongfully Made and Money Received by United States.

(a) In General.—Section 6343 of the Internal Revenue Code of 1954 (relating to release of levy and return of property) is amended by adding at the end thereof the following new subsection:

"(c) Interest.—Interest shall be allowed and paid at an annual rate established under section 6621—

"(1) in a case described in subsection (b) (2), from the date the Secretary receives the money to a date (to be determined by the Secretary) preceding the date of return by not more than 30 days, or

"(2) in a case described in subsection (b) (3), from the date of the sale of the property to a date (to be determined by the Secretary) preceding the date of return by not more than 30 days."

(b) Technical Amendment.—Subsection (a) of section 6621 of such Code is amended to read as follows:

"(a) In General.—The annual rate established under this section shall be such adjusted rate as is established by the Secretary under subsection (b)."

(c) Effective Dates.—

(1) The amendment made by subsection (a) shall apply to levies made after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

Sec. 5. Repeal of Requirement That Transferors of Certain Property to Exempt Organizations Must File Returns.

(a) General Rule.—Section 6050 of the Internal Revenue Code of 1954 (relating to returns relating to certain transfers to exempt organizations) is hereby repealed.

(b) Clerical Amendment.—The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by striking out the item relating to section 6050.

(c) Effective Date.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

Sec. 6. Repeal of Addition to Tax in Case of Jeopardy.

(a) General Rule.—Section 6658 of the Internal Revenue Code of 1954 (relating to addition to tax in case of jeopardy) is hereby repealed.

(b) Clerical Amendment.—The table of sections for subchapter A of chapter 68 of such Code is amended by striking out the item relating to section 6658.

(c) Effective Date.—The amendments made by this section shall apply to violations (or attempted violations) occurring after the date of the enactment of this Act.

Sec. 7. Repeal of Requirement That Information Be Furnished to the Service in Connection With Certain Options.

(a) General Rule.—Section 6039 of the Internal Revenue Code of 1954 (relating to information required in connection with certain options) is amended to read as follows:

"Sec. 6039. Information Required in Connection With Certain Options.

"(a) Furnishing of Information.—Every corporation—

"(1) which in any calendar year transfers a share of stock to any person pursuant to such person's exercise of a qualified stock option or a restricted stock option, or

"(2) which in any calendar year records (or has by its agent recorded) a transfer of the legal title of a share of stock—

"(A) acquired by the transferor pursuant to his exercise of an option described in section 423(c) (relating to special rule where option price is between 85 percent and 100 percent of value of stock), or

"(B) acquired by the transferor pursuant to his exercise of a restricted stock option described in section 424(c)(1) (relating to options under which option price is between 85 percent and 95 percent of value of stock),

shall (on or before January 31 of the following calendar year) furnish to such person a written statement in such manner and setting forth such information as the Secretary may by regulations prescribe.

"(b) Special Rules.—For purposes of this section—

"(1) Treatment by employer to be determinative.—Any option which the corporation treats as a qualified stock option, a restricted stock option, or an option granted under an employee stock purchase plan shall be deemed to be such an option.

"(2) Subsection (a)(2) applies only to first transfer described therein.—A statement is required by reason of a transfer described in subsection (a)(2) of a share only with respect to the first transfer of such share by the person who exercised the option.

"(3) Identification of stock.—Any corporation which transfers any share of stock pursuant to the exercise of any option described in subsection (a)(2) shall identify such stock in a manner adequate to carry out the purposes of this section.

"(c) Cross References.—

"For definition of—

"(1) The term 'qualified stock option', see section 422(b).

"(2) The term 'employee stock purchase plan', see section 423(b).

"(3) The term 'restricted stock option', see section 424(b)."

(b) Technical Amendments.—

(1) Subsection (a) of section 6652 of such Code is amended—

(A) by inserting "or" at the end of paragraph (1),

(B) by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2), and

(C) by striking out "return referred to in paragraph (2) or (3)" and inserting in lieu thereof "return referred to in paragraph (2)".

(2) Section 6678 of such Code (relating to penalty for failure to furnish certain statements) is amended to read as follows:

"Sec. 6678. Failure To Furnish Certain Statements.

"In the case of each failure—

"(1) to furnish a statement under section 6042(c), 6044(e), 6049(c), or 6052(b), on the date prescribed therefor to a person with respect to whom a return has been made under section 6042(a)(1), 6044(a)(1), 6049(a)(1), or 6052(a), respectively, or

"(2) to furnish a statement under section 6039(a) on the date prescribed therefor to a person with respect to whom such a statement is required,

unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to so furnish the statement $10 for each such statement not so furnished, but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed $25,000."

(c) Effective Date.—The amendments made by this section shall apply with respect to calendar years beginning after 1979.

Sec. 8. Extension of Time for Filing Gift Tax Return for Fourth Calendar Quarter.

(a) General Rule.—Paragraph (1) of section 6075(b) of the Internal Revenue Code of 1954 (relating to due date for gift tax returns) is amended to read as follows:

"(1) General rule.—Except as provided in paragraph (2), returns made under section 6019 (relating to gift taxes) shall be filed on or before—

"(A) in the case of a return for the first, second, or third calendar quarter of any calendar year, the 15th day of the second month following the close of the calendar quarter, or

"(B) in the case of a return for the fourth calendar quarter of any calendar year, the 15th day of the fourth month following the close of the calendar quarter."

(b) Extension of Date for Filing Income Tax Return Treated as Extension of Date for Filing Gift Tax Return.—Subsection (b) of section 6075 of such Code is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) Extension where taxpayer granted extension for filing income tax return.—Any extension of time granted the taxayer for filing the return of income taxes imposed by subtitle A for any taxable year which is a calendar year shall be deemed to be also an extension of time granted the taxpayer for filing the return under section 6019 for the fourth calendar quarter of such taxable year."

(c) Technical Amendments.—Paragraph (2) of section 6075(b) of such Code is amended—

(1) by striking out "the 15th day of the second month after" and inserting in lieu thereof "the date prescribed by paragraph (1) for filing the return for", and

(2) by striking out "the close of" in subparagraphs (A) and (B).

(d) Effective Date.—The amendments made by this section shall apply to returns for gifts made in calendar years ending after the date of the enactment of this Act.

SEC. 9. EXTENSION OF CERTAIN TEMPORARY TAX PROVISIONS.

(a) GOVERNMENT HEALTH PROFESSIONS SCHOLARSHIP PROGRAMS.—Subsection (c) of section 4 of Public Law 93–483, as amended, is amended—

(1) by striking out "1980" and inserting in lieu thereof "1981", and

(2) by striking out "1984" and inserting in lieu thereof "1985".

(b) NATIONAL RESEARCH SERVICE AWARDS.—Paragraph (2) of section 161(b) of the Revenue Act of 1978 (relating to national research service awards) is amended by striking out "1979" and inserting in lieu thereof "1980".

(c) DEDUCTION FOR ELIMINATING ARCHITECTURAL AND TRANSPORTATION BARRIERS TO THE HANDICAPPED.—Subsection (c) of section 2122 of the Tax Reform Act of 1976 (relating to effective date for allowance of deduction for eliminating architectural and transportation barriers to the handicapped) is amended by striking out "January 1, 1980" and inserting in lieu thereof "January 1, 1983".

(d) CONTROVERSIES INVOLVING WHETHER INDIVIDUALS ARE EMPLOYEES FOR PURPOSES OF THE EMPLOYMENT TAXES.—

(1) IN GENERAL.—Subsection (a) of section 530 of the Revenue Act of 1978 (relating to termination of certain employment tax liability for periods before 1980) is amended—

(A) by striking out "January 1, 1980" in paragraphs (1)(A) and (3) and inserting in lieu thereof "January 1, 1981",

(B) by striking out "1980" in the subsection heading and inserting in lieu thereof "1981", and

(C) by striking out "1979" in the heading for paragraph (3) and inserting in lieu thereof "1979 and 1980".

(2) PROHIBITION AGAINST REGULATIONS AND RULINGS ON EMPLOYMENT STATUS.—Subsection (b) of section 530 of the Revenue Act of 1978 is amended by striking out "January 1, 1980" and inserting in lieu thereof "January 1, 1981".

(e) ADDITIONAL 2-YEAR DELAY IN APPLICATION OF THE NET OPERATING LOSS RULES ADDED BY THE TAX REFORM ACT OF 1976.—Paragraphs (2) and (3) of section 806(g) of the Tax Reform Act of 1976 (relating to effective dates for the amendments to sections 382 and 383 of the Internal Revenue Code of 1954) are amended by striking out "1980" each place it appears and inserting in lieu thereof "1982".

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Long, I move that the Senate concur in the House amendment to the Senate amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

● Mr. LONG. Mr. President, on December 7, 1979, the Senate passed H.R. 5224, a bill extending until June 1, 1981 a prohibition on the issuance of final regulations on the taxation of employee fringe benefits. That bill also included provisions prohibiting the issuance of rulings or final regulations regarding the deductibility of certain commuting expenses and providing a deduction for certain travel expenses of State legislators through 1980.

When the Senate approved this measure it agreed to extend for 1 year an income tax exclusion for payments made under the uniformed services health professions scholarships program and a similar exclusion for National Research Service awards. A provision for a 3-year extension, through December 1, 1982, allowing taxpayers to deduct expenditures for the removal of architectural and transportation barriers to the handicapped and elderly was also approved. In addition, a 1-year extension, through December 31, 1980, providing interim relief concerning independent contractor status controversies was agreed to. One additional postponement concerning the effective date of certain provisions contained in the Tax Reform Act of 1976 pertaining to special limitations on net operating loss carryovers was approved. These provisions are deferred until January 1, 1982, in the case of tax-free reorganizations and until June 30, 1982 with respect to taxable acquisitions.

The Senate also agreed to a series of noncontroversial simplification amendments pertaining to:

Payment of interest on wrongful levies; repeal of information return requirement for transfers to exempt organizations; repeal of jeopardy assessment penalty; repeal of stock option reporting to IRS; and change in time for filing gift tax returns.

When the Senate approved H.R. 5224 it did not include one of the provisions contained in the original House-passed measure concerning the deductibility of travel expenses by State legislators. This provision was not acted upon because a similar measure was already pending in conference as part of H.R. 3091.

On Wednesday, December 19, 1979, the House approved the Senate amendment to H.R. 5224 with an amendment to include the original House provision pertaining to the deductibility of State legislators' travel expenses. At the same time, agreement has now been reached on H.R. 3091.

I would, therefore, urge that the Senate now approve this provision of H.R. 5224 so that this measure can be sent on to the President for his signature.●

STATE LEGISLATOR PROVISION

Mr. ROTH. Mr. President, I would like to address myself for a moment to the provision in H.R. 5224 relating to expenses of State legislators. This same provision has been extended by the Congress several times, in 1976, 1977, 1978, and now in 1979. During that period, there has never been any record of intent for this language. The lack of intent has given the IRS free reign to apply the provision of the code as they please.

In the application of this provision, they have eliminated its application in several States which do not meet the rules which the IRS have devised. I believe it is time to set the record straight. In the interest of expediency, I do not propose an amendment. I prefer to ask you a question.

The language which we are extending for tax years 1978, 1979, and 1980 states, in part that—

> In the case of any individual who was a state legislator at any time during any taxable year beginning before January 1, 1981 . . . he should be deemed to have expended for living expenses . . . an amount. . . .

Determined by a formula which limits that amount to a modest figure.

Is it the Senator's understanding that this provision was adopted in order to address a unique and special situation applicable only to State legislators? That this provision of the code, therefore, stands alone and should not be interpreted in any context unrelated to this special provision?

Mr. LONG. It is my understanding that this bill does address a unique situation and should be interpreted in rules or regulations strictly and on the basis of the language we have adopted.

Mr. ROTH. Thank you, Mr. President. The IRS says that this bill does not apply to any legislator who chooses to elect its application. I hope that the IRS will see the error of its ways and begin to apply your wise interpretation.

Mr. LONG. I thank the Senator from Delaware for seeking that clarification. It is our intention that this bill shall apply to any legislator who chooses to elect its application. Legislators are dedicated, hard-working public servants, they receive little pay, but are often entitled to a modest expense payment. I believe all members of the legislatures should be able, therefore, to deduct those modest expense figures which we allow. In Louisiana, for example, we permit only $35 daily deductible figure when the State provides up to $50 for its per diem.

BUSINESS EXPENSES OF STATE LEGISLATORS—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Long, I submit a report of the committee of conference on H.R. 3091 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3091) to extend for one year the provisions of law related to the business expenses of State legislators, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of December 19, 1979.)

● Mr. DOLE. Mr. President, I am pleased that the deadlock on H.R. 3091 has finally been broken. The House and Senate conferees last met on May 2, 1979, without making any progress in resolving the differences between the two bodies. As a result thousands of State legislators have been hanging in limbo with respect to the preparation of their calendar year 1978 income tax returns.

Under the Tax Reform Act of 1976, State legislators were given the election of treating their legislative districts as their tax home for purposes of living expense deductions for Federal income tax purposes. If this election is made, a legislator is permitted to deduct as living expenses an amount equal to the Federal per diem allowance for the number of days the State legislature was in session. This election has been extended two times, but until H.R. 3091 is passed the election will not be available to State legislators for taxable year 1978. By our action today, these individuals will at last be able to straighten out their 1978 returns. I understand that on other legislation we have extended the election through 1981. Thus, State legislators will at least have a brief period of predictability. Hopefully, in the meantime the Congress will develop some permanent legislation which effectively resolves this issue.

The Senate added an amendment to the House version of H.R. 3091 which would extend and make permanent, retroactive to October 1, 1978, some expired child support and social services provisions. These provisions make a significant contribution to our efforts to help individuals and families to meet their responsibilities and improve their lives.

The first provision extends the authority for 75 percent Federal matching of State costs in providing child support services to families not receiving welfare benefits. The child support enforcement program has proven to be a great success in assuring that absent parents who are obligated by court order to provide child support do, in fact, meet their responsibilities. It is just as important to provide these child support services to families who are not receiving welfare as for those who are. In that way, we can keep them from needing to go on the welfare rolls. This provision is particularly important to the States because they are required to provide this service to nonwelfare families, but they have not had Federal matching funds to help pay for the service for over a year.

The second provisions extends the authority to subsidize child care employment of welfare recipients and coordinates the tax credit and social services provisions which relate to such subsidies. One of the most significant things we can do for welfare recipients is to provide them with employment opportunities and with supportive services, such as child care, to allow them to take advantage of those opportunities. This provision extends and improves a program which meets both purposes.

The third provision extends the authority to use title XX social services funds for services related to the treatment of drug addicts and alcoholics. The provision has proven extremely useful in the past in providing a comprehensive rehabilitative program involving other title XX services, and it is important to continue to make these services available.

The conference report extends the child support and social services provisions to March 31, 1980. It is anticipated that the House-Senate conferees on H.R. 3434—which also contains these provisions—will act on that measure prior to the March 31 date and determine whether or not to make the provisions permanent. The conference report also includes technical amendments to correct errors in the Revenue Act of 1978 which apply to the WIN tax credit.

The measure contains important and necessary provisions, and I am happy the conferees were able to agree on this compromise. I urge my colleagues to support the conference report on H.R. 3091.●

● Mr. LONG. Mr. President, earlier this year, the House passed and sent to the Senate a bill, H.R. 3091, extending certain provisions related to the tax treatment of expenses of State legislators. The Senate agreed to the House provision without change but added amendments which would also extend and make permanent certain expired provisions related to the child support enforcement and social services program. One of these provisions provides Federal matching for the child support enforcement services which States are required to make available to nonwelfare families.

Another allows use of title XX social services funds, in conjunction with a tax credit provision, to encourage the hiring of welfare recipients in child care jobs. The amendment also modifies these provisions somewhat to better conform and coordinate them with the changes made in the 1978 Revenue Act.

The third provision extends the authority to use title XX social services funds for certain services related to the treatment of drug addicts and alcoholics.

These provisions have been in the law for a number of years and have worked well. However, legislation to make them permanent, although approved by both Houses on various occasions, has never reached enactment. At the end of the last Congress, for reasons unrelated to the provisions themselves, action was not completed on the legislation to extend them beyond September 30, 1978, and funding for these provisions has had to be suspended.

Many States, however, have continued to operate these provisions in the expectation that the necessary extension legislation would be forthcoming. The conference agreement which has now been reached on H.R. 3091 would restore all of these provisions retroactive to the September 30, 1978, date on which they lapsed.

Unfortunately, the House was not willing to completely accept the Senate amendment and make these provisions permanent. However, the agreement does continue them through March 31, 1980. The Senate has already passed other legislation, H.R. 3434, which provides for a permanent extension, and I am confident that we will be able to resolve the issue with the House before that date.

In the meantime, H.R. 3091 will allow us to meet our obligations to the States for the retroactive period and will assure that these important programs can continue while a permanent solution is worked out in the conference on H.R. 3434.●

TIME-LIMITATION AGREEMENT—H.R. 3398

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 479, H.R. 3398, an act to amend the Food And Agricultural Act of 1977 relating to increases in the target prices for the 1979 crop of wheat, corn, and other commodities under certain circumstances, and for other purposes, is called up and made the pending business before the Senate, there be a time agreement thereon as follows: Thirty minutes overall to be equally divided between Mr. McGovern and Mr. Helms, and the only amendments in order be a McGovern-Talmadge technical amendment and an amendment on disaster payments by Mr. Morgan.

Mr. STEVENS. Reserving the right to object, it is my understanding that the Morgan time will come out of the 30 minutes?

Mr. ROBERT C. BYRD. Yes, the time on that amendment will come out of the overall time.

Mr. STEVENS. The Senator from North Carolina is here.

Mr. ROBERT C. BYRD. The only amendments that have been ordered will be those specified.

Mr. HELMS. If the Senator will yield, I assure him there will be no problem about the time, because we shall expedite the matter.

Mr. STEVENS. I thank the Senator.

There is no objection, Mr. President.

The PRESIDING OFFICER (Mr. Hart). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanmious consent that the Senate go into executive session at this time for the purpose only of considering the nomination of Mr. Sol M. Linowitz to be Ambassador. There is a time agreement thereon. There will be a rollcall vote on the nomination, but the rollcall vote will not occur until the time is used or yielded back, of course.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The clerk will state the nomination.

NOMINATION OF SOL. M. LINOWITZ TO BE AMBASSADOR

The second assistant legislative clerk read the nomination of Sol M. Linowitz to be Ambassador during the tenure of his service as personal representative of the President of the United States.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time on the quorum call be charged equally against the three Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CHURCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, over the next several months the Middle East peace process is facing some of the most important hurdles yet encountered. Key dates include the January 25 Israeli withdrawal, which completes the first phase of returning the Sinai to Egypt. Nearly two-thirds of the Sinai, including the oil fields, will then be in Egyptian hands. On February 25, Egypt and Israel are to formally establish diplomatic relations by exchanging ambassadors.

It is very important that the United States play a helpful role to assure that this process continues. One crucial element is the negotiation on West Bank autonomy. These talks, according to the treaty, are supposed to reach fruition in April or May. A self-governing authority, or the process for establishing one, is to be set into motion at that time.

From the American perspective, the key person in seeing that the process proceeds smoothly is our special representative to the West Bank and Gaza autonomy negotiations. For this position, the President has nominated Sol M. Linowitz to replace Ambassador Robert Strauss. Mr. Linowitz will bring unique qualities to this important post.

Mr. Linowitz has had a distinguished career of previous Government experience. Presently, he is an attorney in Washington, being a partner in the law firm of Coudert Brothers. He received his graduate education at Hamilton College and his law degree from Cornell University.

In 1942, he became Assistant General Counsel to the Office of Price Administration. He was also the U.S. representative on the Council of the Organization of American States with the rank of Ambassador and our representative to the Inter-American Community on the Alliance for Progress. His most recent Government position was that of conegotiator of the Panama Canal treaties for the United States with the personal rank of Ambassador.

Mr. Linowitz has also enjoyed much success in the private sector where he was chairman of the board of Xerox Corp. for many years. In addition he served as chairman of the National Urban Coalition and is presently the chairman of the President's Council on World Hunger.

He has demonstrated skill and experience as a negotiator and has extensive experience in foreign affairs. He knows both President Sadat and Prime Minister Begin personally. He has visited the Middle East on numerous occasions, where he has conferred with King Hussein of Jordan and with the leaders of Saudi Arabia. These assets will help him in his difficult task.

Because of Mr. Linowitz' continuing association with his law firm and his membership on the board of directors of two corporations, the Senate Foreign Relations Committee rigorously examined the question of conflict of interest.

I might say that my able colleague, Senator JAVITS, the ranking Republican member of the committee, has examined this phase of the question concerning this nominee. I understand that Senator JAVITS will detail for the Senate today his finding. I want to associate myself with his excellent legal analysis and conclusions on this matter.

Mr. Linowitz provided the committee with a series of written assurances relating to Federal statutes on conflict of interest. The legal advisor to the Department of State, the Office of Legal Counsel at the Department of Justice, and the Office of Government Ethics have affirmed that Sol Linowitz has fulfilled all legal requirements. Responding to a request from the Foreign Relations Committee, he also agreed to go beyond these requirements in certain respects.

The overwhelming majority of the committee believed that Mr. Linowitz had more than adequately answered all possible issues of conflict of interest, and therefore, by a 12-to-1 vote, recommended that his nomination be confirmed.

Mr. President, I could add nothing more to the plaudits the committee has already heard on behalf of Sol Linowitz. I believe his record of service speaks for itself.

In my judgment, he is eminently qualified for this position, and I hope that the Senate will proceed to confirm him.

Mr. HELMS. Mr. President, what is the pending business, please?

The PRESIDING OFFICER. The pending business in the executive session of the Senate is the nomination of Mr. Linowitz.

Under the previous order, the Senator from North Carolina has 30 minutes.

Mr. HELMS. I thank the Chair.

Mr. President, I yield myself such time as I may require.

Mr. President, the nomination of Mr. Sol M. Linowitz raises some fundamental questions about the nature of Government employment, and the suitability of a person situated in Mr. Linowitz' circumstances for nomination to a senior level post. Those circumstances include the fact that Mr. Linowitz intends to continue the private practice of law and the active direction of business and financial enterprises while he enjoys the responsibility and rank of Ambassador.

The questions may be divided for convenience sake into those of public policy and those with private implications for Mr. Linowitz.

I. PUBLIC POLICY IMPLICATIONS

The first question of public policy is whether a nominee ought to be considered by the Senate only on the basis of whether or not he is willing to obey the law. Mr. Linowitz has attempted to provide assurances to the committee that he will obey the law, and this Senator sees no reason to doubt those assurances. But of course, adherence to the law is such a minimal standard that it cannot serve to distinguish one candidate from another. I think it obvious that any nominee ought to undertake to meet the requirements of law. The standards by which the Senate judges ought to go beyond law into more delicate questions of propriety and suitability.

Although Mr. Linowitz has provided undertakings to the Committee on Foreign Relations that he will meet the requirements of the conflict-of-interest laws applicable to the category of Special Government Employee, the Senate ought to go beyond this bare minimum in considering the propriety and suitability of the nominee's circumstances.

The second question of public policy is whether a nominee to the full rank of Ambassador, particularly an Ambassador expected to perform difficult and sensitive negotiations, ought to be a part-time Government employee. Mr. Linowitz will enter the category of "Special Government Employee," a category intended to allow the Federal Government to hire experts and consulants from the private sector for a period of up to 130 days out of 365.

This category has serious implications both for the nature of the job that needs to be done, and for the conflict-of-interest statutes. Mr. Linowitz stated before the committee that he expected to turn over what he termed "technical discussions" to his deputy, Ambassador James Leonard. Do we want an Ambassador whose full interests are not engaged? As far as the conflict-of-interest problem is concerned, the law holds a "Special Government Employee" to a lesser standard than a full-time Federal employee. The question is whether a man with the rank of Ambassador ought to be held to a lesser standard than other Ambassadors.

As a "Special Government Employee," Mr. Linowitz, as Ambassador, can serve only a maximum of 130 days out of a 365-day appointment, under the law. There are two problems with this arrangement. The first is that a job so sensitive and important as Ambassador to the Autonomy Negotiations on the West Bank and Gaza ought to be a full-time undertaking, and not a part-time job. Although actual days spent negotiating may not be full-time, the job ought to demand a complete dedication of interest and energy from the chief negotiator. Second, the status of "Special Government Employee" carries with it a much lesser standard for compliance with the conflict-of-interest laws. The Senate ought to consider whether the No. 1 man in one of our most diplomatic posts ought to be allowed to meet a lesser standard.

The third public policy problem is whether the rank of Ambassador confers a unique prestige and status that sets it apart from the category that the law intended as "Special Government Employee." If an active Ambassador is allowed to engage in private activities for private gain, that prestige and status will inevitably be bestowed upon the private activities even if they are not related to his particular official duties. In a city as status-conscious and insider-conscious as Washington, such an advantage can be of inestimable private benefit, even without breaking the letter of the law.

The "Special Government Employee" who is also an Ambassador will have an advantage over other distinguished lawyers who have never been ambassadors, or who may have been ambassadors in the past and have severed their public sector connections.

All "Special Government Employees" operate under less severe conflict-of-interest standards in order to make it possible to make their services available to the Federal Government. To some extent, all would gain prestige in their professions by working as Federal experts or consultants. But the rank of ambassador differs in kind, not degree, from the category of special government employee. Surely it was an oversight in the law that failed to take note of the distinction. At some appropriate time, the law ought to be changed; but now we can anticipate the need to amend the law by not confirming Mr. Linowitz to this rank. The Constitution gives the Senate the right to give or withhold consent to such a nomination. We are not required to approve him simply because no law forbids his appointment.

Mr. Linowitz' predecessor, Mr. Robert Strauss, was also an ambassador who was a special government employee. But he solved that highly ethical dilemma by declining to practice law during his appointment. In other words, he applied to himself the same standards as applied to full-time ambassadors, thus immunizing himself from possible criticism that he was exploiting his distinguished office. Mr. Linowitz, on the other hand, agreed during the hearings on his nomination that he accepted the device of employment as a "Special Government Employee" because of his desire not to sacrifice his responsibilities.

The Senate must face the fact that 18 U.S.C. 205 forbids Federal employees from representing any client in any matter in which the Federal Government has an interest. At the same time, however, it makes an exception for a "Special Government Employee" who is restricted only from representing a client in a particular matter in which he has participated personally and substantially. In the opinion of this Senator, it is simply not appropriate to appoint a person to the full rank of ambassador and let him escape the stringent restrictions to which other ambassadors must adhere.

The position of "Special Government Employee" was intended as a device to allow consultants and experts from the private sector to contribute their expertise to the Federal decisionmaking process without being subject to the conflict-of-interest laws requiring them to give up private practice dealing with any matter in which the Federal Government is concerned. But the full rank of Ambassador carries with it a unique prestige and status that seems to be incompatible with the essentially casual and part-time status of a "Special Government Employee". The unique prestige of the rank of Ambassador inevitably will be bestowed upon the nominee's private interests, even where they are not concerned with the particular government matters under his official responsibilities. This privilege could result in a significant monetary advantage to the nominee over his competitors, since no one else is in the position of being simultaneously an ambassador and a lawyer in private practice.

The fourth public policy problem is of a somewhat different nature, arising from Mr. Linowitz' positions as a member of the board of directors of Time and of the board of directors of the Washington Star. It is a question which goes deeply to the issue of the freedom and independence of the press. It is a question which concerns me particularly, because I have spent most of my life as a journalist in newspapers, radio, and television. I have the feeling that some of my colleagues on the committee, who have come from other professions, do not fully appreciate the exact problem involved.

Both Time and the Star are major media in the United States; major channels of information to the interested public. The Star, particularly, with its Washington base, is in a position to have a deep impact upon the policymakers of the Nation. Mr. Linowitz, as Ambassador to one of the most difficult negotiations this Nation faces, will be a significant newsmaker. He is already a significant newsmaker without being confirmed.

Now how will a journalist covering the autonomy negotiations be objective in covering the activities of someone who is, in effect, his boss? How will his editors evaluate the journalist's stories about someone who is, in effect, their boss? How will the public, reading either Time or the Star, feel when reading a story about a newsmaker who is also a director of the media company concerned? How will other journalists and editors react when handling a story about a competitor?

Mr. Linowitz failed to see that there was any problem. He told the committee:

> I have not had and would not have any involvement, responsibility, or interest in connection with the editorial or news side of Time. Never during the period of my involvement for the past 10 years on the Board of Time, Inc., have we been called upon to deal in any way or have any influence with respect to anything affecting news or editorial content of the magazine.
>
> This, it seems to me is integral to the way Time, Inc., has operated, as a so-called church-state relationship, which goes back to the days of Henry Luce, when the editorial group was totally separate and apart from the board and business activities, and under those circumstances I would have no relationship at all with what goes on in terms of news coverage.

I presume that Mr. Linowitz is speaking as a lawyer here, rather than as a journalist, because a journalist would know that there is no possibility of such a legalistic separation. I have served on both the news side and the business side of the media, and I can say that in all that time, I never knew a reporter or editor to write or print a story that was critical of anyone on the board of directors. It just does not happen. There is never any rule written down about it, but it just does not happen.

That being the case, the readers of either of the journals in question would tend to discount whatever they read there about Mr. Linowitz. He could be doing the greatest job in the world, but no one would believe it if they read it in the Time or the Star. This kind of cynicism would hamper his job and his ability to communicate to the American people. Moreover, any editorial comment on Mr. Linowitz' work would be imbued with the same implausibility.

Now some may say, who cares? Let the Star's stories about Mr. Linowitz be discounted. But I care, and I think that every member of the journalistic profession ought to care. If two of our major journals are crippled in reporting or commenting on a major news story of the year, then American journalism will be dealt a severe blow. What is at question is not Mr. Linowitz' integrity, or his lawyer-like view of journalism, but the freedom and independence of the press itself. I think it should be self-evident that a major public figure cannot have a role, even a business role, in any of the major media. Even if Mr. Linowitz is obviously insensitive to the need for such independence, both Time and the Star ought to have insisted upon his resignation from their management.

Thus Mr. Linowitz will continue to remain on the boards of directors of Time, Inc., and the Washington Star even though he will be a significant newsmaker whose actions must be reported in the columns of those publications. This anomaly threatens the freedom and independence of the press, which must never allow itself to be in a position where its objectivity of reporting and comment can be questioned.

Even though the business side of the media, which Mr. Linowitz represents, may have a policy of not interfering with news judgments, it is doubtful whether any editor is in a position to criticize his own management. Mr. Linowitz' lack of sensitivity in this matter reflects seriously upon his judgment.

II. PRIVATE IMPLICATIONS FOR MR. LINOWITZ

Despite his reputation for legal perspicacity, Mr. Linowitz evidently failed to understand the requirements of the conflict-of-interest laws for a "Special Government Employee." In his original letter to the Legal Adviser of the Department of State, Mr. Linowitz stated that he would not "appear personally before the Department of State on behalf of any client" while he was a "Special Government Employee." He also stated that he would not "share in the fees, if any received by (his) firm for representation of clients before the Department of State in any particular matter which is pending in the Department" while he was a "Special Government Employee."

The law provides that a "Special Government Employee" cannot appear before any department or agency of the Federal Government. Restricting the undertaking to the State Department alone is insufficient. Yet the State Department Legal Adviser's office dutifully rubber stamped his letter as "consistent with the Department of State's regulations concerning Special Government Employees as well as the applicable conflict of interest laws."

When the committee pointed out the discrepancy, Mr. Linowitz submitted a letter to the chairman amending his earlier undertaking to read "any department or agency of the Federal Government." But at the same time, he also amended the statement that he would not share in the fees, if any, received by his firm for representation of clients before the Department of State by extending it to include any department or agency. Yet 18 USC 207(g) flatly forbids any partner of a "Special Government Employee" from representing any clients with respect to any particular matter within the area of the "Special Governmen Employee's" responsibility pending before any department or agency of the Federal Government. If such representation is illegal, how could Mr. Linowitz contemplate that his firm might receive fees earned for illegal acts? The amended undertaking thus contradicts not only the law, but also the second recusal paragraph of his letter to the Legal Adviser.

Mr. Linowitz has a personal history of special arrangements which skirt the conflict-of-interest laws. When he was negotiator for the Panama Canal treaties, his status was different from the present arrangement, but just as ambiguous. He was appointed not as an ambassador, but as the personal representative of the President for a term of less than 6 months. His title then as Ambassador was a personal title, not a title of rank; and therefore he did not need to have his nomination confirmed by the Senate. As a result, his conflict-of-interest arrangements did not come before the Senate.

Six weeks after he was in Panama negotiating, it was discovered that he was a director of both Marine Midland Bank and Pan American World Airways, both of which had extensive interests in Panama. A suit was filed, and Mr. Linowitz resigned from Marine Midland, but not from Pan Am. These circumstances contributed greatly to the national divisiveness on the canal issue.

Moreover, since Mr. Linowitz could not legally continue beyond 6 months and retain his business interests, an artificial deadline was imposed which contributed to the legal ambiguities and distortions of the treaty drafts, leading to the longest treaty debate in Senate history.

It should be noted that these are not the only occasions on which Mr. Linowitz has had problems with laws concerning ethics and public disclosure.

In 1971 and 1972, his law firm, Coudert Bros., provided legal counsel to the Marxist President of Chile, Salvador Allende, on the expropriation of the copper mines in Chile owned by U.S. corporations. Although Mr. Linowitz later denied that he performed any of the legal work for the Chilean Marxists, correspondence on public record shows that Mr. Linowitz personally negotiated the retainer and arrangement with the Chilean Embassy, even to the point of preparing correspondence purportedly declining to advise his clients of political issues.

The actual legal work was performed by Mr. Linowitz' close associate, Mr. Ambler Moss—later his assistant in the State Department for the canal negotiations, and presently U.S. Ambassador to Panama. But Mr. Linowitz was not only in charge of the account, but took a deep personal interest in the cause of Allende.

On April 13, 1972, Mr. Linowitz gave a public speech taking the United States to task for resisting Allende's expropriation of the copper mines. The speech was so blatantly one sided that the U.S. Department of Justice indicated that Mr. Linowitz had overstepped the bounds and that he must register as a foreign agent for Allende. Mr. Linowitz filed such a registration on June 19, 1972, disclaiming at the same time that he had acted as a political agent for Marxist Chile. Mr. Ambler Moss filed a similar registration on the same day.

Mr. President, I ask unanimous consent that a series of documents concerning this episode be printed at this point in the Record. The list includes:

A letter dated September 10, 1971, from Dr. Claudio Bonnefoy, of the Chilean Embassy to Sol M. Linowitz.

A letter dated September 17, 1971, from Sol Linowitz to Dr. Claudio Bonnefoy.

A billing from Coudert Brothers to the Embassy of Chile, dated December 3, 1971.

The same, dated December 9, 1971.

A letter dated December 6, 1971, from Coudert Brothers to Dr. Claudio Bonnefoy, of the Chilean Embassy.

A letter dated January 5, 1972, from Claudio Bonnefoy to Coudert Brothers.

A speech delivered by Sol M. Linowitz on April 24, 1972.

A statement by Mr. Linowitz in connection with registration as a foreign agent for Chile, dated June 19, 1972.

There being no objection, the material was ordered to be printed in the Record, as follows:

Washington, D.C.

Mr. Sol M. Linowitz,
One Farragut Square South,
Washington, D.C. 20006.

Dear Mr. Linowitz: I refer to our conversation of this morning, concerning the cooperation that might be established between the Embassy of Chile and Coudert Brothers.

On this respect, I think that the law firm you represent could provide this Embassy with the following types of legal services:

(a) Comprehensive reports on particular questions that involve research, such as those already under way, relating to the genealogy of the copper companies and to excess profit legislation in the United States;

(b) Informal memoranda stating briefly points of fact and/or points of law that involve very little or no specific research; and

(c) Informal verbal consultations.

Some, or all of these legal services may be covered by a time-basis agreement or by a retainer agreement. In reference to this, the following main options can be considered:

(1) Covering all three services by a retainer agreement, or

(2) Covering services (b) and (c) by a retainer agreement and service (a) on a time-basis.

In any case, I do not exclude the possibility of considering any option or understanding that may be mutually acceptable.

I would appreciate very much hearing your views on this matter at your earliest convenience.

Sincerely yours,
Claudio Bonnefoy,
Legal Adviser.

September 17, 1971.

Dr. Claudio Bonnefoy,
Legal Adviser, Embassy of Chile,
Washington, D.C.

Dear Mr. Bonnefoy: Thank you very much for your letter of September 10th setting forth the various types of legal services which our firm might provide to the Embassy of Chile and alternative bases on which such services might be provided.

I would like to submit for your consideration the following proposal:

Our firm would be ready and willing to provide the three types of legal services set forth in your letter and any additional legal help as you may require.

Our suggestion would be that with respect to subparagraph (a) involving memoranda and reports with respect to significant matters such as those in which we are presently engaged involving the copper companies, it would seem mutually desirable that this be done on an hourly basis in accordance with our standard professional rates. We would, if you like, be glad to furnish you with monthly invoices so you may be promptly and regularly informed as to the extent of those services and the charges being incurred.

With respect to the types of legal service covered in subparagraphs (b) and (c), our firm would be ready and willing to present, upon your request, brief memoranda or comments involving any minor research and to undertake such informal verbal consultations as you might need. For these services we would suggest a monthly retainer of $2,000.00 between now and the end of the year. I would then suggest that the beginning of next year we examine the retainer arrangement to be sure that it is mutually fair and agreeable. We will, of course, keep careful records of time spent in connection with all of these matters and have these records available for discussion when we examine the retainer arrangement for 1972.

I hope you will find this an agreeable basis for representation and will not hesitate to let me know if you have any questions or any other suggestions.

With best regards,
Sincerely,
Sol M. Linowitz.

Coudert Brothers,
Washington, D.C., December 3, 1979.

To Coudert Brothers, DR.
Embassy of Chile,
1736 Massachusetts Ave. NW.,
Washington, D.C.
Attn. Dr. Claudio Bonnefoy.

Advice and legal counsel regarding the assumption of debts as a form of compensation; further discussions of U.S. excess profits legislation; and research regarding the principle of retroactive application of laws in the United States; for the month of October, 1971	$1, 810. 00
Disbursements from November 1 through November 15, 1971, including telephone tolls, photocopies and taxis	52. 67
Total	1, 862. 67

Coudert Brothers,
Washington, D.C., December 9, 1971.

To Coudert Brothers, DR.
Embassy of Chile,
1736 Massachusetts Avenue, NW.
Washington, D.C.
Attn. Dr. Claudio Bonnefoy.

Legal services consisting of the preparation of memoranda, regarding: (1) the maturity of various credits extended to subsidiaries of the U.S. copper companies; jurisdictional questions relating to possible actions for repayment of those credits; (2) principles of retroactivity; (3) the validity of investment guaranty contracts; (4) research regarding the financial implications of corporate parent-subsidiary relationships; and meetings and telephone conversations regarding the above matters; for the month of November, 1971 ----- $5,560

DECEMBER 6, 1971.

DR. CLAUDIO BONNEFOY,
Embassy of Chile,
Washington, D.C.

DEAR DR. BONNEFOY: During the past few months we have been consulted by the Chilean Embassy with respect to several problems affecting your Government's relationship with several American companies and have submitted to you legal memoranda on these matters.

You have requested that we continue to be available for such assistance and we shall be pleased to do so. We specifically point out, however, that we will not be in a position to offer advice or counsel as a "political consultant" under the Foreign Agents Registration Act. That Act defines a "political consultant" as follows: Any person who engages in informing or advising any other person with reference to the domestic or foreign policies of the United States or the political or public interest, policies, or relations of a foreign country or of a foreign political party

Accordingly, it will not be possible for us to advise or inform your Government with reference to its relations with the United States or the domestic or foreign policies of the United States.

This is, of course, fully in accord with the understanding reached when you requested our legal counsel.

Sincerely,

COUDERT BROTHERS.

WASHINGTON, D.C.,
January 5, 1972.

COUDERT BROTHERS,
Washington, D.C.

DEAR SIRS: Thank you for your letter of December 6, 1971, that I received upon my return from Chile, wherein you inform this Embassy that according to the terms of the Foreign Agents Registration Act, your firm is not in a position to offer advice or counsel as a political consultant to the Government of Chile. However, you will, as in the past, be available for legal assistance.

This understanding is, of course, completely in accord with my letter of September 10, 1971, in which this Embassy requested the legal services of Coudert Brothers, and with your reply of September 17th.

Sincerely,

CLAUDIO BONNEFOY,
Legal Advisor.

FORMER OAS AMBASSADOR SOL M. LINOWITZ CRITICIZES NIXON LATIN AMERICAN POLICY

Mr. FASCELL. Mr. Speaker, on April 13 one of the United States' most distinguished foreign policy practitioners, former Ambassador to the Organization of American States, Sol M. Linowitz, delivered a forceful and eloquent speech to the National Women's Democratic Club on the shortcomings of current U.S. policy toward our hemisphere neighbors.

All those who believe, as I do, in the value of our inter-American system and the necessity of maintaining close and friendly relations with our neighbors should weigh Mr. Linowitz' well chosen words most carefully. They underline the need for the United States to abandon its current policy of minimal concern for our neighbors while there is still time for us to reestablish a strong and dynamic relationship.

I am therefore commending his remarks to the consideration of my colleagues:

THE ROAD TO REVOLUTION IN LATIN AMERICA

From the outset of his administration, President Nixon has stressed the importance of maintaining a "low profile" in Latin America. But what this kind of approach overlooks is that in Latin America our profile is there, whether we want it to be seen or not. The only question is whether our face is turned toward Latin America or away from it.

For the real fact is that in Latin America we are like a giant in a crowded room. We can't move without stepping on someone's toes; and if we don't move we may find ourselves standing on someone's toes. And to the Latin Americans it appears as though the so-called "mature partnership" the administration has in mind in its rhetoric about Latin America is one which avoids any responsibilities, undertakes no commitments, rejects any involvements.

The case of Chile in many respects presents a microcosm of the problems of our relationships in this hemisphere.

Let me first state the obvious: Our present problems with Chile are unfortunately the joint result of actions taken by both the Government of Chile and the Government of the United States. But as Americans we ought to be especially aware of our own contributions to the present difficulties and have some sense of how our actions and inactions have looked to the people of Chile and indeed throughout Latin America.

I do not propose to comment upon the allegations with respect to ITT and its efforts prior to the election of President Allende as the democratically elected Marxist President of Chile. But I would point out that when President Allende was inaugurated, the United States was conspicuous in its failure to send even the normal congratulatory telegram. Thereafter, the Administration in a number of ways made clear its displeasure at the appearance of a socialist regime in Chile. This attitude persisted despite the fact that Allende's government was clearly seeking to avoid a confrontation with the United States and was behaving with restraint in the international arena. As a matter of fact, Allende and his Ministers emphasized their desire to work within the Inter-American community and to participate actively in the OAS and in Latin America efforts to achieve a common market. President Allende stated that his country was prepared to have "the best—the very best" relations with the United States; and President Nixon stated in his 1971 foreign policy message to Congress that: "We are prepared to have the kind of relationship with the Chilean Government that it is prepared to have with us".

Yet as time went on, the Chileans came to feel that the United States looked upon their new Government as a challenge rather than an opportunity. In Inter-American councils, Chile and other Latin American countries expressed their dismay that the United States failed to extend the same respect and cordiality to the Government of Chile, duly selected by the people of that country through the democratic process, as it did toward governments in other Latin American countries which came into power by overthrow of existing governments.

Then came the nationalization of the Anaconda Kennecott and Cerro copper mines; the sudden cancellation of the visit by the carrier *Enterprise* to Santiago after it had been announced by Allende; the refusal of the Export-Import Bank, at the instigation of the Treasury Department, to guarantee Chilean loans to acquire three Boeing jets; Secretary John Connally's widely publicized observation about Latin America that: "The U.S. can afford to be tough with Latin America because we have no friends left there any more"; then President Allende's startling announcement of an excess profits figure of $774 million to be deducted from the as yet undetermined value of the nationalized copper mines. And while these things were happening, Latin America was hit by the impact of the President's August 15th 1971 Economic Game Plan.

To understand what this meant to Latin America, let me remind you that a central goal of the Alliance of Progress from the outset was the industrial development of the continent and the stimulation of exports. Consistently since its inception the United States had sought to encourage the growth of Latin American industry and the development of regional and common markets. A primary incentive was the promise that one day the United States might grant a trade preference to manufactured products from Latin America.

Early in 1969, in his only major speech on Latin America, President Nixon placed great emphasis on a proposal to work for such tariff preferences from the United States and other developing areas. Thereafter the OECD and Japan have adopted such preferences, while the United States remained at the starting line.

Last August 15, when he announced his new Economic Game Plan, the President had an extraordinary opportunity. Accepting the fact that a surtax on foreign imports from Japan, Europe and other developed areas might have been considered necessary, this would have been the moment for the President to state our clear recognition that our foreign economic problems do not arise from Latin America and the other developing areas and to reassert his firm intention to make effective a tariff preference for manufactured products from Latin America and other developing areas. Such a move would have demonstrated that the nation which had done so much to help bring the Alliance into being was still deeply aware of its responsibilities and commitments to Latin America and other less developed areas of the world.

But instead of a redemption of the promise Latin Americans found themselves confronted with an export surtax affecting 22 percent of their exports to the United States. And its effect reverberated throughout the continent.

Similarly, the inclusion in the President's program of a 10 percent cut in our already severely reduced foreign aid program had very profound implications for Latin Americans. Ironically, the day after the President's announcement—on the Tenth Anniversary of the Alliance for Progress—the President issued a statement reaffirming the United States commitment to "the noble principles" of the Alliance for Progress.

Not surprisingly the effect of the foreign aid cut in Latin America was to reinforce the widespread skepticism about the seriousness of our professed interest in their problems. And the sudden United States decision a few weeks later to announce at the Panama meeting of the Inter-American Economic and Social Council that the foreign aid cut would, after all, not be applied to Latin America hardly overcame the strong Latin American resentment which had already been built up.

Then, this past January 19, President Nixon took another step which aroused Latin America. He announced that the United States would not approve economic aid to nations that expropriate American property without reasonable compensation, and that the United States would also oppose granting of loans of those countries by such international agencies as the World Bank or the Inter-American Development Bank.

It was, of course, obvious that these statements were aimed particularly at Latin American countries such as Chile and predictably the reaction in Latin America reflected this recognition.

On its face, the new annoucement sounded reasonable in that the United States has traditionally demanded that any property belonging to its citizens be reasonably compensated when that property is nationalized by foreign governments. However, there were three things fundamentally wrong with approaching the problem in this manner. First, it indicated that the United States would decide unilaterally what international law applies to the subject of expropriation, an area where the law is not entirely clear. Second, it left to the United States alone the standard of judgment as to what constitutes fair or reasonable compensation. Third, and perhaps most serious of all, the policy undermines the principle of multilateralism in interfering with decisions of the multilateral lending institutions such as the World Bank and the Inter-American Development Bank. As voting in those institutions is proportional to the amount of capital each nation has in the banks, this makes it relatively easy for the United States to exert great leverage against any new loans to governments it does not like.

Granted that the nationalization problem is a real one, are there other more acceptable ways to deal with it? I think so. One might be a special OAS tribunal or similar international tribunal to pass upon and determine expropriation claims. Another could be, as has been proposed, a multi-lateral investment insurance agency to be set up under the World Bank auspices to cover such contingencies. Or the United States could set up a permanent joint mechanism with Latin American to adopt and enforce investment guidelines.

If instead of trying to deal with the situation cooperatively, we proceed unilaterally as we have, why should we be surprised at the increasing manifestations of virulent nationalism and anti-Americanism running up and down the continent? Why should we be surprised that at a meeting of the Foreign Ministers of Latin America not too long ago the United States was condemned for acting in a manner inconsistent with our professed principles?

Last year a brilliant young Columbian economist and friend of the United States wrote: "It is doubtful that any new inter-American initiative can be undertaken until after the Vietnam tragedy has come to an end." But I'm afraid we don't have time. Latin American's problems won't wait and its people won't wait. In one way or another—with or without the United States—Latin Americans will have to come to grips with their problem. This is going to require change and some of it—perhaps most of it—we will not like but we will simply have to learn to accept.

UNITED STATES DEPARTMENT OF JUSTICE

SHORT-FORM REGISTRATION STATEMENT

Under the Foreign Agents Registration Act of 1938, as amended

Each partner, officer, director, associate, employee and agent of a registrant is required to file a short form registration statement unless he engages in no activities in furtherance of the interests of the registrant's foreign principal or unless the services he renders to the registrant are in a secretarial, clerical, or in a related or similar capacity.

1. Name: Sol M. Linowitz.

Registration No.: Coudert Brothers, 2222.

2. Residence Address: 2325 Wyoming Ave., NW., Washington, D.C.

3. Business Address: Coudert Brothers, 1 Farragut Square So., Washington, D.C. 20006.

4. Date and Place of Birth: December 7, 1913, Trenton, New Jersey.

Present Citizenship: U.S.

5. If present citizenship was not acquired by birth, indicate when, where, and how acquired.

6. Occupation: Attorney.

7. What is the name and address of the individual or organization whose registration made it necessary for you to file this statement?

Name: Coudert Brothers.

Address: 1 Farragut Sq. So., Wash., D.C. 20006.

8. List every foreign principal of the individual or organization named in Item 7. Embassy of Chile, Washington, D.C.

9. Indicate your connection with the individual or organization named in Item 7: partner.

10. Describe in detail all services which you have rendered or will render to the individual or organization named in Item 7. If you are no longer rendering such services, indicate period of past services. (If space is insufficient, a full insert page must be used.)

Although as Senior Partner in the firm's Washington office I was approached by the Legal Adviser of the Embassy of Chile in connection with the provision of certain limited legal services by the firm, such services have been performed entirely by two associates of the firm and without my active participation. These services have consisted only of advising the Embassy as to the content and interpretation of U.S. state and federal laws. The firm has not represented the Embassy before any third parties.

11. Do any of the above described services include political activity as defined in the footnote below? No.

If yes, fully describe such political activity:

Note: This firm has not engaged to undertake any political activities on behalf of the Embassy of Chile, as defined in Section 1(o) of the Act. This Form is being submitted, however, because of verbal opinion of the Registration Section, Internal Security Division, that a speech which I made last April 13, 1972 on U.S.—Latin American relations incurs the obligation to register. As a former U.S. Ambassador to the Organization of American States, I have from time to time been called upon to comment upon U.S.-Latin American relations. Such activity has been undertaken in my personal capacity and for many years prior to my association with Coudert Brothers and to any association between Coudert Brothers and the Embassy of Chile. At no time prior to last April 13 did I discuss my speech with any Chilean official or agent.

14. What compensation or thing of value have you received to date for above services? None.

15. During the period beginning 60 days prior to the date of your obligation to register to the time of filing this statement, did you make any contributions of money or other things of value from your own funds or possessions and on your own behalf in connection with an election to political office or in connection with any primary election, convention, or caucus held to select candidates for political office? No.

If yes, furnish the following information:

Mr. HELMS. Mr. President, these matters deserve a little closer examination.

First. During the period when Chile's Marxist Government led by Salvador Allende was confiscating hundreds of millions of dollars of American-owned property and declaring that it would pay no compensation to the owners, the Chilean Embassy in Washington negotiated a deal with Sol Linowitz for research and legal advice bearing on this action.

This is revealed by documents, including correspondence on file at the Department of Justice. The letter to the legal adviser of the Chilean Embassy shows that Mr. Linowitz personally arranged for his law firm, Coudert Brothers, to be paid a retainer of $2,000 a month plus hourly charges for its services to Chile.

On September 2, 1971, the New York Times ran an editorial in which it pointed out that Allende had defaulted on his pledge to provide fair compensation for the foreign enterprises he had nationalized in Chile. The Times said:

> He has not defaulted on that pledge with a bizzare bookkeeping maneuver that effectively nullifies the possibility of any payment for three nationalized copper mines previously owned by two American firms . . . No objective observer will be persuaded by Mr. Allende's claim that he acted 'rationally and legitimately' in arbitrarily deducting $774 million for 'excess profits' over the last fifteen years from compensation due the two firms.

Just 8 days later, on September 10, Claudio Bonnefoy, legal adviser of the Chilean Embassy, wrote a letter to Sol Linowitz in which he said:

> I think that the law firm you represent could provide this Embassy with the following types of legal services: (a) Comprehensive reports on particular questions that involve research, such as those already under way, relating to the genealogy of the copper companies and to excess profit legislation in the United States.

A week later, on September 17, Mr. Linowitz replied, saying that his firm was ready and willing to provide the legal services requested, and he suggested payment on an hourly basis for work "involving memoranda and reports with respect to significant matters such as those in which we are presently engaged involving the copper companies."

The Allende confiscation of the American investments in the copper mines was very costly to American companies and to the U.S. Government agency, the Overseas Private Investment Corporation (OPIC), which had partially insured the investments. The correspondence cited above indicates that Mr. Linowitz, who had previously served as Assistant Secretary of State for Inter-American Affairs and as U.S. Ambassador to the Organization of American States, was actively involved in providing the Chilean Government with legal advice and research services with respect to the copper companies at the time that Government was undertaking its program of confiscation without compensation.

The correspondence indicates that Mr. Linowitz' services had actually been available to the Chilean Government prior to September 10, the date of the first letter on file with the Department of Justice. These documents, of course, do not reveal the nature of the advice that Ambassador Linowitz and Coudert Brothers gave the Chileans with respect to the confiscation of the copper mines and other foreign-owned property in Chile. However, a letter dated December 6, 1971, indicates that the firm had become concerned about the possibility that it might be required to register as an agent of the Chilean Government under the Foreign Agents Registration Act.

This letter states that Coudert Bros. had been consulted by the Chilean "with respect to several problems affecting (Chile's) relationship with several American companies." Coudert Bros. informed the Chilean Embassy that they could not "offer advice or counsel as a 'political consultant,'" since that would bring them under the Foreign Agents Registration Act. They said:

> Accordingly, it will not be possible for us to advise or inform your government with reference to its relations with the United States or the domestic or foreign policies of the United States.

Second. However, a private citizen brought the arrangement between the Chilean Embassy and Ambassador Linowitz' firm to the attention of the FBI. The Justice Department subsequently advised Coudert Bros. that they should register as an agent of Chile. Accordingly a registration statement was filed on June 19, 1972, covering the preceding 6 months. This was also given as the date of termination of the relationship.

According to the statement filed by Coudert Bros., the Department of Justice maintained that the firm incurred an obligation to register as a foreign agent of Chile because of a speech given by Ambassador Linowitz, which was inserted in the CONGRESSIONAL RECORD on April 24, 1972. The firm contended that the speech was given by the Ambassador in his personal capacity and not on behalf of the firm or of the Chilean Embassy. The Justice Department evidently saw it differently.

Reading the speech, it is not difficult to see why. Nearly three-fifths of the speech dealt directly with U.S. policy toward Chile and with the U.S. Government's decision to oppose foreign aid to countries that expropriated U.S. property without paying fair and prompt compensation.

Ambassador Linowitz was strongly critical of the decision to cut off aid to countries that confiscated American property. He said that it was aimed directly at Chile. He complained that the United States was acting "unilaterally," and he suggested that it would be more appropriate to have a special tribunal of the Organization of American States pass on expropriation claims.

As an expert on Latin American affairs, presumably Ambassador Linowitz was well acquainted with the long-standing refusal of Latin American countries to cooperate in penalizing countries that expropriated foreign-owned property without paying compensation. His suggestion that the matter be turned over to the OAS or to some other "joint mechanism" with Latin American countries would have been recognized by those conversant with Latin American attitudes as a recommendation for nonaction in expropriation cases.

In his discussion of United States-Chilean relations, Ambassador Linowitz acknowledged that problems had been caused by the actions of both governments, but the tenor of his recital of misdeeds strongly suggested that the fault lay primarily with the United States. Ambassador Linowitz noted no less than 10 negative actions or attitudes toward Chile that he blamed on U.S. officials. On the positive side he noted only that President Nixon had said that the United States was prepared to have the kind of relationship with Chile that they were prepared to have with us. Among the negative points, Ambassador Linowitz noted that the United States had not sent a telegram to congratulate Allende on his inauguration as president of Chile and we failed to extend to Allende "cordiality and respect."

Overlooking the fact that Allende had made it clear that he was going to expropriate U.S. property even before he came to power, Ambassador Linowitz emphasized how Allende had indicated that he wanted 'the best" relations with the United States, and he claimed that Allende had acted with "restraint." He cited four points in Allende's favor, and he mentioned, without critical comment, two things that he had done that were damaging to relations with the United States. One was the nationalization of the copper mines and the other was the announcement that payment for the mines would be offset by claims for excess profits of $774 million.

The Chilean Embassy would have had every reason to be pleased with the speech that Ambassador Linowitz delivered and had inserted in the CONGRESSIONAL RECORD by Congressman DANTE FASCELL. The Chilean Ambassador could hardly have penned a speech more favorable to the Chilean case than the one delivered by our former Assistant Secretary of State and ambassador to the OAS.

While moderate in tone, it clearly placed the lion's share of the blame for all that was wrong in our relations with Chile on the U.S. Government. It strongly criticized the U.S. action that penalized Chile for having confiscated U.S. property without paying a cent of compensation.

The Department of Justice had good reason to interpret this speech as an indication that Ambassador Linowitz was engaging in activities on behalf of Chile that came under the Foreign Agents Registration Act.

Third. In 1977 the Department of State issued a statement which touches upon the Coudert Brothers' registration as an agent of Chile. It says, "Ambassador Linowitz' law firm was retained in 1972, by the Embassy of Chile to furnish legal advice on certain aspects of U.S. law."

This was wrong in two respects. The firm was retained from September 1971 to June 1972, but it is also clear that Ambassador Linowitz was providing services to the Chileans even prior to September 10, 1971. How far back this goes cannot be ascertained from Justice Department files. In addition, the correspondence makes it clear that the commitment was to provide more than legal advice on certain aspects of U.S. law. The firm was consulted "with respect to several problems affecting (Chile's) relationship with several American companies," including the copper companies whose property was being confiscated by Allende.

The statement then says, "Associates of Ambassador Linowitz provided such services, but he has never represented the Government of Chile."

This was also wrong. The correspondence on file at the Justice Department shows that the relationship between the Embassy of Chile and Coudert Brothers was negotiated by Ambassador Linowitz himself. Moreover, the action which led the Department of Justice to inform Coudert Brothers that it was obliged to register as a Chilean agent was the speech by Ambassador Linowitz discussed above.

While Coudert Brothers argued that the speech was on the general subject of "U.S.-Latin American relations" and was given by Ambassador Linowitz in his personal capacity, they obviously did not think that they had a strong enough case to reject the advice that they register under the Foreign Agents Registration Act. By registering, they acknowledged de facto that Ambassador Linowitz had been serving the Chilean cause in giving his speech, even though they were simultaneously denying this.

The State Department noted that the services of Coudert Brothers to Chile "are a matter of public record," which is true. What is not said is that these services became a matter of public record only after information about the relationship had been supplied to the FBI by a private citizen and after the Department of Justice advised the firm that it had an obligation to register under the Foreign Agents Registration Act.

Mr. President, I would be prepared to give Mr. Linowitz the benefit of the doubt had he showed evidence of considering his fragile dual role with more sensitivity and care, and if his past record did not reveal a history of ethical ambiguities surrounding the conflict between his public and private roles. But these circumstances do not permit the benefit of the doubt.

The PRESIDING OFFICER (Mr. HART). Who yields time?

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll

The assistant legislative clerk proceeded to call the roll

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. PRYOR). Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. JAVITS. Mr. President, this is as to the reasons given by my colleague from North Carolina for rejecting the nomination of Sol Linowitz to be representative of the United States—in a very limited way, by the way—to the negotiations respecting the West Bank and the Gaza Strip under the so-called Camp David accord and the peace treaty between Egypt and Israel. That job description is less, by the way, considerably less, than that of Robert Strauss, who was made Ambassador for the purpose of negotiating with respect to the entire Middle East.

This nomination involves a more limited engagement, for 130 days out of 365 days, which makes Mr. Linowitz a "special Government employee" in accordance with the law—a law which he did not write and I did not write, but it is the law of the United States. The President, therefore, is entitled to appoint and we are entitled to confirm under that law which confers upon him a certain special status.

Now, Linowitz is admittedly an important lawyer. I do not know what he earns, but I would guess that it is well in excess of $100,000 a year and that he has earned that much for years. He has a very distinguished career. He has been entrusted by the United States with many missions. He was chairman of the board of Xerox Corp., one of our most important national corporations. He served as chairman of the National Urban Coalition, a very important voluntary organization in the United States. Right now he is Chairman of the President's Council on World Hunger which has just issued a very significant report.

As has already been stated, Mr. Linowitz represented the United States as Ambassador on the Council of the Organization of American States. He was the U.S. representative to the Inter-American Committee on the Alliance for Progress and, as Senator HELMS has stated, he was one of the two U.S. negotiators of the Panama Canal treaties with a personal rank of Ambassador.

Mr. President, this man is no slouch. We are looking for talent in this Government and so we wrote a law which could enable us to accommodate talent.

I am reminded of a situation which faced me as a Senator. We have the privilege of nominating lawyers to the President to be Federal judges in our State. That is a very honored job, a lifetime job, one of the most distinguished which our Government has. And one would think, Mr. President, that there would be a long queue of lawyers outside my office door waiting to be named. However, I have solicited as many as 20 distinguished New York lawyers to get one of them to become a judge, and I have been turned down—mainly for economic reasons—until by a sheer happenstance, at the end of the last session of Congress, we happened to raise the salary of judges materially; men just could not afford it otherwise.

In this country, Mr. President, we have a wonderful tradition which is unlike much of Europe. The American worker does not harbor resentment for successful men in management positions. That does not mean that everyone does not; of course, there are many who do. But the general outlook, the philosophy of the American worker when he sees his boss come to work in a chauffeured limousine is not to hate him; it is to try to emulate him. That is one of the great things about this country. When foreigners come here to live and say they breathe again, they see light and happiness in this country. This is one of the things they mean, because in terms of class distinction, there is really little resentment of this sort, as a basic national characteristic. On the contrary, there has generally been understanding and accommodation and a desire to emulate.

And in a sense this is such a case, Mr. President. Here is a man with a very distinguished career, who has made a large amount of money in business and in the law, and because of his experience, and because the President thinks he is uniquely fitted for this particular job, a limited job in this case, he says: "Sol, we need you again. Come to work."

And the first thing Mr. Linowitz says is: "Look, I am a director of major companies. I have given a lot of my time to Government service in other years. I am tied up in legal cases. I have a lot of responsibilities which I have assumed, because I am a wealthy man and I earn a good deal of money." And we respect that in this country.

I would like to see Linowitz' subscriptions to various organizations and what he has contributed to charities and to various kinds of public service outside of Government. These are the kind of obligations I mean. These are the kinds of things a man like Linowitz has spent his money and time on: His universities, his charities, his interests in public service.

He says: "I am sorry, Mr. President. Right now I am up to my ears and I just cannot come to work. In addition I just could not do it and meet my obligations."

And the President says: "All right, we will make you a 'special Government employee,' which gives you a lot more latitude to continue with your profession."

And Sol looks at the law and he finds that it is possible, he can put it together, provided the Senate will approve. He understands the complications; he is not naive.

So he lays it all out for the various counsel of the White House and the State Department and the Office of Ethics in Government, and they approve. Then he comes up here to consult with us, and to testify before the Foreign Relations Committee.

Now, Mr. President, we have actually in this case, which is unusual—we rarely do this in respect of the nomination—published not only the views of the majority on the committee and the minority views of Senator HELMS, but we also published the Q's and A's, the questions and answers, within the report on this matter.

After hearing Mr. Linowitz on these matters—and I think I am a fairly competent lawyer myself—I asked him personally, and other members of the committee asked him as well, just about every question we could ask him on this issue. His answers gave us the whole picture.

There is nothing that was unearthed in this matter, or that was suppressed before the committee: Senator HELMS and all the rest of us.

When that was all done, that process was all completed, the committee recommended to the Senate that his nomination be confirmed by a vote of 12 to 1. The one was Senator HELMS. The 12 were the chairman—Senator CHURCH—and Senators PELL, BIDEN, GLENN, STONE, SARBANES, MUSKIE, and ZORINSKY. On the Republican side, they were myself, as the ranking member, Senators PERCY, HAYAKAWA, and LUGAR. All of us voted on the record for the nomination.

Mr. President, if that is the jury—and it happens to be the exact number of members of a jury of 12—voting unanimously, after a hearing in which all the facts, and the law, were laid on the table, it seems to me a pretty conclusive judgment. It does not mean that the Senate may not, as is its privilege, vote just the other way; but I hope it will not, and I do not believe it would be justified.

Let me say why more precisely. As to private legal practice, the law reads as follows, section 203 of title 18 of the United States Code. It says:

> A Special Government Employee shall be subject to subsection (a)—

That is, punishing him if he does something he should not do—

> only in relation to a particular matter involving a specific party or parties (1) in which he has at any time participated personally and substantially as a Government employee or as a special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, or (2) which is pending in the department or agency of the government in which he is serving: *Provided*, That clause (2) shall not apply in the case of a special Government employee who has served in such department or agency no more than 60 days during the immediately preceding period of 365 consecutive days.

Now, Mr. President, therefore, literally and exactly complying with that particular section, Linowitz undertook in writing to me and to the chairman of the Committee the responsibility and obligation which the law requires. In a letter dated November 30, 1979, which I ask unanimous consent be made part of the RECORD, he wrote:

> During the period of my status as a Special Government Employee, with respect to any particular matter within the area of my official responsibility, I will not appear personally before any department or agency of the Federal Government on behalf of any client regarding any such matter, I will not take part in advising any client with regard to any such matter, and I will not discuss any such matter with any member or employee of the firm.

Then he went further than that, than required specifically by the statute, and said:

> I will not share in the fees, if any, received by our firm for representation of clients with respect to any particular matter within the area of my official responsibility pending before any department or agency of the Federal Government during the period of my status as a Special Government Employee.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COUDERT BROTHERS,
ATTORNEYS AND COUNSELLORS AT LAW,
Washington, D.C., November 30, 1979.

Hon. JACOB K. JAVITS,
Senate Foreign Relations Committee,
Washington, D.C.

DEAR SENATOR JAVITS: After discussions with the Committee, I wish to clarify and broaden the first and third recusal paragraphs of my letter to the Legal Adviser of the Department of State dated November 26, 1979, regarding my continued membership in my law firm during my service as Personal Representative of the President to the Autonomy Negotiations on the West Bank and Gaza, as follows:

(1) During the period of my status as a Special Government Employee, with respect to any particular matter within the area of my official responsibility, I will not appear personally before any department or agency of the Federal Government on behalf of any client regarding any such matter, I will not take part in advising any client with regard to any such matter, and I will not discuss any such matter with any member or employee of the firm.

(3) I will not share in the fees, if any, received by our firm for representation of clients with respect to any particular matter within the area of my official responsibility pending before any department or agency of the Federal Government during the period of my status as a Special Government Employee.

Sincerely yours,

Sol M. Linowitz.

Mr. JAVITS. Now, Mr. President, the reason the law was passed about the special Government employees who had a special relationship to the Government so that they were allowed to do things others were not allowed, was precisely because we wanted men of talent, large earning power and real capacity, to undertake Government jobs for temporary periods when their skills and their prestige were required by Government. That is the case here.

Finally, Mr. President, as to these directorships, we went into those in the greatest detail, and they are set forth very clearly in the testimony, and I urge any Member who is interested to read my cross-examination of Linowitz or that of any other Member. My own will be found at pages 10 to 17 of the Record.

The facts are these: As to Time, Inc., I raised exactly the same question Senator Helms raised, and it was clear that there is a very great line of distinction in that particular publication between serving on the board and deciding business questions and being in the news end of the business, and the one is completely immured from the other.

I happen to know this personally, Mr. President, because for many years Henry Luce, the founder and the boss of Time, was a friend of mine, and so I know personally and have known their editors-in-chief during all the time I have been in the Senate and before.

Mr. President, I know that to be an iron rule at Time. I have little doubt that Mr. Linowitz is not going to get in to the news gathering in any way, and even if he did, how much more is that than the fact that he is ready to give press conferences and will give them, if the Senate confirms him, about every day or every other day; that is very much an element in our work. How many Members here or in the House do the same thing and own an interest in or actually own newspapers or other publications?

As to Pan Am, Mr. President, again it was very clear from the testimony that he would not participate in any of the decisions of the corporation, and that the corporation agrees to that during the time he is engaged in this service.

So, Mr. President, the net of the thing comes down to this: The fact is that he is not just a casual and part-time employee as a special government employee, which is the definition my distinguished colleague and friend gave to us a little while ago. The fact is we made this category of a Special Government Employee and imposed certain responsibilities as well as certain privileges upon that status because we wanted to attract exactly the kind of man for very delicate, sensitive, high-powered Government work that we have here in Sol Linowitz, who has proved his abilities in the services of the United States.

Mr. President, therefore, just as we recognize the very purpose for which we passed the law, we are now being asked to reject it and throw it out the window.

I cannot see it, and it is for those reasons I hope the Senate will confirm today Sol Linowitz for this particular post.

Mr. President, I reserve the remainder of my time.

Mr. CHURCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CHURCH. Of the 30 minutes allotted to me under the terms of the unanimous-consent agreement, I would like, first of all, to yield briefly to the distinguished Senator from Virginia (Mr. Harry F. Byrd, Jr.).

Mr. HARRY F. BYRD, JR. I rise to express support for the nomination of Sol Linowitz as the President's Special Representative to the Middle East. Mr. Linowitz has been nominated to the rank of Ambassador which requires Senate confirmation. He succeeds the able Robert Strauss, who recently resigned. Mr. Linowitz will serve without pay.

I have known Sol Linowitz for about 20 years. When I first met him he was chairman and chief executive of Xerox, a remarkably well-managed company. He left that position to become American Ambassador to the Organization of American States. Subsequently, he, along with Ambassador Ellsworth Bunker, negotiated the Panama Canal Treaty.

I disagreed strongly with Mr. Linowitz in regard to the Panama Canal. I think it was a great mistake for the United States to have given away that vital waterway—and in doing so, seriously disadvantaging the American taxpayer.

But while disagreeing with Mr. Linowitz on the Panama Canal issue, I recognize him as being a man of integrity and great ability. Certainly both of these attributes are needed in the handling of the delicate negotiations regarding the Middle East.

I shall support Mr. Linowitz's confirmation.

Mr. CHURCH. I thank the Senator.

Mr. President, I yield such time as he may require to our able assistant majority leader (Mr. Cranston).

Mr. CRANSTON. Mr. President, I thank the Senator very much for his thoughtfulness and for the leadership he is providing on this and so many other matters.

Mr. President, I strongly support the nomination of Sol Linowitz to be the President's personal representative to the west bank and Gaza strip autonomy Negotiations with the rank of Ambassador.

This ambassadorial post is the key means with which the United States can lend our good offices to help implement the terms of the Egyptian-Israel peace treaty. The initial requirements of this treaty have been met by the Israeli withdrawal from the bulk of the Sinai—including the recent of the rich Israeli-developed Sinai oilfields.

In the coming months, these negotiations will enter a new, more critical phase. Next February, Israel and Egypt will exchange ambassadors and establish embassies in their respective capitals for the first time. And the treaty timetable calls for conclusion next spring of discussions on implementation of a plan for west bank and Gaza self-government.

It is absolutely essential for the United States to continue to play a constructive, well-informed role in nurturing this peace process. If we are to continue to do so, we require a topnotch ambassadorial representative available to participate in these discussions.

Sol Linowitz has the experience and the expertise to play this role.

I have known Sol Linowitz for a good many years. I have the greatest respect for his integrity, his capacity, his concern about national and international issues, and his ability to do constructive things about the issues, I worked very closely with him during the time that he was working on the Panama Canal Treaty with Ambassador Ellsworth Bunker. At that time I developed even greater admiration for his very great abilities.

Most recently he has been chairman of a commission that rendered a very significant report on one of the planet's greatest problems, world hunger. This was another example of the very fine work this man is capable of accomplishing.

On Monday the Washington Star published an article about Sol Linowitz which reveals a great deal about him. It states:

> There is a sense of dignity, sageness and, above all, sensitivity. As close friend John Gardner, former head of Common Cause, puts it, "He's got an inner compass; he's easy to deal with, but hard to fool."

Sol Linowitz grew up in a household where education, hard work, and responsibility to the community were stressed. He eventually went to Cornell Law School. Among his classmates were Edmund Muskie and William Rogers, later to become Secretary of State. As Rogers recalls:

> Sol was outstanding in everything he did. He was marked for stardom. He was great fun to be around, was ranked first in his class, editor of the Law Review and graduated summa cum laude.

Sol joined a prominent Rochester law firm. He engaged in all kinds of community activities. His wife, Toni, stated:

> Sol finds it difficult to say no to anyone or any group. I have to protect him from people, otherwise he exhausts himself. He worked for every charity in Rochester.

It came his way, along with others, to develop the company Xerox, which has been a tremendous success in so many ways. Significant wealth came to Sol Linowitz and his family as a consequence of that, but he says:

> I've never measured my achievement on my resources. It's on how I fulfill myself. Whether I get the feeling of living my life well and following the right principles.

His wife says:

> The money stayed in the bank. Our life did not change dramatically.

His daughter June Linowitz speaks of her father as a great playmate and friend:

> He always made a great effort to be close to each of us, to really sit down and talk. He taught us not to judge anyone until we figured out how they felt about things. My parents really wanted us to be happy as individuals; they are wonderful role models, they're so supportive of each other.

In 1966, President Lyndon Johnson persuaded Sol Linowitz to accept the role of Ambassador to the OAS and representative to the Alliance for Progress, after first offering him the posts of Secretary of Commerce and Ambassador to Mexico.

Secretary General of the OAS Alejandro Orfila called Sol Linowitz an outstanding Ambassador.

> To this day, he says, "Sol Linowitz is considered one of us. He's one of the great men I have met. His kindness, humor, interest and respect for the opinion of others are remarkable. In a negotiation, he will never give up until he can find a formula acceptable to both parties.

In 1969 the Linowitzes decided to make the District of Columbia their permanent home, while keeping a retreat outside Rochester.

Jody Powell says of the relationship between President Carter and Sol Linowitz:

> The President has the greatest respect for Sol Linowitz' judgment. He looks to Sol and depends on him for advice and counsel. He has immediate access to the President and can convey his ideas directly to him, which is important in his new job. It's important that both Sadat and Begin know they are dealing with someone who has the President's confidence as well as a close personal relationship.

During the time of the Panama negotiations and the consideration of that treaty in the Senate some of the days were very stormy and, thinking back to those days, Sol Linowitz quotes in Latin from Vergil's Aeneid:

> One day it will please us to remember even this.

Sol is a man who welcomes great challenges. He now faces a great challenge in representing the United States in the pursuit of peace in the Middle East. I am convinced he will do great work there, and help bring about the day when we will have a stable, enduring peace in the Middle East.

For these and other reasons, I urge my colleagues to support his nomination and to ratify it swiftly.

Mr. CHURCH. Mr. President, I thank the distinguished Senator from California for an exceptionally fine statement in support of this nomination, which really takes the form of a well-deserved tribute to Sol Linowitz for his long and faithful service to the country in many different capacities over the years.

Mr. CRANSTON. I thank my friend from Idaho very much.

Mr. HELMS. Mr. President, I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I am grateful to my friend from California (Mr. CRANSTON) for his alluding to the article in the December 17 edition of the Washington Star, which bore the headline "Linowitz: Mideast Is His Latest Challenge."

This article itself illustrates the point the Senator from North Carolina was trying to make a few moments ago: That regardless of any intent, regardless of any wish, it is going to be mighty difficult for any editor or any reporter on the Washington Star or Time magazine successfully to avoid a perception by the public of conflict of interest.

Mr. President, the threats, implicit or otherwise, to the freedom and independence of the press are well illustrated by the article about Mr. Linowitz that appeared in the Washington Star.

Mr. Linowitz, as the article itself notes, is a member of the board of directors of the Star. I am not surprised to note that the article is overwhelmingly laudatory. And, incidentally, it appears at a very critical moment for Mr. Linowitz, just before the Senate is preparing to consider the nomination.

I could attempt to take the time of the Senate to point out the glowing praise heaped upon Mr. Linowitz by the author of the article. But I will let Senators make up their own minds about it if they choose to read the article. It takes up at least 106 column inches in the Star.

Now whether or not the laudatory comment is justified is beside the point. I am sure that opinions can differ. But consider the position of the newspaper. Even if its editors feel that the praise is justified, the newspaper still looks as though it is puffing a member of its Board of Directors for the sole purpose of propaganda. This kind of situation is what is bringing so much of contemporary journalism into a state of low repute. It is why the opinion of journalistic fairness has fallen into such a low estate among the people of this Nation. If the very notion of fairness in reporting is compromised by this kind of conflict-of-interest, then the credibility of the press is seriously attacked.

I am surprised that the editors of the Star chose to put themselves in such a compromising position. And I think that it is obvious that Mr. Linowitz, in a high-profile newsmaker position, will continue to compromise the journalistic standards of both the Star and of Time magazine.

Mr. President, I ask unanimous consent that the Star article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Dec. 17, 1979]

LINOWITZ: MIDEAST IS HIS LATEST CHALLENGE

(By Sandra McElwaine)

When Sol Linowitz was a student at Hamilton College in the late 1930's, one of his scholarship-related chores was to read to Elihu Root, the former secretary of state. The elderly statesman once asked Linowitz what he wanted to do after graduation.

"I told him I couldn't decide between becoming a rabbi or a lawyer," Linowitz recalls. "He said, 'Young man, be a lawyer. It takes twice as much religion as any minister.' He was right. You can use your religion many ways fulfilling yourself in the law."

Today, at 65, when most people are at least contemplating the comforts of retirement and measuring the fulfillments of a full career, the former chief of Xerox, ambassador to the OAS and co-negotiator of the Panama Canal Treaties has no such thoughts in mind.

At home in his Mediterranean-style town house—filled with a melange of French reproductions, fake flowers, occasional fur-covered sofas, and colorful watercolors and sculpture done by his wife Toni—there is certainly no air of retirement. The phones are ringing, and an official automobile waits out front, its motor running.

At 65, Sol Linowitz has embarked on what is likely to be the most critical job of his long career, as President Carter's special ambassador to the Middle East.

Linowitz looks the part: dark wavy hair heavily streaked with gray, an arresting aquiline face, a soothing persuasive voice. He is impeccably groomed in Navy-blue pinstripe suit, crisp white starched shirt with jade cufflinks, a properly conservative striped tie and, surprisingly, a copper bracelet.

"I know it's a superstition, and against all medical advice, but I wouldn't take it off for the world," he says.

He answers questions, thoughtfully, methodically, careful of his statements. There is a sense of dignity, sageness and, above all, sensitivity. As close friend John Gardner, former head of Common Cause, puts it, "He's got an inner compass, he's easy to deal with, but hard to fool."

Linowitz requested senate conformation on his new appointment, though he maintains it was not required. He did not want any questions raised later on. He has taken the job on a part-time basis, working 130 days out of the year. He will receive no remuneration and continue on as senior partner of his law firm, Coudert Brothers. "I do what I do because I am primarily a lawyer. I have the ability to use words. To put down what human beings seek to accomplish in their dealings with one another, and that's the basis of a civilized society."

Questions were indeed raised at his hearing before the Senate Foreign Relations Committee. Sen. Jesse Helms grilled him on possible conflicts of interest over his law firm's far-flung activities and his participation on various boards of directors, zeroing in on Pan American and Time, Inc.

"If he stays on the Board of Time, it gives the appearance of a conflict, he's in the position of leaking news to them or being accused of so doing," says Helms. "I think he should take a leave of absence." Other committee members did not agree, and the North Carolina Republican was the sole participant to vote against confirmation. Helms carried his disapproval further by holding up Linowitz's confirmation vote in the full Senate.

Linowitz is reluctant to discuss his new assignment, saying that there is always the temptation to speak too quickly, and that his most effective position is to listen and observe.

"It's such an uncertain, volatile area that you almost have to play it by ear—when to be helpful, how to be helpful, how to respond. I am cautiously optimistic, but I feel like a senator campaigning back in his home state, optimistic, but worried about his optimism." (Late last week he concluded his first Mideast foray, holding meetings with both the Israelis and Egyptians.)

Friends are puzzled by Linowitz's acceptance of the tough job. "It's a little surprising he took it," says William Rogers, former assistant secretary of state for Latin affairs. "I guess he's a patriot in the vein of Harriman and McCloy. He'll work closely with Vance within the system. You won't be reading any unexpected headlines; he won't try to establish an independent position of his own."

Linowitz declares he is undertaking this new role because of his deep commitment to public service and the experience he gained during the Panama Canal negotiations.

"My test," he says, "is whether I can do a job better than anyone else, if I can make a difference. Carter said he needed me, and I can't say no. If I can help, I must. All my life I've been a horizontal man, reaching out in a lot of different directions. I've never been content with circumscribed assignments. I feel deeply that you must give, participate. If you can make the world a little bit better, you have the responsibility to do what you can. This is a reflection of my faith; do justly, love mercifully and reach out to all human beings."

Linowitz succeeds Robert Strauss in the Middle East role; beyond a common religion, Linowitz seemingly has little in common with his brusque, bombastic predecessor.

The roots of Sol Linowitz's faith go back to his Orthodox Jewish home in Trenton, N.J. The eldest of four sons, he grew up during the Depression. His parents were Russian-Polish immigrants, his father a fruit merchant. He grew up in a household where education, hard work and responsibility to the community were stressed. All four boys worked their way through school and college.

"There was always great love and understanding in our home," remembers the youngest, Harry Linowes. (The three other brothers changed their name several years ago. Sol Linowitz, already established as a lawyer, did not.) "We were always encouraged to help others. Being one of the few Jewish families in Trenton, we learned to live with prejudice and bias; perhaps that made us stronger in wanting to participate in our community."

According to Robert and David, older brother Sol was an extremely bright and a tough act to follow. He was an outstanding student and a good enough violinist to start performing at age 11. (This came in handy later, when he played in dance bands and worked the Borscht Belt during summers at Hamilton University and then joined the Utica Symphony while attending Cornell Law School.)

Alexander Woolcott, the Hamilton drama coach, urged him to be an actor, and he was proficient enough in German to teach. But upon graduating Phi Beta Kappa and second in his class, delivering his salutatorian's oration in Latin, he decided to attend Cornell Law School.

Among his classmates were Edmund Muskie and William P. Rogers, later to become secretary of state. As Rogers recalls, "Sol was outstanding in everything he did. He was marked for stardom. He was great fun to be around, was ranked first in his class, editor of the Law Review and graduated *summa cum laude.*"

On a house-party weekend, Linowitz met his wife, the former Toni Zimmerman, an undergraduate majoring in bacteriology.

"He was too shy to ask me to dance," she remembers. "So he sent a friend to cut in on me and introduce us. It's funny about Sol. He's really an extrovert who's shy. He was fascinating and glamorous, of course, being in law school. We would have coffee together, and talk for hours about everything, even though I was very interested in someone else."

When Toni graduated, they were married. "It's been 40 years," she muses, "It shocks me when I say it."

Linowitz joined the Rochester law firm of Sutherland and Sutherland, and when World War II intervened, he and Toni moved to Washington. Linowitz worked as assistant general counsel in the Office of Price Administration, and in 1944 was commissioned in the Navy to work with Secretary James Forrestal. In 1946, the Linowitzes decided to return to Rochester. "We had no money and two young daughters, and it ment building a firm from the beginning," he recalls. "Taking a chance, I had no idea how it would all turn out." (They now have four daughters ranging in age from 23 to 36.)

He reorganized his law firm, which became Sutherland, Linowitz and Williams, and plunged into a variety of local activities.

On one of their regular Sunday morning hikes, Wilson and Linowitz coined the name Xerox. They saw a Kodak sign, and decided it was catchy because it had the same letter at the beginning and the end. "We came up with Xerox, but then decided it wouldn't work. Although we had the same letter, it was pronounced differently, so we stuck with Haloid-Xerox, but only for a while," says Linowitz.

He says he was never scientifically oriented. "I was always a manual idiot. The ultimate test to see if a machine would work would be to try to have me run it."

Linowitz now estimates the worth of Xerox at between $6 billion and $7 billion. In 1966 his stock options were valued at $9 million. "They're a lot less today, with depreciation and inflation," he states emphatically. "But I've never measured my achievement on my resources. It's on how I fulfill myself. Whether I get the feeling of living my life well and following the right principles."

"The money stayed in the bank," says Toni. "Our life did not change dramatically. Of course, it made it easier to travel and send four girls to college."

"Sol finds it difficult to say no to anyone or any group," declares Toni. "I have to protect him from people, otherwise he exhausts himself. He worked for every charity in Rochester."

Among his favorite organizations were the City Club, a prestigious lunchtime discussion group, and the United Nations Association. There he met Joe Wilson, president of the Haloid Company, then a $2-million photographic supply producer, who was searching for expansion possibilities. Wilson had heard of a primitive idea for a copying device, and he asked Linowitz to accompany him on "a one-shot deal" to obtain an option. The device was labeled Xerography, "dry writing" in Greek. The rest is history.

"It all started out with a dream" reflects Linowitz, whose one-shot deal ultimately escalated into chairman of the board of the mammoth corporation. "It took 14 frustrating years to produce the first compact copying machine. We saw a germ of an idea, a revolutionary promise for the future, but we didn't know how large or how real."

But Lyndon Johnson, in 1966, talked him into accepting the role of ambassador to the OAS and representative to the Alliance for Progress after offering him the posts of Secretary of Commerce and ambassador to Mexico.

"There," says Linowitz, "I trusted my instincts. I felt I could make a difference."

Secretary General of the OAS Alejandro Orfila calls Linowitz an outstanding ambassador. "To this day," he says, "Sol Linowitz is considered one of us. He's one of the great men I have met. His kindness, humor, interest and respect for the opinion of others are remarkable. In a negotiation, he will never give up until he can find a formula acceptable to both parties."

During his three-year tenure, Linowitz in his undramatic fashion moved efficiently and quietly through Washington, building and maintaining bridges and establishing a good network to various official power bases.

In 1969, he decided to make the District his permanent home, while keeping a weekend retreat outside Rochester, and he joined the international law firm of Coudert Brothers. Once again he involved himself in civic activities, as Chairman of the National Urban Coalition, president of the Federal City Council and chairman of the National Council of the Foreign Policy Association, to list a few. He presently sits on the board of 12 corporations, among them The Washington Star, and is a trustee of Hamilton, Cornell and Johns Hopkins universities. His honorary doctorates and degrees total 28. He recently chaired a Presidential Commission on World Hunger, and last week released a preliminary report stating that the United States must more than triple its aid to the developing nations to effectively combat hunger.

Through his City Club connections, Linowitz became involved in television and radio. He first went on the air as moderator of a radio show called "Court of Opinion," and in 1951 when TV came to Rochester, he became a Saturday-night regular interviewing a variety of national politicians over a period of seven years.

"We didn't even own a TV set when Sol started," remembers Toni. "We would watch at our neighbors. One night when he came home after a particularly good show, our daughter June rushed up to him and gushed, 'Daddy, you were just wonderful, except for two things, the way you looked and the way you talked.' The poor man, he was crushed!"

June Linowitz recalls her father as a great playmate and friend. "He always made a great effort to be close to each of us, to really sit down and talk. He taught us not to judge anyone until we figured out how they felt about things. My parents really wanted us to be happy as individuals, they are wonderful role models, they're so supportive of each other."

She insists that as children the girls were totally unaware of their wealth. "Our allowances never went up, and no one ever talked about money around the house. I read about it one day in the New York Times."

In 1966, Bobby Kennedy tried to convince Linowitz to run against Nelson Rockefeller for governor of New York. The polls showed Linowitz ahead, yet he declined to make the race.

"The job just didn't have any appeal for me," he recalls. "I made an analysis of the six most important issues, and didn't feel they would use my talents, commitments or interest. If George Wallace had been running instead of Rocky, I would have done it. Then there becomes a sense of mission. Besides, asking people to vote for me seemed foreign. I wasn't searching for a job."

Toni Linowitz encouraged her husband to run, and believes his sensitivity was the stumbling block. "He didn't think he could take the nastiness of a campaign. He's very aware and personally woundable."

In 1977, Jimmy Carter asked Linowitz to become co-negotiator of the long-stalled Panama Canal talks along with veteran diplomat Ellsworth Bunker. The treaty negotiations had been going on for 15 years. The assignment again was part-time, and to last six months.

"The President has the greatest respect for Sol Linowitz' judgment," says Carter press aide Jody Powell. "He looks to Sol and depends on him for advice and counsel. He has immediate access to the President and can convey his ideas directly to him, which is important in his new job. It's important that both Sadat and Begin know they are dealing with someone who has the President's confidence as well as a close personal relationship."

The canal treaty was one of the most painful periods of Linowitz's life, though he is enormously proud of the results.

"The passions and emotions aroused turned out to be worse than anticipated, because they were so clouded with charges," he declares, his face wincing. He rocks methodically in his rocking chair in a corner of his memento-filled office, his eyes filled with sadness.

He quotes in Latin from Virgil's "Aeneid": " 'One day it will please us to remember even this.' It's a comforting philosophy that helped me through those days." He continues silently rocking, hands folded almost in prayer.

Both praise and criticism have been heaped on Linowitz over his role as treaty negotiator. Sen. Helms and Rep. Bob Bauman of Maryland both accused him of a conflict of interest over board membership on the Marine Midland Bank, part of a consortium of banks that had made loans to Panama.

"He would never have resigned from that board if I hadn't raised cane on the Senate floor," says Helms, who goes on to state that the Canal treaties were a tragic mistake, "a beginning shot in our retreat from reality."

Bauman is even more outspoken, labeling Linowitz "either an incompetent negotiator or a baldfaced liar. He totally misrepresented the cost to the taxpayers and turned over the canal to a Marxist dictator. He might as well have been representing the other side. I wouldn't trust him to handle any negotiations for us anywhere."

An admirer is Panama's special canal treaty negotiator, Ambassador Lopez-Guevarra, who calls Linowitz a dynamic negotiator, always on track. "I honestly believe things will move more rapidly in the Middle East with Sol there," he says. "I've seen his method of approaching and solving the issues."

Linowitz shakes his head over the controversy. "Look," he says, "I don't want unfair or irrational criticism that I cannot respond to rationally. It disquiest me and troubles my profound faith in fairness. I want to believe people do things out of good instincts, and I don't relish being emotional rather than thoughtful in my responses."

His face brightens measurably and his chair ceases to rock as he leans forward to discuss Egypt and Israel.

"I'm excited," he says. "It's an awesome, challenging responsibility."

Mr. HELMS. Mr. President, every Senator has on his desk a table which summarizes the various and contradictory statements which Mr. Linowitz has made with regard to the conflict of interest statutes.

Mr. President, I ask unanimous consent that this table be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

DISCREPANCIES IN THE REPRESENTATIONS MADE BY SOL M. LINOWITZ WITH REGARD TO CONFLICT OF INTEREST

(I.)	(II.)	(III.)	(IV.)
Letter of Sol M. Linowitz to Roberts Owen, Esq., legal adviser, Department of State, Nov. 26, 1979.	Response of legal adviser's office to Sol M. Linowitz, Nov. 27, 1979	Letter of Sol M. Linowitz to Chairman Church, Nov. 30, 1979	Testimony of Sol M. Linowitz before the Foreign Relations Committee, Dec. 6, 1979.
(1) During the period of my status as a Special Government Employee, I will not appear personally before the Department of State on behalf of any client, nor will I participate as such Special Government Employee in any particular matter in which our firm is, or may be involved during such period (section 205).	In light of these disclosures, the various undertakings you have made, your status as a Special Government Employee, and the specific responsibilities you will have in connection with the negotiations, I hereby confirm that the proposed course of conduct described in your letter is, in my view, consistent with the Department of State's regulations concerning Special Government Employees as well as the applicable conflict of interest laws.	(1) During the period of my status as a Special Government Employee, with respect to any particular matter within the area of my official responsibility, I will not appear personally before any department or agency of the Federal Government on behalf of any client with regard to any such matter. and I will not discuss any such matter with any member or employee of the firm.	With respect to my law firm, I specifically have agreed that at no time during my tenure as Special Government Employee, will I appear personally before the Department of State in connection with any matter whatsoever, nor will I participate in any matter in which our firm may be involved during that period.
(2) Similarly, during the period of my status as a Special Government Employee. our firm will not represent any person in any particular matters in which I participate personally and substantially or which is under my official responsibility (18 U.S.C. section 207(g)). As a matter of policy, our firm will refrain from advising or representing any client in the forthcoming negotiations that I will be conducting or any laws or regulations resulting therefrom.	Testimony of Sol M. Linowitz before the Foreign Relations Committee, Dec. 6, 1979. All of the appropriate arrangements have been duly examined and fully approved by four sets of Government attorneys: the Legal Adviser for the State Department: the Counsel to the President: the Government Ethics Office; and the Department of Justice.		Second, during the period of my status as Special Government Employee. our firm will not represent any person or any company in any matter in which I either participate personally or for which I have official responsibility. As a matter of policy our firm will refrain from advising or representing any client with respect to the substance of any issue which may be involved in the negotiations.
(3) I will not share in the fees, if any, received by our firm for representation of clients before the Department of State in any particular matter which is pending in the Department during the period of my status as a Special Government Employee (section 203(c)).		(3) I will not share in the fees, if any, received by our firm for representation of clients with respect to any particular matter within the area of my official responsibility pending before any department or agency of the Federal Government during the period of my status as a Special Government Employee.	Moreover, I will not share in the fees, if any, which may be obtained by my firm from representation of clients before the Department of State in any particular matter which has to do with anything I am involved in.

Mr. WALLOP. Will the Senator yield for a question?

Mr. HELMS. I am happy to yield.

Mr. WALLOP. Mr. President, I heard it stated that every Senator had on his desk a copy of that table. I do not think they have been passed out. It would be of interest if it would be passed out.

Mr. HELMS. Mr. President, I will make a copy available to the Senator at this moment. I assumed they had, in fact, been passed out.

Mr. WALLOP. I thank the Senator.

Mr. HELMS. Mr. President, I am grateful to my friend from New York (Mr. JAVITS) for his comments in which he alluded to the various statements by Mr. Linowitz to the State Department's Legal Adviser and the committee. Senator JAVITS gave his own view of it and there are many points in which I find myself in agreement with what Senator JAVITS has said.

There is no question about Mr. Linowitz being a strong-minded man. Certainly, there is no question about his being a high-income lawyer. And I am glad for him. That is fine. The committee received financial information about Mr. Linowitz. But that is not the point.

I agree with Senator JAVITS that we need to get the most competent people in Government who may be available. And I agree with the Senator that it is often difficult to persuade the most competent to accept positions of responsibility in Government.

But that does not answer the question about the law. It does not answer the question about conflicts of interest which may go beyond the law.

And I say, with all respect to my friend from New York, who has accurately described himself as a lawyer of competence, that it is absolutely essential that we consider these things.

I do not enjoy the experience of coming here on this floor and questioning a nominee, who is very popular in this town and who is very influential in this town. But the fact remains that some questions of propriety go beyond the law.

Mr. President, I will say very candidly Mr. Linowitz has sought to conform himself to the conflict-of-interest statutes. Pursuant to law, he has sought rulings from the requisite officials in the Federal Government confirming that his proposed course of action was consistent with State Department regulations concerning special Government employees and with U.S. law.

Now it must be pointed out that the conflict-of-interest laws require that any Government employee, including a special Government employee, undertake not to appear before any, and I repeat, any, department or agency of the Federal Government. In his letter to the legal adviser of the State Department, Mr. Linowitz unaccountably misread the law, and confined his undertaking only to the Department of State. These excerpts appear in column I.

Incredibly, the State Department Legal Adviser gave his approval to this undertaking. It was not only sloppy work by Mr. Linowitz—and I characterize it as such advisedly—it was sloppy work by the Legal Adviser's office. I notice that the Legal Adviser's office was in such a hurry to give its rubberstamp approval that the letter of approval went out the very next day. Perhaps if more time had been spent upon research and study of the letter, the discrepancy would have been caught.

Nor is it just a minor discrepancy. A large law firm such as Coudert Brothers will have many clients, and it is to be expected that many of them will have claims or matters involving the U.S. Government. It would be ideal to have a man who is currently a U.S. Ambassador represent such claims, even if it is with an agency other than the Department of State. The fact that his letter was restricted to representation before the Department of State, and the subsequent approval by the Legal Adviser, appears to give legal sanction to something which is patently illegal. Of course, it does not make such a course of conduct legal; but it suggests that Mr. Linowitz was unaware of the problem.

It is even more incredible that the deficient undertaking was also approved by the Counsel to the President; the Government Ethics Office; and the Department of Justice, according to Mr. Linowitz' testimony before the committee on December 6. It does not speak well of the quality of the legal work in the executive branch. These statements are summarized in column II.

When the discrepancies were brought to his attention, Mr. Linowitz wrote to the Chairman of the Foreign Relations Committee and amended paragraphs (1) and (3) of his undertakings to conform with the law requiring compliance before all departments and not just the State Department. This appears in column III.

But Mr. Linowitz evidently did not realize that his amendment to paragraph (3) in his letter of November 30 contradicted paragraph (2) of his letter of November 26. By changing "State Department" to "any department," he made it conform superficially with section 205; but he apparently did not realize that section 207(g) forbids partners of special Government employees from representing clients with respect to any particular matter within the area of his official responsibility pending before any department of the Federal Government. Indeed, there is a partial contradiction in the November 26 letter between the two paragraphs, but the amendment of November 30 brings the inherent contradiction out fully.

How could Mr. Linowitz contemplate that his partners would receive fees for actions patently illegal? Either he had not thought the matter through, or his partners had not considered the full implications of the matter.

The lack of understanding is revealed completely in column IV. For on December 6, nearly a week after his letter of November 30, Mr. Linowitz testified before the committee and went back to the original, illegal, reformulation of his considered obligations. "Any department" went back to "State Department," and he was still promising not to receive any fees from the possibly illegal actions of his partners.

Mr. President, this absurd demonstration of incompetence ought to be very embarrassing not only to the President, but to Mr. Linowitz. Presumably the reason why Mr. Linowitz was chosen for this job, over many other candidates who would not have presented the ethical problems we are grappling with, is because he is a particularly skilled negotiator and lawyer. But here we have a documented record of triple incompetence over a very significant matter. We must remember that the issue surrounding Mr. Linowitz' nomination is primarily an ethical one, namely, whether it is appropriate for a man to hold the rank of Ambassador while he is engaged in private affairs. If it were at all possible to bring off such an extraordinary and unprecedented arrangement, it would require an exceptional sensitivity on the part of Mr. Linowitz to the delicate balance of public and private interests that he would have to maintain.

Mr. Linowitz has failed that test. I do not maintain that Mr. Linowitz framed his undertakings in the manner he chose because of any intent on his part to participate in criminal actions. That supposition is not even worthy of examination. But his failure to clarify in his own mind, and on the public record, just exactly what his obligation should be, disqualifies him, in the mind of the Senator from North Carolina, from the special privileges and honors of the high office of Ambassador.

Mr. President, I note that the committee report unaccountably omitted to reprint Mr. Linowitz' letter of November 26 to the Legal Adviser and the Legal Adviser's reply.

Mr. President, I ask unanimous consent that the text of those two letters, as well as the letter to the chairman of November 30, be printed in their entirety in the Record at this point.

There being no objection, the letters were ordered to be printed in the Record, as follows:

Coudert Brothers,
Attorneys and Counsellors at Law,
Washington, D.C., November 26, 1979.
Roberts Owen, Esq.,
Legal Adviser, Department of State,
Washington, D.C.

Dear Mr. Owen: I am setting forth in this letter the various activities of our firm that should be disclosed before I undertake the position as the Personal Representative of the President with the Rank of Ambassador to Autonomy Negotiations on West Bank and Gaza.

The general practice of our firm includes a number of matters for domestic and foreign clients relating to international trade, international investment transactions and matters under the U.S. tax, securities, antitrust and other laws. In the course of this work, we have from time to time appeared before various governmental departments as well as regulatory agencies. I am directly involved in advice and counsel to Xerox, Pan Am and The Allen Group.

We are a firm which has offices in New York, Washington, San Francisco, Paris, London, Brussels, Hong Kong, Singapore and Rio de Janeiro. In Tokyo, we have two lawyers working with a Japanese law firm, and in Bahrain, we have a partner and an associate affiliated with a Bahranian law office. We are also planning to join with a lawyer admitted to practice in Riyadh.

In the past, our firm has represented some Israeli clients as well as clients from Arab countries. We would expect to continue to represent such clients in the future. However, we have not represented and do not represent any client with respect to any of the matters and issues I understand will be involved in the forthcoming negotiations, nor, to the best of our knowledge, do any of our clients have a financial interest in any particular matter involved in the forthcoming negotiations for which I will be responsible.

I understand that as the United States representative in the negotiations, I will have the status of a Special Government Employee under the Conflict of Interest Laws, and that I will not be required to perform services in that capacity for more than 130 days in a consecutive period of 365 days. I further assume that our office arrangements and continued representation as described above would not create a Conflict of Interest under those Laws. However, to insure that there is no possible question under the Conflict of Interest Laws (particularly with respect to Sections 203 (a) and (c), 205 and 207 (g) and 208 of Title 18 of the United States Code) including the 1978 Ethics in Government Act, the following restrictions will apply to me and our firm with respect to my work as a Special Government Employee:

(1) During the period of my status as a Special Government Employee, I will not appear personally before the Department of State on behalf of any client, nor will I participate as such Special Government Employee in any particular matter in which our firm is, or may be involved during such period (Section 205).

(2) Similarly, during the period of my status as a Special Government Employee, our firm will not represent any person in any particular matters in which I participate personally and substantially or which is under my official responsibility (18 U.S.C. Section 207 (g)). As a matter of policy, our firm will refrain from advising or representing any client with respect to the substance of any issue involved in the forthcoming negotiations that I will be conducting or any laws or regulations resulting therefrom.

(3) I will not share in the fees, if any, received by our firm for representation of clients before the Department of State in any particular matter which is pending in the Department during the period of my status as a Special Government Employee (Section 203(c)).

(4) At the termination of my status as a Special Government Employee, Iwill be governed by Section 207 to the extent it is applicable.

With respect to personal assets and financial interests owned by my wife and myself, and my outside affiliations, I am forwarding a completed Form 278A, which includes a list of my outside affiliations, for your review. To avoid any possible conflict of interest, I am placing all of my equity securities in a specially restricted blind trust pursuant to Section 202 (f) (4) (B) of The Ethics in Government Act. Moreover, it is my belief that no potential conflicts of interest exist as a result of my financial interests or outside affiliations and my position as Personal Representative of the President with the Rank of Ambassador to Autonomy Negotiations on West Bank and Gaza. In the unlikely event any particular matter arises in the course of the negotiations regarding West Bank and Gaza Autonomy which might be of interest to the corporations which I serve as a director or in which I own securities; I would recuse myself from participation in such issues in both my official and private capacities.

I would appreciate it if you would confirm to me that the assumptions made above are correct and that the proposed course of conduct described above is consistent with the applicable Conflict of Interest Laws and is otherwise satisfactory.

I am also sending a copy of this letter along to Lloyd Cutler, Counsel to the President.

Sincerely yours,

Sol M. Linowitz.

DEPARTMENT OF STATE,
Washington, D.C., November 27, 1979.
Hon. SOL M. LINOWITZ,
Coudert Brothers,
One Farragut Square South,
Washington, D.C.

DEAR MR. AMBASSADOR: Please accept my congratulations on your nomination as the Personal Representative of the President with the rank of Ambassador for the West Bank and Gaza Autonomy Negotiations.

In your letter of November 26 to Roberts B. Owen, the Legal Adviser of the Department of State, you made various disclosures concerning the nature and practice of your law firm, and you set forth certain restrictions which you and the firm will apply during the period of your service as a Special Government Employee (not to exceed 130 days in a consecutive period of 365 days).

In light of these disclosures, the various undertakings you have made, your status as a Special Government Employee, and the specific responsibilities you will have in connection with the negotiations, I hereby confirm that the proposed course of conduct described in your letter is, in my view, consistent with the Department of State's regulations concerning Special Government Employees as well as the applicable conflict of interest laws.

Sincerely,

JAMES R. ATWOOD, *Acting.*

COUDERT BROTHERS,
ATTORNEYS AND COUNSELLORS AT LAW,
Washington, D.C., November 30, 1979.
Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR SENATOR CHURCH: After discussions with the Committee, I wish to clarify and broaden the first and third recusal paragraphs of my letter to the Legal Adviser of the Department of State dated November 26, 1979, regarding my continued membership in my law firm during my service as Personal Representative of the President to the Autonomy Negotiations on the West Bank and Gaza, as follows:

(1) During the period of my status as a Special Government Employee, with respect to any particular matter with the area of my official responsibility, I will not appear personally before any department or agency of the Federal Government on behalf of any client regarding any such matter. I will not take part in advising any client with regard to any such matter, and I will not discuss any such matter with any member or employee of the firm.

(3) I will not share in the fees, if any, received by our firm for representation of clients with respect to any particular matter within the area of my official responsibility pending before any department or agency of the Federal Government during the period of my status as a Special Government Employee.

Sincerely yours,

SOL M. LINOWITZ.

Mr. HELMS. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, I yield myself this time in order to deal with a legal point raised by my colleague from North Carolina.

It will be noted that in his minority views, my colleague (Mr. HELMS) on page 38 refers to the letter which I read into the RECORD, which is the letter of November 30 and which says that during Linowitz' status as a special Government employee, he will not appear with respect to any particular matter "within the area of my official responsibility before any department or agency on behalf of any client," et cetera, and that he will not take the part of advising any client.

The point made in this last matter relates to the fact that a partner of Linowitz might appear; but that, too, under section 207(g) of title 18 is a criminal act, before any department or agency of the Federal Government, in which such officer or employee, to wit, Linowitz, in a matter in which such officer or employee including Linowitz "participates or has participated personally and substantially."

My colleague then points out that when he agrees not to share in fees from any such appearance, he is simply saying that he will not accept fees for anything already illegal. The difficulty is that the relationship of the appearance by a partner or an employee of Linowitz relates to a particular matter which is something that he was personally engaged in dealing with. The lanuguage of the law is "personally and substantially" participated in; whereas, Linowitz' assurances relate to any matter, as stated in his representation, "within the area of my official responsibility."

That is very much broader. It could refer to any element of the negotiation respecting the West Bank and the Gaza Strip, not only one in which he participated "personally and substantially" which is the standard used in section 207(g).

I am not aware of whether Mr. Linowitz——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. I yield myself another 2 minutes.

Whether Mr. Linowitz was analyzing the law with such great detail and care as I have just done and, therefore, whether he was conscious of the fact that what he was therefore immuring himself from was broader than the specification the law required. In fact, however, it is. But what is very clear is that he was seeking to give us every reasonable assurance as to fees, as to his partners, and as to the kind of law he would practice. I think, therefore, the alleged inconsistency can be explained by his zealousness to be sure that we were clear that he would have no interest, no participation or financial interest, et cetera, and that his particular undertaking is somewhat broader than the law.

In any case, Mr. President, I conclude as I began. The fact is that we created by law this status of special Government employee precisely because we wished to attract men like Sol Linowitz into a temporary period of Government service. Now we are asked, when we find one who is willing to undertake the job, to reject him because he is simply taking the job in accordance with a law which allows him to do some things which he feels he has to do. Otherwise, he would have to reject the job entirely. I therefore feel that the Senate should confirm him.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I simply say to my friend from New York that we have to remember around here that this issue surrounding Mr. Linowitz' nomination is primarily an ethical one—namely, whether it is appropriate for a man to hold the rank of Ambassador while he is engaged in private affairs—in this instance, law practice. If it were at all possible to bring off such an extraordinary and unprecedented arrangement, it would require an exceptional sensitivity on the part of Mr. Linowitz to the delicate balance of public and private interest that he would have to maintain.

That is all I have to say. I have never intended nor implied any invidious comment about Mr. Linowitz. I am simply addressing myself to our responsibility as Senators.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from North Carolina has 51 seconds remaining.

Mr. HELMS. Mr. President, I want to yield that to the Senator from Idaho.

Mr. JAVITS. How much time do I have, Mr. President?

The PRESIDING OFFICER. The Senator from New York has 2 minutes and 40 seconds remaining.

Mr. JAVITS. I yield 2 minutes to the Senator.

Mr. HELMS. And I yield my time.

Mr. McCLURE. I thank both Senators for yielding to me. I appreciate their courtesy, though that is always the case on the floor of the U.S. Senate.

Mr. President, first, let me associate myself with the remarks of the Senator from North Carolina. I have read very carefully the minority views he has included in this report on the nomination. While there are obviously not dozens of Senators participating in this discussion today, I have literally talked to dozens who are concerned. So the concern goes far beyond the direct participation of Members on the floor. The Senator from North Carolina has performed a signal service to a number of Members of the Senate by articulating the views many hold who are not here today to express themselves.

Mr. JAVITS. Will the Senator let me use my 40 seconds, just to say that I agree? This should be debated. I am grateful to the Senator from North Carolina. He is on our minority, and he is right, if he feels that way, to bring it up; we ought to have it out.

Mr. McCLURE. I appreciate those comments.

Mr. President, there are two aspects of this problem that trouble me. First is the application of a conflict of interest law that may be so broad that it is hard to live with. But we should not make double standards and apply them separately for those we seek to favor and against those we do not seek to favor. I suspect there is some of that involved in this discussion today—perhaps on both sides of the discussion.

Second, I say that in the political context of the Middle East today, it is almost impossible—I think perhaps literally impossible—to discuss any business dealings in the Middle East that does not somehow intertwine with the political evolution of events in the Middle East. Here we have a partner in an international law firm to negotiate in the Middle East while his partners deal with people who are doing business in the very area in which he will be dealing with the very most sensitive of political negotiations. Mr. President, I think it is absolutely impossible, under those circumstances, so clearly to separate one from the other that there is no relationship or no effect of one upon the other.

That is the very heart of this matter today. It is a technical argument to say that they can be separated. Perhaps it is an overtechnical argument to say that they are precisely within the exact term of the statute. But they certainly are within the meaning of the statute.

Anyone who has looked at events in the Middle East must know that there have been, at various times, so-called Arab boycotts against businesses doing any kind of business within Israel. At the same time, those members of that international law firm will be negotiating with some of the businesses who are affected by that. I think that is inevitable. I think the very fact that the discussion on the floor of the Senate indicates that it is permissible will guarantee that this law firm will attract those clients who have that kind of problem.

Mr. President, it is not a technical argument, nor is it an overboard extension of the statute to indicate that there certainly is one man, somewhere in the United States, who can negotiate as capably who is not subject to that conflict of interest.

The PRESIDING OFFICER. The Senator's time has expired. The senior Senator from Idaho has 14 minutes remaining.

Mr. CHURCH. Mr. President, has my colleague completed his statement?

Mr. McCLURE. That is all I have, Mr. President. I thank the Senator.

Mr. MATHIAS. Mr. President, in considering the nomination of Sol M. Linowitz to be an Ambassador during the tenure of his service as personal representative of the President of the United States, the Senate has an easy job. When confirmed, Ambassador Linowitz will have a tough job.

The Senate's task is easy because Sol Linowitz is well known here. He has been before us before and has been nominated by overwhelming votes for previous appointments. More importantly, he had discharged the duties imposed by his responsibilities with distinction and success. I shall vote to confirm his nomination with confidence and with pleasure.

The task that he will assume today is one of the world's hardest. He confronts problems that are serious, complex, and deep-rooted. He will need all the experience and knowledge that he has accumulated in business and Government and all his native talent and tact to tackle the issues that threaten peace in the Middle East.

I not only urge the Senate to confirm the nomination of Sol Linowitz, but I pledge him whatever help and cooperation I can offer as he labors to unite the peoples of the Middle East and to bring a comprehensive peace to that troubled area.

Mr. THURMOND. Mr. President, I rise today in opposition to the nomination of Mr. Sol M. Linowitz as the U.S. Ambassador to the West Bank and Gaza Strip Autonomy Negotiations.

Mr. President, it is particularly disturbing to me that Mr. Linowitz comes before the Senate, seeking the rights and responsibilities of a full Ambassador, but is unwilling to accept any of the sacrifices that go with it. He intends to continue the practice of law as well as remain the director of a number of large corporations. In spite of his protestations that such activities will not present a conflict of interest, it is exceedingly difficult for me to believe that he can completely divorce his private from his public life, especially in view of the nature of his law practice and other professional activities. It is almost inconceivable that there will be no overlap as Mr. Linowitz moves back and forth from his ambassadorial associations to his legal associates. Given the extremely sensitive situation that the American Ambassador will face as those in the Middle East attempt to resolve their differences, I have serious reservations about appointing anyone who may so much as give the appearance of a conflict of interest. I am convinced there are other Americans who would be proud to serve their country in this way, and who could do so ably, with complete devotion of their time and talents.

Furthermore, we must not forget Mr. Linowitz' role as Special Ambassador in the shameful negotiations that resulted in this country not only losing its entire interest in and right to control the Panama Canal, but also paying the Panamanian Government for that "privilege." In view of his prior record, I seriously question whether Mr. Linowitz is well-suited for the delicate position of assisting in negotiating a Middle East settlement.

It is for these reasons that I must urge the Senate to vote against Mr. Linowitz' nomination.

Mr. McCLURE. That is all I have, Mr. President. I thank the Senator.

Mr. CHURCH. Mr. President, I am prepared to yield back my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is, will the Senate advise and consent to the nomination of Sol M. Linowitz to be Ambassador during the tenure of his service as Special Representative to the President of the United States? On this question, the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE) and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Pennsylvania (Mr. HEINZ) are necessarily absent.

The PRESIDING OFFICER (Mr. ZORINSKY). Has everyone in the Chamber wishing to vote cast his vote?

The result was announced—yeas 80, nays 13, as follows:

[Rollcall Vote No. 503 Ex.]

YEAS—80

Baucus
Bayh
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Glenn
Gravel
Hart
Hatfield
Hayakawa
Heflin
Huddleston
Jackson
Javits
Johnston
Kassebaum
Leahy
Levin
Long
Lugar
McGovern
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schweiker
Simpson
Stafford
Stennis
Stevenson
Stewart
Stone
Talmadge
Tower
Tsongas
Warner
Weicker
Williams
Young
Zorinsky

NAYS—13

Armstrong
Cochran
Garn
Hatch
Helms
Humphrey
Jepsen
Laxalt
McClure
Schmitt
Stevens
Thurmond
Wallop

NOT VOTING—7

Baker
Bellmon
Goldwater
Heinz
Hollings
Inouye
Kennedy

So the nomination was confirmed.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, I ask that the President be notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Without objection, the Senate will resume the consideration of legislative business.

AGRICULTURAL ADJUSTMENT ACT OF 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 479.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

Mr. ARMSTRONG. Mr. President,

reserving the right to object, may we have order in the Senate, and will the majority leader restate his unanimous-consent request, which I did not hear?

Mr. ROBERT C. BYRD. I beg the Senator's pardon?

The PRESIDING OFFICER. The Senator from Colorado is seeking order in the Senate and a restatement by the majority leader of his request.

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 479, H.R. 3398, found at the top of page 18 of the General Orders Calendar, an act to amend the Food and Agriculture Act of 1977 relating to increases in the target prices for the 1979 crop of wheat, corn, and other commodities under certain circumstances, and for other purposes.

The PRESIDING OFFICER. The bill will be stated by title.

The second assistant legislative clerk read as follows:

A bill (H.R. 3398) to amend the Food and Agriculture Act of 1977 relating to increases in the target prices for the 1979 crop of wheat, corn, and other commodities under certain circumstances, and for other purposes,

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture, Nutrition, and Forestry with an amendment to strike all after the enacting clause and insert the following:

TARGET PRICES FOR THE 1980 AND 1981 CROPS OF CORN AND WHEAT

SECTION 1. Section 105A(b)(1) of the Agricultural Act of 1949 is amended by—

(1) in the third sentence of subparagraph (B), striking out "through 1981 crops" and inserting in lieu thereof "crop"; and

(2) adding at the end of subparagraph (B) two new sentences as follows: "The established price for corn shall be $2.35 per bushel in the case of the 1980 crop. For the 1981 crop, the established price shall be not less than the established price for the 1980 crop, adjusted to reflect any change in the cost of producing corn as determined by the Secretary on the basis of such information as the Secretary finds necessary and appropriate for the purpose of making such adjustment.".

SEC. 2. Section 107A(b)(1) of the Agricultural Act of 1949 is amended by striking out the fourth sentence of subparagraph (B) and inserting in lieu thereof two new sentences as follows: "The established price for wheat shall be $3.63 per bushel in the case of the 1980 crop. For the 1981 crop, the established price shall be not less than the established price for the 1980 crop, adjusted to reflect any change in the cost of producing wheat as determined by the Secretary on the basis of such information as the Secretary finds necessary and appropriate for the purpose of making such adjustment.".

EXTENSION OF DISASTER PAYMENT PROGRAMS

SEC. 3. (a) Section 101(h)(4) of the Agricultural Act of 1949 is amended by—

(1) in subparagraph (B), striking out "1978 and 1979 crops of rice" and inserting in lieu thereof "1978, 1979, and 1980 crops of rice"; and

(2) in subparagraph (C), striking out "1978 and 1979 crops of rice" and inserting in lieu thereof "1978, 1979, and 1980 crops of rice".

(b) Section 103(f)(5) of the Agricultural Act of 1949 is amended by—

(1) in subparagraph (A), striking out "1978 and 1979 crops of upland cotton" and inserting in lieu thereof "1978, 1979, and 1980 crops of upland cotton"; and

(2) in subparagraph (B), striking out "1978 and 1979 crops of upland cotton" and inserting in lieu thereof "1978, 1979, and 1980 crops of upland cotton".

(c) Section 105A(b)(2) of the Agricultural Act of 1949 is amended by—

(1) in subparagraph (A), striking out "1978 and 1979 crops of feed grains" and inserting in lieu thereof "1978, 1979, and 1980 crops of feed grains"; and

(2) in subparagraph (B), striking out "1978 and 1979 crops of feed grains" and inserting in lieu thereof "1978, 1979, and 1980 crops of feed grains".

(d) Section 107A(b)(2) of the Agricultural Act of 1949 is amended by—

(1) in subparagraph (A), striking out "1978 and 1979 crops of wheat" and inserting in lieu thereof "1978, 1979, and 1980 crops of wheat"; and

(2) in subparagraph (B), striking out "1978 and 1979 crops of wheat" and inserting in lieu thereof "1978, 1979, and 1980 crops of wheat".

NORMAL CROP ACREAGE

SEC. 4. Effective for the 1980 and 1981 crops, section 1001 of the Food and Agriculture Act of 1977 is amended to read as follows:

"NORMALLY PLANTED ACREAGE AND TARGET PRICES

"SEC. 1001. (a) Notwithstanding any other provision of law, effective for one or more of the 1980 and 1981 crops of wheat, feed grains, upland cotton, and rice, the Secretary of Agriculture may require, as a condition of eligibility for loans, purchases, and payments under the Agricultural Act of 1949, that producers not exceed the acreage on the farm normally planted to crops designated by the Secretary, adjusted as deemed necessary by the Secretary to be fair and equitable among producers. The acreage for any farm normally planted to crops designated by the Secretary shall be reduced by any set-aside or diverted acreage.

"(b) Notwithstanding any other provision of law—

"(1) Whenever the Secretary, for one or more of the 1980 and 1981 crops of wheat, feed grains, upland cotton, and rice, requires that producers not exceed the acreage on the farm normally planted to crops designated by the Secretary in accordance with subsection (a) of this section, the Secretary may increase the established price for any such commodity by the amount the Secretary determines appropriate to compensate producers for participation in the program for the commodity and any required set-aside with respect to such commodity.

"(2) In determining the amount of any increase in the established price for any commodity under this subsection, the Secretary shall take into account changes in the cost of production resulting from participation in the program for the commodity involved and any required set-aside with respect to such commodity.

"(3) If the established price is increased for any commodity under this subsection, the Secretary may increase the established price for any other commodity in such amount as the Secretary determines necessary for effective operation of the program.

"(4) The Secretary shall adjust any increase in the established price under this subsection to reflect, in whole or in part, any land diversion payments for the commodity for which an increase is determined.".

The PRESIDING OFFICER. On this bill there is a 30-minute time limit, equally controlled by the Senator from South Dakota and the Senator from North Carolina.

Mr. NUNN. Mr. President, will the Senator from South Dakota yield 1 minute, without the time being charged against his time?

Mr. McGOVERN. I yield.

UNANIMOUS-CONSENT REQUEST—S. 523, H.R. 5816

Mr. NUNN. Mr. President, if I may have the attention of the majority leader, there are two bills which have come from the Armed Services Committee—S. 523, which is a doctor's pay bill, which many people in the Department of Defense feel is vital to be passed this year, and H.R. 5816, the extension of the existing personnel ceilings, which is also in the nature of emergency legislation.

The Senator from Colorado has a proposed amendment to one of those bills. I do not know of any objection on either side of the aisle to the bills themselves. There may be some.

I wonder if there is a possibility that we can get a unanimous-consent agreement on either or both of those bills to be debated at a time certain before we adjourn or recess today. I believe the Senators who are concerned with this are in the Chamber.

Mr. WARNER. Mr. President, will the Senator yield me 10 seconds?

Mr. HELMS. I yield.

Mr. WARNER. Mr. President, I join Senator NUNN in requesting the Senate to permit action on these two matters. The doctors' bill, in particular, is absolutely critical to the ongoing health needs of the Armed Forces of the United States.

I urge my colleagues to let this matter come before the Senate as expeditiously as possible, in the hope that it can be reported favorably today.

Mr. THURMOND. Mr. President, will the Senator yield me 1 minute?

Mr. McGOVERN. I yield.

Mr. THURMOND. Mr. President, I join the able and distinguished Senator from Virginia in making the same request.

The question of medical service in the armed services today is very critical. I introduced a bill on this subject; the House has passed a bill; the Senate Armed Services Committee has reached a compromise bill. We certainly hope this bill will come out, so that attention can be given to it today, before we adjourn. Otherwise, we will have a very acute situation in the armed services with regard to doctors and other medical personnel.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ROBERT C. BYRD. Mr. President, if the distinguished Senator will yield, it seems to me that Senator NUNN asked the question a while ago and it was never answered. Was the question being asked of me?

Mr. NUNN. I believe the Senator from Colorado is in the Chamber. He has an amendment to both of these bills. I wish very much to be able to enter into a unanimous-consent request. I think we could handle both bills, as far as I am concerned, in about an hour or an hour and a half total, but that may be different from the standpoint of the Senator from Colorado.

If we could get some idea about time, I suppose we could tell whether we were going to be able to complete this matter before we adjourn.

I do pose the question to my colleague from Colorado as to how much time he needs on his amendment and which bill he is going to try to amend.

Mr. ARMSTRONG. Mr. President, I am very pleased to enter into a time agreement on the amendment on the pay cap to be added to either bill.

My concerns really are three.

I am certainly willing to work with the Senator from Georgia and the leadership to expedite the proceedings, but my concern is, first, that my colleagues and I have at least 1½ hours to present our side of the amendment.

I ask that. Initially I asked for a more lengthy time period but I think that is about the minimum that I can accommodate in view of the number of Senators who have approached me with a request to speak.

I have two other concerns that I need to express which should be accommodated within the consent agreement.

Second, I am concerned that during the last several days we have increasingly resorted to second-degree amendments which have had the effect of precluding an up-or-down vote on the issues which were being presented. So I hope that the unanimous-consent agreement will follow the format of several amendments offered during the debate on the windfall profit tax issue, that is, simply the understanding that that amendment would not be subject to amendment in the second degree.

With those reservations it is my plan, if both bills are to come to the floor, to offer the amendment on behalf of Senator MATSUNAGA, myself, and other colleagues, on H.R. 5168. However, I am flexible. I can offer it on either one and would defer to whatever is the best order of the Senate.

Mr. WARNER. Mr. President, will the Senator from Colorado yield just for a moment?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that this colloquy not come out of the time on the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. I yield.

Mr. WARNER. Mr. President, will the Senator agree to put his proposed amendment on the bill other than the doctors bill so that the doctors bill at this point could be split off and could be voted on now?

Mr. ARMSTRONG. Let me say to my friend from Virginia I am most willing to do that provided that the effect of my reaching such agreement is not to permit one bill to be called up and not the other. In other words, I do not want to be in a position of foregoing my right to offer the amendment on one of the other of the bills and then discover that whichever one I did not choose is the bill that would be called up.

If the procedure suggested is that both bills will be called up I will be very happy to put it on H.R. 5168 rather than the doctor bill. If there is some thought that only one of the bills may be called up, it is my plan to offer it to whichever bill came up.

Mr. ROBERT C. BYRD. Mr. President, I am glad to have a better understanding of this matter.

I ask for the regular order at this point so we can proceed with the bill that is before the Senate. I hope that some understanding can be reached with respect to the bills.

The PRESIDING OFFICER. Regular order has been called for.

AGRICULTURAL ADJUSTMENT ACT OF 1979

The Senate continued with consideration of the bill.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the amendment of the Committee on Agriculture, Nutrition, and Forestry to H.R. 3398 be agreed to and the bill as amended be considered as the original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, H.R. 3398, as amended by the Committee on Agriculture, Nutrition, and Forestry, makes changes in the commodity programs for wheat, feed grains, upland cotton, and rice. H.R. 3398, as amended, adjusts target prices for the 1980 and 1981 crops of wheat and feed grains and, effective for one or more of the 1980 and 1981 crops of wheat, feed grains, upland cotton, and rice, authorizes the Secretary of Agriculture to require producers to maintain their normal crop acreage as a condition of eligibility for price support loans and payments.

The target prices for the 1980 crops of wheat and corn would be $3.63 and $2.35 per bushel, respectively. The target prices for grain shorghum and barley would be $2.50 and $2.55 per bushel, respectively. For the 1981 crops of wheat and feed grains, the target prices would not be less than the 1980 target prices, adjusted to reflect changes in the costs of producing the respective commodities.

Whenever, the Secretary requires compliance with the normal crop acreage, he would be authorized to increase the target price for any of the specified commodities above what it would otherwise be by the amount the Secretary determines appropriate to compensate producers for participating in the program for the commodity and complying with any required setaside.

H.R. 3398, as amended, also extends the disaster payment programs to the 1980 crops of wheat, feed grains, upland cotton, and rice.

TARGET PRICE INCREASES

Agriculture is the backbone of the Nation's economy. Yet, because agricultural production is a biological process subject to significant variations due to weather, disease, and pests, farmers have limited control over the supply. In addition, farmers have no control over the demand for their products—farmers are "price takers," not "price makers." Farmers have no assurance that the prices they receive for their products will cover their costs of production.

Today, farmers are seeing their production costs escalate sharply, while the prices they receive remain static or, in some areas, are falling. This situation not only endangers farmers; it imperils long-term food supplies because farmers will not produce crops at current levels in the future if they become unable to meet their production costs.

Adequate food supplies are critical to consumers and the economic well-being of the Nation. Demand for food is relatively fixed, and even a relatively small decrease in food supplies can result in a sharp increase in food prices.

Since agricultural production and prices are subject to factors that farmers cannot control and a stable agricultural economy is fundamental to the economic and social fabric of the Nation, Congress has established a food and agriculture policy to reduce the risk both to farmers and the economy.

Target prices provide basic income protection for farmers during periods of slack demand or high production. Target prices are a safety net to prevent economic disaster to farmers when market prices are low. Target prices are intended to cover most costs of production, but not guarantee profits.

It is clear that programs that protect farmers through price support and income stabilization are in the public interest. These programs assure our Nation of a constant food supply at reasonable prices.

Under the present economic situation and outlook, however, it appears that the 1980 and 1981 commodity programs will not be adequate to meet the needs of the farm economy. H.R. 3398, as amended, makes the changes in law that are needed to make the programs effective.

The Food and Agriculture Act of 1977 established the target price of wheat at $3 per bushel and corn at $2.10 per bushel. Target prices for grain sorghum and, if designated by the Secretary, oats and barley are established by the Secretary at a rate fair and reasonable in relation to the target price for corn. These target prices are adjusted from year to year according to a cost of production formula that is specified in the 1977 act. On this basis, 1980 target prices would be approximately $3.06 per bushel for wheat and $2.08 per bushel for corn.

These levels will not be adequate to cover most producers' costs unless yields in 1980 are at or above 1979 yields. While no one knows what yields will be in 1980, Department of Agriculture officials have testified that in all probability 1980 yields will be below the exceptionally high levels of 1979.

The double digit inflation that continues to plague the U.S. economy has hit farmers especially hard. A major source of inflation is the sharply increasing cost of energy. The agricultural sector is a large user of energy and energy derived products, and farm fuel prices have increased dramatically in the last year.

Farmers' costs of production are now increasing at about 11 to 12 percent a year. Current interest rates and a continuing rise in fuel costs may increase this rate of inflation next year.

The present cost of production adjustment formula, which uses a 2-year moving average, cannot pick up sharp short-term increases in the cost of production soon enough to provide economic stability that is needed by farmers.

Department of Agriculture officials recently predicted that farmers may see their overall net income in 1980 decrease by as much as 20 percent from this year's income, from $32 billion to $25.6 billion. In real terms, this will be the lowest farm income since the Great Depression. Much of this reduction in income is expected to result from escalating production costs.

Because wheat and feed grain production costs have risen rapidly this year and will rise again in 1980, the need for an adjustment in the target prices is beyond question. Also, the need for a similar adjustment in target prices for the 1981 crops of wheat and feed grains is persuasive and consistent with the economic principles established in the Food and Agriculture Act of 1977.

The administration has recognized that it would be appropriate to adjust target prices and has proposed that the 1980 and 1981 wheat and feed grain target prices be adjusted to reflect increased costs of production.

While the arguments for increased target prices are convincing, care must be taken to assure that such increases will not induce greater production of agricultural commodities than is otherwise necessary. To prevent environmentally fragile farmland from being endangered, the committee included a provision in H.R. 3398 to authorize the Secretary of Agriculture—for one or more of the 1980 and 1981 crops or wheat, feed grains, upland cotton, and rice—to require as a condition of eligibility for price support loans and payments that producers not exceed the acreage on the farm normally planted to crops designated by the Secretary.

Department of Agriculture officials have testified that the Secretary would require compliance with the normal crop acreage if given the authority. This would help protect those soils that are subject to severe wind and water erosion and assure that farmers not implement ill-advised short-term management decisions because of increased target prices for wheat and feed grains.

EXTENSION OF DISASTER PAYMENT PROGRAMS

Farming, at best, is an exceptionally high risk undertaking. Beyond the perils of economic uncertainties due to fluctuating prices, a farmer faces many uncontrollable and unpredictable natural hazards that can prevent him from planting or harvesting his crops. Historically, one out of every 12 acres planted is not harvested because of adverse weather or other natural disasters.

The farmer has a major investment in his crops. The amount of machinery, fuel, fertilizer, seed, insecticides, and other necessities of modern commercial agriculture is staggering, and their costs have risen dramatically in the last several years.

In most cases, the farmer borrows money not only to buy land and equipment, but also to plant the crops. A farmer's expenses and debts continue regardless of natural disasters. A loss of production due to a natural disaster can leave the farmer unable to repay his loan. Not only does this affect the current year, it can also leave him with no credit to finance next year's crop.

The loss of a single crop due to disaster can drive a person out of farming, with young farmers being the most vulnerable. When crops are lost in consecutive years—a not uncommon occurrence—financial distress among farmers tends to be widespread. Two types of Federal programs—an insurance program and the disaster payment programs—offer thousands of the Nation's farmers some protection against loss of income when their crops are damaged or destroyed by natural causes.

The Federal crop insurance program, begun in 1938, gives farmers the opportunity to mitigate the risks they face from weather, insects, and disease by spreading the loss among many persons exposed to these risks and over many areas and growing seasons. It enables famers to substitute payment of a small, but regular, annual premium for irregular and devastating financial losses due to crop failure.

This program is not universally available, however, and is limited by law as to the number of counties in which insurance can be offered and the commodities to be covered.

The disaster payment programs were first authorized in 1973 for crop years 1974 through 1977 for producers of upland cotton, wheat, and feed grains. Benefits were extended later to rice producers for the 1976 and 1977 crop years. The program was extended through the 1979 crop year for producers of these commodities by the Food and Agriculture Act of 1977.

Under the disaster payment programs for producers of wheat, feed grains, upland cotton, and rice, losses for any reason beyond the producer's control are covered if production falls below eligibility levels. Payment is based on established yields, which generally reflect land capability and cultural practices. The disaster payment programs do not completely protect farmers from risk, but they are of significant benefit.

The Senate has passed a comprehensive crop insurance bill, S. 1125, that will allow expansion of the Federal crop insurance program to all crops and all counties.

S. 1125 also extends the disaster payment programs over a 2-year transition period, during which time the expanded Federal crop insurance program will be put into place. However, Congress will not likely complete action on this legislation for several months.

Since the present disaster payment programs expire at the end of the 1979 crop year, many producers of program commodities will be without any protection against natural disasters for at least part of the 1980 crop year. It is, therefore, essential that the disaster payment programs be extended for the 1980 crop year.

SUMMARY

It is clear to me, Mr. President, that unless H.R. 3398, as amended, is enacted into law, wheat and feed grain farmers will be offered a target price program that provides little protection against economic disaster because of skyrocketing increases in the cost of production. It also is apparent to me that many producers of program commodities will not be afforded any protection against natural disasters unless H.R. 3398, as amended, is enacted into law. For these reasons I believe that enactment of H.R. 3398, as amended, is imperative for the economic well-being of our farmers and this Nation.

Mr. President, the committee overwhelmingly endorsed this legislation. I think it is a good measure, one urgently needed by our farmers.

UP AMENDMENT NO. 909

(Purpose: To require the Secretary of Agriculture—in making adjustments in the target prices for the 1981 crops of wheat and feed grains—to maintain a fair and equitable relationship between loan rates, target prices, and production costs for the respective commodities and competing crops)

Mr. McGOVERN. Mr. President, on behalf of the chairman of our committee, the distinguished Senator from Georgia, Senator Talmadge, I offer a technical and clarifying amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. McGOVERN) for himself and Mr. TALMADGE proposes an unprinted amendment numbered 909.

Mr. McGOVERN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The amendment is as follows:

On page 3, strike out lines 9 through 13 and insert in lieu thereof the following: "'adjusted to reflect such changes in the cost of producing corn as the Secretary finds necessary and appropriate for the purpose of establishing and maintaining a fair and equitable relationship between loan rates, established prices, and production costs for corn and competing commodities.'".

On page 3, strike out line 16 and insert in lieu thereof the following: "paragraph (B) and adding at the end thereof two new sen-".

On page 3, strike out lines 20 through 24 and insert in lieu thereof the following: "'lished price for the 1980 crop, adjusted to reflect such changes in the cost of producing wheat as the Secretary finds necessary and appropriate for the purpose of establishing and maintaining a fair and equitable relationship between loan rates, established prices, and production costs for wheat and competing commodities.'".

Mr. McGOVERN. Mr. President, it is a technical and clarifying amendment. It does not change in any way the intent or thrust of H.R. 3398 as reported by the Committee on Agriculture, Nutrition, and Forestry.

Mr. President, this amendment is requested by the Department of Agriculture.

H.R. 3398, as reported, increases the target prices for the 1980 crops of wheat and feed grains.

The bill requires that the target prices be adjusted by the Secretary of Agriculture for the 1981 crops of wheat and feed grains to reflect changes in the cost of producing these commodities. H.R. 3398 also requires that the 1981 target prices not be less than the 1980 target prices for wheat and feed grains.

As the language of H.R. 3398 now stands, the Department of Agriculture apparently believes it would be forced to adjust 1981 target prices for wheat and feed grains to levels that may be out of line relative to the production costs of competing commodities. If this were true, it could result in an inefficient allocation of resources in the production of food and fiber.

More resources could be devoted to the production of one commodity versus another which could not be justified on a cost of production basis. This could lead to excess production of some commodities, forcing market prices down and increasing the cost to the Federal Government of the price support programs.

This ambiguity is not intended by the Committee on Agriculture, Nutrition, and Forestry. Adoption of the pending amendment would eliminate any confusion in this regard. This technical change would not affect the requirement that the target prices for the 1981 crops of wheat and feed grains be not less than 1980 target prices. It would allow the Secretary to adjust the 1981 wheat and feed grains target prices upward to reflect such changes in the cost of production as he finds necessary and appropriate for the purpose of establishing and maintaining a fair and equitable relationship between loan rates, established prices, and production costs for the particular commodity in question and competing commodities.

I urge my colleagues to support the amendment.

Mr. President, I ask unanimous consent that there be printed in the RECORD the letter from Acting Secretary of Agriculture Jim Williams recommending the amendment.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., December 19, 1979.

Hon. HERMAN E. TALMADGE,
Chairman, Agriculture, Nutrition and Forestry Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We are pleased to hear that the Senate will soon take action to increase wheat and feedgrain target prices for the 1980 and 1981 crops and provide the other authorities that are essentially as recommended by the Administration.

We do, however, believe there is the need to clarify the language concerning 1981 target price adjustments and the use of permissive authority to increase established prices when no set-aside or diversion programs are in place. We believe the attached technical amendments would ensure that the Secretary, in establishing target prices for 1981, has the authority to fully take into account not only the costs of producing the crop of concern but also the relationship between established prices for competing commodities. The attached language would, we believe, avoid having the established price for the commodity be out of line relative to production costs with those for competing crops.

The bill would also amend Section 1001 of the Food and Agriculture Act of 1977 to authorize the Secretary of Agriculture to require as a condition of eligibility for price support loans and payments for 1980 and 1981 crops of wheat, feedgrains, upland cotton and rice, that producers not exceed the acreage on the farm normally planted to crops designated by the Secretary, whether or not a set-aside is in effect for the commodity. The Secretary would be authorized to increase target prices by an amount he determines appropriate to compensate producers for complying with the Normal Crop Acreage requirement as well as for any set-aside requirement.

The Department favors the additional authority to require producers to comply with the Normal Crop Acreage requirements as a condition of eligibility for program benefits. However, we do not visualize a situation that would justify increasing established prices to compensate producers who comply with Normal Crop Acreage restrictions when no set-aside or diversion programs are in effect.

Sincerely,

JIM WILLIAMS,
Acting Secretary.

TECHNICAL AMENDMENTS TO THE AGRICULTURAL ADJUSTMENT ACT OF 1979

1. Change the last sentence of Section 105A, subparagraph (B) to read as follows: "For the 1981 crop, the established price shall be not less than the established price for the 1980 crop adjusted to reflect such changes in the cost of producing corn as the Secretary finds necessary and appropriate for the purpose of establishing and maintaining a fair and equitable relationship between loan rates, established prices and production costs for corn and competing crops."

2. Change the next to the last sentence of Section 107A, subparagraph (b) to read as follows: "For the 1981 crop, the established price shall not be less than the established price for the 1980 crop, adjusted to reflect such changes in the cost of producing wheat as the Secretary finds necessary and appropriate for the purpose of establishing and maintaining a fair and equitable relationship between loan rates, established prices and production costs for wheat and competing crops."

Mr. McGOVERN. Mr. President, all this amendment does is to clarify the intent of the committee at one point. It has been requested by the administration. I think there is no objection to it.

I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota.

The amendment was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McGOVERN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McGOVERN. Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BOREN). The Senator from North Carolina.

FARMERS SHOULD NOT EXPECT TARGET PRICES TO BE A PANACEA FOR INFLATION

Mr. HELMS. Mr. President, by virtue of the House of Representatives approval of H.R. 3398, the Senate Agriculture Committee was obliged to take expedited action on a number of proposals to make substantial increases in target prices and loan levels for agricultural commodities.

The committee, under the leadership of its able chairman (Mr. TALMADGE), made an effort to avoid radical changes in farm legislation. The committee's actions—raising the 1980 target prices for wheat and corn to $3.63 per bushel and $2.35 per bushel, respectively; establishing minimum 1981 target prices for wheat and corn at the 1980 levels; and extending the disaster payments program for 1 year only—represented a concerted effort to report a bill that had a chance of passing the Senate and avoiding a veto from the President.

Mr. President, I am convinced that our support for a practical and reasonable increase in target prices, and our refusal to support a 2-year extension of the disaster payments program, and our opposition to tampering with the loan rates, represent a reasonable response to the valid concerns of the agricultural community. My concern is that the target price levels adopted by the committee may be unnecessarily high, and the 1-year extension of the disaster payments program is unnecessary at this time.

THE NEED FOR PREDICTABILITY IN FARM POLICY

The essential purpose of any successful farm policy has always been to try to provide a basic stability in the agricultural sector so that farmers may plan for the long run. One element of such stability is the predictability of farm legislation and the rules by which each farmer knows that he and his fellow farmers must abide.

In 1977 the Agriculture Committee and the Congress culminated a generation of debate on the correct mix of Government programs and market orientation in farm policy by passing the Food and Agriculture Act of 1977. That legislation has been significantly successful in the direction of achieving sound results.

Prices farmers receive have risen 20 to 30 percent in the face of unprecedented production—a situation thought impossible not too many years ago. Farmers have benefited tremendously from increased production because the supply thus created has also created an effective world demand. Aggressive marketing on our part has made those markets American markets, and, as a result, farmers are realizing real profits—profits that come not from Government but from the marketplace.

That seemingly correct mix of realistic loan rates and target prices, together with appropriate set-asides and farmer-held reserves, has been most effective because farmers could plan their planting and marketing strategies with the knowledge that the "rules of the game" were constant and established for the 4-year life of the 1977 act.

By undoing this delicate mix, by turning our backs on a generation of consensus that made the mix possible and effective, and by removing the predictability of the rules, we run the risk of jeopardizing the agricultural community. Rather than doing the farmer a favor with our tinkering, we promote doubt and uncertainty and thereby exacerbate the very problems farmers now face.

The problems that farmers face today have very little—if anything—to do with defects in agricultural policy and commodity legislation. Farmers are being swamped by spiraling inflation and rampant bureaucratic regulation. Substantially raising target prices, as recommended by the Senate Agriculture Committee, will not change that situation—it may only make those problems more acute for the farmer by increasing Federal expenditures and unnecessarily expanding Government involvement in agriculture. Until we get over our penchant for dumping dollars on all our problems, farmers and city folks alike will continue to face an uphill struggle against Public Enemy No. 1—inflation.

TARGET PRICE INCREASE

The components of our agricultural policy are loan levels, target prices, farmer-held reserves, and disaster protection programs. When used in a balanced and coordinated fashion, these tools have served the farmer well by providing a maximum of income stability with a minimum of Federal interference. Any proposal to change one component of our agricultural policy, however, must be considered in terms of how such a change will effect other complimentary components of our farm program.

The committee considered a number of proposals that would have increased 1981 target prices for wheat and corn as high as $4.08 and $2.64, respectively. Such extravagant increases, if approved, would have led to serious resource misallocation. Some crops would have been overproduced while others would have been underproduced. The prospect of a high "guaranteed income" would have prompted more domestic and foreign speculators to invest in farmland thereby contributing to higher land prices.

In addition, these proposed target prices could have created market prices that would have priced U.S. agricultural commodities out of world markets. At the very least, such target price increases would have resulted in Federal income transfer payments at multibillion-dollar levels.

During markup of this bill a number of us suggested that 1980 target prices for wheat and corn be kept at the 1979 levels of $3.40 and $2.20. Under current law, in the absence of set-asides, the Secretary of Agriculture would have reduced 1980 target prices to $3.07 and $2.08. Thus, our proposal would have resulted in a very reasonable 10.7-percent increase for wheat target prices and a 5.8-percent increase for corn target prices in 1980.

The committee did not see fit to accept our proposal, but at least it did see fit to reject other proposed increases that could have radically altered our farm policy, and thereby assured a veto of the entire bill. The committee also refrained from approving higher target prices for 1979. Such an increase would have amounted to an after-the-fact windfall payment for those relatively few farmers who had participated in the commodity programs. Those farmers who did not participate in the programs would have been denied the benefits of the increase in 1979 target prices and would have had a legitimate complaint that they had been abused by the Federal Government's changing of the rules in the middle of the game.

Our efforts to keep the target price level in line with what the Congress is most likely to pass and the President most likely to sign has served to assure a target price level above $3.07 and $2.08. I regard that as a signal accomplishment and applaud the committee for its exercise of restraint.

DISASTER PAYMENTS EXTENSION

I have serious reservations about adopting a 1-year extension of disaster payments, as proposed by the committee. The disaster payments program is neither a very efficient nor effective way for the Federal Government to help the farmer soften the blow of a natural disaster. It is unfair; it encourages bad management practices; it is wasteful of the taxpayer's money.

The Federal Government's current disaster payments program amounts to free crop insurance. If, as a result of natural disaster, a wheat, feed grains, upland cotton, or rice producer is prevented from planting a crop or experiences yields below a predetermined percentage of his average yield for a given crop, he may be eligible to receive an outright grant from the Federal Government.

Such a program has obvious defects. First, it is inherently unfair in that only producers of certain crops receive disaster payments. Producers of soybeans—a primary crop in many areas—tobacco, peanuts, citrus fruits, sugarcane, sugar beets, dry beans, sunflowers, and so forth may not receive disaster payments under any circumstances whatsoever. Even within the disaster payments program producers are not treated in like fashion. Wheat and feed grain producers must lose more than 40 percent of their yield before they are eligible to receive low-yield payments. Upland cotton and rice producers, on the other hand, need only lose more than 25 percent of their yield to qualify for low-yield payments.

Second, the disaster payments program discriminates against the small family farmer. USDA studies indicate that the distribution of disaster payments among all farmers is less than the projected distribution of crop insurance premium subsidy benefits. The studies show that large farmers receive proportionately more of the total disaster payments than do small farmers. Under a federally subsidized crop insurance program, the subsidy benefits would be more evenly distributed among all farmers, resulting in a more equitable program.

Perhaps the most glaring fault of the disaster payments program is that it encourages production on marginal lands that are susceptible to natural disasters. This sometimes results in undesirable conservation practices and may contribute to surplus production. During 1974–77, 31 percent of total disaster payments went to about 117,000 farmers who received payments either 3 of the 4 years of the program's existence or every year of the program's existence. These figures reveal that there are a small number of farmers who abuse the disaster payments program by planting crops on land that they must strongly suspect is subject to high yield variability. Such mismanagement has cost the American taxpayer in the neighborhood of $600 million since 1974. To put this figure in perspective, the average yearly cost of the disaster payments program is $436 million. If the taxpayer's money had not gone for this small number of payments there would have been sufficient funds to pay the costs associated with disaster payments for almost 1½ additional crop years.

Contrary to the claims of its advocates, the proposal to extend disaster payments for 2 more years is not directed toward promoting the stability and well-being of this Nation's 2.6 million farmers. Rather, it is directed toward making farming a "risk-free" endeavor for a selected few. In 1978, 25 percent of recipient farmers received 76 percent of total disaster payments. In the same year, 60 percent of recipient farmers received an average payment of $400, while about 12 percent of recipients received payments from $4,000 to over $1,000,000. It would be one thing if these payments were being made to farmers in different years. But as the junior Senator from North Carolina (Senator MORGAN) pointed out on the floor of the Senate on November 20, these disaster payments are very often made to the same few farmers year after year.

We simply cannot accept the argument that the $2.2 billion handed out in disaster payments over the last 5 years has contributed significantly to a stable and productive agricultural sector. In too many cases, that $2.2 billion has served as a windfall for a small number of producers who knew full well that they were planting in areas where they could not expect to harvest a normal crop. Such payments do not foster increased rates of agricultural productivity. They only reward poor management practices.

We cannot be proud of this disaster payments program, and I suspect that few of this Nation's 2.6 million farmers have real respect for efforts to continue this blatant misuse of the taxpayer's dollars.

The Agriculture Committee, back in 1977, held firm in its belief that the current disaster payments program should not be extended indefinitely but that it should be replaced with a more equitable and cost-effective crop insurance program. The committee took an important step toward that goal this year when it reported a comprehensive, shared-cost crop insurance bill, S. 1125, the Federal Crop Insurance Act of 1979.

Moreover, in September, the entire Senate worked its will with respect to disaster payments by passing S. 1125. This bill calls for what amounts to a 2-year extension of disaster payments while a comprehensive Federal crop insurance program is phased in and implemented. Approving S. 1125, by a 64-to-27 vote, the Senate made it abundantly clear that a continuation of disaster payments is contingent upon an expanded and updated crop insurance program. We cannot seek to circumvent the Senate's will by doing otherwise.

Finally, it is not essential that the future of the disaster payments program be determined at this time. The first disaster payments of the current fiscal year, if any, will not be paid out until the spring, at planting time. With the absence of set-asides from the Government programs for wheat and feed grains, most farmers will have little incentive not to participate in the Government program. Therefore, few planting decisions will be influenced by whether there is a disaster payments program on the books by January 1, 1980. We can afford to wait and see what the House does with its crop insurance/disaster payments proposal in February before we decide to institute an extension of disaster payments.

For the committee and the Senate to reopen this disaster payments controversy at this time is not the way for any legislative body to do business. The Senate has made clear its position on disaster payments and nothing has intervened to warrant further disruption of the legislative process.

LOAN RATE PROPOSALS

One of the bills before the committee proposed increases in the loan levels for wheat and corn. Apparently the rationale for such a proposal was a desire to increase the price level for "release and call" of the farmer held reserve program.

Perhaps the release and call levels of this program could stand to be adjusted. The Secretary of Agriculture was given discretion to do just that in the 1977 Food and Agriculture Act and in the Emergency Farm Act of 1978. This is entirely appropriate, and we hope the Secretary will evaluate this matter carefully. Such a decision would amount to the fine-tuning of a program that has been a tremendous success and has served farmers quite well during the last 2 years.

Most certainly the Congress should not attempt to legislate release and call price levels in the farmer-owned reserve by the mechanism of increasing the loan levels. It is just not the most practical way to accomplish that goal because it carries with it so many adverse effects.

The loan rate serves as the floor price for commodities in the marketplace. An increase in the loan level has the effect of increasing the floor price. This action serves as an incentive for farmers to increase production. We can be assured that farmers will respond to an increase in loan levels by increasing production. That, of course, makes it likely that farmers will produce themselves into another surplus situation of the sort they faced in 1977 and 1978. And, that means a weakening of prices overall.

Markets are now strong and prices are favorable. Now is not the proper time to be taking action that could have the effect of stimulating production and excess supplies.

An increase in loan levels could serve to jeopardize foreign markets for U.S. commodities. An increase in loan levels sends a signal to U.S. competitors that the United States is following a policy of artificially higher prices for its agricultural products. At such higher prices other countries will increase their production, thus increasing competition for available markets.

The United States can ill afford any action which could serve as a signal to other countries to increase their production. Agricultural exports rose from $9.2 billion in 1972 to $32 billion in 1979. About two-thirds of all U.S. wheat and 20 to 25 percent of all U.S. feed grains are exported.

What is more, the Agricultural Council of America, composed of the most respected and important commodity groups, recently determined that the potential exists for a doubling of U.S. agricultural exports by 1985 provided Federal Government policies are conducive to that. Such a goal will be impossible for American producers, however, if we price ourselves out of the world market by increasing loan levels.

The long-term answer to increased farm prosperity is for the Government to provide—or more appropriately, to allow—an economic environment which will foster growth in U.S. agricultural exports. Raising loan levels certainly does not provide such an environment.

I commend the committee for having the collective wisdom to reject attempts to increase loan levels, thereby strengthing its commitment to a sound and predictable agricultural policy.

Mr. President, I reserve the remainder of my time.

Mr. HELMS. Mr. President, I yield to the distinguished Senator from North Dakota.

Mr. YOUNG. Mr. President, I appreciate the Senator giving me time now as I have to catch a plane.

Mr. President, this is very important legislation. It has no effect on target prices for the 1979 crop, but it would raise target prices from a projected $3.07 for wheat for next year to $3.63 a bushel.

The target price for corn for next year would be $2.35 a bushel. A target price of $3.07 for wheat is meaningless with the high cost of production.

Under this bill, for 1981 the Secretary of Agriculture would be given discretionary authority to increase target prices above the 1980 level based on production cost increases.

A very important provision in this bill is that the disaster payment program would be extended for 1 year through crop year 1980.

The Secretary of Agriculture would be authorized to require producers to maintain their normal crop acreage in 1980 and 1981 in order to receive program benefits.

This legislation is very important and necessary. Inflation has probably hit the farm segment of our economy harder than any other. Most modern tractors now use 75 to 150 gallons of fuel a day and the cost of that is now near a dollar a gallon. Fuel prices are about double what they were 2 years ago.

This bill will go a long way toward helping farmers in this very difficult period.

I am most appreciative of the efforts of the acting chairman in charge of the bill, the Senator from South Dakota (Mr. McGOVERN) and the Senator from North Carolina (Mr. HELMS) and commend them for their help in getting this important legislation approved.

● Mr. TALMADGE. Mr. President, the farmers of this Nation provide 220 million consumers with an abundant supply of high quality food and fiber at reasonable prices. Production from our farms also substantially contributes to our balance of payments; our agricultural exports are expected to reach $38 billion this year. But because of escalating production costs, due primarily to high energy prices, there now is a need to make some adjustments in the Food and Agriculture Act of 1977 to stabilize agricultural production and farmers' incomes.

A recent Department of Agriculture estimate projects that net farm income next year could decline by as much as 20 percent—down from $32 billion to $25.6 billion. In constant dollar terms, this projection—if borne out—will put farmers' incomes back to depression levels. This is a chilling thought for American agriculture.

The bill before us today, H.R. 3398, as amended by the Committee on Agriculture, Nutrition, and Forestry, would raise the target prices for wheat and feed grains to reflect more adequately the economic realities that farmers face.

The 1980 prices would be set at $3.63 per bushel for wheat and $2.35 per bushel for corn—up from $3.40 and $2.20, respectively, for the current year. Appropriate increases in the target prices for grain sorghum and barley are also provided for in H.R. 3398, as amended. The bill, however, does not affect the loan levels.

This bill also gives the Secretary of Agriculture discretionary authority to increase 1981 targets above those established for 1980, based on cost of production increases. Additionally, the bill would extend the disaster payment provisions of the 1977 act for 1 year, through the 1980 crop year.

Mr. President, I believe the Senate Agriculture, Nutrition, and Forestry Committee showed commendable responsibility and restraint in its consideration of this bill and resisted the temptation to turn it into a "Christmas tree"—even though it is that season of the year.

The cost of this bill is modest considering the benefits that will be derived through its enactment. Both farmers and consumers should profit—stabilizing farm incomes while assuring consumers of a dependable and reasonably priced food supply.

Several members of the committee would have liked to raise the target prices higher than the levels established by this bill to assure farmers their full cost of production.

On the other hand, the committee was cognizant of the need to strive for a balanced budget and to reduce the runaway inflation that is eroding everyone's standard of living and destroying the faith many have in this Nation to control our destiny. We also are mindful of the political realities of Washington in these troubled economic times with regard to increased Government spending. H.R. 3398, as amended, goes as far as possible to help farmers cope with escalating production costs. To go further would risk getting nothing for our farmers.

I have learned long ago that when it is not possible to obtain a whole loaf, one must step back and accept half of one. Department of Agriculture officials have testified recently that a bill making greater increases in target prices or extending the disaster payment programs beyond the 1980 crop year would result in a Presidential veto.

Mr. President, I support H.R. 3398, as amended by the Committee on Agriculture, Nutrition, and Forestry. The bill makes modest but necessary increases in the target prices for wheat and feed grains and extends the disaster payment programs for the 1980 crop year to give farmers some measure of protection against devastating crop losses resulting from the hazards of weather.

I urge all of my colleagues to support this legislation.●

Mr. DOLE. Mr. President, I rise to express my wholehearted support for H.R. 3398.

This legislation will give farmers a much needed increase in the 1980 target prices for wheat and corn. The wheat target price will be raised from $3.40 per bushel to $3.63 per bushel; the target price for corn will increase from $2.20 per bushel to $2.35 per bushel. In addition, H.R. 3398 assures farmers that their target prices in 1981 will be no lower than the 1980 levels. This provision is a bare essential to the farmer. Without these target prices farmers could very easily be destroyed by the ravages of inflation and high energy costs.

While the increases in the target prices are not as large as the increases I proposed to the Senate Agriculture Committee, they represent the most that I could wring out of the administration without inviting a Presidential veto.

Mr. President, I would be remiss if I did not point out that this bill is only a stopgap measure. The American farmer is suffering from the wrenching effects of unprecedented increases in his costs of production due in large part to the ballooning price of oil.

Without target price legislation, we may see many family farm operations end during 1980. This loss in the numbers of family farm operations coupled with current double-digit inflation will cause farmers' costs of production to rise even higher in the future. Like any other business, farmers must make a profit in the long run to stay in business. It is in the best interest of the American consumer that these family farmers stay in business and produce food. We cannot refuse to raise farm prices under the banner of fighting inflation when farmers are losing money. The battle to save the family farm is worth fighting for and with the target prices provided, we can insure that there will be an adequate supply of farm products at least for the near future.

Yesterday, the Senate passed the Chrysler aid bill in the name of economic stability. I voted for that measure because I saw the need to provide some sort of assistance to keep our third largest automaker in business. Mr. President, the measure before the Senate today is no less important simply because it deals with target prices aimed at providing minimal aid to our Nation's farmers. If we were to permit this vital segment of our economy to weather the storm of inflation without any Federal assistance there is no telling what the consequences might be.

I urge my colleagues in the Senate to approve H.R. 3398 in the same spirit approved the Chrysler aid bill. The hardworking American farmer merits the modest target price increases contained in this legislation.

Mr. BOSCHWITZ. I rise today in support of H.R. 3398 which is a bill that will serve to strengthen the farmer's income and thus offer stability within the agricultural sector. An initial glance at current market prices for wheat and corn would indicate that U.S. grain farmers are experiencing a good year. Upon examination of the production estimates, I, too, would assume that the U.S. farmers are having a banner year. The latest 1979 USDA supply estimates state that corn production will be close to 7.1 billion bushels while wheat production will be close to 2.2 billion bushels. Even with these record high production levels, corn prices are expected to average $2.50 per bushel and wheat $3.90 per bushel this year.

However, upon closer examination of the 1979 agricultural picture, while farm prices are expected to be up 15 to 20 percent, net farm income is expected to fall 20 percent—from the 1979 level of $31 billion to the projected 1980 level of $25 billion. Why is net farm income expected to decrease in a year when all signs indicate that net farm income should be increasing? The answer lies in the tremendous increase in production expenses which our Nation's farmers are experiencing. The latest USDA cost of production estimates show that costs are expected to rise 12 percent from 1979 to 1980. The largest increase in production expenses from 1979 to 1980 will be in the following categories:

	Percent
Fuel	34
Fertilizer	18
Interest	15
Depreciation	11
Machinery	10

I feel that H.R. 3398 makes the appropriate changes in our farm program to compensate for the tremendous increases in production expenses.

The bill addresses three major areas. First, target prices for wheat would be set at $3.63 in 1980 and 1981, while target prices for corn would be set at $2.35 in 1980 and 1981. The increase in the target price for the 1980 and 1981 crop years represents a 7-percent increase. This falls well within the President's wage and price guidelines and offers a necessary adjustment to the target price, given that production expenses are rising at a rate of 12 percent per year.

However, the 7-percent increase in the target price will, in all likelihood, not cause the Federal Government to make deficiency payments to our Nation's farmers. In fact the 1980 and 1981 national average market prices for both wheat and corn are expected to be well above these target price levels. The 7-percent increase in target prices offers the farmers more protection in the event they should experience a natural disaster, according to the formula established under the 1977 Food and Agriculture Act.

The second area addressed by this bill encompasses a provision previously adopted by the Senate in S. 1125, the Federal crop insurance bill. The disaster payment program was initiated in 1974 and has proven to be a very effective form of risk protection for our Nation's farmers, particularly those who are farming in areas which are highly susceptible to flood and drought.

The authorization for the disaster payment program ends December 31, 1979. Under the Federal crop insurance bill of 1979 (S. 1125), which the Senate passed earlier this fall, the disaster payment program was extended for another 2 years. However, the House has failed to act on their version of the Federal Crop Insurance Act and the House will not take action until early next year. For this reason, H.R. 3398 includes a 1-year extension of the disaster payment program.

The final provision of the bill deals with the farm program when the set-aside program is not in effect. Under the 1977 Food and Agriculture Act, a farmer becomes automatically eligible for disaster and deficiency payments, plus grain reserve loans when there is no set-aside in effect.

A typical example of this situation is the recently announced 1980 wheat program. The U.S. Department of Agriculture felt that with feed, food and export demand expected to remain strong in 1980, no set-aside program would be required. The problem with this is that many of our Nation's wheat farmers will plant fence row to fence row in the coming year. Marginal lands, which have lower yields and which experience a higher rate of soil and wind erosion, will be brought into production.

In order to protect our Nation's farmland from wind and soil erosion and mineral depletion, this bill would require that farmers plant within their normal crop acreage, as determined by the USDA, when no set-aside is in effect.

In summary, the bill represents a major step toward improving farm income, through the adjustment of target prices for wheat and feed grains in order to reflect increases in cost of production. I urge my colleagues to support this bill.

UP AMENDMENT NO. 910

(Purpose: To provide a $50,000 annual payment limitation on any disaster payments made under the 1980 and 1981 wheat, feed grain, upland cotton, and rice programs and prohibit the making of disaster payments to States, political subdivisions, and agencies thereof)

Mr. McGOVERN. Mr. President, on behalf of the distinguished Senator from North Carolina (Mr. Morgan) I call up his amendment at this time and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. McGovern), for Mr. Morgan, Mr. Eagleton, and Mr. Helms proposes an unprinted amendment numbered 910.

Mr. McGOVERN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, between lines 11 and 12, insert a new section as follows:

"LIMITATIONS ON DISASTER PAYMENTS

"Sec. 4. Effective for the 1980 and 1981 crops, section 101 of the Food and Agriculture Act of 1977 is amended by—

"(1) in subsection (1), inserting '(excluding disaster payments)' after 'payments';

"(2) inserting after subsection (1) a new subsection (2) as follows:

"'(2) The total amount of disaster payments which a person shall be entitled to receive under one or more of the annual programs established under the Agricultural Act of 1949, as amended, and the Agricultural Adjustment Act of 1938, as amended, for each of the 1980 and 1981 crops of wheat, feed grains, upland cotton, and rice shall not exceed $50,000. No disaster payments may be made to States, political subdivisions, or agencies thereof.';

"(3) redesignating subsections (2), (3), and (4) as subsections (3), (4), and (5), respectively;

"(4) in subsection (3), as redesignated by clause (3) of this section, striking out 'disaster loss or'; and

"(5) in subsection (5), as redesignated by clause (3) of this section, inserting after 'That' the following: ', except as otherwise provided in this section,'."

On page 5, line 13, strike out "Sec. 4." and insert in lieu thereof "Sec. 5.".

Mr. McGOVERN. Mr. President, this amendment by Senator Morgan would limit disaster payments to an amount of $50,000 for individual producers in any single year.

Mr. President, I have studied the amendment proposed by Senators Morgan and Eagleton which would place a limitation of $50,000 on the amount of disaster payments that any person could receive for each of the 1980 and 1981 crops of wheat, feed grain, upland cotton, and rice.

I have also discussed the amendment with Chairman Talmadge. We believe that the amendment has merit, and I am prepared to accept it on behalf of the committee. I also understand that Senator Helms has examined the amendment and supports its adoption.

I would like to note that prior to the enactment of the Food and Agriculture Act of 1977, disaster payments were included in the general payment limitation applicable to these commodity programs.

In 1977, the administration proposed and Congress adopted the provision exempting disaster payments from the general payment limitation applicable to the 1978 through 1981 crops. Later, in a separate act, the exemption was extended to the 1977 crops.

I supported the action taken by Congress in 1977. Natural disasters can, of course, be devastating to a farm operation regardless of its size. The necessity for target price payments is also not dependent on the size of the affected farm and for this reason I have generally opposed the imposition of payment limitations in the past.

However, Senator Morgan has, I believe, documented the need for a reasonable payment limitation on disaster payments, and we are prepared to accept the amendment.

The Senator has worked very diligently on this amendment, and has discussed it at some length with me and other members of the committee. On behalf of the chairman of the committee, Senator Talmadge, and myself we are more than happy to accept this amendment.

I yield to the Senator from North Carolina (Mr. Helms) for such remarks as he may wish to make on the amendment.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the distinguished Senator.

Mr. President, I believe this Senator from North Carolina is supposed to be listed as a cosponsor, and I ask unanimous consent that I be so listed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Obviously I have no objection to the amendment and, in fact, do favor it.

Mr. McGOVERN. The Senator from North Carolina (Mr. Morgan) is on the floor and I yield such time as he may require to Senator Morgan.

Mr. MORGAN. Mr. President, I thank my distinguished colleague.

DISASTER PAYMENTS PROGRAM

Mr. President, the amendment that Senator Eagleton and I offer today would limit disaster payments to an amount of $50,000 for individual producers in any single year and would prohibit State governments and their political subdivisions from receiving any payments authorized by this program.

My purpose in offering this amendment is to improve the farm program by eliminating a part that is hopelessly flawed. First, I believe that it is clear that crop insurance is an inherently better approach to protecting the Nation's farmers and ranchers from natural calamity than the current disaster payments program. Unless we begin to take steps to eliminate various constituencies for this program, I believe that we will be saddled with it for the indefinite future. Second, I believe that it is unconscionable that State or local governments would benefit from a program that is designed to meet the needs of farmers and ranchers.

In fairness, the record of the disaster program is mixed. In absence of crop insurance, the disaster program has made a critical difference in the ability of many of the Nation's farmers and ranchers to remain in agriculture. However, this well intended program has had some undesirable results. First, the very existence of this program as discouraged producers from participating in either Federal or private crop insurance. In fact, there is a clear relationship between spending for disaster payments and the lack of crop insurance. Second, this program has created an economic dependency among farmers and ranchers that is counter to the best interests of this Nation.

The disaster payment program we are discussing is a major part of the farm program. The program has cost $554.4 million in a single year. Since the program was established in 1975, it has cost the taxpayers $2.4 billion. Mr. President, I ask unanimous consent that a year-by-year breakdown of the cost of this program be included at this point in the Record.

There being no objection, the breakdown was ordered to be printed in the Record, as follows:

ASCS Disaster Payments

1975, $554.4 million.
1976, $286.5 million.
1977, $465.8 million.
1978, $526.3 million.
1979, $367.4 million.
1980, $223.6 million.*

Mr. MORGAN. Now, I would not like to give anyone the impression that I do not believe there is a legitimate Federal role to protect farmers and ranchers from natural disaster. As a consequence, I had my staff conduct a study to ascertain what areas of the country with a record of being disaster prone would not have Federal crop insurance coverage for 1980. As my colleagues may know, the Federal Crop Insurance Corporation recently added 150 counties that would receive crop insurance coverage in 1980, reducing the potential risk exposure many producers might otherwise have had.

The study conducted by my staff was simple. They defined a county as disaster-prone if any individual producer received a disaster payment in excess of $50,000 in any single crop year. In examining the records of FCIC, my staff determined that 21 disaster-prone counties would not have protection from FCIC in 1980. I ask unanimous consent that a list of these counties be included in the Record at this point.

There being no objection, the list was ordered to be printed in the Record, as follows:

Disaster-Prone Counties

Alabama—Elmore, Russell; California—San Luis Obispo; Colorado—Kiowa, Crowley; Georgia—Madison; Oregon—Lake; South Dakota—Meade; Texas—Andrews, Kaufman, Motley, Walker, Borden, Culberson, Glassock, Jim Wells, Kinney, Nolan, Zapata; Virginia—Orange; and Wyoming—Niobrara.

(Disaster prone counties are counties with records of disaster payments in excess of $50,000 to individual producers that will not be covered by Federal Crop Insurance during the 1980 crop year.)

Mr. MORGAN. Simply because FCIC does not operate in these counties does not mean that producers will not be protected. They will have to get protection from the private sector. This coverage would involve a sustantial premium. However, one would have to question whether the USDA would want to encourage crop production in some of these counties in the first instance.

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*Projected.

I believe that my comments thus far demonstrate that my amendment really would not harm many, if any, farmers or ranchers. Protection from natural disaster is generally available, either through the private sector or Federal Government. While my amendment would not leave producers unduly exposed to risk from acts of God, it would produce substantial savings to the Federal Treasury.

First, the elimination of States and their subdivisions would save upwards of $1 million a year. The cap of $50,000 would save close to $35 million a year. These are estimates prepared by my staff. They are based upon data provided by the USDA for the 1978 crop year, a year in which disaster payments totaling $357.5 million were made to 281,985 producers. There were 264 payees receiving over $50,000 that year for a total of $23.6 million or 6.6 percent of the payments.

Earlier in my comments I alluded to the fact that this program was developing a dependent constituency. When I discussed the disaster payments program on the floor of the Senate on November 20, I inserted a table into the Record that showed that 96,570 producers received payments 3 out of 4 years and another 20,087 received payments 4 out of 4 years. Since that time, I have received more current data. The USDA now reports that 11,015 producers have received payments totaling $150,704,050 in 5 out of 5 years. Mr. President, I ask unanimous consent that this table be included at this point in the Record.

There being no objection, the table was ordered to be printed in the Record, as follows:

ASCS DISASTER PAYMENTS—CONDITION: PRODUCERS WHO RECEIVED PAYMENTS 4 OR MORE OF THE 5 YR, 1974/1978

State Code	State	Disaster payments—4 or 5 yr, 1974/1978		Disaster payments—5 of the 5 yr, 1974/1978	
		Producers	Amount	Producers	Amount
01	Alabama	922	$11,662,924	192	$3,328,986
05	Arkansas	621	5,331,806	99	1,091,649
06	California	75	1,503,276	10	251,600
08	Colorado	1,422	17,980,190	426	6,230,601
12	Florida	23	273,798	3	104,815
13	Georgia	332	4,499,673	46	786,154
16	Idaho	272	2,769,253	98	1,082,806
17	Illinois	129	703,947	11	69,300
18	Indiana	34	138,762	1	4,026
19	Iowa	831	5,572,282	50	339,186
20	Kansas	4,067	21,942,340	781	5,372,819
21	Kentucky	14	72,531	1	14,239
22	Louisiana	331	2,498,185	45	385,401
24	Maryland	1	1,574		
26	Michigan	98	331,637	10	47,279
27	Minnesota	722	3,509,960	55	281,626
28	Mississippi	1,106	14,204,348	205	3,570,303
29	Missouri	2,530	15,306,768	468	4,081,939
30	Montana	53	397,962	8	56,917
31	Nebraska	4,115	23,582,600	787	5,593,432
35	New Mexico	1,262	$21,924,214	446	$8,935,938
37	North Carolina	122	1,069,158	13	303,319
38	North Dakota	1,561	11,635,241	321	3,225,359
39	Ohio	35	55,676	4	7,062
40	Oklahoma	2,731	21,341,961	911	10,346,844
41	Oregon	22	263,112	6	78,596
42	Pennsylvania	8	10,421		
45	South Carolina	221	3,290,923	49	969,557
46	South Dakota	5,219	49,443,168	1,105	12,984,282
47	Tennessee	1,389	10,346,199	337	3,544,672
48	Texas	15,770	210,044,316	4,477	77,073,875
49	Utah	162	1,318,393	35	401,446
50	Vermont	1	1,488		
51	Virginia	13	21,517		
53	Washington	8	104,444	1	25,562
55	Wisconsin	111	478,788	9	70,746
56	Wyoming	31	274,229	5	43,700
	U.S. total	46,354	$463,907,080	11,015	$150,704,050

Mr. MORGAN. Mr. President, I do not wish to belabor my arguments. My colleagues are familiar with the concerns that I expressed on the floor of the Senate on November 20 and what I have learned since I made those comments only serves to strengthen my general line of reasoning. However, I felt that it was important to discuss this program in more detail today in order to make my case. Also, I am concerned by reports that some members of the House Agriculture Committee will oppose this amendment in conference. I think that my comments today will allay some of the fears of my friends in the other Chamber. Regardless, I believe that my comments today will strengthen the hands of the Senate conferees should a conference be required.

In closing, I would like to say that my comments on November 20 generated a high volume of mail from various parts of the country. I would like to share with my colleagues some of the thoughts of Americans concerning this program. Therefore, Mr. President, I ask unanimous consent that letters to me from Mr. Forrest of Ayden, North Carolina; and Mr. and Mrs. Dowd of Bagley, Iowa, be made a part of the Record.

I yield back the remainder of my time and move adoption of my amendment.

There being no objection, the letters were ordered to be printed in the Record, as follows:

December 1979.

Hon. Robert Morgan,
U.S. Senate,
Washington, D.C.

Dear Senator Morgan: I read your comments on a "Disaster" program in the Raleigh News and Observer Daily paper and also from the Congressional Record Daily report for November 15, 1979 which I found very interesting.

As a farmer in Greene County, North Carolina, I would like to express my sincere appreciation for the exposure of such an abused disaster program to the public's eyes. It appears that this program is for the large farmers and not the small. Furthermore the same states and same so called farmers collect each year. I sure hate to see my tax money go to such a give-away program.

Also, I want to thank you for your interest in the crop insurance program. I believe a strong crop insurance program, where farmers pool their premiums and collect indemnities in bad years, would be the answer to farmers' crop protection. If a "Disaster" program was not available, more farmers would seek crop protection through private insurance agents and Federal Crop Insurance.

Greene County has had Federal Crop Insurance since the year 1951. Only one year, 1977, has crop insurance gone in the red (indemnities over premiums). A good insurance premium reserve has been built over the years of which farmers in Greene County are proud. Participation in tobacco is better than 65% of acreage planted. Other crops are not available at this time, but we are hoping they will be under the proposed new crop insurance program.

Many farmers in my area have commented favorably on your stand for crop insurance and exposure of the disaster program payments. Thanks, and if I can be of any help to you in Greene County, please don't hesitate to call upon me.

Sincerely,

R. T. "Bud" Forrest,
Ayden, N.C.

November 23, 1979.

Hon. Robert Morgan,
U.S. Senate,
Washington, D.C.

Dear Sir: We have read with great interest various articles printed from time to time in the Des Moines Register regarding the farm disaster program.

To say the least this program is a disaster in itself as we have literally lived and breathed this mess since our disastrous drought in 1977, and it certainly has been an eye opener.

We are new farmers (1974) and suffered 2 years of hail prior to the drought and by that stage we were so far down we couldn't qualify for a disaster loan since we needed longer than 7 years to pay it off. To date it has cost us a farm, a family farm I might add, and we are now in the process of filing bankruptcy. I wonder how many other "down" farmers are facing the same route now. We are resentful and bitter and feel we have a right to be as our neighbors flaunted and bragged about the funds they received from disaster aid, one even had the nerve to boast that it was the best year he had. Meanwhile their waiting to swipe up the pieces as soon as we are completely broke. This disaster loan was designed for the already wealthy. It would serve no useful purpose for a prospective borrower to obtain a statement from his banker that he is denied credit because any banker would issue a rejection statement if it meant the borrower could get a loan at a lower rate of interest, meaning "you scratch my back and I'll scratch yours". We even applied for the Economic Emergency Loan and this was nothing but a mockery. Basically both programs boil down to one thing—if you don't need the money, you can get it.

The programs are biased and prejudiced. It denies people equal rights. The biggest taxpayers in the United States are the average income Americans, not the rich or the poor. Yet, when programs such as these are made available the average United States taxpayer can't have access to the funds because they are designed for the already wealthy. Why are the wealthy even offered programs like this? Most of them did no more than buy out someone that was down with their receipts or invested it at a higher rate of interest. If they have funds to carry them over through the next year then they should be denied a loan. Investigation should be made as to what was done with this disaster money and any funds that were spent fraudently should be recalled immediately and the funds disbursed properly and used as they should have been used in the first place.

Anytime someone says they had the best year they ever had and is having a good year on our average American tax payers money, then something is wrong and we certainly hope that before another disaster dollar is issued a considerable amount of forethought be given as to just how much of a disaster it really is at the time or will be before it is over.

Until this disaster program became available for Iowans to have need of in 1977, we never dreamed the government was so blind that they couldn't have foreseen the results and outcome of this program. There were all kinds of loopholes and all of them favored the wealthy.

For what it is worth, this needs one heck of a good shaking up and not with future prospective borrowers but the past borrowers that have used these funds fraudently and the funds should be recirculated for the purpose in which they were intended.

Keep up the good work and maybe with somemore interest and attention in affairs such as this, we will head for a healthier government which is certainly needed to stimulate these "average" Americans that are really down with the way things are today. We think after messes like this we have a right to feel down and discouraged. It certainly is not right and presently the country is at the mercy of the wealthy and the government that supports them.

Sincerely,

Mr. & Mrs. J. R. Dowd,
Bagley, Iowa.

Mr. McGOVERN. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McGOVERN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, I suggest the absence of a quorum and that the time be charged to me.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, the Senate now is considering H.R. 3398, the Agricultural Adjustment Act of 1979. This bill would increase the 1980 farm program target prices for wheat and feed grains by about 7 percent above the 1978 and 1979 levels.

On several occasions in the past I have vigorously opposed extravagant increases in farm price supports on budgetary grounds. However, a number of factors have led me to support the farm bill now before the Senate.

First, although the wheat target price in H.R. 3398 might be slightly higher than warranted, the Agriculture Committee showed great fiscal restraint during its markup by voting down target price increases two and three times greater than those in the reported bill. I would like to commend Senator TALMADGE and the Agriculture Committee for their efforts at budgetary restraint.

Second, there is a clear need for this bill. Without new legislation, target prices could drop as much as 10 percent next year due to an adjustment formula adopted in the 1977 farm bill. In retrospect, this formula has proven unsatisfactory in times of rapidly increasing inflation. The low target prices projected under existing law would not provide adequate income protection for America's farm population in the coming year.

Farm target prices are not designed to guarantee every farmer a profit. Instead these prices provide a safety net to protect farmers from catastrophic losses in times of low farm prices. However, farmers are not immune from the ravages of inflation that are inflicted on every American. Production costs, especially fertilizer and energy costs, have escalated. Thus, a reasonable adjustment in farm price supports is necessary to prevent disastrous consequences should commodity prices be reduced significantly. I urge the approval of this bill.

Mr. EXON. Mr. President, I rise today to lend my voice in support of H.R. 3398, increasing target prices for the 1980 and 1981 corn and wheat crops. This legislation, which has been known as the "7 percent" bill is a reasonable increase in support levels which is most necessary in light of the recent decisions by the U.S. Department of Agriculture to establish no set-aside program for wheat and feed grains for the 1980 crop year. Mr. President, this decision leaves the Secretary with no authority to adjust target prices upward which would leave targets for corn and wheat at the unacceptable levels of $2.08 and $3.06 per bushel, respectively.

Mr. President, our agriculture industry has suffered severe hardships during this year as a result of the energy situation. Costs for diesel fuel alone have doubled since 1 year ago and we all know that our food plant is heavily dependent on this middle distillate fuel for irrigation and field equipment. Unfortunately, market prices, while they have improved due to increased export demand, remain at levels which make it extremely difficult for our farmers to meet their basic costs of production. It is necessary, therefore, to set target price levels for corn and wheat at rates which provide a minimum on which our food plant can depend should we see drastic drops in market prices in the year ahead.

Mr. President, I have talked with some of my distinguished colleagues who have expressed concern that this bill is inflationary. That it will cause food prices to skyrocket creating undue hardship on the families of America already hard hit by energy costs. I say to my friends that this is not an accurate assessment of the affects of this bill. It is quite possible that we will not see these target price levels in use during 1980. Export demand, especially in light of the critical production shortfalls in the Soviet Union this past year, indicate that market prices may remain strong and above the support levels not only for 1980 but also for 1981. Our efforts, both governmentally and through private commodity groups, to develop new markets abroad for our raw and finished agriculture goods are of constant help in keeping those prices above Government support levels.

Some may say: Why go ahead with this bill if prices for commodities remain above current target levels? What is the need for this legislation? The answer, Mr. President, is clear. Due to the administration's failure to see the need for continued set-aside programs, which I might add the Senate expresed its support of in the adoption of my resolution earlier this year calling for a wheat set-aside program for 1980, our food plant may suffer severe setbacks. Experts are predicting that our total production in 1980 will surpass this year's bumper levels and I remind my colleagues we had a setaside program this year. Such predictions cause grave concern with those of us from agricultural States because we remember those days under the previous administration when the Secretary of Agriculture told our farmers to go forth and produce all possible; our export demand will remain strong and prices high. Not so, Mr. President. The prices tumbled and our agriculture industry found itself in one of the most depressed states since the depression. This could happen again with ominous consequences.

We have, in H.R. 3398, a mechanism which will prevent this from happening. While at present, we do not see its immediate need, I say we may find that the planting policies of the administration will create market conditions which would force prices down below the reasonable target levels found in this bill.

Mr. President, let us act and act favorably on this "7 percent" bill and protect an industry which provides the backbone of our Nation's economy and that industry is agriculture.

Mr. McGOVERN. Mr. President, third reading.

Mr. HELMS. I yield back the remainder of my time.

Mr. McGOVERN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

(Putting the question.)

The bill (H.R. 3398) was passed.

Mr. BOSCHWITZ. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McGOVERN. Mr. President, I ask unanimous consent that H.R. 3398 be printed as passed by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The title was amended so as to read:

An Act to adjust target prices for the 1980 and 1981 crops of wheat and feed grains; to extend the disaster payment programs for the 1980 crops of wheat, feed grains, upland cotton, and rice; and to authorize the Secretary of Agriculture to require that producers of wheat, feed grains, upland cotton, and rice not exceed the normal crop acreage for the 1980 and 1981 crops.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia.

NATIONAL CAPITAL TRANSPORTATION AMENDMENTS OF 1979

Mr. ROBERT C. BYRD. Mr. President, at the request of Mr. LEVIN, Mr. SARBANES, and Mr. MATHIAS, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 510, H.R. 3951.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill (H.R. 3951) to amend the National Capital Transportation Act of 1969 to authorize additional Federal contributions for the cost of construction of the rapid transit system of the National Capital region, to provide an orderly method for the retirement of bonds issued by the Washington Metropolitan Area Transit Authority, to authorize a Federal contribution to such Authority to provide assistance in meeting expenses of operation and maintenance of such system in order to reflect the special Federal relationship in such system, and for other purposes, which had been reported from the Committee on Governmental Affairs with an amendment to strike all after the enacting clause and insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "National Capital Transportation Amendments of 1979".

AUTHORIZATION OF ADDITIONAL FEDERAL CONTRIBUTIONS FOR CONSTRUCTION OF THE ADOPTED REGIONAL SYSTEM AND OTHER PURPOSES

SEC. 2. The National Capital Transportation Act of 1969 (83 Stat. 320, 86 Stat. 464–466, 1004), as amended (D.C. Code, sec. 1–1441 et seq.) is amended by adding at the end thereof the following new sections:

"AUTHORIZATION OF ADDITIONAL FEDERAL CONTRIBUTIONS FOR CONSTRUCTION

"SEC. 14. (a) The Secretary of Transportation is authorized to make grants to the Transit Authority, in addition to the contributions authorized by section 3 of this Act, for the purpose of financing in part the cost of construction of the Adopted Regional System.

"(b) Federal grants under subsection (a) for the Adopted Regional System shall be subject to section 16 and to the following limitations and conditions:

"(1) The work for which such grants are authorized shall be subject to the provisions of the Compact and shall be for projects included in the Adopted Regional System.

"(2) The aggregate amount of such Federal grants made during any fiscal year shall be matched by the local participating governments by payment of capital contributions for such year in a total amount that is not less than 25 per centum of the amount of such Federal grants and shall be provided in cash from sources other than Federal funds or revenues from the operation of public mass transportation systems. Any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or revenues available in cash, or new capital.

"(3) Such grants shall be subject to terms and conditions that the Secreary may deem appropriate for constructing the Adopted Regional System in a cost-effective manner.

"(c) There is authorized to be appropriated to the Secretary of Transportation for the purpose of making grants under subsection (a) an aggregate amount not to exceed $1,700,000,000, except that no appropriation pursuant to this authorization shall be enacted for any fiscal year prior to fiscal year 1982.

"(d) Amounts appropriated pursuant to the authorization under subsection (c)—

"(1) shall remain available until expended, if so provided in appropriation Acts; and

"(2) shall be in addition to, and not in lieu of, amounts available to the Transit Authority under the Urban Mass Transportation Act of 1964, as amended, and section 103(e)(4) of title 23, United States Code.

"PAYMENT OF BONDS

"SEC. 15. (a)(1) The Transit Authority shall maintain a sinking fund to be used for the accumulation of assets for payment of principal on bonds issued by the Transit Authority and guaranteed by the Secretary as provided in section 9. The fund shall be administered in accordance with the provisions of the Compact providing for funds established by the Transit Authority, and moneys in the funds may be invested by the Transit Authority in accordance with the Compact and with the Agreement.

"(2) The Transit Authority shall use assets of the fund to pay the principal paid or to be paid after October 1, 1979, on bonds issued by the Transit Authority.

"(3)(A) Subject to the conditions of the Agreement, the Secretary of Transportation is authorized to make contributions to the Transit Authority, or its fiscal agent, in amounts sufficient to provide for the payment of two-thirds of the principal paid or to be paid after June 30, 1979, on bonds issued by the Transit Authority which are guaranteed by the Secretary as provided in section 9.

"(B) There are authorized to be appropriated beginning in fiscal year 1981 such sums as are necessary to carry out the requirements of subparagraph (A) of this paragraph.

"(4) Subject to the conditions of the Agreement, the local participating governments shall make payments to the Transit Authority in amounts sufficient to allow the Transit Authority to make contributions to the fund established pursuant to subsection (a)(1) in amounts sufficient to provide for the payment of one-third of the principal paid or to be paid after June 30, 1979, on bonds issued by the Transit Authority which are guaranteed by the Secretary as provided in section 9.

"(b)(1) The Transit Authority shall maintain a Bond Interest Fund to be used for the accumulation of assets for the timely payment of interest on bonds issued by the Transit Authority and guaranteed by the Secretary as provided in section 9. The fund shall be administered in accordance with the provisions of the Compact providing for funds established by the Transit Authority, and moneys in the fund may be invested by the Transit Authority in accordance with the Compact and with the Agreement.

"(2)(A) Subject to the conditions of the Agreement, the Secretary of Transportation is authorized to make contributions to the Transit Authority or its fiscal agent, in amounts sufficient to provide for the payment of two-thirds of the total amount of interest paid or to be paid after June 30, 1979, on bonds issued by the Transit Authority which are guaranteed by the Secretary as provided in section 9.

"(B) There are authorized to be appropriated beginning in fiscal year 1981 such sums as are necessary to carry out the provisions of subparagraph (A) of this paragraph.

"(3) With respect to interest payments due prior to July 3, 1983, the Secretary of Transportation, if requested by the Transit Authority, may make accelerated interest payments in amounts sufficient to provide for the payment, as any payment becomes due, of not more than an additional 18⅓ per centum of the interest due on such bonds at the time of such payment, so long as the total amount of contributions by the Secretary under this subsection does not exceed the amount specified in paragraph (2). Unless otherwise provided in amendments to the Agreement, any accelerated payments made shall bear interest from the date of accelerated payment until liquidation at a rate to be determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding United States marketable obligations which have maturities comparable to the period of time between the time of accelerated payment and the time of liquidation.

"(4) Subject to the conditions of the Agreement, the local participating governments shall make payments to the Transit Authority in amounts sufficient to allow the Transit Authority to make contributions to the fund established pursuant to subsection (b)(1) in amounts sufficient to provide for the payment of one-third of the interest paid or to be paid after June 30, 1979, on bonds issued by the Transit Authority which are guaranteed by the Secretary as provided in section 9.

"(5) If as a result of the retirement of the principal of such bonds (or of any portion of such principal) before maturity the total amount of contributions by the Secretary of Transportation after June 30, 1979, for payment of interest on such bonds is at any time in excess of two-thirds of the net present value of the total amount of interest paid or to be paid on such bonds after such date, the Transit Authority shall pay to the Secretary the difference between the total amount contributed by the Secretary and two-thirds of the net present value of the total amount of interest paid or to be paid on such bonds after such date.

"REQUIREMENT THAT LOCAL PARTICIPATING GOVERNMENTS HAVE A STABLE AND RELIABLE SOURCE OF REVENUE FOR CONTRIBUTIONS FOR BOND EXPENSES AND FOR OPERATING EXPENSES

"SEC. 16. (a) The Secretary of Transportation shall not make any grant under section 14(a) for the cost of construction of the Adopted Regional System, until the Secretary has determined that the local participating governments, or signatories (as defined in subparagraph (d) of paragraph 1 of article I of title III of the Washington Metropolitan Area Transit Authority Compact (80 Stat. 1324; D.C. Code, sec. 1–1431)) to the Compact, have provided a stable and reliable source of revenue sufficient to meet both (1) their payments to the Transit Authority under subsections (a)(4) and (b)(4) of section 15, relating to payment of the principal and interest on bonds issued by the Transit Authority, and (2) that part of the cost of operating and maintaining the Adopted Regional System that is in excess of revenues received by the Transit Authority from the operation of the system and any amount to be contributed for operating expenses by the Secretary of Transportation under any other provision of law.

"(b) The Transit Authority, in consultation with each governmental entity that is a local participating government or signatory to the Compact as referred to in subsection (a) of this section, for the purposes of this Act, shall submit a program to the Secretary of Transportation on or before September 30, 1980, showing how each such governmental entity will have in place on or before August 15, 1982, a stable and reliable source of revenue to provide for its contributions (1) for payments to the Washington Metropolitan Area Transit Authority for the payment of principal and interest on bonds issued by the Transit Authority, and (2) for the cost of operating and maintaining the Adopted Regional System of the Washington Metropolitan Area Transit Authority.".

Sec. 3. (a) Section 2 of the National Capital Transportation Act of 1969 (83 Stat. 320), as amended (D.C. Code, sec. 1-1441), is amended by adding at the end thereof the following:

"(4) The term 'Agreement' means the Initial Bond Repayment Participation Agreement executed by the Transit Authority and the United States Department of Transportation on September 18, 1979, and amendments thereto, including the Supplemental Agreement described in section 302 of the Initial Bond Repayment Participation Agreement.

"(5) The term 'local participating governments' means those governments which comprise the Washington Metropolitan Transit Zone, as defined by paragraph 3 of article III of title III of the Washington Metropolitan Area Transit Authority Compact (80 Stat. 1324; D.C. Code, sec. 1-1431).".

(b) Section 9(d) of the National Capital Transportation Act of 1969 (83 Stat. 320, 86 Stat. 464, 465), as amended (D.C. Code, sec. 1-1446), is amended by deleting "issued after the date of the enactment of this section" and inserting in lieu thereof "guaranteed by the Secretary under the provisions of this section".

(c) Section 10 of the National Capital Transportation Act of 1969 (83 Stat. 320, 86 Stat. 464, 465), as amended (D.C. Code, sec. 1-4447), is repealed. Such repeal shall not be construed as affecting in any manner any payment, commitment, or other action taken pursuant to and in accordance with such section prior to the date of its repeal by this Act.

(d) Subsections (a) and (b) of section 11 of the National Capital Transportation Act of 1969 (83 Stat. 320, 86 Stat. 465, 466), as amended (D.C. Code, sec. 1-1448), are each amended by deleting "section 10" each place it appears in such subsections and inserting in lieu thereof "section 15".

Mr. LEVIN. Mr. President, I ask unanimous consent that Carol Upshaw-Anderson, Claudia Ingram, James Graham, Ira Shapiro, Margaret Crenshaw of the majority staff of the Committee on Governmental Affairs, and James Keene, Constance Evans, and Marion Morris of the minority staff, be accorded privileges of the Senate floor during consideration of H.R. 3951.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair will state there is a 30-minute time limitation on this pending measure to be equally divided between the Senator from Michigan (Mr. Levin) and the Senator from Illinois (Mr. Percy). No amendments are in order.

Mr. LEVIN. Mr. President, H.R. 3951, the National Capital Transportation Act Amendments of 1979, is the fruition of nearly 30 years of involvement by the Federal Government recognizing the serious need for a regional mass transportation system.

In 1952, the Federal Government began to take a serious look at the transportation problems in the Washington metropolitan area with the passage of the National Capital Planning Act. Since that time a number of legislative activities have further defined the Federal commitment to construct a mass transit system. In recent years, that commitment has resulted in the completion of 30 miles which are operational and the funding for an additional 30 miles.

H.R. 3951 provides the mechanism by which completion of the remaining 41 miles of the 101-mile transit system can occur. H.R. 3951 has four major provisions:

First, it authorizes a lump sum of $1.7 billion, subject to annual appropriations beginning in 1982 through 1987. Federal funding is matched by local contributions on an 80-percent Federal to a 20-percent local basis. This formula is standard for jurisdictions receiving section 3 urban mass transportation construction programs.

Second, the bill incorporates into law an agreement, signed September 18, 1979 by the Department of Transportation and the Washington Metropolitan Area Transit Authority (WMATA), for the orderly retirement of $997 million of outstanding bonds issued by WMATA between 1972 and 1976. The Federal Government pays two-thirds of the interest on debt service and the local jurisdictions pay the remaining one-third of the interest.

Third, H.R. 3951 requires WMATA to submit to the Department of Transportation by September 30, 1980, a program showing how each governmental entity will have in place a "stable and reliable" source of revenue on or before August 15, 1982, to meet Metro's operating expenses and debt service prior to the release of any Federal funds for construction.

Finally, all funds authorized by this legislation are "grants" rather than "contributions" and are, therefore, subject to oversight by the Department of Transportation.

On December 11, 1979, the Committee on Governmental Affairs reported out H.R. 3951 with an amendment in the nature of a substitute by a vote of 10 to 1. Specifically, the amendment deletes the section of the bill that would provide operating assistance to Metro from 1981 through 1988. This special operating subsidy of $197.7 million goes far beyond what is available to other mass transit systems. Other jurisdictions, including Washington, D.C., may receive section 5 operating funds based on a population density formula. However, under this provision Metro would also receive a special subsidy. The committee determined that Metro should not receive these additional moneys.

In addition to the longstanding Federal commitment mentioned, local jurisdictions have also enthusiastically become involved in this Federal-local government partnership. To date, the local jurisdictions have contributions in excess of $600 million in construction moneys.

For example, Fairfax County alone has committed to Metro $60 million in the belief that the planned 101-mile system will be completed even though subway service is not yet available in Fairfax County. According to WMATA, local jurisdictions have never failed to meet their monetary obligations to Metro. Failure to enact this legislation could represent a serious breach of promise and impede a working relationship that has taken years to develop.

One cannot underestimate the importance of Metro. During the average workweek, Metro carries approximately 275,000 commuters per day on the 30 miles of track that is currently operational. It is expected that ridership will increase to about 885,000 per day when the system is completed. It has been projected that by 1990 a completed system could save up to 44.8 million gallons of gasoline per year.

Metro represents a conscious attempt to deal with energy conservation; to revitalize or to expand commercial areas; and to minimize automobile air pollution. Our commitment to achieving these goals in the Washington metropolitan area is tied to enacting this necessary legislation.

However, H.R. 3951 requires that before any Federal funds are released for construction the State legislatures of Virginia and Maryland, and the City Council of the District of Columbia must submit a revenue source plan before September 30, 1980. Therefore, prompt enactment of this bill is essential so that Virginia, Maryland, and the District may have ample time to consider their funding alternatives.

I strongly urge the Senate to support the passage of H.R. 3951.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MATHIAS. Mr. President, during the War Between the States, the Potomac River was the division between the territories that were claimed by the Confederacy and those which were properly part of the Union. There was a famous report which sentries gave in those troubled days that "all was quiet along the Potomac."

"All quiet along the Potomac." I am so happy that as we meet in the Senate today, we can repeat, more than a century later, "All quiet along the Potomac." Because that is the way it is. All is quiet and in harmony among the Members of Congress who repesent the great Free State of Maryland and the Commonwealth of Virginia, and the Delegate from the District of Columbia.

I salute my colleagues in Congress for the tremendous work they have done in bringing this bill to the point at which it is now being considered by the Senate. My distinguished colleague from Maryland (Mr. Sarbanes), our colleagues from Virginia (Mr. Harry F. Byrd, Jr. and

Mr. WARNER), and the Members of the other body, Representatives BARNES, Representative SPELLMAN, Representative HARRIS—I think Representative HARRIS indicates a particular devotion to this cause by his presence in the Senate Chamber today—and, of course, Representative FISHER.

So this has been a work of many hands. A tremendous number of hours have gone into it on the part of staff. I would particularly like to thank Marion Morris of my staff, as well as committee staffs and other staffs that have been working on it, because it is an important and time-consuming bill. I am sure that all of those whom I have named and the other sponsors of this bill would like to join in thanking the leadership on both sides of the aisle for their cooperation in expediting the Senate consideration of the bill before us.

H.R. 3951 authorizes the Federal share of construction funds to complete the remaining 40 miles of the National Capital Region's Metrorail system.

The urgency of moving this legislation now is because the State legislatures of Maryland and Virginia will be meeting in January to devise their respective State plans for providing the local matching funds to complete this project.

Without the assurance that the Federal commitment to Metrorail is in place, those State legislatures will be hesitant to act. And given the relatively short duration of those State legislative sessions, it is imperative that the Congress act expeditiously to fulfill its commitment to the Washington regional rapid rail system.

The Metrorail system, now under construction, and partially in operation in the Washington region, represents a political miracle in the regional cooperation which has been forged to bring rapid rail transit to the Nation's Capital. In addition to the Federal Government, that cooperation includes the States of Maryland and Virginia, the District of Columbia, the Virginia counties of Arlington and Fairfax, the Maryland counties of Prince Georges and Montgomery, and the independent cities of Alexandria, Fairfax, and Falls Church. These jurisdictions have contributed $657 million to date as their share of construction costs of the subway system, in addition to operating subsidies which in fiscal year 1979 approached $98 million.

That cooperation was demonstrated just last week in a letter to me as well as my colleagues on the Governmental Affairs Committee, from the Governors of Maryland and Virginia and the Mayor of the District of Columbia.

I ask unanimous consent that that letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MATHIAS. The bill before us has four main provisions:

First, it authorizes a lump sum of $1.7 billion beginning in 1982 as the Federal share of construction funding to complete the remaining 40 miles of the system. This cost sharing is on an 80–20 basis with the local participating governments—the same construction cost sharing formula as other urban mass transit systems under section 3 of the Urban Mass Transit Act.

Second, it codifies in law an agreement between the U.S. Department of Transportation and the Washington Metropolitan Area Transit Authority for cost sharing of outstanding bond retirement. That formula is two-thirds Federal and one-third local. A total of $997 million in revenue bonds were issued by the Washington Metropolitan Area Transit Authority in four issuances between 1972 and 1976.

Third, it imposes upon the local participating jurisdictions that they demonstrate to the satisfaction of DOT that they will provide a "stable and reliable" source of locally generated revenue for their share of operating costs and bond retirement. Until this requirement is met the construction funds authorized under this bill will not be made available.

Fourth, insures DOT oversight of construction funding for the remaining 40 miles of the total 101 mile adopted regional system.

Metrorail has proven itself as a fast, economical, and energy conserving means of moving 270,000 of the region's residents and visitors daily to their jobs, shopping, and entertainment. It has become the pride of the Nation's Capital. And has, in fact, become a tourist attraction itself.

This legislation will assure that the remaining 40 miles of the system which are unfunded will be constructed in a timely manner and the full 101-mile system can become operational. The Federal commitment to Metrorail has continued through six Presidencies, beginning with President Eisenhower and including President Carter, who has endorsed this legislation.

A similar bill passed the House of Representatives in July by a 2-to-1 margin. The major difference between the House-passed bill and the one before us is a Federal operating subsidy of $20 million per year over a 7-year period escalating at a 6-percent rate of inflation annually.

This provision was included in the House bill and in the bill which I originally introduced with Senators SARBANES and WARNER. It was subsequently deleted by the Governmental Affairs Committee.

I do not intend to press this issue here due to the exigencies of time and the limitation imposed on this debate. I would only note that I regard that Federal operating subsidy as a modest contribution by the Federal Government of less than 10 percent of Metrorail's operating costs during the remaining years of construction when the local governments are burdened with the cost of operation, debt service, and construction.

I believe such an interim operating subsidy is necessary as part of the Federal Government's responsibility to complete the system expeditiously. The Federal Government is the National Capital region's largest employer. Many Metrorail stations were specifically located to serve Federal employment centers and visitor attractions. I will not put this issue to a vote, but I recommend to my colleagues the additional views of myself and Senator PRYOR in the committee report.

The National Capital's regional rapid rail system has been in planning since 1952 and construction since late 1969. It is one of the few tri-State subway systems in this Nation requiring unprecedented regional cooperation by local and State governments in its planning, financing, construction, and operation.

The delicate financial arrangements to which those governments have committed themselves have enabled the system to become a reality with 33 miles in operation and another 30 under construction.

The Washington Metropolitan Area Transit Authority is the regional compact agency through which that cooperation has been forged. Mr. President, it has been a long and arduous process to get the subway system underway. It has been particularly difficult in the Washington region because of the many factors involved in the decisionmaking process—from the tri-State local governments, to the U.S. Department of Transportation, to the Congress. None of the other urban mass transit systems currently programed for construction involve so many local, county, and State governments. Nor do any of them involve the U.S. Congress in the decisionmaking process to the degree that the Washington system does.

Ridership on Metrorail continues to grow as more segments are opened into the region enabling more workers and others to travel downtown and elsewhere to their jobs and other activities.

It is also important to bear in mind the subway lines remaining to be built. Two very important lines are routed through the heart of Washington, D.C., where major urban renewal projects have been undertaken and new development predicated on those subway stations opening.

Those lines then continue into the suburbs of Maryland, and Virginia to serve a significant number of low- and moderate-income persons who are most transit dependent. It would, indeed, be a tragic breach of promise were the Federal Government to renege, at this critical point, on its share of the Metrorail dream for those not yet served by the system.

The rapid transit system for the Nation's Capital since its inception has always had a unique relationship with the U.S. Department of Transportation and the Congress. It has always been separately authorized from the construction funding for mass transit provided by section 3 of the Urban Mass Transportation Act for other mass transit systems in the nation.

Metrorail has proven itself in the Washington region just as other urban mass transit systems have in major metropolitan areas. It, like its other counterparts, has reduced energy consumption, reduced air pollution, helped to guide regional growth, reduced dependence on the automobile, and daily moves hundreds of thousands of Federal and civilian workers, tourists, shoppers, businessmen, sports enthusiastic, church goers, and others to their destinations in clean, safe, and fast subway cars.

There is no question that our continued dependence on foreign oil and its continuing escalation in price will force many Americans to not only conserve, but also seek alternate sources of energy. That, in turn, means that many Americans will reduce their automobile usage and, in many cases, turn to alternate forms of transportation. This turning to other transportation modes is most pronounced in major metropolitan areas where an alternate form of transportation exists. Fortunately, most major metropolitan areas have another option to the private automobile. They have in place bus and/or rail systems, for the most part.

Increasing demands will be placed on those urban mass transit systems in the years ahead. The present administration recognizes that fact and proposes to increase the Federal funds available for construction of new systems and modernization of existing systems. I, personally, am committed to insuring that our Nation's mass transit systems retain their viability as one means of achieving energy conservation and independence of foreign oil sources.

The Washington metropolitan area transit system has already begun to demonstrate its ability to meet these goals, despite the fact that only one-third of the system is operational at present. It is a system befitting our Nation's Capital and promises to be a working demonstration, not only to the rest of our Nation, but to the world, of the benefits of urban mass transit as an energy saver and fast, efficient, economical people mover.

I urge the speedy passage of H.R. 3951.

EXHIBIT 1

STATE OF MARYLAND,
EXECUTIVE DEPARTMENT,
Annapolis, Md., December 10, 1979.

Hon. CHARLES MCC. MATHIAS,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR MATHIAS: We write to urge your approval of H.R. 3951, the National Capital Transportation Act Amendments of 1979 which is before the Senate Governmental Affairs Committee. The bill authorizes federal contributions necessary for completion of the 101-mile Metrorail system in the Washington area. It also authorizes federal participation in the operating costs of the system for the eight fiscal years beginning in 1981.

Twelve years ago a unique partnership was formed among the federal government, Maryland, Virginia, the District of Columbia, and localities, to finance the construction and operation of the agreed upon 101-mile regional Metro system. It would be unfortunate for one partner to unilaterally retreat from its commitment and thereby truncate the system with all the energy, environmental, and development losses that would be entailed. Passage of H.R. 3951 would provide the foundation for retaining the viability of a partnership and insuring the completion of Metrorail as it has been mutually planned and scheduled. Both the federal capital contributions needed for the completion of the 101-mile system and the federal operating subsidies are essential elements of an acceptable federal, state, local government funding package.

Design and construction of the Metrorail system have been predicated on the special relationship between the needs of the national capital region and the federal government. In many instances, routes and stations have been located to serve federal facilities, such as the Pentagon, Arlington National Cemetery, Federal Center, Federal Triangle, Capital South, the Smithsonian, and the National Institutes of Health. This special relationship, which has existed among the federal government, the states, the District, and the local governments since enactment of the National Capital Transportation Act of 1964, is acknowledged in this legislation. The relationship has been further strengthened by legislation enacted in 1969, 1972, and 1973.

The commitment on the part of local governments in Maryland and Virginia as well as by the two states and the District of Columbia is substantial. Representatives of these jurisdictions met to design the regional rail system after the passage of the 1960 act. Local jurisdictions thus far have contributed over $650 million. The State of Maryland and Commonwealth of Virginia have contributed or programmed over $400 million for the completion of the system. The District of Columbia has made available $1.2 billion in interstate highway funds and $270 million in capital contributions.

Maryland, Virginia and the District of Columbia have been considering proposals to establish stable and reliable sources of revenue to help support rail operations and to meet bond payments. A critical factor in the adoption of such proposals is the assurance of a continuing federal Commitment to Metro. H.R. 3951 provides such assurance. Since state legislatures and the District will be considering this matter when they meet early next year, it is important that the federal commitment be clarified this session of Congress. Should the bill be adopted, we can be confident that the states and the District together with the local communities, will meet their commitment.

The completion of the Metro system is a significant element in the national effort to reduce energy consumption. Current Metrorail ridership represents a savings of 95,000 barrels of gasoline a year. Completion of the system from the present 34 miles to the 101-mile design should result in at least doubling the fuel savings with concurrent benefits in reducing noise and air pollution.

We recognize that completing the Metrorail system is the core of efficient public transportation for the national capital area. The financial commitments on the part of the states, the District and the local jurisdictions express that recognition. We trust that you too will respond to the need by supporting H.R. 3951 in the Governmental Affairs Committee.

Sincerely,

MARION S. BARRY, Jr.,
Mayor, District of Columbia.
JOHN N. DALTON,
Governor, Commonwealth of Virginia.
HARRY HUGHES,
Governor, Maryland.

Mr. WARNER. Will the Senator yield?

Mr. MATHIAS. I am happy to yield to the Senator from Virginia.

Mr. WARNER. Mr. President, I thank the distinguished Senator from Maryland, my good friend and colleague, and I thank the distinguished Senator from Michigan for the time to speak on behalf of this proposed bill.

I should also like to recognize my colleague from Virginia, Congressman HERBERT HARRIS, who has been one of the pioneers in connection with the Metro system for the greater Washington metropolitan area and has taken a particular leadership role in respect to this legislation as it affects our State, Virginia.

We welcome him in our Chamber and again acknowledge, with appreciation, his work on this legislation.

Mr. President, as a cosponsor of H.R. 3951, it is my belief that any responsible energy policy must include provisions for mass transportation systems. In my judgment, Metro, serving the National Capital area, is an example of a concept which could serve as a model for similar systems throughout the United States. This concept is predicted on the completion of a full 101-mile metrorail system.

Today's bill authorizes the completion of the final 40 miles of that system, which are presently unfunded.

However, Mr. President, this bill only provides the share of Metrorail costs to be borne by the Federal Government. There is a provision in the bill which requires the District of Columbia, the State of Maryland, and the Commonwealth of Virginia to provide a "stable and reliable source" of income in order to meet their local funding obligations.

I have been in close contact with the Governor of Virginia, Governor Dalton, and have been assured of his commitment to provide this "stable and reliable" source for meeting Virginia's funding commitments.

This regional Metro concept has been called a political miracle—an example of successful cooperation between the Federal Government and several local jurisdictions.

I urge fellow Senators to continue their support for this valuable system.

Mr. MATHIAS. Mr. President, I reserve the balance of my time. I yield to the distinguished Senator from Missouri (Mr. EAGLETON) 5 minutes.

Mr. EAGLETON. Mr. President, I may need an additional minute or two beyond that.

Mr. LEVIN. Mr. President, I would be happy to yield to the Senator the additional minute he may need.

Mr. EAGLETON. Mr. President, I thank both of my colleagues.

I rise in opposition to the pending measure. I will read from the Minority Views:

> Supporters touted Metro as a great success—and, viewed from a local standpoint, there is considerable merit to that argument. In terms of ridership and farebox revenue, Metro compares very favorably with similar systems. For instance, with only 31 miles operating, Metro carries 260,000 passengers each weekday. In contrast, the San Francisco Bay Area's BART system, which is 76 miles long, carries only 180,000 people each weekday. Metro is a primary factor in the revitalization of downtown as a shopping district. Metro is noticeably altering the area's commuting pattern. Metro is giving people already conscious of the energy crisis an attractive alternative to the automobile. Metro is helping to preserve what is left of the region's air quality, and is promoting more orderly metropolitan growth patterns.
>
> The continuing growth and success of mass transit here in the Washington area is a remarkable contrast to the situation in St. Louis and in many other big cities. At a time when our energy problems demand greater emphasis on mass transit, St. Louis' Bi-State Transit system finds itself locked into a no-

growth route structure because there just isn't any money to operate additional service. At a time when the price of diesel bulk fuel has risen from 46¢ to 76¢ per gallon in less than a year, Bi-State anticipates no increase in its Federal operating subsidy this year, or next year, or the year after. At a time when systems like Metro are ordering up shiny new rail cars at prices approaching $1 million apiece, Bi-State must keep some of its buses' engines running overnight because there are not enough indoor parking spaces to keep the engines warm during the winter.

Facts like this have led us to conclude that the issue for the Senate is not whether or how much Metro benefits this metropolitan region, but rather whether there is sufficient national interest to justify this special authorization of $1.7 billion as the Federal share of completing construction. Viewing this issue in this light, we have concluded that we cannot support this legislation.

When Metro construction commenced in 1969, experts placed the completion costs for the 101-mile system at $2.5 billion. Today, experts say it will cost $7.2 billion to finish Metro, and many question even that figure. In 1969, advocates of the system said operating and maintenance expenses would be covered by revenues from the farebox. Today, farebox revenues pay only 57 percent of operating costs, and operating deficits by 1990 may run as high as $500 million annually.

There are many reasons for the increase in costs. Admittedly, some of the increase—such as that stemming from double-digit inflation—has been unavoidable. But the fact remains that Metro will cost more than the combined cost of five other heavy rail systems completed or under construction in Atlanta, Buffalo, Baltimore, Miami-Dade County, and the San Francisco Bay area.

Mr. President, I ask unanimous consent that at the conclusion of my remarks a comparison table of new startup rapid rail systems, the five systems I just mentioned, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EAGLETON. To continue:

Can the Nation, which is paying 80 percent of Metro's construction costs, afford it? The Federal government already has authorized $2.1 billion to Metro. The current bill proposes $1.7 billion more. Given that in our home state of Missouri, the St. Louis and Kansas City transit systems received a combined total of only $124 million in Federal funds during the past five years, we cannot help but view the Metro proposal as a bit too generous.

Even in light of those staggering numbers, however, our objection to the Metro financing plan rests not so much on the amount of assistance as on the manner in which that assistance is to be provided. Because of Metro's unique affiliation with the Federal government, Metro's construction costs never have been reviewed by Congress as part of its authorization for the Urban Mass Transit Administration, the arm of the Transportation Department which oversees all other mass transit funds. Instead, Metro has received its Federal contribution directly and without the impediment of competition with other transit systems. The bill before us would continue this special arrangement.

At one time, this arrangement might have been justified. Planning for Metro pre-dates UMTA, and stems from a time when many in Washington felt that we had the financial resources to do anything we pleased on the domestic front. Today, these rationales no longer hold up. We do not necessarily believe that the Federal government should absolutely foreswear the expenditure of any and all additional funds for Metro construction, but we do believe that the Washington area should be required to compete for those limited funds on an equal footing with everyone else. We cannot support a special authorization for the Washington area while St. Louis, Kansas City and dozens of other major transit systems around the country are practically reduced to begging for a few million here and a few million there to keep their aging and decrepit bus fleets rolling. We are not urging this Committee to go on record as opposing the expenditure of any and all further Federal funds for the construction of the Metrorail system.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. EAGLETON. Mr. President, I ask the Senator if I may be yielded 1 additional minute.

Mr. LEVIN. Mr. President, I yield the Senator 1 additional minute.

Mr. EAGLETON. To continue:

We simply are suggesting that the Metrorail system be taken down off its financial pedestal, and be compelled to compete for Federal construction funds with every other transit system in the United States.

The Administration supports this bill, saying that Metro can be funded as part of an expanded commitment to urban mass transit. They have earmarked $15 billion from the windfall profit tax, which together with ordinary appropriation will allow for a $40 billion Federal commitment to urban mass transit in the next decade.

We hope that the Administration position truly marks the beginning of a new era in urban mass transit. Given our energy crisis, and the threat to our air quality caused by automobile emissions, few things could be more important. We are hopeful that the future finds sufficient funds to refurbish existing bus systems; to welcome new, innovative light rail proposals; as well as to complete this expensive heavy rail system. However, based on the current situation and the past track record, we cannot support this legislation on the strength of a future promise.

Signed, THOMAS F. EAGLETON and JOHN C. DANFORTH.

EXHIBIT 1

COMPARISON CHART OF NEW STARTUP RAPID RAIL SYSTEMS[1]

System	Projected total cost of construction	Federal contribution	Source of local contribution	Number of planned operating miles	Miles in operation	Heavy or light rail[2]	Ridership
Atlanta	$1 billion for 1st 14 mi—final cost expected to be $2 to 3 billion.	$800 million via UMTA, 80–20 ratio, Federal-local.	1 percent sales tax through 1977, approved by voters in 1971.	53 mi	7 mi; 5 more to open in December 1979.	Heavy rail	10,000 per day on 1st 7 mi.
BART	$1.6 billion final cost for present system.	$300 million via UMTA primarily for rolling stock for a ⅔–⅓ ratio, Federal-local. Actual construction costs were 95 percent State/local funding.	$792 million from special bond issue approved in 1962 by 61 percent of voters in Alameda, Contra Costa and San Francisco Counties and San Francisco City; $180 million from bridge tolls; balance from general revenue bonds.	76 mi	76 mi	Heavy rail—⅓ subway; ⅔ surface.	180,000 per day.
Baltimore	$721 million	$573 million via UMTA, 80–20 ratio, Federal-State.	Maryland State Transit Fund—relies heavily on gasoline taxes.	14 mi	0—Expect to be operating in 1982.	Heavy rail	0.
Buffalo	$450 million	$359 million via UMTA, 80–20 ratio, Federal-State.	State funds from general revenues.	6.5 mi	0—Expect to be operating in 1984.	Light rail with 5 of 6 mi underground.	0.
Miami-Dade County	$819 million	$670 million via UMTA —80–20 ratio, ratio, Federal-local.	do	20.5 mi	do	Heavy rail—All elevated due to Florida water levels.	0.
	Total construction cost for 5 systems above: $4.59 billion, plus $1 to $2 billion more for Atlanta when completed.			Total planned miles for above 5 systems: 170 mi.			
Metro	$7.2 billion	$5.125 billion, special authorization and UMTA.	Bond issues; general revenues; dedicated tax being sought.	101 mi	33.7 mi	Heavy rail—½ subway; ½ surface.	260,000 weekdays, 73,000 Saturdays, 78,000 Sundays.

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[1] Sources—WMATA and U.S. Department of Transportation.

[2] Heavy rail—Separate right-of-way, no grade crossing, high speed, 3d rail, high platform, ability to be fully automated, fares collected on entry to system. Light rail—Operations on existing rights-of-way, grade crossing, moderate speed, overhead wires, street level access, manually operated fares collected on cars.

THE PRESIDING OFFICER. Who yields time?

Mr. LEVIN. I yield 3 minutes to the Senator from Maryland.

Mr. SARBANES. Mr. President, I rise in strong support of this legislation. This is a watershed bill before us because it offers the prospect of assuring the completion of the full Metrorail system in the National Capital area. The authorization contained in this legislation constitutes the Federal share of the balance needed to carry through the completion of the entire 101-mile Metrorail system. Therefore, we have the opportunity here today to assure that a system which is working—and I want to underscore that, which is working—it has attracted tremendous ridership, on a clean, safe, effective system, is brought to a happy conclusion.

We should welcome such opportunities. It is not often that we get the chance to act on a piece of legislation addressed to a problem that so clearly spells out the course for achieving a solution to the problem.

I want to acknowledge the work which many Members of the Congress have done with respect to this legislation: On the House side, Congressmen HARRIS and FISHER of Virginia, Congresswoman SPELLMAN and Congressman BARNES of Maryland, Congressman STARK, and Congressman MCKINNEY.

Earlier in the year I joined with my colleagues Senator MATHIAS and Senator WARNER in introducing on the Senate side legislation which generally parallels the legislation before us today.

The Governors of our States, Governor Hughes and Governor Dalton, have appeared before congressional committees along with Marion Barry of the District of Columbia, and indicated their very strong support for this legislation.

It comes at a very important time in the calendar because the Maryland and Virginia General Assemblies go into session in early January and having this legislation in place will be enormously important in shaping their responses with respect to actions which need to be taken at the State levels to complete the Metro System.

Mr. President, it has been a long path to arrive at the point where we are now. I urge my colleagues to seize this opportunity to carry the system through to completion.

Mr. President, I join in strong and enthusiastic support of H.R. 3951, the National Capital Transportation Amendments of 1979. This vitally important legislation provides the authorization for the Federal share necessary to complete construction of the Washington Metropolitan Area Transit Authority's Metrorail system. Approval of this legislation will fulfill a commitment undertaken by Congress nearly 20 years ago to provide efficient and effective public transit for the National Capital Region.

The centerpiece of this bill is the authorization of the Federal share of funds sufficient to complete the full 101-mile Metrorail system by 1987. These Federal contributions would be matched by a 20-percent share contributed by the State and local governments within the region. With this combined Federal and local effort WMATA will succeed in providing the full public transit service needed to best serve the National Capital Region.

The origins of the Metrorail system may be traced back to an act of Congress in 1960. The 1960 act mandated the planning and design of a rapid rail system for the National Capital Region. Throughout the 1960's local officials and citizens participated in a far-ranging and comprehensive review of the public transit needs of the region. After careful consideration and consultation with appropriate Federal officials the National Capital Transit Authority, forerunner to WMATA, submitted a plan to construct an efficient, modern system which would extend from the inner city to the densely populated suburban areas in Maryland and Virginia. In 1968 Congress endorsed this concept and authorized initial funding to commence construction of the Metrorail system.

In 1976 Metrorail began operations in downtown Washington. In 1977 service was greatly expanded by the opening of a second line which extended into the northern Virginia suburbs. In 1978 new segments of track were opened to service in Prince Georges and Montgomery Counties in Maryland. Many automobile commuters into the city now found they had a viable alternative means of transit.

As each new opening of track and expansion of service has occurred the ridership on the Metrorail system has increased. During the time when service was only available within the District of Columbia average daily ridership was estimated to be 30,000. The opening of the Blue Line to National Airport resulted in an increase in ridership up to 135,000. By the beginning of 1979 the 30-mile system from Maryland to the District and to Virginia averaged approximately 260,000 riders per day. In addition Saturday service which began only recently has already shown a 60-percent increase in ridership to 80,000 from the initial usage. With the opening of additional lines in Arlington, Virginia, and Prince Georges County, Md., during the next 2 years the growth of the system is expected to continue.

Although the success of current operations is impressive, much remains to be done if the full system is to be constructed. The need for constructing the entire system was reaffirmed by an alternatives analysis study conducted by WMATA at the behest of the U.S. Department of Transportation in 1976. The study took nearly 2 years to complete and involved an exhaustive investigation of the costs and benefits of the proposed 101-mile rail system and its alternatives. As a result of this comprehensive study some potential economies in construction were identified and some routes were realined, but the basic concept and essential design of the full 101-mile Metrorail system were endorsed and its completion found to be necessary.

Although only about one-third of the projected total system is currently in operation, the vital contribution Metrorail makes to the region is already apparent.

Further construction and operation will provide the alternative of rapid mass transit to an even larger group of people. This alternative form of transportation is important not only from the standpoint of efficient movement of people but also that we may cope with the hazards posed by energy shortages and air pollution crises. In view of our country's stated policy to reduce consumption of oil it is important that our citizens be afforded a reasonable alternative to their automobiles. In the Washington metropolitan area, like other metropolitan areas throughout the country, the spectre of serious air pollution danger is ever present. Anyone who has experienced the health hazards and extreme discomfort of one of the air pollution alerts common to Washington, D.C. during the summer months should recognize the seriousness of this situation. The Council of Governments of the Washington Metropolitan area, in developing a comprehensive pollution abatement plan, placed a very high priority on the construction and operation of the full 101-mile Metrorail system.

Congress has a special responsibility for meeting the mass transit needs in the Washington metropolitan area. The initial commitment by Congress to the Metrorail system was a recognition of the unique character and role of the Nation's Capital. With over 350,000 Federal employees living in all three local jurisdictions Metrorail provides the vital link allowing efficient commuting to and from work and the ability to achieve the attainment of clean air goals. The Federal work force is 21 percent of the entire work force in the region thereby imposing a special responsibility on the Federal Government to deal with the unique problems associated with such a concentration of employees. While the committee did not support the particular operating subsidy contained in the legislation I introduced, I believe a strong case can be made for such support. Many private firms and businesses are now subsidizing the mass transit commuting expenses of their employees and there is therefore precedent for the Federal Government assisting its employees by contributing to the cost of transit operations.

The Metrorail system is designed admirably to suit the needs of Federal employees and others who require access to the Halls of Government. Rail stops located at the Pentagon, L'Enfant Plaza, Federal Triangle, and Federal Center offer convenient access to the working places of many thousands of employees. There are two stations located within blocks of either side of the Capitol building itself.

The Nation's Capital does not belong solely to those who live and work here. As a symbol of our Nation's vitality the Capital City must be a vital place for all those who journey here to experience firsthand the drama of our country's history. Metrorail has been designed for these citizens of all 50 States who come to Washington for a visit. Two stations have been established at the behest of the Federal Government, Smithsonian and Arlington Cemetery, to provide convenient access to these educational and historic landmarks. The terminals at National Visitors Center and National Airport are specifically designed to serve the needs of those who travel to the Capitol and seek easy mobility and access to accommodate their plans and desires.

While we recognize the Federal contribution to Metrorail we should not overlook the commitment of the State and local governments involved. Officials from the two States of Maryland and Virginia, local jurisdiction in the two States, and the District of Columbia have worked in close cooperation to plan, develop, finance, and operate this system. The recently completed alternatives analysis study was undertaken by officials of these jurisdictions and concluded with a reaffirmation of their willingness to accept responsibility. All of these jurisdictions have undertaken a substantial financial burden to move Metro forward. Officials of the local government have also made the decisions to transfer Federal funds available for highway construction to build Metrorail, and they have assumed the great bulk of operating costs of the system. Even now these State and local governments are addressing the task of providing a stable and reliable source of revenue to insure future funding of Metrorail.

Nearly 20 years ago Congress had the foresight to mandate an effective public transportation system for the future of the Nation's Capital. I urge my colleagues to fulfill this commitment and to demonstrate our continued concern for the future of the Capital by supporting the pending bill reported by the Committee on Governmental Affairs. This legislation would insure that this vital transportation system mandated by Congress, authorized by Congress, planned and designed with the assent of Congress, may be completed with our full support.

Mr. LEVIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LEVIN. Mr. President, as one who comes from one of the great urban areas in this country, the city of Detroit, I am keenly aware of the great competition for Federal dollars for urban mass transit systems. It is not going to help Detroit, or all the other cities which are competing for that limited pot, for us to deny these funds. Quite the opposite. The provision of these funds to Metro will take some of the pressure from the other funds, which we are all competing for. I am very hopeful that the total pot available to the rest of the country grows, and I think it will with the passage of windfall profits. I do think it is important that we recognize this Congress' obligation to the mass transit systems.

Mr. SARBANES. If the Senator will yield, I want to assure the Senator from Michigan and the Senator from Missouri, that, as a member of the Banking Committee, I am very sympathetic with the problems which have been outlined with respect to mass transit systems nationwide, and have worked hard in the Banking Committee to increase funding for that purpose. I recognize the contribution mass transit can make to our energy problems, our environmental problems, the whole question of moving people to and from work. Pushing this legislation is not detrimental to those programs. In fact, I see it as being supplementary to them.

I want to assure both the Senator from Michigan and the Senator from Missouri that I will renew and continue those efforts in the committee to have a program nationwide with respect to urban mass transit which responds to the needs of the country.

I also want to thank the Senator from Michigan for his effective and thoughtful leadership with respect to this legislation.

Mr. LEVIN. I thank the Senator.

Mr. MATHIAS. If the Senator will yield, and I am not trying to interrupt him, since he has already graciously yielded to my colleague from Maryland let me say that the Senator from Maryland has referred to this as a system serving the District of Columbia. The extraordinary work done by the Senator from Virginia (Mr. WARNER) and the presence in the Chamber today of a Representative from Virginia (Mr. HARRIS), and my own colleague, PAUL SARBANES, his very extensive efforts, demonstrates, I believe, that this is more than a District of Columbia system. This is a system which will serve one of the most important metropolitan areas in the world, an area with a population of many millions, and of extraordinary significance to every man, woman and child in the United States. It is the seat of Government, the nerve center of the Nation. I just wanted to make that point.

Further, in joining with my colleague, Senator SARBANES, I want to assure the Senator from Michigan that in my consideration of issues before the Transportation Subcommittee of the Senate Appropriations Committee I have a very sympathetic feeling for other systems which may be funded with Federal assistance in various parts of the country, including Michigan and Missouri.

Mr. LEVIN. I thank both Senators from Maryland for their comments.

There has been a special relationship between the Nation's Capital and this Congress. Starting in 1969, as it relates to this particular transportation system, the Congress funded the National Capital Transportation Act in separate legislation. In 1972, in Public Law 92–249, Congress, in separate legislation, authorized the sale of over $1 billion worth of revenue bonds for Metro construction. Indeed, as the Senator from Maryland says, this is a metropolitan system, not one limited to the District of Columbia. It serves the Nation's Capital, and the Nation's Capital has a special place in the heart and mind of every American. It is in the national interest that this system be finished.

Six Presidents and every Congress that I know of, starting back in the 1950's, have supported this system.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LEVIN. I think it is critical, Mr. President, that this system be completed.

Mr. MATHIAS. Has all time expired?

The PRESIDING OFFICER. The Senator from Maryland has 2 minutes remaining.

Mr. MATHIAS. Mr. President, the Senator from Missouri argues that other metropolitan areas just beginning construction of rapid transit systems are spending far less than the Washington system. However, it must be borne in mind that the other four metropolitan regions just starting construction are building relatively short mileage, some of it surface or aerial rail, which have significantly lower costs than subway heavy rail construction.

Of those four metropolitan areas—Atlanta, Baltimore, Buffalo, and Miami—three plan additional mileage beyond that now committed to funding so that the total costs of those systems are not fully calculated.

Furthermore, the present mileage in those four metropolitan areas committed to funding, involve a total mileage of 66 miles or about 66 percent of the total Washington regional system. Once fully operational, the 101-mile Metrorail is projected to carry 885,000 passengers each weekday.

Metrorail's present ridership exceeds the daily ridership of San Francisco's BART, which is a 71-mile completed and operating system. BART, located entirely within one State, was constructed during the late 1960's and early 1970's before this Nation began to experience double-digit inflation. So the construction costs of BART are not fairly compared to Washington's Metrorail which is still under construction.

Inflation is jacking up the price of everything in the American economy—from housing, to food, to defense hardware, to social security payments, to space technology. So we shouldn't be surprised at the price tag of one public works project in the Nation's Capital without putting that price tag into perspective with the escalating costs of all other public works and public services.

One need only recall the original cost projections for the Nation's Interstate Highway System of $20 billion. Today, 42,000 miles have been built. The system is 90 percent open to traffic. And it has cost $100 billion. Highway planners estimate it will take another $40 billion to complete the remaining 10 percent of Interstate highways yet to be completed.

Clearly, a comparison of a heavy rail system under construction in the Washington region cannot be made with an existing system now in operation such as BART, nor can it be compared with an existing system that does not involve rail at all, but only involves buses.

To paint a picture of a poor stepchild for those all-bus systems fails to provide my colleagues with the details of the history of the bus system, its decline in upkeep, management, and ridership. Buses kept out in the cold weather all over the country, including those Metrobuses which exceed garage capacity, are sometimes required to keep their engines running overnight so they will start in the morning. This is simply a fact of life for bus companies which lack the garage space for all of their fleet.

● Mr. RIBICOFF. Mr. President, I support this important bill, the Metrorail Authorization Act (H.R. 3951).

By a vote of 12 to 2, the Governmental Affairs Committee favorably reported this bill on December 11.

Passage of this legislation today will mean that the last 49 miles of the 101-mile Metro subway system will be completed. A $1.7 billion authorization guarantees that the longstanding Federal commitment will be kept. On an 80-to-20 basis, Federal funds will be matched by the local participating governments—Maryland, Virginia, and the District of Columbia.

For some 30 years, the Federal Government has taken a special interest in the development of a transportation system—suitable for the needs of our Nation's Capital and neighboring communities. This clear Federal interest is evident—when one considers the obvious importance of a well-planned transit system to the Federal Government, its employees, and the millions of visitors who come here annually.

Today, there is renewed national interest in mass transit as a means of reducing dependence on foreign oil and revitalizing declining cities. This bill gives us a unique opportunity to make a contribution to solving those pressing problems. With only 33 miles of subway in operation, Metro already carries nearly 300,000 people each workday. Forty percent of the people who cross the Potomac each day from Virginia ride Metro bus and rail. This is a 25-percent increase from 2 years ago. In the Silver Spring, Md., corridor, the opening of Metro produced a 230-percent increase in people using mass transit in only 2 years. We want to encourage that kind of shift away from the automobile—and toward mass transit. And that is an important purpose of this bill.

In addition to energy savings, Metro has contributed substantially to the revitalization of downtown Washington. A recent study shows that Metro has encouraged or attracted more than $1 billion in new private investment in this region. Metro-related private investment has already generated about $50 million in annual property taxes for the District. In other areas it has been estimated that there will be new employment centers with 316,000 jobs located at Metro stations.

For all those reasons—for the promise that a completed subway system holds for this area and for the Nation—I urge Senate approval of this measure.●

Mr. MATHIAS. Mr. President, finally, I would like to urge the Senate to approve this legislation.

There is just one additional reason for doing so. I ask unanimous consent that an article from the Washington Post dealing with the increasing energy crunch be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

Prices Climb For Gasoline, Heating Oil

(By Phil McCombs)

Gasoline and home heating oil prices in the Washington area have jumped dramatically—as much as 6 cents a gallon in the case of Exxon regular gasoline—in the wake of Saudi Arabia's $6-a-barrel crude oil price increase announced last week.

That increase, matched by Qatar, the United Arab Emirates and Venezuela, is considered moderate and only a part of worldwide price increases now being worked out in Caracas at a meeting of the Organization of Petroleum Exporting Countries.

The announcement by Saudi Arabia, which supplies about 20 percent of U.S. crude oil imports, had these immediate effects on Washington area consumers:

Exxon, an Aramco oil producing partner that depends heavily on the Saudis for crude oil. announced yesterday a 6-cents-per-gallon gasoline price increase. The announcement has enormous impact here, where Exxon controls 24 percent of the gasoline market and has had some of the cheapest gasoline prices in town—as low as 90 cents a gallon for regular at some large stations.

Texaco, another Aramco partner, announced a 3-cent gasoline price increase last Saturday, following the Saudi announcement. Texaco has about 5 percent of the gasoline market here.

Home heating oil prices here just jumped 2 percent in what oil heat distributors say is another effect of the Saudi move. Ten of 15 heating oil companies, monitored by The Washington Post registered increases this week after at least two months of steady prices.

It may take a few days for Exxon's 6-cent increase to be passed on to consumers, because dealers are supposed to sell what they already have in their tanks at the old prices.

Some dealers—as they have in the past—may immediately raise prices in anticipation of the higher price they must pay when the next tank truck of gas is delivered to them.

The price increase by Exxon will bring its stations in line with Amoco and Gulf, the other big retailers here with 26 and 13 percent of the market, respectively. Both have been 10 cents a gallon or more higher than Exxon for some time.

Exxon was able to keep its price low because of the low price of Saudi crude it was getting and because the Saudis demanded that the saving be passed on to the American public.

The new round of oil price increases resulting from the OPEC meeting is expected to lift the price of gasoline here and nationally at least 15 cents more a gallon by late next year.

The Saudi price increase was also active to Nov. 1. An Exxon spokesman said that fact, "coupled with mounting increases in operating costs made it inadvisable to further delay the price changes."

The new average price of home heating oil in Washington is 90.22 cents a gallon—up 1.78 cents on average since last week, according to the survey by The Post. The highest increase was 6.7 cents a gallon and the lowest was a penny a gallon.

These increases come on top of a 50-to-100 percent increase in heating oil prices here and nationally during the last year.

While prices are rising, supplies of gasoline and heating oil remain adequate, according to industry representatives. There will be slightly more gasoline available this month than last, and heating oil stocks have been kept high by warm weather and conservation.

Joe Amato, a Silver Spring heating oil dealer, said consumers appear to be mindful of uncertainties of both prices and supply, and are using from 5-to-8 percent less heating oil than normal, even after figures are adjusted for the unseasonably warm weather.

Many of the heating oil price increases here in the last week also appeared to be triggered by Exxon, which included a 3-cent-a-gallon increase for home heating oil with its gasoline announcement yesterday.

Metropolitan Fuels Co., a large Bethesda oil distributor exclusively supplied by Exxon, which has had the lowest price in town—82.2 cents a gallon—for months, yesterday raised its price to 86.96.

Griffith Consumers, the largest home heating oil distributor here, held firm yesterday at its price of several months—88.9 cents.

"We've been on a program to keep our prices [down], but sooner or later [OPEC price increases] are going to affect everybody in the industry," said Griffith President Walter Meighan.

Mr. MUSKIE. Mr. President, the Senate is now considering H.R. 3951, the National Capital Transportation Amendments of 1979. The bill authorizes Federal assistance to the Washington Metropolitan Area Transit Authority (WMATA) for capital grants to complete the Washington-area rail system. It also authorizes Federal assistance toward the orderly retirement of about $1 billion in WMATA debt, now guaranteed by the Federal Government.

The potential budgetary impacts of the bill are as follows: First, a lump-sum authorization of $1.7 billion beginning in fiscal year 1982 for an 80-percent share of construction costs; second, a two-thirds Federal contribution to pay interest and principal on the $1 billion in guaranteed WMATA debt. This amounts to about $52 million per year between fiscal year 1981 and fiscal year 2012. The debt-service authorization is estimated to total about $2.4 billion between fiscal year 1981 and fiscal year 2014 when all the outstanding debt should be retired.

Mr. President, I will support this bill because it continues a Federal commitment to assist the Washington area in constructing a model mass transit system for the use of residents and visitors to the Nation's Capital. I congratulate the Governmental Affairs Committee on a responsible piece of legislation that makes several improvements over the House-passed bill and urge them to stand by this Senate version of the bill.

This is a big bill budgetarily, with authorizations totaling about $4.1 billion stretched out over a very long time frame, out to the fiscal year 2014. Mr. President, a lot can happen over that period and I do not plan to be here in the Senate for all of it, so I want to make a few comments now while I have the chance.

First, this bill is an authorization for appropriations for many future years. We cannot predict at this time what Federal budget policy will be appropriate in each of those years. This bill, by making a lump-sum authorization for further construction grants, provides some needed flexibility with regard to the annual funding levels that may be appropriated. This is a good policy because the annual funding requests will have to be considered in the context of the overall Federal budget.

Second, the bill provides for an orderly method to retire WMATA bonds that were issued with a Federal guarantee. This provision represents an improvement over the current situation, where each year a Federal contribution to debt service has been provided on an ad hoc basis due to a continuing shortage of funds at WMATA. The bill requires the local jurisdictions to establish a "stable and reliable source of revenue" with which to pay their share of the debt service.

I must point out, however, that this debt service authorization reflects a continuing problem which I have found it necessary to address before the Senate on several occasions. That problem is the expanding use of Federal loan guarantees. They may appear to be a low-cost method of providing Federal assistance, but here is a case where we are being asked to liquidate our obligation because the recipient cannot generate the funds to do so. However reasonable it may have seemed at the time, what was then authorized as a loan guarantee is now being largely converted to a Federal grant. These costs represent a claim on the budget until fiscal year 2014.

Third, on a related point, the bill requires that the "stable and reliable source of revenue" also be sufficient to meet the operating deficits which may be incurred by WMATA. This is potentially a very important aspect of the bill before us. It will help to insure that WMATA and its participating jurisdictions will evaluate further construction carefully and operate the system efficiently because they must bear a major responsibility for future operating deficits. I commend the floor managers for bringing us a bill that does not include special operating subsidies for WMATA, an unwise provision that is in the House-passed bill. The projected deficits could be very large if unneeded lines are built or if operations are not efficient. Therefore, it would be unwise to open the door for continuing special operating subsidies for WMATA, over and above the regular UMTA formula grants now provided by the section 5 program.

Therefore, I urge the Secretary of Transportation to exercise carefully his authority under this legislation to review and approve the local financing program which details the "stable and reliable source of revenue" for each governmental entity scheduled to make contributions to WMATA. Enforcement of this provision will be crucial to the success of this legislation.

Mr. President, I will support this bill.

Mr. MATHIAS. Mr. President, I yield back all my remaining time.

The PRESIDING OFFICER. All time has been yielded back. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was engrossed for a third reading and read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. BUMPERS), the Senator from Louisiana (Mr. LONG), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The PRESIDING OFFICER (Mr. MATSUNAGA). Are there any Senators in the Chamber who have not voted who now wish to vote?

The result was announced—yeas 66, nays 23, as follows:

[Rollcall Vote No. 504 Leg.]

YEAS—66

Baucus
Bayh
Bentsen
Biden
Boren
Bradley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
DeConcini
Dole
Domenici
Durenberger
Durkin
Exon
Ford
Glenn
Gravel
Hayakawa
Huddleston
Inouye
Jackson
Javits
Johnston
Leahy
Levin
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Pell
Percy
Pressler
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schmitt
Schweiker
Stafford
Stennis
Stevens
Stone
Thurmond
Tsongas
Warner
Weicker
Williams

NAYS—23

Armstrong
Boschwitz
Danforth
Eagleton
Garn
Hart
Hatch
Heflin
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
Lugar
Packwood
Proxmire
Roth
Simpson
Stewart
Talmadge
Tower
Wallop
Zorinsky

NOT VOTING—11

Baker
Bellmon
Bumpers
Goldwater
Hatfield
Heinz
Hollings
Kennedy
Long
Stevenson
Young

So the bill (H.R. 3951) was passed.

The title was amended so as to read:

An Act to amend the National Capital Transportation Act of 1969 to authorize additional Federal contributions for the cost of construction of the rapid transit system of the National Capital Region, to provide an orderly method for the retirement of bonds issued by the Washington Metropolitan Area Transit Authority, and for other purposes.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, I commend the following staff members of the majority and minority staffs of the Committee on Governmental Affairs for their great effort in connection with this bill: Carol Upshaw-Anderson, of my staff; Claudia Ingram; Jim Graham; Bud Moss; Jim Gentile; and Marion Morris.

Mr. WARNER. Mr. President, I ask that Mr. Lee Califf of my staff be added among the staff members who contributed to the work that enabled us to expeditiously pass the Metro bill.

Mr. HARRY F. BYRD, JR. Mr. President, I was attending the meeting of the committee of conference between the House and the Senate on the windfall profit tax bill when the measure on which the Senate has just acted was called up for consideration. As soon as I was notified, I came directly to the Senate; and when I arrived here the bell had just rung for the vote.

I favor completion of the Metro rail system as planned. I believe this constitutes a commitment to the States and localities which have contributed to it, and to the communities which will be served by it.

A rail mass transit facility is an important part of a balanced transportation system for the Metropolitan Washington area.

The communities of northern Virginia, along with the District of Columbia and Maryland, have made contributions over the years to the development of Metro, and each of them will benefit from its completion.

For these reasons, I support the Senate legislation regarding Federal participation in this important project.

CONTRACT AMENDMENTS—VERMEJO RECLAMATION PROJECT, NEW MEXICO

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 518, S. 539. This is a measure that is cleared for unanimous-consent passage, and I ask unanimous consent that there be no more than 1 minute on the measure.

The PRESIDING OFFICER. Is there objection?

Mr. ARMSTRONG. Mr. President, in this corner of the room, I could not hear the majority leader's request.

Mr. ROBERT C. BYRD. It is for the consideration of Calendar No. 518, S. 539, on page 20, the second Calendar Order from the top.

Mr. STEVENS. It is Senator DOM-

ENICI's bill. It has been cleared, and there is no rollcall request on it.

Mr. ARMSTRONG. I appreciate the explanation. I have no objection.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 539) to authorize the Secretary of the Interior to amend the contract for the construction, operation, and maintenance of the Vermejo reclamation project between the Vermejo Conservancy District, located in the State of New Mexico, and the United States.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DOMENICI. Mr. President, the purpose of this bill is to absolve any remaining debt owed to the United States by the Vermejo Conservancy District near Maxwell, N. Mex., for irrigation facilities constructed under the Bureau of Reclamation in 1955.

The projected amount of water that this project would provide is nowhere near the actual amount available for irrigation, due not only to climatic conditions in recent years but also to the establishment of small ponds and other water retention devices upstream. The deposit of silt in its two canals is also extremely high, necessitating constant high cost maintenance.

The project was designed to serve 7,379 irrigable acres, but with a steady decrease of water, less than 15 percent of the projected acreage to be irrigated was serviceable by the canals. The conservancy district is unable to meet the required payments, and is already delinquent on payments due.

Mr. President, the Bureau of Reclamation has concluded that the long-term outlook for an adequate supply of water will continue to be limited, particularly from the Vermejo River watershed. This shortage of water has caused extremely poor economic conditions. The Vermejo Conservancy District is unable to meet the repayment obligation established in the basic repayment contract dated August 7, 1952. Virtually all income derived from the project is needed for operation and maintenance with little left over to apply toward the repayment of capital costs. The effect of the legislation would be to cancel the entire remaining construction obligation of approximately $2,000,000 and transfer title to the project facilities to the district with the understanding that the project will continue to be operated for the benefit of all authorized project purposes.

It appears that the only solution to this problem is for the Congress to enact legislation to cancel the remaining construction repayment obligation. I hope that other Members will recognize the extreme hardship facing the residents of Maxwell because of this outstanding debt and act expediently to resolve the matter.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the Secretary of the Interior is authorized, subject to the written consent of the Vermejo Conservancy District, to amend contract numbered 178r–458, dated August 7, 1952, as amended, between the Vermejo Conservancy District, located in the State of New Mexico, and the United States for the construction, operation, and maintenance of the Vermejo reclamation project, to relieve the Vermejo Conservancy District of its remaining repayment obligation under such contract and such other penalties or other assessments or costs including interest under such contract which may become due or owing before the date of enactment of this Act, and to transfer all right, title and interest in or to the project facilities to the Vermejo Conservancy District; except that the Vermejo Conservancy District, to the extent practicable, shall continue to operate and maintain the facilities of the Vermejo reclamation project for the benefit of all authorized project users and in accordance with the authorized project purposes.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THAILAND'S ASSISTANCE TO KAMPUCHEAN REFUGEES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 542, Senate Resolution 316, which concerns Thailand's assistance to Kampuchean refugees.

I ask unanimous consent that there be a time limitation on that measure overall, with no amendments, not to exceed 10 minutes, to be equally divided between Mr. CHURCH and Mr. JAVITS; that any time on debatable motions, appeals, or points of order, if such are submitted to the Senate, come out of the 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title

The assistant legislative clerk read as follows:

A resolution (S. Res. 316) concerning Thailand's assistance to Kampuchean refugees.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute, without the time being charged.

The PRESIDING OFFICER. Without objection, it is so ordered.

BALTIC STATES AND SOVIET CLAIMS OF CITIZENSHIP OVER CERTAIN U.S. CITIZENS—UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the pending business, Calendar No. 542, the Senate proceed to the consideration of Calendar No. 520, House Concurrent Resolution 200, a resolution dealing with Baltic States, with the understanding that there be no more than 20 minutes overall, with no amendments thereto, including debatable motions, appeals, points of order, if such are submitted to the Senate, and that the time be equally divided between Mr. CHURCH and Mr. JAVITS.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

THAILAND'S ASSISTANCE TO KAMPUCHEAN REFUGEES

The Senate continued with the consideration of Senate Resolution 316.

Mr. BIDEN. Mr. President, Senate Resolution 316, as reported by the Senate Foreign Relations Committee, commends Thailand's assistance in dealing with the tragedy of the Kampuchea people. The Government of the Kingdom of Thailand has followed a humanitarian policy of attempting to facilitate the massive refugee population flooding its borders. Over 200,000 Indo-Chinese refugees have sought asylum in Thailand during the last 4 years.

The resolution commends Thailand for its noble humanitarian effort. It calls upon Thailand to continue providing the asylum and humanitarian aid to the Kampuchean people. Finally, it declares that the United States, working with the international community, will seek every means to insure the survival of the Kampuchean people.

Mr. President, I recommend that the Senate approve Senate Resolution 316.

I yield the floor.

The PRESIDING OFFICER. Who yields time? Is there further debate?

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I yield to my colleague from Alaska.

Mr. STEVENS. Mr. President, will the Chair assign the time for this side of the aisle from Senator JAVITS to Senator PERCY on this matter?

The PRESIDING OFFICER. The Senator from Illinois has the time for the minority.

Mr. PERCY. Senator JAVITS, Senator PERCY, and other minority Members all have approved this matter.

Mr. STEVENS. On that basis, I yield back the remainder of our time.

Mr. BIDEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DECONCINI. Mr. President, will the Senator from Delaware yield for a question?

Mr. BIDEN. Yes.

Mr. DECONCINI. Is the Senator planning two votes?

Mr. BIDEN. Maybe I could yield to the distinguished acting minority leader who can tell us about the voting situation. I am expecting two votes, one on this resolution and one on the Baltic States and Soviet citizens' claims resolution.

Mr. STEVENS. Mr. President, if the committee wishes to take the time, there is another time limit on the next matter.

May I ask the Chair, 20 minutes? If the committee wishes to take that time now and put off a vote on this resolution and have both votes back-to-back or have one vote count for two, it is all right with me.

Mr. PERCY. I would recommend one vote count for two.

The PRESIDING OFFICER. What is the wish of the Senate?

Mr. BIDEN. I would concur with the suggestion made by the Senator from Alaska that we now move to discuss the Baltic States resolution and that we have a single rollcall vote counting for two votes at the end of the discussion on the next resolution.

Mr. STEVENS. If that is acceptable to——

The PRESIDING OFFICER. Does the Senator make that unanimous-consent request?

Mr. STEVENS. May we proceed to the next resolution for the time being?

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, what is the request?

The PRESIDING OFFICER. The request is that the Senate proceed to consider the next resolution, Calendar No. 520, prior to taking a vote, as has been previously ordered on the——

Mr. ROBERT C. BYRD. I object.

The PRESIDING OFFICER. Objection is heard.

Has all time been yielded back?

Mr. BIDEN. Yes.

Mr. STEVENS. Yes.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the resolution. The yeas and nays having been ordered, the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER (Mr. BAUCUS). Are there any other Senators in the Chamber who want to vote?

The result was announced—yeas 90, nays 0, as follows:

[Rollcall Vote No. 505 Leg.]

YEAS—90

Armstrong
Baucus
Bayh
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hayakawa
Heflin
Helms
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Zorinsky

NOT VOTING—10

Baker
Bellmon
Bentsen
Goldwater
Hatfield
Heinz
Hollings
Kennedy
Stevenson
Young

So the resolution (S. Res. 316) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

Whereas the invasion of Kampuchea by military forces of the Government of the Socialist Republic of Vietnam has disrupted the peace and stability of Southeast Asia, threatened neighboring countries, and contributed to the vast human suffering which threatens the survival of the Kampuchean people; and

Whereas the Government of the Kingdom of Thailand has responded most generously to the urgent humanitarian needs of the Khmer and other suffering people in the region by opening its borders to provide asylum and assistance to those victims of war, famine, and oppression; and

Whereas the Government of the Kingdom of Thailand has demonstrated the humanitarian instincts of its people and leaders by providing asylum over the past four years to more than two hundred thousand Indochinese refugees; and

Whereas the Government of the Kingdom of Thailand has provided full cooperation and assistance to international organizations and voluntary groups which are working desperately to provide food and medical assistance to the Khmer and other refugees, and itself has taken on the burden of providing assistance to these people; and

Whereas the Government of the Kingdom of Thailand has consistently sought to achieve a solution to the crisis in Kampuchea by invoking the assistance of the United Nations; its ASEAN neighbors, and other members of the international community to reach a political solution to the war in Kampuchea and bring peace to the region; and

Whereas it has been the express policy of the United States to stress and support fundamental human rights in the conduct of foreign relations, to seek international assistance for Indochinese refugees, and to seek an end to the suffering of the Khmer people; and

Whereas the actions of the Government of the Kingdom of Thailand to assist these refugees reflects these same basic principles: Now, therefore, be it

Resolved, That it is the sense of the Senate that this body commend the Government of the Kingdom of Thailand for its noble humanitarian efforts to harbor, feed, and assist Indochinese refugees and the victims of war, efforts which stand in sharp contrast to suffering caused by the policies of some of its neighbors; and be it further

Resolved, That the United States seek to continue its support for the Government of the Kingdom of Thailand and its people in their effort to provide asylum and humanitarian assistance to the Khmer people who have been driven to Thailand by war and famine, and to other Indochinese victims of oppression; and be it further

Resolved, That the United States, working with the international community, and the Government of the Kingdom of Thailand, seek every possible means to insure the survival of the Kampuchean people through an effective and widespread program of food and medical assistance and to bring a rapid end to the conditions causing dire suffering within Kampuchea.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BALTIC STATES AND SOVIET CLAIMS OF CITIZENSHIP OVER CERTAIN U.S. CITIZENS

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of Calendar Order No. 520, which the clerk will state by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 200) expressing the sense of Congress with respect to the Baltic States and with respect to Soviet claims of citizenship over certain United States citizens.

The Senate proceeded to consider the resolution.

Mr. CHURCH. Mr. President, for nearly four decades the people of Lithuania, Latvia and Estonia have been citizens of the Soviet Union, a status they did not seek, a status imposed on them by force, and a status that the United States, for one, does not recognize as legal or just. As of July 1 of this year, a new Soviet law on citizenship has extended that status of involuntary citizenship to cover not just those who still live in the Baltic States but those who were born there before those nations were forcibly annexed to the U.S.S.R., and even the children of such men and women.

The resolution before the Senate expresses the real and continuing concern of the Congress with both the independence of the Baltic States and the potential danger of U.S. citizens of this new Soviet law. Many Americans with close relatives in Lithuania, Latvia and Estonia have been able to visit their families there in recent years and to restore the human contacts which forced emigration had cut. Now those Americans are understandably fearful that Soviet authorities could use the occasion of such visits to claim American as Soviet citizens and to expose the visitors to acts under Soviet law. The Department of State shares this concern and has pressed Soviet authorities to clarify the meaning and application of the new law. The response that the Department has received has been unsatisfactory.

It is the purpose of the resolution before us to reiterate long-standing American policy on the right of the citizens of the Baltic States to self-determination. It is also the purpose of the resolution to warn Soviet authorities against applying their new legislation to the detriment of citizens of the United States.

These purposes are sound and their expression by the Senate is, I am convinced, worthwhile and necessary.

Mr. President, I hope the Senate will give its approval to this concurrent resolution.

Mr. JAVITS. Mr. President, this concurrent resolution, which I favor, follows a long tradition of holding the free spirit of the Baltic nations which occupies international law, and indeed the law which applied to them before they were seized, a unique situation very strongly supporting the sense of national origin which characterizes so many who are now out in the world, so many in the free world, so many in the United States, their particular national feelings.

For many years, I have participated in comparable dedication by the Congress to the spirit of freedom which is so bright, which burns so bright in the breasts of those whose origin is in these countries.

I favor the concurrent resolution introduced by Senator BAKER and hope very much that the Senate will now adopt it.

Mr. CHURCH. Mr. President, I thank my colleague and good friend, the able Senator from New York, for his remarks. If there is no further debate on the concurrent resolution, I move its adoption.

Mr. PERCY. Mr. President, by passing this resolution today we will be reasserting our country's continuing commitment to the peoples of the Baltic States. It is important that we do this because it would be unconscionable to forget them. And we shall not forget them.

In the United States we live in freedom. As free men we have a responsibility to those in other lands where freedom is denied. Let all know that we shall continue to speak out for freedom everywhere.

Mr. DOLE. Mr. President, 4 years have elapsed since the signing, in 1975, of the Helsinki Final Act. This document gave concrete form to the hopes that free nations harbored of changing the course of history. Indeed, it sought to promote genuine understanding and a relaxation of tensions between the participating states, respect for human rights, freedom of religion and self-determination for all peoples.

The European Security Conference did not affect the position of the United States who never recognized the Soviet incorporation of Lithuania, Latvia, and Estonia. This long-standing principle has continued to be the policy of the United States, with the full support of Congress.

The Helsinki Final Act should be viewed, in retrospective, as a beginning. It has served as a basic standard by which to judge nations, ourselves included, in their record of human rights. Efforts have been made by many nations to fulfill their obligations under the final act provisions. Groups have sprung all across the Communist world, making it their mission to monitor their individual nations' compliance with the terms of a treaty their governments have signed. If totalitarian regimes continue to flout these obligations, they can hardly ignore them.

If there has indeed been some progress observed in family reunification, and cultural exchanges, as a result of the accord signed in 1975, there is little rejoicing to be done in relation to the Soviet Union's record of what must be termed "colonization" of the East. The annexation of the Baltic States was the result of secret protocols attached to the pact of nonaggression concluded in 1939 between Hitler's Germany and the Soviet Union then ruled by the infamous Stalin. The illegal occupation of Latvia, Estonia, and Lithuania is still in effect 40 years later.

As a tribute to men's fierce inherent desire for freedom, the Baltic States have maintained their hope and sustained their fight for self-determination, for the right to participate in the decisions that affect their daily lives, by being full partners in their governmental system.

The recent law promulgated by the Soviet Union, designating as Soviet citizens even those children born on foreign territory from parents who had once been Soviet citizens, has dangerous implications for millions of Americans to whom this applies.

This latest action by the Soviet Union is a clear indication that, as I stated in an earlier statement this month, "There is nothing new under the sun" in the Soviet Union, in spite of gains in certain areas.

Increases in emigration figures do not reflect a change of policy. That the occupation of the Baltic States continues to this day reaffirms this fact. It is therefore imperative that we demonstrate the seriousness of our commitment to policies of human rights declared by the U.S. Government, under several administrations. The 1980 Madrid meeting of the Conference on Security and Cooperation in Europe will provide a unique forum for the pursuit of our goals. I therefore support the concurrent resolution under consideration, requesting the President to instruct the U.S. delegation to Madrid to seek full implementation of principle VIII of the Helsinki Final Act, concerning equal rights and self-determination of peoples.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. CHURCH. I yield back the remainder of my time.

Mr. JAVITS. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 200) was agreed to.

The preamble was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. CHURCH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

ENERGY EXPO, 1982—CONFERENCE REPORT

Mr. CHURCH. Mr. President, I submit a report of the committee of conference on H.R. 5079 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5079) to provide for participation of the United States in the international Energy Exposition to be held in Knoxville, Tenn., in 1982, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 18, 1979.)

Mr. CHURCH. Mr. President, this bill, as reported by the committee of conference, would authorize an appropriation of up to $20.8 million for the costs of U.S. participation in this exposition, including the construction and operation of a U.S. pavilion. The overall Federal responsibility for the management of the exposition will be given to the Commissioner General of Energy Expo 1982, a Presidential appointment subject to the advice and consent of the Senate. In addition, the bill would authorize the President, acting through the Secretary of Commerce, to carry out in the most effective manner the plan of participation. This includes provisions which grant the Secretary all authorities and waivers necessary to implement the plan in time to meet the May 1, 1982, opening date of the exposition.

Mr. President, the bill reported by the committee of conference is substantially the same bill adopted by the Senate on November 14, 1979. The conferees made some minor changes with respect to the salary of the Commissioner General, the hiring of employees, and the authority of the Secretary of Commerce to incur expenses associated with this exposition. The statement of managers clearly explains these changes. I ask unanimous consent that this statement be printed in the RECORD at this point.

There being no objection, the joint statement was ordered to be printed in the RECORD, as follows:

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5079) to provide for participation of the United States in the International Energy Exposition to be held in Knoxville, Tennessee, in 1982, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

STATEMENT OF MANAGERS

Salary of the Commissioner General

The Senate amendment provided that the Commissioner General shall be compensated at the rate prescribed for level IV of the Federal Executive Salary Schedule.

The House bill did not prescribe the salary to be paid to the Commissioner General.

The Conference substitute provides that the Commissioner General shall be compensated at the rate of basic pay equal to the rate payable for level IV of the Executive Schedule.

Expenses of consultants

The House bill made reimbursement of the expenses of consultants and experts subject to the availability of appropriations.

The Senate amendment did not provide such a limitation to this authority.

The Conference substitute is the same as the Senate provision.*

Hiring of employees

The Senate amendment exempted the hiring of employees from title 5 of the U.S.C.

The House bill contained no comparable provision.

The Conference substitute is the same as the House position, based on the understanding that the Executive branch already has adequate flexibility for the hiring of temporary personnel to perform specialized functions as required for the exposition.

Authority to enter into contracts

The Senate amendment authorized the Secretary of Commerce to enter into such contracts as may be necessary to provide for United States participation in the exposition.

The House bill contained no comparable provision.

The Conference substitute is the Senate provision with an amendment to subject the authority to the availability of appropriations.

Expenses

The House bill subjected the authority of the Secretary to incur expenses to the availability of appropriations.

The Senate amendment contained no comparable provision, but did add the disposition of exhibits and materials to the list of expenses that could be incurred.

The Conference substitute combines the House and the Senate provisions.

Exemptions from certain Government procurement laws

The House bill includes various exemptions from specific Government procurement laws.

The Senate amendment deleted several of the exemptions and restricted some of the other exemptions.

The Conference substitute is the same as the Senate provision.

Mr. CHURCH. Mr. President, in considering this legislation, Senator BAKER and I both expressed concern about the general procedures used to dispose of the facilities constructed for use at international expositions. This concern is based on the fact that U.S. pavilions constructed for earlier international expositions have passed on to State or municipal authorities at little or no cost. Consequently, we have directed our staffs to draft legislation which will strengthen the requirements concerning the residual use of such facilities and limit the manner in which these facilities may be sold as excess Federal property. We hope to introduce this legislation early next year.

In conclusion, Mr. President, I believe the bill reported by the committee of conference is a reasonable compromise and I hope that the Senate would adopt the conference report.

Mr. President, before we vote on this matter, I defer to Senator JAVITS.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, our colleague, the minority leader, worked hard to bring this matter to the conclusion which we now find in the conference report, in persuading our committee and the other body that this was a highly desirable international exposition, concentrating on what looks like it is going to be the major issue before our country, at least for the next decade and perhaps longer, to wit, the problem of energy. I am very appreciative of the fact that we are considering it before the close of this session and find that it meets the requirements of the situation which Senator BAKER envisaged. I urge the Senate to adopt the conference report today.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. CHURCH. Mr. President, I think it should also be noted that the junior Senator from Tennessee (Mr. SASSER) has had a great interest in this exposition, and from the beginning was one of the most persuasive advocates for the approval of this bill. He appeared, along with his colleague (Mr. BAKER) before the Senate Foreign Relations Committee. He spoke with me several times to move the legislation along. He is entitled to receive his full share of credit for the action that the Senate is about to take in the adoption of this conference report.

If there is no further discussion or debate, Mr. President, I move that the Senate adopt the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. JAVITS. I move to reconsider the vote by which the conference report was agreed to.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EMIGRATION OF IDA NUDEL TO ISRAEL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to consider Calendar Order No. 521.

The PRESIDING OFFICER. The clerk will state the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 202) urging the Soviet Union to allow Ida Nudel to emigrate to Israel, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. JAVITS. Mr. President, this resolution was reported unanimously out of the Committee on Foreign Relations. It was introduced originally by Senators PERCY, who is a member of our committee, and WILLIAMS, the chairman of the Committee on Labor and Human Resources. There are 29 listed cosponsors.

Mr. President, it is particularly a tragic and appealing case to which we have directed attention. These great tragedies are deeply appealing to the world when exit permission out of the Soviet Union is denied and people are imprisoned simply because they wish to exercise those rights which every person is guaranteed by the signature of the Soviet Union to the international declaration at Helsinki, about which we have heard so much, and becomes a prisoner of conscience when imprisoned. I deeply feel that, as the world keeps banging at the closed door of the Soviet Union with respect to this particular issue, ultimately, it will open, as it has already opened in some cases.

As I say these words, Mr. President, I do it with no sense of resentment or hatred of the Soviet people. They are a great people, who have made many contributions to the world and will for untold generations to come. But something is wrong in that society that permits it to be such a closed society. I believe that the pounding at that door of the world's conscience will ultimately correct those tragedies which remain to be corrected like this tragedy of Ida Nudel.

Mr. President, this is a very celebrated case. Many of us have heard about it.

The list of the cosponsors of the resolution, which originally was designated Senate Concurrent Resolution 50, included: Senators WILLIAMS, CHURCH, PELL, SARBANES, STONE, ZORINSKY, JAVITS, PERCY, HAYAKAWA, and LUGAR.

Mr. President, I hope very much the Senate will now pass it unanimously.

THE CASE OF IDA NUDEL

Mr. CHURCH. Mr. President, tomorrow will mark the 100th anniversary of the birth of Joseph Stalin, an occasion that will pass—as it should—without official commemoration here or, I believe, in Moscow. Yet there is one place where, I imagine, the event might be recalled. It is a small Siberian settlement near Tomsk, where a courageous woman, Ida Nudel, is fighting illness and isolation in her second year of enforced exile.

Stalin populated Siberia with such people as Ida Nudel, condemning them to the living death of his concentration camps. Now, where millions perished at his whim, thousands still live in prison camps, sentenced there for their religious or political convictions, or in harsh conditions of internal exile. For 7 years in Moscow Ida Nudel, an economist who only wanted the freedom to leave the Soviet Union and be with her sister in Israel, fought to help the modern victims of the continuing Stalinist policies of repression. She was known to many as a guardian angel of the Soviet prisoners of conscience. But in June 1978, she became a prisoner herself, arrested and sentenced to 4 years in Siberia because she dared to hang a sign in her apartment window asking for permission to emigrate.

The resolution before the Senate makes no mention of Stalin's legacy to the Soviet Union and the world. It addresses the "continuing harassment" of dissenters in the Soviet Union and its Warsaw Pact allies, but it focuses on the courage, the dignity and the endurance of just one of them—Ida Nudel. It calls specifically for continued representations by the American Government to help secure her release from Siberia and her freedom to emigrate to Israel. Without commemorating the Stalin centennial, it is nonetheless a fitting way in which to recall both the innocent victims he destroyed and the many men and women, like Ida Nudel, who continue to battle against his legacy and for a society that respects the dignity of the individual.

Mr. President, I recently received a letter from Ida Nudel's sister about the Senate companion to this resolution and about the treatment Ida Nudel is undergoing in Siberia. I ask unanimous consent that the text of the letter be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

December 7, 1979.

Hon. Frank Church,
U.S. Senate,
Washington, D.C.

Dear Senator Church: I have just received a copy of the text of the Senate Resolution concerning my sister, Ida Nudel, S. Con. Res. 50. I wish to thank you personally for your having undertaken co-sponsorship of this document. It is a statement of hope, justice and truth and evidence of the greatness of the American people.

I gain great strength of spirit in knowing that you, and so many other good Americans endeavour to have my sister released from the Siberian hell she was so unjustly sentenced to. I pray it will not be too late.

The Soviet authorities at the beginning of November, as a result of world public pressure, summoned Ida to the Siberian town of Tomsk for medical tests. When it became clear that more tests would have to be made, she turned to the local K.G.B. office for permission to stay in Tomsk for as long as those tests dictated. This request was denied and so, Ida is now back in Krivocheino, none the wiser and certainly none the healthier.

I hope that your resolution will bring about the day when I can greet my sister in Israel.

Yours sincerely,

Elina Fridman.

Mr. PERCY. Mr. President, I commend this resolution to all of my colleagues in the Senate, because it expresses our deep concern for the freedom and well-being of a woman who has been a mainstay of those brave men and women of the Soviet Union who seek only to exercise their inalienable rights to speak their minds, to live in peace, and to emigrate if they wish.

For 7 years Ida Nudel supplied food and medicine to prisoners of conscience, kept in touch with their families, gave them hope and comfort, and did everything humanly possible to relieve their anguish and suffering.

Now Ida Nudel is the only woman dissident in exile in the Soviet Union. Under a 4-year sentence, she is the sole woman prisoner in a barracks of hardened criminals in Siberia. She has a weak heart and her health is deteriorating.

Why is she there? What heinous crimes did she commit? This was her crime: One day she hung a banner outside her flat which read, "KGB Give Me My Visa." That was her crime.

All Ida Nudel was asking was that she be permitted to emigrate to Israel to join her husband and sister.

By passing this resolution today, I hope that we will persuade the Soviet authorities to release Ida Nudel from her exile in Siberia and allow her to emigrate to Israel.

Mr. CHURCH. Mr. President, I move the adoption of the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (H. Con. Res. 202) was agreed to.

The preamble was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, I thank the majority leader. I apologize that I did not get to it soon enough to make the request myself.

I am very grateful to him for bringing this up.

The fact is, Mr. President, that Mrs. Nudel is in a very harsh condition in Siberian exile. We feel that, at the very least, this resolution may result in relieving some of the harsh conditions of her confinement.

I am very grateful to the majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from New York.

SUSPENSION OF RULE XXXVIII

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, this request has been cleared with Mr. Stevens, and with Mr. Javits and Mr. Thurmond, I believe, that paragraph 6 of rule XXXVIII of the Standing Rules of the Senate relating to proceedings on nominations be suspended with respect to judicial nominations unacted upon during the present session and that the status quo be not affected by the final adjournment of the first session of the 96th Congress.

Mr. JAVITS. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. I am very grateful to the Senator for that disposition of the matter. I am under terrible pressure in a thousand things today.

I am devoted to Senator Stennis. I would have found it necessary to devote all the remaining hours of this day to going through tne Senate records.

I thank the Senator so much.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I am awaiting the arrival on the floor of Senator Stevens, the distinguished acting Republican leader.

I yield the floor for the moment.

THE CHRYSLER BILL

Mr. CHURCH. Mr. President, I voted for the Chrysler bill reluctantly and with many misgivings.

However, on balance, I felt that the bill, as finally structured by the Senate, was a better risk than the consequences of bankruptcy for so large a company. Without the bill, 350,000 jobs would be lost (creating an even bigger burden on the taxpayers in the form of unemployment benefits); foreign automakers would capture an even larger share of the U.S. market (which would further weaken the dollar, and increase inflation); and the American economy would suffer a hard blow, worsening the recession which we are now entering.

I opposed the original plan for easy loan guarantees, because it did not extract sufficient concessions from Chrysler's management, its stockholders, its workers, or its creditors. As passed by the Senate, however, Federal assistance is made subject to stringent conditions, imposed on management, workers, and stockholders, alike. With these conditions written into the bill, the legislation ceased to be a simple bailout and became, on balance, a more acceptable plan than bankruptcy, with all the adverse consequences that would flow from it, affecting our whole economy.

The final vote will come when differences between the House and Senate bills are worked out in the conference committee. The House bill, which is not as stringent as the Senate bill, is unacceptable to me. If the final bill tilts too heavily toward the House version, I will oppose the final legislation. If it follows more closely the Senate version, I will support it.

RELEASE OF AMERICAN HOSTAGES IN IRAN—SENATE RESOLUTION 318

Mr. ROBERT C. BYRD. Mr. President, across the Nation, in the coming days, bells will be ringing to mark the holiday season. But, as long as the American hostages remain captive in Iran, the bells will also be a reminder to us all of the continuing plight of the 50 Americans.

Throughout this trying period, which began with the takeover of the embassy in Tehran on November 4, the American people have stood united in our determination to see the hostages safely returned. For more than 6 weeks, in the face of extraordinary provocations, this country has demonstrated to the world our patience, restraint, and maturity.

The administration has worked through a variety of international channels in seeking to bring about a peaceful resolution of this crisis. The action of the United Nations Security Council calling for the release of the hostages was followed by a number of other indications of international support for the U.S. position. Furthermore, the International Court of Justice, in a unanimous opinion, ordered the immediate release of the hostages, told Iran to return the embassy and the consulates in Tabriz and Shiraz to U.S. control, and to allow the Americans to leave Iran safely.

As the International Court of Justice stated:

> There is no more fundamental prerequisite for the conduct of relations between states than the inviolability of diplomatic envoys and embassies, so that throughout history nations of all creeds and cultures have observed reciprocal obligations for that purpose.

There was important additional evidence of support for the U.S. position this week. British Prime Minister Margaret Thatcher expressed strong backing for further moves by the United States including possible economic sanctions, if approved by the United Nations.

As of now, our Government is not seeking approval by the Security Council of economic sanctions against Iran—pending the outcome of current discussions by U.N. Secretary General Kurt Waldheim with the Iranians.

We must consider that possible course of action, however, as well as other steps to increase international pressure on Iran.

In this respect, I am pleased by Japan's agreement to a series of steps to heighten economic pressure on Iran, including a pledge not to extend new loans to Iran.

A few days ago, I was highly critical of Japan for allowing actions that had the effect of undercutting the effort to bring concerted international pressure on Iran.

Subsequently, Japan agreed to restrict its imports of Iranian oil to the level existing before the embassy seizure. The Japanese Government now says it will try to prevent further purchases of any Iranian oil on the spot market, after earlier Japanese purchases of 20 million barrels of Iranian crude originally intended for the United States.

Although I would hope to see Japan go even further in its cooperative effort with us, I commend the Japanese Government on these steps, which have brought Japan's role in economic measures against Iran up to those of our other major allies.

Despite the strong tide of international opinion, and the united position of the American people, the Iranian Government continues to act in defiance of the fundamental principles of human rights and international law. The terrorists and propagandists continue to prevail in Iran, even though the Shah departed last weekend for Panama. Mistruths and misinformation are used to manipulate the mobs in Tehran.

The specter of placing the hostages on trial or before an international tribunal is continually raised by the Iranians. I strongly concur with the position of the President and the administration that any such trial or exploitation of the captive Americans would be a grave provocation that could necessitate further and more serious action by the United States.

The actions of the United States have consistently demonstrated our dedication to finding a peaceful solution to the crisis, and to working through every available channel.

We should strongly discourage anyone from participating in such an international tribunal, particularly as long as the hostages remain in Iran. I find it difficult to countenance any participation in a so-called tribunal as long as the hostages are being held, a very basic fundamental violation of human rights. To participate in such an international tribunal would be to indirectly condone Iran's violations of international law, violations that have been unflinchingly condemned by the World Court.

The hostages remain the issue. We must not change our position on this. Until the hostages are returned, we must not allow ourselves or the world to be diverted to other issues. If certain groups within Iran wish to pursue the question of the Shah's record, this country's relationship with Iran, or other issues, they could do so through their own forums or they may attempt to pursue it through whatever international organizations they deem appropriate—after the hostages are returned. And it might well be appropriate for various groups to look into the bloody and repressive record of the current regime in Iran as well.

The American people will not be bought off by pledges to allow clergy to visit the captives, or perhaps allowing them to be served Christmas dinners. The hostages are captives who have been treated inhumanely, and no holiday dressing up is going to change that. They must be returned to this country. Nothing less is satisfactory.

Mr. President, on behalf of the distinguished acting Republican leader, Mr. Stevens; on behalf of the distinguished chairman of the Foreign Relations Committee, Mr. Church; on behalf of the distinguished ranking minority member of the Foreign Relations Committee, Mr. Javits, and other Senators, I am offering now a resolution that will make it unequivocally clear that the President of the United States enjoys the full and the unanimous and the complete support of the U.S. Senate in his efforts to win the release of the hostages through the full range of peaceful means. This resolution also makes it clear that the U.S. Senate stands ready today, tomorrow, the next day—any day—to reconvene, if it is necessary, to consider any legislation to aid the President in winning the release of the American hostages.

Let no one be misled into thinking that the congressional recess can be viewed as reducing the mounting pressures on the Iranian captors. As a matter of fact, the Senate will be prepared to reassemble upon the request of the majority leader, after consultation with the minority leader, if necessary to act on this issue at any point.

I ask that the clerk state the resolution.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

Mr. Robert C. Byrd (for himself, Mr. Stevens, Mr. Church, Mr. Javits, Mr. Pell, Mr. McGovern, Mr. Biden, Mr. Stone, Mr. Sarbanes, Mr. Muskie, Mr. Zorinsky, Mr. Percy, Mr. Hayakawa, Mr. Moynihan, Mr. Exon, Mr. Matsunaga, Mr. Roth, Mr. Warner, Mr. Weicker, Mr. Dole, Mr. Boschwitz, Mr. Humphrey, Mr. Thurmond, Mr. Jepsen, Mr. Durenberger, Mr. Packwood, Mr. Armstrong, Mr. Pressler, Mr. Schweiker, Mr. Domenici, Mr. Lugar, Mr. Wallop, Mrs. Kassebaum, Mr. Cochran, Mr. Tower, Mr. Helms, Mr. Baker, Mr. Bellmon, Mr. Mathias, Mr. Schmitt, Mr. Stafford, Mr. Chafee, Mr. Garn, Mr. Hatfield, Mr. Heinz, Mr. Laxalt, Mr. Huddleston, Mr. Morgan, and Mr. Long, proposes a resolution (S. Res. 318), as follows:

Whereas, since November 4, 1979, United States personnel have been held hostage in Iran, in violation of fundamental principles of human rights and international law; and

Whereas, numerous national governments, international organizations and institutions, including the United Nations Security Council, have called for the immediate release of those being held hostage; and

Whereas, the International Court of Justice, in a unanimous opinion, ordered the immediate release of the hostages, citing the historic inviolability of diplomatic envoys and embassies; and

Whereas, the Congress and people of the United States remain firm, resolute, and united in their determination to obtain the immediate, safe, and unconditional release of the United States personnel being held illegally in Iran; and

Whereas, in the face of extraordinary provocations, the United States has consistently demonstrated its desire to resolve this issue by peaceful means; and

Whereas, the leaders of Iran continue to act in contravention of the basic principles of civilized society and in defiance of international law and of the actions of duly constituted international organizations; therefore be it

Resolved, that the Senate expresses its full support for the President's efforts and for the cooperative efforts with other nations and international organizations, to win the freedom of Americans being held captive in Iran;

That the Senate calls on all nations to join with the United States in cooperative efforts to severely restrict economic, diplomatic, and commercial relations with Iran;

That any trial or public exploitation of the American hostages would be viewed by this nation as added provocation of the gravest character;

That the holding of the hostages in Iran remains the central and primary issue and that the American people will not be diverted from their determination to obtain their immediate release and safe return to the United States; and

That the Senate will convene at the call of the Senate leadership, and is prepared expeditiously to consider any recommendation of the President and any law or measure to aid in the task of gaining the freedom of the hostages.

Mr. ROBERT C. BYRD. Mr. President, this resolution has been cleared and, as a matter of fact, it has been modified by the members of the Foreign Relations Committee, including the chairman and the distinguished ranking minority member, Mr. Javits. Everyone has had some input. The request for immediate consideration has been cleared with that committee. Therefore, I ask unanimous consent that the Senate proceed to the immediate consideration of the resolution.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the adoption of the resolution.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CHURCH. Mr. President, let the record show that it was at the suggestion of our distinguished majority leader that this resolution should come before us today in order that there might be no mistake concerning the willingness of the Senate to reconvene immediately, at any time during the coming month, if there is any necessity for action here that would help to secure the safe release and return of the American hostages in Tehran.

I commend the majority leader for suggesting the resolution. I was happy to accommodate his request. The Foreign Relations Committee met this afternoon for that purpose. I think that the product of the committee's effort, which the clerk has just read to the Senate, represents the unanimous opinion of this body, and I hope that when the Senate votes on this resolution we will secure its unanimous approval.

I only underscore, Mr. President, the statement made by the distinguished majority leader that the holding of American hostages is a violation of every principle of international law and every practice of comity between nations.

As to this, the world is in full agreement. The National Security Council of the United Nations unanimously voted a resolution demanding the immediate and unconditional release of the hostages.

The World Court in a unanimous opinion has ordered the release of the hostages.

In this case, the Government of Iran in acting as a brigand defying not only world opinion but international law, the longstanding practice of nations, and the resolutions and orders of those international bodies that we entrust to uphold civilized conduct between nations.

Furthermore, Mr. President, the imprisonment of these American diplomats at our own Embassy in Tehran is a clear and undeniable violation of the covenant contained in the Geneva Convention regarding diplomatic immunity to which Iran itself is a party.

So let there be no question about our right to demand the unconditional return of these hostages. Whatever grievances the people of Iran may have toward any previous regime or toward the United States for its support of the Shah during his years in power are irrelevant to our right to demand the immediate release of these hostages.

I say emphatically that the Government of the United States and Congress have no intention to yield to the demands of the so-called student captors that we meet some requirement that they would lay upon us before the hostages are released.

Originally they demanded the extradition of the Shah and we properly made it clear that under no condition would we bend to that kind of blackmail. Now that the Shah has left the United States and gone to Panama it is clearly beyond any further power of ours to deal with him even if we were of a mind to do so.

Since then the demand has seemed at times to change though it is difficult to follow events in Iran since no one can be sure who speaks with authority and since the Foreign Minister is given to the practice of saying one thing in the morning and another thing in the evening of the same day. But at one point during the past week it was suggested that some kind of hearing might be held in the United States respecting the alleged villainies of the Shah. I think, Mr. President, that we should make it abundantly clear that no hearing will be held in Congress on any aspect of the issue until these hostages are released and returned safely to the United States.

Only then would it be appropriate for the Foreign Relations Committee to reexamine the Iranian question. Only then would we even consider reviewing past American policy or the appropriate countermeasures that the United States should take in determining the nature of its future relations with Iran in the light of this extreme provocation. But for now, it is enough for us to insist that international law be upheld, that the decree of the World Court be enforced and that the Security Council of the United Nations should see to it that its own resolution is backed up with whatever sanctions are necessary to secure its enforcement. This will be our policy. It is the only honorable policy that this country can follow under these sobering circumstances.

So once again I commend our distinguished majority leader and I thank my good friend, Senator Javits, for the help that he gave to me in making it possible for the committee to quickly consider and to revise in some particulars this resolution so that the Senate might act on it before we finish our business today.

I see that the Senator from New York (Mr. Javits) is now on his feet, and I yield to him.

The PRESIDING OFFICER (Mr. Exon). The Senator from New York.

Mr. JAVITS. Mr. President, did Senator Stennis wish to be recognized?

Mr. STENNIS. After you.

Mr. JAVITS. I would be glad to yield to you.

Mr. STENNIS. Mr. President, I appreciate very much the courtesy of the Senator from New York.

Frankly, I am very proud of what I have heard here in the Senate during the last 30 minutes. I have been engaged in matters off the floor for 2 or 3 days, and I highly commend our leader here who has sponsored this resolution in the beginning, and I am speaking of the majority leader, and also the acting minority leader.

The reference to this resolution and the study they have given it in our Committee on Foreign Relations is very timely, and it adds up to a spirit in America and a spirit in this body of which I am very proud indeed.

We work in the Armed Services Committee with weapons of military power, and we come in contact daily with the story of the force they have behind them. We have been taught though in this event how powerless they are under some circumstances. Here is the situation where it is new in a way, and I am proud to be a part of the Government that, as a whole, has dealt with it in a very splendid fashion.

We have discovered, too, in this experience that we, too, have a powerful weapon of patience, unity, and purpose that is being expressed not with military might but being expressed with things that concern the will and the willingness to cooperate and to stand together as one.

I am accustomed to seeing the flag fly, but I have not had anything that thrilled me more than to see the picture of flags flying on "Unity Day," That was a fine thought. I believe we have had a renewal and a rebirth of an American spirit that we have not had to exercise so much here in the last years, decades, of our peace, relative peace, and prosperity and high economic standards.

We see now that there are other kinds of power and strength that we must know how to exercise.

I think it is a test of our character and a test of our will. As we have looked around, do not be impatient to think that other nations and other organizations have not been concerned and have not helped our side which, in this case, is certainly the lawful side.

We have had the strength and the support of the United Nations, for instance; not military force but a unity. Maybe it did not go as far as some thought it should, but there was a concern and there was a unity, an expression of a will.

The same thing in the International Court and in other organizations of mankind around the world, even though these hostages are not yet released. I think every thoughtful person, observant person, who has been in contact with this case has a new realization that there can be a unity that can be resolved, a will exerted, against lawlessness and misbehavior in international affairs.

I have no inside news, of course. There is none, perhaps. But I believe that our battle has partly been won with reference to the hostages. We will tough it out, if I may use that expression, through patience and a continuation of our will and our resolve.

So it is with humility as well as with pride that I see this resolution come here before this body, and I have great satisfaction and faith in our future, America's future, that will support it, of course, to the end.

We would be thrilled, really should there be something happen—we would not want it to be misfortune, but something happen—to express ourselves to the last Member by assembling or making any other effort that would back up our Nation on this problem.

I thank the Chair and I thank the Senator from New York especially for yielding.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, I would like to address myself to the resolution which is before us, just reported unanimously by a vote of 12 to nothing out of the Committee on Foreign Relations of which I am very pleased to be permitted to be a sponsor.

Mr. President, the resolution before us qualifies—we have had a good many resolutions on Iran and our hostages, but this one qualifies—as a declaration of policy by the Congress. I think that is what Senator BYRD intended on what looks like our final day as we go out, that we declare what is our policy.

Our policy is twofold: One, that we will support the President in his effort to find a peaceful solution; and, two, that we will support whatever efforts, recommendations of the President, measures or laws which are necessary to find a solution.

Mr. President, two things stand out in this resolution to me: The universality of what we are contending for, because a world of anarchy and a world of disorder can only be a scourge to every nation no matter what may be its ideology or form of government, which is the gradual approach of some kind of a rule of law in the world which makes our age different from other ages. There are still death and killing, injustice, hunger, starvation, almost every ill known to man, but not in the volume that they have been. The reason has been that society, somehow or other, perhaps by sheer martyrdom, has become more orderly and stable, and that is what this is all about.

I do not think it is any denigration of the desire of the people of Iran to have things the way they want them in terms of government, and so forth. We recognize that in our society. Nobody is sending an expeditionary force to Iran to suppress the revolution or to reverse it. They can have any form of government they want, do anything they please for their own destiny, but they may not hurt others wantonly and against the morality and the laws not just of treaties and of embassies but of men.

This is the essence of all religion. My own faith is one of the oldest extant, and what is it all about? It has one central word "justice." Other faiths have glorified the concept of one God, the Christians with loving kindness and others in other ways. But that essential concept of justice underlies them all, and it is that for which we struggle in the world.

One last thing which I like about this resolution: Its implication clearly is that nothing comes free, and we may face sacrifice, whether it is riding our cars less or having other amenities which we love in terms of our standard of living curtailed, whether it is exposing our whole Nation and our people to grave dangers; we know that in this we fight the cause of all humanity. I think there is an enormous residual strength in that.

I found in this particular resolution—and we considered others—those clear implications. The call is with dignity and we are doing something, and that is what the American people look to us for. "What are you doing?" We end this resolution by saying:

> That the Senate will convene at the call of the Senate leadership and is prepared expeditiously—

You will not have to have any cloture votes—

> to consider any recommendation or measure or law essential to the task of gaining the freedom of our hostages.

Mr. President, I think we can epitomize and characterize this resolution by saying, "People of the world, consider how we feel," and "People of the world, consider what we are preparing to do to implement what we are all about, which is to attain a measure of justice for you as well as for us."

Thank you.

Mr. CHURCH. Mr. President, I ask unanimous consent that the name of the distinguished Senator from Nebraska (Mr. EXON) be added as a cosponsor of the resolution.

The PRESIDING OFFICER (Mr. EXON). Without objection, it is so ordered.

Mr. JAVITS. I also ask unanimous consent at this time that any other Senator who wishes to add his name as a cosponsor of this resolution may be permitted to do so.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATSUNAGA. Mr. President, will the Senator yield?

Mr. CHURCH. I yield to the Senator from Hawaii.

Mr. MATSUNAGA. I ask unanimous consent that my name be added as a cosponsor of the pending resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATSUNAGA. If the Senator will yield further, Mr. President, I commend the distinguished majority leader (Mr. ROBERT C. BYRD), the chairman of the Foreign Relations Committee (Mr. CHURCH), and the ranking minority member of that committee (Mr. JAVITS) for assuming the leadership in the introduction of the pending resolution. It was a long time coming. But, it was only because congressional leaders had agreed with the President to refrain from commenting on the situation in Iran, for fear that what would be said would be misinterpreted, and thus confuse the situation and deter the release of the American hostages.

Not since World War II has any single issue united Americans as has this issue, in their determination to free the Americans held hostage in Iran. I believe the adoption of the pending resolution will call to the attention of the leaders of Iran the indisputable fact that Americans are determined, one and all, without any dissension, to do whatever is necessary to free the American hostages being held there without any justification whatsoever.

The issue is not what to do with the deposed Shah of Iran, now in Panama; the issue is the violation of international laws and the inviolability of American embassies and American diplomats in foreign countries. If we should yield to the demand of Ayatollah Khomeini to return the Shah of Iran, as a condition to the release of the American hostages, we will have paved the way not only for future violations and a deterioration of international relationships, but also for blackmail foreign diplomacy. This is the real issue, and I reiterate for the benefit of those who may mistake our patience for irresolution: The Senate is united with the President, with the Members of the House of Representatives, and with all Americans in the determination to do all that is necessary to free the American hostages now unlawfully held in Iran. Let there be no mistake about that.

Mr. CHURCH. I thank the Senator from Hawaii very much for his very moving words. I yield now to the distinguished Republican whip, the Senator from Alaska (Mr. STEVENS).

The PRESIDING OFFICER (Mr. BURDICK). The Senator from Alaska.

Mr. STEVENS. I thank the distinguished chairman of the Foreign Relations Committee.

Mr. President, today is the 46th day that the hostages have been held illegally by Iran and I am most pleased to join in the efforts of the majority leader. I am pleased to see that all the members of the Foreign Relations Committee have joined in sponsoring this resolution.

It would be my hope that before the day is over, every Member of the Senate will add his or her name on this resolution. There should not be any question that this is the resolution of all the Senate, and that we have committed ourselves to a course of conduct.

I particularly call the attention to the last paragraph of the resolution, which states:

> That the Senate will convene at the call of the Senate leadership, and is prepared expeditiously to consider any recommendation of the President and any law or measure to aid in the task of gaining the freedom of the hostages.

I take that to be a commitment on the part of the Senate as a whole, and, as I say, it is my hope that every Senator will cosponsor this resolution and make it very plain not only to our Nation, but to the Iranian nation, that we are dedicated to support the course of action of our Government, which is the immediate, safe, and unconditional release of all our hostages being held illegally in Iran.

Mr. President, as the acting minority leader, it has been my privilege to participate in the daily meetings with the Secretary of State or his designee, Warren Christopher, to consider what the executive branch has done and what it proposes to do in furtherance of that goal.

There is no question that there is 100 percent support in this country for the goal of the executive branch, which is the goal of the United States as a whole, to obtain the release of these hostages and to do so consistent with our national honor. I believe that what we have done we have done in furtherance of the achievement of that goal, and it is a difficult problem, to say the least.

One of the interesting aspects of these meetings is that I have developed a very high regard for our Secretary of State and for his staff, and for the way that they have attempted to achieve that goal. That we have not been able to achieve the goal so far is most frustrating to all of us, and I hope that the Nation will, as we continue to attempt to secure the release of these people, our fellow Americans who are being held illegally, continue to maintain a solidarity and continue to support the efforts that are being put forth not only by our Nation, but by our Nation's friends throughout the world, to secure their release.

Mr. President, I cannot think of a time when we have come closer to the parliamentary procedures in nations of the world such as Great Britain, where there is a question and answer session, where members of the Government answer questions from the duly elected representatives of the people on almost a daily basis concerning the critical issues of the day.

The Secretary of State and other representatives of the administration have come to the Senate on several occasions and have answered questions, I might say very direct questions, concerning the efforts that have been made, and have offered their advice.

I cannot say that we have been put in the position of being part of the decisionmaking process. What we have asked for and what we have obtained from the administration has been the process of seeking our advice and of keeping us informed as to the efforts of the administration to obtain the release of our hostages.

And, as the majority leader points out, that has been almost daily, sometimes 6 days a week, and it has also included some calls at some very early hours in the morning from the Secretary of State. I once asked him if he ever got any sleep, because I know I was with him quite late one evening and he was on the phone to me before I was awake the following morning.

I cannot say too much for the dedication of the Secretary of State for this goal that is the goal of all Americans, so far as I am concerned.

But, in any event, I hope that the Members of the Senate are listening. I hope every Member of the Senate will cosponsor this resolution, those that are available. I know that many are in conference committees right now and we are trying to wind up the work of the Senate. It is not possible for everyone to be present and to comment upon this resolution now.

But it should be a unanimous position of the U.S. Senate. And even those who are absent, I believe that their advisers ought to give us the knowledge that their Senators have been informed of this resolution.

As we leave this session of Congress to return to our homes for our religious holidays, I think that the people of Iran ought to be on notice that we are prepared to return here on a moment's notice and that we have authorized our leadership to call us back on whatever notice is required so that we might consider any recommendation that is made by the executive branch, by the President, that might assist in the task of gaining the freedom of these hostages.

Mr. President, as I say, I am pleased to join with the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I ask that no amendments be in order on the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, while we are celebrating Christmas and as each of us wend our way to our own States and our own homes, I think in the forefront of our minds will be the thought that there are 50-odd Americans who will not be celebrating Christmas, who will be hostages, who will be in a position of misery and travail, whose hands will be bound, who have been held prisoner now for many weeks, and who have no immediate prospect of release. But I believe that all of us should keep the situation in mind.

Each of us in our States are participating in various actions to show our concern. A couple of days ago I remember joining fellow Americans in putting the American flag outside my house. In my own State, they are ringing the church bells at 12 o'clock on Sunday; some churches every day. They are sending telegrams. They are sending letters. I hope that the effect of this outpouring of emotion and feeling can have an effect upon the Iranian so-called students—more appropriately called rascals, scoundrels, or whoever they are—in carrying out their activity there.

The American people and our country are often considered to be a quarrelsome group. We are rather like a family. We often quarrel among ourselves. But I have never seen any event that has brought us more together for a problem outside of our borders than has the imprisonment of our diplomatic people in Tehran. With one voice the American people have been speaking. It has been a very remarkable sight to see how the American people have drawn together as a result of this crisis.

I hope that this spirit of growing together would prevail and carry on when the situation has finally been resolved. This is the only beneficial effect that has come out of this misery and this tragedy that has occurred in Iran.

I believe if we keep our shoulders together we will eventually see success at the end of the road.

I join the minority leader and my colleagues in congratulating the Secretary of State on the dedication, the tact, the ability and the drive with which he has conducted himself.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, I, too, want to commend the distinguished majority leader, the chairman of the Foreign Relations Committee, and others who have brought forth this resolution for consideration by the Senate this afternoon.

It is an appropriate time here, on the eve of what we hope will be the final day of this particular session of the Senate, and at a time, after 46 days, when the American people, our leaders, and Members of the Congress have exercised extraordinary restraint and patience and resolve in dealing with this very difficult problem.

For 46 days citizens of the United States have been held illegally in captivity. Our Embassy property has been seized and great danger has been presented.

But from the beginning, our President took a very firm position. He stated the position of the United States that we would not yield; we would not be intimidated; we would not be blackmailed by terrorist and unlawful activity; and that whatever complaint one country might have against this country, those would not be considered until our citizens were released. Our position has never waivered from that.

In return, we have seen a government—if, indeed, the rulers of the country of Iran can be termed a government—first of all try to divide our people, and failed, and then proceeded in such duplicity as to make it impossible for our leaders or anyone else in the world to really understand what their position is. Such contradictory statements, such contradictory policies have emanated from the various individuals who have purported to speak for Iran that it has been almost impossible to understand what direction we were headed.

And all of this time, a great exacerbation of the vituperation that has come from the various leaders of that country against the United States in an effort to continue to inflame the passion and create the hatred of the people against the people of this country.

We have seen the one individual who has generally conceded to be the leader, the Ayatollah Khomeini, resort to the basest kind of deception, deliberate and premeditated, accusing the United States of acts which he, himself, knew to be false at the time the accusations were made. I am referring to the incidents in the Great Mosque at Mecca, in which he told his people that the United States was responsible for the attacks on that holy place. I am referring also to the recent assassination of one of his advisers, in which I have reason to believe that he knows who is responsible for that assassination.

But, disregarding that, he deliberately deceived the people of his country by indicating to them that the United States was involved in a very obvious effort to try to continue to inflame the hatred and to solidify his people behind the unlawful and terrorist acts that he is supporting in the holding of our citizens.

Mr. President, as I said in the beginning, I think we all can be proud of the people of the United States' firmness, patience, and resolve. I think we can be proud of the restraint displayed by Members of this body and Members of the House of Representatives who, with the possible exception of a few minor instances, have exercised the greatest responsibility, all of us realizing that the paramount issue is the safety of the citizens of the United States.

But I think it well for those who would do us harm to recognize that the patience and the restraint of the people of the United States is not totally unlimited. For 46 days we have offered a peaceful solution. We have indicated that complaints can be discussed and negotiated after the hostages are released.

We are approaching the Christmas season, a time of goodwill, a time of peace, a time of understanding. And yet there seems to be no movement toward the release of those hostages. So, Mr. President, I think it is well that the Senate of the United States unanimously indicate to the President of the United States and to all the world that whatever options are chosen, whatever action may be considered to be necessary, will have the full support of this body, and we stand ready to return to this Capitol at a moment's notice to take what action we might be called upon to take to implement any policy that the President feels would contribute toward the release of the hostages.

Mr. President, I ask unanimous consent that I be added as a cosponsor of the resolution, and I commend it to the other Members of the Senate.

Thank you, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. MORGAN. Mr. President, I ask to be added to the resolution as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, my colleagues have already expressed far more eloquently than I could ever do the feelings of the American people and the Members of this Senate at the outrage of the Iranians in holding Americans hostage.

I, too, join with the leadership in expressing to the President of the United States and to his advisers our appreciation and our full support of the manner and the way in which they have conducted the affairs of state during this period of crisis.

I want to express to the majority leader, the Senator from West Virginia (Mr. Robert C. Byrd), my appreciation for taking the lead in not only sponsoring this resolution, but in seeing that every Member of this Senate has had an opportunity to be briefed on almost a day-to-day basis about the situation of the hostages and our actions to obtain their release.

Mr. President, I want to say I have never been more proud to be a Member of the United States Senate than I have for the last 46 days, during the period in which our fellow Americans have been retained as hostages, for we have been asked by our leadership to restrain our remarks, to restrain our expressions of outrage, with the full understanding that few, if any, parliamentarians in the whole world enjoy the freedom of expression of our thoughts as we do here in this country.

Because of that, those in foreign countries such as Iran could often take a thought or an expression by a Member of this Senate as being the position of the U.S. Government.

Because of that, we were asked to restrain ourselves, and almost without exception this Senate has adhered to that request and we have spoken as one.

For that reason, I am especialy proud of this Senate.

Mr. President, while we feel nothing but contempt for those who hold our fellow Americans hostage, almost every dark cloud has some semblance of silver lining. Out of this event has come a unity of purpose and spirit in America, the likes of which we have not seen since the end of World War II. We have seen acts that I think demonstrate the greatness of this country.

First of all, we have demonstrated a tolerance, a patience, as my distinguished colleague from Mississippi expressed, a patience to work to try to bring back our hostages alive.

In this country we place a high value upon human lives, something that not all countries do. No one doubts the military might of this country. I doubt that there is a person in the world, including in Iran, who would question the ability of this country to exercise that military might. But we place a value on the lives of our fellow Americans so highly that we are willing to act with patience and with tolerance to try to bring them back alive.

A second event happened, Mr. President, and I am going to close my remarks shortly, which I believe has demonstrated the greatness of America during these trying 46 days. That is the plea that the President of the United States made on nationwide—and worldwide—television to the people of this country to demonstrate patience, tolerance, and understanding for Iranians who are guests in this country during these serious and difficult days.

That has not been easy, because there have been Iranians in this country who have voiced their opinion and protested in favor of those who are holding Americans hostage.

But that is the greatness of America, Mr. President, that we can demonstrate and express our views in this country regardless of what they are, and the greatness of America is that we can afford to extend that privilege and that courtesy even to guests in this country. Only a great country can afford to do that. Only a country that is secure in the freedoms and the liberties that come with a democracy can afford to demonstrate that kind of tolerance and understanding.

Our President never stood higher in the eyes of the world than he did that night.

So, Mr. President, I think it is important that we take the time on the floor of this Senate to express our support of this resolution, to express our appreciation to our leader for the difficult 46 days that he has had, and for his willingness to stay here in Washington throughout all of the holiday season to remain ready and willing to assist in any way that he can to secure the safe release of the hostages and to keep the Members of this Senate informed.

Mr. President, I again express my appreciation to him.

I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator for his comments.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

Mr. LONG. Mr. President, I would like to have my name added as a cosponsor of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I congratulate the majority leader and his cosponsors for bringing this measure before the Senate. In my judgment, they are entirely correct in pursuing this course.

I want to assure them that they have my full support. I appreciate the opportunity to record myself in favor of it.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator.

Mr. CHILES. Mr. President, I ask unanimous consent that I may be added as a cosponsor of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I ask unanimous consent that I be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, for the past 46 days the American people and even the entire world have looked on in horror as one nation has continued to violate all established norms of international law. The Senator from Kansas wants to indicate his strong support for this resolution. Early on in this crisis, this Senator had intended to offer a similar resolution but at that point the administration felt that any independent action taken by the Congress, although done in the spirit of cooperation and support for the President, might have reduced the maneuverability of President Carter, and might have been misconstrued by the militants in Iran.

The Senator from Kansas on later occasions introduced three separate measures aimed at supporting the President, and the actions he had taken, while at the same time indicating the strong feeling of the Congress. On November 13

I introduced Senate Concurrent Resolution 49, a sense of Congress resolution urging our allies to assist the United States in our efforts to gain the safe release of all hostages being illegally held captive. On December 6, an amendment to H.R. 3919, the windfall profit tax, was introduced by this Senator calling for an all-out trade embargo with Iran. The Senator from Kansas felt at that time, and still feels, that the United States must respond as forceful as the threat to the hostages' lives is forceful. And Mr. President, again on December 11, this Senator introduced Senate Resolution 306, a sense of the Senate resolution calling on the executive branch to grant special hazardous duty allowances to those Americans being held hostage by the Government of Iran. I ask unanimous consent that these three measures be printed in the RECORD at this point.

There being no objection, the measures were ordered to be printed in the RECORD, as follows:

S. CON. RES. 49

Whereas the Executive Branch is undertaking efforts to communicate with such authority as exists in Iran to ease the current actions taken by the Revolutionary government of the Islamic Republic of Iran;

Whereas these actions by the Revolutionary government of Iran are in direct violation of established international norms of conduct and are a serious threat to the safety and well-being of Americans in Iran;

Whereas this is a matter which affects the interest of the entire world not only the interests of the United States; and

Whereas the United Nations Security Council has condemned these actions of the Revolutionary Government of the Islamic Republic of Iran: Now, therefore be it resolved by the Senate (the House of Representatives concurring) that—

SEC. 1. (1) The Congress hereby supports the actions of the President in attempting to secure the release of all American citizens and hereby condemns the actions taken by the Revolutionary Government of Iran with respect to American citizens in Iran;

(2) It is the Sense of the Congress that—

(a) the President should take whatever appropriate action deemed necessary to enlist the support of the international community in securing the release of all Americans held hostages in Iran and exhibit world solidarity on this issue by:

(1) closing their embassies and withdrawing their diplomatic personnel from Iran, suspending diplomatic relations until the hostages are released; and by

(2) imposing a unified, voluntary world embargo on the purchase of Iranian crude oil; until the government of Iran guarantees that all diplomats will be given immunity in accordance with the Vienna Convention on Diplomatic Relations of 1961.

SEC. 2. The Secretary of the Senate is directed to transmit a copy of this concurrent resolution to the President.

AMENDMENT

On page 177, after line 10, insert the following new subsection 402:

(a) if the government of any country, including the government of Iran, holds. captive any member of a diplomatic mission of the United States or any dependent of such member when such dependent accompanies such mission—

(1) no assistance under the Foreign Assistance Act of 1961 may be furnished for such country;

(2) no credits (including participations in credits) may be extended and no loan may be guaranteed under the Arms Export Control Act with respect to such country;

(3) no deliveries of any such assistance, credits, or guaranties may be made to such country;

(4) no sales (including cash sales) may be made and no export license may be issued under the Arms Export Control Act with respect to such country;

(5) notwithstanding any other law, no article grown, produced, or manufactured in such country may be imported into the United States or its territories or possessions; and

(6) no agricultural commodity may be financed or otherwise made available under the Agricultural Trade and Development Assistance Act of 1954 for such country.

(b) Section 6 of the Export Administration Act of 1979 is amended by adding at the end thereof the following:

"(1) EXPORTS TO CERTAIN COUNTRIES.—No goods or technology subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States, may be exported to a country the government of which holds captive any member of a diplomatic mission of the United States or any member of the family of such member when accompanying such mission."

S. Res. 306

Resolved, that it is the Sense of the Senate that—

(1) the Secretary of State shall exercise his authority under Sec. 451 of the Foreign Service Act of 1946 as amended to pay special allowance to foreign service officers held hostage in Iran;

(2) any hostage held in Iran who is an employee for purposes of Chapter 51 and subchapter III of Chapter 53 of Title 5, U.S.C. should be entitled to an appropriate differential under Sec. 5545(d) of such title; and

(3) the President should designate the U.S. Embassy in Teheran, Iran for purposes of entitling enlisted members of a uniformed service held hostage there entitled to basic pay to a special rate of pay under Sec. 305 of Title 37, U.S.C.

SEC. 2. The Secretary of the Senate is directed to transmit a copy of this resolution to the Secretary of State, the Office of Management Personnel and the President.

Mr. DOLE. Mr. President, it has been 46 days since the hostages were seized and we are still receiving conflicting reports from the authorities in Iran. One day we are told by one Government spokesman in Iran that some of the hostages will be released or that some will be tried, and the next day we are told something else by other figures prominent in the chaotic Government of Iran, such as the "students" themselves.

In view of these contradictions in statements issued from Iran, it is very questionable whether there is any official voice in Iran. If there is not, the danger to the hostages' lives is even more acute than we have been led to believe.

I am particularly disturbed at recent reports and rumors which have hinted that the so-called students holding the hostages are in fact members of an extraneous extremist group and are beyond the power of Khomeini to control. Indeed, it seems that Khomeini has been following the students' line in almost every development since November 4 as evidenced by the vascillating statements by the Iranian foreign ministers.

In light of this problem, and the lack of any unified voice from Iran, I think it is especially imperative that we take firmer steps to urge all nations to aid the United States to obtain the safe release of the hostages, by putting diplomatic, economic and whatever other pressures deemed necessary. Accordingly, I am pleased to vote for this resolution, which encourages precisely this fact.

Mr. President, the resolution before us tonight speaks for itself. The Senator from Kansas has addressed this issue in previous statements made on the Senate floor and is pleased to see that the leadership has brought this resolution to the full Senate for a vote. As the Congress prepares to leave for the Christmas recess, it is only fitting that we pause to remember our hostages and their plight. We have seen the United Nations act favorably as evidenced by the Security Council's unanimous vote calling for the release of all hostages. We have seen the will of the World Court in the Hague as evidenced by their final decision. Tonight, we will show the resolve of all Americans by the unanimous vote of the United States Senate for this resolution.

As I have stated in the past, resolve is the key to unified action when there is a threat to our Nation and our citizens. I urge my colleagues to join in support for this resolution and the very strong message it carries to the Iranian Government.

Mr. FORD. Mr. President, I think every Member of this body will agree that President Carter has done an admirable job of handling the crisis in Iran so far. His efforts to bring the hostages back home safely and unharmed through diplomatic channels and economic pressure have shown commendable restraint and strength of resolve, and we will continue to support his actions.

However, it is time to send a message to Iran that cannot be mistaken: the hostages must be released immediately or Iran must be prepared to pay the consequences.

Our patience has been tested nearly to the breaking point, and our reasoned response has had little impact, if any at all, on the situation.

Let me say once again that the weight of this resolution should not be taken lightly or misunderstood by those to which it is directed.

Mr. President, the greatest Christmas present America could have would be the immediate and safe release of the hostages. Our thoughts, our prayers, and our every action should continue to be directed toward realizing that goal.

RECESS FOR 30 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes. I make this request so as to avoid interrupting the conference that is going on between the House and the Senate conferees on the Chrysler legislation. I understand they are making progress. The conference, I believe, is meeting across on the other side of the Capitol. If a rollcall vote were to occur just at this time, it would interrupt the conference and, I think, certainly would delay the outcome. So, in the interest of expediting the outcome of that conference, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 5:52 p.m., recessed for 30 minutes; whereupon at 6:22 p.m., the Senate reassembled when called to order by the Presiding Officer (Mr. Burdick).

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations. The first nomination is that of Mr. William Kidd to be U.S. district judge for the southern district of West Virginia notwithstanding the 1-day rule. This has been cleared by the Judiciary Committee today and I have just cleared it with the Republican leadership.

Mr. STEVENS. We have no objection.

Mr. ROBERT C. BYRD. Mr. President, I make the same unanimous-consent request with regard to Richard Alan Enslen, of Michigan, to be U.S. district judge for the western district of Michigan.

Mr. President, I make this same unanimous-consent request, on behalf of Mr. Church, that the Senate proceed to the consideration of Colbert I. King, of Maryland, to be U.S. Executive Director of the International Bank for Reconstruction and Development, and also the nomination of Mr. David S. King, of Maryland, to be U.S. Alternate Executive Director of the International Bank for Reconstruction and Development.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

THE JUDICIARY

The second assistant legislative clerk read the nomination of William Matthew Kidd, of West Virginia, to be U.S. district judge for the southern district of West Virginia.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

The second assistant legislative clerk read the nomination of Richard Alan Enslen, of Michigan, to be U.S. district judge for the western district of Michigan.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. CHURCH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

The second assistant legislative clerk read the nominations of Colbert I. King, of Maryland, to be U.S. Executive Director of the International Bank for Reconstruction and Development and the nomination of David S. King, of Maryland, to be U.S. Alternate Executive Director of the International Bank for Reconstruction and Development.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to move en bloc to reconsider the vote by which the nominations were confirmed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I so move.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELEASE OF AMERICAN HOSTAGES IN IRAN

The Senate continued with consideration of the resolution.

Mr. STEVENS. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors to Senate Resolution 318. The first request is that our minority leader, Senator Baker, be added as a cosponsor following the majority leader and that the following Senators be added as cosponsors: Senators Dole, Boschwitz, Humphrey, Thurmond, Jepsen, Durenberger, Packwood, Armstrong, Pressler, Schweiker, Domenici, Wallop, Cochran, Tower, Helms, Baker, Bellmon, Mathias, Schmitt, and Stafford.

I ask the majority leader to hold the resolution so we may add others later on.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHRYSLER CORPORATION LOAN GUARANTEE ACT OF 1979

Mr. ROBERT C. BYRD. Mr. President, I understand that the conferees who are working on the Chrysler legislation are within a few minutes of the completion of their work probably.

BUSINESS EXPENSES OF STATE LEGISLATORS—CONFERENCE REPORT ON H.R. 3091

The Senate resumed the consideration of the conference report.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Long, I submit a report of the committee of conference on H.R. 3091 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3091) to extend for one year the provisions of law related to the business expenses of State legislators, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of December 19, 1979.)

Mr. STEVENS. Mr. President, I might state that we did clear this morning and through a technical error the papers were not at the desk, and we wished to correct the Record at this time, that is, proceedings with the conference report at this time on that basis.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. ARMSTRONG. Mr. President, may I inquire, has a report on this conference been printed for the benefit of the Members?

The PRESIDING OFFICER. The report on the matter was filed on the 19th of December in the House, and that was yesterday, and when it is filed in the House it is also not filed in the Senate.

Mr. ARMSTRONG. The nature of my inquiry was whether or not the report had been printed and made available for the use of Senators.

The PRESIDING OFFICER. As of the 19th.

Mr. ARMSTRONG. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECESS FOR 30 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes in order to expedite action by the conferees on the Chrysler legislation.

There being no objection, the Senate, at 6:30 p.m. recessed until 7 p.m., whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BOREN).

ORDER VITIATING ROLLCALL VOTE IN SENATE RESOLUTION 318

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the rollcall vote on the Iranian resolution be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Idaho (Mr. MCCLURE) without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

NUCLEAR POWER IN THE UNITED KINGDOM

Mr. McCLURE. Mr. President, nuclear power is essential for meeting the energy needs of the United States and its allies. While we continue to debate and delay, our friends in Europe are moving ahead. As an example of the rational, realistic nuclear program being pursued abroad, let me bring to the attention of my colleagues a statement by Mr. David Howells, Secretary of Energy, to the House of Commons of the United Kingdom on December 18, 1979.

In discussing the United Kingdom nuclear program, he stated directly that—

> Safe nuclear power and a strong nuclear industry are essential to this country's energy policy.

He went on to say that—

> Even with full exploitation of coal and conservation, and with great efforts on renewable energy sources, it will be difficult, *if not impossible,* to meet this country's long-term energy needs without a sizeable contribution from nuclear power. (Emphasis added.)

Mr. Howells also expressed the support of the present government for design and manufacture of a pressurized water reactor, with Westinghouse to be selected as licensor. In so doing, he mentioned the events at Three Mile Island and subsequent reports by United Kingdom authorities.

One such report, by the United Kingdom health and safety executive, stated clearly that "the accident did not arise from any serious inherent weakness in the concept or design of the pressurized water reactor," referring to Three Mile Island. This support for American nuclear technology is, indeed, a positive step forward and I look forward to seeing much wider recognition within our own country of the high quality, safety, and necessity of American nuclear powerplants.

It is important to note that the United Kingdom is clearly setting a goal for itself—to build an industry, independent of U.S. policy and technology, capable of domestic and foreign operations.

Mr. President, I ask unanimous consent that Mr. Howells' statement and the statement by the United Kingdom health and safety executive be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.K. POWER PROGRAMME

Following is text of statement made today by Mr. David Howells, Secretary for Energy, to the House of Commons on the UK Nuclear Power Programme.

1. Safe nuclear power and a strong nuclear industry are essential to this country's energy policy. On present prospects, supplies of North Sea oil and gas will be declining in the 1990s. Even with full exploitation of coal and conservation, and with great efforts on renewable energy sources, it will be difficult if not impossible to meet this country's long-term energy needs without a sizeable contribution from nuclear power.

2. The British Nuclear Power Programme has been in decline over the last decade and the structure of the nuclear industry has been under review for nearly two years. If we are to reverse this trend and ensure that the industry is on a sound footing we must act now.

3. The Government have therefore held urgent consultations with those most directly concerned.

4. We believe that there must be continuing nuclear power station orders if our long-term energy supplies are to be secured and current industrial uncertainties are to be resolved.

5. The last Government authorised the Central Electricity Generating Board and the South of Scotland Electricity Board to begin work at once with a view to ordering one Advanced Gas Cooled Reactor station each as soon as possible. This is in hand.

6. The last Government also endorsed the intention of the Central Electricity Generating Board to establish the PWR as a valid option by ordering a Pressurised Water Reactor Station provided design work was satisfactorily completed and all necessary Government and other consents and safety clearances had been obtained. The present Government agree that the Nuclear and Electricity Supply industries should now proceed along these lines and we have made it clear to them our wish subject to the necessary consent and safety clearances, the PWR should be the next nuclear power station order with the aim of starting construction in 1982. With the approval of the Government the CEGB have endorsed the National Nuclear Corporation selection of Westinghouse as Licensor for the PWR and will shortly issue a letter of intent to NNC to authorise the design and subject to the necessary approvals, manufacture of a PWR. In consultation with the CEGB, the NNC will prepare the safety case for the Board to consider and submit to the Nuclear Installations Inspectrate. Statutory consent actually to build these stations will also be needed and an enquiry will be held in due course.

7. We attach overriding importance to the safety of nuclear power and will want to ensure that the lessons of events at the Three Mile Island Station in the United States have been learnt. I am today publishing preliminary assessments of the Kemeny Report on this incident provided to me by the NII and other authorities in the UK.

8. Looking ahead, the Electricity Supply industry have advised that even on cautious assumptions they would need to order at least one new nuclear power station a year in the decade from 1982 or a programme of the order of 15,000 megawatts over 10 years. The precise level of future ordering will depend upon the development of electricity demand and the performance of the industry but we consider this a reasonable prospect against which the nuclear and power plant industries can plan. Decisions about the choice of reactor for later orders will be taken in due course.

9. The Government attach importance to the steady build-up of the NNC into a strong and independent design and construction company, fully able to supply nuclear power stations at home and abroad efficiently.

10. The Boards of NNC and of its operating subsidiary, the Nuclear Power Company will be brought together into a single-tier structure with full responsibility for the affairs of the Company. The supervisory management agreement between the NNC and the General Electric Company will be terminated. The management of the NNC will be built up to suit the needs of our nuclear programme.

11. Lord Aldington, Chairman of the NNC, has told me that he wishes to retire shortly. I would like to pay tribute to the valuable and unstinted service which he has devoted to the nuclear industry over the last six years. I will be arranging for a successor to take over the Chairmanship in due course.

12. The immediate task of the NNC is to carry forward their work on the AGR programme including early commissioning of the remainder of the first AGRs and to complete work on a PWR design ready for safety scrutiny. In addition it is the Government's wish that the Company should take on total project management responsibility for the first PWR drawing on whatever resources it may need to support it in this role. The Company may also wish to consider moving into some areas of manufacturing in due course.

13. The future success of our Nuclear programme is of great importance to the properity of this country. I ask all concerned to give their active support to the decisions which I have announced.

REPORT BY HEALTH AND SAFETY EXECUTIVE

In addition to the detailed comments given in their formal report on the accident at Three Mile Island, the UK Health & Safety Executive has reached the following general conclusions.

In the light of all the information so far available the Chief Inspector of Nuclear Installation and the Executive consider that the accident did not arise from any serious inherent weakness in the concept or design of the pressurised water reactor.

An accident of this kind was not "unforeseen" although the particular sequence of events had not apparently been predicted. The accident has not therefore led to any change in the Executive's view reported to the Secretary of State for Energy in July 1979 that a pressurised water reactor can be designed constructed and operated in a way which would satisfy the Executive's conditions for a licence in Britain. The organisational arrangements for licensing constructing and operating power reactors in this country are already similar to those recommended in the Kemeny Report.

The possible need for detailed changes is still being examined but no fundamental revisions are thought to be necessary. Human errors training and emergency plans all received considerable attention in the Kemeny Report and there are detailed lessons to be learnt in this country.

Emergency arrangements in the immediate vicinity of nuclear sites are already thoroughly prepared and exercised but it now seems desirable for the Executive to establish and publicise more thoroughly co-ordinated arrangements at National level. Additional emphasis is needed on a range of detailed points including the performance of instruments in emergency conditions the presentation of information to operators in reactor control rooms and communications in general in the period immediately following an accident.

The Executive will be taking account of the information and recommendations in the reports so far published and of additional information as it becomes available in the work on the licensing of future reactors and the continued inspection of existing ones.

SALT II

Mr. McCLURE. Mr. President, recent talk by the administration about the collapse of NATO if the Senate rejects SALT II represents another clumsy attempt to stampede this body into hasty ratification. There are genuine reasons to be concerned about the NATO Alliance, but SALT is part of the problem—not the solution. Former NATO Ambassador Robert Strausz-Hupe, writing in the current issue of Policy Review, analyzed the strains on a key NATO ally, Germany:

> The stop-and-go approach of the Carter Administration to improving the U.S. strategic forces—the decision to go ahead with the B–1 bomber program and then its cancellation; the decision to proceed with the MX missile program and, then, its stretch-out; the apparent quandary of the U.S. Administration about alternative proposals for remedying the predictable vulnerability of the U.S. ICBMs and how to square them with the SALT II Treaty—cannot reassure our allies about the purposefulness of the Alliance's leader. Indeed, ample commentaries in the European parliaments and press and public opinion polls in the U.S. suggest a transatlantic perplexity about the Hamletian conduct of the Carter Administration, wrestling with the overarching issue of Western security.
>
> These failures of policy and nerve, adding up to a worldwide retreat of American power, have engendered a crisis of confidence that smoulders under the placid surface of official U.S.-West German relations. Chancellor Schmidt's bland endorsement of the SALT II treaty should not be taken as an unqualified approbation of its content. It has earned the Chancellor's approval not because it strengthens the security of the Alliance—which it does not—but because it promises to put off a crisis in U.S.-Soviet relations, in which European rather than American interests might be the first to suffer.

And in Great Britain, during a recent session of the House of Commons, the Secretary of State for Defense, Mr. Pym, was asked for assurance that the Government's loyalty to NATO would remain unshakeable whether or not the SALT II is agreed to. He replied:

> I can give my right hon. Friend that assurance. On the work that is of most immediate concern to NATO, we believe that what we have in mind is necessary whether or not the SALT II agreement is signed.

Mrs. Thatcher was then asked to comment in the following exchange:

> Viscount CRANBORNE. Will my right hon. Friend take time today to consider whether she agrees with the Carter administration that failure to ratify the SALT agreement will lead to the disintegration of NATO?
>
> The PRIME MINISTER. I do not believe that that would lead to the disintegration of NATO. NATO is a very much stronger alliance than that, and will continue to be this country's shield into the future.

The administration's argument simply does not survive close scrutiny. George Will, in an insiteful column examined and discarded the notion that NATO depends on SALT, and I ask unanimous consent that his article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CARTER'S SALT ARGUMENT STINGS

(By George Will)

WASHINGTON.—Seizing the bull by the horns is something of a family tradition for Franz Ludwig Schenk Graf von Stauffenberg.

His father, who is high on my list of heroes, placed (not quite well enough) the bomb (not quite enough bomb) that almost killed Hitler. He was executed that evening, July 20, 1944.

Recently his son, a 41-year-old member of the German Bundestag, decided to say what many Europeans feel. He said that America's NATO allies are being ill-used by the Carter administration's campaign for ratification of SALT II. The administration's latest, and probably last, argument for ratification is: Do it lest NATO collapse and our allies drift apart and toward the East.

This argument surfaced, briefly, in July, in the first week of Senate hearings. Secretary of State Vance was asked whether NATO could survive rejection of SALT II. He paused, dramatically, then answered, lugubriously, "I don't know." Recently this has become the central argument for ratification.

A few weeks ago, Stauffenberg became fed up with what he considers an argument that is perilous and insulting to boot. So he posed a question for his government to answer formally: Does the German government know which European governments the Carter administration has in mind when it issues dire warnings about possible NATO disintegration? The German government answered: "There is no reason whatsoever to link the loyalty of members of NATO, and especially the Federal Republic of Germany, to the SALT ratification process."

During a subsequent visit to Washington, Stauffenberg bluntly charged that the Carter administration's argument undermines U.S. leadership by portraying that leadership as fragile—so fragile as to depend on ratification of an agreement about which many serious people, of many persuasions have the gravest doubts. "It is difficult to comment on this," he says. "It is grotesque." NATO is said to be so weak that it must have SALT II to save its mere existence; and SALT II is so weak that it can't be defended on its merits.

Stauffenberg is not the only person who finds some of the current advocacy of SALT II off-putting. Responding to the threat implicit in the idea that, without ratification, NATO will not proceed with theater force modernization, Sen. Sam Nunn, D-Ga., says:

"This reminds me of a Marx brothers movie where Chico, whose life is being threatened by armed thugs, points the gun at his own head and shouts, 'If you come any closer, I'll pull the trigger!' To accept this threat as a serious argument for SALT II ratification, one would have to conclude that our allies are not dedicated to their own defense. If this is the case, the future of the alliance is not bright, whether SALT II is ratified or rejected."

The administration's fundamental and irremediable problem has deepened during the close, protracted scrutiny of SALT II: It is trying to sell a product for which virtually no senator feels real enthusiasm. So the administration is trying to make much of the fact that there has been a steady stream of statements by European politicians who assert that rejection of SALT II would be a devastating blow to U.S. leadership. This stream might be more impressive were it not so obviously generated and coordinated by Washington.

The administration and Senate Majority Leader Robert Byrd, D-W.Va., have at last completed their dance. The senator waltzed earnestly around the SALT II agreements, squinting quizzically at them, and then, to the surprise of absolutely no one, said gravely that he likes them just as they are.

The impression that Byrd has wrestled with, and pinned, all reasonable doubts about SALT II is important to the administration because of the decline of Sen. Frank Church, D-Idaho. As chairman of the Foreign Relations Committee, Church was expected to be the leading advocate when SALT II reached the Senate floor. But after his role in the administration's Cuban fiasco, he is damaged goods.

Stauffenberg scoffs at the idea that Europe would be rattled by Senate rejection of SALT II, If, say, on Dec. 20 the Senate were to refuse ratification, Stauffenberg believes that on Dec. 21 "there would be a lot of headlines, then a nervous gathering in Bonn. Then there would be Christmas, and then you would have a hard time remembering what the trouble was supposed to be."

We shall see. The administration still has neither the votes to pass SALT II nor a plan for getting them.

RECESS FOR 10 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 10 minutes.

There being no objection, the Senate, at 7:03 p.m., recessed until 7:13 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. SARBANES).

BAN ON CHEMICAL TRIS IN APPAREL, ET CETERA

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 564 for not to exceed 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will state the bill by title.

The assistant legislative clerk read as follows:

> A bill (S. 521) to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn, or fiber, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. THURMOND. Mr. President, this bill would provide for the payment of losses incurred as a result of the ban on the chemical flame retardant tris.

This is a classic case of overregulation by the Federal Government. On the one hand it required children's sleepwear manufacturers to put a flame retardant on their products, and then turned around and banned the flame retardant chemical as unsafe. All this was done at no fault by the manufacturers.

This bill is not a bail-out, it simply confers jurisdiction on the U.S. Court of Claims to hear claims by those who incurred losses because of the tris ban.

S. 521 is identical to the bill which passed both the House and Senate last year.

It reflects changes recommended by the late Senator Allen of Alabama and the House Judiciary Committee. These changes tighten up the legislation and place a number of limitations on the claims that may be filed.

With these limitations now in the bill, it is estimated by the Congressional Budget Office that the potential cost to the Government may now be around $40 million, which is substantially lower than the original estimate of losses which was set at $150 million.

Finally, this bill does not authorize any payment of funds; it only gives the Court of Claims jurisdiction to hear these claims on their merits and to recommend to Congress the amount of payments, if any, to be made.

The bill was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Court of Claims shall have jurisdiction to hear, determine, and render judgment upon any claim for losses sustained by any producer, manufacturer, distributor, or retailer of children's sleepwear, or by any producer, converter, manufacturer, distributor, or retailer of fabric, yarn, or fiber contained in or intended for use in children's sleepwear, as a result of the actions taken by the United States under the Federal Hazardous Substances Act on April 8, 1977, and thereafter relating to apparel, fabric, yarn, or fiber containing Tris (2,3-dibromopropyl) phosphate: *Provided, however,* That such children's sleepwear and such fabric, yarn, or fiber contained in or intended for use in children's sleepwear was subject to the requirements of or for use in compliance with the mandatory Federal flammability standard FF3–71, or FF5–74, at the time of its manufacture.

(b) (1) In determining the validity of any claim under this Act and the amount of the losses sustained for which such a claim is brought, the court shall consider the following factors:

(A) The degree to which reasonable alternatives to Tris (2,3-dibromopropyl) phosphate existed at the time the Federal Government established the applicable mandatory Federal flammability standard referred to in subsection (a).

(B) Whether it would have been feasible, or reasonable, for the claimant to have tested Tris (2,3-dibromopropyl) phosphate for chronic hazards at the time the Federal Government established such flammability standard.

(C) The degree to which the Federal Government, prior to establishing such flammability standard, tested Tris (2,3-dibromopropyl) phosphate for toxicity, or other health hazards, and disseminated the results of these tests.

(D) The degree of good faith demonstrated by a claimant in seeking to comply fully with such Federal flammability standard.

(E) The extent to which a claimant may have relied in good faith on assurances from suppliers that the products containing Tris (2,3-dibromopropyl) phosphate were safe.

(F) The degree to which a claimant acted reasonably in using Tris (2,3-dibromopropyl) phosphate for the time period that such substance was used.

(G) The degree to which a claimant, in good faith, complied with actions taken by the United States under the Federal Hazardous Substances Act on April 8, 1977.

(2) In determining the amount of the losses for which a claim is brought under this Act, the amount of such losses shall not include lost profits, proceeds from distress sales, attorney's fees, or interest on any such loss resulting to any producer, converter, manufacturer, distributor, or retailer of such children's sleepwear, or to any producer or manufacturer of fabric, yarn, or fiber.

(c) (1) The measure of losses for producers or manufacturers of children's sleepwear shall be the cost of producing goods referred to in paragraphs (1) and (2) of this subsection, held in stock on the date of enactment of this Act, less the fair market value, if any, of such goods and less the amount of any reimbursement received.

(2) In addition to the losses determined under paragraphs (1), (2), and (3) of this subsection, a claimant may also be compensated for unreimbursed costs of transportation paid for the return of such sleepwear garments, fabric, yarn, or fiber.

(d) No claim under this Act may be brought as a class action nor may any claim under this Act be brought by two or more parties unless damages are claimed to be jointly recoverable or are disputed among the parties claimant.

(e) Upon payment of any claim under this Act, by court judgment or by settlement, the United States shall be subrogated to the claimant's rights to recover losses or assert a claim against any person or organization relating to the subject matter of the claim paid by the United States. The claimant shall execute and deliver instruments and papers and take whatever steps are necessary to secure such rights in the United States in order to be entitled to the entry of a judgment by the Court and payment under this Act, and the failure of the claimant to perform such acts or take such steps shall constitute cause to deny the entry of such judgment and manufacturing the sleepwear garment plus the cost of the fabric, yarn, or fiber used for such production or manufacture, held in stock on the date of enactment of this Act, less the fair market value, if any, of the sleepwear garment or the fabric, yarn, or fiber. If the sleepwear garment or the fabric, yarn, or fiber has been resold after April 8, 1977, but prior to such date of enactment, then the measure of losses shall be the cost of producing or manufacturing the sleepwear garment plus the cost of the fabric, yarn, or fiber less the proceeds from any such sale.

(3) The measure of losses for producers, converters, or manufacturers of fabric, yarn, or fiber shall be the cost of producing, converting, or manufacturing the fabric, yarn, or fiber plus the cost of the raw materials used for such production, converting, or manufacture, held in stock on the date of enactment of this Act, less the fair market value, if any, of the fabric, yarn, or fiber. If the fabric, yarn, or fiber had been resold after April 8, 1977, but prior to such date of enactment, than the measure of losses shall be the cost of producing, converting, or manufacturing the fabric, yarn, or fiber plus the cost of the raw materials used for such production, converting, or manufacture less the proceeds from any such sale.

(4) The measure of losses for distributors and retailers shall be the distributor's or the retailer's purchase price for payment. The failure of the claimant to perform such acts or to take such steps shall not limit or adversely affect the right of the United States to act as subrogee or assignee to the full extent of its payments under this Act. Any purported limitation on the right of the United States to act as asignee or to become subrogated to the rights of a claimant shall be without any effect, to the extent that the United States has made payments under the Act.

(f) Any claim under this Act shall be barred unless commenced within two years after the date of enactment of this Act.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNITED SERVICE ORGANIZATIONS, INC.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 579, S. 2113, with the understanding that the bill not be passed beyond third reading and that consideration not exceed 5 minutes thereon.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2113) to incorporate United Service Organizations and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

USO CHARTER LEGISLATION

Mr. THURMOND. Mr. President, the United Service Organizations (USO) is a private, voluntary, civilian organization devoted solely to meeting the needs of members of our Armed Forces and their families. This organization now consists of nearly 40,000 volunteers who serve in 62 USO facilities in the United States and 55 facilities overseas. For almost 40 years the USO has served Americans in uniform by providing a broad range of programs and services unique to service men and women, such as referral services to assist with travel, housing, and emergency problems, involvement of military personnel with their communities, and, of course, the free live entertainment to remote military bases worldwide.

The unique aspect of USO and its work is the fact that it receives no direct appropriations from Congress, although some "in kind" support is provided through the Department of Defense. The major funding source of USO has been the United Way campaigns. In recent years, however, income from this source has decreased. In 1973, United Way support was $4 million. In 1977, it had dropped to $1.5 million. Much of this decrease can be attributed to widespread misconception about the role of the USO during peacetime.

This legislation would not appropriate any funds for USO. It would simply grant a Federal charter to the organization, similar to ones now held by the Red Cross, the Boy Scouts of America, and others. A charter would strengthen fundraising efforts. It would strengthen the USO's working relationships with other Government agencies and foreign countries. The USO needs the credibility, support, and prestige that is provided by enactment of a Federal charter by the Congress.

Mr. President, I ask unanimous consent that the following Senators be added as cosponsors to the bill, S. 2113: Messrs. HEFLIN, NUNN, LONG, MATHIAS, COCHRAN, ZORINSKY, EXON, CANNON, LAXALT, HUMPHREY, DOMENICI, SCHMITT, WARNER, FORD, HATCH, BAUCUS, TOWER, MORGAN, PERCY, TSONGAS, COHEN, JEPSEN, ROTH, GOLDWATER, HARRY F. BYRD, JR., DOLE, HUDDLESTON, BAYH, STEVENSON, Mrs. KASSEBAUM, Messrs. STEVENS, YOUNG, MCGOVERN, HART, RANDOLPH, BUMPERS, GRAVEL, ARMSTRONG, SIMPSON, CHILES, HELMS, PRESSLER, DECONCINI, TALMADGE, STONE, and KENNEDY.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The question is on the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

UNITED SERVICE ORGANIZATIONS, INC.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 580, H.R. 600, with the understanding that there be a time limitation of no more than 5 minutes thereon.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The bill will be stated.

The assistant legislative clerk read as follows:

A bill (H.R. 600) an act to incorporate United Service Organizations, Incorporated.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. THURMOND. Mr. President, in view of the fact that the Senate bill has identical wording with the House bill, in order to get the matter expedited, I move passage of the House bill and that the Senate bill (S. 2113) be indefinitely postponed.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The bill (H.R. 600) was considered, ordered to a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following persons, to wit:

Colonel Paul Akst, United States Air Force (retired), New York, New York;

Robert C. Andrews, Nashville, Tennessee;

Mary Louise Austin, Atlanta, Georgia;

Alden G. Barber, Menlo Park, California;

James E. Barrett, Washington, District of Columbia;

Alfred D. Bell, Junior, Burlingame, California;

Mrs. Andrew J. Bennett, Junior, Baton Rouge, Louisiana;

Rocky Bleier, Pittsburgh, Pennsylvania;

Frank J. Brennan, Fort Washington, Pennsylvania;

N. Brewster Broder, Southfield, Michigan;

Mrs. Edward G. Brown, Millbrook, New York;

Mrs. Joseph O. Butcher, Bloomington, Indiana;

Marvin E. Cardoza, San Francisco, California;

Zebedee C. Chaney, Junior, New York, New York;

Louis J. Cohen, Newark, New Jersey;

John B. Coleman, Chicago, Illinois;

Gilbert Colgate, Junior, New York, New York;

Robert K. Corn, Papillion, Nebraska;

Kathryn Grant Crosby, Beverly Hills, California;

Edward J. Daly, Oakland, California;

Richard J. Davis, Junior, Arlington, Virginia;

General Michael S. Davison, United States Army (retired), Washington, District of Columbia;

Colonel Peter Dawkins, United States Army, Fort Campbell, Kentucky;

John W. Dixon, Dallas, Texas;

Mikki Ehrenfeld, Lincoln, Massachusetts;

E. Stanley Enlund, Chicago, Illinois;

Kimball C. Firestone, Potomac, Maryland;

Mrs. Maxine Flournoy, Alice, Texas;

Robert G. Geib, New York, New York;

Rear Admiral Lawrence R. Geis, United States Navy (retired), Jacksonville, Florida;

Jacob Goodstein, New York, New York;

Theodore J. Hagans, Junior, Washington, District of Columbia;

Mrs. Henry E. Harriman, Junior, San Diego, California;

John Halliburton, Kerrville, Texas;

Ronald E. Herington, New Bedford, Massachusetts;

Mrs. Margaret Howard Ismaila, Cleveland, Ohio;

Eugene Jelesnik, Salt Lake City, Utah;

Major General Orris E. Kelly, United States Army, Washington, District of Columbia;

Robert P. Kelsey, Junior, Boston, Massachusetts;

Donald R. Keough, Atlanta, Georgia;

Ralph B. Kohnen, Junior, Cincinnati, Ohio;

James J. Lazarus, Kearny, New Jersey;

Honorable John Davis Lodge, Westport, Connecticut;

Honorable Al G. Loehr, Saint Cloud, Minnesota;

Morgan Maxfield, North Kansas City, Missouri;

Mrs. Andrew M. McBurney, New York, New York;

Fred M. McCahey, Winnetka, Illinois;

Brigadier General Martin Menter, United States Air Force (retired), Chevy Chase, Maryland;

Ms. Mary Wells Milam, Miami, Florida;

Nick J. Mileti, Gates Mills, Ohio;

Donald L. Miller, New York, New York;

Doctor Ron Miller, Brooklyn, New York;

Fred Much, Houston, Texas;

Doctor Frank L. Myers, Avenel, New Jersey;

Chief Commissaryman Robert A. Nolan, United States Navy (retired), Washington, District of Columbia;

Leo Perlis, Washington, District of Columbia;

Robert B. Pirie, Washington, District of Columbia;

Joseph Robbie, Miami, Florida;

Vincent J. Romeo, Flat Rock, North Carolina;

Lieutenant Colonel James H. Ryan, United States Army (retired), Mount Rainier, Maryland;

Theodore R. Serrill, Edgewater, Maryland;

Mrs. Charles H. Sethness, Junior, Chicago, Illinois;

Joseph H. Singer, Somerville, New Jersey;

Colonel C. Haskell Small, United States Army (retired), Washington, District of Columbia;

Robert A. Staub, New York, New York;

Dorothy C. Stephens, Washington, District of Columbia;

Warren Titus, Boston, Massachusetts;

Martin Tucker, New York, New York;

Mrs. Pearl Scott Tyler, Boston, Massachusetts;

Mrs. Audrey Ullman, Arlington, Virginia;

Mrs. Paula Unruh, Tulsa, Oklahoma;

Jeff Wald, Beverly Hills, California;

Doctor Seymour S. Weisman, Norwalk, Connecticut;

William G. Whyte, Washington, District of Columbia;

Clifford R. Williams, Milwaukee, Wisconsin;

Julius E. Williams, New York, New York;

Michael Collins, Washington, District of Columbia;

and their successors are hereby created and declared to be a body corporate having the name United Service Organizations, Incorporated (hereinafter the "corporation"). The said corporation shall have perpetual existence and the powers, limitations, and restrictions herein contained.

SEC. 2. OBJECTS AND PURPOSES OF THE CORPORATION.—The objects and purposes of the corporation are to provide a voluntary civilian agency through which the people of this Nation may, in peace or war, serve the religious, spiritual, social, welfare, educational, and entertainment needs of the men and women in the Armed Forces within or without the territorial limits of the United States, and in general, to contribute to the maintenance of morale of such men and women; to solicit funds for the maintenance of the organization and the accomplishment of its responsibility; to accept the cooperation of and to provide an organization and a means through which the National Board of Young Men's Christian Associations, National Board of Young Women's Christian Associations, National Catholic Community Service, the Salvation Army, the National Jewish Welfare Board, the Travelers Aid-International Social Service of America, and other civilian agencies experienced in specialized types of related work, which may be needed adequately to meet particular needs of the members of the Armed Forces, may carry on their historic work of serving the spiritual, religious, social, welfare, educational, and entertainment needs of such men and women and be afforded an appropriate means of participation and financial assistance; to coordinate their programs, and to accept the cooperation of individual citizens in accomplishing its purposes. The corporation shall have such other objects and purposes as are consonant with the above.

SEC. 3. CORPORATE POWERS.—The corporation shall have all the powers necessary and proper to accomplish the objects and purposes set forth in section 2. Without limiting the generality of the foregoing, the corporation shall have the following specific powers:

(a) To enact and amend bylaws, rules, and regulations for its internal governance and management, not inconsistent with this Act or other provisions of law.

(b) To establish, regulate, and terminate State, regional, local, and overseas councils, organizations, chapters, or affiliates in such manner and by such rules as it deems appropriate so as to enable it to carry out its powers and accomplish the objects and purposes set forth in section 2.

(c) To solicit and raise funds for the accomplishment of its purposes, and to accept gifts, legacies, devises, and support in furtherance thereof.

(d) To acquire, hold, and dispose of such real and personal property as may be necessary to carry out the corporate purposes; to sell, mortgage, or lease any of its real property if authorized by its board of governors.

(e) To make and enter into contracts.

(f) To borrow money for the purposes of the corporation, issue bonds therefor, and secure the same by mortgage, subject in every case to all applicable provisions of Federal and State law.

(g) To adopt and alter a corporate seal, emblems, and marks.

(h) To choose such officers, representatives, and agents as may be necessary to carry out the corporate purposes.

(i) To establish and maintain offices for the conduct of the affairs of the corporation.

(j) To publish a newspaper, magazine, or other publications.

(k) To sue and be used in any court.

(l) To do any and all acts and things necessary and proper to accomplish the foregoing specifically enumerated purposes.

SEC. 4. Restrictions on Corporate Powers.—(a) The corporation shall be nonpolitical and, as an organization, shall not furnish financial aid or assistance to, or otherwise promote the candidacy of, any person seeking elective public office. No substantial part of the activities of the corporation shall involve carrying on propaganda, or otherwise attempting to influence legislation.

(b) The corporation shall have no power to issue any shares of capital stock, or to declare or pay any dividends. It shall also have no power to engage in any business activity for pecuniary profit unless the activity is substantially related to the carrying out of its objects and purposes, as set forth in section 2, or the raising of funds for the accomplishment of said purposes.

(c) The property of the corporation is irrevocably dedicated to charitable purposes. Upon dissolution or final liquidation of the corporation, after discharge or satisfaction of all outstanding obligations and liabilities, its remaining assets, if any, shall be distributed in accordance with the determination of its board of governors, in compliance with its bylaws and all Federal and State laws applicable thereto: *Provided, however,* That its property shall not, in any event, inure to the benefit of any private person except a fund, foundation, association, or corporation operated exclusively for charitable purposes.

(d) No part of the income or assets of the corporation shall inure to any member, governor, officer, or employee of the corporation or be distributable to any person during the life of the corporation or upon its dissolution or liquidation. Nothing in this subsection, however, shall be construed to prevent the payment of reasonable compensation for services rendered to officers and employees of the corporation and other persons, or to prevent their reimbursement for actual necessary expenses in amounts approved by the corporation's board of governors.

(e) The corporaton shall not make loans to its members, officers, governors, or employees.

SEC. 5. Governance of the Corporation.

(a) Members of the Corporation.—The persons listed in section 1 are the present members of United Service Organizations, Incorporated, a corporation organized under the Not-for-Profit Corporation Law of the State of New York (hereinafter "the New York Corporation"). Upon the enactment of this charter, and for not more than one year thereafter, the said persons shall be the members of the corporation hereunder. They shall adopt bylaws and perform all other acts necessary to complete the organization of the corporation. Thereafter, the members of the corporation shall consist of nine persons designated by the President of the United States, and such representatives of the organizations listed in section 2 of this Act and of the public at large as shall be specified in the bylaws. The rights, privileges, and designations of the classes of members shall also be as specified in the bylaws.

(b) Board of Governors.—The management of the corporation shall be entrusted to a board of governors, which shall be responsible for the general policies and program of the corporation and for the control of its affairs and property. Upon the enactment of this charter and for not more than one year thereafter, the membership of the initial board of governors of the corporation created hereunder shall consist of the present members of the board of governors of the New York corporation. Thereafter, the board of governors shall be elected by the members of the corporation for such terms and in such classes as shall be specified in the bylaws, and shall include the following persons:

(1) Six members appointed by the President of the United States.

(2) The Secretary of Defense, or his designee.

(3) Such representatives of the organizations listed in section 2 of this Act and of the public at large as shall be specified in the bylaws.

(c) Other Governing Bodies.—The corporation shall have such other governing bodies and committees as may be provided for in its bylaws.

(d) Officers.—The office of honorary chairman of the corporation shall be tendered to the President of the United States. Upon acceptance of such office, the honorary chairman shall be invited to preside at such meetings of the corporation as he may deem appropriate and convenient. The corporation shall have such other officers as may be designated in its bylaws.

SEC. 6. State of Incorporation.—Upon the enactment of this charter, the corporation shall acquire the assets and assume the liabilities of the New York corporation. The United Service Organizations, Incorporated, shall retain and maintain its existing status as a corporation incorporated under the laws of the State of New York, another State, or the District of Columbia.

SEC. 7. Use of Names "United Service Organizations, Incorporated" and "USO".—The corporation, its regional, State, and local councils, organizations, chapters, and affiliates shall have the sole and exclusive right to use the names "United Service Organizations, Incorporated" and "USO" and such distinctive insignia, emblems, and badges as the corporation may lawfully adopt in carrying out its purposes.

SEC. 8. Assistance by Government Agencies.—The Department of Defense may make its resources available to the USO, to the extent compatible with the primary mission of the Department of Defense and in accordance with guidelines promulgated by the Secretary of Defense, in order to facilitate the accomplishment of the USO mission.

SEC. 9. Miscellaneous Provisions.—(a) The principal office of the corporation shall be located in New York, New York, or in such other place as may be later determined by the board of governors, but the activities of the corporation shall not be confined to that place. The said activities may be conducted throughout the various States, territories, and possessions of the United States, and in foreign countries.

(b) The corporation shall maintain at all times in the District of Columbia a designated agent authorized to accept service of process for the corporation. Service upon, or notice mailed to the business address of, such agent, shall be deemed notice to or service upon the corporation.

(c) The corporation shall file in the office of the secretary of each State, territory, or possession of the United States in which the corporation or its local, State, or regional councils, organizations, chapters, or affiliates may have activities, the name and post office address of an authorized agent upon whom local process or demands against the corporation may be served.

(d) The corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its members, and of its board of governors, or any committee having any of the authority of the board of governors; and shall keep at its principal office a record giving the names and addresses of its members entitled to vote; and shall permit all books and records of the corporation to be inspected by any member or his agent or his attorney for any purpose at any reasonable time.

(e) The corporation shall make public an annual report concerning its proceedings and activities for the preceding calendar year.

(f) The provisions of sections 1102 and 1103 of title 36 of the United States Code shall apply with respect to the corporation.

(g) Section 1 of Public Law 88–504 (78 Stat. 635; 63 U.S.C. 1101) is amended by adding a new item 50 as follows:

"(50) United Service Organizations.".

(h) The right to alter, amend, or repeal this Act is hereby expressly reserved to the Congress.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I move that the Senate bill (S. 2113) be indefinitely postponed.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. THURMOND. Mr. President, I thank the majority leader.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business not to exceed beyond 10 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRINTING ERROR CORRECTIONS IN SENATE REPORT

Mr. THURMOND. Mr. President, on December 4, 1979, the Senate authorized the printing of the report of the Committee on the Judiciary together with minority and additional views to accompany S. 1246, the "Oil Windfall Acquisition Act of 1979," Calendar No. 477, Report 96–444.

Although the minority of the Judiciary Committee recommended that the report be printed first by galley, then to page-proof, and then to final printing in order to avoid errors in this lengthy (245 pages) report, the recommendation was ignored. The printing procedure used for the report was, in actuality, from typed manuscript into direct printing, with the minority having no opportunity to review the report in any form prior to its issuance.

Mr. President, as a result of this lack of opportunity for review, the report released to the Senate and the committee contains many printing errors, some of which are major ones. These printing errors occur in the majority views, as well as in the minority views and individual views.

Mr. President, in order to correct this situation, I ask unanimous consent that the appropriate number of copies be printed to correct the errors in the printing process of this report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. I thank the distinguished Senator.

ANNUAL REPORT—1979

Mr. JAVITS. Mr. President, as I have done each year of my career in the Senate and the House, I am submitting this report of my work to the citizens of New York.

This year had special significance for me. On May 6 my tenure in the Senate surpassed that of any previous Senator from New York.

This milestone made me all the more grateful for the trust and confidence placed in me by the citizens of New York, and for the opportunity they have given me to serve them.

Inflation and energy were the major domestic problems this year. They affect each one of us immediately and critically, and I have devoted a major portion of my time to help deal with these threats to the economy of our country.

I had hoped the major foreign policy efforts of the current Senate session would be security and SALT II. But the crisis in Iran has diverted to it our immediate energies and attention.

It is critically important that we find an early and satisfactory resolution to this new danger and turn our attention once again to the broader problems of the control of strategic nuclear weapons, SALT II, and of the OPEC's oil cartel's heavy hand on our economy.

ENERGY: TODAY'S SUPPLY AND PRICES

The elderly and poor are most severely affected by skyrocketing energy prices. My highest priority was to alleviate this life-threatening burden. An amendment of mine to an appropriations measure provided $1.35 billion for fuel assistance this 1979–80 winter—of which over $215 million go to New York State—and was signed into law on November 28, in time to get help to those who need it.

The cutoff of Iranian oil in January dramatized the fact that the world's oil production is being kept at dangerously low levels by the OPEC producers' cartel. The painfully long gasoline lines experienced by New Yorkers in June were among the worst in the Nation, and after meeting with gasoline dealers from all over the State, I was able to persuade the Mayor of New York City, the Governor and even some oil company executives to change practices that were making the shortage worse. The Department of Energy formulas which in part were to blame need further changes.

I chaired a hearing on Long Island in June to help insure adequate home heating oil supplies for this winter. Senate and House Members for the Northeast pressed many of the recommendations made on the basis of that hearing and, largely as a result of this concerted action, the promise of adequate, although not abundant, fuel oil supplies has been realized. Unfortunately, supplies are still too tight to bring down the shockingly high prices and I have urged Energy Secretary Duncan to order more refinery production and to gather the data necessary for the possible reimposition of price controls on refineries.

I feel the President's policy of decontrolling the price of already-discovered oil is too costly. Allowing world-level prices for new discoveries only would provide adequate incentives for exploration. I have proposed a partial decontrol which will find three-fourths of the new oil found by the President's program at less than half the cost. I shall offer it again if Congress fails to agree finally on a sufficient windfall profit tax.

When the Senate considered the windfall profit tax, I supported using the stronger House measure as a basis for action. When that failed, I supported amendments which, together would have strengthened the Senate passed measure by adding over $70 billion in revenues to that bill and would have made the tax permanent.

FUTURE SUPPLIES

In June, I cosponsored a measure passed by the House of Representatives to encourage production of synthetic fuels. This measure was one of several which was combined in a package providing $20 billion in financial guarantees for synthetic fuels and funding for renewable resource technologies and conservation. This bill included numerous measures I have supported and, in some cases, sponsored in the past such as extending the tax incentives for the production of gasohol and a study of a program requiring gasoline refiners to include some alcohol in all the gasoline they refine; a solar bank extension of solar and conservation tax credits; wider use of energy audits; expansion of conservation incentives for low income households; and, expanded programs to develop cost-efficient fuel from municipal waste and agriculture waste.

In addition, I have helped obtain funding for research, some of it in New York State, into new technologies for using coal directly (MHD) and for use of lasers to produce nuclear fusion.

ENERGY WATCHDOG HOTLINE

Conservation and renewable resources still offer the best hope for reducing our dependence on foreign oil. The Subcommittee on Energy, Nuclear Proliferation and Federal Services of the Senate Governmental Affairs Committees, of which I am a senior member, is overseeing the implementation of new Building Energy Performance Standards which will save 17 to 45 percent of the energy new buildings would otherwise use. To help enforce the temperature standards in existence today, I sponsored an amendment establishing the toll-free number (800–424–9122) which citizens may call to report over-heated or over-cooled commercial and office buildings.

Finally, in our search for new fuel sources, we cannot neglect the promise of the many untapped potential oil areas around the world. The more nations producing oil, the harder it will be for the OPEC cartel to limit production and thus keep prices high. I will continue to work for the program I have proposed to provide insurance coverage to U.S. oil companies exploring for oil in Africa, Asia, and Latin America.

HEALTH EFFECTS OF ENERGY DEVELOPMENT

Nuclear power will continue to play an important part in our energy supply, and studies conducted following the accident at the Three Mile Island reactor indicate numerous ways nuclear safety programs must be improved. The Subcommittee of Energy, Nuclear Proliferation and Federal Services, held hearings on emergency procedures in the event of nuclear accidents, on protection from the health hazards of radiation exposure and on nuclear waste management legislation—a must if our nuclear program is to succeed. In addition, I worked to get $5 million in Federal funds to begin a program of clean-up of the nuclear wastes which are improperly stored at West Valley, N.Y.

TRANSPORTATION

This session Congress passed the Amtrak Improvement Act of 1979, which represents a responsible approach to a national rail system responsive to passenger needs and also is as energy efficient and cost effective as possible. I cosponsored an amendment requiring Amtrak to establish a reduced fare program for the elderly and handicapped.

Congress also expressed its support for the rerouting of Amtrak's Lake Shore Limited train, a position I strongly supported. A rerouted Lake Shore will give western New York, for the first time, good schedules to Boston, Chicago, Detroit, and Toronto.

I also am working with communities experiencing a reduction in airline service to insure that essential airline service remains available.

Effort was made in this session of Congress to weaken the rules requiring quieter airplanes by 1985, a move I have vigorously opposed. The outcome of such efforts will not be known until next year, but I am confident that any changes will be less damaging than appeared likely earlier this year.

TRUTH IN MILEAGE

I introduced the "Truth in Mileage Information Act of 1979," designed to provide accurate estimates of fuel economy of new cars.

INFLATION AND THE U.S. ECONOMY

During 1979 the U.S. economy continued to experience severe uncertainties and a reacceleration of price inflation to the double digit level and beyond. Meanwhile, the prospects increased for a sharp economic setback and monetary policy was tightened in an attempt to slow down the economy. The problems of our economy were and are still being exacerbated by the continuing stagnation of U.S. productivity growth, which has reduced our country to last place among our Western allies.

In this context, I was pleased to be chairman of a special task force of Republican Senators which developed an economic policy statement for the decade to come. In an extraordinary expression of unanimity, all 41 Senate Republicans endorsed this declaration which set forth a number of policy recommendations for controlling inflation, cutting taxes, and increasing our national productivity. In sharp contrast to current economic policies, which have precipitated new inflationary pressures and higher interest rates, while reviving the possibilities of a severe recession in 1980, the program developed under my leadership aims to balance the Federal budget, reduce personal and business taxes, and curtail regulatory excesses.

I was instrumental in helping to secure the agreement which provided for the exclusion from personal income tax the first $200 ($400 for joint returns) in interest or dividends.

Our policy statement demonstrates that we can have an action program directed to securing the living standards of the people; reducing unemployment by providing permanent private sector jobs, particularly among minorities and youth; restoring confidence in the U.S. dollar, stimulating capital formation and U.S. productivity as the only enduring approach to stable prices and full employment, reducing the burden of unadjusted Federal tax brackets on individuals and corporations, balancing the Federal budget, and reducing our dependence on foreign energy sources.

COUNTERCYCLICAL FISCAL ASSISTANCE

I cosponsored legislation passed by the Senate to establish a countercyclical and targeted fiscal assistance program which provides fiscal insurance for State and local governments when our economy undergoes a significant downturn. I am helpful that Congress will complete action on this proposal early next year. New York State should receive approximately $52 million of these funds by September 1980.

GENERAL REVENUE SHARING

The Federal Government's general revenue sharing program administers Federal aid to States and municipalities for multipurpose use. In July, I cosponsored an amendment to restore the full State share of general revenue sharing, of which one-third had been cut by the Senate Finance Subcommittee. New York State will receive $76.8 million under the restored funding level.

SMALL BUSINESS

My continued interest in small businesses, which traditionally bear the brunt of any downturn in the economy, is evidenced by my establishment this fall of a Small Business Advisory Committee to assist me on small business issues and to offer the small business community of New York State a more effective forum for the expression of their views.

I cosponsored the Venture Capital Tax Reform Act, designed to encourage the flow of capital to new and risk-taking enterprises through tax deferrals for certain gains and liberalized deductions for certain losses arising from investments in such business ventures.

Similarly, the Export Trade Association Act, which I cosponsored, also would aid small business by facilitating entry in the export markets for their goods and services.

BANKING

I played an active role in the Depository Institutions Deregulation Act which passed the Senate overwhelmingly on November 1. This bank bill authorizes interest-bearing checking and NOW accounts nationwide, allows banks to pay higher interest rates to savers, and provides for a reduction in the minimum denomination of money market certificates, a move designed to aid small savers even further.

Another amendment I introduced extends to purchasers of cooperative apartments—a form of housing which is so prevalent in our State—exempting home mortgage loans from State usury ceilings.

ANTITRUST

In April of this year, I introduced a bill to establish an 18-member bipartisan commission that would examine the international application of U.S. antitrust laws and make recommendations for revisions to the President and the Congress.

This bill is the product of my efforts last year when I served on the National Commission for the Review of Antitrust Laws and Procedures. I sought to direct the attention of the Commissioners to the international aspects of antitrust laws as they affect the competitiveness of U.S. exporters in overseas markets.

THE FEDERAL BUDGET AND GOVERNMENT SPENDING

I have focused major attention on our progress in bringing the Federal budget into balance, most importantly by working to realize the President's expressed goal of keeping the deficit for fiscal year 1980 below $30 billion. That goal was achieved only after a coalition of Senators—including me—voted against certain increases in the Federal budget and required certain Senate committees to reduce materially spending for fiscal year 1980.

Because of these and other similar actions to restrain the excessive growth of Federal spending, I believe we are now within striking distance of a balanced Federal budget barring a sudden economic reverse and I shall continue to work for that objective.

We must bear in mind, however, that we will need to maintain our flexibility to deal with perilous domestic and international circumstances. This is why I voted in favor of the 3-percent real increase in the defense budget for fiscal year 1980; and why I am dubious about proposals to lock ourselves into specific quantitative Federal spending limitations.

INTERNATIONAL ECONOMY: STATE OF THE WORLD ECONOMY

The crisis in Iran has only added to the difficult situation in which the international economy finds itself. The problems of a weak dollar, a continued large deficit in our trade balance, a weak export performance, and overreliance on energy imports from the OPEC countries must be resolved before confidence can once again be restored to the world economy. I supported the Federal Reserve Board's actions of October 6 to tighten U.S. monetary policy as necessary to restrain substantially inflationary expectations and to avoid a collapse of the dollar. October 6 represents an important watershed in U.S. economy policy, for on that day we in the United States finally recognized that international economics play a major role in the formulation of our domestic economic policy.

We can expect continued instability in both the foreign exchange and gold markets until structural changes are made in the international monetary system to lessen the almost exclusive reliance on the dollar as the key international reserve asset in favor of special drawing rights (SDR) and a combination of the currencies of the major industrialized countries.

To this end, I have supported international moves to establish a substitution account in the International Monetary Fund (IMF) and have urged President Carter, Treasury Secretary Miller, and Federal Reserve Chairman Volcker to work out arrangements with foreign central banks and treasuries to provide for an orderly progression to such a multicurrency system. Our economic allies can no longer benefit from the fruits of open trade and the free flow of capital without accepting responsibility for the maintenance of the international monetary system commensurate with their vastly augmented economic power.

An important factor in strengthening the dollar is an improved U.S. export performance, especially in the Eastern bloc countries, China, and the developing countries. As a member of the President's export council (PEC), I have worked to develop the proper climate within the U.S. Government which would facilitate the promotion of exports, especially by small business.

MAJOR LEGISLATION

Public Law 96-53, the International Development Cooperation Act of 1979, authorizes appropriations of $1.9 billion for fiscal year 1980 for U.S. international development and economic assistance. This legislation is important not only for its contribution to economic growth in the developing countries but also for its direct economic impact on the economy of the United States. Three of my amendments to this act are now law: one provides debt relief to the poorest developing countries, which would generate funds to be used for development purposes in the recipient nation; the second directs the Agency for International Development (AID) to provide assistance for the less development countries (LDC) in the development of indigenous energy resources, which would help them stem the rising cost of vitally needed energy imports; the third earmarks $25 million for Israel and Egypt for low-income housing.

I was an original cosponsor of Public Law 96-109, the Caribbean Disaster Assistance Act, which authorizes the appropriation of $25 million for emergency assistance to the Caribbean nations that were devastated by the recent hurricanes in that region. The human tragedy and suffering resulting from the hurricanes is exacerbated by the tremendous losses to the economies of these nations. This bill provides ongoing relief and launches the reconstruction efforts which are necessary to rebuild these islands.

The normalization of relations with the People's Republic of China (PRC) has opened the possibility of a vast new market for U.S. exports and also for cultural exchanges. A byproduct of this thaw in relations was the negotiation of a settlement of the U.S. claims on assets seized many years ago by the PRC.

I introduced legislation which would change the distribution of those claims to aid the nonprofit and charitable organizations which were unable to exercise certain tax options available to businesses. Under my plan, cash awards to these needy nonprofit groups would be increased relative to the tax benefits accruing to certain corporations.

I have introduced legislation, S. 1916, which would allow the Overseas Private Investment Corporation (OPIC) to operate in the PRC. Encouragement of U.S. investment in the PRC through the OPIC program will give U.S. firms the opportunity to participate in the enormous investment opportunities available in China. The resulting increased trade between the two countries would be beneficial to our economy by creating jobs in U.S. export industries and further reducing our balance-of-payments deficit.

As part of my continuing interest in improving North American economic relations, I introduced legislation which would create a North American area exemption for the purpose of permitting tax deductions for business conventions in Canada, Mexico, and United States possessions. Current law denies such deductions and has resulted in considerable damage to the tourism industries of these neighboring countries.

TRADE PROBLEMS

This Congress has just ratified one of the most comprehensive trade liberalization agreements ever negotiated. The most important part of this new agreement would limit the ability of governments to unfairly subsidize their export industries. These unfair practices have distorted world trade and have cost this country needed employment. I supported the multilateral trade negotiations (MTN) agreement because I was conconvinced that the net effect on New York State and the country at large of reduced subsidies and freer trade would be more efficient industries and greater exports and, hence, more jobs.

I was particularly concerned with the rules regulating the purchasing power of governments and their procurement policies. This is one area where the United States demanded fair access to bid on foreign government contracts in return for reductions in U.S. Government preferences for U.S. suppliers. In this effort, we were successful in reducing some traditional barriers to Government procurement in Europe and Japan.

I supported changes in the trade adjustment assistance (TAA) programs for firms and workers, which, among other things, would ease eligibility requirements, increase benefits, and expand coverage of the program to workers and firms involved in supplying import-impacted firms.

As a senior member of the Governmental Affairs Committee and the ranking minority member of the Foreign Relations Committee, I was involved in the development of the plan to reorganize the international trade functions of the Federal Government (Government Reorganization Plan No. 3). The need to streamline the administration of these trade functions is critical to the development of a vigorous export policy and to the establishment of an integrated U.S. trade policy.

In order to boost the competitiveness of our export industries, I have cosponsored a bill which would allow U.S. companies to pool resources to market their goods overseas. The Export Trading Company Act of 1979 would encourage joint ventures and publicly owned trading companies which, as a unit, will combine the strengths and resources of a number of small- and medium-size companies which individually might not be able to penetrate foreign markets.

These trading companies would combine an array of export services from finance to marketing to enable a broader range of companies to market their goods overseas. It is estimated that there are 14,000 U.S. companies that are potential exporters but do not presently do so because problems associated with exporting appear too formidable. This legislation would provide jobs and added profitability to firms and would certainly enhance New York's export performance.

In July, I cosponsored an amendment to the Export Administration Act, Public Law 96–72, which would have limited exports of U.S. cattlehides until other major hide-producing nations had permitted the export of their hides or until the domestic supply of hides had increased. I also urged Ambassador Strauss, then the U.S. Special Trade Representative, to negotiate agreements with producing countries to remove their export restrictions on hides and also with the large importers of U.S. hides to voluntarily reduce their intake of U.S. hides. As a result, Argentina lifted its embargo on hides in October this year—an important first step toward the development of an open trading system in hides.

As a member of the Senate Steel Caucus, I cosponsored a Concurrent Resolution 38, urging the administration to seek a multilateral agreement halting Government subsidized predatory financing of new steel capacity in the developing countries.

The U.S. steel industry, particularly in New York State, is regaining profitability and competitiveness. But, the industry cannot compete fairly with the massive subsidization that occurs in foreign countries. This is particularly distressing because new facilities in the developing countries by and large are financed on generous terms by other industrialized nations.

If New York's steel industry is to remain on the upward path, we must seek international rules to inhibit such financing tactics.

In September of this year, I expressed to Treasury Secretary Miller, Federal Reserve Board Chairman Volcker, and Council of Economic Advisers Chairman Schultze my growing concern regarding our country's policy of selling gold from our official gold stocks ("demonetizing gold"). Other industrialized nations apparently do not share our objective of demonetizing gold, and, our gold sales may be fueling a rush to buy gold and, in turn, destabilizing the dollar market. Following these inquiries, the Treasury instituted a new policy regarding U.S gold sales whereby the frequency as well as the amount of gold offered for sale may vary and assured me that other countries, at U.S. insistence, may begin to sell part of their gold stocks. While I recognize that irregular gold sales by the U.S. Treasury may have a dampening effect on the gold market's price volatility and are an improvement over regular periodic sales, I am still concerned that even these U.S. gold sales may simply be providing gold to the coffers of others that do not share our policy of gold demonetization.

OVERSEAS TRIPS

In July I traveled to Paris to meet with officials of the Organization for Economical Cooperation and Development and discuss with them the work of this important international organization in promoting international cooperation among the industrialized countries on energy, trade, and aid matters.

FOREIGN RELATIONS

The year 1979 may prove to be a watershed year for U.S. foreign policy. U.S. relations with the Soviet Union, with our allies, with the nations of the Middle East and the Third World have been marked by degrees of confrontation and cooperation that are reshaping and redefining the role of the United States in a changing world.

The future of the SALT II treaty, which the Foreign Relations Committee has reported favorably for full Senate consideration early next year, will have a dramatic impact on our relations with the Soviet Union. Soviet adventurism in Africa, the Middle East, and Cuba has continued. So too has the buildup of Soviet conventional and strategic arms, despite the accomplishments of SALT I and the tempering by this country of its strategic and conventional arms programs after SALT I which provided the Soviet Union an opportunity to reciprocate. These factors have had and will have a central bearing on the Senate's consideration of SALT II and on U.S. arms programs with or without a SALT II treaty.

As to Iran, the fate of the 50 American hostages and the international crisis that their sezure percipitated, will have a lasting and profound effect on the U.S. role in the world.

IRAN

Revolution in Iran, beginning with the fall of the shah and ending this year with the seizure of 50 American Embassy personnel in Tehran, has brought a threatening element of instability into that important area of the world and has become a growing threat to worldwide U.S. interests. Soon after the policies of the new revolutionary regime became apparent, I introduced a Senate resolution condemning the executions and secret trials that were daily occurrences. During the hostage crisis I have worked closely with the administration to insure that all options for releasing the hostages unharmed are pursued and that measures are taken to secure the defense of U.S. worldwide interests. I attended the special U.N. Security Council session convened to discuss the Iranian crisis and strongly supported the Council's unanimity in calling for the immediate release of the U.S. hostages.

INDOCHINESE REFUGEES

I was actively involved in helping insure a decent reception and final haven for those fleeing Vietnam and Cambodia. In July, I held discussions in Geneva with Paul Hartling, the United Nations High Commissioner for Refugees, to review what more the United States could do for the refugees. I also cosponsored the Refugee and Migration Assistance Act, which unanimously passed the Senate on September 6, increasing annual U.S. refugee quotas to 50,000 from 17,400. As ranking minority member of the Foreign Relations Committee, I supported a bill that authorized an additional $200 million for Indochinese migration and refugee assistance.

I also was actively involved in securing a U.S. pledge of $69 million to help avert the threat of genocide in Cambodia, and sponsored a Senate resolution, cosponsored by 58 other Senators, that urged all the parties involved in the Cambodian conflict to help prevent the mass starvation of the Cambodian people.

SALT

Presidents Carter and Brezhnev signed the SALT II treaty on June 15, 1979, and it was sent to the Senate for its constitutionally required advice and consent by a two-thirds majority. The Foreign Relations Committee held more than 65 public and executive sessions in its intensive and exhaustive consideration of this treaty. The Senate's action on the SALT II treaty, the most important arms control treaty the Senate has ever considered, undoubtedly will determine the nature and course of our relationship with the Soviet Union for the forseeable future.

I support the treaty in the form reported to the full Senate by the Foreign Relations Committee. It puts some cap on Soviet strategic weapons programs while it allows the United States to build the programs necessary for our national defense and to preserve strategic equivalence to the Soviet Union.

After SALT I, we restrained our defense posture in anticipation that the Soviet Union would reciprocate. They did not accept our signal and proceeded to build up their arsenal. SALT II will give them the signal that they will have to face the full industrial and technological power of the United States unless they place limits on their own buildup.

The treaty's ratification would assure our major allies, particularly in NATO, that the United States speaks with one voice in the central aspects of its foreign policy. In October, I traveled to the annual plenary session of the North Atlantic Assembly in Ottawa, Canada, where parliamentarians of our NATO allies confirmed this belief by passing a resolution strongly endorsing U.S. ratification of the SALT II treaty.

MIDDLE EAST

After 30 years of uninterrupted conflict, Egypt and Israel took the monumental step of negotiating and signing, with pivotal U.S. assistance, a peace treaty to end their longstanding conflict. I supported and worked to secure enactment of a $4.8 billion authorization for economic and military assistance to both Israel and Egypt—an amount of funding well worth the potential dividends that this first step to a comprehensive peace will bring. I also played an active role in securing the congressional passage of the fiscal year 1980 military and economic aid package of $1.8 billion for Israel and $1 billion for Egypt.

Despite the administration's commitment to substantial economic and defensive arms support for Israel, this year has seen troubling indications of a weakening of the administration's position on recognition of and contacts with the terrorist Palestine Liberation Organization, which remains pledged to Israel's destruction and opposed to U.N. Security Council Resolutions 242 and 338. I opposed and spoke out against any official attempts to recognize the terrorist group. After the State Department, for the first time, granted a visa to an official of the PLO, I helped work out a compromise in the Department of State Authorization Act to close the loophole in U.S. law which eased the entry of PLO officials into the United States without appropriate precautions.

AFRICA

In this year of intensive diplomatic and military struggles in Southern Africa, the warring factions in Zimbabwe-Rhodesia have come to a peaceful settlement of their protracted struggle, thanks largely to the patient and prudent efforts of the new British Government. Following the controversial April elections in Zimbabwe-Rhodesia, Members of Congress were divided over the question of whether to end U.S. economic sanctions imposed on the previous illegal regime. I took a leading part in working out a compromise which became law, ordering the lifting of U.S. sanctions on November 15 unless the President determined that it was not in the national interest to do so and his determination was not overturned by Congress. Because all the parties were so close to completing the negotiations on November 15, again, I took the lead in the Foreign Relations Committee's decision to allow the President more time before terminating the sanctions to insure that the progress made in the talks would not be impeded.

In May, I traveled to Morocco and Sudan as a Special Envoy of President Carter to help cement a continuing constructive relationship with those moderate Moslem countries which support U.S. foreign policy in that region. Both Morroco and Sudan are threatened by hostile neighbors and are seeking U.S. support and assistance. Upon my return to Washington, I helped to guide through Congress economic and security assistance programs to promote stability and development in both countries.

ASIA

While I welcomed the recognition of the People's Republic of China, I took a leading role in the Senate to insure the viability and strength of our continuing, unofficial economic, political, and security relationships with the people of Taiwan. I joined to work out the Taiwan Relations Act, which became law, to improve the provisions of the act and realize these goals.

LATIN AMERICA

While Nicaragua's political direction following the overthrow of President Somoza is still unclear, I supported the administration's supplemental aid package to Nicaragua, El Salvador, Honduras, and the Eastern Caribbean. Nicaragua, in particular, has been economically devastated by its civil war and will require support of major development projects and investment assistance to maintain its economic viability. In order to encourage political stability, moderation and democracy in that area, Nicaragua and the moderate nations of Central America and the Eastern Caribbean should feel they have a friend and ally in the United States.

United States-Mexican relations continued to improve. I have had a longtime interest in bettering our relations with Mexico, and I was gratified to see to the expanded activities of the United States-Mexico Quadripartite Commission which I founded in 1975 with Mexican colleagues. The commission has promoted greater understanding and cooperation between the public and private sectors in Mexico and the United States with considerable success.

As a supporter of the Panama Canal Treaty, I also worked to insure passage of the treaty's implementation legislation which finally passed both Houses of Congress. Enactment of this legislation will insure the orderly implementation of the treaty, which the Senate approved in 1978. An important result of the treaty's passage has been the recent evidence of improved relations between our two countries.

I am disturbed by the reports and evidence of increasing human rights violations in Argentina and also am troubled by the Chilean Supreme Court's decision not to extradite the Chilean officials judged responsible for the assassination of former Chilean Foreign and Defense Minister Orlando Letelier and his associate, Ronni Moffit, in Washington. I shall continue my longstanding effort to encourage the observation of fundamental human rights and to act decisively against such violation in Latin America.

INTERNATIONAL TERRORISM

Early in 1979 I reintroduced, with Senator RIBICOFF of Connecticut, the Omnibus Anti Terrorism Act which will provide important tools and policies to combat international terrorism. This legislation would require the identification of those governments demonstrating a pattern of support for international terrorism and undertake appropriate policies and sanctions against those governments; it is now pending in the Senate

Governmental Affairs Committee. As an interim measure, I convinced the Carter administration to undertake a policy of denying the sale by this country of any item with a potential military or terrorist application to any government that supports terrorism.

HUMAN RIGHTS

The U.S.S.R. has continued to violate the human rights provisions of the Final Act of the Conference on Security and Cooperation in Europe—the Helsinki Accord—by its harassment and persecution of policital dissidents and members of minority ethnic and religious groups. I urged the Foreign Relations Committee to hold hearings on four international human rights treaties that have been awaiting Senate ratification for some time. These hearings were held in November and I shall continue to work to secure Senate approval of these treaties at the earliest possible date.

As a member of our Government's Commission on Security and Cooperation in Europe, I shall continue to monitor very closely the compliance of the signatory nations with the provisions of the Helsinki accord. In an attempt to strengthen our hand at the forthcoming review of the accord to be held next year in Madrid, the Commission has issued a comprehensive assessment of our Nation's compliance with this accord. I support my fellow commissioners' position, as expressed in a recent letter to the Secretary of State, that our Government must insist on a thorough and specific review in Madrid of the implementation of all the provisions of the Helsinki accord, including those dealing with human rights.

Although we were heartened earlier this year by the Soviet Government's release of a group of prominent prisoners, there are many dissidents and "prisoners of conscience" who continue to languish in prisons, labor camps, and places of internal exile and on whose behalf I have protested to members of the Soviet Government and sponsored a number of congressional resolutions. I also secured passage in the Senate of House Concurrent Resolution 167, which protested the systematic nondelivery by the Soviet Government of international mail addressed to certain citizens.

While the emigration of Jews from the Soviet Union continues at an unprecedented rate—more than 50,000 are expected to depart this year—this increase may be only a response engendered by the great increase in the number of exit visa applications that have been filed to date. The application process continues to be costly, lengthy, and arbitrary and the risk of reprisals is great. I am deeply concerned that recent changes in Soviet law and procedure seem to be making this process even more difficult and may effectively prevent many applications from being filed. I have conveyed this concern to the Soviet Government and will continue my attempts to resolve the many cases of long term "refuseniks" brought to my attention by my constituents.

NATIONAL DEFENSE

The fiscal year 1980 national defense budget, totaling $131 billion, was the largest peacetime defense bill ever enacted by Congress. I voted against weapons programs which I believed to be needless and wastefully expensive, such as the F-18 fighter aircraft, but I strongly supported aircraft programs such as the F-14, A-6 and A-10. I supported President Carter's requested for a 3-percent increase in defense expenditures to fulfill a commitment to NATO but opposed projected 5 percent increases for fiscal years 1981 and 1982 on the grounds that the specific case for these increases has not been made.

The Senate had an extended debate, but no vote, on the issue of requiring 18-year-old men to register for the draft. While I continue to be deeply concerned about the failure of the All Volunteer Army, especially in the Reserve, to adequately provide the manpower needed for the national defense, I am not now prepared to advocate steps to restart the draft. Such steps should come only after extended public debate.

I was the Senate sponsor of H.R. 3407, now law, authorizing the President to award appropriate military decorations to New Yorker William James Tsakanikas and the other members of his platoon whose bravery during the Battle of the Bulge in World War II have gone unrecognized.

I strongly supported and encouraged the Defense Department's decision to assign a combat engineer battalion to Fort Drum, N.Y., to make adequate use of that important defense facility and to help the area's economy.

NEW YORK STATE

REGIONAL OFFICES

New Yorkers have discovered that they can save the expense of dealing with Federal agencies in Washington by contacting my regional offices in Albany, Buffalo and New York City. Each office receives an average of 100 requests a week for assistance and information on problems such as social security, veterans affairs, immigration, housing, public programs and health problems.

HOUSING

I have continued to work to enhance the delivery of Federal housing assistance to New York State and stimulate public and private investment in low and moderate-income housing.

When the Department of Housing and Urban Development revised its subsidies to landlords who rent to low- and moderate-income families, it failed to reflect accurately the legitimate costs of maintaining and operating housing for such tenants, placing the entire Federal subsidy program in New York in jeopardy. Landlords were threatening the eviction of thousands of low- and moderate-income families. I was successful in demonstrating the true costs of housing in New York, which led to an increase in Federal subsidies.

ECONOMIC DEVELOPMENT

Strengthening the business and industrial climate of New York is one of my major concerns. My regional offices help reduce "red-tape" and assist communities in channelling Federal assistance to the private business sector.

In addition to my support of hundreds of applications to the Small Business Administration, Economic Development Administration and the Department of Housing and Urban Development for urban development and small cities grant and loan aid, I have devoted my energies toward creating private industry councils (PIC's) to encourage the use of Federal funds to increase private sector employment. As a result, Buffalo and New York City PIC's each received $197,000 to target Federal funds and insure that jobs created by federally assisted projects go to the economically disadvantaged.

HOUSING

This year's comprehensive housing bill contains amendments I offered to increase the maximum mortgage limits under the Federal Housing Administration and the Government National Mortgage Administration for multifamily housing units and to authorize the Secretary of HUD to increase mortgage limits even further. These amendments will permit builders to go ahead with projects in high-cost areas in our State that otherwise would not be economically feasible.

I cosponsored legislation to restrict the availability of single family housing mortgage money raised by tax exempt bonds to lower income families or to those in areas targeted for revitalization.

ECONOMIC DEVELOPMENT

During consideration of the National Public Works and Economic Development Act of 1979 I offered an amendment to permit the use of EDA grant funds to acquire surplus Federal property. The amendment will allow New York City to take over the Brooklyn Army Terminal and generate industrial development and create new jobs in the city.

ENVIRONMENT

Since the tragic events at Love Canal were brought to national attention, the EPA has identified more than 32,000 landfills containing hazardous materials.

In testimony before a Senate subcommittee on hazardous waste, I called for the establishment of a comprehensive liability and compensation act or, "superfund," to make money available on an emergency basis for hazardous waste spills, stringent Federal regulations for abandoned sites and increased Federal funding to States for clean-up programs.

I introduced, along with Senators RIBICOFF and MOYNIHAN, a bill to establish a Long Island Sound heritage to protect and preserve selected areas of the sound which have special recreational, ecological, conservation, and historical qualities.

NEW YORK CITY

NEW YORK CITY ECONOMIC REDEVELOPMENT

I have worked to stabilize communities in the city by obtaining Federal funds to rehabilitate housing under the section 8 housing assistance program.

I have also helped to secure Federal grants and loans to finance programs that plan for economic growth and new jobs in our State.

The urban development action grant program of the Department of Housing and Urban Development is one way to achieve these goals. I have worked closely with New York City officials to obtain a significant number of urban development action grant program grants which will help retain and add businesses and increase the number of jobs throughout the city.

EDUCATION

I have supported and obtained several million dollars of Federal funds for educational programs in the metropolitan area for bilingual programs, arts achievement, special education needs, continuing education, career development and faculty development purposes.

ENERGY

I have been successful in obtaining Federal funds for several community tenant groups in New York City for solar heating and cooling demonstration programs. I intend to monitor closely the results of these projects with the hope that they will serve as a pilot for the Nation.

CULTURAL AFFAIRS

One of New York State's distinctions is its wealth of cultural activity. In this regard, I have been able to assist in strengthening these organizations by bringing into the State more than $10 million in Federal money to such organizations as the New York Public Library, the Catskill Arts Consortium, the Saratoga Performing Arts Center, the Rochester Museum and Science Center, the Museum of the American Indian and the Ballet Hispanico of New York.

CENSUS

The 1980 census is of critical importance to our State and to New York City. The data obtained by the Census Bureau will determine the methods by which almost $50 billion in Federal funds will be distributed throughout the Nation. An undercount, no matter how small, could have a significant effect on cities such as New York which is dependent upon Federal funds for many programs. The Senate Subcommittee on Energy, Nuclear Proliferation, and Federal Services has jurisdiction over the Census Bureau, and as ranking minority member I will continue to monitor the Bureau's plans for carrying out the 1980 census.

PAN AM MERGER

Last fall I testified before the Civil Aeronautics Board in favor of the proposed Pan American World Airways merger with National Airlines because of the employment benefits to New York. In addition, this merger would give Pan Am a domestic route system that would contribute greatly to the viability of the airline.

The Civil Aeronautics Board has recommended approval of the merger and has forwarded its recommendation to President Carter. I joined members of the New York congressional delegation in asking the President to adopt the Board's proposal.

MASS TRANSIT FUNDS

I supported New York State and New York City's request to trade in Federal highway funds for mass transit funds. The proposed trade-in offered a balanced solution to the problem of allocating scarce transportation resources in an efficient manner to benefit the greatest number of people.

This request which was approved by the Secretary of Transportation, was opposed by many in Congress, but the necessary legislation was passed during the final weeks of this session.

As a result, New York City will receive $229.6 million for mass transit and bridge and highway rehabilitation.

URBAN POLICY

On May 1, Senator **George McGovern** and I introduced a bill to provide special Federal financial assistance for economically distressed areas to preserve and maintain our public capital infrastructure: The highways, subways, bridges, water supply, and electrical generating systems that are the life support systems of our country.

CASEWORK

If you have a serious problem with the Federal Government which you have been unable to settle with the appropriate agency, I want to hear about it.

Thousands of New Yorkers write to me every year and more than 17,000 last year about trouble they have had with the Federal Government and I have been able to help many of them. Success, of course, is not guaranteed, nor is every complaint justified, but aiding New Yorkers with their problems has been a great source of satisfaction for me.

Sadly, many more thousands who need help never write. Therefore, I am beginning an "outreach program" so that every one of my constituents will be aware of the services available.

Here is what you should do:

Write to me or your Congressman or Senator **Moynihan** and be sure to print your name, address, and phone number on the letter. Do not telephone. Because of recently passed privacy laws, I will need your signature on a letter in order to process your files. These laws require that I have a letter from the person actually needing the help so do not write for someone else unless they cannot write themselves. Tell them of the service and have them write.

Include any identification numbers necessary for your problem: Social security number, Veterans' Administration claim number, military identification number, or whatever you feel would help me to process your letter.

State your problem.

Address your letter to Senator **Jacob K. Javits**, 321 Russell Senate Office Building, Washington, D.C. 20510.

You do not have to come to Washington to be helped. Writing is the simplest and least expensive way to tell me about your problem and it is the most efficient.

Write to me today, or tell a neighbor about this service. I want to help, but I cannot until you let me know your problem.

LABOR AND JOBS

EMPLOYMENT POLICY

With national unemployment averaging around 6 percent, I have concentrated on securing the appropriation of funds to maintain the 1978 levels of federally funded public service job and training opportunities for the economically disadvantaged—authorized under the Comprehensive Employment and Training Act—and to achieve an orderly phase down of the countercyclical public jobs program from the fiscal 1979 level of 380,000 jobs. In January, I urged President Carter not to seek severe cuts in the program for fiscal 1980, and, as one of the leaders of a coalition of Senators, I was successful in preventing deep cuts in the countercyclical jobs program when it came to the Senate floor.

I also was instrumental in having the Department of Labor adopt a new policy on the recovery and reallocation of public service jobs funds unspent in fiscal 1979. Thus, this year, the Department adopted a major reallocation policy, under which an additional $85 million was channeled to New York State, including $55 million for New York City.

LABOR-MANAGEMENT COOPERATION

My efforts to spur the development of new forms of joint efforts by labor and management to increase industrial performance, stimulate productivity growth, enhance economic development and improve the quality of working life was given major recognition last year when the Congress enacted the Labor-Management Cooperation Act which I authored. This legislation is designed to bring Federal assistance to the formation of labor-management committees on regional, industry-wide, and in-plant levels which already have proven so successful in New York. I am pleased that the Senate again recognized the value of this approach in adopting my proposal to extend the labor-management committee concept to assist the ailing Chrysler Corp. as a part of the Federal loan guarantee legislation which was passed at the end of the year.

WORKERS' COMPENSATION REFORM

S. 420, which I introduced, would adopt a new approach to Federal protection of U.S. workers by establishing minimum standards for key areas of the workers' compensation system. These include benefits for total disability and death, broad coverage of nearly all workers, and most important, occupational disease standards to bring about prompt and adequate adjudication of worker illness claims. At the same time, the bill keeps the long-established State administrative system in place; Federal administration will be required.

The Labor and Human Resources Committee has held hearings on this bill, and the administration has expressed its support of Federal minimum standards legislation. I hope that efforts to develop an agreement between the Senate and the administration will result in the enactment of legislation before next year.

UNEMPLOYMENT INSURANCE

Early this year I authored legislation, the Unemployment Insurance System Revitalization Act of 1979, designed to restore the solvency of our Federal-State Unemployment Insurance system.

The high rate of unemployment during the recession of 1975–77 exhausted the unemployment insurance trust funds of nearly half the States and seriously depleted the reserves of others. Billions of dollars in Federal loans have been made to insure solvency of these funds, most of which are still outstanding. My bill, S. 825, would provide grants to help repay those loans and to restore State unemployment insurance fund reserves now, and for the future in times of severe recession and high unemployment.

SOCIAL SERVICES

I introduced a comprehensive welfare reform bill to lessen the inequities among States in the distribution of welfare benefits and Federal funds. My bill would require all States to provide a welfare benefit of at least 70 percent of the poverty level and to furnish aid to two-parent families whose income is below that level. New York already provides these benefits, and under my bill, New York would be reimbursed for 59 percent of its welfare expenditures, an increase of 9 percent above the current reimbursement rate. This would mean an additional $161 million to New York's financially pressed local governments in the first year of implementation.

I am a cosponsor of a companion jobs bill, the Work and Training Opportunities Act, which is designed to insure that work is always more attractive than welfare by providing for an intensive program of job search assistance and by making available about 500,000 job and training opportunities for heads of public assistance households who are unable to find other employment.

INDIVIDUAL INCOME TAXES

I cosponsored two tax measures still pending before the Finance Committee. One would eliminate the so-called marriage tax penalty by permitting two-income families to file as individuals. The other would provide an incentive for charitable contributions by permitting individuals who do not itemize deductions to deduct such contributions.

A third bill, which I authored, and on which the Finance Committee held hearings earlier this year, is the Artists Tax Equity Act of 1979. This bill would mitigate special tax problems facing artists in ways that would increase the flow of works of art to museums and libraries and thus help preserve for all our citizens our Nation's priceless artistic heritage.

HEALTH

As the senior Republican member of the Labor and Human Resources Committee and the Health Subcommittee, I have maintained my efforts to increase support for vital health services and to promote savings and organizational reforms where appropriate.

NATIONAL HEALTH INSURANCE

I authored the Health Care for All Americans Act, a comprehensive national health plan. This legislation involves active participation of the private sector—a new approach to the reforms necessary to assure everyone in our society the right to adequate health care at a reasonable cost. It would require employers to provide a minimum health insurance package to all employees, keep Government administrative and fiscal involvement to a minimum by placing most administrative functions in the private insurance sector and institute important reforms in the way health care providers are paid for their services. A principal advantage of this new approach is that it is readily adaptable to gradual implementation, to cushion the impact of the new insurance requirements on the economy.

Four major committees now share jurisdiction of issues relating to the financing and delivery of health care, a situation that has delayed effective action on a comprehensive approach to many health care issues. To remedy this, I introduced a Senate joint resolution to combine the membership and authority of the current committees through the establishment of a Joint House-Senate Committee on National Health Insurance.

HEALTH PLANNING

To insure continued improvement in the allocation of health resources around the country and to contain skyrocketing health care costs, I cosponsored Public Law 96–79, the Health Planning and Resources Development Amendments of 1979, which extends for 3 years the provisions of the Health Planning and Resources Development Act of 1974, which I also coauthored.

This law contains several provisions of critical importance to New York. These include:

A grant program to help public, and certain private, nonprofit hospitals undertake renovation or modernization projects to comply with life-safety codes or accreditation standards.

A grant program to assist in the conversion or volunteer closure of unneeded hospital services and facilities.

A project grant program to facilitate the development of outpatient medical facilities, and facilities for long-term care, in medically underserved areas through new construction and the conversion of existing facilities.

NURSE TRAINING

I authored Public Law 96–76, the Nurse Training Amendments of 1979, which in the face of reports of severe nursing shortages throughout the country extended the provisions of the Nurse Training Act for 1 year in order to help meet our goal of assuring an adequate supply of nurses in all parts of the country.

ALCOHOL AND DRUG ABUSE

I cosponsored two bills designed to continue programs conducted under the auspices of the National Institute on Alcoholism and Alcohol Abuse (NIAAA) and the National Institute on Drug Abuse (NIDA). These programs, S. 440, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1979, and S. 525, the Drug Abuse Prevention, Treatment, and Rehabilitation Act of 1979, provide for research and prevention, treatment, and rehabilitation services to victims of alcohol and drug abuse and their families.

MEDICAL RECORDS PRIVACY

I introduced the Privacy Act Amendments of 1979, dealing with one of the most sensitive areas of recordkeeping, personal medical records. This bill would prohibit disclosure of a patient's records without the patient's consent, and places restrictions on access to medical records by government authorities. The bill would also allow patients greater access to their own records.

NUTRITION

Funding for the food stamp program was increased to insure that participants in this vital program would not experience a drastic reduction in benefits, a measure I supported.

I cosponsored an amendment to the Summer Lunch Authorization Bill which prevents the elimination of a substantial number of the 600,000 New York State children that now participate in this program. My amendment allows for the continued participation in the program of all eligible children.

DRUG REGULATION REFORM

For the past 5 years, I have been deeply involved in an effort to update the laws on how drugs for human use are manufactured and distributed in this country. The basic statute under which the Food and Drug Administration regulates drugs was enacted in 1938, and the great changes in both science and marketing practices that have occurred since then requires us to take a fresh look at this important area.

I am pleased to report that the culmination of these efforts, the Drug Regulation Reform Act, passed the Senate this year. The issues addressed in this legislation are fundamental to the health and well-being of the American people. The bill assures the safety of drugs that reach the marketplace, yet speeds up the drug approval process and the availability of new lifesaving drugs. In addition, the bill will make the drug approval process more accessible to interested citizens and provide more information to consumers, enabling them to make better informed decisions about the drugs they use.

I have also introduced other health legislation that is currently before the Congress, including:

The International Health Act of 1979, S. 1424, to enhance this country's commitment to alleviating health problems in the least developed countries of the world. U.S. assistance in this area is a humanitarian and cost-effective step toward economic development for these countries and a more successful foreign policy.

The Clinical Laboratory Improvement Act, S. 590, to help assure every American the high-quality and accurate-laboratory testing vitally necessary for proper diagnosis and treatment. My bill would first establish a Federal quality assurance program and also consolidate under a single administrative unit the existing patchwork of laboratory regulation authorities. It was favorably reported by the Labor and Human Resources Committee this session, and I am hopeful that the Congress will go on to enact the measure in 1980.

An amendment to the Mental Health Systems Act, S. 1177, to provide a bill of rights for persons receiving mental health services from institutions. My amendment would require all mental health-care providers receiving Federal funds to establish administrative mechanisms to implement the rights enumerated, and would permit patients to bring suit where the mechanism failed to protect them.

I also was pleased to be of assistance in averting the financial crisis facing Brooklyn Jewish Hospital and preventing the closing of this vitally important institution. This crisis led to the inauguration of 3-year Federal, State, and city demonstration projects involving the Bedford-Stuyvesant and Crown Heights sections of Brooklyn. The goal of this project is to achieve a fundamental improvement in the health-care delivery system in those communities.

I recognize, however, that the problems faced by Brooklyn Jewish are not unique to it and are being experienced by many urban hospitals throughout the country. Consequently, I have requested that hearings be held by the Senate Labor and Human Resources Subcommittee on Health and Scientific Research to investigate this critical situation.

EDUCATION

Our system of education in this Nation has come under increasing attack in recent years. Education is our great common experience, and it is critical that we in Congress insure opportunities for participation in education, and promote excellence throughout the system.

DEPARTMENT OF EDUCATION

During my years in the Senate, I have consistently advocated strengthening our educational system and making education one of our primary national priorities. In my view, education has never received sufficient attention within the Federal bureaucracy. For this reason, although I do have concerns about the establishment of a new Cabinet-level department, I supported legislation to establish the Department of Education.

ELEMENTARY AND SECONDARY EDUCATION

As a senior member of the Subcommittee on Education, Arts, and Humanities, I was able to secure assistance for school districts with the highest proportions of disadvantaged children. I strongly advocated full funding of these "concentration grants" to help the urban and rural school districts in New York State, and was able to work with the Appropriations Committee to get a $50-million increase in funding for this program. Similarly, I worked with the Appropriations Committee to assure funding for the portion of the "Impact Aid" program I authored to increase the amount of Federal aid to school districts serving children in federally supported public housing.

ASBESTOS IN SCHOOLS

Our children must have a safe and healthy environment in which to learn. Thus, this August, I introduced S. 1658 to establish a program for the inspection of schools to detect the presence of potentially hazardous asbestos, and provide grants and loans to States and school districts to help abate such hazards.

GIFTED AND TALENTED CHILDREN

Gifted children represent the future leaders of America, and I am pleased that, at my urging, additional Federal assistance will be made available this year to States and school districts to help them reach their maximum potential assisted by the Federal program I authored.

ADULT EDUCATION

Congress adopted my proposals to restore proposed cuts in the Adult Education program I helped write last year, and to add $5 million to help Indochinese refugees and other adult immigrants, particularly those from Eastern European nations.

HIGHER EDUCATION

The Subcommittee on Education, Arts, and Humanities held 8 days of hearings on reauthorization of programs under the Higher Education Act of 1967, with particular emphasis on student financial assistance. The consensus that emerged was that the benefits of last year's Middle Income Student Assistance Act, which I sponsored, and which for the first time provides financial assistance to middle income students, must be extended and improved.

LIBRARIES

America's libraries are one of the pillars of our educational opportunities. Yet our libraries, public, private, school, and college, are in trouble. Local support for public libraries is dwindling, and the cost of printed material is increasing even faster than the general rate of inflation. I introduced the National Library Act, which was endorsed by the delegates to the White House Conference on Libraries and Information Services, to provide for a stronger Federal, State, and local partnership to support these critically needed resources.

HANDICAPPED

I offered an amendment to remove work disincentives to the severely handicapped by enabling them to receive life-sustaining medicaid assistance without regard to the Federal financial test of disability. In addition, I strongly supported funding to remove architectural barriers to the handicapped of our Nation's colleges and universities. For the first time, Congress has provided assistance—$25 million—to begin to achieve this goal.

Congress also extended the provision of the tax law permitting businesses to deduct up to $25,000 of the cost of making facilities accessible to the handicapped. I supported such an extension, which was necessary to prevent termination of the provision at the end of the year.

In New York State, handicapped workshops provide a vital service by training and educating these persons for meaningful occupations. The Federal Government has recognized the workshops' contributions, and gives preference to contracts for their manufactured products. This year, unfortunately, the General Services Administration, without advance warning, declared a moratorium of all purchases of their products, threatening to severely disrupt operations in several of New York State's workshops. Through my intercession on their behalf, I was successful in avoiding any undue hardship as Government contracts were continued without interruption.

I, and other Senators, introduced legislation to have handicapped workers covered by title VII of the Civil Rights Act, which prohibits employment discrimination on the basis of race, sex, national origin, color, or religion. I am pleased that this bill, S. 446, has been favorably reported by the Labor and Human Resources Committee, and I will urge prompt Senate action on it early in the next session of Congress.

VETERANS

Congress must continue to recognize the service of those who have served our country, giving particular attention to the disabled and disadvantaged. To this end, I introduced, with Senator MOYNIHAN, S. 830, which would provide increased benefits for veterans in New York and other States where the cost of education is high. Similarly, I cosponsored the Vietnam Veterans' Act, targeting education, employment, and health initiatives to veterans of the Vietnam conflict who have experienced severe problems of readjustment.

GOVERNMENTAL AFFAIRS

TRADE REORGANIZATION

The Governmental Affairs Committee held hearings on various proposals to establish a Department of Trade and Commerce. Under our present organization, there is no agency anywhere in the Government that views its primary mission as facilitating international trade. I worked with the administration in developing a plan to reorganize Government agencies responsible for encouraging trade as a first step to improving our economic well-being through increased exports of our goods and services.

SENTENCING REFORM

I, along with Senator BIDEN, introduced S. 1973, the Sentencing Reform Act of 1979, which attempts to eliminate sentencing disparities and rationalize the sentencing process. The legislation would reduce emphasis on imprisonment as punishment by providing alternatives. It also would devise a means to establish rational and consistent sentencing standards, thus reducing arbitrary differences in sentences for similar offenses. Finally, the bill abolishes the death penalty, recognizing that it not only has failed to deter crime but is a dehumanizing force in our society. The Sentencing Reform Act is awaiting Senate action.

HANDGUN CONTROL

I am a principal cosponsor of the Handgun Crime Control Act of 1979, which attempts to reduce handgun crime in several ways. All commerce in "Saturday Night Specials" is banned, and other handguns are subject to registration requirements although this legislation does not in any way affect any kind of sportsman's rifle. It deals only with handguns, which are easily obtainable, used in countless crimes, and responsible for an average of 24 deaths a day throughout the country.

REGULATORY REFORM

The issue of regulatory reform was one of the most important issues the Congress faced this session, and I was pleased to cosponsor S. 262, the Regulatory Improvement Act, which grew out of a six-volume study prepared by the Governmental Affairs Committee. This legislation would, among other things require agencies to review at least some of their major rules each year, and would reduce delay in the hearing process.

REFORM OF CRIMINAL PENALTIES REGARDING MINOR INFRACTIONS OF MARIHUANA LAW

I introduced a bill to amend certain provisions of the Controlled Substances Act relating to marihuana. The Marihuana Control Act would remove criminal penalties under Federal law for the possession of very small amounts of marihuana (not more than 1 ounce) and replace them with a civil fine similar to a traffic ticket. This would reconcile Federal law with Federal policy that such cases are no longer prosecuted. Further, it would stand for the proposition that laws on this subject should no longer define millions of otherwise law-abiding citizens as criminals. Decriminalization of marihuana at the Federal level would serve as a model to encourage States to take similar action. Trafficking is to remain a crime.

POSTAL SERVICE

I am a cosponsor of S. 1758, the Postal Service Employees Political Activities Act of 1979, which will restore the right of postal employees to participate as private citizens in the political processes of the Nation. The bill also provides guidelines to protect employees from improper solicitations.

NATIONAL SCIENCE FOUNDATION

I am concerned that scientific enterprise in this country is less than it should be and I, therefore, cosponsored a reauthorization of the programs authorized by the National Science Foundation. I am committed to keeping the United States a world leader in science and technology, and research and development.

CONCLUSION

The year 1979 marks the close of the first session of the 96th Congress. It also marks the end of a decade; the decade of the Vietnam war, Watergate, the resignation of a President; but, also the decade of the restoration of relations with China, our Nation's bicentennial, and the highest employment rate in our Nation's history.

My immediate concern, and I believe that of the Senate, in international affairs will be the resolution of the situation in Iran. I hope also that the Strategic Arms Limitation Treaty (SALT II) will be passed by the Senate.

I believe the country is ready for, and anxious to have, strong energy policy leadership. I have urged that rationing be implemented as the equitable method for the distribution of gasoline. We must conserve more, use available resources more efficiently, develop new technology, and search for new resources.

Inflation is a similar problem. It demands tough policy and economic sensitivity. Employment must be assured, the rate of productivity increased, and real income protected. Tax policy, Federal budget policy, and Federal Reserve policy are all factors. I intend to be very active in these areas with great emphasis on labor-management joint efforts.

As the events of the seventies made great demands on the strength of our Nation and as a people, we prevailed with renewed strength and vigor. I believe that will again be the case in the decade of the eighties.

RECESS FOR 10 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 10 minutes.

There being no objection, the Senate, at 7:19 p.m., recessed for 10 minutes; whereupon, at 7:29 p.m. the Senate reassembled when called to order by the Presiding Officer (Mr. SARBANES).

RECESS FOR 10 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 10 minutes.

There being no objection, the Senate, at 7:29 p.m., recessed until 7:39 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MORGAN).

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business for not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE "TRIUMPH OF REASON"

Mr. PROXMIRE. Mr. President, after 7 years of bloody guerrilla war, an agreement has been reached to bring peace to Rhodesia. The treaty, calling first for a cease-fire and then for free elections this spring, also signals the end of numerous international economic sanctions against Salisbury and the resumption of vital grain shipments to drought-stricken Zambia.

The resolution of the Rhodesian situation by diplomacy instead of war is, above all, a long sought opportunity for the weary people of the region to establish a peaceful and just society. It is a great success for Britain and the Commonwealth, which brought the warring sides together and fashioned the compromise which was finally approved on Monday. But it is also a significant event which should be cheered by people from all parts of the globe.

As the White House announced, "The world can celebrate a triumph of reason and an extraordinary diplomatic success. A long, destructive, and tragic conflict is ending."

Whenever the hateful, violent extremes of international affairs can be met by the rational process of diplomacy and by law, it is indeed a triumph. The Genocide Convention is just such an achievement. The convention was the response of the United Nations to the horrors of Nazi atrocities in World War II. A truly international accord, it bears the endorsements of 83 nations and proclaims the world community's abhorrence of the crime of genocide.

And yet the United States stands aloof from this fundamental step in the evolution of international law. For 30 years, the Senate has refused to grant its advice and consent, in spite of the support for ratification voiced by dozens of national organizations and President after President since the time of Harry Truman.

This failure of the Senate is wrong. Just as we applaud the "triumph of reason" in Rhodesia, we must work to extend that victory throughout the world. I urge my colleagues to ratify the Genocide Convention.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DURENBERGER and Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

CONFIRMATION OF SIDNEY ANDERS RAND TO BE AMBASSADOR TO NORWAY

Mr. DURENBERGER. Mr. President, I am delighted that last night the Senate confirmed the nomination of Sidney Anders Rand of Minnesota to be Ambassador to Norway. As a Minnesotan, I take particular interest in United States-Norwegian relations, for the history of Minnesota has been shaped to an extraordinary degree by the history and culture of Norway. Indeed, when one examines the impact of Norwegian immigrants on the development of the United States, it becomes clear that we owe a significant debt to Norway. Today, we have begun to repay that debt, for we are sending one of our finest citizens abroad to represent us in Oslo.

Sidney Rand is widely regarded as one of Minnesota's most reputable leaders in higher education. His career has spanned some 40 years of service as a pastor of the Lutheran Church and as an educator. For the past 16 years, he has served as President of St. Olaf College, one of Minnesota's most exceptional schools, and the alma mater of many illustrious persons, including my friend Congressman ARLEN ERDAHL.

In addition to his administrative experience in higher education, Mr. Rand brings to his post a wealth of knowledge about Norwegian affairs. He is a member of several Norwegian-American organizations, he is conversant in the language, and he was honored by the Government of Norway in 1974 when he was made a "Knight First Class" in the Order of St. Olaf. Seldom have we sent abroad an ambassador with greater knowledge of his assigned country.

In other words, Mr. Rand's experience, character, and interests make him exceptionally qualified for his duties. This was demonstrated when the Foreign Relations Committee passed upon his nomination with remarkable speed and high praise. I therefore take great pleasure in his confirmation.

THE LEADERSHIP POSITION ON RURAL TRANSPORTATION ISSUES TAKEN BY THE MINNESOTA FARMERS UNION

Mr. DURENBERGER. Mr. President, during the past year, Midwestern farmers have suffered through a crippling grain strike and two major railroad bankruptcies. At the same time, deteriorating roads have impaired the movement of truck freight, while obsolete lock and dam facilities continue to slow barge traffic on the Mississippi.

The Midwest transportation crisis has attracted national attention. But it would be a mistake to consider this a purely regional crisis. On the contrary, it is simply a forerunner of a more general crisis that will touch every section of the country over the next decade.

American agriculture is paying the price for decades of public neglect toward the Nation's rural transportation systems. Earlier this summer, the National Transportation Policy Study Committee predicted that a trillion-dollar investment would be required to maintain an adequate transportation system through the year 2000. This is a staggering figure, and meeting needs of this magnitude will require creative ingenuity in addition to financial commitment.

Earlier this month, I had the privilege of addressing a convention of the Minnesota Farmers Union. The men and women at that convention are dealing with rural transportation problems on a daily basis, and they offered some exceptionally perceptive suggestions on how to address those problems. One of their ideas was embodied in a resolution endorsed by the convention as a whole, and I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection the resolution was ordered to be printed in the RECORD, as follows:

> Efficient movement of agricultural products is essential for the economic well-being of our nation and rural communities. Continued congestion of our transportation system, as with Duluth and the Mississippi River, hinders the full utilization of our agricultural resources.
>
> We therefore strongly urge the Congress and the administration to create an agricultural transportation emergency board similar to the energy mobilization board. This board should have the power to move over departmental and agency lines in order to resolve conflicts among these units and cut through unnecessary procedural red-tape which contributes to the problem. The board should monitor the movement of agricultural products and inputs and, if an emergency exists, have the power to order the redistribution of transportation facilities. Finally, the Congress and administration, together with the board should create a comprehensive national transportation policy in order to develop an efficient, coordinated system thereby utilizing the full benefits of our current structure.
>
> We recognize the unprecedented power created by such an act, however, we are in a crisis situation. Continued deterioration of our transportation system coupled with rising world demand for our products means the problem will not fade away. The situation requires and demands immediate attention.

Mr. DURENBERGER. Our rural transportation network is the lifeline that connects the Nation's farmers with national and international markets. It is a national asset that cannot be allowed to deteriorate. Preserving its viability will require a stronger commitment on both the State and Federal levels, and I commend the Minnesota Farmers Union for the leadership it is offering on this critical issue.

TAX EXEMPT BONDS FOR HOUSING

Mr. DURENBERGER. Mr. President, I am pleased to cosponsor S. 2064 and to urge support of my colleagues for this legislation. S. 2064 is a very good bill that provides for what I feel is a sound and reasonable approch for the use of tax exempt bonds for housing in the United States.

With the following amendments that I intend to offer when the bill comes before the Senate Finance Committee, this fiscal tool can be workable for small cities as well as large cities and State housing finance agencies.

The areas that amendments will be offered for relate to the following:

First. The cost of issuance of the bonds should be payable from the proceeds of the bond sale.

Second. The 5-percent match requirement could exclude small cities in Minnesota that may not receive Federal grants. Language to achieve the goal of this provision as an alternative to this requirement will be sought.

Third. The HUD certification requirement that the use of the bonds would not promote displacement is good, but needs to be structured to avoid undue delays. This could be done by setting a time limit by which HUD has to respond.

Fourth. The 20-percent limitation on the volume of bonds which may be issued for low- and moderate-income programs needs some language changes to clear up what could be termed as "ambiguities" as it relates to calculating the allowable volume amount.

Fifth. The 50-percent requirement providing for one-half of the proceeds must be available to incomes below the median should have a time limit as provided for in Minnesota law recently passed on this subject.

With these amendments, that will make the bill more workable in Minnesota, I will have no trouble in supporting S. 2064. I will resist any moves to make the bill more restrictive.

It is my desire that the Senate move ahead with discussions on S. 2064 as soon as possible. We must do this so we are prepared to act on this issue when the House of Representatives finally acts on its legislation known as the Ullman bill.

It has been disturbing and unfair to have this method of financing shut down merely by the introduction of a piece of legislation in the House and at a time when this financing is needed more than ever.

Since April 25 of this year, housing opportunities for thousands of young families have been bottled up, not by any direct official action, but by the threat of action that could possibly negate the tax exempt status on bonds issued after that date. Now we understand that the House will probably not vote on this matter until later January.

The issues that the House has been wrestling with for the past year have clouded the real issue, that is, the need to provide housing for the citizens of my State, its cities and for the rest of this country.

The issue that seems to concern the Treasury Department and other opponents of tax exempt bonds appears to be the fact that local government has found a better method to deliver housing without having to struggle through the Federal bureaucracy. Washington, it seems, wants to choke local initiatives that have been used to try to solve their unmet housing needs.

The matter of potential loss of revenue to the Treasury is something that we should all be concerned with. In this case, the loss appears to one of theory. In that, if the tax exempt bonds were banned, the housing would have occurred anyway.

The experience is to the contrary. Most of the housing built for the income-level the bonds are intended to help would not be built without this method of lowering the costs to the prospective buyer.

Minnesota, my State, in the last session of the legislature passed a bill known as the Schreiber-Humphrey bill, to control at the State level the use of tax exempt bonds for housing. This type of responsible action has negated the need for Federal regulations of housing mortgage bonds. In Minnesota it would be considered just plain overkill.

The "horror stories" that have been brought forward by the opponents of tax exempt housing bonds, as the primary reason to eliminate the use of this financing method, can be easily remedied without having to throw the baby out with the bath water.

There are many positive examples which opponents have chosen to carefully overlook. The cities of Minneapolis and St. Paul have made very wise use of this method of financing housing to rebuild their cities, retain residents in their communities and attract people back to the central cities.

Small cities around the State of Minnesota have also made good use of this method to increase their housing stock and help young families to purchase their first home.

The Minnesota Housing Finance Agency has a very commendable record of providing housing that otherwise would not have been available without the use of tax exempt housing mortgage bonds. Since 1971 when the agency was formed, they have provided the following housing units:

Apartment units	14, 370
Single family home mortgages	8, 700
Home improvement loans	22, 000

Total dollars in loans provided by the agency using mortgage revenue bonds are:

	(In millions)
Apartment development	$414
Developmentally disabled (group homes)	4. 1
Single family home mortgages	265
Home improvement loans	105

Besides providing housing that may not otherwise have been built, the economy, State and Federal, is enriched with the jobs provided and the materials and equipment consumed. The bonds have been a major factor in keeping one of our key industries of our Nation functioning.

The president of the City Council of Minneapolis, Mr. Louis DeMars, in his testimony last summer before the Senate Banking Committee, Subcommittee on Housing and Urban Affairs stated:

> Frankly, the consideration of this important subject by the administration and the Congress thus far has been solely from the viewpoint of the tax issue, not the housing needs.

Mayor Richard Carver of Peoria, Ill., at the June meeting of the ACIR (Advisory Committee on Intergovernmental Relations) stated:

> It is time for the Federal Government to stop passing judgement on programs that are not created at the Federal level or controlled by the Federal Government.

In summary, the Senate Finance Committee should proceed as rapidly as possible to commence work on S. 2064 in the form introduced, along with my recommended areas of amendment.

We have delayed too long in providing housing for persons who cannot afford decent living accommodations without this much needed assistance.

We also need to get the housing industry moving. We simply cannot afford to let this basic industry lag and cause further economic problems in our country.

Finally, we cannot continually turn our backs on the cities and States of this country that are trying to provide housing for their people by being insensitive to this issue in Washington.

A letter that I received the other day from Mr. Roger Scherer of Brooklyn Center, Minn. adds impetus to my summary remarks. Mr. Scherer is a member of the metropolitan council of the Twin Cities 7 County Region, a former State legislator and the president of the Scherer Bros. Lumber Co. in Minneapolis. He sets forth good and valid reasons for the need for continued use of tax-exempt bonds for housing.

Mr. President, I ask unanimous consent that this letter of Mr. Scherer be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DECEMBER 13, 1979.

Re Tax-exempt bonds for housing.

Hon. DAVID DURENBERGER,
U.S. Senate,
Washington, D.C.

DEAR DAVE: I am writing to urge you to support the continued, responsible use of local tax-exempt bonds for housing. Tax-exempt bonds can reduce housing mortgage interest rates by 2–3 percent, which can represent a savings to the average consumer of over $100 per month.

The need for housing assistance has never been greater than it is today. In the Twin Cities Area, fully 38 percent of the population is eligible for subsidized housing, and another 32 percent have a modest income of $22,000 per year (family of 4) or less. With the median-priced new home built this year selling for over $68,000, only a small share of the population can enter the housing market.

The current Administration has not been a friend to housing. In fact, this country has never given housing needs priority status, with the possible exception of the immediate need to house returning veterans after World War II. The need for shelter is a basic human need, essential not only to physical survival and well-being, but also as a significant shaper of self-image and of a stake in the community and its future, giving a sense of permanence and continuity in a rapidly changing society.

It is important to compare the public role in housing with some other basic human needs, food and health care. All Americans are now guaranteed enough funds for an adequate diet through the government-supported food stamp program. No one is denied adequate food for lack of money. And, health care is available either free or at reduced rates for every person in need, again at government expense. People may have to wait in line, but no one is turned away because they cannot pay.

The government has accepted full responsibility for feeding and providing health care for all its citizens. It could have been different. Instead of food stamps, the government could have tried to set price limits on food, to shift the burden to the private sector, even if it meant operating at a loss. Or, the government could have dictated that private health care providers treat everyone regardless of ability to pay, again forcing the burden and potential losses to the private sector.

What of housing? The policy of "a decent home for every American" has a hollow ring. In the 1970's, the government provided housing subsidies for a few Americans, between 30 and 40 percent of those who by HUD's own definition could have been eligible.

The housing needs of the majority of our country's lower-income households have been entirely ignored along with the needs of growing numbers of middle-income families. And the outlook for housing subsidies for the 1980's is even worse. What has the public sector done?

They have shifted the burden directly to the private sector through such devices as rent control and restrictions on the conversion of rental units to condominiums, both of which can literally force rental property owners to operate at a loss.

If that isn't enough, the government has also forced up interest rates to the point where builders can no longer afford to build most types of housing.

And only the most affluent of consumers can afford mortgages at today's rates. The only way out for many builders and consumers has been the opportunity to make use of tax-exempt bonds to bring interest rates down to a point where some construction is possible, and where at least a few middle-income families can afford the long-awaited purchase of a home.

And now, even this last hope for home-ownership is being seriously threatened by our government.

I am not against what appears to be an honest and long-overdue attempt to balance the federal budget in the fight against inflation. Indeed, housing has suffered more than its share as a victim of inflation.

But the housing needs of this country cannot be looked at only as they effect the ability of the Treasury Department to collect revenues. Housing is not a revenue issue!

But if it were, one would have to look at the broader revenue impacts of tax-exempt housing bonds. While no income taxes are paid on the income derived from these bonds, it must be recognized that the construction generated by the availability of these mortgage funds does produce taxable income for the construction workers, builders, building material suppliers, and others involved in housing construction.

I submit that most of this construction activity would not take place at all without the tax-exempt bonds. In support of this statement is the example of market-rate apartment construction.

As you know, already-low vacancy rates are continuing to decline, and builders are unable to supply new units at today's conventional interest rates at rents that people will be willing or able to pay.

The only apartment units built in the entire Twin Cities Metropolitan Area this year have been either federally-subsidized and financed housing or market-rate units financed through local tax-exempt bonds. The same situation is rapidly developing for new single-family homes, which are now virtually out of reach for middle-income first-time home buyers.

To further illustrate the problem in terms that many of us can understand, I have often pointed out that very few people who own their own homes today would be able to afford to re-purchase them at today's prices and mortgage interest rates. If every home-owner in the country were required to do this, today's double-digit interest rates for housing would quickly decline.

Interest paid on a home mortgage is the largest single housing cost today for most consumers. The impact of interest rates can be quickly demonstrated by comparing monthly payments and overall costs of the same-priced house at different interest rates, as in the chart below:

[Term in years]

Interest rate: Mortgage amount	Term	Monthly payment	Income needed to afford this payment	Total amount paid during life of mortgage
8 percent: $60,000 (principal is 37.9 percent of total)	30	$440.26	$21,132	$158,494
9¾ percent: $60,000 (32.3 percent of total)	30	515.50	24,744	185,580
12¾ percent: $60,000 (25.6 percent of total)	30	652.02	31,297	234,727

At the 8 percent rate, over half the households in the Twin Cities Area could afford to purchase the $60,000 home. At 9¾ percent interest, about one-third of the population could afford the monthly payments. At 12¾ percent, less than 10 percent of area households could purchase the home.

The issue of tax-exempt bonds for housing is a classic confrontation between local government autonomy and federal government regulation and control. For many years, and not always without justification, the federal government has accused local government of shirking its responsibility to provide housing for all income groups and of being deliberately exclusionary. Today, when many units of local government have recognized the need to make housing more affordable and have demonstrated this commitment through local bond issues, the federal government threatens to take this valuable tool away. Suburbia is ready to open its doors, and the government wants to run off with the key!

Admittedly, tax-exempt bonds should be used to serve a valid public purpose, and there have, in fact, been documented abuses in the past which should not be allowed to continue. The bonds should be used primarily to help modest-income households, not the wealthy. And attention should be paid to the potential impact of a large volume of housing bonds on the bond market. These concerns can be addressed through responsible legislation containing safeguards similar to the Minnesota legislation enacted earlier this year.

In light of the extreme need for affordable housing today, I urge you to support responsible legislation to control, but not cut off, the use of local tax-exempt bonds for housing. A bill which is compatible with the recommendations of your Statewide Housing Task Force would best serve us in our efforts to bring decent, affordable housing within reach of the citizens of this state and this country.

Sincerely,

Roger Scherer,
Member, Metropolitan Council.

The PRESIDING OFFICER. The Senator from Virginia.

THE "THIRD HOUSE" OF CONGRESS: AN APPRECIATION

Mr. WARNER. Mr. President, it has been my honor this year to have served as sponsor for the Senate Staff Club.

As the first session of the 96th Congress draws to its close, I take a moment of my colleagues' time to say a heartfelt "thank you," not only to all members of the Senate Staff Club but to all those courageous, brave, and dedicated men and women who serve the Senate. They are often an unsung body who support us in our common effort.

We who serve as Members of the Senate are surrounded and supported daily by this group of assistants from elevator operators to Capitol Police officers, restaurant employees, service department personnel, doorkeepers, office and committee staffs, pages, cloakroom attendants, a host of others. I might even throw in for good measure the Parliamentarians and those who record the votes.

Collectively, these Senate staffers almost serve as a "third House" of Congress. They work for all of us and with us, making our own tasks more possible of accomplishment.

Mr. President, I have been privileged over the years to serve in many organizations, both private and public. I have worked for and with many people, and many have worked for and with me.

And I must say that never before have I encountered a more accommodating, more dedicated, more capable—or, frankly, nicer—group of people than those who serve in the "third House."

This year, as a freshman Senator, as I said, I had special cause to know and need the help of those dedicated coworkers through my honored roll as patron of the Senate Staff Club.

So, at this joyous season of the year—doubly joyous for us who are looking forward to a short respite from our daily rounds—my hat is off in a salute of gratitude to that fine group of men and women who stand beside and behind us as we do the people's business.

Thanks—and the best of the holiday season—to all of them, and to my colleagues, who have made the experience of this year, for me, so memorable and meaningful.

I thank you.

My father was a doctor and a great philosopher, and he taught me at a young age a very short bit of philosophy. He said:

> It is nice to be important but it is more important to be nice.

And every one of these individuals meets that philosophy.

Thank you, Mr. President.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. WARNER. I yield to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, I associate myself with the remarks made by the able Senator from Virginia on the subject upon which he just spoke.

Mr. WARNER. I thank the Senator.

The PRESIDING OFFICER. The Senator from Minnesota.

CHRYSLER

Mr. DURENBERGER. Mr. President, we cannot lose sight of the real message conveyed by the Chrysler bankruptcy. For in a real sense, each and every one of us contributed to that bankruptcy by our refusal to take the necessary steps toward transportation conservation.

For decades, American consumers ignored the reality of the world energy situation with their demand for large, inefficient automobiles. Although they were well aware that petroleum supplies were dwindling, the major automakers catered to this demand, and even promoted it. But the greatest blame lies with Government, which ignored its responsibility to educate the public, and fueled the automobile market by subsidizing artificially low gasoline prices. As the auto market flourished, more efficient forms of mass transportation starved. Railroads went bankrupt, while buses and light rail systems received little support. This was an artificial environment, and in the past decade the reality of the energy situation struck home.

As rising gasoline prices signaled the end of our love affair with the automobile, the public's transportation priorities have begun to reverse. Passenger rail, which had declined for decades, sets new ridership records each month. American manufacturers cannot produce enough buses to meet the public demand. And as public preference slowly shifts toward mass transit, automobile sales have plummeted.

Chrysler—like Ford and General Motors—is caught in the process of change. And because it ignored the need for conservation, it was ill-equipped to adapt to change. Cash rebates cannot sell the thousand full-size cars languishing in Chrysler's inventory. In the mean time, Chrysler has lost its market share to foreign competitors who foresaw the energy shortage, and were better prepared to adapt. The entire automobile industry is experiencing the same impact that "King Rail" experienced when the shift to the private automobile began 50 years ago. And the situation is going to worsen.

Unless American automakers change their attitudes, the industry may well go the way of the gas guzzling car. And unfortunately, the same is true of our transportation system as a whole. We are entering an era of permanent energy shortages with antiquated transit systems, deteriorating railroads, and a public reluctance to accept the fact that the energy shortage is real. Like Chrysler, we have been slow to change. And like Chrysler, we are about to pay the price.

It may be possible for Congress to act assertively, and help Chrysler bail itself out. But it will not be as easy to bail out a national transportation system that will not adapt to change.

This is the real message of the Chrysler bankruptcy. The transportation systems of the future will be judged by their energy efficiency. And the Chrysler bankruptcy is just a chilling symbol of these changing times.

RECESS UNTIL 7:49 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 5 minutes.

There being no objection, the Senate, at 7:44 p.m., recessed until 7:49 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Morgan).

UNANIMOUS-CONSENT AGREEMENT—H.R. 5168, EXTENSION OF PROVISIONS RELATING TO PERSONNEL MANAGEMENT OF THE ARMED FORCES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar No. 454, H.R. 5168, to extend the provisions of law relating to personnel management in the Armed Forces, is called up and made the pending business before the Senate, there be a time agreement thereon as follows:

Two hours on the bill, to be equally divided between Mr. Nunn and Mr. Jepsen; 30 minutes on any amendment; 4 hours on an amendment by Mr. Armstrong on the military pay cap; 20 minutes on any debatable motion, appeal, or point of order, if such is submitted to the Senate; and that the agreement be in the usual form.

Provided, further, that the majority leader, after consultation with the minority leader or the acting minority leader, be authorized to call up this measure at any time early in the second session, with the understanding, of course, that the principals would be present at the time. By the principals, I mean Mr. Nunn, Mr. Jepsen, Mr. Armstrong, and Mr. Schmitt.

I ask unanimous consent also that there be another amendment by Mr. Schmitt in order dealing with private negotiators at international conferences, and that there be a 30-minute limitation on that one.

Mr. STEVENS. Reserving the right to object, Mr. President, can we separate those out—I beg your pardon.

Still reserving the right to object, the Senator from Colorado is here to speak for himself, and I yield to him.

Mr. ARMSTRONG. Mr. President, just a word of appreciation to the majority leader and the acting minority leader and Senator Nunn and Senator Jepsen for their accommodation on this, which I appreciate very much. It is an issue that is important to a lot of people as well as a lot of Senators, and I think it would be very helpful for a definite schedule to take up the pay cap amendment.

Mr. STEVENS. Mr. President, reserving the right to object, my understanding is this is a bill that is going to definitely be the first bill, and that this bill will in all likelihood, subject to emergency, be called up some time between the trade bill and the first recess, in that period of time.

Mr. ROBERT C. BYRD. It would very likely, barring the necessity for dealing with some emergency matter, be called up upon the disposition of the China trade matter and at the close of the first week the Senate is back.

Mr. STEVENS. I am glad to have that clarification from the majority leader.

It is my understanding that, with respect to Senator Tower, representation was made here that this would meet with his approval, and on that basis I will not object.

Mr. ROBERT C. BYRD. I would like to dispose of this matter the first week after the Senate is back.

The PRESIDING OFFICER. Is there objection?

Mr. SCHMITT. Mr. President, reserving the right to object, and I shall not object, I want to clarify one thing. The amendment I asked for time on that bill is a noncontroversial amendment that the State Department, the Committee on Foreign Relations and the Commerce Committee agree should be done and it is important that we see that this go forward.

Mr. ROBERT C. BYRD. I understand.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—S. 523

Mr. ROBERT C. BYRD. Now, Mr. President, I ask unanimous consent that at such time as Calendar No. 543, S. 523, dealing with health professionals in the uniformed services, is called up and made the pending business before the Senate—and it would be my intention to call the measure up within the next few minutes—that there be a time limitation on the bill of 30 minutes to be equally divided between Mr. Nunn and Mr. Jepsen; that there be only one amendment, that being the Schmitt amendment on private negotiators and international conferences, be in order, and that there be a 10-minute limitation on that amendment; that there be a 10-minute limitation on any debatable motion or appeal or point of order, if such is submitted to the Senate, and that the agreement be in the usual form.

Mr. STEVENS. Mr. President, reserving the right to object, I understand it is agreeable to Mr. Warner and Mr. Jepsen, who are here. It is my understanding that you intend to proceed with it now?

Mr. ROBERT C. BYRD. Very quickly.

Mr. STEVENS. I have no objection.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, in anticipation of proceeding to Calendar Order No. 543, S. 523, on which agreement has just been entered, I ask unanimous consent that the Senate first dispose of the budget waiver in relation thereto, Senate Resolution 317, and I ask the Senate to proceed to its immediate consideration.

There being no objection, the resolution (S. Res. 317) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 523, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 523, a bill to amend chapter 5 of title 37, United States Code, to revise the special pay provisions for certain health professionals in the uniformed services.

Such waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to S. 523 as reported by the Committee on Armed Services.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNIFORMED SERVICES HEALTH PROFESSIONALS SPECIAL PAY ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 543.

The Senate proceeded to consider the bill (S. 523) to amend chapter 5 of title 37, United States Code, to revise the special pay provisions for certain health professionals in the uniformed services, which had been reported from the Committee on Armed Services with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Uniformed Services Health Professionals Special Pay Act".

Sec. 2. (a) Chapter 5 of title 37, United States Code, relating to special and incentive pays for members of the uniformed services, is amended by striking out sections 302, 302a, and 302b and inserting in lieu thereof the following:

"§ 302. Special pay: medical officers

"(a) (1) Except as provided in subsection (c), an officer who is an officer of the Medical Corps of the Army or the Navy, an officer of the Air Force designated as a dental officer, or a dental officer of the Public Health Service and who is on active duty under a call or order to active duty for a period of not less than one year is entitled to special pay in accordance with this subsection.

"(2) An officer described in paragraph (1) who is serving in a pay grade below pay grade O–7 is entitled to variable special pay at the following rates:

"(A) $1,200 per year, if the officer is undergoing medical internship training, as determined under regulations prescribed under section 302c(a) of this title.

"(B) $5,000 per year, if the officer has less than six years of creditable service under subsection (e) and is not undergoing medical internship training, as determined under regulations prescribed under section 302c(a) of this title.

"(C) $10,000 per year, if the officer has at least six but less than eight years of creditable service under subsection (e).

"(D) $9,500 per year, if the officer has at least eight but less than ten years of creditable service under subsection (e).

"(E) $9,000 per year, if the officer has at least ten but less than twelve years of creditable service under subsection (e).

"(F) $8,000 per year, if the officer has at least twelve but less than fourteen years of creditable service under subsection (e).

"(G) $7,000 per year, if the officer has at least fourteen but less than eighteen years of creditable service under subsection (e).

"(H) $6,000 per year, if the officer has at least eighteen but less than twenty-two years of creditable service under subsection (e).

"(I) $5,000 per year, if the officer has twenty-two or more years of creditable service under subsection (e).

"(3) An officer described in paragraph (1) who is serving in a pay grade above pay grade O–6 is entitled to variable special pay at the rate of $1,000 per year.

"(4) An officer entitled to variable special pay under paragraph (2) or (3) is entitled to additional special pay of $9,000 for any twelve-month period during which the officer is not undergoing medical internship or residency training, as determined under regulations prescribed under section 302c(a) of this title.

"(5) An officer who is entitled to variable special pay under paragraph (2) or (3) who is board certified, as determined under regulations prescribed under section 302c(a) of this title, is entitled to additional special pay at the following rates:

"(A) $2,000 per year, if the officer has less than ten years of creditable service under subsection (e).

"(B) $2,500 per year, if the officer has at least ten but less than twelve years of creditable service under subsection (e).

"(C) $3,000 per year, if the officer has at least twelve but less than fourteen years of creditable service under subsection (e).

"(D) $4,000 per year, if the officer has at least fourteen but less than eighteen years of creditable service under subsection (e).

"(E) $5,000 per year, if the officer has eighteen or more years of creditable service under subsection (e).

"(b) (1) Subject to paragraph (2) and under regulations to be prescribed under section 302c(a), an officer who is entitled to variable special pay under subsection (a) (2) may be paid incentive special pay in an amount not to exceed $8,000 for any twelve-month period during which the officer is not undergoing medical internship or residency training, as determined under regulations prescribed under section 302c(a) of this title.

"(2) An officer shall not be eligible for incentive special pay under this subsection unless the Secretary concerned has determined that such officer is qualified in the medical profession.

"(3) The amount that may be paid for

incentive special pay under this subsection in any fiscal year may not exceed an amount equal to 10 per centum of the total amount paid in such year for special pay under subsection (a) of this section and paragraph (1) of this subsection.

"(c)(1) A person who has an obligated period of service and who is not serving such obligated period shall be ineligible for variable pay under subsection (a) or incentive special pay under subsection (b), but shall be entitled to special pay under this paragraph at the following rates:

"(A) $1,200 per year if the person is undergoing medical internship training; or

"(B) $5,000 per year if the person is undergoing initial medical residency training.

"(2) A person who has an obligated period of service shall be ineligible for variable special pay under subsection (a) or incentive special pay under subsection (b) while serving such obligated period, but shall be entitled to special pay under this paragraph at the following rates:

"(A) $9,000 per year if the person is serving in the first four years of an obligated period of service; or

"(B) $13,500 per year if the person is serving in the fifth or a subsequent year of an obligated period of service.

"(3) As used in this subsection, the term 'obligated period of service' means the specified period of time a person is obligated to serve on active duty in a uniformed service by virtue of graduating from the Uniformed Services University of the Health Sciences (provided for under chapter 104 of title 10) or by virtue of participation as a member of the Health Professions Scholarship program (provided for under chapter 105 of title 10), or by virtue of participation in any similar program.

"(4) A person who agrees under section 2115 of title 10 to perform civilian Federal duty in lieu of active duty in a uniformed service shall not be eligible for special pay under this section.

"(d) An officer may not be paid an additional payment under paragraph (4) of subsection (a) for any twelve-month period unless the officer first executes a written agreement under which the officer agrees to remain on active duty for a period of not less than one year beginning on the date the officer accepts the award of such special pay.

"(e) For purposes of this section, creditable service of an officer of the Medical Corps of the Army or the Navy, an officer of the Air Force designated as a medical officer, or a medical officer of the Public Health Service is computed by adding—

"(1) all periods which the officer spent in medical internship or residency training during which the officer was not on active duty; and

"(2) all periods of active service in the Medical Corps of the Army or Navy, as an officer of the Air Force designated as a medical officer, or as a medical officer of the Public Health Service.

"§ 302a. Special pay: dental officers

"(a)(1) An officer who is an officer of the Dental Corps of the Army or the Navy, an officer of the Air Force designated as a dental officer, or a dental officer of the Public Health Service and who is on active duty under a call or order to active duty for a period of not less than one year is entitled to special pay in accordance with this subsection.

"(2) An officer described in paragraph (1) who is serving in a pay grade below pay grade O–7 is entitled to variable special pay at the following rates:

"(A) $1,200 per year, if the officer is undergoing dental internship training, as determined under regulations prescribed under section 302c(a) of this title.

"(B) $2,000 per year, if the officer has less than six years of creditable service under subsection (c) and is not undergoing dental internship training, as determined under regulations prescribed under section 302c(a) of this title.

"(C) $5,000 per year, if the officer has at least six but less than eight years of creditable service under subsection (c).

"(D) $7,000 per year, if the officer has at least eight but less than ten years of creditable service under subsection (c).

"(E) $9,000 per year, if the officer has at least ten but less than twelve years of creditable service under subsection (c).

"(F) $8,000 per year, if the officer has at least twelve but less than fourteen years of creditable service under subsection (c).

"(G) $7,000 per year, if the officer has at least fourteen but less than eighteen years of creditable service under subsection (c).

"(H) $5,000 per year, if the officer has eighteen or more years of creditable service under subsection (c).

"(3) An officer described in paragraph (1) who is serving in a pay grade above pay grade O–6 is entitled to variable special pay at the rate of $1,000 per year.

"(4) An officer entitled to variable incentive pay under paragraph (2) or (3) is entitled to an additional payment for any twelve-month period during which the officer is not undergoing dental internship or residency training, as determined under regulations prescribed under section 302(a) of this title, to be paid at the following rates:

"(A) $6,000 per year, if the officer has at least three but less than twelve years of creditable service under subsection (c).

"(B) $8,000 per year, if the officer has at least twelve but less than eighteen years of creditable service under subsection (c).

"(C) $10,000 per year, if the officer has eighteen or more years of creditable service under subsection (c).

"(5) An officer who is entitled to variable special pay under paragraph (2) or (3) who is board qualified, as determined under regulations prescribed under section 302(a) of this title, is entitled to additional special pay at the following rates:

"(A) $2,000 per year, if the officer has less than twelve years of creditable service under subsection (c).

"(B) $3,000 per year, if the officer has at least twelve but less than fourteen years of creditable service under subsection (c).

"(C) $4,000 per year, if the officer has fourteen or more years of creditable service under subsection (c).

"(b) An officer may not be paid special pay under paragraph (4) of subsection (a) for any twelve-month period unless the officer first executes a written agreement under which the officer agrees to remain on active duty for a period of not less than one year beginning on the date the officer accepts the award of such special pay.

"(c) For purposes of this section, creditable service of an officer of the Dental Corps of the Army or the Navy, an officer of the Air Force designated as a dental officer, or a dental officer of the Public Health Service is computed by adding—

"(1) all periods which the officer spent in dental internship or residency training during which the officer was not on active duty; and

"(2) all periods of active service in the Dental Corps of the Army or Navy, as an officer of the Air Force designated as a dental officer, or as a dental officer of the Public Health Service.

"§ 302b. Special pay: optometry officers

"(a)(1) an officer who is an officer of the Army, Navy, or Air Force designated as an optometry officer or who is an optometry officer of the Public Health Service and who is on active duty under a call or order to active duty for a period of not less than one year is entitled to variable special pay at the following rates:

"(A) $3,000 per year, if the officer has less than six years of creditable service under subsection (c).

"(B) $2,500 per year, if the officer has at least six but less than twelve years of creditable service under subsection (c).

"(C) $2,000 per year, if the officer has at least twelve but less than sixteen years of creditable service under subsection (c).

"(D) $1,000 per year, if the officer has sixteen or more years of creditable service under subsection (c).

"(2) An officer with at least three years of creditable service under subsection (c) who is entitled to variable special pay under paragraph (1) is entitled to an additional payment of $1,000 for any twelve-month period during which the officer is not undergoing optometry residency training, as determined under regulations prescribed under section 302c(a) of this title.

"(b) An officer may not be paid special pay under paragraph (2) of subsection (a) for any twelve-month period unless the officer first executes a written agreement under which the officer agrees to remain on active duty for a period of not less than one year beginning on the date the officer accepts the award of such special pay.

"(c) For purposes of this section, creditable service of an officer of the Army, Navy, or Air Force designated as an optometry officer or of an optometry officer of the Public Health Service is computed by adding—

"(1) all periods which the officer spent in optometry residency training during which the officer was not on active duty; and

"(2) all periods of active service as an optometry officer.

"§ 302c. Special pay: health professionals; general provisions

"(a) The Secretary of Defense, with respect to the Army, Navy, and Air Force, and the Secretary of Health, Education, and Welfare, with respect to the Public Health Service, shall prescribe regulations for the administration of sections 302, 302a, and 302b of this title. Such regulations shall include standards for determining—

"(1) whether an officer is undergoing medical internship or residency training for purposes of sections 302(a)(2)(A), 302(a)(2)(B), and 302(a)(4) of this title;

"(2) whether an officer is board certified for purposes of section 302(a)(5) of this title;

"(3) whether an officer is undergoing dental internship or residency training for purposes of section 302a(a)(2)(A), 302a(a)(2)(B), and 302a(a)(4) of this title;

"(4) whether an officer is board qualified in a dental specialty for purposes of section 302a(a)(5) of this title; and

"(5) whether an officer is undergoing optometry residency training for purposes of section 302b(a)(2) of this title.

"(b) Special pay authorized under sections 302, 302a, and 302b of this title is in addition to any other pay or allowance to which an officer is entitled. The amount of special pay to which an officer is entitled under any of such sections may not be included in computing the amount of any increase in pay authorized by any other provision of this title or in computing retired pay, severance pay, or readjustment pay.

"(c) Special pay payable to an officer under paragraphs (2), (3), and (5) of section 302(a), paragraphs (2), (3), and (5) of section 302a(a), and paragraph (1) of section 302b(a) of this title shall be paid monthly. Special pay payable to an officer under section 302(a)(4), section 302a(a)(4), and section 302(a)(2) of this title shall be paid annually at the beginning of the twelve-month period for which the officer is entitled to such payment.

"(d) An officer who voluntarily terminates service on active duty before the end of the period for which a payment was made to such officer under section 302(a)(4), 302a(a)(4), or 302b(a)(2) of this title shall refund to the United States an amount which bears the same ratio to the amount paid to such officer as the unserved part of such period bears to the total period for which the payment was made.

"(e) The Secretary of Defense shall conduct a review every two years of the special pay for health professionals authorized by sections 302, 302a, 302b, 303, and 303a of this title. A report of the results of the first such review shall be submitted to the Congress not later than September 30, 1982, and the results of each subsequent review shall be submitted to the Congress not later than September 30 each second year thereafter.".

(b) Section 303 of such title is amended by striking out subsection (c).

(c) Chapter 5 of such title is further amended by inserting after section 303 the following new section:

"§ 303a. Special pay: podiatry officers

"(a) An officer who is an officer of the Army, Navy, or Air Force designated as a podiatry officer or who is a podiatry officer of the Public Health Service and who is on active duty under a call or order to active duty for a period of not less than one year is entitled to special pay at the rate of $100 per month, if the officer has three or more years of creditable service under subsection (b).

"(b) For purposes of this section, creditable service of an officer of the Army, Navy, or Air Force designated as a podiatry officer or of a podiatry officer of the Public Health Service is computed by adding—

"(1) all periods which the officer spent in podiatry residency training during which the officer was not on active duty; and

"(2) all periods of active service as a podiatry officer.".

(d) Sections 311 and 313 of such title are repealed.

(e) Section 306(e) of such title, relating to exclusions from special pay for officers holding positions of unusual responsibility, is amended by striking out "302 or 303" and inserting in lieu thereof "302, 302a, 302b, 303, or 303a".

(f) The table of sections at the beginning of chapter 5 of such title is amended—

(1) by striking out the items relating to sections 302, 302a, and 302b and inserting in lieu thereof the following:

"302. Special pay: medical officers.
"302a. Special pay: dental officers.
"302b. Special pay: optometry officers.
"302c. Special pay: health professionals; general provisions.";

(2) by inserting after the item relating to section 303 the following:

"303a. Special pay: podiatry officers.";
and

(3) by striking out the item relating to sections 311 and 313.

Sec. 3. Notwithstanding any provision of the amendments made by this Act, and in accordance with regulations to be prescribed by the Secretary of Defense, with respect to the Army, Navy, and Air Force, and the Secretary of Health, Education, and Welfare, with respect to the Public Health Service, any officer who at any time before the effective date of the amendments made by this Act was entitled to special pay under any of sections 302, 302a, 302b, 303, 311, or 313 of title 37, United States Code, and any officer who after such effective date would have become entitled to special pay under any of such sections (as in effect on the day before such effective date) had such sections continued in effect, shall be paid basic pay and special pay under sections 302, 302a, 302b, and 303 of such title (as in effect on and after the effective date of the amendments made by this Act) in a total amount not less than the total amount of the basic pay (as in effect on the day before such date) and special pay applicable (or which would have been applicable) to such officer under such sections 302, 302a, 302b, 303, 311, and 313 (as in effect on the day before such date).

Sec. 4. The amendments made by section 2 shall apply to special pay for months beginning after the month in which this Act is enacted.

Sec. 5. (a) Section 1086 of title 10, United States Code, relating to contracts for health benefits for certain members, former members, and their dependents is amended by adding at the end thereof the following new subsection:

"(g) Notwithstanding subsection (d) or any other provisions of this chapter, no person eligible for health benefits under this section may be denied benefits under this section with respect to care or treatment for any service-connected disability which is compensable under chapter 11 of title 38 solely on the basis that such person is entitled to care or treatment for such disability in Veterans' Administration facilities."

(b) The amendment made by subsection (a) shall take effect on January 1, 1980.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, I am going to explain this bill very briefly and I will be glad to answer questions if anyone has them. We do have a serious time problem here.

I urge my colleagues to support the recommendations of the Armed Services Committee and approve S. 523, the Uniformed Services Health Professionals Special Pay Act.

The All-Volunteer Force is facing increasing difficulties in recruiting sufficient numbers of people, particularly technical and skilled personnel. Recruiting doctors has been a chronic problem for the All-Volunteer Force. The shortage of Active and Reserve doctors means we will have a serious deficit in the event of mobilization. Testimony currently indicates that the shortage of doctors would result in unnecessary deaths and disabilities in the event of an emergency. The shortage of doctors has also resulted in reduced peacetime medical benefits available to military families.

The recommendations in S. 523 deal with special pay for dentists, optometrists, podiatrists, and veterinarians.

For dentists, the bonus payment would increase to a maximum of $16,000 between 12 and 14 years of service for a general practitioner and to a maximum of $19,000 beginning at 12 years for a board-certified dental officer. This is an increase of up to $6,700 from the current bonus level.

Optometrists would receive a bonus of $2,000 to $4,000 compared to the current bonus of $1,200 per year.

For podiatrists, the committee recommendation would provide a bonus of $1,200 per year. There is no special pay for podiatrists under current law.

For veterinarians, the committee recommends continuation of the $1,200 bonus level.

PHYSICIANS' PAY

For military physicians, the committee recommends a bonus of $14,000 to $21,000 for physicians not in training depending on years of service and whether or not the doctor is board certified. This is an increase of up to $4,800 over the current bonus levels. In addition, the committee recommends approval of incentive special pay that could be paid would be limited to 10 percent of the amount of money spent on primary special pay. The Department of Defense would have discretion over the awarding of this incentive special pay but could increase a doctor's pay by $12,800 over the current maximum level.

The committee also recommends that doctors who are serving obligated service as a result of receiving training at the expense of the Government not be entitled to the full bonus levels. Instead, they would receive $9,000 in their first 4 years of obligated service and $13,500 in subsequent years. This provision was recommended by the Department of Defense.

COST

After considering offsetting savings that will occur as a result of less use of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) and in training, S. 523 will add $35 million in fiscal year 1980 and $369 million over 5 years.

Mr. President, this is a substantial sum of money to be added in special pays for health professionals but the problems in military medical care are critical both with respect to the care available to active duty and retired personnel and their dependents and to the need for physicians, especially surgeons, in case of mobilization.

The additional special pays provided in the committee recommendation are carefully designed to have the largest effect at points where doctors are deciding whether or not to stay in the service, especially doctors in specialties where there are critical shortages. This approach should be more effective and less costly than providing a single bonus level regardless of years of service specialty.

I urge my colleagues to support the committee recommendations.

Mr. President, Senator THURMOND will be on the floor in a minute. Senator HART is on the floor now. This is really the Hart-Thurmond bill that has been amended to some extent in the committee. Senator HART, as I say, is on the floor now, and rather than taking any more time, I woud prefer to yield whatever time he needs to the Senator from Colorado.

The PRESIDING OFFICER (Mr. STONE). The Senator from Colorado.

Mr. HART. I thank the Senator from Georgia. Mr. President, in August 1978, I first introduced legislation which would provide a permanent, stable pay incentive program for military physicians and other health care professionals. At this time this problem was serious, and today, over a year later, it is a critical problem.

We spend a great deal of time in the Armed Services Committee and the Senate of the United States discussing national security and national defense. Unfortunately, we usually do that almost entirely in terms of dollars spent and weapons systems. But the military is no stronger nor any weaker than the people who make it up. The people who defend this country are entitled to adequate health care in time of peace as well as in war.

On March 1 of this year, I introduced S. 523, the Uniformed Services

Health Professionals Special Pay Act of 1979. The bill has received the endorsement of all three Surgeons General.

On December 5, 1979, the Senate Subcommittee on Manpower and Personnel held hearings on this legislation, and on related bills S. 1100 and H.R. 5235. During those hearings, the Surgeons General formally endorsed the major provisions of the legislation presented here today. On December 17, 1979, the Armed Services Committee reported S. 523 as amended by Senator EXON.

This legislation addresses a crucial problem regarding our ability to provide quality medical care to the men and women of our armed services. Currently, the Army, Navy, and Air Force are short over 3,000 physicians. This shortage raises serious questions about the ability of the military medical corps to provide adequate wartime medical support for the Armed Forces. In addition, shortages of military medical personnel severely limit the military health care system's ability to fulfill its secondary mission of providing medical services to active duty, dependents and retired beneficiaries.

The physician shortage in the military services has been caused by a combination of factors, including the termination of the doctor draft in 1973, the diminishing pool of "Berry Plan" physicians, and the increasing difficulties in retaining physicians once their initial obligation is completed.

A recent GAO report found that of the 128 military hospitals questioned, nearly 60 percent either closed some medical services or curtailed them for up to 6 months because they lacked qualified physicians to staff those services.

Beneficiaries of the military health care system who are turned away from military hospitals or clinics are forced to turn to the private sector for medical treatment. The Civilian Health and Medical Program for the Uniformed Services (CHAMPUS) not only costs eligible beneficiaries since such medical services are provided by civilian hospitals and physicians which are more expensive than the military facilities. CHAMPUS costs have risen from $76 million in 1966 to an anticipated level of $754 million in the present fiscal year. Some experts predict that, due to the physician shortage, CHAMPUS costs may well break the $1 billion mark this year.

In addition to the reductions in medical services provided at military medical facilities, many military hospital commanders have been forced to hire civilian physicians on a contract basis to meet essential operating requirements of their facilities.

These contract services do not come inexpensively. For example, nearly $8 million was spent for contract radiology services alone in the last fiscal year. As the physician shortage worsens, more money will have to be spent hiring civilian physicians to meet the needs of the military services. This is, at best, a stopgap solution because these civilian physicians cannot be deployed in the event of military mobilization.

The shortage in military medical services has also had a profound effect on the attitudes of service members. According to Department of Defense officials, health care benefits have been consistently cited by service members as one of the most important factors in military career decisions. The deterioration of military health care services will make it even harder to recruit and retain a qualified All-Volunteer Force in the future.

At present, the military is authorized temporarily to offer variable incentive special pay programs for health professionals. These special pay programs have six different methods of disbursement and confusing eligibility criteria which diminish their effectiveness. For example, variable incentive pay is not available to medical officers serving their initial active duty obligation.

Similarly, medical officers trained under the health professional scholarship program are not eligible for incentive pay under the current program until the Federal assistance they have received is paid back through a specified period of military service. Uneven and inequitable requirements like these seriously undermine the armed services' effort to maintain a staff of qualified physicians.

The legislation I am proposing would correct these inequalities and replace the current temporary special pay program with a stable, long-term health professionals special pay program. It would give the military services the needed tools to enhance recruitment and retention of qualified health care professionals.

Although this bill will not bring the pay of military medical officers up to civilian levels, it will make a career in the military health service substantially more attractive than it is now.

S. 523 provides incentive pay in the following manner:

First, a primary special pay is provided for physicians, dentists, optometrists, veterinarians, and optometrists called or ordered to active duty for a period of at least 1 year. The special pay is based on years of creditable service and varies from $1,200 per year to a maximum of $10,000 per year.

Second, special incentive pay would be offered only to physicians and dentists in selected specialties. To be eligible for this pay, the health professional must sign a written agreement to remain on active duty for a period of at least 1 year. The service Secretaries can authorize up to an additional $8,000 per year in incentive special pay where severe shortages exist.

Third, physicians and dentists who are board certified are entitled to additional special pay depending on years of creditable service. Physicians will be entitled up to an additional $5,000.

Fourth, for physicians and dentists in their period of obligated service, a bonus of up to $13,500 is authorized.

Mr. President, without the enactment soon of some improved compensation measure for military health care professionals, the high rate of attrition will continue to increase at even a more alarming rate, and the conditions of the military health care system will continue to deteriorate.

Mr. President, I wish to emphasize that while a permanent pay program is essential to slowing the high attrition rate of qualified military health care professionals, pay alone will not solve all the problems facing the military Medical Corps. Other issues such as environment, support staff, equipment shortages, and management deficiencies all contribute to the present situation which our Nation's military health professionals must face. I am hopeful that these and other issues will be faced in future legislation.

But it is important at this moment, Mr. President, for all the reasons I have cited, that we enact this legislation today. National security extends beyond ICBM's, it includes the ability of this Nation to maintain its capability to defend our national interests. Our military health professionals are an integral and fundamental part of this concept. We must insure that our military health care system effectively and economically meets its mission requirement to provide the high quality medical care which its eligible beneficiaries so strongly deserve.

Mr. President, I urge that S. 523 be enacted into law without further delay.

I want to thank the chairman of the committee (Mr. STENNIS) for his support, the subcommittee chairman (Mr. NUNN) for his support, and also the Senator from Iowa (Mr. JEPSEN) and the Senator from Virginia (Mr. WARNER) for their support of this measure, and particularly for their help in expediting the matter to the floor of the Senate tonight.

Mr. JEPSEN. Mr. President, I yield to the distinguished Senator from Virginia such time as he may need.

Mr. WARNER. I thank the distinguished chairman of the Armed Services Personnel Subcommitttee, the distinguished Senator from Iowa (Mr. JEPSEN).

Mr. President, I took an active part in this proposed legislation. I wish to compliment the Senator from Colorado (Mr. HART) before he leaves the Chamber, and of course my Republican colleague (Mr. THURMOND), and especially the chairmen of the subcommittee and the Armed Services Committee. I cannot say that the committee chairman's heart was wholly in favor of this, not because of any feelings toward the deserving physicians and members of the Dental Corps of the Armed Services, but rather as a result of the feeling that matters of pay should be addressed in an overall manner for the Armed Services as a whole.

Nevertheless, the chairman accorded the members of the subcommittee the widest possible latitude to draft this legislation and to bring it expeditiously to the floor. In that context, I would like to say a special word of praise to Dr. William Narva, Captain, U.S. Navy, who is in attendance on Members of the Senate and Members of the House of Representatives here. He particularly was available at all hours to counsel members of the committee, and as late as this afternoon at 3:30 called to remind members of the subcommittee that this was a most pressing piece of legislation, desperately needed by the Armed Services. At his urging and the urging of others, this bill is now before the Senate.

I urge my colleagues to pass it. It is drawn carefully, and I am quite confident that during the course of the conference between the two houses, any differences can quickly be reconciled, and that early in 1980 the measure will become law.

Mr. NUNN. Mr. President, I just want to say a word of praise for the Senator from Virginia (Mr. WARNER) and the Senator from Iowa (Mr. JEPSEN). Without their help, we could not have worked out the details of this measure. At this late hour it is difficult to get unanimous consent on any type of bill, particularly where there are several people who want to offer amendments. So I thank the Senator from Virginia for his outstanding work on this measure. I thank him for his dedicated effort on behalf of all national security matters.

I say the same for my good friend from Iowa. I thank both of them for their assistance, and I know that doctors who are now in the services making up their minds about whether to stay in the military service will be gratified to know that both the House and the Senate have passed a bill which will shortly provide more incentive for professional people to stay in the military service; and I must say a great deal of the credit for that, at this late hour, belongs to the Senator from Virginia and the Senator from Iowa.

Mr. JEPSEN. Mr. President, the Senator from Iowa thanks both the Senator from Virginia and the Senator from Georgia for their kind remarks. I believe the Senator from Virginia is seeking recognition.

Mr. NUNN. Mr. President, I yield such time as he may need to the Senator from Virginia.

Mr. WARNER. Mr. President, our distinguished colleague, the Senator from South Carolina (Mr. THURMOND), was just on the floor, and I know he desired to take a part in this colloquy, because he was the author of a large part of the pending legislation.

● Mr. THURMOND. Mr. President, the pending bill, the Uniformed Services Health Professionals Special Pay Act, would provide special pay to various health professionals whose skills are in short supply in the military services.

This legislation incorporates many of the provisions of my own bill on this subject, S. 1100. It is actually a combination of my bill, a similar bill offered by the Senator from Colorado (Mr. HART) and the House-passed bill, H.R. 5235.

S. 523 provides new special pay provisions for physicians, dentists, and optometrists, and includes a new special pay provision for podiatrists. There is no expiration date for the authority for these payments and the current expiration date for veterinarians is repealed.

Mr. President, I am generally in accord with the provisions of this bill. It deserves prompt and favorable action because of the declining numbers of health professionals in the military services.●

Mr. JEPSEN. Mr. President, I yield to the distinguished Senator from New Mexico to offer an amendment which, it is my understanding, has been cleared with the majority leader and with us.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

UP AMENDMENT NO. 911

(Purpose: To Provide for private sector representation on International Telecommunications Conferences and Meetings)

Mr. SCHMITT. Mr. President, first of all, I commend the managers of the bill and the authors of the bill for their constructive handling of this extremely important matter and seeing it to timely action—timely in the sense that it needs to be done, and probably should have been done a long time ago.

I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. SCHMITT) proposes an unprinted amendment numbered 911:

At the end of the bill add the following new section——

Mr. SCHMITT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

PRIVATE SECTOR REPRESENTATIVES ON U.S. DELEGATIONS TO INTERNATIONAL TELECOMMUNICATIONS CONFERENCES AND MEETINGS

SEC. 6. (a) The provisions of sections 202, 203, 205, 207, and 208 of title 18, United States Code, shall not apply to representatives from the private sector on the United States Delegation to an international communications conference or meeting who is specifically designed to speak on behalf of, or otherwise represent, the interest of the United States at such Conference or meeting, with respect to a particular matter, provided that the Secretary of State, or head of delegation to each such conference or meeting or other designee of the Secretary, certifies that—

(1) no government employee on the delegation is as well qualified to represent United States interests, and

(2) such designation serves the national interest.

(b) All such representatives shall have on file with the Department of State, the financial disclosure report required for special government employees.

(c) For the purpose of this section, international telecommunications conferences and meetings involving international telecommunications matters shall include but not be limited to conferences and meetings of the International Telecommunication Union (ITU), the International Consultative Committees for Radio and for Telegraph and Telephone (CCIR and CCITT), the Organization of European Cooperation and Development (OECD), the United Nations Economic and Social Council (UNESCO), the International Telecommunications Satellite Organization (INTELSAT), and the International Maritime Satellite Organization (INMAR SAT).

(d) The provisions of this section shall expire one year after the date of the enactment of this Act.

Mr. SCHMITT. Mr. President, on May 10 of this year the Senate adopted an amendment to the State Department authorization bill which allowed the Secretary of State to designate private individuals to speak on behalf of the United States at the World Administrative Radio Conference which just concluded in Geneva. The purpose of the amendment was to draw upon the expertise in the private sector, especially since the topic of telecommunications is of such a technical nature.

The experience of the WARC conference demonstrated the wisdom of the Senate's action in adopting that amendment. The position of the United States on the various issues was argued better by drawing upon the expertise in both Government and the private sector.

Mr. President, I am now proposing in this amendment before the Senate language which will allow the Secretary of State the same authority, as in the previous adopted amendment for all telecommunications conferences and meetings for a period of 1 year. The importance of the amendment at this time is that there will be such conferences and meetings in the coming year and delegations are being formed now for those conferences.

This particular amendment has been cleared by the Department of State as well as the Committee on Foreign Relations of the Senate. The Commerce Committee is considering this type of amendment within the bills dealing with communications, particularly in S. 622. These bills, however, will not come before the Senate until later next year. I think all parties agree that it is important that the delicate negotiations of telecommunications that the Secretary of State has flexibility in providing the type of expertise which is needed for successful negotiations. Therefore, I hope the Senate adopts this amendment.

Again, Mr. President, the amendment would waive certain provisions of title XVIII, United States Code, which would then not apply to representatives of the private sector on U.S. delegations to an international communications conference or meeting who is specifically authorized to represent the interests of the United States at such a conference or meeting.

I move the adoption of the amendment.

Mr. NUNN. Mr. President, it is my understanding that there is no objection to this amendment. I, myself, have not studied it and I am not on the committee dealing with it. I have talked with my good friend, the Senator from New Mexico, and explained to him that we will do the best we can with this conference. It is not certain now when the conference will take place and it is not certain what the House attitude will be toward this amendment.

It is my understanding that there is no one on this side of the aisle that has any objection.

Am I correct in that assessment? I direct that question to the majority leader. With reference to the Schmitt amendment, it is my understanding that there is no objection on this side of the aisle?

Mr. ROBERT C. BYRD. Mr. President, I am sorry. I did not hear the distinguished Senator's inquiry. Will the Senator repeat, if it was directed to me?

Mr. NUNN. My understanding is that there is no objection to the Schmitt amendment on this side of the aisle.

Mr. ROBERT C. BYRD. That is my understanding.

Mr. NUNN. Under those conditions, I would urge the adoption of the amendment.

The PRESIDING OFFICER. Do all Senators yield back their time on the amendment?

Mr. SCHMITT. Mr. President, I yield back the remainder of my time.

Mr. NUNN. Mr. President, I would yield back the remainder of my time.

The PRESIDING OFFICER. All time being yielded back, the question is on agreeing to the amendment of the Senator from New Mexico (Mr. SCHMITT).

The amendment was agreed to.

Mr. SCHMITT. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JEPSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SCHMITT. Mr. President, if the Senator from Iowa will yield for just one more moment, I would say, just to dispell all doubt, that we have cleared this amendment with the Committee on Foreign Relations. The State Department is an advocate of the amendment. Senator HOLLINGS, Senator JEPSEN, and the staffs of the various committees are all in agreement. We have passed such an amendment before for the work conference. I do not think there is any problem at all in the Senate.

We will do our homework with respect to the other body and hope that they will also find it in their interest to accept the amendment in conference.

I thank the Senators for their courtesy.

Mr. JEPSEN. The Senator from Iowa will ask if there are any other Senators in the Chamber on this side who desire any further time on this?

The Senator from Iowa yields back the remainder of his time.

Mr. NUNN. Mr. President, unless there is someone else who would like to speak on this side—the Senator from Nebraska.

Mr. EXON. Mr. President, I thank my friend from Georgia.

I want to thank the Senator from Georgia for his individual leadership on this whole proposition. He had some reservations somewhere along the line. But he did his usual good job in carrying out the feelings of his subcommittee and the committee itself.

I am very pleased that we are working toward this matter of recognizing the needs in the Armed Services. I think it is a critical need. Certainly, I also hope that we will be able to go ahead and work out the matter to save the program for having the disabled veterans come under the program that they have been under for some time.

I thank the Senator from Georgia.

Mr. NUNN. Mr. President, I thank my colleague from Nebraska, who has taken a great deal of interest in this bill and has played a leading role in seeing that it becomes law.

Mr. President, after we complete this bill, there is an amendment on this bill and we had hoped and thought that we would be able to get the entire medical bill through in conference. That hope is not very realistic at this late hour, because some of the key House Members who would be dealing with this, in all likelihood, will or have departed.

We were going to work diligently to try to get through conference before the Senate adjourns. But, under these conditions, that is not very likely.

Because of that, the Senator from Nebraska had an amendment on this bill which has already passed the House in the form of H.R. 5025. At the appropriate time, when we complete action on this bill, it would be my intention to ask that that particular bill be withdrawn from consideration of the Armed Services Committee and the Armed Services Committee be discharged and the Senate proceed to the consideration of that bill. But I will await the appropriate time for that.

Mr. President, unless there are other comments, I would ask for third reading.

The PRESIDING OFFICER. Is all time yielded back?

Mr. NUNN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and to be read a third time. The bill was read the third time.

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on Armed Services be discharged from further consideration of H.R. 5235 and that the Senate proceed immediately to the consideration of that bill.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object, I normally would have cleared the matter with Senator TOWER.

Mr. NUNN. Mr. President, I cannot hear the Senator.

Mr. STEVENS. Mr. President, I said that I would normally clear this matter with Senator TOWER. He is not present. I have been assured that it is an item that he has supported in the past. I am approving it on that basis.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, has this been cleared with the chairman of the committee involved?

Mr. NUNN. This is a bill that we are considering now. This is the pay bill. I have not moved on the other bill yet.

Mr. STEVENS. I am sorry.

Mr. ROBERT C. BYRD. Has the request been cleared for discharging the committee? I am not trying to delay the Senator. I just want to be sure.

Mr. NUNN. Yes; it has been cleared with everyone.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title.

The legislative clerk read as follows:

> A bill (H.R. 5235) to amend chapter 5 of title 37, United States Code, to revise the special pay provisions for certain health professionals in the uniform services.

The Senate proceeded to consider the bill.

Mr. NUNN. Mr. President, I move that H.R. 5235 be amended by striking out all after the enacting clause and inserting in lieu thereof the text of S. 523, as amended.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. ROBERT C. BYRD. Mr. President, is there any time on this bill?

The PRESIDING OFFICER. No.

The bill having been read the third time, the question is, Shall the bill pass?

The bill (H.R. 5235) was passed.

The title was amended so as to read:

> A bill to amend chapter 5 of title 37, United States Code, to revise the special pay provisions for certain health professionals in the uniformed services, and for other purposes.

Mr. STENNIS. Mr. President, I did not want to interfere with the disposition of the bill. This pay bill for doctors in the military seems like a large sum of money, and it is a large sum of money. But there is a situation there where we are dependent for their services.

I want to emphasize now that if this bill becomes law, it will certainly be a further inducement that will not be seized by a great many who go in and then want to get out, or who start and then do not render appreciable service in their profession.

We have had trouble with that. I am not referring to any individual, but this is a partial remedy to it.

I just hope that those in charge in the services themselves, the surgeons general and all, will preach that doctrine in a strong and forceful manner from the beginning.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. NUNN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, has the other bill been indefinitely postponed?

The PRESIDING OFFICER. The Senate bill has not been indefinitely postponed.

ORDER TO POSTPONE S. 523 INDEFINITELY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 523 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, regarding the bill that we have already passed, H.R. 5235, I move that the Senate insist upon its amendments on H.R. 5235, request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer (Mr. Stone) appointed Mr. Nunn, Mr. Harry F. Byrd, Jr., Mr. Culver, Mr. Morgan, Mr. Exon, Mr. Jepsen, Mr. Warner, and Mr. Cohen conferees on the part of the Senate.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, not to extend beyond 10 minutes, and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

MRS. MURPHY

Mr. HARRY F. BYRD, JR. Mr. President, Betty Southard Murphy, one of two Republicans on the five-member National Labor Relations Board, resigned this week.

Mrs. Murphy served nearly 5 years on the Board and 2 years as chairperson. She had the backing of both business and labor for reappointment to a full 5-year term.

Mrs. Murphy's departure is unfortunate. Apparently it resulted from political maneuvering at the White House. She said in her announcement that she preferred to resign rather than to accept a temporary appointment, reportedly clouded by political considerations.

Mrs. Murphy, a former reporter, was appointed to the Labor Board in February 1975 by President Ford. Previously she worked as a Labor Department official and as a labor lawyer.

Mrs. Murphy is a Virginia resident, her home being in Fairfax County.

The senior Senator from Virginia regrets her departure from the Board and agrees with both the President of the American Federation of Labor, who said that she "has done an outstanding job," and with the President of the National Association of Manufacturers, who said "the public will be the loser in Betty Southard Murphy's departure."

FTC: BIG BROTHER?

Mr. HELMS. Mr. President, I recently received a letter from Marshall S. Redding, M.D., of Elizabeth City, N.C. Dr. Redding is an ophthalmologist. The purpose of Dr. Redding's letter is to bring to my attention some of the activities of the Federal Trade Commission in the wake of the so-called eyeglass rule.

The FTC has seen fit to inject itself into the doctor-patient relationship regarding eye care. The eyeglass rule has been touted by the regulators as an example of how Government intervention can aid the consumer.

Dr. Redding's letter shows the other side of the coin. It appears that in order to gather information on how well eye doctors are complying with Federal regulations, the FTC has sent out a questionnaire concerning eye care to various patients. Dr. Redding came across the questionnaire because one of his patients brought it to him for help in filling it out.

It strikes me as quite ludicrous that the eye doctors who are being investigated, supposedly without knowing it, should be called upon to give information about themselves to the FTC on behalf of patients who cannot make sense of the Government questionnaire.

I would like to have printed in the Record the letter I received from Dr. Redding, along with the FTC's letter to his patient, and the FTC questionnaire. I ask all of my colleagues to examine this material carefully, because, as Dr. Redding so states, it exemplifies "an uncalled for and unwarranted invasion of the doctor-patient relationship," and "borders on the 'Big Brother' 1984 philosophy."

Mr. President, I ask unanimous consent that Dr. Redding's letter, along with the FTC's letter to his patient and the FTC questionnaire, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Albemarle Eye Care Center, Ltd.,
Elizabth City, N.C., December 11, 1979.

Hon. Jesse Helms,
U.S. Senate,
Washington, D.C.

Dear Senator Helms: Enclosed is a copy of a letter from the Federal Trade Commission which is being sent out to various patients concerning eyeglasses and eye examinations. The particular patient that brought this in was unable to read or understand such a complex form and brought it in for me to help him with it. I feel like this is an uncalled for and unwarranted invasion of the doctor-patient relationship and borders on the "big brother" 1984 philosophy.

I object to this type of intrusion into private medicine and would request your evaluation of this correspondence and action as you feel appropriate to register at least this ophthamologist's objections.

Sincerely,
Marshall S. Redding, M.D.

Federal Trade Commission,
Washington, D.C. November 21, 1979.

Mr. Arthur Spruill
Goldsboro, N.C.

Dear Mr. Spruill: Last year, the Federal Trade Commission issued a regulation which permits advertising of eyeglasses and eye examinations and which requires eye doctors to release eyeglass prescriptions to their patients immediately after an eye examination. We believe this regulation will greatly benefit consumers like you because it makes it possible for you to buy your eyeglasses anywhere you want. After you have your eyes examined by an eye doctor, you can take your prescription to obtain eyeglasses elsewhere, or you can buy eyeglasses from the same doctor who examined your eyes. Because you can buy glasses wherever you want, you will have a wider choice and may also save money.

We are sending a questionnaire to people who may have had their eyes examined recently or who may have bought eyeglasses or contact lenses recently. This questionnaire will help us determine whether or not any violations of our rule have occurred and ensure that all eye doctors comply with our regulations.

Under the terms of our statute, the FTC Act, doctors who violate our rule may have to pay money to some or all of their patients.

I would like to stress that this questionnaire does not mean that any particular doctor has violated our regulation or that we suspect any particular doctor of violating our regulation.

We would very much appreciate it if you could take a few minutes of your time to answer the questions contained in the enclosed questionnaire. Your answers will be of great value to us and to the many other consumers who may benefit from our rule.

Your name will not be disclosed unless you give permission.

If you have any questions, please write to Scott P. Klurfeld or Renate Kinscheck at Room 281, Federal Trade Commission, 6th and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Enclosed is a self-addressed envelope so you may return the questionnaire to us. If possible, please return the questionnaire within ten days. Thank you very much for your cooperation. We greatly appreciate your help.

Sincerely,
Scott P. Klurfeld,
Attorney.

Questionnaire

There are sixteen (16) questions in this questionnaire. We have made many of the questions multiple choice so you can complete the survey more easily. Please place an "X" or "√" next to the answer or answers that most accurately describe your experience. If none of the answers describes what happened to you, please feel free to write your own answers in the space provided.

Also, if anyone else in your household has had his or her eyes examined since January 1979, and wishes to help us, please contact us for more forms. Thank you again for your help.

1. When did you last have your eyes examined? (specific date is not necessary—give year and approximate month)

2. What was the Doctor's name?

(3) (a) Did your Doctor extend credit and bill you or did he require you to pay your bill immediately?

He extended credit—.

I had to pay the entire bill immediately—.

He required that I pay at least part of my bill immediately—.

Other (please specify)—.

(b) If you had to pay immediately, when did you learn you would have to pay immediately?

(c) Do you know if the Doctor's usual policy is to extend credit or require immediate payment?

He extends credit—.

He requires immediate payment—.

He requires partial payment—.

Don't know—.

Other—.

4. Why did you see the eye doctor?

I didn't wear glasses or contact lenses and I wanted to get them if I needed them—.

I had glasses and I wanted to get new ones or find out if I needed new ones—.

I wore glasses and I wanted to get contact lenses—.

I wore contact lenses and I wanted to get a check-up or I was having problems with them—.

I only wanted to get treatment for an eye disease or other eye problem and was not interested in finding out about glasses or contact lenses—.

Other (please specify)—.

5. What did the Doctor tell you about your need for glasses or contact lenses?

He said that I could see very well and that I did not need any glasses or contact lenses at all—.

He said that I needed glasses or contact lenses for the first time—.

He said that my current glasses or contact lenses were alright and that I did not need new ones—.

He said that I needed new glasses or contact lenses—.

He said that he would get me contact lenses—.

He said nothing about eyeglasses or contact lenses—.

Other (please specify)—.

6. Did you decide that you wanted glasses or contact lenses?

Glasses—.

Contact lenses—.

Neither—.

7. Did you obtain a copy of your contact lenses prescription? (A Contact lens prescription is a piece of paper which gives the measurements for your contact lenses and can be used to obtain contact lenses from anyone who sells them just like a prescription for medication can be used to obtain the medicine from any pharmacy.)

Yes—.

No—.

Don't know—.

8. Did you obtain a copy of your eyeglass prescription? (An eyeglass prescription is a piece of paper which gives the measurements for your eyeglass lenses and can be used to obtain eyeglasses from anyone who sells them.)

Yes—.

No—.

Don't know—.

If your answer to either question No. 7 or No. 8 is yes, please go to question No. 10.

9. Answer this question only if your answer to both question No. 7 and No. 8 is no:

(a) Did the Doctor (or his assistant) offer a copy of your prescription to you?

Yes—.

No—.

Don't know—.

(b) Did you ask for your prescription?

Yes—.

No—.

Don't know—.

(c) Did the Doctor (or his assistant) tell you that you could have a copy of the prescription if you wanted it?

Yes—.

No—.

Don't know—.

(d) Did the Doctor (or his assistant) tell you that you could have a copy of the prescription if you paid for your eye examination?

Yes—.

No—.

Don't know—.

Please go to question No. 11.

10. Answer this question only if your answer to either question No. 7 or No. 8 is yes. This means you did obtain your prescription from your Doctor.

(a) Did you ask for the prescription?

Yes, before the exam—.

Yes, after the Doctor finished the exam, before I started picking out frames—.

Yes, after I picked out frames, before I left his office that day—.

Yes, on another day after the exam—.

No, the doctor or receptionist gave it to me even though I did not ask—.

Other (please specify)—.

(b) When did you receive it?

After the exam and before I picked out frames that day—.

After the exam and after I picked out my frames that day—.

After the exam and after I declared I didn't like any frames in the Doctor's office—.

On a different day than the exam—.

Other (please specify)—.

(c) Was there anything written on the prescription besides the numbers, such as any information on who is or is not responsible for the exam or eyeglasses?

Yes—.

No—.

Don't remember—.

If the answer to question 10(c) is yes, and if you still have your prescription, would you please send us a copy of it along with this questionnaire. Otherwise please tell us what was written on the prescription.

(d) Were you given anything else to read or sign along with the prescription?

Yes—.

No—.

Don't remember—.

If the answer is yes, and you have a copy of this statement, would you please send us a copy of it along with this questionnaire. Otherwise, please tell us what it said.

11. Did you purchase your eyeglasses or contact lenses from someone other than your eye doctor?

No, I purchased them from the Doctor who examined me—.

Yes, I purchased them elsewhere—.

12. When you called the Doctor for an appointment were you told that you would have to purchase your glasses or contact lenses from him?

Yes—.

No—.

Don't know—.

13. When you called for an appointment, did you tell the receptionist (or Doctor) that you might (or did) want to purchase glasses or contact lenses elsewhere?

Yes—.

No—.

Don't know—.

If the answer is yes, what did he or she say?

14. When you called the Doctor for an appointment, were you asked whether you wanted to purchase eyeglasses or contact lenses from him?

Yes—.

No—.

Don't know—.

15. Did you ask about the cost of the exam before you had it?

No—.

Yes, I was told that it would cost $———.

I don't remember—.

16. Would you like to make any other comments concerning your eye examination, purchase of eyeglasses or your eyeglass prescription?

Your name will not be used without your permission.

(Please Mark One Answer Below):

—I give permission to the Staff of the FTC to use my name and my answers to this questionnaire in its investigation and enforcement of its trade regulation rule.

—I do not give permission to the Staff of the FTC to use my name.

Would you mind if a Staff member called you and asked you a few more questions relating to your answers? (Please mark one answer below):

—No, I have no objection. (Phone number ———).

—Yes, I do not wish to receive any calls.

A POLICY FOR INDUSTRIAL DEVELOPMENT

Mr. CANNON. Mr. President, after 18 months of effort involving hundreds of representatives of industry, labor, academia and the public, as well as officials of 21 Federal agencies and departments, the Carter administration announced on October 31 a nine-point program to advance industrial technology and encourage innovation. At the invitation of the Commerce, Science, and Transportation Committee, four committees of the Senate and House met within an hour of the President's news conference to hear the results of his "Domestic Policy Review."

The administration's package falls far short of the recommendations of its own advisory committees. It was criticized as inadequate by a distinguished group of economists, business executives, and labor union officials who testified to the Commerce Committee's second hearing on November 14. It is a pale reflection of the positions of the Committee on Economic Development, the Industrial Research Institute, the National Research Council's panel on technology and world trade, a Small Business Administration Office of Advocacy Task Force, and other organizations that have been studying this issue in conjunction with or independently of the Administration's effort. But the program's real test is not whether it satisfies everyone's wishes but whether it addresses America's economic problems in a way that will exploit our diminished opportunities.

Debating whether the United States has suffered a measurable, overall "innovation lag" in terms of domestic and foreign patent rates or R. & D. dollars and yen is analytical fiddling in the face of fundamental economic changes that are threatening our ability to produce and compete with the ease we have long taken for granted. The President's message did not indulge in such speculative analysis; but neither did it convey any sense of the seriousness of our predicament and the urgency of finding a way out of it. Above all, there was no call for the bold policy of industrial development and rejuvenation that is so clearly needed and many of us anticipated.

The economic boom of the fifties and sixties made us more dependent on foreign markets to buy and sell and actually hastened our decline as the arbiter of international economic affairs. U.S. imports nearly tripled as a percent of GNP, while exports rose two-thirds. The increases are by no means all attributable to foreign oil purchases and agricultural product sales. Last year the United States registered a huge trade deficit in steel, automobiles, and other so-called non-R. & D. intensive manufactured goods. Our exports of machinery, aircraft, chemicals, electric machinery, and other high technology products, though impressive, have not been sufficient to prevent overall deficits in manufactured goods in 4 of the last 8 years; and even the surpluses in those categories have dropped about 6 percent since 1975, while our trade deficit with Japan in highly sophisticated products grew by 85 percent per year to over $3.5 billion. Today there is scarcely a single sector in which we do not face vigorous competition from other industrialized countries.

Even more remarkable, especially as a harbinger of future competition, is the dispersal of industrial capacity to the developing countries. Our share of world steel production has fallen nearly half to less than 17 percent since 1959; production outside the OECD and Soviet bloc countries—in Latin America, Asia, and elsewhere—jumped more than 800 percent to surpass the United States. Similarly if less dramatic changes are occurring in electronics, chemicals, automobiles, textiles and other basic industries—the result both of indigenous economic development and the vast expansion activities of multinational firms.

In the meantime, growth in domestic output per capita in the United States—a key source of our economic growth and stability in the early sixties—declined gradually after 1967, dropped sharply after 1973, and failed to revive in the 1975–78 recovery. U.S. productivity gains have come to a virtual standstill; we trail all of our major foreign competitors including Britain. The fact that by most calculations we maintain the highest level of productivity in the world is lukewarm comfort at best. According to Harvard economist Dale Jorgenson, who appeared before the committee last month, the Japanese have surpassed us in nearly a third of 30 major industrial sectors. Combined with high inflation, which it also fuels, the productivity slump is gradually eroding our standard of living and ability to generate new jobs.

For us to hold our own, let alone prosper, in this environment, requires redoubled efforts to encourage investment, promote exports, and facilitate economic adjustments as well as to advance technology and stimulate innovation. We need a policy for industrial development and renewal. A policy of such scope and complexity depends upon leadership by the executive branch; by its organization, Congress is poorly suited to the task. Yet we and other committees have already taken the initiative in key areas of technology and industrial policy, and we expect to have significant accomplishments by the end of the 96th Congress. Under my leadership, moreover, the Commerce Committee is ready to work with the administration and others in Congress toward the goal of real economic growth through enhanced productivity, innovation and competitiveness.

SCIENCE AND TECHNOLOGY POLICIES

The President's most specific proposals, though backed by only modest commitments of sources, are in the areas of research and development, patent reform, and transfer of foreign and government-developed technology to the private business sector. These proposals involve a small budget increase for the National Technical Information Service to collect and disseminate technical information, the creation of a handful of government and industry-funded R. & D. centers and an increase in National Science Foundation support of university and small business research aimed ultimately at developing new commercial technologies. The President also endorses legislation for uniformly allocating rights to Government-financed inventions and making some reforms in the operation of the U.S. patent system.

The Commerce Committee has completed hearings on S. 1250, a bill introduced by Senator STEVENSON to create jointly-funded generic industrial technology centers at universities and nonprofit research institutions. The purpose is not merely to improve the technology base of U.S. manufacturing but also to serve as a model of profitable industry-university collaboration. After consultation with the administration, we intend to report this legislation early in the second session.

Similarly, the committee has held extensive hearings on S. 1215, a bill introduced by Senator SCHMITT to establish a uniform government patent policy. The Senate Judiciary Committee has reported S. 414, allowing small business and university contractors to acquire rights to their inventions. The President's decision to recommend legislation represents a resolution of internal executive branch disagreements that no previous administration has been able to achieve. Together these developments create a unique opportunity for the 96th Congress to resolve this long-standing controversy in a way that will encourage commercial applications of publicly sponsored research and development and thus benefit the economy.

These and related steps are important, but we recognize that they are limited. To a large extent, they represent the unfinished agenda laid out in successive innovation studies dating back to the mid-1960's. Meanwhile, our annual productivity growth in manufacturing has dropped from an average of 2.4 percent between 1965 and 1973 to 0.6 percent in 1978, and our balance of trade in manufactures plunged from a $4.5-billion surplus in 1966 to a $3.6-billion deficit last year.

BUSINESS INVESTMENT

There is growing evidence and agreement that capital investment requires immediate attention. A decline in business spending for new plant and equipment has paralleled and been a major factor in our alarming productivity performance. Capital formation between 1973 and 1977 grew at a compound rate of 2.5 percent, compared with more than 4 percent in the previous 25 years. Again we have lagged behind all of our major competitors except Britain in capital investment in manufacturing as a proportion of gross domestic product.

Investment prospects in the near term are no better. McGraw-Hill's latest survey of corporate spending plans shows that as of September, business expected no real increase in expenditures for plant and equipment in 1980. Industry generally planned to increase spending by 9.5 percent, manufacturing by 13 percent, but in either case, barely enough to keep up with rising costs. Bear in mind that the survey was taken before the Federal Reserve Board's decision to boost interest rates and tighten credit and before the full impact of 1979's increase in world petroleum prices ripples through the economy. The OPEC countries and the Federal Reserve administered the same medicine in succession in 1973–74, and once again they are likely to send the patient reeling through 1980 and 1981.

The level of private funding of research and development is an important aspect of business investment but not necessarily the most problematic one from the point of view of economic growth or even innovation. R. & D. spending has kept up with inflation. It has shifted away from long term projects toward relatively minor product and process improvements promising short term returns, but largely as a consequence of industry's avoidance of high-risk ventures generally. In most cases, research and development account for a small proportion of the costs of bringing new products to the market and new processes on line.

Investment in and by new businesses, on the other hand, deserves special consideration, for they are a prime source of new products and processes as well as employment. The number of small companies issuing public stock dropped drastically in the early seventies, from several hundred in the late sixties to only a handful after 1973. As a result, in part, of the 1978 capital gains tax reduction and favorable changes in SEC regulations, there has been a revival of venture capital in the past year; but reportedly it is being invested mainly in going concerns. There remains a shortage of seed money for new startups; and for those that make it, acquisition by large companies is too often the price of success. In the last 3 years, no less than 20 U.S. semiconductor manufacturers have made deals with large domestic or foreign corporations in their search for investment capital.

Of the 36 semiconductor firms created since 1966, only seven remain independent. The current credit crunch will have particularly dire consequences for small businesses. We can anticipate an increase in failures among new, innovative firms, as well as the continuation of other unfavorable trends of the seventies. The small business committees have begun to examine them and consider remedies, and the forthcoming White House Conference on Small Business will no doubt generate other proposals.

The President's innovation message acknowledges the problems of capital formation experienced by entrepreneurs and new companies by relaxing Federal restrictions on small business investment company and private pension fund investments and by proposing to create two State or regional corporations for innovation development; but he does not admit that tax policy is the government's single most effective instrument to encourage investment. Accelerated depreciation, investment credit, R. & D., corporate and capital gains tax rate and other proposals were urged on the White House in the course of the Domestic Policy Review, but all have been deferred until the administration decides whether a tax cut is necessary to counteract the recession. That is a natural consequence of an innovation study narrowly conceived in isolation from the centers of economic policymaking and subjected to the constraints of existing fiscal orthodoxies. It has happened before. The 1967 Charpie report to the Commerce Department on technological innovation included a number of modest tax recommendations, but they fell on deaf ears. President Nixon announced a study of innovation-related tax measures as part of his new economic policy in 1971 but then neglected to send Congress a single recommendation.

There is no doubt that any significant tax reduction has implications far beyond its effects on technology, productivity and business investment. By the same token, there is growing congressional support for accelerated depreciation and incentives for investment in high risk ventures as part of a strategy of industrial and economic revival. We will expect the President to fulfill his commitment to consider the alternatives and to give us the benefit of the administration's assessment. In the meantime, we shall continue our own evaluation.

INDUSTRIAL SECTOR POLICIES

Needs and opportunities for technological developments are, individually, specific to electronics, chemicals, energy and other fields. Similarly, the effects on innovation of Federal research and development, procurement, regulatory, antitrust, and technology transfer policies vary enormously among industries. The deliberate approach both we and the administration have taken on economic deregulation should be a model for considering a wide range of industrial and innovation policies. Airline deregulation has not proven to be an exact model for railroads, trucking and communications. We have necessarily examined each deregulation proposal on its merits.

With regard to environmental, safety and health regulation there is a broad support for across-the-board procedural reforms such as analyses of costs and benefits, publication of regulatory calendars, and reviews of proposed standards. In some circumstances, however, multiple reviews and additional procedural hurdles could increase rather than reduce the uncertainty of regulatory outcomes that is said to discourage new investment decisions. Greater opportunities to promote innovation, serving either economic growth or environmental and health goals or both, may lie in changing specific legislative mandates or particular agencies' implementing practices rather than in broad administrative reforms.

The President's directives to EPA and FDA to expedite innovation waivers and product approvals seem to recognize this, but they are isolated initiatives. Also lacking is any examination of the combined effects of regulation on important sectors of the economy. The chemical industry is subject to workplace, effluent and product standards that are rarely considered together.

The same approach should be taken in antitrust policy, although all the administration promises is a clarification of Justice Department attitudes toward joint R. & D. ventures. Antitrust enforcement decisions and remedies cannot ignore the enormous differences among industries in capital requirements, technologies, economies of scale and international competition. It would be wrong to assume that a policy of aggressive deconcentration or passive laissez faire is most conducive to innovation, expansion and competitiveness across the economy.

This is not the first administration to treat the "innovation process" in the abstract. The studies dating back to the early 1960's have all cited examples of the Nation's past technological prowess but avoided mention of specific technological deficiencies that might arouse public concern or new technological opportunities that could generate enthusiasm and constituency support. Each study neglected the sector-by-sector assessment that is necessary.

The Airline Deregulation Act proves that a policy of industrial development need not imply progressive intervention in a misguided effort to fine-tune the economy. It can also mean selective Government withdrawal in order to allow the freer play of market forces. We need to rationalize the extensive intrusion that Government has already undertaken, and not merely by adopting procedural palliatives.

Following our thorough-going reform of airline regulation, the Commerce Committee has already reported legislation dealing with railroads and will take up motor carrier, communications, and maritime regulation in turn. Within the short period of two Congresses, we will have reviewed and proposed constructive changes in the structure of economic regulation built up over several decades; and we will have done so on a deliberate case-by-case basis.

At my direction, the Commerce Committee has also initiated a study of the effects of safety, emissions, and fuel efficiency standards on the automobile industry and in relation to proposals for new cooperative R. & D. efforts. We have sought the help of the Office of Technology Assessment both in the automobile study and in identifying opportunities for reconciling innovation and environmental and health regulation in other sectors of the economy. This is also a prime consideration in our oversight of toxic substances control and recombinant DNA research, which promises enormous benefits for industry, medicine, and agriculture.

GOVERNMENT ORGANIZATION

The fact is, however, that we lack the institutions to conduct the continuous and comprehensive factfinding, analysis, and policy coordination that are essential. Technology, productivity, and investment are not central to any agency's concerns, however central they are to a nation's deteriorating position in an increasingly unstable world. The President has neglected to correct that deficiency. In spite of its management of the Domestic Policy Review and new international trade functions, the Department of Commerce apparently has no responsibility for overseeing implementation of the President's recommendations, beginning to monitor technological development in key sectors of the economy, or recommending further measures to influence its rate and direction. Instead, the charge is given to the ineffectual Productivity Council, chaired by OMB and, like the Domestic Policy Review itself, barred from evaluating fiscal and monetary policies.

Current reorganization of the Commerce Department, including the elevation of trade and economic development to the Under Secretary level, leaves its industrial development and technology functions in limbo and creates an opportunity to give Commerce a new mandate with the appropriate status and resources. Our bill, S. 1250, takes the first step in this direction by creating an Office of Industrial Technology with specific analytical and policy evaluation duties. We will welcome the administration ideas on the best organization of these functions.

In addition to our own initiatives and those of other committees, the Congress, too, should begin to coordinate consideration of the array of policies that must be examined. I have suggested to various Senate committee chairmen that we establish an informal staff task force for discussion, analysis, and generation of new ideas. That is only a beginning but indicative of our intention to work with others in Congress, the administration, and the public in charting an industrial development strategy that can meet the challenges that are already upon us.

IDA NUDEL

Mr. WILLIAMS. Mr. President, I wish to indicate my strongest support of House Concurrent Resolution 202. This resolution, which is identical to Senate Concurrent Resolution 50 which I introduced along with Senator PERCY and 30 other cosponsors, urges the Soviet Union to allow Ida Nudel to emigrate to Israel.

Ida Nudel is known through the dissident movement as the "guardian angel" of Jewish political prisoners in the Soviet Union. For years Ms. Nudel collected information about other dissidents sentenced to internal exile, sending them letters of encouragement, information about their families, food parcels, and other expressions of concern.

In 1971 Ida Nudel first applied for permission to emigrate to Israel where both her husband and sister now live. That permission was denied. In June of 1978, Ms. Nudel was arrested and charged with "malicious hooliganism" and sentenced in a closed trial to 4 years of internal exile in Siberia.

Ida Nudel's exile has aroused great concern for her health and safety. The congressional wives for Soviet Jewry, cochaired by Mrs. Helen Jackson and my wife Jeanette, has been especially active on her behalf.

Mr. President, Ida Nudel is guaranteed the right to emigrate by the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. We must continue to insist that these basic human rights be observed. By passing this resolution, we reaffirm our own historical commitment to the cause of individual liberty, and I urge favorable action.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, we are going to try to get some other business done now.

For the information of the Senate, the House will act on the conference report on the Chrysler legislation later this evening. I hope Senators will stay around because it is the intention of the leadership, if at all possible, to finish action on the Chrysler legislation this evening, including the conference report and the appropriations measure.

Mr. ARMSTRONG. Will the majority leader yield briefly to me?

Mr. ROBERT C. BYRD. Yes.

Mr. ARMSTRONG. Mr. President, I just want to make the observation to the majority leader that while I am not privy entirely to the contents of the conference report, it would be my hope that the majority leader would not seek to lay the report before the Senate prior to the time that the printed report is available to Senators so we can study it and know what is contained in that report.

Mr. ROBERT C. BYRD. Mr. President, may I say to the distinguished Senator, I have been around here a long, long time, and I learned a long time ago that conference reports do not have to be printed. There is no rule requiring them to be printed. In many instances, the House prints the measure because the House has a 3-day rule. I have asked the staff to supply the Senators with Xeroxed copies of this report as soon as possible.

It is a privileged matter. It does not require unanimous consent. I know of the Senator's interest. He has stated his interest several times.

Because of that, I am trying to get a copy for him. I am trying to accommodate him in every way. I hope we can do that.

Mr. ARMSTRONG. Mr. President, I appreciate the consideration of the majority leader. I do, of course know he is well aware of my concern, but I just wanted to express it for the benefit of other Senators so they will be on notice of the situation.

Mr. ROBERT C. BYRD. Mr. President, let us get on with some business.

Did the Senate dispose of the bill H.R. 5025, the bill from which the Armed Services Committee was discharged?

Mr. NUNN. That has not been disposed of. I think the majority leader thought that was what we were working on a minute ago.

Mr. ROBERT C. BYRD. I thought it was.

Mr. NUNN. Mr. President, we were substituting a Senate bill for a House-passed bill and changing the title. But, Mr. President, I am going to ask unanimous consent, and this has been cleared by everyone, that the Committee on Armed Services be discharged from further consideration of H.R. 5025 relating to CHAMPUS coverage for veterans with service-connected disability.

Mr. ROBERT C. BYRD. Mr. President, I thought that was already done because that is when I interposed the question of whether or not there was any time on that bill.

Mr. NUNN. Mr. President, I knew that was the majority leader's understanding at that stage, but that was the other bill we were talking about, which had just been passed.

UNIFORMED SERVICES HEALTH AND MEDICAL PROGRAM

Mr. NUNN. Mr. President, I ask that the Armed Services Committee be discharged from consideration of H.R. 5025, and that the Senate proceed to the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, that normally is my prerogative, to call up measures, but in this instance I yield to the distinguished Senator. I jealously and zealously guard that prerogative.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5025) to amend title 10, United States Code, to provide that any person eligible for medical care under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) who is a veteran with a service-connected disability may not be denied care and treatment for such disability under CHAMPUS solely because such person is eligible for care and treatment for such disability in Veterans' Administration facilities.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

Mr. NUNN. Mr. President, I thank the majority leader for his understanding. I thank him for yielding on that prerogative, which I will not breach again. But the confusion here is that the provisions of H.R. 5025 have been incorporated in S. 523, which has already passed the Senate, but it is imperative that H.R. 5025 be passed by January 1. Otherwise, a good many veterans will not have CHAMPUS benefits. That is the reason for moving to accept the House bill rather than waiting for a conference on S. 523, as amended.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 5025) was ordered to a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JEPSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I hope we can dispose of this measure in the next few minutes.

Mr. NUNN. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. NUNN. Mr. President, the Senator from Nebraska deserves credit for pursuing this matter and pushing this bill. I know there will be a lot of grateful veterans in Nebraska and throughout the country because of his efforts on their behalf. I thank the majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, with respect to the printing of the conference report, may I say to the distinguished Senator from Colorado, what I meant to say was that on conference reports, while they are printed, there is no requirement that the printed copy be available before the conference report is called up.

I do not make that statement for the purpose of arguing with the Senator. I just wanted to make a correction in my previous statement.

Mr. ARMSTRONG. Mr. President, I regret to say that I was distracted and did not hear the statement. I am not sure if it was directed to me or not.

Mr. ROBERT C. BYRD. Mr. President, I said earlier that there was no requirement for conference reports to be printed. What I meant to say was that there was no requirement that a printed copy of the conference report be available before the conference report is called up.

Mr. ARMSTRONG. Mr. President, perhaps the majority leader is right. I think that might be subject to a point of order at the appropriate time. However, I would suggest to the majority leader if there is no requirement, clearly as a matter of policy there ought to be. How can Senators be expected to vote on something when they do not know what they are voting upon?

Mr. ROBERT C. BYRD. Mr. President, I can understand the Senator's frustrations, but since 1789 the Senate has been voting on conference reports. I have been in the Senate now for 22 years and we do reach these times, especially at the close of the session, when conference reports are called up.

They are privileged matters. There is nothing one can do to keep them from being called up, except to vote on a nondebatable motion to vote down the calling up of a conference report.

I can understand the frustrations. But there comes a time when the Senate is about to end, especially if it is the end of a Congress, when those conference reports cannot be delayed awaiting the availability of a printed conference report.

When committees have spent months on a given bill and both Houses have spent days of debate thereon, and conferees have spent weeks sometimes on the same bill, then to expect that in the closing hours of a session the conference report will be printed and made available to Senators is really sometimes not feasible and could end in the killing of a bill on which a couple of years of work have been utilized.

I would hope that the Senator would understand that this is nothing new, it is not a problem that is new, and I hope that he will not undertake to reform the Senate overnight or in the next few hours on this matter.

I have indicated to him that I anticipated his problem and I want to try to get at least Xeroxed copies of the conference report in his hands. As far as I know, that is being done.

I want to go as far as we can to accommodate the Senator in this desire. I think it is a legitimate request on his part that he have an opportunity to study the conference report, but I hope that he will have that opportunity and that, after not too much time, the Senate may proceed with the conference report when it is available.

Mr. ARMSTRONG. Mr. President, will the leader yield briefly

Mr. ROBERT C. BYRD. Yes.

Mr. ARMSTRONG. It may be that I have left the distinguished majority leader with the wrong impression. If I have given him the impression that I am frustrated and that, in some way, that is the reason for my request, I apologize and I apologize to the Senate as a group for giving that impression.

My concern does not arise out of frustration, but simply a policy decision I reached long ago. As I may have pointed out a few days ago, I raised this issue during the first month of my service in the Senate. I have not watched the Senate in operation since 1978, but I have watched the House and Senate closely in the last couple of years. I am convinced that, in the closing hours of every session since I have been here, some atrocious mistakes have been made, mistakes which could have been avoided with due care.

So it is not in frustration, certainly not out of any desire to prolong this session. I have simply arrived at the conviction that it is wrong to act in haste on conference reports. I assure the majority leader that my intent is not in any way to vent frustration, nor to cause frustration for other Members.

While I am on my feet, I also say that I very much appreciate the tone of his response to me now and also the tone of his response on other occasions. It would have been easy, I think, for the majority leader to dismiss it simply as an unfounded request and departure from tradition. Instead, he has treated my concern for what it is, a legitimate and widespread concern among Members.

It would not surprise me if, during the course of this evening, a number of Senators will express concern one way or another. If there is a motion made to take up the conference report tonight, at that point, we can pick up the subject again. I understand that the motion to proceed is not debatable, but I understand that the motion to adopt the conference report is fully debatable. I shall at that time have some remarks to make about both the procedural and substantive aspects of the conference report.

Mr. ROBERT C. BYRD. Mr. President, the Senator may speak all he wishes in that regard. He has the right to do that and I shall respect his right to do so.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following calendar orders—and then I hope we can go into recess until that conference report is ready. I should like a few minutes to get a drink of water.

I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. 513, 514, and 517 at this point.

The **PRESIDING OFFICER.** Is there objection?

Mr. ARMSTRONG. Mr. President, could we have those numbers? I do not have the calendar form.

Mr. ROBERT C. BYRD. Mr. President, I withdraw the request. I ask unanimous consent that the Senate stand in recess for 30 minutes.

Mr. NUNN. Reserving the right to object, could I have 10 seconds?

Mr. ROBERT C. BYRD. I withhold that request.

Mr. President, these are requests that have been cleared with the distinguished Senator's minority leader. I hope I do not have to clear them with every Senator on that side of the aisle.

GRANTING A FEDERAL CHARTER TO GOLD STAR WIVES OF AMERICA

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 514, the second from the bottom of the page.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The Senate proceeded to consider the bill (S. 1179) to incorporate the Gold Star Wives of America, which had been reported from the Committee on the Judiciary with amendments as follows:

On page 1, beginning with line 4, strike through and including line 5;

On page 2, line 1, strike "6049 Wares Ferry Road" and insert "P.O. Box 17213, East Station";

On page 2, beginning with line 4, strike through and including line 5;

On page 2, beginning with line 6, insert the following:

Mrs. Paula Muth, 1006 Sommerset Drive, Bellevue, New Brunswick 68005;

Mrs. Marie B. Palmer, 4294 Nimons Street, Orlando, Florida 32805;

On page 2, beginning with line 14, strike through and including line 15;

On page 2, beginning with line 16, insert the following:

Mrs. Ruth C. Brown, 4835 New England Lane, Sylvania, Ohio 43560;,

On page 2, beginning with line 20, strike through and including line 21;

On page 2, beginning with line 22, insert the following:

Mrs. Karen T. Sintic, 9519 Laramie Avenue, Skokie, Illinois 60077;

On page 3, beginning with line 3, insert the following:

Mrs. Nela Boice, 2348 Paris Street, Aurora, Colorado 80010;

On page 3, beginning with line 11, strike through and including line 12;

On page 3, beginning with line 13, insert the following:

Mrs. Jean Eastman, 1112 Rosemary Lane, Ozark, Alabama 36360;

On page 3, beginning with line 15, strike through and including line 16;

On page 3, beginning with line 17, insert the following:

Mrs. Marie Leadaman, 130 South Euclid Avenue, Oak Park, Illinois 60302;

On page 4, beginning with line 1, insert the following:

Mrs. Mary Ondrey, Post Office Box 101, Eatontown, New Jersey 07724;

On page 4, beginning with line 5, strike through and including line 6;

On page 4, beginning with line 9, strike through and including line 10;

On page 4, beginning with line 11, insert the following:

Mrs. Pauline Wright, 5545 Nolan Court, Arvada, Colorado 80002;

On page 7, line 24, strike "Skokie, Illinois" and insert "Montgomery, Alabama";

On page 9, beginning with line 3, insert the following:

Mrs. Nola M. Boice, 2348 Paris Street, Aurora, Colorado 80010;

On page 9, beginning with line 11, strike through and including line 12;

On page 9, beginning with line 13, insert the following:

Mrs. Jean Eastman, 1112 Rosemary Lane, Ozark, Alabama 36360;

On page 9, beginning with line 15, strike through and including line 16;

On page 9, beginning with line 17, insert the following:

Mrs. Marie Leadaman, 130 South Euclid Avenue, Oak Park, Illinois 60302;

On page 10, beginning with line 1, insert the following:

Mrs. Mary A. Ondrey, Post Office Box 101, Eatontown, New Jersey 07724;

On page 10, beginning with line 5, strike through and including line 6;

On page 10, beginning with line 7, insert the following:

Mrs. Karen T. Sintic, 9519 Laramie Avenue, Skokie, Illinois 60077;

On page 10, beginning with line 11, strike through and including line 12;

On page 10, beginning with line 13, insert the following:

Mrs. Paule Wright, 5545 Nolan Court, Arvanda, Colorado 80002;

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

Mrs. Sandi M. Robertson, P.O. Box 17213, East Station, Montgomery, Alabama 36117;

Mrs. Paula Muth, 1006 Sommerset Drive, Bellevue, New Brunswick 68005;

Mrs. Marie B. Palmer, 4294 Nimons Street, Orlando, Florida 32805;

Mrs. Rose Stalcup, 3057 Ursula Street, Aurora, Colorado 80011;

Mrs. Nevolia Wright, 4527 Lunsford Street, Columbus, Georgia 31903;

Mrs. Ruth C. Brown, 4835 New England Lane, Sylvania, Ohio 43560;

Mrs. Mary Galotta, 117 Pine Street, Lowell, Massachusetts 01851;

Mrs. Karen T. Sintic, 9519 Laramie Avenue, Skokie, Illinois 60077;

Mrs. Edith V. Knowles, Post Office Box 1703, Albany, Georgia 31702;

Mrs. Pauline T. Bartsch, 9 East Narberth Terrace, Collingswood, New Jersey 08108;

Mrs. Nela Boice, 2348 Paris Street, Aurora, Colorado 80010;

Mrs. Itelia Butler, Post Office Box 3943, Albany, Georgia 31706;

Mrs. Geraldine Chittick, Post Office Box 306, Frankfort, Indiana 46041;

Mrs. Joy Dove, 4224 Chowen Avenue, South Minneapolis, Minnesota 55410;

Mrs. Jean Eastman, 1112 Rosemary Lane, Ozark, Alabama 36360;

Mrs. Marie Leadaman, 130 South Euclid Avenue, Oak Park, Illinois 60302;

Mrs. Rose Lee, 540 Lombardy Street, Arlington, Virginia 22203;

Mrs. Mickey Lovell, 862 Pontiac Street, Denver, Colorado 80220;

Mrs. Paula Muth, 1006 Somerset Drive, Bellevue, Nebraska 68005;

Mrs. Mary Ondrey, Post Office Box 101, Eatontown, New Jersey 07724;

Mrs. Peggy Simonfy, 107 Mandalay Road, Fairview, Massachusetts 01020;

Mrs. Ingrid Stewart, 138 Devonshire Drive, San Antonio, Texas 78209;

Mrs. Pauline Wright, 5545 Nolan Court, Arvada, Colorado 80002;

Mrs. Diane White, 1938 West Roselawn Avenue, Saint Paul, Minnesota 55113;

Mrs. Odessa Wycoff, 7209 North Hammond, Oklahoma City, Oklahoma 73132;

Mrs. Larue Yessen, 1099 East 51st Street, Brooklyn, New York 11234;

and their successors, are hereby created and declared to be a body corporate by the name of Gold Star Wives of America (hereinafter called the corporation) and by that name shall be known and have perpetual succession and the powers and limitations contained in this Act.

COMPLETION OF ORGANIZATION

SEC. 2. A majority of the persons named in the first section of this Act is authorized to complete the organization of the corporation by the election of officers and employees, the adoption of a constitution and bylaws, not inconsistent with this Act, and the doing of such other acts as may be necessary for such purpose.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation shall be—

(1) to assist in upholding the Constitution and laws of the United States of America, and to inculcate a sense of individual obligation to the community, State, and Nation;

(2) to honor the memory of those who made the supreme sacrifice in the service of our country;

(3) to safeguard and transmit to posterity the principles of justice, freedom and democracy for which members of our armed services fought and died;

(4) to provide the benefits of a happy, healthful, and wholesome life to minor children of persons who died in the service of our country;

(5) to promote activities and interests designed to foster among its members the proper mental attitude to face the future with courage; and

(6) to aid, whenever necessary, widows and children of persons who died in the service of our country.

CORPORATE POWERS

SEC. 4. The corporation shall have power—

(1) to sue and be sued, complain, and defend in any court of competent jurisdiction;

(2) to adopt, alter and use a corporate seal;

(3) to choose such officers, directors, trustees, managers, agents, and employees as the business of the corporation may require;

(4) to adopt, amend, and alter a constitution and bylaws, not inconsistent with the law of the United States or any State in which the corporation is to operate, for the management of its property and the regulation of its affairs;

(5) to contract and be contracted with;

(6) to charge and collect membership dues, subscription fees, and receive contributions or grants of money or property to be devoted to the carrying out of its purposes;

(7) to take and hold by lease, gift, purchase, grant, devise, bequest, or otherwise any property, real or personal, necessary for attaining the objects and carrying into effect the purposes of the corporation, subject to applicable provisions of law in any State (A) governing the amount or kind of real and personal property which may be held by, or (B) otherwise limiting or controlling the ownership of real or personal property by a corporation operating in such State;

(8) to transfer, encumber, and convey real or personal property;

(9) to borrow money for the purposes of the corporation, issue bonds therefor, and secure the same by mortgage, subject to all applicable provisions of Federal or State law;

(10) to adopt, alter, use, and display such emblems, seals, and badges as it may determine; and

(11) to do any and all acts and things necessary and proper to carry out the objects and purposes of the corporation, and for such purpose the corporation shall also have, in addition to the foregoing in this section and subsection, the rights, powers, duties, and liabilities of the existing corporation referred to in section 18 as far as they are not modified or superseded by this Act.

PRINCIPAL OFFICE; SCOPE OF ACTIVITIES; DISTRICT OF COLUMBIA AGENT

SEC. 5. (a) The principal office of the corporation shall be located in Montgomery, Alabama, or in such other place as may later be determined by the board of directors, but the activities of the corporation shall not be confined to that place and may be conducted throughout the various States and possessions of the United States.

(b) The corporation shall maintain at all time in the District of Columbia a designated agent authorized to accept service of process for the corporation, and notice to or service upon such agent, or mailed to the business address of such agent, shall be deemed notice to or service upon the corporation.

MEMBERSHIP; VOTING RIGHTS

SEC. 6. (a) Eligibility for membership in the corporation and the rights and privileges of members shall, except as provided in this Act, be determined as the constitution and bylaws of the corporation may provide.

(b) Each member of the corporation, other than honorary and associate members, shall have the right to vote in accordance with the constitution and bylaws of the corporation.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 7. (a) Upon enactment of this Act the membership of the initial board of directors of the corporation shall consist of the following persons:

Mrs. Edith V. Knowles, Post Office Box 1703, Albany, Georgia 31702;

Mrs. Pauline T. Bartsch, 9 East Narberth Terrace, Collingswood, New Jersey 08108;

Mrs. Nola M. Boice, 2348 Paris Street, Aurora, Colorado 80010;

Mrs. Itelia Butler, Post Office Box 3943, Albany, Georgia 31706;

Mrs. Geraldine Chittick, Post Office Box 306, Frankfort, Indiana 46041;

Mrs. Joy Dove, 4224 Chowen Avenue, South, Minneapolis, Minnesota 55410;

Mrs. Jean Eastman, 112 Rosemary Lane, Ozark, Alabama 36360;

Mrs. Marie Leadaman, 130 South Euclid Avenue, Oak Park, Illinois 60302;

Mrs. Rose Lee, 540 Lombardy Street, Arlington, Virginia 22203;

Mrs. Mickey Lovell, 862 Pontiac Street, Denver, Colorado 80220;

Mrs. Paula Muth, 1006 Somerset Drive, Bellevue, Nebraska 68005;

Mrs. Mary A. Ondrey, Post Office Box 101, Eatontown, New Jersey 07724;

Mrs. Peggy Simonfy, 107 Mandalay Road, Fairview, Massachusetts 01020;

Mrs. Karen T. Sintic, 9519 Laramie Avenue, Skokie, Illinois 60077;

Mrs. Ingrid Stewart, 138 Devonshire Drive, San Antonio, Texas 78209;

Mrs. Pauline Wright, 5545 Nolan Court, Arvada, Colorado 80002;

Mrs. Diane White, 1938 West Roselawn Avenue, Saint Paul, Minnesota 55113;

Mrs. Odessa Wycoff, 7209 North Hammond, Oklahoma City, Oklahoma 73132;

Mrs. Larue Yessen, 1099 East 51st Street, Brooklyn, New York 11234;

(b) Thereafter, the board of directors of the corporation shall consist of such number (not less than fifteen), shall be selected in such manner (including the filling of vacancies) and shall serve for such term as may be prescribed in the constitution and bylaws of the corporation.

(c) The board of directors shall be the governing board of the corporation and shall, during the intervals between corporation meetings, be responsible for the general policies and program of the corporation. The board shall be responsible for all finance.

OFFICERS; ELECTION OF OFFICERS

SEC. 8. (a) The officers of the corporation shall be a chairman of the board, a president, a vice president, a secretary, and a treasurer. The duties of the officers shall be as prescribed in the constitution and bylaws of the corporation. Other officer positions may be created as prescribed in the constitution and bylaws of the corporation.

(b) Officers shall be elected annually at the annual meeting of the corporation.

USE OF INCOME; LOANS TO OFFICERS, DIRECTORS, OR EMPLOYEES

SEC. 9. (a) No part of the income or assets of the corporation shall inure to any member, officer, director, or be distributable to any such person otherwise than upon dissolution or final liquidation of the corporation as provided in section 16 of this Act. Nothing in this subsection, however, shall be construed to prevent the payment of compensation to officers of the corporation in amounts approved by the executive committee of the corporation.

(b) The corporation shall not make loans to its officers, directors, or employees. Any director who votes for or assents to the making of such loans shall be jointly and severally liable to the corporation for the amount of such loan until the repayment thereof.

NONPOLITICAL NATURE OF CORPORATION

SEC. 10. The corporation, and its officers, directors, and duly appointed agents as such, shall not contribute to or otherwise support or assist any political party or candidate for office.

LIABILITY FOR ACTS OF OFFICERS AND AGENTS

SEC. 11. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

COMPREHENSIVE PRIVILEGES

SEC. 12. Such provisions, privileges, and prerogatives as have been granted heretofore to other national veterans' organizations by virtue of their being incorporated by Congress are hereby granted and accrue to the Gold Star Wives of America.

PROHIBITION AGAINST ISSUANCE OF STOCK OR PAYMENT OF DIVIDENDS

SEC. 13. The corporation shall have no power to issue any shares of stock nor to declare nor pay any dividends.

BOOKS AND RECORDS; INSPECTION

SEC. 14. The corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, board of directors, and committees having any of the authority of the board of directors; and it shall also keep at its principal office a record of the names and addresses of its members entitled to vote. All books and records of the corporation may be inspected by any member entitled to vote, or his agent or attorney, for any proper purpose, at any reasonable time.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 15. (a) The accounts of the corporation shall be audited annually, in accordance with generally accepted auditing standards, by independent certified public accountants or independent licensed public accountants, certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audit shall be conducted at the place or places where the accounts of the corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the corporation and necessary to facilitate the audit shall be made available to the person or persons conducting the audit; and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(b) A report of such audit shall be submitted to the Congress not later than six months following the close of the fiscal year for which the audit was made. The report shall set forth the scope of the audit and shall include such statements as are necessary to present fairly the corporation's assets and liabilities, surplus or deficit with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of the corporation's income and expenses during the year including the results of any trading, manufacturing, publishing, or other commercial-type endeavor carried on by the corporation, together with the independent auditor's opinion of those statements. The reports shall not be printed as a public document.

LIQUIDATION

SEC. 16. Upon final dissolution of liquidation of the corporation, and after discharge or satisfaction of all outstanding obligations and liabilities, the remaining assets of the corporation may be distributed in accordance with the determination of the board of directors of the corporation and in compliance with the constitution and bylaws of the corporation and all Federal and State laws applicable thereto.

EXCLUSIVE RIGHT TO NAME, EMBLEMS, SEALS, AND BADGES

SEC. 17. The corporation shall have the sole and exclusive right to use the name Gold Star Wives of America. The corporation shall have the exclusive and sole right to use, or to allow or refuse the use of, such emblems, seals, and badges as have heretofore been used by the corporation referred to in section 18 in carrying out its program. Nothing in this Act shall interfere or conflict with established or vested rights.

TRANSFER OF ASSETS

SEC. 18. The corporation may acquire the assets of the Gold Star Wives of America, Incorporated, chartered as a nonprofit organization in the State of New York, upon discharging or satisfactorily providing for the payment and discharge of all of the liability of such corporation and upon complying with all laws of the State of New York applicable thereto.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHAPTER

SEC. 19. The right to alter, amend, or repeal this Act is hereby expressly reserved.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-479), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

> This bill proposes to grant a Federal charter to Gold Star Wives of America, which was founded in 1945, and incorporated in the same year in the State of New York. The Gold Star Wives have no national office other than at the home of the current national president. The membership of the organization is comprised of women whose husbands died while a member of the Armed Forces of our country, or who died subsequent to such service as a result of injury or disability incurred during active service. The primary objective of Gold Star Wives of America is to offer understanding and assistance to the families of deceased servicemen. It has been hampered in its work by the lack of official recognition which a Federal charter would provide.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENSION OF THE FEDERAL PHYSICIANS COMPARABILITY ALLOWANCE ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 513.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5015) to amend title 5, United States Code, to extend the Federal Physicians Comparability Allowance Act of 1978, and for other purposes, was considered.

Mr. MATHIAS. Mr. President, I rise to add my support to H.R. 5015, a bill to extend the Federal Physicians Comparability Allowance Act of 1978—Public Law 95-603—for 2 years. As my able colleague has noted, H.R. 5015 is intended to continue in law a program to address retention and recruitment problems which now exist among Federal civil service physicians.

Mr. President, it has been brought to my attention, as the original sponsor of the legislation which established the Federal physicians comparability allowance system, that there have been notable implementation problems associated with the law. A letter which I recently received from one of my constituents, Dr. Joseph T. Smith, president of the American Academy of Federal Civil Service Physicians, elaborates on those problems. The letter notes:

> In some instances, institutions differ in their awarding of bonuses to members of the same category and located in the same neighborhood.
>
> Locally, for example, research physicians were offered bonuses by the National Institutes of Health, the Naval Medical Research Institute and the Walter Reed Army Institute of Research. On the other hand, the commander of the Walter Reed Army Medical Center refused bonuses to research physicians (and all others) within his command.
>
> The Washington Metropolitan area is particularly affected by the law. As physicians learn where bonuses are available in their categories they will leave their own positions if they are denied the bonus. It will be easy for many to find a position offering a bonus, either in the same area or in a different locality. Those that cannot find a suitable position will take more remunerative nonfederal employment until a bonus is offered for the position that they vacated. Some will then accept the new bonus for their old position but some will be lost to the federal service. This type of relocating can play havoc with the operations of hospitals not offering the bonus.
>
> The worst problems occur where installations have only a few physicians in a particular category or subcategory. This is the case at the Department of Agriculture, Commerce and Interior to name a few. Such physicians often occupy critical positions. They are difficult to replace and may be vitally needed. So long as the occupant stays in one place, the installation cannot demonstrate a recruitment and retention problem. Until he or she relocates, he or she will never receive the bonus, no matter how essential the position, nor how difficult it would be to fill if it became vacant.

The concerns expressed by Dr. Smith are valid, and should be noted by those Federal agencies covered by the provisions of Public Law 95-603.

Mr. President, H.R. 5015 is intended to extend Public Law 95-603 for only 2 years. It is a stop-gap measure intended to remedy recruitment problems and avoid retention problems of the various Federal agencies. As the Senator from Arkansas has stated, the Congress will be involved in the near future in a proposal that is expected to be submitted by the administration to create a uniform pay proposal applicable to physicians employed by all Federal agencies, including the Department of Defense and the Veterans' Administration.

In the interim, H.R. 5015 will allow agencies to deal with retention and recruitment problems. I have noted that certain agencies have not exercised their authority under the Federal Physicians Comparability Allowance Act. It is the intent of the Congress, with this legislation, to continue to assist agencies in meeting retention and recruitment problems. Constructive steps should be taken by the agencies involved to demonstrate more positively the absence of such problems before denying disbursement of allowances to civil service physicians.

Again, Mr. President, I would like to express my support of H.R. 5015, and urge its enactment.

Mr. PRYOR. Mr. President, H.R. 5015 will extend for a 2-year period the special allowance provisions of the Federal Physicians Comparability Allowance Act of 1978. This act was considered by the Governmental Affairs Committee during the 95th Congress and enacted as Public Law 95-603. H.R. 5015 was recently passed by the House of Representatives on November 10, 1979 under suspension of the rules. The legislation is substantially the same as S. 1947 introduced in the Senate by the distinguished chairman of the Governmental Affairs Committee, Senator RIBICOFF, at the request of the administration, and cosponsored by the Senator from Maryland, Senator MATHIAS.

I ask unanimous consent that a copy of Director Alan K. Campbell's July 11, 1979 letter to the Honorable WALTER MONDALE, President of the Senate submitting this proposal be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PRYOR. This bill, H.R. 5015, addresses the problem of recruiting and retaining highly qualified and competent medical personnel for Federal service. This bill extends for 2 years the special allowance program established by the Federal Physicians Comparability Allowance Act of 1978. The 1978 act allowed Government agencies experiencing physician recruitment and retention problems to grant allowances to physicians who agreed to stay with the agency for a given period. The allowances could not exceed $7,000 per year for those with less than 2 years of service or $10,000 per year for those with more than 2 years of employment.

Under the 1978 act, the authority to

enter to these agreements expired on September 30 and no agreement with a physician signed before that date can be extended beyond September 30, 1981. H.R. 5015 would extend this program for an additional 24 months. Without this legislation, affected Government agencies would be at a serious disadvantage in competing for quality physicians in the labor market.

Under the terms of H.R. 5015 agencies would be allowed to grant special physicians allowances through September 30, 1931 which could not be extended beyond September 30, 1983. H.R. 5015 also extends the allowance program to physicians employed by the Library of Congress and makes certain other technical changes in the 1978 law which are necessary to conform with the Civil Service Reform Act which was enacted last year.

The bill also extends coverage to include dentists as well as physicians. It is anticipated, however, that there will be a limited use of this provision because few agencies are currently experiencing recruitment and retention problems with dentists. As a result the cost is expected to be minimal. I include the relevant portions of the House committee report in the RECORD at this point:

> Since payment of an allowance under Public Law 95-603 (5 U.S.C. 5948) is authorized only where an agency is experiencing a significant recruitment and retention problem, the inclusion of dentists, as proposed by this bill, will not necessarily result in additional costs to the Government. The committee is advised that there presently are 50 dentists who are employed by the Government and paid under the General Schedule, and that no agency currently is experiencing a recruitment and retention problem with respect to dentists. However, the committee believes it is advisable to include dentists under the provisions of Public Law 95-603 at this time so that the special allowance authority will be available to agency heads in the event a recruitment and retention problem should develop within the next 2 years.
>
> H.R. 5015 extends application of the provisions of Public Law 95-603 for a period of only 2 years since the committee has been advised that the administration plans to forward to the Congress a uniform pay proposal applicable to physicians employed by all Federal agencies, including the Department of Defense and the Veterans Administration. The committee urges the enactment of H.R. 5015 so that the various agencies may be able to retain their highly qualified medical personnel (physicians and dentists) and be in a position to compete with the private sector for the recruitment of competent physicians and dentists. In this regard, the committee notes that certain agencies have not exercised their authority under the Federal Physicians Comparability Allowance Act of 1978. If no recruitment or retention problem exists, these agencies should be commended for their fiscal restraint; however, agencies should recognize that the comparability allowance has been authorized and should be used if justified on the basis of recruitment and retention difficulties.

I also wish to add that the subcommittee will carefully review implementation of this legislation in the coming months and years in performing our oversight responsibility.

I urge prompt enactment of H.R. 5015.

EXHIBIT 1

OFFICE OF PERSONNEL MANAGEMENT,
Washington, D.C., July 11, 1979.

Hon. WALTER F. MONDALE,
President of the Senate.

DEAR MR. PRESIDENT: The Office of Personnel Management submits herewith a legislative proposal, "To amend title 5, United States Code, to extend the Federal Physicians Comparability Allowance Act of 1978, and for other purposes." We request that you refer this proposal to the appropriate committee for early consideration.

The Federal Physicians Comparability Allowance Act of 1978, Public Law 95-603, authorizes the heads of agencies to enter into service agreements with certain Government physicians, under which the physicians will agree to remain with the agencies, in return for special allowances. These allowances may be paid only where the agencies are experiencing recruitment and retention problems. The authority to enter into such agreements expires September 30, 1979, and no agreement entered into by that date may extend beyond September 30, 1981. We believe it is clearly in the public interest to extend this program by two years. Without such an extension the affected agencies would be at a serious disadvantage in competing for physicians in the labor market.

In addition, the proposal includes several technical changes, most of which are necessary because of the enactment of the Civil Service Reform Act of 1978.

The Office of Management and Budget advises that the enactment of this legislative proposal would be consistent with the Administration's program.

Sincerely yours,

ALAN K. CAMPBELL,
Director.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment the question is on third reading.

The bill was ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LAKE TEXANA

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 517.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2771) to change the name of the Palmetto Bend Reservoir on the Navidad River in Texas to Lake Texana was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-482), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of H.R. 2771 is to change the name of the Palmetto Bend Reservoir on the Navidad River in Texas, to Lake Texana.

BACKGROUND AND NEED

By the act of October 12, 1968 (82 Stat. 999), Congress authorized the Secretary of the Interior to construct, operate, and maintain the Palmetto Bend reclamation project in the State of Texas. The project consists of the following principal works: Palmetto Bend Dam and Reservoir on the Navidad River near Edna, Tex., and recreational facilities.

Because of the wording of the act specifying the principal works of the project by name, officially the reservoir created by construction of the project will be known as the Palmetto Bend Reservoir.

The Palmetto Bend Dam is 96 percent completed. Under an agreement with the Secretary of the Interior authorized by the act of October 12, 1968, when the project is completed, the care, operation, and maintenance of the project works will be turned over to the Lavaca-Navidad River Authority. On May 19, 1978, the board of directors of the River Authority adopted the name "Lake Texana" for the body of water to be impounded by the reclamation project.

The name "Lake Texana" commemorates the town of Texana which was founded on the Navidad River near the site of the Palmetto Bend Dam in 1832. Texana flourished as an inland port and was the scene of much activity during the Texas Revolution. For many years, it was a trade center and the county seat of Jackson County, Tex. With the construction of a railroad some 6 miles north of the town, Texana became a ghost town in the late 1800's.

The change of name for the reservoir, which was approved by the Lavaca-Navidad River Authority, has strong local support. Federal recognition of the change in the name, however, is required before the change will become official. Enactment of H.R. 2771 would accomplish this end.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 309, the Budget Act waiver for waiving section 402(a) of the Congressional Budget Act of 1974, with respect to the consideration of H.R. 5537.

There being no objection, the resolution (S. Res. 309) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5537, was considered and agreed to, as follows:

> *Resolved*, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 5537, a bill to amend the District of Columbia Self-Government Reorganization Act with respect to the borrowing authority of the District of Columbia.
>
> Such waiver is necessary because of unforeseen delay in implementation of a financial management system for the District of Columbia. Upon full implementation of such a system, the District of Columbia can enter the bond market rather than borrow from the United States Treasury for capital funds, as it now does. Until the District can issue bonds, its ability to continue uninterrupted borrowing from the Treasury is vital to the continuation of District building projects.
>
> This waiver would not be disruptive to the

budget process because of the inclusion of funds for capital projects in the District of Columbia's fiscal year 1980 budget appropriations.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to H.R. 5537, as reported by the Committee on Governmental Affairs.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DISTRICT OF COLUMBIA BORROWING AUTHORITY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 522, the bottom of the page.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill.

EXTENSION OF DISTRICT OF COLUMBIA BORROWING AUTHORITY

● Mr. EAGLETON. Mr. President, H.R. 5537, the bill now under consideration, would amend section 723(a) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973 (the Home Rule Act) to extend the District's interim authority to borrow funds from the Treasury of the United States to finance capital improvement projects. H.R. 5537 passed the House on November 27, 1979, by a vote of 283 to 93.

Under present law, the Treasury is authorized to lend to the city only those sums required to complete capital projects for which construction and construction services funds were authorized or appropriated "prior to October 1, 1979." The bill would extend the borrowing authority to cover projects for which funding is authorized or appropriated in the fiscal year 1981 appropriation act. Thus, continuing and new projects included in the fiscal year 1981 appropriation act would become eligible for Treasury loans.

The Congress included the interim borrowing authority in the Home Rule Act to prevent undue disruption in the District's capital program. Because of the unexpected delays in the development and implementation of the District's bonding program, a 2-year extension of the interim borrowing authority was approved by the Congress in 1977—Public Law 95–131, October 13, 1977, 91 Stat. 1155. It is now clear that an additional extension is necessary, for without approval of the proposed extension in the period for which Treasury loans may be made, vital ongoing improvement efforts will be halted and new projects may be delayed. Continuing projects in the District for which financing may not be available include roof and boiler repairs and replacements for the public schools, major repairs to water and sewer mains, installation of new water and sewer mains and fire hydrants, major repairs to city streets and bridges, and fire hydrant and street-lighting installations.

Financing for new projects being considered by the District for inclusion in the fiscal year 1981 budget may not be available in a timely manner unless the interim borrowing authority is revised and extended as proposed in this bill.

Mr. President, my Subcommittee on Governmental Efficiency and the District of Columbia held a hearing on this bill on October 11, 1979; the full Governmental Affairs Committee reported the bill to the Senate floor on December 11 by a vote of 11 to 0. Upon advice from the Senate Budget Committee, a resolution waiving section 402(a) of the Congressional Budget Act of 1974 was also approved by the full Governmental Affairs Committee by a vote of 11 to 0 and referred to the Budget Committee for final action. The Budget Committee favorably reported the waiver December 20. I should note that the budget waiver was necessary because H.R. 5537, which the Senate Budget Committee finds authorizes new Federal budget authority for fiscal year 1980, was not reported to the floor by the May 15, 1979, budget deadline. The House found that the legislation created no new budget authority or tax expenditure by the Federal Government.

Mr. President, I urge immediate consideration and passage of this bill.●

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill was ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–487), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

I. PURPOSE OF THE LEGISLATION

The purpose of the bill, H.R. 5537, which was requested by the Government of the District of Columbia, is to provide the District Government with authority to borrow from the U.S. Treasury for an additional year (from Oct. 1, 1979 to Oct. 1, 1980, or upon enactment of the fiscal year 1981 appropriation Act for the District of Columbia, whichever is later) until it can finance its capital works projects via bond issues, or other sources of revenue.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HOUSEHOLD GOODS TRANSPORTATION ACT OF 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 533.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill (S. 1798) to reduce regulation of and increase competition in the household goods moving industry, and for other purposes, which had been reported from the Committee on Commerce, Science, and Transportation with amendments as follows:

On page 2, line 9, strike "regulations" and insert regulation";

On page 2, line 24, strike "standards, rights," and insert "and consumers' rights";

On page 3, line 14, strike "establishment; and" and insert "establishments when a part of the stock, equipment, or supply of such stores, offices, museums, institutions, hospitals, or other establishments; and";

On page 3, line 22, strike "goods.";" and insert "goods;";

On page 3, beginning with line 23, insert the following:

except that in interpreting subparagraphs (A), (B), and (C) of this paragraph:

"(i) subparagraph (A) shall not be construed to include property moving from a factory or store, except such property as the householder has purchased with intent to use in his dwelling and which is transported at the request of, and the transportation charges paid to the carrier by, the householder;

"(ii) subparagraph (B) shall not be construed to include the stock-in-trade of any establishment, whether consignor or consignee, other than used furniture and used fixtures, except when transported as an incident to the removal of the establishment, or a portion thereof, from one location to another; and

"(iii) subparagraph (C) shall not be construed to include any article, whether crated or uncrated, which does not, because of its unusual nature or value, require the specialized handling and equipment usually employed in moving household goods."; and

On page 5, line 5, strike "agreements" and insert "an agreement";

On page 5, line 9, strike "level" and insert "levels";

On page 5, line 10, after "goods" insert "including the formula, procedures, and tariff rules related thereto,";

On page 5, line 14, beginning with the colon, strike through and including the word "members" in line 18;

On page 5, line 4, strike "less" and insert "more";

On page 5, line 6, strike "April 1, 1980" and insert "the 180th day after the date of enactment of this section";

On page 6, line 14, strike "less" and insert "more";

On page 6, line 16, strike "April 1, 1980" and insert "the 180th day after the date of enactment of this section";

On page 6, line 20, after the period, insert the following:

For the purposes of this section, a 'predatory' rate or charge shall be a rate or charge that fails to cover the variable costs of providing the specific service.

On page 6, line 25, strike "level" and insert "levels";

On page 7, line 1, strike "April 1, 1980," and insert "the 180th day after the date of enactment of this section";

On page 7, line 5, strike "subsection" and insert "subsections (e) and (f)";

On page 7, beginning with line 7, insert the following:

"(e) Not later than 180 days after the date of enactment of this section, the Commission shall, on an interim basis, adjust the rates and charges in effect for the transportation of household goods to include: (1) additional costs that have been incurred at the time of such adjustment but not yet reflected in such rates and charges (2) estimated or foreseeable future costs anticipated for the first semiannual period during which such adjusted rates and charges would be in effect, and (3) reasonable levels of profit.

On page 7, line 16, strike "(e)" and insert "(f)";

On page 7, line 23, after "incurred," insert "including but not limited to, costs related to overhead, labor, fuel, purchase or lease of equipment or facilities, payment of reasonable levels of claims and liabilities, depreciation, repayment of debt, and cost of capital,";

On page 8, line 6, strike "(f)" and insert "(g)";

On page 8, line 7, strike "or" and insert "and";

On page 8, line 8, strike "level" and insert "levels";

On page 8, line 10, strike "or" and insert "and";

On page 8, line 14, strike "formal";

On page 8, beginning with line 19, insert the following:

(c) Section 1072(b)(1) of title 49, United States Code, is amended by inserting the following immediately before the period at the end thereof: ", except that any rates or charges for the transportation of household goods for the United States Government shall meet or exceed the variable costs of providing such transportation".

On page 9, line 13, strike "Act" and insert "title";

On page 9, line 15, strike "Act" and insert "title";

On page 10, line 3, after "consider," insert "and shall make findings and conclusions with respect to,";

On page 10, line 7, after "1979" insert "on each application filed hereunder";

On page 10, line 17, after the period, insert the following:

Further, the Commission shall promulgate rules of appelate procedure which allow at least one appeal from an initial decision of the Commission, a division of the Commission, or an employee board, and which may permit a further appeal where the Commission finds that an issue of general transportation importance is involved.

On page 10, line 24, strike "reach" and insert "render";

On page 10, line 24, after "final" insert "written";

On page 11, beginning with line 11, insert the following:

"Each such final written decision shall include a statement of findings and conclusions as required by subsection (c) of this section. In an extraordinary situation, the Commission may extend the time period established by this subsection for a period of not more than 90 days, but in no event may the total period of time for rendering a final written decision exceed 270 days from the date of filing of the application.

On page 11, line 11, after "prescribe" insert "reasonable";

On page 12, line 1, strike "modify, or suspend such certificate, in whole or in part, for failure to comply" and insert "modify or condition such certificate to assure compliance";

On page 12, line 4, strike "for failure to file" and insert "to require";

On page 12, line 6, strike "able."." and insert "able.";

On page 12, beginning with line 8, insert the following:

"(i) If, after notice and hearing, the Commission finds that any person holding a certificate under this section is failing to comply with the continuing requirement that a carrier be fit, willing, and able, it may issue an order to compel compliance with such requirement. Thereafter, the Commission may, after further notice and further hearing, suspend or revoke the certificate of such person, in whole or in part, if it finds that such person, within a reasonable time, but in no event less than 30 days, has willfully failed to comply with the order to compel compliance with such continuing requirement.

(j) Any certificate issued by the Commission which authorizes a person to provide transportation of household goods and which is in effect, and not subject to suspension, on the day before the date of enactment of this section, shall be deemed to be a certificate issued pursuant to this section and shall continue in effect according to its terms until modified, conditioned, suspended, terminated, or revoked by the Commission, any court of competent jurisdiction, or by operation of law.".

(b) The index to chapter 109 of title 49, United States Code, is amended by inserting

"10934. Transportation of household goods."

immediately after

"10933. Authorizing abandonment of freight forwarder service.".

(c) Chapter 109 of title 49, United States Code, is amended—

(1) in section 10925(a) by striking "or 10924" and inserting in lieu thereof "10924 or 10934";

(2) in section 10926 by striking "or 10923" and inserting in lieu thereof ", 10923 or 10934"; and

(3) in section 10927(a)(1) by striking "or 10923" and inserting in lieu thereof ", 10923 or 10934".

On page 13, line 19, strike "absolutely";

On page 13, line 23, strike "when those services are held out or performed for the principal carrier or when the shipper is led to believe that those transportation services would be performed by the principal carrier" and insert in lieu thereof "and which are within the actual or apparent authority of the agent from the principal carrier or which are ratified by the principal carrier";

On page 14, line 15, strike "does not have sufficient knowledge or is" and insert "providing services under the authority of its principal carrier has violated section 11901 (h)(3) or 11917 of this title or is consistently";

On page 15, line 2, strike "does not have sufficient knowledge or is" and insert "has violated section 11901(h)(3) or 11917 of this title or is consistently";

On page 15, line 7, strike "limiting, conditioning, or prohibiting" and insert "to compel compliance with the requirement that the agent be fit, willing, and able. Thereafter the Commission may issue an order to limit, condition, or prohibit";

On page 15, line 12, after "commerce" insert "if it finds that such agent, within a reasonable time, but in no event less than 30 days, has willfully failed to comply with a compliance order issued under this subsection";

On page 16, line 5, after "a" insert principal";

On page 16, line 5, after "agents" insert "(whether or not an agent is also a carrier)";

On page 16, line 13, strike "and";

On page 16, line 13, after "(4)" insert "pooling or";

On page 16, line 14, after "agents" insert the following: " of traffic or services or any part of their earnings related to services performed under the authority of the principal carriers, and (5) ownership of a principal carrier by an agent or membership on the board of directors of a principal carrier by an agent.

"(e) In the case of bankruptcy or dissolution of a carrier or freight forwarder of household goods any debts owed to an agent or owner-operator arising out of the services performed or goods provided by that agent or owner-operator for the carrier or freight forwarder shall be treated as secured debts and such debts owned to agents or own operators shall be treated equally with the carrier's or freight forwarder's other secured debts.".

On page 17, line 14, after "review" insert "and revise";

On page 17, line 15, after "its" insert "operational";

On page 17, line 21, strike "established pursuant to" and insert "described in";

On page 18, beginning with line 7, insert the following:

"(6) To the maximum extent feasible, the requirements of this section shall apply to rules and regulations of Government departments and agencies on shipments transported under the authority of the United States Government including rules and regulations established for the distribution of such traffic.

On page 18, line 18, strike "estimate nor shall the Commission" and insert "estimate. The Commission shall not";

On page 18, line 20, strike "such an" and insert "a written";

On page 18, line 21, after "services" insert a comma and "nor shall the Commission require the final charges to a shipper to be based on an estimate. This subsection, however, shall not be construed as prohibiting a carrier from voluntarily filing, nor the Commission from approving, a tariff basing the carrier's final charges to a shipper upon an estimate: *Provided*, That such tariffs do not result in charges to shippers that are predatory or discriminatory";

On page 20, line 7, after "law," insert "initiated by a shipper,";

On page 20, line 12, after "(1)" insert "(A)";

On page 20, line 23, strike "and" and insert "or";

On page 21, beginning with line 1, insert the following:

"(B) the defendant carrier has developed and has in force a mechanism for the resolution of disputes that complies with the requirements of an act that (1) is enacted by the Congress subsequent to the enactment of this section and (2) seeks to promote the use of a mechanism or mechanisms for the resolution of disputes that would be suitable for resolving disputes between carriers and shippers arising from the transportation of household goods; and

On page 21, line 16, after "programs" insert "within 30 days after the filing of such a program with the Commission by any carrier or carriers of household goods, if the program is";

On page 21, line 20, strike "shall" and insert "may";

On page 22, line 15, beginning with the comma, strike through and including the word "summary" in line 19, and insert "and sert "may";

On page 23, beginning with line 1, insert the following:

"(4) the dispute-settlement program shall include a clear, easy-to-read, accurately written summary of the steps involved in using the procedure' and such summary along with any forms necessary for initiating an action shall be provided to shippers filing claims;

On page 23, line 7, strike "(4)" and insert "(5)";

On page 23, line 19, strike "(5)" and insert "(6)";

On page 25, line 4, strike "action."." and insert "action ";

On page 25, beginning with line 5, insert the following:

"(h) The provisions of this section shall apply only in the case of 'collect-on-delivery' transportation of those types of household goods described in section 10102(10)(A) of this title.

"(i) Subsections (a), (d), (e), (f), and (g) of this section concerning the recovery of attorney's fees shall become effective 270 days after the date of enactment of this section. The other provisions of this section shall become effective on the date of enactment of this section.".

On page 25, line 21, beginning after the colon, strike through and including line 23, and insert in lieu thereof the following:

"After the date of enactment of this sentence, no penalties shall be imposed under this subsection for a violation relating to the transportation of household goods. Any such penalties that were imposed prior to the date of enactment of the preceding sentence shall be collected only in accordance with the procedures and standards set forth in subsection (h) (1) of this section.".

On page 26, line 23, after "each" insert "day";

On page 26, line 24, strike "The level of the penalty imposed by the Commision shall be commensurate with the alleged violation." and insert "In negotiating the amount of the penalty imposed by the Commission shall take into account the degree of culpability, any history of prior such conduct, the degree of harm to shipper or shippers, ability to pay, the effect on ability to do business, and such other matters as fairness may require.";

On page 27, line 9, strike "the Commission finds that";

On page 27, line 10, after "harm" insert "and has not been adequately compensated for that harm";

On page 27, line 18, strike "less than $500 nor";

On page 27, line 19, strike "for not less than $250 nor" and insert "of not";

On page 27, line 21, strike "The level of the penalty imposed by the Commission shall be commensurate with the alleged violation." and insert "In negotiating the amount of such civil penalties the Commission shall take into account the degree of culpability, any history of prior such conduct, the degree of harm to shipper or shippers, ability to pay, the effect on ability to do business, and such other matters as fairness may require.";

On page 28, line 5, strike "of that Union";

On page 28, line 7, after "compel" insert "an individual or";

On page 28, line 8, strike "deliberately falsifying" and insert "deliberate falsification";

On page 28, line 11, strike "deliberately" and insert "deliberate";

On page 28, line 15, strike "deliberately refusing" and insert "deliberate refusal";

On page 28, line 19, strike "less than $500 nor";

On page 28, line 20, strike "less than $1,000 nor";

On page 29, line 6, after "chapter 105 of" insert "this";

On page 29, line 6, strike "49";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Household Goods Transportation Act of 1979".

DECLARATION OF POLICY

SEC. 2. FINDINGS AND PURPOSE.—The Congress hereby finds—

(1) that a safe, stable, and financially sound system of transportation of household goods by motor common carriers is vital to the maintenance of a strong national economy and a strong national defense;

(2) that the best means of assuring such a system is through competition and reduced regulation;

(3) that maximum operational flexibility on the part of motor common carriers of household goods best serves the interests of shippers of household goods in that it provides the opportunity for servicing of the widest and most divergent needs and desires of the greatest number of consumers and allows a variety of quality and price options to meet changing market demands; and

(4) that the interests of consumers can best be protected by allowing the carriers of household goods the maximum flexibility in serving the needs of their shippers and by assuring the availability of accurate and complete information concerning carriers' performance and consumers' rights and remedies.

DEFINITIONS

SEC. 3. Section 10102 of title 49, United States Code, is amended—

(1) by inserting after paragraph (9) thereof the following new pargraph:

"(10) 'household goods' shall have the meaning defined for it by the Interstate Commerce Commission, but shall mean at least—

"(A) personal effects and property used or to be used in a dwelling when a part of the equipment or supply of such dwelling;

"(B) furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals or other establishments when a part of the stock, equipment, or supply of such stores, offices, museums, institutions, hospitals, or other establishments; and

"(C) articles, including objects of art, displays, and exhibits, which because of their unusual nature or value require the specialized handling and equipment usually employed in moving household goods;

except that in interpreting subparagraphs (A), (B), and (C) of this paragraph:

"(i) subparagraph (A) shall not be construed to include property moving from a factory or store, except such property as the householder has purchased with intent to use in his dwelling and which is transported at the request of, and the transportation charges paid to the carrier by, the householder;

"(ii) subparagraph (B) shall not be construed to include the stock-in-trade of any establishment, whether consignor or consignee, other than used furniture and used fixtures, except when transported as an incident to the removal of the establishment, or a portion thereof, from one location to another; and

"(iii) subparagraph (C) shall not be construed to include any article, whether crated or uncrated, which does not, because of its unusual nature or value, require the specialized handling and equipment usually employed in moving household goods.". and

(2) by renumbering paragraphs (10) through (28) of such section, and all references thereto, as paragraphs (11) through (29), respectively.

ANTITRUST IMMUNITY

SEC. 4. Section 10706(b) of title 49, United States Code, is amended by striking the period at the end of the second sentence and inserting the following: ": *Provided,* That with respect to an agreement between two or more carriers engaged in the business of transporting household goods, that is solely related to or contains procedures for joint consideration, initiation, or establishment of (1) proposals for changes in the standard rate levels for household goods, including the formula, procedures, and tariff rules related thereto, and (2) charges between two carriers, and compensation paid or received, for the use of facilities and equipment, shall be deemed to further the transportation policy of section 10101 of this title.".

RATES

SEC. 5. (a) Chapter 107 of title 49, United States Code, is amended by inserting the following new section immediately after section 10731 thereof:

"§ 10732. Household goods rates

"(a) The Commission shall not have the authority to find any rate for the transportation of household goods to be unreasonable on the basis that it is too high if the proposed rate is not more than 10 percent above the standard rate level for the transportation of household goods, nor too low if the proposed rate is not more than 10 percent below the standard rate level for the transportation of household goods, in effect on the 180th day after the date of enactment of this section.

"(b) The Commission shall not have the authority to find any charge for accessorial, terminal, storage, or other services incidental to the transportation of household goods to be unreasonable on the basis that it is too high if the proposed rate is not more than 20 percent above the standard rate level for the transportation of household goods, nor too low if the proposed rate is not more than 20 percent below the standard rate level for the transportation of household goods, in effect on the 180th day after the date of enactment of this section.

"(c) Subsections (a) and (b) of this section shall not apply to any proposed decrease in any rate or charge that the Commission determines would be predatory. For the purposes of this section, a 'predatory' rate or charge shall be a rate or charge that fails to cover the variable costs of providing the specific service.

"(d) For the purposes of this section, the term 'standard rate levels for the transportation of household goods' means those rates and charges in effect on the 180th day after the date of enactment of this section for the transportation of household goods and for accessorial, terminal, storage, or other services incidental to the transportation of household goods, as adjusted in accordance with subsections (e) and (f) of this section.

"(e) Not later than 180 days after the date of enactment of this section, the Commission shall, on an interim basis, adjust the rates and charges in effect for the transportation of household goods to include: (1) additional costs that have been incurred at the time of such adjustment but not yet reflected in such rates and charges (2) estimated or foreseeable future costs anticipated for the first semiannual period during which such adjusted rates and charges would be in effect, and (3) reasonable levels of profit.

"(f) The Commission shall, not less than semiannually, adjust the standard rate level for household goods by increasing or decreasing such rate level by the percentage change from the previous period in the actual operating costs incurred by the carriers. The adjustments shall be made only through the development and application of a formula and procedure to determine objectively increases or decreases in costs and that (1) makes no adjustment to costs actually incurred, including but not limited to, costs related to overhead, labor, fuel, purchase or lease of equipment or facilities, payment of reasonable levels of claims and liabilities, depreciation. repayment of debt, and cost of capital, and (2) takes into consideration the reasonable estimated or foreseeable future costs anticipated for the next semiannual period during which the rate at issue would be in effect.

"(g) The Commission shall render a final decision by rulemaking establishing a formula and procedures for determining adjustments in the standard rate levels for the transportation of household goods not later than 180 days from the date of enactment of this section. Such formula and procedures may be reviewed upon application by any interested party or on the initiative of the Commission. Changes in the formula or procedures shall be made only after rulemaking in accordance with title 5, United States Code, section 553.".

(b) The index to chapter 107 of title 49, United States Code, is amended by inserting "10732. Household goods rates."

immediately after

"10731. Investigation of discriminatory rail rates for transportation of recyclable or recycled materials.".

(c) Section 10721(b)(1) of title 49, United States Code, is amended by inserting the following immediately before the period at the end thereof: ", except that any rates or charges for the transportation of household goods for the United States Government shall meet or exceed the variable costs of providing such transportation".

ENTRY

SEC. 6. (a) Chapter 109 of title 49, United States Code, is amended by inserting the following new section immediately after section 10933 thereof:

"§ 10934. Transportation of household goods

"(a) The Interstate Commerce Commission shall issue a certificate to a person authorizing that person to provide transportation by motor carrier of household goods, if the Commission finds that (1) the applicant is fit, willing, and able to provide the transportation authorized by the certificate and to conform to the provision of this title and the rules, regulations, and requirements of the Commission under this title, and (2) the transportation to be provided is consistent with the present and future public convenience and necessity.

"(b) In the determination as to whether an applicant is fit, willing, and able pursuant to subsection (a)(1) of this section, the burden of proof shall be upon the applicant. In the determination as to whether the transportation proposed is consistent with the public convenience and necessity pursuant to subsection (a)(2) of this section, the burden of proof shall be upon the opponents of the application.

"(c) In determining whether an application is consistent with the public convenience and necessity pursuant to subsection (a)(2) of this section, the Commission shall consider, and shall make findings and conclusions with respect to, among other things, the statement of congressional purpose and findings set forth in section 2 of the Household Goods Transportation Act of 1979 on each application filed hereunder.

"(d) Any person seeking authority under this section must file with the Commission an application which (1) is filed under oath, (2) contains information required by the Commission regulations, and (3) is served on persons designated by the Commission. The Commission shall promulgate rules of procedure for processing such applications which provide for an adequate notice and opportunity for any interested person to file written evidence and argument, but need not provide for oral evidentiary hearings. Further, the Commission shall promulgate rules of appelate procedure which allow at least one appeal from an initial decision of the Commission, a division of the Commission, a Commissioner, or an employee board, and which may permit a further appeal where the Commission finds that an issue of general transportation importance is involved. The Commission shall render a final written decision upon applications for certificates under this section within 180 days of their filing. Each such final written decision shall include a statement of findings and conclusions as required by subsection (c) of this section. In an extraordinary situation, the Commission may extend the time period established by this subsection for a period of not more than 90 days, but in no event may the total period of time for rendering a final written decision exceed 270 days from the date of filing of the application.

"(e) Each certificate issued pursuant to this section shall specify the area in which the carrier may provide transportation.

"(f) The Commission may prescribe reasonable conditions with respect to a certificate, when the certificate is issued and at any time thereafter: *Provided*, That the Commission may not prescribe a condition preventing a motor common carrier of household goods from adding to its equipment and facilities or its transportation within the scope of its certificate in order to satisfy business development and public demand.

"(g) A certificate issued under this section shall not be construed to confer a proprietary or exclusive right to use the public highways.

"(h) The requirement that persons holding certificates under subsection (a)(1) of this section be fit, willing, and able shall be a continuing requirement applicable to each carrier. The Commission may, by order entered after notice and hearing, modify or condition such certificate to assure compliance with such continuing requirement that the carrier be fit, willing and able, or to require such reports as the Commission may deem necessary to determine whether the carrier is fit, willing, and able.

"(i) If, after notice and hearing, the Commission finds that any person holding a certificate under this section is failing to comply with the continuing requirement that a carrier be fit, willing, and able, it may issue an order to compel compliance with such requirement. Thereafter, the Commission may, after further notice and further hearing, suspend or revoke the certificate of such person, in whole or in part, if it finds that such person, within a reasonable time, but in no event less than 30 days, has willfully failed to comply with the order to compel compliance with such continuing requirement.

(j) Any certificate issued by the Commission which authorizes a person to provide transportation of household goods and which is in effect, and not subject to suspension, on the day before the date of enactment of this section, shall be deemed to be a certificate issued pursuant to this section and shall continue in effect according to its terms until modified, conditioned, suspended, terminated, or revoked by the Commission, any court of competent jurisdiction, or by operation of law.".

(b) The index to chapter 109 of title 49, United States Code, is amended by inserting.

"10934. Transportation of household goods."

immediately after

"10933. Authorizing abandonment of freight forwarder service.".

(c) Chapter 109 of title 49, United States Code, is amended—

(1) in section 10925(a) by striking "or 10924" and inserting in lieu thereof "10924 or 10934";

(2) in section 10926 by striking "or 10923" and inserting in lieu thereof ", 10923 or 10934"; and

(3) in section 10927(a)(1) by striking "or 10923" and inserting in lieu thereof ", 10923 or 10934".

AGENTS

SEC. 7. (a) Chapter 109 of title 49, United States Code, is further amended by inserting the following after the new section 10934 as added by section 6 of this Act:

"§ 10935. Household goods agents

"(a) Each principal carrier shall be absolutely responsible for all acts or omissions of any of its agents which relate to the performance of household goods transportation services (including accessorial or terminal services) in interstate or foreign commerce and which are within the actual or apparent authority of the agent from the principal carrier or which are ratified by the principal carrier.

"(b) Each principal carrier shall be due diligence and reasonable care in selecting and maintaining agents who are sufficiently knowledgeable, fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services) and to fulfill the obligations imposed upon them by the Commission and by their principal.

"(c)(1) Whenever the Commission shall have reason to believe, from a complaint or an investigation, that an agent providing services under the authority of its principal carrier has violated section 11901(h)(3) or 11917 of this title or is consistently not fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services), it shall issue to such agent a complaint stating the charges and containing notice of the time and place of a hearing which shall be no later than 60 days after service of the complaint to such agent.

"(2) Such agent shall have the right to appear at such a hearing and rebut the charges contained in the complaint.

"(3) If such person does not appear at the hearing or if the Commission should find that the agent has violated section 11901(h)(3) or 11917 of this title or is consistently not fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services), it may issue an order to compel compliance with the requirement that the agent be fit, willing, and able. Thereafter the Commission may issue an order to limit, condition, or prohibit such agent from any involvement in the transportation or provision of services incidental to the transportation of household goods in interstate or foreign commerce if it finds that such agent, within a reasonable time, but in no event less than 30 days, has willfully failed to comply with a compliance order issued under this subsection.

"(4) Upon a petition filed with the Interstate Commerce Commission by an agent who is the subject of an order issued pursuant to paragraph(3) of this subsection, a hearing shall be held after proper notice and with an opportunity to be heard. At such a hearing, a determination shall be made whether the order issued pursuant to paragraph (3) of this subsection should be rescinded.

"(5) Any agent adversely affected or aggrieved by an order of the Commission issued under this subsection may seek relief in the appropriate United States court of appeals, as provided by section 2112 of title 28, United States Code.

"(d) The antitrust laws, as defined in section 1 of the Clayton Act (15 U.S.C. 12), do not apply to discussions or agreements between a principal carrier and its agents (whether or not an agent is also a carrier) related solely to (1) rates for the transportation of household goods under the authority of the principal carrier; (2) accessorial, terminal, storage, or other charges for services incidental to the transportation of household goods transported under the authority of the principal carrier; (3) allowances relating to transportation of household goods under the authority of the principal carrier; (4) pooling or divisions between the principal carrier and its agents of traffic or services or any part of their earnings related to services performed under the authority of the principal carriers, and (5) ownership of a principal carrier by an agent or membership on the board of directors of a principal carrier by an agent.

"(e) In the case of bankruptcy or dissolution of a carrier or freight forwarder of household goods any debts owed to an agent or owner-operator arising out of the services performed or goods provided by that agent or owner-operator for the carrier or freight forwarder shall be treated as secured debts and such debts owed to agents or owner operators shall be treated equally with the carrier's or freight forwarder's other secured debts.".

(b) The index to chapter 109 of title 49, United States Code, is amended by inserting

"10935. Household goods agents."

immediately after

"10934. Transportation of household goods.",

as added by section 6 of this Act.

RULES AND REGULATIONS

SEC. 8. (a) Chapter 111 of title 49, United States Code, is amended by inserting the following new section immediately following after section 11108 thereof:

"§ 11109. Household goods carrier operations

"(a)(1) No later than 60 days after the date of enactment of this section, the Commission shall institute a rulemaking proceeding in which it shall review and revise all of its operational regulations pertaining to transportation of household goods.

"(2) The Commission shall reduce the regulations and paperwork required of each carrier to the maximum extent feasible, except for (A) regulations relating to charges; and (B) regulations for the protection of individual shippers.

"(3) A regulation described in paragraph (2)(B) of this subsection shall contain whenever possible reasonable performance standards.

"(4) The Commission shall conclude the rulemaking required by subsection (a) of this section within 270 days.

"(5) Nothing in this section shall be construed to limit the Commission's authority to require reports from carriers or to require carriers to provide specified information to consumers concerning their past performance.

"(6) To the maximum extent feasible, the requirements of this section shall apply to rules and regulations of Government departments and agencies on shipments transported under the authority of the United States Government including rules and regulations established for the distribution of such traffic.

"(b) Every carrier of household goods may, upon request of a prospective shipper, provide the shipper with an estimate of charges for transportation and for the proposed services. The Commission shall not prescribe specific formulas, forms, methods, or techniques for providing a prospective shipper with such an estimate. The Commission shall not prohibit any carrier from charging a prospective shipper for providing a written estimate for the transportation and proposed services, nor shall the Commission require the final charges to a shipper to be based on an estimate. This subsection, however, shall not be construed as prohibiting a carrier from voluntarily filing nor the Commission from approving a tariff basing the carrier's final charges to a shipper upon an estimate: Provided, That such tariffs do not result in charges to shippers that are predatory or discriminatory.

"(c) The Commission shall promulgate rules that provide motor carriers engaged in the transportation of household goods with the maximum possible flexibility in weighing shipments, consistent with assurance to the shipper of accurate weighing practices. The Commission shall not prohibit household goods carriers from backweighing shipments, nor from basing their charges on the reweigh weights if the shipper observes both the tare and gross weighings and such weighings are performed on the same scale.

"(d) Motor carriers of household goods shall not be prohibited from offering to their shippers guarantees or options for per diem payments to shippers in the event the carrier does not pick up or deliver the shipper's shipment as agreed. If the carrier charges the shipper for such protection, the charges shall be contained in the carrier's lawfully published tariff. The charges, if any, for such protection may vary to reflect one or more options available to meet a particular shipper's needs.".

(b) The index to chapter 111 of title 49, United States Code, is amended by inserting

"11109. Household goods carrier operations."

immediately after

"11108. Water carriers subject to unreasonable discrimination in foreign transportation.".

DISPUTE RESOLUTION

SEC. 9. (a) Chapter 117 of title 49, United States Code, is amended by inserting the following new section immediately after section 11710 thereof:

"§ 11711. Dispute settlement for transportation of household goods.

"(a) An action at law, initiated by a shipper, for loss, damage, or injury that relates to the transportation of household goods may include a claim for the recovery of attorney's fees, which shall be awarded if the shipper prevails in the action unless—

"(1)(A) the defendant carrier shall have filed with the Commission, printed and kept open to public inspection tariffs or schedules giving notice that, upon the complainant's agreeing to be similarly bound, it shall accept as final, without further judicial proceedings not inconsistent with this section, an adjudication of liability and of the amount of loss, damage, or injury to be arrived at under such informal dispute-settlement procedures, including arbitration, as shall have been published in such tariffs or schedules and approved by the Commission pursuant to subsection (c) of this section; or

"(B) the defendant carrier has developed and has in force a mechanism for the resolution of disputes that complies with the requirements of an act that (1) is enacted by the Congress subsequent to the enactment of this section and (2) seeks to promote the use of a mechanism or mechanisms for the resolution of disputes that would be suitable for resolving disputes between carriers and shippers arising from the transportation of household goods; and

"(2) the shipper has not filed a claim with the carrier within 120 days after such loss, damage or injury is ascertained and the carrier has not paid or denied the claim within 120 days after receipt of the claim.

"(b)(1) The Commission shall approve dispute-settlement programs within 30 days after the filing of such a program with the Commission by any carrier or carriers of household goods, if the program is established in accordance with the requirements of this section.

"(2) The Commission may review each such program on a regular and periodic basis.

"(3) The Commission may investigate the functioning of any dispute-settlement program and may suspend or revoke its approval for failure to conform to the requirements of this section.

"(c) Dispute-settlement programs in use by a carrier or carriers of household goods shall substantially fulfill the following objectives:

"(1) the dispute-settlement procedure shall be easy to read and understand, inexpensive, and expeditious for the use of any person for whom the household goods have been transported;

"(2) the dispute-settlement program shall be designed so as to prevent a carrier from having any special advantage in any case in which the claimant resides or does business at a place distant from the carrier's principal or other place of business;

"(3) the dispute-settlement program shall provide for adequate notice of the availability of such procedure and such notice shall be given to persons for whom the household goods are to be transported before any contract becomes binding and in adequate time to allow for an informed decision as to whether the person for whom the household goods are to be transported will agree to be bound by the dispute-settlement program;

"(4) the dispute-settlement program shall include a clear, easy-to-read, accurately written summary of the steps involved in using the procedure and such summary along with any forms necessary for initiating an action shall be provided to shippers filing claims;

"(5) each individual who is authorized, pursuant to an approved dispute-settlement program, to arbitrate or otherwise settle claims, shall be independent of the carrier or carriers sponsoring the procedure. The procedure shall insure that such person or persons chosen to settle the claims shall be authorized and able to obtain any material and relevant information to the extent necessary from the claimant or carrier to carry out the decisionmaking process properly. Materials and information obtained in the course of the dispute-resolution process may not be used to bring an action under section 11910 of this title; and

"(6) two or more carriers may join together in creating, maintaining, and sharing the cost of a dispute-settlement program.

"(d) The amount of the attorney's fee to be awarded shall be determined by the court and shall be no more than the reasonable fee for services necessarily performed, except that the court may award less than the reasonable fee or no fee if—

"(1) the recovery is less than the amount offered in a written offer of settlement made by the carrier to the claimant prior to commencement of the suit; or

"(2) the action was brought in a court of general jurisdiction when it could conveniently have been brought in a small claims court.

"(e) Where an informal dispute-settlement program pursuant to this section is available and the claimant brings an action in court in lieu of and after having agreed to such program, the transporting carrier who successfully defends an action for loss, damage, or injury to the extent that the judgment is less than the last written offer of settlement by the carrier prior to the institution of such suit under this section may be awarded reasonable attorney's fees for services necessarily performed to defend such action.

"(f) Where an informal dispute-settlement program is not available, the transporting carrier who successfully defends itself against an action for loss, damage, or injury pursuant to this section shall be awarded reasonable attorney's fees for necessarily performed services in defending itself against such action if the claimant commenced such action in bad faith.

"(g) An action to enforce an award of an arbitrator of a court for claims subject to this section may include a claim for the recovery of attorney's fees incurred in the enforcement action.

"(h) The provisions of this section shall apply only in the case of 'collect-on-delivery' transportation of those types of household goods described in section 10102(10)(A) of this title.

"(i) Subsections (a), (d), (e), (f), and (g) of this section concerning the recovery of attorney's fees shall become effective 270 days after the date of enactment of this section. The other provisions of this section become effective on the date of enactment of this section.".

(b) The index to chapter 117 of title 49, United States Code, is amended by inserting

"11711. Dispute settlement for transportation of household goods."

immediately after

"11710. Liability when property is delivered in violation of routing instructions.".

PENALTIES

SEC. 10. Section 11901 of title 49, United States Code, is amended by—

(1) inserting the following sentence at the end of subsection (g) thereof:

"After the date of enactment of this sentence, no penalties shall be imposed under this subsection for a violation relating to the transportation of household goods. Any such penalties that were imposed prior to the date of enactment of the preceding sentence shall be collected only in accordance with the procedures and standards set forth in subsection (h)(1) of this section.".

(2) redesignating subsection (h) of such section, including all references thereto, as subsection (i); and

(3) inserting immediately after subsection (g) the following new subsection:

"(h)(1) Any person required to make a report to the Commission, answer a question, or make, prepare, or preserve a record under this subtitle concerning transportation of household goods subject to jurisdiction of the Commission, or an officer, agent, or employee of that person that (A) does not make the report, (B) does not specifically, completely, and truthfully answer the question, (C) does not make, prepare, or preserve the record in the form and manner prescribed by the Commission, or (D) does not comply with section 10921 of this title, is liable to the United States for a civil penalty of not more than $500 for each violation and for not more than $250 for each day during which the violation continues. In negotiating the amount of such civil penalties the Commission shall take into account the degree of culpability, any history of prior such conduct, the degree of harm to shipper or shippers, ability to pay, the effect on ability to do business, and such other matters as fairness may require. In the case of an individual shipment, no penalty shall be imposed under this paragraph for failure to make, prepare, or preserve the record in the form and manner prescribed by the Commission, unless the shipper has suffered actual harm and has not been adequately compensated for that harm.

"(2) A carrier of household goods providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title or a receiver or trustee of that carrier who fails or refuses to comply with regulations prescribed by the Commission with respect to standards for reasonable dispatch is liable to the United States for a civil penalty of not more than $2,000 for each violation and of not more than $1,000 for each additional day during which the violation continues. In negotiating the amount of such civil penalties the Commission shall take into account the degree of culpability, any history of prior such conduct, the degree of harm to shipper or shippers, ability to pay, the effect on ability to do business, and such other matters as fairness may require. No penalty shall be imposed with respect to an individual shipment if the shipper is satisfied with the shipment.

"(3) The United States or any State may bring a civil action in the United States district courts to compel an individual or a person to pay civil penalties for engaging in or knowingly authorizing (A) deliberate falsification documents used in the transportation of household goods which evidence the weight of a shipment, (B) deliberate charging for accessorial services not performed or for which the carrier is not entitled to be compensated when such services are not reasonably necessary in the safe and adequate movement of the shipment, or (C) deliberate refusal to allow the shipper to witness a reweighing of the shipper's shipment if requested in writing prior to the unloading of the shipment. Such persons shall be liable to the United States for a civil penalty of not more than $2,000 for each violation and for not more than $5,000 for each subsequent violation.".

WEIGHT BUMPING

Sec. 11. (a) Chapter 119 of title 49, United States Code, is amended by inserting immediately after section 11916, the following new section:

"§ 11917 Weight-bumping in household goods transportation

"(a) For the purposes of this section, 'weight-bumping' means the knowing and willful making or securing of a fraudulent weight on a shipment of household goods subject to the jurisdiction of subchapter II of chapter 105 of this title 49.

"(b) Any individual who has been found to have committed weight-bumping shall be fined not less than $1,000 or more than $10,000 for each offense, imprisoned for not more than 2 years, or both.".

(b) The index to chapter 119 of title 49, United States Code, is amended by inserting

"11917. Weight-bumping in household goods transportation."

immediately after

"11916. Conclusiveness of rates in certain prosecutions.".

The amendments were agreed to.

● Mr. CANNON. Mr. President, I want to say how delighted I am that the Senate has passed the Household Goods Transportation Act of 1979. This bill is a bill that will truly reduce unnecessary government regulation and be of great benefit both to the American consumers and the household moving industry. The Commerce Committee has been working on this bill for several months and it is one that has been endorsed by virtually all parties who are directly affected by it.

I want to thank all the parties involved in the debate for their valuable contribution to the development of the legislation. The basic philosophy of the legislation has remained the same since Senator PACKWOOD and I introduced it several months ago—that less interference by the Government in the business activities of the household moving industry will lead to a more financially healthy industry and one that will be of far better service to the public who relies on the important services of household goods carriers. Some details in the bill have changed, but not this basic philosophy. This is not a deregulation bill. It is one that carefully defines that regulation which is in the public interest and that regulation which is not. The emphasis is on competition, but with the realization that there must be a limited amount of regulation as well.

Finally, Mr. President, I would like to announce that Senators GLENN, FORD, and SCHMITT wish to be added as cosponsors of the bill.●

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-497), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of this legislation is to reduce the Federal regulation of the household goods moving industry in order to provide opportunities for new and improved services to the public and to improve the financial condition of the household moving industry. The bill reduces the barriers to entry into the household moving business and provides greater pricing freedom for the carriers. It also reduces regulation of the day-to-day business activities of the household moving industry by the Interstate Commerce Commission. While the bill strengthens protections for consumers against actions by the household moving industry that are truly damaging, it eliminates unnecessary paperwork and operational restrictions that burden both carriers and shippers. Consumers are benefited by the creation of a dispute settlement mechanism that will be inexpensive, expeditious, and easy to use. Finally, the bill makes the practice of "weight-bumping" a specific crime.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agree to.

FEDERAL DIVERSION ACT OF 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 538.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill (S. 702) to establish alternatives to criminal prosecution for certain persons charged with offenses against the United States, and for other purposes, which had been reported from the Committee on the Judiciary with amendments as follows:

On page 10, line 8, after "agreements" insert "to such extent or such amounts as are provided in appropriation Acts";

On page 12, line 1, strike "1980";

On page 12, line 2, after "1983" insert "1984";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Diversion Act of 1979".

Sec. 2. The Congress finds and declares that (a) the interests of operating the Federal criminal justice system efficiently, protecting society, and deterring individuals charged with violating criminal laws from future criminal acts can be served by creating alternatives to prosecution; and (b) such alternatives can be accomplished in appropriate cases without losing the general deterrent effect of the criminal justice system.

Sec. 3. (a) Title 18, United States Code, is amended by adding immediately after chapter 209, a new chapter 210, as follows:

"Chapter 210—Diversion

"Sec.
"3201. Definitions.
"3202. Admission to diversion program.
"3203. Voluntariness of waiver of rights.
"3204. Inadmissibility of diversion information.
"3205. Continuation and dismissal of charges.
"3206. Termination; review; completion; withdrawal.
"3207. District planning group.
"3208. Authority of the Attorney General.

"§ 3201. Definitions

"As used in this chapter, the term—

"(1) 'eligible individual' means any person against whom a prosecutable case exists for an offense against the United States where—

"(A) the alleged offense did not involve the threat or infliction of serious bodily injury to other persons;

"(B) it is reasonably foreseeable that the person will not commit violent acts if admitted to a diversion program;

"(C) the person has not exhibited a continuing pattern of criminal behavior;

"(D) the person meets the criteria established by regulations issued by the Attorney General and guidelines established by the attorney for the Government in the district where the indictment, information, or complaint is filed; and

"(E) the person is admitted to participation in a diversion program by the attorney for the Government in the district in which the indictment, information, or complaint is filed;

"(2) 'diversion program' may include, but is not limited to, medical, educational, vocational, social, and psychological services; corrective and preventative guidance, training, and counseling; provision for residence in a halfway house or other suitable place; other services designed to protect the public and benefit the individual; restitution to victim of the offense or offenses charged; and uncompensated service to the community;

"(3) 'diversion plan' means a written agreement, signed by the eligible individual, defense counsel, diversion administrator, and the attorney for the Government, that states those elements of a diversion program in which the eligible individual will participate to assure that he will lead a lawful life, and states the length of time required to complete the plan; but, in no event shall a diversion plan exceed twelve months except to allow the person admitted sufficient time to make restitution; and

"(4) 'diversion administrator' means a person designated by the Attorney General, after consultation with the district planning group, as administrator of the diversion program.

'§ 3202. Admission to diversion program

"(a) The diversion administrator or his assistants shall, to the extent possible, upon arrest or the issuance of a summons or as soon thereafter as possible, review the allegations against each person charged with a criminal offense against the United States and interview each person who he believes may be eligible for diversion. The diversion administrator shall then make a report to the attorney for the Government on the eligibility of each person charged. A person who has not had the allegations against him reviewed may request to be considered for admission by application to the diversion administrator. The attorney for the Government may require further investigation by the diversion administrator of a person being considered for admission with the consent of that person. If the attorney for the Government determines that a person is suitable, the diversion administrator shall prepare a diversion plan. Upon agreement of the attorney for the Government, diversion administrator, eligible person, and defense counsel about the elements of the plan, the attorney for the Government shall assign supervision of the plan to the diversion administrator. A determination of eligibility or suitability by the attorney for the Government shall not be subject to review except as otherwise provided by law.

"(b) The diversion administrator shall report to the attorney for the Government on the progress of the person in carrying out his plan in a manner and at times the attorney for the Government and diversion administrator deem appropriate and shall at the same time provide a copy of each such report to the person and defense counsel.

"§ 3203. Voluntariness of waiver of rights

No person shall be admitted to a diversion program unless he has voluntarily agreed to participate and has received a copy of his diversion plan, and has voluntarily waived, in the presence of a judge or magistrate and with the advice of counsel (except in a case where counsel has been voluntarily waived), all applicable statutes of limitations and his right to speedy trial for the period of diversion.

"§ 3204. Inadmissibility of diversion information

"Whenever a person is admitted to a diversion program and his diversion plan is later terminated or the person withdraws and prosecution is resumed, any statement made or other information given by the person in connection with the determination of his eligibility or suitability for the program, any statement made by the person while participating in the program, and any statement, report, or other information concerning his participation in the program shall not be admissible against the person on the issue of his guilt of the offense that was the basis for diversion in any judicial proceeding in which he is accused of the offense. This section shall not be construed to limit the admissibility of any information for purposes of impeachment.

"§ 3205. Continuation and dismissal of charges

"In each case involving a person who is admitted to a diversion program under this chapter, the criminal charges against the person shall be continued without final disposition for the period agreed upon in the diversion plan, unless the admission is terminated, completed earlier, or the person withdraws pursuant to section 3206 of this chapter. Upon the expiration of the diversion period, the attorney for the Government shall file a dismissal with prejudice as provided in section 3206(c). Nothing in this paragraph shall be construed to limit further investigation of the offense charged or presentation of evidence to a grand jury during the diversion period.

"§ 3206. Termination; review; completion; withdrawal

"(a) If the attorney for the Government finds the person is not fulfilling his obligations under the plan, or has discovered facts previously unknown to him demonstrating that the person is not suitable for diversion, the attorney for the Government may resume prosecution. The Attorney for the Government shall make a written statement of the factual basis for his determination to resume prosecution and transmit copies to the person and to defend counsel. The person and defense counsel shall thereafter be notified of their opportunity to appear before the attorney for the Government and the diversion administrator to contest the determination within a reasonable time as established by the Attorney General.

"(b) If the person fails to contest the determination of the attorney for the Government within the time specified, no further review of the determination shall be granted. If, on the appearance of the person and defense counsel before the attorney for the Government and the diversion administrator, the attorney for the Government determines that prosecution shall be resumed, the person may petition the court for review. If the court finds that no fact exists upon which the attorney for the Government could base a determination to resume prosecution, the court shall order that the person be allowed to fulfill his obligations under the plan or shall dismiss the charges if the court finds that prosecution shall be resumed, the person In a proceeding under the provisions of this subsection, evidence shall be admissible regardless of its admissibility in a trial on the offense.

"(c) If the diversion administrator certifies to the attorney for the Government at any time during the period of diversion that the person has fulfilled his obligations and successfully completed the plan, and if the attorney for the Government concurs, the attorney for the Government shall file, by leave of court, a dismissal with prejudice of the indictment, information, or complaint against the person.

"(d) A person participating in a diversion plan may withdraw at any time, and the attorney for the Government may resume prosecution.

"(e) Whenever a diversion plan is terminated or the person withdraws before completion of the plan and the prosecution is resumed resulting in a conviction, the court shall consider the length and nature of the defendant's participation in the plan and may credit such participation as time served toward any sentence of probation or incarceration.

"§ 3207. District planning group

"(a) The district planning group established by section 3168(a) of this title, together with other individuals as the chief judge may appoint, shall constitute a diversion advisory committee. The chief judge may appoint individuals representing agencies to which persons are referred under a diversion program pursuant to this chapter. The group shall plan the implementation of the diversion program for the district and review on a regular basis the administration and progress of such program. The committee shall report to the Attorney General at times and in a manner as the Attorney General shall prescribe.

"(b) Members of the committee shall not be compensated, but may be reimbursed pursuant to section 3208 for reasonable expenses incurred by them in carrying out their duties as members of the committee.

§ 3208. Authority of the Attorney General

"(a) In carrying out the provisions of this chapter, the Attorney General shall—

"(1) reimburse agencies of the judicial branch of the Government for the cost of services of United States probation officers, pretrial service officers, and employees other than judges, magistrates, or Federal public defenders, necessary to carry out the purposes of this chapter;

"(2) employ and fix the compensation of such persons as he determines necessary to carry out the purposes of this chapter, without regard to the provisions of title 5, United States Code, relating to appointments in the competitive services and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

"(3) acquire such facilities, services, and materials as he determines necessary to carry out the purposes of this chapter; and

"(4) enter into contracts and other agreements to such extent or such amounts as are provided in appropriation Acts without regard to advertising requirements for the acquisition of such personnel, facilities, services, and materials which he determines necessary to carry out the purposes of this chapter.

"(b) In addition to the responsibilities described in subsection (a), the Attorney General shall—

"(1) issue, within one hundred and eighty days after the effective date of this section, regulations for use by United States attorneys governing recomendations of persons to diversion programs;

"(2) conduct research and prepare concise annual reports for the President, the Congress, and the Judicial Conference showing the progress of all diversion programs in fulfilling the purposes set forth in this chapter;

"(3) provide for the audit of any funds expended under the provisions of this chapter other than funds expended to provide for defense counsel;

"(4) be authorized to accept voluntary and uncompensated services; and

"(5) promote the cooperation of the Department of Justice, local diversion programs, and all agencies which provide education, training, counseling, legal, employment, or other social services under any Act of Congress to assure that eligible individuals admitted to diversion programs can benefit to the extent possible.".

(b) The table of chapters for title 18, United States Code, and for part II of title 18, United States Code, are each amended by inserting immediately after the item relating to chapter 209 of the following:

"210. Diversion ---------------------- 3201.".

"Sec. 4. (a) Section 3169(a) of title 18, United States Code, is amended by inserting after "Chief United States Probation Officer for the district," the words "the diversion administrator for the district if other than the chief probation officer,".

(b) Section 3168(b), of title 18, United States Code, is amended by striking the word "pretrial".

Sec. 5. For the purposes of carrying out the provisions of this Act, there is authorized to be appropriated for the fiscal years ending September 30, 1981, 1982, 1983, and 1984, the sum of $3,000,000.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96–502), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

Excerpt

PURPOSE OF THE BILL

Briefly, diversion operates in the following manner:

(1) At the time of arrest or the issuance of a summons, or soon thereafter, persons would be screened by diversion personnel for eligibility under the criteria of the act, regulations issued by the Attorney General, and guidelines issued by the U.S. attorney. Those persons meeting eligibility criteria would be reported to the U.S. attorney, who would make a preliminary determination of suitability. If additional investigation of the accused is required by the U.S. attorney, the diversion personnel would conduct a background check with the consent of the accused and make a final report to the U.S. attorney, who would then select persons for admission into the program. The diversion personnel would draft a diversion plan which would list conditions the person would fulfill, such as counseling, attending school, medical treatment, or reimbursing victims, etc. The plan would state a time period for completion of the program.

(2) When the plan is agreed upon by the U.S. attorney, the Diversion Administrator, eligible individual, the defense attorney, and the accused has received a copy of his diversion plan, the parties would go before the court where the defendant would waive his right to speedy trial and statute of limitations. The U.S. attorney would then move to continue the indictment, information or complaint for the period of diversion, pursuant to 18 U.S.C. 3161(h)(2), the Speedy Trial Act.

(3) The diversion personnel would supervise the person's performance under the plan and report to the U.S. attorney and defense counsel. If the plan is successfully completed, the indictment, information or complaint will be dismissed with prejudice on motion of the U.S. attorney by leave of court under F.R. Crim. P. 4S(a).

(4) If the person fails to complete the plan, voluntarily withdraws, or if the U.S. attorney later discovers facts demonstrating that the person is not suitable for diversion, the U.S. attorney may resume prosecution. The person and his defense counsel are notified in writing of the factual basis for the resumption of prosecution and are provided the right to contest the facts before the U.S. attorney and to then appeal to the court. These hearings are brief and closely tailored to comport with due process.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FOREIGN CLAIMS SETTLEMENT COMMISSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 544.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill (S. 1419) to provide for the transfer of the Foreign Claims Settlement Commission of the United States to the U.S. Department of Justice as a separate agency in that Department; to provide for the authority and responsibility of the Department of Justice to supply to the Foreign Claims Settlement Commission certain administrative support services without altering the adjudicatory independence of the Commission; to change the terms of office and method of appointment of the members of the Commission; and for other purposes, which had been reported from the Committee on Governmental Affairs with amendments as follows:

On page 6, beginning with line 16, insert the following:

Sec. 109. Section 5316 of title 5 of the United States Code is amended—

(1) by striking out paragraph (31) and inserting in lieu thereof:

"(31) Chairman, Foreign Claims Settlement Commission of the United States, Department of Justice."; and

(2) by striking out paragraph (90) of said section.

On page 8, line 8, strike "October 1, 1979" and insert "the date of enactment";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the purposes of this Act are as follows:

TITLE I

Sec. 101. The Foreign Claims Settlement Commission of the United States, established under Reorganization Plan Numbered 1 of 1954, is hereby transferred to the Department of Justice as a separate agency within that Department.

Sec. 102. All functions, powers, and duties of the Foreign Claims Settlement Commission established by Reorganization Plan Numbered 1 of 1954 are hereby transferred with the Commission, together with personnel, assets, liabilities, unexpended balances of appropriations, authorizations, allocations, and other funds held, used, available, or to be made available in connection with the statutory functions of the Commission. The Commission shall continue to perform its functions as provided by the War Claims Act of 1948, as amended, the International Claims Settlement Act of 1949, as amended, and Reorganization Plan Numbered 1 of 1954.

Sec. 103. (a) The Commission shall be composed of a Chairman and two members. The Chairman shall be appointed by the President, by and with the advice and consent of the Senate, to serve on a full-time basis for a term of three years, and compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) The other members of the Commission shall be appointed by the President, by and with the advice and consent of the Senate, and serve on a part-time basis, and be compensated on a per diem basis at a rate of compensation equivalent to the daily rate for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day that such member is employed in the actual performance of official business of the Commission as may be directed by the Chairman. Each member shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in Government service employed intermittently.

(c) The terms of Office of the Chairman and members of the Commission shall be for three years, except the Chairman and members first appointed after the enactment of this subsection shall be appointed to terms ending respectively September 30, 1982, September 30, 1981, and September 30, 1980. The incumbent of any such office may continue to serve until a successor takes office.

(d) Notwithstanding the provisions of subsections (a), (b), and (c) of this section, members of the Foreign Claims Settlement Commission who are serving on the effective date of this Act, shall continue to serve in their same capacities until the expiration of the terms to which they were appointed.

Sec. 104. The Commission is authorized, in accordance with civil service laws and in accordance with title 5 of the United States Code, to appoint and fix the compensation of such officers and employees as may be necessary to carry out the functions of the Commission. The Commission is authorized to employ experts and consultants in accordance with section 3109 of title 5 of the United States Code, without compensation or at rates of compensation not in excess of the maximum daily rate prescribed for GS–18 under section 5332 of title 5 of the United States Code. Notwithstanding any other provision of law, the Commission is further authorized to employ nationals of other countries who may possess special knowledge, languages, or other expertise necessary to assist the Commission. The Commission is authorized to pay expenses of packing, shipping, and storing personal effects of personnel of the Commission assigned abroad, and to pay allowances and benefits similar to those provided by title IX of the Foreign Service Act of 1946, as amended. The Commission is authorized, with the consent of the head of any other department or agency of the Federal Government, to utilize the facilities and services of such department or agency in carrying out the functions of the Commission. Officers and employees of any department and agency of the Federal Government may, with the consent of the head of such department or agency, be assigned to assist the Commission in carrying out its functions. The Commission shall reimburse such department and agency for the pay of such officers or employees.

Sec. 105. All functions, powers, and duties not directly related to adjudicating claims are hereby vested in the Chairman, including the functions set forth in section 3 of Reorganization Plan Numbered 1 of 1954 and the authority to issue rules and regulations.

Sec. 106. The Attorney General shall provide necessary administrative support and services to the Commission. The Chairman shall prepare the budget requests, authorization documents, and legislative proposals for the Commission within the procedures established by the Department of Justice, and the Attorney General shall submit these items to the Director of the Office of Management and Budget as proposed by the Chairman.

SEC. 107. Nothing in this Act shall be construed to diminish the independence of the Commission in making its determinations on claims in programs that it is authorized to administer pursuant to the powers and responsibilities conferred upon the Commission by the War Claims Act of 1948, as amended, the International Claims Settlement Act of 1949, as amended, and Reorganization Plan Numbered 1 of 1954. The decisions of the Commission with respect to claims shall be final and conclusive on all questions of law and fact, and shall not be subject to review by the Attorney General or any other official of the United States or by any court by mandamus or otherwise.

SEC. 108. Subsection 2(d) of the War Claims Act of 1948, as amended by section 104 of the Act of October 22, 1962 (76 Stat. 1107), is hereby repealed.

SEC. 109. Section 5316 of title 5 of the United States Code is amended—

(1) by striking out paragraph (31) and inserting in lieu thereof:

"(31) Chairman, Foreign Claims Settlement Commission of the United States, Department of Justice."; and

(2) by striking out paragraph (90) of said section.

TITLE II—ANNUAL ASSAY COMMISSION

The Annual Assay Commission, and the positions of Assay Commissioners established by section 3547 of the Revised Statutes of the United States (31 U.S.C. 363), as amended, are hereby abolished. The functions of that Commission and of the Assay Commissioners are hereby transferred to the Secretary of the Treasury.

TITLE III—UNITED STATES MARINE CORPS MEMORIAL COMMISSION

The United States Marine Corps Memorial Commission, established by Act of August 4, 1947 (61 Stat. 724), is hereby abolished.

TITLE IV—THE LOW-EMISSION VEHICLE CERTIFICATION BOARD

The Low-Emission Vehicle Certification Board established by Act of December 31, 1970 (84 Stat. 1700; 42 U.S.C. 1857f-6e), is hereby abolished.

TITLE V—DETERMINATION ORDER

The Director of the Office of Management and Budget is authorized and directed to make such determinations as may be necessary with regard to the transfer of functions, powers, and duties pursuant to this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to or to be made available in connection with the functions transferred by this Act, as the Director may deem necessary to accomplish the purposes of this Act. The Director is further authorized and directed to provide for terminating the affairs of each agency, board, or commission abolished by this Act.

TITLE VI

This Act shall take effect on the date of enactment.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-509), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

I. PURPOSE OF THE LEGISLATION

The purpose of S. 1419 is to transfer the Foreign Claims Settlement Commission, and change the service of two of the three Commissioners from full-time to part-time, and to abolish three small agencies whose functions have become either redundant or obsolete.

The bill:

(1) Transfers to the Department of Justice the Foreign Claims Settlement Commission, without altering the adjudicatory independence of the Commission;

(2) Changes the service of two of the full-time Commissioners to part-time.

(3) Authorizes the Department of Justice to provide certain administrative support services to the Commission;

(4) Abolishes the Annual Assay Commission;

(5) Abolishes the United States Marine Corps Memorial Commission.

(6) Abolishes the Low Emission Vehicle Certification Board.

According to testimony from the Administration, the functions of the three agencies abolished by the bill are either adequately performed by other agencies or altogether obsolete. Due to passage of more recent legislation, the function of the Annual Assay Commission has become largely ceremonial. Its members meet for only one day each year, its functions are performed by personnel in the Bureau of the Mint and the National Bureau of Standards. The Commission, established in 1792 to monitor and ensure that coinage contained the required equivalent values of gold and silver, has, since 1960, made no recommendations for dealing with deviations from coinage standards. The U.S. Marine Corps Memorial Commission completed its legislative mandate more than 20 years ago, and now performs no function. Similarly, the Low Emission Vehicle Certification Board, established to certify electric and other low emission vehicles as substitutes for classes of vehicles bought by the Federal Government, has been inactive for 3 years, and its functions have been performed by the Department of Energy and the General Services Administration, which exercise responsibility for development of low-emission, energy-saving vehicles, and for Federal procurement, respectively.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ARMSTRONG. Mr. President, in the last few minutes, we have considered and adopted half a dozen or a dozen bills. I think it is probable, and I think the record should reflect that practically no Senator has any idea what is in these bills. May I ask if there is any Senator in the Chamber who has any idea what is in these bills we have just passed?

Mr. STEVENS. Mr. President, may I answer the Senator from Colorado?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. Mr. President, we have a very, very precise way of checking these bills out. When they are reported, we inquire of the members of the committee that have handled the bill, and we obtain clearance. They are printed in the calendar. We check with those people who have notified us that they are interested in the subject matter and before the matter is placed on the calendar. That procedure is followed on every matter.

These matters have been cleared through our normal procedure, each and every one of them. Each and every one of them has been reported out with the consent of the minority on the committee involved.

Mr. ARMSTRONG. Mr. President, I thank the acting minority leader for his explanation. I am not going to press my inquiry any further, but I want to note in passing that there is at least one Senator in this Chamber who is uneasy about the possible contents of this legislation. As a new Member and a Member who may, later in the evening, be in the position of objecting to another matter, I guess I would have to say that I think I carry enough of that responsibility tonight.

I am uneasy about this and the fact that members of a committee may have signed off on this does not seem to me to really be an assurance that Members of the Senate generally know what is in it.

Mr. STEVENS. I say to the Senator from Colorado that there are two members of the Governmental Affairs Committee here, the Senator from Maryland and myself. If the Senator from Colorado would like to go into the matter, we shall be happy to do so.

Mr. ARMSTRONG. I think the Senator from Alaska has answered my question, at least in part. There are two Members of the Senate actually present who do in fact know the contents of this bill.

Mr. STEVENS. The particular bill in question is the one I am addressing right now, S. 1419.

Mr. ARMSTRONG. Mr. President, I have no desire to carry it further. I certainly have no desire to impede the planned order of the leadership. But it does make me uneasy and I shall perhaps rise to discuss that point at another time.

Mr. STEVENS. May I inquire, we are now coming to a series of private bills.

Mr. ROBERT C. BYRD. I am not going to call them up.

Mr. STEVENS. I was going to ask the Senator if he could call them up all at once.

Mr. ROBERT C. BYRD. No. I am sorry, the Senator from Colorado takes this attitude with the distinguished Republican leader here. I am absolutely sure he is going to do everything within his power to protect the rights of the minority.

There is a very meticulous procedure by which these bills are screened and approved before they are called up for unanimous consent. Otherwise, the Senate would not be able to conduct its business, and each of these bills would have to be called up and debated.

On pages 24 and 25 there appear to be about a total of 16 relief bills, and these have been cleared. They have been cleared on both sides of the aisle.

The majority leader is not going to call up measures not cleared on his side of the aisle. The majority leader will not attempt to slip something through here.

Many times we vitiate action on measures that are called up and adopted when there is a clerical error found therein. The minority leader will never have any problem with me if a measure is called up and passed by unanimous consent and later he finds a Member on his side objects. I always ask the action be vitiated.

The Senator from Colorado will be protected. I would hope we do not slow the Senate down in its legitimate operations.

Mr. ARMSTRONG. Mr. President, at no time did the Senator from Colorado suggest to the contrary. As a matter of fact, no one could agree more wholeheartedly with the majority leader's statement.

The acting minority leader can be depended upon to consciously protect the rights of the minority.

For that matter, I say to my colleagues that on every occasion of which the Senator from Colorado is aware the distinguished majority leader himself has gone out of his way to protect the rights of individual Members on both sides of the aisle.

I raised no question to the contrary. I brought up no objection, and expressed a concern. It may be a concern which is ill founded, but I thought it proper to express it at this time.

I have not raised an objection and do not raise one now.

Mr. McCLURE addressed the Chair.

Mr. STEVENS. I think the Senator from Colorado knows, Mr. President, we have staff members on each of the committees that we not only rely upon, the ranking members, to clear the bills, but we rely on the minority staffs to inform us that they have examined the bills and give us their assurance the bills are proper to be placed on the Consent Calendar.

So there is a double check on these.

As the majority leader stated, at times I have been forced to go to the majority leader and state to him that an objection that had not reached us in time had been lodged by a minority Member, and we have rescinded action.

There has never, to my knowledge, ever been a refusal to do so on the part of the majority leader.

But I do hope we will persist and get these bills passed because several Members have bills they wish to get passed tonight and we would like to get them to the House, since the House is going out, some with amendments, but the Senate must get them over there tonight if they are to be passed.

Mr. ROBERT C. BYRD. I am sure that one day the distinguished and lovable Senator from Colorado will have a bill he would like to get passed by unanimous consent and the majority leader will try to accommodate him. He will then see how important it is that these measures, to which there is no objection that has been lodged, have been carefully scrutinized by the committee and the screening groups on both sides, so that the Senator is amply protected and the Senate amply protected.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, let me say at the outset that I understand the concern that the able Senator from Colorado was expressing. I sometimes have expressed the same concern.

I would say, however, that up to the last bill passed, they have all been on the calendar for at least 3 days and there are some that have been there more than 3 days, on which there was some problem or some concern expressed that they not be called up for consideration.

The last one has been on the calendar for only 2 days. The remainder of those, I think down through Calendar Order No. 566, have been on the calendar for at least 2 days. The last three items have been on the calendar for 1 day, and, in each instance, those on 3 days in the normal course of affairs, during any other part of the session, if there were no controversy, this procedure would be followed at some point during the day and they would be passed, whether or not there was anyone here, after 3 days have passed and nobody expressed an interest.

So what the majority leader stated with respect to those down through Calendar No. 543 is almost precisely what would happen in any other stage of the session.

As the Senator from Colorado knows, we do hope to recess and go into the pro forma sessions if we can complete work on the Chrysler bill tonight. I share the concern of the Senator from Colorado with respect to unprinted bills or unprinted reports. They, however, occupy a different position from those of the bills on the calendar and which the majority leader is now attempting to pass.

I would indicate, too, that the 3-day rule does provide, by rule, that the majority leader and the minority leader can waive the 3-day rule if the circumstances warrant such a waiver.

So the policies being followed on the calendar to this point are not exceptions from the ordinary practice, nor violations of the rule.

I am one who likes to adhere to the 3-day rule if, as a matter of fact, there is no reason to depart from it.

I think that is just good practice, I am happy to say that both the majority leader and the minority leader respect that request on my part.

We do have a condition now where we will not have a full 3 days for the items numbered on the calendar from 544 through 566, on which only 2 days are available, and if we consider the last three, there is only 1 day available for consideration of those last three items.

That is provided for in the rules. The bills are available. They have been reported. I do not know of any controversy on the three.

But, certainly, the Senator is within his rights to request some consideration of the 3-day rule with respect to each of the items from 544 forward.

But, again, as he said often on the conference report question, his desire is that the conference report be available for no less than 24 or 48 hours.

The items 544 through 566 have been available for at least 48 hours. Items 569, 570, and 571 have been available at least 24 hours.

We are not quite in the precise situation that causes the Senator's major concern and has been the source of much of the difficulty to which he may make reference later this evening.

I thank the Chair.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

RELEASE OF AMERICAN HOSTAGES IN IRAN—SENATE RESOLUTION 318

The Senate continued with the consideration of Senate Resolution 318.

Mr. STEVENS. Mr. President, I ask unanimous consent that the resolution on Iran show that every Member of the Senate on this side of the aisle is listed as a cosponsor.

Mr. ROBERT C. BYRD. Mr. President, I believe I am correct in saying that 100 Members of the Senate, the total membership of the Senate, has cosponsored the resolution.

I am ready for a vote on the resolution.

The PRESIDING OFFICER. Without objection, the request of the Senator from Alaska is agreed to.

The question is on agreeing to the resolution, Senate Resolution 318.

The resolution was agreed to.

The preamble was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, very few measures are cosponsored by 100 Senators. I do not recall the last time when a measure was cosponsored by 100 Senators, but this measure has been cosponsored by 100 Senators.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, it will be the plan of the leadership to proceed with the Chrysler legislation yet this evening.

I yield to my distinguished senior colleague.

The PRESIDING OFFICER. The Senator from West Virginia.

A REBIRTH OF INDIVIDUAL RESPONSIBILITY

Mr. RANDOLPH. Mr. President, I had the privilege a few days ago of addressing a workshop on citizenship education. The concerned citizens present were from many sections of our country.

During that talk, which was held at the National 4-H Center just outside the District of Columbia proper, it was my opportunity and responsibility to stress voting apathy. I believe there is an overriding need for a rebirth of individual responsibility in this country.

In the 1976 elections in the United States, 38 percent of the eligible voters of this Republic exercised the right of the franchise. The ballot is not a piece of paper. It is a franchise of freedom in the truest sense of the word. It is, of course, a privilege; but without the privilege being exercised with the act of responsibility at the polls, the privilege ceases to exist.

In the congressional elections of 1978, we had not 38 percent, as 2 years prior, but rather fell or dropped to 34 percent of the eligible voters of this country casting their ballots. I am gratified to report that, in the balloting for U.S. Senate in West Virginia, the eligible voting population of our State cast 54 percent of our eligible voters. The State ratio was approximately 45 percent. In my home county, on November 7 of last year, our voter participation was well over the State average, with approximately 54 percent of the registered voters casting their ballots.

Failure to vote, in a sense, indicates a deterioration of the body politic in the United States of America. It is proof positive that we are deteriorating as a country, from the standpoint of the use of the ballot—the ballot at every political subdivision in this country.

We are becoming a nation in which the majority does not call the shots over the minority. Actually, the majority of the minority over the minority is electing or not electing the officials of this country.

In my address, I took occasion to make certain comparisons with Iran. Mr. President, my address was as follows:

A REBIRTH OF INDIVIDUAL RESPONSIBILITY

Gathered here are enlightened educators and ardent advocates of responsible citizenship—believers in the strong legacy and positive future of our nation. You have our commendations for your presence and your efforts.

We are participants in a Workshop on the Definition, Development, and Process of Citizenship Education. It is appropriate, I believe, for us to reflect on thoughts expressed by the Father of our Country, George Washington, in his farewell address, after serving as our first President. Washington's words were correct then, are correct now, and will be correct in the future. He declared that "Citizens by birth, or choice, of a common country, that country has the right to concentrate your affections."

These words present a challenge—to Members of the Congress, Government officials, all citizens of the United States—a challenge to recognize and respond to a very solemn obligation—a responsibility of the first order.

What is implied in Washington's challenge? Each citizen, I believe, must make a personal commitment to participate in our Government and its processes.

The ballot is provided in our democratic form of Government to assure that participation. Through it, citizens can fulfill their most basic responsibility.

The right to vote carries with it the responsibility to cast the ballot. I emphasize the right to vote. Our Founding Fathers did not make the vote a privilege—but a right with the concomitant responsibility that it be exercised. If not exercised—this right will diminish and deteriorate—eventually ceasing to exist.

Our right to vote is an inviolate legacy of our Founding Fathers. Set forth in article I, section 2 of the Constitution it has been subsequently protected, affirmed, and expanded by the 15th, the 19th, the 24th, and the 26th amendments to that document, including numerous judicial decisions.

The last amendment, the 26th, guaranteed the right to vote to all citizens 18 years of age or older. First introduced in the House of Representatives in 1942, by your speaker, it finally received the necessary two-thirds vote of both Houses of the Congress in 1971. Ratification by the necessary 38 States took only 90 days.

All citizens in the Republic—male or female, white or black—who are 18 years of age or older have the right to vote—to exercise our cherished franchise * * * the franchise of freedom * * * the franchise of duty.

In 1960, 64 percent of the eligible electorate cast their ballots for a President of the United States.

In 1976 only 54 percent cast votes for a President.

In 1962, 46 percent voted in congressional elections.

Please listen. In 1978, only 34 percent of our Nation's voters exercised their responsibility.

This represents a modern low for voter turnout. The youth vote was less than 20 percent.

George Gallup recently conducted a poll which further emphasizes a decline of political and civic awareness in our Nation's youth. Only about 3 teens in 10 can name the three President's who preceded President Carter. Only 15 percent know the approximate size of the current U.S. population. A basic civil illiteracy appears to be present throughout our youth population.

I was particularly distressed by a Washington, D.C., Post article approximately 1 year ago reporting that a school bond referendum had passed in Fairfax County, Va. Only 15 percent of the relatively affluent, well educated residents of that county had gone to the polls.

Less than 28 percent of President Carter's fellow citizens voted for him in the Presidential election of 1976.

Less than 3 of every 10 eligible voters chose the President.

Mayor Koch was the choice of less than 12 percent of New York City's electorate.

Our Declaration of Independence provides for a government "of the people, for the people, and by the people." If the habit of good citizenship and civic virtue which have made our Nation strong over the years continues to wane, we will become a government of the few, by the few, and for the few.

And now let us consider a national tragedy of our own making or unmaking.

The voters of the United States no longer establish policy and elect our leaders and representatives by a majority vote. A majority of the minority are serving this function—setting the course for the majority who choose not to vote. I submit that, as a Nation, we are courting disaster if we are not able to reverse this trend. Education for citizenship is a priority.

Voter participation is critically important to sustaining a democracy. Democracy, by definition, is a participatory process, its continuing integrity is dependent on the active involvement of its members. Our democratic system relies on the collective wisdom of its members to provide the rule of order. The U.S. Supreme Court, the U.S. Senate and the U.S. House of Representatives, corporate boards and stockholders, the city council, the American electorate—in all these bodies, as in general elections, the democratic process draws a consensus for the common good from the often polarized views of individuals or groups. This system has and will continue to serve us well so long as apathy does not result in rule by a few.

Political apathy threatens our democratic institutions. We must assail it. Success in countering political apathy, however, will not result from a Federal program, or proclamations from Washington. Only the engenderment and development, yes, the rebirth of individual responsibility, will reverse this tragic trend.

This workshop's participants will, understandably and earnestly, direct their energies toward efforts to be initiated in our elementary and secondary educational systems. Such an orientation is sound. During that experience life patterns and social and political awareness are formed.

We would be remiss however, and our efforts would be incomplete, were they to halt there. A citizenship education program—to be effective—must reach all Americans—of all ages. Youth will learn the importance and meaning of civic participation best when the educational curriculum is reinforced through the example of their parents.

In the 95th Congress, I introduced legislation to provide Federal financial assistance and technical support to local and State efforts to promote citizenship education. In this Congress I have delayed introducing legislation in anticipation of this workshop. I am hopeful that a consensus will arise from this conclave on the definition of citizenship education and how the concepts it embraces might best be implemented.

To be sure, I have my views. I feel, however, that the collective mind and heart are most often more productive than a single mind. I look to this assemblage of committed citizens from across America to call on their experience and knowledge in formulating the future of citizenship education—in order to make secure our democratic form of Government.

It is a challenge, a challenge presented almost two centuries ago. George Washington met the challenges of his times. We must meet our challenges. We must sound the clarion call. We must organize the crusade. We must formulate educational programs for a workable citizenship effort. The positive result will be a stronger America and hopefully a better world.

In observing current events the import of this workshop's subject matter is brought to focus. These are critical times. We are witnessing evidence of tragedies which do occur in the absence of individual responsibility. Hordes of a foreign country's citizens exhort profanities on our Republic while 50 Americans are held hostage by a tyrannical regime.

The extent of the influence exercised by the ayatollah and the Shiite hierarchy over Iranians is not understood.

Beneath the ayatollahs are hundreds of Vicars who pass judgment on both religious and public affairs. Below the Vicars are approximately 180,000 Mullahs, one for every 200 citizens, who minister directly to the people and between the Mullahs and the Vicars are an additional 100,000 religious men known as "Hafez" working directly with the population.

Can an Iranian citizen exercise individual responsibility in this climate? It is very doubtful.

A select few, the ayatollahs, do all the thinking for an entire nation. The radical and irrational behavior of the Iranian citizenry is, I believe, the product of a lack of individual thought and independent expression.

There is no parallel between Iran and our Nation. The dangers, however, inherent in a breakdown of individual responsibility, are vividly portrayed by events in Iran.

Mr. President, that is the conclusion of the address.

Mr. President, I just read a news article a few days ago concerning a 103-year-old gentleman who had to overcome many problems to be at the polls.

Mr. President, I ask unanimous consent that this beautiful example of citizenship be printed in the Record at this point in my remarks.

There being no objection, the article was ordered to be printed in the Record, as follows:

No Apathy Here

Voter apathy? Well, maybe for some folks.

But not for Ed Coleman, who lives in a rural area of South Carolina.

In a recent special primary election, Coleman left home at 6 a.m. to walk the 2½ miles to Spartanburg to cast his ballot.

"I couldn't get anyone to drive me to vote," Coleman told the press. "I decided I was going to get there if I had to crawl, which I just about did."

It took him 4½ hours to make the trek.

You see, Ed Coleman is 103 years old.

Mr. RANDOLPH. Mr. President, Ed Coleman voted—this man, past a century of living, cast his opinions on this good Earth. I believe, regardless of how he voted, or to what party he holds allegiance, it is a better Earth because he voted.

Mr. President, in the spirit of Christmas, I appreciate this gift of citizenship and I hope to reach Ed Coleman by telephone and just say, "Thanks for being at the polls."

QUORUM CALL

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THIRTY-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, the Senate is awaiting the conference report from the House of Representatives on the Chrysler legislation.

I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 8:55 p.m. recessed until 9:25 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Ford).

FIFTEEN-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for another 15 minutes.

There being no objection, the Senate, at 9:25 p.m., took a recess until 9:40 p.m.; whereupon the Senate reassembled, when called to order by the Presiding Officer (Mr. Ford).

RECESS FOR 10 MINUTES

Mr. ROBERT C. BYRD. Mr. President, the Senate is awaiting action by the House on the conference report on the Chrysler matter. That matter is before the House at this time. I beg the indulgence of Members.

I ask unanimous consent that the Senate stand in recess for 10 minutes.

There being no objection, the Senate, at 9:40 p.m., recessed until 9:50 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Ford).

ORDER FOR VOTE AT 10:15 P.M. TONIGHT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent as in executive session that at 10:15 p.m. tonight, the Senate proceed to vote on Philip Klutznick to be Secretary of Commerce.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the calendar beginning with new reports on page 2 and going through page 3, with the exception of Calendar Order No. 535.

There being no objection, the Senate proceeded to the consideration of the executive business.

Mr. ROBERT C. BYRD. Mr. President, if the distinguished acting Republican leader has no objection, I ask unanimous consent that the nominees be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

Department of Energy

George Fumich, Jr., of Virginia, to be an Assistant Secretary of Energy (Fossil Energy).

George W. Cunningham, of Tennessee, to be an Assistant Secretary of Energy (Nuclear Energy).

Leslie J. Goldman, of Illinois, to be an Assistant Secretary of Energy (International Affairs).

Thomas Eugene Stelson, of Georgia, to be an Assistant Secretary of Energy (Conservation and Solar Applications).

Hazel Reid Rollins, of the District of Columbia, to be Administrator of the Economic Regulatory Administration.

Edward Allan Frieman, of New Jersey, to be Director of the Office of Energy Research.

Department of the Treasury

Michael E. Witt, of Colorado, to be Assayer of the Mint of the United States at Denver.

Department of Housing and Urban Development

Victor Marrero, of New York, to be Under Secretary of Housing and Urban Development.

Department of Transportation

Susan J. Williams, of Virginia, to be an Assistant Secretary of Transportation.

William B. Johnston, of Virginia, to be an Assistant Secretary of Transportation.

Federal Emergency Management Agency

Richard J. Green, of New Jersey, to be an Associate Director of the Federal Emergency Management Agency.

SUPPORT FOR THE CONFIRMATION OF MR. GEORGE FUMICH AS ASSISTANT SECRETARY OF ENERGY FOR FOSSIL ENERGY

Mr. ROBERT C. BYRD. Mr. President, I want to express my hearty support for the nomination and confirmation of Mr. George Fumich as Assistant Secretary of Energy for Fossil Energy.

The Department of Energy and the country are fortunate to have a man of Mr. Fumich's abilities and background in this era of energy shortage and crisis, and his appointment to serve in this position of responsibility is especially fortuitous. George Fumich was reared in the coalfields of northern West Virginia, and is himself the son of a coal miner. Between high school and college, George Fumich worked in a coal mine and is to this day a member of the United Mine Workers.

In undergraduate school at West Virginia University, he was elected president of the student body, and after earning his baccalaureate degree, he continued his education in the College of Law at Morgantown, from which he graduated in 1948. Subsequently, Mr. Fumich served as an attorney for the Christopher Coal Co., from 1948 until 1961, when he was named the first Director of the Office of Minerals Exploration in the U.S. Department of the Interior. When the Office of Coal Research was merged into the Energy Research and Development Administration in 1963, George Fumich served as both the Director and Associate Director of the Office from 1963 until 1975. In that year, he was named Acting Director of the senior staff of the Division of Fossil Energy within ERDA, and when ERDA became part of the new Department of Energy in 1977, George Fumich was appointed Program Director for Fossil Energy. Prior to his nomination to the Assistant Secretaryship, he has been serving as the Acting Assistant Secretary.

Mr. President, George Fumich has demonstrated throughout his career an outstanding ability to fulfill the numerous responsibilities that have been his, and I think the President was wise in nominating him to the position of Assistant Secretary and the Committee on Energy and Natural Resources was judicious in reporting this nomination out speedily. I am confident that George Fumich will be an excellent asset in our efforts to achieve energy self-sufficiency in the months ahead.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I move en bloc to reconsider the vote by which the nominations were confirmed en bloc.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, there are certain other nominations that have been cleared for action on both sides. I ask unanimous consent that the Senate proceed to the consideration of J. Jackson Walter of Florida to be Director of the Office of Government Ethics; Sanford M. Litvack to be Assistant Attorney General; John J. Partington to be U.S. marshal for the District of Rhode Island; various nominations under the Department of the Navy; and various other military nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. And Homer E. Moyer, Jr., of the District of Columbia to be General Counsel of the Department of Commerce; Luther H. Hodges, Jr., to be Deputy Secretary of Commerce, and James V. Day of Maine to be a Federal Maritime Commissioner.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed.

The nominations considered and confirmed en bloc are as follows:

James V. Day, of Maine to be a Federal Maritime Commissioner.

Luther H. Hodges, Jr., of North Carolina, to be Deputy Secretary of Commerce.

Homer E. Moyer, Jr., of the District of Columbia, to be General Counsel of the Department of Commerce.

J. Jackson Walter, of Florida, to be Director of the Office of Government Ethics.

Sanford M. Litvack, of New York, to be an Assistant Attorney General.

John J. Partington, of Rhode Island, to be U.S. Marshal for the District of Rhode Island.

Joseph A. Doyle, of New York, to be an Assistant Secretary of the Navy.

Rear Adm. Robert F. Schoultz, U.S. Navy, to be vice admiral.

Vice Adm. Clarence R. Bryan, U.S. Navy, to the grade of vice admiral on the retired list.

Vice Adm. Robert P. Coogan, U.S. Navy, to the grade of vice admiral on the retired list.

Frank A. Camm, of Virginia, to be an Associate Director of the Federal Emergency Management Agency.

Various nominations in the U.S. Navy and U.S. Air Force, which were ordered to lie on the Secretary desk.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider en bloc the vote by which the nominations were confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I yield to the Senator from California.

THE WHITE HOUSE PRESERVATION FUND

Mr. CRANSTON. Mr. President, I ask unanimous consent for the immediate consideration of House Joint Resolution 462 which has been held at the desk. It is totally cleared on all sides. It is a noncontroversial resolution expressing the sense of Congress concerning the White House Preservation Fund and simply urges the support of the American people in its nonpartisan program to raise an endowment.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 462) expressing the sense of Congress concerning the White House Preservation Fund.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limitation of 5 minutes thereon not including any amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I have already explained the resolution. It simply states that the White House Preservation Fund is deserving of the encouragement and support of the American people in its nonpartisan program to raise an endowment to assure a permanent collection of and perpetual care for furniture, paintings, decorative art, and representative craftsmanship at the highest quality and of the most historical significance.

The PRESIDING OFFICER. Without objection, the resolution will be considered as having been read twice by its title.

Is there objection to the present consideration of the joint resolution?

Mr. CRANSTON. I yield back my time, Mr. President.

The PRESIDING OFFICER. The question is on third reading and passage of the joint resolution.

The joint resolution was ordered to a third reading, read the third time, and passed.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the resolution was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. 545 through 548, 550 through 560, 562, 563, 565, 566, and 571, but I ask that the clerk proceed with Calendar Orders Nos. 565 and 566.

The PRESIDING OFFICER (Mr. BOREN). Without objection, it is so ordered.

NATIONAL ARBOR DAY

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk will read as follows:

A joint resolution (S.J. Res. 40), to authorize the President to proclaim annually the last Friday of April as "National Arbor Day."

The Senate proceeded to consider the bill.

Mr. WILLIAMS. Mr. President, as the principal sponsor of Senate Joint Resolution 40, I am delighted that the Judiciary Committee has approved this resolution and brought it before the full Senate. I am particularly grateful to the distinguished committee chairman (Senator Kennedy) and the distinguished Senator from Indiana (Senator Bayh) for their help in expediting action on Senate Joint Resolution 40.

This resolution would authorize the President to declare a "National Arbor Day" the last Friday in April of each year. Such an observance, already celebrated in virtually all the States, would focus nationwide attention on the importance of trees.

Besides providing us with paper, building materials and countless other forest products, trees are environmental, esthetic, and energy assets. They absorb air and noise pollution, and help to control wind and soil erosion. They help to reduce energy costs, not only by serving as a source of fuel, but also, when planted near homes and buildings, by cushioning extremes of heat and cold. Trees bring beauty to rural and urban landscapes, provide recreation, and generally improve the quality of life. They symbolize life, strength, renewal, and the promise that the Earth will endure.

Unfortunately, trees are disappearing from cities and from the countryside at an alarming rate. The U.S. Department of Agriculture estimates that 2 million acres of rural forestland is lost each year to highways and urban development. Urban trees are succumbing to local budget cuts, disease, and pollution.

I believe we need to make a pledge to future generations that we will plant and maintain trees; that we will be wise stewards of the Earth. The passage of this National Arbor Day resolution would be such a pledge, renewed each year.

Mr. President, I urge my colleagues to give their full support to Senate Joint Resolution 40.

The resolution was considered and agreed to, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue annually a proclamation designating the last Friday of April "National Arbor Day" and calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JOINT FUNDING SIMPLIFICATION ACT

The **PRESIDING OFFICER.** The next bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1835) to extend the Joint Funding Simplification Act of 1974.

The Senate proceeded to consider the bill.

Mr. SASSER. Mr. President, I call the attention of my colleagues to S. 1835, my bill to extend the Joint Funding Simplification Act of 1974 for 5 years. This legislation allows State and local governments and nonprofit organizations to consolidate Federal grant resources to simplify administration, thereby reducing costs and paperwork. This authorization will expire in February of 1980 unless this legislation is renewed.

Both the Office of Management and Budget and the General Accounting Office have studied the implementation of this legislation. In reports issued to the Governmental Affairs Subcommittee on Intergovernmental Relations, both agencies have recommended that the Joint Funding Simplification Act be extended.

The subcommittee has held 3 days of hearings this year on overall reform of the Federal grant system. The testimony of several witnesses indicated that, while joint funding is but one of the steps needed to streamline the categorical grant system, it is an integral part of such reform.

Joint funding helps States and localities to plan for the most effective use of their Federal aid. For example, in the State of Kentucky, joint funding has helped sub-State planning districts to eliminate 130 State contracts, 91 Federal-State applications and 240 separate Federal, State and local documents of various kinds. This paperwork has been reduced to one application form, one financial and narrative report, and one completion report to meet the requirements of eight Federal and six State agencies. These programs are administered with one basic fiscal year with one monitoring and accounting system.

The State of Kentucky estimates a savings to taxpayers of $1.2 million per year in administrative costs for Federal and State programs which fund their sub-State planning districts. This kind of savings is the real goal of joint funding: More dollars spent for program priorities instead for overhead.

Mr. President, in my State of Tennessee, the city of Chattanooga uses the joint funding process to finance the operation of a multipurpose human resources center. And Pat Rose, mayor of Chattanooga, estimates that the joint funding process has enabled the city to save about 25 percent of the administrative costs of the programs included in their joint funding package.

The success story in Kenutcky has been repeated around the country in 22 joint funding projects now in operation in 17 States: In places like Maine, Virginia, Arizona, Tennessee, and Washington State. Without objection, I would like the list of those joint funding projects now in existence to be printed in the Record at the conclusion of my remarks.

Despite the number of projects which have attained cost savings and eliminated paperwork through the use of joint funding, both the GAO and OMB noted in their reports that there have been problems in its implementation.

In an August 27, 1979, letter to me, James T. McIntyre, Jr., Director of the Office of Management and Budget, recommended extending the Joint Funding Simplification Act. However, in making this recommendation he noted that:

> This office found that although there have been several successful projects . . . inadequate measures were taken to implement joint funding to build on successful programs, and to translate less effective experiences into timely redirection or resolution. We believe, however, that necessary corrective administration actions can be taken to achieve meaningful implementation of the Act.

The administrative changes to strengthen Federal joint funding procedures were outlined in a work program submitted to the Subcommittee on Intergovernmental Relations by OMB on May 29, 1979. These changes will better enable OMB to direct joint funding projects undertaken by the Federal agencies, and will encourage the agencies themselves to facilitate the use of joint funding procedures.

I would like to point out that, while joint funding will be considerably strengthened by the procedures suggested in the OMB work plan and in their report to Congress on the implementation of joint funding, not all of the current problems can be resolved administratively. Important legislative improvements to the act are contained in S. 878 and S. 904, two pieces of legislation now before the Subcommittee on Intergovernmental Relations which will be considered in early 1980.

However, while I believe that the Joint Funding Simplification Act needs these legislative improvements to further strengthen the administrative actions suggested by OMB, the program cannot be allowed to lapse before the necessary changes are considered. That is the reason I ask that this legislation be passed today.

Joint funding is a unique Federal program which has as its major objective cutting costs and reducing redtape. The Congressional Budget Office has reported that increased participation in joint funding projects by State or local governments and private, nonprofit organizations will result in a costs savings because fewer reports and less staff time would be required to administer joint funding projects.

Mr. President, I ask unanimous consent to have printed in the Record a list of joint funding projects now in existence.

There being no objection, the list was ordered to be printed in the Record, as follows:

Joint Funding Projects Now in Existence

Region I

Greater Portland Council of Governments, Maine.

Rhode Island Statewide Planning Project, Rhode Island.

Regional Planning Project, Charleston, West Virginia.

Portsmouth Southside Redevelopment, Portsmouth, Virginia.

Water System, City of Williamson, West Virginia.

Scranton Allied Services, Scranton, Pennsylvania.

Health Services Center, Boone County, West Virginia.

Meadville Industrial Park, Pennsylvania.

Three Mile Island Project, Pennsylvania.

Lewisburg Project, West Virginia.

REGION IV

Atlanta Regional Commission, Atlanta, Georgia.

Chattanooga Human Services Department, Chattanooga, Tennessee.

South Carolina Appalachian Regional Commission, Columbia, South Carolina.

State of Kentucky Economic Development Planning Program, Kentucky.

North Georgia Area Planning and Development Commission.

REGION VI

Cheyenne-Arapaho Tribe, Oklahoma.

REGION VII

Omaha Indian Reservation Water System, Macy, Nebraska.

Hayti-Heights Wastewater System, Missouri.

REGION IX

Arizona State Planning Project, Arizona.

Sacramento Regional Planning Council, California.

Salt River Pima-Maricopa Indian Tribe, Arizona.

REGION X

Puget Sound Council of Governments, Washington.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 13 of the Joint Funding Simplification Act of 1974 is amended by striking out "five" and inserting "ten".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that we now proceed to the consideration of Calendar Order Nos. 562 and 571 out of the list aforementioned.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

BEAR RIVER COMPACT

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1489) to consent to the amended Bear River compact between the States of Utah, Wyoming and Idaho.

The Senate proceeded to consider the bill.

Mr. McCLURE. Mr. President, as an original cosponsor of S. 1489, which gives congressional approval to the Bear River Compact, between the States of Idaho, Utah, and Wyoming, I am pleased to have the opportunity to say a few words in support of the measure. The Bear River rises in Utah, flows north and west through Wyoming and Idaho and returns to Utah. This agreement is an effort by these States to answer among themselves questions as to their fair share of appropriations from the flow of this stream. I want to take this opportunity to state on the record not only my support for the bill, but equally importantly my conviction that this approach is certainly the way to handle these important questions concerning watersheds and streams flowing through several States.

Recently we have experienced a drastic alteration in our traditional thinking on water policy and control. This process is being pushed along by an administration bent on changing these traditional concepts, and quite frankly I am thoroughly disgusted and a little frightened by this attitude.

Water has always been in short supply in the West. Our water supply is indeed increasingly limited, but this should and must not be the impetus for Federal usurpation of the traditional right and role of the States to control their own water and water systems.

Our water policy has developed over a long period of years as a result of the needs, pressures, and demands of an expanding nation. Enactment of the Homestead Act, the Desert Lands Act, the Carey Act, and the Reclamation Act contributed significantly to the settlement, growth and prosperity of the Western United States, and so to the wealth and economic well-being of the entire Nation. There is nothing new about the Federal involvement with water, but it is the recent direction and intensity of that involvement which has forced us to the point of confrontation. And the thing most troubling about this attack is the apparent lack of understanding by the administration of the concepts it seeks to supplant.

For example, the Federal Government has always asserted that water rights for Federal reservations of land are preserved in perpetuity to carry out the purpose of the reservation. For some time I have suggested that a quantification of these Federal reserved rights might be helpful. But the legal opinion issued this summer by the Solicitor of the Department of the Interior on the subject goes much further by asserting the existence of a Federal nonreserved water right for Federal purposes, including maintenance of instream flows for recreational and aesthetic reasons. This is an absolutely, totally unacceptable assault on the States and their right and power to deal with basic social and political objectives. These Federal rights, according to the Solicitor, are implied by statute and any legislation enacted by Congress to accomplish management objectives on Federal lands preempts conflicting State regulations and laws. His assurances that in quantifying and perfecting these nonreserved Federal rights, the Federal Government will follow State procedural law are not very comforting in light of his further position that if the State does not recognize instream flow as a beneficial use or rejects a Federal application, the issue will be decided in Federal court. It is almost as if the Solicitor were saying, "We'll play by your rules as long as you let us win."

The thrust of the document is to destroy the traditional role of the States in controlling and regulating their own water resources. This administration's actions have been consistently pointed toward more and more Federal intervention and control of all phases of water use.

The challenge to the States is whether their citizens will continue to control their own destinies, to make their own decisions, to decide for themselves what their priorities should be. More and more decisions are being made for them by others who claim ownership and dominion over the public land within their borders. Now they are beginning to claim the waters of the West as well. I intend to continue to assert that the citizens of my State are not second class citizens because the Federal Government retains title to lands within her borders, and that they have a unique right to make decisions even though they affect public lands because they alone have the largest stake in the outcome of those decisions.

I am perfectly confident that the States are well able to administer their water resources and to do it in such a way that complements a policy of national water needs and goals they help to determine. The success of the Bear River compact proves that can be the case. I am not yet willing to accept the notion that our resource must be managed and allocated by the Federal Government alone because that may be the most efficient way of meeting a shortage. Nothing could be further from the truth.

No matter how archaic and inconsistent some people argue State water law systems are, they are at the very base of property rights in 18 Western States. It would be a serious mistake to overturn long-established rules and laws because of current pressures to recognize other needs. Any attempt by the Federal Government to assert jurisdiction and authority to reallocate or establish new priorities for water usage in the Western States should meet with total disapproval. That does not mean we cannot work together to solve mutual problems; but it does mean we will not be separated from our deep-rooted history of water resource management to accept a federally controlled system which is totally unnecessary.

Clearly an agreement such as the Bear River compact is proof positive that States do not need the Federal Government to referee questions of water rights between them. They are fully capable of deciding these questions among themselves if they are left to do it. I congratulate the States involved in the Bear River compact for their work. I am proud and gratified that one of them is my own.

Mr. HATCH. Mr. President, as an original cosponsor, I am pleased to see this go through this evening.

There are now approximately 500 irrigation organizations which own and operate separate irrigation systems in the basin supplying irrigation water for half a million acres of land. There are presently five hydroelectric powerplants on the Bear River system with a total generating capacity of 125.5 megawatts, owned and operated by Utah Power and Light Co. Municipal and industrial withdrawals for a population of 100,000 according to the 1970 census are also made in the basin. The National Bear River Migratory Bird Refuge is located at the mouth of the Bear River.

Of course this is important for all of us in the three States, Idaho, Utah, and Wyoming, for allocating water of the Bear River Basin as a result of 10 years of negotiation among the three States.

Mr. President, the distinguished senior Senator from Utah (Mr. GARN) has been working in the conference on the Chrysler bill or he would otherwise have been here to make a statement. We are pleased to have this go through right now because we think it will benefit all three States and, indirectly, the rest of the country.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1489

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is given to the amended Bear River Compact between the States of Idaho, Utah, and Wyoming. Such compact reads as follows:

"AMENDED BEAR RIVER COMPACT

"The State of Idaho, the State of Utah, and the State of Wyoming, acting through their respective Commissioners after negotiations participated in by a representative of the United States of America appointed by the President, have agreed to an Amended Bear River Compact as follows:

"ARTICLE I

"A. The major purposes of this Compact are to remove the causes of present and future controversy over the distribution and use of the waters of the Bear River; to provide for efficient use of water for multiple purposes; to permit additional development of the water resources of Bear River; to promote interstate comity; and to accomplish an equitable apportionment of the waters of the Bear River among the compacting States.

"B. The physical and all other conditions peculiar to the Bear River constitute the basis for this Compact. No general principle or precedent with respect to any other interstate stream is intended to be established.

"ARTICLE II

"As used in this Compact the term

"1. 'Bear River' means the Bear River and its tributaries from its source in the Uinta Mountains to its mouth in Great Salt Lake;

"2. 'Bear Lake' means Bear Lake and Mud Lake;

"3. 'Upper Division' means the portion of Bear River from its source in the Uinta Mountains to and including Pixley Dam, a diversion dam in the Southeast Quarter of Section 25, Township 23 North, Range 120 West, Sixth Principal Meridian, Wyoming;

"4. 'Central Division' means the portion of Bear River from Pixley Dam to and including Stewart Dam, a diversion dam in Section 34, Township 13 South, Range 44 East, Boise Base and Meridian, Idaho;

"5. 'Lower Division' means the portion of the Bear River between Stewart Dam and Great Salt Lake, including Bear Lake and its tributary drainage;

"6. 'Upper Utah Section Diversions' means the sum of all diversions in second-feet from the Bear River and the tributaries of the Bear River joining the Bear River upstream from the point where the Bear River crosses the Utah-Wyoming State line above Evanston, Wyoming; excluding the diversions by the Hilliard East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal;

"7. "Upper Wyoming Section Diversions' means the sum of all diversions in second-feet from the Bear River main stem from the point where the Bear River crosses the Utah-Wyoming State line above Evanston, Wyoming, to the point where the Bear River crosses the Wyoming-Utah State line east of Woodruff, Utah, and including the diversions by the Hilliard East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal;

"8. 'Lower Utah Section Diversions' means the sum of all diversions in second-feet from the Bear River main stem from the point where the Bear River crosses the Wyoming-Utah State line east of Woodruff, Utah, to the point where the Bear River crosses the Utah-Wyoming State line northeast of Randolph, Utah;

"9. 'Lower Wyoming Section Diversions' means the sum of all diversions in second-feet from the Bear River main stem from the point where the Bear River crosses the Utah-Wyoming State line northeast of Randolph to and including the diversion at Pixley Dam;

"10. 'Commission' means the Bear River Commission, organized pursuant to Article III of this Compact;

"11. 'Water user' means a person, corporation, or other entity having a right to divert water from the Bear River for beneficial use;

"12. 'Second-foot' means a flow of one cubic foot of water per second of time passing a given point;

"13. 'Acre-foot' means the quantity of water required to cover one acre to a depth of one foot, equivalent to 43,560 cubic feet;

"14. 'Biennium' means the 2-year period commencing on October 1 of the first odd-numbered year after the effective date of this Compact and each 2-year period thereafter;

"15. 'Water year' means the period beginning October 1 and ending September 30 of the following year;

"16. 'Direct flow' means all water flowing in a natural watercourse except water released from storage or imported from a source other than the Bear River watershed;

"17. 'Border Gaging Station' means the stream flow gaging station in Idaho on the Bear River above Thomas Fork near the Wyoming-Idaho boundary line in the Northeast Quarter of the Northeast Quarter of Section 15, Township 14 South, Range 46 East, Boise Base and Meridian, Idaho;

"18. 'Smiths Fork' means a Bear River tributary which rises in Lincoln County, Wyoming, and flows in a general southwesterly direction to its confluence with Bear River near Cokeville, Wyoming;

"19. 'Grade Creek' means a Smiths Fork tributary which rises in Lincoln County, Wyoming, and flows in a westerly direction and in its natural channel is tributary to Smiths Fork in Section 17, Township 25 North, Range 118 West, Sixth Principal Meridian, Wyoming;

"20. 'Pine Creek' means a Smiths Fork tributary which rises in Lincoln County, Wyoming, emerging from its mountain canyon in Section 34, Township 25 North, Range 118 West, Sixth Principal Meridian, Wyoming, and in its natural channel is tributary to Smiths Fork in Section 36, Township 25 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"21. 'Bruner Creek' and 'Pine Creek Springs' means Smiths Fork tributaries which rise in Lincoln County, Wyoming, in Sections 31 and 32, Township 25 North, Range 118 West, Sixth Principal Meridian, and in their natural channels are tributary to Smiths Fork in Section 36, Township 25 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"22. 'Spring Creek' means a Smiths Fork tributary which rises in Lincoln County, Wyoming, in Sections 1 and 2, Township 24, Range 119 West, Sixth Principal Meridian, Wyoming, and flows in a general westerly direction to its confluence with Smiths Fork in Section 4, Township 24 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"23. 'Sublette Creek' means the Bear River tributary which rises in Lincoln County, Wyoming, and flows in a general westerly direction to its confluence with Bear River in Section 20, Township 24 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"24. 'Hobble Creek' means the Smiths Fork tributary which rises in Lincoln County. Wyoming, and flows in a general southwesterly direction to its confluence with Smiths Fork in Section 35, Township 28 North, Range 118 West, Sixth Principal Meridian, Wyoming;

"25. 'Hilliard East Fork Canal' means that irrigation canal which diverts water from the right bank of the East Fork of Bear River in Summit County, Utah, at a point West 1,310 feet and North 330 feet from the Southeast corner of Section 16, Township 2 North, Range 10 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the Southwest Quarter of Section 21, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"26. 'Lannon Canal' means that irrigation canal which diverts water from the right bank of the Bear River in Summit County, Utah, East 1,480 feet from the West Quarter corner of Section 19, Township 3 North, Range 10 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the South Half of Section 20, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"27. 'Lone Mountain Ditch' means that irrigation canal which diverts water from the right bank of the Bear River in Summit County, Utah, North 1,535 feet and East 1,120 feet from the West Quarter corner of Section 19, Township 3 North, Range 10 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the South Half of Section 20, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"28. 'Hilliard West Side Canal' means that irrigation canal which diverts water from the right bank of the Bear River in Summit County, Utah, at a point North 2,190 feet and East 1,450 feet from the South Quarter corner of Section 13, Township 3 North, Range 9 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the South Half of Section 20, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"29. 'Francis Lee Canal' means that irrigation canal which diverts water from the left bank of the Bear River in Uinta County, Wyoming, in the Northeast Quarter corner of Section 30, Township 18 North, Range 120 West, Sixth Principal Meridian, Wyoming, and runs in a westerly direction across the Wyoming-Utah State line in Section 16, Township 9 North, Range 8 East, Salt Lake Base and Meridian, Utah;

"30. 'Chapman Canal' means that irrigation canal which diverts water from the left bank of the Bear River in Uinta County, Wyoming, in the Northeast Quarter of Section 36, Township 16 North, Range 121 West, Sixth Principal Meridian, Wyoming, and runs in a northerly direction crossing over the low divide into the Saleratus drainage basin near the Southeast corner of Section 36, Township 17 North, Range 121 West, Sixth Principal Meridian, Wyoming, and then in a general westerly direction crossing the Wyoming-Utah State line;

"31. 'Neponset Reservoir' means that reservoir located principally in Sections 34 and 35, Township 8 North, Range 7 East, Salt Lake Base and Meridian, Utah, having a capacity of 6,900 acre-feet.

"ARTICLE III

"A. There is hereby created an interstate administrative agency to be known as the 'Bear River Commission' which is hereby constituted a legal entity and in such name shall exercise the powers hereinafter specified. The Commission shall be composed of nine Commissioners, three Commissioners representing each signatory State, and if appointed by the President, one additional Commissioner representing the United States of America who shall serve as chairman, with out vote. Each Commissioner, except the chairman, shall have one vote. The State Commissioners shall be selected in accordance with State law. Six Commissioners who shall include two Commissioners from each State shall constitute a quorum. The vote of at least two-thirds of the Commissioners when a quorum is present shall be necessary for the action of the Commission.

"B. The compensation and expenses of each Commissioner and each adviser shall be paid by the government which he represents. All expenses incurred by the Commission in the administration of this Compact, except those paid by the United States of America, shall be paid by the signatory States on an equal basis.

"C. The Commission shall have power to:

"1. Adopt bylaws, rules, and regulations not inconsistent with this Compact;

"2. Acquire, hold, convey or otherwise dispose of property;

"3. Employ such persons and contract for such services as may be necessary to carry out its duties under this Compact;

"4. Sue and be sued as a legal entity in any court of record of a signatory State, and in any court of the United States having jurisdiction of such action;

"5. Co-operate with State and Federal agencies in matters relating to water pollution of interstate significance;

"6. Perform all functions required of it by this Compact and do all things necessary, proper or convenient in the performance of its duties hereunder, independently or in cooperation with others, including State and Federal agencies.

"D. The Commission shall:

"1. Enforce this Compact and its order made hereunder by suit or other appropriate action;

"2. Compile a report covering the work of the Commission and expenditures during the current biennium, and an estimate of expenditures for the following biennium and transmit it to the President of the United States and to the Governors of the signatory States on or before July 1 following each biennium.

"ARTICLE IV

"Rights to direct flow water shall be administered in each signatory State under State law, with the following limitations:

"A. When there is a water emergency, as hereinafter defined for each division, water shall be distributed therein as provided below.

"1. Upper Division

"a. When the divertible flow as defined below for the upper division is less than 1,250 second-feet, a water emergency shall be deemed to exist therein and such divertible flow is allocated for diversion in the river sections of the Division as follows:

"Upper Utah Section Diversions—0.6 percent,

"Upper Wyoming Section Diversions—49.3 percent,

"Lower Utah Section Diversions—40.5 percent,

"Lower Wyoming Section Diversions—9.6 percent.

"Such divertible flow shall be the total of the following five items:

"(1) Upper Utah Section Diversions in second-feet,

"(2) Upper Wyoming Section Diversions in second-feet,

"(3) Lower Utah Section Diversions in second-feet,

"(4) Lower Wyoming Section Diversions in second-feet,

"(5) The flow in second-feet passing Pixley Dam.

"b. The Hilliard East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal, which divert water in Utah to irrigate lands in Wyoming, shall be supplied from the divertible flow allocated to the Upper Wyoming Section Diversions.

"c. The Chapman, Bear River, and Francis Lee Canals, which divert water from the main stem of Bear River in Wyoming to irrigate lands in both Wyoming and Utah, shall be supplied from the divertible flow allocated to the Upper Wyoming Section Diversions.

"d. The Beckwith Quinn West Side Canal, which diverts water from the main stem of Bear River in Utah to irrigate lands in both Utah and Wyoming, shall be supplied from the divertible flow allocated to the Lower Utah Section Diversions.

"e. If for any reason the aggregate of all diversions in a river section of the Upper Division does not equal the allocation of water thereto, the unused portion of such allocation shall be available for use in the other river sections in the Upper Division in the following order: (1) In the other river section of the same State in which the unused allocation occurs; and (2) in the river sections of the other State. No permanent right of use shall be established by the distribution of water pursuant to this paragraph e.

"f. Water allocated to the several sections shall be distributed in each section in accordance with State law.

"2. Central Division

"a. When either the divertible flow as hereinafter defined for the Central Division is less than 870 second-feet, or the flow of the Bear River at Border Gaging Station is less than 350 second-feet, whichever shall first occur, a water emergency shall be deemed to exist in the Central Division and the total of all diversions in Wyoming from Grade Creek, Pine Creek, Bruner Creek and Pine Creek Springs, Spring Creek, Sublette Creek, Smiths Fork, and all the tributaries of Smiths Fork above the mouth of Hobble Creek including Hobble Creek, and from the main stem of the Bear River between Pixley Dam and the point where the river crosses the Wyoming-Idaho State line near Border shall be limited for the benefit of the State of Idaho, to not exceeding forty-three (43) percent of the divertible flow. The remaining fifty-seven (57) percent of the divertible flow shall be available for use in Idaho in the Central Division, but if any portion of such allocation is not used therein it shall be available for use in Idaho in the Lower Division.

"The divertible flow for the Central Division shall be the total of the following three items:

"(1) Diversions in second-feet in Wyoming consisting of the sum of all diversions from Grade Creek, Pine Creek, Bruner Creek and Pine Creek Springs, Spring Creek, Sublette Creek, and Smiths Fork and all the tributaries of Smiths Fork above the mouth of Hobble Creek including Hobble Creek, and the main stem of the Bear River between Pixley Dam and the point where the river crosses the Wyoming-Idaho State line near Border, Wyoming.

"(2) Diversions in second-feet in Idaho from the Bear River main stem from the point where the river crosses the Wyoming-Idaho State line near Border to Stewart Dam including West Fork Canal which diverts at Stewart Dam.

"(3) Flow in second-feet of the Rainbow Inlet Canal and of the Bear River passing downstream from Stewart Dam.

"b. The Cook Canal, which diverts water from the main stem of the Bear River in Wyoming to irrigate lands in both Wyoming and Idaho, shall be considered a Wyoming diversion and shall be supplied from the divertible flow allocated to Wyoming.

"c. Water allocated to each State shall be distributed in accordance with State law.

"3. Lower Division

"a. When the flow of water across the Idaho-Utah boundary line is insufficient to satisfy water rights in Utah, covering water applied to beneficial use prior to January 1, 1976, any water user in Utah may file a petition with the Commission alleging that by reason of diversions in Idaho he is being deprived of water to which he is justly entitled, and that by reason thereof, a water emergency exists, and requesting distribution of water under the direction of the Commission. If the Commission finds a water emergency exists, it shall put into effect water delivery schedules based on priority of rights and prepared by the Commission without regard to the boundary line for all or any part of the Division, and during such emergency, water shall be delivered in accordance with such schedules by the State official charged with the administration of public waters.

"B. The Commission shall have authority upon its own motion (1) to declare a water emergency in any or all river divisions based upon its determination that there are diversions which violate this Compact and which encroach upon water rights in a lower State, (2) to make appropriate orders to prevent such encroachments, and (3) to enforce such orders by action before State administrative officials or by court proceedings.

"C. When the flow of water in an interstate tributary across a State boundary line is insufficient to satisfy water rights on such tributary in a lower State, any water user may file a petition with the Commission alleging that by reason of diversions in an upstream State he is being deprived of water to which he is justly entitled and that by reason thereof a water emergency exists, and requesting distribution of water under the direction of the Commission. If the Commission finds that a water emergency exists and that interstate control of water of such tributary is necessary, all shall put into effect water delivery schedules based on priority of rights and prepared without regard to the State boundary line. The State officials in charge of water distribution on interstate tributaries may appoint and fix the compensation and expenses of a joint water commissioner for each tributary. The proportion of the compensation and expenses to be paid by each State shall be determined by the ratio between the number of acres therein which are irrigated by diversions from such tributary, and the total number of acres irrigated from such tributary.

"D. In preparing interstate water delivery schedules the Commission, upon notice and after public hearings, shall make findings of fact as to the nature, priority and extent of water rights, rates of flow, duty of water, irrigated acreages, types of crops, time of use, and related matters; provided that such schedules shall recognize and incorporate therein priority of water rights as adjudicated in each of the signatory States. Such findings of fact shall, in any court or before any tribunal, constitute prima facie evidence of the facts found.

"E. Water emergencies provided for herein shall terminate on September 30 of each year unless terminated sooner or extended by the Commission.

"ARTICLE V

"A. Water rights in the Lower Division acquired under the laws of Idaho and Utah covering water applied to beneficial use prior to January 1, 1976, are hereby recognized and shall be administered in accordance with State law based on priority of rights as provided in Article IV, paragraph A3. Rights to water first applied to beneficial use on or after January 1, 1976, shall be satisfied from the respective allocations made to Idaho and Utah in this paragraph and the water allocated to each State shall be administered in accordance with State law. Subject to the foregoing provisions, the remaining water in the Lower Division, including ground water tributary to the Bear River, is hereby apportioned for use in Idaho and Utah as follows:

"(1) Idaho shall have the first right to the use of such remaining water resulting in an annual depletion of not more than 125,000 acre-feet.

"(2) Utah shall have the second right to the use of such remaining water resulting in an annual depletion of not more than 275,000 acre-feet.

"(3) Idaho and Utah shall each have an additional right to deplete annually on an equal basis, 75,000 acre-feet of the remaining water after the rights provided by subparagraphs (1), and (2) above have been satisfied.

"(4) Any remaining water in the Lower Division after the allocations provided for in subparagraphs (1), (2), and (3) above have been satisfied shall be divided; thirty (30) percent to Idaho and seventy (70) percent to Utah.

"B. Water allocated under the above subparagraphs shall be charged against the State in which it is used regardless of the location of the point of diversion.

"C. Water depletions permitted under provisions of subparagraphs (1), (2), (3), and (4) above, shall be calculated and administered by a Commission-approved procedure.

"ARTICLE VI

"A. Existing storage rights in reservoirs constructed above Stewart Dam prior to February 4, 1955, are as follows:

"Idaho	324 acre-feet
"Utah	11,850 acre-feet
"Wyoming	2,150 acre-feet

"Additional rights are hereby granted to store in any water year above Stewart Dam, 35,500 acre-feet of Bear River water and no more under this paragraph for use in Utah and Wyoming; and to store in any water year in Idaho or Wyoming on Thomas Fork 1,000 acre-feet of water for use in Idaho. Such additional storage rights shall be subordinate to, and shall not be exercised when the effect thereof will be to impair or interfere with (1) existing direct flow rights for consumptive use in any river division and (2) existing storage rights above Stewart Dam, but shall not be subordinate to any right to store water in Bear Lake or elsewhere below Stewart Dam. One-half of the 35,500 acre-feet of additional storage right above Stewart Dam so granted to Utah and Wyoming is hereby allocated to Utah, and the remaining one-half thereof is allocated to Wyoming.

"B. In addition to the rights defined in Paragraph A of this Article, further storage entitlements above Stewart Dam are hereby granted. Wyoming and Utah are granted an additional right to store in any year 70,000 acre-feet of Bear River water for use in Utah and Wyoming to be divided equally; and Idaho is granted an additional right to store 4,500 acre-feet of Bear River water in Wyoming or Idaho for use in Idaho. Water rights granted under this paragraph and water appropriated, including ground water tributary to Bear River, which is applied to beneficial use on or after January 1, 1976, shall not result in an annual increase in depletion of the flow of the Bear River and its tributaries above Stewart Dam of more than 28,000 acre-feet in excess of the depletion as of January 1, 1976. Thirteen thousand (13,000) acre-feet of the additional depletion above Stewart Dam is allocated to each of Utah and Wyoming, and two thousand (2,000) acre-feet is allocated to Idaho.

"The additional storage rights provided for in this Paragraph shall be subordinate to, and shall not be exercised when the effect thereof will be to impair or interfere with (1) existing direct flow rights for consumptive use in any river division and (2) existing storage rights above Stewart Dam, but shall not be subordinate to any right to store water in Bear Lake or elsewhere below Stewart Dam; provided, however, there shall be no diversion of water to storage above Stewart Dam under this Paragraph B when the water surface elevation of Bear Lake is below 5,911.00 feet, Utah Power & Light Company datum (the equivalent of elevation 5,913.75 feet based on the sea level datum of 1929 through the Pacific Northwest Supplementary Adjustment of 1947). Water depletions permitted under this Paragraph B shall be calculated and administered by a Commission-approved procedure.

"C. In addition to the rights defined in Article VI, Paragraphs A and B, Idaho, Utah and Wyoming are granted the right to store and use water above Stewart Dam that otherwise would be bypassed or released from Bear Lake at times when all other direct flow and storage rights are satisfied. The availability of such water and the operation of reservoir space to store water above Bear Lake under this paragraph shall be determined by a Commission-approved procedure. The storage provided for in this Paragraph shall be subordinate to all other storage and direct flow rights in the Bear River. Storage rights under this Paragraph shall be exercised with equal priority on the following basis: six (6) percent thereof to Idaho; forty-seven (47) percent thereof to Utah; and forty-seven (47) percent thereof to Wyoming.

"D. The waters of Bear Lake below elevation 5,912.91 feet, Utah Power and Light Company Bear Lake datum (the equivalent of elevation 5,915.66 feet based on the sea level datum of 1929 through the Pacific Northwest Supplementary Adjustment of 1947) shall constitute a reserve for irrigation. The water of such reserve shall not be released solely for the generation of power, except in emergency, but after release for irrigation it may be used in generating power if not inconsistent with its use for irrigation. Any water in Bear Lake in excess of that constituting the irrigation reserve may be used for the generation of power or for other beneficial uses. As new reservoir capacity above the Stewart Dam is constructed to provide additional storage pursuant to Paragraph A of this Article, the Commission shall make a finding in writing as to the quantity of additional storage and shall thereupon make an order increasing the irrigation reserve in accordance with the following table:

Lake surface elevation, Utah Power and Light Co., Bear Lake datum

[Additional storage—acre-feet]

5, 000	5, 913.24
10, 000	5, 913.56
15, 000	5, 913.87
20, 000	5, 914.15
25, 000	5, 914.41
30, 000	5, 914.61
35, 500	5, 914.69
36, 500	5, 914.70

"E. Subject to existing rights, each State shall have the use of water, including groundwater, for ordinary domestic, and stock watering purposes, as determined by State law and shall have the right to impound water for such purposes in reservoirs having storage capacities not in excess, in any case, of 20 acre-feet, without deduction from the allocation made by paragraphs A, B, and C of this Article.

"F. The storage rights in Bear Lake are hereby recognized and confirmed subject only to the restrictions hereinbefore recited.

"ARTICLE VII

"It is the policy of the signatory States to encourage additional projects for the development of the water resources of the Bear River to obtain the maximum beneficial use of water with a minimum of waste, and in furtherance of such policy, authority is granted within the limitations provided by this Compact, to investigate, plan, construct, and operate such projects without regard to State boundaries, provided that water rights for each such project shall, except as provided in Article VI, paragraphs A and B, thereof, be subject to rights theretofore initiated and in good standing.

"ARTICLE VIII

"A. No State shall deny the right of the United States of America, and subject to the conditions hereinafter contained, no State shall deny the right of another signatory State, any person or entity of another signatory State, to acquire rights to the use of water or to construct or to participate in the construction and use of diversion works and storage reservoirs with appurtenant works, canals, and conduits in one State for use of water in another State, either directly or by exchange. Water rights acquired for out-of-state use shall be appropriated in the State where the point of diversion is located in the manner provided by law for appropriation of water for use within such State.

"B. Any signatory State, any person or any entity of any signatory State, shall have the right to acquire in any other signatory State such property rights as are necessary to the use of water in conformity with this Compact by donation, purchase, or, as hereinafter provided through the exercise of the power of eminent domain in accordance with the law of the State in which such property is located. Any signatory State, upon the written request of the Governor of any other signatory State for the benefit of whose water users property is to be acquired in the State to which such written request is made, shall proceed expeditiously to acquire the desired property either by purchase at a price acceptable to the requesting Governor, or if such purchase cannot be made, then through the exercise of its power of eminent domain and shall convey such property to the requesting State or to the person, or entity designated by its Governor provided, that all costs of acquisition and expenses of every kind and nature whatsoever incurred in obtaining such property shall be paid by the requesting State or the person or entity designated by its Governor.

"C. Should any facility be constructed in a signatory State by and for the benefit of another signatory State or persons or entities therein, as above provided, the construction, repair, replacement, maintenance and operation of such facility shall be subject to the laws of the State in which the facility is located.

"D. In the event lands or other taxable facilities are acquired by a signatory State in another signatory State for the use and benefit of the former, the users of the water made available by such facilities, as a condition precedent to the use thereof, shall pay to the political subdivisions of the State in which such facilities are located, each and every year during which such rights are enjoyed for such purposes, a sum of money equivalent to the average of the amount of taxes annually levied and assessed against the land and improvements thereon during the ten years preceding the acquisition of such land. Said payments shall be in full reimbursement for the loss of taxes in such political subdivision of the State.

"E. Rights to the use of water acquired under this Article shall in all respects be subject to this Compact.

"ARTICLE IX

"Stored water, or water from another watershed may be turned into the channel of the Bear River in one State and a like quantity, with allowance for loss by evaporation, transpiration, and seepage, may be taken out of the Bear River in another State either above or below the point where the water is turned into the channel, but in making such exchange the replacement water shall not be inferior in quality for the purpose used or diminished in quantity. Exchanges shall not be permitted if the effect thereof is to impair vested rights or to cause damage for which no compensation is paid. Water from another watershed or source which enters the Bear River by actions within a State may be claimed exclusively by that State and use thereof by that State shall not be subject to the depletion limitations of Articles IV, V and VI. Proof of any claimed increase in flow shall be the burden of the State making such claim, and it shall be approved only by the unanimous vote of the Commission.

"ARTICLE X

"A. The following rights to the use of Bear River water carried in interstate canals are recognized and confirmed.

"Name of Canal	Date of priority	Primary right second-feet	Lands irrigated	
			Acres	State
Hilliard East Fork	1914	28.00	2,644	Wyoming
Chapman	8-13-86	16.46	1,155	Wyoming
	8-13-86	98.46	6,892	Utah
	4-12-12	.57	40	Wyoming
	5- 3-12	4.07	285	Utah
Chapman	5-21-12	10.17	712	Utah
	2- 6-13	.79	55	Wyoming
	8-28-05	[1] 134.00		
Francis Lee	1879	2.20	154	Wyoming
	1879	7.41	519	Utah

"[1] Under the right as herein confirmed not to exceed 134 second-feet may be carried across the Wyoming-Utah State line in the Chapman Canal at any time for filling the Neponset Reservoir, for irrigation of land in Utah and for other purposes. The storage right in Neponset Reservoir is for 6,900 acre-feet, which is a component part of the irrigation right for the Utah lands listed above.

"All other rights to the use of water carried in interstate canals and ditches, as adjudicated in the State in which the point of diversion is located, are recognized and confirmed.

"B. All interstate rights shall be administered by the State in which the point of diversion is located during times of water emergency, such rights shall be filled from the allocations specified in Article IV hereof for the Section in which the point of diversion is located, with the exception that the diversion of water into the Hilliard East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal shall be under the administration of Wyoming. During times of water emergency these canals and the Lone Mountain Ditch shall be supplied from the allocation specified in Article IV for the Upper Wyoming Section Diversions.

"ARTICLE XI

"Applications for appropriation, for change of point of diversion, place and nature of use, and for exchange of Bear River water shall be considered and acted upon in accordance with the law of the State in which the point of diversion is located, but no such application shall be approved if the effect thereof will be to deprive any water user in another State of water to which he is entitled, nor shall any such application be approved if the effect thereof will be an increase in the depletion of the flow of the Bear River and its tributaries beyond the limits authorized in each State in Articles IV, V and VI of this Compact. The official of each State in charge of water administration shall, at intervals and in the format established by the Commission, report on the status of use of the respective allocations.

"ARTICLE XII

"Nothing in this Compact shall be construed to prevent the United States, a signatory State or political subdivision hereof, person, corporation, or association, from instituting or maintaining any action or proceeding, legal or equitable, for the protection of any right under State or Federal law or under this Compact.

"ARTICLE XIII

"Nothing contained in this Compact shall be deemed

"1. To affect the obligations of the United States of America to the Indian tribes;

"2. To impair, extend or otherwise affect any right or power of the United States, its agencies or instrumentalities involved herein; nor the capacity of the United States to hold or acquire additional rights to the use of the water of the Bear River;

"3. To subject any property or rights of the United States to the laws of the States which were not subject thereto prior to the date of this Compact;

"4. To subject any property of the United States to taxation by the States or any subdivision thereof, nor to obligate the United States to pay any State or subdivision thereof for loss of taxes.

"ARTICLE XIV

"At intervals not exceeding twenty years, the Commission shall review the provisions hereof, and after notice and public hearing, may propose amendments to any such provision, provided, however, that the provisions contained herein shall remain in full force and effect until such proposed amendments have been ratified by the legislatures of the signatory States and consented to by Congress.

"ARTICLE XV

"This Compact may be terminated at any time by the unanimous agreement of the signatory States. In the event of such termination all rights established under it shall continue unimpaired.

"ARTICLE XVI

"Should a court of competent jurisdiction hold any part of this Compact to be contrary to the constitution of any signatory State or to the Constitution of the United States, all other severable provisions of this Compact shall continue in full force and effect.

"ARTICLE XVII

"This Compact shall be in effect when it shall have been ratified by the Legislature of each signatory State and consented to by Congress of the United States of America. Notice of ratification by the legislature of the signatory States shall be given by the Governor of each signatory State to the Governor of each of the other signatory States and to the President of the United States of America, and the President is hereby requested to give notice to the Governor of each of the signatory States of approval by the Congress of the United States of America.

"IN WITNESS WHEREOF, the Commissioners and their advisers have executed this Compact in five originals, one of which shall be deposited with the General Services Administration of the United States of America, one of which shall be forwarded to the Governor of each of the signatory States, and one of which shall be made a part of the permanent records of the Bear River Commission.

"Done at Salt Lake City, Utah, this 22nd day of December, 1978.

"For the State of Idaho:
"(s) Clifford J. Skinner
"(s) J. Daniel Roberts
"(s) Don W. Gilbert
"For the State of Utah:
"(s) S. Paul Holmgren
"(s) Simeon Weston
"(s) Daniel F. Lawrence
"For the State of Wyoming:
"(s) George L. Christopulos
"(s) J. W. Myers
"(s) John A. Teichert
"Approved:
"Wallace N. Jibson
"Representative of the United States of America
"Attest:
"Daniel F. Lawrence
"Secretary of the Bear River Commission."

Mr. ROBERT C. BYRD. Mr. President,

I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MILNER DAM EXEMPTION

The bill (S. 1828) to exempt the Milner Dam from certain requirements of the Federal Power Act (16 U.S.C. 807), and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1828

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Notwithstanding any other provision of law, the proposed Milner Dam project, Federal Energy Regulatory Commission Numbered 2899—Idaho-Twin Falls Canal Company and North Side Canal Company, shall be deemed to consist only of water regulation and conveyance facilities and powerplants to be hereafter constructed and located outside of existing irrigation facilities, together with power transmission facilities, and related appurtenant works not now in existence and necessarily hereafter constructed for the generation and distribution of hydroelectric power, and only such hereafter constructed facilities shall be subject to the provisions of section 14 of the Federal Power Act (16 U.S.C. 807).

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, the remaining calendar orders enumerated, I ask unanimous consent those measures be considered en bloc, the amendments be adopted en bloc where shown, and that appropriate extracts from the committee reports be printed in the Record in explanation of the measures.

The PRESIDING OFFICER. Without objection, the measures will be considered en bloc.

ANIBAL, ALICIA, AND DANIEL HADAD

The bill (S. 157) for the relief of Anibal Hadad, his wife Alicia Hadad, and his son, Daniel Hadad, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Anibal Hadad, his wife Alicia Hadad, and his son Daniel Hadad shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96–510), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE

The purpose of the bill is to grant the status of permanent residence in the United States to Anibal Hadad, his wife Alicia Hadad, and his son Daniel Hadad. The bill provides for the payment of the required visa fees and for appropriate visa number deductions.

The beneficiaries, Anibal Hadad, his wife Alicia Hadad, and his son Daniel Hadad, are natives and citizens of Argentina and were born October 1, 1946, May 11, 1948 and August 2, 1973, respectively. In 1970 Anibal Hadad received a Doctor of Medicine Degree from Cordoba National University, Cordoba, Argentina. In 1968 Alicia Hadad received a Bachelor of Science degree in Biological Sciences. They have two minor sons, Daniel, a beneficiary of the bill and Oscar who is a citizen of the United States by birth in Arkansas. They reside in Walnut Ridge, Ark. Anibal Hadad is employed as a General Surgeon at the Lawrence Memorial Hospital, Walnut Ridge, Ark., and at the Randolph County Hospital, Pocahontas, Ark., and he receives a monthly salary of $6,000. This is the beneficiaries only source of income. They list their assets at $134,000, which consists of two automobiles, stock in the N.E. Surgery Clinic, professional equipment, household furnishings, cash and certificates of deposit. They list their liabilities as $3,700, which consists of a $3,000 loan with the First National Bank of Lawrence County and $700 in credit card accounts.

The beneficiaries have been in the United States as nonimmigrant Exchange Visitors since June 1973, and in September of 1979, Anibal Hadad took the Visa Qualifying Examination and passed.

HERMAN AND ERLANDA SARDJONO

The bill (S. 207) for the relief of Dr. Herman Sardjono and his wife, Erlanda Sardjono, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Doctor Herman Sardjono and his wife, Erlanda Sardjono, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96–511), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

DOCTOR HERMAN SARDJONO AND HIS WIFE, ERLANDA SARDJONO

The purpose of the bill is to grant the status of permanent residence in the United States to Dr. Herman Sardjono and his wife, Erlanda Sardjono. The bill provides for the payment of the required visa fee and for an appropriate visa number deduction.

Dr. Herman Sardjono was born on November 2, 1946 and is a native of Hong Kong and a citizen of Indonesia. He received approximately 20 years of education outside of the United States and received a Doctor of Medicine degree in 1973 from the University of Vienna in Austria. Since June 4, 1975, he has been in the United States as a Professional Medical Trainee. He is paid approximately $16,000 per year as a second year resident in internal medicine by the Ohio Valley General Hospital in Wheeling, West Virginia. Mrs. Erlanda Sardjono was born on April 25, 1948, and is a native and citizen of Indonesia. She has received approximately 20 years of schooling outside of the United States. She married Herman Sardjono on May 28, 1974 in Vienna, Austria and on July 12, 1974, she received a Doctor of Medicine Degree from the University of Vienna in Vienna, Austria. Mrs. Sardjono is unemployed and has not practiced medicine in the United States. Dr. Herman Sardjono passed the Visa Qualifying Examination in September 1979 and was granted a waiver of the foreign residence requirement of Section 212(e) of the Immigration and Nationality Act, as amended.

NIOBE GIOVANNELLI AND PIERLUIGI PACINI

The bill (S. 629) for the relief of Niobe Giovannelli and Pierluigi Pacini, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Niobe Giovannelli and Pierluigi Pacini, sister and brother, shall be held and considered to have come to the United States and been physically present therein for a period of not less than two years between the ages of fourteen years and twenty-eight years for purposes of section 301(b) of the Immigration and

Nationality Act as it applied to Niobe Giovannelli and Pierluigi Pacini prior to its repeal by the Act of October 10, 1978.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-512), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The purpose of the bill is to consider the beneficiaries to have come to the United States and been physically present therein for a period of not less than 2 years between the ages of 14 years and 28 years for purposes of section 301(b) of the Immigration and Nationality Act as it applied to Niobe Giovannelli and Pierluigi Pacini prior to its repeal by the Act of October 10, 1978.

The beneficiaries are sister and brother, born in Florence, Italy on June 16, 1942 and September 30, 1940, respectively, as U.S. citizens, to a U.S. citizen mother. Prior to the birth of the beneficiaries, their mother returned to Italy with her husband where they resided until 1945. In 1945, the family returned to the United States and resided here until 1948 or 1949. Their father, a native of Argentina, became a naturalized U.S. citizen in 1948 prior to their return to Italy. The beneficiaries have resided in Italy since that time, coming to the United States only for visits. The uncle of the beneficiaries, Mr. Jose R. Tolibia, a native and citizen of the United States, was born April 10, 1920 and resides in Fond Du Lac, Wis. He is the owner of the Tolibia Cheese, Inc. in Fon Du Lac, and has assets of approximately $3.7 million. He is married to Georgia Tolibia and they have no children. According to Mr. Tolibia, his niece and nephew could not return to the United States to retain their citizenship because of the illness of their father. Mr. Tolibia has made his niece and nephew the sole beneficiaries of his estate and he would like for them to return to the United States to help him and take over his business.

PANDELIS PERDIKIS

The bill (S. 1375) for the relief of Pandelis Perdikis, was considered, ordered, to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of paragraphs (2), (3), and (4) of section 212(a) of the Immigration and Nationality Act, for purposes of such Act, Pandelis Perdikis shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of such Act.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-513), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The purpose of the bill is to grant the status of permanent residence in the United States to Pandelis Perdikis. The bill provides for the payment of the required visa fee and for an appropriate visa number deduction.

The beneficiary is a native of Greece and a naturalized citizen of Canada, born on December 10, 1934. He was divorced from a citizen of the United States in 1968 and is the father of one child, born in 1965. There has been no contact with his ex-wife or daughter since 1968. The interested party is his mother who is a native of Greece and a naturalized citizen of the United States. She resides in Bangor, Maine, with his father, an immigrant to the United States. He has a brother who is a naturalized citizen of the United States who resides in Maine. The beneficiary has been institutionalized in the Bangor Mental Health Institute since March, 1970, and his condition is diagnosed as schizophrenia, chronic undifferentiated. His prognosis is poor and he will require long term hospitalization. The State of Maine has financed all of his hospitalization fees because he has no funds. His family has not contributed toward his support. The cost of maintaining him is approximately $46 per day. He is permitted to leave the institution one afternoon per week in the custody of his mother. Deportation proceedings have been instituted but have not been effected as the medical authorities at Bangor Mental Health Institute will not release him due to the possible detrimental effect deportation might have on his mental condition. His mother is willing to file a petition to accord him first preference status as an unmarried son of a U.S. citizen but the beneficiary remains excludable.

GINA MARIE S. HERNANDEZ

The bill (H.R. 894) for the relief of Gina Marie S. Hernandez, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-515), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Gina Marie S. Hernandez

The purpose of this bill is to facilitate the admission into the United States of Gina Marie S. Hernandez.

The beneficiary of this bill is a 3-year-old native and citizen of the Philippines who has been adopted by a United States citizen and her husband. The beneficiary's adoptive mother is also her aunt. The adoptive parents have no natural children. The beneficiary's natural parents and nine siblings reside in the Philippines.

GRACE MARIA SALAZAR SANTOS

The bill (H.R. 900) for the relief of Grace Maria Salazar Santos, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-516), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Grace Maria Salazar Santos

The purpose of this bill is to facilitate the adjustment of status to permanent residence of the adopted daughter of a citizen of the United States.

The beneficiary of this bill is a 21-year-old native and citizen of Costa Rica who was admitted to the United States as a visitor in 1972. She has resided with her adoptive mother since she was 12 years of age and adoption proceedings were first approved in Costa Rica when the family resided in that country but were not finalized because they returned to the United States. The beneficiary was formally adopted in California on May 25, 1979.

JOHN A. TOWNSLEY

The bill (H.R. 901) for the relief of John A. Townsley, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-517), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The purpose of the proposed legislation, as amended, is to relieve John A. Townsley of liability to the United States in the amount of $581.28, representing overpayments of compensation paid him due to administrative error prior to July 1, 1960, while employed in the National Park Service of the Department of the Interior.

The bill H.R. 901 was introduced in accordance with the recommendations of an executive communication from the Department of the Interior, which recommends its enactment. An identical bill, H.R. 3620 passed the House in the 95th Congress.

The Department of the Interior advised the committee that the total claim against Mr. Townsley amounted to $811.68, which was erroneously paid him during the period June 29, 1958 to April 14, 1962. Pursuant to Section 5584 of Title 5, United States Code, the General Accounting Office on May 19, 1972, waived repayment of $230.40 of the claim which represented overpayments after July 1, 1960. It can be noted that the bill therefore is consistent with the relief already extended under the statute, and merely provides complete relief for the period prior to the effective date of the statute.

Interior further stated that the record shows that Mr. Townsley received a promotion to Park Ranger, GS–6, step 1, on October 6, 1957 and was subsequently promoted to GS–7, step 1, on June 29, 1958, in violation of the Whitten Amendment, Public Law 82–253 (5 U.S.C. note to section 3101). On May 3, 1959. Mr. Townsley was promoted to GS–9, step 1, again in violation of the Whitten provisions. The errors were compounded when subsequent promotions and increases were based on the erroneous promotion dates.

Interior further stated that its investigation of the circumstances giving rise to the overpayments disclosed that they resulted from administrative error, and that there is no indication of fraud, misrepresentation, or lack of good faith on the part of the employee or any other person having an interest in obtaining waiver of the claim. As his pay was in accordance with the official notices of personnel actions which he received. Mr. Townsley had no reason to question it.

MARYROSE AND ROSEMARY EVANGELISTA

The bill (H.R. 918) for the relief of Maryrose and Rosemary Evangelista, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–518), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

MARYROSE AND ROSEMARY EVANGELISTA

The purpose of this bill is to facilitate the admission into the United States for permanent residence of the adopted children of citizens of the United States.

The beneficiaries of this bill are 12- and 11-year-old natives and citizens of the Philippines who are to be adopted by citizens of the United States.

IN SUN PINEIRO

The bill (H.R. 1489) for the relief of In Sun Pineiro, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–519), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The purpose of this bill, as amended, is to restore immediate relative status to In Sun Pineiro. The bill has been amended in accordance with established precedents.

The beneficiary of this bill is a 30-year-old native and citizen of Korea who is the widow of a U.S. citizen. The beneficiary's husband was serving in the U.S. Armed Forces in Korea and was killed in an automobile accident about a year after his marriage to the beneficiary. The beneficiary entered the United States as a visitor to attend his funeral, accompanied by her infant daughter who derived U.S. citizenship through her deceased father.

ROLANDO, TERESITA, AND ROLYNNE THERESE GAZA

The bill (H.R. 1619) for the relief of Rolando R. Gaza, Teresita C. Gaza, and Rolynne Therese Gaza, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–520), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The purpose of this bill, as amended, is to grant the status of permanent residence to Mr. and Mrs. Rolando R. Gaza and their 2-year-old daughter. The bill also provides for the payment of the required visa fee and for the deduction of visa numbers.

The beneficiaries of this bill are husband and wife, ages 25 and 22, and their 2-year-old child, natives and citizens of the Philippines. Male beneficiary served in the U.S. Navy for 1 year and 5 months and was discharged in the Philippines after an accident aboard a U.S. vessel while in combat duty in the Tonkin Gulf. That accident resulted in the amputation of the male beneficiary's leg. He receives $1,300 a month in veterans' and social security disability benefit payments. Male beneficiary is receiving treatment at the U.S. Navy hospital in Oakland and at the Veterans' Administration hospital in San Francisco.

EMIKO OKUMA COLONA

The bill (H.R. 1827) for the relief of Emiko Okuma Colona, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–521), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The purpose of this bill, is to facilitate the adjustment of status to permanent residence of the adopted daughter of a citizen of the United States and a lawfully resident alien.

The beneficiary of this bill is a 19-year-old native and citizen of Japan who was paroled into the United States for humanitarian reasons and resides with her adoptive parents. Her adoptive father is serving in the U.S. Air Force and is presently stationed in North Dakota. Her adoptive mother, who is also her natural mother's cousin, is a lawful permanent resident of the United States. The beneficiary has resided with her adoptive parents most of her life and since March of 1972 it has been on a permanent basis, but she was not formally adopted until September 9, 1977.

SOLOMON MANI

The bill (H.R. 1887) for the relief of Solomon Mani, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–522), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The purpose of this bill is to waive the provision of section 212(a)(3) of the Immigration and Nationality Act in behalf of Solomon Mani. The bill also provides that the waiver shall apply only to a ground for exclusion known to the Department of State or Justice prior to the enactment of this Act. The bill further provides that a bond be posted as surety that the beneficiary will not become a public charge.

The beneficiary is a 54-year-old native of Egypt who is a citizen of Israel. He resides in France and is supported by his sister, a citizen of the United States. The beneficiary has two brothers who are citizens of France, one brother who is a citizen of the United States, and another who is a lawful permanent resident of the United States.

MARIANA AND FROMCISCO ROCA

The bill (H.R. 2593) for the relief of Mariana de Jesus Roca and Fromcisco Rubira Roca, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–523), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The purpose of this bill, is to facilitate the adjustment of status to permanent residence of the adopted children of a citizen of the United States.

The beneficiaries of this bill are 19- and 16-year-old sister and brother who are natives of citizens of Ecuador. Humanitarian parole was granted to both children in view of the fact that the older beneficiary suffers from a hip defect which required surgery. The beneficiaries resided in Ecuador with their grandmother who is also their adoptive mother. She is eligible for immediate relative status through her son, the United States citizen adoptive father of the beneficiaries. The natural mother of the beneficiaries died in 1963 and the adoptive parents assumed responsibility for the children at that time. They were not adopted until 1976 because their natural father could not be located.

RUDOLFO JOSE KOZUL

The bill (H.R. 3234) for the relief of Rodolfo Jose Kozul, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–524), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

RODOLFO JOSE KOZUL

The purpose of this bill, as amended, is to facilitate the adjustment of status to permanent residence of the adopted son of a citizen of the United States. The amendment is technical in nature.

The beneficiary of this bill is a 20-year-old native and citizen of Argentina who was admitted to the United States as a visitor and changed his status to that of a student. He was adopted in California on October 13, 1978, by a citizen of the United States who has supported the beneficiary since 1970.

EILEEN FERRAREN FAIR

The bill (H.R. 3320) for the relief of Eileen Ferraren Fair, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–525), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The purpose of this bill is to facilitate the admission into the United States of the adopted child of citizens of the United States.

The beneficiary of this bill is a 10-year-old native and citizen of the Philippines who resides in that country with an aunt. She has been adopted by another aunt and her husband, citizens of the United States, who have no natural children but who have one other adopted child.

BLACK HILLS COUNCIL OF BOY SCOUTS

The Senate proceeded to consider the bill (S. 659) for the relief of the Black Hills Area Council of the Boy Scouts of America, which had been reported from the Committee on the Judiciary with an amendment on page 2, line 1, strike "$18,831" and insert "$12,531", so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to the Black Hills Area Council of the Boy Scouts of America, the sum of $12,531 as reimbursement for expenses incurred by it in reconstructing that portion of the Black Hills National Forest road (known as Bobcat Road) which provides access to Medicine Mountain Boy Scout Camp, Hill City, South Dakota.

SEC. 2. No amount in excess of 10 per centum of the sum appropriated by the first section of this Act shall be paid to or received by any agent or attorney in consideration for services rendered in connection with the appropriation described in the first section. Violation of this section is a misdemeanor, and any person convicted thereof shall be fined not more than $1,000.

The amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–527), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

FOR THE RELIEF OF THE BLACK HILLS AREA COUNCIL OF THE BOY SCOUTS OF AMERICA

In 1976 the Black Hills Area Boy Scout Council requested that the U.S. Forest Service to reconstruct the access road to the Medicine Mountain Boy Scout Camp, Hill City, South Dakota. This area is within the Black Hills National Forest and under the jurisdiction of the United States Forest Service.

The work was requested to be completed in order to coincide with the date of the grand opening of the camp. The Forest Service was planning to reconstruct the road on a date later than the grand opening. In order to meet the opening day deadline, however, the Forest Service gave the Scout Council permission to reconstruct the road themselves. The Boy Scouts undertook the road reconstruction with the understanding that they would be reimbursed by the Department of Agriculture. Because of technical omissions in the Special Use Permit the Forest Service found that it had no authority to reimburse the Boy Scouts for the work they performed on National Forest property.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. I thank the Senator from West Virginia.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Alaska, and I thank the distinguished Senator from Colorado (Mr. ARMSTRONG) and the other Senators who were involved.

VITIATION OF ACTION ON SENATE RESOLUTION 294; REREFERRAL TO THE COMMITTEE ON RULES AND ADMINISTRATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the previous action by the Senate in agreeing to Senate Resolution 294 be vitiated and that the measure be rereferred to the Committee on Rules and Administration for technical clarification.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

NUCLEAR WASTE

Mr. MATHIAS. Mr. President, I am very pleased to join the chairman of the Energy and Natural Resources Committee, and other members of that committee, in cosponsoring the Nuclear Waste Policy Act, which has been ordered reported by the Energy Committee.

Nearly 3 years ago, I first raised the prospect of a solution to the problem of nuclear wastes, when I introduced the Nuclear Waste Management Act of 1977, on the opening day of the 95th Congress. That was the first action taken by any Member of Congress to face the problem of nuclear waste management and to deal with it comprehensively. Since then, I am sorry to say, there has been no real progress toward solving this problem which grows more menacing by the day.

There has been no real progress until just recently, when the Committee on Energy and Natural Resources ordered comprehensive legislation reported to the full Senate for consideration.

Mr. President, during the consideration of the legislation which created the Department of Energy in early 1977, I specifically proposed that a nuclear waste management function be assigned to the newly created Department. This proposal was adopted and included in the final version of the law and it should have been enough to get the Government off dead center on this issue. Indeed, that assurance was given by the administration witnesses during those hearings. But, to my chagrin and surprise, like so many grains of sand on the beach, that promise was quickly washed away.

The first act of the Department of Energy under this new nuclear waste management authority was to postpone the target date for the completion of a waste repository from 1985 to 1988. I protested then that:

> If we had heard of nuclear waste for the first time last year, it might be excusable for the administration to be floundering about as it gets its bearings. The fact is, though, that since before we ever split the atom, we have known that something would have to be done with the by-products of nuclear fission to keep them out of the environment.

It was during the consideration of the Energy Department legislation by the Senate, as well Mr. President, that the distinguished chairman of the Energy Committee, Mr. JACKSON, made a promise to me that the Energy Committee would delve into the problem of nuclear waste management. My colleague has followed through on that promise, Mr. President, and has made a very important contribution through this legislation to the continued viability of nuclear power.

Mr. President, the problems that this country faces with respect to nuclear waste management are not going to dissipate. In fact, unless we act now, they can only grow worse. I join my colleages from the Energy Committee in cosponsoring this important legislation as a step that must be taken now to implement a comprehensive, efficient, safe and workable solution to the ever mounting problem. It demands consideration because the very future of this country depends on how and how soon we solve our critical problem of nuclear waste management.

I commend my colleagues on the Energy Committee for their work in this area, and look forward to working with them to see that this legislation is enacted expeditiously.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now go into executive session.

The PRESIDING OFFICER. Without ojection, it is so ordered.

THREE-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess, in executive session, for 3 minutes.

There being no objection, the Senate, at 10:11 p.m., recessed until 10:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

TREATY BETWEEN THE UNITED STATES OF AMERICA AND PERU ON THE EXECUTION OF PENAL SENTENCES—REMOVAL OF INJUNCTION OF SECRECY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the injunction of secrecy be removed from the treaty between the United States of America and Peru on the execution of penal sentences, which was signed at Washington on July 6, 1979 (Executive II, 96th Congress, 1st session), transmitted to the Senate today by the President of the United States; and ask that the treaty be considered as having been read the first time, that it be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message from the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty between the United States of America and Peru on the Execution of Penal Sentences, which was signed at Washington on July 6, 1979.

I transmit also, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty would permit citizens of either nation who had been convicted in the courts of the other country to serve their sentence in their home country; in each case the consent of the offender as well as the approval of the authorities of the two Governments would be required.

This Treaty is significant because it represents an attempt to resolve a situation which has inflicted substantial hardships on a number of citizens of each country and has caused concern to both Governments. The Treaty is similar to those currently in force with Bolivia, Canada and Mexico. I recommend that the Senate give favorable consideration to this Treaty at an early date.

JIMMY CARTER.

THE WHITE HOUSE, *December 20, 1979.*

DEPARTMENT OF COMMERCE

The PRESIDING OFFICER. The hour of 10:15 p.m. having arrived, under the previous order, the vote will now occur on the confirmation of the nomination of Philip M. Klutznick, of Illinois, to be Secretary of Commerce.

The yeas and nays have not been ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Philip M. Klutznick, of Illinois, to be Secretary of Commerce? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Florida (Mr. CHILES), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from South Dakota (Mr. McGOVERN), the Senator from Rhode Island (Mr. PELL), the Senator from Arkansas (Mr. PRYOR), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Illinois (Mr. STEVENSON), the Senator from Georgia (Mr. TALMADGE), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from New Jersey (Mr. BRADLEY) are necessarily absent.

I also announce that the Senator from Montana (Mr. MELCHER) is absent on official business.

I further announce that, if present and voting, the Senator from Illinois (Mr. STEVENSON) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Wyoming (Mr. WALLOP), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 74, nays 0, as follows:

[Rollcall Vote No. 506 Ex.]

YEAS—74

Armstrong
Baucus
Bayh
Boren
Boschwitz
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Hatch
Hayakawa
Heflin
Helms
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Kassebaum
Laxalt
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Percy
Pressler
Proxmire
Randolph
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stewart
Stone
Thurmond
Tower
Tsongas
Warner
Zorinsky

NAYS—0

NOT VOTING—26

Baker
Bellmon
Bentsen
Biden
Bradley
Chiles
Goldwater
Gravel
Hart
Hatfield
Heinz
Hollings
Johnston
Kennedy
Leahy
McGovern
Melcher
Pell
Pryor
Ribicoff
Stevenson
Talmadge
Wallop
Weicker
Williams
Young

So the nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, the Senate will return to legislative session.

CHRYSLER CORPORATION LOAN GUARANTEE ACT OF 1979—CONFERENCE REPORT

Mr. PROXMIRE. Mr. President, I submit a report of the committee of conference on H.R. 5860 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5860) to authorize loan guarantees to the Chrysler Corporation, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 20, 1979.)

Mr. PROXMIRE. Mr. President, the Senate conferees labored hard under great pressure for several hours this afternoon to retain the Senate position on this legislation. And while we had to make a number of accommodations with respect to the House conferees, I believe that this conference report reasonably reflects the Senate position with respect to the issues of greatest concern.

The conference report provides for an overall Chrysler financial package of a little over $3.5 billion—$3,517,500,000 to be exact. Of that amount, $1.5 billion is in Federal loan guarantees, and $1.43 billion is in nonfederally guaranteed assistance from various sources. These sections are identical to the Senate bill. The differences with the House with respect to dollar amounts revolved around the wage and benefit concessions for Chrysler employees—both union and nonunion employees—and around the amount of the employee stock ownership plan mandated in the bill as an offset to the wage and benefit concessions. Here we cut the amounts right down the middle:

A sum of $525 million from labor union employees in the Senate bill and $400 million in the House bill became $462.5 million in the conference report;

A sum of $150 million from nonunion employees in the Senate bill and $100 million in the House bill became $125 million in the conference report; and

A sum of a $175 million ESOP in the Senate bill and a $150 million ESOP in the House bill became a $162.5 million ESOP in the conference report.

So the Senate conferees did what could best be done; we struck a fair bargain with House conferees who felt very strongly about their position and their dollar amounts.

Mr. President, there is one issue which I would like to clarify for the benefit of my colleagues. This is an area in which the Senate conferees took the House language, which was a bit looser, but which is nonetheless still quite strict in the context of the overall bill. This is the language with respect to the Loan Guarantee Board's determining that the entire financing package—all $3.5 billion—is in place before any commitments to guarantee may be issued or guarantees made.

The Senate bill was quite strict on this issue. It provided that there be commitments for all the financing contemplated by the financing plan in place—the entire $3.5 billion—before any commitments to guarantee could be issued or guarantees made—that was the policy we followed with respect to New York and with respect to Lockheed—and there had to be legally binding commitments for all that financing—all of the $1.43 billion in nonfederally guaranteed assistance, and all of the $462.5 million in union employee and $125 million in nonunion employee wage and benefit concessions. Members of the Senate believed that it was essential to lock that money into place—with legally binding commitments—before any Federal guarantees were put out, before any of the taxpayers' money was at risk. Otherwise, if we put in some of the Federal guarantees and the Chrysler Corp. does badly at the outset, then the other parties might renege on their remaining contributions and concessions later on down the line. They might be able to take a look at the corporation and say, "No more; you are not getting any more of our money, whatever we said earlier." Then the corporation could go under because of this, and the Federal guarantees already outstanding would be lost.

Mr. President, the House bill did not require commitments for the total financing package; it required "adequate assurances regarding the availability" of all financing required. And the House conferees, with the support of the Treasury Department—the Under Secretary, Mr. Carswell, spoke for the Treasury—made a strong argument that with the short timeframe and the complexities involved, it could be difficult to get legally binding commitments for all of the non-Federal part of the package in time to get money to the corporation when they really need it, that is, within the next couple of months.

I am not sure they were right—in fact, I disagreed with them—but they made a strong case. Moreover, it was obvious that the House conferees also intend by their language to insure that there is a comprehensive financial plan that is tight enough to insure that Chrysler gets all the money it is supposed to get from all sources before the guarantees are committed or issued. After all, the House wants to see the Chrysler Corp. survive, they want to see the financial plan work, and they know that if the money is not there—if it can be pulled back by the other parties at any time with the Federal Government out there on the hook—then Chrysler will not make it regardless of what we do here today.

Mr. President, I think there is ample reason to interpret the "adequate assurances" language in the House bill quite strictly. I am sure the Board that we constitute in the conference report—with the Secretary of the Treasury, the chairman of the Federal Reserve Board, and the Comptroller General as members—I am sure that this reasonably independent and strong-minded Board will see to it that those assurances are "adequate," that there is a very strong assurance that all of the money pledged at the outset—before any Federal guarantees can be committed or issued—that all of that money pledged by the various sources is real money that will be forthcoming in the full amount when it is needed. If there is a very strong assurance, then it is less necessary to have every "i" dotted and "t" crossed on legally binding commitments before any guarantee commitments are made—even though I would certainly hope that the Board would get those legally binding commitments for the other financing nailed down as quickly as possible anyway. Certainly that would be in the interest of the Federal Government, and I think it would be in the interest of all the other parties as well. I am sure that Chrysler would like to know as soon as possible that all of the $3.5 billion is in place and that it can count on that money not disappearing at the last minute.

Mr. President, the conference report makes it very clear that while we took the House language regarding adequate assurances, nothing in this language, or for that matter in any other part of the bill, is to be construed as authorizing any bridge loans. The Senate was very clear on that point, very correct in my view—no bridge financing. The House conferees agreed to put that understanding right up front in the "Statement of Managers," and I see no way that the Board or anyone else could read any bridge loans into this language. Moreover, it was obvious to all of us, with $1.5 billion in Federal guarantees signed into law, and on their way to the corporation, Chrysler will have no trouble obtaining bridge financing where they should be getting it, which is from the banks or from the other sources of credit open to them—in ways which will not put the Federal Government out in front and on the line the way bridge loans most emphatically would.

Mr. President, the conference report contains other provisions which show that this is intended to be a tight financing plan, with plenty of protection for the Federal interest and plenty of contributions from the other parties with a stake in the corporation's financial health. The bill contains the Senate language with regard to very strict definition and computation of the other parts of the financing package—the financial commitments, concessions, capital contributions, and asset sales. The effort here is to avoid getting "funny money"—money which is counted as a contribution but which really is not. The bill says that nothing can be counted as part of the nonfederally guaranteed assistance required unless it materially contributes to meeting the corporation's financing needs, over and above the amounts in place on October 17, 1979. It says this clearly and in detail, and it spells out how firm those commitments and contributions have to be.

As additional protection, the conference report also requires that before any amount of loan guarantees can be issued, there must be at least that same dollar amount of non-Federal assistance actually accrued to the corporation. This means that before every dollar in Federal guarantees issued, there must already be—beforehand—a corresponding dollar in the Chrysler Corp's. till that came in from the non-Federal sources—from the various parties with a stake in the corporation, from the savings from the employee concessions, from asset sales, or from sales of equity securities. This means the other parties will be out front and on the line, along with the Federal Government.

Mr. President, I am opposed to this legislation. I have made no bones about that. I remain opposed to this legislation. I am concerned that this is a precedent that will haunt the Senate. I am concerned that the taxpayers are in great jeopardy, because there is much evidence that Chrysler will not be able to make it.

So I shall vote against the conference report. But I do think, in fairness to the House conferees and to the other Senate conferees, I should say that this is a good conference report and a reasonable conference report, as reasonable as could have been expected, and it provides all the protections that could have been provided under the circumstances.

Mr. GARN. Mr. President, the hour is late, and I will be very brief. The distinguished chairman of the Banking Committee has accurately and adequately described the results of the conference. It was difficult. It lasted 7 hours. Although I remain opposed to this financing, and will vote against the conference report, nevertheless I must state that I do believe that between the House and Senate bills, this is a good compromise.

Most of the provisions of the Senate were protected. I certainly do not need to repeat what the chairman says; we are in agreement on this particular issue. But I would like to make one point very strongly, on an issue that was very difficult for some of our Members to accept, and that was the issue of bridge financing.

Despite the fact that we made the compromise that took the House language on the matter of assurances for commitments, we kept the Senate language that required legally binding language contracts to actually approve the loan guarantees.

But I want to make certain that everyone knows that in the statement of managers, we say:

> This compromise is not intended to authorize the Board to provide short-term bridge loan financing to the corporation.

I certainly do not believe it does. That is a dead issue on this bill. So, although I cannot support it, I believe it is a good compromise between the two bills.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. GARN. I am happy to yield. I yield the floor.

Mr. RANDOLPH. For a question.

Mr. GARN. Yes, I am happy to yield.

Mr. RANDOLPH. I am wondering, during the period that this matter has been under consideration and discussion, if there might not be something that perhaps few of us would realize that might come as a plus to Chrysler. Because we have heard understandably, in the details of what we are doing, that Chrysler cannot weather the storm, that it will not be a company saved by the use of Congress through the loan guarantee and other assistance.

Might there not be a change of attitude in the country toward Chrysler, from the fact that at every level the production, the marketing, the sales—might there not come this plus side to Chrysler, that they might be buoyed with the assistance of what we are doing here, although many do not believe it will be effective, and that sometimes the spirit of something that is done carries us over the top? Do you think that might result?

Mr. GARN. I would say to the Senator I certainly hope that would be the case, because after all this procedure we are going through, I do not want Chrysler to fail. After putting Federal money on the line, and the sacrifices from various people, the Chrysler employees, management, and stockholders, I hope it will work. I hope there is that perception from our action, and that that will be the result.

Mr. RANDOLPH. A rebirth of confidence may have come into being.

Mr. GARN. I would certainly hope so. I yield to the distinguished Senator from Indiana.

Mr. LUGAR. Mr. President, I felt that the conference that we had with the House of Representatives today was more productive in terms of a piece of good legislation. I am deeply grateful to our colleague from Utah (Mr. GARN) for his fine representation of the Senate position, even though he does not agree with the legislation, to say nothing of the tremendously able leadership on our bill: Senator PROXMIRE, who likewise did not support the legislation, but certainly nevertheless upheld the Senate bill with great skill and force; and our colleagues Mrs. KASSEBAUM, Mr. TSONGAS, and Mr. RIEGLE, who really gave a great stimulus to this procedure.

Mr. President, I believe this is a good bill. I shall vote for the bill, and encourage my colleagues to do so. Very clearly, the question raised by the distinguished Senator from West Virginia (Mr. RANDOLPH) is very appropriate. A good number of people in this country are not certain about the future of the Chrysler Corp.

I am not certain about the future of the Chrysler Corp. I do not know anyone—and clearly it is not the prerogative of this body to try to manage that corporation—with the wisdom and the skills that can be brought to bear, how well the labor relations will go, or how well their relations with the Federal Government will go.

As a matter of fact, they are in dire straits, and the cash flow situation, in my judgment, is just as grim as it has been presented to the press, if not more so.

So I think none of us are under any illusion this evening that we are dealing with something that is a sure thing. And, to say the least, this calls for a great deal of consideration and responsibility, because taxpayer funds are involved, a great deal of them, in terms of potential loan guarantees.

It seems to me that the conference came down to three things this afternoon that are fundamentally important: One is, who will be responsible for this? Who will be the board that keeps an eye in our behalf and on behalf of the taxpayers?

The Senate bill said it should be the Secretary of the Treasury as the lead man, but also that there should be two people independent of the Secretary of Treasury, or the President of the United States, for that matter, and they should be the Chairman of the Federal Reserve Board and the Comptroller General. No magic about those two people, except they cannot be removed in one night or one day by the President of the United States. It is an independent board, at least two of the three are. And that is important.

Because these three men or women, as the case may be, as this legislation evolves have got to determine whether the collateral is in place. What assurances given by the private sector and by the labor contract are there? We have got to rely upon somebody to give us that assurance. And we have named those three people.

Now, the House disputed that thought. They thought there should be a five-member board. They suggested, in addition to our three, the Secretary of Labor and the Secretary of Transportation. This would have led to three cabinet officials balancing off the two independent figures. And we said no, there will be just three voting members on that board. I cannot express how crucial that is.

Who among us is going to be able to evaluate what the giving up of a holiday by the UAW is worth, or what, in fact the concessions by the Chrysler dealers are worth, if they are not in cash, and many will not be?

Indeed, all of this plan finally relies upon the competent judgment of people of the caliber of Elmer Staats and Paul Volcker and the Secretary of the Treasury, William Miller. Their integrity, their judgment, their staff, and their evaluation.

What we are saying is this board remains as we wanted it, with the Secretaries of Transportation and Labor serving in an advisory, nonvoting, ex officio capacity. They will be able to observe their consultation and good will to the process, but will not have a vote. We felt that was a fundamental thing to the independence and the constitution of the board.

The second thing was the money issue. That occupied our time for several hours of the heated debate. There was in this chamber a debate over a $400 million contribution by organized employees. A suggestion that I had made in the form of an amendment for $800 million, my colleague, Senator TSONGAS from Massachusetts, thought should be somewhere in the middle, maybe shy of that. We never got to the last two. We adopted the 400. Then we returned the 400 and we adopted 525, for all sorts of good reasons. Now, we went to conference with 525 and the House said 400. That is the figure they had sent over the night before to us.

Let me just review the bidding. The bidding started with the House saying 400; 400 on the organized employees to be willing to concede to the Senate on the other money issues. Then they suggested 425. There was a suggestion, at least across the table from one of the House conferees, of 450; a suggestion by a lobbyist, as we were going back and forth for votes, of 455.

But, Mr. President, halfway is 462.5, and that is where we arrived at.

I shall not bore my colleagues with all the grimy details of that, but that is where it is: halfway down the middle—halfway down the middle on the white-collar contribution and halfway down the middle on the ESOP's contribution.

Now that, I think, is the best we could do. But that is what we tried to do. We did not try to push the labor thing farther or to push the management thing farther or to take advantage on the ESOP situation. We came in, from the very beginning, with all cards up on the table and said, "Halfway down the middle." And, ultimately, that is where we arrived.

Finally, Mr. President, there is the problem of what triggers off this whole mechanism. Last evening, for some time, we discussed the so-called bridge loan concept. I hesitate even to mention those two words for fear it may trigger a degree of emotion that would be unseemly at this particular time and hour and for the success of the bill. But I will mention the words "bridge loan." That is what we debated for a long time and what a lot of people are concerned about, including myself.

What is a bridge loan? The bridge loan that everybody was talking about last night comes from stories in the newspaper that the Chrysler Corp. may come close to the brink of insolvency by January 15 or thereabouts, and that they would need to borrow money. And the question is raised, prior to all of this coming into place: Can they borrow it with the Treasury guaranteeing it without having satisfied the obligations of our bill?

Now the answer, Mr. President, is no, they cannot do that. And let me describe the process once again, although my colleague Senator GARN has described it eloquently, and so has my colleague Senator PROXMIRE.

First of all, the bill requires that a financial plan must be presented by Chrysler that is satisfactory to the board. The testimony of the Treasury representative is that he anticipates a 2- to 3-month period of time for them to satisfy the plan, get it certified, and take care of all of the other details that our bill requires. And it is full of them.

Second, after the plan is presented, there must be adequate assurances given that all of the package can be obtained; that is, the labor contract, the loans from banks, domestic and foreign, the State and local government commitments, the Chrysler dealers, and any sales of equity that Chrysler is mandated to have. All of those things must be assured by the three-member board to us, to the public—let me just point out, Mr. President, there has never been, at least in my limited 3-year experience in this body, a conference so well covered by the national media, by the local media, by the trade media. There were people everywhere hearing every word. And if the bridge loan was mentioned once, it was mentioned 20 times as an absolute prohibition.

This was not a conference held in the dark, in a closet off to the side. This was in the full light of day—7 hours of it. And we talked about how you get to loans and we said a bridge loan is not in the cards.

If a bridge loan is required, Mr. President, it will have to come in the form of a new bill coming before this body, or the other body, at some stage, up front, with debate on that issue.

But, in any event, after the board certifies that all of this is in place, then the board may—may—start guaranteeing loans to the Chrysler Corp. if, in addition to assurances that everything is in place, there is actual cash in the till, and only to the extent that there is.

In my judgment, Mr. President, the taxpayers in this procedure, by the constitution of the board, the requirements of the plan, the assurances that everything is in place and actual cash in the till before a dollar is loaned, are as secure as anybody is going to be in this type of an arrangement.

In the event they should not still be secure, there are all sorts of authorities for the board to take steps to secure the collateral, presumably to liquidate it, and get the taxpayers' money back.

In short, Mr. President, I am convinced that there is security here for the taxpayers.

The final point, Mr. President, is why, even if there is security, even if we have a reasonable relationship with the House on this, should we do it at all? And that is the fundamental question that many Members will still ask, even if the procedures appear to be useful and worthwhile.

Mr. President, I am persuaded that we should do it for this essential reason: the Chrysler Corp. is in progress of reorganization. The automobile industry in this Nation is in progress of reorganization. These are hard times for that industry. This coming year is going to be a very difficult year for that industry.

(Mr. SARBANES assumed the chair).

Mr. LUGAR. Mr. President, we could take these two alternative courses, in my judgment. We could say on the one hand that Chrysler could be organized under chapter 11 of the Bankruptcy Act, and it would be reorganized in a fashion—some would say liquidated though others would suggest a more promising conclusion of various pieces being sold, parts moving into stronger hands.

Mr. President, I am persuaded the better course is a reorganization of Chrysler on its feet without the injury to individual human beings who would otherwise be unemployed, plants that would be idle, communities in this country that would be in dire straits while all this took place in a technical, legal sense. In short, Mr. President, I believe that the Chrysler Corp. is going to have a number of reorganizational steps, a number of sales of assets, a number of changes of lines and markets. I hope they will be successful. I am convinced that there is a humane way of approaching this, and that we are adopting it in this course.

We are adopting it, Mr. President, in such a way that at least, in my judgment, there will not be a long line of companies following right behind. That was the principle of our last action on New York City. At that time I appealed to many of my colleagues for consideration of the New York City situation on the basis that we had fashioned a plan in which there would not be a whole line of cities following immediately behind.

Many were skeptical of that situation, saying a lot of cities in America have money problems. Indeed they do. But there have been no applicants for the New York plan. One reason is every time a city looked at the New York plan, they decided they did not like what they saw. What they saw was one tangle after another in which management of that city and its affairs was taken somewhere else, to the Federal Government, to boards of control, and all the rest.

In the case of Chrysler, the management and the stockholders are going to lose a very great deal by this appeal, and we have decided as a body they ought to do so. Their stock is going to be severely diluted.

When we talk about the ESOP plan, we are now talking about $162.5 million of stock of Chrysler at the current value. That would be approximately 26 or 27 million shares. The company only has 60 million shares outstanding. There is a dilution of 50 percent through that provision alone, plus a requirement that they make available 100 million more in stock to employees in a plan that the House has suggested and we adopted. In short, it is not a painless recovery if you are a stockholder of Chrysler or a member of management.

With any company coming to us, I am asked, "What would you do for the corner store in Indiana if it was going bankrupt? Would the Congress take care of it?"

If, in fact, the owner was willing to give up half of his equity, all of the control of his business, in essence turn over his affairs to a board, that is not what most people have in mind when they look to the Federal Government.

The only reason we are involved in this, Mr. President, is that a lot of people are involved, the company is a big company, the ramifications are large, and this is the right thing to do but to do it in a correct way.

Mr. President, I appreciate the indulgence of my colleagues. I would be happy to yield the floor after once again thanking all who were involved in the process this afternoon. Likewise, on our side of the aisle, in addition to Senator GARN, I would like to commend the acting minority leader (Mr. STEVENS) for his remarkable patience throughout all of these procedures and his assistance to me. Likewise, Senator ROTH and Senator DANFORTH, who were involved in a number of conferences that were very helpful.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, I would like to say a word in the nature of a plea to our colleagues. Let us vote on this measure. I have been here for 31 years, Mr. President, and I am thoroughly persuaded that no votes are changed after 11 o'clock at night. No votes. No votes will be changed after 11 p.m.

I am persuaded, Mr. President, that this situation is very much like the story I heard when I first came to the Senate 31 years ago.

This great toastmaster speaking just went on and on, and by the time he finally wound up he only had one person left. He told that man, "What was it that was so inspiring about my speech that made you stay here all the way through?"

And the guy said, "I am the next speaker." [Laughter.]

Mr. President, there are 50 hostages held over in Tehran right now and an equal number of hostages waiting right here, just to vote on the bill. If you do not believe it, just let us vote and see how many people are waiting to hear one more speech tonight.

Mr. President, I am thoroughly convinced that there is not one man or lady here who can be talked into voting for this bill, and not one man or lady here who can be talked into voting against the bill. It is hopeless. Give up. Just read the first line and the last line and I will do my very best, if I have any influence, to see that the reporter prints every word of it. Please give us a break on it. [Laughter.]

SEVERAL SENATORS: Vote! Vote!

Mr. HAYAKAWA addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. HAYAKAWA. Mr. President, at this point I want to say that I will vote for the compromise worked up as a compromise by both the House and Senate, with the Democratic side and the Republican side working together. I express my gratitude to them.

At the same time that I express my intention to vote for this compromise, I want to say that the bankruptcy of Chrysler is not the disaster it was felt to be in so many quarters. Bankruptcy does not mean dropping an atomic bomb on a Chrysler plant. It means financial reorganization. As a result of that financial reorganization we have not saved Chrysler so much as we have saved Chrysler's creditors, especially the banks, who will get 100 percent on the dollar rather than 40 cents or 35 cents, or whatever they would get.

I am not happy, nor am I optimistic, about the outcome of this bail-out. Nevertheless, in a spirit of cooperation with my colleagues and in a spirit of good wishes to my friends in Detroit, and the conscientious people who work there, who want this bail-out, the people of Michigan and throughout the United States, all the dealers in California who want this bail-out, I am going to vote for it with the hope that it succeeds despite great misgivings inside my heart. I thank the Senator.

Mr. RIEGLE. I thank the Senator very much.

Mr. TSONGAS. Mr. President, I am willing to listen to the admonishments of the Senator from Louisiana, in spite of the fact that I listened to him on the Danforth amendment. [Laughter.]

I would just like to put in perspective the numbers involved here, because if anything happens people will say, Why did the Senate not perceive this? I think it important to get this on the record now.

If Chrysler needed $3 billion or less, what the Senate did in changing the administration package is irrelevant if it turns out that Chrysler needed between $3 billion and $3.5 billion. In fact, the Senate insistence on more sacrifice will have saved Chrysler.

Chrysler ends up between $3.5 billion and $4 billion. The fact that the Senate Banking Committee version did not succeed will be the reason that Chrysler went down. The victory that was gained in terms of having the sacrifice will have turned out to be a hollow victory. The record should show that. If Chrysler happened to have needed more than $4 billion, if we were all on the board of directors anyway, there is nothing we could have done about it. In deference to the Senator from Louisiana, the remainder of my remarks I will insert in the RECORD.

Mr. RIEGLE. Mr. President, I will speak for 30 seconds and follow the advice of Senator LONG.

I want to thank all of my colleagues for their patience, interest, and effort in trying to analyze and deal with what is obviously a very complex problem. I want to say that certainly those people in my State who are directly affected thank you very much for the kind of helping hand, even a limited helping hand, that you have offered. I think now the success of the Chrysler Co. passes out of this Chamber, how that will be decided, and directly into the hands of the workers, the management, the dealers, suppliers, the State and local governments, and the banking institutions that are involved.

And I think now they have to make an absolute all-out, maximum effort to justify the faith and the confidence that this Congress has elected to show in them.

I conclude by saying in response to Senator RANDOLPH'S remarks that I think the debate over the past several weeks has tended to depress the situation for Chrysler and I think any people who have been planning to buy a Chrysler and have held off will take hope from what has happened here this evening and will head for the nearest Chrysler dealer in the morning.

Mr. ARMSTRONG. Mr. President, I also am sensitive to the recommendations of the senior Senator from Louisiana. I take pleasure in the story which he shared with us, and I hope he will not mind if I share with my constituents out in Colorado.

He makes a good point. I am sure that it is true that, in many instances, the minds of Senators are not changed after 11 o'clock in the evening. I agree with him that it would be well not to have speeches after 11 o'clock in the evening.

But I say to my colleagues and friends, it would be well not to have votes on important legislation after 11 o'clock in the evening. Yet it is almost traditional that the most important legislation to be considered in this Chamber comes before us in the dark of the night—not only after 11, but sometimes after midnight, after 1, 2, or 3 o'clock.

It is an interesting point to ponder that, after a year in which we are scrupulous about permitting extended debate on relatively unimportant legislation, legislation which will be debated day after day, worthy legislation but legislation which pales in its significance compared with what we have before us tonight—after we have considered such legislation by the daylight, working a normal, reasonable schedule of 8, 10, or 12 hours a day, somehow, we always end up—not just tonight, but at the end of every session—considering the keystone bills of the session under these circumstances of duress.

Mr. President, I say to my colleagues, I am opposed to the conference report. I am opposed to the bill for the reasons which are set forth in my views appended to the report of the Committee on Banking. I do not expect, in the next few minutes, to discuss the reasons why I oppose the bill on its substance. Nor did I participate in the debate on the floor.

I set forth my reasons in writing and, while I may have something to say about that at a later time, that is not my primary purpose for rising.

My primary purpose for seeking recognition tonight is to object in the most vigorous terms to the procedure under which this bill comes before us for consideration and passage.

Before I discuss in detail what reservations and concerns I have, I should like to compliment the conferees, particularly the chairman and the ranking minority member, both of whom have expressed great reservations about the substance of the bill and who, nonetheless, have managed it with great skill and finesse and have demonstrated, it seems to me, a quality of fairness to those with whom they disagree on the substance of the issue. That, I think, is in keeping with the highest traditions of this body. I salute them and I compliment them.

I also pay tribute to the Senator from Indiana and the Senator from Massachusetts, who have fashioned the compromise. They are legislators of consummate skill and I salute them. It is a marvelous accomplishment.

I join with the others who have complimented the Senators from Michigan, especially Mr. RIEGLE, who has carried this burden, and I am sure it must have been a great burden to try to bring this bill to the point of passage, with great patience and great regard for the sensibilities of his colleagues.

I also want to observe that, while I am opposed to the final passage of the bill, I wish the Chrysler Corp. and its employees and its dealers and customers all the best. I trust that, whether this bill is passed or not, it will be possible for this fine company to succeed and prosper.

I am also pleased to note that there are some important protections and safeguards for the public, for the taxpayers, built into the conference report.

With that, Mr. President, I should like now to address the procedural objections to taking up this conference report and adopting it tonight. The issue comes down to this, in my opinion: Have we had adequate notice? Have we had reasonable opportunity to know what is in the conference report? Have Senators had the opportunity to make a careful, deliberate, responsible, thoughtful, well-informed, well-balanced decision? In my judgment, that is clearly not the case.

It would be well to put into perspective that this bill was passed in this Chamber yesterday. And yesterday was the first time that many Members of the Senate really knew anything about the bill.

I was privileged to sit on the Banking Committee, so I sat through a number of the hearings. I corresponded with some of those who testified. I read much of the testimony where I was not present at the hearings, so I knew a bit more about the bill, perhaps, than other Members. But for most of us, yesterday was the first time we really focused on it intently. Yesterday was also the first day in which it was acted on in the other body.

So today, it went to conference. And after a lengthy conference, it was reported back this evening, I guess at 8 o'clock or so, and I am informed that the House took it up at 9 o'clock or shortly after and, in about 40 minutes, discussed it. While I did not personally hear the debate, I am informed that numerous questions were asked in floor debate of the floor managers and others, and they were not entirely certain of the contents of the bill, or at least not certain to the satisfaction of other Members of the body who so reported to me.

There is in the minds of at least some Members of the other body a doubt as to what it is they have voted on. You may think that is unusual, but it so happens that I served in the other body and I can tell you that over there, that is a very common thing. I can recall during a discussion on a conference report on a tax bill, I went to two of the conferees, two of the most senior and respected Members of the Congress. I asked them a question about the corporate tax rate. One of them told me it had been left alone in the conference report; the other one told me it had been changed.

This is not a subtle point, Mr. President. That is a point of some substance. I can tell you that is routine, that is a way of life in the other body. I am beginning to suspect that it is not an uncommon occurrence here in our own Chamber.

There are occasions, perhaps many occasions, when, in the rush to make decisions, we really do not know what we are doing.

Before I proceed any further, I want to express my regret that my action here tonight, in taking your time, may inconvenience any of my colleagues. I have discussed this on the floor earlier and in raising the objection to premature consideration of this conference report, I recognized that there is a risk that somebody's travel plans may be interrupted. I might say that my travel plans are probably those that are most likely to be affected, because I have early airplane reservations, travel plans that have been in the works for a number of months. I know that other Senators are in exactly the same fix. I know that staffers may be in the same kind of situation. I apologize to them.

But I will suggest that what is at stake in this bill and in the principle which I am trying to bring into focus tonight is far more important than the convenience or holiday plans of any Senators or any staffers. I think I would feel a little as if I were sandbagging my colleagues if I were bringing this up tonight for the first time. But I have brought it up on numerous occasions in the last several days. I have gotten into a number of colloquies with the majority leader.

I have discussed on the floor in colloquies with the acting Republican leader as well. I have discussed it with them both privately. I have discussed this matter with, I guess, dozens of my colleagues on and off the floor. I entered into a colloquy a few days ago with the distinguished chairman of the Finance Committee and the ranking minority member of the Finance Committee. I raised it first, I believe, 10 months ago and on a number of occasions since.

So let me say if anybody feels they are being inconvenienced while I apologize, it seems to me this is not without satisfactory notice to the Senators that such a problem might arise.

In talking to my colleagues and also talking to a number of other thoughtful observers of the legislative process, what emerges is a very broad and deep consensus that it is time for a reform, a basic reform of the process by which legislation is scheduled and considered by Senators.

Earlier this evening the majority leader made a point of commenting that there is no requirement for a written conference committee report.

Another time I might interpose a point of order. It might be interesting, for example, to determine what is the meaning of section 135(c) of the Legislative Reorganization Act which reads as follows:

> (c) Each report made by a committee of conference to the Senate shall be printed as a report of the Senate. As so printed, such report shall be accompanied by an explanatory statement prepared jointly by the conferees on the part of the House and the conferees on the part of the Senate. Such statement shall be sufficiently detailed and explicit to inform the Senate as to the effect which the amendments or propositions contained in such report will have upon the measure to which those amendments or propositions relate.

I think a commonsense interpretation of that language says that there shall be a printed conference report. I think that the future tense of the verb "will" indicates it was intended in that act that the printed conference report would be available prior to the time when Senators are asked to make a decision.

Indeed, it is hard for me to imagine another intent because, clearly, that is the responsible, methodical way to proceed. That is the way Senators can know what they are voting on.

However, I do not raise that point of order at the present time.

The majority leader was at pains earlier to point out there is no requirement for notice, that there is no 3-day rule, that there is no 2-day rule, and in that I concur. The rules do not protect Senators from a conference report being called up with absolutely no notice, only an informal system of alerting Senators, and, clearing conference reports protects us from something coming up on no notice at all, or on very short notice.

Indeed, even when Senators are consulted in some kind of informal process, that is not really satisfactory.

I am going to suggest that the people who are cut out of that consultation process are the public and the press.

I would like to point out that there probably is not a jurisdiction in this country where we could change zoning on a piece of real estate, before a city council, or county commissioners, without giving some kind of notice.

As a matter of fact, I think out our way we have to post it. It has a couple of readings, circulated over a period of time, and it is not just for notice of it to the zoning authority, but to the public, so they have a chance to react to what is in the proposed change.

Whether we are talking about zoning, or an ordinance before a city council, or a bill before a State legislature, there are few legislative bodies—none that I know of—where the kind of procedure routinely employed in the U.S. Senate is undertaken.

In my State of Colorado, we have a constitutional requirement that says that no bill may be taken up in the way we are tonight, that it has to be passed on separate days, must be printed on the calendar and must be available for the scrutiny and the action of members and the public. It is the public's right to know which, in my judgment, is the paramount consideration.

Is this just a theoretical concern, or something that is a civics textbook kind of consideration?

I would like to suggest the need for adequate notice. The objection to policy decisions made under duress and the pressures of time such as here tonight is not academic. It is a very real, practical problem.

I would like to share a handful of the scores of examples which I could find of what happens in this kind of situation.

Let us think for a moment about the

Social Security Act Amendments of 1972. These amendments were adopted on October 17, the next to the last day of the 92d Congress, and contained a major error in the formula used to index social security benefits which would have cost $15 billion in a 10-year period. It was not until 1977 that the decoupling, that is, the correction of the error, finally occurred.

The Farm Act of 1973 contained so many typographical and technical errors that a correction had to be passed in 1974.

The Tax Reform Act of 1976—is there now in the Chamber a Senator who remembers that bill? As I look around the room, I bet some Members may recall that on Saturday, the 14th, the Senate convened about 9 o'clock in the morning, worked all day long. The Senate had a busy day. The conference met around the clock and through the night and finally, at 7 o'clock in the morning—the 1978 act. The Senator from Missouri recalls that it was the 1978 act. If I said 1976, I misspoke myself. It was the 1978 Revenue Act—of 1978.

At 7 o'clock in the morning, they brought back the conference report on that bill, voted on it. It contained over 65 errors and areas of clarification, some which remain to this moment uncorrected, because the correction act has not yet passed, at least as of the last information I have.

Included in that legislation was a section, for example, that required all noninsured employers sponsoring medical expense plans provide equal benefits to all employees regardless of their compensation levels, a provision which was unexpected and which, in fact, has caused much consternation among private employers.

The Social Security Act amendments of 1977, themselves enacted in the closing days of the session, containing a correction of the 1972 error to which I referred earlier.

It also contained an error as it relates to monthly versus annual counting of earnings, the retirement test, a very adverse effect on farmers, life insurance agents, and others, and is not corrected to this time.

I see the distinguished Senator from Kansas, the ranking Republican on the Finance Committee, who led the fight to get the carryback provision taken out of the law.

I wonder if the Senator recalls that was put in in a last minute conference committee, after it had not been considered on the floor of the Senate, or not considered in the Senate Finance Committee.

I mention all these concerns, and others, in fact.

Mr. DOLE. Will the Senator yield?

Mr. ARMSTRONG. I am very pleased to yield to the Senator.

Mr. DOLE. I do not remember it being put in because we were involved in a campaign. But it was put in without hearings.

I might say that just this afternoon, in a meeting of the so-called windfall tax conference, we did agree on repealing that mistake we made in 1976. So that correction was made just a few hours ago.

Mr. ARMSTRONG. I appreciate the Senator pointing that out. Making corrections in legislation is a way of life.

I will yield to the Senator from Michigan in just a moment if I may sum up about some errors.

In 1979, there are seven different technical corrections bills, all of which modify legislation enacted within 30 days of the close of the preceding session.

The Surface Transportation Assistance Act, adopted October 15, 1978.

The Public Health Service Act, adopted October 14, 1978.

The Revenue Act of 1978, adopted October 15, 1978.

The Elementary and Secondary Education Act of 1978, October 15, 1978.

The Rail Passenger Service Amendments of 1978.

The Energy Act of 1978.

The Bankruptcy Act of 1978.

All these passed in the waning days of the 1978 session, all containing major errors.

I am not talking about just technical errors, not little nitpicking errors. I am talking about that kind of serious error, also basic policy decisions that somehow slipped into the conference reports unknown, or largely unknown, to Members voting thereon.

I would be pleased to yield to the Senator—I am about to shift gears and talk about a slightly different aspect of concern—if he would like to have me yield at this point.

Mr. RIEGLE. I thank the Senator for yielding.

I appreciate the kind comments the Senator made earlier. I appreciate it very much, and I was touched by it.

Mr. President, I agree with the thrust of what the Senator is saying tonight. I think it is much better if we can devise a way, and I think we ought to try to develop procedures that can let us bring vital matters of the sort we have tonight, and others, before the Senate and the House in a timely manner.

I share that desire. I have indicated I am willing to help look for ways in which it might be done.

We are not a perfect institution. I think constructive suggestions can always be made, and I am open to that.

The other point I make is that I know it is not easy for the Senator tonight—he feels very strongly about this—to speak at length and, in effect, to know he is detaining his colleagues. He has spoken on that. That does cause inconvenience. It inconveniences a lot of people, and it takes a lot of fortitude to be willing to do that. The Senator has shown that clearly.

My concern is this: I hope that on this issue, we can have a fair vote, and I hope we can have a fair vote sometime before too long, before Members leave either because they have plane connections or other travel connections, late as it is.

I state my intention—and I am sure it is shared by others—to help the Senator seek other ways to deal with this problem, which is a real problem, and we can work on it together. I do not think we can solve it at this hour of the night, as the Senator knows.

I hope that, at some point, we will be able to vote on what the Senator has said is such a critical matter.

I thank the Senator for yielding.

Mr. ARMSTRONG. I appreciate the Senator's remarks. I assure him and all my colleagues that my purpose is not to harass or to inconvenience my colleagues.

There is a temptation in this Chamber, they tell me, to filibuster and for delaying tactics. Had I been thinking of that, I could have begun when the distinguished chairman of the Banking Committee suggested that we take up this bill. He asked unanimous consent. I could have objected, and we could have had a rollcall vote. Then I could have said, "Mr. President, I demand, under the provisions on page 307 of the manual, that the report be read."

In fact, I am told that back in the good old days, the distinguished Senator from Utah (Mr. GARN) insisted that the Clean Air Act amendments conference report be read. That, in fact, was a prelude to killing that bill. However, I have not asked for that and do not ask for that at this time.

Mr. McCLURE. Mr. President, will the Senator from Colorado yield for a comment, without losing his right to the floor and without it being considered a second speech?

Mr. ARMSTRONG. I yield.

Mr. McCLURE. Mr. President, perhaps we would have done well to have read or to have listened to the Clean Air Act amendments as they were read, and perhaps we would have had a better understanding of them before that measure was passed.

Mr. ARMSTRONG. My point is that I am not here to harass or inconvenience Senators, although that may be a necessary side effect.

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. ARMSTRONG. I yield.

Mr. DECONCINI. I appreciate the Senator's interest in not delaying or causing a filibuster or anything else that would keep us here for an extended period of time, and I appreciate that the Senator from Colorado could have taken certain actions which he did not take. I ask the Senator how long he does plan to speak on this issue.

Mr. ARMSTRONG. I appreciate the inquiry of the Senator from Arizona. Consistent with what has been said by the Senator from Michigan, it is my intention to propose a solution to this problem which I hope will be satisfactory to all, and it will address itself to the concerns I have raised, and which I should like to continue to speak on for a few minutes. At that time, I shall propound a unanimous-consent request which I hope will meet with the favor of the Senate and permit a vote to be taken on the resolution of the conference issue.

Let me talk briefly about the conference report itself before discussing further the parliamentary situation.

At 9:59 this evening, I was handed the

report of the conference committee, which I have in my hand. This report was prepared in the time frame which I mentioned earlier—that is, passage of the bill yesterday, a high-pressure conference session today, a resolution of the issues in a conference committee at 8 o'clock or so this evening; and a minute or so before 10, I received the conference report—and it is truly an interesting document.

In fact, it is such an interesting document that I hope that, as they go to the well to vote later—or on some other occasion during the evening—my colleagues will take a look at this report. It is a report that has a lot of pencil lines. It has a lot of typographical material typed into the margins and referenced into the bill. It has a number of things stricken over and changed in pencil.

It is a report—well, Senators can see how it looks. It looks like a rough draft.

In fact, Mr. President, consistent with my concerns for the process, I should like at this time to ask unanimous consent that this conference report, the one I now hold in my hand, be reproduced by photo-offset process as a report of the Senate Banking Committee and made available in reasonable quantity—and I leave that to the distinguished chairman—so that others may see the exact appearance and nature of the document on which we are acting here tonight. They can see the chicken scratchings and the underlining and the changes and the page numbering, and so forth. That is my unanimous-consent request at this time.

May I say, while Members are considering my unanimous-consent request, that I have had occasion to buy and sell real estate. I would not buy or sell a piece of real estate if the contract looked like this. I have had occasion to employ lawyers in several cities in Nebraska and Colorado and Washington, D.C. I would not employ a lawyer who brought me a contract that looked like this. I have had occasion to buy and sell businesses.

Mr. PROXMIRE. Mr. President, if the Senator will yield, it is my understanding that the pages are making 100 copies of this report so that it will be available. I will be delighted to make as many copies available to people as we can. I know the Senator realizes that this will be printed in the RECORD, so it will be available to thousands of people tomorrow morning, by the very efficient printing system of the Government Printing Office, as the Senator knows.

Mr. ARMSTRONG. I do not think the Senator from Wisconsin has comprehended the nature of my request.

What I want printed by a photo offset process is the report, so that people can see what this document looks like.

Mr. PROXMIRE. How many copies does the Senator want printed?

Mr. ARMSTRONG. I leave that to the Senator. Two hundred or 300 copies available through the staff of the Banking Committee would be plenty. I would be pleased if it were done by Xerox or any process of that kind.

Mr. PROXMIRE. I wonder whether the Senator heard me when I said that I understand 100 copies have been printed now. We can continue that and have another 100 copies printed. Would that satisfy the Senator?

Mr. ARMSTRONG. If those were made available through the office of the Banking Committee for interested members of the public and the press, that would suit my purpose.

Mr. PROXMIRE. We will be happy to do that.

Mr. ARMSTRONG. By the way, I mentioned that I would not buy or sell a piece of real estate or a business with this kind of document or hire a lawyer who gave me this kind of document.

I used to be in the banking business, in a small way. I am not in that business any longer, and if I were, I would not be on the Senate Banking Committee. But I have had occasion to borrow money and enter into loan agreements. I would not borrow any money based on this.

As a director of a bank, if I ever heard that a member of my bank was making a loan based on a loan guarantee that looked like this, I would have serious doubts as to whether or not he were proceeding responsibly. I think not.

That is just a matter of format, but I think there is something to be said for the belief that not only must we give good stewardship; we must give good evidence of our stewardship; and I do not think this document gives that kind of evidence.

Let me ask this question, before I sum up my remarks and propound my unanimous-consent request.

I ask the conferees if they think it is possible or likely that there are errors in this conference report.

Mr. PROXMIRE. Of course, it is possible. Even the Senate Banking Committee is human. We make errors. There are errors in almost any printed document of any length.

Mr. ARMSTRONG. If there were an error in this document which was discovered at this time, what would our recourse be? Would we have to send it back to conference?

Mr. PROXMIRE. It is my understanding that the Office of Management and Budget scrutinizes it with great care, proofreads it carefully, and corrections are made before the President signs it.

Mr. ARMSTRONG. I wonder if I could direct the attention of the chairman of the Banking Committee to pages numbered 32 and 33. It appears to me that something is haywire, because page No. 32 appears to end a sentence, with a period at the end of it, and then some stricken material on page 33 appears to take up in the middle of a sentence. I do not understand why that would be.

Mr. PROXMIRE. The Senator makes a perfectly proper observation. He is correct. It is a serious mistake, and I understand that it is being remedied. The Senator is correct: That was an error, and we are making that correction.

Mr. ARMSTRONG. Has it been corrected in the document that is before us at the desk, and was it corrected in the document that was voted on?

Mr. PROXMIRE. The bill clerk has been notified, and the correction is being made.

Mr. ARMSTRONG. Was the correction made prior to the time this report was adopted by the other body?

Mr. PROXMIRE. We do not know whether the House people were able to catch that or not.

The Senator makes a very good point, an excellent point. I am glad he makes that point. That is correct. We are acting with haste. There are obviously mistakes here, but I think there is nothing that I know of that would prevent an understanding of what we are doing and, as the Senator knows, he is discussing a bill which is basically the Senate Banking bill, not the House bill. It is a bill that we acted on after very long debate, and that bill had no errors that I know of. It might have some typographical errors here and there. And the Senator is correct. This was put together obviously in great haste. As to the mistakes the Senator pointed out, and I am sure there may well be other mistakes also that may occur here, I do not know of any significant or substantive important consequence of those mistakes.

Mr. ARMSTRONG. Mr. President, I heard the report of the observers of the conference committee. At one point the conferees discussed splitting the difference and suggested that the way to arrive at a proper split of the difference would be to add up a certain list of figures and then divide by two.

It was pointed out when someone propounded this—I guess the House conferees made the suggestion—that one of the numbers they proposed to add was in fact a subtraction item, so that error was caught and it was not incorporated into the final report.

Mr. PROXMIRE. That was caught very quickly by the Senate conferees and the correction was made before any substantive decision was made. The Senator is correct, however.

Mr. ARMSTRONG. When I learned of that, it was then that I began to wonder what other errors might have crept into this. I am not going to pursue this further. I will say to the Senator that I know at least one other place in the bill where there seems to be an error, and I propound for those who are wiser than I the question if the House of Representatives has passed this document without those errors having been corrected when the paper is at the desk whether or not it has to go back to them: I am not here to nitpick the details.

Mr. PROXMIRE. If the Senator will yield, the Secretary of the Senate and the Clerk of the House of Representatives have the authority, right, and responsibility of making the corrections. That is automatic. They do make the corrections, as the Senator knows, in many of these, and I am sure that is the point the Senator is making. This is not exceptional.

Mr. ARMSTRONG. No.

Mr. PROXMIRE. Similar mistakes have been made in other conference reports. That is why we give the authority to them.

Mr. ARMSTRONG. I do not want to take too much on myself and I do not want to presume on the patience of the Senator from Wisconsin. But this is as to the nature of this gap in the text or what appears to be a gap, and I stress I got this at 9:59 p.m. I have not had a chance to read it. I do not really understand what is in here. But it is apparent that something is missing and I cannot tell. I do not know how the clerk can tell whether or not there is a paragraph missing or a page or a participle or whether it is something very significant.

Mr. PROXMIRE. The pages are numbered in error. That is the problem, and it is a pagination mistake. It is not a mistake in substance.

Mr. ARMSTRONG. Mr. President, I am content to pass that over and leave it to others to work that out.

Mr. PROXMIRE. The correction is that page 33 goes after page 28. I think we should understand that is not usually the way we count. But that is what happened here.

Mr. ARMSTRONG. My point is not whether 33 goes before 28. My point is that we are acting too fast, that we really do not have full information on which to base a decision.

I have cited these examples of this in the past. I see the Senator from New Mexico is on his feet. I am happy to yield to him if I may do so without losing my right to the floor.

Mr. SCHMITT. Mr. President, I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT. The Senator from Colorado is, I think, entirely correct in his concerns.

I just wanted to be sure he did not think he was alone in those concerns.

I do recall a similar instance maybe 2 years ago in which we had a coal conversion conference report come before the Senate and the junior Senator from New Mexico, at least, was very concerned about the same kind of thing, that the Senate had not had time to consider a much more complex piece of legislation than even that before us today.

And in that case, the junior Senator from New Mexico propounded a series of questions that took a few days. We finally passed that bill, unfortunately, and now I think the general considered judgment is we never should have done it and it has not really done much for the increased use of coal in this country. As a matter of fact, I think coal utilization has unfortunately been static or dropping in recent months.

So I do personally congratulate the Senator for bringing this to our attention, and I hope his unanimous-consent request will be accepted, because I think it probably will offer us a solution.

Mr. ARMSTRONG. I thank the Senator for his comments.

Mr. President, I wish to sum up and then yield the floor here shortly and let others who may wish to comment on this matter do so.

I think it is pretty clear that we need a basic reform of the process by which we call up these conference reports, study them, and act on them.

Pending a change in the rule which provides for no notice of conference reports, which may or may not contain a requirement for a printed conference document, what can we do? There are a variety of techniques that are available, and I mentioned some of them earlier. Obviously we could make a motion and call for a vote on a motion to take up the bill. We could ask the clerk to read the report, and we have a right to demand that.

I am advised by parliamentary counsel there are a series of motions which are in order. For example, I am told it is in order within the precedents of the Senate to move to refer this conference report to a committee, not to re-refer it to a committee on conference, but to move to refer it to some other committee, even a committee that did not have original jurisdiction.

I am not going to do that, but that is one of the options. It is not an option that is pleasant to think about, because it really emphasizes the harassment aspect of the process rather than the need for Senators to have an opportunity to look at these reports and know what we are voting on.

I am told it is also possible and has been demonstrated by some Senators to have this endless series of quorum calls, punctuated by various kinds of business, such as a move to postpone the bill until noon tomorrow and a quorum call, then a rollcall vote on that, and another motion to postpone it until 12:15 p.m. tomorrow, and so on. That can be dragged out endlessly.

I do not think that is the way to do business.

But before deciding what course of action we should take on this bill, I think we should address the basic issue of our procedures and the need for some integrity in the procedures.

Every year since I have been here, we go through this, and I have read the RECORD. I have read what the Senator from New Mexico has said in similar circumstances in years past. I read what the Senator from Utah has said in years past. I have read what other Senators have said under similar circumstances.

And every year we come right down to it and we say we have to have some reform, this cannot go on. But somehow this is not the time to draw the line. This is not the year to do it. This is not the bill on which to make the case. We should let it go by and take it up next year.

I think we should take it up right now and solve the problem, and there is a way to do it.

If the kind of consensus exists in this body that I think may exist we can solve the institutional problem by simply adopting a unanimous-consent request to provide that henceforth after Chrysler the conference report shall be subject to the 3-day rule. That seems to me to be a reasonable provision.

All year long we jealously protect our rights under the 3-day rule. You cannot bring anything to the floor without a report from the committee and 3 days to look at it.

Now we all know that the real legislative action in many cases more often than not is in the conference committee. It is not when the bill comes out of the Banking Committee, the Finance Committee, or the Armed Services Committee. The real committee action is in the conference committee, and that is when we really need the notice.

So I appeal to my colleagues to grant a unanimous-consent request of that kind. And I inquire of the Chair whether or not it is in order for me to make that kind of a unanimous-consent request and if I do so by making the request whether or not I lose my right to the floor.

The PRESIDING OFFICER (Mr. STONE). Will the Senator restate the request?

Mr. ARMSTRONG. The request about which I inquire is a request framed along these lines. I do not make it at this moment but merely state the substance of it. The request is in sum and substance, Mr. President, I ask unanimous consent that henceforth, that is after disposition of this bill, future conference reports be subject to the 3-day rule.

The PRESIDING OFFICER. The Senator could make such a request and the Senator would not lose his right to the floor if he made such a request. Anyone can make a unanimous-consent request at any time without losing the right to the floor.

Mr. ARMSTRONG. Mr. President, I see the distinguished majority leader is on his feet. I have been advised, Mr. President, that in yielding I might in some way prejudice my right in retaining the floor, and if I do so I would like to yield to the majority leader to get his views, but I would like not to lose my right to the floor.

The PRESIDING OFFICER. That is not a unanimous-consent request. Does the Senator make that in the form of a request?

Mr. ARMSTRONG. I do.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator for yielding to me and asking for my comments, and I will try to be brief.

Thirty-two years ago I served in the West Virginia State Legislature, in the lower house, after which I went to the upper house and I came to Washington as a Member of the House of Representatives when I was 34 years old.

I wondered why they did not do business here like they did in the West Virginia Legislature. Of course, I found that in every legislature, every meeting of the legislature, was a dog law and a stock law. It did not take me very long to find out that the rules by which we operated in the State legislature were quite different from the rules by which we operated in the Congress. Of course, the rules in the Senate are very different from the rules in the House.

If the Senator seeks to change the rules of the Senate by a unanimous-consent request I would be constrained to object. There are a good many rules I would like to see changed or at least if I could just have my choice of about three rules I would settle for the rule that the Senator wants to have changed. I might trade with him. But I would have to object to changing the rules by unanimous consent at this point.

If the Senator wants to offer a resolution to change the rules, let it go to the Rules Committee. Let it be studied there, and I will be glad to urge the chairman of the Rules Committee to have the distinguished Senator come over and make his case. But I must say to the Senator when we start changing the rules I have a few suggestions of my own. I have had to work with these rules for about 13 years daily, hourly, on this floor, and I am very willing to discuss the rules change with the Senator, but not by unanimous-consent request.

If he would just offer his resolution, send it over to the Rules Committee, I am sure Mr. PELL, the chairman, will consider his resolution, and the rest of us who are there will consider it, and if we report it out we will modify it or offer any other suggested changes that we think may be appropriate, then we will let the whole Senate debate it.

I would welcome a debate on rule changes in the Senate and, as I say, I think I have some corrections that I can make at the time.

I respect the Senator's concern, but I think this is nothing new. Since 1789 the Senate has been acting on conference reports, and it would be entirely possible at the end of the next session of the Congress, at the close of the 96th Congress, for a Seantor to thwart the will of the Congress and make fruitless the work over a period of a year or two or who knows, perhaps the work of years of hearings conducted by committees and brought to the floor of this body and debated, and at the last minute kill a conference report. One man can do that, and it could be a conference report as thick as the book of precedents or as thick as the Holy Bible. Of course, one man, as I say, could make all of the work by many Senators over a long period of time come to naught.

But there has to be some confidence placed in our conferees here. The Senate appointed the conferees on both sides of the aisle. They are recommended by the chairman and the ranking manager of every bill that is called up here, and I have to trust my conferees. They have more expertise in any given subject than I have, I am sure, and we must trust our colleagues on both sides of the aisle who know the subject matter, for I am sure they are going to be very careful, they are going to meticulously scrutinize every change that is made in the conference.

We have to trust their fidelity, their integrity, their honesty, and their sense of purpose, their dedication to duty. We have to place that trust in them else we may as well just decide we are not going to legislate very much.

I hope the Senator will proceed as I have suggested. Let his suggestion get a thorough airing in the Rules Committee. Let us take some time on it and, perhaps, a change can be made. There may be something good to come out of the Senator's proposal, and maybe, perhaps, it would be workable during most of the session, and if some exception could be made, perhaps it could be made during the closing days of the session.

I am not going to close my eyes or my ears to the Senator's suggestion if he wants to proceed in an orderly way to seek a rules change. I welcome the opportunity.

At the same time, however, I say to my friend that while he has this change in mind I have a couple or three I want to see added to that resolution, and we will let the Senate work its will.

So I hope the Senator will put his proposal in the form of a resolution. He can offer it tonight or he could offer it when the Senate comes back in session in January, and let the Rules Committee take a look at it.

I think his proposal is worth considering. But let us do it in that orderly fashion rather than hope here at 3 minutes of midnight, on what we hope is the closing day of the session, legislative day of the session, to bring about a change in the Senate rules by unanimous consent.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I am extremely grateful to the majority leader for his observations and for the tone of his remarks. I have discussed this with him on the floor several times in recent weeks, and on each occasion, and especially tonight, he has responded in friendship and in a manner that warms my heart, and I want to express my appreciation to him.

I have tried to be careful in raising this issue to do it in a way that is entirely an expression of my concern for proper procedure, in which neither he nor any Senator nor anyone else can interpret as trying to undermine his prerogatives to schedule the work of the Senate or to exercise the leadership upon which ultimately all of us depend because, of course, the majority leader has to be able to run the Senate for the benefit of all Senators, and I appreciate that.

I also want to be absolutely on record to make it clear that there is no question in my mind about trusting conferees. The men who have taken this bill to conference are among my closest associates here in the Senate, and I have full faith in them. I admire their intellect, I trust their legislative judgment. But I would say to the majority leader and others that I think our process does not comprehend taking somebody's word for policy decisions. I think that is what we are elected to do.

Now, inevitably we have to depend upon each other for many things, but I think when it comes right down to making that kind of judgment at least to the extent it is humanly possible we want to know what we are voting on.

Mr. RIEGLE. Mr. President, will the Senator yield for a split second, without losing his right to the floor?

Mr. ARMSTRONG. Indeed, I do.

Mr. RIEGLE. I want to say that one of our most competent conferees was not a man but a woman, seated to the Senator's immediate left, who really did excellent work today, and I would not want that to be left out by the generic use of the word "men."

Mr. ARMSTRONG. I appreciate the Senator's pointing that out. However, early in her career as a Member of this body the Senator from Kansas gave leave to all of her colleagues to include her in that way, so she knows that I did not leave her out.

Let me also say to the majority leader that I respectfully reject his contention that one man or handful of willful Senators can thwart years of work by other Senators. I do not believe it. Ultimately, while there are procedural safeguards, and that is what they are, safeguards, to prevent hasty or premature action, in the end a majority rules in this body, no question about it.

If the body wants to enact a piece of legislation it can do it. They may not be able to do it tonight, they may not be able to do it tomorrow, they may not be able to do it in a few days unless they have to get cloture, which require 60 votes, but in the end the majority rules, and that is the way it has to be. The reason for the legislative safeguards is to give the public and the press the opportunity to really know what we are voting on.

So I would not want the responsibility thrust on me, and I think other Senators would not want it either, to think that a handful of Senators can really thwart the will of the majority, even when we see these great filibusters—and I have read accounts of those great sessions in years past, when Senators would rise and hold the floor for 2 hours, 4 hours, or 6 hours. I understand one Senator once held the floor for 20 hours. In fact, I believe the majority leader himself established a reputation as a master of the filibuster.

But in the end—and I think he would agree with me—that kind of tactic serves the purpose of delay and giving the public an opportunity to participate in the process. It ultimately does not thwart the will of the majority; in the end the majority makes the decision.

With regard to the suggestion that a change in the rules could be made by resolution, I am a little bit put off by the idea, but let me say that that thought had not failed to cross my mind earlier, and I am not unaware that the majority leader has pending on the calendar some rules changes I might not agree with.

But if I were to introduce an amendment calling for a change in this particular rule, I would be very much interested in the proposition. If there were some likelihood that after reasonable hearings and action by the committee, we could in fact have a vote on this proposition, I think that is a reasonable suggestion.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. ARMSTRONG. I yield.

Mr. MUSKIE. The Senator has just said that he believed that a majority could prevail on any issue. If a majority wishes to change the Senator's proposal, the majority could achieve that change, whether today or tomorrow, or next week or next year.

Mr. ARMSTRONG. As usual, the Senator from Maine has hit the nail right square on the head. And I will predict to him that the rule change I have tonight suggested will in fact be adopted, if not as a 3-day rule, in some form similar to that.

Earlier the majority leader made a very wise observation. He said, "This body has been here since 1789; you don't have to reform it tonight."

I think that is true. I do not have to move to reform it tonight. And I think an argument can be made, as always on the last night of a session, that this is not the right bill or the right place to draw the line.

But I am not persuaded this is not the right bill or the right place to draw the line, because, more than the tax bill, the social security bill, and others which have been held hostage for action on the last night on conference reports like this, this truly is a bill which arises from circumstances beyond our control.

I will not make my unanimous-consent request, because the majority leader has made it clear he is going to object to that. I might introduce a resolution. He has indicated a willingness to meet with me and discuss it. I hope he will do that, and other Senators as well.

I think the case has been unmistakably made that there might be errors in this conference report, that we have made important policy decisions in the blind, that we have acted with haste and irresponsibility, that we have cost the taxpayer billions of dollars, that we have inconvenienced the consumers and business people, and that we have not legislated as wisely and well as we could, and as I think we should.

Here is how I think we ought to resolve the issue: I am going to yield the floor and not offer any of the dozens of motions I could. I will state to all Senators that it will be my purpose in the future to draw upon all the resources that may be available, all motions to postpone, to require the reading of the Journal, to require the reading of the conference report—all of those procedural safeguards for the rights of the minority and the rights of the public to know what we are voting on in the future.

I would hope that, in the spirit of accommodation with which I now yield the floor, other Senators will, when we reconvene in January, join me in going to the joint leadership to ask for some kind of reform, so that next year at this time we will not find ourselves in this mess. If we are in the same situation next year, it is doubtful that I will be willing to yield the floor without taking advantage of all the opportunities that would otherwise be available to me.

I thank the floor manager and other Senators for their patience. I appreciate the opportunity to be heard.

Mr. STEVENS. Mr. President, I must engage in just a very quick colloquy with the Senator from Colorado. I hope next year we will have one, because I will have prepared for him then a list of bills that I know have been killed by the objection of one man. One I worked on for 2 years was killed when we got into this period of time at the end of the session.

The cloture rule has frustrated entirely the hopes and aspirations of millions of people, because of the unanimous-consent context we operate under. So while I hope we can concentrate on the area he talks about, I hope we will also address the rules that permit one or a few Senators to frustrate the majority.

I say that advisedly. If the Senator from Colorado intends to pursue a change in the rules, I will be happy to join him and work with him, and I intend to do the best I can to prevent what I consider to be total destruction of the work effort of many, many people over a period of 2 years, and of the consequences that come from it. I will not delineate those now, but I think he has given us some examples of errors that have been made, and I can give him examples of situations that developed, because of one objection, that completely destroyed the hopes and aspirations of many of us.

The Senator has raised the subject, and has been very kind and courteous, so I see no reason to go into it now. But I do hope—and the majority leader and I have been discussing some things that might be done to put the talents of Senators such as the Senator from Colorado to work on that very goal—that he will work with us next year to accomplish that.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. STEVENS. I am happy to yield.

Mr. DOMENICI. I listened attentively to my good friend from Colorado. I think he made some excellent points tonight. I just want to state to him that I do not think he intended to imply that by hasty action on conference reports we are only more prone to make technical mistakes.

I would only tell Senators—and I wish Senator JACKSON were here, or former Senator Hansen—that the composite price for regulating the price of crude oil for these United States for the last 4½ years was arrived at in a conference made up of three committees of this body and two committees of the House, and the composite pricing mechanism and formula was in neither bill. As a result, the next day we passed it, and with the changing trends in crude oil in the world, it has been a yoke around the neck of this President, his predecessor, and the American people, to the end that it worked one good, in that we had to deregulate. One of the reasons we had to deregulate was because that composite formula, arrived at in a conference, using a scheme and suggestions that neither party had passed on, passed this body in about 30 minutes.

And for those who asked what it is, it sounded wonderful. We cannot decide what kind, so we have come up with a composite freeze.

It just so happens that when the composite stretched and you let some out of the top, you lowered the price at the bottom and you did not know why people were not producing more oil. And that was established as a matter of substantive law.

In fact, we could add to it that the composite formula was developed in the office of a Senator that had been in this body about 3 months and who, quite by accident, went to a conference on energy and was not even serving with any interest or knowledge on energy matters, but had been there for 2 or 3 weeks, went off with a mathematician and developed a formula that sounded good with a slide rule. And the U.S. Senate, within 1 hour after it was brought here, adopted the price regulation scheme for crude oil for the United States. And I believe that is true.

● Mr. DeCONCINI. Mr. President, during Senate consideration of the Chrysler bailout, we focused our attention almost exclusively on Federal Government solutions. If, indeed, we are committed to the concept of a private economy based upon competition, the action taken by the Congress was wrong.

I voted against the Chrysler bill because I do not believe that the Government should interject itself into the economy. The fundamental premise of the free enterprise system—the premise that assures us of high quality, low-price products—is competition. Competition means nothing if there is no penalty for failure. Thus, to the extent that we bail out corporations which have been unable to compete successfully, we undermine the entire economy.

What is the difference between an economy which is controlled by the State and a free one if the State comes to the rescue? I would submit, Mr. President, that by its action yesterday the Congress has narrowed that difference. We have moved yet another step closer towards a Government controlled and directed economy.

I certainly bear no ill will toward the men and women who work for Chrysler. And I would have supported efforts to assist them in securing new employment. But that alternative is a far better one than bailing out a corporation whose management has been inept and inefficient. It would be a healthy thing for all businessmen, and especially the leaders of large national corporations, to know that their actions could spell the end for their organization. Instead, our action yesterday tells the corporate world not to worry; it tells it that the American taxpayer will always be around to pick up the pieces of their inabilities.

Free enterprise does not result in better and cheaper products unless there is true competition for survival. Cruel as it may sound, the possibility that a company might falter and die is the absolutely essential ingredient in the long-run success of our system. The possibility of failure weeds out the inefficient and ineffective and rewards those who produce better and cheaper. When the Government enters the economy as it did in the Chrysler case to reward failure, it turns the system on its head.

The further question now becomes: Where do we draw the line? Why should we rescue Chrysler and not some other company? Are the workers in other companies less important than the Chrysler workers? Are the products of those companies intrinsically less important than the products of Chrysler? Do we bail out Chrysler merely because it is among the 10 largest companies? Does that mean we should automatically deny the same privilege to a company only in the top 20 or 30? No; Mr. President, we have set a terrible precedent. A precedent that will have a negative effect on our economy, and a precedent that will cause us much grief as other companies facing bankruptcy come to Congress for a helping hand.

I would have much preferred a solution to Chrysler's problems which did not involve a handout from the American taxpayer, even if that solution would have required some degree of reorganization under our bankruptcy laws. Better yet, I would have preferred a solution that relied entirely on the private sector. Recently, a constituent of mine made such a proposal, and I am sure that there have been others. I was tempted, Mr. President, to offer this idea as an alternative, but did not do so because it was quite obvious that any such attempt would have been futile.

In any event, let me share with my colleagues a summary of this proposal. It was developed by Charles de Trenck, an international banker who now resides in Phoenix. I would also like to mention that Mr. de Trenck's proposal was brought to my attention by Charles W. Pine and Phil Sheridan also of Phoenix. I believe that the proposal is worthy food for thought, and ask to have it placed in the Record at this point.

The proposal follows:

A Proposal for a Possible Rescue Operation With Respect to Chrysler Corp.

1. ESSENTIAL ASSUMPTIONS

A. To be viable it is estimated that Chrysler will need an infusion of permanent or semi-permanent capital of $3 billion dollars.

B. This capital should be made available over the next 12–18 months.

C. A major influential personality, or group, must be willing to act as a catalyst for this proposal.

D. That political considerations permit this idea to come to fruition.

2. CHRYSLER RESCUE CORPORATION

The above is the provisional title.

3. THE ROLE OF CRC

Major industries and banks to form CRC with a capital of, say, $1 billion and an additional guarantee of $2 billion in favor of CRC.

This guarantee, by CRC shareholders and/or additional guarantors, to be used by CRC to issue debt instruments and market such instruments to the public via traditional underwriters.

It is my firm belief that such a debt instrument, bearing these guarantees, could be marketed successfully.

Funds obtained via CRC equity capital and subsequent funds raised by the abovementioned debt issue would then be made available to Chrysler Corporation.

4. CONSEQUENCES

CRC would place a majority of its nominees on Chrysler's Board of Directors. CRC would receive a stated amount of Chrysler Corporation capital in exchange for its capital contribution and additional sureties as may be deemed necessary.

(CRC would be compensated by a stated amount levied directly on Chrysler products.)

The above is an unusual approach that will fulfill an overall political objective: to avoid bankruptcy of a major corporation. Thus, a desirable, if not an essential, economic objective will also be achieved. The available equity base of major U.S. Banks and the equity base of major U.S. Corporations could easily support a rescue attempt as outlined above.●

The PRESIDING OFFICER (Mr. Stewart). The question is on agreeing to the conference report.

Several Senators. Vote.

Mr. ARMSTRONG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, before the clerk calls the roll, the appropriation bill remains to be acted upon and another matter, which I am sure the second matter, if not the appropriation bill, will require a rollcall vote.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Delaware (Mr. Biden), the Senator from New Jersey (Mr. Bradley), the Senator from Florida (Mr. Chiles), the Senator from Alaska (Mr. Gravel), the Senator from Colorado (Mr. Hart), the Senator from South Carolina (Mr. Hollings), the Senator from Kentucky (Mr. Huddleston), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Vermont (Mr. Leahy), the Senator from Arkansas (Mr. Pryor), the Senator from Connecticut (Mr. Ribicoff), the Senator from Illinois (Mr. Stevenson), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that the Senator from Montana (Mr. Melcher) is absent on official business.

I further announce that, if present and voting, the Senator from Illinois (Mr. Stevenson) and the Senator from Connecticut (Mr. Ribicoff) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bellmon), the Senator from Arizona (Mr. Goldwater), the Senator from Oregon (Mr. Hatfield), the Senator from Pennsylvania (Mr. Heinz), the Senator from Connecticut (Mr. Weicker), and the Senator from North Dakota (Mr. Young) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) would vote "nay."

The PRESIDING OFFICER. Is there any other Senator wishing to vote?

The result was announced—yeas 43, nays 34, as follows:

[Rollcall Vote No. 507 Leg.]

YEAS—43

Baucus
Bayh
Byrd, Robert C.
Cannon
Church
Cranston
Culver
Danforth
Dole
Durkin
Eagleton
Ford
Glenn
Hayakawa
Heflin
Inouye
Jackson
Javits
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Metzenbaum
Moynihan
Muskie
Nelson
Percy
Pressler
Randolph
Riegle
Roth
Sarbanes
Sasser
Stafford
Stevens
Stewart
Stone
Tower
Tsongas
Williams

NAYS—34

Armstrong
Boren
Boschwitz
Bumpers
Burdick
Byrd,
Harry F., Jr.
Chafee
Cochran
Cohen
DeConcini
Domenici
Durenberger
Exon
Garn
Hatch
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
McClure
Morgan
Nunn
Packwood
Pell
Proxmire
Schmitt
Schweiker
Simpson
Stennis
Thurmond
Wallop
Warner
Zorinsky

NOT VOTING—23

Baker
Bellmon
Bentsen
Biden
Bradley
Chiles
Goldwater
Gravel
Hart
Hatfield
Heinz
Hollings
Huddleston
Johnston
Kennedy
Leahy
Melcher
Pryor
Ribicoff
Stevenson
Talmadge
Weicker
Young

So the conference report was agreed to.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, before I make this request, I think I should state again that it is anticipated that there will be at least one more rollcall vote before we recess sine die. I am about to call up the appropriations measure and, following that, we expect to call up a nomination. There will be a rollcall vote on the nomination.

URGENT APPROPRIATIONS—LOAN GUARANTEES FOR CHRYSLER

Mr. ROBERT C. BYRD. I ask unanimous consent that House Joint Resolution 467, which is being held at the desk by order of the Senate, be considered as having been read twice and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. MAGNUSON. Mr. President, reserving the right to object, I fully intended to place an amendment on this appropriation—not that I was against it, but it involves the question of the Milwaukee Railroad, which, in its aspects, is just as important to us in the Pacific Northwest as the Chrysler matter is to the Senator from Missouri.

We have had some meetings this evening, all of us who are interested in the Milwaukee Railroad matter, with some members of the DOT and the Office of Management and Budget. I think we made some progress in the blockades that they have put in the way of the congressional intent to the Milwaukee Railroad.

I could foul this thing up pretty well by offering the amendment, but I hope that the Members of the Senate will join with me and other Members of the Northern Tier States that are involved in the bankruptcy problems of the Milwaukee Railroad.

There are jobs involved. This is a railroad of 3 or 4,000 miles of rails that will go broke on January 1. We bailed out the railroads for all you people from New England. We bailed you out in the northeast corridor and we have appropriated millions of dollars to keep the northeast corridor alive. We have put out millions of dollars on ConRail and we have put out several million dollars on Amtrak. We are talking about a small amount of money to keep the Milwaukee Railroad viable.

I am not going to present the amendment tonight, but I am hopeful that the Members of the Senate will help us convince the Department of Transportation, which has been against this bill all the time, and the Budget Department to help us out in keeping the Milwaukee Railroad a living, viable service for the whole Pacific Northwest.

I do not suppose any of the bureaucrats are in the gallery, but I hope they will take heed of what I have to say. We may have to come back to the Senate for a comparatively small appropriation—we are talking about $30 or $40 million—when we come back here. I hope you will look favorably upon it.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

The clerk will state the joint resolution by title.

The legislative clerk read as follows:

> A joint resolution (H.J. Res. 467) making an urgent appropriation for administrative expenses of the Chrysler Corp. loan guarantee program, and to provide financial assistance to the Chrysler Corp. for the fiscal year ending September 30, 1980.

The PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read twice by its title.

Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. EAGLETON. Mr. President, House Joint Resolution 467 was approved by the House of Representatives earlier today by a vote of 252 to 141. This joint resolution provides the $1,518,000 requested by the Department of the Treasury for the administrative expenses of the Chrysler Corp. loan guarantee program, and authorizes total loan commitments and loan guarantees of $1,500,000,000 of contingent liability for loan principal, and for such additional sums as may be necessary for interest payments.

This appropriation is consistent with the authorizing legislation that was before the Senate the last several days and was requested by the President in House Document 96-235. This morning the Subcommittee on State, Justice, and Commerce Appropriations held a hearing on this request and heard from the Assistant Secretary of Treasury for Domestic Finance, the executive vice president and senior financial officer for the Chrysler Corp., as well as a representative of the United Auto Workers. The hearing confirmed the information developed during the Senate's debate of the authorizing bill regarding the dire need of Chrysler for the loan guarantee assistance.

Both the Treasury and Chrysler witnesses confirmed Secretary Miller's statement to the majority leader, myself, and Senators BIDEN and RIEGLE that Chrysler could obtain the necessary interim financing to remain viable while the long-term financing is being arranged.

Mr. President, in my opinion we should pass the bill as it has come over from the House.

Mr. STEVENS. Mr. President, I have been asked to represent the minority of the Appropriations Committee in this matter.

Mr. President, there is very little I can add to the remarks of the distinguished Senator from Missouri (Mr. EAGLETON).

We have covered the Chrysler Corp. situation and the loan program in detail this week. The House-passed appropriations bill contains the funds to implement the loan guarantee program. The $1.5 million is provided to the Department of Treasury to pay for the administrative cost of the programs and authorizes $1.5 billion for the loan guarantee.

My colleagues are all familiar with these details and I agree with the Senator from Missouri there is no reason to detain the Senate any longer over the Chrysler situation.

I strongly recommend that we pass the bill as passed by the House and be done with this matter for the year.

Mr. MATHIAS. Mr. President, will the manager of the bill tell us how much is involved in the bill?

Mr. STEVENS. One and a half million dollars is provided to the Department.

Mr. EAGLETON. One million five hundred and eighteen thousand dollars for twenty positions in the Department of the Treasury to monitor and administer the Chrysler program.

Mr. McCLURE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The joint resolution is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the joint resolution.

The joint resolution was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. BRADLEY), the Senator from Florida (Mr. CHILES), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Arkansas (Mr. PRYOR), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Montana (Mr. MELCHER) is absent on official business.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Vermont (Mr. STAFFORD), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER. Is there any other Senator in the Chamber who wishes to vote?

The result was announced—yeas 41, nays 35, as follows:

[Rollcall Vote No. 508 Leg.]

YEAS—41

Baucus
Bayh
Byrd, Robert C.
Cannon
Church
Cranston
Culver
Danforth
Dole
Durkin
Eagleton
Ford
Glenn
Hayakawa
Heflin
Inouye
Jackson
Javits
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Metzenbaum
Moynihan
Muskie
Nelson
Percy
Randolph
Riegle
Roth
Sarbanes
Sasser
Stevens
Stewart
Stone
Tower
Tsongas
Williams

NAYS—35

Armstrong
Boren
Boschwitz
Bumpers
Burdick
Byrd,
Harry F., Jr.
Chafee
Cochran
Cohen
DeConcini
Domenici
Durenberger
Exon
Garn
Hatch
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
McClure
Morgan
Nunn
Packwood
Pell
Pressler
Proxmire
Schmitt
Schweiker
Simpson
Stennis
Thurmond
Wallop
Warner
Zorinsky

NOT VOTING—24

Baker
Bellmon
Bentsen
Biden
Bradley
Chiles
Goldwater
Gravel
Hart
Hatfield
Heinz
Hollings
Huddleston
Johnston
Kennedy
Leahy
Melcher
Pryor
Ribicoff
Stafford
Stevenson
Talmadge
Weicker
Young

So the resolution (H.J. Res. 467) was agreed to.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

U.S. DISTRICT COURT

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate go into executive session to consider the nomination of L. T. Senter, Jr., to be U.S. district judge of the northern district of Mississippi.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination will be stated.

The second assistant legislative clerk read the nomination of L. T. Senter, Jr., to be U.S. district judge for the northern district of Mississippi.

Mr. STENNIS. Mr. President, I have conferred with Senator Bayh, who was the acting chairman of the Judiciary Committee. I spoke to him about proceeding briefly first on this matter because I personally selected the man to be recommend to the President, with the President's consent, that I act instead of a committee in this matter because this is an area of the State near where I live.

It includes many of the counties where I once was a judge and where this nominee is now a judge in a similar court, a circuit court of unlimited civil and criminal jurisdiction. This 46-year-old man has served 10 years on the trial bench, after being a practitioner in those counties. He has been reelected twice.

My purpose was to try to pick a good man, one who had had judicial experience—I had hoped to find one of that kind—who had a judicial temperament, whose integrity was unquestioned.

I found this man, who had applied himself rigidly as a student of the law and was well-seasoned in the law, so thought to be by the lawyers who practiced before him. He is well-seasoned as a trial judge because of his years of experience in a rather large circuit, where he is now the senior judge, although he is only 46 years old.

The process I went through in looking for the man has just been described. I went over this with 35 to 40 people, including ladies, black lawyers, white lawyers. I discussed it with many others, but I never let this develop into a pressure siege on me to recommend any particular one.

I am satisfied that I found the man who is suitable, based on character, temperament, and experience. I found him to be acceptable to the lawyers, and I knew many of those lawyers, who were practicing when I was there. He was approved unanimously later, after his name went in, by the bar association and by an association of the Federal bar.

This is an area of the State in which I know many of the people and they know me personally. Not one of them has complained or objected to me about this appointment. To the contrary, there are letters of commendation and thanks and approval, even from many of those who were applicants themselves.

Based on that, and my people expecting me to do the best I can do for them in this important position, that is exactly what I have done.

I appreciate a chance to get his name before this body. As I said, I vouch for him as having the qualities I have described.

Mr. JAVITS. Mr. President——

The PRESIDING OFFICER. The Senator from Mississippi has the floor.

Mr. STENNIS. I yield the floor.

Mr. BAYH. Mr. President——

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, I oppose this nomination. I am not a member of this Judiciary Committee, unfortunately for me, because I cannot do everything. I did not have an opportunity to hear the witnesses on this nomination, but I have seen enough, and I will recount that to the Senate to justify our not confirming the nomination of Judge Senter tonight.

It is very difficult for me to say this, in view of the fact that I have enormous respect and personal affection for Senator Stennis, who said he picked this man himself. But that is our duty here. It is often difficult to do, and I am doing it.

I hope very much that we will hear from members of the committee. Senator Bayh sought recognition. I hope very much that we will hear from him.

It will be recalled that I opposed the nomination of Judge Bailey Brown of Tennessee. I think we simply have to be willing to face these difficult challenges—all of us. We have a new world before us, in terms of segregation and discrimination. It has to be implemented constantly.

In this case, I think it would be highly precipitate to confirm the nomination of this judge tonight. The nomination could go over until we return.

I complimented the majority leader when he suggested a unanimous-consent request that if the matter went over, it need not be sent up again or passed on by the committee again. But it would give us a chance to read the record, which we cannot do—we do not have it. This nomination was reported only yesterday—really today, in terms of the continuance of this session.

There are some very serious charges against Judge Senter. One thing is very clear to me. This man is 45 years of age.

If there is a reasonable life expectancy, and we certainly hope that for any one of our fellow men, he has 30 years on the Federal bench. That is an awful long time to confirm him for at the end of a session at 1 o'clock in the morning.

Here are the allegations made about him, and they are made from very reliable sources.

Let me first refer to a letter which I was impressed with which is from the Lawyers' Committee for Civil Rights Under Law. They are located here in Washington. The letter is addressed to Senator Kennedy, chairman of the Judiciary Committee, who by the way, voted against this nomination, as did five other members of the Judiciary Committee. I understand the vote in the committee was 10 to 6.

This committee, the Lawyers' Committee for Civil Rights Under Law, includes among its membership 2 former Attorneys General, 10 past presidents of the American Bar Association, a former Solicitor General, a number of law school deans, and according to their letter, and I have no reason to doubt it, many of the Nation's leading lawyers. This is what they say about Judge Senter:

> Judge Senter's record demonstrates that he is not free of bias toward black people and that he has not demonstrated a commitment to equal justice under law. An attorney who prosecuted criminal cases before him testified before the Judiciary Committee that Judge Senter used derogatory racial epithets in open court and told racial jokes in his chambers. Blacks who served on juries in Judge Senter's court testified that he openly made racially derogatory remarks while they performed as jurors. The remarks have apparently referred to defendants and prospective jurors. A state judge who utters racial slurs in court is clearly not qualified for elevation to the Federal Court.
>
> Judge Senter has admitted that prior to his nomination by President Carter he was a member of the segregated, all-white Aberdeen Country Club and that at the time the City of Aberdeen public schools were being desegregated by court order he withdrew his children from the public schools and enrolled them in a private academy. There is evidence that this academy is a racially segregated, all-white academy formed to provide an alternative to white students seeking to avoid desegregated public schools and that its tax exempt status was revoked by the Internal Revenue Service when it refused to adopt and publish a policy of nondiscrimination as to students.

These very same charges are essentially repeated in the letter addressed to Senator Kennedy—and I shall put all these in the Record—dated December 12, by the National Association for the Advancement of Colored People, and its Washington office through Althea T. L. Simmons, director of the Washington Bureau, and are carried out exactly, as I have read them, with an additional embellishment which I am going to read to the Senate in a letter from the Children's Defense Fund, also of Washington, in a letter signed by Marian Wright Edelman, director, and I know Marian Edelman, one of the most extraordinary young women I have ever met who almost alone fought segregation when it was mighty dangerous to fight it in Jackson, Miss. Robert Kennedy and I had her before us in a hearing which we held down there in which we had police protection going to and from the Federal court while we conducted the hearings. This is what she says:

> Repeated instances in which Judge Senter was heard, both on and off the State Court bench, to refer to blacks as "niggers", make remarks about black people's rights, and make racial jokes which clearly indicate racial prejudice. The most notable testimony to this affect was from Robert Clark, a white attorney, who served as an intern with the District and County Attorneys of Lee County, Mississippi in 1974 and who spent a great deal of time in Judge Senter's courtroom. Mr. Clark's testimony on these points was clear and unequivocal:

And she quotes it as follows, and I have not the record, but I have every right to assume that this is legitimate:

> I can testify and I am testifying before you today that I have heard him use the word "nigger," many times in open court and in the chambers. This was not on a basis of every time he said the word black he would not use the word nigger." But on a very regular basis he would tell racial jokes or racial slurs and use those words in open court and in chambers, during recess.

Then the letter goes on with the other matters to which I have already referred.

Finally, I have a letter from eight House Members of the Black Caucus, and I shall just read one sentence. It is signed by Cardiss Collins, William H. Gray III, Julian C. Dixon, John Conyers, Jr., Walter E. Fauntroy, Shirley A. Chisholm, William L. Clay, and Charles C. Diggs, Jr. And it says as follows:

> Appointment to the federal judiciary deserves to be based upon a proven demon-

stration of excellence, competence and equal justice under the law.

Federal judges are expected to avoid even the appearance of impropriety in their conduct.

Yet, the many allegations regarding Judge Senter's nomination are so damaging that too much doubt exists about his ability to be fair in subsequent proceedings involving blacks and other minorities. Indeed, the charges cast further doubt whether any of the citizens of Mississippi can hold Judge Senter's impartiality and decorum beyond reproach.

The allegations and reports we have received indicate that Judge Senter neither possesses nor has demonstrated a commitment to equal justice under law. It is because we believe the presumption of equity in the courts is virtually as critical as the dispensation of equity, that we firmly oppose the confirmation of Judge Senter.

Mr. President, I ask unanimous consent that all these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

LAWYERS' COMMITTEE
FOR CIVIL RIGHTS UNDER LAW,
Washington, D.C., December 11, 1979.

Honorable EDWARD M. KENNEDY,
Chairman, Committee on the Judiciary, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR KENNEDY: The Executive Committee of the Lawyers' Committee for Civil Rights Under Law unanimously voted to oppose the nomination of Honorable L. T. Senter, Jr., to the position of United States District Judge for the Northern District of Mississippi. In turn, we urge you to vote against the Judiciary Committee issuing a report in favor of confirming Judge Senter.

The Lawyers' Committee for Civil Rights Under Law was organized in 1963 at the request of the President of the United States to involve private attorneys throughout the country in the national effort to assure civil rights to all Americans. Much of the President's concern focused on the need to provide counsel to the large number of civil rights activists working in the State of Mississippi. A large portion of our work has been directed toward civil rights violations occurring in that State. Thus, we have a particular interest in reviewing the qualifications of persons nominated for the Federal bench in Mississippi.

The Committee's membership today includes two former Attorneys General, ten past Presidents of the American Bar Association, a former Solicitor General, a number of law school deans, and many of the Nation's leading lawyers. Through its national office in Washington, D.C., and its offices in Jackson, Mississippi, and eight other cities, the Lawyers' Committee over the past sixteen years has enlisted the services of over a thousand members of the private bar in addressing the legal problems of minorities and the poor in voting, education, employment, housing, municipal services, the administration of justice, and law enforcement.

In our opinion, Judge Senter is disqualified under President Carter's Standards and Guidelines for the Merit Selection of United States District Judges, issued as an Executive Order on November 8, 1978. The Executive Order requires that a nominee for a District Judgeship (§ 201 (c) and (e)):

(c) Is and has a reputation for being fair, experienced, even-tempered and free of biases against any class of citizens or any religious or racial group;

(e) Possesses and has demonstrated commitment to equal justice under law.

Judge Senter's record demonstrates that he is not free of bias toward black people and that he has not demonstrated a commitment to equal justice under law. An attorney who prosecuted criminal cases before him testified before the Judiciary Committee that Judge Senter used derogatory racial epithets in open court and told racial jokes in his chambers. Blacks who served on juries in Judge Senter's court testified that he openly made racially derogatory remarks while they performed as jurors. The remarks have apparently referred to defendants and prospective jurors. A state judge who utters racial slurs in court is clearly not qualified for elevation to the Federal Court.

Judge Senter has admitted that prior to his nomination by President Carter he was a member of the segregated, all-white Aberdeen Country Club and that at the time the City of Aberdeen public schools were being desegregated by court order he withdrew his children from the public schools and enrolled them in a private academy. There is evidence that this academy is a racially segregated, all-white academy formed to provide an alternative to white students seeking to avoid desegregated public schools and that its tax exempt status was revoked by the Internal Revenue Service when it refused to adopt and publish a policy of nondiscrimination as to students.

Judge Senter also lacks a reputation for being free of bias. Black witnesses who testified at his confirmation hearing indicated that Judge Senter does not enjoy a reputation among black people in Mississippi for being free of bias toward black people.

If the recent gains made toward racial justice in Mississippi are to continue, it is vitally important that appointees to the Federal bench be persons free of bias and whose commitment to equal justice under the law is unquestioned. The testimony regarding Judge Senter's bias and lack of commitment to equal justice under law lead us to conclude that he lacks the temperament required of a United States District Judge.

We urge you to vote against issuance of a Judiciary Committee Report favoring the confirmation of Judge Senter.

Thank you for the opportunity to express our views.

NORMAN REDLICH,
JOHN B. JONES, Jr.,
Co-Chairpersons.

NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE,
Washington, D.C., December 12, 1979.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: The NAACP is deeply troubled by President Carter's nomination of Judge L. T. Senter to the United States District Court for the Northern District of Mississippi.

The NAACP was heartened by the passage of the Omnibus Judgeship Act which provides an opportunity to not only increase the number of members of the Federal Judiciary but also to include blacks, other minorities and women.

The NAACP has a special interest in the State of Mississippi. Over the past fifty-three years, when our first branch was organized there, given the state's long history of racial discrimination and insensitivity, NAACP has been involved with protecting the civil and constitutional rights of black citizens in Mississippi and we have always looked to the Federal courts to be accorded the justice that was systematically denied in the state courts.

We have had a number of experiences over the years with the state courts, the most notable of which was the judgment obtained by Port Gibson merchants against our Association of $1.25 million for civil rights activity. The state law required NAACP to post an appeal bond of 125 per cent of the judgment to suspend collection which, in and of itself, leads to denial of relief.

It is our considered opinion that the person who sits on the Federal bench in Mississippi must be an individual of great sensitivity and commitment to equal justice under law.

It is in this context that the National Association for the Advancement of Colored People, including its Mississippi State Conference of Branches, firmly opposes the nomination of Judge L. T. Senter.

One of our branch presidents, Mr. Jasper Neely, testified against confirmation before the Senate Judiciary Committee at Judge Senter's hearing, and our Mississippi State Conference at its meeting December 9 voted unanimously to oppose this nomination.

As we look at the distinguished records of the Honorable William C. Keady and Orma R. Smith, Federal judges presently serving the Northern District of Mississippi, and the Honorable John Minor Wisdom, Fifth Circuit, Honorable Frank M. Johnson, Jr., of Alabama, and other distinguished Federal judges, we are appalled that the President has selected Judge Senter as his choice to replace Judge Orma R. Smith, who has shown fairness and sensitivity in disposition of civil rights cases.

We believe that Judge Senter's day to day life epitomizes a "comfortableness" with a segregated society. This is attested to by the fact that Judge Senter has been an active member of the racially segregated Aberdeen Country Club, and failed to indicate his membership in same on his questionnaire, which casts doubt as to whether he wanted this Committee to know of such membership.

We are also concerned about the fact that Judge Senter removed his children from the public schools of Mississippi and enrolled them in the Oak Hill Academy, a segregation academy formed in 1966 after the first public school desegregation order in his home community.

It is a well known fact in Clay County, and throughout the state, that the private "segregation" academies were formed to thwart school desegregation called for by the Brown decision.

Civil rights cases are normally filed in the Federal District Courts because the record of the state courts leave much to be desired in according justice to blacks in the state.

We unqualifiedly oppose the nomination of Judge Senter and urge the Judiciary Committee to reject this nomination in the interest of justice, as we believe the confirmation of Judge Senter will be another example of turning back the clock of racial progress.

Sincerely yours,
ALTHEA T. L. SIMMONS,
Director, Washington Bureau.

CHILDREN'S DEFENSE FUND,
Washington, D.C., December 20, 1979.

Re nomination of L. T. Senter as United States District Judge for the Northern District of Mississippi.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on the Judiciary, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR KENNEDY: We are deeply upset that at this late stage in the struggle for civil rights in this country the nomination of L. T. Senter for United States District Judge for the Northern District of Mississippi has come as far as it has. The Administration should never have made this nomination. We now call upon the Judiciary Committee, which must guard the quality and fairness of the federal judiciary, to reject this nomination and insure the integrity of the federal court in Mississippi.

As a member of the Mississippi bar and as president of an organization with an office in that state that addresses the needs of children, especially poor and minority children, we often find ourselves dependent on the federal court for the protection of children. We have talked about Judge Senter with a large number of black and white citizens of Mississippi who will be affected by the proposed appointment. Some of them travelled to Washington in late November to share with your Committee their strong and serious concerns about Judge Senter's racial attitudes and their objections to his appointment to the federal bench. In addition to the testimony, affidavits were filed with the Committee detailing Mississippi citizens' views of his suspect racial record. The National Lawyers' Committee for Civil Rights Under Law and its Mississippi chapter, the NAACP and its Monroe County Mississippi chapter, the Mississippi Conference of Black Mayors, and the National Conference of Black Lawyers have also presented the Committee with facts demonstrating that Judge Senter should not be confirmed.

The record before the Committee, given under oath, raises questions so serious about Judge Senter that, in our opinion, he should not be confirmed. The evidence of racial prejudice includes:

(1) Repeated instances in which Judge Senter was heard, both on and off the State Court bench, to refer to blacks as "niggers", make remarks about black people's rights, and make racial jokes which clearly indicate racial prejudice. The most notable testimony to this affect was from Robert Clark, a white attorney, who served as an intern with the District and County Attorneys of Lee County, Mississippi in 1974 and who spent a great deal of time in Judge Senter's courtroom. Mr. Clark's testimony on these points was clear and unequivocal:

"I can testify and I am testifying before you today that I have heard him use the word "nigger," many times in open court and in the chambers. This was not on a basis of every time he said the word black he would not use the word "nigger." But on a very regular basis he would tell racial jokes or racial slurs and use those words in open court and in chambers, during recess."

Transcript of Senter Nomination Hearing, p. 107.

(2) The fact that Judge Senter transferred his children out of the public schools and into an all-white private school at the time of desegregation. Frank Parker, director of the Mississippi Lawyer's Committee for Civil Rights Under Law, testified that the Oak Hill Academy, where Judge Senter sent his children in 1967 at the start of desegregation, "was formed as a racially segregated private school, to provide a haven for white students to avoid public school desegregation and this was the sole and only purpose for which the Oak Hill Academy was formed."

Transcript of Senter Nomination Hearing, p. 52. The Oak Hill Academy lost its tax-exempt status because it refused to adopt a non-discriminatory policy and was named by a federal three-judge court as a part of a system of private schools operated on a racially segregated basis.

(3) the fact that Judge Senter belonged to and belongs to all-white clubs that do not allow non-white members. Here, Judge Senter's own sworn testimony indicates that he belonged to the Aberdeen Country Club, which allows no black members. and that he resigned from the club only after his nomination to "simply alleviate the situation and save you [the Committee] time. . . ." Transcript of Senter Nomination Hearing, p. 14.

This membership had been "inadvertently" omitted from Judge Senter's initial response to the Committee's questionnaire. *Id.* Judge Senter continues to belong to the Nettleton Fox Hunting and Fishing Association which has no black members.

The Children's Defense Fund's own extensive contacts in Mississippi confirm that Judge Senter is perceived by a great many white and black citizens as being racially prejudiced. In our view even the appearance of racial prejudice should be sufficient to bar an individual from the revered position of the federal bench. This is especially true in the State of Mississippi which has been the site of some of the most violent racial conflicts in memory. However, as set forth above, the record before the Committee includes much, much more than a general perception of racial prejudice.

The person appointed to fill the vacancy in the Northern District must have impeccable credentials in race relations. Black citizens comprise over 62% of the total population of Northern Mississippi. These people have been subjected to oppressive discrimination in employment, housing, education, public services, and administration of public programs such as food stamps and welfare. Many blacks in Northern Mississippi have come to see the federal court as the one place they can turn for an unbiased consideration of their pleas for equal treatment. As a member of the bar of that court who tried a number of civil rights cases in the Northern District, I certainly share this feeling. This perception and the reality of the excellent record of Judges Smith and Keady must not be tarnished.

The Children's Defense Fund is presently representing large numbers of black and white handicapped children in a case in the Northern District of Mississippi to obtain educational programs to which they are entitled under the Education for All Handicapped Children Act of 1975 (P.L. 94–142). Many of these children had been excluded from school entirely or relegated to segregated, inadequate programs in facilities outside the regular classroom buildings. We were able to win this case and obtain appropriate educational programs because of the unbiased hearing we received from the federal court in the Northern District of Mississippi. There are other cases in Mississippi in which we are representing children who are being denied equal access to services and programs. The integrity and fairness of the federal judiciary in Mississippi is critical to the vindication of these children's rights.

Frankly, we find it intolerable that there is any disagreement at all on the Senter nomination. We call upon you as a member of the Judiciary Committee to oppose this nomination and preserve the high standards this Committee has previously upheld for the federal courts.

Sincerely,

MARIAN WRIGHT EDELMAN,
Director.

HOUSE OF REPRESENTATIVES,
Washington, D.C., December 18, 1979.

Hon. EDWARD M. KENNEDY,
Chairman, Senate Judiciary Committee, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR KENNEDY: It is our understanding that the Senate Judiciary Committee will soon vote on the matter of the nomination of Judge L. T. Senter, Jr. for the position of U.S. District Judge for the Northern District of Mississippi. As you know, serious questions have been raised concerning the nomination of Judge Senter. As Members of the Congressional Black Caucus, we are especially sensitive to questions concerning Judge Senter's record and his performance as a member of the Mississippi state court system. The national and the Mississippi State Conference of the NAACP, the National Bar Association, the National Conference of Black Lawyers, and others have expressed their opposition to the confirmation of Judge Senter.

We urge you and each member of the Judiciary Committee to vote against confirming Judge Senter.

Appointment to the federal judiciary deserves to be based upon a proven demonstration of excellence, competence and equal justice under the law.

Federal judges are expected to avoid even the appearance of impropriety in their conduct.

Yet, the many allegations regarding Judge Senter's nomination are so damaging that too much doubt exists about his ability to be fair in subsequent proceedings involving blacks and other minorities. Indeed, the charges cast further doubt whether any of the citizens of Mississippi can hold Judge Senter's impartiality and decorum beyond reproach.

The allegations and reports we have received indicate that Judge Senter neither possesses nor has demonstrated a commitment to equal justice under law. It is because we believe the presumption of equity in the courts is virtually as critical as the dispensation of equity, that we firmly oppose the confirmation of Judge Senter.

Because of your concern for maintaining the highest quality service in our federal courts, we are appealing to your interest in safeguarding the longstanding tradition of excellence in the federal court system, and we request that you vote against the confirmation of Judge L. T. Senter, Jr.

WALTER E. FAUNTROY,
SHIRLEY A. CHISHOLM,
WILLIAM L. CLAY,
CHARLES C. DIGGS, Jr.,
CARDISS COLLINS,
WILLIAM H. GRAY III,
JULIAN C. DIXON,
JOHN CONYERS, Jr.,
Members of Congress.

Mr. JAVITS. Mr. President, I know how late it is and I know how hard everyone has worked, but I can assure Senators that there have been many occasions in all my years when I faced even more difficult conditions in dealing with civil rights matters. I am sure that every one of these matters to which I have referred is controverted or the committee would not have voted 10 to 6 to report out this nomination. But nonetheless, while I feel that our colleague, Senator STENNIS, who is so honored and so much beloved among us, is entitled to have his vote as he requested, I shall vote "no," because I think the only way in which this kind of a doubt can be raised is by deferring action upon this nomination until we return and if that cannot be done by agreement, which I had hoped it could, then it must be done by our action of rejection. And if the President feels strongly about it he will send the nomination up to us again, if he feels that strongly about it.

And the fact that six very distinguished members of the Judiciary Committee saw fit to vote against him, Mr. President, must give us pause under these conditions.

Mr. President, this is a matter of substance. Men do justice and a Federal court judge has lots of power. Ask me. I know. I have had a lot of adverse decisions in Federal court and they are often very difficult to appeal from. A Federal court judge is, for all practical purposes, almost the sole judge of the facts, and it is very different from trials in State courts.

As I said before, this gentleman, and I certainly hope that he lives forever, has a life expectancy of 30 years being a Federal judge, and over 60 percent of the people of the community which will be judged by him are black.

I lay those facts before you, and I can only give you my own conclusion. With the deepest respect and love, and I mean that seriously, I have a very deep affection for Senator STENNIS. It has made it very difficult for me because he has made this appointment himself. I will vote no.

I thank the Chair.

The PRESIDING OFFICER (Mr. TSONGAS). The Senator from Indiana.

Mr. BAYH. Mr. President, I say to my colleagues I have not been in a more difficult position in my entire life.

The hour is late, but I think what my friend from Louisiana said is probably very true. Certainly it is true when all of us have worked hard and have labored diligently throughout a whole year and are anxious to get about our personal lives.

From a personal standpoint, the matter before us is, to a very great degree, a matter of personal privilege which we all take to our bosoms as Senators from individual States where the judges we recommend to the President reside. I have no colleague I respect more than my distinguished friend from Mississippi, and this is a matter I pondered at great length before raising the questions I raised with him earlier, while the committee was judging this matter.

I have the greatest respect for his junior colleague who sits on the Judiciary Committee, Senator COCHRAN. There is no question that this discussion is difficult for all of us. But we were not elected to this body to play pick up sticks. We have to stand up and say what we believe. I must say that as this record unfolded I found some rather strange things happening, and encountered allegations from people I did not know. I assume my colleagues from Mississippi did not know the individuals either, and did not know of the specific instances cited by them.

The fact that they have been brought to the Senate's attention should in no way be considered as being derogatory of our colleagues for not having gone through the screening process in a proper way. I do not raise questions in that regard. In fact, I think they probably were unaware of them.

It is my responsibility, I think, as a member of the Judiciary Committee, for which I temporarily served as acting chairman while this matter was before us, to review for my colleagues some of the issues which were raised before the committee as we considered this nomination. Maybe my feeling of responsibility was heightened a bit because I did take the initiative in two previous instances in opposing nominees when a President of a different party was in power, nominees to the Supreme Court. Those nominations were my first real experience with this type of judgment and I found it really the most disagreeable kind of thing.

We can stand up in this Chamber and disagree on Chrysler, or the Milwaukee Railroad, or other types of substantive issues and that is one thing. But when you get to looking into the heart and soul of a man, and suggesting that he is not qualified, or he is insensitive, and you see his children and his wife sitting there, I tell you it is a different dimension.

Having gone through this with Supreme Court Justices, gentlemen, one irony became apparent to me. And that is that those judges had previously been appointed to a lower post in the Federal judiciary and the kind of screening process we gave them when they were recommended for the high court had not been given to them when they were put on the Federal bench in the first place. I remember talking to a member of the minority community in my State at breakfast and he said, "We are really happy about what you did about the Haynesworth and Carswell nominations, but I have got to tell you, Birch, folks in my neighborhood are more concerned about the people who are going to be sitting on the bench at municipal court or at the Federal trial level." That is the level where the issue of the sensitivity of a judge is perhaps most important because most folks are never going to have a case go to the Supreme Court of the United States.

I said at that time that I was going to try to do what I had not done before that time, and that was to raise these questions at an earlier stage and then let the Senate decide.

I have to say the record on the pending nomination is ambiguous. I think there are sufficient questions to cause deep concern; sufficient questions to cause me to stand here at a very disagreeable hour and undertake a very disagreeable task. But at least briefly—it will not take but a very few minutes to lay this record out—I want the Senate to know the facts. There is testimony, sworn testimony. There are affidavits, sworn affidavits. There are also allegations, and I think there are probably some insinuations. In fact, there have been some insinuations that I do not even want to bother the Senate with at this time because they are specious. Who to believe, what to believe, is in your hands. Let me just summarize for you what the record says.

Our distinguished colleague from New York has touched on most of this, so I will not dwell upon it at length. The record shows three particular problem areas: One involved racial slurs; another involved the judge's choice of schools for his children and the third involved a white-only club.

I should say, first, that our colleagues from Mississippi have talked about the importance of members of the bar supporting this nominee. I do not take that lightly. But I ask my colleagues to reflect on their experiences with recommending a nomination for a Federal judge, and ask themselves how many lawyers they know in their States who would have the courage to come forth and say, "This man is not qualified," when the whole preponderance of precedence says he is going to be sitting on the Federal bench?

One member of the Mississippi bar did come forward, Robert Clark who was not a member of the bar, but was a legal intern, at the time he says he witnessed the event on which he spoke up. He is a native Mississippian, and he is now a member of the Mississippi bar. He is white, for whatever significance that may have. He witnessed and participated in about a dozen felony prosecutions before Judge Senter and his affidavit was read by Senator JAVITS. There is no need of reiterating it. There were two specific examples. One involved saying to the clerk, "How many niggers did you have brought in to participate in this panel?" And the other specific example, "Get that nigger out of here. He is making too much noise," or something to that effect. That is the basic thrust of Mr. Clark's testimony, in addition to the jokes that have been referred to earlier.

We have approximately seven affidavits by lawyers and law clerks, black and white, that were submitted stating that Senter never never used racial slurs in their presence. You need to know that. There is some corroborating testimony that he did use such slurs. So the evidence is mixed.

We have a May Clinton Standifer, who testified that he heard Judge Senter use the term "nigger" while he was on the porch of the Tupelo Courthouse during a political appearance by Governor Finch, in which he pointed to a group of black folks and said, "Get those niggers out of there."

We also have an affidavit from Governor Finch, who has now been elected and is serving his State, in which the Governor says he did not even see Judge Senter while he was in town.

We have more recently received a call, and I want the Senate to know what this is, from a man purporting to be the editor of a Jackson newspaper. I have never met the man. He was not with us in the hearings. This is not a sworn statement, and it is not testimony. But this indivdiual swears he has heard, he was there and heard, similar kinds of things, and also related observing a riot in which he heard the judge make these kinds of remarks.

I would like to review the school situation, very quickly. Judge Senter did put his children in a whites only academy. One of them graduated. The other one was removed in 1978. The judge told us in the hearings, in his testimony, that he put his children in the whites only academy 5 years after the question of segregation was raised.

Well, at the time the question of segregation was raised, freedom of choice integration plan was instituted. Five years later it was judged that this had not desegregated the schools and then a different order was invoked.

I say to my colleagues in the Senate that it was at that time that the judge put his children in a whites only academy. He told the committee he was not aware that the academy had lost its tax accreditation.

I have dwelled on this. I find it rather unbelievable that a sitting judge could not have seen this in the newspaper because it was a front page story about the school in which his children were students.

He did put his remaining child back in the public schools in 1978. I do not know what his motivation was. There is no way any of us can really know his motivation.

It has been alleged—and here it can only be an allegation, because we cannot look into the man's mind—that the reason he put his child back into the public schools was that he hoped to be a judge and he knew that this was going to be an important consideration in his evaluation.

I will say that it was at that time that Judge Orma Smith, who is the judge for whom this vacancy is going to be filled, announced in 1978 that he would go on senior status as a district court judge.

Now, I do not know what Judge Senter's motives were. I accept the description of my distinguished friend and colleague about the office seeking the man and the man not seeking the office.

But you need to know the chronology of these events. Maybe it was completely fortuitous.

One last word about the academy. The academy refused to follow IRS guidelines which said all the school had to do is make a proclamation. Not take any action. Just publish the fact that the school was an academy that did not discriminate. The academy did not do that. This would have been a minimal effort to indicate the academy was not discriminating.

Now, that worries me. Maybe it does not worry some others.

Getting on to the third item, the whites only club, from which Judge Senter recently resigned, the Aberdeen Country Club. Although he had failed to report this to the committee previously, he did testify, when he was before us, that he was a member and had previously resigned. He testified that he was also a member of the Nettleton Fox Hunting and Fishing Club, which restricts activities to shareholders. He testified that, in his judgment, anyone was free to sell shares, but none had been sold to blacks.

He subsequently came back to the committee with an affidavit saying that it was true that any sale of shares to nonshareholders would have to be approved by the club's board of directors.

And I must say that the Department of Justice said to him that he did not have to sell his shares. So that was not a requirement, according to the Department of Justice. But we have testimony and affidavits submitted by a panel of witnesses from Mississippi saying that the hunting club was well known locally to be segregated. But there, again, you have the Justice Department saying the club did not have to sell shares. So I think all Senators have to make a judgment about that.

Now, let me just close with a brief personal explanation about why I am standing here and taking your time, and why I will vote against Judge Senter. Then everybody is going to have to judge this for himself. I hope my friends from Mississippi will not be too disappointed that I took issue with them on this.

It seems to me that in this country we have made a lot of progress in our effort to root out discrimination. We have amended the Constitution. We have passed a whole raft of laws making it illegal to discriminate—jobs, homes, voting, you name it. We have a pile of legislation as tall as I am and we are still working on some of these areas.

I would like to suggest to my colleagues that anyone who is at all familiar with the way the law operates, which every Member of this body is or should be, has to understand that the most important ingredient in justice and equality is not necessarily what the Constitution says, or what the law says, but how they are interpreted. What is the mindset of the judge? How does he weigh justice? How does he weigh facts? How does he weigh law, as far as the particular case before him is concerned?

We have a canon of legal ethics, as some of us who practiced a little law know, and it talks about propriety. But it also emphasizes equally the appearance of propriety.

When we talk about meting out justice, we talk about not only about meting out justice. We also talk about the appearance of justice in a particular case and how that case relates to others who may never come before a court but who have to live with the results of every case that is tried and decided.

So I decided I had to say something and could not just sit idly by and say, "Well, we are just talking about a judge in one district in Mississippi." I say that not to suggest that this is not a very important district, because it is.

But I say that because, as a Senator from Indiana, Southern Judicial District in Indiana, I have to believe that this is a matter of wide concern to all of us.

Judges who serve our constituents, and our minority communities, are going to ask us, it seems to me, what standard we, as individuals, and what standard we, as the U.S. Senate, set as far as justice, racial equality and complete unfettered opportunity is concerned. Or what standard will we insist to let all reach out there for that impossible dream.

And I feel compelled to say to my colleagues, that as far as this one Senator is concerned—I have taken too long already, more than I intended to—there are just too many unanswered questions; too many unanswered questions. I would like to have them answered. Maybe we are doing this man a real injustice. I hope not. I am not prepared to absolutely judge the facts that I mentioned to you. I have laid them out for you. I would like to have more evidence before I vote to put this man on the Federal bench for life.

Mr. COHEN. Will the Senator yield for a question?

Mr. BAYH. I am happy to yield.

Mr. COHEN. In describing the first objection; namely, racial epithets, I noticed that all the statements had pertained to .affidavits and not testimony. Can the Senator tell us why this kind of evidence was received in the form of affidavit, with perhaps the dates of those affidavits, and how they happened to be submitted instead of testimony itself, subject to cross-examination?

Mr. BAYH. There were several affidavits. But the major charges were brought by Robert Clark, who is now a practicing member of the Mississippi bar, a native Mississippian, who was the intern at the time he observed these unfortunate occurrences. He testified before the committee personally .

Mr. COHEN. I thank the Senator.

Mr. BURDICK. Will the Senator yield for a question?

Mr. BAYH. I am happy to yield.

Mr. BURDICK. Was there any testimony to indicate that prejudice was injected in any of his decisions, where he was working as a court?

Mr. BAYH. No, there was not. One thing that seriously concerned me when we went through the Haynesworth and Carswell debate—and I hope and pray to God we never have to do that again—was that we found out, after weighing all the decisions, that Judge Carswell had been reversed by the Supreme Court of the United States more than any other setting appellate court judge. We could weigh that. We have not had a chance to do that on Judge Senter.

One of the charges made to the committee was that Judge Senter said something to a defendant at the time of sentencing to the effect—and I paraphrase this and anyone who has the record can contradict this—"Too many niggers are trying to take other people's property. If you steal and get caught you'll have to pay the penalty."

I do not even know what the sentence was. Maybe that sentence was right on target. To be very fair, I cannot say that it was an unfair sentence. I can say that someone says that they observed that kind of a dialog.

That is sort of hearsay. I am saying what I heard someone else say he heard. I think we all know what that means.

Mr. PERCY. Mr. President, I know that the hearing record is not here and available for us to study. In view of the controversy on this nomination, the Senator from Illinois would much prefer to defer this matter. If we were to have a vote on this tonight, the Senator from Illinois would have to vote against the candidate. I would much prefer to study the matter carefully and judge it after I have had a chance to really study the record.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER (Mr. INOUYE). The Senator from Mississippi.

Mr. COCHRAN. Mr. President, the distinguished Senator from Indiana mentioned a moment ago that we were in search of justice as well as the appearance of justice. I know most Members have to realize that the nominee who is before the body is a young Mississippian, someone who was sought out by my distinguished colleague from the State, Senator STENNIS, in a purely objective and very thorough manner.

In our State there has been an aura of racial injustice, discrimination, deprivation of voting rights, insensitivity to the needs and interests of black citizens.

This is something I know Senator STENNIS is aware of and sensitive to in a situation of this kind, where he is called upon to make a recommendation to the President for nomination to the Federal bench.

Certainly, as a member of this generation, the same generation of L. T. Senter, who is just about 4 years older than I am, we are interested in proving something, I think. Judge Senter is interested in proving something. That is that justice is available in Mississippi in the Federal courts as it has been in many trial courts in our State justice system, in his court.

There has not been one iota of evidence, Mr. President, before our committee, in testimony, any credible affidavit submitted, which would indicate that this nominee is not qualified and competent to serve on the Fedreal bench. What has been apparent, Mr. President, is that Judge Senter is not black.

The fact is that in our State there is a great deal of pressure to have a black person nominated for the Federal bench. Senator STENNIS I know interviewed black lawyers, a wide range of people, to try to select the person that, in his judgment, would be the most competent person to serve in this position.

Tommy Senter is probably the best of all possible choices, but he is white.

There was a bit of testimony from an intern, who had practiced in the court under the supervision of prosecutors, that he had heard Judge Senter as a trial judge use racial slurs, using the word nigger in his court. This was shocking to this Senator who sat on that committee and heard that testimony. As a former attorney who practiced in that judge's court, I knew personally that he was not the kind of man to use that kind of language in open court.

Of all of the lawyers in that circuit district who tried cases in his court, none of them corroborated that kind of testimony. As a matter of fact, overwhelmingly, unanimously, they all said that kind of testimony is not supported by the evidence. They never heard that kind of language used in his court by him. Black lawyers who tried cases in his court said he would be fair. He is a fair judge. He is not the kind of judge that would indulge in that kind of behavior.

Someone, I think the distinguished Senator from New York, for whom I have the greatest admiration, said something about the area of the State being made up of probably 50 percent minority population. Our trial judges in Mississippi are elected by popular vote. Tommy Senter has been elected and then reelected on two other occasions in a judicial district that is at least 50 percent black—at least 50 percent black—and he has never had any question raised in any of his campaigns for election or reelection that would suggest that he was guilty of racial bias or that he was insensitive to the needs or interests of black citizens.

As a matter of fact, it would have been incomprehensible for him to have said anything or done anything that would have led anybody to believe that as an elected public servant in that kind of situation.

I know the hour is late and I am not going to take any more time of the Senate on this matter, except to say that it is a real disgrace, in my judgment, Mr. President, to see a man of the character, integrity, and ability of this nominee subjected to the kind of personal attacks that this nominee has been subjected to with no more basis in fact than has been dredged up and used against him. It is not justice and it does not have the appearance of justice, Mr. President. This nominee ought to be confirmed by the Senate.

Mr. STENNIS. Will the Senator yield to me for a short question?

Mr. COCHRAN. I yield.

Mr. STENNIS. Do I understand correctly that the Senator has practiced in Judge Senter's court in Mississippi while he was on the circuit court bench, and has tried cases there?

Mr. COCHRAN. That is correct.

Mr. STENNIS. I wanted to be sure that came out. I was on the other side of the Chamber.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I rise to reject the nomination of L. T. Senter. Unfortunately, I have not had the opportunity to review the record of Judge L. T. Senter. However, while I was in conference committee today working on the Chrysler legislation, my office was barraged with phone calls from constituents, civil rights group, labor organizations, and judicial associations. All of these groups strongly object to the confirmation of Judge Senter. I would like the opportunity to review this gentleman's record before voting for confirmation.

I am uncomfortable because I do not know what the facts are. I am not comfortable in a situation where I have to vote without knowing the facts. Given that ambiguity, I am going to vote no.

The concerns that have been voiced against this confirmation center on the gentleman's alleged racial insensitivities. I understand that the Judiciary Committee received sworn testimony reporting Judge Senter's use of derogatory racial epithets in open court. In fact, I am told that a former law clerk of the judge testified in support of this allegation.

In addition, the judge withdrew his children from a public school system in Mississippi at the time of broad school desegregation in that State. Subsequently, Judge Senter enrolled his children in a private academy that thereafter lost its IRS tax exempt status when it refused to adopt and publish a policy of nondiscrimination.

Mr. President, several of my colleagues whose opinion I trust voted against this nomination in Judiciary Committee this afternoon. I simply would like the opportunity to review the judge's record before I consider this confirmation.

I would only point out to my colleagues that this is the last vote of the Senate in this decade. It does not seem to me a proper way to end it.

Mr. HATCH. Mr. President, I will not delay the Senate very long. My statement will be very brief. I listened closely to the remarks of the junior Senator from Mississippi.

As many Members know, on the Judiciary Committee, because we have had so many judgeships, with 152 to be approved, generally there are only one member of the majority and one member of the minority in attendance during these confirmation hearings. I happened to be there for part of the hearing, and I have spent some time on the record, and I have, of course, participated in the committee processes.

I want to compliment the Senators from Mississippi, particularly. I know how deeply they feel about this matter. I know how deeply they feel about the civil rights of blacks in their State. I feel deeply about that, too.

If I had not been at the hearing; if I had not seen Judge Senter; if I had not personally surveyed his demeanor and his answers to specific questions and, in part, the denial of some of the accusations that were made, I, too, feel that perhaps I would feel the same way as the distinguished Senator from New York and others have expressed today. But I was there.

I also have taken time to explore the matter. I have also participated in the committee proceedings. I have no desire to have anybody on the bench who is incompetent, who is not of the highest character, and, certainly, I do not want anybody on the Federal bench who would demean that bench by not having the highest concern for human rights, civil rights, and equal justice under law.

It is my opinion that the distinguished junior Senator from Mississippi, and certainly the senior Senator, not only deserve the benefit of the doubt, but since they have the personal experience and knowledge they have and we both know what tremendous and wonderful men they are, men of impeccable character and integrity, we ought to give serious consideration to what they have said here this evening.

More importantly, I think the record bears out that, yes, there are some questions, as my good friend from Indiana has raised. I think they have been answered. I think they have been answered by those of us who have observed this process. I think they have been answered on the record.

I would hate to see, just because understandably there is a desire to have a black judge in Mississippi, that this man be harmed at this particular time with the support of these two fine Senators—bipartisan, by the way. I might add that there was bipartisan support in the committee today, voting him out favorably.

All I can say is that I do support Judge Senter. I support our two distinguished colleagues from Mississippi. They happen to be right in this matter and I think we ought to stand up and support them.

I thank the Chair for giving me this time.

Mr. METZENBAUM. Mr. President, when this matter first came to the attention of the Committee on the Judiciary, I had the privilege of discussing it with one of the men in the Senate for whom I have nothing but the highest regard. As a matter of fact, I had the privilege of serving on his committee for a short period of time, and I indeed considered it a great honor. I made up my mind to go into this question with a totally open mind. I had assured him I would do so, and I did do just that.

I had also resolved this evening to hold my seat and not to address myself to the issue. But things have developed which cause me to believe that the case is not quite as suggested by some. I think I would like to indicate the facts as I see them.

First, as to the vote on this matter. I want to correct my friend from New York who, I know, did not intend so to indicate. It was not 10 to 6; it was 10 to 7. I am informed that one of the 10 probably will vote in opposition tonight and had he voted that way in committee, it would have been 9 to 8.

The facts are when eight or seven members of the committee have heard the evidence, to suggest that they might vote as they did because they did because they think there ought to be a black judge in Mississippi, I think, is totally contrary to the facts. That is certainly not this Senator's point of view. I may think there ought to be a black judge in Mississippi, but I would no more vote against Judge Senter for that reason than I would vote against any Member of this Senate on a totally capricious basis.

I think the suggestion was made that there was only one witness who said that Judge Senter had used the term "nigger," and had used racial epithets and had used racial jokes. The fact is there was only one witness, but there were several affidavits that indicated that he used that term on many occasions, both in the courtroom and outside the courtroom.

The evidence is quite clear with respect to the matter of removing his children from the public schools. And one of the members of our committee was quite concerned about the entire issue of Judge Senter and his positive concern about the rights of litigants when they appeared before him in his courtroom.

I was not present, but I heard him testify to our committee before he voted that he had called Judge Senter and that he had done so because he was disturbed. He wanted to talk directly with Judge Senter. He had heard him in part when he had testified, but he still wanted a sort of reaffirmation. So he called Judge Senter on the phone and talked with him. After he concluded his conversation with him, he came away more disappointed than he had been when he started the telephone conversation, and he was one of those who voted "no" today.

I think the Senator from Massachusetts makes a very interesting and a very telling point. This will probably be the last official vote of the U.S. Senate in 1979. It seems to me that we ought not to be discussing this matter here this evening at 10 minutes to 2. There is no great sense of urgency. There are many other judicial candidates that are pending before the U.S. Senate that have been carried over into the next year on the basis of a unanimous-consent request of the majority leader. I think that is what should have happened with Judge Senter. I still think, it should happen that way.

I think that the fact that eight Congressmen saw fit to write a lettter in opposition, the fact that so many organizations and local organizations in Mississippi—all of the black mayors in Mississippi came out against him. I think all of that suggests that there is, indeed, some basis for the Members of the U.S. Senate to question whether or not this evening, we, in our last official act—we shall probably take care of some routine matters that have to be attended to. But in our last official act, should we really be confirming this man? Or should we not use a little better judgment and unanimously agree—I am not making any request—to put him over until the coming year so we ourselves may be able better to investigate into some of the allegations and charges that were made?

Mr. THURMOND. Mr. President, as the ranking member of the Committee on the Judiciary, I feel an obligation to make a statement, but it will be very brief.

One charge against the judge was that he sent his children to a private school. The judge has made a sworn affidavit here as to reasons for that. He says:

> My oldest son needed more individual attention and he could get this in a private school. In a public school, the ratio was 40 or 50 to 1 and the private school is just 20 to 25.

He had to hire a tutor.

He sent them to the private school. Soon Judge Senter found that he still had to hire a tutor, so he put his children back into public school. This happened long before his nomination for Federal district judge came up.

Another charge against him is that he has used racial slurs. The judge has denied this. He has written a letter since then, reaffirming this. He further stated in that letter he expects to be fair, of course, to all parties.

I think that the people who probably know a judge best are the clerks of court. In a circuit like that of Judge Senter, as it is in South Carolina—I remember when I was judge, I would go from circuit to circuit, with four or five counties to the circuit. In Mississippi, it seems to be the same way. The clerks of court there stated—this is typical of their affidavits. This lady, who is a clerk of court, says she has known him for the past 8 years, worked as deputy clerk and then as clerk. She has never heard him make a racial slur and does not believe he would make such a slur.

This sworn affidavit is signed by Charlotte S. Williams. Another one from Mrs. Evelyn Jones of Pontotoc County, Miss. states Judge Senter conducts his court in a firm, dignified manner, shows no partiality. He has never shown any disrespect for blacks on or off the bench.

Another clerk of court made a similar statement:

> I have never known him to show any prejudice for or against any group or individual.

Another clerk of court says he has known him for 11 years, and:

> [Judge Senter] has never shown any disrespect to blacks on or off the bench.

There are several others, I will not read them. That is the tenor of the statements.

These are the people who know him best. There are affidavits from two black lawyers who would endorse him. In a sworn affidavit by Randolph Walker, a black practicing attorney, He says:

> I have never heard Judge Senter make racial slurs or remarks of any kind or character either on or off the bench. To the contrary, I believe that Judge Senter has treated all parties who appeared before him in a fair and just manner, regardless of their race or color.

There is another affidavit by Richard E. Burdine, a black practicing attorney who makes a similar statement, that he has never heard racial slurs and he thinks the judge is fair in every way.

Mr. President, the Mississippi Bar Association passed a resolution endorsing Judge Senter. The bar said that he served with distinction as a State circuit judge for over 10 years. In both his personal and public life, Judge Senter has been extremely sensitive to the rights of all persons.

So says the State bar of Mississippi.

Aside from that, Mr. President, aside from these personal statements and the testimony, it seems that the only charge against this man is made by an intern who said he made a slur. The judge denies it.

His friends who worked with him, the lawyers and others, say they never heard him make a racial slur. Clerks of court say they never heard him make a racial slur.

I have a number of affidavits. I will not take time to go into them further.

Mr. President, knowing Senator STENNIS as I do, I have known him for 25 years here, and when he tells us that he has looked around in Mississippi to try to get a person with experience on the bench, trying to get one of character and integrity, one who would be fair to all, when he tells us he has done that, I know he has done it. I know he has done the best he could to get that kind of person. Senator STENNIS says he knows him personally. He has picked him from a number of candidates.

If a Senator stood here and said that from his State he recommended a certain judge, knew him personally, and he is a fit person, I would accept his statement. I certainly feel that the Senate can accept Senator STENNIS' statement on Judge Senter.

Aside from that, Senator COCHRAN says he has practiced before the judge. He knows him personally. He thinks highly of him. He does not believe he has made slurs.

Mr. President, in view of the testimony, in view of the statements by the judge himself, in view of the statements by the clerks and practicing attorneys, but especially the statements from these two esteemed Senators in whom all of us have such great respect and admiration, I feel we can accept their statement.

The committee voted 11 to 6, I believe, or 10 to 6, whichever it was, to confirm this judge. I hope the Senate will see fit to confirm that action and confirm this judge.

Mr. President, I ask unanimous consent to have all this material printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AFFIDAVIT

Personally appeared before me, the undersigned authority in and for the aforesaid jurisdiction, Claude A. Chamberlin, who upon being by me duly sworn on his oath deposes and says as follows:

That Affiant is a practicing attorney in Monroe County, Mississippi, and has been engaged in active practice of law since February 1, 1962, in Monroe County, Mississippi, and has during said period of time tried cases on a number of occasions against Judge L. T. Senter, Jr. when he was in private practice and has appeared in Judge Senter's court regularly since Judge Senter became Circuit in 1968, and has tried numerous cases in Judge Senter's court, and that Affiant has never heard Judge Senter make any derogatory remarks or references to or about any person or groups of persons.

Further, that Judge Senter has always conducted his court in a most proper and decorous manner and has always extended courtesy to all litigants, attorneys and court personnel, and has been a credit to the bench and the bar. This affiant has never heard Judge Senter use any racially slurring remark and finds any allegations that he has to be unbelievable.

Witness my signature, this the 7th day of December, 1979.

CLAUDE A. CHAMBERLIN.

AFFIDAVIT

Personally appeared before me, the undersigned authority in and for the State and County aforesaid, Jack N. Thomas of Amory, Monroe County, Mississippi, who being first by me duly sworn deposes and says as follows:

That he is a duly licensed practicing attorney in Monroe County, Mississippi, having been licensed to practice in the year 1949 and since that time has been personally acquainted with Judge L. T. Senter, Jr. of Aberdeen, Mississippi. Judge Senter was a longtime member of the law firm of Patterson, Senter & King in Aberdeen, Mississippi, prior to his election as the Senior Circuit Judge for the First Judicial District of the State of Mississippi about the year 1968.

The Affiant herein certifies that he has appeared in Judge Senter's Court on numerous occasions and observed his demeanor in presiding and conducting court in said district. That Judge Senter has always conducted himself and his Court in the highest standard of professional ethics and that the Affiant herein further certifies that not in the thirty years of personal acquaintance with Judge Senter and practicing before his Court has he ever heard him make any derogatory statement against any person whatever.

Witness my signature, this the 7th day of December, 1979.

JACK N. THOMAS.

AFFIDAVIT

Personally appeared before me, the undersigned authority in and for the jurisdiction aforesaid, Glen H. Davidson, who being by me duly sworn deposes and states as follows:

My name is Glen H. Davidson. I am a practicing Attorney in Tupelo, Lee County, Mississippi where I have practiced law since 1969. Prior to this I was on active duty in U.S. Air Force Judge Advocate Corps for three years.

From July 1969 to January 1975 I was Assistant District Attorney for the First Circuit Court District of Mississippi which includes Lee County and six other counties, during these years I was the only Assistant District Attorney in the District. The District Attorney at that time was Neal B. Biggers, Jr. who took office as one of the Circuit Judges of the District on January 1, 1975 and who still serves in that capacity. The County Prosecuting Attorney of Lee County with whom I work closely was Gary Carnathan. The Senior Circuit Judge of the District then, as now, was Judge L. T. Senter, Jr.

During my years as Assistant District Attorney, legal interns were assigned to work in the Prosecutor's office. These interns were law students at the University of Mississippi who spent a school semester assisting Prosecutors in our district and other districts. I specifically remember the young man who was interning for us in the Fall of 1974 and whose name was Robert E. Clark.

These interns served as Assistants to the Prosecutors. They performed various services in the preparation of cases for trial and usually accompanied the Prosecutors to Court for trial of cases. They never tried cases or appeared in Court or in Chambers alone, they were not members of the Bar and were not licensed to practice law.

Thus, I am sure that Robert E. Clark assisted in the trial of some criminal prosecutions in the First Circuit Court District and in Lee County in the Fall of 1974. I am equally sure that he never appeared in Court or in Chambers unless he was with County Attorney Carnathan, the District Attorney or with me.

I have been furnished with a copy of a portion of a statement which I understand Mr. Clark made to the United States Senate Judiciary Committee wherein he states that while interning for us in the Fall of 1974, he heard Judge L. T. Senter refer to black people as "niggers" and that he heard Judge Senter tell racist jokes in Chambers. None of these alleged occurrences took place while Mr. Clark was with me in Court or Chambers before Judge Senter. Judge Senter has never, in the Fall of 1974 or at any other time, referred to black people as "niggers" or told racist jokes in my presence, either on or off the bench.

I have practiced before Judge Senter for the last ten years. I have observed blacks in Judge Senter's Court as litigants, as Criminal Defendants, as witnesses and as jurors. I have never seen an instance in which Judge Senter did not treat these black people with courtesy and respect, and he required all of the Court personnel to do likewise. I have personal knowledge of Judge Senter's presentencing practice. As a prosecutor, I had the opportunity to observe first hand the attention, care and concern

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before him. I know that he has never discriminated according to race in handing down sentences to criminal Defendants.

Further, Judge Senter is not a man given to temperamental outburst while on or off the bench. He is a remarkable, self controlled person and he runs his Court with authority and dignity but with courtesy to all.

Further, affiant says not.

Witness my signature this the 7th day of December 1979.

GLEN H. DAVIDSON.

AFFIDAVIT

Personally appeared before me, the undersigned authority in and for the jurisdiction aforesaid, Neal B. Biggers, Jr., who being by me duly sworn deposes and states as follows:

Affiant Neal B. Biggers, Jr. is a Circuit Judge in the First Circuit Court District of Mississippi. This district includes seven Northeast Mississippi Counties, Alcorn, Itawamba, Lee, Monroe, Pontotoc, Prentiss and Tishomingo. Affiant took office as Circuit Judge on January 1, 1975 and prior thereto served as District Attorney for the First Circuit Court District. Affiant had one Assistant District Attorney who in 1974 was Attorney Glen H. Davidson of Tupelo, Mississippi. At that time the County Prosecuting Attorney for Lee County was Attorney Gary Carnathan. L. T. Senter, Jr. was Senior Circuit Judge of the district.

I remember a legal intern named Robert E. Clark who worked for us a few weeks in 1974. These legal interns came to us from the University of Mississippi Law School and assisted the Prosecutors in getting the cases ready for trial and in trying cases. Of course, they had no legal right to try a case on their own and so none of them ever went to Circuit Court alone but always went in the company of either the one Assistant District.

* * * * *

Senter, he was there with either Mr. Carnathan, Mr. Davidson or me and when he was there with me, the things that Mr. Clark described did not happen.

Judge Senter has a district wide reputation as an even tempered, self controlled Judge who runs his Court in an evenhanded manner. I have never heard him snap at Court personnel. I have said that I never heard him use the word "nigger" and I am certain that he has never used it in Court when I was present and I cannot conceive of him doing so and neither have I heard him tell racist jokes.

As District Attorney, I conferred with Judge Senter constantly with reference to the sentencing procedure and the sentencing of specific individuals. As a fellow Judge I have continued these conferences. I know of his concern for carrying out the sentencing procedure in a fair manner and I know that he has never handed down harsher sentences to black persons than to Caucasians who were convicted of similar crimes. In all of my dealings with Judge Senter, I have never seen any evidence of prejudice against black people.

AFFIDAVIT

Personally appeared before me, the undersigned authority, in and for the aforesaid jurisdiction, Gary L. Carnathan, who being by me duly sworn states as follows:

My name is Gary Carnathan, and I was the Lee County Prosecuting Attorney from January, 1972 until January, 1976. I worked closely with the District Attorney, Neal Biggers, Jr., of Corinth, Mississippi and his assistant, Mr. Glen H. Davidson of Tupelo, Mississippi. I do not remember the specific dates and times but I did have an intern who was working with me named Robert E. Clark. He did assist me in preparation of cases, both in local justice court and circuit court in this county.

I have not heard Judge L. T. Senter, Jr. of Aberdeen, Mississippi tell any racist jokes while in my presence nor have I heard him refer to black people as "Niggers". Judge Senter has always been a competent Judge in every respect during my association with him.

Witness my signature, this the 7th day of December, 1979.

GARY L. CARNATHAN.

AFFIDAVIT OF MICHAEL B. GRATZ

Personally appeared before me, the undersigned authority in and for the aforesaid jurisdiction, Michael B. Granz, who on his oath states as follows:

My name is Michael B. Gratz and I am a practicing attorney in Tupelo, Lee County, Mississippi, and have been such for over seven years. During all of this time one of the Circuit Judges in the First Circuit Court District of Mississippi has been the Honorable L. T. Senter, Jr. of Aberdeen, Mississippi.

I have practiced before Judge Senter in Circuit Court for over seven years and during all of this time Lee County has had a substantial population of black people and I have participated in numerous hearings, conferences and trials in Judge Senter's court in which I was either representing black people or black people were on opposing sides or were witnesses for or against my position. Further, I have observed many other trials and hearings in Judge Senter's court in which black people were witnesses and examined and in almost every case a substantial portion of the jury was comprised of black people. Judge Senter has always treated black people with the same and identical common courtesies he has always extended to others who have appeared before him and this is true both in court and out of court; and I have never heard Judge Senter refer to a black person as "nigger" either in court or out of court, or make any kind of racial slur or derogatory remark to anyone or about anyone reflecting upon his or her color or background.

* * * * * * *

state, without any reservation whatsoever, that I have never heard any member of the Bar or Bench or citizenry within his judicial district make any remark whatsoever in any wise impugning or attempting to challenge his integrity and unbiased character.

AFFIDAVIT

Personally appeared before me, the undersigned authority in and for the aforesaid county and state, Thomas J. Gardner, III, who having been first duly sworn by me states on oath as follows:

That I am a duly licensed and practicing attorney in the City of Tupelo, Lee County, Mississippi, and have practiced law in the First Judicial District of the State of Mississippi since 1966; that L. T. Senter, Jr. has served as Circuit Court Judge in the First Judicial District for approximately 10 years of that period; that I have served as a Public Defender for Lee County, Mississippi and am presently serving as an Assistant District Attorney for the First Judicial District; that, in addition, I have practiced civil law in the courts of the District and have had occasion to practice before Judge Senter and to be present in the courtroom when he was presiding continuously during the past 8 years; that Lee County, Mississippi has a substantial Black population, that the jurors, witnesses and parties to both civil and criminal litigation are frequently Black persons; that on all occasions Judge Senter has both publicly and privately treated Black persons participating as jurors, witnesses, parties, defendants and attorneys with respect and dignity.

I have never heard him refer to any Black person, either in the courtroom or in private, as a "nigger."

I have known Judge Senter for approximately 11 years and personally know him to be of good moral character and highly respected by the other judges of this state and the Bar.

This, the 7th day of December, 1979.

THOMAS J. GARDNER III.

LYONEL THOMAS SENTER, JR.

(Aberdeen, Mississippi)

Date of Birth: July 30, 1933.

Born: Fulton, Mississippi.

Graduated Aberdeen High School.

B.S. Degree, University of Southern Mississippi—1956.

JD Degree, University of Mississippi Law School—1959.

General practice of law, Aberdeen, Mississippi—1960–68.

County Prosecuting Attorney, Monroe County—1960–64.

United States Commissioner—1966–68.

Circuit Judge, First District of Mississippi, has been senior judge of 3 present Circuit Judges in First District since 1970–1968 to Present.

Member: American Bar Association; Mississippi Bar Association.

Served as Chairman of State Circuit Judges Conference for 1 year, this being an organization composed of all Circuit Judges in the State.

1969 and 1971 attended National Trial Judges College in Reno, Nevada.

Married, 3 children.

[From the Clarion-Ledger, June 15, 1978]

STATE BAR ENDORSES SENTER

(By Patrick Larkin)

Circuit Judge L. T. Senter, Jr., has picked up the backing of the Mississippi State Bar Association for his nomination for a federal district judgeship in the state's northern district.

The association's board of commissioners unanimously adopted a resolution last week supporting Senter's appointment to the judgeship.

Senter "has served with distinction as a circuit judge . . . for over ten years," the resolution states. It continues that in both his personal and public life, Senter "has been extremely sensitive to the rights of all persons."

While on the bench, Senter "has treated all persons before his court with courtesy, and in both civil and criminal matters, he has ruled fairly and impartially to all persons before him without prejedice because of race, color or creed," the resolution states.

Jack Travis, newly installed president of the state bar association, released the resolution and a copy of a letter to White House counsel Robert J. Lipshutz, asking that the endorsment be brought to President Carter's attention. Lipshutz spoke at the association's convention in Biloxi last week.

Sen. John C. Stennis recommended Senter for the vacancy to the state's northern district in early May. The vacancy was created when U.S. District Judge Gerard Smith took senior status, which means he will be in semi-retirement and hear only occasional cases.

Senter's nomination came under fire from black lawyers and the United League, who charged the judge was part of a mob that castrated and shot a black man in the back in Aberdeen in 1948. They also charged that Senter referred to black United League members as "niggers" in Tupelo last summer.

Senter, 45, told The Clarion-Ledger that he witnessed the mob violence but took no part in it. He said he was only 14 years old at the time.

Senter also denied ever referring to blacks as "niggers."

A copy of the bar association's resolution also was forwarded to the U.S. Senate Judiciary Committee, which is expected to hold hearings on Senter's appointment should he be nominated by Carter.

The FBI and the American Bar Association have begun background investigations of Senter, steps which generally mean a person has passed a preliminary investigation by the U.S. Justice Department.

AFFIDAVIT OF RICHARD E. BURDINE

Personally appeared before me, the undersigned authority in and for the jurisdiction aforesaid, Richard E. Burdine, who, being by me first duly sworn on his oath states as follows:

I, Richard E. Burdine, am a black practicing attorney in Columbus, Mississippi.

For the past seven years, I appeared frequently in Circuit Court in Aberdeen, Mississippi with Circuit Judge L. T. Senter, Jr. presiding on the bench. I have never heard Judge Senter make racial slurs or remarks of any kind or character either on or off the bench. To the contrary, Judge Senter has always treated all parties before him in a fair and just manner regardless of their race or color.

RICHARD E. BURDINE.

AFFIDAVIT OF RANDOLPH WALKER

Personally appeared before me, the undersigned authority in and for the jurisdiction aforesaid, Randolph Walker, who being by me first duly sworn, on his oath states as follows:

I, Randolph Walker, am a black practicing attorney in West Point, Mississippi.

I have appeared in the Circuit Court in Aberdeen, Mississippi on several occasions with Circuit Judge L. T. Senter, Jr. presiding on the bench. I have never heard Judge Senter make racial slurs or remarks of any kind or character either on or off the bench. To the contrary, I believe that Judge Senter has treated all parties who appeared before him in a fair and just manner, regardless of their race or color.

RANDOLPH WALKER.

AFFIDAVIT OF CHARLOTTE B. WILLIAMS

Personally appeared before me, the undersigned authority in and for the jurisdiction aforesaid, Charlotte B. Williams, who being by me first duly sworn on her oath states as follows:

I, Charlotte B. Williams, am the duly elected Circuit Clerk of Monroe County, Mississippi with my office in the Courthouse in Aberdeen, Mississippi. I have been clerk on the Circuit Court for the past eight years and for several years prior thereto I worked as a deputy clerk in this office.

I know that Circuit Judge L. T. Senter, Jr. has never made racial slurs or remarks on or off the bench. To the contrary, Judge Senter, when he first became circuit judge in 1968, directed that all parties, regardless of race or color, be treated with equal courtesy and respect.

CIRCUIT CLERK AND REGISTRAR,
Pontotoc, June 15, 1979.

To Whom It May Concern:

As Circuit Clerk of Pontotoc County, Mississippi, I have worked with Judge L. T. Senter, Jr., since January, 1972. He has always conducted the affairs of our Courts in a firm, dignified manner, showing no partiality to anyone.

He has never shown disrespect for Blacks either on or off the Bench.

In my opinion, Judge Senter is highly qualified for the position of Federal Judge.

Sincerely,

EVELYN JONES,
Circuit Clerk.

CLERK OF THE CIRCUIT COURT,
Corinth, Miss., June 13, 1979.

To Whom It May Concern:

I, Jerry Moore, Clerk of the Circuit Court of Alcorn County, Mississippi, First Judicial District of the State of Mississippi, wherein Judge L. T. Senter, Jr. is senior judge, have personally known Judge Senter for the past three and one-half years.

I know Judge Senter is an honorable man. From my observance of Judge Senter on the bench, I have never known him to show any prejudice for or against any group or individual.

Judge Senter is a fair and impartial man and strictly adheres to the law. It has been a privilege and a pleasure to be associated with this gentleman.

Your very truly,

JERRY MOORE,
Circuit Clerk.

OFFICE OF CIRCUIT CLERK,
Topelo, Miss., June 14, 1979.

To Whom It May Concern:

I have been Circuit Court Clerk since December 28, 1965, and for the last eleven years I have worked with Judge L. T. Senter, Jr. as Circuit Judge.

Judge Senter has never shown any disrespect to blacks on or off the bench.

In my opinion he is highly qualified for the office of Federal Judge.

Sincerely,

FAY H. ESTES,
Circuit Court Clerk.

Iuka, Miss., June 13, 1979.

To Whom It May Concern:

I have served as Circuit Court Clerk of Tishomingo County, Mississippi for eleven and one-half years. Eleven of those years were served with Judge L. T. Senter, Jr.

I have found Judge Senter to be one of the finest people and one of the best judges that I have ever worked with.

In my eleven year association with Judge Senter I have never known him to show partiality to anyone, either black or white.

Your consideration of Judge Senter for the position of Federal Judge will be personally appreciated by me and I certainly do not believe you could make a wiser choice.

Sincerely,

LAMAR RUTHERFORD,
Circuit Court Clerk.

AFFIDAVIT

Personally appeared before me, the undersigned authority in and for the jurisdiction aforesaid, Wendell Hobdy Bryan, II, who being by me first duly sworn on his oath states as follows:

I, Wendell Hobdy Bryan, II, am the public defender in Monroe County, Mississippi. In that capacity, I have represented numerous black defendants before Circuit Judge L. T. Senter, Jr. I have never heard Judge Senter make racial slurs or remarks on or off the bench. I have not known him to mistreat any of my clients or any other party because of his or her race. Indeed, had Judge Senter done so, it would have been my duty to object to such an occurrence, since I am bound by the Code of Professional Responsibility to zealously represent my clients' interests.

WENDELL HOBDY BRYAN II.

FIRST CIRCUIT COURT,
DISTRICT OF MISSISSIPPI,
Aberdeen, December 19, 1979.

COMMITTEE ON THE JUDICIARY,
U.S. Senate,
Washington, D.C.

GENTLEMAN: In response to questions raised by several members of the Senate Judiciary Committee, I am glad to elaborate further on my testimony to the Committee on November 29, 1979 and to reaffirm my commitment to equal justice under law.

In my conduct as a trial judge in Mississippi, I have always been fair and impartial to all parties coming before the Court, whether as litigants, attorneys, jurors, witnesses or spectators. This is certainly true as to black persons as well as others.

I have tried to be courteous to all and I will continue to follow this course in the future as circuit judge or as United States district judge if I am confirmed by the Senate.

Specifically, I have been and am committed to making certain that every person, whether black or white or a member of any minority, receive equal justice under the law in any court or proceeding over which I preside or participate in as a United States district judge. I am and will continue to be free of any bias against any class of citizens or any religious or racial group. There will be no discrimination in my court on account of race, religion or for any other reason, and I will do everything I can to make certain that the civil and constitutional rights of all citizens are fully protected. I will be fair and sensitive to the legal and constitutional rights of all persons.

My testimony before the Senate Judiciary Committee on November 29, 1979 was intended to reflect my views in this matter and my commitment and I am glad to reaffirm this testimony and intention on my part.

Yours very truly,

L. T. SENTER, Jr.

AFFIDAVIT OF L. T. SENTER, JR.

Personally appeared before me, the undersigned authority in and for the jurisdiction aforesaid, L. T. Senter, Jr., who being by me first duly sworn on his oath states as follows:

I, L. T. Senter, Jr., enrolled my two oldest children in Oak Hill Academy, a private school, in the fall of 1970. My oldest son was in the sixth grade and my daughter was in the third grade.

My reason for enrolling my children in a private school was simply that the public school in Aberdeen had a pupil teacher ratio of 40–50 to one while the private school had a pupil teacher ratio of 20–25 to one. I simply felt that my oldest son, in particular, needed more individual attention, and that he could get this attention in a classroom with fewer pupils.

In 1978, I determined that my youngest son was not progressing well in the private school and that I was paying a private tutor to help him after school. I reasoned that he would do just as well in the public school with a private tutor so I returned my children to the Aberdeen Public School in the fall of 1978.

Prior to my children entering the private school in 1970, the Aberdeen Public School had been integrated for approximately five years. My children attended classes with blacks and this in no way influenced me to send them to the private school.

L. T. SENTER, Jr.

AFFIDAVIT

Personally appeared before me, the undersigned authority in and for the aforesaid State and County, D. W. Houston, Jr., who being by me duly sworn on his oath deposes and says, as follows:

That I am an attorney-at-law, duly licensed under the laws of the State of Mississippi, having been admitted to practice on June 3, 1935. That I am licensed to practice law in the Circuit, Chancery and Supreme Courts of Mississippi, and the United States District Court and the United States Court of Appeals and have been engaged in the practice of law in these courts and have had an opportunity to try both civil and criminal cases and on numerous occasions have appeared before Judge L. T. Senter, Jr. where I have represented clients of the White and Black Races and have represented numerous Black criminal defendants in cases before Judge Senter and have been in a position to observe Judge Senter in private practice and as County Prosecuting Attorney and Circuit Judge of the First Judicial District of Mississippi, and know that Judge Senter has always been fair and impartial in his rulings as to the White and Black Races. In my many years of association with Judge Senter before he went on the Circuit Bench and since he has been on the Bench, I have never heard him make any disparaging racial remarks or slurs of any kind whatsoever. Judge Senter is not the type person who would condone racial slurs in his court, and any charges that he has done so, in my opinion, is rumor and fabrication.

Judge Senter is an outstanding jurist and will be a credit to the Bench and Bar, not only of the Northern District of Mississippi, but to all of Mississippi and other states.

It is my opinion that if Judge Senter is confirmed for the position of United States District Judge that he will be fair and impartial in his handling of all civil and criminal matters, whether the individual is Black or White. His honesty, character and integrity are the highest.

Witness my signature, this the 7th day of December, 1979.

D. W. HOUSTON, Jr.

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER. The question is on the nomination of Judge L. T. Senter, Jr., of Mississippi, for U.S. district judge for the northern district of Mississippi.

Mr. JAVITS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The Senator from Alabama.

Mr. HEFLIN. Mr. President, I chaired the hearing for Judge Senter. The hearing started about 2 o'clock in the afternoon and was rather lengthy. We went to about 6:30, as I recall.

Senator COCHRAN was there throughout the entire hearing. I was there. I believe Senator BAUCUS was there for about an hour.

During that hearing, in that period, there were charges that have not been mentioned that took up about four-fifths of the time.

I think it may be that it will give some light, at least we will have full knowledge if we know of the charges that were made and of the investigation of the committee pertaining to those charges, where they sent investigators out, and then to weigh that along with all of the evidence in the case and attempt to make a determination of whether or not, in the advocacy of opposing Judge Senter, some objectivity was not lost.

The charge we spent most of the time on in the hearing was that Judge Senter, when he was 14 years of age, was a part of a mob that castrated a man by the name of John Lloyd known in the black community as John the Baptist.

This charge was made and a great deal of time was spent pertaining to it.

The Judiciary Committee sent an investigator after they located John Lloyd, John the Baptist, and this investigator took a statement from John Lloyd to the effect that a number of years ago in Aberdeen, Miss., a mob did attack him, they shot him in the hand, they shot him in the side, and left him tied to a tree to die, that they did not castrate him.

In the statement he gave, the investigator stated, in substance, as I recall, that, first, there were no young people involved in the mob, no boys of that age; that Tommy Senter was a boy that he knew in Aberdeen, Miss.; that his father, Doc Senter, ran a drug store and that Tommy Senter worked in the drug store and on numerous occasions gave him medicine when he was unable to buy the medicine.

He said that Tommy Senter was not there at all. In this statement that he gave the investigator, he said he was not castrated.

A statement was also taken, as appears in the record, from the wife of John Lloyd, which verifies that he was not castrated.

The vast majority of the time was taken up with this.

I believe that of the 35 to 50 people who came and testified before the committee, or else gave affidavits, or stood up, most of the talking was done perhaps by 10 or 12, and they did not know this. In order to give them an opportunity to answer it, I, in chairing it, read the statement before them and gave them an opportunity to answer it.

A white female lawyer indicated that she knew about it and that on the same day that the investigator from the Judiciary Committee called on John Lloyd in his home in Michigan, John Lloyd was not very cooperative with her and did not want to make a statement to her.

A considerable amount of time was spent on the other charge, which concerns Governor Finch and a statement pertaining to Judge Senter that he was supposed to have made to Governor Finch.

An elderly black man says he was in Tupelo, Miss., at the courthouse square, when Governor Finch was running for the vacancy in the U.S. Senate to which Senator COCHRAN was elected. Governor Finch was running in the Democratic primary. On that occasion, this elderly black man stated that they had some placards and were—I do not remember exactly what was on the placards—but that a great number of them were under a tree. He stated that Judge Senter was as close to Governor Finch as perhaps the distance Senator Bayh and I are from each other. He stated that Judge Senter, who had an office in the courthouse, made a statement to Governor Finch, who was there making a speech in his campaign for the U.S. Senate: "You, Governor Finch, get those—" and he used the epithet "niggers out from under those trees."

Governor Finch stated that on that occasion, Judge Senter was not with him; that he did not see Judge Senter at all that day.

To me, if a person comes to a courthouse where a judge has his office and where, in effect, the judge would be a host, it would be for the host to tell the guest, "You do something about the blacks under the tree."

I am sure that the elderly black man, in his mind, was not attempting to mislead anybody, but he was quite elderly.

In regard to the educational matter, the private academy, at the hearing—and I cannot say what has been filed since then—the evidence was that for 5 years after the school had been ordered to be integrated, as I understand it, the children stayed in that school.

Senator BAYH has brought out that the freedom of choice order was in at that time. There must be something that has come up recently. We did not have that at the hearing. He stayed during that period of time, and then he placed his children in the private school, as he testified, because he thought they would get a better education. He stated that he removed his children, who had not graduated from that school, in 1978, and they went back to public school.

As to the Aberdeen Country Club, he has resigned his membership in the club.

I think that, overall, the issues have been covered. The issue that gave me the most concern was the one pertaining to the racial slurs. That has been discussed here pro and con, backward and forward.

In recalling the testimony, Mr. Clark was here and testified. He indicated two instances. One was, "Get"—and using the word "nigger"—"out of the courtroom."

On another occasion, to a deputy sheriff: "Bring the nigger in," using that term.

He said he had heard him tell some racial stories.

I was under the impression that Mr. Clark was not a native of Mississippi. His action at the time led me to believe that there was a possible interpretation that he might not have understood Judge Senter's drawl and could have misinterpreted the word "Negra" for "nigger." But I understand that Mr. Clark says he is a native of Mississippi and that he is familiar with the language and the drawls there.

On the other hand, statements have been filed by people who have practiced in the courts, saying that they never have heard Judge Senter make a racial slur. These include the district attorney who traveled with him throughout that circuit and is now a circuit judge himself. It included the clerks, the numerous lawyers, and others who were indicated.

Judge Senter wrote a letter which I thought was a very fine letter, in which he expressed his firm belief and his commitment toward equal justice to all people.

Senator STEWART and I, when he ran in Alabama, had the support of the black people of the State of Alabama.

There are five vacancies for Federal judgeships to be filled. Senator STEWART and I recommended to the President that two of those black judges. We are told that if the nominations of two black judges are confirmed by the Senate, after the President nominates them, Alabama will be the only State with two black judges.

Senator STEWART and I have on our staffs a higher percentage of blacks than any other Members of the Senate today. Alabama's population is about 25 percent black. Almost 25 percent of my staff are members of that minority race. We are committed in Alabama to improving justice for all people.

I do not know the reason why, but I cannot let this opportunity go by without telling Senators of an impression that I gained. My impression was that there was a small group of blacks, a few of them lawyers, who are dead set against Judge Senter. They brought their charge. They were grasping for straws as they were attempting, in my judgment, to find things about Judge Senter. Whether that motivation comes about, as Senator COCHRAN has mentioned, because of the fact that they want a black judge, I do not know. That can be a legitimate right. Sometimes the people, in their advocacy, lose their sense of objectivity and they grasp at straws. A very partisan, hard advocate in a lawsuit does that. But I think that sometimes the judge has to recognize that absence of objectivity.

I feel that under the circumstances here, a lot of charges have been brought. Many of the charges have now disappeared, and nobody mentions them any more, because I think the evidence is clear that those charges cannot be substantiated.

As to the remaining charge, there is a a question of contradiction of a lot of people as to whether or not on two occasions—that is where the words were used—he did use a racial slur. That was in 1974.

On the other hand, we have affidavits, and there was some testimony by a lawyer who formerly had been his partner, a Mr. Patterson, at the hearing, that he had never heard any slurs.

So, overall, in looking at it, in my judgment, I feel that this man is committed to equal justice.

I feel that he will be a fair judge and that he will be fair to all people regardless of their race, color, creed or religion.

Thank you, Mr. President.

Mr. BAYH. Mr. President, I must say I was greatly moved by the judgment and the assessment of character of the nominee given to me personally, given to the committee, and now given to the Senate because I think Judge, now Senator HEFLIN is a man of great character and great judicial competence and temperament.

I shall be brief and this is the last observation I shall make because I think it is particularly critical that our distinguished colleague from Mississippi have a chance to close this debate. I speak again because I want to be absolutely certain that the Senate understand the concerns of the Senator from Indiana. I intentionally did not address the charges that the Senator from Alabama has addressed because I think bringing up them sort of colors the record. If we were trying a case in a court that kind of evidence would not even have been admitted before the jury. It was specious ridiculous, and irrelevant. And therefore I dismissed it in my own deliberations and purposely did not bring it to the Senate's attention.

Senator COCHRAN mentioned that it was a real disgrace that these personal attacks were made about Judge Senter.

I hope that he does not feel that what the Senator from Indiana is talking about are personal attacks. The Senator from Indiana feels an obligation to lay before my colleagues what others have said. It could well be that there are those who feel that there should be a black lawyer on the bench in Mississippi. The Senator from Indiana has recommended such a nominee to the President from our northern district. But, in passing judgment on any nominee, I do not think this should be a consideration. I hope it is not. I have tried, in my presentation, to sift that out and just relate to all Senators what actually has been said and by whom it has been said: a white lawyer said he witnessed many such exchanges and gave two examples; and there are affidavits by jurors on two other separate occasions alleging similar charges.

I suggest to Senators that this is not just one isolated irresponsible charge or I would not be bothering the Senate with it.

In fact, I have to say that the Senator who mentioned the ambiguity is right; there is ambiguity on all charges. I just wish we had a little more time to lay to rest some of these questions. But apparently that is not available to us.

I leave you with one last thought: Senator THURMOND referred to the judge's affidavit about the school situation. That concerns the Senator from Indiana as much as anything that I have seen. The testimony Judge Senter gave to the committee conveyed the very clear impression to any casual reader, or even those who presided over the hearing, that he had enrolled his children in the white academy long after the integration question became a question. The fact of the matter is that for 5 years the schools were not integrated. It was not until after the 1969–70 school year that a court order said integrate, because it had not been accomplished. Judge Senter's children were first enrolled in the private school in the fall of 1970.

Beyond that I have to say that for a judge by affidavit or by testimony to tell a Senate committee that he had a child or children in a private academy and did not know that it had lost its tax exemption is beyond credibility. I happen to have had a child in a private school. It was an integrated private school. I do not know whether any of our colleagues have been in a situation like that or not. But I bet there is not a private school in America that is not constantly asking parents for money to help support the school. I cannot envision a situation where a judge or anyone who has a child in a school would not be aware of the fact that the school had lost its tax exemption. I have to say it is that kind of question I wish we could put to rest, but apparently cannot tonight. I am sorry for taking this much time of the Senate, Mr. President, that concludes my remarks.

Mr. CANNON. Vote.

Mr. JAVITS. Mr. President, I wish to say a word and Senator STENNIS wants to close, if he will yield to me.

Mr. President, we heard the debate and it was very interesting and everyone has told us what they think the witnesses said and what they think the affidavit said.

But, Mr. President, there is a record in this case, and the record is not before us. This nomination was reported this day, really it just happens to have passed midnight, but it was just reported this day, and there is a unanimous consent granted which says that this nomination may go over. The President does not have to send it up again and the committee report remains intact and when we come back it can be called up at any time and by then the RECORD will be printed and we will have a chance to see what really happened and make our individual judgments.

Why at 2:15 a.m. on the last day that we will meet in this decade, as Senator TSONGAS has properly said, do we have to have this vote? Yet we all respect the Senator from Mississippi enough to say, "OK, if you want it, have it." That does not mean we have to vote with him. I think, Mr. President, it is a great mistake, and for that reason alone, no other, what is the rush about this thing? What is going to happen in this next 30 days? Justice will collapse in Mississippi?

So, Mr. President, I think the net result of everything that has been said pro and con is if a vote is desired, I believe it should be rejected and that the right thing to do, the proper thing to do in the interest of justice and the dignity of the Senate is to put the matter over with the unanimous consent already granted and no possibility of objection.

I shall ask for the yeas and nays which I do now. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STENNIS. Mr. President, let me assure my colleagues that I will take very little time even though it is a highly important matter.

Mr. President, it is just impossible for all this stuff to have been true without my having learned something about it before I ever made the selection of the name. The first thing I did is I got my administrative assistant, who is a very capable lawyer, a former practicing lawyer in this area, to go through many of these counties in this district, visiting the lawyers, with people, with court officials and with everyone that he could absorb and learn in a very discreet way, and he ran across the name Senter in connection with a man that was a mighty good trial judge here, there, and everywhere that he went.

And nothing of this kind whatsoever came to him then or to me later, and I spent a lot of time going through this entire matter with a lot of lawyers and making telephone calls and everything. There was not a scintilla of anything like this.

But when the name went in and sometime thereafter I talked to black citizens, called them up and sought their counsel, and considered every black attorney that was recommended to me by a black or white.

Sometime after this name came out after they started these stories, here, there, and yonder, most times nothing was developed. There was no proof. Senator HEFLIN gave an excellent summary there of a great deal of proof that was brought in here just a few weeks ago. It has all been abandoned now and not claimed to be worthy of bringing up here as a charge against Judge Senter because it was wholly false, impossible, abandoned, as I have said.

Now, let me just read one thing here that I think sheds some additional light while this stuff commenced coming in, and I am referring to an announcement or advertisement or a dodger or whatever it is called put out by the United League of Mississippi, which is a small group of organized blacks down there, and I speak with proper deference about them, but they are a militant type, and this announcement refers, it says:

> Come to Trice's sentencing at the Tupelo courtroom on the 9th.

This is last March 9—

> The United League is meeting at the Springhill Baptist Church Friday morning at 8:00 on that day and then marching over to the courthouse. If the judge dares to give a single day in jail we'll begin picketing the stores again . . .

Now, that is a threat, and the judge they mentioned was Judge Senter, the man we have been talking about.

Now, he had to go on being a judge, he had to sentence this person who had been convicted by a jury because of a fight that came up in some of this previous marching. But he did not give him an excessive sentence; he gave him a jail sentence and suspended the most of it.

I have forgotten just what this suspension part was, but it turned out to be a light sentence.

He did not yield to this pressure here. Here is an open threat. Here is a violation of law itself and an open threat, "Come and we will march on the courthouse," and if "the judge dares give him 1 day in jail we will march again." That meant march through the town and boycott the stores, trying to ruin the businesses. I think they were trying to get the marchants to put pressure on this Judge Senter, but it just did not work.

There was a backfire from that, there was resentment. He had more than one case, I understand, had trouble down there for a while. It has all disappeared now. Tupelo is a nice, clean, fine, forward-looking, understanding town; has been led by people of the finest intelligence and most forward-looking. That will not be disputed.

But they were having trouble, and I think this typifies a lot of these things now that have been dug up and alleged, but very, very little proof.

I do not understand this slur matter that this young intern—he was not a lawyer then at that time, he was an intern—and it just does not go with what everybody says about Judge Senter.

These lawyers this young man was interning under, the young man worked for one of these so-called Government organized lawyers, and they filed affidavits when this came up that they had been there in the judge's court, that nearly always when this young man was there as an intern, that one or the other of them was with him, because he at that time was not a member of the bar, so the probabilities are under their statements that these things had been going on, they did not say—they did not hear it.

Two black lawyers filed affidavits about the general situation with Judge Senter, no slurs, nothing of any kind against a person because of the color of his skin.

I tell you, this word "nigger," I have lived with them all my life, and in years past I have heard many of them call each other "nigger" and that was not such a bad term then.

But all mothers taught their children not to call the blacks "blacks." The blacks considered that a slur. I was taught "Don't call them black. Be respectful to them."

Well now, it is good society and good grammar and they want to be called "black." My point is those things change, customs change, and I have known about that change there. So the word being thrown around some is not necessarily an insult, in earlier days not anyway.

That is the only thing, according to this evidence, this evidence that has credibility against Judge Senter, as Judge Heflin or Senator HEFLIN says, and I believe that is largely absorbed and explained, and certainly not the situation now that the Senator referred to, in the fine statement that Judge Senter sent in here about his practices and what he would intend to do in the future. I ask unanimous consent that this letter and the matter that I read here previously be printed in the RECORD as part of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNITED LEAGUE DEMONSTRATION

We've got to hit the streets again. Seems like the city has forgotten our demands from this past summer. But we can't forget the low wages, unemployment, bad housing, lack of advancement to higher paying jobs, police harrassment, etc. These things happen to us every day and just because we're black. We're through sitting around, and letting things continue in the same old way.

Our brother Herbert Trice was set up on a false police brutality charge in August because he joined the United League in picketing and demonstrating to make some real changes in Tupelo. Trice's sham conviction by an all white jury is only going to make him and supporters struggle harder.

Come to Trice's sentencing at the Tupelo Courtroom on the 9th. The United League is meeting at the Springhill Baptist Church Friday morning at 8:00 on that day and then marching over to the courthouse. If the Judge dares to give a single day in jail we'll begin picketing the stores again tightning the present economic boycott on the city.

Also join the larger demonstration on the 10th again from the Springhill Baptist Church at 12:00 noon. This is but one of near future demonstrations and other actions to force the state of Mississippi to deal properly with the problems of our people and poor people.

FIRST CIRCUIT COURT,
DISTRICT OF MISSISSIPPI,
Aberdeen, Miss., December 19, 1979.

COMMITTEE ON THE JUDICIARY,
U.S. Senate,
Washington, D.C.

GENTLEMEN: In response to questions raised by several members of the Senate Judiciary Committee, I am glad to elaborate further on my testimony to the Committee on November 29, 1979 and to reaffirm my commitment to equal justice under law.

In my conduct as a trial judge in Mississippi, I have always been fair and impartial to all parties coming before the Court, whether as litigants, attorneys, jurors, witnesses or spectators. This is certainly true as to black persons as well as others. I have tried to be courteous to all and I will continue to follow this course in the future as circuit judge or as United States district judge if I am confirmed by the Senate.

Specifically, I have been and am committed to making certain that every person, whether black or white or a member of any minority, receive equal justice under the law in any court or proceeding over which I preside or participate in as a United States district judge. I am and will continue to be free of any bias against any class of citizens or any religious or racial group. There will be no discrimination in my court on account of race, religion or for any other reason, and I will do everything I can to make certain that the civil and constitutional rights of all citizens are fully protected. I will be fair and sensitive to the legal and constitutional rights of all persons.

My testimony before the Senate Judiciary Committee on November 29, 1979 was intended to reflect my views in this matter and my commitment and I am glad to reaffirm this testimony and intention on my part.

* * * * *

other reason, and I will do everything I can to make certain that the civil and constitutional rights of all citizens are fully protected. I will be fair and sensitive to the legal and constitutional rights of all persons.

My testimony before the Senate Judiciary Committee on November 28, 1979 was intended to reflect my views in this matter and my commitment and I am glad to reaffirm this testimony and intention on my part.

Yours very truly,

T. SENTER, Jr.

Mr. STENNIS. Now, gentlemen, about this matter coming up, I asked that it come up, and I will just take a minute or two.

This is to fill a vacancy, we have a retiring judge, although he has held on, and he still goes around and pulls some of the court duty, but this thing has been pending since January or somewhere then when he reached retirement. He is very anxious to go into full retirement and the court needs to have this place filled.

I put the name in in June, I believe it was. Well, there was some delay there. They changed Attorney General, and there was a delay in sending the name to the FBI then after the President sent the name in, but the FBI went through all of these matters here, all of these allegations—I mean not all of them I am certain, but many of them—and these investigators for the committee went through them.

There was some delay. Then I asked for the hearing, but it could not be held promptly before the committee on the name of the judge, but it was held in November. Now the lawyers down there want this place filled, and people need it to be filled.

I sum up this way, gentlemen: I just could not have been more surprised, and just could not have found something about all this stuff here that they bring in at this late day and these vague charges, most of which fall away. If this thing had been general—to the contrary, I found the other pattern of decorum and dignified respect and an almost religious purpose in carrying out a fairness and an impartiality of these people who came in as litigants, witnesses, jurors, and all the rest, and I found there what I thought, and I still think, very near a model court by a learned man, a student of the law, experienced in administering justice, and that is a rare combination.

I feel confident of the man, and I hope you will.

SEVERAL SENATORS. Vote! Vote!

PROVISIONS OF SINE DIE ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, let me first thank my colleagues for their cooperation, their understanding, and their help on both sides of the aisle during a very trying and difficult session, and particularly let me thank the freshman class. I have been extremely impressed with this new class of Senators who came to the Senate in January of the year.

Mr. President, I would like to inquire as to whether or not any Senator expects to request the yeas and nays on the motion to adjourn.

I see no indication as such.

If I may take just 1 minute and state to Senators what the adjournment resolution proposes, so that all Senators will be aware of what the situation will be between this date and the date of January 22.

It is as follows: After the Senate completes its business on today—and this will be the last matter that will require rollcall votes—the Senate will sine die over until January 3 for the second session of the 96th Congress. There will be no organizational business or legislative business on that day. There is no need to establish a quorum on that day of January 3.

The Senate will then recess over until 12 noon—and, incidentally, the meeting of the Senate on January 3 will be at 12 o'clock meridian. The Senate will then recess over until 12 o'clock meridian on January 10, 1 week later.

It will then recess over until 12 o'clock meridian on January 17, 1 week later. And when the Senate recesses on that date of January 17, it will recess over until 12 o'clock meridian on January 22, on a Tuesday. And on January 22, on Tuesday, the Senate will then proceed with business.

But, in the meantime, it will meet on January 3, January 10, and January 17. No business, no organization business and no legislative business.

It will be possible for Senators to submit statements only for printing in the RECORD between the hours of 12 o'clock meridian and 3 p.m. on January 3, January 10, and January 17. It will be possible for committees to file reports between the hours of 12 o'clock meridian and 3 p.m. on January 3, January 10, and January 17.

One final proviso: That on any day between this day, when the Senate is about to adjourn sine die, on any day between this day and January 22, the majority leader, acting after consultation with the minority leader of the Senate, may convene the Senate upon 24 hours notice to the Members of the Senate.

So this will permit the Senate to stand in readiness to call itself back through its leadership in the event that an international emergency, or domestic emergency, for that matter—but we are thinking in terms of only in the event of an international emergency—necessitate the return of the Senate, the Senate leadership will call the Senate back. It will not be necessary for the President to do that.

I state again that between this day and the 22d, even though the Senate will be meeting on three dates, there will be no legislative business and no organizational business, but on Tuesday, the 22d, the Senate will be back and there will be rollcall votes, because there will be business..

It was my intention on that first day, hopefully, to call up the China trade matter. That, according to law, is under a built-in time agreement with a maximum time for debate of 20 hours. That time can be reduced by nondebatable motion. So I would anticipate that that debate would be completed on the first day that the Senate is back.

So, having said that, Mr. President, I yield the floor and hope that the Senate can proceed with the vote on the nomination.

NOMINATION OF L. T. SENTER, JR.

The PRESIDING OFFICER. The question is on agreeing to the confirmation of L. T. Senter, Jr., to be a U.S. district judge of the northern district of Mississippi.

The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. BRADLEY), the Senator from Florida (Mr. CHILES), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Arkansas (Mr. PRYOR), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Illinois (Mr. STEVENSON), the Senator from Georgia (Mr. TALMADGE), the Senator from Idaho (Mr. CHURCH), the Senator from Arizona (Mr. DECONCINI), the Senator from Washington (Mr. MAGNUSON), the Senator from Wisconsin (Mr. NELSON), the Senator from Michigan (Mr. RIEGLE), and the Senator from Michigan (Mr. LEVIN) are necessarily absent.

I also announce that the Senator from Montana (Mr. MELCHER) is absent on official business.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Delaware (Mr. ROTH), the Senator from Vermont (Mr. STAFFORD), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 43, nays 25, as follows:

[Rollcall Vote No. 509 Ex.]

YEAS—43

Armstrong
Boren
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Cochran
Cohen
Dole
Domenici
Durkin
Eagleton
Exon
Ford
Garn
Hatch
Hayakawa
Heflin
Helms
Humphrey
Inouye
Jepsen
Laxalt
Long
Lugar
McClure
Morgan
Muskie
Nunn
Pell
Pressler
Randolph
Sasser
Schmitt
Simpson
Stennis
Stevens
Stewart
Thurmond
Tower
Wallop
Warner

NAYS—25

Baucus
Bayh
Boschwitz
Chafee
Cranston
Culver
Danforth
Durenberger
Glenn
Jackson
Javits
McGovern
Mathias
Matsunaga
Metzenbaum
Moynihan
Packwood
Percy
Proxmire
Sarbanes
Schweiker
Stone
Tsongas
Williams
Zorinsky

NOT VOTING—32

Baker
Bellmon
Bentsen
Biden
Bradley
Chiles
Church
DeConcini
Goldwater
Gravel
Hart
Hatfield
Heinz
Hollings
Huddleston
Johnston
Kassebaum
Kennedy
Leahy
Levin
Magnuson
Melcher
Nelson
Pryor
Ribicoff
Riegle
Roth
Stafford
Stevenson
Talmadge
Weicker
Young

So the nomination was confirmed.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. THURMOND. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominee.

The PRESIDING OFFICER (Mr. SASSER). Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOTIFICATION TO THE PRESIDENT CONCERNING THE PROPOSED ADJOURNMENT OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join a similar committee of the House of Representatives to notify the President of the United States that the two Houses have completed their business of the session and are ready to adjourn unless he has some further communication to make to them.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

The PRESIDING OFFICER. The Chair appoints the majority leader and the acting minority leader, as the Senate's committee.

AUTHORITY TO MAKE CERTAIN APPOINTMENTS AFTER THE SINE DIE ADJOURNMENT OF THE PRESENT SESSION

Mr. CRANSTON. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The resolution (S. Res. 325) was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That notwithstanding the final adjournment of the present session of the Congress, the President of the Senate and the President pro tempore be, and they are hereby, authorized to make appointments to commissions or committees authorized by law, by concurrent action of the two Houses, or by order of the Senate.

THANKS OF THE SENATE TO THE PRESIDENT PRO TEMPORE

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a resolution and ask that it be immediately considered.

The resolution (S. Res. 326) was read, considered by unanimous consent, and agreed to as follows:

Resolved, That the thanks of the Senate are hereby tendered to the Honorable Warren G. Magnuson, President pro tempore of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the first session of the Ninety-sixth Congress.

THANKS TO SENATOR MILTON YOUNG

Mr. STEVENS. Mr. President, I should like also to put on the record our personal thanks to our distinguished dean on the Republican side, the distinguished Senator from North Dakota, my good friend, MILTON YOUNG, for his patience and his guidance and his continual attendance in the Senate. He, too, is an inspiration to our side.

Mr. ROBERT C. BYRD. Mr. President, I share that expression of viewpoint by the distinguished acting Republican leader. Mr. YOUNG is an inspiration to those of us on this side of the aisle as well.

THANKS OF THE SENATE TO THE VICE PRESIDENT

Mr. STEVENS. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The resolution (S. Res. 327) was read, considered by unanimous consent, and agreed to as follows:

Resolved, That the thanks of the Senate are hereby tendered to the Honorable Walter F. Mondale, Vice President of the United States and the President of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the first session of the Ninety-sixth Congress.

THE SENATE STAFF

Mr. STEVENS. Mr. President, though the hour is late according to our biological clocks, I feel it is important to take the time now to thank all those who have made this first session of the 96th Congress a successful one.

Earlier, the distinguished Senator from Virginia, Mr. WARNER, expressed the sentiments of all of us in thanking the employees of the Senate. Everyone—the Capitol Police, the doorkeepers, the elevator operators, the restaurant personnel, the subway operators, the official reporters, the members of the press—all have done their part in making the Senate run effectively and efficiently.

Each of us would not want to let this moment pass without personally thanking the members of our own staffs. They work long and hard and their dedication to service is sincerely appreciated.

The floor staff, including the parliamentarians, the clerks, the cloakroom attendants, have been able and willing throughout this past year to help all members of the Senate and their staffs.

The pages are so integral to the workings of the floor that we would be hard-pressed without them. We sometimes take them for granted during busy moments but I think they realize how much we appreciate the many long hours they put in.

The staff of the majority leader, including Mary Jane and Abby, and Joe Stewart are always courteous and helpful to the minority in clearing bills and nominations.

Our own minority staff headed by the secretary for the minority, Billy Hildenbrand, and his assistant Howard Greene, put in the longest hours by far. They are constantly available and ready to assist, even under tremendous pressure. I thank them and their cloakroom staff of Elizabeth, Van, David, and Digges.

The staff of the minority leader has also been of great assistance to me in attempting to carry out the duties of acting minority leader, Jim Cannon, Howard Liebengood, and Lura Marty Gold. Also Lura Nell, Melinda and Gail.

And, of course I thank my assistants Susan Alvanado, Tim McKeever, Steve Silver, Steve Perles, Kathy Brown and Ann Froelke.

Let me simply say to all of these people that the contribution they have made to this institution is one we are very grateful for.

AUTHORIZATION FOR COMMITTEES TO FILE REPORTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate convenes on January 3, 10, and 17, 1980, pursuant to the provisions of House Concurrent Resolution 232, committees be allowed to file reports and Senators be permitted to submit statements only for printing in the Record between the hours of 12 and 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator from West Virginia (Mr. Robert C. Byrd) be appointed Acting President pro tempore for the purpose of signing duly enrolled bills and joint resolutions during the sine die adjournment of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR OFFICES OF THE SENATE TO TAKE CERTAIN ACTIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, notwithstanding the sine die adjournment, the President of the Senate, the President pro tempore, and the Acting President pro tempore be, and they are hereby, authorized to sign enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled, and that the Secretary of the Senate be, and is hereby, authorized to receive messages from the House of Representatives.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF DATES FOR SUBMISSION OF PRESIDENT'S BUDGET AND ECONOMIC REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 468.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 468) extending the dates for submission of the President's Budget and Economic Report.

The PRESIDING OFFICER. Without objection, the resolution will be considered as having been read twice and the Senate will proceed with its immediate consideration.

Without objection, the resolution is considered and passed.

REFUGEE ACT OF 1979

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 643.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 643) to amend the Immigration and Nationality Act to revise the procedures for the admissions of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes.

(The amendment of the House is printed in the Record of December 20, 1979.)

Mr. ROBERT C. BYRD. Mr. President, at the request of Senator Kennedy, I move that the Senate disagree to the amendment of the House of Representatives and request a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed Mr. Kennedy, Mr. Bayh, Mr. DeConcini, Mr. Thurmond, and Mr. Simpson conferees on the part of the Senate.

WHITE HOUSE PROGRAM AND EXECUTIVE EXCHANGE PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate H.R. 5174.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5174) to amend section 209 of title 18, United States Code.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

EXECUTIVE EXCHANGE AND FELLOWSHIP PROGRAMS

Mr. BIDEN. Mr. President, I would like to bring to my colleague's attention the importance of legislation to remedy a problem that threatens the effective functioning of the President's Commission on Personnel Interchange and the White House fellow program.

Those programs have performed a valuable function for nearly 10 and 15 years, respectively. Both take outstanding individuals from the public sector and place them in Government positions for a limited period of time. The programs thus provide the unique and valuable opportunity for executives to gain an understanding and respect for Government institutions. The participating Government agencies gain as well, both immediately as a result of the varied experiences of the participants and in the future as a result of increased cooperation and understanding of the role of private industry.

The participants take an uncompensated leave of absence from their employment. From the time the programs began, corporations sponsoring participants reimbursed their employees for the cost of relocating to Washington for the program year. In 1968, 1969, and 1976, the Department of Justice issued opinions concluding that such payments were not in violation of title 188 United States Code section 209 which prohibits supplementation of the salary of Federal employees. The Department of Justice later reconsidered the legal issues and, in November, 1978, concluded that the private payment of such expenses is not permitted under title 18 United States Code section 209.

The success of the President's Commission on Personnel Interchange and the White House fellows program in attracting qualified applicants depends in large part on the willingness of private employers to pay the cost of relocating to Washington for a year of Federal service. The prohibition on such payments has had a substantial impact on both programs. In the case of the President's Commission on Personnel Interchange more than half of the corporations which sponsored participants in recent years have declined to do so this year because they feel they cannot ask an employee to pay his or her own relocation costs, which can be several thousand dollars.

The bill I am introducing today will permit private employers to pay the relocation expenses of their employees who take unsalaried leave of absence to participate in the President's executive exchange program and the White House fellows program. It will permit participants to receive payments for such items as moving expenses, transportation of the participant and his or her family to

Washington, real estate commissions and other costs of purchasing and selling a house incident to a temporary move to Washington, and similar expenses. It would not, however, permit the participant's private employer to pay the participant's personal living expenses such as food, laundry, transportation, or the cost of periodic trips from Washington to the participant's home during the program year.

This legislation creates an exemption to current laws which will enable two valuable programs to continue. It will create no new costs to the Federal Government. Instead, Federal agencies will gain from the continued service of highly qualified program participants.

Mr. President, I would like at this time to share with my colleagues letters from Lee Cassidy, the Executive Director of the President's Commission on Personnel Interchange and Lawrence Hammond of the Department of Justice Office of Legal Counsel which explain in further detail the purpose of this legislation. I ask unanimous consent that they be printed in the RECORD in their entirety:

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

PRESIDENT'S COMMISSION ON
EXECUTIVE EXCHANGE,
Washington, D.C., December 20, 1979.

Hon. JOSEPH R. BIDEN, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BIDEN: Staff of the Senate Committee on the Judiciary have raised questions concerning the nature and extent of expenses which might be paid if H.R. 5174 become law. While specific payments would of course be subject to approving opinions by counsel for host department and/or the Department of Justice, the intent of the drafters is that such payments might include reimbursement of broker's fees and other costs of selling or renting a home in the city of private employment and buying or renting a home in the Washington area; moving expenses for household goods; travel expenses for the participant and his family to Washington; house-hunting trips; and temporary housing; provided that such expenses were directly related to the move, and were incurred prior to the first day of government service. Expenses not directly related to the move, or incurred after the beginning date of government service, or payments which resulted in a gain or profit, are not intended to be covered by the legislalation. Such payments might include moving allowances in lieu of reimbursement of actual expenses; use of corporate real or personal property at less than fair market rental; or expenses incurred for storage of personal property not moved; management fees for rental property; personal living expenses; and personal trips from Washington to the participant's former home during the program year.

I hope this answers the questions raised by Committee staff. Please let me know if you have further questions in this matter.

Sincerely,

LEE M. CASSIDY,
Executive Director.

DEPARTMENT OF JUSTICE,
Washington, D.C., December 20, 1979.

Hon. JOSEPH R. BIDEN, JR.,
U.S. Senator,
Washington, D.C.

DEAR SENATOR BIDEN: This letter is to inform you of the manner in which the Department of Justice would interpret the scope of the proposed exception to 18 U.S.C. Section 209, which is contained in H.R. 5174. This bill would make clear that Section 209 "does not prohibit the payment of actual relocation expenses incident to participation . . . in an executive exchange or fellowship program." We have reviewed a letter bearing this date from Mr. Lee Cassidy of the President's Commission on Executive Exchange in which he has advised you that the drafters of H.R. 5174 intend that the exception created by the bill will not be available where the expenses are (1) not directly related to the relocation, or (2) are incurred after the date of beginning Government service, or (3) have resulted or would result in the realization of gain or profit to the participant.

We have reviewed the House Report accompanying this bill, and with one exception, there is nothing in it that is inconsistent with the letter to you from Mr. Cassidy. The one difference arises from a sentence in Mr. Cassidy's letter to Speaker O'Neill of September 18, 1979, which is appended to, and referred to in, the House Report. In that letter Mr. Cassidy noted that "the draft bill is also intended to allow a private employer to pay the expense of renting a house or apartment for the participant in lieu of paying for the cost of purchasing and selling homes . . ." (H. Rep. No. 96–674, at 6.) It is our understanding that this particular type of expense may not appropriately be paid pursuant to this exception since, as stated in Mr. Cassidy's letter of this date to you, expenses may not be paid if they are "incurred after the beginning date of Government service."

We have also been advised that there is no other pertinent legislative history on this bill. Given these facts, the Department of Justice would be guided in its interpretation of the statute by the limitations and explanation set forth in Mr. Cassidy's letter of this date, assuming, of course, that this letter is made a part of the history of the legislative deliberations on H.R. 5174. We understand that both Mr. Cassidy's letter and my letter are to be included in the record.

Sincerely,

LARRY A. HAMMOND,
Deputy Assistant Attorney General,
Office of Legal Counsel.

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR STAR PRINT OF SENATE REPORT NO. 96–493

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senate Report 96–493, on S. 2018, be star printed. This is necessary in order to correct technical errors.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR APPEARANCE OF SENATE LEGAL COUNSEL AS AMICUS CURIAE IN LEAGUE OF WOMEN VOTERS AGAINST FCC

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 328) to direct the Senate Legal Counsel to appear as amicus curiae in the name of the Senate in League of Women Voters v. Federal Communications Commission.

Mr. ROBERT C. BYRD. Mr. President, on December 11, 1979, the Joint Leadership Group published, at page 35416 of the CONGRESSIONAL RECORD, a notification from the Senate Legal Counsel concerning League of Women Voters against Federal Communications Commission.

The plaintiffs in this case challenge the constitutionality of an act of Congress (47 U.S.C. 399(a)), which is intended to prohibit publicly assisted broadcasting stations from supporting candidates for political office or editorializing. The case thus places in issue the powers and responsibilities of the Congress under the Constitution to protect the public welfare by assuring that public broadcasting is not used for partisan purposes.

Action by the Senate is required because the Department of Justice is declining to defend this important act. The following resolution would direct the Senate legal counsel to appear as amicus curiae in the name of the Senate to support the statute.

The PRESIDING OFFICER. Without objection, the resolution is considered and agreed to.

The preamble is agreed to.

The resolution, with its preamble, is as follows:

Whereas the complaint in *League of Women Voters* v. *Federal Communications Commission*, Civ. No. 79–1562–MML (PX) (C.D. Cal.) challenges the constitutionality of section 201(8) of the Public Broadcasting Act of 1967, 47 U.S.C. § 399(a), and thereby places in issue the powers and responsibilities of the Congress under the Constitution;

Whereas the Department of Justice has notified the Senate that it has decided not to defend the statute;

Whereas it is the opinion of the Senate that the statute is necessary to avoid the expenditure of public monies for the advocacy of private purposes, and to prevent the exploitation of the public broadcasting system of the United States for partisan purposes;

Whereas pursuant to Sections 703(c), 706 (a) and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. A §§ 288b(c), 288e(a) and 288l(a) (Supp. 1979), the Senate may direct its Counsel to appear as amicus curiae in the name of the Senate,

Now, therefore, be it,

Resolved, that the Senate Legal Counsel is directed to appear as amicus curiae in the name of the Senate in *League of Women Voters* v. *Federal Communications Commission*, in support of the constitutionality of 47 U.S.C. § 399(a).

CONGRATULATIONS TO SENATORS BOSCHWITZ AND WARNER

Mr. STEVENS. Mr. President, today in the early morning hours of a new day, two of our distinguished colleagues have just achieved a goal that only a select few in this body have been able to accomplish. I am proud to announce that

Senators Boschwitz and Warner have answered their 508th consecutive roll call vote.

This is a tremendous accomplishment and one that exemplifies the kind of commitment they have made in representing the people of their respective States, Minnesota and Virginia. What makes this especially noteworthy is that each has achieved his perfect voting record in their freshman year in the Senate.

Senators Boschwitz and Warner are not only diligent in the performance of their Senate duties, but are personally popular as well and this adds to their effectiveness. It has been my pleasure to work with them through this past year. There have been many occasions when I have needed help in handling the responsibilities of the floor and each one of them has always been willing to offer his assistance to the cause. Senator Baker and I sincerely appreciate their voluntary service to all members of the minority.

On behalf of Senator Baker and myself, I commend my two friends for the contributions they have already made to this body in their first year, and look forward to working with them in the years ahead. We will surely be hearing more from these two young members. I speak for all Republicans in saying that we are proud and lucky to have them in our ranks.

A PIONEERING ENERGY ANALYSIS BY PENDLETON THOMAS

Mr. PERCY. Mr. President, to be effective, our Nation's energy policy must draw on the best data that can be assembled. Beyond any straight information needs, however, is the importance of tapping the expertise of experienced leaders from the public and private sectors. One such person from the business community, the past chairman and chief executive officer of B. F. Goodrich, O. Pendleton Thomas, has taken the time and done the research to develop a most cogent statement on what can and cannot be done in the energy policy field.

In his paper, "A Program To Reduce Oil Imports", Mr. Thomas has shown the linkages between conservation, alternative resources, and expansion of domestic production. The analysis draws on recent studies as well as the author's direct contact with the forces driving the country's economy.

Two of the most important observations made by Mr. Thomas as he leads us through the complex series of events which brought us to our current difficulties are reflected in these two quotes:

> We Americans are accustomed to thinking that any problem can be solved speedily—particularly if we spend enough money. However, increased dependence on foreign energy has been developing for a long period of time and the situation cannot be reversed with quick fixes. We must have the patience and determination to carry out well-planned and long-term effort.
>
> The government must establish our goals and objectives for increased energy production. . . . However, the carrying out of the program must be turned over to industry. Economic incentives will have to be provided and the economic uncertainties and risks will have to be minimized.

These points are the necessary philosophical starting point for any workable energy policy. The historical perspective must be understood and a functioning partnership between government, business, and public interest groups must be forged. With those thoughts in mind, Mr. Thomas then goes on to identify his views on what can be accomplished in the various commercial, residential, industrial, and transportation sectors. In doing this, he ties together many study results with his own comprehensive knowledge of the subject.

Mr. President, I commend Mr. Thomas for the contribution he has made to understanding and resolving the energy questions facing the country. His participation is a most welcome addition to the ongoing energy debate.

LINOWITZ: MIDEAST IS HIS LATEST CHALLENGE

Mr. PERCY. Mr. President, I wish to call to the attention of my distinguished colleagues a very perceptive, sensitive, and penetrating article by Sandra McElwaine in the December 17, 1979, issue of the Washington Star concerning a business, diplomatic, and personal friend whom I have long admired and respected, Ambassador Sol Linowitz.

In business I have seen his immense contribution to one of America's truly great corporations in his capacity as chairman of the board of Xerox.

In diplomacy, I have long regarded him as one of the most knowledgeable men in America on the problems and prospects of Latin America.

As a friend, I have known him as a man of great integrity, modesty, achievement, and character, devoted to his lovely wife Toni, his entire family, his friends, and his country.

He is a superb choice to serve as President Carter's Special Ambassador to the Middle East.

Mr. President, I ask unanimous consent that Sandra McElwaine's article in the Washington Star be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

LINOWITZ: MIDEAST IS HIS LATEST CHALLENGE

(By Sandra McElwaine)

When Sol Linowitz was a student at Hamilton College in the late 1930s, one of his scholarship-related chores was to read to Elihu Root, the former secretary of state. The elderly statesman once asked Linowitz what he wanted to do after graduation.

"I told him I couldn't decide between becoming a rabbi or a lawyer," Linowitz recalls. "He said, 'Young man, be a lawyer. It takes twice as much religion as any minister.' He was right. You can use your religion many ways fulfilling yourself in the law."

Today, at 65, when most people are at least contemplating the comforts of retirement and measuring the fulfillments of a full career, the former chief of Xerox, ambassador to the OAS and co-negotiator of the Panama Canal Treaties has no such thoughts in mind.

At home in his Mediterranean-style town house—filled with a melange of French reproductions, fake flowers, occasional fur-covered sofas, and colorful watercolors and sculpture done by his wife Toni—there is certainly no air of retirement. The phones are ringing, and an official automobile waits out front, its motor running.

At 65, Sol Linowitz has embarked on what is likely to be the most critical job of his long career, as President Carter's special ambassador to the Middle East.

Linowitz looks the part: dark wavy hair heavily streaked with gray, an arresting aquiline face, a soothing persuasive voice. He is impeccably groomed in Navy-blue pinstripe suit, crisp white starched shirt with jade cufflinks, a properly conservative striped tie and, surprisingly, a copper bracelet.

"I know it's a superstitution, and against all medical advice, but I wouldn't take it off for the world," he says.

He answers questions, thoughtfully, methodically, careful of his statements. There is a sense of dignity, sageness and, above all, sensitivity. As close friend John Gardner, former head of Common Cause, puts it, "He's got an inner compass, he's easy to deal with, but hard to fool."

Linowitz requested Senate confirmation on his new appointment, though he maintains it was not required. He did not want any questions raised later on. He has taken the job on a part-time basis, working 130 days out of the year. He will receive no remuneration and continue on as senior partner of his law firm, Coudert Brothers. "I do what I do because I am primarily a lawyer. I have the ability to use words. To put down what human beings seek to accomplish in their dealings with one another, and that's the basis for a civilized society."

Questions were indeed raised at his hearing before the Senate Foreign Relations Committee. Sen. Jesse Helms grilled him on possible conflicts of interest over his law firm's far-flung activities and his participation on various boards of directors, zeroing in on Pan American and Time, Inc.

"If he stays on the Board of Time, it gives the appearance of a conflict, he's in the position of leaking news to them or being accused of so doing," says Helms. "I think he should take a leave of absence." Other committee members did not agree, and the North Carolina Republican was the sole participant to vote against confirmation. Helms carried his disapproval further by holding up Linowitz's confirmation vote in the full Senate.

Linowitz is reluctant to discuss his new assignment, saying that there is always the temptation to speak too quickly, and that his most effective position is to listen and observe.

"It's such an uncertain, volatile area that you almost have to play it by ear—when to be helpful, how to be helpful, how to respond. I am cautiously optimistic, but I feel like a senator campaigning back in his home state, optimistic, but worried about his optimism." (Late last week he concluded his first Mideast foray, holding meetings with both the Israelis and Egyptians.)

Friends are puzzled by Linowitz's acceptance of the tough job. "It's a little surprising he took it," says William Rogers, former assistant secretary of state for Latin affairs. "I guess he's a patriot in the vein of Harriman and McCloy. He'll work closely with Vance within the system. You won't be reading any unexpected headlines; he won't try to establish an independent position of his own."

Linowitz declares he is undertaking this new role because of his deep commitment to public service and the experience he gained during the Panama Canal negotiations.

"My test," he says, "is whether I can do a job better than anyone else, if I can make a difference. Carter said he needed me, and I can't say no. If I can help, I must. All my life I've been a horizontal man, reaching out in a lot of different directions. I've never been content with circumscribed assignments. I feel deeply that you must give, participate. If you can make the world a little bit better, you have the responsibility to do what you can. This is a reflection of my faith; do justly, love mercifully and reach out to all human beings."

Linowitz succeeds Robert Strauss in the Middle East role; beyond a common religion, Linowitz seemingly has little in common with his brusque, bombastic predecessor.

The roots of Sol Linowitz's faith go back to his Orthodox Jewish home in Trenton, N.J. The eldest of four sons, he grew up during the Depression. His parents were Russian-Polish immigrants, his father a fruit merchant. He grew up in a household where education, hard work and responsibility to the community were stressed. All four boys worked their way through school and college.

"There was always great love and understanding in our home," remembers the youngest, Harry Linowes. (The three other brothers changed their name several years ago. Sol Linowitz, already established as a lawyer, did not.) "We were always encouraged to help others. Being one of the few Jewish families in Trenton, we learned to live with prejudice and bias; perhaps that made us stronger in wanting to participate in our community."

According to Robert and David, older brother Sol was an extremely bright and a tough act to follow. He was an outstanding student and a good enough violinist to start performing at age 11. (This came in handy later, when he played in dance bands and worked the Borscht Belt during summers at Hamilton University and then joined the Utica Symphony while attending Cornell Law School.)

Alexander Woolcott, the Hamilton drama coach, urged him to be an actor, and he was proficient enough in German to teach. But upon graduating Phi Beta Kappa and second in his class, delivering his salutatorian's oration in Latin, he decided to attend Cornell Law School.

Among his classmates were Edmund Muskie and William P. Rogers, later to become secretary of state. As Rogers recalls, "Sol was outstanding in everything he did. He was marked for stardom. He was great fun to be around, was ranked first in his class, editor of the Law Review and graduated *summa cum laude.*"

On a house-party weekend, Linowitz met his wife, the former Toni Zimmerman, an undergraduate majoring in bacteriology.

"He was too shy to ask me to dance," she remembers. "So he sent a friend to cut in on me and introduce us. It's funny about Sol: He's really an extrovert who's shy. He was fascinating and glamorous, of course, being in law school. We would have coffee together, and talk for hours about everything, even though I was very interested in someone else."

When Toni graduated, they were married. "It's been 40 years," she muses, "It shocks me when I say it."

Linowitz joined the Rochester law firm of Sutherland and Sutherland, and when World War II intervened, he and Toni moved to Washington. Linowitz worked as assistant general counsel in the Office of Price Administration, and in 1944 was commissioned in the Navy to work with Secretary James Forrestal. In 1946, the Linowitzes decided to return to Rochester. "We had no money and two young daughters, and it meant building a firm from the beginning," he recalls. "Taking a chance, I had no idea how it would all turn out." (They now have four daughters ranging in age from 23 to 36.)

He reorganized his law firm, which became Sutherland, Linowitz and Williams, and plunged into a variety of local activities.

"Sol finds it difficult to say no to anyone or any group," declares Toni. "I have to protect him from people, otherwise he exhausts himself. He worked for every charity in Rochester."

Among his favorite organizations were the City Club, a prestigious lunchtime discussion group, and the United Nations Association. There he met Joe Wilson, president of the Haloid Company, then a $2-million photographic supply producer, who was searching for expansion possibilities. Wilson had heard of a primitive idea for a copying device, and he asked Linowitz to accompany him on "a one-shot deal" to obtain an option. The device was labeled Xerography, "dry writing" in Greek. The rest is history.

"It all started out with a dream" reflects Linowitz, whose one-shot deal ultimately escalated into chairman of the board of the mammoth corporation. "It took 14 frustrating years to produce the first compact copying machine. We saw a germ of an idea, a revolutionary promise for the future, but we didn't know how large or how real."

On one of their regular Sunday-morning hikes, Wilson and Linowitz coined the name Xerox. They saw a Kodak sign, and decided it was catchy because it had the same letter at the beginning an the end. "We came up with Xerox, but then decided it wouldn't work. Although we had the same letter, it was pronounced differently, so we stuck with Haloid-Xerox, but only for a while," says Linowitz.

He says he was never scientifically oriented. "I was always a manual idiot. The ultimate test to see if a machine would work would be to try to have me run it."

Linowitz now estimates the worth of Xerox at between $6 billion and $7 billion. In 1966 his stock options were valued at $9 million. "They're a lot less today, with depreciation and inflation," he states emphatically. "But I've never measured my achievement on my resources. It's on how I fulfill myself. Whether I get the feeling of living my life well and following the right principles."

"The money stayed in the bank," says Toni. "Our life did not change dramatically. Of course, it made it easier to travel and send four girls to college."

Through his City Club connections Linowitz became involved in television and radio. He first went on the air as moderator of a radio show called "Court of Opinion," and in 1951 when TV came to Rochester, he became a Saturday-night regular interviewing a variety of national politicians over a period of seven years.

"We didn't even own a TV set when Sol started," remembers Toni. "We would watch at our neighbors. One night when he came home after a particularly good show, our daughter June rushed up to him and gushed, 'Daddy, you were just wonderful, except for two things, the way you looked and the way you talked.' The poor man, he was crushed!"

June Linowitz recalls her father as a great playmate and friend. "He always made a great effort to be close to each of us, to really sit down and talk. He taught us not to judge anyone until we figured out how they felt about things. My parents really wanted us to be happy as individuals, they are wonderful role models, they're so supportive of each other."

She insists that as children the girls were totally unaware of their wealth. "Our allowances never went up, and no one ever talked about money around the house. I read about it one day in the New York Times."

In 1966, Bobby Kennedy tried to convince Linowitz to run against Nelson Rockefeller for governor of New York. The polls showed Linowitz ahead, yet he declined to make the race.

"The job just didn't have any appeal for me," he recalls. "I made an analysis of the six most important issues, and didn't feel they would use my talents, commitments or interest. If George Wallace had been running instead of Rocky, I would have done it. Then there becomes a sense of mission. Besides, asking people to vote for me seemed foreign. I wasn't searching for a job."

Toni Linowitz encouraged her husband to run and believes his sensitivity was the stumbling block. "He didn't think he could take the nastiness of a campaign. He's very aware and personally woundable."

But Lyndon Johnson, in 1966, talked him into accepting the role of ambassador to the OAS and representative to the Alliance for Progress after offering him the posts of Secretary of Commerce and ambassador to Mexico.

"There," says Linowitz, "I trusted my instincts. I felt I could make a difference."

Secretary General of the OAS Alejandro Orfila calls Linowitz an outstanding ambassador. "To this day," he says, "Sol Linowitz is considered one of us. He's one of the great men I have met. His kindness, humor, interest and respect for the opinion of others are remarkable. In a negotiation, he will never give up until he can find a formula acceptable to both parties."

During his three-year tenure, Linowitz in his undramatic fashion moved efficiently and quietly through Washington, building and maintaining bridges and establishing a good network to various official power bases.

In 1969, he decided to make the District his permanent home, while keeping a weekend retreat outside Rochester, and he joined the international law firm of Coudert Brothers. Once again he involved himself in civic activities, as chairman of the National Urban Coalition, president of the Federal City Council and chairman of the National Council of the Foreign Policy Association, to list a few. He presently sits on the board of 12 corporations, among them The Washington Star, and is a trustee of Hamilton, Cornell and Johns Hopkins universities. His honorary doctorates and degrees total 28. He recently chaired a Presidential Commission on World Hunger, and last week released a preliminary report stating that the United States must more than triple its aid to the developing nations to effectively combat hunger.

In 1977, Jimmy Carter asked Linowitz to become co-negotiator of the long-stalled Panama Canal talks along with veteran diplomat Ellsworth Bunker. The treaty negotiations had been going on for 15 years. The assignment again was part-time, and to last six months.

"The President has the greatest respect for Sol Linowitz' judgment," says Carter press aide Jody Powell. "He looks to Sol and depends on him for advice and counsel. He has immediate access to the President and can convey his ideas directly to him, which is important in his new job. It's important that both Sadat and Begin know they are dealing with someone who has the President's confidence as well as a close personal relationship."

The canal treaty was one of the most painful periods of Linowitz' life, though he is enormously proud of the results.

"The passions and emotions aroused turned out to be worse than anticipated, because they were so clouded with charges," he declares, his face wincing. He rocks methodically in his rocking chair in a corner of his memento-filled office, his eyes filled with sadness.

He quotes in Latin from Virgil's "Aeneid": " 'One day it will please us to remember even this.' It's a comforting philosophy that helped me through those days." He continues silently rocking, hands folded almost in prayer.

Both praise and criticism have been heaped on Linowitz over his role as treaty negotiator. Sen. Helms and Rep. Bob Bauman of Maryland both accused him of a conflict of interest over board membership on the Marine Midland Bank, part of a consortium of banks that had made loans to Panama.

"He would never have resigned from that

board if I hadn't raised cane on the Senate floor," says Helms, who goes on to state that the Canal treaties were a tragic mistake, "a beginning shot in our retreat from reality."

Bauman is even more outspoken, labeling Linowitz "either an incompetent negotiator or a baldfaced liar. He totally misrepresented the cost to the taxpayers and turned over the canal to a Marxist dictator. He might as well have been representing the other side. I wouldn't trust him to handle any negotiations for us anywhere."

An admirer is Panama's special canal treaty negotiator, Ambassador Lopez-Guevarra, who calls Linowitz a dynamic negotiator, always on track. "I honestly believe things will move more rapidly in the Middle East with Sol there," he says. "I've seen his method of approaching and solving the issues."

Linowitz shakes his head over the controversy. "Look," he says, "I don't want unfair or irrational criticism that I cannot respond to rationally. It disquiets me and troubles my profound faith in fairness. I want to believe people do things out of good instincts, and I don't relish being emotional rather than thoughtful in my responses."

His face brightens measurably and his chair ceases to rock as he leans forward to discuss Egypt and Israel.

"I'm excited," he says. "It's an awesome, challenging responsibility."

NOMINATION OF SOL M. LINOWITZ

Mr. CULVER. Mr. President, I welcome the opportunity to express my strong support for the nomination of Sol M. Linowitz as the personal representative of the President of the United States for Middle East negotiations.

Mr. Linowitz is superbly qualified for this assignment, and he is to be commended for offering his service and skills to this hard task.

Mr. Linowitz is not only a negotiator of the highest distinction; he is also a seminal thinker on many issues in national and foreign policy. This found fresh confirmation in the recent release of the report of the Hunger Commission, of which he was chairman. During his years as our Ambassador to the Organization of American States and as a principal negotiator of the Panama Canal Treaty, Sol Linowitz showed the same qualities for which he is so well regarded in private life—balance of mind and temperament, patience and perseverance, clarity of vision, and a capacity to design solutions out of seemingly intractable and opposed positions.

The mission on which he now embarks will test his mind and character to its limits. We can have every confidence that he will bring to this work the same dedication and will to achieve an honorable success that he has to all the other tasks he has undertaken in the past.

Sol Linowitz is a public servant in the fullest meaning of that term. Our Nation, as well as the nations with whom he will be dealing in the Middle East, can be heartened by the knowledge that we are represented by a person of this caliber and experience.

WHO SHALL RECONSTRUCT THE FABRIC OF DEMOLISHED GOVERNMENT?

Mr. STEVENS. Mr. President, recently we have seen an unfortunate trend developing to make the Federal Government the whipping boy for every real or imagined problem in this country. As ranking minority member of the Civil Service and General Services Subcommittee of the Governmental Affairs Committee, this trend is a matter of great concern to me. If allowed to go unchecked, it could have the most serious effect on the morale of the civil service and on the work of the Government.

It is for this reason that I welcome the leadership of our distinguished colleague Senator MATHIAS in defending the civil service and reminding us that we actually "have a Government that functions and functions pretty well, precisely because of the quality and dedication of the people who work in it."

I believe it is time we all examined this question more closely, and I am happy to say that Senator MATHIAS has provided us with a stimulating opportunity to do that in a speech he gave at the Annual Conference of the National Capital Area Chapter of the American Society for Public Administration on December 7. The title of his speech, "Who Shall Reconstruct the Fabric of Demolished Government?" poses a question we would do well to ponder. Senator MATHIAS' analysis of that question places it in historical perspective and is a timely and important contribution to the current debate on Government accountability. I ask unanimous consent that the text of that speech be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHO SHALL RECONSTRUCT THE FABRIC OF DEMOLISHED GOVERNMENT?

The theme of this conference is quite a mouthful but it does have an authentic flavor of the 70's. When you close the books on a decade that brought us, among other lesser scandals, Watergate, Koreagate and the Bert Lance affair, it is obviously appropriate to discuss "The Policies and Processes for Holding Federal Administrative Accountable."

The notion of accountability, however, is not a 1970's phenomenon. It did not spring full-blown from John Sirica's head or even from Sam Ervin's. It has been around as long as our government of, by, and for the people has been around.

One of the greatest men ever to serve in the United States Senate, Daniel Webster, examined this question almost 150 years ago with an eloquence few, if any, could muster today. On the occasion of the centennial of the birth of George Washington, February 22, 1832, Webster spoke of various disasters which the nation might bear and overcome, including devastating war and even the collapse of the Capitol itself. "But," he asked:

"Who shall reconstruct the fabric of demolished government? Who shall rear again the well-proportioned columns of constitutional liberty? Who shall frame together the skillful architecture which unites national sovereignty with State rights, individual security, and public prosperity? No, if these columns fall, they will be raised not again. Like the Coliseum and the Parthenon, they will be destined to a mournful, a melancholy, immortality. Bitterer tears, however, will flow over them than we ever shed over the monuments of Roman or Grecian art; for they will be the remnants of a more glorious edifice than Greece or Rome ever saw, the edifice of constitutional American liberty."

Years later, during the Civil War, Chief Justice Roger Taney, moved by the same concern for our institutions, overcame obstacles of age, travel and severe political hostility to go to Baltimore to hear the case of John Merryman because attempts had been made to deny Merryman's petition for habeas corpus. An enraged Justice Taney proclaimed:

"The government of the United States is one of delegated and limited powers; it derives its existence and authority altogether from the Constitution, and neither of its branches, executive, legislative or judicial, can exercise any of the powers of government beyond those specified and granted; for the tenth article of the amendments to the Constitution, in express terms, provides that 'the powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states, respectively, or to the people.'"

Accountability is what this government of ours is all about. Without it, the Tenth Amendment to the Constitution, that Justice Taney discusses, would be meaningless. The people of the United States would have all the powers granted them by the Constitution but no ability to exercise those powers.

Although the notion of accountability has been around since the beginning of our democracy, as the power of the federal government has grown the concept has taken on new importance. Each new bulge in the federal purse has put new responsibility on the Congress as keeper of the purse strings. How the Congress carries out this responsibility can and has transformed the face of the nation. The results of the massive infusion of federal funds for interstate highway construction are visible even from Landsat.

The power of the purse is a formidable weapon in a country with a $638 billion federal budget. It is a weapon that must be used prudently to promote the general welfare. And that means the Congress must be accountable itself and demand accountability from others.

The Congress, in December 1791, took its first step to assure federal fiscal accountability when the House of Representatives adopted a resolution calling for annual reports to the Congress of receipts and expenditures by the Secretary of the Treasury.

Almost 200 years later the Congress, still concerned with guaranteeing government accountability, enacted the Congressional Budget and Impoundment Control Act of 1974, which greatly improved our ability to train a watchful eye on receipts and expenditures. This new budget process is a far cry from that first tentative step taken in 1791. But even back then, the ideas that took form in 1974 were propounded, although not always by the majority.

James Madison, for example, first proposed appointing a committee with direct responsibility to review and present to the full House annual expenditure reports submitted by the Treasury secretary. A few years later in 1816, six committees were established by the Congress and charged with responsibility for overseeing expenditures to ensure compliance with the laws enacted by the Congress. Those committees, of course, were the forerunners of today's oversight committees. I'm sorry to have to report that a Marylander, General Samuel Smith, led the opposition to this major move toward fiscal accountability.

The Congressional budget process as it has evolved today is by no means simple. It requires that no less than three committees in both houses review a single budget item. But, if there really is safety in numbers, then the process should enhance accountability.

Just look, for example, at what the Justice Department has to go through to get its funds. In January every year, the President sends to the Congress his overall budget request, including a request for the Justice

Department. The figures for Justice then go to the Budget Committee, the Judiciary Committee and the Appropriations Committee. Each committee exercises a particular oversight responsibility. The Budget Committee establishes a spending limit. The Judiciary Committee approves programs and authorizes funds for them. And finally the Appropriations Committee makes the money available. The process is detailed and long, even tedious. But it allows the Congress, through its spending powers, to keep the federal government responsive to the people.

As Professor Stephan Bailey notes in his book, Congress in the Seventies:

". . . the very existence of the power to authorize and appropriate, even if exercised poorly according to some abstract measure, has a conditioning effect upon executive branch policies and procedures. No administrator knows when he will be called upon to justify a policy or procedure of his agency before a legislative or appropriations committee or subcommittee of the Congress. If this uncertainty promotes a vast amount of record keeping and an occasional timidity in bureaucratic behavior, it also keeps executive agencies on their toes and reminds them that they are ultimately accountable to the people through the Congress . . ."

The American public has had a tremendous impact on the spending processes in the Congress over the last few years. Since the winds of Proposition 13 blew out of California last year, propositions have proliferated all over the country. And I assure you very member of the House and Senate has gotten the message. The Congressional attitude toward federal spending is decidedly negative. As Senator Norris Cotton used to say: "The boys are in such a mood that if someone introduced the Ten Commandments, they'd cut them down to eight."

Responsiveness to the public mood is an important element in accountability. It is a good sign, not a bad one, when the citizenry is up in arms about something. It makes the process of accountability work. It makes government truly representative. And only when government is truly representative can we avert the "mournful . . . melancholy immortality" that Webster warned against.

Earlier I said that government accountability was not a notion born of Watergate. However, Watergate did spawn some new forms of accountability. That whole sorry episode dramatized the fact that anything that undermines confidence in our established institutions, of necessity, weakens the very sinews of national security. It is this knowledge that prompted the American people, the Congress, the press, the executive and judicial branches of the government to stop and think about the basis on which our open and free government was founded. And then to try to see how that foundation could be built upon, safely and securely.

The result of that examination is that federal accountability has assumed some new, perhaps more concrete forms, in the past several years. Two examples are the Ethics in Government Act and the bill establishing an office of inspector general in various federal agencies. Both of these pieces of legislation were prompted by public outcries over reports of fraud and abuse in the operation of the executive branch and evidence of impropriety and conflicts-of-interest in the conduct of various public figures.

The Ethics in Government Act (P.L. 95–511) requires annual financial disclosure statements from all officers and employees of the three branches of the federal government of the rank of GS–16 and above. This legislation culminates years of review and reflection on how to achieve on-the-record accountability from those involved in the highest echelons of our government. For the first time, the law applies a more-or-less uniform standard to all members and employees of the three branches of the government.

Legislation creating an office of inspector general in various executive departments and agencies (P.L. 95–452) is Congress' attempt to "combat fraud, abuse, waste and mismanagement in the programs and operations" more effectively in the departments and agencies involved. Since the enactment of this law last year, the Governmental Affairs Committee, and at times other committees, have been called on to give the Senate's advice and consent to the Presidentially-nominated inspectors general. One point that has consistently been made to these nominees is that their duty to the people through the Congress is to ensure accountability. Only time will tell us how this new law will work in the long run. But it certainly represents a step in the right direction for the American people.

Steps toward increasing government accountability did not stop in the 95th Congress. During the first session of the 96th Congress, the Senate Governmental Affairs Committee spent many hours reviewing the functioning of the government. It ran the gamut from oversight of the new kid on the federal block, the Department of Energy, to oversight of the General Services Administration and included review of legislative proposals to completely overhaul the regulatory process, review of various proposals for sunset legislation and review of legislative proposals to restructure Congressional control of lobbying.

Obviously, there's a lot going on to clean up the federal act. Nonetheless, last week I received a surprising communication from one of our most respected citizen's lobbying groups. It was addressed to the Citizen-Taxpayer and said flat out:

"The reason the United States Government cannot solve the urgent problems that are plaguing our country, is because the government is the problem."

Then followed two pages of charges against the Congress and the executive branch expressed in what I can only term immoderate language. Only at the very end of the last page of this letter do you discover this key sentence:

"Of course, to effect these sweeping reforms in government would be an almost impossible task for any outside organization were it not for the many members of Congress of both parties who also want to see our government back in shape."

Now maybe in the highly charged political climate of our times, it takes such a hardsell to get attention. If so, it is too bad. Because the truth of the matter is that the overwhelming majority of the people in every branch of government are honest, hardworking and dedicated to making the government responsive and accountable to the American people.

The Congress has been and is working hard to strengthen the process of federal accountability. But, in the last analysis, it is the men and women who make up the federal service who are the bedrock on which accountability is grounded.

I have served the people of Maryland in Congress now for almost 20 years and during that time I have had ample exposure to the federal government and to federal workers at all levels in virtually all government agencies. What I have seen in Washington is a government that functions and functions pretty well, precisely because of the quality and dedication of the people who work in it.

When we talk about accountability, I think it's important to remember that as we look back over the recent past, we find it was the whistle-blower and "Deep Throat" who came forward from inside the government to bring miscreants to account. And I fear that if anti-government fervor is allowed to go unchallenged, there may one day be no answer to Webster's question: Who shall reconstruct the fabric of demolished government?

AFFIRMATIVE ACTION VERSUS EQUAL PROTECTION—VIII

Mr. HATCH. Mr. President, as I have said before, there are examples of distinguished liberals who have remained true to the original philosophy of the civil rights movement, and who have spoken out against its perversion by the proponents of quotas under euphemism of "affirmative action."

Dr. Carl Cohen is professor of philosophy at the University of Michigan in Ann Arbor. He has written widely noticed books—"Democracy," and "Civil Disobedience." He has been a member of the board of directors of the American Civil Liberties Union.

In June 1979, Dr. Cohen published in Commentary magazine—which once again is demonstrating its presence by taking an interest in a taboo issue—an incisive attack upon the contemporary drift of opinion. It is perfectly summarized by its title: "Why Race Preference is Illegal and Immoral."

I recommend this article to my colleagues. I would like to draw particular attention to subsections (II) and (III), which demolish all attempts to detract from the literal wording and purpose of the Civil Rights Act in prohibiting racial discrimination. This was exactly the escape route that the majority of the Supreme Court took in Weber, to their considerable shame.

I ask unanimous consent that Dr. Cohen's article be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

WHY RACIAL PREFERENCE IS ILLEGAL AND IMMORAL

The role of race in assuring social justice is again squarely before the Supreme Court in a case whose full and revealing name is: Kaiser Aluminum & Chemical Corporation and United Steelworkers of America, AFL–CIO, v. Brian F. Weber, individually and on behalf of all other persons similarly situated.

Weber, a white unskilled steelworker, is Bakke's analogue. The Steelworkers Union and Kaiser Aluminum are not the only forces against him. The United Auto Workers and the United Mine Workers, the National Education Association, the Coalition of Black Trade Unionists, and assorted other unions are against him. The American Civil Liberties Union is against him. Even the United States government is formally aligned against him. On Weber's side is the Anti-Defamation League of B'nai B'rith (with some associated non-Jewish ethnic groups) and, according to repeated surveys, an overwhelming majority of the American population, including a majority of the black population.

But the issues at stake here, touching the most fundamental rights of individual persons, are not to be decided by counting noses. The chief things going for Weber are the Fourteenth Amendment of the U.S. Constitution, the Civil Rights Act of 1964 as amended, and sound moral principles. Thrice is he armed who hath his quarrel just.

Weber has thus far been victorious, both in the Federal District Court, and in the Federal Court of Appeals (5th Circuit, New Orleans). His formidable opponents find it difficult to overcome the plain words of the law applied straightforwardly to the established facts of his case. The law (Title VII of the Civil Rights Act, Sec. 703) forbids flatly all discrimination in employment because of race.* Beyond any possible doubt (as we shall see) Weber was discriminated against by his employer, and classified by his employer, and had his status as an employee adversely affected because of his race. That the employment practice through which this was done is a violation of this federal law is an ineluctable conclusion of any rational mind.

Is it not remarkable, then, that unions, industry, and government should now join in the effort to persuade the Supreme Court to evade this conclusion? Weber's opponents are neither foolish nor evil. They seek, somehow, to surmount the barriers to racially discriminatory treatment in order to achieve objectives they think good. Reflection upon this case will oblige the Supreme Court—and all citizens who would reach thoughtful judgment on these issues—to reconsider these objectives, and to appraise the means by which they have been pursued.

The *Bakke* case, and the *DeFunis* case before it dealt with racially discriminatory practices in professional-school admissions—a matter for which the middle classes have, rightly, a tender concern. *Weber* deals with racial discrimination in blue-collar employment. The injury done Brian Weber was at least as great as that done Allan Bakke, and the class Weber formally represents is very much larger, if less articulate, than that directly affected by racially preferential school admissions. It is disturbing, therefore, that the voices raised in behalf of Weber's rights, and the rights of literally millions of individual citizens in like circumstances, are so painfully few. Silence now from quarters that were outspoken in opposition to racial preference in higher education may lead some to infer that self-interest, more than justice was what motivated that earlier concern.

In both spheres—school admissions and industrial employment—the same issues arise: in the allocation of scarce goods, may one's race count in one's favor? If ever, when? In *Bakke* a racially preferential admission system at the University of California Medical School at Davis was struck down, but attention to race in the admissions process was there held permissible within certain very narrow limits: to advance the diversity of an entering class, or to remedy the condition of specific persons who had been discriminated against by the school using the racial instrument. *Weber* is in many important respects different. Here the factor of diversity does not enter; here matters pertaining to intellectual qualifications are replaced by matters pertaining to seniority. Here the stakes are greater and the underlying moral issues are presented more clearly.

This is what happened. Kaiser (Kaiser Aluminum & Chemical Corporation) and the union (United Steelworkers of America, AFL-CIO) sought to increase the number of minority workers in the skilled crafts at Kaiser's Grammercy, Louisiana, plant. To this end, in a 1974 collective-bargaining agreement, they changed the system whereby employees would enter on-the-job training for craft positions. Prior craft experience was eliminated as a requirement, and entrance ratios, by race, were established for acceptance in the job-training program. For each white worker admitted one minority worker would be admitted, until the percentage of minority craft workers in the Grammercy plant roughly approximated the percentage of the minority population in the surrounding area, then about 40 per cent. Dual seniority lists were established, one black and one white, and each two vacancies filled with the persons at the top of the two racially distinct lists.

It was an inevitable result of this system that some employees would be favored because of their race, and some would be injured because of theirs. Brian Weber was refused admission to the job-training program although his seniority was higher than some employees from the other racial list who were admitted. Weber sued on his own behalf who applied for on-the-job training at the Grammercy plant after that labor agreement was signed. A racially preferential scheme for allocating on-the-job training opportunities, he argues, is a clear violation of the Federal Civil Rights Act.

One portion of Title VII of that Act deals explicitly with on-the-job training programs. That portion (subsection (d) of Sec. 703) reads as follows:

> It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, *including-on-the-job training programs*, to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training [42 U.S. Code 2000e-2(d) (1970); emphasis added].

Was it prescience that caused the Congress to formulate this ban with language so precisely and indubitably covering the case at hand? Not at all. Title VII had as its purpose the elimination of all ethnic favoritism in employment; there had been, at the time of its adoption, plenty of experience of the ways in which racial prejudice can be given effect—one of the commonest being in job-training programs. In that form as in all forms, said the Congress in effect, racial discrimination in employment is no longer permissible.

How can Kaiser and the union (and the U.S. Department of Justice) reasonably argue that such a scheme is indeed lawful or fair? They contend that the law, properly interpreted, does not forbid this variety of racial preference, which they think justified by our history of discrimination. They contend that if the pursuit of pressing social objectives now imposes incidental costs on individuals, Weber and his like are the right persons to bear those costs. They contend that they were ordered, by the U.S. government, to introduce racial preference of precisely this kind. And they contend that Weber wasn't really injured by this program at all. I examine these arguments in turn.

II

"Kaiser and the union [the first argument begins] reached an agreement that was fully in accord with the spirit of Title VII. Theirs was a voluntary effort to bring a greater number of minority workers into the skilled crafts. Congress never intended to forbid such voluntary efforts. If now the product of such agreements, reached through collective bargaining, is struck down, the cause of racial justice will have been dealt a devastating blow.

"We must [this argument continues] permit management and labor to join, as in this case, to correct a racially unbalanced situation flowing from the historical and social realities of American life. Blacks have been discriminated against, cruelly and consistently, by industry and by unions. Now an effort is being made to give redress. It is an ironic inversion of the Civil Rights Act to use that Act to forbid the only instruments that may effectively achieve its own intended result.

"It is true [the argument proceeds] that Title VII specifies that preferential treatment of racial minorities is not required [Section 703 (j)]. But that is not to say it is forbidden. When its aim is precisely that of the Act itself, it must not be forbidden. Weber relies upon the narrowest construction of the words and misses—inadvertently or deliberately—the remedial spirit of the law and of the Kaiser program here in question."

The main pillar of Weber's opposition comes to this: "If the Court agrees that racial quotas such as this one are discriminatory, we will be kept from doing what many of us think it is necessary to do, and do quickly, in the interest of long-term justice. Let it be understood, therefore [the argument concludes], that this quota, although it does of course distinguish by race, and does, admittedly, give favor by race, does not 'discriminate' by race in the bad sense that the law condemns. When we come to realize that some plans for racial balance, while they may have adverse effects upon some white workers, are nevertheless justified by pressing societal needs, we will also see what interpretation of the law is required by justice."

To put the argument plainly is to see both its earnestness and its frailty. The requirements of the Civil Rights Act, which in turn were intended to give concrete meaning to the constitutional demand that no citizen be denied the equal protection of the laws, were aimed at bringing to a final halt all formal discrimination on the basis of race—and color, religion, sex, and national origin. It certainly was not intended, and it obviously was not formulated, to forbid only such racial discrimination as employers and unions thought objectionable, while permitting any racially discriminatory schemes that employers and unions might by agreement find worthy or convenient. What the employer and the union happen to prefer, whether their motives be honorable or crass, has absolutely no weight, says the law in effect, against the right of each individual citizen to be dealt with, in matters pertaining to employment, without regard to race, religion, or national origin.

III

"But that cannot be the correct interpretation of the law," answers Kaiser and the union in chorus, "because the Supreme Court has several times, in the years since, recognized the lawfulness and wisdom of racially preferential Employment schemes. Indeed, our federal courts have ordered the imposition of such racial preference in some cases! So it is clearly false that all racial preference has been forbidden. If that is so, then it is not obviously true that this scheme for racial preference has been forbidden."

This rejoinder brings us to the core, legal and moral, of the controversy in Weber. What kind of attention to race does the Civil Rights Act (and, indirectly, the Constitution) permit? And what should it permit? In the Bakke case, this question was complicated by the entry of First Amendment considerations pertaining to the robust exchange of ideas in the classroom; the holding in Bakke was tangled by the fact that Justice Powell's pivotal opinion, although condemning racial favoritism, permits attention to race to advance diversity among an entering school class. Here, in Weber, such First Amendment considerations are totally absent. What, if anything, remains to justify race-conscious employment practices?

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*Subsection (a) of Sec. 703 reads:

"It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or

(2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin" 42 U.S. Codes 2000e-2(a) (1970).

There is a clear and honorable answer to this question, given forcefully by federal courts at every level. Title VII of the Civil Rights Act forbids all deliberate discrimination by race, save only in cases where racial classification is absolutely essential to give redress to *identifiable persons* injured by racial discrimination and where the injury done them was done by the same party upon whom the numerical program is imposed. One purpose only may justify numerical schemes using racial categories the making whole of those to whom redress for racial injury is specifically owned, by those who owe it.

For example: the known victims of racial discrimination by a trucking company have been held entitled, as a remedy, to a place in the seniority lists of that company that would have been theirs if they had not been so victimized. To put them now in as good a place as they would have been in but for the discriminatory employment practice from which they can be shown to have suffered, it may be necessary to attend to race.

Only in that way can the victims be made whole; they would otherwise remain subordinate to persons who, had it not been for racial discrimination in that company, would now be their subordinates. (See *Franks* v. *Bowman Transportation Co.*, 424 U.S. 747 [1976].) In such cases, the racial oriented remedy cannot be refused on the ground that the effect on other employees is adverse because, although the employees who suffer from the imposition of the plan are very possibly innocent themselves, they have clearly benefited, in seniority, from the specific discriminatory practice for which remedy is being given. Race-conscious remedies for the victims of illegal discrimination are lawful, consistent with Title VII, only in such circumstances.

Weber and Kaiser Aluminum are in no such circumstances. Upon examining the facts, the Federal District Court found that Kaiser had not been guilty of any discriminatory hiring or promotion at its Grammercy plant. Kaiser's industrial-relations superintendent at that plant testified that, prior to 1974, Kaiser had vigorously sought trained black craftsmen from the general community. Advertising in periodicals and newspapers that were published primarily for black subscribers, Kaiser found it very difficult to attract black craftsmen. The evidence established two key facts:

1. Kaiser had a serious, operational, no-discrimination hiring policy at its Grammercy plant from the day of that plant's opening in 1958.

2. Not one of the black employees who were offered on-the-job training opportunities over more senior white employees (pursuant to the 1974 Labor Agreement) had been subject to any prior employment discrimination by Kaiser.

From these facts it is an inescapable conclusion that the quota system at Kaiser's Grammercy plant was not an instrument for the specific redress of persons injured by racial discrimination there; it was unabashed racial preference aimed at numerical proportions having nothing to do with past conduct in that plant. Such preference Title VII outlaws. The distinction, between impermissible racial preference and permissible remedy for past discrimination, is put eloquently by the Circuit Court of Appeals in affirming Weber's rights:

> If employees who have been arbitrarily favored are deprived of benefits capriciously conferred on them in order that those who were arbitrarily deprived may receive what they should, in fairness, have had to begin with, no law is violated. This is so even if both the class whose rights are restored and the class required to "move over" are defined by race—if the original arbitrariness was defined in that manner. And the reason is that no one is being favored or disfavored, advantaged or injured, under these circumstances *because* of race; rather, those who have been unjustly deprived receive their due and those who have been arbitrarily favored surrender some of the largesse capriciously conferred on them. That these consequences end by race is a mere incident of the fact that they began that way.[1]

But those who were favored by race at Weber's expense were admittedly not the victims of such original arbitrariness. The Circuit Court's support of Weber is therefore categorical: "[U]nless a preference is enacted to restore employees to their rightful places within a particular employment scheme it is strictly forbidden by Title VII".

IV

Since it is clear that the beneficiaries of this racial program were not victims of Kaiser's previous discrimination, and equally clear that the use of dual seniority lists is an explicit effort to favor blacks over whites, the defenders of this program are compelled to resort to a different justification—past "societal discrimination."

"We cannot deny [say the defenders in effect] that the two-list system deliberately favors one race over another. But we do deny that favoring this race at this time in this country is unfair. We contend that, in view of the historical discrimination against blacks (and other minorities), the racially preferential device now before us is entirely justifiable. It is justifiable not only because blacks have have been so long oppressed, but because, as a corollary, whites have been unfairly *advantaged* by race prejudice. The white employees of Kaiser who are passed over by this plan may indeed be innocent of any racial discrimination themselves, but they have been and are the beneficiaries of racial discrimination by others. This is the heart of our justification. Favor to blacks now is just because of the favor whites have enjoyed until now."

This is the principled argument by which many without selfish interests in these programs are persuaded that they are fair. One might have expected the American Civil Liberties Union, for example, to spring to the defense of the rights of an almost defenseless individual. Instead it joins the forces against Weber because the ACLU has convinced itself that his rights have not really been infringed on, even though he suffers from deliberate disadvantage because of race. How can that be?

"Racial preference in employment is justified [the argument proceeds] when it is a response to the morally legitimate demand that the *lingering effects* of past racial discrimination be remedied. The lingering effects of historical oppression include the continuing losses of decent employment, together with the money and status that it brings.

But the same historical race prejudice that has systematically blocked minorities from access to decent jobs has conferred an involuntary benefit upon whites because, while the number of desirable jobs remains roughly constant, the elimination of competition by minority workers results in the availability of desirable jobs for whites in generous disproportion to their numbers.

This benefit is conferred even upon those whites who may, in fact, deplore the prejudice from which they gain. Yet they did gain. Now, with racial quotas favoring blacks, they lose. Their present loss is morally justified by their earlier gain. The primary target of racially preferential programs should be those guilty of past unlawful discrimination, of course.

But where those guilty parties simply cannot be identified or are no longer available to make restitution, a secondary but legitimate target is the unjust enrichment attributable to that racial discrimination. Quota plans, like the one devised by Kaiser and the union, seek to redistribute that unjust enrichment. Seen in this light, their fairness—the moral rightness of racial preference for societal rebalancing—cannot be denied." So reasons the ACLU explicitly, and many other honest citizens implicitly, in giving pained approval to race quotas.

The argument fails utterly upon inspection. It relies upon a premise that is clearly and admittedly false in the *Weber* case and like cases. And were all its premises true, they could still not justify the racial preference here in question.

Consider the premises first. The adverse impact on Weber is held justifiable by his unjust enrichment resulting from the bad conduct of others. But if Weber were in any way the beneficiary of past discrimination, he certainly was not unjustly enriched by employment discrimination in the Grammercy plant. In that plant, it is agreed by advocates of the quota and by the courts, there had been no refusal to hire or promote blacks or other minorities, no racial discrimination from which Weber benefited.

But the injustice done to Weber is manifested in the loss of entitlements he earned by ten years of work *in that plant*—not in the Kaiser Corporation or in the workforce at large. His entitlements in this matter cannot have been acquired as the result of the historical misconduct of others. Long before Weber came to work at that plant, blacks and whites received equal employment treatment there—so the claim that simply by virtue of his having the seniority that he did in the Grammercy plant Weber was enjoying an unjust enrichment is simply false.

That false premise cannot justify "redistribution." The Circuit Court put the matter crisply: "Whatever other effects societal discrimination may have, it has had—by the specific finding of the court below—*no effect* on the seniority of any party here. It is therefore inappropriate to meddle with any party's seniority or with any perquisites attendant upon it, since none has obtained any unfair seniority advantage at the expense of any other" (p. 226).

But suppose *arguendo* (what is not true) that Weber had been unfairly enriched by past racial discrimination. What would follow? The enrichment thus identified might then be a target for redistribution. Among whom? To take from Weber and give to another because Weber got his seniority "unjustly" could conceivably be justified (if ever) *only* if those to whom the redistribution were made were the same persons from whom the spoils had been taken in the first instance.

The appealing argument by which so many are persuaded makes the faulty supposition that, if X has gained fortuitously but undeservedly from some unidentifiable Y, we are morally justified in taking from him and giving to a wholly different Z who suffered no loss to X's benefit, but who happens to be of the same *race* as that injured but unidentifiable Y.

Buried in this reasoning process is the mistaken premise that the distribution of goods or opportunities is rightly made by racial categories. Z, the person now given preference over X because of race, has a right to get from him (this premise supposes) because Z is black, and blacks have been so long oppressed. But rights do not and cannot inhere in skin-color groups. Individuals have rights, not races. It is true, of course, than many persons have been cruelly deprived of rights simply because of their blackness. Whatever the remedy all such persons deserve, it is deserved by those injured and because of their injury; nothing is deserved because of the color of one's skin. This is the philosophical nub of the Weber case.

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[1] 653 F. 2d 216, 225 (1977); page references below refer to this decision. The Supreme Court has agreed. In a case arising from a plan devised to give remedy to school employees within a previously discriminatory system, the Supreme Court declined review of a decision that, in view of the source and nature of that earlier injury, a minority worker may there be entitled to preferential treatment "not because he is black, but because, and only to the extent that, he has been discriminated against" *Chance* v. *Board of Examiners*, 534 F. 2d 993, 999 (1976); cert. denied 431 U.S. 965 (1977).

V

So long-lasting and self-perpetuating have been the damages done to many blacks and others by discrimination that some corrective steps must be undertaken. The moral anxiety created by this need for affirmative action accounts, in part, for the willingness of some to tolerate outright racial quotas. In the passion to make social restitution, sensitive and otherwise fair-minded people have gotten the moral claims of living persons badly confused.

The head of the Office of Federal Contract Compliance (by whom, as we shall see, Kaiser was threatened) epitomizes this confusion: "Society is trying to correct an age-old problem, and Weber is a victim of that process. There is nothing I can say to him. This is something that has to happen. The question is whether you give priority to a group that's been systematically deprived of opportunity while Brian Weber's parents and grandparents were not discriminated against. If someone has to bear the sins of the fathers, surely it has to be their children" (New York Times Magazine, February 25, 1979).

But deliberately visiting the sins of the fathers upon their innocent sons and grandsons, to the special advantage of persons not connected with the original sinning, is conduct neither lawful nor morally right. To suppose that both the beneficiaries of redress and those who are made to carry its burden are properly identified by race is, to be plain, racism. It is ethical racism because supposed with good will. It is simplistic because, on this view, race by itself—without consideration of the nature or degrees of past injuries, present advantages, or future pains—is sufficient to trigger the preferential device. The mistaken view in question is therefore properly entitled *simplistic ethical racism.*

Injuries are suffered in fact, claims made and burdens carried, by individual persons. Civil society is constituted to protect the rights of individuals; the sacrifice of fundamental individual rights cannot be justified by the desire to advance the well-being of any ethnic group.

Precisely such justification is precluded by the Fourteenth Amendment of our Constitution, whose words—no state "shall deny to any person within its jurisdiction the equal protection of the laws"—express no mere legalism but a philosophical principle of the deepest importance. Explicating that clause, in a now famous passage, the Supreme Court wrote: "The rights created by the first section of the Fourteenth Amendment are, by its terms, guaranteed to the individual. The rights established are personal rights. . . . Equal protection of the laws is not advanced through indiscriminate imposition of inequalities (*Shelly* v. *Kraemer,* 334 U.S. 1, 22 [1948]).

The nature and degree of the injury done to many Americans because they were black or brown or yellow varies greatly from case to case. Some such injuries may justify compensatory advantage now to those injured. But the calculation of who is due what from whom is a very sticky business; compensatory instruments are likely to compound injustice unless the individual circumstances of all involved—those who were originally hurt, those who benefit now, and those who will bear the cost—are carefully considered. Whatever compensatory advantage may be given—in employment or elsewhere—it must be given to all and only those who have suffered like injury, without regard to their race.

What we may not do, constitutionally or morally, is announce in effect: "No matter that you, X, were innocent and against no advantage; you are white and therefore lose points. No matter whether you, Z, were damaged or not; you are black and therefore gain points." If the moral ground for compensatory affirmative action is the redress of injury, the uninjured have no claim to it, and all those individuals of whatever ethnic group who have suffered the injury in question have an equal claim to it.

Racially based numerical instruments have this grave and unavoidable defect: they cannot make the morally crucial distinctions between the blameworthy and the blameless, between the deserving and the undeserving. As compensatory devices they are under-inclusive in failing to remedy the same damage when it has been done to persons of the non-favored races; they are over-inclusive in benefiting some in the favored categories who are without claims, often at substantial cost to innocent persons. Except in those cases where the discriminatory policy of the employer is established, and the identity of injured applicants or employees determinable, racial preference in employment is intolerably blunt, incapable of respecting the rights of individuals.

VI

This unsuitability of the racial means to the compensatory end partly explains the queasiness of language with which the advocates of "numerical instruments" defend their schemes. Although they believe their aims are good, there is yet widespread shame among them that they resort to racial preference to advance them. Hence the use of euphemisms like "disadvantaged" in identifying the beneficiaries of racial programs, when what is really meant is "black" or "minority." Not all minorities are disadvantaged, and not all those disadvantaged are minorities, obviously. But it is tempting to hide the racial character of a program which, if exposed, would be legally and morally intolerable.[4]

"Affirmative action"—a phrase that now pervades our language—has commonly been used in the same duplicitous way. Affirmative steps to eliminate racially discriminatory practices rightly win the assent of all. Affirmative efforts to recruit fairly (whether for on-the-job training programs or for professional schools), affirmative inquiry to determine whether testing is job-related and to insure that evaluation of performace is not racially infected—in such forms affirmative action is of unquestionable merit.

But when, in the name of affirmative action for racial equality, the deliberately unequal treatment of the races is introduced, we suffer a national epidemic of double-speak. Employment advertisements everywhere exhibit this duplicity with an almost ritualized motto: "An equal opportunity/affirmative action employer." The very term "affirmative action" has lost its honor and has become, for most, a euphemism for racial preference.

The unsavory character of their means is recognized by the advocates of racial instruments; that recognition is revealed by an inclination to be covert in conduct and to equivocate in language. Unsavoriness is tolerated here, however, even by organizations whose normal pride it is to expose immoral expedience in the body politic.

Nothing is more indicative of the true spirit of a community than the character of the instruments it permits, and of those it precludes, in advancing public policy. Police surveillance to root out spies, the suppression of speech (radical or conservative) to protect the peace—all such instruments are rejected in a decent society.

Civil libertarians wisely insist that we forswear instruments that invade the rights of individuals, even when forswearing proves inconvenient. The use of such instruments is precluded, forbidden not just to evil people but to all people. Preference by race is one of these forbidden instruments. The very high priority given to this exclusionary principle, and its applicability to all including the state itself, marks it as constitutional in the most profound sense.

Efforts to cut consitutional corners—however well-intentioned—corrupt a civil society. The means we use penetrate the ends we achieve; when the instrument is unjust, the outcome will be infected by that injustice. This lesson even civil libertarians have always to be relearning.

The inconsistency between racially preferential means and the end of honestly equal treatment is exquisitely exhibited in one aspect of the *Weber* case upon which Kaiser and the union place much emphasis. "We are caught [say they] in a monstrous double bind. What will you have us do? Desegregate, you say. Integrate your workforce; show us that you mean to undo, affirmatively, the wrongs earlier done. We do it, making serious efforts to increase the number of minorities in craft jobs through advertisement, recruitment, encouragement.

We get some results, but they are not dramatic. Then you—the nation speaking through your regulatory agencies—tell us that what we have done is not enough. You threaten us? Of course we take action in response to your threat—and having done so, we are threatened at law on the other side! Such inconsistency is unbearable. You, the body politic, must speak with one tongue!"

What is that first threat of which Kaiser complains? It came from the Office of Federal Contract Compliance whose regulations mandate "affirmative action" by all government contractors. The withdrawal of all federal contracts was the price Kaiser might have had to pay if, to avoid being found in "non-compliance," racial preference for minorities had not been introduced. Whence does the OFCC get the authority to make such threats? From an order of the President of the United States, say they, Executive Order 11246.

This order requires federal contractors to take affirmative action to prevent low employment of women and minorities in their workforces, on the assumption that most disproportionately low employment is the result of discrimination. Since the racial instrument agreed upon was a direct response to federal authority exercised under that valid order, it is outrageous now, say Kaiser and the union, to attack us for violation of the Civil Rights Act.

This response to official inconsistency cannot help but evoke some sympathy. But as a defense of racial quotas it is worthless. The argument fails on two levels. First, Executive Order 11246 does not require and cannot justify racial quotas in cases like this this one, in which the conduct of the employer has not been unlawfully discriminatory. The Order says nothing about numerical ratios. Indeed, its plan words *forbid* all racial preference. The relevant passage of that Order reads: "The contractor will take affirmative actions to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin" (30 Fed. Reg. 12319 [1965]).

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[4] In the original trial of the *Bakke* case, the University of California defended the racial quotas at the Davis medical school as being for all "disadvantaged" students. When the court noted that not a single disadvantaged person who was not of an ethnic minority had been admitted in all the years of that program's operation, the university in effect conceded the misdescription. Not a pretty business.

Some numerical plans to protect employment for minorities have been upheld by the courts as valid executive actions—but they have been so upheld as responses to specifically identified violations by those upon whom the remedy was imposed. The so-called Philadelphia Plan was held permissible under Title VII, but that holding was explicitly tied to prior exclusionary practices by the six trade unions controlling the workforce in the construction industry in Philadelphia.

Whatever tools the Office of Federal Contract Compliance may think itself entitled to employ, it has no authority in law, and certainly none in morals, to press for a racial quota in cases where, as here, those getting preference under the scheme had not been injured by that employer, and those injured by the scheme had not benefited from any misconduct of that employer.

The argument fails at a second level as well. If Executive Order 11246 be interpreted so as to authorize the OFCC to require racial quotas in cases like this one, the Executive Order itself is plainly unlawful, an illegitimate exercise of administrative authority in conflict with federal statute. The Civil Rights Act specifically prohibits racial classification in admission to on-the-job training programs (Sect. 703(d); cited above, p. 41).

The quota plan devised by Kaiser and the union is, as we have seen, patently in violation of this section. When the law and an executive order clash, there can be no doubt of the outcome. Writes the Circuit Court: "If Executive Order 11246 mandates a racial quota for admission to on-the-job training by Kaiser, *in the absence of any prior hiring or promotion discrimination*, the executive order must fall before this direct congressional prohibition" (p. 227).

Only by resolutely enforcing the rights of citizens can the insolence of office be restrained. Individual workers, without power or money, need to be protected against civil servants who take it upon themselves to threaten in order to be able to report numerical ratios they think desirable, claiming only to be following the orders of their superiors.

VIII

Defenses of racial preference—by efforts to reinterpret the law, by confused arguments based on "societal discrimination," by claim of executive order—all collapse. It is important to see why they *should* collapse. The defenders, conscious of their own righteous pursuit of racial justice, little doubt that the tools they wish to employ would have the good consequences they hope for. To question the merit of those tools is for them almost a betrayal of the oppressed in whose behalf they claim to battle. In their eyes the conflict is only over whether they are to be permitted to do a good deed—i.e., give preference to racial minorities—not whether it is a good deed, or whether its consequences will be good.

Decency of motivation, however, does not insure the goodness of the immediate object, or the goodness of its consequences. Racial justice is an aim that all share; it is distorted when transformed into formulas for ethnic proportionality in workforces and professions based (as in this case) upon ethnic populations in the surrounding area. What accounts for this transformation? Motives honorable in their general statement are blended with a vision of cultural homogeneity that is profoundly unhealthy.

The objectives then sought in making that blend operational often prove inconsistent with the original aim. It is this inchoate vision of homogeneity—made concrete in numerical proportions—that lies behind racial instruments like the one at issue in *Weber*. Federal Appellate Courts have not been oblivious to the evils that ensue:

There are good reasons why the use of racial criteria should be strictly scrutinized and given legal sanction only where a compelling need for remedial action can be shown. . . . Government recognition and sanction of racial classifications may be inherently divisive, reinforcing prejudices, confirming perceived differences between the races, and weakening the government's educative role on behalf of equality and neutrality. It may also have unexpected results, such as the development of indicia for placing individuals into different racial categories.

Once racial classifications are imbedded in the law, their purpose may become perverted: a benign preference under certain conditions may shade into malignant preference at other times. Moreover, a racial preference for members of one minority might result in discrimination against another minority, a higher proportion of whose members had previously enjoyed access to a certain opportunity [*Associated General Contractors of Massachusetts Inc.* v. *Altshuler* 490 F. 2d 9, 17–18 (1973)].

In this spirit three Federal Circuit Courts have repeatedly refused to approve racial quotas in the absence of proved past discriminatory practice dictating that specific remedy.

Racial classifications have insidious long-term results: anger and envy flowing from rewards or penalties based on race; solidification of racial barriers and the encouragement of racial separatism; inappropriate entry of race into unrelated intellectual or economic matters; the indirect support of condescension and invidious judgments among ethnic groups—in sum, the promotion of all the conditions that produce racial *dis*harmony and racial *dis*integration. What Kaiser and the union defend is very far from an innocuous good deed. It is a plan having very damaging consequences to very many people.

Some of the damage, direct and substanstanial, is done to those, like Weber and Bakke, who bear the immediately resulting burden. "Society" does not pay; the "white majority" does not pay; individual citizens pay. The penalty to them is great and undeserved. One notable feature of the *Bakke* decision, almost entirely overlooked by commentators and the press, is the fact that all nine Supreme Court Justices there agreed that, as a result of the quota system used by the medical school at Davis, Allan Bakke was done a constitutional injury—that is, an injury he should not have to suffer unless it can be well justified. Even the four Justices who thought the injury could be justified took the hurt done to him very seriously. One of those four (that is, one of the group who did *not* side with Bakke), Justice Blackmun, refers to the injury done to Bakke as an "ugly" one. The other five Justices struck down that racially preferential program; Powell among them condemns the damage such programs do.

The Washington Supreme Court, too, in deciding against Marco DeFunis in an analogous case, did not deny that he had been seriously hurt, and candidly rejected the claim that such quotas are "benign." A program giving special favor to racial minorities, say they, "is certainly not benign with respect to nonminority students replaced by it" (*DeFunis* v. *Odegaard* 507 P. 2d 1182). *Reverse discrimination* is not an invention or a hypothesis yet to be confirmed, it is a sociological and legal fact.

IX

The reality of the evils flowing from racial instruments introduce one of the most intriguing aspects of the *Weber* case. A dispute arises between the District and the Circuit Court beneath which lies a momentous philosophical issue. Numerical remedies based on race do damage, the courts agree; they further agree that this is a case in which the imposition of such a numerical remedy cannot be justified because there has been, in fact, no previous unlawful discrimination by the employer here.

However, in those cases in which such remedy might prove justifiable (previous discriminatory practice in that setting being alleged), the following question arises: may that numerical instrument of redress be devised and executed on the authority of the employer and union acting jointly? Or is a racial quota permissible as remedy only on the express authority of the judiciary? The District Court not only found the remedy unjustifiable, but held in addition that such painful remedies would in no case be in the province of unions and management to impose.

The Circuit Court, agreeing on the first point, did not agree on the second. Voluntary remedial action (said they) is preferable to court action; therefore, to insist upon judicial imposition of remedies would interfere unduly with reasonable private amelioration. The underlying issue here is the locus of authority in resolving questions of justice. Which court is the wiser?

In permitting numerical remedies to be imposed (if at all) only by the judiciary, the District Court, I submit, is deeply right. The reasons for this are several and complicated.

First, the question of whether the circumstances are such as to justify the imposition of a numerical remedy (a question that must be answered affirmatively if any such remedy is to be lawful) is precisely the kind of question that cannot be answered fairly by employers and unions acting in their joint interests. Individuals will bear the burden; if the case were of a kind to justify the imposition of that burden on Weber and his like, past discrimination by that employer in that context must be proved or admitted. No employer is likely to make that admission.

To do so would invite a host of very expensive lawsuits in behalf of those injured. Employers will therefore enter such agreements only with the understanding that no past discrimination has been proved or admitted. That very understanding (however arguable it may be) on which an employer might be willing to enter an agreement with a union to give racial preference to minorities is precisely the understanding which, if reflecting the facts truly, shows that racial preference unjustly injurious and unlawful.

This peculiar feature of "voluntary" racial instruments is admitted—even emphasized, ironically—by the UAW, the NEA, and other assorted unions. If (they argue) voluntary racial preference is permissible only when the employer's past conduct would be found in violation of Title VII, there will be no voluntary race-conscious action. For, as they agree: "[I]t is usually difficult to predict whether or not [previous] discrimination would be found" (associated unions, brief *amici*, p. 13). Indeed! For this reason precisely it is a question of such a kind that no answer to it reached as part of a labor-management agreement could be trusted.

The aggregated unions continue: "Moreover, the employer would, by taking voluntary action, put itself in a no-win situation in a suit such as this. Either its past conduct will be determined to be unlawful, thereby inviting litigation by discriminatees, or the remedial action will be found unlawful, and liability to white employees will exist (*ibid.*). Just so! But the authors of this candid statement apparently do not see where their argument leads.

They would like the courts to conclude that, since the present standard (that "voluntary" racial quotas suppose the same finding of unlawful discrimination which alone might justify court-imposed remedies) effectively precludes "voluntary" quotas altogether, we should permit the introduction of a new standard, one that would allow "voluntary" quotas under some factual circumstances that—as they admit—would not justify a court in imposing them! What could serve as such a standard? The lone dissenting judge of the Circuit Court, pursuing the same line, is driven to propose an astounding answer: A "voluntary" quota plan should be upheld, he suggests, if it is "*a reasonable remedy* for an *arguable violation* of Title VII" (p. 230, emphasis added).

This standard is neither feasible in practice, nor morally acceptable if it were. As a practical matter, such notions as "reasonable remedy" and "arguable violation" have virtually no objective content. Only the courts could resolve, on a case-by-case basis, disputed claims about "arguable violations" and about the reasonableness of remedy. Endless litigation could not be avoided—but it is the elimination of time-consuming litigation that is alleged to be the great merit of "voluntary" racial instruments. The increase in court involvement that would result undercuts any proposed justification of "voluntary" quotas on grounds of efficiency.

More important than its inefficiency, however, is the fact that the proposed standard (that a voluntary quota plan should be upheld if it is "a reasonable remedy for an arguable violation of Title VII") is morally unacceptable. Just remedies presuppose some determinable wrongs for which they give redress and by which they are justified. It is confusion of mind to propose a remedy for an arguable violation; one cannot put right what might prove on more judicious examination to have been no wrong at all.

All "voluntary" quotas (i.e., those introduced without court imposition) presuppose reliance upon some standard that must encounter essentially the same problem. The philosophical dimensions of the dispute between the two courts here emerge. The Circuit Court's position exhibits irremediable moral defect: by permitting racially preferential programs without the backing of judicial authority, it permits the delegation of questions of justice to private hands that are neither equipped, nor disposed, nor authorized to resolve them fairly.

To resolve a matter of individual right the bargaining process between labor and management is almost the worst imaginable tool. The impartial determination of facts without regard to interest, and the honest application of principles without regard to advantage, are essential in adjudicating questions of right—but the elimination of regard for self-interest and advantage is precisely what is impossible at the bargaining table.

Even if the needed impartiality were possible there, it would be inappropriate, uncommon, and surely could not be relied upon. Union and management bargainers are duty-bound to press for the advantages of the units they represent. The process is designed to deal with issues of pay and working conditions, not with the protection of individual rights. Justice entails giving to each his due—whether or not he or others can negotiate for it successfully.

Most important, the authority to resolve questions of justice cannot lie in a labor-management bargain. Individual rights may not—as a matter of law or morals—be bargained away. As a mater of constitutional principle, the Supreme Court has spoken definitely on this issue. A union, they agree, may waive some of its rights to collective activity, such as the right to strike, in a bargaining agreement made with the aim of economic advantage for its members. The Court continues:

> Title VII, on the other hand, stands on plainly different ground, *it concerns not majoritarian processes, but an individual's right to equal employment opportunities.* Title VII's strictures are absolute and represent a congressional command that *each* employee be free from discriminatory practices. Of necessity, *the rights conferred can form no part of the collective bargaining process* since waiver of these rights would defeat the paramount congressional purpose behind Title VII. In these circumstances, an employee's rights under Title VII are not susceptible of prospective waiver [*Alexander* v. *Gardner-Denver Co.* 415 U.S. 36, 51–52 (1974), emphasis added].

Contracts reached through collective bargaining may, of course, introduce different terms of employment for different groups of employees in the light of the relevant conditions of those groups. Race, however, is never relevant in that sense. Because racial discrimination invariably touches the nonbargainable rights of all individuals adversely affected, race itself has been identified as an inappropriate criterion for the classification of employees.[5]

In sum: the courts have repeatedly held that, in compromising with an employer, a union may not take race into account. Programs like the one at issue in *Weber* explicitly take race into account. The conclusion of this syllogism is inescapable.

The unions take another tack. "You fail to note [they rejoin in effect] that this is a voluntary program. *Weber* and his fellows may be said to have relinquished their rights in this matter because, when the plan was devised, they were adequately represented by their union. The union has a duty to represent all of its members; its bargainers are selected democratically; and since white workers constitute a majority of the bargaining unit, the union process may be relied upon to reach no agreement that will violate the rights of individual white members."

It is hard to take this argument seriously. Union process is often genuinely democratic; negotiators for unions generally do seek to represent the interests of all the members of the bargaining unit. But the most sympathetic review of union process could not rationally conclude that the fairness of unions to their members over the long term has been such as to justify the delegation, to bargainers, of matters of fundamental individual right. The current flow of complaints about reverse discrimination in employment contracts in itself provides substantial evidence that the bargaining process, notwithstanding its general fairness, cannot be depended upon in this sphere. "Voluntary" is an appealing word. But its use here suggests what is not true—that those who were injured by the racial instruments devised in the contract did themselves volunteer to carry the burden. To call Webster's sacrifice "voluntary" is most inappropriate.

This defense of "voluntary" racial instruments (even if unions were invariably sensitive to matters of individual right) avoids the key question of legitimate authority. At stake here are the rights of individuals to the most fundamental of democratic conditions—equal treatment under the law—and, moreover, their rights to that equal treatment as it bears upon the most suspect of all categorical distinctions, race.

Even legislators, it may be argued, however powerful their assembly, honorable their election, and dutiful their conduct, may not take from individual citizens certain fundamental rights. With the noblest of intentions, it is not within their authority to pursue public policy at the cost of compromising the individual citizen's right not to be discriminated against because of his race or religion. Philosophers will differ about the grounds of legislative authority, but few will seriously deny that upon such authority there must be some hard limits. Unequal treatment because of race is as clear an example as there is of the violation of those limits.

If the principle here expressed were somehow mistaken, if it were sometimes just, in the cause of racial redress, to sacrifice the rights of some blameless non-beneficiaries to advantage others who had not been injured, even so it would at least be certain that no such decision could be properly made by any save the legislature of highest authority, subject to the review of the court of highest jurisdiction. The notion that, to encourage "voluntary affirmative-action plans," we may bypass the body politic, investing unions and management with the authority to bargain with fundamental human rights, makes the prospect of a reversal in the *Weber* case very distressing. Not substantive entitlements alone are at issue here, but also the procedural rights of working people to have questions of justice decided by legislatures and courts.

X

Weber and *Bakke* are closely analogous in this procedural regard. Weber's right to equal treatment was infringed on by a union-management agreement, Bakke's by a medical-school admissions committee. Legitimate authority was exceeded in both cases. When it was asked, in *Bakke*, for what purposes a university might consider race in admissions, Justice Powell replied, in his decisive opinion, that it may be considered for the sake of student diversity (to support the exchange of ideas in accord with First Amendment concerns), or, conceivably, as redress for the specific victims of specific injustices. "Societal discrimination" as a ground for racial preference he explicitly considered and rejected. Powell wrote:

> We [i.e., the Supreme Court] have never approved a classification that aids persons perceived as members of relatively victimized groups at the expense of other innocent individuals, in the absence of judicial, legislative, or administrative findings of constitutional or statutory violations [references omitted]. After such findings have been made, the governmental interest in preferring members of the injured groups at the expense of others is substantial, since the legal rights of the victims must be vindicated. In such a case the extent of the injury and the consequent remedy will have been judicially, legislatively, or administratively defined.
>
> Also, the remedial action usually remains subject to continuing oversight to assure that it will work the least harm possible to other innocent persons competing for the benefit. Without such findings of constitutional or statutory violations it cannot be said that the government has any greater interest in helping one individual than in refraining from harming another. Thus the government has no compelling justification for inflicting such harm [*University of California Regents* v. *Bakke* 57 L. Ed 2d 750, 782–82 (1978).]

But findings of constitutional or statutory violations it is not the business of private bodies—unions, or managements, or medical-school—committees—to make. Powell continued:

> Petitioner [the Regents of the University] does not purport to have made, *and is in no position to make,* such findings. . . . [Even] isolated segments of our vast governmental structures are not competent to make those decisions, at least in the absence of legislative mandates and legislatively determined criteria [references omitted]. Before relying

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[5] The Supreme Court has written: "[T]he statutory power to represent a craft and to make contracts as to wages, hours, and working conditions does not include the authority to make among members of the craft discriminations not based on such relevant differences. Here the discriminations based on race alone are obviously irrelevant and invidious. Congress plainly did not undertake to authorize the bargaining representative to make such discriminations" *Steele* v. *Louisville & Nashville R.R. Co.*, 323 U.S. 192, 203 (1944).

upon these sorts of findings in establishing a racial classification, a governmental body must have the authority and capability to establish, in the record, that the classification is responsive to identified discrimination (p. 783; emphasis added).

Powell's point is that a medical-school admissions committee (even though indirectly an agent of the state) is entirely without the requisite authority. Kaiser and the union have a far weaker claim to the needed authority than did they. An admissions committee is not competent to make the findings that might justify racial preference, granted. But if the admissions committee had sought to present such findings of identified discrimination at the Davis medical school (discrimination that, in fact, the university specifically denies), they might conceivably contend that as one agent of one arm of one element of the state, it was within their province to do so—and thus might conceivably seek to justify their racial program as remedy. That claim must fail, the mission of the medical school and all its subsidiary elements being educative, not judicial. Any analogous claim made by Kaiser and the union—that they are authorized to make findings of "societal discrimination" that will justify inflicting harm on Weber and other blameless parties—is totally without warrant.

XI

In the absence of any showing or admission of previous illegal discrimination at the Grammercy plant, every defense of racially preferential remedy must prove unsatisfactory. Sensitive to this point, the American Civil Liberties Union argues at length that the factual circumstances of this case have been misunderstood, that Kaiser Aluminum *did* discriminate against minorities. The pattern of employment by Kaiser at other plants in earlier years is reviewed, and much is made of the racially disproportionate impact, at the Grammercy plant, of a "purportedly neutral criterion."

Using the percentage of the minority population in the surrounding parishes of Louisiana as benchmark,[6] the argument concludes that Kaiser's workforce at the Grammercy plant in skilled-craft positions was "severely underrepresentative." Putting aside the question of how "representativeness" might rationally be established, or, if it had been established, what bearing that would have upon the lawfulness of Kaiser's previous conduct, it is important to note that the entire thrust of this argument is misdirected. The *Weber* case presents an appeal to our highest court on a matter of fundamental principle.

That principle must be argued on the basis of a factual record properly established at trial in a responsible Federal District Court. Appellate Courts, and the Supreme Court, face the question of principle *given that record*. Even the District Court could analyze only the facts brought before it by the parties. Kaiser testified to its non-discriminatory practies at the Grammercy plant from its opening, and of its efforts to recruit black craftsmen from the general community. They would not and could not report otherwise. If (as some now claim) the record should have shown hidden unlawful conduct by Kaiser, such findings could only have entered the record at the trial level. At this point the issue is, supposing the record complete and accurate, whether, *without* such previous violations established, this racial quota is permissible.

To contend that the facts of the matter *could* be viewed differently is to blind oneself to the essence of the controversy. Had the courts found, after examining all testimony, that Kaiser had previously discriminated against minorities in its Grammercy plant, the issue now to be decided here would not even have arisen.[7]

XII

All arguments thus far explored incorporate the realization that individuals are indeed injured when disadvantaged solely because of their race. Brian Weber did not get the job-training opportunity he was entitled to. Most ordinary people, and most judges, have no difficulty in seeing that. So zealous are some of the advocates of racial preference, however, that they claim not to see it. Weber was never really hurt, say they. He has a legitimate complaint only if he was discriminated against unfairly. But he wasn't discriminated against at all! Hence he has no case.

Puzzling though this claim appears on its face, it is honestly defended, in two ways. First, it is argued, Weber has lost nothing more than seniority entitlements. But seniority systems may be altered by labor-management agreement, and in any event, seniority rights are not vested in the individual employee but in the collective-bargaining unit. Therefore, when a voluntary quota plan results in Weber's getting less than he expected in view of his greater seniority, he loses nothing that belonged to him in the first place. The injury done to him (it is contended) is apparent, not real.

This argument is twice faulty. It underplays the importance of individual seniority entitlements in the industrial context; and it does not face up to the discriminatory nature of the seniority deprivation in this case.

In allocating scarce opportunities and goods in the industrial world, seniority is critically important. For very many workers a host of matters—job security, opportunities for advanced training, vacation and retirement benefits—depend chiefly upon the number of years of service they have given. Nothing remains to them after years of service but their seniority claims. To deny that harm is done to an unskilled worker on an hourly wage when he is deprived of entitlements flowing normally from ten years' seniority shows gross moral insensitivity. Seniority does not insure qualification for positions demanding special talents, of course; but where qualifications are roughly equal, or not distinguishable, seniority above all other considerations will be relied upon in the interests of fairness.

Seniority entitlements are tied to individuals, not just to the bargaining unit. In matters of job assignment, transfer, layoff and recall, and job training, opportunities must be distributed among competing employees. Competitive status seniority is therefore of great moral as well as practical importance, and directly affects individuals more importantly than it does the bargaining collective.

Non-competitive benefits also—pensions, sick leave, paid vacations—are commonly determined in part by length of service and therefore must be tied to individuals. Seniority, the Supreme Court writes, "has become of overriding importance, and one of its major functions is to determine who gets or who keeps an available job (*Humphrey* v. *Moore* 375 U.S. 335, 346–47 [1964]). The "who" in this passage refers to individual persons, not to groups.

Seniority systems are bargainable, true. It does not follow, however, that all seniority rights are bargainable. It is essential not to confuse the system of seniority with individual entitlements under a given system in force. Once a seniority system has become a reality in rule and practice, a worker's rights and expectations under that system are his and very precious to him. It is callous to minimize the injury done when such rights are not respected.

When the ground of that disrespect is race, the injury is particularly offensive. Entitlements in themselves minor (which an opportunity for on-the-job training is not) become matters of grave concern when manipulated for racial reasons. Where one must sit on a bus or go to the toilet understandably becomes a source of rage and an issue of constitutional proportions when the determination is made by race. Protests over segregated lunch counters had as their target not the culinary opportunities denied, but the immoral character of the ground of their denial. Even if Weber's seniority expectations be thought trivial, the racial ground of the unequal treatment he received is very far from trivial.

Some who understand very clearly why Allan Bakke was injured when excluded from medical school in a racially discriminatory way fail to see that the injury done to Brian Weber is equally unjust. Applicants to a competitive program, they appreciate, have a right to evaluation on some set of relevant criteria—past performance, intellectual promise, character, or whatever—and if deserving on the basis of those criteria, ought not be deprived of place because of race. But if the performance qualifications of all applicants are roughly equal (as were those of Weber and the minority workers chosen in his place), where, they ask, is the injustice?

The injustice lies in the deprivation, on improper grounds, of what one is otherwise entitled to. The basis for the entitlement will be different in different contexts. Scarce places in medical or law schools are rightly allocated to persons best exhibiting the characteristics that have been determined relevant to the studies or profession to be pursued. Scarce on-the-job training opportunities are rightly allocated to those having certain seniority entitlements. The bases of Weber's and Bakke's claims to that of which they were deprived are very different; but both were wrongly denied what they would have received if the scarce available goods had been distributed in accord with established criteria in a morally just way. Both were the plain victims of racial discrimination, losing out because of the color of their skin.

Persons concerned about such injustice when done in the academic world ought seriously to consider the wisdom of remaining silent when essentially the same injustice (although with respect to different entitlements) is done in the industrial world. If preference by race should be found, in the *Weber* case, to justify the deprivation of what is fairly earned by a laborer, the security of what is fairly earned by anyone in any sphere is similarly threatened.

XIII

If the damage to Weber cannot reasonably be minimized, can it be wholly denied? This is the second line of defense to which Kaiser and the union fall back in the effort to show that Weber was not discriminated against at all. Weber's rights were not infringed on, they say, because he never had any seniority rights to job training here. The argument goes like this: "Where admission to a training program is properly a function of seniority, and seniority, like Weber's, is untainted by the employer's previous discrimination, he would be damaged if race were allowed to supervene.

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[6] ACLU and Society of American Law Teachers, brief *amici*, p. 11. The inappropriateness of such figures in estimating fairness with respect to employment in the skilled crafts is so obvious, and has been so often remarked, that one is embarrassed for the ACLU to find such an argument here pursued. See Thomas Sowell, "Are Quotas Good for Blacks?," COMMENTARY, June 1978.

[7] Might an appellate court not reverse an inferior court because of its mistaken interpretation of the facts as appearing in the record? Only in those rare circumstances in which the treatment of the facts by the inferior court was "clearly erroneous." That claim would be untenable in this case.

"But Weber errs in thinking that seniority gives him any claim under *this* quota program, which was initiated in 1974, by Kaiser and the union, specifically to increase minority representation in the craft employments. New rights were then created, Kaiser and the union agreeing to use seniority only for the distribution of available slots *within* the two racial lists, black and white. If, in the new plan, they had agreed to use the lottery method—two separate lotteries, one for whites and one for blacks—it would be obvious that seniority was not the real issue here. They could have done just that. Weber's claim that he was deprived of seniority rights is a red herring, because the mode of selecting from each racial pool is irrelevant. So the Kaiser plan, as the dissenting judge wrote, stands or falls on its separation of workers into two racial pools for assignment to job training' (p. 235)."

This argument is a compound of perceptivity and blindness. Seniority was the system deliberately adopted by Kaiser and the union—but they did not make that choice at random. Years of past work in the very plant where those training opportunities were to arise was thought the fairest consideration in allocating scarce places to otherwise equally qualified workers. Seniority was adopted as a relevant and rational principle.

To create two seniority lists, black and white, and then choose the top person from each list, even if he has less seniority than the fourth or twentieth person on the other list, is to override the seniority principle with race. If the basis chosen for the fair distribution of scarce opportunities had not been seniority, but (say) a lottery, then the just application of the lottery principle would require that *it* not be overridden by race. It is therefore perceptive to note that the real issue here goes beyond seniority—that the plan fails simply because it separates the workers into two *racial* pools—every such separation being necessarily invidious. Any system used to distribute opportunities among the members of each racial pool, even if of itself fair, must be distorted by that antecedent racial classification. Whatever besides seniority might prove just as a ground for the distribution of goods, skin color isn't it.

Is it correct to say, then, that Weber had no seniority rights here at all? No. When it is agreed by union and employer that, for allocating these job-training opportunities, length of service is the appropriate basis, employees acquire entitlements on that basis. The injustice of racial favoritism manifests itself, in this case, in the deprivation of those entitlements.

Were a worker's entitlements based on some other feature of his circumstances—his experience or his performance on a competitive examination—then the injustice of racial favoritism might be manifested in the deprivation of entitlements flowing from those. Weber has a right to non-discriminatory treatment. To contend that he never had any rights in this matter because the respect in which he was discriminated against isn't the only respect in which he might have been discriminated against is a last-ditch effort to obscure the wrong that was done him.

XIV

The villian of the piece—here, in *Bakke*, wherever it raises its head—is preference by race. The *Weber* case provides an opportunity to reaffirm the moral and constitutional commitment to govern ourselves without prefernce to any by reason of color, or religion, or national origin. If we undermine that commitment—even though it be in an honest effort to do good—we will reap the whirlwind.

NOMINATION OF WILLIAM A. LUBBERS TO BE GENERAL COUNSEL OF THE NATIONAL LABOR RELATIONS BOARD

Mr. WILLIAMS. Mr. President, William A. Lubbers, of Maryland, has been nominated by the President to be General Counsel of the National Labor Relations Board. This nomination has been the subject of substantial comment in the press, and it has been made the subject of a negative letter writing campaign.

Under the circumstances, I wish to set the facts straight about this nominee and his qualifications for the position of General Counsel of the Board.

Mr. Lubbers has served the National Labor Relations Board as a staff attorney, as the Board's Solicitor, and now, as the Board's Executive Secretary, for a total of 27 years. In that time, he has worked during the incumbency of 7 different Chairmen of the Board, and 21 different Board members.

During his career at the Labor Board, Mr. Lubbers has earned a solid reputation for unquestionable competence and integrity. Likewise, the Committee on Labor and Human Resources, in our hearings on his nomination to be General Counsel, has received only the most favorable reports about Mr. Lubbers' honesty, his ability, and his dedication to public service.

Ordinarily, when a nominee comes highly recommended as competent and as a person of high integrity, there is no basis for challenging the President's choice.

In this case, of course, we are dealing with the area of collective bargaining—a subject which is fraught with controversy. Therefore, despite Mr. Lubbers' obvious qualifications for this position and his unquestionable integrity, opposition has been expressed to his nomination.

Two basic types of arguments have been presented against this nomination: First, it has been argued that Mr. Lubbers' close association with the Board and his long service on the staff of its present Chairman, Mr. Fanning, raises questions about whether or not he will be a sufficiently independent General Counsel. Second, it has been asserted that Mr. Lubbers would be better qualified for this post if he had engaged in private practice, representing either labor or management as a partisan advocate, rather than having been engaged in public service.

Fortunately, the committee has had the benefit of testimony from several former Board members, and two former General Counsels, as well as from practitioners and academicians. And, the hearing record strongly supports Mr. Lubbers' nomination.

With regard to the issue of Mr. Lubbers' close association with the Board and its present Chairman, I would suggest that we should not question this association; we should applaud it. The central function of the Board is the adjudicating of cases. Board members, like judges, have a proud tradition of leaving partisanship behind them and deciding their cases on the basis of their own best, impartial judgment of the meaning of the law.

Thus, Mr. Lubbers has a long background of careful fidelity to the law, and of nonpartisanship. And his nomination will insure that the duties of General Counsel will be carried out with the highest order of commitment to fairness and the public interest.

The fact that much of Mr. Lubbers' service has been on the staff of incumbent Chairman John Fanning should, likewise, only serve to strengthen public confidence that the President has selected a fine and dedicated public servant for this post.

Chairman Fanning's service on the Board has received the approval of six different Presidents, three from each of our two major political parties.

Likewise, witnesses before the committee on this nomination had only the highest praise for Mr. Fanning's ability and integrity.

This, in my judgment, conclusively negates any contention that Mr. Lubbers may be too dependent upon, or too closely related to, the Board Chairman. Board regulations flatly prohibit the General Counsel and Board members from engaging in off-the-record communications about cases before the Board or General Counsel. And, in the words of former General Counsel Peter Nash, "I am confident in my own mind, knowing Bill Lubbers and John Fanning, that never would they breach either the letter or the spirit of section 3(d) of the act."

These facts reduce this point to an argument that some persons might doubt Mr. Lubbers' independence because of his previous associations. If that argument were to disqualify a nominee for the Board or General Counsel's Office, few people would ever be confirmed. For example, when former Chairman Edward Miller was nominated to the Board by President Nixon, his confirmation was opposed by George Meany in the following terms:

> Our sole and simple reason for opposing this nomination is that Mr. Miller, throughout his professional career, has been an employer lawyer.

Mr. Meany also stated:

> It is, of course possible that some union or employer lawyers might be able to put their past associations behind them and render fair and impartial justice, yet a suspicion would always remain, and it is important that justice not only be done but that it appear to be done.

Likewise, in 1975, when Peter Walther was nominated by Mr. Ford, the same arguments were given in opposition to his confirmation. A representative of a national union affiliated with the AFL-CIO stated:

> Our union's objection to the appointment of Peter Walther is based on its encounters with him during the time that he served as counsel to (a hospital) in Philadelphia.

The witness also stated:

> The law firm of which (Mr.) Walther is a member, has a long history of anti-union activity.

The Committee on Labor and Human Resources considered, but rejected, these arguments against confirmation. As in this case, the committee was convinced by the nominees' record for integrity and ability that they would honor their oaths of office and fulfill their public trust, if confirmed.

Likewise, the hearing record on Mr. Lubbers is very persuasive that he is well-qualified by experience to be General Counsel. The central function of the General Counsel is to decide, in particularly difficult or novel cases, whether complaints should be issued. These decisions are best based upon a familiarity with the relevant labor law decisions of the Board and the courts. During a 10-year period as a staff counsel at the Board, Mr. Lubbers would have been required to review approximately 1,500 to 2,000 labor law cases. During a like period, in private practice, former Board Chairman Miller stated, that prior to his own confirmation, he had engaged in about 40 to 50 labor law cases.

Under the circumstances, as former General Counsel Arnold Ordman testified, any suggestion that Mr. Lubbers lacks requisite experience "can only be based on a gross misunderstanding of what a staff assistant or legal assistant to the Board really does.

I know of no better way to learn the procedures or the techniques as well as the pitfalls of litigational strategy than the kind of work Mr. Lubbers has done for years. Only the very oldest and most active practitioners in the labor field could have as much experience.

In sum, this nomination merits the speedy consent of this body.

I now ask unanimous consent that an excerpt from Labor Board regulations and a letter from Mr. James F. Duggan, a former chairman of the labor law section of the Illinois State Bar Association, be included in the RECORD at the conclusion of my remarks.

The Board's regulations insure the separation of the work of the General Counsel's Office from the work of the Board in all necessary respects. Mr. Duggan's letter strongly supports this nomination and states that "the real self-interest of management and labor lie in having as General Counsel a man of Mr. Lubbers' superior legal ability and high personal integrity and independence.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

§ 102.126 Unauthorized communications.

(a) No interested person outside this agency shall, in an on-the-record proceeding of the types defined in § 102.128, make or knowingly cause to be made any prohibited ex parte communication to Board agents of the categories designated in that section relevant to the merits of the proceeding.

(b) No Board agent of the categories defined in § 102.128, participating in a particular proceeding as defined in that section, shall (i) request any prohibited ex parte communications; or (ii) make or knowingly cause to be made any prohibited ex parte communications about the proceeding to any interested person outside this agency relevant to the merits of the proceeding.

§ 102.127 Definitions.

When used in this subpart:

(a) The term "person outside this agency," to whom the prohibitions apply, shall include any individual outside this agency, partnership, corporation, association, or other entity, or an agent thereof, and the general counsel or his representative when prosecuting an unfair labor practice proceeding before the Board pursuant to section 10(b) of the act.

(b) The term "ex parte communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, subject however, to the provisions of §§ 102.129 and 102.130.

§ 102.128 Types of on-the-record proceedings; categories of Board agents; and duration of prohibition.

Unless otherwise provided by specific order of the Board entered in the proceeding, the prohibition of § 102.126 shall be applicable in the following types of on-the-record proceedings to unauthorized ex parte communications made to the designated categories of Board agents who participate in the decision, from the stage of the proceeding specified until the issues are finally resolved by the Board for the purposes of that proceeding under prevailing rules and practices:

(a) In a preelection proceeding pursuant to section 9(c)(1) or 9(e), or in a unit clarification or certification amendment proceeding pursuant to section 9(b) of the act, in which a formal hearing is held, communications to the regional director and members of his staff who review the record and prepare a draft of his decision, and members of the Board and their legal assistants, from the time the hearing is opened.

(b) In a postelection proceeding pursuant to section 9(c)(1) or 9(e) of the act, in which a formal hearing is held, communications to the hearing officer, the regional director and members of his staff who review the record and prepare a draft of his report or decisions, and members of the Board and their legal assistants, from the time the hearing is opened.

(c) In a postelection proceeding pursuant to section (c)(1) or 9(e), or in a unit clarification or certification amendment proceeding pursuant to section 9(b), of the act, in which no formal hearing is held, communications to members of the Board and their legal assistances, from the time the regional director's report or decision is issued.

(d) In a proceeding pursuant to section 10(k) of the act, communications to members of the Board and their legal assistants, from the time the hearing is opened.

(e) In an unfair labor practice proceeding pursuant to section 10(b) of the act, communications to the administrative law judge assigned to hear the case or to make rulings upon any motions or issues therein and members of the Board and their legal assistants, from the time the complaint and/or notice of hearing is issued, or the time the communicator has knowledge that a complaint or notice of hearing will be issued, whichever occurs first.

(f) In any other proceeding to which the Board by specific order makes the prohibition applicable, to the categories of personnel and from the stage of the proceedings specified in the order.

§ 102.129 Communications prohibited.

Except as provided in § 102.130, ex parte communications prohibited by section 102.126 shall include:

(a) Such communications, when written, if copies thereof are not contemporaneously served by the communicator on all parties to the proceeding in accordance with the provisions of § 102.112.

(b) Such communications, when oral unless advance notice thereof is given by the communicator to all parties in the proceeding and adequate opportunity afforded to them to be present.

LAW OFFICES OF NATHANSON,
HEYMAN, MCCARTHY & DUREE,
Toledo, Ohio, December 7, 1979.

Senator HARRSION A. WILLIAMS, Jr.,
Chairman, Senate Human Resources Committee, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR WILLIAMS: As an attorney who has represented management for fifteen years, I would like to enter the strongest possible dissent from those attacking the nomination of William A. Lubbers to be General Counsel of the National Labor Relations Board.

Mr. Lubbers is a dedicated career Board attorney who will bring to the Office of General Counsel an intimate understanding of the process by which the decisions which shape the law are reached. Having worked closely with him at the Board for a number of years, and having followed his career since I have been in the private practice of law, I know Mr. Lubbers to be a first rate attorney and a man of unimpeccable integrity and independence.

He does not bring with him the partisan advocacy which would make the Office of General Counsel a spokesman for any special interest. Rather, by temperment and experience he brings the even handed approach of a lawyer who will advocate enforcement of the National Labor Relations Act in a fair and impartial manner.

Again, Senator, let me disassociate myself from those who would speak in the name of "management" in an unwarranted attack on Mr. Lubbers and strongly urge his confirmation as General Counsel. The real self-interest of management and labor lie in having as General Counsel a man of Mr. Lubbers' superior legal ability and high personal integrity and independence.

I am a past chairman of the Labor Law Section of the Illinois State Bar Association, and my practice for fifteen years has been exclusively the representation of employers in labor relations matters, with offices in Toledo, Ohio and Chicago, Illinois. I admit that this makes me a partisan advocate, but it also gives me the perspective to evaluae a nominee for this important office.

My work directly with Mr. Lubbers while at the National Labor Relations Board from 1960 to 1965, and my continuing contacts with him thereafter have shown me that he is not a partisan advocate of any special interest—neither the ones I represent nor any other. I strongly urge his confirmation.

Very truly yours,

JAMES F. DUGGAN.

CHRYSLER

Mr. CRANSTON. Mr. President, I favored the conference report on the Chrysler matter. I am pleased that it came back to us with an amendment which I authored, 261 for a long-term planning study.

Mr. President, my amendment to section 12, the long-term planning study, requires that the study assess the feasibility of Chrysler producing advanced alternatives to existing automobiles which can be manufactured at reasonable cost, for a broad market, and which incorporate the best conservation, safety, and environmental characteristics of the experimental motor vehicles designed under contract to the National Highway Traffic Safety Administration. This portion of the study shall include an assessment of Federal, State, and local government procurement of such advanced automobiles from the Chrysler Corp. during the next 3 to 5 years.

This whole study would be done by the National Highway Traffic Safety Administration, in cooperation with the Transportation Systems Center, which would collect data and conduct necessary research.

REPORT TO THE PEOPLE OF MISSISSIPPI FOR 1979

Mr. STENNIS. Mr. President, as the end of the first session of the 96th Congress approaches, it becomes my privilege once more to make a special report to the people of Mississippi. My purpose is to tell them of some of the matters on which I have been working this year, and which I think may be of particular interest to them.

This report also gives me the opportunity to thank the people of Mississippi for the trust placed in me as Senator, and for the gratifying way in which they have given me their assistance, encouragement, and support. My thanks also go to the other members of the Mississippi delegation in Congress for their cooperation and helpful teamwork in various legislative matters. My office staff, although relatively small, has worked hard and effectively, I believe, on your behalf, and I appreciate their diligence and loyalty. The committee staffs with whom I work are also due my thanks.

I also express my thanks to my colleagues from the other States here in the Senate. Their cooperation and assistance in my endeavors are essential in accomplishing the legislative actions that help Mississippi and its citizens. I appreciate their many courtesies.

Looking back at the events that have transpired in 1979, I am dissatisfied with the lack of progress that has been made in stemming inflation, which remains the primary national problem today. Much of the inflation is brought about, of course, from the very great increases in costs of energy that have occurred over the last 6 years, costs that affect every item in the marketplace.

The need for a national energy policy has been apparent to all for a long time. I have been very concerned that it has taken so long to develop a national policy and put it into effect. Only in the last few months of this session has there been significant progress in legislation on this subject, after several years of trying to attain a sufficient unanimity of opinion among the people and in the Government as to what should be done and how to go about it. Much remains to be done. These matters are discussed in more detail elsewhere in this report.

On the other hand, there are good reasons to be gratified at what 1979 has brought Americans. We continue to enjoy a very high standard of living. Our farmers produce amounts of food that are ample for our needs, and which also feed millions of others in the world who would otherwise face starvation. Our economy continues to grow and prosper. We have our domestic problems, as we always have. No time in history is ever perfect for any nation, and we have problems that we must continue to work on, but on the whole we can be grateful for what we have attained as a nation in 1979.

Our domestic affairs are affected to an extent by the world around us, as for example in the costs of oil and the value of the dollar abroad. In turn, how we handle our domestic problems affects the other nations, as in what we will do about inflation, and how well and how quickly we remedy our energy dependence on others.

In these interrelationships with other nations around the world it is very important that we be predictable in our reactions to any event. We must be strong in military strength and others must know it. We must be consistent in our policies, and others must be aware of those policies. We must make it clear that we have no aggressive intentions and equally clear that we will not tolerate aggressive actions from others. In foreign affairs we must speak with one voice as a nation—firmly, clearly, calmly, confidently, and with a high degree of predictability in advance. Our position as a world leader demands this, and in so doing we can contribute greatly to peace and stability among the nations of the world.

So as we look back over 1979 there are reasons for both gratification and dissatisfaction, as there are in any year. We see the things better that we need to work harder on. All the branches of our Government have much to be done. With this in mind we also should take stock of what has been accomplished in a positive sense. In the reports that follow I will discuss under the headings a number of matters that I believe will be of interest to Mississippians.

Mr. President, I ask unanimous consent to have certain reports printed in the Record which represent a great deal of my work in the Senate in 1979.

There being no objection, the reports were ordered to be printed in the Record, as follows:

Energy Mobilization Board

The Senate has passed a bill creating an Energy Mobilization Board which would have responsibility for the selection and designation of priority energy projects. A priority energy project is defined as one which the Board considers to be likely to reduce the nation's dependence upon imported energy. Under the bill the Board may put an unlimited number of energy projects on the so-called "fast track", that is, give them a priority status.

Typical projects which might be selected for a priority status by the Board are synthetic fuel projects, gasohol projects, refineries and pipelines, as well as small solar power or hydroelectric projects.

Under the Senate bill the Board would not have the general authority to alter or waive substantive Federal, state or local law. It would, however, have the authority to waive procedural laws and regulations and to set deadlines for decision-making by Federal, state and local agencies.

The House of Representatives has passed a different and stronger version of the Energy Mobilization Board legislation. Under the House bill the Board would have the authority in certain cases to override substantive Federal laws, such as environmental guarantees, with the consent of the President and the Congress. The differences in the House and Senate bills will be resolved in conference so that a single agreed upon version can be sent to the President.

I am very pleased that this legislation is well along toward final passage by the Congress. I supported it. I think it is an essential and vital step to approve creation of this Energy Mobilization Board and to vest it with authority to expedite clearance for and give priority to essential energy projects.

Synthetic Fuels

The Senate took a significant step on the long and difficult road to energy independence by passing a bill creating a special Synthetic Fuels Corporation which will be responsible for a synthetic fuels program to spur the development of oil and natural gas from coal, tar sands and shale oil. The House of Representatives earlier passed a similar, though less ambitious, bill and the differences between the bills will have to be ironed out in a Senate-House conference.

The first stage of the synthetic fuels program would cost $20-billion and cover five years. During that period, the Synthetic Fuels Corporation and its five member board would be responsible for investing the $20-billion to spur development of synthetic fuels. It would use purchase contracts, price guarantees, loans and loan guarantees to push along the present infant synthetic fuels industry, so that such fuels will be available in commercial quantities.

The first stage would be followed by a second stage which at this time bears a $68-billion price tag. The overall goal of the program is production of the equivalent of 1.5 million barrels a day in synthetic fuels by 1995.

In addition to the five year authorization of $20-billion for synthetic fuels, the Senate legislation earmarked $6.2-billion for gasohol, $5.75-billion for energy conservation, and $2-billion for solar, wind and geothermal energy. The $20-billion development for synthetic fuels was included in the fiscal year 1980 appropriation bill for the Interior Department and related agencies.

I recognize that this is an extremely expensive program. However, I see no alternative to it. I believe that synthetic fuels, along with nuclear energy and increased use of coal, constitute our greatest short-range hope of reducing reliance on imported petroleum products. Since this is absolutely necessary to our future economic vitality and viability, I strongly and enthusiastically supported the synthetic fuels legislation.

Emergency Energy Conservation Act of 1979

On November 5th the President signed into law the Emergency Energy Conservation Act. This law requires the President to submit a standby gasoline rationing plan to the Congress not later than 120 days from enactment. In development of the plan the President is to consult with governors of each state and ensure that the plan fairly shares an energy shortfall on a state-by-state basis. When the rationing plan is submitted it will be subject to Congressional review over a period of 30 days. After a plan is approved the Nation will have a gasoline and diesel fuel rationing plan on the shelf ready to go in case of a severe shortage of gasoline supply.

This act also provides that the President publish state-by-state energy conservation targets and a target for Federal facilities. These targets would consist of a uniform national percentage reduction. In the event of an energy supply emergency situation, each state will work up a plan to reduce consumption to meet the state target.

I supported passage of the Emergency Energy Conservation Act. I believe that we have to send a clear, unmistakable signal to the foreign oil suppliers that we as a nation stand ready to face any cutback which might be imposed. It is my hope that we won't ever have to ration gasoline but I believe that being prepared for a supply cutback, which may come without warning, is a good course to take.

LOW INCOME ENERGY ASSISTANCE

On November 15th, the Senate tentatively approved a $7 billion bill to help low-income households pay for their rapidly rising fuel costs in fiscal 1981 and '82. Maximum funding allowed by the bill was $3 billion in 1981 and $4 billion in 1982, to be financed out of the Energy Trust Fund established by the windfall profits tax. Funds would be distributed in block grants to the states on the basis of a formula taking into account climate, energy costs, and low-income population. States would then set up their own programs to make the aid available to welfare and food stamp recipients and other low-income families. The sponsors of the bill estimated nearly 18 million households—one-fourth of the U.S. population—would be eligible for aid.

With my support a total of $1.6 billion in Fuel Assistance has been appropriated for the 1979–80 winter. Out of the $1.6 billion Mississippi will receive $10.7 million for fiscal 1980. The funds will be distributed three ways—through the Community Services Administration ($3.06 million), the Supplemental Security Income Program ($4.65 million) and to the State in the new block grant program ($2.46 million).

WINDFALL PROFITS TAX

On December 17 the Senate approved the Crude Oil Windfall Profit Tax Act of 1979. This tax is needed because of the Administration's decision to phase out price controls on crude oil, the recent increases in world oil prices, and the nation's continuing overdependence on imported energy. The Senate substitute is intended to tax a fair share of the additional revenues received by oil producers and royalty owners as a result of oil price decontrol in a way that will not adversely affect incentives to produce domestic oil. The tax will raise $178 billion over the next decade. This tax is nearly $100 billion less than the House passed version but it is a tax which I think is fair and ultimately will contribute to our nation's energy independence by providing sufficient funds to finance the development of coal and oil shale reserves, conservation programs, and solar, wind, and biomass development efforts.

The Senate version which I supported favors exploration for new oil and recovery of known reserves of oil which heretofore have been uneconomical to recover. It has been estimated that more than two thirds of the oil in the United States is still in the ground and about 20% of that can be recovered using so called tertiary techniques which are expensive and more complex. I am particularly in favor of encouraging this kind of development. I am told that Mississippi has significant additional oil producing potential if these techniques are employed. Several experimental projects are in progress in Mississippi and appear to be very promising.

The Senate Bill also exempts the first 1,000 barrels of oil per day produced by independent producers. It is my belief that encouraging independents will produce more oil. These are the people who in the main are keeping the pumps going on low production stripper wells. Mississippi has a large number of stripper wells that produce less than 10 barrels a day and I believe the Senate exemption for independents will be of direct benefit to the State.

In addition to the tax revenue measures of the Windfall Profits Tax, the Senate granted $23 Billion in tax credits to be taken over the next decade. These credits provide commercial and residential incentives to conserve energy, to reduce petroleum consumption by substituting more abundant sources of energy, and to assist the lower-income people in paying for heating fuel.

As the tax was debated in the Senate some critical issues were raised. First, the question about the President's decision to decontrol oil prices was at issue. There are many views on this but I think the President was wise to make the decision. In the long run letting oil rise to its true price will reduce consumption, stimulate the production of petroleum substitutes, and promote more efficient use of petroleum resources which are growing more scarce.

Secondly, the judgment of how much to tax the profits which resulted from oil decontrol was debated at great length. I supported the Senate version of the tax on the basis that oil producers should know best how to develop energy resources. I trust that the oil industry will plow back its earnings into energy production as it has in the past. At the same time there is an urgent need to get on with development of synthetic fuels. The oil industry had not initiated this development program on its own accord. The government has to step in and absorb some of the risk. It is estimated that the development of synthetic fuels alone will cost nearly $88 Billion over the next decade. Development of conservation, solar, biomass, and other alternatives to imported petroleum will cost billions more. Therefore, I have supported a minimum tax to help finance these high risk projects.

It is my intention to watch these energy initiatives very closely as we move into the future. We are sailing in unchartered waters and if I should sense a need for a course change, I will not hesitate to sound the alarm.

THE ECONOMY AND INFLATION

The state of the economy is, of course, of great importance to all Americans. Unfortunately, at this time the economic outlook is marked by a degree of uncertainty which is even greater than is usual. Even the experts who make a living trying to tell others just where the economy stands find their crystal balls murky on the question of whether we have entered a recession.

There has certainly been an economic slow down. There has been a marked tightening of monetary policy, oil prices have increased drastically, productivity is poor, credit growth is still excessive, and labor costs are rising. On the other side of the ledger, the employment picture is brighter than was expected. Thus the overall situation at this time provides no conclusive evidence of whether we are now in or are about to enter a recession.

There is no question about inflation, however. The inflationary pressures which we have been experiencing have not abated and inflationary expectations have not cooled. The rate of inflation continues to hover around 13%, which is the highest since price controls were lifted at the end of World War II.

The broad-based and continually escalating price increases put severe stresses and strains upon the finances of the average American. They are squeezed by high and constantly increasing supermarket prices, exorbitant fuel prices, almost unaffordable interest and mortgage rates, and the soaring cost of almost everything they buy in the marketplace.

While it is hoped that the stringent monetary controls which have been imposed will ultimately have a beneficial and substantial impact, the underlying inflationary conditions which have accelerated prices to their present levels have not yet been brought under control. Therefore, those knowledgeable in this field see no basis for a prediction that the rate of inflation will slow significantly in the near future.

THE FLOOD OF 1979

Mississippians will long remember the tremendous flood of 1979. The Pearl River reached an unprecedented volume of flow causing widespread damage and hardship especially in Jackson. The rising Mississippi flooded parts of Vicksburg and other areas. The Yazoo River and its tributaries deposited great volumes of water behind the levees that were holding off the backwaters of the Mississippi from the Lower Delta lands. As a result these lands were deeply flooded for many weeks afterward.

My first concern was of course to do all possible to relieve immediate hardships. I strongly urged the President to declare the area a natural disaster area, which he did. This made possible assistance from various Federal programs, which were put to good use.

In 1978 Congress had passed disaster relief legislation which would have made low interest disaster assistance loans available to homeowners and businessmen in flooded areas. Unfortunately the President had found it necessary to veto the legislation, for reasons not connected with the loan rates. Without this bill the established interest rate for disaster loans was 7⅜ percent.

At the time of the flood the most urgent piece of legislation before the Senate was a supplementary appropriations bill to provide funds for the remainder of the fiscal year for a variety of important programs. I attached an amendment to this bill to authorize lowering the rate for disaster loans from 7⅜ to 3 percent, retroactive to the beginning of the fiscal year. With support from the rest of the Mississippi delegation, and from members of Congress who had also had natural disasters in their areas, we were able to get this measure signed into law. We also made sure that the bill also provided money to finance the loan program.

Then attention had to be turned to the flood control program. Existing structures that had been damaged had to be repaired and strengthened. The new flood of record made it imperative that previous plans and studies be reviewed, and new plans made to prevent future flood disasters.

A $1.7 million project to repair and rehabilitate the Jackson-East Jackson levee system was funded and initiated. With the efforts of Congressman Jamie Whitten and others in the House and my own in the Senate, $500,000 was added to the Energy and Water Development Appropriations bill to begin a complete review by the Corps of Engineers of all previous studies in the Pearl River Basin, with a view to improving flood control. Another $150,000 was provided the Soil Conservation Service for this purpose. These endeavors are continuing to receive my attention, and will until satisfactory solutions are devised, funded, and built.

In the past ten years we in Mississippi have had an undue number of years of floods. They have occurred throughout the State, from the Tombigbee, the Pascagoula, the Pearl, the Yazoo, the Mississippi, and their tributaries. Projects are underway to control these problems, others are under design or study, and these efforts will continue until the problems are controlled.

WATER RESOURCES PROJECTS

The development of water resources is particularly important in Mississippi because we are fortunate enough to have ample supplies of water, in clean rivers, streams, lakes and reservoirs. We also have navigable waterways available to us to an extent much greater than most states. Further, the experiences over the years, since the great flood of 1927, have taught us the value of flood control, and the need to continue to improve such measures. The experiences of recent years, in particular, have reinforced that determination.

For several years I served as Chairman of the Public Works Subcommittee of the Senate Appropriations Committee, before relinquishing that position to chair the Defense Subcommittee. I still serve as the ranking majority member of the Public Works Subcommittee, which has jurisdiction over the funds for water resources projects, and I give this activity very close and active attention, particularly with respect to projects in Mississippi.

In the bill this year, appropriating funds for fiscal year 1980, we did very well for our projects. In most cases the amounts in the final bill were greater than those in the budget request, a number were added that were not in the budget, and in no case was the approved amount less than that needed by the Corps of Engineers to accomplish the intended work on that project for the year. The individual amounts are discussed in the next section of this report, together with other appropriations of special interest to Mississippi.

Before money can be appropriated for a specific water resources project, Congress must include that project in an authorization bill, which means that the project has been reviewed by the Environment and Public Works Committee in the Senate and the Public Works and Transportation Committee in the House, and that the project has a favorable benefit-to-cost ratio, is desired by the local people who have agreed to provide a specified share of the costs, and that the project is in the public good and national interest. Those two committees are legislative committees and have separate responsibilities from the Appropriations Committees.

These project authorizations are normally contained in a so-called omnibus bill, listing all the approved projects and their estimated costs, with the bill usually carrying the title of Rivers and Harbors Development Act. Such a bill is normally passed at least once every two years.

It is in the authorization process that we have been experiencing difficulty in recent years. The last such bill signed into law was in 1976. As a result many worthy and badly needed projects, including some in Mississippi, have been delayed in authorization and are not yet eligible to receive appropriated funds.

This difficulty results from a continuing controversy between the present administration and Congress over water resources policy. The administration came into office with an intent to make a wholesale realignment of the national policy on development of water resources, and undertook to do so without consultation with Congress, beginning with the publication of a "hit list" of projects which were to be stopped, and proceeding with a unilaterally announced new policy on what projects would be eligible, new cost sharing criteria, and new processes of project review and analysis. All this is in spite of the fact that existing laws govern many of these matters, and new laws passed by Congress would be necessary to effect the changes.

Since then the matter has been at an impasse, with the administration following its own policy, and Congress following the previously approved procedures and existing law. As a result, there has not been a new omnibus bill since 1976. The efforts made in the last Congress did not progress beyond the conference committee stage because of a threatened veto by the President, and the end of that Congress made it necessary to start over again with the bill this year.

As this session ends, an omnibus bill has been reported from committee in the House and is awaiting consideration. In the Senate hearings have been held and a similar bill is under examination and formulation in the Committee on Environment and Public Works. I have made my views clear to that committee as to my strong support for the several Mississippi projects under consideration, and their merit and urgency.

Two examples of the projects are the harbor improvements at Gulfport and at Greenville. The deepening of Gulfport Harbor was recommended in 1974 by the Corps of Engineers, but the report was stopped before authorization by a court action which required a new environmental impact statement, and by a controversy over disposal of dredged material. The Greenville Harbor improvement has been delayed by the administration's apparent reluctance to forward a report that will result in an improvement to inland waterway navigation.

This new water resources authorization act will be one of the important pending matters in the next session, and it is receiving my careful attention and support.

APPROPRIATIONS FOR MISSISSIPPI PROJECTS

In another part of this report in my discussion of the committee work in the Senate, I mention my responsibilities in the Appropriations Committee, and the fact that this gives me a special opportunity to participate in formulating specific appropriations that will have a direct effect in Mississippi.

Every year there are thirteen major appropriations bills, to establish the amount of money to be spent in the coming fiscal year. Each bill deals with a particular group of Federal activities, such as health, housing, transportation, education, agriculture, and so on. In all of these bills there are lump sums which are divided between the states according to formulas that are prescribed in the legislation that authorizes the programs. In that sense there are thousands of appropriation items that affect Mississippi. Others, however, pertain only to our State, and of course these received my special attention as the bills were formulated and agreed upon in committee and passed on the floor of the Senate. The partial list below is illustrative of such items this year, and probably contains one or more items that are of direct interest to each Mississippian who may read this report.

$24 million to continue construction of the Natchez Trace Parkway.

Increases for rural water and rural housing grants and loans.

An increase for McIntire-Stennis cooperative forestry research at Mississippi State, and $150,000 for the Mississippi State Catfish research facility at Stoneville.

$15 million for the Federal Forestry Incentives Program.

An increase of $50,000 for the Forest Service laboratory at Gulfport, and $300,000 for the Ashe Southern Pine Seedling Nursery in the DeSoto National Forest.

$14 million for highway bridges which will cross the Tennessee-Tombigbee Waterway.

$900,000 for the Gulfport-Biloxi Airport.

Fund for Appalachian program projects.

$2.5 million for operational and training facilities at the Meridian Naval Air Station, and Keesler and Columbus Air Force Bases.

$1.6 million for armories at Camp Shelby, Netteton, Picayune, and Yazoo City.

$325,000 to begin design of a new Navy Ocean Research and Development facility in Hancock County.

For studies of water resources projects:

$276,000 in Pascagoula River Basin.

$500,000 in the Pearl River Basin.

$688,000 in the Yazoo River Basin.

$500,000 in Biloxi Bay.

$35,000 in Pascagoula Harbor.

For engineering and construction of water resources projects:

$165 million for the Tennessee-Tombigbee Waterway.

$22,950,000 for projects in the Yazoo Basin.

$250,000 for Sowashee Creek in Meridian.

$200,000 for the Yazoo River navigation project.

$3 million to relocate the Belzoni Bridge.

Early in 1980 the hearings will begin on the appropriations for fiscal year 1981. Again the items that are of special importance to Mississippi will be receiving my close attention.

FORESTRY

Because forests are such an important asset to the economy in Mississippi, and forest products among our leading industries, it is natural that I have always taken a strong interest in forestry, and over the years and again this year have devoted time and effort toward constructive legislation in forestry matters.

The Southeastern United States is particularly suited to production of timber at a relatively rapid rate, as a result of favorable climate and rainfall. This fact will be of increasing importance in the coming years, because the projected demands for food in the future considerably exceed current national production.

Mississippi is in an excellent position to play a substantial part in meeting these future needs of both pine and hardwoods, and in doing so to continue to improve and strengthen our economy. Of the land area of our State, which is about 30 million acres, more than half—17 million acres—is forest land. Three quarters of the forest land is in small ownerships, about 130,000 in all. So many of our citizens are directly affected by timber production, and every Mississippian is affected, at least indirectly, by forest related industries providing employment and otherwise adding to our economy.

Increasing production of timber, which is a renewable resource like any other agricultural product, requires research to improve the product and the methods of producing it. It also requires incentives for the growers, because it is a slow crop to grow and a long wait between harvests. For these reasons I have sponsored in past years the legislation for the programs that will be discussed below, and am pursuing additional steps that are under active consideration in the present Congress.

The Forestry Incentives Act, which I introduced in the Senate in 1972, was signed into law in August, 1973. It provides cost sharing of 75 percent by the Federal government for planting seedlings, and for timber stand improvement. The first money became available in February, 1974, and the program has been very effective and successful in Mississippi.

Under this program work was done in Mississippi during the last fiscal year on 32,811 acres, in 863 different tracts, at a Federal cost of $1,006,800. Since 1974 a total of 121,700 acres of timber have been planted or improved in our state, involving 4,346 cases, at a cost of $3,546,200.

After the Federal program came into being in 1974, the State Legislature passed a similar incentives plan, the State Forest Resource Development Program, which is financed from timber severance tax. The two programs are sufficiently different in the type and size of tracts so that they complement each other very well. Between the two together, 275,950 acres have been improved or planted since 1974, involving 7,775 cases, at a combined cost to the State and Federal governments of $7,317,000. It should be remembered that this partially subsidized increase in timber production will generate over the years a very considerable return to both federal and state governments in the form of income and severance taxes and other taxes on the subsequent use of the forest products.

These two programs have been extremely well run by the State Forestry Commission and its staff, through county foresters. They are viewed by many other States as a model to follow in their own programs.

Continuing research is essential in getting the most out of forest production, and in developing the multiple uses of forests for fish and wildlife, recreational, and environmental purposes. The research is carried on jointly by industry, the Federal government, and universities. They coordinate their efforts well through regional and national committees and symposiums, and do a good job of avoiding duplication of effort. They also do very well in disseminating the results of research, so that they can be put to constructive use.

The cooperative forestry research program at universities is carried out under a 1962 law. It was legislation which I sponsored with then Congressman Clifford McIntire of Maine, and is commonly referred to as the McIntire-Stennis program.

Under this program research in forestry-connected endeavors is carried out at 60 State universities and land grant colleges throughout the nation. It is a very active and effective program at Mississippi State University. The research is carried out by graduate students, working under professionally qualified supervision. It is financed on a cost sharing basis, part by Federal funds, now about $10 million a year, and half or more from State or industry funding.

This has been an extremely successful program. It has the enthusiastic support of the universities, industry, and the Department of Agriculture, which administers the program. It is also a very cost-effective way, from the point of view of the Federal government, to get the research done. Experience to date is that under the matching provisions of the Act, for each Federal dollar expended two more have been expended from non-Federal sources.

A two-year cooperative planning effort by the forestry schools, experiment stations, and the Forest Service to develop the needs for forestry research in the coming years reveals that cooperative research at universities should be steadily increased until it eventually reaches the level of Federal research by the Forest Service.

The research by the Forest Service is carried out in their various laboratories, which are located throughout the United States each in an area which is suitable for the special research that is carried out in that particular laboratory. For example, the Southern Hardwoods Laboratory is at Stoneville, Mississippi. The research the laboratories do is essential for the proper use and development of Federal forest lands, and also has great value to industry and private lands.

In 1960 there were authorizations from Congress for the construction of a number of Forest Service Laboratories, but the program had been standing still because the administration had not been budgeting any money for construction of the laboratories.

I took up this cause because research was essential for future progress. I recognized that the laboratories would have to be widely distributed—from the Douglas fir country in the Northwest to the pine belt in the South, so the program should be carried out on a national basis. Fortunately I was in a good position to do so, as a member of the Senate Appropriations Committee, and I received good cooperation from the Committee Chairman, Senator Hayden of Arizona.

In the four years, from fiscal 1961 through 1964, appropriations were provided for 23 laboratories. It would be both inaccurate and improper for me to take credit for all of them, or sole individual credit for any of them, but I was instrumental in 14 of the 23, and strongly supported the remainder. Others in the Mississippi delegation also lent their support to this program, in particular Congressman Jamie Whitten. In the first year of the program Mississippi got the Southern Hardwoods Laboratory at Stoneville, and an expansion of it in the third year. And in the second year Mississippi got the Institute of Forest Genetics at Gulfport. These laboratories are distributed over 21 States, and Americans can be proud of the work they are doing.

Forestry research and development and the forest industries are live and progressive endeavors, where a state of change is normal. It is natural therefore that in the current session of Congress there are activities and legislation connected to forestry that deserve and are receiving close attention. Some of them will be discussed below.

As energy continues to become more expensive it is clear that it is economically feasible now, or will become so, to utilize sources that have not been financially attractive in the past. One of these possibilities that needs development is the production of fuels from waste products from agriculture and forestry activities. From these, in a process referred to as biomass, various fuels such as alcohol and heating gas can be produced. Recently I sponsored, together with the Chairman of the Senate Committee on Agriculture and Forestry, legislation which will establish a Federal program to develop these processes.

Mississippi, with its abundant agriculture and forestry resources, has a real opportunity to participate in and to benefit from these energy developments.

The forest product industries have made good progress in utilizing the forest wastes from their manufacturing processes, but as the energy situation changes, more can be done. Good research and development could create additional potentials for the forests of our State, and this legislation is aimed at that objective.

Another bill, now under consideration in committees in both the House and Senate, takes into consideration the increasing importance of wood burning as a primary or secondary source of heat for homes, and the continuing annual costs of efficient wood production. It will give consideration to the question of providing periodic loans to private forest landowners for use in forest development and management. Hearings are to be held by the committee to explore the desirability of such a program, and the increased national productivity that could be expected. If the facts developed are encouraging, then a five-year pilot program is contemplated, to test the concept.

Appropriations bills are of course an annual matter in Congress, to establish the amount of money to be spent on authorized programs during the coming fiscal year. Thus, all the existing forestry programs receive annual consideration by the Senate Appropriations Committee. As the ranking majority member of that committee, I gave the forestry appropriations my special attention.

For example, the Agriculture Appropriations bill contains the money for the Forestry Incentives Program and the Cooperative Forestry Research Program, which I discussed earlier. This year it appears desirable to continue the former at its present level, and to increase the latter by seven percent. These objectives were attained when the bill was passed by the Senate, but the research money was slightly reduced in the subsequent conference with the House. Also in the bill is Rural Fire Protection, which is a very cost-effective program in controlling brush fires and similar rural problems, and which will continue at its present funding level. In Mississippi this cooperative endeavor is administered through our State Forest Commission staff.

In the Interior Appropriations bill are the funds for the U.S. Forest Service. Many of the items in this bill each year directly affect Mississippi. For example, this year additional money is sought for the wood products insect research at the Gulfport Laboratory. An expansion is planned at the Ashe Seedling Nursery, in the DeSoto National Forest, at Brooklyn in Forrest County. This pioneer nursery, first established in 1935, provides 25 to 30 million Southern Pine seedlings per year for use in Mississippi and the other southeastern coastal states.

Other money in this bill is for cooperative programs with State and private forestry, providing technical and financial assistance in control of fire, insects, and disease, and to improve production and management of forest lands.

There was a time when the forests of Mississippi were virtually denuded and laid waste. Wise and prudent State legislation and programs, the creation of the six great National Forests in Mississippi, and constructive use of Federal forestry programs have again created vast forest resources that are a major factor in the present and future economic growth in our State. These are assets of which we can be proud, and the programs that affect them will continue to receive my close attention and strong support.

THE NATCHEZ TRACE PARKWAY

The increased rate of construction on the Natchez Trace Parkway is encouraging, although I will not be satisfied until a firm plan is adopted to complete the entire length in a period of five years.

This year, as in most of the last ten years, the administration again failed to include money for the Natchez Trace in the annual budget request. Since 1969 the Department of Interior has consistently declined to request money for the Parkway, and in fact usually resisted the efforts of Congress to appropriate money to keep construction progressing. The sole exception was in fiscal year 1977 when President Carter, then newly elected, requested in his supplemental budget submission $29.2 million for the Natchez Trace as a part of the Bicentennial Land Heritage Program.

Other than this one occasion, it has been necessary to add the money in Congress if construction on the Parkway was to continue. I am glad to say that in spite of this consistent resistance over several administrations, I have been able with the help of others to add money for the Natchez Trace each year. In fiscal years 1975 through 1978 a total of $34.1 million was added by the Senate Appropriations Committee, of which $28.2 million was agreed to in the conferences with the House. Last year I strongly recommended to the Senate that $19 million be appropriated in the Interior Department Appropriations bill for the Natchez Trace. Congressman Jamie Whitten made the same recommendation in the House, and the amount was approved and signed into law. This year we both recommended $24 million for construction of the Trace, and it also has received final approval.

I am pleased that the President has forwarded to Congress proposed legislation to designate the Natchez Trace National Scenic Trail as a component of the National Trails System.

The National Trails System Act was signed into law in 1968. The Act designated a system of recreational trails for hiking. The Act also designated the Natchez Trace as one of the 14 areas that should be studied for possible future inclusion in the system. The President's proposed legislation on the Natchez Trace Scenic Trail was accompanied by a study carried out by an interagency task force with representatives from Interior, Agriculture, TVA, and the States of Mississippi, Alabama, and Tennessee. Mississippi's member was from the Bureau of Outdoor Recreation of the Mississippi Park Commission.

The study recommends a 513-mile hiking trail incorporating four segments for horseback riding, and a 182-mile hard surface bicycling trail, both generally adjacent to the Natchez Trace Parkway. These trails, when authorized, will cost $16.5 million, and will require the acquisition of 2,019 acres of land which is not now Federal or State ownership. The trails would be operated and maintained by the National Park Service, at an annual cost of $443,000. It is planned that the trails would be built in phases, as Federal appropriated funds became available for the purpose. I certainly intend to give this item my attention in the future, as soon as the proposed authorizing bill has been passed, and the Trail becomes eligible to receive the money for construction. It is the type of facility that has a great deal to offer to the people who live in cities and like to share the atmosphere of the rural countryside—camping, hiking, bicycling, and horseback riding along the scenic pleasures of the Natchez Trace Parkway.

To sum up, good progress is being made to complete the Parkway, but there is much more work yet to be done, particularly in Mississippi and Tennessee. I intend to continue to press for a five-year plan to fully complete the Natchez Trace.

MEAT IMPORT BILL

The cattle industry is a very important part of the agricultural production of our State. At the beginning of this session of Congress I introduced a Meat Import bill, to revise the law which governs how much fresh or frozen beef can be imported each year. These imports, which come primarily from Australia and the Argentine, can have a strong effect on both the American beef industry and on consumers.

The intent of the Beef Import bill is to give some added stability to beef prices, which historically follow a boom or bust cycle depending on domestic cattle production levels. Imported frozen boneless beef makes up to 15 to 20 percent of the ground meat sold at retail.

Under present law, beef imports are increased as domestic cattle production increases. This adds to the boom or bust cycle. The Beef Import bill will reverse this by allowing increased imports during periods of low beef production (and high prices), and reduce imports when beef production is high (and prices low). This is the so-called countercyclical feature of the bill.

In November, 1978, the President vetoed a similar bill, which I had cosponsored. He stated that he vetoed the bill because it would restrict Presidential authority to increase meat imports. He said that he supports the countercyclical management of meat imports, but that the bill uses an untested formula which might not respond ideally, and so he desired to retain the full Presidential flexibility to increase imports. He announced that he would be agreeable to working with Congress on a countercyclical bill, with suitable safeguards for Presidential action if necessary.

The President also objected to the provision in last year's bill which set a floor of 1.2 billion pounds per year for meat imports, rather than 1.3 billion pounds he had recommended.

Over the past several months compromises have been worked out on these two issues, so that now I feel sure that in the near future we will have the new bill signed into law. The House passed the new bill in November of this year, and the Senate passed the bill without change on December 18.

The bill will set the annual floor of beef imports at 1.25 billion pounds. It follows the desired countercyclical principle. It will modify the existing Presidential authority to suspend or increase quotas. He could still exercise that authority if the beef production per capita indicates lower supplies and rising prices. However, if supplies are rising the President could exercise his authority only if it were in a national emergency or a natural disaster.

What we have needed to do is get a bill signed into law that will bring the desired degree of stability to the beef production. The cattle producers are struggling back after several very hard years. Under such adversity they had to cut back their herds. We are seeing the result now in shorter supplies of beef and rapidly rising retail prices. This is an excellent example of the boom-or-bust cycle that we want to avoid. Adversity for cattlemen is followed in a very few years by adversity for consumers.

I am pleased that definite progress has been made on this legislation, after three years of effort. A good countercyclical beef bill is necessary for American cattlemen and it will help consumers as well.

APPALACHIAN COMMISSION PROGRAMS

Portions of 13 states are included in the area covered by the Appalachian Region Development Act of 1965. Within that area, the Appalachian Commission sponsors programs to further economic development, education, and health care.

As the 1965 Act originally passed, Mississippi was excluded, but by an amendment which I sponsored in 1967 the 20 northeast counties became eligible to participate in these programs. Since then over $86 million in Appalachian Commission money has been spent in our State, with $94 million in matching funds coming from other Federal programs and from State and local sources, making a total of $180 million in projects made possible by this program.

About a third of the money has been spent in education, and another third in community facilities, for the most part for water and sewer facilities. A sixth went for health projects, and the rest for child development, recreation, and transportation. In addition there have been substantial investments in highways, especially access highways for economic development purposes.

Last year projects totalling $28,381,000 were funded in Mississippi, and a similar number of projects are in process of funding this year.

The budget requests for Appalachian program money are sent to the Senate Public Works Appropriations Subcommittee, of which I am the ranking majority member. We hold hearings and recommend to the Senate the amounts to be appropriated for the various programs. In this way I have an opportunity to see that the programs are adequately funded, and to monitor the way in which the appropriated money is expended.

In August of this year the Senate passed a new authorization bill, extending the Appalachian programs for another four years. The bill also extends the regional development commissions which cover all areas not included in Appalachia. One of these is the recently established Mid-South Regional Commission consisting of Mississippi, Alabama, Tennessee, and Kentucky. I supported the bill, of course, and was pleased at its passage.

The twelve years of experience with the Appalachia programs in Mississippi show them to be a great success. Within the 20 county area many fine vocational and technical education facilities and health care facilities have been provided, as well as other projects intended to stimulate the economy and enable the people to take full advantage of the additional economic opportunities presented. These authorizations and the funding of them are important to our State and will continue to receive my attention and strong support.

THE SALT II TREATY

I am convinced that an agreement of some type with Russia in the field of nuclear armament is highly desirable. Such an agreement offers our best opportunity to monitor Russian activity in that field.

This is not a treaty of mutual reliance or friendship or trust. In fact, I do not trust the Soviets as their values are different from ours. I am talking about a hard agreement that will enable us to closely monitor Soviet activity related to nuclear weaponry. The facts are complicated and can be easily misunderstood, but the debate on the floor of the Senate will help further clarify the implications of the Treaty. I favor this positive approach.

Therefore, I think that we should make every effort to have this Treaty come to debate in the Senate and make every effort to work out an agreement. My efforts will be directed in a positive way to this end.

Already, 23 amendments have been proposed by the Foreign Relations Committee and I am sure there will be many more amendments proposed on the floor of the Senate. The Committee hearings have already disclosed many important facts which must be given serious consideration and no doubt the Senate debate will bring out other major points.

My final position will be determined by the final form of the proposed treaty, including the amendments, reservations and conditions adopted by the Senate.

DEFENSE AUTHORIZATION BILL

I am privileged to serve as Chairman of the Senate Armed Services Committee, a position that I have held since 1969. It is one of the major committees of the Senate that deals with all matters involving our military preparedness and the support of our Allies throughout the world.

To date over 70 bills or resolutions have been referred to the committee. The committee has considered and reported to the Senate for its action 29 bills and thousands of nominations of military officers and civilian officials for appointment of promotion.

The major work of the Armed Services Committee is the annual defense authorization bill. This bill authorizes the funding for procurement of military weapons and research and development, and authorizes the manpower levels for the active forces, reserves, military student training loads, and civilians working in the Department of Defense. After months of detailed examination of the facts, the committee presented a bill to the Senate for its consideration. As Chairman, I endeavor to see that no tax dollars are wasted and that a strong national defense is insured for our security.

The Committee reviewed a budget request of $40.1 billion. Hundreds of individual items, each requiring a decision by the committee membership, were examined carefully over a five month period. The committee and three of its subcommittees held a total of 43 hearings compiling a hearing record of 7 volumes totaling 3,642 pages. After 14 meetings to mark up the bill, the committee approved a bill totaling $40.1 billion. After three days of important debate in the Senate including votes on twelve amendments, the Senate passed the bill by a vote of 89–7. It was my job and privilege to serve as floor manager of the bill and to serve as Chairman of the conference in formulating agreement between the Senate and House bills. After six conference sessions and final approval by the

House and Senate on a final bill totaling $41.4 billion, the bill was signed into law by the President.

The major highlights of this bill include a new Nimitz class aircraft carrier and two nuclear attack submarines, which will make an important contribution to improving the capability of our Navy. Authorization of 705 new aircraft, missiles for all the services, and a total of 416 new tanks were approved.

The bill also covers a number of important research and development programs, including $670 million for full-scale development of the crucial strategic program, the M–X missile. Several provisions are included relating to active and reserve manpower problems.

While the committee was reviewing the fiscal year 1980 budget, the President proposed an addition of $2 billion to the fiscal year 1979 defense budget to provide needed items to increase military readiness. Shortly thereafter, there was a change in the government in Iran, resulting in cancellation of military equipment ordered by the previous government. Included in the cancellations were four DD–993's under construction at Litton Shipbuilding in Pascagoula. The President revised his budget request to include two of these destroyers. It seemed to me, and the majority of the Congress agreed with me, that it would be better to buy all four ships in the fiscal year 1979 budget than to defer the purchase of the two additional ships in fiscal year 1980.

I am proud that these four fine destroyers built in Pascagoula will be entering the fleet of the U.S. Navy in the near future and at a considerable savings to the taxpayers. Because these ships had been contracted for in 1974, the price to the U.S. Navy now would be less than many alternatives, and about $200 million per ship less than to build a similar new ship.

IRANIAN SITUATION

On November 4, 1979, hundreds of riotous Iranian students attacked the United States Embassy in Tehran and seized more than 60 hostages. Some few have been released but about 50 Americans are still being held hostage in direct contravention of international law.

I support the President's firm policy in this matter. He has shown admirable restraint and excellent judgment in dealing with an unusual situation in a country which has no government worthy of the name. The first and primary concern has been for the safety of the hostages and this, of course, is the foremost consideration.

However, when the safety of our citizens has been assured, I think we must adopt and rigidly adhere to a clear-cut "no exception" policy in future dealings with all nations relative to the protection of our citizens within their borders. This policy should make it clear that when Americans have been admitted to any nation and are obeying the laws of that nation, they must be protected by all means and at whatever cost by the host nation. If that nation does not protect them then the United States must do it itself. We should take a strong and firm position and announce it in advance so that all nations, large and small, will know what our future policy will be.

In addition I hope the Immigration and Naturalization Service will continue just as vigorously and rapidly as possible to check the status of some 50,000 Iranian students who are in the country and, unless prevented by court action, will deport those who are here illegally. Many of them, of course, have abused the hospitality we have extended to them by conducting violent demonstrations and riots in our streets.

NUCLEAR POWER

The accident last March at the Three Mile Island plant in Pennsylvania increased the country's concern regarding nuclear safety. The special commission appointed by the President to investigate the Three Mile Island incident found that although the accident was initiated by a mechanical malfunction, it was made much worse by a series of human errors in responding to it. The accident revealed serious shortcomings in the entire governmental and private-sector system that regulates and manages nuclear power. Accordingly, the Commission made numerous and substantive recommendations for change.

On December 7th, the President announced that he fully agreed with the spirit and intent of the Commission's recommendations and announced his decision to press forward with the recommendations within his power to implement. I support the President's actions to move forward with improvements in management and operational safety. I strongly believe that nuclear power is essential to the continued prosperity and progress of the world.

While we must take every possible step to increase the safety of nuclear electric power production we must continue to develop our nuclear resources. Nuclear generated power is much too important to our day-to-day lives and to our industries to shut the door on nuclear energy. Nearly 13% of our electric power comes from nuclear plants. It is clear to me that we cannot leave out nuclear power from the mix of energy resources.

The alternative would be increased oil imports, industrial power shortages, and blackouts. Our economy and our future progress are dependent on the effective use of all our domestic energy resources. Most of the experts agree that coal and nuclear fuels are the best domestic sources of electrical power. Neither resource, alone, is sufficient to economically satisfy our near-term electrical requirements.

Ultimately the future of nuclear power and of our country's economic growth will be shaped by public opinion. I urge your involvement in this issue and your effort to understand what this important form of energy is all about. In 1980 it is anticipated that the Congress will give consideration to many of the nuclear power issues. I will make every effort to insure that there will be a safe, secure and adequate supply of energy in our nation's future.

COMMITTEE WORK

The discussions above have dealt primarily with matters of direct concern to Mississippians. These, together with individual problems or endeavors brought to my attention by constituents have taken a large part of my time and effort this year, as they always do. In addition, however, I have other legislative duties, as does every Senator. Each of us speaks for his State in matters of national importance, and each has a part of the responsibility for the formulation of legislation dealing with these matters.

This work is for the most part carried out in committees. When a bill is proposed by a Senator, or received as a recommendation from the administration, it is referred to the Senate committee that has jurisdiction over the subject matter of that particular bill. The committee holds hearings, obtaining the views of citizens, interested organizations, and the appropriate agencies of the Executive Branch. The facts are established, and in committee deliberations the final form of the legislation is worked out, with differences of opinion being decided by majority vote of the committee members.

When the bill is sent to the full Senate for debate and vote on passage, it is normally accompanied by a committee report that explains the committee reasoning in resolving the various aspects involved in the bill. In the debate on the bill, the committee chairman serves as the floor manager, and when the bill goes to conference to reconcile differences between the Senate bill and the comparable bill passed by the House, the committee chairman is the leader of the Senate delegation on the conference committee.

Senators are allowed to belong to only two major committees, and they become especially knowledgeable of the subject matter handled by those particular committees. I welcome my committee work as an opportunity to participate in formulating legislation that by serving our nation well also serves the State of Mississippi. I believe that I am fortunate in my own committee assignments, in that many matters of direct interest to our State, as well as to the nation, come under their jurisdiction.

A Senator may be chairman of only one major committee, and of course to be a chairman at all, he must be quite senior in terms of length of service in the Senate and must be a member of the majority party. I am privileged to serve as Chairman of the Armed Services Committee, a major committee of the Senate, which deals with all military matters involving preparedness, the protection of the American people, and the security of the free world. As Chairman, a position I have held since 1969, I am involved in many national policy matters because the subjects with which my committee is concerned are so broad and are so vital to our nation.

The activities of the Armed Services Committee this year are discussed in separate sections elsewhere in this report.

The second major committee on which I serve is the Senate Appropriations Committee. This assignment I value particularly because it provides the special opportunity to participate in the very early stages of allocating funds to specific programs and projects, many of which are of direct importance to Mississippians. I am a member of five subcommittees. I am chairman of the Defense Subcommittee, and the ranking majority member on each of the other four. Their jurisdictions include agriculture, energy, water resources, housing, space programs, science, veterans, transportation, and highways.

Membership on these subcommittees also permits me to serve on the conference committees which resolve appropriation differences between House and Senate bills, and which have much to do with the substance of these bills as they are signed into law. Committee work is demanding, but in my judgment the time is well spent. All of my committee assignments, especially the work of the Appropriations Committee, give me a chance to look out for the interests of Mississippians in the formulation of national programs. I am pleased to have the opportunity to serve on these committees.

APPRECIATION TO THE NEWS MEDIA

Mr. President, I want to express special appreciation to representatives of the Mississippi news media for the fine work they have done this year in informing the public. I am especially mindful and appreciative of the coverage they have provided of Congressional activities. It is essential in our form of government that the people maintain an awareness of legislative action and its implications at all stages. The Mississippi news media has met that responsibility in an excellent manner.

Many fine news stories, analysis and editorials printed in Mississippi newspapers during the year have helped Mississippians understand what we are doing in the Senate and how it will affect them. Therefore, I would like to thank all of the Mississippi newspapers for their excellent efforts.

MISSISSIPPI DAILY NEWSPAPERS

Biloxi—The Daily Herald and the South Mississippi Sun.
Brookhaven—The Daily Leader.
Clarksdale—Press Register.
Cleveland—Bolivar Commercial.
Columbus—Commercial Dispatch.
Corinth—The Daily Corinthian.
Greenville—Delta Democrat-Times.
Greenwood—Commonwealth.
Grenada—The Daily Sentinel-Star.
Hattiesburg—Hattiesburg American.
Jackson—The Clarion-Ledger and Jackson Daily News.
Laurel—Leader-Call.
McComb—Enterprise-Journal.
Meridian—The Meridian Star.
Natchez—Natchez Democrat.
Oxford—Oxford Eagle.
Pascagoula—Mississippi Press Register.
Picayune—Picayune Item.
Starkville—Starkville Daily News.
Tupelo—Northeast Mississippi Daily Journal.
Vicksburg—Vicksburg Evening Post.
West Point—Daily Times Leader.
Yazoo City—Yazoo Daily Herald.

MISSISSIPPI WEEKLY NEWSPAPERS

Aberdeen—Examiner.
Ackerman—The Choctaw Plaindealer.
Amory—Advertiser.
Ashland—Southern Advocate.
Baldwyn—News.
Batesville—Panolian.
Bay Springs—Jasper County News.
Bay St. Louis—Coast Chronicle and Sea Coast Echo.
Belmont—Belmont-Tishomingo Journal.
Belzoni—Banner.
Biloxi—Keesler News, The North Biloxian, The Biloxi Press, and Biloxi Reporter.
Booneville—Banner—Independent.
Brandon—Rankin County News.
Brookhaven—Buyer's Guide.
Bruce—Calhoun County Journal.
Calhoun City—The Monitor-Herald.
Canton—Madison County Herald.
Carrollton—The Conservative.
Carthage—The Carthaginian.
Charleston—Sun/Sentinel.
Clinton—News.
Coffeeville—Courier.
Collins—The News-Commercial.
Columbia—Columbian-Progress and the Marion County Advertiser.
Crystal Springs—The Meteor Inc.
DeKalb—Kemper County Messenger.
Drew—Sunflower County News.
Durant—Durant News and the Durant Plaindealer.
Ellisville—Progress Item.
Eupora—The Webster Progress Times.
Fayette—Chronicle.
Flora—Banner County Outlook and Scott County Times.
Fulton—The Itawamba County Times.
Gautier—Jackson County Independent.
Gloster—Wilk-Amite Record.
Grenada—Grenada County Weekly and Grenada Lake Herald.
Gulfport—Gulfport Star Journal.
Hazlehurst—Copiah County Courier.
Hernando—North Mississippi Time.
Holly Springs—The Marshall Messenger and South Reporter.
Houston—The Times Post.
Indianola—The Enterprise-Tocsin.
Iuka—Tishomingo County News.
Jackson—Jackson Advocate, Mississippi Enterprise, Northside Sun, Steppin' Out, and The Reporter.
Kosciusko—Star-Herald.
Leakesville—Greene County Herald.
Leland—Leland Progress.
Lexington—Lexington Advertiser and Holmes County Herald.
Liberty—Southern Herald.
Long Beach—Gulf Coast Weekly.
Louisville—Winston County Advertiser and Winston County Journal.
Lucedale—George County Times.
Lumberton—The Lamar County Head Block.
Maben—The News-Press.
Macon—Macon Beacon.
Magee—Magee Courier.
Magnolia—Magnolia Gazette.
Marks—Quitman County Democrat.
Meadville—Franklin Advocate.
Mendenhall—Simpson County News.
Meridian—Mississippi Memo Digest and Starland News.
Monticello—Buyer's Guide and Lawrence County Press.
Morton—Morton—Pelahatchie Advertiser and Home Maker Newspaper.
Moss Point—Jackson County Independent.
Mount Olive—Tribune.
Nettleton—Nettleton News.
New Albany—Gazette.
Newton—Newton Record.
Ocean Springs—The Record.
Okolona—Messenger.
Olive Branch—DeSoto County Tribune.
Oxford—LafaShopper News.
Pass Christian—Tarpon Beacon.
Pearl—The Pearl Press and Weekly Leader.
Petal—The Petal Journal.
Philadelphia—Neshoba Democrat.
Pontotoc—Progress.
Poplarville—The Poplarville Democrat.
Port Gibson—Port Gibson Reveille.
Prentiss—The Prentiss Headlight.
Purvis—Lamar County News.
Quitman—Clarke County Tribune.
Raleigh—Smith County Reformer.
Raymond—Hinds County Gazette.
Richton—The Richton Dispatch.
Ripley—Southern Sentinel.
Rolling Fork—Deer Creek Pilot.
Sardis—Southern Reporter.
Senatobia—Tate County Democrat.
Southaven—Whitehaven Press.
Summit—Summit Sun.
Taylorsville—Signal.
Terry—Headlight.
Tunica—Tunica Times-Democrat
Tupelo—Lee County News.
Tylertown—Tylertown Times.
Union—Appeal.
Water Valley—North Mississippi Herald.
Waynesboro—Wayne County News.
Wiggins—Stone County Enterprise.
Winona—Winona Times.
Woodville—Woodville Republican.
Yazoo City—Peoples Press.

MISSISSIPPI RADIO STATIONS

Newton—WMYQ-FM.
Jackson—WYIG.
Biloxi—WVMI & WQMT.
Biloxi—WLOX.
Senatobia—WSAO.
Indianola—WNLA.
Tupelo—WELO.
Tupelo—WJLJ.
Amory—WAMY.
Houston—WCPC.
Iuka—WVOM.
Pontotoc—WSEL.
Grenada—WRIL.
Greenwood—WGRM.
Winona—WONA.
Canton—WMGO.
Kosciusko—WKOZ.
Lexington—WXTN.
Magee—WSJC.
Natchez—WNAT-WQNZ.
Vicksburg—WQBC.
Meridian—WOKK.
Hattiesburg—WHSY.
Columbia—WFFF.
Laurel—WAML.
Laurel—WNSL.
Gulfport—WROA.
Pascagoula—WCIS.
Pascagoula—WPMP.
Columbus—WMBC.
Columbus—WACR.
Aberdeen—WMPA.
Mississippi State—WMSB.
University—WCGH.
Greenwood—WABG.
Centreville—WZZB.
Monticello—WMLC.
Tylertown—WTYL.
Eupora—WEPA-AM, WEXA-FM.
Clinton—WHJT.
Wiggins—WIGG.
Greenville—WDDT.
Greenville—WGVM/WDMS.
Fulton—WFTA-FM.
Meridian—WQIC.
Ellisville—WBSJ.
Lucedale—WRBE.
Picayune—WRJW/WJOJ.
Jackson—Miss. Agriculture and News Network.
Columbus—55/WCBI.
Meridian—MJDQ, WDAL.

MISSISSIPPI TELEVISION STATIONS

Tupelo—WTWV.
Jackson—WJTV.
Meridian—WHTV.
Meridian—WTOK.
Hattiesburg—WDAM.
Biloxi—WLOX.

CONCLUSION

In this report to the people of Mississippi I have limited my remarks to a relatively few subjects that I thought might be of particular interest to you. There are many other bills that affect our citizens, and many other matters that are of intense interest to some Mississippians. Space has not permitted covering them all, but I want you to know that they, also, have had my interest and attention, especially when you have written to me or talked to me about them.

Looking back at the year, Congress and the administration have accommodated to a reasonable degree. Some good legislation has resulted, though not as much as I had hoped. However, the groundwork has been laid for a constructive second session of the 96th Congress, next year. A great deal of committee work and fact finding has been done on bills that have not yet been brought to the floor, and of course these bills retain their active status from one session to the next of the same Congress. Only after the election of a new Congress does the legislative process have to start over again.

Making this report to you on the activities of the year has involved, of course, reviewing what has been done and why. Now, including the report, I want to look ahead.

The coming year may well be one of the most important in all our history. It can be a turning point, in which we set a new course, and set out to follow it with a clearer view of our objectives, and a revived national resolution to pursue it together as one people with unity of purpose.

The events in Iran have drawn the nation together and caused us all to look realistically at where we stand, how we got there, and what we ought to do about it. No other single occurrence, not even the oil embargo of 1973, has made it so clear to everyone that to depend on Middle East oil is to invite blackmail and disdainful treatment from minor nations abroad.

Our pride has been hurt and our people are angry. It is clear now to all, I believe, that dependency on foreign oil must end, although sacrifices will be required. It will be a test of national will to see if the nation can follow this difficult but essential path to energy independence.

There can be no doubt that it is oil, also, that has hurt not only our pride but our pocketbooks for the last decade. The rampant inflation that has infected our economy is rooted in the willful exploitation of price fixing by OPEC. It can be properly said, as I have many times, that excessive government spending is inflationary and must be stopped. That is true, and we must achieve balanced budgets. But the budget is a matter within our own control. Now we must see that we bring the oil problem under control, for it is a greater cause of inflation. Our productivity suffers while we pour into Arab coffers the money that should be going into capital investments.

The anger roused by events in Iran will continue to have other repercussions. It has altered the atmosphere in which decisions must be reached on the SALT II Treaty. There will be explorations of what effects were caused by constant Soviet radio broadcasts across the border into Iran. There will be examination of the singular and unbelievable coincidence that simultaneous anti-American riots broke out and in several Moslem countries, with the destruction of embassies and consulates and the deaths of two American servicemen, apparently caused by an attack by Moslem fanatics on the shrine in Mecca. There will be renewed resentment of Cuban aggressiveness in revolutionary activities far from their shores, using Soviet weapons while Soviet money maintains their economy at home. All of these matters become a part of a national evaluation of where we stand and what we are going to do about it.

Next year can be an historic turning point. It presents many challenges, and it presents great promise, if we can set the proper course. I look forward to my part in it. I need your suggestions and constructive criticisms, and with your support and confidence I will dedicate myself wholeheartedly to the important work of the coming year.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE COUNCIL ON WAGE AND PRICE STABILITY—MESSAGE FROM THE PRESIDENT—PM 145

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

In accordance with Section 5 of the Council on Wage and Price Stability Act, as amended, I hereby transmit to the Congress the nineteenth quarterly report of the Council on Wage and Price Stability. The report contains a description of the Council's activities during the second quarter of 1979 in monitoring both prices and wages in the private sector and various Federal Government activities that may lead to higher costs and prices without creating commensurate benefits. It discusses Council reports, analyses, and filings before Federal regulatory agencies. It also describes the Council's activities of monitoring wages and prices as part of the anti-inflation program.

The Council on Wage and Price Stability will continue to play an important role in supplementing fiscal and monetary policies by calling public attention to wage and price developments or actions by the Government that could be of concern to American consumers.

JIMMY CARTER.

THE WHITE HOUSE, *December 20, 1979.*

REPORT OF THE NATIONAL ENDOWMENT FOR THE ARTS AND THE NATIONAL COUNCIL ON THE ARTS—MESSAGE FROM THE PRESIDENT—PM 146

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

It is with great pleasure that I transmit to you the Annual Report of the National Endowment for the Arts and the National Council on the Arts for the Fiscal Year ended September 30, 1977.

JIMMY CARTER.

THE WHITE HOUSE, *December 20, 1979.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 11:11 a.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 673. An act to authorize appropriations for the Department of Energy for national security programs for fiscal year 1980, and for other purposes;

S. 1143. An act to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1980, 1981, and 1982, and for other purposes;

H.R. 595. An act to authorize certain transactions involving the acquisition and disposal of strategic and critical materials for the Nattional Defense Stockpile; and

H.R. 2727. An act to modify the method of establishing quotas on the importation of certain meat, to include within such quotas certain meat products, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. MAGNUSON).

At 11:41 a.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 5860) to authorize loan guarantees to the Chrysler Corp.; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. REUSS, Mr. MOORHEAD of Pennsylvania, Mr. BLANCHARD, Mr. LUNDINE, Mr. STANTON, and Mr. MCKINNEY were appointed as managers of the conference on the part of the House.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4113. An act to amend the Federal Water Pollution Control Act to provide an additional allotment of funds to certain States, and for other purposes.

ENROLLED BILL SIGNED

At 12:54 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 3948. An act to require a study of the desirability of mandatory age retirement for certain pilots, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. MAGNUSON).

At 2:22 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House agrees to the amendment of the Senate to the bill (H.R. 5010) to amend the Federal Election Campaign Act of 1971 to make certain changes in the reporting and disclosure requirements of such act, and for other purposes.

The message also announced that the House has passed the following bill, with amendments in which it requests the concurrence of the Senate:

S. 1454. An act to amend the Act of August 10, 1956, as amended; section 716 of title 10, United States Code; section 1006 of title 37, United States Code; and sections 8501(1)(B) and 8521(a)(1) of title 5, United States Code.

The message further announced that the House has passed the following joint resolutions, in which it requests the concurrence of the Senate:

H.J. Res. 462. Joint resolution expressing the sense of Congress concerning the White House Preservation Fund; and

H.J. Res. 467. Joint resolution making an urgent appropriation for administrative expenses of the Chrysler Corporation loan guarantee program, and to provide financial assistance to the Chrysler Corporation for the fiscal year ending September 30, 1980.

The message also announced that, pursuant to section 4(a) of Public Law 96–114, the Speaker has appointed Mr. Patrick L. O'Malley, Ms. Dinah Shore, Mr. Christopher R. O'Neill, and Mr. Frank Arlinghaus, Jr. as members of the Congressional Award Board.

The message further announced that, pursuant to section 4(a) of Public Law 96–114, the minority leader has appointed Mr. W. Clement Stone, Mr. William Bricker, and Ms. Roberta Vander Vort as members of the Congressional Award Board.

At 3:36 p.m., a message from the House of Representatives by Mr. Gregory, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5295. An act to amend title II of the Social Security Act to make the monthly earnings test available in limited circumstances in the case of certain beneficiaries, to amend the technical requirements for entitlement to medicare, and to provide that income attributable to services performed before an individual first becomes entitled to old-age insurance benefits shall not be taken into account (after 1977) in determining his or her gross income for purposes of the earnings test.

ENROLLED BILL SIGNED

At 5:18 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the Speaker has signed the following enrolled bill:

S. 2096. An act to provide for a study by the Secretary of Health, Education, and Welfare of the long-term health effects in humans of exposure to dioxins.

The enrolled bill was subsequently signed by the President pro tempore (Mr. Magnuson).

At 6:42 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House agrees to the amendment of the Snate to the bill (H.R. 2043) to amend the Water Bank Act for the purposes of authorizing the Secretary of Agriculture to adjust payment rates with respect to initial conservation agreements and to designate certain areas as wetlands, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 2584) to amend the provisions of chapters 83 and 89 of title 5, United States Code, which relate to survivor benefits for certain dependent children.

The message further announced that the House has passed the bill (S. 643) to amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes, with an amendment. that the House insists upon its amendment to the bill and requests a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Rodino, Ms. Holtzman, Mr. Danielson, Mr. Hall of Texas, Mr. Harris, Mr. Barnes, Mr. Zablocki, Mr. Fish, Mr. Butler, Mr. Hyde, and Mr. Buchanan were appointed as managers of the conference on the part of the House.

At 9:16 p.m., a message from the House of Representatives delivered by Mr. Allen, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5079) to provide for participation of the United States in the International Energy Exposition to be held in Knoxville, Tenn., in 1982, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 3951) to amend the National Capital Transportation Act of 1969 to authorize additional Federal contributions for the cost of construction of the rapid transit system of the National Capital Region, to provide an orderly method for the retirement of bonds issued by the Washington Metropolitan Area Transit Authority, to authorize a Federal contribution to such Authority to provide assistance in meeting expenses of operation and maintenance of such system in order to reflect the special Federal relationship to such system, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 63. A concurrent resolution to disapprove the Location of Chanceries Amendment Act of 1979 passed by the city Council of the District of Columbia.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 468. A joint resolution extending the dates for submission of the President's Budget and Economic Report.

At 10:34 p.m., a message from the House of Representatives delivered by Mr. Allen, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5860) to authorize loan guarantees to the Chrysler Corporation.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 232. A concurrent resolution providing for the convening of the second session of the 96th Congress.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 3398) to amend the Food and Agriculture Act of 1977 relating to increases in the traget prices for the 1979 crop of wheat, corn, and other commodities under certain circumstances, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Foley, Mr. de la Garza, Mr. Jones of Tennessee, Mr. Mathis, Mr. Bowen, Mr. Rose, Mr. Nolan, Mr. Baldus, Mr. Bedell, Mr. English, Mr. Fithian, Mr. Skelton, Mr. Daschle, Mr. Hance, Mr. Stenholm, Mr. Wampler, Mr. Sebelius, Mr. Findley, Mr. Symms, Mr. Johnson of Colorado, Mr. Hagedorn, Mr. Coleman, and Mr. Marlenee were appointed as managers of the conference on the part of the House.

The message also announced that the House has agreed to the following resolutions:

H. Res. 518. Resolution, that a committee of two Members be appointed by the House to join a similar committee appointed by the Senate, to wait upon the President of the United States and inform him that the two Houses have completed their business of the session unless the President has some other communication to make to them; and

H. Res. 519. Resolution, that Honorable Joe Mokley, a Representative from the State of Massachusetts, be, and he is hereby, elected Speaker pro tempore during any absence of the Speaker, such authority to continue not later than January 22, 1980; and that the President and the Senate be notified by the Clerk of the election of the Honorable Joe Moakley as Speaker pro tempore during the absence of the Speaker.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 4113. An act to amend the Federal Water Pollution Control Act to provide an additional allotment of funds to certain States, and for other purposes; to the Committee on Environment and Public Works.

H.R. 5295. An act to amend title II of the Social Security Act to make the monthly earnings test available in limited circumstances in the case of certain beneficiaries, to amend the technical requirements for entitlement to medicare, and to provide that income attributable to services performed before an individual first becomes entitled to old-age insurance benefits shall not be taken into account (after 1977) in determining his or her gross income for purposes of the earnings test; to the Committee on Finance.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, December 20, 1979, he presented to the President of the United States the following enrolled bills:

S. 585. An act to authorize the Secretary of the Interior to engage in a feasibility study;

S. 673. An act to authorize appropriations for the Department of Energy for national security programs for fiscal year 1980, and for other purposes:

S. 1143. An act to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1980, 1981, and 1982, and for other purposes; and

S. 2145. An act to authorize the burial of Elizabeth Myers McNeil in the Veals Chapels Cemetery, Fort Jackson, South Carolina.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2659. A communication from the Deputy Assistant Secretary of Defense for Installations and Housing, transmitting, pursuant to law, notification of three construction projects to be undertaken by the Army Reserve; to the Committee on Armed Services.

EC–2660. A secret communication from the Secretary of Defense, transmitting, pursuant to law, a report on the B–52 Aircraft Modification Program; to the Committee on Armed Services.

EC–2661. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Changes Needed to Improve Government's Knowledge of OPEC Financial Influence in the United States"; to the Committee on Banking, Housing, and Urban Affairs.

EC–2662. A communication from the Secretary of Housing and Urban Development, transmitting, a draft of proposed legislation to amend the mortgage amount, sales price and interest rate limitations under the Government National Mortgage Association emergency home purchase assistance authority, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

EC–2663. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report with respect to a transaction of the Bank involving U.S. exports to Italy; to the Committee on Banking, Housing, and Urban Affairs.

EC–2664. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to amend title V of the Motor Vehicle Information and Cost Savings Act "Improving Automotive Efficiency", to exempt automobile manufacturers producing fewer than 10,000 vehicles per year from both emission and fuel economy standards and the semiannual reporting requirements, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC-2665. A communication from the Secretary of the Interior, transmitting, pursuant to law, the annual report of the fiscal condition of the Government of Guam for the year ending June 30, 1978; to the Committee on Energy and Natural Resources.

EC-2666. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a proposed prospectus for alterations at the Lakewood, Colorado, Building 47, Denver Federal Center; to the Committee on Environment and Public Works.

EC-2667. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report into alleged violations of laws, rules, regulations, mismanagement and harassment in the West Los Angeles, California, Office of Hearings and Appeals, Social Security Administration; to the Committee on Governmental Affairs.

EC-2668. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "An Evaluation of the Intergovernmental Personnel Act of 1970"; to the Committee on Governmental Affairs.

EC-2669. A communication from the Assistant Secretary for Administration of the Department of Commerce, transmitting, pursuant to law, a report on an amendment of a system of records and a new system of records, in accordance with the Privacy Act; to the Committee on Governmental Affairs.

EC-2670. A communication from the Acting Secretary of Commerce, transmitting a draft of proposed legislation to provide protection for the Cabinet Department Heads and their second ranking officers; to the Committee on the Judiciary.

EC-2671. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the 1978 Annual Report on poverty-related research and demonstration projects; to the Committee on Labor and Human Resources.

EC-2672. A communication from the Assistant Secretary of the Army for Installations, Logistics, and Financial Management, transmitting, pursuant to law, a decision to study the conversion of a function being performed by the Department to performance under contract; to the Committee on Armed Services.

EC-2673. A communication from the Assistant Secretary of the Army for Installations, Logistics and Financial Management, transmitting, pursuant to law, a decision to study the conversion of a certain function presently performed by the Department to performance under contract; to the Committee on Armed Services.

EC-2674. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmititng, pursuant to law, copies of international agreements other than treaties entered into within the previous sixty days; to the Committee on Foreign Relations.

EC-2675. A communication from the Deputy Secretary of the Treasury, transmitting a draft of proposed legislation to provide penalties for fraudulently negotiating United States checks, bonds, or securities; to the Committee on the Judiciary.

EC-2676. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, proposed regulations pertaining to the funding and sponsorship of nonpartisan candidate debates; to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. NUNN, from the Committee on Governmental Affairs:

Special Report entitled "Arson in America" (Rept. No. 96-535).

ARSON IN AMERICA

Mr. NUNN. Mr. President, on behalf of the Committee on Governmental Affairs, I submit a report made by its Permanent Subcommittee on Investigations on "Arson in America."

This report is the culmination of a 2-year investigation which revealed that arson is increasing dramatically, especially as a crime for profit.

In fact, the subcommittee's investigation revealed that arson as a crime for profit has grown to the point of being virtually out of control in America, especially in our inner city areas.

Our investigation also revealed that professional "torches" have set fire to entire city blocks, forcing city governments to look elsewhere to replace lost property taxes once levied on the burned buildings.

Thousands of persons have been put out of their homes by professional arsonists, and the insurance industry estimates that it pays out more than $1 billion a year for property loss claims relating to arson.

The investigation showed that there is much more the Federal Government can do to fight arson for profit. Indeed, the distinguished Senator from Illinois (Mr. PERCY) and I are working on legislation which would make arson for profit a Federal crime and increase the Government's role in the battle.

The distinguished Senator from Illinois (Mr. PERCY), our ranking minority member, played a leading role in this investigation, and I wish to compliment him for his work and that of the subcommittee's minority staff members.

Special praise should go to Stuart Statler, the former Chief Counsel to the minority; to Jerry Block, the present Chief Minority Counsel; and to Jonathan Cottin, a former investigator for the minority. Mr. Cottin was the lead investigator on this case and contributed greatly to what I consider to be a well-written report. Mr. Statler and Mr. Block exercised overall staff supervision on the project.

Mr. President, I sincerely hope that the subcommittee's report will spur discussion about arson and stimulate strong action in this area. Again. I congratulate the Sentor from Illinois (Mr. PERCY) and the subcommittee's minority staff for the fine work they have done to bring this problem to the attention of the Senate, and I recommend our report as required reading by all law enforcement officials with responsibility for investigating and prosecuting arsonists.

Mr. PERCY. Mr. President, the Senate Permanent Subcommittee on Investigations, of which I am the ranking minority member, is today filing its comprehensive report, "Arson in America." The report summarizes the subcommittee's 2-year investigation into arson which included 4 days of public hearings.

We heard testimony from witnesses from all regions of the country—self-confessed "torches" from Minneapolis, Philadelphia, and Rochester, N.Y., law enforcement officials from Houston and San Jose, prosecutors and a corrupt insurance adjuster from Tampa, Fla., and representatives of fire insurance companies that are cheated out of billions of dollars annually by fraudulent claims.

We found arson-for-profit—the intentional burning of buildings for the purpose of filing fraudulent insurance claims—is the fastest spreading crime in America today, reliably estimated to be growing at an annual rate of 25 percent. Nearly 250,000 arson fires were set in 1977, an increase of nearly 100 percent over 1970, resulting in a total property loss of over $2 billion.

This crime places a severe strain on American resources at a time when our economy can least afford it. The $2 billion sustained in property losses is only a fraction of the total costs that this crime imposes upon our society.

Arson-for-profit erodes local property tax bases as professional arsonists destroy thousands of valuable properties. Vacant, burned-out buildings bring down neighboring property values and sap the vitality of commercial areas. Public welfare agencies spend hundreds of thousands of dollars to relocate burned-out families. Law enforcement and judicial costs related to arson are in the millions. As property tax revenues fall and judicial expenditures climb, local governments require increasing financial assistance from the Federal Government. All American taxpayers will pay these costs.

Arson raises private sector costs as well as the public expenses. Fire insurance companies pay out billions of dollars in fraudulent arson-related claims. All property owners pay for these losses in the form of higher insurance premiums.

About 1,000 people die in arson fires every year and 10,000 more are injured. The survivors are left not only with physical injury in some cases, but long-lasting emotional scars.

In addition, we found that arson-for-profit is one of the most lucrative criminal activities in the Nation today.

Professional torches testified repeatedly that they were able to set fires freely, without risk of being caught. And, they are well paid for their services. One torch said he was able to charge up to $4,500 for setting a single fire. Another subcommittee witness testified that a professional arsonsist could easily earn $1 million a year.

The corrupt entrepreneurs who arrange for their properties to be burned for the purpose of defrauding insurance companies also run few risks of apprehension. One torch said—

> Many businessmen and speculators who know their way around can call an arsonist to provide instant liquidity of their property the way an average person telephones a reservation to a restaurant. It is just that easy.

The financial return on this type of insurance fraud far exceeds the profits available in legal real estate business. One landlord, who had paid $50 to purchase a building, insured the structure for $38,000. After the building was torched, the insurance companies settled with the owner for $27,000. That is a profit of 54,000 percent on a low-risk investment, and a potential profit, had the claim been paid in full, of 76,000 percent. It is little wonder arson-for-profit has become the fastest growing crime in America today.

Organized crime, attracted by the high profits and minimal risks of arson-for-profit, is rapidly becoming a major influence in this illicit industry. One witness before the subcommittee had been intimately involved in the mob's arson-for-hire operations. He gave us a detailed picture of the brutal, violent tactics including murder, that organized crime uses in order to muscle in on this profitable business.

The subcommittee also discovered that many insurance companies have made inadequate attempts to protect themselves against fraud. A staff study of the role of the insurance industry in dealing with arson-for-profit disclosed numerous abuses including:

Insurance agents routinely insure buildings without requiring an appraisal or even a simple inspection in order to prevent the overinsurance that makes this crime so profitable.

Companies are frequently reluctant to investigate suspected arson cases. Instead, they are anxious to settle claims and end the matter as quickly as possible.

Claims adjusters are often poorly trained in arson detection, and are often offered a bribe to "look the other way" or to participate in these schemes.

Law enforcement agencies cannot bear the full burden of arson prevention. Were isurance fraud not such an easy, profitable crime, arson-for-profit would not have become the rapidly spreading crime that it is today.

The subcommittee report made numerous recommendations as to how insurance companies could move to protect themselves against this billion-dollar ripoff. To date, however, the industry's response to the problem has been disturbingly low. Few companies have begun to vigorously tackle the problem.

The subcommittee report points out that Government agencies contribute to the ease with which insurance fraud can be perpetrated. For example, the Federal Insurance Administration, now known as the Federal Insurance and Hazard Mitigation Office (FIHMO), has historically neglected arson-related insurance fraud.

The FIHMO is responsible for overseeing State Fair Access to Insurance Requirements (FAIR) plans, which were designed in the wake of the urban riots of the 1960's, to insure that inner city property owners could obtain insurance at reasonable rates. With the valuable assistance of GAO, the subcommittee found that this extremely worthwhile goal of revitalizing the Nation's urban areas has not always been carried out. Not only does the structure of FAIR plans encourage arson-for-profit, but the FIHMO has, until recently, virtually ignored the program's shortcomings in combating arson.

Mr. President, a concerted effort to bring a halt to arson-for-profit requires a substantial commitment of human and financial resources to the problem. Making that commitment is essential to the safety of American citizens and to the health of our economy.

Jurisdictional disputes between police and fire departments impede timely and vigorous arson investigation. Additionally, crime laboratories are ill-equipped to analyze fire scene evidence. As a consequence, the number of reported arsons is misleadingly low as local law enforcement officials lack the technical expertise to identify arson fires. Finally, local prosecutors devote only a bare minimum of time to the prosecution of arsonists and arson-for-profit rings. The chief arson investigator for Houston testified that even though his arson squad could keep two prosecutors busy full time, Houston does not assign a single full-time prosecutor to arson cases.

In sum, there is overwhelming evidence that State and local law enforcement agencies lack the resources to stem the growing tide of arson-for-profit. The inadequacy of arson enforcement can only encourage corrupt businessmen and professional torches to increase their criminal activities.

As the fastest growing crime in the United States today, arson should be a prime target of Federal law enforcement agencies. Unfortunately, until recently, the response of the Federal Government has been woefully inadequate. However, there are now a number of reasons for optimism.

The Bureau of Alcohol, Tobacco, and Firearms has established interagency arson task forces in 23 cities which have been in operation for more than 2 years. In response to the subcommittee's investigations, the FBI has vigorously increased its antiarson efforts.

Just last week, Vice President WALTER MONDALE announced at the White House that the administration was initiating a coordinated antiarson strategy among Federal, State, and local governments. LEAA Administrator Henry S. Dogin, announced, as part of that strategy, that he was implementing a $9 million "arson control assistance program" aimed at improving State and local investigation and prosecution of arson, and stimulating public awareness of the crime. Under the program, 35 jurisdictions—9 States and 26 regional, county, and local units—will receive funds from LEAA.

After years of historic neglect, the problem of arson is beginning to receive the attention it desperately deserves. Much of America is being burned down around us. In too many communities, viable commercial properties are turned into smoldering ruins with disastrous social and economic results.

I believe more can be done. I have joined with Senator GLENN, who has long been a leader in the antiarson fight, in sponsoring S. 252 which, among other things, establishes an interagency committee to coordinate all Federal law enforcement efforts against arson, and designates arson permanently as a class I crime in the FBI's uniform crime reporting system, as the subcommittee's report recommends.

Arsonists respect neither jurisdictional nor economic boundaries. State and local law enforcement officials, insurance companies and the Federal Government must work together in a coordinated offensive against arson-for-profit. As an outgrowth of the subcommittee's work, Senator NUNN and I intend to introduce a bill which would make arson-for-profit a Federal offense. Until this crime is brought under control, arson-for-profit will continue to endanger the physical and financial stability of America's cities.

Mr. President, an investigation of this thoroughness and depth cannot be completed without dedication and a tremendous amount of hard work. I would like to thank, above all, two people who have recently left the subcommittee staff. Stuart Statler, as chief minority counsel, and Jonathan Cottin, as investigator to the minority, were primarily responsible both for the arson-for-profit investigation and this excellent report, and deserve the credit for this investigation which has played a large part in motivating the Federal Government to increase its antiarson efforts. In addition, I express my great appreciation to former staff members Jeff Stone and Mark Hager, as well as to our new minority chief counsel, Jerry Block, Rick Shapiro, staff investigator, Stephanie Grill, and Sue Morgan of the subcommittee minority staff.

Finally, I thank Senator NUNN, the chairman of the subcommittee, for the valuable contributions he and his staff members made to this investigation, and also thank Marty Steinberg, chief counsel, and LaVern Duffy, general counsel, for their help in the preparation of this report, "Arson in America."

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation:

Special Report Pursuant to Section 302 (b) of the Congressional Budget Act of 1974 (Rept. No. 96-536).

By Mr. MELCHER, from the Select Committee on Indian Affairs, with an amendment:

S. 1832. A bill to extend the authority of the Secretary of the Interior to declare and proclaim land to be Indian reservation land (Rept. No. 96-537).

S. 1855. A bill to amend the Tribally Controlled Community College Assistance Act of 1978 (Rept. No. 96-538).

By Mr. NELSON, from the Select Committee on Small Business:

Special Report Pursuant to Section 302 (b) of the Congressional Budget Act of 1974 (Rept. No. 96-539).

By Mr. GLENN, from the Committee on Governmental Affairs, with amendments:

S. 1879. A bill to establish an independent personnel system for employees of the General Accounting Office (Rept. No. 96-540).

By Mr. PELL, from the Committee on Rules and Administration, without amendment:

S. Con. Res. 30. Concurrent resolution relating to a statute of Frederick Douglass (Rept. No. 96-541).

S. Res. 319. An original resolution authorizing reimbusement of expenses of mailing or delivery of matters relating to official business from a Senator's Official Office Expense Account (Rept. No. 96-542).

H. Con. Res. 80. Concurrent resolution authorizing a bust of Martin Luther King.

Junior, to be placed in the Capitol (Rept. No. 96–543).

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S. 546. A bill for the relief of Beatrice Braude (Rept. No. 96–544).

S. 2113. A bill to incorporate United Service Organizations, Incorporated (Rept. No. 96–545).

H.R. 600. An act to incorporate United Service Organizations, Incorporated (Rept. No. 96–546).

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, with an amendment and an amendment to the title:

S. 1390. A bill to promote commercial motor vehicle safety, to prevent injury to commercial motor vehicle operators, and for other purposes (Rept. No. 96–547).

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Res. 317. Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 523.

S. Res. 309. Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5537.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation:

Philip M. Klutznick, of Illinois, to be Secretary of Commerce.

Luther H. Hodges, Jr., of North Carolina, to be Deputy Secretary of Commerce.

Homer E. Moyer, Jr., of the District of Columbia, to be General Counsel of the Department of Commerce.

James V. Day, of Maine, to be a Federal Maritime Commissioner.

(The above nominations from the Committee on Commerce, Science, and Transportation were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BAYH (for Mr. Kennedy), from the Committee on the Judiciary:

Sanford M. Litvack, of New York, to be an Assistant Attorney General.

John J. Partington, of Rhode Island, to be U.S. Marshal for the District of Rhode Island.

(The above nominations from the Committee on the Judiciary were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BAYH (for Mr. Kennedy), from the Committee on the Judiciary:

Richard Alan Enslen, of Michigan, to be U.S. District Judge for the Western District of Michigan.

L. T. Senter, Jr., of Mississippi, to be U.S. District Judge for the Northern District of Mississippi.

William Matthew Kidd, of West Virginia, to be U.S. District Judge for the Southern District of West Virginia.

By Mr. PRYOR, from the Committee on Governmental Affairs:

J. Jackson Walter, of Florida, to be Director of the Office of Government Ethics:

(The above nomination from the Committee on Governmental Affairs was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. CHURCH, from the Committee on Foreign Relations:

Colbert I. King, of Maryland, to be U.S. Executive Director of the International Bank for Reconstruction and Development.

David S. King, of Maryland, to be U.S. Alternate Executive Director of the International Bank for Reconstruction and Development.

(The above nominations from the Committee on Foreign Relations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. EXON, from the Committee on Armed Services:

Frank A. Camm, of Virginia, to be an Associate Director of the Federal Emergency Management Agency.

Joseph A. Doyle, of New York, to be an Assistant Secretary of the Navy.

(The above nominations from the Committee on Armed Services were recommended that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. EXON. Mr. President, as in executive session, also from the Committee on Armed Services, I report favorably the nominations of Vice Adms. Clarence R. Bryan, USN (age 56), and Robert P. Coogan, USN (age 57), for appointment to the grade of vice admiral on the retired list and Rear Adm. Robert F. Schoultz, USN, for appointment to the grade of vice admiral. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. The nominatons will be placed on the Executive Calendar.

Mr. EXON. In addition, Mr. President, there are 83 appointments/promotions to the grade of commander and below in the Navy (list beginning with Edward J. Kelly, Jr.) and 873 in the Navy and Naval Reserve for appointment to the grade of commander and below (list beginning with Donald O. Boling); and, in the Air Force, there are 299 officers for promotion to the grade of colonel and below (list beginning with Cirilo L. Adan, Jr.) and in the Regular Air Force there are 3,469 officers for promotion to the grade of captain (list begnning with David W. Abati). Since these names have already appeared in the Congressional Record and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's Desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominatons ordered to lie on the Secretary's desk were printed in the Record on December 11, 12, 14, and 20, 1979, at the end of the Senate proceedings.)

ORDER FOR JOINT REFERRAL—S. 2066

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 2066, a bill to convey Federal land located in Colorado to the Ute Mountain Ute Tribe and to pay an amount to such tribe for economic development, which was referred to the Committee on Energy and Natural Resources, be jointly referred to the Select Committee on Indian Affairs.

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR STAR PRINT—S. 521

Mr. BAYH. Mr. President, I ask unanimous consent that Senate Report No. 96–528 concerning the Tris legislation, S. 521, be star printed for purposes of including the Congressional Budget Office cost estimate which was not received until after the report was filed.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. TSONGAS (for himself, Mr. Cranston, Mr. Pell, Mr. Bradley, Mr. Randolph, Mr. Inouye, Mr. Jackson, Mr. Stone, Mr. Levin, Mr. Morgan, Mr. Nelson, Mr. Weicker, and Mr. Baucus):

S. 2159. A bill to amend the Domestic Volunteer Service Act of 1973 to establish a Presidential Commission on National Service; to the Committee on Governmental Affairs.

By Mr. CHILES:

S. 2160. A bill to require public disclosure of certain lobbying activities to influence issues before the Congress, and for other purposes; to the Committee on Governmental Affairs.

By Mr. HELMS:

S. 2161. A bill to provide equitable relief for parties to contracts containing gold clauses; to the Committee on the Judiciary.

By Mr. DURKIN:

S. 2162. A bill to provide credit to residential users of wood fuel; to the Committee on Finance.

By Mr. CANNON (by request):

S. 2163. A bill to provide for the conservation and enhancement of the salmon and steelhead resources of Washington State, assistance to the treaty and nontreaty harvesters of those resources, and for other purposes; to the Committees on Commerce, Science, and Transportation and Environment and Public Works, jointly, by unanimous consent, and if one committee orders reported, the other committee has 15 days in which to report.

By Mr. PERCY (for himself and Mr. Ribicoff):

S. 2164. A bill to amend section 301 of title 13, United States Code, to exempt from public disclosure certain export information required by the Bureau of Census for statistical purposes; to the Committee on Governmental Affairs.

By Mr. RIBICOFF (by request):

S. 2165. A bill to amend section 301 of title 13, United States Code, to protect the confidentiality of export data required by the Bureau of the Census for statistical purposes; to the Committee on Governmental Affairs.

By Mr. MELCHER (for himself, Mr. Burdick, Mr. Hatfield, and Mr. Inouye):

S. 2166. A bill to promote the development of Native American culture and art; to the Select Committee on Indian Affairs and the Committee on Governmental Affairs, jointly, by unanimous consent, and if one committee orders reported, the other committee has 45 days in which to report.

By Mr. STONE:

S. 2167. A bill to amend the Internal Revenue Code of 1954 to provide that the taxable income of a homeowners association shall be subject to the same graduated rates of tax as a corporation; to the Committee on Finance.

By Mr. NELSON (for himself, Mr. BAUCUS, Mr. BOREN, Mr. HUDDLESTON, Mr. MATSUNAGA, and Mr. STEWART):

S. 2168. A bill to amend the Internal Revenue Code of 1954 to permit an electing small business corporation to have 35 shareholders and to issue certain additional stock; to the Committee on Finance.

By Mr. SCHWEIKER:

S. 2169. A bill for the relief of William Kubrick; to the Commitee on the Judiciary.

By Mr. DECONCINI (for Mr. KENNEDY) (by request):

S. 2170. A bill to establish a Center for Defense Services, and for other purposes; to the Committee on the Judiciary.

By Mr. NELSON:

S. 2171. A bill to amend the Internal Revenue Code of 1954 to provide that an early W-2 must be furnished to a terminated employee before January 31st only upon the receipt of a written request, and for other purposes; to the Committee on Finance.

By Mr. INOUYE:

S. 2172. A bill for the relief of Ms. Kinisimere Fonua Suschnigg; to the Committee on the Judiciary.

S. 2173. A bill for the relief of Mr. David Riddell; to the Committee on the Judiciary.

By Mr. LEVIN:

S. 2174. A bill for the relief of Hira and Manu Manibhai, husband and wife, and their children Kalpesh and Ketah Manibhai; to the Committee on the Judiciary.

S. 2175. A bill for the relief of Joseph Ozor; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 2176. A bill to amend titles XVIII and XIX of the Social Security Act to provide for the coverage of clinical social work services under the supplementary medical insurance benefits program and the medicaid program; to the Committee on Finance.

By Mr. WILLIAMS (for himself and Mr. CRANSTON) (by request):

S. 2177. A bill to amend the mortgage amount, sales price and interest rate limitations under the Government National Mortgage Association emergency home purchase assistance authority, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. WEICKER:

S. 2178. A bill to amend section 313 of the National Housing Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HAYAKAWA (for himself and Mr. CRANSTON):

S. 2179. A bill to amend the Internal Revenue Code of 1954 to provide for a definition of the term artificial bait; to the Committee on Finance.

By Mr. HARRY F. BYRD, JR.:

S. 2180. A bill to provide for a special application of section 1034(c) of the Internal Revenue Code of 1954; to the Committee on Finance.

By Mr. CHAFEE:

S. 2181. A bill to assist the States in developing fish and wildlife conservation plans and actions, and for other purposes; to the Committee on Environment and Public Works.

By Mr. MORGAN (for himself, Mr. SIMPSON, and Mr. HUMPHREY):

S. 2182. A bill to amend title 38, United States Code, to deny eligibility for benefits available under such title to certain former members of the armed services who fail to complete at least 18 months of their initial period of obligated service; to the Committee on Veterans' Affairs.

By Mr. MORGAN (for himself, Mr. BOSCHWITZ, Mr. CHURCH, Mr. KENNEDY, Mr. HELMS, Mr. CULVER, Mr. MCGOVERN, Mr. DOLE, Mr. EXON, Mr. LUGAR, Mr. GOLDWATER, and Mr. JEPSEN):

S. 2183. A bill to amend the Commodity Credit Corporation Charter Act to establish a revolving fund to finance short term export credit sales of agricultural commodities produced in the United States; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MORGAN:

S. 2184. A bill to provide improved conditions for the transport and distribution of commodities used and produced by the agricultural sector of the United States, to foster improved transportation services for the rural areas of the country, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DANFORTH:

S. 2185. A bill to authorize the Federal Emergency Management Agency to accept a bequest to the U.S. Government of approximately $500,000; to the Committee on Governmental Affairs.

By Mr. JAVITS (for himself and Mr. RIBICOFF):

S. 2186. A bill to provide for the Overseas Private Investment Corporation to mobilize and facilitate investment in developing countries in order to increase trade with, and contribute to the development of, such countries; to the Committee on Foreign Relations.

By Mr. MATHIAS:

S. 2187. A bill for the relief of Rita Kaminer; to the Committee on the Judiciary.

S. 2188. A bill for the relief of Gary Kaminer; to the Committee on the Judiciary.

By Mr. HEFLIN (for himself, Mr. STEWART, Mr. WEICKER, Mr. TSONGAS, and Mr. LEVIN):

S.J. Res. 127. Joint resolution to authorize and request the President to proclaim June 27, 1980, as "Helen Keller Day"; to the Committee on the Judiciary.

By Mr. SCHWEIKER:

S.J. Res. 128. Joint resolution to authorize and request the President to proclaim the week of October 5 through 11, 1980, as "National Diabetes Week"; to the Committee on the Judiciary.

By Mr. NELSON:

S.J. Res. 129. Joint resolution establishing a bill of rights for small and independent businesses; to the Select Committee on Small Business.

By Mr. WEICKER (for himself, Mr. RIBICOFF, Mr. JAVITS, Mr. HATFIELD, Mr. MOYNIHAN, Mr. HEINZ, Mr. STAFFORD, Mr. MCGOVERN, Mr. CRANSTON, Mr. LAXALT, Mr. TSONGAS, Mr. HART, and Mr. WILLIAMS):

S.J. Res. 130. Joint resolution to authorize and request the President to proclaim May 1, 1980, as "National Save the Children Day"; to the Committee on the Judiciary.

By Mr. JAVITS (for himself, Mr. BOSCHWITZ, Mr. CHURCH, Mr. HEINZ, Mr. LEVIN, Mr. DOLE, Mr. MATHIAS, Mr. MOYNIHAN, Mr. METZENBAUM, Mr. PELL, Mr. PERCY, Mr. STONE, Mr. WILLIAMS, Mr. KENNEDY, Mr. JACKSON, and Mr. SARBANES):

S.J. Res. 131. Joint resolution designating April 10, as "ORT Centennial Day"; to the Committee on the Judiciary.

By Mr. CRANSTON (for himself. Mr. KENNEDY, Mr. WILLIAMS, Mr. SCHWEIKER, Mr. WEICKER, and Mr. HAYAWAKA):

S.J. Res. 132. Joint resolution to authorize and request the President to issue a proclamation designating April 6 through 12, 1980, "National Medic Alert Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TSONGAS (for himself, Mr. CRANSTON, Mr. PELL, Mr. BRADLEY, Mr. RANDOLPH, Mr. INOUYE, Mr. JACKSON, Mr. STONE, Mr. LEVIN, Mr. MORGAN, Mr. NELSON, Mr. WEICKER, and Mr. BAUCUS):

S. 2159. A bill to amend the Domestic Volunteer Service Act of 1973 to establish a Presidential Commission on National Service; to the Committee on Governmental Affairs.

(The remarks of Mr. TSONGAS when he introduced the bill appear earlier in today's proceedings.)

By Mr. CHILES:

S. 2160. A bill to require public disclosure of certain lobbying activities to influence issues before the Congress, and for other purposes; to the Committee on Governmental Affairs.

LOBBYING DISCLOSURE ACT OF 1979

● Mr. CHILES. Mr. President, on July 24, I introduced S. 1564, a bill to require public disclosure of certain lobbying activities. The Governmental Affairs Committee held 3 days of hearings on this bill. These hearings were very productive in helping to highlight and explore the key issues surrounding lobbying disclosure. We learned from those hearings how S. 1564 could be improved.

Today, I am introducing a new bill which incorporates several changes which I believe make this bill a better approach to the reform of lobbying disclosure. With this new bill, I want to reaffirm my strong commitment to open government. The hearings we held confirmed my belief that lobbying reform is necessary.

There exists a real need to correct the serious problems with the 1946 Federal Regulation of Lobbying Act. That act was passed by Congress to fulfill a purpose which is even more important today than ever. It is fundamental to our democratic form of government by elected representatives that the electorate, and the representatives themselves, be able to properly evaluate the innumerable pressures and influences placed upon Congress.

I believe that the public is entitled to the fullest practicable information about the decisionmaking processes of the Federal Government. To a great extent, those processes are now open to public scrutiny, thanks to the Freedom of Information Act, the Government in the Sunshine Act, and the rules of both the House and the Senate. These efforts have greatly enhanced the public's ability to learn and understand how we in Washington are conducting the public's business.

Yet, nothing approaching an accurate picture of the legislative process is available to the public. Lobbying and lobbying organizations provide a significant and a valuable source of information which forms the basis for legislative decisions. No one can fully appreciate the needs and real purposes of legislation without a measure of information about influences which form the basis for our legislative decisions. There is, however, a breakdown in the flow of information on the legislative process that is caused by the lack of available information on lobbying activities. The 1946 act, as interpreted by the Supreme Court covers only a small fraction of the lobbying that actually takes place. For example, it only covers contacts with members, not with staff. Even with respect to the activities it does cover, the 1946 act has not been administered and enforced effectively because of the absence of audit authority and the presence of criminal sanctions. Today, there is no real understanding of the magnitude of lobbying efforts and no knowledge of the amount of money spent to influence legislation.

The bill that I am introducing today seeks to fill this informational gap in the legislative process.

From the beginning, I have sought to balance the public interest in disclosing systematic, organized pressures upon Congress with protecting the constitutional right to petition Congress for redress of grievances. Of equal importance to me is to insure that paperwork is minimized while, at the same time, assuring that we will have the information essential to obtaining a reasonably accurate and complete picture of lobbying activities. The lobbying efforts that this bill is aimed at disclosing are the well-orchestrated, systematic operations by organizations which spend money to influence legislation. The bill recognizes that the American people have a right to know which organizations are lobbying, which ones are putting up money and how much money is being spent. It does not cover individuals, volunteers or religious organizations. Nor does it apply to any contacts with home State Senators or Congressmen.

The basic goal of S. 1564 remains unchanged: To provide essential information on lobbying while keeping paperwork to an absolute minimum. The most significant way that this bill differs from S. 1564 is that it reduces the amount of paperwork required for organizations to comply with it. The one major criticism and fear that we heard in our 3 days of hearings on S. 1564 was that it required more paperwork than was necessary. Of course, any disclosure bill requires paperwork. I have been firmly committed, however, to make every effort possible to keep the paperwork burden to a minimum and to require only that information which is meaningful and essential to fulfilling the purposes of this legislation. I think the changes we have made produced an improved disclosure bill. We have fine-tuned the provisions to achieve a carefully drawn balance between minimizing paperwork and providing essential information.

The threshold for expenditures which determines which organizations must register and report on their lobbying activities has been raised from $500 to $5,000 per quarter. Thus, in order to be covered, an organization must spend more than $5,000 in a quarter for the retention of outside lobbyists or for one of its own employees to lobby on at least 13 days in a quarter (or for two or more employees to lobby on at least 7 days in a quarter). The main feature of this threshold is that it is simple to comply with. With regard to an organization's own employees, the $5,000 threshold only counts salaries, not overhead, utilities, postage, printing, or any other expenses. For retainees, only the retainee fee is counted. In this way, the threshold covers significant organizational lobbying and looks to easily gathered information, that is, retainees' fees and salaries, to determine applicability. These objective formulas make it very simple for an organization to know if it is covered by the act.

Once a group has triggered the day and dollar threshold, it must register once a year, and report on its lobbying activities for each quarter that it crosses the threshold. The registration requires a minimum of paperwork. It includes disclosure of the organization's identity, and the name of its lobbyists, whether retained or employed. Requiring the disclosure of the identity of individual members is prohibited. Each registration filed after the initial one, that is, each re-registration, must disclose a list of organizations contributing $3,000 or more to the registered lobbying organization.

No contribution by an individual would be reported. Moreover, this disclosure requirement only applies to organizations which spent more than 1 percent a year of their total annual expenditures on reported lobbying activities. To reduce the paperwork burden and to protect the privacy of the contributing organizations, exact contributions need not be disclosed. Contributions can be listed within specific dollar categories. The 1946 Lobbying Act presently requires disclosure of organizational and individual contributors who contribute more than $500 a quarter to a lobbying group. I believe that changing this to require only major organizational contributors will be an improvement over the current law.

In the quarterly reports, a covered organization must report only information that is easily obtainable, and, in most cases, that is already being compiled for other purposes. There are basically eight reporting requirements: First, identification of the organization; second, listing of gifts to Federal officials in excess of $35; third, listing of dinners and receptions specifically held for Federal officials and costing the organization more than $500 each; fourth, identification of and expenses for retainees; fifth, identification of and aggregate salary expenses for employees who lobby; sixth, a list of the 20 most significant issues lobbied; seventh, direct business relationships with Federal officers who were lobbied; and eighth, significant lobbying solicitations.

In contrast to S. 1564, and in a direct effort to reduce paperwork and to make reporting easier, this bill does not require that an organization keep track of an employee's time spent drafting lobbying communications. The salaries of employees who lobby will be reported in the aggregate, thus avoiding any disclosure of an individual's salary. Moreover, there are two options for reporting salaries: First daily rates; or second, quarterly salaries. No minute-by-minute accounting is required.

The reporting of significant lobbying solicitations or "grassroots" efforts by an organization that crosses the day and dollar threshold with respect to nongrassroots lobbying is an extremely important component of any reform in the area of lobbying disclosure. This bill requires that, if an organization otherwise qualifies as a lobbying group, it must report all of its significant lobbying activities, including its significant solicitation efforts.

Organized efforts to solicit grassroots lobbying through mass mailing campaigns, media advertising and the like are fast becoming one of the most effective and the most utilized lobbying techniques. In fact, the president of the U.S. Chamber of Commerce has stated that "lobbying that counts is done through the grassroots process." For some very powerful groups, this is the principal method of lobbying.

In U.S. against Harriss, the Supreme Court, in upholding the constitutionality of the 1946 act, noted that lobbying refers to pressure exerted by the lobbyists themselves or through their hirelings or through an artificially stimulated letter campaign. These efforts in many cases constitute the bulk of an organization's lobbying expenditures. Any lobbying disclosure bill must cover solicitation efforts if we are to get an accurate, complete picture of lobbying activities. To ignore such efforts would lead to a misleading, distorted and totally inaccurate picture of lobbying.

The grassroots expenses which must be disclosed are those easily calculated: Expenses for retainees, postage, telegraphs, advertising, printing and distributions. In addition, the term lobbying solicitation only applies to communications which urge or ask the recipient to advocate a specific position of an issue before Congress and to contact Congress to influence the outcome of that issue.

It is important to note that only significant solicitation efforts must be reported. After an organization has spent at least $5,000 in a quarter on solicitations, it will report: First, the issues on which it spent more than $1,000 for a solicitation; second, identification of and expenses made for any group or person retained to make a lobbying solicitation costing more than $1,000; and third, the total expenditures for solicitations, which may be reported in broad categories.

Many organizations already compile the solicitation information called for. Charitable organizations, as defined in section 501(c)(3) of the Internal Revenue Code, must already record and report this information for tax purposes. This bill explicitly allows these groups to compile their solicitations expenditures in the manner that they use for tax purposes thereby eliminating the possibility of new or duplicative reporting requirements. Moreover, corporations are only permitted a deduction under section 162(e) of the Internal Revenue Code for lobbying activities other than grassroots solicitations. Thus, to comply with the tax laws, corporations already separate their deductible lobbying expenses from their nondeductible grassroots expenses.

It is critical to the act's success that we have a workable system of administering and enforcing the law. The administration and enforcement sections have remained substantially unchanged. The enforcement section allows for effective enforcement of the law while at the same time providing strong protections for organizations that may be subject to enforcement. For example, there is an affirmative good faith defense for organizations that might violate the law through inadvertent mistakes or omissions.

This bill contains only civil penalties as opposed to the criminal penalties existing in the present lobbying law.

Finally, I have modified this bill to exempt religious organizations from coverage. I did so to take account of the special status the first amendment confers on the free exercise of religion. At our hearings, representatives from several religious groups expressed their profound concern over the constitutional implications created by requiring churches to report on their lobbying activities. They noted that, for many churches, this kind of activity is an important part of the church's mission.

While I recognize the concern that some will have with such an exclusion, I feel that, on balance, we must recognize the special status expressly conferred on churches by the free exercise clause of the first amendment.

Mr. President, our hearings confirmed that there is a general consensus that the current lobbying law is ineffective and that change is needed. The hearings provided an open forum for lively debate on the precise character of reform legislation. After reviewing and studying the testimony from all of our witnesses, which were drawn from the broad spectrum of interests: Business, public interest, religious organizations, labor and the like, I concluded that there is room for improvement in S. 1564. With the bill I am introducing today, I have incorporated several important improvements in an effort to reduce the paperwork burden and to insure that the law is effective and constitutionally sound.●

By Mr. DURKIN:

S. 2162. A bill to provide credit to residential users of wood fuel; to the Committee on Finance.

CREDIT TO RESIDENTIAL USERS OF WOOD FUEL

● **Mr. DURKIN.** Mr. President, the rapid escalation of fuel costs is a burden that weights heavily on millions of consumers in New Hampshire, New England, and all over the Nation. Moderate income Americans are experiencing budget-wrecking inflation. They have tightened their belts and made heroic efforts to reduce energy consumption, only to witness fuel bills climb beyond their ability to pay. Low-income householders spent an estimated 30 percent of their incomes for energy last winter. Fuel that they were unable to afford then has nearly doubled in price over the past year, making their position even more distressing.

The prospect of high prices and short supplies of heating fuel have led many low- and moderate-income Americans, especially in the Northeast, to switch to wood to at least partially heat their homes. In New Hampshire alone over half the houses will be burning wood this winter. As consumers turn to wood as an alternative energy source, the consequent increased demand causes price hikes which match the escalation of home heating oil costs. A cord of firewood that sold for $55 last winter is already commanding as much as $100 this season. Estimates are that prices could reach $150 a cord in some areas of southern New England. We simply cannot allow this environmentally safe renewable alternative to foreign oil to be priced out of the range of the hardworking homeowner.

Wood is a potentially great energy source in the heavily forested areas of the United States. Over the last 7 years, the number of wood burning stoves in American homes has increased from 200,000 to 2,000,000. Wood is now the primary source of heat in over 1,000,000 households. In New England, 20 percent of the homes employ wood as the primary heating source, and another 30 percent use wood for supplemental heating.

A remedy is urgently needed to alleviate the burden of spiralling wood prices. Previously I introduced legislation to provide relief for the users of home heating oil. Today I am introducing legislation to give a refundable tax credit to Americans who heat their homes with wood. This credit will cover thirty percent of the cost of wood fuel up to $250. To insure that the credit will go only to those for whom it is essential, the credit will be reduced by 1 percent of the consumer's adjusted gross income over $15,000. It is refundable, so low- and fixed-income consumers who owe no Federal income taxes will be eligible for a rebate to help defray the increased cost of firewood. It makes sense to provide financial relief now rather than react to preventable hardships later.●

By Mr. CANNON (by request):

S. 2163. A bill to provide for the conservation and enhancement of the salmon and steelhead resources of Washington State, assistance to the treaty and nontreaty harvesters of those resources, and for other purposes; to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works, jointly, by unanimous consent, and if one committee orders reported, the other committee has 15 days in which to report.

Mr. CANNON. Mr. President, I introduce by request of the Department of the Interior a bill to provide for the conservation and enhancement of the salmon and steelhead resources of Washington State, assistance to the treaty and nontreaty harvesters of those resources, and for other purposes.

Mr. President, I ask unanimous consent that the text of the bill and the letter of transmittal be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 2163

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.—PURPOSE.

In order to assist treaty and non-treaty harvesters of the salmon and steelhead resources within the conservation area established by this Act in the State of Washington to overcome temporary economic dislocations arising from the decisions in the case of *United States* v. *Washington*, this Act authorizes the establishment of a cooperative program involving the United States, the State of Washington, the Treaty Tribes, and other appropriate parties, to:

(1) encourage stability in the commercial fishing and charter fishing industries and improve the distribution of fishing power between treaty and non-treaty fisheries through (a) the purchase of commercial and charter fishing vessels, gear and licenses; (b) loans to Treaty Tribes and treaty fishermen to develop the industry; and (c) coordinated research, enhancement and management of salmon and steelhead resources and habitat; and

(2) improve the quality of, and maintain the opportunities for, salmon and steelhead recreational fishing.

SEC. 2.—DEFINITIONS.

As used in this Act, unless the context otherwise requires:

(1) The term "charter vessels" means any vessel licensed by the State of Washington to carry passengers for hire for the purpose of recreational salmon and steelhead fishing.

(2) The term "charter fishing" means fishing undertaken by charter vessels.

(3) The term "commercial fishing" means fishing for the purpose of sale or barter.

(4) The term "commercial fishing vessel" or "fishing vessel" means any vessel, boat, ship or other craft which is used for, equipped to be used for, or of a type which is normally used for, commercial fishing.

(5) The term "conservation area" means all salmon and steelhead habitat within the State of Washington except for the Columbia River drainage basin, and in the fishery conservation zone adjacent to the State, subject to the jurisdiction of the United States.

(6) The term "enhancement" means any measures taken to increase the production of naturally spawning or artificially propagated stocks of salmon or steelhead, or to protect, conserve or improve the habitat of such stocks.

(7) The term "escapement" means the number of salmon or steelhead which reach their spawning grounds or hatchery facilities and are available for spawning.

(8) The term "habitat" means those portions of the land or water, including the constituent elements thereof, (a) which salmon or steelhead occupy at any time during their life cycle or (b) which affect the salmon or steelhead resources.

(9) The term "Northwest Indian Fisheries Commission" means the organization established by the Treaty Tribes to assist and coordinate tribal fisheries management within the conservation area.

(10) The term "recreational fishing" means fishing for personal use and enjoyment and not for sale or barter.

(11) The term "salmon" means any anadromous species of the family *Salmonidae* and genus *Oncorhynchus*, commonly known as Pacific salmon, including:

Chinook (king) salmon—*Oncorhynchus tshawytscha;*

Coho (silver) salmon—*Oncorhynchus kisutch;*

Pink (humpback) salmon—*Oncorhynchus gorbuscha;*

Chum (dog) salmon—*Oncorhynchus keta;* and

Sockeye (red) salmon—*Oncorhynchus nerka*.

(12) The term "salmon or steelhead resource" means any stock of salmon or steelhead, or any habitat of salmon or steelhead.

(13) The term "Secretary" means the Secretary of Interior, unless otherwise specified.

(14) The term "State" means the State of Washington.

(15) The term "steelhead" means the anadromous rainbow trout species *Salmo gairdneri*, commonly known as steelhead.

(16) The term "stock" means a species, subspecies, race, geographical grouping, run, or other category of salmon or steelhead.

(17) The term "treaty" means any agreement between the United States and any Indian tribe that relates to the reserved right of such tribe to harvest salmon and steelhead within the conservation area.

(18) The term "Treaty Tribe" means any Indian tribe or similar entity, with usual and accustomed fishing grounds in the conservation area, whose fishing right under a treaty has been recognized by a federal court or the Secretary of the Interior.

TITLE I—COORDINATION

SEC. 101.—COORDINATION GRANTS.

(a) The Secretary is authorized to establish a program to provide grants to prepare plans for programs established in this Act and to promote research and coordinated management of the salmon and steelhead resources within the conservation area consistent with the purposes of this Act.

(b) Such grants shall be available for use by the State, the Treaty Tribes, the Northwest Indian Fisheries Commission, or any joint entity established for undertaking research, or providing advice on or mechanisms for coordinated management, or preparing the plans and programs described in this Act.

SEC. 102.—AUTHORIZATIONS OF APPROPRIATION.

(a) There are authorized to be appropriated to the Secretary $3,000,000 for the purposes of carrying out the provisions of this Title.

(b) No grant to the State under this Title shall exceed 50 per centum of the total cost of carrying out the activity for which the grant is made.

TITLE II—RESOURCE ENHANCEMENT AND HABITAT MAINTENANCE

SEC. 201.—RESOURCE AND HABITAT ENHANCEMENT PLANS.

(a) Authority.

The Secretary is authorized to establish a program to provide grants for projects for the enhancement of the salmon and steelhead resources of the conservation area.

(b) Plan.

Any such project must be in accordance with a comprehensive plan developed and agreed to by the State and the Northwest Indian Fisheries Commission and approved by the Secretary in consultation with the Secretary of Commerce.

(c) Scope.

The comprehensive plan, and any revisions, amendments or modifications of such plan, shall describe all enhancement projects in the conservation area, and associated stocking policies (when relevant), including any related research on habitat improvement projects, anticipated by the State and the Northwest Indian Fisheries Commission for a period of at least five years.

(d) Standards.

The comprehensive plan shall include such standards, including restrictions or conditions, as are necessary to assure that any project included in the plan contributes toward the balanced and integrated development of the salmon and steelhead resources of the conservation area. Such standards shall include but not be limited to provisions designed to:

(1) assure that all commercial and recreational fishermen and the Treaty Tribes within the conservation area shall have an opportunity to participate in the benefits of resource development;

(2) protect existing stocks of salmon and steelhead, the biological integrity and diversity of such stocks, and minimize competition and adverse interaction between naturally spawning and artificially propagated stocks;

(3) increase survival of both naturally spawning and artificially propagated salmon and steelhead stocks;

(4) ensure that all projects included within the plan are economically and biologically sound and supported by adequate scientific findings; and

(5) assure that all projects included within the plan achieve significant benefits relative to the overall cost of each such project.

(e) Approval.

(1) The Secretary in consultation with the Secretary of Commerce shall review the comprehensive plan and approve such plan if found to be consistent with this Act and other applicable law.

(2) Upon receiving the plan, the Secretary shall:

(A) publish a notice in the Federal Register of the availability of the plan;

(B) provide a copy of the plan to the Secretary of Commerce, the Secretary of State, the Attorney General, the Pacific Fishery Management Council and, upon request, to any other interested person or group; and

(C) solicit and consider the comments and views of such Secretaries, the Council, and other interested persons or groups, with respect to the plan.

(3) Prior to approving the plan, the Secretary shall:

(A) undertake a biological and technical evaluation of the plan, in consultation with individuals knowledgeable with regard to the salmon and steelhead resources of the conservation area;

(B) consult with the Secretary of State, with respect to the effect of such plan on any international fisheries; and

(C) determine whether the State or the Northwest Indian Fisheries Commission, acting through its chosen agency or agencies, has the authority to carry out the plan in accordance with this Act, and any standards included within the comprehensive plan.

(f) Review, Modification, Amendments or Revisions.

The comprehensive plan shall be reviewed periodically and may, with the approval of the Secreary in consultation with the Secretary of Commerce, be revised or modified as appropriate. The Secretary, the State, or the Northwest Indian Fisheries Commission may request a review, modification, or revision of the plan at any time. The Secretary may withdraw approval of a plan when he finds that (1) the plan or its implementation is not consistent with the Act and (2) no modification or revision has been agreed to by the State and the Northwest Indian Fisheries Commission to correct any such inconsistencies.

SEC. 202.—ENHANCEMENT PROJECTS.

After the approval of a comprehensive plan, the State or the Northwest Indian Fisheries Commission may submit a project proposal to the Secretary, in such manner and form as the Secretary shall prescribe. Such application shall include at least—

(1) plans, specifications and cost estimates of the proposed enhancement project, including estimates of both the capital construction costs of the project and the operation and maintenance costs for seven years after commencement of the project;

(2) the enhancement goals that are sought to be achieved by the proposed project, including, but not limited to:

(A) a description of the affected stocks;

(B) an analysis of the expected impacts on the salmon and steelhead resource; and

(C) a projection of the expected impacts on each type of commercial and recreational fishing.

(3) evidence that the State, the Northwest Indian Fisheries Commission, or Treaty Tribe, acting through its chosen agency or agencies, has obtained or is likely to obtain any necessary titles to, interests in, rights-of-way over, or licenses covering the use of the relevant land;

(4) an analysis of, and supporting data for, the economic and biological integrity and viability of the project; and

(5) such other information as the Secretary determines is necessary to assure that the proposed project is consistent with the approved plan and the provisions of this Act.

SEC. 203.—APPROVAL AND FUNDING OF PROJECTS.

(a) The Secretary may approve any project that is consistent with the approved plan and the provisions of this Act, and shall promptly notify the State, the Northwest Indian Fisheries Commission, Treaty Tribes, and upon request any other interested party of the approval of a project and the amount of funding made available under this Title for such project.

(b) The total federal share of all enhancement projects funded annually by this section shall not exceed 50 per centum of the total amount expended for such projects, except that this limitation shall not apply to projects proposed by the Northwest Indian Fisheries Commission. The State share may include both real and personal property and may, in the discretion of the Secretary, in consultation with the Secretary of Commerce, include such amounts spent by the State, after the enactment of this Act but before approval of the comprehensive plan, for enhancement projects consistent with this Act and the plan. Title to, or other interest in, such property shall remain within the State.

(c) The federal share shall be paid in such amounts and at such times as the Secretary deems appropriate, consistent with this Act and the goals of the comprehensive plan.

SEC. 204.—REVIEW OF ENHANCEMENT PROJECTS.

The Secretary shall establish, in consultation with the State and the Northwest Indian Fisheries Commission, a system to monitor and evaluate on a continuing basis all enhancement projects for which funds have been distributed under this Act, and may discontinue or suspend distribution of all or part of the funds if any project is not being carried out in a manner consistent with the comprehensive plan and this Act.

SEC. 205.—AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary, for the purposes of carrying out the provisions of this Title, not to exceed the following sums:

(1) $28,000,000 for enhancement projects, to be available over a period of 10 years from the effective date of this Act; and

(2) $19,000,000 for operation and maintenance, where necessary, of enhancement projects authorized under this Title, to be available over a period of 7 years following completion of each such project.

TITLE III—COMMERCIAL FISHING FLEET ADJUSTMENT

SEC. 301.—FLEET ADJUSTMENT PROGRAM.

(a) The Secretary of Commerce, upon approval of a program submitted pursuant to section 303 of this Title, is authorized to distribute Federal funds to the State, subject to the standards, conditions and restrictions set forth in this Title, for the purchase of commercial fishing and charter vessels, gear and licenses by the State in accordance with the provisions of this Title.

(b) The federal share payable under this Title shall not exceed 50 per centum in any fiscal year of the total cost for the program in that fiscal year. Title to any vessel or other personal property purchased under a State program approved by the Secretary in accordance with the provisions of this Title shall vest upon purchase in the State. If the State sells such vessels or other property, title may pass in accordance with such sale.

SEC. 302.—STANDARDS.

The Secretary of Commerce in consultation with the State, shall establish standards for the preparation of the program, designed to:

(1) reduce effectively and efficiently the level of fishing effort on the salmon resources of the conservation area;

(2) achieve a specific equitable and balanced reduction in the numbers of commercial fishing and charter vessel licenses and vessels within the conservation area;

(3) provide incentives for early retirement of licenses, or early sale of vessels and gear;

(4) set aside specific allocations of funds for each gear type to achieve the specific reductions provided for in the program; and

(5) obtain an expeditious reduction in the overall fishing capacity of the non-Indian commercial and charter salmon fishing fleets in the conservation area.

SEC. 303.—PROGRAM APPROVAL.

(a) The State shall submit its program and submit revisions, modifications or amendments to the Secretary of Commerce, in accordance with standards established pursuant to Section 302 and in such manner and form as the Secretary of Commerce shall prescribe.

(b) Prior to approving such program or any revision, modification or amendment, and authorizing federal funds to be distributed in accordance with this Title, the Secretary of Commerce must find that:

(1) the State, acting through its chosen agency or agencies, has authority to carry out a commercial and charter vessel fleet reduction program in accordance with the provisions of this Title and any standards established by the Secretary of Commerce under this Title;

(2) the State program provides for a restriction on the purchase of any fishing vessel unless all State commercial salmon fishing licenses attached to the vessel are also sold to the State;

(3) the State program provides that no person may purchase from the State any vessel which that person had previously sold to the State;

(4) the State program provides that no person, except for a member of a Treaty Tribe, may purchase any vessel sold to the State pursuant to the program and use such vessel for commercial or charter salmon fishing in the conservation area;

(5) the State program provides for purchase of vessels and gear at their fair market value;

(6) the State program provides for the reduction of salmon fishing licenses, through purchase of such licenses and the use of bonuses and schedules, to:

(A) secure an early retirement from the salmon fishery; and

(B) recognize productiveness.

(7) the State program provides criteria to reduce the number of outstanding marginally productive commercial fishermen;

(8) the State maintains a moratorium, or similar program, to preclude the issuance of the effective date of this act; and

(9) the State has established a revolving fund for the operation of the fleet reduction program that includes individual accounts for each gear type and that any monies received by the State from the resale of any fishing vessel or gear purchased under the program (A) shall be placed in such revolving fund, (B) shall, for at least three years from the date of receipt, be placed in the appropriate gear type account, and (C) shall be used exclusively to purchase commercial fishing and charter vessels, gear and licenses in accordance with the provisions of this Title.

(c) The Secretary of Commerce may approve revisions, modifications or amendments to the program as appropriate.

SEC. 304.—REVIEW BY THE SECRETARY OF COMMERCE.

(a) The Secretary of Commerce shall conduct a continuing review of the State program to determine whether the program remains consistent with the purposes of this act and the provisions of this Title. Such review shall include a biennial audit of the records of the State program.

(b) If the Secretary of Commerce finds that the program or the administration thereof is no longer in compliance with this Title, he shall reduce or discontinue distribution of funds under this Title, or take other appropriate action.

(c) If the Secretary of Commerce finds that any money given to the State or obtained by the State from the resale of any fishing vessel or gear purchased under the program is not being used in accordance with the provisions of this Title, the Secretary shall recover from the fund and place in the United States Treasury such amount of such monies as are equivalent to the federal share distributed to the State under this Title.

SEC. 305.—AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Commerce, for the purposes of carrying out the provisions of this Title, $25,000,000 which shall be available over a period of 10 years from the effective date of this Act.

TITLE IV—TRIBAL FISHERY DEVELOPMENT PROGRAM

(a) AUTHORIZATION.

The Secretary is authorized to establish a program to provide for loans to Treaty Tribes or Treaty Tribe fishing corporations for carrying out, or relending to individual Treaty Tribe fishermen in the conservation area for carrying out, projects to modernize and develop Treaty Tribe salmon and steelhead fishing operations.

(b) PLAN.

Any such loan must be for projects in accordance with a comprehensive plan developed by the Northwest Indian Fisheries Commission and approved by the Secretary.

(c) SCOPE.

The comprehensive plan shall outline the fishery needs and objectives of each of the varous Treaty Tribes and the goals of a development program designed to achieve such needs and objectives.

(d) PROJECTS.

Any such loan shall be for projects:

(1) for purchase, replacement, or modernization of salmon and steelhead fishing vessels; or

(2) for construction, rental, purchase, or improvement of fishing facilities related to salmon and steelhead harvesting but not including processing or similar facilities.

SEC. 402.—APPROVAL.

No loan authorized under this Title may be approved except in accordance with the comprehensive plan, the provisions of this Act, and other applicable law.

SEC. 403.—REVIEW.

The Secretary shall conduct a continuing review of the Tribal program and its implementation to determine whether the program or its administration is consistent with the plan and the purposes of this Act and may discontinue or suspend distribution of all or part of the funds if any project is not being carried out in a manner consistent with the plan or this Act.

SEC. 404.—REVOLVING FUND.

There is hereby created within the Treasury a separate fund for Treaty Tribal fishery development (hereafter in this section called "the fund") which shall be available to the Secretary without fiscal year limitation as a revolving fund for the purposes of Title IV of the Act. The total of any loans made from the fund in any fiscal year shall not exceed limitations specified in appropriation acts. A business-type budget for the fund shall be prepared, transmitted to the Congress, considered, and enacted in the manner prescribed by law (sections 102, 103, and 104 of the Government Corporation Control Act, 31 U.S.C. 847–849) for wholly-owned Government corporations.

(1) The fund shall consist of such amounts as may from time to time be appropriated to provide capital for the fund, and all amounts received by the Secretary as interest payments or repayments of principal on loans, fees, and any other moneys, property, or assets derived by him from his operations in connection with this Act which are deposited in the fund.

(2) All loans, administrative expenses, including reimbursements to other Government accounts, and repayments pursuant to operations of the Secretary under this Act shall be paid from the fund. From time to time, and at least at the close of each fiscal year, the Secretary shall pay from the fund into Treasury as miscellaneous receipts interest on the cumulative amount of appropriations available as capital to the fund, less the average undisbursed cash balance in the fund during this year. The rate of such interest shall be determined by the Secretary of the Treasury, and shall be not less than a rate determined by taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketplace obligations of the United States with remaining periods to maturity comparable to the average maturity of loans made from the fund. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. If at any time the Secretary of the Interior determines that moneys in the fund exceed the present and any reasonably prospective future requirements of the fund, such excess may be transferred to the general fund of the Treasury.

SEC. 405.—AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of the Interior, for the purposes of carrying out the provisions of this Title, $15,000,000 which shall be available over a period of ten years from the effective date of this Act.

TITLE V—MISCELLANEOUS

SEC. 501.—REGULATIONS.

The Secretary, or the Secretary of Commerce, as appropriate, may promulgate such regulations, in accordance with Section 553 of Title 5, United States Code, as may be necessary to carry out this Act.

SEC. 502.—REPORTS.

The State and the Northwest Indian Fisheries Commission shall submit to the appropriate Secretary an annual report on the status of the programs authorized by this Act or any other relevant report requested by such Secretary.

SEC. 503.—RELATION TO OTHER LAWS.

Nothing in this Act shall be construed—

(1) to diminish either Federal, State or Tribal jurisdiction, responsibility or rights in the field of resource enhancement and management, or control of water resources, submerged lands, or navigable waters; nor to limit the authority of Congress to authorize and fund projects; or

(2) as superseding, modifying, or repealing any existing applicable law.

U.S. Department of the Interior,
Washington, D.C., December 14, 1979.
Hon. Walter F. Mondale,
President of the Senate,
Washington, D.C.

Dear Mr. President: In a statement made in Seattle on August 16, 1979, I announced on behalf of the President a commitment of the administration to forward to Congress legislation to authorize federal financial assistance to relieve the economic hardships and dislocations being suffered by the fishery industry in the State of Washington. The attached bill "To provide for the conservation and enhancement of the salmon and steelhead resources of Washington State, assistance to the Treaty and non-Treaty harvesters of those resources, and for other purposes" fulfills that comitment.

We recommend that it be referred to the appropriate Committee for consideration and that it be enacted.

The bill responds to economic dislocations arising from the adjustments in harvest opportunity occasioned by the decision in *United States* v. *Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), *aff'd* 520 F.2d 676 (9th Cir. 1975), *cert. denied* 423 U.S. 1086 (1976), often referred to as the "Boldt decision." That case ruled that the Indian tribes within the conservation area defined in this legislation have a treaty right to harvest up to 50% of the allowable catch of fish which pass their traditional fishing grounds. Last Term, in *Washington* v. *Fishing Vessel Ass'n*, ——— U.S. ———, 99 S. Ct. 3055 (1970), the Supreme Court affirmed this treaty interpretation and the allocation of the resource between treaty and non-treaty fishers. A result of the Boldt decision was the reduction of the portion of the harvestable surplus of fish available to non-treaty harvesters. This problem had been exacerbated by a significant increase in the number of persons commercially fishing. Environmental problems, drought and other factors have also led to a decline in the runs of some anadromous species in the area.

The legislation is based on proposals made in a June 1978 report by the Regional Team of the Federal Task Force on Washington State Fisheries, which was established by the President in 1977. Among the Regional Team's recommendations were increasing the number of fish available for harvest, reducing the size of the non-treaty fishing fleet, and increasing the treaty harvest capability.

The legislation applies to the portion of the fisheries in the State of Washington which is coextensive with the treaty fishing area involved in the Boldt decision. This area excludes the Columbia River drainage basin and includes the conservation zone adjacent to the State which is subject to federal jurisdiction under the Fisheries Conservation and Management Act.

The assistance program embodied in this bill has three major program components: 1) a salmon and steelhead enhancement program, designed to increase the supply of fish through both artificial hatchery production and improvements in natural fish production; 2) a fishing fleet adjustment program, designed to assist the state in reducing the size of the non-treaty fishing fleet through a "buy-back" program; and 3) a tribal fishery development program, designed to provide loans to tribes and tribal fishers for fishing equipment, vessels and harvest-related facilities to improve capability to harvest the treaty share of the resource.

A total of $90 million in federal dollars over a 10 year period is authorized to be appropriated in the legislation. Money going to the State must be matched by the State on a dollar for dollar basis. The legislation provides that each of the programs is to be implemented pursuant to a comprehensive plan developed locally in accordance with standards set forth in the bill and subject to federal approval. The enhancement and tribal programs are to be administered by the Department of the Interior; the fleet adjustment program by the Department of Commerce.

In addition to the three basic programs, the legislation provides for grants to the State and the tribes for plan preparation, research, and the promotion of coordinated management. This will assist the local authorities in taking the steps necessary to develop the programs.

The programs established in this bill would improve the fish habitat, increase the amount of anadromous fish available for all, reduce the imbalance between treaty and non-treaty fishing fleets, and promote cooperative and coordinated decisions about the fishery resource. We urge that Congress act favorably on the bill.

The Office of Management and Budget has advised that this proposed legislation is in accord with the program of the President.

Sincerely yours,
Cecil D. Andrus,
Secretary.

Mr. CANNON. Mr. President, I ask unanimous consent that the bill be jointly referred to the Committees on Commerce, Science, and Transportation and Environment and Public Works, and that when either committee has ordered the bill reported, the other committee has 15 days within which to report the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. PERCY (for himself and Mr. Ribicoff):

S. 2164. A bill to amend section 301 of title 13, United States Code, to exempt from public disclosure certain export information required by the Bureau of Census for statistical purposes; to the Committee on Governmental Affairs.

SHIPPERS' EXPORT DECLARATION

Mr. PERCY. Mr. President, today I am introducing with my esteemed colleague, Senator Ribicoff, a bill to address the confidentiality of certain information contained on shipper's export declarations, commonly referred to as SED's.

Under the Export Administration Act of 1969, U.S. exporters are required to file an SED form, composed of 30 separate items, with the Department of Commerce for each transaction of goods shipped from this country. The Customs Service collects the SED's at U.S. ports and transmits them to Commerce. The SED's are then forwarded to the Census Bureau which compiles the information for statistical purposes. The Secretary of Commerce can use or disseminate SED information at his or her discretion. SED data is the principal source for calculating the U.S. balance of payments.

Since several items listed on the SED pertain to particularly sensitive business information such as the price of the commodity to be exported and the ultimate consignee, the Export Administration Act had language purporting to exempt SED information from disclosure under the procedures of the Freedom of Information Act (FOIA), thus assuring U.S. exporters that such information would be kept confidential. But in 1978 the U.S. Court of Appeals ruled that this statutory exemption language was too vague to qualify as a special FOIA exemption statute. During consideration of the Export Administration Act last summer, Congress agreed to temporarily protect SED's from disclosure by statute through June 1980 so that the necessity for such protection and the potential for administrative remedies could be studied at length.

At first glance the need to protect the confidentiality of SED's appears obvious. The SED is the only contemporaneous collection of information which if subject to unrestricted disclosure could reveal to an exporter's domestic and foreign competitors the exporter's unit values, detailed descriptions of the goods shipped, customer lists and the size of an exporter's business and available inventory. Also, as statistical information SED's are not used for export licensing or other control activities. However, upon further investigation, the SED controversy becomes increasingly complex.

Since 1976 the U.S. Customs Service has made SED-type information available to the press from customs documents under certain restrictions. The rationale for releasing this information was the belief that it would promote competition among carriers, warehousemen, handlers, and brokers who provide services to the export industry. Thus, reduced service charges through competition would in turn allow U.S. goods to become more competitive with foreign firms in overseas markets. A significant feature of the customs regulations for releasing such information is the chance for exporters to "opt" not to have their name disclosed.

For the past 3 years the principal user of this customs data has been the Journal of Commerce, which publishes an Export Bulletin giving: The name and address of the shipper if the shipper approves; the commodity along with its weight and unit measure; and the country of destination. Subscribers to the Journal include steamship companies, port authorities and members of the export community in general. Because the customs data at some U.S. ports is not always readily available, the Journal sought to facilitate its reporting of export information by requesting access to SED's under the FOIA in 1977. The Commerce Department denied the request based on the Export Administration Act's special exemption from disclosure of SED's as well as FOIA's exemption 4 for confidential commercial and financial information. As permitted by the FOIA, a suit was filed to challenge Commerce's decision not to release the SED's but the case was dismissed due to Congress decision to statutorily exempt SED's from disclosure until June 1980. Although SED's will no longer be protected after that date by a special exemption statute, Commerce at its discretion could still deny a request for SED's disclosure based on the FOIA trade secret exemption. This most likely would entail another costly court case.

The SED issue raises some important policy questions that deserve congressional attention. The first deals with the Freedom of Information Act itself. Legitimate concerns have been expressed as to the impact of special exemption statutes on the overall intent of the FOIA. While I too share some of these concerns, it is important to remember that Congress clearly contemplated the need for special exemption statutes in those instances where the administrative and litigative burdens under FOIA procedures would be overwhelming. The relief valve mechanism in FOIA section (b)(3) allows Congress rather than the courts to decide what information should or should not be disclosed to the public. This also eliminates risks which might be involved if the FOIA were amended to make it much more difficult in general for the public to gain access to nonsensitive information held by the Government. To date, Congress has enacted about 200 statutes covered by the section (b)(3) exemption. But for these very special cases, it is incumbent upon those requesting a (b)(3) statute to furnish Congress with substantial justification as to why such an exemption is necessary instead of relying on the current legal defenses for denying an FOIA request.

Another policy question concerns the amount of paperwork which would be involved for both the Commerce Department and U.S. exporters if it is determined that potentially "harmful" information contained on the SED form could be segregated from nonsensitive items. The mechanics and costs of separating the particular SED items need to be carefully considered in resolving the SED controversy. A possible benefit is that paperwork for exporters might be reduced if a standardized form is developed to collect information required by both Customs and Commerce.

Finally, there is the question of census data confidentiality. The Census Bureau is understandably concerned about the possible loss of the business community's confidence in the Bureau's ability to maintain the confidentiality of information it collects. This pledge of confidentiality is an all important factor in insuring that information submitted to the Census Bureau is accurate and complete. However, I would like to emphasize that the SED, while forwarded to the Bureau by Commerce because of the Bureau's excellent capabilities for handling statistical information, does not appear to fall within the traditional census enumeration function.

This observation is borne out by the fact that the Secretary may use the SED information, unlike other census data, in a discretionary fashion. If the exporting industry is certain that sensitive SED items are protected from disclosure by a partial exemption, then the threat of inaccurate information being submitted to Census would diminish.

Mr. President, this bill is designed to serve as a vehicle for debate on the questions generated by the SED controversy. It should not be considered at this time as the final solution. Because of the issue's complexity, our concern is to insure that those testifying before the Government Affairs Committee will address all the arguments involved so that Congress will have a complete hearing record on which to make a final determination in regard to SED confidentiality. Rather than a blanket exemption from disclosure for the entire SED form as suggested by the Commerce Department, the bill exempts those items on which there appears to be a general consensus about their proprietary nature. These items include price and detailed identifying information on the commodity, the name and address of the ultimate consignee and forwarding agents, the export license number, and the ultimate destination. In addition, the bill provides for an "opt-out" procedure whereby the shipper may choose not to be identified. The exact mechanics of such a procedure also need to be discussed during the hearings.

In sum, this bill should be viewed as one to protect sensitive business information rather than as a disclosure bill. However, if Congress determines that a partial exemption for SED items is appropriate, then it would be expected that the Commerce Department under its discretionary authority would provide public access to those SED items not warranting a special FOIA exemption.

It is our sincere hope that the approach taken in this bill will provide an equitable, complete and timely resolution to the issue of SED confidentiality. I would like to note that Senator Ribicoff is introducing by request the Commerce Department's proposal which provides a blanket exemption for SED's. I support this step as a means of insuring consideration of the administration's bill. However, I strongly urge—and I believe that Chairman Ribicoff would agree—that those wishing to testify before the Governmental Affairs Committee on these bills focus their attention on the issues raised by each SED item separately so that the committee can make an informed judgment on the appropriate scope of any new exemption statute.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2164

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 301 of title 13, United States Code, is amended by adding at the end thereof the following:

"(e) The following items contained in a shipper's export declaration (or any successor document) or any document submitted in lieu of a shipper's export declaration, shall not be disclosed to the public:

"(1) The name and address of the exporter, if the exporter has requested that such information remain confidential.

"(2) The ultimate consignee.

"(3) The address of ultimate destination.

"(4) The dollar value at the United States port of export.

"(5) The identifying data referred to as 'marks and numbers' contained on packages and containers in the shipment.

"(6) The Schedule B (Statistical Classification of Domestic and Foreign Commodities Exported from the United States) commodity code number, or any successor number, and a detailed description of all commodities which would permit verification of the assigned Schedule B commodity code number, or successor number.

"(7) The validated export license number or general license symbol.

"(8) The name and address of the person authorized to act as forwarding agent of the exporter for export control and customs purposes.".

Mr. RIBICOFF. Mr. President, I am pleased to join with Senator Percy in introducing S. 2164 to exempt from public disclosure specific items of information contained in the shipper's export declaration. It is not in the public interest to close the door entirely to public examination of all the export related information to be found in the SED. At the same time, release into the public domain of the entire SED would impair the Government's ability to collect sensitive business information which is necessary to develop an accurate picture of this country's export trade. Release of the SED in full would provide business confidential information about individual U.S. companies to foreign and domestic business in competition for sales in our domestic and foreign markets. The basic problem is how to balance public disclosure of export data against safeguarding business and trade information which should remain confidential.

I believe there is a middle ground between the broad exemption of the SED document itself and those who would prefer to see each request for information contained in an SED handled on a case-by-case basis under the provisions of the Freedom of Information Act. A compromise approach is necesary to protect the confidentiality of those specific items in the SED which are generally regarded as sensitive. This approach would forestall the release of business and trade data potentially harmful to U.S. exporters and injurious to the balance of payments of the United States. The bill which I introduce today with Senator Percy is the best vehicle to encourage debate on the SED issue in Congress.

In order to give Congress additional time to study the handling of information reported to the Department of Commerce in the SED, a recent amendment to the Export Administration Act exempted this document from public disclosure until June 30, 1980. Unless Congress takes positive legislative action by that date, the Bureau of the Census would be required to make a separate determination for each request to release trade data contained in the SED. This would impose time consuming and burdensome responsibilities on the Bureau because U.S. exporters submit yearly more than 8 million SED's to the Federal Government.

Much of the information reported in the SED is publicly available from other sources including cargo manifests and bills of lading. Many items of information contained in these two documents have historically been in the public domain. However, administrative and regulatory guidance regarding the disclosure of export information over the past 100 years has not been consistent. This is an additional reason why Congress should enact legislation. With the growing importance of international trade, now is the time for Congress to provide the necessary guidance for future customs regulation regarding the release of export information.

Customs regulations require all exporters to submit two documents: SED's and vessel manifests. Administrative practices do not reflect uniform compliance or disclosure procedures. On the east coast, the obligation by an exporter to submit a cargo manifest is met by stapling a bill of lading to the customs manifest form. Both documents can be examined by the press. In California, exporters attach a copy of the SED to the manifest form. Since the SED is confidential, the manifest is closed to public inspection, even though it has been open for public inspection in most ports since the 19th century.

The issue before Congress is whether to protect the entire SED or to protect those sensitive items of information which I believe should be kept confidential.

By Mr. **RIBICOFF** (by request):

S. 2165. A bill to amend section 301 of title 13, United States Code, to protect the confidentiality of export data required by the Bureau of the Census for statistical purposes; to the Committee on Governmental Affairs.

SHIPPER'S EXPORT DECLARATION

Mr. **RIBICOFF**. Mr. President, today I am also introducing, by request, a bill developed by the Department of Commerce to protect the confidentiality of the entire SED document. Mr. President, I ask unanimous consent that the bill and accompanying explanation be printed in the Record.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 2165

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 301 of Title 13 U.S.C. is amended by adding at the end thereof a new subsection (e), as follows:

"Shippers Export Declarations (or any successor documents), or documents submitted in lieu thereof, wherever located, shall be exempt from public disclosure, notwithstanding any other provision of law, unless the Secretary determines that withholding would be contrary to the National interest."

STATEMENT OF PURPOSE AND NEED

The purpose of this proposed bill is to amend that section of title 13 U.S.C. relating to the collection and publication of Foreign Trade Statistics so as to exempt with particularity from disclosure under the Freedom of Information Act (5 U.S.C. 552 et seq.) and any other law, the export data reported in Shipper's Export Declarations.

Under existing law, the Department of Commerce, through the Bureau of the Census and the United States Customs Service, collects, compiles, and publishes information from persons (including individuals, business firms, government and quasi-government agencies) on commodities exported from the United States and the outlying areas over which the United States exercises sovereignty, jurisdiction, and control. The statistical data compiled by the Bureau of the Census represent the official United States export statistics and are used with confidence for a variety of purposes by both government and non-government entities, e.g. in determining the monthly balance of trade and balance of payments, and in formulating government administrative decisions relating thereto; market research and analyses; export expansion programs; etc.

The form used as the basic source document for the collection of export data is the Shipper's Export Declaration, Department of Commerce Form 7525–V, filed by exporters or agents under the Foreign Trade Statistics Regulations (15 C.F.R. Part 30) issued pursuant to 13 U.S.C. 301–307.

The confidentiality provisions of law relating to the Shipper's Export Declaration are found in 13 U.S.C. section 302, and 50 U.S.C. App. 2406(c). The pertinent portions of these laws read respectively as follows:

13 U.S.C. 302 (excerpted)—"The Secretary may make such rules, regulations, and orders as he deems necessary or appropriate to carry out the provisions of this chapter. . . . The Secretary may also provide by rule or regulation, for such confidentiality, publication, or disclosure, of information collected hereunder as he may deem necessary or appropriate in the public interest. . . ."

50 U.S.C. App. 2406(c) (excerpted)—". . . No department, agency, or official exercising any functions under this act . . . shall publish or disclose information obtained hereunder . . . unless the head of such department or agency determines that the withholding thereof would be contrary to the national interest."

The Bureau of the Census has historically withheld from the public the information reported on individual Shipper's Export Declarations and has made this policy of confidentiality (i.e. public disclosure only upon approval by the Secretary of Commerce) known to the public in order to encourage complete and accurate reporting by respondents. In the absence of elaborate enforcement activities, the accuracy of export data is largely dependent upon the cooperation of exporters; and this degree of cooperation is greatly enhanced by the promises of confidentiality which the Bureau holds out to the public in collecting these data. This bill will make it absolutely clear that these data are exempt from public disclosure and thus enable the Bureau of the Census to maintain its policy, as stated above, of not disclosing data reported on individual reports to the public.

Under 13 U.S.C. as proposed to be revised, all copies of Shipper's Export Declarations, wherever located, would be effectively protected from public disclosure.

While much of this information would be exempt from disclosure under 5 U.S.C. § 552 (b)(4), the sheer magnitude of data submitted makes it impossible to handle a request for any significant number of Shipper's Export Declarations. This proposed bill would solve that problem by providing standardized protection for all export information submitted to Census, eliminating the need for a line by line examination or analysis of each of the millions of Shipper's Export Declarations filed with Census each year to determine the applicability of § 552 (b)(4) to all of the data elements on each individual form.

By Mr. **MELCHER** (for himself, Mr. Burdick, Mr. Hatfield, and Mr. Inouye):

S. 2166. A bill to promote the development of native American culture and art; to the Select Committee on Indian Affairs and the Committee on Governmental Affairs, jointly, by unanimous consent, and if one committee orders reported, the other committee has 45 days in which to report.

NATIVE AMERICAN CULTURE AND ART DEVELOPMENT ACT

Mr. **MELCHER**. Mr. President, today I am introducing legislation providing for the establishment of a national institution for the development of Indian art and culture. The purpose of this legislation is to provide a means whereby Indian art and culture will be preserved, revitalized, and disseminated.

Mr. President, the artistic and cultural heritage of this Nation has been influenced by many societies, peoples, and countries. Yet, the United States has only one genuinely native art form and cultural heritage and that is derived from the Indian people. For many years the cultural and artistic expression of Indian people has been eroded to both their detriment and that of the entire Nation. Such erosion must stop.

The unique aspects of American Indian culture and artistic contributions must be treated with great concern and sensitivity. To do otherwise would threaten the very existence of many Indian institutions and diminish greatly the artistic and cultural richness of our Nation. I believe the legislation I am introducing demonstrates the Nation's sensitivity to the cultural, artistic, and humanistic expression by its native peoples.

Mr. President, current Federal initiatives in the area of Indian art and culture are fragmented and inadequate. By establishing a national cultural and artistic institution capable of serving the entire Indian community and the Nation, we will be creating not only a focal point for the recognition of Indian art and culture, but also a vehicle through which Indian people can communicate and share their feelings and perceptions with each other and with non-Indians. The resulting enhancement and preservation of this Nation's native art and culture will have a fundamental influence in raising the level of self-realization of the American people.

The establishment of an institute encompassing the art and culture of Indian people is not a new concept but, I believe, it is one whose time has come. The Senate Special Subcommittee on Indian Education in its 1969 report, Indian Education: A National Tragedy—A National Challenge, recommended the creation of such an institute and emphasized that "the information such as an institute could disseminate, as well as the research which it would conduct, would greatly increase public knowledge and understanding of the American Indian." (Senate Report 91–501, p. 126.) Ten years have passed since the Senate received that recommendation. With the introduction of this bill, the Senate will finally have the opportunity to consider this proposal.

Mr. President, the Institute of Native American Art and Culture Development in described in the bill I am introducing today in relatively broad terms. The legislation is primarily designed to establish a structure through which the Federal Government can support, foster, and encourage the development of Indian art and culture. I am hopeful that extensive hearings on the bill will provide a clearer focus of the Institute's direction and long-term objectives.

Mr. President, I ask unanimous consent that the text of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2166

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Native American Culture and Art Development Act".

Sec. 2. The Congress finds and declares that (1) American Indian art and culture has contributed greatly to the artistic and cultural richness of the Nation; (2) American Indian art and culture occupies a unique position in American history as being our only genuinely native art form and cultural heritage; (3) the enhancement and preservation of this Nation's native art and culture has a fundamental influence on the American people; (4) although the encouragement and support of Indian arts and crafts are primarily a matter for private, local and Indian initiative, it is also an appropriate matter of concern to the Federal Government; (5) it is appropriate and necessary for the Federal Government to support research and scholarship in Indian art and culture and to complement programs for the advancement of Indian art and culture by tribal, private, and public agencies and organizations; (6) current Federal initiatives in the area of Indian art and culture are fragmented and inadequate; and (7) in order to centralize the Federal Government's effort to preserve, support, revitalize and disseminate Indian art and culture, it is desirable to establish a national Institute of Native American Culture and Arts Development.

Sec. 3. As used in this Act, the term—

(1) "Indian art and culture" includes but is not limited to, the traditional expression of Native American language, history, customs, belief, music, architecture, drama, dance, rituals, and crafts;

(2) "Institute" means the Institute of Native American Culture and Arts Development established by this Act;

(3) "Indian" or "Native American" means any person who is a member of an Indian tribe or a descendant of an aboriginal inhabitant of the United States.

(4) "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

Sec. 4. (a) There is established the Institute of Native American Culture and Arts Development, which shall be under the direction and control of a Board of Trustees (hereinafter referred to in this Act as the "Board") established in accordance with subsection (b) of this section.

(b) The Board shall be composed of nineteen members as follows:

(1) twelve members appointed by the President of the United States from among individuals from private life who are widely recognized in the field of Indian art and culture (and a majority of whom shall be Native Americans);

(2) Secretary of the Interior (or his designee);

(3) Secretary of Education (or his designee);

(4) Secretary of the Smithsonian Institution (or his designee);

(5) Chairman, National Endowment of the Arts (or his designee);

(6) Chairman, National Endowment of the Humanities (or his designee);

(7) Librarian of Congress (or his designee); and

(8) President of the Institute (or his designee).

(c) In making appointments pursuant to clause (1) of subsection (b) of this section, the President of the United States shall give due consideration to the appointment of individuals who will provide an appropriate regional and tribal representation on the Board.

(d) The term of office of each trustee appointed pursuant to clause (1) of subsection (b) of this section shall be six years, except that of such trustees first appointed, four shall serve for a term of two years, four for a term of four years, and four for a term of six years, as designated by the President as of the time of appointment. Any trustee appointed to fill a vacancy occurring prior to the expiration of the term to which his predecessor was appointed shall be appointed for the remainder of the term. No trustee appointed pursuant to clause (1) of subsection (b) of this section shall be eligible to serve in excess of two consecutive terms, but may continue to serve until his successor is appointed.

(e) The President of the United States shall designate the initial Chairman and Vice Chairman of the Board from among the trustees appointed pursuant to clause (1) of subsection (b) of this section. Such Chairman and Vice Chairman so designated shall serve for twelve calendar months. The Chairman and Vice Chairman shall thereafter be elected by the trustees appointed pursuant to clause (1) of subsection (b) and shall serve for terms of two years. In the case of a vacancy in the office of Chairman or Vice Chairman, such vacancy shall be filled by the trustees appointed pursuant to clause (1) of subsection (b) and the trustee filling such vacancy shall serve for the remainder of the unexpired term. Until otherwise provided by the bylaws of the Institute, a majority of the members of the Board shall constitute a quorum.

(f) The Chairman of the Board, in consultation with the Board, shall appoint a President of the Institute. The President of the Institute shall serve as the chief executive officer of the Institute. Subject to the direction of the Board and the General supervision of the Chairman, the President of the Institute shall have the responsibility for carrying out the policies and functions of the Institute, and shall have authority over all personnel and activities of the Institute. The Vice Chairman shall perform such functions as the Chairman may prescribe, and shall serve as Acting Chairman during the absence of the Chairman. The President of the Institute shall be compensated at an annual rate not to exceed that prescribed for GS–18 of the General Schedule under section 5332 of title 5, United States Code.

(g) Members of the Board appointed pursuant to clause (1) of subsection (b) of this section shall, for each day they are engaged in the performance of the duties under this Act, receive compensation at the rate of $125 per day, including traveltime. All members of the Board, while so serving away from their homes or regular places of business, shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(h) In administering the Institute, the President of the Institute, with the approval of the Board, shall have the authority to appoint and fix the compensation and duties of such officers and employees as may be necessary for the efficient administration of the Institute. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, governing apopintments in the competitive service, and chapter 51 and subchapter III of chapter 53 of title 5, United States Code.

(i) The Board is authorized to adopt an official seal which shall be judicially noticed and to make such bylaws, rules, and regulations as it deems necessary for the administration of its functions under this Act, including the organization and procedure of the Board.

(j) The Board is authorized to obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and to accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code.

(k) The Board is authorized to solicit, accept, and dispose of gifts, bequests, devises of money, securities, and other properties of whatever character, for the benefit of the Institute. Any such gifts, bequests, or devises, unless otherwise restricted by the terms thereof, shall be utilized in the discretion of the Board for the purposes of the Institute.

(l) The Board is authorized to receive grants from, and enter into contracts and other arrangements with, Federal, State, or local governments, public and private agencies, organizations, and institutions, and individuals.

(m) The Board is authorized to acquire, hold, maintain, use, operate, and dispose of such real property, including improvements thereon, personal property, equipment and other items, as may be necessary to enable the Board to carry out the purposes of this Act. At the request of the Board, the head of the Federal department having jurisdiction over any real property, including improvements thereon, comprising the Institute of American Indian Arts facility located in Sante Fe, New Mexico, shall transfer, by appropriate instrument, all jurisdiction and control over such real property and improvements to the Institute.

Sec. 5. In administering the Institute, the Board shall have all necessary and proper powers which shall include, but not be limited to, the power to establish, within the Institute—

(1) a Center for Culture and Art Studies to be administered by a director (appointed by the President of the Institute, with the approval of the Board), which shall include, but not be limited to, Departments of Traditional Arts and Sciences, Visual Arts, Performing Arts, Language, and Literature;

(2) a Center for Native American Scholars to be administered by a director (appointed by the President of the Institute, with the approval of the Board), which shall include, but not be limited to, research programs, fellowship programs, and publications;

(3) a Center for Cultural Exchange, administered by a director (appointed by the President of the Institute, with the approval of the Board), which shall include an Inter-American Indian Program, marketing and promotion of Indian crafts, promotion of Indian art, exhibits and shows;

(4) a Museum of Indian Arts, administered by a director (appointed by the President of the Institute, with the approval of the Board), which shall include, but not be limited to, the acquisition of Indian art and the curation and exhibition of Indian art; and

(5) any other centers or programs which the Board determines appropriate to preserve, support, revitalize, and disseminate Indian art and culture.

Sec. 6. (a) There are transferred to the Institute and the Institute shall perform the functions of—

(1) the Institute of American Indian Arts established by the Secretary of the Interior in 1962; and

(2) the Indian Arts and Crafts Board established by the Act entitled "An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes", approved August 27, 1935.

(b) (1) All personnel, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function transferred under the provisions of this Act, are transferred to the Institute.

(2) Personnel engaged in functions transferred by this Act shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions, except that such transfer shall be without reduction in classification or compensation for one year after such transfer.

(c) All laws and regulations relating to the Institute of American Indian Arts and the Indian Arts and Crafts Board transferred to the Institute by this Act shall, insofar as such laws and regulations are applicable, remain in full force and effect. With respect to such transfers, reference in any other Federal law to the Institute of American Indian Arts and the Indian Arts and Crafts Board, or any officer so transferred in connection therewith, shall be deemed to mean the Institute.

Sec. 7. The President of the Institute shall submit an annual report to the Board concerning the administration of the Institute during the twelve calendar months preceding the date of the report. Such report shall include, among other matters, a detailed statement of all private and public funds, gifts, and other items of a monetary value received by the Institute during such twelve-month period and the disposition thereof.

Sec. 8. There are authorized to be appropriated, for the fiscal year ending September 30, 1981, the sum of $4,000,000 to carry out the purposes of this Act, and for each fiscal year thereafter, such sum as may be necessary.

Mr. MELCHER. Mr. President, I ask unanimous consent that the bill, the Indian art and culture, be jointly referred to the Government Affairs and Indian Affairs Committees with the instruction that when the one committee reports the bill, the other committee shall report within 45 days of being discharged from further consideration of the bill.

Mr. President, this has been cleared on both sides, by the leadership and by the chairman and ranking member of the committees.

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. STONE:

S. 2167. A bill to amend the Internal Revenue Code of 1954 to provide that the taxable income of a homeowners association shall be subject to the same graduated rates of tax as a corporation; to the Committee on Finance.

● Mr. STONE. Mr. President, today I am introducing legislation which would provide for equitable tax treatment of homeowner associations. My legislation would subject the taxable income of a homeowner association including those of condominium units owners to the same graduated rates of tax as a corporation. Presently, this income is taxed at a flat rate of 46 percent, which is much higher than what an individual would be taxed if he or she earned the same income, and is not consistent with the principle that Congress set forth when it clarified the tax status of homeowner associations in the Tax Reform Act of 1976.●

By Mr. NELSON (for himself, Mr. Baucus, Mr. Boren, Mr. Huddleston, Mr. Matsunaga, and Mr. Stewart):

S. 2168. A bill to amend the Internal Revenue Code of 1954 to permit an electing small business corporation to have 35 shareholders and to issue certain additional stock; to the Committee on Finance.

SUBCHAPTER S CAPITAL FORMATION ACT OF 1979

● Mr. NELSON. Mr. President, in behalf of myself and Senators Baucus, Boren, Huddleston, Matsunaga, and Stewart, I am introducing a bill to upgrade the so-called subchapter S corporation so that it can be of greater service as a vehicle for raising capital for new and smaller businesses.

I ask unanimous consent that the text be printed in the Record following my remarks.

WHAT THE BILL WOULD DO

This bill is intended to strengthen the foundations of the "electing small business corporation" or "subchapter S corporation"—named for subchapter S of the Federal tax statute. In my view, this type of corporate structure has considerable potential for assisting new and small businesses to raise the capital they need to generate new jobs, increased sales, new products, higher profits, keener competition, and greater exports.

The bill proposes that the permissible number of shareholders in a subchapter S corporation be increased from the present 15 to a total of 100.

Additionally, it would authorize the subchapter S corporation to issue additional classes of stock, beyond the present single class of stock which is allowed by the statute.

HISTORICAL BACKGROUND

The idea of taxing a small corporation with 10 or less shareholders as a partnership was first recommended by the administration in 1954. The theory was to benefit the small firms with stockholders having modest incomes, because treatment as a partnership would relieve the business of payment of Federal corporate taxes.

In 1956, the concept was endorsed by the Cabinet Committee on Small Business, under the chairmanship of Arthur Burns. The committee's report stated:

> Many small businesses avoid the corporate form of organization despite the advantages of limited liability and continuity of legal existence, because the corporate income tax may prove an added burden. The present proposal would make decisions whether or not to incorporate turn on factors other than taxes. . .

It was envisioned that owners whose individual tax rate was lower than the corporate tax rate (26 percent at that time) would benefit by being taxed directly on the earnings of these businesses.

In early 1958, this idea was drafted into legislative form for inclusion in the "Small Business Tax Adjustment Act of 1958" introduced by Senator Sparkman and 17 other Senate supporters of small business (sec. 6 of S. 3194—85th Congress).

It was subsequently enacted as part of Public Law 85-866 and became subchapter S of the Internal Revenue Code.

Since then, the subchapter S format has become quite popular. By 1964, the first year for which figures are available, there had been 158,000 subchapter S corporations formed. During the last decade, from 1967 to 1976, the number doubled from 200,000 to nearly 400,000, while the overall total of corporations climbed by 37 percent as shown in the following table:

	Subchapter S corporations	Total U.S. corporations
1976	398, 062	2, 104, 798
1975	358, 413	2, 021, 778
1974	333, 099	1, 965, 894
1973	313, 080	1, 904, 670
1972	287, 906	1, 812, 760
1971	262, 068	1, 733, 332
1970	257, 475	1, 665, 477
1969	233, 806	1, 658, 820
1968	217, 184	1, 541, 670
1967	200, 784	1, 534, 360
1964	157, 855	1, 373, 517

MODERNIZATION OF THE STATUTE

In the Tax Reform Act of 1976, Congress accepted a number of Small Business Committee amendments which permitted the number of subchapter S shareholders to increase from 10 to 15 after a period of 5 years and broaden the class of permissible shareholders. The amendments allowed holdings by the husband and the wife to be treated as a single shareholder, permitted certain trusts (such as a voting trusts and grantor trusts) to become shareholders, and provided that no trust established by will would disqualify the corporation if it was only of a temporary nature. These changes to the subchapter S statute relieved some of the most pressing problems.

In the Revenue Act of 1978, Congress acted again to allow 15 shareholders at the creation of the subchapter S corporation, rather than after the 5-year waiting period. We argued at that time that the existing limits were too restrictive, particularly for corporations which had been in existence for many years. With the passage of time, owners may have died and willed their holdings to several children. We also argued that the additional latitude for acquiring shareholders would provide the existing small businesses with fresh sources of capital.

CHARACTERISTICS OF A SUBCHAPTER S FORM

The legal effect of a subchapter S election is that it permits a business which is organized under State statute as a corporation to be treated as a partnership for Federal income tax purposes. One of the consequences is that operating losses from the business can be passed through the corporation to individual shareholders. These losses may be entered on individual tax returns as an offset to other income.

The development of new small businesses may take 5 to 10 years. During this formative period there are major expenses for product development, personnel, marketing. This pattern fits well with the subchapter S form, where the losses can be utilized by investors, and is an attraction for capital formation purposes.

Once a subchapter S corporation begins to make a profit consistently, it often switches to regular corporate status. This allows the corporation to convert its profit to permanent capital by payment of the corporate rate, which Congress reduced over the past 4 years from 22 percent to 17 percent in the lowest $25,000 bracket. The alternative would be to transfer all of the profits out to the shareholder-investors, where they could be subject to a tax of up to 70 percent, while at the same time removing the capital from the corporation.

These characteristics have led to a new evaluation of the possibilities of subchapter S as a potential vehicle for raising capital for independent enterprise.

SMALL BUSINESS CAPITAL FORMATION DIFFICULTIES

It is well known that new and smaller businesses have the greatest difficulty raising capital. In the Nation's money markets, there are over one-half trillion dollars in commercial paper and bonds outstanding, but they are generally sold in minimum lots of $25 million, and are therefore beyond the reach of the fledgling businesses. Likewise the more than one-half trillion dollars in pension funds are almost completely off limits for new and small firms.

Testimony at our hearings has established that public offerings of stock to raise capital generally do not take place until small business has about $10 million of sales and close to $1 million in profits.

This problem of capital formation is most acute at the start-up and early stages of the business.

The experts have established that about 40 percent to 50 percent of all economic growth comes from innovation, and one-half of that innovation comes from just such new and small businesses.

Therefore, subchapter S investments are one of the few sources of capital for enterprises that are getting started so, whatever can be done to interest and attract investors to the prospects of promising ventures will benefit not only the firms and their owners, but the entire economy.

Because of the Subchapter S corporation fits so appropriately into the development cycle of new and small business enterprise, we should in my view encourage its development.

TECHNICAL CONSIDERATIONS

The number of 100 shareholders was chosen for this bill to stimulate discussion of these capital formation possibilities. We are aware of the view of the Securities and Exchange Commission, which has believed for some time that 35 persons should be the maximum number of people in a "limited offering," and that view will be entitled to serious consideration, along with the views of those who would be using the statute.

The provision on additional classes of stock was drafted after consultation with the Joint Tax Committee. Care has been taken in the bill to provide that such additional issues as stock cannot disturb the pattern of income distribution so tax liability will continue to be clearly reflected.

As to costs of this measure, in 1978, the administration proposed an increase to 15 shareholders without a waiting period, and some broadening of the classes of shareholders. The Treasury Department concluded that those proposals would have "no significant revenue effects." This should be the case with this measure. We shall ask the Joint Tax Committee to give us formal revenue estimates.

This bill does not exhaust the possibilities of improving Subchapter S, but it is a substantial step in the right direction. We are pleased that the Joint Tax Committee is devoting some of its efforts to thoroughly reviewing Subchapter S, and we will be glad to cooperate with the Joint Committee, the Ways and Means and Finance Committees in this undertaking, as well as professional organizations such as the American Bar Association and American Institute of Certified Public Accountants, which have expressed an interest.

SUMMARY

The Subchapter S form of doing business has proved to be considerable success. During the past 20 years, the business community, the Internal Revenue Service and the Small Business Administration and the Congress have gained experience with this form of business organization. We now have additional perspectives as to the potential and the problems of this corporate form.

To us in the Senate it appears, because of the pattern of its operations, to be a promising framework for capital formation for new and small enterprises.

Since small businesses need all the assistance they can get in attracting capital, the broadening of the Subchapter S form in the ways suggested by this bill would appear to merit serious consideration at this time.

I envision the possibility of considerable benefits to small business and to the economy at very little or no revenue cost to the Treasury with a bill of this kind.

Mr. President, I hope the proposal can be examined by experts inside and outside of government. We would welcome recommendations for improvement, so that the bill can advance to hearings in 1980, and hopefully be enacted into law in the near future.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2168

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Subchapter S Capital Formation Act of 1979".

SECTION 2. SECTION 1371 AMENDMENTS

Section 1371 of the Internal Revenue Code of 1954 (relating to small business corporation definitions) is amended—

(1) by striking out "15 shareholders" in paragraph (1) of subsection (a) and inserting in lieu thereof "100 shareholders".

(2) by inserting "except as provided in subsection (f)," before "have" in paragraph (4) of subsection (a), and

(3) by adding at the end thereof the following new subsection:

"(f) Additional Class of Stock May Be Issued. A corporation shall not be treated, for the purpose of subsection (a) (4), as having more than one class of stock if the second, or any other additional, class of stock is issued in accordance with regulations prescribed by the Secretary under which the issuance of such stock will not have any effect upon the allocation of income among the shareholders of the corporation".

SEC. 3. The amendment made by section 2 of this Act shall apply with respect to taxable years beginning with or in calendar years beginning after the date of enactment of this Act.●

By Mr. SCHWEIKER:

S. 2169. A bill for the relief of William Kubrick; to the Committee on the Judiciary.

WILLIAM KUBRICK

● Mr. SCHWEIKER. Mr. President, I am introducing today legislation to grant to a Pennsylvania veteran the moneys which a U.S. District Court awarded him because of improper medical treatment by the Veterans' Administration.

In 1968, William Kubrick of Dickson City, Pa., a Korean war veteran, was receiving treatment at the Veterans' Administration hospital in Wilkes-Barre, Pa., for service-connected injuries. During the course of that treatment negligent administration of antibiotics caused him to suffer a hearing loss. In January of 1969 a private physician informed Kubrick that there might be some connection between his antibiotic treatment and his hearing loss. For the next 10 years Mr. Kubrick struggled to gain the compensation due him, only to be denied relief by a Supreme Court ruling based on the technical, and I believe, questionable grounds that he had failed to file suit within the statute of limitations of the Federal Tort Claims Act.

In 1969, Kubrick took the reasonable and proper course of seeking administrative relief from the Veterans' Administration. As one who had benefited from the VA's care in the past, he had no reason to suspect malpractice or to fear unfair handling of his claim. But the VA denied his claims and cited medical evidence that his hearing loss was due to other causes. It was only after Kubrick consulted one of the doctors the VA had cited against his claim in 1971 that the same doctor denied the VA's story and flatly told him malpractice was involved. Realizing for the first time that the VA was attempting to cover up its mistake, Kubrick promptly obtained counsel and filed suit. In 1975, the VA reversed itself and admitted negligence. In subsequent litigation the Federal District Court for the Eastern District of Pennsylvania awarded Kubrick substantial damages and rejected the VA's statute of limitations defense. The third circuit court of appeals affirmed the district court's decision. Nevertheless, the Supreme Court chose to reverse, leaving Kubrick without compensation or further avenue of appeal.

I believe the following considerations justify taking the unusual step of seeking this kind of relief for William Kubrick: First, insofar as there was any delay in filing the claim, the fault lies with the VA rather than Kubrick. Nothing in the record indicates that Kubrick acted unreasonably or without diligence. In fact, it was his diligence which led to the discovery of fabrications by the VA, a discovery which put him on notice that his legal rights had been violated. Once he had such notice, he acted promptly to file suit.

Second, there is no dispute as to the merits of Kubrick's claim. The VA admitted negligence, and the district court ruled in Kubrick's favor. The Supreme Court reversed on technical grounds; it did not question the validity of Kubrick's malpractice claim.

Third, the Supreme Court justified reversal by discussing how Kubrick might have acted otherwise. But the factfinder, the district court, was satisfied that he had acted reasonably and diligently. The Supreme Court did not challenge the sufficiency of the evidence on the record. That evidence was the basis for the district court's ruling. If the Court was not prepared to question the factual evidence on the record, I do not understand why it decided as it did.

In conclusion, I feel that this is one of those cases where equity justifies a different result than the narrow application of a technical or procedural rule. With all due respect to the Court, I believe William Kubrick is entitled to receive compensation for what even the Court recognizes as negligent treatment.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2169

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to William Kubrick, of Dickson City, Pennsylvania—

(a) the sum of $320,536.00 in full settlement of all claims of the said William Kubrick against the United States arising out of permanent personal injuries, pain and suffering, medical expenses, and future loss of earnings sustained by the said William Kubrick as the result of a treatment to his leg which was performed in a negligent manner and without his permission by a physician at a Veterans' Administration hospital; and

(b) the sum of $10,628.26 in full settlement of all claims of the said William Kubrick for costs incurred for legal representation rendered in connection with his claim.

Sec. 2. No part of the amount appropriated by the first section of this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $1,000.●

By Mr. DeCONCINI (for Mr. KENNEDY) (by request):

S. 2170. A bill to establish a Center for Defense Services, and for other purposes; to the Committee on the Judiciary.

CENTER FOR DEFENSE SERVICES ACT

Mr. DeCONCINI. Mr. President, for the Senator from Massachusetts (Mr. KENNEDY), I introduce a bill to establish a Center for Defense Services, and for other purposes.

Mr. President, I ask unanimous consent that a statement by Senator KENNEDY and the text of the bill be printed in the Record.

There being no objection, the statement and bill were ordered to be printed in the Record, as follows:

STATEMENT BY SENATOR KENNEDY

Today I am introducing legislation—at the request of the American Bar Association—to deal with a major problem confronting our nation's courts: the inadequate legal representation available to many indigent defendants in criminal proceedings.

The Sixth Amendment of the Constitution provides that, "In all criminal prosecutions, the accused shall enjoy the right to . . . have the Assistance of Counsel for his defense."

In 1932, the Supreme Court in *Powell* v. *Alabama,* 287 U.S. 45 (1932), first recognized the constitutional right of an accused, not financially capable of retaining counsel, to have counsel appointed by the court. In 1963, in *Gideon* v. *Wainwright,* 372 U.S. 335 (1963), the Supreme Court held that the states were required to provide counsel for indigent defendants in all serious felony cases. Justice Black, in writing for the Court, stated:

"In our adversary system of criminal justice, any person haled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him."

Again, in 1972, in *Argersinger* v. *Hamlin,* 407 U.S. 25 (1972) the Court extended this reasoning, holding that indigent defendants are entitled, under the Sixth Amendment, to court-appointed counsel in all cases where imprisonment may result.

Despite these decisions and the efforts of many groups and individuals to work toward the goal of assuring equal justice, our adversary system of criminal justice does not function effectively for the majority of poor defendants. It is estimated that 70 million citizens do not have a sufficient income to retain their own attorney should they be accused of crime. National statistics further reveal that the majority of persons who pass through our criminal courts each year require the appointment of counsel. In many metropolitan areas, 80 to 90 percent of those accused are financially unable to employ counsel. The quality of justice in the bulk of the cases processed by our criminal justice system is therefore dependent upon the adequacy of publicly provided defense services.

The primary responsibility for providing defense services has traditionally fallen upon local governments. However, local governments frequently are the least capable to provide for adequate provision of counsel. Many state and local governments simply lack the resources. Too often lack of political or community support has resulted in only token funding of public defender programs. Whatever the causes, state and local governments cannot solve the problem alone.

In an effort to alleviate the failure to make the right to counsel meaningful, I am introducing legislation proposed by the American Bar Association to create a Center for Defense Services. The Center would implement a coordinated and comprehensive program designed to strengthen public defense representation in the criminal justice system and eliminate the gross inadequacies of present systems in providing constitutionally required services.

The Center would be organized as a not-for-profit corporation, analogous to the Corporation for Public Broadcasting. It would be governed by a Board of Governors appointed by the President, with the advice and consent of the Senate and would receive funds directly from Congress.

Funds would be administered by the Center through a matching grant-in-aid system to state and local governments for the specific purpose of providing and strengthening effective defense services. A major feature of the program would involve incentives to local governments to improve and augment their current efforts in the area of defense representation through public defender or assigned private counsel programs.

This Center could have a far-reaching impact in eliminating excessive public defender caseloads, providing adequate training and support services for both public defenders and assigned counsel, and ensuring that quality defense services are available in all cases where such counsel is constitutionally required.

In addition the the American Bar Association, this legislation has received the endorsement of the Leadership Conference on Civil Rights, the National Legal Aid and Defenders Association, and the National Clients Council.

S. 2170

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Center for Defense Services Act".

FINDINGS AND PURPOSES

Sec. 2. (a) The Congress finds that—

(1) the Constitution of the United States requires the effective assistance of counsel for individuals financially unable to afford counsel in any State court proceeding which seeks to deprive an individual of liberty;

(2) significant disparities exist in the quality and effectiveness of defense services for individuals financially unable to afford counsel in State courts throughout the United States;

(3) these disparities can result in depriving individuals of their constitutionally guaranteed right to effective assistance of counsel; and

(4) Federal financial assistance is desirable to assure the provisions of adequate defense services throughout the United States.

(b) It is therefore the declared policy of the Congress to aid State and local efforts to promote the fair administration of criminal justice in State court proceedings and the uniform provision of effective, independent, and high quality defense services to individuals financially unable to afford counsel.

DEFINITIONS

Sec. 3. As used in this Act, the term—

(1) "Center" means the Center for Defense Services;

(2) "Board" means the Board of Directors of the Center;

(3) "program" means any corporation, entity, or other organization whether public or private, which provides or seeks to provide defense services or assists or seeks to assist in the provision of such services;

(4) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States;

(5) "defense services" means any legal, investigative, expert, dispositional, or other services or assistance necessary to effective representation of any individual accused of a criminal offense or necessary to secure or protect the rights of individuals who are eligible clients, and includes legal assistance to any eligible client who is incarcerated;

(6) "eligible client" means any individual who is financially unable to afford defense services—

(A) who is subject to a process which may result in the loss or continued deprivation of liberty or the imposition of a legal disability of a criminal or punitive nature, or

(B) who is incarcerated; and

(7) "nationally recognized standards" means standards approved by the Center or the Board as acceptable guidelines for the provision of defense services.

ESTABLISHMENT OF CENTER

SEC. 4. (a) There is established in the District of Columbia a private non-membership non-profit corporation, which shall be known as the Center for Defense Services.

(b) The Center shall maintain its principal office in the District of Columbia and shall maintain therein a designated agent to accept service of process for the Center. Notice to or service upon the agent shall be deemed notice to or service upon the Center.

(c) The Center, and any program which receives support from the Center, shall be eligible to be treated as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954, which is exempt from taxation under section 501(a) of such Code. If such treatment is conferred in accordance with those sections, the Center and all programs receiving support from the Center shall be subject to all provisions of the Internal Revenue Code of 1954 relevant to the conduct of organizations exempt from taxation.

(d) Except as otherwise specifically provided in this Act, the Corporation shall not be considered a department, agency, or instrumentality of the Federal Government.

GOVERNING BODY

SEC. 5. (a) The Center shall have a Board of Directors consisting of seventeen voting members to be appointed by the President within six months from the date of enactment of this Act, by and with the advice and consent of the Senate, of whom no more than nine shall be of the same political party. A majority shall be members of the bar of the highest court of any State, and at least five members of the Board shall have had substantial experience in providing organized defender services. At least five shall be individuals other than lawyers, of whom at least two shall be individuals financially unable to afford defense services. The Board members shall be individuals committed to the principle of providing defense services free from unwarranted judicial or political influence and to the findings and purposes set forth in section 2 of this Act.

(b) The term of office of each member of the Board shall be three years, except that six of the members first appointed shall be designated by the President at the time of appointment to serve a term of two years, and five of the members first appointed shall be designated by the President at the time of appointment to serve until the successor to such member has been appointed and confirmed. The term of each of the members first appointed shall be computed from the date of the first meeting of the Board. The term of each member subsequently appointed shall be computed from the date of termination of the preceding term. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term.

(c) Members of the Board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

(d) Each member of the Board shall be entitled to one vote. A simple majority of the membership shall constitute a quorum for the conduct of business. The Board shall act upon the concurrence of a simple majority of the membership present and voting.

(e) The members of the Board shall not, by reason of such membership, be deemed officers or employees of the United States.

(f) The President shall select from among the voting members of the Board a chairperson, who shall serve for a one-year term. Thereafter, the Board shall annually elect a chairperson from among its voting members.

(g) A member of the Board may be removed by a vote of ten members for persistent neglect of, or inability to discharge, duties, or for offenses involving moral turpitude, and for no other cause.

(h) No member of the Board may participate in any decision, action, or recommendation with respect to any matter which directly benefits such member or pertains specifically to any firm or organization with which such member has been associated during the period that he or she has been a member of the Board or within a period of two years prior to his or her appointment to the Board.

(i) All meetings of the Board and of any executive committee of the Board shall be open to the public and shall be subject to the requirements and provisions of section 552b of title 5, United States Code (relating to open meetings).

(j) The Board shall meet at least four times during each calendar year.

OFFICERS AND EMPLOYEES

SEC. 6. (a) (1) The Board shall appoint as executive director of the Center an attorney who has had substantial experience in a defense services program. The executive director shall be a non-voting ex officio member of the Board. The executive director of the Center may not receive any salary or other compensation for services from any source other than the Center during his or her period of employment by the Center, except as authorized by the Board. The executive director shall serve for a term of five years and may be reappointed. He or she may be removed only for good cause by a majority vote of the Board.

(2) The Board may appoint such other officers as the Board determines to be necessary. The officers shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Officers and employees of the Center shall be compensated at rates determined by the Board, but not in excess of the rate of level III of the Executive Schedule specified in section 5316 of title 5, United States Code.

(b) The executive director of the Center, subject to general policies established by the Board, may appoint and remove such employees of the Center as he or she determines necessary to carry out the purposes of the Center.

(c) No political test or political qualification shall be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, agent, or employee of the Center, or in selecting or monitoring any program receiving financial assistance under the Act.

POWERS

SEC. 7. (a) The Center shall have all necessary power and authority—

(1) to make grants and contracts to programs for the purpose of providing defense services to eligible clients which substantially comply with nationally recognized standards to eligible clients under this Act;

(2) to provide directly, or to make grants or contracts for, research, or other technical assistance, and to make grants or contracts for training and model demonstration projects in furtherance of the purposes of this Act;

(3) to provide directly, or to make grants or contracts, for the review, monitoring, and evaluation of the provision of defense services, whether or not furnished by a recipient of funds from the Center; and

(4) to make such other grants or contracts or take such other action as may be necessary to carry out the purposes and provisions of this Act.

(b) The Center is authorized to accept in the name of the Center, and employ or dispose of in furtherance of the purposes of this Act, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise.

(c) In furtherance of and to the extent consistent with provisions of this Act, the Center may exercise the powers conferred upon a non-profit corporation by the District of Columbia Non-Profit Corporation Act (other than section 1005(o) of title 29 of the District of Columbia Code).

(d) The Center shall promulgate rules, regulations, and guidelines to carry out the provisions and purposes of this Act. Those regulations shall include provision for substantial participation and advice from eligible clients in the decision-making process of defense services programs receiving assistance under this Act. Notice and reasonable opportunity for comment shall be given to interested parties prior to issuing such rules, regulations, and guidelines, and all such rules, regulations, guidelines and instructions shall be published in the Federal Register at least 30 days prior to their effective date.

GRANTS AND CONTRACTS

SEC. 8. (a) With respect to grants or contracts in connection with the provision of defense services to eligible clients under this Act, the Center—

(1) shall seek to encourage State and local governments to maintain and increase their level of funding for defense services which substantially comply with nationally recognized standards pertaining to the provision of defense services;

(2) may require matching funds of a recipient of a grant or contract under this Act;

(3) shall seek to improve the quality of defense services provided to eligible persons, insure the integrity of the attorney-client relationship, and protect the adversary process;

(4) shall insure that every program receiving financial assistance under this Act or predecessor authority under this Act which files with the Center a timely application for refunding is provided interim funding necessary to maintain its current level of activities until (A) the application for refunding has been approved and funds pursuant thereto received, or (B) the application for refunding has been finally denied in accordance with section 10 of this Act; and

(5) shall require recipients of grants and contracts under this Act to keep records with respect to funds so provided and shall reserve the right of access to such records at all reasonable times for the purpose of insuring compliance with the grant or the terms and conditions upon which financial assistance was provided.

(b) Copies of all reports pertinent to the evaluation, inspection, or monitoring of any program shall be maintained in the principal office of the Center for a period of at least five years subsequent to such evaluation, inspection, or monitoring. Such reports shall be available for public inspection during regular business hours, and copies shall be furnished, upon request, to interested parties upon payment of such reasonable fee as the Center may establish. Nothing in this section shall be interpreted to permit any violation of client confidentiality or any other interference with the attorney-client relationship which is inconsistent with the Code of Professional Responsibility and opinions thereunder.

AUDITS

SEC. 9. (a) (1) The accounts of the Center shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of the jurisdiction in which the audit is undertaken.

(2) The audits shall be conducted at the place or places where the accounts of the Center are normally kept. All books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Center and necessary to facilitate the audits shall be made available to the person or persons conducting the audits. The full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to any such person.

(3) The report of the annual audit shall be filed with the General Accounting Office and shall be available for public inspection during business hours at the principal office of the Center.

(b) (1) In addition to the annual audit, the financial transactions of the Center for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States.

(2) Any such audit shall be conducted at the place or places where accounts of the Center are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files and other papers or property belonging to or in use by the Center and necessary to facilitate the audit. The full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to such representatives. All such books, accounts, financial records, reports, files, and other papers, or property of the Center shall remain in the possession and custody of the Center throughout the period beginning on the date such possession or custody commences and ending three years after such date, but the General Accounting Office may require the retention of such books, accounts, financial records, reports, files, papers, or property for a longer period under section 117 (b) of the Accounting and Auditing Act of 1950 (31 U.S.C. 67(b)).

(3) A report of such audit shall be made by the Comptroller General to the Congress and to the Attorney General, together with such recommendations with respect thereto as he shall deem advisable.

(c) (1) The Center shall conduct, or require each grantee, contractor, person, or entity receiving financial assistance under this Act to provide for, an annual fiscal audit. The report of each such audit shall be maintained for a period of at least five years at the principal office of the Center.

(2) The Center shall submit to the Comptroller General of the United States copies of such reports, and the Comptroller General may, in addition, inspect the books, accounts, financial records, files, and other papers or property belonging to or in use by such grantee, contractor, person, or entity, which relate to the disposition or use of funds received from the Center. Such audit reports shall be available for public inspection during regular business hours, at the principal office of the Center.

(d) No audit conducted pursuant to this section shall be conducted in a manner which violates the confidentiality of information privileged under the attorney-client privilege.

TERMINATION AND SUSPENSION

SEC. 10. (a) The Center shall promulgate and publish procedures to ensure that—

(1) financial assistance under this Act shall not be suspended unless the recipient program has been given reasonable notice and opportunity to show cause why such action should not be taken; and

(2) financial assistance under this Act shall not be terminated, an application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than thirty days, unless the recipient program has been afforded reasonable notice and opportunity for a timely, full, and fair hearing before an impartial hearing officer.

(b) The Board shall establish procedures for appeal and review of the hearing officer's decision. Financial assistance to the recipient shall continue until the Board has rendered a final decision on the appeal.

AUTHORIZATION

SEC. 11. (a) There are authorized to be appropriated for the purpose of carrying out the activities of the Center such sums as may be necessary for fiscal year 1981 and each of the two succeeding fiscal years. The first appropriation may be made available to the Center at any time after nine or more members of the Board have been appointed and qualified.

(b) Funds appropriated pursuant to this section shall remain available until expended.

By Mr. NELSON:

S. 2171. A bill to amend the Internal Revenue Code of 1954 to provide that an early W–2 must be furnished to a terminated employee before January 31 only upon the receipt of a written request, and for other purposes; to the Committee on Finance.

ELIMINATING DUPLICATIVE W–2 TAX FORM COULD SAVE $300 MILLION A YEAR AND ELIMINATE MASSIVE PAPERWORK

● Mr. NELSON. Mr. President, I am introducing today a bill which would eliminate the duplicate issuance of the W–2 wage reporting form when workers change jobs during the year.

I ask unanimous consent that the bill be printed in the RECORD following my remarks.

WHAT THE BILL WOULD DO

The present law requires that whenever a worker leaves a job during the year, a W–2 wage report must be issued to him. This bill proposes that the requirement of the interim W–2 be eliminated. The W–2's would all be issued once, at the end of the year for all employees. Those having special needs to obtain the form early could do so by requesting it.

Care would be taken to protect the interest of low-income wage earners who may have more taxes withheld than will ultimately be due. This proposal would require that workers terminated during the year receive a letter from their employers putting them on notice that: First, the Internal Revenue Service is holding some of their earnings in the form of taxes withheld; second, they may be entitled to a refund; and third, when they file during the next calendar year, W–2 forms reporting these earnings must accompany the tax return. The notice would further point out that the W–2's will be sent at the end of the year to the employee's last known address. It would then suggest that if the employee moves, the address change be sent to the employer so that the W–2 can be directed to the current address with a minimum of delay.

The Federal Government would be fully protected by this bill, because part of every paycheck is withheld and deposited with the Treasury Department. At the end of the year, the Internal Revenue Service will receive W–2's which give the identity of the taxpayer (in case more tax might be due) and the amount that the Treasury is already holding (in case of a possible refund). We have consulted with IRS officials on these matters and are informed that these provisions would satisfy their major concerns.

WHY THE DUPLICATE W–2 FORM SHOULD BE ELIMINATED

The Small Business Committee has studied this matter during 1979, and we have concluded there is an excellent case for eliminating the duplicate issuance of this form.

Accounting groups came to the committee about a year ago and complained that the law is impracticable. They contended that a great proportion of all the mid-year W–2 forms are lost, and must be reissued at the end of the year. On looking into this problem, we found we were dealing with large numbers. The Department of Labor informed us that there are about 65 million job changes a year.

We encouraged the National Society of Public Accountants to do a survey to find the facts. The Society asked two of its members in each of the 50 States to report on W–2 practices and costs for 15 of their typical clients.

The results of this study, which are being announced here for the first time are as follows:

STUDY RESULTS

About 41 percent of those responding to the survey said they did not issue any interim W–2 because of the burdens, even though there is a $50 penalty per employee for non-compliance;

The 59 percent compliance rate indicates that about 38,300,000 interim W–2's are issued every year;

Of this 39 million forms, the tabulations show that 66 percent are lost and must be re-issued again at the end of the year. This means approximately 25,311,000 duplicate W–2's are issued annually;

The cost of re-issuing these forms averages about $12 each, including the staff time involved, mailing costs, and other overhead—putting the total for the 25 million reissues just over $300 million a year;

Only a fraction of these costs are actually billed to the small businesses involved. The reason for this in the opinion of the accountants that many small firms cannot afford it.

So, it appears that tax practitioners have questions about the practicality of this system, because about 40 percent of the survey respondents declined to issue any interim W–2's, even though there is a penalty involved for noncompliance with the statute. However, it should be noted that the Internal Revenue Service itself has set aside the requirement for 1979, and for previous years. This became necessary because the W-2 forms were not printed until several months into the year during which they were supposed to be issued.

In my view, all of these factors argue for a simple system where the W-2's are issued at one time at the end of the year.

ELIMINATING QUARTERLY 941 FORMS SEEMS TO HAVE WORKED WELL

Several years ago, the committee made a proposal for consolidating the IRS 941 employee form from a quarterly to an annual report. After a great deal of discussion, Congress enacted this legislation, effective in 1978. By doing so, we eliminated a stack of paper 10,000 feet high, or over 2 miles high, coming into Washington each year. If Government agencies have had any problems with the annual report we have not heard about it.

The story of the form 941 illustrates just how massive these paperwork requirements become when millions of businesses are involved. It also shows how much paperwork can be eliminated in ways that will help everyone and hurt nobody.

In my opinion as much as 50 to 75 percent of all governmental paperwork could be eliminated if the Government officials would devote as much time in the future to eliminating reports as they have in the past to creating them. Redirecting our Government officials toward this objective has been a major part of the Small Business Committee's work over the past 5 years.

To give these efforts a specific goal, I have introduced a bill to have Federal agencies cut paperwork by 25 percent, or explain to Congress why this cannot be done (S. 259). If the agencies say it cannot be done, we would take their reports and give them to experts in the public and private sectors to see whether there might be better methods the agencies have not considered.

POTENTIAL PAPERWORK REDUCTIONS FROM ELIMINATING DUPLICATE W-2'S

With this background in mind, let us total the figures on the excess W-2 forms. The W-2 this year consists of an original and five copies for each employee.

If we just added up the space that would be occupied by filing three copies of the lost W-2 forms, for example, one filed by the employer, the second by the State government, and the third by the Federal Government, we would find they would completely fill 257 five-drawer legal filing cabinets. If those 1½ foot-wide file cabinets were set side by side, they would form a line from one end of a football field to the other, including both end zones.

These figures are conservative, because we have not taken into consideration the other three copies of the 25 million excess W-2's which are sent to each employee. We are assuming these have been lost, so the reissued W-2 forms will actually accompany the tax returns. So, this tabulation does not count half of the paper that is issued during midyear.

An additional problem with the W-2 is that there are three sets of W-2's on one master form, and they cannot be detached from one another. So, if two W-2's are completed perfectly and a mistake is made on the third one, the whole master form must be thrown away and started again from the beginning. An even greater paperwork factor in this system is that there are probably at least a million firms with less than three employees. But, these businesses must send in a sheet of three W-2's whether there are three employees or not. We intend to look further into these problems. But, we are not counting these extras either at this point.

All of this extra paperwork imposes a drain on the time and productive energies of business community—on recordkeepers, managers, and accountants. And, as we know, it is the smaller businesses who can least afford these paperwork costs and suffer the most from them.

These estimates are based only on the people who have complied with the law. If everyone complied, these totals would be much larger.

The fact that the Internal Revenue Service has set aside the requirement for the past couple of years is commendable under the circumstances. But, it is still on the statute books. IRS could insist upon the compliance in any future year. However, in my view, there is ample evidence that the law is bad and ought to be repealed.

The original and 5 copies of the 25 million duplicate W-2 forms which are issued unnecessarily every year generate 151,000,000 extra sheets of paper which are floating around out there. Employers must pay to prepare and file them; governments must incur expenses to process them. I believe we can do the job better without them. On these facts, I can see no reason on Earth that we should not eliminate this paperwork blizzard immediately and put the $300 million in cost savings to more productive uses.

REDUCING PAPERWORK IS NOT IMPOSSIBLE

Mr. President, it is widely believed that reducing Government paperwork is "an impossible dream." Several of the actions that the Small Business Committee has taken over the past 5 years show—with the application of a great deal of effort and patience—that forms can be eliminated or drastically reduced resulting in massive savings in costs and unnecessary paperwork burdens.

Some of these successes are as follows:

LIST OF SUCCESSES

A Small Business Committee investigation resulted in the Federal Paperwork Commission which conducted a two-year study and issued 520 recommendations for paperwork reduction. By the end of 1978, 151 had been acted upon and 400 federal reports have been eliminated.

Another committee bill consolidated into a single annual filing the "941 employment form" on which each of the nation's 4½ million employers formerly listed the name of every employee quarterly. Beginning in 1978, this eliminates a stack of paperwork more than 2 miles high annually.

The committee convinced the Labor Department to drastically reduce the new ERISA pension form (EBS-1) from 16 to 5½ pages. Eliminating 10½ pages for the nation's 710,000 retirement plans subtracted 7½ million pages of paperwork, yearly from the total required of businesses.

In 1977, the Treasury Department accepted the Committee Chairman's suggestion to eliminate the two reports on revenue sharing, because detailed information was already being collected by the Census Bureau. This eliminated two reports a year for all 39,000 of the nation's governmental units.

A small business amendment to the 1977 Minimum Wage bill reduced 12 pages of applications and instructions on hiring part-time students to a single postcard. This resulted in a six fold increase (to 5,810) in the number of businesses newly willing to apply.

A recent amendment to the 1980 Housing Act exempts a half million homebuilders and realtors and approximately 7,000 housing subdivisions yearly from filing extensive documents with the federal government pursuant to 60 pages of regulations, provided all the lots are sold to buyers within the same state.

SUMMARY

These examples show that their paperwork can be reduced dramatically.

I submit that prompt enactment of this bill will be a good next step in our continuing effort to "cut the paperwork burden down to size."

EXHIBIT 1

S. 2171

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 6051 of the Internal Revenue Code of 1954 (relating to receipts for employees) is amended—

(1) by striking out "on the day on which the last payment of remuneration is made" and inserting in lieu thereof "within 30 days after receipt of a written request from the employee if earlier"; and

(2) by adding at the end thereof the following new sentence: "In the case of an employee whose employment is terminated before the close of a calendar year, the employer shall furnish the employee, on the day on which the last payment is made, a general written notice stating that (A) the employee may request in writing that such information be provided within 30 days of such request if earlier than January 31, (B) an amount of Federal taxes has been withheld, and (C) if the employee is entitled to a refund, he must file a Federal income tax return based on information which, unless a request is made by the employee, will be sent to the employee at his last known address before January 31 of the next calendar year.".

SEC. 2. The amendments made by this Act shall take effect 30 days after the date of enactment of this Act.●

By Mr. INOUYE:

S. 2176. A bill to amend titles XVIII and XIX of the Social Security Act to provide for the coverage of clinical social work services under the supplementary medical insurance benefits program and the medicaid program; to the Committee on Finance.

● Mr. INOUYE. Mr. President, today I am pleased to introduce a bill to amend the Social Security Act to include clinical social workers as independent providers of mental health care to medicare and medicaid patients. This amendment is necessary for several reasons.

The present medicare laws reflect an outdated, restrictive view of health which focuses on physical impairments. Our progressive understanding of health in recent years has increased our awareness that physical health and mental health are inextricably intertwined. Related to this new knowledge the President's Commission on Mental Health requested the Department of Health, Education, and Welfare to undertake a study of mental health costs. This study, completed June 12, 1979, recommends equal coverage for mental and medical health care services. Other recent studies have shown that nearly 60 percent of the patients presently going to physicians' offices for physical complaints in fact have emotional and psychological problems which either have caused or aggravated the physical condition. We can no longer afford ignorantly to separate the emotional from the physical state of health.

I am particularly concerned about the plight of our Nation's elderly who are dependent on the medicare/medicaid reimbursement policies. All too often we brush aside the elderly as untreatably senile, when we know that at least 30 percent of those labelled as senile can be helped. I find it shocking that in our Nation the elderly constitute one-third of all residents of health-care facilities and commit one-fourth of the Nation's suicides. Although the elderly comprise 10 percent of the population, senior citizens receive only 2 percent of the total out-patient services. Three million noninstitutionalized elderly suffer from moderate to severe emotional or mental disorders, a proportion far greater than that of other groups in the Nation.

We must also consider the alarming and unprecedented rate of increase in the cost of our health care system. Since 1950 the cost for health services to the average American has increased by 465 percent, a figure more than twice the increase in the average wage earner's income. It is estimated that health care costs will reach $233 billion in 1980. It is this concern that makes it imperative that we scrutinize existing practices which affect the cost as well as the adequacy of our Nation's health care system.

The cost-effectiveness of expanded mental health treatment has been increasingly recognized in recent years. A recent study funded by the National Institute of Mental Health concluded that "the utilization of mental health services has resulted in decreased utilization and cost of physical health services." Similarly, in a separate research study, the Alcohol, Drug Abuse, and Mental Health Administration concluded that "Overall, the mental health studies strongly suggested that medical care utilization was reduced following outpatient psychotherapy in organized health care settings. * * *" Further, NIMH, Psychotherapy News, and the National Council on Community Mental Health Centers have clearly indicated that among the mental health providers the salaries and fees of most social workers are substantially less than those charged by physicians. And yet, in spite of these findings, the current medicare/medicaid reimbursement structure restricts the availability of effective mental health services to the elderly and the poor by reimbursing only the medical doctors—the most costly and least available of mental health providers.

The link between medical doctors and medicare and medicaid reimbursement policies is a disturbing factor in view of the maldistribution of doctors in areas where there are large numbers of medicare and medicaid patients. Those physicians who are trained mental health clinicians—psychiatrists—are highly clustered in urban metropolitan areas and are generally unavailable to the elderly and the poor. The poor and the aged are concentrated in the ghettos and rural areas where clinical social workers are willing and are trained to work.

The President's Commission on Mental Health recently criticized the medicare laws for providing reimbursements only to physicians when there are nonphysician professionals who are equally well qualified to provide mental health services: "Payment for services rendered by qualified providers, regardless of discipline, with multidisciplinary review of quality of service, would do much to solve utilization problems." According to a 1977 HEW survey, clinical social workers are the dominant providers of care in the mental health facilities around the Nation. A 1978 National Institute of Mental Health report on community health centers states that these professionals provide more than 42 percent of the mental health treatment in community mental health centers. They also comprise more than 31 percent of the executive directors of community mental health centers. Yet, clinical social workers are not reimbursable providers under the present medicare/medicaid policies.

For a long time now we have known that we must "strengthen resources for community based services, and create a new class of intermediate care facilities within the medicaid program, linked with mental health services," and that "no single form of treatment can meet the needs of all patients * * *" (President's Commission on Mental Health). By bits and pieces we have trained nonphysician health professionals to meet the needs of our communities for health systems that "include a variety of programs and facilities, staffed by appropriately trained personnel, with community based services as the keystone."—(President's Commission). Numerous studies of psychotherapy, the primary method used in the treatment of many mental illnesses, clearly indicate that the professional discipline of the clinician is not a determining factor in the outcome of the treatment. Also, the President's Commission recognized the need for quality assurance and recommended that "Professional Standards Review Organizations" make provision for multidisciplinary peer review of mental health care.

We must consider this investment that we have made in training nonmedical mental health clinicians. Clinical social workers are trained to provide psychiatric treatment and are certified to be competent by their professional associations after a minimum of 2 years of post graduate supervised clinical experience. Therefore, it makes no sense from a financial, clinical or programmatic point of view to deny reimbursement to clinical social workers, to clinical psychologists and psychiatric nurses, all of whom have for some time been sufficiently trained and credentialed by their respective professions to provide mental health services, while permitting reimbursement to medical doctors, many of whom themselves readily acknowledge the fact that they are not trained to treat the mentally ill.

Freedom of choice of the patient to select a mental health care professional of his or her choosing is an important consideration in the success of mental health treatment. Because of societal stigmatization, many people are cautious of accepting help. The large number of patients expressing the preference for mental health services by clinical social workers indicate the less stigmatizing effect of receiving treatment from these professionals. The problem is aggravated when the insurance reimbursement mechanism raises an additional obstacle to entry into the treatment system by denying a patient the right to seek treatment from the provider he or she chooses. This lack of choice regrettably deters many Americans from seeking mental health care until mental illness exacerbates a physical condition. Both suffering and cost are thereby compounded.

In recognition of the social workers' competency, less costly service, and the patients' right to choice of treatment, six States and many major health care insurers currently recognize clinical social workers are reimbursable mental health care providers. CHAMPUS and the Federal Employees Health Benefits Act program also recognize clinical social workers as reimbursable provider.

Accordingly, I feel that it is time that clinical social workers are reimbursable providers in our medicare/medicaid system. My bill which is supported by the National Federation of Societies for Clincial Social Work and the National Association of Social Workers, representing more than 30,000 professionals, will amend the medicare/medicaid system to ease the shortage of mental health personnel and to promote the use of mental health services by those who need them most.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2176

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first sentence of section 1861(r) of the Social Security Act is amended by inserting, immediately before the period at the end thereof, the following: ", or (6) except for the purposes of section 1814(a), section 1835, and subsections (j), (k), (m), and (o) of this section, a clinical social worker".

(b) Section 1861(r) of such Act is further amended by adding at the end thereof the following new sentence: "For the purposes of clause (6) of the first sentence of this subsection, the term 'clinical social worker' means an individual who (i) possesses a master's or doctor's degree in social work, (ii) (after obtaining such degree) has performed at least two years of supervised clinical social work, (iii) is licensed as such in the State in which such worker performs such function (or if such State does not license clinical social workers as such, is legally authorized to perform the services of a clinical social worker in the jurisdiction in which he or she performs them), and (iv) agrees to meet (and actually complies with the agreement to meet) such requirements, with respect to enrollment in appropriate programs of continuing professional education, as may be prescribed by the Secretary, after consultation with nationally recognized clinical social workers' organizations.".

Sec. 2. (a) Section 1905(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (16),

(2) by redesignating paragraph (17) as paragraph (18), and

(3) by inserting immediately after paragraph (16) the following new paragraph:

"(17) services of clinical social workers (as defined in the third sentence of section 1861(r)); and".

(b) Section 1902(a)(13)(C)(ii) of such Act is amended by striking out "numbered (1) through (16)" and inserting in lieu thereof "numbered (1) through (17)".

Sec. 3. The amendments made by this Act shall apply to services performed on and after the first day of the first calendar month which begins more than sixty days after the date of the enactment of this Act.●

By Mr. WILLIAMS (for himself and Mr. Cranston) (by request):

S. 2177. A bill to amend the mortgage amount, sales price and interest rate limitations under the Government National Mortgage Association emergency home purchase assistance authority, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

EMERGENCY HOME PURCHASE ASSISTANCE AUTHORITY AMENDMENTS OF 1979

● Mr. WILLIAMS. Mr. President, today I am introducing legislation to revise and update our basic countercyclical housing program, the Emergency Home Purchase Assistance Act, commonly known as the Brooke-Cranston program. This legislation is necessary to enable the Federal Government to respond to a potentially serious downturn in the housing market.

The most recent housing indicators reveal that housing is beginning to suffer from the policies of tight money and high interest rates. In November, overall housing starts dropped by 14 percent compared to October and 28 percent compared to the number started a year ago. Building permits across the country declined by 18 percent from October's level, a clear indication of trouble ahead. Many economists are predicting that by the second quarter of 1980 the housing industry could be experiencing its severest hardship since the 1974–75 recession. Should these predictions be accurate, the Federal Government must be in a position to prevent the housing industry from shouldering a disproportionate burden as a result of today's monetary policies. The legislation I am introducing today, which was submitted by the administration, would allow Brooke-Cranston to operate more successfully under the kind of economic conditions prevalent today. I am pleased to be joined in offering this measure by my distinguished colleague on the Banking Committee and one of the authors of the original program, the senior Senator from California (Mr. Cranston).

The Brooke-Cranston program was originally enacted in 1974, and is designed to make below market-rate mortgage money available as a spur to housing production upon a finding of the Secretary of HUD that economic conditions warrant the activation of the program. Under the program, a lender may issue mortgages at favorable interest rates for single or multifamily units. Mortgages may be conventional or federally insured, and a portion of the mortgages may be on existing homes. The lender receives a commitment from the Government National Mortgage Association (GNMA) to purchase the mortgages at some future date. GNMA may sell or hold onto the mortgages it purchases. Those it sells are sold at less than face value, allowing the investor to realize a higher yield on the investment. The difference between the price at which GNMA purchases a mortgage and the price at which it sells a mortgage is absorbed by GNMA as a subsidy. The aggregate of any such subsidies constitutes the program's actual cost.

When the program was last used during the 1974–75 recession, the Brooke-Cranston program was able to accomplish the goal of intervening quickly to boost housing production and to support the industry in general at a relatively low cost to the Government. During 1975 and 1976, GNMA purchased $6.4 billion in low-interest mortgages at an ultimate cost of $412 million. Over 190,000 single-family mortgages were assisted at a per unit Federal cost of $2,200 for each mortgage that GNMA actually sold. Of course, any cost to the Government is reduced by the tax revenues generated from the new economic activity that could be expected to occur due to the program. As many as 70,000 jobs in housing construction and related fields were created by the activation of the Brooke-Cranston program 5 years ago.

Currently, unused and recaptured authority for the Brooke-Cranston program totals $15 billion. Assuming that $9 billion in recaptured authority were to be used to purchase mortgages, the program could generate 180.000 single-family mortgages within six quarters after the release of the money. If mortgages were loaned at 10 percent, homebuyers purchasing median-priced new homes would pay about $445 a month for mortgages, taxes, and insurance, compared to about $660 a month at current interest rates.

The legislation introduced today would revise outdated mortgage limits, sales price ceilings, and restrictions on the use of the program for existing homes. It would also improve the flexibility of the Secretary to set interest rates on loans assisted by the program.

Mortgage limits for single and multifamily units would be raised to the applicable FHA ceiling, with an add-on of 10 percent in high cost areas, as defined by the HUD Secretary. For example, the maximum mortgage amount for a typical single family dwelling would be $67,500 in most parts of the country, and $74,250 in high cost areas. These increases are necessary to reflect increases in housing costs since the program was last used. Tying limits to the FHA rate, rather than setting specific dollar limits as under current law, allows the flexibility necessary for standby authority.

Sales price limitations for single family housing would be established at 105 percent of the FHA section 203(b) mortgage limits, with an additional 10-percent increase in high cost areas. Under the new FHA mortgage limits, this would allow a maximum sales price of $70,875 in most areas, and almost $78,000 in high cost areas.

The current interest rate provisions would also be modified. Under the existing law, the interest rate may be 7½ percent or the FHA rate, whichever is lower. The legislation would permit the Secretary to set the rate at no higher than the FHA rate. This provision confers wide discretionary authority on the Secretary, and should be carefully examined. Today's FHA rates of 11 percent for multifamily structures, and 11½ percent for single family dwellings, in my view, appear too high to provide sufficient stimulus, especially for the multifamily sector, should the program be activated.

Lastly, the legislation updates the current provision allowing the program to be used for existing housing units constructed more than 1 year prior to the enactment of the Brooke-Cranston program, October 18, 1974. This limits the use of Brooke-Cranston assistance for existing homes to those at least 6 years old. The proposed revision simply would provide that housing built at least 1 year prior to the issuance of the GNMA purchase commitment would be eligible. Extension of assistance to existing homes is necessary because many prospective homebuyers already own a home and must find a market for it in order to purchase another one.

Mr. President, this legislation is a very positive proposal. I believe it can form the basis for a workable standby countercyclical housing program. Soon after the next session of Congress convenes I intend to schedule hearings on this legislation as part of an overall discussion of the problems facing the housing industry and the need for activation of the Brooke-Cranston program.

Mr. President, I ask unanimous consent that the letter transmitting the proposal, along with the text of the legislation be printed at this point in the Record.

There being no objection, the bill and the letter were ordered to be printed in the Record, as follows:

S. 2177

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Home Purchase Assistance Authority Amendments of 1979".

Sec. 2. Section 313 of the National Housing Act is amended by—

(1) striking out, in subsection (b)(B), all that follows "such mortgage involves an original principal obligation not to exceed" and inserting in lieu thereof the following: "the maximum amount which may be insured, in the case of a one- to four-family residence, under section 203(b) of the National Housing Act (except that such limit may be increased by up to 10 percent in high cost areas as determined by the Secretary) or, for that part of the property attributable

to dwelling use in the case of a more than four-family residence, the per unit limitations under the section of the National Housing Act under which the project mortgage is insured;";

(2) striking out, in subsection (b)(C), the following: "the lesser of (i) 7½ per centum per annum, or (ii)";

(3) striking out, in subsection (b)(D), all that follows "such mortgage involves a principal residence the sales price of which does not exceed" and inserting in lieu thereof the following: "105 per centum of the maximum insurable mortgage amount under section 203(b) of the National Housing Act (except that such limit may be increased by up to 10 percent in high cost areas as determined by the Secretary).";

(4) striking out, in subsection (e), the words "enactment of this section" and inserting in lieu thereof the following: "the issuance of the commitment to purchase the mortgage"; and

(5) striking out, in subsection (h)(1), the words "the lesser of (A) the per unit amount specified in subsection (b)(B), or (B)".

THE SECRETARY OF HOUSING AND
URBAN DEVELOPMENT,
Washington, D.C.

Subject: Proposed "Emergency Home Purchase Assistance Authority Amendments of 1979"

Hon. WALTER P. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed are the proposed "Emergency Home Purchase Assistance Authority Amendments of 1979". The proposed amendments would modify the mortgage amount, sales price, and interest rate limitations now applicable under the Government National Mortgage Association's emergency home purchase assistance authority under section 313 of the National Housing Act. Also enclosed for your convenience is an explanation and justification of the proposal.

The proposal would remove the specific dollar limitations under existing law on the original principal obligation of a mortgage which may be purchased under section 313. Instead, it would establish the maximum mortgage amount limitations under section 203(b) of the National Housing Act as the GNMA maximum mortgage purchase limits for FHA-insured, VA-guaranteed, and conventional mortgages covering one- to four-family residences, with authority to increase these purchase limits by up to 10 percent in high cost areas. In the case of an FHA-insured mortgage covering a more than four-family residence, the proposal would apply the maximum mortgage amount limitation for the program under which the mortgage was insured. For conventional multifamily loans, the amendments would modify existing law to apply comparable FHA project limits rather than the lesser of specific dollar limits or the FHA limits.

The proposal would adopt a similar approach with respect to the maximum sales price of a principal residence covered by a mortgage which may be purchased under section 313, by eliminating the specific dollar limitations under existing law. Instead, it would limit the maximum sales price to 105 percent of the mortgage amount maximum specified under section 203(b), with authority for increases of up to 10 percent in high cost areas.

The proposal also would remove the existing reference to the 7½ percent maximum interest rate limitation with respect to mortgages which may be purchased under section 313, so as to permit the Secretary to establish the interest rate at a level consistent with current market conditions but not in excess of the maximum interest rate under section 203(b). Interest rates established by the Secretary under existing provisions may not exceed the lesser of 7½ percent or the section 203(b) maximum rate.

Additionally, the proposal would modify the provisions regarding the use of section 313 authority to purchase mortgages covering existing housing, so as to permit the purchase of housing constructed at least 12 months prior to the issuance of the commitment to purchase the mortgage, rather than 12 months prior to the enactment of section 313 (October 18, 1974), as under existing law.

The proposed increases in the maximum mortgage amounts and sales prices are necessary to reflect increases in housing costs. In addition, by tying both these and the interest rate limitations to the limitations under the FHA mortgage insurance authorities, which are periodically updated, the proposal would afford the Department the flexibility which is essential for the effective use of section 313 as standby authority. Without these changes, the section 313 authority would be of limited value. The proposed amendment regarding the purchase of mortgages covering existing housing would remove an obsolete limitation which now restricts the use of this authority to housing that is, currently, at least six years old.

Timely enactment of the enclosed proposal would give the Department the necessary authority to provide an important alternate source of mortgage credit on an emergency basis, if needed. The Department requests that the measure be referred to the appropriate committee and urges its early enactment.

The Office of Management and Budget has advised that there is no objection to the presentation of this legislative proposal and that its enactment would be consistent with the Administration's objectives.

Sincerely,

MOON LANDRIEU.●

● Mr. CRANSTON. Mr. President, I am pleased to join the distinguished Senator from New Jersey (Mr. WILLIAMS) in cosponsoring the Emergency Home Purchase Assistance Authority Amendments of 1979 submitted by the administration to update what is popularly called the Brooke-Cranston tandem program.

These amendments will modify the mortgage amount, sales price, and interest rate limitations now applicable under standing Brooke-Cranston auity. The amendments remove the specific dollar limitations under existing law on the principal obligation of a mortgage. Instead they would allow the maximum mortgage amount limitations pursuant to FHA authority for FHA-insured, VA-guaranteed, and conventional mortgages covering one to four family residences, with authority to increase these purchase limits by up to 10 percent in high cost areas.

These amendments take a similar approach with respect to the maximum sales price of a principal residence covered by a mortgage pursuant to FHA authority by eliminating the existing law's specific dollar limitation and allowing instead a maximum sales price of 105 percent of the maximum mortgage amount under FHA authority. Again, there would be a high cost area exception for the mortgage limits of up to 10 percent of the FHA mortgage authority.

Of note is the fact that the amendments remove the existing reference to the 7½-percent maximum interest rate limitation with respect to mortgages purchased under the Brooke-Cranston program. The Secretary of HUD is to establish the interest rate at a level consistent with current market conditions but not in excess of the maximum interest rate allowable under FHA authority.

Finally, the amendments will modify the provisions regarding the use of Brooke-Cranston authority to purchase mortgages covering existing housing, so as to allow the purchase of housing constructed at least 12 months prior to the enactment of the Brooke-Cranston tandem program, as under existing law.

In 1974, I introduced the Home Purchase Assistance Act, S. 3979. The act is intended as emergency legislation to help stabilize the housing market against cyclical downturns by increasing the supply of reasonably priced mortgage credit to help stimulate the purchase of homes. This program has not only helped many to buy homes who otherwise may not have purchased them but it also generated additional housing and jobs when the industry was suffering from low production and high unemployment.

I believe that economic conditions facing today's housing market may warrant the triggering of the Brooke-Cranston tandem program in the near future. The sharp tightening of monetary policy precipitated by the decision on October 6 by the Federal Reserve Board, is on the verge of producing a short run cyclical crunch in new home construction and existing home sales. The market for existing homes is feeling the pinch already and disintermediation is already causing a severe cutback on mortgage lending activity.

The Washington Post reported yesterday that the Commerce Department released figures showing that during the month of November, housing starts fell 14 percent to an annual rate of 1,518 units. Building permits plummeted 18 percent to a level of more than 500,000 units below the rate 2 months ago. Clearly the Fed's tight money policy is beginning to curtail severely the housing industry. I believe that the Brooke-Cranston tandem program is a valuable tool that can be used to offset the detrimental effects that high interest rates will have on the housing construction industry.

I look forward to taking part in hearings on this bill so that we may consider fully the ramifications of this program. I commend the administration in presenting to us legislation designed to assist the housing industry and in turn, the economy as a whole.●

By Mr. WEICKER:

S. 2178. A bill to amend section 313 of the National Housing Act; to the Committee on Banking, Housing, and Urban Affairs.

● Mr. WEICKER. Mr. President, in response to a serious slump in the housing industry in 1974, the Congress enacted the Emergency Home Purchase Assistance Act, commonly referred to as the Brooke-Cranston tandem plan. Through the use of secondary mortgage market, this act created a new section 313 of the National Housing Act to make reasonably priced mortgage money available for the purchase of newly constructed single family homes. Subsequently, the Congress further modified the law to provide assistance for construction of multifamily construction.

The legislation I am introducing today would make necessary amendments to this act in order to reflect current economic and market conditions. Specifically, the bill changes mortgage interest rates and price ceilings established on single family construction, and adds to the stated purpose of the act the promotion of the construction of multifamily housing units.

If the Emergency Home Purchase Act is to be at all effective in 1980, enactment of these proposals is essential.

Mr. President, the same harsh economic facts that confronted the Congress in 1974 confront us again today. Record interest rates threaten to bring housing construction to a virtual standstill. The American dream of homeownership is vanishing. With interest rates of up to 14 percent, it is estimated that only 8 percent of the American families can afford a median-priced home.

With respect to multifamily housing units, the need for additional housing is even more critical. Vacancy rates are at the lowest recorded point in history, and continue to decline. The Bureau of the Census reports that in the third quarter of 1979 the overall national vacancy rate for rental units stood at 5.2 percent. Worse yet, in the Northeastern States, the rate has fallen as low as 3.8 percent. HUD has reported that a vacancy rate of 5 percent is dangerously low because it interferes with the Nation's mobility possibilities and unduly restricts the competitive housing market.

In testimony before the Senate Small Business Committee, Vondal S. Gravlee, president of the National Association of Home Builders graphically detailed the dismal outlook for the housing industry next year. NAHB projects that housing starts will drop by more than 50 percent by the second quarter of 1980 to an annual rate of 990,000 starts. As of last October, unemployment rates in the housing industry had already risen to 10.1 percent.

Section 313 of the National Housing Act provides standby authority for the purchase of below-market-rate mortgages when the Secretary finds that economic conditions are having a severely disproportionate effect upon the housing industry, and presently contains a reservoir of $9 billion of mortgage money that remains untapped. In 1975 and 1976 this authority was used to release purchase commitments for a total of $7.75 billion for home mortgages and $3 billion for project mortgages. An additional $2 billion was released for the purchase of project mortgages on September 21, 1976; by September 2, 1977, the funds were fully committed for mortgage purchases.

On November 21, 1978, the General Accounting Office issued a report assessing the impact of the Emergency Home Purchase Assistance Act during 1974 and 1975. GAO estimated that the enactment of this legislation lead to the construction of approximately 18,000 to 35,000 additional homes and created an additional 33,000 to 65,000 new jobs. Perhaps more important, the infusion of reasonably priced mortgage money helped to stabilize the housing industry—an industry that traditionally lives through "boom or bust" periods.

The housing industry needs this boost once again. The Congress and the President must begin to take the necessary steps to activate this program. All too often the Federal Government reacts to, rather than anticipates a crisis. We can see the handwriting on the wall. Housing starts will drop. Vital resources within the housing industry will become idle. Numerous small businesses, which comprise most of the housing industry, will be faced with the possibility of severe losses or bankruptcy.

Failure by the Government to respond to these warning signals may have a disastrous long-term impact on the economy. As Jay Janis, Chairman of the Federal Home Loan Bank Board observed:

> If the downturn in housing activity is too severe and protracted, the resulting shortfall in production will cause a large pent-up demand for housing. This will result in a rebound in demand later on in the decade which will escalate housing costs severely and make it virtually impossible for young families and those with lower incomes especially to afford housing.

Mr. President, three actions must be taken in order to provide this necessary assistance to the housing industry. First, amendments to the Emergency Home Purchase Assistance Act must be enacted. Specifically, I propose three amendments to the existing law.

The first amendment would be to add to the purpose of the act the construction of multifamily dwelling units. Initially, Brooke-Cranston was designed to assist only single family construction. Given the extreme shortage of rental housing, it is essential that the Congress recognize the importance of assisting the construction of multifamily housing.

Second, the current law establishes a maximum sale price of a single family home receiving assistance under this act. In 1976, a maximum sale price of $48,000 for single family homes was established with incremental increases allowed for high cost areas. Since that time, inflation has run rampant and has driven housing prices rapidly upward. According to the Bureau of Census, in June 1979, the median price house in the United States was $64,800. Accordingly, the law would be changed to reflect these current market conditions.

The third amendment I offered would be to strike the 7½ percent interest rate provision applicable to single family mortgages. The bill would direct the Secretary of HUD to set interest rates for single family mortgages at a somewhat higher rate but still consistent with the objectives of the act.

It is important to note that this legislation I am offering maintains the 7½ percent interest rate for multifamily construction. This interest subsidy is essential to provide homebuilders with the necessary incentives to build rental units.

A second major action must be taken before the emergency home purchase program is activiated. Specifically, the Secretary of HUD must make a finding that inflationary conditions and related Government action are having a disproportionate effect on the housing industry.

The industry has already begun to decline. The Commerce Department recently reported that housing starts for November fell by 14 percent to a rate of 1.5 million units. Forecasts for mid-1980 are for even further drops in the number of starts. Experts at the Federal Home Loan Bank Board's ninth annual housing conference predict that by mid-1980 starts may drop to 1.2 million. We must act before the bottom falls out of the market and workers are displaced. Accordingly, I have written to the Secretary of HUD urging him to trigger this program.

The appropriations committee of the Congress, as well as the Secretary, must act to release funds necessary to cover mortgage purchases and commitments authorized under section 313 of the National Housing Act. As a member of the HUD Appropriations Subcommittee, I intend to push for a supplemental appropriation early next year.

Assuming that a total of $9 billion of mortgage money were released, equally divided between single and multifamily housing, the Library of Congress estimates that 71,500 single family houses and 125,000 rental units would be constructed.

Mr. President, the home purchase assistance program has a proven track record. It helped to keep the housing industry productive. As a result, workers remained on their jobs and houses continued to be built. Rather then enacting a make-work jobs program, I urge my colleagues and the administration to pump this needed assistance into the residential mortgage market. The costs of activating Brooke-Cranston are minimal, compared to the ripple effects on our economy if the housing industry plunges into a deep recession.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2178

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 313 of the National Housing Act is amended—

(1) by inserting before the period at the end of the second sentence of subsection (a)(1) the following: ", and to promote the construction of multifamily rental housing";

(2) by striking out clause (B) of the second sentence of subsection (b);

(3) by inserting "in the case of a project mortgage, or such rate as the Secretary determines to be appropriate and consistent with the purposes of this section in the case of a mortgage secured by one- to four-family dwelling" after "National Housing Act" in clause (C) of the second sentence of subsection (b);

(4) by striking out clause (D) of the second sentence of subsection (b) and inserting in lieu thereof the following:

"(D) in the case of a one- to four-family dwelling, such mortgage involves a principal residence the sales price of which does not exceed 120 per centum of the appropriate mortgage dollar amount limitation contained in section 203(b)(2), except that the Secretary may increase any such dollar amount limitation by not to exceed 25 per centum in any geographical area where he finds that cost levels so require."; and

(5) by striking out ", the lesser of (A) the per unit amount specified in subsection (b)(B), or (B)" in subsection (h)(1).●

By Mr. HAYAKAWA (for himself and Mr. CRANSTON):

S. 2179. A bill to amend the Internal Revenue Code of 1954 to provide for a definition of the term artificial bait; to the Committee on Finance.

THE DEFINITION OF "ARTIFICIAL BAIT"

● Mr. HAYAKAWA. Mr. President, many years ago Congress enacted a 10-percent manufacturer's excise tax on certain sporting goods including artificial bait. Since the statute does not define artificial bait this has led to problems. A considerable amount of time and money is spent by the Federal Government in efforts to determine what is taxable and what is not. The burden is even greater on the taxpayer who must spend sizable sums of money for attorney fees and expenses to defend his case.

I would like to share with you the terrible predicament this tax has caused one small businessman from my State. He created an edible, floating bait for catching trout and produced it in his kitchen. As his product caught on and his business grew, he moved the operation to his garage. This small businessman now employs 11 people. His product is a bait which can be ingested by fish because its principal ingredients are plant and animal materials. His bait is sold in jars and is used by fishermen in the same manner in which they use soft cheese bait.

As a matter of fact, in many places where fishing supplies are sold, certain types of cheese are sold in competition with this particular bait. The cheese, of course, is not subject to the excise tax, but the floating bait which can also be ingested by fish is subject to the tax. Why? Because the IRS has determined that this product is an artificial bait, although it is composed of plant and animal materials. This line of reasoning would make most everything sold in a grocery store artificial. Bread may have a number of things added, including substances to make it light and give it the right texture, as well as preserving qualities, but it is still a loaf of bread and is not artificial. Mr. President, the edible floating bait is not artificial either.

As a solution to this problem I have introduced a bill defining artificial bait. An examination of the section of the statute which allows this tax to be imposed shows clearly that it was intended to tax only artificial bait. Artificial bait might be made from rubber, plastic, cloth, wood, metal or some other material. The fact that the language in that section reads, "including parts or accessories," is an indication to me of what Congress intended to include as artificial.

The statute imposing this tax is section 4161 which reads as follows:

> There is hereby imposed upon the sale of fishing rods, creels, reels, and artificial lures, baits, and flies (including parts or accessories of such articles sold on or in connection therewith, or with the sale thereof) by the manufacturer, producer, or importer a tax equivalent to 10 percent of the price for which so sold.

My bill will clarify the section by adding the following:

> *Provided*, That the term "artificial bait" as used in the preceding sentence shall not include any substance which contains 85 percent or more by weight of plant or animal material which can be ingested by fish.

I hope that the committee to which this bill is referred will give it early and favorable consideration and will report it to this body for final action without undue delay. I urge my colleagues to support this legislation.●

By Mr. HARRY F. BYRD, JR.:

S. 2180. A bill to provide for a special application of section 1034(c) of the Internal Revenue Code of 1954; to the Committee on Finance.

● Mr. HARRY F. BYRD, JR. Mr. President, the tax code permits a taxpayer who sells a home to defer capital gains on the sale of this residence when the taxpayer purchases or constructs a new residence.

There are strict requirements in the law as to when a taxpayer must occupy the new residence if capital gains is to be deferred.

The code makes no adjustments for situations which are clearly meritorious and, in which the taxpayer had been prevented from moving into the new residence because of circumstances out of the control of the taxpayer.

I am introducing a proposal which will permit, under certain circumstances, an extension time required to qualify for the deferral of capital gains on the sale of a principal residence.

The legislation stems from a problem which a Virginia resident, Mrs. Jane M. Cathcart, encountered.

Mrs. Cathcart sold her principal residence and purchased property on which to construct a new residence.

She hired a contractor but the contractor failed to complete construction and Mrs. Cathcart lost over $100,000 in payments for work which was not done.

She now has a judgment against the contractor, who is judgment proof. The contractor has also been indicted in criminal proceedings brought by the Commonwealth attorney of Fauquier County, Va.

Because of the blatant culpability and negligence of the contractor, and through no fault on her part, Mrs. Cathcart's house stands as a partially completed residence. She does not qualify for the deferral of capital gains because the time to occupy her residence has expired. This was through no fault of her own.

My proposal would remedy this situation, and provide an additional time in which the taxpayer may have to complete construction and qualify for the deferral of capital gains.

Although, I have not received an estimate as to the revenue loss from the Joint Tax Committee, I do not anticipate that it will be large.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2180

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the case of an individual—

(1) who sold his principal residence (within the meaning of section 1034 of the Internal Revenue Code of 1954) in 1977,

(2) who purchased property on which to construct a new principal residence (within the meaning of such section)—

(A) the construction of which commenced during such year, and

(B) the construction of which was terminated before completion,

(3) who brought an action, and obtained a judgment, against the builder who commenced construction of the new residence but failed to complete it,

(4) who suspended construction of such residence so that the partially-constructed residence could be used as evidence in connection with the prosecution of the builder (without regard to whether it was so used), and

(5) who failed to meet the requirements of such section with respect to occupancy of the new principal residence because of such suspension of construction,

the Secretary of the Treasury, in the administration of section 1034 (c) of the Internal Revenue Code of 1954 (relating to rules for application of section 1034), shall apply paragraph (5) of such section as if "5 years" were substituted for "2 years" where it appears in the last sentence of such paragraph.

SEC. 2. The provisions of the first section of this Act shall apply with respect to taxable years beginning after December 31, 1976, and before January 1, 1983.●

By Mr. CHAFEE:

S. 2181. A bill to assist the States in developing fish and wildlife conservation plans and actions, and for other purposes; to the Committee on Environment and Public Works.

FISH AND WILDLIFE CONSERVATION ACT OF 1988

● Mr. CHAFEE. Mr. President, I am happy to introduce today legislation that will provide badly needed Federal assistance to State wildlife resource agencies. The new funding will allow the States to improve their existing conservation programs by moving toward a more comprehensive system of fish and wildlife planning. It will enable them to focus new and innovative management efforts on species of wildlife to which the present programs have heretofore given little attention or in some cases have even ignored. The planning and projects that will be made possible through this legislation will enable the States to address an inadequacy of most, if not all, existing wildlife programs in this country.

A little background information at this point will help, I believe, in explaining the problem and why it has developed. Over the years most of the wildlife programs which have been initiated at both the State and Federal level for the conservation of fish or wildlife have paid special attention to wildlife species which are taken for sport or food. This historically narrow approach to wildlife management stems not so much from a lack of concern on the part of wildlife managers for the other species of so-called nongame wildlife, but more from the fact that funds for wildlife conservation programs have always been scarce and those funds which were available have been derived almost wholly from the sale of hunting and fishing licenses and from taxes on sport hunting and fishing equipment.

Those citizens who have supported these existing programs can take great pride in what has been accomplished by these programs, and what with enhanced support and attention can be achieved in the future. I think all would agree, however, that we could and should improve our ability to conserve and manage those many species of wildlife that are generally overlooked by existing programs. The bill I am introducing today will be crucial to this improvement effort.

Mr. President, the programs initiated pursuant to this bill will benefit everyone who enjoys or appreciates wildlife, but I am particularly interested in what this legislation may portend for our inner city and urban citizens. There is a large and growing segment of our population who live in urban areas or our inner cities who have for a number of reasons been unable to reap much, if any, enjoyment from the wonderful wildlife resources with which this country has been blessed. This bill provides an excellent chance for the Congress to improve the quality of life for these many Americans.

For example, through the proposed program habitat that is directly accessible to these citizens and is suitable for nongame wildlife could be restored or created and then managed by State wildlife agencies. Along with these management efforts better information could be generated on how this wildlife, particularly songbirds, could then be enjoyed in urban situations. I hope the Congress will take this opportunity to bring to these many citizens the benefits that an association and understanding of wildlife can provide.

Mr. President, as a member of the Senate Committee on Environment and Public Works' Resource Protection Subcommittee, I view the bill I am introducing today as a vehicle which will provide the subcommittee with a new opportunity for discussion of the so-called nongame wildlife issue. As I am sure many of my colleagues remember, the problems which I have just outlined were addressed during the last Congress and resulted in the unanimous approval by the Senate of legislation on this subject. Unfortunately, the House, though it was interested, was not able to approve their version of a nongame bill until very late in the second session, a fact which resulted in no bill being finally approved during the 95th Congress.

The legislation introduced today builds on the experiences and knowledge gained last Congress and I believe this new bill will produce a more efficient and secure program than would have been possible under the previous legislation. It should also be noted that the House has already this session approved a bill concerning this matter and has expressed a desire for the Senate to move rapidly toward completion of similar legislation.

Finally, I would like to note that I view this bill as a reasonable attempt to pass a nongame bill, but I am also aware that it might be improved through future hearings and subcommittee work. This being the case, I would hope that the subcommittee will use this bill as a vehicle for the discussion of the issue. I say this because there are a few issues, particularly the funding mechanism contained in the bill, that ought to be given a full airing before final subcommittee action.

On this matter I intend to remain flexible but would note that I hope whatever funding approach is ultimately approved it will avoid the Federal Government's "stop-and-go" history of funding national resource programs. We must develop a reliable source of funding that will enable the State agencies to know what they can expect over the years ahead. If the committee can accomplish this goal we will have taken the most important step in launching a national nongame fish and wildlife conservation program.●

By Mr. MORGAN (for himself, Mr. SIMPSON, and Mr. HUMPHREY):

S. 2182. A bill to amend title 38, United States Code, to deny eligibility for benefits available under such title to certain former members of the armed services who fail to complete at least 18 months of their initial period of obligated service; to the Committee on Veterans' Affairs.

VETERANS' BENEFITS SHOULD ONLY GO TO THOSE WHO HAVE SERVED HONORABLY

● Mr. MORGAN. Mr. President, I am introducing a bill today which would deny veterans' benefits to individuals who enter the Armed Forces and who fail to serve honorably for at least 18 months. There are two exceptions under which benefits would still be provided to those who served less than 18 months: First, to those who were discharged due to a service-connected disability or who were later determined to have a service-connected disability; and second, to those who were discharged for reasons of hardship. I am greatly pleased that Senator SIMPSON and Senator HUMPHREY are joining me as cosponsors.

I. THE PROBLEM

This bill would help address three problems: one a matter of fairness and equity, the high attrition rate in the military, and the problem of excessive Government spending.

Mr. President, I was looking through the veterans' benefits title of the United States Code, title 38, the other day, and I would like to read from the beginning of the explanation. "From the Revolutionary War to the Vietnam war, veterans and their dependents made extraordinary sacrifices and contributions in the service of this country. During the 200 years between these wars—more and more Americans were called upon to confront the hazards of war and, in ever-increasing numbers, suffered injury and death as well as losses of income and civilian educational and job opportunities." The explanation then goes on to say that veterans' laws have been enacted over the years to create compensatory and rehabilitative programs for these people.

Mr. President, I do not believe that there is a Member of this body who would deny that those veterans and their dependents who have served their country and made sacrifices are entitled to assistance. Certainly, I support their right to assistance, and have consistently supported legislation which meets their needs.

But, what about those individuals who voluntarily enter the armed services and fail to serve their country honorably, much less make any sacrifices? In fact, what I am talking about is individuals who have done their country a disservice, for the taxpayers have been forced to spend from $10,000 to $13,000 per individual for their recruitment, training, and separation and have received no return on their investment.

Should these individuals be allowed to receive benefits as if they had served their country and made sacrifices? Should they be allowed to compete with honorable Americans for benefits that are coming under increasing budgetary pressures?

My bill is not unprecedented, as the Congress has acted to deny benefits to undeserving veterans as recently as 1977, when a law was enacted which denied benefits in certain cases to those whose discharges were upgraded as a result of the special, and I might add unpopular, program to upgrade Vietnam war discharges.

Mr. President, I also would like to make it clear that I am not proposing that we write these undeserving veterans off. If they need assistance and are eligible for Federal assistance through other programs, then they should receive this. And there are a number of programs that can be of help, including grants and loans for higher education, vocational and adult education programs, and training and job programs through the Labor Department. If they have families, there is public assistance, medicaid, and the excellent child nutrition programs.

All I am saying is that the assistance they get should not be veterans benefits, thereby competing with our honorable veterans and their families, especially when considering that this is a time of increasing pressure on all parts of the Federal budget.

Second, I believe that enactment of this bill could help lower the rate of early attrition from the military. As a member of the Manpower Subcommittee of the Armed Services Committee, and as co-chairman of the investigation into the recruiting scandals, I have become extremely familiar with recruiting practices followed by each of the military services.

One of the reasons for the existing high attrition rate is the pressure from the military brass on the recruiting sergeants to meet quotas for enlistees. This pressure on the sergeants is phenomenal, and it has led to some creative methods of enticing people to enlist.

One of these creative methods, which is widely used since it is not illegal, is to inform the potential recruit of all the veterans' benefits that he becomes eligible for if he just manages to keep his nose clean for 180 days. These include dental benefits for 1 year after discharge, health care benefits, pensions, rehabilitation training, and educational assistance. In addition, they are eligible for unemployment compensation after 90 days, a problem this bill does not deal with, and benefits arising from service-connected disabilities, which I support.

To a poor, uneducated young man without a job that sounds like an attractive package. And so, they join up and 6 months later they get themselves discharged. This sequence has happened again and again, and the only effective way of dealing with this problem is to require a longer period of service as a condition for eligibility for benefits.

II. COST OF EARLY ATTRITION

The cost to the taxpayers of early attrition in the military, of individuals leaving the Army before their period of enlistment expires, is unbelievably high, as was pointed out in a study done by the GAO at the request of Senator Harry F. Byrd, Jr., earlier this year.

The GAO studied the cost of early attrition for individuals entering the military beginning in fiscal year 1974 and who left prior to June 30, 1978. They found that 444,500 individuals left before the term of enlistment expired, which was about 40 percent of all enlistees. The costs associated with these individuals totaled $6.7 billion. It was estimated that $1.5 billion of this amount was amortized, leaving the taxpayers with a net loss of $5.2 billion. Furthermore, the GAO found that attrition rates during this period—the first 4 years of the All-Volunteer Force—were higher than during the last years of the draft, and that the cost to the taxpayer was $806 million greater than what might have been expected had attrition rates not risen.

This last point bears repeating. Attrition rates under the first 4 years of the volunteer military were higher than they were during the last 3 years of the draft. Personally, I find that somewhat astounding.

In any case, the total cost to the Defense Department was about $3.8 billion, which represents the costs associated with recruitment, training, and separation.

Unemployment compensation costs came to $167 million for these veterans during this period.

Finally, these veterans became eligible for lifetime veterans' benefits which will end up costing the taxpayers about $2.7 billion, of which about one-half will go to persons with service-connected disabilities.

III. DESCRIPTION OF THE BILL

The bill I am introducing today would reduce the costs associated with early attrition by an undetermined amount, but I believe it will prove to be substantial. I am hopeful the Congressional Budget Office will be able to provide me with a good estimate of the cost savings in the near future.

This bill is based on a bill, H.R. 4367, introduced earlier this year by Congressman Beard of Tennessee and a proposal made by Senator Simpson relating to eligibility for the post Vietnam-era veterans' educational assistance program. Senator Simpson, who is the ranking minority member of the Veterans' Affairs Committee, has played an invaluable role in the development of this bill, and I believe it is a major improvement over the earlier proposals and hope to see it enacted.

My bill would, for all individuals enlisting in 1981 and thereafter, increase the time necessary to serve in order to become eligible for veterans' benefits, from 180 days to 18 months, with the exception of those who are discharged for hardship or for a service-connected disability, or who are later found to have a service-connected disability.

In its present form, I believe it meets most of the objections that have been raised by the Disabled American Veterans national office as well as other interested parties. Specifically, I think that the bill in its present form gives individuals the benefit of the doubt, that only people who clearly do not deserve veterans' benefits will have them denied.

I am confident that I can work together with Senator Cranston and other members of the Veterans' Affairs Committee next year to get this measure moving, and hope that early hearings would be scheduled. While this bill amends the law relating to veterans' benefits, and thus is being referred to the Veterans' Affairs Committee, it deals as much with military manpower issues as with veterans' issues and joint or concurrent hearings may be called for.

This is a necessary change in existing law, one which would promote fairness in that those who have failed to serve honorably would not be placed in the same category as veterans who have. It would also help in dealing with the problems of high attrition rates, and at the same time hold down Government spending.

I ask unanimous consent that the text of the bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2182

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Sec. 2. Section 101(2) of title 38, United States Code, is amended to read as follows:

"(2) The term 'veteran' means—

(A) a person who served in the active military, naval, or air service prior to January 1, 1981, and who was discharged or released therefrom under conditions other than dishonorable; or

(B) a person who initially entered upon active military, naval, or air service on or after January 1, 1981, and (i) completed at least 18 months of his or her initial period of obligated active service and was discharged or released from active service under conditions other than dishonorable, or (ii) was discharged or released from active service for reason of hardship, or (iii) was discharged or released from active service for reason of a service-connected disability or a service-connected disability is later established resulting from an injury or disease incurred or aggravated in line of duty during the period of active service completed by such former member."

Sec. 3. Subparagraph (A) of section 1602(1) of title 38, United States Code, is amended to read as follows:

"(A) The term 'eligible veteran' means any former member of the armed forces who (i) initially entered military service on or after January 1, 1977 but before January 1, 1981, served cn active duty for a period of more than 180 days and was discharged or released therefrom under conditions other than dishonorable, or (ii) entered military service on or after January 1, 1977 but before January 1, 1981, having served in a previous period of active duty for 180 days or less, and subsequently served on active duty for 180 days or more and was discharged or released from such subsequent service under conditions other than dishonorable, or (iii) initially entered military service on or after January 1, 1981, served on active duty for a period of 18 continuous months or more and was discharged or released therefrom under conditions other than dishonorable, or (iv) entered military service on or after January 1, 1981, having begun a previous period of continuous active duty of 180 days or less prior to January 1, 1981 or having begun a previous period of continuous active duty of less than 18 months commencing on or after January 1, 1981, and subsequently served on active duty for 18 months or more and was discharged or released under conditions other than dishonorable, or (v) initially entered military service after January 1, 1977 and was discharged or released from active duty for a service-connected disability, or (vi) entered military service on or after January 1, 1977, having served in a previous period of active duty for 180 days or less, and was discharged for a service-connected disability." ●

By Mr. MORGAN (for himself, Mr. Boschwitz, Mr. Church, Mr. Kennedy, Mr. Helms, Mr. Culver, Mr. McGovern, Mr. Dole, Mr. Exon, Mr. Lugar, Mr. Goldwater, and Mr. Jepsen):

S. 2183. A bill to amend the Commodity Credit Corporation Charter Act to establish a revolving fund to finance short-term export credit sales of agricultural commodities produced in the United States; to the Committee on Agriculture, Nutrition, and Forestry.

INCREASING AMERICAN EXPORTS

● Mr. MORGAN. Mr. President, our future economic strength as a nation will be determined as a result of our success in the world marketplace. By any measure, our Nation is not the trading nation it could and should be. Legislation that several of my colleagues and I offer today is designed to help the United States take a small step down the path of realizing our potential in the world marketplace.

Our lack of success as a trading nation is graphically illustrated when one compares the amount of our gross national product (GNP) that is exported compared to other industrialized nations. This situation alarms me—we are last among the advanced countries of the world and our relative place is declining.

Our inability to export is a primary source in our disastrous inflation, sagging trade deficit, and weakened dollar.

Mr. President, it is clear that we in the Congress are going to have to view our role in the world marketplace from a broader perspective. The simple fact is that Congress has passed laws and the administration has created policies and programs that do not serve our interest as a trading nation. This situation is the result of a general complacency created by a history of a growing domestic market for our goods. In the early 1970's, this situation began to change. Other advanced nations were beginning to export and our advantage in energy took a sharp turn for the worst. The result was a variety of economic woes that will plague us into the 1980's.

In credit to the people of America, we are becoming more concerned about our role as a trading nation. This is demonstrated in numerous opinion polls. To its credit, the administration placed major emphasis on the recently completed Tokyo round of the multilateral trade negotiations. Further, the administration has acted to centralize trade policy decisionmaking in one location. Finally, Congress itself has demonstrated its intention to be a constructive force in the trade arena by establishing export caucuses in each Chamber.

While the general trade situation has cast a long shadow on the economic strength of our Nation, there has been one bright spot in the perennial balance-of-payments struggle. That bright spot has been agriculture. However, I sense a growing complacency in the agriculture area as well and it is this concern that my legislation addresses.

Before I discuss the need for my legislation, I would like to say that I am convinced that 1980 will be a turning point in the trade policy area. We are going to have to totally revamp many of the laws, programs, and policies of this Nation. We have to take our blinders off and begin to see the broader picture of world realities or submit to a second-place role.

The bill that I offer today is designed to correct what I believe is a serious flaw in our programs in the agricultural export area. The bill I am about to introduce has been designed to provide the U.S. Department of Agriculture with an appropriate mechanism for strengthening this Nation's capacity to export our farm products.

Some background is essential in understanding this problem. At present, there basically are three types of markets for U.S. farm commodities. First, there is a cash market in which all countries are eligible except those prohibited under provisions of the Trading With the Enemy Act.

Second, there is a market that is financed by the USDA's Commodity Credit Corporation (CCC). This program is known as the GSM-5 program. GSM-5 is a commercial program in every respect—the interest rate reflects market rates, the terms are normally 1 to 3 years. In this program, CCC lends money directly to the exporting entity, a trading firm or farmer cooperative, which then exports the goods to the importing nation that then repays the loan to the CCC. The principal and interest are credited to the Treasury.

Since the GSM-5 program was established in 1956, there have been no loan forfeitures, although a small number of loans have been rescheduled. GSM-5 has returned more money to the Treasury than it has taken in revenues. This has been true because the interest rate charged in the program reflects the prime interest rate which is above the cost of money to the Treasury. The current interest rate, incidentally, is 15¾ percent, roughly 6 percent above the average interest rate charged by the Export-Import Bank.

The final "market" for our agricultural products is the Public Law 480 "Food for Peace" program. Commodities shipped under this program are either provided without charge or sold on concessional terms. Public Law 480, as a result, fulfills both a food assistance and market development objective.

Typically, GSM-5 has been used as a "bridge" between Public Law 480 and the cash market. Economists describe GSM-5 as an important means to graduating countries as their economies grow and prosper.

My bill would impact on the GSM-5 financing mechanism by changing the program into a revolving fund which would be capitalized through the appropriations process over 3 consecutive years. Four years after being authorized, the program would be terminated unless reauthorized by the Congress.

The current program has not realized its potential for a number of reasons. At present, an annual line for GSM-5 is formulated as part of the administration's budget request to the Congress. As the annual line or "benchmark" is developed, the administration begins to negotiate commitments against the aggregate total. Because of this process, Congress has a weak case to either increase or decrease the amount of credit available through this mechanism. As a matter of history, Congress has not changed the amount of GSM-5 credit since the program began in 1956.

The annual line is an economic nightmare. The line has fluctuated, sometimes wildly, from year to year bearing no relationship to any discernible economic factor. Because of a lack of continuity in the line, the United States has lost sales and missed market opportunities.

By moving to a revolving fund, economists believe that our export capacity would be enhanced. Financing needs could met on a case-by-case basis, reflecting market conditions and other economic factors rather than whether a specific sale would fit within the artificially imposed constraint that exists at present. Eventually, the program would become self-financing, assuming that the ultimate capitalization objective of $5 billion was adequate.

Some of my colleagues may express concern over taking this line item off budget. I am deeply concerned about any legislation that would result in a loss of Federal programs by the Congress. The answer to this concern has a number of parts. The first concerns the relative value of "congressional control" versus our needs as a trading nation. In answer to this, I can only point to the fact that Congress has never increased nor decreased the annual line in the program's 23-year history. The second part has to do with the fact that my bill would require specific actions by Congress spread over a 4-year period. The third part has to do with the fact that Congress could, if it desired, change the amount of the capitalization by modifying the authorizing statute.

I have other concerns about the GSM-5 program that will not be remedied by my legislation. Clearly, GSM-5 is not competitive with the export financing programs of either Canada or Australia let alone our own Export-Import Bank. This is demonstrated by the fact that only 4 percent of our farm products are exported through GSM-5 as compared to 31.9 percent by Canada and 13.5 percent by Australia. Further, the Export-Import Bank exports 12.25 percent of the capital goods of the United States through its programs. Mr. President, I ask unanimous consent that a table showing these disparities be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 1.—RELATIVE EXPORT CREDIT SUPPORT PROVIDED BY SEVERAL COMPARABLE CREDIT PROGRAMS—PROPORTION OF VALUE OF EXPORTS COVERED BY PROGRAMS

[Percentages]

Year	GSM-5	Canada[1]	Australia[2]	Eximbank[3]
1970	3	27.0	8.9	14.7
1971	5	37.0	11.4	14.9
1972	5	33.0	13.0	18.8
1973	8	36.0	20.0	18.0
1974	1	29.0	NA	15.4
1975	1	34.0	14.4	9.9
1976	[4]3	18.0	12.4	8.6
1977	3	32.0	11.0	3.0
1978	6	36.0	18.4	7.0
1979	5	37.0	12.4	
Simple annual average	4	31.9	13.5	12.25

[1] Credit guarantees for wheat exports, commercial terms.

[2] Credit insurance on commercial exports of agricultural commodities.

[3] Loans on capital goods exports.

[4] Includes 15 mo.

Mr. MORGAN. Mr. President, last year, this Chamber toiled long and hard to improve the market development tools of the USDA. I was a primary author of the Agricultural Trade Export Expansion Act of 1978 (Public Law 95-501) which passed the Senate by a vote of 86 to 1. In that act, we established new trade offices, allowed agricultural officials to be promoted to the rank of counselor, and we created a new intermediate credit program which financed the exports of breeding stock and the construction of ports and storage facilities in importing countries receiving U.S. farm commodities. This program was designed to strengthen our trading capacity and the bill I offer today is a step along the same line.

Farm exports have been very important to several sectors of the domestic economy. This year, the United States exported $32 billion worth of farm products, a new record. That $32 billion generated at least $63 billion in total economic activity ($26 billion in farming and $37 billion in nonfarm industries) and has provided 1.6 million jobs—670,000 in farming and 930,000 in nonfarm jobs. Thus, the importance of exports to our economy is clear.

Recently, the Agricultural Council of America estimated that farm exports could increase to $70 billion by 1985. The projection was based upon our ability to provide appropriate financing. Clearly, market opportunities are growing. But while they grow for the United States, they grow for our competitors. I hope that we have the fortitude and foresight to meet this challenge.

Mr. President, I would like to include some important information about the GSM-5 program in the Record. I ask unanimous consent that charts concerning the value of exports to various countries; a comparison of commodity quantities financed; a comparison of value of commodities financed; and a percentage of GSM-5 financing for each commodity as a percentage of total exports of that commodity, be printed in the Record at the conclusion of my remarks.

In conclusion, Mr. President, I would like to add one further thought. The bill that I offer with Senators Boschwitz, Church, McGovern, Kennedy, Lugar, Goldwater, Helms, Culver, Exon, Dole, and Jepsen is not cast in granite. The important element in our bill is the concept, not the specifics. As this Chamber considers this legislation, I am sure that it will be improved in a manner that will serve the interests of this Nation. Further, I hope that by offering this bill that the type of attention we should give to the problems and potential of our farm exports will occur. Finally, I hope that my colleagues from urban States will see this bill as a part of what will become an overall legislative package to improve our export stance and not just something for agriculture.

There being no objection, the tables were ordered to be printed in the Record, as follows:

CCC EXPORT CREDIT SALES PROGRAM: VALUE OF EXPORTS, FISCAL YEAR 1979 (OCTOBER 1978/SEPTEMBER 1979), BY DESTINATION AND COMMODITY

[Value in millions of dollars]

Country of destination[1]	Value (preliminary)	Commodity
Korea, Republic of	395.1	Cotton, wheat, corn, tallow.
Poland	385.5	Corn, wheat, soybean meal, cotton, soybeans, soybean oil, rice, sorghum, tobacco, soy-protein, linseed meal, barley, tallow, sunflower seed oil, cottonseed meal.
Portugal	146.7	Corn, wheat, soybean meal, soybeans, sorghum, rice, tallow.
Pakistan	131.4	Soybean oil, wheat.
Romania	107.2	Corn.
Greece	64.5	Do.
Peru	62.8	Wheat, soybean oil, corn, sorghum, cottonseed oil.
Brazil	47.3	Wheat.
Philippines	40.3	Tobacco, wheat.
Egypt	35.0	Cotton.
Thailand	25.5	Cotton, tobacco, soybean meal.
Dominican Republic	24.5	Cottonseed oil, soybean oil, soybeans, wheat.
Hungary	15.8	Soybean meal.
Australia	9.3	Tobacco.
United Kingdom	9.2	Do.
Yugoslavia	8.0	Soybeans.
Ireland	7.0	Tobacco.
New Zealand	5.0	Do.
Cyprus	4.2	Sorghum, corn, wheat.
Indonesia	2.2	Soybean meal.
Norway	.9	Tobacco.
Total	1,527.4	

[1] Ranked in order of value.

Source: ADP program data, OGSM/CEP/EPD (P&E), Oct. 29, 1979.

CCC EXPORT CREDIT SALES PROGRAM—COMPARISON OF VALUE OF COMMODITIES FINANCED IN FISCAL YEAR 1979 WITH THAT OF RECENT YEARS

[In millions of dollars; fiscal years]

Commodity	1976[1]	July to September 1976[2]	1977[3]	1978[3]	1979[3] (preliminary)
Wheat	161.6	60.7	239.9	467.7	359.7
Wheat flour	.9	0	0	0	0
Rice	21.9	10.5	4.6	16.6	14.9
Corn	37.8	62.6	238.8	439.4	499.4
Sorghum	0	17.6	28.4	45.5	20.1
Barley	0	0	3.2	40.2	5.0
Total feed grains	37.8	80.2	270.4	525.1	524.5
Cotton	244.9	80.0	98.5	229.6	248.8
Tobacco	81.0	21.7	66.9	46.1	69.2
Cottonseed meal	0	0	0	5.8	2.0
Linseed meal	0	0	0	9.4	5.8
Linseed oil	0	0	0	7.0	0
Soy-protein	0	2.0	4.3	4.6	5.9
Soybean meal	7.6	47.6	6.7	116.8	97.7
Soybeans	17.5	24.8	10.2	94.8	45.1
Sunflower seed oil	0	0	0	0	3.4
Vegetable oils	33.4	5.5	44.6	44.6	137.7
Tallow	10.1	2.4	3.3	12.8	12.7
Lard	0	0	5.2	0	0
Breeding cattle/swine	.3	0	.7	1.6	0
Dry edible beans	3.6	0	0	0	0
Raisins	.9	0	0	0	0
Total	621.5	335.4	755.3	1,582.5	1,527.4

[1] July 1 to June 30 year.
[2] Transitional quarter
[3] Oct. 1 to Sept. 30 year.

Source: ADP program data.

CCC EXPORT CREDIT SALES PROGRAM—COMPARISON OF COMMODITY QUANTITIES FINANCED IN FISCAL YEAR 1979 WITH THAT OF RECENT YEARS

[Units in thousands; fiscal years]

Commodity (unit of measure)	1976[1]	July to September 1976[2]	1977[3]	1978[3]	1979[3] (preliminary)
Wheat (metric tons)	1,018.8	435.8	2,251.6	3,812.7	2,417.5
Wheat flour (metric tons)	3.4	0	0	0	0
Rice (metric tons)	70.4	30.4	15.1	50.5	41.9
Corn (metric tons)	329.5	527.7	2,305.7	4,306.7	4,700.3
Sorghum (metric tons)	0	161.3	316.6	474.8	220.4
Barley (metric tons)	0	0	25.6	458.6	52.7
Total feed grains (metric tons)	329.5	689.0	2,647.9	5,240.1	4,973.4
Cotton (bales)	902.2	243.1	272.8	778.3	778.8
Tobacco (metric tons)	23.3	5.5	16.1	11.0	14.2
Cottonseed meal (metric tons)	0	0	0	35.1	10.5
Linseed meal (metric tons)	0	0	0	56.1	29.6
Linseed oil (metric tons)	0	0	0	13.8	0
Soy-protein (metric tons)	0	7.0	10.0	11.8	16.2
Soybean meal (metric tons)	49.1	233.2	27.8	569.2	424.4
Soybeans (metric tons)	87.7	106.2	39.1	353.3	165.7
Vegetable oils (metric tons)	86.4	11.9	72.5	77.9	209.9
Tallow (metric tons)	27.3	7.0	8.3	28.8	24.9
Lard (metric tons)	0	0	9.3	0	0
Breeding cattle/swine[4] (number)	258	0	610	2,296	0
Dry edible beans (metric tons)	8.2	0	0	0	0
Raisins (metric tons)	1.2	0	0	0	0

[1] July 1 to June 30 year.
[2] Transitional quarter.
[3] Oct. 1 to Sept. 30 year.
[4] Actual number of animals financed.

Source: ADP program data.

CCC EXPORT CREDIT SALES PROGRAM—PERCENTAGE OF TOTAL EXPORTS FINANCED, FISCAL YEARS 1977–79

[In million of dollars]

Commodity	Fiscal year 1977			Fiscal year 1978			Fiscal year 1979 preliminary			Fiscal year 1977–79 average		
	Exports financed under CCC credit	Total U.S. exports	Percent financed	Exports financed under CCC credit	Total U.S. exports	Percent financed	Exports financed under CCC credit	Total U.S. exports	Percent financed	Exports financed under CCC credit	Total U.S. exports	Percent financed
Wheat/wheat flour	239.9	2,997.8	8.0	467.7	4,055.9	11.5	359.7	4,763.8	7.5	355.8	3,939.2	9.0
Corn	238.8	4,500.5	5.3	439.4	5,069.4	8.7	499.4	6,076.0	8.2	392.5	5,215.3	7.5
Sorghum	28.4	630.3	4.5	45.5	520.0	8.8	20.1	566.4	3.5	31.3	572.2	5.4
Barley	3.2	204.8	1.6	40.2	84.1	47.8	5.0	41.6	12.0	16.1	110.2	14.6
Total, feed grains	270.4	5,335.6	5.1	525.1	5,673.5	9.3	524.5	6,684.0	7.8	439.9	5,897 7	7.4
Cotton	98.5	1,528.8	6.4	229.6	1,693.7	13.6	248.8	1,896.2	13.1	192.3	1,706.2	11.2
Tobacco	66.9	1,065.4	6.3	46.1	1,131.8	4.1	69.2	1,292.2	5.4	60.7	1,163.1	5.2
Total, grains, cotton and tobacco	675.7	10,927.6	6.2	1,268.5	12,554.9	10.1	1,202.2	14,636.2	8.2	1,048.7	12,706.2	*8.3
Soybeans	10.2	4,306.6	0.2	94.8	4,749.0	2.0	45.1	5,444.4	.8	50.0	4,833.3	1.0
Soybean meal	6.7	917.9	.7	116.8	1,121.1	10.4	97.7	1,364.9	7.1	73.7	1,134.6	6.5
Soy-protein	4.3	20.7	20.8	4.6	6.3	73.0	5.9	NA		4.9	NA	
Vegetable oils	44.6	698.3	6.4	44.6	906.7	4.9	137.7	705.7	19.5	75.6	770.9	9.8
Total, soy products	65.8	5,943.5	1.1	260.8	6,785.3	3.8	286.4	7,515.0	3.8	204.3	6,749.9	3.0
Total, major commodities	741.5	16,871.1	4.4	1,529.3	19,340.0	7.9	1,488.6	22,151.2	6.7	1,253.1	19,456.1	*6.4
Other	13.8	7,102.9		53.2	7,958.0		38.8	9,831.6		35.3	8,295.5	
Grand total	755.3	23,974.0	3.1	1,582.5	27,298.0	5.8	1,527.4	31,982.8	4.7	1,288.4	27,751.6	4.6

NA: Not presently available, Dec. 17, 1979.

Note: Asterisk indicates more significant percentage figures to be used as a minimum budge figure based on history. Other commodities financed vary from year to year and represent a tiny fraction of 1 percent of the value of all other agricultural exports. Prior to fiscal year 1976 the only soy product financed was vegetable oil. ●

● Mr. BOSCHWITZ. Mr. President, I am glad to join my friend from North Carolina in coauthoring a bill which I feel will greatly improve our Nation's agricultural export policy. The Morgan-Boschwitz bill works to alleviate a problem in the Commodity Credit Corporation export financing program which has worked to limit the amount of agricultural commodities exported under the program.

At the present time there are three ways in which U.S. agricultural commodities are marketed internationally. The first and most important in terms of dollar value is the international cash market. Every nation, except those which fall under the Trading With the Enemy Act, can purchase farm commodities for cash. The second method is the Commodity Credit Corporation export financing program which provides short-term credit to finance export sales of farm products overseas for 6 months to 3 years. Current interest rates are 16¼ percent with a U.S. bank and 16⅜ percent with a foreign bank repayment guarantee. The final method is through the Public Law 480 "Food for Peace" program which finances exports at concessional rates of interest on terms from 20 to 40 years.

The CCC export financing program, which was initiated in 1956, was designed to bridge the gap between the commercial export market and the Public Law 480 program. Under this program, a large variety of commodities are eligible for export financing, including wheat, feed grains, cotton, soybeans, soybean meal, rice, tobacco, vegetable oils, potatoes, peanuts, and sunflowers.

Since 1974, the Office of Management and Budget has placed an annual ceiling on the amount of money which can be loaned by the CCC under the export financing program. The budget ceilings have ranged from $415 million in 1975 to $1.7 billion in 1978. The net result of these annual budget ceilings has been to discourage possible export activity which would be financed through the Commodity Credit Corporation.

The following table shows the approved budget and the actual amount requested under the CCC export financing program for the fiscal years 1978–80:

Fiscal year	Approved budget (Millions)	Requests (Billions)
1978	$1,700	$2,474
1979	1,600	3,434
1980	800	[1] 2,163

[1] To date.

It is quite obvious from this table that the annual budget ceilings have only served to limit our agricultural exports through the export financing program. As a result of these ceilings, the United States has lost many sales that it otherwise could have had.

The Morgan-Boschwitz bill will alleviate this disincentive by putting the export financing program on a revolving fund basis, similar to the way the farm price support loan program is financed. The bill would authorize appropriations each year for 3 successive years, in order to establish the $5 billion revolving fund.

There are three major reasons for establishing a revolving fund for this program: First, the elimination of the current constraint on sales. There is strong evidence that the current program has cost the United States export sales to a number of countries. With strong correlation between farm income and export demand, a marginal increase in exports would have a substantial impact on farm income; second, the elimination of the inequities that currently exist between the United States and competing nations. Most of our competitors in the agricultural export market finance their activities through a revolving fund; third, it will create an export financing program which will be consistent with our aggressive agricultural export policy. Why should the Federal Government spend millions of dollars promoting U.S. trade when they are currently administering a program which only serves to limit the amount of agricultural commodities which can be exported?

From a budgetary standpoint, the creation of a revolving fund is normally viewed with skepticism. However, the Commodity Credit Corporation export financing program is quite unique in this respect. Since 1970, the program has returned more money to the U.S. Treasury than it has been appropriated. This certainly cannot be said for too many of the programs which the Congress authorized in the past.

In addition, the bill only authorizes the revolving fund for 3 years. This gives the Members of Congress an opportunity to evaluate the use of the revolving fund versus the annual budget ceilings that have marked the program since 1973.

In summary, I consider this bill extremely important for our agricultural community. With the United States being the largest exporter of agricultural commodities, it is quite apparent that a farmer's income is directly related to export demand. This bill will directly affect the farmer by lifting the budgetary constraints on the CCC export financing programs and thus encourage the expansion of our agricultural exports to developing countries.●

STREAMLINING CCC COMMERCIAL CREDIT FINANCING

● Mr. HELMS. Mr. President, I want to commend my colleague from North Carolina for this worthy legislative proposal and join with him as a cosponsor of this bill.

I am concerned, Mr. President, by USDA projections that farm income will drop 20 percent next year. If this projection is accurate, farm income in terms of real dollars will be at its lowest level since the Great Depression. Such a drop in the income of the American farmer would not only mean extinction for many small family farms but also would compromise the capacity of this nation's agricultural sector to produce the food and fiber required to feed and clothe the people of the world.

This dreary prediction could very well mean that Members of Congress will once again be beseiged by desperate farmers struggling for economic survival. The temptation will be to respond to these pleas for assistance by jacking up Federal farm support prices and guaranteeing a return on a farmer's investment. This will mean increased Federal expenditures and increased Federal interference in agriculture.

The best way to avoid such a state of affairs is to permit the farmer to get his profit in the marketplace rather than from the Federal Treasury. The Federal Government can help facilitate this by streamlining its commercial export credit program along the lines proposed in this bill so that additional agricultural sales abroad can be made.

The only objection to this bill is that it will result in a loss of congressional control over the CCC commercial export credit program. I believe that such objections are unwarranted. The bill's sunset and reporting provisions will keep Congress as much in control of commercial export credit programs as it ever has been.

Mr. President, the benefit of farm exports are not limited to the agricultural sector. This year's $32 billion worth of farm exports generated over $60 billion in total economic activity and provided 1.6 million jobs—670,000 in farm jobs and 930,000 in nonfarm jobs. In addition, our agricultural trade surplus helped pay for our huge oil bill, thereby reducing our overall trade deficit and lessening the impact of inflation. If we can continue to increase our agricultural exports, everbody will benefit.

The bill that I cosponsor today is an important step toward realizing the full potential of our agricultural community. It makes sense for farmers; it makes sense for consumers; it makes sense for those of us who strive for efficiency in government programs. Everybody will win and no one will lose if the provisions of this bill become law.●

By Mr. MORGAN:

S. 2184. A bill to provide improved conditions for the transport and distribution of commodities used and produced by the agricultural sector of the United States, to foster improved transportation services for the rural areas of the country, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

AGRICULTURAL TRANSPORTATION AND DISTRIBUTION ACT OF 1979

● Mr. MORGAN. Mr. President, I am today introducing the Agricultural Transportation and Distribution Act of 1979.

Agriculture is the largest and most basic industry in the United States. Prompt and efficient transportation of agricultural commodities is necessary in order to enjoy the full fruits of American agricultural production. Now, when agriculture's need for transportation services is at an all-time high, the food transportation and distribution system is experiencing increasing difficulties.

Last year the Congress created the Rural Transportation Advisory Task Force, cochaired by the Secretaries of Transportation and Agriculture to investigate ways to alleviate these difficulties. The task force report is due in January and we are hopeful that it will pinpoint some of the basic facts and trends in the transportation industry as they affect agriculture and offer some recommendations on what steps are needed to provide the kind of transportation services needed to encourage expanded production of agricultural commodities in the years ahead.

But the task force report is not enough. Fully two-thirds of the $218 billion spent annually by American consumers for food goes to pay for marketing and distribution. The increasing demand for transportation services by the agricultural industry testifies to the urgent need for congressional action and legislative reform. Farm commodities now make up 17 percent of all rail tonnage, one-fifth of the domestically produced grain is shipped by barges, and trucking accounts for the distribution of 80 percent of all agricultural tonnage.

The act which I am introducing today is concerned with the role of the Department of Agriculture in the field of transportation. This legislation seeks to strengthen the traditional role that the Agriculture Department has played in this area and provides for additional responsibilities that logically should lie within the scope of that Department.

The proposed legislation orders two annual reports to followup on the task force report. The first would identify the problems that exist in meeting the needs of the agricultural sector and economic development of rural areas, and it would recommend additional steps that ought to be taken to alleviate the unnecessary hardships that now exist. The second report would identify impediments to effective marketing and distribution of agricultural commodities apart from transportation. Taken together, these two reports will contribute significantly to our understanding of the needs for swift and effective and less costly means of agricultural development and distribution.

My bill would give statutory standing to the Office of Transportation within the Agricultural Department and would authorize the Office to provide research and technical assistance to small businesses engaged in the transportation of agricultural commodities, as well as giving official approval of the Department's efforts to coordinate agricultural transportation policies which had previously been the responsibilities of many offices and agencies.

This bill also proposes a solution to the "unloading racket" or "lumper" problem in the motor carrier shipment of agricultural goods by making it illegal for a shipper of an agricultural commodity to make a charge or suffer any charge to be made of a truck owner or driver for loading such goods or for unloading. Despite numerous congressional hearings into this practice of extortion and under-the-table fees, nothing has been done about it.

My bill takes concrete action against this flagrant disregard for law. Shippers and receivers would be financially responsible for loading and unloading, and the Secretary of Agriculture would be authorized to enforce that law. Since USDA personnel are currently involved with the enforcement of the Packers and Stockyards Act, and with the Perishable Agricultural Commodities Act, the manpower is already in place and an administrative structure already established, to take full charge of this new assignment.

Mr. President, American consumers spend more than $218 billion for food annually. Except for clothing and housing, there is no more basic or fundamental industry in this country. This legislation will begin to guarantee the American consumer and the agricultural industry that food will be available more quickly, with more certainty, and at lower cost than would otherwise be the case.

Mr. President, I ask unanimous consent that the text of the bill, together with a section-by-section analysis, be printed in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 2184

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, This Act may be cited as the "Agricultural Transportation and Distribution Act of 1979."

SECTION 1—LEGITIMATE PURPOSE.

The Congress hereby finds and declares that—

(1) an adequate transportation and distribution system, made up of various modes of transportation and of various facilities and services required for the distribution of agricultural products, is essential to the overall succees of the Nation's agriculture, to a sound program of rural development, to contain and reduce the cost to consumers involved in the marketing and distribution of agricultural products, and to the economic stability of the United States;

(2) the economical and efficient movement of goods to, within, and from the agricultural sector has been impeded by the deteriorating condition of many railroads, highways, and bridges throughout the United States and by excessive and unwise regulation of carriers;

(3) the rural and agricultural areas of the country are experiencing a growing problem of moving commodities from farm to market in a timely, efficient, economical, and dependendable manner, due to a wide range of factors beyond the control of the agricultural industry or rural communities;

(4) the maintenance of an efficient and economical transportation system capable of serving the needs of agriculture and rural areas has not received sufficient attention by any department or agency of the government; and

(5) there is a need to clearly establish a better coordinated and more active role for the Secretary of Agriculture is providing certain services and operating certain programs designed to assist agricultural producers, carriers, and the various segments of industry involved in the marketing and distribution of agricultural commodities so as to help assure the availability of an adequate, efficient, and economical transportation and distribution system.

SEC. 2.—DEFINITIONS.

(a) "Secretary" means the Secretary of Agriculture.

(b) "Shipper" means any person engaged in the business of buying, consigning, shipping, or arranging for the shipment of any agricultural commodity, or acting as an agent thereof.

(c) "Receiver" means any person engaged in the business of buying, consigning, receiving, or arranging for the receipt of any agricultural commodity, or acting as an agent thereof.

(d) "Robbery" means the unlawful taking or obtaining of personal property from the person or in the actual presence of another, against his will, by means of actual or threatened force, or violence, or fear of injury, immediate or future, to his person or property, or property in his custody or possession, or the person or property of a relative or member of his family or of anyone in his company at the time of the taking or obtaining.

(e) "Extortion" means the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or economic reprisal or under color of official right.

(f) "Person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, and includes a trustee, receiver, assignee, personal representative, or an employee of a person.

SEC. 3.—REPORTS OF TRANSPORTATION AND DISTRIBUTION NEEDS.

(a) Beginning in 1982, the Secretary of Agriculture shall prepare an annual report regarding the capability of the Nation's transportation system, including all forms of transportation, to meet the essential needs of the agricultural sector and the rural areas of the United States, including the needs for effective development of such rural areas. The Secretary shall identify in such report any impediments that may exist in meeting such needs including, but not limited to, any impediments that may exist to the movement of agricultural commodities to domestic and international markets and the transportation needs of rural people. The Secretary shall include in such report recommendations for any legislative or other actions he deems necessary and feasible to remove or alleviate such impediments. Copies of the report shall be forwarded to the Secretary of Transportation, the appropriate committees of the Congress, the Chairman of the Interstate Commerce Commission, and other transportation regulatory agencies; and shall be disseminiated widely to the rural and agricultural community and to the general public. Subsequent reports shall include a review and analysis of specific improvements or progress made during the preceding year.

(b) Beginning in 1982, the Secretary of Agriculture shall prepare an annual report providing an overview of the principal marketing, distribution, and utilization systems other than transportation serving the agricultural industry, including both domestic and international aspects. The Secretary shall identify in such report the major problems and impediments that may exist that tend to limit the capabilities and efficiency of such systems; and make recommendations for any legislative or other actions he deems advisable and appropriate to alleviate such problems and impediments in the interest of providing better service to agriculture, to the marketing and distribution industry, and of the consuming public. Subsequent reports shall include a review and analysis of specific improvements or progress made during the preceding year.

SEC. 4.—TRANSPORTATION AND DISTRIBUTION AGENCY.

(a) There shall be established in the Department of Agriculture a transportation and distribution agency for the purpose of coordinating the various responsibilities and programs of the Department involved with the transportation and distribution of agricultural commodities.

Such agency shall be created by drawing upon the expertise of existing employees in the Department, including research, economics, regulatory, and technical services; and shall be provided necessary funding through the consolidation of existing programs and budgets presently involved with transportation, marketing, and distribution of agricultural commodities, in both domestic and international markets. The purpose of such agency shall be to improve the Department's services in the aforementioned areas of concern and to assist the private sector and the rural areas of the Nation; and to improve efficiency and reduce unnecessary costs which occur between the farms and ranches of the Nation and the retailing of agricultural products.

(b) The Secretary shall require the use of written contracts covering the interstate movement by motor carriage of agricultural freight, where such movement involves the services of a broker or other third party.

Such contracts of haul shall include certain minimum requirements and conditions as promulgated by the Secretary and shall set forth the responsibilities of shippers, receivers, brokers and carriers.

(c) In addition to its other responsibilities enumerated in this section, the transportation and distribution agency shall carry out a program of research, education, and technical assistance to small businesses engaged in the transportation of agricultural commodities, particularly owner-operators of trucks, so as to facilitate efficient and economical transport services to agriculture.

SEC. 5.—RESPONSIBILITY FOR LOADING AND UNLOADING TRUCKS.

Shippers of agricultural commodities shall have a non-delegable financial responsibility for loading such commodities upon any truck or motor vehicle engaged in interstate movement, and shall make no charge, suffer any charge to be made, nor attempt to evade such responsibility therefor; and the receiver of such goods shall have a non-delegable financial responsibility for the unloading and shall make no charge, suffer any charge to be made, nor attempt to evade such responsibility by allowing others to make any charge to any truck owner or driver therefore.

SEC. 6.—PERMITTING EXTORTIONATE PRACTICES.

No person engaged in the operation of warehouses, ports, terminals, or distribution centers or any shipper or receiver of agricultural commodities shall knowingly permit any robbery, extortion, or extortionate practice in which truck owners or drivers of such trucks are subjected to threats of violence, physical damage, or undue delays with respect to the loading or unloading of any agricultural commodity.

SEC. 7.—INVESTIGATION AND HEARING OF COMPLAINTS.—

(a) Any person complaining of a violation of this chapter may request the Secretary to investigate such complaint; and the Secretary may initiate investigations on his own volition.

(b) If there appear to be, in the opinion of the Secretary, any reasonable grounds for investigating any alleged or reported violation of this chapter, the Secretary shall investigate such complaint and may, if in his opinion the facts warrant such action, have said complaint served by registered mail or by certified mail or otherwise on the person concerned and afford such person an opportunity for a hearing thereon before a duly authorized examiner of the Secretary, under such regulations as the Secretary may prescribe.

SEC. 8.—CEASE AND DESIST ORDERS.

(a) If, after such hearing, the Secretary finds that a violation has been committed, he shall issue and cause to be served on the violator an order requiring such person to cease and desist from continuing such violation. Complaints, orders, and other processes of the Secretary under this section may be served in the same manner as provided in section 45 of title 15.

(b) An order made under this chapter shall be final and conclusive unless within thirty days after service the violator appeals to the court of appeals for the circuit in which he has his principal place of business, by filing with the clerk of such court a written petition praying that the Secretary's order be set aside or modified in the manner stated in the petition, together with a bond in such sum as the court may determine, conditioned that such violator will pay the costs of the proceedings if the court so directs.

(c) The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall thereupon file in the court the record in such proceedings, as provided in section 2112 of title 28. If before such record is filed, the Secretary amends or sets aside his report or order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, on notice to the Secretary.

(d) At any time after such petition is filed, the court, on application of the Secretary, may issue a temporary injunction, restraining, to the extent it deems proper, the violator, his officers, agents, and employees, from violating any of the provisions of the order pending the final determination of the appeal.

(e) The evidence so taken or admitted, and filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case. The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way.

(f) The court may affirm, modify, or set aside the order of the Secretary.

(g) If the court determines that the just and proper disposition of the case requires the taking of additional evidence, the court shall order the hearing to be reopened for the taking of such evidence, in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings and his recommendations, if any, for the modification or setting aside of his order, with the return of such additional evidence.

(h) If the court of appeals affirms or modifies the order of the Secretary, its decree shall operate as an injunction to restrain the violator, his officers, directors, agents, and employees from violating the provisions of such order, such order as modified, or the provisions of this chapter.

(i) The court of appeals shall have jurisdiction, which upon the filing of the record with it shall be exclusive, to review, and to affirm, set aside, or modify, such orders of the Secretary, and the decree of such court shall be final except that it shall be subject to review by the Supreme Court of the United States upon certiorari, as provided in section 1254 of title 28, if such writ is duly applied for within sixty days after entry of the decree. The issue of such writ shall not operate as a stay of the decree of the court of appeals, insofar as such decree operates as an injunction unless so ordered by the Supreme Court.

SEC. 9.—PUNISHMENT FOR VIOLATION OF ORDER.—

(a) Any person who fails to obey any order of the Secretary issued under the provisions of this chapter, or such order as modified—

(1) After the expiration of the time allowed for filing a petition in the court of

appeals to set aside or modify such order, if no such petition has been filed within such time; or

(2) After the expiration of the time allowed for applying for a writ of certiorari, if such order, or such order as modified, has been sustained by the court of appeals and no such writ has been applied for within such time; or

(3) After such order, or such order as modified, has been sustained by the courts, shall on conviction be fined not less than $1,000 nor more than $10,000, or imprisoned for not less than six months nor more than five years, or both. Each day during which such failure continues shall be deemed a separate offense.

(b) The Secretary shall report any failure to comply with any order, or such order as modified, as provided in this section, to the Attorney General of the United States, who shall cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States without delay. The costs and expenses of such proceedings shall be paid out of the appropriations for the expenses of the courts of the United States.

SEC. 10.—RULES AND REGULATIONS.

The Secretary may make such rules and regulations as may be deemed advisable to carry out the provisions of this chapter and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and may call upon any other Federal department, board, or commission for assistance in carrying out the purposes of this chapter.

SEC. 11.—APPROPRIATION AUTHORIZATION.

There is hereby authorized to be appropriated such sums as may be necessary after fiscal year 1980 for carrying out the purpose of this chapter.

SEC. 12.—SEPARABILITY OF PROVISIONS.

If any provision of this chapter is declared unconstitutional or the applicability thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and the applicability of such provision to other persons and circumstances shall not be affected thereby.

SEC. 13.—EFFECTIVE DATE.

The provisions of this Act shall become effective ninety days after enactment.

SECTION-BY-SECTION ANALYSIS

Section 1. This section is a declaration of legislative purpose. Congress recognizes that an adequate and economical transportation and food distribution system is essential to agriculture, rural development, containment of consumer food costs and the economic stability of the country; recognizes the growing problems facing the agricultural sector in the area of transportation; and states a need for a better coordinated and more active role for the Secretary of Agriculture in solving the problems of transportation and food distribution.

Section 2. This section provides needed definitions of specific terms used in the bill.

Section 3(a). This section requires that the Secretary of Agriculture, beginning in 1982, prepare an annual report to the Congress regarding the capability of the nation's transportation system to meet the essential needs of the agricultural sector and rural areas; to identify the impediments that prevent the system from meeting those needs; and make recommendations for the alleviation of such impediments. The annual report will also include a review and analysis of specific improvements or progress made during the preceding year.

Section 3(b). This section provides for a similar annual report as provided in Section 3(a); except that in this case, the reports consist of an overview of the principal nontransportation problems existing in the marketing, distribution and utilization of agricultural commodities.

Section 4(a). This section establishes in the Department of Agriculture a transportation and distribution agency for the purpose of coordinating the various responsibilities and programs of the Department involved with the transportation and distribution of agricultural commodities.

Section 4(b). This section empowers the Secretary of Agriculture to require the use of written contracts or bills of lading, wherever feasible, covering the interstate movement of motor carriage of agricultural freight, where such movement involves the services of a broker or other third party.

Section 4(c). This section provides authority for the transportation and distribution agency to carry out a program of research, education and technical assistance to small businesses engaged in the transportation of agricultural commodities, particularly owner-operators of trucks, to facilitate efficient and economical transport services to agriculture.

Section 5. This section would put an end to the "unloading racket" or "lumper" problem now associated with truck transportation, insofar as loading and receiving of agricultural commodities are concerned, by making shippers of agricultural commodities financially responsible for loading such commodities, and making it illegal for them to make a charge nor suffer any charge to be made to truck owners or drivers for such loading; and placing the same responsibility for unloading on receivers of agricultural commodities.

Section 6. This section prohibits persons engaged in the operation of warehouses, ports, terminals or distribution centers, or any shipper or receiver of any agricultural commodity to knowingly permit any robbery, extortion or extortionate practice in which truck owners or drivers are subjected to threats of violence, physical damage or undue delays with respect to the loading or unloading of any agricultural commodity; thus strengthening the responsibilities outlined in Section 5.

Section 7. This section provides for filing of complaints and investigation by the Secretary of Agriculture of any violations of Sections 5 and 6; and affords an accused person an opportunity for a hearing.

Section 8. This section provides procedures for administrative and judicial remedies concerning violations of Sections 5 and 6.

Section 9. This section provides for penalty procedures where Sections 5 or 6 have been violated; and provides for fines up to $10,000, or imprisonment of not more than five years, or both, with each day of continued violation constituting a separate offense. Court actions are assigned to the Attorney General.

Section 10. This section gives the Secretary of Agriculture regulatory authority to carry out the provisions of the act.

Section 11. This section authorizes the appropriation of such sums as may be necessary, after fiscal year 1980, to carry out the purposes of the act.

Section 12. This section provides for separability of the various provisions of the act, should any one or more of its provisions be held unconstitutional or invalid.

Section 13. This section provides that the act shall become effective 90 days after enactment.●

By Mr. DANFORTH:

S. 2185. A bill to authorize the Federal Emergency Management Agency to accept a bequest to the U.S. Government of approximately $500,000; to the Committee on Governmental Affairs.

● Mr. DANFORTH. Mr. President, it is in vogue today to say that the American people are suffering from malaise, that the American people no longer believe in their Government, that Americans are selfish people who think only of their own welfare. Yet every day we hear stories which refute that claim. Such a story lies behind the bill I am introducing today.

On August 20, 1977, Cora C. Brown died in Kansas City, Mo. Mrs. Brown was known to few people in Kansas City. A quiet woman who led a quiet life, she was regarded as a simple, frugal person. It therefore came as a surprise to those who knew her that, on her death, she left an estate valued in excess of a half million dollars. The great bulk of that estate, Mr. President—more than $500,000—was left to the U.S. Government—to be administered solely as a special fund "for the relief of human suffering caused by natural disasters or other disasters not caused by or attributable to war, whether in the United States or overseas." Unfortunately, although the United States has the inherent power to receive unconditional gifts, specific statutory authority is necessary for use for a particular purpose.

Therefore, today I am introducing a bill which would authorize the Director of the Federal Emergency Management Agency to accept the bequest of Cora Brown. I have consulted with the Director of FEMA, who has assured me of his support for the legislation.

Mr. President, it is appropriate that this bill be introduced at the Christmas season, a time when we are called upon to think of the needs of others, a time when we are reminded of the promise of peace on Earth. It is also appropriate because this Christmas Day would have been Cora Brown's 95th birthday. On her behalf, I am pleased to present her Christmas gift to the American people.●

By Mr. JAVITS (for himself and Mr. RIBICOFF):

S. 2186. A bill to provide for the Overseas Private Investment Corporation to mobilize and facilitate investment in developing countries in order to increase trade with, and contribute to the development of, such countries; to the Committee on Foreign Relations.

OVERSEAS PRIVATE INVESTMENT CORPORATION ACT

Mr. JAVITS. Mr. President, on behalf of myself and Senator RIBICOFF, I am introducing today the Overseas Private Investment Corporation (OPIC) Act, which will extend OPIC's authority through 1985. In addition, the bill modifies the Corporation's purpose to reflect the growing recognition in Congress that U.S. efforts to help the developing countries achieve economic growth have highly beneficial effects on U.S. trade and hence on U.S. employment.

As a long-time advocate of the benefits of international trade and most recently as a member of the Executive Committee of the President's Export Council, I have worked vigorously to raise the export consciousness not only of American business and labor but also of the Members of Congress and of officials in successive administrations. Today's energy crisis, which it is estimated will shift an extra $100 billion in the next 2 years from the oil consumers to the OPEC oil producers only as a result of this year's oil price increases, makes it imperative that we have in place enlightened U.S. policies that will help not only the hardest hit non-oil-developing countries to keep their economies going but also the U.S. economy by generating increased exports to these countries.

This dual objective has always been the purpose of OPIC but in the past, the strong U.S. international economic position had relegated this critical relationship between U.S. investment abroad, which OPIC's programs facilitate, and U.S. exports to a secondary position. Today, we can no longer shut our eyes to this essential linkage and we must permit OPIC to modify its operations and programs so that it can better serve the original dual purpose.

When earlier this year the Senate considered reorganization plan No. 2, which established the International Development Cooperation Agency (IDCA), many Senators, including the distinguished chairman of the Government Affairs Committee which considered the reorganization proposal, expressed the view that OPIC had more trade-related functions than a development-related function. While the Congress finally concurred in putting OPIC within IDCA, the committee, in its report, reserved the right to examine the question thoroughly in connection with its consideration of the President's trade reorganization proposal. During the floor debate on IDCA, I pointed out that while—

> OPIC's development objectives are important . . . they cannot substitute for the hard decisions that American business must first make with respect to where it will invest its capital.

I further pointed out that OPIC—

> can facilitate such investment decisions by providing political risk insurance in developing countries where the overall investment climate is favorable.

The issue of OPIC's proper role arose once again during the consideration of reorganization plan No. 3 on trade reorganization; and once again the Congress reaffirmed its belief that OPIC had an important export expansion function. At Congress insistence, the original version of the reorganization plan was modified by the administration to make the U.S. Trade Representative (USTR) the vice-chair of OPIC, although OPIC was kept within IDCA. The committee report again emphasized that—

> As the President's principal adviser on international trade matters, the views of the USTR on the trade aspects of matters before OPIC will be entitled to special weight.

In response to the concerns of Senators, including again the chairman of the Governmental Affairs Committee, that OPIC must have a greater trade-related function the administration in a series of letters from OMB Director McIntyre, Ambassador Askew and IDCA Director Ehrlich, recognized the relationship of the OPIC program to the Government's efforts to increase the volume and value of U.S. exports. I ask unanimous consent that the letters appear at the end of my statement.

The legislation that is being introduced today dealing with the extension of OPIC from the effective date of the bill until September 30, 1985, opens this question to give an opportunity for a decision based on experience with the present formulation. Giving OPIC a trade related function, however, does not mean that OPIC would no longer have a development function. Its development function, however, must be broadened beyond merely complementing the basic human needs element of U.S. development policy, which primarily focuses on official grants and concessional aid to the poorest countries to including a recognition that development must also focus on promoting economic growth in the middle-income developing countries. This latter objective is best served by having U.S. Government programs that facilitate the participation of the U.S. private sector in the development process of those developing countries that want such participation. Such a development function is entirely consistent with an objective that seeks also to serve the needs of U.S.-based business interested in investing in projects in a developing country that will either directly or indirectly lead to increased U.S. exports.

Mr. President, I would like to demonstrate briefly how OPIC's programs in the developing countries meet the dual objective of contributing to the economic growth of the developing countries, while helping strengthen U.S. exports.

In fiscal year 1979, OPIC insured or financed investments in 84 projects in 33 countries, of which 43 were in manufacturing, 7 in agribusiness, 12 in financing, 10 in other services, 5 in construction, 5 in minerals, energy, forest products, and 2 in tourism. Forty-five projects were located in countries with a per capita GNP of $520 or less in 1975 dollars. More than half of the enterprises were joint ventures with local investors, most of whom held a 50 percent or greater ownership interest.

Total investment in these projects was $894.17 million, of which U.S. investors supplied approximately 56 percent. The host country investors supplied $221 million, third country investors $105 million, and multilateral lending institutions added another $22 million.

The 84 projects it is estimated will generate an estimated 16,884 new jobs in the developing nations during the first 5 years of operation, 25 percent of this total will be positions at the managerial or professional level. Thousands of additional manufacturing and service sector jobs can be created indirectly through increased demands for local goods and services. Technical and administrative skills also can be transferred to the employees, and nonwage benefits extended to them and their families.

It is estimated that the products and services produced by the projects can replace about $267 million worth of imports each year, generate an estimated $258 million in export earnings, and local taxes in excess of $68 million annually. Net effect on the host countries' balance of payments is estimated to amount to $149 million in annual savings.

This net balance of payments savings masks, however, the beneficial effect that these projects have had on U.S. trade and employment. These projects generated $330.2 million in initial procurement from U.S. exporters and an estimated $637 million in U.S. exports in the following 5-year period, for a total of $967.2 million in direct U.S. exports. It is further estimated that 16,744 man-years of U.S. employment can be generated over that 5-year period.

SUMMARY OF THE BILL

The bill establishes OPIC as an independent agency of the United States of America with the expanded purpose of increasing U.S. trade with, as well as contributing to the development of less developed friendly countries and areas by providing various insurance and financial services to the U.S. business community. The following are the major changes in OPIC's present statutory authority under the Foreign Assistance Act ("FAA") carried out by the bill:

1. Independent agency under separate statute. OPIC would be an independent agency with its own statute, to emphasize OPIC's additional purposes relating to U.S. trade.

OPIC was created 10 years ago under the Foreign Assistance Act (FAA) to consolidate most of the U.S. Government investment incentive programs under one agency whose sole purpose was to encourage U.S. private investment in developing countries. Prior to that, those programs had been operated by the Agency for International Development ("AID"). The transfer of these programs from AID to OPIC was effected in order to assure that they would be operated in a businesslike manner and be responsive to the business community. This bill offers logical extension of the original consolidation, and now that OPIC would be given a trade purpose, in addition to a development purpose, its statutory authority would be in its own legislative charter as has been done in the past with other wholly owned Government corporations, with its corporate powers vested in its Board of Directors which would have the statutory responsibility for the accomplishment of OPIC's purposes. The views of the other Government agencies and officials responsible for the trade development policies of the United States would be addressed through representation on the OPIC Board of Directors.

2. Trade purpose. Section 1 of the bill gives OPIC the purpose of encouraging those investments in developing countries which will directly or indirectly increase U.S. trade with such countries while continuing OPIC's development purpose. It is in the national interest of the United States to encourage those investments which will result in immediate and long-range benefits for the U.S. economy such as the generation of U.S. business activity and jobs. Investments in developing countries which have beneficial trade effects for the United States are worthly of specific U.S. Government support Other developed nations have supported such investments for many years and they are reaping the benefits. The bill will permit the United States to do the same.

3. Elimination of $1,000 per capita limit. Section 1 of the bill removes the restriction on operation of OPIC pro-

grams in countries that have per capita incomes in 1975 dollars of more than $1,000 now contained in section 231 of the FAA. The restriction was added to the OPIC statute in 1978 in order to concentrate OPIC's development responsibility in those countries having the greatest need of development. However, OPIC has adequate resources available to serve the needs of both the poorest and the middle income developing countries. The adidtional income generated by OPIC from its support of projects in the middle income developing countries can be utilized for the support of projects in the poorer developed countries. Further, the restriction limits one of the few development tools that the United States has in the middle income developing countries. Moreover, by utilization of an arbitrary national average, the restriction fails to take into account the disparity of per capita incomes within most nations. For example, the per capita income in the northeast of Brazil is among the poorest in the hemisphere even though Brazil's national average is above $1,000.

Furthermore, the restriction would not be compatible with the view that OPIC should be an agency that facilitates U.S. business participation in the developing countries rather than one that directs U.S. business activities into predetermined countries. Therefore, the bill returns to the pre-1978 formulation regarding the operation of OPIC programs in developing countries. OPIC programs will be available in all developing countries, but OPIC is to give preferential consideration to projects in the poorest countries.

4. Board of Directors. Section 3 of the bill reverses the order of chairman and vice chairman of the OPIC Board, now allotted to the Director of the U.S. International Development Cooperation Agency and the U.S. Trade Representative, respectively.

5. Insurance authority. Section 4(a) of the bill changes the insurance authority of OPIC by (i) specifically stating that OPIC may insure existing investments, and (ii) giving OPIC the ability to insure against the risks of civil strife. While there is no specific prohibition on the issuance of insurance to existing investments in OPIC's present statute, OPIC has traditionally limited its authority to new investment or to modernizations or expansions of existing investments.

Nevertheless, if the availability of OPIC insurance can encourage investors to retain investments having positive development or trade benefits, OPIC insurance authority should be made available to such investors. The bill would also permit OPIC to provide insurance coverage on the risk that investment assets might be damaged by civil strife within the host country. U.S. investors abroad are being faced with the risks of civil strife, such as organized violence directed at U.S.-owned property. Present OPIC authority limits coverage of damage to that resulting from war, revolution, or insurrection. Civil strife is a real political risk and should be covered by OPIC.

6. Increase in issuing authority. Section 5 (a) and (b) of the bill increases OPIC's insurance and guaranty authority by $2,500,000,000 and $250,000,000, respectively, in order to take into account the anticipated increase in OPIC activity in the energy sector.

The U.S. Government has an interest in encouraging further development of energy resources in non-OPEC countries in order to diversify worldwide sources of energy and to permit countries hard hit by the OPEC price hikes to utilize their energy resources. For this reason OPIC has been encouraged to develop a major program for the energy sector. During the 1977–78 congressional review of OPIC, this program was strongly supported by the Congress. To date, OPIC has issued insurance for four petroleum projects with insurance coverage of $333,000,000, utilizing $181,000,000 of OPIC's maximum contingent liability.

In addition, OPIC has received registrations for insurance and/or guaranty coverage for 55 projects in 25 countries by 32 companies. Since the insurance and guaranty authority in the bill is extended to September 30, 1985, OPIC should be given greater capacity to absorb the size and volume of projects which are expected in the 1980's.

While the above registrations reflect a growing interest by energy firms in the OPIC energy program, I believe that OPIC's coverage could be improved to provide greater incentives for LDC oil and gas activities. For example, a survey of oil companies conducted by Senators PERCY, BELLMON, and myself, elicited numerous specific recommendations about the adequacy of OPIC coverage and it is our expectation that these and other questions relating to OPIC's energy program will be thoroughly examined in the hearings on the legislation. I ask unanimous consent that a summary of the responses be printed in the RECORD following my remarks. It is essential that U.S. companies be encouraged to search for the vast reserves that may yet be undiscovered and OPIC should where possible provide such coverage.

7. Ten percent coinsurance. Section 7(e) of the bill adds an additional feature to make the OPIC insurance program more attractive to small businesses by eliminating the 10 percent coinsurance provision presently contained in the OPIC statute. OPIC has always been required to give preferential consideration to small business projects. By removing the coinsurance feature, small businesses will obtain a tangible benefit.

8. Eligible investor. Section 8 of the bill would modify the present definition of "eligible investor" in two respects. U.S. entities would no longer have to satisfy a specific ownership standard to be eligible for OPIC assistance. The present eligibility requirement has been interpreted to require that 50 percent of each class of issued and outstanding stock be held beneficially by U.S. citizens. The bill states that wherever U.S. citizens have a significant interest in a business enterprise, such enterprise should be eligible for OPIC programs. This interest could be reflected by stock ownership in the entity, the number of U.S. jobs related to the entity or the volume of U.S. trade generated by the entity. As regards foreign entities, the bill would reduce the present standard requiring 95 percent ownership by U.S. citizens to majority control of the entity by U.S. citizens. By expanding the class of investors eligible for OPIC programs, the bill allows greater potential for increased trade benefits to the United States resulting from the foreign enterprise assisted by OPIC, and also affords greater opportunities for U.S. support of developmental projects.

9. Extension of authority. Section 5(a)(5) of the bill continues OPIC's insurance and guaranty authority until September 30, 1985.

The bill also contains other minor operational and technical changes, and retains the small business and human rights requirements of the present legislation.

Mr. President, I believe that this bill will improve the agency's ability to make U.S. business more internationally—and export—minded. The United States is far behind other countries in this regard. Under the present legislation OPIC cannot operate in those countries with per capita incomes of over $1,000 per year. These are the very countries in which foreign private investment can make significant contributions and by not letting OPIC operate its programs there because we define "development" narrowly, we are conceding export markets to our competitors in the other industrialized countries.

OPIC's new status and operating mandate under this bill will, however, not detract from its developmental objectives, since it will be helping those developing countries that can and do attract badly needed foreign investment and the result for basic human needs will be greater than if these investments were not made at all.

Mr. President, I hope that my colleagues once they have had a chance to review this legislation, will join Senator RIBICOFF and me in cosponsoring the Overseas Private Investment Corporation Act.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., October 29, 1979.
Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: As you know, Reorganization Plan No. 2 of 1979 made the Director of the International Development Cooperation Agency the Chair of the Board of Directors of the Overseas Private Investment Corporation. Reorganization Plan No. 3 of 1979, now before the Congress, provides that the U.S. Trade Representative shall be Vice Chair of the OPIC Board.

In the course of Congressional consideration of the foreign assistance and trade reorganization proposals, concerns have been expressed about the status and mission of OPIC. I recognize the significant impact of U.S. foreign direct investment on the generation of U.S. exports, and the relationship of the OPIC program to the Government's efforts to increase the volume and value of U.S. exports.

The Administration will be transmitting new authorizing legislation for OPIC early next year. I assure you that in preparing that legislation, we will give careful consideration to the relationship between the OPIC program and the Government's efforts to increase the volume and value of U.S. exports, as well as to the development concerns expressed in the OPIC legislation enacted last year.

I appreciate your continuing cooperation in the trade and other reorganization efforts.

Sincerely,

James T. McIntyre, Jr.,
Director.

The Special Representative for
Trade Negotiations,
Washington, D.C., October 29, 1979.

Hon. Jacob Javits,
U.S. Senate,
Washington, D.C.

Dear Senator Javits: As you are aware, the trade reorganization proposal now before the Congress will make the U.S. Trade Representative of the Vice Chair of the Board of Directors of the Overseas Private Investment Corporation.

I recognize the significant impact of U.S. foreign direct investment on the generation of U.S. exports, and the relationship of the OPIC programs to the Government's efforts to increase the volume and value of U.S. exports. I will of course have in mind the impact of OPIC's activities on U.S. exports when participating in OPIC affairs. I intend to participate actively in the affairs of the agency.

I expect to work closely with other senior officials of the Administration next year when the status of OPIC is reexamined in connection with the transmission of new authorizing legislation, particularly in terms of the impact the legislative options would have on this country's international trade position.

Sincerely,

Reubin O'D. Askew.

U.S. International Development
Cooperative Agency,
Washington, D.C., October 29, 1979.

Hon. Jacob K. Javits,
U.S. Senate,
Washington, D.C.

Dear Senator Javits: As Director of the International Development Cooperation Agency, I serve *ex officio* as Chair of the Board of Directors of the Overseas Private Investment Corporation. As you know, the trade reorganization proposal now before the Congress will make the U.S. Trade Representative the Vice Chair of the OPIC Board.

I recognize the significant impact of U.S. foreign direct investment on the generation of U.S. exports and the relationship of the OPIC program to the Government's efforts to increase the volume and value of U.S. exports. I will of course have this in mind when considering projects and policy issues that come before the OPIC Board. In making recommendations to the President on matters concerning OPIC, I will consider the impact OPIC has on international trade as well as on U.S. development policy.

I want to assure you that I intend to work closely with the Trade Representative to see that OPIC does all it can, consistent with the laws governing OPIC, to promote expansion of exports from the United States. I shall afford full consideration to his views on the trade aspects of issues coming before the OPIC Board.

Cordially,

Thomas Ehrlich.

Summary of Responses

BACKGROUND

In November of 1978 Senators Javits, Percy and Bellmon sent a questionnaire to approximately 30 U.S. oil companies soliciting their views on the need for political risk insurance to expand their overseas activities and the adequacy of O.P.I.C. insurance for this purpose. (A copy of the questionnaire is attached.)

Thirteen companies responded, among them four of the 8 largest integrated companies with active past or present overseas oil development programs. The respondents were: Getty, Occidental, Gulf, Atlantic Richfield, Sun Oil, Tenneco, Marathon, Phillips Petroleum, Delco, Standard Oil of California, Texaco and Cities Service. Because the responses were solicited on the basis of a guarantee of confidentiality, this summary of results will not be attributed to any of the opinions offered.

RESULTS

All but one company said political risks were one of the three major factors in a decision to proceed with an overseas oil project. (Others cited were tax policy and profit economies.) All but two companies felt expanded availability of U.S. political risk insurance would be of significant value in encouraging them to undertake new overseas projects and to expand existing efforts. (Also cited by most companies as necessary policy changes were liberalization of U.S. tax laws covering overseas oil income and expanded use of bilateral treaties to protect U.S. company investments.)

Altogether, the companies listed 32 projects not undertaken because of political risk.

Among them, the companies listed the following non-OPEC countries as areas in which they have identified specific areas of oil and gas potential whose development would be more attractive if expended political risk insurance were available:

Peoples Republic of China, Chile, South Korea, Argentina, Mexico, Egypt, Malaysia, Guatemala, Panama.

Angola, Zaire, Turkey, Ecuador, Ethiopia, Thailand, Sri Lanka, Honduras, Afghanistan.

Sudan, Pakistan, Peru, Philippines, Kenya, Brazil, Tanzania, Ghana, Malta.

There was virtually unanimous agreement among the respondents as to the inadequacies of existing O.P.I.C. insurance coverage. In essence—the large investment required for oil development and certain specific characteristics of the projects—such as the vulnerability of discovered reserves to expropriation—make the general format of O.P.I.C. coverage less well-suited to these investments than to other forms of overseas business ventures.

The principal criticisms were:

Total project costs should be covered including equity and guaranteed debt and the "economic value of the contract" with the host government.

The current O.P.I.C. coverage of "net unrecovered costs" does not protect all these investments nor the value of the in-ground reserves.

The current O.P.I.C. limits, $50 million per project and $100 million per country, are too low to be useful for substantial oil projects.

O.P.I.C. rates are too high for the coverage offered.

Certain kinds of coverage in the O.P.I.C. package are unnecessary for oil projects.

Several respondents suggested the exclusion of O.P.E.C. country projects, Andean Pact country projects, and of major oil company projects should be removed.

CONCLUSION

While O.P.I.C. coverage can play a limited but useful role in its present form and could, with major changes, play a significant future role, the present system is inadequate. However, changes in the O.P.I.C. system would only be appropriate following through consideration of the fundamental scope and terms of both the nature and size per project and per country of the coverage. O.P.I.C.'s role in providing insurance for oil and gas development will be an essential element in the review of O.P.I.C.'s authorizing legislation which I expect will begin next year.

QUESTIONS

1. What are your company's primary considerations concerning oil exploration options outside the United States?

2. What role does political risk play in your company's decisions to invest or forgo investment outside the United States?

3. Have there been areas of potential exploration or development, particularly "marginal" fields, which your company has considered in the past but rejected because the political risk was deemed too great?

4. If so, could you provide some examples of what political risk(s) was (were) involved?

5. Are there areas of the world where you are not now considering exploring and/or investing where you might explore and/or invest should your insurance needs against political risk be met? Can you give examples?

6. Would the availability of political risk insurance be an important factor in encouraging your company to undertake secondary or tertiary recovery projects in existing or future production operations?

7. Do you feel that OPIC's present risk insurance program is too limited financially to be of use by your company? If so, how large a project should an insurance scheme be able to cover?

8. Are the present risks defined in OPIC's program sufficient to cover all the political risks an oil company can encounter in a developing nation? If not, what else should be covered?

9. Are you satisfied with OPIC's present policy of insuring net unrecovered costs? If not, what else should be insured?

10. If a new program were only to insure a percentage of the cost of a total project, what percentage would be a sufficient incentive for your company to avail itself of the program?

11. What would you consider a reasonable rate to charge for a comprehensive risk insurance program?

12. Would the availability of non-recourse bank loans (secured only by a production payment agreement and OPIC insurance) to finance part of the development of a new field increase your company's willingness to undertake such efforts, especially in otherwise "marginal" fields?

13. If OPIC's program were greatly expanded as outlined above, what percentage of your company's rejected proposals for overseas investment would, in your opinion, be approved by your company?

By Mr. HEFLIN (for himself, Mr. Stewart, Mr. Weicker, Mr. Tsongas, and Mr. Levin):

S.J. Res. 127. Joint resolution to authorize and request the President to proclaim June 27, 1980, as "Helen Keller Day"; to the Committee on the Judiciary.

(The remarks of Mr. Heflin when he introduced the joint resolution appear earlier in today's proceedings.)

By Mr. SCHWEIKER:

S.J. Res. 128. Joint resolution to authorize and request the President to proclaim the week of October 5 through 11, 1980, as "National Diabetes Week"; to the Committee on the Judiciary.

NATIONAL DIABETES WEEK

● Mr. SCHWEIKER. Mr. President, today I am introducing legislation to designate the week of October 5–11, 1980, as National Diabetes Week. A corresponding resolution is also being introduced in the House of Representatives by Congressman Forsythe.

All of us know someone who has diabetes. For a long time, however, most Americans thought diabetes was an "OK" disease—all you had to do was watch your diet and take your pills or insulin. That attitude toward diabetes is beginning to change. The observance of National Diabetes Week will serve an important function in focusing attention on the importance of diabetes as a major public health problem and what can be done, now and in the future, to increase public and professional awareness of diabetes and improve the lives of our Nation's 10 million diabetics.

Diabetes is not an "OK" disease. Insulin is an important, life-preserving therapy, but it is not a cure. Diabetes is a leading killer of Americans, and there is no cure. The life expectancy of persons with diabetes is about one-third less than the general population. In 1975, the National Commission on Diabetes identified diabetes as the third leading cause of death by disease in this country. A new statistical analysis released this fall shows that diabetes is still grossly under-reported.

One of the reasons for under-reporting is a lack of understanding about diabetes' devastating, disabling and sometimes fatal complications. Half of juvenile diabetics die of kidney failure within 25 years of diagnosis. Diabetes leads to heart disease and stroke. Its crippling effects include gangrene leading to amputation. It is the leading cause of adult blindness in the United States.

These grim facts make it clear that diabetes and its complications take a tremendous human toll in this country. Estimates of the economic costs exceed $5 billion each year.

Armed with a better understanding of the significance of diabetes as a major public health problem, what can be done about it? First, we can aim at prevention by reducing risk factors, such as obesity. The chance of being diabetic more than doubles for every 20 percent of excess weight. We can encourage screening to identify diabetes, alert the public to its warning symptoms, and educate diabetic patients about proper diet and medication to improve self-care and better control of the disease. Private voluntary organizations, notably the Juvenile Diabetes Foundation and the American Diabetes Association, can perform vital services in this area.

Most importantly in the long run, we can intensify our commitment to the fight against diabetes and its complications, through research and the application of research results to medical practice. Since I first introduced diabetes legislation in 1972, we have made great progress. Over the years, Congress and the private sector have responded to the need to do more. At the National Institutes of Health, a vigorous, multi-disciplinary, multi-institute diabetes program is well underway. Congressional appropriations have increased from about $40 million in fiscal year 1976 to more than $135 million in this fiscal year. These efforts are beginning to bear fruit. The National Eye Institute has pioneered new techniques to restore and preserve the sight of diabetics who a few years ago faced the near certain prospect of blindness. Building on basic research in the field of recombinant DNA technology, much of which was supported by the NIH, scientists in the private sector are working toward eventual commercial production of human insulin through recombinant DNA technology. In animal models, there have been advances in pancreatic islet cell transplantation across genetic barriers without rejection of the transplant, an achievement with important implications for all kinds of transplants. Progress is being made in identifying genetic and viral factors associated with the development of some forms of diabetes.

As the ranking Republican member of the Health and Scientific Research Subcommittee and its parent Committee on Labor and Human Resources, as well as the Labor-HEW Appropriations Subcommittee, I intend to continue my efforts to see that the fight against diabetes remains a high priority effort. Our future progress in finding a cure for this disease should be of vital concern to all Americans—because the average American born today has a better than one in five chance of developing diabetes, unless a means of prevention is found. If our fight against diabetes is to be successful, we will need the dedicated efforts of researchers, Federal officials, educators, health professionals who treat diabetics, patients and their families, and an aware and informed public. I urge my colleagues in the Senate to join with me in enhancing public awareness of diabetes and its complications by supporting the observance of National Diabetes Week.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 128

Whereas ten million Americans suffer from diabetes;

Whereas more Americans die from diabetes than all other diseases except cancer and cardiovascular diseases;

Whereas health care costs, disability payments, and lost wage costs due to diabetes total $5,300,000,000 each year; and

Whereas national awareness of the diabetes problem may stimulate increased interest and concern leading to increased research and eventually to a cure for diabetes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to proclaim the week of October 5 through October 11, 1980, as "National Diabetes Week", and to call upon the people of the United States to observe such week with appropriate ceremonies and activities.●

By Mr. WEICKER (for himself, Mr. RIBICOFF, Mr. JAVITS, Mr. HATFIELD, Mr. MOYNIHAN, Mr. HEINZ, Mr. STAFFORD, Mr. MCGOVERN, Mr. CRANSTON, Mr. LAXALT, Mr. TSONGAS, Mr. HART, and Mr. WILLIAMS):

S.J. Res. 130. Joint resolution to authorize and request the President to proclaim May 1, 1980, as "National Save the Children Day"; to the Committee on the Judiciary.

NATIONAL SAVE THE CHILDREN DAY

● Mr. WEICKER. Mr. President, I am pleased to introduce today a joint resolution which would authorize and request the President of the United States to issue a proclamation designating May 1, 1980, as "National Save the Children Day." The purpose of this resolution is to focus the public's attention on the needs of all children in this country. I am proud to be joined in this effort by my distinguished colleagues, Senators RIBICOFF, JAVITS, HATFIELD, MOYNIHAN, HEINZ, STAFFORD, MCGOVERN, CRANSTON, LAXALT, TSONGAS, HART, and WILLIAMS.

Mr. President, I firmly believe there is no better measure of the spiritual strength of our Nation than the commitment we make to our children. They are the future. By designating May 1, 1980, as "National Save the Children Day," we will begin a new decade with the reaffirmation to our children as a national priority and our most precious resource. On that one day, our Nation would concentrate on the joys, the rights and the needs of children so that we can be fully aware of what it is that is necessary to create a better future world for them as they grow toward adulthood.

All of us are the beneficiaries of generations of Americans who cared about us. Because that was so we are fed, housed, educated, and healthy. Our opportunities are unlimited. However, with that blessing comes the obligation of stewardship for the Americans of tomorrow. We must not relent for one moment, for one day, for one week, in our commitment to our young people so that they may be the future beneficiaries of those things that make America great. Therefore, we must keep faith with those who most need our faith, our children. They have no voice in the day-to-day decisions being made by the public and private sectors of our society. So, they must depend upon adults, responsible adults, for the course of the life and the quality of the life they lead until they are adults themselves.

Mr. President, Eglantyne Jebb, an Englishwoman, founded the worldwide Save the Children movement after World War I, in 1919. She also authored the original version of the Declaration of the Rights of the Child for the League of Nations. Twenty years ago, the United Nations issued a similar declaration based on the original League of Nations' version. The 10 basic rights of the child are as follows:

The right to affection, love and understanding.

The right to adequate nutrition and medical care.

The right to free education.

The right to full opportunity for play and recreation.

The right to a name and nationality.

The right to special care, if handicapped.

The right to be among the first to receive relief in times of disaster.

The right to learn to be a useful member of society and to develop individual abilities.

The right to be brought up in a spirit of peace and universal brotherhood.

The right to enjoy these rights, regardless of race, color, sex, religion, national or social origin.

These essential rights are very important to these members of the human family, and they should also be important to us, the parents.

In closing Mr. President, let us remember the words of Abraham Lincoln:

> Children are people who are going to carry on what you have started. They are going to sit where you are sitting and, when you are gone, attend to those things which you think are important. You may adopt all the policies you please, but how they are carried out depends on them. They will assume control of your cities, states and nations. They are going to take over your churches, schools, universities, and corporations. All your books are going to be judged, praised, or condemned by them. The faith of humanity is in their hands.

I therefore urge my colleagues to join in cosponsoring this resolution so that we may honor our children on the first day of May 1980, a day which has traditionally symbolized the season of spring, the flowering of new life and rebirth of the hope for the future. Children represent that new life and hope for the future of our Nation.

I ask unanimous consent that the joint resolution be printed at this point in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 130

Whereas for centuries, the first day of May has been the traditional symbol of spring, the flowering of new life and rebirth of the hope for the future;

Whereas, children represent that new life and hope for the future of our nation;

Whereas our nation should focus on the joys, the rights and the needs of children so as to create a better life for them;

Whereas, our nation should concentrate on creating a better future world in which our children will grow so that they will feel secure in the knowledge that they will have every opportunity to achieve their maximum potential as adults;

Whereas twenty years ago, the United Nations, in recognition of the importance of these members of the human family, issued a declaration outlining the essential rights of all children;

Whereas during the year 1979, forty-two of our nation's State governors issued proclamations declaring May 1 as "Save the Children Day";

Whereas into the 1980's and beyond Americans should continue to acknowledge children as a national priority and our most precious resource; and

Whereas our nation should reaffirm its commitment to preserve and protect our nation's children so that they will be able to carry on the future of this country: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating May 1, 1980, as "National Save the Children Day", and calling upon Federal, State and local government agencies, interested groups; organizations and the people of the United States to observe such day with appropriate ceremonies, programs and activities.●

By Mr. JAVITS (for himself, Mr. BOSCHWITZ, Mr. CHURCH, Mr. HEINZ, Mr. LEVIN, Mr. DOLE, Mr. MATHIAS, Mr. MOYNIHAN, Mr. METZENBAUM, Mr. PELL, Mr. PERCY, Mr. STONE, Mr. WILLIAMS, Mr. KENNEDY, Mr. JACKSON, and Mr. SARBANES):

S.J. Res. 131. Joint resolution designating April 10, 1980, as "ORT Cetennial Day"; to the Committee on the Judiciary.

ORT CENTENNIAL DAY

Mr. JAVITS. Mr. President, on April 10, 1980, ORT, the Organization for Rehabilitation Through Training, will celebrate its 100th anniversary of service to humanity and to the Jewish people. To mark the centennial of this worthy organization, I am introducing today a joint resolution designating April 10, 1980 as ORT Centennial Day and authorizing the President of the United States to issue a proclamation saluting ORT for its many accomplishments.

ORT, a nonprofit voluntary organization, is unique in many ways, chief among which is its purposeful and pragmatic approach to helping men and women help themselves by teaching them the skills of hand and mind. ORT pioneered the concept of systematic vocational and technical training as a means of lifting an entire people out of the grip of poverty and economic backwardness. By melding the traditional Jewish love of learning with a respect for the dignity of human labor, ORT helped to emancipate the Jews of Czarist Russia from a pervasive and cruel poverty by teaching them the skills of the emerging industrial age, enabling them to gain useful occupations and to earn their own livelihoods.

From that point on, and even under the harshest of circumstances in the ghettos of Nazi-occupied Europe, this organization that went to the root of economic survival remained a force of hope for the Jewish people. Over the past 100 years, ORT has had a highly beneficial impact on the lives of almost 2 million people in more than 40 countries on 5 continents. My own acquaintance with ORT dates back to the very beginning of my years of public service when, as a freshman member of the House of Representatives, I first discovered its value in the German and Austrian DP camps of the immediate post-war period. The skills taught by ORT to the displaced and war-ravaged populations of those camps were down to earth and vital contributions to the recovery of those refugees as well as the areas in which they were eventually resettled.

Because it has consistently addressed itself to the most basic of human needs, ORT today is bigger than ever and has become the biggest nongovernmental voluntary program of vocational and job training in the world. More than 100,000 youth and adults are currently being served by its programs, schools and services in 24 countries from India to Latin America. ORT's largest and most diverse program is in Israel, where it has trained the major portion of that country's skilled labor force, but ORT has been ready and eager to share its experience with developing countries the world over. In alliance with our own U.S. Agency for International Development as well as with the World Bank, ORT has brought its expertise to bear on third world modernization projects from Asia to South America.

To support this great voluntary effort, branches of this organization exist in almost every corner of the world. In the United States, ORT is represented by the American ORT Federation and by Women's American ORT which together have over 160,000 members. To salute these thousands of volunteers and in recognition of the profound impact ORT has had on the lives of so many underprivileged people; I ask my colleagues to join in expediting the passage of this resolution.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 131

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas the Organization for Rehabilitation through Training (ORT) has historically been the earliest pioneer in the use of systematic vocational and technical training as a strategy to banish deprivation and economic backwardness;

Whereas the ORT has provided productive channels for human advancement through the acquisition of skills for livelihood at times and places where such programs were nonexistent;

Whereas the ORT has assisted almost two million people in more than forty countries on five continents, thereby becoming the biggest nongovernmental voluntary program of vocational and job training in the world;

Whereas the ORT has become part of the array of ongoing services that are essential to communities, as evidenced by the rapid development of technical training programs and educational institutions in many countries, including Argentina, Iran, Peru, and India, and by continuing enrichment of the quality of educational services throughout Latin America; and

Whereas the ORT has provided assistance needed for the assimilation of hundreds of thousands of north African Jews by the French community, and for the migration and resettlement process of Soviet Jewish refugees; and

Whereas the ORT has been the means for the development of Israel's human resources and has provided the training for a major portion of Israel's skilled labor force: Now, therefore be it.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 10, 1980, is designated as "ORT Centennial Day"; and the President is authorized and requested to issue a proclamation calling upon the people of the United States to salute the Organization for Rehabilitation through Training on its one-hundredth anniversary in recognition of its accomplishments.

By Mr. CRANSTON (for himself, Mr. KENNEDY, Mr. WILLIAMS, Mr. SCHWEIKER, Mr. WEICKER, and Mr. HAYAKAWA):

S.J. Res. 132. Joint resolution to authorize and request the President to issue a proclamation designating April 6 through 12, 1980, "National Medic Alert Week"; to the Committee on the Judiciary.

NATIONAL MEDIC ALERT WEEK

● Mr. CRANSTON. Mr. President, today, along with the Senator from Massachusetts (Mr. KENNEDY), the chairman of the Judiciary Committee as well as of the Subcommittee on Health and Scientific Research of the Labor and Human Resources Committee, the Senator from New Jersey (Mr. WILLIAMS), who chairs the full Labor and Human Resources Committee, the Senator from Pennsylvania (Mr. SCHWEIKER), the ranking minority member of both the full Committee and its Health Subcommittee, the Senator from Connecticut (Mr. WEICKER), and my colleague the Senator from California (Mr. HAYAKAWA), I am introducing a resolution for the designation of April 6 through 12, 1980, as "National Medic Alert Week." An identical resolution, introduced in the other body by my good friends and colleagues TONY COELHO and NORMAN MINETA, the Representatives from California's 15th and 13th districts, respectively, was passed by the House on November 29, 1979.

Currently, over 900,000 Americans take advantage of the benefits of the emergency medical identification system developed by Medic Alert Foundation, International, a private, nonprofit charitable organization located in Turlock, Calif. The Foundation has been serving people with hidden medical conditions for 23 years and has been credited with saving thousands of lives each year.

The Medic Alert system uses a red medical symbol on a bracelet or necklace to alert medical personnel, law enforcement officers, firefighters, and other emergency personnel of a person's hidden medical problem. Information engraved on the reverse side contains a member's identification number, a 24-hour hot-line telephone number to Medic Alert in California, and a listing of the patient's hidden medical problem or problems. In the event that a person is unable to communicate, emergency personnel can call the telephone number collect from any location in the world and receive, within seconds, information from the computerized data base that might save a life.

Mr. President, it has been estimated that approximately 40 million Americans have medical problems that would be hard to detect in emergency situations. Such medical conditions include diabetes, heart conditions, epilepsy, and allergies. Each year, many of these persons will suffer avoidable injury or death because of the delay that is frequently involved in the proper diagnosis and treatment of such hidden medical problems in emergency situations. The availability of emergency identification and information services, such as those provided by Medic Alert, can aid in reducing this injury and death rate. I, therefore, urge the Members of the Senate to join in support of this resolution to authorize and request the President to designate a National Medic Alert Week.

Mr. President, I ask unanimous consent that the text of the resolution be printed in the RECORD at this point.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 132

Whereas approximately forty million Americans, nearly one-fifth of our Nation's population, are afflicted with diabetes, heart conditions, epilepsy, allergies, or other medical problems the symptoms of which, in emergency situations, are difficult to detect or are not readily associated with such medical problems; and

Whereas many such Americans suffer avoidable injury or death each year because of the delay which is frequently involved in the proper diagnosis and treatment of such hidden medical problems in emergency situations; and

Whereas special emergency identification and information services are available which are designed with the needs of victims of such hidden medical conditions specifically mind; and

Whereas these emergency identification and information systems have been credited with saving the lives of more than two thousand people afflicted by hidden medical conditions each year: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating April 6 through 12, 1980, "National Medic Alert Week", and calling upon the people of the United States and upon interested associations and organizations to observe such week with appropriate ceremonies and activities.●

ADDITIONAL COSPONSORS

S. 299

At the request of Mr. CULVER, the Senator from Ohio (Mr. METZENBAUM) was added as a cosponsor of S. 299, the Regulatory Feasibility Act of 1979.

S. 380

At the request of Mr. DURKIN, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 380, a bill to amend the Bank Holding Company Act of 1956 to limit the property and casualty and life insurance activities of bank holding companies and their subsidiaries.

S. 1179

At the request of Mr. BAYH, the Senator from Minnesota (Mr. BOSCHWITZ) was added as a cosponsor of S. 1179, a bill incorporating the Gold Star Wives.

S. 1452

At the request of Mr. CANNON, the Senator from Louisiana (Mr. LONG) was added as a cosponsor of S. 1452, a bill to extend the provisions of title XII of the Merchant Marine Act, 1936, relating to war risk insurance.

S. 1798

At the request of Mr. CANNON, the Senator from Ohio (Mr. GLENN), the Senator from Kentucky (Mr. FORD), and the Senator from New Mexico (Mr. SCHMITT) were added as cosponsors of S. 1798, a bill to reduce regulation of and increase competition in the household goods moving industry, and for other purposes.

S. 1940

At the request of Mr. NELSON, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 1940, the Venture Capital Investment Act of 1979.

S. 1942

At the request of Mr. MCGOVERN, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of S. 1942, a bill to provide a Resource Conservation and Development program, in the U.S. Department of Agriculture.

S. 1957

At the request of Mr. EAGLETON, the Senator from Connecticut (Mr. WEICKER) was added as a cosponsor of S. 1957, a bill to provide a national boating safety and facilities improvement program.

S. 2020

At the request of Mr. COHEN, the Senator from Minnesota (Mr. DURENBERGER) was added as a cosponsor of S. 2020, the Veterans' Education and Training Act.

S. 2071

At the request of Mr. COHEN, the Senator from Indiana (Mr. LUGAR) and the Senator from Minnesota (Mr. BOSCHWITZ) were added as cosponsors of S. 2071, a bill providing forgiveness of student loans in return for active or reserve-military service.

SENATE RESOLUTION 264

At the request of Mr. DURKIN, the Senator from South Dakota (Mr. MCGOVERN) was added as a cosponsor of Senate Resolution 264, a resolution creating a Senate Select Committee on Petroleum Corporation Activities.

SENATE RESOLUTION 316

At the request of Mr. GLENN, the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of Senate Resolution 316, a resolution concerning Thailand's assistance to Kampuchean refugees.

SENATE CONCURRENT RESOLUTION 57

At the request of Mr. DOMENICI, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of Senate Concurrent Resolution 57, relative to issuing a commemorative stamp in honor of Phillip Mazzei, and for other purposes.

SENATE RESOLUTION 319—ORIGINAL RESOLUTION REPORTED AUTHORIZING REIMBURSEMENT OF EXPENSES RELATING TO OFFICIAL BUSINESS FROM A SENATOR'S OFFICIAL OFFICE EXPENSE ACCOUNT

Mr. PELL, from the Committee on Rules and Administration, reported the following original resolution:

S. Res. 319

Resolved, That, effective on the first day of the month following the date on which this resolution is agreed to, and until otherwise provided by law, expenses for which reimbursement may be made under section 506 (a)(3) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(a)(3)), shall include costs incurred in the mailing or delivery of matters relating to official business.

SENATE RESOLUTION 320—SUBMISSION OF A RESOLUTION SUPPORTING THE MODERNIZATION OF NATO

Mr. CHURCH (for himself and Mr. Javits) submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. Res. 320

Whereas the United States is firmly committed to cooperate with its allies in maintaining security and stability in Europe;

Whereas relations with the Soviet Union and its Warsaw Pact allies must be based on a firm foundation of NATO military strength;

Whereas the Soviet Union has begun deploying new and more capable nuclear systems that directly threaten the security of our allies;

Whereas the Soviet deployments, if not countered or checked, could endanger the military balance in Europe and increase the risks of war;

Whereas the United States and its allies have decided to respond to this threat by a dual strategy of modernizing NATO's own theater nuclear forces and of seeking to limit and reduce the theater nuclear forces of the United States and the Soviet Union in future arms control negotiations; and

Whereas the interests of the United States and its Allies would be served by averting a nuclear arms race in Europe: Now, therefore, be it

Resolved by the Senate that this body approves and supports the decision taken by the United States and its Allies in NATO to deploy new intermediate-range theater nuclear systems in Europe, and to undertake efforts in arms control to achieve a more stable nuclear balance at lower levels of theater nuclear weapons.

NATO DECISIONS ON TNF

Mr. CHURCH. Mr. President, last week, on December 12, the assembled foreign and defense ministers of NATO made a vital decision designed to enhance the security of the alliance, and to extend the hand of negotiation to the Soviet Union and its Warsaw Pact.

I refer to the decision made to modernize NATO's theater nuclear forces with the deployment, beginning in 1983, of 572 additional intermediate range systems capable of striking the Soviet Union from bases in Western Europe, combined with an agreement to seek limitations on the theater nuclear systems of the United States and the Soviet Union in future arms control negotiations.

These were difficult decisions for the alliance. We all remember the "neutron bomb" episode early this year. There were many then, here and in Europe, who said that affair proved that the allies could not bring themselves to make politically sensitive security decisions which might make them the target of Soviet propaganda. Yet, with this far more difficult and important decision, the alliance has given the lie to those criticisms, and has shown once again that it is capable of rising to the Soviet challenge.

The NATO decision to pursue a dual track of TNF modernization and of arms control was not a hasty or ill-conceived one. The NATO high level group on TNF modernization worked more than 2 years in drawing up a plan for new deployments of ground-launched cruise missiles and of extended-range Pershing ballistic missiles. The need for these new weapons was carefully studied by military and political experts of the alliance, and a clear rationale for their role in the alliance defense and deterrent posture was developed. These new systems will enable NATO to strike the Soviet Union from within the theater, should the Soviet Union err in the belief that it could use its SS-20s to attack our European allies in the false hope that U.S. strategic forces would be deterred by the threat of Soviet strategic attack on the American homeland. The steady Soviet improvement of their theater nuclear forces, including the Backfire bomber, and the continuing deployment of the SS-20 mobile, MIRVed intermediate-range ballistic missile—already exceeding 100 launchers—threaten to give the Soviets an advantage in theater deep strike capability which they might be tempted to use to intimidate our allies in a crisis, or to attack preemptively NATO's theater nuclear forces. Thus the courageous decision of the NATO governments to upgrade significantly their own intermediate-range theater strike capabilities is an appropriate response to this ominous Soviet theater buildup.

Mr. President, NATO also held out the hand of negotiation. Throughout most of this year, the NATO special group studied whether TNF arms control, combined with TNF modernization, could contribute to the security of the Alliance. The work of the special group was closely integrated with that of the high level group. The overall strategy was examined at the ministerial level. This led to a declaration by NATO ministers of their readiness to negotiate limitations in theater nuclear forces. If the Soviets want to avoid a pointless competition in intermediate-range theater nuclear forces, the way is open to them. They should show restraint in further deploying the SS-20 and they should respond at once to NATO's willingness to negotiate. If the Soviets react sensibly, perhaps a new round in the nuclear arms race can be avoided. But time is not on their side. The more SS-20s deployed, the less chance there is for negotiations to lead to lower force levels on both sides, and the more certain will be the need for NATO to deploy the full complement of new weapons.

Mr. President, the arms control side of NATO's strategy for dealing with the theater nuclear situation requires, in my view, Senate approval of the SALT II treaty. The alliance clearly intends for intermediate-range theater nuclear weapons to be included in SALT III. Progress in arms control is an essential element in carrying out NATO's TNF modernization program. All the allies have urged ratification of the SALT II treaty, in part because of the contributions they believe it will make to strategic stability and to European security, but also in part because they want to get on to SALT III and negotiations on limiting the SS-20.

I applaud the decision taken by the NATO ministers on December 12. I believe it was the correct course for the alliance to follow, and it deserves our clear support. The NATO decision was a model product of alliance consultation and planning. I am proud of the leadership role played by the United States in that process. Therefore, I am introducing a resolution of support for TNF modernization and arms control, and I hope the Senate, at the appropriate time, will give the resolution its endorsement and approval.

The PRESIDING OFFICER. Without objection, the resolution will be received and appropriately referred.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. CHURCH. I am happy to yield.

Mr. JAVITS. Mr. President, I might associate myself, as the ranking minority member of the Senate Committee on Foreign Relations, with the views of the Senator from Idaho, our chairman. I think this is a momentous decision, Mr. President, on the part of the NATO countries. It may not satisfy some purists who feel it shoud have gone further and been stronger, gone, as they put it, all the way. But considering the political situation in Europe and their own countries and considering their security situation, I believe that they opted for the course which is the essential course for them and for us.

It was very difficult for many of these heads of government to go that route, but they did it. I think that, as we have every right to be concerned when they fail in those responsibilities, we have every right to show our appreciation when they meet the test and essentially, I believe, they meet the test here. It is for that reason that I should like to join in the comments of the Senator from Idaho, our chairman.

Mr. CHURCH. Mr. President, I take real pleasure in asking unanimous consent that the name of Senator Javits, the ranking member of the committee, be joined with mine in cosponsorship of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RESOLUTION 321—SUBMISSION OF A RESOLUTION ESTABLISHING A CONGRESSIONAL CHILD CARE CENTER

Mr. McGOVERN submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. Res. 321

Resolved, That (a) there is established in the Senate, under the direction of the Committee on Rules and Administration, a Congressional Child Care Center (hereinafter in this resolution referred to as the "Center") to provide child care services for children of Senators, Representatives, and congressional employees.

(b) All operating expenses of the Center shall be recovered through fees charged for child care services provided by the Center.

Sec. 2. (a) At the beginning of each Congress, the Chairman of the Committee on Rules and Administration shall appoint a nonpartisan Advisory Board to carry out the functions described in subsections (c) and (d).

(b) The Advisory Board shall be composed of a minimum of eleven individuals (including a Chairman so designated at the time of appointment) who—

(1) shall be selected from among those Senators, Representatives, parents of children enrolled in the Center, and other individuals with expertise in child care, who express an interest in the Center; and

(2) shall serve during the Congress in which they are appointed, except that a member may continue to serve after the expiration of his term until a successor is appointed.

(c) The Advisory Board shall make recommendations to the Committee on Rules and Administration with respect to matters relating to the Center, including—

(1) management and operation;

(2) curriculum and program of activities;

(3) personnel selection and management;

(4) fee structure, finance, and budget;

(5) admissions policy;

(6) nutrition and health; and

(7) facilities and equipment.

(d) The Advisory Board shall conduct semi-annual reviews of the operations of the Center and shall submit a written report of each such review to the Chairman of the Committee on Rules and Administration, who shall make such reports available for inspection by the public.

Sec. 3. (a) There is hereby established in the United States Treasury a revolving fund within the contingent fund of the Senate to be known as the Congressional Child Care Center Revolving Fund (hereinafter referred to as the "revolving fund").

(b) All moneys received by the Center from fees obtained under subsection (b) of the first section in payment for child care services shall be deposited to the credit of the revolving fund. Moneys in the revolving fund shall be available without fiscal year limitation for disbursement by the Secretary of the Senate for operating expenses of the Center.

(c) Disbursements from the revolving fund shall be made upon vouchers signed by the Chairman of the Advisory Board, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

Sec. 4. The Committee on Rules and Administration is authorized to acquire, by lease only, such facilities as may be necessary for the operation of the Center, and to prescribe such regulations as may be necessary to carry out the provisions of this resolution.

Sec. 5. Notwithstanding any other provision of this resolution and until otherwise provided by law, operating expenses of the Center under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the Advisory Board, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

CONGRESSIONAL CHILD CARE CENTER

● Mr. McGOVERN. Mr. President, today I am submitting legislation that will hopefully ease some of the burdens that the families of many of our staffers and other congressional employees must bear. Last year, I introduced a resolution calling for the establishment of a child care center for the children of congressional employees. In conjunction with the Congressional Clearinghouse on Women's Rights, I sent a questionnaire to congressional employees to determine whether or not there was a real need for this service. The results of the questionnaire clearly indicated an overwhelming need for a worksite child care center. Over 150 parents responded that at least one of their children would attend a child care center if it were located at or near their place of work. Results of the questionnaire indicated that 190 children are in need of the service. The resolution I am introducing today calls for specific action to be taken by the Senate in order for the Congressional Child Care Center to become a reality.

There is not a Member of the Senate who is not aware of the increasing pressures placed on the American family. Unfortunately, Government policies can often exacerbate family burdens. High taxes, inflation, education costs, high medical bills, unemployment, and inadequate child care for children of working parents all help to contribute to family problems. Statistics bear out the bad situation: Over 11 nations have a lower infant mortality rate than the United States; we continue to incarcerate juvenile offenders when most should remain with their families; every year 1 million children are victims of child abuse, with 5,000 children dying as a result of these injuries; and it is estimated that one-fifth of our children have no regular source of health care.

We know it can be difficult for families when both parents work. For many generations our society has described a "good" family as one where the father makes enough money to allow the mother to stay home and care for the children. Although social scientists tell us that children of working mothers are not necessarily disadvantaged, working parents fear that their children are being neglected. And unfortunately, in too many cases this is true. Children are neglected not because their parents are negligent, but because proper child care is not available.

There are millions of children in this country who come home after school to a locked, empty house. These "latch key" children have no relatives to take care of them; babysitters often have proved to be untrained or unavailable on a regular basis, and there are very few after school child care programs available to children. The situation is worse for parents with preschool children. In the questionnaire that was sent to our employees, many parents commented that a child care center on Capitol Hill would be preferable to their present arrangement because their child is usually alone all day with a babysitter who is merely putting in time, and who pays very little attention to the child. Other parents wrote that they worry about the child being miles away from them during the day. If an emergency arises, mother or dad cannot be there to help and comfort the child.

A new urban institute book, "The Subtle Revolution: Women at Work," states that by 1990, 55 percent of American women aged 16 and over will be in the work force. Most of these women, says editor Ralph E. Smith, will be married mothers. Smith states that by the end of the next decade, two-thirds of all married women under age 55 will be working outside the home, including half of all mothers with children under age 6.

Other authors of the book, Sandra Moore and Kristin Hofferth found that neither maternal employment nor day care hurt children. "We can report that the overwhelming consensus of different studies is that most children of working mothers seem to develop normally and well," the authors say. "The research literature is unanimous in finding that high quality child care does not harm children."

The authors further emphasize that although the use of child care centers has doubled in the last 10 years, more child care services will be needed in the future to serve the 10.5 million children under the age of 6 whose mothers will work outside the home in 1990. "The availability and quality of such care will depend in part on public policy over the next decade," say authors Moore and Hofferth.

The resolution I am introducing today would establish the child care center under a revolving fund arrangement. All operating expenses of the center would be recovered through fees charged for child care services. Thus, the operation would be self-supporting.

Although the operation of the center, once it is established, is intended to be self-supporting, the revolving fund would finance the startup costs associated with the launching of such a service—renovation of a suitable facility, acquisition of equipment and materials, and salaries for staff prior to the opening of the center.

I recommend the establishment of a revolving fund as a means of starting and operating the center, because it involves less of a commitment of Federal funds than the approaches used by the other Federal agencies. After expenditure for the initial startup costs, the fund would be repaid through fees collected from those using the center.

In addition, the resolution establishes an advisory board to make recommendations concerning the overall policy and management of the center. Although final decisions regarding the center's operation will be made by the Senate Committee on Rules and Administration, semiannual reviews of the operation of the center must be made by the advisory board, and these reports must be made available to the public. Consequently, if the advisory board objects to a particular policy, the issue can be raised in the report which will be submitted to the Senate Committee on Rules and Administration and made known to the public.

The advisory board is crucial to the success of the center. The board shall be selected from among those Senators, Representatives, parents of children enrolled in the center, and other individuals with expertise in child care who express an interest in the center and will assist the committee in its efforts to provide the best care possible for our employees' children.

Recently, I organized an informal child-care center task force composed of those employees who indicated on the questionnaire that they would like to help in the effort to establish a worksite child-care center. The group meets once a week and is preparing a report recommending a plan of operation which will include: A program description including the objectives of the child-care program, a description of the type of curricula to be offered, the hours of operation, and the number of children to be served.

Also included will be a method for grouping children and providing for an economic mix of children, a staff-hire and admissions policy, a plan for involving parents and volunteers, a description of the nutritional, social, health, and medical services to be offered, an outline of the business management and recordkeeping procedures to be followed, and a plan for meeting the physical, intellectual, emotional, and social needs of the children to be served by the center. In addition, the report will include a proposed budget for the startup costs and first year of operation, a fee structure and schedule with provisions for a sliding scale or scholarship, and a job description and qualifications for the position of center director.

I look forward to reading this report. A good many of the task force members are parents who would wish to place their children in the child-care center. Because parents know better than anyone else what is best for their children, the recommendations they make for the overall operation of the center should be seriously studied.

We are all aware of the controversy surrounding Government funding of child care. Many legislators, parents, and concerned citizens are understandably skeptical of the Government's involvement in their lives. I appreciate this concern. But this legislation is not charity or welfare. All of the Capitol Hill employees interested in this service are paying for their present child-care arrangements, and responded favorably to the questionnaire knowing that a Capital Hill child-care center would not be free of cost.

It is evident, however, that most parents who need this service for their children cannot afford the initial start-up costs of a day care center. The U.S. Senate houses the restaurant, the credit union, the barber shop, and the Senate beauty salon services that assist our employees. Now we have substantial evidence of what would seem to be a more fundamental need for more adequate child care facilities to serve the children of our employees while their parents are at work.

Mr. President, we in the U.S. Senate have an opportunity to assist our staffs and their families. This effort is not without precedent. There are presently eight Government agencies in the area operating child care centers for the children of their employees. Many of these centers are operating successfully, experiencing low drop out rates, and have long waiting lists. By establishing a child care center on Capitol Hill, the home, in a sense, can be brought to the work place, bringing children and parents together. Lunch hours and/or coffee breaks could afford parents the opportunity to be with their children; eat lunch with them, participate in their activities. If a child becomes ill, the parent is immediately available. The psychological well being of children and parents is supported in these ways. Parental work attendance also becomes more stable.

Mr. President, I urge my colleagues to support this resolution creating child care facilities for Capitol Hill employees. The distinguished chairman of the Committee on House Administration, my long time friend and colleague, Congressman Frank Thompson of New Jersey, is also committed to the concept of work-site child care and is today introducing a similar resolution in the House of Representatives.●

SENATE RESOLUTION 322—SUBMISSION OF A RESOLUTION RELATING TO THE PURGE OF RIKIZO HIRANO

Mr. MATSUNAGA submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. Res. 322

Whereas in 1947, the Honorable Rikizo Hirano was the Japanese Minister of Agriculture and Forestry, and a member of the Japanese Diet;

Whereas recently released American military records of the Occupation of Japan following the Second World War reveal that—

(1) Rikizo Hirano was effectively purged from his positions as Minister of Agriculture and Forestry and as a member of the Diet in the House of Representatives, as a result of the intervention against its own rules, by the office of the Supreme Commander for the Allied Powers (SCAP) in the Japanese judicial process, and

(2) the intervention of SCAP was without basis or justification in that it violated the Allies' duty to respect the Japanese judicial process in the Japanese administration of the purges, and to carry out the task of teaching the principles of democracy and justice; and

Whereas the result of the purge was to subject Mr. Hirano to public scorn, humiliation, and loss of honor, as well as loss of public office: Now, therefore, be it

Resolved, That in recognition of the egregious harm inflicted upon Rikizo Hirano by the intervention of the office of SCAP in the Japanese judicial process, resulting in his being purged, and, in recognition of Rikizo Hirano's distinguished career of public service in the office of agriculture, wherein his contributions have been lauded throughout the agricultural world, it is the sense of the Senate that the intervention of the office of SCAP resulting in the purge of Rikizo Hirano in 1947 was without basis or justification, improper and in violation of its own rules, and that all records of all United States Government agencies involved should be corrected to clear Rikizo Hirano of any wrong-doing and to restore the honor and reputation of Rikizo Hirano to their rightful standing in his country and in the world.

Mr. MATSUNAGA. Mr. President, today I am submitting a resolution that will help, in a small way, to correct an injustice that has existed for over 30 years; an injustice which tarnishes the almost unblemished record of our rehabilitation efforts in postwar Japan.

The wrong I seek to redress is an old one. Soon after the allied occupation of Japan, the supreme commander of allied powers (SCAP) initiated various rules designed to purge undesirable individuals from Japan's Government and political parties. As prescribed by SCAP, the purge could be initiated in two ways: By the supreme allied commander or by the Japanese Government.

In 1947, Mr. Rikizo Hirano was the secretary of agriculture and forestry of the Japanese Government. Despite his high visibility, his reputation for honesty and moderation was well known and no attempt was ever made by the supreme commander to purge him from the Government. However, Mr. Hirano did have political enemies within the ruling Japanese cabinet who twice initiated purge voes against him in order to permanently ostracize him from Government. Both votes failed.

In January 1948, his political opponents forced yet a third vote and this time succeeded in obtaining a bare 5 to 4 majority. The vote was tainted by controversy. Immediately after the vote, a member of the voting body publicly confessed that his vote to purge Mr. Hirano was the result of pressures brought to bear on him by Mr. Hirano's political opponents.

Mr. Hirano sought redress in the Japanese courts which then operated in a way that sought to effect the protection of due process that we in this country have always enjoyed under our Constitution. On February 2, 1948, the Tokyo district court granted the equivalent of an injunction, permanently suspending the purge order against Mr. Hirano.

The matter automatically went to the Supreme Court of Japan, but the court was never given the opportunity to review the case, because an official of the Supreme Allied Command ordered the Japanese Supreme Court to reverse the lower court ruling. No reason was ever given for the arbitrary SCAP directive which violated SCAP rules against interfering with the Japanese courts in domestic matters. Nonetheless, citing the SCAP directive, the Japanese Supreme Court immediately reversed the lower court ruling, thus reinstating the purge order which permanently disqualified Mr. Hirano from holding public office and imposed on him the stigma of dishonor which he has now carried for 31 years.

Mr. Hirano, now 81 year old, lives in Tokyo, and has remained active in agricultural affairs through a variety of activities. He is the founder and president of Nikkan Nogyo Shimbun, a journal which addresses the agricultural problems of Japan and the world. Other publications by Mr. Hirano include a Japanese translation of "World Without Hunger," by former Secretary of Agriculture Orville Freeman, with whom Mr. Hirano met in 1968 to discuss food problems; and a book entitled "New Trials for Japanese Agriculture," published in 1971.

Mr. Hirano also has traveled extensively in recent years, in connection with his interest in agricultural affairs. In 1976, he visited Korea, where a series of his lectures attracted audiences totaling 50,000 people, and in 1977 he met with present U.S. Secretary of Agriculture Bob Bergland to discuss the 200 nautical mile boundary and general food policy.

In appreciation for Mr. Hirano's contribution to the world of agriculture, a monument was erected in his honor in his precinct. The fact that this monument was built with donations from 1,400 farmers makes it a fitting testimonial to an individual whose lifetime has been dedicated to public service in the field of agriculture.

No forum now exists either in this country or Japan to properly redress this grave injustice, perpetrated three decades ago. But by resolution of this body, we can reaffirm that in postwar Japan, our intention was to encourage establishment of a society governed by the rule of law and founded on principles of fundamental fairness. In this, we most assuredly succeeded, for Japan has a heritage of democracy that is viewed with pride by both nations. By acknowledging the wrong perpetrated upon Rikizo Hirano, we will restore not only the honor which he so greatly cherishes, but also enhance our own national integrity.

SENATE RESOLUTION 323—SUBMISSION OF A RESOLUTION ESTABLISHING A BILL OF RIGHTS FOR SMALL AND INDEPENDENT BUSINESSES

Mr. NELSON submitted the following resolution, which was submitted to the Select Committee on Small Business:

S. RES. 323

Resolved, That this resolution may be cited as "America's Small and Independent Business Bill of Rights".

SEC. 2. The American dream is to be an owner of one's own business. Almost everyone has had the dream and millions of Americans have lived it. The American dream is the cornerstone of our 200 year old American heritage and also is the reason for our country's position as the most economically powerful nation in the world today. We could not have achieved this nation's status if entrepreneurs had not had the fortitude and shown the initiative to take advantage of opportunity when it presented itself. America was founded on the principle of each individual's fundamental rights, such as Freedom of Speech, Freedom of Religion, Freedom of the Press, Freedom of Assembly, Freedom to Bear Arms, and fundamentally, the Right to "Life, Liberty, and the Pursuit of Happiness". The Pursuit of Happiness can and does take the form of one going into business for oneself, the fulfillment of the American dream.

SEC. 3. The small business community is represented by some 14 million small and independent businesses. These 14 million businesses represent 100 million people and 58 percent of all private sector jobs in America. Ninety-seven percent of all newly created jobs in the past 7 years have been created among these 14 million small and independent businesses representing 48 percent of America's gross business product. Fifty percent of all new inventions, innovations, and patents are developed in the small and independent sector of American business.

SEC. 4. The Senate affirms that 14 million small and independent businesses have the following fundamental, inalienable and constitutional rights:

(1) The right to start, own and manage a business without Government interference.

(2) The right to compete fairly for capital with assurance that capital will be available for private use.

(3) The right to reward for the risk, effort and genius necessary to make an independent business work.

(4) The right to determine price just as the buyer has the right to buy or not at that price.

(5) The right to be governed by reasonable and understandable laws set forth by elected representatives, not by bureaucratic dictate.

(6) The right to be innocent until proven guilty by a jury of our peers; not by administrative edict.

(7) The right to equal representation with big business, big labor, and Government on matters relating to America's economic policies.

● Mr. NELSON. Mr. President, today I am submitting a resolution establishing a "small business bill of rights." The American dream is to be an owner of one's own business. Almost every American has had that dream and millions of Americans have lived it.

It is no secret that small business has been the cornerstone of our 200-year-old heritage that spawned an entrepreneurial spirit and initiative which is unsurpassed by any other nation in the world.

The small business "bill of rights" asks the President and the Congress to pay tribute and give special recognition to our Nation's 14 million small and independent enterprises.

This tribute to small business represents the dedication of over 100 million small businesspeople; 58 percent of all private jobs and 97 percent of all newly created jobs in this country; 50 percent of all new inventions, innovations and patents and about half of America's GNP.

This resolution advocates certain rights and privileges which serve to insure the vitality of our free and independent business community.

The small business "bill of rights," which is the product of the Independent Business Association of Wisconsin, seeks to guarantee the rights of each business person to own a business; compete for capital; be rewarded for risk; to determine price; to be afforded democratic representation; to have fundamental civil rights; and, be assured of economic equity.

The time has come for Congress to acknowledge the tremendous achievements made by small business in recent years. The passage of a small business bill of rights with the full support of Congress will help symbolize America's continued support for small and independent business.●

AMENDMENTS SUBMITTED FOR PRINTING

SOCIAL SECURITY DISABILITY H.R. 3236

AMENDMENT NO. 1628

(Ordered to be printed and to lie on the table.)

Mr. METZENBAUM (for himself, Mr. CRANSTON, Mr. KENNEDY, Mr. WILLIAMS, Mr. MCGOVERN, and Mr. EAGLETON) submitted an amendment intended to be proposed by them, jointly, to H.R. 3236, an act to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes.

NOTICES OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS

● Mr. RIBICOFF. Mr. President, I wish to announce that the Committee on Governmental Affairs will meet at 10 a.m. on January 23, 1980, in room 3302, to consider S. 262, the "Reform of Federal Regulation Act of 1979," and other regulatory reform proposals pending before the committee.●

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, I wish to announce that the Select Small Business Committee will hold a hearing on SBA's Paperwork Measurement and Reduction Project on Friday, January 4, 1980. The hearing will begin at 10:00 a.m., and will take place in room 318, Russell Senate Office Building. For further information, please contact the committee office, 224-5175.●

COMMITTEE ON VETERANS' AFFAIRS

● Mr. CRANSTON. Mr. President, I announce for the information of Senators and the public that on Thursday, February 7, at 9:00 a.m., in Room 412, of the Russell Senate Office Building, the Committee on Veterans' Affairs, which I am privileged to chair, will conduct a public hearing on the vocational rehabilitation program carried out by the Veterans' Administration under chapter 31 of title 38, United States Code, to assist service-connected disabled veterans, and the VA-proposed legislation, S. 1188, which I introduced, by request, to make substantial revisions in that chapter. Those interested in testifying should contact Michael Buchanan, Associate Counsel of the committee, at (202) 224-9126.●

COMMITTEE ON VETERANS' AFFAIRS

● Mr. CRANSTON. Mr. President, I announce for the information of Senators and the public that on February 20 the Committee on Veterans' Affairs, which I am privileged to chair, will conduct a public hearing on issues relating to the recruitment and retention of qualified health-care professionals to staff the Veterans' Administration's health-care facilities, including special pay authority for VA physicians and dentists and appropriate methods of improving the conditions relating to hiring, compensating, promoting, and similar activities in connection with nursing personnel and other allied health workers within the VA's Department of Medicine and Surgery.

Persons interested in testifying at this hearing should contact Bill Brew, Associate Counsel of the Committee, at (202) 224-9126.●

NOTICE OF HEARINGS: PROBLEMS OF VIETNAM-ERA VETERANS

● Mr. CRANSTON. Mr. President, I announce or the information of Senators and the public that the Committee on Veterans' Affairs, which I am privileged to chair, will next year undertake a series of public hearings to probe the continuing problems facing some Vietnam-era veterans in readjusting to society following military service and in finding meaningful employment opportunities.

Clearly, Mr. President, most of the 2.7 million veterans who served in the Vietnam theater are doing well—economically, educationally, and emotionally. families, and their jobs and have put aside or satisfactorily reconciled the experience of battle in an unpopular war. But some Vietnam veterans—particularly those who are educationally disadvantaged, disabled, or members of minority groups—have had a very difficult time trying to straighten out their lives and their thinking, their view of the world and of themselves. We really do not yet know precisely the depth and They have returned to their homes, their scope of their problems nor the best way to address their needs. The committee's investigation, through these hearings, will attempt to discover the extent of these veterans' difficulties and the degree to which governmental efforts can provide solutions, and to develop strategies—both in terms of pending and future legislation and continued oversight activities—for further action if indicated.

The committee will hear testimony on these issues from a wide variety of sources, including representatives of veterans groups, community-based organizations, individual Vietnam-era veterans, and representatives of the many governmental departments and agencies that are involved with veteran programs.

Among the Federal efforts that these hearings will focus on will be:

Various Veterans' Administration programs, particularly the basic GI bill educational assistance programs, including its work-study, tutorial, counseling, and outreach components; the new readjustment counseling program; the vocational rehabilitation effort; and the GI bill on-the-job training and apprenticeship programs carried out in concert with the Department of Labor:

The Department of Labor employment efforts, including the operation of the office of the Deputy Assistant Secretary for Veterans Employment and the Veterans' Employment Service; the Office of Federal Contract Compliance Programs' implementation of the veterans' affirmative action and mandatory job-listing program; the participation of Vietnam-era veterans in programs conducted under the Comprehensive Employment and Training Act, including the status of the Disabled Veteran Outreach program; the Department's efforts with respect to Vietnam-era veterans as a target group under the recently-enacted Targeted Jobs Tax Credit; and the implementation of the Department's mandate to conduct a public information and outreach program so as to provide maximum job opportunities for disabled and Vietnam-era veterans;

The Department of Health, Education, and Welfare's Veteran's cost-of-instruction program and veterans' aspects of HEW's TRIO programs;

The Office of Personnel Management's actions to implement veterans preference in Federal employment, including the strengthening amendments made with respect to disabled veterans by the Civil Service Reform Act of 1978, and the status of Federal activities to promote the use of Veterans' Readjustment Appointments to hire Vietnam-era and disabled veterans and the use of other excepted appointments for disabled veterans.

The Small Business Administration's efforts to assure that special consideration is given to veterans as required by the Small Business Act of 1953, as amended by Public Law 93-327.

The implementation of recommendations made in the President's October 10, 1978, PRM Message on the Progress of Vietnam Era Veterans—Policy Review Memorandum/DPS 5—and the activities of the Veterans Federal Coordinating Committee established by that message.

Mr. President, getting a program enacted into law is only the first, not the last step. How an agency carries out the program is what determines its success or failure. Hence, I feel it is imperative for the committee to continue to monitor these and other programs most carefully and determine whether they are accomplishing what was intended, and if not, why not, and what can be done to improve the administration of the underlying laws.

The first hearing is scheduled for January 25 at 2 p.m. in Chicago, Ill. On January 26, a second hearing will be held in Los Angeles, Calif., at 2:30 p.m. The specific sites of these field hearings will be announced later. Three additional days of hearings are scheduled for February 21, March 5, and April 2 in Washington, D.C., all beginning at 8:00 a.m. in room 412 of the Russell Senate Office Building. Additional field hearings may be scheduled at a later date.

Persons interested in testifying at these hearings should contact Babette Polzer, professional staff member of the committee, at (202) 224-9126.●

CHILD AND HUMAN DEVELOPMENT SUBCOMMITTEE

● Mr. CRANSTON. Mr. President, for the information of my colleagues and the public, I am pleased to announce the following January through May hearing schedule of the Subcommittee on Child and Human Development which I chair on the Labor and Human Resources Committee:

SUBCOMMITTEE ON CHILD AND HUMAN DEVELOPMENT

(1980 Hearing/Meeting Schedule)

Date, day, subject, and time:

Jan. 30, W. Hearing, joint w/Judiciary's Subcommittee on Criminal Laws: S. 105, Parental Kidnapping Prevention Act, 9-12:30 p.m.

Feb. 6, W, Hearing: S. 1843/H.R. 2977, Domestic Violence Prevention and Services Act, 9-12:30 p.m.

Mar. 13, Th, Hearing: Commissions on National Youth Service and Volunteerism, 9-1:00 p.m.

Mar. 27, Th, Meeting: Domestic Violence/Commissions, 9-11:00 a.m.

Apr. 17, Th, Hearing: Oversight on P.L. 95-266, Adoption Reform, 9:30-12:30 p.m.

May 1, Th, Hearing: Save the Children's Day, 10:00-11:00 a.m.

May 22, Th, Hearing: Oversight on Infant Mortality/Preventable Birth Defects, 9:30-12:30 p.m.

Mr. President, individuals interested in presenting testimony or obtaining further information regarding these hearings should contact Mary Lopatto at the Subcommittee on Child and Human Development, 224-9181. The rooms for the hearings will be announced at later dates.●

ADDITIONAL STATEMENTS

EARTH DAY 1980

● Mr. HATFIELD. Mr. President, 10 years ago, we ushered in the decade of the 1970's with a celebration of Earth Day. The time was ripe for such an event, for the Earth desperately needed some attention by its inhabitants. With the United States in the lead, we were using resources at a tremendously increasing rate, and ignoring the outfall of our existence. Like too many fish in a small tank, we were fouling our own environment at an alarming pace.

Earth Day 1970 was one of the first of many actions which helped give us the tools and the will to begin confining and reusing our waste. The Clean Water Act, the Clean Air Act, and the Safe Drinking Water Act are a few of the efforts made in Congress toward that end. Business and industry contributed their share through the development of new plant and equipment designs which would be more energy efficient and would emit clean or nearly clean effluent. Consumers helped by recycling in the home, and by convincing their peers and legislators to pass conservation and recycling laws like the mandatory beverage container deposit laws and the Model Litter Acts.

We still have a long way to go. Problems of excess carbon dioxide in the atmosphere, with all the potential evil that entails, acid rain which is killing our lakes and forests, and radiation pollution, both nuclear and nonnuclear, are still to be addressed. We must maintain the momentum of the tumultous seventies and thus keep the passengers of our planet stirred by the new vision of Earth care and the new possibilities of a bountiful, peaceful planet.

The founders of Earth Day 1970, sans the late and sorely missed Dr. Margaret Mead, are planning another Earth Day during the equinox, March 6, 1980. The ceremony will take place at the United Nations in New York and will feature a ringing of the Peace Bell at the exact moment of the equinox. This is designed to emphasize the theme of the eighties.

The seventies theme of Earth Day emphasized the environment, and our need to come to terms with what kind of physical conditions would allow life on Earth to continue being possible and worthwhile. In the eighties, there will be a realization of the Earth as our home; our one and only home, which we must all share. It will stress the fact that with a burgeoning population, we must search for the common elements of humanity.

It has been demonstrated many times that in the midst of polarization and confrontation the discovery of deep common feelings can lead toward conciliation. With the Earth growing ever smaller through increased availability of travel and communications, with the pressures increasing on natural resources and energy, we are reaching a point where we are figuratively living in each others' backyards.

We must develop the habit of acknowledging our neighbors' humanity and recognizing that their weaknesses are our weaknesses and our needs are their needs, and that like people, countries are not strong at all times. Like people, they need to be disciplined at times, but always with understanding, not with hate.

The basic requirements for achieving this goal are outlined in the Earth Charter, a document which, building on the knowledge and progress of the last 10 years, seeks to define an Earth care ethic and its application to personal conduct and to the institutional actions of society. The Earth Society Foundation, the initial sponsors of Earth Day, are using the Earth charter guidelines in effort to mobilize Earth care support.

The New York Board of Education, the Girl Scouts of America, the Atlantic District of the Lutheran Churches, the city of Bridgeton, N.J. and UNESCO are among the first supporters of this effort. The Earth Society Foundation is initiating on January 1, 1980, an "80 Day Countdown to Earth Day 1980" seeking to generate and publicize reports on the state of the Earth with Earth care examples and alternatives from local communities.

Mr. President, one of the first major events of the 1980's will be the commissioning of the Space Shuttle as the workhorse of the world space fleet. Built by the United States, the Space Shuttle is available to the world for worthwhile projects in space.

This is significant to Earth Day 1980 in two ways. First, it represents the kind of international cooperation which Earth Day tries to promote. Second, it will be the beginning of an era in which we work and live away from the Earth's surface, and view the Earth daily, as a finite, fragile object floating in the vastness of space. The idea, the glimmer of promise I find in that view, is the growing awareness in all the planet's inhabitants that there is one thing we all have in common; Earth. As we see Earth more clearly maybe we will be inspired to stop our quarreling and unite as humanity to save it and care for it. Therein lies one key to a healthier, more peaceful future.●

SENATE ACTION ON THE CRUDE OIL WINDFALL PROFIT TAX LEGISLATION

● Mr. BAYH. Mr. President, the Senate has now completed action on the crude oil windfall profit tax legislation after a month of heated consideration. In the course of our debate, we rejected the House version of this bill, which I believed preferable to the Finance Committee's version. With the amendments adopted on the Senate floor, this tax will generate about $178 billion. This is a far cry from the $277 billion raised by the House bill, and substantially less than the President sought when he proposed this legislation to the Congress. As oil State House Members themselves argued when the House passed their bill last summer, the House measure was considered a production oriented bill, with sufficient revenues left with the oil companies to produce as much oil and gas as they can. I hope the House-Senate conference comes down closer to the House version of the bill than the Senate version.

Over the next decade, oil company profits stemming from the lifting of domestic price controls are going to soar some $1.1 trillion. I have been concerned for a long time now, Mr. President, that decontrol really is not going to mean much in terms of additional production, and that it is simply going to further exacerbate the already serious situation facing American consumers, and the ever-spiralling inflationary pressures ruining our economy due to ever-rising prices for energy, which ripple through the economy and affect the price of literally every product produced in America. In the last year alone, energy prices were the main cause of major increases in the prices of consumer goods other than food. Gasoline prices have risen at an annual rate of 62.1 percent since last December, and home heating oil prices have risen at a rate of over 90 percent this year. The latest round of OPEC price increases will only compound this already serious situation.

The theory behind decontrol—that we must encourage the production of domestic energy—is sound. Only by increasing our ability to utilize energy produced in this country can we reduce our dangerous reliance on foreign oil. The OPEC meetings going on right now underscore the fact that we have known all along, that world oil prices are only going to continue to rise in the years to come.

I question the basic premise, however, that allowing the major oil companies to reap huge windfall profits due to OPEC price increases and the lifting of domestic price controls, estimated at $443 billion over the next 10 years, will substantially increase oil and gas production. Our oil and gas reserves are finite, and they are being rapidly depleted. The U.S. Geological Survey, and the oil companies themselves, admit that domestic production will continue to decline because there is only so much oil and gas left within our borders. Simply pouring more money into the coffers of the oil companies will not change that unwelcome fact. We want to get all of our remaining oil out of the ground. But a sound energy policy must recognize that it is limited.

Even the administration which supports decontrol has drastically scaled down its original projections about the amount of additional oil which we can expect to result from decontrol. What we face then, without a windfall tax, is the prospect of continually decreasing oil production, while the oil companies charge more and more for their oil.

With a windfall tax, we can at least recoup some of the revenues which will flow from the pockets of American consumers to the treasuries of the oil industry and use those funds to address our energy problems. Our national security is jeopardized, Mr. President, every minute that we remain dependent on other nations for the energy we need.

Yet a major national effort to encourage the development of alternative energy sources takes money—big money. We know this in the Senate from our consideration of the synthetic fuels legislation a few weeks back. We decided then that the time has come to make a major national commitment to domestic energy, and we authorized a large scale program to provide financial incentives to stimulate private sector investment in synfuels. Funding for this effort and other energy-related expenditures can come from revenues raised by the windfall profit tax—thus easing the path to a balanced budget.

The tax legislation reported to the Senate floor from the Finance Committee would have generated only $138 billion in revenues. Many of us felt that this low figure was simply not acceptable given the urgent need facing us in the country to find alternate energy sources, develop our mass transit facilities, and provide relief to our citizens from ever rising energy prices. The Bradley-Chafee amendment increasing the tax rate on oil discovered between 1973 and 1978 from 60 percent, as in the bill reported by the Finance Committee, to 75 percent, as well as the minimum tax proposal, assuring that a tax of 20 percent will be collected on tertiary oil and heavy oil with a 10 percent tax on newly discovered oil, brought us up to a projected revenue level of $178 billion. I strongly supported these amendments and was pleased the Senate was able to break the filibuster on these items and get to conference with the House.

One further proposal which I supported and the Senate adopted dealt with the phase out of the windfall tax. The House version of the legislation provides for a permanent tax on most types of oil, with no phaseout.

The Senate Finance Committee bill would have required a phaseout of the tax when 90 percent of the revenues expected to be generated, or $127 billion, was raised. I favored making the tax permanent. But I did support the Moynihan amendment approved by the Senate which provides for a phaseout to begin at a substantially higher level, some 90 percent of $210 billion. While this is not as strong a step as I would have preferred, it will extend the tax roughly through 1997.

Pegging domestic oil prices to OPEC world prices, as will occur under decontrol, permits the OPEC cartel to set domestic oil prices and only assures that our oil prices will continue to rise dramatically. Mr. President, decontrol is an outright gift to the American oil industry. The profits of the majors are not at all related to their costs, or the pressures of the marketplace. They are being set by leaders beyond our shores.

For the third quarter of 1978, Exxon reported profits up 118 percent, while Gulf's profits rose 97 percent, Mobil's were up 131 percent, and Sohio's jumped a whopping 191 percent. The profits resulting from decontrol will make these percentages look low and are truly windfall profits. They do not represent any increase in effort on the part of the oil companies, nor do they bring us any closer to energy security. They are unearned and excessive. The legislation passed by the Senate, to my mind, does not adequately deal with this issue. I hope that our colleagues on the conference committee who feel as I do, and the Members from the House, will produce a bill to recapture these moneys for the benefit of the public. These can be used to develop alternative domestic energy sources, to encourage energy conservation, research and development, and to provide badly needed assistance to elderly and low-income Americans struggling to meet energy costs.

Mr. President, I hope the conferees conclude action on this matter posthaste. The President is scheduled to lift controls significantly further in January. I would hope we would have a tax bill sent to the White House before he proceeds any further down this path.●

LEWIS HENRY REDNER, COMPOSER

● Mr. SCHWEIKER. Mr. President, at this holiday season I would like to call to the attention of my colleagues an article in the Philadelphia Inquirer about a Pennsylvanian who has made a significant contribution to our Christmas celebration. Lewis Henry Redner, apparently long forgotten by most Americans, was the organist for the Episcopal Church of the Holy Trinity in Philadelphia in 1868 when the church rector, the Reverend Phillips Brooks, asked Mr. Redner to write music to go with the rector's poem "O Little Town of Bethlehem." After days of frustration, inspiration suddenly came to Mr. Redner who wrote the wonderful music to one of this country's most popular Christmas carols. Mr. Redner has received little recognition. Therefore, I request that the following account of his achievement be printed in full in the RECORD.

The article is as follows:

[From the Philadelphia Inquirer,
Dec. 15, 1979]

A MAN WHOSE GIFT WE SHARE

(By Edgar Williams)

The acting superintendent of the cemetery was on his knees. He brushed a collection of wayward leaves from the grave, and you could read the marker.

Lewis H. Redner 1831–1908. Wrote the original music to the carol "O Little Town of Bethlehem." Church of the Holy Trinity, Rittenhouse Square.

"Very rarely does anybody come here," said the acting superintendent, whose name is Earl Hood. "In the five years I've been here, I've never known anyone to ask about the grave. It's a shame that a man who composed such a beautiful song should be forgotten."

This was yesterday in Section F, Lot 359 of Woodlands Cemetery, 40th Street and Woodland Avenue in West Philadelphia. There was just enough zing in the air to give you a beginning-to-feel-a-lot-like-Christmas tingle. And on the December breeze from a nearby Christmas-tree lot rode the sounds of carols.

One of them was "O Little Town of Bethlehem."

You hummed along with the music and inside your head you sang the words:

O little town of Bethlehem,
How still we see thee lie;
Above thy deep and dreamless sleep
The silent stars go by . . .

It is among the best known of Christmas songs, this carol created in Philadelphia in 1868, and the man who wrote the lyrics is an entry in practically every encyclopedia and religious and music reference book published in the English-speaking world. But Lewis Henry Redner, composer of the music, is an entry only on a couple of pieces of granite in Woodlands Cemetery.

There are several versions of the story of how "O Little Town of Bethlehem" came into being, but they vary only in less-than-essential details.

Basically, the story starts with a poem written by the Rev. Phillips Brooks, rector of the Episcopal Church of the Holy Trinity, Rittenhouse Square. Whether Mr. Brooks, later to become bishop of Massachusetts and the Episcopal Church's foremost pulpiteer, wrote the poem in 1865 during a trip to the Holy Land, or in 1868 a few days before the Holy Trinity Sunday school's Christmas program, is unclear.

What is clear is that, as a feature of that 1868 Christmas program, Lewis Redner, then 37 and a real estate broker who served his church as its organist, choir director and Sunday school superintendent, wanted to present some original musical work.

Redner told the rector, who a day or two later handed him a copy of a poem that he had titled "O Bethlehem." Redner, a bachelor who lived at 1711 Spruce St., took the poem home and immediately encountered "composer's block." He was unable to create even the simplest melody, Redner said later.

Three evenings he tried, three evenings he failed. Finally, the night before dress rehearsal for the Christmas program, Redner said, a "miracle" occurred.

"Sometime during the night," Redner related, "I was roused from sleep by an angel-strain whispering in my ear. Jumping out of bed, I wrote the treble line of the tune. In the morning, I added the harmony, and the carol was born."

It was decided to expand the title to conform with the opening line. Thus it has been sung each Christmas at Holy Trinity and at countless other churches.

Some little time was to elapse, however, before the carol became well known generally. Phillips Brooks left Holy Trinity in 1869 to go to Boston and to become rector of Trinity Church there. He took the carol with him, but it was the mid-1870s before it was sung to any great extent outside Philadelphia and Boston.

Lewis Redner, who never married, became one of Philadelphia's most successful real estate brokers. He continued to serve his church as choir director until not long before his death in 1908, and when he was buried in Woodlands Cemetary one sunny September afternoon, hundreds of mourners were there.●

A TRIBUTE TO AMERICAN FREEDOM

● Mr. CHURCH. Mr. President, I wish to commend three Idaho women for their tribute to America. Debbie Holm, Brenda L. Young, and Kathy Hoshide are the first, second, and third prize winners in an essay contest sponsored by the News-Tribune and Idaho Free Press. Exploring the theme, "Living the Freedoms of the First Amendment," these Idahoans express their appreciation for and dedication to these American liberties in a most eloquent fashion.

These women point out, first of all, how extraordinarily lucky we are to be protected by this amendment; extol the virtues of education in maintaining our rights and freedoms; and draw a picture of a unique and rich American culture which tolerates and assimilates the views and practices of others. At a time when America is facing difficulties abroad, it is appropriate to reflect on our American heritage and inherent moral strength. I commend these Idaho women for their refreshing and patriotic look at American freedoms, and ask that these essays be printed at this point in the Record.

The news article and essays follow:

Housewife Wins Essay Contest

A Nampa housewife who wrote about "living the freedoms of the First Amendment" has been named first place winner in the Press-Tribune newspapers essay contest on "What the First Amendment Means to Me."

Debbie Holm of 712 7th Ave. S., was awarded the $150 cash first prize by the newspapers' editors.

Second place winner was Brenda L. Young, Route 2, Hemlock Way, Nampa, who wrote of the responsibility of maintaining First Amendment freedoms.

She was awarded $100 by the newspapers.

Third place winner was Kathy Hoshide of 2211 Ellis Ave., Caldwell. She described her freedom to worship as a Buddhist in America. She was awarded $50.

Holm's essay has been submitted to the Idaho Newspaper Association which is conducting a statewide competition for a $500 first prize, $150 second prize and $100 third prize.

The winner of the state contest will compete in national competition sponsored by Newspaper Association Managers, Inc. in cooperation with the Ohio Newspaper Foundation.

A $1,000 first prize is offered nationally with $300 for second place and $200 for third.

Announcement of the national winners is to be made at the National Newspaper Association's Government Affairs Conference in Washington, D.C. in March.

The managing editors of The News-Tribune in Caldwell and The Idaho Free Press in Nampa who judged the local entries said many excellent essays were submitted. Entries came from all ages.

"We were particularly please with the many essays we received from school students," editors Rick Coffman and John Bromley said. "We wish to thank everyone who took the time to put their thoughts down on paper. It's obvious many people still recognize the importance of the First Amendment and how precious it is," they said.

First Place Essay

(By Debbie Holm)

Thanksgiving Day, 1979. We gather with family and friends, bowing our heads in appreciation for food and shelter, jobs and freedom. Over pumpkin pie, we chat about world events, agreeing and disagreeing freely. We share the newspaper, reading the differing views of editorialists and politicians. We talk about last week's city council meeting and those who sought redress of grievances over property rights. We say our goodbyes, little realizing that we have just exercised the most precious freedoms in the world.

In subtle ways, our daily lives are blessed by freedom of religion, of speech, of the press and of the right to peaceable assembly. Most of us appreciate these freedoms, if only on Thanksgiving or the Fourth of July. But is appreciation enough?

I am the mother of a two-year-old daughter and a week-old son. As I cuddle these tiny Americans, I realize that for them to enjoy Thanksgiving Days and "everydays" like mine, I must offer more then a salute to freedom whenever the parade passes by. I must use and defend these freedoms and teach my children to do the same. Thus to me the First Amendment means a commitment to pass on the torch of freedom to the next generation, just as it has been passed down for the past two hundred years.

Such a desire sounds high-minded and patriotic. But what does it mean in real life?

It might mean getting up early on Sunday to dress the kids for church, even when we'd all rather play at the lake. It means that I must study and pray so I can answer their questions about God from the depths of my own belief.

It means that I must be patient enough to listen to childish orations when I'm busy, and that I must hold my tongue when tempted to shoot down childish opinions. Our future citizens can't learn to freely express themselves in an atmosphere of "Shut up, stupid!"

Living the First Amendment means that as my children become old enough to read the newspaper, they will be introduced to the front page and editorial page as well as the comics. They will watch the news as well as "Mork and Mindy." Hopefully, they will be able to see the differing approaches to the same story taken by media sources. And they will learn that in Communist nations, the government side is the only side to any story.

I don't like to attend meetings any more than the next person, but some are essential. A parent who attends PTA and Cub Scout den meetings, or political party and local government gatherings, teaches his child a lot about the right of peaceable assembly. And even a child can understand that the request of a parent's group for safer school crossings is a petition "for redress of grievances."

Our First Amendment freedoms can bless us every day, and we can discover that the more we use them, the more we will appreciate them. But perhaps the greatest advantage of living and defending these rights is that little eyes are watching us, and little feet are following our footsteps. If we will do our part, little hands will grow big and shape happy Thanksgivings and "everydays" in America's future.

Second Place Essay

(By Brenda L. Young)

Benjamin Franklin was met after the Constitutional Convention by a woman who said, "Sir, what have you given us?" And he replied, "A Republic, Madam, if you can keep it."

"Keeping it" is what the First Amendment is all about. The First Amendment was put first, not because Benjamin Franklin and Thomas Jefferson said, "Ah, that is good a place as any to put it." It is first because it is primary for the network of the Constitution to exist and the vehicle through which it stays rejuvenated and intact.

There exists in the world as many degrees of freedom as there are countries, and more. The amount of freedom enjoyed is determined by the amount of force or government. As George Washington said, "Government is not reason, it is not eloquence, it is force . . ." Government is to be used sparingly, in moderation, to protect life, liberty, and property.

If otherwise, it becomes much like a household, cluttered with the accumulation of years of dropping doles here and there. Our Federal Mother, doing for all, is red-faced, exhausted, demanding, self-serving from doing for fat and lazy children what they need to do for themselves.

We may not have reached that extreme yet, but we are not far from it.

A few years ago I was told the story of three stagecoach drivers, all vying for the same position. The job was to drive a coach over some hazardous territory. The road wound back and forth, snake-like, up a steep sidehill.

Two of the drivers boasted of their ability to maneuver a coach at high speed, and oft times dangerously close to the road's edge. They told of coming within inches of cliffs without going over.

The third driver simply states that he was a skilled and confident driver but his priority was certainty. He drove with speed, taking precautions that the coach never come close enough to the edge of the road to risk life or limb.

Having much at stake, the employer hired the third driver.

We are dangerously close to edges. Our perception of what a Republic is has distortions . . . "Without a vision the people perish," is a Biblical truth.

The answer: education, with limited legislation, through the institutions of church, school, and media. Whole freedom exists best in a climate of morality coupled with education, the essence of the First Amendment.

And like the thirsty crow who dropped pebbles in the vase of water until the water level came high enough for him to drink, our need stimulates our creativity. We go forward not only with our thirst quenched, but our understanding widened and therefore our happiness increased.

A pretty rosy picture? Yes! Impossible? No! Not if we educate our pessimists and optimists into improvers. Improvers being people who not only see the world for what it is but what it can become.

"So, Mr. Franklin, what have you given us?" "A Republic, Madam, if you can keep it."

Third Place Essay

(By Kathy Hoshide)

The First Amendment means a lot to me because of my own experience as a Buddhist in America. The fact of my experience exemplifies the freedom embodied in the words of the First Amendment.

I grew up as a Buddhist and never was I hindered or ridiculed for my beliefs. When I was in elementary school, I was afraid to admit I was Buddhist because it would make me different. I grew to realize, however, that in America people have the freedom to follow the religious life they feel is most meaningful to them. I can state my religion and not be afraid of any discrimination or pressure. The establishment of this amendment in our Constitution makes possible a generation of Americans who accept me as I am and allow me to follow the way of life set forth in the Buddhist teachings.

I attended a parochial college and even there felt well-accepted by the Christian students and professors. People were always open to my feelings and were eager to learn more. This still holds true today as I accept invitations to speak to various church study groups.

It is wonderful to live in a country where such a diversity of faiths exists in harmony. It adds a richness to our culture that would be lacking if only one religion were allowed. We have the opportunity for open exchange of ideas and a sharing of the traditions that created each set of religious philosophies.

The rest of the freedoms set forth in the First Amendment allow our temple in Ontario, Oregon to exist and operate as it does. We can assemble on Sundays and celebrate special festivals without fear. We have the right to speak freely and to share our ideas with others who are curious about Buddhism.

I am proud to be a part of America's

multicultural heritage. We are creating a unique amalgam of ideas and a satisfying way of life. People are willing to assimilate ideas from various traditions to create this unique lifestyle. The First Amendment has enabled me to choose my religion and to practice the way of life it sets forth. I have no fear of being Buddhist, for the First Amendment has created a climate that allows me to be who I am.●

FIFTIETH ANNIVERSARY OF THE INAUGURATION OF HERBERT HOOVER AS THE 31ST PRESIDENT OF THE UNITED STATES

● **Mr. HATFIELD.** Mr. President, in the years following his defeat at the hands of Franklin Roosevelt in the 1932 Presidential election, Herbert Hoover remained active and dedicated to the principles to which he was so ardently committed. With the exception of the period between the 1932 election and the 1934 congressional campaigns, he was outspoken in pressing his own philosophy and attacking the policies of the Democratic administration. The only hiatus in his public attack on Roosevelt was only a tactical move—he felt that the inevitable failure of Roosevelt's policies would be blamed on Republican obstructionism. Left alone, Hoover believed those policies would fall of their own weight.

Hoover's prominent position as a former President; his steadfast and strident criticism of the "New Deal"; his ambition for the 1936 and 1940 Presidential nomination of his party; and his opposition to Roosevelt's foreign policies, which he attacked as slowly involving the United States in another European war, made him a powerful and highly controversial public figure, although he no longer held public office.

Mr. President, to commemorate the 50th anniversary of the inauguration of Hoover in 1929 as our 31st President, Gary Dean Best, associate professor of history at the University of Hawaii at Hilo, has written a fine account of Hoover's career between 1933 and 1941.

I request that Professor Best's essay, which he has entitled "Herbert Hoover, 1933–1941: A Reassessment," along with a biographic sketch of the author, be printed in the RECORD.

The material follows:

BIOGRAPHIC SKETCH OF GARY DEAN BEST

Education: B.A. (1968), M.A. (1969), and Ph. D. (1973), University of Hawaii at Manoa.

Professional experience: American-East Asian Relations Fellow, American Historical Association, 1973–74; Lecturer, Sophia University, Tokyo, 1973–74; Fulbright Scholar in Japan, 1974–75; Assistant Professor, History, University of Hawaii, Hilo, 1975; Associate Professor, History, University of Hawaii, present.

Publications: The Politics of American Individualism: Herbert Hoover in Transition, 1918–21 (Greenwood Press, 1975).

Articles: "Food Relief as Price Support: Hoover and American Pork, January–March, 1919," Agricultural History, XLV (April 1971), 79–84.

"The Hoover for President Boom of 1920," Mid-American, LIII (October 1971), 227–244.

"Financing a Foreign War: Jacob H. Schiff and Japan, 1904–05," American Jewish Historical Quarterly, LXI (June 1972), 313–324.

"James J. Hill's 'Lost Opportunity in the Pacific,'" Pacific Northwest Quarterly, LXIV (January 1973), 1–7.

"Financial Diplomacy: The Takahashi Korekiyo Missions of 1904–05," Asian Studies, XII (April 1974), 52–76.

"Herbert Hoover's Technical Mission to Yugoslavia, 1910–20," Annals of Iowa, XLII (Fall 1974), 443–459.

"President Wilson's Second Industrial Conference," Labor History, XVI (Fall 1975), 505–521.

"Jacob H. Schiff's Galveston Movement: An Experiment in Immigrant Deflection, 1907–1914," American Jewish Archives, XXX (April 1978), 43–79.

"Totalitarianism or Peace: Hoover and the Road to War, 1939–1941," Annals of Iowa, XLIV (Winter 1979), 516–529.

"An Evangelist Among Skeptics: Hoover's Bid for Leadership of the GOP, 1937–38," American Philosophical Society Proceedings, CXXIII (February 1979), 1–14.

"Herbert Hoover as Titular Leader of the GOP, 1933–35," Mid-American, LXI (April 1979), 81–97.

"Jacob H. Schiff's Early Interest in Japan," forthcoming in American Jewish Historical Quarterly.

"The Basis of American Policy Toward Japan, 1939–1941," forthcoming in Harry Wray and Hilary Conroy, editors, Dai Nihon: Readings in Japanese History.

"The Jewish 'Center of Gravity' and the Hay Notes on Rumania, 1902," forthcoming in American Jewish Archives.

"Ideas Without Capital: James H. Wilson and East Asia, 1885–1910," forthcoming in Pacific Historical Review.

At present I am working on a book-length study of Herbert Hoover's post-Presidential years, 1933–64.

HERBERT HOOVER, 1933–1941: A REASSESSMENT

(By Gary Dean Best)

To the extent Hoover's activities between 1933 and 1941 are mentioned at all in the histories of the time, the former President emerges as a "thorn" in the side of the Republican Party, embarrassing the party by his utterances of outworn ideals in the face of the realities of the 1930s and as an isolationist who would abandon the rest of the world to the Axis powers while concentrating on the defense of the Americas. The reflection is that of history as written by those who idealized Franklin D. Roosevelt and the New Deal, and who championed the internationalist police-keeping role of the United States which culminated in the tragedy of Viet Nam in the 1960s and 1970s. In an era which is less positive in its view of the centralization of power and responsibility in Washington, particularly in the executive branch, and which has become sadder and wiser concerning the limits of American power in the aftermath of Viet Nam, the role and message of Herbert Hoover in the period 1933–41 deserves greater attention.

For approximately the first two years after Hoover left the White House in March, 1933, the former President followed a policy of public silence. While he was active in encouraging opposition to specific policies of the New Deal through his contacts with the press and with individual Republican officeholders, Hoover uttered no public statements in opposition to New Deal policies. In these two years, Hoover confronted a delimma. The voters of America had given Roosevelt and the Democratic Party an overwhelming mandate to solve the nation's economic problems. In Hoover's view, the Democrats deserved the opportunity to take their turn at solving the problems. The depression was nothing around which petty partisan politics should be played, as the Democrats had done during his last two years in office. To fail to cooperate with the Democrats would, additionally, enable the party in power to blame any failures on the Republicans for their obstruction. Clearly, the answer was for a period of cooperation, so long as the Democratic policies were acceptable. Thus, Hoover's self-imposed silence.

Therefore, the titular leader of the party did not take the responsibility of leading the party of the opposition in opposition. Hoover did not relish the silent role he had taken for himself, particularly in the face of policies which he felt were destructive and in violation of the pledges on which Roosevelt had conducted his campaign. He frequently expressed sentiments such as that to his former Postmaster General, Walter Brown that "it ain't in my bones to sit down and see this destructive stuff going on forever." However, he felt that "nothing would count now."[1] And Republicans in Congress took much the same view as Hoover. Despite his occasional attempts to stiffen their opposition, they and the Republican National Committee showed little disposition to tackle the New Deal head on.

Hoover lamented over the march to dictatorship which he saw in the usurpation of Congressional authority by the executive branch. In Hoover's view, it meant that the United States was traveling the same path already being taken by European nations. The New Deal was, he remarked privately: A reckless gambling with the welfare of the American people for political purposes. That was the history of the 72nd Congress. It is now the course of the Administration. I still believe the American people have too ingrained a sense of their own institutions to adopt the theses of the countries to whom democracy was a foreign growth, and whose failure to hold to it lies in national instincts, not in its failure as a system developed and made good by a people.[2]

His own predictions during the 1932 campaign of what was to come if Roosevelt were elected had been denied by leading Democrats like Carter Glass and Owen D. Young, and Hoover hoped that "they yet have the manhood to acknowledge the wrong they did the American people before they die." The American people had shown that at this point in history they did not want "careful, constructive handling of economic battles," but preferred instead "drama and headlines," and these latter could be obtained only by "turning to the left." Eventually, however, he was sure that the American people would begin "to taste the ballyhoo and realities of it all," and then they would reject the New Deal.[3]

With his concern over the fate of the nation went Hoover's worries over the future of the Republican Party. The Republican Party could not survive if it competed in "demagoguery and socialism" with the Democrats, because the latter had preempted that field. Republicans should neither adopt such a course nor should they compromise with it, but rather they should stand out as defenders of constitutional methods, of local responsibility, liberty, the regulation and not regimentation of men, of sound economic thought, honest currency and honest private initiative. All of this, Hoover admitted, sounded "old-fashioned," but it would before long begin to sound new and attractive. If the Republican Party abandoned these principles it would mean "the end of this civilization." And Hoover believed that the "thinking" voters of the nation would rally to such principles and give the Republican Party victory.[4] In September, during a visit to the World's Fair in Chicago, Hoover conferred with certain party leaders and unveiled a tentative program of personal action which would include the enunciation of a set of Republican principles, lectures at selected universities, and syndicated articles in the daily press.[5] A movement had already begun by some GOP National Committeemen to form such a declaration of principles, and at a meeting held in October, consisting of

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Footnotes at end of article.

Walter J. Brown, Republican National Committee chairman Everett Sanders, Ogden Mills, as well as Senate leader David Reed and House Republican leader Bert Snell, it was decided to solicit draft declarations from leading Republicans including Elihu Root and Hoover. After undergoing many revisions a final draft of Republican Party principles was finally issued in June of 1934.[6] The declaration of principles came out squarely against the New Deal, but in generalities and with no constructive alternative offered. While Hoover endorsed the declaration, the New York Times described it as "solemn emptiness." [7]

Shortly after he left the Presidency, Hoover began work, with the assistance of Edward Eyre Hunt, on a new book. It was to be an attempt to reiterate and update the ideals which Hoover had set forth in his earlier work, American Individualism (1923). Hoover asserted that it was his "last shot at public service, and must be made now before I go on to other occupations . . ." He did not overestimate the usefulness of the book, "but it clears my own conscience and does what I can for people groping in the dark." Personally, he doubted "that a nation which has once cut loose from its moorings to definite human rights and places them at the disposal of the state will ever return to them. History does not move that way, and those who cling to such a philosophy are just part of the wreckage." But still there must be some who would point out what was happening.[8]

The book was The Challenge to Liberty, which appeared in mid-September, 1934. Based in part on articles which had already been published in the Saturday Evening Post, the book, like Hoover's earlier draft of a Republican declaration of principles, did not attack specific policies of the New Deal, nor set forth alternative policies, but rather appealed to the American people that they not abandon the American philosophy of individual liberty for the destructive trend current in the world toward the suppression of freedom. As Hoover put it in his summation:

> We cannot extend the mastery of government over the daily life of a people without somewhere making it master of peoples' souls and thoughts. That is going on today. It is part of all regimentation.
>
> Even if the government conduct of business could give us the maximum of efficiency instead of least efficiency, it would be purchased at the cost of freedom. It would increase rather than decrease abuse and corruption, stifle initiative and invention, undermine the development of leadership, cripple the mental and spiritual energies of our people, extinguish equality of opportunity, and dry up the spirit of liberty and the forces which make progress.
>
> It is a false Liberalism that interprets itself into government dictation, or operation of commerce, industry, and agriculture. Every move in that direction poisons the very springs of true Liberalism. It poisons political equality, free thought, free press, and equality of opportunity. It is the road not to liberty but to less liberty. True Liberalism is found not in striving to spread bureaucracy, but in striving to set bounds to it. Liberalism is a force proceeding from the deep realization that economic freedom cannot be sacrificed if political freedom is to be preserved. True Liberalism seeks all legitimate freedom first in the confident belief that without such freedom the pursuit of other blessings is in vain.
>
> The nation seeks for solutions of its many difficulties. These solutions can come along through the constructive forces from the system built upon Liberty. They cannot be achieved by the destructive forces of Regimentation. The purification of Liberty from abuses, the restoration of confidence in the rights of men, the release of the dynamic forces of initiative and enterprise are alone the methods by which these solutions can be found and the purpose of American life assured.[9]

As a Book-of-the-Month Club selection, The Challenge to Liberty circulated through the nation in the weeks before the Congressional elections of 1934.

The 1934 elections approached, however, with Hoover having offered no public leadership more substantial than the book. Privately, however, he was shocked at the campaign strategies of many Republicans who seemed unwilling to fight the New Deal on the basis of principle. If Republicans did not champion the principles which he laid down in The Challenge to Liberty, then the Party would "slide down the same precipice which engulfed the Whig Party in 1856." He recognized the difficulties "of making a campaign of opposition where Santa Claus is visiting each household, and I realize that many people in this world would rather be elected than to be right." [10] Hoover was especially disgusted that so many Republicans were willing to run "on a 50 percent Roosevelt program," of which he found Senator Arthur Vandenberg, of Michigan an example.[11]

The Republican Party lost more seats in Congress as a result of the off-year election, in defiance of the tradition of off-year electoral gains by the opposition. In Hoover's view the Democratic gains in 1934 were accounted for by the fact that for any candidate to "stand up and argue that his state has had too much money, and if he is sent to Congress, he will oppose more being sent, and then be elected against someone who promises the reverse—is a wonder, and that is where all good Republicans had to stand." [12] The electoral losses led to renewed requests by those close to Hoover that he now take the lead in the "revitalization" of the Republican Party. The former President began to cast about for a way that he could reappear on the American political scene with some suitable fanfare, but when he did, finally, break his public silence and begin his new role as active titular leader of the opposition, it came about almost by accident. En route to Palo Alto, California by train from a meeting of the board of directors of the New York Life Insurance Company, of which he was a member, Hoover learned of the Supreme Court's decision upholding the federal government's right to abandon the convertibility to gold of private bonds, and denying recourse through the courts for those seeking redemption of federal bonds in gold. Hoover paused in Tucson, Arizona long enough to issue a statement to the local newspaper, which he then telegraphed collect to the wire services. In his statement, Hoover called for restoration of the gold standard, but with the dollar convertible at its present value of 59¢ gold. Thus Hoover was simultaneously "liberal" in accepting the inflated dollar at its current level, and "conservative" in calling for restoration of the gold standard and convertibility to gold.[13]

The New York Times which featured Hoover's statement on its front page, noted with understatement that: "The statement was one of the few public pronouncements made by Mr. Hoover since leaving the White House in March, 1933." [14]

The press reported that Hoover's statement had brought a flurry of activity and speculation in the House and Senate. The chairmen of the Republican Senate and House campaign committees both declared for the immediate restoration of the gold standard to the embarrassment of "progressive" Republicans in Congress who had supported the New Deal financial policies. Members of both political parties were quick to read into Hoover's renewed activity a bid for leadership of the party as it approached the 1936 convention, and perhaps a desire for the nomination itself.[15] The Hoover statement at Tucson, however, was a spur-of-the-moment thing, dashed off during the train ride west. His real emergence as titular leader came later in the month with a public letter to the meeting of the California Republican Assembly in Sacramento, which was a "call to arms." "The Republican Party," Hoover told the assembled Republicans, "today has the greatest responsibility that has come to it since the days of Abraham Lincoln." The GOP must furnish the "rallying point" for all of those Americans who continued to believe in "fundamental American principles."

> The American people have directly before them the issue of maintaining and perfecting our system of orderly individual liberty under constitutionally conducted government or of rejecting it in favor of the newly created system of regimentation and bureaucratic domination in which men and women are not master of government, but are the pawns or dependents of a centralized and potentially self-perpetuating government.

Hoover called for the rejuvenation of the Republican Party that it might stand as a rallying point for those who rejected the trend away from Americanism. The party must champion the preservation of the Bill of Rights and the remainder of the Constitution, international peace, "confidence in the security of the job, of the business, of the savings" of the American people, the "unshackling" of the "productive genius of our people," "increasing health and education for the children," "safeguards to the family from the dislocations of economic life and of old age," "protection from abuse and exploitation," and liberal rewards for those "who add service, material, or spiritual wealth to these homes." "Today," Hoover said, "there must be restoration of faith, the removal of fear and uncertainty that these ideals and these hopes will be open to those who strive." [16]

The March 22nd letter, prepared with deliberation and design, symbolized the end of Hoover's self-imposed public silence. By the end of the month, the reception which his first two forays had won encouraged him to remain on the attack.[17] Disturbed by the unwillingness of Republicans in Washington to oppose the tendencies of the New Deal, Hoover resolved to take up the fight himself, no matter how uncomfortable that course might be for the more timid within his party. Discouraged by the apparent drift of the GOP and the willingness of Republicans to desert traditional party principles in search of "alternative white rabbits," Hoover sought to preserve the Republican Party and to steer it back in the direction of his own definition of Republicanism.[18] He was encouraged to find his audience "getting larger every day." He was convinced that his utterances had a more powerful effect in rallying Republicans than he had expected, despite the "smears" to which he had been subjected by "Washington Republicans" for his "supposed ulterior motives." Unimpressed by the level of courage being exhibited by Washington Republicans, Hoover concluded that he could do nothing "but to go on, simply because mine seems at the moment the only voice in the party which carries nationally." [19]

Even before his reemergence into active public life, Hoover had begun efforts to chart a course of the Republican Party for 1935–36. Early in January he suggested to the Republican National Committeeman from Iowa, Harrison Spangler, that some constructive activity be begun to rebuild the Republican Party upon its midwestern foundation. In late January, Spangler began to exert efforts in this direction, efforts which would eventually lead to the midwestern "grassroots" conference.[20] Hoover sent a brief message to the conference in June, and after-

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ward considered the conference a "great success" in rallying midwestern Republicanism.[21] While potential candidates for 1936 were not a topic for discussion at the midwestern conference, Hoover was told that he had "lots of friends and well-wishers among the delegates." [22] Buoyed by his success in contributing to the formation of the midwestern conference, and by the response to his public statements early in 1935, Hoover began to seriously consider bidding for the 1936 Republican nomination. Dining with Hoover early in April, Edgar Rickard found him obviously exhilarated by his reappearance in the political arena and by the response to his public utterances.[23]

By June it had become apparent to Rickard that the former President wanted the 1936 nomination, but was unwiling to work to get it. Nor would Hoover give any open encouragement to those who wanted to work in his behalf. Instead, in an attitude reminiscent of his unsuccessful 1920 "boom" for the Presidency, Hoover insisted that if his supporters felt strongly that he should be the nominee, it was up to them to create a movement for his nomination, for only if there was strong support manifested for him would he consent to be the candidate.[24]

Meantime, Hoover remained on the attack, convinced that his was "the only voice in the party which carries nationally." [25] He was, he told one correspondent, "trying to give some intellectual leadership to the party and some conviction to the rank and file that the party still lives." He was disappointed, he said, that there were not more voices in opposition which could make the front pages of the country.[26] In May, Hoover attacked the House of Representatives for extending the life of the National Recovery Administration and called upon the Senate to "abolish it entirely." [27] The response from Republican newspapers and from rank and file Republicans convinced Hoover that "Republicans of the country are grateful for action on my part," despite the lack of support which he received from the "Old Guard." He was, he said, getting "some constructive joy out of the doing, the grief of the opposition, and the silent tears of our machinest [sic] Republicans." [28]

In attempting to lead resistance to the New Deal, however, Hoover had always to contend with a public image of himself as the man who, if not responsible for the depression, had failed to end it or to alleviate its effects. Hoover continually prodded Republicans to challenge the accepted view of his administration, by arguing his contention that the country had been on the road to recovery before the election of 1932, and that recovery had only been retarded by the election and by public uncertainties over the plans of Roosevelt. Hoover continually attempted to assemble a body of opinion by economists to buttress his view.[29] Still, as the Kansas publisher William Allen White observed to a former Hoover cabinet member:

> This is a strange world in which we are living today, and one of the saddest yet one of the most curious phenomenon is that the great mass of the American people hold even after three years the rancor of 1932 which overcame Hoover. Nothing more terrible, more disheartening to our democratic ideals has ever happened in the history of this republic than this mob rage at an honest, earnest, courageous man. Yet it is here. It still hangs on. And everything he says, as well as everything his friends say, is discounted. It is unbelievable.[30]

Hoover's opposition to the New Deal only contributed further to the negative image of him in many minds, since, as Hoover ruefully acknowledged, he had begun to believe "that those who have opposed the New Deal philosophy will never get out of the 'reactionary' or 'tory' category." [31]

While a new star was rising in the Republican Party in Governor Alf M. Landon of Kansas, Hoover strategists including Walter Brown and Edgar Rickard, were assessing Hoover's prospects for gaining the 1936 nomination.[32] Here, too, however, Hoover supporters found that they must contend with his image as a "loser." As Frank Knox wrote to one Hoover supporter, writer and former socialist John Spargo:

> In . . . the wide contacts which I have had recently with a great many of the active Republican leaders, I have found not one who was actively championing Hoover's nomination and almost invariably when the matter was discussed it was on the ground that to nominate Hoover would be unwise and inexpedient. Most of them, I should add, regard the feeling toward Mr. Hoover as utterly unjust and unwarranted, but nevertheless a very potent political fact that cannot be ignored.[33]

Hoover recognized that his standing in American politics continued to suffer not only from the Democratic attacks on his administration, but also from the lack of Republican defense against these charges. He continued to fret at the unwillingness of Republican leaders to support him in his attacks on the New Deal. Part of the former problem could be dealt with by the published account of his administration which was being prepared by Walter Newton and William Starr Myers, and which Hoover regarded as a defense of his administration.[34]

Meanwhile, efforts were begun to woo the long-neglected American Relief Administration and Food Administration workers from World War I days, back to Hoover, and to enlist engineers once again behind a Hoover candidacy.[35] Mailing lists were compiled for dissemination of Hoover's books and article reprints.[36] By early October, 1935, Edgar Rickard was recording in his diary that Hoover was dead set on the nomination and spending every moment working toward that end.[37] Still, however, Hoover refused to openly express any interest in the nomination.

Confused by Hoover's new public role as a leading critic of the New Deal and his unwillingness to encourage a political movement in his behalf, his supporters were unclear whether Hoover sought to be Warwick or king. Whichever the choice, the feeling was that Hoover could not wait until the convention itself. Action would have to be taken early either to build the candidacy of Hoover's choice for the nomination, or to launch his own campaign.[38] Others counseled that Hoover should forthrightly state he would not accept the nomination, and then put all of his efforts into the organization of opposition to the New Deal.[39] For his part, Hoover continued on the attack, with the demand for his speeches growing daily. On October 5th, Hoover lashed out at "spending, deficits, debts, and their consequences," in a speech before the California Republican Assembly in Oakland, and called upon Americans to "awake from the spell of hynotic slogans." The issue in America was a "battle between straight and crooked thinking," and America needed "a return from muddling to sanity and realism." Recalling the campaign promises of the Democrats, Hoover compared them with the "gigantic spending" and "unbalanced budget" of the New Deal. "The Roosevelt administration," he charged," is now clutched in the meshes of the gigantic spending bureaucracy which it has created." The inflationary policies of the New Deal were striking hard at every American, but especially at insurance policies, savings accounts, old age pensions, and other savings, By every test, Hoover found the New Deal policies unsound and destructive of prosperity and liberty.[40]

Throughout 1935 and into 1936, Hoover continued his attacks on the New Deal, while copies of his speeches were disseminated by his campaigners to those on the Hoover mailing lists. In December of 1935, Hoover went to the defense of his administration with a blistering attack on Roosevelt's assertion that the "mechanics of civilization came to a dead stop on March 3, 1933." Hoover argued that March, 1933, had seen "an induced hysteria of bank depositors" at the expense of a banking structure which was later largely proved sound. Hoover then expressed his contention that the depression had been turned in June and July of 1932 all over the world. That turn-about had been aided by the measures of his own administration—measures that "were within the Constitution of the United States," and not "that futile financial juggling which has violated economic law, morals, the Constitution, and the structure of American liberty," as had been the case under the New Deal. But, after the 1932 election "we began a retreat. Only in the United States was there an interruption. We were the strongest and should have led the van. And we lagged behind for two years. The other countries of the world went forward without interruption. They adopted no New Deal. . . . It did not come to a stop even in the United States. It was meddled with. We have not got over it yet." The bank panic of March of 1933 had come about only because of the fear of depositors over the direction the New Deal would take and because of the failure of the incoming administration to cooperate with his own. Hoover lambasted the alphabet agencies of the New Deal, which he described as "a sort of rainmaker's canabalistic dance" which had produced only waste and the creation of a gigantic, expensive bureaucracy. Those on relief, Hoover concluded had "suffered enough from having playboys take America apart to see how the wheels go round." [41] Thirty thousand copies of the speech were distributed to the Hoover mailing list.[42]

In January of 1936, Hoover attacked the New Deal agricultural policies as "goose-stepping the people under this pinkish banner of Planned Economy." The New Deal agricultural policies, Hoover told his audience in Lincoln, Nebraska, had "advanced from cajolery with a gentle rain of check to open coercion." The policies provided not liberty, but collectivism. Agricultural recovery had been retarded, not helped, by the New Deal, because of the "torrent of government spending, unbalanced budgets, and debt" which struck especially hard at the farmer because he was "less able than any other production group to make up the prices of his products and pass these taxes on to the consumer." The sum of the New Deal policies was "that the farmer has less to sell and pays more for what he buys. Labor pays for it in increased cost of living. By this device, we have got the Economic Dog running around in circles chasing his tail." As alternatives to the wasteful and regimented programs of the New Deal, Hoover suggested increased consumption of food through the restoration of employment which could come from a balanced budget, stable currency, and credit. The farmer should be allowed to monopolize the home market and should be given assistance in exporting. Instead of paying farmers to curtail particular crops, efforts should be made to help farmers to expand other crops for which a market existed or which would improve the fertility of the soil. "In order to secure these objectives," Hoover said, "I believe we must be prepared to subsidize directly such special crops until agriculture has again been brought into balance." The administration of such special crop subsidies should be handled by the land grant colleges to free agriculture from politics.[43]

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By late January, 1936, Governor Alf Landon of Kansas seemed to be emerging as the major challenger for the Republican nomination. The Hearst press had swung its support behind the Kansan, a fact which was anathema to Hoover and many other leading Republicans.[44] Meantime, those who supported Hoover's renomination were growing concerned at the absence of apparent activity in the Hoover camp. Hoover's speeches, the distribution of those speeches, and his publications, the writing of letters to editors by Hoover supporters like John Spargo, and Hoover's meetings with dinner groups did not add up to an organized campaign. Hoover, himself, was concerned that, while his campaign had "a great number of privates and officers," no "general" had emerged.[45]

In February Hoover returned to the west coast from New York and responded to Roosevelt's state-of-the-union address with a speech entitled, "The Confused State of the Union." Referring to Roosevelt's assertion that the only thing the American people had to fear was fear itself, Hoover argued that the New Deal had, itself, been "a veritable fountain of fear," beginning with the period between the election and Roosevelt's inauguration. He attacked Roosevelt for injecting class conflict into American politics and again criticized the centralization of power and the coercive planning of the Roosevelt administration, as well as the massive spending and debt.[46]

In March, April, and May, Hoover attacked the New Deal monthly in speeches in Colorado Springs, Fort Wayne, and Philadelphia. The themes were by now familiar—the inconsistency of the New Deal with the Democratic platform of 1932, the degeneration of America into the pattern being followed by the European countries in their slide into regimentation at the expense of liberty, the waste and bloated bureaucracy of the New Deal, the centralization of power in Washington, the New Deal responsibility for the prolongation of the depression, and the Republican Party as the savior of American ideals. At Fort Wayne, Hoover recommended the magician's rabbit "as the symbol of the New Deal party. It travels in uncertain directions at high speed. It multiplies rapidly."[47] In Philadelphia he called upon disaffected Democrats to join with Republicans in putting "the republic on the road to safety," and lambasted the "five horsemen" of the New Deal Apocalypse—"Profligacy, Propaganda, Patronage, Politics, and Power," or "Pork-barrel, Poppy-cock, Privilege, Panaceas, and Poverty." There must be moral regeneration in government and the elimination of the New Deal's emphasis on the spoils system. Trust in the federal government must be restored, especially trust in the government's financial policies.[48]

Hoover's drive for the nomination was limping badly, despite his emergence as the leading critic of the New Deal. At the same time, the campaign of Alf Landon was gathering momentum. Typical of the reaction of Republican leaders to Hoover and Landon was that of Senator Arthur T. Vandenberg, himself a Republican hopeful, who was impressed with Hoover's ability, but considered that he lacked availability.

On the other hand, he found, "Governor Landon is a newcomer, but the fact remains that he has caught the public imagination. Even more important to my mind is the fact that everyone who meets him comes away impressed with his sincerity and courage. I know of no exception to this."[49]

What's more, Hoover was now confronted with a Landon challenge in his home state of California. In that state an uncommitted slate of delegates had been put together, with Hoover's approval, which housed persons who were committed to several of the potential nominees or to no one at all. A Landon-for-President organization was active in the state, but the impetus for the Landon challenge in California came not from the Landon group but from California Governor Frank F. Merriam, with the support of William Randolph Hearst. A rival slate of Landon delegates was put up to challenge the unpledged slate.[50] This was despite the fact that Landon's managers had promised that he would not contest the slate. When Landon refused to repudiate the fight being made in his name in California, Hoover returned to California to fight for the unpledged slate in the primaries. The feeling in the Hoover camp was that if Hearst succeeded in putting Landon over in Hoover's home state, the game would be up for the former President's renomination effort, but if he could carry the unpledged delegation through he would be very much ahead. On May 5, 1936, the Landon slate of delegates went down to defeat and Hoover's "victory" over Landon was perceived by his supporters as, at the least, keeping him in the race for the nomination, and at best, as enhancing his political prestige and helping him in the bid for the nomination.[51]

Hoover was not optimistic, however, concerning his chances for the nomination, as the Landon bandwagon seemed virtually unstoppable. On May 18th Hoover announced that he was not a candidate for the nomination, but did not close the door to his acceptance of the nomination if it were offered him.[52] Meanwhile, efforts continued to woo delegates through the issuance of polls and the distribution of literature by the Hoover camp. By late May Hoover was confident that he would be invited to address the convention and had decided that he probably would, if asked.[53] Later in the month, Hoover was invited by the committee on arrangements of the convention to attend the convention at Cleveland and to make a speech. As he prepared to leave for the convention, Hoover still felt that it was impossible to know "at this time just what is going to happen."[54] Throughout the evening before Hoover's arrival in Cleveland, and late into the night, a sound truck traveled the streets publicizing his arrival at 9:30 the next morning. Upon his arrival at the railroad station, he was greeted by a crowd estimated by Rickard at eight thousand. At 8:30 that evening, Hoover appeared on the platform for his speech and was greeted by a spontaneous welcome.[55]

Hoover's speech, titled "The Road to Freedom," began by asserting that in the convention rested "the greatest responsibility that has come to a body of Americans in three generations." It would "determine the fate of those ideals for which this nation was founded." Hoover examined the New Deal and concluded that:

> The New Deal may be a revolutionary design to replace the American System with despotism. It may be the dream stuff of a false liberalism. It may be the valor of the muddle. Their relationship to each other, however, is exactly the sisterhood of the witches who brewed the cauldron of powerful trouble for Macbeth. Their product is the poisoning of Americanism.

The delegates to the Republican convention had the duty to determine the principles upon which the GOP would stand. The immediate task, said Hoover was "to set the country on the road to genuine recovery from the paths of instability." The New Deal had failed, and it was up to the Republican Party to undertake anew the search for solutions to the problems that gripped America. The gravest task was to regenerate American freedoms.

There are principles which neither tricks of organization, nor the rigors of depression, nor the march of time, nor New Dealers, nor Socialists, nor Fascists can change. There are some principles which came into the universe along with the shooting stars of which worlds are made, and they have always been and ever will be true. Such are laws of mathematics, the law of gravitation, the existence of God, and the ceaseless struggle of humankind to be free.

The search for liberty had been man's eternal quest. The unborn generations must not be condemned to "fight again and to die for the right to be free." The principles of freedom could not be compromised. The Whig party had temporized and compromised over the issue of slavery for black people and it had disappeared. The Republican Party would deserve the same fate if it compromised upon the issue of freedom for men, white as well as black.

> Republicans and fellow Americans! This is your call. Stop the retreat. In the chaos of doubt, confusion, and fear, yours is the task to comand. Stop the retreat, and turning the eyes of your fellow Americans to the sunlight of freedom, lead the attack to retake, recapture, and reman the citadels of liberty. Thus can America be preserved. Thus can the peace, plenty, and security be re-established and expanded. Thus can the opportunity, the inheritance, and the spiritual future of your children be guaranteed. And thus you will win the gratitude of posterity and the blessing of Almighty God.[56]

Hoover's speech was followed by a demonstration. Attempts to bring on the next speaker were fruitless, and the convention had to be adjourned. Hoover left for New York, pleased at the reception he had received and the impresison he had made. But the nomination was a cut-and-dried affair. Hoover supporters still hoped for a miracle as the balloting began, but it was a day without miracles. Landon was nominated, with Frank Knox as his running-mate. Hoover was not pleased with Landon's nomination, being concerned with the direction that the Republican Party would be led in by Landon and his followers, and fearful that they were out to entirely reconstruct the party in a way which would be contrary to Hoover's ideals for the party. On June 11th, he wired to Chester Rowell strong support for a plank in the Republican platform supporting the gold standard and a stable currency and felt, thereby, that he had forced Landon to give way on that issue, at least.[57] Hoover's feeling was that the new faces in the GOP leadership did not want him in their councils. But if Hoover was no longer titular head of the Republican Party, he obviously intended to continue to be its conscience.[58] He continued to have his speeches, including the convention address, printed and distributed in large numbers.

Hoover's feeling that he was unwanted in the presidential campaign was soon confirmed when he was not called upon to assist Landon. For months Hoover was out of public life while he tried, by various indirect means, to elicit a call from the Landon camp for assistance. Too proud to force himself upon the candidate, Hoover insisted that the appeal for his assistance must come from Landon, himself. Republicans friendly to both Hoover and Landon sought some basis of compromise under which Hoover could cooperate in the campaign. By early August, Landon was making friendly overtures designed to bridge any animosities between himself and Hoover.[59] And by the middle of August, Landon's appointee as Republican National Chairman, John Hamilton, was urging Hoover to get into the campaign.[60] On September 2nd, under circumstances which are not entirely clear, Landon and Hoover found themselves on the phone with one another and Landon asked for his assistance in the campaign, espeecially "in October when the fighting gets hard on the home stretch." Hoover agreed to stop off in Topeka to discuss the campaign with Landon on his return to California from a trip he was mak-

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ing to New York.[61] The atmosphere between the two men was, however, distinctly not cordial.[62]

On October 16th, Hoover delivered the first of two speeches in behalf of the Landon campaign. Entitled "Intellectual Dishonesty in Government," it discussed "the New Deal morals in arithmetic." Hoover criticized Roosevelt's public statements related to government expenditures and found them intellectually dishonest. He told his listeners that "to present hypocritical, misleading figures is a new deal in American public life. . . . If an income taxpayer or any corporation kept books like this administration, that is if they showed similar morals in juggling their accounts, they would be put in jail." He concluded that the American people should "resume Congressional control of spending by the election of Republican Congressmen and Senators," and "drive these expenses down toward the Republican levels, balance the budget, put back the integrity of the government accounting, and above all, restore truth and morals in government by the election of these honest gentlemen, Alfred Landon and Frank Knox." [63]

On October 30th, Hoover delivered his final campaign speech in Denver, on the theme, "The Challenge to Liberty," and the contents were familiar from his previous speeches against the New Deal. He concluded that:

> Many of the problems discussed in this campaign concern our material welfare.
>
> That is right. But there are things far more important to the nation than material welfare. It is possible to have a prosperous country under a dictatorship. It is not possible to have a free country. No great question will ever be settled in dollars and cents. Great questions must be settled on moral grounds and the tests of what makes free men. What is the nation profited if it shall gain the whole world and lose its own soul?

The election, Hoover said, was not alone an election between two men, but "a contest between two philosophies of government," between "a system of personal centralized government", and "the ideals of liberty." [64]

In the wake of Landon's crushing defeat and the unexpectedly large gains made by the Democrats in the House and Senate, Hoover pronounced the campaign a "mess." The outcome of the election was "that we haven't either principle or party spirit—at the moment. The country requires that we start to build back again. First we must create an organized, constructive opposition based on real principles and realities." [65] This belief would guide Hoover in his actions during the next two years. For Hoover, Landon's defeat was traceable in large part to the candidate's attempt to "out-New Deal the New Deal," rather than battling squarely against the Democrats in behalf of Hoover's conception of traditional Republican liberalism. As titular head of the party now, Landon could be expected to continue to steer the GOP in a New Deal direction unless an effort was made to divert the party back to those traditional principles.[66] Throughout 1937 and 1938, Hoover and his supporters made a major effort to do so, against the opposition of Landon and his allies. The major battle was fought over Hoover's attempt to bring about a midterm Republican convention or general conference which would restate the principles which should guide Republicans, and which would, at the same time, it was expected, restore Hoover to a position of leadership in the party.

On New Year's day, 1937, Hoover wrote to his former Secretary of Agriculture, Arthur Hyde, that he and his followers had two alternatives. Hoover might "sit back like Cincinnatus, hoping to heaven that nobody will ever come near us," or he could adopt the role of "an evangelist in a world that does not wish to listen." Hoover recoiled from the latter role, he said, because of the "deprivation of the normal joys of life which lies in it, and the mud that comes from it." Yet he felt "anxiety for the future of a misguided people." He would, however, take part in national affairs only if there were "on the part of some people an express desire that they would want it." [67] Hyde responded that the GOP "still flirts with New Dealism, still ogles the spoils of office, still slavers for party victory at whatever expense or compromise." Therefore, the Republican Party was, itself, "a field for the evangelist." It was within the Republican Party that evangelism must begin.[68]

To provide Hoover with the "express desire" which he sought, Hyde set to work in January to mobilize sentiment within the Republican Party for the restoration of Hoover's leadership by sending out letters to GOP leaders throughout the nation. In his letters, Hyde argued that Hoover should be tapped once again for leadership because he was a seasoned leader with a nationwide voice and a vast following of devoted supporters, and possessed of a definite philosophy of individual liberty. His effort was, Hyde said, no attempt to secure the 1940 nomination for Hoover, but rather to place Hoover in a position where he could rebuild the Republican Party.[69] At the same time a small group of Hoover supporters in the eastern academic community was also rallying support for Hoover, largely under the instigation of Professor Allison Reppy of the New York University Law School. That movement, which included John Spargo, also sought to organize a "call" for Hoover's leadership through a broad letter-writing campaign.[70]

While this campaign in behalf of Hoover's leadership of the GOP was being undertaken by Hyde, Reppy, Spargo, and others, Hoover was launching his campaign for a mid-term convention which would restate Republican principles. The issue quickly developed into a confrontation between the titular leader, Alf Landon, and the aspiring leader, Herbert Hoover. At root were the different conceptions of the two men over the future of the Republican Party. For Hoover, the GOP should not compromise its traditional principles in the interest, solely, of winning elections against the New Deal. Instead, it should continue as a beacon that would be sought when the nation recoiled against the Democratic policies of Franklin Roosevelt. If the Republican Party were to attract voters, it must do so first by stating principles which would rally such support. Landon, on the other hand, seemed to view the GOP principally as a rallying point for anti-New Deal opposition. He supported the formation of a coalition with anti-New Deal elements in the Democratic Party which would embrace a common program. Landon viewed his own campaign of 1936 as a model since it had been "a coalition of Republicans, independent Republicans, and Jeffersonian Democrats," and in early January, 1937, he began to suggest a summer "round-table" to consist of both Republicans and anti-New Deal Democrats "to help formulate definite policies." [71] The onset of the fight over Roosevelt's attempt to "pack" the Supreme Court led, however, to the delay of the proposed round-table.

For Hoover, Landon's crushing defeat in 1936 had proved the bankruptcy of the coalition idea. Hoover's suggestion was for a midterm convention to be held in June, which would be made up of Republicans who had been delegates to the 1932 and 1936 conventions, state chairmen, and congressional and gubernatorial nominees between those years. Landon, however, was opposed, arguing that it would be a convention of "ghosts from the bone-yard." [72] When Republican National Chairman John Hamilton warned Landon that Hoover would take the leadership of the party from him, Landon responded that Hoover could "go ahead and try." [73] Hamilton proposed the idea of a mid-term convention to the March 30, 1937 meeting of the Executive Committee of the GOP National Committee, only to have them refer the question to the annual meeting of the National Committee to be held later in the year.[74]

Meanwhile, Hoover has gone on the attack against Roosevelt's "reforms: of the Supreme Court. On February 5, 1937, he attacked the President's plan as "packing" the Supreme Court in order to subordinate the court "to the personal power of the Executive." He called for delay by the Congress "until the people have had ample time to formulate their views on it." [75] On February 20th, Hoover spoke in Chicago on the topic, "Hands Off The Supreme Court," and told his listeners that Roosevelt's court proposals meant that Americans "are faced with the greatest Constitutional question in these seventy years" since Abraham Lincoln. Hoover dismissed the reasons that Roosevelt had advanced for his proposals, charging that the President's "proposal is far deeper and more far-reaching in purpose than these details." He warned his listeners that: "if Mr. Roosevelt can change the Constitution to suit his purposes by adding to the members of the Court, any succeeding President can do it to suit his purposes. If a troop of 'President judges' can be sent into the halls of justice to capture political power, then his successor with the same device can also send a troop of new 'President's judges' to capture some other power. That is not judicial process. That is force." [76] According to Hoover's plan of opposition, Senator Borah of Idaho would spearhead Republican opposition in the Senate, since he would not alienate Senate Democrats, while Hoover would carry the burden of the opposition outside the Senate.[77] Borah, however, responded that the President's proposal could only be defeated by the Democrats, and that Hoover's attacks on the plan were only driving Democrats to support the administration's plan because of the injection of partisanship.[78] Senator Arthur Vandenberg agreed that Hoover's February 20th speech had been untimely and counterproductive.[79] Hoover, however, felt that "if the 'hush hush' people in Washington have their way not only are we going to be defeated, but the Republican Party is going to give the greatest display of cowardice in all history." [80] Meanwhile, Hoover was busy on the telephone organizing opposition groups to the court packing plan in thirty states.[81] Publicly, however, Hoover deferred to the wishes of Senate Republicans and muted his attacks, leaving the brunt of the opposition to Democratic opponents.

In June, faced with Landon's unrelenting hostility to the convention idea, Hoover turned to a new arena to rally sentiment for the idea, while at the same time furnishing new ammunition for those who were organizing in his behalf. The new arena was public opinion, through the publication of an article in the September issue of the Atlantic Monthly. When copies of the article became available in late August, arrangements were quickly made by Hoover and his supporters to have 32,000 copies distributed.[82] In the article, Hoover wrote that his "concern with political parties today is that they perform their prime responsibility," which was to express their will as to the real issue of our times"—the issue of "personal liberty." After attacking the Democrats as the party of "coercion," Hoover lambasted his own party's stand in 1936 for attempting "to outdo some of the New Deal baits," and failing to stand up for the GOP's own "substantial record of service," its failure to replace with youth the deadwood accumulated through its years of victories, and "its failure to crystallize an affirmative and consistent body of principles

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in the face of this new situation." It was because of such weaknesses that there had been talk of a realignment of political parties, but Hoover listed numerous difficulties which stood in the way of any such realignment, and likewise of any change in the name of the party, or of coalition. The Republican Party, Hoover wrote, should concentrate on providing a meaningful alternative to the New Deal in order to attract voters, not on meaningless "coalitions" with Democratic leaders who lacked any following. What was important was that the Republican Party clarify for the voters what it represented. Hoover then recited once again for his readers his familiar definition of the essentials of a modern day creed of liberty, and closed with a pitch for his proposed Republican conference to restate those principles. America, he concluded needed "a new and flaming declaration of the rights and responsibilities of free men." [83]

Hoover now sought to generate support for the convention idea among grass-roots Republicans and also sought again to interest Landon in the proposal, suggesting that the call for the convention be issued over the signatures of thirty prominent Republicans, to keep it from being exclusively associated with his name.[84] Faced with Landon's continued opposition, Hoover now called for the assistance of the Hyde and Reppy-Spargo campaigns to help him to put the convention idea across. As he wrote to Harrison Spangler: "In view of the fact that the general conference idea has been laid to my door, I think the drive now needs to be centered on this idea and the creation of fundamental principles and not on leadership. If this idea carries, it will have demonstrated leadership." [85] Thus, Hoover now intended to gamble his bid for leadership of the Republican Party solely on the issue of a general conference for the formulation of GOP principles. The new tactic was for those who had been organizing sentiment in his behalf to now utilize their mailing lists to create support for the mid-term convention idea. Copies of the Atlantic Monthly article were to be mailed to those on the lists together with a questionnaire asking if they favored the holding of a general conference, and soliciting their reaction to the program Hoover has outlined in his article. Through such a questionnaire, Hoover wrote, they "would be able to determine what the intelligent grass-roots think of this proposal and what they think of these ideas, and thereby be able to prove to the world, one way or the other." And, incidentally, if they turned out to support the conference idea, his supporters would have new "points of contact" for their other Hoover work and, Hoover said, "you would probably get more of them than under the first proposal." [86]

Landon had watched the Hoover campaign develop and by August it was apparent to him that Hoover was "carrying on a deliberate organized campaign to get control of the Republican organization." Landon was opposed to a conference such as Hoover was seeking, not only because he saw it as advancing Hoover's political fortunes, but also because he felt that it would seal off the options of the Republican Party when and if anti-New Deal Democrats sought to form a coalition with Republicans. Those who were pressing for some action by the GOP at this point in time were, in Landon's eyes, "just plain dumb".[87] He found no support for the conference idea among Republicans in Congress and, worse yet, Landon foresaw a conference that would inevitably be dominated by those who had the money to attend. And this, to Landon, meant the old guard.

Hoover, in August, made a 2,000 mile sweep through the Western states, rallying support for the general conference idea.[88] In September the conference proposal got a resounding push from a Gallup Poll of a cross section of Republicans which revealed that 88 percent of them supported the holding of an off-year convention in the spring of 1938, "to strengthen the party for the Congressional campaign of next year." Hoover must have found grounds for some disappointment, however, in that only 22 percent of those polled wanted him to "guide the policies of the Republican party" between then and 1940. Landon, however, was the only Republican to run ahead of Hoover, with 31 percent.[89] Hoover's own sampling of sentiment, through the questionnaires of his campaigners, revealed an even higher percentage in favor of the conference proposal, with 94.2 percent in support, and only 3.14 percent opposed.[90]

After a meeting with former Illinois governor Frank O. Lowden and Hoover, Landon agreed to support the conference idea if the Republican National Committee voted to go ahead with it.[91] However, Landon was simultaneously working to ensure that this eventuality did not come about, by campaigning against the acceptance of the conference proposal. While Landon voiced specific and strong arguments against the conference proposal, it is clear that a good part of his opposition was based on his resistance to Hoover's attempt to reestablish his leadership of the Republican Party. The motive behind Hoover's effort in advancing the conference proposal, and the extent of the Hoover campaign was becoming ever more apparent to Landon as the issue headed for a showdown in the Republican National Committee. To one correspondent, Landon expressed his amazement at the extent of the Hoover propaganda organization. "Mr. Hoover has not been doing anything else since the [1936] election but putting together a new organization built out of his old one." [92] To another, Landon wrote that: "As you know, Mr. Hoover is spending all his time in New York and having constant conferences. He could be of great service to the party and to the country if he did not feel that the way to do it was to be again the dominant figure in the Republican Party." [93] Through September and early October the clash over the conference proposal came increasingly to be regarded in the press as a battle between Hoover and Landon, if not for the 1940 nomination, then at least for the titular leadership of the Republican Party.[94]

The weeks before the November 5th meeting of the Republican National Committee saw radio addresses by both Landon and Hoover. Landon sought to reassert his role as titular leader of the party by an attack on the New Deal on October 19, 1937, which omitted any reference to the conference proposal.[95] Hoover followed, on October 26th, with a speech "on problems before the Republican Party and [the] national committee at its meeting November 5th." [96] Hoover reiterated in his speech that he was not a candidate for public office, but argued that it was a time "when the Republican Party should be reoriented to . . . fundamental issues." Hoover then made a plea for the general conference idea. It was not enough to follow the theory that most people voted against something, and that it was adequate for the party to wait until the Democrats made enough mistakes to deliver the nation back to the Republican Party's stewardship. That had been the tactic of the Whig Party and it had died. Nor was mere talk of fusion and coalition enough, because, said Hoover, "the people fuse or coalesce around ideas and ideals, not around political bargains or stratagems. If the Republican Party meets the needs and aspirations of the people who are opposed to the New Deal, they will fuse and coalesce and not before." [97]

The meeting of November 5th adopted a resolution which was a compromise, though substantially meeting Hoover's desires. A program committee was formed to investigate the views of national and local leaders on the great questions before the American people and to present its findings to the National Chairman who, under the new plan, would call a meeting of the GOP National Committee "to determine the most effective and practical manner, whether by a national general forum, conference or otherwise, of presenting such report for the consideration of the nation." [98] As Landon's biographer has pointed out, the compromise reached by the GOP National Committee amounted to a "rebuff" for Hoover.[99] Still, while Hoover had not gotten his general conference or convention, he had achieved much of what he sought. The program committee he regarded as "the important end of this whole business." [100] By whatever name, Hoover had succeeded in his goal of getting a representative group of Republicans to work formulating positions for the GOP. This was what Hoover had sought from the beginning, some constructive activity on the part of the Republican Party. However, since the concept of the general conference had come to be associated with Hoover, rather than the ends which he sought through such a conference, the adoption of the conference idea at the meeting of November 5th would have been a victory for Hoover which he was denied by the National Committee's action.

Hoover had been stalemated in his clash with Landon over the conference idea, and had been rebuffed in his bid to take the leadership of the Republican Party from the Kansan. The question now was whether the program committee would complete its deliberations early enough in 1938 for a general conference to be called, as Hoover wished, or would it be delayed on into 1940, as Landon preferred. Despite Hoover's efforts, the program committee, under the chairmanship of Dr. Glenn Frank, did not move quickly to formulate the declaration of principles which he sought. Instead, the committee engaged in painstaking research, hearing the testimony of Republican leaders and academic experts alike, and spring turned to summer in 1938 without the desired formulation of a program or the call to a general conference. Frustrated, Hoover now sought as a compromise a preliminary declaration of principles, at least, from the program committee before the 1938 Congressional elections.[101] In late June, Chairman Frank, in consultation with Hoover, began to prepare such a preliminary report.[102] Landon was opposed to such a preliminary declaration, arguing that the program committee had no right to speak for the Republican Party.[103] On August 5, 1938, the program committee released a preliminary statement which a Hoover supporter on the committee described as "far from adequate but . . . a narrow escape from complete failure to adopt even the Lord's Prayer, and it has at any rate, provided the only national articulation of even a shadow of a political philosophy to emerge (as a Republican group effort) since 1932, and that is, after all something." [104] Hoover agreed that his supporters had done all that they could against the resistance of the "Sunflower Brigade" (Landon's supporters), but privately he expressed "terrible disappointment" with the "wishy washy" statement that "was all that our friends could get though." [105]

The committee's statement called for a return to the principles of "a balanced representative government, an adequately regulated and just system of private enterprise, a workable economics of plenty, and an inviolate code of civil liberties." It was now, the statement said, up to the Republican Party to formulate a "specific program drafted and executed "in terms of these principles." This was the task remaining to be done by the Republican Program Committee.[106] It was the task which Hoover had hoped it would complete the previous spring.

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Once again Hoover's efforts had resulted in a compromise which failed to meet his wishes and which hardly reestablished his leadershp in the Republican Party. The final formulation of the principles would be delayed until 1940 as Landon had wished.

The 1938 mid-term elections brought spectacular Republican victories—the capture of 75 House seats and seven in the Senate, as well as new governorships. The sense of crisis, based on the successive attrition of Republican office-holders as a result of the 1932, 1934, and 1936 elections, was somewhat dissipated. Both the Landon and Hoover camps found in the election results vindication of the courses they had followed in 1937 and 1938. For the Landonites, it was confirmation that they had been correct in their opposition to a mid-term Republican convention.[107] For Hoover and his followers, the electoral gains were directly attributable to Hoover's speeches and articles outlining Republican principles, and his successful and well-publicized effort to bring about some constructive activity on the part of the party organization.[108] The election, however, clearly hinged on issues more complex than the battle over a declaration of principles, and it is unlikely that the results were affected significantly by that issue. Hoover, however, contributed to the Republican cause, as well, by a series of three speeches which he delivered in Kansas City, on September 28th, Hartford, on October 17th, and Spokane, on November 5th. As he described his plan in the first speech, Hoover proposed to explore Roosevelt's New Deal using the "test of the greatest Leader humanity has ever known, who said: 'By their fruits ye shall know them.' "

> I propose to make three addresses in this exploration. I shall, on this first occasion, deal with morals in government. At Hartford, Connecticut, I shall have something to say on the destruction of government of free men. And in the third address at Spokane, I shall have something to say as to the economic consequences.

Following this format, Hoover attacked the New Deal for its "alphabetical morals," which he described as "the G.E.A.A.—Get Elected Anyhow Anyway." The Roosevelt administration was using the spoils system, in appointing 300,000 office holders for whom politics had been the first test of merit. Federal agencies like the WPA were being shamelessly used for political purposes, and the administration was coercing corporations into making political contributions. The New Deal showed no morals in its financial practices, it was deceptive in its dealings with the public, and it was busy propagandizing itself at taxpayers' expense. It preached class hatred. Said Hoover: "Mr. Roosevelt denounces and accuses all of us who do not believe in these methods and these actions as conservatives. If being conservative on dragging America into the morass of political immorality or into the Dead Sea of reaction is Conservative then I cheerfully join that party."[109] In Hartford, Hoover found the familiar faults with the New Deal—the degeneration of political morals, "the malignant growth of personal power," the growth of class divisions, "a creeping collectivism," and the fact that nothing that the New Deal had inflicted upon the country had cured the depression. Hoover concluded that:

> The New Deal and its yes-yes men in Congress have been experimenting with the American way of life for six years at dreadful cost in human misery and despair. It would seem that the experiment has not been a success.
>
> The voter might well experiment for himself for once. He might vote for men who would halt this whole movement. For a nation to take the next two years to stop, look, and listen is an experiment that could not make the situation worse. It is not a very great risk for the voter to take. . . .
>
> It might prove the experiment that saved the freedom of men and women of a great nation.[110]

In Philadelphia Hoover responded to a Roosevelt speech of the evening before, claiming success in "creating economic stability, prosperity, and security for the average man." "Naturally," Hoover said, "he did not mention the 11,000,000 unemployed or farmers' prices, and some other instabilities and insecurities." Hoover would show, he said, "that the consequences of New Deal morals, their undermining of representative government and their economic policies not only cancel out the humanitarian objectives which it professes and to which all Americans aspire, but that they undermine all hopes for progress in standards of living to all our people." There were two ways of providing the necessities of a people—through an economy of liberty or through an economy of compulsion by the government. Hoover was for an economy of liberty "because I know it is inseparable from intellectual and spiritual liberty," and the "only road to higher standards of living," and "the only system under which morals and self-respect of men can survive." There were weaknesses in the free enterprise system, but "from an economic point of view there is a superlative quality which makes that system worth fighting for." It stimulated technology and efficiency and resulted in productivity and a high standard of living. "Free enterprise," Hoover said, "can well be called the economy of plenty." Roosevelt had introduced a conflict between the two kinds of systems, through the planned economy. And after six years of the New Deal, America alone of all the democracies was still in the throes of depression. New Deal policies had undermined the long term confidence of men. The humanitarian objectives of the New Deal had been distorted by the growth in personal power and the lack of morality in government. "The people grow poor in personal liberty when its officials grow rich in personal power. And you wonder if idealism can live in the same land with moral debauchery. What has a nation profited if to gain any objective it has lost its own soul?" Hoover called upon his listeners to make Congress independent. "That will be a sign to America that we have changed our national road from compelled men to free men. It will bring new confidence in the future and will quickly make jobs." Hoover called for the "election of a new Congress of independent men and watch American come back."[111]

Confident that he had aided in the resurgence of the Republican Party in 1938, Hoover concluded that the results of the election indicated a conservative trend abroad in the nation. If true, then the 1940 nomination might be meaningful, as opposed to the 1936 nomination which had been of doubtful value. Other elements, too, made the 1940 nomination seem to offer greater prospects of success in the presidential sweepstakes. The Republican candidate would either be facing a new Democratic candidate, or a Roosevelt campaign which would be burdened by the third term issue. The chaotic world situation, with both Europe and Asia aflame by the end of 1939, offered additional hope to Hoover's own ambitions. No one in the Republican Party could lay claim to anything approaching Hoover's experience in foreign affairs. Only Hoover, it seemed, could offer the prospect of experienced world leadership as an alternative to the Democrats in the White House. The "thinking" people in the Republican Party must surely grasp this fact and rally to the Hoover banner. The question was, however, would Hoover openly bid for the nomination in 1940, mounting the kind of campaign that he had shunned in 1936, or would he again attempt to manipulate the situation from behind the scenes, while maintaining a public attitude of disinterest? If the latter, would the Hoover movement profit from the failure of 1936, and be more effective in 1940? Or would Hoover's obvious qualifications for the Presidency be so decisive that improved methods would be unnecessary?

Through 1939 and 1940, as the international situation worsened, Hoover found himself in constant demand as a speaker, and was drawn on continually for advice by Congressional and Senate Republicans as they confronted various defense and foreign relations proposals in the Congress. Throughout, Hoover maintained a consistent position in opposition to American involvement in foreign wars, and to any legislation which seemed to him to be designed in such a way that it would purposely or accidentally advance the United States on the road to war. Already, in October, 1938, Hoover had made many of the points that he would reiterate down to Pearl Harbor in a speech on "America and the World Crisis." In that speech Hoover asserted that the totalitarian governments in Europe and Asia did not threaten America's own safety. American entry into a war in behalf of the European democracies would only lead to the restriction of personal liberty in the United States for generations. Far better that the United States should make its contribution by keeping "the lamp of liberty alight in this world." American participation in another European war, moreover, would be futile, since it had proven impossible after World War I for the United States to make an effective peace there.

America should involve itself only in wars that involved its own independence.[112] In 1939, Hoover began to be concerned with what he regarded as Roosevelt's attempts to meddle in the European balance of power, which signalled "a new departure in foreign policies." Roosevelt's actions "short of war," seemed to Hoover to lead inevitably to American involvement in war.[113]

In late January 1939, Hoover returned to his attack upon the New Deal with a speech in response to Roosevelt's state-of-the-union address. Hoover's speech, titled, "The Real State of the Union," asserted that things were improving because the 1939 elections had shown that Americans had "by the ballot again spoken their demand that the safeguards of liberty be maintained." The independence of Congress had been restored and the champions of the independence of the courts had been returned to office. "The people have proved that elections cannot be controlled by government subsidies." Hoover ticked off a list of Republican accomplishments in past social policies and economic progress at the state and local levels. The Democrats had only one solution to problems, and that was to call for even greater spending on a scale that meant "the most startling budget proposals ever laid before the American people in peace-time." Hoover concluded that the Republican Party had three great missions before it—the preservation of the principles of freedom being undetermined by the New Deal, economic restoration of the United States, and the avoidance of American entanglement in any new World War abroad.[114]

A few days later, Rickard found Hoover totally absorbed in weighing his prospects for the Republican nomination and in attaining recognition as the leading figure in the Republican Party.[115] Unlike 1936, when the Hoover effort for the nomination had lacked any attempt to organize grassroots support, in 1939 and 1940 such efforts were made in the western states. While ostensibly the creation of the Republican Circles organization was designed to give new vigor to

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the Republican Party in the west, it is clear that Hoover's supporters intended that the Circles should advance Hoover's candidacy.[116] Part of the effort included off-the-record political meetings by Circles members with Hoover.

That the Republican Circles were designed as Hoover "shock troops" is clear from the remark of one of the coordinators of the movement, that "Every man selected in this Circle had to be a Hoover devotee and pledge himself simply to a belief in the political philosophy and principles of the Chief /Hoover/ and support of his leadership." While no question of Hoover's candidacy was involved, it was clear that the Republican Circles were designed to advance his leadership of the party and to either gain for him the nomination or to provide the mechanism with which he could influence the choice of the candidate in 1940.[117]

In June, 1939, Hoover delivered commencement addresses at Lincoln University in Tennessee and at Earlham College in Indiana. Again his emphasis was on the restoration of freedom and true liberalism to American life, rather then the "swing back to ancient ideas of compulsion now being revived as new Utopias to end the miseries of the times." The new generation must once again fight the challenge to liberty being posed by political power. The danger to America was not foreign threats but "the subtle growth of these compulsory ideas as a means of remedy to war dislocation and depression." [118] Hoover defined the American system of liberalism for the Earlham graduates:

Liberalism holds for the dignity of the individual man and woman. It insists that liberty lives by faith in the decency of average human nature. It seeks to create free men. It seeks all freedom to men that does not transgress the liberty of others. It rejects tyranny, whether bureaucratic or economic. Its purpose is not to extend bureaucracy but to set bounds to it. It holds to freedom of enterprise but that exploitation or monopoly is economic tyranny. It holds against every form of coercion of men of good will. It seeks this freedom in the confident belief that without such freedom the pursuit of other blessings is in vain. Real liberalism believes that truth, tolerance, mercy and human brotherhood are the roads to human understanding. It insists that all human advancement comes alone from free minds and free spirit. It keeps an open mind to any experiment that would promote those ends. It is born of liberty and cleaving to it makes the development of the highest form of human society. That is pure liberalism. There are many impurities about.

One of those impure forms of liberalism was the New Deal.[119]

By September, 1939, the Hoover movement for the nomination seemed well ahead of his campaign at that point in 1935. Grass roots actions in the west seemed to offer promise that Hoover would go to the 1940 convention with a solid core of supporters among the uncommitted delegations being pushed in the western states. Even Republicans with whom Hoover had battled in the past, like Kenneth Simpson of New York, were making peace with the former President, and such diverse personalities as Senators Styles Bridges and Homer Capehart were interested in seeing him.[120] A good deal of evidence was accumulating that Hoover sentiment was on the increase at the grass roots.[121] Landon supporters knew of the growth and were concerned. One found that "too many" of the "men in the street" were saying "we need Hoover," which meant that "we've got to walk carefully for some time, Alf." [122] Public opinion polls were launched in New York in October which found more respondents "favorable to Hoover than any other one candidate and a good many of those who favor Hoover say that they voted for Roosevelt last time." [123] Hoover, however, continued his appearance of distinterest. When Daniel Willard, president of the Baltimore and Ohio Railroad, wrote Hoover that he stood above all of the potential Republican candidates in a class by himself, Hoover responded that he was "not seeking for any such job—and one of the cardinals of politics is if you do not seek, nothing comes to you. Therefore, I am able to sleep nights." [124]

Late in 1939, Hoover was being increasingly busied with leading relief work for Poland and Finland. Such activities were a two-edged sword, however. While on the one hand they gave further publicity to Hoover and enhanced his image as a director of such works, they also detracted from the time and energies which he could devote to politics. The diaries of Edgar Rickard, filled with the subjects discussed around the Hoover dinner table at the Waldorf-Astoria in New York City, became increasingly filled, in late 1939, with the details of Hoover's relief efforts, with political discussions increasingly rare.

Thus, during the critical months of late 1939 and early 1940, politics became a matter of secondary concern and suffered neglect. When George Sokolsky questioned, early in January 1940, how Hoover's name could be kept before the American people during 1940, Rickard found Hoover to be uninterested in the question, since he was totally absorbed with the relief problem.[125] The unwillingness of Hoover to give more attention to his campaign, and to come out forthrightly as a candidate, posed difficulties for supporters of his candidacy. Anxious to tie themselves to a candidate, many of them were willing to wait only for a limited period before deserting an apparently unwilling candidate for others who were actively in the race. To do otherwise would mean that they would have no hand in the nomination of the next Republican candidate.[126]

In February, however, Hoover began to devote more attention to his political fortunes and particularly to polls being made in his behalf. Thomas E. Dewey was considered the leading candidate for the 1940 nomination, and in two New York polls in mid-February Hoover was pitted against Dewey. In one, Dewey outpolled Hoover nearly 2–1, but in the other, confined to the Queens area, Hoover narrowly edged out Dewey.[127] Another poll, in Indiana, asked two questions: who was most qualified to be President of the United States? and who should be nominated by the GOP in 1940? To the first question the response was overwhelmingly for Hoover, with 86%, with his nearest rival Senator Arthur Vandenberg, who received only 10%. But to the second question, the response was 36% for Vandenberg, 26% for Dewey, 23% for Taft, and only 9% for Hoover. Clearly, qualifications did not count heavily with the voters of Indiana.[128]

In February, Hoover returned to the rostrum with an attack against the New Deal. Despite the international problems, Hoover told his listeners, the most important need was for Americans "to put our own house in order." The great problem was getting Americans back to work, because relief could not go on forever. The dynamic forces which fueled the free enterprise system must be rejuvenated. Those forces were presently being paralyzed by three notions afloat in the United States—the notion that the system was wrong and must be made over, the notion that government officials could "plan, direct, or operate the economic life of the people," and the notion that "governments can spend and spend and borrow and borrow without thought of tomorrow." The drift toward statism must be reversed and new emphasis must be placed on productivity, thrift and morals, and intellectual integrity. Unity must be sought in America instead of class conflict and disunity, and America must stay out of war.[129]

In April the Hoover campaign launched a new kind of poll. Those supporting Hoover's nomination had continually to contend with the view of many that, while Hoover was indisputably the most qualified candidate that the Republicans could put up, he could not win the Presidential election and therefore ought not to be nominated. The new poll sought to overcome that objection by asking the questions: Whom did you vote for in 1932? Whom did you vote for in 1936? If Hoover and Roosevelt are the candidates in 1940, who will you vote for? [130] While the polling went on, Hoover planned his strategy for the convention, convinced that many of the delegates would turn to him after the third ballot.[131] Pleased with the initial results of the polls, Hoover now decided to pursue them in a big way, while at the same time making sure that "educational" material was mailed to the delegates.[132] Efforts to actually influence delegates were greater than in 1936.[133] The confidence that had been created by the early Hoover-instigated polls, however, was not supported by a Gallup poll taken in May, which showed a slight conservative trend toward the Republicans, but which still showed the Democrats capturing 54% of the popular vote. Trial results showed both Roosevelt and Hull beating any of the potential GOP candidates, and with Dewey the leading choice among Republicans with 62%, while Hoover was supported by only 2%.[134]

During the month of May, moreover, Hoover's confidence that the other candidates would not develop a following, and that the delegates would turn to him, was gradually undermined by the appearance of a new and popular candidate in the field. This was Wendell Willkie, Democrat-turned-New Deal-critic-turned-Republican. Hoover found many of his supporters defecting to Willkie and by the end of the month Rickard described him as "alarmed" at the new threat.[135] As the convention approached, Hoover labored at the speech he was to deliver to the delegates. As in 1936, the Hoover campaign was in chaos, with no coordination of matters in Philadelphia, the convention site. There would be a large number of Hoover volunteers at the convention, but he had made no provision for leadership of the effort. Hoover, the great administrator, seemed willing to let the Hoover effort at the convention to go unadministered.[136] It is apparent that Hoover placed great confidence in the combination of his speech before the convention, and the release of the polls his campaigners had conducted which showed him gaining dramatically over 1932 on FDR.

On June 21st a press release was issued concerning those polls, designed to show that Hoover could win, even against FDR. Of the 40,000 returns it said that they showed "that in every community Mr. Roosevelt's vote as compared with 1932 would be smaller, and that of Mr. Hoover larger, although Mr. Hoover is not a candidate." This press release summarized the results in fourteen states, including three in New England, California, New Jersey, Pennsylvania, New York, Minnesota, Indiana, Nebraska, Michigan, Ohio, Wisconsin, and Illinois.[137]

The press in mid-June began to regard Hoover for the first time as a "dark horse" possibility for the nomination.[138] The Hoover candidacy was given a further boost by the comments of labor leader John L. Lewis defending the Hoover administration against charges that it had brought on the depression and had done nothing to alleviate it. Lewis echoed Hoover's claim that recovery from the depression had begun in mid-1932, and that the New Deal had transformed the depression into a chronic condition by its policies and weaknesses. According to the New York Times, Lewis had also suggested

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to numerous people that Hoover was the candidate best qualified to attack the New Deal and its record and to deal with the critical international problems that were facing the nation.[139]

Hoover's speech before the convention on June 25th was greeted with a rousing demonstration both before and after the delivery. The theme was a familiar one from Hoover's past speeches. The greatest threat to America was the loss of liberty from domestic policies, not hostile armies or fifth columnists. The great problem was the growing reliance on the state as the answer to all economic problems in liberal nations, as proposed by men who described themselves as liberals. In Europe the same course had been followed by those who called themselves liberals.

These men thought they were liberals. But they also thought they could have economic dictatorship by bureaucracy and at the same time preserve free speech, orderly justice, and free government. They might be called the totalitarian liberals. They were the spiritual fathers of the New Deal. These men were not Communists or Fascists. But they mixed these ideals into free systems. . . . These so-called liberals shifted the relation of government to free enterprise from that of umpire to controller. . . . They met every failure with demands for more and more power of control. . . . These leaders ignored the fact that the driving power of free economic life is the initiative and enterprise of men. When it was too late they discovered that every time they stretched the arm of government into private enterprise, except to correct abuse, then somehow, somewhere, men's minds and judgments became confused. At once men became fearful and hesitant. Initiative slacked, industry slowed down in production.

This inevitably led to unemployment and class division, and resulted in the curtain falling on liberty, because "frustrated and despairing these hundreds of millions of people voluntarily voted the powers of government to the man on horseback as the only way out." America had now had eight years of experience with this same kind of confused thought which was crippling free enterprise, and free enterprise was "the one dynamic force by which we can restore jobs to our people." Relief was necessary for those who were destitute but the nation could not "exist two-thirds workers and one-third dependents," therefore the people must be restored "to self-support before the money fails." That could come about only through a change in the occupancy of the White House. In foreign affairs, aid should be given to "those nations who are fighting for their freedom," but such assistance should be within the law and should involve no action which might take the United States into war, unless the Western Hemisphere, itself, was threatened. Four more years of the New Deal would be folly for America.

The New Deal has contributed to sapping of our stamina and making us soft. In quest of security they have retreated from liberty. In quest of reform they have abandoned justice and stirred class hate. In quest of relief they have injured self-reliance. In quest of an easy way out they have lessened the vision of America. The road of regeneration is burdensome and hard. It is straight and simple. It is a road paved with work and with sacrifice and consecration to the indefinable spirit that is America. It was the road along which the Republican Party must lead Americans.[140]

Although the press deduced from Hoover's speech that he was clearly a candidate for the nomination, and a press conference the following day did not dissuade those who covered it, the Republican nomination went to Wendell Willkie. Hoover was disappointed at Willkie's nomination, not only because he had expected it himself, but also because he was sure that Willkie would lead the Republican Party even farther away from the ideals which Hoover felt should be championed.[141] Hoover was encouraged, however, by the prospect that Willkie might be able to defeat Roosevelt.[142]

But as in 1936, it was apparent that the Republican candidate for the Presidency wanted no help from the ex-President.[143] Not until the end of October did Hoover become involved in the Willkie campaign with three speeches, in Columbus, Ohio, Lincoln, Nebraska, and in Salt Lake City. In Columbus, Hoover attacked FDR for attempting a third term. The third term rule, he told his audience was "an unwritten provision in our Constitution." It was a check on "the growth of personal power in this Republic."

He did not suggest that Roosevelt aspired to be a dictator, but he had built "personal power to a dangerous point in this Republic," and there were "forces and men around him who are implacably pushing further and further in that direction." Hoover then traced the growth of executive power at the expense of the Congress and the Supreme Court.

He found numerous similarities between this growth of executive power and the tactics followed by totalitarian governments in Europe. In sum, Hoover concluded that it was not alone the tradition against a third term which was the issue, the issue was the check which the two term tradition posed for the rise of personal power. The American people could strengthen liberty in America only "by holding strong to this unwritten provision in our constitution against the rise of personal power in our Republic." That could be done by the election of Wendell Willkie.[144]

On October 1st, Hoover returned to the attack with a speech on foreign relations in Lincoln, Nebraska. The New Dealers, he told his audience, were telling the voters that FDR was so indispensable to American foreign relations that "we must forget their domestic failure." But before the voters allowed "this blackout of domestic failure," they should first "examine these foreign policies to see how successful they have really been." Hoover was not convinced that they had been successful or that they would be successful. To him it seemed that America was "being led into foreign war and we must inquire more deeply than campaign promises." Hoover then reviewed the Roosevelt foreign policy record from the torpedoing of the world economic conference of 1933, through the recognition of the Soviet Union, down to Roosevelt's meddling in European power politics more recently. In every case he found failure. Coolly appraising the world situation, Hoover did not find danger to the United States in the rise of totalitarianism in Europe. But "the New Deal leaders, together with loose warmongers have pumped up hysteria of fear and hate among our people far beyond even those justified by the great misfortunes of the times." Hoover concluded:

If we look back over this whole record of Mr. Roosevelt's relations with Europe and Asia there is hardly one act which has substantially contributed to our peace with this world. There are hundreds of acts which tend to drag us toward this war.

You are far more likely to get into war with Franklin Roosevelt than with Wendell Willkie.[145]

The next day, Hoover gave the last of his campaign speeches at Salt Lake City. The transcendent issue, he told his listeners was "to preserve the freedom of men and women in America" against the drift of the New Deal toward National Socialism. The Republican candidate, Wendell Willkie, had, Hoover said, "been bravely crusading this country from one end to the other, demanding a change of national direction back to free men." But there were other issues, including the third term. Hoover questioned whether Roosevelt would have been elected in 1932 if the voters had known that he intended to "spend and spend until he had increased the cost of government by 150 per cent, and would have raised the national debt to over 50 billion?"

He wondered if the voters would have elected him had they known he would tinker with the currency, repudiate government obligations, attempt to "subjugate the Supreme Court," reduce the Congress to impotence, nearly double the number of government employees, create "the most gigantic political machine in American history," build up his own personal power, "transform American life with a mixture of National Socialism," and "engage in foreign power politics and thereby build up not only distrust and hate for America but a gigantic military pressure alliance on us and thereby bring us steadily toward war?" Were Roosevelt's promises in 1940 any better than those of 1932? And despite it all, the United States had not recovered from the depression.

If we eliminate the totalitarian countries and the French, who adopted our New Deal with similar disastrous results, we find that of fourteen democratic nations with economic systems like ours, all fourteen had fully recovered to the 1929 level by 1937 except the United States. In fact, ten of them were from 6 per cent to over 40 per cent above the 1929 level, while we were 15 per cent below. Again they had no New Deal. We had one.

France had tried the "New Deal" under Leon Blum and had so deteriorated that it had fallen to Germany. Germany had tried the "New Deal" and had ended up frightened and confused, finally entrusting their government to a man on a white horse. America needed a president who was truly devoted to the American Dream.[146]

Hoover's campaign speech of October 31st, was only the latest in a succession of attacks he had made on New Deal foreign policy during 1939 and 1940. In an article for Liberty Magazine of April 15, 1939, Hoover outlined the choices for America in the event of a European war. The United States could either maintain its neutrality and seek to bring about a settlement of world tensions through peaceful methods, or it could "exert the physical force of the United States on one side of a conflict." The latter would inevitably result in American involvement in war. The path of neutrality Hoover viewed as "the long view and the realistic view," while the taking of sides he regarded as "the short view and the emotional view." Hoover rebutted the arguments for departing from neutrality, making the familiar points that the fascist powers had no intention of attacking the western democracies, and that if they did the democracies were capable of defending themselves. Hoover pointed out that:

Moreover, the whole theory of stopping aggression is in fact an attempt to maintain the status quo in national boundaries all over the world. We need only to look back even one hundred years of history to see how many fights we could get into. In fact, we have been aggressive in our time. Otherwise parts of the Rocky Mountains and California would belong to Mexico today.

He concluded that: "We cannot become the world's policeman unless we are prepared to sacrifice millions of American lives—and probably some day see all the world against us. In time, they would envisage us as the world's greatest bully, not as the world's greatest idealist." World War I had shown the folly of trying to "make the world safe for democracy." And one of the first casualities of American entry into another world war would be liberty in the United States.[147]

In July, 1939, Hoover's article, "Shall We Send Our Youth To War?" appeared in

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American Magazine.[148] On July 5th, Hoover gave a summary of the article over the radio on the American Magazine Hour, and the following day he expanded upon the article with a speech before the International Convention of Christian Endeavor Societies in Cleveland, Ohio. After touching upon the inhumane and destructive aspects of modern warfare, Hoover proposed that all nations should agree that food ships should be immune to attack or blockades, and there should be no bombing of civilian populations. Moral force, the power of world public opinion, would be the "teeth" of enforcement since under conditions of modern warfare "one of the utmost anxieties of both sides is to hold the good will of neutrals," to avoid forcing them to "aid or join the enemy." At the very least, the arousal of ill will in the neutral countries could lead to "informal boycotts of credit and supplies even do they go no further." [149]

In late August, as the situation in Europe grew more tense, Hoover recognized that if war did break out it would change "the color of American attitudes and interests," and make the fight to keep America out of the war even more difficult.[150] When Hitler's Wehrmacht did invade Poland, triggering a general European conflict, Hoover issued a statement in which he referred to the week as "one of the saddest weeks that has come to humanity in a hundred years."

It was, he said, a "senseless war" that was being "inevitably forced upon hundreds of millions of people," which meant the deaths of hundreds of millions in combat and through starvation, and "another quarter of a century of impoverishment to the whole world." He foresaw a longer war of attrition, and that "there may come a time of desperation when all restraints go to the winds." Then it would likely become "the most barbarous war that we have every known." Nazism was repugnant to the American people, and American sympathies would be with the allies, but America must stay out of the war.[151]

Hoover continued his speeches and writings against American involvement in the war. In late October, his article "We Must Keep Out," was published in The Saturday Evening Post. The danger, as Hoover defined it, was that "our imagination will displace our reason." He traced for his readers the American experience in World War I and the peacemaking which followed, and concluded once again that: "The voice of experience says we cannot create liberty and self-government in Europe. We cannot reconstruct Europe. The social regeneration of nations must come from within. It cannot come from without." The European nations between the wars had always put their interests first; it was time that the United States did the same.[152] Hoover was still of the opinion that England and France could not be defeated, and that the war, at worst, would resolve into a stalemate.[153] Meanwhile, Hoover was exerting his energies in the fight over repeal of the embargo provisions of the Neutrality Act. Hoover sought restrictions on American sales of war materials to purely defensive weapons. Unfortunately, his compromise approach appealed neither to those who were "interventionist" or "isolationist." [154] On November 4th Roosevelt signed into law a new Neutrality Act which did not include Hoover's restrictions. For Hoover, the failure to get his compromise proposal adopted was a defeat for the cause of peace, but the question of American involvement in the European War still hinged, despite the enactment of repeal of laws, on the will of the American people and their leaders. There was still ground for action and for hope.

Hoover's long-time hatred and suspicion of the communist regime in the Soviet Union was confirmed in 1939 by the participation of the Red Army in the partition of Poland and the Baltic states, and the invasion of Finland. In April, 1940, in an article for Collier's magazine, Hoover expressed his displeasure with the Soviet Union and with Roosevelt's policy of recognizing that totalitarian government. Hoover took a moralistic approach to diplomatic recognition which echoed Woodrow Wilson.

When our neighbors choose to live a life of disrepute, we do not shoot them up. But we can hold up the moral and social standards in the community a little better if we do not associate with them. Or take part in their parties. Or invite them into our homes. Or present them to our children.

Recognition of new governments is thus more than a reestablishment of legalistic or trade relations. It is a sign that we believe they are respectable members of the family of nations. It gives to them right of entry into our homes.

It gives them a recommendation to our neighbors.

The Soviet Union had liquidated liberalism in Russia, and had carried out a policy of subversion abroad, including in the United States. Furthermore, the Soviet Union had revealed its utter lack of morality in foreign affairs by its rape of Poland, the destruction of the independence of Latvia and Estonia, and its invasion of little Finland. "The recognition of Soviet Russia was a gigantic political and moral mistake," Hoover concluded. "It was not a mistake proved from change of circumstances. It was a mistake obvious from the beginning."[155]

Meanwhile, Hoover was also concerning himself with the question of American mobilization for defense. On May 17, 1940, he issued a press statement arguing that there could "be no partisanship upon the principle of national defense." Hoover called for "thoughtful and scientific" armament of the war. Industry should furnish the skill to direct defense production, not army and navy officers.[156] To Congressman Joe Martin, Hoover wrote on the same date suggesting a number of ways in which production could be encouraged, including mobilization under a non-partisan government agency in which industry could have confidence, permitting write-offs of investment in equipment when the war use of the equipment was ended, and coordination of subcontracting. He also suggested that automakers suspend new models for a year, thus turning over their machine tool capacity for expansion in the aviation industry. He advocated control of war production by one man rather than a board, since "no board ever functions properly in executive matters unless all the powers are vested in the chairman and even then it is inefficient." [157]

Hoover continued to write and speak against American involvement in the war throughout 1940, while also maintaining contact with Republicans in Congress, developing a partisan resistance to what he perceived as Roosevelt's march toward war. Hoover forces pressed for a foreign policy plank in the Republican Party platform which would echo the position of Hoover and Republican non-interventionists in Congress. Despite attempts to push through a more interventionist plank, the Republican platform largely mirrored Hoover's foreign policy views. The platform called for non-intervention in foreign wars, preparedness, and aid for the allies to the extent consistent with international law and the requirements of America's own national defense. The platform also called for orderly and realistic preparations of the United States to defend itself and its possessions and outposts, and the upholding of the Monroe Doctrine.[158]

The question of the destroyers-for-bases deal between the United States and Great Britain occupied much of Hoover's attention in August and September of 1940. While no one doubted that the situation was critical for Great Britain, opponents of American participation in the war argued that to give such critical military assistance to one belligerent could easily be regarded as an act of war against the other, and must lead inevitably to America participation in the war. Non-interventionists, however, had long pushed for additional bases such as were provided under the final agreement with Great Britain, and this weakened their opposition. Hoover felt in his "bones" that the British would be able to stand off the Germans.[159] When the destroyers were exchanged for the British bases in the Western Hemisphere, Hoover issued a statement that omitted reference to the destroyer part of the arrangement entirely, expressing only his happiness that the bases had been acquired.[160]

Having been blocked in his attempts to furnish food relief to occupied Europe, and fearful that Roosevelt's policies were leading to American involvement in the war, Hoover pinned all of his hopes for his relief work and for peace on Willkie's victory in November. When Willkie was defeated, Hoover bent his efforts to mobilizing a great campaign of prominent Americans in behalf of his relief efforts, to apply pressure upon the American and British governments, and to secure support from within Congress.[161] Although the movement was successful in generating great support in Congress, Hoover was unsuccessful in beating down the resistance of the British or of rallying the American Government to pressure the British on the matter of relief.

Hoover was a determined opponent of Roosevelt's lend-lease proposal, not because he was opposed to aid to Great Britain, but because he considered that the legislation conferred far too much power upon the President.[162] Already convinced that President Roosevelt was bent on taking the United States into the war, Hoover knew that the best opponents of the trend could hope for was that the Republican minority in Congress could reduce the President's options through amendments to the bill, or to gain time by delaying its passage. Hoover took an active role in rallying Republican opposition to the lend-lease bill, and in proposing amendments to it. The lend-lease bill also caused the GOP's 1936 standard-bearer to defect from support of Roosevelt's foreign policies. While Landon had supported the destroyer-for-bases deal lukewarmly, he refused to follow the President on the lend-lease proposal, regarding it as only a step toward involvement in the war which followed the pattern that had resulted in American involvement in World War I. As a result, the groundwork was being laid for cooperation between the old political antagonists, Hoover and Landon, in opposition to Roosevelt's foreign policy.[163]

On January 24, 1941, Hoover sent Senator Arthur Vandenberg four proposed amendments to be added to the lend-lease bill. He told Vandenberg that it seemed to him "obvious that the minority opposition can only move effectually by amendments and by amendments we would aggregate great support from the public and possibly in the Congress that cannot be had by attempts at substitute legislation." Hoover proposed that it be made clear by the amendments that nothing in the lend-lease act authorized the President to convoy ships using the United States Navy, to repair the ships of belligerent nations in American harbors, to transfer American naval vessels to other nations, or to expend funds outside the United States.[164]

Vandenberg welcomed the suggested amendments and began to work closely with Hoover on strategy.[165] Hoover's opposition to lend-lease was complicated, however, by his simultaneous attempts to pry open the Brit-

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ish blockade so that his relief plan for five occupied democracies could begin. The British were not likely to relax their blockade from the request of one who was opposing legislation designed to assist them, nor was the Roosevelt administration likely to exert pressure in behalf of Hoover's plan when he was opposing an administration measure. Thus, while Hoover worked through Congressmen and Senators in formulating opposition to lend-lease, he did not deliver an open attack on the act.[166]

By mid-February, 1941, Hoover had proposed a plan for relief which he felt was sure to meet every objection that the British had raised to his previous plans. The new plan called for the setting up of soup kitchens under rigid controls which would take care of only the destitute and children. They would not feed those working for the German work effort, nor would they increase the amount of food available for Germany since the Germans, too, were expected to contribute food for the soup kitchens.[167] On February 16th, Hoover spoke in Chicago in behalf of his relief plan. He described the situation in the small democracies and listed the provisions of his relief plan. There was, he pointed out, no question of military advantage to be derived by either side in the war from his relief plan. In late February, Hoover traveled to Washington to talk with Secretary of State Hull in order to seek administration support for his relief proposal. A long, friendly conversation ensued over the state of the world, leading Hoover to feel that the meeting had been satisfactory.[168] But if Hoover was optimistic that resistance was being overcome, it was crushed early in March when the British rejected all appeals to lift the blockade.[169]

If the British were not going to permit the relief effort to begin, Hoover was freed now from the need for tact in dealing with the British and could resume his attack on the drift of the United States toward participation in the war.

With the passage of the lend-lease act he returned to the attack with a speech in New Haven, Connecticut on the subject, "The Question of Peace." "Today," he told his listeners, "we are pledged to give Britain the tools of war and our full economic aid. That is settled and done. Our national duty is to unite in making a good job of it. And to do it with good will." After reviewing the problems that America must face, whether or not it entered the war, Hoover stressed the importance of obtaining answers to those questions, especially by American youth since the answers would determine their whole lives.

I am one who prays with all my being that America's sons should not be sent to this war. If God grants that we become no more deeply involved than we are today we may be able to bring a more constructive and warning voice to the peace table. If our moral reservoirs are not drained by the full passion of war we may bring sanity and compassion. If our economic resources are still partly intact, we may be able to contribute something to restore another and better world. If our faith in democracy is held high amid the storms of war economy we may yet keep the lamp of liberty alight.[170]

Hoover, however, had no "expectations of stopping the American people from going to war or to stop them from making a mes out of peace." "I do not know that any prophetic warning has ever had any importance in history," he wrote one correspondent. "I am, however, going to die with my conscience alive."[171] Hoover recognized the growing unpopularity of his anti-war stance as public opinion moved closer to support of American entry into the war. He was convinced in early April that the United States would be in the war within ninety days.[172]

On May 11th, Hoover went on the air with one of his strongest appeals for reason. He had, he said, believed originally that Roosevelt was seeking to keep his pledge of October 23, 1940, to keep America out of foreign wars, but recent speeches and propaganda indicated that the intention was "to drive the American people into this war." Hoover supported, he said, maximum aid to Britain, but he was opposed to the American navy joining the war.

The European war was in a state of transformation, which behooved the United States to watch and listen, particularly since the United States was not prepared even for its own defense. "To go in now is neither wise nor for the interest of either Britain or ourselves." The situation he found very different from that in 1917, because in 1917 the Pacific had been secure, with Japan an ally, while Japan was now "openly allied to the Axis."

This meant that the United States must spend its efforts, in the event of war, on the defense of the Pacific as well. Hoover reviewed for his listeners the price that America must pay for participation in the war—the sacrifice of lives and liberty, and the inevitable post-war bankruptcy. If the United States must enter the war, he concluded, it should be done within the framework of the Constitution, through the decision of Congress so that there would be unity in America.[173]

When, in June of 1941, the German armies poured into the Soviet Union, Hoover was furnished with a strong new reason why the United States should stay out of the war. What had to this time been in many minds a war by totalitarian powers against freedom was now transformed, in the eyes of Hoover and others, into a war in which the principal antagonists were two totalitarian dictatorships—Nazi Germany and Communist Russia. Soon after the German invasion of the Soviet Union, Hoover went on the air to tell the American people he found it curious that the German invasion had led to an intensification of the "propaganda of fear or hate" designed to draw the United States into the war. He recognized that it was sensible for Great Britain and the Soviet Union to cooperate against their common enemy, but he argued that the invasion of the USSR "makes the whole argument of our joining the war to bring the four freedoms to mankind a gargantuan jest."

Hoover reviewed the performance of the Soviet Union in world affairs and asked his listeners if "the word of Stalin" was any better "than the word of Hitler." If the United States now joined the war and helped the Soviet Union to win, this country would have helped Stalin to consolidate his power in Russia, and the control by Soviet Union over the territories she had conquered, as well as give more opportunity for communism "to extend in the world."

Instead, the United States should adopt a policy of "watchful waiting, armed to the teeth, while these men exhaust themselves." To align itself with the USSR would cause the United States to lose all moral force, since "to align American ideals alongside Stalin will be as great a violation of everything American as to align ourselves with Hitler."[174]

Late in May, 1941, a newspaperman had suggested to Alf Landon that, to counter the united front of propaganda which had been forged to support Roosevelt's policies of intervention, a similar united front be formed in opposition to these policies. Specifically, he encouraged Hoover, Landon, and former vice president Charles Dawes to go on the radio over the same half hour of air time to attack FDR's policies.[175] Landon rejected the radio proposal as impractical, but he did suggest to Raymond Moley the possibility of a joint statement to accomplish the same result, and Moley passed the suggestion along to Hoover. Hoover quickly contacted Landon in support of the idea, while suggesting others as participants in the statement. He told Landon that he thought such a statement could be very effective, but felt that members of Congress ought to be omitted "so as to make it entirely a common or garden variety citizen statement."[176] Robert Hutchins, of the University of Chicago quickly prepared a working draft for the group, and the draft was circulated among the potential signers. Both Landon and Hoover strongly felt that the statement should contain the signatures of leading Democrats. Landon was able to line up FDR's former Secretary of War, Harry Woodring, and Hoover sought to get the support of former Ambassador to Great Britain Joseph Kennedy, a vocal critic of Roosevelt's policies. In the end, Woodring refused to sign the statement unless it was signed by at least one other prominent Democrat, and Hoover was unable to get the signature of Joseph Kennedy, who preferred to "take my position on any subject and at any time as the occasion demands without consultation with anyone."[177]

Despite the efforts to obtain influential Democrats as signers of the statement, then, no Democrat of stature participated, although labor leader John L. Lewis did add his signature. The final statement, as printed in the New York Times on August 6, 1941, reiterated the main points that had been made by Hoover and the other signers in their criticism of Roosevelt's policies. The role of Congress in warmaking was emphasized, and criticism was directed at American naval action in the Atlantic as well as the stationing of American troops at bases outside the Western Hemisphere. The invasion of the Soviet Union had raised "doubts that this was is a clear-cut issue of liberty and democracy." The American people wanted no part of "a war of power politics," and such participation would more likely "destroy democracy in this country and thus in the Western Hemisphere than to establish it in Europe." The Axis powers were no threat to the Western Hemisphere if American defenses were strong.[178]

Hoover continued to argue against American participation in the war in speeches and articles in the months immediately before Pearl Harbor. In November he published three articles in the Saturday Evening Post on the "First American Crusade," in which he described the American relation to World War I from his vantage point as a member of Woodrow Wilson's war cabinet and as an observer of the deliberations at Versailles. Hoover sought to dissuade the American people from embarking upon another such experience in 1941, by demonstrating the disparity between American ideals and European realities.[179]

On November 19th, Hoover gave his last major speech against the war trend over the radio. By now it appeared that an earlier Hoover prediction was coming true, that the Soviet Union might before long be defeated by the German Army. If the USSR could not defeat Germany with her millions of men and enormous amount of military equipment, fighting on her own soil and with easy supply lines, then the folly of the States seeking to defeat Germany from three thousand miles away was clearly demonstrated.

The best strategy, clearly, was to allow the war to continue. If Hitler did succeed in conquering the USSR it would add another hundred million potentially rebellious subjects to the 230 million he had already to be concerned about. Hoover did not believe that Hitler would be overcome by internal revolts, but he did believe that the forces working against him from within would be more suc-

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cessful in destroying the German dreams than would military attacks or economic blockades. Hoover repeated the main theme of earlier speeches and added a plea for the feeding of women and children in the German-occupied democracies.[180]

Hoover's speech on the issue of war and peace had been devoted to the problems posed by Roosevelt's moves in the Atlantic in support of Great Britain. But at least as early as February, 1938, he had become concerned that Roosevelt was seeking to involve the United States in a conflict with Japan.[181] The notice of abrogation of the U.S. commercial treaty with Japan, given in mid-1939, left Hoover with "a foreboding that we have taken on a situation from which sooner or later we will see outrages upon American citizens and other incidents which will inflame the country and draw us into war in the east." If it was FDR's desire to bring about war with Japan, then the abrogation was "one step on the road." [182] When the Roosevelt administration cut off scrap iron and high octane gasoline exports to Japan, Hoover viewed it as "again only sticking a pin in a rattlesnake."

In his view, the United States should "leave this thing alone, or we will be drawn into real trouble." [183] Hoover did not sympathize with Japan's occupation of French Indochina, and he supported Roosevelt's actions in response to that occupation, but he nevertheless felt that "Roosevelt's continuous sticking [of] vocal pins in this tiger" had contributed to Japan's action and made a solution more difficult. Still, he hoped that a modus vivendi might be reached with the Japanese even at this point.[184]

Three months before Pearl Harbor, Hoover thought that the "logical thing for Japan is to take Eastern Siberia on the inevitable breakup of Russia." Such an action would relieve her of the menace of the Soviet air bases in Vladivostok and "would give them a vast unpopulated area into which to expand." He had a "hunch" that the Japanese would give up their designs on the rest of Asia for such an opportunity, and it would be in the interests of the United States. But he recognized that the United States, by aligning itself with the Soviet Union had apparently closed this option off for Japan.[185] Three weeks before Pearl Harbor he wrote to John Callan O'Laughlin that: "There is no sense in having a war with Japan. But I am afraid that our people are so anxious to get into war somewhere that they will project it.

"They know there will be less public resistance to this then to expeditionary forces to Europe." He was, he told O'Laughlin, leaving for Chicago to deliver yet another speech against the sending of expeditionary forces. "As usual, I expect this may be my last speech on war policies, but I am going through consistently to the end." [186]

Any reassessment of Hoover's career, 1933–41, must take note of the striking congruence between Hoover's concerns during that period with those of Americans in the 1970s. Hoover's speeches and letters of the period were devoted to problems perceived by only a minority of Americans then, but which are real to more of his countrymen today. His concern with the effects of inflation, the growth of bureaucracy, waste in government, centralization of power in Washington at the expense of state and local and individual initiative, the growth of power in the Presidency at the expense of Congress, the rise in welfare costs, the loss of morality in government, the stultifying effects on economic growth of government over-regulation of business, the loss of liberty, and the pernicious effects on America and its image in the world produced by the role of self-appointed international policemen, have all become the concerns of Americans since the 1960s.

Scholars, at least, are less certain that American foreign policies toward Japan were appropriate in the late 1930s and early 1940s, just as Hoover was uncertain at the time. And we have seen the spread of communism since 1945 which Hoover predicted would result from World War II. It is by now apparent that, while the administration of Franklin Delano Roosevelt alleviated the effects of the depression in America and crushed the German-Italian-Japanese challenge to the international status quo, it did so only at the costs which Hoover predicted, and those costs grow increasingly onerous for Americans in the 1970s.[187]

FOOTNOTES

[1] Hoover to Walter Brown, March 25, 1933, Hoover Papers, Hoover Presidential Library; hereafter cited as HP.

[2] Hoover to John Callan O'Laughlin, April 19, 1933, John Callan O'Laughlin Papers, Library of Congress; hereafter cited as JCO.

[3] Hoover to William S. Bennet, May 5, 1933, HP.

[4] Hoover to Simeon Fess, May 19, 1933, *ibid.*

[5] Hoover to O'Laughlin, September 3, 1933, JCO.

[6] *New York Times*, June 7, 1934.

[7] *Ibid.*, June 7 and 8, 1934.

[8] Hoover to Gertrude Lane, July 9, 1934, HP.

[9] Hoover, *The Challenge to Liberty* (New York, 1934).

[10] Hoover to Henry Allen, October 17, 1934, HP.

[11] Hoover to Arthur Hyde, October 1, 1934, *ibid.*

[12] Hoover to Charles Scott, November 12, 1934, Charles Scott Papers, Kansas State Historical Society.

[13] "Statement on Going Off the Gold Standard," February 20, 1935, in Public Statements, 1935, Hoover Papers.

[14] *New York Times*, February 21, 1935.

[15] *Ibid.*, February 22, 1935.

16. The statement is reprinted in Hoover, *Addresses Upon the American Road*, 1933–38 (New York, 1938), pp. 40–44.

[17] Hoover to Arthur Hyde, February 25, 1935, HP.

[18] Hoover to John Cowles, March 19, 1935; Hoover to Orville Bullington, March 28, 1935, *ibid.*

[19] Hoover to Henry Allen, April 22, 1935; Hoover to A. H. Kirchhofer, April 22, 1935, *ibid.*

[20] Spangler to Hoover, January 24, 1935; Hoover to Frank Knox, March 1, 1935; Spangler to Hoover, March 26, 1935; Hoover to Spangler, March 29, 1935, *ibid.*

[21] Hoover to Robert Simmons, June 20, 1935, *ibid.*

[22] Walter Newton to Hoover, June 13, 1935, *ibid.*

[23] Edgar Rickard Diary, April 17, 1935, Hoover Presidential Library; hereafter cited as Rickard Diary.

[24] *Ibid.*, June 9, 1935 to June 12, 1935.

[25] Hoover to A. H. Kirchofer, April 22, 1935, HP.

[26] Hoover to R. B. Creager, May 16, 1935, *ibid.*

[27] Reprinted in *Addresses Upon the American Road*, 1933–38, pp. 45–47.

[28] Hoover to John Callan O'Laughlin, May 20, 1935, JCO.

[29] See, for example, Arch Shaw to Hoover, July 9, 1935: Hoover to Shaw, August 22, 1935. HP.

[30] White to Walter Newton, June 26, 1935, White Papers, Library of Congress.

[31] Hoover to Glenn Frank, July 13, 1935, HP.

[32] See, for example, Rickard Diary, July 30, 1935.

[33] Knox to Spargo, September 6, 1935, Spargo Papers, University of Vermont.

[34] Rickard Diary, August 12, 1935 through August 15, 1935; the book was William Starr Myers and Walter H. Newton, *The Hoover Administration: A Documented Narrative* (New York, 1936).

[35] *Ibid.*, August 8, 1935 and August 16, 1935.

[36] See, for example, Rickard Diary, August 30, 1935; Newton to Richey, April 20, 1935, and Hoover to Newton, June 20, 1935, HP.

[37] Rickard Diary, October 9, 1935.

[38] See, for example, D. M. Reynold to Hoover, May 1, 1935, HP.

[39] Memorandum of phone conversation with Hoover of May 6, 1935, in Mark Sullivan Papers, Hoover Institution on War, Revolution and Peace.

[40] Reprinted in *Addresses Upon the American Road*, 1933–38, pp. 63–74.

[41] Reprinted in *ibid.*, pp. 87–100.

[42] See Ben Allen folder, HP.

[43] Reprinted in *Addresses Upon the American Road, 1933–38*, pp. 101–113.

[44] See Hoover to Hyde, January 27, 1936, and Chandler to Hoover, January 28, 1936, HP.

[45] Hoover to Alan Fox, February 11, 1936. *ibid.*

[46] Reprinted in *Addresses Upon the American Road, 1933–38*, pp. 114–125.

[47] Reprinted in *ibid.*, pp. 142–158.

[48] Reprinted in *ibid.*, pp. 159–172.

[49] Vandenberg to Allison Reppy, March 23, 1936, copy in HP.

[50] Donald R. McCoy, *Landon of Kansas* (Lincoln, 1966), pp. 245–246.

[51] Rickard Diary, May 6, 1936; O'Laughlin to Hoover, May 11, 1936, JCO.

[52] "Statement to the Press by Hoover, 5–18–1936," Public Statements, 1936, HP.

[53] Rickard Diary, May 26, 1936.

[54] Hoover to Alan Fox, June 4, 1936, HP.

[55] Rickard Diary, June 19, 1936 to June 11, 1936.

[56] Reprinted in *Addresses Upon the American Road, 1933–38*, pp. 173–183.

[57] Hoover's wire is reprinted in *ibid.*, pp. 184–185.

[58] Rickard Diary, June 12, 1936.

[59] Landon to Hoover, August 7, 1936, Landon Papers, Kansas State Historical Society; hereafter cited as LP.

[60] Hoover to Newton, August 15, 1936, HP.

[61] "Transcript of telephone conversation between Landon and Hoover, 9–2–1936," in HP.

[62] Rickard Diary, September 4, 1936.

[63] Reprinted in *Addresses Upon the American Road, 1933–38*, pp. 201–215.

[64] Reprinted in *ibid.*, pp. 216–227.

[65] Hoover to Ogden Mills, November 4, 1936. HP.

[66] *Ibid.*, and Hoover to Newton, January 9, 1937, HP.

[67] Hoover to Hyde, January 1, 1937, *ibid.*

[68] Hyde to Hoover, January 9, 1937, *ibid.*

[69] See, for example, Hyde to Senator Lester Dickinson, May 10, 1937, copy in *ibid.*

[70] Reppy to Spargo, May 24, 1937, Spargo Papers.

[71] Landon to Gomer Davies, January 6, 1937, and Landon to Richard Lloyd Jones, January 7, 1937, LP.

[72] Interview with Alf M. Landon, August 17, 1977.

[73] *Ibid;* Landon to Capper, August 17, 1937, LP.

[74] "An Abstract of the Stenographic Report of a Meeting of the Republican National Committee held at Chicago on Friday, November 5, 1937," Republican National Headquarters, Washington, D.C.

[75] Reprinted in *Addresses Upon the American Road, 1933–38*, p. 228.

[76] Reprinted in *ibid.*, pp. 229–236.

[77] Mark Sullivan to Hoover, February 12, 1937, Sullivan Papers; O'Laughlin to Hoover, February 22, 1937, JCO.

[78] O'Laughlin to Hoover, February 23, 1937, JCO.

[79] Mark Sullivan to Hoover, February 24, 1937, Sullivan Papers.

[80] Hoover to Charles G. Goodspeed, Febuary 25, 1937, HP.

[81] Hoover to John Bricker, March 12, 1937, *ibid.*

[82] Edgar Rickard to Bernice Miller (Hoover's secretary), August 16, 1937, HP.

[83] Reprinted in *Addresses Upon the American Road, 1933–38*, pp. 243–263.

[84] See, for example, Hoover to A. H. Kirchhofer, August 21, 1937, and Hoover to Robert D. Blue, August 21, 1937, and Hoover to Robert Simmons, August 24, 1937, HP.

[85] Hoover to Spangler, August 21, 1937, *ibid.*

[86] Hoover to Jacob Allen, August 21, 1937, *ibid.*

[87] Landon to W. R. Mossman, August 10, 1937, and Landon to Sterling Morton, September 2, 1937, LP.

[88] Hoover to Robert Simmons, August 24, 1937, HP.

[89] Clipping from *Washington Post*, September 19, 1937, HP.

[90] Allen to Spangler, September 21, 1937, HP.

[91] Landon to Senator John Townsend, Jr., October, 1937, LP.

[92] Landon to Charles M. Harger, October 11, 1937, *ibid.*

[93] Landon to Harold Johnson, October 14, 1937, *ibid.*

[94] See, for example, *New York Times*, October 13, 1937, and October 14, 1937.

[95] See comment in *New York Times*, October 21, 1937.

[96] Hoover to Spangler, October 23, 1937, Spangler Papers, Hoover Presidential Library.

[97] Reprinted in *Addresses Upon the American Road, 1933–38*, pp. 264–275.

[98] "An Abstract of the Stenographic Report of a Meeting of the Republican National Committee Held at Chicago on Friday, November 5, 1937," Republican National Committee Headquarters, Washington, D.C.

[99] McCoy, p. 373.

[100] Hoover to Spangler, October 29, 1937, HP.

[101] Saxon to Hoover, June 9, 1938, *ibid.*

[102] Frank to Hoover, June 20, 1938, telegram, and Hoover to Frank, June 26, 1938, *ibid.*

[103] Landon to Paul Block, August 1, 1938, LP.

[104] Gross to Hoover, August 5, 1938, HP.

[105] Hoover to Gross, August 11, 1938, and Hoover to Teague, August 16, 1938, *ibid.*

[106] The statement is in Post-Presidential Subject File, "Republican Policy Committee," *ibid.*

[107] Landon to Don Berry, November 16, 1938, LP.

[108] See, for example, Will Irwin to Hoover, November 12, 1938, and Hoover to Irwin, November 16, 1938, HP.

[109] Reprinted in Hoover, *Further Addresses Upon the American Road, 1938–40* (New York 1940), pp. 3–20.

[110] Reprinted in *ibid.*, pp. 21–38.

[111] Reprinted in *ibid.*, pp. 39–57.

[112] Reprinted in *ibid.*, pp. 85–92.

[113] Reprinted in *ibid.*, pp. 93–103.

[114] Reprinted in *ibid.*, pp. 58–68.

[115] Rickard Diary, February 22, 1939.

[116] See, for example, Jacob Allen to Ben Allen, January 22, 1939, HP.

[117] Ben Allen to James Selvage, April 11, 1939, *ibid.*

[118] Reprinted in *ibid.*, pp. 197–207.

[119] Reprinted in *ibid.*, pp. 208–214.

[120] Rickard Diary, September 21, 1939; Bridges to Hoover, August 31, 1939, and Gross to Hoover, September 9, 1939, HP.

[121] See Gross to Hoover, September 9, 1939, *ibid.*

[122] John Henry to Landon, September 8, 1939, LP.

[123] Alan Fox to Larry Richey, November 3, 1939, HP.

[124] Willard to Hoover, November 3, 1939, and Hoover to Willard, November 19, 1939, *ibid.*

[125] Rickard Diary, January 3, 1940; for the complete story of Hoover's relief activities during this period, see Hoover, *An American Epic* (Chicago, 1964), Iv, 1–73.

[126] MacChesney to Monte Appel, December 15, 1939, and Appel to MacChesney, December 16, 1939, MacChesney Papers, Hoover Presidential Library.

[127] Results of Lewis Strauss polls of February 14, 1940, and of Queens postcard poll, Februay 14, 1940, in HP.

[128] Gross to Hoover, February 16, 1940, *ibid.*

[129] Reprinted in *Further Addresses Upon the American Road, 1938–40*, pp. 69–81.

[130] Memorandum by Hoover, April 22, 1940, in HP.

[131] Rickard Diary, April 12, 1940, and April 15, 1940.

[132] *Ibid.*, April 17, 1940.

[133] See, for example, Orville Bullington to Lawrence Richey, May 30, 1940, HP.

[134] "Political Outlook for 1940," by Opinion Research Corporation, May 21, 1940, *ibid.*

[135] Rickard Diary, May 29, 1940, and May 31, 1940.

[136] *Ibid.*, June 13, 1940.

[137] Press release of June 21, 1940, in HP.

[138] See, for example, James Hagerty in the *New York Times*, June 20, 1940.

[139] *New York Times*, June 19, 1940.

[140] Reprinted in *ibid.*, June 25, 1940.

[141] Rickard Diary, June 29, 1940.

[142] See, for example, Hoover to Justus Kramer, July 17, 1940, HP.

[143] Hoover to Walter Brown, July 26, 1940, Brown Papers, Ohio History Center.

[144] Reprinted in Hoover, *Addresses Upon the American Road. 1940–41* (New York, 1941), pp. 224–239.

[145] Reprinted in *ibid.*, pp. 34–51.

[146] Reprinted in *ibid.*, pp. 240–255.

[147] "Foreign Policies Today," in *Liberty Magazine*, April 15, 1939; reprinted in *ibid.*, pp. 104–115.

[148] Reprinted in *Addresses Upon the American Road, 1940–41*, pp. 116–128.

[149] Reprinted in *ibid.*, pp. 129–138.

[150] Hoover to O'Laughlin, August 28, 1939, JCO.

[151] "Hoover comments on the outbreak of European War, 9–1–1939," in Public Statements, 1939, HP.

[152] Reprinted in *Further Addresses Upon the American Road, 1938–40*, pp. 139–157.

[153] Interview with Roy Howard, October 3, 1939, Public Statements, 1939, HP.

[154] Rickard Diary, October 10, 1939; Gross to Hoover, October 5, 1939, HP; for Hoover's proposal, see "Memorandum of Neutrality Bill Sent to Several Senators, Congressman, and Others, October 11, 1939," in Public Statements, 1939, HP.

[155] "Russian Misadventure," *Collier's*, April 27, 1940, reprinted in *Further Addresses Upon the American Road, 1938–40*, pp. 158–171.

[156] "Press Statement on Production for National Defense, May 17, 1940," in Public Statements, 1940, HP.

[157] Hoover to Martin, May 17, 1940, HP.

[158] *New York Times*, June 27, 1940.

[159] Hoover to O'Laughlin, August 15, 1944, JCO.

[160] "Hoover's Statement on Naval and Air Bases, September 4, 1940," in Public Statements, 1940, HP.

[161] Hoover to Arthur Hyde, November 19, 1940, Papers of the National Committee for Food for the Small Democracies, Hoover Institution on War, Revolution and Peace.

[162] Reprinted in *Addresses Upon the American Road, 1940–41*, p. 63.

Hoover Papers, Hoover Institution on War

[163] McCoy, pp. 456–457.

[164] Hoover to Vandenberg, January 24, 1941, Revolution and Peace; hereafter cited as HPHI.

[165] Vandenberg to Hoover, January 27, 1941, HPHI.

[166] See, for example, Hoover to O'Laughlin, February 2, 1941, and O'Laughlin to Hoover, February 3, 1941, and February 24, 1941, all in JCO.

[167] Hoover to Hendrick Van Loon, February 21, 1941, Papers of the National Committee for Food for the Small Democracies, Hoover Institution on War Revolution and Peace.

[168] Rickard Diary, February 28, 1941.

[169] "A Reply to British Refusal to Permit Relief," March 10, 1941, reprinted in *Addresses Upon the American Road, 1940–41*, pp. 156–161.

[170] Reprinted in *Addresses Upon the American Road, 1940–41*, pp. 66–76.

[171] Hoover to Samuel Crowther, April 1, 1941, HP.

[172] Hoover to Ben Allen, April 2, 1941, *ibid.*

[173] Reprinted in *Addresses Upon the American Road, 1940–41*, pp. 77–86.

[174] Reprinted in *ibid.*, pp. 87–102.

[175] Paul D. Boone to Landon, May 28, 1941, LP.

[176] Hoover to Landon, June 27, 1941, HP.

[177] Kennedy to Hoover, July 29, 1941, wire, *ibid.*

[178] *New York Times*, August 6, 1941.

[179] "The First American Crusade," *Saturday Evening Post*, November 1, 8, and 15, 1941.

[180] "Shall We Send Armies to Europe? And a Way to National Unity," in Public Statements, 1941, HP.

[181] Hoover to O'Laughlin, February 8, 1938, JCO.

[182] Hoover to O'Laughlin, July 31, 1939, *ibid.*

[183] Hoover to O'Laughlin, August 5, 1940, *ibid.*

[184] Hoover to O'Laughlin, August 30, 1941, *ibid.*

[185] Hoover to O'Laughlin, September 6, 1941, *ibid.*

[186] Hoover to O'Laughlin, November 16, 1941, *ibid.*

[187] For a good treatment of the "new" image of Hoover, see Joan Hoff Wilson, *Herbert Hoover: Forgotten Progressive* (Boston, 1975), pp. 269–282.●

IMPACT STATEMENT ON S. 1468

● Mr. BAYH. Mr. President, Report No. 96–428 on S. 1468 did not include several impact statements. The following statement will remedy the omission:

> Paragraph 5(a) of Senate Rule XXIX, requires each report accompanying a bill to evaluate the regulatory impact which would be incurred in carrying out that bill. S. 1468 will have no significant regulatory impact. In addition, it is not expected that S. 1468 will have any impact on Federal paperwork or the personal privacy of any individuals.●

SURFACE MINING—SETTING THE RECORD STRAIGHT

Mr. HATFIELD. Mr. President, a number of recent occurrences have made it important that the record be set straight with regard to the amendments to the Surface Mining Act recently passed by the Senate. Since passage of S. 1403 in this body on September 11, there have been a number of editorials which have characterized this bill as an attempt to "gut" the Surface Mining Act.

Moreover, in a letter to 25 committee members who had requested action on S. 1403 in the House, Congressman UDALL utilized similar and more vivid terms to denounce the proposed amendments. Finally, the Office of Surface Mining, since passage of S. 1403, has initiated a flurry of activities apparently motivated by the desire to convince the Congress and the States that there is no necessity for amendments to the Surface Mining Act.

I believe that thoughtful legislators in the House and responsible citizens can read and determine for themselves the scope and impact of S. 1403, and become convinced that the characterizations to which I have referred are absolutely inaccurate. The Senate amendments do nothing to the strict environmental protection standards of the act.

The Senate has merely reaffirmed the Congress original intent that the States are to take the lead role in implementing the act and not the Federal Office of Surface Mining. The amendments do not alter the absolute duty of the Secretary of the Interior to review and reject any State-proposed regulations issued to implement the Federal law which he finds inconsistent with that law. A careful review of this bill and the original act will show clearly that the only thing "gutted" by S. 1403 is the overreaching regulatory excesses of a Federal agency.

While a simple reading of the bill will quickly correct the misinformation spawned by those few who would choose to protect an overzealous bureaucracy, it is somewhat more difficult to follow the Byzantine workings of the Office of Surface Mining in its attempt to befuddle the public with administrative efforts to make it appear that the necessity for S. 1403 has disappeared.

To assist my colleagues, I have prepared a relatively concise statement of recent developments in the Office of Surface Mining. I believe the following account demonstrates that the actions of this agency are designed to confuse the public on this important piece of legislation. Further, these agency actions suggest to me that the Office of Surface Mining has no intention of administratively granting the relief which S. 1403 would provide by legislation.

Mr. President, I will address the three principal provisions of S. 1403 and indicate the actions OSM has recently taken with regard to each.

I. TIME EXTENSIONS FOR STATE PROGRAMS & OSM REVIEW

On March 13, 1979, OSM published its permanent program regulations, thus missing by over 7½ months the statutory deadline for these regulations. In spite of this fact, no administrative effort was made to extend the August 3, 1979, deadline by which States were also required by statute to submit their program applications. Only after the outrage of the States had been heard, and suit filed by two States on the issue, did OSM indicate any movement toward relief.

Secretary Andrus, in mid-June of this year, proposed to the Energy Committee that the Surface Mining Act be amended to extend by 7 months the August 3, 1979, deadline and the June 3, 1980, deadline for Federal review of State programs. According to a memorandum opinion by his solicitor, the Secretary considered the August 3 deadline as permissive—therefore extendable by agency action. However, the June 3, 1980, deadline was considered mandatory and thus subject to extension only by legislative action.

In spite of this legal assessment, the agency as late as July 25 of this year had failed to initiate any specific action to defer the August 3 deadline facing the States. In documents filed with the U.S. District Court for the District of Columbia, Government attorneys indicated that the Secretary "intended" to provide an additional 60 days submission time for those States which requested it.

Two of those States, Virginia and Illinois, were at that very time seeking judicial relief from the August 3 deadline through a request for a preliminary injunction against the Department. Judge Thomas A. Flannery of the U.S. district court here, at the conclusion of oral arguments on July 25, ruled from the bench enjoining the Secretary from enforcing the August 3 deadline for State program submission and extending that deadline until March 3, 1980. And, he acknowledged the Department's legal conclusion regarding the need for legislation to extend the June 3, 1980, date, an extension which S. 1403 specifically addresses.

In a subsequent written opinion on August 21 which permanently enjoined the August 3 deadline, Judge Flannery took note of the proposed "administrative relief" offered by OSM and observed that "the Secretary's promise of 'appropriate' time provides only the illusion of relief."

In spite of the fact that this order was issued on July 25, there was no further action by the agency on this issue until October 22, 1979. Then, in his first official proclamation on the matter, the Secretary advised the public that the August 3 deadline—now 2½ months past—had been extended by court order until March 3, 1980. OSM regulations to the contrary were thereby amended. However, in that same public notice, the Department noted that legislative action pending in the U.S. Congress had not extended the June 3, 1980, deadline.

As a result, since the Department was faced with but 3 months between March and June in which to review State program applications, the Secretary took the unprecedented action of deleting from the existing regulations governing the processing of State programs the provisions for: First, review by the regional director at the local level; second, all of the notice and public hearing requirements contained in the existing rules; and third, the schedule for secretarial review and the concurrence requirements of the Administrator of EPA.

It is in this delinquent and surreptitious manner that the Department has attempted to deal administratively with the statutory deadlines imposed upon it by the Surface Mining Act. In the face of these unusual developments, it does not surprise me to find the Secretary returning to his chief lawyers for yet another—and opposite—opinion as to the authority of the Department to extend the June 3, 1980, deadline.

II. DEFERRAL OF THE FEDERAL LANDS PROGRAM DEADLINE

In the same rules issued on March 13, 1979, the Secretary established the arbitrary date of October 12, 1979, as the deadline for the imposition of a Federal lands program. This meant that upon that date all coal mining operations on Federal lands—and for Western States this means a significant percentage of all mining operations—would be subject to immediate compliance with the new permanent program regulations.

Again, the States were outraged because such a time schedule robbed States of any real opportunity to regulate mining on Federal lands. This was true since the Federal lands program would be in place and administered by the Federal Government months before the State program had been submitted or acted upon, and thus before new cooperative agreements could be negotiated.

It was with this background that the Energy Committee—at the urging of Governor Herschler of Wyoming—accepted an amendment to defer the implementation of the Federal lands program until after State programs had been reviewed. The purpose of this change was to assure that the States were granted the intended opportunity to regulate mining on Federal lands and thus eliminate a dual State/Federal regulatory scheme in the Western States.

It is most interesting to chronicle the history of the Department's participation in this particular request for relief. Initially, Secretary Andrus joined the Western Governors in support of this proposed change in the law. However, in a surprise turnabout, the Secretary on July 16 forwarded a letter to Senator Jackson withdrawing his support for the Federal lands extension. Attached to his letter was a memorandum from the Environmental Policy Center detailing the perceptions of that group as to the impact of the amendment.

The Secretary, however, did not propose to leave the October 12 deadline problem unaddressed. In his letter, the Secretary cited a rulemaking petition from the State of Montana requesting a change in the Federal lands schedule. And, in concluding his July 16 letter to the Energy Committee, the Secretary implied that administrative relief would soon be granted.

After leaving the committee with this implication, the Department undertook no public efforts toward granting this administrative relief for 11 weeks, until September 28, which, coincidentally, was after Senate passage of S. 1403.

In the Federal Register notice of the proposed rulemaking on the new Federal lands program, the proposed changes were touted as granting the relief requested by the Western States—the deferral of the application of the Federal lands program until State program approval. However, the specific language of the proposed new rules applied only to existing mining operations. New mines, or "major extensions," became subject to the full panoply of Federal regulation 6 months earlier on April 12, 1979.

If the fallacy of this attempt at administrative "relief" were not apparent on its face, it should have become clear in the course of the public hearing on these new rules. On October 18, in Denver, State witnesses unanimously denounced the proposal as no relief at all because of fuzzy and ill-defined language which appeared to make between 30 percent and 90 percent of all existing mines subject to immediate Federal regulatory control. So superficial was this new rulemaking effort that one witness was prompted to state, and I quote: "It's not nice to try to fool the Congress."

Incidentally, in its apparent haste to grant the administrative relief, the Department neglected to take any administrative action to defer the October 12 deadline. Consequently on October 11, 1 day before the imposition of the Federal lands program, a Federal Register notice appeared granting a "temporary suspension" to the regulatory deadline. And, as this saga continues, Secretary Andrus just recently finalized the new Federal lands compliance schedule which presumably grants the relief requested by Montana and the Western States. The Secretary has yet to release that schedule, and, therefore, the scope of this relief, which I assume is forthcoming, remains to be seen.

III. RETURN OF STATE LEAD IN RULEMAKING

The third and the most crucial element of S. 1403 addresses an issue which the Governors have emphasized is essential if the States are to have the lead in implementing the Surface Mining Act as we originally intended. This change has been specifically endorsed by 20 States over the last 4 months. The change would delete the provision from the act that OSM has interpreted as requiring State program applications to be mirror images of the Federal rules. In effect, OSM has said "we have interpreted the law and written regulations, and you, Mr. Governor, can take our rules or forfeit the right to regulate surface mining in your State."

The specific language in the act which OSM has used to reach this result is contained in section 503(a)(7). This provision—which S. 1403 would delete—requires State program applications to contain:

> (7) Rules and regulations consistent with the regulations issued by the Secretary pursuant to this Act.

With characteristic candor OSM representatives have told the States and the Congress that there is sufficient administrative flexibility in the so-called "State window" rule to achieve the same relief which S. 1403 would grant. Allow me to read for you the key provision of this rule which can be found at 30 C.F.R. 731.13. This is the subsection which requires any State wishing to deviate from a Federal program to show:

> (1) that the proposed alternative will be in accordance with the applicable provisions of the Act and consistent with the regulations of this chapter.

Assuming that this "consistent with" language does not create an inescapable Catch-22 situation, use of this provision is simply not feasible. Governors appearing before the Energy Committee testified that based upon their experience in dealing with OSM representatives, the effort required to obtain a single State window exception would approach the effort and expense of major litigation.

Since our passage of S. 1403, OSM has not undertaken new administrative actions to amend or to implement the State window rule. However, in a presentation at the National Governors Association meeting in St. Louis on November 5, OSM representatives displayed total disagreement as to precisely how this provision would be implemented. They did indicate that their present interpretation of the permanent program regulations indicated over 100 instances where individual State regulations could be submitted.

Unfortunately, these 100 specific regulations had been interpreted by the States as basic grants of local authority and not as requirements to come forward with the evidentiary showing required by the State window rule. Furthermore, the clear implication was given that no State window deviations would be allowed from the Federal lands program rules in spite of the fact that they have been deferred in order to allow the States to tailor regulations suitable for Federal lands within their boundaries.

The manner in which the agency will respond to State requests for flexibility through the State window is purely speculative at this point. Most States have not yet submitted their State programs, and many have indicated that they will not be able to file until the March 3, 1980, deadline. Thus, if S. 1403 is not enacted soon, the States will be required to rely on the good faith of the Office of Surface Mining in allowing the States to prepare regulations which are appropriate for local conditions.

I, for one, am not anxious to leave these important decisions to an agency which has over the last 3 months undertaken the erratic, superficial, and, at times, misleading rulemakings.

Furthermore, OSM's record to date in dealing with State program applications is disconcerting, to say the least. The State of Texas, which was one of two States submitting applications by the original August 3 deadline, elected to pass a State law and promulgate State regulations which were identical to Federal requirements. Six weeks later, after public hearing on the Texas application, OSM ruled that the application was incomplete. What, you might ask, could be missing from a State program which was identical to the Federal law and regulations? According to OSM attorneys Texas had neglected to provide:

> . . . a section by section comparison of the Texas laws and regulations with the federal Act and regulations as required by 30 CFR 731.14(c).

Texas was provided with an additional month to correct this deficiency, and if it failed to do so, would forfeit the right to resubmit a State program application until after the Federal Government had imposed a Federal program for the State.

Mr. President, I believe that this restatement of recent activities of the Office of Surface Mining since passage of S. 1403 will be helpful to my colleagues and to Members of the House, as they consider the plight of the States in submitting reclamation programs and as they review the legislative stonewalling in the House Interior and Insular Affairs Committee.●

THE FTC—DOING TOO GOOD A JOB?

● Mr. METZENBAUM. Mr. President, there is a disturbing note of irony in the debate surrounding reauthorization of the Federal Trade Commission. For many years, a chief complaint in Congress was that Federal regulatory agencies were ineffective. They were not doing their jobs properly.

Today, if you listen closely to the debate on the FTC, you hear that it is being criticized for now doing its job too well. In recent years, the FTC has become more aggressive in carrying out its congressional mandate to encourage competition and discourage misrepresentation in business. And as a result, it has stepped on many toes.

Fortunately, not everyone agrees that this is bad and that the FTC should be punished for its diligence. I ask that an editorial on this subject which appeared in the Philadelphia Record on November 29 be printed in the Record.

The editorial follows:

Overkill, Not Oversight

> Odd, is it not? For years the public has had a chronic and quite justified complaint that the agencies Congress established to regulate in the public interest have not been doing their job. So what happens when one of those agencies springs out of its soporific state and starts doing its job?
>
> The agency is the Federal Trade Commission, established in 1914, on the recommendation of President Woodrow Wilson, to prevent unfair methods of competition and unfair business practices. In the last two and a half years, under the direction of chairman Michael Pertschuk, the agency has gone after false advertising and monopolistic practices, looked into industries previously ignored, and in general played exactly the activist role Congress originally intended and the public has the right to expect.
>
> And how does Congress respond?
>
> It moves to cut off the FTC at the knees.
>
> The House, by an overwhelming vote of 321 to 63, has just passed a bill to curtail the FTC's powers in all sorts of directions. It would, for one thing, subject the commission's industrywide rulings to a veto by either chamber of the Congress. This is not oversight. It is overkill. It means special interests would lobby their cases directly to the Congress, which by its attack on the FTC is showing itself more than subservient to their desires.
>
> The bill also forbids the FTC to enforce antitrust laws against agricultural cooperatives. The purpose is specifically to stop the FTC's antitrust action against Sunkist Growers, Inc., an unprecedented congressional interference with an ongoing law enforcement proceeding.
>
> The bill also contains the previously approved amendment to prevent the commission from regulating the funeral industry, where notorious abuses have been documented. Meanwhile, the Senate Commerce Committee has voted to prevent the FTC from looking into the insurance industry and from requiring warranties for used cars.
>
> The House bill, declared one of its main backers, Rep. Elliot H. Levittas (D., Ga.), "sends a signal to the bureaucracy and to the American people that the trend to more government and less control by the people is ended." Quite the contrary. The signal is that the trend in this Congress is to more government of the lobbyists, for the lobbyists and by the lobbyists—an ominous trend that must be reversed.●

SMALL BUSINESS INNOVATION ACT

● Mr. DURKIN. Mr. President, I am here today to cosponsor S. 1860, the Small Business Innovation Act of 1979. This bill will go a long way in encouraging the Government to tap the highly inventive and extremely cost-effective resources of small research and development firms in New Hampshire and throughout the Nation.

It is a widely known fact that the light bulb was invented by Thomas Edison and not General Electric. I mention this simply to highlight the lesser known fact that over 50 percent of the inventions in this country emerge from the small business community. It will be the modern day Edisons who will help lead us into a bright, productive, energy-independent future. And I believe the Federal Government should do everything possible to spur the resurgence of small business.

Not only are small firms more innovative than large firms, they are also more economical. The cost of employing research scientists from small firms is half as much as it is in employing large-firm scientists. Despite these hard facts, the Government awards less than 4 percent of its research and development money to small firms. This is clearly not the most productive cost-effective approach.

The bill I am cosponsoring today will change this misguided Government policy and the small business community of New Hampshire will be better off for it.

The Small Business Innovation Act has four main components which will spur the expansion of small research and development firms and small business in general.

It would insure small business of receiving at least 20 percent of Federal research and development money,

It would protect small firms from patent infringement by large multi-national conglomerates,

It would provide tax incentives to spur the expansion of small business, and

It would create a more realistic and streamlined regulatory system for small business, which will tailor the regulations to the size of the firm.

The bill requires each Federal department or agency to increase the percentage of money awarded to small business in research and development contracts. A 1-percent increase would be immediately instituted and would continue until small business received at least 20 percent of an agency's total research and development budget. Any Federal agency which has a research and development budget exceeding $100 million would be required to start a small business competitive solicitation program modeled after the highly successful National Science Foundation program.

Both of these requirements will insure New Hampshire's small businesses of getting its fair share of research and development contracts, and as importantly, it will insure the Government of getting the most for its contract money.

The second part of this legislation helps protect the small firm from patent infringement by large multi-national companies. Presently large conglomerates can take over small business inventions knowing the small firms cannot afford to challenge them. Today the price for the average patent litigation is about a quarter of a million dollars. This cost is clearly prohibitively high for the small business. The Small Business Innovation Act would allow the Patent and Trademark Office to reexamine contested appeals, eliminating expensive legal fees and providing some valuable patent protection. Patents which were upheld by the Office could not be appealed, however, invalidated patents could be appealed.

This bill also allows small businesses to keep the patent rights on inventions made under federally sponsored research. This too would protect small firms which accept Government research contracts. Additionally this legislation provides tax deductions for equipment or plant facilities to small firms which spend a certain percentage of their money in research and development. Also small businesses could establish a cash reserve specifically for future research and development expenses. Finally tax incentives would be given to encourage stock investment in small business.

This legislation would also cut through the expensive, time consuming, and, all too often, unnecessary redtape which small businesses face due to Government overregulation. The Small Business Innovation Act requires all Federal agencies to use some common sense in drawing up their regulations so that the size of the firm is taken into consideration. A small New Hampshire business should not have to comply to the same set of regulations as a large multinational company and the bill I am cosponsoring today will go a long way in reducing the regulatory burden now shouldered by small business.

Small business is the backbone of our economy and historically has been the spawning ground for great innovation. This legislation is designed to encourage the revitalization of small business and to tap its great potential for invention. Prompt passage of this bill will not only benefit the small business community but it will also be an important step to leading the country back down the road to economic recovery.●

THE HOPE OF BIOMEDICAL RESEARCH

● Mr. BAYH. Mr. President, more than any other season, this time of the year is the season of hope. And next to the hope for peace and freedom from hunger, no hope is stronger among people all around the world than the hope that crippling and killer diseases that have long plagued mankind can at long last be eradicated, and that the pain and suffering and unbearable loss resulting from them will end.

It therefore seems fitting at this time to pay tribute to the progress we have made in our conquest of these diseases and to reiterate our determination to continue without slackening.

For those who share my hopes I call attention to an essay from an extremely popular, erudite, provocative and fittingly optimistic book entitled "The Medusa and the Snail," by Dr. Lewis Thomas. Dr. Thomas is president of the world-renowned Memorial Sloan-Kettering Cancer Center in New York City.

It is hard to believe or to remember, depending upon one's age, that medicine as we know it, that can heal, cure and provide therapy began only in the mid-1930's, only about 40 short years ago. As Dr. Thomas states:

> Overnight we became optimists, enthusiasts. The realization that disease could be turned around by treatment, provided that one know enough about the underlying mechanism, was a totally new idea just 40 years ago.

And beginning then, we gained the ability to treat, to cure and even to eradicate one disease after another. We now have remaining "a list of around 25 major afflictions of man in this country."

And it is important to remember as Dr. Thomas reminds us, "that the major diseases of human beings have become approachable biological puzzles ultimately solvable. It follows from this that it is now possible to begin thinking about a human society relatively free of disease—an unthinkable notion a half century ago. We have already become in the Western world, on the record, the healthiest society in the history of humankind. Compared with a century ago, when every family was obliged to count on losing members throughout the early years of life, we are in a new world."

These encouraging facts are due in large part to the results of our biomedical research effort. Our federally funded biomedical research effort, which is less than 3 percent of the total annual cost of today's health industry is, I believe, one of our most important Federal initiatives. As Dr. Thomas states:

> It is nothing like as expensive as trying to live with the half-way technology we are obliged to depend on in medicine today; if we try to stay with these for the rest of the century that cost will go through the ionosphere.
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> We need to know more. To come to realize this is what this seemingly inconclusive century has been all about. We have discovered how to ask important questions, and now we really do need, as an urgent matter, for the sake of our civilization, to obtain some answers. We now know that we cannot do this any longer by searching our minds, for there is not enough there to search, nor can we find the truth by guessing at it or by making up stories for ourselves. We cannot stop where we are, stuck with today's level of understanding, nor can we go back. I do not see that we have a real choice in this—for I can only see the one way ahead.
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> The progress which we have achieved, the health advantages we enjoy today we owe to the investments of the past. We must continue this research tradition unabated, as our debt to the past and as the investment we owe to our children's future. Any pause or slackening of effort or commitment on our part may not, by the very nature of research, be felt for years. But it will be felt, the loss will be ours, or worse still, our children's. And again by the very nature of research, no crash programs can attain the same results. Research cannot be turned off and on like a spigot. We cannot afford not to continue and not to increase our efforts to understand the dynamics of remaining diseases, and the treatments to defeat them.
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> For that reason, I believe that there are few actions of this session of Congress of which we can be prouder, and which it is more appropriate to call to notice during this season of hope, than the appropriations which we made assuring the continued work and research of the National Institutes of Health.

Mr. President. I would like to make special note of the extraordinary achievements of the National Institutes of Health.

The National Institutes of Health serves as the cutting edge for biomedical science. By conducting research in its own laboratories and funding scientists in universities, medical schools and hospitals to perform health research, the National Institutes of Health seeks the knowledge that will enable us to prevent and cure the forms of illness that plague our society today. Already, we have seen the fruits of health research free us from the invidious onset of polio and from the clutches of other infectious diseases.

For fiscal year 1980, this Congress has appropriated $3.36 billion to the National Institutes of Health, so its vital work can continue. Professional scientists in laboratories situated in every corner of this Nation will experiment and answer questions essential to understanding fundamental processes underlying human health, disability, and disease. In Indiana alone, this money will allow for research at Ball State, Goshen College, Indiana State, Indiana University, Purdue University, and the University of Notre Dame. We are indebted to each one of these research scientists for their invaluable contributions. Supporting this health research enterprise is a very wise investment for ourselves, our children, and future generations.

An exhaustive list of National Institutes of Health accomplishments would be too long to recite, but several recent advances exemplify what this investment can mean to each of us.

The National Cancer Institute has spurred the development of primary multimodality treatment—the utilization of all the best treatments together shortly after diagnosis—perhaps the major advance in the treatment of cancer in this decade. It has resulted in promising results for patients with malignant melanoma (malignant moles), small cell lung cancer, stomach cancers, and even tumors originating in the brain, and, the development of new drugs which enhance the effects of radiotherapy or reduce the toxicity of cancer treatment. Less than 10 years ago, these patients would have been doomed to short, painful, and hopeless struggles with a relentless killer. The National Cancer Institute has initiated clinical and animal studies of interferon, a naturally occurring protein substance with some activity against tumors, as a treatment for cancer patients. The NCI has identified 107 cancer-causing agents and, thus, provided new opportunities for cancer prevention, particularly in the workplace. Research at the molecular level has enabled cancer scientists to analyze the processing of hereditary information in cells and may lead to understanding how genes malfunction when cancer begins to develop.

Through National Institutes of Health research efforts, significant progress is being made in identifying factors that cause or contribute to diabetes, and in developing more effective methods for treating this disease and its complications. The recent development and evaluation of improved devices for controlling delivery of insulin to the body and the refinement of procedures for transplanting insulin-producing pancreatic cells, offer the potential for improving the control of blood sugar in insulin-dependent diabetic patients and of the life-threatening complications of this disease.

National Institutes of Health research on arthritis and related musculoskeletal diseases is providing new insight into the origin of these conditions, as well as promising approaches for treating afflicted patients. Recent studies suggest that a radioactive element, injected into arthritic joints, may be an alternative to the costly and painful surgical removal of diseased joint tissue. Other investigations indicate that various infectious agents may be involved in the onset of certain forms of arthritis.

Cystic fibrosis, an inherited disease which strikes the lungs whose victims rarely survive the second decade of life, occurs in one out of every 2,000 live births in the United States. National Institutes of Health-supported researchers have made significant progress in developing a reliable and reproducible carrier test to identify the one in 20 asymptomatic Americans who unknowingly carry the disease. National Institutes of Health supported investigators at Childrens Hospital Medical Center in Boston have developed a cell culture method which can distinguish between cystic fibrosis patients, asymptomatic gene carriers, and normal individuals.

The National Institute of Neurological and Communicative Disorders and Stroke (NINCDS) of the National Institutes of Health has responsibility for research in a group of diseases affecting 40 to 50 million Americans. For many people with epilepsy, the development of better drugs is their only hope of controlling their seizures; NINCDS has made a great contribution toward solving this urgent problem. Data from NINCDS-supported studies done in Indiana and Virginia led to the approval and marketing of several antiepileptics, including valproic acid in 1978. The Institute currently sponsors a large anticonvulsant screening program which seeks to find more potent and less toxic antiepileptic compounds.

NINCDS research has made significant inroads towards understanding Huntington's Disease, a hereditary disorder which kills its victims in 10 to 20 years. Investigators have found that levels of certain neurotransmitters, including gamma aminobutyric acid, are much lower than normal in the brains of Huntington's Disease patients. Institute-supported work has also uncovered several physical and biochemical abnormalities in the brain cells of HD patients. NINCDS has recently entered into a contract with the University of Indiana to set up a roster for Huntington's Disease families, which will allow research in this area to increase exponentially—as scientists will have improved access to research volunteers, and families will be able to participate in the research vital to the discovery of new treatments and cures.

Our investment in research since the Second World War, and in the National Institutes of Health in particular, is in many ways responsible for the unparalleled progress of medicine in the 20th century. We must always support and never impede the mission of this proud research institution. A strong and prosperous National Institutes of Health is a sound strategy for improving the health of this Nation and the world.

And finally, Mr. President, I would like to insert as a kind of Christmas gift for readers of the RECORD and for all the thousands around the country on the biomedical research team—the researchers and the devoted lay people who spend so many hours working so hard to make this research possible—Dr. Thomas's elegantly written and optimistically informative marching orders—his essay "Medical Lessons from History" from The Medusa and the Snail—More Notes of a Biology Watcher.

The essay follows:

MEDICAL LESSONS FROM HISTORY

It is customary to place the date for the beginnings of modern medicine somewhere in the mid-1930s, with the entry of sulfonamides and penicillin into the pharmacopoeia, and it is usual to ascribe to these events the force of a revolution in medical practice. This is what things seemed like at the time. Medicine was upheaved, revolutionized indeed. Therapy had been discovered for great numbers of patients whose illnesses had previously been untreatable. Cures were now available. As we saw it then, it seemed a totally new world. Doctors could now *cure* disease, and this was astonishing, most of all to the doctors themselves.

It was, no doubt about it, a major occurrence in medicine, and a triumph for biological science applied to medicine but perhaps not a revolution after all, looking back from this distance. For the real revolution in medicine, which set the stage for antibiotics and whatever else we have in the way of effective therapy today, had already occurred one hundred years before penicillin. It did not begin with the introduction of science into medicine. That came years later. Like a good many revolutions, this one began with the destruction of dogma. It was discovered, sometime in the 1830s, that the greater part of medicine was nonsense.

The history of medicine has never been a particularly attractive subject in medical education, and one reason for this is that it is so unrelievedly deplorable a story. For century after century, all the way into the remote millennia of its origins, medicine got along by sheer guesswork and the crudest sort of empiricism. It is hard to conceive of a less scientific enterprise among human endeavors. Virtually anything that could be thought up for the treatment of disease was tried out at one time or another, and, once tried, lasted decades or even centuries before being given up. It was, in retrospect, the most frivolous and irresponsible kind of human experimentation, based on nothing but trial and error, and usually resulting in precisely that sequence. Bleeding, purging, cupping, the administration of infusions of every known plant, solutions of every known metal, every conceivable diet including total fasting, most of these based on the weirdest imaginings about the cause of disease, concocted out of nothing but thin air—this was the heritage of medicine up until a little over a century ago. It is astounding that the profession survived so long, and got away with so much with so little outcry. Almost everyone seems to have been taken in. Evidently one had to be a born skeptic, like Montaigne, to see through the old nonsense; but even Montaigne, who wrote scathingly about the illnesses caused by doctoring centuries before Ivan Illich, had little effect. Most people were convinced of the magical powers of medicine and put up with it.

Then, sometime in the early nineteenth century, it was realized by a few of the leading figures in medicine that almost all of the complicated treatments then available for disease did not really work, and the suggestion was made by several courageous physicians, here and abroad, that most of them actually did more harm than good. Simultaneously, the surprising discovery was made that certain diseases were self-limited, got better by themselves, possessed, so to speak, a "natural history." It is hard for us now to imagine the magnitude of this discovery and its effect on the practice of medicine. The long habit of medicine, extending back into the distant past, had been to treat everything with something, and it was taken for granted that every disease demanded treatment and might in fact end fatally if not treated. In a sober essay written on this topic in 1876, Professor Edward H. Clarke of Harvard reviewed what he regarded as the major scientific accomplishment of medicine in the preceding fifty years, which consisted of studies proving that patients with typhoid and typhus fever could recover all by themselves, without medical intervention, and often did better for being untreated than when they received the bizarre herbs, heavy metals, and fomentations that were popular at that time. Delirium tremens, a disorder long believed to be fatal in all cases unless subjected to constant and aggressive medical intervention, was observed to subside by itself more readily in patients left untreated, with a substantially improved rate of survival.

Gradually, over the succeeding decades, the traditional therapeutic ritual of medicine was given up, and what came to be called the "art of medicine" emerged to take its place. In retrospect, this art was really the beginning of the science of medicine. It was based on meticulous, objective, even cool observations of sick people. From this endeavor we learned the details of the natural history of illness, so that, for example, it came to be understood that typhoid and typhus were really two entirely separate, unrelated disorders, with quite different causes. Accurate diagnosis became the central purpose and justification for medicine, and as the methods for diagnosis improved, accurate prognosis also became possible, so that patients and their families could be told not only the name of the illness but also, with some reliability, how it was most likely to turn out. By the time this century had begun, these were becoming generally accepted as the principal responsibilities of the physician. In addition, a new kind of much less ambitious and flamboyant therapy began to emerge, termed "supportive treatment" and consisting in large part of plain common sense: good nursing care, appropriate bed rest, a sensible diet, avoidance of traditional nostrums and patent medicine, and a measured degree of trust that nature, in taking its course, would very often bring things to a satisfactory conclusion.

The doctor became a considerably more useful and respected professional. For all his limitations, and despite his inability to do much in the way of preventing or terminating illness, he could be depended on to explain things, to relieve anxieties, and to be on hand. He was trusted as an adviser and guide in difficult times, including the time of dying.

Meanwhile, starting in the last decade of the nineteenth century, the basic science needed for a future science of medicine got under way. The role of bacteria and viruses in illness was discerned, and research on the details of this connection began in earnest. The major pathogenic organisms, most notably the tubercle bacillus and the syphilis spirochete, were recognized for what they were and did. By the late 1930s this research had already paid off; the techniques of active and passive immunization had been worked out for diphtheria, tetanus, lobar penumonia, and a few other bacterial infections; the taxonomy of infectious disease had become an orderly discipline; and the time was ready for sulfanilamide, penicillin, streptomycin, and all the rest. But it needs emphasizing that it took about fifty years of concentrated effort in basic research to reach this level; if this research had not been done we could not have guessed that streptococci and pneumococci exist, and the search for antibiotics would have made no sense at all. Without the long, painstaking research on the tubercle bacillus, we would still be thinking that tuberculosis was due to night air and we would still be trying to cure it by sunlight.

At that time, after almost a century of modified skepticism about therapy amounting finally to near nihilism, we abruptly entered a new era in which, almost overnight, it became possible with antibiotics to cure outright some of the most common and lethal illnesses of human beings—lobar pneumonia, meningitis, typhoid, typhus, tuberculosis, septicemias of various types. Only the virus diseases lay beyond reach, and even some of these were shortly to come under control—as in poliomyelitis and measles—by new techniques for making vaccines.

These events were simply overwhelming when they occurred. I was a medical student at the time of sulfanilamide and penicillin, and I remember the earliest reaction of flat disbelief concerning such things. We had given up on therapy, a century earlier. With a few exceptions which we regarded as anomalies, such as vitamin B for pellagra, liver extract for pernicious anemia, and insulin for diabetes, we were educated to be skeptical about the treatment of disease. Military tuberculosis and subacute bacterial endocarditis were fatal in 100 percent of cases, and we were convinced that the course of master diseases like these could never be changed, not in our lifetime or in any other.

Overnight, we became optimists, enthusiasts. The realization that disease could be turned around by treatment, provided that one knew enough about the underlying mechanism, was a totally new idea just forty years ago.

Most people have forgotten about that time, or are too young to remember it, and tend now to take such things for granted. They were born knowing about antibiotics, or the drugs simply fell by luck into their laps. We need reminding, now more than ever, that the capacity of medicine to deal with infectious disease was not a lucky fluke, nor was it something that happened simply as the result of the passage of time. It was the direct outcome of many years of hard work, done by imaginative and skilled scientists, none of whom had the faintest idea that penicillin and streptomycin lay somewhere in the decades ahead. It was basic science of a very high order, storing up a great mass of interesting knowledge for its own sake, creating, so to speak, a bank of information, ready for drawing on when the time for intelligent use arrived.

For example, it took a great deal of time, and work, before it could be understood that there were such things as hemolytic streptococci, that there were more than forty different serological types of the principal streptococcal species responsible for human disease, and that some of these were responsible for rheumatic fever and valvular heart disease. The bacteriology and immunology had to be done first, over decades, and by the early 1930s the work had progressed just far enough so that the connection between streptococcal infection and rheumatic fever could be perceived.

Not until this information was at hand did it become a certainty that rheumatic fever could be prevented, and with it a large amount of the chief heart disease affecting young people, if only a way could be found to prevent streptococcal infection. Similarly, the identification of the role of pneumococci in lobar pneumonia, of brucellae in undulant fever, typhoid bacilli in typhoid fever, the meningococci in epidemic meningitis, required the sorting out and analysis of what seemed at the time an immensely complicated body of information. Most of the labor in infectious-disease laboratories went into work of this kind in the first third of this century. When it was finished, the scene was ready for antibiotics.

What was not realized then and is not fully realized even now was how difficult it would be to accomplish the same end for the other diseases of man. We still have heart disease, cancer, stroke, schizophrenia, arthritis, kidney failure, cirrhosis, and the degenerative diseases associated with aging. All told, there is a list of around twenty-five major afflictions of man in this country, and a still more formidable list of parasitic, viral, and nutritional diseases in the less developed countries of the world, which make up the unfinished agenda of modern biomedical science.

How does one make plans for science policy with such a list? The quick and easy way is to conclude that these diseases, not yet mastered, are simply beyond our grasp. The thing to do is to settle down with today's versions of science and technology, and make sure that our health-care system is equipped to do the best it can in an imperfect world. The trouble with this approach is that we cannot afford it. The costs are already too high, and they escalate higher each year. Moreover, the measures available are simply not good enough. We cannot go on indefinitely trying to cope with heart disease by open-heart surgery, carried out at formidable expense after the disease has run its destructive course. Nor can we postpone such issues by oversimplifying the problems, which is what we do, in my opinion, by attributing so much of today's chronic and disabling disease to the environment, or to wrong ways of living. The plain fact of the matter is that we do not know enough about the facts of the matter, and we should be more open about our ignorance.

At the same time, and this will have a paradoxical sound, there has never been a period in medicine when the future has looked so bright. There is within medicine, somewhere beneath the pessimism and discouragement resulting from the disarray of the health-care system and its stupendous cost, an undercurrent of almost outrageous optimism about what my lie ahead for the treatment of human disease if we can only keep learning. The scientists who do research on the cardiovascular system are entirely confident that they will soon be working close to the center of things, and they no longer regard the mechanisms of heart disease as impenetrable mysteries. The cancer scientists, for all their public disagreements about how best to organize their research, are in possession of insights into the intimate functioning of normal and neoplastic cells that were unimaginable a few years back. The eukaryotic cell, the cell with a true nucleus, has itself become a laboratory instrument almost as neat and handy as the bacterial cell became in the early 1950s, ready now to be used for elucidating the mechanisms by which genes are switched on or off as developing cells differentiate or, as in the case of cancer cells, dedifferentiate. The ways in which carcinogenic substances, or viruses, or other factors still unrecognized intervene in the regulation of cell behavior represent problems still unsolved, but the problems themselves now appear to be approachable; with what has been learned in the past decade, they can now be worked on.

The neurobiologists can do all sorts of

things in their investigation, and the brain is an organ different from what it seemed twenty-five years ago. Far from being an intricate but ultimately simplifiable mass of electronic circuitry governed by wiring diagrams, it now has the aspect of a fundamentally endocrine tissue, in which the essential reactions, the internal traffic of nerve impulses, are determined by biochemical activators and their suppressors. The technologies available for quantitative study of individual nerve cells are powerful and precise, and the work is now turning toward the functioning of collections of cells, the centers for visual and auditory perception and the like, because work at this level can now be done. It is difficult to think of problems that cannot be studied, ever. The matter of consciousness is argued over, naturally, as a candidate for perpetual unapproachability, but this has more the sound of a philosophical discussion. Nobody has the feeling any longer, as we used to believe, that we can never find out how the brain works.

The immunologists, the molecular biochemists, and the new generation of investigators obsessed with the structure and function of cell membranes have all discovered that they are really working together, along with the geneticists, on a common set of problems: how do cells and tissues become labeled for what they are, what are the forces that govern the orderly development and differentiation of tissues and organs, and how are errors in the process controlled?

There has never been a time like it, and I find it difficult to imagine that this tremendous surge of new information will terminate with nothing more than an understanding of how normal cells and tissues, and organisms, function. I regard it as a certainty that there will be uncovered, at the same time, detailed information concerning the mechanisms of disease.

The record of the past half century has established, I think, two general principles about human disease. First, it is necessary to know a great deal about underlying mechanisms before one can really act effectively; one had to know that the pneumococcus causes lobar pneumonia before one could begin thinking about antibiotics. One did not have to know all the details, not even how the pneumococcus does its damage to the lungs, but one had to know that it was there, and in charge.

Second, for every disease there is a single key mechanism that dominates all others. If one can find it, and then think one's way around it, one can control the disorder. This generalization is harder to prove, and arguable—it is more like a strong hunch than a scientific assertion—but I believe that the record thus far tends to support it. The most complicated, multicell, multitissue, and multiorgan diseases I know of are tertiary syphilis, chronic tuberculosis, and pernicious anemia. In each, there are at least five major organs and tissues involved, and each appears to be affected by a variety of environmental influences. Before they came under scientific appraisal each was thought to be what we now call a "multifactorial" disease, far too complex to allow for any single causative mechanism. And yet, when all the necessary facts were in, it was clear that by simply switching off one thing—the spirochete, the tubercle bacillus, or a single vitamin deficiency—the whole array of disordered and seeming unrelated pathologic mechanism could be switched off, at once.

I believe that a prospect something like this is the likelihood for the future of medicine. I have no doubt that there will turn out to be dozens of separate influences that can launch cancer, including all sorts of environmental carcinogens and very likely many sorts of virus, but I think there will turn out to be a single switch at the center of things, there for the finding. I think that schizophrenia will turn out to be a neurochemical disorder, with some central, single chemical event gone wrong. I think there is a single causative agent responsible for rheumatoid arthritis, which has not yet been found. I think that the central vascular abnormalities that launch coronary occlusion and stroke have not yet been glimpsed, but they are there, waiting to be switched on or off.

In short, I believe that the major diseases of human beings have become approachable biological puzzles, ultimately solvable. It follows from this that it is now possible to begin thinking about a human society relatively free of disease. This would surely have been an unthinkable notion a half century ago, and oddly enough it has a rather apocalyptic sound today. What will we do about dying, and about all that population, if such things were to come about? What can we die of, if not disease?

My response is that it would not make all that much difference. We would still age away and wear out, on about the same schedule as today, with the terminal event being more like the sudden disintegration and collapse all at once of Oliver Wendell Holmes' well-known one-hoss shay. The main effect, almost pure benefit it seems to me, would be that we would not be beset and raddled by disease in the last decades of life, as most of us are today. We could become a healthy species, not all that different from the healthy stocks of domestic plants and animals that we already take for granted. Strokes, and senile dementia, and cancer, and arthritis are not natural aspects of the human condition, and we ought to rid ourselves of such impediments as quickly as we can.

There is another argument against this view of the future which needs comment. It is said that we are fundamentally fallible as organisms, prone to failure, and if we succeed in getting rid of one set of ailments there will always be other new diseases, now waiting out in the forest, ready to take their places. I do not know why this is said, for I can see no evidence that such a thing has ever happened. To be sure, we have a higher incidence of chronic illness among older people than we had in the early years of this century, but that is because more of us have survived to become older people. No new disease, so far as I know, has come in to take the place of diphtheria, or smallpox, or whooping cough, or poliomyelitis. Nature being inventive, we will probably always have the odd new illness turning up, but not in order to fill out some ordained, predestined quota of human maladies.

Indeed, the official public-health tables of morbidity and mortality seem to be telling us this sort of thing already, even though, in all our anxiety, we seem unwilling to accept the news. We have already become in the Western world, on the record, the healthiest society in the history of human-kind. Compared with a century ago, when every family was obliged to count on losing members throughout the early years of life, we are in a new world. A death in a young family has become a rare and dreadful catastrophe, no longer a commonplace event. Our estimated life expectancy, collectively, is longer this year than ever before in history. Part of this general and gradual improvement in health and survival is thanks to sanitary engineering, better housing, and, probably, more affluence, but a substantial part is also attributable, in recent years, to biomedical science. We have not done badly at all, and having begun so well, I see no reason why we should not do even better in the future.

My argument about how to do this will come as no surprise. I say that we must continue doing biomedical research, on about the same scale and scope as in the past twenty years, with expansion and growth of the enterprise being dependent on where new leads seems to be taking us. It is an expensive undertaking, but still it is less than 3 percent of the total annual cost of today's health industry, which at last count was over $140 billion, and it is nothing like as expensive as trying to live with the halfway technologies we are obliged to depend on in medicine today; if we try to stay with these for the rest of the century the cost will go through the ionosphere.

But I should like to insert a qualification in this argument, which may be somewhat more of a surprise, coming from a doctor. I believe that the major research effort, and far and away the greatest investment for the future, must be in the broad area of basic biological science. Here and there, to be sure, there will be opportunities for productive applied science, comparable, say, to the making of polio vaccine or the devising of multidrug therapy for childhood leukemia, but those opportunities will not come often, nor can they be forced into existence before their time. The great need now, for the medicine of the future, is for more information at the most fundamental levels of the living process. We are nowhere near ready for large-scale programs of applied science in medicine, for we do not yet know enough.

Good applied science in medicine, as in physics, requires a high degree of certainty about the basic facts at hand, and especially about their meaning, and we have not yet reached this point for most of medicine. Nor can we predict at this stage, with much confidence, which particular items of new information, from which fields, are the likeliest to be relevant to particular disease problems. In this circumstance there has to be a certain amount of guessing, even gambling, and my own view is that the highest yield for the future will come from whatever fields are generating the most interesting, exciting, and surprising sorts of information, most of all, surprising.

It seems to me that the safest and most prudent of bets to lay money on is surprise. There is a very high probability that whatever astonishes us in biology today will turn out to be usable, and useful, tomorrow. This, I think, is the established record of science itself, over the past two hundred years, and we ought to have more confidence in the process. It worked this way for the beginnings of chemistry; we obtained electricity in this manner; using surprise as a guide, we progressed from Newtonian physics to electromagnetism, to quantum mechanics and contemporary geophysics and cosmology. In biology, evolution and genetics were the earliest big astonishments, but what has been going on in the past quarter century is simply flabbergasting. For medicine, the greatest surprises lie still ahead of us, but they are there waiting to be discovered or stumbled over, sooner or later.

I am arguing this way from the most practical, down-to-earth, pragmatic point of view. This kind of science is most likely, in the real world, to lead to significant improvements in human health, and at low cost. This is a point worth further emphasis, by the way. When medicine has really succeeded brilliantly in technology, as in immunization, for example, or antibiotics, or nutrition, or endocrine-replacement therapy, so that the therapeutic measures can be directed straight at the underlying disease mechanism and are decisively effective, the cost is likely to be very low indeed. It is when our technologies have to be applied halfway along against the progress of disease, or must be brought in after the fact to shore up the loss of destroyed tissue, that health care becomes enormously expensive. The deeper our understanding of a disease mechanism, the greater are our chances of devising direct and decisive measures to prevent disease, or to turn it around before it is too late.

So much for the practical side of the argument. We need much more basic science for the future of human health, and I will leave the matter there.

But I have one last thing to say about biological science. Even if I should be wrong about some of these predictions, and it turns out that we can blunder our way into treating or preventing one disease or another without understanding the process (which I will not believe until it happens), and if we continue to invest in biological science anyway, we cannot lose. The Congress, in its wisdom, cannot lose. The public cannot lose. Here is what I have in mind.

These ought to be the best of times for the human mind, but it is not so. All sorts of things seem to be turning out wrong, and the century seems to be slipping through our fingers here at the end, with almost all promises unfulfilled. I cannot begin to guess at all the causes of our cultural sadness, not even the most important ones, but I can think of one thing that is wrong with us and eats away at us: we do not know enough about ourselves. We are ignorant about how we work, about where we fit in, and most of all about the enormous, imponderable system of life in which we are embedded as working parts. We do not really understand nature, at all. We have come a long way indeed, but just enough to become conscious of our ignorance. It is not so bad a thing to be totally ignorant; the hard thing is to be partway along toward real knowledge, far enough to be aware of being ignorant. It is embarrassing and depressing, and it is one of our troubles today.

It is a new experience for all of us. Only two centuries ago we could explain everything about everything, out of pure reason, and now most of that elaborate and harmonious structure has come apart before our eyes. We are *dumb*.

This is, in a certain sense, a health problem after all. For as long as we are bewildered by the mystery of ourselves, and confused by the strangeness of our uncomfortable connection to all the rest of life, and dumbfounded by the inscrutability of our own minds, we cannot be said to be healthy animals in today's world.

We need science, more and better science, not for its technology, not for leisure, not even for health or longevity, but for the hope of wisdom which our kind of culture must acquire for its survival.

TRIBUTE TO GRACE MARTIN

● Mr. CHURCH. Mr. President, during the waning hours of the first session of the 96th Congress which also marks the approaching end of a decade, it is appropriate to take notice of those who have passed on during this year. One whose presence will continue to be sensed for many years to come is Grace Martin, who died on November 18, 1979.

Before her death, she and her husband, Boyd, both my long-time friends, established a trust fund of more than $1 million for the Boyd and Grace Martin Institute of Human Behavior at the University of Idaho.

According to Dr. Martin, dean emeritus of the University of Idaho College of Letters and Science, the institute will examine the "causes of war and conditions of peace" through research and interdisciplinary study as they relate to aspects of human behavior: Violence, terrorism, war and peace. Dr. Martin explained that he and Grace strongly believed that because man is now capable of destroying civilization, society must begin to study terrorism, violence and war as the medical profession studies disease. In approaching man's greatest dilemma, war, the institute plans to bring together students, teachers, and experts to create an environment to study all fields of knowledge which can contribute to the resolution of conflict.

"It is the intent of the institute to be nonpolitical," Dr. Martin said at the announcement of the trust fund. Its objectives are compatible with those of the Borah Foundation Committee for the Outlawry of War which Dr. Martin chaired at the University of Idaho from 1947–55. The Borah Foundation sponsors the annual Borah Symposium in which I have been honored to participate over the years.

Sadly, Grace Martin did not live to see the full flowering of her generous gift, but it is a lasting tribute to her and to Boyd that they have given the best of their lives and their fortunes to furthering a noble idea.

Mr. President, I ask that obituaries of Grace Martin from the Lewiston Morning Tribune and the Moscow Daily Idahoian be printed in the RECORD.

The obituaries follow:

[From the Lewiston (Idaho) Morning Tribune, Nov. 19, 1979]

GRACE MARTIN, MOSCOW

MOSCOW.—Grace Charlotte Martin, the wife of former University of Idaho political science professor Boyd Martin and the co-founder of a trust fund to finance the Institute of Human Behavior at UI, died Sunday of heart failure at her Moscow home. She was 69.

A Moscow resident for half a century, Mrs. Martin was active in several public service organizations. In April of this year, she and her husband established a trust fund to be endowed by their lifetime savings and the sale of their estate.

The fund will be used to finance a research institute at UI to study the causes of war. Boyd was a member of the UI faculty for 35 years before his retirement in 1973 and the research institute is a longtime goal of the Martins.

Mrs. Martin was born to William and Ethel Swingler at Spokane on Oct. 29, 1910. At the age of 12, she moved with her family to Lewiston. She lived at Spokane and Clarkston before moving back to Lewiston, where she graduated from high school in 1928.

Mrs. Martin graduated from the University of California at Los Angeles with a degree in English in 1930. She married Boyd Martin at Colfax on Dec. 29, 1933.

Mrs. Martin did graduate work at Washington State University at Pullman, where she was a member of the Delta Zeta sorority, for a year, and at UI from 1935 to 1936.

She was a member of the Historical Club of Moscow, the Daughters of the American Revolution and the Unitarian Church. The Martins own a home near Kamiah, and Mrs. Martin was a member of the Clearwater Valley Garden Club there.

She also served as a member of the governing board of the Idaho Youth Ranch at Rupert and the Board of Idaho Partners of America.

Boyd Martin survives his wife at their Moscow home. Other survivors include two sons, William of Dayton, Wash. and Michael of Moscow; a brother, Richard of Globe, Ariz., and five grandchildren.

A memorial service will be held Tuesday at 11 a.m. in the recital hall of the music building on the UI campus. Harold Rosen of the Moscow Unitarian Church will officiate. The body will be cremated.

Short's Funeral Chapel at Moscow is in charge of arrangements.

The family suggests that any memorials be made to the Institute of Human Behavior in care of UI.

[From the Moscow Daily Idahonian, Nov. 19, 1979]

GRACE MARTIN, UI INSTITUTE CO-FOUNDER, DIES

Grace Charlotte Martin, 69, the wife of Boyd Martin, former dean of the University of Idaho College of Letters and Science, died Sunday at 1 p.m. Gritman Memorial Hospital. Death was attributed to a heart attack.

Mrs. Martin was well known as a clubwoman and co-founder with her husband of the Institute of Human Behavior at the university. She and her husband earlier this year established a trust fund at the university to finance the study of the causes of war. The research institute will be supported by the couple's estate.

The daughter of well-known Kamiah farm and store owners, Mrs. Martin was born to Henry and Ethel Swingler, Oct. 20, 1910, in Spokane. She moved to Lewiston in 1922 with her parents. The family moved to Spokane and then to Clarkston. She graduated from Lewiston High School in 1928.

She attended UCLA, where she majored in English, and graduated from Washington State University. She engaged in graduate studies at the University of Idaho in 1935–36.

The Martins were married Dec. 29, 1933, at Colfax, Wash.

Among her many interests were the Moscow Historical Club, the Clearwater Valley Garden Club at Kamiah, where the Martins maintained a summer home, the Idaho Youth Ranch at Rupert, where she was a member of the governing board for many years, and the Idaho Partners of the Americas, also serving on that board. She was a member of the Unitarian Church, Delta Zeta sorority at WSU and the Daughters of the American Revolution.

In addition to her husband, she is survived by two sons, William A. Martin of Dayton, Wash., and Michael "Archie" Martin of Moscow; a brother, Richard Swingler of Globe, Ariz., and five grandchildren.

A memorial service will be held Tuesday at 11:30 a.m. at the UI Music Building Recital Hall. The Rev. Harold Rosen will officiate.

The family suggests memorials to the Institute of Human Behavior at the university.

Short's Chapel is in charge of arrangements.●

LEAVE SOCIAL SECURITY BENEFITS ALONE

● Mr. DURKIN. Mr. President, I would like to voice my strong opposition to a recent recommendation by the Social Security Advisory Council to tax social security earnings.

In light of today's energy-fueled, double digit inflation, I find it inconceivable that such an ill-advised, unfair proposal could even be considered. Our older Americans need immediate tax relief, not an additional tax burden.

The social security program was instituted over 40 years ago and it is an essential measure of economic protection for millions of our Nation's senior citizens. Under present law, social security and railroad retirement benefits are not taxable. I firmly believe that they should remain free from taxation.

Social security benefits represent long years in the labor force. They are hard-earned and well deserved. To begin taxing these benefits would be tantamount to changing the rules in the middle of the game. This would be extremely unfair to recipients and workers alike.

It is also important to note that taxpayers are not allowed to deduct their social security contributions while computing their tax in their earning years. A tax on social security benefits would then, in effect, be a form of double taxation. Taxes are objectionable enough, but double taxation is simply out of the question.

Most importantly, however, this untimely proposal will substantially and detrimentally affect the millions of senior citizens across the land who rely heavily on these hard-earned but modest benefits. Social security benefits must remain tax-free if our older Americans are to remain free from the ravages of today's energy-fueled inflation.

Additionally, I want to reiterate my long-standing objection to any proposal which would reduce social security benefits. While I am in favor of reducing the payroll tax of our already overburdened workers, one proposed tax cut under consideration would result in an immediate savings of almost $150 to many of New Hampshire's workers, I am confident that this can be done without jeopardizing the quality of this vitally needed program.

I will continue in my efforts to assist our Nation's senior citizens and I urge my Senate colleagues to join me in opposing any proposal to tax or reduce social security benefits.●

DEATH OF LOYE E. MILLER

● Mr. SASSER. Mr. President, on November 30, 1979, Knoxville lost one of its most revered citizens. Loye E. Miller died at the ag of 80.

Before his retirement in 1967, he had been editor of the Knoxville News-Sentinel for 26 years and, before that, managing editor for 20 years.

Loye Miller held to the belief that a newspaper should serve the highest interests of its community—and that it should have the gumption to fight for the things it stood for.

It was this conviction that led Loye Miller and his newspaper to fight for establishment of the Great Smoky Mountains National Park, which is enjoyed now by millions of visitors every year; to spearhead the Tennessee Press Association's election reform campaign, which resulted in approval by the general assembly of a permanent and universal voter registration law; and to crusade tirelessly for the enlightened traffic safety laws that were ultimately approved by the general assembly.

Loye Miller's sense of fairness and his professionalism as a newspaperman were key factors in Knoxville's smooth transition to a racially desegregated community.

His newspaper covered the aspirations of black citizens fairly and with restraint. He himself served as a mediator in early efforts to desegregate public facilities, and in so doing, won the enduring respect of all.

Mr. President, Loye W. Miller was a superb newspaperman—a truly great one, but as anyone who worked for him will attest, he was a warm and compassionate human being.

He left his mark on his profession. He left his mark on his city and his state. He left his mark on humanity. We are all better because he passed this way.●

WATER POWER

● Mr. DURKIN. Mr. President, last summer when our gas lines were long and our gas supply was short, I used to hear people in New Hampshire joke in their frustration that Detroit ought to build a car that could run on water. For in New Hampshire, New England, and throughout the Nation, water is often seen as an inexpensive and inexhaustible resource; the antithesis of the prohibitively high-priced and precariously undependable OPEC oil. Our rivers and streams flow freely through our backyards, invulnerable to foreign embargos and the politics of energy. Water, water is indeed everywhere and it is about time we begin to tap its tremendous potential power.

In my area of the country, New England, water power generated the growth of industry and commerce for almost 150 years; from colonial days to the middle of this century. The first water-powered sawmill and gristmill were built in New England in 1783. Following this, water was used to power small industries, such as textiles, shoes, furniture, and machine tools.

Despite this impressive record, over the past 30 to 40 years waterpower has been neglected as a cost-saving, safe, sensible energy source for the country. The Federal Power Commission estimated that, in New England alone, in the past three decades over 200 small hydroelectric plants have been abandoned. As the cost for home heating oil in New Hampshire fast approaches $1 a gallon, it is high time we channel the potential energy savings flowing by our river banks into our savings banks.

It is important to remember that the principal reason for the demise of hydroelectricity was not due to the arrival of a more effective energy source, instead it was because a cheaper source had come on the market. I am referring, of course, to oil. It seems inconceivable today that oil, with its $1 a gallon price tag and its tenuous supply line, could have at one time replaced water as a primary energy source. But at the time that oil burst onto the scene large scale oil burning operations quickly made small scale low-head hydro facilities economically impractical.

The utility companies were also quick to claim that large new oil-reliant plants were eligible for depreciation tax write-offs, while productive hydropower facilities were not. This financial incentive could have easily been eliminated through a revision of the tax code. Hydropower's success became its handicap; as hydro facilities outlasted the tax code terms for depreciation allowances.

In any case, the tides are turning, and hydropower is making waves again as a viable and valuable renewable resource. We must encourage continuing efforts to rediscover small, decentralized power facilities which can provide an increasing part of our energy needs. No one contends, of course, that waterpower can provide all our energy needs. However, it certainly can displace a great deal of imported oil now used to generate power, providing cheaper and more dependable energy which in turn would give homeowners and businesses alike some much needed energy and economic relief.

The Federal Power Commission has estimated that if only 10 percent of the nearly 50,000 small dams are even partially developed for electrical generation, the energy savings would be the equivalent of 180 million barrels of oil every year. In New Hampshire alone, there are hundreds of existing dams which could be equipped to generate power. One study estimates that more than 2,000 megawatts of electricity could be gained in New England through conversion of existing dam facilities. To put these numbers in perspective, a 5,000-kilowatt (thousand watt) hydropower facility could provide the energy needs of several thousand families.

We do not have to look far to see the tangible benefits of hydropower either. Just one example is a restored hydro facility in Franklin, Mass., which is now capable of producing 300 kilowatts an hour; this plant alone saves the equivalent of a quarter of a million gallons of oil a year.

In addition to existing facilities, hydro power sites are being constructed and studied in many towns in my home State of New Hampshire. A hydroelectric facility in Nashua, N.H., is planned to supply energy for the public library, arts and science center, high school, police station, and public works garage. A conservative estimate is that this facility could reduce Nashua's tax rate by $2.40 per $1,000. The Brown Paper Co. recently received funding from the Department of Energy for a water power construction demonstration facility at the Sawmill Dam Redevelopment project in Berlin.

For oil-dependent New Hampshire and New England, hydropower represents an immediately available alternative energy source. It is clean, renewable and low-cost, and will produce tremendous oil savings for energy consumers in New Hampshire and New England. By retrofitting existing small dams in New England with new, efficient turbines to generate electricity, our region could save 22 million barrels of oil a year, or nearly $400,000,000. These small scale facilities can be put into operation at lower capital costs per unit and will produce energy at lower production costs per unit than new large generating plants.

By and large the cost for hydroelectric plants is a one-time upfront expense. And as the price for fossil fuels continues to rise while supplies continue to plummet, water power increasingly becomes an inflation-proof energy resource for the future. The faster we make the conversion the more quickly we can reap the benefits of its savings.

As I mentioned earlier, while no single alternative energy resource is dependable enough to supply all our energy in the future, it is equally true that traditional fossil fuels can no longer be relied upon by the utility companies to meet our energy demands. The major power suppliers must utilize a balanced program of alternative resources which will complement presently tapped sources.

To speed up the conversion to hydro facilities, I introduced and succeeded in getting legislation passed which provides up to $300 million in Federal loan guarantees to cover 75 percent of the project costs for hydroelectric installations at existing dams. An additional $200 million was recently added to this bill. I also successfully fought for passage of legislation to provide $30 million in direct loans over 3 years for feasibility studies of sites for new projects. A number of studies are already under way by the Army Corps of Engineers. Feasibility studies are the costliest and riskiest component in the process of converting existing dams to water power generation. These loans will provide a needed impetus for developing these important facilities.

While I am pleased that this program is initiating the long overdue development and construction of hydro facilities, I am generally highly sceptical of the Federal Government's ability to quickly implement such an important and far-ranging program. Had Thomas Edison been forced to submit to a series of bureaucratic feasibility studies we might well be without a light bulb today.

The beauty of low-head hydro is that it brings a decentralized approach to addressing our energy problem which in part has been created by the large, concentrated, multi-national conglomerates. It takes simple sound common sense to keep the administration, development, and commercialization of a water power program on as local a level as possible.

To illustrate why a local approach is the more expeditious path to follow, I can only point to the problems we have encountered in implementing the Public Utility Regulatory Practices Act (PURPA) which was originally designed to make small-scale power sources cost competitive with the large utility companies.

PURPA, as you may know, requires the major utility companies to purchase power from small-scale facilities at a fair rate. It is also supposed to streamline the licensing and regulatory procedures for small-scale power operations. And finally, it includes an essential provision which allows small-scale power owners access, at a fair price, to the utility companies' power lines.

Just about a year ago New Hampshire drafted similar legislation modeled in part after PURPA. New Hampshire has gone ahead and enacted their law while the Federal regulations are still floundering in deliberations. Simply stated a local approach is a faster approach.

This is not to say that the Federal government should do nothing. One step that we can take will greatly speed up the development of hydro is to exempt small-scale development, up to 25 megawatts, from the expensive, cumbersome, and by and large, non-applicable FERC regulations. Unnecessary Federal regulations stand as the biggest roadblock to extensive hydroelectric development.

The Federal Government can also offer Federal loans to State bonding agencies to aid municipalities in the construction of everything related to low-head hydro, from dam construction, to turbines, to fish ladders. Additionally, legislation which has cleared the Senate provides several added tax incentives for small business and industry tax incentives—provides a financial impetus to hydro development without involving the Federal bureaucrats from the Department of Energy. The Tax Code is a much more efficient method to spur energy development than creating more Federal projects and bureaucrats to administer them.

The bottom line is that water power can save consumers and businesses money while providing a clean, renewable, and nonpolluting form of energy which will help make our region more self-reliant and independent. The Federal Government can aid States and municipalities in implementing small-scale hydro facilities but it should, as much as possible, delegate the final authority to the States for the development and commercialization of low-head hydro. Water power is an energy source which can no longer be ignored, and I will continue doing everything possible in the U.S. Senate to encourage the widespread development and use of this important energy source.

I urge you to use your influence and join me in this effort.●

BILLY ROGELL'S BIRTHDAY

● Mr. LEVIN. Mr. President, before I joined this distinguished legislative body, I was a member of another distinguished, though lesser known, body of legislators, the Detroit City Council. As a member and president of the Detroit City Council, I had the pleasure of serving with William G. (Billy) Rogell.

Last month, the mayor of Detroit and Billy Rogell's colleagues on the city council joined in a 75th birthday salute to him. I could not join them, and I would like to pay my tribute to him now on the Senate floor.

In Detroit, we call Billy Rogell the dean of the city council. Billy Rogell in fact may be more properly called the dean of American city council members. He has been a member of the Detroit City Council for 36 years. He is believed to have served on a city council longer than any other present city council member in the country.

Billy Rogell was first elected to the Detroit City Council in 1941 and has served ever since, with the exception of one 2-year term, 1948–49. He was one of the forces behind the development of the freeway system that keeps metropolitan Detroit moving and the moving spirit behind building of Detroit Metropolitan Airport. If you have ever used this fine airport that is the principal air gateway to our great State of Michigan, you are likely to have traveled on William G. Rogell Drive, the main airport road that was named in his honor.

Some of you may be old enough to remember Billy Rogell in another role. From 1929 to 1940, he played shortstop for the Detroit Tigers baseball team. He was a key member of the Tiger teams that won the American League pennant in 1934 and the World Championship in 1935.

Mr. Rogell, who was born in Springfield, Ill., but made Detroit his home after he came to the Tigers, has indicated he will continue to serve his city even as he passes his 75th birthday. Hale and hearty still, he intends to serve out the last 2 years of his current 4-year term. He has talked about retiring many times, but no one knows when he really will be ready to quit or when Detroit will be willing to give him up.

I want to publicly thank him for all that he has done for me and the city of Detroit.●

TRIBUTE TO RENE GAGNON

● Mr. DURKIN. Mr. President, it saddens me deeply to report that on October 12, 1979, Rene Gagnon, one of New Hampshire's well known war heroes, passed away. Rene Gagnon was the last surviving Marine who helped to raise the U.S. flag at Iwo Jima, a scene which has since been immortalized in history books, films, and in the Iwo Jima War Memorial which stands proudly on the banks of the Potomac just a few miles from these Senate Chambers.

Thirty four years ago, Rene Gagnon was a young 19-year-old Marine who was fighting bravely for his country on that tiny Japanese island thousands of miles away from his hometown of Manchester, N.H. As you may recall, the battle for Iwo Jima was one of the most bloody and costly in all of World War II. Mr. Gagnon was one of but a dozen men in his company of 250 who survived those terrible days. But he did survive, and the United States went on to win Iwo Jima.

Rene Gagnon, in turn, went on to become memoralized when his efforts to raise the flag of freedom high above Mount Suribachi were dramatically captured on February 23, 1945, in what is undoubtedly one of the famous war photographs of all time.

After the war, Mr. Gagnon returned home and was afforded the opportunity of working with another great American, John Wayne, in the film "The Sands of Iwo Jima." Mr. Gagnon played himself in that movie and afterwards was offered a rather lucrative movie contract which he turned down. Instead, Rene Gagnon chose a quieter life back in his hometown of Manchester, working hard to support his family in typical New England fashion.

Despite his modesty, Mr. Gagnon was described by Lt. Eugene Brown of the U.S. Marine Corps in Manchester as "a living legend for Marines." And, in 1977, Rene Gagnon was honored by La Societe Historique Franco-Americaine of New Hampshire.

Mr. Gagnon recalled a few years ago that, while trying to place the flag firmly into the ground he heard whistles and sirens blowing. "I thought there was a Japanese air raid," he said. The noise he actually heard was the loud and fervent cheering of American troops who saw the flag flying.

JUDGE ROBERT R. MERHIGE

● Mr. HATCH. Mr. President, last week a special committee of the Richmond Bar Association ostensibly "cleared" U.S.

District Court Judge Robert R. Merhige of any misconduct in the Smith-Bagley stock manipulation trial.

While I welcome the input which this special committee brings to this matter, I submit that the report of the three-man Richmond Bar Association committee should not be permitted to end this matter.

From my own experience, I believe it would be extremely difficult to get an objective report from any committee of lawyers that must practice before Judge Merhige's court.

In addition, it has come to my attention in this case, that there are specific relationships that make the members of this particular committee vulnerable to criticism by anyone interested in an objective analysis of the actions of Judge Merhige in the Smith-Bagley criminal trial.

It is not necessary to look very deep to find the possibility of conflicts of interest when one of the three members of the so-called special committee comes from a law firm that has represented Smith-Bagley's Washington group.

The special committee submitted a 130-page report outlining their findings in which they concluded Judge Merhige's conduct throughout the trial was "fair and even-handed * * * as humanly possible."

The committee concludes their report by stating that it is "hope(d) that our report will serve in some measure to set the record straight and to dispel some of the harm done" to Judge Merhige.

I wholeheartedly agree with their last assessment. Indeed, their report has helped to set the record straight and to dispel some of the harm done to Judge Merhige's reputation.

However, as I have examined their report I find the scope of it to be very narrow, indeed. In fact, the committee members went on record as saying they were only reporting on the inquiries put to them by Mr. Wilbur C. Allen, president of the Richmond Bar Association, who appointed the special committee in the first place.

While I support the committee's effort to look into the allegations raised in this matter, I question the relationship of the committee to Judge Merhige and the limited scope of its investigation.

Even if this Richmond Bar Association committee report is completely proper and circumspect, it should not be permitted to stand as the final word. Since made known in the CONGRESSIONAL RECORD on November 2, 1979, I have received additional information from various sources both supporting and detracting from the original allegations.

My main concern in this entire matter is the American public's perception that the Federal courts are once again involved in questionable activity, in the least, and perhaps collusive arrangements, at the worst.

Notwithstanding the report of the Richmond Bar Association, there are still many unresolved questions that need answering. The overriding issue at stake here is not the Richmond Bar Association's desire to clear Judge Merhige. Nor is it Smith-Bagley's attorneys' desire to represent their client. Nor is it the reputation of two U.S. Attorneys who wrote the interesting letter I have already put in the RECORD. While I am genuinely sympathetic with all of these concerns, they are not what is at stake here. What is really at stake here is the Federal judicial process; if not in substance, then at least in perception.

I call on my concerned colleagues to look into the serious issues involved here and to request that further investigations be undertaken. I do believe this matter must be investigated by the Justice Department, if only for the purpose of resolving the conflicts which have arisen in this matter.

I ask that the article appearing in the Washington Post, December 13, be printed in the RECORD.

The article follows:

BAR PANEL CLEARS MERHIGE IN CONDUCT OF BAGLEY TRAIL

(By George W. Wilbur)

RICHMOND, December 12.—A special committee of the Richmond Bar Asociation has cleared U.S. District Court Judge Robert R. Merhige Jr. of any misconduct in a celebrated stock manipulation trial.

"Judge Merhige handled the trial in a fair and evenhanded manner throughout," the committee said today in its report.

The charges of misconduct had been made to the U.S. Attorney General's Office by U.S. Attorney H. M. Michaux Jr. and Assistant U.S. Attorney Patricia W. Lemley. They were the prosecutors last summer in the trial of Smith Bagley, the socialite heir to the R. J. Reynolds tobacco fortune, and four other defendants.

The charges of stock manipulation, mail fraud and conspiracy stemmed from the failure of the Washington Group Inc., a company Bagley once headed.

A jury acquitted all of the defendants in August.

During the trial—shifted here from Raleigh, N.C., because of pretrial publicity—Merhige was sharply critical of the government's presentation of its case.

In their charges against him, Michaux and Lemley had said, "That antigovernment bias was manifested by Judge Merhige in virtually every phase of the trial." They added that the courtroom occasionally "took on a circuslike atmosphere" and that the trial had the quality of a "setup."

The accusers further claimed that Merhige's instructions to the jury were "tantamount to a directed verdict. Only at the time of jury instructions did certain of the judge's exclusionary rulings, unsolicited witness cross-examinations and verbal explosions make sense," they added.

The committee investigating the charges said it reviewed the entire trial record and interviewed numerous persons who had attended the trial.

It not only cleared Merhige, but called the letter in which the charges were outlined "an inflammatory document" in which the allegations were unverified.

"The letter is strident and intemperate in tone—at best a negligent distortion of the record—unprofessional and unworthy of attorneys who hold high and responsible offices. We believe its composition and publication in this manner to have been grossly improper acts," the committee said.

The committee said Merhige showed no bias against the government in the trial and, in many instances, went beyond his normal function to assist the prosecutors.

"His numerous rulings on motions and objections to evidence were consistent with all elements of the lengthy and complex charge to the jury," the committee said. "We have found no clear error of abuse of discretion in any of his rulings. Indeed, our review of the entire record persuades us that this trial was fair and error-free as it is humanly possible to make a trial.

"The short of the matter is that Judge Merhige, in our view, tried this case with exceptional fairness and correctness," the committee said.●

RARE II LANDS RELEASED BY S. 2009

● Mr. CHURCH. Mr. President, yesterday's Idaho County Free Press contained an excellent editorial describing how certain lands in central Idaho will be "released" from a de facto wilderness status once S. 2009 is enacted into law.

S. 2009, the Central Idaho Wilderness Act of 1979, was approved by this body on November 20, by an overwhelming 69 to 18 vote. This bill has been referred to the Public Lands Subcommittee in the House of Representatives. That subcommittee held 2 days of hearings on the bill on December 6 and 7. Although no action can be taken on S. 2009 before the end of this session of Congress, it will be on the top of the agenda for the Public Lands Subcommittee when the second session begins in January. I am hopeful that the House can give speedy approval to the Senate-passed bill, so that the small timber-dependent communities in Idaho County, such as Riggins, Elk City, Grangeville, and Kooskia can be granted a greater measure of economic security through the release of significant acreages of roadless forest land for multiple-use management.

Mr. President, I ask that the editorial from the Idaho County Free Press be printed in the RECORD.

The editorial follows:

RARE II LAND RELEASE SEEN

When the history of Wilderness versus multiple-use trends are written for this area, we predict that the River of No Return Wilderness Act will be pointed out as a continuation of a turning point in legislative history.

Gospel Hump was first with legislation which actually released some land for resource development.

The committee report language of the current River of No Return Wilderness is very definite in its intent.

Several thousand acres are intended by the Senators on the committee to be released. The committee report, in talking about RARE II lands in this area, says, "Thus, this decision confirms the multiple-use status of the following areas which are not being designated as Wilderness by this act." Even stronger is the statement, "The areas will thus remain subject to sustained-yield, multiple-use management under the statutes and regulations generally applicable to all non-Wilderness National Forest System Lands. The committee intends that the timber resources on these unclassified lands be included as appropriate under normal timber management planning, in the calculation of the potential yield (allowable sale quantity) and the allowable timber harvest levels for the appropriate National Forest."

A table lists RARE II lands, including Meadow Creek East and West of 150,000 acres, plus other areas of 900,000 acres in total.

In a "Timber supplies and Wilderness" section, the report says, "This bill increases the potential yield of the Nezperce by some 30 million board feet. This is the long-term 'potential' figure. Estimates of actual harvest level increases are not available."

And for the believers that legislation itself must contain release language, we believe certain parts of the legislation do offer protection.

In Section 2 of the act, the bill reads "Congress finds that . . . These Wildlands, and a segment of the Salmon River, should be incorporated within the National Wilderness Preservation System and the National Wild and Scenic Rivers System in order to provide statutory protection for the lands and waters and wilderness-dependent wildlife and the resident and anadramous fish which thrive within the undisturbed ecosystems, and . . . such protection can be provided without conflicting with established uses, such as hunting, fishing, grazing, ranching and commercial outfitter and guide services."

Under "Purposes of the Act," the act reads, that one purpose of the act is to, "end the controversy over which lands within the Central Idaho region will be designated Wilderness thereby assuring that certain adjacent lands better suited for multiple uses other than wilderness will be managed by the Forest Service under existing laws and applicable land management 'plans' and by making a comprehensive regionwide land allocation decision."

Also, the act provides for the grazing of livestock, saying, "The grazing of livestock, where established prior to the date of enactment of this act, shall be permitted to continue subject to such reasonable regulations as the secretary deems necessary, as provided in paragraph 4(d)(6) of the Wilderness Act."

Landing of aircraft is permitted with constraints which the Secretary of Agriculture "deems desirable."

Thus, when one reads the act, saying that certain lands are to be managed for multiple-use management, then reads the report language where these lands are actually listed, one reaches the obvious conclusion that the RARE II lands have been released.

It will be up to the administrative branch of government to interpret this language; however, it appears very plain. Much RARE II land will be released, if this act is passed, and the area's lumber mills will have additional lumber to use, we believe.

The placing of 2.2 million acres into Wilderness seems large, however, these areas where primitive areas, and had been managed for a long time as wilderness areas anyway. So the area has not lost anything, but gained the release of some RARE II land. The Senate has responded to the needs of Idaho County. We hope the House can do the same.●

A CHRISTMAS STORY

● **Mr. MUSKIE.** Mr. President, these are busy days for people across the country who know a little extra must be done during the Christmas season. In my State it might be taking the time to chop wood for a convalescent neighbor, or working into the night on decorations for the town square. It might be donating clothing or food or toys. Or it might be visiting an older friend, a token gift in hand. These things are not regarded as charity. They are done freely for our neighbors, and accepted in the spirit of the season. By and large, a quiet satisfaction or a cup of cheer is the only reward.

The current issue of the Maine Times tells a story of some people in Boothbay who know just what Christmas means. I ask that the article, "Jim Hannah Doesn't Look Like Santa Clause," be printed in the RECORD.

The article follows:

JIM HANNAH DOESN'T LOOK LIKE SANTA CLAUS

(By Alice T. Larkin)

When Jim Hannah spied a dimpled face smiling up at him from the rubbish he was pushing into the fire at the town dump, he stopped the grader and climbed down to investigate.

"What a shame," he thought, as he pulled an almost new doll out of the smelly heap.

Jim Hanna rescued dozens of dolls from the Boothbay dump that summer. Many of them were in perfect condition, although their bright dresses were soiled, their hair tangled and matted. With Christmas coming along soon, he wondered whom he could get to help him fix up the dolls and see that they were given as gifts.

Jim decided to talk to Mrs. "Katty" Sargent, who had had six little girls of her own and now boasted 13 grandchildren. She would know about dolls, he figured. She would know what had to be done.

"I could wash their clothes," Mrs. Sargent told him, "and shampoo their hair and comb it into curls again."

Some of them really ought to have new dresses, she decided later, after Jim had left the dolls in a heap on her parlor sofa. And maybe she could knit some little sweaters and hats for them. Running a private nursing and convalescent home in Boothbay Harbor kept her and her daughter Nancy pretty busy, but perhaps she could find time. She remembered how her little girls had loved a new doll, and she hadn't forgotten how hard it was sometimes to provide for a growing family, especially at Christmas time.

It turned out to be fun dressing the dolls, but it wasn't long before Katty Sargent decided she could use some help. Quickly, she ran down a mental checklist of her friends, until she came to Gloria Balsdon. Gloria had recently suffered the loss of her mother and other personal tragedies, and it had left her feeling very depressed. Katty had been worried about her friend. This, she thought, might be just the thing to perk her up.

"She asked me if I would dress two dolls," Gloria Balsdon recalls. "I didn't think that would be much, so I said I'd do it. Then she brought me five more. I think I dressed 36 dolls that year."

Today, Gloria Balsdon starts knitting tiny sweaters and hats the day after Christmas, "I have to," she said, "or I'd never finish in time for the next Christmas." In her tiny Sea Street cottage, the bedroom is stacked with dolls. "Sometimes," she complains, "I can't find my bed." And in the living room, Gloria tries to match up heads, arms, and legs, to make whole dolls from those that have missing parts. One cherubic baby doll is perfect except for its face, which has been scribbled on with a magic marker, but Gloria hasn't given up on it. "I'm still trying to find something that will take that off," she sighs."

This year, Gloria Balsdon scrubbed, shampooed, and made clothes for 92 dolls that Katty Sargent will pack and deliver. When word got around that Jim was rescuing them, some people started bringing the dolls directly to Gloria or Katty, but many of them still come from the dump.

"Jim really fell in love with one of the dolls he found," Gloria said, "He thought it was the prettiest thing he had ever seen, so I dressed it and gave it back to him."

Jim Hanna says he still has that doll, a life-size charmer that stands three feet tall, but he plans to give it away again.

"I want to give it to some little girl," he said, "[who] would like to have a playmate."

"The first year there was just Katty Sargent, Jim, and I," Gloria Balsdon remembers. "Then the next year, Katie Copeland, down at the bank, asked us if we would work with the Salvation Army." The local chapter distributed clothes at Christmas, but didn't have enough money for toys. "Now we take care of the toys, and people bring us a lot of good children's clothing to give away, too."

About mid-November, things start piling up in the small parlor at the Sargent's nursing home. There is always someone bringing something in, anyway. Scraps of material for doll's clothes, bits of lace, and yarn for the knitters. An 85-year-old grandfather in East Boothbay knits mittens for the Christmas project. So does Alice Grey, and last year Mary Abbott brought in 30 pair. Maidie Demeres makes net bags by the hundreds to be filled with popcorn and candy. Last year, Cecil Lilly, of Lilly's Market, donated 185 marshmallow snowmen and said, "If you run out, come back." And Catherine Chenowith pops in every now and then to donate her own toys. "They are just like new," Katty Sargent chuckles, "I don't think the child plays with them a week, she is so anxious to bring them down here." ●

THE ARTS AND URBAN REVITALIZATION

● **Mr. WEICKER.** Mr. President, the effort to revitalize this Nation's depressed urban centers has always been of extreme importance to me. For this reason I have strongly supported programs which utilize the arts to stimulate urban revitalization efforts. This concept has proven to be a sound one in cities nationwide. The role of the arts in urban revitalization has been thoroughly debated in the Senate and in order to add another perspective to this debate, I ask that the following article be printed in the RECORD.

The article was printed in the December 15, 1979 issue of the National Journal, which does an excellent job of articulating the value of the arts in stimulating urban revitalization and reinvestment.

The article follows:

BRINGING PEOPLE BACK DOWNTOWN WITH A LITTLE HELP FROM THE ARTS

(By Jerry Hagstrom)

WINSTON-SALEM, N.C.—An abandoned 1920s movie palace will be turned into a new performing arts center, attracting tourists and conventioneers from several states. A former Cadillac showroom will become an arts and crafts school complete with lighted, indoor parking to attract suburbanites. A vacant lot will be landscaped into a park and concert plaza where office workers may enjoy a leisurely lunch at a sidewalk cafe or watch a strolling minstrel or mime. Visitors may shop in a community art gallery in the old YMCA, or attend a traveling Smithsonian exhibition in an old hosiery mill.

Such is the future of downtown Winston-Salem, according to the visions of cultural, political and business leaders in this city of 140,000 persons. After 20 years of revitalization efforts that netted only a pedestrian mall so inactive that even the pawnshop has closed, the local leadership has decided that the arts will bring people back downtown. The arts, they say, offer people something they can't get from a suburban shopping center.

What's more, Winston-Salem's leaders have persuaded a broad range of federal agencies to invest $3.6 million in the Winston Square "culture block" on the assumption that the city could become a national model of downtown revitalization through the arts.

The Carter Administration is particularly pleased with the Winston-Salem effort because the public dollars have generated promises of the private investment considered so crucial to successful downtown redevelopment. A private developer is planning to turn another old mill and fire station into a restaurant and boutique complex modeled on San Francisco's Ghirardelli Square. A Kansas City firm will refurbish a downtown motel. A local developer has taken over the old J. C. Penney Co. building. And all this private investment took place after the Winston-Salem Arts Council announced in 1975 it would relocate downtown, said R. Philip Hanes Jr., the leader of the downtown arts effort. Private investment is expected to total $100 million to $200 million by 1985, Hanes said.

Administration officials who believe the arts strategy could work for other communities are interested in hearing more proposals for the development of arts facilities. The strategy can benefit both older cities and growing towns, said George T. Karras, deputy assistant Commerce secretary for economic development. Older cities can benefit, Karras said, because arts and entertainment attract tourism, recreation and convention dollars and bring people downtown in the evenings and on weekends. "You cannot have the infrastructure investments in downtowns—in fire and police departments or water and sewers—if the city opens up at 8 o'clock in the morning and closes at 5," Karras said.

Growing towns also need arts activity, he said, to attract the owners of "footloose" industry—businesses that can locate anywhere in the country—and professional services and also to help local industries recruit high-quality executive talent. Karras's viewpoint is supported by a Rand Corp. study that found that the quality of local amenities, including cultural facilities, played a bigger role in executives' business location decisions than did local tax abatements.

The state and local government interest groups—the U.S. Conference of Mayors, the National League of Cities, the National Governors' Association and the National Conference of State Legislatures—have all established arts task forces that encourage federal spending on arts projects. After the passage of Proposition 13 in California, the mayors' task force, chaired by Atlanta's Maynard L. Jackson, issued a booklet warning officials that reductions in arts spending could hurt the economy as well as the quality of life in their cities.

Joan Mondale, wife of the Vice President, is encouraging federal agency heads to use the arts as an economic development tool. She serves as honorary chairman of the Federal Council on the Arts and Humanities, which coordinates the arts activities of federal agencies. When James T. McIntyre Jr., director of the Office of Management and Budget, expressed skepticism about federal spending for the arts in an era of fiscal restraint, Mrs. Mondale arranged a trip to Winston-Salem so that McIntyre could discuss the arts with business leaders. Arts lobbyists also give substantial behind-the-scenes credit to Bess Abell, Mrs. Mondale's executive assistant, who has been involved with the performing arts since she served the Johnson White House as social secretary.

Arts projects are enjoying a broad base of political support, ranging from high-income individuals who view government spending on the arts as a direct return on their tax dollars to impoverished minorities who are well aware that a few of their numbers have made fortunes in the entertainment business. Winston-Salem's arts strategy, for example, has been endorsed by executives of the R. J. Reynolds Tobacco Co., neighborhood groups and the local Jaycees, NAACP and Urban League.

"The arts aren't very controversial. You can get most people in the community to respond favorably to the arts," said a Winston-Salem official.

AGENCIES' RESPONSE

Nearly every federal agency has responded to the growing arts constituency with a program, most of which involve an element of economic development.

Winston-Salem's $3.6 million, for example, is made up of $75,000 from the National Endowment for the Arts; $2.2 million from the Commerce Department's Economic Development Administration (EDA) for a performing arts center; $500,000 from the Interior Department's Land and Water Conservation Fund for the park; $830,000 from the Appalachian Regional Commission for delivery of arts to 11 poor rural counties; and $10,000 from Interior's Heritage Conservation and Recreation Service to integrate arts and recreation.

Winston-Salem's Hanes said the city needs at least $6 million in federal funds to make the arts strategy work fully. It is looking to the Health, Education and Welfare, Transportation and Housing and Urban Development Departments for the rest of the money.

The small-scale involvement of the National Endowment for the Arts is typical of such projects, said Paul Asciolla, who directs the endowment's program coordination with other agencies. The endowment, Asciolla explained, is primarily committed to encouraging "excellence in the arts" and its budget ($149.4 million in fiscal 1979) is too small to engage in major construction projects. But it often encourages its grant recipients and other interested parties to seek out other agencies for help.

By far the most involved agency in using the arts in economic development is EDA. Louise W. Wiener, who was arts adviser to former Commerce Secretary Juanita M. Kreps, has moved to EDA to work full time on arts projects. EDA now requires states and localities to include the arts in federally financed economic development planning.

The importance of a cultural element in city planning has been underscored by Harvey S. Perloff, dean of architecture and urban planning at the University of California (Los Angeles). Arts organizations are often too concerned with their own survival to focus on the over-all needs of the arts or their role in economic development, Perloff noted.

Using public works grant money for economically distressed areas, EDA has paid at least part of the cost of such varied projects as a Shakespeare theater in Ashland, Ore.; a firefighters museum in Baton Rouge, La.; civic culture centers in cities such as Baltimore, Tallahassee, Bangor, Maine, and White Earth, Minn.; and addition to the Brooklyn Museum in New York City; the renovation of the Lonestar Brewery into an art museum in San Antonio, Texas; and the development of the Playhouse Square theater complex in a decayed section of Cleveland. EDA also provides the initial capital for revolving loan funds such as one in San Antonio that will enable merchants to tear 1950's-era facades off their stores and restore the original architecture.

Whether EDA proves willing to spend money on arts projects, Karras said, depends heavily on a city's plans for creating employment and developing small businesses nearby. "We're talking about magnets," Karras said. "These are not revenue-producing facilities that can be supported in their own right."

Under the 1980 reauthorization of the Public Works Act, now headed for conference, EDA's budget is expected to increase from $582 million to more than $1 billion, and spending for cultural facilities is likely to increase dramatically. A joint report by the Senate Environment and Public Works Committee and the House Banking, Finance and Urban Affairs Committee on EDA's reauthorization specifically endorses spending for cultural development.

EDA is also encouraging loans, interest subsidies and loan guarantees for both nonprofit and for-profit arts institutions willing to set up business or remain in economically hard-pressed areas. Arts institutions have been eligible for EDA business development programs in the past. Wiener said, but only recently have gained the necessary knowledge of management techniques and government programs to make the applications.

EDA believes it is important to make arts institutions aware of the federal programs, Wiener said, because "the more than cities or regions look to their cultural resources to become the magnet and generator for additional economic development, the more important the financial stability of [the arts institutions] becomes."

The federal regional commissions are also embracing the arts strategy for impoverished areas in which they have fulfilled their basic mandate of providing human services such as transportation and health. The Applachian Regional Commission and EDA are helping to finance the conversion of a Whitesburg, Ky., building into a production and retail center for Appalachian recordings and graphics. The building will also serve as a theater and gallery and is expected to increase tourism and diversify the region's coal-based economy, said William Trawick of the commission's staff.

The Agriculture Department's Farmers Home Administration makes loans at 5 per cent interest to build cultural facilities in towns of 10,000 or less. The agency prefers applications from local governments, but non-profit groups at least five years old may also apply, a spokesman said.

CONFUSION AT HUD

Next to EDA, the agency with the most potential money to spend for the arts is the Housing and Urban Development Department (HUD). Community development block grant money may be used for arts programs and facilities in low and moderate-income areas.

Through the urban development action grant program, HUD has also paid part of the cost of several cultural facilities, including a museum in Seattle and a community theater in Berkeley, Calif. Arts projects must compete with other action grant proposals on the basis of number of jobs created and the amount of private investment the project stimulates, said Robert C. Embry, assistant HUD secretary for community planning and development.

HUD's involvement with the arts is not as focused as that of other agencies, however. One disappointment was HUD's effort with the National Endowment for the Arts to expand a program called "livable cities."

Originally an endowment program, livable cities had won great praise for its mini-grants averaging $25,000 to state and local arts agencies, neighborhood and historic preservation groups, foundations, universities and individual designers. The grants were used for such varied activities as feasibility studies of culture facilities, murals in public housing projects and planning efforts for historical preservation without displacement.

President Carter's 1977 urban policy proposed turning the success story into a $20 million program administered by the two agencies. Endowment chairman Livingston L. Biddle Jr. lacked enthusiasm for what he considered a large "social program," and the Carter Administration wanted to provide a major program for Geno Baroni, HUD assistant secretary for neighborhoods, voluntary associations and consumer protection.

The expanded livable cities program faced a tough battle on Capitol Hill, however. Members of Congress found it difficult to believe one agency was voluntarily surrendering a program to another, and could not understand why HUD was becoming involved so directly in the arts. Neighborhood arts groups, which would have received most of the grant money, were lukewarm about the move, a HUD source said, because they felt it was a "step down" to move from the endowment to a "social agency."

Livable cities was finally passed by the Senate, but the House rejected it even after the cost had been reduced to $5 million in fiscal 1979 and $10 million in 1980. When livable cities became the only item standing in the way of HUD's 1980 appropriation, the bill was abandoned.

As a result, a planned HUD policy paper on the livable cities program has been set aside, and HUD is "rethinking" its policy on the arts, according to a department spokesman.

A FEW SKEPTICS

Although the arts represent an attractive approach to economic development, the example that has been set by Winston-Salem may not be transferable elsewhere.

This city has always had an extraordinary commitment to the arts. The Moravians who settled the area hand-copied hymns, collected 10,000 music manuscripts and earned the city the reputation of being a "hotbed of Haydn." Winston-Salem formed the first arts council in the country in 1949.

There is considerable tobacco and textile wealth in Winston-Salem, and private donations to the arts here are considered the highest per capita in the nation. The city is also home to the North Carolina School of the Arts, a unique state-financed residential performing arts high school and college. And Hanes, who sits on the board of many national institutions, including the John F. Kennedy Center for the Performing Arts and the National Collection of Fine Arts in Washington, provides connections to the national arts scene that many other cities could envy.

A certain amount of skepticism about the value of arts in economic development has been expressed in academic circles.

A John Hopkins University analysis of the economic impact of the arts and cultural institutions in Baltimore concluded that significant reductions in their budgets would hurt employment, income and business volume in the city, but also stated that government spending for the arts is no more "desirable" than for other programs.

The Johns Hopkins researchers also interviewed industry executives and talent recruiters and found that artistic and cultural amenities are a contributing factor—but rarely a decisive one—in either industrial location decisions or moves by executives.

Dick Netzer, dean of the New York University Graduate School of Public Administration, has also warned that government officials may overestimate the value of the arts in economic development, except in New York and Los Angeles, where the arts are major industries.

"It is quite improper," he said, "to ascribe to the arts the economic benefits of visitors who in reality are attracted by entirely different attributes of the urban area—gambling in Las Vegas, the centrality of Chicago, the beauty and sparkling ambience of San Francisco, the monumental structures and government activity in Washington, the business opportunities of Houston and the Twin Cities—and happen to visit a museum or go to the theater."

Netzer said at a 1978 Minneapolis conference on the arts and urban economic development: "In most cities, honest and competent economic impact studies are likely to demonstrate that the dry cleaning industry is as important as the arts. Mercenary arguments for the arts are both wrong and vulnerable to ridicule and backlash." Netzer added, however, that the arts could benefit central cities in their attempts to compete with suburbs.

The greatest threat to the popularity of the arts projects as a means of economic development is the possibility that the country's economic slump could decrease the amount of disposable income available for spending on the arts. Karras conceded that "the leisure dollar is the most fragile dollar. But we're not suggesting it as the basis for any economy except a place like Miami Beach. This is the kind of investment communities have to make to round out their diversity."

At the moment, however, the arts strategy is increasing in popularity. Attendance at the broad range of arts activities—dance, theater, concerts, museums—exceeds that of sporting events. The Commerce Department is planning a new study to support its belief in the economic importance of the arts. And the Partners for Livable Places, a network of organizations that encourages improvement in environmental and cultural amenities, is mounting a fresh campaign to show state and local officials the benefits of arts projects.

With that kind of constituency, it looks as if many American communities can expect new arts facilities with substantial federal help.●

MEXICAN IMMIGRATION: MORE FACTS

● Mr. HUDDLESTON. Mr. President, on December 13 Senator SCHMITT placed in the RECORD a study by Wayne Cornelius which purported to refuse Secretary Marshall's recent charge that illegal aliens are contributing substantially to high unemployment in this country. The Cornelius study has been touted by those who believe that the illegal alien problem does not have a serious impact upon the economy and society of the United States.

I asked David S. North, director of the Center for Labor and Migration Studies at New TransCentury Foundation, to review and evaluate the study. Mr. North has done extensive work in this area and is extremely knowledgeable on the issue. His findings reveal two major problems with the Cornelius study.

First, the Cornelius study is not accurate when it states that unemployment is lower in areas of high concentrations of illegal aliens than in the Nation as a whole. The North computations show "that in 1978, at any rate, heavy flows of immigration from Mexico coincided with above-average unemployment rates, on a city-by-city basis." However, he also points out that these statistics are not the main issue. "The central point is that the presence of substantial numbers of additional, usually hardworking, often docile, often exploited workers can only serve to flood already over-stocked labor markets, thereby causing working conditions and the reward for work to remain stable, or perhaps decline relatively. The governmentally-tolerated imbalance at the bottom of the labor market only serves to further skew America's income distribution, making the rich richer and the poor poorer."

Second, Mr. North goes on to show how several recent studies strongly indicate that illegal aliens are using various tax-supported programs.

I ask that Mr. North's statement be printed in the RECORD.

The statement follows:

COMMENTARY ON THE CORNELIUS REPORT APPEARING IN CONGRESSIONAL RECORD, DECEMBER 13, 1979. S. 8455

Wayne Cornelius' analysis of the impact of illegal immigration on the United States, which he regards as beneficial, might be more convincing were he to avoid highly selective data sources and the utilization of what appears to be a dubious statistical technique.

In the report submitted by Senator Schmitt, Dr. Cornelius makes two principal arguments: that illegal Mexican immigrants do not decrease work opportunities for U.S. workers, and that their utilization of tax-supported services is infrequent. He then cites various statistics to support these two points. Let us take them in turn.

THE LABOR MARKET

On this point, Dr. Cornelius provides us with a table (number 6 in the December 13 Congressional Record, and Table 1 in this text) which he has used elsewhere. The table lists eight "high impact" areas (where he says that there are concentrations of illegal immigrants) and indicates that unemployment is lower in those areas than in the nation as a whole, thus convincing him that illegal immigrants do not create unemployment in the U.S. by displacing resident workers. Leaving aside for the moment the question of why he chose those eight areas (why particularly Oklahoma City), one is intrigued by Cornelius' data source, Table D–8 of the 1977 Employment and Training Report of the President.

TABLE 1.—*Unemployment in the United States and in major labor areas highly affected by Mexican migration, 1969–77*

[Unemployment rate in percent*]

Year	United States	High impact labor areas**
1968	3.6	3.0
1969	3.5	3.1
1970	4.9	5.2
1971	5.9	6.1
1972	5.6	5.3
1973	4.9	4.8
1974	5.6	5.2
1975	8.5	7.5
1976	7.7	7.3
1977	7.0	6.7
1968–1977 (average)	5.7	5.4

*Unemployed as percent of total labor force. Sources: U.S. Dept. of Labor and U.S. Dept. of Health, Education and Welfare, *Employment and Training Revort of the President, 1977*, Table D–8. pp. 246–248; U.S. Dept. of Labor, *Manpower Report of the President, 1969*, Table D–8, pp. 284–286; U.S. Dept. of Labor, *Monthly Labor Review*, Table 1, p. 63.

**Unemployment rate averaged across the following labor areas (as defined by the U.S. Dept. of Labor): Los Angeles-Long Beach, Calif.; Anaheim-Santa Ana-Garden Grove, Calif.; San Diego, Calif.; Dallas, Texas; Fort Worth, Texas (data combined for Dallas-Ft. Worth labor area since 1974); Houston, Texas; San Antonio, Texas; Oklahoma City, Okla.

Reproduced from Wayne A. Cornelius, "Harvest of Shame: United States Responses to Mexican Migration, from Wilson to Carter," discussion paper prepared for the Council on Foreign Relations, Study Group on Immigration and U.S. Foreign Policy, June 8, 1978.

One is intrigued because that table presents unemployment rates in 150 major labor market areas (SMSAs). Has Cornelius really used this data source and averaged the unemployment rates of, for example, Oklahoma City (labor force: about 350,000) and Los Angeles (labor force: 3,000,000) with six other areas of varying size? That would amount to averaging averages, a statistical technique which is both dubious and unnecessary.

Running a calculator over the unemployment rates for those eight cities, one finds that this is exactly what had been done. Next we turned back to the previous two tables in the Employment and Training Report, which provided the needed raw data—the size of the labor force and the number of unemployed in each of the eight areas—and we calculated the actual average unemployment in this eight areas for the years of interest (see Table 2). We found that, in the seven years out of ten, when calculated correctly, the unemployment rates for the eight metropolitan areas were above those shown in Cornelus' table. In two years, the correct rates were below his calculations, and in one year a tie. Once the methodological correction had been made, the unemployment rates, for the decade as a whole, in the areas chosen by Cornelius, were the same as for the nation as a whole, which at least damages his argument. Interesting. Presumably he was unaware that social scientists do not average averages; the only alternatives would be that he chose the particular methodology because it would produce a particular result.

The tables had long bothered me, subliminally, because I sensed that its peculiar result—showing that where illegals gather unemployment rates are lower than U.S. averages (which runs counter to common sense)—was simply an artifact of the selection of areas. Why include Oklahoma City and Fort Worth, two areas that are not known for their incidence of illegals; and why exclude El Paso, where the illegals commute to work daily? Further, why use SMSA data for the comparison, when it is generally accepted that illegal immigrants are more likely to live in the center city than in the suburbs?

Given the fact that the unemployment rates in Cornelius' impact areas (when calculated appropriately), over time, equaled those of the nation, we wondered if another approach would support or not support the point that he had been making. With that in mind, we tackled the related questions:

Is there some way that the extent of the impact of illegal aliens can be measured area-by-area?

Can unemployment rates be secured for those areas and compared to those of the nation as a whole?

TABLE 2.—UNEMPLOYMENT IN THE UNITED STATES AND IN MAJOR LABOR AREAS HIGHLY AFFECTED BY MEXICAN MIGRATION, 1969–77

Year	Unemployment rate [1]		
	United States	"High impact" labor areas (per Cornelius) [2]	"High impact" labor areas (corrected)
1968	3.6	3.0	3.2
1969	3.5	3.1	3.1
1970	4.9	5.2	5.3
1971	5.9	6.1	6.7
1972	5.6	5.3	5.9
1973	4.9	4.8	5.3
1974	5.6	5.2	5.7
1975	8.5	7.4	8.3
1976	7.7	7.3	7.1
1977	7.0	6.7	6.4
1968–77 (average)	5.7	5.4	5.7

[1] Unemployed as percent of total labor force. Sources: U.S. Department of Labor and U.S. Department of Health, Education, and Welfare, "Employment and Training Report of the President, 1977," table D–8, pp. 246–248; U.S. Department of Labor, "Manpower Report of the President, 1969," table D–8, pp. 284–286; U.S. Department of Labor, "Monthly Labor Review," table 1, p. 63.

[2] Unemployment rate averaged across the following labor areas (as defined by the U.S. Department of Labor): Los Angeles-Long Beach, Calif.; Anaheim-Santa Ana-Garden Grove, Calif.; San Diego, Calif.; Dallas, Tex.; Fort Worth, Tex. (data combined for Dallas-Fort Worth labor area since 1974); Houston, Tex.; San Antonio, Tex.; Oklahoma City, Okla.

[3] Source: "Employment and Training Report of the President, 1979," tables D–6 and D–7.

Note: This table is a corrected version of table 1.

It is generally accepted that today's legal immigrants are yesterday's illegal ones,* and that, in all likelihood, the newly arriving legal immigrants settle in the same areas where illegal aliens cluster. Fortuitously, INS has published data for years on where newly arriving immigrants intend to settle, by state, and by cities of 100,000 or more. (Data on this subject by SMSA are not available.) Further, while BLS is less enthusiastic about their reliability than it is about SMSA data, BLS makes available unemployment data on all cities of more than 100,000 population, on an annual average basis. With all this in mind, we decided to use the ratio of newly arrived immigrants from Mexico to the receiving population in cities of more than 100,000 as a rough proxy of the extent of the impact of illegal migrants from Mexico on major U.S. cities, and then to note the unemployment rate in those cities.

In Table 3 we list, in ascending order, cities to which more than 100 permanent resident aliens from Mexico migrated in 1976 (thereby excluding Oklahoma City, the stated intended residence of only 54 such migrants that year) and in which the arriving migrant cohort amount to at least one tenth of one percent of the resident population of the city (i.e., a ratio of 1 to 1,000 or less). In Table 3 we also show the 1978 unemployment rates for those cities and for groups of cities, depending on the proxy measure for the extent of the impact of Mexican illegal migration. In the five most heavily impacted cities, the average unemployment rate was 7.6 percent; in the four next most heavily impacted cities, the average unemployment rate was 6.2 percent (a bit above the national rate of 6.0 percent); and in the remaining eight major cities it was below the national average, or 5.7 percent. One must conclude that in 1978, at any rate, heavy flows of immigration from Mexico coincided with above-average unemployment rates, on a city-by-city basis.

TABLE 3.—MAJOR U.S. CITIES WHICH HAD A HIGH PROPORTION OF 1976 ARRIVING MEXICAN IMMIGRANTS TO RESIDENT POPULATION, THEIR 1978 UNEMPLOYMENT RATE, THE SIZE OF THEIR LABOR FORCE, AND THE NUMBER OF UNEMPLOYED

[Ranked in ascending order of ratios]

City of intended residence	Ratio of 1976 Mexican immigrants to U.S. population [1]	1978 unemployment rate (percent) [2]	Labor force (thousands)	Number of unemployed (thousands)
El Paso, Tex	1:139	9.2	156.4	14.4
Santa Ana, Calif	1:279	5.6	107.0	6.0
Stockton, Calif	1:398	11.3	59.7	6.7
Los Angeles, Calif	1:407	7.7	1,418.6	109.2
San Antonio, Tex	1:496	6.5	317.0	20.8
Average	NA	7.6	2,058.7	151.1
Houston, Tex	1:567	4.2	834.5	35.0
Fort Worth, Tex	1:672	5.2	224.6	11.6
Chicago, Ill	1:689	7.3	1,610.5	118.3
Pasadena, Calif	1:714	5.4	57.5	3.1
Average	NA	6.2	2,727.1	168.0
Glendale, Calif	1:812	5.0	71.9	3.7
San Diego, Calif	1:857	6.8	366.1	24.8
Fresno, Calif	1:888	8.1	107.3	8.7
Torrance, Calif	1:901	5.1	72.0	3.7
Dallas, Tex	1:902	4.0	498.5	19.9
Anaheim, Calif	1:916	5.3	128.6	6.8
San Jose, Calif	1:958	5.3	264.0	17.8
Tucson, Ariz	1:992	5.7	138.6	8.0
Average	NA	5.7	1,647.0	93.4

[1] Population data are for 1973 estimates.

[2] Data are for annual averages. The national annual average unemployment rate for that year was 6 percent.

Source: Ratio of 1976 arriving Mexican immigrants to population computed from "INS Annual Report, 1976," table 12A (for immigrants), and "The World Almanac and Book of Facts," 1977, pp. 234–235 (for population). 1978 labor market data from computer printout supplied by Division of Local Area Unemployment Statistics, Bureau of Labor Statistics, U.S. Department of Labor.

But what about immigration generally (most legal immigrants to the U.S. come from countries other than Mexico). In Table 4 we used the same statistical approach and data sources as before; we arrayed the major cities by the ratio of arriving immigrants to total population, finding to no surprise that Miami led the list (with a one-immigrant-to-23-residents ratio), followed (to our surprise) by Elizabeth, New Jersey (with one migrant for every 61 residents). We noted the ratios, the size of the labor force, the number of unemployed, and the unemployment rates. We then arrayed the cities into ratio groupings, those under 1:150, those between 1:150 and 1:200, and those between 1:200 and 1:300, the last grouping being substantially less impacted by immigrants than the first two groupings. Then we calculated the average unemployment rate in each of the groupings. As in Table 3, the more significant the movement of immigrants, the higher the unemployment rates. In this case, all three groupings and all but seven of the 33 cities showed unemployment rates above the national average.

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*Alejandro Portes, "Return of the Wetback." *Society*, Vol. 11, March–April, 1974.

TABLE 4.—MAJOR U.S. CITIES WHICH HAD A HIGH PROPORTION OF 1976 ARRIVING IMMIGRANTS TO RESIDENT POPULATION, THEIR 1978 UNEMPLOYMENT RATE, THE SIZE OF THEIR LABOR FORCE, AND THE NUMBER OF UNEMPLOYED

[Ranked in ascending order of ratios]

City of intended residence	Ratio of 1976 immigrants to U.S. population [1]	1978 unemployment rate (percent) [2]	Labor force (thousands)	Number of unemployed (thousands)
Miami, Fla	1:23	8.1	202.7	16.4
Elizabeth, N.J	1:61	7.4	57.2	4.3
San Francisco, Calif	1:66	6.8	397.9	27.2
Honolulu, Hawaii	1:66	7.6	313.9	23.8
Hialeah, Fla	1:81	6.5	63.0	4.1
New York, N.Y	1:103	8.9	3,033.0	270.0
Paterson, N.J	1:104	11.5	58.5	7.6
New Bedford, Mass	[3] 1:113	8.8	51.7	4.5
Newark, N.J	1:118	12.0	165.4	19.9
El Paso, Tex	1:124	9.2	156.4	14.4
Cambridge, Mass	[3] 1:129	6.6	54.5	3.6
Las Vegas, Nev	1:138	5.4	85.6	4.6
Jersey City, N.J	1:146	9.9	104.0	10.3
Los Angeles, Calif	1:148	7.7	1,418.6	109.2
Average	NA	8.4	6,162.4	519.9
Alexandria, Va	1:151	5.4	56.2	3.0
Glendale, Calif	1:152	5.0	71.9	3.6
Hartford, Conn	1:152	6.6	67.2	4.7
Chicago, Ill	1:172	7.3	1,610.5	118.3
Santa Ana, Calif	1:190	5.6	107.0	6.0
Stockton, Calif	1:194	11.3	59.7	6.7
Average	NA	7.2	1,972.5	142.3
San Diego, Calif	1:225	6.8	336.1	24.8
Yonkers, N.Y	1:230	6.4	104.5	6.7
Oakland, Calif	1:234	8.4	176.7	14.8
Providence, R.I	1:236	7.4	86.4	6.4
San Jose, Calif	1:242	6.7	264.0	17.8
Bridgeport, Conn	1:246	7.2	62.9	4.9
Seattle, Wash	1:249	5.9	308.3	18.1
Sacramento, Calif	1:257	8.2	146.5	11.9
Torrance, Calif	1:275	5.1	72.0	3.7
Fresno	1:282	8.1	107.3	8.7
Houston	1:285	4.2	834.5	34.0
Fort Lauderdale, Fla	1:293	6.2	91.7	5.7
Tacoma, Wash	1:299	8.2	71.2	5.8
Average	NA	6.1	2,692.1	164.3

[1] Population data are for 1973 estimates.

[2] Data are for annual averages. The national annual average unemployment rate for that year was 6 percent.

[3] 1975 population estimates used in computing ratios.

Source: Ratio of 1976 arriving Mexican immigrants to population computed from "INS Annual Report, 1976," table 12A (for immigrants), and "The World Almanac and Book of Facts," 1977, pp. 234-235 (for population). 1978 labor maket data from computer printout supplied by Division of Local Area Unemployment Statistics, Bureau of Labor Statistics, U.S. Department of Labor.

We did not bring up the relationship between immigrant concentration and unemployment rates. Cornelius did. The causes and distribution of unemployment are much too complex to try to argue that simply because high unemployment rates appear to coincide with relatively high immigrant/resident ratios that one causes the other although this, in fact, may be the case. We are simply suggesting that Cornelius claims to the contrary on the subject do not stand up to analysis.

The central point, however, is not the extent to which illegal immigrants displace U.S. workers on a one-to-one basis; clearly there is some displacement occurring. The central point is that the presence of substantial numbers of additional, usually hard-working, often docile, often exploited workers can only serve to flood already over-stocked labor markets, thereby causing working conditions and the reward for work to remain stable, or perhaps decline relatively. This Governmentally-tolerated imbalance at the bottom of the labor market only serves to further skew America's income distribution, making the rich richer and the poor poorer. Is that what we want? If we do, we should admit it and defend it, and not fuzz that central point by averaging averages.

TAX-SUPPORTED PROGRAMS

Just as Cornelius has been selective in his choice of "high impact" cities for his labor market analysis, he has been equally selective in his choice of surveys providing information on the extent to which illegal immigrants have made use of tax-supported programs. In table 5, which is partially drawn from his table 11 in the Congressional Record, we show, in column 1, the upper limit of tax-supported program utilization reported in his selection of surveys, and, in column 2, we show the upper limit of program utilization in other surveys which he did not cite.

TABLE 5.—UTILIZATION OF TAX-SUPPORTED SERVICES AMONG ILLEGAL MEXICAN MIGRANTS

[In percent]

Type of service	Upper range, Cornelius-cited data (col. 1)	Upper range, data not cited by Cornelius (col. 2)
Unemployment compensation	4.0	10.0
Welfare (AFDC, etc.)	3.2	12.4
Public school (has had children in)	3.0	21.1
Medical care	14.0	37.3

Sources: Col. 1, table 11 in Cornelius study, Congressional Record, Dec. 13, 1979, p. 35385, covering the following studies: Bustamante (1978), Cardenas (1977), Cornelius (Jalisco survey), North & Houston (1976), Orange County Task Force (1978), and Villalpando (1977). Col. 2 data on unemployment compensation from Avante Systems, Inc. and Cultural Research Associates, "A Survey of the Undocumented Population in Two Texas Border Areas" (San Antonio, Tex., September 1978), p. 41, a study prepared for the U.S. Commission on Civil Rights; and for the other 3 items from Van Arsdol, et al., "Non-Apprehended and Apprehended Undocumented Residents in the Los Angeles Labor Market: An Exploratory Study" (Los Angeles: University of Southern California, Department of Sociology and Anthropology, May 1979), p. 89.

The differences are substantial. For example, Cornelius' upper limit (from the five surveys he cites) for medical care was 14 percent. A survey he did not cite, which was written by a group of Californians very sympathetic to the plight of the undocumenteds, found that 37.3 percent of the sampled illegal immigrants not only had used public hospitals, but still owed hospital bills at the time of the survey.*

Similarly, when asked "Have you previously or are you presently receiving welfare?" 12.4 percent of the respondents (and 18.5 percent of the female respondents) said that they had received such payments—compare that to the 3.2 percent upper limit cited by Cornelius.

While I firmly believe that only a minority of the illegal immigrants in the country make use of these tax-supported programs, it is vital to recognize that there is such utilization, and that it may well be extensive, and that we do not know very much about it. In all too many cases, the illegal aliens covered by the surveys (including our own) are apprehended persons, generally males, and generally healthy ones of working age—exactly the kind of persons who are least likely to seek, or to need, the help of tax-supported programs. What is needed, to find out more about this subject, is an examination from within the programs themselves—a careful study of who seeks benefits of various kinds, and what happens to their applications.

The only such study we know of that meets these criteria is the on-going data collection system of the Department of Public Social Services in Los Angeles County, which we examined for the Laurel Foundation. This is the agency which handles all state-operated welfare programs in the area, including AFDC, Food Stamps, and Medicaid.

In the first quarter of calendar year 1979, the Department of Public Social Services—which works closely with the Immigration and Naturalization Service—reported that it identified and denied benefits to 3,453 illegal alien applicants, an average of more than 1,000 a month.** Since such cases cost about $175 a month, and generally last about 19 months, the savings generated by this Los Angeles County process, in a year, total about $46,000,000.

If the programs are as tightly run in the other counties of California as the one in Los Angeles County (and it is not clear that they are), something on the order of $100,000,000 a year is now being saved, assuming that probably about half of the illegal migrants in the state are residents of Los Angeles County.

If such savings can be secured in a single county, or in a single state, when a single group of income transfer programs are administered carefully—what savings could be secured if all income transfer programs, all over the nation, were handled with the same degree of care? It is a question well worth exploring, and it must be done through the income transfer programs themselves, not by simply talking to the kind of aliens the Border Patrol typically arrests (young males who cross the frontier by night).●

HATCH ON HATCHERIES

● Mr. HATCH. Mr. President, as the last day of the 96th Congress 1st session arrives, with all of us planning to prepare for the holidays and to return home to our districts, I have a matter which cannot wait until our return for the next session. I have asked for this brief time to bring to your attention an extremely urgent matter which if not immediately addressed may pose serious social and political consequences in our Nation. Here are the facts.

The State of Virginia is on the verge of becoming the first State to license a test

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*Maurice D. Van Arsdol, Jr., et al. *Non-Apprehended and Apprehended Undocumented Residents in the Los Angeles Labor Market: An Exploratory Study* (Los Angeles: Department of Sociology and Anthropology, University of Southern California, May 1979).

**Los Angeles County, Department of Public Social Services, Bureau of Special Operations, "Alien Status Verification Activity Quarterly Report," May 1, 1979.

tube baby clinic. Scientists would begin the life process artificially, experiment on the babies with potential dangers of their death or mutilation. Some religious leaders and members of the scientific community would contend that some babies would be killed or accidentally lose their lives as part of the experiment's "control." I hasten to add that in my discussion with Virginia's Commissioner of Health, Dr. James B. Kenley, I was assured that there would be no deliberate taking of human life during the proposed artificial births and subsequent experiments. Nonetheless, it is one of several controversies surrounding this proposed test tube baby clinic, a clinic which would be the first of its kind in our Nation.

The Norfolk Hospital has applied for a certificate of need from Dr. Kenley, requesting that the clinic begin operation in early 1980. During my conversation with Dr. Kenley this morning, he noted that he was bound to make a decision on the matter by January 8, 1980, as requested by the State's office of attorney general.

No Federal money has been requested for the project, and although State funds would be authorized should the center's plan proceed, there is the question of what if any Federal funds are indirectly involved. These indirect moneys are the result of general purpose appropriations made through this Congress biomedical research grants and several other appropriations issued by the Congress in the past year. The money question aside, HEW departmental regulations already mandate an "Institutional Review Board" (IRB) review, a Federal hearing procedure to decide, "on research involving human subjects, even if it is not supported by departmental funds." These rules and proposed new regulations are spelled out in the August 14, 1979 Federal Register, pages 47688 to 47699, and I request that these along with a study entitled, "HEW Support of Human In Vitro Fertilization and Embryo Transfer," prepared by Dr. William Marshner, be printed in the RECORD.

The material follows:

HEW SUPPORT OF HUMAN IN VITRO FERTILIZATION AND EMBRYO TRANSFER: A REVIEW OF THE REPORT OF THE ETHICS ADVISORY BOARD

On May 4, 1979, an Ethics Advisory Board (EAB) appointed by Secretary Califano reached five conclusions respecting the acceptability of HEW support for research involving human in vitro fertilization (IVF) and embryo transfer. The Board's work fulfilled a procedural requirement established in August, 1975:

"(e) No application or proposal involving human in vitro fertilization may be funded by the Department or any component thereof until the application or proposal has been reviewed by the Ethics Advisory Board and the Board has rendered advice as to its acceptability from an ethical standpoint." [1]

Absence of an EAB review in the period 1975–1979 had produced a de facto moratorium on federal involvement in such research.

In the future, however, as a result of the May 4 EAB conclusions, applications and proposals involving human IVF, with or without subsequent embryo transfer, are likely to be evaluated for funding by HEW on much the same basis as any other biomedical research—that is, primarily in the light of existing national priorities for the allocation of public funds.

It should be pointed out that the EAB conclusions look primarily to the issue of ethical acceptability. They do not address the public-policy issue of whether funding for human IVF research should actually be forthcoming or, if so, at what level. Hence it remains logically possible both to accept the EAB conclusions and to decide not to fund such research at all.

It would not be wise, however, to assume that a negative funding decision is probable. With regard to existing national research priorities, one must distinguish sharply between (a) research involving human IVF with embryo transfer, whose prospective clinical application would be exclusively the overcoming of infertility in a relatively small number of married couples, and (b) research involving human IVF without subsequent embryo transfer, whose predictable clinical applications would include not only the overcoming of infertility but also the development, testing, and dissemination of new contraceptive technologies or the development of new techniques for the elimination of genetic diseases. Note carefully that, under (b), we do not refer to research whose direct and explicit intention is the acquisition of contraceptive or genetic information; the EAB Report states that its conclusions do not bear upon the ethical acceptability of such research, nor upon the conditions which would justify the use of human embryos in such research.[2] Rather we have in mind, under (b), applications and proposals directed primarily to the infertility problem but with foreseeable side-effects in other areas.[3] Now, while allocation of HEW funds to research of type (a) might prove hard to justify—especially since private clinics here are expected to emulate the British achievement of Edwards and Steptoe in any case, and since these clinics are likely to take the necessary steps to protect themselves from liability to damages arising from mismatched gametes, negligent embryo loss, or defective birth in any case, without federal regulation—nevertheless an allocation of funds to research of type (b) would be in routine harmony with national policy for the last 15 years. A pattern of federal largesse to scientists working in the contraceptive industry, whose proposals often include a reference to infertility problems, is visible on even a cursory review of the history of federal grants in the field of research on human reproduction.

Hence a careful dissection of the May 4 EAB conclusions and of the reasoning used to reach them is not likely to be devoid of practical relevance even in the immediate future. With this fact in mind, the Family Policy Division of the Free Congress Research and Education Foundation has commissioned this review of the EAB Report, as an aid to public discussion of the Report's cogency.

The conclusions of the EAB Report of May 4, 1979, around which the contents of the present review will be organized, may be summarized as follows:

(1) DHEW should consider supporting animal research involving IVF and embryo transfer, especially with nonhuman primates;

(2A) It is ethically acceptable to undertake research involving human IVF without embryo transfer which is directed towards overcoming cases of infertility, provided, inter alia, that the embryos are not sustained beyond the time when implantation would normally occur in conceptions in vivo (about 14 days);

(2B) It is ethically acceptable to undertake research involving human IVF followed by embryo transfer, provided that the gametes used are obtained from lawfully married couples and the transfer is to the womb of the wife;

(3) It is ethically acceptable for DHEW to support or conduct research of the kind discussed in (2A) and (2B);

(4) Information derived from such research and from related clinical tests from all over the world should be collected, analyzed, and disseminated by appropriate federal agencies; and

(5) The secretary of HEW should encourage the drafting of a modal statute to clarify the legal status of children born as a result of IVF and embryo transfer; appropriate funding for this project should also be considered.

This review of the arguments for and against each of these conclusions will take them up in the following order: (2B), (2A), (1), (3), (4), (5). The rationale for this reordering is the advantage of dealing with the best case for ethical acceptability first.

I. DISCUSSION OF CONCLUSION (2B)

Let us posit a best-case scenario, setting aside for the moment the question of its practicality.

A lawfully married couple is infertile because the wife's Fallopian tubes are missing or naturally occluded. Surgical repair of the situation is not possible, given the current medical technology. The couple consents to IVF and embryo transfer out of a desire for natural offspring. Morally opposed to abortion, they are willing to accept even an abnormal child, if that is the result of the procedure. Gametes are harvested from the couple in an entirely moral manner. One and only one ovum is fertilized, successfully cultured, and surgically implanted in the wife's uterus. Hence there is no embryo wastage. The pregnancy is successfully carried to term.

There are two lines of argument against the ethical acceptability of this best case.

The first holds that human IVF is an attempt by man to usury a divine prerogative. God is the author of life; turning the making of new human beings into a laboratory technique is therefore an effort to put man in the place of God.

The second argument holds that extracorporal fertilization is intrinsically unnatural and immoral, because it effects an artificial separation between marital intercourse and procreation. On this view, human fertilization ought never to occur, unless it occurs inside the body of the wife as a result of natural and chaste relations.[4] The defenders of this view usually rely on statements of Pope Pius XII.[5]

In reply to the first argument, it is pointed out that there is a distinction between the possibly ungodly abuses of the technique and its legitimate use as an aid to infertile couples. With the doctor's cooperation and the parents' love, fertilization is the same God-given event, whether it occurs in the mother or in the laboratory for the mother.

In reply to the second, it may be observed that arguments against the separation of married love from procreative effect, which are relevant to the moral discussion of contraceptive practices, have no obvious bearing on a case in which the deplored separation has already occurred naturally by virtue of the state of the oviducts, and in which the couple is resorting to artificial means solely to overcome the infertility caused precisely by that separation. Moreover, the statements of Pius XII are general in character and, in their context, seem to presuppose that otherwise illicit acts have preceded the AIH (artificial insemination from husband's sperm) or IVF procedure itself. This need not have been the case. Our best scenario may assume that sperm was gathered after a natural act of marital union, so that a connexion between that union and the in vitro conception is not wholly lacking. Hence it would be difficult to maintain that the papal teaching directly evaluates the best case.

These lines of reply are convincing; no co-

Footnotes at end of article.

gent argument has shown that the actions of the infertile couple and/or of their attending physician in the best-case scenario are illicit. One may presume that the case is ethically acceptable.

Of course, this ethical presumption does not preclude a different evaluation where the husband and wife are, or have been, reproductively normal. It might seem that a normal couple would never resort to an expensive procedure such as IVF and embryo transfer. But suppose a husband is going to war; he and his wife might agree to have some gametes harvested and frozen, so, that, if he is killed, she can still have a child of his to remember him by. Such a decision might even become fashionable. A more likely case, however, is one in which the oviduct blockage is the result of a prior decision to be sterilized, now much repented. The concern of those ethicians who deplore a separation between procreation and marital relations acquires a more obvious relevance in cases like these.

Moreover, the presumption that the best-case scenario is ethically acceptable does not foreclose a number of prudential questions. One can still hold that a more radically therapeutic approach (repair or replacement of the tubes) is better medicine and morally preferable in all cases. One can also hold that both public and private research monies, insofar as they are targeted toward relieving the problem of best-case couples, should be directed exclusively to research on the development of artificial tubes or other curative procedures which do not involve the medical and social risks of IVF and embryo transfer.[6]

In short, even if the best-case scenario were practicable in the present state of biomedical art, an acceptance of the morality of the best case does not logically compel an acceptance of conclusion (2B) of the EAB–HEW. For one may plausibly hold that pursuing research involving IVF and embryo transfer to overcome infertility is not ethically acceptable, unless and until it has been established that the medically and socially preferable research strategies hold no long-range hope of success for such couples. The EAB Report does not make this latter contention; rather, it observes that surgical strategies offer little immediate hope for an estimated 280,000 women out of the 60,000,000 now reproductively active.[7]

At any rate, within the context of the Report conclusion (2B) is not predicated on the moral acceptability of the best case but on the acceptability of a considerably worse case. Let us call it the best practical case.

The best practical case differs from the best case in at least three respects.

First, existing techniques are not sufficiently perfected to assure the success of embryo transfer without many trials and failures. It might be said, therefore, that the best practical case exposes the embryo conceived in vitro to unfair risks of miscarriage.

On the other hand, statistics indicate that early embryos fail to implant or spontaneously miscarry in normal human reproduction at a surprisingly high rate also.[8] Hence it is unwarranted to say that an unfair risk is posed by embryo transfer—so long, at least, as no medical intervention occurs to block or terminate implantation.

This reply seems to be sound. So long as there is no intervention, after the transfer, against the embryo itself, the decision between successful pregnancy and miscarriage is entirely in nature's hands, so to speak (or God's). If embryo loss occurs, no one is to blame, even if the rate of loss is abnormally high after IVF. This is not to say, however, that there is no ethical issue to be found here. An abnormally high rate of embryo loss would reflect damagingly on the medical efficacy and safety of IVF and embryo transfer procedures—an issue to which we shall return below.

Second, it is not assumed in the best practical case that the couple is willing to accept an abnormal child. Amniocentesis and other fetal monitoring techniques will usually be demanded, subsequent to embryo transfer, so as to allow the option of abortion.

One would like to be able to write off this demand for back-up abortion as an adventitious aspect of the situation. One would prefer to evaluate the best practical case on the basis of the ethical acceptability of procedures intrinsic to IVF and embryo transfer themselves, without having the issue clouded by abortion. Unfortunately, this goal is difficult to attain for the following reason.

There are at least four factors intrinsic to the IVF technique which increase the risk of abnormal offspring over and above what is expected in conceptions in vivo. As listed in the EAB Report, they are these:

"a. Superovulation, sometimes employed prior to *in vitro* fertilization, may be correlated with an increase in the incidence of chromosomal abnormality (trisomy) in embryos.

"b. The quality of sperm reaching and fertilizing the ovum in vitro may differ from the quality of sperm fertilizing the ovum in the Fallopian tube, since the female reproductive tract selects against some types of abnormal sperm.

"c. The quantity of sperm reaching the ovum simultaneously in vitro may break down the usual block to fertilization by multiple sperm; a polyploid embryo may result.

"d. The using of freezing techniques to preserve gametes or embryos may produce mutations."[9]

The EAB admits that in the early, preimplantation embryo, the statistical incidence of abnormalities arising as a result of these four factors cannot be estimated.

In reply, it is said that this statistic is less important than it might appear, thanks to another natural screening mechanism, by virtue of which the overwhelming majority of chromosomally abnormal embryos fail to implant or are spontaneously miscarried. Thus, according to James J. Schlesselman, even if an excess of chromosomally abnormal embryos were produced by *in vitro* techniques, only a small proportion (less than 10 percent) would develop to term . . .[10]

Animal studies suggest that only a 3 percent additional risk of abnormality at birth is to be expected in pregnancies initiated by IVF and embryo transfer.[11]

In counter-reply, these optimistic projections assume that the natural screen will not be reduced in effectiveness by the medical treatment which accompanies embryo transfer. Also, the projections hold good only for fairly gross anomalies, as the EAB concedes:

"If subtler genetic (as distinguished from chromosomal) abnormalities were to result from in vitro techniques, the abnormal embryos might not be affected by the natural screening process described by Schlesselman."[12]

It cannot be denied, therefore, that by virtue of factors intrinsic to the in vitro technique, an increased demand for back-up abortion is virtually inevitable in clinical applications. Indeed, it is doubtful that clinical use of IVF and embryo tranfer would be seriously contemplated today, if abortion were not already available for "corrective" purposes.

Another way to state this result is as follows: the only conditions under which the morality of IVF and embryo transfer can be evaluated independently of the morality of abortion are conditions which require genuine moral heroism in the prospective parents and which cannot be lawfully imposed in the United States in any case, because of the terms of Roe v. Wade.

Legal or not, an abortion whose sole purpose is to eliminate a genetically inferior but otherwise satisfactorily progressing fetus is not a morally acceptable procedure. This judgment does not rest solely on the conviction that direct abortion is illicit killing; it rests also on the conviction that the practice of such eugenic abortions, in the absence of a clearly defined demarcation between humanly acceptable and humanly unacceptable genetic inferiorities, countenances both totalitarian attitudes (human "quality control," the "design" of our successors) and the treating of the child as a consumer object (preselected sex, eye-color, etc.). Intrinsically de-humanizing, these attitudes are radically inconsistent with the ethics of a sound family life.[13]

Nevertheless, the fact that IVF techniques, in the best practical case, are socially inextricable from back-up abortion of the kind discussed does not suffice per se to demand a moral rejection of the best practical case. (It suffices to justify a prudential rejection.) For in individual cases these procedures are still separable. Many couples will renounce their "right" to abort the child whose life they have gone to such pains to initiate; many doctors performing IVF and embryo transfer will be unwilling to abort and may reasonably hold that they are not responsible for the fetal death, should the parents go to another doctor to secure abortion services. Nothing said so far proves that such couples and such doctors are acting unethically (though they may be acting imprudently).

The question of the ethical acceptability of the best practical case, in the absence of abortion-related complications, is clarified by turning to the third respect in which the best practical case differs from the best-case scenario.

In the best practical case, it is not assumed that one and only one ovum will be fertilized at a time. Current experimenters seem to prefer to harvest and fertilize a number of oocytes simultaneously, so that, if a first embryo-transfer attempt fails, another may be tried on the same menstrual cycle.

This practice raises in an acute way the question of the philosophical and moral status of the early human embryo, as it exists after fertilization in vitro. In current experimental practice, some such embryos are left over. Is it licit simply to discard them? Is it licit to let them die? Would it be morally acceptable to transfer them to the wombs of other women, despite the legal and social problems of illegitimacy or surrogate motherhood which would thereby arise? Would it be morally acceptable to freeze these embryos and store them, until the original couple is ready for other children?

Practical considerations alone serve to dispose of some of these alternatives. Embryo freezing entails an unknown level of risk of congenital damage. Parents of existing children begotten by IVF techniques will certainly prefer to supply fresh gametes for their subsequent children. Transfer of left-over embryos to the wombs of other women is also extremely unlikely. For even if the clinic happens to have a long waiting-list of women whose menstrual cycles happen to be at the right point to accept transfer, these women will surely want to receive their own embryos and not some one else's. No doubt poor women could be bribed to accept embryo transfers, but where would the money come from?

In reality, then, killing and letting die the extra embryos are the only available alternatives, once they have been "created." We shall examine the moral acceptability of both subsequently, in a context in which the issue is inescapable. In our present context, that of the best practical case, these alternatives are not inescapable and, for that very reason, neither is morally acceptable.

This conclusion is based on what appears to be a non-controversial premise. No witness or consultant to the EAB denied that early human embryos, as entities not only

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human in origin but also endowed with potential for further human life, deserve to be treated with ethical sensitivity and respect.[14] (Opinions differed, of course, on the appropriate degree of protection.) If this much and no more is granted, it is already obvious (a) that letting them die is morally preferable to killing them, and (b) that letting them die is not itself morally acceptable, unless there is no alternative. A nurse who discovers a petri dish in which living human embryos are being cultured has no alternative; she is morally justified in letting them die; their deaths, like their lives, are someone else's responsibility. But the couple and the clinic in the best practical case do have an alternative. They need not permit simultaneous fertilization of several ova. The extra ova can be stored and not fertilized unless needed.[15] The only reason why one-at-a-time fertilization is not preferred by experimenters is ethically trivial: it means a month's delay if the first embryo-transfer attempt fails. This minor inconvenience cannot weigh against the respect due to what is often called a "potential human life."

However, there is an argument advanced to justify the embryo wastage consequent upon multiple fertilizations in the clinical setting. It contends that, through spontaneous failures to implant, nature also "wastes" many embryos prior to establishing a pregnancy. What the doctor does, not only in selecting against abnormal embryos in vitro but also in selecting among normal embryos in vitro, is really no different from what nature does in vivo and from what normal married couples accept as an unintended byproduct of their sexual relations.[16]

This argument fails on three grounds.

First, it is unresponsive to the point already made. For, if it were so and, it would at most justify embryo wastage where there is no alternative. But there is an alternative; one-at-a-time fertilization eliminates the very problem whose existence the argument seeks to justify.

Secondly, the argument overlooks a crucial distinction between the behavior of nature and the behavior of the doctor playing Nature. When embryo losses occur naturally in vivo, no intentional human act intervenes to the advantage or disadvantage of any of the embryos. The only intentional human act involved at all is intercourse, and the existence of a preimplantation embryo is a consequence of intercourse; but the success or failure of that embryo in implanting is not a consequence of intercourse. When embryo losses occur in a clinic, however, as a byproduct of IVF procedures, there is an intentional human act, the doctor's selection, which intervenes to the advantage of one embryo and to the fatal disadvantage of all the others. It is the morality of that act which needs to be established; and since there is no such act in the natural analog, the doctor cannot appeal to this analog to justify himself.

Thirdly, the argument radically falsifies the relation between the doctor and the embryo in the clinical context. In any wanted pregnancy, the attending physician has two patients, the mother and the fetus. Normally, this second patient is not known to exist (hence is not formally a patient) until implantation has occurred and the indications of pregnancy have begun to appear. But in clinical applications of IVF, as a future form of obstetric practice, the second patient is known to exist from the very beginning. The doctor has cooperated with the genetic parents in bringing the second patient into existence, on the laboratory table. For the first time in medical history, the doctor has a preimplantation embryo as a patient. The parents want this embryo (or one of them) to be their child. For the doctor to have created irresponsibly a dozen more patients than he can implant does not alter the fact that they are his patients. True, the parents want one child, not a dozen. They want one of the dozen. But there is no particular one of the dozen whom they want; any one would do. Hence no particular one of those embryos is the initiation of an unwanted child, and no particular one enjoys the status of being the wanted one against all the others. It is solely the doctor's (or the parents') act of selection which introduces this distinction, and this is precisely why the act is unethical. It is a selection among patients to decide which one will continue to be a patient to the fatal disadvantage of all the others.

It is important not to confuse this situation with similar-sounding dilemmas which differ from it, however, in that they arise through no fault of the parties involved. For example, a war-time doctor might have a dozen patients who will die without daily doses of a certain serum, while, because of an interruption of supply, he has only enough serum to save one. So long as every patient is given an equal chance, he may devise a lottery to accomplish the odious selection for him. He seems thus to have an ethical way out—but only because he did nothing to create the situation. For a doctor deliberately to create a situation in which he has more patients than he can save is outrageous. But this is exactly what the doctor does when he creates more embryos than he can implant in the clinical application of IVF.

Please note that nothing in the above argument depends upon an assumption that the preimplantation embryo is a person or a human being in the legal, moral, or ethical sense. Even if it is none of these things, my contention depends solely upon the fact that the embryo in clinical contexts is a patient. And this fact needs no further verification than the right of the prospective parents to sue in case the doctor's negligence has brought about the death of their embryos.

It appears, therefore, that the best practical case does not present a morally acceptable procedure, unless two conditions or restrictions are placed on it simultaneously, namely, (a) unless back-up abortion is rejected, and (b) unless harvested oocytes are fertilized one at a time. For the reasons already advanced, the absence of either restriction suffices to render the IVF and embryo transfer procedures ethically unacceptable.

Unfortunately, neither of these conditions is required by the EAB–HEW in reaching its conclusion (2B). Nor is any justification given for omitting them. Failure to require or even recommend these restrictions on ethically acceptable IVF with embryo transfer is among the most serious flaws of the EAB Report.

Therefore, even if one sets aside the prudential considerations which weigh in favor of other lines of research, it is not possible to endorse conclusion (2B) without qualification. On purely ethical grounds, one should dissent from (2B) because it admits cases in which unethical, purely eugenic procedures and unnecessary embryo wastage are tolerated.

Moreover, the judgment that the best practical case, when subject to two restrictions, presents a morally acceptable procedure, is intended to speak only to the abstract issue of intrinsic morality. The judgment abstracts from the question whether the procedure is safe enough or well-tested enough to be used on human beings. We have not confronted that issue; the judgment is tantamount only to the claim that if the procedures of IVF and embryo transfer are well-tested, safe, and effective, then the procedures are ethically acceptable under certain restrictions.

Obviously, it is a central tenet of medical ethics that no procedure may be used on human patients unless the procedure has been sufficiently tested to be proven safe and effective. We have not previously addressed this dimension of the ethical problem surrounding in vitro fertilization because, oddly enough, there is no controversy about it. It it admitted that IVF techniques have not been adequately tested to justify their general medical use. (The controversy before the EAB was over the antecedent issue of whether IVF techniques had been tested sufficiently to warrant HEW suport of further research.) The EAB Report admits this, one may as well say, passim. Risks to the mother, risks of increased genetic abnormality—conclusions about all of them are based either on speculation or on animal studies which have not even been done on primates.[17] Suffice it to say that, if IVF were a new drug, its licit use would still be years away.

This is the reason why conclusion (2B) does not stand alone in the EAB Report. The envisaged procedure of IVF with embryo transfer can never be pronounced ready for general use without the supporting research results envisioned in conclusions (1) and (2A).

To these we now turn.

II. DISCUSSION OF CONCLUSION (2A)

There are hundreds of differences, some obvious, some subtle, between the Fallopian tube and the laboratory culture as an environment for fertilization. One would like to know exactly what impact each of these differences has on embryonic development. Without that knowledge, IVF with embryo transfer is a procedure overshadowed by unmeasured and perhaps unsuspected risks.

Since knowledge is a pre-moral good, one can always say that knowledge is worth having in its own right. If the knowledge has practical (e.g. clinical) application, the value of the application adds a further pre-moral value to the acquisition of the knowledge. Nevertheless some knowledge *ought* not to be obtained—not because the knowledge as such is evil but because there is no ethical way of obtaining it.

For example, it might be interesting to know what is the most brutal pain a human being can endure short of losing consciousness. But an experiment designed to obtain this information would be, regardless of the scientific motive, a form of torture. It could not be justified morally.

This precise question of the ethical justifiability of the means of obtaining certain information was considered by the EAB with respect to experiments on human fertilization and embryonic development. It is less than clear, however, on the basis of what principles, if any, the EAB resolved the question.

Part of the experimentation which would be necessary to confirm or disconfirm the alleged therapeutic value of IVF with embryo transfer raises no ethical difficulty, namely, the part which involves animals. There is neither a major stream of informed opinion nor a cogent argument, however, to the effect that animal research will suffice. The EAB concedes without further ado that laboratory experimentation on human IVF, without embryo transfer, is necessary to secure the desired information.[18]

There is also no controversy over the fact that such research will involve the creating and the letting die of human embryos for no other purpose than the acquisition of information. This, and nothing less, is what the EAB has pronounced ethically acceptable in (2A).

Whatever one thinks of this conclusion offhand, one ought to recognize that it is dubious; it is not obviously correct. Yet the matter is important. If one is a person of moral sensitivity, therefore, one should want to get clear what the argument for (2A) amounts to. This is difficult, because the EAB has not met its own obligation to make clear what its argument amounts to. The state-

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ments in the report of May 4 are so muddled that one can construe the Board's position in two radically different ways.

They are these.

First construction

The human embryo in vitro deserves a profound respect; it may even be a human being—if not for legal purposes, at least for purposes of certain ethical considerations. The Board does not propose to resolve this doubt; it leaves open the point when human life, in an ethically significant sense of the term, begins. The Board is therefore prepared to concede, if need be, that experimentation on human embryos, where it poses damage to them or lets them die, is a human disvalue, a kind of evil. Nevertheless, it is morally justified to bring about a certain amount of evil in order to achieve a good which outweighs it (a thesis of consequentialist ethics). At least (or, alternatively: a fortiori) it is morally justified to tolerate a certain amount of evil in order to achieve a greater good. The "ethical acceptability" to which the EAB has addressed itself is precisely "acceptability" within the framework of such an ethics of compromise or toleration, not necessarily "acceptability" within an ethics of approbation. This framework of social compromise is the only proper one for the EAB to work within. Well, now, within just that framework, it is ethically acceptable to allow some people to conduct experiments on human embryos, which some of us regard as an evil, for the sake of perfecting a therapeutic technique whose benefit for infertile couples almost all of us can recognize as a good. However, from our belief that that good outweighs the evil involved in the experiments, it does not follow that any other good (e.g. the good of learning more about contraception, or the good of adding new chapters to genetic science) outweights it. The EAB will consider the ethical acceptability of those cases separately, in the future.

Second construction

The human embryo in vitro deserves a profound respect, just as any scarce and scientifically valuable research material deserves respect. The cultures are not to be sold as curios, entrusted to incompetents, or worked on by crackpots. Nevertheless the preimplantation human embryo is not yet capable of sentient experience, which is the relevant criterion of human life in any ethically meaningful sense. Hence experimentation on the embryos, even that which involves damage to them or letting them die, does not raise an ethical problem per se. This is not to deny that there are ethical issues surrounding such research. How much research, and what kind of research, will suffice for us to be able to assure infertile couples truthfully that IVF and embryo transfer are safe? Is it ethical to undertake the experiments in the face of the danger that, once human embryos are available in laboratories, they will fall into the wrong hands, to be used in lurid ways? Would HEW's support, and hence regulation, of this research help to reduce the potential for abuse? Is it ethical to allow or foster the use of this scarce resource (human embryos in vitro) in research projects which offer no immediate prospect of therapeutic benefit? Or is it better to restrict the use of the resource to those projects which do hold out such a benefit, at the cost of thereby cheating the interests of pure science? Well, what the Board has decided is that the use of human embryos in experimentation designed to perfect the therapeutic techniques of embryo transfer in cases of infertility in married couples (and to learn whatever else might be learned along the way to that end) is ethically acceptable in the ordinary sense of the term. The Board has not decided whether the use of this resource in other forms of experimentation is acceptable or not.

As anyone can verify by reading the EAB Report, both of these constructions are plausible accounts of its drift. Yet the two constructions are incompatible with each other. Neither construction presents a case which is particularly convincing, as we shall see; yet each is unconvincing on different and conflicting grounds. The first construction appeals to consequentialist ethical reasoning, the second does not. The second construction makes at least a de facto decision about what counts as human life; the first pretends not to. Thread the two constructions back together somehow, without regard to the logic, and the combination reads like a routine summary of the report's closing pages, except that a tutorial hand has supplied a premise or two left unspoken in the original.

In other words, the text of the report is so designed that it does not present a coherent perspective. But by supplying a suitable premise, one can distill a coherent perspective out of it, and by supplying a different premise, a different perspective. Our two constructions are the distillates. If neither of them stands inspection, the Report does not stand inspection. We turn to them.

Evaluation of the first construction

In the first place, this construction relies on a form of moral reasoning sometimes known as consequentialism, sometimes as utilitarian calculus. Unlike prescriptive systems of ethics (e.g. the Judeo-Christian), which reason from moral norms or laws which are taken to be exceptionless, once they are well defined, consequentialism treats all moral laws as generalizations, that is, as more or less useful rules-of-thumb. They can all be set aside if a circumstance arises (which might be very rare) in which a proportionate and preponderant good could be obtained by violating them. One reasons ethically by measuring and commensurating consequences. If one's act will have a good consequence and an evil consequence, but the good one outweighs the evil one, one may do the act even if the evil consequence is the means to the good. Indeed, to say that an act is morally good primarily means that it has good consequences, on balance. Hence the name consequentialism.

By invoking this system, the EAB Report can say that, even though it be granted that experiments which create human embryos and leave them to die are evil, one can do them anyway for the sake of a good which outweighs the evil.

Against this construction, therefore, it is relevant to point out that consequentialism has been subjected to a devastating philosophical critique in the technical journals. The consequences of one's acts cannot be the basis for one's moral judgment, because one does not know most of them. Even if one did, they are not quantifiable. To pretend to measure and commensurate qualitatively diverse outcomes is the sheerest subjective fantasy. And if in fact one could commensurate in the way which the theory requires, objectively, then the objective facts would determine in advance which option is better, and there would be no significant moral choices.[19] Et cetera. Since this discussion is purely philosophical (metaethical), it need not be pursued further here. Suffice it to say that the technical criticisms of consequentialism have never been answered, as some of the distinguished ethicists who served on the EAB are in a position to know; hence, to say the least, it is inappropriate for the EAB to invoke this moral system without bothering to defend it.

In the second place, even if consequentialism were a tenable theory of ethical reasoning, the EAB has precluded an appeal to it, on this construction, by declining to define the value of human embryonic life. No one denies that to carry out experiments on real human beings—experiments which are not for their own benefit but for someone else's, which damage them and leave them to die—is not only illegal but grossly immoral, whether or not the subjects give consent. To leave open the question of what counts as a human being is therefore to leave open the possibility, at least, that a gross moral evil is done in creating and letting die human embryos for purely experimental purposes. To say that despite this possibility one may do the experiments anyway, in view of a potential therapeutic benefit which outweighs the possible evil is, inter alia, to presuppose that the possible evil has been weighed. But if the human status of the embryo has been left an open question, the possible evil of experimenting on them has not been weighed. It is incoherent to say that one thing outweighs a second, when the second has not been assigned a weight.

In the third place, this incoherence can be fixed up in only two ways, if one intends to salvage the rest of the Board's position. One can say that the unassigned weight is really zero, because the embryos are not human beings, period. Such is the line of the second construction, to which we shall attend in due time. Or, one can say that the unassigned weight is only indeterminate within a certain range, so that, wherever it falls within that range, it is outweighed by the other value. This line of thought is interesting because it is reminiscent of Roe v. Wade.

Independently of how one resolves the question of the human status of the fetus, said the Supreme Court, the woman's right to privacy outweighs the fetus's right to protection for about six months. The value of fetal life varies in different people's opinions, in other words, but over that time-span it is always less than a fixed value, that of Constitutionally protected privacy. One can hardly avoid the impression that this formal structure of the abortion precedent's reasoning strongly influenced the argumentative strategy of the EAB.

If so, the Board has made a move which is open to obvious challenge. One need not say this primarily because one thinks that Roe v. Wade is bad law (although I certainly do think that) but rather because, good or bad, Roe v. Wade cannot be construed to set a precedent for the case at hand. There was found, or there was invented, a Constitutionally protected right of privacy, covering reproductive decisions, on which Roe v. Wade was predicated. But neither a therapeutic benefit nor a laboratory experiment enjoys any such right. What a woman does with what is in her womb is none of the government's business, whether it is human or not, said Roe v. Wade; can anyone think it follows that what a scientist does with what is in his laboratory, whether it is human or not, is none of the government's business? Dr. Mengele would be glad to hear it. The very existence within NIH of the Office for Protection from Research Risks is proof to the contrary. Or will it be maintained, incredibly, that the passionless decision to make an embryo in a petri dish, to experiment on it for 14 days before allowing it to die, is somehow a reproductive decision within the meaning of Roe v. Wade? In this century of totalitarian abuses, will it be maintained that the laboratory has the protected status of the bedroom? If not, then the structure of the reasoning in Roe v. Wade cannot be relevant to the case at hand. It will have to be recognized that neither laboratory privacy nor scientific advancement nor hope of fertility is so fundamental a right, or so weighty a value, that, overagainst it, the value of human embryonic life can be left undefined as a negligible quantity. Hence, even on its own consequentialist account, the EAB should have recognized that the values it is juggling are more equal contenders than it has acknowledged. The pretense that the value of human embryonic life could be left undefined should have been dropped.

This is not to deny, please note, that the

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value of embryonic human life is less than the value of adult life in numerous ways. Adults make contributions to society which embryos do not make. They pay taxes, for instance. However, since every taxpayer was once an embryo, it can hardly be the case that the embryo makes no contribution to society at all. So, from the lesser value of its life, it does not follow that the embryo is entitled to no legal protection in the laboratory context, where fundamental privacy is not an issue. For this reason, there is a good chance that state statutes which prohibit the sort of experiments envisioned in the EAB's conclusion (2A) will withstand Constitutional challenge. There is already such a statute in Minnesota.

In the fourth place, one could object that our previous criticisms proceed as though DHEW were a moral agent. It might be granted that a moral agent, faced with the issue of human IVF experimentation without embryo transfer, would have to resolve in his own mind the value of embryonic life and reason from there to substantive (approbative) moral conclusions. But in fact DHEW is not a moral agent, the objection might continue. The Sovereign People is a moral agent collectively, and so are its members individually. But government is an instrumentality of the people, not a moral agent or sovereign over the people. Therefore, in the absence of a direct exercise of collective sovereignty by the people (a vote), an agency of the people, DHEW, acts only as a referee among the moral agents who individually comprise the people. What matters, therefore, is not what DHEW ought to embrace approbatively (a meaningless question) but what DHEW ought to find tolerable as an agency responsible to an ethically and religiously diverse body politic. This is to say that, for the purposes of EAB–HEW, the phrase "ethically acceptable" means "tolerable in a pluralistic society on the basis of the ethics of compromise demanded by common and responsible citizenship in such a society." The Department's ethics are appropriately the ethics of a referee and a peace-keeper, not the ethics of a moral contestant.[20]

Against this objection, one might observe first that it relies upon a bookishly abstract and ideological view of government agencies. In the real world it is just the case that a government agency is a moral agent, in exactly the same sense that a private corporation is a moral agent. We hold corporations responsible for the substantive ethics of their policies—for their investments in South Africa, for their computer sales to the Soviet bloc, whatever; and for certain offenses we prosecute them. Generally speaking we do not prosecute government agencies, but why should we absolve them of responsibility for their misdeeds? If they are not moral agents, we should have to absolve them. Next, a referee has a different task from a contestant, not a different ethics. Is punching below the belt moral for a referee? Is accepting the violation of human rights moral for a peacekeeper?

In surrejoinder, it may be said that DHEW, responsible to an ethically and religiously diverse body politic, can employ only an ethics of compromise on an issue like the status of the human embryo—that is, an issue on which the people are in fact ethically and religiously divided.

It should be pointed out, however, that this view, if accepted, would simply prove HEW inconsistent. For it is factually false that DHEW follows such an ethic on other divisive issues. The body politic is ethically and religiously divided on the extent of women's rights, on the morality of co-educational sports, on contraceptive services, on classroom desegregation, on equal opportunity enforcement, perhaps—if the truth be told—on the existence of HEW. Yet the Department has moved aggressively on these issues in pursuance of one approbative ethic at the expense of others. Whether or not one agrees with HEW policies, one can hardly deny that the Department has taken ethical stands in the ordinary and substantive sense of "ethical." So why is this issue, in which early human life is concerned, any different?

The closest thing to a plausible answer to this question is the claim that when human life begins is more directly a religious issue than are those other things. It might be alleged that for HEW to pretend to resolve the question of whether the embryo is a human being would be to put the Department on the side of one or another denomination's dogma and hence face challenge as an establishment of religion.

This interesting response reflects the recent position of the American Civil Liberties Union. An ACLU suit against the Hyde Amendment argues that the measure violates the First Amendment right to religious freedom, because, in the words of ACLU executive director Ira Glasser, "When human life begins is essentially a religious question. There is no scientific consensus on an answer to this question."[21]

In response, it must be said that this position is conceptually fragile. If by "human life" one means the biological life of an organism which is genetically human and whose history passes through the stages of embryo, fetus, child, adult, etc., then there certainly is a scientific consensus on when this life begins; for one has simply defined "life" to mean that set of processes which starts at fertilization. If by "human life" one means something other than biological life (e.g. "meaningful life," whatever that is), then it is not surprising that there is no scientific consensus on the question, because in principle there cannot be a scientific answer to it. Further, when a particular sort of question does not have a scientific answer, and yet answers are given, it does not at once follow that the answers are "religious," as Glasser seems to assume. Has he never heard of philosophical answers?

Moreover, it seems distinctly odd for a civil libertarian, of all people, to claim that the issue of when human life begins is a decision so given over to religious commitment, that the secular state, charged with the defense of human rights, cannot have its own opinion on the subject. Suppose a religious cult took up the view that human life begins at puberty and taught that it was necessary to appease the gods by sacrificing select 8-year-old virgins on an annual basis. Would the ACLU defend the cult against state and federal law enforcement? If not, the ACLU does not believe its own rhetoric. Nor should anyone else, in my opinion. The precise thing which is wrong with saying that human life begins at some arbitrarily late point—quickening, viability, birth, conscious reasoning, whatever—is that such a claim seeks to set a religious or philosophical test for entry into the human race. Against all such ideological stands, in my opinion, it is the duty of the state to protect biologically self-sustaining human organisms, embryonic or senile, from arbitrary exclusion from the human community.

Now what if the state were to do something like that?

Let us suppose, just for the sake of a thought experiment, that DHEW were to issue regulations on human embryological research, in which the Department stated that for secular, scientific purposes, "human life" is defined to be the set of processes which begin at fertilization; therefore such-and-such things are not to be done to the embryonic entities which exist after fertilization. Well, the regulation would be controversial, but there would be plenty of scientists, philosophers of science, and bioethicians to defend it. The scientists would point out that this definition of "human life" was one which could be translated without too much forcing into the vocabulary of observation terms and theoretical terms in which their own accounts of these processes are couched. The philosophers of science would point out that this definition involved the fewest metaphysical assumptions, and that a philosophical naturalist could hardly accept any other definition, if he is consistent. The bioethicians would point out that this regulation, if it errs, errs on the side of moral caution, which is the ethical side to err on. The Department's lawyers would point out that the regulation was not in violation of federal court decisions, because the regulation's protection of the embyro *in vitro* in non-clinical contexts does not conflict with privacy.

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Where in any of this is there an establishment of religion? True, a number of religious denominations represented in the United States, including the Roman Catholic Church, the several Orthodox Churches, certain Orthodox Jews, many Fundamentalist Protestants, and others, also teach that human life begins at fertilization—some on grounds of religious revelation, some on grounds of a philosophy long sanctioned in their religious history. But the fact that a number of religious bodies share this teaching itself prevents a concurrence with it by HEW from being an establishment of any one religion, and the fact that HEW has concurred on independent, secular grounds prevents the regulation from being an establishment of any religion.

It does not appear, therefore, that HEW's responsibility to an ethically and religiously diverse people is in any way inconsistent with a firm rejection of the sort of research envisioned in conclusion (2A) of the EAB Report. This point, together with the incoherence of the Board's appeal to consequentialist ethical reasoning, suffices to invalidate the first construction of its "case" for (2A).

Evaluation of the second construction

Our second attempt to understand what the EAB's case for conclusion (2A) amounts to is a very much simpler and more sensible affair than the first. Although inconsistent with a traditional understanding of human life, it does not appeal to dubious systems of ethical reasoning or to dubious theories of state responsibility. Moreover, the ethical issues with which it deals (we should perhaps prefer to call them prudential issues) are genuine, if they are relevant. For once it is granted that the experiments in question are permissible, it becomes relevant and sensible to worry about who should do them, how to keep "mad scientists" away from them, how to allocate resources to them, and so forth. But are they permissible? This question turns on the second construction's definition of human life, or any other like it. Only if such a definition is sound does one have a case that the experiments are permissible.

The claim that human life exists only where there is a capacity for sentient experience seems to be plausible.[22] It excludes micro-organisms and corpses, leaving room for everything in between.

Nevertheless, the claim has its difficulties.

(1) Sentient experience can hardly be the criterion for the presence of human life, since any animal is capable of sentient experience. In order to re-establish the criterion's intended force, one will have to require *human* sentient experience. Does this mean sentient experience had by a human organism? A genotypically human organism? Well, then it is the biology of the organism which provides the criterion for the humanity of the required experience, rather than the experience providing the criterion for the humanity of the organism. One has come full circle. One has admitted that the sentient experience is human only because it is

the experience of *this* type of organism. Why not just say that this type of organism is human, and forget about the experience?

(2) Even if 'capacity for sentient experience' can be made to define human life without a vicious circle, 'capacity' is an elastic term. If one stretches it far enough, it ceases to exclude the embryo. The embryo *does* have a capacity for sentient experience: let it grow long enough, and it will have one. If one contracts 'capacity' to exclude the embryo, one will also exclude the comatose, who are protected under existing regulations. Contract it a little more, and one will exclude the dreamless sleeper.

(3) If one eliminates 'capacity' from the definition, one must face the fact that 'sentient' is also elastic. Does it mean response to stimuli of any kind? Then the embryo is sentient; there are stimuli to which it responds from the very beginning. Or does 'sentient' mean response to some preferred *sort* of stimuli, e.g. visual and auditory? Then Hellen Keller is read out of the race. Or is 'sentient' perhaps not to be understood in terms of stimulus-response at all? Is the term to be taken, not behaviorally, but mentalistically, meaning something like consciousness or inward self-possession? Well, then the requirement of sentience, like any other derivative, proximate or remote, from Cartesian dualism, ceases to be a requirement whose fulfiillment can be empirically verified or falsified. How would one go about proving that an embryo is not inwardly self-possessed? The claim that an embryo is not conscious becomes an ideological pronouncement, gratuitously affirmed, and (why not?) gratuitously denied.

To these criticisms and many others which could be added, there is a fairly interesting reply. You reject sentience or consciousness as the criterion for human life? You want something empirically biological? Well, naturalists, materialists, Thomists, and others who insist that the criteria must be biological indicia get what they deserve. They end up with a biological definition of man. Then when science de-mystifies biology, they are stuck with man the biochemical machine. Whereupon they have no justification for their own moral norms. If man is so much protoplasm with such-and-such genes, why *not* experiment on him? This is just what is wrong—the objection might continue—with the thought-experiment conducted earlier. A hypothetical regulation from HEW defines *human* life as the set of processes which begin at fertilization and then says that one *ought* not to do certain things to fertilizata. How does the injunction follow? What is sacred about a set of processes?

There are several philosophical answers to this objection: emergentism, Thomistic hylomorphism, Strawsonian personalism. They are all ways of exposing and refuting what the objection covertly assumes, namely, that there is some kind of contradiction between being a biological organism and having a personal value—as though only an angel could be any good.

We shall not pursue these philosophical responses further, because their exposition is beside our purpose. Our purpose, after all is not to determine whether the embryo is a human person but whether it is an appropriate subject of protection. To this end, it suffices to pose the following dilemma.

Let Jones stand for Everyman. Jones says that his own life is worth protecting but that human life defined and verified only as a set of biological processes is ethically irrelevant, not worth protecting, etc. Then Jones's own life at one time either was or was not so defined and verified. If Jones says his own life was once of that kind, then either Jones admits that life of that kind is worth protecting (e.g. when it is his own) and so abandons part of his hypothesis, or else Jones says that his own life was once not-worth-protecting but isn't not-worth-protecting any longer. In that case Jones contradicts himself, because if his early life turned into Jones-who-is-worth-protecting, it had the capacity to be something-worth-protecting, which capacity is itself not worthless; and what is not worthless is worthy of protection. On the other hand, if Jones says that his own life was never of that kind, then either Jones says he was never an embryo (in which case he is crazy) or else Jones says that he as an embryo was not just a set of processes (e.g. that he had a soul), and so he was worthy of protection. But if Jones was such an embryo, why wasn't everyone else? Why isn't every human embryo worthy of protection?

So the dilemma: either Jones contradicts himself, or he is crazy, or he admits that human embryos are worthy of protection. His only other alternative is to abandon the other part of his hypothesis and admit that his own life is not worth protecting.

One needs no further result in order to reject the second construction of The EAB's case for (2A). It rests on the assumption that a human being, coherently holding his own life to be worthy of protection, can deny protection to entities which are in all relevant respects identical to what he himself once was. This is either an ethical schizophrenia or an abdication of humanity.

We have now rejected both plausible constructions of what the case for conclusion (2A) was supposed to be. On the default of both constructions, the case collapses. There is no ethically acceptable argument to show that (2A) is tenable. For reasons which have become obvious, the proposal to do research which will deny protection to human embryos, which will create them and let them die for no other purpose than to acquire information, is ethically unacceptable. One must dissent from conclusion (2A).

III. DISCUSSION OF CONCLUSION (1)

Once (2A) is rejected, it is remarkable how rapidly the rest of the EAB's Report comes tumbling down. It is admitted that clinical application of human IVF and embryo transfer, as a treatment of infertility, is not a perfected technique and is not yet known to be safe for all concerned. It is claimed that both animal research and human research involving IVF without embryo transfer are necessary to ascertain this safety. We have reached the conclusion that human IVF experiments without embryo transfer cannot be done on ethical grounds. If these are eliminated, and if (as claimed) the animal research will not suffice of itself to ascertain the safety of the clinical application, then the safety in question cannot be ascertained. With the goal attainable, there is no point in doing the animal research.

One should dissent from conclusion (1) on the ground that the proposed animal research has not been demonstrated to serve a useful purpose; its funding would not be a sensible allocation of resources.

IV. DISCUSSION OF CONCLUSION (3)

We have reached the view that clinical application of human IVF with embryo transfer, under certain restrictions additional to those proposed by the EAB (see above), presents a form of infertility treatment which is ethically acceptable if it is safe. However, the information required to ascertain the safety of the procedure is information which cannot be obtained ethically. A critical part of the information would have to come from experiments in which human embryos, created in vitro, are given no chance to survive or attain normal human lives, but rather have been brought into being solely to be studied and allowed to die. We have concluded (see above) that such experiments are ethically unacceptable. But if the information needed to certify the safety of the clinical applications of human IVF with embryo transfer cannot be obtained, then the procedure's safety cannot be ascertained, and research on the procedure itself cannot be supported with public funds. This last is true a fortiori when there is an alternative line of research (replacement or better repair of Fallopian tubes) which involves no unethical aspects and which, as offering the same clinical benefit, is a claimant for the same funds.

One must therefore dissent from conclusion (3).

V. DISCUSSION OF CONCLUSION (4)

Even without HEW support, it is expected that certain clinics in the United States and in other countries will attempt to duplicate the achievements reported from England, Calcutta, and elsewhere. Funding from private foundations is likely to support some such attempts. While one may not believe that these predicted attempts are consistent with medical ethics, given the undetermined risks associated with human IVF and embryo transfer, one may agree that a careful monitoring, analysis, and dissemination of the data from these attempts and from kindred research would be a valuable service to the scientific community. It is important to note that the data collected should include long-term follow-up studies on children born as a result of in vitro procedures. As the EAB concedes (see above) embryos bearing subtle genetic anomalies may not be screened out by natural processes and, for the same reason, are likely to appear normal in fetal monitoring. Nevertheless, the resulting children may manifest anomalous cognitive development, cortically based personality disorders, increased susceptibility to dangerous diseases, and many other flaws. Multi-generated data may prove to be the only prudent basis on which to pronounce a final judgment. Therefore, at this early date, it would be rashness. It would be hazardous to predict whether the availability of such data will ultimately incite or discourage further embryo transfer attempts. So long as the involvement of the appropriate federal agencies in the dissemination of these data are neither intended nor constructed as an incitement, one can accept conclusion (4).

VI. DISCUSSION OF CONCLUSION (5)

Untested and imprudent as the procedure may be, human IVF for lawfully married couples, carried out with gametes harvested from the couple, followed by embryo transfer to the womb of the wife, does not present special legal problems. The legal status of the resulting child is not in doubt. He or she is legitimate. Nor is it easy to see why existing case law should not be adequate to handle such suits for damages as may arise from medical malpractice or negligence in connection with the various features of the IVF and embryo transfer procedures.[23] Therefore, within the terms of the EAB's own conclusion (2B), that is, given the limitation to lawfully married couples, it is hard to see a need to involve DHEW in support or encouragement of the development of a model statute.

Against this view, it may be said that new statute law will become appropriate in the near future, in case clinical applications of IVF and embryo transfer are attempted with donor sperm.

The objection is sound. However, it is not improbable that many states will outlaw both A.I.D. (artificial insemination from donor sperm) for unmarried persons and IVF with embryo transfer for persons not married to each other. From the point of view of family policy, there is a legitimate government interest in preserving the integrity of family relations and lineages—that is, in preserving the substantial congruence of "accepting parents" with "genetic parents." For this reason, there is some chance (and I certainly hope) that such statutory prohibitions will survive court test.

Footnotes at end of article.

We have already considered, also (above, p. 24), the possibility and the merits of state and local statutes outlawing the sort of experimentation envisioned in conclusion (2A).

The development of a model statute incorporating both prohibitions might be argued to be in the national interest. However, there is no evidence (quite the contrary!) that such a model was the one intended by the EAB.

Therefore one should dissent from conclusion (5). In the view of many state legislators concerned both for a sound family policy and for reasonable protection of human embryonic subjects, the last thing they need is a covert federal lobbying effort on behalf of a permissive model statute in this sensitive and complex area.

CONCLUSION

This review of the EAB Report of May 4, 1979, has sought to consider objectively the facts and the arguments presented. In reaching conclusions, I have steered clear of those premises, whether prudential or ethical, which would have decided the issue in advance. I have not indulged in futuristic speculation on the totalitarian abuses of IVF techniques. I have not relied upon the religious intuition that human IVF and embryo transfer are intrinsically ungodly procedures. I have not even assumed what I myself believe, namely, that the human embryo is a person whose life is entitled to legal protection against rival interests. Nevertheless, despite abstention from these strong premises, I have been led to dissent from all but one of the Board's five conclusions.

This result is a testimony to the fact that the Board's own case for its conclusions is a logical shambles. At the level of clinical application, it overlooks the rival claims of more radically therapeutic lines of research. At the level of laboratory work, its case for the ethical acceptability of human IVF experimentation without embryo transfer is so poor that it cannot even be made out unless one supplies unspoken premises. The Report's first and deepest problem is not that it is ethically perverse but that it is ethically incoherent. By abstaining from stronger, pro-life premises, the review has simply allowed this fact to emerge.

FOOTNOTES

[1] *Federal Register*, vol. 40, August 8, 1975, p. 33529.

[2] *Federal Register*, vol. 44, June 18, 1979, p. 35058.

[3] *Ibid*. p. 35057.

[4] Thus, for instance, Donald McCarthy, letter to the editor, *Hospital Progress*, vol. 59, no. 9 (Sept., 1978), p. 6.

[5] Pope Pius XII, Address to the World Congress on Fertility and Sterility, 1956; Address to the Italian Catholic Union of Midwives, 1951.

[6] This appears to be the position of Paul Ramsey, "On *In Vitro* Fertilization," *The Human Life Review* 5 (Winter, 1979), p. 23.

[7] *Federal Register*, vol. 44, June 18, 1979, p. 35042.

[8] *Ibid*., p. 35034.

[9] *Ibid*., p. 35044.

[10] *Loc. cit.*

[11] *Loc. cit.*

[12] *Loc. cit.*

[13] Cf. Leon Kass, "Making Babies—the New Biology and the 'Old' Morality *Public Interest* 26 (1972), p. 33.

[14] "After much analysis and discussion regarding both scientific data and the moral status of the embryo, the Board is in agreement that the human embryo is entitled to profound respect; but this respect does not necessarily encompass the full legal and moral rights attributed to persons," *Federal Register*, vol. 44, June 18, 1979, p. 35056.

[15] Such is also the recommendation of Leon Kass, *op. cit*., p. 34, and S. Z. Leiman, Statement to the Ethics Advisory Board, Transcript of Meeting V, November 10, 1978, *National Technical Information Service*, PB-288 405, p. 126.

[16] This argument, only hinted at in the EAB Report (p. 35056), is advanced explicitly by Board-member Richard McCormick, S. J., "Notes on Moral Theology: 1978," *Theological Studies* 40 (1979), p. 109.

[17] *Federal Register* vol. 44, June 18, 1979, pp. 35042–35044, 35056.

[18] *Ibid*., pp. 35056–7.

[19] For these arguments and a survey of the whole literature, see G. E. M. Anscombe, "Modern Moral Philosophy," *Philosophy* 33 (1958), 1–19; G. Grisez, "Against Consequentialism," *American Journal of Jurisprudence* 23 (1978), 21–72.

[20] This view of the state's responsibility is reminiscent of the position of the Jesuit John Courtney Murray. For a criticism, see J. C. Fenton, "The Status of a Controversy," *American Ecclesiastical Review* 124 (1951), 451–458.

[21] Ira Glasser, Statement, Reprinted in *Supplement to the Catholic League Newsletter*, April, 1979, pp. 1–2.

[22] Claims of this kind were presented to the EAB by Clifford Grobstein and Samuel Gorovitz, *Federal Register*, vol. 44, June 18, 1979, p. 35040.

[23] Olive M. Stone, "English Law in Relation to A.I.D. and Embryo Transfer," in the Ciba Foundation volume, *Law and Ethics of A.I.D. and Embryo Transfer* (New York: Elsevier, 1973), pp. 69–76.

HEW SUPPORT OF HUMAN IN VITRO FERTILIZATION AND EMBRYO TRANSFER: A REVIEW OF THE REPORT OF THE ETHICS ADVISORY BOARD

SUMMARY

On May 4, 1979, the Ethics Advisory Board (EAB) of HEW submitted a report (Federal Register vol. 44, June 18, 1979, pp. 35033–58) affirming the ethical acceptability of research on human in vitro fertilization and embryo transfer—an issue popularly known as that of "test tube" babies. The Report, after summarizing scholarly papers and public testimony presented to the EAB, reached five conclusions in favor of the controversial research.

The review of the EAB Report commissioned by the Free Congress Foundation, based on the same papers and testimony, dissents from all but one of the Board's conclusions. The reasons for the dissent are as follows.

(1) The Potential beneficiaries of research on human in vitro fertilization and embryo transfer are supposed to be those (relatively few) couples who desire children but are infertile because the wife's Fallopian tubes are missing or blocked. However, there is a more radically therapeutic approach to the problem of these couples: research on better techniques for the repair or replacement of the tubes. Until it has been shown that such research holds out no long-range hope for these couples, research on the ethically more dubious, medically more dangerous, and socially more divisive procedures of in vitro fertilization and embryo transfer is not ethically acceptable. The EAB Report simply fails to consider this alternative research possibility.

(2) Even if alternative and safer lines of research should prove disappointing, clinical applications of human in vitro fertilization and embryo transfer are still not ethically acceptable unless certain conditions are met. These include the avoidance of embryo wastage and the repudiation of back-up abortion for eugenic purposes. But the foremost condition which must be met is that the procedures shall have been proved medically effective and safe. At present, this safety cannot be assured for several reasons, the chief of which is the known risk of a higher incidence of genetic abnormalities in embryos conceived in vitro. Neither with animal nor with human subjects has the preliminary laboratory research been done which would, theoretically, establish the true dimensions of this risk and develop techniques for reducing it. The EAM Report admits that its own efforts to downgrade this danger are based on speculation, supplemented only by fragmentary animal research which has not even been done on primates.

(3) The EAB also admits that the research necessary to confirm or disconfirm the medical safety of these controversial procedures could not be done on animal embryos alone. Experiments would also have to be done on human embryos, conceived in vitro, cultured for a few weeks, and then discarded or allowed to die. Such experiments pose the primary ethical difficulty with which the EAB had to wrestle. Is it morally defensible to conduct experiments in which human embryonic lives are given no chance to survive or attain normal human growth but are "created" in vitro solely to be studied and allowed to die? The EAB Report answers in the affirmative. This Foundation-commissioned review of the Report shows, however, that no coherent case has been made to support such an affirmation. What the Board says is so muddled that it can be read in two fundamentally different ways, neither of which is philosophically or ethically tenable. The review concludes that such experiments are not ethically acceptable.

(4) This finding is not in conflict with the existing law of the land, particularly the Supreme Court's abortion decision, *Roe v. Wade*. The Court did not hold that a human embryo or fetus is not entitled to legal or administrative protection in whatever context; it simply held that such protection cannot stand against a woman's fundamental right to privacy in her reproductive decisions. Thus even if one concedes (as millions of Americans do not) that what a woman does with what is in her womb is none of the government's business, it does not follow that what a scientist does with what is in his laboratory is none of the government's business. In face of the shocking history of Nazi experiments, no 20th Century government can afford to give the laboratory the private, protected status of the bedrooms.

(5) Since there is no ethical way of obtaining the information which alone would confirm or disconfirm the medical safety of in vitro fertilization and embryo transfer, standard medical ethics precludes continued trials of those procedures as unsafe, and public funding for them is out of the question. This is especially true in light of the fact that subtle genetic anomalies affecting cognitive development and many other aspects of physical and psychological health may not appear until the children conceived in vitro are several years old, or even until the next generation.

(6) However, since it is predictable that further trials will be made, certainly in other countries and perhaps also in private clinics in the U.S., the collection, analysis and dissemination of data from those trials is an appropriate service to the scientific community. This is the only conclusion of the EAB from which the Foundation's review does not dissent.

Copies of the complete review are available from the Free Congress Research and Education Foundation, Inc., 4 Library Court, Washington, DC, 20003; (202) 546–3004.

Mr. HATCH. I know that I am not the only Senator in this Chamber who shares an earnestness about human life. I know that doctors and scientists, many of whom may be involved in this proposed Center, also owe allegiance to life's sacred code, and I would not presume to question the morals or ethics of any of the proposed test tube baby clinic's personnel who, after all, are there to do a job, and many of whom probably do it with idealistic zeal and their own religious assurance.

I do, however, question the judgment of establishing with such haste a proposed Center which would encourage, fund, or permit what many citizens in our country believe is tantamount to Aldous Huxley's darkest nightmare about a "brave new world." There are many questions surrounding this proposed Center, but few of them have been answered. They certainly have not been answered in public. There have been no hearings, no deliberative sessions in the Senate Health Subcommittee on which I serve. To my knowledge, there have not been hearings anywhere in the Congress, nor at any time on a matter which has the potential of radically altering our view and practice of human creation, if not possibly endanger the sanctity of human life itself.

Many religious leaders have already spoken against the practice—Catholic, Protestant, Jewish, and other church leaders who, like Talmudic scholar, Rabbi Irvin Jakobitz, question what the consequences of widespread practices like those herein describe might be—whether they would not leave our society open for even further abuses.

As I have said, there is room here for debate, but there has been no debate. This is why I strongly feel that the decision to go ahead with this proposed center is a mistaken decision. It is why I have asked Dr. Kenley to consider postponing the clinic's operation by holding up its desired certificate of need at least until the U.S. Congress has held hearings, and the public has had a chance to hear about and consider this critical matter. I am hopeful that other colleagues will join me in this late night request.●

THE WORLD AND PAAC

● Mr. INOUYE. Mr. President, the Pacific and Asian Affairs Council (PAAC), a very successful Hawaii program to involve young people in exploring solutions to world problems, has spawned a similarly successful program in Canada.

"Introducing: The World" is a world affairs program designed to supplement the regular school curriculum. It is a voluntary program which gives students the opportunity to research and discuss the major problems which face our world. In conjunction with faculty and resource people from the community, students are given a very real introduction to the complexities of the modern world.

Perhaps the greatest challenge to the students is meeting in a conference setting to discuss these global issues. In these give-and-take sessions, students are exposed to both the problems and potentials of group discussions on major issues. Students learn to persuasively argue their point of view as well as to try to build a consensus from the varying viewpoints within the group. This is the essence of international cooperation and it is an extremely valuable lesson for young people to learn.

We in Hawaii have always been tremendously proud of the work of the Pacific and Asian Affairs Council. I have been involved in the program through the years and it is with great pleasure that I note its application in Canada. Any time a program can be successfully transplanted to another country, it is a great compliment to that program. My heartiest congratulations to all those involved. Particularly I want to acknowledge the tremendous contribution of Mrs. Stephanie McCandless Reford. She was director of the Pacific and Asian Affairs Council and is now one of the prime movers (along with her husband Robert) behind the Canadian program.

Yesterday Hawaii, today Canada, tomorrow—who knows the limits to how far a good idea may travel? ●

ARS LONGA, VITA BREVIS

● Mr. McCLURE. Mr. President, I submit for the Record an article written by George F. Will, "Art Incorporated," which reminds all those interested in the arts (and I am one), of their indebtedness to large corporations.

Today, when the concept of art patrons has diminished to almost nonexistence, large businesses and corporations have stepped in and assumed this role. The same corporations which are accused of being callous and money-hungry instead have shown a personal bent by turning their interests and money to the arts.

Companies like IBM, UTC and Mobil Oil have invested hundreds of thousands of dollars in bringing the arts to the people. For example, industries headquartered in smaller cities have established their own museums which specialize in regional art; corporations have financed the tour of international exhibits; and, businesses have provided funding for some of the finest shows on television—both on public and commercial television.

It is time these services are acknowledged for, without the corporations and business interests, many of us would never have been able to enjoy the finer examples of the arts.

I request that Mr. Will's article be printed in its entirety in the Record.

The article follows:

Art Incorporated

(By George F. Will)

Some corporations have names that convey no information about what the corporations do. But visitors to the National Gallery here, and to museums in eight other cities at various times in the next two years, will have reason to give thanks that United Technologies Corporation makes whatever it makes (actually, air conditioners and helicopters and other stuff) well enough to make profits. Some of these profits are underwriting the tour of 57 Old Master paintings from the finest private collection, that of Baron Thyssen-Bornemisza. This tour provides a splendid occasion for saying a sympathetic word about the relationship between business and the arts.

It is hard to say precisely what a corporation is, but no great corporation is the purely "profit-maximizing" entity of abstract theory. Those who run corporations were raised in a cultural climate that frequently taught, sometimes subtly and sometimes not, that people who run corporations are, by and large, bores or boors or soulless technocrats. Capitalists do not write the histories or teach the sociology of capitalist societies.

Business support for the arts may be, in part, a product of socially induced guilt or status anxieties; a product of the desire to be seen to be useful in a sphere of life—culture—that is commonly contrasted with commerce, to the disparagement of the latter. Which is to say only that business people, contrary to much current thinking, are human.

Henry James said that American businessmen considered culture the concern of "women, foreigners and other impractical persons." Then, as now, most people fell short of Jamesian standards of sensitivity. But there were Fricks, Mellons, Guggenheims and other giants of industry who became giants of patronage. And now more than ever there are business leaders like John T. Connor, chairman of Allied Chemical Corporation, who says:

"The ultimate justification for the enormous intellectual and physical effort devoted to increasing the nation's wealth is to make possible the enhancement of life. . . . We need the arts to keep our society both affluent and humane, to keep in balance the competitive drive and the sense of community. We rely on the arts to preserve and celebrate the human scale within the world of the quantitative. . . . Without the arts, our society would lose its morale, its source of invention and diversity, its sense of community and its potential for growth."

Few among the cultured despisers of corporate America could so felicitously express that truth. Some foolish people will fault Connor for stressing that the arts are—if you will pardon the expression—useful. They will complain that it is somehow crass to suggest a utilitarian aspect of the arts. But there is no worse Philistinism than the motto behind the slogan "art for art's sake," a motto that was bound to promote what it has in fact produced: the trivialization of art.

Since the Business Committee for the Arts was founded in 1967, corporate support for the arts has increased 1,100 percent, to $250 million in 1978. Perhaps the most conspicuous patron is Mobil Oil, which, in addition to being an oil corporation, is the thinking person's "National Endowment for the Arts (and Humanities)." It underwrites (among many other things) "Masterpiece Theater," a substantial portion of all the television worth watching.

A lot of aggressive nonsense is spoken about the allegedly sinister aspects of such activities. Corporations can't win for losing: if they are not patrons, they are accused of meanness; if they are patrons, they are accused of trying to manipulate the public. Leave aside the fact that the audience for, say, "Masterpiece Theater" is unlikely to be seduced into affection for Mobil. A more pertinent point is this:

Whether or not a patron or a pianist does what he does from "pure" motives (whatever that might mean: is a pianist's desire for applause "impure"?) is irrelevant to the worth and enjoyment of the music.

Italian merchants and clerics financed some wonderful art for no motive grander than self-glorification. And if today's artists were subjected to the sort of onerous patronage that some Renaissance patrons practiced ("The Medici have made me and broken me," said Leonardo) or the sort that may have shortened Mozart's life, they would feel more affection for the corporate patrons of today.

In any case, they should remember the wise fellow who said that artists' making fun of businessmen reminded him of a regiment in which the band makes fun of the cook.●

JOAN BENOIT

● Mr. COHEN. Mr. President, I wish to express my support for the resolution (S. Res. 308) introduced by Senator Kassebaum calling for parity of men's and women's track and field events in the Olympic games. I have become a cosponsor of the resolution and I encourage my colleagues to contribute their support to this measure.

It would seem self-evident today that women deserve equal opportunities to excel, in whatever pursuit they may choose, and wherever their natural talents may lead.

Yet, the present format of the Olympic games excludes world-class women atheletes from long-distance running events at 5,000 and 10,000 meters and in the symbolic finale of the games, the marathon. There is no apparent reason, other than the anachronistic Olympic tradition barring women from long distance events, to deny well-trained, conditioned, and talented atheletes from their chosen events.

Joan Benoit, a Maine native and a senior at Bowdoin College, became the world's premier woman distance runner by setting a course record last April in the Boston marathon. Although Miss Benoit likely will be a member of the United States Olympic team, her disappointment must be acute at having no opportunity to test her skills against worldwide competition in distance events.

I sincerely hope that in the games of 1984, to be held in Los Angeles, Joan Benoit's country will have the opportunity to watch her do what she does best: to run 26 miles 385 yards fleetly and gracefully. I, for one, will cheer her in Moscow, but I also await the day when she runs for the Olympic marathon laurel.

Mr. President, I ask that an article about Joan Benoit be printed in the RECORD.

The article follows:

A TRUE RUNNER ADDICTED TO THE SPORT

(By Joni Averill)

BRUNSWICK.—A true runner is one who is addicted to the sport, and who finds that running is an integral part of her daily life. Joan Benoit is such an individual. "I just don't believe I function well at all if I don't run every day," said the Cape Elizabeth native who became the world's premier woman distance runner by setting a course record for the Boston Marathon last April.

Benoit runs twice a day, somewhere between four and 12 miles. "I like to get out early before classes," she said, "but if I have an early class I might run in between or during lunch." Then it's back out on the roads before supper. "Sometimes it's hard to get in all you want before dark," Benoit said.

The runner keeps a daily log of her workouts, and labels them easy, medium or hard. "An easy run would be a 7-minute, 30-second mile, a medium run would be six minutes plus, and a hard run is anything under a six-minute mile." She is responsible for most of her own training, although she is a member of the Bowdoin cross country team. "You have to be very self-disciplined in this sport," she said.

The advantage of keeping a daily log, she advised, is that "if you're not doing well, you can look back and find out what you did in the past, when and where. It helps you set a reasonable training schedule," she said.

Benoit's interest in running was fostered by two older brothers who were runners. While at Cape Elizabeth High School, she played field hockey, basketball, and held state records in track. But her school did not have a girls' cross country team at the time, according to Cape coach Keith Weatherbie.

"Joan would come out and work with the boys' cross country team," Weatherbie remembers, "and one day, before a meet with Bonny Eagle, we heard that they had a girl on their boys' team. Joan asked if she could run with our team, and we said yes." As it turned out, the Bonny Eagle girl didn't make the meet, but Benoit did, and beat more than half the boys in the race. "I think it was then that she, and we, realized she had great potential for distance running," Weatherbie said.

The 1975 Cape Elizabeth graduate still stays in contact with students at her alma mater and has come out to run with the team that this year won a state championship. "There's no doubt that her behind-the-scenes rapport and encouragement has been a great inspiration to our girls," Weatherbie said.

Benoit will finish her college career this month as she graduates from Bowdoin with a degree in history and environmental education. She is looking forward to some time of her own.

"I'm not sure if people really understand what it is like to be in college and to be a world class runner. It is very demanding," she said.

As an example, Benoit indicated that from April to November she had only three weekends in which she was not in a meet. "It is not easy to carry a full class load, travel around the country on weekends, and still find time to do your homework, train and work at clinics," she added.

Many requests come in for her to speak, participate in conferences and assist with running clinics. "I do those I am able to fit into my schedule," she said. "It isn't that I don't want to do more, it is simply that there aren't enough hours in the day."

Most senior road racers of Benoit's caliber are not fulltime students she said. That is one reason she is looking forward to graduation. "Once school is over I will be able to concentrate for a while solely on my training, and then I will have time to accept some of the invitations I have received."

With all the attention heaped upon her since winning the women's division of the marathon and subsequent races, Benoit could have discontinued her studies and concentrated on the running.

"But that wasn't for me," she said. "I wanted to finish what I had started and get my degree from Bowdoin now."

Combining a college education with national championships is a tiring experience, Benoit found. "Once you win a race, as that champion, you are expected to defend the title next time around, or defend your time in another race," she said. "Most people forget that I'm a student. I'm not like a prize fighter who can spend months training for a single fight, take time off, train and fight again. I have many other commitments, especially studying, if I want to graduate."

Benoit lost a half year because of illness when she spent time at North Carolina during her sophomore and junior years, thus her December graduation date. But as the country's leading woman distance runner, she has accepted the responsibility of defending her records throughout the United States.

Most of Benoit's friends are runners like herself, and they live all over the U.S. "People who road race understand each other," she remarked. But she also considers her social life at Bowdoin satisfying, although admitting that "it is one of the sacrifices you make if you are to compete on this level. When I'm here, I have to work hard to keep up with my courses, but I enjoy it."

On the road she tries to get in some reading, but more than that is usually impossible. "On the road" to Joan Benoit may mean leaving Maine on Friday for a meet (or two) in either California, Oregon, North Carolina or Florida, then a return Sunday for Monday morning classes. She is well-aware of the meaning of jet lag.

Benoit is a very private person who feels that "perhaps the press is paying just a little too much attention to me and not enough to other outstanding Maine women athletes." But she also understands that the people of her state are proud of her, and interested in what she is doing.

"You know, I always believed that a world class athlete had to come from California, and that the best coaches in the country were out there. Now I know that is not true at all. A leading athlete can come from any state, as long as she is motivated from within," Benoit indicated. "The athlete has to want to compete on a national level very badly, and has to make adjustments and sacrifices in her life. But the opportunities are here. Maine can have its share of outstanding athletes."

The Bowdoin senior has some very sincere feelings about post-race interviews, and how racers and the press conduct them. "I don't believe in making excuses," she said. "If I don't win a race, it simply means that I didn't run well that day. Sometimes that just happens. It bothers me that reporters might not accept that non-nonsense explanation. I think they try to look for something to blame other than the runner herself."

And the converse is also true, she said. "If I win a race, and another runner, perhaps that day's favorite, is interviewed and makes excuses for not winning, then I feel it takes away from my victory. No one likes to read in the paper, or hear on television, that you won only because something was wrong with the person who was expected to win the race."

Benoit believes in being a gracious loser, as well as a gracious winner.

There were some individuals, knowledgable in the sport, who thought that Benoit went into marathon running too soon in her career. "It was my decision," she said. "I wanted to do it." As a distance runner she has "never hit the wall", a runner's term for using of her supply of the body's fuel glycogen. When this happens, a runner must slow down or stop because the body switches to fat for fuel. "I think it is because I run when I feel well, I honestly don't try to push myself beyond what I feel is a safe limit," she said.

After the holidays Benoit will be heading for New Zealand, and she will discontinue marathon running for the time being. "I plan to go into training for the Olympics," she said. Benoit hopes to qualify this summer for the U.S. Olympic Team "at least in the 1500 meters."

She is looking forward to her New Zealand stay. "The people there love track," she said. "They feel about track as Americans do about baseball or football." Other Olympic hopefuls will be training out of Auckland with Benoit. "The climate is wonderful, and the enthusiasm of the coaches there is great," she said. Both men and women runners will be working out together, doing some self-coaching with critiques from other runners.

Looking beyond whatever happens in the Olympics, Benoit would like to teach or perhaps work as an athletic consultant. She firmly believes that any pressures in athletic performance should come from within, rather than without. "I don't think parents should push their child into a particular sport at an early age. That child will know whether or not what she is doing makes her happy. If she enjoys the sport, and does well, she will motivate herself." ●

CEILING ON SBA GUARANTEED LOANS TO FUEL OIL DEALERS

● Mr. DURKIN. Mr. President, I am pleased to be a cosponsor of the proposal offered by Senator Dole which is designed to ease the burdensome cash flow problems faced by heating oil dealers in New Hampshire and across the Nation.

Today the local independent oil supplier is on the brink of bankruptcy. The major multinational oil companies have greatly shortened the credit period for the local dealers and the local supplier is caught in the middle. Because of this year's skyrocketing oil prices, the already overburdened consumer is having difficulty meeting prompt payment and the small local supplier simply does not have the cash flow to meet the major multinational oil companies' demands.

The legislation I am cosponsoring would increase the statutory ceiling on Small Business Administration guaranteed loans to fuel oil dealers. Fuel oil dealers would be able to receive loan guarantees worth $1,000,000 under this proposal. This amount is twice that now available. Doubling the ceiling on loan guarantees available to small independent fuel dealers is necessary since fuel oil prices have also doubled within the last year.

This will not only give the small business supplier some much-needed financial breathing space, but it would also protect New Hampshire residents who have already paid for this winter's oil through budget payments to their local fuel oil dealer. If the local dealer goes out of business everyone loses. And the hard-working homeowner and the fuel oil dealer will be left with an empty oil tank and an empty wallet.

The financial stability of fuel oil dealers is an integral part of the energy crisis facing New England this winter. The Better Home Heat Council of New Hampshire has predicted that 300 fuel oil dealers in New England will go out of business unless some assistance is provided. Mr. President, business failures in the fuel distribution industry will mean homes without heat this winter.

I have fought long and hard for the people in New Hampshire who have been subject to outrageous price increases in home heating oil forced upon us by the major multinational oil conglomerates and OPEC. I have introduced legislation to provide refundable tax credits to users of home heating oil; elements of this proposal have been included in the Finance Committee's version of the Windfall Profit Tax Act. I have also fought for aid to low- and moderate-income consumers who are unable to pay for both high energy and high food costs. Today, I am again pleading the case for the people of New England.

The heating season in New Hampshire is already well under way. This legislation needs to be enacted immediately to help prevent an economic disaster this winter for consumers and small business oil suppliers alike. I urge my Senate colleagues to join me in gaining prompt passage of this bill.●

HEAD START AND OTHER PRESCHOOL PROGRAMS

● Mr. NELSON. Mr. President, I would like to bring to the attention of the Senate the findings of a recently completed study on the effects of Head Start and preschool education on low-income children. The findings of this study lend critical support to those who have urged a greater national commitment to child development programs, particularly the Head Start program and other programs that are based on a preventive approach rather than a remedial approach to child development services for low-income children.

The key findings of the study reveal that low-income children who had participated in Head Start or similar preschool programs in comparison with similarly situated children who did not participate in such programs:

Were more likely to meet their school's requirements for adequate performance;

Were less likely to fail or be retained in a grade;

Were less likely to be assigned to a special education class;

Scored higher on IQ tests at the age of 6 and scored higher in mathematics in fourth grade than their peers;

Had more self-esteem;

Were positively influenced toward more realistic occupational goals; and

Were more likely to respond with achievement-related reasons, such as school or work achievements, for feeling proud of themselves.

Based on these findings, the authors of the study concluded that expenditures on Head Start and other similar programs paid off in terms of the gains children made in school as a result of these programs; and the national investment in preschool activities should be increased.

The study itself is based on a followup of 820 children who had taken part in Head Start or other similar preschool programs in the mid-1960's. The low-income children who were enrolled in these programs ranged from 9 to 19 years of age at the time of the followup in 1976–77. The HEW Administration for Children, Youth, and Families (ACYF) funded the study which is entitled "Lasting Effect After Pre-School." Dr. Irving Lazar and Dr. Richard Darlington of Cornell University conducted the study for the consortium of longitudinal studies. Mr. President, I ask unanimous consent that a brief description of the study and its conclusions be printed in the Record at the close of my remarks.

I would like to commend all those who contributed to this particular study and ACYF for making sure that independent evaluations of child development services are carried out. These evaluation findings will be particularly helpful in oversight of the Head Start Program and congressional assessments of future Head Start direction.

It is important to also note that the findings of this Cornell study substantiate the findings and recommendations of a recent General Accounting Office (GAO) report on early childhood development programs, issued on February 9, 1979.

As many of my colleagues know, the accomplishments and potential of Head Start child development services were recognized by GAO in its report entitled "Early Childhood and Family Development Programs Improve the Quality of Life for Low-Income Families." This report stated that—

> Early childhood and family development programs for low-income families are needed; they can result in reduced health, social and educational problems in young children that are expensive and difficult to overcome in later years.

The report indicated that Head Start's comprehensive developmental approach and the involvement of parents make the program successful in attempting to better equip young children for school and life. GAO also indicated that a sizable unmet need exists and suggested that the Congress make child development assistance available in the early years of growth and development rather than incur the cost which will come later if such assistance is not available when it is most needed and can have the greatest impact.

Mr. President, as chairman of the Subcommittee on Employment, Poverty, and Migratory Labor, I have been a strong believer in and supporter of the Head Start concept. This recently issued study and the GAO report are valuable because they both confirm the hypothesis that a national commitment to Head Start and other similar preschool child development efforts is a sound investment in the Nation's low-income children and benefits society as a whole. I, therefore, commend to my colleagues the findings of the Cornell study and the GAO report and ask that it be printed in the Record.

The study follows:

Lasting Effects After Preschool

INTRODUCTION

Do preschool intervention programs have a significant long-lasting impact on low-income children? Head Start was built on the assumption that early education, parental involvement, and the provision of medical and social services could enable children of low-income parents to do as well in school as their middle-class peers and thus help them leave the ranks of the poor. Based on this premise, a vast array of programs and curricula emerged. The age of children at entry into programs, the length of intervention, the settings, the teachers, and the materials employed all varied in a flood of new programs for low-income children and their parents.

Ten years ago, critics began to question the effectiveness of Head Start and other such programs. Based on early IQ scores, they claimed that any cognitive effects of early intervention programs fade out within a year or two. That conclusion now appears premature and can be refuted. Low-income children who attended preschool programs in the 1960's are now in their later years of childhood and adolescence. Consequently, we can now reexamine the question of the effectiveness of preschools using direct measures of children's actual school performance.

This report summarizes the findings of longitudinal studies of low-income children who participated in experimental preschool intervention programs over the past decade and a half. Twelve investigators, members of the Consortium for Longitudinal Studies,[1] collaborated by pooling their initial data and designing a common follow-up study. The programs involved in this Consortium were conducted completely independently of one another, mostly during the early and mid 1960's. They were carried out across the country, in urban and rural areas, in the northeast, the south, and the midwest. The low-income children who were enrolled in these programs ranged from 9 to 19 years of age at the time of the follow-up in 1976–77. The original data were reanalyzed and all new data were analyzed by an independent research group at Cornell University, which had not itself designed and carried out an experimental preschool program.

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[1] Formerly the Consortium on Developmental Continuity.

This Consortium of investigators realized that they had a unique accumulation of information. What their studies had in common, and what made them worthy of further analysis, was the care with which they were conducted. All were carefully planned from the start, with rigorous staff training, constant program supervision, periodic evaluation, and at least some follow-up of the children involved. They had explicit and standard intervention programs, so that the content of the child's experience could be specified. Children's abilities had been measured before the program started, so that later tests of children's abilities could be compared to a baseline. Moreover, the studies had allowed for scientific analysis of the effectiveness of their respective programs by selecting either controls—children drawn in advance from the same population who did not participate in the programs—or comparison groups of non-participating children.

Generally, the children who participated in the programs and the control children were from low-income families who were eligible for some type of federal assistance. When they entered the studies they ranged in age from 3 months to 5 years. They were predominantly black (92%); the average level of their mothers' education was 10½ years; 40% did not have a father in their homes; and 51% had three or more siblings.

The studies from which the data presented here were drawn (see Table 1) may be grouped by delivery system into three categories. Center-based studies provided nursery school type programs with varying degrees of structure in the program curriculum. Instruction usually took place in small groups but in some cases was on a one-to-one basis. Parents were kept informed about the programs, visited them and observed them, but were usually not actively involved in the day-to-day educational program.

Home-based studies directed their educational efforts primarily toward the parent, usually the mother, as the major instrument of change and influence in the child's life. Activities, toys, and games were brought to the family home by a parent educator or home visitor, who trained the mother to use the activities and to promote her child's development through parent-child interaction. All of these programs dealt with child under 4 years of age.

CONCLUSION

The Consortium for Longitudinal Studies has collaborated in searching for long-term effects of early intervention programs. The data analyzed thus far and reported here show that early education programs for low-income children apparently had lasting effects in the following areas.

Assignment to special education. Early education programs significantly reduced the number of children assigned to special education classes. This result was true after controlling for the effects of the children's initial IQ score, sex, ethnic background, and family background. It held even after controlling for the children's IQ score at age six. Furthermore, the benefit apparently extended to all the participants, regardless of their initial abilities or early home backgrounds.

Retention in grade (grade failure). Early education programs significantly reduced the number of children retained in grade. Again, the result was true when measures of early child characteristics and home background variables were controlled. Furthermore, all the children—regardless of sex, ethnic background, early IQ, and home background—benefitted in this way.

Achievement test scores. The Consortium had the most information for children at the fourth grade level. The evidence indicates that early education significantly increased children's scores on fourth grade mathematics achievement tests with a suggestive trend toward increased scores on fourth grade reading tests.

Intelligence test scores. Low-income children who attended preschools surpassed their controls on the Stanford-Binet IQ test for up to three years after the preschool programs ended. Wechsler IQ scores from 1976–77, approximately ten to fifteen years after the programs ended, show that the preschool participants maintained higher IQ scores than control children in the Gordon, Levenstein, and Palmer projects. There were no treatment/control differences found in projects whose subjects were aged 13 or older. Using the Wechsler IQ scores as outcomes, there was no evidence that preschool had benefitted boys more than girls or vice-versa, or that children whose mothers had different levels of education were helped differentially.

Attitudes and values. Children who attended preschool were more likely than control children to give achievement-related reasons for being proud of themselves. The family environment was also apparently affected. Specifically, mothers of children who attended preschool had higher vocational aspirations for their children than the children had for themselves. This discrepancy was not found in mothers of control children.

Program characteristics. In an attempt to understand how preschool programs exert their effects, ten different characteristics of the program were examined: age of children's entry, length of program (in years, months per year, and hours per year), degree of parental influence, location of the program, professional vs. paraprofessional staff, preservice training of staff, language goals for children, and amount of teaching structure. Using assignment to regular vs. special education classes as the criterion of effectiveness, none of these variables emerged as more effective than the others. In addition, no one type of program characteristic was more effective (using the same criterion) than another with children differing on initial IQ scores, sex, and family background measures. We plan to continue these analyses using new measures of effectiveness and more refined measures of program characteristics. In the meantime, we conclude that these high-quality programs were apparently about equally effective in helping these low-income children.

These are striking findings and worthy of careful consideration. But many questions remain to be answered. We have only scratched the surface with our measures; there is a plethora of unmeasured intervening variables in need of investigation in order to clarify the process by which preschool exerted its impact. By partialling out the effect of preschool on IQ score at age 6, we essentially found that preschool affected children in ways that were relevant to school performance but not related to cognitive skills and abilities. Perhaps children's achievement motivation, values, aspirations, or coping styles were influenced. We reported limited evidence that this was so. Perhaps children's classroom behaviors were affected. Individual investigators (e.g., Beller, 1974) have reported that teacher ratings of children with preschool experience differed from those of control children. Children's families may have been influenced by, for example, changing parents' perceptions of their children, affecting the family dynamics, increasing their hopes for the children's future. Again, we reported limited evidence that preschool affected maternal aspirations. But we have virtually no evidence about the influence of larger social and historical contexts. How did desegregation and busing enter into this picture? What difference did it make to enroll a child in intervention programs at the height of a societal commitment to social change? To answer these questions, investigators must continue to design and carry out further longitudinal studies. The Consortium for Longitudinal Studies has provided a baseline from which to operate by demonstrating that preschool intervention programs can make a lasting difference in the lives of low-income children.

Apart from these research questions, what are the implications of these findings? Currently the public appears to be disillusioned with large-scale social legislation and spending. We would ask the public and the policymakers to notice the strength of these findings and to reconsider their commitment to the nation's children, especially low-income children, by continuing to invest in preschool education. It is an investment in their future and in ours.●

GENERAL SEJNA ON SOVIET DECEPTION

● Mr. HUMPHREY. Mr. President, I would like to enter into the Record an authoritative description of "Soviet Deception and Disinformation." This description was written by General-Major Jan Sejna, who had close contact with the Soviet General Staff until his defection to the West. General Sejna's analysis is worth careful scrutiny by my colleagues, regardless of their views on SALT II. General Sejna provides us with useful background for understanding how Soviet SALT deception and diplomatic forgeries are organized. He is a very well qualified and credible witness to discuss Soviet deception.

General Sejna was a Czechoslovak political officer from the late 1940's until his defection to the West in 1968. When he left, he had attained the posts of First Secretary of the Czech Communist Party at the Ministry of Defense, member of the Presidium of the Parliament, and member of the Central Committee of the Communist Party in Czechoslovakia. His position brought him into direct contact with the top political and military leaders of the Soviet Union, its satellites, and numerous Third World nations. This experience enabled him to gain first-hand, inside, indepth understanding of Soviet objectives, strategy, and tactics; not only in the military area, but in the political, intelligence, and economic areas as well.

Mr. President, I ask that General Sejna's analysis be printed in the Record.

The analysis is as follows:

Soviet Deception and Disinformation

Deception and disinformation are integral parts of Soviet strategy, both day to day strategy and long term strategy. They are very important mechanisms which are employed by the Soviet Union in pursuit of its global strategic goals.

Deception, disinformation and camouflage is not just the practice of being clever. Rather, it is, in the Soviet Union, a true art form, a science. One of the main communist principles is to deceive the enemy. The enemy is very clearly defined by the popular slogan "he who is not with us is against us." There is no middle ground. Without deception Communism itself cannot exist, which goes a long way toward explaining why all party professionals are very well trained.

Deception and disinformation as practiced by the Soviet Union is not an informal or occasional activity. Deception and disinformation receive the most careful attention and direction. To make deception and disinformation effective requires several ingredients that one can recognize as being very characteristic of Soviet communists. These ingredients are very clear strategic goals. Excellent knowledge of the enemy and the subject to which the deception is directed, a carefully coordinated control organization and centralized management of the mechanism used to carry out the deception and disinformation. Soviet goals are very clear. We may not like them but they are there. And their goal is the destruction of any other form of government. They know the Western countries very well. They have research institutes designed to study them. They are intimately familiar with all aspects of the governments of the West, finance and industry, the media, the legal system, and influential people and organizations. Their studies of the various subjects are not naive or heavy handed, but rather extremely sophisticated and up to date. Their sense of organization may well be unexcelled in the world. In fact, it is the organization that receives primary attention in all of their activities—by them internal or externally. And everyone recognizes centralized management as the hallmark of the Soviet system.

This centralized management is especially important. It is probably the main characteristic that differentiates the communist system from the Western form of government and that makes it possible to have very effective deception and disinformation apparatus on one side and very difficult to understand it or appreciate it on the other side. The main center of all strategy and policy in the Soviet Union is the Central Committee of the Communist Party of the Soviet Union. The Party reigns supreme. The Party makes all major decisions. The Party provides guidance and direction and this extends most importantly and critically to the conduct of deception and disinformation.

The Eastern European satellites, it is important to recognize, are also part of the Communist system and have been organized in manners almost completely parallel to the Soviet Union—ideologically, militarily, politically, and in terms of internal security. Within the Warsaw Pact countries the center for deception and disinformation is also the Central Committee of the Communist Party of the individual satellite nations.

The decision authority regarding deception and disinformation resides with the Soviet First Secretary of the Communist Party and the Defense Council. The Departments of the Central Committee prepare deception and disinformation and organize its practical everyday control. While any department of the Central Committee prepares and practices deception and disinformation, six departments are preeminent in this role. These departments are the Administrative Department, the International Department, the Department of Ideology, the Department of Party Organization, and the Department of Propaganda and the Press. From a financial or budgetary point of view the Finance Department also participates. The lead department that oversees all activity is the Administrative Department. This department is the most powerful department. It controls the military forces, the police or KGB forces, and the legal mechanism or justice organization. Insofar as this department has control over both the GRU and the KGB it naturally is the most important mechanism for carrying out deception and disinformation through the intelligence and counterintelligence services of the Soviet Union and satellite countries.

The Department of Party Organization controls the party mechanism. This department is where the party strategy is prepared. This department has control over personnel and positions.

The International Department controls the Soviet diplomatic corps, the diplomatic corps of the satellite nations, worldwide communist and revolutionary movements, the so-called democratic organizations, and the other Communist front organizations. This department also has significant influence over KGB and GRU operations abroad.

There is no counterpart to the Ideological Department in the West, yet this is an extremely important department and one to which very high responsibility is assigned in the Soviet Union. This department is responsible for exploiting the revolutionary thrust of Marxism and Leninism and insuring that the Soviet strategy maintains a proper course and heading. From an ideological point of view this department can manipulate the Communist movement, the social democratic parties and other organizations.

As such, it has important control over the Soviet propaganda machinery such as the press, television and so forth. From this point of view it is, for practical purposes, higher on the level of importance than the Press Department and the Department of Propaganda. The most important party body is the Soviet Defense Council. This does not mean that the Soviet Politbureau or the Politbureau of satellites do not participate in deception and disinformation. To the contrary, the Politbureaus do participate in deception and disinformation from the point of view of decisions which the Politbureau is entitled to make. But the Soviet Defense Council is pre-eminent in defense planning, arms control, and deception.

Practically any decision that is made by any party has attention given to the type of deception that will be used to help carry out that decision and the types of mechanisms to be employed in that deception. The authority for this is clear in all official party documents that emanate from the Politbureau, Defense Committee, Secretariat, and so forth. Deception is, of course, usually not called deception. Usually it is called the Political Plan or the tactical step. Political and strategic deception is not called deception and deception is generally not something one finds referred to explicitly within the internal Soviet literature because deception and disinformation from a Marxist propaganda point of view are crimes. Like death, deception is a practice that is organized just by imperialists. Deception and disinformation, which is organized by the Soviet Union and the satellites, is not a crime because this deception is supported by strategy and policy, which by definition, are the most just and progressive; that is, communism. Thus, while deception and disinformation are integral parts of communist strategy, policy and tactics, they are usually not referred to as such when organized and practiced by communist nations.

Deception, disinformation and camouflage is carried out by Communist Parties, the KGB, the Ministry of Defense, the GRU, the Ministry of Foreign Policy, press, and so forth. All these groups work under the bureau of management of Defense Council and party apparatus. The Defense Council and party apparatus also control how the deception is carried out. In addition, they analyze the results of the deception.

As indicated earlier, deception and disinformation are integral parts of all plans. Within the long term strategic plan is strategic deception. Part of the five-year and one-year plans is operational deception, and within individual operations is a tactical deception. The operational and tactical deception must support strategic deception. The main center for formulating the strategic deception is the central committee of the Soviet Union. The Soviet Politbureau approves the long term global plan for 15 years and beyond.

The Soviet Politbureau approves the methods established to achieve the long term strategic goals and the decisions on who will participate and how. Soviet Politbureau also approves how the satellites will be exploited and participate in the long term strategic plan.

One should not assume, however, that the Soviet Politbureau is all supreme or all knowing, as is often done in the West. As indicated earlier the Defense Council is the most important party body. Just the Defense Council is entitled to approve the long term development of military forces of the Soviet Union to satellites to approve the long term plans of KGB intelligence and GRU intelligence, and just the Defense Council is entitled to approve the integral strategic deception and disinformation plan. The Defense Council decides, additionally, what information regarding these plans the First Secretary, or Secretary General, should give to the Politbureau, and nothing else goes to the Politbureau from the Defense Council.

When these plans have been approved by the Soviet Union, the satellites receive directions and guidance on how to prepare their own plans. They also receive directions on which operations to incorporate in their own plans. Subsequently each Warsaw Pact country prepares its plans and again the critical organizations that do the planning are the Departments of the Central Committee, civilian and military intelligence and counterintelligence. Here it is very important to recognize that the Soviet representatives participate at both the civilian and military intelligence headquarters of the Warsaw Pact countries. The Soviet representatives control the preparation of the satellite nation plans and have the authority to ensure that all directions of the Soviet Union are incorporated in these plans. Once these plans are prepared, they are presented to Soviet headquarters in Moscow and, if approved, are subsequently presented to the Defense Councils of each of the satellite countries. When the plan is approved at the Defense Council, agencies participating in the deception and disinformation components of the plan are directed to carry out that plan through the decision of the Defense Council. Subsequently, each department and its intelligence organization, and other committees, prepare their own plans again under the presence and control of Soviet representatives. Thus, at all stages, the Soviet representatives within the headquarters of intelligence and counterintelligence are able to monitor and control all details through the process of preparation of the detailed plan.

The above discussion was focused on the development of the long term strategic plan. It also applies equally well to the preparation of the five-year plans and the one-year plans. Again, the most important role is played by civilian and military intelligence and counterintelligence. Within these departments are secret deception elements with covert names, like "Department of Active Measures." The covert names are changed, sometimes being replaced by a covert number, and, hence, may be difficult to detect or track from the outside. This department contains very highly educated specialists and all available technology required to prepare and carry out the deception.

A very important role is played by the Department of Special Propaganda which is supervised directly by the chief of the main political administration and the chief of the GRU. This department is responsible for collecting very important information on governments, political leaders, military policy leaders, political parties, and influential persons in specialized fields, such as economics, journalism, legal and so forth. This information is collected from the open journals, the press, intelligence services and agents abroad, diplomatic corps, and other organizations, such as trade and union organizations, and, of course, local communist parties. This information is collected first for party propaganda use in peace time for blackmail, for deception and misinformation, and for information for party, military and intelligence leaders. And second, for the preparation for war and revolution in each country. The department of special propaganda has the mechanisms and technology required to carry out deception and disinformation in war and revolutionary situations. This department has its own mobile radio stations and TV stations. They have the authority to use the Air Force and other services to carry out flights over enemy territory and disseminate information.

While deception and disinformation have the same goals they use different methods. Different methods are also employed depending on what the targeted subject is. For example, is the political party a minority, an individual, the middle class, the revolutionary forces, the working class, the external communist party, hawks or doves, the religion and sciences. In each case the deception or disinformation is especially tailored to be maximally effective on the targeted class.

Many different mechanisms are exploited in the process. One which has gained increased attention in recent years is forgery. As an example with which I was personally familiar when the Polish Gomulka liberal leader gained power the KGB decided to blackmail him and remove him from any position of influence within the Social Democratic Party. For this operation two former social democratic leaders were exploited, Denek Filinger from Czechoslovakia and Joseph Cirankijevich from Poland.

Cirankijevich presented to Gomulka the program of the Illegal Social Democratic Party in Poland, which showed clearly that the Social Democratic Party wanted to be legalized, planned to exploit temporarily Gomulka's liberalism, and subsequently take power in Poland and establish a new government without Gomulka.

Of particular significance is the strategic deception of peaceful coexistence. This was introduced by Khrushchev, who was a master of deception. His simple language was used to communicate very effectively and make people enthusiastic. People would call him a simple peasant, but behind his peasant face was a very clever Khrushchev. I first met Nikita Khrushchev in 1954 in Prague. It was the time when Khrushchev and other Soviet leaders realized the need to change policy. In particular, they believed it was necessary to change the image of the Soviet Union in order to move communist and Soviet power further. Khrushchev was in Prague at the Head of the Soviet delegation at the 10th Party Congress of the Communist Party of Czechoslovakia. At the Party Congress Khrushchev gave two speeches: one was the official speech and another as he called it, his private speech. The official speech was nothing new. What was really interesting was his private speech. In that speech, he introduced several new thoughts that were quite shocking to the young Communists and intellectuals. For example, he said if someone tells you the best technology is Russian technology, tell him that he's lying—because the best technology is American, West German and French. But he said, I'm not telling you this because I want to push you to go and make propaganda for American technology, I'm saying this because we have to change our policy. We have to try to get as much as possible from the imperialists. As they sell us new technology we can use this technology to make communism stronger.

From the Party Congress I was elected to the Central Committee of the Communist Party of Czechoslovakia. When the Party Congress was over, the Central Committee held a reception for Khrushchev, the Soviet delegation and other delegations. It was at this party that Khrushchev for the first time mentioned his peaceful coexistence strategy and indicated that Stalin would be found guilty. Khrushchev made a toast and explained to us that he wanted to change the image of the Soviet Union, particularly as perceived by the Western middle class. This was esesntial to do to move Communism forward, and to do so it was necessary to make a complete break with the past. This could not be done by merely blaming mistakes on KGB agents or the military. Too many people were killed, and, if we merely placed the blame at that level, trust will be denied us since we had done that tactic several times in the past.

It is essential to place the guilt on the most important man—Stalin. Following that Khrushchev proceeded to describe his peaceful coexistence strategy. When he finished his talk, Vaclava Dobiac, the Czech composer made a toast. In his toast he said "Comrade Khrushchev, thank you. It will be a welcome change. It means everybody will be friendly in the whole world. We will be able to travel everywhere and people in the whole world can travel to Czechoslovakia." Khrushchev interrupted and said "shut up. I don't want peaceful coexistence because I want to let the imperialists live forever. I want peaceful coexistence because I want to kill them sooner than Stalin thought was possible." This was Khrushchev's simple explanation of peaceful coexistence.

Another important mechanism used in deception and disinformation is kidnapping. For example, shortly before the first elections in Czechoslovakia in the Fall of 1954, the radio broadcast a speech of the former leader of the Socialist Democratic Party in Czechoslovakia, Bohumir Laushman. Laushman had emigrated from Czechoslovakia to the West shortly after the Soviet takeover in 1948. In his radio broadcast he simply said that he had returned voluntarily to Czechoslovakia because he realized how bad the capitalistic system actually was and had concluded that the best system for the working class was Communism. Further, the best freedom was the Communist freedom. He concluded his speech with an appeal for all Czech citizens to vote for the National Front Party, which was led by the Communist Party.

The truth of the situation, however, was quite different. Before he returned to Czechoslovakia, Laushman lived in Austria. He was introduced by Austrian citizens to a Czech intelligence agent who was presented to him as a former Social Democrat. This agent suggested the possibility of taking a letter and small gift to his wife and daughter, who had been arrested after Laushman emigrated. Notwithstanding his political acumen and experience with Communism, Laushman believed the story. The following day he met the agents again, bringing with him a letter and small gifts. Together they made a toast, after which he rapidly succumbed to the drug in his drink. When he woke up he was back in Czechoslovakia. The secret police presented him the speech for him to read on the radio. They promised him that if he would read the speech he would be freeing his wife and his daughter. Of course, the speech was prepared in the Department of Propaganda of the Central Committee of the Communist Party of Czechoslovakia. Laushman did what they told him. The Czech radio broadcast his speech and by the time everyone had heard his speech he was already in jail together with his wife and daughter.

Another interesting example involves the use of sabotage in a deception operation. Sabotage, it is important to recognize, like deception, takes place both in peacetime and in wartime. In the mid-1960s the Soviet Union directed Czech intelligence service to steal American weapons and explosive material. This material was to be used in a Soviet deception operation in the Middle East. In order to provoke anti-American sentiment and to support a revolutionary movement the Russians plan to employ sabotage in certain Middle East countries and passed the blame on the CIA or other American Intelligence services. For that reason they needed American weapons and explosive material to be left in appropriate places after the sabotage.

Perhaps the most important deception and disinformation operation is that designed to cover the military readiness of the Soviet and Warsaw Pact military forces, and, in particular, their readiness for surprise attack and first strike. To cover this most dangerous operation the Soviets would employ many mechanisms and those employed in the Czech operational plans are but one example. As regards military readiness, camouflage is particularly important. Every commander and chief of staff is responsible for camouflage. The highest responsibility resides with the Chief of the General Staff and the Minister of Defense. The Minister of Defense exercises his responsibility through the Commander of the Engineering Corps. And the Commander of the Engineering Corps has the responsibility for strategic and operational camouflage. Within the Engineering Corps there is a special department of camouflage. The Engineering Corps also has special scientific and development centers which develop technology such as false missiles, false airplanes, false tanks, false missile bases, and so forth. Radio technical units, which are directly under the General Staff, belong to the Chief of Military Intelligence and also participate.

The control of deception and disinformation is strictly in the hands of the party and especially in the hands of the Secretary General and Defense Council in particular. The Secretary General is provided every day with intelligence information on deception and disinformation programs that are being carried out. Once a week the Minister of Defense and Minister of Interior personally brief the Secretary General on intelligence, counterintelligence and deception operations. Twice a year written reports on intelligence, counterintelligence and deception operations are presented to the Defense Council Soviet representatives in the intelligence and counterintelligence services participate in the preparation of these reports.

Within the Central Committee, the Secretaries are responsible for how deception and disinformation is carried out within their respective departments, organizations, and ministries. The Administrative Department has the most important responsibility because this is where deception and disinformation is directed and coordinated. This Department also has the most important responsibility for day-to-day operational control of deception and disinformation operations.

There is no question about the competence of the key leaders of the Soviet Union and their experience in deception. For example, Secretary General Brezhnev, his Deputy Kirilenko and Minister of Defense Ustinov all have extensive background in the development and production of the military technology associated with camouflage including that of the production itself. Brezhnev further had World War II experience with strategic military camouflage. The Chief of the Main Political Administration, Yepishev, who has responsibility for the Department of Social Propaganda, is the former Deputy Chief of the KGB.

Deception is an important subject at all military and party schools. All military schools, including the highest military college, teach officers how to prepare camouflage and how to deceive the enemy. All party schools, including the highest party school in the Soviet Union, teach the party professionals and bureaucrats how to organize deception and disinformation. All of the party schools teach deception in history and in particular the experience of Lenin and other party leaders in using deception to achieve victory over the enemy.●

MEDICAL CARE

● Mr. PELL. Mr. President, it is with a keen sense of frustration that I share with my colleagues a dreadful situation, a real example of a classic bureaucratic "Catch 22" that has occurred in my State of Rhode Island and threatens a fundamental right of every citizen in my own community of Newport—the right to medical care of the highest quality at a price they can afford.

The situation that I am about to describe arose when HEW's Health Care Financing Administration promulgated regulations under section 223 of the Social Security Act to link hospital reimbursement for medicare beneficiaries to whether the hospital providing services is located in a county that has been designated metropolitan or nonmetropolitan by the Department of Commerce. Hospitals in metropolitan areas receive more, based upon the assumption that their cost of doing business is greater than the cost of doing business in nonmetropolitan areas.

The State of Rhode Island is only 48 miles long and 37 miles wide, and based upon census data collected a decade ago, my own community of Newport is the only county within it that has been classified as "nonmetropolitan." This means that Newport Hospital will receive a lower allowable per diem rate than all other hospitals within the State. The fundamental irony here is that Newport County has undergone a tremendous growth in the past 10 years and has unquestionably become more metropolitan than any of its surrounding communities, which have already been classified as such. Furthermore, Newport Hospital uses the same suppliers for goods and services that all other Rhode Island hospitals use, and I am quite sure that it does not receive a discount because it is located in a nonmetropolitan area.

In most cases these regulations are probably workable, since rural hospitals generally provide less complex services than urban hospitals, have fewer beds, and are located in areas where the cost of doing business is lower.

Newport Hospital, on the other hand, is no less expensive to operate than any of the hospitals in the State. It delivers a full range of services to the community and functions as the sole provider for more than 95 percent of the resident population, yet it is not receiving its legitimate cost of doing business from the Federal Government for medicare patients.

Rhode Island is one of only nine States in the Nation that has a successfully operating cost-control program that has kept annual increases in hospital costs below the annual rate of inflation and below the targets established by the American Hospital Association for its voluntary effort.

All of the hospitals participate and agree to abide by the prospective budgets that are negotiated. The Health Care Financing Administration has effectively undermined this process by reimbursing Newport Hospital at a lower rate than had voluntarily been negotiated.

Mr. President, I have been a strong advocate for hopital cost containment. However, when States like Rhode Island, have established an efficient and effective program, I believe that they should be exempt from further regulations at the national level. This would provide the strongest incentive for other States to establish similar cost-containment programs based upon their own experience.

As it now stands, Newport Hospital is in double jeopardy due to an administrative bumble. They cannot attempt to make up this difference by charging nonmedicare patients more, because they will be out of compliance with the State cost control commission. If nothing is done, therefore, the hospital officials will be forced to reduce services, possibly close a wing or lay off workers.

We in Congress are attempting to find ways to reduce inflation in the necessities. However, in an attempt to bring the cost of financing hospital services for medicare beneficiaries under control, the Health Care Financing Administration has penalized Newport Hospital by using an arbitrary, outdated metropolitan/nonmetropolitan distinction to set levels of reimbursement in a State with a homogeneous economy.

It is my strong conviction that an exemption or an exception to these regulations is warranted in the case of Newport Hospital. In addition, Congress should be attentive to situations like this one so that our complex task of attempting to regulate the health care system does not frustrate our long-range goal of increasing the access to and availability of medical care services.●

A LOOK AT CONGRESS

● Mr. BUMPERS. Mr. President, at the close of the first session of the 96th Congress, it is appropriate to step back and look at Congress as others view this institution. A recent article in the Wall Street Journal describes the recurring problem of "immersing ourselves in minutiae at a time of intensifying national problems."

I have been concerned about the symbolic gestures that are made by Congress to solve problems when, oftentimes, Congress is sidestepping the real issue.

Mr. President, this article should be required reading by all Members of Congress.

I ask that the article be printed in the Record.

[From the Wall Street Journal, Dec. 14, 1979]

Congress, Fragmented and Fractious, Gets Less and Less Done

(By Dennis Farney)

Washington.—"There are only two words for this Congress," growls Congressman Frank "Thompy" Thompson. "Screwed up."

Rep. Thompson, a white-haired, tart-tongued pragmatist, ought to know. The New Jersey Democrat can truthfully claim to have been "in and out of every House reform in the past 25 years."

But when this liberal warhorse looks out on the House floor today, what he sees frequently dismays him. The place, he says, is awash in "bed-wetters" with "blow-dry hairdos"—those timid, post-Watergate Congressmen whose prime concern seems to be getting reelected.

"You don't know what they stand for," Rep. Thompson sighs. "You don't know what they are, Democrat or Republican. They just do their own thing."

George Danielson, a quiet, down-to-earth man of 64, sees the same phenomenon. The California Congressman, one of four deputy Democratic whips, must round up Democratic votes on issue after issue. The job is getting harder.

FEW FOLLOWERS

"We have leadership—there's just not much followship," he says. "If people up here are no longer willing to be part of any consensus—well, I just worry about how we as a country can keep going."

"Vote, vote, vote. All we do is vote," grumbles Sen. Barry Goldwater of Arizona, plain-spoken as ever. "Christ, in my first Senate term (1953 to 1959), I doubt we had more than 150 votes a year. Now there are days when we have 18 or 20. Not on important things, just procedural questions. It's a much less attractive job now."

Three men, three perspectives. Each sees a troubled Congress: drifting, fragmented, immersed in minutiae at a time of intensifying national problems. A Congress that works harder and harder—and accomplishes less and less.

PAROCHIAL VOTING

"This is a gutless House," says Rules Committee Chairman Richard Bolling, a 31-year veteran who knows the House as few do. "On the Republican side, you have a group of deliberate obstructionists, out to block everything. On the Democratic side, people are voting the easy way, the parochial way, not the way needed for the welfare of the country."

There are other perspectives, of course, probably 535 in all in this 535-member institution. One point often made is that a succession of internal changes has made this perhaps the most open, the most truly democratic, Congress in history. Although this has resulted in more wrangling and delay, some see these developments as signs of vitality.

"The system is complicated, fragmented and messy—and was intended to be," argues Rep. John Brademas of Indiana, the House majority whip. "That's what this place is for. It's a forum of tugging and hauling and fighting."

PUBLIC DIVIDED, TOO

In the end, Mr. Brademas and others argue, the necessary bills do get passed, the money appropriated. And if Congress sometimes fails to resolve sweeping issues, it's often because the nation itself is extraordinarily divided on many matters these days.

"People are dissatisfied with Congress, I think, because Congress represents them too well," says Maine's Sen. Edmund Muskie.

Even Rules Committee Chairman Bolling agrees that, on balance, he prefers today's House to that of two decades ago. "People talk about the good old days when Sam Rayburn had all that power," says Rep. Bolling, a one-time Rayburn protege. "Well, in the good old days, Rayburn was *losing.*" Mr. Bolling explains that the Speakers had to contend with the often-dominant conservative coalition of Republicans and Southern Democrats.

But all agree that Congress has changed enormously in recent years, in ways that have brought new problems. Those changes help explain not only the seeming indecisiveness of many national policies today but also the political problems of Jimmy Carter. "Moses himself couldn't lead the country under these circumstances," says Rep. David Obey, a Wisconsin Democrat who seems near despair over Congress's performance.

A visit to Capitol Hill finds a Congress being transformed by what Mr. Obey describes as "tremendous centrifugal forces."

It is a Congress that buries itself in roll-call votes. On a recent day, for instance, the House voted at 5:18 p.m. on whether to cut off debate at 5 p.m. (The exercise took 15 minutes, but the answer was yes.) The increasingly militant Republican minority forces many of these votes to harass the Democrats. In 1978 the House had 942 roll calls, which consumed roughly 300 hours of its time. Three of its 435 members, all conservative Republicans, demanded 194 of them.

And so, all through the day and sometimes into the night, bells clang and buzzers buzz in the Capitol, making it sound like some great ocean liner in distress. It's the sound of Congress, summoning its members to yet another vote.

Meanwhile, a congressional work force swollen to 18,400 scurries about: aides, secretaries, waitresses, chefs, publicists distributing press releases. ("Dannemeyer irate over Iran," a freshman California Republican recently announced to the world.) The Capitol police force, 1,187 strong, is bigger than the army of Luxembourg. It costs $550 million a year to pay all these people, up from $150 million a decade ago.

COMPUTERIZED WISDOM

Equally striking is the proliferation of electronic gadgetry. Computer-linked typewriters stand ready in almost every congressional office, programmed with answers to questions that constituents may not have even thought of yet. Most offices also have computer terminals that can spew out facts, figures, correlations and summaries on almost any conceivable topic. Color-television sets, about 425 of them, flicker all over the House side of the Capitol. House debates are covered by TV cameras now; members can watch them from their offices.

And at nightfall, when the workmen stop building the Senate's new $116.5 million Hart Office Building, when the lights come up in the House's almost equally expensive Rayburn Office Building, glasses tinkle and laughter rings out from congressional receptions for constituents and lobbyists. Capitol Hill is like a convention hotel at that hour, lighthearted and bustling.

Yet beneath all the activity is an air of unreality. "I have an interest in a small business back in Ohio," Republican Congressman Clarence Brown observed on the House floor not long ago. "That's what I do in real life."

ON THEIR OWN

The unreality stems from a steady progression of symbolic gestures: hearings, proposals and laws that appear to address problems but in fact sidestep them. Illusion has always been a part of politics, but today's media-oriented legislators have elevated it to an art form.

In a sense they have to. Decades ago, the two parties used to handpick their candidates and get them elected. In return, the politicians were loyal to certain broad party principles. But today "parties can't elect us, they can't even protect us," says Republican Sen. Bob Packwood of Oregon. The party organizations have disintegrated. So every politician is on his own, selling himself as best he can.

Into the leadership vacuum have come hordes of single-interest groups, armed with money for campaign donations. There are more than 1,800 of these groups lobbying on Capitol Hill now, along with scores of other groups ranging from the AFL-CIO to Common Cause.

CONGRESS AT WORK

The result is a Congress so tugged and pulled, its power so evenly divided among differing viewpoints, that bold changes in existing policies are extremely difficult to bring about. Even, it seems, when existing policies aren't working.

Glimpses of Congress at work:

Six years after the 1973–74 Arab oil embargo, elements of a meaningful national energy policy are finally moving through this Democratic Congress. What is striking is how closely the broad outlines of this policy—decontrol of oil prices, a "windfall-profits" tax, incentives for conservation and production—resemble the proposals of Presidents Nixon and Ford years ago.

Why did it take six years? Perhaps the main reason is that congressional Democrats initially took the easy way out. They chose to hold prices down through price and distribution controls—controls that made last spring's gasoline-station lines worse. In a double irony, energy prices paid by consumers skyrocketed anyway.

The congressional budget system now is five years old. It's supposed to bring spending into line with income, and most observers agree that it has been an improvement. Even so, it clearly has a long way to go.

This year, for example, the House voted to cut defense spending while increasing social-welfare spending. The Senate took the opposite tack. Then budgeteers from both houses met to resolve this basic difference. They compromised by increasing both defense and civilian spending.

An angry House Budget Committee chairman, Connecticut's Robert Giaimo, recently startled his colleagues by declaring that he is "becoming convinced that this Congress cannot control itself" in spending money. "I have had it!" he shouted.

What upset Mr. Giaimo was an "emergency" $1.6 billion appropriation to help the poor meet heating bills this winter. The measure had grown from a $200 million start in only three years, and it was so loosely drawn that much of the money would go for air-conditioning bills in the South.

It passed by an overwhelming margin shortly after Mr. Giaimo's outburst.

Congress's willingness to increase defense spending reflects, in part, a considered reaction to a continuing Soviet arms buildup. But it also illustrates how frequently Congress elevates symbolism over substance.

In September, for example, the Senate voted to raise fiscal 1980 defense spending $3.2 billion (beyond increases voted earlier in the year). But no Senator knew exactly how the extra money would be spent.

Most Senators supporting the increase thought in terms of buying more hardware: missiles, tanks, planes. The Pentagon was thinking of spending its windfall on such unglamorous items as moving expenses, salaries and fuel. Even today, no one can be sure where the money will go.

This spectacle of spending first and thinking later was too much for Sen. Nancy Kassebaum, an independent-minded freshman Republican form Kansas. She voted against the increase. "Just as doubling HEW's budget doesn't make HEW doubly effective," she said, "neither does throwing money at the Pentagon give us a stronger defense." She also voted against the emergency aid for heating bills, again because no one had thought very hard about how the money would be distributed.

"We do these things to salve our consciences," Sen. Kassebaum thinks.

HARD TIMES FOR MODERATES

Rep. Obey, the reform-minded Wisconsin Democrat, also sees a political process growing steadily "less thoughtful." One busy day this session, he sat in the Speaker's lobby, just off the floor, and talked wearily of the frustration he feels.

"This country," he began, "is being devoured by banshees on very major issue in sight." (A banshee, by his definition, is a noisy extremist, whether a vociferous lobbyist or a rigid ideologue in Congress.) "People who are trying to be moderate, who are trying to take thoughtful positions on any issue, are just being devoured.

"Voters are more cynical now, and who can blame them? When all people hear, from the New Right and the easy-answer left, is that somebody is sticking it to them, that their problems may be the result of a conspiracy of some kind, what can we expect?

"Up here, the effort required to get people to do what they know they ought to do is just incredible."

From the House floor, just beyond the quiet lobby, came a roar of "no!" The House was voting down someone's amendment. Mr. Obey went on. "Sometimes," he said tiredly, "I really think that what is missing from this place is a sense of pride." ●

THE THREAT TO OZONE

● Mr. BUMPERS. Mr. President, in the spring of 1974, two research scientists, Drs. Rowland and Molino, predicted that chlorofluorocarbons used extensively in aerosol sprays, in air conditioners, and refrigerators might decrease stratospheric ozone by 7 to 13 percent. A decrease in ozone in the upper atmosphere increases the level of harmful ultraviolet radiation from the sun which can cause increased skin cancer, decreased agricultural and forestry production, and may have other adverse effects on the weather and the human environment.

In the fall of 1975 and the spring of 1976, Senator DOMENICI and I held extensive hearings on this problem. We heard from a wide range of officials and scientists in industry, the Government, and universities. What at first sounded like a "sky is falling" prophecy increasingly became a frightening probability. Shortly after these hearings, the Congress wisely passed legislation to increase our knowledge of the upper atmosphere, and provided authority to appropriate agencies to phase out, in an orderly way, the use of chlorofluorocarbons wherever possible.

In the fall of 1976, the National Academy of Sciences basically confirmed the Rowland-Molino theory, and estimated the ultimate ozone depletion to be 7.5 percent if we continued to use chlorofluorocarbons at the prevailing rate. The Academy also cited uncertainties in our knowledge, and said that the actual depletion might range from a low of 2 percent to a high of 20 percent.

Now, 3 years later, the money we have spent on basic and applied research has paid off, and the uncertainties surrounding this problem have been significantly narrowed. Unfortunately, the problem itself has not disappeared, but is far more serious than originally supposed.

An article which appeared in Science magazine on December 7 states the results in stark terms. The National Academy of Sciences after evaluating all of the research carried out to date now finds the most probable reduction of ozone to be 16.5 percent. This estimate is more than double the depletion projected only 3 years ago. What is more disturbing is that this estimate is low for two reasons.

First, it assumes a sink for chlorofluorocarbons which the article from Chemical and Engineering News indicates is not likely to be present. Second, it both ignores other sources of chlorine containing molecules that are being produced in increasing amounts, and assumes no increase in release of chlorofluoromethanes above the 1977 levels. Unfortunately, only the United States, Canada, and Sweden have restricted the use of these substances in such nonessential uses as hair sprays and deodorants. One recent study predicts that if release increases at a rate of 7 percent per year from now until the year 2000, we can expect a depletion of at least 30 percent and perhaps as much as 57 percent.

A depletion of 16.5 percent would create incredible problems, but these higher figures would produce an unmitigated disaster. This issue illustrates only too well the importance of both basic and applied scientific research to warn us of the future consequences of present actions. It is not enough, however, to simply study these issues.

We in the United States have taken a first tentative step, but we need to encourage other nations to reduce their use of chlorofluorocarbons as well. Furthermore, as the Washington Post editorial points out, the ozone depletion problem is not the only global issue we face.

As we consider energy issues such as synthetic fuels and the increased use of coal, we face serious problems such as the carbon dioxide green house effect, and acid rainfall. We must keep these larger scale issues in mind, and not lose sight of longer term problems we may be creating as we focus on our current energy shortage.

Mr. President, I ask that the article and editorial be printed in the Record.

The material is as follows:

The Threat to Ozone Is Real, Increasing

The potential for depletion of ozone in the stratosphere caused by the release of chlorofluorocarbons is greater than had previously been predicted, according to a new report from the National Academy of Sciences. The report projects that continued production and release of the chemicals at the 1977 rate will lead to an eventual 16.5 percent depletion of stratospheric ozone, a little more than twice the depletion projected in a 1976 report by the same panel. Continued growth in production of certain other halocarbons will exacerbate the problem, the panel says, even though a significant proportion of these materials is destroyed in the lower atmosphere. Growth in production and use of chlorofluorocarbons, which is expected to occur if controls are not established in countries other than the United States, will lead to major disturbances of the stratosphere.

The two most important chlorofluorocarbons (which are also known as chlorofluoromethanes, CFM's, or by the trade name Freons) are tricholorofluoromethane (CCl_3F) and dichlorodifluoromethane ($CC1_2F_2$). Their potential for harming the stratosphere was first suggested in 1974 by F. Sherwood Rowland and Mario Molino of the University of California at Irvine. They postulated that since the CFM's are almost completely inert in the lower atmosphere, they would eventually all make their way to the stratosphere, where they would be dissociated into their constituent atoms by sunlight. The chlorine atoms thus released could then act as a catalyst in a complicated series of reactions that would have the net effect of converting some of the ozone in the stratosphere into oxygen.

Since stratospheric ozone filters out most of the ultraviolet radiation in sunlight, a decrease in its concentration would permit more ultraviolet radiation to reach the earth's surface. This increase is expected to have an adverse effect on animals, plants, and climate. Another academy report, expected early in 1980, will discuss what these effects might be.

Rowland and Molino's hypothesis was initially scoffed at, but a great deal of laboratory work, measurement of the concentrations of various species in the stratosphere, and computer modeling of the atmosphere have failed to find any significant holes in it. The 1976 academy report (*Science*, 8 October 1976, p. 170) concluded that continued release of CFM's at the 1973 rate—which is within 5 percent of the rate in 1977—would lead to an eventual 7.5 percent reduction in stratospheric ozone. A 1977 report by the National Aeronautics and Space Administration used eight different models of the atmosphere to project depletions ranging from 10.8 to 16.5 percent. The estimate in the new report is based on refinement of the previous models and new values for selected rate constants.

The chief reason for the increased depletion projected in the new report is direct measurement of several key rate constants that had previously been obtained only indirectly. In particular, it was found that the rate constant for the reaction of nitric oxide with peroxide ($NO+HO_2 \rightarrow NO_2+OH$) is about 40 times as large as was previously thought. Several other rate constants were also revised when measured directly. When these new values were incorporated into the atmospheric models, an eventual ozone depletion of 18.6 percent is projected if production and release of CFM's continues at 1977 rates. Such a change in concentration would alter the amount of water that reaches the atmosphere; explicit consideration of these changes reduces the most probable value to 17.7 percent.

To take into account any potential sinks for CFM's that might exist in the lower atmosphere, the panel "rather arbitrarily" further reduced the most probable value to 16.5 percent. This action was taken to reflect the possibility that CFM's adsorbed onto desert sands might be dissociated by sunlight. The potential for this dissociation has been demonstrated in the laboratory, but the process appears to be much slower than diffusion of CFM's into the stratosphere. There are no other known atmospheric sinks for CFM's and a crude balance of production totals with the amount of CFM's known to be in the atmosphere suggests that none will be found. The panel also thinks it unlikely that any other gross changes in reaction rates will be necessitated by new data.

Confirmation of the hypothesis by actual measurement of ozone depletion in the stratosphere is still far in the future, the panel concludes. Because of natural variations in stratospheric ozone concentrations, a 4 to 5 percent reduction caused by CFM's must occur before it can be detected reliably. The current depletion is estimated to be about 2 percent and a 5 percent depletion is not expected until the year 2000. If all production of CFM's were halted after such a depletion was observed, the eventual total depletion would be about 7 percent.

World production of CFM's has dropped to pre-1973 levels, primarily as a result of the U.S. ban on their use in aerosol sprays. But production outside the United States has actually been increasing. Regulatory agencies in other countries continue to accept the industry position that there remain major uncertainties in a number of key assumptions in the theory, that there have been some discrepancies between measured concentrations of reactants in the stratosphere and calculated values, and that there are still no proven, safe alternatives to CFM's for many applications.

One recent study predicts that, in the absence of further regulatory actions, world production of CFM's will grow at an annual rate of 7 percent between 1980 and 2000. If production figures based on this estimate are put into the model, the panel concludes, the projected depletion is nearly 57 percent. The changes in the stratosphere caused by such a depletion would be so great, however, that the model for atmospheric transport would no longer be valid; the eventual depletion would reach at least 30 percent, though.

The models on which the panel based its conclusion do not include any depletions from other halocarbons even though these are a source of concern. The use of chlorodifluoromethane ($CHC1F_2$), particularly in refrigeration, has increased 25 percent in the past 2 years, and the production of methylchloroform (CH_3CCl_3), widely used as a degreasing solvent, is doubling every 5 years. These chemicals are less inert than CFM's and are largely destroyed in the lower atmosphere, but significant quantities can make their way to the stratosphere. Atmospheric measurements, the panel says, now indicate that methylchloroform contributes between a quarter and half as many chlorine atoms to the stratosphere as either trichlorofluoromethane or dichlorodifluoromethane. If its usage continues to grow, it may become the largest single source of stratopheric chlorine. Once in the stratosphere, methylchloroform is not as effective as the CFM's in destroying ozone, but the differences are so small that the continued growth of its production remains a major cause for alarm.

Chlorofluorocarbons Last Longer Than Thought

Chlorofluorocarbons last at least 30 years in the lower atmosphere—longer than was previously believed, according to researchers at the Nationl Oceanic & Atmospheric Administration. Thus, the researchers say, they must continue to be considered a threat to the ozone layer. The scientists base their conclusions on two years of air samples taken by a global network of measuring stations. They also find that concentrations of nitrous oxide fluctuate rather than exhibit steady growth and conclude that the gas from fertilizer appears not to be so great a threat to the ozone layer as it was once suspected of being. The NOAA observations also indicate that significant amounts of chlorofluorocarbons diffuse from the Northern Hemisphere into the Southern, and that there appears to be a small excess of nitrous oxide in northern latitudes that may come from fossil fuel combustion or use of nitrogen fertilizers.

[From the Washington Post, Nov. 24, 1979]

Double Atmospheric Trouble

It has been 10 years since the first fears were raised about the destruction of the planet's protective layer of ozone. Since then, its fate has played a major role in this country's decision not to build a supersonic airplane and in the debate over the space shuttle program and, last year, led to a ban on the manufacture of chlorofluorocarbons for use in aerosol sprays. This week, a long-awaited report from the National Academy of Sciences raised the basis for concern several notches higher by concluding that the ozone layer is being lost twice as fast as was predicted three years ago. It also predicted that if other industrialized countries continue to release these compounds at an increasing rate, eventual ozone depletion would very likely be four times as great as had been thought.

The academy's earlier estimate led to a nationwide production ban primarily because of fears that ozone depletion would lead to increased skin cancer, since ultraviolet rays from the sun would be less effectively screened out. Concerns about the sensitivity of vital crops and fish species to increased ultraviolet radiation and possible, though uncertain, effects on climate also contributed to the ban. Research done in the interim tends to strengthen all those concerns. Indeed, it is now thought by some that, in addition to their effect on the ozone layer, chlorofluorocarbons may directly cause an increase in global temperatures, in much the same way that carbon dioxide is thought to act.

At almost the same moment that it released its ozone study, the academy also finished an expert review of the magnitude and likely effects of increased carbon dioxide in the atmosphere. The report agreed with earlier predictions that the amount of carbon dioxide in the atmosphere is steadily increasing, that the increase is a direct result of using fossil fuels and of slash-and-burn agriculture, and that a doubling of carbon dioxide would raise the average global temperature by about three degrees. The report confirmed earlier calculations that if the use of fossil fuels grows at its historical rate of 4 percent annually, the doubling would occur in about 50 years. The three-degree warming could lead to drastic shifts in agricultural patterns, to a rise in sea level of up to 20 feet, and to a variety of other unpredictable but probably massive changes.

What should be done? So far the government bureaucracy has been reluctant to face up to the consequences of carbon dioxide buildup—and for very understandable reasons. The energy problem is already bad enough without further limiting the options because of the long-range effects of increased use of fossil fuels. Heavier reliance on coal and on synthetic fuels seems to many to be the country's only energy salvation, especially in light of nuclear power's shaky status. But refusing to deal with the problem now will only increase the eventual pain. If adjustments are going to have to be made in the country's energy plan, it would be preferable to know it sooner rather than later.

Both reports also highlight the urgency of initiating collective international action. So far no other country has followed the U.S. lead in banning chlorofluorocarbons, though several are studying it. Clearly, neither problem can be successfully tackled without international cooperation. While the prospects for such a venture are admittedly dim, the risks of not acting are, in the wake of the academy's reports, undeniably high.●

UNITED SERVICE ORGANIZATION

● MR. DOLE. Mr. President, today I am proud to put my full support behind this legislation to grant a Federal charter to the United Service Organization. There are many, many fine associations in this country, but I honestly cannot think of one more deserving of this honor than the USO.

It is difficult to mention the work of the USO without thinking of the unselfish and gracious contributions to our servicemen by Bob Hope. Bob Hope was not born in this country, yet he has become a flattering reflection of the Yankee character. By simply being himself, he continues to be an American representative to the world that we can all take special pride in.

Bob Hope has probably been as honored as any American of his time. The Senator from Kansas would be willing to guess, though, that the greatest honor he has ever received has been the expression of a single GI in Europe, or in Southeast Asia, as he watches the familiar stride of Bob Hope onto the stage.

Mr. President, I am one of many Americans with a special feeling for the work of the USO. I know what it is like to be overseas on the Fourth of July to be thousands of miles from your family on your birthday, or to be in a hospital bed in a foreign country on Christmas Day. I also know what it is like to meet someone from home who is ready, willing and able to make your life a little better.

The USO is an organization that has been financed by voluntary contributions to United Ways, American Overseas Campaign, and independent USO campaigns. The USO deserves this national recognition, and I strongly urge my colleagues to support this piece of legislation.●

ROCCO QUATTROCCHI

● Mr. PELL. Mr. President, as all of us in this body are painfully aware, the term "politician" has taken on an increasingly prejorative connotation in recent years.

I continue to believe, as I know my colleagues do, that the art of politics is a noble one and its practitioners are dedicated and talented men and women motivated above all else by a consuming desire to serve.

Recently, the Providence Sunday Journal in my State of Rhode Island featured a fascinating profile of one of our State's most skilled politicians, a man whose talents and achievements bring distinction to politics and the role of a "politician."

Mr. President, I refer to Rocco A. Quattrocchi, a State senator from the Eagle Park neighborhood of Providence, the chairman of the Senate's powerful Judiciary Committee and, for the past year, the chairman of the Democratic State Committee.

I have long had the pleasure of knowing and admiring Senator Quattrocchi. He is a man who proudly calls himself a politician and practices his calling with enthusiasm, with integrity and with consummate skill. As the profile points out in detail, Rocco Quattrocchi is an open and forthright man whose word is very much his bond.

Mr. President, Rocco Quattrocchi richly reserves the recognition and high regard this profile has engendered and I ask that it be printed in full in the RECORD.

The profile follows:

MR. CHAIRMAN

(By Anthony DiBiasio)

He walks with a slight rolling gait, but his steps are like his political philosophies and actions: paced, deliberate, measured, predetermined; one foot placed carefully in front of the other with no skipped steps until destinations are reached.

For State Senator Rocco A. Quattrocchi, those destinations have been varied but they have always remained within his sight and have always been reached—and always in the same manner as his walk. If you believed in astrology you'd know, just know, that the new chairman of the Democratic State Commitee is a Capricorn, no question about it.

Another thing. The senator from Eagle Park does not fit our Hollywood and television images of a modern political leader. Robert Redford would not be selected to play his part in a movie. Maybe Ernest Borgnine of a few years ago, or Sylvester Stallone a few years from now; maybe a combination of the two.

Yet, while he may be the antithesis of Hollywood's image, Rocco Quattrocchi's political succes might be attributed, in part, to the fact that he looks very much like an average, functional, everyday neighborhood Rhode Islander. You might even say he fits his name.

Rocco: pleasantly stocky, round of face, eyes that fix on you as you talk, broad of chest and shoulders, strong arms and hands. And he never flinches, so you know he's not afraid of things mortal. And he uses those strong hands as he talks, as if they were indispensable semaphores to accompany his Providence-bred colloquial speech. Meet the guy next door, up the street in the old neighborhoods of Providence—you've met The Chairman.

Rocco Quattrocchi was born, raised, worked, married, raised his own family and built his political career while all the time living within the same few city blocks in Providence. The main street facades of Eagle Park may have changed somewhat since the 1930s and '40s of Rocco's youth, but the inner workings of the neighborhoods have not. The same two- and three-decker houses still stand, owner-occupied or at least within sight of the owner; sometimes a newly married son or daughter will live on the other floor. Neighborhood renewal comes in the form of a small ranch house ("a bungalow") built on a long-held lot sandwiched cosily between larger, older houses. There's not much upward (or downward) mobility in the area. It's stable, predictable, self-protective . . . and maybe worried about the changes it may sense are down the street and around the corner—away from their kind. The senator from Eagle Park wears some of this mood himself.

He married Dolores DeRosa, his childhood sweetheart who lived across the street from the Quattrocchi family business—Douglas Oil Company; now they and their three children live down the street the other way from the house and business. And he and Dolores share a neighborhood loyalty and the "powerful committee chairman" (as he is often identified in the press) speaks with soft affection and pride of his children.

Even though his roots are well dug in here, he has—in army service, college, politics, personal trips—traveled extensively in other countries and several American states. And through it all, or in spite of it all, he has emerged outwardly unaffected: He's still Rocco Quattrocchi of Eagle Park—and he means to keep it that way.

The way he looks at it, television has made all of us in the U.S. a homogeneous people: He figures anywhere you go you can turn on Laverne and Shirley, All in the Family, Little House on the Prairie, and that, according to The Chairman, means we all have a common language, a common theme, a common ground for conversation no matter who or where.

The senator is given to philosophical thought, but of his own variety: practical, useful, presently applicable. He is capable of thinking through a problem, a concept, but he applies his mind, his talents, not to cosmic philosophies or unconnected ends, but rather to deal with daily problems requiring practical solutions. The senator is a pragmatist; he is a complete politican and he revels in the term. Politics is his chosen avocation, and he has now reached the pinnacle of a politician's inner-party career: state chairman.

In that capacity he strolled early one morning into the spacious, if Spartan, offices of the State Democratic Committee. Greeting Jan, the office manager/secretary, he hands her a few folded and mutilated traffic tickets and summonses:

"Here's five bucks for this one," he says, handing Jan a folded five-dollar bill, "and get another five from 'Zuch' for this ticket, then take them to 'our friend.' "

A question about the propriety of fixing tickets brings a frank response. Rocco waves a hand in the air. "Hey, Tony," he says, peering through his photo-sensitive glasses still dark from the sunlight of the windows, "this is all part of politics. We all have to do this. Everything I do is in the open."

Sipping coffee from a plastic cup, the senator goes over his official mail with Jan. One letter is a from a supporter who is asking for help in getting a state job. "Call the head of the place," he says to his secretary, "and tell him, all things being equal, we'd like our friend here to have a shot at the job." More than 50 such requests pass through this office each week.

"So many people want state jobs," sighs The Chairman. "It's a sign of the times." Going through more mail, talking with the office shorthand that develops between secretary and boss, he reaches another job-seeking letter. "Call Sal Mancini," (mayor of North Providence) he says, "and tell him this guy here's been a volunteer fireman for years and is high on the list anyway for the permanent job, and, all things being equal, I'd like to see him get it. Then call Bob Viti and let him know what Sal said."

The Chairman believes very much in being the efficient party boss he is. Every letter is kept on file, every request is acted upon, then reported on. And the names of all these requestees are kept on file, along with their locales and affiliations, so that, as Rocco puts it, "when campaign time comes around we can call on them for some help." It's the way of politics, says the senator, "and there's nothing wrong with that.

A strong party system is imperative to the health of the nation, he insists, and as example he points to countries which have fractured and multiple parties—and the chaos that resulted.

"To be strong," he asserts, "you have to take care of people, to accommodate them—all things being equal. If you don't maintain a strong front line, and keep support among your own people, who is going to support you later on? Nobody, that's who.

"Hey," he says, by way of explanation of what might be considered cold politices, "I'm an up-front guy. Sometimes that gives me a bad image." Said image is enhanced, he suggests, by the editors at the Journal, "the bosses—yeah, they're bosses there—they dictate what we'll all read of the news. That's a real boss, not me."

In his myriad duties and responsibilities, and in his mannerisms and acts, Rocco Quattrocchi could qualify for a role as a benevolent Duke. He oversees his fiefdom, handles requests from his loyal subjects (and in turn is loyal to them), provides opportunities for them to seek sustenance, which in return again breeds loyalty.

Loyalty is a word that often comes up in Rocco's deeds, conversation and actions:

"My primary concern," he said of the demands made on him in his position as state chairman, "is to accommodate everyone, if not satisfy everyone—but to do it through proper procedure! That way no one gets teed off at me or the party. So if I make a request to the proper people, all things being equal, I'm just being loyal to the people who support the party." His only regret, he says, is that he cannot "accommodate" everyone. "But," he emphasizes, "it's important that I try! Understand?"

The system is not as callous as it seems, he insists. "What do you want me to do, give jobs to Republicans? If they win, who do you think gets the jobs? Besides, most of the jobs are classified now and we only have a few to be influential on." Then he thinks of something funny, smiles, and says, "Look, let's say I send a guy for a job to the Journal, and one of the bosses there sends down his guy. All things being equal, who do you think'll get the job?" Rocco answers that question with a churning motion of his right hand, a gentle shakng of his head and a chortle.

At midday The Chairman prepares to leave his office duties and head for Newport and the Council of State Governments Eastern Regions Conference (i.e., a convention for legislators and their staffs and families). But first the senator's Cadillac needs gas, so he drives back to his old neighborhood to patronize a local gas station. And here on the streets of his own turf the Duke image strengthens. Passersby recognize him and wave, and, while parked at the station, a few get his ear for a conference. His car also reaps some benefits as it gets not only gas but service—I mean service, like oiled hood hinges, as well as a clean windshield and oil check and such.

"Call my buddy down there," says one of the attendants through the windshield, "tell him my papers are in." His "papers" are his state job applications. "Another one," Rocco says warmly, with the smile of a duke besieged by grateful petitioners. "It's all part of the system," he shrugs, and we leave his turf.

On the road again Rocco talks of the news reports that offer descriptions of him as "powerful" "influential," "top boss," etc. He thinks they are all "interesting, flattering, amusing, even" but he says they help perpetuate a myth that works to his detriment sometimes. "When you can't produce for someone, like in a job, right away they put you on the defensive, they think if you can't do it, you don't want to do it. But, hey," he says, both hands off the steering wheel and spread open in front of him in a gesture of sincerity, "I don't lead them on, I follow through. And if I can or can't help them I tell them as soon as I know. If you're going to be a leader you've got to be up-front, and no one waits long for a decision from me," he insists.

As The Chairman's car proceeds at a majestic and steady (and maddening) 55 m.p.h.—exactly he talks of events which led up to "the worst Easter my family and I ever had" last spring. The controversy was over the so-called RICO bill (an unfortunate acronym for an anti-crime bill in Rhode Island), which was before the Senate Judiciary Committee, of which he is chairman. It was designed to allow investigators access to business records of suspected gangster operations. And it wasn't moving.

As he speaks of what followed—of what he sees as his vilification by the news media—his voice becomes louder and angrier and his hands leave the wheel to punch the air with his True ciragette. But the Cadillac keeps its sedate 55 m.p.h., almost as if it senses that the outward display of raw hurt and feelings now pouring out of its driver are unusual, that the more-in-control-Capricorn-Chairman is still at the wheel sending down normal-circuit driving signals.

Rocco remembers what precipitated the flap. "I was walking down the corridor in the State House when a reporter asked me, sort of low-key, you know, why the RICO bill wasn't coming out." He's talking quietly now, and his eyes squint a bit as he brings back the scenes in his mind's eye. "And I said—casually, you know, because we talked a lot during a legislative day, he and I—so I said, casually, 'Ahhh, there's no clamor for it.' "

For several seconds Quattrocchi drives on, both hands gripping the steering wheel, his mouth and lips pursing and chewing as if tasting an unpleasantness. And then, speaking almost as if he couldn't get the words out strongly enough, his voice coming from somewhere high in his throat rather than his larynx, he tells what happened after that appeared in print.

"And then, BOOM! the roof caved in! They (the media) twisted my words all around, out of context, made me look like I was some crumb or something—and all because I trusted and talked openly to reporters."

He's rolling now and his feelings, if not his car, are racing as he recounts that period in his life, his personal life, he emphasizes, not his political life.

"I was always wide open with the press, good rapport with the guys. But when they use that rapport to take your own words out of context to stick it to you . . . well, then that ticks me off." Rocco now has both hands off the wheel, raised as if in disbelief, his voice still high. "I'm being a nice guy, then they turn around and stick it to the nice guy. No wonder the press always had bad relations up here, you can't trust them for anything.

"It bothers me," he says, "that the media can destroy someone by innuendo and hearsay—it bothers me! Overnight, Boom! Ruin you." He is reaching an apogee of anger now as he recalls some of the stories. "They gave off those (expletive deleted) MAFIA connotations, and that (deleted) me off! There was no reason for that kind of stuff, no justification."

The senator would not be specific as to which news stories carried those allegations. He would only point out that, in his view, it was the general tenor of all the stories combined "plus what people—non-Italians—read between the lines" every time something about so-called organized crime comes up.

And then there was the pre-Easter cartoon on the editorial page of the *Journal*. The message that Quattrocchi feels was put across is not printable. "Well, there was that cartoon," he says, very, very quietly, "with an ugly me standing there with my fingers in my ears—you know, like 'Rocco Quattrocchi has no brains.' " His hands are alternately on the wheel and describing chops in the air, the smoke from his cigarette detailing so many contrails within the car's atmosphere.

"The gang connotations, the stupid connotations," Rocco says, disgust in his voice. "Hey, go after me for my politics, for tickets, for jobs, even my record in legislation. But don't insult me personally. We—my family—all worked hard, we don't have or need that gang crap, and I don't like some cheap-shot cartoonist or editor making it seem like I'm that way." He's quiet now, steering the car in its proper course, but he doesn't let this issue die. He's got to explain things, to set things straight, to protect the honor and loyalty of his family name.

The senator contends it was all a mistake anyway, a misunderstanding. That there really *was* no clamor for the RICO bill—at least not until he was quoted as saying so in print. (Amid the clamor following his quoted remarks, the senator did schedule hearings on the bill and recommend its passage. It is now state law.)

"They," he said of the media, "don't understand the inner workings of the legislative process. There are thousands of bills up and unless you come up to me and say, 'Hey, Rocco, I'd like a hearing on this bill,' it's going to stay in the drawer. Hey, so I took my licks, now I talk again with the press—except I'm more cautious."

The man from Eagle Park has warmed to the subject now, and for the remainder of the car trip he expounds on his political philosophy—which is a curious blend of both big-city party politics and populist tenets. Some excerpts:

"The do-gooders—those who are wealthy before and after they're born and who feel guilty about it and want to give away our tax dollars to everyone who doesn't feel like working—they don't understand the predicament of the guy on the street, the guy who, he and his wife had to work all their lives and now still find themselves behind the eight ball. They're the ones I'm concerned for; let the elite look out for the others.

"The biggest problem we have in this state, in this country, is bureaucrats making decisions who never have to face up to the electorate. That's no way to be in a position of power—the guy should go up or down with the vote of the people.

"Local people don't want carpetbaggers coming in, telling them what's best for them—whether those carpetbaggers are from the federal government or the know-it-all news media. They think their way is the best when in reality their way is not the way of the little guy—there's just too many different interests at stake. That's where politicians like me come in: We look out for the little guy's interests. The big ones already have the newspapers on their side."

Quattrocchi's blend of pragmatic party politics is not surprising, given his background. He was a child of the Depression (born January 13, 1927) and can remember working at his father's gas station (where the oil company now is) for 45 cents a week ("and working hard—and being thankful for the job!"). He worked while he attended Classical High School, graduated in 1945, and two weeks later was drafted into the army and served in Iceland. ("Would you believe, my official duty was the priest's chaplain's assistant? I was an army altar boy!")

He later went to the University of Rhode Island, where he graduated with the class of '51 (three years on the dean's list) and was soon in medical training at the University of Bologna Medical School, from which he voluntarily dropped out during the second year. ("Can you believe it? I couldn't keep up with the language! Me! But those lectures on medicine, whoooh! Tough to understand. I got no regrets, though".)

In 1955 his father died and Rocco bought the controlling interest in the family oil delivery business and "worked day and night" for his family. ("My college degree on the wall, and there I was lying in cellars in front of oil burners, driving trucks, pumping oil, doing the books, everything, along with the help of my family of course. But doing the works, you know?")

He was at first too busy for politics, and anyway he believed in waiting his turn. That turn came in 1967 when he ran for state rep., District 7—unendorsed. ("When you're on top, you run endorsed. When you're on the bottom, you run unendorsed. That's reality.") The next election he felt the time was right to make a move for the senate and ran against and defeated an incumbent. ("All my political foes are now my dear friends; it's not too smart to do otherwise, and, anyway, that's my nature.")

Those campaigns also involved political challenges that were to make the fourth ward ("the brawling fourth") of Providence known around the state. There was Tony Bucci (now head of the Providence Democratic City Committee) on one side and Rocco Quattrocchi on the other, and they challenged each other in the time-honored city ward politics way, i.e., a donnybrook. ("The papers called it a war; that sells more papers.")

No matter how hard they fought each side kept its own preserves: Bucci the council seats and the city committee and Quattrocchi the senate and rep and state committee seats. "We must have spent, over 10 years," says Rocco, "over half-a-million dollars—and still we had a stand-off. So after last election we made peace. And that's how it stands now."

Rocco Quattrocchi feels he's got nothing to be ashamed of for being a politician. "Maybe some people who are bad are in politics, but they're not politicians. Nobody in my family is on the state payroll and my business or my family never benefited from any of our legislation," he asserts. "I'm already a successful businessman" (his company does over $5 million each year) "so I just like to be in politics to help. The news media likes to think otherwise. . . . Hell, I don't know, maybe it makes for juicier stories." He likens politicians to the army: "When you need them, you respect them. Afterwards, ahhh."

In Newport, at the convention, its obvious that not only the serfs back in his district pay their fealty to the benevolent Duke, but so do the assorted knights, barons, and squires and other members of the legislature herein encamped. As The Chairman walks into the lobby of the Sheraton Islander, he's quietly but steadily besieged by his fellow legislators who bring greetings. There are pure greetings: 'Hi, Rocco, how are you? Fine, thanks." There are greetings with future options: "How are you, Mr. Chairman, I'd like to talk to you soon about . . ." "Rocco, I need your help on this matter . . ." And there is some obsequious homage-paying by one or two who cling just a few rungs down the legislative ladder.

Late that night a grand banquet is held for all the local and visiting legislators at Ochre Court, a mansion on the Salve Regina grounds. Visitors are greeted by uniformed guards, and ushered inside to individual, incredibly ornate dining rooms.

Rocco looks at his crisp, colorful salad, and at the posh surroundings. "I think it's great that I'm here," he comments. "Only in America could a kid from the streets be in a place like this—and in a position of influence. Only in politics in America!"

Very quietly, as the legislators begin the dancing for the night, The Chairman leaves the palace and we head for Providence and reality. On the quiet ride back, Rocco guides the Caddy unerringly along the darkened highway—at a steady 55 m.p.h.—and talks at the same steady rate, the anger of the earlier ride now dissipated.

He wants to have a future in politics, and he's not afraid to let it be known. "You have to start early in this game, but wait your turn," he cautions. He'd like to be majority leader some day, but only after "Gendron moves on and up." He would like to be governor, but only "after Joe steps up."

He says he has a group of "politically oriented friends" with whom he regularly confers on the subject of his political future. "When the time's right, I'll make my move. For the time being, I'll do my job and move legislation." He smiles a bit, wags a finger at me, "and move what I think is best, and what the Journal thinks best." ●

STATE LEGISLATORS' TRAVEL EXPENSES

● **Mr. CHAFEE.** Mr. President, today, the Senate will pass H.R. 3091 and H.R. 5224 which extend the tax deduction for State legislator travel expenses through 1981. In its past enforcement of this provision, the Internal Revenue Service has eliminated the deduction in several States which do not meet certain rules it has devised.

As a member of the Finance Committee which has jurisdiction over this legislation, I believe the record should show there is no congressional intent that this deduction should be denied to any legislator for the time he or she spent doing legislative business while the legislature was in session or while his or her presence was required for committee business.

The law is clear in this regard and there is no congressional intent that would justify any other interpretation.●

ALLEGED VIOLATIONS OF ARMS CONTROL AGREEMENTS

● **Mr. HUMPHREY.** Mr. President, as my colleagues know, allegations have been made by the press that the Soviet Union has not only failed to live up to the spirit of four arms control agreements which they have entered into with the United States, but also has blatantly violated specific terms of those agreements.

Evans and Novak, for example, charged on December 14 that the Soviets had tested SAM-10 antiaircraft radar in an ABM mode. If true, this represents a clear violation of the ABM Treaty.

Earlier, Evans and Novak reported that the Soviets had vented debris from nuclear weapons tests, in violation of the Limited Test Ban Treaty of 1963.

In January and September of this year, the highly respected Air Force magazine reported unusual Soviet ICBM activity and suggested that the Soviets had violated the SALT I Interim Agreements.

I want to outline to you my efforts to secure from the administration frank and open answers to these charges. I am asking that the Soviet Union's compliance record on arms control agreements—good or bad—be shared with the American public and my colleagues in the Senate. Answers to these questions must be obtained in order that we, as a nation, can make an informed decision as to the advisibility of entering into the highly complex and convoluted SALT II agreement.

Last week, on two occasions, in open Senate Armed Services Committee hearings, I attempted to secure from Defense Secretary Brown a definitive answer to two simple questions: First, whether or not in the past year the Soviet Union had violated the terms of any arms control agreement to which it is a party, and, second, whether or not the United States had protested in the past year Soviet violations of arms control agreements through diplomatic channels.

Secretary Brown's reply was far from satisfactory. The Secretary stated unequivocally that there had been no case where there had been a clear Soviet violation but did reveal that, and I quote, "in the case of the SALT agreements, we have raised several questions in the Standing Consultative Commission."

To confuse the matter further, Secretary Brown went on to concede the possibility that the Soviets had recently violated the ABM Treaty by testing the SAM-10 radar in an ABM mode.

Has the Soviet Union recently violated provisions of the four arms control agreements it has signed with the United States, or has it not?

The administration owes the American public a straightforward answer to this very crucial question. Toward this end, I have sent two letters—one to the President, and one to the Senate Select Committee on Intelligence which oversees Soviet compliance on SALT. These letters ask for answers to a variety of questions concerning Soviet violations of arms control agreements. I ask unanimous consent that copies of these letters be printed at this point in the RECORD.

The letters follow:

COMMITTEE ON ARMED SERVICES,
Washington, D.C., December 19, 1979.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As you know, serious charges have been leveled in the press concerning recent Soviet violations of four arms control treaties or agreements currently in effect. Given the urgency of the forthcoming floor debate on SALT II, it is crucial that the validity of these charges be aired and brought to the attention of the American public. The National Security Council is uniquely qualified to shed valuable light on the questions of Soviet compliance with SALT I and the other arms control agreements to which it is a party. Toward this end, I have prepared several questions that I believe would furnish me and my colleagues with information vital to the SALT decision-making process. I would deeply appreciate it if, in the interest of a full and factual discussion, you would provide me with answers to the following:

1. Has classified U.S. intelligence data ever been revealed to the Soviets during the SALT process? If so, why can it not be made public? Has the SALT process jeopardized any U.S. intelligence sources and methods?

2. Has the U.S. ever provided the Soviets photography of deactivated U.S. ABM sites and deactivated U.S. ICBM sites? Have the Soviets ever reciprocated with photography of any of their own installations?

3. Has the U.S. ever provided the Soviets with classified U.S. data on new U.S. Early Warning radars, such as "Pave Paws"? Have the Soviets ever provided the U.S. with similar data?

4. Have the Soviets ever charged the U.S. with *deliberate concealment*, which in effect is a violation of Article V of the SALT I Interim Agreement.

5. Given the well-known fact that the Soviets have expanded their strategic concealment, camouflage, and deception activities despite the SALT I bans on *deliberate concealment*, and given U.S. recognition that the well-known Soviet camouflage net at a missile test range constituted deliberate concealment, has the U.S. ever charged the Soviets with deliberate concealment? Is it possible that the Soviets have charged the U.S. with deliberate concealment, while the U.S. has not similarly charged the Soviets?

6. Has intelligence data related to SALT since 1969 ever been embargoed from and within the intelligence community, either temporarily or permanently? Has any such data also been withheld from Congress? Is there an Executive Order which provides that CIA shall receive all intelligence data collected within the U.S. government?

7. If the U.S. tried to ban a missile the size of the Soviet SS-19 in 1972 under SALT I, in an attempt to limit Soviet counterforce capabilities, does the SS-19's deployment allowed under SALT I result in a reduction in U.S. national security? Does the Administration nevertheless believe that the Soviet SALT I compliance record does not reduce U.S. national security?

8. Have the Soviets ever falsified a report of the number of ABM or ICBM launchers they have deactivated? Were all those launchers required to be deactivated ever properly deactivated?

9. Have the Soviets ever claimed that "trust" was involved in SALT compliance?

10. What was the time span between first U.S. detection of each possible Soviet SALT violation, and its final resolution in the SCC? Did the U.S. ever acquiesce in the Soviet position?

11. Is there any classified evidence of Soviet negotiating deception in SALT? Was a classified study on Soviet SALT deception ever withheld within the Executive Branch, or from Congress?

12. If the Defense Department and military posture statements have recognized that during the 1969–1979 SALT decade the strategic balance has shifted against the U.S. and in Soviet favor, how has this shift in the balance affected U.S. leverage in enforcing Soviet compliance with SALT I?

I thank you in advance for your attention to this important subject.

Very respectfully,
GORDON J. HUMPHREY,
U.S. Senate.

U.S. SENATE,
Washington, D.C., December 19, 1979.

Hon. BIRCH BAYH,
Chairman,
Hon. BARRY GOLDWATER,
Ranking Minority Member,
Select Committee on Intelligence, Washington, D.C.

DEAR SENATORS BAYH AND GOLDWATER: As you know, serious charges have been leveled in the press concerning recent Soviet violations of four arms control treaties or agreements currently in effect. Given the urgency of the forthcoming floor debate on SALT II, it is crucial that the validity of these charges be aired and brought to the attention of the American public. The Senate Select Committee on Intelligence is uniquely qualified to shed valuable light on the question of Soviet compliance with SALT I and the other arms control agreements to which it is a party. Toward this end, I have prepared several questions that I believe would furnish me and other non-members of the Committee with information vital to the SALT decision-making process. I would deeply appreciate it if the Committee, in the interest of full and factual discussion, would provide me with answers to the following:

1. Has there been any evidence in the past year suggesting Soviet violations of the SALT I ABM Treaty, the Threshold Test Ban Treaty, the Limited Test Ban Treaty, and the SALT I Interim Agreement?

2. Has there been any diplomatic challenge in the past year to Soviet violations of these four agreements?

3. Precisely how many Soviet SS-7 and SS-8 ICBMs were fully dismantled according to the SCC procedures each month between October 1975 and the present? How many SS-7 and SS-8 ICBMs were required to be in fully deactivated status each month between October 1975 and the present? Were Soviet reports on their deactivation ever at variance with U.S. intelligence data? Was Secretary of State Vance's public statement that the Soviets were in full compliance on deactivations in June 1976 correct?

4. Were there any Soviet tests of surface to air missiles or radars in an ABM mode since 1975?

5. Were any Soviet SAM missiles ever tested against Soviet tactical or strategic ballistic missiles?

6. How many Soviet nuclear weapons tests since 1963 have vented either solid or gaseous debris? How many U.S. diplomatic complaints have been made?

7. List all Soviet nuclear weapons tests and their yields since March, 1976 which had a central value over 150 kilotons. Explain how our yield calculation methodology has changed since 1974. Explain the confidence levels in central values well above 150 kilotons.

8. Have the Soviets introduced ICBM equipment into a deactivated old ICBM complex, in possible violation of the SALT I Interim Agreement? Have the Soviets introduced ICBM equipment at a medium range ballistic missile complex, also in possible violation of the Salt I Interim Agreement? Have the Soviets introduced mobile ICBM equipment into a deactivated old ICBM complex?

9. Are the reports of Soviet construction of large phased array battle management radars correct? Has this issue been raised with the Soviets?

I would like complete answers to these questions sometime in mid-January, if possible.

Sincerely yours,
GORDON J. HUMPHREY,
U.S. Senator.

Mr. President, I would like to emphasize however, that securing open and complete answers to these questions will undoubtedly prove difficult for several reasons:

First, much of the information and techniques used to determine Soviet arms control violations is highly classified and even Senators are not free to reveal them.

Second, by agreement with the Soviet Union, the proceedings of the Standing Consultative Commission (SCC)—the body where SALT violations are aired and reportedly "resolved"—are secret. The SCC, in fact, may not make its proceedings public except with the "express consent" of both the American and Soviet Commissioners.

By mutual agreement, then, the Soviet Union is protected from the outrage that would erupt in this country if its violations were made public.

Third, the United States has set very vague criteria for determining what actually constitutes a Soviet violation. In fact, of the seven basic U.S. criteria used, only one requires the United States to charge before the SCC that the Soviets have violated the agreement and then only when the violation in question had had the effect of increasing the Soviet Union's strategic capability. Mere transgressions do not count as violations, and violations may even be "excused" under the cover of negligence.

Fourth, and finally, the administration has been very timid about broaching the subject of alleged Soviet violations with Congress despite the fact that the Senate—by law—will soon have to pass judgment on the merits of the SALT II treaty. In fact, there have been several charges leveled in the press and elsewhere that the administration has embargoed—or to use a more direct term—"covered up" information about Soviet violations.

In essence, what we have here is a strange situation where for security reasons, the United States does not share the full story of Soviet SALT violations with the public, or for that matter, this Government's elected officials.

The shroud of secrecy is placed over the verification process because public discussion, we are told, could jeopardize national security interests. At the same time, however, the sensitivity of the intelligence evidence pointing to SALT violations has not prevented the United States from raising most compliance issues with the Soviets—even when the intelligence revealed somehow has been considered too sensitive to reveal to the American public.

I am not advocating that we lift the bans of secrecy completely, but that the administration should not use the shroud of secrecy for political purposes or to cover up potentially embarrassing and questionable Soviet behavior. For this reason, I am insisting that the President provide answers to my questions as quickly as possible and I am respectfully requesting that the Senate Select Committee on Intelligence cooperate in this effort.

THE OBEY-RAILSBACK BILL

● Mr. HAYAKAWA. Mr. President, the Campaign Contribution Reform Act of 1979, which restricts the amount of money candidates for the House of Representatives may accept from political action committees (PAC's), has been added as an amendment to the authorization for the Federal Election Commission. This amendment (more commonly known as the Obey-Railsback bill) cuts the funds that can be accepted from any one PAC by 40 percent, and limits the total that can be accepted from all PAC's by a candidate.

The proponents of the bill seem to be surprised by the rapid increase in the number of PAC's since Congress passed the Federal Election Campaign Act Amendments of 1974. Perhaps my colleagues should be reminded that PAC's were not sanctified by law and regulations until 1974, under the same law that limited individual campaign contributions. PAC's have attracted the contributions of those who wish to have their opinions heard. They have learned that PAC contributions have an impact on our election processes.

I am sure each of us has heard the many complaints about the apathy of eligible voters. We talk about finding new ways to encourage them to become a part of the Federal election process, to participate in the selection of their representatives in Washington. Yet we consider legislation that will restrict political action committees—the same PAC's which have reached tens of thousands of people. Many of these people have never before been a part of the process of selecting or promoting candidates, but have been encouraged to participate by PAC's.

I have several other objections to this legislation. It will reinforce the belief held by many people that you must be wealthy to run for a congressional seat. Under current law a candidate may spend an unlimited amount of his own money on his campaign. The greater his personal resources, the more he has available to spend. PAC contributions have provided a defense for the average-income candidate against wealthy candidates. I am unwilling to restrict this major source of financial support.

We need to encourage more people to take an interest in running for public office rather than restrict the opportunities to those with greater personal funds.

The restrictions under this so-called Reform Act would also penalize challengers of incumbents. I cannot support legislation that further protects incumbents from serious opposition. Challengers from both parties who were successful in defeating incumbents in the last election spent an average of $215,028. With the proposed limit on the total amount that can be accepted from all PAC's, it will become increasingly difficult to raise these necessarily large sums. In addition, the cost of political fund raising, and therefore the total cost of an election, will be increased by the necessary reliance on direct mail techniques—the most expensive method of political fund raising.

I object most strongly to the implication that there is something wrong with accepting PAC money. PAC dollars come from individual contributions which are subject to disclosure laws, just as all campaign contributions are subject to disclosure. The amendment makes the unwarranted assumption that a Member of Congress who has accepted the maximum amount from a PAC has agreed to vote as that PAC directs. Do PAC's have the right to assume that contributions to a particular candidate insure his acquiescence on each issue in which the PAC has an interest? If the answer is yes, will it help to limit the maximum a PAC may contribute?

I do not believe that PAC's are buying congressional votes. They have been formed to provide a forum to express a political philosophy. We cannot in good conscience further restrict the right of the citizens of this country to express their opinions.

We have been presented with a bill that has been labeled reform legislation. But what reform will be achieved with the passage of this bill? We will only achieve greater protection for incumbents, we will restrict political races to wealthy citizens, and we will infringe on the constitutional right to free speech.●

DEVELOPMENT OF U.S. EXPORTS

● Mr. GRAVEL. Mr. President, in the recent issue of Omni magazine Mr. Rawleigh Warner, Jr., the chairman of Mobil Corp. made some interesting observations with respect to the weaking position of American corporations throughout the world. Mr. Warner points out that in addition to shortcomings within American industry itself, our Government has helped to discourage the development of U.S. exports and thwarted efforts to develop export markets for American goods. In comparison with the rest of the developed nations the United States is far behind in government efforts to encourage exports.

I believe that Mr. Warner's comments warrant careful consideration, not only with respect to exports, but with respect to our entire domestic economy as well. I ask that his article be printed in the RECORD following these remarks.

The article follows:

DEVELOPMENT OF U.S. EXPORTS

One doesn't require too long a memory to recall when the phrase *world power* instantly evoked a mental image of America. The phrase was not limited to military prowess. Among other strengths it encompassed diplomacy, fiscal stability, scientific advancement, production of capital goods, and international trade.

In the last-mentioned area the United States for more than four decades was the world's undisputed leading exporter of high-technology goods. But the margin began to narrow in 1970. Our balance of merchandise trade showed a $31-billion deficit in 1977. Last year the deficit rose to $34 billion. Under present conditions the trend is not likely to reverse itself.

There are three principal reasons for the downturn. First, few American companies have aggressively sought to create foreign markets for their goods or have felt the need to do so. In 1977 only 1 percent of the companies in the United States accounted for 85 percent of the exports. Second, some countries have raised tariff and nontariff barriers against imports from the U.S.

But the most compelling reason for the decline is the fact that the U.S. government itself has put obstacles in the way of international trade and has also fostered an inconsistent stop-and-go policy that has crippled the efforts of American companies. This lack of direction has been compounded by the failure of American leadership to understand the revolution in international trade over the last 30 years.

As a result, our nation has reached the point where we must increase our exports simply to pay for what we import.

Because foreign trade is so competitive, it carries with it a high degree of risk. A company intending to export a product often commits the necessary funds for plant and equipment long before the first shipment is made. This requires constancy and consistency in government policy. What our industries need are clear and easily understood ground rules, not arbitrary day-to-day decisions that contradict those made yesterday.

There are, of course, U.S. tax law provisions designed to provide support for companies engaged in overseas commerce. But the future of these provisions is uncertain. For example, the foreign tax credit protects U.S. companies against being taxed twice on the same foreign-source income. Without such protection, U.S. companies could not hope to compete with foreign-owned companies whose governments routinely provide safeguards against double taxation. Yet Congress is now considering a proposal from President Carter that U.S. oil companies be sharply curtailed in their use of this credit. This would make the U.S., already dependent on foreign oil, also dependent on *foreign oil companies* for the imports it requires.

Another important form of support is the right of U.S.-controlled foreign companies to defer payment of U.S. taxes on income earned abroad until the funds are repatriated. Yet there have been suggestions on Capitol Hill that the tax-deferral clause also be eliminated.

The Export-Import Bank, which finances American companies' exports of capital goods—the leading items in our foreign trade—could be an important influence in export growth. But despite the expansion of its lending authority last year, the bank still offers U.S. exporters only a fraction of the assistance provided by other major nations to their exporting companies.

This imbalance is best demonstrated in the manufacture and sale of commercial airplanes. The two major builders of airplanes are the United States and Airbus, a consortium of European manufacturers. Any Airbus plane sold outside the European community automatically qualifies for export-credit support. In contrast, the Export-Import Bank determines the credit worthiness of American-made airplanes sold overseas on a plane-by-plane basis. Moreover. planes sold by Airbus are totally financed through the participating countries' central banking systems. The Export-Import Bank relies on the resources of U.S. commercial banks, and American aricraft makers, as a result, pay higher interest rates than Airbus does.

It should be clear that many of the elements needed to increase exports are the same as those needed for optimum functioning of our domestic economy:

Sufficient profitability to furnish capital for reinvestment, to support borrowing, and to create additional jobs.

Sufficient predictability of government policy to permit orderly planning.

Abandonment of punitive attitudes and policies toward private business.

In short, we need support by the federal government of the private sector's essential contribution to American society. But we can't afford to stand idly by, merely hoping the government will aid American companies abroad. As citizens, we must ensure that our elected representatives understand the urgent need for clear, consistent, and competitive trade policies.

Thanks in large measure to American economic aid, many nations have advanced to the first rank of economic strength and development during the last 35 years. The U.S. government should be doing all it can to help U.S. industry compete with these new industrial powers. That must be the path of the future if the U.S. position in foreign trade is to regain its onetime preeminence.●

S. 1654, THE CUSTOMS COURTS ACT OF 1979

● Mr. DOLE. Mr. President, as ranking minority member of the Subcommittee On Improvements In Judicial Machinery of the Judiciary Committee, I am pleased to support S. 1654, the Customs Courts Act of 1979. This legislation was originally introduced late in the 95th Congress. Since that time, we have held hearings on the measure and have been able to devote extensive scrutiny to its provisions. Based on this work, this bill in its current form corrects many problems identified with earlier legislative proposals on this subject. Thus, we on the Judiciary Committee feel this to be a generally uncontroversial bill and one which can be recommended to our colleagues in the Senate.

To a great extent, this bill is part of a broader legislative effort undertaken by the Senate Finance and House Ways and Means committees. Earlier this year, those committees began an examination of issues relating to judicial review of countervailing and antidumping duty decisions. The work of those committees culminated in the Trade Agreements Act of 1979, which is now law. Several of the provisions of an earlier version of the Customs Courts Act were incorporated in that statute. The present bill which we are now considering articulates with the provisions of the Trade Agreements Act and thus may generally be considered part of the implementing legislation of that act.

S. 1654 will provide for a comprehensive system of judicial review of civil actions arising from controversies over import transactions. Whenever possible the specialized expertise of the U.S. Customs Court and the Court of Customs and Patent Appeals will be utilized. In this regard, this bill assures access to the courts for such civil actions by more clearly defining the division of jurisdiction between the district courts and the customs courts. Furthermore, the bill grants to the customs courts the plenary powers possessed by other courts established under article III of the Constitution. Finally, S. 1654 provides expanded opportunities for judicial review of civil actions arising from import transactions and changes the name of the U.S. Customs Court to the U.S. Court of International Trade to reflect this expanded and more comprehensive jurisdiction.

In addition, Mr. President, because this bill might be the last legislation coming from our subcommittee which will reach the Senate floor this session, I would like to take this opportunity to compliment our able chairman, the Senator from Arizona (Senator DECONCINI). Senator DECONCINI has not only been an effective and enthusiastic chairman of the Subcommittee On Improvements In Judicial Machinery, but he and his staff have extended every courtesy to myself and my staff working on the minority side. In this environment, I feel we have developed a very fruitful working relationship which has redounded to the benefit of the Senate and the citizens we serve. Thus, I would like to express my personal appreciation for the effective leadership demonstrated by the Senator from Arizona. I look forward to continuing this productive relationship in the coming session of Congress.

To return to the pending business, in sum I believe this bill makes some worthwhile, albeit technical improvements in our judicial machinery dealing with international transactions. I recommend it to my colleagues and encourage them to support this legislation.●

ENERGY CONSERVATION

● Mr. PELL. Mr. President, I am very pleased to share with my colleagues a letter brought to my attention by Capt. E. C. Whelan, Commander of the Naval Education and Training Center in Newport, R.I., on this facility's efforts and contributions to the Nation's energy conservation efforts.

In this critical period when many groups and individuals are questioning the energy shortage and more specifically the need for energy conservation, it is essential, in my opinion that every agency on the Federal level set an example in meeting or exceeding our national energy conservation goals. In every respect, conservation efforts at the Naval Education and Training Center have met this test.

In just this first year of a multiphase program, they have realized a remarkable 31-percent reduction in energy consumption exceeding by 25 percent the Navy's recommended 6-percent reduction. This is indeed an outstanding accomplishment which could only have been done through the leadership of Captain Whelan and the combined efforts and strong support of the personnel at the Naval Education and Training Center.

I ask that the correspondence to me from Captain Whelan be printed in its entirety in the RECORD so that my colleagues may be aware of the important conservation efforts by the Navy in Rhode Island.

The letter follows:

NAVAL EDUCATION AND TRAINING CENTER,
NEWPORT, R.I., *November 27, 1979.*
Hon. CLAIBORNE PELL,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PELL: In those waning, albeit warm, days of November, we here at the Naval Education and Training Center, Newport are looking ahead to the heating season with renewed confidence that the Navy is contributing to the state's leadership in energy conservation.

Our conservation efforts really began about four years ago when the Navy set energy consumption for fiscal year 1975 as a baseline and directed annual reductions of two percent over the ensuing ten years. All elements of the command have been actively involved in a multi-phased program which has realized a thirty-one percent reduction through fiscal year 1978, a figure which exceeds the Navy's goal by twenty-five percent.

Our steam heating system has received major attention. An extensive boiler tune-up program has ensured more efficient operation and throughout the naval complex, leaky steam and condensate return lines have been replaced and others reinsulated resulting in our most significant gains in water and heat conservation. Additional savings have been generated through the consolidation of functions into fewer, more energy efficient buildings.

Other examples of initiatives undertaken include our waste oil recovery program which has collected over one million gallons of reuseable fuel. In another fuel area we have replaced a number of large official sedans with subcompacts such as Gremlins and Crickets and instituted a radio-dispatched taxi service to cut down on local use of command vehicles. Parking lots and streets have been relamped with low energy, high pressure sodium lights that maintain the level of lighting essential for security, and several of our most heavily utilized buildings and gymnasiums similarly have had incandescent lighting replaced.

And we continue to seek ways to save in the future. Currently, contractor personnel are completing an $800 thousand project to provide insulation, install storm windows, and upgrade temperature controls for thirty-four buildings on the base. Our major push right now is to bring on line the Navy's first Automated Utilities Management System. Initially designed to enable centralized computer control of heating units, ventilators and exhaust fans through remote temperature readings and thus strictly control temperatures through occupied/unoccupied periods, the pilot equipment demonstrates potential for expansion into other energy conservation endeavors such as sewage monitoring and a metering program. When fully implemented this system will be a major part of our energy conservation program.

We have noted your emphasis on energy conservation and wanted you to know that it is one of our highest priorities. Prompted by the grim happenings of recent weeks, we are redoubling our efforts in the field and look forward to additional gains in an area of mutual concern.

Sincerely,

E. C. WHELAN,
Captain, U.S. Navy.

Mr. President, the specific programs undertaken at the training center may be of interest to others pursuing similar goals and I would encourage them to contact directly Captain Whelan at the Naval Education and Training Center in Newport, R.I.●

UNIFORMED SERVICES HEALTH PROFESSIONALS SPECIAL PAY ACT OF 1979

● Mr. EXON. Mr. President, I rise in support of the Uniformed Services Health Professionals Special Pay Act of 1979, S. 523.

In short, I support this legislation because of the need to recruit—and especially to retain—the military physicians and other health, professional in which our country has invested so heavily and whose talents are so important, both in peace and war. The military health care system has deteriorated as of late and the time to begin turning that situation around is now. This legislation is a much needed step in that direction and I commend it to my colleagues.

Mr. President, I would like to bring to the attention of the Senate another matter incorporated in this measure which is also of importance to veterans with service-connected disabilities. During the markup of the Professional Special Pay Act of 1979 I introduced an amendment that corrects the great harm done to the CHAMPUS program unless corrected by December 31, 1979.

The Secretary of Defense has indicated that he will no longer allow veterans with service-connected disabilities to take advantage of the CHAMPUS program. Instead, these people will have to go to a Veterans' Administration or military medical facility to receive treatment. If implemented, these veterans would have to, in some cases, travel long distances for such care, causing a hardship. Additionally, the valuable doctor-patient relationship for these people would be broken if they would now be forced to obtain medical care from a different source.

The House bill, H.R. 5025, was passed by the full House of Representatives on October 15, 1979. This bill would amend title 10 of the United States Code to provide that any veteran with a service-connected disability may not be denied medical treatment under CHAMPUS.●

A LETTER TO IRAN

● Mr. MUSKIE. Mr. President, President Carter designated December 19 as "National Unity Day" to symbolize Americans' support for the freeing of American hostages in Iran. I emphasize "symbolize" because from the first day that Iranians took some of our citizens as hostages, Americans have in reality made every day since then a National Unity Day.

The sense of unity Americans are portraying during this time of crisis is unprecedented in recent times. It is expressed in many ways, individually as well as in organized demonstrations of concern.

Earlier this month, I received a letter from two constituents, Mr. and Mrs. Ted Smith of Mount Vernon, Maine, on the question of Iran. The letter is a copy of one they had mailed to the Iranian Mission in New York, making an appeal for the release of the hostages.

The thoughts they express are a proud reminder of the American spirit. Mr. President, I ask that their letter be printed in the RECORD.

The letter follows:

MOUNT VERNON, MAINE,
December 3, 1979.

THE IRANIAN MISSION
New York, N.Y.

Gentlemen: The American people are willing to try to understand why the Iranian people are so angry at the Shah and at us. We have much to learn it appears.

But we cannot learn these things from a group of people who jump up and down screaming. We cannot respect a people who hold our people and create a climate of hatred and fear in both our countries.

We feel that President Carter is doing the only thing that he can in light of the outrageous way our people are being treated.

Surely the large number of Iranian students in this country attending our universities speaks for itself. You place value on education and freedom as we do. You know your sons and daughters here will not be imprisoned because we have respect for the laws protecting them.

These people you are holding are our sons and daughters who were guests in your country. You are behaving like gangsters and holding them for ransom.

We are coming into our Christmas Season, which in this country is marked by the spirit of brotherhood of all mankind. It would be a wonderful thing if Iran would show some of that spirit and return these people to us for Christmas.

Sincerely,

MARION SMITH.●

COMMISSION ON DOMESTIC AND INTERNATIONAL HUNGER AND MALNUTRITION

● Mr. CRANSTON. Mr. President, in the 95th Congress the Senate passed Senate Resolution 271 calling for the President to establish a Commission on Domestic and International Hunger and Malnutrition. On December 10, 1979, the Commission completed its yearlong research and made its preliminary recommendations to the Congress and the President on how to reduce malnutrition and hunger significantly.

The Commission has emphasized that the United States make the elimination of hunger the primary focus of its relationship with developing countries if we are to have an effect on reducing the escalating numbers of malnourished.

What does this imply for the Congress? It means that we must have the political will to make the changes necessary to combat hunger effectively.

We have made incremental changes in our aid policy in the last 10 years, however, our actual shipments in food tonnages to needy countries have declined, and the percentage of our GNP donated to these countries has dropped so low as to rank us No. 12 behind other donor nations.

With 900 million people estimated to be living daily with the pains of hunger, we can no longer remain inactive. This figure represents almost one-fourth of the world population, half of these children, who live with starvation. The Commission has rightly pointed out that "poverty is the root cause of hunger today." If we care about these numbers then we need to assure that our aid is directed at those who need it most, and spend our dollars for those development projects that will benefit more than just a few. Moreover, the task ahead requires that we promote self-reliance in the recipient country, and that the technology we introduce through our aid is appropriate for those who need it. Giving too much aid has resulted too often in a dependent relationship for the developing country with the resulting destruction of local markets and local initiatives for food production.

As is shown by the Commission's report and others, we can no longer expect that transplanting our large-scale capital intensive industry to developing countries will benefit those in greatest need of assistance. Overcoming poverty and its resulting malnutrition is a first step in the development process—a prerequisite for a politically and economically balanced society.

The Congress cannot take on the enormous and complex task of eradicating world hunger alone. But it can commit itself to mandate changes in U.S. foreign assistance laws. We can concentrate on policies which will encourage developing countries to attend to the needs of the improverished.

The 1980's will bear witness to the dangers of an increasing world population and on increasing percentage of hungry people. This destabilizing influence on the world can endanger even our best intentions to curb the arms race, prevent further environmental degradation, meet energy needs and reach economic security.

On May 22, 1979, the Senate passed Senate Joint Resolution 63, designating 1979 as the "Food for Peace Year." This marks the 25th anniversary of the Agricultural Trade Development and Assistance Act of 1954 that created Public Law 480. The original intent of the act was to dispose of surplus food and expand our export markets. With 25 years behind us Congress has recognized the need to shift from a policy of self interest to one that reflects humanitarian concerns for the poor.

In July of 1979, the International Development Cooperation Act of 1979 was passed by Congress. This act has strengthened Public Law 480, Food for Peace, by encouraging U.S. development and food aid to be used to help developing countries improve their food supply. I am hopeful that the policy changes in Public Law 480 will assure that our food assistance does not serve as a disincentive to local food production and marketing in needy countries, but instead encourage overall economic development.

We have come a long way since the 1950's when aid programs were formally initiated through Public Law 480. The President's Commission is showing us that how we give—the quality of our aid—is crucial to the success of that assistance.

While world food production has increased dramatically in the last decade the total number of chronically undernourished continues to grow. In many countries population growth has surpassed increases in food production. Congress can contribute to the alleviation of hunger in these countries by establishing and funding food and nutrition programs, in addition to working closely with the United Nations and nongovernmental organizations.

A program of food reserves can go a long way toward preventing malnutrition and starvation resulting from crop failures. In June 1979, Senator TALMADGE introduced S. 1278, a bill to establish an international emergency wheat reserve. To date, efforts to reach agreements on the establishment and operation of reserves have been unsuccessful.

Food and nutrition programs in the United States have expanded greatly in the past decade. In 1969 the U.S. Department of Agriculture spent $1 billion on nutrition programs. By 1979 this amount had increased to $9 billion. Food stamp and school lunch programs have grown to reach many more in need. The supplemental program for women, infants, and children has been a successful program since 1972. While many positive programs exist, we still have a long way to go in improving the nutrition levels of many of our citizens.

It is the economic, social, and political changes within nations that hold the long-term solutions—I hope the Congress will work toward these changes in the 1980's.●

FTC: OVERSIGHT HEARINGS OR THE LEGISLATIVE VETO

● Mr. SCHMITT. Mr. President, earlier today Senator Ford made a statement to the Senate in which he stated that S. 1991, the FTC Authorization Act, as reported by the Senate Commerce Committee, has not included the legislative veto because, in his opinion, such a provision is unnecessary. Fortunately, most of our colleagues appear to disagree and added a floor amendment of legislative veto provision to the FTC authorization.

The legislative veto as put forth in amendment 212 to S. 1020, the earlier FTC Authorization Act, is, in the view of this Senator, not only necessary but desirable. Let me explain why this is so.

The Congress is to be the principal legislative body of this Nation, not the FTC. Lately the problem of unelected bureaucrats acting counter to the congressional interest has been highlighted dramatically at the FTC, where even Chairman Pertschuk admits certain staff members conducted a "vendetta" against the business community they regulate.

Our hearings clearly showed that the FTC has initiated rulemaking proceeding contrary to the intent of Congress and without any demonstrated pattern of abuses in commerce.

Now Senator Ford believes S. 1991 will correct these and other demonstrated excesses. Many of the provisions of this bill are good, and I have always supported his efforts at oversight. But purely voluntary oversight alone is inadequate, and it is a myth to think that oversight can be mandated by law.

One may ask why this is so. Oversight hearings do not help to correct abuses unless they have occurred. I am sure that Senator Ford would hold oversight hearings regularly because he is a diligent, hard-working Senator who is vitally interested in consumer affairs. But once he was no longer the chairman of the Consumer Subcommittee, the American people would have no assurance that such oversight hearings would regularly occur; and thus, the bureaucrats would eventually be assured of preemptorily exercising their delegated powers without guidance or approval from the Congress. Then we would be back to square one, so to speak.

To meet this argument, S. 1991 requires that mandatory oversight hearings be held every 6 months. S. 1991 also requires that every proposed FTC rule be sent to Congress 30 days prior to promulgation in the Federal Register.

The first of these provisions, that is, mandatory oversight hearings, is a wasteful process if it is indeed something that can be mandated. It wastes the precious time of the Congress when the legislative veto procedure would accomplish the same goals much more efficiently as the need arises.

Merely by knowing that Congress could veto a proposed rule, the FTC, or any other agencies, would be automatically deterred from straying outside their mandate, and thus, the Congress would have to veto relatively few provisions. Oversight should focus on making sure that the FTC is doing what it should do rather than what it should not do.

Another important feature of the veto is that it formalizes a review of agency action consistent with our constitutional role as lawmakers. The legislative veto procedure would allow the Agency to continue its inquiries without fear of unnecessary congressional interference so long as they remembered who would finally review their handiwork.

Finally, Mr. President, Senator Ford's objections to the legislative veto ignores the fact that it has been frequently used in many Federal laws as well as by many States, including his own, Kentucky. (See, Kentucky Rev. Statute 13.087.)

I request that a list of other Federal laws containing a legislative veto provision be printed in the Record at the conclusion of my remarks, as well as a listing of those States which have authorized such a provision with broadly approved results.

Mr. President, the Congress has already accepted the principle of the legislative veto in nearly 300 acts since 1933. On September 18 of this year, the Senate exercised a veto of a Federal Elections Commission rule without dissent. It is time to admit that, properly crafted, the legislative veto's time has come.

The material follows:

Summary of State Laws

LEGISLATIVE REVIEW OF ADMINISTRATIVE REGULATIONS

Alaska—(AS § 24.20.400 and § 44.62.320). The Alaska legislature in 1975 created the Administrative Regulation Review Committee as a permanent interim committee of the legislature composed of three members each from the house and senate. The committee is empowered to examine all administrative regulations to determine if they properly implement legislative intent. Prior to 1978, the committee could recommend annulment of a regulation to the legislature, which in turn, had to adopt a concurrent resolution to do so. A 1978 law passed over the governor's veto empowered the committee to suspend objectionable regulations until 30 days after the next session begins. During the 30-day period, the legislature must annul the regulation through the passage of a concurrent resolution or it goes into effect.

Arizona—(Ariz. Rev. St. 41–511.05). Rules and regulations promulgated by the State Parks Board are the only ones which require legislative review and approval. All other agencies file regulations with the Attorney General and Secretary of State to put them into effect. State Parks Board regulations may be disapproved by concurrent resolution of the legislature for up to one year after they take effect.

Arkansas—(Ark. St. 6–608 et seq.). All proposed, revised, or amended rules and regulations must be filed with the Legislative Council. Rules are reviewed to determine whether they are consistent with legislative intent or if they exceed statutory authority. The function of the Legislative Council review is advisory. If a proposed rule is determined to be improper, the Legislative Council files a statement with the agency concerned and submits recommendations to the legislature. This review procedure was adopted in 1973.

Colorado—(Colo. Rev. St. 24–4–103, Subsec. 8, para. d). Under a law passed in 1976, the Committee on Legal Services, a bipartisan joint committee of four members from each house, reviews all new rules during the interim for "legality and constitutionality." During the session, the standing committees of each house review all new rules. After hearing staff recommendations and agency testimony, the committee can vote to amend or repeal the rule and then submit a bill to the full legislature. There are no time constraints for any stage of the procedures. The governor vetoed a bill passed in the 1977 session which would have made the Committee on Legal Services the review committee for all proposed regulations, during both the session and the interim. It also provided for time constraints for agency filing of regulations with the committee, fiscal notes for regulations with a fiscal impact, and review of pre-existing regulations over five years. On April 10, 1978 the veto was overturned by the Colorado Supreme Court on a technicality, and the bill became law.

Connecticut—(Conn. Gen. St. 4–170 et seq.). The Legislative Regulations Review Committee is bipartisan and composed of eight representatives and six senators. It reviews all proposed regulations of state departments and agencies and may hold public hearings thereon. The committee may give notice of approval or disapproval within 60 days (failure to act within 60 days constitutes approval). If the committee gives notice of disapproval, no agency may take action to implement the disapproved regulation. The committee reports annually to the general assembly in all disapproved regulations which, after study by an appropriate committee, may vote to sustain or reverse the disapproval. Any committee disapproval of a regulation implementing a federally subsidized or assisted program must be sustained by the general assembly or it is deemed reversed. The committee attempts to resolve questioned regulations with the agency responsible, but has disapproved several regulations each year. A 1977 law provides for a five-day period for prior review of proposed emergency regulations by the Committee.

Florida—(Fla. Stat. Sec. 11.60). Florida's Administrative Procedures Act was rewritten in 1975 and a Joint Administrative Procedures Committee created. This committee has three specific functions: to review proposed rules as they are adopted; to maintain a continuous review of statutory authority underlying each rule and note when that authority is changed by either the legislature or the courts; to review administrative matters in general as they relate to the APA. The committee makes a legislative observation on each rule but does not have the power to suspend a rule. If an objection is made by the committee to a rule, the agency is requested to withdraw or modify it. In most cases, agencies have been found willing to respond affirmatively to legislative objections.

Of the first 840 rules reviewed in 1976, 79 percent were found to contain some error and 6.3 percent of these were found to exceed statutory authority. A 1975 amendment to the APA requires an "economic impact statement" to accompany each proposed rule estimating the costs of the rule to those affected by it. The committee has a staff of 13. A constitutional amendment giving the legislature power to suspend rules was rejected in a 1976 referendum.

Georgia—(Ga. Stat. 3A–104(e), (f)). A 1977 law provides for legislative review of regulations by standing committees predesignated by the speaker and senate president for each agency. Regulations must be submitted by the agencies 20 days prior to their effectiveness. If the committee objects to a regulation, it may introduce a resolution repealing or modifying the regulation at the next session. The resolution must be acted upon within 30 days after the beginning of the session in the house of origin and within five days in the other house. Constitutional two-thirds majority approval in both houses is necessary for the rule to be repealed or modified. If the resolution passes by less than a ⅔ constitutional majority, it must go to the governor, who may sign or veto the resolution. The legislature cannot override a veto of such a resolution.

Idaho—(Idaho Code Sec. 67–5217, 67–5218). All rules authorized or promulgated by any state agency are to be submitted to the legislature in regular session for reference to the appropriate standing committees. Any committee or member of the legislature may propose a concurrent resolution rejecting, amending, or modifying any rule thought to be in violation of the statutory authority or legislative intent of the statute under which the rules was made.

Illinois—(Ill. Rev. Stat., Chap. 127, § 1001 et seq). The bipartisan Joint Committee on Administrative Rules reviews all proposed regulations and makes recommendations to the agency to modify or withdraw the rule. While the agency is not bound to accept the committee's recommendations, it must respond to them. Failure to respond constitutes withdrawal. The committee can introduce a bill to modify or nullify a rule to which it has objected.

Iowa—(Iowa Code Ann. Sec. 17A.8). A new Administrative Rules Review Committee was created in 1975, although authority for regulation review had previously existed. The new committee is composed of three members from each house and meets monthly. It is authorized to selectively review promulgated rules, but is currently reviewing all promulgated rules. The review committee may file objections to rules based on the fact they are unreasonable, arbitrary, capricious or beyond the scope of agency authority. Such objections transfer the burden of proof to the issuing agency in any legal challenge to the rule. An agency unable to sustain this burden of proof in a legal challenge may be liable for all court costs to the challenge. The Rules Review Committee may also refer a rule for consideration to the appropriate legislative standing committee at the next regular session.

Kansas—(K.S.A. 1978 Supplement 77–415 et seq). The revisor of statutes submits a copy of all rules and regulations filed during the previous year to the Joint Committee on Administrative Rules and Regulations (JCARR) at the beginning of each legislative session. The legislature may pass a bill modifying or rejecting an existing regulation or it may pass a resolution rejecting a proposed regulation or a proposed amendment to a regulation. During the interim, agencies may adopt temporary regulations after obtaining the approval of the Temporary Rules and Regulations Board, which is composed of the Chairman of the JCARR, the Secretary of State and the Attorney General, or their designees.

Kentucky—(K.R.S. 13.087). The Administrative Regulations Review Subcommittee (three members) reviews all proposed regulations as to whether they conform to statutory authority and to the legislative intent of the statutes. If nonconforming, a regulation is returned to the agency with the legislative objections. If an agency does not revise the regulation, it is then presented to the appropriate legislative standing committee or joint interim committee for a second review as to statutory authority and legislative intent. If this committee raises objections, it is again returned to the agency for reconsideration, but the legislature does not have power to suspend a rule and the agency is only required to give "affirmative consideration" to legislative objections and is not bound to modify the rule. A 1974 act provided that all existing regulations be rescinded unless repromulgated by the agencies within one year.

Louisiana—(LRS 49–968 et seq). The legislature in 1976 passed a law providing that all rules proposed by agencies be submitted to a specified house and senate committee simultaneously upon their filing with the Department of the State Register. The committee may then hold a public hearing and issue a report to the agency expressing approval or disapproval of the rule. Although the committee report is printed in the State Register, the agency is not bound to accept it. A 1977 bill vetoed by the governor would have given the committees the power to stop a rule from going into effect by raising objections within 15 days after it is filed with the committee. The legislature would not have been required to act, but could have overridden the committee's objection by passage of a concurrent resolution. A 1978 law provides that if a committee finds a rule unacceptable, the committee will submit a report to the Governor. The Governor has five days to disapprove the committee report; if he does not, the agency must change or modify the rule.

Maine—(5 MRSA c. 308 § 2501 et seq). A law enacted by the 1977 session provides that agencies submit all current rules to the legislature by January 15, 1978 for review by the appropriate standing committees. These committees must hold public hearings and recommend to the legislature an expiration schedule for all rules. A committee may recommend immediate expiration of a current rule. The legislature must then pass bills to implement these expiration schedules. All new rules which go into effect after January 1, 1978 automatically expire five years after their effectiveness unless the legislature passes a bill terminating their effectiveness in less than five years.

Maryland—(Md. Ann. Code 1977, Art 40, § 40A). The Standing Committee on Administrative, Executive, and Legislative Review (five senators, five delegates) reviews regulations as they are published in the Maryland Register. The committee has no power to suspend or veto proposed regulations, but its views are often persuasive with agencies when it raises questions about proposed regulations.

Michigan—(Mich. St. Ann. 24.201–24.315, Act No. 108, Public Acts of 1977). The Joint Committee on Administrative Rules (three senators, five representatives) has a 60-day period in which to approve or disapprove all proposed rules. Under a 1977 law passed over the governor's vote and effective on January 1, 1978, if the committee disapproves a rule or fails to approve it within 60 days, the rule cannot be adopted by the agency unless the legislature overrules the committee action within 60 days. The state supreme court has refused to consider a request by the governor for an advisory opinion on the constitutionality of this law. In addition, opinions of the attorney general have questioned the constitutionality of legislative disapproval of rules by concurrent resolution, rather than by bill. Legislative power to review and suspend regulation during the interim is authorized in Article IV, section 37 of the state constitution. Michigan has more than 30 years experience with some type of legislative oversight of administrative regulations.

Minnesota—(Minn. St. 3.965). The Legislative Commission to Review Administrative Rules, composed of five members of each house, may hold public hearings to investigate complaints concerning rules and, on the basis of testimony received, suspend any rules. In practice, however, the committee reviews all proposed rules. If a rule is suspended by the committee, such action must be sustained by the legislature at its next session. Before the committee suspends any rule, it shall submit it to the appropriate standing committees for their review and recommendation. Emergency rules are effective for only 90 days, during which time they must be repromulgated under the regular procedure in order to remain in effect beyond that time.

Missouri—(Sec. 536.037, RSMo). Under a 1976 law, the legislature created the Joint Committee on Administrative Rules. The committee reviews all proposed rules published in the Missouri Register, but its review is advisory only. A proposed constitutional amendment authorizing legislative rejection of agency rules was submitted to the electorate by the legislature and was defeated in August, 1976. During the 1977 session, the legislature attached to many bills a provision that all agency rules promulgated under the respective bills expired in two unless approved by a concurrent resolution of the legislature. An additional provision attached to many bills mandated either the expiration of the rules promulgated under the authority of the respective bills, the repeal of the promulgating power, or both, on November 30, 1981.

Montana—(Sec. 2-4-401 et seq., MCA 1978). An Administrative Code Committee was established in 1975 to review all proposed rules. This committee makes recommendations for action by the agencies to the legislature which, by joint resolution, can repeal or compel the amendment or adoption of a rule. Legislation enacted in 1977 mandates that all bills authorizing agencies to promulgate rules include a statement of legislative intent. The new law (SB 37) also shifts the burden of proof to the agency in any subsequent legal action challenging the rule as having been adopted in an "arbitrary and capricious disregard" of the purpose of the authorizing statute. Another 1977 law (SB 120) allows the committee to poll the members of the legislature by mail during the interim to determine whether a proposed rule is consistent with legislative intent.

Nebraska—(Neb. Rev. St. Section 84901 et seq.). The Administrative Rules and Regulations Review Committee reviews proposed rules and recommends to the legislatures appropriate action. The legislature may repeal, change, alter, amend, or modify the original law granting the authority to promulgate rules or general program authority. Under a new law, effective January 3, 1979, the committee has the authority to suspend rules if they do not reflect legislative intent or are contrary to the state's Administrative Procedure Act.

Nevada—(Chap. 233B. 101 et seq. NRS). Under a 1977 law, all proposed regulations are submitted to the Nevada Legislative Commission, which must review them at its next monthly meeting. If the commission objects to a regulation, it is returned to the agency, which must resubmit either the same regulation or an amended version to the commission. The regulation is forwarded to the speaker and the senate president for referral to the appropriate standing committee. The legislature can enact legislation amending the statute under which the objectionable regulation was promulgated.

New Hampshire—(NHRSA Sec. 531 A). In 1977, the legislature enacted a law creating a Joint Committee on Review of Agencies and Programs. The committee will have the power to sunset agencies and review their existing rules. In addition, the law provides the standing committees the power to review rules prior to their effective date and may send the rules back to the agency if the rules are not in the proper format.

New York—(NYSA, Legislative Law, Art, 5–B. Secs. 86–88). A 1978 law formally created by joint resolution in 1977, is composed of three senate and three assembly members. Agencies must file their proposed rules with the commission at least 21 days prior to effectiveness. The commission has the power to examine agency rules as to their statutory authority, their compliance with legislative intent, their impact on the economy and government operations, their impact, on affected parties. In addition, the commission may hold hearings and has been granted subpoena power.

North Carolina—(G.S. 120–30.19 et seq). A 1977 law created the Administrative Rules Review Committee as a permanent committee of the Legislative Research Commission (LRC). All rules adopted by agencies are filed with the director of the LRC, who refers them to the review committee. The committee has up to 60 days to review these rules and may file objections. The agency must respond within 60 days of receipt of the committee's report. Agencies are not bound to comply with the committee's objection, and if they don't, the rule goes to the full LRC for review. The LRC can make recommendations for legislative action to the General Assembly if the agency fails to comply with any commission objections. The law also provides for selective review of all preexisting regulations. It is effective on October 1, 1977 and expires June 30, 1979.

Ohio—(Sec. 101.35, 111.15, 119.01, & 119.03 of Rev. Code). A 1977 law created the Joint Committee on Agency Rules Review with seven members from each house. All proposed rules must be submitted to the committee 60 days prior to adoption. If during that time, the committee disapproves a rule, a concurrent resolution to that effect is introduced. The legislative must adopt the resolution within 60 days to nullify the rule. Any rule promulgated during the interim may go into effect, but the committee and the legislature may disapprove the rule by concurrent resolution within the first 60 days of the next regular session. The committee may meet during the interim and may suspend objectionable rules by a two-thirds vote of its members. The suspension must be sustained by the legislature by concurrent resolution within 60 days of the convening of the next regular session.

Oklahoma—(75 O.S. Supp. 1977 Sec. 308). Prior to 1976 the law provided that any administrative rule or regulation could be disapproved by the legislature by joint resolution. In 1976, this was amended providing for disapproval by either house by simple resolution, rather than requiring the consent of both. Review of proposed rules and regulations is conducted by the Division of Legal Services under the direction of the Legislative Council.

Oregon—(ORS 171.705 to 171.713). The Legislative Counsel Committee reviews all proposed rules and reports to the legislature. There is no formal procedure for further legislative action beyond this informational review. Rules are reviewed to determine whether they conform with the intent and scope of enabling legislation, have been adopted in accordance with all legal procedures, and are consistent with constitutional provisions. The committee recommend changes in the statute authorizing the rule-making powers.

South Carolina—(Act No. 176 of 1977). The legislature in 1977 passed legislation amending and clarifying a 1976 law creating the state register and providing for legislative review and approval of agency rules. Under the new law, the Legislative Council supervises the printing of the state register, in which are printed all proposed and promulgated rules. Proposed agency rules are reviewed by the appropriate standing committee in each house. These rules cannot go into effect until 90 days after receipt by the legislature. The legislature may adopt a joint resolution during that time either approving or disapproving the rule. The 90-day review period continues to run as long as the legislature is in session. After sine die adjournment, the 90-day period ceases to run until the convening of the next regular session. Emergency rules can be promulgated for 90-day periods only when the legislature is not in session.

South Dakota—(SDCL 1–26–1.1, 1.2). The Interim Rules Review Committee reviews all proposed rules and makes recommendations to agencies and to the legislature on any suggested amendments to the Administrative Procedures Act. By a 5/6 vote of the six-member committee, a proposed rule can be suspended until 30 days after the next legislative session convenes. Unless the committee suspension is sustained by the legislature through passage of a bill within this 30-day period, the rule may take effect. All proposed rules submitted to the committee must have attached to it a fiscal note, prepared by the agency and reviewed by the Bureau of Finance and Management. The fiscal note must include the fiscal impact on state government, the assumptions made in preparing the statement and the source of statistics used.

Tennessee—(Tenn. Code Ann. 4–535). Agency rules are referred in the House to the Government Operations Committee and in the Senate to the appropriate standing committee for review. The reviewing committee of either house may suspend the effectiveness of any agency rule or the amendment or repeal of an agency rule. Such suspension is effective until rescinded by the committee or by joint resolution of the General Assembly. Any suspension must be preceded by 15 days notice to the agency of any contemplated action. Suspension is effective upon written notice from the committee chairman to the Secretary of State. (The Attorney General of Tennessee has advised the Governor that this procedure is unconstitutional and that any suspension of a rule can only be accomplished by passage of a bill by a majority of both houses and approval by the Governor.)

Texas—(Chap. 321, Acts of 65th Legislature, 1977). Under a 1977 law enacted by the legislature, agencies must forward to the presiding officers of each house copies of all proposed rules at the same time they are filed with the secretary of state. The proposed rules are then referred to the appropriate standing committees for review. The legislature has a minimum of 30 days to review prior to the rules taking effect. The committees can send statements supporting or objecting to proposed rules to the agency during that time, but its powers are advisory. Standing committees don't meet very often, if at all, during the 19-month interim between biennial sessions.

Vermont—(3 V.S.A. 817–820). The General Assembly of Vermont in 1976 created an eight-member joint committee on administrative rules. This committee reviews any proposed rule and may recommend its amendment or withdrawal upon a finding that the proposed rule is arbitrary, beyond the authority delegated to the agency, or contrary to legislative intent. Committee recommendations are submitted to the next session of the General Assembly. Objectionable rules may be repealed by joint resolution of the General Assembly.

West Virginia—(Code of W. Va. Art. 3, Chap. 29a). The 1976 session created Legislative Rule-making Review committee composed of six members from each house. All proposed rules must be submitted to the committee, which has six months to review them. If the committee disapproves a rule, the agency cannot take any "action to implement such disapproved rule or regulation." The legislature may, by resolution, reverse the committee's disapproval, but the rule remains suspended unless the legislative acts. Regulations implementing federally-subsidized programs may be disapproved by the committee, but unless the legislature sustains the disapproval by the end of the regular session, the rule goes into effect.

Wisconsin—(W.S.A. 13.56). The Joint Committee for Review of Administrative Rules (five senators, five representatives) reviews rules and may suspend them until the next session. Any suspension must be ratified by the legislature by passing a bill at the next session. The committee also reports biennially to the legislature and has the authority to direct an agency to promulgate a statement of policy or an interpretation of a rule under the Administrative Procedures Act.

Wyoming—(Wyo. Stat. Sec. 28–82 to 28–89). Under this 1977 law, all existing rules and all future proposed rules must be filed with the Legislative Service Office (LSO). The LSO reviews the rules and reports to the Legislative Management Council. If the LSO has found a rule objectionable and the council agrees, the disappeared rule goes to the governor, who may agree to repeal the rule. If the governor disagrees with the council's recommendation, the council can only recommend that the full legislative act through what is called a "legislative order" (presumably a statute). Legislative action must take place before the end of the legislative session in order to nullify a rule.

CONGRESSIONAL REVIEW ACTS LISTED CHRONOLOGICALLY 1932–1975

PUBLIC LAWS

Legislative Appropriations for Fiscal Year 1933 (P.L. 72–212).

Appropriations for Treasury and Post Office for Fiscal Year 1934 (P.L. 72–428).

Charges for Irrigation on Indian Reservation Projects, 1936 (P.L. 74–742).

Reorganization Act of 1939 (P.L. 76–19).

Neutrality Act of 1939 (54 Stat. Ch. 2. P. Res. 54).

Alien Registration Act of 1940 (P.L. 76–670).

Act to Promote Defense of the United States (P.L. 77–11).

Emergency Price Control Act (P.L. 77–421).

Emergency Price Control Act Amendment (P.L. 77–729).

War Labor Disputes Act (P.L. 78–89).

Navy Public Works Construction Authorization, 1944 (P.L. 78–289).

Naval Petroleum Preserve Amendment (P.L. 78–343).

Federal-Aid Highway Act of 1944 (P.L. 78–520).

Reorganization Act of 1945 (P.L. 78–263).

Federal Airport Act of 1946 (P.L. 79–377).

Strategic Materials Stockpiling Act Amendments, 1946 (P.L. 79–520).

Disposal of Surplus Vessels and other Naval Property, 1946 (P.L. 79–649).

Assistance to Greece and Turkey, 1947 (P.L. 80–75).

Displaced Persons Act of 1948 (P.L. 81–774).

Immigration Act Amendment of 1948 (P.L. 81–864).

Long-Range Proving Ground for Guided Missiles, 1949 (P.L. 81–60).

Reorganization Act of 1949 (P.L. 81–109).

Government Printing and Binding Amendment, 1949 (P.L. 81–156).

Return of Rehabilitation Costs of Reclamation Projects, 1949 (P.L. 81–335).

Federal Civil Defense Act of 1950 (P.L. 81–920).

Universal Military Training and Service Act (P.L. 82–51).

Military and Naval Construction Authorization, 1951 (P.L. 82–155).

Immigration and Nationality Act of 1952 (P.L. 82–414).

Military and Naval Construction Authorization Act of 1952 (P.L. 82–534).

Supplementary Appropriations Act for Fiscal Year 1953 (P.L. 82–547).

Reorganization Act Amendment, 1953 (P.L. 83–3).

Interior Department Appropriations for Fiscal Year 1954 (P.L. 83–172).

Disposal of Government-Owned Rubber-Producing Facilities 1953 (P.L. 83–205).

Public Building Purchase Contract Act of 1954 (P.L. 83–519).

Watershed Protection and Flood Prevention Act, 1954 (P.L. 83–566).

Atomic Energy Act of 1954 (P.L. 83–703).

Internal Revenue Code of 1954 (P.L. 83–591).

Reorganization Act Amendment, 1955 (P.L. 84–16).

Department of Defense Appropriation Act For Fiscal Year 1956 (P.L. 84–157).

Federal-Aid Highway Act of 1956 (P.L. 84–627).

Authorizing Interchange of Agriculture and Defense Lands, 1956 (P.L. 84–804).

Small Reclamation Projects Act, 1956 (P.L. 84–984).

Watershed Protection and Flood Prevention Act Amendment, 1956 (P.L. 84–1018).

Contracts for Plans Affecting Exploration. Development and Use of Naval Petroleum Reserves (P.L. 84–1028).

Disposition of Naval Petroleum Reserves, 1956 (P.L. 84–1028).

Small Reclamation Projects Act Amendment. 1957 (P.L. 85–47).

Atomic Energy Act Amendment, 1957 (P.L. 85–79).

Reorganization Act Amendment, 1957 (P.L. 85–286).

Immigration and Nationality Act Amendments (P.L. 85–316).

Atomic Energy Act Amendment, 1958 (P.L. 85–479).

National Aeronautics and Space Act of 1958 (P.L. 85–568).

Defense Reorganization Act of 1958 (P.L. 85–599).

Atomic Energy Act Amendment, 1958 (P.L. 85–681).

Trade Agreements Extension Act of 1958 (P.L. 85–686).

Military Code Amendments, 1958 (P.L. 85–861).

National Aeronautics and Space Administration Authorizations for Fiscal Year 1959 (P.L. 86–12).

National Aeronautics and Space Administration Authorization for Fiscal Year 1960 (P.L. 86–45).

Public Buildings Act of 1959 (P.L. 86–249).

National Aeronautics and Space Administration Authorization for Fiscal Year 1961 (P.L. 86–481).

Military Construction Authorization Act, 1960 (P.L. 86–500).

Reorganization Act Amendment, 1961 (P.L. 87–18).

National Aeronautics and Space Administration Authorization for Fiscal Year 1962 (P.L. 87–98).

Foreign Assistance Act of 1961 (P.L. 87–195).

Mutual Education and Cultural Exchange Act of 1961 (P.L. 87–256).

Government-Owned Utilities Used for Bureau of Indian Affairs, 1961 (P.L. 87–279).

Restoration to Indian Tribes of Unclaimed Payments, 1961 (P.L. 87–283).

Arms Control and Disarmament Act, 1961 (P.L. 87–297).

Department of Interior Appropriations for Fiscal Year 1963 (P.L. 87–578).

National Aeronautics and Space Administration Authorization for Fiscal Year 1963 (P.L. 87–584).

Surveys of Watershed Areas for Flood Prevention, 1962 (P.L. 87–639).

Independent Agencies Appropriations for Fiscal Year 1963 (P.L. 87–741).

Trade Expansion Act of 1962 (P.L. 87–794).

Naval Petroleum and Oil Shale Reserves, 1962 (P.L. 87–796).

Foreign Aid Appropriations for Fiscal Year 1963 (P.L. 87–872).

National Aeronautics and Space Administration Authorization for Fiscal Year 1964 (P.L. 88–113).

Independent Agencies Appropriations for Fiscal Year 1964 (P.L. 88–215).

Civil Rights Act of 1964 (P.L. 88–352).

Reorganization Act Amendment, 1964 (P.L. 88–351).

National Aeronautics and Space Administration Authorization for Fiscal Year 1965 (P.L. 88–369).

Water Resources Research Act of 1964 (P.L. 88–379).

Atomic Energy Act Amendments, 1964 (P.L. 88–489).

Independent Agencies Appropriations for Fiscal Year 1965 (P.L. 88–507).

Agricultural Trade Development and Assistance Act Amendments, 1964 (P.L. 88–638).

Reorganization Act Amendment, 1965 (P.L. 89–43).

National Aeronautics and Space Administration Authorization for Fiscal Year 1966 (P.L. 89–53).

Independent Agencies Appropriations for Fiscal Year 1966 (P.L. 89–128).

Authorizing Construction, Repair and Preservation of Certain Public Works, 1965 (P.L. 89–298).

Watershed Protection and Flood Prevention Act Amendment, 1965 (P.L. 89–337).

Water Resources Research Act Amendments, 1966 (P.L. 89–404).

National Aeronautics and Space Administration Authorization for Fiscal Year 1967 (P.L. 89–528).

Title 5, United States Code, "Government Organization and Employees" (P.L. 89–554).

Independent Agencies Appropriations for Fiscal Year 1967 (P.L. 89–555).

Interior Department Research Contracts, 1966 (P.L. 89–672).

Postmaster General Extension of Leasing Authority, 1967 (P.L. 90–15).

National Aeronautics and Space Administration Authorization for Fiscal Year 1968 (P.L. 90–67).

Independent Agencies Appropriations for Fiscal Year 1968 (P.L. 90–121).

Postal Revenue and Federal Salary Act of 1967 (P.L. 90–206).

Treasury and Post Office Appropriations for Fiscal Year 1969 (P.L. 90–350).

National Aeronautics and Space Administration Authorization for Fiscal Year 1969 (P.L. 90–373).

The Wild and Scenic Rivers Act, 1968 (P.L. 90–542).

Independent Agencies Appropriations for Fiscal Year 1969 (P.L. 90–550).

Reorganization Act Extension Amendment (P.L. 91–5).

Treasury and Post Office Appropriations for Fiscal Year 1970 (P.L. 91–74).

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Authorization of Appropriations for Armed Forces, 1970 (P.L. 91–121).

Independent Agencies Appropriations for Fiscal Year 1970 (P.L. 91–126).

Military Construction Authorization, 1970 (P.L. 91–142).

Foreign Assistance Appropriations Act, 1970 (P.L. 91–194).

Public Health Cigarette Smoking Act, 1970 (P.L. 91–222).

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National Traffic and Motor Vehicle Safety Act Amendments (P.L. 91–265).

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Defense Production Act of 1950 Amendment (P.L. 91–379).

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Armed Forces Authorization, 1971 (P.L. 91–441).

Military Construction Authorization, 1971 (P.L. 91–511).

Independent Offices and Department of Housing and Urban Development Appropriations for Fiscal Year 1971 (P.L. 91–556).

River and Harbor and Flood Control Acts, 1970 (P.L. 91–611).

Federal Pay Comparability Act of 1970 (P.L. 91–656).

Treasury, Postal Service, Executive, and Independent Office Appropriations for Fiscal Year 1972 (P.L. 92–49).

National Aeronautics and Space Administration Authorization for Fiscal Year 1972 (P.L. 92–68).

National Science Foundation Authorization, 1972 (P.L. 92–86).

Military Construction Authorization, 1972 (P.L. 92–145).

Armed Forces Authorization, 1972 (P.L. 92–156).

Executive Reorganization Plans Extension, 1971 (P.L. 92–179).

Foreign Assistance Act of 1972 (P.L. 92–226).

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Second Supplemental Appropriations Act for Fiscal Year 1972 (P.L. 92–306).

Public Buildings Amendments of 1972 (P.L. 92–313).

Education Amendments of 1972 (P.L. 92–318).

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Indian Claims Judgments Funds, 1973 (P.L. 93–134).

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War Powers Resolution (P.L. 93–148).

Amendments to the Mineral Leasing Act of 1920 (P.L. 93–153).

Department of Defense Authorizations, 1974 (P.L. 93–155).

Emergency Petroleum Allocation Act of 1973 (P.L. 93–159).

Military Construction Authorization, 1974 (P.L. 93–166).

Foreign Assistance Act of 1973 (P.L. 93–189).

Menominee Restoration Act (P.L. 93–197).

District of Columbia Self-Government Act, 1973 (P.L. 93–198).

Comprehensive Employment and Training Act of 1973 (P.L. 93–203).

Regional Rail Reorganization Act of 1973 (P.L. 93–236).

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Supplemental Appropriations Act, 1974 (P.L. 93–245).

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Department of Defense Authorizations for 1975 (P.L. 93–365).

Air Transportation Security Act of 1974 (P.L. 93–366).

Atomic Energy Act Amendments, 1974 (P.L. 93–377).

Forest and Rangeland Renewable Resources Planning Act of 1974 (P.L. 93–378).

Education Amendments of 1974 (P.L. 93–380).

Department of Interior and Related Agencies Appropriations for Fiscal Year 1975 (P.L. 93–404).

Employees Retirement Income Security Act of 1974 (P.L. 93–406).

National Science Foundation Authorization Fiscal Year 1975 (P.L. 93–413).

Conveyance of Submerged Lands of Guam, Virgin Islands and American Samoa (P.L. 93–435).

Big Thicket National Preserve (P.L. 93–439.

Atomic Energy Act Amendments, 1974 (P.L. 93–485).

Motor Vehicle and School Bus Safety Amendments of 1974 (P.L. 93–492).

Presidential Recordings and Materials Preservation Act, 1974 (P.L. 93–526).

Hopi and Navajo Tribe Act (P.L. 93–531).

Military Construction Authorization, 1975 (P.L. 93–552).

Foreign Assistance Act of 1974 (P.L. 93–559).

Federal Nonnuclear Energy Research and Development Act of 1974 (P.L. 93–577).

Trade Act of 1974 (P.L. 93–618).

Grand Canyon National Park Enlargement Act (P.L. 93–620).

Headstart, Economic Opportunity and Community Partnership Act of 1974 (P.L. 93–644).

Export-Import Bank Amendments of 1974 (P.L. 93–646).

Foreign Assistant Appropriations for Fiscal Year 1975 (P.L. 94–11).

Amtrak Improvement Act of 1975 (P.L. 94–27).

Trust Territory of the Pacific Islands Amendments Act (P.L. 94–27).

National Aeronautics and Space Administration Authorization for Fiscal Year 1976 (P.L. 94–39).

National Science Foundation Authorization for Fiscal Year 1976 (P.L. 94–86).

Amendment to Social Security Act Child Support Provisions (P.L. 94–88).

Board for International Broadcasting Authorization for Fiscal Year 1976 (P.L. 94–104).

Department of Defense Authorization for Fiscal Year 1976 (P.L. 94–106).

Military Construction Authorization for Fiscal Year 1976 (P.L. 94–107).

Sinai Early Warning System Agreement (P.L. 94–110).

Older American Amendments of 1975 (P.L. 94–135).

Foreign Relations Authorization for Fiscal Year 1976 (P.L. 94–141).

Education for All Handicapped Children Act of 1975 (P.L. 94–142).

International Development and Food Assistance Act of 1975 (P.L. 94–161).

Energy Policy and Conservation Act (P.L. 94–163).

Department of Interior and Related Agencies Appropriations for Fiscal Year 1976 (P.L. 94–165).

Energy Research and Development Administration Authorization Act (P.L. 94–187).

Home Mortgage Disclosure Act of 1975 (P.L. 94–200).●

LANGLEY: THE CENTER WITH "THE RIGHT STUFF"

● Mr. HARRY F. BYRD, JR. Mr. President, on October 25, the NASA Langley Research Center held its annual awards ceremony. Nine Langley employees were awarded the NASA Exceptional Service Medal, and dozens of others received awards for outstanding service to their country over the past year. During the ceremony, Langley Center Director Don Hearth announced that Hewitt Phillips will receive NASA's highest award, the Distinguished Service Medal.

The occasion was marked by an address by Robert F. Allnutt, NASA's Associate Deputy Administrator. Mr. Allnutt's remarks speak glowingly of Langley's past accomplishments and future promise, and I wish to have them printed in the RECORD for the benefit of my colleagues.

The remarks follow:

REMARKS BY ROBERT F. ALLNUTT

This is a bright day for NASA and for Langley. The annual Langley awards ceremony gives us an occasion to reflect with pride on the accomplishments of the past few months and to look forward with anticipation at the challenges of the years ahead.

I would be less than honest if I did not begin by telling you that I was thrilled when Don Hearth asked me to join you here today. That may sound like the usual award-day speaker exaggeration but if you will permit me a personal reflection or two, I will try to make clear to you the deep honor I feel at being invited to meet with the family and friends of the people that Langley and NASA have chosen from the Langley roster for special recognition.

My Dad was raised at Ivy Home in Hampton and I spent many a happy summer week there as a boy. At about the time that Langley was spawning the Ames and Lewis Research Centers, I can recall driving by here just outside the fence and wondering at the form and function of the huge, strange structures just inside. In 1960, just before Langley gave birth to manned space flight and the Manned Space Flight Center in Houston, I came here fresh from law school for my first job with NASA, as a patent attorney in training. Here, in a few short months, I worked on patent applications on the Echo Satellite, the Mercury spacecraft, multi-engined variable sweep wing aircraft, and on an award for something called the Rogallo Wing. This to me astounding diversity of activity was only a foretaste of things to come, as Langley diversified through the '60's into ever-broadening ranges of technological challenge.

No doubt as a result of this background, in the years that followed as I have worked both with NASA and in other parts of Government, whenever I have thought of or mentally visualized NASA Centers I have, sometimes subconsciously and more often consciously, thought of Langley: for it is Langley that epitomizes what is great and important about the work that NASA carries out.

And so you can see, the thought that I could have the honor of standing before you today was both humbling and thrilling to me, and I accepted the chance to say a few words with probably unbecoming haste.

I frequently hear people around NASA recalling the "good old days" and lamenting our growing old, with the attendant and apparently inevitable maladies associated with age—hardening of the arteries and weakening of the bones—maladies which often afflict institutions as well as people.

After all, NASA is more than 20 years old—young compared to Langley—but old enough for creeping bureaucracy to take its toll. And inevitably some wonder if we would today be up to the demands and challenges we dealt with in our younger days—a bit like the aging athlete who, despite his greater wisdom and experience, wonders if he still has the energy and spirit to compete.

Charged as each of us is with responsibility for the institution known as NASA, and the institution known as Langley, it is proper for us to worry about such things. But, I have a confidence—difficult to express—that the maturing process has strengthened our institution. And I think today's ceremony and others like it around the Agency testify to my confidence.

Someone once observed there are six phases to each NASA program—wild enthusiasm—growing concern—deep distress—search for the guilty—punishment of the innocent—and awards to the uninvolved.

Whether by design or good fortune, we are breaking that tradition today. In fact, our problem is just the opposite—so many people closely involved with successful programs and activities that it is difficult to single out a representative handful to receive recognition. Outstanding individual achievement is almost always supported by outstanding team effort—in the laboratory and at home. So in a very real sense, when we honor the few we honor the many. We honor ourselves. My confidence in NASA's future comes from seeing evidence of continued outstanding performance—not just from selected individuals but from entire institutions.

Now what is this quality that allows some institutions—notably Langley—to out-perform most others—not just once in awhile—but over and over, month after month, year after year? I believe that it is no great secret. It is people. But in seeking a different way to express it, let me borrow a thought from Tom Wolfe's new book, "The Right Stuff."

Wolfe, writing about the original seven astronauts, seeks to define that quality that I would call character and that he calls "the right stuff." He says, and I quote, "As to just what this ineffable quality was, well . . . the idea . . . seemed to be that a man should have the ability to put his hide on the line and then have the moxie, the reflexes, the experience, the coolness, to pull it back in the last yawning moment—and go up again the next day, and the next day, and every next day, even if the series should prove infinite—and, ultimately, in its best expression, to do so in a cause that means something to thousands, to a people, a nation, to humanity. . . ."

That is Tom Wolf's definition of the "right stuff" in a test pilot. My definition of the "right stuff"—the character—of an institution, is its people. Don, I'm not sure whether Center Directors do something for Langley or Langley does something for its Center Directors, but over the years Langley has had a truly outstanding series of people in its senior leadership positions. I had the good fortune to work directly for Tommy Thompson for a few months in 1967. That experience changed my life profoundly and left me with an undying respect for him as a manager, an engineer, and a person. Off and on over the years, and in particular during 1970, I worked closely with Ed Cortright and came to respect his many abilities very greatly. So, when I look at Langley, and the people of Langley: the Thompson's, the Cortright's, the O'Sullivan's, the Rogallo's, the Whitcombe's, the Gilruth's, the Glenn's and the Grissom's, the Heyman's, the Mace's, the Reed's, the Saunders', the Sweet's, the Swartzwelder's, the Patton's, the Henry's the Harrison's, the Howe's, the Phillips', and the other representatives of Langley who will be honored here today, and when I consider all that you have done and all that you will do in the future, that "means something to thousands, to a people, to a nation, to humanity" then I say to you that Langley is the center with the "right stuff." ●

STABILITY IN THE PERSIAN GULF: AMERICA'S ROLE

● Mr. GARN. Mr. President, the ongoing tragedy in Iran is just the latest in a series of challenges to U.S. global interests in the Third World, but it may prove to be the most significant. The International Institute for Strategic Studies has stated that the West's "most serious security challenge for the 1980's" will be "how to assure the supply, from an unstable Third World, of the raw materials on which its economic well-being, domestic stability, political cohesion had come to depend."

In a recent article appearing in the Wall Street Journal, entitled "Stability in the Persian Gulf," former Assistant to the Secretary of Defense, Kenneth L. Adelman, asserts that "No piece of that Third World is more unstable, none holds more key raw materials, than the Persian Gulf."

As the instability in the Persian Gulf has increased, so too has the Soviet "infrastructure of airfields and naval bases in South Yemen, Ethiopia, and Afghanistan," as well as "prepositioned equipment in those countries and in Libya." Dr. Adelman points out the potential pitfalls that face the United States in the pursuit of vital Western interests in that region, along with some of the options available to us for the reversal of these adverse trends.

"The Tehran trauma," says Mr. Adelman, "may awaken America from its long torpor on security matters there. To take the necessary steps first takes conviction that power is no anachronism in today's world, that, if anything, it has become yet more necessary to protect civilization."

Mr. President, I believe that the majority of this body would endorse Mr. Adelman's views, and so I ask that his article be printed in the Record.

The article follows:

Stability in the Persian Gulf

(By Kenneth L. Adelman)

Even if the hostage situation in Iran is resolved without loss of life, there can be no reviving the status quo antebellum. Nor should there be.

The nightmarish episode has sparked a fiery pro-Americanism which may burn as the political flame of the coming years. In cooler moments, Americans have come to realize that stability in the Persian Gulf, so critical to the West, hangs on slender threads. The Tehran tremors also shook Americans into recognizing that there's evil loose in the world which succumbs neither to the seduction of American goodness (Mr. Carter's government as "kind and good and moral as the American people") nor to the fear of American might (as in the halcyon postwar days).

No guardian angel will come to drive the demons out and to sustain Western interests. America's once-anointed regional policeman, the Shah, quietly convalesces in Texas and in his stead sits an embittered old Moslem seething with bile. America's allies, rather than help squelch strife in the region, scurry for alternative oil sources at the first signs of it. So Persian Gulf security, welcomed or not, rests largely on the U.S.

THE AMERICAN IMPULSE

But the impulse of Americans is to recoil from the area as too baffling, too anti-American, too volatile. This gut reaction does not mesh with Western self-interest. Besides, this approach was tried for a time and failed.

Since 1977 Washington's behavior has been remarkably consistent: neglect of Soviet aggrandizement in the Horn of Africa and Afghanistan; turning back an aircraft carrier in the Gulf that had been dispatched to show American "resolve"; sending a top U.S. general to urge the Iranian military to bow to Khomeini's return and revolution; flying unarmed F–15s to Saudi Arabia as a symbol of who-knows-what; and blaming congressional restraint (seen mistakenly in the War Powers Act) for scrapping a show of force to reassure Gulf states last winter. Most glaring in the cascade of impotent measures were the knee-jerk announcements ruling out any U.S. military option in Iran as the Shah teetered and then again when the hostages were first taken.

No wonder that regional leaders' faith in a U.S. security cloak has been falling faster than any rise in a U.S. presence. No wonder the sheiks are not clamoring for permanent U.S. naval or ground stationing. Such a request would now provoke more political flak for them than it could offer security.

But this predicament can be turned around, and rapidly, if the President channels the moment's passion away from the fleeting thrill of punishing Iran and towards the enduring task of helping to stabilize the region. This might begin with measures to boost naval deployments in the Indian Ocean and Arabian Sea (and this means rebuilding a navy); enhance mine-sweeping and other clearance capabilities in the Gulf; pre-positioned armored weaponry and equipment on ships at Diego Garcia (2,200 miles away) and at Subic Bay in the Philippines; retrain and reequip ground forces to heighten combat effectiveness in the unique conditions there; step up tactical air and airlift exercises in the region; and assure access to European bases for use in crises. With a firm foundation, the U.S. could then edge in closer by utilizing the Sina air bases or the former RAF air facilities on Oman's island of Al Masirah.

This new U.S. presence would have a potent deterrent effect and, if absolutely necessary, allow for a real defense of the oil fields and or friendly states when attacked by alien forces within or without.

Once forward positioned, however, problems do not disappear. Even tougher than getting troops into the area would be using them and then getting them out. Conditions there are harrowing. Endless sand grinds down mechanized equipment and scorching heat saps 12 gallons of water per soldier daily. But American boys would not enter combat alone or as the major force. Others must and would fight, whether from Saudi Arabia or the Trucial sheikhdoms or elsewhere, so long as they're in neighborhood. Currently more than 50,000 South Korean construction workers—all well trained militarily, highly organized, and tightly controlled—are on the scene, principally in Saudi Arabia and Kuwait.

In clear cases of domestic political upheaval, an outside power best not move to save the regime (though the Soviets routinely do) but neither should it undercut a friendly one. When turmoil arises from outsiders within, such as immigrant workers—in Saudi Arabia two-thirds of the oilfield workers are Palestinians—a foreign policing force can bolster local authorities. As to the veritable array of potential state conflicts—South v. North Yemen, Iraq v. Kuwait, Iran v. Bahrain, etc.—here an outside army can more easily assist an indigenous force stem aggression.

Granted, tightening ties to Gulf states faces serious obstacles. One is America's loyalty to Israel's existence. Another is the taint of being an outsider, especially a Westerner. An amateur looking at Arabia can detect a rolling revolution against the West—first, its political structures; next, its educational and cultural features; and most recently, against modernization itself. But such obstacles can be overcome in times of conflict. And in this crossroads of the world, turmoil not tranquility has been a trademark.

A Gulf conflict involving the Soviets—the last scenario considered—would make U.S. countermeasures unavoidable. This worst-case scenario is no longer farfetched. Moscow has steadily fashioned an infrastructure of airfields and naval bases in South Yemen, Ethiopia and Afghanistan; pre-positioned equipment in those countries and in Libya; and can recruit foot soldiers from these new Marxist chums or the old faithfuls, Cuba and East Germany. Soviet maneuvers last summer marshalled many of these resources and proved that such capabilities in the region exist in practice as well as on paper. Impressive capabilities are forged to wicked intentions as revealed by Soviet broadcasts egging on Tehran's holy terror.

PANOPLY OF OPERATIONS

This carefully crafted edifice enables Moscow either to move in speedily during a crisis or to preempt the Americans—who have far greater interests there than the Russians could ever have—from taking effective measures. In short, the Soviets have developed a panoply of military options in the Gulf which could bedevil the West in the 1980s—a decade to witness, for the first time ever, a span of Soviet strategic superiority and a start of Soviet reliance on Gulf State oil.

It is time the U.S. develop a panoply of options for itself. The Tehran trauma may awaken America from its long torpor on security matters there. To take the necessary steps first takes conviction that power is no anachronism in today's world, that, if anything, it has become yet more necessary to protect civilization.

The International Institute for Strategic Studies in London correctly pinpointed the West's "most serious security challenge for the 1980s: how to assure the supply, from an unstable Third World, of the raw materials on which its economic well-being, domestic stability, and political cohesion had come to depend." No piece of that Third World is more unstable, none holds more key raw materials than the Persian Gulf. If it is truly of such importance as the respected IISS contends and as nearly everyone concedes, then it merits protection.

Americans have long realized that preserving core national interests in Western Europe and Northeast Asia demands a credible force for deterrence and, if tested, for defense. The same, now, for the Persian Gulf.●

MEAT IMPORT QUOTAS

● Mr. PRESSLER. Mr. President, I submitted a statement for the RECORD yesterday regarding the passage of H.R. 2727. In one sentence of the statement, the present law was referred to as the bill. To prevent any misunderstanding, I ask that the statement be printed again in its corrected form.

The statement follows:

MEAT IMPORT QUOTAS

Mr. PRESSLER. Mr. President, on January 15 of this year, I introduced S. 32, legislation to modify the method of establishing quotas on the importation of certain meat. I am therefore pleased that H.R. 2727, which is similar to my bill, passed the Senate yesterday. Although I would have preferred legislation identical to that which passed during the 95th Congress and was pocket vetoed by the President, H.R. 2727 is a tremendous improvement over present law. I hope that the President will sign it into law.

It is time that we take action and change the Meat Import Act of 1964. It requires the President to impose restrictions on imports of fresh, chilled, or frozen meats when imports for the year are estimated by the Secretary of Agriculture to exceed by 10 percent an annually adjusted base quantity. This adjusted base quantity is determined from a formula in which a base import level of the average annual imports from 1959 to 1963 is adjusted at the same rate as domestic commercial production of these meats during the same time span. In the past, this formula has operated to keep imports of meat at approximately 7 percent of domestic production. Here is the catch, however: import quotas are the highest when domestic production is high and supplies are plentiful, and they are the lowest when domestic production is low and supplies are tight.

H.R. 2727 would change that situation. It encompasses a countercyclical formula for determining import levels. Under this formula, the limitations on imports would vary inversely with U.S. production of beef and veal so that as U.S. production decreases import limitations will also decrease. This formula would stabilize meat prices for the farmer and consumer alike. It is time that the farmers and ranchers of our nation receive the same treatment that our industrial importers and exporters now enjoy.

Mr. President, there is a feeling in rural America that many of the federal government's programs with regard to agriculture do not reach the rural areas. We seem to have national programs to move people into our large cities, and Congress has adopted programs and policies that encourage concentration in our society.

It is time that we show the farmers and ranchers of our nation that the federal government is supporting them. It is time that we show them that our aim is to help them, not to hurt them. It is time that we finally put programs for rural America on the front burner.

The Senate took a major step forward yesterday by passing compromise legislation. It is my hope that the President will accept the provisions encompassed in H.R. 2727. In addition to making the import laws more equitable for farmers and consumers, we will be showing the farmers and ranchers of our nation that Congress and the President are behind them in their efforts to stay on the farm.●

NOMINATION OF PHILIP KLUTZNICK

● Mr. STEVENSON. Mr. President, Philip Klutznick would bring to the Department and the Cabinet an extraordinary experience in Government, business, finance, and a wide range of civic and charitable activities. He has served in government at every level—city, state, nation, and international. His Federal service began in the 1930's with slum clearance programs of the early New Deal. He continued in the 1940's, developing Federal housing programs. Although he had left Government employment by the 1950's, he did not abandon public causes. He was international president of B'nai B'rith from 1953 through 1959, and he was appointed by President Eisenhower to be a member of the U.S. delegation to the U.N. General Assembly.

In the 1960's Mr. Klutznick served as U.S. representative to the U.N. Economic and Social Council with the rank of Ambassador, and as an aide to the Chief of the U.S. Mission to the U.N. Upon returning to private life, he engaged in international banking and finance and eventually became a partner in Salomon Bros.

In recent years Presidents of both parties have called on Mr. Klutznick. He was a member of President Ford's Advisory Committee on Vietnam Refugees. He has been an active member of citizens' committees for the Panama Canal treaty, the SALT treaty, and the full employment bill.

I mentioned only a few highlights of Mr. Klutznick's career. I could not begin to do justice to his extraordinary record as businessman, philanthropist, public service, and good citizen. I am delighted that the President has persuaded him to return to Government full time and that the Commerce Committee has recommended his confirmation. His judgment, experience, and vitality will be valuable to the Department of Commerce, the President, and the Congress. I urge the Senate to approve his nomination.●

RESOLUTION TO DIRECT THE SENATE LEGAL COUNSEL TO CONDUCT PROCEEDINGS NECESSARY TO UPHOLD PUBLIC LAW 95–67

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a Senate resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 329) to direct the Senate legal counsel to conduct proceedings necessary to uphold Public Law 95–67.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. ROBERT C. BYRD. Mr. President, in 1977 the Congress enacted Public Law 95–67 to prohibit States and their subdivisions from taxing the incomes of Members who live there while attending sessions of Congress. Members are subject to any income taxes levied by the States they represent and remain liable for other taxes, such as real estate and sales taxes, in the States in which they live while attending Congress.

The State of Maryland has taken the position in a proceeding now pending in Federal court that Public Law 95–67 is unconstitutional. There is the possibility that the validity and scope of Public Law 95–67 may also be tested in the Maryland Tax Court in proceedings concerning individual Members. It is important to resolve the basic questions concerning Public Law 95–67 and the following resolution will provide counsel for Members for that purpose.

Mr. MATHIAS. Mr. President, I would like to say a few words about the resolution offered by the distinguished majority leader (Mr. ROBERT C. BYRD) directing the Senate legal counsel to represent Members of Congress in cases before the Maryland Tax Court and appeals from that court, in which Public Law 95–67 may be asserted as a bar to the imposition of State or local tax liability. As the majority leader has already noted, the constitutionality of Public Law 95–67, which exempts Members of Congress from paying State and local income taxes in any State except that from which they have been elected, is now under court challenge in Maryland.

I will not object to the adoption of this resolution. Nor will I speak at length on the subject to which the resolution pertains. On a number of occasions in the past, I have expressed my opposition to this law whose constitutionality is now under challenge in both the Federal and State courts in Maryland. I opposed the proposal when it was first introduced in Congress in 1975; I opposed it again in 1977 when it was reintroduced and I opposed it when it was finally enacted into law. I continue to oppose it today.

I oppose it for the simple reason that the law gives out-of-State Members of the Congress living in Maryland a free ride; it discriminates in favor of such Members who enjoy the whole panoply of excellent public services available in Maryland, but who unlike all other residents, do not pay income taxes to support these services. Members of Congress, as citizens, should accept the responsibilities of citizenship, including the payment of State and local income taxes.

As I have stated previously, I will not impede the adoption of the resolution now before us. Nor do I oppose the pending court action. The time has come for the citizens of Maryland and those Members of Congress who are affected by the challenged law to have the matter resolved at last. The pending case will do just that. I also welcome this test case because I know that, in the end, the position I support, together with my colleagues from Maryland and representatives of the Maryland State government will be vindicated. Ultimately this ill-conceived and unconstitutional law will surely be overturned. The Constitution must prevail.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 329) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. Res. 329

Whereas an Act of Congress, Public Law 95–67 (4 U.S.C.A. 113 (Supp. 1979)), prohibits States and their subdivisions from taxing the incomes of Members who live in those States while attending sessions of Congress as representatives of other States.

Whereas the State of Maryland asserts the right to impose State and local income taxes notwithstanding the provisions of Public Law 95–67, including local income taxes not subject to credit for taxes paid to other States.

Whereas it may therefore be necessary for Members to assert a defense under Public Law 95–67 in proceedings originating in the Maryland Tax Court.

Whereas it is important to resolve questions concerning the constitutionality and scope of Public Law 95–67.

Whereas pursuant to sections 703(a), 704 (a), and 708(c) of the Ethics in Government Act of 1978 (2 U.S.C.A. 288b, 288c(a), 288g (c) (Supp. 1979)), the Senate may direct its counsel to defend Members and to perform other duties consistent with the purposes and limitations of title VII of the Ethics in Government Act of 1978, Public Law 95–521: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent Members in proceedings before the Maryland Tax Court, and in appeals from that court, in which Public Law 95–67 may be asserted as a bar to the imposition of state or local income tax liability, provided that the joint leadership group authorizes the Senate Legal Counsel to represent any such Member and the Member consents to this representation.

SINE DIE ADJOURNMENT OF THE SENATE AND CONVENING OF THE 2D SESSION OF THE 96TH CONGRESS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate House Concurrent Resolution 232.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (H. Con. Res. 232) providing for the convening of the 2d session of the 96th Congress.

The concurrent resolution (H. Con. Res. 232) was considered and agreed to, as follows:

H. Con. Res. 232

Resolved by the House of Representatives (the Senate concurring), That when the Senate completes action on the conference report on the Act providing loan guarantees for the benefit of the Chrysler Corporation, and any other matter the majority leader (after consultation with the minority leader) deems necessary, on Thursday, December 20, 1979, or Friday, December 21, 1979, or Saturday, December 22, 1979, or Thursday, December 27, 1979, or Friday, December 28, 1979, or Saturday, December 29, 1979, or Monday, December 31, 1979, or Wednesday, January 2, 1980, it stand in adjournment sine die.

Sec. 2. That when the Congress convenes on January 3, 1980, for the second session of the 96th Congress, neither the House nor the Senate shall conduct organizational or legislative business until Tuesday, January 22, 1980, except as provided in section 4 of this resolution.

Sec. 3. That when the House adjourns on January 3, 1980, it shall meet at 12 o'clock meridian only on Thursdays and Mondays, and that when the Senate recesses on January 3, 1980, it stand in recess until 12 o'clock meridian on January 10, 1980, followed by a recess until 12 o'clock meridian on Thursday, January 17, 1980, and that when the House adjourns on January 17, 1980, and when the Senate recesses on that date, they stand in adjournment and recess, respectively, until 12 o'clock meridian on January 22, 1980.

Sec. 4. Notwithstanding any other provision of this resolution, on any day before January 22, 1980, the two Houses, or either of them, shall convene upon twenty-four hours' notice to the Members of the Senate and the House, respectively, by the majority leader of the Senate (acting after consultation with the minority leader of the Senate), and by the Speaker of the House (acting after consultation with the minority leader of the House).

THANKS TO THE MINORITY AND MAJORITY LEADERS

Mr. STEVENS. Mr. President, even though I am standing here on the floor of the Senate on this last day of the first session of the 96th Congress, as the acting minority leader, the man who really deserves the credit for bringing the Senators on my side of the aisle to this point is the distinguished minority leader, Senator Howard Baker.

Senator Baker has done an outstanding job of leading our troops during this Congress and even though he cannot be here now, we all appreciate what he has done for us through the year. It is not an easy task being a leader at a time when most young Members recognize the importance of being independent and free-spirited. Yet he has gone to great lengths to assure that each Republican is treated equally and fairly.

It has sincerely been a pleasure for me to work with him this past year and I look forward to continuing our good working relationship next Congress.

Let me also express my appreciation to the distinguished majority leader. I have said it countless times on the floor, but tonight it needs to be emphasized again. There have been so many examples of how his leadership has enabled us to get through some rather tricky times. I thank him for everything he has done in treating the Members on our side of the aisle with respect and fairness.

Last, let me thank all my colleagues on the Republican side for their patience and cooperation through a sometimes stormy, but mostly rewarding, 1979. I wish each of them a happy holiday and look forward to a prosperous new decade ahead.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished acting Republican leader for his kind comments. They are very deeply appreciated, I assure him.

ORDER FOR SUSPENSION OF PARAGRAPH 6 OF RULE XXXVIII

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that paragraph 6 of rule 38 of the Standing Rules of the Senate relating to proceedings on nominations be suspended with respect to nominations unacted upon during the present session, and the status quo shall not be affected by the final adjournment of the first session of the 96th Congress, except as to Executive Calendar No. 517.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE ACHIEVEMENTS: 96TH CONGRESS—1ST SESSION

Mr. ROBERT C. BYRD. Mr. President, before adjournment, I would like to say a few words about the legislative achievements of the first session of the 96th Congress. The U.S. Senate has worked long and hard to help solve the problems facing the Nation. Many lengthy sessions were devoted to evolving programs to meet the national need for dependable energy supplies which will be available to Americans at acceptable prices. Many hours were spent considering and debating means of stimulating production of domestic petroleum as well as other sources of energy which can be used as a substitute for oil and natural gas and which will lessen our dependence on foreign oil. Many hours were spent in trying to attain the most effective ways of encouraging conservation by individuals and industry and of easing the burdensome cost of energy to the poor and elderly.

In response to these pressing energy problems, Congress appropriated $1.35 billion for grants to lower income families and individuals who need help in paying their severely increasing fuel costs during the ensuing winter months. Nineteen billion dollars was also appropriated for an energy security reserve and $1 billion for a solar and conservation reserve to cover the costs of financial incentives for conservation and production of alternative fuels. These reserves will be reimbursed from revenues collected from the tax on the windfall profit which would accrue to oil producers because of the decontrol of oil prices.

The Senate crude oil excess profit tax, which was debated on the floor for the last 5 weeks and which many predicted could never get through this body, would return $178 billion to the Treasury over the next 10 years. These revenues would be applied to urgent public purposes. They would pay for home heating assistance grants and tax incentives to spur energy conservation and increased production of alternative sources of energy.

This complex and controversial legislation represents the culmination of months of work by the chairman and members of the Finance Committee, as well as many other Senators. Its subsequent enactment will make a big step toward achieving energy independence.

Integral to attaining that goal is the need to use plentiful natural resources to produce new fuels such as gasohol, liquid and gaseous coal, and shale oil. In recognizing the desperate need for alternative fuels, the Senate has provided for the establishment of an independent federally owned synthetic fuels corporation to foster the production, by private industry, of fuels which can be used as a substitute for petroleum and natural gas. This bill authorizes a 5-year $21 billion development program after which another $68 billion would be authorized if both the Senate and the House agreed. It sets the goal of producing by 1995 the equivalent of 1.5 million barrels of oil per day. It establishes programs to accelerate production of gasohol, solar energy, geothermal energy, and wind energy. It authorizes $3.35 billion for the establishment of the energy conservation bank and $750 million for a solar energy development bank which would provide low-interest loans to individuals and businesses for conservation items, such as storm windows, heat pumps, and insulation, and for use of solar equipment.

To expedite construction of priority energy projects, the Senate and House passed legislation creating an Energy Mobilization Board. Authority would be given this Board to cut through the redtape involved in decisions by Federal, State, and local governments on nonnuclear energy facilities which have been designated as priority energy projects.

Signed into law early last month were emergency energy rationing provisions under which the President is authorized to declare an energy supply emergency if a 20-percent shortage of gasoline, diesel fuel, or home heating oil exists, and thereafter impose gas rationing, subject to congressional veto.

Included in that same law is authority for the President in an emergency to set conservation targets for each State and for Federal facilities and to impose a Federal conservation plan in a State that is not achieving its target under its own plan.

It is readily apparent that the Senate properly gave highest priority in its agenda this year to the Nation's desperate energy problems. In so doing, time grew too short for consideration of the SALT II treaty. However, members of the Foreign Relations Committee and the Armed Services Committee are to be commended for airing the questions surrounding this complex issue and for having completed the necessary spadework for consideration of SALT II next year.

The Senate, nonetheless, dealt with a number of major international issues. Early in the year we sent the President statutory authorization for the maintenance of commercial, cultural, and other unofficial relations with the people on Taiwan in light of the recognition of the People's Republic of China. The Congress approved the trade agreements negotiated under the Trade Act of 1974 in the Tokyo round of the multilateral trade negotiations and provided for their implementation. We wrote into law loan guarantees in the amount of $2.2 billion for Israel and $1.5 billion for Egypt for the purchase of defense articles and provided economic assistance and loans in support of the Mideast peace treaty concluded in March.

With the toppling of the brutal regime of Idi Amin, the Congress removed restrictions on humanitarian and economic assistance to Uganda. Approval was given the establishment of the International Development Cooperation Agency, whose Director would serve as the principal adviser to the President and the Secretary of State on all matters affecting developing countries. A newly revised 4-year export control program was enacted to extend the Government's authority to restrict exports for foreign policy or national security reasons or because of inadequate domestic supplies.

The Senate agreed to the ratification of the 5-year International Sugar Agreement, which seeks to stabilize world sugar prices between 11 and 21 cents per pound, which will be achieved by the accumulation of buffer stocks and imposition of export quotas. As the world's largest importer of sugar, the United States will be protected against higher prices or inadequate supplies. In addition, the Senate agreed to the ratification of 14 other treaties, conventions, and protocols regarding extradition, environmental modification, legal documents, and taxes.

Efforts to create a cabinet-level Department of Education stretch back 125 years. This session the Congress brought about its establishment. The new Department of Education will coordinate all Federal education activities without diminishing the responsibility for education which is reserved to the State and local school systems.

Comprehensve banking deregulation legislation which authorizes insured commercial banks, Federal savings and loans, and credit unions to offer NOW accounts, which are the equivalent of interest-bearing checking accounts, is presently in conference with the House. This measure represents 6 years of work by the Senate and House, as well as three administrations, to restructure the financial system to achieve greater equality between competing institutions while preserving the viability of the thrift institutions.

Included in this and separate legislation is an exemption of residential mortgage loans and certain agriculture and business loans from State usury laws which is necessitated by the inordinately high prime interest rate.

Congress has cleared for the President's signature a measure which amends important laws relating to Federally assisted housing, home ownership programs, community and neighborhood development and preservation, land development, and rural housing programs. This measure authorizes $1.140 billion in contract authority which is sufficient to fund an additional 265,000 units of section 8 assisted and public housing programs during fiscal 1980. Contract authority for modernization of public housing was increased. The UDAG program was expanded to allow grants to pockets of poverty in cities presently ineligible for the program. Mortgage limits for FHA units were increased and FHA programs were exempted from State usury limitations.

In the field of health, the 96th Congress enacted measures relating to nurse training, public health planning, emergency medical services, and Sudden Infant Death. A revision of Federal law applicable to regulation of drugs for human use has passed the Senate. Extensions of the alcohol and drug abuse programs have been cleared for the White House.

To provide help especially to Vietnam veterans who have experienced difficulty in readjusting to civilian life, the 96th Congress enacted new counseling programs which include drug and alcohol abuse treatment. The Congress also enacted a 9.9 percent cost of living increase in veterans disability compensation and survivors' benefits, and extended through fiscal year 1982 the program of matching grants to States for construction or renovation of veterans' homes and hospitals. The VA was also required to conduct a study of the long-term health effects of Vietnam veterans exposed to Agent Orange.

With regard to environmental legislation, the Congress enacted program authorizations for ocean pollution research and safe drinking water, and cleared the endangered species program for the White House. The Environmental Protection Agency authorization is nearing completion of the legislative process, and authorizations for programs regarding noise control, solid waste disposal, and toxic substances control have all passed the Senate.

In striving to improve the American legal and justice systems, the Congress has sent the President provisions restructuring the Federal Law Enforcement Assistance Administration and providing aid to State and local governments to improve the quality of their justice systems. The Senate has also passed a comprehensive court reform and judicial tenure bill which would create a new Federal appeals court for patent cases and a new trial level court to hear suits involving claims against the Government. Under this measure, the courts could strike down a Federal regulation if it finds that an agency incorrectly interpreted the law under which the regulation was promulgated. A procedure would be established to investigate and resolve complaints which anyone could file against a Federal judge alleging disability or misconduct.

As we are all aware, the Congress today has cleared for the President authority for loan guarantees to the Chrysler Corp. in the amount of $3.6 billion to avert the bankruptcy of the country's 10th largest corporation. Its failure would have substantial consequences on the Nation's economy, the Federal budget, the balance of payments and several hundred thousand citizens. A spirit of accommodation prevailed in the resolution of this difficult matter, and I wish to express my appreciation to all involved.

The Senate made two major improvements to the orderly functioning of this legislative body. The Standing Rules of the Senate were revised and recodified for the first time in 95 years. The post cloture rule was amended to provide a 100-hour cap on debate after cloture has been invoked.

I have only highlighted some of the more important achievements of the Senate this year. We tend to forget the scores of other routine bills and resolutions which are essential to the functioning of the Federal Government. A more complete listing of measures passed by the Senate has been compiled by the staff of the Democratic Policy Committee. I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

DECEMBER 20, 1979.

SENATE LEGISLATIVE ACHIEVEMENTS

[96th Congress, 1st Session]

(Prepared by Senate Democratic Policy Committee, Robert C. Byrd, Chairman)

AGRICULTURE

Agricultural Stabilization Services Employee Benefits (S. 383).

Agricultural Loan Limitations (H.R. 2515, P.L. 96–104).

Agricultural Subterminal Storage Facilities (S. 261).

Beef and Veal Import Quotas (H.R. 2727, P.L. 96–).

Consolidated Farm and Rural Development Loans (S. 985).

Crop Insurance (S. 1125).

Extra-Long Staple Cotton (H.R. 5523, P.L. 96–).

FIFRA (S. 717).

Marketing Quota Penalties Exemption for State Prison Farms (H.R. 998, P.L. 96–113).

Milk Price Supports (H.R. 4167, P.L. 96–127).

Peanut Marketing Penalty Reduction (S. 984, P.L. 96–31).

Price Support for Corn and Wheat (H.R. 3398).

Rural Development Loans; Pilot Energy Projects (S. 892).

Rural Development Policy (S. 670).

School Nutrition Programs Study (S. Res. 90).

Wheat Set-Aside (S. Res. 206).

APPROPRIATIONS

1979:

Supplemental (H.R. 4289, P.L. 96–38).

1980:

Agriculture (H.R. 4387, P.L. 96–108).

Chrysler (H.J. Res. 467, P.L. 96–).

Continuing (H.J. Res. 404), (H.J. Res. 402), (H.J. Res. 412, P.L. 96–86), (H.J. Res. 440, P.L. 96–123).

Defense (H.R. 5359, P.L. 96–).

D.C. (H.R. 4580, P.L. 96–93).

Energy-Water (H.R. 4388, P.L. 96–69).

Foreign Aid (H.R. 4473).

HUD (H.R. 4394, P.L. 96–103).

Interior (H.R. 4930, P.L. 96–126).

Labor-HEW (H.R. 4389).

Military Construction (H.R. 4391, P.L. 96–130).

State-Justice-Commerce (H.R. 4392, P.L. 96–68).

Transportation (H.R. 4440, P.L. 96–131).

Treasury-Postal Service (H.R. 4393, P.L. 96–74).

ATOMIC ENERGY AND NASA

NASA Authorization (H.R. 1786, P.L. 96–48).

NASA Supplemental Authorization (H.R. 1787, P.L. 96–16).

Nuclear Regulatory Commission Authorization (S. 562).

Territorial Storage of Nuclear Materials (S. 1119).

BUDGET

Deferrals: American Fisheries (S. Res. 50).

Rescissions: First Budget Rescission, 1979 (H.R. 2439, P.L. 96–7).

Resolutions: First Budget Resolution, 1980; Third Budget Resolution 1979 (H. Con. Res. 107).

Second Budget Resolution, 1980 (S. Con. Res. 36), (S. Con. Res. 53).

CIVIL AND CRIMINAL JUSTICE

Civil Rights Commission (S. 721, P.L. 96–81).

Criminal Diversion Program (S. 702).

Lottery Export (H.R. 1301, P.L. 96–90).

CONGRESS

Architect of the Capitol Contract Authority (S. 2069).

Architect of the Capitol Pay (H.R. 4732, P.L. 96–146).

Capitol Police Chief (H.R. 5651, P.L. 96–).

Congressional Award Program (S. 221), (H.R. 2196, P.L. 96–114).

Mother Joseph Statue (S. Con. Res. 48).

National Symphony Concerts (H. Con. Res. 114).

Pay Raise for Members of Congress (S.J. 113).

CONSUMER AFFAIRS

Consumer Controversies (S. 423).

Consumer Cooperative Bank (S. 1788, P.L. 96–149).

Motor Vehicle Safety Standards (S. 1159).

Truth-In-Lending (S. 108).

DEFENSE

Army Awards (H.R. 3407, P.L. 96–145).

Champus eligibility (H.R. 5025, P.L. 96–).

Coast Guard Authorization (S. 709, P.L. 96–23).

Defense Officer Personnel Management (S. 1918).

Defense Production (H.J. Res. 406, P.L. 96–77).

Military Construction Authorization (S. 1319, P.L. 96–125).

Military Procurement (S. 428, P.L. 96–107).

Military Procurement Supplemental (S. 429, P.L. 96–29).

National Defense Stockpile (H.R. 2154, P.L. 96–41).

Naval Vessels Sale (H.R. 5163, P.L. 96–).

Stockpile Acquisitions and Disposals: Tin, Silver and Industrial Diamonds (H.R. 595).

Uniformed Services Health Professionals Special Pay (S. 523) (H.R. 5025).

DISTRICT OF COLUMBIA

Chanceries Location (S. Con. Res. 63).

Civil Suits for Civil Rights Violations (H.R. 3343, P.L. 96–).

P.C. Borrowing Authority (H.R. 5537, P.L. 96–).

Housing Revenue Bonds (H.R. 3824).

Interest Rates (H.R. 5811, P.L. 96–124).

Metro Construction (H.R. 3951).

Metrorail Construction Costs (H.R. 3914, P.L. 96–57).

Retirement Reform (S. 1037, P.L. 96–122).

Temporary Commission on Financial Oversight (H.R. 3879, P.L. 96–27).

ECONOMY-FINANCE

Chrysler Loan Guarantees (H.R. 5860, P.L. 96–).

Antirecession and Targeted Fiscal Assistance (S. 566).

Banking Institutions—NOW Accounts (H.R. 4986).

Banking Institutions Authorities—State Usury Laws (H.R. 4998, P.L. 96–).

Carson City Silver Dollars (H.R. 1902, P.L. 96–2).

Council on Wage and Price Stability (H.R. 2283, P.L. 96–10).

Federal Reserve Banks Purchase of U.S. Obligations (H.R. 3404, P.L. 96–18).

Financial Privacy Notification Repeal (S. 37, P.L. 96–3).

Foreign Banks (S. 1646, P.L. 96–64).

International Investment Survey (S. 758).

Public Debt Limit—Balanced Budget (H.R. 2534, P.L. 96–5).

Public Debt Limit Extension (H.R. 5369, P.L. 96–78).

Public Works and Economic Development—Appalachian Regional Development (S. 914).

Savings and Loan Exemption from Federal Trade Commission (H.R. 3978, P.L. 96–37).

Small Business Administration Authorization (S. 918).

Small Business Employee Ownership (S. 388).

EDUCATION

Department of Education (S. 210, P.L. 96–88).

Educational Technical Amendments (H.R. 4591, P.L. 96–46).

Higher Education Amendments (H.R. 4476, P.L. 96–49). (H.R. 5386, P.L. 96–96).

Native Hawaiian Education (S. 916).

ELECTIONS

Campaign Reform (H.R. 5010, P.L. 96–).

Federal Election Commission Authorization (S. 832), (S. 994).

Federal Election Commission Regulations Disapproval (S. Res. 236).

EMPLOYMENT

Employee Retirement Income Security (H.R. 3915, P.L. 96–24).

National Commission on Unemployment Compensation (H.R. 3920, P.L. 96–84).

ENERGY

Deep Seabed Mining (S. 493).

Department of Energy—Military (S. 673, P.L. 96–).

Domestic Energy Summit Conference (S. Res. 191).

Domestic Oil and Coal Production (S. Res. 175).

Emergency Advertising Lighting Restrictions (S. Res. 123).

Emergency Building Temperature Restrictions (S. Res. 122).

Emergency Energy Conservation (S. 1030, P.L. 96–102).

Energy Mobilization Board (S. 1308).

Industrial Energy Equipment Efficiency (S. 1398).

International Energy Exposition (H.R. 5079, P. L. 96–).

Naval Petroleum and Oil Shale Reserves (H.R. 3354, P.L. 96–137).

Oil Company Participation in IEP (S. 1317, P.L. 96–30), (H.R. 5506, P.L. 96–94), and (S. 1871, P.L. 96–133).

Pacific Northwest Power Planning and Conservation (S. 885) Pipeline Safety (S. 411).

"Severe Energy Interruptions" Definition (S. Res. 151).

Small Hydroelectric Power Plants (S. 948).

Standby Gasoline Rationing Plan (S. Res. 120) and (S. Res. 153).

Surface Mining Amendments (S. 1403).

Synfuels—Energy Conservation and Development—Defense Production (S. 932).

Tennessee Valley Authority (S. 436, P.L. 96–97).

Three Mile Island Commission (S.J. Res. 80, P.L. 96–12).

Windfall Profit Tax (H.R. 3919).

ENVIRONMENT

Endangered Species (S. 1143, P.L. 96–).

EPA Authorization (H.R. 2676).

Industrial Cost Recovery Payment Moratorium (S. 901, P.L. 96–148).

Marine Protection (S. 1140).

National Advisory Committee on Oceans and Atmosphere (H.R. 3577, P.L. 96–26).

Ocean Pollution (S. 1123) and (S. 1148).

Ocean Pollution Research and Development (H.R. 2520, P.L. 96–17).

Quiet Communities (S. 1144).

Safe Drinking Water (S. 1146, P.L. 96–63).

Solid Waste Disposal (S. 1156).

Toxic Substances Control (S. 1147).

Water Bank Program Payment Adjustment (H.R. 2043).

FISHERIES

Anadromous Fish Conservation (S. 838, P.L. 96–118).

Fishery Conservation and Management (S. 917, P.L. 96–61).

National Fishery Development (S. 1656).

GENERAL GOVERNMENT

Archaelogical Resources Protection (H.R. 1825, P.L. 96–95).

1980 Census (S. 1318, P.L. 96–52).

Children's Publication Postal Rates (S. 11110).

FBI Intelligence Activities Authorization (S. 1512).

Federal Fire Prevention and Control (S. 1160, P.L. 96–121).

Federal Procurement Policy (S. 756, P.L. 96–83).

Gold Star Wives of America, Inc. (S. 1179).

Intelligence Activities Authorization (S. 975, P.L. 96–100).

International Affairs of Treasury (S. 976, P.L. 96–47).

Joint Funding Simplification (S. 1835).

Justice Department Authorization (H.R. 5380, P.L. 96–75) (S. 1157, P.L. 96–132).

Kennedy Center Authorization (S. 1142).

National Historical Publications and Records Commission (H.R. 3923).

National Ski Patrol System (S. 43).

National Tourism Policy (S. 1097).

New York-New Jersey Industrial Development Compact (H.R. 4943, P. L. 96——).

President's Commission on Pension Policy (S. 532, P.L. 96–14).

Refugee Assistance and Immigration (S. 643).

Smithsonian Authorization (S. 927, P.L. 96–36).

Smithsonian Canal Zone Biological Area (S. 817, P.L. 96–89).

U.S. Travel Service (S. 233, P.L. 96–85).

GOVERNMENT EFFICIENCY AND REORGANIZATION

Alaska Gas Pipeline Reorganization (S. Res. 126).

Ethics in Government Amendments (S. 869, P.L. 96–28).

Reorganization of Foreign Aid Activities (S. Res. 140).

GOVERNMENT EMPLOYEES

Federal Employee Health Benefits (S. 716, P.L. 96——).

Federal Employee Survivor Benefits (H.R. 2584).

Federal Employee Participation in Pan-American and Olympic Games (S. 387).

Indian Reference Laws (H.R. 1885, P.L. 96–135).

NOAA Corps Status Equalization (S. 1454).

HEALTH

Alcohol Abuse and Alcoholism Prevention (S. 440, P.L. 96——).

Dioxin Study (S. 2096, P.L. 96——).

Drug Abuse and Treatment (S. 525, P.L. 96——).

Drug Regulation Reform (S. 1075).

Emergency Medical Services—Sudden Infant Death (S. 497, P.L. 96–142).

Health Planning (S. 544, P.L. 96–79).

HEW Home Health Services Report (S. Res. 179).

Nurse Training (S. 230, P.L. 96–76).

State Health Planning Agencies (H.R. 4556, P.L. 96–33).

HOUSING

Housing and Urban Development (H.R. 3875, P.L. 96——).

Mortgage Insurance Authorities (S.J. Res. 105, P.L. 96–71), (S.J. Res. 117, P.L. 96–105).

INDIANS

Cow Creek Band of Umpqua Indians (S. 668).

Indian Judgement Funds (S.J. Res. 108).

Navajo-Hopi Relocation Commission (H.R. 3661, P.L. 96–40), (S. 751).

Paiute Indian Tribe Restoration (S. 1273).

INTERNATIONAL

Ambassador to Afghanistan (S. Res. 106).

Arms Control and Disarmament Agency (H.R. 2774, P.L. 96–66).

Cambodian Conference (H. Con. Res. 219).

Cambodian Relief (S. Res. 277).

Caribbean Hurricane Relief Assistance (H.R. 5218, P.L. 96–108).

Economic Assistance Review (S. Res. 92).

European Parliament (H. Con. Res. 159).

International Communications Agency Film (H.R. 5279, P.L. 96–116).

International Development Assistance—Food for Peace (H.R. 3324, P.L. 96–53).

International Security Assistance—Arms Export Control (H.R. 3173, P.L. 96–92).

International Wheat Exporters Conference (S. Res. 163).

Iranian Hostage Release (S. Res. 292), (S. Res. 315).

Iranian Human Rights (S. Res. 164).

Mideast Arms Sales (S. 1007, P.L. 96–35).

Migration and Refugee Assistance for Southeast Asia (H.R. 4955, P.L. 96–110).

Multilateral Development Banks (S. 662).

NATO (H.J. Res. 283, P.L. 96–9).

Nazi War Criminals (S. Res. 99).

Panama Canal Authorization (H.R. 5269).

Panama Canal Implementation (H.R. 111, P.L. 96–70).

Peace Corps Authorization (S. 802).

Rhodesian Election Observers (S. Con. Res. 8).

Rhodesian Peace Efforts by England (S. Res. 304).

Rhodesian Sanctions Termination (S. 2076).

Soviet and Baltic Citizenship Claims (H. Con. Res. 200).

Soviet Interruption of Mail (H. Con. Res. 167).

State Department Authorization (H.R. 3363, P.L. 96–60).

Syrian Emigration (H. Con. Res. 91).

Taiwan Relations (H.R. 2479, P.L. 96–8).

Thailand Assistance to Cambodian Refugees (S. Res. 316).

Ugandan Aid (S. 1019, P.L. 96–67).

U.N. Commission on American MIA's in Southeast Asia (H. Con. Res. 10).

Soviet Immigration (Ida Nudel) (H. Con. Res 202).

JUDICIARY

Antitrust Procedural Improvements (S. 390).

Attorney Fees (S. 265).

Bankruptcy Code Treatment of Student Loans (H.R. 2807, P.L. 96–95).

Bankruptcy Reform Technical Amendments (S. 658).

Court Jurisdiction Over Tris Claims (S. 521).

Customs Court (S. 1654).

District Court Relocations (H.R. 2301, P.L. 96–4).

Federal Courts Improvement—Judicial Tenure (S. 1477).

Federal Rules of Criminal Procedures and Evidence (H.R. 4712, P.L. 96–42).

Foreign Claims Settlement Commission (S. 1419).

LEAA Authorization (S. 241, P.L. 96–   ).

Speedy Trials (S. 961, P.L. 96–43).

Supreme Court Cases—School Prayer (S. 450).

U.S. Attorneys for Eastern District, New York (S. 567, P.L. 96–91).

U.S. Magistrates Jurisdiction (S. 237, P.L. 96–82).

NATURAL RESOURCES-NATIONAL HISTORIC SITES

Colorado River Basin Salinity Control (S. 496).

Frederick Law Olmsted National Historic Site (S. 495).

Goodloe Byron Memorial—Frederick Law Olmsted Historic Site (H.R. 5419, P.L. 96–87).

Reclamation Reform (S. 14).

Wilderness Areas:

Idaho Wilderness (S. 2009).

Oregon Wilderness (S. 2031).

Water Resources Planning (S. 480).

Yakima River Basin Feasibility Study (S. 585, P.L. 96–   ).

NOMINATIONS (ACTION BY ROLLCALL VOTE)

Benjamin R. Civiletti to be Attorney General.

Bailey Brown to be U.S. Circuit Judge for 6th District.

Sam W. Brown, Jr. to be Member of Board of Directors of National Consumer Cooperative Bank.

Charles W. Duncan, Jr. to be Secretary of Energy.

Neil Goldschmidt to be Secretary of Transportation.

Shirley Hufstedler to be Secretary of Education.

Jay Janis to be Member of the Federal Home Loan Bank Board.

Philip M. Clutznizk to be Secretary of Commerce.

Robert Krueger to be Ambassador-at-Large and Coordinator for Mexican Affairs.

Robert J. Kutak to be Member of Legal Service Corporation.

Moon Landrieu to be Secretary of HUD.

Sol M. Linowitz for the Rank of Ambassador for Middle East Negotiations.

Donald F. McHenry to be Representative to U.N. with rank of Ambassador, and Representative in U.N. Security Council.

Arthur J. Mikva to be U.S. Circuit Judge for District of Columbia.

G. William Miller to be Secretary of the Treasury.

Frank P. Reiche to be Member of FEC.

L. T. Senter, Jr. to be U.S. District Judge for the Northern District of Mississippi.

Paul C. Volcker to be Chairman of Board of Governors of Federal Reserve System.

Patricia M. Wald to be U.S. Circuit Judge for D.C.

Leonard Woodcock to be Ambassador to China.

SENATE

Female Senate Employees (S. Res. 119).

Financial Disclosure (S. Res. 220).

Financial Disclosure—Committee Jurisdiction (S. Res.. 223).

Financial Disclosure Rule Review (S. Res. 117).

Honoraria Limitations (S. Res. 93).
(S. Res. 155).

Human Resources Committee Name Change (S. Res. 30).

Post Cloture Rule Changes (S. Res. 61).

Senators' Expense Accounts (S. Res. 170).

Senate Employees Student Loan Defaults (S. Res. 297).

Senate Photograph (S. Res. 210).

Senate Rules Codification (S. Res. 274).

Senate Witness Fees (S. Res. 178).
(S. Res. 310).

Senator's Official Expenses (S. Res 294).

Talmadge Resolution (S. Res. 249).

SOCIAL SERVICES—WELFARE

Child Adoption Assistance and Welfare—Social Services (H.R. 3434).

Domestic Volunteer Services (ACTION) (S. 239, P.L. 96–143)

Food Stamps (H.R. 4057, P.L. 96–58).

WIC and Other Food Programs (S. 292).

TAXATION

Tax Exempt Mortgage Bonds (S. Res. 188).

Tax Treatment of State Legislators' Residence—Social Services Amendments (H.R. 3091).

Tax Treatment of Fringe Benefits (H.R. 5224 P.L. 96–   ).

TRADE

Export Control (S. 737, P.L. 96–72).

Countervailing Duty Extension (H.R. 1147, P.L. 95–3).

Multilaterial Trade Agreements (H.R. 4537, P.L. 96–39).

TRANSPORTATION-COMMUNICATIONS

Aviation Safety and Noise Abatment (H.R. 2440).

Hazardous Materials Transportation (S. 1141).

Household Goods Transportation (S. 1798).

International Air Fares (S. 1300).

Interstate System Apportionments (H.R. 5871, P.L. 96–144).

Maritime Authorization (S. 640, P.L. 96–112).

Merchant Marine March (H. Con. Res. 3).

NS Savannah (S. 1863).

Pilots Mandatory Age Retirement Study (H.R. 3948, P.L. 96–   ).

Railroads:

Amtrak Authorization (H.R. 3996, P.L. 96–73).

Milwaukee Railroad (S. 967), (S.J. Res. 81), (S. 1905, P.L. 96-101).

Office of Rail Public Counsel (S. 448).

Rail Service Assistance (S. 1781).

U.S. Railway Association (S. 447).

Shipping Rebating Practices (S. 199, P. L. 96–199).

Transportation Act Amendment—Uranium Mill Tailings (H.R. 4248, P.L. 96–106).

U.S. Cruise Vessels (S. 1281, P.L. 96–111).

Vessel Documentation (S. 1442).

TREATIES

Convention Abolishing Legalization Requirement for Foreign Documents (Ex. L, 94–2).

Convention Prohibiting Hostile Use of Environmental Modifications Techniques (Ex. K, 95–2).

Estate and Gift Tax Convention with France (Ex, J. 96–1).

Estate and Gift Tax Convention with the United Kingdom (Ex. R, 96–1).

Extradition Treaty With Finland (Ex. I, 95–1).

Extradition Treaty With Germany (Ex. A, 96–1).

Extradition Treaty With Japan (Ex. P, 96–1).

Extradition Treaty With Mexico (Ex. M, 96–1).

Extradition Treaty With Norway (Ex. CC, 96–1).

Extradition Treaty with Turkey (Ex. AA, 96–1).

International Sugar Agreement (Ex. A, 95–2).

International Wheat Agreement (Ex. L, 96–1).

Protocol to the Tax Convention with France (Ex. K, 96–1).

Protocol to the Tax Convention with the United Kingdom (Ex. Q, 96–1).

Tax Convention with Hungary (Ex. X, 96–1).

Tax Convention with Korea (Ex. P, 94–2).

Treaty With Panama on Penal Sentences (Ex. Z, 96–1).

Treaty With Turkey on Penal Judgments (Ex. BB, 96–1).

U.S. TERRITORIES

Puerto Rican Self-Determination (S. Con. Res. 35).

VETERANS

American Legion Membership (S. 1874, P.L. 96–).

Veterans' Administrative Adjudication Procedure and Judicial Reform (S. 330).

Veterans' and Survivors' Benefits (H.R. 2282, P.L. 96–128).

Veterans' Health Care (S. 7, P.L. 96–22).

Veterans' Health Resources and Programs (H.R. 3892, P.L. 96–).

Mr. ROBERT C. BYRD. Mr. President, I also ask unanimous consent that this and other material concerning the legislative achievements of the 1st session of the 96th Congress be printed as a Senate document.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR THE JOURNAL TO BE APPROVED AND FOR THE RECORD TO BE KEPT OPEN 1 WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal be approved to date and that the Record be kept open for 1 week, until Friday, December 28.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORT OF COMMITTEE TO NOTIFY THE PRESIDENT

Mr. ROBERT C. BYRD. Mr. President, the distinguished acting Republican leader and I have carried out our duties as the committee that was designated to call upon the President to inform him that the Senate had completed its work and was ready to adjourn sine die.

We told him that we, of course, apologized for calling him at this early hour of the morning. He responded cheerfully.

I reminded the President that the Senate had worked hard and effectively in creating a Department of Education, a Department of Energy, and, among other things, enacting energy legislation in the form of an Energy Mobilization Board, a synthetic fuels program, an energy excess profits tax, and the Chrysler legislation.

Mr. Stevens will speak for himself in a moment.

The President expressed gratitude for the cooperation he had received from Congress, commended the Senate on its work, and asked Mr. Stevens and me to express that gratitude to the Members of the Senate. He wished the Members of the Senate and their families a very pleasant holiday and a good New Year.

I yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, I am sorry that we had to awaken the President at such an hour.

I told him that as we leave to go off on our holiday, the crisis in Iran does weigh heavily upon our minds and the minds of all Americans; that we wish him Godspeed as he attempts to achieve our goal of securing the release of the Americans who are held hostage in Iran.

We pointed out to him that we had passed a resolution that was cosponsored by all the Members of the Senate, and we indicated our willingness to return if we could be helpful in any way to assist the President as he pursues that goal.

It is our intention to see the President later today, a meeting arranged by the distinguished majority leader, to continue the discussions we have had concerning the Iranian crisis; and the President has offered to continue through the recess the briefings we have had in the past, which I think will be helpful.

I appreciate the courtesy of the members of the staff, and particularly the shining, wide-awake face of the distinguished junior Senator from Tennessee, for being here at this early hour.

Mr. ROBERT C. BYRD. I thank the distinguished acting Republican leader.

The Presiding Officer, the junior Senator from Tennessee (Mr. Sasser) lives up to the motto of his State. He is one of those Tennessee volunteers who can carry forth at this hour of the morning. Indeed, he is presiding over the Senate with a great deal of efficiency and dignity.

THANKS AND HOLIDAY WISHES FROM THE LEADERSHIP

Mr. ROBERT C. BYRD. Mr. President, I take these closing moments to thank the distinguished Republican leader (Mr. Baker) for his cooperation during this session, and I thank the distinguished acting Republican leader (Mr. Stevens) for his very close cooperation and for his warm friendship as I serve with him on the Appropriations Subcommittee of the Interior Committee. He has served as the acting Republican leader of the Senate in a very effective way. He is always most courteous and helpful and understanding.

I thank the Members on both sides of the aisle for the cooperation that has been given to the leadership. I think we have made a fine record of accomplishments on behalf of the American people.

I also take this occasion to thank the officers of the Senate: Mr. Kimmitt, the Secretary of the Senate; Mr. Nordy Hoffmann, the Sergeant at Arms of the Senate, who, the day before yesterday, achieved his 70th birthday; the Chaplain of the Senate; the Secretary for the Majority, Mr. Stewart; the Secretary for the Minority, Mr. Hildebrand; their assistants, Mr. Howard Green and Mr. Patrick Hynes; the Parliamentarian and his staff; the Journal Clerks and other clerks who work at the desk, for their daily support, advice, cooperation, and help; the pages; the representatives of the press; the doorkeepers, the police and the security personnel; and the Official Reporters of Debates.

Especially do I express my appreciation to Mary Jane Checchi, who is the Chief Counsel and Staff Director of the Democratic Policy Committee, who has been ill from an attack of the flu. I wish her well and thank her for her daily assistance and dedication. I also thank Abby Reed, who helps us to keep the calendar clear.

I thank all others: the young people in the cloakrooms who have worked together to make the 1st session of the 96th Congress a successful and a great one.

I must say that I inadvertently overlooked, for just a brief moment, that sweet young lady, Susan Alvarado, on the minority side, who is a great inspiration to all of us on both sides of the aisle, as are Mary Jane Checchi and Abby Reed. Charles Kinney I also thank. He is on the Democratic side of the aisle, so I say this with apologies to Susan.

Good wishes for a very happy Christmas to all.

May I extend the hand of deepest gratitude to my dear friend and wish for him a good holiday and some rest—my friend, Ted Stevens, the acting Republican leader.

Mr. STEVENS. I thank the majority leader.

I, too, wish all of you a very happy holiday season and a very successful new decade.

ADJOURNMENT SINE DIE

Mr. ROBERT C. BYRD. Mr. President, I move, pursuant to the provisions of H. Con. Res. 232, that the Senate now stand in adjournment sine die.

The motion was agreed to; and at 3:17 a.m., the Senate adjourned sine die.

PRESIDENTIAL APPROVALS

A message from the President of the United States stated that he had approved and signed the following acts:

On December 20, 1979:

S. 2145. An act to authorize the burial of Elizabeth Myers McNeil in the Veals Chapels Cemetery, Fort Jackson, S.C.

On December 21, 1979:

S. 1874. An act to amend the Act incorporating the American Legion so as to redefine eligibility for membership therein.

On December 27, 1979:

S. 241. An act to restructure the Federal Law Enforcement Assistance Administration, to assist State and local governments in improving the quality of their justice systems, and for other purposes.

S. 716. An act to amend the Retired Federal Employees Health Benefits Act, as amended, with respect to the Government contribution toward subscription charge.

On December 28, 1979:

S. 585. An act to authorize the Secretary of the Interior to engage in a feasibility study.

S. 1143. An act to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1980, 1981, and 1982, and for other purposes.

On December 29, 1979:

S. 673. An act to authorize appropriations for the Department of Energy for national security programs for fiscal year 1980, and for other purposes.

On January 2, 1980:

S. 440. An act to revise and extend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970.

S. 525. An act to amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes.

NOMINATIONS

Executive nominations received by the Senate December 20, 1979:

DEPARTMENT OF DEFENSE

Joseph Charles Zengerle, III, of the District of Columbia, to be an Assistant Secretary of the Air Force, vice Antonia Handler Chayes, elevated.

DEPARTMENT OF JUSTICE

Thomas K. Berg, of Minnesota, to be U.S. Attorney for the district of Minnesota for the term of 4 years, vice Andrew W. Danielson, resigned.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Charles Maurice Hall, 551-28-7043, U.S. Army.

IN THE AIR FORCE

The following-named officers for promotion as a Reserve of the Air Force, under the appropriate provisions of chapter 35 and 837, title 10, United States Code.

LINE OF THE AIR FORCE

Lieutenant colonel to colonel

Alexander, Howard J., 502-30-5842.
Arledge, Earnest E., 433-58-1772.
Atkinson, Don C., 519-26-5259.
Bailey, John A., 505-28-0918.
Bales, Daly R., Jr., 526-44-2259.
Ballard, Neil E., 467-40-5917.
Barrett, John L., Jr., 053-26-6099.
Barringer, D. D., 328-26-7687.
Baumler, Dale R., 369-30-1018.
Bergeman, Leroy E., 270-32-2378.
Billett, David L., 297-28-5319.
Bjorkman, James F., 482-36-7268.
Blanchard, Robert, 357-24-8485.
Blue, John E., 420-34-9692.
Bocci, George A., 540-34-5169.
Bodner, Stanley J., 094-24-3478.
Boone, Jerry D., 559-44-2554.
Brenna, John L., 476-30-1143.
Bricker, Rodney P. G., 484-32-3881.
Bringardner, William D., 280-26-3060.
Brown, Marvin E., 238-42-9689.
Brown, Orval L., 249-40-3305.
Bruce, Robert C., 449-56-1706.
Burkett, David Y., III, 173-28-7431.
Burr, Edward R., 356-24-2487.
Butler, James H., 368-26-9642.
Byers, Waldon B., 543-32-1150.
Campen, Walter R., 264-50-0747.
Card, Douglas R., 528-38-4970.
Castberg, James P., 520-30-4225.
Chance, Richard L., 480-28-9342.
Chavis, Madeline C., 151-24-1292.
Chrisinger, Richard L., 482-30-8899.
Clark, Jerry B., 477-38-3282.
Closner, John J., III, 109-32-0574.
Coleman, David G., 388-30-9692.
Collins, Constantine G., 407-48-5737.
Cooper, Thomas R., 390-28-0582.
Copsey, Ronald L., 007-30-0376.
Coran, Carl L., 012-26-3749.
Craig, Benjamin L., 516-34-9024.
Cummings, John P., 022-24-0443.
Curl, David H., 298-30-1019.
Davidson, Donald C., 547-32-9623.
Dee, Duane L., 529-40-6935.
Devlin, Robert B., 099-26-0281.
Dimiero, Alan C., 157-22-4255.
Dochtermann, Wolfram J., 352-22-4008.
Donley, William H., 210-24-8437.
Donnellon, John N., 123-20-2219.
Dotson, Robert S., 581-62-3309.
Doucette, Dail D., 555-42-6533.
Downs, Timothy J., Jr., 087-22-8647.
Doyle, Brendan T., 055-28-0422.
Driano, Dominick V., 535-30-0797.
Duhaylongsod, Henry T., 575-22-2874.
Earle, Julius E., Jr., 247-50-7568.
Easley, James J., 251-46-5951.
Eddins, Boyd L., 520-30-6776.
Emondson, Jerry H., 433-46-4067.
Eichhorn, Gary L., 380-32-9838.
Endrikat, Fred R., 090-22-3051.
Essigmann, Karl P., 033-20-2207.
Fairchild, Earl E., Jr., 304-32-7206.
Flom, Owen M., 470-26-6024.
Forbes, Edward H., 489-32-7303.
Fortson, Eugene T., 254-48-0271.
Foster, Duane L., 304-40-0131.
Freedman, Arnold F., 160-26-1875.
Frith, Carl E., 223-30-6409.
Fuller, Eldon R., 510-22-7240.
Galley, Eugene C., 066-20-8703.
George, Charles D., 278-30-2185.
Gleason, John T., 135-28-8443.
Gordon, Herman, 464-38-9037.
Gould, James L., 547-38-6469.
Green, John V., 251-38-9475.
Haberkorn, Robert W., Jr., 469-30-2939.
Hafler, Harry A., 268-28-3069.
Hampton, Lewis B., 531-30-6227.
Harmon, Melvin L., 523-28-7747.
Harper, Charles W., Jr., 239-48-8811.
Harris, Wilbur R., 542-40-0625.
Hawkins, Phillip A., 317-28-1057.
Hendrix, Val E., 503-30-2171.
Hengen, Ronald F., 109-26-5215.
Hennessey, John F., 109-26-8355.
Hess, Joseph M., 528-38-0086.
Hilquist, Thomas A., 320-28-7255.
Hoffman, Richard H., 726-09-9518.
Holford, Robert H., 136-28-5138.
Horsley, Arthur S., 529-36-6142.
Huffman, Paul E., 473-30-6368.
Hurlbut, Patrick B., 009-18-0127.
Jajko, Walter, 188-28-2132.
James, Larry G., 331-28-4681.
Jensen, Warren E., 529-44-8843.
Johnson, Larry E., 489-36-6914.
Jones, Churley, 216-20-1833.
Katz, Norman E., 179-22-8579.
Kennard, Paul H., 579-36-1813.
Keyes, John F., 111-24-9385.
Klein, Nicholas W., 509-22-9340.
Krizek, Eugene L., 270-26-8558.
Labbe, Joseph A., 421-30-7326.
Laforce, Bruce R., 093-24-5982.
Lane, Daniel F., Jr., 292-24-6348.
Lauten, Wayne G., 395-26-1319.
Laverty, William H., 548-36-3362.
Lee, Clarence B. H., 575-30-7251.
Lewis, Arthur B., Jr., 449-64-1259.
Lewis, Charles B., Jr., 253-46-9340.
Liddy, John A., Jr., 451-48-2815.
Lingo, Billy R., 456-34-8679.
Lively, Jack L., 515-26-0886.
Lodwick, William J., 279-28-9080.
Lome, Shia L., 139-26-4167.
Lord, Douglas A., 451-34-9246.
Loughran, John X., III, 570-38-3745.
Lusk, Edward E., 418-38-0842.
Lutz, Robert L., 327-26-9644.
Macaulay, Rodney, 032-22-6442.
Macwhorter, George M., Jr., 214-28-4567.
Malone, Claude D., Jr., 425-54-8267.
Maloney, Gerald S., Jr., 549-50-6548.
Marcks, Alfred R., Jr., 115-24-4741.
Martin, Robert S., 463-54-4907.
Matthews, Emmett V., Jr., 250-42-5587.
McCarter, Harvey J., 513-20-9705.
McCord, Warren I., 572-38-9003.
McCoy, Robert G., 318-30-3624.
McCoy, Willard A., 057-26-9413.
McLaughlin, Paul G., 286-28-1410.
McLean, Bernard B., 570-40-6815.
McMahon, Richard C., 488-36-7069.
Meader, Stanley H., 302-28-8790.
Merrill, Charles H., 133-16-0078.
Messer, Robert S., 257-52-6265.
Middleton, Richard R., 356-34-0392.
Minter, Charles E., 228-24-6717.
Moore, Richter H., Jr., 247-50-0015.
Morton, Lanny R., 245-44-8452.
Mossotti, Louis C., 500-30-2943.
Murphy, Robert H., 023-26-2547.
Ninnemann, Gene A., 503-30-8557.
Nolley, John R., Jr., 227-30-2380.
Noory, George G., 028-24-1692.
Olsen, John R., 474-26-2870.
Opheim, Lee A., 474-26-6951.
Orme, David L., 519-40-8914.
Orosky, John R., 180-26-0352.
Outland, Kenneth J., 384-30-9642.
Overfield, Raymond P., Sr., 102-20-5939.
Pavlisin, Michael, 351-22-6487.
Penn, James P., 473-28-6499.
Philbin, Edward J., 058-26-1037.
Philpot, Orris F., Jr., 413-50-1459.
Phipps, Jimmy L., 467-38-7217.
Pierson, Charles A., 549-40-1278.
Pomonis, Peter T., 525-58-7806.
Porter, John A., 562-40-5177.
Poulsen, Neils R., 062-28-8221.
Pyle, Charles R., 510-40-6119.
Ralstin, Gary W., 534-32-8719.
Ricci, Caesar A., 186-22-7425.
Riddle, John D., 309-34-4657.
Ritchey, Norval J., 543-28-8428.
Robards, Charles H., 437-44-0337.
Roe, Russell T., Jr., 475-30-4669.
Rowley, William N., 569-34-3694.
Salerno, Samuel J., 206-24-6500.
Sanders, Robert T., 334-28-0238.
Seaman, Paul L., 066-24-8673.
Seamount, Sidney D., 519-20-7886.
Simonson, Gerald E., 389-28-8824.
Smith, Lloyd F., 497-28-6938.
Speak, Henry T., 473-32-6704.
Stancik, William C., 285-28-4554.
Stasio, August M., 060-26-5936.
Theoharides, James P., 077-24-3407.
Thorson, Rodney O., 322-26-8831.
Titus, Ralph S., 515-28-1930.
Trader, Barry C., 396-26-7373.
True, Raymond S., 013-28-4178.
Tucker, Neal R., 404-44-5708.
Urbany, Francis S., 074-30-8824.
Vance, Anthony C., 207-22-4379.
Vollkommer, James A., 062-26-8533.
Wall, Glenn R., 424-36-4195.
Welker, William H., Jr., 556-44-5763.
West, Dwayne F., 454-60-1345.
West, Robert O., 442-32-7417.
White, Floyd O., Jr., 449-52-5031.
White, William O., Jr., 572-46-1481.

Whiting, George A., 565-32-6939.
Whitman, Robert L., 217-28-9939.
Williams, Floyd W., 230-44-5516.
Wilson, Richard J., 455-46-8294.
Wolcott, George A. D., 072-24-7478.
Wolfe, Leland K., 372-30-7621.
Yeck, Robert S., 276-28-3539.

CHAPLAIN CORPS

Browning, Roy W., Jr., 513-20-0221.
Byram, David P., 433-30-8191.
Gilhooley, John P., 126-22-7095.
Richardson, George R., 438-20-2851.

DENTAL CORPS

Banks, Rill G., 255-62-4706.
Johnson, Clinton C., 470-26-5581.
Toll, Douglas E., 389-26-5046.

MEDICAL CORPS

Beddingfield, George W., 252-44-7126.
Bobbitt, Roy L., 463-46-6797.
Campbell, Jene D., 514-22-6834.
Conley, Russell R., 434-52-9714.
Deatrick, Richard W., 278-26-6041.
Delpriore, Joseph A., 131-26-3143.
Fielding, John D., Jr., 405-46-5682.
Foshee, William S., 418-52-9620.
Giller, Walter J., Jr., 430-66-1239.
Gilman, Robert T., 039-24-2983.
Hirohata, Ronald I., 556-44-5932.
Humphries, Ivan C., 258-28-3880.
Johnson, Douglas N., 442-34-1462.
Jones, Al E., 257-62-8907.
Jones, William B., 266-30-2313.
Kercher, Raymond L., 279-30-3363.
Mamawal, Mauro B., 106-34-2913.
Marshall, Angus, 463-44-2005.
Mumby, Robert C., 265-34-4082.
Pevey, Willard J., 252-44-4427.
Roberge, Joseph L., 550-32-0808.
Rowe, Lynn B., 528-42-9840.
Snyder, Clarence D., 455-54-9686.
Stamer, John P., Jr., 402-22-4026.
Stoll, Friedrich, E., 430-20-2191.
Tongco, Rustico C., 298-38-2879.
Williams, J. O., Jr., 450-24-3647.
Wright, George D., 358-22-4144.

NURSE CORPS

Davis, Eleanore L., 477-20-1701.
Dominowski, Elaine L., 386-28-8036.
Farrell, Barbara L., 135—28-2378.
Flanik. Arthur P., 537-30-9874.
Lindsey, Beverly S., 311-30-4637.
Mather, Helen C., 021-28-2372.
Norris, Helen M., 456-46-1322.
Pearson, Janet G., 523-42-5903.
Pickett, Gayle L., 239-46-3150.
Scoggins, Joan I., 032-26-4288.
Splawn, Eunice E., 248-48-3678.
Szalwinski, Mary F., 451-50-1511.
Tenyo, Sophie, 153-24-7798.

MEDICAL SERVICE CORPS

Brady, Herbert C., 459-50-2016.
Defelice, Louis J., 266-62-6438.
Perry, Calvin G., 002-26-9638.

VETERINARY CORPS

Imes, George D., Jr., 496-40-7638.
Johnson, Carl S., 486-30-7579.

BIOMEDICAL SCIENCE

Taylor, Joseph A., 142-22-3483.
Young, George W., 258-36-8518.

IN THE AIR FORCE

The following Air National Guard of the U.S. officers for promotion in the Reserve of the Air Force under the provisions of section 593(a) title 10 of the United States Code, as amended:

LINE OF THE AIR FORCE

To be lieutenant colonel

Maj. Robert C. Bonham, 530-18-9299.
Maj. Robert A. Bonneau, 016-30-9354.
Maj. Michael J. Bowers, 259-62-9139.
Maj. Vincent J. Catalano, 549-54-5469.
Maj. George P. Christakos, 006-36-4345.
Maj. Cedric D. O. Chong, 576-34-8707.
Maj. Willie J. Cook, 530-58-6776.
Maj. Stephen A. Cortazzo, 135-30-6410.
Maj. Stephen P. Cortright, 441-40-7292.
Maj. Johnny J. Cross, 431-70-1177.
Maj. Irvin R. Ellington, Jr., 240-58-7440.
Maj. Robert E. Eveleigh, 081-32-6618.
Maj. Gonzalo D. Ferrer, 441-32-4659.
Maj. Wayne H. Finney, 517-44-5117.
Maj. William L. Fleshman, 236-62-8848.
Maj. Thomas J. Gallagher, 232-58-0926.
Maj. Thomas J. Geygan, 283-34-2804.
Maj. William P. Gralow, 137-32-6202.
Maj. Wilfred Hessert, 005-40-8822.
Maj. Jerry P. Jones, 059-32-1398.
Maj. Phillip L. Lee, 391-28-7813.
Maj. Donald A. Martin, 408-66-4868.
Maj. David H. McCracken II, 165-34-9552.
Maj. Melvin R. Munson, 556-44-1517.
Maj. Leander Page III, 002-32-9371.
Maj. Kurt K. Rech, 452-48-7139.
Maj. David Sanderson III, 478-44-0302.
Maj. Wayne L. Schultz, 480-60-7036.
Maj. Kenneth M. Taylor, Jr., 574-14-6402.
Maj. Willard E. Taylor, 276-32-9973.
Maj. Charles A. Walker, 499-32-4522.
Maj. Jack R. Wilson, 276-38-3647.
Maj. Richard L. Wright, 049-30-7184.

CHAPLAIN

Maj. James E. Kintzi, 474-32-9816.

MEDICAL CORPS

Maj. Charles E. King, Jr., 155-34-7764.
Maj. Leonard F. Nolan, Jr., 013-30-0295.

IN THE NAVY

The following-named lieutenant commanders of the U.S. Navy for temporary promotions to the grade of commander in the line, pursuant to title 10, United States Code, sections 5769 and 5791 subject to qualification therefor as provided by law:

LINE

Aaker, Charles E.
Aanerud, Kenneth D.
Adar, Hugh R.
Adams Donald F.
Adams, Frederick A.
Adams, Richard P.
Agee, Jerry B.
Ahlgren, Roy C. E.
Aldo, Albert E., Jr.
Allen, Kenneth E.
Allen, Lloyd E., Jr.
Almon, John S.
Amborn, Lloyd J.
Amerau, Harold F., Jr.
Andersen, Milford E.
Anderson, David W.
Anderson, David G.
Anderson, Dennis D.
Anderson, Jimmy D.
Anderson, Michael J.
Angelina, Peter G.
Arndt, Keith M.
Arquette, Howard R.
Asbell, Richard C., II
Ashby, Elton T., Jr.
Atkins, Ronald W.
Authement, Charles F.
Avery, Robert B.
Bace, Fidel L.
Bahr, Stephen M.
Bailey, David L.
Bailey, Larry W.
Bajuk, Gregory E.
Baker, Jerry Jr.
Baland, George A.
Baller, Elmer W.
Barchi, Richard H.
Barker, Bruce W.
Barker, Michael D.
Barker, Timothy L.
Barrett, James W.
Barrett, James L.
Barry, David J.
Barry, Thomas A.
Barsosky, John J.
Bartmess, Curtis, Jr.
Baumann, Carl V.
Baumhardt, Robert J.
Beachy, John S.
Beauchamp, Robert L.
Beaudrot, Marion L., Jr.
Becker, Alan R.
Becker, Alfred E.
Beery, James R.
Beiser, Richard W.
Bendetsen, Brookes M.
Berger, John H.
Bertsch, William P., Jr.
Beschta, Gerald T.
Bidlake, Kenneth M.
Biery, George M., II
Billings, Alan J.
Billings, Leland R.
Binford, Benjamin J.
Bingham, Clyde L.
Birch, Barry S.
Bird, Noel T.
Bird, Ronald S.
Bishop, Ronald F.
Bjerke, David G.
Blair, Dennis C.
Blanton, James C.
Bledsoe, Frankie C.
Bloch, Paul S.
Boatright, Billy C.
Boehmer, Charles E.
Boink, Louis H., III
Boncal, Richard
Booth, Michael B.
Borchardt, Curtis G.
Bordy, Michael W.
Boren, Norris H.
Bormann, Conrad P.
Boston, Glenn J.
Bouck, David W.
Boughan, David A.
Bower, Ammon W., III
Bowman, Frank L.
Bowman, Michael L.
Boyd, Gerald G.
Bradford, Alan R.
Bradt, Douglas J.
Brady, James H. R.
Branco, Robert J.
Brandenstein, Daniel C.
Brant, Robert L.
Breidert, William E.
Brindel, Glenn R.
Brockley, John P.
Brooks, William K.
Brown, Oval D.
Brown, Wendell E.
Bruckner, James W.
Bruflat, Arne B.
Burcham, William R.
Burgess, Larry L.
Burrows, Dee W.
Burtch, Patric J.
Burton, Charles W.
Bushong, Robert L.
Butler, Thomas H.
Button, Andrew J.
Byron, John L.
Byron, Roger W.
Calabough, Jerry S.
Callaway, Leigh L.
Campbell, James D.
Campbell, Ronnie M.
Carden, Arthur B.
Carpenter, Melvin R., III
Carroll, James R.
Carter, James J.
Carter, Stanley J., Jr.
Castelano, Kenneth M.
Casterline, John B.
Catone, Richard A.
Cegler, Edmund C.
Center, William D.
Chagaris, Peter J.
Chrisman, Willard G.
Christian, Dennis H.
Christman, Robert H.
Chubb, John E., Jr.
Cinco, Raymond, Jr.
Cipriano, Roberto
Cisek, Peter J.
Claassen, Steven H.
Clancy, James P.
Clark, Edward, Jr.
Clark, Jack C.
Clark, John W.
Clark, Vander, Jr.
Clark, Vernon E.
Clark, William S.
Clarke, Lawrence M., Jr.
Clay, Henry L., III
Cline, Gary K.
Coats, Michael L.
Cobb, Robert L.
Coburn, Lewis L.
Cockcroft, Thomas D.
Cole, Bernard D.
Coleman, James E.
Coleman, John B., Jr.
Coleman, Randy J.
Coleman, William A., Jr.
Colgan, Stephen G.
Collins, John P., Jr.
Collins, Walter S.
Collins, William V., Jr.
Colyar, Robert W.
Colyer, Thomas J.
Combs, John W.
Concannon, Michael J.
Conder, Robert A.
Coneway, Clinton J.
Conrad, Raymond P.
Cook, Charles A., Jr.
Cook, Clarence L.
Cook, John C. Jr.
Cooney, Terence J.
Cooper, William P.
Corcoran, Joseph L. K.
Corgnati, Leino B., Jr.
Cornell, Clifford L.
Coughlin, Frank T.
Coumatos, Michael J.
Counter, James R.
Cragg, Eugene E., Jr.
Craig, John S.
Cramer, Michael W.
Crane, Melvin E.
Creamer, George U.
Cross, Robert C., Jr.,
Crossen, William J.
Crowe, Olen
Crowley, William F. Jr.
Culver, John B., III
Cummings, Ronald L.
Curtis, Albert L.
Daly, Beverly A.
Dambekaln, Andris
Dameron, Jack E.
Daniels, Gerald E.
Danner, Terrence N.
Davidson, Bruce E.
Davis, Dickey P.
Davis, Ralph R.
Davison, Charles A.
Dawson, Wilbert E. Jr.
Deaton, James P.
Deda, Donald J.
Degreef, Donald J.
Delaney, Kevin F.
Delello, Nicholas J.
Desrosiers, Richard A.
Destcroix, Lawrence E. Jr.
Dethomas, John V.
Detter, Gary L.
Dickens, Phillip W.
Dilley, James E.
Dittmer, Edward R. Jr.
Dobson, Ralph P.
Doherty, Hugh M.
Dolan, Peter J.
Donahue, William C.
Doty, Wells B.
Dow, John I.
Dowgwilla, Frank M. Jr.
Downey, Robert V.
Doyle, Bruce N.
Drager, James M.
Drumm, R. David
Drummond, George L.
Duermeyer, Stephen P
Duff, Byron L.
Dunn, Dale R.
Dunn, Joseph P.
Durham, Wayne C.
Durr, Donald G.
Duva, Alfred N. Jr.
Dwinelle, William A.
Dyck, Harry M., Jr.
Dye, George W., Jr.
Eacott, Richard G.
East, Don C.
Eastman Robert J., Jr.
Eaton, George A., Jr.
Echlin, Delos E.
Ecker, Paul W.
Eddingfield, Lawrence E.
Eddy, Rodman M.
Edens, Roderick J., Jr.
Edwards, Buford R.
Edwards, James N., Jr.
Edwards, James E.
Edwards, Michael B.
Eggleston, Larry G.
Eldridge, James D., Jr.
Ellis, Robert L., Jr.
Ellis, Robert E.
Endrizzi, Raymond L.
Ensch, John C.
Enterline, Edward R.
Erickson, Richard O.
Erickson, William J.
Ernst, Eric R.
Erny, Paul F.
Estes, Wilson R., Jr.
Etka, Craig L.
Evans, Charles J.
Evans, Oliver K.
Eversole, Thomas Y.
Ewing, Kent W.
Fagan, Patrick M.
Fahsl, John J.
Fahy, Andrew W.
Farr, Leroy A.

Farrell Richard S.
Farrow, Stephen R.
Fast, Richard E.
Favaro, Joseph D.
Fellows, Richard H.
Felton, Lewis A.
Ferdon, Frank C.
Fernandez, Wayne J.
Ferry, Francis J.
Field, Richard J.
Finch, Donald L.
Fink, Ralph III
Finta, Thomas W.
Fitch, Patrick E.
Fitch, Rex B., Jr.
Fitzgerald, John W.
Fitzpatrick, William E.
Fletcher, Jerry J.
Flint, Charles G.
Foard, John S., Jr.
Fogerson, Arron S.
Folsom, Benjamin F., Jr.
Foote, Morris C.
Forbes, George T.
Forsberg, Gary L.
Fortenberry, Henry C.
Fosina, Andrew J.
Fox, Franklin O.
Fragomene, Vincent M.
Franconeri, James J.
Freas, Henry E.
Freeman, David L.
Frenzinger, Thomas W., II
Frigge, William J.
Fumia, Francis H., Jr.
Gage, Carvel C., Jr.
Galbraith, Peter M.
Gale, Ernest F., Jr.
Galietta, Albert F.
Gallagher, Michael T.
Gardiner, Lawrence E.
Gatliffe, Thomas R.
Gay, William W., III
Gebhardt, Laurance P.
Genet, Richard P.
Genrich, Charles M.
Gerber, Joseph A.
Gibbs, Maurice E.
Gibbson, David R.
Gibson, Elwood L.
Gill, James M.
Gillett, John B., Jr.
Gionet, Laurence J., Jr.
Glass, Robert L.
Glover, William S., Jr
Goddard, Glen L.
Gohmann, Barton C.
Gonzalez, Rene E., Jr.
Gorell, Frederick R., Jr.
Graf, Clifford M., II
Graff, Russell J.
Grant, Homer T., Jr.
Grause, Francis P.
Graves, David M.
Graville, William N.
Gregoire, John A.
Grieve, David J.
Griffin, Henry C., III
Grinnell, Donald P.
Gunn, Lee F.
Gustafson, Carl E.
Gustavson, Fred P.
Hagen, James B.
Hall, Robert E., III
Hamilton, John D.M., IV
Hamilton, Stephen H.
Hancock, Thomas W.
Hancock, William C.
Hanson, Donald A.
Harding, Ronald W.
Hardt, Lorry M.
Harmon, Hollis W.
Harper, Joseph C.
Harreld, Roger A.
Harrington, Thomas E.
Harrison, James D.
Harrison, Robert W.
Hasenbauer, Richard D.
Hatch, Wayne E.
Hatleberg, Clarence J.
Hawkins, Thomas L.
Healy, John F., Jr.
Heames, Richard D.
Hearn, Ellison J.
Heckler, Francis D., Jr.
Hemmerle, George E.
Henderson, Lee H.
Hendricks, Judson J.
Herbster, Gerald F.
Heufelder, John R.
Hibler, Ross G.
Hickman, Harold. W., Jr.
Higgins, Edward J., III
Hilgeman, John L.
Hill, Charles K.
Hill, Daniel D.
Hill, Ronald V.
Hillier, Donald R.
Hinde, Howard H., Jr.
Hinesley, Harold H., Jr.
Hofstetter, Robert E.
Hogan, John B., Jr.
Hoggard, John H.
Holbert, Warren L.
Honey, Lowell R., Jr.
Hopewell, Robert S.
Hopkins, James R.
Hopson, Thomas E.
Horner, Ronald D.
Houser, George C., Jr.
Howard, Hugh W., Jr.
Howard, Stephen T.
Huber, Dale R.
Hughes, Ivan E.
Humphrey, James S., III
Hunt, Edmund J., Jr.
Hunt, John W.
Hunt, William B.
Hura, Myron
Hurley, George E., Jr.
Husak, Stephen B.
Huxhold, George E.
Irvin, Clarence F.
Irwin, William J.
Jackman, Richard M.
Jackson, Marshall N.
Jacob, Glenn R.
Jacobson, Richard L.
Jantz, Michael W.
Jenkins, Neal C.
Jensen, Robert J.
Jogan, Stephen
Johnson, Adrian W., Jr.
Johnson, Carlton R.
Johnson, Laurence E.
Johnson, Myron T., Jr.
Johnson, Robert L., Jr.
Johnson, Robert F.
Johnston, Jasper B., Jr.
Jones, Charlie R., Jr.
Jones, David A.
Jones, Francis T.
Jones, Jerry L.
Jones, Robert R.
Joslin, Roland W.
Joyce, John J.
Juhl, Clarence H.
Jukoski, Michael J.
Julian, James A.
Juroff, Kurt T.
Kalal, Lindsey E.
Kampf, Michael, III
Karlisch, Manfred
Katz, Douglas J.
Kaufman, Edwin J.
Kautz, John F.
Kaye, Barry N.
Kearns, Walter E.
Keiser, Ray R., Jr.
Keller, George J., R.
Kelley, John H.
Kennedy, James C., Jr.
Kennedy, William H.
Kent, George A.
Kenyon, Morton W.
Kerry, William S.
Kibble, Anthony J.
Killion, Robert A.
King, Edward F.
King, Larry L.
King, Leon F., Jr.
Kinlaw, Howard M., Jr.
Kirchhoff, Charles W.
Kirkpatrick, Howard D.
Kirkwood, Kenneth M.
Kleemann, Henry M.
Klein, George A., III
Kmetz, Stephen G.
Kohler, John E., Jr.
Konczey, Alexander C.
Kosakoski, Robert A.
Kost, Lawrence M.
Kozain, William P.
Kozoyed, Lawrence W.
Kramer, Wesley M.
Krasniewski, Stanley E.
Kratz, Allen Z.
Krieger, David H.
Krom, Richard W.
Kruszona, Raymond R.
Lacroix, Francis W.
Ladek, Kenneth E.
Lagomarsino, Thomas S.
Landry, Robert
Lansford, Martin C.
Lapp, James W.
Larrabee, Stephen H., Jr.
Larson, Matthew D.
Laskey, Charles E.
Lassiter, Ronald L.
Lauder, Robert J.
Lauer, Joseph J.
Laughlin, Gary R.
Lautrup, Robert W.
Lavelle, Donald L.
Law, Gordon H.
Lawler, Curry M., Jr.
Lawless, William C.
Lawson, Thomas N.
LeBaron, George R., Jr.
LeCompte, Walter H., Jr.
Lee, Jimmy M.
Lemke, Anthony M.
Lentz, Frederick C., Jr.
Leone, Robert W.
Lewandowski, Henry M.
Lewis, Leland G.
Lewis, Ronald B.
Libbey, Grey D.
Lichtermann, Richard D., II
Liemandt, Michael J.
Lipscomb, Warren N., Jr.
Listol, Lavern D.
Lockard, Martin E.
Lockwood, Ernest R.
Lois, James E.
Long, Donald E.
Long, Laurence G.
Loosbrock, Thomas L.
Lopez, Thomas J.
Lothrop, Peter S.
Lough, Dennis E.
Lowe, Julian R.
Luecke, John M.
Lundberg, Marshall B.
Lupton, William L.
Lutz, Frederick R.
Lyall, Gerald J.
Lynch, Robert B.
Lyons, Richard L.
MacDonald, James R.
Mackey, William C., III
MacMichael, John L.
Madison, William R.
Magalis, Richard L.
Magnus, Royal S.
Mahood, James N.
Mairs, Lee S.
Major, William E., II
Maloit, Robert J., Jr.
Malopy, Lawrence R.
Manko, Michael B.
Manlove, Donald N.
Manning, John F., Jr.
Margolis, Sheldon L.
Marinshaw, Stephen A., Jr.
Marks, William L.
Marshall, Rolf.
Marshall, Richard R.
Martin, Frederick K.
Martin, James H.
Martin, Michael L.
Martin, Theodore J.
Martinez, Carlos M.
Marymont, John A.
Maslowski, James I.
Massey, Frederick T.
Matchett, Charles W.
Matton, William G., III
Matyas, Carl E.
Maugeri, Peter J.
McAlexander, Elroy A.
McBride, Jon A.
McClelland, Thomas L.
McConnell, John M.
McCormack, James E.
McCoy, Norman K., Jr.
McCrory, Seaborn M., III
McCurrach, Douglas S.
McDavitt, Frederick H.
McDowell, Gary A.
McFarland, Robert S.
McFearin, Allen L., Jr.
McGinn, Dennis V.
McGlothin, Larry W.
McGrath, James M.
McGruther, Kenneth R.
McHenry, Wendell C., Jr.
McKenzie, Jerry A.
McKinley, John C.
McKinney, Michael P.
McKnight, Philip K., Jr.
McLeod, Robert S.
McWhirter, Michael R.
Meck, Norman C.
Mendenhall, Corwin G., III
Mennuti, Timothy M.
Merrill Grant B.
Meserve, Theodore J.
Mies, Richard W.
Miley, Frank A.
Miller, Charles R., III
Miller, David
Miller, Dennie L.
Miller, Donald C.
Miller, Lawrence E., Jr.
Miller, William P.
Minderlein, James L.
Mitchell, John B., Jr.
Mitchell, Thomas R., III
Mittell, John E.
Mixner, Frank L.
Mladineo, Stephen V.
Moffett, Gordon N.
Molnar, David L.
Moni, Wayne J.
Moninger, Edward G., Jr.
Moore, Edward, Jr.
Moore, George D.
Moore, Richard L.
Moosally, Fred P., Jr.
Morgan, Benny M.
Morgan, Edward L.
Morgen, Marty P.
Morgenfeld, Thomas A.
Morris, Roy A., Jr.
Moser, Ronald B.
Moses, Dale H.
Mullowney, Penn E., Jr.
Munro, Richard P., Jr.
Murphy, Lawrence T.
Mutty, John E.
Myers, Kenneth R.
Naro, Edward L.
Neal, David L.
Nelson, Jerome G. S.
Nelson, Paul L.
Nelson, Thomas S.
Nesbitt, Donald L.
Neumann, Dennis E.
Newby, Lewis R.
Newton, David L.
Nicholson, Michael J.
Nicholson, Donald L.
Noce, Robert S.
Nordeen, Michael B.
Nordstrom, Louis W., Jr.
Norman, Robert J., Jr.
Notz, Frank P.
Obar, Michael W.
Olson, Jack L.
Olson, Terry G.
Oneill, David L.
Orlosky, Robert A.
Orvis, James W.
Oudekerk, Milford M.
Pacek, Robert D.
Padgett, John E.
Padgett, Norman R.
Palm, Danny J.
Park, Carl S., Jr.
Parker, Richard E.
Parkinson, Keith L.
Parlette, Richard T.
Parodi, Richard S.
Parrish, Richard D.
Parry, David J.
Passmore, Leonard H.
Patterson, John C.
Patton, Bob R., Jr.
Peak, Jack R.
Pearson, Larry G.
Pearson, Russell G., Jr.
Pearson, Taylor P.
Pelton, Ronald L.
Pennington, Larry D.
Perkins, Thomas M.
Perry, Clyde M.
Peschka, Jerome A., Jr.
Peterson, Charles E.
Peterson, Carl M. II
Petrovich, James M.
Piatt, Cummings W.
Pilling, Donald L.
Pine, Donald W.
Pinkston, Larry M.
Ploof, Elden L., Jr.
Plum, Jerry E.
Plumb, Paul D.
Polk, James S.
Polsenski, Martin J., Jr.
Pool, Willard O., Jr.
Porterfield, James H., Jr.
Powell, Orrin B. III
Pratt, Edmund L., Jr.
Previty, William H.
Price, Harry J.
Prickett, Frederick G., Jr.
Pritchard, Paul E.
Pryor, Edwin R., III
Puffer, James W.
Quinn, Donald A.
Quinn, Robert J., Jr.
Raffetto, David J.
Railsback, Donald C.
Rainey, Daniel L., Jr.
Ramsdell, Steven U.
Rantschler, Robert D.
Rasmussen, Ernie L.
Rauch, Kenneth N.
Razzetti, Eugene A.
Redden, John A.
Reed, Phillip L.
Refo, Carter B.
Reilly, Michael J.
Reiniger, Peter D.
Rempt, Rodney P.
Renager, Burton W., Jr.
Renk, Jeffrey S.
Reynolds, Craig L.
Reynolds, Claude D.
Rezeau, Gary L.
Rheinstrom, Gordon H.
Rhodes, Donald R.
Ricabaugh, George C.
Ricci, Enrico A.
Rice, Peter A.
Richards, Rich
Richardson, Larry C.
Richardson, Forney N., Jr.
Ritz, Richard W.
Roberts, Joel H.
Robertshaw, Donald G.
Robinson, Keith D.
Roderick, Clinton O.
Rogers, Kevin G.
Roletter, George J., Jr.
Rooney, James W.
Roorbach, James A., II
Roth, Patrick H.
Rouse, James R.
Rucker, Alexander C.
Rudloff, Stephen A.
Rudolf, Chester D., III
Ruff, Paul G., III
Ruland, James K.
Rule, William M.
Rushing, John M.
Russel, Hazen C.
Ryder, Dan H.
Sack, Brian P.
Sadler, John C.
Saft, Burton M.
Sailes, Frank J.
Samara, George B.
Sanborn, Philip M.
Sandway, Karl M.
Saul, Carlton W.
Sawyer, Ivan E.
Scarborough, Oscar D., III
Scardigno, Peter F.
Schindler, Charles R.
Schmidt, Knute M., Jr.
Schmoker, Alan E.
Schneible, Daniel C.
Schneider, Paul T.
Schofield, Lee N.
Scholl, John F.
Scholl, Russell C., Jr.
Schrock, Edward L.
Schrodt, Clair J.
Schroeder, Arthur J.
Schroll, John R.
Scott, Donald W.
Scott, Donald J.
Scctt, Jerry L.
Scott, Morris B., Jr.
Scovil, Judson L.
Secrest, David E. H.
Seddon, Frederick R.
Sedgwick, Dean L.
Sedlak, John, Jr.
Sehlin, Donald B.

Setser, Raymond H., Jr.
Sewall, Andrew C.
Seward, Charles M., Jr.
Shaar, Edwin W., Jr.
Shackelford, Harry L., Jr.
Shaddock, Gilbert P.
Shank, Michael H.
Sharp, Erwin A.
Shaw, Myron J.
Shealy, William P.
Sheldon, Gerald E.
Sherwood, Allen R.
Shinabarger, Jon A.
Shoemaker, Charles L.
Siegel, William M.
Sierras, Eugene L., Jr.
Simard, Paul J.
Simms, Richard G.
Simon, James R.
Simons, William E.
Simpson, John D., Jr.
Simpson, Richard J.
Skidmore, William H.
Skoog, Mark C.
Sloane, Richard T.
Smelik, Gerald T.
Smith, Carleton J., III
Smith, Eldin D.
Smith, Ernest M.
Smith, J. Palmer
Smith, Robert A.
Smith, William C.
Smuda, James F.
Snider, William A.
Snodgrass, Carl E.
Snyder, Darrell P., Jr.
Snyder, Peter B.
Sogga, Donald N.
Soley, Francis E.
Solomon, Dennis L.
Soricelli, Joseph M.
Sosnowy, Edward D.
Spangler, Carl R., Jr.
Sprague, Jay W.
Standrich, Elvin B.
Stanley, Harold G.
Staub, James A., Jr.
Steel, James R., Jr.
Steele, Allen W
Steele, Joseph H., III
Steen. Morris G., Jr.
Steenburgh. Frederick L.
Stein, John H.. Jr.,
Stevenson, Clyde M.
Stevenson, John W.
Stewart, George C.
Stewart, Van N.
Stickler, Bernard T.
Stillwagon, Richard J.
Stock, Michael J.
Stoddert, Robert W. B.
Stoll, Peter S.
Stpierre, Francis W.
Strauss, Kurt A.
Strohaker, John G.
Stromberg, Merle J.,
Strong, David W.
Strum, Richard R.
Stucki, Lawrence V.
Sullivan, Huey H., III
Sullivan, Jerry M.
Summerlin, Thomas W.
Sutton, Ronnie N.
Swanson, Barry G.
Swartz, Peter M.
Sweatt, John L., Jr.
Tabor, James B.
Tafuri, Ronald R.
Tarrant, Yancey N.
Taylor, James L.
Taylor, Richard H.
Taylor, Rufus L., III
Taylor, William I., III
Tedeschi, Ernest F., Jr
Templin, Charles L.
Texeira, Antone, Jr.
Thelen, Frank, III
Thomas, Lewis C.
Tilt, Thomas W.
Thorsen, Paul A.
Thompson Henry M.
Tinsley, James R., III
Tompkins, Charles L.
Tower, Philip W.
Tozier, Jack A.
Trafton, Wilbur C.
Trahan, Richard H. I.
Tripp, Philip B.
Turner, Harris W.
Turner, Howard S.
Turner, Jay S.
Twaddle, Roy R., III
Tweel, John A.
Tyree, Edward C. G., Jr.
Tzomes, Chancellor A.
Uber, Brian D.
Unger, Maurice H.
Vail, David W.
Valovich, Paul J., Jr.
Vance, Charles T.
Vaneps, John A.
Vanpelt, Richard J.
Vermilyea, David W.
Vickery, Wayne M.
Vidosic, Richard P.
Vion, Charles P.
Vogel, Timothy J.
Volk, Charles L., Jr.
Vomastic, John E.
Voorheis, Gary M.
Wacaser, Anderson W., III
Wagenseil, Lawrence L.
Wahl, Larry C.
Waits, Wood D.
Walker, Donald T.
Wang, You L.
Warshawsky, David A.
Washam, Eric L.
Waters, James L., Jr.
Watson, Bruce W.
Weal, Keith I.
Weaver, Thomas S.
Webb, George J., Jr.
Weisbrod, David S.
Weittenhiller, Larry K.
Welch, Glenn E.. Jr.
Wellik, Marvin R
Wellman, Donald A.
Wells, Bruce
Wells, Linton, II
Wells, William E.
Welton, Donald T.
Wenger, Charles A.
West, Franklin G., Jr.
West, Richard D.
Wetherell, David L.
White, Douglas A.
Wiant, Jeffrie E., Jr.
Wicks, Guy W.
Wiegand, Rudolf J., Jr.
Wieland, Billie W.
Wiley, Armando A.
Wilkes, Marshall J.
Wilkes, Paul D., Jr.
Wilkins, Frank S.
Williams, Billy B.
Williams, Lewis I., Jr.
Williams, Richard C., III
Williams, Robert A.
Williams, Robert R., III
Williamson, Bruce S.
Wills, Douglas K., Jr.
Wilsbach, Ronald K.
Wilson, Christopher T.
Wilson, Clark A.
Wilson, Eldon S.
Wilson, George E., Jr.
Winters, Timothy P.
Witzenburg, Dennis L.
Wojdyla, Michael J.
Wojtkowiak, Daniel L.
Wolff, Richard E.
Wong, Henry K.
Wood, Charles M., III
Wood, Grover E.
Wood, John R., Jr.
Woodard, James C., Jr.
Woodring, George B., Jr.
Woodward, Harlan W.
Woy, Gary W.
Wright, Donald A., III
Wright, Douglas S.
Wright, Thomas W.
Yates, Cornelius H., III
Yearwood, John F., Jr.
Yeaw, Ronald E.
Yokley, Robert A.
Young, Brian W.
Young, Thomas R.
Yulf, Robert B.
Yusi, Frank J.
Zafran, Robert
Zak, Frank J., Jr.
Zambie, Henry J., Jr.
Zapatka, Stanley J., Jr.
Zardeskas, Ralph A.
Zayicek, James S.
Zerr, John J.
Zschock, Charles W.
Zuhoski, Charles P.
Zunich, Ralph E.

The following-named women lieutenant commanders of the U.S. Navy for permanent promotion to the grade of commander in the line, pursuant to title 10, United States Code, sections 5771 and 5791, subject to qualification therefor as provided by law:

Anderson, Susan H.
Gregory, Barbara L.
Hill, Susan B.
McElligott, Marie L.
Schmitt, Joanne L.
Thomas, Daneen J.
Todard, Jeannie D.
Wylie C. Clair

In the Navy

The following-named temporary Chief Warrant Officers to be appointed permanent Chief Warrant Officers in the U.S. Navy, subject to the qualifications therefor as provided by law:

Donald O. Boling
Ralph Byrd, Jr.
George A. Carr, Jr.
Harry S. Cashat
Larry K. Crawford
David S. Diaz
Larry J. Guthrie
William D. Melay
Walter L. Moquin
Richard P. Murray
John F. Piccirillo
Timothy E. Scates
Phillip C. Scott
William H. Tarlton
Beuford B. Wentoworth
A. J. Wilson
David A. Young

The following-named Navy enlisted candidates to be appointed permanent Chief Warrant Officers, W-2, in the U.S. Navy, subject to the qualifications therefor as provided by law:

Donald A. Adams
Charles A. Akers
Thomas L. Albright
George R. Altier
Robert H. Anderson
Charles R. Armga
Gordon W. Arnold
Thomas H. Asmus
James J. Bailey, III
Daniel W. Baker
Jess K. Baker
Grove K. Bancroft
Forester Barker
Francis I. Bartlett
Milton R. Beard
David L. Beaty
Michael J. Bedford
Verdell F. Beier
Danny L. Binger
Donald C. Bishop
Lamont E. Blakely
Jimmie P. Bolin
Larry L. Boozer
Homer J. Boswell
Jackie T. Bowman
Joseph D. Boyle
George A. Bradley
Billy G. Brashear
John S. Brenneke
Carl A. Brenner
Victor W. Briggs
Jack A. Brumwell
Robert R. Bunker, Jr.
Larry C. Buss
Eugene W. Butler
Paul P. Butler
Carlos J. Cabuco
Arthur L. Caliguiran
Edward T. J. Callahan
William J. Campbell
Harold D. Caplinger
Jeffrey A. Carson
Joseph M. Carter
Terry M. Carter
William B. Cave
Thomas E. Chapman
Terrence J. Chesson
George D. Chester
Osby Childress
Joseph E. Chmelarsky
James E. Church
Carl N. Churilo
Fred M. Clark
Orville W. Clarkson
Roy L. Cleveland
Robert E. Clontz
Richard V. Cloyd
Paul L. Cochran
Gordon D. Cole
Brian B. Coley
Edwin S. Concepcion
Marion R. Conner
Michael A. Cordoza
Danilo V. Corpuz
Dennis E. Correll
Clyde C. Cummings
Joseph P. Cusumano
Charles A. Davenport
Cecil L. Davis
Charles D. Davis
Timothy W. Davis
Millard E. Dawson, II
Jonathan L. Decker
Gary L. Derrick
Richard Derus
Robert J. Dias
Joann Dietel
Carl Diquollo
James Donlon
Thomas R. Dorsher
Ronald M. Dove
Eugene J. J. Dronette
Ariel Duchesne
George P. Duport
Lloyd D. Dyer
Billy W. Ellis
Stephen L. Ellison
James Emmert
Ward H. Engelhard, Jr.
John M. Eskridge
Marcelino D. Fable
Raymond F. Federer
Albert G. Federick
Robert W. Ferreira
Peter C. Feuerlein
David L. Fine
Dennis C. Fitzgerald
James M. Fletcher
Leslie B. Fletcher
William D. Flury
Joe M. Franklin, Jr.
Alan E. Fritz
Roy A. From
Dock H. Frye, Jr.
Grove L. Fugate
Harry R. Fuller, III
Paul G. Gallegos
Gary L. Gamble
Ronald H. Gardner
Carl E. Garner
Manuel J. Gasper
Rex W. Geiling
James G. George
David Gerald
Robert L. Gilliam
Allen D. Gordon
Benney D. Gore
Donald L. Grant
Douglas L. Gray
Frank W. Gray, Jr.
Barrett A. Green
Gerald R. Greene
Gene D. Griffis
Ben Hur B. Gube
George C. Gunderman
Olen C. Haley, Jr.
James A. Halfkenny
Bertram M. Hall
Henry W. Hall
Keith A. Hall
Francis D. Halverson
Marshall N. Hamilton
David M. Handley
Edward P. Haney
Havis F. Harber
Arnie E. Hardin
Jimmy L. Harless
James A. Harman, Jr.
Stephen R. Harris
James A. Hart
James H. Hart
Charles W. Haynes
Russell E. Hayward
Edward J. Heidler
Roger K. Hemelstrand
Robert L. Hernden
Richard Herpin
Gerald H. Hesketh
Donald N. Hesler
Gene A. Hickman
Gary A. Hicks
Richard D. Hill
Harold C. Hixon
Robert L. Hodson
Neil R. Hoffner, Jr.
Jack Holbrook
Derrell L. Holt
Guy M. Howe, III
Robert C. Howes, Jr.
Raymond B. Hughes
Larry G. Hull
Edward S. Hutsell
Dave F. Hyde
Charles L. Irwin
Carl C. Jackson
Ronald C. Jackson
Elroy A. Jacobs
Robert J. Jacobs
Richard E. Jacobus
Benedicto M. Javier
Miguel E. Jaynes
Willie J. Jenkins
Lyndal W. Jewell
John W. Johnson
Robert R. Johnson
Theodore W. Johnson
Frank E. Jones
Gene R. Jones
James H. Jones
Johnny R. Jones
Joseph B. Jones
Kenneth B. Jones
Robert L. Jones
Tommy D. Jones
Roger A. Jurack
Perry W. Kaullen, Jr.
James D. Key
Kalum E. Kiniston
Larry A. Kirkpatrick
Earle L. Knudson
Dennis M. Kury
Thomas Laffey
Michael Lamontagne
Stephen A. Lane
Darrell J. Lang
Charles E. Langer
Wayne D. Langhofer
Roy W. Laster
Kenneth H. Laubach
Louis M. Leatherwood
Carl G. Lechler
Andre Lefebvre
Julius M. Lenhart
Harry J. Lewis, Jr.
Charles Lichtenhan
Raymond I. Lidgett
Michael W. Litaker
Arthur L. Little
James S. Little
John L. Locklair
John G. Long
Gary G. Longmire
Marlowe K. Lundgren
Sherman H. Lusk
Robert Lynd
Terrence E. Lyon
David G. McAllister
Thomas F. McCormick
Woodrow C. McDonald
Philip L. McGarr
Harvey W. McGhee
O. D. McGhee
Albert C. McGuire
Otto W. J. McLaughlin
Willie E. McMillian
John S. Macker
Thomas W. Maes
Anthony W. Marcotte
Richard J. Marks
William D. Marlowe
Michael P. Martin
Raymond J. Marx
Frederick Matthews
Roland H. Mattoon
Kenneth L. Mattson
Edward L. Mebane
Larry A. Mellis
Frank A. Meyners, Jr.
Michael J. Michalak
George A. J. Mitchell
Eugene H. Moody
Melvin Moody
Gerald C. Moons
Charles F. Morgan
Dale A. Mott
Dennis C. Nardone
Ronald J. Neal
Stephen W. Neill
Thomas M. Nevitt
Danny L. Newman
Robert N. Ohara
Edward A. Ollek
Francis A. Omlor
Charles W. Orr

Don G. Ort
Robert G. Orta
Robert L. Owens
George Pacheco
John M. Paddock
Robert M. Pagano
Robert L. Page
Michael J. Paoletti
Larry C. Parmiter
Dale J. Patterson
Karl A. Peters
Scott E. Peterson
David L. Petroni
Gary A. Phelps
Michael R. Piersawl
Florentino Pizarro
Dennis C. Pochel
Johnnie Porterfield
Raymond S. Potter
Rodger A. Pottratz
Jeffrey L. Powell
Richard R. Preston
Robert B. Pricer, Jr.
Terrance Priestley
James A. Procter
James A. Rasbeary, Jr.
Christopher Reeves
Billy J. Regan
Philip E. Reiterman
Jerry R. Riley
Charles E. Roberts
Wilfred T. Roberts
Wallace Q. Roderick
Norbert F. Rogers II
Peter R. Rollings
Bobby J. Ross
Louis Ross
Charles W. Roth III
Philip W. Ryan, Jr.
Keith L. Schmidt
Gerald J. Schmitt
Thomas A. Schneider
Roger E. Schwintosky
John L. Scott
Richard L. Scott
James R. Seaver
John L. Seitzinger
Harry E. Seymour, Jr.
George L. Shaw
Michael T. Shawver
Keith E. Sheets
Melvin E. Simmons
Thomas E. Sledge
Chester A. Sminkey
Frederick H. I. Smith
Henry Smith
Leonard C. Smith
Paul R. Smith
Carl W. Snow
James L. Sollis
Eric Sonnenburg
William R. Sparks
Jerald W. Spencer
David M. Spicer
Jimmy M. Spivey
Jack E. Stallings
Arnold L. Stearns
Fred E. Stith
John W. Stokely
Archie L. Sutfin
Leonard C. Tanner
William D. Tass
Raymond J. Tauschek
James B. Taylor
Richard D. Taylor
Michael W. Thayer
Robert L. Thompson
Fred Threats
William E. Tilton
Robert J. Toth
James W. Trotter
Phillip D. Trudell
Anniano T. Tumaliuan
Thomas R. Tumilty
Norris E. Turner
Richard E. Turner
Kenneth L. Vargas
Ernesto J. Velez
Thurman L. Vinson
John D. Waits
Donald M. Wakida
Elliott M. S. Waldron
Jerry F. Walker
William R. Watkins
David Watson
Douglas A. Way
Alfred D. Wendorff
Bernard J. Werner, Jr.
Robert L. West
Robert B. Weurding
David L. White
John E. Whitefield
Robert P. Whitman, Jr.
Thomas E. Wieber
Ernest J. Williams
Robert J. Williams
Thomas K. Williams
James D. Wilson
Kathleen M. Wilson
James H. Windham
Francis M. Winn, Jr.
Ronald L. Wood
Vaughn S. Woolf
Thomas S. Yamashita
Theodore Yashinskie
David E. Yoder
John R. Young, Jr.
Fernando V. Yu
Edward Yusis
Ernesto M. Zambrano
Alva V. Ziegenbein
James C. Zimpher

The following-named Chief Warrant Officers to be appointed lieutenants (junior grade) in the U.S. Navy, for limited duty, for temporary service, subject to the qualifications therefor as provided by law:

Jon G. Anderson
Vernon L. Armstrong
Neil G. Ballew
Robert L. Bartlett
David M. Bodkin
Donald O. Boling
George A. Carr, Jr.
Harry S. Cashat
Robert F. Chandler
Henry E. Coley
James T. Compton
Larry K. Crawford
David S. Diaz
Nicholas Diorio
Paul L. Duggan
Richard F. Giusti
Lonnie G. Glass
John A. Gravelle
Larry J. Guthrie
Charles G. Haskins
Bruce E. Johnson
Wendell E. Jones
James C. Kerner
Lawrence W. Kight
John H. Kurek
Donald W. Landin
Scott F. Lowe
Frank A. McKinney, II.
James R. Mayo
William D. Melay
Patrick J. Moore
Walter L. Moquin
Richard P. Murray
Lorimer D. Patrick
Bryan Q. Peters
Thomas B. Peterson
John F. Piccirillo
Robert K. Ramstad
Michael L. Reiter
Timothy E. Scates
Phillip C. Scott
Hollis E. Sims

Maximillion R. Snock
William H. Tarlton
Richard E. Turner
Otis M. Veatch
Ronald E. Wainscott
Richard L. Warden
Benford B. Wentoworth
Danny J. Williams
A. J. Wilson
Warren G. Wilson
David A. Young

The following-named Navy enlisted candidates to be appointed ensigns in the U.S. Navy, for limited duty, for temporary service, subject to the qualifications therefor as provided by law:

Rodolfo G. Abuan
Adolfo C. Ajero, Jr.
David D. Albert
Luther Albright
Bruce R. Alexander
Galen E. Alexander
Joseph W. Aligood
David W. Allen
Leonard B. Allen, III
Richard M. Ames
William P. Amstutz
Leroy S. Anderson, Jr.
William R. Anderson
Basilio V. Antes, Jr.
Josefino T. Aqui
Godofredo T. Aquino
Richard S. Armstrong
Allen R. Arnold
Carl E. Bailey
Charles R. Bailey
Robert H. Balcom, Jr.
Charles E. Baldwin
George E. Bannister
Charles N. Barnett
Lawrence B. Barton
Royce A. Beach
Imrie G. Beall, Jr.
Mark A. Beaulieu
Jerry L. Bennington
Paul L. Bernard
Luther L. Biggs, Jr.
James R. Birchfield
Jerry L. Birdsong
Timothy P. Blackie
Thomas Blanchflower
James A. Bland
David E. Bozman
Scott K. Bradley
Nathan A. Bramlett
David O. Brandland
Neil A. Brehse
Christopher Brewer
John L. Bridges, Jr.
Matthew D. Brooks
Linford C. Brown, Jr.
Marvin P. Brumbaugh
Michael P. Bryce
James R. Burns, Jr.
Robert G. Butler, Jr.
Richard N. Butts
Douglas E. Byrum
Lester G. Byron, III
Robert W. Call
Enno F. Camenzind, Jr.
Norman J. Campbell
John C. Cantwell, III
Pete G. Capiral
Anthony P. Carambia
David R. Carlson
Thomas W. Carman
William H. Carney
John P. Carobine
Ramon F. Castillo
Orlando G. Castrence
David R. Chasse
Michael J. Cherry
John F. Chute
Anthony P. Cicirello
Bienvenido G. Clanor
Robert L. Clark
Frederick Clem
Vance R. Coffey
Fernando B. Coleman
Richard M. Collins
Frederick Comstock
James M. Condon, Jr.
David M. Conley
Stephen G. Conwell
William R. Cope
Watler J. Coy
Martin W. Coyne
Michael D. Crews
Tommy M. Culpepper
Alan P. Danaher
Leoun Daniels
Alexander L. I. Darby
Dale J. David
Andrew R. Davis
Jeffrey A. Davis
Robert L. Davis
Weldon E. Deatherage
Anthony V. Debello
Richard C. Decoster
David W. Dee
Romeo V. Delacruz
Kenneth R. Dell
Cipriano M. Deluna
David M. Dement
Donald L. Diehl
John Dienes
Ronald Dolan
Dal S. Donley
Bruce W. Drees
Herbert R. Duff
Norman W. Earle
Dennis E. Eash
Dennis M. Eberhart
Michael H. C. Edwards
Kenneth L. Eidnes, Jr.
Ronald E. Ellis
Stephen J. Ellis
Richard J. Elvrom
Robert D. Esker
Stanley K. Eudy
John G. Fahling
Michael L. Fair
John L. Farley
Glenn R. Fillmore, Jr.
Robert J. Fiegl, Jr.
Gitnn R. Fillmore, Jr.
Harold A. Fischer
Harold W. Fitzgerald
Clifford Fleetwood
John H. Foissett
Curtis B. Ford, Jr.
Ronald D. Foreman
Jimmy C. Foster
Robert L. Franks
Robert G. Frazier
David Fucito
William S. Fyvie
Arthur R. Gager
Armando A. Galarpe
Jupiter R. Garcia
William A. Gause
Joseph J. Giannetto
Michael J. Gilroy
Jon K. Gilson
Darryl S. Girtz
Joseph E. Gliebe III
Anthony J. Gonzales
James P. Gormley
Gary R. Gorzoch
Donald O. Gray, Jr.
Paul C. Gualdoni
Frederick R. Haaland
Bert A. Hall
Daugherty Hamiltcn
John D. Hamiter
Bobby E. Hammock
Terry D. Handley
John E. Hanscom
William R. Harris
Franklin D. Hatfield
John E. Hawkins
Richard D. Hawkins
James A. Hawthorne
Richard A. Heimbaugh
Erwin J. Henry
Arthur W. Hensley
Bruce J. Herman
John W. Hibbard
Rex E. Hildebrand
Thomas B. Hinote
James M. Hoffman
Terry L. Hogston
James D. Holden
James L. Houppert, Jr.
Philip M. Howard
Lawrence E. Hunt
Robert E. Hunt
Terry E. Huss
Gordon S. Izumoto
Donald I. Jackson
Keith R. Jackson
Steven J. Jaeger
Michael J. Jeffers
Robert P. Jernigan
Bert L. Johnson, Jr.
Edward J. Johnson
John H. Johnson
Vaughn B. Johnson
William E. J. Johnson
William T. Johnson
John P. Johnston
Elbert L. Jolly, Jr.
Bruce D. Jones
John W. Jones
Philip A. Jones
Melvin J. Jung III
Richard T. Junkins
Roberto Katekaru
Richard C. Keenan
Robert A. Keenan
Gene W. Keller
Arthur G. Kelly
Robert J. Kessock
Robert T. Kiehlmeier
John D. Kirkpatrick
Charles N. Kirtley
George N. Kollarik
David R. Kuehl
Maxwell E. Kuss
Grant M. Lane
Bruce J. Lathers
John R. Lingard
Robert R. Lloyd
Richard A. Locke
Leslie H. Long
Donald E. Lord
Jeffery Lord
Peter H. Lorsong, Jr.
Harry D. Love
Orie M. Love
Michael J. Lux
John R. Lytton
Carl D. McClelland
John H. McCrink
Travis E. McDonald
James E. McDonough
James A. McDowell
Anthony E. McFarlane
Cornelius F. McGinty
Daniel J. McGovern
John P. McGrath
Frank McInturff
Patrick McLaughlin
Ralph M. McLaughlin
Mark D. McNabb
James G. McNeill
David A. McQuown
David K. Macklem
Charles A. Major
Henry C. Marchese
Timothy J. Mattingly
John A. Mauk
Darrell D. May
Myson O. Mayfield
Gregory R. Meyer
John A. Meyer
Frank J. Miller
Glenn L. Miller
Robert S. Mills
Thomas L. Mills
Hans P. Misch
John B. Mitchell, Jr.
Romeo H. Moe
Timothy M. Maloney
Robie L. Monroe
Kenneth E. Moore
Kevin S. Moore
Gary M. Morgan
Leo M. Morrissette
Jack R. Morrison
Carl A. Moss, Jr.
Larry D. Mowery
Walter J. Munn, Jr.
Cyrus B. Murphy
Kerry P. Murray
Michael P. Murray
Michael P. Murray
John R. Neely
Terrance L. Nicholls
Frank W. Nichols
James C. Nichols, Jr.
Jack H. Norris
Oscar L. Northington
James R. Norton
Roger C. Obershaw
William J. O'Brien
John M. Odell
David B. Odenwelder
Johnnie L. Odom
Michael W. Olson
John J. Ordemann
Jerry B. Orr
Kirk W. Owen
Anthony P. Pannone
William Pappas
Albert C. L. I. Paquin
Thomas K. Parsons
Gerald F. Patnoad
Eldon C. Peck
James H. Peed
Darryl E. Peralta
Norman B. Peters, Jr.
Roy C. Peterson
Gregory F. Petranek
Henry L. Pierce
Charles E. J. Pierson
Joseph R. Pipcho
Richard Plaskiewicz
Maximo C. Potente
Donald R. Price
Ricky E. Price
Wilson B. Ratcliff
Gorden B. Ratliff
James T. Rawlings
Anthony B. Raymond
Herbert L. Reaves
Dennis D. Reberry
Robert K. Regular
Karl E. Rehbaum
Del L. Renken
Steven L. Resch
Dennis D. Rhodes
Gary L. Richard
Norman E. J. Richards
Jerry D. Richardson
Harold L. J. Ricketts
Kenneth R. Rider
Louis S. Roehm, Jr.
Charles S. Rogers
Anthony B. Rosario
Nicholas J. Ross, Jr.
Theodore R. Rought
Eugene R. Sanford, II
Dero W. Sargent, Jr.
Roger M. Sartor
Francis. G Saukel, Jr.
Larry E. Sawyer
Robert C. Sayles
A. Scharringhausen
Peter Scheifele
Herman B. Schirmer
Ruston K. Schmalz
Richard P. Schultz
David R. Scott
Marvin D. Searle
Thomas L. Sears
Larry G. Sharp
Richard A. Shaw
Richard G. Sheldon
Daniel L. Shilling
Wilbur A. Shinholser

Edward J. Shinn
Lee Shipman
Michael A. Silevinac
William J. I. Skelton
Dennis L. Skramstad
Walter R. Sly, Jr.
Edwin V. Smith
Robert L. Smith
William R. Smith
William L. Smoot
James R. Smythe
Bruce H. Snyder
David H. Spencer
Robert L. Spindle, IV
Richard A. Spon
Charles W. Stafford
Alfred B. Stevens, Jr.
Ira L. Stokes
Michael W. Stone
Richard M. Strong
Marvin G. Stroud, Jr.
Jackie D. Stump
Elwood C. Sulzer, Jr.
Gary D. Sumner
Ronald E. Swart
Ronald W. Tallman
Allen E. Teneyck
Stanley J. Thien
David J. Thomas
James A. Thompson, Jr.
Charles D. Threatt
Walker J. Tindell
Larry K. Todd
Charles E. Trent
Michael C. Turner
Warren E. Tuthill, Jr.
Clarence W. J. Twyman
Charles W. Upham
Robert L. Vanauken
Bernard J. J. Vansell
Buford R. Vanzandt
Manuel T. Vasquez
Irving Velez
Claude R. Wainscott
Floyd A. Walker
Alfred A. Wallace
Thomas G. Warner
Daniel M. Watson
Bryan J. Wellbrock
Thomas A. Weller
Robert E. White
Rickey D. Whitworth
Frank E. Wilcox, Sr.
William D. Wilkes
William E. Wilkirson
Richard E. Williams
David A. Wilson
Jack L. Wilson, Jr.
Murle R. Wilson
Thomas D. Wilson, II
Thomas D. Wing
Jimmy L. Winstead
Harvey B. Woodmanse
John E. Woolard
Bruce G. Wray
John R. Wright
Michael A. Wulf
Michael E. Yetzke

The following-named (U.S. Navy officer (Ret.)) to be reappointed from the temporary disability retired list as a temporary Chief Warrant Officer in the line of the U.S. Navy, subject to the qualifications therefor as provided by law:

Ivan E. Gray

The following-named (Ex-U.S. Navy officer) to be appointed a permanent Captain in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Robert J. Schultz

The following-named (U.S. Navy officer) to be appointed a permanent commander in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Phillip M. Dascher

The following-named (U.S. Navy officers) to be appointed temporary commanders in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Vincent D. Bradley, Jr.
Timothy M. McCormick

The following-named (ex-U.S. Air Force officer) to be appointed a temporary commander in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications as provided by law:

Bruce S. Steir

The following-named (ex-U.S. Navy officers) to be appointed temporary commanders in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefore as provided by law:

Lawrence B. Mutty
Donald W. Schmidt

The following-named (U.S. Navy officer) to be appointed a temporary commander in the Judge Advocate General's Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Larry R. Rowe

Department of Health, Education, and Welfare

William Lee Smith, of Maryland, to be Commissioner of Education, vice Ernest LeRoy Boyer, resigned.

National Commission on Libraries and Information Science

The following-named persons to be Members of the National Commission on Libraries and Information Science for terms expiring July 19, 1984:

Helmut A. Alpers, of Connecticut, vice Joseph Becker, term expired.

Carlos A. Cuadra, of California (reappointment).

Margaret S. Warden, of Montana, vice John E. Velde, Jr., term expired.

CONFIRMATIONS—DECEMBER 20–21, 1979

Executive nominations confirmed by the Senate December 20, 1979:

Ambassador

Sol M. Linowitz, of the District of Columbia, for the rank of Ambassador during the tenure of his service as Personal Representative of the President of the United States of America.

International Bank for Reconstruction and Development

Colbert I. King, of Maryland, to be United States Executive Director of the International Bank for Reconstruction and Development for a term of 2 years.

David S. King, of Maryland, to be United States Alternate Executive Director of the International Bank for Reconstruction and Development for a term of 2 years.

Department of Energy

George Fumich, Jr., of Virginia, to be an Assistant Secretary of Energy (Fossil Energy).

George W. Cunningham, of Tennessee, to be an Assistant Secretary of Energy (Nuclear Energy).

Leslie J. Goldman, of Illinois, to be an Assistant Secretary of Energy (International Affairs).

Thomas Eugene Stelson, of Georgia, to be an Assistant Secretary of Energy (Conservation and Solar Applications).

Hazel Reid Rollins, of the District of Columbia, to be Administrator of the Economic Regulatory Administration.

Edward Allan Frieman, of New Jersey, to be Director of the Office of Energy Research.

Department of the Treasury

Michael E. Witt, of Colorado, to be Assayer of the Mint of the United States at Denver.

Department of Housing and Urban Development

Victor Marrero, of New York, to be Under Secretary of Housing and Urban Development.

Department of Transportation

Susan J. Williams, of Virginia, to be an Assistant Secretary of Transportation.

William B. Johnston, of Virginia, to be an Assistant Secretary of Transportation.

Federal Emergency Management Agency

Richard J. Green, of New Jersey, to be an Associate Director of the Federal Emergency Management Agency.

Office of Government Ethics

J. Jackson Walter, of Florida, to be Director of the Office of Government Ethics.

Department of Justice

Sanford M. Litvack, of New York, to be an Assistant Attorney General.

John J. Partington, of Rhode Island, to be U.S. marshal for the district of Rhode Island for the term of 4 years.

Department of Defense

Joseph A. Doyle, of New York, to be an Assistant Secretary of the Navy.

Federal Emergency Management Agency

Frank A. Camm, of Virginia, to be an Associate Director of the Federal Emergency Management Agency.

Department of Commerce

Homer E. Moyer, Jr., of the District of Columbia, to be General Counsel of the Department of Commerce.

Luther H. Hodges, Jr., of North Carolina, to be Deputy Secretary of Commerce.

Federal Maritime Commission

James V. Day, of Maine, to be a Federal Maritime Commissioner for the term expiring June 30, 1984.

Department of Commerce

Philip M. Klutznick, of Illinois, to be Secretary of Commerce..

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

The Judiciary

Richard Alan Enslen, of Michigan, to be U.S. district judge for the western district of Michigan.

William Matthew Kidd, of West Virginia, to be U.S. district judge for the southern district of West Virginia.

L. T. Senter, Jr., of Mississippi, to be U.S. district judge for the northern district of Mississippi.

In the Navy

Vice Adm. Clarence R. Bryan, U.S. Navy, (age 56) for appointment to the grade of vice admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

Vice Adm. Robert P. Coogan, U.S. Navy, (age 57) for appointment to the grade of vice admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

The following-named officer, having been designated for commands and other duties of great importance and responsibility in the grade of vice admiral within the contemplation of title 10, United States Code, section 5231, for appointment while so serving as follows:

To be vice admiral

Rear Adm. Robert F. Schoultz, U.S. Navy.

In the Air Force

Air Force nominations beginning Cirilo L. Adan, Jr., to be colonel, and ending Brooks W. Booker III, to be first lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on December 11, 1979.

Air Force nominations beginning David W. Abati, to be captain, and ending William A. Zahler, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on December 14, 1979.

In the Navy

Navy nominations beginning Edward J. Kelly, Jr., to be commander, and ending Darrel G. Johnson, to be ensign, which nominations were received by the Senate and appeared in the Congressional Record on December 12, 1979.

Navy nominations beginning Donald O. Boling, to be chief warrant officer, and ending Larry R. Rowe, to be commander, which nominations were received by the Senate and appeared in the Congressional Record on December 20, 1979.

EXTENSIONS OF REMARKS

UNINTENDED DISCRIMINATION IN THE REVENUE ACT OF 1978

HON. JAMES G. MARTIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. MARTIN. Mr. Speaker, today I have introduced a bill to remove the unintended discrimination against fiscal year individuals with respect to the changes in the minimum tax on capital gains made by the Revenue Act of 1978. The effect of my bill is to permit a taxpayer with a taxable year which includes December 31, 1978 to change to the calendar year for 1979. This would remove an unintended discrimination against fiscal year individuals as compared with calendar year individuals with respect to substantial changes in the minimum tax on capital gains preferences made by the Revenue Act of 1978. The discrimination is particularly unfair where an individual with a fiscal year ending September 30, 1978, was negotiating the sale of his life-time business during the consideration of the 1978 act in the fall of 1978 and closed the transaction in January 1979 believing all of the capital gains tax changes were fully effective.

In the Revenue Act of 1978, Congress attempted to reduce the prior law's disincentive to individuals' gain realization and capital mobility by (a) increasing the capital gains deduction from 50 to 60 percent under code section 1202, (b) eliminating the capital gains deduction as a preference item for individuals for purposes of the ad-on minimum tax under code section 56 and, (c) eliminating the capital gains preference as a dollar-for-dollar reduction of personal service income for purposes of the maximum tax calculation. See, General Explanation of the Revenue Act of 1978, by the staff of the Joint Committee on Taxation.

All of these reforms except item (b) apply uniformly to calendar year and fiscal year indivduals alike. The elimination of. the capital gains deduction as a preference item for purposes of the ad-on minimum tax (item (b)) was made effective for taxable years beginning after December 31, 1978. As a result, calendar year individuals obtain the more favorable treatment of this reform (maximum tax rate in most situations of 28 percent) with respect to capital gains realized during 1979, while fiscal year individuals could be subject to tax at a rate of 37 percent. These circumstances created a particularly harsh and inequitable situation for an individual taxpayer whose fiscal year began before January 1, 1979 and who, forced by personal or business exigencies, or in reliance on generalized summaries of the 1978 act which did not publicize the highly technical aberrations in effective dates, realized a capital gain during January 1979.

Because of this unfairness, taxpayers whose taxable years include December 31, 1978 should be permitted to change their fiscal year to a calendar taxable year for 1979. Some of the general and particular reasons why they should be given such permission include the following:

> 1. Delay in the effective date of the alternative minimum tax as it pertains to fiscal year taxpayers was not consistent with other provisions of the act.

The provision of the act that delayed the elimination of the capital gains deduction as a tax preference item with respect to fiscal year taxpayers until their taxable year beginning after December 31, 1978, was inconsistent with other key provisions of the act applicable to the taxation of capital gains. Other key provisions took effect between November 1, 1978, and January 1, 1979, as follows:

> (a) Capital Gains Deductions. The increase in the long-term capital gains deduction (I.R.C. § 1202 took effect on November 1, 1978.
>
> (b) Maximum Tax on Personal Service Income. The Act removed the capital gains tax preference as an offset against personal service income. With respect to fiscal year taxpayers, the provision applied to transactions on or after November 1, 1978.
>
> (c) Elimination of the Minimum Tax. The add-on minimum tax on the capital gains deduction was eliminated as to calendar year taxpayers (the vast majority of individual taxpayers) on January 1, 1979.

All of these reforms except item (c) apply uniformly to calendar year and fiscal year individuals alike.

> 2. Provisions of the act with taxation of capital gains were adopted in haste and reported to the public in confusing fashion.

The taxpaying public was advised that the act created large cuts in the taxation of capital gains and that those cuts were effective as of January 1, 1979, at the latest. Taxpayers attempting to negotiate transactions involving capital gains were given the impression that transactions on or after January 1, 1979, would be subject to the new, liberal treatment. One example (of many) of this kind of information is the following:

On page 3 of the Wall Street Journal, October 16, 1978, it was stated:

> The conferees accepted a package of changes that would reduce the top tax rate on individual capital gains . . . to 28 percent from 49 percent.
>
> The conferees voted to raise the capital gains exclusion to 60 percent, starting next November 1, 1978. They voted to repeal the alternative 25 percent rate on the first $50,000 of gains January 1. They agreed to stop "poisoning" the maximum tax break with the excluded part of gains, also starting January 1. They further agreed to subject the excluded 60 percent of gains . . . to a new alternative minimum tax.
>
> Individuals would pay this new alternative minimum tax only if it exceeded regular taxes plus the existing minimum tax, which would continue to apply to a modified list of eight other preferences. For capital gains and excess itemized deductions, the new alternative minimum tax would replace the existing add-on tax January 1.

A booklet prepared by a national firm of certified public accountants describing the new act states with reference to the new alternative minimum tax:

> Effective date: Tax years beginning after 1978.

With respect to the "ad-on" minimum tax, however, (the tax with which we are concerned), the firm states:

> Effective date: For individuals and other noncorporate taxpayers, capital gains and excessive itemized deductions are not subject to the "add-on" minimum tax after 1978.

As we have seen, both provisions are effective for tax years beginning after 1978. We submit, however, that the language quoted above carries with it the clear implication that even for fiscal year taxpayers

> Capital gains * * * are not subject to the "ad-on" minimum tax after 1978.

A booklet published by a regional firm of CPA's states that the old alternative tax provision which limited the maximum tax rate on the first $50,000 of net capital gain to 25 percent repealed

> Effective for tax years beginning after 1978.

and that

> The new minimum tax is effective for years beginning after December 31, 1978.

With respect to the matter in which we are interested, however, the firm states:

> The excluded portion of capital gains and itemized excess deductions will be removed from the preference items subject to the 15 percent tax after December 31, 1978.

Here again, the language quoted above carries with it the clear implication that even for fiscal year taxpayers:

> The excluded portion of capital gains * * * will be removed from the preference items subject to the 15 percent tax after December 31, 1978.

Other examples are available.

> 3. The delay in the effective date of the alternative minimum tax as it applies to long-term capital gains was not consistent with the intent of Congress as reflected in the Act.

The general explanation of the Revenue Act of 1978 prepared by the staff of the Joint Committee on Taxation (the "Blue Book") describes why Congress increased the capital gains deduction and eliminated the capital gains deduction as a tax preference as follows:

> Congress believed that the capital gains treatment under prior law was counterproductive in the sense that it could discourage investment and sales of appreciated assets to such an extent that it did not provide as much revenue as would result from lower capital gains tax rates. In addition, the prior rules regarding capital gains, which

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

> involved a regular tax, a minimum tax, an alternative tax and a maximum tax, were believed to be unnecessarily complex. As a result, the Act included a major restructuring of the tax on capital taxes. (Page 61.)

The Blue Book gave no reason why the increased capital gains tax deduction and the reformation of the minimum tax should have different effective dates: On the contrary, the staff said

> The Congress believed that the increased deduction, *in conjunction with the Act's other capital gains tax changes and its reformation of the minimum tax,* should contribute significantly to a more favorable economic climate by increasing the mobility of capital, and by providing an incentive for taxpayers to both realize gains and increase savings. (Blue Book, p. 252; italic added.)

In adopting the Revenue Act, the Congress acted to make its policy with respect to the realization of capital gains apply with a minimum of delay. For fiscal year taxpayers, however, the actual result was to discourage realization of gains until as late as December 1, 1979, or 13 months after the generally effective passage of the act.

4. Sophisticated taxpayers avoided the discrimination by actions now unavailable to unsophisticated taxpayers.

Sophisticated fiscal year taxpayers were aware that the changes in the minimum tax on capital gains (having the effect of generally subjecting such gains to a 28-percent maximum tax rate) applied only to gains in taxable years beginning after December 31, 1978. Such taxpayers had at least three alternatives available:

A. Their 1979 capital gain transactions could be recast as installment sales, delaying realization of gain until their fiscal years beginning in 1979,

B. Their 1979 transactions might have been postponed until the new fiscal year, or

C. They could shift, with the consent of the Commissioner of the Internal Revenue, to the calendar year if a timely election was made (1½ months after the calendar year began).

Some unsophisticated fiscal year taxpayers did not realize that the minimum tax changes did not apply to their 1979 capital gains transactions occurring in fiscal years ending in 1979 until they began preparing their tax returns following the end of such fiscal years. By that time it was obviously too late to take advantage of the above explained alternatives available to sophisticated taxpayers.

5. The minimum tax on the long-term capital gains deduction was imposed for a longer period of time on fiscal year taxpayers than on calendar year taxpayers in similar circumstances.

Under the act, the add-on minimum tax was effective for taxable years ending after December 31, 1969. The elimination of the capital gains deduction as a tax preference item was made effective for taxable years beginning after December 31, 1978.

As a result of the interplay of those effective dates, fiscal taxpayers were subject to the minimum tax on the long-term capital gains deduction for a period of 1 year longer than were calendar year taxpayers. Taxpayers, whose fiscal year begins on October 1, were subject to the minimum tax on long-term capital gains for 11 years (October 1, 1969, through September 30, 1980). A calendar year taxpayer was subject to the tax for only 10 years (January 1, 1970, through December 31, 1979).

6. Permission to change to the calendar year would be fair to taxpayers in general and to the Government.

A change to a calendar taxable year would not benefit fiscal year taxpayers in contrast with calendar year taxpayers nor would it deprive the U.S. Government of a significant amount of revenue. The amendment would put fiscal year taxpayers on the same footing as calendar year taxpayers. In fact, even with the change, some fiscal year taxpayers would still be at some disadvantage with respect to calendar year taxpayers: If they were fiscal year taxpayers in 1969, they became liable for the minimum tax 3 months before their calendar year counterparts.

7. The Internal Revenue Code favors the use of the calendar year as the taxpayers' accounting period for income tax purposes.

The provisions of the Internal Revenue Code, sections 441 and 442 pertaining to accounting periods for income tax purposes reflect the Congress clear intent to favor the calendar year over a fiscal year as a taxpayer's fiscal year.

Section 441(a) provides that:

> Taxable income shall be computed on the basis of the taxpayer's taxable year.

Section 441(g) provides in part that:

> * * * the taxpayer's taxable year shall be the calendar year if—
>
> (1) The taxpayer keeps no books;
>
> (2) The taxpayer does not have an annual accounting period; or
>
> (3) The taxpayer has an annual accounting period, but such period does not qualify as a fiscal year.

Section 442 provides that:

> If a taxpayer changes his annual accounting period, the new accounting period shall become the taxpayer's taxable year only if the change is approved by the Secretary. For purposes of this subtitle, if a taxpayer to whom section 441(g) [above] applies adopts an annual accounting period (as defined in section 441(c)) other than a calendar year, the taxpayer shall be treated as having changed his annual accounting period.

Accordingly, the text of the bill which I have introduced provides that the Revenue Act of 1978—Public Law 95-600, 92 Stat. 2763—be amended by adding new section 421(h) as follows:

> (h) An individual taxpayer (or individuals in the case of a husband and wife filing jointly) may elect to change his taxable year from a fiscal year that includes December 31, 1978, to a calendar year without approval of the Secretary by filing a return for the short period ended December 31, 1978, within 90 days of enactment of this provision. Section 6072(a) of the Internal Revenue Code of 1954 shall not apply to a return filed to effect the election provided by the preceding sentence.●

IRAN CRISIS IS A MORAL CRISIS

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. DANIEL B. CRANE. Mr. Speaker, the crisis in Iran is more than the kidnapping of American citizens, horrible as the act is. It is a reminder that, throughout the world, civilization is receding before our eyes.

The past decade has seen an unprecedented decline in American power and influence; going hand in hand with this decline is the whirlpool of barbarism into which the world seems increasingly drawn.

In a recent analysis, the Wall Street Journal examined this decline of the stabilizing influence of America and concluded that—

> The world that emerges as America declines is proving not to be a very nice place at all . . . liberal law and standards have retained influence in the world only insofar as there's been American power to support them.

Ultimately, the Iran crisis is a moral crisis; the result of men looking to themselves or to false gods for guidance. Let us pray that God will grant us the wisdom to recognize the consequences of the path we have chosen, and the time to change our direction.

The editorial follows:

CIVILIZATION (AMERICAN STYLE) RECEDING

The events in Iran, with their gross violation of diplomatic immunities reaching back into the Middle Ages, are the latest and most dramatic symptoms of a more general collapse of established values and conventions of conduct. Throughout the world, civilization is receding before our eyes.

This decline of what we have thought of as civilized conduct results from the decline of the Western powers that spread these ideals to begin with, and in particular from the decline of American power, will and influence in the last decade. Nowhere is this more clear than in Iran itself.

The past decade of American retreat has stamped its signature on every impulse and calculation of the Ayatollah's mob and every agonized twist of our response to it. The lack of resolve in our policy was one of the things that fatally weakened the shah in the first place; our lack of challenge to the vilification dumped on this country over the past years has shown itself in the vocabulary of anti-Americanism that the Ayatollah's regime so easily adopted and steadily amplified. Our lack of military preparedness has emerged in this crisis as the reason we have no appreciable force available to us in the Gulf area.

These were the large facts of our situation, but a sense of helplessness has also marked our particular responses to the Iranian terror. The U.S. allowed the shah entry but somehow did not think it possible to protect our Tehran embassy against violent reprisal. When the mob took over, our first reaction was not to mobilize and redeploy our forces as a matter of course but to dispatch Ramsey Clark to negotiate.

When all the peace missions failed, the administration began to toughen its pronouncements, to embargo Iranian oil, to freeze Iranian financial assets and to try to round up illegal Iranian immigrants. The chief effect of both the immigration crackdown and financial freeze will be to create a lot of windfall profits for American law firms, but the cosmetics of it all do seem to be winning the administration some points for toughness.

The real tests may yet lie ahead. We can hope that the release of some hostages is a sign that the Ayatollah is having second thoughts, but his threat to try remaining hostages before Islamic courts is hardly comforting. Are we deploying power to react militarily if hostages are killed? If the matter is resolved, are we prepared to protect our own embassy, or will we take the further cosmetic step of breaking relations and abandoning the field? Most of all, will we learn enough lessons to avoid the next Iran?

For the power of barbarism is not flexing its muscle there alone. In Cambodia we've seen by now the kind of wholesale murder that makes the previous authoritarianism there seem like a nursery school in comparison. We can also observe in Indochina the specially crazed horror that comes when rulers like Pol Pot and Heng Samrin show themselves utterly indifferent to historical notions of humanity.

In short, the world that emerges as America declines is proving not to be a very nice place at all, and one that does not hold much truck with the standards of international law and decency that we had such high hopes for in international affairs. Over the past decade America has often been pictured, and often by Americans, as the world's chief offender against international peace and independence. The Tehran crisis and like events in other places are bringing us face-to-face with the possibility that something like the opposite is true: that liberal law and standards have retained influence in the world only insofar as there's been American power to support them.

If this is true, then facing the decline of American influence may mean facing the erosion of values that in their importance go far beyond questions of narrow national self-interest. If the Iranian crisis serves to make that more clear, it will at least have performed some small service in return for the evil it's visited on us.●

THE GREATEST SACRIFICE

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. WYDLER. Mr. Speaker, Long Island is mourning the deaths of two young Valley Stream residents who put their dedication to their duties as volunteer firemen above their own lives when battling a devastating blaze Thanksgiving Day.

Their names are John Tate, Jr. and Michael Moran. They were critically injured when the roof collapsed on Temple Gates of Zion Synagogue, where the tragic fire broke out. John Tate, Jr., 28 years old, died November 30, and Michael Moran, 23 years old, died just last Saturday.

These two men, both fire captains in the Valley Stream Fire Department, exhibited the highest level of courage on that fateful Thanksgiving Day. Trying to preserve a structure which many people held dear, they sacrificed their own lives.

In recognition of their awesome sacrifice, I honor these two men today. In remembrance of them, the other nine firefighters injured in the blaze and the entire Valley Stream Fire Department, I offer them a flag flown over the U.S. Capitol. Like the flag, these men are symbols of the greatest virtues of our Nation, and like the flag—we cherish them dearly.

All too often we forget the awesome demands placed on public servants such as firefighters—both professional and volunteer—and law enforcement officers. Each day they risk their own lives to protect our lives and our property. It is only when we lose one of these brave men and women in the line of duty that we truly appreciate the jobs they have undertaken.

Michael Moran became interested in firefighting as a youth, joining an Explorer Scout post which introduced its members to the world of the fire department. Fully aware of the dangers—just as John Tate, Jr. was—he nevertheless offered his services as a fireman to the community.

Surviving Michael Moran are his father, Philip; a brother, Philip, Jr.; and two sisters, Ann and Mary. Surviving John Tate are his wife Mary and his mother and father, Mr. and Mrs. John Tate, Sr. These people may truly be proud of the loved ones they have lost. Most definitely, they deserve the deepest gratitude of those of us they were heroically trying to serve.●

ITALY—AN ALLY IN TIME OF NEED

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. HOLLENBECK. Mr. Speaker, during the last 46 days our Nation has endured the many pressures and frustrations demanded of us following the siege of the U.S. Embassy in Tehran. We hope and pray for the safe and speedy release of all 50 American hostages presently being held by terrorists in Tehran.

As this crisis continues to unfold, and we seek a peaceful resolution through diplomatic channels, it is imperative that we have the support of our allies throughout the globe. I would like to take this opportunity to praise the complete cooperation which has been extended to our Nation by the Republic of Italy.

As with Britain, West Germany, and other members of the European Economic Community, Italy has offered America support which is both consistent and in accordance with basic principles of international law.

Both bilaterally and collectively with other member nations of the European Common Market, the Italian record has been an exemplary one, as alluded to yesterday by my colleague JOE MINISH. To cite just a few examples, on November 10, shortly after the Embassy takeover, the Italian Ambassador to Iran vehemently protested the blatant disregard for the human rights of those held hostage and strongly objected to the willful violation of diplomatic immunity. On the same day, he called for the immediate and unconditional release of all hostages. This action was followed by similar approaches on November 12, November 28, and December 3.

On November 26, of his own volition, Italian President Sandro Pertini wrote a personal message to the Ayotallah Khomeini requesting, in the name of human rights and dignity, the release of all American hostages. Other statements in support of our position have been made by the Italian Cabinet, the Liberal and Republican Parties in Italy, and the Christian Democratic Youth Movement, as well as the Socialist Party Youth Organization.

As the Iranian crisis drags on and we enter an even more difficult phase with Iran, it is essential that the United States secure the absolute commitment of our allies in applying effective diplomatic actions against Iran.

I believe that the unselfish assistance offered by Italy thus far is representative of the absolute commitment which America needs to secure from all its allies. Mr. Speaker, I ask the members of this distinguished body to be aware of the total support of Italy for the American effort to free the hostages.●

MAINLAND CHINA

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. DERWINSKI. Mr. Speaker, in August of 1975, I visited China as a member of a congressional delegation. Whereas most of the Members who accompanied me were laudatory in their comments on the prospects of future relations with mainland China, and returned with glowing reports of China as a "great experiment for all mankind" and a nation where hundreds of millions work happily and enthusiastically to build a "New Order", I took a somewhat different outlook. We had a very carefully controlled schedule with visits to model factories, model communes, model workers' apartments which I personally feel utilized the "Potemkin village" strategy. While the Chinese Government did seem to be taking care of the basic food, clothing, and housing needs of the people, meeting minimum standards, this is certainly not an amazing accomplishment for a modern government, especially in a country as rich in resources as China.

My views were fortified in an article by Reed Irvine appearing in the December 18 Washington Weekly newspaper. Mr. Irvine is presently on a trip to the Far East, and the following is excerpted from a talk he gave to the Journalism School at National Chengchi University on Taiwan:

MEDIA LONG MISLED BY MISINFORMATION FROM CHINA

(By Reed Irvine)

TAIPEI.—One of the great mysteries of our time is why the information machinery of the West has for so long been spewing out information about the Communist countries that was so incorrect and misleading. In no case in the post World War II period has this been worse than with respect to Communist China. Even during the 1950s when anti-Communist sentiment was very strong in the United States, our scholars and our media showed great willingness to swallow the propaganda claims of the Chinese Communists.

When Mao announced in 1958 that China had doubled its food production in a single year, shock waves were felt throughout the Western world. Dr. Josne De Castro, the head of the United Nations food and agricultural organization, hailed this as "China's victory over hunger." As late as 1976, Michael Oxenberg, who holds the exalted position of Chinese expert on President Carter's National Security Council, was still arguing in print that the "Great Leap Forward" had brought economic security to the Chinese peasants.

How often were we to read in our press and hear on television, especially after Nixon's visit to the mainland in 1972, that Communist China had solved the food problem and that everyone was well fed and that famine was no longer a problem.

In the past year, however, there has been considerable confirmation from official sources of negative reports about conditions in Communist China that refugees had been telling for years. One of the most noteworthy and newsworthy of those refugees was Fan Yuan-Yen, the Communist Chinese Air Force officer who flew his Mig-19 to Taiwan and requested asylum on July 7, 1977. Fan's message differed substantially from much of the reporting that had been coming out of the mainland from reporters and short-term visitors. Fan said that people were eking out "a very miserable life," the food shortage was serious and people were half starving in many places. Our journalists were sure that must be nonsense, we had television pictures of happy, well-fed children frolicking in Tienanmen Square.

The current leadership in Communist China has now played a dirty trick on all those helpful purveyors of misinformation who helped create the image of Mao as a combination of Jesus Christ, Julius Ceasar and Henry Ford. The New York Times reported on August 29, 1979, that during this past summer Chinese Communist papers admitted publicly that they had for years been using false and exaggerated stories. The Tientsin Daily provided a delightful explanation for these past sins. It said the villains were lazy and unethical journalists. "They spread hearsay and parrot the views of others," the paper said, adding that some do not bother to check the information given them. The paper went on: "Some only pretend to understand the facts or a report and put on an appearance of wisdom." "Others," it said, "bend to the wind and the wishes of the leadership."

This is amusing because it so aptly describes those foreign journalists who reported on Communist China in precisely the same way as did local reporters. But they, of course, are far more culpable. The local reporters bent to the wind and the wishes of the leadership. They spread the official propaganda line. Had they dared to do otherwise they would have quickly found themselves on a corrective labor farm in Sinkiang.

But now that Deputy Party Chairman Li Hsien-Nen himself has reportedly stated that 10 percent of China's 950 million people—i.e., 95 million people in China—do not have enough to eat, now that it is admitted that factory workers get only 31 lbs. of grain a month, not enough to sustain hard work, what are we hearing from those pundits who assured us for so many years that the Communists, for all their denial of human rights and even brutality, had at least solved the problem of hunger in China?

Nothing.●

SAVE MONO LAKE

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. SHUMWAY. Mr. Speaker, today I am introducing legislation of critical importance to the future of one of the country's most unique resources—Mono Lake in California. Mono is in serious danger and deserves the attention of Congress.

The United States is blessed with many truly wonderful resources, and the environment of Mono Lake is one of the most beautiful areas I have ever visited. The lake itself dates back to the ice age, and as such, is considered to be between 1 and 3 million years old. In fact, the lake may be the oldest continuously existing water bodies in the North American continent.

Mono supports the largest nesting ground for California gulls in the country as some 50,000 adult birds raise their young on the islands of Mono Lake. This "country of wonderful contrasts" as John Muir wrote over 100 years ago is alive during the spring and summer with the sounds of thousands of birds raising their young. In 1865 J. R. Brown wrote of this magnificent spectacle:

> Immense swarms of gulls visit these islands during the spring of the year and deposit their eggs on every available spot. Myriads upon myriads of them hover over the rocks from morning till night, deafening the ear with their wild screams, and the water is literally covered with them, for a circle of many miles.

These birds travel to Mono's shores every year to take advantage of the great abundance of feed in the form of the brine shrimp and brine fly. Because Mono Lake is six times as alkaline and twice as salty as the ocean, only a few organisms are adaptable to its waters. Mark Twain visited Mono Lake in the 1860's and labeled Mono the "Dead Sea of America."

Mono Lake is one of the largest lakes in California and is located on the eastern side of the majestic Sierra Nevada Mountains. Mono, long known for its unique and pristine environment, is in serious jeopardy. Since 1941, diversions of its tributory waters have caused its level to drop to a point where the survival of the life it supports is threatened.

Water diversions made by the Los Angeles Department of Water and Power (LADWP) have been ongoing since 1941, and as a result, the level of Mono Lake has dropped continually. In fact, the lake level has declined by roughly 2 feet per year since 1970.

Some 20,000 acres of alkaline shoreline are now exposed; when windy conditions prevail, alkali dust blows into the atmosphere creating havoc for the area's residents and adversely affecting the lives of plants and animals. Both Federal and State ambient air quality standards have been violated.

Alkali dust is not the only problem at Mono Lake. Two of its islands, Negit and Paola, have been enlarging because of the declining water level. As a result, a land bridge has formed between Negit and the Mono shoreline allowing predators to walk across and feed upon the easy prey of nesting gulls.

A study by a University of California biologist indicates that not one gull chick was raised on Negit Island this year. Between 1976 and 1978, some 38,000 nesting gulls made Negit their home, but in 1979 no breeding adult gulls used the island. All told, less than one-quarter of the population of Mono gulls raised any chicks in 1979.

To combat the predator problem, the California Legislature passed legislation which provided funds for a dredging operation to dig a trapazoidal channel between Negit Island and Mono's shore. However, subsequent tests by the State Departments of Water Resources and Fish and Game—as well as LADWP—revealed that such a dredging operation is unfeasible. The tests revealed that Mono Lake's bottom would not hold in the prescribed position necessary to prevent the land bridge from reappearing. Earlier dynamite blasting operations proved unsuccessful as well. Instead of digging the channel the State will now have to resort to constructing a very long fence which must be extended periodically as the lake level continues to decline. State fish and game officials are attempting to meet an April 1, 1980 construction deadline when the birds begin to arrive next spring.

In order to identify and resolve these and other problems prevalent at Mono Lake, an interagency task force was formed last year. Membership included representatives from the California State Department of Water Resources, Inyo National Forest, Bureau of Land Management, LADWP, Mono County Board of Supervisors, U.S. Fish and Wildlife Service, and California State Department of Fish and Game. The task force began operations in December of 1978 and developed 19 alternative solutions. After an extensive public hearing process, the group adopted "Plan P." The lone dissenting member of the task force was the Los Angeles Department of Water and Power.

Plan P provides that LADWP reduce its current 100,000 acre-feet per year diversion to 15,000 acre-feet which allows 85,000 acre-feet to naturally flow back into Mono Lake. At this rate in approximately 50 years the level of Mono Lake would reach 6,388 feet which is the task force's preferred elevation. With the level at this point, the predator problem would disappear and the alkaline dust would become less extensive. Plan P also protects LADWP's water rights and allows it to purchase water elsewhere with funds appropriated equally by Federal, State, and city governments. In addition, the plan calls for a 5-year study conducted jointly by the BLM and the California State Department of Fish and Game.

The legislation I am introducing today provides for the necessary Federal participation under plan P. It authorizes $25,000 for each of 5 fiscal years for the Federal share of the joint BLM-

State study, and authorizes such funds as may be necessary for LADWP to purchase replacement water. The latter authorization may not exceed $2,379,000 per year for the next 5 fiscal years.

What is at issue at Mono Lake is not a mere north-south water dispute, but the survival of one of our country's beautiful and unique environments. David T. Mason in Liminology of Mono Lake, Calif. describes Mono as "a land of stark contrasts, of dramatic gradients, of vast expanses, where even a sense of the passage of time stands graven on the slopes, a superimposed dimension * * *."

Already Mono's wildlife resource is seriously threatened. Since Owens Lake to the south is now dry, most of the birds that fly to Mono every year have nowhere else to raise their young. The lake is a scientific resource and since it supports such a simple and unique environment, Mono serves as a natural outdoor laboratory for biological research.

Mono Lake and its environs are in danger. If present diversions continue and no action is taken, the lake will continue to decline in water level and as a resource. Mono's Negit Island will become a more pronounced peninsula allowing predators even easier access to it. The major migratory stopover for birds will be lost.

Alkali dust storms will only worsen with devastating effects on plants and wildlife.

By enacting this legislation, the recommendations of the interagency task force can be implemented. Numerous organizations and newspapers have endorsed the merits of saving Mono Lake. Gary Brechin in an October 1, 1978 San Francisco Examiner article, summarized the Mono Lake issue most effectively:

> One harsh, lone sea cry cuts across the desert as hundreds of gulls wheel and rise against the dawn moon, bidding farewell to Mono Lake before marshaling in ragged streamers for their ancient migration through the mountain passes to the coast. In flight, they see the sunrise while the plain is still in shadow. The eastern horizon shifts through the spectrum: carmine, rose orange, gold, until while incandescence boils over the rim and the sagebrush takes light. A last sea cry echoes down the canyon. Farewell, Mono. The migrations must end. The lake is dying.●

RETIREMENT OF MARIE (GRUBER) STILES

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. SKELTON. Mr. Speaker, too seldom do we acknowledge a successful career when someone outstanding retires. I wish, thus, to bring to the attention of this body the career of Marie Gruber Stiles of Lexington, Mo., who just retired after 41 years of dedicated service to Wentworth Military Academy. Mrs. Stiles joined the staff at Wentworth in December 1937, and she worked in the quartermaster's office and retired as assistant quartermaster in recent days. During that period, she was a friend to literally thousands of students, spreading a warm smile across their path, and, even, on occasion, helping to cure homesickness. She will be greatly missed at the school, but many good wishes go with her during her retirement years.●

THE SOVIET BUILDUP IN AFGHANISTAN

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. MICHEL. Mr. Speaker, on November 13, I inserted in the RECORD material dealing with the Soviet buildup in Afghanistan. At that time I pointed to the fact that the United States has neither warned the Soviet Union nor aided the Afghanistan rebels fighting the Communists.

On November 26, I once again brought to your attention the danger of the increasing Soviet infiltration of Afghanistan. I inserted in the RECORD a wire service story telling of Soviet combat troops engaging in action in Afghanistan.

Now, more than a month since I first brought these facts to the attention of the Congress, the Carter administration has publicly acknowledged the Soviet buildup. The United States, we are told by a State Department spokesman, is "concerned."

Concerned? We ought to be outraged. We ought to be angry. We ought to be telling the Soviet Union that we do not believe in any concept of détente which allows them to enflame the situation in Iran by radio broadcasts and send combat troops into Iran's eastern neighbor.

But we are at least concerned. That is something, I guess.

At this point I wish to insert in the RECORD, "U.S. Concerned by Soviet Buildup of Combat Troops in Afghanistan," the Washington Post, December 19, 1979.

The article follows:

U.S. CONCERNED BY SOVIET BUILDUP OF COMBAT TROOPS IN AFGHANISTAN

(By Don Oberdorfer)

The United States expressed renewed concern yesterday about a continuing buildup of "combat-equipped" Soviet troops in Afghanistan.

State Department spokesman Thomas Reston said the U.S. estimate of Soviet military personnel in that country is now somewhat higher than 5,000, the figure released by the department last Sunday. However, Reston said reports of 10,000 to 20,000 Russian troops in the country "appear to be exaggerated."

More than 1,000 of the Russians are reported by the State Department to be recently arrived troops equipped for combat. It is this growing contingent, rather than the military advisers and air base guards previously reported in the mountainous country, which is drawing the American puzzlement and concern.

Some U.S. officials have speculated that the Soviets are preparing to shift from an essentially advisory role in the Kabul government's war against rebelling Moslem tribesmen to direct involvement in ground combat. Such a combat role would be highly unusual for the Russians in a Third World conflict.

Soviet pilots and gunners were reported this fall to be flying some helicopter gunship missions against the rebels, and Russians reportedly had taken over Bargam air base near Kabul, the capital city, to handle incoming flights.

The officials also said, however, that there is no certainty that the Soviet role is changing, nor do they have an estimate of the numbers of troops which will be sent to Afghanistan in the present round of transport flights. It is still considered possible—though somewhat less likely as the buildup continues—that the new Soviet force is intended to protect the airfield and other Russian facilities and personnel, or that the troops are intended to shore up Afghani support for the embattled regime of Hafizullah Amin.

American officials said there is no indication that the Soviet troop influx is connected with the disturbances in Afghanistan's western neighbor, Iran, or with the U.S. response to Iran's holding of American hostages.●

U.S.S.R. BACKS TERRORISM IN PUERTO RICO

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. McDONALD. Mr. Speaker, twice in this month, Puerto Rican terrorists have shot at U.S. armed services personnel in Puerto Rico. Two Navy enlisted men were killed; 10 were wounded. In October, the same consortium of terrorist groups carried out simultaneous bombings in New York, Chicago, and San Juan. The principal demands of the terrorists were for the independence of Puerto Rico and for immediate withdrawal of the U.S. Navy from its Puerto Rican bases.

Not coincidentally, the murder of the Navy communications specialists coincided with a conference in support of Puerto Rican "independence" organized by the chief international Soviet Communist front, the World Peace Council (WPC). The WPC has two principal functions: To influence public opinion in Free World countries along lines favorable to the U.S.S.R.; and to provide logistical support to Soviet-supported revolutionary terrorist groups that it terms "national liberation movements."

Through its chief Caribbean satellite, Cuba, the U.S.S.R. had been providing minimal training and support to Puerto Rican Marxist-Leninist revolutionaries since the early 1960's. However, Soviet aggression in the Caribbean and Central America has markedly increased in the past 5 years. The Kremlin strategists may well believe that they have little to fear from an America that sat by and allowed Vietnam and Cambodia to fall into Communist hands; which declined to resist Soviet and Warsaw Pact intervention in Angola and Ethiopia followed by the training of terrorist armies in Mozambique, Zambia, and Angola for the invasion of Rhodesia and South Africa; which gave to a drunken leftist tyrant the U.S. Canal and Canal Zone in Panama; which actively acquiesced to the destabilization and overthrow of long-time American allies in Nicaragua and Iran by forces openly hostile to this country; and which in spite of it all is feverishly trying to force passage of a Strategic Arms Limitation Treaty that

will lock this country into a second place military position.

I would suggest that those of my colleagues concerned over these developments should read the following article on the recent World Peace Council meeting to back Puerto Rican revolutionary terrorism that appeared in a recent edition of the Information Digest, the authoritative newsletter published by John Rees.

The article follows:

Puerto Rico—Terror

On Monday morning, December 3, 1979, a school bus transporting 18 U.S. Navy personnel to work at a communications station was ambushed near the country town of Toa Baja, ten miles west of San Juan, PR. Two U.S. sailors were killed and ten were wounded, five of them women. The terrorists escaped.

A joint communique from three terrorist groups said the attack was in vengeance for the deaths of Carlos Soto Arrivi and Ernaldo Dalio Rosado, shot to death by police on July 25, 1978, while planting a bomb at an electrical transmission tower, and Angel Rodriguez Cristobal, 33, a member of the Central Committee of the Marxist-Leninist Socialist League (SL) of Puerto Rico, who was found hanged on November 11, at the federal prison at Tallahassee, FL, where he was serving a six-month sentence for trespassing on U.S. Navy property on Vieques Island on May 19, 1979.

It is noted that the killing of the U.S. Navy personnel came almost a year and a half after the deaths of Soto and Rosado, and a month after the death of Rodriguez, ruled a suicide; but only a day after the conclusion of a major World Peace Council conference in support of the Puerto Rican revolutionary movements. The World Peace Council (WPC), controlled by the International Department of the Central Committee of the Communist Party of the Soviet Union (CPSU) and by the KGB, has two principal functions: to coordinate propaganda compaigns to influence public opinion in the Free World, and to provide logistical support to Soviet-approved revolutionary terrorist movements.

The main political resolution of the November 30–December 2, 1979 "Conference in Solidarity with the Independence of Puerto Rico," attacked U.S. "colonial domination of Puerto Rico" and stated, "Puerto Rico is a strategic center of the U.S. Navy, especially the enormous Roosevelt Roads Nuclear Military Complex at Ceiba and the island municipality of Vieques which is used as a shooting camp and where NATO members carry out important maneuvers against the wishes of its inhabitants who struggle valiantly for them to leave."

The WPC conference's main resolution went on to describe efforts of some Puerto Rican political figures to promote statehood as "the culmination of colonialism" and "a menace to the territorial integrity of Latin America."

The "honored guests" at this Second International Conference in Solidarity with the Independence of Puerto Rico [the WPC held the first such conference in Havana in September 1975] were the four surviving Nationalist Party terrorists who had attempted to assassinate President Truman in 1950 and kill Members of Congress in 1954. The four, Lolita Lebron, Oscar Collazo, Irvin Flores and Rafael Cancel Miranda, received Presidential pardons earlier this year, and met with Fidel Castro during his stay in New York earlier this year. The Nationalist Party terrorists received ovations for their reiterated statements backing terrorist "armed struggle" tactics after their release from prison.

In her address to the WPC audience of 400 delegates and as many observers from 53 countries and terrorist "national liberation movements," Lebron gushed, "Nicaragua and the Sandinistas give us strength, stimulate us. Fidel shines over us as the sun of the Caribbean!"

Furthermore, the 48-member U.S. delegation to the Mexico City WPC meeting issued a press statement expressing outrage "at the murder of Puerto Rican liberation fighter Angel Rodriguez Cristobal in the U.S. federal prison in Tallahassee."

One of the more militant of the U.S. delegates, New York City Councilman Gilberto Gerena-Valentin, also a member of the New York Committee in Support of Vieques, said that U.S. "repression" had been demonstrated in the meting out of jail terms to the Vieques demonstrators, and charged Rodriguez "was brutally tortured." "This murder is the mechanization of U.S. imperialism. While we have called upon the U.S. Department of Justice and the police for an investigation, we have no faith in the investigative system. They are not going to find themselves guilty of a system of racism in the United States."

Although several members of the separate 28-member Puerto Rican delegation live in New York, in keeping with the "independence" theme, the delegations remained separate. In addition to those already named, the members of the U.S. and Puerto Rican delegations included Angela Davis and Gilbert Green, Communist Party, U.S.A. (CPUSA); Juan Mari Bras, Puerto Rican Socialist Party (PSP); Bishop Antulio Parrilla; Luis Lausell, UTIER (electrical workers union); Helen Rodrieguez-Trias, M.D.; Eneida Vasquez, Puerto Rican Peace Council; Mike Myerson, U.S. Peace Council; Tom Soto, Workers World Party (WWP); Javier Colon, Federation of University Students for Independence (FUPI); Carlos Reichehoff, Nationalist Party; Juan Bautista, Communist Party of Puerto Rico; Massachusetts Representatives Mel King and Clemente Soto Velez.

Additional U.S. organizations represented in the delegation included the National Lawyers Guild (NLG), National Conference of Black Lawyers (NCBL), Venceremos Brigade (VB), La Raza Unida Party (LRUP), American Indian Movement (AIM), Black United Front (BUF), and "trade unionists from the International Longshoremen's and Warehousemen's Union (ILWU), International Ladies Garment Workers Union (ILGWU), and the United States Steel Workers of America (USWA)."

Other participants included the Palestine Liberation Organization (PLO), Sandinist National Liberation Front of Nicaragua (FSLN), the Popular Movement for the Liberation of Angola (MPLA), the Communist Parties of Latin America and the Caribbean, other international Soviet Communist fronts such as the Women's International Democratic Federation (WIDF), the Afro-Asian People's Solidarity Organization (AAPSO), and the World Federation of Trade Unionists (WFTU); delegates from the "peace movements" of the USSR, Czechoslovakia, East Germany, Cuba, the Congo, Ethiopia, Mozambique, Guinea-Bissau, Iraq, and other Soviet client states. The largest delegations were those from Mexico, Cuba, Jamaica, Grenada, the Dominican Republic, Haiti (exiles) and Grenada.

U.S. Representative Ronald Dellums [D–CA] sent a message apologizing for his inability to attend and outlining his intention to hold Congressional hearings on the U.S. Navy's use of Vieques Island. The Dellums message also stated he would introduce another resolution calling for Congress to unconditionally transfer all sovereignty and powers to the people of Puerto Rico.

The chief WPC resolutions on Puerto Rico called for a "complete and unconditional" transfer of powers by the U.S. to Puerto Rico; for the repudiation of all "colonial plebicites;" for the U.S. to renunciate any plans for the statehood—termed "annexation"—of Puerto Rico; for immediate U.S. Navy withdrawal from its Puerto Rican facilities.

Minor resolutions touched on such "popular front" organizing issues as deteriorating housing conditions for Puerto Ricans in the U.S. and on the island, sterilization as a form of birth control ["genocide"], and on the "growing oppression of the Puerto Rican independence movement, most recently seen in the murder of Vieques activist Angel Rodriguez Cristobal."

It should be noted that although Rodriguez was a member of a small Marxist-Leninist group once affiliated with the Progressive Labor Party (PLP), the Communist Party, U.S.A. (CPUSA), Trotskyist Socialist Workers Party (SWP), Workers World Party (WWP), the National Lawyers Guild (NLG), the Castroite communist Puerto Rican Socialist Party (PSP) and the Puerto Rican Solidarity Committee (PRSC) have all joined in support activities around the death of Rodriguez.

While under the control of Moscow-line parties, the WPC's Puerto Rican Independence conference was dominated by the theme of the U.S. presence in the Caribbean as a "threat to world peace," several terrorist movements strongly influenced by Trotskyism presented a slightly different view. The Revolutionary Workers Party/People's Revolutionary Army (PRT/ERP of Argentina, the Movement of the Revolutionary Left (MIR) of Chile, the NCT of the Dominican Republic, and several Salvadorean groups—the Unified Front for Popular Action, the People's Leagues—28th of February, and the Popular Revolutionary Bloc (BPR) placed the Puerto Rican independence movement in the context of the new revolutionary upsurge in Latin America and a U.S. intention to strengthen its position in the Caribbean by holding on to Puerto Rico.

SABANA SECA AMBUSH

At 6:40 am, a few minutes after a yellow U.S. Navy bus left the residential town of Toa Baja carrying 18 Navy enlisted personnel to a communications tower along Highway 867 at Sabana Seca, a green pickup truck passed the bus and traveled slowly, blocking the bus from passing on the narrow country road.

When the pickup truck and bus came abreast of a parked white van, the truck stopped, forcing the Navy bus to a halt. A fusilade of automatic weapons fire from an M–16 and Soviet AK–47 and shotguns raked the bus of unarmed Navy personnel, killing two and wounding ten.

The terrorists, believed to have been four or five, abandoned their vehicles and fled on foot to a van later found abandoned in San Juan. The bus carrying the dead and wounded was permitted to drive away.

A communique found in a San Juan bus station phone booth stated the ambush was "a military attack against the Naval intelligence base" in reprisal for the deaths of Carlos Soto Arrivi, 18, and Arnaldo Dario Rosado, 23, killed by police while planting a bomb near Cerro Maravilla, PR, on July 25, 1978, and of Angel Jose Rodriquez Cristobal, 33, found hanged on November 10, 1979, in the Tallahassee federal prison.

The Communique, signed jointly by the Armed Forces of Popular Resistance (FARN), the Boricua Popular Army [also called Los Macheteros], and the Volunteers for the Puerto Rican Revolution (VRP), the same groups that issued joint statements of responsibility for bombings in New York and San Juan on October 17, 1979, said:

"We warn the Yankee imperialists that they must respect the life and security of our prisoners according to the Geneva Convention on War."

(NOTE: I.D. of 9/21/79, pp. 287-293 refer to the new additions to the Geneva conventions that provide advantages to revolutionary groups who restrict their targets to military and government targets.)

The communique went on to declare war on the U.S. The secretary-general, Juan Antonio Corretjer, issued a statement after the attack that "The ambush of a U.S. Navy bus that occurred this morning should notify everyone that the fight for Puerto Rican independence should not be taken as a joke. It is a serious matter." Most intelligence analysts agree.

The involvement of National Lawyers Guild (NLG) lawyers in the Vieques demonstrations and with SL leader Rodriguez Cristobal is also noted. NLG Puerto Rico Project member Judith Barkan, a Brooklyn-born graduate of Harvard Law School, is appealing her conviction and sentence for her role in the May Vieques demonstration on U.S. Navy property. NLG lawyers Mara Siegel of the Westown Community Law Office in Chicago and Michael Deutsch, a veteran of the People's Law Office of Chicago, visited Angel Rodriguez on separate occasions in prison. Both have been publicly active with the Weather Underground Organization's overt arm, the Prairie Fire Organizing Committee (PFOC), with support efforts for FALN bomber William Morales, and for the Socialist League and its U.S. affiliate, the Movimiento de Liberacion Nacional (MLN).

The U.S. Navy has instituted new security measures. The communications personnel bus is now accompanied by two security vehicles with armed guards and communications equipment. And the school buses transporting the children of Navy personnel also have guards aboard. Sixty Marine guards have been brought from Camp Lejeune and the Marine guards at the main gates to the Sabana Seca base were armed with M-16s and wearing flak jackets.

Nevertheless, six days after the ambush, two persons fired at a patrol jeep driven by a Marine Lance Corporal who was patrolling the perimeter of the Roosevelt Roads air base and naval station. Shots struck both the front and rear windshields of the jeep. The corporal was not hit, fired at the ambushers, and chased them over an 8-foot fence.

Additional attacks on U.S. government targets in Puerto Rico are expected. It is noted that the Armed Forces of National Liberation (FALN), which was a fourth signer of the October communiques taking responsibility for the New York and San Juan bombings, did not sign the bus ambush statement. Although the FALN's members are believed to have traveled to San Juan on various occasions, their official operational field remains the U.S. mainland.

Nevertheless, attacks on Naval recruiting stations and other facilities on the mainland in support of the WPC and "independentisa" effort to remove the U.S. Navy and Air Force from Puerto Rico must be expected.

SOVIET NAVAL BASE IN CUBA

In conclusion, it is noted that top officers of the NATO navies have expressed growing concern over the continuing Soviet naval buildup at Cienfuegos on the south coast of Cuba. Expansion of Cienfuegos began in the early 1970s with construction including moorings for nuclear submarines and their tenders and a pier. In early 1978, work was started on a new pier and barracks were built ashore. Should the U.S. leave Roosevelt Roads, the Caribbean and South Atlantic vacuum would likely be filled by the Soviet Navy.●

IMPERIAL VALLEY FARM OWNERSHIP—CORRECTING SOME MYTHS

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. BURGENER. Mr. Speaker, several weeks ago, the U.S. Supreme Court agreed to review a 1977 appellate court decision which ruled that the Imperial Valley farmers of California were under the acreage limitation restrictions of the 1902 Reclamation Act. The court's action was welcomed.

On September 14, the Senate approved S. 14 which included an amendment recognizing the fact that the Imperial Valley was never intended to be covered by the 1902 act and reaffirming the Federal Government's many previous assurances that Imperial Valley farmers were not subject to the limitations of the 1902 act.

As was illustrated during the Senate debate on S. 14, and during Senate hearings on that bill, the vast majority of the Imperial Valley farms are owned and operated by family farmers who generally live in the valley. Ninety-three percent of the irrigated acreage in the Imperial Valley and 94.5 percent of the farms are operated by families, and 76.5 percent of these landowners are residents of the Imperial Valley.

That is why I was a bit puzzled about the subsequent press coverage of the Supreme Court's decision to hear the Imperial Valley case. The Wall Street Journal, in an otherwise factual article, said:

> If the limit is upheld, large corporate farms in the Valley might have to sell off land to obtain water. Big landowners in the Valley include United Fruit, a unit of United Brands Co.; Purex Corporation; Tenneco Inc.; and Southern Pacific Co.

The New York Times, in their extensive article stated:

> Among the owners of the largest Imperial Valley farms are some of the country's biggest corporations: The United Brands Company, the Purex Corporation, Tenneco, Southern Pacific, the Standard Oil Company of California and the Irvine Co., among others.

Mr. Speaker, this is not the first time that erroneous impression has been conveyed that Imperial Valley is the bastion of corporate agribusiness, and I suspect it will not be the last, but I would just like to set the record straight on who owns and farms the land in the Imperial Valley.

Imperial Valley farmers, who have been dismayed by this type of reporting previously, had a complete title search made of the land within the Imperial Irrigation District by Safeco Title Insurance Co. of El Centro, Calif. Extensive research of the county tax assessor's records was also undertaken. And in order to double-check their finding, the companies referred to in the newspaper articles mentioned earlier were called concerning their ownership of farmland in the valley.

Here are the facts, Mr. Speaker. Standard Oil of California owns exactly 8 acres in the valley which are used for their 10 service stations. Their farm subsidiary neither owns nor leases farmland in the Imperial Valley.

Tenneco does not own land in the Imperial Valley.

Purex does not own or lease land in the Imperial Valley.

Southern Pacific owns 4,441 acres of land in the Imperial Valley, of which 540 acres is used for farming, and that 540 acres is leased to a local Imperial Valley family farmer. The balance of their land is used in relation to nonfarm or railway operations.

The Irvine Co. owns 4,163 acres of irrigated farmland. They have been in the process of selling off their landholdings, having disposed of 4,250 acres since 1970 with the most recent sale of 1,888 acres having taken place only last year.

United Brands and its subsidiary, Sun Harvest, including its division known as United Fruit, do not own any land. They do lease about 3,500 acres of land for the short lettuce-growing season in the valley.

So these, Mr. Speaker, are the "big corporate landholders" in the Imperial Valley. Their holdings constitute only a minute portion of the irrigated land in the Imperial Valley, and indeed, family farmers, as was envisioned by the Reclamation Act, are the ones farming the valley.●

THANKS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. FINDLEY. Mr. Speaker, the end of the year is an appropriate time to thank those who have been helpful in many tangible and intangible ways throughout the course of the year.

I would, therefore, like to express my gratitude to my colleague from Maryland, Mr. BAUMAN, my friend from Illinois, Mr. DERWINSKI, the able gentleman from Missouri, Mr. ICHORD, and my colleague on the Foreign Affairs Committee, Mr. SOLARZ. They have all contributed in an active, intelligent, and persevering way to the congressional effort to promote peace, stability, democracy, and majority-rule government in Zimbabwe-Rhodesia. Each has steadfastly defended his beliefs on the issue and each has compromised, in the end, to reach a congressional decision which promoted U.S. national interests and made me proud to serve in this institution.

If it were not for their important contribution to this debate, the United States might never have had a fair opportunity to understand and review the situation in Zimbabwe-Rhodesia. Despite the strong convictions on both sides of this issue, a consensus was somehow reached that ultimately turned out to provide the best opportunity to promote peace in Zimbabwe-Rhodesia. Congress played a positive role in promoting U.S. foreign policy interests, thanks in good part, to the role played by these gentlemen.●

GASOLINE SHORTAGES: IS THE DOE PREPARED?

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. McKINNEY. Mr. Speaker, for the past several months I have been keeping close watch over the trends in domestic gasoline supplies, as reported by the Department of Energy's Weekly Petroleum Status Report. Despite the fact that DOE's own statistics show gasoline supplies to be critically low, the Department has thus far failed to official acknowledge that fact and apparently is no more prepared to deal with the present supply shortage than they were during this summer's debacle.

After several unsuccessful attempts to obtain an acknowledgment of the seriousness of the supply situation from the Department of Energy in telephone conversations, I forwarded a letter to Secretary Duncan requesting: A statement on the supply situation; the accuracy of DOE's statistical reporting; and on any contingencies the Department might have prepared to address the continuing decline of gasoline stocks. Subsequent to my sending the letter December 10, 1979, the Department issued another statistical report, the contents of which confirm my fear of the impending crisis we face. In the latest report the trend in gasoline stocks continues to run directly contrary to normal, historical patterns and we continue to hover right at the DOE's minimum acceptable level. From November 30 to December 7, primary stocks of gasoline fell by 3.5 million barrels and are presently 1.9 percent below 1978 levels. Domestic refinery production of gasoline again declined by 300,000 barrels per day. And, imports of gasoline dropped another 1,000 barrels per day to a level that is 11 percent below last year. The critical level of primary supply, DOE's minimum acceptable level, for the month of November is 219 million barrels. For December the minimum acceptable level is 228 million barrels. As of December 7 the United States had 220 million barrels of motor gasoline in primary storage.

Mr. Speaker, every day that the situation worsens, it becomes more and more incumbent upon the Department of Energy to issue an official acknowledgment and begin to institute measures that will avoid a recurrence of the chaos and danger which we experienced last summer. I again call upon Secretary Duncan to inform the Congress as to these matters and I am including a copy of my letter to him for review by my colleagues.

The letter follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., December 10, 1979.
Hon. CHARLES W. DUNCAN, Jr.,
Secretary of Energy, Forrestal Building,
Washington, D.C.

DEAR SECRETARY DUNCAN: I am extremely concerned by the Department of Energy's failure to adequately respond to its own statistical reports which clearly indicate a serious shortage of motor gasoline in primary storage. Since August I have been scrutinizing D.O.E.'s weekly petroleum statistical reports (DOE/EPC-series) and have been made aware of some extremely troubling trends.

As you know, gasoline stocks normally grow at a steadily increasing rate during the autumn months. Thus, when the Department's report for the week of October 12, 1979 showed gasoline imports 46 percent below last year's level and domestic production of gasoline 1 million barrels short of last year's mark, I became concerned. That concern was temporarily allayed by a phone call to the Department's Energy Information Administration which provided the assurance that demand for gasoline was down and primary stocks were a healthy 4.5 percent above last year's level.

My concern again piqued when the October 26th report showed that in direct contrast to normal trends, gasoline stocks had dropped by 3.2 million barrels in one week. I was again assured, however, that lower demand and stock levels (that were now only 2.8 percent above last year's level) provided a safe margin of comfort. With the issuance of the November 16th report, gasoline stocks had further declined. Primary supplies were a mere 1 percent above the November 1978 mark and we were fast approaching D.O.E.'s own "minimum acceptable level" for gasoline stocks.

The November 23rd report, Mr. Secretary, showed gasoline stocks to be 2.3 million barrels below 1978 levels. For the first time this year, including the "summer crisis", stocks had fallen below the D.O.E.'s minimum acceptable level. Again, I called your Department to ascertain what action was contemplated in response to the most severe stock shortage of 1979. This time, however, I was told that stock levels were incorrectly calculated and were actually 7 million barrels higher than reported. Again, "no need to worry." That latest response, Mr. Secretary, seems dangerously akin to the solution adopted by the Senate Finance Committee upon discovering their Energy Security Trust Fund proposal short of necessary revenues—simply change the forecasts to improve the picture.

Very simply put, Mr. Secretary, either we are facing a serious supply shortage as the D.O.E. weekly petroleum statistics have shown since August, or, the Department's reporting and forecasting suffers a dangerous accuracy shortage. Even the "corrected" November 30th report lists the minimum acceptable level for the month of November at 219 million barrels (p. 9) but charts the November stock levels of 219 million barrels well above the minimum acceptable level (p. 12 grey area).

Even if gasoline stocks increase in the next few weeks, as the latest reports seem to indicate, the continuous decline of those stocks since July has already verified a trend that is directly contrary to normal supply patterns. Assuming that D.O.E.'s information does truly reflect the present supply picture, my concern remains. What is the Department of Energy's "plan of action" in response to decreasing gasoline stocks, declining crude oil runs and an 8 percent drop in refinery yields compared to November 1978? As you know, crude oil stocks are 8 percent higher than last year's mark. Still, excluding the alleged miscalculations of D.O.E.'s November 23rd report, primary stocks of gasoline have decreased by 16 million barrels from July to November. In light of that, why is the U.S. gasoline production down 10 percent from November 1978 and imports of gasoline simultaneously down 5 percent from November 1976?

Just prior to your taking office, Mr. Secretary, the Department of Energy allowed this country to run headlong into a horrendous gasoline supply shortage with virtually no warning. In fact, the Department's allocation policies contributed to the problem by maintaining the highest allocations where they were needed the least. Connecticut was among the hardest hit by low allocations and the severity of supply shortages in my own Congressional district was unsurpassed in any other region of the country. It appears from the Department's lack of response to our present six month decline in primary gasoline supplies, that few lessons have been learned from this summers debacle. Mr. Secretary, if we cannot rely on you for accurate and timely forecasting, less reliable information will undoubtedly be reported and ultimately recreate the panic we experienced this summer.

I am aware of the Departments recently developed program to reduce gasoline consumption in the various regions and jurisdictions of the U.S. Indeed, proper enforcement of such a program will be helpful in the long run. However, in the short term, if the Department allows us to again confront a severe supply shortage without adequate warning, I would expect the Congress to react swiftly and harshly and I would expect to be deeply involved in proposing such "remedial action." In this case, we would be justified in blaming the bearer of bad news.

I urge you, Mr. Secretary, on behalf of the Congress, the American public and indeed the future of the Department of Energy itself, to make the nation aware of both the seriousness of the shortage we face and any contingencies the Department has prepared to avoid a recurrence of this summers chaos.

Your prompt reply to my concerns would be very much appreciated.

Sincerely,

STEWART B. MCKINNEY.●

THINKING OF MOST AMERICANS ON IRAN CRISIS REFLECTED IN CONSTITUENT'S LETTER

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. DANIEL B. CRANE. Mr. Speaker, I join with many other Americans in applauding President Carter's actions in dealing with the Iran crisis. As you know, I telegraphed the President on Tuesday, November 6, urging him to take action to deport certain Iranian nationals and to dispatch an aircraft carrier to the Persian Gulf. I was therefore especially pleased that he took action on Saturday, November 10, in line with several of my suggestions.

Among the many letters and expressions of support for the position I enunciated is a letter from Brad F. Gritton, the head of the social science department at Potomac (Ill.) High School. I believe his comments, some of which are directed at my colleagues, reflect the thinking of the American people at this critical time. I would like to share Mr. Gritton's letter with my colleagues at this time by inserting it into the RECORD.

POTOMAC, ILL.,
November 7, 1979.

Congressman DANIEL B. CRANE,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN CRANE: I want to tell you that I whole-heartedly support your statement that appeared in tonight's Commercial News. It is not often that you find a public official that will speak out for the silent majority of Americans. I am glad that you did.

Many nations and people in the world today believe that America is no longer a strong nation; that she is afraid to stand-up and say what she believes, and that she is afraid to take any action. I am one American that is proud of his country and am tired of having other nations thumb their collective noses at us and then ask us for economic aid when conditions are rough in their own country.

I hope that you will continue to speak out for Americans and I hope that a majority of your colleagues will take up your battle cry. If these minor powers see that America will not bow to economic pressure and is not the easy giver of foreign aid, we may find ourselves in a better light throughout the world.

Sincerely,

BRAD F. GRITTON,
Social Science Head,
Potomac High School.●

TEMPLE ISAIAH URGES ASSISTANCE TO CAMBODIA

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. WAXMAN. Mr. Speaker, the board of trustees of Temple Isaiah in Los Angeles has adopted a resolution urging concerted U.S. action to provide relief for the starving people of Cambodia. It is my hope this resolution will serve as an example for other religious institutions, and that its provisions will guide our Government's actions in averting a larger tragedy.

I am pleased to bring Temple Isaiah's resolution to the attention of my colleagues:

RESOLUTION

On November 14, 1979, the Board of Trustees of Temple Isaiah adopted the following statement of principles regarding the starvation of the Cambodian people:

1. The impending starvation of the Cambodian people is one of the great moral tragedies of this century.

2. Unless food and medical aid is immediately and continually provided, millions will die—an entire nation will be annihilated.

3. Under such circumstances, the guiding principle of "Pekuah Nefesh"—saving human lives—must override all other considerations.

4. We call upon the government of the United States to use all diplomatic means at its disposal to assure the immediate and continued delivery of food and medical supplies to the people of Cambodia.

5. We call upon the government of the United States to make such assistance a matter of the highest national priority and to require the cooperation of all government agencies involved.●

FULTON J. SHEEN

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. MICHEL. Mr. Speaker, the death of Archbishop Fulton J. Sheen has reminded all of us of the unique and admirable role he played in American life for many years. Archbishop Sheen grew up in Peoria, Ill., and was a parish priest there. Two Peoria newspapers recently honored this great man of God in an editorial and article I hope will be read by many.

At this point I wish to insert in the RECORD, "Fulton J. Sheen" from the Peoria Journal Star, December 11, 1979, and "Archbishop Fulton J. Sheen" from the Catholic Post, December 16, 1979:

FULTON J. SHEEN

When Archbishop Fulton J. Sheen won an Emmy Award in 1952 for his television series, "Life is Worth Living," he asserted:

"I feel it is time I pay tribute to my four writers, Matthew, Mark, Luke, and John."

Milton Berle, whose comedy show competed for viewers—and lost—said more or less the same thing: "Of course, he had better writers."

While it was true that Archbishop Sheen, who died Sunday, had the advantage of inspired material, he achieved widespread acclaim because, unlike many other preachers working with the same writers, he knew what to do with the material.

Until Pope John Paul II came along, no other Roman Catholic clergyman was able to reach so many Americans—Catholic and non-Catholic alike.

Archbishop Sheen enjoyed such great popularity because he was the unusual combination of an intellectual who could make his message understandable to ordinary people.

Anyone who has read scholarly works knows that this is no minor achievement. Most writing by scholars these days is so full of technical jargon and fuzzy language that not even their peers can comprehend it. Most of them know what they mean, but they fail utterly to communicate the meaning to others.

Fulton Sheen demonstrated his rare eloquence and wit long before TV came into American homes. He was a popular radio preacher in the 30s and 40s, speaking to millions and demonstrating his remarkable ability to use anecdotes and other verbal illustrations to clarify difficult concepts.

But it was TV that gave him his phenomenal audiences; something like 30 million people watched his weekly show. Many of those viewers will carry with them forever the memory of Sheen turning to the blackboard to simplify a complex theological idea with the ease of Vince Lombardi diagramming a play for the Green Bay Packers—and just as effectively.

Archbishop Sheen preached love, not hate; reason, not emotion. Although his eyes were piercing and stern, he was not given to shouting and pounding the lectern. He had no need to. The clarity of his thought made higher decibels unnecessary.

Peoria has a right to be proud that Archbishop Sheen grew up in this area. Born on a farm near El Paso, he graduated from Spalding Institute and got his only experience in parish work on the south side of Peoria at St. Patrick's church. He used to say that he was sent to St. Pat's to see if, like an obedient young priest, he could take orders. He could, and nine months later he was sent to Catholic University in Washington, D.C., as a professor.

We mourn his passing, but with gratitude that this remarkable man of God called the Peoria area his home town.

ARCHBISHOP FULTON J. SHEEN—HE NEVER FORGOT THE FARM

(By Albina Aspell)

"I see you've come to have your faith lifted . . ."

"An atheist is a man without visible means of support . . ."

"Long time no Sheen . . ."

Such one liners, and the fact he gave credit to his writers—Matthew, Mark, Luke and John—endeared Archbishop Fulton J. Sheen to millions around the world who fell under his spell in his many long years on radio and television.

But to members of Sheen's family—his close relatives in the Peoria diocese—memories of deeper dimension were recalled this week as preparations were underway for the archbishop's funeral in New York. Their information corrected a few facts long popularly accepted. For instance, that he was born on a farm.

In truth, the future bishop was born not on a farm, but in an apartment over his father's hardware store, and he was christened not Fulton, but Peter John Sheen.

And the 60 years of his priesthood—years that took him from a crossroads town on the Illinois prairie to the capitols of the world and the church—were marked with very special achievement already well known and recorded.

Archbishop Sheen was a member of a large and now scattered Irish family, his kith and kin bear names like Cleary, Berry, Fulton, Hayden, McIntee, Kavanaugh, Wnite, Marlatt, Flynn, Chambers, Boyle, Coughlin, Shannon, Barrett, Flanagan, Phelan and, of course, Sheen.

And this is the way some of those who were closest to him remember him.

"He cried the loudest and screamed the hardest of any baby in the family. We all said later he was probably already practicing for the pulpit."

They referred, of course, to the timbre and power of his speaking voice which he trained even as a child. The story is that he often made up spiritual talks which he delivered before relatives, and already concentrated on inflection and proper dramatic effect. He was later to hone his skill on debating teams at St. Viator, and at Catholic University of America where he eagerly sought chances to speak in public and earned the name "Fulltone" Sheen.

The future archbishop was born May 8. 1895 in his parents' home in El Paso where his father, Newton Sheen, a widower and former farmer from Minonk, operated a hardware store. His mother was Delia Fulton Sheen, of Kickapoo, who traced her roots to the Irish village of Croghan, near Boyle, in County Roscommon.

Young Peter was the first, and smallest, of a family of four sons, but there was also a half sister, a daughter born to Newton's first wife, who, after the death of her mother, had been absorbed into the family of Newton's brother, Andrew.

While their firstborn son was baptized Peter John, the family says he refused to answer to that name almost as soon as he could talk, preferring instead to be known as Fulton, a tribute they say to his love for his maternal grandfather. He got his way even at that early age, and became Fulton J. Sheen forever more.

Young Fulton was of grade school age when his family moved to Peoria and enrolled him in the Cathedral school where he distinguished himself in his studies, sold ads for the cathedral bulletin, and served as altar boy to Archbishop John Lancaster Spalding, Peoria's first bishop.

In a return to Peoria in 1951, Sheen recalled the words of Aristotle:

"The really perfect movement is the circle because it always goes back to its beginnings. I have come back to my starting point—the city, the people, the clergy, the streets. I've lived under all the bishops of Peoria."

That was another thing about Archbishop Sheen, say his family and friends. He never forgot his roots. He never forgot the farm. While there wasn't much of the farmer about him, he was always happy to come back to his family's acres to relax and be reabsorbed into its pleasant, unhurried life.

But in truth, the Illinois soil never had much chance to stick to the soles of young Fulton's shoes. He was not one to poke around in the dirt and disliked farm work so much he often dodged it by burying himself in a book and leaving the chores to others. Given responsibility for the chickens, he hated the task so much, he said in later years he could never enjoy a chicken dinner.

A family story he often told on himself concerned a pet goat that followed him around when he was six. A real love affair developed between the young Fulton and the goat, and his family hoped it might lead to a love for farming as well. But Providence intervened, the goat wandered into the farm kitchen, helped himself to a large batch of bread dough that had been set to rise, and died shortly after of acute indigestion. Fulton took the loss with characteristic strength.

The Sheen family, while not poor, led a simple life. There was no running water in the home, and no phone, and the Sheens would use a neighbor's phone whenever they needed to make a call. But they enjoyed having people around and family gatherings were not unusual. (Although they owned good Haviland china, they used the old plates even when company came.)

Young Fulton was graduated from Spalding Institute for Boys and went off to St. Viator's in Bourbonnais, Ill. But he returned summers to Peoria where, since his family had moved to a farm in Wyoming, he boarded in the home of his cousins, the Arthur Fulton family on Linn Street, during his summer stints as a clerk at O'Brien-Jobst, a men's haberdashery.

"I remember very well the day he came to our house and told my family he was going to be a priest," says Mrs. Clarys Cleary, a cousin. "It came as no surprise. He read all the time; he was really a scholar."

Mrs. Cleary also remembers going to his ordination, and says there was no party, no celebration afterward. And she saw only little of him in his brief time as assistant at Peoria's St. Patrick's a few years later: he was too busy with parish work to visit very often.

The Bishop's years away from the diocese are no mystery—his fame grew and his accomplishments mounted and his relatives back home watched and cheered as honor piled upon honor.

"But he came back often; he liked to be with the family," says Mrs. Cleary, remembering that he always drove up in a big car. "And once when the pigs got out of their pen just as he arrived, he casually waved off the family welcome until they were corralled again.

"When he came back for my anniversary a few years ago, he went out and walked down the street in El Paso because he wanted to see the building he was born in. It has since been torn down, but then he wouldn't have wanted it preserved as an historic building or anything like that."

The Bishop's mother and father lived to see his fame, but they never visited him in Washington, D.C., or in New York, although he made himself accessible to members of his family.

He was generous with his nieces and nephews, helping them with funds for their education and often inviting them to visit in his home.

At the height of his fame, Archbishop Sheen was surrounded, even mobbed, by admiring crowds, and the same was true on his visits to Peoria. During his 1951 stay he drew vast numbers to his side here, but on his last trip at the age of 82, the occasion proved to be different.

Then, when he left the Peoria airport to return to New York, he was all but unrecognized. The crowd was young, and the small, dapper figure unfamiliar to all except a nun who, at the last minute, walked up, kissed him and walked on without saying a word. He took the gesture with equanimity, as if such spontaneous displays of affection were common.

"The young didn't know him, and the older people loved him so much they forgot convention," says Mr. Cleary, who remembers also that, as they prepared for his departure from the home of his nephew, Dr. John Sheen of St. Anthony's Parish in Bartonville, Mrs. Sheen asked if she could pack him a lunch.

The famous "Uncle Fultie" had replied that yes, she could.

And so Archibshop Fulton J. Sheen—who had dined with popes and princes, whose priesthood had taken him far abroad from the central Illinois crossroads to mingle with the rich and famous and who had made his mark forever on the church and the nation—left Peoria for the last time with a peanut butter sandwich in his pocket.●

THE NEED TO FOCUS ON MONEY MARKET MUTUAL FUNDS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. LAFALCE. Mr. Speaker, in recent months we have seen a great deal of press play on the soaring popularity of money market mutual funds, and for good reason: In 1979, the funds have nearly quadrupled to nearly $42 billion.

My concern over money market mutual funds—that is, funds which invest their customer's funds in such short-term certificates as Treasury securities, bank certificates of deposits, and commercial paper—is the fact that it is obvious that these funds have attracted a significant volume of dollars that would otherwise have gone to banks and thrift institutions.

The explosive growth of the money market funds is due, in no small part, to the overall shape of our economy and the chronic rates of inflation with which we all must deal. Depositors everywhere have become increasingly sensitized to regulation Q interest rate controls, and naturally seek the investment which provides the greatest yield. The end result of this, however, is that the housing market unduly suffers because funds are not available to be pumped into the mortgage market, and consumer loans will become less available and more expensive.

The upshot of all this is that we are witnessing a continuous shifting of deposits from a broad base of closely supervised financial institutions to a relatively small number of largely unregulated mutual funds. While money market funds must initially register with the SEC pursuant to the Investment Company Act of 1940, they are generally not subject to Government bank supervision regarding their day-to-day activities. This trend toward holding a large volume of consumer savings outside the established regulatory framework for assuring safety and soundness is already having an impact on the Nation's banks and thrift institutions, which threatens to become more severe as long as the present inflationary trend remains. In fact, the overwhelming popularity of money market funds could also frustrate efforts to reduce inflation.

Surely, regulating money market funds is not the panacea for our current economic ills, but it is a matter which beckons congressional investigation.

A recent newspaper article in the Washington Post accurately describes the money market fund phenomenon. I would like to share this article with my colleagues.

The article follows:

BORROWERS, LENDERS SCRABLE FOR FUNDS

(By Robert J. Samuelson)

Bill Donoghue is one of those irresponsible souls who seem to think faster than they talk, and he talks so fast that he usually answers your next question before you ask it. But there is something fitting in his style, because he has become the Howard Cosell of an astonishing new phenomenon: money market mutual funds.

Money market funds? In case you hadn't heard, they're mutual funds that invest in large—typically $100,000 or more—short-term securities: bank certificates of deposit; commercial paper, which is unsecured loans to corporations and banks; and U.S. Treasury securities. In 1979, the funds have quadrupled to nearly $42 billion; Donoghue, who runs a newsletter that he modestly calls Donoghue's Money Fund Report, thinks they may hit $100 billion in 1980.

These mutual funds represent something of a triumph of financial democracy. By merging amounts as small as a $1,000, they allow individuals to invest in higher-yielding securities once reserved for corporations and the very wealthy. Donoghue follows 75 funds and, in November, their average interest rate exceeded 12 percent.

But this is more than a financial innovation. Money is power, and the mobilization of such sums raises important political, social and economic issues. Not even Donoghue thinks the mutual funds could capture all consumer savings deposits, which stood at $1.1 trillion at the end of 1978. But as inflation consciousness spreads, they may compete for one-fifth to one-third of the total.

Traditional depository institutions—banks, savings associations and credit unions—could lose much of their base of personal savings. Conceivably funds could be drawn out of housing into corporate and government securities, or out of small cities and rural areas into the major big-city money centers. Federal regulatory agencies dramatized that threat last week by authorizing banks and savings associations to issue new savings certificates with sharply higher interest rates.

At one level, the competition pits Wall Street against Main Street. Most of the money market mutual funds are sold by brokerage houses. The brokers typically earn a management fee of 0.5 percent or less of the funds' assets.

But the real conflict is more complicated. It isn't so much between brokers and banks as between borrowers and lenders. For years, a variety of federal and local regulations effectively have subsidized borrowers at the expense of lenders.

It's easy to portray the regulations as hurting evil lending institutions and helping the average borrower, but that isn't how it was. The average Joe and Jane were also the lenders, and federal interest-rate ceilings prevented them from earning adequate interest rates on their savings. If borrowing rates were lowered somewhat by this cheap money—and also by various state usury ceilings—the extra inducement to take down real estate and consumer loans probably has added to today's inflationary momentum.

In any case, this artificial system is disintegrating, and money market mutual funds are a big part of the story. To see them as Everyman's antidote to inflation is an exaggeration, of course. They appeal primarily to the upper middle class, which probably means families with annual incomes exceeding $25,000—a group that includes about one-fourth of all families. Most of the mutual funds have minimum investment—for example, $5,000 for Merrill Lynch & Co. Inc.'s Ready Assets Trust, which is the largest.

But this new mobility of savings also means that the old, subsidized borrowers may no longer get their accustomed share of credit. We now have a pool of nearly $300 billion in consumer deposits that is up for grabs by depository institutions and the mutual funds. That pool consists of the existing mutual funds and about $250 billion in six-month money market certificates at depository institutions.

Issued in minimum amounts of $10,000, these money market certificates—not to be confused with the $100,000 certificates of deposit—already constitute one-fourth of deposits at savings associations. By regulation, their interest rates are tied to the rates on Treasury bills. Inevitably the availability of these certificates has sensitized savers to higher market interest rates. Much of this money, therefore, is vulnerable to being transferred to mutual funds.

Why would anyone shift? Personal preference, mostly.

The money market certificates give you a fixed rate of interest for six months, which is good if rates go down but bad if they don't. The new savings certificates complicated the decision even further by offering slightly lower rates of interest and maturities of two and a half years. By contrast, the mutual funds give you the option of putting money in and taking it out at will. Savings associations, credit unions and banks—especially small banks that have relied heavily on consumer deposits—could lose deposits or experience reduced deposit growh. Their lending, particularly mortgage lending, could suffer.

That isn't inevitable, of course. All these institutions could attempt to sustain their lending by issuing their own $100,000 certificates of deposit, which would be bought by the mutual funds. In effect, the banking institutions would be borrowing the money back and, to some extent, this already has occurred. But such large-scale borrowing may be too great a leap of sophistication for many smaller banks and associations. They're competing with the certificates of deposit which big-city banks have offered for years and with the commercial paper of major corporations.

Moreover, this money-shuffling game might raise questions about the safety of the mutual funds. Donoghue is surely right when he argues that—despite the absence of anything comparable to deposit insurance—they are now safe. To meet withdrawal demands, the funds simply can sell securities. But as the funds expand, they not only will attract less knowledgeable investors but also induce the creation of more commercial paper and certificates of deposit. Quality may suffer.

The basic problem here cannot be made to disappear by repressing the mutual funds, but only by unshackling the banks and savings associations from all the government restrictions—mostly interest-rate limitations on deposits and loans—that inhibit them from competing effectively for consumer deposits. Over the long run, that may mean slightly higher average loan rates. But it's the only way to assure the stability of our savings institutions and the continuity of credit flows.

Last week's column said U.S. apparent steel consumption in 1978 was 119 million tons. The correct figure is 116.6 million tons.●

COMMISSION NEEDED

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. GUARINI. Mr. Speaker, we all know that the world is facing an energy crisis. Our fossil fuel supply is rapidly dwindling, and our expansion and development of alternate energy sources is not progressing quickly enough to displace a significant portion of the oil we use. As a result, the only way we can cope with the problem is by asking the American public to make sacrifices. Well, the American public has made sacrifices. Average consumption of gasoline has dropped over 500,000 barrels a day since last year, and our citizens are willing to do more if necessary.

However, everyone is not sharing the sacrifice equally, and some are exploiting the situation outright. The major oil companies have throughout this crisis reported higher and higher profits. Every time OPEC raises its prices, the profits of the oil companies rise along with them. And their profits rise even though the American people are consuming less oil.

I certainly believe that an oil company, like any other, deserves to receive a fair return on its investment. This is the backbone of the American economy; and, throughout the history of the oil industry, investors have received a fair return. However, 200 percent increases in profits every quarter—while the rest of the Nation loses ground against inflation—do not seem to me to be fair or reasonable. If the oil companies will not exercise some restraint in the public interest, I believe it is up to us in the Congress to do something about it.

That is why I am today introducing legislation which will call upon the President to appoint a commission to study one possible answer to this problem. The commission would study the feasibility of making the energy industry a national public utility, much like the telephone companies and gas and electric utilities. I believe this concept, if applied to the oil and other energy industries, could be used to make the oil companies more responsive to the needs of the public.

The commission would look into what impact the various types of regulation would have on oil production, refining and distribution; what segments of the energy industry should or should not be regulated for the most effective production, refining and distribution of energy; and what effects this type of regulation will have on the consumers of energy.

I believe this study commission can furnish the Congress with useful information about how better to bring the energy, and particularly the oil, industries in line with America's interests, and to provide the American people with an adequate energy supply at a reasonable cost.●

MD-GOVERNOR'S RX: STRONG MEDICINE

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. HILLIS. Mr. Speaker, in the December 7 issue of the American Medical News there appears an article on Governor Bowen of Indiana entitled "MD-Governor's RX: Strong Medicine." Governor Bowen, as the article details, has proven to be one of the most popular and effective Governors in the State's history. In recognition and appreciation of the Governor's fine work, I am placing a copy of the article in the RECORD at this point:

MD-GOVERNOR'S RX: STRONG MEDICINE

He is the Marcus Welby of politics.

However, Otis Bowen, MD, unlike television's doctor saint, is anything but celluloid. In seven years as governor of Indiana, he has built up unparalleled popularity and carved out pace-setting legislation. Keen intelligence and adroit political instincts are among his abilities, but the words Indiana citizens keep mentioning have an old-fashioned ring: "honest," "sincere," and "real."

The Bowen administration has come to be synonymous with a word usually not associated with the political scene: integrity.

In 1972, he was elected to Indiana's highest office by a record 303,000-vote margin. In 1976, he was reelected by 309,000 votes.

There is a reason. In fact, there are six reasons. When Dr. Bowen campaigned in 1972, he pledged six goals: To reduce property taxes, break the crime cycle, improve cooperation between state and federal governments, clean up the welfare mess, improve the highways, and care for the handicapped. The goals have not all been reached, but the progress is marked.

The popularity of the Bowen administration is one of this nation's untold political stories. It's not that the Indiana media have not been supportive—their editorials about the physician governor read like love letters—it's just that Indiana does not play that well in New York and Washington, D.C.

But recognition is building. Dr. Bowen, 61, is not only chairman of the Midwest Governors Assn. and the Republican Governors Assn., but this past summer was elected chairman of the National Governors Assn.

Not bad for a former coroner of Marshall County, Ind., in the tiny town of Bremen. Dr. Bowen got hooked on what he calls his "incurable disease" with election in 1952 as county coroner, a position "more or less filled by physicians as a professional obligation. It was just my turn to run."

He went on to serve seven two-year terms in the Indiana legislature, including three as speaker of the house. He was rebuffed in

1968 in his first bid for governor, and patiently returned to his job as a state legislator.

Sitting in his enormous, ornate office in the Indiana State Capitol Building in Indianapolis, Dr. Bowen makes it clear his life does not depend upon politics.

"The legislature only meets 81 days a year," he says, "and I carried on an active family practice until my election as governor in 1972." He invariably signs all state correspondence as "Otis Bowen, MD," and insists that the "MD" be included on state signs and other official things "because I worked awfully hard for that degree."

His 1972 campaign slogan was "He hears you," and Dr. Bowen crisscrossed the state to listen to the people. He said he wanted to "solve problems" to "help people." At 5′7″, 180 pounds, Dr. Bowen reminds some of the late actor Spencer Tracy. With his silver hair, horn-rimmed glasses, and three-piece gray-striped suit, he reminds others of the local Rotary president. His warmth and wisdom remind most of the country doctor he is. He looks, in fact, like almost anything but a politician.

"It's funny," Dr. Bowen says, "I can remember that 1972 slogan like it was yesterday. But for the life of me, I can't remember what our slogan was the next time around."

He really didn't need one. In urging his reelection, Indiana newspapers issued enthusiastic editorials of unprecedented unanimity: "A second term for Doc," said the Indianapolis News; "Carry on doctoring," read the paper in Portland, Ind.; and "Gov. Bowen: a remarkable rarity," read the Michigan City News-Dispatch. Concluded the Portland, Ind., newspaper: "Voting for Doc Bowen will secure for Indiana another four years of the services of an executive of uncommon ability and integrity."

Dr. Bowen is interchangeably referred to as "Doc" and "Governor," and he likes it that way. "Government is much like medicine," he says. "You diagnose a problem and then you prescribe a remedy."

Dr. Bowen has prescribed some strong medicine, but always in the interests of what he considers the general welfare.

His landmark accomplishment is the "property-tax relief" package he pushed through the 1973 legislature. This program, which predated California's heavily publicized Proposition 13 tax bill by five years, cut property taxes by doubling the state's sales tax (to 4 percent) and clamping strict controls on levies of local governments and school districts. "In 1973," Dr. Bowen says, "the statewide average property-tax rate was $10.05 per $100 of assessed valuation. This year, it was $7.11."

His real stature, though, comes from the special interests he has taken on in the name of the common good.

He said that pari-mutuel horseracing betting was not worth the money it might bring to state government, and three different times he vetoed a betting bill. When the legislature overrode his third veto, he went to court and had the law declared unconstitutional.

He said that he would not approve collective bargaining for policemen and firemen unless there was a no-strike provision. When legislation was approved without this safeguard, he vetoed it.

When arguments were raised that the state could use money from a lottery, he said that the added revenues were not worth the bother. He vetoed the bill.

When liquor legislation raised the possibility of price-fixing, he vetoed it.

When truckers successfully campaigned for a bill raising load limits to 80,000 pounds, he announced that he would veto it. "Trucks do not pay enough highway taxes to cover the additional damage that would come from an increased weight limit," Dr. Bowen declared—before a convention of the Indiana Motor Truck Assn.

During the coal strike of 1978, he activated the National Guard to escort convoys carrying coal to public utilities. "Why should Indiana schools be closed and residents face blackout simply because union coal miners don't want to work?" the governor concluded.

In medicine, he six years ago pushed through a tort-reform package that helped solve the malpractice insurance problem for Indiana's physicians—and patients—while most other states were only beginning to recognize the problem. He vetoed a laetrile bill, although state legislators would later reverse the veto and legalize the apricot-pit substance as a treatment for cancer. When the medical examiners board relicensed a convicted psychopath, he revoked the license and accepted the board's mass resignation.

This past summer when President Jimmy Carter held his economy summit at Camp David, Md., Dr. Bowen was the only Republican invited. After the conference while prominent Democrats assailed President Carter's lack of leadership, the Indiana governor urged the nation to give the President "time to reassess his Administration's policies on energy and inflation." In Louisville, where he was chairing the National Governors Assn. meeting, he asked his gubernatorial colleagues to hold off on criticisms of Carter "until he can unveil his new programs."

There is more, but you get the idea.

In practicing superb politics, Dr. Bowen has, in sense, transcended them. He is known for his personal honesty first and as a candidate second. Or, in the words of the 1976 slogan that escaped his memory, "Doc Bowen—A governor first, a candidate second."

When he and his wife Beth set off on an afternoon walk in Louisville at the National Governors Assn. meeting, they were stopped by so many people—press, staff, governors—they finally gave up and returned to the hotel. Part of this was due to Dr. Bowen's recent return from the Camp David summit, but most of it was because he has friends that cross political party lines.

On a less impressive but more telling level, the Bowen appeal was summed up in a letter to the editor of the *Paoli* (*Ind.*) *Republican*. Dr. Bowen's decision to get the coal through angered some miners who suggested the governor might have a financial interest in the mines. Said the letter writer: "Gov. Bowen is known by all Hoosiers as an honest and truthful man, and any statement he makes has never been doubted. We talked to him and he told us he had 'not one nickel' invested in any coal mining operation anywhere. That's good enough for us."

A few years ago, a marketing opinion firm under contract to the Republican State Committee surveyed Dr. Bowen's public image. "By a substantial margin," the firm reported, "the voters agree that the two words which best describe Otis Bowen are 'honest' and 'sincere.' Of clearly secondary importance are his position as a doctor, his interest in people, a down-to-earth person, 'morally good,' 'like him—nice guy', and a good governor."

The governor's friends, critics, and fellow state politicians were asked to comment on the poll's findings and concluded, in the words of one, "He comes as near being one and the same man in public and private as anyone I ever saw."

The physician has not yet achieved sainthood. One respondent pointed out, "He is not as good a fisherman as he thinks he is." Another noted that, "He can sometimes get angry. You can tell when he sets his jaw or taps his right foot. But it goes down as quickly as it comes up."

Dr. Bowen is patient and polite, but known to be firm. When he was booed by state employees seeking higher pay, he reminded the crowd that it had invited him to speak and asked that it be courteous enough to let him do so. When angry truckers requested a meeting only to tell him, "You don't understand the problems of the trucking industry," he responded, "Well, you don't understand the problems of running a state government. Meeting adjourned!"

For seven years, Dr. Bowen has run state government in the same calm, cool, and collected manner he used to run his family practice in Bremen—reassuring here and remedying there. When in 1976 he decided to seek a second term, he chose for the announcement not the state capitol of Indianapolis but high school graduation ceremonies in Bremen. Many of the senior class remembered that they had been delivered by the physician governor. The candidate said simply, "I want to complete the work now under way. I am running for the people of Indiana. It will be a positive endeavor. I am not running against anything or anybody."

The voters heard him. Not only was he returned to office by a record plurality, but his voter-approval rating has hovered at 70 percent—an unheard of popularity level for politicians in the post-Watergate era.

His office staff refer to him "as the most demanding person of himself I have ever known. He works incredible hours."

This day, he is leaving early (4 p.m.) for a haircut. The governor is participating in an evening roast of a canning-industry lobbyist. He works hurriedly to read some of the 900 staff-written letters that are sent each week from his office, often with gubernatorial additions penned into the margins. Each of the 900 are read each week by the governor. He also writes a newspaper column, "Capitol Comments" and participates in a weekly "Report from the Statehouse" television news conference. He has 250 speaking engagements a year. It is all part of his pledge to listen to the people.

Tonight's speech is light fare. Gov. Bowen is an old hand, having "participated in about 50 roasts and been the object of several." A few hours later in French Lick, he takes the podium to a standing ovation and begins, "As governor, I have coped with floods, droughts, cold weather, strikes, and emergencies. I have survived World War II, three major operations, and several accidents. Tonight, I aim to make it all worthwhile. . . ."

Relaxing later in the state police plane at his disposal, the Republican governor says he is uncertain about his future plans. This past spring, he decided not to try for the Republican nomination, that was his for the asking, to oppose Birch Bayh for U.S. Senator from Indiana. ("I would have won," he says softly.) The governor's wife suffers from a bone-marrow disease, and he preferred being with her to campaigning.

Then, too, he is not so sure how he would like working for the federal government, which he thinks has "gobbledygook" regulations and programs that "sometimes are such that the money you get from them costs you more than what it's worth." He is a free-enterprise man, pointing out, "The post office and railroads, I think, are pretty good examples against undue federal control." He likes Jimmy Carter better than Teddy Kennedy, who "frightens me with his liberal programs," and likes Kennedy better than Jerry Brown. He does not yet have a preference for the Republican candidate for President.

In recent months, Dr. Bowen has been mentioned as a possible vice presidential candidate. Some Indiana columnists have even mentioned that he is exactly what the country needs as a President. Dr. Bowen calls the speculations "far-fetched," but says he would serve if called. He chuckles at recalling how during a pre-roast cocktail party one young man described being a National Guard officer and barring Dr. Bowen from a parade. "I didn't know who you were," the Guardsman told his commander-in-chief.

The next day, he is at work at 8 a.m. for a staff meeting. He delegates the routine workings of government to his seven executive assistants.

"You wake up every morning," he says, "hoping somebody hasn't run off with the store during the night."

Today's crisis is an overturned truck leaking vinyl chloride. Nearby residents will have to be evacuated. At 10:30 a.m., he approves a feasibility study to build a new office complex for the state capitol ("We have too much bureaucracy, but realistically, we know that in the years ahead there will be more state employes.")

Lunch is set aside for trustees from Purdue U. honoring that university's recent Nobel laureate.

That afternoon, he meets the television press in "Statehouse Report." One of the reporters, UPI's Hortense Myers, meets him at the capitol building to be driven to the conference. They are old friends and, Hortense points out, "Like the governor says, it helps to conserve fuel." Another woman panelist asks the physician what he thinks of the recent Indiana elections in which several women were elected. "I think it's long overdue," Dr. Bowen says.

Later, he will meet with various delegations. He decides to beef up security for the local historical society and declines to meet new demands from the state patrolmen's association. Long into the night, he works at his paperwork. Will, his driver-bodyguard observes that he is "usually the last person to leave the office." At 7 p.m., he finishes, turning out the office lights as he leaves. Walking through the marble corridors of the capitol building, he makes small talk with the clean-up crew.

At home in the governor's residence, Dr. Bowen likes to relax by playing the organ. Wife Beth, mother of four, Indiana's 1978 "Mother of the Year," and a past president of the Indiana State Medical Association Auxiliary, needlepoints beside him. The Bowens' upstairs living quarters are off-limits during official state functions. ("I want this to be a home, not a museum," says Mrs. Bowen. "That's why we discontinued the guided tours.")

Dinner talk is about the family and friends. Dr. Bowen takes time out on the phone to keep the vinyl chloride crisis in hand, but his real satisfaction comes from learning from Beth that the caretaker of the gubernatorial residence has been able to purchase at a fair price the governor's old car leased for him by the state. The caretaker's wife, who is the Bowen's cook, is equally happy, as her husband was "giving me no peace. He said he was going to pay cash, because this will be his car."

The Governor is asked if his low-key style has hurt his potential as a national personality. "I'm not one for flash and dash," the physician says, "but I believe that if you just keep at things, everything will work out. It's much more satisfying in the long run."

He may lack color and controversy, but Doc Bowen is a Hoosier original. Like Notre Dame football and the Indianapolis 500, he represents a slice of Americana. Although he might not have the charisma to ignite national media attention, few politicians inspire the kind of editorial Dr. Bowen received in the Bluffton News-Banner when he decided he would not seek a senate seat.

Titled, "Governor Bowen, a fine person," the newspaper noted, "The greatness of Dr. Bowen has been evidenced in the great battles he has fought—for property tax relief, for budget control, for public health and a good environment, for law and justice and decency . . . this man could be elected President of the United States."

Dr. Bowen will leave office next year (he is barred by statute from a third term) with Indiana government debt-free and money in the bank.

He doesn't know what's next. "I may go back to practicing medicine in Bremen. I really don't have time to consider opportunities now, because I have another year to run this state and I don't want to have a lame-duck administration."

As a country doctor and a politician, Dr. Bowen has seen it all. He concludes, "You take it as it comes."●

ELMWOOD PARK SPEAKS OUT

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. HOLLENBECK. Mr. Speaker, strong support for the release of U.S. hostages in Iran has been expressed throughout the Nation. In the face of this continuing crisis, many citizens have written letters to Iran, or to the Iranian Embassy here in Washington. I applaud these efforts and hope they will continue to show Iran and the rest of the world that the American people have taken a determined and united approach in protecting the lives of Americans and the honor of this Nation.

I am, therefore, pleased that the citizens of Elmwood Park, N.J. have expressed their feelings on the crisis in Iran. The patience and deliberate actions taken by the American people in support of the Government's negotiations to secure the ultimate release of the hostages is to be commended. The American people are aware and stand together on this matter, and I believe the following resolution is a fine example of the true concern being expressed for their fellow Americans held hostage in Iran.

The resolution is as follows:

OFFICE OF THE MAYOR,
Elmwood, Park, N.J., December 6, 1979.

RESOLUTION PROPOSED BY MAYOR R. A. MOLA

Whereas, the residents of Elmwood Park, in the State of New Jersey, have always exhibited a strong sense of national loyalty and patriotism; and

Whereas, our Nation has been placed in the unenviable position of having its foreign representatives taken as hostages with the consent of the Iranian government; and

Whereas, our national leaders are attempting to gain the release of our citizens through peaceful and diplomatic channels; and

Whereas, these pacifistic methods are not to be construed as a lack of either spirit, national unity or a firm conviction to stand by our flag, our government and the ultimate release of all United States hostages in Iran;

Now therefore be it resolved that the Mayor and Council of Elmwood Park, in the State of New Jersey in the United States of America, acting in behalf of our community of 20,000 residents stands firmly behind our leaders in a strong sense of national unity; and

Be it further resolved that the Iranian Diplomatic Corps in Washington, D.C. and the Iranian delegation to the United Nations be notified of our community's pledge of loyalty and determination to remain united, strong and unswerving in our effort to free our people.

RICHARD A. MOLA,
Mayor.●

STATEMENT ON THE ESSENTIALS OF EDUCATION

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. KILDEE. Mr. Speaker, I wish to bring to the attention of the Congress a statement entitled "The Essentials of Education," which has been endorsed by several prominent organizations in education. The endorsing organizations are: American Council on the Teaching of Foreign Languages, Association for Supervision and Curriculum Development, International Reading Association, Music Educators National Conference, National Art Education Association, National Association of Elementary School Principals, National Council for the Social Studies, National Council of Teachers of English, National Council of Teachers of Mathematics, National Science Teachers Association, and the Speech Communication Association.

The statement follows:

THE ESSENTIALS OF EDUCATION

PREAMBLE

Society must reaffirm the value of a balanced education.

Leaders of several professional organizations reached this conclusion in 1978. They circulated a statement on the essentials of education among a number of professional associations whose governing boards endorsed the statement and urged that it be called to the immediate attention of the entire education community, of policy makers and of the public at large.

The statement that follows embodies the collective concern of the endorsing associations. It expresses their call for a renewed commitment to a more complete and more fulfilling education for all.

The associations invite the concurrence, support, and participation of everyone interested in education.

Public concern about basic knowledge and the basic skills in education is valid. Society should continually seek out, define, and then provide for every person those elements of education that are essential to a productive and meaningful life.

The basic elements of knowledge and skill are only a part of the essentials of education. In an era dominated by cries for going "back to the basics," for "minimal competencies," and for "survival skills," society should reject simplistic solutions and declare a commitment to the essentials of education.

A definition of the essentials of education should avoid three easy tendencies: to limit the essentials to "the three R's" in a society that is highly technological and complex; to define the essentials by what is tested at a time when tests are severely limited in what they can measure; and to reduce the essentials to a few "skills" when it is obvious that people use a combination of skills, knowledge, and feelings to come to terms with their world. By rejecting these simplistic tendencies, educators will avoid concentration on training in a few skills at the expense of preparing students for the changing world in which they must live.

Educators should resist pressures to concentrate solely upon easy-to-teach, easy-to-test bits of knowledge, and must go beyond short-term objectives of training for jobs or producing citizens who can perform routine tasks but cannot apply their knowledge or skills, cannot reason about their society, and cannot make informed judgments.

What, then, are the essentials of education?

Educators agree that the overarching goal of education is to develop informed, thinking citizens capable of participating in both domestic and world affairs. The development of such citizens depends not only upon education for citizenship but also upon other essentials of education shared by all subjects.

The interdependence of skills and content is the central concept of the essentials of education. Skills and abilities do not grow in isolation from content. In all subjects, students develop skills in using language and other symbol systems; they develop the ability to reason; they undergo experiences that lead to emotional and social maturity. Students master these skills and abilities through observing, listening, reading, talking, and writing about science, mathematics, history and the social sciences, the arts and other aspects of our intellectual, social, and cultural heritage. As they learn about their world and its heritage they necessarily deepen their skills in language and reasoning and acquire the basis for emotional, aesthetic and social growth. They also become aware of the world around them and develop an understanding and appreciation of the interdependence of the many facets of that world.

More specifically, the essentials of education include the ability to use language, to think, and to communicate effectively; to use mathematical knowledge and methods to solve problems; to reason logically; to use abstractions and symbols with power and ease; to apply and to understand scientific knowledge and methods; to make use of technology and to understand its limitations; to express oneself through the arts and to understand the artistic expressions of others; to understand other languages and cultures; to understand spatial relationships; to apply knowledge about health, nutrition, and physical activity; to acquire the capacity to meet unexpected challenges; to make informed value judgments; to recognize and to use one's full learning potential; and to prepare to go on learning for a lifetime.

Such a definition calls for a realization that all disciplines must join together and acknowledge their interdependence. Determining the essentials of education is a continuing process, far more demanding and significant than listing isolated skills assumed to be basic. Putting the essentials of education into practice requires instructional programs based on this new sense of interdependence.

Educators must also join with many segments of society to specify the essentials of education more fully. Among these segments are legislators, school boards, parents, students, workers' organizations, businesses, publishers, and other groups and individuals with an interest in education. All must now participate in a coordinated effort on behalf of society to confront this task. Everyone has a stake in the essentials of education. ●

RISK AND OTHER FOUR-LETTER WORDS

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● **Mr. PAUL.** Mr. Speaker, Mr. Walter B. Wriston, chairman of Citicorp, recently addressed the Economic Club of Chicago on the subject of "Risk and Other Four-Letter Words."

Mr. Wriston's talk is an eloquent indictment of the self-styled consumerists who, in seeking a governmentally mandated risk-free society, are doing horrendous damage to consumer interests. Only a free market, free of governmental interference, can serve the consumer.

I would like to call this speech to my colleagues' attention:

RISK AND OTHER FOUR-LETTER WORDS

(By Walter B. Wriston)

The men and women who founded our country were at once adventurers who took personal risks of the most extreme kind and pragmatists who wrote a Constitution based on the tested theory that men are not gods. No assumptions were made that elected leaders would all be selfless persons devoted to the public interest. Rather, the rock upon which our structure rests is a Constitution that diffuses power, lest one person or group grow too powerful. Alexander Hamilton put it succinctly when he said, "If men were angels no government would be necessary." The system they devised based on this assumption about human nature has stood the test of time. Our government has proved to be one of the most enduring in history.

While the constitutional framework set limits on power, the driving force of our society is the conviction that risktaking and individual responsibility are the ways to advance our mutual fortunes. Our Founding Fathers were themselves political adventurers and fighters who did not hestiate to sign a document pledging "our Lives, our Fortunes, and our sacred Honor" in pursuit of a brighter future against overwhelming odds. They would have been more than a little surprised to learn that what they were really fighting for was a totally predictable, risk-free society.

THE RISK-FREE GENERATION

Today, however, the idea is abroad in the land that the descendants of these bold adventures should all be sheltered from risk and uncertainty as part of our natural heritage. We seem to have raised a generation of advocates, writers, and bureaucrats to whom the word "risk" is an acceptable term only when used in connection with promoting a state lottery. Emerson's counsel, "Always do what you are afraid to do," is now rejected as too upsetting, and one should steer the safe noncontroversial course. One has only to look at the gray stagnation of planned societies where this idea is far advanced to wonder how such a system can continue to attract so much intellectual support. But it does.

It can be argued that if the desire to avoid risk above all else becomes the predominant objective of American society, it may in the end destroy not only our economic system but our form of government along with it. At bottom, democracy itself rests on an act of faith; on a belief in individual responsibility and the superiority of the free marketplace, both intellectual and economic, over anything that might be devised for us by a committee of bureaucrats disguised as guardian angels. There is real reason to fear that those who do not share that faith, in their efforts to build a risk-free society, have in fact not only drained the spirit of our people but have already seriously impaired the viability of the most productive economic system that the world has ever seen.

THE CONESTOGA WAGON WAS UNSAFE AT ANY SPEED

This is a relatively new problem for Americans. The whole of this country was opened up by people who were—no less than the Founding Fathers—at once adventurers and patriots. My own grandmother, in company with hundreds more, went west in a Conestoga wagon, which by today's standards was unsafe at any speed. The environmental problems were enormous. They used buffalo dung to fuel their campfires. Half of the wagon train in which my grandmother traveled was massacred by Indians. But many more followed in their tracks along trails which today no government agency at a city, state, or federal level would think of certifying as safe for travelers. In fact, the pioneers would probably not even be allowed to settle down at the end of their journey. The sparkling, exciting city of San Francisco was built and rebuilt on a set of hills that would test the footing of a mountain goat. And if that is not bad enough, it lies along the San Andreas earthquake fault which has already destroyed it once. No modern urban planner could possibly approve the building of San Francisco today. The risk would be said to be too great.

The unremitting atmosphere of protective custody which now seems to surround us is producing a new kind of national mood. The American spirit of optimism and enterprise is being overwhelmed by a malaise perhaps best described by the English journalist, Henry Fairlie, when he wrote:

"If the American people for the first time no longer believe that life will be better for their children, it is at least in part because they are beginning to think that there will be no food which their children will be able to eat without dying like rats of cancer, no form of transport that will be considered safe enough to get them from here to there, and in fact nothing that their children may safely do except sit like Narcissus by a riverbank and gaze at their wan and delicate forms as they throw the last speck of Granola to the fish."

This is a far cry from the spirit of enterprise that turned a raw continent into a great nation. Of course, there have always been those among us who bewail all forms of risk: political, economic, or personal. They are the ones who have never understood the Biblical injunction, "For whosoever will save his life shall lose it." But such people of little faith did not always have a nationwide, instant forum for their timid views nor the power to enforce them upon others. When the great English constitutional scholar, Lord Bryce, uttered his judgment that the American "Constitution is all sail and no anchor," his verdict was not proclaimed electronically around the world. In fact, it passed almost unnoticed. There was no clamor for a new constitutional convention to remedy our disastrous mistake, so clearly identified by an "expert." Today, however, we all live in Marshall McLuhan's "global village," and Chicken Little runs through the square twice a day.

SIMPLEMINDED PANACEAS FOR COMPELX PROBLEMS

In times past, ideas spread by pamphleteers and later on in books and by the press. Great centers of learning grew up which refined and nurtured ideas and passed them on from one generation to another. This same function was also performed by the churches. Today, a pop phrase rooted in some private discontent, some transient desire to transfer responsibility for one's own actions to somebody else, or some simpleminded panacea for complex problems, is echoed and re-echoed throughout the land in a matter of minutes on the 7 o'clock news.

The signs carried by a hundred protestors on the site of a nuclear plant may be seen instantly by 50 million Americans in living color. Contrast the impact of this with the great draft riots in New York in 1863 where mobs ranged over the city for four days and four nights, looting and burning. It was only on the fifth day that 6,000 federal troops poured into the city and order was restored. Most Americans living at that time never heard of the incident. One of the so-called "volunteer special" policemen who was involved in the riot said, "No adequate account of the draft riot of 1863 has ever been printed."

Today cameras zoom in on the face of the man struck by the rock or the policeman's club. I do not argue here that this is bad, far from it. But I have to observe that, for the first time in the history of man, our life with all the flaws inherent in human nature, all the breakdowns in technology, and all of our social foibles is communicated instantly to the world. Things will inevitably go wrong, because men still are not gods. But because all the failures, the mistakes, and the accidents intrude upon our consciousness in an almost unbroken stream, the clamor grows for a fail-safe society.

This growing thirst for an impossible physical and economic security has a direct bearing on whether or not we will maintain our spiritual and political freedom. The relevance of risk to liberty is direct and clear. For in the end, it always turns out that the only way to avoid risk is to leap into the arms of an all-knowing government. George Gilder put it best when he wrote:

"Strangely enough, the man who sees a future blighted by coercion and scarcity also tends to believe that the present can be made as free of risk and uncertainty as the past, receding reassuringly in the reliable lenses of hindsight. He calls upon government to create an orderly and predictable economy with known energy reserves always equaling prospective needs; with jobs always assured in current geographic and demographic patterns; with monetary demand always expanding to absorb expected output of current corporate goods; with disorderly foreign intruders banished from the marketplace or burdened by tariffs and quotas; with invention and creativity summoned by the bureaucrats for forced marches of research and development; with inflation insurance in every contract and unemployment insurance in every job; with all windfall wealth briskly taxed away and unseemly poverty removed by income guarantees. In this view, risk and uncertainty are seen to be the problem and government the solution in the fail-safe quest for a managed economy of steady and predictable long-term growth."

NINE WORKERS, FIFTEEN DIRECTORS

If you carry this logic to its bitter end, it all gets reduced to the motto under the picture of Mussolini which plastered Italy at the height of his power. It said, "He Will Decide." The responsibility no longer belonged to the individual. The leader would decide. The pattern is always the same. A bureaucracy is put in place to coerce the people into doing something for "their own good." The bureaucracy then assumes a life of its own, and the coercion continues as the bureaucracy's primary task, long after the original purpose has been forgotten. The Securities and Exchange Commission was created in response to a felt need to protect the investor against fraud. It was a worthy objective, but little by little its role has expanded until now it's attempting to dictate everything from how a board of directors should govern a company to how lawyers should exercise their professional judgment. The ultimate in what now seems to be the trend in corporate governance, incidentally, was achieved by the City Bank as long ago as 1844, when we had nine employees, but fifteen directors who assisted in the day-to-day operations. If we are obligated to revive that ratio, we are going to end up with 83,000 new directors.

Our American economic system, like our political system, is untidy—it offends those people who love tidy, predictable societies. We make a lot of mistakes in this country, we have a lot of failures. Some people see only the failures; they cannot seem to grasp the fact that the failures are the price we pay for the successes. It's as though they wanted to have "up" without "down" or "hot" without "cold."

We read in our newspapers, and even in our business magazines, solemn words about "risky investments" and "risky loans" from writers who do not seem to realize that these phrases are as redundant as talking about a one-story bungalow. All investments and all loans are risky because they are all based on educated guesses about the future rather than the certain knowledge of what will happen. Despite the most sophisticated market research, no one really knows if the public will buy the product or use the service which we are about to produce. The new product might be an Edsel with a $400 million price tag, or it might be Peter Goldmark's long-playing record. It could be the decision of a Joe Wilson, risking all the resources of his small company to make a copier later called Xerox, and doing it in the face of a careful study which showed that it would be a bad substitute for the familiar carbon paper.

The odds against success of any kind in our society are formidable. Some 300,000 businesses are started each year in America, and only about a third of them survive as long as five years. Proponents of a safe, stagnant, boring tomorrow view this as a wasteful process, to say nothing of its being irrational. On the contrary, George Gilder has argued:

". . . such waste and irrationality is the secret of economic growth. Because no one knows which venture will succeed . . . a society ruled by faith and risk rather than by rational calculus, a society open to the future rather than planning it, will call forth an endless stream of innovation, enterprise, and art."

Our bookshelves today are piled high with books warning us that the pace of change has become too much for human beings to tolerate, that it is not just risk that people fear, but the future itself. We are being overwhelmed, we're told, by new technology. When we see what the electronic computer has done and is doing to the world, and consider that it was invented in 1946, this argument may seem plausible. But go back a hundred years to 1846 and the argument falls apart.

That was the year Brigham Young led the Mormons out of Illinois on the way to Utah—and coincidentally the year that saw the invention of the sewing machine and the steel moldboard plow. Historians have called the period that began then and lasted to the outbreak of World War I the "heroic age" of invention. From the sewing machine in 1846 to the radio vacuum tube in 1911, a major new invention appeared on the average of every 15 to 18 months, and was followed almost immediately by a new industry based on the invention. That's what the last half of the nineteenth century was like, but there were few voices then calling, "Stop the world, I want to get off."

There were a few, of course. Not long after Lee De Forest invented the vacuum tube amplifier, he was arrested for stock fraud. He'd been going around saying that his service would be able to transmit the human voice across the Atlantic. At his trial, the prosecuting attorney said: "Based on his absurd and deliberately misleading statement, the public, your Honor, has been persuaded to purchase stock in his company."

The jury acquitted De Forest, but the judge admonished him to forget his crackpot inventions and go "get a common, garden-type job and stick to it."

If De Forest were inventing his gadget today, and he could convince people it worked, he might still be in trouble. Before he could go into production, there would probably be a long delay while committees were formed to study the environmental impact of bouncing radio waves off the ionosphere.

FEELING GUILTY ABOUT SUCCESS

The people who insist on seeing only the failures have still another debilitating effect on our society: they frequently manage to make us feel guilty even about our successes.

Malaria, for thousands of years the number one killer of human beings, was finally brought under control after World War II by DDT. But instead of hearing about the tens of millions of human lives that have been saved over our the past 30 years, we are told about the damage to our natural environment. Concern for the environment is obviously justified, but the highly publicized demonstrations, complete with rock stars and movie actresses, would have us believe that man, and particularly his technology, is single-handedly polluting what would otherwise be a pure and benign Nature, something like Disneyland on a nice day in September. Michael Novak recently reminded us that this just is not so. He wrote:

"Nature was raw and cruel to nature long before human beings intervened. It may be doubted whether human beings have ever done one-tenth of the polluting to nature that nature has done to itself. There is infinitely more methane gas—poisonous in one respect, and damaging to the environment—generated by the swamps of Florida and other parts of the United States than by all automobile pollution of all the places on this planet. In our superhuman efforts to be nice and feel guilty, we sometimes try to take all the credit for pollution improperly."

Be nice, feel guilty, and play safe. If there was ever a prescription for producing a dismal futue, that has to be it. It is a sure prescription for the demise of our way of life.

It is almost impossible to exaggerate the importance to the general welfare of the willingness of individuals to take a personal risk. The worst thing that can happen to a society, as to an indivdual, is to become terrified of uncertainty. Uncertainty is an invitation to innovate, to create; uncertainty is the blank page in the author's typewriter, the granite block before a sculptor, the capital in the hands of an investor, or the problem challenging the inventive mind of a scientist or an engineer. In short, uncertainty is the opportunity to make the world a better place. Despite this, everything in our national life today seems designed to encourage our natural caution, urging us to play it safe, to invent a risk-free system and give up being tough-minded.

The tax structure discourages the innovators, penalizes the successful, and preserves the inefficient. Even many medicines in common use around the world to prevent human suffering are denied to Americans on the slender grounds that an overdosed mouse has contracted a tumor. This is not prudence. Prudence is one of the intellectual virtues, and there is very little intelligence to be found in all this. It is institutionalized timidity, and I submit that it does not represent the will of the vast majority of the American people.

If we observe the world around us, Americans as individuals seek out risk. Every child who plays football, or hockey, or any other contact sport, risks injury. There is no shortage of test pilots for new aircraft, nor candidates for any of the other hazardous jobs in our society, including the job of President of the United States. If we perceive that life is too easy, we put sand traps and other obstacles on the golf course and create artificial hazards where none exist. In short, risk is a necessary part of life and one which belongs on our list of natural rights.

DEMOCRACY IS A DANGEROUS TRADE

Let those who seek a perpetual safe harbor continue to do so. Let them renounce risk for themselves, if they choose. What no one has a right to do is renounce it for all the rest of us, or to pursue the chimerical goal of a risk-free society for some by eliminating the rewards of risk for everyone.

The society which promises no risks and whose leaders use the word "risk" only as a pejorative may be able to protect life, but there will be no liberty, and very little pursuit of happiness. You will look in vain in the Federalist Papers, the Declaration of Independence, or the Constitution for promises of a safe, easy, risk-free life. Indeed, when Woodrow Wilson called for "a world safe for democracy," it was left to Gilbert Chesterton to put that sentiment in perspective.

"Impossible," he said, "democracy is a dangerous trade." ●

NATIONAL HEALTH INSURANCE—BAD IDEA

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. PAUL. Mr. Speaker, few journalists know the political scene and the bureaucratic landscape as well as M. Stanton Evans, chairman of the ACU Education and Research Institute.

In the December issue of Private Practice, Mr. Evans gives an excellent analysis of the Kennedy and Carter National Health Insurance proposals, and I would like to call this article to my colleagues' attention.

NHI—an expensive and harmful idea—deserves oblivion instead of congressional consideration. I hope that we will all take Mr. Evans' eloquent words seriously.

The analysis follows:

NATIONAL HEALTH INSURANCE STAGES A LEGISLATIVE COMEBACK

(By M. Stanton Evans)

Comprehensive national health insurance—an idea whose time has, on its merits, long since passed—is threatening to stage a legislative comeback. This revival has reltively little to do with the nation's health care problems or the issues of cost control to which the NHI proponents so frequently refer—although it could have significant impact in both these categories. It has a great deal to do with the internal politics of the Democratic Party as President Carter and Senator Edward Kennedy jockey for political advantage and for issue postures that will appeal to potent liberal-left constituencies within the Democratic coalition.

As the challenger, Kennedy has the tactical initiative, and health care is the issue on which he has chosen to use it. In other policy areas, he has been trying to modulate his liberal image, apparently recognizing the rightward drift of the electorate. His major thrust against the president has been a generalized appeal for "leadership," supposedly embodied in himself, rather than specific disagreement over policy. But to energize the liberal elements in the party, he needs at least one clear, symbolic issue, and health care appears to be it.

This selection, of course, is hardly surprising. Kennedy has been identified with the NHI question for upwards of a decade. It is a favorite issue of the United Auto Workers and of other liberal elements with which he is allied; and it is one of the few remaining issues in our politics on which it is still possible for a liberal-interventionist position to be presented as an initiative on the side of the angels.

Responding to Kennedy's pressure, Mr. Carter has presented an NHI proposal of his own. The Carter version is roughly what one would expect from the dynamics of the political process: More "moderate" than Kennedy's, but sufficiently interventionist, and expensive, to undercut the senator's appeal to liberal constituencies inside the party. Carter's position, all too clearly, is dictated by Kennedy's, and inevitably tends to resemble it.

Indeed, examining the two proposals, most observers will be prompted to wonder what the squabbling is about. The programs surfaced by Kennedy and Carter have far more in common than one could possibly guess from the exchanges between the opposing camps. They are alike in general objectives, the reasons given for further intervention, and the mechanisms by which that intervention would be achieved. The main distinction is that Kennedy would give us NHI all at once, while Mr. Carter would give it to us piecemeal.

The common objective of the two proposals is to federalize the existing network of private health insurance programs, extend coverage to areas where it presently does not exist, and integrate the resulting system with the machinery of Medicare and Medicaid. Both proposals would make health insurance coverage mandatory for all Americans—whether employed by others or self-employed—would cut back on the amount that patients would have to pay out of pocket for health care, and would finance the program with additional billions in federal taxes.

Because such proposals would manifestly increase demand for health-care services, both candidates would couple this tax-paid largess with stringent plans for "cost containment." In essence, both would have insurance premiums, doctors' fees, hospital charges, and other aspects of health care supply intensely regulated by the federal government.

Kennedy's plan would provide for all Americans' "comprehensive, universal" coverage including hospital, physician, and lab bills. Employers—including the self-employed—would be required by law to provide health insurance to their workers, with employees picking up no more than 35 percent of premium costs (in essence, further taxes). Medicare would be extended to everyone over 65. Medicaid would be folded into the program by having government pay insurance premiums for the indigent.

In Kennedy's scheme, every American would have a "health-care card," entitling him or her to all manner of medical services, regardless of income or employment status. Equally important, all these people would have first-dollar coverage; there would be no coinsurance or deductibles. In theory, everyone would be entitled to the most lavish health insurance imaginable, while paying directly no more than a third of the resulting taxes-premiums.

Considering the upward pressure on demand exerted by existing government health-care programs, the potential impact of the Kennedy plan in boosting prices is obviously immense. The current system of Medicare and Medicaid subsidy, and federal tax treatment of group insurance plans, has created a payment mechanism in which some 90 percent of hospital charges are paid by someone other than the patient at the point of consumption. By pushing for "comprehensive, universal" coverage, Kennedy would try to make this 100 percent—for hospitals and physician services alike.

At zero price, the demand for a valued good is potentially infinite, and the Kennedy program would vastly intensify the already large demand for hospital and physician services, at the most expensive levels of technolgy. That prospect makes the senator's estimates for the cost of his program seem—to put it mildly—unrealistic. Not that these costs are negligible, even on Kennedy's projection: $211.4 billion by 1983—$40 billion higher than estimated outlays under the existing set-up.

That the added costs will be "only" $40 billion may readily be doubted. We have heard such projections before, and they always turn out to be wrong. (Cost overruns for Medicare and Medicaid have ranged into the hundreds of percentage points; most recently, official estimates for adding renal dialysis to Medicare were $160 million, while the actual costs have gone to more than $1 billion annually.) Under Kennedy's plan, with every vestige of price restraint reduced or removed entirely, the likely cost explosion is mindboggling.

Mr. Carter offers a somewhat more modest version of the Kennedy proposal. Because of its phased, piecemeal approach, the Carter plan is more complex, but is essentially a half-way approximation of what Kennedy is demanding, to be converted at some future time into full-fledged NHI. The Carter program would extend the present insurance system to those not covered, mandate provision of insurance by employers, extend subsidized care to the aged and indigent not now covered under Medicare and amalgamate the whole into a single, federally-regulated program.

In some respects, Mr. Carter would maintain the principle of coinsurance, at least temporarily, while imposing upper limits on how much the patient would have to pay at the point of consumption. Under Carter's plan, the maximum that any insured worker would have to pay out of pocket in any year would be $2,500 (the federal government would provide a similar policy for those who are not employed). The limitation for the aged and disabled would be half this amount, replacing the present co-insurance arrangement in which the patient pays for 20 percent.

Otherwise, the Carter plan would seek to do away with deductibles and cost-sharing. After the first day, the aged and disabled would be entitled to an unlimited, fully-subsidized number of days in the hospital; there would be no physician charges to Medicare patients other than the publicly-provided payment; there would be no cost-sharing at all for maternity benefits. Also, the president, in one respect, has managed to outbid his rival: Mr. Carter would have the employee pay no more than 25 percent of mandatory premium costs, as opposed to Kennedy's 35 percent.

Again, by extending coverage and lowering perceived costs to patients, the Carter program would obviously increase demand for health-care services. The official cost estimates, as the administration itself concedes, must therefore be taken with a grain of salt. These tell us that by 1983 the nation's increased outlay for health care, above and beyond what is now projected, would be in the range of $23–$25 billion, compared to $40 billion for Senator Kennedy. On the previous track record, we may readily calculate that the true increase will be much higher.

Alike in objectives and mechanisms, the Kennedy and Carter plans are also alike in underlying fallacies. Both argue that we face two overriding health-care problems: (a) inadequate insurance coverage for some Americans, and (b) rising total costs of health-care services for all. Both propose to cure these problems by projecting a federal takeover of the medical economy—blandly ignoring the fact that the problems complained of are the result of existing federal interventions, and that further intrusion can only serve to make such problems worse.

Most fundamental, both candidates glide over the fact (Kennedy ignores it entirely, Mr. Carter alludes to it in passing) that any attempt to solve "problem" (a) can only intensify "problem" (b). The preceding decade of rising health-care demand, accelerating outlays for medical services, and consequent rising prices has been a direct result of financing health-care payments through third-party mechanisms, courtesy of the federal government. By financing *even more* such payments on this basis, Kennedy and Carter would accentuate the very cost explosion of which they complain.

Their tacit admission of this fact is that both programs are predicated on tight federal regulation of health insurance premiums, hospital charges, doctors' fees, etc. Under either program, the federal government will set out to control the very demand that it has engendered, and proposes to increase still further. Having destroyed the normal function of the pricing mechanism in restraining demand and bringing it into harmony with supply, the federal regulators will try to manipulate the supply as well. In other words, another variation on a time-dishonored theme: Price controls holding the perceived cost of goods or services below their market level, followed by government rationing of the commodity in question.

As the energy crisis has demonstrated, the economic effects of such a procedure are always calamitous: There is no way that government planners can properly substitute their judgment of what is needed in terms of energy, or health care, for the judgment that would be made by consumers in a freely functioning market. Misallocation of resources, shortages, and other somber economic consequences are sure to follow, and patients will be the ultimate losers.

From the standpoint of insurers, hospitals, and physicians, the outlook is equally forbidding. If either of these plans goes through, the health insurance industry will be little more than a public utility; hospitals will be government-dominated institutions; and physicians will be well on their way to becoming salaried employees of the government.●

SOME THOUGHTS ON IRAN

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, December 19, 1979, into the CONGRESSIONAL RECORD:

SOME THOUGHTS ON IRAN

We continue to face a grave crisis in Iran, where our embassy has been seized and 50 fellow citizens have been held hostage in an attempt to force the return of the Shah to Iran for trial. As the captivity of these Americans enters its seventh week with little sign of how it will end, a few observations may be useful.

First, it is essential to keep in mind the basic objectives of the United States. The paramount objective is the release of the hostages unharmed, but there are other objectives as well to re-establish the inviolability of embassies and the immunity of diplomats, to refuse to surrender the Shah in response to pressure from terrorists, to protect vital economic interests (the oil trade) and key political interests (our relations with other countries in the Middle East). In deciding what steps to take, all these basic objectives must be kept in mind.

Second, the crisis in Iran may be shaping up as one of those pivotal international events that change the way people think and the way governments act. It may not be an isolated incident, but rather a watershed with far-reaching implications for the conduct of American foreign policy. My guess is that it will make the United States more willing to project its power to protect legitimate American interests in the world. Americans simply do not like the humiliation and the sense of vulnerability that the crisis in Iran has brought them. They will demand more assertive military policies, such as the development of a rapid deployment force and a bigger naval presence in the Indian Ocean, and they will tend to view the Middle East as a critical part of the American sphere of influence. It is to be hoped that they will realize just how necessary energy conservation is. At very least, the crisis in Iran is causing Americans to rediscover feelings of patriotism buried by the remorse and confusion of the past.

Third, with the seizure of the Grand Mosque in Saudi Arabia and the lethal mob attacks on our embassy in Pakistan we see that the world's most important oil-producing area is caught up in the throes of fundamental change. The implications of that change for the United States cannot be fully known at present, but many things should be considered: the impact of the upsurge in Islamic fundamentalism on America's position in the Middle East; the opportunity for the Soviet Union to expand its influence in the area; the risk of political instability in the conservative Islamic governments of the Persian Gulf states, especially Saudi Arabia; the effects of a tighter world oil supply on all nations, including those in the Third World; the ramifications of Iran's repudiation of its international debts; the consequences of the freeze on Iranian assets for the delicate international financial system; the pressure on America's relationships with its allies, most of whom are heavily dependent on oil from the area. What flows from the ordeal of the American hostages will probably transcend the event itself, making the whole world more dangerous and the rational management of international affairs more difficult.

Fourth, the President knows that the crisis in Iran is an acid test of his administration. Whatever the ultimate outcome, the crisis at present is a two-edged sword capable of cutting short the political future of either the President or his opponents. Because his opponents have been flailing away at him for his failure to get the country moving, the short-term political fallout has been positive for the President. He now has the credentials of leadership that he allegedly lacked. The Ayatollah Khomeini has done for him what he has been unable to do for himself: make the Presidency appear to be a source of strong leadership. The President merits high marks for the leadership he has displayed so far.

Finally, the appropriate course of action for the United States, frustrating and nerve-wracking though it may be, is to patiently exhaust all peaceful means at its disposal as it attempts to resolve the crisis, showing the same measured restraint that the President has shown during the past weeks. The dilemma for the United States is to project a tough posture (to date we have moved naval units into place in the Arabian Sea, halted oil imports from Iran, and frozen Iranian assets) without jeopardizing the lives of the hostages. We should generate as much international pressure as possible against the Ayatollah, isolating him with moves in the United Nations and the World Court. Other options for the future are available, including a series of diplomatic and economic steps to increase the pressure. I would favor such steps as these before exercising any of the military options (bombing air fields or oil facilities, seizing oil terminals on Kharg Island in the Persian Gulf, or slapping on a naval blockade) because I do not believe that the military steps could be taken without the killing of the hostages. In addition, military engagement could make it more difficult to achieve our basic objectives. A military option should be used only as a last resort. I know of no one in Washington who believes that the hostages could be saved with an air strike or a commando raid.

One useful step to help resolve the crisis would be to convey to the Iranian people our belief that they have the right to state their case against the Shah in an impartial public forum. Many Iranians are sincere in their opinion that the Shah practiced political repression, condoned corruption, and subverted Islamic values with Western concepts. While insisting on the prior release of hostages and making it clear that we will not reward terrorism, we should not appear to block the efforts of these Iranians if they pursue their claims in a legal manner acceptable to the world community.●

DISPUTE RESOLUTION ACT

HON. RICHARDSON PREYER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. PREYER. Madam Chairman, the House of Representatives on December 13, 1979, approved the dispute resolution bill (S. 423) and I would like to congratulate my colleagues for their support of what I believe is a very workable, innovative and cost-effective process for aiding our localities in solving disputes that confront many of our citizens. I would, however, also like to expand briefly about one of the criticisms of the bill that was made during the debate of the bill, that is, the contention that the dispute resolution bill is an unwarranted Federal intervention in a State and local responsibility. Let me assure you, initially, that both the Interstate and Foreign Commerce and Judiciary Committees which jointly considered this bill were very conscious of this potential problem, and the bill which passed was carefully crafted to avoid such an intervention.

The Federal involvement in this program is at an absolute minimum, basically that of making available seed grants to States, localities and nonprofit organizations over a period of 4 years at which time Federal involvement must end. Even this limited 4-year involvement includes a decreasing percentage of the Federal share to 75 percent in the third year and 60 percent in the fourth year. The legislation envisions an initial partnership between the States and the Federal Government but does not interfere with the distinctive role that States and their justice systems are assigned in our political systems.

The program sets up very broad guidelines for a completely voluntary process to allow State and local grantees to experiment with procedures for solving their own problems.

During the debate it was demonstrated that this carefully drawn bill had support from such diverse organizations as businesses, consumer groups, public agencies, private organizations, and bar associations, among others. The administration also strongly endorses the legislation as does Chief Justice Burger.

It is very rare that one piece of legislation is so widely supported.

During the legislative process, all of this support was made part of the record, but I would like to add to this impressive portfolio two recent letters to Mr. KASTENMEIER which I believe would be of interest to my colleagues:

HARVARD LAW SCHOOL,
Cambridge, Mass., December 3, 1979.
Hon. ROBERT W. KASTENMEIER,
U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. KASTENMEIER: Thank you for sending me a copy of the Judiciary Committee's report on the Dispute Resolution Act (S. 423). I am very pleased that both the Judiciary and Commerce Committees have strongly supported the bill. I noticed that Mr. Butler cited my research in his dissenting views on the bill, and I would like to comment briefly regarding his remarks. First, I would like to note that the citation of my work in the dissent in no way signifies that I am in opposition to the bill. I strongly support the Dispute Resolution Act and have testified in favor of the bill in both Senate and House hearings.

In citing my findings regarding the extent of American experimentation with dispute processing mechanisms, Mr. Butler implied that enough is currently being accomplished without federal assistance of the type contemplated in S. 423. I strongly disagree. The present existence of experimental projects merely demonstrates that the state recognize the striking need for improvements in our dispute resolution mechanisms. A few states have pioneered improvements in dispute processing, and it is the aim of S. 423 to encourage the refinement of these advances and their spread across the nation. This bill can be of great assistance in helping all the states to experiment with justice system improvements in light of practices elsewhere. Our justice system is predicated on principles of equal justice for all and ready access to forums for dispute handling. This bill will help bring these ideals closer to reality.

The hearing records in both the Senate and the House indicate the great needs in the nation for improved dispute processing, and as you know a wide variety of organizations have endorsed the bill. In short, Mr. Butler's view that enough is being accomplished simply does not square with the facts. It is true that limited experimentation has begun. Indeed, if it had not, one could seriously question the federal government's role in the legislation since this role is merely to assist state-initiated efforts at improving mechanisms for dispute processing.

I greatly appreciate your continuing efforts in support of S. 423 and hope for its early passage by the House of Representatives.

Sincerely,
DANIEL MCGILLIS,
Research Associate, Harvard Law School.

THE SUPREME COURT OF MINNESOTA,
St. Paul, November 30, 1979.
Hon. ROBERT W. KASTENMEIER,
U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR CONGRESSMAN KASTENMEIER: I have only today had an opportunity to review the House Judiciary Committee Report on the Dispute Resolution Act and hope you will excuse my delay in thanking you for it.

I am pleased to note that the bill as reported is consistent with the position of the Chief Justices and contains provisions which will permit its administration in a manner respecting the independence of state court systems.

I am particularly pleased that it provides authority, as we requested, for the Department of Justice to work with state and local courts through qualified non-governmental organizations and am confident the Department will take full advantage of it.

We think, then, that the legislation provides appropriately for judicial participation in a program well conceived to help us deal with the most neglected areas of the justice system.

The Congress is to be congratulated on its work.

Yours very truly,
ROBERT J. SHERAN,
Chairman, Committee on Federal State Relations, Conference of Chief Justices.

I think Professor McGillis and Chief Justice Sheran eloquently have embellished the case for S. 423 and I am glad that the House in its wisdom passed this bill.●

MORATORIUM ON NUCLEAR PLANTS

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. SWIFT. Mr. Speaker, we recently debated an amendment to the Nuclear Regulatory Commission authorization bill that would have established a 6-month moratorium on the issuance of construction permits of nuclear plants while Congress could take a look at safety issues. Many of us argued that if nuclear power was to be a part of the energy mix of this country, that the American public had to be assured the design of plants, the operation of these facilities, and the final disposition of waste products was safe.

A daily newspaper in my district recently financed an indepth professional survey of public opinion in its area concerning important local and statewide issues.

The survey taken by the Skagit Valley Herald gives some very concrete and specific support to our contention at that time.

I think it is important to note that the survey was based upon telephone contact with 437 registered voters in Skagit County, a very large number of calls in proportion to the population of this one county. It is also important to note that the calls were made in the 12 days preceding a vote by the people of Skagit County on proposition 4, an advisory vote that dealt essentially with support or opposition to the building of a nuclear plant in their county.

I ask unanimous consent to insert in the RECORD at this point the relevant portion of the report on this survey because it clearly reinforces the arguments we used in urging a reasonable moratorium:

SURVEY REPORT

The most significant insight gained from the survey concerning the reasons for opposing Proposition 4 was the identification of the enormous concern about nuclear waste disposal. This was the most salient reason on which the "voters" chose to focus in voting against the proposition, by a 71 percent to 29 percent margin. This is not inconsistent with recent statewide voter analyses and findings concerning the nuclear question and, we believe coupled with cost, it may be a national stumbling block to the future of electrical generation by nuclear reaction.

We found an electorate that was articulate, that understood the issue, that was able to actually separate the various points raised on both sides and able to focus on very specific and detailed reasons for their opposition. (In analyzing the verbatim responses to the open-ended question, it is clear that people were really sorting through the propaganda and focusing on concrete, specific, realistic rationales for their opposition.)

We are confident that the careful construction of the questionnaire and the refinement of the various issues allowed us to be extremely accurate in predicting the outcome. (For example, one of the questions of the survey relating to the nuclear issue was: "I am going to read you a list of issues that have been mentioned during the debate about the Skagit nuclear project. Please tell me if each one was important or unimportant in making up your mind on the issue: the issue of nuclear waste disposal, the need for more electricity, the incident at 3 Mile Island, the issue of jobs and employment, the problem of a possible earthquake at the building site, the possible impact on the Skagit River." Their responses were further refined to "very" or "somewhat" important or unimportant. Choices were rotated as well for validity.)

It is a testimony to both the validity of the sample selection and the ability to focus on what we perceived to be the main problems that the prediction on Proposition 4 of the survey was within 3/10th of one percent of the actual vote.

We know of no other instance in the United States where the nuclear siting issue has been on the ballot and where an attempt has been made to analyze with detail voter opinions on the issue.

Mr. Speaker, the survey showed the following things.

When asked how important they felt the various issues that had been raised were, the citizens of Skagit County believed the issue of nuclear waste was paramount; 71 percent thought it was "important" or "very important." Only 5 percent thought it was "unimportant."

Earthquake danger was an issue here because of much controversy over the adequacy of geologic studies and because the area has a known active fault. Even so, that issue was not as major as the more national issue of waste; 45 percent found it "important" or "very important" and 16 percent found it "unimportant."

The issue listed as Three Mile Island fared about the same. So did the need for more electricity; 45 percent found it "important" or "very important" and only 10 percent dismissed it as "unimportant."

I believe the significance lies in that people in Skagit County were primarily concerned about a nuclear safety issue that is national in scope rather than some of the parochial issues that had been raised. I believe they reflect a broadly based national concern.

On the simple matter of nuclear safety, those who voted for the nuclear plant were virtually certain that nuclear power was safe—98 percent. But of those who voted against the plant, 79 percent believed it was unsafe. And remember, 71 percent of the people voted no.

Mr. Speaker, I believe this survey is very revealing and entirely supports the concerns of those of us who believe that if nuclear power is to be a part of the energy mix of this country, we are going to have to do more than merely assert they are safe. We must take the time and make the effort to do the things necessary to assure the American public of the safety of the plants; 71 percent of the people of Skagit County say so. I do not believe that they are alone.●

THE AMERICAN STEELWORKERS' VIEWPOINT

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. RITTER. Mr. Speaker, the Nation's steelworkers have something to celebrate in this holiday season, but storm clouds do loom on the horizon. The news of 13,000 recently laid-off U.S. Steel employees makes for a gloomy Christmas in the steel industry. This goes far beyond the number directly affected by the recent layoffs. Management, investors, Government workers—all have come under fire as the cause for the growing decline in steel productivity and the American competitive position in the face of the increasingly sophisticated and ofttimes subsidized foreign competition. I would point out that the steelworkers themselves are not often heard in this debate on cause and effect. For Members' attention, I would like to include in today's RECORD the following statement from steelworker President Lloyd McBride, which appeared today as a letter to the editor in the Washington Post.

The statement follows:

STEELWORKERS' LAMENT

The Post's Dec. 3 editorial, "The Steel-Maker's Lament," needs a response. It's a better written than reasoned editorial, based as it is on a couple of false assumptions.

First, the assumption that steelworkers are paid too much cannot stand examination. It's true that rates of pay in the mills have gone up substantially over the past decade. But 57.3 percent of the higher wages resulted from cost-of-living increases—increases generated largely by the costs of fuel, food, medical care and housing. When The Post complains about the rates of pay in the steel industry, it suggests that the union should have avoided negotiating cost-of-living adjustments on the one hand and productivity increases on the other. Today, the average rate of pay in the mill is $10.96 per hour, hardly too high for the average family income.

The second erroneous assumption is that this nation's steel industry competes in a world of private markets free of contrived encumbrances.

Today, with new and export-oriented steel industries in Japan and the European Economic Community nations, our industry competes with steel selling for less here than it does in the country of origin. This "loss-leader" kind of marketing is supported by government and consortium subsidies. The bargain prices do not persist once a market has been sufficiently penetrated.

For the Japanese and European nations, a primary objective of industry is to provide full employment—a social goal as much as a commercial one. Those nations, put their people first. They limit imports with various trade barriers. Profit in a particular industry is not so important at a given time as the overall performance of the entire economy.

Over here, the problem is not good wages in the steel or other industries. It's the failure of our traders, little and large, to recognize that their trading partners overseas are governments in one guise or another whose trading strategies are dictated by long-range political and social considerations.

I'm afraid our lamentations will greatly increase before this reality is generally perceived.

LLOYD MCBRIDE,
President,
United Steelworkers of America.●

VISITING AMERICAN HOSTAGES IN IRAN

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. HANSEN. Mr. Speaker, my recent visit to see the American hostages in Iran has continued to generate interest and therefore, I include for the RECORD several additional transcripts by Mr. Lee Roderick, the Washington Bureau Chief of Scripps League Newspapers, who accompanied me on the trip.

The articles follow:

ODYSSEY TO IRAN—PART 5

(By Lee Roderick)

TEHRAN.—Before our first 48 hours in the country had passed, Rep. George Hansen (R-Idaho) and I had become the first Americans since the U.S. Embassy was seized to hold face-to-face discussions with top Iranian officials and to visit the three Americans held captive at the Foreign Ministry.

Immediately following that breakthrough, Hansen intensified his effort to visit the 50 Americans imprisoned by militant students at the embassy itself.

No one seemed quite sure what levers of power to pull to gain access to the hostages. Since the shah's downfall and rise of the Ayatollah Khomeini's revolutionary government early this year, power in Iran has been defused and confusing.

Khomeini himself lives in the holy city of Qom, about 80 miles from the capital of Tehran where the rest of the government is located. Day-to-day decisions in running the country are made by civil servants presided over by a 15-member Revoluntionary Council—roughly comparable to the U.S. Cabinet.

However, Khomeini frequently has overruled the council's decisions almost as soon as they have been made public.

Then there are the university students and other young toughs who captured the U.S. Embassy on Nov. 4. They appeared to be a mixture of Shiite Moslems fanatically committed to Khomeini's vision of hatred toward the deposed shah and his protector, the U.S. government, as well as leftists apparently motivated more by policies than religion.

The students are running their own show at the embassy, answerable to no one except possibly Khomeini himself.

Hansen approached a young American expatriate in Iran who reportedly is close to some of the students at the embassy, asking him to deliver a letter of introduction to them. The letter, dated Nov. 21 and addressed as suggested to "The students following the Imam's (Khomeini's) Line," said in part:

"I am here as a private citizen at my own expense because of my great concern that justice be done for the people of Iran and United States. It is important to exchange ideas with you regarding the deposed shah and the American hostages. I must be leaving Iran in one more day and will take your message to the American people."

The letter didn't bear fruit immediately, but Hansen extended his stay in the hope of a future meeting. (Hansen, in fact, made and broke at least six plane reservations before flying home.)

Nov. 24 dawned with still no answer from the students. Hansen, with impatience turning to frustration, decided to break the logjam by appealing again to the major government figure below Khomeini—Acting Foreign Minister Abol-Hassan Bani Sadr.

As we entered the Foreign Ministry for an 11 a.m. session with Bani Sadr, we were met in the waiting room by six nervous ambassadors from Western Europe, there to appeal to Bani Sadr for restraint. They also were anxious to learn if Hansen had brought any good news regarding the impasse from the United States.

During our session with the foreign minister, Hansen stressed he was returning soon to the U.S. and urged Bani Sadr to make arrangements for him to talk to the students and see the hostages. Bani Sadr agreed to do what he could.

Hansen, now well-known in Iran, spent much of the rest of the day giving interviews to local newsmen and reporters calling long distance from other countries. He also met with worried Americans living in Iran who turned to him with problems they normally would have taken to the now-captured U.S. Embassy.

Hansen's first clue that something big was about to break came when the National Iranian Radio and TV Network came to his room for an interview. Knowledgeable sources told us the network never could have done the interview if Hansen's activities had not been looked upon favorably by the government.

Finally, word reached Hansen that his request to see the hostages had been taken directly to Khomeini at Qom, and that an answer would be forthcoming that night.

At 11:40 p.m. Bani Sadr's office called: Hansen had been cleared at every level to talk with students and see the hostages. He was to be at the embassy gate at 8 a.m. the following day.

Hansen's quest—which has since been widely reported in the world's press—at last was at hand.

ODYSSEY TO IRAN—PART 6

(By Lee Roderick)

TEHRAN.—Early Sunday morning, Nov. 25 Rep. George Hansen arose, shaved, and put on the one suit he had brought with him to Iran. This was to be his biggest day in the country—the day he would face militant students inside the U.S. Embassy and meet with their 50 American hostages.

Time in Iran is 8½ hours later than in Washington, so he'd been up almost all night answering phone calls from reporters during their office hours on the other side of the world. At 8 a.m. he was scheduled to face the students, having had only his usual two hours of sleep.

As we left his room, I reached over and instinctively turned off the light. "Leave it on, I like light," he snapped. The tremendous pressure was getting to him.

Hansen had quietly invited two other reporters as well to accompany him to the embassy—Edwin Smith of UPI and Eric Rouleau of Le Monde. He would try to get us into the embassy with him.

Reaching the embassy wall, which is shrouded with propaganda, banners and posters in both English and Farsi, we handed our identification cards through the tall steel gate to a student. Patrolling on our side of the gate were two very stern revolutionary guards carrying Iranian-made G3 assault rifles.

Twenty minutes later Hansen was admitted inside—alone. The last free American government official in Iran was now totally at the mercy of the students.

We were left on the sidewalk in the chilled morning air, with the loud speaker on the red-brick wall now coming to life with a deadening cadence of martial music and revolutionary slogans.

Several young women in chadors—the long cape, usually black, worn from head to toe—approached and were admitted inside. Hundreds of workers from a factory marched through the streets to face us at the front of the embassy. In a show of support that has become a daily ritual, they began to shout in Persian: "Death to Carter! Death to the shah!"

As the morning wore on the workers were joined by thousands of others. Only a thin rope separated them for us. It seemed a good time to find out what was on their minds, so I stepped to the rope and sought someone who could speak English.

Above the frenzied roar of the crowd, Nasser Shariata came forward. "We love the American people, but not the American government," said Shariata in a refrain that we had heard many times before.

Shariata, a clean-cut young sergeant in the Iranian navy who lived in the United States for six years, said, "everyone in the military here is ready to die for the cause. We don't care if the United States navy comes in. Maybe 10 of us will die, but we will kill one of them."

Shariata was in the United States when the shah was toppled early this year and Iran-U.S. relations turned ugly.

"My father told me to come home to fight against the Americans. He said, 'If the Americans come here and you're still in life and in America I don't want you anymore.'"

Another young man who had just returned from attending the University of Wyoming pressed against the rope. "Americans don't understand, and don't want to know, what the shah has done to Iran," he said. "I have many friends in America, but this is my homeland. And I'll gladly fight if we are attacked."

Others in the crowd were less approachable and more argumentative. When our conversation began heating up, I retreated toward the embassy gate, 15 feet away, leaving the two armed guards between us.

At 10 a.m. a student from inside the embassy compound reappeared at the gate and admitted Eric Rouleau. Later, Rouleau, who has wide contacts among Iranian leaders, said he alone was allowed to join Hansen inside because France is regarded by Iran as "outside the conflict."

An hour later, Rouleau came out, bringing the news that Hansen had finished talking to the students and was about to be taken to see the hostages.

Even though the visit with the Americans had been cleared up to and including Khomeini, Hansen still had to convince the students on the spot to let him do so. Finally, after much delay, they told him he "deserved" to visit his compatriots.

Hansen's account of being blindfolded, placed in a van, and driven to a separate building where he visited with about 20 hostages, already has been widely circulated. Here, in part, it what student leaders told the official Iranian news agency, Pars, about Hansen's visit:

"... the truth is not reaching the American public. Therefore, we thought we should let Hanson (sic) to visit the hostages and take our message to the American public. We have only one demand added the representative, the return of the deposed shah. This is our justified right and we will not compromise on this issue."

"At one point Hansen reminded that he had not come for negotiations and he did not have any such authority ... Hansen was allowed to meet the American hostages and talk with them for an hour."

ODYSSEY TO IRAN—PART 7

(By Lee Roderick)

TEHRAN.—An Iranian official who lived in the United States 14 years came to Rep. George Hansen's hotel room unannounced late the night before Hansen returned to the United States.

The official, who is a favorite among foreign correspondents here, was calling on the congressman because earlier that day Hansen in a TV interview had called the takeover of the U.S. Embassy a "criminal" act.

Hansen's use of a word frequently thrown at the deposed shah had, unbeknown to the congressman, set off an alarm in government circles. The official was now coming to determine if he should be barred from the TV studio.

Knowing he at last would be leaving Iran at 10 a.m. the following day, Hansen took the occasion to have a long, emotional talk with the official in a final effort at mediation.

"During the past week I have learned that while your people are angry at our government for supporting the shah, they truly do like the American people," Hansen told him. "I have never found basically friendlier people or been treated better personally. Is there not something further we can do to help establish a dialogue between our governments and avoid bloodshed?"

In English that bore not a trace of an accent, the man answered that "I'm the best proof you could have that most Iranians still desire good relations with the Americans."

"Let me tell you what happened while I was living in South Dakota," he continued. "My nephew suddenly stopped writing—for no apparent reason. For two years I didn't hear from him, and my family never wrote to tell me why.

"Then one day an underground newspaper arrived in the United States from Iran. In the paper I found a list of those who had recently been executed by the SAVAK (the shah's secret police). My nephew was on the list. And my family had been afraid to even write a letter about it."

As tears welled up in his eyes, he told of how his brilliant young nephew had graduated magna cum laude from the University of Tehran. The practice at that time was for each graduate of that distinction to walk across the stage, receive a medal from the shah and, in turn, to kiss the shah's hand.

When his nephew's turn came, he walked across the stage and was awarded the medal. But the devout Moslem refused to kiss the shah's hand, saying "I bow only to God." Shortly thereafter he was executed.

"My nephew's sister was also graduating with high honors from the university; this was her whole life. But just two weeks before graduation the SAVAK came to get her and she was immediately sent to prison for two years. And another brother of hers was sentenced to life imprisonment for talking about freedom. He was only released following the revolution this year."

"The proof that the Iranian people in their hearts want peace with the American people is sitting before you," he added. "I have every reason to hate your country, but still I don't hate."

Before going to Iran, Hansen was the hardest of the hardliners in Congress. He was probably the only member of Congress to suggest President Carter should be impeached for not taking sterner measures against Iran following seizure of the embassy on Nov. 4.

But Hansen could not fail to be moved by such accounts, which flooded in on him wherever he went—from Iranians on the street, American journalists who lived here under the shah, and such documents as ghastly picture books of butchered bodies.

It is now widely accepted that repression under the shah included systematic torture by SAVAK. The notorious secret police, set up in 1957 with the help of the CIA, have been indicted by Amnesty International, among other organizations, for their atrocities.

It is true, of course, that the revolutionary government of Ayatollah Ruhollah Khomeini has plenty of blood on its own hands. Over 600 persons have been executed openly—after a summary kangaroo court has passed sentence—and others have been killed quietly.

While Khomeini's "justice" has perhaps been more capricious than that meted out under the shah, few if any accuse his poorly organized government of the widespread terror experienced under the shah. And with his political grip on the country apparently slipping as the economy continues to stagnate and ethnic minorities agitate for autonomy, many here doubt that the ayatollah will ever get a chance to systematize his ruthlessness throughout Iran.

The fury Iranians now hurl at the United States emanates from two major grievances: (1) U.S. support of the shah and (2) the erosion of their ancient Moslem culture as a result of a vast American-style "westernization" program under the shah.

"We were not sensitive enough to the cumulative effect of the rate of change in Iran," CIA Director Stansfield Turner said earlier this year.

But Hansen left Iran with the belief that past mistakes can yet be overcome, with goodwill on both sides. And after carefully explaining this to his Iranian guest the night before his departure, the official picked up the phone in Hansen's room, called the Iranian information department, and rescinded the order taking Hansen off TV.

ODYSSEY TO IRAN—PART 8

(By Lee Roderick)

TEHRAN.—The day after Rep. George Hansen made world headlines with his visit to 20 of the 50 American hostages at the U.S. Embassy, he was interviewed by a panel of editors at Ettelat, Iran's largest Persian-language newspaper.

The interview was held in a newsroom still pockmarked by bullet holes from the recent revolution—souvenirs of suffering worn with a pride typical of post-shah Iran.

As Hansen and an editor were walking down a city street following the interview, a passerby stopped the editor, pointed at the 6-foot-6 congressman, and spoke excitedly in Persian. Rejoining us, the editor, smiling broadly, said, "You're like a big American cowboy to Iranians."

That response typified Hansen's reception by the people of Iran. At his departure, for example, the congressman was stopped at least a dozen times in the airport terminal by travelers who recognized him and wanted to chat or wanted his autograph.

But in the United States, at least in official circles and in much of the media, the response was something else. House Speaker Thomas (Tip) O'Neill (D-Mass.) said Hansen was "out of bounds." State Department spokesman Hodding Carter said "we'd rather have the guy home."

Even Hansen's visit with hostages—the first and only by an American to that time—was of little value and, in fact, was probably a "distraction" to them, added Jody Powell at the White House.

Reporters calling from throughout the English-speaking world began to reflect such criticism in their questions to Hansen. "Are you afraid of being censured by Congress when you get home?" asked a reporter in Detroit.

"If you can be censured for wanting to help your fellow man, then a lot of people in the world are in trouble," answered Hansen.

The congressman added that in his sporadic phone calls to the State Department from Tehran, he had noted that he wasn't getting paid to be in Iran and offered to return to the United States if the State Department would send over a professional diplomat. "So far I've had no takers."

"Jody Powell is like a man standing on a river bank watching someone drowning," Hansen told a reporter. "He isn't willing to dive in to save the swimmer, but he's very willing to criticize someone else who dives in."

What had Hansen actually accomplished on his extraordinary "mission for peace"? He had opened a dialogue with student leaders and high-level officials to assure them both of U.S. resolve not to give in to hostage-blackmail and of a desire to defuse the crisis through peaceful negotiation; and had become the first American to visit with the three U.S. captives held at the Foreign Ministry as well as nearly half the hostages at the embassy.

Eric Rouleau, chief Middle East correspondent for 25 years for the liberal French newspaper Le Monde, summarized Hansen's impact on Iranians in a commentary dated Nov. 27:

"Tehran—In less than three days one American has won fame and even popularity in Iran. In a country which is expecting a U.S. 'attack' at any time, Republican Congressman George Hansen has succeeded in painting a different picture of the United States—so widely reviled—without ever making a concession on the fundamental elements of the conflict between his country and the Islamic Republic.

"His photograph has been printed on the front pages of the newspapers, which devote columns to interviews he has given. The television is broadcasting his statements translated into Persian at peak viewing times. The demonstrators acclaim him as he passes.

"The Islamic students have opened the locked doors of his embassy to allow him to visit his imprisoned compatriots. He is the first American in three weeks to have crossed the threshold of this 'den of spies' turned 'bastion of the revolution' and come out a free man.

"This 49-year giant . . . has impressed and seduced the Iranians. He treats them like a U.S. politician on an election campaign. Everywhere he goes he shakes hands, including those of the Islamic militia, forcing them to place their rifles on the other shoulder, and of vociferous demonstrators who drop their menacing fists in confusion.

"I am George Hansen, I am an American; what is your name?' he invariably begins, before listening attentively to a mixture of accusations and complaints. 'Yes, yes,' he comments, 'there must be an inquiry to verify your statements on the shah and on my government's policy. . . .' The Iranian's face relaxed, the game was won."

Hansen is convinced he has opened doors in Iran through which the Carter administration can now walk to defuse the crisis with honor for both countries and without bloodshed.

But he also knows the way will not be easy. Both the opportunity and the challenge for the United States were indicated in a note pressed into Hansen's hand by a prominent Iranian as Hansen left his hotel for the last time. "As an Iranian, thank you for coming to Iran," it began. "If a grain of good comes out of this trip, you would have served the people of our two nations well in this time of crisis.

"But please do not underestimate the people of this country's resolve to fight for their rights. We are not afraid of United States' military might, for that might be used to destroy our bodies. We are afraid of God and thus afraid of losing our souls." ●

NICARAGUA—PART VII: HUMAN RIGHTS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. HAMILTON. Mr. Speaker, most of us agree that the state of human rights in a nation is one of the most important signs of the quality of life in that nation. There is also widespread agreement that human rights say much about what a government is, what it will become, and what it sees as central to its relations with other governments. For at least two reasons, then, one moral and one practical, Members of Congress are properly interested in the state of human rights in Nicaragua. They want to know whether the exercise of human rights there is openly encouraged, merely tolerated, or actively suppressed. They hope to discover whether tyranny in Nicaragua will be replaced by genuine freedom in all areas of public and private life, or by another tyranny, one different only because its ideology and rhetoric are populist in nature. The congressional mission to Nicaragua spent a considerable amount of its time in an attempt to find satisfactory answers to the questions about human rights it knew would be asked.

Whether our interest is the general trend or the particular incident, the notable achievement or the obvious setback, we cannot fail to have been impressed with one simple fact about the Nicaraguan revolution: Its leaders believe that a public commitment to human rights is an indispensable part of the process which they see themselves guiding. The emphasis on human rights can be perceived in the very first acts of the Government of National Reconstruction. The basic statute of the Republic of Nicaragua, announced while the junta was in Costa Rican exile and intended to serve as the forerunner of a new constitution and system of laws, gave human rights a prominent place. For example, a "truly democratic government" was to guarantee the right of all Nicaraguans to "political participation and universal suffrage." All political organizations would be permitted to operate, except that none could advocate the return of the dictatorship. The United Nations Universal Declaration of Human Rights and the American Declaration of the Rights and Duties of Man were endorsed, and freedom of expression, reporting, dissemination of thought religious practice, and trade unionism (including the right to strike) were to be "specially guaranteed." Furthermore, "repressive" laws and institutions those threatening "the dignity and integrity of individuals" and resulting in "assassinations, disappearances, and torture" would be repealed or abolished.

Other similar acts followed hard upon the announcement of the basic statute. While still in exile, the junta contacted the Organization of American States (OAS) with a pledge to respect international covenants on human rights and an invitation to the Inter-American Commission on Human Rights to visit Nicaragua. The junta asserted to the OAS that functionaries of the Somoza regime who were not wanted for crimes would be guaranteed safe passage out of the country. Approximately 5 weeks later, on August 21, a government newly arrived in its capital city issued a bill of rights providing for most of the liberties common to Western democracies and promising some social benefits not usually regarded as rights. Among the former were a prohibition against the death penalty and a guarantee of the right of an accused to a speedy trial with defense counsel. Among the latter were items, such as the right to protection against hunger, which showed the new government's strong desire to better the economic circumstances of the Nicaraguan people.

Everyone knows that promise and practice often diverge when the issue is human rights. What Nicaraguan leaders promise is important, but what they practice will decide the issue for us. My impression is that the human rights situation in Nicaragua is mixed but generally positive. For example, national elections will probably not be held for sometime, but political parties are active now and they intend to establish themselves in the electorate. An independent newspaper, La Prensa, publishes open criticism of the revolution and circulates more widely than does the government-owned print medium. The broadcast media are dominated by the new government and their presentations are slanted, but not quite as slanted as one might have supposed. We learned from our conversation with the Archbishop that freedom of religion has not been compromised in any way. There have been rumors of troubles in the labor unions.

One of the most important factors in assessing the state of human rights in Nicaragua must be the treatment afforded by the new government to its former enemies, and here the record is about as good as one could expect. For example, the right of safe passage for functionaries of the Somoza regime was recently affirmed when 24 persons left their refuge in the Spanish Embassy and departed for Madrid. What is more important, some 7,000 partisans of the Somoza regime, having been detained in prison for the past 4 months, are now being tried by special three-member tribunals operating throughout the country. Reports are that the prisoners are represented by defense attorneys, have the right to appeal convictions, and plead to charges of violating specific Nicaraguan laws. No sentence may exceed 30 years' imprisonment in severity, and the proceedings are open to all interested parties—including human rights observers. On the negative side, it should be noted that the detention of the prisoners has been hard since conditions in prison are poor. Some abuses of prisoners have been reported, and there has been some torture and killing. The new government admits that such acts have occurred, disavows them, and has taken steps to punish perpetrators. It makes the plausible claim that it does not yet have the power to control all aspects of detention in all regions of the nation.

We members of the congressional mission to Nicaragua quizzed our hosts intently on human rights. More than information about unfortunate incidents that might have occurred in this city or that, we wanted to take the measure of our hosts' thinking. Junta member Sergio Ramirez called to our attention the fact that Nicaragua already had a free press and free political parties. He said that theirs would be a society in which "all seeds" would be allowed to grow. Mr. Ramirez spent some time on the subject of the prisoners. He characterized the then upcoming trials as a "Nuremburg without gallows." Crimes committed during the war would be punished, but not by death. Directorate member and Minister of the Interior Tomas Borge spoke at some length on human rights, especially the fate of the prisoners. He acknowledged the harsh conditions of their detention, noted that independent observers had been permitted to see them, explained that some prisoners had been abused, and vowed that such abuse would soon be a thing of the past. Mr. Borge expressed the opinion that the tribunals would release most of the prisoners because of the incompleteness of the evidence against them. In one of the most forceful statements we heard during the mission, he swore that capital punishment would never again exist in Nicaragua.

The question of human rights in Nicaragua is highly relevant to our supplying Nicaragua with the additional aid that President Carter has recommended. As we consider the question, however, we should beware of two pitfalls, one on each extreme. First, it is condescending and impudent to suppose that human rights need not be fully respected in Nicaragua because the nation is not developed. Such is the attitude of the armchair observer, not the man who faces incarceration without charge, brutal torture, or summary execution. The vigorous pursuit of social and economic goals is absolutely essential in Nicaragua, but it is not now and will never be incompatible with care for the human rights of Nicaraguans. Second, it is unrealistic and unfair to hold Nicaragua accountable to a standard of respect for human rights that few, if any, nations could meet. Such, too, is the attitude of the armchair observer, not the leader who faces the staggering social and economic problems of present-day Managua. A quick reaction to violations and an earnest desire to improve are what we should insist on.●

A LESSON IN POLISH ECONOMICS

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. PAUL. Mr. Speaker, some politicians and economists try to make a distinction between human rights and property rights. But this is a phony dichotomy. Property and our economic rights are human rights, and this can most clearly be seen in socialist countries.

Dr. Michael Novak, an eloquent theologian and journalist, recently returned from a visit to Poland. His newspaper column about this experience contains good lessons for all of us. I would like to call it to my colleagues' attention.

The article follows:

A LESSON IN POLISH ECONOMICS

(By Michael Novak)

I had always thought, before a recent 10-day tour in Poland, that totalitarianism reigns by armies and by police. In Poland, I discovered it rules effectively through a socialist economy which strangles individuals at every turn.

Prices are rigidly controlled. So are wages. The state employs almost everyone. Hardly anyone is ever fired. There is no unemployment, for every job is padded. Since customers have nowhere else to go, employees are not rewarded for pleasing them. Rudeness and hostility characterize economic relations.

Goods and services are allocated. Scarcities are constant. To obtain basic necessities, families must plan to spend at least two full afternoons a week standing in line. A trip to the bank requires an entire morning. One day in Poznan I saw 43 people lined up outside a store to purchase toilet paper. Their breath frosted in front of their faces. The line did not move during the five minutes I watched. Afterward, most would face other lines for cheese, then for fruit. So it goes.

Housing experts told me most young marrieds live for at least seven years in the crowded four-room apartment of the in-laws. Some wait 12 years. Even then, an apartment often cannot be purchased for Polish money. It is best bought with "hard" (Western) currencies. On the black market, a dollar sells for several times the official rate. It is a crime to use the black market. Yet simply to live in socialist Poland one must use it.

Bribes, shortcuts and illegal activities become a way of life. In a totalitarian economy, no one can survive by the rules. So everyone becomes, of necessity, a criminal. Everyone is vulnerable to reprisal.

I asked my hosts why their rulers continue to insist upon unworkable dogma. Why don't they rely upon political and military controls, and permit the economy to operate freely? Why don't they allow energetic Poles to stop waiting in line, to work for themselves, and to end all the silly inefficiencies? Because—I was told—economic freedom would make total state control impossible. Economic controls govern every other form of activity. When the state controls money, prices, wages and jobs, the state opens and shuts every valve of life. This was a new concept for me: economic totalitarianism.

The state, for example, tells an independent Catholic newspaper how much newsprint and ink is "available," and how many copies they may print. Everything must be fought for, waited in line for, properly applied for. Delays are used as punishments. The state consumes as much of its citizens' energies as it can in the mere details of physical operation. By the time the censor looks over the last proofs—using a red pencil on every proper name and concrete fact, so that nothing may appear except a vague, abstract muddle—the editors already have squandered hours and hours of energy which they could not spend on editorial work. So it goes with architects, plumbers, mechanics, merchants and everybody else.

Alienation is visible on every face. People talk about it openly. "It is not anti-American," my hosts assured me: "the hostility you experience is even worse for Poles. No one has responsibility. There is no reason to do your job better. Why should you bother? Finish your state job as quickly as you can, save your energy, and hurry home to your secret job." I remember an American proverb which I mentally paraphrase: "You don't know what alienation is unless you've worked in Poland."

The Polish people are like a brilliant show horse ready to perform with unparalleled energy and grace, forced into the hitches of a creaky farm wagon. Socialist economics hold the free spirit back, burdening it with feudal backwardness.

In Krakow, the most medieval and beautiful of Poland's cities, its Oxford, its Cambridge, socialism has created the worst air pollution I have ever encountered. Seeing is believing: particles are visible in the air, gather quickly on one's shirt, congest one's nose.

If God is indeed just, and if there is a special hell for socialists, I feel certain John Kenneth Galbraith will spend at least half of eternity standing in line for toilet paper in Poznan, and the other half blowing his nose in Krakow.

If God is just, the Soviets will suffer grievously from imposing upon this people who suffered so horribly from 1939–1945 the stifling half-life of the present.●

CHRYSLER CORPORATION LOAN GUARANTEE ACT OF 1979

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. WEISS. Mr. Speaker, I voted yesterday in favor of the aid package for the Chrysler Corp. essentially because it offered the only way to save the jobs of some half-million workers throughout the United States.

I do not support special relief for companies that are threatened with bankruptcy except in the most extraordinary situations. In my judgment, the collapse of the 10th largest corporation in the country would have had such a devastating impact on the lives of millions of Americans that ultimately there was no choice but to make an exception in this case.

Ours is supposed to be a free-enterprise system in which profits and losses, successes and failures, are determined by market forces, not by Government intervention to rescue a company from its own mistakes. As a general principle, with only very limited exceptions, I believe that poor management and organization inefficiency should not be rewarded through the approval of special bailouts.

Chrysler stands as an exception to this rule, in my view, because it has such a major impact on the overall U.S. economy and on the well-being of hundreds of local communities and on the fiscal security of the Federal Government and many States and localities.

Should Chrysler go bankrupt, up to 600,000 workers in the United States would lose their jobs, adding one-half a percentage point to the nationwide unemployment rate which already stands at an unacceptable 6 percent. Not only would autoworkers, dealers, and related service employees be thrown out of work, but the ripple effect of a Chrysler collapse would ruin many local businesses, especially those in communities with a high proportion of Chrysler employees.

Minority workers and their families would be particularly and disproportionately affected by Chrysler's fall. About 28 percent of all Chrysler employees are black or Hispanic, while 34 percent of the company's blue-collar workers are members of minority groups. In Detroit—a city already reeling under the current recession—37,000 residents are employed by the company, and 79 percent of them are black or Hispanic. A total of 75,000 minority jobs would be lost in Detroit alone were the company to fold.

In New York State, 4,205 people work for Chrysler. Another 9,000 are employed by Chrysler dealerships. Nearly 15,000 more New Yorkers are working for companies that supply Chrysler with goods and services. The State and various localities would lose $15.4 million in tax revenues if New York's Chrysler components folded. Clearly, this is an issue with an important and direct consideration for New York.

The U.S. balance-of-trade deficit, regarded as a reliable barometer of inflation trends, would increase $3 billion in the wake of Chrysler's failure. The cars now produced by this third-largest of U.S. automakers would in all likelihood be sold by foreign companies to U.S. purchasers. Our total gross national product would likewise decrease by $10 billion as a result of this increased dependence on foreign corporations.

The Federal budget deficit would meanwhile swell by some $2.75 billion in 1980 and 1981 because of increased unemployment and welfare payments as a half-million workers are laid off and as they stop paying taxes. State and local governments would also lose an estimated $266 million in revenues.

For all these reasons, Mr. Chairman, I felt it was necessary to vote for the relief package, but I must again emphasize that I did so with the greatest reluctance. I realize that a most unfortunate precedent may have been established by the House vote to mitigate the effects of mismanagement and to sanction Federal intervention minimizing the supposedly inherent risks of a capitalist economy.

Alternatives to this lesser-of-two-evils approach are available to us and should now receive the careful consideration they so clearly deserve. Had a program of job training and plant retooling been in operation, it would not have been necessary to provide special relief to Chrysler. I am currently sponsoring legislation which provides for full compensation, meaningful job retraining, and plant conversion in the event of a shutdown of a defense-related facility. The same sound principles could and should be applied to nondefense corporate sectors so that workers are not severely penalized for the errors and incompetence of their employers.

I would urge the Congress, and indeed American society to address this underlying issue so that we will have in place a functioning alternative to either bailing out a major employer or letting plant capacities stand idle and human beings thrown on the economic scrap heap.●

THANKS, BUT NO THANKS

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. GOLDWATER. Mr. Speaker, I present the following observation, without comment, to my colleagues for their attention:

Thanks, But No Thanks

From Rep. Barry Goldwater Jr. comes a kind note that shows the dilemma faced by those in and out of government who would curtail wasteful government spending.

The Goldwater note came attached to copies of two pages of the Congressional Record, which records every word spoken on the floors of the House and Senate and millions which aren't. The latter sneak into the Record under the "extensions of remarks" category.

On those two pages were an editorial that appeared in this newspaper early last month and which Goldwater thought enough of to enter into the Congressional Record.

I would be a liar if I said there was no thrill to seeing the editorial there, although I think some news stories I wrote earlier in my career may have been my first prose ever published in that august document.

But I would be a hypocrite if I didn't acknowledge I think the extension of remarks section of the Congressional Record is a waste of taxpayer money.

Therein lies the dilemma faced by both Goldwater and editorial writers who share my view.

Congressmen in general love the extension of remarks section of the Record because it enables them to flatter constituents by dropping the names of visitors, the prose of editors or any number of other bits of information into the Record. It doesn't matter that nobody reads the extension of remarks part of the Record except those whose achievements are forever enshrined there—those who are mentioned usually think it's great.

So let's say Goldwater heeds the advice of a newspaper editor who says the time, effort and material spent on the extension of remarks section of the Congressional Record isn't worth it.

If Goldwater's constituents suddenly find they're shut out of the record while constituents of 434 other congressmen are honored in such fashion, Barry has a problem. He has lost a powerful PR weapon. And congressmen need public relations like newspapers need subscribers.

It matters not a whit that Goldwater's constituency elects him partly because of his view that government wastes too much money. Waste, like beauty, is in the eye of the beholder. A project that is wasteful in another congressman's district is a good investment of public funds when it's in your own.

Thus it is with the Congressional Record. The extension of remarks costs taxpayers thousands upon thousands, maybe even millions of dollars each year. But it buys congressman good will. And it makes constituents whose names show up there feel good, too.

All of us like to feel good. The Goldwater note made me feel good. But I still wish Congress would do away with the extension of remarks. At the same time, I know they won't.

So should I tell Goldwater, thanks for the mention but please don't do it again? That could mean I'll be forever left out of the Record while other newspaper editors are in again and again. But I'm a hypocrite if I don't.

So here goes.

Barry, thanks for the mention. I sincerely appreciate it and don't want to appear ungrateful. But if we can save the federal government a few dollars by not extending your remarks to include my editorials, we should. And, by the way, if anybody in D.C. was impressed enough to want to read more of my editorials, we will be happy to mail them a subscription in Washington—but please ask them to pay for it out of their own pocket, not with tax money.●

THE BUSINESS COMMUNITY: RESISTING REGULATION

HON. RON PAUL

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. PAUL. Mr. Speaker, the eloquent Mr. Charles Koch, chairman of Koch Industries, is one of our most effective spokesmen for the free market. He is also chairman of the Council for a Competitive Economy, an organization whose advisory board I am proud to serve on. The council makes the same consistent defense of freedom as Mr. Koch. It is a partial, inconsistent advocacy of the market that has made so many businessmen into helpers of government control. I would like to call a speech by Mr. Koch to my colleagues attention. Here is what freedom means.

The Business Community: Resisting Regulation

(By Charles Koch)

The majority of businessmen today are not supporters of free enterprise capitalism. Instead they prefer "political capitalism," a system in which government guarantees business profits while business itself faces both less competition and more security for itself. As California Governor Jerry Brown puts it, "Sometimes businessmen almost operate as though they'd feel more comfortable in a Marxist state where they could just deal with a few commissars who would tell them what the production goals were, what quota they had. . . . I am really concerned that many businessmen are growing weary of the rigors of the free market." New York Times columnist William Safire agrees with this sobering analysis: "The secret desire of so many top-level managers for controls and regulated monopoly is never openly stated. But today's managerial trend is not toward accepting risk. It is toward getting government help to avoid risk."

Even Henry Ford II has pointed out that "it's not just liberal do-gooders, Democrats, unions, consumerists and environmentalists who are responsible for the growth of government. It's also conservative politicians who favor increased defense programs, especially if the money is spent in their own districts. It's bankers and transporters and retailers and manufacturers who want protection from competitors. It's insurance companies that lobby for bumper and air bag regulations that might lower their claims costs. It's even, if you'll forgive me, car dealers who want state government to protect them from the factory or from new dealers in their territory."

But that is only the tip of the iceberg. It was support from a large portion of the business community, including the Chamber of Commerce and the National Association of Manufacturers, which enabled Nixon to impose wage and price controls in 1971. Much earlier, bankers succeeded in pushing through legal prohibitions on the payment of interest on demand deposits. Moreover, the steel industry has just caused the government to set minimum prices on imported steel.

Businesses often fight bitterly against deregulation, as well as urging new controls. Despite support by both liberals and conservatives in Congress, deregulation of the airline industry was blocked for some time by heavy pressure from the airlines themselves. Deregulation of the trucking industry has buckled under pressure from the American Trucking Association.

My own industry, oil, is no different. Over the past five years our company has participated in dozens of hearings on regulatory matters before the Federal Energy Administration and the Department of Energy. At virtually all of these hearings, a number of oil companies have come down on the side of state regulation. Secretary of Energy James Schlesinger summed it up: "The oil industry loves regulation and has been in love with it for many years." Precisely so.

Businessmen have always been anxious to convince a gullible public and an opportunistic Congress that the free market cannot work efficiently in *their* industry, that *some* governmental planning and regulations would be in the "public interest." Indeed, much of the government regulation which plagues us today has come only after businesses have begged and lobbied for it. Nearly every major piece of interventionist legislation since 1887 has been supported by important segments of the business community.

This old business strategy of accommodation with government paid off in the past to some extent, perhaps, but today it falls on its face. Business now suffers as much as the rest of society from the adverse consequences of its own interventionism—the exhaustion of the "reserve fund" predicted by the great economist Ludwig von Mises. Passed at the behest of business, regulations boomerang. A refiner may procure price controls on his purchased crude oil, yet later he experiences shortages and even may find price controls slapped on his own gasoline to capture his politically derived "excess" profits. Oil pipeline companies invite the DOE in to study regional pipeline needs, hoping that their particular project will be favored. But in the future, Washington may well make *all* pipeline decisions, and even build all pipelines.

Businessmen should realize that the more regulated an industry becomes, the less it can cope with changing conditions in the world. It is no coincidence that the four *lowest* ranking industries in return on capital today (airlines, railroads, natural gas utilities, and electric utilities) are also the most highly regulated.

The final stage of political capitalism is even worse. Richard Ferris, president of United Airlines (an exception in his industry) predicts, "Continued governmental control will mean airline service as you know it today will be seriously jeopardized. And, as service and equipment deteriorate, you will stand by helplessly as the threat of nationalization becomes reality." In the electric utility industry, a number of states have already organized agencies to take over from private utilities unable to finance needed additional generating capacity.

Even business's dwindling successes in achieving precisely the regulatory scheme desired by them do not guarantee future control. Just the opposite often occurs. Politically derived benefits for business cause hardships for other special interest groups who apply pressure on the regulators to turn the regulatory weapon around.

Thus, the business community is growing more and more aware of the shortcomings of this strategy as more and more firms directly suffer the after-effects of their own pathetic schemes. Moreover, examples of the ultimate consequences of interventionism, especially the plight of the railroad industry in the United States and major industries in Great Britain, are awakening businessmen to thier own probable fate.

Businessmen are also becoming justifiably concerned with the rapidly growing antibusiness sentiment in this country. Recent public opinion polls show that a large portion of intellectuals and the general public believe that business—especially big business—has undue political power, which it uses to stifle and smash competition and to control prices.

THE LIBERATION OF BUSINESS

But business can free itself from this predicament, if only it will. As the Wall Street Journal recently noted, "Despite the blows they have suffered in the political arena [businessmen] still have the capacity to be highly influential in the political sphere. But they will not bring about such a reversal unless they are able to put aside short-term concepts in favor of those longer-term considerations. . . . We may be reaching the point where American businessmen will have to decide whether they really believe in the market system. If they don't, it is hard to see who will muster the political forces to defend it against its very real and often intensely committed enemies." In spite of businesses sullied record in defending free enterprise, there are large numbers of businessmen who want nothing more from government than to be left alone. And these numbers are growing quickly today.

To survive, business must develop a new strategy. The great free-market and Nobel Laureate economist F. A. Hayek has prepared a guide for us:

Almost everywhere the groups which pretend to oppose socialism at the same time support policies which, if the principles on which they are based were generalized, would no less lead to socialism than the avowedly socialist policies. There is some justification at least in the taunt that many of the pretending defenders of "free enterprise" are in fact defenders of privileges and advocates of government activity in their favor, rather than opponents of all privilege. In principle the industrial protectionism and government-supported cartels and the agricultural policies of the conservative groups are not different from the proposals for a more far-reaching direction of economic life sponsored by the socialists. It is an illusion when the the more conservative interventionists believe that they will be able to confine these government controls to the particular kinds of which they approve. In a democratic society, at any rate, once the principle is admitted that the government undertakes responsibility for the status and position of particular groups, it is inevitable that this control will be extended to satisfy the aspirations and prejudices of the great masses. There is no hope of a return to a freer system until the leaders of the movement against state control are prepared first to impose upon themselves that discipline of a competitive market which they ask the masses to accept. The hopelessness of the prospect for the near future indeed is due mainly to the fact that no organized political group anywhere is in favor of a truly free system.

Before businessmen can serve as effective defenders of individual liberty and the free enterprise system, it is first necessary for them to learn precisely what free enterprise is and what it is not. We must do our homework; we must comprehend "the philosophic foundations of a free society." Only then will we have the necessary resolve to carry out the difficult task ahead.

Armed with understanding, businessmen can confidently proceed with the new strategy, which is composed of three parts: business/government relations, education, and political action.

1. Business/Government Relations—The first requirement is to practice what we preach. People see our inconsistencies and—quite justifiably—simply don't believe businessmen anymore. How discrediting it is for us to request welfare for ourselves while attacking welfare for the poor. Our critics rightfully claim that we want socialism only for the rich.

Our credibility cannot be regained if we continue to file, hat in hand, to Washington while mouthing empty, insincere platitudes about free enterprise. We cannot continue to have it both ways. Government will not keep granting us favors on the one hand, while allowing us to run our own businesses as we see fit, on the other. We must stop defending interventions and demanding new ones. This might well diminish the impetus for new regulations and win new allies for us among intellectuals, legislators, and the general public.

Then we should advocate the repeal of existing regulations in our industries, as well.

Never ask for tighter regulation of a competitor even if he has the advantage of being less regulated than you are. This starts the suicidal cycle which ends in the destruction of both. Instead we should concentrate on loosening our own regulations. We should defend our own right to be free of unjust regulations, and not try to shackle competitors. Strategically, the critical point is to fight to eliminate, rather than coninue, all interventions, even those that provide short-term profits. Only by rigidly adhering to this policy can we begin the step-by-step process of freeing ourselves.

Taxes are particularly troublesome, especially since many free market businessmen believe that tax exemptions are equivalent to subsidies. Yet morally and strategically, tax exemptions are the opposite of subsidies. Morally, lowering taxes is simply defending property rights; seeking a subsidy is asking the government to steal someone else's property for your benefit. Strategically, lowering taxes reduces government; subsidies increase government. Nor is it valid to say that reducing your taxes simply shifts your "fair share" of the tax burden to someone else. There is no "fair" share. Our goal is not to reallocate the burden of government; our goal is to roll back government. We should consistently work to reduce all taxes, our own and those of others.

Finally, we should not cave in the moment a regulator sets foot on our doorstep. Put into practice Henry Manne's recommendation that "the business community utilize available techniques of legal adversary proceedings to announce publicly and vigorously, both as individual companies and through associations, that they will not cooperate with the government beyond the legally compelled minimum in developing or complying with any control programs." As he urges, "publicize as widely as possible the inevitable inefficiencies, mistakes, and human miseries that will develop with these controls . . . help the public understand that morality, in the case of arrogant, in the case of arrogant, intrusive, totalitarian laws, lies in the barest possible obedience and in refusal to cooperate willingly beyond the letter of the law." Do not cooperate voluntarily; instead, resist wherever and to whatever extent you legally can. And do so in the name of justice.

2. Education—Business's educational strategy has been guided more by concern with short-term "respectability" and acceptance

by the establishment than with long-term survival.

We have voluntarily supported universities and foundations who are philosophically dedicated to the destruction of our businesses and of what remains of the free market. This must stop. We must stop financing our own destruction. Period.

Even when business has supported "free enterprise" education, it has been ineffectual because businessmen have had little understanding of the underlying philosophy or of a meaningful strategy. Businessmen have spent their money on disasters such as buying a "free enterprise" chair at their alma mater and watching in dismay as the holder teaches everything but free enterprise.

Also largely wasted has been the money contributed to those private colleges who make free enterprise noises, but have failed to produce competent graduates dedicated to establishing the free enterprise system. There are too many of these.

The development of talent is, or should be, the major point of all these efforts. By talent, I mean those rare, exceptionally capable scholars or communicators willing to dedicate their lives to the cause of individual liberty. To be effective, this talent must have the knowledge, skill, and sophistication to meet statist adversaries and their arguments head on, and to defeat them. They must have the desire and commitment to unceasingly advance the cause of liberty. Statists have succeeded while we floundered because they've had their talent, their cadre, to develop and sell their programs. During the 15 years I have been actively investing my time and money in reestablishing our free society, our biggest problem has been the shortage of talent. When conscientious, dedicated scholars or communicators worked on a project, we were effective; when they weren't available, we failed.

Thus, business must concentrate its support on those few institutes and university departments that have effective programs for producing a free-market cadre.

Our own direct defense of business, particularly our media advertising, has been either bungling and pitifully ineffectual, or else downright destructive. We have substituted intellectual bromides for a principled exposition of a point of view. We have taken a conciliatory attitude. Our ads have apologized for profits.

We have accepted the fallacious concept that the corporation has a broad "social responsibility" beyond its duty to its shareholders. We have been made to feel ashamed of private ownership and profits, and have been hoodwinked into characterizing government regulation as "virtuous" and in the "public interest." As a typical example, the Advertising Council, backed by most of the major U.S. corporations, goes so far as to describe regulation as, "the promotion of fair economic competition and the protection of public health and safety." What simple-minded nonsense!

Instead of this bankrupt approach, we need to go on the offensive. We need to cast aside our desire to be popular with our colleagues and the establishment intellectuals, to cast aside our fears of reprisals by government. We need to advertise that the market system is not only the most efficient, it is also the only moral system in history. We need to attack government regulation for wreaking havoc on those it is allegedly designed to help—those least able to fend for themselves. We need to stigmatize interventionism as being intrinsically unjust because it deprives individuals of their natural right to use their lives and property as they see fit. We need to defend the right of "capitalist acts between consenting adults," in the words of Robert Nozick.

A recent demonstration of the need for arguments beyond the standard one of efficiency is the recent Supreme Court decision upholding a Maryland law (passed at the bidding of a service station dealers' association) barring oil producers and refiners from operating service stations. The Court found that, "regardless of the ultimate economic efficacy of the statute, we have no hesitancy in concluding that it bears a reasonable relation to the state's legitimate purpose in controlling the gasoline retail market. . . ." The determinative defense of business will rest not in arguments from efficiency, but in arguments from justice. To claim that the state has the right to "control the gasoline retail market" is totalitarian nonsense.

We must demand the same principled behavior of our organizations as we do of ourselves and our companies. When, for example, the Committee for Economic Development advocates "that public-private partnerships must be an essential part of any national urban strategy," business should withdraw its support. It should do the same if the Chamber of Commerce continues to promote government intervention under the philosophy espoused by a former president: "It's not possible or desirable to remove all the regulations." New business organizations should be set up which refrain from asking for state protection and subsidies, and which, going further, criticize, expose and lobby against instances of political capitalism, of "the partnership between business and government." Only such organizations can help business regain the respect of the American people. In fact, a group of us is launching just such an organization, The Council for a Competitive Economy.

Such an organization will help businessmen avoid blunders similar to the Wichita Chamber of Commerce when it heavily promoted a one-billion-dollar coal gasification plant, which would have been partially owned by Wichita and subsidized by Washington. The people of Wichita rejected Chamber propaganda that the plant would not cost them anything and voted it down. Again, such an organization will help prevent blunders such as the business community in California opposing Proposition 13. These blunders create an image of business in cahoots with government to tax and exploit the people. Milton Friedman describes this as business following "its unerring instinct for self-destruction."

Business should also stop shackling the free-market position with antilibertarian stands such as hostility to civil liberties and an interventionist foreign policy. What a spectacle it is for the same people who preach freedom in voluntary economic activities to call for the full force of the law against voluntary sexual or other personal activities! What else can the public conclude but that the free-market rhetoric is a sham—that business only cares about freedom for itself, and doesn't give a damn about freedom for the individual?

The public reacts at least as negatively to business calls for still further foreign adventurism. What other feelings can we expect from people taxed and conscripted to save our foreign investments or to enlarge our foreign profits? We should take our own risks abroad, and not expect them to be borne by the American people.

Businessmen have been the first to support any sort of foreign adventurism, if only it is sold under the rubric of "national security." If business really wants a free market/private property system it must resist government's foreign interventions as well as its domestic interventions. Businessmen must realize that the single greatest force behind the growth of government is foreign adventurism and its daughter—war. America cannot both be policeman to the world and have a free domestic economy, they are mutually exclusive. Our classical liberal forebears in England who struggled for free trade and laissez-faire realized this—the peace movement and the free trade movement are one and the same.

3. Political Action—Businessmen should be involved in politics and political action—from local tax revolts to campaigns for Congress and the presidency. But we should apply the same standards of understanding and principled behavior as in the other parts of our strategy. We must discard our lesser-of-evils approach to politics. This has brought only the continued growth of government.

Our movement should have as its goal the fullfillment of the ideal of the free and independent entrepreneur. To accomplish this, our movement must destroy the prevalent statist paradigm and erect, in its stead, a new paradigm of liberty for all people. Our movement must avoid the faulty strategy of conservatives, whose acceptance of statist premises has caused their proposals to be simply moderate versions of the original statist schemes. Our movement must struggle for the realization of the principle of the free market rather than settle for immediately obtainable reforms. For, as Aileen Kraditor writes, "To criticize the (radical) agitator for not trimming his demands to the immediately realizable—that is, for not acting as a politician—is to miss the point . . . the more extreme demand of the agitator makes the politician's demand seem acceptable and perhaps desirable in the sense that the adversary may prefer to give up half a loaf rather than the whole. Also, the agitator helps define the value, the principle, for which the politician bargains. The ethical values placed on various possible political courses are put there partly by agitators working on the public opinion that creates political possibilities."

Business can survive, but it cannot survive without the help of businessmen. By fighting against intervention, however profitable, by advocating a principled, philosophical defense of the free enterprise system, and by working for freedom for everyone, businessmen can, with pride, be a vital force in restoring our free society. To date, businessmen have not seen fit to do so. Whether businessmen do so in the future may determine whether business, indeed, has a future. Or deserves to.●

DIRTY FOOD—HOW DANGEROUS?

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. RITTER. Mr. Speaker, the ability of the society to identify and measure substance or matter causing risks has far outstripped our capacity as a Nation to surmount the anxieties raised by the increasingly sensitive instruments of measurement. As a consequence, to avoid potential risks, some would have us turn off the 20th century, technology by technology, perhaps return to the simpler lifestyles of an earlier era. Some favor careful study of every possible risk from sample substances—down to the few parts per trillion.

Mr. Speaker, the reality is that society's technological ability to measure chemicals and radioactivity—not to mention other potentially hazardous substances under scrutiny today—far exceeds our present political ability to manage or regulate them wisely. I would urge the Congress to act to establish a mechanism for understanding and assessment of comparative risks in the agencies of government where such scientific or technological matters require regulatory action. This mechanism should also inform the general public of "comparative risks" in language understandable to the layman. Only the Congress—not the courts or the regulatory agencies of Government—is able to make the necessary judgments whether an action or failure to act is as dangerous as might be alleged. For Members who may want to read today's Washington Post editorial on the potential impact of the "environmental contamination" of food substances identified in a study by the Congress Office of Technology Assessment, I insert the following:

Dirty Food

> Kepone closing Virginia's James River; PBBs in animal feed killing thousands of dairy cows in Michigan; PCBs in animal fats from a single packing plant in Montana finding its way into everything from pork products to strawberry cakes in 17 states in a matter of weeks—each of these was a case of what Congress' Office of Technology Assessment calls "environmental contamination" of food. In a study released Sunday, OTA describes environmental contaminants as any substance in food that can be injurious to health and that cannot be eliminated by normal manufacturing practices. They can be of many types: natural or man-made chemicals, metals or chemicals containing metals, and radioactive substances.
>
> Unlike many other countries, the United States has not yet had a tragic case of food contamination such as the one in Japan in which great numbers of people were poisoned by mercury in fish. But with growing industrial activity and thousands of new chemicals entering the marketplace each year, the potential is there. OTA found 240 cases of food contamination in this country during the past decade. A very rough estimate of the cost of the condemned food is about $1 billion; health costs for medical expenses and lost workdays could not even be guessed at. Though evidence is scarce, it seems that only one of the 240 incidents produced lasting health effects, though their severity is not yet known.
>
> OTA identified many defects in the present system for preventing food poisoning. Most of them—like the lack of coordination among the many state and federal agencies—are relatively easy to fix. A lead federal agency should be named to deal with these cases and directed to establish formal lines of communication and reporting responsibilities with state governments.
>
> The most important defect, however, is not at all easy to remedy. It is that under the current system animals or people must get sick before a contaminant is identified and they usually have to get very sick before the responsible substance can be regulated or, if necessary, actually banned. To change this, OTA suggests that a nationwide food-monitoring system be set up making use of sophisticated new chemical technology that can measure substances in a sample of air, water, food or soil in miniscule amounts—down to a few parts per trillion. These devices can quickly tell when a new component—possibly a dangerous contaminant—begins to appear.
>
> The cost of such a system would be very large, but that is not its greatest drawback. Its greatest drawback is that it may simply identify dozens of substances about which nothing can then be done. For the reality is that society's technological ability to measure chemicals and radioactivity far exceeds its current political abilities to manage or regulate them wisely; and the more that federal decision making is opened up to allow full public participation, the harder it gets to set adequate regulatory standards. Everyone wants a safe food supply, but before Congress sets up a system that will produce these vast amounts of new information, it ought to take a hard look at the way our regulatory system manages the information it already has and be ready with some advice on how to make any new outpouring of measurements a boon to managing dangers in the environment—not just a new source of anxiety and hysteria.●

THE TEAMSTERS' CENTRAL STATES PENSION FUND—PART V

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. PICKLE. Mr. Speaker, no professional service is more important to the financial soundness of a pension fund than that provided by the actuary. In recognition of the importance of proper and competent actuarial services, the Congress required that all private pension actuaries be "enrolled" or certified by a special board set up under ERISA.

In essence, the actuary makes "reasonable" assumptions about future factors and events which affect the costs of providing promised pension benefits. Labor force turnover rates, assets investment performance, and rates of early retirement are examples of these future factors.

Because these assumptions are little more than educated guesses determined through the exercise of a great deal of professional judgment, there is an obvious potential for abuse through manipulation of the assumptions. There is also a great temptation: A seemingly minor change of a single key assumption can result in a reduction in annual funding costs of millions of dollars or can allow otherwise unsupportable (and politically attractive) benefit increases to be made by the trustees on behalf of the Union leadership.

Unfortunately, Mr. Speaker, that potential for abuse became a reality in the case of the Teamsters' Central States Pension Fund. According to a 1978 memo prepared by the staff of the Oversight Subcommittee of the Committee on Ways and Means:

> As of March 1978, both of the respected actuarial consultants hired by the Central States Pension Fund under then Executive Director Daniel Shannon had been told to suspend their ongoing actuarial evaluations of the funding needs of the Fund and not to begin any new evaluations.
>
> Dan McGinn of Dan McGinn Associates, Inc., has stated to the Oversight staff that he believes that he was fired when his work was suspended. McGinn thereafter completed his work, already underway for some eight months, at his firm's own expense and submitted it to the Fund. The other respected actuarial firm, the Wyatt Company of Washington, D.C. was also put on ice, but they don't use the word "fired" since they hope that the trustees will once again seek their services. One unconfirmed report is that Wyatt also does the actuarial work for the Teamster Affiliates Pension Plan, the exclusive (and generous) plan for Teamster officials only.
>
> There is good reason to believe that the trustees have reacted to what they see as bad news—competent advice that large increases in pension contributions are needed—for reasons of union politics. They have reacted by shunting aside the bearers of that bad news.
>
> The advice of both Wyatt and McGinn may be very damaging to the Teamster leadership because this advice, if followed, would require that a large chunk of the pay increase to be negotiated in early 1979 be diverted into the pension fund.
>
> It is believed that the trustees have rehired former longtime actuary Max Kunis, fired in 1976 by Daniel Shannon, who has long maintained that the Fund is not in need of large contribution increase to maintain its benefit levels. The appearance, then, is that the trustees are returning to a reliable insider in an effort to avoid the bad news and evade their fiduciary responsibility.

The following additional information was supplied to the Oversight Subcommittee by Robert Windrem, then the research director of the Professional Drivers Council (PROD), in testimony on June 6, 1978:

> Wyatt and McGinn have told the trustees that in order to keep the fund actuarially sound—that is, capable of continuing to pay benefits at present rates—it must increase employer contributions to the fund by $9 to $11 per man per week. I want to remind the subcommittee that the actuarial firms have stated that this is what is needed to keep the fund sound, not to increase benefits. That would require additional funding.
>
> The trustees, all of whom have negotiations experience, know that every dollar that goes into pension fund contributions is a dollar that cannot be used for wages. They know that if the rank and file realize that they are paying a fine, in terms of lost wages, for their union leaders' and bosses' corrupt practices, there will be hell to pay during both contract negotiations and at the ballot box.
>
> To forestall this, the trustees have rejected the findings of Wyatt and McGinn and turned once again to A. Maxwell Kunis, whose actuarial services were repudiated a few years ago when Daniel Shannon, the since-dismissed fund director, turned to Wyatt and McGinn for help.
>
> Kunis, it has been reported, believes the fund can remain sound on $6 more per week per man, a large sum no doubt but a lot easier to swallow than $9 or $11.
>
> Thus, by retaining Kunis, the trustees are showing that they are willing to risk future losses for the fund in return for an easier time during negotiations and at the ballot box.

The basic fact is that the trustees of the Central States Pension Fund manipulated the bottom-line findings and the underlying actuarial assumptions by shopping for their actuaries. Then, earlier this year, the trustees instituted major pension benefit increases. I am concerned, Mr. Speaker, that these increases may not be supportable in the long run, even by the recently negotiated employer contribution increases, and that a funding deficiency may result.

It is my view that the rejection of the advice and reports of the respected actuaries is a violation of the fiduciary responsibility standards under part 4 of title I of ERISA. Apparently the Labor Department and IRS disagree, maintaining that the separate ERISA minimum funding standards govern this issue. Unfortunately, these latter standards do not apply to the Central States Fund until 1981, and the validity of my concern apparently will not be fully evaluated until after the deadline for 1981 contributions which occurs late in 1982.

For the sake of the more than 450,000 Teamsters who depend on the soundness of the Central States Fund, I hope that my concern turns out to be unfounded. Perhaps the improved investment performance which is resulting from the Government-mandated imposition of independent investment managers of the fund assets (who are themselves under attack; see my RECORD statements of December 4, 5, and 11, 1979) will significantly change the picture. Nevertheless, I remain apprehensive about the long-term actuarial soundness of the Central States Fund due to the manipulation which has already occurred and due to the present trustees willingness to engage in this type of manipulation.●

HOW THE WASHINGTON POST MANAGES THE NEWS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. McDONALD. Mr. Speaker, those of us who have compared news accounts of particular events as reported in the Washington Post with reports in our district papers, or with newspapers elsewhere in the country, have seen firsthand the curious bias and distortion of the Post. The following article, "Washington As Censored By the Post," from the November issue of American Opinion, provides an incisive analysis and concrete examples of the Post's distortions and biases which I believe my colleagues will find instructive.

The article follows:

WASHINGTON AS CENSORED BY THE POST

(By John Rees)

Are reporters biased? In 1976 the Washington Post and the Harvard Center for International Affairs conducted a poll. Questionnaires were sent to one hundred fifty reporters working in Washington, D.C., and to one hundred fifty newspaper managing editors and television news directors employed elsewhere in America. Of the Washington reporters, fifty-nine percent described themselves as "liberal" and sixty-one percent said they had voted for George McGovern. Only eighteen percent said they were "conservative" and but twenty-two percent said they had voted for Richard Nixon. The percentages for the editors and television news directors working elsewhere were similar. Of these, forty percent said they were "liberal" and forty-four percent said they had voted for McGovern. Only seventeen percent said they were "conservative," though apparently there were more Republicans among them since thirty-nine percent reported voted for Nixon.

Compare these figures to a Harris poll taken the same year that found forty-three percent of Americans wanted the country to move in a more "conservative" direction while only nineteen percent favored a more "liberal" course. From which we can reasonably conclude that at the working level the mass media in our country, and especially those operating in Washington, are dramatically more "Liberal" than the American people they serve.

While it is unrealistic to expect that journalists will have no political commitments, whether Conservative or "Liberal," one should expect a combination of fairness, professionalism, and an editorial determination to control bias and distortion. We expect it but we don't get it from our mass media. What we propose to do here is to examine one of the nation's most powerful newspapers as a model of biased reporting on a national and international scale.

MRS. GRAHAM'S PAPER

The Washington Post has been firmly under the management of a single family since 1933, when it was purchased by the wealthy banker Eugene Meyer, who had been governor of the powerful Federal Reserve Board. In 1936 his youngest daughter Katharine transferred from Vassar to the radical milieu of the University of Chicago where she became active in the American Student Union, a Front created by the Young Communist League that engaged in labor organizing activities and offered free trips to the Soviet Union. Perhaps because of these activities, Katie Meyer was soon being called by a Russian nickname and was a student supporter of Communist-led strikers in Memorial Day riots at Republic Steel.

Upon graduation, "Katrinka" Meyer went to San Francisco where she became a "labor reporter" for the Scripps-Howard San Francisco News. According to Lynn Rosellini, who wrote a five-part series on Katharine Meyer Graham for the rival Washington Star of November 1978, Katrinka Meyer was assigned to cover a long waterfront strike of the Communist-controlled International Longshoremen's and Warehousmen's Union, led by Communist Harry Bridges, and "spent hours each day" with the Comrades in the offices of the Pacific Coast Labor Bureau at the foot of Market Street. The officials of the Communist union liked her "very objective" writing. And according to Miss Rosellini, "After work she would join union leaders at a longshoremen's bar along the Embarcadero."

Eugene Meyer had apparently decided by 1939 that enough was enough and called his daughter back to Washington where he gave her a job writing editorials on the family newspaper. She soon married a bright young graduate of Harvard Law School, Philip L. Graham, who was clerk to Supreme Court Justice Felix Frankfurter. Eugene Meyer made Philip responsible for managing the Post and eventually turned over its ownership to the Grahams. After Philip Graham committed suicide in 1963, Katharine assumed full control. She served as president and publisher until 1973, and now is chairman of the board of the Washington Post Company. Her son Donald is the Post's president and publisher.

The Grahams are directly involved in policy-making on the newspaper, hire and fire the management and editors, and have vigorously defended the paper against criticism of its biases.

THE PINSKY PRINCIPLE

Distortion is not always caused by the deliberate efforts of a reporter or editor to misrepresent the facts. It can also involve something now called the "Pinsky Principle," after a free-lance journalist from North Carolina who wrote an article for the Columbia Journalism Review in 1976 on the press coverage of the Joan Little trial. The defense for Miss Little, who was charged with murdering her white jail guard so that she could escape, was run by the Communist Party, U.S.A., which organized a series of rallies and demonstrations, carried out a major fundraising drive for "defense costs," and used the case to recruit new members. The claim was that Joan killed her guard in self-defense during a rape. Pinsky wrote:

"The great untold (or unreported) story of the Joan Little trial, which I first learned from members of the defense law firm and the defense committee was the role of the Communist Party, through its National Alliance Against Racist and Political Repression, in controlling the entire (and considerable) political movement surrounding the case. Angela Davis, a leading figure in both organizations [and a member of the Central Committee of the Communist Party], became the most frequently quoted movement figure and constant companion of Joan Little. The party press was consistently favorable in its coverage of the case. Party members were visible and influential on the defense committee, and the party frequently set up rallies of support around the country."

Having seen and recognized the Communist role in the Joan Little defense and the allied organizing campaign, Mr. Pinsky continued: "The anomaly was that straight reporters did not report this situation, out of a concern that the information might be used in red-baiting anyone associated with the case who did not belong to the party." In other words, Mr. Pinsky and his fellow reporters chose to conceal important information. As Mark Pinsky summed it up: "If my research and journalistic instincts tell me one thing, my political instincts another, . . . I won't fudge it, I won't bend it, but I won't write it."

Two years after Mark Pinsky had written his article for the Columbia Journalism Review, a "must" publication for editors, the Washington Post reported on a demonstration by the same Communist Front to focus attention on its clemency demands for the "Wilmington Ten," a group convicted of arson and riot in the burning during racial disturbances of a grocery store owned by a Greek-American in North Carolina. The Post failed to mention that the National Alliance Against Racist and Political Repression (N.A.A.R.P.R.) is a Communist Party Front, even after the watchdog group Accuracy In Media called Post editor Tom Wilkinson, who was responsible for the story, and reminded him of that fact on the afternoon the story appeared. The next morning's Post editions had no mention of N.A.A.R.P.R.'s Communist affiliation, and A.I.M. asked the Post's "ombudsman," Charles Seib, to explain the blackout. Seib reported that editor Wilkinson had forgotten A.I.M.'s call, but said that a mention of the Communist Party Affiliation would be included in later editions. As A.I.M. reported on this incident:

"In the paper's third edition the story was changed to say that Angela Davis had described the Alliance as having about 150 affiliates, including the Communist Party and the American Civil Liberties Union. Aryeh Neier, executive director of the ACLU, told AIM this was not true and that he would have nothing to do with the Alliance. Rather than telling its readers that the Alliance was a Communist front, the Post used a false statement by a Communist that gave the opposite impression."

Ah Pinsky, where are you when you are needed?

But perhaps the Pinsky Principle was in operation when the Washington Post ignored a January 1978 press conference during which Cambodian refugee Pin Yathay, a civil engineer who had survived two years of hellish torment, described how under the Communists he had lost his entire family—his mother and father, his brother, two sisters and brother-in-law, his wife and three children, and all the other members of a family of eighteen. Yathay told of starvation so terrible that survivors were driven to eat the bodies of those who died; of suicides, random executions by the Khmer Rouge, and grisly torture.

Columnist Patrick Buchanan wrote an article for TV Guide in which he told how the Washington Post reporter present, Elizabeth Becker, walked out of the Yathay press conference "asserting she had heard enough of this 'junk.'"

At this point, Accuracy In Media took an interest in the Post's failure to report the Pin Yathay story. According to A.I.M., Miss Becker belatedly said that the decision to kill this dramatic story of horror in Cambodia had been made by national news editor Laurence Stern, who after having his memory refreshed by Miss Becker said he killed it because Miss Becker told him it was similar to the material being reported by Lewis Simon, the Post's Bangkok correspondent. Said Stern, "On that basis, we decided not to do a story."

Accuracy In Media checked to see if similar stories exposing the unprecedented barbarism of the Khmer Rouge had indeed been published by the Post. And, reported the media watchdog, "The shocking fact is that we could not find in all the previous year a single news story in the Post that provided a detailed eyewitness account of the incredible treatment of the Cambodian people comparable to that provided by Pin Yathay." In fact, in 1977, only six news stories concerned human-rights violations in Cambodia, and A.I.M. had to go back ten months to July 1977 to find a Lewis Simon story about reports of the torments there. Incredibly, noted A.I.M., the theme of his story was "accounts of a bloodbath had been exaggerated, but there were severe problems because of a crop failure and disease."

When A.I.M. leader Reed Irvine went back to Stern with the evidence, the Post's national news editor said he had been thinking of stories in 1975 and 1976 as well. Again Irvine checked. The Post's own tabulations showed only four articles on the severe mistreatment of the people of Cambodia during 1976, and nine for the whole of 1975. In fact, A.I.M. found that "the longest story the *Post* ran on Cambodia in 1977 was a two-page article making the charge that Cambodia's plight was really the fault of the U.S. for having gotten Cambodia involved in the war. Two articles were devoted to defense of their policies by Communist Cambodian leaders, and even the articles that discussed the agony of the Cambodian people tended to be 'balanced' by mention of U.S. culpability or arguments that things were not as bad as some said."

At the *Washington Post* annual corporate meeting in May 1978, Accuracy In Media brought this example of dishonesty and news distortion directly to the attention of *Post* owner and publisher Katharine Graham, and suggested she try to find out the real reason Laurence Stern killed the Cambodian story since there was a "pattern or reporting" at the Washington Post that "could reflect the ideological proclivities of some of its personnel." As Mr. Irvine commented in a May newsletter:

". . . the editor gave a factually unsupported reason for having killed the story and then waffled on the question of whether or not be believes that the stories of a holocaust in Cambodia are true. Why this particular editor, Laurence Stern, did these things, I don't pretend to know. I would certainly not suggest that one can prove that an editor is in the pay of foreign intelligence simply on the basis of the way he handles certain news stories. However, in this age, pay is not the dominant incentive behind service to certain foreign powers. Ideology is far more important than monetary reward in many, perhaps most, cases.

"If an editor refused to run stories such as those of Pin Yathay, Frank Emmick, and the expose of the contents of Orlando Leteliers briefcase, thereby avoiding causing damage to the image of communists or those on the left, he serves the communist cause just as surely as he would if he were getting paid by them. The proper question, therefore, is not whether such an individual is in the pay of a foreign power or is subject to the discipline of the Communist Party, but do his decisions follow a pattern of harming the forces of freedom and benefiting the enemies of freedom."

Reed Irvine had also asked Mrs. Graham to explain the great disparity between Post stories on human-rights abuses in Cuba or Cambodia or Vietnam, where millions have been murdered, with its heavy concentration of attacks on such anti-Communist countries as Chile, South Africa, and Iran; its extended campaign against the U.S. intelligence agencies; and, its "despicable editorial" smearing American Frank Emmick, who was brutally treated for fourteen years in Castro's prisons, calling him a "'frog-leg salesman' and implying that Emmick really was a C.I.A. agent despite his denials and all evidence to the contrary."

A month later, Post executive editor Ben Bradlee responded with a not full of invective against Reed Irvine; and Mrs. Graham wrote, "Your totally unfounded character assassination of Laurence Stern . . . is beyond the pale. This kind of assault by innuendo is reminiscent of the methods of Joe McCarthy."

Backed to the hilt by managing editor Ben Bradlee and by the Post's publisher/owner for whose father and husband he had worked nearly thirty years, Larry Stern continued as national news editor of the Washington Post until his death on August 11, 1979. A great deal was then revealed about Stern by the circle of his admirers who attended the memorial service in his memory. The following is from Village Voice columnist Alexander Cockburn:

"Larry had worked at the Washington Post for nearly 30 years, and knew everything about the paper, every skeleton in every closet. . . ."

"When in the Watergate aftermath and slight slump at the paper, he became assistant managing editor of the Post, in charge of national affairs, the change for the better was . . . instantly detectable. Not the least because Larry's heart and head lay on the left side of the political bed. He was not one of those pallidly objective souls who need a route map to get from a gas shortage to Exxon headquarters, or who feel incapable of making up his mind 'until all the facts are in' and till all the evidence has been judiciously assessed.

"A Trotskyist in his hot youth, Larry knew what the facts were going to tell him long before he discovered what they actually were, and the route map he carried with him through his life showed the eternal landmarks; the rich man in his castle and the poor man at his gate."

The Stern memorial service was chaired by Post editor Ben Bradlee, and one of the main eulogies was delivered by radical polemicist I. F. Stone, who praised Larry Stern as a friend of the "Palestinian people" and the "Nicaraguan people," and made it clear that what he was talking about were the terrorists of the Palestine Liberation Organization and of the Communist-led Sandinista National Liberation Front that now rules Nicaragua.

And whom did Stern regard as his enemies? According to I. F. Stone, he hated the "huge mindless institutions that devour our substance and corrupt our fundamental ideals, like the Pentagon and the C.I.A."

Also present to honor the Post's late national news editor was the chief of the Cuban secret police in Washington, who delivered his own tearful eulogy to his good friend Larry Stern. This was Teofilo Acosta, First Secretary of the Cuban Interests Section headquartered in the Czecho-Slovakian Embassy, and an officer of the Cuban Directorate General de Intelligencia (D.G.I.), a wholly-owned subsidiary of the Soviet K.G.B. Acosta has been particularly active in cultivating Capitol Hill staff and political leaders, and here he was fondly recalling intimate relations with one of the most powerful editors in Washington. When Mrs. Acosta was asked, "Was Larry Stern a good friend of Cuba?" she replied, "Oh yes, he was a very good friend of ours." Indeed he was.●

CHILD-PROOF LIDS

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. PAUL. Mr. Speaker, Mrs. Mary Jane Smith of Houston wrote me a most eloquent letter about one of the many Federal insanities: mandating child-proof lids for everyone and everything.

It is great to have these lids available for those who want them, but it is wrong—and so typical—for the Federal Government to force them on all.

I would like to bring this excellent and justifiably angry letter to my colleagues' attention.

The letter follows:

THE FEAST OF THE IMMACULATE CONCEPTION

December 8, 1979.

DEAR DR. PAUL: I am madder than hell. It's Saturday morning, 7 a.m., freezing cold, the baby is crying, my husband is mad at me, I don't feel well, I feel rotten, the baby is sick and here's my story.

Got up early, because the baby was crying, she couldn't breathe, too congested. Took care of her, come down stairs, feed the baby, go to give her some of her prescription medicine, can't get the damn lid off, one of those kid-proof lids, also a momma-proof lid! Called my husband, he couldn't believe I was calling him to open a small bottle of medicine, he went to the bathroom instead, mad at me, because I had awakened him.

I used to think when it was cold weather your joints didn't open jars and bottles well, then I used to think when a person had trouble opening a jar or bottle, it was due to arthritis. Now I "know" when a college graduate can't get a lid off a six-ounce bottle with a plastic lid, the government must be involved!

So I called the pharmacist, asked how in the hell was I suppose to save my baby if I can't get the lid off the medicine. He thought it was a "cutesy" question, so he didn't respond. Then the Stupid Fool told me that those lids were to protect babies. I told the S.F. that my medicine cabinet was very high up and that I would take the responsibility of protecting my baby from "bad lids." He responded that—and I am dead serious about this—"Lots of babies die when they take medicine which they shouldn't take." At which I responded, "And lots of babies die when they don't take the medicine they should take." I asked the S.F. was there any way in the future I could get medicine from his pharmacy without those lids. He said I would have to write them a letter stating that I did not want the lids and each time I had a prescription filled I would have to mention it. He also said that Federal regulation makes his pharmacy put the lids on bottles.

Which is why I am writing to you. Apparently there is no Lid Law, but a Lid Regulation. Could you please work on repealing this matter. It is a stupid law. Next thing you know the government is going to start telling us what doctors and drug stores to use!

Sincerely,

Mrs. Mary Jane Smith.●

VISITING THE HOSTAGES IN IRAN

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. HANSEN. Mr. Speaker, because of the intense interest in my recent visit to Iran to see the hostages, I would like to include for the Record several reports offered by Mr. Lee Roderick, the Washington bureau chief of the Scripps League Newspapers, who accompanied me on the trip and in related interviews and activities before and since.

The articles follow:

Odyssey To Iran—Part I

(By Lee Roderick)

Tehran.—"Death to Carter! Death to the shah!" The words, similar to those heard from demonstrating Iranian students inside the United States, take on a special ferocity when chanted by teeming thousands in the numbing cadence of Farsi outside the captured U.S. embassy compound.

Then, as U.S. Rep. George Hansen (R-Idaho) emerges from the red brick-walled embassy grounds and we are swept along helplessly by an unruly, though not hostile, mob shouting, "People yes! Carter no!" the thought suddenly comes: what am I doing here?

Friday, Nov. 16, had been an ordinary enough day in Washington. As I was rushing to put the finishing touches on an article for this newspaper in mid-afternoon, the office phone rang. "George Hansen on the line."

Those words usually meant something was up. Hansen, fellow Idahoan and an acquaintance of 15 years, is known for the unusual. A staunch Republican conservative and one of the true mavericks in Congress, he has, among other things:

Flown to Bolivia to help secure the release of young Americans jailed on drug charges.

Visited Nicaragua in the final days of dictator Anastasio Somoza to offer words of encouragement.

Led remarkably successsful efforts to weaken OSHA (Occupational Safety and Health Administration).

Forced the White House to share with Congress the responsibility of the Panama Canal treaties.

Hansen had now turned his attention to Iran.

We held similar views on this most intractable of problems—seeing little bad in the shah and little good in Khomeini. Shah Mohammed Reza Pahlavi had been deposed earlier this year in a bloody revolution, whose spiritual leader Ayatollah (an Islamic holy title) Ruhollah Khomeini now wielded more power than control. Khomeini has used that power capriciously, summarily executing hundreds of former public officials and others.

Those who know him best insist he isn't crazy in a strict mental sense. But he is mad with hatred and revenge—strange qualities indeed for a "holy man"—focused on his old enemy the shah, and the shah's chief ally, America.

When the shah was admitted to the United States for medical care Khomeini's shaky hold on Iran was galvanized into action. On Nov. 4 the U.S. Embassy was captured and its personnel held for ransom. The price: return of the shah for "trial" and certain death.

"Ramsey Clark (President Carter's intended envoy to Iran) wasn't allowed in, and nothing else seems to be happening to get these hostages out," Hansen reminded me. "How would you like to come with me to the Iranian embassy to see if they'll talk about the situation?"

The harried Iranian charge d'affairs in Washington, Ali Agah, greeted us cordially two hours later and listened carefully as Hansen explained that "We've come here to see if there might be a common ground for dialogue."

"I welcome any dialogue," said Agah, "I don't believe in closed * * *"

He proceeded to detail Iran's grievances against the shah, and said. "The hostages never would have been taken if the State Department had listened to us. As long ago as April I warned the Iran desk at the department that it would be very detrimental to our relations to allow the shah into the United States."

On a more enccuraging note, Agah said, "I can assure you about one thing—it is the intention of the students and the ayatollah not to do any physical harm to the hostages. We know this action is not in accord with international law."

At the same time, he added, Khomeini is a "very strong man who won't bend; there is a delicate relationship between him and the people."

"Relationships between the United States and Iran are like that between a man and wife," Agah said. "They might be separated, but they can't forget each other because of many historical reasons, both good and bad."

Taking that as an opening, Hansen asked if he would be allowed go to Iran unofficially, to try to open a dialogue with Iranian officials aimed at defusing the crisis. "I don't know, but I will telex Tehran to find out," said the embassy chief.

The following Monday, Nov. 19, the answer came back: Hansen would be allowed in the country—but at his own risk. I also received permission to enter as a working journalist. That evening we boarded a jetliner at Dulles International Airport that took us toward our destination 36 hours later: crisis-torn Iran.

Odyssey To Iran—Part 2

(By Lee Roderick)

Tehran.—Dawn was breaking over a clear, beautiful day as the big Lufthansa jet settled onto the runway at Tehran's international airport.

From the air the city of several million inhabitants couldn't have looked more peaceful. But inside it was seething. This was the first day of Moharram, a 10-day period of mourning and religious fervor marking the Moslem new year.

And this commemoration of Moharram had special import: it marked the beginning of Islam's 15th century, dating from the most tragic event in the history of that great religion—the martyrdom of Imam Hussain, grandson of its founder Mohammed.

Moharram this year also was the first anniversary of a slaughter in a town square by troops belonging to Shah Mohammed Reza Pahlavi. American newsmen who witnessed it tell how 600 Iranians broke curfew and marched, unarmed, to the site we would later visit. Soldiers opened fire and the marchers were virtually all killed.

Now, a year later, with over 50 Americans held hostage by the revolutionary government or militant students, and the shah receiving medical treatment in New York City, Rep. George Hansen (R–Idaho) and I were sternly warned by Iranians and westerners alike that this was no day for an American to be on the street.

But our timetable was short and agenda long, so there was little time for squeamishness. That agenda included opening a dialogue with Iranian leaders; finding a middle ground between Iran's demand that the shah be returned to stand trial before the hostages would be released—and Washington's refusal to acquiesce; and, a long shot, returning to the United States with a few hostages as a good-faith gesture that Iran wants to defuse the current crisis.

Our arrival caused a bit of a stir among airlines and airport personnel accustomed in recent weeks to a flood of foreigners leaving the country but only a trickle entering. Young men of high school or college age run many of the functions of the terminal, whose shabby walls are decorated with the stern visage of Ayatollah Ruhollah Khomeini—the Imam.

Evidences of the shah's ambitious modernization program for his country were abundant during the 20-minute drive to the Inter-Continental Hotel, our home for the next week which also houses most of the foreign press.

Mile upon mile of half-finished, high-rise cement buildings stand like great gray ghosts on the skyline, their cranes seemingly imploring them to continue work long since stilled when the shah fled Iran and construction capital followed him.

After checking in at the Inter-Continental, we hitched a ride with John Hart of NBC–TV to the foreign ministry. Hart had an interview with Acting Foreign Minister Abol-Hassan Bani Sadr; we hoped to set up an appointment to see him as well.

Our first real taste of Tehran traffic was jolting. Iranians drive nominally on the right-hand side of the road and occasionally stop at red lights. More often, however, they drive with one hand on the horn, merely slow down at red lights, and go anywhere—including over the curb and along the sidewalk—to avoid a jam.

"I wish Connie was here for this," said Hansen of his wife. "She'd never be nervous driving with me again."

More disturbing than the drivers, however, were the pedestrians. On this day of Moharram, we were told, some two million Iranians were in the streets, marching, praising Allah and the Imam, and cursing America and President Carter. As they enveloped our car, I had my first tinge of fright.

At the foreign ministry, a nondescript cluster of buildings which has increasingly become a nerve center as tensions mount between the U.S. and Iran, we were thoroughly frisked by guards armed with automatic rifles. We proceeded to haggle with a male civil servant for nearly two hours in an attempt to get an appointment with Bani Sadr, finally leaving with a vague promise he might meet with us the following day.

As we were leaving the foreign ministry, the ambassador from Pakistan was entering. "As a neighbor to Iran, we've been asked by your government to try to intercede and cool things down," he told us. "But I'm afraid I have nothing positive to report."

We didn't know that at that moment a mob was preparing to sack the U.S. Embassy in Islamabad, the ambassador's capital, burning it to the ground and killing two Americans in the process.

Told that it is very difficult to get an audience with the militant students holding hostages, Hansen and I decided to take things into our own hands. The next morning we donned street clothes and went shortly after daybreak to the back gate of the embassy.

Two revolutionary guards in camoflauge uniforms patroled outside the huge steel gate as Hansen approached it, accompanied by several of us newsmen. When a sober-faced young bearded man opened the gate, the congressman asked to talk to the students.

"Is possible, but must have your address," said the student, who refused to give us his name. "I represent the American people, not the American president," said Hansen. "I have some ideas to help you tell your story to the American people. Please talk to me."

Even his best politician's charm wasn't enough that time. But it set the stage for another day.

ODYSSEY TO IRAN—PART 3

(By Lee Roderick)

TEHRAN.—When Rep. George Hansen (R-Idaho) and I arrived in Iran, the leading figure in government—next to Ayatollah Khomeini himself—was Abol-Hassen Bani Sadr.

This small-boned man, whose thick mustache and horn-rimmed glasses gave him the look of a young Groucho Marx, was personally close to Khomeini. Though Bani Sadr understands little English, his fluent French had served him well in getting close to the Imam while the latter was exiled in Paris.

Now he found himself with a substantial portfolio in the new revolutionary government—including the positions of Finance Minister and Acting Foreign Minister. He also had the reputation of being the strong man on the 15-member Revolutionary Council. He would have to be reckoned with if we were to succeed in softening Iran's refusal to release the American hostages until and unless the U.S. return the shah to that country.

But the red tape we thought we had left behind in Washington began to entangle us when we sought an audience with Bani Sadr. The new government in Iran, to put it mildly, is not well organized. This has presented immense headaches for President Carter and other U.S. policy makers, who can never be certain who is really speaking for Iran.

When a meeting with Bani Sadr continued to elude us, Hansen, in his customary way, took things into his own hands. Following a press conference with correspondents from 26 countries, held in the Inter-Continental Hotel, the 6-foot-6 congressman approached diminutive Bani Sadr while the cameras and tape recorders were still whirring.

"I would like to meet with you today," said the towering Hansen. "I don't represent the American government but I do represent the American people. And I have some proposals I want to give you that might help ease the problems between our two countries."

Faced by such determination—not to speak of the world's press looking on—Bani Sadr was trapped. "I am busy now, but I will meet you at 7:30 tonight."

Shortly before our meeting that evening, we found a godsend in one Eric Rouleau, who has been chief Middle East correspondent for the liberal French newspaper Le Monde for 25 years. Rouleau, who knew both Bani Sadr and Khomeini personally, agreed to come along as our interpreter.

We were met at the former legislative building where our meeting was to take place by a contingent of well-armed, no-nonsense young guards who frisked us carefully before allowing us up the marble staircase to the second floor.

We were then ushered politely into a spartan room whose walls were devoid even of a picture of Khomeini. Bani Sadr left the regular nightly meeting of the Revolutionary Council down the hall and joined us.

"Mistakes have been made by both sides," began Hansen, putting Bani Sadr at ease. "We cannot condone your holding of our citizens. But we appreciate your concern regarding the shah. . . . There should be a legal way to get the information out on his activities.

"The complaints you have against the shah may be complaints Americans also have. We could find out if there was a chance to review it. I am certain that to benefit the hostages, it would not be difficult to get Congress to listen to your side."

At the same time, Hansen made it clear that under U.S. law there was no way the shah could be forced by Washington to return to Iran at the present time and under the condition of blackmail.

The Foreign Minister, interested but cautious, said "Unless the American government stops making provocations or escalation against Iran, how can all this happen?"

Hansen's answer: immediate congressional investigations. He explained that "sometime a straight line between two points is not the best way to accomplish an objective." Hansen added that "if the information on the shah was out, in the international community, no one could hide it."

"If I could go home having seen the hostages, and report that they are well and there is room for dialogue, and that the United States will take action to look into this situation, then I think we will have taken a long step toward resolving this crisis," said the congressman.

Bani Sadr replied that "I have listened to your suggestion and I think it is a good idea." He also excused himself and went down the hall to put Hansen's proposal immediately to the Revolutionary Council.

Ten minutes later he returned and, obviously pleased by the response, said all members of the council present "have no objections to Congress taking some action." Bani Sadr emphasized that "I agree with what you are saying. If Congress opens inquiries, it will ease up the situation for the hostages."

Bani Sadr was under fire even then for being too conciliatory in his views. And on the very day we left Iran he was replaced as Foreign Minister. But this point remains: Others on the Revolutionary Council likewise had agreed with Hansen's approach. And to those elements the United States must now direct its attention.

ODYSSEY TO IRAN—PART 4

(By Lee Roderick)

TEHRAN.—When the U.S. Embassy was overrun by young toughs on Nov. 4, dozens of Americans and personnel of other nationalities were taken hostage.

Three top-level officers were elsewhere, however—at the Foreign Ministry on "routine business." They included the chief of the U.S. mission, Bruce Laingen, political officer Victor Tomseth and security officer Michael Howland.

The three were forcibly detained at the Foreign Ministry, which applied the euphemism "protective detention" to their captivity. (When we met with them later, crusty Mike Howland said the label was "pure bull——. We're prisoners just like those at the embassy.")

Rep. George Hansen's main goal when he got to Iran was to visit the hostages and—if at all possible—to even take several home as a signal that Iran was ready to begin defusing the crisis.

During his second evening in Tehran, Hansen pressed that point as he met for an hour with acting Foreign Minister Abol-Hassan Bani Sadr—a meeting also attended by interpreter Eric Rouleau, veteran correspondent for the French newspaper Le Monde, and this reporter. The meeting gave the first sign since the crisis began over two weeks earlier that Bani Sadr was indeed ready to find a compromise.

Hansen first suggested that Congress likely would be willing to hold immediate hearings on the U.S. government's historic relationship with the deposed shah if it would help free the hostages. He proceeded to ask Bani Sadr for a response to that proposal, and for permission to see the hostages.

Bani Sadr left us to consult with the ruling Revolutionary Council, meeting at that evening hour in the same building. He returned to report that council members had no objection to the proposal, adding that if such hearings were held "it will ease up the situation for the hostages."

(In a phone call to Hansen days later, Bani Sadr again emphasized that although he couldn't arrange immediately for some hostages to return to the U.S. with Hansen, "that and much more is possible if Congress begins hearings.")

By the end of the meeting that evening, Bani Sadr, as a gesture of good faith, had agreed to let us visit the three U.S. Embassy officials held at the Foreign Ministry. We shook hands on that note, descended the one flight of stairs to the street level, and piled into a black mercedes. Destination: across town to the Foreign Ministry.

We were frisked thoroughly at the Foreign Ministry by young guards wielding automatic rifles, and taken to the office of Ebrahim Mokalla, spokesman for the ministry who said we'd have three minutes with the three captives.

Eric Rouleau, a crafty Frenchman and dean of correspondents in Tehran, immediately protested the time limit. Winking at us, he said, "We can hardly say 'hello' in three minutes." Mokalla finally relented and gave us five minutes instead.

Accompanied by guards, we were then taken down a hallway and up an elevator, along a corridor of a Foreign Ministry annex, stopping before a tall wooden door. A guard leading us gave a secret knock, acknowledged through a peephole by a guard inside who admitted us.

It later became apparent that such elaborate security precautions were intended more to keep militant students out than to keep the three Americans in. Students have several times gone to the Foreign Ministry to demand that the three join the other 50 hostages under their care at the embassy. But so far Bani Sadr's department has succeeded in putting them off, with the explanation that the three already are being held securely as prisoners.

Laingen, who appeared more drawn and nervous than the other two, was incredulous at seeing free Americans for the first time since their captivity. Hansen met with him privately in a nearby drawing room while Rouleau and I talked with Tomseth and Howland.

Howland pooh-poohed the "evidence" allegedly found at the embassy to justify spy trials against the Americans. There was nothing to be found at the embassy, he insisted, beyond normal equipment and information characteristic of embassies all over the world.

Their detention center is obviously a holdover from the glory days of Shah Mohammed Reza Pahlavi. It is large, measuring perhaps 175 feet by 75 feet, has thick Persian rugs on the floors, draperies, and huge chandeliers.

At the same time, it is without creature comforts. The three Americans went for two weeks without a bath. Now a tub of water is brought to them periodically, which they take turns using. They wash their socks and underclothes by hand and hang them on the chandeliers to dry.

The three also have had to sleep on mats on the floor, with only sheets between them and the cold night air in Iran. They, as well as the hostages at the embassy, from all indications have suffered from the chilling temperatures.

Nonetheless, during our brief five minutes, they exhibited calm and determination. We sat on a couch and small cups of sweet Iranian tea were served. It was Thanksgiving Day—one we'd never forget.●

MAJOR DOCUMENT MAKES WAY TO THE WEST

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. PHILIP M. CRANE. Mr. Speaker, I have recently obtained an English translation of a document of major significance. This document, which made its way out of the Soviet Union by secret channels, came to my attention through the alliance for freedom, a project of the American Conservative Union, and Dr. Igor Glagolev, a former consultant to the Soviet's SALT negotiating team who defected to the West in 1976.

In essence, the document represents the first known instance of an attempt at free elections in the U.S.S.R. Its authors suggest that Soviet voters should create independent social organizations and nominate their own candidates for public office; that is, candidates not automatically selected by the Communist Party.

The document is signed by L. Agapova the chairwoman of the first such organization, "Election-1979," and A. Ivanov, its secretary. The organization nominated Agapova as a candidate for Deputy to the Supreme Soviet of the U.S.S.R. in March of this year, but the Communist officialdom prevented her from running.

An event of this kind and the fact that it has become known in the West shows that the spirit of liberty and resistance to Communist oppression is alive in the U.S.S.R. I commend this document to the attention of my colleagues and present it herewith for inclusion into the RECORD:

APPEAL TO VOTERS

Comrade voters, the coming elections to the Supreme Soviet of the Russian Soviet Federative Socialist Republic is an important event in the life of our people. They will be the first elections to the highest organ of power of the Russian Republic since the adoption of the new constitution of the U.S.S.R., about which the secretary general of the Central Committee of the Communist Party of the Soviet Union said: "Our new constitution will show to the whole world how the socialist state develops, establishing socialist democracy more firmly and deeply; it will show visually this socialist democracy, its essence. Our constitution will show different forms and the huge scale of the constantly growing real participation of the large masses of people in the management of the affairs of the state and the society."

Such a form of further perfection and development of socialist democracy as nomination of several candidates for each office of a deputy of the Supreme Soviet of the Russian Republic seems to be advisable—among these different forms. Comparison of candidates according to their business and human qualities must become a necessary prerequisite of genuine elections, of real choice in the true sense of the word, at the stage of developed socialism, under the conditions of political maturity of the Soviet people. Such a measure will help to raise the level of the leading cadres of the country and their responsibility to the people.

An administrative, business or social post occupied by one or another person should not mechanically open the way to the Supreme Soviet for this person. The examples of Degtyarev and Shaidurov, the former secretaries of the Donetz and Magadan regional committees of the Communist party and deputies of the Supreme Soviet of the U.S.S.R., dismissed with scandal from their posts after occupying them for many years, shows how dangerous the substitution of elections with appointment is.

Tireless care about the welfare of the people is the very first duty of a deputy; the ability to think in the terms of the state is one of the main qualities he should possess. One must assess the candidate from these points of view.

According to the official statistics, there are about 50 million religious believers in the U.S.S.R. However, their interests have never been represented by a single candidate, not to speak of any defense of these interests in any parliamentarian institution of the country, during the whole history of the Soviet state. That is why it is necessary to nominate such deputies, who would really represent the interests of the working people.

From this point of view, it is very interesting to note the experience and initiative of the social organization "Elections–1979" of the Moscow city, which nominated its own, and not official, candidates to the Supreme Soviet of the U.S.S.R. in March 1979. This initiative was taken up by the cities of Vilnius and Sochi.

The social organization "Elections–1979" calls upon the citizens of the Russian Republic to show political activity, which not only does not contradict the policy of our party but supports this policy, to create your own social organizations, to nominate genuine people's representatives at the coming elections to the Supreme Soviet of the Russian Soviet Federative Socialist Republic.

For genuine democracy and political activity of the working people!

L. G. AGAPOVA,
Chairperson.
A. M. IVANOV,
Secretary.●

THE HONORABLE JEROME CAVANAGH

HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1979

● Mr. DIGGS. Mr. Speaker, I join today with my colleagues from Michigan and around the country in paying homage to the late Jerry Cavanagh, who served as mayor of Detroit from 1962 through 1969.

The city of Detroit truly began the renaissance we see today under the leadership of Mayor Cavanagh. Through his commitment to open government, his sensitivity in dealing with the changing economic, social, and political changes in the community, and his progressive outlook on issues, he guided our city through some of the most turbulent times of recent history.

The 1960's marked a time of unrest throughout the country, but nowhere was it more keenly felt than in the ghettoes and poor neighborhoods of inner-city Detroit. In 1967, those tensions erupted in rioting which threatened the very life of Detroit. Mayor Jerry Cavanagh reached out to the business, religious, labor, and other sectors and forged a new coalition to address the concerns of the community. He helped to reunite our people in a spirit of harmony and hope. He made promises, and he kept them. He made friends, and he treasured them. Most of all, he made a commitment to the quality of life in Detroit, and he did his best to bring about progress.

Mr. Speaker, America has lost a leader, and Detroit has lost a good friend. He will indeed be missed.●

FAITH AND HOPE FOR THE FUTURE

HON. LAMAR GUDGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. GUDGER. Mr. Speaker, as we leave the city of Washington for the Christmas holidays, today is one of our last opportunities to register our hopes for the coming year. Such hopes must be expressed as our Nation confronts insults and indignities in Tehran, revolution in Central America, and conflicts in Africa.

The American people can look back upon this year with pride. We have thrown open our homes and our hearts to the oppressed people of the world in the hope that such people will be able to pursue their unalienable right to life, liberty, and the pursuit of happiness. This Nation has reacted with common patriotism, purpose, and resolve to the Iranian crisis. We, as Members of Congress and as a people of a great nation, have joined hands in the endeavor of renewing our moral values, our sense of national pride, our feeling of national and international brotherhood, and our genuine concern for human rights.

As I look back over the last year, I am particularly proud of my district, the 11th Congressional District, where sentiments of patriotism and international responsibility abound. These sentiments find expression by the flying of our American flag at many private doorways—not just over public buildings. I am truly gratified that the "call to colors" was initiated by local leaders and gained the ardent support of all media in western North Carolina.

The words of the late Vice President, Hubert H. Humphrey, seem to be quite appropriate at this time:

> We are all children of one God. We live on a very small planet, but insofar as we know it is the only planet that sustains life. Therefore, apparently we have been selected for an unusual and special purpose. I believe that purpose is to try to demonstrate that the power of understanding and reason and love can prevail. It is not easy and there are many times that we want to give up, but you have to have faith.

I am convinced that the people of my district and the people of our Nation have this faith. Surely, as we approach the new year, we do so with the hope, confidence, and sincere conviction which the American people have in themselves. We also approach it with the devout faith our people have in their Creator and that His plan will produce in 1980 a new and happy new year.●

PASSING OF WILLIAM C. HILL

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. BAUMAN. Mr. Speaker, I am saddened to report that an outstanding business executive, community leader, and personal friend of mine, William C. Hill of La Plata, Md., died last week.

Mr. Hill was a young man of 55, and his death was a shock and great loss to all who knew him. He was a brilliant attorney, serving as a partner in the Washington law firm of Steptoe & Johnson for 16 years before his rise in the liquefied petroleum and coal firm of Pargas, Inc. Mr. Hill was chairman of the board of Pargas, and lived near La Plata, Md.

I include for the RECORD various press accounts of Mr. Hill's demise, taken from Charles County journals as well as Washington newspapers. His presence will be missed by all who knew and admired him and to his wife Rosemary, his sons and family, I extend my sincere condolences on the passing of a great American.

The press accounts follow:

[From the Washington Star, Dec. 11, 1979]

WILLIAM C. HILL, 55, DIES; OFFICIAL OF PARGAS FIRM

William Calvin Hill, 55, chairman of the board of Pargas Inc., a coal and propane firm based in Waldorf, died Sunday of cancer in Holy Cross Hospital. He lived in La Plata.

A lawyer, Mr. Hill was a partner in the District firm of Steptoe & Johnson from 1949 to 1965, when he was elected executive vice president of Pargas. He became a director of Pargas in 1961.

One of the nation's largest distributors of propane, Pargas is the outgrowth of a bottled gas business started as a sideline in the 1930s by Lawrence Parlett, a Charles County, Md., plumber. Last month, profits of Pargas rose to a record $2.12 million, or 58 cents a share, in the third quarter ended Sept. 30.

In 1971, Pargas decided to break out of its dependence on propane distribution by acquiring River Processing Inc., a Hazard, Ky., coal mining company, for cash notes and stock valued at $6.5 million. That decision seems farsighted in view of the subsequent pinch of natural gas supplies—from which 70 percent of the propane supply is obtained—and the increased demand for coal.

In 1976, Empire Gas Corp. of Missouri attempted to take over Pargas by bidding to purchase 2 million shares of Pargas common at $18.50 a share, but Pargas was successful in blocking the Empire takeover.

Mr. Hill was a member of the board of directors of the Bank of Southern Maryland, the Preston Trucking Co. and Southern Maryland Oil Inc.

Mr. Hill was born in Fairfax, Ala., and rceived his B.A. degree from Auburn University in 1946. He received his law degree from the University of Virginia in 1949.

While a partner of Steptoe & Johnson, Mr. Hill specialized in federal taxation and corporate reorganization.

He leaves his wife, Rosemary D., fours sons, William D., Michael S., John W. and Charles P., at the home; and his mother, Alma, a brother, Charles, and a sister, Barbara McLeod, of Opelika, Ala.

Services will be held at 11 a.m. tomorrow in Sacred Heart Catholic Church in La Plata, with burial in Trinity Memorial Gardens, Waldorf.

The family suggests that expressions of sympathy be in the form of contributions. to the American Cancer Society—Charles County Unit, 1521 Ritchie Highway, Arnold, Md.

[From the Washington Post, Dec. 12, 1979]

WILLIAM C. HILL, CHAIRMAN AT PARGAS

William C. Hill, 55, chairman of the board of Pargas Inc., a Waldorf-based distributor of liquified petroleum, died of cancer Sunday in Holy Cross Hospital.

Mr. Hill was a partner in the Washington law firm of Steptoe & Johnson when he was elected executive vice president of Pargas in 1965. He became president of the company two years later and had been board chairman since 1969.

He was a member of the National Liquid Petroleum Gas Association and had served as chairman of the association's committee on propane allocation and price controls. He also had been a member of the public affairs committee and had received the association's distinguished Service Award in 1977.

Mr. Hill was a native of Opelika, Ala., and served in the Army during World War II. He earned a bachelor's degree in business administration at Auburn University and was a 1949 graduate of the University of Virginia's law school.

He joined Steptoe & Johnson in 1949 and practiced tax and corporate law until joining Pargas. He lived in LaPlata.

He is survived by his wife, Rosemary, and four sons, William D., Michael S., John W., and Charles P., all of LaPlata, his mother, Alma Hill, a brother, Charles, and a sister Barbara McLeod, all of Alabama.

[From the La Plata (Md.) Times-Crescent, Dec. 12, 1979]

PARGAS EXECUTIVE DIES

William C. Hill, 55, Chairman of the Board of Pargas, Inc., a liquefied petroleum and coal firm, Waldorf, Md., died Sunday, December 9 at Holy Cross Hospital, Washington, D.C.

Hill, a native of Opelika, Alabama, graduated from Auburn University. After serving in the Army Field Artillery during World War II, he attended the University of Virginia Law School, graduating with a J.D. Degree in 1949.

He was a partner in the Washington, D.C., law firm of Steptoe and Johnson from 1949 to 1965, specializing in federal taxation, corporate finance and corporate reorganization.

From 1958 to 1961, he served as Special Counsel for Pargas, Inc. and as general counsel and secretary from 1961 to 1965. In 1965 he was elected executive vice president and in 1967 he was elected president. In 1969, he was elected board chairman.

Hill has served on the Board of Directors of Pargas, Inc. since 1961 and was a member of the Board of Directors of the Bank of Southern Maryland, Southern Maryland Oil, Inc., Preston Trucking Company and National LP-Gas Association.

He has been active in the National LP-Gas Association, having served as Chairman of the National Committee on Propane Allocation and Price Controls, as a member of the Public Affairs Committee and member of the Executive Committee of the Board of Directors, and was the recipient of the Association's highest honor, the Distinguished Service Award, in 1977.

Survivors include his wife Rosemary of La Plata, Md. and four sons, William D., Michael S., John W. and Charles P., and; his mother Alma Hill, his brother, Charles and sister Barbara McLeod, of Opelika, Alabama.

Funeral services will be held at Sacred Heart Church, La Plata, Wednesday, December 12, at 11 a.m., interment at Trinity Memorial Gardens, Waldorf.

The family requested that expressions of sympathy be in the form of contributions to the American Cancer Society of Charles County, La Plata.

[From the Waldorf (Md.) Independent, Dec. 12, 1979]

PARGAS BOARD CHAIRMAN DIES

William C. Hill, 55, chairman of the board of Pargas, died Dec. 9 at Holy Cross Hospital, Silver Spring.

Mr. Hill, a native of Opelika, Alabama, graduated from Auburn University. After serving in the Army Field Artillery during World War II, he attended the University of Virginia Law School, graduating with a J.D. degree in 1949.

He was a partner in the Washington, D.C. law firm of Steptoe and Johnson from 1949 to 1965, specializing in federal taxation, corporate finance, and corporate reorganization.

From 1958 to 1961 he served as special counsel for Pargas, Inc. a liquefied petroleum gas and coal firm headquartered in Waldorf. From 1961 to 1965 he served as Pargas general counsel and secretary. In 1965 he was elected executive vice president, and president in 1967. In 1969 he was elected chairman of the board.

Mr. Hill was characterized as "an extremely valuable man" by C. J. McAllister, former Pargas president.

Mr. Hill had served on the board of directors of Pargas since 1961 and was also a member of the board of directors of the Bank of Southern Maryland, Southern Maryland Oil, Preston Trucking Company and National LP-Gas Association.

He has been active in the National LP-Gas Association, having served as chairman of the National Committee on Propane Allocation and Price Controls, as a member of the Public Affairs Committee and member of the Executive Committee of the Board of Directors. He was recipient of the association's highest honor, the Distinguished Service Award, in 1977.

Survivors include his wife Rosemary of LaPlata, and four sons, William D., Michael S., John W., and Charles P., and his mother Alma Hill, brother Charles and sister Barbara McLeod of Opelika, Alabama.

Funeral services will be held at Sacred Heart Church, La Plata at 11 a.m., Wednesday, Dec. 12. Interment will be at Trinity Memorial Gardens, Waldorf.

Funeral arrangements are being handled by Arehart Funeral Home, La Plata.

The family requested that expressions of sympathy be in the form of contributions to the American Cancer Society of Charles County, La Plata.●

GENE McMURTRY AWARD

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mrs. HECKLER. Mr. Speaker, the Massachusetts Rural Development Committee recently recognized the outstanding leadership abilities of Gene McMurtry by creating an annual award in his honor and making him its first recipient.

Gene is the associate dean and associate director of the College of Food and Natural Resources of the University of Massachusetts. In that capacity he is responsible for administering the Massachusetts Cooperative Extension Service.

The community at large has been the beneficiary of Dr. McMurtry's other activities. He has served on the chancellors committee on continuing education at the University of Massachusetts, is president of the Community Development Society and has served as chairman of the Massachusetts State Rural Development Committee. His paramount interest has been to foster cooperation among Federal, State and community organizations so that all can better serve the people.

One of Gene's most outstanding successes has been the initiation of the annual Massachusetts farm tour. I have participated in the farm tour activities for several years and must congratulate Gene on his recognition of the important role of agricultural and rural development to Massachusetts. His efforts have helped bring Massachusetts agriculture concerns to the attention of all Bay Staters.

I would like to bring to the attention of my colleagues the citation recently awarded to Gene McMurtry the text of which follows:

GENE MCMURTRY AWARD

An annual award created in 1979 by the Massachusetts State Rural Development Committee in recognition of Gene McMurtry's outstanding contributions to the Massachusetts State Rural Development Committee and his unique ability to foster partnerships among those working to strengthen rural communities in Massachusetts.

Presented to Gene McMurtry as the first recipient for the year 1980, the award will be given each year to a person in Massachusetts who exemplifies, as Gene McMurtry does, excellence in leadership in community and rural development in the Commonwealth.

Gene McMurtry's own contributions inspired this award:

Fostering cooperation and close working relationships among agencies and groups without regard for traditional division of responsibilities or for who gets the credit;

Broadening the Cooperative Extension Service's view of its own role in community and rural development and supporting innovative Extension staff programming to meet a broad range of community needs;

Supporting the development of the Tri-State Small Farms Extension program, the Tri-State Small Farm/Rural Development Resource Center and the New England Small Farmer Project, to strengthen the voice of these farmers throughout the region;

Leading the formation of the Energy Conservation Analysis Project, the Solar Utilization, Economic Development and Energy Project, and incorporating energy education programming in all aspects of Extension;

Enabling citizens to participate in local, state and national policy planning and community development through the Citizen's Involvement Training Project and an expanded Community Resource Development program;

Supporting grass-roots efforts such as the state's first self-help canning center, Women in Agriculture, and the New England Small Farm Institute, Inc.;

Instituting the annual Farm Tour, which continues to expand the general public's appreciation of the importance and contributions of the Massachusetts agriculture industry;

Supporting efforts to increase direct marketing of local produce;

Sponsoring research and demonstrations in the field of organic agriculture, horticulture and integrated pest management;

Leading the way in urban agriculture with urban gardening and community greenhouse programs;

Contributing substantially to the general awareness of the interdependencies of urban and rural people and working to build the broad constituency necessary to pass the Agricultural Preservation Restriction Act of 1977, which addresses pressing issues of agricultural land use;

Exemplifying Extension's motto, "Helping People Help Themselves," supporting the model Hilltown Area Development Assistance Project in Hampshire County;

And leading the development of teamwork between the Rural Development Committee, the State Department of Food and Agriculture and the State legislature in planning a rural policy for Massachusetts.

All of this has been accomplished with a quiet strength and determination to get things done, and by working long hours, often behind the scenes, to help others work well and together.

The Massachusetts State Rural Development Committee is proud to have Gene McMurtry as its leader and chairman, and takes great pleasure in presenting the Gene McMurtry Award for Excellence in Leadership Community and Rural Development to its first recipient, Gene McMurtry.●

TESTIMONIAL OF LINDA HOMMAN

HON. CLARENCE E. MILLER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. MILLER of Ohio. Mr. Speaker, as Americans we often fail to appreciate the citizenship that is ours, the freedoms, the comforts, the health and prosperity that come with our American way of life. All too often we take the benefits and privileges of that citizenship for granted. Not so with Linda Homman of Lancaster, Ohio. Linda, as part of her candidacy for Miss United Teenager, has put to words an eloquent testimonial to our country which I would like to share with you:

MY COUNTRY

I, Linda Ann Homman take thee, the United States of America, to be my country in which to live, to love, and to honor until death I do part. Why? Because, within you I am free to express my opinion, worship my God, pursue the career of my choice, and earn prosperity without fear of persecution.

I am very thankful that God gave me a birthplace in America and am proud to call this beautiful country my homeland. My pledge is to accept my responsibilities, to uphold the principles of this nation and to meet its challenges so that future generations will be proud to call America their home.

In closing, I would like to thank Linda for sharing these remarks with us. May they be an inspiration to all who read them.●

ECONOMY (INFLATION, UNEMPLOYMENT, COST OF LIVING) GREATEST CONCERN OF THE PEOPLE OF THE EIGHTH CONGRESSIONAL DISTRICT IN THE STATE OF NEW JERSEY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. ROE. Mr. Speaker, the people of our great Nation are being faced with new challenges on a daily basis. Every day, we read reports of higher and higher energy costs, skyrocketing interest rates and record food prices. At the same time we learn that the once mighty American dollar has sunk in value to less than 25 cents.

That inflationary spiral is of key concern to the residents of the Eighth Congressional District of New Jersey. Some 48 percent of the respondents to my annual questionnaire named the economy as the matter they were most concerned with.

Mr. Speaker, the American wage earner, particularly those living on fixed incomes and the beleaguered middle class which has been called on to pay for most government programs, has reached the end of the rope in trying to cope with spiraling inflation rates.

There is no question in my mind that if we are to bring inflation under control, we must find some solid answers to the continuing energy dilemma. The cost of buying 10 gallons of gasoline has risen 178 percent over the past 10 years. Home heating oil has more than tripled in price over the same time period. This winter, many families may have to make the desperate choice of either buying fuel to heat their homes or food to sustain themselves.

I have introduced legislation to establish a strong synthetic fuels production program to help America to once again become an energy self-sufficient Nation. Another bill I have authored would roll back the price of home heating oil to January 1979 levels. The move would eliminate the fat profits being made by our own oil companies on the needed fuel and save the average New Jersey homemaker $500 a year on his heating bills this winter.

Mr. Speaker, the people of my congressional district are saying loudly and clearly that the decontrol of oil and gas at a time of skyrocketing inflation is not the correct path to take. They are looking to Congress to pass such initiatives as the "Bushel for Barrel" plan I have proposed that would utilize badly needed wheat crops as a bargaining tool with the oil producing nations.

At a time when American embassies abroad are being sacked, our citizens taken hostage, and our flag degraded and burned, the residents of the Eighth Congressional District have said "enough is enough" and want the United States to stop being the "patsy" for the rest of the world.

One inflation fighting method favored by 64 percent of the respondents to the questionnaire was to sharply reduce Federal spending. They called for a "proposition 13" type proposal to limit property taxes and to permanently reduce Federal personal income taxes.

Mr. Speaker, the people in the Eighth Congressional District are very upset over the record high social security payments they are being forced to pay. There is a loud call for a rollback in those payments, with either the Federal Government or the major oil companies, in the form of a strong windfall profit tax, paying the increased costs of social security benefits.

It is significant to note the deep concern expressed by my constituents over rising crime rates that have, in some instances, reached epidemic proportions. Some 73 percent of the respondents to the questionnaire supported legislation I have introduced calling for stricter law enforcement measures.

Mr. Speaker, the people of the Eighth Congressional District of New Jersey are concerned with the future of the United States and the direction this great Nation will take during this troubled economic period in our history. They are looking to Congress for that guidance and I have no doubt that through our careful deliberations we will reaffirm America's position as the unquestioned leader of the free world.

The congressional legislative questionnaire is a key tool in feeling the pulse beat of the Nation's people. Through it we are able to determine not only what matters are important to our citizens but also how successful we Representatives have been in securing a better life for all Americans. I would like to congratulate the people of the Eighth Congressional District for the excellent response and interest they have shown in answering the questionnaire. A tabulation of responses I received to my questionnaire is as follows:

DISTRICT VOTING RESULTS ON LEGISLATIVE PRIORITIES

What is your order of priorities? Please mark the following numerically (1, 2, 3, etc.) in order of their importance to you.

Air, water pollution, environment 11.0 percent.

City and suburban mass transportation 3.0 percent.

Conquering "killer" diseases 10.8 percent.

Education 6.0 percent.

Welfare and social services 1.9 percent.

Foreign economic aid .3 percent.

Veterans benefits 3.1 percent.

Housing and community development 2.1 percent.

Hunger and malnutrition 5.9 percent.

Economy (inflation, unemployment, cost of living) 47.7 percent.

Narcotics traffic and addiction 4.0 percent.

Plight of cities 1.9 percent.

Energy 7.9 percent.

Science, space and technology 1.5 percent.

Law enforcement and justice 12.7 percent.

National defense 11.7 percent.

Aid to Senior Citizens 7.0 percent.

LEGISLATIVE QUESTIONNAIRE, CONGRESSMAN ROBERT A. ROE, EIGHTH DISTRICT, NEW JERSEY

DISTRICT VOTING RESULTS IN PERCENTAGE

1. Government performance and accountability: To reduce federal spending and provide greater efficiency and economy in government operations, which one of the following legislative proposals which I have sponsored would you favor most?

a. Federal Agency Control and Review Act (popularly k/a the Sunset Law) to require periodic termination of federal programs to assure that they are continued only after full evaluation and affirmative approval by Congress. 29.5 percent.

b. Biennial Budgeting Act (popularly k/a Zero-Based Budgeting Act) to provide for the elimination of inactive and overlapping federal programs by requiring authorizations of new budget authority for government programs and activities every two years. 18.2 percent.

c. Balanced Budget Amendment to the Constitution to provide that federal appropriations shall not exceed federal revenues, except in time of war or national emergency; and provide for the systematic paying back of the national debt. 42.6 percent.

2. If your "buying power" has decreased during the last year, which two of the following factors contributed most to this situation?

a. Unemployment. 6.3 percent.

b. Reduced income. 10.3 percent.

c. Higher taxes. 51.1 percent.

d. Inflationary costs. 84.6 percent.

3. In attempting to reduce our country's unemployment rate, which one of the following should receive the greatest emphasis?

a. Jobs created by the Federal Government. 15.1 percent.

b. Tax breaks for business to increase employment. 28.7 percent.

c. Reduction in interest rates to stimulate investment. 18.5 percent.

d. Reduction of present individual tax rates. 30.8 percent.

4. To counter inflationary pressure, would you favor any one of the following actions?

a. Sharply reduced federal spending. 56.7 percent.

b. Controlling prices, wages, profits, rents, interest rates. 24.2 percent.

c. Increased taxes on temporary basis. 8 percent.

d. More vigorous antitrust actions against concentrated, non-competitive business. 11.4 percent.

5. To encourage the development of alternative energy sources (i.e. geothermal, solar, liquefaction of coal, etc.) which of the following incentive measures would you favor?

a. Tax credits to industries that are researching and developing these types of energy. 63.9 percent.

b. Substantial federal financing of alternative energy research and development programs. 29.9 percent.

6. Which features would you support in a National Health Insurance Program?

a. Total federal sponsorship and operation. 30.8 percent.

b. Catastrophic illness protection. 37.7 percent.

c. Private insurance company policies with costs shared by employers. 19.8 percent.

d. None, The present system is adequate. 13.9 percent.

7. Should the U.S. pursue a policy of detente with:

a. Russia? 39.7 percent.

b. China? 44.9 percent.

c. Cuba? 21.8 percent.

8. Automobile insurance premiums for all drivers, but especially those between 18 and 25, continue to increase. To stabilize these premiums, which of the following would you favor?

a. A national premium structure in which persons with no accidents in their driving records would be charged the lowest actuarial cost rate regardless of their age, sex or where they live. 53.3 percent.

b. Abolishment of no-fault insurance regulations. 10.8 percent.

c. Mandated premiums established by the State. 6.3 percent.

d. Uniform statewide rates without penalty for accident record. 7.5 percent.

e. Special discounts for safe drivers. 52.1 percent.

9. Neighborhood crime is increasing to epidemic proportions. Of the following measures, which two do you believe would increase citizens protection and help reduce neighborhood crime?

a. Increased police car patrols. 25.3 percent.

b. Better street lighting. 13.0 percent.

c. Greater citizen involvement and participation. 33.1 percent.

d. Stricter law enforcement in general. 73.0 percent.

10. Tax proposals: Several tax proposals have been projected to sustain economic recovery and offset increases in Social Security and Energy Taxes. Do you favor any of the following proposals?

a. A permanent reduction in federal tax rates on the personal income of the individual. 40.5 percent.

b. A permanent reduction in federal tax rates on the profits of the business or professional man. 9.2 percent.

c. A permanent reduction in federal tax rates on corporate entities. 8.5 percent.

d. Elimination of all preferential tax treatment and a straight across the board low tax rate (1 percent to 5 percent) on all personal income and business profits as received similar to the levying of the sales tax, e.g., at the time of sale. 34.4 percent.

e. California's Tax Proposition No. 13 which limits the local property tax rate to 1 percent of market value, rolls back property tax assessments to 1975–1976 levels, and otherwise controls and restricts local and state governments on the amount of taxes they may levy. 49.9 percent.

11. Energy: The President's energy proposals have been hung up for months in conference of the House and Senate. How do you feel about these two issues involved?

a. Should there be a ceiling on the price of all natural gas from existing wells? Yes, 64.7 percent; No, 19.0 percent.

b. Should the proposed tax on domestic crude oil be rebated to oil companies to offset their cost for exploration and development of new oil fields instead of rebating it to the consumers? Yes, 27.8 percent; No. 46.5 percent.

12. Foreign policy: Do you favor the following foreign policy goals of the Administration?

a. Agreement with Russia to reduce arms. Yes, 57.6 percent; No, 25.3 percent.

b. Cut U.S. weapons sales for foreign nations. Yes, 52.9 percent; No. 28.0 percent.

c. Oppose additional Israeli settlements in former Arab land. Yes, 59.9 percent; No, 19.1 percent.

d. Support majority rule (one man-one-vote) in African nations. Yes, 53.1 percent; No, 20.2 percent.

13. Should the U.S. continue to provide foreign aid to our allies and developing countries throughout the world? Yes, 45.1 percent; No, 42.7 percent.

14. Should the U.S. impose substantial tariffs on imported goods to protect U.S. jobs and U.S. Corporations? Yes, 63.8 percent; No, 25.6 percent.

15. If laws protecting the environment, like the Clean Air or Clean Water Act, result in the loss of jobs of U.S. citizens, should these laws be relaxed and modified? Yes, 44.8 percent; No. 45.2 percent.

16. When Federal regulations of business including environmental controls cause severe financial hardships and loss of jobs for small business corporations, should the Federal Government compensate these corporations? Yes, 53.9 percent; No, 32.2 percent.

17. Do you support the use of quotas for hiring and entrance to college to prohibit

sexual or racial discrimination? Yes, 14.0 percent; No, 76.2 percent.

18. The Social Security Financing Act recently enacted into law increased the cost of Social Security to the worker, effective January 1, 1979. Do you believe that there should be a rollback of this payroll tax with the Federal Government assuming a greater share of the cost from the general revenue fund? Yes, 60.4 percent; No, 28.1 percent.

19. Do you favor the death penalty for crimes of violence resulting in the death of another? Yes, 79.8 percent; No, 12.6 percent.

Important Note! Many district voters did not vote on all items in the questionnaire and also those who voted "undecided" are not included in the percentiles of the above answers.●

CHRYSLER

HON. DONALD JOSEPH ALBOSTA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. ALBOSTA. Mr. Speaker, yesterday the House approved of a loan guarantee program that provides a guarantee for loans of $1.5 billion to the Chrysler Corp., provided that corporation meets a number of contingencies. This action was necessary because with the influx of imports, the issuance of harsh Government regulations, and the problems caused by the energy crisis, Chrysler, as the smallest of the big three auto manufacturers, has serious cash flow problems, placing them on the verge of bankruptcy, and almost certain liquidation.

I voted for the Moorhead-McKinney substitute measure because I felt it adequately provided for the financial security of Chrysler, while at the same time, requiring sacrifices on the part of all parties concerned. Provided that the Senate acts quickly on this legislation, I am confident that this measure will save our Nation the 500,000 jobs that are directly tied to Chrysler's operations and purchases. In addition, it is clear that the Federal Government will not be denied the $2.75 billion in tax revenues that are generated from Chrysler's wages and those of its subcontractors. The Pension Benefit Guarantee Corp. will also be saved from a potential $1.1 billion deficit that would have occurred upon a Chrysler failure. Additionally, millions of dollars of revenues would have been lost by the various States and localities that house Chrysler facilities or those of its suppliers. They would lose a significant amount from their operation budgets if Chrysler were left unaided.

I need not convey to Members of the House the negative impact a Chrysler failure would have on my State of Michigan, but it goes much beyond my State. I believe it is quite clear from the figures I explained above that in the national interest, it would have been irresponsible for the Congress to turn its back on this problem. While I do not want our vote yesterday to set a precedent for any other corporation in this Nation, I feel we took the correct action, and am hopeful that the Senate will expeditiously follow our lead on this matter.●

STALIN'S LEGACY

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. MICHEL. Mr. Speaker, there is voluminous literature on the reign of Adolph Hitler. New books, fiction and nonfiction, about the evils of the Third Reich appear one after the other.

But how much do we know about the life and times of Hitler's model and, eventually, his successor as the most feared dictator on Earth, Josef Stalin? Not very much, I believe, and what we do know now seems to be forgotten very quickly. This is why a recent article in the New York Times is so important. Three Soviet writers, each one having spent his childhood as a victim of Stalin's crimes, tell of their views of what Stalin did and what it means today.

At this point I wish to insert in the RECORD, "On Stalin's Birthday, Three Soviet Writers Speak Memories" in the New York Times, December 16, 1979:

ON STALIN'S BIRTHDAY, THREE SOVIET WRITERS SPEAK MEMORIES

(By Craig R. Whitney)

MOSCOW.—Stalin, born 100 years ago on Dec. 21 seems now to belong to another age. More than a quarter century has passed since he died in 1953. More than 20 years have gone by since Nikita S. Khrushchev denounced his crimes in 1956 and briefly permitted the country to learn that millions of its most loyal citizens had died in two decades of Stalinist terror.

Since then—official silence. But to ask almost any one of the Soviet citizens who grew up in those years about their childhoods, about their parents, about the war is to realize how immensely wide was the swath cut by the terror, how pervasive it was.

How did it affect these people as they came of age? How will the legacy of Stalinism affect their children?

In separate interviews, three Soviet writers, all well known in their own country and abroad, suggested some answers. All are sons of old Bolsheviks. All are "official" writers, none a dissident. Only their eloquence makes them different from millions of their countrymen.

Yuri V. Trifonov, 54 years old, has revived the genre of the Russian novella, with introspective probing of Soviet urban life, sharply critical of hypocrisy, cowardice, and greed, and full of subtle reminders—subtle because otherwise they could not be published here—of the way things were when Stalin ruled.

Bulat Okudzhava, 55, is a celebrated poet and chansonnier who has now taken to writing historical romances about pre-Revolutionary times, trying to show, despite Marxist teaching, that "there is not always some one person or one group of people who are at fault when others suffer." A native Georgian like Stalin, he writes in Russian and is a member of the Soviet Communist Party.

Vasily Aksyonov, 47, led a literary revolt against the system of Soviet literary censorship last winter, demanding publication of a collection of works by 23 Soviet writers called "Metropol." The authorities refused, and, as this winter closes in, he says he may give up and emigrate to the West.

YURI TRIFONOV

My father, Valentin Trifonov, was a comrade of Stalin and of most of the rest of the Bolshevik leadership during the Revolution and the Civil War. He'd been a member of the party since 1904, and before the Revolution he spent his best years, from 17 to 27, in exile in Siberia. After the Revolution, he fought on the southern and eastern fronts during the Civil War.

Back in 1966, when Stalin's years and his crimes were being openly discussed and criticized here, I wrote in a book called "Reflections from the Campfire" about his life. Stalin systematically excluded him from positions of great responsibility after the Revolution, and in 1937, he reached the end over a manuscript about the military threat from advanced industrial countries like Germany and Japan. That was before the Molotov-Ribbentrop Pact (with Nazi Germany), and Stalin didn't want to hear of such things.

The men in uniform came to our house on the night of June 23, 1937 and took him away. I was 11 at the time, he was only 45. Eight months later, they came and arrested my mother too. They were charged with espionage but the cases of course never existed; they were invented.

My sister and I went to live with my grandmother on my mother's side, Tatyana Slovatinskaya. She too was an old member of the party—met often with Lenin, who used her apartment in St. Petersburg for a secret meeting once in 1906, and had Stalin, as a secret guest in the house too in the early days. For some reason he never hurt her, though he had her son arrested.

So until the war, we lived with our babushka in a big house for the party elite on the other side of the Moscow river from the Kremlin. I wrote about the house in those years in "The House on the Embankment," which has just been published in the United States. I'm working on making it into a play.

I couldn't believe my father was guilty. But as long as the war lasted it was impossible to find out what had happened with him. It wasn't until 1945 that they told me he had died. In fact he had been shot. But they didn't say that until much later.

My mother came back from exile after the war after eight years in Kazakhstan. My grandmother got Kalinin to intercede with Stalin for her. I went to work in an aviation factory, and then I studied literature, for I always wanted to be a writer.

I got a Stalin Prize for my first book, "Students," written in 1948–1949. It wasn't very good, and of course it didn't say anything about the purges. But there were those around Stalin who didn't want me to have the prize because I was the son of "enemies of the people." All Stalin asked was, "is it a good book?" It was part of his hypocrisy.

After Stalin's death—that was a time of great expectations, great hopes. I began writing real novels, about the way people lived in Stalin's days, about how they developed a sense of justice.

I still think it's important to write about those years today, though I don't like it when people in the West single out that aspect as the only interesting thing about my work. I stand for my country. I want to write for people here. I'll come back again to 1937, the purge year, and write about that.

The general mass of people nowadays isn't interested in that time. It's certainly true that some don't even know what happened then. That's why I want to write about that time. There are things that must be said, in books, in books published here.

My son Valentin was born last spring. I don't want Stalin to be a burning issue for his generation. I want him to be able to forget about Stalin. Then the consequences of Stalinism would be over.

That's my wish. Whether it's possible or not is another thing, but I'm an optimist. The consequences of Stalin and Stalinism will be eliminated. I think it's inconceivable there could ever be a return to that sort of thing in this country. Because nobody wants that.

BULAT OKUDZHAVA

My parents were professional revolutionaries. They worked in the underground in Georgia before 1917, and they took part in the Civil War there afterward. In 1923 my father came to study at the Communist Academy in Moscow, and we lived in the Arbat, the oldest section of the city. Khrushchev half tore it down later to make room for some ugly skyscrapters. Unfortunately.

In 1937, my parents were "repressed," as the phrase went then. Why? No reason. When Stalin took power, he just got rid of all his friends, he didn't need them any more. Like Hitler, Like Mao Zedong. Stalin was a bandit.

That was a time—a terrible time—when we created in the Soviet Union a new type of human being. I was one of them. I was raised in the religion of the party. When the party said my father was a spy for the Germans and the Japanese, I believed he must be guilty.

They took my mother away too, so my brother and I went to live with my grandmother. She had only 30 rubles a month pension. All I had to wear, no matter how cold it was outside, was a thin raincoat.

As I was finishing the ninth grade, the war began, so as the age of 17, I volunteered for the front. I was wounded, and I came back early. I studied philology as the university in Moscow, but as a son of "enemies of the people," I couldn't get a job here. I had to go to a small village near Kaluga, and I found work there teaching Russian.

I knew my mother had been sent to excile, and after the war I kept trying to find out what had happened to my father, trying to get in touch with him. Finally in 1946, they sent me a card saying he had been "sentenced without the right to correspondence." That was the euphemism used for people who had been executed. But I didn't realize it until years later.

My father was rehabilitated posthumously, after 1953. There was a little ceremony at the military procurator-general's office.

The general gave me a piece of paper, with my father's name and the notation that he had been "physically liquidated." I asked whether in the file on my father's case there were some family pictures that had been seized, and whether I could have them back. The man told me, very full of sympathy and sadness, "my poor man, there were no files. Just lists of names."

My mother came back to Moscow. They gave her a small apartment, "as compensation for suffering."

My generation was naive. We talked too much. We knew too little.

The new generation doesn't know about Stalin at all. What they know, they heard from their parents, from films, from television. But only the positive side. The negative aspects are suppressed, unfortunately. I think this is harmful. Stalin was a sickness. To cure it we have to talk it out. Suppressing the discussion violates the spirit of earlier party decisions. It's as though the 20th party congress in 1956 had never taken place. We need now to raise a new generation of people who think for themselves, independently. This won't hinder genuine patriotism. On the contrary. My two sons are 26 and 15. They don't want to know very much about Stalinism now. Maybe they'll get more interested when they're 30.

I don't think history will repeat itself. We in Russia today are very much more closely linked with the rest of the world than we were in my time. History binds up its own wounds. Will we, will the younger generation repeat Stalin's methods? I hope not. I hope not.

VASILY AKSYONOV

My father and mother were both Communists. My father was a party member in 1917, a veteran of the Civil War, later Mayor of Kazan. He worshipped Lenin. He still does; he is critical of a lot of things, but he can't hear a bad word about Lenin.

My mother was strongly against religion. We had a nurse, a real Russian peasant lady with a face like an icon. She tried to baptize me, my mother told me when I was little, but she always said she found out, and forbade it. A few weeks ago, I found out that it had actually happened—it was done in secret, in a private home and not in a church, and my father's chauffeur, a party member himself, had helped the nurse get it done.

Years later, when the N.K.V.D. came to arrest them they took me away too. I was placed in a special home for children of "enemies of the people." I had an uncle who must have been a very courageous man. He tried to find me and get me out, and finally he did. I can remember the home vaguely. It was like a normal kindergarten, with beds and meals—not a terrible place.

I grew up with my uncle and aunt in Kazan, during the war. My parents were not killed, but they were sent to separate labor camps, with no news of each other. My father spent 18 years in the camps in Pechora. My mother spent 10 in Kolyma, and when she got out of the camps she was sent to exile in the Magadan district, in the Far East. In 1947 I joined her out there. But she assumed my father had died, and she married a doctor, a devout Catholic, with a Volga German background.

She became very religious too, not under the influence of the church, but of the camps.

(Mr. Aksyonov's mother, the late Yevgenia Ginzburg, wrote about the camps in a book called "Into the Whirlwind," published in 1967.)

My father was released after Stalin died, and was officially rehabilitated. My parents found out about each other eventually, and we did get them together once, on a boat trip down the Volga. But they had grown apart. They had become very different people, they were no longer what they had been before.

I studied to become a doctor. My mother told me medical skills would come in handy in the camps.

But I wanted to write. And I did, starting with some terrible stuff. After Stalin died, it seemed that so much might become possible. But after the "thaw" there was a "freeze." In 1963, I was there when Khrushchev had that famous fight with young artists in the Kremlin. There's a famous picture of him shaking his first at Andrei Voznesensky, the poet. Then Krushchev turned to me. "'You're trying to avenge your father. I know you,'" he told me. But he was mistaken. My father was alive. And it was Khrushchev who had rehabilitated him.

But now, what is to be done here? I have fought it out now for many years. Last January we tried to make a change, to stir up the swamp, with the "Metropol" collection. We didn't completely succeed.

One solution is to keep silent. Another is to become a political fighter. All I want is to be left alone to write in a quiet atmosphere. I'm already 47. I have ideas for other books, and it's my duty to write them. The only choice I see open to me is to leave, to go abroad, but I haven't made the final decision yet.

My son is 19. He's a student of art, and a very good one. He has his friends, his life here. He doesn't want to leave, and he won't. My son and his friends are not plagued by these "cursed questions." They know their grandparents went through hard times. They hope for better times. They hope that finally Russians will become part of mankind.

Ten years ago, we couldn't have imagined that some people would actually be allowed to emigrate, to leave this country. Ten years from now maybe some people will be allowed to come back.●

CONGRATULATIONS TO FDA FOR NOT STAMPEDING

HON. WILLIAM C. WAMPLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. WAMPLER. Mr. Speaker, when a Federal agency does something right, I believe they ought to be congratulated. For this reason, I want to congratulate the Food and Drug Administration for the prudent manner in which they have handled the issue of nitrosamines in beer.

The agency to date has followed a wise course of ascertaining and analyzing all the facts and has not stampeded on this issue under pressure. This approach is a much better one than that adopted last year when FDA, jointly with the Department of Agriculture, allowed the premature release of an invalidated report on nitrites in processed meats to scare the wits out of the American public.

Mr. Speaker, I submit for the RECORD at this point a recent letter I received from the United States Brewers Association, Inc., on this issue attesting to the sensible and cooperative manner in which FDA handled the nitrosamines in beer issue.

The letter follows:

UNITED STATES BREWERS ASSOCIATION, INC.
Washington, D.C., December 14, 1979.

Hon. WILLIAM C. WAMPLER,
U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR CONGRESSMAN WAMPLER: There has been considerable media and public interest recently about the presence of low levels of dimethylnitrosamine (DMNA) in malt beverage products. We are writing to provide you background information on this situation and the status of measures taken by the United States brewing industry, through the United States Brewers Association, Inc. (USBA), in response to it.

The USBA first learned of the potential presence of DMNA in malt beverage products in August of 1978, as a result of informal conversations between an industry scientist and Dr. Rolf Preussmann of the German Cancer Research Center in Heidelberg, both of whom were attending a conference in Aspen, Colorado. In response to a question at this meeting, Dr. Preussmann indicated that in the course of a market basket survey of foods in West German diet, he had tested a variety of European beers and found most contained DMNA.

On learning of this information, the USBA promptly convened a group of industry scientists to determine what steps should be taken to investigate the question in the United States, and called upon its standing Medical Advisory Group, chaired by Dean Emeritus Thomas B. Turner of the Johns Hopkins University School of Medicine for its advice.

Samples of domestic beer were promptly collected and forwarded to Dr. David Fine of the Thermo Electron Corporation (the inventor of the Thermal Energy Analyzer (TEA) utilized in the German studies) for analysis. In addition, a group of scientists was dispatched to Heidelberg to review Dr. Preussman's findings.

When the results received from Dr. Fine's laboratory proved positive for DMNA in domestic beer samples, the USBA immediately informed the Bureau of Alcohol, Tobacco, and Firearms in the Department of the Treasury and the Food and Drug Administration in the Department of Health, Education, and Welfare. Dr. Preussmann gave our scientific team his work confidentially since it was not scheduled for publication until February of 1979. Our findings were also communicated to the public through a national news release issued on August 30, 1978.

There ensued an intensive program to identify the source of the DMNA and to determine methods by which it could be eliminated. This was a worldwide effort as the USBA informed brewing groups around the world of the situation and of its research to date. Indeed, at the recent Sixth International Conference on the Analysis and the Formation of N-Nitroso Compounds held in Budapest in October, 1979, papers were presented on the subject by representatives of Japan, Germany, the United States, Canada, and the Soviet Union. We have, in addition, coordinated our efforts with the British, the Australians, and the French, among others.

When it became evident that DMNA was not formed in the brewing process itself, we investigated all brewing ingredients, and focused on malt as the apparent host of the DMNA we were finding in beer. Additional research indicated that the DMNA was apparently formed during the kilning or drying of malt.

The focus of our research then shifted to pesticide applications on malt, since the published literature showed these frequently to be a source of nitrosamines and nitrosamine precursors. Extensive investigation in this area showed a possible involvement of pesticides, but it gradually became apparent that elimination of the precursors potentially present from pesticide applications was not sufficient to eliminate DMNA from malt, or, consequently. from beer.

We expedited efforts to specifically identify and control the nitrous oxide precursor, the nitrosating agent. This was found largely to be present as a result of combustion in so-called direct fired kilns, where the drying barley was exposed to air that had come directly in contact with the combustion source. Indirect fired kilns, which represent only about twenty percent of domestic malting capacity, where a heat transfer occurs which prevents exposure of the drying malt to air exposed to combustion process, showed little DMNA formation. Where it was found, it was concluded to result from nitrosation by the nitrous oxides which are naturally present in air.

It was soon found that sulfur, whether as a natural constituent of fuel sources, or deliberately employed, would inhibit or prevent nitrosation. In addition, specially designed burners, developed to minimize nitrous oxide formation, were found to help reduce nitrosation, up to fifty percent. Sulfur alone, or in conjunction with these burners; has been found to reduce DMNA up to ninety-four percent.

As early as June of 1979, brewers and their malsters began to implement on a commercial scale the steps which had been shown experimentally to inhibit and prevent nitrosation during malting.

Throughout this period of research and experimentation, the USBA had reported on its progress to the FDA and the BATF and had shared the information it was developing with other brewing nations throughout the world.

In October, we were able to report to the FDA that fifty percent of the malt being used for brewing had been prepared by one of the methods suggested to inhibit nitrosation, and that by November that figure would have risen to eighty percent. We were also able to report that all brewers responding to our survey, which now includes every brewer in the United States, had indicated that measures had been taken to ensure that the malt being purchased had been so prepared.

The Food and Drug Administration has announced that it will be continuing to monitor DMNA levels in beer and that, where their presence can be confirmed, the products may be subject to regulatory action. We are confident, based on the information provided to us by individual brewers and malsters, that no such action will be warranted.

In summary, the situation we face is one shared by all beer producing nations of the world. There has developed during our investigations a significant international exchange of information, and we have widely disseminated the data we have developed. Based on the information available to us, we have taken all prudent measures to resolve the situation, and we are not aware of any steps taken in any other beer producing countries that are different from or more effective than those we have pursued. We will make subsequent reports to you as we progress toward our ultimate goal of eliminating DMNA from domestic malt beverages.

We shall be pleased to provide any additional details that you may desire, and to respond to any questions that you may have.

Cordially,

Henry B. King,
President, U.S. Brewers Association, Inc.
James W. Riddell,
Counsel to U.S. Brewers Association, Inc.●

ANOTHER ASININE EPA VENTURE

HON. ADAM BENJAMIN, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. BENJAMIN. Mr. Speaker, I would like to take this opportunity to bring to the attention of my fellow colleagues a study of which we should all take note. It will be conducted by the Virginia Institute of Marine Science and the School of Marine Science at the College of William & Mary. The study, sponsored by the city of Danville, Va., will research the sex lives of loggerhead turtles.

Some may wonder what motivated the city of Danville to sponsor a $10,000 study on the sex lives of loggerhead turtles. It seems that Danville's city council has agreed to finance this research rather than pay a fine for polluting the air from its coal-burning steamplant as suggested by the Environmental Protection Agency. In exchange for the fine, EPA stated that the city must finance an "environmentally significant * * * study of general relevance and not be specific to Danville."

The phrases "environmentally significant" and "general relevance" are ones that obviously have different meanings for different individuals. Although some may question whether the sex lives of loggerhead turtles is environmentally significant or of any relevance at all. who are they to doubt the word of EPA? Why discriminate against loggerhead turtles? They have as much right as any other species to have their sex lives private.

In closing, I would like to leave you with a statement by Mayor Robert Clarke of Danville. In referring to the recent vote of the city council on EPA's dictate, Mayor Clarke was quoted as saying, "this is the most asinine thing ever to come before this city."

Amen, Mayor, amen.●

ONE MILLION TO ONE

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. FISH. Mr. Speaker, our former colleague, Martin McKneally of New York, himself a past national commander of the American Legion, has written on the significance of the election of my father, Hamilton Fish, as an honorary national commander. He writes knowledgeably and graciously of both my family's military service to their country, and of their dedication to the cause of veterans of all wars.

The article follows:

One Million to One

(By Martin McKneally)

[Former National Commander of the American Legion]

This is the story of one of the most unusual and interesting events in the 60 year old history of the American Legion, the largest veteran organization in the world. It is also one of the most influential groups in the United States.

The election of Hon. Hamilton Fish, a distinguished former Member of Congress for 25 years, as the only living honorary national commander of the American Legion at the age of 90, was in itself unique and unprecedented. It originated from Kingston Post No. 150 in Ulster County, New York, actually without his knowledge or consent, but for which he is very grateful. He was also made a past national commander of the Legion with the right to participate in its executive committee. At the Houston convention in Texas on August 22nd, Mr. Fish's acceptance speech was received by long and loud applause. The New York delegates gave the only living honorary national commander a reception afterwards, attended by 600 or 700 delegates, twice as many as expected. Mr. Fish spoke at the Founder's luncheon on the origin of the Legion Preamble of which he was chairman of the committee of three, before the Americanism Committee where he upheld the Legion denunciation of Jane Fonda and before the Joint Foreign Relations and Security Committee, urging the Senate to strengthen our nuclear defense so no nation would dare attack the United States. He received standing ovations.

The extraordinary part of Mr. Fish's election, both as honorary national commander and as a former national commander is that for years, Legionnaire Fish was a member of the Judson Galloway Post at Newburgh, New York along with the author, Martin McKneally who also became a national commander.

The chances of having two past national commanders of the Legion from the comparatively small post, is more than a million to one. In 60 years, New York State has had only three other national commanders—all passed on to greener pastures.

Ham Fish and I are the only two past national commanders alive today—both of us served in Congress. When Mr. Fish was asked to comment about the American Legion, he said, "the American Legion is one of the most powerful and patriotic organizations in America with 3 million paid up members and 1 million women's auxiliary members, and is financially very strong. It is well organized in every state and its headquarters at Indianapolis and Washington are the centers of its numerous activities. It has always stood for the best interest of the community, state and nation, based on its Preamble . . . For God, country, the constitution, peace, freedom and democracy which its members upheld and fought for in four wars, and for the hospitalization and rehabilitation of our sick and disabled veterans.

It might be of interest to the readers to know that Col. Nicholas Fish, his great grandfather, was commissioned a Major in the Continental Army by John Hancock, President of the Congress in 1776, at the age of 18 and 3 months. He is still the youngest Major in the annals of our regular army.

The following extract from a book on Theodore Roosevelt tells the story of the death of his first cousin, Hamilton Fish, Jr., a graduate of Columbia who was the first man killed in the Spanish War in Roosevelt's Rough Riders, and six Spanish War posts were named atfer him.

From: Theodore Roosevelt: The Boy and the Man by James Morgan (Grosset and Dunlap 1907). "The day (Las Quasimas, Cuba, June 24, 1898) has cost the regiment eight killed and thirty-four wounded. Captain Capron, descended from generations of soldiers, met a soldier's death.

Sergeant Hamilton Fish, Jr., the heir to a great name, was another of the Rough Riders also buried in the ground which they and their comrades had won. The chaplain read the burial service while the brothers stood about with bowed heads, and the jungle echoed with "Rock of Ages". They were fighting side by side when they fell, and they were not separated in their burial. All in a common grave they were laid—'Indian and Cowboy'. Their Lieutenant-Colonel has written: 'miner, packer and college athlete the man of unknown ancestry from the lonely western plains and the man who carried on his watch the crests of the Stuyvesants and the Fishes. One in the way they had met death just as during life they had been one in their daring and their loyalty.

When the fighting was over, the Rough Riders, although largely southerners, were ready to accept the negro troops as comrades with hearty good will as they said, they were willing to 'drink out of the same canteen' with soldiers who had shown themselves brave men."

In conclusion, it might interest Legionnaires and many others to know that Mr. Fish, now the proud wearer of the red hat of a former national commander of the American Legion, served overseas with the 369th regiment, composed of volunteer blacks with mostly white officers that fought in the French army. It suffered heavy casualties and its flag was decorated with the French Croix de Guerre.

Captain Fish, later Major was decorated with the Croix de Guerre and the Silver Star. When he went to Congress in 1920 the first resolution he introduced was to bring back the body of the unknown soldier from the battlefields of France. This bill was the last one signed by Woodrow Wilson, a sick and dying President on March 4, 1921. The entombment of the unknown took place at the National Memorial Amphitheater at Arlington on November 11, 1921 in the presence of 75,000 people including both President Wilson who made a special effort to attend. President Harding, the Cabinet, the Supreme Court, the Senate and the House, and top generals from all the allied nations. At the request of the War Department, Mr. Fish placed the only wreath on the grave of the unknown in behalf of all of our armed forces during World War I and at that time said: "On behalf of the ex-servicemen of the Republic, I reverently place this wreath on the tomb of our unknown comrade in arms who paid the supreme sacrifice that we might live at peace with all the world."

Congressman Fish was chairman of the committee of five, appointed by President Coolidge to establish veteran preference and the recommendation of his committee, that disabled veterans be granted 10 percent preference and other veterans five percent in civil service examinations. This was put into effect immediately by an executive order of President Coolidge and over the years has helped to provide jobs for hundreds of thousands of veterans. He was also chairman of the first Congressional Committee to investigate communist activities, plans, policies, and knows more regarding communist objectives than any other American.

Mr. Fish's son, Congressman Hamilton Fish, Jr., himself a Navy Veteran of World War II, has continued the family record of service to America's veterans.●

ECONOMIC CLIMATE

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. RHODES. Mr. Speaker, I was privileged to receive a speech by Alexander B. Trowbridge, vice chairman of the Allied Chemical Corp. regarding the economy. Mr. Trowbridge points to some recent trends that indicate the economic climate could be changing for the better, and he sets forth clearly, concisely and succinctly, what needs to be done to strengthen the private sector. I commend his remarks to my colleagues at this point in the RECORD:

GEARING NATIONAL POLICY FOR A PRODUCTIVE ECONOMY

American industry, especially its capital intensive components, has had some cause for despair in recent years as it contended with escalating costs, intensified government regulations, public criticism from many vocal sectors, and a general economic climate that stressed consumer satisfaction without equal attention to the productive side of the economy.

We've heard of the manager who never allowed his associates to use the word "problem", always insisting on the use of "opportunity" instead. He continued this until one of his staff asked for assistance in solving "an insurmountable opportunity".

Without being excessively optimistic, nor mired in gloom, we should take note of some recent trends indicating that the economic climate in America may be changing for the better. The proof is not conclusive, but enough evidence exists to suggest an opportunity that all American industry should encourage and strive to fulfill. There is a perceptible swing away from the Keynesian economic theory that government, by manipulating overall economic demand, can "fine tune" the economy. Receptivity to new economic thinking is seen in the media, among academics and economists, and in political leadership circles, who appear to be reaching a consensus that the time has arrived for greater support of the productive sector. Time Magazine, in an August 27th cover story, summed it up this way: " . . . tax tinkering and government spending to prop up demand, wage and price guidelines to hold down inflation . . . have been as helpful as snake oil . . . A revisionist group of economists . . . is on the rise . . . who are bringing fresh air, and fresh hope, to the dismal science. . . . They assert that Government has motivated Americans to spend too much and save too little. They charge that Federal tax, budget and monetary policies have promoted immediate consumption instead of investment for the future. . . ."

For years the Keynesian economists have assumed that supply would take care of itself once demand was stimulated. For a while that appeared to be a valid proposition, but no longer. The problems of the 1970's and 1980 s revolve around our ability to efficiently produce the goods and services to satisfy overall demand at stable prices. The problem is not the nation's ability to consume, but our capacity to produce.

What is really meant, in solid policy terms, by this conclusion? First, we are primarily talking about manufacturing, construction, mining, utilities, transportation and communications—which constitute over one half of our private sector GNP and consist of roughly 200 distinct industries. But the ever growing and vital service sector is equally involved. Secondly, it suggests we are recognizing that a primary responsibility of government is the enhancement, not the inhibition, of business development. Thirdly, it envisages corrections on a broad front against the multiple road blocks which inhibit innovation, resource usage, capital formation, productivity improvement, energy independence and international competitiveness.

U.S. industrial innovativeness, when compared to Japan and West Germany, has lost its technological edge in the world. Problems of regulatory diversion of capital that should go to R. & D. projects, taxation penalties and antitrust policies that inhibit research collaboration, plus patent policies that prohibit exclusive licensing of federally sponsored research results—all blunt our entrepreneurial genius. We need a policy of encouragement for the commercialization of government owned patents coming from R. & D. as well as cooperative agreements among small, innovative companies. The proposal of Senators Bentsen and Danforth to extend the 10 percent Investment Tax Credit to corporate R. & D. expenditures also deserves widespread industry support.

Resource utilization is dependent upon the continued ability of the extractive industries to supply minerals, timber, oil, gas and other raw materials. Encouragement of multiple use concepts, with prompt issuance of public lands which contain approximately 50 percent of all known U.S. energy sources. Restrictive laws, such as the Alaskan lands legislation, are not going to enhance development of new supplies.

Capital formation is crucial to the productive sector, a fact recognized by the original Investment Tax Credit in the early 60's, which has been tortured by suspension and restoration twice since original passage. It should be retained, permanently, at its current 10 percent level. In addition, no current legislation is riper for fast approval, if industry maintains strong support, than the so-called "10–5–3" bill of Congressmen Conable and Jones, which would establish general depreciation schedules of 10 years for structures, 5 years for plant and equipment, and 3 years for cars and trucks—replacing the present cumbersome and unrealistic system based on the "useful life" concept. Data Resources Inc. estimates that the "10–5–3" bill would ultimately create 1.2 million jobs and cut inflation annually by some 2 percent. In addition, a number of bills have been introduced in the House to tax dividend income at lower rates, or to provide tax incentives for savings above average rates, or to exempt from taxes the first $100 to $200 of savings interest receipts. While the Treasury worries about the immediate revenue effect of such bills, Secretary G. William Miller has generally agreed with the principle that "For too long we have focused on consumption and have not invested enough in productive capacity." He, and other leaders, have been impressed by the comparatively low 5 percent personal savings rate in the U.S. as compared to 13–17 percent in Western Europe and 20–25 percent in Japan. The Congressional Joint Economic Committee, equally impressed, has recently issued its first unanimous report in 20 years, arguing strongly for supply side solutions to the nation's economic problems. Among the signers: Senators Kennedy and McGovern, and Congressman Bolling.

Productivity improvement can only come if we stimulate capital investment and put some rational limits on the regulatory overload so prevalent today. Positive steps can be envisaged by passage of "Sunset" legislation requiring periodic review of all regulatory spending, and "Sunrise" requirements for economic impact analysis of regulatory and spending programs. We should back the "Regulatory Calendar" concept of publishing the areas being considered for future regulation. This reform of the regulatory process, plus tax incentives for new investment, if matched by lower government spending and serious moves toward balance in the federal budget, can reverse the serious decline in American productivity growth that is now averaging less than 1 percent per year.

Energy independence will not come easily, as recent history has amply proven. Oil price decontrol, to the extent it enhances domestic exploration and development of petroleum, as well as encourages conservation, is a primary step to be taken. Development of Canadian and Mexican supply sources, while still involving imports, will strengthen the reliability of our supplies. We must strongly encourage use of the two great alternative domestic energy sources we have—coal and nuclear power. To bog these energy sources down in regulatory chains will be to commit national suicide.

International competitiveness of the U.S. export sector will need policies that assist and stimulate exports rather than export control policies that impede. Foreign markets must be made more open to U.S. goods by successful implementation of the new international trade rules adopted in the recently concluded Multi-lateral Trade Agreements. Such aids as DISC and promotional programs should be retained to help U.S. companies fight for foreign markets.

As the TIME story concluded, "The U.S. is by no means paralyzed, but is in a significant turning point. From Congress to the state houses, the tax reforming, investment boosting, regulation cutting, supply expanding recommendations of incentive economics are gaining more support every day and are increasingly translated into policies. If those beneficial trends continue, the 1980's may yet become the beginning of the good new days."

The millenium has not arrived, and let no one be misled into over optimism. But we may well be witnessing a real opportunity, unique in recent U.S. economic policy making, which deserves the encouragement and support of every American business leader. We can't afford to let it slip through our fingers.

Alexander B. Trowbridge,
Vice Chairman of the Board,
Allied Chemical Corporation.●

REV. GEORGE A. O'GORMAN

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. RODINO. Mr. Speaker, I want to recognize Rev. George A. O'Gorman who is pastor of Our Lady of Fatima Church in North Bergen, N.J. Father O'Gorman will retire in May 1980 after 44 active years in the priesthood.

Father O'Gorman has been pastor of Our Lady of Fatima Church since 1963. Archbishop Thomas A. Boland directed Father O'Gorman to found the parish and build the church in North Bergen. He was successful in both tasks.

Before 1963, Father O'Gorman served in the parishes of St. Brigid's, North Bergen, and All Saints, Jersey City. He is a retired colonel in the Army Reserves, having served as chaplain of the Pacific Theater of Operations during World War II, and as chaplain in the Reserves from the end of World War II until his retirement from the service a few years ago.

Mr. Speaker, I know that the parishioners of Our Lady of Fatima Church greatly appreciate Father O'Gorman's dedicated work and wish him well in the future.●

SOVIET ROLE IN IRAN

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. LAGOMARSINO. Mr. Speaker, the role of the Soviet Union in Iran is most interesting. On the one hand they support the United States openly, as in the U.N. debates. On the other hand their role has been one of stirring up trouble.

I recommend the following editorial by William Randolph Hearst, Jr., to the attention of my colleagues:

THE KREMLIN HAND IN TEHERAN

(By William Randolph Hearst, Jr.)

New York.—As soon as I heard how cooperative the Russians were in the United Nations, by making unanimous the Security Council's vote of disapproval of Iran's actions in holding our embassy people hostage, I smelled something fishy.

My reasoning was that the Communists in the Kremlin are famous for stirring up trouble for the United States in any and all countries throughout the globe.

I recalled reading that they had a radio station which beamed propaganda into Iran in their language, so I asked J. Kingsbury-Smith, our national editor, if he could get his hands on some transcripts of what they've been saying. I knew some branch of our State Department monitored all foreign broadcasts and sure enough, Joe came up with the following memo to me.

Washington.

"Dear Bill: You were so right. History may record that Russia was as responsible as the Ayatollah Khomeini, if not more so, for the toppling of the shah and for promoting the anti-American fanaticism that led to the conquest of the U.S. Embassy in Tehran and the kidnaping of its diplomatic personnel.

"Evidence at hand shows that after President Nixon decided in 1971 that rather than send American troops to the Persian Gulf he would rely on the shah to fill the vacuum created by the withdrawal of Britain's forces from the area, the Soviet government pursued a persistent policy of undermining popular support for the shah, encouraging revolution and fomenting anti-Americanism among the Iranian people.

"When President Nixon moved to make Iran the strongest military power in the region, the Soviets intensified the campaign against the shah and the U.S.

"There seems little doubt Soviet propaganda attacks on the Iranian ruler and the United States served to condition the people for revolution and hatred of the American government.

"A report by the reputable British Institute for the Study of Conflict states that as early as 1973, Iran's Soviet directed communist organization, the Tudah Party, issued a program entitled "The Creation of a Monolithic Front Against the Iranian Regime." The program called for formation of a broad-based coalition of communist, Moslem, and radical forces to overthrow the shah.

"When the shah outlawed the Tudah Party, its leadership fled to Russia and Eastern Europe. According to Western intelligence sources, Nureddin Kainuri, secretary general of the party, which was originally founded by German Marxists, was still directing the party's activities from Eastern Europe at the time of the shah's overthrow.

"The Kremlin established in the Soviet city of Baku a powerful radio station for the Tudah Party—the Voice of Iran. It beamed, and continues to do so, daily broadcasts to Iran. First calling for the overthrow of the shah, denounced as an American puppet. Now demanding his return for trial, supporting the holding of the American hostages and assailing the U.S. for allegedly planning to restore the shah to power.

"Since the end of World War 2, the Soviet Intelligence agency, KGB, has had hundreds of agents operating in Iran not only as spies but fomenting revolution and anti-American hatred.

"Penetrating the Iranian armed forces, the KGB blackmailed a Major General Ahmad Mogharrabi, who became deputy army chief, into spying for Russia for 11 years before he was caught. It also had an agent in the prime minister's office. Western intelligence discovered that the second floor of the Soviet Embassy in Tehran was a powerhouse of electronic monitoring equipment, targeted on Iranian military headquarters, Western embassies and the offices and homes of Iranian government officials.

"By the time Khomeini was completing plans for the revolution at his exile home near Paris, Western intelligence estimated there were over 4,000 Soviet "technicians," KGB agents and diplomats in Iran.

"When it became apparent the U.S. was not going to do anything to save the shah, the Soviet campaign against him moved into high hear. The British Study of Conflict report said 'Iran's internal unrest was preceded and accompanied by a stepping-up of international efforts to isolate the regime from Western sympathy.'

"American intelligence monitoring of Moscow radio and Voice of Iran broadcasts clearly indicate the anti-American hatred campaign helped to incite the Moslem mobs to invade the embassy in Tehran and hold our men and women there as hostages.

"On Oct. 24th, two days after the shah was admitted to a New York hospital and 11 days before the embassy was seized, Moscow radio broadcast in the Iranian language: 'Collaboration between the shah and the U.S. will threaten the Republic of Iran.'

"Five days before the attack on the embassy, a Moscow radio commentator, Vera Lebedeva, broadcast in the Iranian language a 'dear friends' message alleging that 'U.S. imperalists are continuing their intrigues against your country.' Asserting the admission of the shah into the U.S. for medical treatment will 'result in the concentration of counter-revolutionary forces and will lead to renewed danger of plots against the Iranian republic.'

"In a virtual summons to the mob to attack Americans, the broadcast added: 'The people of Iran, who are experienced in revolutionary struggles, and have successfully coped with several tests, are well able to stop the intrigues of imperialism and reaction and to defend what they have gained from their revolution. Death to U.S. imperialism.'

"One day after the seizure of the hostages, the Voice of Iran declared the American Embassy was a 'center of corruption and anti-Iranian conspiracies' and said its occupation 'reflected the anti-imperialist feelings of our homeland's people.'

"Despite repeated protests from the White House and the State Department, Moscow radio and the Soviet press continued to incite Khomeini's mobs against the United States. President Carter sent National Security Director Brzezinski to protest directly to Soviet Ambassador Dobrynin in Washington, and to warn him that the Soviet anti-American campaign in Iran was endangering ratification of the SALT treaty. The warning was ignored.

"In its double-standard diplomacy, the Soviet government voted for the American-sponsored U.N. Security Council resolution condemning the occupation of the embassy and calling for the immediate release of the hostages. On the same day, the Soviet Communist Party newspaper *Pravda* accused the United States of employing "crude military and political blackmail" against Iran and implied that President Carter had taken the hostage case to the United Nations and the World Court only as a cover for a military attack on Iran. Secretary of State Cyrus Vance actually labeled this canard as "deplorable."

"This anti-American Soviet duplicity is threatening to create a grave deterioration in Soviet-American relations. It has already blocked Senate action on the SALT treaty this year, and may lead to its rejection next year. It has aroused demands in Congress for a curtailment, if not complete cut-off, of technological and economic aid to the Soviet Union.

"Russia's rulers may not, of course, care very much. The geopolitical stakes in Iran are too high. If a Soviet-oriented communist regime eventually gains control of that country, the prize for the Soviets will be of far greater importance than the SALT treaty, detente, and cooperative relations with the United States.

"Domination of Iran would, in effect, mean domination of the Persian Gulf oil supplies to the West and Japan."

I don't think any of the foregoing will come as a surprise to you regular readers of this weekly effort of mine. First my father and, since his death, I have been exposing the Russians as enemies of our country going back to the '30s. However, should you know anybody who is still not convinced of this fact, I hope you'll pass this piece along.●

FREDERICK SONTAG ELECTED HUSSON COLLEGE TRUSTEE

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. MINISH. Mr. Speaker, my congressional district is particularly fortunate in having a large number of colleges and universities located in it. Each of them have boards of trustees composed of men and women who serve the public interest by the hours they devote to the education of the future leaders of our country.

Being a college trustee these days is hard work and requires a lot of stamina and persistence. Some of my leading constituents are members of local college boards of trustees, and now some are being asked to serve at out-of-State institutions of higher learning.

Frederick H. Sontag, who has served with distinction as a staff consultant on the Hill and is one of the Nation's outstanding public affairs and research consultants, has just been elected a trustee of Husson College, Bangor, Maine, after many years on the board of advisers of that growing liberal arts and business college. He was asked to serve because of the abundance of his creative, useful ideas and the well-known energy and dedication with which he applies himself to everything he undertakes.

Frederick Sontag's weekly commentary on "Suburban Dateline," which is carried Wednesday through Saturday on Suburban Cablevision's flagship station, TV-3, servicing most of my Essex County district, is very highly regarded. Mr. Sontag also again this year handled the election analysis for northern New Jersey, the State and the Nation.

Frederick Sontag's regular columns in the Worrall chain of weekly newspapers also add to the intellectual life of our district. I congratulate my friend and constituent and feel confident he will bring the best of the Garden State to the Pine Tree State.

I ask that the releases announcing Mr. Sontag's election as a Husson College trustee and his coanchoring of TV-3's election analysis as covered by the Maplewood-South Orange News Record and other Worrall chain papers follow my remarks:

FREDERICK SONTAG ELECTED HUSSON COLLEGE TRUSTEE

Frederick H. Sontag has been elected a trustee of Husson College, Bangor, Maine, for a three-year term. Husson is a four-year liberal arts college, with a heavy emphasis on business administration studies.

The national public affairs and research consultant is the senior member of the Husson Board of Advisers, havings been chosen originally by the college's founder, Chesley Husson. The promotion of advisers upon successful service to become trustees was one of the aims of the college' founder.

Sontag was one of five prominent businesspersons and educators elected to the Board of Trustees. He will serve on the Public Affairs, Stewardship and Alumni Relations Committee.

Sontag is a graduate of Colby College, Waterville, Maine, and has taught courses in government and politics as well as media relations seminars there.

The South Orange and Seal Harbor resident is the co-author of "PARTIES: The Real Opportunity for Effective Citizen Politics" (Alfred A. Knopf, hardback; Vintage-Random House, softcover), which is widely used as a college textbook in political science and government classes.

TV-3 ELECTION NIGHT COVERAGE FEATURING FREDERICK SONTAG ANALYSIS AND REPORTING

Suburban Cablevision TV-3's election coverage November 6 will again feature the news analysis and reporting of national public affairs and research consultant Frederick H. Sontag as he combines with anchorperson Bruce Beck of Livingston and a group of TV-3 local reporters in Essex, Union and Hudson counties in handling Assembly and other New Jersey and key national races.

Beck succeeds Bob Ley, formerly of Maplewood, who is now working with cable television in Bristol, Conn.

Sontag does a weekly commentary on Suburban Cablevision's "Suburban Dateline" program, which is aired each Wednesday, Friday and Saturday evenings. He has covered New Jersey public events and personalities for over 30 years.

Previous TV-3 Sontag-Ley public affairs programs have won national cable television awards for excellence in regional and local programming.●

KISSINGER'S FAILURES

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Ms. HOLTZMAN. Mr. Speaker, in light of former Secretary of State Henry Kissinger's role in the decision to allow the Shah of Iran to enter this country, his record as Secretary deserves close scrutiny. In this regard I commend to my colleagues' attention an article by William Pfaff that appeared in the December 9, 1979, edition of the New York Times.

The text of the article follows:

KISSINGER'S FAILURES

(By William Pfaff)

PARIS.—In the controversy that has followed publication of Henry A. Kissinger's memoirs, perhaps no one has said what one might think obvious: that Mr. Kissinger was ultimately a failure as Secretary of State. He left Washington with the United States weakened, its prestige and authority diminished. The Vietnam War was lost while he was Secretary of State, as the outcome of policies he conceived or carried out. There were no balancing successes. There were curiously few successes at all. Yes, Mr. Kissinger is thought a success. He is an intelligent man who knows history and has ideas. He is ambitious. Clearly, he wanted to be a great Secretary of State. In many respects he was a good one. He has wit and personal charm. These qualities made him a great favorite of the press. They won him the respect of foreign leaders who found him free of that moralism and parochialism that too often characterizes American policy makers. The problem is simply that his policies did not work.

The case for Mr. Kissinger rests primarily upon the settlement he negotiated for the Vietnam War (for which he was offered, along with Le Duc Tho, North Vietnam's negotiator, the Nobel Peace Prize; Mr. Kissinger accepted the prize, Mr. Tho did not), his attempt to negotiate a Middle East settlement after the 1973 war, the start of normalization of relations with China, and relations with the Soviet Union. The last of these unquestionably improved during his years in office. Arms and détente negotiations (the SALT and Helsinki treaty talks) were successful. They began under another Administration and no doubt would have gone forward under another Secretary of State; in fact, they did so under Mr. Kissinger. He was also right in warning that Soviet and Cuban interventions in Africa were a dangerous new development. But in Europe, Mr. Kissinger grossly overestimated the importance of Eurocommunism and dangerously misjudged post-revolutionary developments in Portugal. He supported the Greek colonels to no useful purpose—and to America's and the North Atlantic Treaty Organization's ultimate disadvantage. American involvement in the overthrow of President Salvador Allende Gossens in Chile worsened relations with the third world and laid the ground for current United States difficulties in Central America. Binding United States interests and prestige to the Shah of Iran, a policy Mr.

Kissinger did not invent but continued, was a grave error for which the United States now pays the cost. In the Middle East, his dramatic shuttle diplomacy produced no settlement. That awaited the courage of Anwar el-Sadat and the persistence of Jimmy Carter. The changed American policy toward China was overdue and constructive. The real credit, however, must go to Zhou Enlai and Mao Zedong: It was in fact China that "recognized" the United States as a means to offset the threat from the Soviet Union. The policy was a venerable one for China: that one foreign "barbarian" be induced to confront another.

The biggest issue during Mr. Kissinger's time in Washington was, of course, the Vietnam War. There is currently a justified controversy over the Nixon-Kissinger policy toward Cambodia. But even if that is put aside, and Vietnam alone is considered, it is necessary to conclude that the policy failed. When Mr. Kissinger became national security adviser in 1969, the war had been going on for four years and more than 30,000 Americans had died. Public opinion, troubled from the start about the wisdom of a land war in Asia, had shifted against the war. Richard M. Nixon had campaigned for the Presidency with the promise to end America's role in the war. Hubert H. Humphrey also said that he would end the war but he was blocked from disavowing the past policy of the Johnson Administration that, as Vice President, had been his own as well. Mr. Nixon, *faute de mieux,* was the peace candidate, and he was elected. What Mr. Nixon and Mr. Kissinger did during the next four years was enlarge the war geographically and hand it over to the Vietnamese (and Cambodians, after 1970) to win or lose. Since South Vietnam's inability to deal with the Vietcong and the North Vietnamese had caused America to enter the war in the first place, it could only end as it did, in defeat. America withdrew its forces. The South Vietnamese weakened and eventually collapsed under renewed Communist attacks. The remaining Americans scrambled for their lives to rooftop helicopters. It was a fiasco. It was also the inevitable, predictable outcome of the Nixon Administration's policy on Vietnam.

Mr. Kissinger argues that it all would have been different had the liberals not attacked him and rallied American opinion to block reprisals against the North Vietnamese—the threat of reintervention or of renewed bombing. But the fact that American public opinion was bitterly split over the war was the condition upon which Mr. Nixon and Mr. Kissinger had to base their policy from the start. It was a fundamental part of the problem. For America itself, it was the most important part. Policy that ignored this was irresponsible policy. The task was not to lose the war in a way that would allow the domestic enemies of the Nixon Administration to be blamed. Rather it was to rally American opinion behind a policy able to salvage something from the affair better than a squalid defeat for America and its allies. The actual Kissinger policy, to abandon South Vietnam to its enemies, could have been carried out four years earlier, with Cambodia still intact, and with perhaps a million people alive, including some 20,000 Americans, who were dead when Mr. Kissinger and Mr. Nixon left office. The result for Vietnam, Cambodia and Laos could not possibly have been worse than what actually happened.

Henry Kissinger does not offer his memoirs these days with diffidence. He presents himself as a success. He projects success. He is taken as a success. He is talked about for high office once again. It is a striking case of style over substance. It is an American success story.●

AMERICANS WRITE TO THE AYATOLLAH

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. GREEN. Mr. Speaker, during this holiday season, our thoughts and prayers are with the 50 hostages held at the American Embassy in Iran. As I am sure my colleagues are aware, there has been a massive outpouring of concern and support among Americans across the Nation for their fellow countrymen, who will not be with their families and loved ones during this season.

I believe that the Iranian Government must understand that all Americans support the earliest possible release of the hostages and are behind our Government in its efforts to bring about their release. The longer the Ayatollah Khomeini labors under the misconception that he can pit the American citizen against the U.S. Government in his attempt at blackmail and his cruel violation of human dignity and international law, the more difficult it will be to convince him that his only course of action is to release the hostages.

Over the past few weeks, I have called upon my constituents, by circulating a letter within the 18th Congressional District, to write to the ayatollah to demonstrate that despite the great variety of opinions we hold in our country on most issues, on this we stand together.

Among the mail which I have received from my constituents about this terrible situation was a copy of a letter sent by one of my constituents, Mr. Alfred Gross, to the ayatollah. I would like to share Mr. Gross' communication with my colleagues and their constituents, for I know that his letter expresses the sentiments of all Americans.

DECEMBER 11, 1979.

H. E. THE AYATOLLAH KHOMEINI.
The Iranian Embassy
Washington, D.C.

EXCELLENCY: With numberless of my fellow countrymen, like you a man of great age, being eighty-four years old, I write you both as the chief of a great state and its spiritual head. Every chapter of the Koran begins with an invocation of Allah, the Compassionating, the Merciful. In the name of the Compassionating and the Merciful, I appeal to your compassion and mercy for the release of the members of the American Embassy staff who are undergoing imprisonment at the hands of students who demand the delivery of the former ruler of the Persian Empire in exchange for their freedom.

Holding members of a foreign mission in custody is a grave violation of time honoured diplomatic usage and of international law. I am sure Your Holiness must be aware of the unanimous sentiment expressed at the meetings of the United Nations Security Council deploring this unlawful detention. I have grave doubts that this Government would employ any of the Embassy personnel for purposes of espionage. If such were the case, although this I gravely doubt, it is the custom to notify the home government that men so detected in unlawful enterprises were persona non grata, to be immediately recalled. It is the hope of virtually all Americans that you will prevail upon those who hold the Embassy people in capitivity to release them forthwith, reuniting them with family and friends, thereby earning the gratitude of our people and the restoration of an era of good will between your country and ours.

I have the honor to be, Sir,
Your excellency's obedient servant,
ALFRED A. GROSS.●

FINANCIAL REPORT OF THE CONGRESSIONAL STEEL CAUCUS: QUARTERLY STATEMENT OF EXPENSES AND FUND BALANCE STATEMENT FOR PERIOD ENDING SEPTEMBER 30, 1979

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Ms. MIKULSKI. Mr. Speaker, in accordance with Executive Committee Order No. 1, I am respectfully submitting herewith the quarterly financial report of the Congressional Steel Caucus for insertion into the RECORD.

The report is as follows:

QUARTERLY REPORT—FUND BALANCE STATEMENT

(U.S. House of Representatives, Congressional Steel Caucus)

Balance remaining (as of June 30, 1979)	$5, 435. 94
Total revenues (clerk hire, membership dues and stationery adjustment)	10, 913. 24
	16, 349. 18
Less expenses:	
July 1979	9, 624. 78
August 1979	1, 244. 26
September 1979	5, 039. 27
	15, 908. 31
	440. 87
Plus interest deposit	116. 43
Total unexpended revenues (as of September 30, 1979)	557. 30

QUARTERLY REPORT—STATEMENT OF EXPENSES

(U.S. House of Representatives, Congressional Steel Caucus)

Salaries	$23, 356. 55
Travel	0
Stationery	276. 37
Postage	47. 00
Telephone	502. 61
Publications	624. 75
Equipment	1, 597. 62
Printing	215. 95
Miscellaneous	9, 616. 42
Total expenses as of September 30, 1979	36, 237. 27

CONGRESSIONAL STEEL CAUCUS MEMBERS WHO HAVE PAID DUES AS OF DECEMBER 1, 1979

Joseph Addabbo, Douglas Applegate, John Ashbrook, Eugene Atkinson, Donald Bailey, Adam Benjamin, Jr., Tom Bevill, Clarence Brown, George Brown, John Buchanan, John Cavanaugh, Don Clausen, William Clay, William Clinger, E. Thomas Coleman, Lawrence Coughlin, W. C. "Dan" Daniel, Robert Davis, John Dingell, Christopher Dodd, and Robert Duncan.

Robert Edgar, Allen Ertel, Dave Evans, Vic Fazio, Floyd Fithian, Daniel Flood, William

Ford, L. H. Fountain, Joseph Gaydos, Robert Giaimo, Benjamin Gilman, William Goodling, Tennyson Guyer, Sam Hall, Jr., James Hanley, Elwood Hillis, Kenneth Holland, Richard Ichord, John Jenrette, James Jones, Tom Kindness, Ray Kogovsek, and Peter Kostmayer.

Raymond Lederer, Gary Lee, Jerry Lewis, Jim Lloyd, Clarence Long, Thomas Luken, Stanley Lundine, Robert McClory, Joseph McDade, Robert McEwen, Gunn McKay, Marc Marks, Dan Marriott, James Martin, Dawson Mathis, Robert Michel, Barbara Mikulski, Clarence Miller, John Mitchell, Robert Mollohan, G. V. Montgomery, William Moorhead, Ronald Mottl, Austin Murphy, John Murphy, Morgan Murphy, John Murtha, and Michael Myers.

William Natcher, Bill Nichols, Richard Nolan, Henry Nowak, Mary Rose Oakar, James Oberstar, George O'Brien, Thomas P. O'Neill, Edward Patten, Donald Pease, Carl Perkins, Melvin Price, Carl Pursell, James Quillen, Nick Joe Rahall, Ralph Regula, Don Ritter, Robert Roe, Dan Rostenkowski, and Martin Russo.

Richard Schulze, John Seiberling, Richard Shelby, Bud Shuster, Paul Simon, John Slack, J. William Stanton, Louis Stokes, Samuel Stratton, Gene Taylor, Morris Udall, Bruce Vento, Douglas Walgren, Robert Walker, Richard White, Lyle Williams, Charles Wilson, Gus Yatron, Clement Zablocki, and Leo Zeferetti.

MONTHLY REPORT—STATEMENT OF EXPENSES AND FUND BALANCE STATEMENT

(U.S. House of Representatives, Congressional Steel Caucus)

Statement of Expenses, July 1979

Salaries	$3,026.67
Travel	---------
Stationery	---------
Postage	15.00
Telephone	45.74
Publications	190.00
Equipment	175.00
Printing	198.45
Miscellaneous:	
P. M. Ola (donuts)	5.00
Ken Strawberry	235.42
Jack Morton Productions	265.00
House Restaurant	5,468.50
Total expenses for July 1979	9,624.78

Fund Balance Statement, July 1979

Balance remaining (as of June 30, 1979)	$5,435.94
Total revenues (clerk hire, membership dues and stationery adjustment)	4,769.90
	10,205.84
Less expenses: July 1979	9,624.78
	581.06
Plus interest deposit	116.43
Total unexpended revenues (as of July 31, 1979)	697.49

MONTHLY REPORT—STATEMENT OF EXPENSES AND FUND BALANCE STATEMENT

(U.S. House of Representatives, Congressional Steel Caucus)

Statement of Expenses, August 1979

Salaries	$916.67
Travel	---------
Stationery	32.78
Postage	---------
Telephone	58.86
Publications	60.95
Equipment	175.00
Printing	---------
Miscellaneous	---------
Total expenses for August 1979	1,244.26

Fund Balance Statement, August 1979

Balance remaining (as of July 31, 1979	$697.49
Total revenues (clerk hire and membership dues)	1,316.67
	2,014.16
Less expenses: August 1979	1,244.26
Total unexpended revenues (as of Aug. 31, 1979)	769.90

MONTHLY REPORT—STATEMENT OF EXPENSES AND FUND BALANCE STATEMENT

(U.S. HOUSE OF REPRESENTATIVES, CONGRESSIONAL STEEL CAUCUS)

Statement of Expenses, September 1979

Salaries	$4,826.67
Travel	0
Stationery	0
Postage	0
Telephone	37.60
Publications	0
Equipment	175.00
Printing	0
Miscellaneous	0
Total expenses for Sept. 1979	5,039.27

Fund Balance Statement, September 1979

Balance remaining (as of August 31, 1979)	769.90
Total revenues (clerk hire and membership dues)	4,826.67
	5,596.57
Less expenses: September 1979	5,039.27
Total unexpended revenues (as of September 30, 1979)	557.30

MONTHLY REPORT—LISTING OF STAFF

U.S. HOUSE OF REPRESENTATIVES, CONGRESSIONAL STEEL CAUCUS

CAUCUS STAFF

Name	Clerk hire contributor	Title	Gross monthly salary
JULY 1979			
P. M. Ola	Hon. Joseph M. Gaydos.	Staff director.	$1,696.40
	Hon. Marc Marks		413.60
S. E. Bollen	Hon. John Murtha	Secretary	916.67
AUGUST 1979			
S. E. Bollen	Hon. Robert McEwen	Secretary	916.67
SEPTEMBER 1979			
P. M. Ola	Hon. John Buchanan	Staff director.	2,110.00
	Hon. Adam Benjamin.	------------	1,800.00
S. E. Bollen	Hon. Marc Marks	Secretary	916.67

●

ROLLCALL VOTES

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. BADHAM. Mr. Speaker, yesterday I was unavoidably detained and missed two rollcall votes. I was away from Capitol Hill at the Justice Department involved in the matter of the contested election of Mr. CLAUDE (BUDDY) LEACH.

Had I been present I would have voted as follows:

Conference report on S. 673, national security programs, rollcall No. 747, "yea."

Conference report on H.R. 3875, Housing and Community Development Act amendments, roll call No. 748, "yea." ●

SALENA GREGORY IS HONORED

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. BROWN of California. Mr. Speaker, I wish to submit for the RECORD a tribute to Salena Gregory, who has been an outstanding public employee and community leader for many years in my congressional district. I want to take this opportunity to pay special tribute to Salena Gregory, who just last month completed 30 years of Federal service, and who was the recipient of the U.S. Air Force Distinguished Equal Employment Award on March 2, 1979, in ceremonies at Norton Air Force Base, Calif. The award she received states: "For 1977 In Recognition of Your Outstanding Achievement in Affirmative Action in the United States Air Force Equal Employment Opportunity Program." Mrs. Gregory's greatest contribution was in the development of the annual affirmative action plans that were recognized by the Air Force and the Civil Service Commission, as outstanding, comprehensive, and innovative. She solicitated participation by community groups, employee groups, and EEO leaders. She provided outstanding EEO assistance to top level managers and supervisors. The base is recognized for highly effective EEO program coordinators, due largely to Mrs. Gregory's program efforts. On November 29, 1979, she received both her 30-year service certificate and a letter of commendation from Gen. Robert E. Huyser, commander in chief, Military Airlift Command.

Currently, Mrs. Gregory is the Assistant Equal Employment Opportunity Officer at Norton Air Force Base, Calif., and has been in this position since 1972. She is the only full-time principal EEO officer responsible for the total affirmative action program. It includes the "special emphasis programs" related to women and ethnic minorities' equal employment opportunities. Throughout her Federal service, she has progressed through various training programs and occupational positions.

The mayor of the city of San Bernardino, Calif., appointed Mrs. Gregory to serve on the city's Comprehensive Employment and Training Board and the mayor's Private Industry Council. She also serves on the San Bernardino Equal Employment Opportunity Committee, the International Council for Friendship and Goodwill, and is a member of the San Bernardino Mexicali-Villahermosa Sister City Committee. A resolution of the mayor and common council of the city of San Bernardino has commended her for her "invaluable assistance to the legislative review committee of the common council in preparing the initial city of San Bernardino's equal opportunity employment program."

Mrs. Gregory attended high school and college in Topeka, Kans., majoring in business and the social sciences. She is a native of Greenville, Miss. Her husband, Norris P. Gregory, former San Bernardino city councilman, was the first black to occupy a city councilman position in the history of San Bernardino, Calif. Their son, Norris P. Gregory III, is a Harvard graduate, and she has a granddaughter named Jessica Lyn Gregory.●

DEFENSE FLIP-FLOP

HON. JAMES P. (JIM) JOHNSON

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. JOHNSON of Colorado. Mr. Speaker, on December 19, 1979, the Washington Star published an article by Carl Rowan entitled "A Flip-Flop On Defense." It is an article that should be read and considered by all. The justifications being bandied about for increased military spending and/or rejection of SALT II are specious and fallacious. Jingoism and the form of militant patriotism Samuel Johnson called "the last refuge of a scoundrel" is on the ascendency in the United States now. As Mr. Rowan says:

> To use Iran as an excuse to spend another $14 billion on arms in fiscal year 1981 is pure flim-flammery. If Iran has proven anything, it is that there are stark limitations on the uses of military power. . . . Pumping vast billions more into military hardware will do little to strengthen America's posture abroad, but it can do a lot to weaken the sinews of this country's internal strength.

General MacArthur said, when opposing a large Pentagon budget in 1957:

> Our government has kept us in a perpetual state of fear—kept us in a continuous stampede of patriotic furor—with the cry of grave national emergency. Always there has been some terrible evil . . . to gobble us up if we did not blindly rally behind it by furnishing the exorbitant funds demanded. Yet, in retrospect, these disasters seem never to have happened, seem never to have been quite real.

That statement 22 years ago is as timely now as it was then.

The Rowan article follows:

A Flip-Flop on Defense

(By Carl W. Rowan)

For a generation and more, the conventional criticism of the Soviet Union has been that a dictatorial elite in the Kremlin sets spending priorities without regard for the housing, food, medical or other needs of the Soviet masses.

The argument is that the Soviets could outspend us militarily for a decade and build Backfire bombers, SS–20 missiles and more because their leaders had a cold and cruel unconcern for the domestic well-being of their people.

President Carter has done a sudden flip-flop and decided, in effect, to emulate the Russians. This president, who in September was arguing that there was no need to increase defense spending in 1981 and 1982 by more than 3 per cent a year, has suddenly decided to ask Congress for $142 billion for defense spending in fiscal 1981. That would be an increase of $14.6 billion over the current year, and a rise of 3.5 per cent after adjustment for inflation. That is arms spending that we can finance only by cutting and bleeding vital domestic programs.

Even Sen. Henry M. Jackson, a hawkish advocate of higher defense spending calls the Carter proposal "a tremendous increase." Jackson, with justification, thinks it is a Carter administration ploy to win over enough votes to gain Senate ratification of SALT II, the new U.S.-Soviet agreement to limit strategic arms.

The Carter administration has seized upon the crisis in Iran as an excuse for sharply higher military spending over the next several years. The rationale, which many confused, angry, humiliated Americans probably will swallow, is that if we give the Pentagon billions more, we can have giant cargo planes to haul our "quick-reaction troops" to places like Iran where they will find new fleets of ships waiting to provide them with the arms and gear needed to deal not only with the next Ayatollah Khomeini, but with what Defense Secretary Harold Brown foresees as "a long pull of adversary relationships" with the Soviet Union.

To use Iran as an excuse to spend another $14 billion on arms in fiscal 1981 is pure flim-flammery. If Iran has proven anything, it is that there are stark limitations on the uses of military power. Our failure to attack Iran militarily has nothing to do with our lack of a quick-reaction military unit, a giant cargo plane or fancy ships permanently stationed in the Persian Gulf. We have made political decisions to give priority to saving the lives of the hostages, and we have restrained ourselves not to provoke a billion Moslems, or to give the Soviet Union an excuse for military intervention in Iran.

I share the suspicion of many members of Congress that this defense-spending flip-flop is designed to win enough votes to get SALT II approved.

Mr. Carter has decided to mortgage America's future programs of health care, education, housing and more to the proposition that by spending more money on arms we can somehow create a situation where both we and the Soviets will spend less. I had doubts long before Soviet behavior in the Iranian crisis convinced me that I ought to have doubts.

I wonder if it has occurred to Mr. Carter that currently we may need aircraft carriers and cargo planes less than we need the will to stand tough against our foes—and especially our friends. It is ridiculous that at this stage of history West Germany and Japan should be bearing so little of the cost of defending the Western World. It is galling that when we scold Japan for undermining U.S. efforts to squeeze Iran and secure the release of American hostages, Japan replies: "That's your problem." It is ludicrous that at the same time this occurs, our government purchasers of trucks would still be writing specifications so that our Navy, Army, Air Force and other agencies can only buy trucks made in Japan.

One of America's greatest "security" weaknesses is that we have too many young people whom we have failed to educate, feed, clothe or give a sense of really belonging to this society. Fearing that they are ill-prepared to defend us, many in Congress clamor for a return to the draft so that the military can get more of the young men who have had favored existences.

Pumping vast billions more into military hardware will do little to strengthen America's posture abroad, but it could do a lot to weaken the sinews of this country's internal strength.

President Carter has made a mistake.●

HOLDING CAMBODIA HOSTAGE

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Ms. HOLTZMAN. Mr. Speaker, the situation in Cambodia is very grave. I am sure my colleagues share my concern about it, and I commend to their attention an article on the subject by Frances FitzGerald that appeared in the December 14, 1979, edition of the New York Times.

The text of the article follows:

Holding Cambodia Hostage

(By Frances FitzGerald)

The dimensions of the tragedy in Cambodia are now well known in the United States. Individual Americans—along with people of many other countries—have shown their concern by contributing generously to the international agencies involved in the relief effort. Such giving is important, but it is not enough. For the Khmers are not the victims of a natural disaster. They are the hostages in a regional power struggle involving not only Vietnam and Thailand but also China and, indirectly, the Soviet Union. That struggle is now impeding the relief efforts; it could end them completely if—as could easily happen—it breaks into a wider war. The survival of the Khmer people thus depends first and foremost on a political solution.

Cambodia is now a battleground for a war that cannot be won. Vietnamese troops entered Cambodia a year ago after repeated attacks on their territory by the Pol Pot Government and the movement of tens of thousands of refugees across their border. (It's a fact little appreciated in the West that the first wave of Cambodian refugees went to Vietnam.) The Vietnamese may have the same imperial designs on Cambodia that they had in the 19th century. But whether or not this is the case, they had reason to feel threatened by the military alliance between the Pol Pot Government and Peking. Now, having beaten back the Pol Pot forces and installed the Heng Samrin administration in Phnom Penh, they are stuck with their conquest. Even if Hanoi wanted an independent Cambodia, it could not withdraw its troops, for to do so under present circumstances would be to leave the country in anarchy without any logistical system and without any defense against the remnants of the genocidal Pol Pot regime. At the same time Hanoi cannot end the fighting and impose order.

Above and beyond the traditional antagonisms between Cambodians and Vietnamese there is the military fact that the Pol Pot guerrillas and three non-Communist warlords control the half million and more Cambodians who have fled to refugee camps along the Thai border. By supplying these refugee camps with food and medicine the international relief agencies are—unavoidably—supplying the guerrillas as well. (Similarly the agencies bringing food into Phnom Penh are unavoidably supplying at least some Vietnamese troops and the regime they created.) The Thai authorities cannot or will not disarm these guerrillas, whose weapons probably continue to come from Peking.

The conflict is thus at stalemate. The Thais do not want the Vietnamese to dominate Cambodia; the Vietnamese do not want a hostile Cambodia allied with Peking; and the Chinese do not want Hanoi in alliance with Moscow controlling all Indochina. The conflict is a cat's cradle, for while it is dangerous to all parties no government can withdraw from it unilaterally.

Without international mediation the stalemate could last indefinitely. Worse still, the conflict could escalate into regional warfare. The Vietnamese could attack the Pol Pot guerrillas in and around the refugee camps, thereby driving hundreds of thousands of refugees into Thailand and threatening the Thai regime. Equally the Chinese could intervene, attacking either by proxy through the hill tribes of Laos or directly in a new invasion of Vietnam's northern provinces. In any case the continuation of the conflict will surely mean the death of countless more Cambodian civilians by famine and disease, the reductions of the other two Indochinese economies to near-famine level and an unceasing flow of refugees out of Cambodia, Laos and Vietnam.

At the moment President Carter and the United Nations Secretary General, Kurt Waldheim, bear a heavy responsibility toward the Cambodians, for they are in the best positions to call an international conference and to urge the combatants to a negotiated settlement on the basis of a neutral, independent Cambodia.

Those Americans concerned about the relief efforts can put pressure on the United States Government and Mr. Waldheim to take such diplomatic action. They must do so, for the survival of the Khmer people is at stake.

OUR SHRINKING FARMLAND

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. DANIEL B. CRANE. Mr. Speaker, it is well known that America feeds the world. We enjoy the strongest agricultural production on the planet. But this is changing.

No longer do you hear of the necessity of conserving farmland as a national goal. Yet our prime farmland is disappearing at an alarming rate.

The November 20, 1979, issue of the Champaign (Ill.) News-Gazette contains an editorial on this important subject that should be read by all concerned with our source of food.

The editorial follows:

OUR ACRES ARE OUR ACES

The word conservation has taken on a whole new meaning in the last 10 years. It used to mean the idea of conserving land for farming and ranching.

But since Americans have proved we can't limit our gasoline fix and since the Arabs—and others—have said we're going to be forced to do it, conservation has taken on a broader meaning.

Lost, at least on a national scope, is the preservation of farmland as a major goal. Three million acres of agricultural land were lost to development every year between 1967 and 1977, according to the National Agricultural Lands Study. A third of this land was considered prime farmland.

Another two million was lost annually because of leap-frog development that isolated patches of farmland, making it impossible to use for agricultural purposes.

The nation now has about 345 million acres of prime farmland. About 230 million acres is used as cropland. Illinois leads the nation with about 19 million acres of crop land, much of it the best in the world.

But even here in Central Illinois—where our appreciation for farmland supposedly is high—we have been mortgaging our future in exchange for more questionable residential development.

Within the last three months both the Champaign City Council and the Champaign County Board gave their approval to plans to rezone 70 acres of prime farmland in Southwest Champaign so that more housing could be built.

That's right. More housing at a time when the county's growth rate is below five percent a decade and when the list of unsold or vacant homes gets longer every week.

Last year, American agriculture exported $27 million worth of agricultural goods, helping to keep our world trade deficit lower than it would have been in these days of massive oil importing. American farm products not only feed our own population but mean the difference between life and death for millions of others in countries like Cambodia, India, Chad and Nicaragua.

Earlier this year, George Anthan, a reporter for the Des Moines Register, calculated that every time a baby is born in the United States, "agriculture loses one and one-third acres of cropland."

"The connection isn't direct—it's a mathematical comparison of population and land-loss trends—but it dramatizes a problem: Our population is growing, our available farmland is shrinking and our per-acre crop yields are leveling off."

If farmland losses continue at their present rate until the year 2000, Anthan predicts:

All food produced in the U.S. will be consumed here.

Consumer prices will rise sharply, well above the inflation rate.

Food exports won't be able to offset trade deficits and that would contribute to even higher inflation.

World hunger would become even greater.

"Soil is the raw material of agriculture," said Gus Speth, chairman of the Council on Environmental Quality. "We can pave it or we can save it, knowing that whatever choice we make will profoundly influence the lives of unborn generations."

The National Agriculture Land Study—an interagency committee composed of officials from the USDA and the Council on Environmental Quality—is hoping to analyze the problems associated with the increased competition for farmland, the costs and benefits of preventing farmland conversion and other factors, such as tax deferments that could help farmers hold onto their land that becomes so valuable as urban development encroaches.

We hope the study can provide useful recommendations on reversing this frightening trend that, according to Charles Little of the American Land Forum, "threatens permanently to reduce the productive capacity of American agriculture."

"Acres are aces," said Hugh Bennett, the first administrator of the USDA Soil Conservation Service. "A richer prize, by far, than the oil lands of the Caucasus, the iron deposits of the Urals and the gold veins of South Africa, they are the most important of man's earthly possessions."●

MORE ON THE WASHINGTON POST'S NEWS MANAGEMENT

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. McDONALD. Mr. Speaker, yesterday we examined the highly partisan reporting career of Post owner Katharine Graham, and several instances of the Post's use of the "Pinsky principle" of not reporting news that does not fit one's preconceived bias. In a further report in American Opinion, author John Rees outlines the long suppression of news of the genocide by the Communists in Cambodia, the suppression of two major news stories on KGB activities in the United States and at the United Nations, and its campaign against the American intelligence agencies:

The article follows:

WASHINGTON AS CENSORED BY THE POST: PART II

(By John Rees)

SOME MORE EXAMPLES

Certainly the radical bias at the Post has extended beyond the late Mr. Stern. For example, consider its coverage of the death of Mao Tse-tung, easily the worst mass murderer in human history. The Washington Post published a virtual eulogy of three full newspaper pages on Mao's career. Although Congressional committees have estimated that more than sixty million Chinese lost their lives under Mao from terrorism, murder, forced labor, and planned starvation, only one small paragraph near the end of the *Post's* eulogy made any reference to the unprecedented slaughter. Linking the deaths to the Korean War, the *Post* said some three million "counter-revolutionaries" were killed. Here it used the Communists' own propaganda rhetoric to dismiss the killing of sixty million human beings, concluding: "Mao, the warrior, philosopher and ruler, was the closest the modern world has seen to the god-heroes of antiquity."

After all, such modern "god-heroes" as Hitler and Pol Pot were pikers at killing by comparison to the philosopher Mao.

In its reporting on the war in Southeast Asia, the *Post's* editorial and reportorial bias against South Vietnam, and U.S. support for its Government, was harnessed with friendly treatment of the Vietcong and North Vietnam as well as favorable publicity for demonstrations organized at the request of the Vietnamese Communists to manipulate U.S. public opinion. And the pro-Communist bias continued even after South Vietnam was conquered by the tank and infantry columns of North Vietnam.

On August 5, 1975, the Washington Post ran a front-page story under a four-column headline declaring "No Vietnamese 'Bloodbath' Is Found," and reporting little to complain about in the merciful rule of the North Vietnamese Communists. That was in sharp contrast to a U.P.I. story reporting a Hanoi radio broadcast that announced the Reds had prepared a program for retribution against persons who had incurred "blood debts" by their opposition to the Communists; persons who had supported the non-Communist Government; persons who had quit the Communist side; and, persons who had resisted brainwashing in the concentration camps. United Press International took the story from a translation of the broadcast prepared by the Department of Commerce and distributed to the press at the State Department. The Post buried that story back on page eighteen, and neglected to report the announcement by Hanoi a week earlier that special tribunals had been set up by the Vietnamese Reds to "try" merchants for crimes of which they were already presumed guilty.

But circumstances soon arose in which the Post could have corrected its misleading treatment of Communist rule in Vietnam. The last three American civilians held in captured South Vietnam were released by Hanoi in the first week of August 1976. The three were Chicago architect Frederick Gulden, Gerald Posner of New York, and power-plant engineer Ford Thomasson. They promptly held a press conference outlining their personal knowledge of the monstrous conditions under the Communists in South Vietnam. Frederick Gulden told how "the authorities are sending people out to the countryside with no support, no food. There's malaria everywhere. They're dying like flies, and there's practically no Western medicines."

The Post killed the statement about the people dying like flies and being deprived of food and medicine. Rather than let its readers on Capitol Hill know that, like the Khmer Rouge in Cambodia, the Vietnamese Communists were sending people into the countryside to die horribly without food, tools, or housing, the Post version was that the Americans said the Vietnamese administrators were withholding food "in an attempt to tempt people into the countryside."

In fact, while the three Americans said at the press conference that the food shortage resulted when Communist authorities shipped everything they could get their hands on to Hanoi, the Post reported that the evacuees had no trouble getting food or medicine and that most consumer items were available "for the right price." It did not mention that the "right price" for meat was five dollars per pound—far above the means of the starving Vietnamese families. An analysis of the story found that rather than telling what the three Americans said, it contained eight items of "information," seven of which had been edited to be favorable to a Hanoi regime engaged in mass murder.

Then, of course, there was Watergate. For its reporting of the attemped coverup by the Nixon Administration of the involvement of the Committee for the Re-election of the President in the bugging of the offices of the Chairman of the Democratic National Committee at the Watergate, the *Washingon Post* was internationally lauded as the best newspaper in the United States. Its two chief Watergate reporters, Bob Woodward and Carl Bernstein, were royally honored and received the annual award of the National Emergency Civil Liberties Committee, an officially cited propaganda Front of the Communist Party, U.S.A.

But the Post was quite uninterested in developing the story that the Watergate arrests were a "set-up" and that the leaders of the Democratic National Committee and columnist Jack Anderson had all been tipped off about the bugging operation in April 1972, two months before the burglary team was flushed out from under the desks at Watergate by a special plainclothes police unit operating on unprecedented "voluntary overtime" outside its usual area. The fact that Anderson and the Democratic National Committe knew two months in advance about the planned break-in was revealed in *At That Point In Time*, a 1975 book by Fred J. Thompson, the former Minority counsel on Senator Sam Ervin's Select Committee to Investigate Watergate. Although other U.S. newspapers noted Thompson's book and this startling new information, there was not one line about it in the Post. When Accuracy In Media called the Post to ask if it planned to carry the story later, its managing editor said the story had been turned over to Watergate ace Bob Woodward.

What a chance to start another investigation into political manipulation and scandal! Was President Nixon forced to resign as a result of a "set-up"? Was the bugging plan the result of the machinations of an agent or agents provocateur; and, if so, for whom were they working? Why did the break-in and bugging operation take place; what did the "plumbers" expect to find? Readers of the Washington Post have been waiting nearly four years for Bob Woodward to file his story on this and the Post editors to print it.

Then there is the disinclination of the Washington Post to embarrass the K.G.B. or the United Nations. This was brought into sharp focus in September by a taped B.B.C. interview with Arkady N. Shevchenko. He was the highest-ranking Soviet employee at the U.N. Secretariat and defected to the United States last year. Mr. Shevchenko's revelations were given front-page, four-column headlines and fifteen columns inches of space by even such prominent "Liberal" newspapers as the New York Times and Baltimore Sun. But the Post used three one-sentence paragraphs from the Reuters wire service and buried it as a filler on page nine.

What did the Post decide not to print? The following was included in both the Times and Sun accounts: "Because of the presence of the United Nations, New York has become 'the most important base of all Soviet intelligence operations in the world,' with perhaps 300 professional KGB officers working there . . . . 'Soviet intelligence officers have become a Trojan horse behind the wall of the United Nations,' Mr. Shevchenko said. . . . Mr. Shevchenko did not identify the alleged agent (who is special assistant to U.N. Secretary General Kurt Waldheim). But the narrator of the television program said there was only one Russian with the title of special assistant to the secretary-general Viktor Lessiovsky."

The Washington Post's careful selection of three sentences from Reuters also denied its Capitol Hill readers information carried in the Times and Sun reports which said:

"Another well-placed spy . . . is Geli Dneprovsky, the chief of personnel at the United Nations in Geneva, whom he described as 'a high-level KGB officer.' Mr. Shevchenko said that although all U.N. staff members are required to pledge to be loyal to the organization, and not to take instruction from their home governments, the ones who come from the Soviet Union 'totally disregard' that pledge.

"The Soviet government, he said, has its own 'rule of conduct' for Soviet nationals working at the U.N. Secretariat. 'They ask them to come almost daily to the Soviet Mission,' Mr. Shevchenko said. 'They give them instructions to pursue some of the goals of Soviet foreign policy, not U.N. or something.' "

THE LETELIER CASE

In September 1976 a bomb exploded in an automobile on a Washington street and killed Orlando Letelier, co-director of the Institute of Policy Studies' Transnational Institute (I.P.S./T.N.I.) and one of his aides. Police examined Letelier's briefcase at the scene and found that it contained documents showing Letelier and some of his associates were engaged in conspiracy with leaders of the Cuban Communist Party and the Cuban secret police, (the Directorate General de Intelligencia) (D.G.I.), which is run by the Soviet K.G.B. from Moscow.

The documents included a letter from the Chilean wife of the Number Two man in the D.G.I., herself an official of the Communist-controlled Unidad Popular coalition and daughter of deposed Chilean President Salvador Allende. The letter, dated some eighteen months earlier, promised Letelier a thousand dollars a month for expenses in addition to the five thousand dollars he had already received from Cuba. The police also found a letter from a colleague of Letelier at I.P.S., Juan Gabriel Valdez, to Emilio Breito. It conveyed material personally requested from Letelier by Breito, an official of the Americas Department of the Central Committee of the Communist Party of Cuba. And it thanked Breito for the "scholarly material" from Hanava that Valdez received from Julian Torres Rizo, the First Secretary of the Cuban United Nations Mission in New York and the chief of the D.G.I. in North America.

Yet another document in Letelier's briefcase was a letter he was hand carrying to Cuba from his co-director of the I.P.S./T.N.I., one Saul Landau, in which Landau wrote: "I think that at age 40, the time has come to dedicate myself to narrower pursuits, namely, making propaganda for American socialism. We cannot any longer just help out third world movements and revolutions, although obviously we shouldn't turn our backs on them, but get down to the more difficult job of bringing the message home."

The documents included Letelier's expense sheets listing his payment of travel expenses for then Congressman Michael Harrington (D.-Massachusetts) to a Soviet Front demonstration against Chile in Mexico City. And there was Letelier's contact book. It contained the names of members of the staff of the Senate Intelligence Committee, then conducting a witchhunt against the C.I.A. for activities in Chile; the names of militants, activists, and high U.S. Government officials; officials of the Soviet and East German diplomatic missions in Washington and at the U.N.; and, many journalists and reporters, including Laurence Stern, the national news editor of the Washington Post.

By December 1976, copies of the Letelier documents had been leaked to the press. Jack Anderson used them in a story on December 20, 1976. The Post ran a column by Rowland Evans and Robert Novak containing still more explosive Letelier material on February 16, 1977, but it "killed" their follow-up column on Letelier and tried to smother the story. It even refused to accept a paid advertisement from Accuracy In Media outlining the Letelier exposes and the Post's role in the coverup. Then, when A.I.M. took its cash and ad to rival papers, including the Washington Star and the New York Times, they all stood solidly with the Post in rejecting A.I.M.'s exposé of the Letelier case.

But the Washington Post went much further in actively working to suppress the facts that quickly came to light. Among these facts were Orlando Letelier's work in economic espionage for the Soviet K.G.B. during the 1960s at the Inter-American Development Bank, and his role as the central organizer of a campaign to manipulate U.S. public opinion and both the U.S. Congress and Carter Administration to undermine the anti-Communist Government of Chile.

Letelier's comrades at I.P.S., headed by Saul Landau, organized a media campaign to whitewash Letelier and cover up the damaging evidence, not merely to "save" Letelier's anti-Chile projects from disgrace, but also to forestall any reopening of the F.B.I.'s investigation into I.P.S.'s subversive activities. Mrs. Letelier's lawyer, a well-known activist of the Communist Front National Lawyers Guild named Michael Tigar, showed the damning documents from the briefcase to Lee Adrien Lescaze, a Post reporter who does not speak or read Spanish. Landau told Lescaze that Letelier's money had not come from Cuba, but from funds raised in Western Europe by the Unidad Popular Marxist coalition. Lescaze never asked why funds raised in Western Europe had to be smuggled into the U.S. from Cuba instead of being transferred through normal banking channels.

The day after this planted story was published, the Washington Post printed on its op-ed page a seven-hundred-word piece from the self-style "propagandist" Saul Landau, who added nothing to the statements of the Lescaze story for which he was most likely the chief source. And the Post went so far as to publish a self-serving letter from Beatriz Allende, the wife of the D.G.I. official in Havana, which also said the money for Letelier was Unidad Popular money, but thanked 'revolutionary Cuba" for all its aid to the Chilean Marxist coalition.

The Washington Post has since carried out a consistent campaign to "protect" its readers from any knowledge of Letelier's role as a top K.G.B. agent of influence in Washington. In fact, the Post even published an editorial on April 14, 1977, denouncing the leak of the Letelier documents. It was a fantastically hypocritical proclamation for a newspaper that has been a voracious consumer of "leaks" whenever they might damage the U.S. defense or intelligence agencies.

The Post used the investigation of Letelier's murder to smear Cuban-American anti-Castro groups not involved in violence, and to keep the fires hot under the campaign by the Carter Justice Department, the State Department, and the I.P.S. to force Chile to extradite the former head of its intelligence agency and several of his subordinates who were allegedly involved in killing the K.G.B. agent. Their effort has been to smear an entire country and Government for the alleged crime of three men. Certainly we have never seen the Post demand the extradition of Fidel Castro's D.G.I. chief for the murder of anti-Castro activists in the United States, or the extradition of Tito's killers for the butchery in Chicago of an anti-Tito newspaper editor and his ten-year-old stepdaughter.

One can speculate about the reason for all of this, of course. While the Letelier coverup was getting underway early in 1977, Post executive editor Ben Bradlee was living openly with journalist Sally Quinn, whom he has since married. Before taking her job with the Post Miss Quinn was an employee of the Institute for Policy Studies, where she aided the former U.S. Ambassador of the Algerian terrorist F.L.N. regime, Cherif Guellal. In fact Ben and Sally made a trip to Havana for one of the best-paying guided tours the Cuban Communists ever gave a pair of foreign reporters. The loving couple was given a seven-hour interview with the Cuban dictator, which became the subject of a long article by Bradlee in the Post of March 6, 1977, and a long series of gushing reports in the Post's "Style" section by Miss Quinn.

Bradlee's report was so unrestrainedly friendly toward Castro and his desire to "normalize" relations with the U.S. that one must assume he expected the new Carter Administration policy makers to begin a U.S.-Cuban reapproachment. Miss Quinn produced such pearls as, "Part of Castro's charm, exasperating as it is at times, is that he can convince someone, at least for the moment, of something they do not believe in. In fact, he can actually make it sound logical when he says that the press should be a tool of the state and party."

AH, CONSISTENCY

The bias is consistent. For instance, as reviewers of books relating to intelligence, the Post most often draws on the anti-intelligence stable put together by the Marxist Institute for Policy Studies at the Center for National Security Studies. Among these pale horses are John Marks, Victor Marchetti, and Morton Halperin. The anti-C.I.A. exposés by C.I.A. turncoat Philip Agee, expelled from Britain and Holland for his continued association with Cuban intelligence officers, received kidglove treatment from the Post. And it is a regular forum for anti-C.I.A. and F.B.I. "exposés" by the Center for National Security Studies, which obtains masses of files under the Freedom of Information Act and then carefully selects and exerpts material for releases designed to discredit U.S. intelligence agencies.

Like the New York Times and other "Liberal" newspapers, the Post has strongly denounced the occasional practice in the past of having C.I.A. or O.S.S. operatives use a journalistic "cover" while working in foreign countries. But it has had nothing to say about the widespread practice by Communist spy agencies of sending their agents here as correspondents for Tass, Pravda, Neues Deutchland, or the official Cuban news. agency Prensa Latina.

In fact, since June 1977, the Washington Post has employed as its Havana "stringer" an American named Lionel Martin, who moved to Cuba in 1961; has been employed as an advisor to the Cuban Ministry of Education; and, served as the Havana correspondent for the Guardian, a U.S. Communist newspaper that until the end of 1978 also had K.G.B. agent and P.O.W. torturer Wilfred Burchett on its payroll. Martin's polemics are so completely in tune with the party line that they have even been distributed by Prensa Latina.

One of Lionel Martin's "subtle" propaganda efforts ran in the Post on December 3, 1977, under the headline, "Will Influx of Capitalist Tourists Bring Back the Vices of the Old Regime?" It suggested that there was a higher morality under Communist rule which had abolished vices such as gambling and prostitution that are inevitable companions of the Free Enterprise system. When Accuracy In Media called this to the attention of the Post, the editor of the editorial page, Philip Geylin, defended the Martin article, declaring: "He was merely saying that the Castro regime had pretty well stamped out not just prostitution and gambling but the operations of the mob and organized vice in general, and that he was afraid that the return of tourism to Cuba would mean a return to the bad old days of the Batista dictatorship. Nothing exceptional about that, in my view."

Oh, indeed.

Any more than there was anything "exceptional" about the Washington Post's coverage of the takeover of Nicaragua by Marxist-Leninist revolutionaries armed and trained by the Cuban Communists, aided by Cuban troops, and supported by heavy Soviet K.G.B. activity in Central America. Post reporter Karen deYoung told us all about the "repressive Somoza dictatorship" and the "democratic" opposition forces. But Post readers saw nothing at all about a certain memorandum in the spring of 1979. Consider:

A C.I.A. memorandum outlining Cuban involvement in providing weapons, training, and political support for the Sandinista National Liberation Front (F.S.L.N.) was published by the Chicago Tribune on June 27, 1979. The Washington Post never even mentioned the existence of this memo, which said that in February 1979 Castro mobilized all the Communist parties of Latin America to provide support for the F.S.L.N.; that Castro and these Comrades discussed methods for maintaining the momentum of the Nicaraguan Marxist insurgency and spreading it to El Salvador, Honduras, and Guatemala; that, in March 1979, Castro met personally with the leaders of the three F.S.L.N. factions and, by promising them guns, money, and ammunition, got them to set up a unified leadership; and, that Castro directed the F.S.L.N. leaders to conceal or heavily downplay their Marxist-Leninist ideology for the present in order to attract non-Marxist support. That sensational C.I.A. memo ignored by the Post was dated May 2, 1979. The Post's editors knew that giving it a play in Washington would all but finish their efforts to destroy the Somoza Government. They simply ignored it.

Then on July 20, 1979, Ramon Sanchez, an official of the Cuban Interests Section that operates from the Czecho-Slovak Embassy in Washington, held a press conference with a group of reporters. Asked about the Cuban role in toppling Somoza, Sanchez candidly replied that Cuba had been supporting the Nicaraguan revolutionaries "for many years" with "all the assistance we are able to and we are in a capacity to [give]." What kind of assistance, he was asked. "You mean arms and things like that? All sorts of assistance." And did this assistance intensify over the last few months? "Of course the assistance intensified. Our support for Nicaragua has intensified as the struggle has intensified."

Asked at the same press conference why Cuba did not publicly deplore the treatment of the "boat people" by the Socialist Republic of Vietnam, the Cuban agent said they were "only the result of U.S. intervention" and absolved Hanoi of any responsibility. "And you have no sympathy for them?" he was asked. "No, not at all. Only as victims of U.S. intervention."

Two Washington Post reporters, Don Oberdorfer and Stephen Rosenfeld, were present. But not one word of any of this appeared in the Post, although the Chicago Tribune, the Associated Press, and columnist Georgia Ann Guyer all wrote it up. Readers of the Washington Post only found out about it on August first, when irate columnists Evans and Novak discussed Señor Sanchez's "exposition of chilling candor that has received too little attention."

And, as we have shown, that is all too typical.

Our Congressmen and Senators who read the Washington Post are well aware that freedom of the press in the United States of America is a part of our heritage. Unfortunately, at the Post, freedom of the press appears to mean the freedom of editors and reporters to conceal or distort important news in order to support policies that benefit the enemies of freedom and do harm to its friends.●

MUFFLING NOISY JETS

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. EDGAR. Mr. Speaker, yesterday I came across an interesting and timely editorial on the issue of airport noise control. This editorial from the Bulletin reflects my belief that two-engine planes must not be excluded from Federal noise control regulations. I urge my colleagues to read this editorial and oppose the conference report on H.R. 2440.

The article follows:

Muffling Noisy Jets

Every day 136 of Philadelphia International Airport's flights are by two-engine planes. These flights amount to fully 37 percent of the airport's total traffic and they produce a lot of the noise that bugs people near the airport.

Yet a bill agreed upon by Senate and House conferees in Congress would totally exempt two-engine planes from Federal Government noise control regulations, which were to take effect January 1, 1983. The bill also would push back the effective date of those regulations for three-engine aircraft until 1985.

We hope the membership of the House says "no" to the conference committee report—a report that follows the Senate approach on the issue—and lets the regulations stand. South Jersey's Congressman James Florio, one of the members of the House-Senate conference committee, refused to sign the report—and with good reason, we believe. If the House passes it, we think a presidential veto is advisable.

The airline industry argues that the regulations would not make a noticeable difference in noise reduction around airports and would be too costly at a time when jet fuel prices have increased 74 percent in a year. The net result, says the industry, is that airlines would drop smaller communities off their schedules.

The Environmental Protection Agency effectively refutes those arguments, we believe. "Retrofitting," or putting noise suppressing equipment on an existing plane's engines, says EPA, can reduce noise by seven or eight decibels.

That may not sound like a lot, compared with a jet's 110-decibel up-close shriek. But, says EPA, if all the planes exceeding noise regulations that use Philadelphia International were cut by 7 decibels, the land area being bombarded with a given amount of decibels—say 90—would be reduced by 17 percent. That would be significant.

As to cost, EPA officials say retrofitting all two-engine jets would cost $100 million to $150 million, no more than the industry spends in periodic refinishing of plane cabin interiors.

There is reason, too, to cast a skeptical eye on threats of canceling flights to smaller communities if noise regulations proceed on schedule. With airline deregulation, the airlines have been eyeing cuts in uneconomical service and have been looking for a politically acceptable hook on which to hang the cuts.

We hope they will not be tempted to use noise control as a convenient excuse for dropping service.●

CORRECTING THE MARRIAGE PENALTY TAX

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. FISHER. Mr. Speaker, I would like to call to the attention of my colleagues a bill that I have recently introduced which is designed to mitigate the adverse effects of what has commonly become known as the marriage penalty tax.

Simply put, under the current tax law, in most cases, a married couple in which both spouses are working will pay more in taxes than will two single individuals who are living together and who have the same combined income as does the married couple. This feature of the tax code arose out of legislation passed in 1969 which was designed to treat single individuals more fairly as compared with married couples. In attempting to solve one inequity, the Congress created another. In the revenue acts of the past several years, there have been modest attempts to lessen the marriage penalty tax. However, with the increase in the percentage of married couples in which both spouses work, and with a rate of inflation which has pushed all taxpayers into higher tax brackets, the need for more substantial progress in reducing the marriage penalty tax has become essential.

Several proposals have already been introduced to deal with this issue in a dramatic fashion. I agree in principle that the removal of tax inequities is a worthy goal which must be pursued vigorously. However, the immediate solutions which are represented by these bills are only solutions in theory because the revenue loss estimates of up to $17 billion which are associated with them are so substantial as to greatly dim, if not entirely extinguish, any flicker of hope that they can be enacted.

I have, therefore, chosen a moderate approach which will represent significant progress over past attempts by the Congress to lessen the marriage penalty tax, but which will not be so drastic as to involve unacceptably large revenue losses. It will provide a base upon which the Congress can build in the future so that eventually the tax code will be blind to marital status.

My proposal is not complex. It would allow for a deduction from the married couple's gross income of 10 percent of the income of the lesser earning spouse with a limit on the deduction of $1,000. If both spouses make exactly the same income, then the deduction can be based on either spouse's earnings.

The Joint Committee on Taxation has estimated that in calendar year 1980 this legislation would result in a revenue loss of between $4.5 and $5 billion. This is a substantial amount, but I believe that it is manageable, and legislation embodying it stands a reasonable chance of being enacted into law.

On an individual basis, this legislation would significantly reduce the marriage penalty tax as the following table indicates:

	Income	Single's tax liability	Married couple's tax liability	Marriage penalty	Tax savings under the Fisher bill	Percentage of penalty reduced
Individual	$10,000	$1,172				
Individual	10,000	1,172				
Total	20,000	2,344	$2,739	$395	$240	61
Individual	10,000	1,172				
Individual	15,000	2,339				
Total	25,000	3,511	4,050	539	280	52
Individual	10,000	1,172				
Individual	20,000	3,829				
Total	30,000	5,011	5,601	584	336	58
Individual	20,000	3,829				
Individual	20,000	3,829				
Total	40,000	7,658	9,355	1,697	408	24

This is a difficult issue to deal with because it involves an inequity which should be corrected. At the same time, corrective action, by reducing revenue, would increase the Federal deficit. Congress should be wary of legislation which would consign the goal of a balanced budget to a pale hope, but still must try to whittle away at tax inequities. A favorable time to enact this bill would be in connection with other tax measures made necessary by general economic conditions.

All of this reminds me of something which Lawrence O'Brian once wrote in reflecting on his work as legislative liaison for President Kennedy:

> There are no final victories on Capitol Hill. Only steps forward and steps backward, one step at a time.

So, as a practical step forward, I urge my colleagues to support this bill. The Congress and the Nation can no longer countenance a tax system which offers such a financial advantage to a couple living together without being married as compared to a married couple.●

WOMEN CANNOT FIGHT—PART I

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. McDONALD. Mr. Speaker, as the world becomes an ever more threatening place to Americans, and as obsessed persons within our society come ever closer to their strange goal of placing American women in combat situations, a few voices are able to break into print with contrary views.

This in itself is newsworthy, for we have become accustomed by now to the "social revolutions" of small groups of people being foisted upon the entire Nation with the aid of the mass media. That is, the mass-circulation publications and television networks are the silent partners of these small groups of people, by silencing the voice of the majority. As evidence, I merely ask anyone to reflect upon how many times—if ever—they have noted any public discussion in the media of the pros and cons of placing women in combat.

Be that as it may, I would like to insert in the RECORD one of the rare expressions of dissent which has been permitted to see print. Author James Webb, a Marine platoon commander who saw service in Vietnam and who subsequently wrote the novel, "Fields of Fire," expressed his beliefs in Washingtonian magazine for November 1979, and those views need to be placed before a larger audience.

The material follows:

WOMEN CAN'T FIGHT

(By James Webb)

We would go months without bathing, except when we could stand naked among each other next to a village well or in a stream or in the muddy water of a bomb crater. It was nothing to begin walking at midnight, laden with packs and weapons and ammunition and supplies, seventy pounds or more of gear, and still be walking when the sun broke over mud-slick paddies that had sucked our boots all night. We carried our own gear and when we took casualties we carried the weapons of those who had been hit.

When we stopped moving we started digging, furiously throwing out the heavy soil until we had made chest-deep fighting holes. When we needed to make a call of nature we squatted off a trail or straddled a slit trench that had been dug between fighting holes, always by necessity in public view. We slept in makeshift hooches made out of ponchos, or simply wrapped up in a poncho, sometimes so exhausted that we did not feel the rain fall on our own faces. Most of us caught hookworm, dysentery, malaria, or yaws, and some of us had all of them.

We became vicious and aggressive and debased, and reveled in it, because combat is all of those things and we were surviving. I once woke up in the middle of the night to the sounds of one of my machinegunners stabbing an already-dead enemy soldier, emptying his fear and frustrations into the corpse's chest. I watched another of my men, a wholesome Midwest boy, yank the trousers off a dead woman while under fire, just to see if he really remembered what it looked like.

We killed and bled and suffered and died in a way that Washington society, which seems to view service in the combat arms as something akin to a commute to the Pentagon, will never comprehend. And our mission, once all the rhetoric was stripped away, was organized mayhem, with emphasis on both words. For it is organization and leadership, as well as the interdependence sometimes called comaraderie, that sustain a person through such a scarring experience as fighting a war.

This is the only country in the world where women are being pushed toward the battlefield. The United States also has one of the most alarming rates of male-to-female violence in the world: Rapes increased by 230 percent from 1967 to 1977, and the much-publicized wife-beating problem cuts across socioeconomic lines.

These are not separate issues, either politically or philosophically. They are visible peaks in what has become a vast bog. They are telling us something about the price we are paying, in folly on the one hand and in tragedy on the other, for the realignment of sexual roles.

Lest I be understood too quickly, I should say that I believe most of what has happened over the past decade in the name of sexual equality has been good. It is good to see women doctors and lawyers and executives. I can visualize a woman President. If I were British, I would have supported Margaret Thatcher. But no benefit to anyone can come from women serving in combat.

The function of combat is not merely to perpetrate violence, but to perpetrate violence on command, instantaneously, reflexively. The function of the service academies is to prepare men for leadership positions where they may someday exercise that command. All of the other accomplishments that Naval Academy or West Point or Air Force Academy graduates may claim in government or business or diplomacy are incidental to that clearly defined combat mission.

American taxpayers dip into their pockets to pay $100,000 for every Naval Academy graduate. They are buying combat leaders, men with a sense of country who have developed such intangibles as force, clarity of thought, command presence, and the ability to lead by example, who have lived under stress for four years and are capable of functioning under intense pressure. When war comes and the troops move out, our citizens can assume that the academies have provided a nucleus of combat leaders who can carry this country on their backs.

Other officers programs are capable of producing combat leaders, but the academies have traditionally guaranteed it, made it their reason for existence. Forty percent of West Point's class of 1943 died in World War II, and ten percent of the class of 1966 died in Vietnam. The POW camps of North Vietnam were packed with Air Force and Naval Academy graduates. The six midshipmen in my Naval Academy class of 1968 who served as liaisons between the Marine Corps and the Brigade of Midshipmen later suffered nine Purple Hearts in Vietnam, and one man killed in action. As Douglas MacArthur said in his "Long Gray Line" speech to the West Point graduating class of 1962, "Your mission remains fixed, determined, inviolable—it is to win our wars. Everything else in your professional career is but corollary to this vital dedication. All other public purposes . . . will find others for their accomplishment; but you are the ones who are trained to fight; yours is the profession of arms."

So it had been at the military academies since they were established—West Point in 1802, the Naval Academy at Annapolis in 1845, the Air Force Academy in 1954—and so it would have continued to be had not Public Law 94-106, passed in 1975, decreed that women be brought into this quintessentially male world.

There is a place for women in our military, but not in combat. And their presence at institutions dedicated to the preparation of men for combat command is poisoning that preparation. By attempting to sexually sterilize the Naval Academy environment in the name of equality, this country has sterilized the whole process of combat leadership training, and our military forces are doomed to suffer the consequences.

Civilian political control over the military is a good principle, but too many people, especially those involved in the political process, have lost their understanding of what that principle means. The classic example of a military force beyond control of its country's political system occurred during World War II in the Japanese Imperial Army, which took over Manchuria on its own initiative, and informed the Japanese government after it had done so. The Japanese military machine was exercising its own judgment, not that of its nation. In attempting to avoid this extreme, the United States is dangerously near falling into the World War II German pratfall: a military system so paralyzed in every detail by the political process that it ceases to be able to control even its internal policies.

Civilian arrogance permeates our government, and during my two years on Capitol Hill was particularly strong on the staffs of the "consistent dissenters" of the Armed Services Committee. It was bad enough when the Vietnam war was being fought from Washington, D.C. It was worse when McNamara and his whiz kids began social experimentation by instituting "Project 100,000," whereupon 100,000 borderline intellects were dumped into the military, and the military was then faulted for having failed to make them good soldiers (Harvard and Yale at that time having decided to sit out the war, and Johnson choosing to go after the mental rejects rather than the draft-deferred leaders of tomorrow). But it has become absolutely intolerable during the 1970s. The military has become a politician's toy, a way to accommodate interest groups without losing political support in the home district, a test tube for social experimentation.

Nowhere is this more of a problem than in the area of women's political issues. Equal-opportunity specialists, women's rights advocates, and certain members of Congress have prided themselves on the number of areas of the military they have "opened up" to women. The Carter administration has come out in favor of "allowing" women to go into combat. These advocates march under the banner of equal opportunity.

Equal opportunity for what? They should first understand that they would not be "opening up" the combat arms for those few women who might now want to serve in them, but rather would be forcing American womanhood into those areas, en masse, should a future mobilization occur.

The United States is the only country of any size on earth where the prospect of women serving in combat is being seriously considered. Even Israel, which continually operates under near-total mobilization requirements, does not subject its women to combat or combat-related duty. Although some 55 percent of Israeli women—as opposed to 95 percent of the men—serve in the Israeli Defense Forces, the women have administrative and technical jobs that require little or no training. Their military function is to free the men to fight. According to a recent article by Cecile Landrum, a U.S. Air Force manpower analyst, Israeli women conscripts train for three and a half weeks, with only a minimal amount of that time dedicated to the handling of weapons. Israel has terminated flight training for women, reversing an earlier policy. When three Israeli women soldiers were killed during the 1973 Yom Kippur war, the nation went into shock. As Congressman Sonny Montgomery noted after a visit to Israeli military units, "When they go into combat, the women move to the rear."

Why? Because men fight better. We can try to intellectualize that reality away, and layer it with debates on role conditioning versus natural traits, but it manifests itself in so many ways that it becomes foolish to deny it. When the layerings of centuries of societal development are stripped away, a basic human truth remains: Man must be more aggressive in order to perpetuate the human race. Women don't rape men, and it has nothing to do, obviously, with socially induced differences. As Eleanor Maccoby and Carol Jacklin observe in *The Psychology of Sex Differences*, man's greater aggressiveness "is one of the best established, and most pervasive, of all psychological sex differences."

Man is more naturally violent than woman. Four times as many men are involved in homicides as women. You might not pick this up in K Street law offices or in the halls of Congress, but once you enter the areas of this country where more typical Americans dwell, the areas that provide the men who make up our combat units, it becomes obvious. Inside the truck stops and in the honky tonks, down on the street and in the coal towns, American men are tough and violent. When they are lured or drafted from their homes and put through the dehumanization of boot camp, then thrown into an operating combat unit, they don't get any nicer, either. And I have never met a woman, including the dozens of female midshipmen I encountered during my recent semester as a professor at the Naval Academy, whom I would trust to provide those men with combat leadership.

Furthermore, men fight better without women around. Men treat women differently than they do men, and vice versa. Part of this is induced by society (for example, the tendency to want to help women who are, more often than not, physically weaker), and part is innate (the desire to pair off and have sexual relations). These tendencies can be controlled in an eight-hour workday, but cannot be suppressed in a 24-hour, seven-days-a-week combat situation. Introducing women into combat units would greatly confuse an already confusing environment, and would lessen the aggressive tendencies of the units, as many aggressions would be directed inward, toward sex, rather than outward, toward violence. A close look at what has happened at the Naval Academy itself during the three years women have attended that institution is testimony to this.

What are the advantages to us, as a society, of having women in combat units? I don't know of any. Some say that coming manpower shortages might mandate it, but this country has never come close to full mobilization, and we are nowhere near that now. During World War II, 16 million men wore the uniform. Today, the active-duty strength of the US military is only 2 million people, out of a much larger group of eligible citizens. Furthermore, bringing women into the military does not mandate bringing them into combat.

Some say men and women have a duty to share our country's burdens equally, that it is sex discrimination to require only men to fight. But history has shown the wisdom of this distinction, and the Israelis, who must do more than merely intellectualize about such possibilities, demonstrate its currency. Equal does not mean the same. Any logical proposition—sexual equality—can be carried to a ridiculous extreme—women should fight alongside men.●

UNION OF "CONFUSED" SCIENTISTS PROPOSED ENERGY PLAN

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. WYDLER. Mr. Speaker, recently the Union of Concerned Scientists released an "Easy Path Energy Plan." This group which purports to represent 85,000 interested citizens suggested that we can fulfill our Federal energy supply needs simply through conservation through 1985 and until solar energy solves our supply problem. I believe that the approach taken in the Easy Path Energy Plan and the questionable basis upon which this group of purported experts project our energy supply and demand future require some critical comments.

This report is a terribly naive document, and that is why I have chosen to refer to this soft-technology advocacy group in a manner which more appropriately describes their contribution on important energy issues. Curiously enough, although the group claims by their title to have a scientific orientation, the summary of the document does not reflect great care or technical precision.

For example, the main findings and conclusions of the plan state misleadingly that "domestic oil and gas production declined by 4.4 quads per year or 10 percent from 1973 to 1978." What the "confused" scientists meant is that the annual production computed in quads per year decreased by a net of 4.4 quads per year over the entire period from 1973 to 1978.

The following major defects are symptomatic of just how badly flawed this plan really is, and why it can only serve to confuse the energy supply issue:

1. One of the most critical and irrational assumptions that the EPP makes is that we could reduce nuclear-supplied electricity by half by 1985. This means that the utilities would not only lose their investment in the 95 plants under construction which is clearly tens of billions of dollars but they would additionally shutdown nearly 40 plants whose book value must be in the neighborhood of $30–40 billion. This absurd suggestion must be viewed in light of the recent investment projections made by the financial community with respect to the energy industry. The financial community has indicated that the percentage of available capital for oil and gas production must jump from 9 percent to 21 percent just to satisfy capital requirements for retaining production of oil and gas at today's level through 1990. The figure mentioned is on the order of well over $100 billion for that activity.

The Union of "Confused" Scientists are telling us that the utilities will turn their backs on something in the neighborhood of $80 billion in investment capital when the marketplace is already squeezed to provide sustaining financing for oil and gas production. I think this is clearly the weakest point in the entire argument which has no real consideration of economics in terms of available capital and the climate in the investment community for energy ventures.

2. The Easy Path Plan is very off-base on synthetic fuels and suggests costs of at least $50 or more per barrel which I believe could be as much as a factor of 2 too high for oil shale today. They also ignore the indirect savings of synthetic fuels which are accomplished by reducing inflation through a lower level of imports which makes synthetic fuels really attractive up to anywhere from $40 to $50 a barrel right now.

3. The report concludes that growth in coal has been slow from 1973 to 1978 simply because nuclear energy provides a large portion of increases in electricity thus concluding that coal and nuclear are substitutes for one another but not for oil. This is some of the most curious logic I have ever seen and gets back to the specious arguments that no new oil-fired plants will be built, therefore, nuclear power plants coming on-line will not save us oil. The fact is, if new nuclear plants are delayed, oil-fired electricity will not be displaced and a 1000-megawatt plant saves roughly 10 million barrels of oil per year.

4. The report assumes a contradictory position on conventional gas resources suggesting that the present "gas bubble" will last easily through 1985 and at the same time saying that encouraging the production of gas will speed the exhaustion of that resource. A major item missing is discussion of enhanced gas recovery which probably would begin making significant contributions by the mid to late 80s.

5. In the residential and commercial sector where there has been the smallest increase in energy efficiency, it is difficult to see electricity use per building unit falling, particularly since the Easy Path Plan calls for a modification of electrical rate structure to accomplish this. This modification would require that the increments of electricity provided from new plants be costed strictly at the cost of the new capital equipment without rolling it in to the rate structure. This seems to me an unusual restriction on the way in which any utility would do business based on the strange premise that one simply wants to discourage utilities from supplying new electricity while still running old plants at lower costs and passing on an average cost to consumers.

6. The EPP projects only a 15 percent increase in aviation fuel consumption between 1973–85, with a doubling of traffic. Unofficial American Transportation Association figures show a fuel increase on the order of 85 percent from 1978–1990 (from about 10.6 billion gallons to over 19 billion gallons) with a 7 percent average annual passenger increase. The reason for the large discrepancy between the Easy Path figures and the American Transportation Association figures is simply that industry figures are more accurate since they are based on realistic fuel savings results possible in the future vs. those achieved in the past. Improved aircraft load factors and new operating procedures have been milked dry and that's how recent savings were accomplished.

7. One of the major assumptions is that the industrial sector will continue to contribute a major amount of energy efficiency savings from 1978 through 1985, that is, at a rate of 4.5 percent per year. This is not an accepted or realistic view since a lot of people feel that industry will have to get clearer signals from the federal government to continue at anywhere near their energy savings pace of 1973–1978 when they increased efficiency by a net 15 percent. Also it will require considerable additional capital investment which must be obtained in competition with the utility and oil and gas sectors in the financial market.

8. The Easy Path Plan states, "so long as domestic production is stretched to the limit, of oil any curtailment of imports will cause "shortages of an equal magnitude." What they ignore here is the fact that the world crude oil market supply vs. world demand is the critical relationship and when those two are nearly equal "spot prices" will reach high levels and the OPEC Cartel will be inclined to raise the word price even further. The critical element here is non-OPEC oil production and this is the only way to alleviate our problem with OPEC imports. That is the real path to national security in the near-term as synthetic fuels capacity will be in the long term. The Hudson Institute has made the following estimates of future non-OPEC oil production by 1985:

	Minimum	Maximum
Mexico	.30	.50 mbpd[1]
United Kingdom	.35	.45 mbod
Norway	.10	.20 mbpd
United States	.10	.35 mbpd
Canada	.10	.15 mbpd
Africa[2]	.05	.10 mbpd
South America	.05	.10 mbpd
Asia[3]	.10	.15 mbpd
	1.15	2.00 mbpd

[1] Million Barrels per day

[2] Includes Egypt

[3] Includes Malaysia

Reference: William M. Brown; "Living With the Energy Crisis"; The Energy Daily; Washington, D.C.; September 25, 1979.

I think most of my colleagues will agree that this study which purports to be useful is extremely misleading and totally invalid. It is not responsible for any group to apply simple mathematical extrapolations and wishful thinking to the recent energy trends and developing technologies. This ignores completely the financial requirements to support production from existing and new energy technologies, and the complex trade-offs to be made in choosing between new investment and supporting operating plants.

Mr. Speaker, I intend to pursue this critical evaluation of the Union of Concerned Scientists through future entries in the Record.●

MORE SUPPORT FOR REINSTATING THE PAULEY GROUP OIL LEASES

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. PATTERSON. Mr. Speaker, once again I rise to commend my colleagues for showing their support for H.R. 5769, a bill to reinstate and validate certain oil and gas leases in the Santa Barbara Channel. Congressmen Marriott, Shumway, Cheney, Kogovsek, and McKay have expressed their support for this legislation which is designed to speed up the development of the oil and gas on those two tracts which are located in the oil-rich OCS lands off the Santa Barbara coast.

Mr. Speaker, the recent events in Iran have underscored the need to increase domestic production of oil and gas as

quickly as possible. Since this legislation will allow these oil and gas resources to be developed at a more rapid pace, the speedy passage of this bill is necessary to help us attain our national goal of energy self-sufficiency.●

ATTORNEY GENERAL CIVILETTI'S ARGUMENT TO THE WORLD COURT

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. LAFALCE. Mr. Speaker, on December 10, U.S. Attorney General Benjamin R. Civiletti presented a stirring, extremely well-reasoned oral argument in the U.S. law suit against Iran before the International Court of Justice.

Addressing the court "with awe but with restrained anger," Attorney General Civiletti forcefully argued for provisional measures of protection from the Iranian kidnapping of Americans in Tehran.

Outlining not only applicable international law, but four treaties which are in point, Mr. Civiletti and his colleagues presented their argument with such force of reason that the World Court decided in their favor—unanimously—only a few days later.

As President Carter and our diplomatic personnel at the United Nations begin the arduous task of bringing the full force of United Nations economic sanctions to enforce the World Court's holding against Iran, a reading of Mr. Civiletti's argument is advisable.

The American case against Iran is not one based on emotion and passion; as Mr. Civiletti demonstrates, Iran has violated both the spirit and the letter of recognized international codes. "For the first time in modern diplomatic history," Mr. Civiletti noted, "a state has not only acquiesced in, but participated in and is seeking political advantage from the illegal seizure and imprisonment of the diplomatic personnel of another state."

I commend Mr. Civiletti's oral argument to my colleagues and the world's attention:

ORAL ARGUMENT ON IRAN PRESENTED TO WORLD COURT

(By Attorney General Civiletti)

Mr. President [Sir Humphrey Waldock of the United Kingdom], and distinguished members of the Court, my name is Benjamin R. Civiletti. I appear today as Attorney General of the United States of America and advocate in support of its request for provisional measures of protection from illegal acts of the Government of Iran. I feel privileged to appear on behalf of my government. I should also say that the United States is grateful to the Court for providing a hearing at this time.

If I may be permitted a personal introduction. I have spent my working life as a trial lawyer in the United States. I have been an advocate both for the government and for those who oppose the government, in both civil and criminal suits. Anyone who has been a trial advocate in any country would approach this Court with respect and awe. In a real sense this Court represents the highest legal aspiration of civilized man.

Yet I find myself addressing this Court with awe but with restrained anger. More than 50 of my countrymen are held prisoners, in peril of their lives and suffering even as I speak. This imprisonment and this suffering are illegal and inhuman. It takes no advocate to bring this cause to you. The facts are known worldwide, and every citizen of the world—trained in the law or not—knows the conduct to be criminal.

I come to this Court, my government comes to this Court, not so that yet another body will reiterate the obvious fact that what we are witnessing in Iran is illegal. The United States comes here so that this tribunal may demonstrate that international law may not be tossed aside, that the international fabric of civility may not be rent with impunity.

My government asks this Court to take the most vigorous and the speediest action it can, not to settle a minor boundary dispute, not to give to one national treasury from another, but to save lives and set human beings free. This is what people everywhere—not just monarchs and presidents, not just lawyers and jurists—expect of what a judge in my nation called the "omnipresence" that we know to be the law.

If I come to you with anger, I also come to you with urgency. We who speak the sober language of jurisprudence say the U.S. Government is seeking the "indication of provisional measures." What we are asking this Court for is the quickest possible action to end a barbaric captivity and to save human lives.

For the first time in modern diplomatic history, a state has not only acquiesced in, but participated in and is seeking political advantage from the illegal seizure and imprisonment of the diplomatic personnel of another state. It even threatens to put these diplomatic personnel on trial. If our international institutions, including this Court, should even appear to condone or tolerate the flagrant violations of customary international law, state practice, and explicit treaty commitments that are involved here, the result will be a serious blow not only to the safety of the American diplomatic persons now in captivity in Tehran, but to the rule of law within the international community.

To allow the illegal detention and trial of U.S. diplomatic personnel and other citizens to go forward during the pendency of this case would be to encourage other governments and individuals to believe that they may, with impunity, seize any Embassy and any diplomatic agent, or indeed any other hostage, anywhere in the world. Such conduct cannot be tolerated; every civilized government recognizes that. We therefore submit that this Court has a clear obligation to take every action to bring this conduct to an immediate end.

We shall discuss the simple, clear issues presented in the following order. I shall review the applicable basic principles of international law which bind both Iran and the United States, not only under customary international law but also under four treaties to which both states are parties. These treaties are directly in point. Mr. Owen will then briefly summarize the facts to demonstrate to the Court that the Government of Iran has committed, is committing—and is proposing to commit—clear, flagrant violations of these principles of international law.

We will next demonstrate that the Court has jurisdiction over this dispute and the authority to indicate the provisional measures requested by the United States. Finally, we shall explain why, on the basis of article 41 of the Court's statute, an indication of interim measures is urgently needed and amply justified.

The international legal standards involved here are of ancient origin. They have evolved over centuries of state practice, and in recent years have been codified in a series of international agreements. It is on four of those agreements that the Government of the United States relies here.

VIENNA CONVENTION ON DIPLOMATIC RELATIONS

Since the subject of this proceeding is focused largely on the status and immunities of diplomatic agents, I shall refer at the outset to the 1961 Vienna Convention on Diplomatic Relations. The purpose of that convention, to which both the United States and Iran are parties, was to codify a fundamental, firmly established rule of international law—that the immunity and inviolability of Embassies and diplomats must be absolutely respected and that in no circumstances may a state engage in the type of conduct that is involved here.

The first relevant provision of the Vienna Convention on Diplomatic Relations is article 22, relating to the physical premises of an Embassy or mission. The words of article 22 are clear:

"1. The premises of the mission shall be inviolable. The agents of the receiving State may not enter them, except with the consent of the head of the mission.

"2. The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.

"3. The premises of the mission, their furnishings and other property thereon and the means of transport of the mission shall be immune from search, requisition, attachment or execution."

As to the personnel of such a diplomatic mission, article 29 of the convention goes on to provide that every diplomatic agent "shall be inviolable" and that he shall be free from "any form of arrest and detention." The language is unqualified: It prohibits any form of arrest or detention, regardless of any grievance which the host state may suppose that it has against a particular diplomat. There is a remedy available against a diplomat who a state believes has engaged in improper conduct—to require him to leave the country. But the Vienna convention excludes any form of physical arrest or detention for the purpose of prosecution or for any other reason.

The convention reemphasizes the principle of diplomatic inviolability in several different ways. Article 29 requires the receiving state to present any attack upon the person, freedom, or dignity of a diplomatic agent. Article 31 requires that each such agent enjoy unqualified "immunity from the criminal jurisdiction of the receiving State." There is no exception; no matter what the cause, the receiving state is precluded from allowing the criminal prosecution of a diplomatic agent. In the last few days, as we will explain later in our argument, this absolute immunity from criminal prosecution has taken on an overwhelming importance.

Article 37 of the convention extends the same absolute inviolability and absolute immunity from assault and from criminal trial to the administrative and technical staff of an Embassy. All but two of the more than 50 Americans currently being held hostage in Tehran are either diplomatic agents or Embassy administrative and technical staff, some of whom also perform consular functions.

Other immunities and privileges pertinent to this case are found in articles 24, 25, 26, 27, 44, 45, and 47 of the Vienna Convention on Diplomatic Relations. Among these are the inviolability of the archives and documents of the mission, the right of diplomatic agents and staff to communicate freely for official purposes, and the right to depart from the receiving state at any time they wish.

Over the hundreds of years that these principles have been recognized and honored throughout the international community, there have been occasions when a particular state has felt dissatisfied or aggrieved by the conduct of a diplomatic agent of another state or his government; and Iran is claiming some such grievances now. For hundreds of years, however, states have uniformly recognized that the only lawful course open to them is to declare the diplomatic agent *persona non grata*. When a state declares a diplomatic agent *persona non grata*, his government must withdraw him or suffer the eventual termination of his diplomatic status.

These uniformly recognized principles have been codified in article 9 of the Vienna convention. Under that treaty, a receiving state can in effect expel an objectionable diplomat—but under no circumstances may a state imprison an emissary or put him on trial. In diplomatic history and practice there is no precedent or justification for the seizure of a diplomat, let alone an entire diplomatic mission. There is also no precedent or justification of the imprisonment and trial of such persons in an attempt to coerce capitulation to certain demands. It is difficult to think of a more obvious, more flagrant violation of international law.

VIENNA CONVENTION ON CONSULAR RELATIONS

Both Iran and the United States are also parties to the second international convention on which the United States relies in this proceeding—the 1963 Vienna Convention on Consular Relations. This convention reflects many of the same principles I have just described. Under the consular convention every state party, including Iran, has an international legal obligation to protect the consular facilities and members of the consular posts of every other state party.

Of course, when personnel of a diplomatic mission are providing consular services, they are entitled to the full protection afforded by the Vienna Convention on Diplomatic Relations. The convention on consular relations also requires the receiving state to permit another state party's consular officers to communicate with and have access to their nationals. This right is manifestly violated when the consular officers are themselves held incommunicado by force.

ARTICLE 22, VIENNA CONVENTION ON DIPLOMATIC RELATIONS

"1. The premises of the mission shall be inviolable. The agents of the receiving State may not enter them, except with the consent of the head of the mission.

"2. The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.

"3. The premises of the mission, their furnishings and other property thereon and the means of transport of the mission shall be immune from search, requisition, attachment or execution."

NEW YORK CONVENTION

Apart from these two Vienna Conventions, the United States and Iran also are parties to the New York Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents. One of the essential premises of the New York convention is stated in its preamble. It is that crimes against such internationally protected persons, including diplomatic agents, are "a serious threat to the maintenance of normal international relations" and "a matter of grave concern to the international community."

The convention defines a number of types of conduct as constituting crimes within its scope. Under article 2 it is a criminal act to participate as an accomplice in an attack on the person or liberty of an internationally protected person or in a violent attack on official premises. Under article 4 of the convention, every state party, including Iran, is required to cooperate to prevent such crimes. Under article 7, every state party must take steps to see that those responsible for such crimes are prosecuted. The Government of Iran has violated every one of these provisions in the plainest way.

All three of the treaties I have discussed were drafted by the U.N. International Law Commission. They were adopted by conferences of plenipotentiaries or by the U.N. General Assembly—and thus by the vast majority of the states of the world. They have been so widely ratified as to demonstrate that they reflect universally recognized rules of international law.

BILATERAL TREATY OF AMITY

Finally, the United States relies in this case upon a bilateral treaty—the 1955 Treaty of Amity, Economic Relations, and Consular Rights between the United States and Iran. This treaty is in a sense even broader than the three multilateral conventions to which I have previously referred. Under article 2, paragraph 4, of the treaty of amity, each party has a legal obligation to insure that within its territory the nationals of the other party shall receive "the most constant protection and security."

In addition, article 2 provides that, if any U.S. national is in custody in Iran, Iran must in every respect accord him "reasonable and humane treatment." Under articles 2 and 19 any such national is entitled to communicate with his own government and avail himself of the services of his consular officials. Article 13 requires that the consular officers and employees themselves be accorded the privileges and immunities accorded by general international usage and that they be treated in a fashion no less favorable than similar officer and employees of any third country.

That completes my brief summary of the principles of international law that underlie the application of the United States. I could go on to discuss the provisions of Article 2, Paragraphs 3 and 4, of the Charter of the United Nations, under which Iran and all other U.N. members are obligated to settle their disputes by peaceful means and to refrain in their international relations from the threat or use of force. But the United States believes that the three multilateral conventions and the 1955 bilateral treaty provide as clear a legal predicate as can be rationally required for its request for an indication of provisional measures.●

THE REVITALIZED UGANDA

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. OTTINGER. Mr. Speaker, one of my district staff members who has served my constituents in Mount Vernon and Yonkers with great distinction during both of my periods of service in the House of Representatives since 1964, Dorothy Crozier, recently returned from a visit to Uganda. This trip was at the invitation of President Binasia who Mrs. Crozier originally met while the Binasia family was living in exile in Mount Vernon, N.Y.—one of the cities in my district.

President Binasia has received the praise and admiration of the world in bringing Uganda back into the family of civilized nations following the reign of Idi Amin. I had asked Mrs. Crozier to report on her visit and am pleased to share her observations with my colleagues at this time:

GREETINGS TO PRESIDENT BINASIA

Every year about this time, as the holiday season approaches, we see and hear everywhere messages of peace and good will. We think of all the reasons we have to rejoice.

In view the sentiment of the season, I wish to call attention to a specific instance, involving a country in Africa—Uganda—and its President, where at the present time, this message of rebirth of peace is very evident.

You all know the story of Uganda—a beautiful country called the Pearl of Africa to which came untold horror and destruction under the dictatorship of the man-monster, Idi Amin. This nation was ruled by this evil man for over eight horrible years and just recently new leadership is providing the means by which human nature can rebuild a society which is based on respect of each person and his or her dignity.

The struggle for the right to be a free nation by the people of Uganda and the eventual ouster of a madman is a tale which history will relate in the years to come as an episode of unbelievable accomplishment. This victory was achieved because people trusted in brotherhood and the knowledge that right must triumph over might.

It has been read in the newspapers and related by radio announcers and TV broadcasts of the tortures and horrors inflicted on the people of Uganda but never is it more important than at this very moment when the basic human rights of every individual is at stake in the world.

Today Uganda is recovering under the dynamic leadership of its President—President Godfrey L. Binasia. President Binasia is a man who lived as a political exile in the City of Mount Vernon, New York which is part of the 24th Congressional District. The community is proud to know him and to recall that when he lived in Mount Vernon he became actively involved in the civic, community and religious life of the city. During the time he remained here, he became well known to many people in Westchester County and also in the New York City area where he practiced law. His friendly manner and intelligent mind endeared him to all he met.

Even though it was a surprise—and a wonderful surprise—to learn that he became President of Uganda, it was a surprise that terminated with the realization that, if anyone could bring swift recovery to Uganda, it would be this unusual man, Godfrey L. Binasia.

President Binasia has not forgotten his American friends. Some have journeyed to Uganda to visit him and his family. They have returned excited over the upward motion of the nation and the graciousness of the people.

They have told me of the remains of great destruction which is still visible and the needs of the people which are evident everywhere but they have also told me that the people are encouraged and inspired by their President to carry on and develop a democratic society once again.

President Binasia recently told his people that he is enjoying the job but he needs their prayers. All leaders need the prayers of their people. We, as a great democratic nation, should also pray for this smaller nation who is step by step, piece by piece, reassembling its culture, and its economy. The world has an obligation to Uganda for it was their courage that rid the world of a terrible, terrible evil—the demented Idi Amin.

Out of the spilling of their blood, the cause of human rights triumphed.

Just think how awful it would be if at this holy season these people were still suffering under the yoke of a monster. It is going to be such a wonderful day for them this year, as they gather in their houses of worship and in their homes with family and friends to make merry together for the first time in over eight years.

A release from tyranny is cause for celebration and as the day of peace approaches, let us all hope that wherever tyranny prevails in this world, that these forces be overcome and that hope and faith prevail as in Uganda.

May we also send our greetings to the President of Uganda, a man of vision and action, who lived among us for a little while and found a haven on our shores.●

A PERSONAL VIEW: WHY SALT II SHOULD BE APPROVED

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. PEASE. Mr. Speaker, as the chairman of the Members of Congress for Peace Through Law Task Force on SALT II, I ask that Congressman BEILENSON'S December issue of his newsletter on the proposed treaty be placed in the RECORD for public review.

My colleague has done an excellent job of analyzing his reasons for supporting ratification of SALT II without further delay. I commend it to you wholeheartedly.

The text of the newsletter follows:

A PERSONAL VIEW: WHY SALT II SHOULD BE APPROVED

FACING THE CHALLENGE OF A NUCLEAR WORLD

Twenty-five minutes from now the United States can destroy Russia as a nation and a society—and the Russians can do the same to us. . . . The United States has enough nuclear warheads to strike the 450 largest Soviet cities 20 times each, and the Soviets have enough warheads to hit an equal number of American cities 10 times each. . . . Just one of our nuclear submarines carries enough warheads to destroy every large and medium-size city in the Soviet Union. . . . The global stockpile of nuclear arms now equals one million Hiroshima-size bombs, with a combined explosive power equal to 12 tons of TNT for every person on earth.

These facts are so overwhelming that we become numbed by them. But we cannot lose sight of the insanity of it all, of the horror that would be visited on humankind if only a fraction of these thousands of weapons were ever exploded—we would certainly lose our country and our society as we know them, and our own and our children's futures.

There is absolutely no defense on either side against this existing ability to destroy each other, and I think that any sane and thoughtful person would support sensible and rational means to decrease the possibility of nuclear war.

The Strategic Arms Limitation Treaty (SALT II) represents seven years of effort by the two superpowers to slow the nuclear arms race. The Treaty, for the first time, mandates limitations in the nuclear weapons systems of the United States and the Soviet Union. It thus constitutes a substantial achievement and a major step in a necessary process that must be confirmed and continued if we are ever to limit the threat of nuclear weapons.

After exhaustive investigation and many weeks of testimony on SALT II in the Senate, not a single weakness or loophole has been found in the Treaty. And that is why those who are seeking to defeat SALT II, and cannot do so on the merits, have resorted to raising other issues such as the presence of Russian troops in Cuba, and demands for greatly increased U.S. defense budgets.

But the greater our concerns about aggressive and unfriendly Soviet intentions, the more we need to restrain their ability to build up their strategic nuclear forces; the more one distrusts the Soviets, the more one should support the SALT agreement.

The Treaty should be judged on its merits alone—we should support it only if it is good for us. It must not be considered as a favor to be given to the Russians as a reward for good behavior or withheld as a punishment for bad behavior.

The only standard by which we should judge the Treaty remains: will our national security be better served by its approval or by its defeat? If it is in our country's interest, it should be approved; if it is not in our own interests, it ought to be rejected.

THE TRUTH ABOUT SALT II

While the provisions of the Treaty are complicated and lengthy, and the arguments surrounding it are complex and confusing, the simple truth of the matter is that the provisions of the SALT II agreement are overwhelmingly favorable to the present and future security interests of the United States.

The Treaty will preserve the military balance between the U.S. and the Soviet Union by restraining the Soviet military build-up while permitting the modernization of our own strategic forces at the same time.

Limit on strategic delivery vehicles. The Treaty places a limit of 2250 on the number of strategic delivery vehicles—i.e., long-range bombers, land-based missiles of intercontinental range (ICBM's), and missiles fired by submarines—each side may have. The Russians have 2500 delivery systems now; to comply with the Treaty, they will have to destroy or dismantle about 10 percent of their systems. This will be the first agreed upon reduction in the history of nuclear arms.

Without this SALT-imposed restriction, the Russians are expected to have 3000 delivery systems built by 1985. Thus, without SALT, they would have 750 more missile systems aimed at the United States. On the other hand, the U.S. has only 2000 delivery systems—so we can build up to the 2250 figure if we want to.

Limit on nuclear warheads. The Treaty places a limit on the number of warheads that can be deployed by each country—which would result in limiting the Soviets to about 9500 warheads, compared with as many as 18,000 they would be able to deploy if they followed present production schedules in the absence of the SALT agreement.

This limitation on warheads is critically important because it is in this area that the Soviet Union had the greatest potential for dramatically expanding its forces in the near future. Without SALT, for example, the 300 big Soviet "heavy missiles" could carry up to 30 warheads apiece—a total of 9000 nuclear bombs; with SALT, they are limited to 10 warheads apiece—a total of 3000. Thus, under SALT, there will be 6000 fewer nuclear warheads aimed at the U.S. from this one Soviet missile system alone.

Limit on new land-based missile systems (ICBM's). SALT II will limit each side to one new type of ICBM, thereby controlling the pace of modernization for the first time. The Soviets are currently planning four or five new types of land-based missiles; the U.S. is planning only one—the MX mobile missile. This provision of the Treaty allows us to develop the MX missile and to deploy it on whatever type of mobile launcher system we decide is best, while it prevents the Russians from going ahead with all but one of their proposed new missile systems.

There are many other important provisions of the Treaty which impose additional significant restraints on the ability of both superpowers to deploy more nuclear weapons. But, equally significant from our own point of view are the areas which the Treaty does not touch:

It does nothing to curb our "forward-based" forces in Europe—the 700 American missiles and planes equipped with nuclear bombs that are within striking range of the Soviet Union (the Soviets have no such weapons close to the U.S.). We have more nuclear warheads in Europe than the Russians have in the entire world, and they are all excluded from the provisions of the Treaty.

The Treaty does nothing to change the current imbalance, favorable to us, in which 70 percent of Russia's nuclear power is concentrated in exposed and increasingly vulnerable land-based missiles, while nearly 75 percent of ours is on almost totally invulnerable submarines and bombers.

It also does nothing to restrain the nuclear capabilities of the three other nuclear weapons states (Britain, France and China), all potential adversaries of the Soviet Union.

SALT II prohibits none of the programs which our own military leaders believe are necessary for improving our own strategic nuclear capabilities. Throughout the negotiations, care was taken to preserve the options that those responsibilities for our military planning have defined as necessary to our security. In fact, the agreement allows the United States to go forward with every single strategic nuclear program now on our drawing boards—all of our military options are open. We can arm our heavy bombers with thousands of new, accurate cruise missiles of unlimited range. We can go ahead with our new Trident submarines and our new longer-range, more accurate Trident missiles. We can go forward with our new warhead and guidance system for our ICBM's, and develop and deploy our MX mobile missile. The Treaty will not interfere with any of these programs but will, in fact, aid our planning by giving us a much clearer picture of the military threat we will face in the 1980's, and by setting limits on what the Soviets can do.

WHAT WILL HAPPEN IF SALT II IS NOT APPROVED?

SALT II deserves support because the provisions of the Treaty itself are clearly in our own interests. In addition to that, however, rejection of the Treaty by the U.S. Senate would have profoundly damaging consequences to this nation.

Rejection of the Treaty would damage the United States' leadership position among our allies and throughout the entire world. There would be a global perception that America had chosen confrontation rather than cooperation and peace, and that the Soviet Union is more committed than is the United States to limiting the threat of nuclear war.

Our allies would lose faith in our ability to conduct international affairs. It would indicate to them that we cannot generate a stable national consensus on even this most crucial of foreign policy issues. It would also tell them that a relaxation of East-West tensions is not likely to come about from bilateral U.S.-U.S.S.R. negotiations and that, if they wish to pursue detente, they will have to do so on their own.

And, here at home, rejection of the SALT agreement would leave our national security policy in disarray, with no clear support in the country or in Congress for any specific approach to national defense issues or the limitation of nuclear armaments.

Our relations with the Soviet Union would worsen and tensions would increase. The SALT process would be stopped dead in its tracks, and the prospects for achieving significant reductions in nuclear armaments at any time in the near future would become extremely remote. The Russians have been involved in these bilateral negotiations with us now for more than seven years, they have engaged in this process with the utmost seriousness, they have made most of the major concessions—and it would be incomprehensible to them if we were now to abruptly discard the results of all our mutual efforts. They would be led to conclude that the U.S. had changed its policy, and they would move to further build up their own military forces.

We would thus be sending the wrong signals to Moscow—signals which few thinking Americans would want to send. At a time when Soviet leadership will surely be in transition, we will be strengthening the hand and validating the position of the militarists and hardliners in the Kremlin who want an escalation of tensions and dangers in the world.

Finally, and most importantly, we will greatly jeopardize our own national security. Unrestrained by the terms of the Treaty, and angered and frightened by the abrupt reversal of an American nuclear policy pursued by recent Democratic and Republican administrations alike, the Soviets would be encouraged to go ahead with development, deployment, and expansion of nuclear weapons systems that would otherwise have been prohibited by SALT II.

Without SALT, the Russians would have twice the number of nuclear warheads, hundreds more missiles and heavy bombers, and several new types of ICBM's than they would be allowed under the Treaty. There would be no limit on the size of these new missiles and, most importantly, no limit on the number of individual nuclear bombs with which each missile could be equipped—thus greatly endangering the survivability of our own nuclear forces.

Without SALT, there would be no restriction on concealment and encoding practices, and no requirement that the U.S.S.R. give us data on their nuclear systems (as required by SALT), thereby making our verification of Soviet missile testing, development and deployment much more difficult.

Thus, without SALT II, we would have a renewed and destabilizing nuclear arms race—and all we would end up with would be greater military and political uncertainty, many additional billions of dollars in defense costs—and less security for our nation.

THE CHOICE BEFORE US

It is important to remind ourselves what we are talking about—an issue totally unlike anything we have ever had to deal with before. Even a single nuclear explosion over any major city would result in a catastrophe greater than any mankind has ever known. We are talking, in brief, about the survival of the human race.

As I said at the outset, there is only one standard against which to measure the provisions of SALT II: does the Treaty serve the security interests of the United States by lessening the possibility of a nuclear exchange? I think the answer is clearly in the affirmative—and I suggest that the burden is on those who feel differently to show us how rejecting SALT II would reduce the Soviet threat in any way or lead to a safer, saner, or more secure future for any of us.

We have negotiated a Treaty that is favorable to our side and that protects our own security interests—and we must be wise enough to seize this opportunity and ensure its success.●

MARYLAND, THE PRESS, AND THE LAW OF THE LAND

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. LONG of Maryland. Mr. Speaker, I rise to insert into the CONGRESSIONAL RECORD an article by two Maryland attorneys, Bruce and Laurie Bortz, entitled "Maryland, the Press, and the Law of the Land."

Mr. and Ms. Bortz trace the origins of the "press shield law," which gives reporters the right not to disclose the identities of their sources, and they examine recent juristic developments which affect reporters in gathering and disclosing information. As noted by the authors, Maryland enacted the Nation's first press shield law. This is a timely and incisive analysis and I urge my colleagues to read it.

The article, which appeared in the April 22, 1979, Sunday Sun, was condensed from a piece in the University of Baltimore Law Review entitled "Pressing Out the Wrinkles in Maryland's Shield Law for Journalists."

The article follows:

MARYLAND, THE PRESS, AND THE LAW OF THE LAND

(By Bruce and Laurie Bortz)

Journalists were handed a major defeat Wednesday. In a case called Herbert v. CBS, the Supreme Court ruled, 6 to 3, that public figures who sue for libel can pry into the editorial process. Journalists all over the country responded in eloquent outrage. But Maryland journalists might yet turn this defeat into victory by urging passage of a state law to provide those protections that are withheld by Wednesday's decision. They can start by revising a law their predecessors put on the books 83 years ago this month.

In the first few weeks of 1896, John T. Morris, a reporter for The Sun, stumbled upon information strongly suggesting that some of Baltimore's elected officials and policemen were on the payrolls of some illegal gambling establishments. Suspecting that someone had leaked the story to Morris, a Baltimore grand jury investigating that very subject demanded to know his source. When the reporter refused to divulge it, he was sent to the City Jail.

In response to their colleague's imprisonment, members of the Journalists Club, an organization of newspapermen, had a bill introduced providing reporters with a shield against such sanctions in certain circumstances. On April 2, 1896, Maryland's legislature changed the common law then applicable to journalists by enacting the nation's first "press shield law."

For almost 30 years not a single state followed Maryland's example. That did not mean that the press and law enforcement did not clash during those years. The press, though, usually had the prestige or political muscle to reach an out-of-court accommodation with the local prosecutor. In a number of states, however, especially after World War II, such confrontations did not end in compromise, but in the passage of state shield laws; most did little more than give reporters the right not to disclose identities of their sources.

In 1959 Maryland took another step ahead of its sister states: It gave radio and television the statutory protection it had earlier granted the print media.

At the federal level there seemed less cause for alarm than at the state level. In 1969, though, the picture began to change drastically. Federal authorities investigaing radical groups tried to coerce the media to cooperate. They demanded not only the names of sources, but also notes, tapes, film, photographs, financial records and personal testimony from reporters serving newspapers, magazines and broadcasters.

All the while it was taken for granted in American politics, as Theodore White has noted, that a reporter's protection of his sources could not be violated. Also, many thoughtful journalists believed that the Supreme Court viewed state shield laws as largely unnecessary because of the broad language of the First Amendment. The nation's highest court was soon to disappoint those trusting journalists by handing down its 5-to-4 decision in the landmark case of Branzburg v. Hayes.

Newsmen from around the country submitted amicus curiae (friend of the court) briefs and affidavits, hoping to persuade the court to recognize a constitutional privilege for newsmen. A representative comment was by J. Anthony Lucas, then a reporter for the New York Times, who said, "Violate one man's confidence and sources start drying up all over the place." Apparently unpersuaded by the affidavit of Mr. Lucas and other respected press members, the court held that a federal or state grand jury could compel a newsman to testify before it concerning information that sources had revealed in confidence.

An erosion of the press's freedom and the public's right to know, said John Finnegan, chairman of the Associated Press Managing Editors' Freedom of Information Committee, commenting on the Branzburg opinion. Those who shared Mr. Finnegan's opinion took some solace from the court's concession that Congress and the state legislatures had the latitude to establish such a privilege, even though the Constitution had not created it.

Following the court's suggestion, Congress intensified efforts begun in 1970 to pass a federal shield law, but it was unable to reach a consensus. Many in the media who sensed the impact Branzburg was beginning to have on them were not content to fiddle while Congress burned one draft after another. The then-president of the CBS television network, Arthur Taylor, said, for example, that the decision had triggered a "devastating proliferation of subpoenas and jailings." One newsman noted that the Justice Department issued more subpoenas during the first 18 weeks of 1975 than it had during the previous 3½ years.

Reporters and columnists pointed to the muckraker tradition in American journalism and the recent disclosures of Watergate and the Pentagon papers. A press unable to assure confidentiality to its sources would be unable to relate such important events to the public, the New York Times said, and could become increasingly dependent on the self-serving press releases of government and business.

While the Congress failed to enact a federal law to counter the effect of Branzburg, advocates persuaded 26 state legislatures to grant the press a privilege in its news-gathering activities. However, it was not Branzburg that caused Maryland and its General Assembly to reconsider the state's shield law for journalists. The action came in response to state court decisions in 1972 in Lightman v. State.

The Lightman case began in July, 1971, when reporter David Lightman wrote an article which The Evening Sun printed under the banner headline, "Ocean City—Where the Drugs Are." At the time, drug trafficking in Ocean City was also the subject of a Worcester county grand jury investigation. When the grand jury subpoenaed Mr. Lightman, asking for the name of the unidentified shopkeeper who allegedly offered him marijuana to insure the sale of a pipe, Mr. Lightman's response was simply to cite the state's shield law for reporters.

He was cited for contempt and given a jail sentence. A Worcester judge said the shield law did not apply to Mr. Lightman in that case because he had obtained his information through ordinary observation not from a source to whom he had promised confidentiality. Maryland's courts of appeal agreed.

Shortly after these decisions, several Maryland delegates proposed corrective legislation, which, after much debate, died a quiet death on the House floor in 1973. So today Maryland reporters continue to practice their calling protected only by a law that, at age 83, is a relic, and a flawed one at that. As the Lightman case amply illustrated, for example, a reporter citing Maryland's shield law can refuse to identify a confidential news source, but he can be forced to divulge the information his source gave him, even though this will often reveal the identity of the informant.

The law is also deficient in failing to protect a newsman who writes about occurrences he personally observes. A truly effective shield law would protect information, whether its source is the reporter himself or someone else.

While Maryland led the way in applying shields to the electronic media, it has failed to protect a host of other professionals who gather and disseminate the news and who, as the Supreme Court has long recognized, also serve the public. Excluded are writers for news services, newsletters, news syndicates and press associations, as well as free-lance writers and writers or producers of documentary films.

Equally lacking in logic is the distinction Maryland's law makes between published information, the source of which a reporter cannot be compelled to reveal, and unpublished information, for which a reporter can claim no protection. A reporter who has spent a lot of time and effort obtaining information for a news story may have to reveal both his information and his informant simply because his story has not been published or broadcast yet. To force disclosure of all unpublished information and sources, regardless of how far along the reporter's investigation has progressed, is to do serious damage to the media's ability to gather information. Nowhere does the Maryland law require that the press actually promise confidentiality to a source before it can claim the shield-law privilege. Likewise, the statute fails to discuss whether a newsman may waive or relinquish his statutory privilege (courts in other jurisdictions have held that once a reporter discloses some of his confidential information, he has given up the privilege). Also absent from Maryland's shield law is any assurance that official bodies will summon newsmen only after they have failed to obtain essential information from all other available sources.

Despite these shortcomings, Maryland's shield law represents in many respects a relatively enlightened approach to protecting the flow of information to the public. Unlike the laws of some other states, it protects more than newspapers alone; it imposes no minimum circulation requirement on the newspapers it protects, it allows newsmen to plead the privilege before a comparatively large number of governmental bodies.

Such strengths may make Maryland's law better than those of some of other states; without question, however, it is worse than those of several other states, notably New Jersey and California, whose shield laws journalists believe to be the most liberal in the nation. Both states protect information as well as sources of information. Both shield unpublished as well as published information. New Jersey's law, the more recent of the two, grants a privilege to those "on whose behalf news is gathered," thereby giving standing to members of the public at large to oppose a compelled disclosure. California's law, on the other hand, broadly defines a "newsgatherer" as one "who is or has been connected with or employed by a publication," including within its ambit even newsmen who are unemployed.

Good as they are, however, even these statutes may not be good enough to protect a newsman's interests. The recent much-publicized New Jersey case of Farber v. State made this point plain.

In 1968, thirteen people died mysteriously at a New Jersey hospital. Ten years later, Myron A. Farber, a New York Times reporter, continued the investigation a grand jury had abandoned, quoting unnamed sources who said the person responsible for the deaths was a certain "Doctor X." Upon being indicted for murder in connection with these cases, Dr. Mario E. Jascalevich demanded from Mr. Farber all notes, tapes and names of anonymous sources, as well as the contents of interviews Mr. Farber had conducted with people he freely identified. Rather than accede to the demand, Mr. Farber cited the New Jersey shield law.

Held in contempt, jailed 139 days and fined $1,000, Mr. Farber held fast to his convictions, but to no avail; the New Jersey Supreme Court affirmed the lower court's contempt citations against him and the Times, holding that the strongly worded New Jersey shield law had to bow to the defendant's Sixth Amendment rights to a fair trial.

In the Farber case the court's approach illustrated that even a virtually unqualified shield law such as New Jersey's cannot protect the press from compulsory disclosure when constitutionally protected rights are threatened. Yet even an absolute evidentiary privilege strictly applied can provide no more than minimal protection if the government, through means other than subpoena, can force journalists to furnish the information they have gathered.

An absolute shield law might be useless, for example, if police could obtain a warrant and search a newsroom for evidence of wrongdoing by persons other than the newsroom staff. In May, 1978, the United States Supreme Court held that the police can do exactly that. The court's 5-to-3 decision in Zurcher v. Stanford Daily came as a blow to those in the media who had been watching the case's eight-year odyssey to the high court.

Within weeks after the court acted, Congress began hearings on several bills drafted to cope with problems the Stanford Daily had raised. President Carter even entered the fray by proposing legislation of his own a few weeks ago. While Maryland and other states await congressional action on the Carter bill, the media claim to have already felt the impact of the case. Even Robert Leonard, president of the National District Attorneys Association and himself a prosecutor, has been quick to admit that some news sources have dried up because of it.

Wednesday's Supreme Court decision in Herbert v. CBS will further help to dry up sources, since they inevitably will be disclosed now that public figures can find out the who's, what's, why's and how's of an allegedly libelous statement about them.

Yet, even if the proposed congressional bills are approved, the Farber and Herbert cases make it abundantly clear that the Maryland shield law should be given the closest scrutiny. By pressing out the wrinkles in it, Maryland can once again set an important example to the nation.●

THE POPE'S VISIT TO THE UNITED STATES

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. RINALDO. Mr. Speaker, several months ago, the American people were honored with a visit from His Holiness Pope John Paul II. Pope John Paul II touched the hearts of millions during his trip to this country. Not only is he the spiritual leader of hundreds of millions of Roman Catholics, he is also an influential world leader whose message of peace, hope, and humanity can be shared by persons of all faiths in all lands.

Mr. Anthony Nardiello, a former intern in my congressional office, has written a very touching "Open Letter to the People of the United States of American" concerning the Pope's visit to the United States. I am honored to have the opportunity to share his remarks and reactions to this important event with you:

AN OPEN LETTER TO THE PEOPLE OF THE UNITED STATES OF AMERICA

DEAR FELLOW AMERICANS: As Americans of every denomination we can be supremely proud that our great Republic served as the host country to His Holiness Pope John Paul II. The Pope spoke out strongly and forthrightly on issues of concern to every individual of every race of every nation on earth. His seven-day journey brought much gladness and joy to America's urban areas and restored new vistas of hope and promise to all those fortunate to see him, in person or via the media. This occupant of the Chair of St. Peter made an unprecedented visit to the White House and had a meeting with our president; this Pope has gone many miles to eradicate superstition and negative attitudes that have plagued America's 50 million Catholics for many years.

His address before the United Nations revealed a Pope not afraid to speak with absolute candor and historical accuracy before that World Body. John Paul II has gone so far to remark on that terrible place, Auschwitz, in his native Poland, to inculcate to all how precious and valuable our personal and individual freedoms are and how fragile there existence is. By these remarks His Holiness spoke out to the great sea of humanity and pointed out how fortunate we are in America that we all can enjoy these basic freedoms to the fullest extent possible. I think the Pope said it best when he remarked:

"When the moral fiber of a nation is weakened, when the sense of personal responsibility is diminished, then the door is open for the justificaton of injustces, for violence in all its forms and for the manipulation of the many by the few. The challenge that is already with us is the temptation to accept as true freedom what in reality is only a new form of slavery."

By these very profound words it is my view that His Holiness may well be the greatest moral leader of the 20th century as he refurbishes a doubting, cynical world. The Pontiff spoke highly, and rightly so, of the incredible and amazing job our farmers do in feeding world's populace. The Mass at Living History Farms in Iowa was the most emotional and loving scene I have ever witnessed in my life. His Holiness spoke boldly when he said:

"The farmer prepares the soil, plants the seed and cultivates the crop. But God makes it grow; He alone is the source of life."

As a college student, however, the words of the Pope directed at young people had a special, significant meaning for me and for my many thousands of peers around the world. So many young people faced with hardships, disappointments and the like will attempt to shirk their responsibilities by escaping into promiscuity, violence, drugs and other dangerous ills. Yet, His Holiness showed us, all of us, the meaning of life and that is love. In describing love the Pontiff spoke thusly:

"Love demands effort and a personal commitment to the will of God. It means discipline and sacrifice, but it also means joy and human fulfillment. Dear young people: Do not be afraid of honest effort and honest work; do not be afraid of the truth."

I cannot think of a more refreshing or pleasant thought than that. Many people may wonder what John Paul II thinks of our Republic, of what he wishes our future to be. His thoughts, I believe can be summed up by his remarks before boarding "Shepard I" bound for the Vatican: "God Bless America."

ANTHONY NARDIELLO,
Senior Student,
Florida Atlantic University.

BOCA RATON, FLA.●

TAX INCENTIVES FOR SAVING

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. PATTERSON. Mr. Speaker, as the House Ways and Means Committee prepares for hearings next month concerning tax incentives for saving, one proposal which has received overwhelming support in this Congress and which, therefore, deserves serious consideration by the committee is the deduction from Federal income taxes of a certain amount of interest income earned on savings accounts. Such an incentive system to improve the U.S. savings rate is embodied in 41 bills pending in the House of Representatives, sponsored by more than 100 Members of Congress.

Without objection, inserted into the RECORD at this point is a December 16 New York Times article examining the benefits and the costs of allowing taxpayers a break on a portion of interest income earned. I hope that it will be helpful to my colleagues:

THE CASE FOR DEDUCTING SAVINGS INTEREST

(By W. David Robbins)

The American housing industry is in deep trouble, largely as a result of the shrinking supply of mortgage funds.

This is a problem that should concern the entire country, for housing is one of the most important segments of our economy.

Its dollar volume is greater than that of the automotive industry—$90 billion versus $82.7 billion in 1978—and residential mortgage loans total more than the Federal debt.

More than 20,000 small, local housing contractors may either be forced out of the industry or into bankruptcy. Yet the need for new houses is strong enough to keep all of them in business. Some 30 million people born in the 1940's and 50's are reaching the home-buying age, creating a potential demand for two million new housing units a year well into the 1980's.

But there is not enough money to finance their purchase. Soaring interest rates and uncertainties about the financial atmosphere in this country are chasing investors out of financial institutions that normally make housing loans, such as savings and loans associations, and into the more flexible and more lucrative money markets.

As a result, savings and loan institutions and mutual savings banks all over the country are closing their loan windows.

There is an uncomplicated way to stem this outflow of money, a way that would neither exacerbate inflation nor ultimately cost the Government a single tax dollar. It is simply to give the small investor a better tax break on his interest income.

An individual can now deduct a total of $100 in stock-dividend income from his Federal taxable income, but he is required to pay taxes on all of his interest income. Why not permit each taxpayer to deduct up to $100 of interest income (married couples $200) earned in savings and loan institutions and mutual banks?

This would increase the investor's net income, encouraging him to put money into institutions that provide most of the mortgage money that keeps the housing industry moving. If only 15 percent of the nation's work force was encouraged to become savers in these institutions by this exemption—and our survey indicates the percentage could well be higher—there would be approximately 16 million new depositors.

Ask yourself, given an 8, 9 or 10 percent after-tax return, where funds are insured, would you invest? Assuming a 9 percent interest rate, it would take $1,111 deposited for a year for one saver to earn the $100 interest exemption. Over all, our study indicates the plan would produce some $18 billion in new deposits. How much would the interest exemption plan cost the United States Treasury?

If we assume that the new plan would bring the total number of savings accounts to 90 million and that each depositor would exempt $100 a year from taxation (a distortion, as many of the accounts would be too small to produce $100 in interest), this would result in a total interest exemption of $9 billion. Assuming an average Federal tax rate of 29 percent, there would be a Federal tax loss of $2.6 billion.

But consider the consequences of a major housing industry slump:

A 40 percent drop in new housing, which is today probable, would remove some $30 billion from the economy; and the Federal Government would stand to lose approximately $2 billion in taxes.

Unemployment in the housing industry would cost the Federal Government an additional $600 million in lost income taxes. Moreover, a housing-industry slump would have a major multiplier effect on related industries, and Federal revenues would suffer as a result.

If Congress were to authorize a $100 interest exemption for each personal savings account in savings and loans institutions and mutual savings banks, the Federal Government would lose less than it would lose by allowing the housing industry to go down the drain.

To be sure, a $250 interest exemption rather than a $100 exemption would be more beneficial. However, the same is true for stock dividends.

As desperately as housing needs investment, our nation equally needs savings and investments in new plant and machinery. The reason only a $100 interest exemption is recommended is more probability of fast Congressional action. When we learn the positive results, the exemptions can be increased.

This year, as during the past two years, the rate of personal savings has continued to decline. What our country cannot seem to appreciate is the relationship between savings and investment.

Today largely because of a lack of savings—and thereby a lack of investment—our nation faces reduced productivity, continued high inflation, a weak dollar and shrinking growth. Reflecting the Keynesian anti-saving bias of most economists, Washington has passed many programs to discourage saving—taxation of interest income being the prime example. Indeed, every time our economy takes a downturn, Washington rushes to cut taxes to encourage consumption, not to encourage savings.

The time for the savings-incentive is now. During this past week, Senator Russell B. Long, Democrat of Louisiana, chairman of the Senate Finance Committee, agreed to call the panel into session next week to consider proposals to expand an existing income tax exemption on dividends and extend it to interest earned on savings. The House Ways and Means Committee is also considering an exemption on interest.

It is an economic axiom that any money taken from the income stream and placed in savings is deflationary. If the exemption plan were implemented, the bigger savings it would stimulate would mean reduced consumer spending.

And more funds for the savings and loan industry would likely mean easier money for the borrower, at lower rates, further reducing inflation. Increased mortgage money would, at the same time, counter a depression in the homebuilding industry.

While many believe we need a recession to bring inflation under control, what is actually needed is a moderation of demand and some economic stability.

Do we actually want, or need, a disaster in one of our largest and most basic industries to break the back of inflation? ●

AYATOLLAHVISION

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. LAFALCE. Mr. Speaker, Art Buchwald of the Washington Post is the Nation's, if not the world's, most talented political humorist.

Those who study comedy say that something is most humorous if it parallels reality and comes as close as possible to being serious, but retains sufficient absurdity to cause laughter instead of tears or anger or pathos. And Buchwald has learned this secret far better than most.

His column in today's Washington Post, entitled "Ayatollahvision and the Ratings: O Qom All Ye Faithful," is one of his finest. He satirizes the Iranian officialdom and yet, at the same time, points out the heavy responsibilities placed on American journalists covering the crisis in Iran. We all know—or at least we hope—that Khomeini and his henchmen do not really care what their arbitron ratings are. But Buchwald makes us wonder. Consider these ominous words, put into the mouths of two members of Iran's "Secret Revolutionary Council":

> Why don't we let the hostages go? They would preempt the Super Bowl for that one.
>
> The Ayatollah won't go for it, and neither will the students at the U.S. Embassy. Once the hostages are released the networks will pack up their cameras and go home.

Mr. Speaker, no one can do anything about the motivations or the actions of those who would seek to exploit or manipulate the media. All we can do is hope that our free press, in doing its job, exercises restraint and careful judgment reflecting the gravity of its responsibilities in circumstances of this kind.

At this time I would like to insert Mr. Buchwald's column in the RECORD and commend it to the attention of all our colleagues:

AYATOLLAHVISION AND THE RATINGS: O QOM ALL YE FAITHFUL

(By Art Buchwald)

"The Secret Revolutionary Council of Iran will come to order. We will now hear a report from our Secret Minister of Information Mullah Plack."

"I just received the overnight Arbitron ratings from our embassy in Washington. We got a 32 share of the audience on Walter Cronkite, a 30 on NBC and a 30 on ABC.

"That's not too bad. Are our student demstrations getting a play?"

"No. The American TV audiences are bored with the demonstrations. We're going to have to come up with something different soon or all three networks may cancel us for the new season."

"How is Ayatollah Kohmeini doing?"

"He's sinking in the Nielsen ratings. The networks are complaining that he doesn't do anything but sit on his rug and stare at the ground."

"What can we do about that?"

"I think he should stand up for a change and look into the camera. It would really jazz up things in Qom."

"Has anyone suggested it to him?"

"I did and he got very mad. He said if he wasn't sitting down and staring into the ground nobody would know who he was, he claims it's his trademark."

"What else did he say?"

"He's blaming us because his interview with Pakistani television didn't get on prime time in the United States."

"Did you tell him it was on the ABC wrap-up at 11:30 at night?"

"Yes, but he complained bitterly that they put him against Johnny Carson. He said if it happened again he was going to find himself a new Secret Revolutionary Council."

"It looks like our show is in trouble. This week's Variety says it isn't even playing in Peoria."

"How is Foreign Minister Ghotbzadeh doing?"

"Sadegh's overexposed. Every time he sees a TV camera he steps in front of it. Also people are now wise to the fact he doesn't know what's going on."

"Can't we keep him off the air for a while?"

"Are you kidding? He eats it up. He's even offered to go on 'The Dating Game.'"

"If the show gets canceled we're all going to face an Islamic court. Maybe we ought to get some new writers."

"Why don't we let the hostages go? They would preempt the Super Bowl for that one."

"The Ayatollah won't go for it, and neither will the students at the U.S. Embassy. Once the hostages are released the networks will pack up their cameras and go home."

"I'll tell you why we've been slipping. It's all the fault of Ayatollah Shariatmadari. His people are putting on anti-Khomeini demstrations in Tabriz and the American audiences are eating it up. They had one show last week where 300,000 people went into the street screaming 'Down with Khomeini' and we didn't even get on the air."

"That's bad. Before we know it every ayatollah in the country will want to be on American television and we'll have a civil war on our hands."

"We have already. Mullahs, unless we come up with a gimmick Tehran will no longer be the show biz capital of the world."

"And all of us will be pounding the streets looking for jobs."

"All right, we know the problem. Let's run some new ideas up Ayatollah Khomeini's flagpole and see who salutes." ●

HOMER L. HUNT

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. LEWIS. Mr. Speaker, on January 5, 1980, Homer L. Hunt, police chief of Indio, Calif., will be retiring after 33 years in law enforcement. I wish to take this opportunity to commend Chief Hunt to the House of Representatives.

Homer Hunt was born December 6, 1919, in Wichita Falls, Tex., and moved to the Coachella Valley at a very early age, attending local schools and graduating from Coachella Valley Union High School.

Hunt established his own trucking business prior to being called into military service in 1942. He served in the U.S. Army, Corps of Military Police and Army Criminal Investigation Division. Upon discharge in 1946, Chief Hunt decided to pursue a career in law enforcement, and on October 23, 1946, was appointed a police officer for the city of Indio.

Chief Hunt very quickly built a reputation for being an exceptional police officer, and rose swiftly through the ranks, being promoted to sergeant on July 1, 1951; to lieutenant on November 15, 1953; to captain on September 16, 1956; to assistant chief on April 27, 1959; and finally to chief of police on October 1, 1961. Throughout his career, Chief Hunt has always been progressive and mindful of the need for change and improvement in the field of law enforcement. Under his direction, the Indio Police Department has had the distinction of initiating many new, innovative programs and procedures, and has gained recognition at the State and Federal levels.

Even though Chief Hunt wholeheartedly dedicated himself to his chosen profession, he did not close his eyes to the needs of the community he served, and has been deeply involved in many community projects, particularly where the youth of Indio and the Coachella Valley were concerned. Chief Hunt is one of the founding board members of the Coachella Valley Boys' Club; has sponsored several baseball teams throughout the police department; organized and sponsored youth clubs, car clubs and other constructive activities for young people. Also, Chief Hunt was instrumental in organizing the Indio Mounted Posse, and obtaining the land that is presently occupied by the posse.

In 1976, Chief Hunt was presented the Santa Fe Savings Bicentennial Award in recognition of his service to the citizens of the Coachella Valley. Chief Hunt is a life member of the California Peace Officers Association, and a charter member of the California Police Chiefs Association. He is a member of the International Association of Chiefs of Police; past president and founder of the Indio Police Association; a member of the Riverside County Peace Officers Association, Peace Officers Research Association of California, Coachella Masonic Lodge No. 476, the American Legion, National Exchange Club, Indio Chamber of Commerce, Riverside City College Law Enforcement Advisory Council, College of the Desert Advisory Council; a charter member of Desert Beautiful; member of the Coachella Valley Coordinating Council, and a charter member of the Riverside County Law Enforcement Administrators Association.

His accomplishments have been many and far reaching, and on behalf of all my colleagues I extend to Chief Hunt my heartfelt congratulations and wish him the best of luck in the future. ●

THE REFUGEE ACT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. MAZZOLI. Mr. Speaker, the poignant and haunting press accounts from Indochina during recent months have made us painfully aware of the plight of Vietnamese, Cambodian, and Laotian refugees.

The United States has resettled more than 39,000 Indochinese refugees since the end of summer. Our goal—which we are quickly approaching—is 14,000 per month.

This country's experience with refugee resettlement has underscored the importance of demonstrating sensitivity and compassion for the refugees. The adjustments they must make are many. These tragic people often arrive in the United States alone or the families are missing members. They need health care, shelter, and clothing. They usually do not have an English language facility, and are largely unfamiliar with our culture and our mores.

Despite these tremendous obstacles, Indochinese refugees already have made enormous contributions to their new country. They are productive and diligent workers. The children are doing well in school. The future is bright for the refugees.

However, it is incumbent upon Congress to insure that a responsive network of social services is available to each refugee seeking asylum in this country.

Mr. Speaker, at present a "patchwork" of Federal programs provide different types and levels of assistance to refugees. Consequently, a great deal of confusion has hampered the resettlement process. So, there are refugees who are not receiving the benefits of the many services to which they are entitled, and for which they are in need.

The Refugee Act, H.R. 2816, will help correct the inequities and loopholes which today impede efficient delivery of social service programs. H.R. 2816 offers a systematic and permanent set of procedures for the administration and resettlement of refugees. It establishes an Office of Refugee Resettlement within the Department of Health, Education, and Welfare to insure that proper attention and resources are focused on the refugees' needs.

The Office of Refugee Resettlement, starting in fiscal year 1981, has authority to contract for resettlement services with public and private nonprofit agencies. This approach is designed to:

Involve State and local governments in the resettlement process;

Insure that essential services are made available to refugees;

Develop better Federal and State coordination in the disposition of resettlement funds;

Improve medical screening procedures; and

Expand and intensify language, job training, and other programs which promote adjustment and economic self-sufficiency.

H.R. 2816, further, requires detailed reports to the Congress on the effectiveness of the programs, the geographic and employment statistics of refugees, and the activities of the Office of Refugee Resettlement.

I urge my colleagues to consider the condition of refugees who turn to this country in desperation. I urge them to support this necessary legislation.●

ENERGY STATEMENT

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. EDGAR. Mr. Speaker, as the first session of the 96th Congress draws to a close, I would like to clarify my position on some energy issues, decontrol in particular. We are all aware of the need to establish a comprehensive and effective national energy policy and this need has generated a wide variety of difficult, complex legislative choices.

I am deeply concerned about our Nation's dependence on fossil fuels. In 1970 domestic petroleum production peaked, but demand has continued to escalate. To meet this demand, we have imported more and more oil. The 1973 OPEC oil embargo showed us how serious our dependence had become, but instead of heeding this warning we nearly doubled our imports of crude oil in the next 4 years. Today, almost half the petroleum we use to heat our homes and power our cars and machines comes from abroad.

The revolution in Iran—a country previously considered a strong Middle East ally—has been another shock to our petroleum-based economy. The ensuing scramble of the international oil industry to make up the loss of Iranian oil created gasoline lines and public anger here. Once Iran recommended oil production and export, the U.S. Government felt compelled to bend over backward to establish good relations with the new government in Iran so that further disruptions could be avoided. The price of this policy founded on dependence is the current crisis in Iran, where militant students do not hesitate to hold Americans hostage.

Aside from its effect on our world stature, dependence on foreign oil makes us constantly subject to supply interruptions and major price increases. The gasoline lines of last summer clearly indicated how unprepared we are for the former; the latter has a more insidious effect. The OPEC price increases we are forced to accept seriously undermine our economy by exacerbating inflation, and reducing national and personal income.

Our country must make a transition to an economy based on renewable energy sources. This transition will take decades, and it will require wide-scale private initiatives coupled with responsive Government action. There will be no single or simple substitute for petroleum; our economy will be based on a variety of energy sources, including coal, synthetic fuels, natural gas, solar and nuclear power, and biomass. The private sector is best equipped to make this vital transition. It has the flexibility, the innovative qualities, and the support of the American people. The Government role is one of support and oversight. The Government must set guidelines to protect our environment and health, and assist those who are hurt during the difficult transition period.

In the immediate future, we must maximize our domestic production of petroleum, and minimize our imports. Two commitments will help us do this. We must conserve the petroleum we have now. And, although no one welcomes higher consumer prices, we must allow the price of petroleum to rise to reflect the escalating cost of replacement.

I have come to believe that the decontrol of domestic oil prices is necessary. This is a departure from my previous opposition to decontrol. Most advocates of decontrol argue that it will provide financial incentive for the oil industry to produce more oil domestically. This may be true to some degree—in particular the industry may be more inclined to produce oil that is now considered too expensive to recover—but we must face the fact that our additions to reserves are not keeping pace with our increases in demand. Domestic crude oil production averaged 8.5 million barrels per day in September 1979, 3.2 percent lower than in September 1978, and supply will continue to decline. Increasing domestic production was not a motive behind my decision to support decontrol.

On the demand side, however, decontrol will reduce our consumption of petroleum, through the substitution of alternate fuels, and outright conservation. Increased oil prices will encourage investment in new forms of energy such as solar, biomass, and synthetic fuels. As the price of oil rises, these other sources will become cost competitive and we will no longer be encouraged to use petroleum rendered "cheap" by price controls.

I believe that as the price of crude and refined petroleum products increases and events in the world continue to point out the cost of our dependence on foreign oil, Americans will begin to conserve energy seriously. A variety of authoritative studies have concluded that we can cut our oil consumption by 25 to 40 percent with little or no change in lifestyle. These studies—done by the Harvard Business School, the Ford Foundation, and other organizations—have dismantled the traditional tenet that continued GNP growth is necessarily linked to continued energy growth. The Executive Council on Environmental Quality reaches the same conclusion. The Council, preferring the term "energy productivity," states that, "we can fuel the growth of the economy in years ahead in large part by increasing the productivity of the energy we now use rather than by greatly increasing our energy inputs." Energy productivity means getting more from the energy we use. It means more miles to every gallon of gasoline, better insulation of homes, improved mass transit systems, and cogeneration in industry. The Office of Technology Assessment estimates that really available technologies for conserving energy in home heating and cooling alone can generate cumulative savings of at least 13 billion barrels of oil by the year 2000, in addition to helping homeowners hold down their energy bills. Conserving energy is the easiest, most effective way of easing our energy problems. It provides an essential link in the inevitable transition toward an economy based on renewable energy sources.

In spite of the probable gains in conservation and alternate energy development, I was not ready to support decontrol until I was reasonably certain that two conditions would be met. First, that the low-income population would not be forced to bear the brunt of decontrolled prices without assistance, and second, that a strong windfall profit tax would be levied against the oil companies.

It is a well-documented fact that low-income households use less energy than higher income families. It is difficult for these households to cut their energy consumption when faced with higher prices; they have already cut consumption to a bare minimum. Households in the northeast region of the country are particularly burdened by higher energy costs because their houses are statistically older and less energy efficient. Furthermore, the Northeast predominently uses heating oil, a petroleum distillate which has nearly doubled in price since last year.

Congress has moved with perhaps rare foresight and speed to provide financial assistance for these low-income households. As representative of the 7th Congressional District in Pennsylvania, and as chairman of the Northeast-Midwest Congressional Coalition, I was actively involved in promoting this legislation. At the district level, I convened a series of meetings to define the nature and scope of the fuel problem anticipated for this winter. Representatives from the State and local governments, private groups, social agencies, and heating oil dealers, worked on coordinating the Federal-assistance programs.

The $1.6 billion in emergency energy assistance funds passed by Congress will ultimately be reimbursed from revenue from the windfall profit tax. I have strongly endorsed this excise tax on windfall revenue the oil companies will reap as a result of the decontrol of domestic crude oil prices. The price increases—which may be substantial in light of OPEC intention to keep raising prices while maintaining or reducing production—will generate large new revenues for the companies, with much of the gain attributable to oil that would have been produced even if price controls had been continued. The windfall profit tax will capture for public use a larger portion of these revenues than would be collected by the existing corporate income tax. It will provide the means for developing alternative energy sources and improving mass transit throughout the country.

I will remain actively involved with efforts to help our Nation make it through this difficult transition to an energy-secure future. My votes in Congress will continue to reflect the following goals:

Low-income energy assistance must be coupled with intensified efforts to weatherize our housing stock;

Tax incentives are needed to encourage conservation in homes and businesses;

Mass transit improvements and expansion are necessary;

Efforts must continue to improve our urban centers, recognizing the energy efficiency involved in urban living;

An energy mobilization board should be created to expedite nonnuclear energy projects while safeguarding State rights and our environment and health;

The Government should provide financial backing for private-sector development of synfuels, solar power, biomass conversion, and other initiatives in the energy field;

The Government and private sector must work together to reduce our consumption of, and dependence on, fossil fuels; and

Price and allocation controls on petroleum products should be phased out in a predictable manner except where the market does not allocate the product equitably throughout the Nation.●

WINDFALL PROFIT TAX BILLS

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. VANIK. Mr. Speaker, the Congressional Budget Office (CBO) prepared at my request a study which compares the revenue and supply effects of the windfall profit tax bills passed by the Senate and House. Domestic oil producers will receive a tremendous windfall under decontrol, much higher in the Senate bill than the House bill. It appears that the American people receive no assurances of new supplies for this great exchange of wealth. The CBO study shows that, under the Senate bill, domestic producers would receive as a result of decontrol a straight windfall of $633 billion over the next decade. The study uses the perilous assumption that oil prices will rise at inflation plus 2 percent per year. Producers would receive an additional $144.5 billion as a result of new production for a total take of $777.5 billion.

Producers would pay, under the Senate bill, new net Federal tax liabilities of $159.1 billion over the same period. Table 2 shows that taxes paid to all levels of government, local State and Federal, would only amount to 59 percent of the $777.5 billion the domestic oil industry will receive under decontrol.

While there are large differences in the amount of revenue raised in the two bills, there is virtually no difference in the production of oil under the Senate and House tax.

I urge my colleagues to support a speedy resolution of the crude oil windfall profit tax conference by passage of a strong windfall tax and urge the President to delay or suspend the further decontrol of oil scheduled in January until Congress determines its policy on windfall taxes.

The study follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., December 19, 1979.

Hon. CHARLES VANIK,
Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Attached is the analysis of the House and Senate "windfall profits" tax bills, which you requested on November 29. Given the short time available for this analysis, all the estimates are preliminary and subject to revision. If you have further questions, please contact Ray Scheppach, Assistant Director for Natural Resources and Commerce (225-1494).

Sincerely,

ALICE M. RIVLIN,
Director.

A PRELIMINARY COMPARISON OF THE HOUSE AND SENATE WINDFALL PROFITS TAX BILLS

This paper compares the revenue and supply effects of the windfall profits tax bills passed by the Senate and the House. It updates the analysis in CBO's "The Windfall Profits Tax: A Comparative Analysis of Two Bills" (November 1979), which considered the House bill and the bill reported by the Senate Finance Committee.

OVERVIEW

Both the House and Senate bills reflect trade-offs between increasing tax liability and minimizing production losses resulting from reduced incentives. In general, the House bill assigns greater weight to raising revenues, while the Senate bill emphasizes stimulating additional production. The Senate bill is oriented toward taxing existing oil (lower-tier and upper-tier) at higher rates, and oil from newer reserves or processes (such as newly discovered, tertiary, and heavy oil) at lower rates. The House bill, on the other hand, provides a fairly uniform rate of taxation across all types of oil. By assigning a lower rate of taxation to newly discovered, tertiary, and heavy oil, and by exempting the first 1,000 barrels per day of output of each nonmajor producer, the Senate bill results in more production, but in significantly reduced tax liability. Finally, the Senate bill phases out after a revenue target of $210 billion is achieved in the 1990s, while the House bill continues indefinitely. This means that the revenue and supply differences between the two bills will continue after 1990, the last year for which estimates are made. The specific provisions of the House and Senate bills are presented in Table 1.

This analysis uses a price assumption of $30 per barrel for decontrolled domestic oil as of the fourth quarter of 1979, rising at a rate 2 percent greater than the rate of inflation in that year.

TABLE 1.—COMPARISON OF HOUSE AND SENATE WINDFALL PROFITS TAX BILLS

Category	House bill	Senate bill
Old oil	Rate: 60 percent rate. Base: $6/bbl base price, plus inflation.	Rate: 75 percent rate. Base: $6/bbl base price, plus inflation.
Marginal oil	Rate: 60 percent rate. Base: $13/bbl base price, plus inflation.	Rate: 75 percent rate. Base: $12.75/bbl base price, plus inflation.
New oil	Rate: 60 percent rate. Base: $13/bbl base price, plus inflation.	Rate: 75 percent rate. Base: $12.75/bbl base price, plus inflation.
New discoveries	Rate: 50-percent rate on 1st $9/bbl over base price; 60 percent on higher amounts. Base: $17/bbl base price, plus inflation plus 2 percent/year.	Rate: 10 percent. Base: $20/bbl base price, plus inflation, plus 2 percent/year.
Incremental tertiary	Rate: Same as for new discoveries. Base: Same base as new discoveries on oil above a level determined by decline curve of 1 percent per month until project starts; 2.5 percent per month once begun.	Rate: 20 percent rate. Base: $17/bbl base price, plus inflation plus 2 percent/year.
Stripper	Rate: 60 percent rate. Base: $16/bbl base price, plus inflation and quality and location differentials.	Rate 60 percent. Base: Same base as House bill; exempts 1st 1,000 bbl per day of stripper oil produced by independent producers.
Alaskan North Slope	Rate: 50 percent rate. Base: $7.50/bbl base price, plus inflation; exempts newly discovered North Slope oil.	Rate: 75 percent rate. Base: Same as new oil base; exempts newly discovered North Slope oil.
Heavy oil	Taxed in tier of origin.	Rate: 20 percent rate. Base: $17/bbl base price, plus inflation plus 2 percent/year.
Independents exemption	None.	1st 1,000 bbl of all oil exempt.

COMPARISON OF EFFECTS

Producer Revenues. Under the Senate bill, domestic producers will receive a revenue gain of $633.0 billion from higher prices for oil that would have been produced even under continued price controls over the 1980–1990 period. In addition, new supplies valued at $144.5 billion are anticipated under this bill, leading to total new producer revenues of $777.5 billion over the 1980–1990 period. Under the House bill, producers will receive $631.2 billion in the form of higher prices for oil that would have been produced under continued controls, and $91.7 billion for new supplies induced by decontrol, totaling $722.9 billion in new industry revenues over the 1980–1990 period. These estimates are summarized in Table 2.

Tax liabilities. Compared with the tax liabilities created by decontrol with corporate income taxation only, the Senate bill will create new net federal tax liabilities of $159.1 billion over the 1980–1990 period. Under the Senate bill, total gross windfall tax liabilities will be $273.6 billion and corporate income tax liabilities will be $82.9 billion over the 11-year period. In addition, state and local taxes, severance taxes, and royalties will total $108.7 billion over this period. Thus, as shown in Table 2, taxes paid to all levels of government under the Senate bill will amount to 59 percent of the $777.5 billion in new revenue received by the domestic industry due to decontrol.

The House bill will create new net federal tax liabilities of $245.3 billion over the same period. Under the House bill, gross windfall tax liabilities will total $399.6 billion and corporate income tax liability will total $43.3 billion from 1980 to 1990. In addition, liabilities of $99.0 billion will be incurred through state and local taxes, revenue taxes, and royalties. As shown in Table 2, total tax liability to all levels of government under the House bill will amount to 75 percent of new industry revenues from 1980 to 1990.

TABLE 2.—COMPARISON OF THE AGGREGATE EFFECTS OF THE HOUSE AND SENATE WINDFALL TAX BILLS, 1980–90

	Total new producer revenues (billions of current dollars)	Tax liabilities		Total taxes [2] as percent of total new revenues	Production (millions of barrels per day)	
		Total Federal [1] (billions of current dollars)	Total State and local (billions of current dollars)		1985	1990
House bill	722.9	442.8	99.1	75	7.9	7.1
Senate bill	777.5	356.5	108.7	59	8.1	7.5
No windfall profits tax	831.8	197.5	115.1	38	8.3	7.9

[1] Includes windfall profits tax liabilities and additional corporate income tax liabilities.

[2] Includes Federal, State, and local taxes.

Note: Attempts have sometimes been made to calculate the price per barrel implicit in the production and tax receipt figures. To perform this calculation accurately, however, it is necessary to use the cumulative production over the entire productive life of the oil wells; to use estimates only through 1990 would be misleading.

Production. The Senate bill will result in production of 8.1 million barrels per day in 1985, and 7.5 million in 1990. Under the House bill, total production will be 7.9 million barrels per day in 1985, and 7.1 million in 1990. The production in each oil category under the two bills is compared in Table 3.

REVENUE EFFECTS OF SPECIFIC TAX PROVISIONS

Both the House and Senate bills are a series of excise taxes based on the categories of oil defined by the current regulatory procedure. The provisions that each bill applies to each category are summarized in Table 1. The major trade-offs between additional tax revenues and oil production by category of oil are summarized in Table 3. Most of the difference between the House and Senate bills is in their treatment of newly discovered oil, and in whether they exempt independent oil producers, which affects stripper oil more than other categories. Essentially the House bill has a much higher tax rate on new oil and does not allow any exceptions for independents. The House bill also raises more revenue in the tertiary oil category because it applies a higher tax rate in this category. In addition, the House bill taxes heavy oil in its tier of origin, whereas the Senate bill taxes it at a low rate on a tier-three base.

TABLE 3.—GROSS WINDFALL PROFITS TAX LIABILITY AND SUPPLY RESPONSE UNDER THE HOUSE AND SENATE BILLS FOR EACH CATEGORY OF OIL

Category	Revenues (1980–90 billions of current dollars)		1990 production (thousands of barrels per day)	
	House	Senate	House	Senate
Lower-tier oil [1]	50.1	53.3	125	215
Upper-tier oil [1]	64.9	66.9	360	315
Newly discovered oil	106.9	12.9	3,245	3,290
Incremental tertiary oil	17.0	6.4	625	670
Stripper oil [1]	55.7	34.3	880	920
Alaskan North Slope oil	72.6	81.2	1,350	1,340
Heavy oil	19.8	6.0	290	550
Marginal oil [1]	12.4	12.6	30	30
Naval petroleum reserve oil	(2)	(2)	170	170
Total	399.4	273.6	7,075	7,500

[1] Excludes heavy oil now in these categories.

[2] Exempt. ●

REGULATION Q REFORM

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. PATTERSON. Mr. Speaker, today I am introducing the Consumer Savings Account Equity Act which attempts to deal with the well-recognized and recently much publicized problem of passbook savings account interest rates which are substantially lower than market rates offered on other financial investment tools. It is my hope that the House will consider this legislation and other proposals on regulation Q in a comprehensive fashion early in the next session of the 96th Congress.

GENERAL BACKGROUND

In the aftermath of the Great Depression, the Banking Act of 1933 contained provisions designed to lessen the probability of bank failures. One provision imposed interest rate ceilings on bank time and savings deposits. Years later in the 1960's as the Federal Reserve increased this interest rate ceiling and a period of tight money and high-interest rates prevailed, the Nation's thrift institutions found themselves unable to meet commercial bank competition for deposits. The net outflow of savings and loan deposits, referred to as disintermediation, caused panic within the housing industry since the availability of funds for housing-related purposes became scarce.

As a result of this phenomenon, in 1966 the Interest Rate Adjustment Act—Public Law 89–597—was enacted establishing time and savings account interest rate ceilings for federally insured savings and loan associations and mutual savings banks. The extension of regular Q coverage to thrifts was temporary and periodic extensions of this authority, in general, have been limited to 1 year.

As the regulatory established rate ceilings for thrifts in 1966, they also gave the thrifts an advantage over commercial banks by granting thrifts an interest rate differential equal to three-fourths percent. Thus, in 1966 the commercial bank interest ceiling for savings deposits was 4 percent, whereas, for thrifts it was 4.75 percent.

According to the provisions of Public Law 89–597, the regulators—Federal Reserve Board, Board of Directors of the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board—would from time to time meet to agree upon new ceilings. Eventually, the interest rate differential for savings and loan associations settled at one-fourth percent. Then in 1975 by enactment of Public Law 94–200 the elimination of this differential was prohibited unless the Federal Reserve Board notifies the Congress in writing recommending elimination and the House and Senate approve such a proposal by joint resolution.

RECENT DEVELOPMENT FOCUSING ON THE NEED FOR REGULATION Q REFORM

During the first session of the 96th Congress, many factors have once again influenced public sector policymakers to reevaluate the existing rate ceiling structure. It cannot be overlooked that the deposit interest rate ceilings of 5.25 percent and 5.5 percent effective July 1, 1979, for banks and savings and loans, respectively, represent only a miniscule increase from the 1966 rates. Without question, the Nation's small savers have gained little during that time in terms of an adequate return on savings deposits left in financial institutions. This has served as a further disincentive to savings. Furthermore, all the Nation's financial institutions have experienced intense competition from nondepository institutions. Money market mutual funds offered by brokerage firms and cash management accounts generated by nonbanking organizations offer consumers alternative means by which to increase earnings potential of their savings.

From the beginning of 1979 through the month of August, the assets of approximately 70 money market mutual funds in existence expanded at an average rate of 15 percent per month. During the same period, regular passbook savings experienced a weak inflow pattern and money market certificates offered by the depository institutions grew at an average monthly rate of 12 percent.

The savings alternatives generated by the market have put all forms of depository institutions on notice that changes to improve their competitive posture, rather than to shield them from market forces, are essential. These changes, however, must be allowed to take place gradually so as not to imperil financial and economic stability.

CONSUMER SAVINGS ACCOUNT EQUITY ACT

The legislation I am introducing today recognizes as a major problem of our depository institutions the discrepancy between passbook savings account interest rates and those interest rates offered on various other financial investment tools. A prolonged continuation of this trend will not and cannot be endured. Therefore, I propose that beginning 5 years after the date of enactment of the Consumer Savings Account Equity Act that the Federal Reserve Board, the Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board be required to increase passbook savings account rates as soon as possible to the market rate of interest. Each of their annual reports to Congress after 1985 will:

First. Specify the market rate of interest for the period covered by the report;

Second. Specify the rate of interest on passbook savings accounts during such period; and

Third. If the passbook savings rate was less than the market rate, specify the economic conditions which the Board or Board of Directors, as the case may be, considered in establishing the passbook savings rate below the market rate.

I believe that while remaining flexible, this approaches states in no uncertain terms the public policy that Congress intends the regulators to follow and for which to be accountable. This flexibility also recognizes the need to gradually improve the ability of savings and loan associations to pay higher passbook savings account interest rates, as well as for the regulators to determine what the periodic rate increases should be according to the position of all depository institutions and prevailing economic conditions.

As the provisions of my proposal are reviewed, I would welcome comments and recommendations on ways to either strengthen or otherwise improve my approach. Above all, we will need to work cooperatively for this type of reform for the benefit of all financial institutions.●

SUMMARY OF 1979 ACTIVITIES: SUBCOMMITTEE ON GENERAL OVERSIGHT AND MINORITY ENTERPRISE, COMMITTEE ON SMALL BUSINESS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. LAFALCE. Mr. Speaker, as this session is rapidly drawing to a close, it is an appropriate time to review the accomplishments of the Subcommittee on General Oversight and Minority Enterprise, Committee on Small Business. The year has been highly productive for us. While we have held 29 hearings this session, this number does not begin to tell the full story.

Our accomplishments include preserving the small and minority business set-aside programs, which faced oblivion as a result of the multilateral trade agreement. Through our efforts, Ambassador Strauss was able to negotiate with our Nation's trading partners the preservation and continuation of these programs.

Similarly, we have been able to focus attention on the Executive's failure to comply with the provisions of the Small Business Act requiring subcontracting opportunities for small and minority businesses. In our most recent hearing, the agencies promised that not only would they adhere to the program in the future, but they would go back and review the contracts that had previously been awarded to provide for appropriate subcontracting opportunities. We will continue to oversee their progress in this area during the coming session.

In a similar vein, we were able to reverse a decision by the SBA which threatened to diminish funds available for the neighborhood business district revitalization program. Prior to our hearings, the agency had indicated that the direct loans available for this program would be merely $25 million. Through our efforts, the program was restored to its former level of $45 million, an 80-percent increase over the threatened reduction.

While these achievements come readily to mind, useful to review in full our activities for the year 1979. A full summary of these concludes these remarks:

SUMMARY

I. SUMMARY OF SBA OVERSIGHT HEARINGS

A. Generally

February 28 and March 13: These initial hearings were held with the Administrator of the Small Business Administration, Mr. A. Vernon Weaver, who was accompanied by Mr. William Mauk, Jr., Deputy Administrator. At the February 28 hearing (which was adjourned to, and continued on March 13) the Small Business Administration's performance over the last year was reviewed, as were planned initiatives during the coming two years. As it was apparent from these hearings that the top level SBA personnel were unable to respond adequately to many technical questions concerning the programs and procedures of the agency, it was felt appropriate to follow these hearings with testimony from key agency personnel who would be in a better position to answer the Subcommittee's questions.

April 14: Harold Theiste, Associate Deputy Administrator for Programs reviewed his responsibilities on this date. His office, newly created in an internal SBA reorganization, is for most purposes similar to the predecessor office—Associate Administrator for Operations. He has direct line responsibility over the Associate Administrator for Finance and Investment, the Associate Administrator for Procurement Assistance, and the Associate Administrator for Management Assistance.

April 30: Richard Heckmann, Associate Administrator for Finance and Investment, testified on this date. His duties include responsibility for all SBA's financial assistance programs to small businesses, the small business investment company program, and the state and local development company programs.

May 7: Robert McDermott, Acting Associate Administrator for Procurement Assistance testified on this date. His responsibilities include oversight of SBA's procurement assistance programs for small business, which are principally found in Section 15 of the Small Business Act. Responsibility for the minority business procurement assistance program, previously in his jurisdictional domain, was transferred by P.L. 95–507 to the Associate Administrator for Minority Small Business and Capital Ownership Development.

May 16: William Clement, Jr., Associate Administrator for Minority Small Business and Capital Ownership Development together with Dr. Patricia Burr, Associate Administrator for Management Assistance testified on this date. Mr. Clement, who has responsibility for the entire SBA minority small business effort reviewed the various programs. Dr. Burr reviewed the educational and management assistance efforts being undertaken by her office.

May 21: Paul Sullivan, Associate Deputy Administrator for Support Services testified on this date. He was accompanied by Roger Jones, Assistant Administrator for Administration, Jean Lewis, Assistant Administrator for Congressional and Administrative Affairs, Joe Maas, Assistant Administrator for Personnel Management, and Charles Searcy, Assistant Administrator for Public Communications. Mr. Sullivan has the responsibility for coordinating all support services. Each of the other four assistant administrators testified as to the composition and responsibilities of their respective offices.

May 30: Milton Stewart, Chief Counsel for Advocacy testified on this date. He reviewed the duties and responsibilities of this office—which are mandated by P.L. 94–305, a free-standing statute.

June 4: William Gennetti, General Counsel, and Roger Rosenberger, Associate Deputy Administrator for Policy, Planning and Budgeting testified on this date. Mr. Gennetti reviewed the composition of the General Counsel's office, and related how it interfaces with other agency personnel. Mr. Rosenberger reviewed the responsibilities of his office, newly created in the SBA internal reorganization.

June 13: Howard J. Samuels, Thomas S. Kleppe, and Mitchell P. Kobelinski, all former Administrators of the Small Business Administration, testified as to their views and opinions on the role that SBA and the federal government should play in assisting small business.

B. SBA size standards

July 10: The hearing reviewed SBA's procedure used in determining size standards for eligibility in small business preferential programs. The GAO, also a witness, had reported that SBA's practice in making such determinations failed to accord with SBA's published procedures. GAO's findings were acknowledged by SBA to be correct, with a revised procedure and new size standards being promised by SBA to the Subcommittee by early 1980.

September 25: The hearing considered the suitability of the size standard for timber set-aside program (presently 500 employees) with representatives from all segments of the timber industry. Several congressional members also expressed their views at this time.

II. SUMMARY OF MISCELLANEOUS OVERSIGHT HEARINGS

A. NEIGHBORHOOD BUSINESS REVITALIZATION

March 13: Representatives from SBA, HUD, and EDA reviewed the implementation of the Neighborhood Business Revitalization Program effectuated under a tripartite interagency agreement. The hearings focused on developments within the program since the Committee's previous consideration (September 27, 1978), and reviewed the potential effect of the proposed EDA reorganization on the program's future.

December 11: Reviewed the progress of the NBR Program since March 13 in light of the abandonment of the proposed EDA reorganization. The hearing focused on the reported SBA cut in direct 502 monies available for program, a position which SBA reversed at the hearing.

B. Small business problems with insurance

October 11: The hearing reviewed with various private sector groups and the Federal Trade Commission, problem areas that small businesses encounter with insurance. The hearings specifically focused on the problems that small businesses encounter in purchasing health insurance and life insurance, as well as the special problems of small businesses located in urban areas. The hearing also considered the problems that insurance agencies qua small businesses encounter in their dealings with insurance companies.

October 22: The General Accounting Office testified with respect to their survey of the effectiveness of state regulation of the insurance business. Their findings were critical of the present level of state regulation, and contained concrete suggestions as to much-needed reform in that area.

C. Procurement

March 20: Ambassador Robert Strauss, Special Representative for Trade Negotiations, testified as to the effect of the proposed procurement code resulting from the multilateral trade negotiations on small business, minority business, and labor surplus set-aside programs. Additionally, representatives from small business and minority groups testified expressing the potentially devastating effects the proposed procurement code would have.

April 4: Lester Fettig, Administrator, Office of Federal Procurement Policy, OMB, testified as to the effect that the proposed procurement code would have on the labor surplus set-aside program, as well as the general implementation of that program, and the general operations of the Office of Federal Procurement Policy.

December 4: Thirteen federal agencies testified as to their progress in implementing Public Law 95–507, which contains provisions to facilitate the participation of small and minority business in subcontracting on federal prime contracts. As of the date of the hearing, agency performance since the law's enactment in October 1978 had been, with the exception of the Veteran's Administration and the Department of the Interior, virtually nonexistent. The agencies indicated that not only will they prevent such derelictions in the future, but that contracts already awarded will be reviewed and either amended or terminated and resolicited so as to provide for maximum subcontracting opportunities. Additional hearings are contemplated in January to ascertain what actions have, in fact, been taken since this hearing.

D. Productivity

March 14: Representatives from OMB and the Council on Wage and Price Stability reviewed the actions the federal government is taking to improve the productivity of this Nation. Representatives from the American Productivity Center also appeared.

October 17: The hearing considered the impact of small business on America's productivity, and how the role of small business might be enhanced. In addition to representatives from the Department of Commerce, the Small Business Administration, the Council on Wage and Price Stability, and OMB, private sector participants from the American Productivity Center and from the School of Management, State University of New York at Buffalo also provided their input.

E. Miscellaneous oversight hearings

February 27: Representatives from the Task Force on Product Liability, Department of Commerce, reviewed its proposed Uniform Product Liability Law.

July 5: At a field hearing in Buffalo, New York, the subcommittee reviewed the effects of the gas shortage on small businesses in the Western New York area. In addition to small businesses participating at the hearing, representatives from fuel distributors, major oil companies, and the Department of Energy were in attendance.

III. SUMMARY OF OVERSIGHT HEARINGS BY SUBCOMMITTEE'S TASK FORCE ON MINORITY ENTERPRISE

A. Implementation of Public Law 95–507

April 10: Representatives from the Small Business Administration and the Office of Federal Procurement Policy reviewed their progress in implementing Public Law 95–507. Representatives of minority businesses also testified with respect to problems they observed with the law's implementation.

April 18: Representatives from the Department of Commerce and from its Interagency Council, the Department of Energy, the Department of Defense, and the Department of the Army testified with respect to their implementation of Public Law 95–507.

June 14: Representatives from the Department of Transportation testified with respect to that agency's implementation of Public Law 95–507.

June 28: Representatives from the Department of Interior testified with respect to that agency's implementation of Public Law 95–507.

B. Capital formation

August 17: Various private sector witnesses, including representatives from venture capital associations, brokerage concerns, and high-technology small businesses, testified with respect to the lack of availability of venture and investment capital for the minority business community, and how best to remedy this situation.

August 21: Representatives from the banking industry and the insurance industry, as well as representatives from the Community Services Administration, continued consideration on the difficulties encountered by minority businesses in obtaining venture and investment capital.●

THE KREMLIN HAND IN TEHRAN

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. BAUMAN. Mr. Speaker, the distinguished editor-in-chief of the Hearst newspapers, William Randolph Hearst, recently addressed himself to the role being played by the Soviet Union in fomenting and supporting the policies of the so-called government of Iran which is holding our citizens as hostages. The bulk of Mr. Hearst's column is a carefully researched memorandum by Joseph Kingsbury-Smith who is national editor of the Hearst papers.

I commend reading this detailed evidence of the total duplicity of the Soviets who have never changed their stated goal of destroying freedom everywhere and the United States of America as well.

The article follows:

THE KREMLIN HAND IN TEHRAN

(By William Randolph Hearst, Jr.)

NEW YORK.—As soon as I heard how cooperative the Russians were in the United Nations, by making unanimous the Security Council's vote of disapproval of Iran's actions in holding our embassy people hostage, I smelled something fishy.

My reasoning was that the Communists in the Kremlin are famous for stirring up trouble for the United States in any and all countries throughout the globe.

I recalled reading that they had a radio station which beamed propaganda into Iran in their language, so I asked J. Kingsbury-Smith, our national editor, if he could get his hands on some transcripts of what they've been saying. I knew some branch of our State Department monitored all foreign broadcasts and sure enough, Joe came up with the following memo to me:

WASHINGTON.

DEAR BILL: You were so right. History may record that Russia was as responsible as the Ayaltollah Khomeini, if not more so, for the toppling of the shah and for promoting the anti-American fanaticism that led to the conquest of the U.S. Embassy in Tehran and the kidnaping of its diplomatic personnel.

Evidence at hand shows that after President Nixon decided in 1971 that rather than send American troops to the Persian Gulf he would rely on the shah to fill the vacuum created by the withdrawal of Britain's forces from the area, the Soviet government pursued a persistent policy of undermining popular support for the shah, encouraging revolution and fomenting anti-Americanism among the Iranian people.

When President Nixon moved to make Iran the strongest military power in the region, the Soviets intensified the campaign against the shah and the U.S.

There seems little doubt Soviet propaganda attacks on the Iranian ruler and the United States served to condition the people for revolution and hatred of the American government.

A report by the reputable British Institute for the Study of Conflict states that as early as 1973, Iran's Soviet directed communist organization, the Tudah Party, issued a program entitled "The Creation of a Monolithic Front Against the Iranian Regime." The program called for formation of a broad-based coalition of communist, Moslem, and radical forces to overthrow the shah.

When the shah outlawed the Tudah Party, its leadership fled to Russia and Eastern Europe. According to Western intelligence sources, Nureddin Kainuri, secretary general of the party, which was originally founded by German Marxists, was still directing the party's activities from Eastern Europe at the time of the shah's overthrow.

The Kremlin established in the Soviet city of Baku a powerful radio station for the Tudah Party—the Voice of Iran. It beamed, and continues to do so, daily broadcasts to Iran. First calling for the overthrow of the shah, denounced as an American puppet. Now demanding his return for trial, supporting the holding of the American hostages and assailing the U.S. for allegedly planning to restore the shah to power.

Since the end of World War 2, the Soviet intelligence agency, KGB, has had hundreds of agents operating in Iran not only as spies but fomenting revolution and anti-American hatred.

Penetrating the Iranian armed forces, the KGB blackmailed a Major General Ahmad Mogharrabi, who became deputy army chief, into spying for Russia for 11 years before he was caught. It also had an agent in the prime minister's office. Western intelligence discovered that the second floor of the Soviet Embassy in Tehran was a powerhouse of electronic monitoring equipment, targeted on Iranian military headquarters, Western embassies and the offices and homes of Iranian government officials.

By the time Khomeini was completing plans for the revolution at his exile home near Paris, Western intelligence estimated there were over 4,000 Soviet "technicians," KGB agents and diplomats in Iran.

When it became apparent the U.S. was not going to do anything to save the shah, the Soviet campaign against him moved into high gear. The British Study of Conflict report said "Iran's internal unrest was preceded and accompanied by a stepping-up of international efforts to isolate the regime from Western sympathy."

American intelligence monitoring of Moscow radio and Voice of Iran broadcasts clearly indicate the anti-American hatred campaign helped to incite the Moslem mobs to invade the embassy in Tehran and hold our men and women there as hostages.

On Oct. 24th, two days after the shah was admitted to a New York hospital and 11 days before the embassy was seized, Moscow radio broadcast in the Iranian language: "Collaboration between the shah and the U.S. will threaten the Republic of Iran."

Five days before the attack on the embassy, a Moscow radio commentator, Vera Lebedeva, broadcast in the Iranian language a "dear friends" message alleging that "U.S. imperialists are continuing their intrigues against your country." Asserting the admission of the shah into the U.S. for medical treatment will "result in the concentration of counter-revolutionary forces and will lead to renewed danger of plots against the Iranian republic."

In a virtual summons to the mob to attack Americans, the broadcast added: "The people of Iran, who are experienced in revolutionary struggles, and have successfully coped with several tests, are well able to stop the intrigues of imperialism and reaction and to defend what they have gained from their revolution. Death to U.S. imperialism."

One day after the seizure of the hostages, the Voice of Iran declared the American Embassy was a 'center of corruption and anti-Iranian conspiracies' and said its occupation "reflected the anti-imperialist feelings of our homeland's people."

Despite repeated protests from the White House and the State Department, Moscow radio and the Soviet press continued to incite Khomeini's mobs against the United States. President Carter sent National Security Director Brzezinski to protest directly to Soviet Ambassador Dobrynin in Washington, and to warn him that the Soviet anti-American campaign in Iran was endangering ratification of the SALT treaty. The warning was ignored.

In its double-standard diplomacy, the Soviet government voted for the American-sponsored U.N. Security Council resolution condemning the occupation of the embassy and calling for the immediate release of the hostages. On the same day, the Soviet Communist Party newspaper *Pravda* accused the United States of employing "crude military and political blackmail against Iran and implied that President Carter had taken the hostage case to the United Nations and the World Court only as a cover for a military attack on Iran. Secretary of State Cyrus Vance actually labeled this canard as "deplorable."

This anti-American Soviet duplicity is threatening to create a grave deterioration in Soviet-American relations. It has already blocked Senate action on the SALT treaty this year, and may lead to its rejection next year. It has aroused demands in Congress for a curtailment, if not complete cut-off, of technological and economic aid to the Soviet Union.

Russia's rulers may not, of course, care very much. The geopolitical stakes in Iran are too high. If a Soviet-oriented communist regime eventually gains control of that country, the prize for the Soviets will be of far greater importance than the SALT treaty, detente, and cooperative relations with the United States.

"Domination of Iran would, in effect, mean domination of the Persian Gulf oil supplies to the West and Japan."

I don't think any of the foregoing will come as a surprise to you regular readers of this weekly effort of mine. First my father and, since his death, I have been exposing the Russians as enemies of our country going back to the '30's. However, should you know anybody who is still not convinced of this fact, I hope you'll pass this piece along.●

THE THINGS THAT ARE NOT CAESAR'S

HON. RICHARD BRUCE CHENEY

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. CHENEY. Mr. Speaker, knowledgeable Americans who have written and spoken in recent times about the perils of big government have frequently warned that if we do not take steps to curb the power and expansion of our Federal Government, we will soon find ourselves in the same predicament as Great Britain, where government influence over the lives of citizens is pervasive and oppressive.

I recently had the privilege of hearing an excellent speech by a distinguished British journalist and author, Mr. Paul Johnson, who said the United States has, in his opinion, caught up with and passed Great Britain "in the nurturing of the Frankenstein state."

To support his contention, Mr. Johnson mentioned, among other facts, that welfare programs in this country expanded at a rate 2½ times the growth rate of the gross national product between 1971 and 1976; that Federal expenditures for paperwork doubled between 1955 and 1966, and then nearly duobled again by 1973; and that America's recent productivity record has been far worse than Britain's, due in part to excessive Government regulation.

I found Mr. Johnson's remarks provocative and enlightening, and I have asked that they be printed here for the benefit of my colleagues:

The Things That Are Not Caesar's

(By Paul Johnson)

Tonight I am to spend 30 minutes discussing what is, perhaps, the most important, and certainly the most complex, public issue which faces us today. What is the correct relationship between the State and society as a whole? Or, more precisely how big should government be? And what should it do? Let me plunge straight into the problem by listing the three essential activities of government, with which no one but an anarchist would quarrel. First, the state has an absolute obligation to protect the nation's territorial and political integrity. Second, it must maintain internal order and administer justice impartially among its citizens. Third, it must issue and maintain a legal currency.

It is at this point that the argument begins: what, in addition to these three basics, should the state do? Now here immediately we come to a widely-held and profoundly mistaken belief. This is that the state, from its first inception to the present day, has slowly and systematically added to its functions—that the expansion of the scope of government is itself a reflection of intellectual advance and moral progress. Nothing could be further from the historical truth. The earliest states were totalitarian. In the first of them, Egypt, the theocratic Monarchy controlled all long-distance commerce and large-scale manufacturers. 3,000 years before Christ, it already had a bureacuracy, fiercely defending its entrenched interests.

An apprentice bureaucrat was taught to copy: 'Put writing in thy heart, so that thou mayest protect thine own person from any kind of labour, and be a respected official.' The Code of Hammurabi, the earliest law-code from 2,100 BC, has no less than 17 provisions fixing wages and prices. Now that the decyphering of the Linear-B scrip allows us to examine the copious state archives of the Mycenaen-age cities of Greece, we wonder how such a slender agricultural and trading base could support such a prodigious bureaucratic superstructure. But the answer, of course, is that it eventually failed to do so. The societies of antiquity were frequently destroyed by the growth of the state and its parasites. The successive empires of Greece and Rome were the creation of a new spirit of individual enterprise, and it was the extinction of this spirit by bureaucratic growth which brought about their decline. That decline was already well under way by the time that the Emerpor Diocletian issued his famous edict to control wages and prices. Rome's successor, Byzantium, was the bureaucratic state par excellence, in which the government had a monopoly of all industry and trade: and Byzantium was essentially destroyed, not by the guns of the Ottoman Turks, but by the competition of free-enterprise Venice.

At all periods, the monster-state is associated with archaic notions, and is ultimately the progenitor of economic decline and military ruin. I know of no historical exception to this rule. Conversely, the growth of possessive individualism, at the expense of the state, is always associated with economic advance. It is no accident that the Industrial Revolution, which began in England in the 1760s, took place against the background of the Minimum State, when government confined itself very largely to discharging its three basic functions. The coming of industrial capitalism, not only the most important event in secular history but the most beneficial, took place not because of the state but despite it; and its worldwide spread was made possible largely by the withdrawal of government from economic affairs. During the 19th century in every country which was industrialising itself, public expenditure, as a proportion of Gross National Product, fell steadily. In Britain, for instance, during the 60 years 1830–1890—the longest sustained period of rising living standards in British history—public expenditure as a proportion of GNP fell from 15 percent to 8 percent. In the United States, the figures are even more striking. Up to 1914, America's GNP was expanding at about four times the speed of government. The state performed merely a nightwatchman's role. In the age of Lincoln and Gladstone, the Minimum State was seen as a vital element in the stream of progress, because it was associated—and rightly associated—not only with the economic betterment of the indiivdual, but with his growing liberty.

Indeed, no student of history can doubt that, in the long run, the direction of mankind is towards greater individual freedom. We have moved progressively from the collectivist communities of antiquity to societies in which the uniqueness of the individual is conceded, theoretically at least, and the universality of human rights is given formal recognition. Few now officially deny the rights of man; virtually all agree, as self-evident truth, that freedom is a public good. Just as hypocrisy is the tribute vice pays to virtue, so constitutions, endorsing human rights, are the homage which the most obdurate and enduring tyranny feels obliged to lay at freedom's feet. Even the most depraved African despot sports some Utopian certificate to give his regime a spurious legitimacy; while the Soviet Union, the most authoritarian and restrictive system of government ever devised, flaunts a constitution of exemplary benevolence.

Of course such documents are fraudulent. Who can honestly claim that the total of human freedom has been enlarged in our century? Two horrifying world wars, in which the high liberal civilization of Europe and the Western World came close to commiting suicide, have dulled our sensibilities and debauched our instinct for justice. Worst of all, these wars gave birth to that historical throwback, the modern Frankenstein State. Governments have developed not only unprecedented new means to destroy, but new instruments of oppression and new ways to lie. All over the world, the state has gorged itself on the evil novelties human ingenuity constantly makes available. It is the state which has been the principal beneficiary of our 20th century horrors. True, all but one of the old empires has been dismantled: but the states which replaced them have eagerly embraced and zealously fostered all the imperialist vices, especially doning such virtues, above all respect for the rule of law, which imperialism sometimes possessed. In all these states, government has become ubiquitous and menacing, mendacious and corrupt, and in consequence arbitrary and destructive of private happiness and property. As for the last and least liberal of the Empires, Russia, it is in rude and brutal health, has enormously enlarged its boundaries, constantly expands its sphere of influence, arms without cease and, within its totalitarian entrails, furtively breeds the ever-expanding organism of police terror.

What is still more disturbing is that, even in the liberal democracies of the Western tradition, the Frankenstein State has contrived to establish itself. It is alive, well, living amongst us and flexing its muscles; looking forward with bondless confidence and insatiable appetite to an indefinite career of growth and consumption. The monster is at large all over Western Europe; and in the United States it is the last, boldest and most insolent of all the immigrants to clamber onto her shores.

If I spend a little time on the British experience, it is partly that in Britain the Frankenstein State has done the most extensive and obvious damage, but still more because I detect unmistakable signs that almost every aspect of the British disease is spreading to the United States. I can assure you, that wherever you are now heading, we have been there before. Take warning from our bitter experience. We ourselves were warned, in vain. In 1861, when Mr. Gladstone established the Public Accounts Committee, as a parliamentary watchdog on the growth of government, he warned: "An excess in the public expenditure, beyond the legitimate wants of the country, is not only a pecuniary waste but a great political and, above all, a great moral evil. And it is characteristic of the mischiefs that arise from financial prodigality that they creep onwards with a noiseless and stealthy step, that they commonly remain unseen and unfelt until they have reached a magnitude absolutely overwhelming."

This unheeded warning has been proved justified in every particular. Year after year we in Britain have handed over more and more responsibilities to the state. The Bible has a phrase for it: We have given to Caesar the things that are not Caesar's. In Mr. Gladstone's day, the British government employed only 75,000 people, most of them in the Customs and Excise and Post Office. In the central departments of civil government there were only 1,628 officials. By 1974 there were nearly a million of them, and over 8,000,000 employees in the public sector as a whole—27 per cent of the entire working population. By the time public opinion woke up to the magnitude in the rise of public expenditure, in the last two years, it might well be called "absolutely overwhelming." In Mr. Gladstone's day we spent 8 per cent of the GNP on government. By 1974 it had reached nearly 50 percent, and on a rising curve.

By this point, all rational sense had been lost as to what the government should or should not do. It was—is—doing a bit of everything. One middle-ranking civil servant, taking over new responsibilities, found that in his area alone, government employees were running a gravel pit, a saw-mill, a sign-writing center, a road-sweeping service, nurseries producing shrubs and trees, a domestic water-supply plant and a machine-maintenance business. The elements of this little empire had only one thing in common: All were "totally uneconomic." In every case, he wrote, "we could buy the same services or the same products for a fraction of the cost elsewhere, even without making allowance for the concealed capital investment which was nearly always involved."

This pattern is repeated, on a gigantic scale, at the national level. By the middle of last year, the British government found itself owning, wholly or in part, 1,104 businesses—the great majority of them running at a loss. Apart from that, they seem to have nothing in common. They include businesses making concrete, asbestos, electrical equipment, chemicals, ships, aircraft, marine equipment, engaged in printing, publishing, construction, civil engineering, cold storage, furniture-removals, nuclear power, oil, gas, rolling mills, quarries, canals, harbours, every conceivable kind of transport, hotels, motels, safari lodges, catering, communications of all kinds, textiles, cotton, sugar, tea, cocoa and coffee estates, waste-incineration, laboratories, tanneries, finance companies, movie studios—everything including a chain of bars, a string of race horses and a football team. You name it; we own it, and it runs at a loss.

As for government agencies—in addition to the main government departments—we have expanded them from less than 10 in 1900 to (at the latest count) 3,068. Among other things, they tell us how to grow apples and pears, market milk, cure alcoholism, make movies, organise supporting activities, dig china clay, train mid-wives, fix dentistry rates, preserve the Welsh language, make hearing-aids, run the herring industry, control detergents and grow hops. They give advice and enforce laws concerned with horse-racing, beer, meat, metrication, medical supplies, pigs, potatoes, red deer, theatres, libraries and water sports—and a thousand other activities. They include a Consultative Council on Badgers, a Commission for Motor Rallies, and a Working Group on Back Pain. In 1975—the last date for which I have full figures—these agencies, Quangos as we call them—employed 184,000 people and cost the taxpayer nearly 5 billion dollars.

The spread of government activities has brought into existence whole new categories of workpeople, whose very existence was undreamed of even 15 or 20 years ago. Here, in the field of social welfare alone, are some of the new officials, using the standard government nomenclature: "Intake Social Workers, Home Help Organisers, Juvenile Delinquency Project Coordinators, Senior Social Workers, Residential Child Care Officers, Deputy Community Education and Recreation Officers, Social Workers for Alcoholics Recovery Projects, Locum Development Workers, Youth Project Leaders, Day-Care Advisers, Senior Playleaders, Houseparents, Group Controllers of Domiciliary Services, Supervisng Wardens for Traveller's Sites, Team Leaders, Adventure Playground Leaders, Area Coordinators for Self-help Projects, Long Term Play Leaders, Care Co-ordinators and Play Specialists." All these people, I may say, are full-time employees, entitled to life tenure and comprehensive civil service benefits, including non-contributory index-linked pensions. And I should add that, when all the social workers in the east London area went on strike in 1978–9, and were absent from duty for nearly a whole year, it appears to have made no perceptible difference, and led to no recorded complaints among the people they were paid to serve.

However, this is not just a case of Ye Olde Englishe customs. The Frankenstein State is America's most recent immigrant; but I have the impression that it is growing even more rapidly over here than in Britain. Between 1971 and 1976, welfare programs in the United States expanded at the annual rate of more than 25 per cent—two and one half times the growth of the Gross National Product. Estimated welfare expenditures in 1977 were 210 billion dollars and in 1979 were 250 billion dollars, so that growth-rate is being well-maintained, despite President Carter's so-called 'reform' programme.

Indeed, I detect areas in which the US is already outstripping Britain in the nurturing of the Frankenstein State. One excellent index of bureaucracy is the level of paperwork generated by central government. I see that Federal expenditure on paperwork doubled between 1955 and 1966, nearly doubled again by 1973, and that in the four years 1973–7, it leapt by a further 186 per cent, to reach a total of 45 billion dollars a year. A great part of this terrifying increase springs from new or greatly-expanded Utopian programmes, such as Basic Educational Opportunity, Equal Employment Opportunity, Environmental Protection, Occupational Health and Safety, Food Stamps, Student Loans, Price Controls, Supplemental Security Income, and so on. The paperwork involved in licensing a nuclear power plant, for instance, now frequently exceeds 15,000 pages—the size of the *Encyclopaedia Britannica*—and may cost 15 million dollars to the utility which makes the application. Last year the US Comptroller General calculated that US businesses in fulfilling over 2,100 Federal reporting requirements, have to spend nearly 70 million hours a year on government paperwork at a cost of over one billion dollars.

This rapid growth of the public sector is not only an evil in itself: it breeds further evils. It corrupts the political system. We calculated that at Britain's last General Election in May, considerably more than half of all Labour voters were either government workers or in receipt of government assistance. It is now not only technically possible, but even likely, that Labour may be able to win an election entirely by the votes of non-productive workers and welfare recipients. In the United States the position is different but only in degree, not in kind. You already have a welfare industry composed of 5 million public and private welfare workers, distributing government payments and services to 50 million people.

However, by far the most important consequence, though it is little discussed, is that when the state begins to do the things that are not Caesar's, it inevitably begins to neglect Caesar's primary duties. It is not a question of the state taking on additional roles; beyond a certain point, it is a question of alternatives—of either/or. Let us take the government's basic duties in turn. First, the stability of the currency. As long ago as 1945, Keynes, in almost his last warning before he died, argued that a democratic state in peacetime could not take more than 25 per cent out of the GNP without generating increasingly rapid inflation. In the 1970s, the British state was not only grabbing half of the GNP, but in one year, 1976, its borrowing requirements alone were 11 per cent of GNP. The result was hyper-inflation. The state reneged on its basic obligation to maintain an honest currency. The United States is now undergoing exactly the same experience, and for exactly the same reasons.

Of course the value of the currency is the index of the health of the economy—in my opinion, the only true index in the long run. If the state plunders the nation's resources, the wealth-generating sector must suffer. And it suffers in a fundamental way, by being starved of investment. The studies of Robert Bacon and Walter Eltis in Britain had proved beyond any rational doubt that the growth of the state sector is the primary reason why investment in British industry is so low, and therefore productivity so stagnant. With the growth of the Frankenstein State here, America's recent productivity record has been worse even than Britain's; and as last month's OECD report made plain, this is due to reduced private investment, a lower ratio of research as a proportion of GNP, and increased government regulation.

But why do we need to be told these obvious truths? They were spelt out with admirable clarity by Adam Smith 200 years ago. One of the central themes of his Wealth of Nations is that private individuals create wealth, and government consumes it. The more the government consumes, the less the private sector has to invest. So wealth accumulates more slowly; or not at all, or even declines. Of course Smith was thinking in terms of the court of Versailles, the largest, most ostentatious and prodigal of the governments of his day. But in economic terms, there is no difference between an 18th-century court government and a modern welfare bureaucracy. Whether Louis XV gives the cash to Madame du Barry or President Carter spends it on Equal Opportunity programmes, the damaging effects on productive investment are exactly the same. Near where I live, our local government bureaucrats have, in fact, just built themselves a palace, even larger than Versailles, at a cost of 50 million dollars. Of course it is not called a palace, but a "Community Centre." It does not have a Hall of Mirrors, but it has air-conditioning and an ultra-modern 'communications system'. Our bureaucrats do not see themselves as parasites. Nor did the Versailles courtiers, who also argued that they performed indispensable functions. And the courtiers at least did not have unions, to protect and swell their numbers, and increase their stipends and privileges. The old-style court, as a vested interest, was a fairly fragile corporation. The modern welfare bureaucracy, by contrast, has powerful institutional defences and a noisy moral ideology.

Which brings me to the second of the state's obligations—the dispensing of justice. Here again, the Frankenstein State makes it increasingly difficult for the primary duty to be discharged. In the United States and Britain, the ideology of the hyperactive state is the promotion of Social Justice. But there is no such thing as social justice; or rather, it is a contradiction in terms. What is meant, of course, is social engineering, for the only form of justice is individual justice. The sole aspect of equality which the state has a right, indeed an overwhelming duty, to promote is equality before the law. The pursuit of social and economic equality is, and must be, the enemy of justice. Positive discrimination, for instance, does and must mean injustice to individuals, and in almost every case underprivileged individuals. Social engineering in education must mean injustice to individuals; indeed it is deliberately designed to produce it. In that model welfare state, Denmark, the notorious state plan, called U–90, produced by the ministry of Education, states explicitly that particularly bright and well-motivated children should be discouraged from learning, and taught that their individual success and the pursuit of their personal interests is unfair to others and should be suppressed. These methods have been practiced for some years in Sweden and are already reflected in the lamentable economic decline of that bureaucratic country; they are implicit in much educational theory already applied in British and American state schools.

There are other ways in which the Monster State actually impedes its own primary functions of enforcing the law. In Britain, and indeed in America too, it is now commonplace for social workers to spend much of their time locked in battle with the police and other law-enforcement agencies. In Britain, the state-financed Community Law Centres—an institution we borrowed from America—regards the police and other government bodies as their natural and inveterate enemies, to be fought with every taxpayer's penny they can command. Two of our newest and most active state agencies, the Equal Opportunities Commission and the Race Relations Commission, spend a great and growing proportion of their time "investigating" and suing government departments. We have in Britain, and you will shortly be getting in America, a Frankenstein State so big that it fights internal pitched battles and civil wars, and in which government officials incite and assist citizens to break laws which other government officials are paid to enforce.

The monster state, indeed, is taking us along a road towards a divided and querulous society in which everyone pursues rights and no one accepts duties. In both our countries, government agencies encourage a maximist attitude to rights—that they must be exacted always, to the limit, and regardless of the cost to the community. In Britain, the legal luminaries of the Labour Party now demand a comprehensive and free state legal service, on the grounds that, if rights are guaranteed by law, 'effective means of enforcing them should also be provided'. They define such rights as 'security in home and employment, minimum income, right to liberty and freedom from physical attack and injury'. I would argue that these are rights that no state can truthfully guarantee and no legal system effectively enforce. Similar demands are made here. It is a formula for a Litigational Society. Such a society cannot produce an extension of rights. It can only end in producing a conflict of rights, since the sum of all our national rights is greater than the amount of freedom available to accommodate them. And a conflict of rights which society is powerless to resolve is bound to end in violence. The final paradox of the democratic monster state is not only that it destroys its own currency, not only that it undermines its own framework of law and order, but that it cannot even defend its vital interests and the lives of its citizens from external outrage and murder. In Britain and America, while the proportion of the GNP the state takes has been rising steadily, the proportion of that income it spends on defence has been falling. The results are becoming painfully and visibly apparent. You cannot relieve a beleaguered American embassy of airlifting a regiment of welfare workers. You cannot frighten Mr. Brezhnev with Food Stamps. The more the state attempts to invest its citizen with the illusory rights of Utopia, the less able it becomes to guarantee him the ones that really matter—life, liberty and the enjoyment of what he has earned. The more the state expands, the more it loses its credibility as a benevolent and paternal protector. When Caesar becomes a nursemaid, he ceases to be a soldier. The monster state, with its prodigal waste, its promotion of injustice in the name of equality, and its muscle-bound impotence, cannot inspire respect, let alone love: in the last resort the only emotional response it evokes is fear. The citizen becomes a mere subject. Patriotism is replaced by indifference—or even hatred.

I once regarded the state as a means whereby the less fortunate among us could be enabled to achieve the self-expression and moral fulfillment which is their aspiration as creatures made in God's image. While continuing to desire the end, I no longer have any confidence in the state as the means. On the contrary, I have come to see it as the biggest single obstacle to the individual self-expression and moral maturity of all of us, and not least the poor, the weak, the humble and the passive.

My change of view has been brought about by experience, notably the grim record of the last decade in Britain, where the cumulative evils fed by the growth of collective power and state expansion have become overwhelmingly manifest. But it has also been brought about by historical study. History is a powerful antidote to contemporary arrogance. It is humbling to discover how many of our glib assumptions, which seem to us so novel and plausible, have been tested before, not once but many times and in innumerable guises; and discovered to be, at great human cost, wholly false. It is sobering, too, to find huge and frightening errors constantly repeated; lessons painfully learned, forgotten in the space of a generation; and the accumulated wisdom of the past heedlessly ignored, in every society, and at all times.

Of all those lessons, the one which history most earnestly presses upon us, and which we most persistently brush aside, is: 'Beware the state'. Man, as history shows only too clearly, has that element of the divine in him, the element which causes him ceaselessly to strive for the ideal. It is his glory and his ruin. For in his Utopian quest he embraces the political process as the road to perfection. But the political process is itself a delusion, more likely to lead to hell than heaven. If a society is unlucky, the political process, pursued relentlessly enough, will carry it straight to Auschwitz or the Gulag Archipelago. But even the most fortunate societies, such as ours, will find nothing at the end of that dusty track but the same man-made monster, the state, as greedy and unfeeling as it was when man first invented it in the 3rd millenium before Christ, with its cavernous mouth, its lungs of brass, its implacable appetite and unappeasable stomach, but with no heart, no brain and no soul.

I believe it is possible to detect, on both sides of the Atlantic, hopeful signs that we are learning this lesson. The claims of the monster state are being exposed, one by one, as fraudulent, and the evil consequences of its expansion are being examined and publicized. In those parts of the world where debate is still free, the advocates of collectivism are already on the defensive. We are winning the battle of the intellect, and in time we shall win the battle of government too. By the end of this century, if western civilization exists at all, it will have resumed its progress towards the liberation (liberalization?) of human spirit and genius. When we look back from the year 2000, I think we shall see the end of the 1970s as the turning point, when the civilized world, not without pain and grief, returned to its senses, and the democratic state ceased to be our master and became again the servant of the people.●

THE THINGS THAT ARE NOT CAESAR'S

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. WALKER. Mr. Speaker, I know that many of my colleagues in this House share my concern over the growth of Government and its ever-broadening role in our society. On December 13, 1979, I had the distinct privilege of attending the Third Annual Public Policy Dinner sponsored by the American Enterprise Institute for Public Policy Research. The speech for the evening, presented by Dr. Paul Johnson, scholar, author, and former editor of the the Statesman, addressed this issue in a most enlightening way and I commend it to my colleagues for their reading.

THE THINGS THAT ARE NOT CAESAR'S

Tonight I am to spend 30 minutes discussing what is, perhaps, the most important, and certainly the most complex, public issue which faces us today. What is the correct relationship between the State and society as a whole? Or, more precisely, how big should government be? And what should it do? Let me plunge straight into the problem by listing the three essential activities of government, with which no one but an anarchist would quarrel. First, the state has an absolute obligation to protect the nation's territorial and political integrity. Second, it must maintain internal order and administer justice impartially among its citizens. Third, it must issue and maintain a legal currency.

It is at this point that the argument begins: what, in addition to these three basics, should the state do? Now here immediately we come to a widely-held and profoundly mistaken belief. This is that the state, from its first inception to the present day, has slowly and systematically added to its functions—that the expansion of the scope of government is itself a reflection of intellectual advance and moral progress. Nothing could be further from the historical truth. The earliest states were totalitarian. In the first of them, Egypt, the theocratic Monarchy controlled all long-distance commerce and large-scale manufacturers. 3,000 years before Christ, it already had a bureaucracy, fiercely defending its entrenched interests.

An apprentice bureaucrat was taught to copy: 'Put writing in thy heart, so that thou mayest protect thine own person from any kind of labour, and be a respected official. The Code of Hammurabi, the earliest lawcode from 2,100 BC, has no less than 17 provisions fixing wages and prices. Now that the decyphering of the Linear-B scrip allows us to examine the copious state archives of the Mycenaen-age cities of Greece, we wonder how such a slender agricultural and trading base could support such a prodigious bureaucratic superstructure. But the answer, of course, is that it eventually failed to do so.

The societies of antiquity were frequently destroyed by the growth of the state and its parasites. The successive empires of Greece and Rome were the creation of a new spirit of individual enterprise, and it was the extinction of this spirit by bureaucratic growth which brought about their decline. That decline was already well under way by the time that the Emperor Diocletian issued his famous edict to control wages and prices. Rome's successor, Byzantium, was the bureaucratic state par excellence, in which the government had a monopoly of all industry and trade: and Byzantium was essentially destroyed, not by the guns of the Ottoman Turks, but by the competition of free-enterprise Venice.

At all periods, the monster-state is associated with archaic notions, and is ultimately the progenitor of economic decline and military ruin. I know of no historical exception to this rule. Conversely, the growth of possessive inividualism, at the expense of the state, is always associated with economic advance. It is no accident that the Industrial Revolution, which began in England in the 1760s, took place against the background of the Minimum State, when government confined itself very largely to discharging its three basic functions. The coming of industrial capitalism, not only the most important event in secular history but the most beneficial, took place not because of the state but despite it; and its worldwide spread was made possible largely by the withdrawal of government from economic affairs.

During the 19th century in every country which was industrialising itself, public expenditure, as a proportion of Gross National Product, fell steadily. In Britain, for instance, during the 60 years 1830–1890—the longest sustained period of rising living standards in British history—public expenditure as a proportion of GNP fell from 15 per cent to 8 per cent. In the United States, the figures are even more striking. Up to 1914, America's GNP was expanding at about four times the speed of government. The state performed merely a nightwatchman's role. In the age of Lincoln and Gladstone, the Minimum State was seen as a vital element in the stream of progress, because it was associated—and rightly associated—not only with the economic betterment of the individual, but with his growing liberty.

Indeed, no student of history can doubt that, in the long run, the direction of mankind is towards greater individual freedom. We have moved progressively from the collectivist communities of antiquity to societies in which the uniqueness of the individual is conceded, theoretically at least, and the universality of human rights is given formal recognition. Few now officially deny the rights of man; virtually all agree, as self-evident truth, that freedom is a public good. Just as hypocrisy is the tribute vice pays to virtue, so constitutions, endorsing human rights, are the homage which the most obdurate and enduring tyranny feels obliged to lay at freedom's feet. Even the most depraved African despot sports some Utopian certificate to give his regime a spurious legitimacy; while the Soviet Union, the most authoritarian and restrictive system of government ever devised, flaunts a constitution of exemplary benevolence.

Of course such documents are fraudulent. Who can honestly claim that the total of human freedom has been enlarged in our century? Two horrifying world wars, in which the high liberal civilisation of Europe and the Western World came close to committing suicide, have dulled our sensibilities and debauched our instinct for justice. Worst of all, these wars gave birth to that historical throwback, the modern Frankenstein State. Governments have developed not only unprecedented new means to destroy, but new instruments of oppression and new ways to lie. All over the world, the state has gorged itself on the evil novelties human ingenuity constantly makes available. It is the state which has been the principal beneficiary of our 20th century horrors. True, all but one of the old empires has been dismantled: but the states which replaced them have eagerly embraced and zealously fostered all the imperialist vices, especially militarism and bureaucracy, while abandoning such virtues, above all respect for the rule of law, which imperialism sometimes possessed. In all these states, government has become ubiquitous and menacing, mendacious and corrupt, and in consequence arbitrary and destructive of private happiness and property. As for the last and least liberal of the Empires, Russia, it is in rude and brutal health, has enormously enlarged its boundaries, constantly expands its sphere of influence, arms without cease and, within its totalitarian entrails, furtively breeds the ever-expanding organism of police terror.

What is still more disturbing is that, even in the liberal democracies of the Western tradition, the Frankenstein State has contrived to establish itself. It is alive, well, living amongst us and flexing its muscles; looking forward with boundless confidence and insatiable appetite to an indefinite career of growth and consumption. The monster is at large all over Western Europe; and in the United States it is the last, boldest and most insolent of all the immigrants to clamber onto her shores.

If I spend a little time on the British experience, it is partly that in Britain the Frankenstein State has done the most extensive and obvious damage, but still more because I detect unmistakable signs that almost every aspect of the British disease is spreading to the United States. I can assure you, that wherever you are now heading, we have been there before. Take warning from our bitter experience. We ourselves were warned, in vain. In 1861, when Mr. Gladstone established the Public Accounts Committee, as a parliamentary watchdog on the growth of government, he warned: "An excess in the public expenditure, beyond the legitimate wants of the country, is not only a pecuniary waste but a great political and, above all, a great moral evil. And it is characteristic of the mischiefs that arise from financial prodigality that they creep onwards with a noiseless and stealthy step, that they commonly remain unseen and unfelt until they have reached a magnitude absolutely overwhelming."

This unheeded warning has been proved justified in every particular. Year after year we in Britain have handed over more and more responsibilities to the state. The Bible has a phrase for it: we have given to Caesar the things that we are not Caesar's. In Mr. Gladstone's day, the British government employed only 75,000 people, most of them in the Customs & Excise and the Post Office. In the central departments of civil government there were only 1,628 officials. By 1974 there were nearly a million of them, and over 8,000,000 employees in the public sector as a whole—27 per cent of the entire working population. By the time public opinion woke up to the magnitude in the rise of public expenditure, in the last two years, it might well be called "absolutely overwhelming." In Mr. Gladstone's day we spent 8 per cent of the GNP on government. By 1974 it had reached nearly 50 per cent, and on a rising curve.

By this point, all rational sense had been lost as to what the government should or should not do. It was—is—doing a bit of everything. One middle-ranking civil servant, taking over new responsibilities, found that in his area alone, government employees were running a gravel pit, a saw-mill, a sign-writing centre, a load-sweeping service, nurseries producing shrubs and trees, a domestic water-supply plant and a machine-maintenance business. The elements of this little empire had only one thing in common: all were "totally uneconomic". In every case, he wrote, "we could buy the same services or the same products for a fraction of the cost elsewhere, even without making allowance for the concealed capital investment which was nearly always involved."

This pattern is repeated, on a gigantic scale, at the national level. By the middle of last year, the British government found itself owning, wholly or in part, 1,104 businesses—the great majority of them running at a loss. Apart from that, they seem to have nothing in common. They include businesses making concrete, asbestos, electrical equipment, chemicals, ships, aircraft, marine equipment, engaged in printing, publishing, construction, civil engineering, cold storage, furniture-removals, nuclear power, oil, gas, rolling mills, quarries, canals, harbours, every conceivable kind of transport, hotels, motels, safari lodges, catering, communications of all kinds, textiles, cotton, sugar, tea, cocoa and coffee estates, waste-incineration, laboratories, tanneries, finance companies, movie studios—everything including a chain of bars, a string of race horses and a football team. You name it; we own it, and it runs at a loss.

As for government agencies—in addition to the main government departments—we have expanded them from less than 10 in 1900 to (at the latest count) 3,068. Among other things, they tell us how to grow apples and pears, market milk, cure alcoholism, make movies, organise supporting activities, dig china clay, train mid-wives, fix dentistry rates, preserve the Welsh language, make hearing-aids, run the herring industry, control detergents and grow hops. They give advice and enforce laws concerned with horseracing, beer, meat, metrication, medical supplies, pigs, potatoes, red deer, theatres, libraries and water sports—and a thousand other activities. They include a Consultative Council on Badgers, a Commission for Motor Rallies, and a Working Group on Back Pain. In 1975—the last date for which I have full figures—these agencies, Quangos as we call them—employed 184,000 people and cost the taxpayer nearly 5 billion dollars.

The spread of government activities has brought into existence whole new categories of workpeople, whose very existence was undreamed of even 15 or 20 years ago. Here, in the field of social welfare alone, are some of the new officials, using the standard government nomenclature: "Intake Social Workers, Home Help Organisers, Juvenile Delinquency Project Coordinators, Senior Social Workers, Residential Child Care Officers, Deputy Community Education and Recreation Officers, Social Workers for Alcoholics Recovery Projects, Locum Development Workers, Youth Project Leaders, Day-Care Advisers, Senior Playleaders, Houseparents, Group Controllers of Domiciliary Services, Supervising Wardens for Traveller's Sites, Team Leaders, Adventure Playground Leaders, Area Coordinators for Self-help Projects, Long Term Play Leaders, Care Co-ordinators and Play Specialists." All these people, I may say, are full-time employees, entitled to life tenure and comprehensive civil service benefits, including non-contributory index-linked pensions. And I should add that, when all the social workers in the east London area went on strike in 1978–9, and were absent from duty for nearly a whole year, it appears to have made no perceptible difference, and led to no recorded complaints among the people they were paid to serve.

However, this is not just a case of Ye Olde Englishe customs. The Frankenstein State is America's most recent immigrant; but I have the impression that it is growing even more rapidly over here than in Britain. Between 1971 and 1976, welfare programmes in the United States expanded at the annual rate of more than 25 per cent—two and one half times the growth of the Gross National Product. Estimated welfare expenditures in 1977 were 210 billion dollars and in 1979 were 250 billion dollars, so that growth-rate is being well-maintained, despite President Carter's so-called 'reform' programme.

Indeed, I detect areas in which the U.S. is already outstripping Britain in the nurturing of the Frankenstein State. One excellent index of bureaucracy is the level of paperwork generated by central government. I see that Federal expenditure on paperwork doubled between 1955 and 1966, nearly doubled again by 1973, and that in the four years 1973–77, it leapt by a further 186 per cent, to reach a total of 45 billion dollars a year. A great part of this terrifying increase springs from new or greatly-expanded Utopian programmes, such as Basic Educational Opportunity, Equal Employment Opportunity, Environmental Protection, Occupational Health and Safety, Food Stamps, Student Loans, Price Controls, Supplemental Security Income, and so on. The paperwork involved in licensing a nuclear power plant, for instance, now frequently exceeds 15,000 pages—the size of the Encyclopaedia Britannica—and may cost 15 million dollars to the utility which makes the application. Last year the U.S. Comptroller General calculated that U.S. businesses in fulfilling over 2,100 Federal reporting requirements, have to spend nearly 70 million hours a year on government paperwork at a cost of over one billion dollars.

This rapid growth of the public sector is not only an evil in itself: it breeds further evils. It corrupts the political system. We calculated that at Britain's last General Election in May, considerably more than half of all Labour voters were either government workers or in receipt of government assistance. It is now not only technically possible, but even likely, that Labour may be able to win an election entirely by the votes of non-productive workers and welfare recipients. In the United States the position is different but only in degree, not in kind. You already have a welfare industry composed of 5 million public and private welfare workers distributing government payments and services to 50 million people.

However, by far the most important consequence, though it is little discussed, is that when the state begins to do the things that are not Caesar's, it inevitably begins to neglect Caesar's primary duties. It is not a question of the state taking on additional roles; beyond a certain point, it is a question of alternatives—of either/or. Let us take the government's basic duties in turn. First, the stability of the currency. As long ago as 1945, Keynes, in almost his last warning before he died, argued that a democratic state in peacetime could not take more than 25 per cent out of the GNP without generating increasingly rapid inflation. Everything that has happened in the last decade shows how right he was. In the 1970s, the British state was not only grabbing half of the GNP, but in one year, 1976, its borrowing requirements alone were 11 per cent of GNP. The result was hyperinflation. The state reneged on its basic obligation to maintain an honest currency. The United States is now undergoing exactly the same experience, and for exactly the same reasons.

Of course the value of the currency is the index of the health of the economy—in my opinion, the only true index in the long run. If the state plunders the nation's resources, the wealth-generating sector must suffer. And it suffers in a fundamental way, by being starved of investment. The studies of Robert Bacon and Walter Eltis in Britain had proved beyond any rational doubt that the growth of the state sector is the primary reason why investment in British industry is so low, and therefore productivity so stagnant. With the growth of the Frankenstein State here, America's recent productivity record has been worse even than Britain's; and as last month's OECD report made plain, this is due to reduced private investment, a lower ratio of research as a proportion of GNP, and increased government regulation.

But why do we need to be told these obvious truths? They were spelt out with admirable clarity by Adam Smith 200 years ago. One of the central themes of his Wealth of Nations is that private individuals create wealth, and government consumes it. The more the government consumes, the less the private sector has to invest. So wealth accumulates more slowly; or not at all, or even declines. Of course Smith was thinking in terms of the court of Versailles, the largest, most ostentatious and prodigal of the governments of his day. But in economic terms, there is no difference between an 18th-century court government and a modern welfare bureaucracy. Whether Louis XV gives the cash to Madame du Barry or President Carter spends it on Equal Opportunity programmes, the damaging effects on productive investment are exactly the same. Near where I live, our local government bureaucrats have, in fact, just built themselves a palace, even larger than Versailles, at a cost of 50 million dollars. Of course it is not called a palace, but a "Community Centre." It does not have a Hall of Mirrors, but it has air-conditioning and an ultra-modern "communications system". Our bureaucrats do not see themselves as parasites. Nor did the Versailles courtiers, who also argued that they performed indispensable functions. And the courtiers at least did not have unions, to protect and swell their numbers, and increase their stipends and privileges. The old-style court, as a vested interest, was a fairly fragile corporation. The modern welfare bureaucracy, by contrast, has powerful institutional defences and a noisy moral ideology.

Which brings me to the second of the state's obligations—the dispensing of justice. Here again, the Frankenstein State makes it increasingly difficult for the primary duty to be discharged. In the United States and Britain, the ideology of the hyperactive state is the promotion of Social Justice. But there is no such thing as social justice; or rather, it is a contradiction in terms. What is meant, of course, is social engineering, for the only form of justice is individual justice. The sole aspect of equality which the state has a right, indeed an overwhelming duty, to promote is equality before the law. The pursuit of social and economic equality is, and must be, the enemy of justice. Positive discrimination, for instance, does and must mean injustice to individuals, and in almost every case underprivileged individuals.

Social engineering in education must mean injustice to individuals; indeed it is deliberately designed to produce it. In that model welfare state, Denmark, the notorious state plan, called U–90, produced by the ministry of Education, states explicitly that particularly bright and well-motivated children should be discouraged from learning, and taught that their individual success and the pursuit of their personal interests is unfair to others and should be suppressed. These methods have been practiced for some years in Sweden and are already reflected in the lamentable economic decline of that bureaucratic country; they are implicit in much educational theory already applied in British and American state schools.

There are other ways in which the Monster State actually impedes its own primary functions of enforcing the law. In Britain, and indeed in America too, it is now a commonplace for social workers to spend much of their time locked in battle with the police and other law-enforcement agencies. In Britain, the state-financed Community Law Centres—an institution we borrowed from America—regards the police and other government bodies as their natural and inveterate enemies, to be fought with every taxpayer's penny they can command. Two of our newest and most active state agencies, the Equal Opportunities Commission and the Race Relations Commission, spend a great and growing proportion of their time 'investigating' and suing government departments. We have in Britain, and you will shortly be getting in America, a Frankenstein State so big that it fights internal pitched battles and civil wars, and in which government officials incite and assist citizens to break laws which other government officials are paid to enforce.

The monster state, indeed, is taking us along a road towards a divided and querulous society in which everyone pursues rights and no one accepts duties. In both our countries, government agencies encourage a maximist attitude to rights—that they must be exacted always, to the limit, and regardless of the cost to the community. In Britain, the legal luminaries of the Labour Party now demand a comprehensive and free state legal service, on the grounds that, if rights are guaranteed by law, 'effective means of enforcing them should also be provided.' They define such rights as 'security in home and employment, minimum income, right to liberty and freedom from physical attack and injury'. I would argue that these are rights that no state can truthfully guarantee and no legal system effectively enforce. Similar demands are made here. It is a formula for a Litigational Society. Such a society cannot produce an extension of rights. It can only end in producing a conflict of rights, since the sum of all our national rights is greater than the amount of freedom available to accommodate them. And a conflict of rights which society is powerless to resolve is bound to end in violence. The final paradox of the democratic monster state is not only that it destroys its own currency, not only that it undermines its own framework of law and order, but that it cannot even defend its vital interests and the lives of its citizens from external outrage and murder.

In Britain and America, while the proportion of the GNP the state takes has been rising steadily, the proportion of that income it spends on defence has been falling. The results are becoming painfully and visibly apparent. You cannot relieve a beleaguered American embassy of airlifting a regiment of welfare workers. You cannot frighten Mr. Brezhnev with Food Stamps. The more the state attempts to invest its citizens with the illusory rights of Utopia, the less able it becomes to guarantee him the ones that really matter—life, liberty and the enjoyment of what he has earned. The more the state expands, the more it loses its credibility as a benevolent and paternal protector. When Ceasar becomes a nursemaid, he ceases to be a soldier. The monster state, with its prodigal waste, its promotion of injustice in the name of equality, and its muscle-bound impotence, cannot inspire respect, let alone love: in the last resort the only emotional response it evokes is fear. The citizen becomes a mere subject. Patriotism is replaced by indifference—or even hatred.

I once regarded the state as a means whereby the less fortunate among us could be enabled to achieve the self-expression and moral fulfillment which is their aspiration as creatures made in God's image. While continuing to desire the end, I no longer have any confidence in the state as the means. On the contrary, I have come to see it as the biggest single obstacle to the individual self-expression and moral maturity of all of us, and not least the poor, the weak, the humble and the passive.

My change of view has been brought about by experience, notably the grim record of the last decade in Britain, where the cumulative evils fed by the growth of collective power and state expansion have become overwhelmingly manifest. But it has also been brought about by historical study. History is a powerful antidote to contemporary arrogance. It is humbling to discover how many of our glib assumptions, which seem to us so novel and plausible, have been tested before, not once but many times and in innumerable guises; and discovered to be, at great human cost. wholly false. It is sobering, too, to find huge and frightening errors constantly repeated; lessons painfully learned, forgotten in the space of a generation; and the accumulated wisdom of the past heedlessly ignored, in every society, and at all times.

Of all those lessons, the one which history most earnestly presses upon us, and which we most persistently brush aside is: "Beware the state." Man, as history shows only too clearly, has that element of the divine in him, the element which causes him ceaselessly to strive for the ideal. It is his glory and his ruin. For in his Utopian quest he embraces the political process as the road to perfection. But the political process is itself a delusion, more likely to lead to hell than heaven. If a society is unlucky, the political process, pursued relentlessly enough, will carry it straight to Auschwitz or the Gulag Archipelago. But even the most fortunate societies, such as ours, will find nothing at the end of that dusty track but the same man-made monster, the state, as greedy and unfeeling as it was when man first invented it in the 3rd millenium before Christ, with its cavernous mouth, its lungs of brass, its implacable appetite and unappeasable stomach, but with no heart, no brain and no soul.

I believe it is possible to detect, on both sides of the Atlantic, hopeful signs that we are learning this lesson. The claims of the monster state are being exposed, one by one, as fraudulent, and the evil consequences of its expansion are being examined and publicized. In those parts of the world where debate is still free, the advocates of collectivism are already on the defensive. We are winning the battle of the intellect, and in time we shall win the battle of government too. By the end of this century, if western civilization exists at all, it will have resumed its progress towards the liberation (liberalization?) of human spirit and genius. When we look back from the year 2000, I think we shall see the end of the 1970s as the turning point, when the civilized world, not without pain and grief, returned to its senses, and the democratic state ceased to be our master and became again the servant of the people.●

WORKPLACE FATALITIES

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. GAYDOS. Mr. Speaker, 1 out of every 10 workers in private industry each year suffers the effects of an accident or disease incurred while working. Furthermore, it should be noted that in many instances the concentration of industries with hazardous conditions in certain geographic areas, or their presence as the only industry in a community, gives workers, in effect, no opportunity to choose a safer job. Thus these workers are at the mercy of the safety measures provided by their employer.

Another related problem is the vulnerability to hazards of new or seasonal employees, such as high school or college students who are earning money for school during their vacation time. Many of these employees simply do not receive adequate safety training and fall prey to a variety of hazards, many of which prove to be fatal.

Among the various industries throughout this Nation, logging operations are among the most hazardous. Injury incidence rates provided by the National Safety Council indicate that in 1979, as in other years, the injury rate for logging operations is among the highest of all industries in this Nation.

At this time I would like to provide for my colleagues information on some recent tragedies which have occurred in the logging industry:

On October 3, 1979, a 23-year-old Pendleton, W. Va., man died following a logging accident. The victim was loading a logging truck when he was fatally injured by a log falling from the vehicle.

On October 3, 1979, a 23-year-old logger was fatally injured in a logging operation in Walla Walla, Oreg. The victim died from injuries resulting from a log hitting him on the head.

On October 4, 1979, a 47-year-old Marietta, Ill., man was crushed to death when a log rolled off the truck he was unloading at a sawmill.

On October 10, 1979, a 35-year-old employee received fatal head injuries as the result of a logging accident in Shoshone County, Idaho. The victim was struck on the head by a log while attempting to have it towed from the area.

On October 23, 1979, a Monroe County, Ala., man was killed in a logging accident. The victim was struck by a falling tree. Another employee of the same company had previously been injured in another job-related accident on October 18, 1979.

In conclusion, the above examples are intended to demonstrate the serious consequences which can result from hazardous work environments. However, it must be stressed that occupational hazards can be controlled by modifying the work environment. For success prevention strategies must rely heavily on employer efforts and support from employees, unions, and government regulatory bodies such as the Occupational Safety and Health Administration which has responsibility for mandating and enforcing health and safety standards for the workplace and for educating workers about potential hazards. Scientific support for the administration's work is provided by the Department of Health, Education, and Welfare's National Institute for Occupational Safety and Health (NIOSH). Clearly, enforcement of the 1970 Occupational Safety and Health Act deserves high national priority.●

HE WATCHED THE WATCHDOG

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. LaFALCE. Mr. Speaker, about 1 month ago Charles B. Seib left the employ of the Washington Post after serving for 5 years as that great newspaper's "ombudsman." Mr. Seib has served the Post and the profession of journalism well. He and the small band of "ombudsmen" at other newspapers (there are but 20 in the United States, out of over 1,700 daily papers) have begun a movement within the profession of journalism that can only strengthen our free press and the quality of service it delivers to the public.

Last month, on November 9, Mr. Seib wrote one of his final columns in the Post. Entitled "Having Watched the Watchdog," it summarizes the experiences—the successes and the failures—he had faced during his tenure. I was particularly taken by his analysis of what the people—the readers—think about their newspapers:

> There are few among them who would say that it should not be free. They want a better, more responsible press, but not a fettered one.

The 20 newspapers around the country who have hired Charles Seib and his counterparts are to be commended for having the foresight to know that their institutions, like any institutions, can not only survive by having internal critics but are almost always strengthened and improved by it. It is my hope that more and more organs of our mass media will try this or other approaches to take a hard look at themselves and, having done so, to consider ways in which their method of dealing with their large responsibilities can or should be changed and improved. I would especially commend such action to our television networks.

Mr. Speaker, Charles Seib's shoes will be difficult to fill at the Post. He has set a standard, however, not only for "ombudsmen" within the journalism profession, but also for the institutions which convey our news to us. I hope they recognize his challenge and rise to it as they do daily to the difficult and often frustrating job of finding out what is happening in the world and presenting it to the American people.

At this time I would like to insert Mr. Seib's entire column in the RECORD and to say, to Charles Seib, that his voice will be missed.

The column follows:

HAVING WATCHED THE WATCHDOG

(By Charles B. Seib)

Way back in 1947, the Hutchins Commission on Freedom of the Press urged the news business to adopt "a resolute policy of criticism of the press by the press." In 1967, A. H. Raskin of The New York Times proposed that newspapers set up "departments of internal criticism" that would represent the interests of their readers.

Out of those suggestions came the newspaper ombudsman, a modest attempt by the press to deal with the paradox of the unwatched watchdog: the press, which monitors and, in effect, disciplines the other institutions of society, is not itself monitored or disciplined.

About 20 American newspapers now have ombudsmen on their staffs. Since there are about 1,750 daily newspapers, this is not a landslide movement. It is growing, but very slowly.

Five years ago I joined this tiny band (then even tinier) under a five-year contract with The Washington Post. The contract will expire next week, and The Post and I will part company, as was agreed at the start.

There is no set job description for the newspaper ombudsman; each brings different qualifications to the job and each works under a different set of rules. What follows represents the findings of one ombudsman only—this one.

First, what have I learned about the customers—the readers whose interests I have tried to represent? I learned early on that newspaper readers are more perceptive than most editors realize. I say that as a former editor.

Readers are quick to notice the flaws that crop up in every newspaper—the headline that goes beyond what follows, the distortions caused by what we in the business call the "hype" and the "needle" or the biases of the reporter, the unjustified implications of overdisplay or underdisplay.

While quick to detect these flaws, readers tend to ascribe the wrong reasons. Too often they see errors of judgment and mistakes caused by deadline pressure and outright stupidities as evidences of a deliberate slanting of the news.

We of the press are to blame for this conspiracy theory of journalism. We have a tradition of aloofness from our customers and a totally unjustified posture of infallibility that encourages such suspicions.

I have also learned that readers care about their newspaper. They admit it to their homes as they would a friend and they want it to behave honestly and honorably, as they would expect a friend to behave.

They may not think deeply about the implications of the First Amendment or rush to the defense of the press when the courts slap it down. But, I am convinced, they recognize that the free press is important to them as citizens in a democracy.

Although they may be disappointed in the press and even distrustful of it, there are few among them who would say that it should not be free. They want a better, more responsible press, but not a fettered one.

And what have I learned about the reporters and editors who put out our newspapers?

My reactions may be distorted by my own journalistic background, but here they are: I believe that news people are, as a group, deeply dedicated to their mission of informing the public. I have known good journalists and bad ones; I have never known a dishonest one.

Having said that, I must also say that elitism is an occupational disease in newsrooms and editorial offices, and humility is in very short supply. Publish and be damned is the mood today and compassion is synonymous with softness.

Finally, the bottom line. Have the last five years been worth The Post's money and my time?

I think the answer is yes, followed by a quick acknowledgment that an ombudsman's triumphs are few and his frustrations are many.

The effectiveness of the ombudsman is limited by one essential fact: he is always dealing after the fact. Since he does not—and should not—take part in the operation of the newspaper, by the time he registers readers' complaints or his own, the paper has been printed, read and used to wrap the garbage.

While he can promote the publication of corrections, they have a limited value. They can rectify errors of fact, but we haven't found a way to make amends for the story that should never have been printed, or for the story correct in its facts but wrong in its implications. Or the one that should have been printed but wasn't and now won't be because it is "old news."

To be at all effective, the ombudsman must have the right of publication—that is, his paper must be willing to print what he writes about it, however critical. Sometimes he can use that right to repair damages or redress a balance.

But all too often, the most he can offer the irate reader or the injured party is an explanation and an apology. That is when he tells himself that his efforts have a cumulative value that transcends the daily score.●

THOMAS P. DOLAN OFFERS INSPIRATION AND CHALLENGE TO AMERICAN YOUTH

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. LENT. Mr. Speaker, in an era when many glib cynics attract great attention by decrying the worth of our Nation, it is tremendously encouraging to know that there are those in our land who understand and appreciate the benefits and the challenges it offers. Particularly is this true when this understanding and appreciation is found among the youth of our Nation.

With this thought in mind, Mr. Speaker, I want to direct the attention of my colleagues to a recent address by Thomas P. Dolan, the son of Thomas E. Dolan, of Baldwin, in my Fourth Congressional District. The younger Mr. Dolan is a social studies teacher at the Canastota, N.Y., high school. In speaking to a recent national honor society induction at his high school Mr. Dolan directed his remarks to the role of the educated citizen in this great country of ours. I found his address tremendously inspiring and challenging, as, I am sure, did the young people to whom he was speaking.

Mr. Dolan, a 1978 graduate of Hamilton College in New York, deserves the commendation of every one of us in the U.S. Congress for his most thoughtful and provocative exposition. I found it heartening that a member of our younger generation was expressing so eloquently and so urgently the obligation of the educated citizen in our society.

Mr. Speaker, I urge my colleagues to read most carefully the full text of the remarks of Thomas P. Dolan, and to bring them to the attention of the young people in their congressional districts.

The address follows:

ADDRESS DELIVERED BY THOMAS P. DOLAN AT NATIONAL HONOR SOCIETY INDUCTIONS, CANASTOTA HIGH SCHOOL, OCTOBER 15, 1979

I come here tonight very pleased to address you.

Pleased first of all that I have been so honored as to be asked to be your speaker this evening. The graciousness of your invitation was not lost on me and I am very grateful for having been invited.

Secondly, I am pleased because I have something to say. It may well be a little while before I have so thoroughly captive an audience of bright receptive minds; and so I plan to make full use of it by saying something worthwhile. I have a statement to make which is a powerful one. In fact it is so powerful that it may well change the lives of a few tonight, in fact it may even change things far more important than just a few lives.

Now I may sound like some traveling medicine man out of the last century offering Dr. Primrose's Perfect Panacea to cure everything from pimples to palpitations, but this is not the case.

The statement I come to make is soundly based on an accepted, if not well known, premise.

That premise is that the single most powerful force in human affairs is the educated mind.

Part of the proof of that premise lies in our presence at this ceremony. We are honoring you for having succeeded, for having excelled, for having done so very well at your academic endeavors. For this you are to be congratulated; however, you are also to be reminded of a few things.

John Locke spoke of a Social Contract in his work, two treatises on government. This contract was an unwritten, unspoken, yet well understood agreement between King and subject. I would like to propose a similar contract to you that we can call The Educational Contract. The party of the first part in this contract is you, the successful student. The party of the second part is our society. The contract in this case is similar. It is this—If a society does a superior job of educating you, then you are duty bound to serve that society in the manner that best suits your mutual needs and talents. In other words, America, having educated you so well, can now expect you to aid in preserving the accomplishments of our union.

This is the public duty of educated young people.

Now I am not proposing mandatory military service, for there are other ways to serve your country. Some of these are very concrete ways, others more ephemeral. They are all important.

There are a number of ways you can ably serve your community. I will enumerate three of them and ask you to think about each.

One, you should consider your opinions; second, support your opinions and third, represent your opinions.

Consider your opinions by making careful choices based on fact, logic, and the beliefs of others you respect.

Support your opinions first by voting. Millions of people every year elect not to vote. By doing so they shirk a responsibility that is so basic I will not dwell on it. You also support your opinions by voicing them when you are asked and when you believe they are needed. Don't deal in generalities, deal with issues. The world does not need any more of what I call "Propounders of the obvious"; that is, those people who never discuss important things, only those things that everyone can discuss without fear of displaying their ignorance.

Represent your opinions by utilizing whatever skills you may have to be a person associated with those beliefs you hold to be important. If this includes serving in elected office, then this too is part of your responsibility.

Obviously, all of these duties are antithetical to apathy. You have to care, you have to force yourself to care. You must assume responsibility to place squarely on your shoulders not only your own concerns but also those concerns that you as liberal humane adults discern to really matter.

Don't just complain, don't just gripe, don't just accuse, don't just argue. Do something—act, or at the very least complain to those ears that may be able to act in your behalf.

A topic I dwell on in class when I hear people aimlessly complain is the fact that life is not fair.

Each one of you here tonight can inspect your birth certificate to your hearts content, check every square inch of it, top, bottom and all four sides. You will not find on that slip of paper a warranty on the fairness of life. Ralph Nader will never take on a lawsuit because someone's life is not fair, because no one ever said it was.

However, I challenge you to go forth and make life fair. The reason why I challenge you is because you have been well equipped with the weapons to fight inequity and injustice. With your arsenal of reasoning, logic, compassion, foresight and responsibility there is no foe you will find easy to overcome—but you should be confident that those silent enemies can be beaten.

In closing I remind you of the logic imbedded in my address:

The first premise is that educated people are best prepared to improve the condition of the world and they have a responsibility to do so.

The second premise is that you are educated people who have well proven your ability.

Finally, then, it is your responsibility to maintain if not improve the world you will be inheriting. I am confident, knowing most of you as I do, that the world can only benefit in your capable hands. I am certain you will not let down any of us who are so proud of you.●

AN ANGRY GEORGE WILL

HON. ROBERT H. MICHEL

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. MICHEL. Mr. Speaker, I believe that if a poll were taken among Congressmen, administration officials, and members of the national media concerning the most respected nationally syndicated columnist, I would not at all be surprised to see the name of George Will at the top, or very near the top, of such a list.

Will is admired not only for his writing skill, but because he is one of those rare political columnists who thinks before he writes. You can expect no reflex action from Will. He will not give the same ideological answer time after time. He thinks for himself, and the result is a column that is respected across the political spectrum.

I say all this to point out that Will has recently written what might be called an untypical column. It is an angry column, because Will appears to be disgusted with the idea that the United States, when confronted with a crisis, can do nothing but make sounds and complain about how mean other nations are. Coming from someone else such thoughts might be dismissed; coming from George Will these thoughts in all probability reflect those of millions of Americans who are neither bomb-throwing jingoists nor America-last radical leftists.

At this point I wish to insert in the RECORD "How To Deal With Iran," by George Will, Newsweek, December 24, 1979:

HOW TO DEAL WITH IRAN

(By George F. Will)

Russia certainly is ungrateful, supporting Iran's seizure of the U.S. Embassy. In August, when Soviet agents hustled a ballerina aboard a Soviet plane on U.S. soil, the U.S. treated the plane as an embassy, inviolable. Instead of kicking off the agents and freeing the ballerina to think in peace about her future, U.S. policy condemned the hostage—that's what she was—to the uninterrupted custody of the agents. Today, as then, the U.S. has chosen "restraint" rather than other, better options. Even if the crisis ends tomorrow, "favorably" in that the hostages are safe, the U.S. will have hurt itself by advertising its reluctance to act unilaterally.

The U.S. should immediately have jammed radio and television transmissions in Iran, and from Iran. Khomeini, a seventh-century man dependent on twentieth-century technology, fought for power with telephone calls and tapes from Paris. Jamming broadcasts (and perhaps sabotaging the telephone system) would sever the ligaments of his regime, and would make impossible what otherwise is impossible to stop: Iranian manipulation of the international media.

An immediate blockade of Iran, keeping food out and oil in, would have had the secondary benefit of discomfiting our allies. They should be reminded with pain, not rhetoric, that our fates are linked. The U.S. could have bombed the dam that supplies much of Teheran's electricity. If Iranians want the Dark Ages, we can provide the dark. The Abadan kerosene refinery could have been put out of commission. Iran has cold winters. Shivering in the dark would concentrate Iranian minds on the cost of Khomeini. Iran is mountainous. Railroads can be cut easily by bombing tunnels and bridges. And don't forget the pipeline that sends natural gas to the Soviet Union.

MANY CHOICES

The U.S. should seek to lease the Sinai air bases, and the former British base on Oman's island of Masirah. The U.S. could occupy the three islands off Iran's coast that the Shah seized in order to settle a sovereignty dispute. The U.S. should ready the island of Diego Garcia in the Indian Ocean for B–52s, aircraft carriers and missile-carrying submarines.

From the start, many Americans felt a vague relief that "there is nothing we can do." In fact, there are many choices the U.S. chose not to make. Instead, it spent weeks emitting chaotic signals about avoiding bloodshed, force, even pressure. Carter waited 39 days before even expelling most Iranian diplomats. If the U.S. had wanted this crisis prolonged, would it have acted otherwise? Washington is not wholly unhappy when immersed in a crisis that enlivens conversation without actually compelling hard actions. I detect something like enjoyment of this crisis, with its vigils, public praying and telegenic gestures.

But while Washington is dimming the national Christmas tree, the Soviet Union is forging an iron ring around the Middle East—in South Yemen, Ethiopia, Afghanistan, Libya, and with its Mediterranean fleet. Soviet radio spreads instability, as in Iran. Soviet military maneuvers are honing a quick-reaction capability to exploit instability. Within the closing ring, Arab leaders are not reassured by U.S. "restraint."

At the U.N., U.S. "restraint" was rewarded with a resolution of awful "evenhandedness."

It did not condemn Iran; instead it asked the aggressor and the aggressed-against equally for "restraint." The U.S. should have replied: "You won't condemn Iran, we won't subsidize this travesty. Henceforth, we pay 1/151, not a fourth, of the U.N.'s budget." Instead, the U.S. hailed the U.N. resolution as a victory. As John Jay Chapman said, "One need not mind stealing, but one must cry out at people whose minds are so befuddled that they do not know theft when they see it." The U.N. "victory" was a call for the criminal and the victim "to resolve peacefully" the "issues between them." Issues, shmissues, they've stolen our citizens. That's not an "issue," that's an act of war.

The U.N. debacle, the effort at the World Court and Secretary Vance's travels in search of supportive allies were attempts to cultivate world opinion. But what the world needs is a demonstration that, at times, the U.S. doesn't give a damn about "opinion." There is, as Jefferson wrote, such a thing as "decent respect for the opinion of mankind." But he wrote that in a declaration of independence. The U.S. needs a declaration of independence from the ideal of restraint in the face of government-sponsored terrorism.

When Pravda supported Iran, many staff members at the U.S. Embassy in Moscow complained that the U.S. was too mild in dealing with the Soviets. Only the State Department could contrive to find Soviet policy on Iran ambiguous. Vance called Pravda "deplorable" (is deplorable worse than "unacceptable," as in the "unacceptable status quo" in Cuba). Earlier, in Moscow, some Soviet officials were disinvited from an embassy screening of "Goodbye Girl." Thus did the American eagle show its talons.

VIETNAM COMPLEX

Last week, the Wall Street Journal noted that when, last August, Aleksandr Godunov defected, "a contingent of burly Soviets" flew in from Moscow. Then "a carload of husky Soviet 'tourists' paid a sudden visit to the Tolstoy Foundation estate in Valley Cottage, N.Y., a frequent stopping place for Russian refugees. The 'tourists' clumsily but effectively searched the premises, in the apparent hope of finding the defected star before he received asylum." Have you heard the eagle scream about that? Or about Soviet violations of the Atmospheric Test Ban Treaty? Or of the Threshold Test Ban Treaty? Or of the SALT I ABM treaty?

The Administration is decorous with the Soviets, in part because of its paralyzing obsession with SALT II ratification. Last week, Carter yielded to Senate pressure and endorsed increased defense spending. An aide said this marked the end of "the Vietnam complex." Nonsense. Carter wants the increase because he wants SALT II, which embodies a complacent world view that is part of "the Vietnam complex." Were SALT II ratified, Carter probably would no longer want the increases. He has a record of watching quietly as Congressional allies trim his paper proposals.

Three months ago he opposed what he now proposes. And three months from now? If his sudden, Saint Paul-like conversion is real, he is too plastic for comfort. But his rebirth as a realist is too convenient for comfort, coinciding as it does with the imperatives of the SALT debate and the mood of the moment, both of which will end.

Soviet troops have entered the Afghan civil war; another Soviet inhibition is being shed. When told that the Soviet Union is helping starve Cambodians, impeding the delivery of relief and diverting supplies to its proxy soldiers, Carter exclaimed, "Is there no pity?" No, Virginia, there is no Santa Claus, no pity and no one listening to White House appeals to "the responsible leaders in both Hanoi and Moscow." ●

MEETING THE CHALLENGES OF THE EIGHTIES

HON. RICHARD BRUCE CHENEY

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. CHENEY. Mr. Speaker, at the recent annual meeting of the Wyoming Farm Bureau Federation in Jackson, Wyo., the organization's president, Mr. Dave Flitner, gave a most informative and inspiring speech about the challenges of the 1980's.

Mr. Flitner, who was just elected to his 10th term as the president of Wyoming's largest agricultural organization, is an articulate and persuasive advocate of the free-enterprise system as a positive and effective force in meeting America's challenges. I ask that his speech be printed in the RECORD for the benefit of my colleagues.

The speech follows:

REMARKS OF DAVID FLITNER

Fellow Americans and Farm Bureau members, Meeting the Challenges of the '80s. The question is, "Can we do it?" And the answer is, "Of course; with hard work, and luck, and divine guidance." The question is, "What are the challenges?" The answer, "They are too numerous to mention." The question is, "Who will speak for agriculture?" The answer is uncertain. Will it be the universities, will it be the churches, will it be federal and state agencies, will it be politicians, or will it be farmers and ranchers? The question is, "What do you mean?" The answer is, "Many people, as evidence demonstrates, actually feel the federal government of the United States of America, is the producer of wealth, not the productive people of this great land."

The result is what we are all witnessing in America today—nearly unprecedented inflation, a very questionable moral environment, an environment where some of our spiritual institutions are not involving themselves full time in the spiritual realm, but in the social activist arena. We are seeing the threat at this moment on the horizon of the economic system in America, and we are now, in my view, on the threshold of deciding as a great nation, and as a philosophical and hopefully the spiritual leaders in America and the entire world, as to whether or not this system that our forefathers put together, shall prevail.

I don't think I overstate that, because I have been, this past year, in most regions, if not all, of the United States, and some abroad, where the most really terrifying attacks on our system affects those of us in agriculture who happen to use about 3 to 5 percent of the energy that is utilized in America; and that is in the form of the windfall profits tax. And I don't think there is anybody in this room who is under the illusion that that is not a windfall profits tax at all, it is a severance tax. It is a transfer of wealth unprecedented in the history of this republic; from you, the working people of America, to a federal government establishment that will probably continue to use those resources for the furtherance of a society that is so top heavy now with government that the question is, "Can we afford the additional regulation?"

When you add it all up, you're probably talking in terms of 700 billion dollars in transfer of funds from productive people—from people who have oil rights, from people who own land, from states, basically in the West, to a government that has become extremely remote to many of us, and especially those of us who happen to reside in our newly designated colonial status of the, Western United States.

Ladies and gentlemen, the choice facing America is simply, "Are we going to eat the seed, or risk it in the field?" Historically, America has been a land of opportunity, but the direction today is one with a national economy that has been choked by taxes and regulations that are pressing down on the enterprise system and are nearly preventing it from functioning in the marketplace.

The woods are full of examples of this phenomenon, and it would not be really material for me to attempt to enumerate them all, or even part of them, but one is the minimum wage law concept; the very well intentioned philosophical concept that says, 'If we elevate the wages of the working man by federal decree, or state decree, that will result in an increase in wealth for working Americans." If that were true, you and I would vote tomorrow, or today, to raise the minimum wage to $100 an hour, so that we could all share in this Utopian type environment that would result from this type of regulation.

But we know the reverse is true. We know what has happened when these type of decrees have come down—it's actually increased unemployment—and statistically I'm not going to bore you with the statistics that I have, but this has been proven time and time again and every time there is an increase, a well-intentioned increase by people who would like to enhance the life style of all Americans, the results on the other side of the spectrum—it actually increases unemployment.

The tax policies need immediate revision in order to enhance the productive sector of America—the backbone, the foundation, the wherewithal that made this life that we share in this great land possible. But they are presently structured in a fashion that is detrimental to anybody that is producing, whether it be timber, agricultural products, energy, agricultural chemicals, industrial products, or you name it, it's the same ball game.

And in the board rooms that I have been in, the conversations that I have talked to, leading business people all over America are so perplexed about this—they are so confused as to why they should be required to have a consumer interest on their board of directors knowing nothing about business, and why should they be injected to this type of consumeristic type of thinking that is absolutely foreign to the business decision making process that has made this nation the envy of the world.

On the other hand we have seen a phenomenon in Washington, and that is not only Washington, within the bureaucracy, within the philosophical thinking of people in the government of the United States in various levels, that says the way to elevate the status of people in this country, which is all of our dreams, certainly, is to increase the tax load on business, and to reallocate it to those less fortunate. But the law of diminishing returns has been proven, in the last three attempts and efforts where there were actually tax reductions—you know what actually happened—where there were tax reductions, there were actually increases in the coffers into the federal government, which proves the theory that we have held, that if you provide incentives to the productive sector in the form of tax relief, they will produce more, and if it's revenue that is the end product, and the end desire of the federal establishment or the state establishment, if they want that, give the private sector the opportunity and the incentive and we will flood them with dollars.

It was my privilege to serve as the American Farm Bureau representative—there were three of us, I believe, in Washington this past summer, on the National Tax and Spending Limitation Committee, in which time we met with the National Association of Manufacturers, and a number of other groups, business people, and so on, that would come in one at a time and make their presentations.

And one of the gentlemen that was there, two of them, one was the Counsel of the House Ways and Means Committee; the other, the Counsel for the Senate Finance Committee.

And I don't have their names recorded at this moment, but as we entered into this very interesting philosophical discussion, one gentleman said, and I'm sure he was a lawyer, he said, "If we would go so far as to increase the personal exemption by $100, we would decrease federal revenues to the United States of America, the treasury, by 2 billion, and we can't afford it." And I sat there for a minute, as a committee member, and I thought to myself, "My God, I have got to say something."

And I said, "Sir, would you please entertain a question, and a little discussion at this point, would you mind if I interrupted?" And he said, "Not at all," and in fact I think he was relieved. And I said, "You know, you represent an institution that has probably more financial backing, has the opportunity to develop more technical expertise, more resources whether they be computer, whether they be the business resource, the business people of America, or whatever you would so desire to research to make a point." And I said, "You have just told us that if you gave relief to certain Americans it would cost the federal government."

And I said, "It seems to me that that is taking a very negative approach to a very essential issue if we really desire to get the economy of America moving again." And I said, "Have you ever considered the possibility of taking more pains and efforts and directing more of your research into the stimulations that might accrue resulting from tax relief in various sectors of the economy." I said, "I think it will work, and a lot of people think it will work, and a lot of people feel that the load that they are carrying through both taxes and regulation is so counterproductive to the things that all of us would like to achieve as American citizens." That frankly stopped him for a few minutes, and he nodded, and he said, "You know, Mr. Flitner, that is an interesting concept, but I want you to know that it isn't very popular in Washington today."

And later we went out, and among all the people sitting around that table, he came over to me, and he shook my hand, and he said, "I happen to agree, really, with your basic premise; but," he said, "again, we've got a lot of convincing to do, on the philosophy or any approach like that." And I said, "I realize that, but, you know, that is immaterial to me, whether it is unpopular or not. I happen to represent agricultural people that work every day, most of them in the fields; and they're not really too concerned about whether it's popular or not.

They are concerned about the preservation of our society; and many of them feel as I do that unless we get this burden, this unproductive burden off their backs, our children and their children will not have the same opportunities that we have." He grabbed my hand again, squeezed it hard, and said, "I agree with you," and he left.

We are gaining. We are gaining I think because we're right. And there are more people coming to our camp in economics all the time. Hopefully we have the time to turn the corner. We are packing such a horrendous load, and we have got to shout this to the mountain tops at every opportunity, which I intend to do.

Let me give you one example, one example that is so offensive to me, and certainly to you, that you should know it, from a statistical base. And this happens to be from a former head of the HEW, Health, Education, and Welfare, Mr. Callafano that's right out of his speech, and I have a copy of his speech right here, and I want to read this one paragraph to you. And he's talking about HEW. He said, "The department directly employs 150,000 people; but it pays the salaries of more than 1 million additional employees on state and local government rolls, and the private sector.

"Its budget is now 38 percent of the entire federal budget; more than double the 18 percent it was in 1964. In fiscal 1980," and listen to this, "it will exceed 200 billion dollars. And if you took the budgets," and I'm quoting, "of all 50 states in the union, they'd fall at least, at least 50 billion dollars short of the HEW budget.

"HEW has the third largest budget in the world—behind the budgets of the governments of the United States and the Soviet Union. Most of that money, 75 percent, constitutes transfer of payments to poor people, old people, and to pay medical bills."

Ladies and gentleman, as well intentioned as every one of us in this room is, no one of us wants to see anybody suffer, or be without food or clothing; we now entertain a 7 trillion dollar obligation as American citizens to the treasury of the United States of America. Seven trillion; and to the best of my knowledge that comes down to $66,000 for every tax paying American citizen.

The question is, "Is this serious, or is it not?" I say it's serious. I say we have to some way put a Constitutional spending limitation on apparently governments at all levels—start by the concept in California of Proposition 13. And that is one area, and a very high priority area, of the American Farm Bureau, of which I happen to be privileged to be a member of that committee at this time. I think it's paramount to the survival of the future of our economic system, to put it very, very simply. We could go on on inflation—there are so many statistics that are so shattering, and the statistical increase of federal spending and national debt—a national debt of over 800 billion—which the interest on that, in one week, is one billion dollars a week.

From an economic standpoint, realistically, to those of us who are in business for ourselves, it's frankly terrifying. And it's not only terrifying to us, as I found out as I traveled abroad, it's terrifying to those who hold this country up as an example of freedom and economic strength in the entire world. They are as concerned about the survival of America, and our economic system, as we are; but the difference is many of them, and I repeat, many of them overseas are better informed about the consequences of the present direction of our economic system than we as citizens of this great land.

I hate to be gloom and doom, but I am one that does not like to give up the fight, nor will I, but I was very critical of some of my good friends in the oil business, here some time ago, in the recent past and I said at the time that the windfall profits tax concept came out, "Why on earth don't you expend some of your resources on prime time to provide a counter proposal to tell the story to the American public and to the world; what the alternatives to the energy situation are with respect to the windfall profits tax, as some people say, the profits therefrom are supposed to be obscene." Do you know what the answer was? A pleading answer, he said, "Dave, we would, but the major oil companies in the United States of America cannot buy prime time to answer; to provide an alternative to the windfall profits tax concept." But the business sector in America has fallen into disrepute, apparently, with the media. And the reason I point this out so firmly, I hope, is that this is an attack on the system. It isn't energy; it very well might be us trying to get a platform to present our view on wilderness or predation or whatever. It is an attack on the system and if we stand by as business people and allow another vital segment of the economy to go under, the question we should be asking ourselves is not if it is going to be us next, but when.

Did you know that the Department of Energy, one department of the federal establishment, in 1978 expended of your dollars, 11 billion. That exceeded more than the total revenues of the eight largest oil companies in the United States of America. And it was an amount larger than the importation of the value of the oil from Saudi Arabia. That one concept, if I were to be quoted—and I wrote this down so that I could get it straight—the windfall profits tax concept is the most outrageous and colossal miscarriage of justice ever proposed to the American people. And we are next if we allow this to happen.

We have seen Great Britain and what happened to them when they nationalized their energy resources, and I don't think any of us want to follow them down that chute.

We are already in agriculture under attack, and I had the opportunity to be exposed to this, and I guess I'm getting kind of conditioned to it, because I'm getting to the point where I almost enjoy these frontal assaults on agriculture, because normally they're made by people that don't have their homework done, and thank God Farm Bureau has done a good job, I think, of educating their leadership and their members.

But we are attacked in a number of arenas, and I just want to recount some of them, so that, without going into detail—the Water Quality area—there's not a Farm Bureau member here that needs an explanation as to what I'm talking about—208, the EPA, and so on—their legislative desires, and this type of thing, under the various water quality concepts that are proposed, already on line. Ag Land Assessment—there's a big discussion going on nationwide as to the problem of dwindling agricultural lands in America.

Certainly all of us should be extremely concerned about this, and I attended a meeting in Denver—I think maybe one or two of you were there—in the past couple of weeks where we had a chance to address this issue; and it was rather interesting what people gave as the cause; and it was simply economics. And there was a cross section there. I think economics was number one and survival was number two, of the concerns that people said related if agricultural lands were going to stay in agricultural production.

Well that gets it right down to where the calves can eat it, doesn't it—down to where if you have a farm, and it's 160 acres, if you can make a profit on that, and somebody comes long and wants to subdivide that, if you are in a profit making mode, because of the return on your investment, and labor is returning you a fair profit, and I come along and want to buy it, for subdivision you're probably going to tell me no, that you'd prefer to pass that along to the next generation. But if that was not the case, as has been the case across America, as the result of a cheap food policy, overtaxation, unrealistic inheritance tax laws and these types of things, do I blame you for caving in, or do you blame yourselves for caving in, or do you have a choice?

The disappearance of agricultural lands from the face of America is a direct result of the fact that the economic system has been basically a cheap food policy, and people cannot survive this type of continued stress, so obviously, if there is an opportunity to get some relief, they take that course. Can you blame them?

Some other concerns, certainly, the public lands issue, and I call it basically as far as the recent history is concerned, the mismanagement of the federal land establishment, or the federal land resources of America, mainly located in the Western part of the United States. And here we are, indeed, mere colonies. We are mere colonies; we were not given equal status under which the other states came into the Union.

It is unfair; it's being presently challenged legislatively and in the courts, under the concept of the Sagebrush Rebellion. We'll not belabor that point except to say that the mismanagement has been so colossal in so many areas—112 EIS environmental impact statements at a cost of over a million dollars apiece plus, meanwhile stymieing soil conservation practices in America, stymieing reservoir developments, stymieing cross fencing to enhance grazing resources, stymieing grass planting and developments, stymieing sagebrush spraying, stymieing all sound conservation practices that would enhance the resource in the name of conservation, mind you. It is a colossal shame. And we are paid and are paying as a society for our sport.

Timber—the resource management of timber. I had the opportunity to fly across from Cody in a super cub this summer to a meeting in Idaho from east to west and then back the other way and flying across Yellowstone National Park was quite a revelation to me. I've seen this on a national forest—but the number of downed trees that are actually dead and dying or diseased—to me it's a national shame in our national forest when you see the resources and the fact that the constraints upon management—the fact that even if a stand of trees is so diseased that the only solution is to clear cut, the regulation will prevent this.

And yet on the other hand Weyerhauser and those that hold private timbers are doing an immaculate job in enhancing the resource and improving the productive capability of that resource and the economy of the entire area and the United States. Here again the regulations coming down, as well meaning as I'm sure they must be, in actual practice are an absolute disaster.

We're seeing that in every area. We're seeing that in grazing regulations; we're seeing that with the hit list on the water reclamation storage, and so on; so essential to the West, with our remote establishment in Washington that does not truly understand that this is vital not only in the economy, but to the future, and that we could, if we have the benefit of the taxes of the resources, from this state alone, develop the water base so that this would be a garden of Eden, on a very high elevation.

But no, they want us held in a colonial status, basically, I guess, so that this will be a plan to come and visit, but will not be developed. I don't think that this is compatible with the interest to the people of the state of Wyoming. There again, thus the Sagebrush Rebellion concept.

People have had enough; they're trying to send them a message, as George Wallace once said—they are trying to send them the message without being violent—without having vigilantes' committees, and this type of thing, but believe me, they're thinking about it. They're thinking about taking a stand, and this may be the last one, and if this doesn't work, we're going to take whatever methods are appropriate.

I am not suggesting that but I am telling you the sincerity of the depth of the frustrations people are feeling in America. And it's based on the fact that we have such an unrealistic interpretation of the intent of many of the laws of Congress at the present time.

You heard that people say in high places that it's time we Americans learned to do with less. And I'd like to be very unsophisticated and give you a two word description of how I feel about that, but I'll be very polite and say "Hogwash." It is hogwash. The reason we're in the position we are in today is because of the fact that we are not using the resource base that we have in developing them, conserving them, providing the incentive for people to develop them, and enhance them for the future.

This goes right back to our tax policy and so on, and to the productivity and this type of thing. And that gets me to the thought that Joe Reed on our board once told me, he said, "You know, the name of the game is productivity in agriculture. My dad told me there's no substitute for a good crop." And that is true. There is no substitute for a good crop.

But we're being pressed down by so many constraints, whether they be in the tax or unrealistic economic policies that all of us are suffering and a lot of people feel that we are going to have to resign ourselves to an economic policy that will give us less. And I don't feel that that's true. I know that we have the capability to develop a resource base that will provide sufficient energy to fill our needs. Yes, it may be more expensive. but if it's available, we can function, and if we can't function on that, we people in agriculture will make our own. We will find a way, if we can get the weight off our shoulders to prove that the enterprise system still works, and believe me, it does.

This goes on, and of course we talked about inheritance tax, and so on. Why should you build up an estate, really, to have it taken from you by unrealistic inheritance tax, and the American Farm Bureau and others are working on and hopefully will be able, in concert with some other dedicated people, to attempt to get this structured so that people can pass their heritage on somewhat intact, and not sell it out to subdivision as is occurring today.

Can we meet the challenge? Of course we can—if we meet the opportunities. And there are many. And I think our focus has to be on them, and the fact that we are gaining. I think the basis of it, and I hope this is not too philosophical for your taste, but there has to be a restoration in this country to some of the old fashioned basic ethics—of honesty, integrity, and hard work. And if we can be a part of revitalizing that, we've just enhanced our chances 1000 percent. In this effort, we need spiritual help from our churches to help each and every one of us, make us individually, a more active apostle of Christ, so we in turn can then decide, as you are doing here today, what is right.

Ladies and gentlemen, we need to think American. By that I mean, we must continue to think and act positively. That's the only way our forefathers conquered the frontier. We need to approach problems with one perspective—not can we do it, rather, this is the kind of country we want—this is the kind of economic system we want—this is the kind of overall environmental freedom we want—for our families, and our grandchildren, and we should rededicate ourselves to getting it done. We cannot be content with stopping at the 38th parallel.

We must forge on to the end, regardless of the price, because our goal is freedom. We must insist that with the help of God, freedom will not be lost here; it will be reaffirmed, and reconsecrated. We must also rededicate our efforts to helping others whose economic freedoms are being plundered now, such as in the energy area; and recognize that a successful assault on them is in fact an attack on the entire system. And we will be the next victims.

As farmers and ranchers, we are few in number, but mighty in purpose. We should thank God for the perseverance of our courageous forefathers, who conquered this land, one plodding, windblown, snow driven, frozen, sweltering, and back breaking step at a time. We must realize that whatever the odds, we have an easy task compared to those fearless people who preceded us.

We have now conquered the land! we have now conquered the sea; we have now landed on the moon. But in part, we've lost some of what made it possible—swallowed up by a government too large, too remote, and out of touch with what made America the envy of the world, the people who work and the people who produce.

Our goal in the '80s is to get America living again. We will not give in, because we are absolutely right in our beliefs, and the only way to successfully succeed is to reinstate the environment and incentives that are an essential part of the market system and that is the reward to producers.

We in agriculture can do our share. We exported 33 billion dollars worth of agricultural produce last year. If necessary, we can produce our own fuel to do it, and we will produce it. Our need is to save the seed, rather than consume it. You can be assured that Farm Bureau will be in the forefront of the struggle—in the counties, in the schoolhouses, in the legislatures, and in the courts, because we are going to preserve the seed of productivity and private incentive that has made our country, our lives, and our system the economic and spiritual ideal of the entire world. Thank you.●

H.R. 5010

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. RHODES. Mr. Speaker, today the House passed and sent to the President H.R. 5010, a bill which will encourage more grassroots political participation by volunteers, and by local political parties. The bill had been slightly modified by the Senate.

Last Fall, after the House passed the original H.R. 5010 by voice vote, David Broder wrote the following piece which appeared in the Washington Post of September 29, 1979. Like Mr. Broder, I believe passage of H.R. 5010 is "a step toward sanity in rules regulating the conduct of American elections."

The article follows:

BUMPER STICKERS, WITHOUT LIMIT

(By David S. Broder)

It took barely 15 minutes for the House to pass HR 5010 earlier this month, and no one even asked for a roll-call vote. In the rush of events, few people have bothered to note what has happened.

To be honest, it hardly rates up there with the pope's visit to the United States or the Soviet brigade in Cuba as a news story. But HR 5010 is a small step toward sanity in the rules regulating the conduct of American elections. It also is a timely demonstration that, even in Congress, common sense can occasionally prevail over crasser instincts.

The background on the bill is this: in its rush to "reform" the smelly campaign finance practices revealed by Watergate, Congress five years ago legislated some new restrictions that had a chilling effect on the local, volunteer political party activity that can add so much to the average citizen's sense of involvement in the choice of the president.

With Treasury funds financing the Carter-Ford contest, and tight spending limits in effect, there was a natural tendency to hoard the scarce dollars for the "big-ticket items," particularly purchase of television time and rental of jet planes to move the candidates around the country.

As a strategy for mass-marketing politicians to a national constituency, the airport-television studio approach was eminently sensible. But, as almost every observer of the last presidential campaign noted, the local, small-scale electioneering, which traditionally has provided so much of the color and flavor of American politics, was sadly missing in 1976. In many big-city neighborhoods and in most small towns, there was nothing to suggest that America was choosing a president—no local headquarters, no banners, no bumper stickers, no buttons and almost no volunteer activity.

The reason was simple: the national campaign headquarters allocated virtually no money for local electioneering. And local party organizations were inhibited or intimidated by the new rules from doing much of anything on their own.

The threat of prosecution for failing to report on the cost of such activities or spending beyond the limits was enough to keep most local Republican and Democratic activists out of the Ford and Carter campaigns.

The House bill addresses this problem directly by providing a blanket exemption for state and local party committees to purchase, without limit, the buttons, bumper stickers, yard signs and other campaign materials used by volunteers. It also exempts those committees from any limits on what they may spend for voter registration and get-out-the-vote campaigns on behalf of their presidential tickets. Reporting requirements are eliminated for party committees riasing or spending less than $5,000—rather than the $1,000 floor that was used in the old law.

The effect and intent of the House-passed amendments is to encourage, rather than inhibit, local volunteer involvement in the presidential campaign by Democratic and Republican committees.

Along with the increase in the federal subsidy of the national party conventions, from $2 million to $3 million apiece, these provisions make HR 5010 the most positive measure for the strengthening of the political parties to move through Congress in years.

What is equally remarkable is the manner of the bill's passage. After years of bitter partisan battles over other kinds of campaign-finance legislation, particularly the recurrent proposals for public subsidy of congressional campaigns, the quarrelsome Democrats and Republicans on the House Administration Committee decided it was time to get their act together.

Chairman Frank Thompson Jr. (D–N.J.) and Rep. Bill Frenzel (R–Minn.) agreed to legislate in the areas where bipartisan agreement was possible, and to avoid the issues where they had split time and again. "Thompy and I agreed," Frenzel said, "it was time to stop cat-fighting and do something that had to be done." The result was that, as Thompson said, "the committee finds itself in the unusual position of being awash in a sea of uncritical acclaim."

With unanimous and bipartisan backing from the committee members, the bill was passed by the House in the blinking of an eye. A similar measure, also enjoying bipartisan support, is awaiting floor action in the Senate. It's not a big story, but it is encouraging testimony for those who would like to believe that both the political parties and the Congress can look more likely and responsible than they have in the past.●

NUCLEAR REACTOR REGULATION AFTER THREE MILE ISLAND: WHAT IS HAPPENING AND WHAT DOES IT MEAN?

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. BINGHAM. Mr. Speaker, I would like very strongly to commend to my colleagues one of the most insightful, thought provoking, and concise analyses of the problems and future of nuclear energy which I have come across since Three Mile Island.

In a statement which appears in full below, Nuclear Regulatory Commissioner Victor Gilinsky targets precisely our most important and difficult task as decisionmakers: To determine a standard for safety upon which regulatory decisions can be based. Without such a standard, he points out, ". . . each nuclear safety problem is unique, each calls for a handwriting return to square one. . . . It is a question both philosophical and political, economic and technical, and somehow we have to find an answer." It is a question for the Commission, the President, and the Congress to decide, not the NRC staff, he argues persuasively.

Commissioner Gilinsky describes a nuclear regulatory establishment historically preoccupied with licensing issues at the expense of safety, and ill prepared to fill the "vacuum" created by the reordering of priorities which began with the aboliton of the old Atomic Energy Commission in 1976. "What we have been using in place of a standard for safety was an answer:" he points out, "the answer was provided by the Rassmussen safety study which was taken to say, in effect, there was little to worry about, and by the political imperative of allowing plants to continue in operation willy, nilly." In the wake of the NRC's decision that this study's risk estimates were "unreliable," and of the message from the Presidential Commission's report on Three Mile Island that even their suggested reforms cannot insure that accidents will not happen, it is up to us, Gilinsky claims, to find out what are tolerable limits of risk. Only this way can we begin to make intelligent decisions about the energy future of this country.

The question does not arise in automobile or airline safety because. as Gilinsky points out, we have a significant statistical sample for estimating safety, and thus for relating regulatory requirements to performance. Not so with nuclear. Five hundred reactor-years of experience—and less than 50 of these having been logged in the newer, over-900-megawatt category of plants—make it extremely difficult, if not impossible, to proceed on the same basis with regulating this technology as with others.

In elaborating on the key areas for nuclear reform—emergency planning, feedback of safety information, utility qualifications and performance, and licensing procedures—Commissioner Gilinsky underscores the missing element: Any fixed point of reference.

I urge my colleagues to read the entire statement:

NUCLEAR REACTOR REGULATION AFTER THREE MILE ISLAND: WHAT IS HAPPENING AND WHAT DOES IT MEAN?

(By Victor Gilinsky)

My talk is about nuclear safety: not the nuts and bolts of reactor safety systems, but rather the more political side of the subject. I want to tell you about a change in the Nuclear Regulatory Commission's approach to reactor regulation that has come about in the wake of the accident at Three Mile Island and what it means for the future of commercial nuclear power. The new approach amounts to a greater emphasis on protection of the public against the dangers inherent in power reactor operation. The change was long overdue.

In the fall of 1976, when I spoke here at Brown on nuclear safety and federal regulation, the NRC had been in business a little over a year and a half. It had been separated from the old Atomic Energy Commission, because Congress felt the AEC's vigorous boosting of the expansion of nuclear power had an inhibiting effect on its regulatory staff. NRC was established to make sure that expansion was not bought at the price of safety.

Unfortunately, there was a flaw in the system of priorities inherited from the AEC. For while NRC's mandate was safety, its top priority was licensing nuclear power plants. Performance in the new regulatory agency tended to be measured in terms of how many licenses were granted and how fast the proceedings were closed; the assumption was that the level of safety attained was already well beyond what was needed. This turned out not to be, so the flaw turned out to be fundamental. It took Three Mile Island to grind it out.

I do not want to leave you with the impression that the NRC staff was previously unconcerned about safety. For the most part the working level engineers are a highly competent lot and what nuclear safety we have is due in large measure to their professional pride and sense of responsibility. Nevertheless safety was too often short-changed by internal management imperatives and external pressures, to which the agency was particularly vulnerable because the relatively elastic and informal rules of reactor regulation left considerable scope for subjective judgments.

We have made more progress in reorienting nuclear regulation this year than in the previous four years of NRC's existence. Our conceptual difficulties, however, are by no means over: the new emphasis on safety has brought us face to face with questions that have lain unanswered for years: How much public protection are we to require? How much risk is tolerable? An ultimately sensible system of nuclear regulation is going to depend on how successfully we grapple with these questions.

PRESSURES AND PRIORITIES: LICENSING VS. SAFETY

The change which is now taking place took so long because until very recently, any effort to tighten restrictions has pitted the safety reviewers against an entrenched system (rightly perceived by the Kemeny Commission as a hangover from the Atomic Energy Commission) designed to foster expanded participation and growth in nuclear power. We should remember that for years the AEC encouraged electric utility companies, almost without exception, to buy nuclear power plants. In this atmosphere, the burden of proof in administering the system of safety regulation always fell on the regulators to justify negative findings on safety matters and consequent construction licensing delays.

Regulators were accused of indecision and maligned as nervous bureaucrats worrying the technology to death with their regulations and delays. When safety regulation was beginning to firm up, legislative proposals were pressed to "streamline" licensing and cut back on what were regarded as excessive safety review. AEC Chairman Glenn Seaborg, writing in 1971, bemoaned the fact that "procedures for regulating the use of atomic energy . . . impose a serious financial and time-consuming burden on the licensees of the AEC." The chief goal of regulatory improvement was conceived by a successor as "squeezing the water out of the system." Reactors were deemed to be sufficiently safe and regulators were not encouraged to find new problems.

Atomic Energy Commission staff meetings with the Director of Regulation or with Commissioners were more likely to be held on licensing schedules than on safety problems, a habit that continued in the early days of the NRC. The now defunct Joint Congressional Committee on Atomic Energy, acting as the jealous protector of nuclear energy expansion, ritually pressed the regulators for an answer to the question "Are power reactors safe or aren't they?" and almost invariably got a dutiful yes.

The very vulnerability, at any rate the imagined vulnerability, of nuclear energy development to any qualification of the regulators' safety judgment militated against any expression of doubt on their part. Beyond that, the truth is that for all the elaborate reviews. computer accident scenarios and the extensive regulatory requirements so onerous to the utilities, most of the regulatory technicians—along with their industry counterparts—believed, deep down, they were only gilding the lily with their safety rules, that accidents were remote, that nuclear power plants did not pose serious risks, that the important possibilities had been covered.

In any case, none of this was calculated to inspire the respect of the nuclear industry for its regulators. NRC's public image, as well as its self-image, was less that of a tough but fair regulator than of a bureaucratic irritant bent on nitpicking an important growing industry to death. How else can one explain the regulators' use of the pejorative industry term "ratcheting"—piling on more and more regulation—to describe their own work.

The basic flaw in the system, then, was the secondary priority assigned to questioning and improving safety, an attitude legitimized by the astronomically small risk estimates of the Rasmussen Report. The complacency, and ultimately the sheer sloppiness, of the nuclear enterprise which so appalled the Kemeny Commission and led it to call for a "fundamental change in attitude" was the result. Three Mile Island shattered that complacency. As one of our top officials said, "This was one we hadn't planned for."

It would be inaccurate to say that the change in NRC stems entirely from the accident. The NRC was slowly being pulled loose from its origins and was beginning to take on its own identity as the independent guardian of the public health and safety. Vital to this process was the shift in Congressional oversight away from the Joint Congressional Committee on Atomic Energy, and the implementation of the "Government in the Sunshine Act," both of which came in early 1977. Since that time the NRC staff and the Commission have had to learn to talk with increasing frankness about safety problems before skeptical Congressional oversight committees as well as in open Commission meetings, and to live with the public transcripts. After 1977 the Commission's outlook shifted as its membership changed. By January of 1979, the Commissioners were emboldened to issue a statement on the Rasmussen Report describing its overall estimates of risk as "unreliable." In March, just before Three Mile Island, the NRC took firm action after a persistent NRC inspector found calculations on the earthquake resistance of piping systems to be incorrect. The Commission, without hesitation, shut down five affected reactors immediately and followed, despite a howl of protest from the industry and from many in the Congress, with an extensive review of industry practices.

A CHANGE IN APPROACH: THE 6 MONTHS BETWEEN TMI AND THE KEMENY REPORT

Then came Three Mile Island.

The Kemeny Report concludes that prevention of future nuclear accidents can be accomplished only by "a fundamental change in attitude" among the regulators and in the nuclear industry. As I have indicated, a "fundamental change in attitude" has already taken place; more than that, there has been a major upheaval in the way NRC goes about its business.

In the half year since the Three Mile Island accident the NRC has taken a number of major steps toward self-examination and improved safety: NRC has commissioned an independent special inquiry into the circumstances leading up to the accident, the accident itself, and the industry and Commission response. It is headed by a director and deputy director from outside the agency and the investigatory staff numbers about 60. I expect this report, due around the first of next year, to be the most thorough of all the Three Mile Island accident studies.

Almost immediately after the accident, a special NRC "Lessons Learned" task force was set up to analyze the accident and identify necessary changes in licensing requirements. So far, this has resulted in over twenty specific recommendations for changes in hardware and procedures, all of which have been adopted. Tight schedules—and deadlines—have been set for implementing these requirements.

More generally, the NRC is giving particularly intensive attention to the improved gathering and analysis of safety data from operating plants, to improved operator training and licensing, to stricter requirements for utility technical and management capability, and to emergency planning and readiness.

Feedback of safety information

The President's Commission was exactly on target in finding that NRC was deficient in having no systematic method of gathering and evaluating the enormous amount of information on nuclear powerplant operating experience. In going forward with nuclear technology despite areas of uncertainty, we are operating on the assumption that trouble will appear in the small before it manifests itself in the large.

It is a reasonable assumption, but it does imply a commitment to keep a close watch on operations and to fix what needs fixing. A failure to do so led the NRC to overlook an event at the Davis-Besse plant a year and a half before Three Mile Island; had we been carefully sifting safety data, we would have been warned of the danger at Middletown. A special safety data evalution office has now been set up in NRC to perform this extremely important function.

There is an additional reason why this systematic assessment of operating experience is so important. Beyond our relatively limited overall experience with nuclear plants is the fact that the current generation of large plants are complex, highly interactive systems whose operational characteristics are not fully understood. Of the 500 or so reactor years of commercial experience so far accumulated, only about 50 have been logged in the newer, over-900 megawatt category.

The size and complexity of these plants increased rapidly over a relatively short time, from a few hundred to greater than 1,000 megawatts, before any substantial operating experience had built up for plants at the intermediate levels. We were outrunning our experience. While a power level limitation was placed on all new plants in 1973, the fact remains that we still need to develop a better understanding of the operational characteristics of these huge plants; systematic and prompt use of operational feedback is essential to modify operating procedures and to update training and qualification of the operators.

Utility qualifications

I do not think I have to explain why upgrading reactor operator training is necessary, but a word about the problem with the technical and management capabilities of the electric utility companies is in order. In his supplemental views on the Kemeny report, Governor Babbitt rightly complained that the report left some serious unresolved issues, one of them being that the proprietors of Three Mile Island were obviously not the only electric utility that did not measure up even to minimal standards. (Our staff, by the way, puts them about in the middle of the scale.) This, he felt, raised serious questions about the practice of licensing essentially any utility that wanted a nuclear power plant. He found it remarkable that the nuclear sheep were not separated from the goats.

There are a number of reasons for this. As I mentioned earlier the AEC encouraged all utilities to buy nuclear plants. It wasn't then going to rule the smaller ones ineligible for licenses. Also, the clannish utilities industry—historically hypersensitive to any government involvement in the generation of electricity—was in a position to bring powerful pressure to bear on anything regarded as excessive interference from that quarter. While the NRC is charged with determining the qualifications of electric utilities to operate nuclear plants, this rule was never vigorously applied.

Of course, the obvious shortcomings of the Three Mile Island management will lead to sharper scrutiny of license applicants, but if NRC should try separating sheep from goats among the utility companies, I suspect a mighty battle will ensue. In any case, the institutional credentials of power companies, thanks to the performance of Metropolitan Edison, will now come under very close scrutiny.

Emergency planning

Also coming under close scrutiny are plans for public protection in the event of an accident. For the first time, such planning will not be short-changed on the grounds that accidents can't happen. This applies to accident instrumentation, emergency communications, and readiness for public evacuation, all of which were deficient at Three Mile Island. As the Kemeny report pointed out, at Three Mile Island "response to the emergency was dominated by an atmosphere of almost total confusion." Local, State, and Federal authorities, along with the plant operators, themselves turned out to be unprepared for a serious nuclear power plant accident.

The problems of a possible evacuation loomed larger than they should have. It is interesting that just recently the Canadian government successfully evacuated about 250,000 persons from the vicinity of a chlorine gas leak. To make sure there is no repetition of the confusion encountered at Three Mile Island, NRC will require, as a condition of licensing the operation of a nuclear plant, substantial emergency readiness by the utility and the State and local authorities for protection of the public.

Compliance with these and other new requirements emerging from the current review will be decided by the NRC Commissioners themselves. This represents an important and sharp break with their past practice of delegating licensing functions. The Commissioners have taken direct control over licensing and will themselves rule on any new construction permits or operating licenses for nuclear power plants.

I should add there is a new and noticeable absence of shyness about the technical muscle the Commission is willing to bring to bear on anything that looks like a potential plant emergency. There is also less concern, post-Three Mile Island, about overreacting for fear of alarming the public. In September an automatic reactor shutdown at Virginia Electric Power's North Anna plant set off the safety injection system and popped the now-notorious pressurizer relief valve. Twelve NRC engineers were dispatched immediately to the site.

The NRC's Office of Inspection and Enforcement is approaching its task more aggressively as well. The office has imposed maximum fines of $155,000 on the owners of the Three Mile Island plant, and more recently fines of $450,000 on a Michigan utility. We are asking Congress for statutory authority to impose much greater penalties.

AFTERMATH: RESPONSIBILITY AND INCENTIVES

The Kemeny Commission has stressed that the nuclear industry is responsible for nuclear safety. So it is. The industry is aware that things are going to be much tougher in the future, and hasn't wasted any more time than the NRC did in trying to clean up its act after Three Mile Island.

The industry is developing a technical organization to back up individual utilities. It is also putting together a utility self-insurance scheme to provide for replacement power in the event an accident puts a nuclear plant down. Privately, industry leaders are as worried about the smaller or less competent utilities as Governor Babbitt is; they say tough conditions will be placed on eligibility for such insurance. At the same time we should be clear that private and public incentives differ. The industry wants to keep its plants safe; it also wants to keep them running. Ultimately, it is NRC's responsibility to ensure industry discipline on safety.

NUCLEAR POWER PLANTS UNDER REVIEW

We should understand that there is a price to be paid for the new, post-accident emphasis on safety of operating plants. We are now holding up operation of several almost fully constructed nuclear power reactors. The entire staff is engaged in intensive safety reviews of operating reactors, including qualifications of operators and of utility managements, and of emergency readiness for evacuation. It is not out of the question that requirements flowing from our examination of the feasibility of evacuation could lead to the closing of operating nuclear plants in highly populated areas. The NRC has produced a detailed response to the recommendations of the Kemeny Report, indicating general agreement with most of them, and setting schedules for implementation. At the moment, however, it is still not entirely clear how long our overall review process will take, or what its impact on our national commitment to nuclear power will turn out to be. This has got to be clarified promptly.

To understand what is at stake, it might be useful to take a brief look at the status of nuclear power today and the role it plays in solving our energy problems. That role is more limited than was foreseen a decade ago, or even in 1976, but it is nevertheless important to our energy choices. The 70 nuclear plants now in operation provide about 13 percent of the nation's total electric energy consumption. Certain regions of the country—New England, for example—depend to a much larger degree than that on nuclear plants to supply electricity. Electric energy represents about a quarter of the primary energy supply, and 13 percent of that is a modest contribution. Yet having a choice between coal and nuclear plants adds a desirable fuel flexibility in meeting future electrical demand. The alternative, which is to rely almost exclusively on coal for new plants, would put us in a worse fix.

In addition to nuclear plants now in operation, there are about 90 more in varying stages of construction. Several are close to completion and their owners are anxious to load fuel. A large investment is involved. Yet for at least several months, all licensing activity will have to be put on ice while the regulatory staff goes about the business of reinforcing the safety of plants in operation.

Despite the concern expressed about all this upheaval in the midst of our energy difficulties—and it must be acknowledged that the uncertainties about the time and outcome of the safety reviews are worrisome—there is no escaping the fact that the system was overdue for a shakeup. It is some consolation that it could have come at a worse time, so far as electric energy demand is concerned. But even if this were not so, the success of current efforts to improve nuclear safety would be a precondition to restoring sufficient confidence in the technology so that it can be called upon when it is needed, thus preserving a desirable flexibility in energy supply.

TOLERABLE RISK

Our interest in this energy source tended to overpower safety concerns in the past; nevertheless, it is a legitimate interest and should not be left out of the safety equation. If I am correct in saying we are going to put safety first, how are we to know where to stop? What are we to set as a standard for safety to guide the regulators? It is a question both philosophical and political, economic and technical, and somehow we have to find an answer.

"Safe" is a word used much too casually. Chairman Kemeny of the President's Commission told the Congress that nuclear plants are safe, that it "is just the people who run them that are not safe." He also said he did not believe the present situation fell within "tolerable limits" of safety. Another member of the Commission posed the rhetorical question: "What is tolerable?" and answered that the group "did not do risk analysis," that Congress and the President would have to answer the question. The ensuing colloquy before a Senate Committee took on the Alice in Wonderland air so characteristic of this subject:

"How [do] you conceive of your concept," asked Senator Moynihan, "of tolerable limits? . . . Is it possible to make estimates, if we were to cut the energy consumption in the country by half, you would raise the mortality rate by some unappreciable amount? A member of the Canadian Atomic Energy Commission estimated the risk associated with various forms of energy and came up with solar power as the most costly in health terms because of the number of people that correspondingly fell off the ladders."

We shrink from making measurements in terms of an acceptable number of deaths per year. Yet we must have some kind of overall standard or goal; without it each nuclear safety problem is unique, each calls for a handwringing return to square one. The technicians need a goal and they can't develop one themselves, nor is that their responsibility. Let me quote a note to me from a senior member of the NRC staff:

"Above all, we need a mandate. Are plants to keep operating? How safe must they be? What is needed, in a broad way, to make them acceptable? These are social decisions, to be made by the Commission and its successors, the President, and the Congress. The NRC staff has a contribution to make . . . the present indistinct safety rationale awaits clarification to provide the needed basis for our job. There is a big job to do and the staff needs direction and inspiration from our nation's and agency's leaders to help us get on with it and do it well. I believe further that doing it well is our best and only way to provide for the public health and safety."

We are confronted with this legitimate plea for a broad standard of safety because the reordering of priorities between safety and licensing has left a vacuum which must be filled. What we have been using in place of a standard for safety was an answer: the answer was provided by the Rasmussen Reactor Safety Study which was taken to say, in effect, there was little to worry about, and by the political imperative of allowing plants to continue in operation, willy nilly.

Why does this question arise here when it does not in automobile or airline safety, where we also lack an explicit safety goal? It is because we have a significant statistical sample for making estimates of the safety of airplanes—anyone can look it up in the world almanac.

This is not true for nuclear reactors: 500 reactor-years of experience are not sufficient to provide a significant estimate of the probability of large accidents. It is therefore much more difficult to relate nuclear regulatory requirements to practical safety performance than for the other technologies with which we have had more experience.

One possible way of searching for a standard for safety would be to start with the premise that we want, if at all possible and without paying a higher price for safety, to have a source of electric energy to supplement, or serve as an alternative to, coal. In this sense, the establishment of a standard might help clarify the argument about whether or not we want to go ahead with nuclear power.

Senator Moynihan went right to the jugular on this question; he asked Chairman Kemeny to write his views about the "tolerable limits" of risk. I must confess I hope he will share them with the Nuclear Regulatory Commission. In the meantime, we will have to struggle with it ourselves; without an overall safety standard of some kind, there is no limit to the amount of safety that can be piled on.

We are now navigating without any fixed point of reference. Our senior staff man is right—we need to provide a safety mandate. The present safety rationale is indistinct and it awaits clarification. That's our next big job.●

TRANSPORTATION SYSTEMS EFFICIENCY ACT

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● **Mr. HOWARD.** Mr. Speaker, today I am again introducing the Transportation Systems Efficiency Act which I originally introduced on September 24, 1979. This bill will make our highway and public mass transportation systems more energy efficient. In addition to the chairman of the full Committee on Public Works and Transportation, Mr. JOHNSON of California, and the ranking minority members of the full committee and of the Subcommittee on Surface Transportation, Messrs. HARSHA and SHUSTER, respectively, 30 other members of the House primarily from the Committee on Ways and Means and the Committee on Public Works and Transportation, have joined in introducing this important legislation.

As the chairman of the Surface Transportation Subcommittee, I have been concerned for some time about the need to establish a public transportation trust fund to support a contract authority funding program for capital improvements to our Nation's transit system.

Over the past 50 years, petroleum has become the lifeblood of our Nation's economy. The growth of our national transportation system has been closely tied to our development of energy and of Petroleum in particular. Transportation consumes more than half of every barrel of crude oil used in this country. Coincidentally, the United States obtains half of its oil from foreign imports. Clearly, the transportation sector can make a tremendous contribution to petroleum conservation, and thus to the reduction of imports.

I believe the time is right for the Congress to consider long-term assured funding for our Nation's public transportation systems. Accordingly, the subcommittee I chair, and on which Mr. SHUSTER sits as ranking minority member, held 4 days of hearings in July so that we might develop a record on the issue of a public transportation trust fund.

I realize that the country must pursue increased energy production as well as conservation. Certainly, the circumstances indicate the need for a range of solutions. However, the country cannot place total reliance on increased domestic production of oil substitutes.

While these efforts proceed, in order to maintain our mobility, we will have to improve our public transportation systems so that our citizens will have an alternative to private automobile transportation which will undoubtedly continue to suffer fuel interruptions.

As I indicated, the Subcommittee on Surface Transportation held 4 days of hearings on the establishment of a public transportation trust fund with revenues generated by the windfall profit tax. The testimony presented at these hearings provided overwhelming support for the concept of a public transportation trust fund. Equally important, however, was the evidence presented which showed that the American public is turning to public transportation in greater numbers with each succeeding month, even in areas which did not experience long gas lines.

Another important insight gained from our hearings was the realization that each area of the country has different needs in developing alternatives to the private automobile. What may be the most energy efficient solution for New York, Chicago, and Los Angeles may not be for Rochester, Tulsa, or Salem, Oreg. I believe that there is a tremendous latent demand for public transportation throughout the country—in rural as well as urban areas. In other to satisfy this demand in an efficient and expeditious manner, an assured source of funding at adequate levels is required.

The goal of petroleum conservation necessarily involves improving the efficiency of the transportation systems which our citizens use to fulfill their most basic mobility needs, such as traveling to and from work and school. We must expedite targeted investments in our public transportation systems and in highway facilities which support more efficient automobile use. We must rebuild as well as provide for expansion of our existing bus fleets. We must finance supporting bus facilities, including maintenance facilities and terminal facilities. We must provide for the modernization and expansion of our existing rail facilities. We must support projects which will facilitate carpools, vanpools, and other high occupancy automobile solutions.

I know of no other single action which the Congress could take to support such an effort than the clear and definite commitment of assured support through a dedicated public transportation trust fund.

That is why I have reintroduced the Transportation Systems Efficiency Act of 1979.

The heart of the bill is title III which would create a public transportation trust fund with 25 percent of the revenue generated by the windfall profit tax. Amounts in the public transportation trust fund would be available for making expenditures to meet obligations incurred under the Urban Mass Transportation Act of 1964, or under title 23, United States Code, for public transportation capital projects or for transportation systems management projects.

Title I of the bill would make a number of changes in the Urban Mass Transportation Act of 1964 and title 23 of the United States Code.

Section 101 of the bill would make all authorizations, beginning in fiscal year 1981, under the Urban Mass Transportation Act for section 3 (discretionary grants), section 5(a)(4)(A) (bus formula grants), and section 21 (intercity bus terminals) available for obligation on October 1 of the fiscal year for which authorized. Payments to meet contractual obligations incurred by the Secretary for such programs would be derived from the public transportation trust fund.

Section 102 would broaden 23 U.S.C. 135 (traffic operations improvements) into a new categorical grant program for transportation systems management which would include, but not be limited to, energy conservation projects for: first, channelization of traffic; second, improved traffic control signalization; third, preferential treatment for mass transit and other high occupancy vehicles; fourth, passenger loading areas and facilities; fifth, fringe and corridor parking facilities; sixth, encouragement of the use of carpools and vanpools; seventh, bicycle transportation; and eighth, separation of pedestrian and vehicular traffic. Funds authorized under this section could be used at State option to cover 90 percent of project costs, or to increase to 90 percent the Federal share of energy conservation projects advanced under other provisions of title 23, United States Code—such as, section 146 (carpools and vanpools) section 142 (public transportation), section 137 (fringe and corridor parking facilities), and section 217 (bicycle transportation and pedestrian walkways). The present Federal share for these programs is generally 75 percent.

Funds authorized for 23 U.S.C. 135 would be apportioned among the States on October 1 of each fiscal year: Three-fourths on the basis of urbanized area population; and one-fourth on the basis of the primary system formula (one-third land area, one-third route mileage, one-third population). Funds would remain available for obligation for 3 fiscal years following the fiscal year for which authorized. Payments to meet contractual obligations of the United States for payment of its proportional share of project costs would be derived from the public transportation trust fund.

Section 103 would restore to the Secretary of Transportation authority to incur contractual obligations for substitute highway and public transportation projects related to withdrawal of interstate routes under 23 U.S.C. 103(e)(4). Sums obligated for public mass transit projects would be derived from the public transportation trust fund. Sums obligated for highway projects would be derived from the highway trust fund. Obligations for either type currently are paid from general revenues of the Treasury.

Section 104 would provide authorizations from the public transportation trust fund for fiscal years 1981 through 1990 to supplement existing authorizations through fiscal year 1982 for the section 5 bus and section 21 (intercity bus terminals) programs, through fiscal year 1983 for the section 3 discretionary grant program, to provide new authorizations for such programs through fiscal year 1990, and to provide authorizations for transportation systems management for fiscal year 1981 through 1990. Beginning in fiscal year 1981, authorizations in the bill are intended to limit the authority for substitute transit projects under 23 U.S.C. 103(e)(4). Substitute highway projects would remain subject to 23 U.S.C. 103(e)(4), as amended by this bill.

The bill and its amendments to existing law would authorize from the public transportation trust fund a total of $45.5 billion over 10 years to carry out sections 3, 5(a)(4)(A), and 21 of the Urban Mass Transportation Act of 1964, 23 U.S.C. 135, and public mass transportation projects under 23 U.S.C. 103(e)(4). A division of the annual lump-sum authorizations provided in this bill and continuing authorizations from general revenues of the Treasury for public mass transit operating assistance programs would be provided in a subsequent proposal.

Title II of the bill deals with another important energy problem which needs to be addressed.

Increased domestic production of alternative energy sources will impact the transportation system itself. For example, truck shipments of coal and increased unit train service over our Nation's rail-highway crossings will require additional funds for these energy-impacted segments of our highway systems.

In fact, a recent Department of Transportation study indicated that transportation could well become a bottleneck on coal production. The coal transportation task force concluded that "large investments will be needed both to add to our existing transport capacity and to replace and maintain the very large complex system already in place" and that "the capability of both the public and private sectors to finance the needed investments in infrastructure and equipment will be sharply challenged." Another DOT study on energy transportation identified almost $10 billion in needs across the country and indicated that the coal road and railroad grade crossing needs were so severe that they required "immediate attention" and could not even wait "enactment of legislation as to the proper type and level of tax that should be imposed in the long run."

The energy security fund is a logical funding source for these programs since an improved energy transportation network is necessary in order to meet our goals for production of coal and synthetic fuel and to minimize the adverse effect of this increased production.

Section 201 authorizes the Secretary to apportion funds for the repair of public roads which have incurred a substantial increase in use as a result of transportation activities to meet national energy requirements. The Federal share of project costs would be 80 percent. For each of the fiscal years 1981 through 1990, there would be $125 million authorized, of which $75 million would be appropriated from the highway trust fund and $50 million from the energy security fund.

Section 202 would authorize the Secretary to make grants for the elimination of rail-highway crossings where there is substantial increase in the use of those rail facilities in transporting coal to meet national energy requirements. The Federal share of project costs would be 80 percent. For each of fiscal years 1981 through 1990, there would be $125 million authorized, of which $75 million would be appropriated from the highway trust fund and $50 million from the energy security fund.

These provisions are essentially the same as the provisions which passed the House last year in the Surface Transportation Assistance Act of 1978, except that a portion of the funding would come from the energy security fund. Unfortunately, last year's provisions were dropped in conference at the insistence of the Senate.

In closing, Mr. Speaker, I would like to make three additional points: First, I urge early and favorable consideration by the Congress, and the conferees on the Crude Oil Windfall Profit Tax Act, in particular, of the public transportation trust fund outlined in title III of the bill; second, the program outlined in titles I and II is by no means locked in concrete. The Subcommittee on Surface Transportation will hold more hearings on these titles and looks forward to receiving suggestions for improvement of the legislation.

This bill and the public transportation trust fund concept, in particular, should not necessarily be construed as support for the windfall profit tax. Although I am certainly a proponent of the tax, the concept of a dedicated source of funding to support contract authority in public transportation programs is a separate issue, and supportable on its own merits. However, if there is going to be a windfall profit tax, the sponsors of this legislation are all in agreement that a substantial portion of the revenue should be devoted to transportation systems efficiency.●

AUTOMATIC CRASH PROTECTION

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. DODD. Mr. Speaker, yesterday the House considered H.R. 2585, the National Traffic and Motor Vehicle Information and Cost Savings Authorization. I supported this important piece of legislation because of my belief that automobile safety standards are important in saving lives.

There are a great many reasons why automatic crash protection in automobiles is good public policy. The best and most obvious of these reasons is that passive restraints—air bags and automatic seat belts—will save thousands of lives and prevent tens of thousands of serious injuries each year.

For humanitarian reasons alone, one should support this very worthwhile Government regulation. But additional justification for passive restraints exists in the savings that can be realized in insurance premiums because of reduced claims.

It is simple. Since passive restraints can prevent many injuries and deaths, many auto insurers offer sizeable discounts on the personal injury or medical payments portion of the auto insurance premium. When passive restraints become standard equipment, this reduction will become available industrywide. And eventually, when a substantial number of cars are equipped with passive restraints, savings on the liability portion of auto insurance premiums will be realized as well. Of course, the exact amount of the discount across the U.S. would vary depending upon whether a no-fault insurance system operates in that State and upon the rating class and territory for each insured.

The auto insurance industry is keenly aware that the motorists are disturbed by rising insurance costs. Passive restraints enjoy the almost unanimous support of auto insurers because they will greatly assist in keeping premiums within affordable limits.

Thus, motorists will get a double advantage from automatic crash protection: they and their families are more likely to survive in the event that they get into a crash, and, even if they never have a serious accident, they will pay lower insurance rates, and have the peace of mind of knowing that their families are better protected all the time, not just when they buckle up.

Actually, the people who buy the cars built in the middle 1980's will get a car that will cost about $500 less to buy and operate over their lifetime because of the fuel economy standards. And as gasoline prices rise, the savings will be even greater. These savings will more than offset any increase in the price of cars because of automatic crash protection.

I believe that we should allow the American automobile industry to get on with the job of building the best crash protection that they can into the next generation of new cars.●

WIDESPREAD PROTEST MOVEMENT IN HUNGARY

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. HORTON. Mr. Speaker, I rise today to bring to the attention of the Members an analysis of Eastern European reaction to the October 24 sentencing of five members of Czechoslovakia's Committee for the Defense of the Unjustly Persecuted. This analysis, conducted by a good friend and respected member of the Hungarian-American community, Istvan B. Gereben (copresident of the Hungarian Freedom Fighters' Federation) provides a unique insight into how Hungarian dissidents are demonstrating their solidarity with the Czechoslovakians.

The text of the analysis follows:

> Five members of Czechoslovakia's Committee for the Defense of the Unjustly Persecuted; engineer Peter Uhl, writer Vaclav Havel, mathematician Vaclav Benda, newspapermen Jiri Dientsbier, and Ota Bednarova were sentenced to 3 to 5 years of imprisonment in Prague.
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> The sentences delivered on October 24, 1979 triggered world-wide protests. Reflecting the sentiment of the civilized international community Hungarian intellectuals also raised their voice against the persecution and sentencing of the Czechoslovak human rights activists.
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> One of the four documents that appeared at the end of October was sent to the Presidential Council of the Hungarian People's Republic. The letter signed by 185 individuals condemns the sentences and demands the release of the convicted.
>
> Some of the signatories of this letter—along with others, totaling 127—have also sent a letter to Janos Kadar in his capacity

as First Secretary of the Hungarian Socialist Workers (Communist) Party asking him to take steps, including the use of his personal prestige to see that the Prague Court of Appeals reconsiders the sentences passed on the Czechoslovak dissidents. This letter was dated on October 25, 1979.

A smiliar document was sent separately to Mr. Kadar by 9 film directors.

The fourth letter—dated October 26, 1979—is written by three of the well known Hungarian intellectuals: philosophers Gyorgy Bence and Janos Kis and critic Janos Kenedi and addressed to the signatories of the Charter 77. This letter—although addressed to the Czechoslovak dissidents—discusses domestic concerns as well as the fate of the Czechoslovak dissidents and Hungary's involvement in the occupation of Czechoslovakia in 1968. Addressing the process of liberalization of the economic and political system in Hungary the letter says:

"The limits of such an evolution gradually become apparent. . . . And the more we use up the possibilities of the evolution, the more people there are who are not satisfied with the diminishing results. There are more and more people in Hungary who do not want to give up hope of democracy for such a small price."

The majority of the 252 signatories of the letters are young: writers, newspapermen, scientists, artists, researchers, physicians, professors.

Among the older signatories are many who were persecuted during the era of Stalin; historians, poets, composers, film directors, economists, actors, actresses, priests, ministers and several former members of the Central Committee of the Hungarian Communist Party.

The protest movement of the Hungarian intellectuals has created a deep embarrassment and dilemma for Kadar and his regime. Kadar's dilemma is that in early 1977, when the Czechoslovak authorities took their first steps to punish the members of Charter 77 only 34 Hungarians protested, now there are 252 signers. If he does not punish them there will be 500 the next time.

The widespread movement of the Hungarian intellectuals follows the protest demonstrations of the workers staged last summer at Csepel and at other industrial centers of Hungary expressing dissatisfaction over the price increases implemented by the government. These two developments pose a new problem for Mr. Kadar.

The solution is not easy. Both punishment and "mature inaction" have repercussions which would damage Mr. Kadar's position, image and prestige either in the West or in the Kremlin.

The consequences of the events cannot be foreseen.

Kadar, however, is viewed to be a sophisticated dictator and not expected to crack down openly and immediately. His methods of punishment will be subtle but effective. His freedom of action is limited at the present by the closeness of the time for the crucial Party Congress in next March and by the dependence of the fragile Hungarian economy on loans and investments by sympathetic western democracies which would have difficulties to justify their liberal attitude towards Hungary if Kadar resorts to the old methods of oppression of internal dissent.

The task of handling dissent in East Europe became more difficult with the dawn of strong cooperation between human rights activists in the various countries of that area. Russians, Poles, Czechoslovaks and Hungarians attempt to move behind their own domestic concerns and focus on the denial in all Warsaw block countries of individual freedoms called for in the Helsinkiinal Act of 1976.

The trial of the Czechoslovak dissidents gave impetus to the coordination of dissident activities.

Messages of support and protest have flown back and forth among the various national dissident organizations since the trial. In addition to calling for multinational cooperation the Soviet activists significantly took some stewardship over the human rights situation in Eastern Europe. "In view of the special position of the Soviet Union in relation to the countries of East Europe—their letter to their friends said—we consider it our duty to combat violations of human rights also in your countries."●

AIRPORT AND AIRWAY DEVELOPMENT ACT

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. WOLFF. Mr. Speaker, I am opposed to House Resolution 511, waiving points of order for the consideration of the conference report to H.R. 2440, the Airport and Airway Development Act.

The House passed H.R. 2440 on October 22. This bill is to provide funding for airports, and has nothing whatsoever to do with airport noise. The House has not yet considered H.R. 3942, the Aviation Safety and Noise Reduction Act, the proper vehicle for an indepth debate on airport noise abatement standards. In May the other body passed S. 413, to ease the airport noise standards, and to allow the airlines to fly noisy planes after 1985. In a conference to resolve the differences between H.R. 2440 and S. 413, two unrelated bills, the Senate added the provisions of S. 413.

I have long fought for a quieter fleet of airplanes. My congressional district lies in close proximity to LaGuardia and Kennedy Airports, and I am acutely aware of how annoying, not to mention how unhealthy, airplane noise can be. In the 15 years that I have been a Member of Congress, I have worked for legislation to reduce airplane noise. In 1969, with my active support, Congress passed the Aircraft Noise Abatement Act giving the FAA authority to control jet noise. As the law now stands, metropolitan airports will possess a quieter fleet of retrofitted, reengined or replacement aircraft in accordance with the 1981, 1983, and 1985 schedules established 3 years ago.

This is not the time to reduce our standards and allow noisy airplanes to harass our citizens. The waiver provisions of S. 431 will undermine the efforts and plans of local authorities in their aircraft noise abatement programs. Compliance with Federal noise standards is absolutely critical to local noise abatement strategies.

Some airlines, notably Northwest Orient, have made great strides in complying with these standards. I cannot believe that other airlines cannot do the same.

I urge defeat of the rule for consideration of H.R. 2440. Should the rule pass, I strongly urge my colleagues to defeat the conference report and allow for the proper procedure for the House to consider noise abatement standards. I will work against any bill which seeks to lower these standards, but I insist that the House have the opportunity for proper consideration, and not have the other body attach such an important issue onto an unrelated bill.●

TAX RELIEF FOR RENTERS

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. FISHER. Mr. Speaker, one of the guideposts of tax equity is that similarly situated taxpayers should be similarly taxed. However, in spite of the consensus in favor of this principle, one glaring breach of it in the tax code affecting millions of individuals throughout the country is corrected by legislation, which I have introduced. The situation is simply this: Homeowners pay local property taxes and receive Federal tax relief to compensate for those payments. Renters, on the other hand, pay the equivalent of the same taxes, but do not receive similar tax relief. It would appear to be a matter of simple justice that renters should receive similar tax relief for that portion of their rent which represents the payment of property taxes.

For this reason I have introduced legislation which will provide the renter with a deduction for a portion of the rental payment attributable to property taxes. According to this bill, an individual will be allowed to deduct from gross income an amount equal to 10 percent of the rent paid with respect to property which is his or her principal residence, up to a limit of $200 for a single individual or $300 for a married couple.

I would like to emphasize several features of this legislation. First, it allows an individual to take this deduction and, in addition, to take the standard deduction. If it were treated as an itemized deduction, then many renters would be unable to take advantage of it because a high percentage of renters do not itemize their deductions.

Second, this legislation can be administered effectively. By setting an across-the-board percentage for the deduction, it avoids the morass of complexity which would result if the percentage of the deduction were calculated on the basis of floor space in individual apartments, as some other proposals suggest. The percentage which this bill specifies was determined after analyzing data on what is the average percentage of rental payments attributable to property taxes both nationwide and on a region-by-region basis. In tax legislation, it is always necessary to weigh administrative simplicity against precision. I believe that this bill strikes an appropriate balance with respect to the percentage of the deduction.

Finally, by specifying that only one taxpayer can utilize this deduction per residence, this legislation avoids further tax discrimination against married couples. Married couples will not be limited to one deduction while two single individuals who live together claim two deductions. This bill prevents discrimination on the basis of marital status.

In conclusion, Mr. Speaker, I urge my colleagues to give this legislation their serious consideration. It merits their support.●

ISAAK SHKOLNIK

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. KOSTMAYER. Mr. Speaker, for over 2 years I have been speaking out in behalf of Isaak Shkolnik, a Soviet Jew, whose only crime is that he wants to emigrate to Israel, where his wife and daughter now live. For this simple wish Isaak Shkolnik has paid dearly.

In 1971, Isaak, his wife Feiga, and his daughter Luiza applied for emigration visas to Israel. His wife and daughter were subsequently granted visas to Israel. Isaak, however, was arrested in July of 1972 and sentenced to 10 years of hard labor. That sentence was later reduced to 7 years.

On July 5, 1979, exactly 7 years later, Isaak was released from prison. Yet even with his release, he continues to be a prisoner in his own country. For the Soviet emigration officials have refused again to grant his request to emigrate to Israel. One can only ask how much suffering can the Soviets inflict on this man? And the answer is sadly clear. I have learned this week that Isaak was called to the local emigration office and told that his application had once more been refused. When he asked why, he was given the chilling answer: "We haven't yet finished with you. You are still not in the clear."

This incident is a compelling reminder that the madness of Nazi Germany lives on in the Soviet Union. The tragic lesson of the Nazi holocaust was not so much about Nazism as the danger of silence. We know now that the Nazi's viewed the world's indifferent response to the holocaust as tacit compliance if not silent assent to their brutal policies. We must never make that mistake again. As individuals, and as a nation, we must be vigilant in speaking out against human rights violations wherever they may occur.

Today, I appeal once again to the Soviet Government to allow Isaak Shkolnik to emigrate to Israel and to live with his wife and daughter in peace. So long as I am here, Mr. Speaker, I shall continue to speak out on behalf of Isaak Shkolnik and others like him. We cannot afford to forget his plight.●

IN OPPOSITION TO THE AIRPORT AND AIRWAY DEVELOPMENT ACT

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. SCHEUER. Mr. Speaker, in the near future the House will be considering the Airport and Airway Development Act of 1979. I rise in strong opposition to that bill.

In a grotesque example of transparent contempt for the legislative process, the Senate has seized upon a noncontroversial House-passed bill providing discretionary funding for airport development—H.R. 2440—and substituted language which would erode the aircraft noise standards set by the Federal Aviation Administration. House Members were called to a conference in which they were asked to seek a compromise on legislation which has not been debated or voted upon by the full House.

With this as background, it is not surprising that an attempt was made yesterday to force House consideration of the conference report before the report had even been made available for study.

In 1976, after 7 years of extensive study and debate, the Federal Aviation Administration concluded that it was "economically reasonable and technologically practical" to require that all older generation aircraft be retrofitted or replaced so that there would be a noise certified fleet by 1985.

The FAA was overly generous to the airlines in requiring severely noise impacted communities to wait 9 long years for relief. Any further compromise at the 11th hour would represent an unconscionable breach of faith with the public.

Excessive aircraft noise not only clearly diminishes the quality of life for 6 to 10 million Americans, but also seriously endangers their health. Excessive aircraft noise has been linked to damaged hearing, cardiovascular disease, diabetes, arthritis, fetal damage, increased heart rate, and high blood pressure.

Excessive aircraft noise has a devastating impact on property values, often affecting healthy communities in existence long before the airports were constructed.

Further delay in implementing the FAA noise standards would be an affront to noise impacted communities and to those carriers who, in good faith and enlightened corporate decisionmaking, have undertaken the costs of complying with the FAA's rules.

Americans have waited 20 years for noise relief. We must assure noise impacted communities that the commitment made to them in 1976 will be honored.

I urge my colleagues to vote against this conference report when it is considered next session.●

MRS. ROUSSELOT'S PLEA FOR SOVIET JEWRY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. GILMAN. Mr. Speaker, Members of this Congress have been unstinting in their support for the rights of Soviet Jewry. By exerting steady pressure on the Soviet Government, by a continuing series of bills, resolutions, and public statements, there has been some success in securing the release of a number of Soviet dissidents.

Religious freedom, the right to emigrate, free speech and other human rights have been the focal point of congressional actions. But we are not alone in our concern. There are, of course, many groups throughout the world who join with us in exerting this kind or public pressure on the Soviet Government.

One such concerned group, closer to home, is the Congressional Wives for Soviet Jewry. This month, the Congressional Wives participated in the annual Women's Plea for Soviet Jewry which was held throughout the country. Congressional Wives fanned out across the Nation to speak out on behalf of Soviet Jewry.

I want to call the attention of my colleagues to an effective speech by one of the Congressional Wives, Mrs. Vyonne Rousselot, wife of our friend, Congressman JOHN ROUSSELOT. Like her husband, Mrs. Rousselot is an outspoken advocate of freedom and human rights.

On Wednesday night, December 12, Mrs. Rousselot addressed the Jewish Community Relations Council of the Jewish Federation of Southern New Jersey in Cherry Hill, N.J. In her remarks, she vigorously enunciated the goals and hopes we all share for the future of Soviet Jewry.

Mr. Speaker, I would like to share this speech with my colleagues:

PLEA FOR SOVIET JEWRY

Dr. Farber, Mr. Respley, Assemblywoman Barbara Berman, Mr. Berman, and Members of the Jewish Federation of Southern New Jersey. Thank you for the very kind introduction, Barbara. I very much appreciate the opportunity to be here to tell you why my husband, Congressman John Rousselot, and I have joined the "Plea for Soviet Jewry." John, who represents the 26th Congrssional District of California, is deepy concerned about the plight of Jews in Soviet Russia.

He has worked closely with his Congressional colleagues, Ben Gilman of New York, Charles Vanik of Ohio, and others both in the House of Representatives and in the U.S. Senate for the cause of Jewry under the Communist regime in Russia. John Rousselot voted for the Jackson-Vanik Amendment which linked the bestowal of "most-favored-nation" status and Eximbank credits to the liberalization of Soviet Emigration policy.

He has cosigned letters to President Brezhnev, or the Soviet Ambassador, for Anatoly Shcharansky, Vladimir Prestin, Igor Gruberman, Alexander Paritzky, and Mark Nashpitz.

In addition, he has signed letters and supported legislation for numerous other

Soviet dissidents, some of whom are Christian, as we are, and some whose religious affiliation I do not know. These include a resolution protesting Soviet citizenship laws and asking independence for the Baltic States, a resolution supporting permission for Ida Nudel to emigrate to Israel—both of which passed the House recently. Another resolution he supports calls for Soviets to permit the emigration of Jews and to grant them true religious freedom. Moreover, he supported efforts in Congress last year to have the Olympics moved from Moscow because of Soviet violations of the Helsinki accords.

John is a 7th-term member. I believe that he would agree with me that the issues facing our Nation have never been more complex. The situation in the Mid-East is alarming, if not frightening. I saw a cartoon the other day which was descriptive of some of our rare evenings at home. A man and wife were sitting on the couch watching the TV. He was coiled in terror, hair standing on end, biting his fingernails, and she was saying to him, "Maybe we should turn to one of the horror shows instead of watching the news."

I am proud of my husband's stand for Constitutional principles and for his voting record in the Congress of the United States. John Rousselot is a freedom fighter and opposes the suppressive communist governments. I am proud of my role as an employee in his Congressional office, and I am proud to be a partner in his political career.

Now let me identify myself. My ancestral descent is from the original Colonies of the United States. I am an American and I strive to uphold the principles of the traditional American philosophy which is written into the U.S. Constitution, as law, and was adopted by our founding fathers and ratified by the people to assure the unalienable right of individual liberty, justice and freedom for all. The right of liberty and independence is fundamental to everything I believe. My participation in the Congressional Wives for Soviet Jewry gives me a chance to actively support the ideal of individual liberty and work to guarantee "for all" that government have no power to alienate man from his God-given rights. The truly American concept is that God is supreme, that the people of a country shall have free exercise of religion, of speech, of the press, to peaceably assemble, to petition the government for redress of grievances, and that government cannot delegate any power to violate man's rights.

Today we hear the term "human rights" which is, I believe, a term of communism which has come into common usage. I shall use the popular phrase—as "individual liberty" seems outdated—as an expression of the fundamental principles underlying America's governmental philosophy.

The Jews of the Soviet Union are seeking to escape the discrimination and the repression of the Soviets, they seek to live in open societies which will allow them educational and vocational opportunities, will permit them to fulfill their hopes and will provide freedom for their religious beliefs.

The Soviet Jews have the right to emigrate under the 1975 Helsinki accords in which the Soviet regime agreed to expedite family reunification; but, the Soviets have repressed this right, they have denied exit visas and created a climate of fear for potential emigrants.

American diplomats, Members of Congress, the U.S. Senate, and prominent leaders from free countries around the world have supported the right of the Jews of the Soviet Union to emigrate, and they have openly criticized the Soviet Union for their flagrant violation of the 1975 Helsinki accords. This is the effort I am joining, and the reason we are together this evening is to talk about how we can unify the appeal for human rights—individual liberty—for Russian Jews.

Soviet Jews who wish to emigrate are often made political prisoners and this is what we denounce and wish to combat with dramatic, organized American force.

You all know about the Russian Prisoners of Conscience and the Refuseniks—they are men and women who persist in their attempts to emigrate to Israel, to help others to do the same, and to disseminate Jewish culture, and those who have been refused an exit visa to emigrate from the Soviet Union and have waited, some for as long as ten years, making repeated requests. These brave and heroic people have suffered arrest, been tried on falsified charges and been sent to prison, labor camps and exiled to Siberia. One such person is Ida Nudel who has been in prison for a year and a half under harsh and cruel conditions. Ida Nudel says of herself, "I am only a woman," but she is known as the "Guardian Angel of Prisoners of Zion" all over the Soviet Union.

Communists claim that they are the champions of "human rights" and the "party of the people." Last Sunday, Iranian Foreign Minister Sadegh Ghotbzadeh appeared on NBC–TV's "Meet the Press" and said that the American Government violates human rights. This spokesman for the revolutionaries (whom Zbigniew Brzezinski has agreed appear to be Marxist-trained revolutionaries) further said that the Iranian Government is not interested in what the officials of the American Government have to say, but their government wants to hear from the "people" in America. Following that, last night on television, the newscasters relayed an appeal from President Carter to all Americans to write to the Iranian Government, the Ayatollah Khomeini, to appeal for the release of the American hostages.

It is not generally believed that the Iranian uprising is communist inspired, but there are some curious happenings. For instance, almost immediately when Khomeini's regime took over, the Israeli Embassy was seized and given over to the PLO for occupation. Fortunately, the members of the Israeli Embassy had foreseen the danger and evacuated their people before the seizure. Too bad the American Government did not do the same.

Some of the efforts on behalf of citizens and public officials have been successful in the U.S.S.R.

Can more be done? How can we help?

Keep this movement strong. Appeal to the Soviets as individuals, by letter, through organizations. Urge your family and friends to do the same . . . all of your friends and acquaintances, not just those in the Jewish community.

Send a written appeal to President Brezhnev. Circulate petitions. You can write to the individual Prisoners of Conscience and to the Refuseniks to let them know you care and are working to save them from these atrocious acts.

The Jewish Community Relations Council can make information available telling how this can be done.

You must raise your voice. The Congressional Wives for Soviet Jewry will continue with great exertion in the "Plea for Soviet Jewry."

Thank you.●

JOURNALISM AND THE CRISIS IN IRAN

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. LaFALCE. Mr. Speaker, as you know, one of the more frustrating aspects of the crisis initiated by the storming of the U.S. Embassy in Iran and the taking hostage of some 50 Americans has been the lack of direct contact between Iranian officials and our own diplomats.

Rather, Khomeini and the others who make up what purports to be a government in that distressed land choose to conduct their diplomacy through journalists—principally through the medium of television.

Don Oberdorfer of the Washington Post prepared an analysis of this phenomenon which, along with the many other analyses that have been done on this aspect of the crisis, warrants careful attention. Accordingly, I am asking that it be reprinted in the Record at this time.

The article follows:

All Sides Resort to Diplomacy By Journalism In Iran Crisis

(By Don Oberdorfer)

Washington's latest warnings to Iran through the press reflect growing concern that some brainwashed American hostages, after a month and a half of captivity, may be trotted out to tell an Iranian-sponsored "international tribunal" about the past "sins" of the United States.

Political, as well as humanitarian, considerations make such a possibility abhorrent to policymaking circles here. The impact at home of such testimony in a show trial or tribunal could be explosive—and it would make the drawn-out, unpredictable and complex Iranian crisis even more difficult to manage at the U.S. end.

In the continuing absence of direct diplomatic contact, communication through the news media is the quickest—if not always the most reliable—channel for the exchange of messages. The past several days have seen new demonstrations of the usefulness and the pitfalls of diplomacy by journalism.

The words from Iran, as usual, have come in torrents from competing centers of power: moral and political absolutism from Ayatollah Ruhollah Khomeini; sleight-of-hand suggestions for reassurances and accommodation from Foreign Minister Sadmigh Ghotbzadeh; unyielding invective from the "student" captors, reflecting self-confidence and a sense of self-importance.

From the U.S. perception, this fragmentation of authority in Iran is bedeviling and overpowering. The words of student militants now openly attack the words of the foreign minister, as occurred Tuesday in No. 75 of the series of daily student communiques, issued Tuesday.

At the same time, Khomeini says it is "a calumny" that the students are directing Iranian foreign policy, even while he is defending the positions they take.

In his most recent press interview on Sunday, Khomeini complained that Americans are so poorly informed that "it is all too possible that they have not even heard the name of Iran." He added that "the pen in the hands of the foreign press is a pen in the hands of the enemy, something that is worse than the bayonet to the fate of mankind."

The State Department took pains yesterday to knock down the latest journalistically conveyed missive from Tehran: Ghotbzadeh's suggestion in a Washington Post interview that an official U.S. investigation of the deposed shah's alleged crimes could end the crisis.

Spokesman Hodding Carter said such a U.S. gesture before release of the hostages would be surrender to blackmail—even while officials acknowledged that the United States is seeking to explore what Ghotbzadeh had in mind and what, if anything, it means.

The latest Washington initiative in the public exchange was a White House statement Tuesday that "public exploitation" of the hostages through appearances at an international tribunal could be "a further provocation," bringing grave consequences. The warning was reinforced by official hints, conveyed to reporters at a not-for-attribution guidance, that certain types of U.S. military action could be triggered by such a provocation.

The suggestions about military options, even though clearly deliberate and intended to be widely conveyed, were anything but specific. Reporters were told there is a wide range of options more punitive than anything done so far, but which still need not involve shedding blood.

Reporters asked persistently about a naval blockade of the Persian Gulf, which seemed to be one such non-bloody military action in the realm of possibility. They were given no official encouragement and at one point were steered away from that option. Nevertheless, the idea of a blockade gained prominence in some accounts.

Tuesday's warning was the second such hint of possible military action from the White House during this crisis. The earlier suggestion, in a statement and background guidance on Nov. 20, came in response to the threat of quick spy trials. The trials did not develop, and some U.S. officials believe the threats of military action had an effect.

It seems less likely that the U.S. warnings will head off the "international tribunal" on the "sins" of the shah and U.S. policy that Ghotbzadeh has been promoting assiduously since becoming foreign minister three weeks ago.

He is armed with a signed "instruction" by Khomeini, dated Dec. 13 and broadcast on Tehran Radio, to convene such an international investigating committee as soon as possible. Some international political figures reportedly have been approached to participate. But the role of U.S. hostages in such a show—and the impact on their future—is much less clear.

At this point in the long-running crisis the war of words fills the newspapers and the newscasts, but it is misleading about the underlying reality. In fact, this is less a period of motion than a period of expectant waiting for more serious movement.

The stage has been set: In Iran, the Islamic holy days are over and the new constitution has been adopted. In the world community, the U.N. Security Council resolution has been unanimously adopted, and the International Court of Justice opinion unanimously handed down. The deposed shah has left the United States.

In the U.S. official view, the outside pressures on Iran—both diplomatic and economic—slowly are gathering force. Spade work is being done toward generating further pressures, probably through a U.N. Security Council resolution calling for economic sanctions.

What is still missing is a clear sign that any of this is having an effect on releasing the hostages in the U.S. Embassy. Because of the complex power relationships in Iran, the main chance for the United States under the current arrangement is to hope for a three-bank shot, affecting the outside environment and the connections of the foreign minister and those members of the Revolutionary Council attuned to external reality, in the hope that they will affect the actions of the ayatollah in Qom, in the hope that he can issue orders to the student militants in the embassy.

It is a Rube Goldberg arrangement for dealing with an international problem worse than the nightmare scenario of the most improbable books of Washington fiction. Unhappily, the Iran crisis is fact rather than fiction, and Washington has yet to fathom the plot.●

SO GREAT A PRICE—AN INSPIRATION

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. CORCORAN. Mr. Speaker, considering the uncertain world situation at the present time, especially with the Iranian crisis in mind, I think that it would be wise to reflect on some reasons why our country is the greatest land on Earth. A constituent of mine, Mrs. Marie Voights Thomas of Yorkville, Ill., composed a poem on February 11, 1973, which I believe, sums up well the feelings that I share, and that I know my colleagues share, about the importance of why this land of ours is so blessed.

At this point, I would like to insert her poem in the RECORD for the benefit of all the Members:

So Great a Price

It was bought at so great a price,
My America, my blessed land,
By the lifeblood of countless heroes
Of a great and glorious band.
They served their country proudly,
Yet fell in the dark foray,
To them the debt of gratitude
That no one can repay.
Young men with great ambitions,
And dreams of a better life
When the hell of battle is over,
And gone is the pain of strife.
How sad they shall never return,
Their tales of war to tell,
Only in tear stained memories,
And broken hearts do they dwell.

We are free, yet so great a price
Was paid that we might be free,
At Valley Forge, and Gettysburg,
And the beaches of Normandy,
And at Dunkirk, and Iwo Jima,
These places, and many more
Countless unknown heroes
Knew the agonies of war,
And now there is peace again,
We pray that it last for aye,
The life of a brave young patriot
Is so great a price to pay.
And we claim a wondrous heritage,
We shall never know the cost,
For in some far off land
A soldier's life was lost.

There are those who would seek to destroy
And tear down our traditions and fame,
And disgrace our glorious flag,
No tears, no remorse, and no shame.
No thought of the blood that was spilt
To keep our America free,
But the ones with compassion and pride
Who with discerning eyes can see
We are debtors, yes, debtors indeed
For as long as life shall last.
We can only each day that we live
Like those patriots of the past
Love, and respect our flag,
And trust God for our destiny,
For so great a price was paid
That America might be free

—Marie Voights Thomas ●

SEALANE SECURITY SYSTEM FOR PACIFIC

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. FINDLEY. Mr. Speaker, turmoil in the Persian Gulf area, the withdrawal of the United States from Vietnam and Taiwan, partial U.S. withdrawal from Korea, and the dangerous increase in the size of the Soviet fleet in the Asian Pacific have created rising skepticism among some of our Asian allies about the credibility and adequacy of their partnership with the United States. Japanese and Southeast Asian officials show increasing apprehension that the Soviet Union, either directly or by proxy, may disrupt sealanes vital to the transportation of oil and other supplies.

Therefore, I am today introducing on behalf of Mr. BROOMFIELD, Mr. BOB WILSON, and Mr. SPENCE, and 11 other of my colleagues a resolution directing the President to consult with friendly nations in the Pacific area for the purpose of devising a Sealane Security System (S.S.S.), the goal of which would be lifesaving assistance on the high seas, and safe, secure, and free transit through international sealanes adjacent to East and Southeast Asia.

Under this plan, member nations of ASEAN (Indonesia, Malaysia, the Philippines, Singapore, and Thailand), plus Australia, Canada, Japan, New Zealand, and South Korea, would contribute naval or other resources to a multinational fleet fully coordinated under United States leadership, which would patrol the international sealanes proximate to East and Southeast Asia, emphasizing safety in all aspects for all vessels using these waters. It would not be a full-fledged military defense system and, therefore, would not alter or supplant the United States-Japan Mutual Security Treaty, the ANZUS Treaty, or any of our other collective security systems. Its mission would be limited to assuring sealane safety and security in the designated international sealanes.

Hopefully, Japan would participate. It has a great stake in maintaining open sealanes and could make a substantial contribution to regional security through its participation. The recent announcement of the chief of Japanese Naval Defense that Japan will take part with the United States, Canada, Australia, and New Zealand, in joint naval maneuvers in the Pacific next spring suggests a positive change in Japanese attitudes toward defense matters. And because participation would be under U.S. leadership and auspices, Japan's new role need not cause domestic or regional anxieties, nor violate its constitutional prohibitions.

The member nations of ASEAN have already considered a cooperative approach to sealane security. Although no decision was made, strong support was voiced by Singapore, and the issue remains ripe for action.

I, along with my colleagues, believe this resolution can lead to a significant improvement in our security in the Pacific. It is high time that the United States take the initiative to improve sealane safety and security, and offer specific additional assurances to our Pacific allies that the security of this region remains paramount to us.

List of cosponsors and text of resolution follow:

COSPONSORS FOR CONCURRENT RESOLUTION

Mr. Broomfield, Mr. Bob Wilson, Mr. Spence, Mr. Regula, Mr. Winn, Mr. Charles H. Wilson, Mr. Sensenbrenner, Mr. Corcoran, Mr. Carter, Mr. Whitehurst, Mr. Lagomarsino, Mr. Bauman, Mr. Stangeland, and Mr. Badham.

CONCURRENT RESOLUTION

Calling upon the President to consult with certain friendly nations in order to devise a Sealane Security System whose purpose would be to insure safe, secure, and free passage through international sealanes adjacent to East and Southeast Asia.

Whereas the nations of Australia, Canada, Indonesia, Japan, Malaysia, New Zealand, the Philippines, Singapore, South Korea, Thailand, and the United States have a continuing interest in the free, safe, and secure passage of persons and trade, including raw materials, through the international sealanes adjacent to East and Southeast Asia; and

Whereas these nations have a long history of cooperation and friendship: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring) that the Congress calls upon the President to consult with such friendly nations as he deems appropriate in order to devise a method whereby the naval and other resources of such nations and the United States will be closely coordinated in a Sealane Security System for the purpose of providing life-saving assistance on the high seas and insuring safe, free, and secure passage for all nations through the sealanes adjacent to East and Southeast Asia.●

CONTINUED MISGIVINGS CONCERNING THE 1980 OLYMPICS BEING HELD IN MOSCOW

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. DERWINSKI. Mr. Speaker, my original misgivings about holding the 1980 Olympics in the Soviet Union are repeatedly confirmed by events. I have long been concerned about our amateur athletes competing against professionals from the U.S.S.R. and other Communist lands. In addition, numerous questions are raised regarding the selection of a Communist country as the site, the prepaid television deal, and the new Soviet law which makes citizenship claims on certain foreign nationals.

A recent article by Kevin Klose, entitled "Moscow Prepares Purge Before Summer Olympics," outlines the latest Soviet moves to tighten up on their populace.

These games used to be thought of as promoting friendship and understanding, but then the Soviets always have a different meaning for words than we.

The article, which appeared in the Washington Post of December 17, follows:

MOSCOW PREPARES PURGE BEFORE SUMMER OLYMPICS—"UNDESIRABLES" TO BE SENT FROM CAPITAL, ACCESS TO FOREIGN TOURISTS CURTAILED

(By Kevin Klose)

MOSCOW, December 16.—One recent evening, a Moscow housewife standing in an endless line at her local food store lost patience and began doing what Muscovites have always done—complaining about shortages.

Suddenly, a man stepped out of the crowd, seized her and forced the woman out of the store. She was bundled off to a local station house, where, to her astonishment, she found about 30 other shoppers who also had been seized in other stores for complaining. The stunned Soviets were harangued by an official for "spreading rumors and falsehoods about Soviet life" as the 1980 Moscow Olympics approach.

When the woman left, she discovered the authorities had another unpleasant surprise: her internal passport, with its vital permission allowing her to live in Moscow, had been freshly stamped to require an official review of her conduct in six months to be sure she behaves.

The Moscow Olympics purge is gathering momentum in the Soviet capital as authorities prepare for the 1980 summer games when an estimated 300,000 foreign tourists, including about 20,000 Americans, are expected here.

The Soviets, intent upon presenting their society as an ideal unmatched elsewhere in the world, are planning Draconian measures to "cleanse the city," in the words of one person, of people the government believes are "undesirable." They are also taking steps to limit sharply Muscovites' access to Westerners in general and Americans in particular. In recent weeks, the following examples have come to light here:

Some Soviet schoolteachers are telling their students that American Olympic tourists will offer poisoned chewing gum to Soviet children. Some teachers are said to have warned that if not poisoned, the chewing gum will contain bacteria to spread disease and infection. The students have been warned sternly to avoid any contact with foreign tourists and athletes.

Directors of factories and enterprises in Moscow have been ordered by local Communist Party officials to compile lists by April 1 of drunkards, psychotics, disorderly persons and Jews who have applied to emigrate so the party can decide who will be sent out of the city during the games, which open July 19 and close Aug. 2.

Schools are requiring students to fill out forms specifying where they will spend the months of June, July, and August. Those who plan to be in the city then will be sent to summer camps away from Moscow.

Human rights activists and dissidents said they believe the KGB secret police will institute tight surveillance and, possibly, house arrest of certain well-known dissident figures, similar to the house arrests made during President Nixon's visit here in 1974.

Adult vacation spas and rest homes and childrens' summer camps throughout the country apparently are being prepared to handle Muscovites who are to be sent out of the city during the games.

Beyond the usual anti-Western, anti-capitalist propaganda attacks, there is nothing to be seen here in the official press of these measures. But reliable, unofficial sources tell of these pre-Olympic preparations. They sardonically use the Russian word Chistka or "cleaning" to describe what is going on. It is a word with dread connotations for Soviets, because it is the term used in designating the Stalinist purges that swept millions to their deaths in slave labor camps beginning in the late 1930s.

The 1977 Soviet constitution, which President Leonid Brezhnev likes to hail as one of the supreme achievements of his 15-year rule, guarantees a place to live for all Soviet citizens. But where a Soviet lives is controlled tightly by the state through extensive bureaucratic checks on individual freedom that center on the internal passport, which every Soviet is required to carry from the age of 16.

Thus, the threat to the housewife—likely to be repeated many times between now and the summer—falls into a gray administrative area where internal Soviet security organizations exercise virtually unlimited power.

The same gray area seems to cover the lists of "undesirables" now being drawn up. According to knowledgeable sources; the lists are to include as "disorderly persons" any citizen who has had at least two court appearances, of any kind, whether or not the incidents resulted in acquittal or dismissal. The category of "psychotics" is thought to include not only those who may have spent time in mental institutions or been treated for mental illness, but others whom officials deem unreliable.

A further category will be used to list "suspicious" or worrisome citizens who do not fall cleanly into the other definitions. The potential numbers could thus reach into the tens of thousands.

It is being said here that virtually every repository for Soviets—jails, prisons, psychiatric wards, rest homes, sanitariums, and summer camps—in the Moscow area will be specially cleared and readied solely for Muscovites sent from the city. The undesirables will be given vacations and if space in rest homes runs out, others will be dispatched on official business trips elsewhere in Soviet Union.

It is also thought that measures are being organized to bar the city to any provincial Soviets without specific travel permission to enter Moscow, either by establishing a new pass system or simply shutting down incoming commuter bus and train service. About a million peasants and other country folk are estimated to be in Moscow any day during the summer months, in search of meat and domestic goods unavailable in the countryside.

The Soviets used similar measures once before, during the 1957 International Youth Festival here during Nikita Khrushchev's leadership.●

JACK BURSEY—SOUTH POLE EXPLORER

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. VANDER JAGT. Mr. Speaker, we recently commemorated the 50th anniversary of Admiral Byrd's famous flight over the South Pole. Special recognition for that extraordinary accomplishment is certainly in order. The tragic air disaster in Antarctica reminded us all of just how hostile that climate can be, and what dangers are ever present to mortal adventurers.

While Admiral Byrd has deservedly become a national hero for his expedition, there were many others in his expedition that deserve similar recognition. One of the young men who accompanied Admiral Byrd, Mr. Jack Bursey, is a longtime resident of western Michigan, and carries with him today the memories of not only that landmark flight, but subsequent expeditions.

I would like to commemorate Mr. Bursey of Whitehall and include in the RECORD a fine article on him which was written by Helen Panzl in the White Lake Observer.

The article follows:

50 YEARS AGO—JACK BURSEY REACHED THE SOUTH POLE WITH BYRD

(By Helen Panzl)

WHITE LAKE.—Jack Bursey of Montague needs no introduction to the White Lake public. His adventurous exploits and antarctic explorations have long ago established him as one of the most interesting and outstanding citizens of our community.

His Acres of Diamonds store on Old Channel Trail, in which he displayed much of the memorabilia of his Antarctic expeditions as well as some stuffed penguins and photographs, was visited by just about everyone in the area. Some of the Arctic tools and artifacts as well as penguins are also on exhibit at the Montague Museum.

Since the sale of the store these articles have been moved to a cottage on White Lake which he built with the idea in mind that it would afford him a place of seclusion where he could write of the days when danger and adventure were his daily companions. He is the author of Antarctic Night and of St. Lunaire, the latter being a tribute to his lead sled dog who saved his life many times.

Bursey has had many honors bestowed upon him during his lifetime. He and his mates of the famed expedition during which Admiral Byrd flew over the South Pole in 1929 were presented with gold medals by a special act of Congress. They were engraved with the following words: "Presented to the officers and men of the Byrd Antarctic Expedition to express the high admiration in which Congress and the American people held their heroic and undaunted service in connection with the scientific investigations and extraordinary aerial exploration of the Antarctic Continent".

He has known the thrill of being greeted as a returning hero by New York's Mayor Jimmy Walker who led them down the streets of New York for one of its famed ticker tape parades.

During his adventures Bursey distinguished himself again and again. Upon accompanying Admiral Byrd on the third Antarctic Expedition in 1939 he and two other men went on one of the longest dog team trips ever recorded, sledging over 1,200 miles in 83 days into Marie Byrd Land over the Great Ross ice Shelf. They were the first men in history to step upon this land. Today one of the mountains in this frigid land has been named in his honor—Mr. Bursey.

Again he and his companions received a special congressional gold medal on which was engraved: "In recognition of invaluable service to the nation by courageous pioneering polar exploration, which resulted in important geographical and scientific discovery."

Special recognition for his feats of daring and medals for distinctive service became commonplace to Jack Bursey. His photograph appeared in leading newspapers and newsreels all over the world. Yet today, at 76, he lives quietly and unobtrusively among us so that we sometimes forget his former acclaim.

But the world has not forgotten these heroic men and now, on November 29, which is the 50th anniversary of the flight over the South Pole, another honor is to be bestowed upon Jack Bursey. He is to be guest of honor at a dinner sponsored by the Ford Aerosports Club in the new Hermitage Hall of the Henry Ford Museum in memory of the Antarctic flight.

A model of the Floyd Bennett, the Ford tri-motor airplane used for the historic flight (which now rests in honor at the Henry Ford Museum) will be the centerpiece and a phone message is expected from the South Pole as a salute. Of the 42 explorers who accompanied Richard E. Byrd to the Antarctic 50 years ago only nine are living today. Bursey is the only one residing in Michigan.

Bursey's only concern in attending this great event is his health which has kept him under doctors' surveillance for the past few years. That permitting—he will be there.

Jack Bursey was only 21 years old when he joined the famed Byrd expedition. A native of St. Lunaire, Newfoundland, he was no novice in dealing with the rigors of the north country. He had sailed on his father's schooner, fished on the Grand Banks, driven log teams across frozen land and water, and skinned seals for food and clothing.

His arrival in America coincided with the final stages of the preparations for Byrd's Antarctica exploration dream. Hearing that the expedition was still in need of skilled dog drivers and ski men, he immediately decided he wanted to be part of that adventure, only to find he was just one of 50,000 others—daring Americans who had the same idea in mind—and at the time of his application the crew had already been hired.

Yet he did get to see Byrd and because of his experience an perhaps a measure of luck; he was signed up as an able bodied seaman on board the barque The City of New York, one of the two ships that were to take the expedition to the Bay of Whales, Antarctica.

He recalls his surprise upon being granted an interview the Commander Byrd.

"I had pictured him as a giant with fire in his eyes," he chuckles, "But the slight man gazing at me across the desk appeared humble and friendly."

He remembers well the day of departure and after that the day by day excitement as they sailed farther and farther south, the establishing of their base camp, and then the tension felt by all of them as they assembled in the mess hall on the great day when Byrd took off to fly over the South Pole.

"We had gathered in the mess hall to listen to the sound of the engines coming to us over the loud speaker," he recalls. "Tension mounted to fever pitch until that hilarious moment when we heard Commander Byrd's voice announcing, 'My calculations say we are in the vicinity of the South Pole.' The wild joy which permeated the camp was something never to be forgotten. The expedition had been a success!"

Often we, who have known and seen Jack Bursey mingle with his neighbors and take part in community activities, find it difficult to imagine this friendly, congenial, unpretentious man once played such an important role in the annals of American history. But the brave explorers who made possible this Antarctic voyage wrote a new chapter in American history and were as important to their generation as the astronauts were a generation and a half later. They will always be revered for leaving homes and loved ones to explore this last wilderness of the world.

And so it is with the concern of the community for his health that Jack Bursey hopes to once again share the world's spotlight as guest of honor at the dinner sponsored by the Ford Aerosports Club in memory of the Antarctic flight.●

SMALL BUSINESS: CONGRESS APPROVES MAJOR AMENDMENTS TO FOSTER THEIR FURTHER GROWTH AND DEVELOPMENT

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. BEREUTER. Mr. Speaker, yesterday the House of Representatives approved the conference report on one of the most important pieces of legislation affecting small business to be produced by the 96th Congress. As a member of the House Small Business Committee which worked on the bill, I applaud this action because I believe it will contribute significantly to the growth of small businesses which are the backbone of the Nation's economic structure.

The bill, S. 918, contains authorizations for about 15 programs for a 3-year period. Major provisions include:

Sets SBA program limits and authorizations for fiscal years 1980–82. Program ceilings are established at $7 billion, $7.8 billion, and $8.5 billion respectively;

Revises the disaster assistance programs administered by both SBA and the Farmers Home Administration;

Authorizes SBA to make grants through a small business development center pilot program;

Directs the compilation of information needed to assess fully the current status of small business and its needs;

Authorizes organizations of handicapped in fiscal years 1980–82 to bid on up to $100 million for small business set-aside contracts;

Authorizes Federal guarantees of debentures issued by certain State and local development companies for investment in small business;

Makes permanent and revises the labor surplus area factor in setting priorities for awarding small business set-aside contracts;

Allows SBA to guarantee loans to qualified Employee Stock Ownership Trusts or plans for the purchase if a small business or qualified corporation; and

Eliminates the burdensome requirement that SBA pay interest to the Treasury Department on outstanding disaster loans.

Mr. Speaker, there is no denying that small business and agriculture are the backbone of the American economy. Yet, it seems at times as if our governmental policies are working against the small businessman instead of for him or her. Over-regulation, paperwork, tax policies, and inflation—each frequently constitute a source of harassment for the small businessman. These factors destroy many small businesses and discourage the formation of many more.

The Government needs to do more than recognize the special role of small business to our economy. It must, through its policies stop the harassment and indeed work to promote small business and the many jobs and innovations that are created by small business.

That is why I am pleased that Congress has approved the comprehensive provisions contained in S. 918. I believe they will provide the type of assistance the small business community can effectively utilize. I am pleased that one of the final actions taken in the first session of Congress is one that will benefit the Nation's small businesses.●

H.R. 6029—PARTICIPATION IN THE INTERNATIONAL SUGAR AGREEMENT

HON. L. A. (SKIP) BAFALIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. BAFALIS. Mr. Speaker, the Ways and Means Committee today filed a report to accompany H.R. 6029, "a bill implementing U.S. participation in the International Sugar Agreement." I did not have an opportunity to review the language of the report in detail prior to the designated time for filing.

In reviewing certain sections of the report, I believe that a number of points should have been emphasized and expanded. They are in that section of the report entitled "United States Sugar Tariff Policy." My views are as follows:

First. In the first paragraph of such section the report discusses the sales policy for commodities owned or acquired by the Commodity Credit Corporation. The report states: "Under section 407 of the Agricultural Act of 1949, the CCC cannot sell any 'storable nonbasic commodity at less than 5 per centum above the current support price for such commodity, plus reasonable carrying charges'" and further on in the paragraph states: "Currently the minimum statutory price is 13.78 cents." The report fails to state that the CCC selling policy currently prohibits the sale at less than the higher, first, of the statutory price or, second, the current market price. Sales at less than the current market price would have a serious effect. Such sales would cause a reduction in the market price—returning less money to the Government, and also result in the CCC acquiring sugar which is now under loan, totaling $520 million in value as outlined in the report.

Second. The report notes that the world price of sugar has increased in recent months and that section 22 fees (under the Agricultural Adjustment Act of 1933) have gradually been reduced to zero. Administration spokesmen have indicated that they are also considering a recommendation to the President to reduce the tariff, currently 2.81 cents per pound. It is assumed by some that any subsequent adjustment in import fees to achieve the desired domestic price can be promptly accomplished under section 22 authority. A close study of that authority under section 22 convinces me that there could be a great delay in implementation because of the procedural requirements contained in it. Therefore, consistent with the language currently in the report which states "the goal should be to maintain the price of imported sugar, and thus the domestic price, at a level that discourages producers from placing sugar under loan, encourages sugar under loan to be redeemed and provides for an orderly sale of sugar that has been forfeited to the CCC," any reduction in the tariff should be carefully considered.

I have conferred with my colleague, the Honorable Henson Moore, a member of the Ways and Means Committee, and he concurs with this statement.●

POSSIBLE SIDE EFFECTS OF SUPPOSEDLY SAFE DRUGS

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Ms. MIKULSKI. Mr. Speaker, during the coming year my colleagues and I will be considering legislation concerning the complete provision of information to consumers using drugs. I strongly believe that both physicians and consumers should be aware of all possible side effects of drugs before they are taken.

To help my colleagues understand just how important it is that physicians and consumers know about all potential side effects, I would like to share with them a personal tragedy experienced by one of my constituents. I would like to enter into the Record a letter sent to me by Ms. Olga Worrall, a well-known lecturer on holistic medicine, who recently spoke before the Congressional Clearinghouse on the Future. Ms. Worrall describes her misfortunes after a doctor gave her an an allegedly "safe" drug.

November 20, 1979.

Hon. Barbara Mikulski,
House of Representatives,
Washington, D.C.

Dearest Barbara: Since both you and I are interested in Holistic Healing, I must share with you a horrendous experience that I am still suffering from because of wrong medication. Let me start at the beginning. On Thursday, the first of November, I went to Minneapolis to keep a speaking engagement and Workshop commitment with a group interested in holistic medicine. My host and I arrived at the motel where I was to stay. Several members, my host and I went into the dining room for a late dinner. Everybody ordered chocolate ice cream for dessert; I ordered vanilla. After two mouthfuls I noticed that the ice cream smelled and tasted like spoiled milk. I did not consume the ice cream.

I did my lecturing to about 1,000 persons and gave a workshop to over 200 persons—many of them medical doctors.

On Tuesday morning I awakened with a strange feeling in my mouth and discovered that my mouth and tongue were covered with a white fuzz. I faintly recalled my mother speaking of Thrush mouth in little babies if they were given spoiled milk. I called my host and told him I felt that I should have a doctor check my mouth to make sure there was nothing seriously wrong. My host told me that he would contact one of the doctors who attended my Workshop. The doctor came to my hotel room, looked at my mouth, and said: "Oh, there is a mild epidemic of this, apparently caused by the very dry air." He then told me that he would prescribe an antibiotic that would clean it up very quickly. I told him that perhaps a milder treatment should be given, like rinsing the mouth out with peroxide. He told me that this would only kill off the surface fungus, but have no effect on the body. He then wrote out a prescription for Erythromycin (500 mg.). I asked him about the side effects, and he assured me that there would be none—that this was a very mild antibiotic.

The prescription was filled at once and the doctor told me to take two of the pills, and then four every day until the pills were used up. By the time I arrived in Baltimore, that evening, my voice was completely gone. I might add that I did not have a temperature any time. For two days I was unable to speak—not even a whisper. Finally, after two days, my voice came back in a whisper.

I phoned my nephew, who is a medical doctor, and told him what had happened and when I told him what had been prescribed he couldn't believe his ears. He informed me that this drug is a very dangerous drug and that the side-effects are horrible and it can cause a yeast-type infection in the vagina, and that there is no drug to counteract it. He also informed me that Thrush mouth would have healed in a few days because it is self-contained and a mouth-wash of peroxide or other mouth-wash would have taken care of the problem.

I also phoned five of my doctor friends in Baltimore who expressed the same shock as my nephew did—that I had been given a non-specific drug.

I have suffered miserably from the side-effects of this drug. It is two weeks now since I have taken the drug and my throat is still swollen, as are the vagina and rectum.

As I have been pondering over this terrible experience I was subjected to by an ignorant doctor and a drug that should not be on the market, I wonder about the United States Government permitting drug companies to abuse our bodies through their terrible concoctions.

My doctors tell me that many of these antibiotics cause patients to be hospitalized because of the side-effects.

Centuries ago a plague hit Rome. Greek doctors swarmed into Rome and bled and purged the poor Romans and thousands were dying from the cure. The Roman citizens approached the government and declared that Rome was giving Greek doctors license to commit murder. One must come to the same concluison in this day and age and declare that our government is giving license to drug companies, and unscrupulous doctors—license to commit murder. Perhaps these words aren't strong enough for the untold misery that unsuspecting patients are subjected to because of the poisons being dispensed by our drug companies. Many doctors are guilty of using their patients as guinea pigs for drug companies.

I come in contact with many young doctors who tell me how frustrated they are that they are taught nothing about medicine but are told that as soon as they graduate to open up an office and that a drug salesman will come by and give them a book with all the drugs available for certain ailments. This is not Holistic medicine. Our dedicated doctors realize how short-changed they have been in not having true medical training and how to use drugs wisely.

I don't know how much good my letter will do, but I must cry out against the abuse of unsuspecting and innocent babies that are being thrown into cancer because of these terrible drugs. Never in the history of my mother's, or grandmother's time were women given hormones during the menopause. It was indeed a very rare thing to hear about cancer when I was a young girl, but today our poor women, who are approaching the menopause, are becoming the victims of cancer because of money mad medical doctors, and drug companies.

I am sorry, in a way, that I have to burden you with this letter, but I have no one to turn to to cry out against medical abuse of my body.

I keep praying and visualizing my body overcoming the damage that was done to it. I shall have to suffer until this poison works out of my system.

Today my voice is much better, my throat and tongue are not as swollen, and with the help of God and the healing energy, my voice should return to normal.

Please feel free to use my letter in any way possible to make the powers that be in Washington take a hard look at the drug companies and the poisons that they are creating that in turn are destroying the health of the people.

God's richest blessings to you and yours. Much love.

Sincerely,
Mrs. Ambrose A. Worrall,
Director, New Life Clinic.●

HUNTINGTON SENIOR CITIZENS MOURN THE PASSING OF RUTH BROWN

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. AMBRO. Mr. Speaker, I was recently informed of the untimely passing of Ruth Brown, the former director of senior citizens programs for the town of Huntington, N.Y. As supervisor of the town of Huntington, I appointed Mrs. Brown to that position in 1969. Before that she had served as the head of one of the individual units for a number of years. During her tenure as the head of the Huntington senior citizens program, it grew, in both size and scope at an amazing pace. From a small recreational activity serving under 1,000 people in nine units scattered throughout the town, it became a large, multifaceted series of services and projects with several thousand participants attending over 20 units. With Ruth Brown at the helm, a nutrition program was begun that sought to minister not only to the physical hunger of our older residents, but to their longing for companionship and pleasurable group activities. The Huntington nutrition program soon became a model for the county and the State of New York as well. During my many visits back to the center—which was first initiated during my term as town supervisor—I never fail to be impressed by the aura of joy, relaxation, and industriousness that is immediately apparent.

It was Ruth Brown who first brought to my attention, and to that of the town board, the serious need for garden apartment-type housing facilities for our lower- and middle-income seniors who were no longer capable or willing to maintain their private homes. Out of her prodding and initiatives first came the Huntington Senior Citizens Housing Committee—of which she was an ex officio member and key adviser—and then Paumanock Village, the 292-unit housing complex that was dedicated only this past summer. Every senior citizen living in those lovely apartments can thank Ruth Brown for the work she did to make it a reality.

Ruth left the town of Huntington in 1974, when her husband was transferred to New Jersey. Not surprisingly, as a resident of Middletown, N.J., she soon got involved with senior citizen activities in that community and made a significant contribution there, as well.

Mr. Speaker, unfortunately, Ruth Brown passed away just before Thanksgiving after a short illness. In addition to her husband, Geary, her daughters, Judy and Joanne, and her mother, Ruth Harrison, Ruth Brown will be missed by all of us who worked closely with her and were educated and inspired by her to understand the needs and the desires of our elderly citizens. Most especially, she will be sorely missed by those many thousands of Huntington senior citizens whose lives she touched and enriched. For her, working with and for senior citizens was more than a job, it was a promise, an opportunity, and a commitment. The programs, facilities, and services offered to older residents of the town of Huntington will always be a living monument to her spirit and her memory.●

SALT II

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. PETRI. Mr. Speaker, in November I made a speech on the debate over the SALT II treaty before the faculty seminar on SALT II of the University of Wisconsin/Oshkosh. In hopes that this analysis may be of use to others concerned with this critical issue, I would like to insert it in the Record at this time.

The SALT II Debate—An Analysis

It is a pleasure to be here today to discuss this extremely critical and complex issue. Of course the House of Representatives will not vote on the ratification of SALT II, but every thoughtful American should be concerned about the debate over the treaty and the strategic equation which lies behind it. I am not an expert on weapons systems, and I don't claim to have all the answers on the treaty question. But I have thought about our basic defense posture in some depth. Today I would like to present my analysis of that defense posture and consider some of the key specific characteristics and possible uses of the actual weapons that form the backdrop of the treaty debate. Out of that will come a basic approach to the treaty itself.

BASIC ISSUES

Our first question ought to be: what is our basic objective in the whole SALT process? The answer should be clear. It is to promote strategic stability. That is, to minimize the risk of nuclear war (but without having to do so by giving up vital interests). Saving money, by avoiding the construction and deployment of more weapons, is a worthwhile objective too, but surely it is distinctly less important than strategic stability. Note that all sides in the debate share this primary objective. They just differ on how to achieve it. Despite implications to the contrary which surface from time to time, no serious person, hawkish or dovish, wants to increase the risks of nuclear war. Indeed some of the apparent hawks on this issue (i.e. those opposed to the treaty) regard themselves as the real doves since they don't think it does enough for arms control. And some of the apparent doves seem almost hawkish in their willingness to accept situations others find fraught with danger.

We can make an arbitrary division of the issues into two categories: the distinctly military issues and the broader issues which are mostly political. The basic military issue is the effect of acceptance or rejection of the treaty on the strategic balance and hence on strategic stability. The political issues include such things as the effect of acceptance or rejection on the SALT process itself, the effect on detente or superpower relations in general, the linkage to Soviet military activities around the world, the effect on NATO, the effect on our image abroad, and the effect on our domestic defense policy and budget debates. It seems clear at the outset that the military issues are the heart of the matter, and most of my analysis will be directed to them. When we get through that analysis, however, it will appear that the two categories are much more closely interconnected.

OVERALL FORCE LEVELS

Let us first put the military equation in some perspective. At the time of the 1962 Cuban missile crisis Russia had only 70 liquid-fueled ICBMs requiring 10 hours to launch, plus some bombers. The U.S. was overwhelmingly superior in nuclear arms, and some think that was the key factor that made the Russians "blink first." Others point to our conventional arms superiority in the Caribbean as equally important.

In any case by 1962 all the major nuclear weapons systems we rely on today were already well under way, including B–52s, Minuteman missiles, and Polaris submarines. From '62 to '76, in inflation-adjusted dollars the U.S. actually *cut* its spending on strategic weapons an average of 8% per year. The 1979 spending level is only ⅓ that of 1962—$10 billion versus $30 billion in 1979 dollars.

Meanwhile, the U.S.S.R. has steadily increased its strategic spending from the early '60s, speeding up after both the SALT I accord and the Vladivostok agreement in '74. In dollar terms, their strategic budget is now triple ours. Their general purpose forces are growing 20% faster per year and are now twice as great as ours. Moreover, their R&D spending has led ours since SALT I and in recent years has been twice as great.

According to both the administration and most SALT critics, the strategic situation now is one of "essential equivalence." The U.S. leads in the total number of reentry vehicles or warheads (RVs), 9514 to 8226, and the U.S. also leads in accuracy. Russia leads in total megatonnage by a ratio of 2½ to 1, in throwweight by over 3 to 2, and in total launch vehicles by 2504 to 2053.

By the early 1980s Russia is projected to catch up in the critically important variable of accuracy. By 1985, consistent with the limitations in the SALT II treaty, Russia is projected to be equal in accuracy, almost equal in RVs (12,504 to 11,728), ahead in megatonnage by over 3 to 1 (10,870 to 3,537), and ahead in throwweight by almost 2 to 1. Treaty critics think this may lead to "strategic superiority." The administration, including the current Joint Chiefs, insists that we can maintain "essential equivalence." But these are pure abstractions. To understand what the argument is about, we must dig a little deeper into what the numbers really mean in terms of the concrete military objectives the various forces might theoretically achieve.

CAVEATS

But first we must make two caveats. Some people think that to even consider what might happen in actual nuclear warfare is to be a warmonger and to invite the description to become reality. I must reject that attitude. The subject is far too important to be dealt with in superficial generalizations. In fact, the absence of detailed thought in this area is at least as likely to invite nuclear war as its existence is.

Beyond this, sketching a series of theoretical attacks and counterattacks doesn't mean that any scenario will actually occur as sketched, even if leaders of the two countries believe the scenario describes a rational set of moves. Rather, as mentioned by Senator Javits in the hearings, it could be more like a game of chess. Chess masters can often project a long series of moves and realize which player has the winning position. Then the weaker player resigns without playing the game out to its conclusion. Some think this partly describes what happened in the Cuban missile crisis.

WEAPON CHARACTERISTICS

The three most critical variables for describing the attacking potential of an offensive nuclear force are the number of RVs (i.e. warheads), their yield (i.e. megatonnage), and their accuracy. Throwweight is basically the total amount of "stuff" that can be put up in the air, and it really measures the potential for adding numbers of RVs and yield. The number of launchers (missiles, bombers, and submarines) basically describes the number of targets an opponent has to attack.

Accuracy is critical for destroying "hardened" targets such as missile silos. The probability of an incoming warhead destroying a hardened target varies as the square of yield and hardness but as the cube of accuracy. It turns out that up to a certain level of accuracy it is cheaper to add hardness to a missile silo than to add corresponding yield to the attacking warhead. But when accuracy reaches a certain level, which we probably have now and which Russia will achieve in the next year or two, according to administration testimony in the hearings, then no amount of hardness will do.

It is important that accuracy is highest for land-based missiles (ICBMs) and for the cruise missiles we are expecting to start deploying after 1982 or 1983. It is lowest for submarine-launched missiles (SLBMs). SLBMs probably cannot knock out hardened targets like missile silos in the near future, with the possible exception of our newest Tridents.

Megatonnage, or explosive power, is primarily useful for area destruction; that is, knocking out cities and industry. Large yield is wasteful for attacking small hardened targets if smaller warheads are accurate enough to do the job. SLBMs tend to have much lower megatonnage. Right now 50 percent of total U.S. megatonnage is on bombers, 40 percent on ICBMs and 10 percent on SLBMs. In contrast, our SLBMs now have 50 percent of our total RVs to just over 25 percent for the bombers and just under 25 percent for the ICBMs. Russia, with far fewer bombers, has over 75 percent of its megatonnage on ICBMs, about 15 percent on SLBMs and under 10 percent on bombers.

The number of RVs is important primarily in order to have enough to cover all the desired targets, particularly in second or third strikes.

POSSIBLE RUSSIAN FIRST STRIKE

As I indicated earlier, Defense Secretary Brown testified that improving Russian ICBM accuracy will make our 1054 ICBMs vulnerable by 1981 or 1982. He claimed we would have to rely on the other two legs of our "triad" of forces, bombers and submarines, until the situation can be redressed. Note that this is a somewhat different concept of the "triad" than we used to hear about. It used to be that we needed to keep all three "legs" viable to maximize our security. Now we are told we have three "legs" so that we still have two left if one becomes vulnerable. As we shall see, however, this watered down concept may increase our risks dramatically.

The current proposed solution to our ICBM vulnerability is the new MX missile in a mobile basing mode in which each of the 200 missiles will rotate on a track among 23 hardened shelters, creating 4600 targets that an enemy must attack. To attack each target with 2 incoming RVs would require 9200 RVs. Once the system is in place, it is felt that it will be cheaper to add more hardened shelters than it will be for an enemy to add more RVs. Thus the defense will be able to add more targets than the offense can attack. However, even if the MX stays on schedule and works, it is not scheduled to be deployed until 1986 to 1989, which is after the expiration of SALT II in 1985. Between 1981 or 1982 and MX deployment there will be what is called a "window" of time during which our ICBM force will be vulnerable.

Let us now consider what a Russian first strike might achieve in, say, 1982. By then Russia will have over 6,700 RVs on her 1,200 ICBMs, consistent with the terms of SALT II. It would take 2,108 RVs to target two each on each of our 1,054 Minuteman and Titan ICBM silos. If the probability of any one incoming RV destroying its target is 80 percent to 90 percent, then 96 percent to 99 percent of our total ICBM force would be destroyed. That is, the first wave of RVs would destroy, at 80 percent kill probability, 80 percent of the targets, and the second wave would destroy 80 percent of the remaining 20 percent, or 16 percent of the original total. Adding 80 percent and 16 percent gives us the 96 percent of the total which would be destroyed. Let us assume that 97 percent to 98 percent of our ICBMs would be destroyed. That would leave 20 to 30 missiles. Since only half our Minutemen are MIRVed with 3 warheads each, those missiles would have a total of 40 to 60 warheads.

With a few hundred more warheads, the Russians would presumably attack our bomber bases and the submarines that are in port, plus our communications and intelligence facilities and some other military targets, possibly including Washington. Many critics believe that at the very most, 30 percent of our bombers would escape destruction, since only a minority are on alert at any one time, and since explosions along the escape routes would destroy some in the air.

The next question is how many of these remaining bombers could penetrate to their targets. Russia has been spending massive amounts on air defense, including thousands of surface to air missiles and interceptors, while some of our B–52s are older than their pilots. Administration experts testified they thought 75 percent could get through, assuming that attacks by some of our SLBMs suppress part of Russia's defenses. Some critics believe only 25 percent would make it. Let us assume that 30 percent escape the Russians' strike and 50 percent of those make it to their targets. Then we are left with only 15 percent of our bomber force capable of making it to any targets, assuming that they know which targets to go to.

Notice two further facts. The bombers may have to be used within a few hours, since they cannot return to their bases, which were destroyed. Also, the bombers take 6 to 10 hours to reach their targets, quite a bit of time for the Russians to decide to release their remaining missiles in a second attack if this is what they think the bombers are going after.

Turn finally to our submarines. Between 40 and 50 percent of these are in port defenseless at any given time. Let us assume the Russians attack when they can destroy 50 percent in port. Also assume that all submarines at sea survive, which seems a safe bet at present though by no means certain.

To sum up, at this point theoretically the U.S. would be left with 20 to 30 ICBMs (40 to 60 warheads), effectively 15 percent of its bombers, and 50 percent of its SLBMs. Russia would have left two-thirds of its ICBMs (about 800 with over 4000 RVs) and all of its SLBMs and bombers. Perhaps 10 to 20 million Americans would have been killed by Russia's attack on our strategic forces.

U.S. OPTIONS AFTER FIRST STRIKE

What would be our options at this point, aside from doing nothing? One would be to attack Russia's remaining forces. This has been our preferred doctrine, since we want to avoid having to threaten escalation to an exchange of attacks against population and industry. We would prefer to be able to destroy much of their remaining force and have enough left over to have at least equal ability to threaten city destruction. Unfortunately, if our ICBMs are gone, this option is not very viable. It is doubtful whether SLBMs, which would comprise the bulk of our remaining force, could destroy the Russian ICBMs, two-thirds of which would remain in their hardened silos. Remember that SLBMs are not accurate enough and bombers take too long to get to hardened targets to be sure of destroying them before the missiles leave.

So we might be forced to a second option—attacking cities. To have a credible deterrent, we must at least be able to inflict unacceptable damage on Russian population and industry at this point. But even our ability to do this would be unclear in the scenario we are sketching. Recall that destroying cities requires area destruction, and that requires not only lots of RVs, but lots of megatonnage too. Our SLBMs don't have that. Our total surviving force at this point would have only 20 percent of the area destruction potential of the original force.

Now look at what is being attacked. Russian population and industry are far more dispersed than ours, partly by design. In addition they have spent $100 billion on civil defense. In fact, besides having shelters, they can completely evacuate their cities in a few days, which might be how long it would take the surviving U.S. leadership to decide what to do. Besides this, some of their industry is hardened. Therefore, some critics believe Russia could survive a "countervalue" attack, as it is called, at this point with a loss of as little as 10 to 20 percent of its industry and 20 million people, the same number it lost in World War II.

In contrast, it has been estimated that with what the Russians would have in reserve at this point, by attacking 254 American cities they could destroy 80 to 90% of our industrial base and kill 150 million people. Moreover, they would have enough weapons to do this 2 or 3 times.

So the bottom line of this analysis is that Russia could have a decidedly superior position. Superior enough so that it is extremely doubtful that an American leader would force the exchanges to their conclusion, and therefore superior enough that the Russian leadership might consider it a bet worth taking that they would suffer no retaliation at all. This could be the case even if the calculations are wrong by a fair amount. A lot depends on what the Russians' perceptions are. The key fact, perhaps, is that the loss of our ICBMs would remove the U.S. option to strike back at the remaining Soviet forces, forcing us to initiate the process of destroying cities, something which is of much more doubtful credibility.

SOVIET WILLINGNESS TO LAUNCH FIRST STRIKE

We should pause to consider Russia's willingness to initiate this kind of a hideous policy. There are several factors that make it believable. First, their stated military doctrine is that a nuclear war can be fought and won. Second, some point to the nature of their buildup, and particularly their civil defense preparations, as evidence that they might actually start a war. Third, they did lose 20 million people in World War II and killed almost as many of their own people before that in the purges and the liquidation of the Kulaks. They recovered from that and may feel they can recover again. Fourth, there will soon be new leadership in Russia and the nature of their politicial system gives us no confidence that the wisest, most humane men will rise to the top. Fifth, at some point a few years down the road, they could find themselves in a very threatened position with China on the East, unrest in East Europe, and dissidence and economic failure at home. There could easily be a combination of circumstances that would encourage the ruling group to take bold, desperate action. Finally, and perhaps most important, the Russians may think that in a crisis, fearing an attack, the only hope for the U.S. might be for the U.S. to strike first itself against Russia. This could encourage the Russians to act to preempt such a move.

POSSIBLE U.S. FIRST STRIKE

Let us consider a U.S. first strike for a moment. In the early '80s, the U.S. will have about 2100 highly accurate RVs on ICBMs. Augmented by a few hundred of our newest, most accurate Trident SLBMs, these might be able to destroy almost all of Russia's 1200 ICBMs, just as they could destroy ours. Moreover, Russia's ICBMs comprise a much greater percentage of its total force than our ICBMs do of ours by most yardsticks. Since the strike would take our total ICBM force and a portion of our SLBMs to accomplish, we would not have nearly as many weapons left as the Russians would have after a first strike, but we would certainly be vastly better off than if we had absorbed their blow first. In fact, the Russians might even fear that our Trident SLBMs will become accurate enough to threaten them with an SLBM first strike from close in to their shores. This would give them to little warning time (only 5 to 15 minutes) that they couldn't even launch on warning.

BASIC PARADIGMS

Thus the basic strategic situation could become like a classic gun duel. Whichever side shoots first wins, both sides know it, and each side knows that the other knows it. This is clearly the most unstable strategic situation possible. It is impossible to overstate its danger. We have not been in this situation before—indeed there may not have been a similar one in the history of the world—but we may now for the first time be moving in that direction.

At present, the situation is more like a duel in which if either side fires, both die, and both see the situation that way. This is not pleasant, but it is much more stable than the first gun duel. The most stable situation of all, of course, is no duel at all, either because one side is clearly superior (as in '62, although each side had less knowledge of the other then) or because neither side can destroy the other—the ultimate goal of arms reduction.

It is not clear that we are definitely going to be in the gun duel situation. For example, Russia may not have enough of its most accurate RVs deployed by 1982, and our deployment of cruise missiles between then and 1986 may be rapid enough to protect us by augmenting the penetrability and power of our bomber forces. Or again, the greatest danger would occur in a crisis situation, and then we would probably have more bombers on alert and subs at sea, so the equation would shift a bit. Still we cannot count on the Russians not launching a surprise attack apart from a crisis.

There might also be other interim strategies the U.S. could pursue to alleviate the danger. One of the most obvious would be to adopt a policy of "launch on warning." This would be much more dangerous and less credible than our current policy of being able to absorb a first strike, but it could give the Russians pause.

Even if we reach the gun duel, we might be saved if the Russian leaders do not believe all their theoretical calculations, or if they are just not cold-blooded enough to strike after all, or if they think they can achieve their objectives by other means.

Despite all the ameliorating possibilities, however, it is clear that we are at least headed in the direction of the gun duel. It is extremely dangerous, we have no experience of what it might be like, and it has many people very concerned. This is the fundamental problem of our defense posture, and this is the essential background to the SALT II debate. Now what is the relationship of SALT II to all of this?

ENTER SALT II

The first question we should ask is "What does SALT II prevent the two sides from doing that they would otherwise do?" Take the U.S. first. The consistent administration answer is nothing. Our cruise missile program can go forward as scheduled after the protocol expires in 1981, Trident is unaffected, and the MX, whose development is allowed by the treaty, isn't even scheduled for deployment until after the treaty expires, in 1986.

To get down to the launcher limit, the Soviets will have to dismantle 250 aging single-warhead missiles that are of little consequence. They will lose 250 RVs thereby, but at the same time they can add 3500 through adding MIRVs (multiple independently-targetable reentry vehicles). Supporters of the treaty point to the limits on the numbers of MIRVs each side can have on its various weapons as being significant on the Soviet side, especially for the huge SS-18. The SS-18 could carry up to 30 MIRVs with its throwweight but is limited to 10. This should prevent the Soviets from putting so many RVs in their force that they overwhelm the MX system before it is built. However, this may be more significant as a precedent for SALT III since Russia would probably not get to far on this before 1985 anyway without sacrificing somewhere else in their buildup.

The essential fact is that neither side is prevented from doing much that they would otherwise do that is of essential importance to their program. At least this is what opponents claim without too much argument. It is difficult to maintain that the treaty does not prevent us from doing what we would otherwise do and then turn around and try to maintain that it does essentially limit Russia. Presumably the Russians are not such poor bargainers. Under the terms of the treaty, both sides, but especially Russia, will build up their forces, primarily by adding MIRVs. It is in fact not an arms limitation treaty at all. It may be an arms control treaty in that it does include some agreed boundaries to expansion.

SUMMARY OF ARGUMENTS

We can now summarize some of the major arguments in the treaty debate. One of the principal arguments against it is that it does not do enough. We are heading into grave danger and we need arms limitation and arms reduction, but the principle effect of the treaty will be to delay the target date for another treaty for 6 years until 1986. By then Russia will be vastly more powerful than they are now. If they weren't induced to stop their buildup or reduce their arms in 1979, won't it be much more difficult 6 years later when they have much more invested?

Proponents reply that the treaty is the best we can get at the moment, and rejection will set the SALT process back rather than advancing it. In addition, it does establish the principle that the two sides should be equal on some criterion (namely number of launchers), it actually requires a reduction by Russia on this criterion, and it establishes very important fractionation (MIRVing) limits.

Whatever position you take, notice that more than a debate about military substance, these arguments are fundamentally about political issues and political judgments. Remember at the beginning of this talk, I divided the issues arbitrarily into the military and the political. I assumed that the military issues were the heart of the matter. But because the basic strategic danger exists independently of SALT II, and because SALT II does not radically affect it, the basic arguments over the treaty become the political ones after all.

That is why some Senators are linking acceptance of the treaty with an increase in defense spending, even though the increased spending might not be for strategic programs. They fear that acceptance of this treaty will be interpreted by Russia as indicating that the U.S. does not have the resolve to match the Soviet buildup, and that it will encourage them to continue a drive for strategic superiority. On the other hand, they fear that simple acceptance will "tranquilize" the American public, making them think our strategic problems are taken care of and there is nothing to worry about. An increased spending promise, according to this view, will send a basic message to the Soviets in a less drastic way then rejection of the treaty would. At the same time it would assure that resources were available for at least some expanded strategic programs, and the Soviets are more likely to agree to limitations if there is a concrete program under way to deny them superiority.

Note that I have said nothing so far about verification. Many opponents are concerned about verification of some aspects of the treaty, but most of them seem to regard this as a red herring since what the treaty allows is dangerous enough.

Similarly, you can nitpick other aspects. For example it is charged that the backfire bomber should be counted in the launch limits. Perhaps it should, since our bombers cannot make complete round trips back to the U.S. either. However, backfires are currently assigned "theatre" missions, and this is just one of those things we gave up to get the few concessions that were of greater significance to us elsewhere, according to the proponents. In any case, this seems a secondary issue, since the Soviets will have such significant reserves after any nuclear exchange that they won't need the backfire for intercontinental use.

Another nitpick is the potential ability of the Russians to build extra missiles (since it has launchers that are limited) and store them for quick reload onto their launchers or even for firing from their cannisters. Again this is of lesser importance for the same reason as the backfire. If they can already kill us three times, what difference does it make if they raise it to four times? Once is quite enough.

CONCLUSION

Thus, because of the increasing vulnerability of the ICBMs of both sides, the strategic balance is potentially headed for a period of much greater danger than we have so far experienced. This is the essential background of the SALT debate, and the actual provisions of the treaty do little to alleviate the situation. Even if we do not completely reach the extraordinarily unstable condition of the duel in which the side which shoots first wins, we are at least perilously close to it. Our margin for error is getting much too thin.

The members of the Senate are called upon to make a most difficult judgment. They must decide whether it will be better for future arms limitation efforts if we accept this limited treaty to keep the process going or if we reject it as inadequate. Because this judgment is difficult, other political issues such as the effect on NATO or Soviet activities around the world may be decisive in some Senators' minds. In other words, the lack of any clear conclusion on the merits brings more secondary issues to the fore. We started out with the assumption that the strategic issues were more central than the political, but in the end we find that the two are inextricably linked after all.●

IN PRAISE OF KERMIT BLUME

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. PICKLE. Mr. Speaker, Kermit Blume is a man who has served many people, and who has served them well. For over 42 years he has been a postal carrier out of the Ledbetter, Tex., Post Office, and he is now ending his career with the Postal Service and beginning his retirement years.

Mr. Speaker, each year in both private enterprise and the Government we find employees who retire after having served their constituencies well. Quite often it is an occurrence of little note or concern except to the retired employee himself, and perhaps his or her family. But some people feel their public service in a greater way than others, and I believe Kermit Blume is one of these. Yesterday I received a letter from Mr. Blume that I think typifies this dedication to public service. In it Mr. Blume thanks me for having helped to "save" the Ledbetter Post Office a few years ago when it was threatened with closure. But more importantly, it is a wonderful example of the love Mr. Blume has had for his community, the people he has served, and the work he has carried out for them and for us. I insert a part of it herewith for my colleagues' attention:

> Small oil and gas wells are being drilled all around us and I am going to recommend to the Ledbetter Fire Dept. to put up a sign: "Ledbetter."
>
> Where the cattle grow and the oil flows.
>
> My wife and I, as well as other citizens in Ledbetter, are doing progressively better every year.
>
> Ledbetter is a far cry from what it was 42 years ago.
>
> When I started we had no electricity—no running water—no street lights. During the depression years Ledbetter was a rundown Rail road town and on top of that a fire wiped out a block of business houses.
>
> Enclosed you will see a note I wrote to all my patrons on the mail route with a mail box greeting card:
>
> The mail box has been more than just a box to me. The rural mail box has been an emblem of satisfaction to me.
>
> Certainly it has been an emblem of satisfaction to you too. In it you received all the good news and sometimes a little bad news. For years, Mrs. Ellen Rebecca McClellan at Box No. 1 would give me a good send off by saying, "You are my sunshine, for you bring me letters from my children."
>
> After serving you GOOD people with pleasure and happiness for 42 years, it is hard for me to quit. However, there comes a time for all of us to understand that we cannot keep on forever.
>
> After a million miles of "Service With a Smile" it is proper and fitting that I retire.
>
> A dream come true of service and great satisfaction to me shall terminate December 13, 1979.
>
> I shall continue to work and think happy.
> I have built a house by the side of the road and tried to be a friend to man.

Mr. Speaker, each of us have public servants in our districts who are dedicated to the public interest as much as anyone. Kermit Blume is typical of the many post office carriers throughout America, and I am pleased to make note of this achievement and to express my appreciation to him for his years of devoted service to the Postal Service and to our country.●

THE U.S.-U.S.S.R. MILITARY BALANCE—MYTHS AND FACTS

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. BINGHAM. Mr. Speaker, over the last few months I have made a series of short speeches about the military balance between the United States and the U.S.S.R. I have received a number of requests for copies of these speeches, and to make it easier for readers of the RECORD to see all of these speeches, I am including them in order at this point in my remarks:

Mr. BINGHAM. Mr. Speaker, there is a growing fear in the United States of the military might of the Soviet Union. Increasing numbers of people, including many Members of Congress, are convinced that the Russians have been conducting an unrestrained and largely successful drive to obtain military superiority in both conventional and strategic weapons. Cries of alarm about Soviet military might have resounded through these halls with increasing frequency, and many Members are convinced that the Soviet military machine is now more powerful than any on earth.

This alarmist view has traditionally been stressed to drum up support for larger spending on U.S. forces, but this year I fear that it will also be turned against the Strategic Arms Limitation Treaty. Those who become convinced that the Soviets' military might surpasses our own in almost every category can also be convinced not to support a SALT agreement which only deals with one part of the military imbalance. In an effort to deflate some of the exaggerated fears about Soviet military capabilities, I will undertake to highlight some of the weaknesses of Soviet conventional forces, and the superior strengths of U.S. and Allied Forces. In a series of brief speeches over the next few months, I want to demonstrate that the military balance is not so dangerously lopsided as too many people seem to believe.

Mr. BINGHAM. Mr. Speaker, the widespread belief that the Soviets have surpassed the United States in military power is often based on comparative calculations of what each nation spends on defense. The CIA publishes estimates each year of Soviet defense spending, and these estimates are frequently cited as showing that the Russians spend 45 percent more than the United States on their military machine—a startling gap—and have shown real, steady growth in their total defense spending for almost 20 years.

In fact, this is not the whole picture. The CIA calculates spending on Soviet forces in dollar prices that we would pay in the United States for the same forces. This means that the high pay scales of our volunteer army are applied to the Russians' conscripted force of over 4 million men, which grossly distorts the total cost figure. Calculated in rubles instead of dollars, the CIA estimates Soviet spending on defense to be only 25 percent larger than our own, and admits that even this figure could be 10 percent too high. Other authoritative sources such as the International Institute for Strategic Studies and the Stockholm International Peace Research Institute estimate the gap as even smaller. Furthermore, if the defense spending of allies on both sides are taken into account, the gap disappears—indeed it reverses.

And finally, the CIA itself insists that total spending alone is not a good measure of the strength and effectiveness of military forces. An accurate comparison of United States and Russian military might must take into account the tactical proficiency, readiness, and morale of forces; the number and effectiveness of weapons, battle scenarios, logistic factors, and a host of other factors. The simple claim that the Soviets are militarily stronger than we are simply because they seem to spend more is not justified.

Mr. BINGHAM. Mr. Speaker, those who would have us believe that the West is threatened by superior military power from the East often point to the fact that the Warsaw Pact nations have from 2½ to 3 times as many tanks as NATO. But numbers alone can be very misleading. When other vital factors are considered, the picture is very different.

First, it should be remembered that the role of the NATO forces is primarily defensive and a defending army does not require the numerical strength of an attacking army.

This strategic fact is especially important when one compares the comparative range of the Warsaw Pact and NATO tanks. According to experts, the T-62 tank, which the Soviet Army has been using for 17 years and which has only recently been provided to some of the other pact forces, tends to break down after 100 to 125 miles. The comparable figure for NATO tanks, which will have to travel shorter distances, is 150 to 200 miles.

Over 40 percent of the Warsaw Pact's tank capability comes from the six non-Russian members of the pact whose equipment is largely obsolete. In general, pact tanks are lighter, have smaller ammunition loads, less accurate guns, and thinner armor than NATO's.

Next week, I will discuss the comparative strength of the two sides, in terms of tank crew training and anti-tank capabilities.

Mr. BINGHAM. Mr. Speaker, last Friday I mentioned four criteria for comparing Warsaw Pact and NATO tank capabilities. I pointed out that NATO's advantage in preparing for a defensive war with tanks of superior quality offset the pact's numerical advantage. Today I will look at the other two factors: The quality of the tank crews and antitank weaponry.

Experts have noted glaring deficiencies in pact training techniques and command procedures. Pact crews are not trained on the type of tanks they would operate in combat, they have to use a small number of training tanks on a rotating basis. Thus, in the event of war pact tank crews will have to operate tanks with which they have had little real experience. NATO, by contrast, trains its crews on the same type of tanks they would use if war breaks out. Further, Warsaw Pact troops are trained to follow a rigid command structure which allows little room for deviations from attack plans to deal with inevitable unforeseen tactical developments. In contrast, tactical flexibility is stressed by NATO.

NATO antitank superiority is unquestioned. NATO antitank weapons are capable of penetrating up to 20 inches of armor. One hit is sufficient to knock out any tank currently used by the Warsaw Pact. NATO forces have 193,000 antitank missiles, more than nine times the number of tanks in the pact's arsenal. Many of these antitank missiles are accurate from distances of over 3 kilometers, well outside the cannon range of virtually all pact tanks. The fact that NATO will be fighting a defensive war means that its antitank weapons can remain hidden from exposed pact tanks.

I submit, therefore, that NATO's superior equipment, troops, and defensive weaponry, coupled with the tactical advantages of fighting a defensive war, offset the Warsaw Pact's numerical advantage in tanks.

Mr. BINGHAM. Mr. Speaker, a statistic often cited by those who would have us believe that we Warsaw Pact's military power is far superior to NATO's is the number of troop divisions each side claims—226 for the pact compared with 41 NATO divisions. While these figures sound threatening, a closer look shows the balance is not so one-sided.

First. The pact total includes all the divisions of all the pact members, including 61 Soviet divisions assigned to the often tense Sino-Soviet border which pose no threat to the West.

Second. The pact total includes divisions which are at as little as 25 percent of full strength. Pact divisions are divided into three categories; category I divisions are at least 75 percent of full strength, category II divisions are 50- to 75-percent combat ready, and category III divisions are at only 25 to 50 percent of full strength. Only about one-third of all pact divisions fall into category I.

Third. NATO divisions tend to be much larger than their pact counterparts and are kept at a much higher state of readiness. In addition, NATO assigns many of its troops outside of a division structure. It has been estimated, for example, that if the United States reorganized its troops along the lines of the Soviet military it could form from 80 to 90 divisions instead of its current 19.

Fourth. If the 50,000 French troops which are stationed in Germany are included, NATO could claim 1,250,000 combat and direct support troops compared to 1,240,000 pact troops. Furthermore, the Warsaw Pact countries cannot blithely ignore the 400,000 man French Army, since it is inconceivable that France would stay neutral in a European conflict.

Fifth. NATO, unlike the pact, is a true alliance whose members belong by choice and share common interests. There is no real question concerning the loyalty of our NATO allies, particularly in the event of an attack on Western Europe. The Soviet Union cannot speak with such confidence about its pact "allies."

Mr. BINGHAM. Mr. Speaker, no aspect of the Soviet Union's increasing conventional military power has received more attention in the Congress than its naval forces. Newly designed Russian ships and submarines outnumber our own, and some alarmists charge that the U.S. Navy is being scuttled.

In fact, the Soviet Navy is no match for our own. Consider the following:

Our Navy is significantly larger than the Russians' in number of major surface ships, total tonnage, and average tonnage per ship.

The U.S. Navy has 13 large attack aircraft carriers, while the Soviets have none. Each of these carriers can deliver more munitions on land and sea or in the air than the entire Soviet surface fleet of ships which displace 1,000 tons or more.

While the size of the Soviet Navy is expected to decrease during the next 5 to 10 years, the U.S. Navy is planning to have a 10-percent larger force.

Our Navy works closely with 4 large, modern allied navies with some 600 ships, while the Soviets have only meager backup from Poland and East Germany.

Our ships are newer, while the Russians have a serious block obsolescence problem—half their major surface ships were constructed over 20 years ago.

The U.S. Navy has over 100,000 more sailors, whose skills and training are far superior to their Russian counterparts.

We have 15 times as many marines and our amphibious ships can lift 4 times as many troops into battle.

U.S. ships are at sea and on station for much longer periods than Soviet ships, maintaining much higher levels of training and readiness.

Mr. BINGHAM. Mr. Speaker, in an earlier 1-minute speech I listed some of the reasons why the Soviet Navy is no match for our own. Today I will add to that list.

Not only is our Navy already larger in number of major surface combatants, but that advantage will grow over the coming decade as our fleet of warships will increase by 34 percent to some 223 ships.

The Russian Navy must maneuver through narrow choke points, many of which are controlled by Western powers, to reach the high seas. They have only three major, ice-free naval bases and repair yards, while the United States operates more than 40 bases and yards along thousands of miles of our own open-ocean coastline as well as overseas.

The Soviets cannot sustain deployed combat operations outside their own contiguous seas because their smaller ships lack staying power and have too few support ships for services and auxiliary tasks. Their navy has only 1 large fleet support ship for every 42 major combatants, while the U.S. Navy maintains a ratio of 1 to 15.

The Russian Navy cannot compare to ours in air cover or reconnaissance capability. We have more than 5 times as many naval aircraft and 10 times as many aircraft aboard ships.

The Russians are only now building their first nuclear-powered surface ship, while the U.S. Navy already operates 11.

The Russians keep only 15 percent of their ballistic missile submarines on patrol, while 55 percent of ours are normally on station.

The United States has an unmatched ASW capability based on elaborate system of sea bottom, ship-towed, and aircraft, dropped listening devices to track comparatively noisy Russian submarines.

It is not surprising that our naval leaders freely admit that they would rather command the United States than the Soviet fleet.●

THE ROLE OF THE AFL–CIO ON FOREIGN POLICY OF THIS COUNTRY

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. BARNES. Mr. Speaker, we are well aware of the prominent role that the AFL–CIO has played in the development of foreign policy in this Nation. The AFL–CIO has never shied away from criticizing this country or any country when it felt our conduct in foreign affairs was contrary to the basic democratic principles on which the labor movement of this country was founded.

Mr. Meany, president emeritus of the AFL–CIO, was known for his outspokenness in the field of foreign affairs. His successor, Mr. Lane Kirkland, is no less outpoken. President Kirkland and the AFL–CIO at its recent convention vigorously condemned the actions of Iran in seizing and holding hostage over 50 Americans of our diplomatic mission to that nation. But Mr. Kirkland's concern and that of the AFL–CIO go far beyond public statements.

On December 12, in a letter to the presidents of the 105 AFL–CIO affiliates as well as to the AFL–CIO State and local leadership, Mr. Kirkland called on them to undertake a campaign to circulate petitions among all union members, their families and friends, urging that the hostages be released. The petitions, which are to be sent to the Iranian Embassy in Washington, demand "* * * the immediate and unconditional release of each and every American being held hostage in Tehran." The petition states emphatically that "* * * Americans of all opinions are united behind our Government's refusal to surrender to terrorist blackmail," and "* * * the Ayatollah Khomeini has perverted the spirit of religion, violated international law, and affronted the civilized values of humankind. Iran stands alone, dishonored and condemned by outraged world opinion. It can redeem itself in only one way: Release the hostages now."

Mr. Speaker, I place a copy of Mr. Kirkland's letter to the AFL–CIO leadership throughout the country in the Record as testimony of the moral leadership shown by Mr. Kirkland and the solidarity of American labor with all other Americans in their outrage over the events in Iran:

PRESIDENTS OF ALL AFFILIATED NATIONAL AND INTERNATIOAL UNIONS

DEAR TRADE UNION LEADER: The members of your union and their families can contribute in a substantial way to the campaign to free the American hostages held by the Iranian terrorists in the U.S. embassy in Teheran.

I solicit—and am confident of receiving—your support in this campaign.

Briefly stated, it is a drive to obtain as many petitions as possible, similar to the attached, mailed to the Iranian embassy in Washington demanding the immediate, unconditional release and return of all the hostages, unharmed.

We want to flood the Iranian embassy with these petitions, demonstrating the united support of American workers and their families for the U.S. government's position that this gross violation of international law be ended immediately and that our fellow Americans be returned to this country without delay.

Therefore we ask that:

(1) You circulate copies of this petition to all your locals, asking that they distribute it among their members, families and friends.

(2) That each signed petition be mailed at once to the Iranian embassy.

(3) Since we want a constant, continuing flood of mail, we have prepared the enclosed petition, with spaces for 10 signatures, that can be mailed without an envelope. We urge that you use a similar style and that each signed petition be folded, stamped and immediately mailed.

(4) Finally, we urge you to publicize this campaign in every way possible.

Every state and local central body is being urged to undertake a similar campaign at once in order that petitions be circulated at every factory, shop and job site in America.

We must do everything we can to convince the terrorists in Iran and the rest of the world that American workers fully support their government in this crisis.

The hostages must be freed. The world must—and will—learn that the United States cannot and will not be blackmailed by terrorists.

I am confident of your complete support for this emergency campaign.

Sincerely and fraternally,

Lane Kirkland,
President.●

NUCLEAR PLANTS—ARE THEY ALWAYS SAFE?

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Ms. HOLTZMAN. Mr. Speaker, the accident at Three Mile Island has undermined the country's complacency about the safety of nuclear energy. Before, we knew that a serious accident at a nuclear facility would have catastrophic consequences; now we know that such an accident is very possible.

Moreover, there is also mounting evidence that even under normal operation nuclear powerplants may pose a serious hazard to the public's health. In this regard I commend to my colleagues' attention the informative article by Dick Brukenfeld, "Are Nuclear Plants Unsafe—Even Without Any Mishap?" that appeared in the November 11, 1979 edition of the Washington Post.

The text of the article follows:

Are Nuclear Plants Unsafe, Even Without Any Mishap?—A New German Study Challenges the NRC's Assurances

(By Dick Brukenfeld)

Is fallout from nuclear reactors exposing people to dangerous levels of radiation—even without an accident? The Nuclear Regulatory Commission claims that normal emissions from reactors are safe. But a report which the commission has been sitting on since early this year shows that these government safety claims are based on fraudulent research.

Performed by Atomic Energy Commission scientists 20 years ago, the experiments demonstrate the Eisenhower-Lewis Strauss policy of making fallout look harmless. Thus today, the new report says, fallout from normally operating nuclear reactors is exposing people to radiation in excess of the authorized limits.

Although the NRC admits the charge about the fraudulent experiments, it denies that fallout from nuclear reactors is a health hazard. To find the truth in these conflicting claims, it helps to begin with what is known.

It is known that each of this country's 72 reactors releases some radioactive waste. This happens by design and because of human and mechanical flaws. Uranium fuel rods crack, pipes leak, filters fail and so do workers when they open the wrong valve. Thus the NRC limits how much atomic waste each reactor may discharge into the water and air.

To measure what this is doing to people, the commission makes a dose calculation. This tracks the radioactivity from the reactor through the food chain into human bone and tissue. The resulting "dose estimate" is the core of the claim that is normally operating nuclear reactor is safe.

But the NRC now acknowledges that this safety calculation is based in part on the dubious experiments of the 1950s. The problem begins with the conviction that atmospheric nuclear testing was essential to national security.

To quiet the Nervous Nellies who wanted a test ban, the old AEC took steps to show it was keeping on top of fallout. One such step was a program of experiments to find whether food crops would take up dangerous levels of fallout from the soil. More than just looking for results that would make fallout appear safe, most of the scientists rigged their experiments to produce the desired reassurance.

In measuring how much fallout plants would pick up from the soil:

The AEC scientists made preliminary tests on a variety of soils. They chose for their experiments those soils which absorbed the least amount of fallout.

It was known that plants have difficulty assimilating many fallout ingredients until they are acted upon by soil bacteria. To prevent this, the scientists cooked their soil in ovens and killed its bacteria.

Then they added the radiotoxic substances to the soil shortly before the plants were harvested. This avoided the conditions of reality, where the plants would grow from seeds in the contaminated soil.

Not surprisingly, these experiments showed hardly any fallout was getting into crop plants.

The report which reveals this information breaks new ground. It's the first time independent scientists have dug into the NRC's safety assurances to expose their foundations. Written by a team of 14 West German scientists—agricultural biologists, physicists, chemists, a mathematician, a physician and a veterinarian—from the University of Heidelberg, it applies directly to this country. Not only does Germany build its reactors from American designs but it proves their safety with the same set of calculations the Nuclear Regulatory Commission uses for that purpose here.

As performed by the NRC or the utilities, these calculations show a reactor giving little radiation to a person living within 10 miles—a fraction of a millirem to less than 5 millirems yearly. (Current estimates peg a chest X-ray between 15 and 30 millirems.)

But the German scientists say that in measuring fallout's journey from reactor to residence in the body, the NRC figures are "either at the lower end of the range given in the literature or far below the values that may be regarded as realistic. It follows that the results of these assessments are unrealistically low."

They say, for example, that NRC judgments on how much plutonium, cesium and strontium crops pick up from the soil are "between 10 and 1,000 times too low."

The Heidelberg group reached its conclusion after digging through 25 years of scientific journals to find what experiments had been done on how much fallout was getting to people. They then compared the results of these other experiments with the NRC figures—eight other experiments in the case of cesium, 11 others in the case of strontium.

After examining the NRC safety estimates, the report scores another first. It calculates the dose from a nuclear reactor, using figures chose by independent scientists. What the German scientists did was feed their figures in to the NRC computer model.

They found that a pressurized water reactor planned for the town of Whyl on the Rhine could be expected to expose people to a yearly dose of 1.071 millirems of wholebody radiation. The major part of this dose would come from radioactive substances taken into the body with food and drink. The reactor's exhaust air is the principal source of this contamination, with its waste water playing a significant but lesser role.

The exposure limit in the United States is 170 millirems of whole-body radiation yearly from all nuclear facilities. On Dec. 1, the Environmental Protection Agency will reduce this limit to 25 millirems.

But it would be inaccurate to transfer the 1,071-millirem result from the Whyl study to a reactor in this country or anywhere else. Conditions specific to each power plant's site, such as wind patterns, nearness of farmland, size and type of reactor could bring these figures up or down.

Still, the study strongly suggests that realistic safety calculations would show each of this country's 72 reactors burdening people with more radiation than the new 25-millirem limit. Since the NRC uses these dose estimates as its basic yardstick for licensing and regulation, it would have cause to act against all the country's nuclear plants in more than a cosmetic way.

But this is not likely to happen, for more than economic reasons. Just as the Heidelberg group calls the NRC figures too low, the commission replies that the German scientists' figures are too high. "Their literature search was not comprehensive," and NRC spokesman comments. "They looked for experiments that would support their conclusions."

More importantly, Dr. Frank Congel, leader of the NRC's radiological impact section, says that "real measurements" by the utilities show that radiation emitted by nuclear plants is well within current safety limits.

Can the utilities be trusted to monitor how much radiation their own plants are giving off? Asked whether the NRC had assigned the fox to guard the chickencoop, Dr. Congel responded that the NRC "reviews the records and procedures of each plant on an average of twice a year." The commission also "spotchecks seven or eight plants each year."

But these "real measurements" by the utilities fail to answer the Heidelberg report. The German scientists are attacking not the utilities emission figures but the set of calculations used to estimate what dose these releases give to human beings. To verify the Heidelberg report would require monitoring food from farms and dairies near reactors, a step which the NRC calls unnecessary and expensive.

Yet both the Environmental Protection Agency and the states monitor milk for radioactivity. Although milk from dairies near reactors often shows high levels of strontium 90, both the utilities and the NRC claim this contamination comes from atmospheric fallout. They blame this partly on the residue left in the atmosphere from old U.S. and Soviet tests, but mostly on the more recent Chinese bomb testing.

Since strontium 90 lacks a label of origin, no one can know for sure. But state and EPA monitoring shows a pattern. After the U.S.-

Soviet test ban in 1963, strontium 90 milk levels remained high across the country for two or three years. Then the average dropped from roughly 25 picocuries per liter to 4 picocuries, where it remains. After a Chinese test, these levels jump briefly, then go back to what is now normal.

But in certain areas near nuclear plants the level of strontium 90 in milk has at times risen higher than it was at the height of atmospheric nuclear testing. Such readings were found in milk from dairies in Waterford, Conn., near the Millstone nuclear plant, when that facility was experiencing high radiation releases in 1976.

In Wisconsin, South Carolina and other states, rises in strontium 90 milk levels from dairies near reactors have also been recorded after releases of radiation from those facilities. Still, NRC and utility officials insist the strontium 90 comes from Chinese tests. This presents a picture of an America covered by a huge umbrella in the sky with holes punched over certain reactors.

This is less ridiculous than it sounds, since our technical institutes teach fledgling physicists that reactors do not give off strontium 90. Dr. Bernard L. Cohen, director of the Scaife Nuclear Laboratories at the University of Pittsburgh, writes in "Nuclear Science and Society" that "strontium 90, which has received wide publicity for its importance in bomb fallout, is removed in the chemical purification and hence is of little consequence here." (That is, it is removed by a filter within the reactor.)

Unfortunately, what's written in textbooks does not always happen in reality. Not only can filters be less than perfect, but the largest portion of radioactivity released from reactors, which is in the form of gases, presents special problems. These gases decay into radioactive particles, including strontium and cesium. Nuclear plants are designed to hold these gases long enough so that the decay takes place within the plant, where the particulates can be filtered out.

But if the gases leave the plant before they have had time to mellow, rather than floating away harmlessy, they deposit strontium cesium and other isotopes in the environment. These gases can be released prematurely due to plant emergencies. Or, according to the Heidelberg report, significant quantities of the gases often leak out of the plant before they reach its filtering system.

Further, a Wisconsin investigation based on 14 years of milk monitoring by state officials support the validity of the Heidelberg report, giving evidence that reactors are indeed releasing strontium 90.

America's dairyland state is bordered on three sides by a Big Dipper-shaped chain of 14 nuclear reactors. Wary of safety assurances, a Wisconsin environmental foundation asked the State Radiation Section to prepare a dose estimate based on the official milk sampling program, started in 1963. The state refused. So this concerned group of middle-aged, middle-class professionals—Land Education Associates Foundation Inc.—took on the project with the assistance of a University of Minnesota biology professor. To insure credibility, they chose to use data only from state monitoring records.

The chain of reactors around Wisconsin grew from two to 14 between 1970 and 1976. State records show milk strontium 90 levels jumping in 1973 from just below to more than twice the national average, and staying there at least three years. (The study had to close with 1976, since state officials were more than two years late in supplying records which are supposedly public.)

The largest increases of strontinum 90 came in a Wisconsin area 50 miles downwind, and downriver, from Minnesota's Monticello reactor, and in the Green Bay area around the Point Beach nuclear plant. Both high readings of strontium came and persisted during the year that Monticello was leading the nation in gaseous releases of radioactivity, and Point Beach was tripling its allowed emissions.

Showing instance after instance where nuclear plant releases were followed by high radioactivity in milk, the study points to reactor fallout as the major source of contamination.

In calculating its dose, the Heidelberg report judges the impact of a large reactor on people living in a small area—roughly within a 10-mile radius, making a circle around the plant of 314 square miles. But the Wisconsin study judges the impact of 14 smaller reactors on people spread across a territory of 54,000 square miles. Thus exposure for each person will be smaller.

Since they based their study on just the three radioactive poisons monitored by the state—strontium 90, cesium 137 and iodine 131—the Wisconsin investigators label their "Total Fission Dose" findings as "not the whole dose."

Using government formulas, they find the average yearly dose to Wisconsin citizens from nuclear waste in food and the environment is 33 millirems of whole body radiation for an adult, and 67 millirems for a growing child. The yearly dose to the bones is 76 millirems for an adult and 174 millirems for a growing child. The study says this "extra" radiation has more than doubled the risk of blood cancer for Wisconsin 14-year-olds.

They caution that this radiation comes from more than milk. Although ideal for monitoring, milk is one of the least radiotoxic foods. It contains only 10 percent of the radioactivity found in the grass eaten by the cow which filters out the rest. As foods high in fallout radiation, the investigators note potatoes, whole wheat, leafy vegetables, soybeans, berries, venison, nuts, cabbage and cheese, which multiplies the milk dose times six.

The NRC rejects the Wisconsin study, even though it is based on verified state milk records and calculated with EPA and NRC formulas. The NRC's Dr. Congel states the Wisconsin study "showed extreme bias in its data and its presentation when we reviewed it."

At the same time that the EPA is establishing the new 24 millirem exposure limit, the NRC is stopping the monitoring of strontium 90 at nuclear plants. The reason given is that the utilities, assigned by the NRC to monitor themselves, aren't finding much. But like most manufacturers, utility executives want responsibility to end at the front gate. The public can't see the strontium 90 leaking out of the plant. Why should the utility? More importantly, why should nuclear plant owners be responsible for monitoring themselves?

The agency responsible for protecting the environment has given some indication of what its new 25 millirem limit means. One of its radiation officials explains, "The EPA does not have any regulatory requirements to monitor the environment around nuclear power plants; this monitoring is required by the NRC of their licensees."

When told of high strontium 90 levels being monitored in milk and fish from the area near the three Oconee reactors in South Carolina, another EPA radiation official responded that the 25 millirem limit applies to "planned discharges of radioactive materials." It does not apply, he said, "to background or fallout radiation in the vicinity of nuclear power plants." Chinese fallout again, and a large loophole for the many unplanned releases which reactors experience.

Both EPA and NRC plan to enforce the new limit by letting the utilities tell them what radiation is being released. From this they will estimate the dose to the public, using that same set of calculations which the Heidelberg report examined.

Both agencies have copies of the Heidelberg report. The NRC translated and printed it last spring (NRC translation 520: "Radioecological assessment of the Whyl Nuclear Power Plant.") Its distribution has been delayed while the German authors made some revisions. But Bernd Franke, one of the Heidelberg scientists, told this writer they had changed nothing of substance.

The significance of the report is that it indicates there is a great range of uncertainty in what is known about the impact of nuclear plants on human beings. The only way to determine whether the official dose estimates have validity is by a rigorous and continuing program of food monitoring performed by an independent agency.●

THE HOUSING SHORTAGE AND THE SRO OPTION

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. BIAGGI. Mr. Speaker, for those who could afford it during early 20th century, hotel living was the preferred choice of housing. Gradually, however, as the fashionable left for other accommodations, the single rooms of the rich were assumed by a less affluent class of individuals. For many, living in urban centers across the Nation, hotel living has persisted up to this day as a viable lifestyle.

Although the once elegant hotels have suffered from neglect and have deteriorated with age, they have not disappeared. Today, they house a significantly large subsegment of the urban population and are commonly referred to as "single-room occupancies" or SRO's. By definition, SRO's are hotels, roominghouses, or converted apartment buildings which offer furnished rooms, shared bathrooms and kitchens, and some management services such as desk, linens, and house-poorly maintained, house a diverse group keeping. The buildings, often old and of individuals who, nevertheless, do share a common characteristic—their poverty. Without exception, all SRO tenants have very small incomes. The vast majority live on fixed incomes derived from supplemental security income, social security, and public assistance payments. It is true that there are a number of unsavory elements within the SRO population, but their significance lessens somewhat when compared to the more stable retired elderly, the low-income worker, the disabled, and the unattached single persons.

In my home town of New York City, the number of SRO residents is currently estimated at 33,000 individuals living in 215 SRO hotels. To many of these individuals, the SRO is the only housing alternative within their means. Others, though, have chosen single-room living because of the independence and anonymity it provides, or simply because it has long been their mode of housing.

Dr. Carl Cohen, a physician who has worked with the New York City SRO popualtion, has noted in one of his study samples that two-thirds of the elderly residents have been living in SRO's for over 10 years—during which time they have acquired friendships of long duration with other tenants.

It would be a mistake to assume though, that this population is a self-sufficient one, merely in need of adequate housing. They are a vulnerable group of individuals in desperate need of social services, legal protection, and advocacy for better living conditions. Indeed, many of the SRO elderly would not feel comfortable in local senior citizens centers, nor would they be likely to avail themselves of such social services.

Substandard as these lower-priced hotels may be, it is important to recognize that they are a necessary and suitable type housing for selected segments of the population. The sooner we understand this phenomenon, the better the chances will be for the development of a coordinated housing policy for the single poor. Unfortunately, in the last decade or so, the SRO population has become a "problem" which many officials would prefer to ignore or see eliminated along with the demolition of a delapidated building.

The SRO problem, however, can be quickly reduced to the essential issue of how to house the single poor. There is no question that nationwide, this country is experiencing a housing shortage. This is especially true in urban centers where the existing supply of moderate- and low-income housing has not been maintained at adequate levels and affordable prices. In New York City in 1975 for example, 52 percent of the elderly renters lived alone and paid between 25 percent and 40 percent of their limited incomes on rent, thus leaving a mere $150 per month for all other expenses.

Besides the severe financial drain imposed by these economics, for the past decade, the elderly living in SRO's have become subject to rampant displacement as the number of SRO's has steadily declined as a housing alternative. The trend to eliminate this type of housing, by no means unique to New York City, is evidenced by the fact that in March of 1978 the city had 23 percent fewer lower-priced hotels than in January of 1975. Indeed, in 1967, the New York City Council adopted a policy which would have phased the SRO out completely. This view has since been overturned though, and the SRO is now regarded by the mayor's office as a viable and necessary housing source for those who choose it. Unfortunately, the preservation and renovation of SRO hotels as not progressed along with the change of heart. There are powerful forces currently in place in New York City which, unless addressed promptly, will determine the ultimate demise of the SRO. One contributing factor is the labor intensive nature of the SRO. Since SRO operating costs have increased at a faster pace than other types of housing, yet the tenant paying-ability remains limited, landlords have compensated by reducing or eliminating building service and maintenance. This aggravates poor living conditions and hastens the date for tenant displacement and building demolition.

Another critical consideration is New York City's booming real estate market and the lucrative J-51 tax abatement program. J-51 is a city tax-incentive program designed to upgrade New York's housing stock and strengthen its neighborhoods. The provisions are generous and include a 12-year tax exemption on the assessed valuation attributable to the new property improvements as well as a tax abatement up to the amount equal to 90 percent of the construction costs. The J-51 program, positive in many other respects, has had a disastrous effect on the SRO stock.

Since 1976 when New York's tax code was amended to permit tax abatements for the conversion of SRO's into apartment units, their number has dropped precipitously. As the J-51 program provides tremendous financial incentives to convert buildings into higher income housing, landlords have gone to great lengths to vacate SRO's.

Theoretically, New York City's rent-stabilization and rent-control programs protect tenants from arbitrary eviction. The reality of the situation is a far cry from the ideal of the law, however, and the common practice is to harass tenants into "voluntary" departure. This imposes severe housing problems for the displaced—often the elderly and disabled—who have no desire to leave their homes. These unfortunate individuals are forced into the street or into occupancy of illegal, costlier, and less-appropriate housing such as unlicensed boarding homes and unregistered rooming houses.

The fact is that, unless permanent Federal and State housing alternatives are established, the current housing shortage and the regrettable plight of the SRO population will continue to worsen.

Regardless of the number of single-room occupancy hotels available, the population requiring this type of housing will not disappear. Hotel living, with the advantages of housing-related services, and architectural features permitting social exchange and independence is an option which many believe should remain open. Both New York City's Office of Housing Preservation and Development and New York State's SRO project have set the renovation and maintenance of well-run SRO's as a major goal. The success of this alternative, which may very well be the easiest one to implement, rests primarily on the presence of capable and expert management. Often, social service and other nonprofit agencies have failed in their endeavors because they lack the critical requirement of a long-term commitment to the overall management of the SRO project.

Perhaps the greatest responsibility should be placed on the Federal level where, historically, there has been little in the way of planning or funding for the single person. Indeed, not only do Federal housing programs not address the needs of the SRO population, but currently there is no program specifically designed for this group. There are two Federal programs however—section 202 of the Housing Act of 1959 (Public Law 83-372) and section 8 of the Housing and Community Development Act of 1974 (Public Law 93-383)—that merit further consideration.

Section 202 provides long-term direct loans for nonprofit sponsors to finance rental or cooperative housing facilities for the elderly and handicapped. The section 8 program provides rent subsidies so that no eligible low-income household must pay more than 25 percent of their adjusted income toward rent. Funds from this program may also be used for building rehabilitation.

The stumbling block in both of these programs which excludes SRO's from eligibility lies in the Federal requirement that all housing meet minimum property standards (MPS's). MPS's require that housing include self-contained units or apartments which offer both a private kitchen and bath. The only exception to this rule is for congregate housing with central dining areas.

However, if the desire is to address the specific needs of the SRO population, then, it is clear that these two requirements are not appropriate. Slight modifications in the standards to permit waivers, or the creation of a separate set of standards for SRO's could make the section 202 and section 8 programs viable ones for the SRO community. In this manner, the two programs could provide incentives for landlords to maintain their building so as to qualify for leasing and assistance with costs and improvements. This would allow the SRO to maintain solvency and undergo repairs without major tenant displacement.

Any serious consideration to upgrade SRO's must also include plans for the provision of social services. Since traditional social services are often not appropriate for this population, intensive outreach—preferably by indigenous or paraprofessional workers—would be necessary. Innovative models providing therapeutic and secure service environments could contribute significantly to the success of the SRO project. Funds from title XX, the Older Americans Act, and the National Institute of Mental Health could help finance these programs either onsite or in a central location.

It is incumbent upon us, as lawmakers, not to overlook the critical housing needs of this vulnerable population. The single most important step in this process is to first establish an effective, viable housing policy which would recognize and integrate the critical elements of funding, the housing stock, potential sponsors, and the tenants themselves. The immediate future calls for housing subsidies and SRO renovation; the longrun needs, however, demand significant increases in the supply of housing choices.●

PERSONAL EXPLANATION

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Ms. HOLTZMAN. Mr. Speaker, I was unable to be present for the following rollcall votes on Wednesday, December 19, 1979. Had I been present I would have voted as follows:

Rollcall No. 747, "No."

Rollcall No. 748, "Yes."

Rollcall No. 750, "No." ●

THE UDALL RECORD—1979

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. UDALL. Mr. Speaker, it has become my practice at the end of each session of Congress to list my votes here in the CONGRESSIONAL RECORD. The people or southern Arizona have a right to know where I stand on the many issues that come before us, and I have found that printing my voting record here is the quickest and easiest way to provide that information.

This is not an all-inclusive list. I have omitted noncontroversial votes such as quorum calls, motions to resolve into the Committee of the Whole House, and motions to approve the Journal.

The descriptions are necessarily somewhat short, and I am sure that many of my constituents will have additional questions on the votes described here. So I invite them to write for specifics, or to visit my district office at 300 North Main, Tucson, where we have more information.

The list is arranged as follows:

Official rollcall number;

Number of the bill or resolution;

Description of the matter under consideration;

The date of the action;

My vote (Y=yes; N=no; NV=not voting);

The vote of the entire Arizona delegation;

An indication whether the motion or amendment passed or was rejected; and

The total vote.

The material follows:

LIST OF VOTES

3. HR5. Motion to order the previous question (thus ending debate) on the House rules proposed by the Democratic Caucus at its meeting in early December 1978. February 23. Y(2–2–0), passed 241–156.

4. HR35. Adoption of the resolution to provide $400,000 for investigations and studies to be conducted by the House Veterans' Affairs Committee during calendar 1979. February 23. Y(2–2–0), passed 267–100.

5. HR45. Adoption of the resolution to provide $752,650 for investigations and studies to be conducted by the House Small Business Committee durng calendar 1979. February 26. Y(3–1–0), passed 266–94.

6. HR60. Adoption of the resolution to provide $677,000 for investigations and studies to be conducted by the House Armed Services Committee during calendar 1979. February 26. Y(3–1–0), passed 256–103.

7. HR85. Adoption of the resolution to provide $2.5 million for investigations and studies to be conducted by the House Banking, Finance and Urban Affairs Committee during calendar 1979. February 26. Y(1–3–0), passed 249–121.

8. HR87. Adoption of the resolution to provide $845,000 for investigations and studies to be conducted by the House Administration Committee during calendar 1979. February 26. (Y(2–2–0), passed 253–119.

9. HR88. Adoption of the resolution to provide $2 million for investigations and studies to be conducted by the House Ways and Means Committee during calendar 1979. February 26. Y(2–2–0), passed 242–122.

10. HR91. Adoption of the resolution to provide $1.9 million for investigations and studies to be conducted by the House Public Works and Transportation Committee during calendar 1979. February 26. Y(3–1–0), passed 267–98.

11. HR92. Adoption of the resolution to provide $2.5 million for investigations and studies to be conducted by the House Education and Labor Committee during calendar 1979. February 26. Y(1–3–0), passed 201–171.

12. HR96. Adoption of the resolution to provide $927,401 for investigations and studies to be conducted by the House Permanent Select Committee on Intelligence during calendar 1979. February 26. Y(2–2–0), passed 272–101.

13. HR98. Adoption of the resolution to provide $1.74 million for investigations and studies to be conducted by the House Foreign Affairs Committee during calendar 1979. February 26. Y(2–2–0), passed 239–135.

14. S37. Motion to suspend the rules and pass the bill to repeal a provision of PL 95–630 requiring that financial institutions inform all their customers of their rights under the act. February 27. Y(4–0–0), passed 362–5.

16. HR1894. Motion to order the previous question (thus ending debate) on the adoption of the rule (HR133) providing for House floor consideration of the bill. February 28. Y(1–3–0), passed 222–197.

17. HR1894. Passage of the bill to increase the public debt limit to $836 billion from $798 billion through September 30, 1979. February 28. Y(1–3–0), rejected 194–222.

19. HR142. Motion that a portion of the testimony of Rep. Charles C. Diggs, Jr., D-Mich., at Diggs' trial on charges of illegally diverting his congressional employees' salaries to his personal use be read on the House floor. March 1. Y(4–0–0), passed 353–53.

20. HR142. Motion that the resolution to expel from the House of Representatives Rep. Charles C. Diggs Jr., D-Mich., be referred to the Committee on Official Conduct, March 1. Y(3–1–0), passed 322–77.

30. HR2479. Amendment to make employees of the American Institute in Taiwan employees of the U.S. government. March 13. N(3–1–0), rejected 171–239.

31. HR2479. Amendment to add the islands of Quemoy and Matsu to the definition of Taiwan. March 13. N(3–1–0), rejected 146–256.

32. HR2479. Amendment to establish relations with Taiwan on a consular basis. March 13. N(2–2–0), rejected 179–225.

33. HR2479. Motion to end all debate on the bill at 5 p.m., in an attempt to cut off further amendments. March 13. Y(1–3–0), passed 204–193.

34. HR2479. Motion to recommit the bill to the Foreign Relations Committee (thus killing it). March 13. N(2–2–0), rejected 110–295.

35. HR2479. Amendment to conduct relations with Taiwan through a quasi-governmental agency titled the "U.S. Commission in Taiwan." March 13. N(3–1–0), rejected 182–221.

36. HR2479. Amendment to require approval by both houses of Congress before the President could notify Taiwan that a treaty or agreement between the United States and Taiwan would be terminated. March 13. N(3–1–0), rejected 141–264.

37. HR2479. Amendment to require the authorization and appropriation by Congress of any U.S. government funds for the American Institute in Taiwan. March 1. N(3–1–0), passed 226–174.

38. HR2479. Pasage of the bill to continue U.S. relations with Taiwan on an unofficial basis, provide security assurances to the people of Taiwan and continue in force 60 treaties and agreements on trade and other matters. March 13. Y(2–2–0), pased 345–55.

39. HR114. Adoption of the resolution to provide $167,500 for investigations and studies to be conducted by the House Education and Labor Committee's task force on welfare and pension plans during calendar 1979 March 15. Y(3–1–0), passed 336–73.

40. HR2534. Motion to order the previous question (thus ending debate) on the adoption of the rule (HR157) providing for House floor consideration of the bill. March 15. Y(1–3–0), passed 201–199.

41. HR2534. Passage of the bill to increase the public debt limit to $830 billion from $798 billion through September 30, 1979. March 15. Y(1–3–0), passed 212–195.

42. HR1301. Motion to suspend the rules and pass the bill to allow shipment of lottery tickets and other lottery materials by American manufacturers to foreign countries where lotteries are permitted. March 20. Y(2–2–0), rejected 270–140.

43. HR118. Adoption of the resolution to establish in the House a Select Committee on Committees, to study the structure, jurisdiction, rules, procedures, staffing and facilities of the House committees and to report its recommendations to the House by February 1, 1980. March 20. Y(1–3–0), passed 208–200.

44. HR2283. Adoption of the resolution (HR156) providing for House floor consideration of the bill. March 20. Y(2X2–0), passed 305–102.

45. HR2283. Banking Committee amendment to require the Council on Wage and Price Stability to hold regional hearings and enlist voluntary individual and group participation from the public to help monitor wage and price guidelines. March 20. NV (0–3–1), rejected 128–282.

46. HR2283. Amendment to reauthorize the Council on Wage and Price Stability for one year (through September 30, 1980) rather than two years. March 20. N(3–1–0), passed 252–159.

47. HR2283. Passage of the bill to reauthorize the Council on Wage and Price Stability for one year (through September 30, 1980), and to increase its authorization to $6.9 million for FY79 and to $8.5 million for FY80. March 21. Y(2–2–0), passed 242–175.

48. HR13. Adoption of the resolution to establish a Select Committee on Narcotics Abuse and Control for the 96th Congress. March 21. Y(3–1–0). passed 338–75.

49. HR38. Adoption of the resolution to establish in the House a Select Committee on Population for the 96th Congress. March 21. NV(0–2–2), rejected 187–214.

51. HR2774. Passage of the bill to authorize $19.27 million for the operations of the Arms Control and Disarmament Agency during FY80. March 22. Y(2–2–0), passed 296–100.

52. HR86. Adoption of the resolution to provide $1.4 million for investigations and studies to be conducted by the House Judiciary Committee during calendar 1979. March 22. Y(1–3–0), passed 285–100.

53. HR134. Adoption of the resolution to provide $1.6 million for investigations and studies to be conducted by the House Committee on Science and Technology during calendar 1979. March 22. Y(3–1–0), passed 286–109.

54. HR139. Adoption of the resolution to provide $1.2 million for investigations and studies to be conducted by the House Committee on Interior and Insular Affairs during Calendar 1979. March 22. Y(1–3–0), passed 257–138.

55. HR140. Adoption of the resolution to provide $2.09 million for investigations and studies to be conducted by the House Committee on Government Operations during calendar 1979. March 22. Y(1–3–0), passed 268–127.

56. HR123. Adoption of the resolution to provide $850,000 for investigations and studies to be conducted by the House Committee on Post Office and Civil Service dur-

ing calendar 1979. March 22. Y(1–3–0), passed 249–147.

57. HR3091. Motion to suspend the rules and pass the bill to extend for one year, through December 31, 1978, a tax law provision allowing state legislators to designate their place of residence within their legislative district as their tax home and to claim tax deductions for travel expenses according to a formula based on the number of days their legislature was in session and the per diem payment for federal employees for the city in which the legislature was located. March 27. Y(4–0–0), passed 364–4.

58. HR2439. Motion to order the previous question (thus ending further debate and the possibility for amendment) on the Smith, R-Neb., motion to recommit to the conference committee the report on the bill to rescind FY79 appropriations totaling $723.6 million. March 27. N(3–1–0), passed 225–177.

59. HR2729. Amendment to cut $14 million from the $172.1 million committee recommendation for biological, behavioral and social science research. March 27. N(3–1–0), passed 219–174.

60. HR2729. Amendment to include language prohibiting use of funds to transfer any science education programs in NSF to any other existing or proposed agency. March 28. Y(2–2–0), rejected 175–218.

62. HR2479. Adoption of the conference report on the bill to provide for unofficial relations between the United States and Taiwan and to provide security assurances to Taiwan. March 29. Y(2–2–0), passed 339–50.

63. HR1787. Passage of the bill to authorize $185 million in FY79 for the space shuttle program. March 28. Y(4–0–0), passed 354–39.

64. HR1786. To cut $22.7 million from the $308.3 million committee recommendation for the aeronautical research and technology program and to prohibit the use of appropriated funds for supersonic transport research. March 28. Y(1–3–0), rejected 137–246.

65. HR1786. Passage of the bill to authorize $4.8 billion for the National Aeronautics and Space Administration in FY80. March 28. Y(4–0–0), passed 323–57.

66. HR3173 Amendment to delete the $2.5 million in the bill for financing arms sales to Panama. March 29. N(3–1–0), passed 272–117.

67. HR3173. Amendment to authorize appropriations only for FY80 instead of for FY80 and FY81. March 29. N(2–2–0), passed 210–179.

69. HR53. Adoption of the resolution to extend the life of the House Select Committee on the Outer Continental Shelf through June 30, 1980. March 29. N(2–1–1), passed 194–172.

70. HJRes199. Motion to suspend the rules and pass the joint resolution to correct technical errors in PL 95–498 that placed in trust 16,000 acres in New Mexico for the Pueblo of Santa Ana. April 2. Y(3–1–0), passed 336–0.

72. HR2543. Motion to order the previous question (thus ending debate) on the resolution (HRes183) providing for House concurrence in Senate amendments to the bill providing for a temporary increase in the public debt limit. April 2. Y(–1–2–1), passed 216–160.

73. HR2534. Adoption of the resolution (HRes183) providing for House concurrence in Senate amendments in the bill to increase the public debt limit to $830 billion through September 30, 1979, and to require the Senate and House budget committees to submit balanced budgets for FY81 and FY82 on April 15, 1979, and balanced first budget resolutions for FY81 and FY82. Y(1–2–1), passed 209–165.

74. HR595. Passage of the bill to sell 35,000 long tons of tin from the national and supplemental stockpile, 5,000 long tons of that amount to be contributed to the international tin buffer stock, and to provide a special fund in the Treasury from the proceeds to be used to acquire future materials for the national stockpile. April 3. Y(3–1–0), passed 371–16.

75. HR3324. Substitute amendment, to the Harsha, R–Ohio, amendment, to prohibit use of appropriated funds for development aid to Organization of Petroleum Exporting Countries nations. April 4. N(2–2–0), rejected 175–222.

77. HR3324. Amendment to authorize funds for one year only, thus eliminating FY81 authorizations for international development programs. April 5. NV(3–0–1), passed 239–157.

78. HR3324. Amendment to prohibit economic assistance to Panama. April 5. NV(3–1–3), rejected 101–46.

79. HR3324. Amendment to eliminate a Food for Peace Title 1 concessional rice sales program for Zaire and replace it with a Title 11 program for that nation. April 5. NV(0–1–3), rejected 101–246.

80. HRes195. Adoption of the resolution to provide $290,000 for investigations and studies to be conducted by the Select Committee on the Outer Continental Shelf during calendar 1979. April 5. NV(1–0–3), passed 210–110.

82. HR3324. Amendment, to the Derwinski, R-Ill., amendment, to authorize the President to waive the prohibition on the aid to Syria if he determines that it would be in the U.S. national interest to do so. April 9. Y(1–1–2), passed 193–177.

83. HR3324. Amendment, to the Bauman, R-Md., amendment, to delete provisions that 1) allowed the President to send observers to elections in southern Africa and 2) required the United States to grant Rhodesia $20 million in aid once elections were held in that country. April 9. Y(2–0–2), passed 191–184.

84. HR3324. Amendment, to the Bauman, R-Md., amendment, to authorize the President to send observers to elections in southern Africa and to authorize the President to grant Rhodesia $20 million in aid once elections were held in that country. April 9. Y(2–0–2), passed 191–184.

85. HR3324. Amendment, as amended, to authorize a $68 million economic support fund for southern Africa; to authorize the President to send observers to elections in southern Africa; and to authorize the President to grant Rhodesia $20 million in aid once elections were held in that country. April 9. N(1–1–2), rejected 210–190.

86. HR3324. Amendment to delete Title IV creating an Institute for Scientific and Technological Cooperation. April 9. N(2–1–1), rejected 136–236.

88. HR3324. Amendment to remove the Peace Corps from ACTION and place it within the proposed International Development Cooperation Agency. April 10. Y(3–0–1), passed 276–116.

89. HR3324. Substitute amendment, to the Bauman, R-Md., amendment, to reduce by 5 percent (instead of by 10 percent as proposed by Bauman) all authorizations in the bill, except Food for Peace, American schools and hospitals abroad and Middle East aid programs. April 10. Y(1–2–1), passed 259–135.

90. HR3324. Amendment, as amended, to reduce by 5 percent all authorizations in the bill, except for Food for Peace, American schools and hospitals abroad and Middle East aid programs. April 10. Y(3–0–1), passed 318–77.

91. HR3324. Passage of the bill to authorize $4 billion in FY80 (less 5 percent, or about $123 million, for most aid programs) for international development and economic assistance programs and for the Peace Corps. April 10. Y(1–2–1), passed 220–173 .

92. HR3363. Adoption of the rule (HRes217) providing for House floor consideration of the bill to authorize $2.1 billion for FY80 and $2.3 billion for FY81 for the State Department and related agencies and to provide a FY79 supplemental authorization of $105 million for migration and refugee assistance. April 10. NV(2–0–2), passed 360–8.

94. HR1301. Passage of the bill to allow shipment of lottery tickets and other lottery materials by American manufacturers to foreign countries where permitted. April 24. Y(3–1–0), passed 269–121.

95. HR3363. Amendment to prohibit the United States' mandatory contribution to the United Nations to be used for technical assistance programs. April 24. N(2–1–1), rejected 187–214.

96. HR3363. Amendment to require a 10 percent across-the-board cut in the bill's authorizations. April 24. N(2–2–0), passed 207–196.

97. HR3363. Amendment to make a 10 percent across-the-board cut in the bill's authorizations (amendment previously adopted). April 24. N(2–2–0), rejected 199–203.

98. HR3363. Ordering the previous question (thus ending debate and the possibility of amending) the Broomfield, R-Mich., motion to recommit (kill) the bill to Foreign Affairs Committee. April 24. Y(2–2–0), ordered 265–138.

99. HR3363. Passage of the bill to authorize $2.1 billion for FY80 and $2.3 billion for FY81 for the State Department and related agencies and to authorize a FY79 supplement of $105 million for migration and refugee assistance. April 24. Y(2–2–0), passed 256–146.

100. HR2283. Adoption of the conference report on the bill to reauthorize the Council on Wage and Price Stability for one year, through September 30, 1980, and increase its authorization to $6.95 million for FY79 and $8.48 million in FY80. April 25. Y(2–2–0), passed 240–168.

101. HR3354. Passage of the bill to authorize $85.2 million in FY80 for conservation, exploration, development and use of the naval petroleum and oil shale reserves. April 25. Y(4–0–0), passed 394–12.

103. HRes234. Adoption of the resolution to provide $525,000 for investigations and studies to be conducted by the House Select Committee on Committees during 1979. April 26. Y(2–2–0), passed 212–180.

105. HCRes107. Amendment to add $800 million to the proposed increase in FY79 defense budget authority, for a total increase of $1.4 billion. May 1. N(3–1–0), rejected 183–229.

106. HCRes107. Amendment to eliminate the proposed $250 million increase in FY79 budget authority and outlays for targeted fiscal assistance. May 1. N(3–1–0), passed 212–198.

108. HCRes107. Amendment to increase FY79 budget authority and outlays by $200 million for targeted fiscal assistance, and by $25 million authority and $20 million in outlays for disaster loans. May 2. Y(1–3–0), passed 224–197.

109. HCRes107. Amendment to reduce the proposed increases for food stamps to $515 million in budget authority from $650 million and to $465 million in outlays from $600 million, representing continuation of the "cap" on food stamp expenditures. May 2. N(3–1–0), rejected 146–276.

110. HCRes107. Amendment to eliminate the proposed $628 million in budget authority and $315 million in outlays for the purchase of two destroyers originally ordered by the government of Iran. May 2. N(0–4–0), rejected 88–325.

111. HCRes107. Amendment to increase fiscal 1979 budget authority for defense by $1.4 billion, enough to purchase two destroyers and various other items in the administration's FY79 defense supplemental request. May 2. N(2–1–1), rejected 141–269.

112. HCRes107. Amendment to increase

FY79 budget authority for $2.2 billion and outlays by $1.5 billion so as to provide funds for the purchase of two destroyers, for targeted fiscal assistance, for unexpected increases in the cost of disaster loans and food stamps and several other 1979 supplemental appropriations. May 2. Y(1–3–0), passed 235–177.

113. HCRes107. Amendment to increase the FY80 level of defense spending recommended by the Budget Committee by $2.6 billion budget authority and $1.1 billion in outlays to $137.8 billion in budget authority and $125 billion in outlays. May 2. N(3–1–0), rejected 188–209.

114. HCRes107. Amendment to reduce FY80 budget authority by $8.1 billion and outlays by $2.7 billion, an amount equal to 1.5 percent of unobligated balances excluding funds set aside for pensions and loan guarantee programs. May 2. Y(1–3–0), rejected 79–317.

115. HCRes107. Amendment to reduce budget authority and outlays by $1.1 billion, representing cuts in government travel, filmmaking, paperwork and overtime. May 3. Y(4–0–0), passed 403–3.

116. HCRes107. Amendment to "balance the budget" in FY80 with budget authority of $582.8 billion, outlays of $507.1 billion, revenues of $507.8 billion and a surplus of $656 million. May 3. NV(2–1–1), rejected 134–275.

117. HCRes107. Amendment to "balance the budget" in FY80 with budget authority of $593.8 billion, outlays of $515 billion, and revenues of $515 billion. May 3. N(3–1–1), rejected 186–214.

118. HCRes107. Amendment to "balance the budget" in FY80 with budget authority of $513.8 billion, outlays of $494.6 billion, revenues of $513.8 billion, and a $70 million surplus. May 3. N(0–2–2), rejected 2–376.

120. HR39. Adoption of the rule (HRes 243) providing for House floor consideration of the bill to designate certain areas in Alaska as public lands to be placed in use for the park, recreation and conservation systems. May 4. Y(2–0–2), passed 236–18.

121. HR3404. Motion to suspend the rules and pass the bill to authorize the Treasury, for a five-year period, to meet short-term cash needs by borrowing securities from Federal Reserve banks and selling them in the open market, and to permit the Treasury to obtain cash by selling securities to the Federal Reserve only in unusual and exigent circumstances. May 7. Y(1–2–1), rejected 175–195.

122. HCRes107. Amendment to reduce FY80 budget authority by $500 million and outlays by $50 million, representing elimination of funds for President Carter's proposed new Economic Development Administration initiatives. May 7. Y(3–0–1), rejected 140–245.

123. HCRes107. Amendment to include in the budget $2.3 billion for general revenue sharing for states and to cut categorical grant programs by $2.5 billion. May 7. N(1–2–1), rejected 147–237.

124. HCRes107. Amendment to add $2.3 billion in budget authority and outlays, restoring funds for general revenue sharing and for state governments eliminated by the House Budget Committee. May 7. (N(1–2–1), rejected 190–195.

126. HCRes107. Amendment to increase FY80 budget authority by $83 million and outlays by $73 million, restoring half of the cuts in Amtrak funding recommended by the Carter administration. May 8. N(1–3–0), rejected 196–227.

127. HCRes107. Amendment to reduce FY80 budget authority by $497 million and outlays by $95 million, assuming a four-year phase-out of the Law Enforcement Assistance Administration (LEAA). May 8. Y(3–1–0), rejected 104–316.

128. HCRes107. Amendment to reduce the Budget Committee's recommendation for defense spending by $1 billion in budget authority and $355 million in outlays; and to increase funds for the Young Adult Conservation Corps, youth jobs programs, and a job tax credit for employing persons age 16–18. May 8. N(0–4–0), rejected 92–321.

129. HCRes107. Amendment to increase 1980 revenues by $1.2 billion, by recommending curtailment of foreign tax credits for oil companies and requiring that royalties paid for foreign oil be treated as deductible business expense instead (the original Holtzman amendment would have provided $1 billion of the increased revenues for energy conservation and research, mass transit, older Americans' jobs and nutrition and fiscal relief to states for welfare costs). May 8. Y(1–3–0), passed 355–66.

130. HCRes107. Amendment to "transfer" $2.3 billion from foreign assistance programs to general revenue sharing for the states. May 8. N(3–1–0), rejected 199–214.

131. HRes106. Adoption of the resolution urging the Federal Republic of Germany to abolish or extend beyond Dec. 31, 1979, the statute of limitations governing the prosecution of Nazi war crimes. May 9. Y(4–0–0), passed 401–0.

132. HCRes107. Amendment to increase budget authority and outlays by $1.1 billion, roughly half the amount of general revenue sharing for state governments, which the Budget Committee recommended eliminating. May 9. N(1–3–0), rejected 203–216.

133. HCRes107. Amendment to cut budget authority and outlays by $650 million, representing a reduction in spending for food stamps. May 9. N(3–0–1), rejected 147–276.

134. HCRes107. Amendment to "balance the Budget" in 1980 by reducing outlays by the amount of unobligated balances in the defense budget, Department of Energy overhead cost and uranium enrichment programs; and to increase revenues by $3 billions by recommending repeal of the foreign tax credit for oil companies; thus setting the following spending aggregates: Budget authority, $585.2 billion; outlays, $509.9 billion; and revenues, $510.2 billion. May 9. N(4–0–0), rejected 45–371.

135. HCRes107. Amendment to set 1980 budget authority at $593.8 billion; outlays at $523.4 billion; revenues at $508.2 billion (a $6.5 billion reduction); and the deficit at $15.2 billion. May 9. N(3–1–0), rejected 191–218.

136. HCRes107. Amendment to set 1980 budget authority at $600 billion; outlays at $526.9 billion; revenues at $508.2 billion (a $6.5 billion reduction; and the deficit at $18.7 billion. May 9. N(3–1–0), rejected 198–218.

137. HCRes107. Amendment to reduce tax expenditures by $1 billion in 1979 and by $4 billion in 1980; to increase 1980 budget authority by $2.3 billion and outlays by $1.5 billion for various domestic social programs; and to reduce the deficit by $2.5 billion. May 10. (Y(1–3–0), rejected 130–277.

138. HCRes107. Motion that all debate on and amendments to the resolution and immediately. May 10. Y(2–2–0), rejected 197–208.

139. HCRes107. Amendment to reduce 1979 revenues by $400 million and 1980 revenues by $7.8 billion; and to reduce 1979 budget authority and outlays by $1.4 billion, and 1980 budget authority and outlays by $6.1 billion. May 10. N(3–1–0), rejected 182–229.

140. HRes212/HRes266. Adoption of the rule (HRes262) providing for House floor consideration of the Carter administration's standby gasoline rationing plan and amendment thereto. May 10. Y(1–3–0), passed 227–190.

141. HRes1212/HRes266. Adoption of the resolutions to approve the standby gasoline rationing plan which, during an emergency, would require that special ration coupons be used to purchase gasoline. May 10. Y(1–2–1), rejected 159–146.

142. HR2085. Motion to suspend the rules and pass the bill to allow waivers of disclosure requirements for part-time federal employees and government consultants and to make other technical modifications to the 1978 Ethics in Government Act (PL 95–521). May 14. Y(3–0–1), passed 338–49.

143. HR3577. Motion to suspend the rules and pass the bill to authorize $550,000 in FY80 for the National Advisory Committee on Oceans and Atmospheres, which provides independent advice on the nation's marine and atmospheric programs. May 14. Y(2–1–1), passed 340–36.

144. HCRes107. Amendment to set FY80 defense spending at $137 billion in budget authority and $124.2 billion in outlays ($1.7 billion in budget authority and $59 million outlays more than supported by the Budget Committee). May 14. N(3–1–0), rejected 188–209.

145. HCRes107. Amendment to increase FY80 budget authority by $210 million and outlays by $164 million by recommending increases in funds for emergency fuel assistance for low-income families. May 14. N(0–4–0), rejected 179–222.

146. HCRes107. Amendment to cut pending FY80 budget authority and outlays $2.5 billion, or .5 percent, across the board—thus providing $605.1 billion in budget authority and $529.9 billion in outlays. May 14. Y(3–1–0), passed 255–144.

147. HCRes107. Amendment to prorate among the various 211 budget functions the $2.5 billion in cuts authorized by the Fisher, D-Va., amendment. May 14. Y(4–0–0), passed 272–128.

148. HCRes107. Adoption of the resolution setting FY80 targets as follows: for 1979—$557.9 billion in budget authority, $494.3 billion in outlays, $458.5 billion in revenues, and a $35.9 billion deficit; for 1980—$605.1 billion in budget authority, $529.9 billion in outlays, $509 billion in revenues and a $20.9 billion deficit. May 14. Y(1–3–0), passed 220–184.

152. HR39. Amendment (HR3561) to create 125.4 million acres of national parks, wildlife refuges and forests in Alaska. May 16. Y(1–3–0), passed 268–157.

153. HR39. Passage of the bill to create 125.4 million acres of natural parks, wildlife refuges and forests in Alaska. May 16. Y(82–2–0), passed 360–65.

154. HR10. Adoption of the rule (HRes241) providing for House floor consideration of the bill to authorize the U.S. Attorney General to initiate lawsuits in federal courts to safeguard the rights of persons confined in state prisons, mental institutions and nursing homes. May 16. NV(3–0–1), passed 398–4.

158. HR111. Adoption of the rule (HRes 274) providing for House floor consideration of the bill to provide for the operation and maintenance of the Panama Canal through the year 1999 and to implement the provisions of the Panama Canal Treaty. May 17. Y(1–2–1), passed 200–198.

160. HR4011. Adoption of the rule (HRes 279) providing for House floor consideration of the bill to authorize $5.3 billion for Small Business Administration programs for FY80–82. May 22. Y(4–0–0), passed 380–7.

161. HR4011. Amendment to limit the applications for the Small Business Development Center pilot program to states or state agencies; require existing SBDC's to refer applicants to private consultants when applicable; and establish state advisory boards to monitor the program. May 22. N(3–1–0), rejected 192–216.

162. HR4011. Amendment to lower interest rates on homeowner loans to 1 percent on the first $10,000 borrowed and 3 percent on amounts between $10,000 and $55,000. May 22. N(2–2–0), rejected 174–232.

163. HR4011. Passage of the bill to authorize $5.3 billion for Small Business Administration programs for FY80–82. May 22. Y(4–0–0), passed 398–5.

164. HCRes107. Motion to approve the conference version of the resolution revising binding FY79 budget totals and setting FY80 targets as follows: for 1979—$559.2 billion in budget authority, $494.45 billion in outlays, $461 billion in revenues, and $33.45 billion deficit; for 1980—$604.05 billion in budget authority, $532 billion in outlays, $509 billion in revenues and a $23 billion deficit. May 23. N(2–2–0), rejected 144–260.

165. HR10. Passage of the bill to authorize the U.S. Attorney General to initiate lawsuits in federal courts to safeguard the rights of persons confined in state prisons, mental institutions and nursing homes. May 23. Y(4–0–0), passed 342–62.

166. HR3914. Passage of this bill to remove the authorization ceiling for funding the District of Columbia share of construction costs for the capital area subway system, Metro. May 23. Y(2–2–0), passed 357–48.

167. HR3404. Adoption of the rule (HRes 275) providing for House floor consideration of the bill to extend the authority of the Treasury to obtain cash to meet short-term needs. May 23. Y(4–0–0), passed 377–13.

168. HR3404. Passage of the bill to extend for two years the authority of the Treasury to obtain cash to meet short-term needs. May 23. Y(2–2–0), passed 316–75.

170. HCRes107. Motion to concur in the Senate amendment to the budget resolutions to revise binding FY79 budget totals and set FY80 targets as follows: for 1979—$559.2 billion in budget authority, $494.45 billion in outlays, $461 billion in revenues, and a $33.45 billion deficit; for 1980—$604.4 billion in budget authority, $532 billion in outlays, $509 billion in revenues, and a $23 billion deficit. May 24. Y(2–2–0), passed 202–196.

171. S869. Adoption of the rule (HRes281) providing for House floor consideration of the bill to provide certain clarifications of the 1978 Ethics in Government Act. May 24. Y(3–1–0), passed 375–18.

172. S869. Amendment to restrict former high-level federal employees for two years from assisting in representing anyone before their previous agencies and to limit the automatic coverage of the one-year ban on contacting a former agency to former executive-level employees. May 24. N(0–4–0), rejected 88–292.

173. S869. Passage of the bill to clarify and soften restrictions on post-federal-government employment. May 24. Y(4–0–0), passed 327–48.

174. S7. Adoption of the conference report on the bill to establish a new program of psychological counseling and other readjustment assistance for Vietnam-era veterans, make changes in other veterans' health care programs and require approval of congressional Veterans' Affairs Committees before funds could be appropriated for major Veterans Administration medical facility construction, renovation or leasing. May 30. Y(2–0–2), passed 342–0.

175. HR4035. Passage of the bill to authorize $4.8 billion for FY79 in special economic and military assistance to help Egypt and Israel implement the Middle East peace treaty. May 30. Y(3–0–1), passed 347–28.

176. HR2575. Amendment to prohibit further development of the MX missile and of its basing system. May 31. Y(1–1–2), rejected 89–311.

177. HR2575. Amendment to prohibit further development of a specific basing system for the MX missile (called MPS) unless the secretary of defense certified to Congress that it was "consistent with national security interest." May 31. Y(1–1–2), rejected 100–291.

178. HR2575. Passage of the bill authorizing $1.322 billion in supplemental funds for programs of the Department of Defense in FY79. May 31. Y(1–0–3), passed 314–72.

179. HR4015. Motion to suspend the rules and pass the bill to establish demonstrations centers of geriatric research, education and clinical operations within the Veterans Administration. June 5. Y(3–0–1), passed 406–0.

180. HR3875. Amendment to transfer $200 million from the authorization for urban development action grant program to the community development block grant program. June 5. Y(3–0–1), rejected 159–263.

181. HR375. Amendment to make up to 20 percent of the urban development action grant funds available to cities and urban counties that have at least one area of severe poverty. June 5. Y(3–0–1), passed 312–102.

182. HR3875. Amendment to extend eligibility for urban development action grants to any urban county that contains at least one area of severe poverty and had a population of at least 50,000 persons prior to 1960. June 5. N(0–4–0), rejected 48–357.

183. HR3464. Passage of the bill to provide incentives to encourage disabled recipients of Suplemental Security Income (SSI) benefits to return to work. June 6. Y(4–0–0), passed 374–3.

184. HR4289. Amendment to provide an additional $125 million for discretionary capital grants for urban mass transportation. June 6. N(0–4–0)

186. HR3875. Amendment to eliminate Davis-Bacon prevailing wage requirements for Indian housing and for residential rehabilitation projects carried out by neighborhood non-profit organizations. June 6. Y(4–0–0), rejected 155–244.

188. HR3875. Amendment to reduce paperwork by compiling, and subsequently consolidating and simplifying, forms used in federal housing programs. June 7. Y(4–0–0), passed 366–16.

189. HR3875. Amendment to prevent Social Security cost-of-living increases from being counted as income when calculating rent in assisted housing. June 7. Y(2–2–0), passed 311–79.

190. HR3875. Amendment to delete language authorizing the secretary of housing and urban development to issue cease and desist orders prohibiting the sale or lease of property by a developer who violated the anti-fraud provisions of the Interstate Land Sales Act. June 7. N(3–1–0), passed 245–145.

191. HR3875. Passage of the bill to amend and extend various federal housing programs. June 7. Y(2–2–C), passed 355–36.

192. HR2444. Adoption of the rule (HRes299) providing for House consideration of the bill to establish a Cabinet-level Department of Education. June 7. Y(2–1–1), passed 283–73.

193. HR2641. Adoption of the rule (HRes272) providing for House floor consideration of the bill to authorize $14 million for the U.S. Civil Rights Commission in FY80. June 8. NV(1–0–3), passed 297–0.

195. HR2641. Amendment to reduce authorizations for FY80 for the U.S. Civil Rights Commission to $11.37 million from $14 million. June 8. NV(1–0–3), rejected 130–168.

196. HR2641. Passage of the bill to authorize $14 million for the U.S. Civil Rights Commission for FY80. June 8. NV(1–0–3), passed 276–14.

197. HR2347. Passage of the bill to authorize the establishment of the Frederick Law Olmstead Historic Site in Massachusetts and for other acquisitions in the national park system. June 8. NV(1–0–3), passed 243–41.

198. HR3347. Passage of the bill to authorize $22.4 million for international affairs functions of the Treasury Department for FY80. June 8. NV(1–0–3), passed 179–96.

201. HR2444. Amendment to change the name of the proposed department to the Department of Public Education (DOPE). June 11. N(1–1–2), rejected 52–310.

202. HR2444. Amendment to establish an independent Office of Education instead of a Cabinet-level department. June 11. N(0–3–1), rejected 114–257.

203. HR2444. Amendment to make one of the purposes of the proposed education department to permit daily opportunities for voluntary prayer and meditation in public schools. June 11. N(0–2–2), passed 255–122.

204. HR2444. Amendment to state the intent of Congress to limit future budget authority of the proposed department to the existing funding for the programs transferred into it, with allowance for annual increases related to rises in the Consumer Price Index. June 11. N(1–1–2), rejected 184–187.

205. HR2444. Amendment to state that no provision of law would authorize the proposed department to require a school district to undertake busing of school children to achieve racial balance as a condition for receiving federal assistance. June 11. N(1–1–2), passed 227–135.

208. HRes198. Adoption of the resolution to dismiss the election challenge brought against Rep. Parren J. Mitchell, D-Md. June 11. NV(2–0–2), passed 378–0.

210. HR2444. Amendment to add to the purposes of the bill the goal of ensuring that no one be denied access to education opportunities because of racial or sexual ratios or quotas. June 12. Y(3–0–1), passed 277–126.

211. HR2444. Amendment to delete from the bill the transfer of Defense Department overseas dependent schools to the proposed department. June 12. N(2–1–1), rejected 178–230.

213. HR2444. Substitute amendment, to the Garcia, D-N.Y., amendment, to establish an Office of Bilingual Education and Minority Languages Affairs in the proposed department. June 12 Y(4–0–0), passed 396–22.

214. HR2444. Amendment, as amended, to establish an Office of Bilingual Education and Minority Languages Affairs. June 12. Y(2–2–0), passed 290–124.

215. HR2444. Amendment to provide that the assistant secretary for vocational and adult education of the proposed department establish a unified rural family education program. June 12. Y(4–0–0), passed 403–3.

216. HR2444. Amendment to delete from the bill the transfer of the Rehabilitation Services Administration and National Institute of Handicapped Research to the proposed education department and to establish within the department of health and human services (currently the Department of Health, Education and Welfare) an assistant secretary for the handicapped. June 12. N(1–3–0), rejected 148–265.

217. HR2444. Amendment to require that each executive level official appointed in the proposed department have been a school teacher or administrator for at least 18 of the 24 months preceding his or her nomination. June 12. N(0–4–0), rejected 28–374.

218. HR2444. Amendment to delete the authority of the assistant secretary for civil rights to collect data relating to civil rights laws, to select employees and to enter into contracts. June 12. N(2–2–0), rejected 65–342.

220. HR2444. Amendment to delete from the bill language authorizing the proposed department to provide information about education and related opportunities directly to students, parents and communities. June 12. NV(2–1–1), rejected 149–243.

221. HR2444. Amendment to delete language in the bill providing for five officers in the proposed education department with the duties to be assigned by the secretary. June 122. NV(3–0–1), rejected 170–220.

223. HR4390. Motion to order the previous question (thus ending debate) on the adoption of the rule (HRes312) providing for

House floor consideration of the bill to appropriate $952.88 million for the House and related congressional agencies in FY80. June 13. Y(1–3–0), rejected 126–292.

224. S429. Motion that the conference committee meetings between the House and Senate on the FY79 Defense Department supplemental authorization bill be closed when classified information was discussed, but that any member of Congress would be eligible to attend meetings of the conference. June 13. Y(4–0–0), passed 397–16.

225. HR4390. Amendment to lower to 5.5 percent from 7 percent the ceiling provided in the bill on any salary increase that could be paid during FY80 to any employee of the federal or District of Columbia governments whose salary was $47,000 or more as of September 30, 1978. June 13. Y(4–0–0), passed 396–15.

226. HR4390. Amendment to reduce to $37.49 million from $39.42 million the FY80 appropriation for House members' official expenses. June 13. N(3–1–0), rejected 204–213.

227. HR4390. Passage of the bill to appropriate $952.88 million for the House and related congressional agencies in FY80. June 13. Y(2–2–0) rejected 186–232.

228. HR4388. Adoption of the rule (HRes 311) providing for House floor consideration of the bill to authorize $10.7 billion for energy and water development programs in FY-80. June 13. Y(4–0–0), passed 386–34.

231. HR2444. Amendment to delete from the bill transfer of health professions and nursing students assistance programs to the proposed departments. June 13. NV(2–1–0), passed 243–169.

233. HR2444. Amendment to transfer job training programs under Titles II, III, and IV of the Comprehensive Employment and Training Act (CETA) of the proposed department. June 13. NV(1–2–1), rejected 145–265.

234. HR2444. Amendment to delete from the bill the transfer of science education programs from the National Science Foundation to the proposed department. June 13. N(2–2–0), rejected 165–240.

235. HR2444. Amendment to delete from the bill transfer of the employees of the overseas military dependent schools of the Department of Defense to the proposed education department. June 13. N(3–1–0), rejected 173–225.

236. HR2444. Amendment to delete from the bill transfer of Indian education programs from the Bureau of Indian Affairs to the proposed department. June 13. Y(4–0–0), passed 235–170.

237. HR2444. Amendment to delete from the bill transfer of criminal justice education programs from the Law Enforcement Assistance Administration to the proposed department. June 13. N(3–1–0), rejected 128–175.

238. HR2444. Amendment to add to the bill transfer of Head Start programs to the proposed department. June 13. N(3–1–0), rejected 179–230.

239. HR2444. Motion to strike the enacting clause of the bill (thus killing the bill). June 13. NV(3–0–1), rejected 146–266.

241. HR4388. Amendment, to the Dodd, D-Conn., amendment, to require that expense funds paid by the federal government to an intervenor in Federal Energy Regulatory Administration proceedings whose side lost be paid by the intervenor to the respondent. June 15. NV(3–0–1), passed 257–156.

242. HR4388. Substitute amendment, to the Dodd, D-Conn., amendment, to set a limit of $550,000 on the amount of funds that could be used to pay the expenses of intervenors. June 15. NV(0–3–1), rejected 136–271).

244. HRes291. Motion to table (kill) the resolution to direct the President to provide members of the House with information on crude oil and refined petroleum supplies. June 15. NV(0–3–1), rejected 4–338.

245. HRes291. Adoption of the resolution to direct the president to provide members of the House with information on crude oil and refined petroleum supplies in the United States since January 1, 1978. June 15. (NV (3–0–1), passed 340–4.

247. HR4388. Amendment to delete $6 million from construction funding for the O'Neill unit, in northern Nebraska, of the Pick-Sloan Missouri Basin project. June 15. NV(0–3–1), rejected 106–210.

248. HR4388. Amendment to delete $5.3 million in construction funding for a desalinization plant near Yuma, Arizona. June 15. NV(0–3–1), rejected 34–253.

249. HRes321. Adoption of the resolution to express the sense of the House of Representatives that the president should urge the secretary general of the United Nations to take appropriate measures to deal with the needs of refugees fleeing from Indochina. June 18. NV(2–0–2), passed 336–0.

250. HR4388. Amendment to add $5 million to appropriations for the Nuclear Regulatory Commission for on-site inspectors at nuclear power plants. June 18. NV(2–0–2), passed 350–10.

251. HR4388. Amendment to delete language in the bill restricting to licensing operations the duties of additional employees of the Nuclear Regulatory Commission, thus giving discretion to the commission for assigning responsibilities of the new employees. June 18. NV(0–2–2), passed 350–12.

252. HR4388. Amendment to prohibit use of Nuclear Regulatory Commission (NRC) funds for issuance of operating licenses for a nuclear power plant in a state which had not submitted an emergency evacuation plan to the NRC. June 18. NV(0–2–2), rejected 147–235.

253. HR4388. Passage of the bill to appropriate $10.69 billion for FY80 operations of the Energy Department, Army Corps of Engineers, Interior Department Bureau of Reclamation and seven independent agencies and commissions. June 18. NV(2–0–2), passed 359–29.

254. HR4391. Passage of the bill to appropriate $3.48 billion for military construction programs of the Defense Department for FY80. June 18. NV(1–1–2), passed 366–21.

256. HR4387. Passage of the bill to appropriate $16.7 billion in FY80 for the Agriculture Department and related agencies. June 19. Y(4–0–0), passed 391–30.

257. HRes239. Adoption of the resolution to disapprove the administration's plan not to spend $1.79 million for exploration and drilling for oil in the National Petroleum Reserve in Alaska. June 19. Y(4–0–0), passed 409–3.

260. HR2444. Amendment to prevent the proposed department, during the first eight months of its existence, from withholding funds from a state because of a failure to comply with legal requirements for operating certain programs through a single organizational unit (the amendment specifically applied to Florida's vocational rehabilitation program). June 19. Y(3–1–0), passed 362–36.

261. HR2444. Amendment to require the proposed department to inform local education agencies of proposed regulations and to withdraw the regulations if a majority of the agencies stated in writing that they opposed them, except for regulations concerning civil rights. June 19. N(2–2–0), rejected 159–243.

263. HR111. Motion to strike the bill's enacting clause, and thus kill the treaty implementing legislation. June 20. N(2–2–0), rejected 97–315.

264. HR111. Amendment, to the Hanley, D-N.Y., amendment, to restore the original language in the bill providing for special retirement, pay and other benefits to U.S. Panama Canal employees. June 20. N(2–2–0), passed 277–142.

265. HR111. Amendment to prohibit the annual payments to Panama called for under the 1978 canal treaties unless Panama settled all outstanding expropriation claims by American companies. June 20. N(2–2–0), rejected 210–227.

266. HR111. Amendment, to the Hansen, R-Idaho, amendment, to restore the original language in the bill dealing with annual payments to Panama from canal revenues, property transfers to Panama and U.S. costs in implementing the 1978 canal treaties. June 20. Y(2–2–0), passed 220–200.

267. HR111. Amendment, as amended, to provide for annual payments to Panama from canal revenues, to authorize property transfers to Panama and to establish U.S. costs in implementing the 1978 treaties. June 20. Y(2–2–0), passed 255–162.

268. HR111. Amendment to provide that Panamanians cannot be appointed to the Panama Canal Commission until a government is installed in Panama through free elections. June 21. N(3–1–0), rejected 142–247.

269. HR111. Amendment to charge to Panama the $75 million cost of U.S. military construction incurred as a result of implementing the treaty. June 21. N(2–2–0), rejected 210–213.

270. HR111. Amendment to require congressional approval after December 30, 1999, before the Panama Canal railroad or any other U.S. property in the Canal Zone could be transferred to Panama. June 21. N(2–2–0), rejected 177–248.

271. HR111. Motion to recommit the bill to the Merchant Marine and Fisheries Committee with instructions to report the bill back to the House with the original text of the Hansen, R-Idaho, amendment to require Panama to pay all U.S. cost in implementing the canal treaties. June 21. N(2–2–0), rejected 210–216.

272. HR111. Passage of the bill to implement the Panama Canal treaties by creating a Panama Canal Commission, requiring congressional approval of all spending by the canal and authorizing payments to Panama from canal revenues under certain restrictions. June 21. Y(2–2–0), passed 224–202.

273. HR3173. Motion to instruct the House conferees on the bill to authorize foreign military aid in FY80, to insist on its disagreements with a Senate amendment providing $50 million in grant military assistance to Turkey. June 21. Y(1–2–1), passed 303–107.

275. HR4394. Amendment to increase Environmental Protection Agency funds by $4 million for groundwater contamination research and by $6 million for research into methods of controlling hazardous substances. June 22. Y(1–2–1), rejected 129–237.

276. HR4394. Amendment to increase EPA funds by $10 million for research into and $10 million for emergency measures to control hazardous wastes. June 22. N(0–3–1), rejected 136–219.

277. HR1046. Motion to suspend the rules and pass the bill to amend the 1968 Magistrate Act to expand the authority of federal magistrates to try civil and federal misdemeanor cases and to provide for merit selection of magistrates in order to expedite litigation of minor cases in the U.S. district courts. June 26. Y(2–2–0), passed 374–42.

278. HR4303. Motion to suspend the rules and pass the bill to allow households containing a person who is aged 60 or older, or who receives Supplemental Security Income benefits, to deduct from income, for the purpose of computing food stamp benefits, any medical expenses in excess of $35 a month and all shelter costs that exceeded 50 percent of monthly income. June 26. Y(4–0–0), passed 405–8.

279. HR3930. Amendment to limit the definition of energy production in the act only

to that for defense purposes. June 26. N(1–3–0), rejected 69–351.

280. HR3930. Motion to end debate on the section defining the terms used in the bill at 6:40 p.m. June 26. Y(2–2–0), passed 209–183.

282. HR3930. Amendment to delete a sentence authorizing the president to command any fuel supplier to provide the government with synthetic fuels. June 26. N(1–3–0), rejected 94–291.

283. HR3930. Amendment to prohibit the eight largest oil companies from contracting with the government to provide synthetic fuels. June 26. Y(1–3–0), rejected 127–263.

284. HR3930. Passage of the bill to require the president, through purchase contracts, loans and loan guarantees and, if necessary, government backed corporations, to encourage production of the oil equivalent of 500,000 barrels a day in synthetic fuels by 1985 and two million barrels a day by 1990. June 26. Y(4–0–0), passed 368–25.

287. HR4394. Amendment to cut $685 million in general revenue sharing funds allocated to state governments. June 27. Y(3–1–0), rejected 102–302.

288. HR4394. Amendment to cut $14.7 million from National Aeronautics and Space Administration research funds earmarked for development of a commercial supersonic airliner. June 27. Y(1–3–0), rejected 113–292.

289. HR4394. Motion to recommit the bill to committee with instructions to reduce spending by 2 percent across-the-board on programs not required by law. June 27. N(1–3–0), rejected 170–243.

290. HR4394. Passage of the bill to appropriate $71.96 billion for the Department of Housing and Urban Development (HUD) and 20 independent agencies, including the Veterans Administration, the National Aeronautics and Space Administration (NASA) and the Environmental Protection Agency (EPA). June 27. Y(2–2–0), passed 359–53.

291. HR4389. Amendment to prohibit payment of Comprehensive Employment and Training Act (CETA) funds to persons named by the General Accounting Office as violators of law. June 27. N(1–3–0), rejected 191–222.

292. HR4389. Amendment to reduce by $10.3 million the appropriation for the Occupational Safety and Health Administration. June 27. N(3–1–0), rejected 177–240.

293. HR4389. Amendment to prohilbt use of funds in the bill to pay for abortions, unless the life of the mother would be endangered if the fetus were carried to term, in cases of rape or incest or in cases where two doctors certified that carrying the fetus to term would result in severe and long-lasting physical damage to the mother. June 27. Y(1–3–0), rejected 180–241.

294. HR4389. Amendment to prohibit Occupational Safety and Health Administration inspectors from visiting a work-site within six months of an inspection by a state safety and health agency, with certain exceptions, including cases where a worker had been killed. June 27. Y(4–0–0), passed 236–176.

295. HR4389. Amendment to increase by $47 million the appropriation for the National Institutes of Health, June 27. N(0–4–0), retected 178–228.

296. HR4389. Amendment to reduce the appropriation for HEW by $500 million, with the reduction to be taken from programs identified by the HEW Inspector General as containing waste. June 27. N(3–1–0), passed 263–152.

297. HR4389. Amendment, as amended by the Obey, D-Wis., amendment, to add $2 million to the appropriation for the Community Services Administration, to develop a plan for administration of the emergency fuel assistance program for the poor. June 27. Y(1–3–0), passed 300–112.

298. HR4389. Amendment to prohibit use of HEW funds to implement the system for Hospital Uniform Reporting (SHUR). June 27. N(3–1–0), passed 306–101.

299. HR4389. Passage of the bill to appropriate $73.1 billion for the Departments of Labor and Health, Education and Welfare, and related agencies, for FY80. June 27. NV (1–2–1), passed 327–84.

300. HR3919. Adoption of the rule providing for House floor consideration of the bill taxing profits oil companies will realize from decontrol of domestic oil prices. June 2. Y(2–2–0), passed 292–118.

301. HR3919. Ways and Means Committee amendments providing for a tax rate of 70 percent and a permanent tax on price increases, adjusted for inflation plus 2 percent annually, of more than $17 a barrel. June 28. Y(3–1–0), passed 230–185.

302. HR3919. Substitutes providing for a tax rate of 60 percent, discontinuation of the windfall tax at the end of 1990 and other changes. June 28. N(3–1–0), passed 236–183.

303. HR3919. Amendment extending for 13 months the tax on oil discovered before 1973. June 28. Y(1–3–0), rejected 172–241.

304. HR3919. Motion to recommit with instructions to add a "plowback" that would give oil companies a credit for 75 cents of every dollar reinvested in energy development in excess of historic investment patterns. June 28. N(3–1–0), rejected 186–229.

305. HR4439. Amendment to terminate the existing sanctions against Zimbabwe-Rhodesia by December 1, 1979, to provide for a continuation of the sanctions past that date if Congress approved a presidential request for an extension. June 28. Y(2–2–0), passed 350–37.

307. HR827. Motion to suspend the rules and pass the bill to establish an arbitration board and proceedings to settle disputes between postal supervisors and the U.S. Postal Workers. July 10. Y(1–3–0), passed 306–94.

308. HR3821. Amendment to require the president to publicly disclose on November 1, 1979, the total amount appropriated for FY80 national foreign intelligence programs. July 10. N(0–4–0), rejected 79–321.

309. HR4537. Passage of the bill to make changes in U.S. law to carry out multilateral trade (MTN) agreements limiting nontariff barriers to trade, including export subsidies and customs valuation methods. July 11. Y(4–0–0), passed 395–7.

311. HR2444. Amendment to limit the department to 800 fewer employees than were currently working on programs to be transferred into it; to count consultants hired by the department as employees; and to remove the provision in the bill allowing the department to add 50 new employees each year without congressional approval. July 11. Y(4–0–0), passed 263–143.

313. HR2444. Amendment to prohibit the department from providing facilities to institutions of higher education that used mandatory student fees to pay for abortions, except for those to save the life of the mother. July 11. N(3–1–0), passed 257–149.

314. HR2444. Passage of the bill to establish a separate federal Department of Education. July 11. Y(1–3–0), passed 210–206.

315. HRes231. Adoption of the resolution to disapprove President Carter's reorganization plan no. 2 to reorganize most foreign aid programs under a new International Development Cooperation Agency (IDCA), to be effective October 1, 1979. July 11. Y(3–1–0), rejected 156–256.

316. HR3363. Motion to instruct the House conferees to agree to the Senate amendment expressing the sense of Congress that free and fair elections had been held in Zimbabwe–Rhodesia, and that the president should lift economic sanctions against that nation. July 11. Y(3–1–0), rejected 168–248.

319. HR4057. Amendment to reduce to $280 million, the increase in the ceiling for the food stamp program for FY79. July 11. N(3–1–0), rejected 98–314.

320. HR4057. Passage of the bill to increase by $620 million the spending ceiling for the food stamp program in the FY79. July 11. Y(2–2–0), passed 335–81.

322. HR4392. Amendment to add $41.2 million for United Nations technical assistance programs. July 12. Y(1–3–0), passed 216–190.

324. HR4392. Amendment to reduce appropriations for the State Department by 5 percent. July 12. N(2–2–0), passed 210–199.

326. HR4392. Amendment to add $69 million for Maritime Administration ship building and acquisitions programs. July 12. N(0–4–0), rejected 135–272.

327. HR4392. Amendment to eliminate all funding ($1.6 million) for the U.S. Metric Board. July 12. N(2–2–0), rejected 122–280.

328. HR4392. Amendment to prohibit any use of appropriated funds for the Justice Department to be used to require the busing of school children, except for students requiring special education as a result of being mentally or physically handicapped. July 12. N(3–1–0), passed 209–190.

329. HR4392. Amendment to add $41.2 million for United Nations technical assistance programs. July 12. Y(1–3–0), passed 198–197.

330. HR4392. Passage of the bill to appropriate $7.56 billion in FY80 for the operations of the departments of State, Justice and Commerce, the Judiciary and 18 related agencies. July 12. Y(2–2–0), passed 299–93.

332. HR4393. Amendment to prohibit the use of Treasury Department appropriations for the collection of any tax imposed by the Internal Revenue Service unless the conduct of IRS employees complied with the provisions of the Fair Debt Collection Practices Act. July 13. Y(4–0–0), passed 299–69.

333. HR4393. Amendment to prohibit the use of any funds appropriated in the bill to formulate or carry out any rule or policy that would cause the loss of tax-exempt status of any private, religious or church-operated school, unless such rule or policy was in effect prior to August 22, 1978. July 13. NV(3–0–1), passed 297–63.

334. HR2282. Motion to suspend the rules and pass the bill to provide a cost-of-living increase in compensation rates for disabled veterans and for their survivors. July 16. Y(4–0–0), passed 350–0.

335. HR3641. Motion to suspend the rules and pass the bill to authorize $45 million for federal health information programs for FY80–82; $7.5 million for federal physical fitness programs for FY82; $45 million for certain mental health programs for FY80; and to establish a national clearinghouse on digestive diseases, and authorize $5.7 million for FY80–82. July 16. Y(2–2–0), passed 317–35.

336. HR3951. Amendment to waive the Davis-Bacon Act wage requirements for laborers and mechanics for work performed on the Washington, D.C., rapid rail system. July 16. N(3–1–0), rejected 127–260.

337. HR3951. Passage of the bill to authorize $1.7 billion for FY82–87 to complete construction of the 101–mile Metro rapid transit system of the National Capital region. July 16. NV(1–2–1), passed 261–125.

338. HR4393. Prohibit the $50,000 appropriation for the expense allowance of the president to be expended for any other purpose and to require that any unused portion of the expense account shall revert to the Treasury. July 16. Y(4–0–0), passed 294–90.

339. HR4393. Amendment to prohibit the expenditure of funds appropriated for allowances and office staff of former presidents to be used for travel expenses. July 16. N(3–1–0), rejected 156–232.

340. HR4393. Passage of the bill to appropriate $8.79 billion for the Treasury Department, the Postal Service, the Executive Office of the President, and certain independent agencies for FY80. July 16. Y(2–2–0), passed 344–40.

341. HR4289. Adoption of the conference report to appropriate $13.78 billion for operations of various Federal departments and agencies for FY79. July 17. Y(2–2–0), passed 284–132.

343. HR4580. Amendment to prohibit the denial of appropriated funds to save the life of a pregnant woman entitled to receive medical benefits under the act July 17. Y(4–0–0), pased 309–112.

344. HR4580. Substitute amendment, to the Dornan, R-Calif., amendment, to limit appropriated funds for abortions to federal monies. July 17. Y(1–3–0), rejected 200–217.

345. HR4580. Passage of the bill to appropriate $1.810 billion for FY80. July 17. Y(2–2–0), passed 272–147.

346. HR2444. Motion that the House insist on its amendment to the bill to create a Department of Education and request a conference with the Senate. July 17. Y(1–3–0), passed 263–156.

347. HR2444. Motion that the House conferees insist on the amendment to make the purpose of the department the goal of ensuring that no one is denied access to education on account of racial or sexual quotas. July 17. N(3–1–0), passed 214–202.

348. HRes369. Motion to table (kill) the resolution to permit male House members to dispense with coats and ties during the period from June 1 through Labor Day for 1979 and subsequent years, so long as energy shortages persisted, as determined by the House Speaker. July 17. N(3–1–0), passed 303–105.

350. HR4473. Substitute amendment, to the Young, R-Fla., amendment, to reduce by $17.7 million (2 percent of the committee-recommended amount) the appropriation for the Inter-American Development Bank. July 18. Y(4–0–0), passed 413–4.

351. HR4473. Amendments to reduce by $144.9 million the appropriation for the International Board of Reconstruction and Development, July 18. N(3–1–0), passed 219–196).

352. HR4473. Amendment, to the Smith, R-Neb., substitute amendment to the Obey, D-Wis., amendment, to make an additional $1 million cut for the International Development Association. July 18. Y(4–0–0), passed 242–177.

353. HR4473. Substitute amendment, as amended, to the Obey, D-Wis., amendment, to reduce by $207 million the amount sought for the International Development Association. July 18. N(3–1–0), rejected 207–210.

354. HR4473. Amendment to cut $5.84 million (2 percent) of the $292 million appropriation sought for the fourth replenishment of funds to the International Development Association. July 18. Y(4–0–0), passed 402–13.

355. HR4473. Amendment to eliminate the $292 million appropriation sought for the fourth replenishment of funds for the International Development Association. July 18. N(3–1–0), rejected 194–219.

356. HR4473. Amendment, as amended by McHugh, D-N.Y., to prohibit use of funds in the bill provided for the International Development Association to finance any assistance or reparations to Vietnam. July 18. Y(4–0–0), passed 291–122.

357. HR4473. Amendment to prohibit a $359.5 million U.S. payment to the Asian Development Bank unless Taiwan were permitted to continue its membership in the bank. July 18. Y(4–0–0), passed 244–164.

358. HR3917. Adoption of the rule (HRes305) providing for House floor consideration of the bill to revise and extend through FY82 the Health Planning and Resources Development Act of 1974 and to authorize a three-year total of $1.2 billion for planning activities and resources development. July 19. Y(4–0–0), passed 395–10.

359. HR3917. Amendment, to the Satterfield, D-Va., amendment, to require state health planning agencies to receive comment on and publish their criteria for reviewing certificate-of-need applications for approval of medical service charges and to prohibit any conditional approvals that do not conform to the published review criteria. July 19. Y(1–3–0), rejected 203–211.

360. HR3917. Amendment to make certain changes in membership requirements for health planning agencies (HSAs) and to convert private non-profit HSAs to public agencies. July 19. N(2–2–0), rejected 135–274.

361. HR3917. Motion to recommit the bill to committee with instructions to add a provision that planning agencies must evaluate effects of their health plans on medical ethics as embodied in the Hippocratic oath. July 19. N(1–3–0), rejected 55–364.

362. HR3917. Passage of the bill to extend through FY82 and revise the Health Planning and Resources Development Act of 1974 and to authorize a three-year total of $1.2 billion for planning activities and resources development. July 19. Y(2–2–0), passed 374–45.

364. HR4473. Amendment to reduce by $16.7 million the appropriation for the African Development Fund. July 19. N(2–2–0), rejected 148–262.

365. HR4040. Adoption of the rule (HRes368) providing for House floor consideration of the bill to authorize $42.1 billion for weapons procurement and military research in FY80. July 19. Y(4–0–0), passed 219–158.

366. HR7. Passage of the bill to reduce reserve requirements for Federal Reserve System members and provide a system of mandatory universal reserve requirements for checking accounts in the event the total amount of checking deposits subject to reserve requirements dropped below 67.5 percent. July 20. Y(3–1–0), passed 340–20.

367. HRes359. Adoption of the resolution to permit each House member to add to their clerk-hire payroll up to four employees—if they fell into one of five specified categories—without violating the existing ceiling in the House rules of 18 permanent clerks per member. July 20. Y(1–3–0), passed 214–120.

372. HJRes74. Motion to discharge the House Judiciary Committee from further consideration of the joint resolution to propose an amendment to the Constitution to prohibit compelling students to attend a school other than the one nearest their home. July 24. N(3–1–0), passed 227–183.

373. HJRes74. Motion to order the previous question (thus ending debate and further amendments) on the joint resolution to propose an amendment to the Constitution to prohibit compelling students to attend a school other than the one nearest their home. July 24. Y(1–3–0), rejected 172–251.

374. HJRes74. Passage of the joint resolution to propose an amendment to the Constitution to prohibit compelling students to attend a school other than the one nearest their home to achieve racial desegregation. July 24. N(3–1–0), rejected 209–216.

375. HR4453. Motion to suspend the rules and pass the bill to extend a moratorium on the Food and Drug Administration ban on the artificial sweetener saccharin through June 30, 1981, and to require studies and health warnings on saccharin-flavored products and in stores selling the products. July 24. Y(4–0–0), passed 394–22.

376. HR3996. Amendment, to the Eckhardt, D–Texas, amendment, to provide a one-year moratorium on any Amtrak route cuts. July 24. Y(3–1–0), rejected 197–214.

379. HR3996. Amendment to require Amtrak to establish fares that would produce revenues equal to 40 percent of total Amtrak expenses in FY80, 45 percent in 1981 and 50 percent in 1982. July 25. N(3–1–0), rejected 168–250.

380. HR3996. Passage of the bill to authorize $1.12 billion for FY80, $940.5 million for FY81, and $958.5 million for FY82, and to set formulas for retaining some trains scheduled for elimination under the Carter administrations plan. July 25. Y(3–1–0), passed 397–18.

381. S1030. Adoption of the rule (HRes 384) providing for House floor consideration of the bill to authorize the president to impose conservation measures in the event of a national energy shortage. July 25. Y(2–2–0), passed 326–85.

382. S1030. Amendment to permit gasoline rationing when there is a 15 percent shortage—instead of a 20 percent shortage—in petroleum supplies for 30 days. July 25. Y(1–3–0), rejected 93–329.

383. S1030. Amendment to require the president to submit a standby gasoline rationing plan to Congress within 180 days of enactment and then giving Congress 60 days to approve the plan. July 25. N(3–1–0), rejected 185–234.

384. S1030. Amendment to give either house of Congress 30 days to veto a standby gasoline rationing plan submitted by the president. July 25. N(3–1–0), passed 232–187.

387. HR3920. Amendment to delete language extending through January 1, 1982, the exemption from paying federal unemployment insurance tax for certain temporary alien farm workers. July 25. NV(0–2–2), rejected 85–325.

388. HRes317. Adoption of the resolution to disapprove (thus revoking trade benefits) the president's request to extend for 12 months a waiver of the freedom of emigration provisions of the 1974 Trade Act with respect to Romania. July 25. NV(1–1–2), rejected 126–271.

389. HR3000. Adoption of the rule (HRes 379) providing for House floor consideration of the bill to authorize $6.9 billion in FY80 for civilian programs of the Energy Department. July 26. Y(4–0–0), passed 404–6.

390. HR3000. Amendment to allow for termination of the Clinch River, Tenn., fast breeder reactor and to authorize $107 million to carry out a study and design for an alternative breeder reactor. July 26. Y(1–3–0), rejected 182–237.

392. HR2462. Amendment to reduce the construction differential subsidy authorization to $32 million from the $101 million contained in the bill. July 27. N(3–1–0), rejected 139–246.

393. HR2462. Amendment to prohibit the use of construction differential subsidies for vessels manned by crews that numbered greater than 50 percent of the minimum, which was determined by the Coast Guard to be necessary for safe operation. July 27. Y(4–0–0), passed 196–183.

395. HR3633. Amendment to reduce FY80 authorization for special projects and nurse practitioner training and eliminate other authorizations for nursing school grants, loans, construction aid and financial aid for students. July 27. N(0–4–0), rejected 12–341.

396. HR3633. Passage of the bill to extend through FY80 authorization for capitation, construction and other types of grants to nurse training schools, and loans and other financial aid for nursing students, for a one-year total of $103 million. July 27. Y(4–0–0), passed 344–6.

398. HR3509. Motion to suspend the rules and pass the bill to authorize $236.6 million and to extend from FY80–82 the provisions of the 1974 Safe Drinking Water Act. July 30. Y(1–2–1), passed 319–76.

399. HRes391. Motion to table (kill) the resolution calling for the expulsion of Rep. Charles C. Diggs Jr., D–Mich., from the House of Representatives. July 30. Y(1–3–0), passed 205–197.

400. HR111. Amendment to instruct House conferees to the House-Senate conference

committee on the bill to insist on certain House provisions of the legislation to implement the 1978 Panama Canal treaties. July 30. Y(4-0-0), passed 308-98.

401. HConRes168. Adoption of the concurrent resolution to provide for a House recess from August 2 to September 5, 1979, and a Senate recess from August 3 to September 5, 1979. July 30. Y(3-1-0), passed 338-70.

402. HR3930. Passage of the bill to appropriate $10.23 billion for FY80 for the Interior Department, the Energy Department and related agencies. July 30. NV(2-1-1), passed 344-42.

404. HRes378. Adoption of the resolution to censure Rep. Charles C. Diggs Jr., D-Mich., to order Diggs to repay the Treasury $40,031.60 and to require Diggs' employees to certify to the House Committee on Standards of Official Conduct for the remainder of the 96th Congress that they are being paid by Diggs in full compliance with House rules. July 31. Y(4-0-0), passed 414-0.

405. HConRes80. Motion to suspend the rules and pass the bill to authorize $25,000 from House contingent funds for a statue of Martin Luther King Jr. to be placed in the Capitol building. July 31. Y(3-1-0), passed 408-11.

406. S391. Motion to suspend the rules and pass the bill to delay until July 1, 1980, from July 1, 1979, the effective data of the 1974 Speedy Trial Act dismissal sanctions. July 31. Y(4-0-0), passed 416-1.

408. S1030. Amendment to provide for a one-house veto over a standby gasoline rationing plan proposed by the president, but deleting the provision for a one-house veto of implementation of rationing. July 31. N(1-3-0), rejected 192-232.

409. S1030. Amendment to delete the requirement of the previously adopted Gilman, R-N.Y., amendment that either house could veto a proposed standby plan. July 31. Y(1-3-0), passed 234-189.

410. S1030. Amendment to delete the requirement that a 20 percent shortage of petroleum exist before gasoline rationing could be imposed. July 31. Y(1-3-0), rejected 63-356.

412. S1030. Amendment to provide that the president's rationing and conservation powers be valid until September 30, 1980, instead of until September 31, 1981. July 31. N(3-1-0), rejected 162-250.

413. S1030. Amendment to require an exemption from restrictions on the heating and cooling of buildings for a building operator who achieved an equivalent reduction in energy consumption by means other than controlling thermostats. July 31. Y(4-0-0), passed 267-152.

415. S1030. Amendment to the Rinaldo, R-N.J., amendment, to delete language in the bill suggesting that the president adopt as a standby conservation measure a plan that requires a car owner not to drive one day of the week, with the non-driving day selected by the car owner. August 1. Y(4-0-0), passed 413-3.

416. S1030. Substitute amendment, to the Rinaldo, R-N.J., amendment, to restore the language suggesting a non-driving day as a conservation measure, with the requirement that governors be consulted as to the special needs of rural areas. August 1. N(0-4-0), rejected 107-306.

417. S1030. Amendment to prohibit a federal conservation plan from restricting the operating hours of a business. August 1. Y(4-0-0), rejected 190-224.

418. S1030. Amendment to prohibit a federal conservation plan from regulating the operation of any energy production, exploration, processing or transporting facility unless the facility were first given a chance to save energy through other measures. August 1. N(3-1-0), rejected 203-209.

419. S1030. Amendment to exempt health care facilities from federal conservation measures. August 1. N(3-1-0), passed 244-170.

420. S1030. Motion to end debate on Section 3 of the bill at 3:45 p.m. August 1. Y(1-3-0), passed 247-164.

421. S1030. Amendment to require that the president, upon finding a supply shortage, set aside middle distillate oil in order to provide supplies for agriculture production. August 1. Y(4-0-0), passed 229-191.

422. S1030. Amendment to require that the president, upon finding a supply shortage, set aside heating oil in order to provide supplies to homeowners. August 1. Y(1-3-0), passed 233-187.

423. S1030. Motion to recommit the bill to committee with instructions to reinsert language providing for a one-house veto of a standby rationing plan. August 1. N(3-1-0), rejected 177-246.

424. S1030. Passage of the bill to authorize the President, with the consent of Congress to require rationing of gasoline during a 20-percent oil shortage and to impose conservation measures on uncooperative states during a 10 percent oil shortage. August 1. Y(1-3-0), passed 263-159.

425. HR4388. Motion that the House recede and concur in the Senate amendment (No. 37) to appropriate $57.48 million with a total construction ceiling of $142.68 million for the Hart Senate office building and that the Senate vacate offices in certain non-federal buildings. August 1. N(1-3-0), rejected 173-236.

427. HR4288. Motion that the House recede from its disagreement with Senate amendment 37. August 1, Y(2-2-0), passed 214-184.

429. HR4057. Adoption of the conference report on the bill to increase by $620 million the spending ceiling for the food stamp program in FY79, and to provide elderly and disabled recipients increased deductions for medical and shelter costs. August 1. Y(2-2-0), passed 336-72.

430. HR3324. Adoption of the conference report on the bill to authorize $1.979 billion in FY80 for bilateral economic aid programs and the Peace Corps. August 2. Y(1-3-0), passed 223-181.)

431. HR4392. Adoption of the conference report to appropriate $8.35 billion for the Departments of State, Justice and Commerce, the federal judiciary and 18 related agencies for FY80. August 2. Y(2-2-0), passed 291-106.

432. HR3344. Adoption of the rule (HRes 365) providing for House floor consideration of the bill to raise to $3.1 billion, from $2.5 billion, the permanent ceiling on federal matching expenditures for state social service programs. August 2. Y(1-3-0), passed 251-154.

433. HR3434. Motion to recommit the bill to the Ways and Means Committee with instructions to report it back immediately with an amendment to delete the provision to establish the $266 million authorization for assistance to state child welfare programs on an entitlement basis rather than on an authorization and appropriation basis. August 2. N(3-1-0), passed 204-199.

434. HR3434. Passage of the bill to amend the Social Security Act to raise to $3.1 billion, from $2.5 billion, the permanent ceiling on federal matching expenditures for state social service programs. August 2. Y(2-1-1), passed 401-2.

436. HR4473. Amendment to reduce appropriations for the United Nations Development Program to the FY79 level of $126.05 million. September 5. Y(4-0-0), passed 234-139.

437. HR4473. Amendment to prohibit the use of funds for economic or military assistance to Panama except for food and medical assistance. September 5. N(3-1-0), passed 247-128.

438. HR4473. Amendment to remove the appropriation of $23.75 million for the Institute for Scientific and Technological Cooperation. September 5. N(3-1-0), rejected 166-234.

439. HR4473. Substitute for the Young, R-Fla., amendment to stipulate that the Young amendment not prevent use of U.S. funds to Israel, Egypt or any other country not specifically barred by HR4473 from receiving U.S. assistance. September 5. Y(1-3-0), rejected 153-244.

440. HR4473. Amendment to bar use of funds in the bill for indirect aid as well as direct aid to Angola, the Central African Empire, Cambodia, Laos or Vietnam. September 5. Y(4-0-0), passed 281-117.

442. HR4473. Amendment to the Obey, D-Wis., substitute amendment to an earlier Miller amendment, to reduce the appropriation by 5 percent across-the-board. September 6. Y(3-1-0), rejected 178-228.

443. HR4473. Amendment to the Obey substitute to the first Miller amendment to provide that appropriations for Israel, Egypt, disaster relief, refugee assistance and nutrition programs be exempt from reduction. September 6. Y(4-0-0), passed 395-12.

444. HR4473. Amendment to the Obey substitute to the first Miller amendment to reduce the appropriation by 4 percent rather than 2 percent as provided by the Obey amendment. September 6. N(3-1-0), passed 254-144.

445. HR4473. Amendment to prohibit any aid to Nicaragua without prior congressional approval. September 6. N(3-1-0), rejected 189-221.

446. HR4473. Passage of the bill to appropriate $7.7 billion for foreign aid programs in FY80. September 6. N(1-3-0), passed 224-183.

447. HR3236. Passage of the bill to revise the Social Security Disability Insurance program by placing a cap on the amount of benefits received by workers who become disabled in the future and providing additional assistance to disabled workers who attempt to return to work. September 6. N(3-1-0), passed 235-162.

448. HR79. Adoption of the rule (HRes386) providing for House floor consideration of the bill to reorganize the U.S. Postal Service. September 7. NV(2-0-2), passed 343-2.

451. HR79. Amendment to authorize $920 million annually through FY84 as a public service subsidy for the Postal Service. September 7. N(1-1-2), rejected 125-242.

452. HR79. Passage of the bill to increase the Postal Service public service subsidy authorization to $1.3 billion by FY82, abolish the Postal Board of Governors and mandate the Postmaster General's appointment by the President. September 7. Y(1-1-2), passed 350-14.

453. S1090. Adoption of the conference report on the bill to amend the International Development and Food Assistance Act of 1978 and the FY79 Foreign Aid Appropriations Act by repealing the prohibition on U.S. foreign economic and security supporting assistance to Uganda. September 7. Y(1-1-2), passed 280-69.

454. HR4986. Motion to suspend the rules and pass the bill to authorize all depository institutions to provide interest-bearing accounts which may also be used to make payments to third parties. September 11. Y(4-0-0), passed 367-39.

455. HR4034. Amendment to require the Defense Department to complete a list of critical military technologies by October 1, 1980. September 11. N(3-1-0), passed 273-145.

456. HR4034. Amendment to delete the section of the bill that allowed the secretary of commerce to periodically remove from the export control list goods or technology that had become obsolete, unless another government agency objected. September 11. N(2-1-1), rejected 201-206.

457. HR4034. Amendment to provide that rules for the control of critical technologies should reflect the difficulties associated with end-use statements and other assurances that technology will not be diverted to military use. September 11. N(2–1–1), passed 271–138.

458. HR4034. Amendment to require government agencies involved in national security export control cases to retain a complete set of records on each application decision. September 11. N(1–2–1), rejected 109–296.

460. HR4040. Amendment to establish a Congressional Study Commission on Defense Readiness and Mobilization Capability to study military manpower requirements and the adequacy of the all-volunteer armed forces and to report its findings within nine months. September 12. Y(2–1–1), rejected 144–268.

461. HR4040. Substitute amendment, to the Schroeder, D-Colo., amendment, to provide for mandatory draft registration by 18-year-old men. September 12. N(2–1–1), rejected 163–252.

462. HR4040. Amendment to delete the provision in the bill as reported by the Armed Services Committee requiring mandatory draft registration and providing for a presidential study of the issue. September 12. Y(1–2–1), passed 259–155.

465. HR4040. Amendment, as a substitute for the committee amendment, to authorize $1.8 billion for an oil-power aircraft carrier instead of $2.1 billion for another nuclear-powered carrier. September 13. Y(1–3–0), rejected 96–309.

466. HR4040. Amendment, as a substitute for the committee amendment, to delete the $2.1 billion in the bill for a nuclear-powered aircraft carrier. September 13. Y(1–3–0), rejected 112–286.

467. HR4040. Amendment to delete $670 million for development of the M–X missile. September 13. N(0–4–0), rejected 86–305.

468. HR4040. Amendment to prohibit deployment of the M–X missile system if more than 25 percent of the launch sites were in any one state. September 13. N(0–4–0), rejected 84–289.

470. HR4040. Amendment to delete the provision in the bill authorizing $10 million for the military services to provide logistical support for the 1980 winter Olympics at Lake Placid, N.Y. September 14. Y(3–1–0), rejected 112–247.

471. HR4040. Amendment to authorize a $990 million civil defense program for FY80–84, instead of the committee-recommended authorization of $138 million for FY80. September 14. N(3–1–0), passed 189–149.

472. HR4040. Passage of the bill to authorize $41.45 billion for FY80 weapons procurement, military research and civil defense programs. September 14. Y(4–0–0), passed 282–46.

473. HR51. Motion to suspend the rules and pass the bill to strengthen federal regulation of pipeline transportation and storage of liquefied natural gas, liquefied petroleum gas and natural gas. September 18. NV(3–0–1), passed 357–20.

474. S428. Motion to close to the public the House-Senate conference committee on the differing versions of the FY80 Defense Department authorization bill at such times as classified national security information was under consideration, but to allow any member of Congress to attend any of the closed sessions. September 18. NV(3–0–1), passed 389–0.

475. HR4440. Amendment to add $6 million for bicycle projects. September 18. Y(1–3–0), rejected 111–296.

476. HR4440. Amendment to prohibit use of FY80 funds to enforce regulations requiring air bags in passenger motor vehicles, but may be used to continue research on air bags. September 18. N(2–2–0), passed 228–185.

477. HR4440. Passage of the bill to appropriate $9.84 billion for FY80 programs of the Department of Transportation, including funds to continue some Amtrak passenger trains scheduled for elimination and more funds for urban mass transit and highway programs. September 18. Y(2–2–0), passed 335–71.

478. HR4034. Amendment to establish a petition procedure to allow representatives of the scrap metal industry to request Commerce Department hearings on the monitoring or control of scrap metal exports. September 18. Y(2–2–0), passed 238–165.

479. HR4034. Amendment to limit exports of cattle hides to the percentage of exports in the 1974–78 period, unless domestic supplies were adequate or foreign nations lifted their embargoes on hide exports. September 18. N(0–4–0), rejected 186–218.

481. HJRes399. Amendment to prohibit remodeling of the gallery of the Capitol's statuary hall. September 19. Y(4–0–0), passed 371–31.

482. HJRes399. Adoption of the joint resolution to continue appropriations for existing programs through December 31, 1979, for federal agencies that had not yet received their FY80 appropriations, and to raise pay 7 percent for members of Congress (to $61,525 from $57,500), federal judges and other top-level federal workers. September 19. N(0–4–0), rejected 191–219.

483. HConRes186. Amendment to set 1980 budget totals as follows: budget authority, $594.7 billion; outlays, $529.8 billion; revenues, $510 billion; deficit, $19.8 billion; and to provide for a $13 billion fiscal year tax cut. September 19. N(3–1–0), rejected 187–230.

484. HConRes186. Amendment to increase 1980 defense spending to $141.2 billion in budget authority and $129 billion in outlays (an increase of $3 billion and $400 million respectively over the levels recommended by the House Budget Committee). September 19. N(3–1–0), rejected 191–221.

485. HConRes186. Amendment to decrease budget authority and outlays by $550 million, representing elimination of funds included in the budget for anti-recession fiscal assistance programs for state and local governments. September 19. NV(3–0–1), rejected 183–220.

486. HConRes186. Amendment to reduce budget authority by $400 million, outlays by $100 million and revenues by $250 million, representing elimination of an expected supplemental appropriation for Basic Educational Opportunity Grants and establishment of tuition tax credits. September 19. NV(2–1–1), passed 221–176.

487. HConRes186. Amendments to set 1980 budget totals as follows: budget authority, $600 million; outlays, $518 billion; revenues, $518 billion. September 19. N(3–1–0), rejected 181–224.

488. HConRes186. Adoption of the amended concurrent resolution to set 1980 budget totals as follows: budget authority, $631.8 billion; outlays, $548.[illegible] billion; revenues, $519.2 billion; and deficit, $29.3 billion. September 19. Y(1–3–0), rejected 192–213.

490. HJRes399. Motion to reconsider the vote by which the House rejected the joint resolution to continue appropriations for federal agencies for which appropriations bills had not been enacted before October 1, 1979. September 20. N(0–4–0), passed 214–196.

491. HJRes399. Passage of the joint resolution to continue appropriations for existing programs, through December 31, 1979—the end of the first quarter of FY80, of the federal agencies for which appropriations bills had not been enacted before October 1, 1979, and to raise pay 7 percent for members of Congress (to $61,525 from $57,000), federal judges and other top-level federal workers. September 20. NV(0–3–1), rejected 196–212.

492. HR5229. Adoption of the rule (HRes411) providing for House floor consideration of the bill. September 20. Y(1–3–0), passed 258–151.

494. HR5229. Amendment, to the committee substitute amendment, to change the date for extension of the temporary debt limit to July 31, 1980, from March 31, 1981, and reduce the proposed debt ceiling by $44 billion September 20. Y(4–0–0), passed 408–1.

495. HR5229. Passage of the bill to provide for an increase in the public debt limit to $885 billion through July 31, 1980. September 20. Y(1–3–0), rejected 200–215.

496. S544. Adoption of the conference report on the bill to authorize $987 million for health planning and resource development grants and related activities for FY80–82. September 20. Y(2–2–0), passed 362–45.

497. HR111. Adoption of the conference report on the bill to implement the Panama Canal treaties, by establishing a Panama Canal Commission and providing for operation and maintenance of the canal through 1999. September 20. Y(1–3–0), rejected 192–203.

498. HR3642. Adoption of the rule (HRes331) providing for House floor consideration of the bill to authorize $231 million for grants for emergency medical services and related activities for FY80–82. September 20. Y(4–0–0), passed 345–1.

499. HR4034. Substitute amendment, to the Dornan, R–Calif., amendment, to continue the confidentiality of export licensing information until June 30, 1980, after which it would be subject to the provisions of the Freedom of Information Act. September 21. Y(2–2–0), passed 318–29.

500. HR5136. Motion to suspend the rules and pass the bill to authorize the sale of 14 older naval vessels to Brazil, Colombia, Ecuador, Greece, South Korea, Mexico, Peru, the Philippines and Spain. September 25. Y(4–0–0), passed 379–25.

501. HR5218. Motion to suspend the rules and pass the bill to authorize $25 million for the Dominican Republic and Dominica to be used for relief and rehabilitation for damage caused by Hurricanes David and Frederick. September 25. Y(2–2–03, passed 370–27.

502. HConRes167. Motion to suspend the rules and adopt the concurrent resolution to express the sense of Congress that the president protest to the Soviet Union concerning the nondelivery of personal mail to certain Soviet addresses. September 25. Y(4–0–0), passed 401–0.

504. HJRes404. Motion to order the previous question on the resolution to continue appropriations for certain federal agencies for the first quarter of FY80. September 25. Y(2–2–0), passed 209–200.

505. HJRes404. Passage of the joint resolution to continue appropriations for existing programs, through December 31, 1979—the end of the first quarter of FY80, of federal agencies for which appropriations bills had not been enacted before October 1, 1979, and to raise pay 5.5 percent for members of Congress (to $60,662.50 from 57,500), federal judges and other top-level federal workers. September 25. N(0–4–0), rejected 208–203.

506. HR4034. Amendment to allow exports of Alaskan oil in exchange for oil imports from Mexico unless the major oil-producing nations impose severe restrictions on the export of oil to the United States. September 25. N(2–2–0), rejected 61–340.

509. HR111. Adoption of the conference report on the bill to implement the Panama Canal treaties, by establishing a Panama Canal Commission and providing for the operation and maintenance of the canal through 1999. September 26. Y(2–2–0), passed 232–188.

510. HR5369. Amendment to delete Title II of the bill, establishing a procedure by which the debt limit in the future would

become the amount specified in the most recently approved congressional budget resolution. September 26. N(2–2–0), rejected 132–283.

511. HR5369. Passage of the bill to increase the public debt limit to $879 billion through May 31, 1980. September 26. Y(1–3–0), passed 219–198.

512. SConRes36. Motion to order the previous question on the rule (HRes427) providing for House floor consideration of the budget resolution. September 27. Y(3–1–0), passed 289–119.

513. SConRes36. Substitute amendment to establish the following budget totals for FY 80: budget authority, $631.8 billion; outlays, $548.2 billion; revenues, $519.3 billion; and deficit, $28.9 billion. September 27. Y(1–3–0), passed 212–206).

515. S210. Adoption of the conference report on the bill to create a new cabinet-level Department of Education. September 27. Y(1–3–0), passed 215–201.

516. HR4394. Motion that the House recede from its disagreement with and concur in the Senate amendment to appropriate $3 million in FY80 for the livable cities program. September 27. N(3–1–0), rejected 128–278.

518. HR5359. Amendment to merge Navy basic training for helicopter pilots with basic training for military helicopter pilots under Army control at Ft. Rucker, Alabama. September 27. N(0–3–1), rejected 131–244.

519. HR5359. Amendment to add $10 million deleted by the committee for Army hospital operations. September 27. Y(2–1–1), passed 217–147.

521. HR5359. Amendment to delete from the bill a prohibition on paying price differentials on Defense Department contracts—the so-called Maybank provision—in order to relieve economic dislocations. September 28. NV(0–2–2), rejected 174–187.

522. HR5359. Passage of the bill to appropriate $129.98 billion for programs of the Department of Defense in FY80. September 28. NV(2–0–2), passed 305–49.

523. S737. Adoption of the conference report on the bill to extend through September 30, 1983, government authority to control exports for national security of foreign policy reasons, or because of inadequate domestic supplies. September 28. NV(0–2–2), passed 321–19.

524. S237. Adoption of the conference report on the bill to give federal magistrate expanded authority to handle jury and non-jury civil trials and criminal misdemeanors if the parties consent. September 28. NV (0–2–2), passed 273–38.

525. HR2795. Passage of the bill to authorize $8 million in FY80 for the U.S. Travel Service and to reduce the number of its employees in the District of Columbia so not to exceed 40 percent of the total as of December 31, 1978. September 28. NV(0–1–3), passed 239–48.

526. HR3642. Passage of the bill to authorize $231 million for grants for emergency medical services and related activities for FY80-82. September 28. NV(1–0–3), passed 245–12.

527. HR2859. Motion to order the previous question (thus ending debate and further amendments) on the rule (HRes367) providing for House floor consideration of the bill to extend the authorization for domestic volunteer programs of ACTION. September 28. NV(0–1–3), rejected 16–235.

528. HR2859. Adoption of the rule (HRes367), as amended, providing for House floor consideration of the bill to extend the authorization for domestic volunteer programs of ACTION. September 28. NV(1–0–3), passed 236–15.

530. HR2172. Adoption of the rule (HRes-393) providing for House floor consideration of the bill to implement the International Sugar Agreement and increase domestic price supports for sugar. September 28. NV(1–0–3), 216–12.

532. HR5224. Motion to suspend the rules and pass the bill to prohibit the Treasury Department from issuing final regulations governing taxation of fringe benefits or commuting expenses until June 1, 1981, and to extend a special rule for taxation of state legislators' travel expenses until January 1, 1981. October 9. Y(4–0–0), passed 347–114.

533. HR3777. Motion to suspend the rules and pass the bill to amend the United States Code to limit the use of the congressional frank, a privilege permitting members of Congress to send official mail free of charge. October 9. Y(3–1–0), passed 319–68.

534. HR3949. Motion to suspend the rules and pass the bill to require tire manufacturers in certain circumstances to provide public notice of tire defects. October 9. Y(3–1–0), passed 380–9.

535. HR5048. Motion to suspend the rules and pass the bill to require tire manufacturers in certain circumstances to provide public notice of tire defects. October 9. Y(3–1–0), passed 349–39.

536. HJRes413. Amendment to prohibit use of federal funds for abortion except where the life of the mother would be endangered, or in cases of reported rape or incest, or where two physicians certified that the continued pregnancy would cause severe and long-lasting physical damage to the mother. October 9. Y(1–2–1), rejected 163–234.

537. HR2859. Amendment to delete authority for the ACTION "national grant" program. October 9. N(2–1–1), rejected 177–209.

540. HR2859. Amendment to allow local elected officials to veto VISTA projects within their jurisdiction. October 10. N(3–1–0), passed 229–178.

541. HR2859. Passage of the bill to extend the authorization for domestic volunteer programs of the ACTION agency. October 10. Y(2–2–0), passed 307–106.

543. HR2061. Amendment to provide for LEAA funds to small communities to purchase equipment up to $1,000. October 10. N(1–3–0), rejected 181–224.

545. HR2061. Amendment to delete authorization for the proposed Office of Justice Assistance, Research and Statistics, an office to oversee the LEAA and two new agencies. October 10. N(3–1–0), passed 237–169.

548. TR3000. Amendment to prohibit use of funds appropriated by the bill for expenditures related to lifting price controls on certain types of domestic crude oil. October 11. N(0–4–0), rejected 124–243.

551. HR3000. Amendment to prohibit the use of funds to allocate or control the price of gasoline. October 12. N(3–1–0), passed 191–188.

553. HR3000. Amendment, to the Gramm, D-Texas, amendment, to authorize the president in an emergency to reimpose the gas allocation system and price controls. October 12. Y(1–3–0), rejected 182–191.

554. HR3000. Amendment to authorize the President in an emergency to allocate gasoline to agriculture and other priority users. October 12. Y(4–0–0), passed 257–119.

556. HR3916. Adoption of the rule (HRes 307) providing for House floor consideration of the bill to authorize $221.5 million for alcohol abuse programs and $206 million for drug abuse programs in FY80. October 12. Y(4–0–0), passed 350–6.

558. HR2061. Amendment to allow California to use previously awarded LEAA block grants to fund the 1980 Sixth United Nations Congress on the Prevention of Crime and Treatment of Offenders. October 12. N(0–3–1), rejected 127–203.

560. HR2061. Amendment to allow use of formula grant funds to buy photographic and fingerprint equipment for law enforcement purposes. October 12. N (0–2–2), rejected 149–174.

562. HR2061. Amendment to delete authorization for a new national priority grant program that would be used to fund projects the LEAA determined had been successful and should be continued. October 12. N(1–1–2), rejected 85–197.

564. HR2061. Amendment to delete the mini-block grant program, which provides qualified localities a share of LEAA formula grant funds allocated to a state. October 12. N(1–1–2), rejected 40–246.

566. HR2061. Amendment to extend coverage of the Public Safety Officers Death Benefits Act administered by the LEAA to rescue squad personnel. October 12. N(1–2–1), passed 180–99.

567. HR2061. Passage of the bill to create a National Institute of Justice and a Bureau of Justice Statistics to handle the research and statistical functions of the LEAA and authorize $800 million annually for FY80 through FY82 for the three agencies. October 12. Y(2–1–1), passed 220–54.

568. HR5288. Motion to suspend the rules and pass the bill to revise the vocational rehabilitation program for disabled veterans, to allow the Veterans' Administration to release information to private debt collection agencies, and to make changes in the administration of GI Bill educational benefits. October 16. Y(4–0–0), passed 405–1.

569. HR3173. Adoption of the conference report on the bill to authorize $2.8 billion in foreign military aid programs for FY80. October 16. Y(3–1–0), passed 256–147.

570. HR3033. Passage of the bill to authorize $1.95 billion in FY80 for Justice Department and related agency programs. October 16. Y(4–0–0), passed 386–24.

571. HR3916. Passage of the bill to authorize $221.5 million for alcohol abuse programs and $206 million for drug abuse programs for FY80. October 16. Y(3–1–0), passed 396–8.

574. S832. Adoption of the rule (HRes 414) to allow consideration of the Obey, D-Wis., amendment to the bill with a provision that only certain amendments to the amendment be considered. October 17. Y(1–3–0), passed 228–182.

576. S832. Amendment, to the Obey, D-Wis., amendment, to prohibit extension of credit for direct mail solicitations and to limit to not more than 60 days the time for extension of credit by advertising firms and other companies that provide advertising services to candidates. October 17. Y(1–3–0), passed 298–114.

577. S832. Amendment to (1) limit the amount a House candidate may receive from political action committees (PAC) during a two-year election cycle to $70.000 and to $85,000 if the candidate also faced a runoff election; (2) limit the amount a PAC could contribute to a House candidate to $6,000 for primary and general elections combined, and $9,000 for a primary, runoff and general election; and (3) prohibit a House candidate from using campaign funds to repay a personal loan of more than $35,000 from the candidate to his campaign. October 17. Y(1–3–0), passed 217–198.

578. S832. Motion to recommit the bill to the House Administration Committee with instructions to delete the provision limiting to $70,000 the amount a House candidate may receive from political action committees. October 17. N(3–1–0), rejected 189–222.

580. HR3000. Amendment to require that the Energy Department, in its selection of nuclear waste disposal sites, give top priority to sites in the states where existing disposal sites or nuclear test sites were located. October 18. N(3–1–0), passed 208–197.

581. HR3000. Fuqua, D-Fla., motion to end debate on the Kostmayer, D-Pa., amendment at 5 p.m. October 18. Y(2–2–0), passed 252–133.

582. HR3000. Amendment, to the McCormack, D-Wash., substitute amendment to the Kostmayer amendment, to require that 12 percent of research and development contracts let by the Energy Department go to small business unless the secretary determined meeting that goal was impracticable. October 18. Y(1–3–0), passed 220–168.

583. HR3000. Motion that all debate on the bill and amendments to it conclude in 15 minutes. October 18. Y(4–0–0), passed 267–107.

585. HR595. Motion to close to the public, at such times as classified national security information was under consideration, but to allow any member of Congress to attend any of the closed sessions, the House-Senate conference on the bill to authorize the General Services Administration to dispose of tin in the national and supplemental stockpiles. October 19. Y(4–0–0), passed 358–0.

586. HR2218. Adoption of the rule (HRes 417) providing for House floor consideration of the bill to authorize FY80–82 funds to carry out the provisions of the Endangered Species Act. October 19. Y(4–0–0), passed 320–9.

588. HR4943. Motion to suspend the rules and pass the bill to grant the consent of Congress, as provided by the Constitution, of the compact between New York and New Jersey providing for coordination and promotion of the commerce in the port of New York District by the financing of industrial development projects. October 23. Y(4–0–0), passed 412–0.

589. S1030. Adoption of the conference report on the bill to give states primary responsibility for energy conservation and to provide a reduced congressional role in approval of a standby gasoline rationing plan. October 23. Y(1–3–0), passed 301–112.

590. HR2172. Amendment, to the Vanik, D-Ohio, amendment to prohibit direct federal payments to sugar producers as part of a sugar price support program. October 23. Y(1–2–1), rejected 200–212.

591. HR2172. Passage of the bill to implement the International Sugar Agreement, mandate the use of import fees to support the domestic price of sugar at 15.8 cents a pound in 1979 (with up to 7 percent increases in 1980 and 1981), provide for up to a half-cent a pound federal payment to producers (with a limit of $50,000 per producer) and raise minimum wages for sugar field workers. October 23. N(3–1–0), rejected 158–249.

594. HR3000. Amendment to require the Energy Department to acquire and share with the public information on the oil company activities. October 24. Y(1–3–0), passed 264–143.

595. HR3000. Amendment to prohibit the use of funds to allocate or control the price of gasoline: October 24. N(3–1–0), rejected 189–225.

596. HR3000. Passage of the bill to authorize $6.6 billion for civilian programs of the Energy Department for FY80. October 24. Y(1–3–0), passed 263–150.

597. HR3947. Passage of the bill to authorize $3.8 billion for military construction programs of the Defense Department for FY80. October 24, Y(4–0–0), passed 381–26.

598. HR3683. Amendment to authorize guarantee farm loans at negotiated interest rates, to require farmers to seek a guaranteed loan for operating needs before seeking an insured loan, and to require written evidence that a loan applicant had been unable to obtain private credit elsewhere. October 24. Y(4–0–0), passed 326–84.

599. HR3683. Passage of the bill to establish specific annual lending levels for the Farmers Home Administration farm and rural development loan programs in 1980–82. October 24. Y(4–0–0), passed 393–14.

600. HJRes430. Adoption of the rule (HRes464) providing for House floor consideration of the bill to appropriate $1.35 billion in FY80 supplemental funds to help low-income people pay their fuel bills. October 25. Y(2–2–0), passed 355–47.

601. HJRes430. Amendment, to the Green, R-N.Y., amendment, to allow payments to renters whose heat was supplied by electricity. October 25. Y(3–0–1), passed 381–17.

602. HJRes430. Amendment to distribute the entire $1.35 billion in the bill in the form of block grants to states, which would use the money to set up their own programs of fuel assistance to the poor. October 25. N(2–1–1), rejected 183–207.

603. HJRes430. Passage of the joint resolution to make a $1.35 billion FY80 supplemental appropriation to help poor people pay their heating bills, to be distributed by the Department of Health, Education and Welfare and the Community Services Administration. October 25. Y(1–2–1), passed 290–105.

605. HR4955. Amendment to add $30 million to provide emergency assistance, through international relief agencies, to relieve starvation in Cambodia. October 25. Y(3–0–1), passed 362–10.

606. HR4955. Passage of the bill to authorize $207.3 million in FY80 and $203.6 million in FY81 for assistance to refugees, and $30 million in FY80 for emergency aid to relieve starvation in Cambodia. October 25. Y(2–1–1), passed 301–69.

607. HR2313. Adoption of the rule (HRes 456) providing for House floor consideration of the bill to authorize funds for the Federal Trade Commission and provide for congressional veto of commission regulations. October 26. Y(2–1–1), passed 273–61.

608. HR4167. Adoption of the rule (HRes 385) providing for House floor consideration of the bill to extend milk price supports at not less than 80 percent of parity through September 30, 1981. October 26. Y(3–0–1), passed 327–3.

609. HR4387. Adoption of the conference report on the bill to appropriate $18.53 billion for FY80 programs of the Department of Agriculture and related agencies. October 26. Y(3–0–1), passed 304–25.

610. S428. Adoption of the conference report on the bill to authorize for FY80 an active duty military force of 2,051,700 and $41.39 billion for Department of Defense military procurement programs, including $27.8 billion for procurement, $13.5 billion for research and development and $106.8 milion for civil defense. October 26. Y(3–0–1), passed 300–26.

611. HR1885. Passage of the bill to provide special civil service retirement preference to non-Indian employees of the Indian Affairs Bureau and Indian Health Service who had been adversely affected by federal policies that gave preference to Indians for positions and promotions in the two agencies. October 26. Y(3–0–1), passed 175–120.

614. HR4389. Motion that the House recede from its disagreement with and concur in the Senate position that would retain existing law for federally funded abortions, with an amendment to narrow existing guidelines to permit government-financed abortions only when required to save the mother's life or in cases of promptly reported rape or incest. October 30. Y(2–2–0), rejected 187–219.

615. HR5472. Motion to suspend the rules and pass the bill to revitalize the pleasure cruise industry by amending the Merchant Marine Acts of 1920 and 1930 to allow several passenger ships to carry a limited amount of freight. October 30. Y(4–0–0), passed 405–0.

616. HJRes341. Adoption of the rule (HRes439) providing for House floor consideration of the resolution to keep the Chicago, Milwaukee, St. Paul & Pacific Railroads western lines in service for a limited time and give shippers and employees a chance to prepare a plan to take over the railroad. October 30. Y(4–0–0), passed 373–33.

618. HR4985. Amendment to the Commerce Committee version of the bill to delete the Board's authority to waive state and local laws for a project designated a priority by the proposed Energy Mobilization Board. October 31. Y(4–0–0), passed 425–1.

619. HR4985. Amendment to establish the Energy Mobilization Board within the Energy Department. October 31. N(1–3–0), rejected 56–357.

622. HR4985. Substitute to authorize the Energy Mobilization Board to waive only procedural laws and to authorize the president to act in place of federal, state or local agencies only after taking the agency to court. November 1. Y(1–2–1), rejected 1–92–215.

623. HR4985. Amendment to eliminate the authority of the Energy Mobilization Board to waive substantive laws. November 1. Y(1–2–1), rejected 153–250.

624. HR4985. Passage of the bill to establish an Energy Mobilization Board to expedite construction of priority energy projects. November 1. N(2–1–1), passed 207–107.

625. HR4904. Motion to order the previous question (thus ending debate) on the rule (HRes465) providing for House floor consideration of the bill to establish a national minimum for welfare benefits require states to provide coverage to unemployed two-parent families with children, reduce state costs, and make administrative changes designed to reduce benefits to some recipients. November 1, Y(1–2–1), passed 207–177.

626. HR4904. Adoption of rule (HRes465) providing for House floor consideration of the bill to establish a national minimum for welfare benefits, require states to provide coverage to two-parent families with children, reduce states costs, and make administrative changes designed to reduce benefits to some recipients. November 1. Y(1–2–1). 202–181.

629. HR5192. Amendment to allow forgiveness of federal student loan program debts for former students who enlisted in the military, either for active duty or the reserves. November 2. Y(3–0–1), passed 236–115.

630. HR4007. Adoption of the rule (HRes363) providing for House floor consideration of the bill to provide an alternative method for repayment by states of federal unemployment insurance loans. November 7. Y(4–0–0), passed 362–24.

631. HR4007. Passage of the bill to permit states with outstanding federal unemployment insurance loans to avoid automatic reductions in the federal tax credit for employers either by repaying the full amount of the loan, as provided under existing law, or by repaying out of state unemployment insurance funds the amount that would be collected if the tax credit reduction were to take place. November 7. Y(4–0–0), passed 402–1.

632. HR4904. Amendment to allow states to ask the Agriculture Department to provide cash, in lieu of food stamps, to households containing only persons aged 65 or older and who were not eligible for Supplemental Security Income payments. November 7. Y(4–0–0), passed 406–2.

633. HR4904. Motion to recommit the bill to the Ways and Means Committee, with instructions to report it back with an amendment establishing a demonstration program providing eight states and three counties with block grants to run welfare programs according to their own design, and to allow all states to establish their own work requirements for welfare recipients, as long as they did not require work from parents who were caring for children under six years old, unless adequate day care was available. November 7. N(3–1–0), rejected 200–205.

634. HR4904. Passage of the bill to establish a national minimum welfare benefit, require states to provide coverage to unemployed two-parent families with children, reduce state costs, and make administrative

changes designed to reduce benefits to some recipients. November 7. Y(1–3–0), passed 222–184.

635. HR5192. Passage of the bill to extend for FY81–85, the authorization for federal programs of assistance to higher education. November 7. Y(3–1–0), passed 385–15.

637. SConRes36. Motion to approve binding FY80 budget levels recommended by Senate-House conferees, but excluding Senate reconciliation instructions that directed various committees to achieve $3.6 billion in spending cuts (the conference version of the resolution set the following budget levels: budget authority, $638 billion; outlays, $547.6 billion; revenues, $517.8 billion; and deficit, $29.8 billion). November 8. Y(1–3–0), passed 205–190.

640. HR4167. Passage of the bill to extend until September 30, 1981, the requirement that the price of milk be supported at not less than 80 percent of parity (parity is an index designed to maintain farmer's buying power at the same level as the 1910–14 base period). November 8. NV (3–0–1), passed 310–64.

642. HR2335. Adoption of the rule (HRes458) providing for House floor consideration of the bill to authorize $25 million for additional research into the solar power satellite concept. November 9. NV(2–0–2), passed 319–1.

643. HR2603. Passage of the bill to authorize $2.89 billion for nuclear weapons and energy projects of the Department of Energy in FY80. November 9. NV(2–0–2), passed 304–28.

644. S673. Motion to close to the public House-Senate conference meetings on the bill (S673/HR2603) when classified information was being considered, except that all members of Congress could attend at any time. November 9. NV(2–0–2), passed 325–0.

647. HR4930. Adoption of the conference report on the bill to appropriate $30.3 billion in FY80 for the Departments of Interior and Energy and related agencies. November 9. NV(1–1–2), passed 271–46.

648. HR4930. Motion that the House concur in a Senate amendment with an amendment to specify a formula weighted toward states with colder weather to be used to distribute $1.35 billion in fuel assistance funds to the poor. November 9. NV(0–2–2), passed 182–103.

651. HR5461. Motion to suspend the rules and pass the bill to designate January 15, Martin Luther King Jr.'s birth date, a legal public holiday. November '13. Y(2–2–0), rejected 252–133.

652. HConRes200. Motion to suspend the rules and adopt the concurrent resolution expressing the opposition of Congress toward continued Soviet domination of the Baltic States, and directing the president to warn the Soviet Union against implementing a Soviet law which made citizenship claims on millions of U.S. citizens who were born in the United States or naturalized. November 13. Y(4–0–0), passed 390–0.

653. HR5235. Motion to suspend the rules and pass the bill to revise special pay provisions for doctors, dentists and certain other health professionals in the uniformed services. November 13. Y(4–0–0), passed 377–10.

654. HR5359. Motion to close to the public the House-Senate conference meetings on the bill to appropriate FY80 funds for the Defense Department when classified material was being discussed, except that members of Congress could attend at any time. November 13. Y(4–0–0), passed 381–0.

655. HJRes440. Amendment to prohibit the use of any funds provided in the resolution for military or economic aid to Iran. November 13. Y(4–0–0), 379–0.

656. HR2727. Adoption of the rule (HRes-454) providing for House floor consideration of the bill to revise the formula for determining annual meat import quotas. November 13. Y(4–0–0), passed 372–5.

659. HR2727. Amendment, to the Frenzel, R-Minn., amendment, to raise the minimum level of meat imports to 1.3 billion pounds, from 1.2 billion pounds. November 14. N(0–4–0), rejected 136–266.

660. HR2727. Passage of the bill to revise the formula for determining annual meat import quotas, modify the president's discretionary authority to suspend or increase the quotas, and permit a minimum level of meat imports of 1.25 billion pounds. November 14. 4(4–0–0), passed 352–48.

661. HR2063. Adoption of the rule (HRes-474) providing for House floor consideration of the bill to amend and extend the Public Works and Economic Development Act of 1965. November 14. Y(4–0–0), passed 382–10.

663. HR2063. Amendment to delete sections of the bill relating to the regional development planning process, federal coordination of regional programs, state and substate planning, and technical assistance to regional development commissions by the secretary of commerce. November 14. N(2–1–1), rejected 137–262.

664. HR2063. Motion to recommit the bill to the Public Works and Transportation Committee with instructions to delete language authorizing $2 billion for a standby local public works program, to take effect when the national unemployment rate exceeds 6.5 percent for at least a calendar quarter. November 14. N(2–1–1), rejected 148–250.

665. HR2063. Passage of the bill to extend public works and development financing programs for economically depressed areas for two years, through FY81; authorizing regional development commissions to replace the existing system of regional action planning commissions; extend the Appalachian Regional Development Act; and establish a standby local public works program to be activated in periods of high unemployment. November 14. Y(1–2–1), passed 301–99.

666. HR2313. Amendment to prohibit the Federal Trade Commission from regulating the funeral home industry. November 14. N(2–1–1), passed 223–147.

667. HR2626. Adoption of the rule (HRes 486) providing for House floor consideration of the bill to establish a standby program of mandatory federal controls on hospital revenues. November 15. (Y(1–2–1), passed 259–129.

668. HR2626. Substitute amendment, to the Commerce Committee substitute, to establish for three years a national study commission on hospital costs, and to authorize $10 million in FY80 and sums as needed for FY81–82 to state hospital cost control programs. November 15. Y(2–0–2), passed 234–166.

669. HR2626. Passage of the bill to create a national study commission on hospital costs, and to authorize $10 million in FY80 and such sums as needed in FY81–82 for grants to state hospital cost control programs. November 15. Y(2–0–2), passed 321–75.

670. HR4440. Motion to insist on the House appropriation of $463.88 million for operation of the Panama Canal in FY80, rather than the Senate figure of $511.4 million. November 15, Y(3–0–1), passed 366–10.

671. HR2440. Motion to instruct House members to the House-Senate conference to agree to the Senate amendment to restrict splicitation by individuals and groups at airports. November 16. NV(1–0–3), passed 247–106.

672. HR4391. Adoption of the conference report on the bill to appropriate $3.77 billion for military construction projects in FY80. November 16. Y(2–0–2), passed 318–83.

673. HR2335. Passage of the bill to authorize $25 million for additional research into the solar power satellite concept. November 16. N(1–1–2), passed 201–146.

674. S1319. Adoption of the conference report on the bill to authorize $3.84 million for military construction projects in FY80. November 16. Y(2–0–2), passed 306–33.

675. HR3994. Adoption of the rule (HRes 473) providing for House floor consideration of the bill to authorize $156.5 million in FY80 for the Environmental Protection Agency for hazardous waste disposal management and development and implementation of solid waste plans and rural community assistance programs. November 16. Y(2–0–2), passed 333–0.

676. HR3546. Adoption of the rule (HRes-416) providing for House floor consideration of the bill to authorize $66 million in FY80 for FIFRA programs. November 16. Y(2–0–2), passed 328–1.

677. HR3580. Adoption of the rule (HRes-438) providing for House floor consideration of the bill to provide for the establishment and coordination of a rural development policy. November 16. Y(2–0–2), passed 318–3.

679. HR5537. Passage of the bill to extend the authority of the District of Columbia to borrow from the U.S. Treasury to complete construction of previously approved projects. November 27. Y(2–2–0), passed 283–99.

682. HR2313. Amendment to prohibit the Federal Trade Commission from investigating or prosecuting antitrust cases against agricultural cooperatives or investigating marketing orders. November 27, N(3–1–0), passed 245–139.

683. HR2313. Passage of the bill to authorize the operations of the F.T.C. for FY1980–1982, with a one-House legislative veto of agency regulatory proceedings. November 27. N(3–1–0), passed 321–63.

684. HR2608. Adoption of the rule providing for House floor consideration of FY 1980 programs of the Nuclear Regulatory Commission. November 27. Y(2–2–0), passed 296–77.

686. SConRes53. Motion to recommit the resolution to the Budget Committee with the instruction to cut 2% from all programs except defense and veterans. November 28. N(3–1–0), rejected 187–207.

687. SConRes53. Adoption of the resolution setting binding budget levels for FY1980 (Budget authority, $638 billion; outlays $547.6 billion; revenue, 517.8 billion, deficit, $29.8 billion). November 28. Y(1–3-0), passed 206–186.

688. HR3546. Committee amendment to relax for one-year the ban on aerial spraying of the pesticide Mirex to control the fire ant. November 28. N(2–1–1), rejected 167–224.

689. HR3546. Committee amendment to allow one-House legislative veto of any EPA regulation dealing with pesticides. November 28. N(3–1–0), passed 278–121.

690. HR 2222. Passage of the bill to bring hospital interns and residents under the provisions of the National Labor Relations Act. November 28. N(0–4–0), rejected 167–227.

691. HRes493. Adoption of the resolution expressing the sense of the House that the U.S. Congress and the American people demand the immediate release of U.S. citizens being held in Tehran. November 28. Y(4–0–0), passed 386–0.

692. HR2608. Amendment to require a report to the Congress from the NRC as to whether operating reactors are in compliance with current safety rules. November 29. Y(1–3–0), passed 217–161.

693. HR2608. Amendment to put a moratorium on NRC issuance of nuclear plant construction permits until April 1, 1980. November 29. Y(1–3–0), rejected 135–224.

694. S239. Domestic Volunteers. Adoption of the conference report on the bill to authorize the operations of the domestic volunteer programs of the ACTION agency in FY

1979–81. November 29. NV(1–2–1), passed 214–152.

695. HR3352. Motion to suspend the rules and pass the bill to suspend duty on flourspar, classified as a critical and strategic material used in steel, aluminum, and flourocarbon chemical manufacture, through June 30, 1982. December 4, 1979. N(2–2–0), rejected 240–163.

696. HR5892. Motion to suspend the rules and pass the bill to authorize $100 million in FY81 for research, development, and demonstration of wind energy systems. December 4. Y(3–1–0), passed 383–23.

697. HR2743. Motion to suspend the rules and pass the bill to develop a national policy to promote research and development programs to provide a adequate and stable supply of strategic and industrial materials and to require the Interior Department to attain the goals set forth in the 1970 Mining and Minerals Policy Act. December 4. Y(4–0–0), passed 398–8.

698. HR2608. Passage of the bill to authorize $427 million in FY80 for the Nuclear Regulatory Commission. December 4. Y(4–0–0), passed 398–9.

701. HR3948. Substitute to the bill to remove the temporary raising of commercial airline pilots' retirement age from 60 years to 61½ years, and to authorize a one-year study by the National Institute of Health of the issue. December 4. Y(3–1–0), passed 240–165.

702. HR5461. Amendment to designate a national holiday in honor of Martin Luther King, Jr. on the third Monday on January each year, rather than on January 15, King's birthday. December 5. Y(2–2–0), passed 291–106.

703. HR5461. Substitute amendment to designate the third Sunday in January each year a national holiday in honor of Martin Luther King, Jr., but exempting such a holiday from provisions of existing law for paying federal employees or granting them leave when a holiday falls on a Sunday. December 5. N(3–1–0), passed 107–191.

704. HR5461. Motion to rise from the Committee of the Whole, thus delaying any further consideration on this legislation. December 5. Y(1–3–0), passed 231-161.

705. HR2977. Adoption of the rule (HRes 498) providing for House floor consideration of a bill to provide for federal and state programs to prevent domestic violence and assist victims of such violence. December 6. Y(3–1–0), passed 358–32.

708. HR4862. Substitute amendment to Volkmer amendemnt to the Committee amendments to prohibit Medicaid payments for abortions except those to save the life of the mother, or in cases of rape or incest if the rape or incest is reported promptly to the police or public health service. December 6. Y(1–3–0), rejected 180–209.

709. HR4962. Amendments to the Committee amendments, to prohibit Medicaid payments for all abortions except those to save the life of the mother. December 6. N(3–1–0), passed 217–169.

710. HR4962. Amendment to authorize $3.15 billion for FY80–82 for new health services and broadened eligibility under Medicaid for children and pregnant women, to replace a proposed entitlement program. December 6. N(3–1–0), rejected 152–266.

711. HR5870. Udall motion to suspend the rules and pass the bill to improve the second career training program for air traffic controllers. December 11. Y(1–3–0), rejected 200–180. (A two-thirds majority is needed in order to pass bills brought up under suspension of the rules.)

712. HR4962. Amendment to prohibit payments for abortions from federal Medicaid funds, except for abortions to save the life of the mother, and to stipulate that nothing in Title XIX of the Social Security Act shall be construed to require any state funds to be used to pay for abortions. December 11. N(3–1–0), passed 235–155.

713. HR4962. Amendment making clear that amendments made by the bill to Title XIX of the Social Security Act shall expire September 30, 1984. December 11. Y(4–0–0), passed 226–162.

714. HR4962. Motion to recommit the bill to the House Commerce Committee with instructions to report it back to the House with an amendment requiring parental consent before family-planning services can be dispensed to minors. December 11. N(3–1–0), rejected 163–225.

716. S423. Amendments (en bloc) to delete creation of a board to advise the Attorney General on the dispute resolution resource center and grant program. December 11. N(3–1–0), rejected 170–208.

717. HR595. Motion to delete section of strategic stockpiles bill authorizing the sale of five million troy ounces of silver from the materials stockpile. December 12. Y(4–0–0), passed 272–122.

719. S423. Amendment to cut the yearly authorization for the dispute resolution resource center from $3 million to $1 million. December 12. NV(3–0–1), passed 238–156.

720. S423. Motion to recommit the bill with instructions to report it back with a $10 million yearly authorization for the dispute resolution grant program. December 12. NV(3–0–1), passed 203–197.

721. S423. Passage of the bill to authorize $10 million annually for FY1980 through FY1984 for a federal grant program to help states develop local systems to settle minor domestic and consumer disputes and to authorize $1 million annually for the same time period to create a dispute resolution resource center within the Justice Department. December 12. Y(1–3–0), passed 207–195.

723. HR2977. Substitute amendment to establish a program of block grants to state domestic violence programs and to consolidate existing federal programs in the National Clearinghouse on Domestic Violence. December 12. N(3–1–0), rejected 148–247.

724. HR2977. Amendment to allow state legislatures to veto federal funding of domestic violence programs in their states. December 12. N(3–1–0), rejected 142–251.

725. HR2977. Passage of the bill to establish a new, three-year program authorized at a total of $65 million, for grants to states and local efforts to prevent domestic violence and aid its victims. December 12. Y(1–3–0), passed 292–106.

726. HR5860. Motion to agree to the rule (HRes505) providing for floor consideration of HR5860, the Chrysler Corporation Loan Guarantees. December 13. (4–0–0), passed 391–5.

728. HR3282. Substitute amendment to permit States to use up to 1 percent of their federal elementary and secondary education funds for projects to detect and remedy asbestos-related health hazards in schools. December 13. N(3–1–0), rejected 133–262.

729. HR3282. Passage of the bill to authorize a program for the detection and removal of hazardous asbestos materials in elementary and secondary schools. December 13. Y(2–2–0), passed 336–63.

730. S241. Motion to agree to the Conference report on a bill to restructure the Law Enforcement Assistance Administration, to assist State and local governments in improving the quality of their justice systems. December 13. Y(2–1–1), passed 304–83.

733. HR5980. Motion to agree to the rule (HRes506) providing for House floor consideration of the bill to establish an anti-recession fiscal assistance program. December 13. Y(1–1–2), passed 242–107.

739. HR5980. Amendment to reduce the targeted fiscal assistance program from $250 million to $150 million. December 14. NV(1–0–3), passed 184–153.

740. HConRes221. Passage of the resolution calling for appropriate financial compensation for the U.S. hostages being held in Tehran. December 18. Y(4–0–0), passed 369–4.

742. HR3919. Motion to instruct the House conferees on the Windfall Profit Tax bill to agree to the Senate provision that would repeal carry-over basis of the Tax Reform Act of 1976. December 18. N(3–1–0), passed 326–77.

743. HR5860. Amendment to require $100 million in non-federally guaranteed assistance from Chrysler Corporation employees not represented by labor organizations. December 18. Y(4–0–0), passed 407–1.

744. HR5860. Substitute amendment to provide $1.25 billion in federal loan guarantees, $1.4 billion in concessions from Chrysler Corporation personnel, and $1.14 billion in nonfederally guaranteed assistance; to require $250 million in newly issued common stock to an Employee Stock Ownership Plan; and to establish a three member Loan Guarantee Board. December 18. N(3–1–0), rejected 107–296.

745. HR5860. Motion to recommit the bill to the Banking Committee with instructions to report it back with a three-year wage freeze for Chrysler employees. December 18. N(3–1–0), rejected 114–295.

746. HR5860. Passage of the bill to authorize $1.5 billion in loan guarantees to the Chrysler Corporation. December 18. Y(1–3–0), passed 271–136.

747. S675. Adoption of the Conference Report on the bill to authorize the FY80 operations of the Department of Energy's national security programs. December 19. Y(4–0–0), passed 359–32.

748. HR3875. Adoption of the Conference Report on the bill to amend and extend certain federal laws relating to housing, community and neighborhood development and preservation. December 19. Y(2–2–0), passed 361–29.

749. HR2585. Amendment to the National Traffic and Motor Vehicle Safety Act to prohibit the use of any funds to enforce or administer any standard or regulation which requires any passenger car to be equipped with an occupant restraint system unless the regulation permits the purchaser to select any such system that meets federal standards. December 19. Y(3–1–0), passed 320–73.

750. HR3927. Passage of the bill to amend the National Visitors' Center Facilities Act. December 19. Y(2–2–0), rejected 139–247.

751. HR5295. Passage of the bill to amend Title II of the Social Security Act to make the monthly earnings test available in limited circumstances in the cases of certain beneficiaries, to amend the technical requirements for entitlement Medicare, and to provide that income attributable to services performed before an individual first becomes entitled to old-age insurance benefits shall not be taken into account after 1977 in determining his or her gross income. December 19. Y(4–0–0), passed 383–0.

752. HJRes467. Passage of the bill making emergency appropriations for administrative expenses of the Chrysler Corporation guarantee program, and to provide for financial assistance to the Chrysler Corporation for FY1980, as authorized in the Chrysler Corporation Loan Guarantee Act. December 20. Y(1–3–0), passed 252–141.

753. HR2440. Adoption of the rule (HRes 511) waiving certain points of order and allowing consideration of the Conference Report on HR2440, the Airport and Airway Development Act. December 20. N(2–2–0), passed 195–192.

754. HRes512. Passage of the resolution condemning the use of chemical agents in Southeast Asia. Y(4–0–0), passed 378–1.

755. HR2816. Passage of the Refugee Act of 1980. December 20. Y(4-0-0), passed 328-47.

759. HR5860. Adoption of the Conference Report on the Chrysler Corporation Loan Guarantee Act. December 20. Y(1-3-0), passed 241-124.●

MAZZOLI COMMENDS SUCCESS OF JEFFERSON COUNTY, KY., ECONOMIC CRIME UNIT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

Mr. MAZZOLI. Mr. Speaker, I would like to call my colleagues' attention to the successful completion of its second year of activity by the Economic Crime Unit of the Jefferson County, Ky., Commonwealth's attorney's office.

This unit, under the direction of the Honorable David L. Armstrong, Jefferson County Commonwealth's attorney, has compiled an outstanding record of prosecution and conviction of white-collar and economic criminals in the Louisville/Jefferson County area.

As the annual report for the second year of the program notes, the program has been involved in complaints and cases involving over $4 million in funds that were taken fraudulently from consumers in the Jefferson County area.

This unit has been so successful in its effort that it has been selected as one of six "lead units" in the country. These units are projects which effectively coordinate Federal, State, and local efforts against economic crime.

Because of his work with this unit, Commonwealth's Attorney Armstrong has been appointed to the Federal/State Law Enforcement Committee. This unit consists of representatives from the U.S. Department of Justice, the National District Attorney's Association, and the National Attorneys General Association. Its mission is to establish and implement procedures leading to effective law enforcement efforts against economic crime and white-collar crime on the national, State, and local level.

I wish to insert in the RECORD the introduction, the statistical summaries, and the Conclusion from the second year's report of the economic crime unit of the Jefferson County Commonwealth's Attorney's Office.

The report follows:

ECONOMIC CRIME UNIT REPORT

I. INTRODUCTION

Jefferson Circuit Court Judges sentenced 43 percent of economic criminals convicted of felonies to sentences in the penitentiary.

2,144 citizens and businesses reported complaints of white-collar crimes to the Economic Crime Unit.

Burglary squad detective refused to accept routine burglary complaints and continued his investigation until he obtained sufficient evidence to indict and convict complainant for insurance fraud.

The Economic Crime Unit reported last year in its Report On First Grant Year that three serious barriers to combating economic or white-collar crimes were: (1) The lenient attitude of some judges toward economic criminals; (2) Reluctance of victims to prosecute; and, (3) Economic Crimes are often disguised from law enforcement officials. During 1978-1979, very significant changes were noticed in all three areas. A conference with the Circuit Court Judges assisted the Unit in working for stronger sentences for economic criminals and the Unit's strategy this year included filing written motions opposing probation with statements by victims and police, and working closely with the probation department. Citizen and business victims of crime have not only reported crimes but worked closely with the Unit in investigations, and the community's police officers have played a very important part in the fight against economic crime.

This report covers the activities of the Economic Crime Unit during the period of August, 1978 to October, 1979, the second year of a grant from the Law Enforcement Assistance Administration of the U.S. Department of Justice. The report is divided into the six major areas which the Unit Selected to concentrate its efforts during the second year.

Since the Economic Crime Unit of Commonwealth's Attorney David L. Armstrong is financed by $166,074 in public funds, this report is offered as an accounting to the community for the activities of the program. In summary, the Economic Crime Unit handled 2,976 cases, investigations, inquiries and complaints involving $4,953,651 from 4,207 citizens, businesses and government agencies. $491,404 was returned to the community through restitution and fines. In addition, the Unit's public awareness programs involved 14,967 citizens through speeches, exhibits, publications and training seminars.

II. PROSECUTION OF ECONOMIC CRIMINALS

A. Statistics on criminal court cases

Court cases:	
Convictions	63
Acquittals	5
Pending	79
New indictments	85
Money involved	$1, 883, 342
Total victims	637
Civil judgments	1
Criminal convictions:	
Defendants	63
Total crimes	441
Felonies	400
Misdemeanors	41
Loss in crimes	$643, 545
Average theft case	11, 096
Average felony theft	1, 604
Average thefts per case	7. 2
Number of victims	344
Sentences (years):	
Total sentences	676
Average sentence	11. 3
Penitentiary	24
Totals years	116
Average years	4. 8
Probation	36
Fines only	3
Restitution:	
Court ordered	$202, 131
Court fines	27, 000
Civil judgment	17, 800
Investigations	244, 473
Total	491, 404
Prosecution of economic crimes (average time):	
Crimes to investigation, months	12
Investigation to indictment, months	2
Indictment to disposition, months	10
Crime to disposition, years	2

III. INVESTIGATIONS OF ECONOMIC CRIME

A. Statistics on Investigations

Complaints and inquiries	2, 517
Investigations:	
Opened	317
Completed	253
Pending	64
Completed investigations:	
Grand jury and court cases	87
Referred to other agencies	55
No grounds for criminal action	67
Cases settled	44
Restitution by settlement	$244, 473
Money involved	2, 203, 513
Citizens involved	890
Pending investigations:	
Number cases	64
Money involved	$866, 796
Citizens involved	163
Totals:	
Number of citizens	3, 570
Money involved	$3, 070, 309

VIII. CONCLUSION

The ultimate objective of the Economic Crime Unit is to significantly erase the attitude among criminals that "white-collar crime is profitable with very little risk of punishment." While eradication is an ideal, the realistic goals of the Unit are to make the risks greater, the punishment definite and appropriate and to make white-collar crime an important element of our criminal justice system. However, the goal of successful prosecution totally depends upon the recognition, detection and investigation of economic crime which requires the involvement of the total community.

During the Economic Crime Unit's operation in the 1977-1978 and 1978-1979 grant years, the following results have been obtained in economic crime cases:

Criminal convictions	154
Victims of crime	723
Number of crimes	858
Money loss by crimes	$1, 458, 353
Criminals imprisoned	49
Criminals probated	89
Criminals fined	16
Court ordered restitution	$429, 477
Voluntary restitution	273, 847
Court fines	49, 500
Civil case restitution	17, 800
Total restitution	$770, 624

The Economic Crime Unit of Commonwealth's Attorney David L. Armstrong has successfully prosecuted the economic crimes reflected by the above statistics because of the great response and cooperation of citizens, businesses, police and local, state and federal agencies. However, the ultimate goal is the immediate challenge of the future.

This program was supported by Grant Number 2731-027-1/78 E2a, awarded by the Law Enforcement Assistance Administration, United States Department of Justice. Points of view or opinions stated in this publication are those of the Economic Crime Unit of the Office of the Commonwealth's Attorney, 30th Judicial District of Kentucky and do not necessarily represent the official position of the United States Department of Justice.

CHRYSLER LOAN GUARANTEES

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. TAUKE. Mr. Speaker, I would like to clarify that the report that I included in the RECORD on Wednesday, December 19, was a staff report prepared by the minority counsel of the Small Business Subcommittee on Antitrust at my request.●

ADMIRAL RICKOVER GIVES SOME WISE AND TIMELY OBSERVATIONS ON GOVERNMENT MANAGEMENT THAT MERIT CAREFUL STUDY

HON. SAMUEL S. STRATTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. STRATTON. Mr. Speaker, the other day at a meeting of Naval Reserve officers and retired Naval Reserve officers connected with the Congress in one capacity or another (and known informally as the order of 5–48), Adm. Hyman G. Rickover addressed the group on a subject which he regarded as especially important for persons interested in U.S. Government affairs at this particular time, namely, the rules and principles of successful management.

As is usually the case, Admiral Rickover's remarks make a great deal of sense, and are couched in plain, simple, and readily understandable language. I am happy therefore to have this opportunity to bring to the attention of my colleagues in the Congress the exact text of the admiral's remarks. I feel sure they will find them—again, as is usual with the remarks of this very distinguished naval officer, the father of the nuclear navy—both interesting, stimulating, and tremendously helpful.

The text of the remarks follows:

REMARKS OF ADM. H. G. RICKOVER, U.S. NAVY AT A MEETING OF THE "ORDER OF 5–48" ON 15 NOVEMBER 1979 AT THE RAYBURN HOUSE OFFICE BUILDING

Today the American people have little trust in those who work for the Federal Government. To an extent this lack of confidence is justified, particularly when it involves senior managers. Since the end of World War II the number of high grade civilians in relation to the total Government workforce has steadily increased to the point where we have more managers and checkers than we have doers. This increase has been brought about by the purveyors of the "techniques of modern management."

Our senior employees have been schooled in this "new" philosophy which holds that as long as a person is well-versed in a few simple rules of how to handle people and situations, he need not know anything about the details of the programs he is managing or the increasingly sophisticated technologies on which many of these programs are based.

This has allowed the non-professional to achieve high status and high pay within the Government. These "managers" can move easily from one position to another without the slightest pause. As long as their area does not become a public disaster they are safe. If trouble erupts, they are lost; they can then blame those beneath them or those who preceded them. Until this false concept is rooted out of the Federal Government we cannot expect the American people to regain their trust in Government. In fact, they should not.

I do not hold much hope for this being done before a major disaster befalls the United States. But I can provide some basic principles for doing a job that I have followed for over 50 years of government service and which I have instilled in my senior managers. If these principles were emphasized instead of the present ones, it would go a long way toward reversing the current trend. Unfortunately, many of those who have been brought up in the "new management" system will probably never understand the significance of the principles I offer.

OWNERSHIP

A person doing a job—any job—must feel that he owns it and that he will remain on that job indefinitely. If he feels he is a temporary custodian, or is using the job as a stepping stone to a higher position, his actions will probably not take into account the long-term interests of the country. Lack of commitment to the present job will be perceived by those who work for him and they also will tend not to care. If he feels he owns his job and acts accordingly, he need not worry about his next job. He should exercise a devotion to his work as if his children were the direct beneficiaries of what he is doing, as indeed they are. Too many spend their entire lives looking for the next job. We need to make it challenging and rewarding for managers to remain in one organization for more than a few years. Thereby the organization will benefit from their knowledge, experience, and "corporate" memory.

RESPONSIBILITY

Along with ownership comes the need for acceptance of full responsibility for the work. It is now common in government to deal with problems in a collective way. For example, a program will be divided into component parts or into sub-programs, but with no one responsible for the entire effort. Another approach is to have a committee run the program in some pseudo-democratic form, or to establish more and more levels of managers to theoretically give better control.

All of these are but different forms of shared responsibility, and shared responsibility means that no one is responsible. Unless the one person truly responsible can be identified when something goes wrong, then no one has been really responsible.

ATTENTION TO DETAIL

A tendency among managers, particularly as they move to higher positions, is to think they no longer need to be concerned with details. If the boss is not concerned about details, his subordinates also will not consider them important. Yet "the devel is in the details." It is hard, monotonous, and onerous to pay attention to details; most managers would rather focus on lofty policy matters. But when the details are ignored, the project fails; no infusion of policy or lofty ideals can then correct the situation. This principle is particularly important in those programs where the application of special skills or technology is needed for success.

PRIORITIES

The need to pay attention to details does not mean that you should do everything. Any individual has only so much time to work, with an absolute limit of 24 hours each day. If you are to manage your job you must set priorities. Too many people let the job set the priorities. On any given day, small, unimportant but seemingly "interesting" trivia pass through an office; you must avoid letting these monopolize your time. A tendency of human beings is to while away time with important matters because these do not require mental effort or energy. This is why television is popular. You must apply self-discipline to ensure your energy on where it is most needed.

KNOW WHAT IS GOING ON

You must establish simple and direct means to find out what is going on in detail in the area of your responsibility. There are ways of doing this, but all involve constant drudgery. For this reason most managers avoid keeping up with details; instead they create "management information systems." Gimmicks such as these merely demonstrate you are incapable or unwilling to use the necessary effort on your job.

I require regular, periodic reports directly to me from personnel throughout my program. I insist that they report the problems they have found in plain English, and that they report the specific action they are taking, and what assistance they need from me. The concept that the use of complex systems can simplify matters is specious. It may sound attractive but it flies in the face of nature's laws, as I have observed them.

HARD WORK

For this there is no substitute. A manager who does not work hard or devote extra effort cannot expect his people to do so. You must set the example. Hard work compensates for many shortcomings. You may not be the smartest or most knowledgeable person, but if you dedicate yourself to the job and put in the required effort, your people will follow your lead.

CHECKING UP

An essential element of carrying out my work is the need to have it checked by an independent source. Even the most dedicated individual makes mistakes. Further, many are less than fully dedicated to their work. In industry an independent check is usually referred to as "quality control" and is widely used in engineering applications. But the concept is valid for more than just engineering. Much poor work and sheer nonsense is generated in Government because it is not subjected to impartial review and oversight.

FORMALITY

A corollary of the concept of checking work is in the need for formalizing communications and actions. If this is not done, then one is dependent on individual memory which is quickly lost as people leave or move to other jobs. In my work an invaluable feature has been the ability to go back a number of years to determine the basis for an action. In this way an emerging problem can be put into proper perspective, and can facilitate taking the action needed for correction. If actions are not formalized, one can never be sure they are understood or executed.

FACING THE FACTS

Another principle for managing a successful program is to resist the natural human inclination to hope things will work out, despite evidence or doubt to the contrary. This may seem obvious, but it is a factor one must be conscious of and actively guard against. It can have a subtle effect, particularly if the manager has spent much time and energy on a project and has come to feel possessive about it. It is not easy to admit that what you thought was correct did not turn out that way.

If conditions require it, one must face the facts and brutally make needed changes despite considerable costs and schedule delays. The man in charge must personally set the example in this area and require subordinates to do likewise. Figuratively, he must, if necessary, kill his own child, regardless of the consequences to himself. After all, he is the trustee for the Government; he is not the owner.

CONCLUSION

The principles I have stated have many ancillary facets that can be further developed. I have merely provided the key elements. I suspect most of those here today will give passing acknowledgement and may even agree with the principles. But unless tangible action is taken to put them into practice, they have been of no merit. There is a desperate need in Government for responsible management; for managers who pay attention to substance and not to glib "management techniques." If there continues to be little movement toward more responsible and effective management along the lines I have outlined, it should come as no surprise if the "taxpayers revolt" takes on an increasingly tangible form which extends even into the Federal Government.●

OIL IMPORT FEE AN ECONOMIC CATASTROPHE

HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. LEACH of Iowa. Mr. Speaker, this morning the gentleman from Michigan (Mr. STOCKMAN) spoke against the current administration's proposal to place a $5-per-barrel import fee on petroleum imported into this country. This tax would be largely passed on to the American consumer in the form of a gasoline tax of up to 30 cents per gallon. I want to express my own vigorous objection to this "back-door" increase in taxes proposed by the administration and point out several specific international economic ramifications of the proposal.

Importantly, such an import duty would work dramatically against price restraint efforts within OPEC. A tax on imported oil would be interpreted by OPEC members as indicating that the price of crude oil is not yet high enough—that the market will bear even further increases. It is an open invitation to increase world prices further and would virtually insure an equivalent price increase at the next OPEC meeting, if not before.

In particular, a new import duty would be taken as a direct affront to Saudi Arabia and other OPEC moderates if such a step were to be taken so soon after their having taken a firm stand against the spectacular price increases sought by the price hawks at the recent OPEC meeting in Caracas. The price moderates would be made to look foolish, and it would be highly unlikely that they could work effectively for restraint at the next OPEC meeting.

Furthermore, raising the price of imported petroleum has the effect of raising, as well, the price of domestically produced oil. Under a decontrol system, domestic prices will tend to rise to the world price level. The Government will thus enjoy the benefits of a double tax—once in the form of the import fee, and once through increased revenues from the windfall profit tax on higher-priced domestic production—both shouldered by the beleaguered American consumer.

It is exactly this kind of step which will bring us closer to an international recession, since developments in the American economy, and future actions by OPEC producers, have far-reaching effects. The respected Organization of Economic Cooperation and Development (OECD) has recently predicted that relatively small increases in the price of OPEC oil will place such burdens on western economies as to stop positive economic growth in the immediate future. Problems in the international economy are not confined to the big banks and corporate boardrooms, but reach right into the pocketbook of all Americans, whether they make their living on the farm or in our Nation's cities.

One of the difficulties with a Presidentially-imposed tax—one that takes effect with congressional authorization—is that the President has no concurrent authority to reduce other taxes. A real question exists whether the President has the constitutional authority to impose import duties of this magnitude in the first place, but there is no question that he cannot lower other substantive taxes.

My personal view is that any increase in petroleum taxes can only be justified if simultaneous reductions in other forms of taxation are also implemented. In this regard, there is a strong argument that social security taxes should be reduced commensurately with any increase in petroleum taxes. Earmarking any new petroleum revenues to the Social Security Trust Fund adds additional protection for those of our citizens living on fixed incomes who bear the inflationary brunt of hard economic times. In addition, workingmen and women, the majority of whom pay more in social security than income taxes, can benefit through a reversal of recent trends toward ever bigger social security taxes.

However, given the fact that we have witnessed this year alone a 65-percent increase in the price of gasoline, and the fact that the American people have responded with a significant reduction in petroleum usage, I have strong doubts that a new tax on petroleum is in the national interest at this time.

Taxes, to be effective, must be equitable. Unfortunately, petroleum taxes are antirural and anti-Midwestern. Farmers comprising only 2 percent of the population, consume 16 percent of all petroleum. Midwesterners, in turn, live where the winter is severe and, in general, drive long distances to work without the benefit of mass transportation. They will be the ones, in contrast to southerners and city dwellers, who will be asked to pay a disproportionate part of this import tax.

In addition, one of the current advantages now enjoyed by American industry and agriculture is a basic energy-cost advantage over foreign competitors like the Japanese. Increasing energy costs decreases one of the few trade advantages we enjoy. Export-oriented industries are thus penalized in their efforts to compete on a reasonable cost basis for overseas markets. This is particularly true of our energy-intensive agriculture which is the backbone today of our whole international trade picture.

Mr. Speaker, I call upon the administration to put this idea back on the shelf where it belongs.●

GEN. OMAR N. BRADLEY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. SKELTON. Mr. Speaker, recently Gen. Omar N. Bradley, a native Missourian, five-star general and the first permanent chairman of the Joint Chiefs of Staff for the Department of Defense in 1949, was voted to receive a special citation for outstanding service by the Harry S. Truman Good Neighbor Foundation in Kansas City. The award was presented to General Bradley in absentia on December 3 of this year. General Bradley is 86 years old, and presently lives at Fort Bliss, Tex.

Omar Bradley was a member of the 1915 class at West Point with Dwight D. Eisenhower, and he commanded forces in Europe under General Eisenhower in World War II. It has been said that no other general in history has ever commanded more combat troops.

In 1950, Congress put Omar Bradley among the class of military superstars. It pinned a fifth star on his lapel, only the ninth time in history it has been done. In 1953, he left his post as Chairman of the Joint Chiefs of Staff. Before that he was Army Chief of Staff for 2 years and head of the Veterans' Administration from 1945 to 1947. He has written two books, and he has received many awards for outstanding service.

Mr. Speaker, it is with great pride that I bring this former Missourian's achievements to the attention of my colleagues, and I want to extend my sincerest congratulations to General Bradley on his well deserved honor.●

RUSSO LAUDS DAN O'NEAL

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. RUSSO. Mr. Speaker, on December 31 A. Daniel O'Neal will leave the Federal Government. Since April of 1977 Dan O'Neal has been the Chairman of the Interstate Commerce Commission. Prior to his appointment as Chairman he served as Vice Chairman of the Commission.

I came into contact with Mr. O'Neal during hearings my subcommittee conducted on the regulatory problems confronting the Nation's independent owner-operator truckers. It was a refreshing sight to all of us to see the Chairman of a Federal regulatory commission come before us, admit problems existed, and then on his own do something about it.

Dan immediately established a small business assistance office within his office. Since its inception, this office has been more than ably directed by Mr. Bernard Gaillard. The office has served thousands of small business people in the motor transportation industry. It has served as a model for other Federal agencies in their search to help the "little guy" figure out the Federal bureaucratic maze.

Dan O'Neal has been a candid, helpful, innovative public servant. His own actions should serve as a model for all Federal employees. In the recent nationwide truckers shutdown, Mr. O'Neal acted. His Agency's subsequent decision to add a fuel surcharge for truckers geared to the rise in fuel costs defused the situation and eventually led to the establishment of Federal task forces to study the truckers' grievances. After the fact a lot of people were ready to stand up and take credit for calming the situation. Mr. O'Neal is the one who deserves the credit.

Government is a trust and the officials of any government are its trustees. Dan O'Neal has been a good trustee. I wish him and his family well in the future.●

SUPPORT FOR HOSTAGES

HON. MARC L. MARKS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

Mr. MARKS. Mr. Speaker, there have been numerous heartening responses by Americans in all walks of life to the plight of the 50 Americans illegally taken captive by the so-called students in the U.S. Embassy in Iran.

I would like to bring to the attention of my colleagues here in the House one such response which has allowed the entire community of Erie, Pa., in my 24th District to become involved by showing their support for their fellow Americans held hostage in Iran.

The idea began with Mr. John Kanzius, assistant to the president of the Jet Broadcasting Co. He suggested to his staff that they work on what WJET radio in Erie is calling "The World's Largest Christmas Card."

It was an idea that was both welcomed and supported by various members of the Erie community, such as Mr. Robert DeVitt, vice-president of the Hammermill Paper Co., who generously donated a 3-feet wide by 350-feet long roll of Hammermill bond paper for the project in addition to offering to share in the cost of postage with WJET radio.

Men from American Legion posts 771 and 773 agreed to watch over the greeting card and to supervise those who wished to sign it. Millcreek Mall provided a space where thousands of residents and visitors to the community would have the opportunity to see the giant greeting card, and to add their names to the list while Christmas shopping.

I believe WJET radio, and everyone involved in "The World's Largest Christmas Card," should be commended for their effort to make known to the American hostages that their fellow citizens in the 24th District of Pennsylvania, as well as all across the United States, have not forgotten them, and that they fully support the hostages and the U.S. Government's efforts to secure their safe and immediate release.

Mr. Speaker, I would very much like to express my own personal gratitude and support to the people who have provided this opportunity for their fellow Americans to unite and show their support in a peaceful manner, and also to all the people who have shown their concern by signing the card in an effort to let those captive Americans know that our thoughts and prayers are with them, especially during the holiday season.

Thank you.●

SAVE THE WILDCATTER

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. KEMP. Mr. Speaker, "oil is found in abundance only if a great many people are looking for it at once in all sorts of unlikely places," Ruth Sheldon Knowles wrote 20 years ago in her history of the American oil industry, "The Greatest Gamblers." That insight is vital to understanding why there is an energy crisis in America today. Considering the fact that, at current world prices and available technology, the United States has at least 200 years of liquid oil and 1,000 years of natural gas left in the ground, the solution is obvious. We must produce more of our cheapest domestic energy in competition with OPEC to restrain world energy prices. But the problem is also obvious—Federal Government policies over the past 10 years have discouraged oil and gas exploration and production.

So it is incredible that, at a time when world sources of oil are becoming more and more expensive and uncertain, the U.S. Government is about to impose a tremendous new tax on the domestic energy industry. Mr. Speaker, this new tax will increase our dependence on foreign sources of oil, reduce domestic discovery and production of oil, drive up the price of oil, and further reduce competition in the world energy market. In the end the "windfall profit" tax is just another new tax on the American people, whose tax burden is already expected to increase by $1 trillion over the next 10 years. I was opposed to it when it was first advanced, I voted against the rule bringing it up and I am against it now.

But if this tremendous new tax is inevitable, the least we could do is exempt the small independents who do 90 percent of the oil exploration in the United States and reinvest 105 percent of their revenues into energy exploration and development, the 12,000 independent "wildcatters." The Senate had the good sense to do just that. Their exemption would remove the burden of regulation from roughly 99 percent of our domestic independent producers, allowing them to drill an estimated 14,500 additional wells, expand recoverable reserves by 1.5 billion barrels by 1990, add productive capacity of almost 300,000 barrels per day by 1989, and save almost $48 billion in import costs over the next 10 years.

Mr. Speaker, today I join 170 of my colleagues in introducing legislation to put the House on record in support of this independent producer's exemption. I ask that the House conferees take special note of the strong support this exemption has in the House, and of the dire consequences in terms of lost domestic energy production that will result if this exemption is dropped. I also ask that they take a moment to consider the following editorial which was written by the son of an oil wildcatter, published in this week's Newsweek magazine. Gregory Lewis gives us an inside look at the risks, hardships, and sacrifices involved when a small entrepreneur decides to drill for oil. Without an exemption these small businessmen will certainly go under a sea of Government redtape and overregulation. America needs the wildcatters if we ever hope to move out from under the shadow of OPEC, and into a more secure energy future.

The article follows:

TWO CHEERS FOR OILMEN

(By Gregory Lewis)

My father is an oilman, and I am unabashedly proud to say so.

This is probably the most unpopular pronouncement I could make, for today, as Americans fill their fuel tanks in preparation for winter, the oilman, once a romantic figure in American lore, is widely perceived as a gangster of U.S. capitalism. Across the land, the very word "oilman" evokes the sinister image of a robber baron in a Stetson hat, a venal plutocrat who chomps on Texas-size cigars, has crude on his breath, a diamond-studded derrick stickpin in his tie and a TV in his limousine so he can watch the news and snicker at everyone else waiting in gas lines.

Of course, this characterization is absurd, but it is nonetheless being used as a rallying cry against American oilmen, corporate and independent. Oilmen are ripping us off, we scream. Oil-company profits are a "national disgrace" and "unearned." Admittedly, these allegations are easy to accept. In the face of dollar-a-gallon gasoline and 85-cents-a-gallon heating oil, we overheat with rage and vilify the oilman, whoever he is. But is this justified?

I didn't care for the first oilman I met. His family lived in Colorado, but he worked in Indiana because there was an oil play there. He spent weeks away from home, often sleeping near a drilling rig in his car, always hoping the drill would find oil that day because he couldn't afford the next day's drilling. His children didn't recognize him as their father when he came home. He was just the man who fouled the air with his nervous chain-smoking, and drank a quart of milk at night to quell his ulcer. I was a child then; the oilman was my father.

DRY HOLES

Sentimental? Not really, because while many of his acquaintances in the early 1950s in Indiana never found oil and went broke, my father played poker with Mother Nature and won. He found oil, and he made a lot of money. But by the late 1950s he was losing. When I was a teenager, the ugliest words anyone could utter in our house were "dry hole," because dry hole meant untold hours spent and thousands of dollars invested without gain. And my father could drill dry holes as well as anyone. In 1956, he drilled 40 wells and found fifteen barrels of oil. Soon after, he contemplated trying something more secure, and briefly owned a small retail store. Although he found comfort in a business without substantial risk, he soon recognized there would never be substantial gain.

By 1960, he was concentrating again on the oil business, this time in Wyoming, with a plan to rejuvenate an exhausted oil field. He wanted to attempt secondary recovery, to drill water wells where the supply of underground water was uncertain, then inject this water back into the ground, gambling that a subterranean flood would untrap the oil he hoped was there. His associates deemed the project impracticable if not impossible. The dollar and time gamble was enormous. But the highly speculative project worked. Five years after he began, the first barrels of secondary oil were pumped from the ground.

Sure, my father made a lot of money, but his rewards were not greater than his risks. And the landowners, who had no risk, made money; and the government, which had no risk, made money; and Americans, who also had no risk, got oil and jobs.

Many children of self-employed men take over their father's business. I, however, have steered away from my father's trade. Actually, there's no business to inherit. Oh, there are a few oil wells, inexorably drying up, and there are a few leads on a few new, risky ventures. There is also so much paperwork that it's driving some independents out of business. And there is the uncertainty, not only about finding oil, but about what government is going to do and when. Independents find 45 percent of American oil. But I don't want to be an independent like my father—still working at age 65, and viewed with contempt.

Whoa, you say; we just hate Big Oil. And you know what? I also am irate at Big Oil. It's been far too smug. Because of its ill-conceived public relations, it has lost the trust of the American people. We detest Exxon for its profits of $1.1 billion in the third quarter of 1979 and, consequently, we ignore its announcement that it paid $6.2 billion in taxes in those three months. We don't want to know that Exxon has invested $3.1 billion so far this year in the search for more energy, and we're yelling "ripoff" so loudly that we haven't heard that Exxon's 1979 proceeds from its U.S. natural-gas and oil operations are up only 2.7 per cent. Did you know that U.S. manufacturing firms (excluding oil) earned 6.6 cents on each dollar of sales in 1979, while oil companies made 6 cents? We're so mad we're blind. Tragically, Big Oil has done little to strip our blinders away.

President Carter calls oil-company profits "unearned." To me, unearned profits are money made from collecting unemployment when you could work, from taking a day of sick leave when you're perfectly healthy. If I'm wrong, then why does anyone in this country work when all we have to do to reap unearned profits is go out and drill an oil well?

MIRROR

There have long been, and still are, controls on the price of domestic oil. But the costs of discovering, producing and refining oil are not controlled, and they have soared. Now that the price of oil has been partially freed to reach fair market values, the government wants to tax that additional money as "windfall profits." Can you imagine a labor leader who, after any period of unilaterally frozen wages, would allow the government to tax the salary increases of his union members as *windfall* profits?

If you want to blame someone, America, look in the mirror. We are a nation of energy winos, for too long besotted on the cheap high-octane stuff, and irrationally belligerent toward suggestions of temperance. Our national malaise is an energy hangover, and we demand a cure *now*.

But what kind of cure is it to overfeed Washington's lumbering bureaucratic brontosaurus with oil-company greenbacks? Without a windfall-profit tax, decontrol would add an estimated $360 billion to Uncle Sam's coffers over the next eleven years, a genuine windfall for big government, and enough for efficient government to promote energy growth, invest in mass transit and provide energy subsidies for America's indigent. Government should take punitive action against oil-company malfeasance, and it should ensure that oil companies reinvest their earned profits in all forms of energy development. But it should not threaten with demagoguery.

It may be chic to curse U.S. oilmen, but is it sensible? If we fetter the oilmen's incentive to seek oil, it is the sheiks who will have us by the pipelines. We Americans need oil. American oilmen want to find it for us. Their profits are not unconscionable; they are the promise of a secure energy future.●

NATIONAL FOREST MULTIPLE-USE MANAGEMENT ACT OF 1980

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. SWIFT. Mr. Speaker, today I cosponsored H.R. 6070, the National Forest Multiple-Use Management Act of 1980. I believe this legislation is a necessary response to the present legislative situation in which no bill containing release language is going to see the light of day in the foreseeable future.

I have talked with the chairman of the Public Lands Subcommittee of the House Interior Committee. The policy of that committee is to consider RARE II related bills that contain no release language before considering bills that do provide for release of lands for multiple use. I understand this policy is based on the assumption that environmental groups will kill on the floor any bills that contain such release language. That is not my judgment. That is the judgment of the subcommittee.

That policy, however well intended as I believe it is, makes legislation like H.R. 6070 inevitable.

I am not happy about that. It creates a situation from which confrontation and even greater divisiveness will result. But the policy of the Public Lands Subcommittee based on the assumption environmentalists will prevent any release language from being passed by Congress, is clearly the first cause.

Let us look back.

The RARE II process was understood by everyone to be a means by which we could bring to a conclusion the seemingly endless battle over which lands should properly be protected and managed as wilderness, and those which should properly be managed for their natural resource values under a multiple-use concept.

There would be, we all understood, lands recommended for wilderness, and these would be given high priority consideration by Congress for inclusion in the wilderness system. There would be some lands that required further study. We hoped these would be few. But they would be kept in limbo until further information could be developed on which to base a decision as to their proper use.

And finally, there would be those lands recommended for multiple-use and these would be given high priority consideration by Congress for release to multiple-use management.

By this process we could resolve disputes, preserve areas with high wilderness value and give certainty to those who rely on national forests for other uses.

Another major use of those national forests is timber. My region of the country was founded on a timber economy, and it is still major and important, not only in the northwest, but nationally.

Rhetoric about the "rape" of the land breeds rhetoric about "lock-up" of the land, but does not lead to effective public policy.

The fact is that some of the magnificent forest lands of our Nation ought to be preserved for recreation—and some of those for wilderness. But, unless we simply want to outlaw the forest-products industry, we must secure other forest lands for management as the renewable resource. I emphasize the word "secure" because certainty of supply is vital to a healthy and continuing forest-products industry.

I think it important to add here that when we talk of the timber industry we tend to conjure images of fat lumber barons, wading in money, who callously destroy forests for some esoteric and unimportant purpose.

In my district, as in most of the northwest, the industry, as it relates to Federal forest lands, is composed of individuals, small loggers, lumber mills, worker-owner plywood plants. Whole towns depend on the forests for their economic survival. Families livelihoods are tied to the availability of timber.

And these people are not exploiting the land but "farming" it in a sense that is simply ignored too frequently when the various values of our forests are considered.

Their values are not exclusively important, but are certainly equally important as recreational values.

However, the conflict between these two uses had accelerated over the years to the point that the paranoia level has become nearly unmanageable. Conservationists will tell you the Forest Service is set on chopping down every tree in the Nation, including the apple tree in your back yard.

The forest-products industry is equally certain that, given its head, the Forest Service would build a brick wall around all the forests and preserve them forever.

This suspicion leads to a desire on the part of conservationists for a category of management that is mandated by Congress, and can only be undone by Congress. They have no confidence in the Forest Service managing an area for recreation or wilderness purposes, even though the service has that authority They want congressionally mandated protection for wilderness areas.

The response from timber-products people, then, is predictable: There must be some land set aside for resource use, too, and they want that to be congressionally mandated as well.

In other words, we have permitted these legitimate and conflicting uses to deteriorate into a climate of such suspicion, and escalate to a level of such acrimony, that everybody wants to have their approach to forest use protected by statute.

However unfortunate it may be, that is where we find ourselves as we begin to legislate on the recommendations of RARE II.

Without H.R. 6070, proponents of wilderness can get in line and have their concerns heard and acted on with alacrity. Those who want release of lands must wait—indefinitely.

There is no equity in such a policy. It amounts to saying, "what's mine is mine, and what's yours is mine."

Such a policy leaves those who expected, and have the right to obtain certainty of, timber supply with an empty bag, and no hope of getting consideration for their needs—unless they seize upon another committee's jurisdiction to gain that consideration. What alternative have they?

So a divisive situation is created in which the reasonable process by which this should be settled is impossible. Ideally each State, each region that has RARE II-based legislation introduced in relation to it. should have both wilderness and release language. That not only provides equity, but establishes a method, a procedure by which these two legitimate and often conflicting uses can be worked out in the normal give-and-take of the American process. I would prefer that approach to the one Congress now seems committed to. I would prefer working out the needs of my area with consideration of both issues. Instead, the refusal to consider release language is forcing this approach and if those are the rules by which we are forced to play, then I endorse and sponsor H.R. 6070 as the only means of assuring that all legitimate interests are heard before this Congress.●

MORE SHOULD BE DONE TO SECURE THE HOSTAGES RELEASE

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. COLEMAN. Mr. Speaker, today is the 46th day that American citizens have been held hostage in the American Embassy in Iran. Unfortunately, the situation has changed very little with the passing of over a month and a half. I know that the President has made this a priority concern, as well it should be, but nevertheless, I cannot help feeling that more should be done to secure the hostages' release. Because of this, I found a recent editorial in Newsweek magazine by the eminent columnist George F. Will to be very interesting and thought-provoking. Mr. Will makes a firm statement on this subject and gives his views substance by suggesting actions which our Nation could take to resolve this very serious problem. I am, therefore, including Mr. Will's commentary in the CONGRESSIONAL RECORD for the benefit of my colleagues who may not have had the opportunity to read it:

HOW TO DEAL WITH IRAN

(By George F. Will)

Russia certainly is ungrateful, supporting Iran's seizure of the U.S. Embassy. In August, when Soviet agents hustled a ballerina aboard a Soviet plane on U.S. soil, the U.S. treated the plane as an embassy, inviolable. Instead of kicking off the agents and freeing the ballerina to think in peace about her future, U.S. policy condemned the hostage—that's what she was—to the uninterrupted custody of the agents. Today, as then, the U.S. has chosen "restraint" rather than other, better options. Even if the crisis ends tomorrow, "favorably" in that the hostages are safe, the U.S. will have hurt itself by advertising its reluctance to act unilaterally.

The U.S. should immediately have jammed radio and television transmissions in Iran, and from Iran. Khomeini, a seventh-century man dependent on twentieth-century technology, fought for power with telephone calls and tapes from Paris. Jamming broadcasts (and perhaps sabotaging the telephone system) would sever the ligaments of his regime, and would make impossible what otherwise is impossible to stop: Iranian manipulation of the international media.

An immediate blockade of Iran, keeping food out and oil in, would have had the secondary benefit of discomforting our allies. They should be reminded with pain, not rhetoric, that our fates are linked. The U.S. could have bombed the dam that supplies much of Teheran's electricity. If Iranians want the Dark Ages, we can provide the dark. The Abadam kerosene refinery could have been put out of commission. Iran has cold winters. Shivering in the dark would concentrate Iranian minds on the cost of Khomeini. Iran is mountainous. Railroads can be cut easily by bombing tunnels and bridges. And don't forget the pipeline that sends natural gas to the Soviet Union.

Many choices: The U.S. should seek to lease the Sinai air bases, and the former British base on Oman's island of Masirah. The U.S. could occupy the three islands off Iran's coast that the Shah seized in order to settle a sovereignty dispute. The U.S. should ready the island of Diego Garcia in the Indian Ocean for B–52s, aircraft carriers and missile-carrying submarines.

From the start, many Americans felt a vague relief that "there is nothing we can do." In fact, there are many choices the U.S. chose not to make. Instead, it spent weeks emitting chaotic signals about avoiding bloodshed, force, even pressure. Carter waited 39 days before even expelling most Iranian diplomats. If the U.S. had *wanted* this crisis prolonged, would it have acted otherwise? Washington is not wholly unhappy when immersed in a crisis that enlivens conversation without actually compelling hard actions. I detect something like enjoyment of this crisis, with its vigils, public praying and telegenic gestures.

But while Washington is dimming the national Christmas tree, the Soviet Union is forging an iron ring around the Middle East—in South Yemen, Ethiopia, Afghanistan, Libya, and with its Mediterranean fleet. Soviet radio spreads instability, as in Iran. Soviet military maneuvers are honing a quick-reaction capability to exploit instability. Within the closing ring, Arab leaders are not reassured by U.S. "restraint."

At the U.N., U.S. "restraint" was rewarded with a resolution of awful "evenhandedness." It did not condemn Iran; instead it asked the aggressor and the aggressed-against equally for "restraint." The U.S. should have replied: "You won't condemn Iran, we won't subsidize this travesty. Henceforth, we pay 1/151, not a fourth, of the U.N.'s budget." Instead, the U.S. hailed the U.N. resolution as a victory. As John Jay Chapman said, "One need not mind stealing, but one must cry out at people whose minds are so befuddled that they do not know theft when they see it." The U.N. "victory" was a call for the criminal and the victim "to resolve peacefully" the "issues between them." Issues, shmissues, *"they've stolen our citizens.* That's not an "issue," that's an act of war.

The U.N. debacle, the effort at the World Court and Secretary Vance's travels in search of supportive allies were attempts to cultivate world opinion. But what the world needs is a demonstration that, at times, the U.S. doesn't give a damn about "opinion." There is, as Jefferson wrote, such a thing as "decent respect for the opinion of mankind." But he wrote that in a declaration of *independence The* U.S. needs a declaration of independence from the ideal of restraint in the face of government-sponsored terrorism.

When Pravda supported Iran, many staff members at the U.S. Embassy in Moscow complained that the U.S. was too mild in dealing with the Soviets. Only the State Department could contrive to find Soviet policy on Iran ambiguous. Vance called Pravda "deplorable" (is deplorable worse than "unacceptable," as in the "unacceptable status quo" in Cuba?). Earlier, in Moscow, some Soviet officials were disinvited from an embassy screening of "Goodbye Girl." Thus did the American eagle show its talons.

'Vietnam Complex': Last week, the Wall Street Journal noted that when, last August, Aleksandr Godunov defected, "a contingent of burly Soviets" flew in from Moscow. Then "a carload of husky Soviet 'tourists' paid a sudden visit to the Tolstoy Foundation estate in Valley Cottage, N.Y., a frequent stopping place for Russian refugees. The 'tourists' clumsily but effectively searched the premises, in the apparent hope of finding the defected star before he received asylum." Have you heard the eagle scream about that? Or about Soviet violations of the Atmospheric Test Ban Treaty? Or of the Thresold Test Ban Treaty? Or of the SALT I ABM treaty?

The Administration is decorous with the Soviets, in part because of its paralyzing obsession with SALT II ratification. Last week, Carter yielded to Senate pressure and endorsed increased defense spending. An aide said this marked the end of "the Vietnam complex." Nonsense. Carter wants the increases because he wants SALT II, which embodies a complacent world view that is part of "the Vietnam complex." Were SALT II ratified, Carter probably would no longer want the increases. He has a record of watching quietly as Congressional allies trim his paper proposals.

Three months ago he opposed what he now proposes. And three months from now? If his sudden, Saint Paul-like conversion is real, he is too plastic for comfort. But his rebirth as a realist is too convenient for comfort, coinciding as it does with the imperatives of the SALT debate and the mood of the moment, both of which will end.

Soviet troops have entered the Afghan civil war; another Soviet inhibition is being shed. When told that the Soviet Union is helping starve Cambodians, impeding the delivery of relief and diverting supplies to its proxy soldiers, Carter exclaimed, "Is there no pity?" No, Virginia, there is no Santa Claus, no pity and no one listening to White House appeals to "the responsible leaders in both Hanoi and Moscow."●

NEW YORK CITY SCHOOL LUNCH PROGRAM—LESSON IN CREATIVITY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. BIAGGI. Mr. Speaker, I wish to bring to the attention of my colleague an article which was recently printed in the Washington Post on a most innovative school lunch program which is being run at Benjamin Franklin High School in East Harlem.

I am bringing this article to light to note the hearings which our Education and Labor Committee has been holding on school lunch programs. As many of you mav know, this body will be considering a bill to reauthorize many of our school lunch programs next year. There are those who want to see a sizeable portion of the budget for these most worthy programs be cut substantially. To those people I say, take a look at what this program has done for millions upon millions of American schoolchildren. Look at what it has done for the nutritional education of these children. And more importantly, stop and think what it would mean if we no longer provided a nutritionally balanced meal at affordable prices in our elementary and secondary schools.

The energy factory is a unique program which has managed to transform an inner city high school, which was once the scene of open dealing of drugs, crime and an attendance rate of less than 50 percent. This special lunch program has been the major reason for the miraculous "turn-around" of this school and its student body. A student advisory council plays a major role in the decisions and activities of the energy factory program, from what kinds of foods are served, to the decor of the cafeteria. It is not only the school lunch program, but it is also an educational program.

I must also make note that our New York City Board of Education has been in the forefront of the Nation with regards to providing nutritional, interesting meals to the school children of our city. The Department of Agriculture has even acknowledged the fact that the New York City school lunch program, under the direction of Elizabeth Cagen, "has been way ahead of us."

I urge my colleagues to read this article and learn how beneficial our child nutrition programs have been in not only feeding children good foods, but providing them with an important education that can remain with them the rest of their lives.

THE ENERGY FACTORY FACTOR

(By Marian Burros)

To believe this story about Benjamin Franklin School in East Harlem, you must engage, at least for a time, in a "willing suspension of disbelief." Otherwise, you may find it difficult to understand how in two years an improved school lunch program could turn a school, described as one of the worst in the city, into a model for other urban schools.

In 1977, the New York City board of education was prepared to close the East Harlem high school because attendance was less than 50 percent. Dope was used and traded openly in the halls. It was unsafe to walk in the corridors.

Today 1,200 to 1,400 of the 1,800 or 1,900 students are in class each day and almost 1,000 of them eat the school lunch. Most of the credit for this miraculous turn around goes to Eugene (Gene) Brown, assistant principal in charge of the special lunch program, the Energy Factory, and almost every extracurricular activity in which the school participates.

The Energy Factory, which features low fat, low salt, low sugar versions of fast foods and fast food service instead of a cafeteria line, is the concept around which Brown has rallied the students. It wasn't conceived for that purpose: It was an effort to get more kids to eat the school lunch.

But Brown has made it much more than that. From the beginning he involved the students, "not necessarily the best kids," in the planning of the Energy Factory: The refurbishing of the cafeteria; the food to be served; the policing of the area during lunch time. "The kids are harder on each other than the guards we used to have," Brown said. "They were having a discussion about what they would do if someone broke the rules. 'Throw him out,' someone suggested. 'Nah. That's just what they want'," another wisely noted.

Two years ago when the Energy Factory committee was discussing whether or not they should have a salad bar in the cafeteria, one of the black students said: "That's for The Man, not for Niggers. We'd spit in it." You are unlikely to hear any of the committee members, 60 percent of whom are black, 40 percent of whom are Hispanic, denigrate himself that way now.

What Brown is teaching to his committee of 90 students is pride, self confidence and self esteem.

Today he says the "president of the Energy Factory is probably bigger than the president of the Student Council."

What has happened, according to Brown, who is also a social worker, is that the kids "feel they are part of the structure. They talk to us."

Lorraine Chambers, supervisor of the cafeteria, who came to Benjamin Franklin before the Energy Factory was instituted, sees a big difference. "Before our staff was not tuned in to the students' needs. The students disliked the employees quite a bit. Now we have a lot of neighborhood people working here and that relationship has made a lot of difference. We have to care about these kids."

And pay attention to what they like to eat, a lot of which does not fit the stereotypes.

One of their favorite dishes is baked fish. They also eat beets, love spinach salads, ask for broccoli with cheese and won't eat hot dogs. And Brown is convinced the kids don't really like French fries; they like catsup.

One thing both Brown and Chambers say the kids won't eat is hamburgers on whole wheat buns. "Whole wheat and hamburgers don't go together," Brown says.

According to Brown when they took the vending machine out, none of the kids objected, only the teachers.

Brown thinks so highly of the food now, and with good reason, that he says "If you can't find what you want to eat in this cafeteria, then you didn't want to eat." He says waste is at a minimum, "maybe 4 percent."

On the whole the kids are pleased with the food, though they would like desserts. They would also like more salad to be served so there will be enough for those who come to late lunch. "It's much better than we used to get, and better than other schools" said one, while another compared it to a fast food restaurant.

But the Energy Factory concept alone might have failed if it hadn't been directed by Brown who talks the kids' language but commands their respect. He also cooks for their parties, sewed all the costumes for the cheerleaders and is available to them seven days a week.

As he tours the cafeteria with a visitor, he doesn't miss a trick: "I know you love me, but go to class," he tells one loiterer.

"Sit on the chair," he tells another who is perched on a table.

When he conducts a class in nutrition education the students are expected to be quiet, "Excuse me ladies and gentlemen. If we all talk we won't get anything done"—and they are, but his classes in nutrition education, like his Energy Factory committee meetings, include a lot of things that have nothing to do with nutrition. Brown is developing ethical standards and leadership.

And he's doing it with firmness and love. "If you care about kids, love kids and have patience, it will work," he says.●

SECURE ISRAEL IS OUR BEST ASSET

HON. RICHARD KELLY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. KELLY. Mr. Speaker, since early November, the attention of the American people has rightly been focused on the outrageous actions of the Iranian Government, whose Gestapo-type special forces are holding U.S. citizens hostage. The best we can hope for out of this situation is that the American people's indignation over their government's failure to protect American lives and property overseas may someday reach our national political leadership.

The recent events in Iran, Turkey, Afghanistan, Pakistan, Lybia, and elsewhere serve to underscore the critical importance of U.S. relations with our strongest ally in that region, Israel. The Carter administration, in continuing its well-established policy of appeasement diplomacy, which simply involves bowing to the most radical and irrational anti-Americanism in any given situation, has been pressuring Israel to withdraw from the West Bank in order to accommodate the PLO, a terrorist organization which exists only to destroy Israel.

The nuances of local government control on the West Bank are issues that can be resolved through careful negotiation between the parties involved. But this does not apply to the question of military control.

Since partition in 1948, the State of Israel has been forced repeatedly to defend itself against the aggressive attacks of hostile neighbors. Those who call on Israel to return the West Bank to the Palestinians should remember that until the 1967 Six Day War, the West Bank belonged to Jordan, and that country could have established a Palestinian homeland there without Israel's cooperation. But rather than take that action, the Arabs concentrated on trying to "push Israel into the sea."

The goals of the PLO have not changed, and neither has the importance of the West Bank to Israeli security. For Israel, continued control of the West Bank as a military defense buffer zone is indispensable. It is incredible to realize, and many people do not, that without the West Bank, the State of Israel is only 9 miles wide at that point. So a hostile military force that occupied the West Bank would need to drive only 9 miles, or roughly the distance from Zephyrhills to Dade City in Florida, to reach the Mediterranean and split Israel in half. And the entire nation of Israel is only one-seventh the size of Florida. Thus, Israel's security, even her very existence, heavily depends on her continued military control of the West Bank. For Israel, the two issues of security and existence on the one hand, and military control of the West Bank on the other are inseparable and not negotiable.

Our country's declining position and stature in the world stems from our continuing failure to support our friends and to oppose our enemies—mostly we do not even call our enemies our enemies. We could choose no better time than now, and no better friend than Israel, to recommit ourselves to a pro-America foreign policy. A secure Israel, retaining military control of the West Bank, is the United States best asset in the Middle East.●

THE CHRYSLER VOTE

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. CORCORAN. Mr. Speaker, on Tuesday, the House of Representatives considered legislation to provide a loan guarantee to the Chrysler Corp. On final passage of that measure, I voted against it.

After listening to the debate and talking to people affected by Chrysler problems, one thing in the end determined my vote on this: The issue of a possible increase in imports related to a Chrysler shutdown. The real question, for me, was "Could U.S. automakers move in and expand their production to pick up the slack caused by a Chrysler failure and thus preclude the loss of Chrysler's market share to foreign imports."

As I analyzed the consequences, largely through reviewing and correllating information provided to the Congress by the Treasury Department and the Congressional Research Service, it appears to me that imports would not necessarily expand with a Chrysler collapse. Since 1980 and 1981 appear to be years of varying degrees of economic recession, and since this would result in the underutilization of other U.S. automakers' facilities, they would have the capability to expand their operations to pick up the slack—even if the Chrysler gap reflects a total loss of Chrysler production. I do not believe, however, that plants such as the modern Belvidere facility in Illinois would be mothballed pursuant to a Chrysler bankruptcy and reorganization.

Moreover, there are a number of changes taking place in the automobile industry, and assistance to Chrysler may not be enough to put it back on its feet. Energy costs, the impending U.S. recession, and other factors will make it difficult for any automaker to operate successfully in the near term. By approving this legislation, we would simply be postponing the inevitable. Much as I regret Chrysler's problems and the ill effect of a bankruptcy, the greater mistake would be for Congress to bail out this private company especially considering that some of its problems are traceable to Government policies which must be changed in the early eighties.

If I had been convinced that the result of a Chrysler collapse would be further penetration by German, Japanese and other foreign imports into the American automobile market, my final decision might well have been different.

There certainly were other issues raised in the debate on providing a loan guarantee to the Chrysler Corp. As previously noted, some financial experts have testified that the financial assistance required in the legislation will not be adequate to insure Chrysler's survival. There are several serious philosophical questions involved in this proposal relating to the relationship between business and American Government, the obligation of the Federal Government to aid business enterprises adversely affected by unwise regulation, and the desirability of preventing the failure of one of the Nation's largest corporations (and employers) in the face of an impending economic downturn. I believe that these matters could have received more attention and debate than was the case.

During the debate and in the discourse that took place in advance of yesterday's activities, though, several points were made that merit further emphasis. As a member of the House Banking Committee noted, a Japanese auto worker produces 40 cars per year and receives about $6.50 per hour; American workers, on the other hand, produce 25 cars each year and would be paid $15.50 per hour under the new Chrysler wage plan. The productivity difference, coupled with the unit labor cost comparison, raises significant doubts in my mind that Chrysler can continue to compete in the American automobile market successfully.

The distinguished chairman of the Republican Task Force on Economic Policy, Congressman DAVE STOCKMAN, has contributed greatly to the debate on this matter. In dispelling what he terms "the politics of single-entry bookkeeping," Mr. STOCKMAN correctly points out that lost Chrysler-related jobs will soon be replaced in the economy by more productive positions. That is the nature of our economic system. By giving Chrysler a loan guarantee, and thus moving its requests for credit from the back to the front of the loan line, we would directly contribute to economic inefficiencies that ultimately result in a lower standard of living for the country as a whole than that which would otherwise exist.

Congressman STOCKMAN also notes—again, correctly so—that workers at Chrysler plants are almost universally covered by trade adjustment programs, unemployment compensation, and the like. As a supporter of the trade adjustment concept (since a limited number of American workers should not be asked to bear the total adverse consequences of fair international trade), I am pleased that it has been stressed that Chrysler's employees can be expected to receive special unemployment benefits almost equal to their present incomes, special placement assistance and special job retraining opportunities. It is also pertinent to note that Chrysler pensions will be secure through the pension guarantee program.

I am fully aware that Government regulation of the auto industry over a compressed period of time has substantially caused Chrysler's current condition. I feel this situation has justified my support of reasonable regulatory approaches in the past, and it is relevant to note that I have joined in sponsoring legislation to bring rationality to pending auto-related regulations. Perhaps we can act on that measure and preclude a recurrence of the Chrysler debacle.

However, in the final analysis I voted "no" because of the fact that every banker in the world had refused the credit that we in Congress were being asked to give Chrysler and because I doubt that a Chrysler collapse would really give foreign imports much of an increased share of the automobile market in the United States.●

DIABETES LEGISLATION

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. CARTER. Mr. Speaker, today I am pleased to introduce the Diabetes Research and Training Amendments and National Diabetes Advisory Board Extension Act of 1979. This legislation reaffirms congressional commitment to combat diabetes, one of our Nation's greatest public health problems.

Diabetes mellitus afflicts 10 million Americans, of whom 1½ million are juvenile diabetics. Over 300,000 lives are lost each year because of diabetes and its complications. Moreover diabetes is the leading cause of blindness in this country. Disproportionately, this disease strikes the aged, poor, and black. Despite significant progress in diabetes research and treatment, the incidence of this condition is increasing by 6 percent each year. At this rate, the average American newborn has 1-in-5 chance of becoming diabetic within his or her lifetime.

Mr. Speaker, clearly this disease is not going to disappear overnight. To fight diabetes effectively, we will need to sustain a well-supported and well-coordinated Federal effort on all fronts: research, treatment, education, and ultimately prevention.

Fortunately, Congress has already recognized the importance of a broad-based and concerted effort in this field, as shown by enactment of previous diabetes legislation. Over the years, I have been pleased to sponsor such measures, and work for their passage. The proposal I am introducing today builds on that strong foundation and renews the commitment which Congress has made to address this national health problem. Specifically, my bill would continue for 3 years the National Diabetes Advisory Board and the Diabetes and Research and Training Centers established by Public Law 94-562, and Public Law 93-254 respectively.

In order to appreciate the need to continue these initiatives, I think it would be helpful to review briefly their purposes and some of their accomplishments.

Congress created the National Diabetes Advisory Board in October 1976. Its mandate has been to serve as the national focus for review, evaluation, and advice with respect to the long-range plan to combat diabetes, that had been developed in response to previous legislation. The Federal diabetes effort alone involves eleven component Institutes of the National Institutes of Health as well as the National Institute of Mental Health, the Center for Disease Control, the Indian Health Service, the Division of Emergency Medical Services, the Health Resources Administration, the Veterans' Administration, the Department of Agriculture, and the Department of Defense.

Since its creation, the Board has served as an important catalyst for the coordination of efforts among each component of the diabetes community. For example, the Board has aided in the implementation of numerous cooperative programs: 5 model diabetes care programs on Indian reservations, 10 CDC-sponsored community-based diabetes control programs, the creation of the Intra-NIH Coordinating Committee, the development of the National Diabetes Data Group and National Diabetes Information Clearinghouse, and the development of improved guidelines for the multidisciplinary Diabetes Research and Training Centers. These and other activities with which the Board has assisted illustrate the importance of an organized, broad-based effort to fight diabetes.

The Board's expertise and varied constituency is another important factor in its success. As a result the Board has been able to initiate, as well as participate in, a wide range of activities which have enhanced the overall diabetes effort. The Board is also uniquely suited to respond to a variety of policy issues affecting the diabetes community. For example, in 1977, an FDA report questioned the adequacy of insulin supplies during the next decade. The Board expeditiously established an ad hoc committee composed of its members and expert consultants and invited representatives of domestic and foreign pharmaceutical companies, the meat packing industry, and responsible Federal agencies to participate in the collection and analysis of data relating to the supply of and demand for insulin. Within 3 months, the Board was able to establish that insulin supplies were indeed adequate through the end of the century. This ad hoc committee presented a carefully reasoned set of guidelines by which the availability of insulin could be monitored effectively by both Federal and private sectors.

Mr. Speaker, this is just one example of the unique ability of the Board to contribute to our Nation's efforts to control, and ultimately, prevent diabetes. My legislation would continue for 3 years authority for the operation of this Board, which would otherwise expire on September 30, 1980. Under my bill, funding would be authorized at the same level as current law, $300,000 annually, for the next 3 years. To assure effective coordination and guidance of the national diabetes effort, I believe continuation of the National Diabetes Advisory Board is essential.

The other major component of the Federal diabetes effort which is extended by my legislation is the authority for the diabetes research and training centers. As you may recall, Congress authorized the establishment of these centers in 1974, under Public Law 93-354, to accelerate the transfer of research information to health professionals. These training centers provide core research facilities and short-term support for pilot and feasibility studies. They also conduct special education and information activities. At the present time, there are eight diabetes research and training centers funded under this authority located in New York, Indiana, Michigan, Missouri, Illinois, Massachusetts, Tennessee, and Virginia.

Diabetes research, which has been encouraged by the National Diabetes Advisory Board, and conducted in part, through these centers, has resulted in significant breakthroughs in the treatment, cure, and possibly prevention of diabetes. In the last year alone, the following advances have been reported:

Yale University's Dr. Philip Felig developed a miniature battery-powered artificial pancreas, worn at the waist, which feeds a continuous supply of insulin to meet the fluctuating needs of the diabetic. With sustained and appropriate delivery of insulin, the complications of the disease may be lessened or even avoided.

Dr. Paul Lacy of Washington University devised a way to transplant insulin-producing islet cells and overcome rejection of the body's immune system. If this process should one day, work in humans as it does in laboratory animals, such transplants could provide a natural insulin supply to diabetics.

Dr. Arthur Riggs and his team at the City of Hope in California, as well as Dr. Walter Gilbert of Harvard University, reproduced human insulin using recombinant DNA techniques. This insulin may soon provide a purer, more compatible alternatives to the pork and beef insulin now used by diabetics.

Dr. Kenneth Gabbay of Harvard University located the specific genetic marker for diabetes, which may one day make it possible to identify high-risk candidates before they develop diabetes.

Dr. Abner Notkins of the National Institutes of Health established a firm link between juvenile diabetes and the Coxsackie B4 virus. Eventually, a diabetes vaccine could be developed for those who have an inherited susceptibility to the disease.

Thus, although many unanswered questions remain in this field, it is evident that Congress support for the Federal diabetes program has proven to be an investment which is yielding large dividends. It is also clear that future progress in this field depends on a strong research component. In that regard, the diabetes research and training centers offer a unique resource for interaction between traditional biomedical research and health care delivery.

The legislation I am introducing today will extend the authority for the diabetes research and training centers for 3 more years, beyond current law's 1980 expiration date. My bill would authorize $14 million for fiscal year 1981, $17 million for 1982, and $20 million for 1983. Included in the funding for these centers, the legislation would provide up to 10 training stipends for each center to strengthen the training component.

Finally, I should mention that my proposal would provide for the statutory creation of the position of the Associate Director for Diabetes, Endocrine, and Metabolic Diseases. Although this position has been created administratively, I believe it is appropriate to require it in the statute, and to delineate the specific responsibilities of this important position.

In conclusion, Mr. Speaker, I believe the Federal diabetes effort has resulted in a remarkable record of achievement over the past half-decade. Through the combined efforts of many, many dedicated individuals, including Federal officials at the National Institutes of Health and the Center for Disease Control, as well as the American Diabetes Association and the Juvenile Diabetes Association, effective diabetes research, treatment, and control programs have been established. The framework for a broad-based, well-coordinated effort to fight diabetes has been set in place and its activities are well underway. We are now at a critical juncture, and we cannot afford to lose the momentum already gained. I strongly urge my colleagues to support this legislation so that the diabetes movement can continue to mature and realize its fullest potential in the coming years, and thereby benefit millions of Americans.

Mr. Speaker, the full text of my proposed legislation follows:

H.R.—

A bill to amend the Public Health Service Act to revise and extend the programs of the National Institute of Arthritis, Metabolism, and Digestive Diseases with respect to diabetes, to revise and extend the authorization for the National Diabetes Advisory Board, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE: REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Diabetes Research and Training Amendments and National Diabetes Advisory Board Extension Act of 1979".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

NATIONAL INSTITUTE OF ARTHRITIS, METABOLISM, AND DIGESTIVE DISEASES

SEC. 2. Section 434(b) is amended to read as follows

"(b)(1) There are established within the National Metabolism, and Digestive Diseases Advisory Council a subcommittee on diabetes and related endrocine and metabolic diseases, a subcommittee on arthritis, a subcommittee on digestive diseases, and a subcommittee on kidney diseases. The subcommittees shall be composed of members of the Council who are outstanding in the diagnosis, prevention, and treatment of diabetes and related endrocine and metabolic diseases, arthritis, digestive diseases, and kidney diseases, respectively. The subcommittees shall review applications made to the Director for grants for research projects relating to the diagnosis, prevention, and treatment of diabetes and related endrocine and metabolic diseases, arthritis, digestive diseases, and kidney diseases and shall recommend to the Advisory Council those applications and contracts which they determine will best carry out the purposes of this part. The subcommittees shall also review and evaluate the diabetes and related endrocine and metabolic diseases, arthritis, digestive disases, and kidney diseases programs under this part and recommend to the Advisory Council such changes in the administration of such programs as they determine are necessary.

"(2) The Advisory Council, taking into account the recommendations of the subcommittees, shall review the applications made to the Director for grants for research projects and recommend to the Director for approval those applications which the Advisory Council determines will best carry out the purposes of this part, and shall recommend to the Director such changes in program administration as it determines are necessary.".

ASSOCIATE DIRECTOR FOR DIABETES, ENDROCRINOLOGY, AND METABOLIC DISEASES

SEC. 3. Section 434(d) is amended to read as follows:

"(d)(1) There is established within the Institute the position of Associate Director for Diabetes, Endrocrinology, and Metabolic Diseases who shall report directly to the Director, except as provided in paragraph (4).

"(2) Acting through the Associate Director for Diabetes, Endocrinology, and Metabolic Diseases, the Director shall—

"(A) carry out programs of support for research and training in the diagnosis, prevention, and treatment of diabetes mellitus and related endocrine and metabolic diseases, and

"(B) establish programs of evaluation, planning, and dissemination of knowledge related to research and training in diabetes mellitus and related endocrine and metabolic diseases.

"(3) The Associate Director for Diabetes, Endocrinology, and Metabolic Diseases shall have primary responsibility for all diabetes-mellitus-related activities supported or conducted by the National Institutes of Health, shall serve as an information resource and contact point for public and private agencies with respect to such activities; and shall report and make specific recommendations to the Director of the National Institutes of Health with respect to the functions described in paragraph (4) on a regular basis.

"(4) After consultation with appropriate Federal agencies, the Associate Director for Diabetes, Endocrinology, and Metabolic Diseases shall be responsible for—

"(A) development of a coordinated plan for the National Institutes of Health with respect to diabetes-related research; training; and data and information collection, analysis, and dissemination;

"(B) development of sound management approaches for diabetes-related activities within the National Institutes of Health;

"(C) collection and evaluation through the National Diabetes Data Group of epidemiological data with respect to diabetes;

"(D) monitoring and review of diabetes-related expenditures by the National Institutes of Health and identification of research opportunities in Federal diabetes-related activities, including specific recommendations for means to take advantage of such opportunities;

"(E) coordination through the National Diabetes Information Clearinghouse of information dissemination activities with respect to diabetes; and

"(F) preparation and submission to the Director of the National Institutes of Health of an annual, coordinated budget for all diabetes activities supported by the National Institutes of Health, including specific recommendations with respect to fiscal issues relating to such activities.".

DIABETES RESEARCH AND TRAINING CENTERS

SEC. 4. Section 435 is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and inserting after subsection(a) the following new subsection (b):

"(b) In connection with training programs conducted in accordance with subsection (a), the Secretary shall provide, from the amounts appropriated under subsection (d) and through centers developed or expanded under subsection (a), not to exceed ten training stipends in any fiscal year through each such center."; and

(2) by striking out "and" after "1979", in subsection (d) (as so redesignated) and inserting before the period ", $14,000,000 for the fiscal year ending September 30, 1981, $17,000,000 for the fiscal year ending September 30, 1982, and $20,000,000 for the fiscal year ending September 30, 1983".

NATIONAL DIABETES ADVISORY BOARD

SEC. 5. (a) Section 436A(a)(1) is amended (1) by inserting "nonvoting," before "ex officio", (2) by inserting ", the Director of the National Institute of Child Health and Human Development or his designee" before ", the Director of the Center", and (3) by inserting", the Associate Director for Diabetes, Endrocrinology, and Metabolic Diseases of the National Institute of Arthritis, Metabolism, and Digestive diseases or his designee" before ", the Chief Medical Director".

(b) Section 436A(e) is amended to read as follows:

"(e) The term of office of appointed members of the Board is three years, except that in the case of the appointed members serving on the date of enactment of the Diabetes Research and Training Amendments and National Diabetes Advisory Board Extension Act of 1979—

"(1) the term of office of six of such members shall expire three years from such date, and

"(2) the term of office of six of such members shall expire two years from such date, as designated by the Secretary within ninety days of such date.".

(c) Section 436A(f) is amended—

(1) by striking out "Act, and" in paragraph (1) and inserting in lieu thereof the following: "Act and amended in accordance with paragraph (2),"; and

(2) by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraph (2):

"(2) amend and make such changes in the Diabetes Plan as the Board determines are necessary to insure the Plan's continuing relevance, and".

(d) Section 436A(k) is amended by striking out "and" after "1979," and by inserting before the period", and each of the next three fiscal years".

(e) Subsection (1) is amended by striking out "1980" and inserting in lieu thereof "1983".●

A POEM APPROPRIATE TO AMERICA'S CURRENT QUEST FOR ALLIES AND SUPPORTERS IN OUR FIGHT AGAINST THE IRANIAN AGGRESSION

HON. SAMUEL S. STRATTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. STRATTON. Mr. Speaker, a good friend of mine from Amsterdam, N.Y., the Reverend Father John F. Krzysko, has been good enough to bring to my attention a poem that has recently been featured in the press, written by a Canadian, which appears to him and to me to be appropriate to the distress that this country finds itself in as it tries now, in the face of the illegal Iranian aggression, to seek some substantial help and support from countries that in the past have been the recipients of American aid, support, bounty, and largess.

Father Krzysko suggests that this poem be played at the beginning and end of each day on American television and radio stations. I think the Father has a very interesting idea.

The text of the poem follows:

THE TALL THIN MAN

I stand tall at seven feet two
Clothed in Red and White and Blue.
I've grown large so all can see
I serve the slaved and the free.
And all who seek shall truly find
That I am also "color blind".

Trouble strikes and I am there
I'm on call to everywhere.
The world is large, but when in need
I clothe, I heal, I also feed.

Sure at times my heart does bleed
When those I've helped when in need,
Soon forget and will not share
When others plead and need their care.

Can I hope that other nations
Will share a portion of their rations?
What will happen when I stop
When disaster kills my crop?

Let's take him gently by the hand
Thank the Lord for this great land.
If only all could understand
The kindness of the Tall Thin Man.●

EDITORIALS IN THE AMSTERDAM EVENING RECORDER EXPOUND A SANE, SENSIBLE AMERICAN PHILOSOPHY

HON. SAMUEL S. STRATTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. STRATTON. Mr. Speaker, in my home town of Amsterdam, N.Y., the local newspaper, the Amsterdam Evening Recorder, has long exercised a very remarkable role of community leadership. It has been in the forefront of the fight to modernize and revitalize a city that suffered a heavy economic blow in the late fifties when the carpet industry moved out. It has also espoused a hard-hitting, dynamic editorial policy in behalf of sound, sensible American principles of thrift and patriotism.

It is a privilege, Mr. Speaker to bring a few of these editorial essays to the attention of my colleagues, because I believe their wisdom deserves a wider audience.

In so doing, Mr. Speaker let me at the same time pay tribute to the hard-working, energetic publisher of the Recorder, Mr. Charles Miller, and to the editorial page editor, Mr. Stanley Silvernail, for this very significant contribution to editorial excellence.

The editorials follow:

WE DARE NOT IGNORE SCHLESINGER'S WARNING

Whether or not we like exiting Secretary of Energy James R. Schlesinger, and many do not because of the bluntness with which he has told us so much bad news in recent months, he is a very wise man and we owe it to ourselves to give attention and thought to what he had to say in his farewell address.

What we all have feared and haven't liked to even think about the consequences, Secy. Schlesinger gave voice to last week.

Soviet Russia, he said, in more professorial language but equally bluntly, is taking dead aim at controlling the oil tap in the Middle East, and if they are successful, "it will mean the end of the world as we have known it!"

Although it is more fashionable in government circles to wishfully think that the Kremlin could have no such sinister designs on the welfare of the Western World, what Schlesinger said is not the far-out thought of a "crazy," but the actual fact based on a realistic appraisal of overt Soviet actions in Iran, Yemen and elsewhere in that section of the world, not to mention covert influence in Libya and other trouble spots.

What will we do if the Soviets manage to turn off the Middle East oil spigot on us?

If it happens, it will be the greatest crisis in American and Free World history. Whether we are able to survive politically and industrially depends on how well we have managed to prepare ourselves through conservation and development of alternate energy sources.

We wish to call particular attention to these Schlesinger words:

"Even if the flow of oil is maintained, it will no longer be available in increasing quantities . . . and the use of coal and nuclear power will jointly have to grow—at the rate of 6 percent per annum if we are to maintain moderate economic growth."

Nuclear power has been a "bad word" since the accident at Harrisburg a few months ago. But even so, we cannot afford to abandon it as blow-with-the-wind New York State energy commissioner James Larocca would have our state do in his blueprint for our future.

We must retain, develop and improve every energy source that we now have, including nuclear energy, as well as exploit our vast coal deposits, integrate alcohol production into our fuel spectrum, and work diligently at developing solar, wind and wave energies. Above all, we must learn to really conserve energy where we have either wasted it or spent it lavishly.

Anything less, and the "end of the world as we have known it" will be more than a warning in a farewell address.

Verification of SALT II a Reason for Worry

Of all of the criticisms of the proposed SALT II arms limitation treaty with the Russians that we have heard, the one concerning doubt of America's ability to verify Soviet compliance seems the most clear-cut, the most indisputable.

We have succeeded in defanging our intelligence agencies to the extent that our government is in the unenviable position of continually being surprised by international developments and thus reacts too slowly and often in such a way that it makes us appear to be the "heavies" when in truth what we are seeking is world stability and peace and the advancement of self-determination and human rights for all the world's people.

If there was ever an "incident" which showed up our intelligence weakness for what it is, it is the current "crisis" over Russian troops in Cuba.

We have obviously been surprised by the discovery of Soviet troops in the island only 90 miles off the coast of Florida which have been there three years according to American versions and 17 years according to Moscow. They are 2,000 to 3,000 Soviet combat troops there according to our government, and only troops to train Cubans in use of Russian weapons, according to Pravda.

No mater what they are, they do not appear to be a military threat to us. It is our belated discovery of the Russians on Cuba which is more worrisome.

If our intelligence has trouble identifying Russian troops only 90 miles away, how on earth can we expect to keep tabs on Russian compliance with the very technical treaty aspects, when they have successfully resisted almost every treaty provision that would have provided us an easy means for verification?

We have an open society in which Soviets have only to go to a newsstand to obtain periodicals which, along with public congressional records, give them all the information they need to verify our compliance.

They, on the other hand, have a closed society and no such information is available to us. In addition they have encrypted the telemetry on a number of intercontinental missile tests, and we do not encode telemetry. And the agreement gives each side the freedom to encrypt, but bans "ecryption which deliberately impedes verification." And who is to say what is deliberate?

These are just a few of many verification concerns. But perhaps our gravest concern should be the accuracy of our own intelligence and its ability to penetrate the enigma which is the USSR.

Our intelligence, even in healthier days repeatedly underestimated the timing of Soviet development of several sophisticated weapons systems. Our intelligence monitoring facilities in Iran have been uprooted by revolution and political turmoil there.

We have, in short, a very real problem of verification. We know it and the Russians know it. And when and if the treaty is ratified either in its present form or as possibly amended by the Senate, the American people would be well advised not to feel too secure or to be lulled into complacency by it. A security blanket, SALT II is not.

Our Response Has Left the Door Open in Cuba

Our response to the presence of the Russian combat brigade in Cuba will be meaningless military maneuvers and a beefing up of our Caribbean task force, which will impress or scare the Soviets not a whit.

The combat brigade certainly in itself does not represent a military threat to America. But in a larger sense, an adequate American response would seem to be vital to prevent future, more serious encroachments of the Soviet military might into the Western Hemisphere.

It was but 17 years ago this month that President John F. Kennedy took the bold action that forced the removal of attack bombers and other offensive weapons from Cuba. Today, in Cuba, not only is there the Soviet brigade of foot soldiers, but much more importantly, there are attack planes with nuclear capability and attack submarines.

The Soviet Union is apparently going to make full use of its New Hemisphere puppet not only to supply troops for communist military incursions in Africa, but also the island itself as a base for increased political and military activity in Latin America.

We do not believe in the 1979 Cuba incident it would have been necessary to take the same risky quasi-military solution that worked in 1962 because the Russians, then quite a distance back of us as number two in military might, decided not to call our hand and risk possible military consequences.

But now the situation is different. They continued to build military might while we were dissipating ours in a gallant but failing military effort to stem the communist takeover of an Asian ally. If they are not number one in strategic military capability already, they soon will be.

In this confrontation, we held one trump which President Carter chose not to play. The SALT II treaty, which the Russians want more than we do, is about to come before the Senate for ratification. Instead of a meaningless response, which is certain to be ignored, we could have said we will not even consider SALT II until offensive military troops and weapons are gone from Cuba. But we did not.

And a few days before we backed off in Cuba, the Carter administration was successful in defeating a proposed 3 percent increase in defense spending that was introduced in the House by Rep. Samuel Stratton—this despite the fact that President Carter had pledged to NATO countries that he would support a real (above inflation) 3 percent increase in defense spending. As a result the House passed a 1.5 percent increase. But the Senate was undaunted, it went ahead and passed a 5 percent increase, after the Administration had grudgingly proposed a 3 percent increase in the Senate after defeating it in the House.

This led a Democratic senator, Sam Nunn, to characterize the Carter position as "a fake to the right while winking to the left."

The same comment would adequately describe the American response to the Cuban "crisis," which has left a door open that we may one day wish we had kept closed.

Defense Spenders Seem Immune to Studies

The newest study of military spending pretty much confirms in detailed data what we have all been aware of: That there is drastic imbalance and inequity among regions of our country and that the Northeast and North Central states are getting the short end of the stick.

Our own state fares more poorly than most. We send to Washington in taxes about $10 billion a year that goes toward costs of national defense. We get about $5 billion back in military expenditures.

The new study just completed by Prof. James R. Anderson of Michigan State University, delves into the pluses and minuses of various congressional districts in terms of defense spending in relationship to taxes contributed.

In our district represented by Rep. Samuel Stratton of Amsterdam, one of the highest ranking members of the armed services committee, we send $169.8 million more to the Pentagon yearly than we get back. Rep. Donald Mitchell's 31st District, is on the plus side, because Griffiss Air Force Base is within its borders.

Because New York and the 28th District are losers is no reflection on our senators and Rep. Stratton. Sen. Moynihan and Rep. Stratton have been particularly active in trying to bring about a change in Pentagon construction and buying habits, which have been tilting unfairly to the South and Southwest since before World War II.

Pentagon officials, from time to time have reacted almost angrily, to pressures from the losers to receive a fairer share of the defense dollar. It is becoming obvious that the desire to do their training, soldiering and flying, and much of their purchasing, in the Sun Belt is so well ingrained that any considerable change will be resisted.

It is ironic that Congress, itself, could have influenced that change, but it did not.

Only two weeks ago, Sen. Moynihan sought to amend the Defense Appropriations bill, by repealing the so-called Maybank amendment which has been in effect 26 years, and in effect excuses the Pentagon from having to spend a certain proportion of its funds on purchases from firms in areas of high unemployment.

The Moynihan amendment lost 29 to 59, and inexplicably several senators from New England and the North Central states voted against it. The same thing happened in the House when the repeal of Maybank was attempted a couple of months earlier. Between absenteeism , and some hard-to-believe opposition from states which would have benefitted, the cause was lost.

Passage would have meant several millions of dollars and several thousand jobs in our state alone.

But it was not to be. Studies on the transfer of wealth from the Frost Belt to the Sun Belt will probably continue, only to be tucked away on a dusty shelf. Pentagon procurement officers must be laughing up their sleeves.

Peace, Respect Belong to the Resolute, Strong

It is relatively easy to look back with wise hindsight and say what we should have done to avoid the crises that has befallen our diplomatic personnel in Iran, Pakistan and other points in the inflamed Middle East.

There will be many highly critical analyses on this score, and most of them will belabor the Carter administration for repeated indecision, weakness and vacillation in the face of almost every test of our strength over the past three years.

We have been too slow in our decision-making and too weak in our national resolve not only in Iran, but in Nicaragua, the Russian troop crisis in Cuba, in Yemen, and Africa, incursions with direct Soviet and Cuban involvement.

This country has become a paper tiger, feared by no one and respected by few, even though our assistance to their governments and humanitarian acts toward their peoples are legion.

Some would lay the full blame on the Carter administration for its genteel approach to foreign policy in a divided world where muscle and the willingness to flex it are respected, and not much else. Even in the Free World, our weak resolve is abhorred.

But hasn't the Carter administration been reflective of the general feeling of the American people? Likely, it has. America lost much of its national resolve in and after the Vietnam War; it has been part of our malaise of spirit, that has seen a great decline in our confidence in our government, and in our patriotic feelings.

Since the Iranian mob action against our embassy people in Tehran, patriotism has been taken out of the closet, and Americans are demanding strong action against Iran.

But, alas, it would appear that there is no military action available to us now which could extricate the Americans safely without taking an unacceptable toll of lives of both Americans and Iranians. A commando raid could not succeed without a blood bath. A blockade of Iranian ports is a possibility, but we would be immobilizing and rendering defenseless some Free World countries which run on Iranian oil.

What big stick is left? The cutting off of exports of technical items, spare parts, even food, seems like a probable step. But it probably wouldn't free the captives from the mob. And it is not likely that sending the shah back to Mexico or to Egypt, or Iranian students back to Iran would change anything.

This not yet the time to circle the wagons. The best thing right now is to work through diplomatic channels to bring greater world influence to bear on our predicament. Even countries which might be happy to see us on a griddle, are fearful of the consequences of encouraging terrorism and mob action, to which they may one day fall victim.

Should the civilized world fail this test and should our embassy people be tried as spies and executed, as has been threatened, the Iranians should understand that it will not be tolerated by Americans and the consequences to them will be severe.

And from this lesson the American people should relearn what we used to know—that peace and international respect belong only to the resolute and the strong.

The CIA was torn apart in the post-Watergate probe. Now we have the incredibly bad state of U.S. intelligence in Iran and the utter inability of the CIA today to mount serious clandestine operations—a "must" for a country with an open society in competition with the Russian closed society. What is so ironic is that many of the officials that now want the CIA rebuilt fast are the very ones who helped tear it down. In any event, the CIA must have urgent priority in a total and rapid rebuilding program.

Lessons of Pearl Harbor Quickly Forgotten

The attack on Pearl Harbor this date, 38 years ago, in 1941, has unfortunately been pretty much forgotten by Americans everywhere.

Of course, it will never be forgotten by the American sailors and airmen who lived through it or by the parents and friends of those who did not. And it is remembered and observed by a few at wreath-laying ceremonies as it was in Amsterdam this morning.

But generally, it has been all but forgotten, perhaps because it is not a pleasant memory to retain.

And that is as much of a tragedy as the sneak attack and the loss of 1,500 lives, along with much of our Pacific fleet and airpower. For in experiencing it, we should have had an important lesson burned indelibly in our brains.

But the lesson didn't take that we must remain militarily strong, be always vigilant, be fair but firm in our international dealings and never abandon our world leadership role. And now we are being kicked around in Iran by terrorists with encouragement and acquiescence of the Iranian government.

With the end of our ill-fated attempt to help an ally, South Vietnam, beat off an aggressor in Southeast Asia, a war that divided the American people and wrecked our national spirit, the gangrene of retrenchment from our world leadership role and military preparedness began to set in.

Because the draft had an unbearable connotation to many of our young people, we abolished it and have tried to run our military forces with volunteers, which professional military people will admit has been something of a disaster. We have a strong nuclear capability, best or next best in the world, but a nuclear war is out of the question unless combatants are willing to destroy world civilization. A conventional war of much magnitude would find us largely unprepared either in armament or spirit.

Until the Iranian situation was upon us, patriotism was largely invisible even on patriotic holidays. The lack of national resolve was reflected in governmental decisions and policy. And where we once had a containment ring of military bases around our most potential adversary, Soviet Russia, we have stood aside while it made incursions in Africa, the Middle East and even in the Caribbean. The Middle East oil fields are all but surrounded—not by us but by the Russians. Oil is already a weapon—it may be THE weapon of any future conflict.

Pearl Harbor Day 1979 finds the paper tiger, as some call us, growling, and the sleeping giant awakening. Which may bode well for the future if we do not go back to sleep once our Tehran captives have been freed. We may have difficulty remembering Pearl Harbor, because it was long ago, but we shouldn't have difficulty remembering Tehran.●

LESSONS OF THE LOVE CANAL

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. LaFALCE. Mr. Speaker, early in November I had a conversation with William Branche, formerly editorial page editor for the Niagara Gazette in Niagara Falls, N.Y. Bill has been a voice of reason and of sensitivity in Niagara Falls for some time now, and his editorial coverage of the Love Canal tragedy in that city was of great importance as the dimensions of the problem became known throughout the months of agony which, unfortunately, still continue.

Bill had left his role as editor when we had our conversation, but he had not severed all ties with the Gazette, retaining an association as a part-time editorial commentator. Knowing as I did his background with the Love Canal situation and the uncanny talent he has in using the English language, I felt that he, perhaps more than anyone else, might be in a position to bring the Love Canal history into perspective and recount what was done, for what reasons, and provide a focus for the future Love Canals this Nation will undoubtedly face.

A few days later the Gazette printed "Canal's Lessons," Bill's reaction to our conversation. And I believe, Mr. Speaker, that no one could possibly have said what he said better, or more properly framed the kinds of questions that were faced at the Love Canal and that will be faced in similar situations down the road.

As can be seen in the editorial, which I am submitting for printing in the RECORD following these remarks, numerous public policy judgments were made and are being made—about temporary or permanent relocation of residents of the Love Canal neighborhood, about revitalizing that neighborhood, and diverse other actions—with relatively little solid scientific knowledge on which they could be based.

Wherever the next serious case of long-term human exposure to chemical contamination may occur, let us all hope that the questions raised so cogently in "Canal's Lessons" will have been answered; for only if that is true will we know that our system of government is really trying to provide a responsible level of protection to the citizens of the United States. And the impetus in the future must come from the Federal Government.

The editorial follows:

Canal's Lesson

The trouble with what now looks to be the final act of the Love Canal drama is that it appears nobody who counts—the local, state, and federal governments—has learned the principal lesson of it.

Everybody has learned a lot about what to do with chemical wastes, but nobody has learned much about what to do with people. More precisely, nobody has decided what ought to be the conditions under which people should be permanently or temporarily evacuated from a contaminated area.

There have been various evacuations from Love Canal, including the one that is to come under the newest state law affecting the area. But all of them have come about because public officials couldn't stand the heat of resident and public pressure any more. They were the right actions for the wrong reasons.

It should not be necessary for people whose lives may be in danger to wring help out of their governments. The help ought to be automatically forthcoming as soon as the danger is discovered. But at Love Canal, neither the political nor the medical authorities ever did agree on how to define the level of danger that would justify evacuation.

The defining can still be done. Should be done, for there are almost certainly more Love Canals in this region's and this country's future.

What is needed is a method for applying what is known about chemical wastes and their effects upon human health situations in which combinations of wastes are present in the environment. What is needed is a standard which says that people shall be evacuated from their homes at public expense when certain levels of chemical contamination have been reached.

There is nothing easy about setting such a standard. The effects of many chemicals are only vaguely known. Moreover, the effects are often slow to appear in human beings, or are difficult to recognize when they do appear.

But since the object of such a standard is to prevent any effects from appearing, then it becomes chiefly a matter of setting the standard low enough. Lower, probably, than the standards for industrial exposure to chemicals, which presuppose eight-hour-a-day exposures of healthy adults, not 24-hour-a-day exposures of people of all ages and conditions.

Defining acceptable standards for evacuation of endangered populations is going to be an arduous and contentious task. But it must be done if localities, states, and the federal government are to deal intelligently with the next Love Canal, and the ones after that. It must be done as the unfortunate citizens affected by the next Love Canals will have the protection they ought to expect from their governments.●

EPITAPH FOR AMERICA

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. DORNAN. Mr. Speaker, America faces multiple crises as the Nation looks to another decade. Our economy is in dire straights. Our foreign policy wavers with each global incident as our strength and resolve is questioned by ally and foe alike.

At the root of our problems, domestic and foreign, is America's "lack of will." These are difficult times. Hard decisions must be made and unfortunately, many do not want to face them. Until this country can boldly set its goals and exert the resolve to take its place as the leader of the free world, we cannot expect to find any lasting peace, any lasting stability.

I strongly recommend to my colleagues the following article by Vice Adm. E. F. Rectanus, USN retired, "Epitaph for America." His words on the future are powerful and moving and deserve our attention.

The article follows:

EPITAPH FOR AMERICA

(A presentation by Vice Adm. E. F. Rectanus USN (Ret.)

In the words of one of the great men of our era, Alexander Solzhenitsyn, "Friends, I have not come to tell you comforable things, but I have come to tell you the truth."

Here lies the only civilization that perished at the peak of its power, with its power unused.

Here lies a decent people who wanted love, not empire, and got neither; who tried to trade power for popularity and lost both.

Here lies a nation of advertisers who knew how to change consumer tastes in cigarettes, but were themselves manipulated on the issues that really mattered to their Salvation.

Here died a sort of Lancelot in the court of nations who, granting all his grievous flows, was still perhaps the noblest Knight of all—except, this Lancelot . . .

Crippled with an underserved Guilt complex—let his weapons and ideals fall unused—and so condemned all Mankind to the thousand-year winter of the Russian Bear.

Somehow, the words of Frank Barnett have a rather hollow sound for us sophisticates of the late 20th century America. Such an exaggeration—really unthinkable . . . this strong great country of ours . . . melodramatic . . . unreal . . . I don't believe it . . . We are not Rome and the barbarians do not exist . . .

I am here tonight to talk to you about thinking about the "unthinkable". About thinking about "survival" . . . about whether survival is important; whether trading "liberty for mere existance" is worth it; whether it is really better to be red than dead.

Has the "United States passed its historic high point like so many other earlier civilizations." Is the United States on the downhill and cannot be roused by challenge. Must we obtain only the "best deal we can get, recognizing that the historical forces favor the Soviets." Must negotiations with the Soviets be favorable to them because the American people lack the stamina to stay the course against the Russians who are "Sparta to our Athens."

Let us look at the canvas . . . or maybe look at the mirror.

We have met the enemy and he is us!

Our standard of living has and is significantly declining. Inflation, debt, oil, energy, taxation . . . Who is guilty; at whom do we point the finger of guilt? At us!

Who wants the government to become the recipient of all their insecurities, but only vote when it is convenient. Who else but us! We want the government to protect us against being sick, old, female, fat, Indian, a consumer, Hispanic, alcoholic, homosexual, an undisciplined child or a battered wife.

Our usual reaction to rising prices, for example, is a demand for higher salaries and government regulations. This in turn requires higher taxes. Do you realize that you worked 153 days last year to pay taxes? In fact, at 7:12 a.m. on June 2, 1979, you started to keep the money you earned. (Congressman Mickey Edwards)

One of the principal reasons for our higher taxes and souring cost of goods and services is the huge bureaucracies we have developed to take care of our so-called needs. Public education provides a good example, where the enrollment has decreased as the cost of education has increased. At the same time, the academic achievement of later elementary and secondary students has declined every year for 15 years. The average eighth grade student today reads, writes, and computes only as well as the average sixth or seventh grade student did in the early 1960's. This same period, however, has witnessed an equally sharp and consistent increase in the grades awarded these students.

This historical fact of educational and economic progress is part of our American heritage; each generation of Americans has outstripped its parents in education, in literacy, and in economic attainment. For the first time in the history of our country, the educational skills of one generation will not surpass, will not equal, will not even approach those of their parents. . . Progress has become decline. (Paul Copperman)

If the symptoms of educational decline are apparent, we might suggest that the societal values have, if not declined, at least significantly changed in the past twenty years. Rarely any more do we hear such things as "Give me liberty . . .". . . they sound sort of "corney"! Where are the great Memorial Day parades . . . where are the work ethic values. Can we really say that the societal values today are on a higher plane than in the past . . . few would say they are.

On the altar of individual rights, we have sacrificed the rights of the injured for the rights of the criminal. To compensate for our declining standard of living, we all too often sacrifice homogeneity and values of family for the new leisure desire. As the price of gasoline increases, we need to cut back on our food budget.

We have time to demonstrate for all manner of causes except those that really matter to our survival . . . we have time to demonstrate but little time for production or learning . . .

Reflect for a moment. . . For the last eight years, IDI AMIN has ruled Uganda with an incompetence and cruelty remarkable even for the 20th century. His regime and that of POL POT in Cambodia finished in a dead heat for the worst in the world. Still, obvious as that has been, the AMIN regime has not been a target for protest around the world. No university students picketed against AMIN. No committees of concerned this and that sprung into action. No conferences were held. Moral indignation about AMIN's depredations has been muted, sporadic. Yet the chief targets of international moral outrage remain Rhodesia, South Africa, Chile, and until the fall of Shah, Iran; all far preferable to AMIN's regime, and all friends and allies of the United States, all anti-communist. (Jeffrey Hart)

If our societal values declined and have weakened our moral fiber, what has happened to us in the economic sphere.

The philosophical flabiness of societal values have obviously affected our economic outlook, but few Americans realize just what has been happening.

A "median" family can no longer afford a "median" home. Consider that in 1950, a median-priced home in this country cost $7,300. In 1979, $54,000. In 1950, the median income was $2,619. In 1979, $12,800. Under the 2½ times income thumb-rule, today's median income family can only afford to buy a $37,000 home. Or, put another way, under the Federal government's 25 percent guide of annual income to cover the costs of owning a home, a family would have to at least earn $32,880 to own a $50,000 home. . . . We are a buy-now-pay-later society!

This philosophy has serious, even grave ramifications. Let us look at our debt which must be paid some day by someone, unless it is repudiated . . . which of course means a major change in our present way of life.

The national debt increases at a rate of one billion or more each week. Richard Russell, the noted publisher of Dow Theory Letters ponders "How the devil is the U.S. going to continue financing this rising debt year after year. How can this enormous and growing debt possibly to kept afloat,"? he asks.

In answer, he points out that the total continual inflational process slowly wipes out all the lenders as their receivables become worth less and less. Finally, long-term bonds become impossible to sell and the entire debt moves into the shorter term area. And the short term debt then rolls over at an ever-increasing rate. Meanwhile, the stock, commodity and money markets attempt to adjust to the indexing monster. As paper dollars become worth less and less, the price of stocks and things cost more and more. The bond market, seeing the destruction of values, drops lower. The long end of the bond market is gradually phased out of existence. Finally bonds with maturities of more than five years are the object of derision—they are unsalable.

Russell asks "Is this the way its going to happen? Is this the way it will look as the U.S. economy slowly sinks into a sunset of unmanageable debt?"

Tangentially, did you know that the budget of the Department of Health, Education and Welfare is larger than any budget in the world with the exception of Russia's and the total U.S. budget.

Sometimes, we tend to scoff at what appears to be simplistic observations, but in many cases, the final answers come down to separating the wheat from the chaff. A recent letter to the editor is a case in point. Mayor Hopfer of Youngwood Pa., asks about revenue sharing. . . . He points out that $6.8 billion of the money we give to the Federal government comes back in revenue sharing. Dividing this among 220 million Americans, brings the individual rate to $30.91 annually. Therefore Youngwood's 3,700 people should be getting $114,700 which of course is not happening.

Why couldn't we keep the money and subtract it from the federal income tax returns. If we could keep that amount in Youngwood, we could eliminate the real estate tax; drop the per capita tax; the occupation valuation and privilege taxes; and then reduce our earned income tax by 30%. "Just tell me what it is that we are sharing," he asks.

Further on the economic front, we see other signs of decline. I need not talk about the deplorable state of our merchant marine and that 75% of our sea borne exports are transported in non-U.S. flag carriers. Nor do I need to tell you, we are economic hostage to OPEC for oil and to foreign countries for large percentages of strategic materials. But what is significant, is that our country is making negligible progress in this regard. The latest setback of course is nuclear power.

The success of Washington's and New York City's massive anti-nuclear demonstrations and then continuing political fall-out has made it clear that the cost, safety, and reliability of nuclear power is going to be one of the great issues of the next decade—the Vietnam of the 1980's. Unfortunately, the same disregard for long term social and political consequences once again haunts the conceptual glass houses of the Left. Suppose they do shut down nuclear power? What will happen then? asks Kevin Phillips. Without it, within a few years, five to ten at the most, we're likely to face job lay-offs, production cutbacks, brown-outs, black-outs and city riots. Government control over the economy will grow; so will public demand for law and order in the cities.

Just as in Southeast Asia, then, the end result of anti-nuclear demonstrations could easily be a more authoritarian system, not a more democratic one. But alas, Phillips opines, "that's typical of recent American liberalism; the best of intentions; the worst of results.

If we don't find much to cheer about in the changes in our societal or economic health, what can be said about the body-politic in foreign affairs.

Our noble Lancelot has wrestled with the great Ivan and there are few who would dispute the grievous wounds inflicted on our Knight over the past 10–15 years.

While we have bent over backwards to accommodate to our avowed adversaries, the Soviets, we are removing our influence from Korea; we have sacrificed thousands to the communists in South Vietnam, Cambodia and Laos allowing great pressure on Thailand and other nations in the area; Afghanistan is now firmly in the Soviet orbit, Iran is available to the Soviets when she wants it; Saudi Arabia and Kuwait are accommodating to the Soviets; Yemen is under Soviet control; we have facilitated communist influence and control and surrogate military operations in Africa; we have provided Panama a gift of billions in the strategic canal and opened the door wide to the Soviets in all of Latin America; we have castigated Chile for having the courage to save its country from the Soviets and other adversaries; we leave the most while taking insults from the Mexican government; we continue to provide food for higher and higher cost crude and other materials; we continue to provide technology to the Soviets and other adversaries; we have the most progressive country in Asia and staunch ally in Taiwan to the Communist Chinese . . . and now we are given a SALT treaty which legalizes strategic nuclear inferiority.

Oh yes, we pat ourselves on the back for buying a temporary "solution to the Egypt-Israeli problem.

Probably never was the guilt complex of our Lancelot more apparent than in Vietnam, where . . .

A decade ago, John K. Galbraith was saying the United States should withdraw from Southeast Asia and allow it to return to the obscurity it so richly deserved. We withdrew. Did it return to obscurity?

Sen. George McGovern called for the termination of military aid to Saigon and Phnom Penh so that the "killing could stop". Since the United States withdrew, 40 Cambodians have died in four years of "peace" for every American killed in 10 years of war. Of course, not to mention the million boat people, half of them dead. (Patrick Buchanan)

In fact, a Harris poll taken in October this year resulted in 63 percent of those queried agreeing that Vietnam veterans were "made suckers having to risk their lives in the wrong war, at the wrong place, at the wrong time".

Yes, this guilt complex was so great that:

We reacted to the enemy's initiatives instead of instituting our own;
We did not seriously try to destroy the enemy's war base or demolish his command structure;
We did not take advantage of our superiority in air and naval power;
We did not prosecute the war in a timely manner;
We did not even try to fight in the enemy's territory . . .
And we could have done all of these things (U.S. G. Sharp)

And for this we masochistically killed thousands of our own servicemen, tens of thousands of our friends and destroyed the very country we were honor bound to defend and doomed not only it but its neighbors to the "long winter".

And there is more . . .

Even a brief interruption in the flow of oil from Saudi Arabia for example, would produce havoc quickly in America. A prolonged cutoff would threaten economic and political chaos. Yet despite this perception, little has been done to prepare the nation for such a siege—military or economically. On the military front, American forces are ill-prepared to intervene in an oil crisis; there are not enough of the right kinds of personnel and equipment in the right places . . . and even more disturbing . . . half of the oil available for import by the West passes through the narrow Strait of Hormuz. Sink one tanker in there and you have shut off all that oil to the Western World. "It would bring us to our knees" in the words of Henry Jackson.

And there is more: Look at the debacle now occurring in Iran—a canvas which depicts more than words can say, the utter contempt in which people view America.

And there is more . . .

We sit by and watch the Soviets build a naval base in Cienfuegas in Cuba . . . deploy one submarine and then another. We watch Soviet troops in Cuba being equipped as a combat brigade for use in Latin America. We watch one nation after another in the area come under Communist domination . . . and we do absolutely nothing.

"Nicaragua is Cuba all over again," says Earl Smith, former ambassador to Cuba (1957–1959). In South America, the Communists have a foothold in Guyana, and Castro's agents and military advisors are busy in Jamaica, Grenada and other Caribbean islands."

But there is more . . .

At the same time, we have destroyed the nation's intelligence services, have initiated an all volunteer force which is a farce; reduced operational readiness to a dangerous degree; and have by direct policy and design reduced the capability of our armed forces to a point where no significant international commitment can be supported. In WW II, we had over 12 million in the Armed Forces with a population of 135 million. Today with 220 million people we have difficulty in keeping one-sixth of that number. But as George Will has said "most recent improvements have been for the worst". On the absurd and and fallacious reasoning of allowing the Soviets to catch up and surpass us believing they will then be transformed into pacifists: we have not increased our strategic posture; we have stopped AMB development and civil defense; we have stopped the B–1 bomber and the neutron bomb; and we have reduced the conventional forces to the point which is suicidal for the thin grey line.

The Soviet Union has undertaken a relentless expansion of its forces, both quantitatively and qualitatively. Over the past 15 years, Soviet military expenditures have increased on an annual average rate of 4–5 percent, to a total of 11–13 percent of Soviet GNP. On the other hand, U.S. military expenditures for FY 1980 are less than five percent of our own GNP—the lowest level since the Korean War. And . . . unlike the Soviets, most of the U.S. defense budget is tied up in manpower costs from the volunteer army (Jake Garn).

In recent years, one has heard loudly and often that military power really no longer matters. President Carter has said that "one submarine carries enough explosive power to destroy the Soviet Union". They have been whistling in the dark. More people's fates have been affected by military victories and defeats during the period of Salt I and Soviet-U.S. detente and especially since 1960 than during World War II. During these years India has beaten Pakistan twice; Israel has beaten Arab coalitions twice; North Viet Nam, with Soviet help, has beaten the U.S.; Soviet clients have triumphed in Cuba, Nicaragua, Algeria, Angola, Mozambique, Guinea, Ethiopia, Afghanistan, Iran, Laos, and Cambodia. They narrowly failed in Zaire and Indonesia. Soviet clients or sympathizers have also waged inconclusive wars or have attempted coups d'etat in nearly every country of Africa, Asia, and Latin America. The Soviet Union has repeatedly vowed support for such enterprises, and has made clear that their success depends on the growth of Soviet power.

Certainly, the fear of greater Soviet involvement kept the United States from winning in Vietnam. That fear has helped to convince American policymakers not to help America's beleaguered friends in places like Iran. In 1973, the threat of Soviet intervention into the Middle East led the U.S. to stop Israel from consummating its victory against Soviet-supplied Arab armies which had attacked her on her highest holiday. The same prospect frightened the U.S. into submitting to virtual expropriation of its oil production equipment in the Middle East, and the quadrupling of the price of oil.

As the Soviet Union's arsenal becomes more fearsome, it will become more reasonable for the Soviet Union's friends around the world to be bolder, and it will be more reasonable for the United States and its friends to suffer more to avoid antagonizing the Soviets.

Incredible as this all seems . . . there is more . . .

Our Lancelot feels so guilty that he must try to make the Communists love him by giving and giving . . . wheat to feed the people of the USSR so that more money can go into armaments and technology so that Ivan can be as affluent as we . . . All this aided and abbetted by the misguided notion that trade and aid brings friendship with the Soviets.

On February 10, 1922, British Prime Minister Lloyd George stated: "I believe we can save her (Russia) by trade. Commerce has a sobering influence . . . trade, in my opinion, will bring an end to ferocity, the rapine, and the crudity of Bolshevism surer than any other method."

Since the early days of Soviet Bolshevism, the Western World has been trying to coax the communists into NOT being communists with periodic injections of credits and technology. The hoped-for result echoed in Lloyd George's statement—now more than 57 years past—has failed to materialize. Yet leaders of the capitalist world continue to charge ahead like so many modern-day Don Quixotes in search of their impossible dream; the merger of totalitarian dictatorship with capitalism (Miles Costick)

Like Lloyd George, Kissinger with his "economic detente" envisioned that "through a set of strategic and economic agreements, the U.S. could spin a web of vested interests thereby encouraging the Soviet Union to temper its international behavior." This of course has not happened.

After the infusion of $64 billion worth of credits from the Western World and Japan, and about 1,000 joint manufacturing ventures with Western and Japanese firms, as well as about 1,200 contracts on industrial cooperation signed between COMECON governments and Western firms, the Soviet Union, using proxy Cuban troops and its Eastern European satellites threatens the free world's access to the critical resources of Africa and the Middle East.

The massive transfer of technology and capital from the West to the East, instead of enhancing Soviet interest in peace and tranquility has accomplished exactly the opposite. It made a tremendous contribution to the Soviet strategic capability and in consequence encouraged its belligerency.

Let me give you just three examples.

In 1972, the Bryant Chucking Grinder Co. sold the Soviets 164 precision ball-bearing grinding machines to produce pin head-size ball bearings. This $20 million sale approved by the Nixon administration at the peak of detente euphoria, is to a great extent responsible for the $40 billion MX missile system program requirement.

In 1974, a turn-key plant for the manufacture of integrated circuits was sold to the Soviets by a French firm under license by Fairchild and approved by the U.S. This technology is essential for missile guidance and accuracy.

Thirdly, Geo Space Corporation sold 36 small array transform processors called ATP's to the Soviet Union and China. This type of equipment is critical for submarine detection systems and may have a significant adverse effect on our TRIDENT program.

If Americans are infact writing history books 50 years from now, they will certainly be perplexed.

Of course in the context of history, it has been noted that the average age of the world's great civilizations has been 200 years. These nations progressed through this sequence:

From Bondage to Spiritual Faith.
From Spiritual Faith to Great Courage.
From Great Courage to Liberty.
From Liberty to Abundance.
From Abundance to Selfishness.
From Selfishness to Complacency.
From Complacency to Apathy.
From Apathy to Dependency.
From Dependency back again to Bondage.

In 1976, our United States was 200 years old. This cycle is not inevitable—it depends on you and me.

But there is more . . .

Now we are given a SALT II treaty which is said to be the "best we can get from the Soviets' and any treaty is better than no treaty.

You have been listening to me for quite a while now and I am not going to spend the next hour giving you the details of a complex document which is being debated by very knowledgeable people on both sides. Just let me emphasize some fundamental facts.

To understand SALT, you must understand one simple concept.

The Soviet Union has developed its total defense strategy with only one goal in mind: To destroy American weapons systems, the U.S. ICMBs, bombers and submarines and to protect its population . . . in short to WIN A WAR. They do not desire to destroy people, unless they have to; just win the war. For this reason they have developed very large warheads of the equivalent of 1 million tons of TNT to destroy our silos which are hardened to only 1,000 psi.

The United States on the other hand has developed its strategic weapons not to destroy Soviet weapons systems but rather to destroy populations. The backbone of American force is the Polaris Poseidon fleet. Each warhead yields only 40,000 tons of TNT—totally useless against Soviet hard targets. This is by design. As poseidon was being perfected, Secretary McNamara rejected plans to fit it with 3 large, accurate warheads on the grounds that the ability to strike "hard targets" was against America's strategic policy. That policy simply put, is to deter war by threatening to kill Soviet civilians in a second strike. According to that policy, any weapon which can destroy missile silos makes war more likely because it gives its owners several militarily rational options including a first strike.

The Minuteman III missiles, the best we have, have slight chance against hard targets.

Does this concept sound immoral? It is.

Does this concept sound militarily ridiculous? It is.

Why is it our policy: the Complacency and Apathy of the American people . . . the growing tendency of the people to rely on the federal government to give them bread, tell them how to do things, organize their lives and not to fight the bureaucracy.

1. It will lock the United States into strategic inferiority.

The USSR is granted the right to have over 300 SS-18 ICBM launchers while the U.S. has none and is not allowed to build any. In these weapons, the USSR will have a first strike capability. These 3,000 warheads (10 each missile) will be able to destroy up to 95% of our ICM force with some left over for attacks on our bomber bases and submarines in port. After such a first strike, the Soviets would have more missiles and bombers left for a second strike than the U.S. had to start with. Since the U.S. has unilaterally disarmed its defense (no ABM, no civil defense, no surface to air missiles), it would be suicidal for the U.S. to carry out a retaliation after a Soviet first strike, when a second strike by Soviet missiles and bombers would incinerate from 100 million to 150 million Americans.

In addition to the above, there are 700 Backfire bombers, 1,200 SS-20 IRBM convertible to SS-16, ICBMs, and Soviet Seaborne cruise missiles which are not counted against the Soviets.

2. It makes our people hostages.

The SALT I treaty on AMBs remains in force . . . We have no ABM, civil defense or surface to air missiles. This is because the U.S. has operated according to the doctrine of mutual hostages called Mutual Assured Destruction (MAD). This strange theory holds that if the Soviet and American people are undefended, neither side would consider launching a first strike because the retaliation would destroy the attackers population. Modern ICBMs are now so accurate however, that a massive advantage goes to the side striking the first blow, and deterrence is weakened by the absence of defense. The Soviets have not operated on the theory of Mutual Assured Destruction and as a result they have extensive air defense and civil defense systems to go along with their ABM system.

3. It removes the American nuclear shield which used to protect our allies.

The Administration has been, by implication and innuendo stating that unless SALT II is ratified, NATO will collapse and our allies will drift apart and toward the East.

The administration campaign has confused many Americans. Franz Ludwig Schenk Graf von Stauffenburg, a member of the German Bundestoy and whose father planted the bomb that almost killed Hitler on July 20, 1944, posed the question officially to the German Government and received the following answer.

"There is no reason whatsoever to link the loyalty of members of NATO and especially the Federal Republic of Germany, to the SALT ratification process."

Senator Sam Nunn (D-GA) responding to the threat implicit in the idea that without ratification, NATO will not proceed with theater force modernization, says:

"This reminds me of a Marx brothers movie where Chico, whose life is being threatened by armed thugs, points the gun at his own head and shouts, "if you come any closer, I'll pull the trigger."

To accept this threat as a serious argument for SALT II ratification, one would have to conclude that our allies are not dedicated to their own defense. If this is the case, the future of the alliance is not bright whether SALT II is ratified or rejected. (George F. Will)

4. It is a symbol of phased surrender by the United States.

The toleration by the U.S. of Soviet strategic advantage is interpreted by friends and foes alike as symbolic of our loss of determination to defend ourself and the Free World . . . at best a policy of phased surrender. The Administration says we should overlook such anti-Detente actions as Iran, Afghanistan, Africa, Cuba, etc.

5. Ratifying SALT II will cost more than rejecting it.

Whether SALT II is approved or disapproved by the Senate, the declining U.S. strategic posture must be strengthened to restore the credibility of U.S. deterrence. However, if SALT II is ratified by the Senate, the cost of regaining an adequate defense would be vastly increased because the least expensive ways to rebuild our strategic strength will not be permitted. For example, the Air launched cruise missile, which would be severly limited to 600 km is by far the least expensive strategic weapon and is the one offensive strategic weapon in which U.S. technology is superior to the Soviets. It is important to note that the Soviets can place almost 70% of our population in jeopardy with their existing submarine launched cruise missiles we have no sea launched cruise missiles and are not allowed to test or deploy any until after 1981.

In addition to all the above, remember that although SALT II agrees to equal numbers of launch vehicles, we are far short of that ceiling whereas the Soviets are already above that ceiling. Moreover, in order to get the agreement, we have included over 200 B-52s in the "Boneyard" in Arizona which would take over a year to refurbish. In addition, we had to count 4 B-1 prototypes which are not operational.

And possibly the most ominous . . . the SS-17 and 18 Soviet Missiles are cold launched by compressed gas so that the silos do not burn up on launch. This means that limiting the number of LAUNCHERS can be a non-seqitur in the real world scenario.

Yes, we must think about the unthinkable.

It is important that we again understand that "eternal vigilance is the price of liberty" and failure to prepare for the possibility of war is a sin which can lead a nation into hell.

America is currently heading toward international damnation, ignoring lessons of yesteryear.

The voice of the veteran and the silent symbolic reminders in the form of gravestones go unheeded. The honor bestowed upon those who fought and lived or fought and died to preserve freedom dwindles with each passing year as America appears to forget its faith.

America is withdrawing from the world. Many do not see nor care about the spreading oppression enslaving millions abroad. We have imploded into our own selfish, narrow concerns. No longer are we concerned for our brothers in foreign lands. Meanwhile, the internal fabric is being torn to shreds Patriotism is ridiculed. Individual liberty is reduced daily. Free enterprise is under the heel of the State. The legacy of creative freedom is dying, our flag is being burned!

Yes, we must think about the unthinkable.

Is the United States on the downhill and cannot be roused by challenge?

Must negotiations with the Soviets be favorable to the Soviets because the American people lack the stamina to stay the course against the Russians?

Is our civilization becoming so decadent that we no longer care about the next generation of Americans, our sons and daughters?

Will we allow this to be America's Epitaph?

Here lies the only Civilization that perished at the peak of its power with its power unused.

Here lies a decent people who wanted love, not empire, and got neither . . . who tried to trade power for popularity and lost both.

Here lies a nation of advertisers who knew how to change consumer taste but were themselves manipulated on the issues that really mattered to their Salvation.

Here died a sort of Lancelot . . . who let his weapons and ideals fall unused—and so condemned all Mankind to the thousand-year Winter of the Russian Bear.

Thank you.●

ON FURTHERING OUR UNDERSTANDING: COLONEL QADDAFI ON AMERICAN, IRAN, AND THE WORLD REVOLUTION

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. DORNAN. Mr. Speaker, the incomparable Italian journalist Oriana Fallaci recently conducted an interview with Libyan strongman Muammar el Qaddafi. Published in the December 16, 1979 New York Times Magazine, the interview details his own thinking on the present crisis in Iran and what it means for the United States. Oriana Fallaci is to be congratulated for the spirit and honesty and forcefulness with which she conducted this interview. We can thank Colonel Qaddafi for removing any lingering doubts we may have had concerning his attitudes toward the norms of civilized conduct. I realize that the Members of this House often submit items for the inspection of their colleagues that they feel compelled to label "must reading." However, given the incredible demands on our time I must implore my colleagues and you, Mr. Speaker, to carve out a few moments and carefully read this amazing interview. It is imperative.

"Iranians Are Our Brothers"—An Interview With Col. Muammar el-Qaddafi of Libya

(By Oriana Fallaci)

On Nov 23, 19 days after hostages were seized at the American Embassy in Tehran, Oriana Fallaci, the Italian journalist, began what would be a two-day interview with Col. Muammar el-Qaddafi, the revolutionary Moslem leader of Libya. Believing that "not only America but the whole West is tied and blindfolded in that embassy," Miss Fallaci sought in her conversation to probe the intentions of the Arab bloc in the expanding crisis.

Colonel Qaddafi, who is now 38 years old, rose to power on Sept. 1, 1969, after overthrowing the monarchy. He rules his Mediterranean nation of some 2.5 million—an area about three times the size of the state of Texas, with annual oil revenues of approximately $16 billion—using precepts he has collected in a 2-by-3-inch "Green Book." He refers to his system of government as *Jamahiriya*, "command of the people."

Colonel Qaddafi is fervently Islamic and pro-Palestine, and he has built up an awesome arsenal of mainly Soviet weapons. He is considered both shrewd and quixotic (when a Libyan airliner was shot down over the Sinai Desert by Israelis, he ordered an Egyptian submarine based in Libya to sink the Queen Elizabeth II, which was carrying Jews on a cruise to Israel, an order contravened by Egyptian officials; on another occasion, he moved all the desks out of Government offices because he thought his deputies spent too much time at them drinking coffee).

Miss Fallaci's interview with him took place in his compound in Tripoli. Her questions were asked in English and translated into Arabic by an interpreter, though Colonel Qaddafi frequently responded in English without the help of the interpreter. An edited version of the transcript follows.

Muammar el-Qaddafi. I have bad news. There is movement in the American military bases in Europe, especially in Germany, Greece and Turkey. The Americans are preparing paratroopers and armored cars, missiles, gas, neutron bombs and things like that. Yes, a lot of movement; it's serious. If this is really the beginning of the Third World War, we must use any effort to avoid having things precipitate a crisis.

I am trying to persuade the Iranians to release the hostages. A delegation of Iranians has just arrived here in Tripoli, composed of men close to Khomeini, men Khomeini listens to. I will give them a personal message for the Imam, asking him to free the hostages. This whole matter is becoming dangerous. Or rather, it could become very dangerous. And not only for America and Iran, but on a larger scale. Of course, we shall remain neutral if something happens to Iran; the Iranians are our brothers. And we small countries can form a very vast front against America.

Oriana Fallaci. I, too, have bad news, Colonel. The American Embassy in Pakistan has been devastated, burned, destroyed, and six people were killed. Demonstrations against American embassies also took place in India, Bangladesh and Turkey, and the embassy in Teheran has been mined.

Qaddafi (laughing). International revolution against America.

Fallaci. To me it seems more like an international provocation, Colonel, and a very well-organized one.

Qaddafi. I said international revolution. These things are happening because people hate America. An explosion of hatred toward America is taking place. Everybody hates America, everybody, not only the Moslem countries. Because everybody is or has been oppressed by America and sooner or later will revolt against America—even those countries that are not Moslem.

Fallaci. The students who are holding the hostages tied and blindfolded in Teheran have said that they will try the hostages even if the Shah were to die or if he were turned over to them. Doesn't this seem like a provocation to you?

Qaddafi. No, and I doubt that there would be a trial if something positive happens with the Shah. In any case, you have to understand that such things happen in revolutions. Revolutions are sometimes chaotic. Iran does not even have a government. The students do what they want without any government control, and this means that the incident of the embassy cannot be viewed as a normal conflict between states. Nor can it be judged by traditional criteria, even less, approached by traditional methods.

If I were in the place of the Americans, I would not react as they are. I would take into account the revolutionary circumstances under which the incident took place and is taking place. And I would remember what American policy in Iran was like before the whole thing began.

Fallaci. It's not true that the students are acting exclusively on their own, because some kind of government exists. There's Khomeini, who, with only one word, could resolve the drama and instead is purposely making the situation worse and worse. Finally, there is no justification for taking over an embassy, whether it be American or Soviet or Chinese or Italian or Libyan or whatever. An embassy is considered foreign territory, remember? There is something called international law, remember?

Qaddafi. I don't agree at all, because when an embassy or some members of an embassy commit acts that go beyond their functions, that are damaging to the host country or the relations with that country, reactions such as those in Teheran may follow. Embassies cannot be granted diplomatic immunity when they perform the kinds of acts I said.

Fallaci. Colonel, this is the thesis of Khomeini, who maintains that the American Embassy in Teheran was a center of espionage. So let us clarify things and remember that diplomatic relations between Libya and Iran were renewed after the Iranian students took the hostages. Also, let us remember that Libyan students have declared their solidarity with the Iranian students. Am I wrong in saying that you fully approve of what is taking place in Iran?

Qaddafi. Well, I personally am against the kidnapping of persons and in particular those who belong to a diplomatic mission. Embassies are, in general, under the protection of the countries that occupy them. But what is taking place in Iran concerns the Iranians and no one else.

I am very happy that the Iranian revolution has happened and that it has been successful twice: first in kicking out the Shah and second in kicking out the Americans. I would even go so far as to say that my revolutionary role has been strengthened by the Iranian revolution. And I want to repeat that in case of an American attack against Iran, even apart from this episode, we will not remain with our hands tied.

Fallaci. What do you mean by "apart from this episode"? Everything depends on this episode. Everything began with this episode.

Qaddafi. I told you, you have to consider the motivation for taking the hostages.

Fallaci. The motive is blackmail, a blackmail whose roots go back to the deplorable protection the Americans always gave to the Shah, but nonetheless blackmail. Khomeini wants to get back his enemy, Riza Pahlevi (Shah Mohammed Riza Pahlevi), to execute him. Tell me, Colonel, if Uganda asked you to return Idi Amin, would you do it?

Qaddafi. If Amin were here, I would think about a reply to your question. But since he is not here, the comparison does not hold up.

Fallaci. Amin is here, Colonel. Indeed, we know very well that Amin is hidden here, that he is your guest. He lives in a villa with a park and a swimming pool near Tripoli. He is there with two of his many wives and 10 of his innumerable children. He was even interviewed by that journalist whom you had arrested as a punishment.

Qaddafi. No, Amin is not here. Perhaps that journalist interviewed him during a visit.

Fallaci. Come on now! What visit? If we want to call it a visit, then even the Shah is on a visit [to America]. Therefore, I repeat: If Uganda asked you for Amin while he is here on a "visit," would you return him or not?

Qaddafi. I maintain that every person has the right to ask for political asylum in any country in every part of the world. But I also maintain that the Iranians have the right to ask for the Shah's return. In other words, I am in favor of the Iranian revolution against the Shah and I hope that he will end up in the hands of the Iranian people, as he deserves. But at the same time he has every right to ask for asylum in America or elsewhere. In any event, the case that you are proposing is different, since I do not interfere in the internal affairs of other countries.

Fallaci. We'll talk about that later, Colonel. Now let's talk about Libya in relation to this matter—that is, vis-a-vis the possibility of a world war. What did you and the President of North Yemen—that is, the non-Communist Yemen—say to each other while I was waiting for you tonight? And what does it mean that he came immediately after a visit by the Foreign Minister and chief of the political bureau of South Yemen—that is, Communist Yemen?

Qaddafi. There is nothing special about the fact that the President of North Yemen and the representatives of South Yemen came to visit me. North Yemen, too, is a revolutionary country: it is in favor of our revolution. North Yemen, too, is against the United States.

Fallaci. I see. And probably they discussed with you the boycotting of the dollar and the cutoff of petroleum to America. Is it true that Libya is prepared to accept Iran's appeal to the Arab countries, refusing payments in dollars for oil?

Qaddafi. Yes, the substitution of the dollar by other solid currencies is being seriously considered by the Arab countries which export petroleum, the OPEC countries. Together with Iran, Iraq and Algeria, Libya is seriously studying the matter. And so are Saudi Arabia, Kuwait and the Emirate states.

Fallaci. Which means that Libya and those other countries might imitate Iran even in regard to other decisions, such as withdrawing money deposited in American banks?

Qaddafi. Yes, this decision could also be taken. This, too, is under serious study by the Arab countries that have deposits in American banks. We are working toward a collective measure. It was time: we have given America more than enough time to respect us. But America continues to make fools of us, to make things difficult for us by protecting Israel, and we are fed up. We are acting in self-defense.

Fallaci. Colonel, it's a well-known fact that there is plenty of Libyan money in American banks, more than Iranian funds. What if the American banks freeze those funds as they did with the Iranians?

Qaddafi. They have no right to do that. They cannot do that!

Fallaci. Yes, they can. And if you try to withdraw those funds, they'll do it. They have already said they would.

Qaddafi. It would be an act of aggression, an unjustifiable act of aggression. And it would further undermine American prestige; it would increase the hatred toward America. In such case we, too, would react brutally because we, too, are capable of causing America serious trouble.

Fallaci. By not selling your oil to America, which amounts to 10 percent of her consumption?

Qaddafi. Yes, certainly. This could also happen and in the end it will.

Fallaci. Come on, Colonel. Everybody knows that America is one of your best customers, perhaps your best one, since almost all the oilpumping equipment is in the hands of American technicians.

Qaddafi. I told you that it could happen, that it will happen, if America pushes us in that direction. It depends on America, on her attitude toward us, toward the Arabs, and not only with regard to Iran but with regard to the conflict with Israel as well. We do not ask America to stand on our side. We ask America to remain neutral. If not, we will strike back with economic blows of every kind, including refusing to supply our petroleum.

Fallaci. Colonel, you know very well that America will continue to support Israel. And with regard to Iran, you know very well that if the hostages are not freed, if they are put on trial, if they're condemned to death, if one of them will be killed, just one, Carter will do something. You yourself said that there was activity at the American military bases and we all know that American ships are heading for the Persian Gulf.

Qaddafi. Thus it is clear that we are moving toward the refusal to supply petroleum as a political weapon. Undoubtedly the moment has arrived to use our oil as a political weapon. We are already on that road. And we will deny it to them.

Fallaci. When? In a matter of days, weeks, months?

Qaddafi. We have no prefixed deadlines. It depends on the oil technicians, on the economic experts, on the Libyan people, who have to discuss the matter in their congress. Right at this moment I can only say that we are heading in that direction.

Fallaci. And will the embargo also affect European countries?

Qaddafi. It depends on the European countries. Those who support us will be looked upon as friends, those who side with America will be our enemies. We are friends of those who love us and we are the enemies of those who hate us. We will not help those who help American imperialism.

Fallaci. You belong to a country that calls itself nonaligned, and to be nonaligned means, or should mean, not to serve either of the two blocs, neither of their imperialisms. Why do you always refer to the Soviet Union as a country that has no blame, that has no ulterior motives?

Qaddafi. Let me repeat that I judge things based on my experience. My experiences with regard to the Soviet Union have not been negative. If the Soviet Union had an imperialist attitude toward Libya, I would call the Soviet Union imperialist. But the Soviet Union is a friend of ours.

Fallaci. I see. And, apart from the weapons the Soviet Union continues to supply you—for example, those 2,500 tanks; in a country with a population of 2.5 million, it's not clear what purpose they serve—how is this friendship manifested?

Qaddafi. In every way, in every sense of the word friendship. Plus the fact that the Soviet Union is on the side of the Arabs against Israel. This we consider an anti-imperialist position.

Fallaci. So you keep saying that imperialism exists on one side only—that is, from the American side.

Qaddafi. I know that there are two great powers, not one, and that there is a lot of competition between the two. I also know that the Soviets are our friends.

Fallaci. At this point I feel that it would be superficial to ask you which side you would be on in case of a world war.

Qaddafi. I belong to the Arab nation and to the nonaligned countries. Thus, my position will be that of the Arab nation and the nonaligned countries.

Fallaci. There are nonaligned countries such as Yugoslavia and there are those such as your country, Colonel. As far as the Arab nation is concerned, I would say that it is very divided.

Qaddafi. We are one nation, nonetheless. Sadat is not with us, but the Egyptian people are, and the land of Egypt is part of us. In a world war, the interest of the Arab nation will be one, above and beyond the differences that today divide us.

Fallaci. Then is the purpose of those 2,500 Soviet tanks to remind Sadat that in case of a world war the land of Egypt is part of the Arab nation?

Qaddafi. Everyone knows that Sadat wants to wage war with Libya. Everyone knows that Sadat continues to mass arms along the Libyan border. Everyone knows that the Americans are protecting Sadat. Sadat is at the top of the blacklist of the Arab countries that are enemies of his.

Fallaci. And who is second on the list?

Qaddafi. Sudan, Somalia and Oman are candidates, although their position at the Tunis conference seemed somewhat changed. Saudi Arabia is with the countries that are boycotting Egypt. And so are the Emirate States, although the latter have not yet succeeded in freeing themselves of the influence of the enemies of the Arab nation, have not yet changed their government.●

HOME HEATING FUEL CRISIS—PART XIII[1]

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. GILMAN. Mr. Speaker, I rise to once again draw the attention of my colleagues to an issue that has hung like a sword over our heads for the entire year and will certainly follow us into the new year, the home heating fuel crisis.

Although we are approaching the new year and a whole new decade with anticipation and with good wishes, there are a few handicaps from the 1970's that we will be dragging along with us. One of these handicaps has been our inability to become energy self-sufficient so that we will not be vulnerable to oil blackmail and inflationary price hikes. In terms of crude oil supply, we have been living from week to week and from month to month.

The Nation's oil refiners have managed to increase the production of gasoline last week, but motor fuel supplies are still at a comparatively low level. Inventories of home heating fuel remain adequate, however, despite increasing consumption as the weather in the United States turns colder.

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[1] Part XIII is part of a series of reports on the home heating fuel crisis with parts 1 through 12 appearing in the Congressional Record on Sept. 17, Sept. 22, Sept. 29, Oct. 11, Oct. 19, Oct. 26, Nov. 2, Nov. 9, Nov. 16, Nov. 29, Dec. 6, and Dec. 15, respectively.

Gasoline production increased during the week ending December 14 to 6.8 million barrels a day from 6.6 million barrels the week before. But that is still far below the production level during the comparable week a year earlier when refiners produced 7.5 million barrels a day. Gasoline inventories rose to 223.8 million barrels in the week ending Friday, but that was close to the minimum acceptable level outlined by the Department of Energy.

Production of distillates which include home heating fuels, fell slightly to 3.1 million barrels a day from 3.2 million barrels daily in the week ended December 7. A year earlier refineries produced 3.4 million barrels a day. Stocks were drawn down to 231.9 million barrels, which is within the normal stock range. In the prior week the inventories were at 238.6 million barrels. A year earlier they stood at 220.1 million barrels.

U.S. refineries were operating at 86.9 percent of capacity in the latest week, up from 85.1 percent the week before but down from a 90.1 percent plant utilization the same week during 1978.

Inventories of crude oil were up slightly in the week ending Friday to 350.7 million barrels. A week earlier they were reported at 349.2 million barrels, while a year ago they stood at 319.4 million barrels.

It does not take much thought to recognize that the OPEC cartel profiteering policies whatever may be the outcome of their present and future meetings, will have a devastating effect on not only the United States but on every other economy of the industrialized West. Escalating oil prizes will fuel inflation, increase unemployment, cause deficit spending, and threats to our national security.

It becomes more and more imperative that the United States develop a national energy policy that will take the edge off of such security threats. As the House goes into the new year, it has already behind it the deliberation and passage of synthetic fuels, windfall profit tax, and the creation of an Energy Mobilization Board.

All three of these salient programs of the President's national energy plan are in conference with the Senate and are in the process of ironing out the various differences. Hopefully, these conferences will be concluded as expeditiously as possible in order to provide us with a green light as we prepare to meet the energy challenges of the 1980's.

It is obvious that there is not too much time for lengthy deliberation considering the present world instability. At the conclusion of my remarks I am adding an article from the Washington Post that outlines the gloomy prediction from the latest meeting of the Organization for Economic Cooperation and Development.

I urge my colleagues to consider the developments that have taken place over the past year and to concentrate their endeavors on the crucial energy issues confronting our Nation.

The article follows:

[From the Washington Post, Dec. 20, 1979]

ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT

(By Hobart Rowen)

The latest round of world oil price increases could tilt the major industrial nations into actual recession next year, resulting in negative growth rates but continuing inflation in double-digits.

That is the implication of a report on the 1980 economic outlook published yesterday in Paris by the Organization for Economic Cooperation and Development.

OECD chief economist, John Fay said at a news conference that the burst of oil price increases would produce a shock comparable to the severity of the 1973–74 oil crisis, but that recession would not be as deep.

The OECD report was based on information up to Nov. 23, at which time prices for oil sold by the Organization of Petroleum Exporting Countries had increased by 66 percent since the end of 1978.

Taking into account that increasing amounts of oil are sold above official prices by OPEC countries in the spot market, U.S. Treasury officials have calculated the overall price hike of 80 percent, before the current round being negotiated by OPEC in Caracas.

The result, OECD said, is that the better prospects for the world economy that were appearing a year ago have been wiped out. Instead, it forecast that the gross national product in the OECD industrial countries might increase by only one percent in 1980, compared with 3 percent in 1979, assuming "oil prices remain relatively stable."

Events, of course, have overtaken the OECD report. Fay said that if oil prices go up 20 percent in 1980, instead of the 7.5 percent figured in the report, the one percent world GNP growth figure would shrink to 0.3 percent.

But even this appears to be on the optimistic side, taking the OECD rule of thumb that for each 10 percent increase in OPEC prices, growth is cut by half a percentage point and inflation increased by a half point.

Thus, a 30 percent increase in oil prices to about $28—about the midpoint of yesterday's rumor reports from the OPEC meeting in Caracas—would produce these results.

World GNP growth turning negative by a fraction of a point.

World inflation rates running above 11 percent, instead of slowing from the present 10 percent level.

Further deterioration of unemployment in the OECD area, which was estimated to rise to more than 6 percent in the latter half of 1980, from about 5 percent from the end of 1978 assuming stable oil prices.

A further build-up of OPEC surpluses and an equivalent swelling of oil-consuming countries' deficits. Even before the Caracas decisions, the OECD report said, "the payments position of non-oil developing countries is likely to deteriorate substantially."

The OECD report devoted considerable attention to the fact that every 10 percent rise in OPEC oil prices is about twice as devastating as it was in earlier years, for two reasons.

First, the net import bill is larger in absolute terms—about $210 billion in 1980, compared with $180 billion in mid-1979, "so that any percentage rise is now more important."

Second, given the build-up in OPEC oil revenues, only a smaller fraction of increased OPEC earnings gets respent immediately. Thus, according to the report, "in early 1979, as much as half of any increase in OPEC earnings would probably have been respent in a year."

But in 1980, according to the OECD, "since OPEC import volumes are now growing very rapidly," only about 15 per cent of the increased revenues would be respent for OECD goods and services.

There was little new in terms of policy recommendations. But in somewhat blunt language, the OECD said that the failure of nations to limit their oil imports and to take "cooperative action swiftly and rigorously to alleviate the consequences" of supply reductions was largely responsible for the oil price run-up in 1979.

"The recent international rises in interest rates and in the market price of oil might each have been moderated—or at least have taken place in a way more conducive to the maintenance of business confidence—with more intensive international cooperation." the report said.

Key observations made by OECD on major countries:

United States. Despite recent strength, the U.S. "is thought" to have entered a recession that may last "several quarters," with unemployment hitting 7.5 percent by the end of 1980.

France, Germany and Italy. Growth will be in the 2 percent range, compared with 4 percent for Italy and Germany and 3 percent for France in 1979.

United Kingdom. Britain will be in recession, with a minus 2 percent GNP rate and an inflation rate of 16.5 percent. ●

INEQUITIES IN MILITARY EXPENDITURES

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Ms. HOLTZMAN. Mr. Speaker, I wish to draw my colleague's attention to an article that appeared recently in the New York Times describing a study of defense-related taxation and expenditures. The study, conducted by Prof. James R. Anderson of Michigan State University, illustrates that each year military spending drains billions of dollars from New York and other Northeastern States, largely to the benefit of cities in the South and West. The defense budget, the study concludes, has become a major source of imbalance and inequity in the Federal tax and budget allocation systems.

The text of the article follows:

[From the New York Times, Nov. 19, 1979]

STUDY CHARGES INEQUITIES IN MILITARY EXPENDITURES

WASHINGTON, November 18.—Most of the country's 435 Congressional Districts pay more in taxes for the Pentagon than they receive in military spending, and more than half have a net loss of at least $100 million a year, a new study says.

The study was conducted by Prof. James R. Anderson of Michigan State University for Employment Research Associates, a private consulting firm in Lansing, Mich., that specializes in analyzing military spending.

The net result is that the Pentagon budget drains money out of 305 districts and funnels it into 130 districts, according to the analysis released today.

The analysis also supports earlier studies that military spending is concentrated in the South and Southwest.

"IMBALANCE AND INEQUITY

"Military spending is a principal source of drastic imbalance and inequity in the Federal tax burden and budget allocation," the study concluded.

Professor Anderson said that military spending was excessive, and "is ultimately an unproductive use and waste of a country's resources once you get beyond the sums needed to defend your shores and help allies."

He calculated the amount of taxes from each Congressional district that went to the Pentagon budget in the fiscal year 1978. He compared that with the amount of money the Pentagon spent in each district for payrolls, contracts and other costs. Pentagon spending totaled $112.7 billion in that year, Professor Anderson said.

[The study does not reflect the allocation of military subcontracts because the information is not available from the Government, Professor Anderson said in an interview. However, he said he felt the study was "fairly accurate in terms of giving an indication" of the pattern of Pentagon outlays.

[Defense officials estimate that roughly 70 percent of the money for a major contract is spent in the area of the contractor's headquarters or major plant, he said.]

LOSSES IN NORTHEAST

The study found that 95 of the 100 districts in the upper Middle West and 79 of the 104 districts in the Northeast had a net loss.

In New York, 33 of the state's 39 districts are "losers." In New Jersey 13 of 15 districts are net losers, but in Connecticut's six districts there are four districts with net gains and two with net losses.

In Pennsylvania 20 of 25 have a net loss, and in Illinois all 24 have a net loss.

By contrast, 71 districts in Sun Belt states have a net gain, while 89 districts experience net losses.

Overall, 220 districts suffer a net loss of $100 million or more, the study said.

The area of the country with the greatest net loss of military funds is the 10th District in Illinois, covering the northern suburbs of Chicago, which was represented by Representative Abner Mikva, a Democrat, at the time of the survey. Mr. Mikva has since been appointed a Federal judge. That district had a net loss of $409.2 million in 1978, the study said.

California ranks first in the country in terms of the number of districts with a net gain, with 28 "winners" and 15 "losers." Most of the winners are in the southern part of the state where there is a heavy concentration of electronics and aerospace contractors.

The 12th District of Texas, represented by Jim Wright, the House majority leader, has a net gain of $1.6 billion, the largest in the country, the study said. Overall, however, 14 of the state's 24 districts have a net loss.

Other areas with a net gain of $1 billion or more are the Fifth District of Mississippi, represented by a Republican, Trent Lott; the Third District of Missouri, represented by a Democrat, Richard A. Gephardt, and the First District of Missouri, represented by a Democrat William Clay.

While Mr. Lott's district has a huge gain due to shipbuilding contracts, the state's other four districts have a net loss, the study said. ●

ADMIRAL RICKOVER RETAINED ON ACTIVE DUTY FOR 2 MORE YEARS

HON. SAMUEL S. STRATTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. STRATTON. Mr. Speaker, last Columbus Day recess an event occurred which was of great importance to our national security, but which did not receive much public notice. This was the October 2 extension of Admiral Rickover's period of active duty. Admiral Rickover contributed more than any other one man to the development, operation, and maintenance of our nuclear submarine forces upon which our national security is vitally dependent. Every citizen of this Nation is indebted to the dedicated efforts and talents of this man which he has devoted unstintingly to the welfare and security of our Nation.

This latest 2-year extension is the ninth which Admiral Rickover has agreed to serve for. This will result in 57 years of service to this country. He has set new levels of performance for public servants in this period of service which so badly needs emulation. Our Nation need not be concerned about its future if it has public servants of his stature in its service.

Most of us know of the great contribution which Admiral Rickover made to our national security by developing nuclear propulsion plants for our warships. Less generally known, is the contribution he has made to the quality of the technology of our Nation in general, and the standards of excellence of the people we rely on to direct the safe development and application of such technology. He has applied himself with a tenacity our industry has never before encountered to attain new levels of quality and dependability. His effort was not appreciated in many quarters. It is now very gratifying to see that a more general appreciation of his efforts is coming into existence. Now his advice and guidance is actively sought by industry and Government on the attainment of the new levels of reliability and safety he has put into effect in our nuclear Navy.

For the welfare and security of this Nation, I hope that Admiral Rickover is willing and able to serve our Nation for many more years to come. I want him to know that there are many of us up here on the Hill who are cognizant of his efforts and of the difficulties he encounters in certain quarters in carrying out the mandate we have placed on him. I want him to also know that we stand by to help him in any way that we can, since we know how vital his work is to the Nation. Let us join in saluting a great American, an historic American, Adm. Hyman G. Rickover, still going strong, still bubbling over with energy and ideas, at a youthful 79 years of age! ●

DAY 10: NEW POLITICAL REPRESSION ON TAIWAN

HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. LEACH of Iowa. Mr. Speaker, in the past 10 days some extremely disturbing events have occured in Taiwan which give cause for grave concern for political evolution on that island and, indeed, for the future relationship between the United States and Taiwan.

In the several months following diplomatic recognition of the People's Republic of China by the United States a year ago, the Nationalist Kuomingtang (KMT) authorities in Taiwan took a series of politically repressive steps to restrict opposition political activities. Scheduled local elections were postponed, two non-KMT publications were banned, a respected, elderly local politician was sentenced to 8 years in prison and other actions to impede political expression were taken.

In subsequent months, however, there were encouraging signs of a degree of political relaxation. Two monthly magazines taking positions independent of the Government were allowed to publish, and there was even some reason to believe that the postponed elections would be rescheduled late this year or early next year. Both magazines enjoyed instant success, with a circulation reflecting the widespread thirst on Taiwan for information from sources not tightly controlled by government censorship. One of the two, the Formosa Monthly, published four issues and reached a circulation of some 200,000 copies.

Because of the long history of restrictions on political activity in Taiwan, where the KMT is the only legal political party, the Formosa Monthly became a magnet for many of the Taiwanese who seek a greater voice in their own government. The magazine became a focal point for opposition points of view and its organizational structure came to function almost as a pseudo-political party. It was critical of one-party rule on the island and urged greater opportunities for political freedom for the native-born Taiwanese who constitute 85 percent of the population of Taiwan.

Unfortunately, the views expressed in the Formosa Monthly were not well-received by the KMT and the Government began a crackdown. In vigilante-style tactics typical of many police states, the magazine's office in Kaohsiung, Taiwan's largest city, was broken into and ransacked. The publisher of the Formosa Monthly, Mr. Huang Hsin-chieh, an elected native Taiwanese member of the National Legislative Yuan, had his life threatened because of the political opinions expressed in the magazine.

The latest and most serious incident resulted from a request by Formosa Monthly to sponsor an outdoor rally in Kaohsiung to commemorate International Human Rights Day on December 10. Large opposition political rallies have not been permitted on Taiwan, and the authorities denied the request. There is some question whether a smaller indoor meeting would have been allowed. Nevertheless, the magazine decided to proceed with its plans for an outdoor rally in a large park in central Kaohsiung. On the evening of December 9, two employees of the magazine who were advertising the rally were arrested and severely beaten at the local military garrison.

On the evening of December 10, supporters of the magazine gathered at its Kaohsiung office. Large numbers of police and military forces cordoned off the building and a crowd of many thousand gathered in the area. When some 200 to 300 persons tried to march from the magazine's office to the city park, they were restrained. Fighting broke out between the marchers and the police and tear gas was used to quell the demonstrators. Disturbances continued until the early morning. Although little physical damage was done, Taiwan military authorities claim 182 military and civilian police were injured and charge that the demonstrators were deliberately provocative. Supporters of Formosa Monthly, for their part, point out that there was never any reason to have such overwhelming police and military forces at the rally and argue that the authorities seized upon the planned rally and the confrontation between security forces and demonstrators as a pretext for rounding up increasingly bold Taiwanese dissidents.

In the following days, the largest mass arrest of opposition forces in Taiwan's recent political history occurred. Fifteen prominent personalities in the Taiwanese political movement, including several who did not even attend the December 10 march, were detained on December 13. Subsequently, others involved in the demonstration have been arrested, bringing the total of those detained to more than 100. Others are in hiding and are being sought by the police. Formosa Monthly has been proscribed from further publication.

Among those arrested are two members of the Taiwan provincial assembly, one of whom visited my office in September, as well as Mr. Huang, the publisher of Formosa Monthly. Mr. Huang's detention created a particularly precarious problem for the authorities since his parliamentary status theoretically gave him immunity from arrest. However, the Yuan, most of whose members are mainland Chinese elected before 1949 to represent provinces of China which the KMT government no longer controls, gave overwhelming approval to his detention, and he was arrested on the floor of that body on December 13. Also among those detained is a woman human rights leader who called on me last summer. While formal charges have yet to be announced, there is a very strong possibility that these 15 will be charged with sedition, which carries the maximum penalty of execution and certainly extended imprisonment. I sincerely hope that those arrested will be released, but, should this not occur, that those who are eventually charged will be tried before a civilian and not a military court.

Mr. Speaker, it is evident that a new wave of political repression is beginning on Taiwan. The KMT authorities, after a brief period of apparent uncertainty on how much dissent to allow, have decided to crack down on legitimate political dissent. The Formosa Monthly rally on December 10 in Kaohsiung could have been peaceful, demonstrating to outside observers that there was hope that the KMT authorities and the Taiwanese majority could work together in the exercise of democratic rights which many believe are essential to the future freedom and independence of Taiwan. Instead, it is apparent that hardline elements among the ruling group have increasingly come to prevail.

These events on Taiwan sparked immediate ramifications in this country. Over the past weekend offices of the Coordinated Council for North American Affairs (CCNAA) in Washington, Seattle, and Los Angeles were attacked. Windows were broken and, in one of the incidents, furniture broken and one person injured. Although reflective of understandable frustration, the violent acts against Taiwan's offices in this country are as much to be condemned as the violence which occurred in Kaohsiung. It is time for cooler voices to be heard on both sides and for moderation to prevail.

Above all, it is time that the ruling KMT authorities on Taiwan recognize that the continued denial to the majority of the island's population of the right to participate fully in their own political system is likely to lead to further demonstrations and political instability.

What has happened to Taiwan in the past 10 days is worthy of careful attention in the Congress. Last March, when the Congress passed the Taiwan Relations Act, it asserted in a provision that I am proud to have proposed that "The preservation and enhancement of the human rights of all the people on Taiwan are hereby reaffirmed as objectives of the United States."

I regret to say that, unless there is a fundamental change in favor of greater popular political participation in Taiwan, it may become increasingly difficult to maintain the historically close relations which the United States has had with Taiwan. It would indeed be tragic if the unwillingness of a small minority on Taiwan to share its political power resulted in a degree of instability which threatened Taiwan's present prosperity and at the same time undermined one of the essential ties between the people of Taiwan and the people of the United States.

The events in Iran have captured so much attention from the administration and the American public in recent weeks that the new tightened political repression on Taiwan has largely gone unnoted. It is incumbent, however, on the Congress and the administration to express on behalf of the American people our deep concern for the new directions being taken by the Government of Taiwan.

Clearly, if there is to be a stable future for the people of the island, it can only be insured by expanding rather than restricting basic human liberties. A minority pledged to the unrealistic dream of recapturing the mainland cannot forever rule an independent people committed to democratic participation.

Today marks the 10th day since the clash that took place outside the Formosa Monthly office. The future of U.S.-Taiwanese relations as well as the future of the democratic movement on Taiwan hinge on the judgment that KMT authorities bring to bear on the issues involved. American friends of Taiwan urge restraint and greater democratization. The reverse imperils the freedom and security of the island.●

REPUBLICIANS WORK FOR RURAL AMERICA

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. SHUSTER. Mr. Speaker, from the vantage point of the chairman of the Republican Policy Committee, I would like to review what was achieved for farmers in this first session of the 96th Congress by the Republican members of the House Committee on Agriculture—and what remains for them to try to achieve in the next session.

Just the other day, when I was back home, a constituent stopped me on the street to thank me for what Congress had not done for him this session. That pretty well sums up not only the mood of the people but what happened in the Congress this past session.

On balance, we are pleased with the efforts of the Committee on Agriculture to meet and help solve a number of problems facing the farmers—and I commend the ranking minority member, the gentleman from Virginia (Mr. WAMPLER), for his leadership of the minority members of the committee over the past year. I would also like to commend all the minority members of the committee whose initiatives helped to enact better bills on numerous occasions and to block bad legislation on others.

Since I consider these efforts reflective of the positive role of Republican members on the committee, let me elaborate on these efforts and these achievements, starting in order of seniority with my colleague, the gentleman from Virginia (Mr. WAMPLER), who is the ranking Republican member of the House Agriculture Committee.

Let me mention two bills Mr. WAMPLER has introduced which are very important to continuation of a sound agricultural system in this country.

The first one is called the USDA restoration Act of 1979—a bill designed to restore to the Department of Agriculture the basic responsibility for which it was founded in 1862—namely the production of food, fiber, and forest products in this country. Specifically, instead of dismembering USDA which the Carter administration sought to do earlier this year, the bill would transfer to the Department a number of agriculture-related functions now spread thin over a number of Government agencies.

This legislation is vital to restoring to USDA its rightful role as the Department of Agriculture instead of a Department of Consumer Activism which it has become.

Another proposal which Mr. WAMPLER plans to introduce calls for the National Academy of Science to make recommendations to the Congress as to how we should assess cancer and other health-related risks which might be found in chemicals used in food and other products or found in the workplace. The problem here is—the Government's regulatory authority over such chemicals presently resides in 21 different laws administered by 6 different agencies—and there is no uniformity in administering these laws or coordination in assessing possible cancer-causing substances. More importantly, there is no requirement for scientific review of studies and tests on which these agencies base decisions to ban chemicals—thus creating confusion in the public mind over whether a substance is truly cancer-causing.

The case of nitrites is a good example of the willingness of Government to regulate. A substance before it has a firm scientific basis for its action. This has led Mr. Wampler to draft legislation which he intends to introduce early in the next session to transfer to an independent blue ribbon science panel all Federal authority for the determination of relevant questions of scientific fact involved in all Federal regulatory actions against chemicals used in the production of food and other products or found in the workplace or in the environment generally.

Next I would like to direct my remarks to the activities of Mr. Sebelius, the gentleman from Kansas, who is the ranking Republican member of the Livestock and Grains Subcommittee.

For starters, as an avowed advocate of farmer-held rather than Government-held grain reserves, Mr. Sebelius led the way in offering an alternative to the poorly conceived international emergency wheat reserve plan urged on us by the Carter administration.

Mr. Sebelius' proposal would have established a $500 million fund to purchase grain in times of need from farmer-held reserves at the going price. This plan would have cost taxpayers considerably less than the massively expensive proposal of the administration for a Government-held reserve—a program which would have started us back down the road to taxpayer-funded grain reserves which once cost an average of $3 million a day just for transportation and storage.

In another area, the gentleman from Kansas introduced H.R. 3693 to extend the life of the great plains conservation program and has been instrumental in other conservation efforts aimed at preserving the soil and water we so vitally need to produce the food, fiber and forest products for our national survival.

Of major importance to grain farmers, Mr. Sebelius introduced legislation to increase wheat and feed grain target prices by 9.5 percent, the maximum allowed under President Carter's first voluntary wage and price guidelines. Although the 9.5 percent was not adopted, it did provide the basis for the 7 percent increase which eventually was approved by the House and is now in the other body. Another measure sponsored by my colleague from Kansas would have tied target prices for wheat and feed grains to the Consumer Price Index or to the index of prices paid by farmers, whichever is higher. This is a plan I hope the House will consider next year.

To make sure that meat imports meet the same standards as that produced in this country, Mr. Sebelius joined with his colleagues on the committee to seek legislation writing such standards into law. He also backed countercyclical meat import legislation and was instrumental in obtaining its passage by the House. This legislation which was recently passed by the other body, reverses the 1964 Meat Import Act and provides that beef and veal imports rise when domestic production is low and falls when U.S. production is up.

Like other Republican members of the committee, the efforts of the gentleman from Kansas on behalf of the Nation's farmers ranged over a wide area. For instance, he was a leader in trying to make sense out of the volatile debate on the alcohol fuels issue and was named to the National Alcohol Fuels Commission.

One area of interest and concern to the Congress this past session was the food stamp program—and no House Member was more involved in efforts to reform this program than my colleague from Illinois, Congressman Findley. He spearheaded the bipartisan effort to obtain a General Accounting Office investigation of the propriety of the Food Research and Action Center—also known as "FRAC"—actively intervening against "workfare" projects authorized under the 1977 Food Stamp Act. "FRAC" is a public interest group receiving Government funds and the Findley effort to obtain a GAO investigation of whether these funds were used to impede the intent of Congress is most fitting and proper.

Incidentally Mr. Speaker, these workfare projects, which were set up under legislation sponsored by Congressman Findley, indicate that a surprising number of program participants, when confronted with working off their benefits or losing their right to receive food stamps, simply opted out of the program. This is particularly surprising since the amount of time required to work off food stamp benefits is not more than 3 or 4 days a month, at most.

In other areas, Congressman Findley was instrumental in bringing to the attention of the Congress many of the problems surrounding the cotton research and promotion program. In particular, he raised questions which deserve answers concerning possible conflicts of interest involving the president of Cotton, Inc.—an organization which promotes cotton under a contract with the Cotton Board—these charges deserve a hearing, Mr. Speaker.

In a highly controversial piece of legislation—sugar legislation—minority members of the committee were active in trying to obtain the best bill possible. I would like to single out two of my colleagues, the gentleman from Idaho (Congressman Symms), and the gentleman from Colorado (Congressman Johnson), for special praise. Both Mr. Symms and Mr. Johnson played important roles in the committee deliberation and floor consideration of H.R. 2172, the International Sugar Stabilization Act of 1979.

Both worked hard to achieve a bill palatable to all interests concerned and I commend them for their efforts.

I might mention that Mr. Symms is the ranking Republican member of the Subcommittee on Domestic Marketing, Consumer Relations and Nutrition and Mr. Johnson is the ranking member on the Subcommittee on Forests. Mr. Johnson's decision to retire from Congress at the end of next year will leave a void in the committee which will be hard to fill. We are glad he will be around for at least 1 more year—but I know he will be missed after that.

One of the most active members of the Committee on Agriculture, Mr. Speaker, is my colleague from Illinois (Congressman Madigan), who is ranking GOP member on the Subcommittee on Conservation and Credit. His dedicated efforts were instrumental in committee action on the all-risk crop insurance legislation and on its extension to all counties and all crops which are important to agriculture in a given area.

This legislation is now pending and action is expected on it next session.

I might note that one amendment my colleague from Illinois plans to press for when the bill reaches the House floor next year would require the Federal Crop Insurance Corporation to offer two insurance policies to farmers: An all-risk policy and an all-risk policy without hail and fire coverage, with premium costs adjusted accordingly. This proposal would place the Federal Government and the private insurance industry on a more equal footing and provide the farmer with the flexibility to select the type of insurance protection best for him.

Mr. Madigan has also been active in trying to broaden the availability of credit to farmers and several of his amendments to achieve this result are included in legislation now pending. For instance, one would establish higher funding levels for farmers home administration loans and another would increase the size of rural communities eligible for water-sewer and community-facility loans from a population level of 10,000 to 20,000. This would add about 1,200 communities to the eligible list and aid them in finding financial assistance for such needed projects as hospitals and nursing homes.

To increase the effectiveness of alcohol fuels projects, several amendments were offered by Mr. Madigan to insure that producers receiving Government assistance do not waste energy or raw materials in the alcohol conversion process.

Mr. Speaker, because of the range of legislation proposed by Republican members on the Agriculture Committee, it is difficult to list each and every bill in these remarks—so at best I can touch only on some of the highlights.

I would be remiss, however, if I failed to mention the activities of the distinguished gentlelady from Massachusetts (Mrs. Heckler), who was instrumental in leading the fight on behalf of consumers against the sugar bill which was defeated on October 23. She felt that the bill would be highly inflationary. She is continuing to oppose the International Sugar Agreement, which she feels would be a windfall for Cuba, and contrary to the interests of our Central and South American friends.

Mrs. Heckler also initiated as a result of fuel stamp hearings, a request to the Secretary of HEW that he take immediate action to fund the emergency fuel assistance program for the winter of 1979-80 as it appeared no legislation would be enacted.

Because of Mrs. HECKLER's interest in providing an effective food stamp program, the Agriculture Committee adopted amendments she sponsored to provide food stamps for battered women and children in halfway houses or shelters and to revise the deduction system to provide a separate dependent care deduction for households.

Congressman JIM JEFFORDS from Vermont has, for the past 3 years, pressed for legislation to protect U.S. agricultural land—and his efforts have finally resulted in the creation by the administration of a panel to study the issue. This study, to be made as a joint effort of the Secretary of Agriculture and the Chairman of the Council on Environmental Quality, is scheduled for completion by January 1, 1981. Mr. JEFFORDS is also the author of the agricultural land protection bill reported by the committee recently. This bill is designed to find ways of protecting our prime agricultural land, which is diminishing at a fast rate in this country.

As ranking Republican member of the Dairy and Poultry Subcommitte, Mr. JEFFORDS has pressed for milk price support levels at 80 percent of parity or above—and I am sure his efforts helped to shape the administration's decision to set the price at 80 percent through March 31, 1980. Mr. JEFFORDS was also responsible for setting up Dairy and Poultry Subcommittee hearings on the problems of imported casein which milk producers contend is having a negative impact on the milk price support program. He was also responsible for obtaining passage of a resolution asking the Secretary of Agriculture to assess whey, a byproduct of cheese processing. to determine its usefulness as an edible product.

One member of the Agriculture Committee who has been most helpful in getting the committee to face the real issues during consideration of proposed legislation is Congressman RICHARD KELLY of Florida. Judge KELLY was particularly active during committee consideration of the gasahol bill. Although he was not successful in persuading the committee to adopt his amendments he made a major contribution in focusing the attention of the committee on the underlying problems of the bill. His bill to make the current tax exemption in gasahol permanent and thereby provide the certainty the alcohol fuels industry will require in order to make alcohol a major contributing factor in the national energy picture is a significant alternative.

Judge KELLY has also been one of the staunchest supporters of maintaining discipline in the food stamp program. His efforts to preserve the "cap" on the authorization for that program will prevent its returning to an open-ended and less disciplined entitlement program.

Congressman KELLY also took a leadership position in opposition to this year's sugar bill arguing that defeat of the bill would prevent the domestic industry from becoming even less competitive with foreign producers by avoiding federally mandated increases in labor costs.

One important piece of legislation which is still pending at recess was introduced by my colleague from Iowa (Congressman GRASSLEY), who is ranking member of the Subcommittee on Family Farms, Rural Development and Special Studies. I am referring to H.R. 4992, which would amend the export sales reporting law and require daily—instead of weekly—reporting of overseas sales of U.S. agricultural commodities by all firms which use our futures markets—whether they are located in this country or not—and which hold positions on those markets in excess of the speculative limits established by the Commodity Futures Trading Commission. I believe this legislation would provide us with more up-to-date information on export sales of agricultural exports.

One of American agriculture's most persistent defenders on the House Agriculture Committee has been TOM HAGEDORN of Minnesota. A farmer himself, Congressman HAGEDORN has been at the forefront of a fight by members of the committee, mainly Republicans, to keep nitrites as preservatives for processed meats. His bill, H.R. 3377, the Botulism Prevention Act of 1979, first introduced in 1978 soon after USDA and FDA announced their intentions to ban nitrites—and his demands for proof that these agencies were on sound scientific grounds—have been most helpful in getting these agencies to back up and review their efforts against this beneficial preservative and meat cure.

Another major contribution of a Republican committee member was by my colleague from Missouri, (Congressman COLEMAN), who introduced H.R. 4028, the Food Stamp Beneficiary Protection Act, which authorizes the Secretary in any given year in which benefits must be reduced because of fund shortages to give special consideration to the elderly and disabled instead of cutting back all participants in the program on the same pro rata basis. This proposal was included in the food stamp legislation which became law—and I congratulate Mr. COLEMAN. He was also responsible for an amendment to retain the food stamp "cap" or authorization at a fixed amount on the program—an effort which will save taxpayers considerable money, I might add, because it will force the food and nutrition service to give discipline to the program which is badly needed.

In crop insurance legislation, Mr. COLEMAN pressed for an amendment to delete fire, wind, and hail coverage from the Government crop insurance program along similar lines proposed by Mr. MADIGAN. His efforts helped to keep the issue alive before the committee and assured consideration of the possibility of private sector involvement in the crop insurance program.

Another active Agriculture Committee member on our side of the aisle is my colleague (Congressman MARLENEE) of Montana, whose efforts to aid farmers and ranchers cover a wide-range of issues, including bills to extend prevented planting and farm disaster payments to 1980 and 1981 wheat crops; to reduce the amount of imported meat in any one calendar year by the amount, if any, by which actual imports during the preceding year exceeded the quota for that year; to require reciprocal testing of imported meat and meat food products and to require the labeling of these imports; and to establish a countercyclical formula for meat imports.

One of RON MARLENEE's particularly interesting proposals was a bill requiring that the label on each loaf of bread disclose the cost to the manufacturer of the farm ingredients in it. This is an important way to get across the message that the farmer receives less than one-third of the retail cost of each loaf of bread for the wheat and work he puts into it.

Since tobacco raising is an important part of our agricultural economy, I commend my colleague from Kentucky (Congressman HOPKINS), for his efforts on behalf of tobacco growers.

In particular, Mr. Hopkins led the fight to continue the experimental loose-leaf tobacco marketing experiment for a second year, through the 1979-80 marketing season, and he deserves the thanks of tobacco growers all over for his efforts. Congressman HOPKINS has also actively worked to improve and fully fund all the Farmers Home Administration programs which come under the jurisdiction of the Subcommittee on Conservation and Credit, of which he is a member.

Mr. Speaker, the newest Republican member of the Agriculture Committee is Congressman THOMAS of California who has taken up his responsibilities with a vigor and dedication which is refreshing. Mr. THOMAS cosponsored H.R. 5523, a bill which would establish an improved program for extra-long staple cotton. One of Mr. THOMAS' amendments which was adopted in H.R. 5523 strikes a section from the bill which would have allowed for the unprecedented interstate sale or lease of cotton allotments to producers wanting to grow more extra long-staple cotton. Historically, allotments have been used to control production rather than increase it. His amendment to delete this section was most pertinent, since USDA can increase the national allotment and achieve the same results.

Congressman THOMAS was also successful in inserting into H.R. 3683 an amendment that did not place a "cap" limiting the total amount of emergency loans that may be obtained by a farmer under the emergency loan program administered by Farmers Home Administration. In the conference with the other body on this subject, he unsuccessfully fought for a compromise that would have placed a cap of $2.5 million on the loans covering the actual loss and any operation and adjustment loans made to any one individual.

Congressman THOMAS comes from a district in California where the capital requirements of farmers are high because of the high costs of producing crops, such as an $11,000 cost of producing one acre of strawberries.

Mr. Speaker, as I indicated, I have just touched on a few of the measures proposed by the minority members of the Agriculture Committee which we consider beneficial to American agriculture in general and to the farmers in particular. But taken along with other related bills by these members, their consideration in the next session could be an important step toward making sure American agricultural production remains "No. 1 in the world."●

LABOR'S HEARTFELT TRIBUTE TO THE LATE WILLIAM DUCHESSI, EXECUTIVE VICE PRESIDENT OF THE AMALGAMATED CLOTHING AND TEXTILE WORKERS OF AMERICA

HON. SAMUEL S. STRATTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● **Mr. STRATTON. Mr. Speaker, last May, one of the great leaders of American labor, Bill DuChessi, executive vice president of the Amalgamated Clothing and Textile Workers of America, passed away after a long and painful illness.**

Bill DuChessi was a native of my home city of Amsterdam, and had been a close friend of mine for over 20 years.

Bill was also well known on Capitol Hill as one of the finest, fairest, and most effective representatives and lobbyist for organized labor. He also served with great distinction as a member of the Obey Commission for reforming some of the management practices of the House of Representatives.

Last June 14, here in the city of Washington, the top leaders of the AFL–CIO joined to pay their heartfelt tribute to Bill DuChessi, at which time Vice President MONDALE, Speaker O'NEILL, and Senator KENNEDY joined others in honoring the memory of Mr. DuChessi. It was a moving and deeply emotional experience.

Later, in its July issue, "Labor Unity," the official publication of Bill DuChessi's union, printed in considerable detail the tributes paid to Bill DuChessi at that memorial service.

In tribute to a great American and a great labor statesman, I include at this point in the RECORD the text of the Labor Unity article of July 1979, highlighting the DuChessi memorial service.

The text follows:

DUCHESSI MEMORIAL: CELEBRATING A LIFE DEDICATED TO TRADE UNIONISM

WASHINGTON, D.C.—With tears, prayers and with songs and even some laughter, 500 friends of Bill DuChessi gathered in the AFL–CIO lobby on June 14 to pay tribute to the memory of the late ACTWU Exec. Vice President who died May 19.

DuChessi was one of the best loved, best respected union officials and lobbyists in the country. His passing was marked in a moving ceremony attended by friends, family, union officials, members of Congress, and the Vice President of the United States.

All of the eulogizers paid tribute to DuChessi's joyful dedication to the trade union movement, his humanity, and his love of people.

DuChessi helped organize Local 1 of the Textile Workers Organizing Committee in Amsterdam, N.Y., in 1937. The TWOC later became the Textile Workers Union of America which in 1976 merged with the Amalgamated Clothing Workers to become ACTWU.

DuChessi served in a variety of jobs and offices in the union during his career, including the second highest office in TWUA, international secretary-treasurer. At his death, he was the union's chief lobbyist and legislative representative, and assistant director of the Textile Division.

U.S. Senators Edmund Muskie (D-Me.), Patrick Leahy (D-Vt.) and Birch Bayh (D-Ind.) attended the service as well as members of Congress Margaret Hechler (D-Mass.), Barbara Mikulski (D-Md.), David Obey (D-Wisc.) and Frank Thompson (D-N.J.). Former Senator William Hathaway and former Congressman James O'Hara also attended the service.

Tom Donahue, assistant to AFL–CIO Pres. George Meany, delivered tributes from Meany who was recuperating from an illness and from Sec.-Treas. Lane Kirkland.

The mourners sang "The Mill Was Made of Marble," "Joe Hill" and "Solidarity Forever," led by Joe Glazer. " 'I want songs at my memorial' Bill DuChessi said before he died," Glazer said in introducing the traditional songs.

ACTWU Leg. Dir. Elizabeth Smith delivered the remarks for Rep. Sam Stratton who was ill.

The invocation was given by the Rev. Monsignor George G. Higgins. The Rt. Rev. Bishop Papken, S.T.D. delivered the benediction.

Following are excerpts from the memorial service:

ACTWU PRESIDENT MURRAY H. FINLEY

"Bill, in his lifetime of dedication to his fellow workers, reached the heights. He became a friend of the people in the highest positions in our land, who knew him by his first name and he knew them by first names, but in all of his honors and all of the credits that deservedly were his, Bill DuChessi never lost closeness with the rank and file.

"He still was one of the ordinary workers, one of the ordinary trade unionists. He never forgot where he came from. He was always proud of his roots, his roots as a worker, his roots as a trade unionist. And he always remained close to one of the warmest families that any of us ever met.

"I don't think that the labor movement has ever had a more humane, a more energetic leader than we've had with Bill DuChessi. I don't think there's a moment when anybody called on Bill that you couldn't find him ready at a moment's notice to come to help his fellow workers, whether of the same union or another union. Whenever people were in trouble Bill DuChessi was available to come in and to give whatever help and comfort that he could."

SECRETARY-TREASURER JACOB SHEINKMAN

"Bill had a passionate belief in trade unionism. As such, it was not just a job for him, but a joy. His joy was transformed into a zest, a zest which was contagious. It was hard for him to sit still. He was a man in perpetual motion, but the motion always had a purpose, it always had a direction, it always had a goal.

"The purpose, the direction, the goal: a better America for the people, of the country which he loved, the country which afforded him the opportunity to bring his dedication and ability to full fruition. In so doing, he never forgot from where he came. He was a leader as has been said, who never lost touch with those he led.

"He had that uncanny ability to bridge the generation gap. The young, who are most discerning, who can see through hypocrisy, were able to relate to him because he was a genuine article.

"We shall not forget him—by continuing to fight for the goals in which he believed. We shall honor his memory by establishing a scholarship fund for the young who meant so much to him which will bear his name."

SENIOR EXECUTIVE VICE PRESIDENT SOL STETIN

"Bill helped organize the carpet mills in his native Amsterdam, and I came out of a dye shop in Paterson, N.J. We shared a dream of organizing the unorganized textile workers of North America. That's been the story of our lives.

"He started out as a boy in a carpet mill, and took his God-given natural leadership qualities to serve the people. In every sphere of union work, but particularly in the political field that he loved so much, Bill made a mighty contribution towards bettering the lives of workers and their families.

"Bill DuChessi's name will live on in the annals of labor history, indelibly written in the proceedings of our Textile Workers Union for the last 40 years, as a person who came out of the shop and devoted his life to the well-being of workers in the textile industry.

"Even in his final battle, Bill was an inspiration to all of us and he makes each of us proud to have been his friend. Yes, let us cherish the memory of Bill DuChessi and dedicate ourselves to pursuing the dream that Bill never lost sight of, pursuing that dream of that young man in the carpet mill in Amsterdam to organize the unorganized and build a better world for workers, for all Americans."

VICE PRESIDENT WALTER F. MONDALE

"We are not here today to mourn. We're not here today to cry. We're here today to celebrate the victory of a great human being who lived a life of value, principle and served with a full heart the cause of social justice.

"When he was 22 years old, on a wonderful day for the labor movement, he became a charter member of Local 1 of the CIO's Textile Workers Organizing Committee. And, from that day forward of every hour of his life Bill fought for the rights of working men and women.

"Just like a tree planted by the water, Bill could not be moved. He brought the blessings of organization to other mills in the South, in the North, all over the country. He was part of that early generation of union leaders who worked with a full heart to vindicate the rights of labor and he and they worked even for those who never held a union card."

SENATOR EDWARD KENNEDY

"Emerson once said that a friend may well be reckoned the masterpiece of nature. Bill was our masterpiece. His passing is our sorrow.

"His accomplishments are legion. There was Bill's continual presence whenever we were considering renewing minimum wage legislation. It was simply impossible to get into a committee markup or onto the Senate floor or into the House-Senate Conference without Bill there to remind you of the importance of the task.

"In this last reauthorization, it was Bill who suggested that we end the impasse by mandating four years of increases in the minimum wage rather than three. Millions of the poorest workers, those for whom the minimum wage still does not reach the poverty line will see a rise in their wages next year and each check will say—this is Bill's testament."

HOUSE SPEAKER THOMAS P. O'NEILL

"Bill DuChessi was in the forefront of every fight on Capitol Hill concerning labor in the last 25 years. We saw him as a champion of minimum wage, pension reform, occupational health and safety hazards. He put his whole—he always put the whole of his energy and his competence into everything he did. A straight shooter.

"When Bill gave his word, that was it. It was a hard, fast commitment. He was un-afraid to stand and be counted. He manifested a no-nonsense approach in the legislative process. Once Bill made a commitment, he never deviated, never wavered, he never played games.

"There are few men whose skillful determination and decisive accomplishments have had a more profund or lasting effect on the people to whom he dedicated his efforts than Bill DuChessi."

REPRESENTATIVE SAM STRATTON

"Bill DuChessi was a real union statesman. He added lustre to that much abused word 'lobbyist.' Bill had unmatched success lobbying on Capitol Hill, not by strong-arm tactics but by understanding members, understanding their districts, persuading—not leaning on them—and letting them know well in advance what were the key legislative issues from labor's point of view. Bill always leveled with you and Bill was a guy you could trust."

THOMAS DONAHUE

"Bill DuChessi had a tremendous amount to give and he gave it all. He gave his heart and his force to working men and women and he never took those things back. He worked and he studied, shaped his life and he developed his talents to serve workers.

"His one aim was to help other people gain the means and the opportunities to widen their horizons and become better than they were or better than they knew they could be, and in the process he turned himself into a better man, into the fine man we knew.

"He was a man of iron conviction, of bottomless courage and unshakable determination, but happily he had none of the grimness that some associate with strong and dedicated men.

"In even the darkest times, he could be lighthearted and cheerful and fun to be with. Throughout his lifetime in all his efforts to upgrade the quality of life for working people, at the bargaining table and in the legislatures, Bill had plenty of opponents, plenty of adversaries, but I don't think anyone ever heard him speak of an enemy as such, and I don't believe he ever had one.

"Clearly, the part of the trade union movement, the part of the movement of youth in politics, the part of American political life—all the parts of America that were touched by Bill DuChessi were left far better than he found them."

THE REVEREND MONSIGNOR GEORGE G. HIGGINS

"Bill DuChessi died too young. He died before his time, but length of days is not what makes age honarable.

"Pope John Paul II has been saying as a kind of motif to his pontificate in recent days that the glory of God is man alive. Marvelous motto, and I think a very good summary of Bill DuChessi's life. The most alive and vital, energetic man that most of us will ever meet."●

NATIONAL DAY OF PRAYER

HON. RALPH S. REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. REGULA. Mr. Speaker, on Monday, December 17 I introduced a concurrent resolution which expresses the sense of the Congress that December 23, 1979, should be considered a national day of prayer and meditation as an expression of concern for the safety of the hostages in the U.S. Embassy in Tehran and hope for their eventual release.

Twenty Members of Congress have joined me in this and today I am resubmitting the resolution with the names of those cosponsors. It is our hope that the President will express our concern by declaring Sunday a national day of prayer and meditation.

I believe the American people will greatly appreciate the efforts of Congress to unite the country in an expression of support for fellow-Americans who are being held in Iran and will actively participate in this day of prayer and meditation.●

JACKSON-VANIK: A USEFUL POLICY TOOL

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. MAGUIRE. Mr. Speaker, talking about the human rights situation in the Soviet Union we should not merely list the facts, but rather we should focus on the question as to what on our side could be done in order to bring about change with regard to these issues.

A great number of my colleagues and I have engaged in activities such as the "Shatter the Silence, Vigil 1979" and its antecedents, the congressional adoption program for Soviet Refuseniks and Prisoners of Conscience. We have appealed to Soviet officials on behalf of these individuals over and over again. What we are still lacking, though, is a strategy to achieve the above defined goals, the transfer of our knowledge about the human rights situation in the Soviet Union into an actual policy toward the Soviet Union.

Such a strategy appeared to develop in the context of the Trade Act of 1974 with the discussions on the Jackson-Vanik amendment. Sections 401–409, Trade Act of 1974, define the eligibility of nonmarket economies for nondiscriminatory treatment and for U.S. Government credits and credit investment as being linked to free emigration of the respective countries' citizens. It seems, however, that during the last couple of years the significance of these provisions has increasingly deteriorated and the provision is no longer looked upon as a first step in the direction of an overall policy to bring about the recognition of human rights as a legal obligation by the Soviet Government.

This general tendency found its escalation in the rapprochement between the United States and the People's Republic of China; among the economic agreements between both parties signed on March 14, 1979, in Beijing was a commercial agreement providing for the mutual granting of MFN status. And it is in the context of these agreements that discussion on granting MFN treatment to the Soviet Union has come up again. Representative CHARLES A. VANIK, one of the two sponsors of the "Freedom of Emigration" amendment to the Trade Act of 1974, is supporting, as he calls it, an "evenhanded approach." As chairman of the Subcommittee on Trade, in his opening remarks on the Hearings on the Trade Agreement with the P.R.C., he stated that MFN status should as well be granted to the Soviet Union. And it should be granted without formal assurances because in his own words, "the deed might serve as well as the promise." But, as of today, such a policy is legally impossible. It would also turn the priorities we have had so far upside down.

The priorities, as they are defined under present law, state that trade with nonmarket economies is not an end in itself but rather a means with regard to emigration policies of the respective countries. This is the existing legal framework within which we have to decide whether or not we can grant MFN treatment to the Soviet Union. There is no need for redefining these priorities.

Free emigration is the threshold, the "quid pro quo" for MFN status for the Soviet Union. This precondition leaves it up to the Soviet Union and all other nonmarket economies themselves to open the door for free and unlimited, even preferential trade with this country.

Given the above difined priorities, the existing system is also the least restrictive way to achieve our objectives; it allows the President—as he has already done in the case of Hungary and Romania—to waive the Freedom of Emigration provisions if such a waiver will: First, substantially promote the objectives of the provisions; and second, if he has received assurances that emigration policies will lead substantially to the achievement of these objectives. Thus, a waiver can be granted even if free emigration has not yet been realized.

However, it does not mean that the waiver should be granted liberally once assurances are given. On the contrary, we have to be very careful with such a decision. Granting the waiver, as we could observe in the case of Hungary and Romania, creates precedents for further waivers. It also builds up dependencies on our side: Business relationships established on the grounds of the waiver provisions are usually of longer term interest than the 1-year waiver period. This very fact often takes away the effectiveness of the waiver as a control mechanism. And for this reason I cannot agree with those who argue in favor of MFN treatment for the Soviet Union on the grounds that Congress would still have control over the issue and could just deny renewal of the waiver after 1 year if the Soviet Union does not actually fulfill the committment.

Other arguments raised in favor of MFN treatment for the Soviet Union vary greatly, and range from security interests to the view that the present system merely results in harm to U.S. producers competing with the Japanese and the West Europeans in the East European market. An entirely different approach that has been heard from time to time is based on the assumption that liberalization within Communist societies can be brought about only by the East opening up for Western commodities. I do not quite understand, though, how this mechanism is supposed to work. The examples of Czechoslovakia and Romania are not entirely reassuring.

Among all the cases being made in

favor of MFN treatment for the Soviet Union, there is not one that points to assurances being given by the Soviet Union with respect to future emigration policies. The Soviet Union, thus far, has not been willing to give assurances in order to be eligible for the waiver provisions in the Jackson-Vanik amendment. From their point of view the linkage of trade to emigration issues constitutes an interference with internal matters and is, thus, not negotiable.

What, then, has actually been changed since, back in 1974, Gromyko, in a letter to then Secretary of State Kissinger, resolutely declined the interpretation that any pledges or assurances as to the Soviet treatment of prospective emigrants had been or would ever be given to the United States? What has been changed since the Soviet Union, in the context of the Jackson-Vanik amendment and the letters exchanged between Kissinger and Gromyko thereon, declared the commercial agreements negotiated under the Nixon administration null and void?

I do not want to overemphasize the need for assurances. Nor do I want to focus on the reasons for the Soviet reluctance to give them. It really does not make that much of a difference whether they are given or not; even if they were I could not argue in favor of such an agreement on that basis alone.

Assurances are not a mere formal requirement. They have to be of substantial quality. We could not just simply rely on them, but rather must look at their political and economic context. We would have to evaluate their credibility. One way of doing this is to take into consideration what has been said so far with respect to the overall issue of free emigration by Soviet officials. And so far there is not a single statement of Soviet commitment to free emigration.

The next step to take in evaluating the credibility of possible Soviet assurances would be to take a look at the outcome of the conference on security and cooperation in Europe, the Helsinki Final Act, and its implementation by the Soviet Union. The Helsinki Final Act does not, by any means, constitute an agreement of legally binding effect. This is largely due to Soviet pressures during the negotiation process. It does not constitute a commitment. However, the objective of the Final Act is to overcome existing tensions on a basis of voluntarily granted concessions.

Yet the Soviet Union has proven to be extremely reluctant to voluntarily adjust its human rights and emigration policies to the standards expressed in the Helsinki Final Act. As of today, the Soviet Union has not recognized the right of its citizens to emigrate. Applying for emigration is still a costly, lengthy, complicated, and arbitrary process with uncertain results. Members of the Helsinki monitoring groups have faced heavy sentences, their trials being marked by permanent violations of internationally accepted standards for fair trials. Political abuses of psychiatry and imprisonment for religious beliefs occur every day—despite the Helsinki Final Act. Thus it was also not too surprising that the Soviet delegation to the 1977 Belgrade Conference on Security and Cooperation, when asked about Soviet implementation of basket III, threatened to leave the conference.

All this would be already enough reason to seriously question the credibility of Soviet assurances about future emigration policies. However, in this context I do not want to ignore the fact that during this year almost 50,000 people were allowed to emigrate from the Soviet Union. This is an improvement over the recent past. But does it mean free emigration?

The increase in visas issued this year is due to a gerat extent to the fact that, in the context of the trade agreement with the People's Republic of China, the Soviet Union expects us to pursue an evenhanded approach. And they are very well aware of the fact that restrictive emigration policies might constitute an obstacle in this process. But does it say anything about their future emigration policies? Is it not entirely possible that they will once again restrict emigration once they have obtained the desired trade concessions? Let me, for the purpose of this question, refer to Soviet emigration policies during and after the negotiation process on the trade agreement of 1972.

Negotiations on mutually granting MFN status began in early 1971 and resulted in the signing of two agreements in October 1972, both providing for reciprocal granting of MFN status. It was not known until December 1974/January 1975 that the agreements would not enter into force.

During this period of time, from 1971–1974/1975, one can observe interesting changes in Soviet emigration policies.

In 1971 emigration increased 40 percent over the previous decade's total emigration. The year 1972 observed a 125-percent increase over the 1971 total. Yet, in 1973, the year after the signing of the agreement, the increase in emigration amounted to only 6.3 percent and in 1974 decreased again by 38.2 percent. Yet the question whether or not the trade agreements would enter into force was not decided. Jackson-Vanik was not yet the law. The change in Soviet emigration policies, thus, can only mean that the Soviets thought that they had won the battle. The increase in visas granted during 1971/1972 can be explained with their desire to reach an agreement. And the decrease during 1973/1974 can be explained with their (mis)calculation of having achieved a definite agreement already.

Having said this, it is apparent that we cannot rely on the mere fact that 50,000 people were allowed to emigrate this year in our decision to grant MFN status to the Soviet Union. What could prevent them from applying the same strategy as in 1972/1973?

Taking all this into consideration, I cannot but urge that we use trade as a means to bring about changes with regard to Soviet emigration policies, to force the Soviet Union to recognize free emigration as a legal obligation they are committed to by international law.●

LIBERTY IS NOT FREE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 20, 1979

● Mr. DORNAN. Mr. Speaker, as the world grows smaller, freedom is under attack. Not a point on the planet exists that does not face the threat of oppression. While America has historically yearned for isolationism, we cannot retreat into the false security of ignoring "far-off lands" in today's global village.

In short, we take our freedom for granted until a crisis arises. The threats to America's liberty today are multidirectional and harder for the average citizen to track. Yet the greatest threat is from within. In a terrifying, numbing world we want to escape reality. We cannot. Our national strength is being tested every day, and the tests are increasing in severity.

The country must be made aware that America's survival is at stake. Dr. John A. Howard, director of Rockford College Institute, has clearly addressed this vital issue in his aptly titled essay, "Liberty Is Not Free." I urge my colleagues to carefuly consider his timely words.

The essay follows:

LIBERTY IS NOT FREE

(By Dr. John A. Howard)

The pitiable, paralysis of the United States of America, when faced with the terrorist blackmail of Iranian fanatics, underscores with the force of endangered lives the theme of my comments today: "Liberty Is Not Free."

Even the most superficial observer of international affairs recognizes that the multiplying centers of turmoil and anti-American hostility throughout the world are cause for grave concern. What is not so widely recorganized is that this seething foment in the developing nations calls for a dramatic revitalization of national spirit and unity and resolve, a rekindling of pride and patriotism and determination as the first order of business in America. If this vital change is to come about, our leaders and those who aspire to leadership are going to have to put this goal at the top of the agenda, and give force to their public persuasion by a depth of understanding and a degree of personal commitment that have not been heard in our country for many years. Our liberty has been taken for granted for so long that the nation has generally lost track of what liberty is. Liberty is not free. It cannot be earned by one generation to endure forever. Liberty, in order to survive, must be understood and cherished by each generation. For two and a half years, we at the Rockford College Institute have been studying the nature and the present condition of free institutions, and we have been formulating specific plans for restoring strength and integrity to structures enfeebled by confusion and self-interest. Today I want to share with you some of the comments about the response we must make to the deteriorating world situation. Three things are, I believe, necessary:

First, as I have said, we must bring back into sharp focus what freedom actually is, and register in every mind and heart how mercilessly important liberty is to the human soul, a fact that has been repeatedly dramatized for us by the desperate people who have escaped, or have died trying to escape, from the tyranny of Russia, China, Cuba and their communist allies;

Second, we must think through our national priorities far more intelligently than we have dne in the past. In my judgment, Russia is a powerful, ruthless and steadily advancing enemy, and we have been living in a fool's paradise, providing her with technological know-how and equipment and food, enabling her to devote her own energies to subverting nations around the globe, meanwhile grievously under-equipping our own military forces and naively trying to man them on a volunteer basis. Instead of mobilizing our funds, manpower and national will to proclaim and safeguard liberty, we have been squandering our capital on social programs which seldom accomplish the proclaimed objectives and, what is of far greater importance, are destroying the moral fiber of the citizens;

And, third, we must choose leaders who are not simply seeking power and glory for themselves, but who are courageous, intelligent and honest patriots capable of inspiring our citizens to make the heavy sacrifices necessary for us to become once again a hardworking, honorable, proud and freedom-loving nation.

In this matter of leadership, it is fortunate that we now have a superb example in the new Prime Minister of Great Britain. In the current issue of International Background, an excellent English language commentary published in Lichtenstein*, the lead article this month comments upon Mrs. Thatcher:

> She believes in what she says and says only what she believes. She is clearly convinced that there exists a great threat to the whole non-Communist world. It is partly a danger emanating from the enormous Soviet armament . . . The danger, however, lies partly with ourselves, too. Unfortunately there is still a strong tendency to ignore realities in the Western World, to indulge in wishful thinking, and to draw false conclusions from the international situation. Politicians in power often act as if the Soviet Union were an inoffensive power. Simultaneously, the same people conduct a practical policy which is built on the assumption that Russia is a dangerous bear which one should try to keep in the best of tempers by concessions and conspicuous consideration of the Kremlin's real or supposed wishes. It means appeasement in a modern version.
>
> Such a policy is not only a danger, it is even counter-productive. It disregards something fundamental. An ingratiating conduct towards Moscow only produces contempt in the Soviet Union . . . The Soviet attitude demonstrates clearly the necessity for the West to show an unmistakable will to defend itself. . .

"An unmistakable will to defend itself," says this European observer. That will to defend ourselves is just as critical for our nation's security as is the weaponry for our defense.

What most of our leaders do not seem to understand is that the will to defend ourselves cannot be sufficiently aroused if the basis for asking major sacrifices of the citizens is the protection of their standard of living. By its own logic, this argument is useless. If the standard of living is presumed by the leaders to be the most important aspect of life in America, then one can't expect the people to give up the very thing which the giving-up is supposed to protect. I invite you to consider the statements of the Presidential candidates and note what part, if any, of their rhetoric has to do with anything other than privileges, rights and benefits. Those are not the stuff of the will to defend a nation. No, that will can only be inspired by a keen sense of the obligations of free citizens and the transcendent importance of the life lived in dignity and self-responsibility.

Throughout history, the success of one civilization after another has produced affluence and an increasing attachment to comforts and luxuries and a corresponding disregard for values and principles. Three hundred years ago John Milton identified this pattern in the civilizations before his time:

> What more oft in nations grown corrupt
> And by their vices brought to servitude
> Than to love bondage more than liberty—
> Bondage with ease than strenuous liberty.

"By their vices brought to servitude . . . preferring bondage with ease to strenuous liberty." Milton's observation about previous history was also a piercingly accurate prophecy of what has taken place in the United States. Let us begin with a consideration of what is meant by strenuous liberty and then turn to the vices which have made us such slaves to a standard of living that our stature in the world is reduced to a shambles by any nation large or small that has a passionate commitment to a political philosophy, however harsh, uncivilized or depraved that philosophy may be. It is an unequal contest. The erosion and virtual forefeiture of our national commitment to the ideal of liberty has reduced us to an important and stumbling participant in the worldwide battle for the minds of men.

Strenuous liberty. For openers, let us recognize that the definition of a savage is a person who does his own thing. That is precisely what a savage is, a person who does whatever he pleases without any regard for anyone or anything else. In contrast to a bunch of savages, every society must have some means for bringing about a conformity of behavior with regard to those things the society regards as important. If the society prizes human life, there must be some way to keep people from killing each other. If private property is of importance, there has to be some way to protect it from vandalism, arson and theft. There have to be effective techniques for controlling the behavior of the citizens of every society so that the work can be done and the people can live together.

In a dictatorship, the head man decides what everybody will do and what they will not do and he enforces his decisions with armies of compliance officers, terrorism, brainwashing, torture and the various methods of tyranny. It is still a society. At the opposite pole of societies is what is called, and I emphasize "what is called", a free society. That doesn't mean every one does his own thing. That would not be a society at all but a jungle where savages engage in rape, arson, theft, vandalism, embezzlement, bribery, burglary, deviant sexual activity and other barbarisms. In the successful free society, human conduct is characteristically controlled by the voluntary observance of a vast complex of informal codes of conduct. They include religious commandments, professional ethics, sportsmanship, manners, morals, patriotism, integrity, the house rules of every organization and many other norms of behavior that are not part of public law. The greater the range of effective voluntary restraints the higher the level of freedom, and the more amicable, cooperative and productive the society. When those codes are no longer respected, the people turn to destructive and harmful activities and the government is then called upon to step in, more and more laws are passed, armies of compliance officers are put in the field, harsh penalties multiply, and the government moves along the spectrum of societies from freedom toward tyranny.

This is exactly what has happened in the United States. Liberty is not free. The one eternal and irreducible requirement of an orderly, agreeable and prosperous free society is a highly self-disciplined and self-reliant people. Unfortunately, those qualities do not arise spontaneously in the human breast. Each new generation has to be trained to understand, accept and voluntarily abide by those informal codes of conduct. Until World War II, our families, churches and synagogues, schools and colleges did a fairly good job of transmitting the values and standards of a free society to the young, and their efforts were generally reenforced, or at least not subverted, by the movies, plays, magazines, books and other cultural forces. A large part of the work of our Institute is devoted to analyzing how the schools and colleges and the other value-forming influences can be reenlisted in the critical role of training our young people in the obligations of responsible citizenship, but that is another speech. The point is, people must be effectively trained and continually reenforced in a commitment to those voluntary codes of conduct. The system for such training has broken down and must be reestablished.

Let us turn now to another fundamental change in our society which also has been eating away at the fabric of freedom and undermining the will to defend our liberty. This has to do with the actual purposes of the government. In every group, the members are subjected to an ever-present push-pull between their individual inclinations and what they are supposed to do as members of the group. The regular meeting of a social club may conflict with your daughter's birthday party. Your business may take you out of town at the time of a golf tournament. The point is that the group has to provide some attraction or benefit that will sufficiently outweigh the individual's contrary inclinations so that the group purposes will be fulfilled. This requirement, which can be called the justifying principle of the group, applies to a school, a business, an athletic team and also to a nation, especially a nation. There has to be a justifying principle for every group or it can't hold together.

At the time the United States became a nation, the justifying principle was the assurance of liberty. The hope of freedom from unjust taxes and oppressive government was what caused the colonists to fight the long, arduous Revolutionary War. The protection of liberty was the theme woven into the Constitution and it was the substance of the Bill of Rights. As long as the preservation of liberty remained the highest priority of the government, the nation continued to grow stronger, subject of course to the ups and downs that affect all human affairs.

Then in the 1930s there was a second American Revolution which radically changed the nature of the government and its relationship to the people. The American Government of today operates on different premises and is structured to serve a new purpose, with the result that liberty, as it was conceived two centuries ago, has been cast aside as a matter of governmental concern. The protection of liberty has been replaced by the granting of privileges, benefits and services. Liberty is no longer the justifying principle of our government. The distribution of gifts and favors has supplanted liberty.

This change of purpose was welcomed by many citizens. The hardships imposed by the Great Depression seemed to justify the use of the vast powers and resources of the central government to assist people in their time of need. The warm-hearted American citizens eventually became accustomed to having the Congress authorize help for an endless list of folks who asked for help. Unfortunately, the voters who supported this change in the role of government did not understand the dynamics of government paternalism; they did not foresee the cancerous interplay between the power of those in office to grant favors and the eagerness of the citizens to receive favors.

The dream of a more humane society has turned into a nightmare of governmental extravagance and corruption, of unfulfilled promises on a gigantic scale, of ill-conceived, counterproductive and costly programs, and a populace increasingly divided into militant groups competing fiercely against each other for the favors granted by the government. We are fast moving into the proverbial war of all against all, everyone trying to obtain special privileges for himself or his group. In this circumstance, where can you find the national unity to be mobilized as a will to defend the interests of a free nation?

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*I commend this monthly publication to members of the Council. The cost is $30 a year and the American address is P.O Box 7-356, West Hartford, Connecticut 06167.

The disastrous consequences of the welfare state government as opposed to the government of liberty have damaged all of the systems of our society, but let us register on several of those consequences which have denatured specific aspects of our government and devastated its relationships with the people.

1. The advent of the welfare state has fundamentally changed and distorted the basis on which the voters judge who is the best candidate for national office. To an increasing extent, honesty, breadth of knowledge, good judgment and the other sound and honorable qualities which one would hope to find in candidates for high office are being set aside in favor of a very different set of characteristics.

In the new order, the voters are concerned primarily about what benefits the elected officer can provide for them and their group, so that promises, fast footwork, arm-twisting, log-rolling, legislative clout, and even outright deceit are becoming the characteristics of electability. As Harold Blake Walker noted, of twenty-one Congressmen linked in one way or another with political wrongdoing or personal scandal prior to the 1976 election, nineteen were re-elected. Criminal activity and flagrant immorality have become insignificant in the view of the ever-greedier voters of the welfare state. Their main concern is whether the guy can get them their full share of Washington goodies. People elected to high office on that basis can scarcely be counted on for the wisdom, courage and integrity needed to meet tough international crises.

2. Another massive and destructive consequence of the Second Revolution is the change in the purpose of taxation. When liberty was the byword, taxes were collected only to pay to operate the government. Now, a large and rapidly growing portion of the taxes is collected for the express purpose of redistributing the wealth. This concept denies the meaning of private property. Once the redistribution of wealth is accepted as a proper function of government, there is, of course, no logical point at which to stop short of the total equalization of whatever wealth still exists. This confiscation of assets discourages productive people from working hard, and encourages lazy people to loaf. It is the kiss of death to an economy and it is inherently and eternally the enemy of liberty. I am in no way arguing against altruism and charitable activity—these are the marks of civilized society—but there is a vast difference between providing emergency assistance and a forcible redistribution of private property.

3. The new role of government also brings into sharp focus a wasteful self-contradiction of bureaucracy. If people are employed to attend to a problem, the last thing they want to do is solve that problem and put themselves out of work. One can only regard with awe and admiration the great skill of the bureaucrats in nourishing a problem into something of gigantic proportions, generating research, undertaking surveys, holding conferences, traveling to the far corners of the earth to learn if the residents of Oz and Shangri-la have the same problem, preparing reports, holding press conferences, appointing committees, expanding the staff, opening regional offices, hiring consultants, publishing articles, visiting campuses, etc., all intently focussed upon the problem usually without any measurable effect in reducing it. As an example, consider the matter of drug abuse. Before the government problem-solvers got into the act, a number of private service organizations were trying to deal with this troublesome difficulty, operating with a relatively modest amount of money. Once Washington spread its paternalistic arms to embrace this grand problem, a new industry, the anti-drug abuse industry, blossomed into a billion-dollars-a-year enterprise virtually overnight. There is no data to indicate that drug problems have abated as a result of this massive spending activity. Indeed, the use of cocaine has been swiftly increasing, and there were some believable reports that even staff members in the White House were involved in the use of illegal drugs. The bureaucracy has a fairly consistent record of not solving the problems it tackles, thus assuring that the jobs of the problem-solvers will be safeguarded and multiplied.

These three points are but a few of the many devastating consequences of the change in justifying principle of our government. When the government turns itself into the great giver of gifts and privileges, the result is an infinite demand for dollars from the finite resources of the U.S. Treasury and an increasingly fragmented citizenry with more and more groups pressing their claims for grants and benefits and privileges and special protection. The government not only becomes increasingly corrupt itself, as the encyclopedia of benefits and privileges it has to bestow invites bribery on a large scale, but it also induces corruption among the citizens who seem to have no recourse against being over-taxed and over-regulated. Liberty is not free. The price of liberty is a highly self-disciplined and self-reliant people.

Now, what is the point of this analysis? What good does it do to paint an unpleasant, but all too familiar landscape in new colors? The point is that if we don't understand the large problems that bedevil us, there is little likelihood that we can unravel them. For the most part, we have not understood how we got into the welfare state mess and so our multiplying efforts to get us out aren't doing us much good. We have assumed that these are political and economic problems and have sought to apply political and economic remedies. They aren't working. They cannot work.

You see, the conversion from the land of the free to the land of the free lunch has been a cultural change. It has been a change in the ideals and values and priorities of the citizens. The people have come to value security and comfort more than liberty and self-reliance and integrity. The people have been persuaded to believe it is their right to have the government provide them with food, clothing, shelter, symphony orchestras, art galleries, medical treatment, reimbursement for every loss and protection against every peril. And this, friends, is the central theme of the political campaign now heating up, a petty bragging contest about which candidate will do the most to serve the special interests of the largest voting blocs. The values and standards of conduct and obligations and genuine privileges of citizenship in a land of true liberty are submerged in an avalanche of ill-founded or cynical promises and what is worse, much worse, is that any hope of reviving the will to defend the proper interests of liberty is buried under that same avalanche of political opportunism.

The only long-term remedy is a cultural one. We must find the means to alter the balance of persuasion in the marketplace of ideas, so that the wise and intelligent voices advocating the civilized and self-reliant and self-disciplined conduct of responsible free citizens will prevail against the self-serving demagogues who thrive on an expansion of the welfare state, and the barbarians who wish to validate their own undisciplined lives by freeing the citizens from those few standards of self-disciplined and civilized conduct still remain. I am convinced that there are responsible, effective and expeditious ways to alter this balance of persuasion in the schools and colleges, the print and broadcast media and the other opinion-making centers, but that, too, is another lecture or several lectures. My purpose here has been to shed some light on what has gone wrong at the core of things and how it has happened.

In concluding, let me go back to where we started. The importance of liberty to the human soul is in no way diminished by our having permitted the nature of liberty to become clouded and confused in the public mind. The stern realities of our diminished position in the world call upon all Americans of intelligence and good will to become the new freedom fighters who, knowing that liberty is not free, will devote themselves to reestablishing the standards of responsible, self-reliant and virtuous conduct required for an orderly, cooperative and productive free society. The byproducts of success in that undertaking will, I assure you, be a renewed determination by our citizens to defend our liberty and a renewed respect for the United States of America throughout the world.●

HOUSE OF REPRESENTATIVES—*Monday, December 24, 1979*

The House met at 10 a.m.

The Chaplain, James David Ford, D.D., offered the following prayer:

On this Christmas Eve day we again give thanks, O Eternal God, for the joy of this season and the promise of hope for our unsettled world.

"And while the angels in the sky
  Sang praise above the silent field,
To shepherds poor the Lord most high,
  The one great Shepherd was revealed."

—COELIUS SEDULIUS.

Bless our Nation, O Lord, and be with those dearest to us. At this happy time be with those who do not know our joy and our freedom, and may Your spirit comfort them and their families and give them Your peace that passes all human understanding.

May the message of peace on Earth and good will to all be sung and said with cheerfulness this day and may we continue to live our lives in praise of You, O God, and in service to our neighbor. In the name of the Prince of Peace, we pray. Amen.

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and, without objection, announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

DECEMBER 21, 1979.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker,
Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted December 20, 1979, the Clerk has received this date the following messages from the Secretary of the Senate:

That the Senate passed without amendment H.R. 894, An Act for the relief of Gina Marie S. Hernandez;

That the Senate passed without amendment H.R. 900, An Act for the relief of Grace Maria Salazar Santos;

That the Senate passed without amendment H.R. 901, An Act for the relief of John A. Townsley;

That the Senate passed without amendment H.R. 918, An Act for the relief of Maryrose and Rosemary Evangelista;

That the Senate passed without amendment H.R. 1489, An Act for the relief of In Sun Pineiro;

That the Senate passed without amendment H.R. 1619, An Act for the relief of Rolando R. Gaza, Teresita C. Gaza, and Rolynne Therese Gaza;

That the Senate passed without amendment H.R. 1827, An Act for the relief of Emiko Okuma Colona;

That the Senate passed without amendment H.R. 1887, An Act for the relief of Solomon Mani;

That the Senate passed without amendment H.R. 2593, An Act for the relief of Mariana de Jesus Roca and Francisco Rubira Roca;

That the Senate passed without amendment H.R. 3234, An Act for the relief of Rodolfo Jose Kozul;

That the Senate passed without amendment H.R. 3320, An Act for the relief of Eileen Ferraren Fair;

That the Senate passed without amendment H.R. 5174, An Act to amend section 209 of title 18, United States Code;

That the Senate passed without amendment H.J. Res. 462, A Joint Resolution expressing the sense of Congress concerning the White House Preservation Fund;

That the Senate passed without amendment H.J. Res. 467, A Joint Resolution making an urgent appropriation for administrative expenses of the Chrysler Corporation loan guarantee program, and to provide financial assistance to the Chrysler Corporation for the fiscal year ending September 30, 1980;

That the Senate passed without amendment H.J. Res. 468, A Joint Resolution extending the dates for submission of the President's Budget and Economic Report;

That the Senate passed without amendment H. Con. Res. 232, A Concurrent Resolution providing for the convening of the Second Session of the 96th Congress;

That the Senate agree to the Report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5860) entitled "An act to authorize loan guarantees to the Chrysler Corp.".

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk.
By W. RAYMOND COOLEY,
Deputy Clerk.

SENATE ENROLLED BILLS SIGNED

The SPEAKER pro tempore on December 24, 1979, announced his signature to enrolled bills of the Senate of the following titles:

S. 440. An act to revise and extend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970; and

S. 525. An act to amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had on December 21, 1979, examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 894. An act for the relief of Gina Marie S. Hernandez;

H.R. 900. An act for the relief of Grace Maria Salazar Santos;

H.R. 901. An act for the relief of John A. Townsley;

H.R. 918. An act for the relief of Maryrose and Rosemary Evangelista;

H.R. 1489. An act for the relief of In Sun Pineiro;

H.R. 1619. An act for the relief of Rolando R. Gaza, Teresita C. Gaza, and Rolynne Therese Gaza;

H.R. 1827. An act for the relief of Emiko Okuma Colona;

H.R. 1887. An act for the relief of Solomon Mani;

H.R. 2043. An act to amend the Water Bank Act for the purposes of authorizing the Secretary of Agriculture to adjust payment rates with respect to initial conservation agreements and to designate certain areas as wetlands, and for other purposes;

H.R. 2584. An act to amend the provisions of chapters 83 and 89 of title 5, United States Code, which relate to survivor benefits for certain dependent children, and for other purposes;

H.R. 2593. An act for the relief of Mariana de Jesus Roca and Francisco Rubira Roca;

H.R. 2771. An act to change the name of the Palmetto Bend Reservoir on the Navidad River in Texas to Lake Texana;

H.R. 3091. An act to extend for 1 year the provisions of law relating to the business expenses of State legislators;

H.R. 3234. An act for the relief of Rodolfo Jose Kozul;

H.R. 3320. An act for the relief of Eileen Ferraren Fair;

H.R. 4998. An act to authorize transfer accounts at commercial banks, remote service units at Federal savings and loan associations, and share draft accounts at Federal credit unions during the period beginning on December 31, 1979, and ending on April 1, 1980;

H.R. 5025. An act to amend title 10, United States Code, to provide that any person eligible for medical care under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) who is a veteran with a service-connected disability may not be denied care and treatment for such disability under CHAMPUS solely because such person is eligible for care and treatment for such disability in Veterans' Administration facilities;

H.R. 5079. An act to provide for participation of the United States in the International Energy Exposition to be held in Knoxville, Tenn., in 1982, and for other purposes;

H.R. 5174. An act to amend section 209 of title 18, United States Code;

H.R. 5523. An act to establish an improved program for extra long staple cotton;

H.R. 5537. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia;

H.J. Res. 462. Joint resolution expressing the sense of Congress concerning the White House Preservation Fund; and

H.J. Res. 467. Joint resolution making an urgent appropriation for administrative expenses of the Chrysler Corp. loan guarantee program, and to provide financial assistance to the Chrysler Corp. for the fiscal year ending September 30, 1980.

ADJOURNMENT

Mr. MINETA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 5 minutes a.m.), under its previous order, the House adjourned until Thursday, December 27, 1979, at 10 a.m.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of November 27, 1979 (page 33700):

H.R. 5221. September 10, 1979. Interstate and Foreign Commerce. Amends the Federal Railroad Safety Act of 1970 to direct the Secretary of Transportation to promulgate railroad safety requirements to control spark emissions from locomotives to reduce the danger of fires along railroad rights-of-way.

H.R. 5222. September 10, 1979. Ways and Means; Judiciary. Amends the Internal Revenue Code to permit taxpayers to designate on their income tax returns that either $1 of any tax refund or $1 of any contribution which the taxpayer forwards with his return shall be payable to the United States Olympic Development Fund.

Establishes the United States Olympic Development Fund for the purpose of financing programs for the expansion and improvement of amateur athletics in the United States.

H.R. 5223. September 10, 1979. Ways and Means. Amends the Internal Revenue Code to increase the unified tax credit for both estate and gift taxes.

H.R. 5224. September 10, 1979. Ways and Means. Extends through December 31, 1980, the existing prohibition on the issuance of regulations by the Internal Revenue Service on the taxation of fringe benefits.

H.R. 5225. September 10, 1979. Judiciary; Rules. Amends the Gun Control Act of 1968 to revise provisions relating to the licensing of manufacturers, dealers, and importers of firearms and ammunition and prohibited activities concerning firearms.

Repeals title VII (Unlawful Possession or Receipt of Firearms) of the Omnibus Crime Control and Safe Streets Act of 1968.

H.R. 5226. September 10, 1979. Merchant Marine and Fisheries. Directs the Secretary of Commerce to issue to a certain merchant marine seaman specified decorations in recognition of such seaman's service during World War II.

H.R. 5227. September 11, 1979. Armed Services; Ways and Means; Interior and Insular Affairs; Interstate and Foreign Commerce; Public Works and Transportation; Science and Technology; Banking, Finance and Urban Affairs; Government Operation.

Provides for an expedited decision making process by establishing a strategy for identifying and advancing nonnuclear energy projects. Establishes a five-year program for leasing onshore Federal lands for oil and gas exploration and development. Sets mandatory production levels for alcohol-blended fuels.

Requires short-term conversion from oil to natural gas or coal and wheeling of nonoil fired electricity to systems dependent on oil.

Establishes incentives to advance the commercialization and use of solar energy, wind, urban waste, and other renewable energy sources.

H.R. 5228. September 11, 1979. Public Works and Transportation. Designates the Federal Building in Wilmington, Delaware, as the J. Caleb Boggs Building.

H.R. 5229. September 11, 1979. Ways and Means. Amends the Second Liberty Bond Act to increase the temporary public debt limit.

H.R. 5230. September 11, 1979. Post Office and Civil Service. Directs the Postmaster General to issue a commemorative postage stamp in honor of Benito Juarez.

H.R. 5231. September 11, 1979. Post Office and Civil Service. Directs the Postmaster General to issue a commemorative postage stamp in honor of Pablo Casals.

H.R. 5232. September 11, 1979. Post Office and Civil Service. Directs the Postmaster General to issue a commemorative postage stamp in honor of Roberto Clemente.

H.R. 5233. September 11, 1979. Post Office and Civil Service. Exempts from public disclosure Shipper's Export Declarations or any successor document or documents submitted in lieu thereof for Bureau of Census statistical purposes, unless the Secretary of Commerce determines that withholding would be contrary to the national interest.

H.R. 5234. September 11, 1979. Ways and Means. Amends the Internal Revenue Code with respect to an alternative method of valuing farms for estate tax purposes.

H.R. 5235. September 11, 1979. Armed Services. Revises the special pay for medical officers, dental officers, optometry officers, and podiatry officers in the uniformed services on active duty.

H.R. 5236. September 11, 1979. Interior and Insular Affairs. Amends the Mineral Leasing Act of 1920 to limit the primary term for a noncompetitive lease of oil and gas lands to five years with an extension of two additional years under specified circumstances.

H.R. 5237. September 11, 1979. Agriculture; Interstate and Foreign Commerce. Authorizes the Secretary of Agriculture to assist participants in the food stamp program to pay the cost of fuel consumed for residential heating during the period of December through March.

H.R. 5238. September 11, 1979. Ways and Means. Amends the Internal Revenue Code to provide that, for purposes of computing the allowable retirement plan exclusion and employer contributions allowance for church employees, all years of service for a church, church association, or an agency for such churches shall be considered employment for one employer.

Extends to church employees the same option presently enjoyed by employees of tax-exempt health and education organizations to elect alternative exclusion allowances for contributions to annuity contracts.

H.R. 5239. September 11, 1979. Ways and Means. Amends the Internal Revenue Code to make permanent the special tax treatment of church agency pension plans as qualified church plans. Allows any plan which is determined to have failed to meet church plan requirements a grace period to bring itself into compliance without becoming disqualified.

H.R. 5240. September 11, 1979. Education and Labor; Ways and Means. Amends the Employee Retirement Income Security Act to make permanent the special tax treatment of church agency pension plans as qualified church plans. Allows any plan which is determined to have failed to meet church plan requirements a grace period to bring itself into compliance without becoming disqualified.

H.R. 5241. September 11, 1979. Education and Labor; Interstate and Foreign Commerce; Ways and Means. Directs the Secretary of Health, Education, and Welfare to establish a program to provide assistance to low-income and elderly households to aid in meeting primary residential fuel costs.

Earmarks specified funds for the purpose of creating public information and outreach programs designed to ensure maximum participation in such program.

Directs the Director of the Community Services Administration to establish a crisis intervention program to supplement such program.

Amends the Internal Revenue Code to allow a tax credit to eligible taxpayers for amounts paid for heating oil for principal residences.

H.R. 5242. September 11, 1979. Ways and Means. Amends the Tariff Schedules of the United States to place a tariff on unrefined montan wax from Communist countries.

H.R. 5243. September 11, 1979. Merchant Marine and Fisheries. Provides for a national program of fisheries research and development to promote the free flow of domestically produced fishery products in domestic and international commerce by conducting fishery educational, technological, biological, and related research programs, and to provide financial assistance for fisheries development projects.

Requires the Secretary of Commerce to appoint officers, with the concurrence of the Secretary of State, to serve abroad to promote U.S. fishing interests.

H.R. 5244. September 11, 1979. Interior and Insular Affairs. Directs the Secretary of the Interior to report to Congress prior to the granting of any license, permit, or other authorization or permission by any Federal agency or instrumentality of the United States to any person for the transportation for storage or the storage of spent nuclear fuel or high-level radioactive waste to or on any territory or possession of the U.S.

Prohibits the granting of any such license, permit, or other authorization or permission, or such transportation or storage of such fuel or waste, unless the proposed transportation or storage plan has been specifically authorized by Act of Congress.

Exempts the cleanup and rehabilitation of Bikini and Enewetak Atolls from the provisions of this Act.

H.R. 5245. September 11, 1979. Education and Labor. Excludes operators of mines employing ten or fewer miners from the provisions of the Federal Mine Safety and Health Act of 1977.

H.R. 5246. September 11, 1979. Veterans' Affairs. Directs the Administrator of Veterans' Affairs to provide a lump-sum bonus to qualified World War II veterans, or if deceased, to their survivors.

H.R. 5247. September 11, 1979. Ways and Means. Amends part A (Aid to Families with Dependent Children) of title IV of the Social Security Act to permit States to require any individual to work if such individual's needs are taken into account in determining eligibility for AFDC benefits.

H.R. 5248. September 11, 1979. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in satisfaction of a claim against the United States.

H.R. 5249. September 11, 1979. Judiciary. Declares an individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 5250. September 11, 1979. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 5251. September 11, 1979. Judiciary. Declares certain individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 5252. September 12, 1979. Foreign Affairs. Amends the Foreign Assistance Act of 1961 to permit operations by the Overseas Private Investment Corporation in China.

H.R. 5253. September 12, 1979. Ways and Means. Amends the Trade Act of 1974 to permit China to participate in U.S. programs extending credit, credit guarantees, or investment guarantees.

H.R. 5254. September 12, 1979. Judiciary. Amends the Immigration and Nationality Act to permit the refunding of fines paid by persons unlawfully bringing aliens into the United States if such aliens are admitted (or paroled) into the United States.

H.R. 5255. September 12, 1979. Post Office and Civil Service. Provides that the salaries of the Members of Congress shall be subject to reduction if a level of inflation determined by the Congress to be acceptable is exceeded. Repeals certain provisions of law allowing cost-of-living adjustments for such salaries.

H.R. 5256. September 12, 1979. Ways and Means. Amends the Internal Revenue Code to provide a tax exclusion from personal income earned abroad by an individual performing qualified charitable services for a tax-exempt employer created or organized in the United States.

H.R. 5257. September 12, 1979. Ways and Means. Amends the Internal Revenue Code to provide that interest on certain nonnegotiable time deposit certificates shall not be treated as received or accrued until the earlier of the maturity or redemption of the certificate.

H.R. 5258. September 12, 1979. Interstate and Foreign Commerce. Directs the Secretary of Commerce to promulgate rules and regulations which set forth the requirement for approval of product liability risk retention groups and the purchase of product liability insurance on a group basis.

H.R. 5259. September 12, 1979. Public Works and Transportation. Designates the Federal building in Santa Fe, New Mexico, as the Joseph E. Montoya Federal Building—U.S. Courthouse.

H.R. 5260. September 12, 1979. Interstate and Foreign Commerce. Amends the Motor Vehicle Information and Cost Savings Act to specify when the failure of a manufacturer of motor vehicles to comply with any average fuel economy standard constitutes unlawful conduct.

Sets forth the formula for deducting specified credits from the amount of any civil penalty assessed against a manufacturer.

H.R. 5261. September 12, 1979. Education and Labor; Judiciary; Ways and Means. Amends the Immigration and Nationality Act, the Comprehensive Employment and Training Act of 1973, the Internal Revenue Code of 1954, and the Social Security Act: (1) to restrict the illegal entry and prohibit the employment of aliens in the United States; (2) to facilitate the admission of aliens for temporary employment; and (3) to regulate the issuance and use of social security account cards.

H.R. 5262. September 12, 1979. Interior and Insular Affairs. Directs the Secretary of the Interior and the Navajo and Hopi Indian Relocation Commission to take certain actions relating to specified reservation lands partitioned to the Navajo and Hopi Indian Tribes and the relocation of individuals resulting from such partition.

Requires tribal consent for any development, livestock grazing, or conservation practices on lands partitioned to either tribe.

Requires the Commission to pay certain benefits to facilitate the resettlement of persons required to relocate. Provides for the payment of attorney's costs in litigation among the tribes and the United States.

Sets forth standards governing life estate leases on partitioned lands.

H.R. 5263. September 12, 1979. Interstate and Foreign Commerce. Directs the Secretary of Energy to file a report to the Congress examining the middle distillate shortage and determining whether, under the Emergency Petroleum Allocation Act, decontrol of such fuels is warranted. Requires that the Secretary reimpose price and allocation controls on such fuels upon a finding that decontrol is unwarranted.

H.R. 5264. September 12, 1979. Education and Labor. Amends title I of the Higher Education Act of 1965 to repeal provisions concerning community services and continuing education programs, including the National Advisory Council on Extension and Continuing Education. Establishes a new title I, "Lifelong and Continuing Education."

Authorizes appropriations for lifelong education purposes, including (1) comprehensive State planning; (2) grants to institutions of higher learning; (3) special purpose grants; and (4) Federal planning, research, and coordination.

Transfers responsibility for continuing education programs from the Assistant Secretary to the Secretary of Health, Education, and Welfare.

Directs the President to appoint a National Advisory Council of Lifelong and Continuing Education.

H.R. 5265. September 13, 1979. Agriculture. Amends the Food Stamp Act of 1979 to increase the cost of the thrifty food plan in specified States for the months of December, 1979, and January through March of 1980, by a formula based on the increase in the costs of home heating oil.

H.R. 5266. September 13, 1979. Ways and Means. Amends the Internal Revenue Code to specify standards for determining whether certain individuals qualify as independent contractors for purposes of social security taxation.

Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to provide coverage for independent contractor services.

H.R. 5267. September 13, 1979. Ways and Means. Amends the Internal Revenue Code to increase the investment tax credit for solar energy property and the residential energy credit for renewable energy source expenditures. Qualifies solar energy property which performs more than one energy-related function for the residential energy credit.

H.R. 5268. September 13, 1979. Veterans' Affairs. Authorizes the Veterans' Administration to use its own legal counsel to pursue civil remedies for the collection of overpayments of educational assistance made to eligible veterans and dependents and for the collection of education loans which have been defaulted.

H.R. 5269. September 13, 1979. Merchant Marine and Fisheries. Authorizes appropriations to and for the Panama Canal Commission for: (1) Panama Canal operation and maintenance: (2) improvements of facilities; and (3) capital liabilities of the Panama Canal Company and the Zone Government. Specifies conditions for appropriations to and for such Commission.

H.R. 5270. September 13, 1979. Post Office and Civil Service. Prohibits the salaries of Members of Congress and the Vice President from exceeding the rate of pay in effect on September 30, 1978.

H.R. 5271. September 13, 1979. Ways and Means. Amends the Internal Revenue Code to reduce individual and corporate income tax rates. Increases the amount of the corporate surtax exemption.

H.R. 5272. September 13, 1979. Ways and Means. Amends the Internal Revenue Code to increase the gift tax exclusion.

H.R. 5273. September 13, 1979. Education and Labor. Amends the Older Americans Act by establishing in any State real property tax relief programs by the Secretary of Health, Education, and Welfare for qualifying persons age 65 or older.

H.R. 5274. September 13, 1979. Judiciary. Allows a person to be sentenced to death for a violation of Federal law only if a separate sentencing hearing is conducted in accordance with the procedures of this act. Provides for review of a death sentence.

H.R. 5275. September 13, 1979. Ways and Means. Amends title II (Old-Age, Survivors and Disability Insurance) of the Social Security Act to remove the limitation on the amount of outside income which an individual may earn while receiving benefits.

H.R. 5276. September 13, 1979. Ways and Means. Amends the Internal Revenue Code and title II (Old-Age, Survivors and Disability Insurance) of the Social Security Act to provide a full exemption, through credit or refund, from the employees' tax under the Federal Insurance Contributions Act and an equivalent reduction in the self-employment tax for those individuals who have attained age 65.

H.R. 5277. September 13, 1979. Ways and Means. Amends the Trade Act of 1974 and the Tariff Act of 1930 to make certain changes in procedures applicable to Presidential actions to provide relief to domestic industries from injuries caused by import competition.

H.R. 5278. September 13, 1979. Interior and Insular Affairs. Authorizes the Secretary of the Interior to engage in feasibility studies of specified powerplant and water supply projects in Montana, Idaho, Oregon, California, Arizona, Wyoming, Texas, and Colorado.

H.R. 5279. September 13, 1979. Foreign Affairs. Directs the Director of the International Communication Agency to make available to the Administrator of General Services the film, "Reflections: George Meany", for distribution in the United States.

H.R. 5280. September 14, 1979. Banking, Finance and Urban Affairs. Amends the National Bank Act to revise: (1) financial regulations pertaining to depository institutions; and (2) increased home mortgage financing.

H.R. 5281. September 14, 1979. Ways and Means. Amends the Internal Revenue Code to allow a limited income tax exclusion of the interest earned on savings accounts.

H.R. 5282. September 14, 1979. Interior and Insular Affairs; Science and Technology; Interstate and Foreign Commerce; Rules. Establishes energy supply targets to the year 2000. Establishes a procedure for an annual review and update of those targets.

H.R. 5283. September 14, 1979. Ways and Means. Amends the Internal Revenue Code to exclude film rents from classification as passive income for purposes of the passive income requirements applicable to electing small business corporations under Subchapter S.

H.R. 5284. September 14, 1979. District of Columbia. Establishes three retirement funds encompassing: (1) District of Columbia fire fighters and police officers; (2) District of Columbia teachers; and (3) District of Columbia judges.

Establishes the District of Columbia Retirement Board to manage the retirement funds created by this Act.

Details provisions relating to the administration of such funds and revises provisions relating to specified retirement and disability benefits under the retirement programs of such personnel.

H.R. 5285. September 14, 1979. Judiciary. Amends the Federal criminal code to apply provisions relating to the interception of wire and oral communications to the use of a pen register.

H.R. 5286. September 14, 1979. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to provide for the counting of certain World War II military service toward years of service requirements for eligibility for certain benefits under such Act.

H.R. 5287. September 14, 1979. Ways and Means; Interstate and Foreign Commerce. Amends the Social Security Act to direct the Secretary of Health, Education, and Welfare to conduct a study, containing specified analyses, with regard to the cost effectiveness of the hourly salary equivalent reimbursement system which is currently required for determining the payment to providers under Medicare for therapy services or services of other health-related personnel (other than physicians).

Suspends the guidelines for respiratory therapy services under Medicare pending submission of such study.

H.R. 5288. September 14, 1979. Veterans' Affairs. Revises the veterans' rehabilitation program and the veteran's educational assistance program.

H.R. 5289. September 14, 1979. Ways and Means. Amends the Internal Revenue Code to allow a limited tax exclusion of the interest earned on savings accounts.

H.R. 5290. September 14, 1979. Interstate and Foreign Commerce; Public Works and Transportation; Merchant Marine and Fisheries. Establishes procedures for compensation, cleanup, emergency response, and establishment of liability for discharges of hazardous substances released into the environment.

Establishes a Hazardous Substance Response Fund to be constituted from specified fees and all moneys recovered on behalf of the Fund or recovered or collected under the Clean Water Act.

H.R. 5291. September 14, 1979. Education and Labor; Interstate and Foreign Commerce; Judiciary. Amends the Solid Waste Disposal Act to direct the Administrator of the Environmental Protection Agency to establish a program to identify and monitor abandoned hazardous waste sites.

Creates a Federal cause of action for damages for any person physically injured or having property damaged by the negligent handling of hazardous waste.

Establishes within the Environmental Protection Agency the Toxic Victims Compensation Board to administer a program of compensation for victims of hazardous waste.

Establishes a fund for the maintenance and reclamation of hazardous waste sites and for the payment of compensation for hazardous waste injury victims.

H.R. 5292. September 14, 1979. Education and Labor. Authorizes the President to establish a Board of Arbitration for the settlement of labor disputes in which an actual or threatened strike or lockout is likely to cause serious economic injury to agricultural producers in any State.

H.R. 5293. September 14, 1979. Ways and Means. Amends the Internal Revenue Code to allow an additional income tax exemption for a taxpayer or spouse who is deaf or deaf-blind.

H.R. 5294. September 14, 1979. Interior and Insular Affairs. Prohibits States or local authorities from levying or collecting any tax or fee on coal or lignite mined from Federal lands, unless such tax or fee is fairly related to services provided by such State or local authority in connection with such mining. Limits the total of such State or local taxes or fees which may be levied or collected.

H.R. 5295. September 14, 1979. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to prevent, in calculating benefit deductions due to work, the charging of excess earnings to a month in which an individual did not earn more than the applicable exempt amount determined under title II.

Extends Medicare hospital insurance benefits to any individual who would be entitled to such benefits under title II except that they have not applied for such benefits.

Disregards after December, 1977, for purposes of computing the amount of OASDI benefits, any income attributable to services performed before becoming eligible for OASDI.

H.R. 5296. September 14, 1979. Ways and Means. Amends the Energy Tax Act of 1978 to make permanent the exemption of gasohol from the excise tax on motor fuels.

H.R. 5297. September 14, 1979. Interior and Insular Affairs. Authorizes appropriations to the Nuclear Regulatory Commission in accordance with the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974.

Directs the Commission to establish a Senior Contract Review Board to review placements or modifications of contracts with Federal agencies or for research services in excess of $500,000.

Amends the Atomic Energy Act of 1954 to authorize the Commission to protect certain unclassified but sensitive nuclear safeguards information from public disclosure.

H.R. 5298. September 14, 1979. Government Operations: Rules. Amends the Budget and Accounting Act of 1921 and the Congressional Budget Act of 1974 to require the inclusion of certain figures on capital and operational expenditures in the budgets transmitted to the Congress by the President and in the first concurrent resolutions on the budget.

H.R. 5299. September 14, 1979. Judiciary. Declares an individual lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act.

H.R. 5300. September 14, 1979. Judiciary. Permits the issuance of visa to a certain individual for permanent residence under the Immigration and Nationality Act.

H.R. 5301. September 17, 1979. Interior and Insular Affairs. Designates certain lands in the Black Hills National Forest, South Dakota, as the Harney Peak Wilderness.

H.R. 5302. September 17, 1979. Ways and Means. Amends the Internal Revenue Code to provide that interest on certain nonnegotiable time deposit certificates shall not be treated as received or accrued until the earlier of the maturity or redemption of the certificate.

H.R. 5303. September 17, 1979. Ways and Means. Amends the Internal Revenue Code to provide that employers may not be required to make deposits (or other payments) of social security taxes or withholding of tax amounts earlier than currently required by regulation.

H.R. 5304. September 17, 1979. Banking, Finance and Urban Affairs; Interstate and Foreign Commerce; Science and Technology. Establishes the Residential Energy Conservation Office within the Department of Energy to accept applications for reimbursement of residential energy conservation improvement expenditures.

Authorizes the Secretary of Energy to make loans to industrial firms to assist in paying engineering costs for industrial energy conservation projects.

Directs the Secretary to issue regulations providing for an energy rebate to industrial firms implementing energy conservation projects.

Directs the Secretary to establish within the Department of Energy a Commercial Property Energy Conservation Loan Program. Establishes an advisory board for such loan program.

H.R. 5305. September 17, 1979. Education and Labor; Science and Technology. Authorizes the National Science Foundation to make grants to encourage the education, employment, and training of women in science and technology. Establishes a Clearinghouse on Women in Science to collect information to encourage women to enter these fields. Establishes the Distinguished Achievement in the Advancement of Women in Science Award. Establishes the President's Committee for Equal Opportunity in Science Awards.

Establishes the Mathematics and Science Incentives Awards for schools encouraging the training of women in these areas. Requires the collection and dissemination of information concerning employment for women in these fields and qualified women in science and technology.

H.R. 5306. September 17, 1979. Armed Services. Eliminates the requirement that an individual be a member of the National Rifle Association to be eligible to purchase arms, ammunition, targets, and other supplies and appliances necessary for target practice which are sold by the Department of the Army.

H.R. 5307. September 17, 1979. Agriculture; Armed Services; Interior and Insular Affairs. Modifies the exterior boundary of the Cibola National Forest, New Mexico.

H.R. 5308. September 17, 1979. Ways and Means. Amends the Internal Revenue Code to provide that interest on certain nonnegotiable time deposit certificates shall not be treated as received or accrued until the earlier of the maturity or redemption of the certificate.

H.R. 5309. September 17, 1979. Judiciary. Authorizes the classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 5310. September 18, 1979. Ways and Means; Rules. Provides for a temporary increase in the public debt limit. Amends the Rules of the House of Representatives to permit the establishment of a public debt limit as a part of the congressional budget process.

H.R. 5311. September 18, 1979. Government Operations. Prohibits the obligation of over $10,000 in Federal funds for any project: (1) to purchase goods which are not domestic products; or (2) for payment of building construction or repair services unless such services are performed by citizens or resident aliens of the United States. Waives such prohibitions under specified conditions.

H.R. 5312. September 18, 1979. Judiciary. Amends the Gun Control Act of 1968 to require additional prison sentences for anyone using or carrying a firearm during the commission of a felony which may be prosecuted in a Federal court.

H.R. 5313. September 18, 1979. Ways and Means. Amends the Internal Revenue Code with respect to capital gains treatment of qualified small business concerns engaged in research and development.

H.R. 5314. September 18, 1979. Ways and Means. Amends the Internal Revenue Code to make permanent the special tax treatment of church agency pension plans as qualified church plans. Allows any plan which is determined to have failed to meet church plan requirements a grace period to bring itself into compliance without becoming disqualified.

H.R. 5315. September 18, 1979. Ways and Means. Amends the Internal Revenue Code to provide that, for purposes of computing the allowable retirement plan exclusion and employer contributions allowance for church employees, all years of service for a church, church association, or an agency for such churches shall be considered employment for one employer.

Extends to church employees the same option presently enjoyed by employees of tax-exempt health and education organizations to elect alternative exclusion allowances for contributions to annuity contracts.

H.R. 5316. September 18, 1979. Education and Labor; Ways and Means. Amends the Employee Retirement Income Security Act to make permanent the special tax treatment of church agency pension plans as qualified church plans. Allows any plan which is determined to have failed to meet church plan requirements a grace period to bring itself into compliance without becoming disqualified.

H.R. 5317. September 18, 1979. Ways and Means. Amends title XVIII (Medicare) of the Social Security Act to direct the Secretary of Health, Education, and Welfare to provide for demonstration projects for the provision of preventive health services to the elderly through traveling health care practitioners.

H.R. 5318. September 18, 1979. Ways and Means. Amends the Internal Revenue Code to allow an income tax credit for the residential use of heating oil.

H.R. 5319. September 18, 1979. Ways and Means. Amends the Internal Revenue Code to exclude from gross income up to $500 of interest income earned from a savings account.

H.R. 5320. September 18, 1979. Ways and Means; Interstate and Foreign Commerce. Establishes a National Commission on Hospital Cost Containment to study specified aspects of hospital costs and utilization. Authorizes the Secretary of Health, Education, and Welfare to provide grants for State voluntary or mandatory hospital cost containment programs. Disallows the treatment of certain types of philanthropic support as hospital revenues for the purpose of State or Federal laws limiting hospital revenues.

H.R. 5321. September 18, 1979. Interstate and Foreign Commerce. Amends the Regional Rail Reorganization Act of 1973 to permit increases in United States Railway Association loans to railroads subject to specified conditions.

Amends the Emergency Rail Services Act of 1970 to permit the Secretary of Transportation to waive certain requirements for the guarantee of certificates for an additional year.

H.R. 5322. September 18, 1979. Interstate and Foreign Commerce. Requires the distribution of certain refinery stocks of home heating oil to local distributors.

H.R. 5323. September 19, 1979. Post Office and Civil Service. Limits the maximum number of civil service positions which may be classified at grades GS–13 as of a specified date.

H.R. 5324. September 18, 1979. Banking. Finance, and Urban Affairs; Public Works and Transportation. Amends the Public Works and Economic Development Act of 1965 to provide for low-interest loans to businesses making commitments to employ substantial numbers of individuals from areas of high unemployment.

H.R. 5325. September 18, 1979. Ways and Means. Amends the Internal Revenue Code to allow residential and certain institutional users of refined petroleum products a limited, refundable income tax credit for the increase in price of such products due to deregulation of the oil industry.

H.R. 5326. September 18, 1979. Agriculture. Directs the Secretary of Agriculture to convey specified property in the Louisiana National Forest to the State of Louisiana in exchange for specified property in Camp Livingston, Louisiana.

H.R. 5327. September 18, 1979. Post Office and Civil Service. Amends the Federal Salary Act of 1967 and the Legislative Reorganization Act of 1946 to specify when an adjustment in the rate of pay for Members of Congress proposed during any Congress shall take effect.

H.R. 5328. September 18, 1979. Judiciary. Declares certain individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 5329. September 19, 1979. Agriculture. Amends the Agricultural Act of 1949 to change specified levels of price support loans and payments for the 1980 and subsequent crops of extra long staple cotton.

Amends the Agricultural Adjustment Act of 1938 to set January 15 of the crop harvest year as the final date upon which acreage allotments for such cotton may be voluntarily surrendered to county committees or sold, leased, or transferred to other farms.

Directs the Secretary of Agriculture to permit the sale, lease (for a maximum total period of three years), or transfer of such allotments to other farms in any State or county.

H.R. 5330. September 19, 1979. Small Business. Amends the Small Business Act to require that Federal agencies which conduct research and development programs of specified budget size establish and administer a Small Business Innovation Research (SBIR) program. Directs the Small Business Administration to develop an information program to assure that each qualified and interested small business concern has the opportunity to participate in the SBIR programs.

H.R. 5331. September 19, 1979. Ways and Means. Amends the Internal Revenue Code to provide a system of accelerated capital cost recovery for investment in business facilities and equipment.

H.R. 5332. September 19, 1979. Ways and Means. Amends the Internal Revenue Code to authorize the withdrawal of imported beer from customs custody and transfer in bulk containers or by pipeline to a brewery without payment of the excise tax. Makes the brewer liable for payment of such tax upon release of the beer from customs custody.

H.R. 5333. September 19, 1979. Public Works and Transportation. Amends the Urban Mass Transportation Act of 1964 with respect to various authorizations from the Energy Security Trust Fund. Permits the increase of the Federal share of projects for automobile energy conservation.

H.R. 5334. September 19, 1979. Public Works and Transportation. Includes specified areas and portions of streets within the definition of the United States Capitol Grounds. Revises the list of streets to be maintained by the District of Columbia.

Authorizes the Capitol Police Board to detail police for police duty on the Capitol Grounds and the Library of Congress Grounds.

Authorizes the Architect of the Capitol to acquire specified property for addition to the Capitol Grounds.

H.R. 5335. September 19, 1979. Ways and Means. Amends the Internal Revenue Code to increase the residential energy credit. Qualifies energy efficient replacement furnaces or boilers and woodburning stoves for the residential energy credit.

Allows an additional ten percent investment tax credit for small business investment in energy property. Qualifies energy conservation expenditures for investment tax credit treatment.

H.R. 5336. September 19, 1979. Post Office and Civil Service. Recognizes the joint efforts of Thomas Carr and Francis Scott Key in the musical composition of the "Star-Spangled Banner" and designates such composition as the national anthem of the United States.

H.R. 5337. September 19, 1979. Education and Labor; Ways and Means. Amends the Employee Retirement Income Security Act of 1975 (ERISA) with respect to reporting and disclosure requirements, participation and vesting, funding, fiduciary responsibility, and administration and enforcement.

Amends the Internal Revenue Code of 1954 with respect to employee benefit plans.

Establishes an independent Employee Benefits Commission to administer and enforce titles I and IV of ERISA and to assume certain functions of the Secretary of Labor, the Pension Guaranty Corporation, and the Secretary of the Treasury with respect to employee benefit plans.

Amends the Employment Retirement Income Security Act of 1974 and the Internal Revenue Code with respect to the regulation, establishment, and maintenance of employee benefit plans.

H.R. 5338. September 19, 1979. Public Works and Transportation. Amends the Federal Water Pollution Control Act to entitle U.S. claimants to recover specified damages caused by the oilspill in the Bay of Campeche, Mexico.

H.R. 5339. September 19, 1979. Ways and Means. Amends the Internal Revenue Code to permit a taxpayer to elect a 12 month amortization period or an additional ten percent investment tax credit for pollution control facilities used in connection with a plant or other property in operation before January 1, 1971.

H.R. 5340. September 19, 1979. Interior and Insular Affairs. Amends the Water Research and Development Act of 1978 to revise the duties of State institutes. Makes any State or local government agency or academic institution eligible to participate in the matching grant program activities of their State institute.

Removes the limitation on the number of desalting plants demonstrating the engineering and economic viability of membrane and phase-change process to be constructed by the Secretary of the Interior. Revises the terms of proposed contracts or cooperative agreements between the Secretary and non-Federal entities to require such entities to provide between 15 and 50 percent of the total cost.

H.R. 5341. September 19, 1979. Interior and Insular Affairs. Designates as wilderness certain lands in the State of Florida within: (1) the Ocala National Forest; (2) the Osceola National Forest; and (3) the Apalachicola National Forest.

H.R. 5342. September 19, 1979. Judiciary. Authorizes the payment of fees and other expenses to prevailing parties in administrative adjudications and civil action brought by or against the United States in certain circumstances.

Makes certain revisions in the study of the small business program.

H.R. 5343. September 19, 1979. Judiciary. Establishes procedures for the marketing of inventions arising from federally-supported research and development by nonprofit organizations and small business firms.

H.R. 5344. September 19, 1979. Interior and Insular Affairs. Designates specified lands in the Beaverhead National Forest, Montana, as the West Big Hole Wilderness.

Directs the Secretary of Agriculture to administer such wilderness.

H.R. 5345. September 19, 1979. Merchant Marine and Fisheries. Prohibits the suspension or limitation of funding of fish and wildlife restoration programs under the Federal Aid in Wildlife Restoration Act or the Federal Aid in Fish Restoration Act during the pendency of any legal action relating to the applicability to such project of the environmental impact statement requirements of the National Environmental Policy Act of 1969.

H.R. 5346. September 20, 1979. Ways and Means; Rules. Provides for a temporary increase in the public debt limit. Amends the Rules of the House of Representatives to permit the establishment of the public debt limit as part of the congressional budget process.

H.R. 5347. September 20, 1979. Merchant Marine and Fisheries; Science and Technology. Establishes a national policy on the oceans, coastal environment, and atmosphere.

Establishes the National Oceanic and Atmospheric Administration.

H.R. 5348. September 20, 1979. Interior and Insular Affairs. Authorizes the Secretary of the Interior, in consultation with the State of California, to designate a specified trail in the vicinity of the Mount Tamalpais portion of the Golden Gate National Recreation Area as the "Bob Cook Trail."

H.R. 5349. September 20, 1979. Interior and Insular Affairs. Amends the Point Reyes National Seashore Act to direct the Secretary of the Interior to designate the visitor center in the Bear Valley area as the "Clem Miller Visitor Center."

H.R. 5350. September 20, 1979. Ways and Means. Amends the Internal Revenue Code to provide that no gain or loss will be recognized in the case of transfers of a principal residence in divorce or legal separation proceedings.

H.R. 5351. September 20, 1979. Judiciary. Provides Federal indemnity for suppliers of products to the Federal Government in certain cases in which such suppliers become liable for loss with respect to those products.

H.R. 5352. September 20, 1979. Ways and Means. Amends the Internal Revenue Code to increase the amount of the exclusion from gross income of dividends received by individuals.

H.R. 5353. September 20, 1979. Ways and Means. Amends the Internal Revenue Code to allow a limited tax exclusion for interest earned on a savings account.

H.R. 5354. September 20, 1979. Ways and Means. Amends the Internal Revenue Code to allow an income tax credit for tuition paid by a taxpayer to an elementary, secondary vocational or higher education institution for such taxpayer's education or that of his spouse or dependents.

H.R. 5355. September 20, 1979. Ways and Means. Amends the Internal Revenue Code to repeal the estate tax carryover provisions enacted by the Tax Reform Act of 1976. Restores prior law relating to the basis of property passed by a decedent.

H.R. 5356. September 20, 1979. Public Works and Transportation. Amends the Federal Water Pollution Control Act to entitle U.S. claimants to recover specified damages caused by the oilspill in the Bay of Campeche, Mexico.

H.R. 5357. September 20, 1979. Judiciary. Provides for the naturalization of a certain individual under the Immigration and Nationality Act.

H.R. 5358. September 20, 1979. Judiciary. Directs the Secretary of the Treasury to pay a certain individual in settlement of a claim against the United States.

H.R. 5359. September 20, 1979. Makes appropriations for the Department of Defense for fiscal year 1980.

H.R. 5360. September 21, 1979. Post Office and Civil Service. Makes the first Monday in February a legal holiday for Lincoln's Birthday.

H.R. 5361. September 21, 1979. Post Office and Civil Service. Permits the head of any agency, with the concurrence of such agent as the President may designate, to determine and fix the minimum and maximum limits of age within which an original appointment may be made to a position of customs or immigration inspector.

H.R. 5362. September 21, 1979. Ways and Means. Amends the Internal Revenue Code to allow an income tax credit for the residential use of heating oil.

H.R. 5363. September 21, 1979. Armed Services. Provides for the conveyance of certain real property to the State of Illinois for National Guard purposes.

H.R. 5364. September 21, 1979. Ways and Means. Amends the Internal Revenue Code to increase the amount of the excise tax exemption for gasoline mixed with alcohol. Makes such exemption permanent.

Directs the Secretary of the Treasury to issue regulations with respect to the use of gasoline and kerosene for the denaturation of alcohol for fuel purposes.

H.R. 5365. September 21, 1979. Post Office and Civil Service. Amends the Federal Salary Act of 1967 and the Legislative Reorganization Act of 1946 to specify when an adjustment in the rate of pay for Members of Congress proposed during any Congress shall take effect.

H.R. 5366. September 21, 1979. Post Office and Civil Service. Amends the Federal Salary Act of 1967 and the Legislative Reorganization Act of 1946 to prohibit any adjustments in the pay for Members of Congress from taking effect unless both Houses of Congress specifically approve such adjustment.

H.R. 5367. September 21, 1979. Ways and Means. Amends the Internal Revenue Code to reduce the maximum number of operating crewmen of a fishing boat necessary to qualify such crewmen as employees for purposes of withholding and social security taxes.

H.R. 5368. September 21, 1979. Ways and Means. Amends the Internal Revenue Code with respect to the requirement that tax return preparers sign the returns they prepare.

H.R. 5369. September 21, 1979. Ways and Means; Rules. Provides for a temporary increase in the public debt limit. Amends the Rules of the House of Representatives to make possible the establishment of the public debt limit as a part of the congressional budget process.

H.R. 5370. September 21, 1979. Ways and Means. Amends the Internal Revenue Code to deny a tax exclusion of the interest on State and local mortgage revenue bonds, except bonds which are issued by State agencies pursuant to State legislative authorization.

H.R. 5371. September 24, 1979. Rules. Amends the Congressional Budget Act of 1974 to limit the level of total budget outlays contained in the concurrent resolutions on the budget to specified percentages of the gross national product.

H.R. 5372. September 24, 1979. Interstate and Foreign Commerce. Amends the Emergency Petroleum Allocation Act of 1973 to direct the President to promulgate a regulation to reestablish ceiling price and mandatory allocation requirements for middle distillate fuels.

H.R. 5373. September 24, 1979. Armed Services. Authorizes chiropractic care in medical facilities of the uniformed services and under the CHAMPUS (Civilian Health and Medical Plan of the Uniformed Services) program.

H.R. 5374. September 24, 1979. Veterans' Affairs. Provides chiropractic treatment for eligible veterans.

H.R. 5375. September 24, 1979. Public Works and Transportation. Establishes within the Treasury a Public Transportation Trust Fund to fund public transportation projects under the Urban Mass Transportation Act of 1964 and under title 23 (Highway) of the United States Code. Amends the Urban Mass Transportation Act of 1964 to establish a grant program to fund transportation systems management projects on Federal-aid system highways.

Provides Federal financial assistance for the repair of highways which have incurred an increase in use to meet national energy demands.

Establishes a grant program to separate rail highway crossings where there is an increased use in the rail facilities in transporting coal.

H.R. 5376. September 24, 1979. Education and Labor. Sets forth the formula by which each State shall receive funds to carry out title I (Community Service and Continuing Education Programs) of the Higher Education Act of 1965 for fiscal year 1980.

H.R. 5377. September 24, 1979. House Administration. Amends the Federal Elections Campaign Act of 1971 to include the value of certain volunteer services in the definition of the term "contribution."

H.R. 5378. September 24, 1979. Public Works and Transportation. Amends the Disaster Relief Act of 1974 to provide for immediate Federal disaster assistance as soon as a Governor declares and requests such a determination by the President that an emergency or major disaster exists.

Provides for Federal emergency assistance to restore normal delivery of essential services.

Revises the criteria to be met by the Governor when seeking a Presidential determination that an emergency or major disaster exists.

H.R. 5379. September 24, 1979. Judiciary. Authorizes the classification of certain individuals as children under the Immigration and Nationality Act.

H.R. 5380. September 25, 1979. Judiciary. Provides that the authority contained in the Department of Justice Appropriation Authorization Act, Fiscal Year 1979, shall continue in effect until the earlier of: (1) the effective date of a general authorization Act; or (2) the end of the sixtieth day after the date of enactment of this Act.

H.R. 5381. September 25, 1979. Government Operations. Amends the Federal Property and Administrative Services Act of 1949 to require Government contractors to certify that any information requested by the Administrator of General Services is provided and is not false or misleading. Provides for penalties for certification violations.

Directs the Administrator to establish systems which: (1) require review and accounting of Federal contracts; (2) require preparation of memoranda concerning decisions affecting contract operations; and (3) set forth a schedule for regular and random audits of Federal contracts.

H.R. 5382. September 25, 1979. Ways and Means. Amends the Internal Revenue Code to impose a separate tax on the severance pay of unmarried individuals. Allows an income tax deduction for amounts of severance pay which are included in the taxpayer's gross income.

H.R. 5383. September 25, 1979. Post Office and Civil Service. Limits the annual rate of pay for Members of Congress, effective January 1, 1981, to the annual rate payable for such positions on September 30, 1978, plus a specified amount.

H.R. 5384. September 25, 1979. Ways and Means. Amends the Internal Revenue Code with respect to the income tax deduction allowed to Members of Congress for living expenses incurred while away from their home district.

H.R. 5385. September 25, 1979. Ways and Means. Provides that the retroactive change in method of accounting for life insurance companies which is permitted in a specified regulation may be made for certain taxable years.

H.R. 5386. September 25, 1979. Education and Labor. Amends the Higher Education Act of 1965 to promulgate formulas by which any reduction in the 1980 appropriations for community service and continuing education programs will be borne equally by all States.

H.R. 5387. September 25, 1979. Interstate and Foreign Commerce. Amends the Motor Vehicle Information and Cost Savings Act to require the Secretary of Transportation to prescribe passenger motor vehicle frame standards designed to provide passenger motor vehicle occupants with maximum protection in motor vehicle accidents.

H.R. 5388. September 25, 1979. Ways and Means. Amends title II (Old-Age, Survivors and Disability Insurance) of the Social Security Act to disregard self-employment income received from the sale of certain agricultural or horticultural commodities, for the purposes of determining benefits based on income under such title.

H.R. 5389. September 25, 1979. Interstate and Foreign Commerce. Amends the Emergency Petroleum Allocation Act of 1973 to direct the President to promulgate a regulation to hold down the price of diesel fuel and Number 2 fuel oil at their respective levels in effect on January 1, 1979.

H.R. 5390. September 25, 1979. Interior and Insular Affairs. Authorizes the Secretary of the Interior to make loans to persons and local organizations for the implementation of water yield improvement plans on lands located in the upper or lower basin of the Colorado River.

H.R. 5391. September 25, 1979. Ways and Means. Amends the Internal Revenue Code to eliminate the correction period, thus shortening the time for determining the amount of second tier taxes payable for failure to correct specified prohibited transactions, discountenanced conditions, or other taxable events, or for failure to meet minimum standards, with respect to certain private tax-exempt foundations, black-lung benefit trusts, and qualified pension plans.

H.R. 5392. September 25, 1979. Ways and Means. Delays for an additional two years the application to corporate taxpayers of the net operating loss carryover rules which were added by the Tax Reform Act of 1976.

H.R. 5393. September 25, 1979. Interior and Insular Affairs; Interstate and Foreign Commerce. Permits the Secretary of the executive department concerned, or the Secretary's designee, to sell or contract to sell surplus federally generated electrical power produced in Alaska, particularly electrical energy produced at coal-fired powerplants, without regard to availability of power from other local sources if such action will result in reduced electrical costs to Federal plants or will result in reduced consumption of oil and natural gas.

H.R. 5394. September 25, 1979. Ways and Means. Amends the Internal Revenue Code to allow an income tax deduction with respect to the rapid amortization of business property, the installation of which is required by Federal or State law.

H.R. 5395. September 25, 1979. Agriculture. Amends the Federal Meat Inspection Act to require the labeling as imported of any imported meat or meat product, which is capable of use as human food, or its container. Requires certain eating establishments serving imported meat to inform customers of this fact.

H.R. 5396. September 25, 1979. Ways and Means. Amends the Internal Revenue Code to exclude from gross income interest on deposits in certain savings institutions. Increases the tax exclusion for dividends received by individuals.

H.R. 5397. September 25, 1979. Agriculture; Science and Technology; Banking, Finance and Urban Affairs; Interstate and Foreign Commerce.

Amends the Food and Agriculture Act of 1977 to direct the Secretary of Agriculture to establish an Agricultural, Forestry, and Rural Energy Board to develop and assist in implementing an Agricultural, Forestry, and Rural Production, Use, and Conservation Program, with emphasis on direct, insured, and guaranteed loans and grants to support research, demonstration, and extension projects with respect to the protection, for agricultural and rural uses, of energy from biomass.

Amends the Consolidated Farm and Rural

Development Act to supplement such financial and technical assistance programs.

H.R. 5398. September 25, 1979. Science and Technology. Authorizes appropriations to be derived from the Energy Security Trust Fund and allocated by the President to carry out cooperative basic automotive research to advance the state of knowledge underlying automotive technology.

H.R. 5399. September 25, 1979. Banking, Finance and Urban Affairs; Ways and Means; Interstate and Foreign Commerce; Science and Technology. Provides for research, development, and demonstration projects for the production and use of hydrogen as an alternative fuel.

Amends the Internal Revenue Code to allow an income tax deduction with respect to the amortization of any qualified facility producing hydrogen for use as fuel. Allows a residential tax credit and a business tax credit for expenditures for certain hydrogen-fueled equipment.

H.R. 5400. September 25, 1979. Interstate and Foreign Commerce; Ways and Means. Replaces title XVIII (Medicare) of the Social Security Act with a National Health Plan.

H.R. 5401. September 25, 1979. Education and Labor; Interior and Insular Affairs. Establishes the National Afro-American History and Culture Commission which shall be responsible for the development of a definitive plan for the construction and operation of the National Center for Afro-American History and Culture in Wilberforce, Ohio.

Authorizes the Secretary of Interior to acquire the Colonel Charles Young Home in Wilberforce, Ohio, to be known as the Wilberforce National Historic Site.

H.R. 5402. September 25, 1979. Ways and Means. Amends the Internal Revenue Code to increase the unified tax credit for both estate and gift taxes.

H.R. 5403. September 25, 1979. Interstate and Foreign Commerce. Amends the Rail Passenger Service Act to authorize operation of passenger trains between Los Angeles and San Diego, California.

H.R. 5404. September 25, 1979. Judiciary. Declares a named individual to have satisfied specified requirements under the Immigration and Nationality Act relating to required periods of residence and physical presence within the United States. Authorizes such individual to be naturalized.

H.R. 5405. September 25, 1979. Judiciary. Declares an individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 5406. September 26, 1979. Merchant Marine and Fisheries. Amends the Fishery Conservation and Management Act of 1976 to prohibit the trapping of certain fish.

H.R. 5407. September 26, 1979. Foreign Affairs. Authorizes appropriations for fiscal year 1981 to the legation of Lithuania in the United States to be administered by the Charge d'Affaires. Sets forth criteria to be met by the diplomatic corps of such legation.

H.R. 5408. September 26, 1979. Ways and Means. Amends the Internal Revenue Code to provide for an alternative method of valuing farms for estate tax purposes.

H.R. 5409. September 26, 1979. Ways and Means. Amends the Internal Revenue Code to provide that the standard mileage rate used in computing the charitable deduction for expenses incurred in the operation of a motor vehicle shall be the same as the standard mileage rate for the business related deduction.

H.R. 5410. September 26, 1979. Post Office and Civil Service. Requires a Member of Congress or a Federal employee who elects not to provide for survivor benefits for his or her spouse to notify such spouse of the resulting loss of benefits.

H.R. 5411. September 26, 1979. Interstate and Foreign Commerce. Authorizes the funding of fuel economy technology assessment programs.

H.R. 5412. September 26, 1979. Education and Labor. Amends the Comprehensive Employment and Training Act to make certain extensions in the period of eligibility for public-service employment.

H.R. 5413. September 26, 1979. Interstate and Foreign Commerce. Amends the National Traffic and Motor Vehicle Safety Act of 1966 to limit the Secretary of Transportation's authority to require the equipping of passenger cars to meet frontal crash protection requirements.

H.R. 5414. September 26, 1979. Ways and Means. Amends title XVI (Supplemental Security Income) of the Social Security Act to eliminate provisions which attribute the income and resources of a parent to a child for purposes of determining eligibility for and the amount of SSI benefits for such child.

H.R. 5415. September 26, 1979. Education and Labor; Interstate and Foreign Commerce. Prohibits aliens who have not been naturalized as U.S. citizens from voting in certain labor elections and votes under the National Labor Relations Act, the Labor-Management Reporting and Disclosure Act, the Labor Management Relations Act, and the Railway Labor Act.

H.R. 5416. September 26, 1979. Merchant Marine and Fisheries. Requires the Secretary of Commerce to conduct a study of the fish harvesting and processing techniques and technologies which are utilized in foreign nations and in the United States which can be used or adapted for use in harvesting or processing fish or fish products within the United States fisheries.

H.R. 5417. September 26, 1979. Interstate and Foreign Commerce. Deems the proposed Milner Dam project, Idaho, to consist only of: (1) water regulation and conveyance facilities; and (2) powerplants and power transmission facilities to be hereafter constructed. Stipulates that only the proposed power facilities shall be subject to Federal takeover pursuant to the Federal Power Act.

H.R. 5418. September 26, 1979. Judiciary. Declares a named individual to have satisfied specified requirements under the Immigration and Nationality Act relating to required periods of residence and physical presence within the United States. Authorizes such individual to be naturalized.

H.R. 5419. September 27, 1979. Interior and Insular Affairs. Recognizes Goodloe Byron, former Member of Congress, for his efforts to provide for the protection of the Appalachian Trail.

Authorizes the Secretary of the Interior to design and erect an appropriate marker along the Trail in commemoration of the contributions of Goodloe Byron.

H.R. 5420. September 27, 1979. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to repeal the automatic cost-of-living pay adjustments for Members of Congress.

Prohibits any congressional employee from being paid at a rate in excess of the pay rate payable for Members of Congress.

H.R. 5421. September 27, 1979. Ways and Means. Amends the Internal Revenue Code to exclude from gross income up to $500 of the interest earned on a savings account.

H.R. 5422. September 27, 1979. Banking, Finance and Urban Affairs. Amends the Right to Privacy Act of 1978 to require a customer of a financial institution who challenges access to financial records to pay a five dollar filing fee.

H.R. 5423. September 27, 1979. Judiciary. Provides for a $5 filing fee for a customer of a financial institution who challenges access to financial records under the Right to Privacy Act of 1978.

H.R. 5424. September 27, 1979. House Administration. Abolishes the Joint Committee on Printing and the Government Printing Office. Establishes the National Publications Agency (NPA) within the executive branch to provide for public printing services and the distribution of public documents.

Creates a commission to have overall responsibility for NPA policies and operations.

Sets forth restrictions governing the procurement of public printing services by the NPA.

Designates specified libraries as depository libraries.

Authorizes specified congressional committees to regulate the public printing services and public documents distribution for Congress. Directs each Government entity to appoint an information resources manager to perform those duties for such entity.

H.R. 5425. September 27, 1979. Post Office and Civil Service. Amends the Federal Salary Act of 1967 and the Legislative Reorganization Act of 1946 to specify when an adjustment in the rate of pay for Members of Congress proposed during any Congress shall take effect.

H.R. 5426. September 27, 1979. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to direct a State to pay to the Secretary of the Treasury, within 30 days following the end of each month, OASDI contributions related to the employment of State employees.

H.R. 5427. September 27, 1979. Science and Technology; Judiciary. Establishes a Federal policy for the use and management of the results of federally-sponsored science and technology research and development programs, and for monitoring the impact of such programs.

Sets forth the rights of the Government, of contractors, and of Federal employees to any invention conceived under a federally-sponsored research and development program.

Directs each Federal agency to develop programs for the transfer of federally-owned innovative technology to other sectors of the economy.

Authorizes the Secretary of Commerce to establish a Federal technology utilization program.

H.R. 5428. September 27, 1979. Agriculture; Interstate and Foreign Commerce; Science and Technology. Authorizes appropriations to support technology development for and commercialization of biomass fuels.

H.R. 5429. September 27, 1979. Education and Labor. Amends the Department of Education Organization Act to establish an Office of Private Education.

H.R. 5430. September 27, 1979. Interstate and Foreign Commerce. Amends the Communication Act of 1934 to require the Federal Communications Commission (FCC) to collect certain financial information from commercial broadcast station licensees. Requires the FCC to make such information available for public inspection.

H.R. 5431. September 27, 1979. Merchant Marine and Fisheries. Amends the Shipping Act, 1916, to redefine the term "independent ocean freight forwarder."

H.R. 5432. September 27, 1979. Ways and Means. Amends the Internal Revenue Code to revise rules for determining the basis of carryover basis property acquired from a decedent for purposes of the estate tax. Revises basis adjustment rules for certain gifts and generation-skipping transfers. Restores capital gain treatment to the sale of inherited artwork. Revises rules for the extension of time for payment of estate tax where an estate consists largely of interests in a closely held business.

H.R. 5433. September 27, 1979. Armed Services. Repeals specified defense contract requirements regarding the purchase of aircraft or naval vessels including: (1) auditing requirements; (2) return of excess profits; and (3) subcontracting prohibitions. Repeals the requirement that at least ten percent of naval aircraft and aircraft engines be manufactured in plants owned and operated by the United States. Removes the President's power to manufacture naval aircraft or aircraft parts in United States owned plants.

H.R. 5434. September 27, 1979. Ways and Means. Amends part A (Aid to Families with Dependent Children) of title IV of the Social Security Act to reduce from six to three the age of a child at which the mother or other caretaker relative of such child must register for the Work Incentive Program (part C of title IV) in order to be eligible for AFDC.

H.R. 5435. September 27, 1979. Ways and Means. Amends the Internal Revenue Code to extend the investment tax credit to research and experimental expenditures in connection with the taxpayer's trade or business.

H.R. 5436. September 27, 1979. Interior and Insular Affairs. Authorizes the establishment of Federal Land Transfer Boards to convey to the States federally owned, unreserved, and unappropriated land located west of the one-hundredth meridian. Requires a State in order to be eligible for such conveyances to establish a State land commission with specified authority over the management of such land.

H.R. 5437. September 27, 1979. Agriculture; Interstate and Foreign Commerce. Prohibits the Secretary of Health, Education, and Welfare and the Secretary of Agriculture from prohibiting commerce, prior to May 1, 1980, in any food by reason of the carcinogenic or other toxic effect of the nitrite added to that food under specified conditions.

Prohibits either Secretary from prohibiting commerce on or after May 1, 1980, in any food to which nitrite has been added if the addition of such nitrite is safe or necessary to protect against botulism.

H.R. 5438. September 27, 1979. Education and Labor; Ways and Means. Directs the Secretary of Labor to enter into contracts with national community-based organizations for the provision of employment services, career education, and job opportunites to unemployed persons, particularly youths.

H.R. 5439. September 27, 1979. Interstate and Foreign Commerce. Amends the Department of Transportation Act with respect to rail service assistance.

H.R. 5440. September 27, 1979. Judiciary. Prohibits any Federal court (excluding the Supreme Court) from issuing injunctive relief in any case arising out of Federal, State, or local law that prohibits, limits, or regulates abortion or the provision of public assistance for the performance of abortions.

H.R. 5441. September 27, 1979. Ways and Means. Amends the Tariff Schedules of the United States to: (1) permit the permanent and temporary entry of specified items free of duty; (2) extend the duty-free entry of specified bicycle parts and accessories; and (3) establish a duty on model house furnishings, parts, and kits.

Revises the definition of rubber for purposes of such Schedules.

H.R. 5442. September 27, 1979. Ways and Means. Requires the District Director of the United States Customs Service, Portland, Oregon, to convey certain amphibious resupply cargo craft to the Coos County sheriff's office, Coos County, Oregon.

H.R. 5443. September 27, 1979. Foreign Affairs. Authorizes a special program of assistance to international agencies for humanitarian assistance to Cambodia.

H.R. 5444. September 27, 1979. Banking, Finance and Urban Affairs. Prohibits any officer or employee of the United States from retiring, cancelling, destroying, or keeping out of circulation any Federal Reserve note in the denomination of one dollar.

H.R. 5445. September 27, 1979. Interior and Insular Affairs. Repeals the prohibition against the use of water from the Federal San Luis unit, California, for the production of specified basic agricultural commodities in excess of normal supplies.

H.R. 5446. September 27, 1979. Post Office and Civil Service. Provides for the conversion of the United States Postal Service into a private corporation.

H.R. 5447. September 27, 1979. Judiciary. Makes conforming and technical amendments to the Bankruptcy Reform Act of 1978.

H.R. 5448. September 27, 1979. Agriculture; Public Works and Transportation. Authorizes the Secretary of Agriculture to lease real property, including building space. States that space requirements in specified areas should be obtained through the General Services Administration.

H.R. 5449. September 27. 1979. Foreign Affairs. Directs the Secretary of the Treasury to reimburse State and local governments for providing special protection to foreign diplomatic missions, foreign officials, or foreign heads of state or government in specified circumstances.

H.R. 5450. September 27. 1979. Education and Labor; Post Office and Civil Service. Amends the Age Discrimination in Employment Act of 1967 to extend the prohibitions of such Act to all individuals at least 40 years of age.

H.R. 5451. September 27, 1979. Merchant Marine and Fisheries. Integrates existing provisions of Federal law concerning maritime education and training by the United States Merchant Marine Academy, State maritime colleges, and civilian nautical schools.

Requires each candidate appointed to the Academy to sign an agreement for postgraduate service.

Provides for the establishment of regional maritime colleges. Authorizes the Secretary of Commerce to make loans to students of regional and State maritime colleges.

Includes service as an administrative enrollee of the United States Maritime Service as Federal service for enrollees appointed to a civil service position.

Repeals specified provisions of Federal law relating to maritime education and training.

H.R. 5452. September 27, 1979. Ways and Means. Permits products of U.S. origin to be reimported into the United States under informal customs' entry procedures.

H.R. 5453. September 27, 1979. Judiciary. Declares certain individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 5454. September 27, 1979. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a named individual as settlement of all claims against the United States.

H.R. 5455. September 27, 1979. Judiciary. Declares an individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 5456. September 27, 1979. Judiciary. Declares certain individuals lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act.

H.R. 5457. September 27, 1979. Judiciary. Declares certain individuals lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act.

H.R. 5458. September 28, 1979. Interstate and Foreign Commerce. Amends title XIX (Medicaid) of the Social Security Act to change from December 31, 1977, to December 31, 1978, the date on which the calendar quarter ends during which a State's showing to the Secretary of Health, Education, and Welfare of effective control over the utilization of certain inpatient care received in a hospital, skilled nursing facility, or intermediate care facility for the calendar quarters ending after January 1, 1977, and before October 1, 1977, waives a reduction in the Federal medical assistance percentage to the State.

H.R. 5459. September 28, 1979. Ways and Means. Amends the Internal Revenue Code to allow an income tax deduction of up to $1,500 for household expenses to any taxpayer who maintains a household in which a dependent aged 65 or over resides.

H.R. 5460. September 28, 1979. Ways and Means. Amends the Internal Revenue Code to specify standards for determining whether certain individuals qualify as independent contractors for purposes of social security taxation.

H.R. 5461. September 28, 1979. Post Office and Civil Service. Designates the birthday of Martin Luther King, Jr., as a legal public holiday.

H.R. 5462. September 28, 1979. Ways and Means. Amends the Internal Revenue Code to exempt punchboard operators from the occupational tax on wagering.

H.R. 5463. September 28, 1979. Education and Labor. Amends the Fair Labor Standards Act to require that the Secretary of Labor, in determining whether to grant a waiver of the application of the child labor provisions to certain agricultural labor, base a finding that the level and type of pesticides and other chemicals used would have an adverse effect upon the health or well-being of such individuals on scientific data developed by the Environmental Protection Agency or the Food and Drug Administration.

H.R. 5464. September 28, 1979. Ways and Means. Amends the Tariff Act of 1930 to permit drawback for imported merchandise that is not used in the United States and is exported or destroyed under customs supervision.

H.R. 5465. September 28, 1979. Ways and Means. Amends title II (Old age, Survivors and Disability Insurance) of the Social Security Act to make social security credits based on self-employment income available only to the extent that the self-employment tax has been paid with respect to such income.

H.R. 5466. September 28, 1979. Judiciary. Exempts certain nonprofit organizations from the requirement that certain musical performance royalties be paid to copyright holders.

H.R. 5467. September 28, 1979. Judiciary. Authorizes the court, except in exceptional cases, to award attorney's fees to the prevailing party in a case involving patent infringement.

H.R. 5468. September 28, 1979. Ways and Means. Amends the Internal Revenue Code to qualify for the residential energy credit solar energy property which is installed in electricity producing systems.

H.R. 5469. September 28, 1979. Veterans' Affairs. Provides for guarantees of loans made to veterans for the installation of residential solar electrical energy producing systems.

H.R. 5470. September 28, 1979. Interstate and Foreign Commerce. Amends the National Energy Conservation Policy Act to include the production of electrical energy from solar energy as a residential energy conservation measure.

H.R. 5471. September 28, 1979. Banking, Finance and Urban Affairs. Amends the Housing and Community Development Amendments of 1978 to provide for the use of solar photovoltaic energy systems for the production of electrical energy for use in residential housing units.

H.R. 5472. September 28, 1979. Merchant Marine and Fisheries. Permits the vessels Oceanic Independence, the Santa Rosa, and the steamship United States to engage in the carriage of passengers and their baggage.

Allows the vessels Mariposa and Monterey to continue to operate under the American flag and to operate in the domestic and foreign commerce of the United States.

H.R. 5473. September 28, 1979. Ways and Means. Amends the Internal Revenue Code to restore the limited income tax exclusion of income earned by U.S. citizens living abroad. Repeals provisions permitting income tax deductions for certain expenses incurred in living abroad.

H.R. 5474. September 28, 1979. Government Operations. Terminates the Department of Education.

H.R. 5475. September 28, 1979. Ways and Means. Amends title II (Old-Age, Survivors and Disability Insurance) of the Social Security Act to remove the limitation on the amount of outside income which an individual may earn while receiving benefits.

H.R. 5476. September 28, 1979. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act to direct the Federal Open Market Commission to conduct its open-market operations to reduce the rate of annual growth in the money supply by specified increments.

H.R. 5477. September 28, 1979. Education and Labor. Provides comprehensive elementary school guidance and counseling programs for State and local educational agencies.

H.R. 5478. September 28, 1979. House Administration. Amends the Federal Election Campaign Act of 1971 to change the amount with respect to which certain reports of contributions are required to be filed with the Federal Election Commission.

H.R. 5479. September 28, 1979. Ways and Means. Amends the Internal Revenue Code to allow a limited, nonrefundable income tax credit for household expenses to any taxpayer who maintains a household in which a dependent aged 65 or over resides.

H.R. 5480. September 28, 1979. Ways and Means. Amends the Internal Revenue Code to allow certain individuals whose employers make contributions to pension plans a deduction for their contributions to certain individual retirement savings plans.

H.R. 5481. September 28, 1979. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to revise the regulation of foreign air carrier operations involving the United States.

H.R. 5482. September 28, 1979. Education and Labor. Establishes minimum standards for workers' compensation programs. Establishes procedures for providing employees with workers' compensation benefits in accordance with such standards in a State which does not meet such standards.

H.R. 5483. September 28, 1979. Interstate and Foreign Commerce. Provides for coordinated Federal action on oil siting policy.

Provides for reasonable costs of transporting crude oil safely.

H.R. 5484. September 28, 1979. Interstate and Foreign Commerce. Amends the State residential energy conservation plan provisions of the National Energy Conservation Policy Act to authorize the Secretary of Energy, on his own initiative, or upon petition of any State Governor, to institute an alternative home energy efficiency program in any State, political subdivision, utility service area, or geographical area thereof. Sets forth requirements for such program. Directs the Secretary to provide funds to designated agencies to pay energy conservation companies for energy actually saved as a result of such programs.

H.R. 5485. September 28, 1979. Public Works and Transportation. Modifies the project for the replacement of locks and dam 26 on the Mississippi River in Illinois and Missouri to authorize the Secretary of the Army, through the Chief of Engineers, to install hydroelectric power generating facilities at such project.

H.R. 5486. September 28, 1979. Banking, Finance and Urban Affairs; Science and Technology. Establishes a National Energy Development Bank to aid in the financing of projects designed to produce or develop energy sources other than oil or natural gas.

H.R. 5487. September 28, 1979. Interior and Insular Affairs. Designates certain National Forest System lands in the State of Colorado for inclusion in the National Wilderness Preservation System.

Directs the Secretaries of Agriculture and of the Interior to study and report to Congress an evaluation of the Wheeler Geologic Special Study Area.

Requires the Secretary of Agriculture to permit the use of customary means of access and equipment for grazing purposes when determining the use of grazing permits on National Forest System lands.

H.R. 5488. September 28, 1979. Interior and Insular Affairs. Designates specified lands in the Allegheny National Forest, Pennsylvania as wilderness and components of the National Wilderness Preservation System.

H.R. 5489. September 28, 1979. Judiciary. Amends the Immigration and Nationality Act to provide third preference immigration priority for aliens who are investing at least $200,000 in an enterprise in the United States of which they will be principal managers and which will employ United States citizens or permanent residents.

H.R. 5490. September 28, 1979. Judiciary. Amends the Immigration and Nationality Act to provide third preference immigration priority for aliens who are investing a substantial amount in an enterprise in the United States of which they will be principal managers and which will employ United States citizens or permanent residents.

H.R. 5491. September 28, 1979. Veterans' Affairs. Provides that transverse myelitis developing in a veteran a ten percent or more degree of disability within seven years after separation from active wartime service shall be presumed to be service connected for purposes of veterans' disability compensation.

H.R. 5492. September 28, 1979. Interior and Insular Affairs; Merchant Marine and Fisheries. Amends the Federal Land Policy and Management Act of 1976 with respect to permits and leases for domestic livestock grazing in the Charles M. Russell National Wildlife Refuge.

Amends the Public Rangeland Improvement Act of 1978 to charge a fee for domestic livestock grazing in the Refuge.

H.R. 5493. September 28, 1979. Interstate and Foreign Commerce; Banking, Finance and Urban Affairs. Amends the National Energy Conservation Policy Act to permit utilities to supply, install, or finance energy conservation measures.

Amends the Energy Policy and Conservation Act to reimburse persons for part of the costs incurred in installing energy conservation measures in residential or commercial buildings.

H.R. 5494. September 28, 1979. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to provide that child's insurance benefits shall not be payable to an insured individual's stepchild, after such child's natural parent and the insured individual are divorced, for any period during which such child is receiving support from another source.

H.R. 5495. September 28, 1979. Ways and Means; Interstate and Foreign Commerce; Interior and Insular Affairs; Public Works and Transportation. Provides a policy of displacing foreign oil with domestic coal.

H.R. 5496. September 28, 1979. Interior and Insular Affairs. Amends the National Historic Preservation Act of 1966 to establish and maintain a National Register of Historic Places.

Establishes a Historic Preservation Agency under the direction of an Administrator for Historic Preservation, and an Advisory Council on Historic Preservation.

Provides a program of financial assistance to States and local governments and sets forth guidelines for all Federal agencies for the furtherance of the preservation of historic properties.

H.R. 5497. September 28, 1979. Interior and Insular Affairs. Designates certain lands in the Monongahela National Forest, West Virginia, as the Cranberry Wilderness and Cranberry Back Country.

H.R. 5498. September 28, 1979. Interior and Insular Affairs. Designates specified lands within the Monongahela National Forest, West Virginia, as the Cranberry Wilderness.

H.R. 5499. September 28, 1979. Judiciary. Establishes the Commission on Wartime Relocation and Internment of Civilians.

H.R. 5500. September 28, 1979. Judiciary. Declares an individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 5501. September 28, 1979. Judiciary. Declares certain individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 5502. September 28, 1979. Judiciary. Declares certain individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 5503. September 28, 1979. Judiciary. Sets forth periods of military service for determining the eligibility of a certain individual for entitlement to veteran's educational assistance and benefits.

H.R. 5504. October 5, 1979. Interstate and Foreign Commerce. Prohibits manufacturers of cigarettes or little cigars for sale or distribution in commerce from adding substances which continue the burning of such cigarettes or little cigars if left unattended.

H.R. 5505. October 5, 1979. Ways and Means. Amends the Internal Revenue Code with respect to provisions pertaining to: (1) tax levies; (2) reporting requirements of corporations and tax-exempt organizations; (3) tax penalties for tax evasion; (4) filing dates for gift tax returns; (5) excise taxes on domestic wines and tread rubber; (6) deferral of gain on the sale of a principal residence of overseas army personnel; and (7) tax-exempt status of auxiliaries of fraternal beneficiary societies.

H.R. 5506. October 9, 1979. Interstate and Foreign Commerce. Amends the Energy Policy and Conservation Act to extend the authority to implement the international energy program by way of international voluntary agreements.

H.R. 5507. October 9, 1979. Ways and Means. Amends the Internal Revenue Code to repeal the requirement that States reduce the amount of unemployment compensation payable for any week by the amount of any pension, retirement pay, annuity, or other similar benefits received by an individual.

Amends the Federal-State Extended Unemployment Compensation Act of 1970 to require a State law to extend an individual's period of eligibility for extended compensation benefits to any week beginning within two years after the last day of such individual's benefit year.

H.R. 5508. October 9, 1979. Judiciary. Requires courts reviewing Federal agency actions to decide de novo all relevant questions of law. States that there shall be no presumption in any such proceeding that any rule of any agency is valid but requires that such validity be provided by clear and convincing evidence except when such a rule is set forth as a defense in a criminal trial or action for a civil penalty.

H.R. 5509. October 9, 1979. Foreign Affairs. Amends the Foreign Assistance Act of 1961 to establish the African Development Foundation. Sets forth the authorities, corporate powers, and management provisions for such Foundation.

H.R. 5510. October 9, 1979. Education and Labor. Amends the Civil Rights Act of 1964 to include discrimination of the handicapped as an unlawful employment practice.

Permits courts to remedy such discrimination. Prohibits such discrimination in Federal employment.

H.R. 5511. October 9, 1979. House Administration. Limits the amounts of official funds available to a Member of Congress for the purchase of postage stamps for each calendar year.

H.R. 5512. October 9, 1979. Ways and Means. Amends the Internal Revenue Code with respect to tax-exempt private foundations to exempt from the excise tax on self-dealing the leasing of office space to such a foundation by a disqualified person for use by the foundation in a building whose other tenants are not disqualified persons, if specified conditions are met.

H.R. 5513. October 9, 1979. Ways and Means. Amends the Internal Revenue Code to exclude from gross income up to $500 of the interest earned on a savings account.

H.R. 5514. October 9, 1979. Banking, Finance and Urban Affairs. Provides grants for the rehabilitation of the part of the Ten Mile River located in Providence, Pawtucket, and Warwick, Rhode Island.

H.R. 5515. October 9, 1979. Interstate and Foreign Commerce. Amends the Regional Rail Reorganization Act of 1973 to provide a payment for certain protected employees to insure that such employees were not disadvantaged between April 1 and September 30, 1976, with respect to preretirement life and medical insurance benefits.

H.R. 5516. October 9, 1979. Interior and Insular Affairs. Requires the Secretary of the Interior to determine the feasibility and desirability of: (1) designating the Illinois Trail as a national scenic trail; and (2) designating any lands encompassing the Illinois Trail as a national historical park.

H.R. 5517. October 9, 1979. Banking, Finance and Urban Affairs. Prohibits the construction of additional drive-in banking facilities.

H.R. 5518. October 9, 1979. Education and Labor. Amends the National Foundation on the Arts and the Humanities Act of 1965 to establish a program of Federal assistance to individual artists for employment in community-oriented and locally supported projects.

H.R. 5519. October 9, 1979. Foreign Affairs. Amends the Foreign Assistance Act of 1961 to authorize the President to furnish disaster relief to alleviate the famine in Cambodia, through international agencies to the extent feasible. Stipulates that such assistance shall be for humanitarian purposes and limited to the civilian population.

H.R. 5520. October 9, 1979. Judiciary. Authorizes and directs the Secretary of the Treasury to entertain and adjudicate claims of a named individual regarding replacement, by reason of nonreceipt, of certain Treasury checks.

H.R. 5521. October 9, 1979. Judiciary. Declares an individual lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act.

H.R. 5522. October 10, 1979. Public Works and Transportation. Prohibits new Federal departments, agencies, and instrumentalities from leasing any building for office or storage space within the Greater Washington, D.C., metropolitan area.

H.R. 5523. October 10, 1979. Agriculture. Amends the Agricultural Act of 1949 to change specified levels of price support loans and payments for the 1980 and subsequent crops of extra long staple cotton.

Amends the Agricultural Adjustment Act of 1938 to set January 30 of the crop harvest year as the final date upon which acreage allotments for such cotton may be voluntarily surrendered to county committees or sold, leased, or transferred to other farms.

Directs the Secretary of Agriculture to permit the sale, lease (for a maximum total period of three years), or transfer of such allotments to other farms in any State or county.

H.R. 5524. October 10, 1979. Ways and Means. Amends the Internal Revenue Code to exclude from gross income up to $250 ($500 for married individuals filing jointly) of the interest earned on a savings account in a bank, savings association, or credit union.

H.R. 5525. October 10, 1979. Government Operations. Amends the Federal Property and Administrative Services Act to provide policies, methods, and procedures with respect to procurement and supply of personal property and nonpersonal services by the Administrator of General Services as a mandatory source of supply and services by all Federal agencies.

H.R. 5526. October 10, 1979. Agriculture. Amends the Agricultural Adjustment Act to subject imported grapes to the same regulation as to grade, size, quality, or maturity as table grapes which are made subject to a marketing order regulating such items.

H.R. 5527. October 10. 1979. Ways and Means. Amends the Internal Revenue Code to extend the period during which taxpayers may elect to depreciate rehabilitation expenditures with respect to low-income rental housing and to increase the dollar amount of expenditures that may be depreciated.

H.R. 5528. October 10, 1979. Agriculture. Amends the United States Grain Standards Act to prohibit the owner or operator of an export elevator at an export port location to knowingly add or mix grain dust or any non-grain related material to any grain shipped from such elevator. Permits fumigation of grain and blending of separate lots of the same kind of grain.

H.R. 5529. October 10, 1979. Post Office and Civil Service. Permits any individual casting an absentee ballot in any election, with specified exception, to return such ballot postage-free to the election agency.

H.R. 5530. October 10, 1979. Ways and Means. Extends effective dates of recently-enacted tax legislation pertaining to: (1) tax exclusions for certain scholarships; (2) income tax deductions for the cost of removing architectural and transportation barriers to the handicapped and elderly; (3) criteria for determining employment status of individuals subject to employment taxes; and (4) net operating loss carryovers.

H.R. 5531. October 10, 1979. Judiciary. Amends the Trademark Act of 1946 to declare that it is the intent of such Act to prohibit any State or local law or regulation which would require the display of any additional trademarks, service marks, trade names, or corporate names in any manner differing from the display of such additional marks or names contemplated by the registered mark, as indicated in the certificate of registration.

H.R. 5532. October 10, 1979. Judiciary. Declares an individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 5533. October 11, 1979. Ways and Means. Denies unemployment compensation benefits to certain servicemen who were released from duty for the good of the service.

H.R. 5534. October 11, 1979. Post Office and Civil Service. Fixes the rate of pay of Members of the Congress at the rate paid in 1978. Provides that the annual rates of pay for such Members shall be adjusted only at the beginning of the Congress following the Congress during which the adjustments were approved. Conditions such adjustments upon the presence of a balanced budget for the preceding fiscal year.

H.R. 5535. October 11, 1979. Armed Services. Provides for the payment by the Department of Defense of certain expenses incident to the death of retired members of the Armed Forces who were patients in a U.S. hospital at the time of their death.

H.R. 5536. October 11, 1979. District of Columbia. Amends the District of Columbia Self-Government and Governmental Reorganization Act to extend the interim loan authority of the Mayor of the District of Columbia to October 1, 1981, or upon enactment of the fiscal year 1981 appropriation Act for the District of Columbia.

H.R. 5537. October 11, 1979. District of Columbia. Amends the District of Columbia Self-Government and Governmental Reorganization Act to extend the interim loan authority of the Mayor of the District of Columbia to October 1, 1980, or upon enactment of the fiscal year 1981 appropriation Act for the District of Columbia.

H.R. 5538. October 11, 1979. Post Office and Civil Service. Authorizes the Office of Personnel Management to take appropriate action on counterclaims filed by the government of the District of Columbia as setoff, against amounts otherwise due and payable from the civil service retirement fund to former employees of the government of the District of Columbia.

H.R. 5539. October 11, 1979. Ways and Means. Amends the Internal Revenue Code to qualify wood or coal burning stoves and furnaces for the residential energy credit.

H.R. 5540. October 11, 1979. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to require patient package labeling for drugs.

H.R. 5541. October 11, 1979. Interior and Insular Affairs. Designates specified lands in the Angeles and San Bernardino National Forests as the "Sheep Mountain Wilderness."

Stipulates that the management plan for such wilderness authorize the Forest Service to take any action necessary for fire prevention and watershed protection.

H.R. 5542. October 11, 1979. Armed Services. Amends the Federal Civil Defense Act of 1950 to establish a new civil defense program for the 1980's.

Requires the Director of the Federal Emergency Management Agency to study the feasibility of using the National Guard as the principal organizing and training unit for local civil defense activities and to study the feasibility of using veterans' organizations to help in developing, staffing, and carrying out civil defense plans during periods of emergency.

H.R. 5543. October 11, 1979. Interstate and Foreign Commerce. Amends the Federal Trade Commission Act to restrict the authority of the Federal Trade Commission to gather and compile certain information under such Act.

H.R. 5544. October 11, 1979. Interstate and Foreign Commerce. Repeals provisions of title XIX (Medicaid) of the Social Security Act which exempt a State, under certain conditions, from providing medical assistance to an individual defined as aged, blind, or disabled under title XVI (Supplemental Security Income) of the Act if the State is not eligible to participate in an SSI program.

Provides Medicaid benefits for an individual with a "severe medical disability" if such individual's income does not exceed certain limitations. Defines a "severe medical disability" as one which results in functional limitation requiring medical assistance for an individual to work.

H.R. 5545. October 11, 1979. Public Works and Transportation. Authorizes the acquisition and installation of works of art in public buildings, if the Administrator of General Services fulfills specified conditions.

H.R. 5546. October 11, 1979. Agriculture. Amends the United States Grain Standards Act to exempt certain grain shipment transactions from official weighing requirements.

H.R. 5547. October 11, 1979. Ways and Means. Amends the Internal Revenue Code to allow individuals a $5,000 exclusion from gross income for any amount received as an annuity, pension, or other retirement benefit.

H.R. 5548. October 11, 1979. Banking, Finance and Urban Affairs. Authorizes the President, on behalf of the Congress, to present a gold medal to Simon Wiesenthal in recognition of his contribution to international justice through the documentation and location of war criminals from World War II.

H.R. 5549. October 11, 1979. Ways and Means. Amends the Internal Revenue Code to exclude from gross income proceeds from the redemption of bonds acquired under a tax-exempt bond purchase plan which are transferred to an individual retirement account within 60 days after such redemption.

H.R. 5550. October 11, 1979. Interior and Insular Affairs. Conveys certain lands in Dinosaur National Monument, Colorado, to the heirs of Charles T. Mantle.

H.R. 5551. October 11, 1979. Science and Technology. Provides for the establishment of smoke detector placement demonstration projects.

H.R. 5552. October 11, 1979. Interstate and Foreign Commerce. Authorizes the Secretary of Health, Education, and Welfare to make grants to States to assist eligible low-income households to meet increasing home energy costs. Stipulates that such grants may be used for making payments to home energy suppliers on behalf of eligible households or directly to such households in specified cases.

Requires States to comply with uniform data collection standards established by the Secretary as necessary to carry out this Act.

H.R. 5553. October 11, 1979. Judiciary. Names certain trusts which shall not be treated as private foundations under the Internal Revenue Code for a specified period.

H.R. 5554. October 11, 1979. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a named individual in settlement of all claims against the United States.

H.R. 5555. October 12, 1979. Banking, Finance and Urban Affairs; Interstate and Foreign Commerce. Amends the Fair Credit Reporting Act with respect to the release of financial records.

H.R. 5556. October 12, 1979. Ways and Means. Amends the Internal Revenue Code to exclude from gross income, interest income or dividends earned on a savings account in a bank, savings and loan association, or credit union.

H.R. 5557. October 12, 1979. Ways and Means. Amends the Internal Revenue Code to increase the unified tax credit for both estate and gift taxes.

H.R. 5558. October 12, 1979. Ways and Means. Amends title II (Old-Age, Survivors and Disability Insurance) of the Social Security Act to remove the limitation on the amount of outside income which an individual may earn while receiving benefits.

H.R. 5559. October 12, 1979. Banking, Finance and Urban Affairs; Interstate and Foreign Commerce. Amends the Fair Credit Reporting Act with respect to the release of financial records.

H.R. 5560. October 12, 1979. Banking, Finance and Urban Affairs; Judiciary. Amends the Consumer Credit Protection Act to prohibit any institution from disclosing information regarding any electronic funds transfer with respect to a consumer account except in specified circumstances.

H.R. 5561. October 12, 1979. Post Office and Civil Service. Provides for congressional review of annual congressional pay adjustments.

H.R. 5562. October 12, 1979. Ways and Means. Amends the Internal Revenue Code to allow a limited income tax credit for the cost of converting a motor engine to the use of alcohol fuels.

H.R. 5563. October 12, 1979. Judiciary. Allows certain proceedings in the United States District Court for the District of Puerto Rico to be conducted in either English or Spanish.

H.R. 5564. October 12, 1979. House Administration. Amends the Federal Election Campaign Act of 1971 to limit the amount of contributions to political committees advocating the election of unannounced candidates for Federal office.

H.R. 5565. October 12, 1979. Public Works and Transportation. Increases the national maximum speed limit to 65 miles per hour.

H.R. 5566. October 12, 1979. Post Office and Civil Service; Rules. Amends the Federal Salary Act of 1967 and the Legislative Reorganization Act of 1946 to specify when an adjustment in the rate of pay for Members of Congress proposed during any Congress shall take effect.

H.R. 5567. October 12, 1979. Government Operations. Abolishes the Department of Education.

H.R. 5568. October 12, 1979. House Administration. Abolishes the Federal Election Commission.

H.R. 5569. October 12, 1979. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 to include the acquisition of band instruments for the use of children and teachers in elementary and secondary schools for such uses as the school administration considers desirable among those purposes for which the Commissioner of Education is directed to carry out a program of making grants to States for libraries and learning resources.

H.R. 5570. Octtober 12, 1979. Merchant Marine and Fisheries. Amends the Fishery Conservation and Management Act of 1976 to establish a national development program for underutilized fisheries.

H.R. 5571. October 12, 1979. Interstate and Foreign Commerce. Directs the Secretary of Commerce to promulgate rules and regulations which set forth the requirement for approval of product liability risk retention groups and the purchase of product liability insurance on a group basis.

H.R. 5572. October 12, 1979. Science and Technology. Provides for the establishment of smoke detector placement demonstration projects.

H.R. 5573. October 12, 1979. Armed Services. Authorizes Army Reserve Officers' Training Corps scholarships for cadets at military junior colleges under specified conditions.

Sets forth the rights and obligations of a cadet appointed under such a financial assistance program.

H.R. 5574. October 12, 1979. Agriculture. Amends the Food and Agriculture Act of 1977 to extend to the 1980 and 1981 crops of rice, cotton, feed grains, and wheat the low yield and prevented planting disaster payment programs.

H.R. 5575. October 12, 1979. Education and Labor. Amends the Farm Labor Contractor Registration Act of 1963 to redefine farm labor contractor.

H.R. 5576. October 12, 1979. Ways and Means. Amends the Trade Agreements Act of 1979 to revise the tariff treatment of watches, iron or steel, and aircraft equipment.

H.R. 5577. October 12, 1979. Merchant Marine and Fisheries; Public Works and Transportation. Authorizes the Secretary of Transportation to provide compensation for economic loss resulting from oil pollution caused by the blowout of Ixtoc I, Bay of Campeche, Mexico.

H.R. 5578. October 12, 1979. Interior and Insular Affairs. Designates specified lands in California as wilderness and components of the National Wilderness Preservation System.

H.R. 5579. October 12, 1979. Post Office and Civil Service. Prohibits salary increases for Members of Congress until the Federal budget is balanced. Prohibits any increase in the rate of pay for such positions from taking effect earlier than the beginning of the next Congress.

H.R. 5580. October 12, 1979. Armed Services; Foreign Affairs. Authorizes the Secretary of Defense to acquire logistic support, supplies, and services for U.S. Armed Forces deployed in Europe from the other North Atlantic Treaty Organization (NATO) countries. Permits the Secretary to enter into cross-servicing agreements with the other NATO countries. Sets forth criteria for such acquisitions and transfers.

H.R. 5581. October 12, 1979. Veterans' Affairs. Provides for a program of career development, advancement, and training and for outreach and supportive services for Vietnam era veterans.

H.R. 5582. October 12, 1979. Banking, Finance and Urban Affairs; Interstate and Foreign Commerce. Revises information practices in the insurance industry to protect the privacy of individuals.

H.R. 5583. October 12, 1979. Judiciary. Amends the Act incorporating the American Legion to change the dates of military or naval service applicable to membership eligibility in such organization.

H.R. 5584. October 12, 1979. Interior and Insular Affairs. Adds specified lands to the Moapa Indian Reservation, Moapa, Nevada, to be held in trust by the United States for the benefit and use of the Moapa Band of Paiutes.

Allows restricted lands (whether tribally or individually owned) of such Band to be leased, with the approval of the Secretary of the Interior, by the Indian owners for a term of 99 years or less.

H.R. 5585. October 12, 1979. Ways and Means. Amends the Internal Revenue Code to revise the definition of tax-exempt mutual financial organizations.

H.R. 5586. October 12, 1979. Interior and Insular Affairs; Agriculture. Designates specified lands within specified national forests within California as wilderness areas and additions to wilderness areas.

H.R. 5587. October 12, 1979. Judiciary. Authorizes the issuance of a visa, and admission for permanent residence in the United States, to a certain individual under the Immigration and Nationality Act.

H.R. 5588. October 12, 1979. Judiciary. Authorizes the classification of certain individuals as children under the Immigration and Nationality Act.

H.R. 5589. October 12, 1979. Judiciary. Declares certain individuals lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act.

H.R. 5590. October 15, 1979. Public Works and Transportation. Removes specified restrictions regarding the East-West Toll Road in northern Indiana (Interstate Route 80/90) upon the repayment of specified Federal-aid highway funds by the State of Indiana.

H.R. 5591. October 15, 1979. Merchant Marine and Fisheries. Establishes in the executive branch the National Zoological Foundation consisting of a National Zoological Board and a Director. Directs the Foundation to award scholarships for the training of staff members for zoos and aquariums, initiate and support research to improve the welfare of animals in zoos and aquariums, establish accreditation standards for zoos and aquariums, and to make specified project and program grants.

H.R. 5592. October 15, 1979. Interior and Insular Affairs. Establishes the Tallgrass Prairie National Reserve in the States of Kansas and Oklahoma.

H.R. 5593. October 15, 1979. Judiciary. Declares certain individuals lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act.

H.R. 5594. October 16, 1979. Agriculture; Interior and Insular Affairs; Public Works and Transportation. Provides for Federal-State cooperation concerning water resources development through the Water Resources Council. Requires States or other non-Federal bodies to contribute a percentage of the costs of water resource projects, unless they are regional projects with national significance and priority. Sets forth the procedure for obtaining authorization of such projects.

Amends the Water Resources Planning Act to provide for an independent Water Resources Council. Revises the composition of such Council.

H.R. 5595. October 16, 1979. Government Operations. Extends the Joint Funding Simplification Act of 1974.

H.R. 5596. October 16, 1979. Ways and Means. Amends the Internal Revenue Code to allow an income tax credit for expenditures to replace furnaces with furnaces that meet specified energy efficiency targets established by the Department of Energy.

H.R. 5597. October 16, 1979. Interstate and Foreign Commerce. Amends the Energy Policy and Conservation Act to authorize certain appropriations for energy conservation programs for schools, hospitals, and buildings owned by units of local government and public care institutions.

H.R. 5598. October 16, 1979. Ways and Means. Amends the Internal Revenue Code with respect to the charitable deduction allowable for the expenses of operating a motor vehicle.

H.R. 5599. October 16, 1979. Ways and Means. Amends the Internal Revenue Code to require a maximum individual income tax rate.

H.R. 5600. October 16, 1979. Education and Labor. Amends the Department of Education Organization Act to transfer authority with respect to rural education to the Assistant Secretary for Elementary and Secondary Education.

H.R. 5601. October 16, 1979. Ways and Means. Amends the Internal Revenue Code to provide for a reduction of individual income tax rates by requiring the Secretary of the Treasury to increase the amount of taxable income in all categories whenever, for any month of a calendar year after 1979, the rate of unemployment is one percentage point above the rate of unemployment for December, 1978.

H.R. 5602. October 16, 1979. Agriculture; Interstate and Foreign Commerce. Amends the Agricultural Act of 1949 to require that the label on each loaf of bread disclose the cost to the manufacturer of the farm product ingredients enclosed.

H.R. 5603. October 16, 1979. Public Works and Transportation. Redesignates the Los Esteros Dam, New Mexico, as the Santa Rosa Dam.

H.R. 5604. October 16, 1979. Merchant Marine and Fisheries. Prohibits any person from: (1) transporting, selling, or acquiring any fish or wildlife illegally taken, possessed, transported, or sold; (2) falsifying any documents concerning such fish or wildlife; or (3) impeding any person enforcing this Act.

Sets forth civil and criminal penalties and other disciplinary actions for violations of this Act.

Enumerates the powers of persons authorized to enforce this Act.

Subjects all fish and wildlife transported into a State to the laws governing fish and wildlife produced in such State.

Repeals specified provisions of Federal law concerning commerce in fish and wildlife.

H.R. 5605. October 16, 1979. Foreign Affairs. Amends the Trading With the Enemy Act to repeal the provision allowing the President, during the time of war, to regulate the importing, exporting, hoarding, melting, or earmarking of gold or silver coin or bullion.

H.R. 5606. October 16, 1979. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to make annuities payable before the first day of the month when the first day is on a weekend or holiday.

H.R. 5607. October 16, 1979. Small Business; Ways and Means; Judiciary. Amends the Small Business Act to require that Federal agencies which conduct research and development programs of specified budget size establish and administer a Small Business Innovation Research (SBIR) program. Directs the Small Business Administration to develop an information program to assure that each qualified and interested small business concern has the opportunity to participate in the SBIR programs.

H.R. 5608. October 16, 1979. Interior and Insular Affairs. Prohibits the delivery of water for producing a basic agricultural commodity on newly irrigated lands of certain Federal reclamation projects if the Secretary of Agriculture determines that the supply of such commodity is likely to be excessive and that a set-aside shall be in effect.

H.R. 5609. October 16, 1979. Interstate and Foreign Commerce; Ways and Means. Enumerates basic rights of residents in long-term care facilities and charges such institutions with specific obligations to secure such rights. Amends the Older Americans Act of 1965 to include in the long-term care ombudsman program investigation of violations of the rights protected by this Act.

H.R. 5610. October 16, 1979. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to provide that benefits under such title may not be paid to individuals confined in penal institutions or correctional facilities.

H.R. 5611. October 16, 1979. Merchant Marine and Fisheries. Amends the Fishery Conservation and Management Act of 1976 to provide for expedited review of fishery management plans.

H.R. 5612. October 17, 1979. Small Business. Amends the Small Business Act to extend through September 30, 1983, the authorization to enter certain procurement contracts.

H.R. 5613. October 17, 1979. Ways and Means. Amends the Internal Revenue Code to specify standards for determining whether certain individuals qualify as independent contractors for purposes of social security taxation.

Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to provide coverage for independent contractor services.

H.R. 5614. October 17, 1979. Ways and Means; Interstate and Foreign Commerce. Amends title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, for physical examinations, and for related routine laboratory tests.

H.R. 5615. October 17, 1979. Intelligence. Amends the National Security Act of 1947 to establish criminal offenses and penalties for the unauthorized disclosure of classified intelligence information.

Amends the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain U.S. intelligence officers, agents, informants, and sources.

H.R. 5616. October 17, 1979. Ways and Means. Amends the Internal Revenue Code to allow a credit against the excise tax on domestic or imported distilled spirits, wines, and beer for each proof gallon of the wine content of distilled spirits containing wine.

H.R. 5617. October 17, 1979. Interstate and Foreign Commerce; Public Works and Transportation. Establishes certain priorities in the disposal or treatment of hazardous waste.

Establishes procedures for compensation, cleanup, emergency response, and establishment of liability for discharges of hazardous substances released into the environment.

H.R. 5618. October 17, 1979. Interstate and Foreign Commerce. Amends the Clean Air Act to prohibit including concentrations of rural fugitive dust when determining whether or not an implementation plan meets the requirements of the Act with respect to national secondary ambient air quality standards for total suspended particulates.

H.R. 5619. October 17, 1979. Interior and Insular Affairs. Clears titles of Indian claims in the counties of Madison and Oneida, New York.

H.R. 5620. October 17, 1979. Ways and Means. Amends the Airport and Airway Revenue Act of 1970 to repeal the excise tax on the use of civil aircraft.

H.R. 5621. October 17, 1979. Government Operations. Provides that parking fees charged to Federal employees shall remain at current levels.

H.R. 5622. October 17, 1979. Interstate and Foreign Commerce; Ways and Means; Judiciary; Interior and Insular Affairs; Science and Technology; Banking, Finance and Urban Affairs; Public Works and Transportation. Provides for a comprehensive national program for domestic energy production and consumption.

H.R. 5623. October 17, 1979. Interior and Insular Affairs. Provides that weather modification activities and the collection of hydrometeorological information necessary to the management of water resources be coordinated with the management and administration of wilderness and other Federal lands.

H.R. 5624. October 17, 1979. Public Works and Transportation. Amends the Tennessee Valley Authority Act of 1933 with respect to the determination of terms of sale of electric power.

H.R. 5625. October 17, 1979. Banking, Finance and Urban Affairs. Authorizes the President to present a gold medal to the A. Philip Randolph Institute.

H.R. 5626. October 17, 1979. Interstate and Foreign Commerce. Establishes standards and procedures for determining legal and financial responsibilities in product liability actions.

H.R. 5627. October 11, 1979. Judiciary. Declares a named individual lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act.

H.R. 5628. October 17, 1979. Judiciary. Authorizes the classification of a named individual as an immediate relative under the Immigration and Nationality Act. Authorizes the issuance of a visa and admission to the United States to such individual under such act.

H.R. 5629. October 18, 1979. Veterans' Affairs. Reduces the disability limitation and eliminates the time limit imposed by the Vietnam Era Readjustment Assistance Act of 1974 to qualify more disabled veterans for affirmative action programs.

H.R. 5630. October 18, 1979. Banking, Finance and Urban Affairs. Authorizes emergency loans and loan guarantees to the Chrysler Corp. Establishes an Emergency Credit Assistance Board to guarantee and make such loans.

H.R. 5631. October 18, 1979. Ways and Means. Amends the Internal Revenue Code to allow firemen an income tax deduction for meals consumed during periods of overnight duty.

H.R. 5632. October 18, 1979. Education and Labor. Prevents taking into account Federal funds made available under the federally impacted area programs in the distribution of State educational funds.

H.R. 5633. October 18, 1979. Ways and Means. Amends the Internal Revenue Code to subject certain foreign investors to a tax on the gain from the sale or exchange of real property situated in the United States.

H.R. 5634. October 18, 1979. Ways and Means. Amends the Internal Revenue Code to subject certain foreign investors to a tax on the gain from the sale or exchange of real property situated in the United States.

H.R. 5635. October 18, 1979. Ways and Means; Interstate and Foreign Commerce. Establishes a National Commission on Hospital Cost Containment to study specified aspects of hospital costs and utilization. Authorizes the Secretary of Health, Education, and Welfare to provide grants for State voluntary or mandatory hospital cost containment programs. Disallows the treatment of certain types of philanthropic support as hospital revenues for the purpose of State or Federal laws limiting hospital revenues. Provides for a coordinated audit of certain payments made under the Maternal and Child Health, Medicaid programs, and the Medicare program of the Social Security Act. Permits payments to be made under Medicare and Medicaid to certain hospitals which provide extended care services.

H.R. 5636. October 18, 1979. Ways and Means. Amends the Internal Revenue Code to increase the minimum amount of retained earnings which a corporation may accumulate without being subject to the tax on accumulated earnings.

H.R. 5637. October 18, 1979. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to provide that a child's entitlement to child's insurance benefits on the wage record of an adopting parent shall terminate upon such child's readoption by his or her natural parent.

H.R. 5638. October 18, 1979. Post Office and Civil Service. Provides premium pay for Federal employees for time in an on-call status away from their duty posts.

H.R. 5639. October 18, 1979. Ways and Means. Amends the Internal Revenue Code to repeal provisions which require the inclusion in gross income of certain amounts of unemployment compensation.

H.R. 5640. October 18, 1979. Banking, Finance and Urban Affairs; Interstate and Foreign Commerce. Amends the Housing and Community Development Act of 1974 to authorize the Secretary of Housing and Urban Development to make grants to local governmental units and Indian tribes for the development of energy conservation plans and programs.

H.R. 5641. October 18, 1979. Banking, Finance and Urban Affairs; Interstate and Foreign Commerce. Amends the Housing and Community Development Act of 1974 to authorize the Secretary of Housing and Urban Development to make grants to cities, urban counties, and Indian tribes for energy development and conservation programs.

H.R. 5642. October 18, 1979. Education and Labor; Post Office and Civil Service. Provides for the application of occupational safety and health standards to the Federal workplace.

H.R. 5643. October 18, 1979. Ways and Means. Amends the Internal Revenue Code with respect to the tax treatment of certain income of tax-exempt mutual or cooperative telephone or electric companies.

H.R. 5644. October 18, 1979. Education and Labor; Interstate and Foreign Commerce; Ways and Means. Establishes a program of emergency financial assistance to low-income and elderly persons to assist them in meeting the high cost of heating fuel during energy emergencies.

Amends the Internal Revenue Code to allow an income tax credit for the residential use of heating oil.

H.R. 5645. October 18, 1979. District of Columbia. Grants to the Little Sisters of the Poor all right, title, and interest of the United States in and to specified land with all buildings and improvements thereon.

H.R. 5646. October 18, 1979. Interstate and Foreign Commerce; Government Operations. Amends the Privacy Act to exempt certain insurance records from coverage under such Act if such records are subject to the provisions of this Act. Revises information practices in the insurance industry.

H.R. 5647. October 18, 1979. Ways and Means. Amends the Internal Revenue Code to exclude from gross income limited amounts of interest and dividends which are reinvested in the stock of a domestic corporation.

H.R. 5648. October 18, 1979. Government Operations. Establishes an interagency task force on suburban development.

H.R. 5649. October 18, 1979. Interstate and Foreign Commerce. Authorizes the Secretary of Energy to make grants available to local governmental units to assist in energy conservation activities.

H.R. 5650. October 18, 1979. Ways and Means. Amends the Internal Revenue Code to allow an income tax deduction for the current fair market value of charitable contributions of literacy, musical, or artistic compositions created by the taxpayer, without any reduction for appreciation.

H.R. 5651. October 19, 1979. House Administration. Establishes the position of Chief of the Capitol Police, who shall be appointed by the Capitol Police Board.

Requires certain members of the District of Columbia's Metropolitan Police, who are detailed to the Capitol Police, to elect between the two.

Entitles the Chief of the Capitol Police and members of the Metropolitan Police who elect to transfer to the Capitol Police to civil service annuities, in lieu of rights under the Policemen and Firemen's Retirement and Disability Act.

H.R. 5652. October 19, 1979. Ways and Means. Amends the Internal Revenue Code to treat the proceeds from the redemption of series E U.S. savings bonds as capital gain.

H.R. 5653. October 19, 1979. Armed Services. Waives certain time limitations on the award of a Medal of Honor to Hyman Epstein.

H.R. 5654. October 19, 1979. Ways and Means. Amends the Internal Revenue Code, with respect to exempting certain kinds of scholarship or fellowship grants from classification as taxable expenditures of a private foundation, to apply such exemption to a grant under an employer-related scholarship program.

H.R. 5655. October 19, 1979. Merchant Marine and Fisheries. Amends the Fishery Conservation and Management Act of 1976 with respect to the protection of highly migratory species and cetaceans.

H.R. 5656. October 19, 1979. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to require operators of commuter service airports to establish air transportation security programs.

H.R. 5657. October 19, 1979. Government Operations. Prohibits the use of appropriated Federal funds to lobby a member of a State or local government legislature, unless specifically authorized by law.

H.R. 5658. October 19, 1979. Banking, Finance and Urban Affairs. Makes Federal Reserve notes and U.S. notes redeemable in gold.

H.R. 5659. October 19, 1979. Post Office and Civil Service. Limits the questions that may be asked by the Secretary of Commerce in conducting any census.

H.R. 5660. October 19, 1979. Interior and Insular Affairs; Interstate and Foreign Commerce. Provides for a coordinated, simplified, and prompt process for Federal approval of nonnuclear energy facilities which are determined to be in the national interest.

Establishes an Energy Mobilization Board to be appointed by the President to designate priority energy projects, based on specified criteria, and to publish a Project Decision Schedule containing deadlines for all Federal actions relating to such projects.

H.R. 5661. October 19, 1979. Foreign Affairs. Limits foreign assistance to programs for food production and nutrition, disaster relief, and military assistance.

Establishes a Commission on International Hunger Assistance to coordinate and develop programs involving food production technologies and to advise the President.

H.R. 5662. October 19, 1979. Interior and Insular Affairs. Provides for the cession and conveyance to the States of certain federally owned lands. Establishes policy, methods, procedures, schedules, and criteria for such conveyances.

H.R. 5663. October 22, 1979. Ways and Means. Amends the Internal Revenue Code to increase the investment tax credits for both individuals and businesses with respect to the installation of alternative energy equipment, especially solar, wind, and geothermal energy equipment, in private residences and other properties.

Increases the gasohol exemption from Federal gasoline and special fuels excise taxes.

Extends the investment tax credit for van pool operators to nonemployers.

H.R. 5664. October 22, 1979. Interior and Insular Affairs. Authorizes the Secretary of the Interior to acquire lands and interests in lands in specified areas of Nebraska and to establish the Trails West National Historical Park in Nebraska once sufficient lands have been acquired.

H.R. 5665. October 22, 1979. Ways and Means. Amends the Internal Revenue Code to: (1) lower individual and corporate income tax rates and social security tax rates; (2) grant tax incentives for opening savings accounts and investing in capital stock; and (3) impose a value added tax on sales of property and services at each stage of the production and distribution process.

H.R. 5666. October 22, 1979. Intelligence. Amends the Central Intelligence Agency Act of 1949 to authorize payment of a gratuity to the surviving dependents of officers or employees of the Central Intelligence Agency who die as a result of injuries sustained in connection with certain intelligence activities.

H.R. 5667. October 22, 1979. Banking, Finance and Urban Affairs. Amends the Home Owners' Loan Act of 1933 to permit Federal savings and loan associations to offer reverse annuity mortgages on the security of first liens upon residential real property in accordance with regulations promulgated by the Federal Home Loan Board.

H.R. 5668. October 22, 1979. Interior and Insular Affairs. Authorizes the Secretary of the Interior to engage in feasibility studies of certain potential water resource and water quality developments in Contra Costa County, Calif.

H.R. 5669. October 22, 1979. Interstate and Foreign Commerce. Amends the Powerplant and Industrial Fuel Use Act of 1978 to require specified electric powerplants to convert back to the use of coal as their primary energy source.

H.R. 5670. October 23, 1979. Interior and Insular Affairs. Amends the Wild and Scenic Rivers Act to designate a specified portion of the Saint Lucie River in Florida for potential addition to the wild and scenic rivers system.

H.R. 5671. October 23, 1979. Public Works and Transportation. Amends the Disaster Relief Act of 1974 with respect to the operation and scope of snow emergency declaration procedures and reimbursement policies.

H.R. 5672. October 23, 1979. Post Office and Civil Service. Provides that adjustments in the rates of pay for Members of Congress shall be considered in a manner separate from that for other employees and officials of the Federal Government. Provides that such adjustments shall take effect at the beginning of the Congress following the Congress in which they are approved and then only if approved by a concurrent resolution of the Congress.

H.R. 5673. October 23, 1979. Post Office and Civil Service. Amends the National Labor Relations Act to authorize the use of certified mail for the service of complaints, orders, and other process and papers of the National Labor Relations Board.

H.R. 5674. October 23, 1979. Appropriations. Rescinds, pursuant to the Impoundment Control Act of 1974, specified levels of budget authority contained in the message of the President of October 1, 1979 (H. Doc. 96–198).

H.R. 5675. October 23, 1979. Interstate and Foreign Commerce. Amends the Safe Drinking Water Act to revise the requirements for establishing national primary drinking water regulations.

Requires the Environmental Protection Agency to conduct a study of the health effects of barium and radium in drinking water. Suspends the standards for barium and radium pending the completion of such study.

H.R. 5676. October 23, 1979. Interstate and Foreign Commerce. Amends the Safe Drinking Water Act to provide for a study of the health effects of barium and radium in drinking water. Suspends the national interim primary drinking water standards for such contaminants pending the completion of such study and the promulgation of new standards for such contaminants.

H.R. 5677. October 23, 1979. Ways and Means. Amends the Internal Revenue Code to allow volunteer fire fighters an additional personal tax exemption.

H.R. 5678. October 23, 1979. Ways and Means; Interstate and Foreign Commerce. Amends the Internal Revenue Code to allow certain low- and middle-income taxpayers an income tax credit for the cost of fuel which is used as the principal source of heating or cooling such taxpayer's principal residence.

Directs the Secretary of the Treasury to establish a residential fuel assistance program to assist certain low- and middle-income individuals in meeting residential fuel costs.

H.R. 5679. October 23, 1979. Merchant Marine and Fisheries. Authorizes additional appropriations for the Tinicum National Environment Center.

H.R. 5680. October 23, 1979. Education and Labor. Directs the Secretary of Health, Education, and Welfare to assume duties assigned the Commissioner of Education under such Act, including granting funds for college and research library assistance, library training research, and the improvement of developing institutions and postsecondary education.

Amends the Higher Education Act of 1965 to: (1) replace certain existing student loan programs with a new program providing direct loans to students through institutions of higher education, and supplementary family-contribution loans; (2) eliminate the District of Columbia student loan insurance program; and (3) revise the functions and authority of the Student Loan Marketing Association.

H.R. 5681. October 23, 1979. Merchant Marine and Fisheries. Entitles foreign-built vessels registered to certain U.S. citizens and nationals to employment in the fisheries within the territorial seas of American Samoa, Guam, and the Northern Mariana Islands and within that portion of the fishery conservation zone contiguous to such territorial seas.

H.R. 5682. October 23, 1979. Government Operations. Extends through fiscal year 1984 the entitlement periods for the authorization of appropriations under the State and Local Fiscal Assistance Act of 1972.

H.R. 5683. October 23, 1979. Rules. Amends the Congressional Budget Act of 1974 to establish procedures for setting targets and ceilings, in the congressional budget process, for loans and loan guarantees under Federal credit programs.

Amends the Budget and Accounting Act to require the inclusion of information on Federal loan obligations and commitments in the President's annual budget message to the Congress.

H.R. 5684. October 23, 1979. Interior and Insular Affairs. Prohibits the delivery of water for producing a basic agricultural commodity on newly irrigated lands of certain Federal reclamation projects if the Secretary of Agriculture determines that the supply of such commodity is likely to be excessive and that a set-aside shall be in effect.

H.R. 5685. October 23, 1979. Judiciary. Authorizes and directs the Secretary of the Treasury to pay a specified sum to a named individual in settlement of all claims against the Socialist Republic of Vietnam resulting from the evacuation of United States citizens in April, 1975.

H.R. 5686. October 23, 1979. Judiciary. Declares a named individual lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act.

H.R. 5687. October 23, 1979. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a named individual in settlement of all claims against the United States.

H.R. 5688. October 23, 1979. Government Operations. Provides for the conveyance of certain surplus property of the National Aeronautics and Space Administration located in Erie County, Ohio, to certain individuals from whom the United States acquired the property.

H.R. 5689. October 24, 1979. Foreign Affairs. Amends the Foreign Assistance Act of 1961 to authorize the President to furnish disaster relief to alleviate the famine in Cambodia through international agencies to the extent feasible.

H.R. 5690. October 24, 1979. Judiciary. Establishes two divisions in the eastern judicial district of New York.

H.R. 5691. October 24, 1979. Judiciary. Allows the district court of the Eastern District of New York to be held at an additional site. Authorizes such court to pretermit the regular session of court at Hempstead until Federal quarters and accommodations are ready for occupancy, except that during such period a special session of the court shall be held at Westbury.

H.R. 5692. October 24, 1979. Education and Labor. Amends the Fair Labor Standards Act of 1938 to provide a special minimum wage for the employment for limited periods of time of youth age 19 and under. Amends such Act with respect to the authority for the employment of full-time students at a special minimum wage.

H.R. 5693. October 24, 1979. Ways and Means. Amends the Internal Revenue Code to allow certain individuals who are participants in employer pension plans a credit for their contributions to such plans or for their contributions to individual retirement plans.

H.R. 5694. October 24, 1979. Interior and Insular Affairs. Amends the National Trails Systems Act to authorize a study to be conducted by the Secretary of the Interior, in consultation with the Secretary of Agriculture, the appropriate States, and the Cherokee people, to determine the feasibility of designating the Trail of Tears as a National Historic Trail.

Includes the Trail of Tears as a route to be studied for designation as a national scenic trail.

H.R. 5695. October 24, 1979. Ways and Means. Amends the Internal Revenue Code to provide a tax exclusion from personal income earned abroad by an individual performing missionary services for a tax-exempt organization created or organized in the United States. Sets a formula for the maximum amount of exclusion for an individual who performs missionary services and also performs others services while residing in a camp located in a hardship area.

H.R. 5696. October 24, 1979. Judiciary. Requires the Attorney General to transmit reports to the Congress summarizing any position of the Attorney General that any provision of law is unconstitutional and is not to be enforced or defended by the United States.

H.R. 5697. October 24, 1979. Judiciary. Establishes two divisions for the central judicial district of California.

H.R. 5698. October 24, 1979. Judiciary. Requires public notice on matters relating to Federal contracts, grants, and loans.

H.R. 5699. October 24, 1979. Ways and Means. Amends the Internal Revenue Code to allow an income tax credit for increases in the cost of home heating oil and natural gas.

H.R. 5700. October 24, 1979. Banking, Finance and Urban Affairs. Amends the Bank Holding Company Act of 1956 to provide that the Board of Governors of the Federal Reserve System shall not deny any application for the formation of a one-bank holding company because the transaction to form such one-bank holding company involves a bank stock loan which is for a period of not more than 25 years.

H.R. 5701. October 24, 1979. Ways and Means. Directs the Secretary of the Treasury to redetermine the tax liability of certain individuals for specified taxable years.

H.R. 5702. October 25, 1979. Small Business. Establishes a Federal program to assist small businesses by increasing their role in federally funded research and development.

H.R. 5703. October 25, 1979. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to assure that the initial payment of any benefits due survivors of an insured individual will be made without delay after such individual's death.

H.R. 5704. October 25, 1979. Post Office and Civil Service; Armed Services. Provides authority to continue the pay of Federal employees and military personnel during periods in which the enactment of appropriations is delayed.

H.R. 5705. October 25, 1979. Ways and Means. Amends the Internal Revenue Code to exclude from gross income interest on deposits in certain savings institutions. Increases the tax exclusion for dividends received by individuals.

H.R. 5706. October 25, 1979. Judiciary. Amends the Military Personnel and Civilian Employees Claims Act of 1964 to increase the amount payable under such Act to a member of the armed forces or to an officer or employee of the United States in settlement of a claim by such an individual for losses incident to service in such capacity.

H.R. 5707. October 25, 1979. Banking, Finance and Urban Affairs. Increases the number of class C directors of the Federal Reserve banks.

H.R. 5708. October 25, 1979. Ways and Means. Amends the Internal Revenue Code to allow an income tax credit for the cost of enrollment in certified programs for dieting or stopping smoking.

H.R. 5709. October 25, 1979. Ways and Means. Amends the Second Liberty Bond Act to provide that individuals age 65 or older who purchase certain U.S. savings bonds shall be paid a rate of interest which is two percent higher than the rate of inflation.

H.R. 5710. October 25, 1979. Interior and Insular Affairs. Establishes a ceiling on statutory wilderness designated lands located within the National Forest System in the State of Idaho.

H.R. 5711. October 25, 1979. Interior and Insular Affairs; Agriculture. Designates portions of central Idaho wildlands, Selway-Bitteroot Lake and Lionhead areas as wilderness. Specifies that all national forest lands within the State of Idaho which are not wilderness study lands as a result of this Act or statutory wilderness lands shall be managed by the Secretary of Agriculture for uses other than wilderness.

H.R. 5712. October 25, 1979. Interior and Insular Affairs. Prohibits the U.S. Park Service from limiting the number of commercial motorized water craft trips on the Colorado River through the Grand Canyon.

H.R. 5713. October 26, 1979. Foreign Affairs. Authorizes appropriations for fiscal year 1981 to the legation of Lithuania in the United States to be administered by the Charge d'Affaires. Sets forth criteria to be met by the diplomatic corps of such legation.

H.R. 5714. October 26, 1979. Ways and Means. Amends the Internal Revenue Code to allow an income tax deduction as a medical expense for amounts paid for firstclass postage in connection with the payment of medical expenses.

H.R. 5715. October 26, 1979. Judiciary; Science and Technology. Establishes a Federal policy for the use and management of the results of federally-sponsored science and technology research and development programs, and for monitoring the impact of such programs.

Sets forth the rights of the Government, of contractors, and of Federal employees to any invention conceived under a federally-sponsored research and development program.

Directs each Federal agency to develop programs for the transfer of federally-owned innovative technology to other sectors of the economy.

H.R. 5716. October 26, 1979. Ways and Means. Amends the Internal Revenue Code with respect to the treatment, for purposes of the consolidated return regulations, of stock in certain railroads which transferred property to ConRail.

H.R. 5717. October 26, 1979. Post Office and Civil Service. Amends the Federal Salary Act of 1967 and the Legislative Reorganization Act of 1946 to specify when an adjustment in the rate of pay for Members of Congress proposed during any Congress shall take effect.

H.R. 5718. October 26, 1979. Ways and Means. Amends the Internal Revenue Code and the Federal Unemployment Tax Act to delay the date for application of the provision which reduces the total credits allowed a payer of the federal unemployment compensation tax for contributions to the unemployment fund of a State which has not repaid Federal loans under title XII (Advances to State Unemployment Funds) of the Social Security Act.

H.R. 5719. October 26, 1979. Ways and Means. Amends the Internal Revenue Code with respect to the tax exemption of proceeds from certain bingo games.

H.R. 5720. October 26, 1979. Appropriations. Makes continuing appropriations for any purpose or function when funds are not available on the first day of any fiscal year for such purpose or function.

H.R. 5721. October 26, 1979. Ways and Means. Amends the Internal Revenue Code to restore the income tax deduction for State and local taxes on gasoline and other motor fuels and to make such deduction available to taxpayers who do not itemize deductions.

H.R. 5722. October 26, 1979. Ways and Means; Government Operations. Amends the Internal Revenue Code to provide that the mileage allowance used for Federal employees shall be used for determining the mileage allowance for the tax deduction for trade or business expenses.

Revises certain provisions relating to mileage and per diem expenses of Federal employees.

H.R. 5723. October 26, 1979. Ways and Means; Public Works and Transportation. Amends the Internal Revenue Code to reduce the excise tax on: (1) liquid aviation fuel sold or used for noncommercial aviation; (2) air transportation; (3) seating or sleeping accommodations in connection with taxable air transportation; and (4) air freight.

Amends the Airport and Airway Revenue Act of 1970 and the Federal Aviation Act of 1958, with respect to a prohibition of any exclusive right for the use of any airport, landing area, or air navigation facility upon which Federal funds have been expended, to construe "exclusive right" as not applying to certain aeronautical services.

H.R. 5724. October 26, 1979. Interstate and Foreign Commerce; Science and Technology. Establishes smoke detector placement demonstration projects to provide information to consumers regarding the effective use of such detectors. Requires the Consumer Product Safety Commission to take into account the results of such projects in connection with the promulgation of certain consumer product safety standards.

H.R. 5725. October 26, 1979. Post Office and Civil Service. Sets forth guidelines and prohibitions governing the political activities of employees of the United States Postal Service. Sets forth penalties for the violation of such prohibitions.

Permits such employees to take annual leave and leave without pay to engage in activities as a candidate for public office.

H.R. 5726. October 26, 1979. Banking, Finance and Urban Affairs; Interstate and Foreign Commerce. Permits utilities to finance or provide capital investment payments for the installation of energy conservation measures.

Establishes an Energy Conservation Bank to provide financial assistance to purchasers of energy conserving improvements. Provides new secondary financing authority for the purchase of loans made with respect to such improvements. Revises the weatherization grant program for low-income persons.

H.R. 5727. October 26, 1979. Judiciary. Directs the Secretary of the Treasury to pay a certain sum to a named individual in settlement of all claims against the United States.

H.R. 5728. October 29, 1979. Ways and Means. Amends the Internal Revenue Code to exclude from gross income, for purposes of the personal holding company tax, interest received in connection with a qualified matched repurchase arrangement by securities brokers and dealers.

H.R. 5729. October 29, 1979. Ways and Means. Amends the Internal Revenue Code to permit the amortization of start-up expenditures paid or incurred in starting a new trade or business.

H.R. 5730. October 29, 1979. Ways and Means. Amends the Internal Revenue Code to provide a tax exclusion from personal income earned abroad by an individual performing qualified charitable services for a tax-exempt employer created or organized in the United States.

H.R. 5731. October 29, 1979. Ways and Means. Provides that the retroactive change in method of accounting for life insurance companies which is permitted in a specified regulation may be made for certain taxable years.

H.R. 5732. October 29, 1979. Public Works and Transportation. Designates the Federal building located at 33 West Twohig, San Angelo, Texas, as the "O. C. Fisher Building."

H.R. 5733. October 29, 1979. Agriculture; Judiciary. Requires any packer whose slaughter or processing of certain classifications of livestock or meat products exceeds specified minimum levels to file annual reports on such activities with the Secretary of Agriculture. Requires the Secretary to compile such information and publish State and national totals for such activities by classification.

Prohibits certain packers from slaughtering or processing, directly or indirectly, any classification of livestock or meat product in excess of specified maximum percentages of the appropriate national total.

Prohibits certain packers from owning, leasing, or operating any retail meat outlet in the United States.

H.R. 5734. October 29, 1979. Interstate and Foreign Commerce. Approves the use of dimethyl sulfoxide for the use of scleroderma.

H.R. 5735. October 29, 1979. Judiciary. Authorizes the reimbursement of dependent travel expenses to a named individual.

H.R. 5736. October 29, 1979. Judiciary. Authorizes and directs the Secretary of the Treasury to pay a specified amount to a named corporation in settlement of all claims against the United States.

H.R. 5737. October 30, 1979. Foreign Affairs. Amends the International Claims Settlement Act of 1949 to require the Foreign Claims Settlement Commission to determine the validity and amount of claims by U.S. nationals arising out of the taking of U.S. property interests by Vietnam. Authorizes the Secretary of the Treasury to establish the Claims Fund for the payment of unsatisfied claims against Vietnam.

H.R. 5738. October 30, 1979. Ways and Means. Amends the Internal Revenue Code to increase the tax deduction allowable for certain moving expenses.

H.R. 5739. October 30, 1979. Agriculture. Authorizes the Secretary of Agriculture to provide indemnity payments to producers and processors who suffer property losses attributable to contamination by polychlorinated biphenyls.

H.R. 5740. October 30, 1979. Ways and Means; Interstate and Foreign Commerce. Amends the Internal Revenue Code with respect to cost restraints in employer-provided health benefit plans.

Amends the Public Health Services Act and title XVIII (Medicare) of the Social Security Act with respect to enrollment in health maintenance organizations. Establishes demonstration projects to determine the effect of marketplace competition on the Medicaid program.

H.R. 5741. October 30, 1979. Ways and Means. Amends the Internal Revenue Code to deny a tax exclusion of the interest on State and local mortgage subsidy bonds issued to provide funding for mortgages on owner-occupied residences. Limits the issuance of industrial development bonds for housing purposes to low- or moderate-income rental housing. Excludes from gross income up to $100 ($200 for joint returns) of the interest earned on savings accounts in certain savings institutions.

H.R. 5742. October 30, 1979. Ways and Means. Amends titles II (Old-Age, Survivors and Disability Insurance) and XVIII (Medicare) of the Social Security Act, and the Internal Revenue Code to finance the payment of Medicare through general tax revenues, rather than through employment and self-employment tax revenues.

Reduces social security taxes and applies the proceeds exclusively to finance the old-age, survivors and disability program.

H.R. 5743. October 30, 1979. Public Works and Transportation. Redesignates the "J. Edgar Hoover FBI Building" as the "FBI Building."

H.R. 5744. October 30, 1979. Judiciary. Declares certain named individuals lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act.

H.R. 5745. October 30, 1979. Judiciary. Authorizes the classification of a named individual as a child for purposes of the Immigration and Nationality Act.

H.R. 5746. October 30, 1979. Judiciary. Relieves a named individual of all liability to the United States of a specified amount overpaid to such individual because of administrative error. Directs the Secretary of The Treasury to pay to such individual an appropriate amount in complete or partial satisfaction of such liability.

H.R. 5747. October 30, 1979. Judiciary. Authorizes certain named individuals to remain in the United States under the Immigration and Nationality Act until a specified date.

H.R. 5748. October 31, 1979. Armed Services. Authorizes the Secretary of the Army with respect to the Army National Guard, and the Secretary of the Air Force with respect to the Air National Guard, to prescribe regulations for the accounting of property issued to the Guard and the fixing of responsibility for that property.

Sets forth the liability for the money value of such property which is lost, damaged, or destroyed.

H.R. 5749. October 31, 1979. Interstate and Foreign Commerce; Public Works and Transportation. Amends the Solid Waste Disposal Act to provide authority to respond to releases of hazardous waste which are presently unregulated at the Federal level and which endanger public health and the environment.

Establishes a hazardous waste response fund to be funded by a system of fees. Establishes prohibitions and requirements concerning unregulated releases of hazardous waste. Provides for liability of persons responsible for releases of hazardous waste.

H.R. 5750. October 31, 1979. Veterans' Affairs. Allows each veteran with an upgraded discharge to receive full educational benefits without regard to the date of the veteran's initial discharge from service.

H.R. 5751. October 31, 1979. Interior and Insular Affairs. Provides protective measures with respect to archaeological resources in southwestern Colorado.

H.R. 5752. October 31, 1979. Banking, Finance and Urban Affairs; Public Works and Transportation; Science and Technology. Provides for a program of review of State laws with regard to solar energy.

H.J. Res. 430. October 23, 1979. Appropriations. Makes supplemental appropriations to the Community Services Administration for the community services program, part of which is to be transferred to the Secretary of Health, Education, and Welfare for payment of energy grants and allowances to assist in meeting heating fuel costs. Excludes such allowances from being considered as income or resources for purposes of any other public assistance program.

H.J. Res. 431. October 25, 1979. House Administration. Authorizes the Vietnam Veterans Memorial Fund, Incorporated, to erect a memorial on public grounds in the District of Columbia in honor and recognition of the men and women of the armed forces who served in the Vietnam war.

H.J. Res. 432. October 25, 1979. Post Office and Civil Service. Authorizes and requests the President to designate the week of January 20 through January 26, 1980, as "Junior Achievement Week."

H.J. Res. 433. October 25, 1979. Post Office and Civil Service. Authorizes and requests the President to designate November 14, 1979, as "National Operating Room Nurses Day."

H.J. Res. 434. October 29, 1979. Post Office and Civil Service. Authorizes and requests the President to designate the week of April 6 through April 12, 1980, as "National Medic Alert Week."

H.J. Res. 435. October 30, 1979. Post Office and Civil Service. Designates November 30, 1979, as "Colonel Commandant Michael Kovats Memorial Day."

H.J. Res. 436. October 30, 1979. Post Office and Civil Service. Authorizes and requests the President to designate November 16, 1979, as "American Enterprise Day."

H.J. Res. 437. November 5, 1979. Judiciary. Constitutional Amendment—Establishes a limit upon total outlays of the Government.

H.J. Res. 438. November 7, 1979. Judiciary. Constitutional Amendment—Requires congressional review of each rule and regulation issued to carry out any law. Permits congressional approval, modification, or disapproval of such rule or regulation.

H.J. Res. 439. November 7, 1979. Post Office and Civil Service. Authorizes and requests the President to designate the month of November, 1979, as "National REACT Month."

H.J. Res. 440. November 9, 1979. Appropriations. Appropriates such amounts as may be necessary in fiscal year 1980 to continue specified Federal projects and activities which have not yet received funding beyond fiscal year 1979.

H.J. Res. 441. November 9, 1979. Interstate and Foreign Commerce. Directs the President to appoint an ad hoc commission to conduct a study of the effects that full compliance with the Clean Air Act by every State would have on: (1) employment; (2) the economic situation of our communities; (3) the health and safety of the United States population; and (4) energy supplies and demands.

Prohibits, during the study and for six months thereafter, the monitoring of stationary source stack emissions by the Environmental Protection Agency on any time schedule less than an average of the previous 30 days.

H.J. Res. 442. November 9, 1979. Post Office and Civil Service. Designates the week beginning June 22, 1980, as "National Athletic Boosters Week."

H. Con. Res. 208. November 8, 1979. Foreign Affairs. Expresses the sense of Congress that the U.S. Ambassador to the United Nations bring the matter of the seizure of the U.S. Embassy in Tehran, Iran, before the United Nations.

H. Con. Res. 209. November 13, 1979. Makes corrections in the enrollment of H.R. 4930.

H. Con. Res. 210. November 13, 1979. Foreign Affairs. Expresses the sense of Congress that the President request all nations to stop importing oil from Iran until the hostages in the U.S. Embassy in Tehran, Iran, are released and control of such Embassy is returned to the United States.

H. Con. Res. 211. November 13, 1979. Foreign Affairs. Calls upon the government of Great Britain to end human rights violations and promote self-determination for Ireland.

H. Con. Res. 212. November 13, 1979. Foreign Affairs. Expresses the sense of the Congress that the President should terminate immediately all participation by Iranian personnel in United States programs of military training.

H. Con. Res. 213. November 15, 1979. Foreign Affairs. Expresses the rejection by the Congress of the determination of the President that the termination of sanctions against Zimbabwe-Rhodesia would not be in the national interest of the United States.

H. Con. Res. 214. November 16, 1979. Provides for an adjournment of the House of Representatives and a recess of the Senate from November 20 until November 26, 1979.

H. Con. Res. 215. November 16, 1979. Foreign Affairs. Expresses the sense of Congress that the President should terminate U.S. sanctions against Zimbabwe-Rhodesia upon the appointment and arrival of a British Governor in Salisbury.

H. Con. Res. 216. November 27, 1979. Makes corrections in the enrollment of S. 1157.

H. Con. Res. 217. November 28, 1979. Foreign Affairs. Expresses the sense of Congress that the President should not enforce sanctions against Zimbabwe-Rhodesia.

H. Con. Res. 218. November 29, 1979. Foreign Affairs. Expresses the sense of Congress that the President should inform Iran that the United States will initiate military operations against Iran unless the hostages held in the U.S. Embassy in Tehran are released by a certain day. Declares that the President should order U.S. Armed Forces into areas adjacent to Iran for appropriate action.

H. Res. 464. October 24, 1979. Sets forth the rule for the consideration of H.J. Res. 430.

H. Res. 465. October 25, 1979. Sets forth the rule for the consideration of H.R. 4904.

H. Res. 466. October 25, 1979. Sets forth the rule for the consideration of H.R. 5192.

H. Res. 467. October 29, 1979. Sets forth the rule for the consideration of H.R. 4985.

H. Res. 468. October 30, 1979. Rules. Amends the Rules of the House of Representatives with respect to flexibility in the establishment of the periods during which House pages may be employed including the authority to reduce the number of pages' positions during recesses or adjournments.

H. Res. 469. October 30, 1979. House Administration. Authorizes the printing as a House document of the volume entitled "Soviet Diplomacy and Negotiating Behavior: Emerging New Context for United States Diplomacy".

H. Res. 470. October 31, 1979. Rules. Amends the Rules of the House of Representatives to provide for the continuance of authority to pay employees of Federal agencies in the absence of appropriations for such agencies.

H. Res. 471. November 1, 1979. Sets forth the rule for the consideration of H.R. 2603.

H. Res. 472. November 1, 1979. Sets forth the rule for the consideration of H.R. 2608.

H. Res. 473. November 1, 1979. Sets forth the rule for the consideration of H.R. 3994.

H. Res. 474. November 1, 1979. Sets forth the rule for the consideration of H.R. 2063.

H. Res. 475. November 5, 1979. Elects a specified Member of the House of Representatives Speaker pro tempore during the absence of the Speaker.

H. Res. 476. November 7, 1979. Elects a specified Member to the House Committee on Interstate and Foreign Commerce.

H. Res. 477. November 7, 1979. Judiciary. Calls upon the Attorney General to immediately revoke all student visas held by citizens of Iran who have engaged in activities prejudicial to the public interest of the United States.

H. Res. 478. November 8, 1979. Expresses the opinion of the House of Representatives that the Senate amendment to the House amendment to the text of S. 1871 is an infringement of the privileges of the House of Representatives.

H. Res. 479. November 8, 1979. Sets forth the rule for the consideration of H.R. 2222.

H. Res. 480. November 8, 1979. Judiciary. Expresses the sense of the House that the Attorney General should revoke immediately student visas held by Iranian citizens who participate in political demonstrations in the United States. Requires that all Iranian citizens in the United States submit to the Immigration and Naturalization Service a statement of their intention to respect the laws of the United States.

H. Res. 481. November 8, 1979. Rules. Authorizes the consideration of reports from the Committee on the District of Columbia on days other than those designated by rule, subject to prior announcement.

H. Res. 482. November 9, 1979. Judiciary. Expresses the sense of the House of Representatives that the President of the United States should take all necessary and appropriate actions to expel from the United States any Iranian national who violates any condition of entry into the United States by unlawfully protesting, unlawfully demonstrating, or committing hostile actions against the United States.

H. Res. 483. November 9, 1979. Interstate and Foreign Commerce. Disapproves the proposed amendment to the strategic petroleum reserve plan which sets forth a method of drawdown and distribution of the reserve.

H. Res. 484. November 14, 1979. Foreign Affairs. Supports the President's efforts in Iran on behalf of the national interest.

H. Res. 485. November 14, 1979. Sets forth the rule for the consideration of H.R. 2492.

H. Res. 486. November 14, 1979. Sets forth the rule for the consideration of H.R. 2626.

H. Res. 487. November 14, 1979. Sets forth the rule for the consideration of H.R. 4962.

H. Res. 488. November 14, 1979. Sets forth the rule for the consideration of S. 423.

H. Res. 489. November 15, 1979. Interstate and Foreign Commerce. Declares that it is the sense of the House of Representatives that the United States should establish a national energy plan that emphasizes the use of domestic coal as a means of displacing current foreign energy imports, while not violating national ambient air quality standards.

EXTENSIONS OF REMARKS

INFLATION IN THE GROCERY STORE

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 24, 1979

● Mr. COELHO. Mr. Speaker, the country is experiencing the worst inflation rate since the period following World War II.

Our constituents are demanding an explanation. In our haste to find the villains, certain sectors of the economy are often judged guilty without a fair trial.

The roots of inflation are firmly entrenched in our economy as a result of years of deficit spending, big government, and other factors. What is needed today is an educational program to explain inflation to the American people.

For example, food is often cited as a leading cause of inflation. However, Howard Hjort, Director of Economics, Policy Analysis, and Budget for the Department of Agriculture, has put it this way: "Inflation in general is a major source of food price inflation."

The causes of food price changes are complex and poorly understood by the public. Because food is highly seasonal, 1-month changes can seem suspect, sometimes prompting cries of foul play. This makes for good newspaper copy, but underscores the importance of viewing food price changes over longer periods of time.

According to the Consumer Price Index, over the last 12 months, food prices in the grocery store have risen about 3 percentage points less than prices in general.

I recommend to my colleagues the following speech by Mr. Thomas S. Carroll, president of Lever Brothers and chairman of the Grocery Manufacturers of America, which explains the food prices and profits picture:

AN OVERVIEW OF THE CONSUMER FOOD DOLLAR

Ask an American to cite an example of how inflation has eaten into the dollar; the odds are heavy that the answer will be in terms of the cost of food in the supermarket.

Consumers see food prices on an upward spiral and conclude that somebody, somewhere—the farmer, the processor, the retailer—is getting excessive profits at consumer expense. On the other hand, those responsible for getting food from the farm to the table point out that compared with the rest of the world, Americans are getting more for their dollar than consumers in any other country.

Chart 1 shows the comparative costs of a whole chicken, one pound of sugar, and various other food items in different cities around the world.

CHART 1.—WHAT MEAT, BREAD, EGGS, MILK, ETC. COST ELSEWHERE IN THE WORLD

	Roast chuck, boneless	Broilers, whole	Eggs, dozen	Butter	Milk	Potatoes	White bread	Sugar
Bonn	$2.69	$2.70	$1.48	$2.15	$0.54	$0.20	$0.71	$0.37
Brasilia	1.14	1.39	.80	1.06	.25	.19	NA	.17
Brussels	3.05	3.14	1.36	2.32	.58	.10	.50	.50
Buenos Aires	1.06	2.61	1.17	2.33	.56	.24	.45	.43
Canberra	1.86	3.26	1.10	.98	.44	.23	.44	.20
Copenhagen	3.32	2.96	1.78	1.86	.58	.26	.78	.78
London	2.20	1.98	1.53	1.45	.45	.14	.34	.60
Mexico City	1.69	2.37	.83	1.55	.27	.18	.26	.12
Ottawa	2.01	2.14	.84	1.20	.47	.10	.39	.21
Paris	2.21	3.17	1.59	2.02	.54	.11	1.01	.31
Pretoria	1.60	1.39	.74	.98	.38	.15	.15	.21
Rome	4.05	2.97	1.26	2.02	.52	.19	.37	.36
Stockholm	4.34	3.87	1.96	1.56	.44	.28	.97	.44
The Hague	3.18	2.43	1.11	2.05	.49	.10	.40	.39
Tokyo	11.91	3.49	1.00	2.94	.95	.71	.62	.53
Washington, D.C	2.16	1.65	.91	1.76	.59	.12	.59	.32
Median	2.20	2.67	1.14	1.81	.48	.19	.45	.56

Note: All units in pounds or quarts, unless otherwise indicated.

Source: USDA, Foreign Agriculture, April 1979.

In fact, the efficiency of the American food industry has made it possible for the consumer to spend less and less of their disposable income for food. Chart 2 shows the decline in disposable income spent on food.

CHART 2.—PERCENT DISPOSABLE INCOME SPENT ON FOOD

1960	20.2
1965	18.2
1970	17.3
1975	17.0
1978	16.5

Note: "Food" is described as food consumed at home and in restaurants.

Source: U.S. Department of Commerce.

If food is a bargain here in the United States, why do consumers think of food, rather than automobiles, when the subject of inflation comes up? The answer is that food is fundamental.

While we don't buy a new car every week, we do buy groceries on an average of twice a week—and we pay for these purchases not on an installment plan, but in cold cash. Ask the average consumer the price of an automobile or a house appliance—you may get an imprecise answer. That's not the case where food is concerned. People who frequent supermarkets know exactly what prices are, and how much they were a month or two months ago.

So when you talk about inflation, the cost of food invariably comes up first. And more often than not, it is a source of debate more notable for heat than light.

One of our chief purposes here today is to reduce that heat and increase that light by answering hard questions with hard facts.

Question: Just how fast have food prices risen in recent years? Since 1967, the base year for the CPI, through 1978, food prices have risen approximately 110 percent. This rise is generally consistent with the overall rate of inflation.

It is important to point out, however, that during this same time frame, the cost of other consumer goods and services, taxes and, especially, the cost of government have gone up at an even greater rate. Since 1967, the cost of running the Legislative Branch has increased 333 percent.

Even so, what causes higher food prices? There isn't any simple answer to this question—no one specific villian—except inflation itself. The food economy, after all, is part of the larger economy. It is subject to the same economic pressures that apply to newspapers, magazines, automobiles, utilities or any other consumer product or service.

As a matter of fact, the food economy is subject to pressures and outside influences beyond those that affect most other goods and services. And, the U.S. food industry has been able to maintain prices near the general rate of inflation despite the impact of plagues, droughts and natural disasters on worldwide and national markets.

A good example is the impact of freezes on the harvesting of fruits and vegetables. These natural disasters have been one of the chief causes for increasing food prices since the beginning of recorded history. Today's society may be mechanized and computerized, but the forces of nature still have a primary voice in how much we pay for the food we eat.

Beyond nature, let's consider the other major force at work firing inflation and increasing food costs. I mean specifically, the cost of government—the bureaucratic burdens that our modern oversized government places on our free enterprise system.

Again, let me cite a specific example: The Joint Economic Committee of the U.S. Congress recently announced the results of a study that show that the aggregate cost of complying with federal regulations is $100 billion. That amounts to about $450 for every man, woman and child in America each year. Those numbers do not include the cost of government waste or take into consideration the impact on our economy made by a bloated government payroll.

Now, we get to the big question: Where is the money we pay for food in the checkout line at the supermarket going?

Let's first look at a food dollar. As you can see, it is distributed among the many components that are responsible for moving what is first a raw agricultural product to the consumer table. It is a complex chain that includes everything from fuel to taxes. Certainly, there is no single segment responsible for an extraordinary share of that food dollar. (See Chart 3.)

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

CHART 3.—COMPONENTS OF FOOD EXPENDITURES—THE FOOD DOLLAR SHIFT, LABOR'S SHARE GROWS AND GROWS[1]

[Amounts in cents]

	1967 dollar	1977 dollar	Preliminary 1978 data
Farmer	31.8	30.8	32.4
Labor	28.6	32.1	31.8
Everything else	39.6	37.1	35.8
Shift from 1967–78:			
Farmer			+0.6
Labor			+3.2
Everything else			−3.8
Where "everything else" goes: Preliminary 1978 data:			
Packaging			8.4
Transportation			5.2
Profits before taxes			4.6
Business taxes			2.7
Depreciation			1.9
Rent			1.8
Advertising			1.4
Repairs, bad debts, etc			1.1
Interest			.8
Other			7.9
Total			35.8

[1] Reflects direct labor costs only to wholesalers, processors and retailers.

Source: U.S. Department of Agriculture, Economics Statistics, and Cooperatives Service.

Also in this chart, we have taken the major elements of the food dollar and compared them against the food dollar of eleven years ago. As you can see, in those eleven years, the farm share has increased 0.6 cents, labor's share has increased 3.2 cents, and the other distribution links added together have dropped 3.8 cents.

A final question then: What are the actual profits of American food manufacturers? This last chart provides a hard, factual answer. The column on the left is a five-year average. The column on the right is Forbes data for 1978. As you can see, food processors are within one percentage point of the all-industry five-year average, and well under the average for last year. The retailers' five year average is below the all-industry average and last year's profits were also below the industry average. (See Chart 4.)

CHART 4.—RETURN ON EQUITY

[In percent]

Category	5–yr average	Latest 12 mo
All industry	13.9	15.4
Food and drink	14.6	13.8
Supermarkets	13.3	13.0
Publishing	17.1	19.9
Washington Post	22.8	33.2
Truckers	21.6	22.0
Yellow Freight	26.1	22.0
Vehicles	13.9	17.0
General Motors	17.3	22.3
International oils	15.1	13.1
Phillips Petroleum	17.8	18.1

Source: Forbes, Jan. 8, 1979.

So, for those interested in statistical light rather than rhetorical heat, these charts show that the American consumer is not getting ripped off in the food market.

The villian in this inflationary age isn't any one segment of our economy. It's inflation itself. And, finding scapegoats won't get the job done. The sooner that this fact is recognized by the American people and their representatives in Washington and the various state capitals, the sooner we'll come to grips with the real problem facing us.●

PERSONAL ANNOUNCEMENT

HON. DAN DANIEL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 24, 1979

● Mr. DAN DANIEL. Mr. Speaker, last Thursday evening, December 20, I was away from the floor during the latter hours of the session on committee-related business. During that time, one recorded vote was taken.

On rollcall No. 758, the conference report on the Chrysler Corp. loan guarantees, had I been present I would have voted "nay." ●

COST BASIS CARRYOVER—AN IDEA WHOSE TIME WILL NEVER COME

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 24, 1979

● Mr. LEWIS. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

Back in 1976, when the 95th Congress approved the cost basis carryover provisions, I was not a Member of this body. In fact, at that time, I was a member of the California Assembly and was also actively engaged in my career as a life underwriter. Like my attorney and accountant colleagues here in the House, we underwriters concentrate our efforts on assisting an individual to plan his affairs in such a way as to maximize the return to him and, at the same time, preserve those assets which exist for his survivors.

Frankly, the 1976 changes sent shock waves through our profession. It has become clear that legislation ostensibly aimed at closing a tax loophole beneficial to extremely wealthy individuals would, instead, work tremendous hardships on middle-income Americans. The lengthy debate on this subject has made it clear that the recordkeeping requirements alone will add onerous paperwork difficulties for every family farmer and small entrepreneur in our Nation. No man knows the date of his death or can accurately predict the size and condition of his estate.

Citizens in these categories simply do not keep in the kind of detailed and accurate records the cost basis carryover provisions would require. I would venture to guess that many of my colleagues are familiar with the "shoebox file system" and the statement, "It's all in my safety deposit box." Regrettably, all too often the shoebox for the critical period is missing and the safety deposit box holds only two pairs of bronzed baby shoes and a marriage license.

Mr. Speaker, it is my view—and I am certain that of a majority of my colleagues—that one of the highest goals of this Government must be to preserve the free enterprise system. I cannot accept that even my most liberal colleagues wish to destroy those very institutions which have made our country great. Regrettably, the cost basis carryover provisions will, in the years ahead, inevitably lead to that result. As has been noted, carryover does not create insurmountable difficulties for large estates—usually in these cases, there is sufficient liquidity to prevent the need to dispose of the appreciated assets to pay estate taxes. It is, instead, the family farm and the single proprietor business which will be irreparably damaged.

Beyond the philosophical implications of this legislation, it must be noted that according to experts in this field, the law is almost impossible to administer. In fact, the Internal Revenue Service has found it most difficult to write regulations which would insure the uniform and equitable application of these procedures. Moreover, professionals in this field—attorneys, certified public accountants, and life underwriters—have been universal in their opposition. They note that, minimally, this change will undoubtedly more than double the costs involved in administering an estate. In fact, since the attendant administrative costs are, in essence, part of the tax burden, small estates will be taxed more proportionately than large ones.

To return to a point I made earlier, this change was apparently intended to increase the taxes for which large estates are liable. In fact, it has the effect of attacking one of the real principles of our Nation. I know of no individual who does not wish to leave his or her survivors secure, who does not work hard with the expectation that the fruits of that effort will be passed on to his survivors. The cost basis carryover directly contradicts that principle.

Mr. Speaker, I believe the bottom line is simple—it is to admit that in 1976 this body made a mistake and we intend to correct it. No amount of modification will eliminate the basically unfair and inequitable affect of these provisions nor will it alter its basic thrust. I strongly concur it is time we correct this error and repeal these provisions.●

APACHE CORP.

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 24, 1979

● Mr. FRENZEL. Mr. Speaker, in the CONGRESSIONAL RECORD of November 27, the senior Senator from Connecticut made statements about the profits of the Apache Corp., a Minneapolis based firm.

Since many Members will be interested in the company's response, a letter from chairman Raymond Plank to the Senator follows. The letter is self-explanatory. It requires no additional comment except that this incident shows how easy it is both to misstate and to misunderstand facts in an excess of enthusiasm for one's own cause:

APACHE CORP.,
December 5, 1979.

Hon. ABRAHAM RIBICOFF,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RIBICOFF: We note in the Congressional Record for November 27 that you reported Apache's first quarter 1979 profits exceeded the similar 1978 period by 1,453 percent and were $10.4 million.

Since this is a gross misstatement of fact, we would like to see Record corrected.

Apache's first quarter 1979 net income was $3.3 million, an increase of 13 percent over 1978. Earnings from continuing operations were $3.1 million, a 23 percent increase.

You also state that it is baffling why further incentive will be needed when industry activity by independents has been "so intense in the last two years."

The reason, Senator, is quite simple. We and other companies have been investing in exploration way beyond our profits with the expectation that reason will prevail in Washington and the higher prices needed to encourage domestic exploration would be granted without being taxed away.

In Apache's case, our combined net income for 1977, 1978 and 1979 will be approximately $36 million dollars. During those same three years we will have spent $140 million on exploration.

To justify those expenditures, we had better start having some large increases in net income. If we don't, we will have trouble meeting our interest costs, let alone continuing exploration at a pace advantageous to our nation's energy supply.

It is possible that whoever prepared your material picked the 1,453 percent figure from the Energy Reserve Group, the next company down on the Oil and Gas Journal list. That table incorrectly stated Energy Reserve Group's first quarter earnings.

According to the company, they sustained a $3.2 million loss versus a $2 million profit in 1978 for the first quarter. Their large second quarter was the result of a reversal of a tax deficiency accrual. According to what they told me, they had a $1.1 million operating loss in the first half.

Our country does not benefit when members of the United States Senate make statements based upon error and an unwillingness to check for reasons behind figures. It should have been obvious to whoever prepared your material that the Energy Reserve Group figures were either wrong or contained circumstances which were unusual.

Very truly yours,

RAYMOND PLANK,
Chairman.●

HOUSE OF REPRESENTATIVES—*Thursday, December 27, 1979*

The House met at 10 a.m. and was called to order by the Speaker pro tempore, Mr. ROSENTHAL.

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ROSENTHAL) laid before the House the following communication from the Speaker pro tempore (Mr. MOAKLEY).

WASHINGTON, D.C.
December 24, 1979.

I hereby designate the Honorable BENJAMIN S. ROSENTHAL to act as Speaker pro tempore on Thursday, December 27.

JOE MOAKLEY,
Speaker pro tempore,
House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We magnify Your holy name, O God, for Your patience and love toward us in all the days past. Where we have been weak, You have given strength, where we have been afraid, You have given faith, and when we failed You and our neighbor, You have been ready to forgive and set us on our way. In the coming weeks we pray for Your continued protection and grace that we will go forward knowing that Your spirit will lead and guide wherever we are or however great our concerns. We humbly pray that our words and actions will testify to Your truth and reflect the glory of Your heavenly Kingdom.

This we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to the authority granted the Speaker pro tempore on Thursday, December 20, 1979, the Speaker pro tempore did on Monday, December 24, 1979, sign the following enrolled bills:

H.R. 600. An act to incorporate United Service Organizations, Inc.;

H.R. 3951. An act to amend the National Capital Transportation Act of 1969 to authorize additional Federal contributions for the cost of construction of the rapid transit system of the National Capital region, to provide an orderly method for the retirement of bonds issued by the Washington Metropolitan Area Transit Authority, and for other purposes;

H.R. 5010. An act to amend the Federal Election Campaign Act of 1971 to make certain changes in the reporting and disclosure requirements of such act, and for other purposes;

H.R. 5015. An act to amend title 5, United States Code, to extend the Federal Physicians Comparability Allowance Act of 1978, and for other purposes;

H.R. 5224. An act to continue through May 31, 1981, the existing prohibition on the issuance of fringe benefit regulations, and for other purposes; and

H.R. 5860. An act to authorize loan guarantees to the Chrysler Corp.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., December 26, 1979.
Hon. THOMAS, P. O'NEILL, Jr.,
The Speaker, U.S. House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 12:30 p.m. on Wednesday, December 26, 1979, and said to contain a message from the President wherein he transmits to the Congress the Third Special Message under the Impoundment Control Act of 1974.

With kind regards, I am

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk.

DEFERRALS AFFECTING PROGRAMS IN DEPARTMENTS OF DEFENSE AND TREASURY, NATIONAL CONSUMER COOPERATIVE BANK, NATIONAL COMMISSION ON SOCIAL SECURITY, AND THE DISTRICT OF COLUMBIA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96-242)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read, and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report three new deferrals totalling $28.7 million and three revisions to previously transmitted deferrals increasing the amount deferred by $34.5 million. These items affect programs in the Departments of Defense and Treasury, the National Consumer Cooperative Bank, the National Commission on Social Security, and the District of Columbia.

The details of the deferrals are contained in the attached reports.

JIMMY CARTER.

THE WHITE HOUSE, *December 26, 1979.*

THE ADMINISTRATION'S BELATED CONCERN OVER AFGHANISTAN—CONGRATULATIONS TO THE HOUSE LEADERSHIP

(Mr. DERWINSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERWINSKI. Mr. Speaker, I welcome the belated concern that the administration is now publicly expressing about developments in Afghanistan. Even allowing for the natural preoccupation with the situation in Iran, there is really no excuse for the public tolerance that the administration had demonstrated in the past year in the face of Soviet direct military involvement in that country.

Rather than harmless, wishful thinking that Afghanistan would become "Russia's Vietnam," our efforts should have been concentrated to mobilize world public opinion against the Soviet military activities in Afghanistan.

The Soviet actions, in my judgment, are a violation of the U.N. Charter, involve military action in a neighboring sovereign state, are the rawest form of military imperialism, and constitute a geopolitical threat to U.S. and Western influence and interests in the Indian subcontinent.

I believe that all U.S. worldwide information facilities—the Voice of America, Radio Free Europe, Radio Liberty, the International Communication Agency—should be utilized to tell the true story of developments in Afghanistan.

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

The issue should be raised at the U.N. by our spokesmen with appropriate resolutions introduced.

In the light of the Soviet military activity in Afghanistan we should reconsider our ongoing grain sales to the Soviet Union.

It must be recognized that this is Soviet suppression of a legitimate Islamic movement. By dramatizing the issue worldwide and identifying ourselves with those Islamic tribesmen who want their country independent of the U.S.S.R., we can go a long way to regain U.S. respect and prestige in the Islamic world.

Mr. Speaker, now that I have addressed the subject matter of the belated concern of the administration over the situation in Afghanistan, I take this opportunity to commend the Chair for the diligence with which he has handled the monumental business today and to congratulate the gentleman from California (Mr. MINETA) for the manner in which he has handled the responsibility of the majority side. I note that no member of the majority has attempted to pull any wool over the eyes of the minority this morning, and in the absence of the gentleman from Maryland (Mr. BAUMAN), I thank the Chair for all the courtesies he is extending to the minority.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. McDONALD.
Mr. GILMAN.
Mr. SHUMWAY.
Mr. CLINGER.
Mr. MARRIOTT.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had on December 24, 1979, examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 600. An act to incorporate United Service Organizations, Inc.;

H.R. 3951. An act to amend the National Capital Transportation Act of 1969 to authorize additional Federal contributions for the cost of construction of the rapid transit system of the National Capital region, to provide an orderly method for the retirement of bonds issued by the Washington Metropolitan Area Transit Authority, and for other purposes;

H.R. 5010. An act to amend the Federal Election Campaign Act of 1971 to make certain changes in the reporting and disclosure requirements of such Act, and for other purposes;

H.R. 5015. An act to amend title 5, United States Code, to extend the Federal Physicians Comparability Allowance Act of 1978, and for other purposes;

H.R. 5224. An act to continue through May 31, 1981, the existing prohibition on the issuance of fringe benefit regulations, and for other purposes; and

H.R. 5860. An act to authorize loan guarantees to the Chrysler Corp.

ADJOURNMENT

Mr. MINETA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 5 minutes a.m.), under its previous order, the House adjourned until Monday, December 31, 1979, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3069. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice of the Department's decision to contract the performance of commercial and industrial type functions at the Army Medical Department Activity, Fort Leavenworth, Kans., from Department of Defense employees to Tombs Janitorial Services, Inc., Kansas City, Mo., pursuant to section 806(a)(2)(B) of Public Law 96–107; to the Committee on Armed Services.

3070. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice of the Department's decision to contract the performance of commercial and industrial type functions at Fort Eustis, Va., from Department of Defense employees to the Tri-State Service Company, Springfield, Mo., pursuant to section 806(a)(2)(B) of Public Law 96–107; to the Committee on Armed Services.

3071. A letter from the Assistant Secretary of the Treasury (Legislative Affairs), transmitting various project performance audit reports prepared by the International Bank for Reconstruction and Development, together with project completion reports prepared by the Asian Development Bank, pursuant to section 301(e)(3) of the Foreign Assistance Act of 1961, as amended; to the Committee on Banking, Finance and Urban Affairs.

3072. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction with Laker Airways, United Kingdom, exceeding $60 million, pursuant to section 2(b)(3)(1) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

3073. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on loan, guarantee and insurance transactions supported by Eximbank during September and October 1979 to Communist countries; to the Committee on Banking, Finance and Urban Affairs.

3074. A letter from the Chairman, Federal Election Commission, transmitting proposed regulations pertaining to the funding and sponsorship of nonpartisan public candidate debates, pursuant to section 315 (c) of the Federal Election Campaign Act of 1971, as amended (H. Doc. 96–239); to the Committee on House Administration and ordered to be printed.

3075. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting reports for the month of September 1979, on changes in market shares of refined petroleum products and of retail gasoline, pursuant to section 4(c)(2)(A) of the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

3076. A letter from the Administrator, Small Business Administration, transmitting a draft of proposed legislation to amend the Securities Act of 1933 to authorize small issuers to sell securities to accredited investors without filing a registration statement under such act, and grant an exemption from section 5 of such act for resale of these securities by accredited investors to other accredited investors; to the Committee on Interstate and Foreign Commerce.

3077. A letter from the Deputy Secretary of the Treasury, transmitting a draft of proposed legislation to amend chapter 25 of title 18, United States Code, to provide penalties for the forging of endorsements on, or fraudulently negotiating U.S. checks or bonds or securities, and for other purposes; to the Committee on the Judiciary.

3078. A letter from the Acting Secretary of Commerce, transmitting a draft of proposed legislation to establish a program for the further development of the U.S. fishing industry, with particular emphasis on new and nontraditional fisheries, and to promote the optimum utilization of the Nation's fishery resources, and for other purposes; to the Committee on Merchant Marine and Fisheries.

3079. A letter from the Chairperson, Equal Employment Opportunity Commission, transmitting the first annual report on the Commission's efforts to coordinate Federal equal employment programs, pursuant to Executive Order 12067; to the Committee on Post Office and Civil Service.

3080. A letter from the Administrator, National Aeronautics and Space Administration, transmitting notice of the proposed use of certain construction of facilities funds appropriated to NASA for fiscal year 1979 to build a backup landing facility for the Space Shuttle Orbiter at White Sands Missile Range, N. Mex., pursuant to section 3 of the NASA Authorization Act, 1979; to the Committee on Science and Technology.

3081. A letter from the Director, Federal Emergency Management Agency, transmitting a report on the means of improving Federal assistance to States in arson prevention, detection, and control, pursuant to section 24(b) of Public Law 93–498; to the Committee on Science and Technology.

3082. A letter from the Secretary of the Treasury, transmitting six proposals for altering the timing of tax payments, accelerating some tax payments, and delaying and reducing the frequency of others; to the Committee on Ways and Means.

3083. A letter from the Chairman, International Trade Commission, transmitting the 30th annual report of the Commission on the operation of the trade agreements programs, pursuant to section 163(b) of the Trade Act of 1974 (88 Stat. 1978); to the Committee on Ways and Means.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. CAMPBELL:

H.R. 6231. A bill to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn, or fiber, and for other purposes; to the Committee on the Judiciary.

By Mr. SYMMS (for himself, Mr. WAMPLER, Mr. JOHNSON of Colorado, Mr. JEFFORDS, Mr. GRASSLEY, and Mr. THOMAS):

H.R. 6232. A bill to amend the Cooperative Forestry Act of 1978; to the Committee on Agriculture.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

[Submitted Dec. 24, 1979]

H.R. 6070: Mr. ALEXANDER and Mr. BOWEN.

H.R. 6109: Mr. HUBBARD, Mr. FLIPPO, Mr. GRISHAM, Mr. HUCKABY, Mr. FROST, Mrs. BYRON, Mr. FOUNTAIN, Mr. KAZEN, Mr. MATHIS, and Mr. FISHER.

EXTENSIONS OF REMARKS

WHITE HOUSE CONFERENCE ON FAMILIES

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 27, 1979

● Mr. SHUMWAY. Mr. Speaker, at this time I would like to share with my colleagues the statement which Dr. V. Dallas Merrell, president of United Families of America, presented before the White House Conference on Families. Dr. Merrell's remarks lucidly illustrate the best approach for the Government to take in terms of American family life, and that approach can be simply stated: Stay out of it! I applaud Dr. Merrell's comments, his determination to see the viability of the family unit restored and enhanced, and his message to the Federal Government. "The family" is none of the Government's business.

The statement follows:

STATEMENT OF DR. V. DALLAS MERRELL

Mr. Chairman. I am V. Dallas Merrell, President of United Families of America. UFA is a national organization, relatively new, organized to channel into a Washington presence the views and feelings of millions of families and individuals across this country who feel that government policies are making their existence more difficult and precarious.

To begin with, United Families of America rejects the propriety of government-sponsored conferences being called to decide what the government's policy should be towards the family. "The family" is none of the government's business. To the extent the government tries to figure out what our problems are, it is likely to ask the wrong questions, get the wrong answers, and then make the problems worse.

For example, there is clear evidence that one of the most serious burdens on families today is an economic one. For the last ten years, median family income has increased steadily, standing in 1979 at just twice its level in 1969. And yet, after taxes, the median family income is $147 lower than it was in 1969, in constant dollars. That result, we submit, is precisely the result of government, and largely of government's failure in its attempts to supply services to families and individuals.

It is often said that the chronic deficit spending we have suffered in America over this period has come about because of massive defense spending, and that inadequate attention has been given to social welfare. The facts are otherwise: between 1956 and 1978 the percentage of the gross national product devoted to national defense was cut in half; the percentage devoted to nondefense spending doubled.

The government is putting heavy burdens on families in America today. There is a lot of talk about redistributing income. But the families of America do not want income redistribution. They want lower taxes. They want relief from the inflation which pushes them into higher and higher tax brackets every year. Without those burdens of government, we feel that families would be better able to cope with the problems that face them. It simply adds insult to injury that the tax burden is spent on misguided efforts to minister to the needs of families.

Let me outline a few areas into which government has intruded which would better have been left to the resources of individuals and families:

1. Basic Welfare. As government has become more and more concerned with providing a guaranteed source of income and the basic necessities of the family unit, the cost to those willing to pay their own way has become unbearable. We are punishing those willing to work for their food, clothing, and shelter to provide for those who prefer government assistance. The government spending to pay for programs of relief eats into the family's substance, increasingly forcing mothers into the workforce to help pay for food, clothing, shelter, the cost of transfer payments to others, and the interest on a mushrooming national debt.

2. Medical Care. Ever since the introduction of Medicare and Medicaid, health care costs have soared. Hospitals and doctors are now charging higher fees to the private patient to cover the increased costs of welfare health care. Many families choosing to pay their own way have had to reduce their use of health care. Thus, those who choose to help themselves have a lower standard of care because of governmental actions which have the effect of raising medical costs. Having created this problem, government now proposes to ration health care through hospital cost controls which will further distort the supply of medical services, and further erode the standards of health care.

3. Care for the Elderly. Social Security taxes have increased tremendously. At the same time, inflationary policies of the government strike hardest at the elderly, who have carefully saved for their retirement years, and now find their savings eroded. The policy of government seems designed to make all senior citizens wards of the state, at a tremendous cost to their self-esteem and physical well-being.

As these points illustrate, United Families of America feels that the first priority is for government to get its own house in order. At present, tax policies discourage private savings, encourage immediate consumption, discourage provision for the future, and encourage increased welfare burdens. The productive work of the imaginative individual is discouraged by higher taxes, and the result is the impoverishment of our society, unemployment, and declining productivity. More specifically, we urge immediate tax cuts at all levels, but concentrating on marginal tax rates, where the latent ingenuity of our people is greatest. We also urge limits on government spending. A limit should be placed on the appetite of government.

United Families of America is not committed to a static picture of society, nor do we seek to turn the clock back. Many of the changes coming to America in the final decades of this century are to be welcomed. It is a reality that many mothers are leaving the home, but they are only following the rest of the family. Fathers began to leave a hundred years ago; children began to leave thirty years ago, with the expansion of the schools into leisure-time activities. Our goal is to help all members of the family return to the home. We welcome such innovations as flexitime, which permits fathers and mothers to better manage time at home; we encourage increased use of computer terminals and telecommunications to allow more adult work at home. Recreational and educational opportunities would be better organized in neighborhoods and communities than on a massive, city-wide scale.

We support the idea that marriage is a partnership. Both father and mother are essential to it, and to its success in its primary purpose: the rearing of children and the transmission to them of the essential values of our culture. We insist that both parents be held to the same standards of accountability for their actions, and that their responsibility for their children, and for the maintenance of the family unit, is equal.

But in the final analysis, these are things the government is ill-equipped to handle. Government should get out of the way of the traditional family, and should stop searching for "alternatives" to it. We believe that the family is the basic unit of our society. As G. K. Chesterton said, "As are families, so is society." ●

THE MARIHUANA THREAT

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 27, 1979

● Mr. McDONALD. Mr. Speaker, the long-term effects of marihuana are just becoming known, and they are not good. It would appear as though the scientists and authorities who are discovering these long-term bad effects are in a race with time against those who want to remove all penalties for the use of marihuana, attempting to suggest that it is no worse than drinking a can of beer. Other material in support of continued prosecution of marihuana dealers is contained in the CONGRESSIONAL RECORD of December 11, 1979, on pages 6043E and E6044. Anthony Harrigan discussed this problem in an excellent column dated for release on December 6, 1979, which I commend to the attention of my colleagues.

The column follows:

THE MARIJUANA THREAT

(By Anthony Harrigan)

Many Americans mistakenly believe that marijuana is harmless. They equate drug busts with the country's ill-advised attempt at Prohibition in the 1920s.

Well, there's ample evidence that marijuana is a very dangerous drug. There's also ample reason for stepping up the war against the marijuana smugglers.

A recent symposium sponsored by Patient Care Publications, and organized by Citizens For Informed Choices on Marijuana, reviewed the evidence dealing with the harmfulness of "grass."

At the symposium, a panel of medical and behavioral authorities declared that chronic marijuana use does long-term damage to the human brain, lungs, and reproductive system, and reduces the body's ability to fight disease.

Chronic, long-term use of marijuana was defined as three "joints" a day, five days a week for six months.

This frequent usage changes the structure of brain cells, perhaps permanently, according to Dr. R. G. Heath, chairman of the Department of Psychology and Neurology at Tulane University's School of Medicine.

The cumulative toxicity of marijuana makes it particularly dangerous, said Dr. Gabriel G. Nahas, professor in the Dept. of Anesthesiology of Columbia University's College of Physicians and Surgeons. And, despite widespread opinion to the contrary, marijuana is physically and psychially addictive, he said.

Dr. Carol G. Smith of the Uniformed Services University of the Health Sciences reported that sex hormones are disrupted by the use of marijuana. As little as a single dose of THC, a chemical in marijuana, can affect fertility.

These medical facts ought to be hammered home to young Americans who are using marijuana and who imagine that it is harmless. The experts point out that one of the major problems in curbing drug abuse in America is the trivilization of marijuana.

Far from being harmless, marijuana causes deterioration of personality and of goal orientation, according to Dr. Harold M. Voth, senior psychiatrist at the Menninger Foundation. School teachers, he said, find marijuana-using students less attentive, less motivated, less participative and less understanding.

Dr. Ingrid Lantner, a pediatrician and expert on the effects of marijuana on youth, described symptoms of marijuana use as "amotivation, tiredness, decreasing grades in school, paranoid thinking, changes in human interactions, depression and a concentration around the use of the drug."

Given these medical facts, it should be clear to community leaders that the use of marijuana ought to be fought by every means.

The war against the drug smugglers could be stepped up if additional funds were available for police manpower and more aircraft equipped with advanced radar to detect the planes and vessels that bring the drug to this country. The drug dealers on the streets of America should be subject to much harsher penalties.

The basic need, however, is greater public awareness that marijuana use isn't a trivial matter. The flood of marijuana into this country is destroying our young people who use it.●

SHATTER THE SILENCE VIGIL

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 27, 1979

● Mr. GILMAN. Mr. Speaker, I would like to draw to the attention of my colleagues not only the importance of the human rights issue at stake vis-a-vis the Soviet Union, but the plight of Iosif Mendelevitch, one of the many victims.

It was hoped that the recent release of several prisoners serving harsh sentences imposed by the kangaroo Leningrad trials was a sign of Soviet reform. Obviously this will not be the case considering the cruel and unjustifiable retention of Iosif Mendelevitch.

Despite the fact that Iosif had a lighter sentence than some of the other men who were convicted at the same time, his release has seemed the most remote. During the past 9 years of internment, Iosif courageously persisted in the strict observances of his orthodox religious beliefs, despite the harassment and persecution it subjected him to. In fact, in the spring of 1977, he was accused under the Corrective Labor Code of "maliciously violating the regime of confinement." The main evidence was his refusal to work on the Sabbath (though he offered to make up the lost hours on other days) and his "violation of the form of camp dress." In other words, his insistence in observing his religion by wearing a skullcap and his persistent observance of religious traditions resulted in his being transferred from one notorious prison to the next. Iosif is presently incarcerated in central Russia in the infamous Chistopol prison where he has received an additional 3 years conviction for trying to pursue his religious beliefs.

The Mendelevitch case is all the more tragic when one considers the reasons for his initial incarceration. Following repeated denials of his request to receive a visa to emigrate to Israel, Iosif was arrested and sentenced to 12 years in prison in 1970 for allegedly attempting to hijack a Soviet airliner. The Soviets justified this harsh sentence by imposing vague charges of treason.

I am particularly concerned with this gross denial and willful destruction of human as well as religious rights because it has now developed into a matter of life or death. Iosif's health is deteriorating rapidly. I have been told that he has lost 44 pounds and that his weakened condition is rewarded by the Soviet officials giving him longer and harder work days. I am inserting into the RECORD at this point a copy of a letter from Menachem Gordin, Iosif's personal physician, who describes the present critical condition of his former patient.

JULY 11, 1979.

Re: Joseph Mendelevitch, prisoner for the cause of Zion

I should like to draw your attention to the following important facts bearing on the urgency for affecting the release of the above.

As the personal physician of Joseph Mendelevitch, whom I have known for 15 years, I am deeply concerned about his state of health—to the point of fearing for his life. This opinion is based on the following facts:

(1) Joseph is suffering from severe hypertension and rheumatic heart disease since the age of 14. Joseph was in ambulatory treatment in the U.S.S.R. prior to his imprisonment. His state of health did not improve under this medical care. It is to be noted that, because of grave physical condition, he was disqualified for any kind of military service by the authorities.

(2) Joseph is religious and observant Jew who would eat only kosher food. He therefore is left with insufficient nourishment, living for many years on bread and water only. I should like to point out that his valiant and proud insistence on living by his Jewish values in spite of the harsh conditions of prison life results in discriminatory harassment on part of the Chistapol Prison authorities.

(3) These facts have been confirmed by first-hand witnesses, his fellow prisoners who were released and arrived here about two months ago. The testimony of Mr. Butman will serve as a typical example. Joseph's cellmate, now released, Mr. Butman was witness to the fact that Joseph had only 300 grams of Matzah and water during the entire Passover week.

Supported by the above facts, I herewith state unequivocally in my professional capacity as a physician that his health is in grave jeopardy. His prospects for survival are limited to a short time unless the strongest efforts are made for his earliest possible urgent release in order to save his life, for otherwise it may be too late.

Thanking you for your kind attention, I am,

Sincerely yours,
MENACHEM GORDIN, M.D.,
Professor of Medicine, Hadassah Medical Center, Jerusalem, Israel.

During recent years, the administration has made human rights a highly conspicuous and controversial issue. The Congress has focused attention on the violations of human rights in other countries and has introduced legislative mechanisms aimed at assuring that U.S. foreign policy initiatives include consideration of the status of human rights in other countries, most notably in the Soviet Union. Congress has acted to cut off or limit military assistance to such other countries which have violated human rights as Chile, Uruguay, Argentina, and Ethiopa. A position of Assistant Secretary of Human Rights and Humanitarian Affairs has been established within the Department of State. Congress further mandated an annual reporting by the Department of State on the status of human rights in countries proposed as recipients of U.S. assistance.

Part of the human rights problem in the Soviet Union stems from a lack of communication with the outside world * * * a self-imposed problem resulting from Soviet censorship.

In order to improve communication between the United States and the Soviet Union, I have recently introduced and the House passed a bill culminating a 3-year effort calling upon the President to formally protest the Soviet Union's interruption of international mail deliveries. The Soviet's failure to comply with international postal and human rights covenants of which it was a signatory is amply illustrated by their systematic encroachment upon the freedom of Soviet Jews, members of other religious minorities, as well as scientists and cultural leaders.

The summary of human rights legislation enacted during the past few years is indicative of considerable congressional involvement in human rights matters, much less has been tied to the legislative leverage of Congress over such program as bilateral and multilateral economic assistance, Public Law 480 food aid, security assistance, and arms and technology sales. All have become important instruments in forming our foreign policy and in influencing a greater respect for human rights.

Following my remarks, I am inserting a list of prisoners in the U.S.S.R. convicted for activities in seeking emigration since August 1, 1979.

Mr. Speaker, I urge my colleagues to closely review the case of Iosif Mendelevitch, as well as the facts surrounding countless other victims of the oppressive Soviet regime, and to decide how we can further foster liberty and justice and our responsibility in aiding ostracized minorities and persecuted individuals around the world. Let us shatter the silence surrounding these victims of human rights violations.

LIST OF PRISONERS IN THE U.S.S.R. CONVICTED FOR EMIGRATION ACTIVITIES, AUG. 1, 1979

Name, date of birth, city	Occupation and marital status	Date of arrest and end of term	Charge and sentence	Place of imprisonment
Begun, Iosif, 1932, Moscow. (Iosif Begun had already served 1 exile term; he was convicted for "Parasitism" and sentenced to 20 yr of exile in March 1977. He completed his sentence in 1978 and returned to Moscow in March.)	Radio engineer; married +2	May 16, 1978	Violation of passport regime; 3 yr of exile	Magadan area, Susuman, 686310.
Kalendarev, Boris, 1957, Leningrad	Student; single	Mar. 8, 1979; March 1981	Evasion of army service; 2 yr	
Mendelevich, Iosif, 1947, Riga	Student; single	June 15, 1970; June 1982	Attempted treason; attempted misappropriation of state property; anti-soviet propaganda; anti-soviet organizational activity.	Tatarskaya ASSR, Chistopol, 422950.
Nudel, Ida, 1931, Moscow	Economist; single	June 1, 1978; June 1982	Malicious hooliganism; 4 yr of exile	Tomskaya Oblast, 636300, selo Sadovaya UL. 26.
Shcharansky, Anatoly, 1948, Moscow	Mathematician; married	Mar. 14, 1977	Treason; 13 yr	Tatarskaya ASSR, Chistopol, 422950.
Shnirman, Simon, 1957, Zaporozhie	Technician; single	June 1978	Evasion of army service; 2.5 yr	Kherson Oblast, Golopristansky r-n, selo Starosburevka, Uchr. Yu. Z. 17/7.
Slepak Vladimir, 1927, Moscow	Radio engineer; married +2 (fictitiously divorced).	June 2, 1978; June 1983	Malicious hooliganism; 5 yr of exile	Chita area, Aginsky r-n, selo Thogto-Khangil.
Vilig, Alexander, 1956, Bolgrad, Odesskaya Oblast	Single	Was convicted on Feb. 13, 1979.	Evasion of army service; 1 yr	
Zavurov, Amner, 1950, Dushanbe	Worker; married +1	Dec. 23, 1976; December 1979	Violation of passport regime hooliganism; 3 yr.	Uzb. SSR, Bukharskaya obl., Navoi.
Fiodorov, Yuri,[1] 1943, Moscow. (Relatives in U.S.S.R.: Nataliya Buzireva, wife, Moscow, Serafimovich St. No. 2/188.)	Married	June 15, 1970; June 1985	Treason; 14 yr	Potma.
Murzhenko, Aleksey,[1] 1942, Kiev. (Relatives in U.S.S.R.: Lubov Murzhenko, wife, res. Kiev, Rusanovsky Blvd. 5/58.)	Married	June 15, 1970; June 1984	Treason; 14 yr	Potma.

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[1] The above-mentioned persons (non-Jews) were convicted and sentenced at the 1st Leningrad trial for their participation in the hijacking attempt. ●

SMALL BUSINESS, THE TAXPAYER, AND THE CHRYSLER LOAN

HON. DAN MARRIOTT

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 27, 1979

● Mr. MARRIOTT. Mr. Speaker, a great deal of heat has been generated in the debate over the proposed Chrysler loan. I hope to shed some light on one area so far overlooked, the stake that small business has in the current situation. As a member of the House Committee on Small Business, I would like to share some facts and projections that have persuaded me to speak in support of the Moorehead-McKinney substitute.

While a great deal of the debate has focused on the effect a Chrysler failure would have on the management, workers, and stockholders of Chrysler itself, I would like to point out the likely effects of a shutdown on the company's suppliers, its dealers, and other small businesses.

According to a Department of Transportation study, 70 percent of Chrysler's suppliers are "small with great concentrations of business in Chrysler." Of the approximately 250,000 jobs provided by the company's roughly 19,000 suppliers, an estimated 180,000 could be lost if Chrysler goes under.

Why could not these suppliers simply sell their goods to someone else? Some of them could; but, for most, there simply is not any other market. They manufacture parts specifically designed to fit Chrysler products. Even if they could retool—a process that would take several months, and large amounts of capital—their available markets would be limited since both Ford and General Motors make most of their own parts.

Chrysler purchased almost $8 billion worth of materials from its suppliers in 1978 alone. For many of these companies, the loss of Chrysler's business would be critical. Even for most of those which survive, however, it would mean layoffs. The DOT's projection of jobs lost among suppliers amounts to an average rate of unemployment among those companies of 72 percent.

The prospects for the Chrysler, Dodge, and Plymouth dealers are even grimmer. As a recent editorial in Automotive News states it—

> Each one of those 4,700 businesses has its own payroll, paying taxes, supplying jobs and helping the local economy wherever they are located. There are not any great number of automobile franchises available to which these dealers could switch, and the possibility of their employees going out and finding new jobs in neighboring dealerships is remote, to say the least.

More than 300 Chrysler products are the top line, if not the only line, of automobiles they sell. The DOT study predicts some 100,000 jobs lost at the dealer level alone if Chrysler goes under. The Data Resources, Inc., study paints an even bleaker picture.

Opponents argue that any benefit to small business from saving Chrysler is offset by the fact that funds going to Chrysler from nongovernmental sources are funds that could otherwise be obtained by small business.

Nobel prize winning economist Paul Samuelson, in his highly regarded work Foundations of Economic Analysis, states that money flowing to one segment of the economy cannot be assumed to be money that would otherwise have gone to another segment.

Moreover, an examination of the Federal Reserve Board's Flow of Funds Account reveals some significant data. At the end of the third quarter of 1979, it showed that the money loaned by banks in the United States amounted to $298.4 billion. Money loaned from other sources was $163.7 billion, only $6 to $8 billion of the listed amount being from Government sources.

In other words, the $1.9 billion Chrysler is required to raise under this measure is only six-tenths of 1 percent of outstanding bank credit; only 1.1 percent of outstanding credit from all other sources; and only four-tenths of 1 percent of the total credit outstanding from all nongovernmental sources.

During the first three quarters of 1979, $61 billion in new credit was extended by banks and other nongovernmental sources. Projected through the fourth quarter, that is $81.3 billion in new credit for the year. The amount Chrysler must raise is only 2 percent of all new credit, from nongovernmental sources, this year.

So, money that Chrysler will have to raise will not be money lost by small business. It is clear that small business pays a far higher price—in the form of incomes, jobs, and, in many cases, their very survival—if Chrysler fails, than if it remains viable.

The projected economic impact of a Chrysler failure, whether you look at the most pessimistic or the most optimistic projections, clearly indicate that the overall risks—to everyone—if Chrysler goes under far outweigh the costs of a federally guaranteed loan.

A Department of Transportation study estimated that a minimum of 290,000 to 345,000 jobs would be lost if Chrysler shuts down. Allowing for the possibility that some Chrysler facilities would be purchased by other firms, the study states that "probably only 6,000 jobs would be retained" in those facilities. The same study goes on to say that retooling in these facilities would probably cause production delays of up to 3 years.

The more pessimistic Data Resources, Inc., study predicts a peak job loss of 600,000 in the third and fourth quarters of 1980. The long-term job loss is calculated to be 200,000 to 300,000. The loss of personal income by the end of 1981 is estimated at $19.3 billion.

The DRI model also predicts a total of over $16 to $18 billion in net cost to the Government during the first 2 years after a Chrysler failure. That amount includes the loss in personal income tax revenue, loss in social security contributions, loss of property taxes, assumption of Chrysler's Federal guaranteed pension fund liability, and increased expenditures in the form of unemployment compensation and welfare payments.

Since the DRI model has been called too pessimistic, let us look at the economic impact predicted by the DOT study. It estimates a loss of $500 million in income taxes from reduced Chrysler and supplier employment, $1.5 billion in unemployment compensation payments in the first year after shutdown, welfare payments to perhaps 1 million family members, and assumption of the $800 million in pension fund liability. Even this conservative estimate of first year net losses to the Government—and to the taxpayer—carries a price tag over double the amount of the loan.

Any risk to the Government, and to the worker and taxpayer, of making this loan is offset by the certainty that, without it, we will all pay an enormous cost in jobs and lost revenue, as well as lost economic growth and increased trade deficits, at a time when the economy can least afford these kinds of negative impact.

In short, the proposed loan package is no bailout of Chrysler; if anything, it is a bailout of the American taxpayer, who would ultimately pay the tab.

At the same time, we cannot lose sight of the fact that the taxpayer is already paying the tab for much of the Government-caused damage to Chrysler and the other domestic automobile manufactures. In fact, the American worker pays twice, the first time when his or her taxes foot the bill for a growing "big brother" Federal bureaucracy, the second time when he or she buys a car. The price tag on each American auto has gone up both as a result of inflation and to pay the cost of Government-imposed regulations.

According to the Wall Street Journal, federally mandated auto emissions standards were first set in 1965. Gradually tightened, those standards have now removed 90 percent of auto emissions. The deadline for an additional reduction of 5 percent is 1981. As the Journal notes—

> Removing the last 5 grams of pollutant will add $250 to the price of a new car—10 times as much as it cost to remove the first 60 grams.

And, that does not include the additional cost of the 44 separate safety standards that today's new cars have to meet, nor the cost of fuel economy.

Clean air, safer vehicles, and lowered fuel consumption are desirable goals. But, federally-imposed deadlines have collided with Chrysler's need to raise capital to pay for the technology to meet those deadlines. It seems to me the Government has an obligation to help the company over the hump.

It should also be stressed that we are not artificially removing risks from the marketplace. We are not providing benefits to an unsuccessful competitor in the free marketplace. We are helping to restore a balance that the Federal Government did much to upset.

To do otherwise will simply shift the economic burden to the already overburdened American taxpayer.

Having extended a helping hand to Chrysler, it is not enough for us then to merely dust off our hands and move on, to kid ourselves into thinking the job has been done. This loan will treat only one case of federally caused economic anemia.

I urge my colleagues to support the Moorhead-McKinney substitute, but to keep Chrysler's situation fully in mind next session, as we address the root causes of its economic ailment—unreasonable regulatory deadlines and standards, our ongoing energy crisis, and our inflation-ravaged economy.●

WOMEN CAN'T FIGHT—PART II

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 27, 1979

● Mr. McDONALD. Mr. Speaker, some of the arguments against our apparent policy of forcing women into combat, in the Armed Forces, were presented in part I of Jim Webb's article from the November Washingtonian magazine. The concluding portion presented here deals with the effects upon the military academies.

As you know, I have introduced legislation to return to the academies their historic mission of preparing male combat officers for our Armed Forces. Perhaps the information presented by Mr. Webb will reach out to a few of the people obsessed by the notion that women cannot be "equal" until they are allowed to lead men into combat.

The article follows:

WOMEN CAN'T FIGHT—PART II

If Congress had considered these realities when it debated whether to open the service academies to women, and approached this as a national defense rather than a women's issue, it may have voted differently.

Two thirds of the House of Representatives voted for the measure, which appeared as a rider to the 1975 Defense Appropriations Bill. Those who argued in favor of the proposal dismissed the notion of women in combat, and instead maintained that the issue was mere sexual equality. Congressman Samuel Stratton of New York, who proposed the amendment, downplayed the prospect of women in combat billets, claiming it was irrelevant: "It's just a simple matter of equality. . . . All we need is to establish the basic legislative policy that we wish to remove sex discrimination when it comes to admissions to the service academies." Stratton's key statistic in establishing that the academies did not "train officers exclusively for combat" was that "only" 90 percent of current Academy graduates had served in a combat assignment.

That is a fascinating statistic to have been used on Stratton's side of the debate. The key point is not that "only" 90 percent of the Academy graduates to that time had served in a combat assignment, but that 100 percent had been equipped to do so, physically, mentally, and emotionally. By way of analogy, I would estimate that something less than 90 percent of my classmates in law school went out and practiced law, but that did not detract from the training they received, and I don't see many law schools deciding to add theology or journalism to their curriculum to accommodate the others.

So how do you teach combat leadership? You don't do it with a textbook; you do it by creating a stress environment. My academic education at the Naval Academy always took a backseat to my military education. During our first year, I and my classmates were regularly tested and abused inside Bancroft Hall, our living spaces. We were pushed deep inside ourselves for that entire year, punished physically and mentally, stressed to the point that virtually every one of us completely broke down at least once. And when we finished our first year, we carried out the same form of abuse on other entering classes. That was the plebe system. It was harsh and cruel. It was designed to produce a man who would be able to be an effective leader in combat, to endure prisoner-of-war camps, to fight this country's wars with skill and tenacity. And it is all but gone.

They still call it Plebe Year at the Naval Academy. Freshmen still have to memorize certain facts called "plebe rates" and still have to call the upperclass "sir." But there it ends. Now you cannot physically punish a plebe. You cannot unduly harass a plebe. God forbid that you should use abusive language to a plebe. Plebes do not "brace up" in the mess hall or in the corridors of Bancroft Hall. It is now a punishment, limited to fifteen minutes maximum, to require plebes to do what they once did as a basic activity for a year: stand at attention.

"I like women at the Academy," one of my classmates who is still on active duty told me recently. "They've brought a measure of . . . refinement to the place."

If there was one thing that was irrelevant to my preparation for combat it was refinement, and if there was one thing that helped my combat preparation it was plebe year. I broke down plebe year. We all did. I went around to an upperclassman once with three M-1 rifles and held them in front of me—all 33 pounds—until it was physically impossible to do so. Then I held two, straight in front of me, straining until my arms hit my knees. Then one. Then seven books. Then six, five, four, three, two, one. Then a pencil. Then a toothpick, as the upperclassman gathered his friends and they surrounded me, talking about the irrelevance of pain as the toothpick hit my knees, demanding answers to questions, imploring me to resign and go home. The next night, after physically running me to exhaustion, he and three others took turns beating me with a cricket bat, telling me they would stop if I admitted it hurt. Finally they broke the bat on my ass. I returned to my room and stuck my head inside my laundry bag and cried for fifteen minutes, standing in the closet so my roommates wouldn't see me. I hated the upperclass and I hated the Academy. But I had reached a place deep inside myself, and when I got up at 5:30 the next morning and began preparing to enter that man's room yet another time, I knew something about myself that I could never have learned in any other way.

That may seem a sadistic and barbaric way to learn self-truths, and I would not suggest a reinstatement of plebe year to that extreme, but I will say this: When I watched 51 of my men become casualties over seven weeks in Vietnam, and when I sat down next to number 51 and cried like a baby, I'd been there before. It was a lot easier to pick up and keep going, and by then I was not merely Jim Webb, plebe, trying to survive a morning of a malicious upperclassman; I was a Marine platoon commander.

I don't see anything at the Naval Academy anymore than can take a person deep inside himself. I see refinement. I see an overemphasis on academics at the expense of leadership. Harvard and Georgetown and a plethora of other institutions can turn out technicians and intellectuals en masse; only the service academies have been able to turn out combat leaders en masse, and they have stopped doing so.

The implements are there, as they always have been. Midshipmen and cadets remain stronger and more agressive than their male counterparts at civilian schools. A few days of exposure to Academy routine will convince any skeptic of this. Midshipmen and cadets love contact sports; nearly every mid and cadet is an athlete. They play the tradiional sports and they eagerly play others such as rugby, boxing, karate, lacrosse, and fieldball. They drive fast cars, usually sports cars. They play hard. They drink hard. They are physical, often comically abusive among each other. They are not trying to prove their manhood; they are celebrating their masculinity. They are competitive, often vulgar, and tough, and every citizen who may someday send a friend or relative into war should rejoice that these future professionals develop and retain such qualities, because combat is competitive, vulgar, and tough, and they will be leading men in combat.

The men are essentially the same; it is the institution that has changed. It has changed primarily because of female midshipmen, for the same reasons women would adulterate the performance of combat units themselves. Externally looking in, the system has been objectified and neutered to the point it can no longer develop or measure leadership. Internally, sexual attractions and simple differences in treatment based on sex have created resentments and taken away much of the institution's sense of mission.

Not long ago, Richard Gabriel and Paul Savage, two former Army officers, wrote the book Crisis in Command, examining the deterioration of Army leadership following World War II. The book had many flaws, but nonetheless struck at the jugular vein: that the American military attempted to employ corporate management techniques in essentially military situations, and as a result was predestined to have many of the leadership problems that became manifest in Vietnam, regardless of the political difficulties of the war. Management is not leadership. Management can be approached as an academic discipline; one can be taught to analyze data, to weigh alternatives, and to make a decision. Leadership is something else. It is a subjective chemistry filled with human variables. It takes more than the ability to analyze data to make a leader; one must be able to motivate those who are being led, to reach their emotions through command presence, force, and example. It is much easier to educate a manager than to develop a leader.

Rather than react to this crucial distinction, the academies seem bent on perpetuating the crisis. On the one hand, plebe year has been eviscerated. As an example of how far stress indoctrination has deteriorated, one first-classman I spoke to was reprimanded by his company commander during the first week of academic year, traditionally the most rigorous week of the entire year for plebes, because he had "upset" a female plebe. After having corrected her table manners numerous times with no success, the upperclassman ordered her to eat with oversize utensils at the next meal, a ridiculously mild sanction. The woman returned to her room and wept in anticipation of her embarrassment at the coming meal, and her roommate then went to the company commander and protested such maltreatment. The upperclassman was told to stop harassing her. If this series of events had occurred in an all-male Academy, both plebes would have been disciplined, rather than the upperclassman.

On the other hand, leadership evaluations have become sterilized, thrown over to tangible measurements that "protect" women from possible bias. Until women came to the Naval Academy, midshipmen wrote "peer evaluations" on their classmates. This was an important measurement of leadership ability, one that our leadership instructors claimed was the most accurate measurement of leadership attributes in a closed environment such as the Academy. This anonymous and accurate evaluation process erected a buffer against the officers selecting out their favorites from above and pushing them for "stripes," or high leadership positions. It never to my knowledge boomeranged against minorities—a black man was bridgade commander in the class of 1970. But Academy officials feared it would harm women.

The upshot has been that a lack of peer evaluations has favored women, made the leadership selection process capable of penetration by officer staff, and caused a heavier reliance on tangibles such as academics rather than the intangibilities of true leadership. Male midshipmen universally complain that a female with good grades and a modicum of professionalism will be "groomed" for stripes by the officers.

If academics were the test of leadership, Albert Einstein, who couldn't even work a yo-yo, would have been a general, and George Catlett Marshall, who graduated last in his class academically at VMI, but first in leadership, would have been a clerk. Yet this is the direction leadership evaluations have taken at the Academy. Academics are objective and tangible. Traditional leadership measurements are subjective, capable of discrimination, and thus not to be trusted.

The whole world awaits an outcome that will show whether women can compete for leadership positions with men in the traditionally grueling Academy routine. This year, as women become seniors for the first time, the whole world will see women in high "striper" positions, possibly even that of brigade commander. What the whole world may not know is that women did not attain these positions in the same way that men historically have, and that not one midshipman out of hundreds I talked to, either male or female, actually believes that women will ever be accepted as comrades, in the traditional sense, by the men.

Women will not be leading men inside the brigade this year. They will be managing, buttressed by the officers who hurried them along. And the morale of the brigade will demonstrate this distinction far better than this article ever could.

From the inside looking out, all the problems I mentioned as probabilities if women were introduced into combat units have already surfaced at the Naval Academy. Men and women are different, they treat each other differently, and the ramifications of this different treatment permeate every aspect of the brigade. It is one thing to sexually sterilize a work environment during an eight-hour day. It it quite another to do so in a closed environment where males and females engage in forced interaction on a 24-hour basis, seven days a week.

Captain Jack Darby, the recently departed commandant of midshipmen, frequently mentioned that there had been only three cases of sexual fraternization in the three years women had been midshipmen. While there have been only three major conduct offenses of this sort, it is no secret that sex is commonplace in Bancroft Hall. The Hall, which houses 4,000 males and 300 females, is a horny woman's dream. Virtually every female midshipman who dates is seeing either a male midshipman or a recent graduate. Of the 25 women who have left the class of 1980 since induction day, 20 are married to former midshipmen. While this is a natural human phenomenon, it gets in the way of military indoctrination, and creates a very real resentment among males due to the evolution of a double standard of discipline. Furthermore, it is scarring many women in ways they may not comprehend for years.

Courage comes in many forms. And today at the Naval Academy, courage sometimes means simply stating your opinion, when it varies from prescribed policy.

The 55 women of the class of 1980, the first class with women, assumed striper positions last July. Journalists have descended on Annapolis from all over the world to cover this historic first. Their stories have had all the subtlety of a 1950 "Men of Annapolis" television show. A reporter spends one day at the Academy and watches a real, live woman first-classman brace up a real, live male plebe, then returns to the typewriter and proclaims that the system is working.

Female midshipmen are interviewed like movie stars. I would not be surprised if Liz Belzer, who commanded the plebe summer program for half of its duration, has given two dozen interviews this year. But if a male midshipman, during an infrequent interview, states a personal opinion about women that varies from official policy, his Naval Academy education could be on the line.

The Washington Post ran a front-page feature story last July that lionized one female midshipman, showing a picture of her bracing up a plebe. Late in the article, the reporter quoted two male midshipmen who had mentioned, while drinking in a bar, that they thought the presence of women at the Academy was debilitating, and that the women midshipmen were not of particularly good officer potential.

The two men were severely reprimanded for stating their beliefs. Both were invited to resign from the Academy, and one man did leave the summer detail program. I ate dinner in the mess hall that night with a plebe summer squad. As I watched the so-called indoctrination on the mess-hall tables, several first-classmen stopped to speak of their disgust both for the article and for the treatment their classmates had received. None would speak for attribution, however. The system had scared them silent.

I do not understand such censorship. It is as if one statement of dissent left unrepudiated might beget a tidal wave of agreement. From my conversations, I would estimate that easily two thirds of the males in the brigade, with political philosophies that run the entire gamut, believe women should not be at the Academy. Why should they not be allowed to say so, and to say so without fear of retribution? A citizen does not give up his First Amendment right to free speech when he puts on a military uniform, with small exceptions. And the presence of women at the Naval Academy hardly constitutes an exception.

"I'm in a continual state of anxiety about this." Brad Taisey is muscular and lean, a former enlisted Marine who has done exceptionally well at the Academy. Taisey talks tough. He is intense and direct, the kind of man I would want commanding one of my platoons if I were to take a company into combat again. "I've been enlisted. I know what a good leader can do for a unit, and I know what a bad leader can do to it. There isn't a woman here who's a military leader. Most of the midshipmen around here have only seen the Academy. They can only guess. I know. But what can I do about it? And look what it's done to this place. The word came down not to shout at the plebes anymore. Treat them with courtesy, they said. Yeah. You ask the enemy to do that in the next war, too."

Taisey served as Liz Belzer's subcommander on the plebe detail last summer. When he was initially assigned the position, he attempted to resign from the detail, which is a voluntary program. Taisey claimed that Belzer's appointment was political, and said that he wanted no part of it. His resignation was rejected.

"It was a token staff, from the word go. Belzer was the token woman, I was the token ex-enlisted Marine, we had a token ex-enlisted sailor, a token black, and a token high school product. That's just the way it is now."

Taisey and Belzer argued frequently over the summer about women at the Academy. When the detail was over, Belzer marked Taisey deficient in a number of areas, giving him two Ds on his leadership evaluation. Taisey, who had an exemplary two-year enlisted career, and is currently ranked first out of thirty midshipmen inside his own company, is amazed. "I'm going to frame the evaluation. She wrote that I would have scored higher if I could have gotten along better with women. Can you imagine what would have happened if things had been reversed, and I had written a chit like that on her for not being able to get along with men?"

Taisey is representative of, if perhaps more outspoken than, the majority of the men I talked to at the Academy. In fact, the men from the class of 1980 might have a theme song, I heard the quote so often: "I'd much rather have been in the last class with balls than the first class with women."

Taisey's objections are capsulized simply enough. "I used to look at officers who were Academy graduates and say, 'That man has been through hell. He's earned the right to lead me.' It's not true anymore. The whole place has been pulled down to the level of the women, and the most important area is grades."

Don Burlingham is not as intense as Taisey. "I want to say this just right," he began as we talked. He is a cautious man, who like Taisey has done extremely well at the Academy. He chooses his words carefully, and made clear his support of many of the goals of the women's movement. "It just doesn't work here, that's all. I could see it from the first few weeks of plebe summer. All summer we were lectured about the high standards we were expected to meet. Our squad leaders talked about honor, performance, and accountability. Then before you knew it, they were going after the women plebes, sneaking some of them away on weekends. How can you indoctrinate the women when you're breaking regulations to date them? And how can you talk about integrity and accountability when you're doing those sorts of things? The attitude I've seen and practiced is turn the other cheek and bide my time until I can get back into the real military."

Burlingham is aware of the many inequities that relate to a double-standard discipline. "A male and female were convicted of the same honor offense at the same time. The man was thrown out. The woman was put on probation. That sort of thing has happened several times. It's almost impossible for a woman to be thrown out of here."

"The problem," notes Burlingham, "is that it's affected attitudes, and it will eventually affect our whole military. I'm not resentful of the women; I'm worried about the country."

So is Jeff Bush. A former enlisted Marine like Taisey, Bush spent time as a corporal with the elite First Reconnaissance battalion, and plans to return to the Corps upon graduation. But much of the Academy routine rolls off Bush's back. "I don't get too excited about much around here anymore. The place has lost a lot of its spark for me."

One thing Bush does get excited about, however, is the way he perceives women being forced down the brigade's throat. "When I first heard women were going to come, I didn't care that much. I was curious, if anything. I was a little worried that they might not get a chance to prove themselves. But it's been the other way around. The Academy has used a lot of pressure to establish women as stripers. Women are groomed from plebe year. The scary thing is that it's creating a presumption that women can command troops. I'm not kidding—there isn't a woman here who could have commanded the platoon I was in."

What of the women themselves? There are now about 300 female midshipmen at the Naval Academy, surrounded by some 4,000 males. The women wear men's clothes, with slight variations. They live in a closed, pressurized environment where they are outnumbered almost fifteen to one by men, 24 hours a day. They are emerging into womanhood almost alone, in an isolation that resembles a tour of duty on a desert island. They study a man's profession, learn the deeds of men, accept men as role models. They seem spirited but confused, tolerated but never accepted. They are for the most part delightful women, trusting and ambitious and capable in many ways, and I admire them, more for who they are than for what they are doing. As for what they are doing, it would be unfair not to mention that no other group of women in this country has ever undergone such a prolonged regimen, however watered down. But I cannot escape a feeling that even the women are losing, that someday they will come to believe they lost more than they gained inside those walls.

It is a delicate balance for any Academy graduate, looking back on those four years and measuring what he received in return for pouring every last hot ounce of his youth into Annapolis. But part of the price, until now, has never been sexual identity.

I have a recurring vision when I watch these women on the Academy grounds in their sterile uniforms, making their way into adulthood inside a harsh, isolated man's world. I see them ten or twenty years from now, finally deciding that they did indeed lose something, something more intangible than mere femininity, which many of them yet retain. Perhaps it is something as simple as having had to find their womanhood inside a world of men, studying men's deeds, learning a man's profession, suffering taunts from men who feel they are invading a totally masculine world.

"I have never before had so few friends," wrote one woman, a high-school beauty queen, in a lengthy paper written last year for an Academy psychology class. "Nor have I ever before had to prove my worthiness as a human being so many times. . . . Being a woman midshipman has made me doubt my usefulness, not only to the service, but to society as well. . . . I am tired of being different."

Another woman, tall and reserved, commented that men she does not know frequently come up to her and tell her, "You don't belong here, did you know that? Why don't you leave?"

"I tell them, 'That's tough. I'm here.' " In her next breath she speaks of wanting to wear the same hat that the males wear. "I'm a midshipman, not a midshipwoman. I am the same. I'm tired of sticking out."

Many women appear to be having problems with their sexuality. Part of it comes from male scrutiny: What kind of a woman would seek out the Academy routine? Another part comes from the daily environment, which cannot help but create self-doubts and uncertainties. Part of it comes from what is left of the plebe system, which is designed to unsettle a person's self-image, and has the potential of cutting deeper into women, who are traditionally not verbally abused by males in our society.

It is easy to say these women are pioneers who are breaking barriers, moving along the fabled cutting edge of social change, and perhaps they are, and I hope that sustains them. But there is a cost, and they, along with society and the men, are paying the price.

During the 1975 congressional debate on the amendment that allowed women to attend the service academies, one congressman offered a substitute amendment that would have required the Secretary of Defense to conduct a study on establishing a separate academy purely for women. Under this plan, one academy could train women to be commissioned in all of the services, much as Britain's Sandhurst does for men. The substitute amendment failed on the "yeas and nays," without a recorded vote. Perhaps, given the years of experimenting with the ideas that prevailed on that day, it is time Congress reconsidered, and mandated the Secretary to undertake his study.

The female midshipmen I interviewed unanimously resisted this possibility, claiming that it would not prepare them for leadership positions over men. My reaction is two-fold: First, the present situation is not preparing anyone adequately for leadership positions over men in the combat arms, and second, all-male schools, such as the academies used to be, did not seem to hamper leadership preparations for those other areas in which men and women serve together.

What are the other alternatives? We could stop allowing women to attend the academies at all. ROTC scholarships and OCS appointments would remain available to women, as would career opportunities short of combat roles.

Or, if it is the consensus of Congress that the service academies no longer perform their historic function of preparing men to lead in combat, but are now primarily mere academic institutions, it would be logical and cost-effective to close them down. If the taxpayers, now spending $100,000 for each Academy graduate, want simply to buy a brain with military training, they can purchase that combination through an expanded ROTC program at a fraction of the cost. I don't recommend this alternative, but then, I view the academies quite different than two thirds of the Congress did in 1975.

Command interest is growing in the operating military with respect to women problems. The commandant of the Marine Corps, General Robert H. Barrow, is reportedly deeply disturbed over the effect of sexual mixing in Marine Corps training programs. For instance, all the symptoms that are manifest at the Naval Academy also exist in the Officers Basic School at Quantico: the loss of camaraderie, the trivialization of combat preparation, the reduction of physical standards, and the elimination of peer evaluations in leadership markings. Barrow is said to believe this directly affects the evaluation of future combat officers, and thus the ability of the combat arms to perform.

Barrow should know. He is the only combat veteran of World War II, Korea, and Vietnam now serving on the Joint Chiefs of Staff.

He is one of the most decorated Marines in history, a campaigner who led guerrilla troops in central China, a rifle company during the Chosin Reservoir breakout in Korea, and an infantry regiment in Vietnam, where he was known as one of the few "fighting colonels."

I told this to a woman friend of mine, a law school classmate who is now an attorney in Washington and with whom I frequently discuss sexual roles. She was unimpressed with Barrow's credentials.

She wanted to know what he knew about women.●

PERSONAL EXPLANATION

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 27, 1979

● Mr. CLINGER. Mr. Speaker, on December 20, 1979, I was absent for part of the legislative deliberations of the House of Representatives as I was attending a meeting with the President on the subject of coal. Had I been present, I would have voted in the following fashion:

Rollcall No. 755: H.R. 2816, Refugee Policy, the House passed the measure to amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, and to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, "Yea." ●

HOUSE OF REPRESENTATIVES—*Monday, December 31, 1979*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. MOAKLEY).

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O Eternal God, before whom the generations rise and pass away, we commend to You our hopes and fears and all that past days have brought. On this last day of the year we place before You our aspirations and resolutions, asking that You would bless where we would do right, encourage where we should walk, and give assurance to do that which is just and good.

Be with those whose hearts are heavy with grief or anxiety, giving to them strength and a sense of peace that only Your presence can give. Keep us all in Your favor and abiding love, for in Your name do we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and, without objection, announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate disagrees to the amendments of the House to the bill (S. 643) entitled "An act to amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. BAYH, Mr. DECONCINI, Mr. THURMOND, and Mr. SIMPSON to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 157. An act, for the relief of Anibal Hadad, his wife Alicia Hadad, and his son Daniel Hadad;

S. 207. An act for the relief of Doctor Herman Sardjono and his wife, Erlanda Sardjono;

S. 521. An act to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn, or fiber, and for other purposes;

S. 539. An act to authorize the Secretary of the Interior to amend the contract for the construction, operation, and maintenance of the Vermejo reclamation project between the Vermejo Conservancy District, located in the State of New Mexico, and the United States.

S. 629. An act for the relief of Niobe Giovannelli and Pierluigi Pacini;

S. 659. An act for the relief of the Black Hills Area Council of the Boy Scouts of America;

S. 702. An act to establish alternatives to criminal prosecution for certain persons charged with offenses against the United States, and for other purposes;

S. 1179. An act to incorporate the Gold Star Wives of America;

S. 1375. An act for the relief of Pandelis Perdikis;

S. 1419. An act to provide for the transfer of the Foreign Claims Settlement Commission of the United States to the United States Department of Justice as a separate agency in that Department; to provide for the authority and responsibility of the Department of Justice to supply to the Foreign Claims Settlement Commission certain administrative support services without altering the adjudicatory independence of the Commission; to change the terms of office and method of appointment of the members of the Commission; and for other purposes;

S. 1489. An act to consent to the amended Bear River Compact between the States of Utah, Wyoming, and Idaho;

S. 1798. An act to reduce regulation of and increase competition in the household goods moving industry, and for other purposes;

S. 1828. An act to exempt the Milner Dam from certain requirements of the Federal Power Act (16 U.S.C. 807), and for other purposes;

S. 1835. An act to extend the Joint Funding Simplification Act of 1974; and

S.J. Res. 40. Joint resolution to authorize the President to proclaim annually the last Friday of April as "National Arbor Day."

SATELLITE TV BROADCASTS FROM CAPITOL HILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 10 minutes.

● Mr. REUSS. Mr. Speaker, an innovative method of TV coverage of breaking events on Capitol Hill, which will be of interest to Members, has been initiated by Storer Broadcasting Co., which owns WISN-TV in my home town of Milwaukee, Wis.

Storer is the first nonnetwork broadcasting company to relay instant coverage to the home station via satellite, rather than having to send film via the airlines. It was first used on December 7, 1979, to feed a story directly from the radio-TV gallery in the Rayburn House Office Building to Milwaukee on an interview by correspondent Norman Wagy with the parents of Kevin Hermening, a hostage in Iran, following their visit to the White House. I understand there are plans for expanded use of relay-by-satellite for newsworthy events on Capitol Hill.

Storer is to be complimented for this effort to improve and expand its coverage of Capitol Hill.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. MINETA) to revise and extend his remarks and include extraneous material:)

Mr. REUSS, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Member (at the request of Mr. MINETA) and to include extraneous matter:)

Mr. MCDONALD.

SENATE BILLS AND JOINT RESOLUTION REFERRED

Bills and a joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 157. An act for the relief of Anibal Hadad, his wife Alicia Hadad, and his son, Daniel Hadad; to the Committee on the Judiciary.

S. 207. An act for the relief of Doctor Herman Sardjono and his wife, Erlanda Sardjono; to the Committee on the Judiciary.

S. 521. An act to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn, or fiber, and for other purposes; to the Committee on the Judiciary.

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

S. 539. An act to authorize the Secretary of the Interior to amend the contract for the construction, operation, and maintenance of the Vermejo reclamation project between the Vermejo Conservancy District, located in the State of New Mexico, and the United States; to the Committee on the Judiciary.

S. 629. An act for the relief of Niobe Giovanelli and Pierluigi Pacini; to the Committee on the Judiciary.

S. 659. An act for the relief of the Black Hills Area Council of the Boy Scouts of America; to the Committee on the Judiciary.

S. 702. An act to establish alternatives to criminal prosecution for certain persons charged with offenses against the United States, and for other purposes; to the Committee on the Judiciary.

S. 1179. An act to incorporate the Gold Star Wives of America; to the Committee on the Judiciary.

S. 1375. An act for the relief of Pandelis Perdikis; to the Committee on the Judiciary.

S. 1828. An act to exempt the Milner Dam from certain requirements of the Federal Power Act (16 U.S.C. 807), and for other purposes; to the Committee on Interstate and Foreign Commerce.

S. 1835. An act to extend the Joint Funding Simplification Act of 1974; to the Committee on Government Operations.

S.J. Res. 40. Joint resolution to authorize the President to proclaim annually the last Friday of April as "National Arbor Day"; to the Committee on Post Office and Civil Service.

ENROLLED JOINT RESOLUTION SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee on December 27, 1979, examined and found truly enrolled a joint resolution of the House of the following title, which were thereupon signed by the Speaker:

H.J. Res. 468. Joint resolution extending the dates for the submission of the President's Budget and Economic Report.

ADJOURNMENT

Mr. MINETA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 3 minutes a.m.), under its previous order, the House adjourned until Thursday, January 3, 1980, at 11:55 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3084. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of District of Columbia Act 3-135, "To amend article 6 of the Uniform Commercial Code to include certain additional establishments within the provisions pertaining to bulk transfers, and for other purposes," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

3085. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of District of Columbia Act 3-136, "To amend article 20, section 2 of the District of Columbia Police Regulations so as to prevent any unconstitutional prior restraint of free speech in the posting of noncommercial signs on public lampposts; and for other purposes," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

3086. A letter from the Assistant Secretary of State for Congressional Relations transmitting notice of the State Department's intention to consent to a request by the Government of the Federal Republic of Germany for permission to transfer certain U.S. origin defense articles to the Government of the Netherlands, pursuant to section 3(a) of the Arms Export Control Act; to the Committee on Foreign Affairs.

3087. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the proposed issuance of an export license for major defense equipment sold commercially to the Government of Jordan (transmittal No. MC-7-80), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

3088. A letter from the Director, Defense Security Assistance Agency, withdrawing a previously transmitted Letter of Offer to Saudi Arabia for certain defense articles and services (Transmittal No. 80-24), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

3089. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting the plan for authorizing executive level positions in the executive branch, including the maximum number of such positions necessary and a justification therefor, pursuant to section 414(b)(2) of Public Law 95-454; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 5403: Mr. ROYER, Mr. SHUMWAY, and Mr. GOLDWATER.

H.R. 6109: Mr. HAGEDORN.

EXTENSIONS OF REMARKS

HOW PRESIDENT CARTER BETRAYED THE SHAH

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 31, 1979

● Mr. McDONALD. Mr. Speaker, there can be little doubt that the bizarre, warped human rights policies instituted by President Carter as the keystone of his foreign policy were directly responsible for destabilizing the Government of the Shah of Iran. The President's new foreign policy was able within 2 years to transform Iran from a peaceful ally of the free world into an anarchic state ruled by a fanatical religious extremist through violent street mobs and secret star chamber courts who decree in midnight trials death at daybreak with no appeal.

The administration's progressive destabilization of the Shah's government has been chronicled by investigative journalist John Rees in the weekly magazine, the Review of the News. In light of the barbaric incident now underway in Tehran, I strongly recommend this article to my colleagues:

HOW JIMMY CARTER BETRAYED THE SHAH

(By John Rees)

Iran was for 20 years the keystone of America's strategy in the Middle East and a major factor in the economic stability of the Free World. But, in the two years and two months of the Carter Administration, it has ceased to be an ally and is now immersed in anarchy and chaos for which the U.S. President bears the major responsibility. Not since the fall of the Nationalist Government in China has an American Administration committed so damaging a betrayal of a major ally.

What has happened in Iran threatens the entire world balance of power and the economies of the West, and it has come about only because the Carter Administration allowed itself to be used in a program crafted by the Kremlin to destabilize Iran. In the words of a senior Iranian diplomat in Washington, "President Carter betrayed the Shah and helped create the vacuum that will soon be filled by Soviet-trained agents and religious fanatics who hate America."

The vital importance of Iran to the Free World is the result of a number of factors including:

Its geographic location on the southern border of the U.S.S.R. where it is the eastern gateway to the Middle East;

Its oil fields which are the source of between 70 to 90 percent of the oil imported by the countries of Western Europe, Japan, Israel, South Africa (and Rhodesia); and which were growing in significance as a source for U.S. oil imports.

In terms of the Free World's defense strategy, Iran has long been of critical importance. Iran and Turkey are the Middle Eastern members of the C.E.N.T.O. alliance for regional security. From Iran, highly sophisticated electronic-intelligence listening posts, equipped and manned by the National Security Agency, have monitored military activities in the Soviet Union. These have grown to critical importance since the U.S. decided to take the Greek side after the Cyprus invasion and, in retaliation, Turkey shut down all U.S. bases and electronic posts on her territory and moved so far toward an accommodation with Moscow as to sign a friendship and cooperation agreement with the Soviets.

Even more important, the Shah's well-trained and American-equipped Armed Forces were available to serve as the regional protector of the small, sparsely populated, but oil-rich countries along the Persian Gulf and Arabian peninsula which have been targets for both courtship and subversion by Moscow. Indeed, although there was some tension between Iran and Saudi Arabia (based in part on the fact that they epitomize the two divisions of Islam), the Iranian military had already proved its effectiveness in Oman where at the invitation of Sultan Qabus the Shah's troops wiped out a Marxist terrorist organization and drove its stragglers back to sanctuary in the neighboring People's Democratic Republic of Yemen (P.D.R.Y.).

The P.D.R.Y. has been intimately collaborating with the U.S.S.R. since the British abandoned Aden. Its revolutionary Marxist Government has been on excellent terms with Libya, that other revolutionary socialist Islamic republic, and with the Marxist regimes in Algeria and Iraq. These countries have worked to assist Soviet maneuvers in the Middle East, providing training bases, arms, passports, and other logistical support for terrorist groups ranging from Africa and the Middle East to Europe. The West German Baader-Meinhof gang, "Carlos the Jackal," and factions of the Palestine Liberation Organization (P.L.O.) have all had the use of Libyan and P.D.R.Y. facilities. Members of the two chief Iranian terrorist groups, one Marxist-Leninist and the other "Islamic-Marxist," have received training in the P.D.R.Y., Libya, Iraq, and Cuba.

Mere collaboration with the Communists does not make a regime immune from a coup to install a totally controlled gang of Soviet agents. The P.D.R.Y.'s collaborationist Government was overthrown by a Soviet-controlled regime last summer, opening Aden to the Warsaw Pact and Cuban forces as a staging area for operations in Ethiopia. The recent coup in Afghanistan, the attempted coup in Iraq, the civil war in Lebanon, the growing disorders in Turkey, and what is happening in Iran show that an all-out Soviet offensive is underway to capture the entire Middle East for the Communist camp.

With a hostile, anti-Western regime in Iran, the pressure against Saudi Arabia, Jordan, the Arab Gulf countries, and Egypt will increase dangerously.

That this was allowed to happen is from a strategic point of view unthinkable. From a political point of view it is even worse. Under the direction of its able monarch Iran had been transformed in a single generation from a near-feudal agricultural society to an urbanized, burgeoning, industrialized, and modern country with an increasingly Western character. This program of industrialization was carried out under the personal direction of the Shah. His plan was to make Iran a technologically advanced, economically diversified, and self-sustaining nation so that in the next century when the oil ran low Iran would not go into a economic decline and return to the dark ages.

There can be no question that the Shah took his position as a ruling monarch very seriously, shouldering moral and economic responsibility for the emerging Iranian people. Clearly he tried to bring to Iran the best of what Western societies had to offer. And not merely in the material sense. Among the Western concepts and developments he had written into law in Iran were the principles of religious toleration, seperation of church and state, and expanded legal and political rights for women. Education was provided for both women and men, and an advisory parliament was set up to which, over the years, additional powers were granted.

These programs were anathema to the fanatical elements of the Shi'ite Moslem clergy who had come to exercise vast power over the peasants because of their enormous land holdings. As in Western Europe during the 13th and 14th Centuries, persons attempting to insure their salvation had bequeathed land, houses, jewels, and money to the Shi'ite mosques, monasteries, and religious centers. With richness and temporal possessions came temporal authority. But the heart of the Shi'ite clergy's power was control of land in an agricultural society where their economic strength enforced "piety" and obedience to their religious orders. All of the Shah's efforts at industrialization and modernization were therefore viewed as a direct threat to the Shi'ite mullahs—who easily rationalized this as an attempt by the Christian countries to subvert Islam by technology. The resulting hatred of the West led the Shi'ite clergy to collaborate with the Soviet Union and the Communists in Iran.

The Shah particularly cut into the power of the Shi'ite clergy with a land-reform program in which large estates (including those of the Shah and his family) were broken up and given to landless tenants. The compensation paid to both the secular and clerical landowners never made up in their view for loss of the power they once held over their former tenants. Thus the Shah was seen as a man to be destroyed by the West-hating Shi'ite Moslem clergy, their fanatical followers, and the Marxists and Communists organizing among the Iranian intellectuals, students, and industrial workers.

The Soviets realized that by destroying the Shah they might gain unhindered access to their client states of Syria and Iraq; access to the warmwater ports of the Persian Gulf; control of the Strait of Hormuz between the Persian Gulf and the Gulf of Oman, through which move the tankers carrying oil from Saudi Arabia, the United Arab Emirates, and Iran; and, control of Iran's own vast energy resources of oil and natural gas. And, of course, such a coup would also bring benefits to the radical Arab states which have aligned themselves with the Soviet Union—Libya, Syria, Algeria, P.D.R.Y., and Iraq. In addition, a militant anti-Western regime in Iran would immediately cut off oil shipments to Israel and South Africa.

As the Shah moved to control these groups who have perennially plotted revolution against him, to maintain his long-established friendship with the Free World, Jimmy Carter entered the White House and global politics underwent a drastic change.

Soon after President Carter took office in January 1977, reports began to circulate of major domestic political concessions being made by the Shah in response to demands by the Carter Administration. In effect, radicals around President Carter were seeking to impose the "anything goes" political system of the United States in the late 1970s on a country that had been partially occupied by the Red Army during World War II; which had to put down a Communist Government in its Azerbaijan province set up by Stalin's minions; which had a long border with the U.S.S.R.; which barely escaped a Communist takeover in the early 1950s; which had no tradition of Western political freedoms; and, which was in the throes of a drastic social and economic transformation from feudalism.

In the name of "human rights" the Carter radicals were out to destroy the most progressive ruler in Iran's history and turn his throne over to a gang of fanatics out of the dark ages as a prelude to Communist takeover.

By linking various demands to the sale to Iran of sophisticated military hardware and the training of Iranian military technicians and pilots, the radical Carter team began a campaign to "destabilize" the Shah's Government. In chronological sequence, the successful betrayal went like this: First, pressure was applied to release from prison many of those who had plotted to overthrow the Shah, including members of terrorist groups. After all, the Carter State Department, Amnesty International, and Moscow Radio all agreed that these were "political" prisoners. Next, pressure was applied to alter the Iranian judicial code so that terrorists and subversives were no longer tried by military courts but in civil jurisdictions. Defendants and their supporters quickly commenced the sort of propaganda activities seen in Western countries when the authorities attempt to prosecute revolutionaries. Third, pressure was applied to institute guarantees of American-style "free assembly," that would allow organization of open meetings calling for the overthrow of the Shah's Government. And, fourth, "opposition tendencies" in the ruling Rastakhiz (Renaissance) party were encouraged by the United States.

The Shah's concessions to U.S. "human right's" pressure in order to obtain vital military equipment were, of course, perceived as weakness not only by his enemies among the Communists and the mullahs, but also among his own supporters in the Rastakhiz party. The perception of weakness brought about quick escalation of challenges which the Shah and his Government were unable effectively to check because of increasing "human rights" pressure from President Carter and his team of radicals. By the end of the summer of 1977, university students and followers of the Shi'ite clergy had begun staging street demonstrations on the campuses and in several Iranian cities. These were unchecked and escalated in violence. Some Iranians believe that this opposition to the Shah was actually organized by the Central Intelligence Agency at the order of President Carter. The Iranian magazine Khandaniha, for example, carried an article in its issue for December 16, 1978, which said that "Imam Husa Sadr was approached to take up the leadership of a new government, but, because of the vigilance of the Eastern bloc, this plan crumbled and the Imam vanished."

In November 1977, the Shah and his Empress had made a state visit to Washington, D.C. They and all Iranians were given a clear message of the Carter Administration's deep hostility when the Shah was "greeted" by President Carter as some 4,000 Marxist-led Iranian students brandishing clubs and the banners of Iranian terrorist organizations were allowed to mass within a hundred feet of the White House. Wearing masks to conceal their identities, these revolutionaries attacked both American and Iranian residents of this country who had peacefully assembled to welcome the Shah. Many people were injured, but only 15 of the rioters were arrested—and were then quickly released.

The failure to interfere with these violent demonstrations, virtually on the White House lawn, was seen as the clearest of signals that the Carter Administration was willing to see the Shah and his Empress insulted, even directly assaulted by tear-gas, in the streets of the American capital. Obviously Carter was not committed to the survival of the Shah and his pro-American Government. Again quoting from the Khandaniha:

"Before that latest trip, the Shah had traveled several times to the U.S.A. without encountering any demonstrations of Iranian students residing in the U.S.A. . . . By contrast, during the Shah's most recent trip such demonstrations (which included Iranians residing in Canada and Europe) were not only permitted, but perhaps even encouraged by CIA officials."

As The Review Of The News reported November 30, 1977, White House media czar Jody Powell had instructed the police "that strict enforcement might make America look like a 'police state.'" In short, the riot against the Shah was a calculated insult designed to reinforce Carter's radical demands. And, while President Carter and his advisors were urging the Shah toward still more radical and revolutionary changes and concessions in the fabric of Iranian society, the Soviet Union was moving every bit as rapidly to mobilize its long-constructed networks of subversion, sabotage, espionage, and terrorism in Iran.●

JOSEPH SAMUEL KEPNER

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Monday, December 31, 1979

● Mr. EVANS of Delaware. Mr. Speaker, we in Delaware are proud of the outstanding record of service achieved by the Wilmington Shops which has been the principal locomotive repair maintenance facility for the Pennsylvania Railroad, Penn Central Railroad, and more recently, the National Railroad Passenger Corporation (Amtrak). It is also our pleasure to recognize those individuals who have achieved outstanding records of service throughout their careers at the Wilmington Shops. It gives me great pleasure to recognize the contributions of Joseph Samuel Kepner who retired on November 1, 1979 as Amtrak superintendent of locomotives at the Wilmington Shops. Mr. Kepner's outstanding career is described in the following article which was prepared for the Mutual magazine published by the Mutual Beneficial Association of Rail Transportation Employees, Inc.

The article follows:

JOSEPH SAMUEL KEPNER—MR. ELECTRIC-LOCOMOTIVE OF AMERICA

(By Ralph M. Allen, Jr.)

The record of Joseph S. Kepner in modern railroading is unequaled in devotion to duty, loyalty and dedication but foremost is the fact that he has been recognized in the industry as the most knowledgeable individual on the Pennsylvania Railroad, Penn-Central Railroad and Amtrak in the field of Electric Motive Power.

The only individual to hire as a laborer, advanced through the ranks to Superintendent of Locomotives in the history of Wilmington Shops. As Foreman and General Foreman he has left home at 3:30 a.m., arriving on duty long before his regular starting time of 7 a.m., invariably getting home at 6 p.m. when the men left work at 3 p.m.

As an Electrician Apprentice he spent all his available spare time studying, learning and working on Electric Locomotives and quite often worked extra hours on his own time to gain his knowledge of the mighty GG1's, P5's, and E44's, which he truly loved.

He was respected and admired by all who worked with him or under him for he was honest, fair and just.

He is a native of Overbrook, West Philadelphia, Pennsylvania. He was born October 17, 1919. His parents were Alvin T. and Bessie Kepner. His father was a Pennsylvania Railroad Locomotive Engineer.

Joe entered Girard College, Philadelphia, in September, 1929. While a student there, he served as Vice President of the Carpenters Club. His hobby was hunting. He was known as a better than average student with the ambition to become a locomotive engineer. He graduated in January, 1937.

POSITIONS HELD AND DATES OF PROMOTION DURING HIS 42 YEARS OF RAILROADING:

Hired: Laborer, Stores Department, Wilmington Shops, Pennsylvania Railroad—February 4, 1937.

Appointed: Apprentice Electrician, Wilmington Shops, Pennsylvania Railroad—May 18, 1937.

Appointed: Journeyman Electrician, Wilmington Shops, Pennsylvania Railroad—January 27, 1942.

Leave of Absence, World War II, February 15, 1945—November 1, 1946.

Master Sergeant, U.S. Infantry World War II.

Returned to railroad employment November 1, 1946.

Appointed: Gang Foreman, November 1, 1946.

Promoted: Assistant Foreman, Electric Locomotive Shop—July 16, 1949.

Transferred: Assistant Foreman, 46th St. Enginehouse, Philadelphia, Pennsylvania—January 1, 1952.

Promoted: Acting Foreman, Electric Locomotive Shop—August 1, 1954.

Promoted: Foreman, Electric Locomotive Shop—November 1, 1955.

Promoted: General Foreman, Electric Locomotive Shop—October 16, 1968.

Promoted: Amtrak General Foreman, Electric Locomotive Shop—February 24, 1976.

Promoted: Amtrak Superintendent, Locomotives, Wilmington Shops—June 1, 1976.

Retired: November 1, 1979.

Joseph S. Kepner is a quiet, unassuming man, never wishing to be in the limelight, however his long outstanding record as "Wilmington Shops Own" cannot be forgotten and deserves recognition.●

CHECK VISAS OF FOREIGN STUDENTS WHO HAVE OVERSTAYED OR DO NOT QUALIFY AS STUDENTS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 31, 1979

● Mr. DERWINSKI. Mr. Speaker, it is logical for Americans to be upset at the holding of the hostages in Iran. However, in turn, the expulsion from this country of all Iranian students is not the answer. Two wrongs do not make a right.

Therefore, I was extremely pleased to see the editorial in the Chicago Sun-Times of December 26, which suggests that visas of all foreign students be checked for those who have overstayed or who no longer qualify as students. The editorial follows:

CHECK VISAS OF ALL NATIONALITIES

Frustrated in its campaign to deport Iranian students who have violated the terms of their U.S. hospitality, the Justice Department now is embarked on a course that makes constitutional sense.

Readers will recall that a U.S. District Court judge in Washington, Joyce Hens Green, struck down the directive calling upon Justice to check the visas of Iranians and deport those who had overstayed or no longer qualified as students.

Judge Green ruled, quite properly we thought, that this prosecutorial concentration on Iranians as Iranians violated constitutional provisions that guarantee the equal protection of U.S. laws to anyone living under them, citizen or alien.

The Justice Department is appealing the Green decision to higher courts.

But, as it does so, it has asked immigration officials to draw up regulations requiring all foreign students, whatever their nationality, to report to authorities periodically to show that they are living up to the terms of their visas.

That will impose a greater burden on federal bureaucracies—and will be less satisfying to today's specific American anger against the Iranians—but it's the way to go under a democratic system.●

HOUSE OF REPRESENTATIVES—*Thursday, January 3, 1980*

The House met at 11:55 a.m. and was called to order by the Speaker pro tempore (Mr. MOAKLEY).

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O Lord, our hearts are filled with thanksgiving for Your goodness to us in the past and Your promises to us for the days ahead. We confess we have not always done as we ought and we know that even our best acts are not as they should be.

Yet, our experience teaches us, O Father, that You are a loving God who visits us with grace and deals with us not according to our weaknesses. In spite of our faults You have made available to us the forgiveness and reconciliation that gives peace of heart, mind, and soul. Be with us always, O Lord, and minister to us in the depths of our souls. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, and without objection, the Journal stands approved.

There was no objection.

REREFERRAL OF EXECUTIVE COMMUNICATION 3071 TO COMMITTEE ON FOREIGN AFFAIRS

Mr. WHITE. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs be discharged from the further consideration of executive communication 3071 and that it be rereferred to the Committee on Foreign Affairs.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CLARIFICATION NEEDED OF U.S. FOREIGN POLICY

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, it is obvious that in Iran today the confusion of voices and contradictory pronouncements we hear from that government is an orchestrated effort to keep other nations off guard, and to give the ayatollah the upper hand in this crisis. It adds to his power.

Interestingly enough, a similar but nonorchestrated confusion on the American side occurred this past year, but it did not contribute to our strength—it made us weaker.

I am referring to past contradictions and arguments over U.S. foreign policy between the White House, the State Department, and the U.N. Ambassador Andrew Young.

Since the former Ambassador recently reentered the national debate on our past Iranian policy and to alleviate any lingering doubts as to what our foreign policy really is, I think the American people deserve the answer to the following two questions:

First. Does our former U.S. Ambassador to the U.N., Andrew Young, still think the Ayatollah Khomeini is a saint?

Second. Does he think the presence of thousands of Soviet troops in Afghanistan is as much a stabilizing force in that part of the world as he said Soviet puppet troops were in Africa?

THE PRESIDENT HAS A DUTY TO SUPPLY LEADERSHIP

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, for 60 days the American people and the world have stood by as American leadership has wallowed around like a wounded whale. At first there was sympathy for our cause—and we all hoped and prayed for the President's policy of restraint. But now we see how futile this policy has been and it is time for more than empty gestures.

It is interesting to note that when the Iranians demonstrated before the Soviet Embassy in Tehran, they did not take over that Embassy—because they know, all too well, that had they done so, 10 minutes thereafter, the Soviet Army would have been knocking on Iran's door.

We are told that the President cannot make the tough decisions because of the upcoming elections. And therein, I believe, lies the nub of our problems. The President and a majority of our politicians are always worrying—and all too often—only worrying about the next election.

I say, let us start worrying about the next generation and let the next election take care of itself.

The President has a duty to supply leadership. And he is not doing it. It is time the Congress and the American people tell the President to—lead, follow, or get out of the way.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills and joint resolutions of the House of the following titles:

On December 24, 1979:

H.R. 595. An act to authorize certain transactions involving the acquisition and disposal of strategic and critical materials for the national defense stockpile;

H.R. 600. An act to incorporate United Service Organizations, Inc.;

H.R. 894. An act for the relief of Gina Marie S. Hernandez;

H.R. 900. An act for the relief of Grace Maria Salazar Santos;

H.R. 901. An act for the relief of John A. Townsley;

H.R. 918. An act for the relief of Maryrose and Rosemary Evangelista;

H.R. 1489. An act for the relief of In Sun Pineiro;

H.R. 1619. An act for the relief of Rolando R. Gaza, Teresita C. Gaza, and Rolynne Therese Gaza;

H.R. 1827. An act for the relief of Emiko Okuma Colona;

H.R. 1887. An act for the relief of Solomon Mani;

H.R. 2043. An act to amend the Water Bank Act for the purposes of authorizing the Secretary of Agriculture to adjust payment rates with respect to initial conservation agreements and to designate certain areas as wetlands, and for other purposes;

H.R. 2584. An act to amend the provisions of chapters 83 and 89 of title 5, United States Code, which relate to survivor benefits for certain dependent children, and for other purposes;

H.R. 2593. An act for the relief of Mariana de Jesus Roca and Francisco Rubira Roca;

H.R. 2727. An act to modify the method of establishing quotas on the importation of certain meat, to include within such quotas certain meat products, and for other purposes;

H.R. 2771. An act to change the name of the Palmetto Bend Reservoir on the Navidad River in Texas to Lake Texana;

H.R. 3091. An act to extend for 1 year the provisions of law relating to the business expenses of State legislators;

H.R. 3234. An act for the relief of Rodolfo Jose Kozul;

H.R. 3320. An act for the relief of Eileen Ferraren Fair;

H.R. 3948. An act to require a study of the desirability of mandatory age retirement for certain pilots, and for other purposes;

H.R. 3951. An act to amend the National Capital Transportation Act of 1969 to authorize additional Federal contributions for the cost of construction of the rapid transit system of the National Capital Region, to provide an orderly method for the retirement of bonds issued by the Washington Metropolitan Area Transit Authority, and for other purposes:

H.R. 4998. An act to authorize transfer accounts at commercial banks, remote service units at Federal savings and loan associations, and share draft accounts at Federal credit unions during the period beginning on December 31, 1979, and ending on April 1, 1980;

H.R. 5015. An act to amend title 5, United States Code, to extend the Federal Physicians Comparability Allowance Act of 1978, and for other purposes;

H.R. 5224. An act to continue through May 31, 1981, the existing prohibitions on the issuance of fringe benefit regulations, and for other purposes;

H.R. 5025. An act to amend title 10, United States Code, to provide that any person eligible for medical care under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) who is a veteran with a service-connected disability may not be denied care and treatment for such disability under CHAMPUS solely because such person is eligible for care and treatment for such disability in Veterans' Administration facilities;

H.R. 5079. An act to provide for participation of the United States in the International Energy Exposition to be held in Knoxville, Tenn., in 1982, and for other purposes;

H.R. 5174. An act to amend section 209 of title 18, United States Code;

H.R. 5523. An act to establish an improved program for extra long staple cotton;

H.R. 5537. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia;

H.J. Res. 462. Joint resolution expressing the sense of Congress concerning the White House Preservation Fund; and

H.J. Res. 467. Joint resolution making an urgent appropriation for administrative expenses of the Chrysler Corp. loan guarantee program, and to provide financial assistance to the Chrysler Corp. for the fiscal year ending September 30, 1980.

On December 27, 1979:

H.R. 5010. An act to amend the Federal Election Campaign Act of 1971 to make certain changes in the reporting and disclosure requirements of such act, and for other purposes; and

H.R. 5860. An act to authorize loan guarantees to the Chrysler Corp.

ADJOURNMENT

The SPEAKER pro tempore. The hour of 12 noon having arrived, pursuant to the 20th amendment of the Constitution, the Chair declares the first session of the 96th Congress adjourned sine die.

Thereupon (at 12 o'clock noon), pursuant to the 20th amendment of the Constitution, the House adjourned sine die.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3090. A letter from the Acting Secretary of Agriculture, transmitting a draft of proposed legislation to authorize the Secretary of Agriculture to convey certain National Forest System lands, and for other purposes; referred jointly to the Committees on Agriculture and Interior and Insular Affairs.

3091. A letter from the Comptroller General of the United States, transmitting his review of the deferrals and revised deferrals of budget authority contained in the message from the President dated November 15, 1979 (H. Doc. No. 96–228), pursuant to section 1014 (b) and (c) of Public Law 93–344 (H. Doc. 96–244); to the Committee on Appropriations and ordered to be printed.

3092. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend section 313 of title 32, United States Code, to permit the appointment of noncitizen medical and dental officers in the National Guard; to the Committee on Armed Services.

3093. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to exempt Medical Corps Officers of the Army or the Navy or an officer of the Air Force designated as a medical officer from the requirement for Senate confirmation prior to initial appointment in the armed forces; to the Committee on Armed Services.

3094. A letter from the Deputy Assistant

Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken by the Air Force Reserve, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

3095. A letter from the Deputy Assistant Secretary of Defense (Military Personnel Policy), transmitting the annual report for fiscal year 1979 on aviation career incentive pay, pursuant to 37 U.S.C. 301a(e); to the Committee on Armed Services.

3096. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice that a study has been conducted and a decision made to convert the laundry and dry cleaning services at Fort Leonard Wood, Mo., from a function performed by Department of Defense employees to a private contractor, pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

3097. A letter from the Assistant Secretary of the Army (Research, Development and Acquisition), transmitting the semiannual report for the period April 1–September 30, 1979 on Army research and development procurement actions of $50,000 and over, pursuant to 10 U.S.C. 2357; to the Committee on Armed Services.

3098. A letter from the Secretary of Housing and Urban Development, transmitting an interim report evaluating the use of funds for the rehabilitation of multifamily properties under section 312 of the Housing Act of 1964, pursuant to section 312(j) of the act, as amended (92 Stat. 2080); to the Committee on Banking, Finance and Urban Affairs.

3099. A letter from the Chairman, Board of Governors of the Federal Reserve System, transmitting the Board's 11th annual report on truth in lending, pursuant to section 114 of the Consumer Credit Protection Act; to the Committee on Banking, Finance and Urban Affairs.

3100. A letter from the Secretary of Health, Education, and Welfare, transmitting the annual report for fiscal year 1978 on activities under the Runaway Youth Act, pursuant to section 315 of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended; to the Committee on Education and Labor.

3101. A letter from the Secretary of Health, Education, and Welfare, transmitting notice of a delay in the submission of the comprehensive plan for programs related to child abuse and neglect, required to be submitted by the Advisory Board on Child Abuse and Neglect by section 6(b) of the Child Abuse Prevention and Treatment Act, as amended (92 Stat. 208); to the Committee on Education and Labor.

3102. A letter from the Acting Director, Community Education Program, Department of Health, Education, and Welfare, transmitting the annual report of the Community Education Advisory Council for calendar year 1978, pursuant to section 814(b)(6) of the Elementary and Secondary Education Act, as amended (92 Stat. 2290); to the Committee on Education and Labor.

3103. A letter from the Chairman, National Commission for Employment Policy, transmitting the fifth annual report of the Commission, entitled "Expanding Employment Opportunities for Disadvantaged Youth," pursuant to sections 503 (5)(B) and (6) and 505 of Public Law 93–203, as amended; to the Committee on Education and Labor.

3104. A letter from the President of the United States, transmitting notice of his extension of export controls maintained for foreign policy purposes, pursuant to section 6(e) of the Export Administration Act of 1979 (Public Law 96–72); to the Committee on Foreign Affairs.

3105. A letter from the Secretary of State, transmitting a report on the results and implications of U.S. discussions with other countries to seek multilateral cooperation in the restraint of conventional arms transfers, pursuant to section 15(b) of the International Security Assistance Act of 1978; to the Committee on Foreign Affairs.

3106. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the proposed issuance of an export license for major defense equipment sold commercially to the government of Malaysia (transmittal No. MC–5–80), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

3107. A letter from the Acting Assistant Secretary of State for Congressional Relations, transmitting Presidential Determination No. 80–8, finding that the provision of International Military Education and Training to Panama in fiscal year 1980 would further the national interests of the United States, pursuant to section 28 of Public Law 96–92; to the Committee on Foreign Affairs.

3108. A letter from the Director, Defense Security Assistance Agency, transmitting a report on stockpiling authorities for the Republic of Korea, pursuant to section 6(b) of Public Law 96–92; to the Committee on Foreign Affairs.

3109. A letter from the Acting Secretary of Agriculture, transmitting a report on the status of planned programing of Public Law 480, Title I commodities for the second quarter of fiscal year 1980, pursuant to section 408(b) of the Agricultural Trade Development and Assistance Act of 1954, as amended; to the Committee on Foreign Affairs.

3110. A letter from the Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during November 1979, pursuant to section 234 of the Legislative Reorganization Act of 1970; to the Committee on Government Operations.

3111. A letter from the Comptroller General of the United States, transmitting a report on the Department of Health, Education, and Welfare's management of Federal assistance advances to non-Federal organizations (FGMSD–80–6, December 28, 1979); to the Committee on Government Operations.

3112. A letter from the Director, Office of Procurement and Contracts, Department of Energy, transmitting a report on the Department's disposal of foreign excess property during fiscal year 1979, pursuant to section 404(d) of the Federal Property and Administrative Services Act of 1949, as amended; to the Committee on Government Operations.

3113. A letter from the Administrator of General Services, transmitting a draft of proposed legislation to amend section 5704 of title 5, United States Code, to increase the statutory maximum allowances for reimbursement to an employee for the use of a privately owned vehicle while engaged on official Government business; to the Committee on Government Operations.

3114. A letter from the Administrator of General Services, transmitting a report on the donation of Federal surplus personal property to States and local organizations for public purposes, covering fiscal year 1979, pursuant to section 203(o) of the Federal Property and Administrative Services Act of 1949, as amended; to the Committee on Government Operations.

3115. A letter from the Assistant Secretary of Housing and Urban Development, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 522a(o); to the Committee on Government Operations.

3116. A letter from the Director of ACTION, transmitting notice of a proposed new records system and of amendments to an existing system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3117. A letter from the Secretary, United States Consumer Product Safety Commission, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3118. A letter from the Secretary of Health, Education, and Welfare, transmitting notice of a delay in the submission of the plan for the collection and coordination of statistical and epidemiological data on the effects of the environment on health, and of the report on the study of the establishment of a Federal system to assist in locating individuals who have been or may have been exposed to hazardous substances to determine the effect on their health of such exposure and to assist them in obtaining appropriate medical care and treatment, required by paragraphs (1) and (3) of section 306(1) of the Public Health Service Act, as amended (92 Stat. 3453); to the Committee on Interstate and Foreign Commerce.

3119. A letter from the Secretary of Health, Education, and Welfare, transmitting a report on State compliance with Medicaid utilization control requirements, pursuant to section 1903(g)(6) of the Social Security Act, as amended; to the Committee on Interstate and Foreign Commerce.

3120. A letter from the Under Secretary of Energy, transmitting the annual reports on activities during fiscal year 1979 and planned actions during fiscal year 1980 under the grant programs to promote energy conservation in (1) schools and hospitals and (2) buildings owned by units of local government and public care institutions, pursuant to sections 399(b) and 400I(b) of the Energy Policy and Conservation Act, as amended; to the Committee on Interstate and Foreign Commerce.

3121. A letter from the Acting Assistant Secretary of Energy for Conservation and Solar Energy, transmitting notice of a further delay in the submission of the report on the relevance of the Second Law of Thermodynamics to energy conservation programs, required by section 683 of Public Law 95–619; to the Committee on Interstate and Foreign Commerce.

3122. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting the quarterly report for the period July through September 1979 on imports of crude oil, residual fuel oil, refined petroleum products, natural gas, and coal; reserves and production of crude oil, natural gas, and coal; refinery activities; and inventories; together with data on exploratory activity, exports, nuclear energy, and electric power, pursuant to section 11(c)(2) of the Energy Supply and Environmental Coordination Act of 1974, as amended; to the Committee on Interstate and Foreign Commerce.

3123. A letter from the Chairman, Federal Trade Commission, transmitting a report on the effectiveness of cigarette labeling, current practices and methods of cigarette advertising and promotion, and recommendations for legislation, pursuant to section 8 (b) of the Public Health Cigarette Smoking Act; to the Committee on Interstate and Foreign Commerce.

3124. A letter from the President and Chief Executive Officer, U.S. Railway Association, transmitting the Association's proposed authorization for fiscal year 1981 administrative expenses, pursuant to section 202(g)(2) of Public Law 93–236; to the Committee on Interstate and Foreign Commerce.

3125. A letter from the President and Chief Executive Officer, U.S. Railway Association, transmitting the Association's report on Conrail's draft employee stock ownership program, pursuant to section 216(f)(6) of the Regional Rail Reorganization Act of 1973, as amended; to the Committee on Interstate and Foreign Commerce.

3126. A letter from the Chairman, Little League Baseball, Inc., transmitting the annual report of the corporation for fiscal year 1979, including an independent certified audit, pursuant to section 14(b) of Public Law 88-378; to the Committee on the Judiciary.

3127. A letter from the Adjutant General, Military Order of the Purple Heart, transmitting notice of a delay in the submission of organization's audit report for the year ended June 30, 1979, required by section 3 of Public Law 88-504; to the Committee on the Judiciary.

3128. A letter from the Acting Secretary, Federal Trade Commission, transmitting the third annual report on the operation of the premerger notification provisions of the Clayton Act, pursuant to section 7(a)(j) of the act, as amended (90 Stat. 1394); to the Committee on the Judiciary.

3129. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on the Pajaro River Basin, Calif., in response to a resolution adopted May 14, 1945 by the Committee on Flood Control, U.S. House of Representatives; to the Committee on Public Works and Transportation.

3130. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on the Upper Salinas River Basin, Calif., in response to resolutions by the Committee on Public Works of the U.S. House of Representatives adopted May 8, 1964 and July 29, 1971; to the Committee on Public Works and Transportation.

3131. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on the Milwaukee Harbor, Wis., in response to a resolution by the Committee on Public Works of the U.S. House of Representatives adopted December 11, 1969; to the Committee on Public Works and Transportation.

3132. A letter from the Administrator of Veterans Affairs, transmitting the annual report for fiscal year 1979 on the Veterans' Administration's sharing of medical resources program, pursuant to 38 U.S.C. 5057; to the Committee on Veterans' Affairs.

3133. A letter from the President of the United States, transmitting his determination to provide import relief with respect to the U.S. porcelain-on-steel cookware industry which differs from that recommended by the U.S. International Trade Commission, pursuant to section 203(b)(1) of the Trade Act of 1974 (H. Doc. 96-245), to the Committee on Ways and Means and ordered to be printed.

3134. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to establish the U.S. Court of Military Appeals as an independent court under article I of the Constitution of the United States, and for other purposes; jointly, to the Committees on Armed Services, and the Judiciary.

MEMORIALS

Under clause 4 of rule XXII,

330. The SPEAKER presented a memorial of the Legislature of the Territory of Guam, relative to Federal laws in their application to the Territory of Guam; to the Committee on Interior and Insular Affairs.

PETITIONS, ETC.

Under clause 1 of rule XXII, the following petitions and papers were presented and referred as follows:

257. By the SPEAKER: Petition of the National Coal and Surface Mining Conference, Washington, D.C., relative to the utilization of coal; to the Committee on Interior and Insular Affairs.

258. By the SPEAKER: Petition of the Interstate Oil Compact Commission, Oklahoma City, Okla., relative to incentives for the production of high-cost natural gas; to the Committee on Interstate and Foreign Commerce.

259. By the SPEAKER: Petition of the Board of Chosen Freeholders, Salem, N.J., relative to voluntary school prayer; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on December 20, 1979, the following report was filed on January 2, 1980]

Mr. WOLFF: Select Committee on Narcotics Abuse and Control. Annual report for the year 1979 of the Select Committee on Narcotics Abuse and Control (Rept. No. 96-731). Referred to the Committee of the Whole House on the State of the Union.

EXTENSIONS OF REMARKS

THE VALUE OF ISRAEL AS AN ALLY CLEARLY SHOWN DURING IRANIAN CRISIS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 1980

● Mr. BIAGGI. Mr. Speaker, the dawning of 1980 was not the festive event many Americans were expecting. The continuing ordeal of Iran, coupled with the ominous developments in Afghanistan caused more Americans to pause in prayer than engage in unrestrained revelry on the new year.

Tomorrow it will be 2 long months since the American Embassy in Teheran was seized and some 50 Americans became hostages. There have been few bright spots during these past 2 months. One notable exception has been the unwavering support which this Nation has received from our ally, Israel. From the outset, the Begin government has led the chorus of world condemnation against Iran. For Israel, considering her own sensitive position in the Middle East, this criticism has been made at considerable peril to her own security.

The United States-Israel relationship has always been a strong one. Administration after administration since Harry Truman have lent considerable support to Israel in her times of need. The Carter administration has continued and expanded this position, most notably through the remarkable achievement of the Camp David peace accord between Israel and Egypt.

The United States finds itself in the midst of one of our most serious crises of this century. Israel has shown itself to be foursquare as a supporter. These past 2 months have strengthened the oft-stated belief that Israel is a vital strategic and military bastion in the Middle East. The events of the past 2 months should remove any lingering doubts about the importance of maintaining a militarily strong Israel. The Middle East has always been assessed through a balance of military power. If Israel is weakened militarily, the ensuing consequences to United States security would be dire.

One of the most dramatic indications of support given by Israel came very early in the hostage crisis when the Palestine Liberation Organization was engaged in its short-lived role as mediator in the dispute. The PLO has, as one of its basic objectives, the destruction of the nation of Israel. Yet notwithstanding, on November 8 when the PLO was at the height of their activity and the United States was contemplating discussions with the Organization, the Foreign Ministry in Jerusalem stated that Israel "does not condemn the contacts the United States is holding with the PLO on the matter of the release of U.S. hostages in Tehran." The statement, as reported by Jerusalem Domestic Service continued, "The United States is in a most difficult situation and so, in spite of Israel's opposition in principle to contacts with the PLO, in this case it will not say anything." This represented a truly extraordinary demonstration of support which many Americans will never forget.

Israel's unwavering support serves to counteract the venomous campaign of anti-Americanism being waged by the ayatollah. It has served to limit the scope to the borders of Iran as compared to other Middle East and Persian Gulf nations.

Israel is providing another vital degree of support to the United States during this crisis. We are being provided with excellent intelligence by Israel which has helped this Nation closely monitor the rapidly changing and often confusing developments in Iran. The intelligence has been reliable, current, and of great importance, especially in terms of keeping abreast of the condition of our hostages.

Israel has always been a good friend and strong ally. Therefore her activities over the life of the Iranian crisis are not out of character in the least. We have enjoyed support from our allies, but Israel's has been especially noteworthy. Our relationship has been reinforced and we look for continued solidarity and strength from the good people and Government of Israel.●

SOVIET INVASION OF AFGHANISTAN

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 1980

● Mr. DERWINSKI. Mr. Speaker, I call for an all-out information blitz into the

Soviet Union and throughout the Moslem world to publicize the consequences of the Soviet invasion of Afghanistan now taking place.

The administration should remove its muzzle on American Government information services and conduct a full airing of the facts about Soviet actions in Afghanistan, Iran, and the Middle East. The administration, in a mistaken commitment to détente, has been holding back Radio Free Europe, Radio Liberty, and even the Voice of America.

Soviet policies throughout the world in reality have been anti-United States and anti-Moslem all along, but our officials usually say nothing at all. The administration has, in fact, often explained Soviet actions away so as not to harm prospects for SALT II. Now the President has discovered that Leonid Brezhnev is a "liar." Now is the time to tell the story to the world.

We should employ all our resources to explain to the world the nature and extent of Soviet imperialism. We should marshal the forces of the International Communication Agency, Radio Free Europe, beamed to the Soviet satellites in Eastern Europe, and Radio Free Liberty, which broadcasts to parts of the Soviet Union.

We should take the message particularly to the Moslem world, including Moslem minorities in the U.S.S.R. itself. This message should include the truth about Soviet activities in Moslem areas. The Soviet invasion of Afghanistan, the overthrow of three Afghan Governments, and attacks on Moslem tribesmen are so blatant that the story of Soviet imperialism can no longer be ignored or explained away. The story must be told and we should tell it. It is in our national interest and in the interest of world freedom to

SAN BERNARDINO CHAMBER PRESIDENT STEPS DOWN

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 1980

● Mr. LEWIS. Mr. Speaker, I would like to take this opportunity to recognize Robert E. Botts, who on January 17, will be stepping down as president of the San Bernardino Area Chamber of Commerce. In this role he has served the community in a way few before him have.

A lifelong resident of San Bernardino, Robert Botts attended public schools and in 1957, graduated from Pacific High School in San Bernardino. After serving in the Navy, Botts returned to San Bernardino and graduated from California State College at San Bernardino in 1970.

He is presently vice president/assistant branch administrator for Santa Fe Federal Savings & Loan in their corporate office. Outside of his work, he is involved in many community activities. He is currently serving on the board of directors of the Kiwanis Club and the San Bernardino County Taxpayers Association, the Civic Light Opera Board, the advisory board of the San Bernardino County 4-H, and Goodwill Industries. He is a parks and recreation commissioner for the city of San Bernardino.

Robert Botts is also a member of the First Christian Church serving as chairman of their board of elders, a member of the Cal-State Alumni Association, Pacific High School PTA, the San Bernardino, Elks Lodge, Masonic Lodge, and Scottish Rite. He has served as cochairman of the YMCA membership drive and division chairman for the Arrowhead United Way.

Together with his wife Ann, and their three children, Robert Botts and his family are pillars of their community and deserving of the praise of this body. I commend to the House Robert E. Botts as he steps down as president of the San Bernardino Area Chamber of Commerce for his service to his community and fellow man.●

A TRIBUTE TO ALTA DIAMOND

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 1980

● Mr. DELLUMS. Mr. Speaker, I would like to take this opportunity to join with the Easter Seal Society of Alameda County in honoring Ms. Alta Diamond as the Humanitarian of the Year. Mrs. Alta Diamond, who is being honored January 31, 1980, by the Easter Seal Society as the fourth annual Humanitarian of the Year, has a long and distinguished career spanning 50 years as a community leader, and is well known and loved for her numerous activities in Oakland's charitable, cultural, and civic organizations.

The wife of prominent Oakland dentist, Dr. Meyer Diamond, and active in the management of his office, she has found time to serve on many community organization boards as well as chairing a great variety of fundraising events.

Alta Diamond has always enjoyed social service, working closely with the people of the community. A Canadian by birth, but a longtime resident of Oakland, shortly after coming to the bay area at the age of 14, she has long been involved in the care of others.

Since that time, the list of her achievements has grown continuously, as has the recognition she has been given by the community.

In 1978, she was honored by the International Institute of the East Bay for her contribution to the city of Oakland, and by station KABL as Citizen of the Day in 1971 and again in 1978, and as Oakland's Mother of the Year in 1977 and on Grandmother's Day in 1972 by the Oakland Tribune.

Prominent among those organizations with which she has been associated is the Oakland Symphony Association. She has served as its president and vice president, member of the executive board, and member of the conductor and new manager search committee, and, as president of the guild. As chair of individual gifts, she has raised unprecedented amounts of contributions. In 1973, she received the Golden Baton Award, a rare honor. All in all, she has been continuously involved with the symphony since 1964, and is known as Mrs. Symphony in Oakland.

She presently serves on the board of directors of the Oakland Museum Association and for 15 years served on the women's board. She is also trustee of the California College of Arts & Crafts, and member of the development program. She is a trustee and life member of the Oakland Zoo, and was chair of membership.

She has been a member of the board of directors of the Easter Seal Society of Alameda County for 4 years, where she chaired the 1978 and 1979 "Humanitarian of the Year" Award Dinner-Dance.

She is a member of the board of directors of the Peralta Cancer Research Institute, which brings together scientific researchers of the University of California, Lawrence Berkeley Laboratory and Peralta, a community hospital. She has also worked in a variety of capacities for Heart Fund drives, the PTA, YWCA and Community Chest.

She serves on the advisory board of the Camron Stanford Preservation Association. She is a trustee of the Arthritis Foundation and its membership chairman for many years. She initiated their first major fund-raising event and continues to help in fund-raising. Other memberships include the Leonardo da Vinci Society, the Acacia Branch of Children's Hospital, the Peralta Chapter of the San Antonio Youth Group and the Women's Athletic Club. She has also been past president of the Women's Auxiliary of the East Bay Dental Society.

Thirty years ago she became one of the founding members of the Brandeis University Women's Committee of the East Bay, fulfilling many offices, and is now a life member. In 1946, she received a special commendation for meritorious service in her work for the USO.

She is also a member of Overseas Rehabilitation Training, Hadassah and the Sisterhood of Temple Sinai, and is a board member of Temple Sinai in Oakland. She has been active with Mayor Wilson's international commission and the Marcus Foster Institute.

Her creed is best summed up in her own words: "I am extremely grateful for the opportunity to serve and help."

I am pleased to join with many other citizens of the Oakland area in honoring this truly outstanding person for her long years of devoted community service.●

THE MEDICAL ASPECTS OF INTERNATIONAL AMATEUR AND OLYMPIC BOXING

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 1980

● Mr. PATTEN. Mr. Speaker, it is a great honor to have as one of my constituents and friends, Dr. Max Novich, an internationally known orthopedist who has been involved in sports medicine. Dr. Novich recently organized and coordinated a symposium on the Medical Aspects of International Amateur and Olympic Boxing. I would like to include some remarks regarding this symposium, a fine effort by Dr. Novich.

The remarks follow:

Symposium on Medical Aspects of International Amateur and Olympic Boxing

(By Max M. Novich, M.D.)

Despite the competition of a World Series and football games of all types, the sport of boxing never looked greater than it did on October 13, 1979, when boxing experts from all over the world convened at an athletic-medical forum on the Newark campus at the college of Medicine and Dentistry-New Jersey Medical School to disseminate and upgrade information concerning the latest and most improved scientific methods in the training and conditioning, equipment, medical care, nutrition, and administrative matters for boxers. These subjects were covered with the goal of making boxing a safer and more competitive sport and reduce the incidence, nature and extent of injuries and disabilities occurring in boxing.

The meeting of physicians, coaches, trainers, boxers, boxing administrators and the general public interested in boxing was the brainchild of Dr. Max M. Novich, a former boxer and a national and internationally known orthopedist who is now Director of Sports Medicine at CMDNJ–NEW JERSEY Medical School. He organized, developed, and coordinated the entire program. Although the symposium was titled, "The Medical Aspects of International, Amateur, and Olympic Boxing", boxing in general was on display as many former boxing greats and personalities attended including Phil Terranova, former featherweight champion from New York City, Matthew Saad Muhamad, present WBC lightheavyweight champion from Philadelphia, Bernie Manhoff, former famous featherweight from Philadelphia and now President of the National Veteran's Boxers Association, Allie Stolz, lightweight and Charles Fusari, Welterweight, contenders in the early 1940's. A famous former Mickey "Fox" Brietkopf, who used his professional earnings to obtain a law degree.

Mickey now lives in Elberon; he is 85 years old and still quite agile mentally but somewhat slowed down physically. Broadway Sam Rose, now 83 years old and a former boxer and famous manager, was there too. Although slowed down physically, he still is pretty bright mentally. Joe Nolan came down from Wakefield, Mass. Joe fought as an amateur and won 160 out of 168 matches. He is now an attorney. Barney Felix, a former famous boxer, coach and referee, attended. Dave Taub, a great amateur fighter in New Jersey, attended along with his protege, 16 year old Victor Gordon of Hillside.

Tay Pellechia and Ernie Ratner, former great boxers in the Essex County area, attended. Boxing writer Nate Cohen from Miami Meach, Fla., came up for the symposium. Reggie Jones, a member of the 1972 U.S. Olympic Boxing Team, attended. Howard F. Cerney, Esq. of N.Y.C., devotee of boxing, Becky Manhoff and Molly Forman, President of Ladies Auxiliary National Veteran Boxers Association and David Warner, President South Ward Boy's Club of Newark were present. Dr. Edward Gordon from Florida, Dr. Ignacio Alpizar of Houston, Texas, Dr. Robert S. Rigliosi of Paramus, N.J. were also present.

Over 175 registrants crowded the large amphitheatre to hear physicians, coaches, and administrators experienced in boxing matters. Doctors Benjamin F. Rush, Jr., and Andrew Weiss, chairman of the department of Surgery and Section on Orthopedic Surgery respectively of CMDNJ-New Jersey Medical School, gave welcoming addresses to the registrants. Col. Donald F. Hull, President of the International Association of Amateur Boxing, followed with a discussion of international, amateur and olympic boxing. In addition to being President, he is also administrator of AAU Boxing in the U.S.A.

Dr. Leon G. Smith, Director of Medicine of St. Michael's Hospital and an expert on infections, gave a very interesting and most enlightening lecture on the "Diagnosis and Treatment of Infections of International Athletes." His topic was very well received because of developments in his field. Dr. Ronald Kamm of Tinton Falls, New Jersey, who practices psychiatry in the Long Branch area and also holds professional rank at the Hahnemann Medical School in Philadelphia followed with a topic on "Why Boxing?". Stephen Acunto, Jr., followed with an excellent talk on intercollegiate boxing.

Steve is a former undefeated amateur boxer who has a rank of Professor of English at Westchester Community College where he is also assistant boxing coach. His father is Stephen Acunto, Sr., a former professional boxer and confidant of champion Rocky Marciano with whom he made training film in boxing is the boxing coach of Westchester Community College. Stephen Acunto, Jr., spoke about the American Association for the Improvement of Boxing which has a membership of 300. Dr. Robert R. Gross, a former amateur, intercollegiate, and professional boxer, gave the next lecture, "The Boxer and His Nutrition." Ruby is originally from Newark and is founder of the famous Pawling Health Manor where people come to learn and practice the rules of good nutrition.

Dr. Gross has never left boxing and still plays a very active role. Dr. Robert Schwarts, a dentist from Rahway with a faculty appointment at the CMDNJ-New Jersey Dental School, gave a fine talk on the present-day mouthpiece and how it cuts down on the aerobic capabilities muscles. Research is being done to develop a mouthpiece to improve the present appliance. Dr. Novich and Dr. Schwartz have developed an experimental mouthpiece model that has good promise for the future. More will be heard about this type of mouthpiece and hopefully it will be ready for use in the 1980 Olympics.

The morning lecture was spiced with former Congressman Paul Kreb's speech about the great leadership role that the Division of Sports Medicine of CMDNJ-New Jersey Medical School is playing in the development of sports medicine in the U.S.A.

The morning's lectures were topped off by Sgt. Thomas L. Johnson, Coach of the 1976 Olympic Boxing Team and present coach of U.S.A. World Cup Team. His topic was "How to Train an Olympic Boxer", and his lecture was right on target. He talked with authority and know-how and received a tremendous ovation for his efforts. He was beseiged with requests for copies of his talk. He is presently a candidate for a position as National Boxing Coach.

During the course of the morning, Jamie Silverman, a 13 year old lass and a recent gold medal winner in diving at the International World Diving Championships in Struttgart, Germany in August, 1979 was introduced along with her mother, Geralding Silverman. Jamie told the audience that in order to be a champion an athlete must be determined, dedicated and with the perserverance to excel.

During the luncheon break, the palates were completely won over by the food prepared by Mrs. Jean Novich, presently Trustee of the Village of South Orange.

During this time we were joined by Congressman Joseph Minish of the 11th U.S. Congressional District and Congressman Edward Patten of the 15th U.S. Congressional District. Both Congressmen were heartily welcomed and saw many of their constituents and friends. During the luncheon break, the foreign visitors were given a guided tour through the $200,000,000 medical school complex, and they were truly impressed with the facilities as well as the great role that CMDNJ is playing in the medical educational role in the State of New Jersey.

Soon after luncheon, awards were extended to 11 men who have distinguished themselves by their contributions to boxing. These awards were given by the Association of Ringside Physicians by Dr. Max M. Novich, President, assisted by Dr. Harold J. Bennett, President of Community Action Committee Crippled Children's Hospital. His boxing protegé Kenneth J. Garrigan was also present:

Dave Anderson, sports writer for the New York Times; Carmine Bilotti, Veteran historian and publicist for boxing; Lester Bromberg, boxing writer for the New York Post and Ring Magazine; John F. X. Condon, vice-president, Madison Square Garden; Cus D'Amato, manager and trainer of championship boxers.

Jim Jacobs, President of Big Fights, Inc.; Dr. Robert R. Gross, founder of Pawling Health Manor; Colonel Donald F. Hull, President of Association Internationale de Boxe Amateure; Louis Noah Forman, Esq., founding member of Association of Ringside Physicians.

Matthew Saad Muhammad, WBC Lightheavyweight champion; Murad Muhammed, President of Triangle Productions.

The afternoon's lectures were unusual in that a number of very competent and qualified boxing physicians spoke on various phases of boxing. Dr. Hans Grebe, a geneticist from West Germany and chairman of the AIBA medical commission, gave a very interesting talk on "How Dangerous is Boxing?" He spoke in flawless English and answered questions from the audience. Dr. Peter Jako, sports physician from Hungary, physician on the past Hungarian Olympic Team and member of the AIBA Medical Commission, gave his talk on "effects of Weight Reduction on the Performance of Boxers" in excellent English. He was happy to be lecturing on his favorite subject, boxing, under medical school auspices.

Dr. Yukoo Yoshido, a former professional boxer and now neurosurgeon on the faculty of the Nihon University School of Medicine of Japan, gave a fine lecture and showed slides on serious brain injuries. He is also a member of the Medical Commission of AIBA. This was followed by one of our own neurosurgeons, Dr. Harry Kaplan of the faculty of CMDNJ-New Jersey Medical School, who lectured on "What is the Latest on the Knockout?" Dr. Kaplan has done some excellent original research on boxing showing that many of the myths attached to it are simply untrue.

Jerry Shears, Canadian member of the executive committee of AIBA and a very well known former amateur boxer gave a real pitch for the use of headguards for youngsters in boxing. Professor Anwar Chowdhry of Pakistan, General Secretary of AIBA and Vice-president Dr. Yaw Nikansa-Gyana from Ghana Africa made worthwhile comments about the great opportunity of being able to discuss the sport of boxing under the medical auspices of a great medical school. Acknowledgement of other members of the executive committee of AIBA were extended to Hector Cardona (Puerto Rico), William S. Cox (England), Fernando Duerte (Peru), Lucieno Eileni (Italy), George Guriev (Rumania), T. Houchi (Tunisia), Danilo Ivanovic (Yugoslavia), Albert Lea Leu (Switzerland), Orlando Raso (Brazil), and his wife Glade, Karl-Heinz Wehr (E. Germany) and Alex Villacampa (Philippines), Siegfried Kordts, president West Germany Boxing Federation also attended. Acknowledgements were also extended to other AIBA Medical Commission members: Drs. N.

Tege Abadan, (Uganda), T.B. Adesina (Nigeria) Chief Medical Officer of Health, Onireke, Idaban, Wilson Bahun Adjekoke (Togo, West Africa), Professor Also Francone (Italy) a radiologist from Rome, Professor V. Frantzev (Russia) a cardiovascular surgeon from Moscow, Henry Inniss-Palmer (Nigeria), Angel M. Sanchez Meneses (Venezuela) sports physician from Caracas, Dragon Petrovic (Yugoslavia), Antonio A. Vergara (Philippines) sports physician from Manila and Abdelouaheb Yahyaoui (Algeria) sports physician.

Victor Karant of New York, born in Kiev, Russia was the official interpreter. He speaks about 5 languages. He was formerly a member of the Berlin Maccabian Boxing Team from 1923–1926. His presence at the symposium was certainly appreciated by all, especially during the coffee breaks and luncheon time when there was much conversation going on amongst the registrants. It sounded like a miniature United Nations. Sandy Biber, Head Trainer of Montclair State College and president of the New Jersey Chapter of the National Athletic Trainers Association handled the audiovisual duties like a pro. Odin Dudrich's welcome sign and fight size paper boxing gloves were distributed to the registrants. They were unique and very much appreciated.

Acknowledgements of appreciation were also extended to Cus D'Amato who came down from Catskill, N.Y., trainer and manager of two world champions attended and noted the great benefits that are derived from symposiums of this type, Al Bundies, Commissioner of the Metropolitan AAU, and William Stein, Sports Director of the Sales Executive Club of New York City for their encouragement and help in making this symposium so successful. Bennie "Tex" Novellino, an octogenarian formerly of Newark and now of Florida made a long trip up to update his boxing knowledge. He was one of the foremost boxing managers and promotors in the greater Newark Metropolitan area during the golden days of boxing.

Jim Balakevich of Washington, D.C., Paul Benti, well known and capable boxing referee also attended. Dr. Paul Williams, A very well known Ringside Physician from Trenton, New Jersey, spoke about the great benefits that result from medical forums such as this boxing symposium. Dr. Paul J. Hirsch of Bridgewater, N.J. and president of the New Jersey Orthopedic Association congratulated Dr. Novich for putting on this symposium, and the many contributions he has made and continues to make to sports medicine.

Dottie Hull, Administrative assistant secretary and her son Champ, secretary of AIBA were certainly very helpful during the course of the symposium. She is the daughter of the very famous William Cavanaugh, legendary boxing coach at West Point where Col. Hull matriculated, boxed and then married the coach's daughter.

The press was well represented locally, statewide, nationally and internationally. Willie Klein, the great sports editor of the Newark Star-Ledger was on hand to receive Dave Anderson's award who was covering a World Series Game and unable to attend. Sandra Klein, wife of Willie, beamed as her husband accepted the award. Elaine Bloom, feature writer, of the American Jewish Ledger attended as she has all other prior sports medicine symposiums at the medical school. Bob Taylor, editor of the Amateur Boxer, came down from Cobalt, Connecticut and Audrey Jones, editor of Punch magazine were also on hand. Stuart Levine of Elmwood Park, N.J. and Nate Cohen of Philadelphia are boxing writers for the "Boxing World" and expect to file stories about this symposium. Joe Kornfield, news editor of the Medical Tribune took copious notes. He will disseminate this valuable information to the medical profession in our nation as well as abroad. The foreign press was represented by Sven Ekstrom, president of AIP's Boxing Commission and writes for the Aftonbladed from Goteburg, Gerd Graf, sports editor of the Wetzlarer Neue Zeitung, from Germany was an interested observer.

This was the largest group of registrants to attend a sports medicine symposium at CMDNJ-New Jersey Medical School. It is also the first time that the sport of boxing has ever had the exposure of a prestigious medical school wherein the art and science of boxing and the art of medicine met so that the benefits of medicine can be extended to boxing to make it a safer and more competitive sport. The registrants were very pleased with the information they heard and from the experts who delivered the message.

An opportunity was given by Dr. Novich to all the registrants to ask questions or comment about boxing and sports medicine. Many made cogent remarks concerning the benefits that the sport of boxing gains from forums of this kind.

The symposium was concluded with a standing ovation to Dr. Novich for his work in organizing this symposium and his contributions to boxing in general.●

IN HONOR OF FELIX EDWARD HÉBERT

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 1980

● Mr. BIAGGI. Mr. Speaker, on Saturday, December 29, 1979, our Nation lost a great American patriot and one of its most distinguished legislators—former Representative F. Edward Hébert.

Eddie served in the Congress for 36 years, and when he retired in 1976, he had gained a much deserved reputation as a friend of the military and a staunch protector of our national security.

At a time when U.S. military superiority is being questioned as a result of the Iranian crisis and the invasion of Afghanistan by Soviet troops, Eddie's dedicated efforts in support of a national defense second to none should be appreciated more than ever.

Working to strengthen our military, Eddie was successful in expanding ROTC programs and equalizing the armed services academies. As a tough investigator, he uncovered evidence of waste in military contracts and, during the Vietnam war, he headed an investigation of the Mylai massacre.

Only a handful of persons have ever served longer in Congress than F. Edward Hébert, and none with more diligence and fairness.

During his many years as a Congressman from Louisiana, and particularly as chairman of the House Armed Services Committee (1971–75), Eddie never relented in his sometimes unpopular campaign for a strong defense posture. The United States is still the No. 1 military power in the world today. However, there is sufficient evidence to indicate that the Soviet Union is rapidly nearing our military capability, and if current trends continue, the Soviets could conceivably surpass us in the not-to-distant future. Such an occurrence would have a very serious and negative effect on the security of our Nation, as well as other countries of the free world.

Recognizing the seriousness of the situation, President Carter has indicated that he will be requesting a significant increase for defense spending in his fiscal year 1981 budget. I am hopeful that the Congress, when considering the President's budget request, will look closely at our Nation's declining military prestige, and will remember the concerns expressed by Eddie Hébert as he worked to achieve and maintain our first-rate military status.

Mr. Speaker, I was honored to serve with Eddie Hébert and I am saddened by his death. However, as we reflect on his life and work, Eddie would want us to remember that his deeds were aimed at protecting the security of our Nation and all of mankind—because in security, there is peace. Eddie Hébert will not be forgotten.●

CARTER SHOULD GET TOUGH

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 1980

● Mr. SCHULZE. Mr. Speaker, the Soviet Union's blatant violation of international law through its invasion of the sovereign state of Afghanistan demonstrates quite clearly to the rest of the world their true expansionist intentions.

It is my firm belief that, as a result of this aggression, the United States must immediately reevaluate its foreign policy objectives and make those changes necessary to insure the future safety of this Nation and its allies.

The crisis in both Afghanistan and Iran are not isolated events but are calculated policy decisions made by foreign leaders who are convinced that this Nation has lost its resolve to defend freedom and liberty throughout the world. In short, our current foreign policy now lies in shambles and unless we desire to precipitate other future crises of these dimensions we must now act to change the misguided direction of this policy.

My recommendations include such actions as the withdrawing of the SALT II Treaty, rapidly increasing the quality of our military, strengthening our bilateral security alliances, and perhaps most of all, develop the necessary commitment or backbone by demonstrating to nations like Iran that the United States will not sit idly by as our citizens are tortured and mistreated by a bunch of kidnapping terrorists who masquerade as "students".

The fate of every nation does indeed rest in its own power.

Mr. Speaker, at this time, I would like to introduce into the RECORD an article by Patrick J. Buchanan that appeared in a recent issue of the Philadelphia Inquirer. I believe this article accurately reflects the opinion of the vast majority of American citizens.

The article is as follows:

CARTER SHOULD GET TOUGH

(By Patrick J. Buchanan)

WASHINGTON.—Seventy-five years ago, when an American citizen was held hostage by some North African bandit, Teddy Roosevelt sent his now legendary telegram, "Perdicaris alive or Raizuli dead."

Ten years later, Woodrow Wilson ordered the U.S. Navy to shell and seize the Mexican port of Vera Cruz after some American sailors were arrested and marched through the streets of Tampico.

Two years later, when Pancho Villa raided a New Mexican border town, Wilson sent General Pershing and 12,000 American cavalry into Mexico to destroy his forces. Less "grape juice" and more "grape shot," demanded one senator.

Wilson and Roosevelt understood profoundly what President Carter does not. To make this world safe for Americans to go unmolested, it is often necessary to use lethal military force against our enemies, and to leave those enemies in constant dread of the United States.

Carter, however, seems determined to use this crisis to demonstrate to the world that the United States has taken to heart the Christian injunction to turn the other cheek.

Consider America's responses to date—in retaliation for a war crime perpetrated by terrorists in collusion with an outlaw regime.

Our President resolutely refused to light the national Christmas tree.

Several days before Christmas, our Department of State, 7,000 strong, marched to the Lincoln Memorial where many were observed weeping openly, and all sang, "Let My People Go."

Carter has taken America's "case" both to the World Court and the Security Council, both of which have agreed that holding diplomats hostage is a practice that cannot be condoned.

To show that the America of Jimmy Carter is not the America of Lyndon Johnson and Richard Nixon, we shipped our old friend the shah off to a banana republic, and indicated that—if only they would let our hostages go—we would allow Khomeni to establish an international tribunal to expose the crimes of the shah and his American collaborators over the last quarter century.

Then, really getting tough, President Carter—in the sixth week of the crisis—ordered 85 percent of the Iranian diplomats in the United States out of the country. Thirteen days later, John P. Wallach of Hearst Newspapers did some investigative work and discovered no one had departed. American officials mumbled something about the poor fellows' difficulty making traveling plans.

With the crisis in its seventh week, Carter went before the country and said we are going back to the Security Council, this time for "economic sanctions."

Carter closed his brief talk with a "carol" by Henry Wadsworth Longfellow, written in 1864, which, he said, expressed "my thoughts and prayers—and I'm sure those of our nation in this time of challenge and concern and of crisis." The carol closed:

"The Wrong shall fail.
"The Right prevail
"With peace on earth, good will to men."

On hearing this, a colleague of mine stopped his car on the George Washington Parkway, for fear he was going to throw up.

If Carter will review the history of 1864, he will find that, in that lovely year, Abraham Lincoln's gunboats were blockading every remaining Southern port, and two generals named Sherman and Grant were bleeding the Confederate armies white with their scorched-earth campaigns.

This country is behaving as though some civil rights leader were locked up for the night, and we were trying to appeal to the good will of some cranky Southern sheriff to let him out for Christmas.

Is there any doubt that the United States is losing this confrontation, being visibly exposed as an impotent nation, unable to effect the release of its people—or to punish their captors?

With each of Carter's warnings reaping fresh insults from Qum, the President should spend less time in the front pew of the National Cathedral and more time over at the Pentagon with the Joint Chiefs, poring over maps of Iranian military and industrial targets.●

HOW PRESIDENT CARTER BETRAYED THE SHAH—PART II

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 1980

● Mr. McDONALD. Mr. Speaker, in this we are continuing with the examination of how U.S. foreign policy brought about the destabilization of the government of the Shah of Iran and how the Soviet Communists took advantage of this U.S. policy to help bring about the overthrow of a pro-Western government by extreme anti-American forces. The article by John Rees was originally published in the Review of the News on February 21, 1979.

The article follows:

HOW JIMMY CARTER BETRAYED THE SHAH

Viewing revolution in the whole region as an interrelated drama. Moscow now held the dress rehearsal. In April 1978, the Free World suffered a major defeat when the leader of the Communist party of Afghanistan, the Khalq or "Masses" party, seized control of Iran's eastern neighbor in a bloody coup and established a Marxist-Moslem dictatorship. Just as Soviet agents long planted among the Shi'ite Moslems of Iran would soon do, the Afghan Communist despot Nur Mohammed Taraki called for a "jihad" (holy war) against those he designated as false Moslems or "Ikhwanu Shayateen." The latter means "brothers of devils" and is a phrase from the Koran applied by the Afghan Reds to all who oppose the transformation of Afghanistan into a Soviet satellite. It became plain that the Communists had been busy devising a Marxist "liberation theology" for Islam, just as they had done for Christianity and other religions targeted for subversion.

But the capture of Afghanistan provoked no reaction from the Carter Administration and Washington continued to pump dollars to the new Communist regime. This confirmed to the Kremlin that it was in sufficient control of U.S. foreign policy to prevent a response to Soviet aggression in the Middle East, just as it had prevented resistance to Soviet aggression in Africa. A *de facto* U.S. policy of non-intervention against Communist aggression, even to defend the source of oil and natural gas on which the countries of the Trilateral Commission—North America, Western Europe, and Japan—depend for their economic and military strength, made clear to Moscow that it was free to act at will in Iran.

With the Kremlin's puppet Taraki in control of Kabul, a flood of Soviet-trained agents moved across the border into Iran to infiltrate the mosques, the schools, the Shi'ite monasteries, the bazaars, and the oil fields. By November 1978, there were an estimated 500,000 illegal Afghan immigrants in Iran, in most cases virtually indistinguishable from Iranians living in the eastern provinces. The K.G.B., which had taken control of Afghanistan's secret police, set up large training camps for Iranian terrorists.

Of course the subversion of Iran by Communist agents had been going on for some time. Over the past decade a large number of Soviet intelligence officers from both the K.G.B. and the G.R.U. have been caught and expelled from the country by the Iranian security authorities. Reports show that there have been as many as 4,000 Soviet technicians in various jobs in Iran and another 1,000 from other Communist countries in Eastern Europe. How many of these also had K.G.B. or G.R.U. duties in the subversion of Iran we do not know precisely; but it is a matter of record that the K.G.B. has used as "cover" such organizations as the Irano-Soviet Cultural Society, the local offices of the Soviet news agency Novosti, the Soviet trade mission in Teheran, Soviet consulates in large Iranian cities, a Soviet-owned transport company, and the Soviet hospital in Teheran.

With these resources, assisted by indigenous agents and Iranians in high military and administrative positions whom the K.G.B. had either blackmailed or bought, the Soviet Union commenced a sophisticated political-warfare operation against the Shah in late 1977. A new publication of the Iranian Tudeh Communists, called *Navid* (Good News), began to appear weekly in Teheran. A high-quality production in contrast to the sleazy mimeograph tracts put out by the other Leftist and terrorist groups, *Navid* has been able to respond to the swiftly moving political events in Iran, often bringing out special editions on the eve of major strikes and demonstrations. Its pages reflect the line of the clandestine National Voice of Iran (N.V.I.) broadcasts from Baku on the Caspian in calling upon the Iranian military to mutiny against the Government and for general strikes. *Navid* has frequently used forgeries intended to inflame its targets and began carrying fake proclamations by spurious "rank-and-file" Iranian military groups urging desertion and mutiny. It carried phony accounts of mutinies for months before the recent outbreak of dissension in the Iranian Air Force.

This Communist publication has been publishing the Tudeh party's call for formation cf an "anti-dictatorial broad front," the same sort of maneuver the Communists are using in Nicaragua, The Philippines, and other countries. In an effort to win over the Shiite clergy, the Tudeh Communists have said that the ayatollahs and mullahs must play the "vanguard role" in this movement. In a June 1978 edition of *Navid*, the Communists offered to place all of their very considerable propoganada, political, and technical resources at the service of this front. *Navid* pointed to the "benefits" that have accrued to the fundamentalist Islamic and socialist Government of Libya and to the terrorist "freedom fighters" of the P.L.O. as a result of their cooperation with the Soviet Union, suggesting that similar "benefits" could come to Iranians who joined the ranks of Communist collaborators.

Not surprisingly, all available evidence points to the fact that Navid is produced in the Soviet Embassy in Teheran on its modern printing press, and that it is the voice of the K.G.B.'s covert political-action agents when these can be distinguished from the voice of the Tudeh party puppets.

The alliance of "Islamic-Marxists" or "black and red revolutionaries" is not new in Iran. The largest Iranian terrorist organization, the Organization of Mujaheddin of the People of Iran (O.M.P.I.), originated in a 1963 attempt to overthrow the Shah in which Ayatollah Ruhollah Khomeini played a leading role. It has spoken of its members as Islamic-Marxists for the past nine years. Thus this unlikely union is not, as several U.S. commentators have claimed, an "invention of the Shah's propagandists." In fact the 4,000-member O.M.P.I. announced in 1976 that it had "joined the Marxist-Leninist revolution" in Iran and was hailed in welcome by its rival terrorist group, the somewhat smaller Organization of Iranian People's Fedayee Guerrillas.

As violence in Iran continued to increase along with the evidence of Soviet involvement in destabilization and subversion, there was no response by the Carter Administration. In a recently released staff study by the House Select Committee on Intelligence, we find the following statement: "The attention of top policymakers was not brought forcefully on Iran until October 1978." The House Intelligence Committee study contains a wealth of "evidence" to support this statement, but it makes no mention whatever of President Carter's meeting with the Shah in November 1976 when it was already apparent that the Communists had targeted Iran for takeover and the violence had literally spilled onto the steps of the White House.

What, we may ask, does it take to obtain "the attention of top policymakers"? The fact is, alas, that those policymakers were well aware that the Reds were out to destroy the Shah and were trying to help them! The Washington Post of February 13, 1979, carries a column which reports that the Shah has told President Sadat of Egypt that C.I.A. set him up on orders of President Carter, and that the Shah had proof of this last spring.

As the Moslem-Marxist alliance gained momentum, a new forbidding figure became central to Iran's tragedy, the 78-year-old Shi'ite religious leader Ruhollah Khomeini, who uses the honorific title "ayatollah" or "reflection of God" reserved for a handful of the most respected Shi'ite mullahs or "masters" of the Koran and Islamic precepts.

This month Khomeini, whose brother had been imprisoned as a member of the Communist party in Iran, returned from 14 years of political exile, all but the last few months in Communist Iraq, having maintained an implacable opposition not merely to the Shah but to the entire Iranian royal family, to the military which supports the Shah, and to the Constitution and the Government. During his exile, Khomeini issued repeated calls for revolution and the violent overthrow of the Shah. Khomeini says his goal is the creation of a revolutionary Islamic republic that will be anti-Western, socialist, and with the ultimate power in the hands of the chief ayatollahs.

In the words of Michael Ledeen, an expert on Iran at Georgetown University in Washington, D.C., there is ample evidence that Ruhollah Khomeini is "a clerical fascist, a violent anti-Semite and an intensely chauvinistic anti-American." This evidence is not taken from any secret intelligence files, but from Khomeini's own writings, lectures, and press interviews. As long ago as December 1968, in The Middle East magazine, Khomeini affirmed that the purpose of his Islamic republic would be completely to eliminate all Western influence from Iran. Apparently Communism is not considered a "Western influence" since Khomeini has repeatedly said during the past year that in his Islamic theocracy the Communists will participate as a legitimate political force.

Khomeini's Islamic republic will seek to bring back to Iran the punishments established by Muhammad in the early 7th Century. These include 80 lashes for drinking alcohol; the public stoning of adulterers; cutting off a thief's hand and so on. According to Newsweek, one of Khomeini's close aides told their reporter, "you don't cut off the whole hand—just the finger tips." The aide wanted to make clear that this is much more respectful of "human rights" than the Saudi and Libyan practice of hacking off the entire hand at the wrist.

So much for President Carter's effort to destroy the Shah in the name of "human rights." Clearly there is much more involved here.

In December of 1978 the Communist Tudeh party, which had been run from East Berlin by Iranian exile Iraj Eskandari, gave its tentative support to the Islamic revolutionary movement headed by Khomeini. The support was far too tentative for Moscow's liking and it promptly sacked Eskandari. The new boss of Tudeh, one Nureddin Kianuri, immediately issued a statement which read, "The Tudeh Party approves Ayatollah Khomeini's initiative in creating the Islamic revolutionary council. The ayatollah's program coincides with that of the Tudeh Party." The alliance was now a matter of public record.

Which came as no surprise to anyone, although the Carter Administration continued to pretend not to realize that Khomeini's closest advisor, Sadegh Ghothzadeh, alias Asfahani, was well-known to the European intelligence community as a master revolutionary with tight links to the leaders of the French and Italian Communist parties. Asfahani, it develops, also works closely with the Libyan secret service, one of the K.G.B.'s most helpful collaborating agencies in the Middle East.

In order to facilitate the operation of the newly announced Islamic-Marxist alliance, the Tudeh Communists formed a new front party, the Democratic Union of the People of Iran. In their new guise of a Democratic Union, the Communists began calling for the establishment of Shi'ism as the national religion of Iran, and for full support for Khomeini and his revolutionary Islamic republic. In a mere two months, because of the alliance, they were able to sell in Teheran 300,000 copies of the *Communist Manifesto* and are distributing thousands of copies of works by Lenin translated into Persian.

The highly organized, well-funded Communists have considerable influence not only in the Writers Association, the Bar Association, and in the National Association of University Professors, but also in the poor sections of the major cities where "district cells" have been set up to take control of such tasks as local food distribution, traffic control, medical care, and so forth. And, of course, the price of receiving food, medical care, heating oil, or whatever is political cooperation and subservience to the Communist leaders.

As Khomeini's revolution merged with the Marxists, the slogans carried in the street demonstrations shifted. (Many were written in English for the benefit of American television viewers.) At first the slogans were the conventional "Death to the Shah" and "Long live the Islamic Democratic Republic." They were soon changed to "Power to the People" and finally "Long Live the Revolution." Even in mass demonstrations called by Khomeini forces, there were large contingents numbering in the thousands who were chanting these Marxist slogans. A mid-January march called by a coalition of student Marxist and Communist organizations at Tehran University attracted an estimated ten to fifteen thousand participants.

The rising intensity of revolutionary sentiment was not lost on the Soviet Union, which in mid-January directly endorsed Khomeini in *Pravda*, the official newspaper of the Communist Party of the U.S.S.R. The Soviet Communist endorsement for Khomeini and his Islamic revolution came because "they have a long established reputation as opponents of tyranny" and because they appeared to be riding "on the crest of the wave of events."

Two days after the official *Pravda* endorsement, former U.S. Attorney General Ramsey Clark, accompanied by veteran activists from the old Hanoi lobby, held a New York press conference to report on a trip to Iran and a Paris visit with Khomeini and his advisors. Clark expressed his hope that the U.S. would take no action so that Iran "could determine its own fate." He echoed the line of a two-year campaign by U.S. activists associated with the Hanoi and Havana lobby saying we must prevent Iran from "becoming the next Vietnam." What Clark meant to do, of course, was to support the Carter Administration's determination to avoid U.S. or N.A.T.O. intervention in support of Iran's military and let the country fall.

The Clark press conference was also designed to ensure that the U.S. Left would do nothing to slow the advances of the Moscow-approved Khomeini takeover. This became clear when in short order Ramsey Clark began arranging for the principal U.S.-based Khomeini supporters to meet covertly with members of the State Department's Iran Task Force, with Senators and Congressmen, and with Carter's Ambassador to the United Nations, Andrew Young.

Ambassador Young's response was predictable. Here was Khomeini with a 16-year record of fomenting rebellion, subversion, and revolution against an American ally; who was endorsed by the Communists; who was reiterating his detestation of all aspects of the Western world, most particularly his fantatical hatred for all things American. Naturally Ambassador Young praised him, declaring that the Shi'ite leader would "eventually be hailed as a saint."

Others high in the Carter Administration shared Andrew Young's views. When their support for the constitutional Government of Iran was needed, they were privately negotiating with the Ayatollah's supporters in Washington who had been expelled from the Shah's Emoassy by Government loyalists. These Iranian subversives, who had penetrated the Embassy staff, were led by Djafar Faghih, a former Minister Counselor. They boasted to this reporter of their contacts with White House National Security Council staffers, mentioning William B. Quandt and Gary Sick, and with the State Department. They spoke gleefully of their expectation of quickly obtaining U.S. recognition of the Government appointed by Khomeini, and declared the intent of Khomeini to have Iran's Ambassador to the United States sent home as a war criminal.

Ruhollah Khomeini has seized power in Iran not merely with the support of the Soviet Union and its agents, but with the

direct assistance of the Carter Administration. The question now is how long the 78-year-old Khomeini will be allowed to remain as the front man of the Iranian revolution before the Soviet Union moves to replace him with a more malleable puppet. And the fact remains that, had President Carter not betrayed the Shah, the forces of extremism and fanaticism, Communist and Moslem, would not now have Iran by the throat and a loyal ally of the Free World would have been preserved.

We shall soon learn that the chain of events precipitated by the Carter betrayal of the Shah will affect the life of every American. And when the question is asked, Who lost Iran? The answer will be: Jimmy Carter.●